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January–December 1982

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Do	Guide to indexes, catalogs, and lists of departmental publications (AFR 0–1). Sept. 1, 1974. Describes the indexes, catalogs, and lists of departmental publications; explains their use, tells how often they are revised, shows their distribution and gives the office of primary responsibility.	Chief, Central Base Administration at nearest Air Force installation. Shelf stock. $2.85 per copy; reproduced copy, $2.85 per copy; shelf will be used while supply lasts. Checks payable to AFO (name of base furnishing copies).	Do.
Do	Numerical index of standard publications (AFR 0–2). July 1, 1982. Lists regulations, manuals, and pamphlets together under each subject series; lists visual aids and recurring periodicals separately.	Chief, Central Base Administration at nearest Air Force installation. Shelf stock. $3.75 per copy; reproduced copy, $8.73; shelf stock will be used while supply lasts. Checks payable to AFO (name of base furnishing copies).	Do.
Do	Miscellaneous Air Force and other Government agency publications (AFR 0–16). July 24, 1978. Lists a wide range of subjects of interest to the Air Force.	Chief, Central Base Administration at nearest Air Force installation. Shelf stock. $2.85 per copy; reproduced copy, $2.95 per copy; shelf stock will be used while supply lasts. Checks payable to AFO (name of base furnishing copies).	Do.
Do	Publications Numbering Systems (AFR 5–4). June 2, 1981. Contains subject series and description guide and alphabetical list of subjects.	Chief, Central Base Administration at nearest Air Force installation. Shelf stock. $3.01 per copy; reproduced copy, $3.97 per copy; shelf stock will be used while supply lasts. Checks payable to AFO (name of base furnishing copies).	Do.
Do	Disposition of Air Force documentation (AFM 12–50). Oct. 1, 1969. Pt. 2 consists of decision logic tables which provide for disposition of documentation created or accumulated by all Air Force activities. Attachment 3 is an index to the tables, arranged alphabetically by title of the record.	Chief, Central Base Administration at nearest Air Force installation. Shelf stock will not be used. Pt. 2 is voluminous, therefore, only tables pertaining to requested records will be reproduced. $2.85 for first 6 pages, plus $0.07 for each additional page. Checks payable to AFO (name of base furnishing copies).	Do.
Department of Defense, Department of the Army, The Adjutant General's Office, Army Publications Directorate.	DA pamphlet 310–1 (Consolidated Index of Army Publications and Blank Forms) 1 Aug. 1982. Printed in microfiche.	Commander, U.S. Army Publications Center, 2800 Eastern Blvd., Baltimore, Md. 21220. Price $1.28. Make checks payable to Treasurer of United States. In addition to the indicated prices of the indexes, there is a $2.85 charge for each order. For example, if DA Pamphlet 310–1 is ordered, add $2.85 to the price of $1.28. If both pamphlets are ordered, add $2.85 to total price of $1.44.	Director, Army Publications Directorate, Hoffman Bldg., Alexandria, Va. 22331.
Do	DA Pamphlet 310–99. Index of Obsolete Forms/Publications. 15 Sept. 1982. Printed in microfiche only.	Commander, U.S. Army Publications Center, 2800 Eastern Blvd., Baltimore, Md. 21220. Price $.16. Make checks payable to Treasurer of United States.	Do.
Department of Education (ED), Office of the Assistant Secretary for Legislation and Public Affairs, Executive Staff.	ED Index contains those records required by Public Law 90–23 (Freedom of Information Act). The index is a guide to ED policies, instruction memoranda, organization function statements, guidelines, decisions and procedures not published in the Federal Register. Contains records produced between June 1, 1982 and Sept. 1, 1982.	Freedom of Information Officer, Department of Education, Office of Legislation and Public Affairs, 400 Maryland Ave., S.W. Washington, D.C. 20202.	Office of Legislation and Public Affairs, Room 2089, 400 Maryland Ave., S.W. Washington, D.C. 20202 Tel. 245–8601 or 472–3338.

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Department of Energy, Bonneville Power Administration.	BPA Manual Index dated Mar. 28, 1979 (33 pages). Policy, procedural, and directives material indexed by subject and BPA Manual chapter number.	The public may review the index, obtain a copy of the index, without charge, or secure further information concerning the contents of the records listed by contacting Bonneville Power Administration's Office of Public Information, 1002 NE. Holladay Street, Portland, Oregon 97232, or the Washington, D.C., Office, Federal Building, Room 5317, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461..	Bonneville Power Administration offices listed in previous column or BPA Areas and Districts at the following: 1500 NE. Irving, Portland, OR 97208; 415 First Ave. N., Seattle, WA 98109; U.S. Courthouse, Spokane, WA 99201; West 101 Poplar St., Walla Walla, WA 99362; U.S. Federal Bldg., 211 E. 7th St., Eugene, OR 97401; 800 Kensington, Missoula, MT 59801; U.S. Federal Bldg., 301 Yakima St., Wenatchee, WA 98801; and 531 Lomax St., Idaho Falls, ID 83401.
Department of Health and Human Services, Public Health Service, Centers for Disease Control (HHS/PHS/CDC).	CDC Freedom of Information Act (FOIA) Index contains those records required by the Freedom of Information Act (P.L. 90-23). This index provides identifying information, by program and subject, for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and not published in the Federal Register. Index is updated quarterly.	Public Inquiries, Management Analysis and Services Office, Centers for Disease Control, Atlanta, Ga. 30333. No charge for 1 copy.	Public Inquiries, Management Analysis and Services Office, Centers for Disease Control, Atlanta, Ga. 30333.
Department of Health and Human Services, Public Health Service, Health Services Administration (HHS/PHS/HSA).	HSA Freedom of Information Act (FOIA) Index: March 1975 to June 30, 1982. The HSA, FOIA index is a compilation of supplements to the departmental manual system, program level operations manuals, circulars, memoranda, notices and guides used by the components of HSA. All information included in this index is current as of June 30, 1982. The respective bureau level indexes are listed as follows:.	Office of Communications and Public Affairs, HHS/PHS/HSA, Room 14A-39, 5600 Fishers Lane, Rockville, Md. 20857. Checks payable to HHS/Public Health Service. Mail to HSA Collection Officer, HHS/PHS/HSA, Room 16-36, 5600 Fishers Lane, Rockville, Md. 20857. Fees charged for research and reproduction of information is based upon the current departmental fee schedule for information under the FOI regulations (45 CFR part 5 subpart E).	Office of Communications and Public Affairs, HHS/PHS/HSA, Room 14A-39, 5600 Fishers Lane, Rockville, Md. 20857.
	OA—OFFICE OF THE ADMINISTRATOR		
	OCPA—Public Affairs Management System Manual; OPEL—HSA forward plan, fiscal year 1979-83; OM/OCG—HSA procurement operating instructions; OM/OMP—HSA transmittal notices for supplements to HHS manuals; HSA Circulars; OM/OFS—policy decisions, procedures, and opinion..		
	BMS—BUREAU OF MEDICAL SERVICES		
	Division of Hospitals and Clinics Operations Manual; BMS supplements to HHS manuals; Manual of Operations for PHS Health Unit, DFEH, BMS; BMS circulars; Contract Physician's Guide.		
	IHS—INDIAN HEALTH SERVICES		
	IHS circulars; IHS supplements to HHS manuals; IHS Operations Manual; General Counsel opinions; policy and procedural manual and circulars.		
	BCHS—BUREAU OF COMMUNITY HEALTH SERVICES		
	BCHS administrative guide system; BCHS Operations Manual; "Emergency Medical Service Systems Program Guidelines"; BCHS Regional Memorandum Series.		
	BHPDS—BUREAU OF HEALTH PERSONNEL DEVELOPMENT AND SERVICE		
	BHPDS supplements to the HHS manuals; BHPDS operations manuals which include memoranda, guidelines, handbooks and procedures..		
Department of the Interior, Bureau of Mines.	Basic Bureau of Mines Manual General Table of Contents and Checklist-July 6, 1976.	In accordance with fee schedule in 43 CFR 2, App. A.	Helen M. Gellett, Directives Management Officer, 2401 E St. NW., Washington, D.C. 20241; telephone: 634-4730.
	Numeric and subject listing of internal policies and procedures by series, part, chapter, paragraph, and subordinate paragraph.	Bureau of Mines.	
Department of the Interior, Bureau of Reclamation.	Reclamation Instructions Index - April 1, 1974: Subject listing of current instructions pertaining to Bureau of Reclamation organization and delegations of authority, policy and procedures, and detailed instructions on limited technical subjects.	Division of Management Support, E&R Center, Bureau of Reclamation, P.O. Box 25007, Denver, Colorado 80225. No charge.	Division of Management Support, E&R Center, Bureau of Reclamation, P.O. Box 25007, Denver, Colorado 80225 Telephone: 303 234-2081.
Department of Transportation, Federal Highway Administration.	Cease and Desist and Driver Disqualification Final Orders by the Federal Highway Administrator: 1969-1982; listing of cease and desist and driver disqualification final orders of the Federal Highway Administrator; items listed are identified by case docket number, name of carrier and date notice of investigation was mailed.	FOIA Program Officer, FHWA, 400 Seventh Street, SW., Washington, D.C. 20590. No charge.	FOIA Program Officer, FHWA, 400 Seventh Street, SW., Washington, D.C. 20590.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
	Opinions and Final Orders of the FHWA in Regard to the Regulation of Toll Bridges: 1968-1982 listing of opinions and final orders regarding regulation of toll bridges issued by the Federal Highway Administrator, which identifies the case and the date issued.	FOIA Program Officer, FHWA, 400 Seventh Street, SW., Washington, D.C. 20590. No charge.	FOIA Program Officer, FHWA, 400 Seventh Street, SW., Washington, D.C. 20590
	Cross Reference Index of current Federal Highway Administration directives. The computerized index is alphabetical by subject and within each subject, applicable FHWA orders, notices, technical advisories, and manuals are identified. In some cases manuals may also be identified by the applicable volume or other subordinate breakdown. The index is updated quarterly and is issued generally during the second month following the end of the quarter (i.e., May, August, November, February).	FOIA Program Officer, FHWA, 400 Seventh Street, SW., Washington, D.C. 20590. No charge.	FOIA Program Officer, FHWA, 400 Seventh Street, SW., Washington, D.C. 20590 FHWA Regional Offices. (For location see 49 CFR Part 7) FHWA Division Offices. (For location see 49 CFR Part 7).
Department of the Treasury, Office of the Secretary.	Index of Selected Records: July 1967 to Dec. 1982; Listing of current administrative documents, reports, and releases from the Office of the Secretary, Bureau of Engraving and Printing, Bureau of the Mint, U.S. Secret Service, Bureau of the Public Debt, Bureau of Government Financial Operations, Federal Law Enforcement Training Center, U.S. Customs Service.	Treasury Department Library, Room 5010, Treasury Bldg., 15th and Pennsylvania Ave., Washington, D.C. 20220, $1.50, Treasury of the United States.	Treasury Department Library, Room 5010 Treasury Bldg., 15th and Pennsylvania Ave., Washington, D.C. 20220.
Architectural and Transportation Barriers Compliance Board.	ATBCB Freedom of Information Index; June 1978 through November 1982: Final decisions made in adjudication of cases concerning alleged noncompliance to the Architectural Barriers Act of 1968; and a record of the final votes of each member of the Board in every Board proceeding. ATBCB annual reports; pamphlets describing the ATBCB, how to file complaints, and resource guides to literature in the area of creating an accessible environment.	Freedom of Information Officer, ATBCB, Rm. 1010, 330 C St., SW, Washington, D.C. 20202. Reproduced upon request. Twenty cents per page, per copy. Make checks payable to the Department of Education.. Public Information Office, ATBCB, Rm. 1010, 330 C St., SW, Washington, D.C. 20202. No charge.	Freedom of Information Officer, ATBCB, Rm. 1010, 330 C St., SW, Washington, D.C. Phone: 202/245-1591. Public Information Office, ATBCB, Rm. 1010, 330 C St., SW, Washington, D.C. 20202. Phone: 202/245-1591.
Committee for Purchase from the Blind and Other Severely Handicapped.	Index of Additions and Deletions to the Procurement List: (a) Procurement List 1983 incorporates all additions and deletions through November 13, 1982; (b) Current index November 1982-December 1982.	Order from Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square Building No. 5, 1755 Jefferson Davis Highway, Suite 1107, Arlington, Va. 22202. Price: Ten cents per page, per copy. Make checks payable to: Treasurer of the United States.	Committee for Purchase from the Blind and Other Severely Handicapped, Attention: Freedom of Information Officer.
Commodity Futures TRading Commission.	Index of final Commission opinions, including concurring and dissenting opinions, and orders in the adjudication of cases. April 21, 1975 to date. (This index consists of separate chronological listings of final Commission opinions and orders in enforcement cases and reparations proceedings before the Commission).	Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW, Washington, D.C. 20581. Price: 10 cents per page	Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW, Washington, D.C. 20581 (202) 254-6314.
Do	Index of statements of policy and interpretations adopted by the Commission and not published in the Federal Register. April 21, 1975 to date..	Do	Do.
Do	Index of Commission administrative manuals and instructions to staff that affect a member of the public. April 21, 1975 to date. (Commission instructions no longer in use are not included in this index).	Do	Do.
General Services Administration (GSA).	GSA Freedom of Information Index; July 4, 1967 through Dec. 31, 1982. Category A information which is final opinions, including concurring and dissenting opinions and orders, made in the adjudication of cases. Category B information which is those statements of policy and interpretations which have been adopted by GSA and are not published in the FEDERAL REGISTER. Category C information which is administrative staff manuals and instructions to staff that affect members of the public.	GSA, Freedom of Information Officer (ORAR), Washington, D.C. 20405. Price: $4.75. Make checks payable to: General Services Administration.	GSA Central Office Library and the business service centers located in each regional office listed below: Central Office Library, 18th & F Sts. NW, Rm. 1033, Washington, D.C. 20405 Business Service Centers: National Capital Region: 7th & D Sts. SW., Washington, D.C. 20407 Region 1: John W. McCormack Post Office and Courthouse, Boston, Mass. 02109 Region 2: 26 Federal Plaza, New York, N.Y. 10278 Region 3: 9th & Market Sts., Philadelphia, Pa., 19107 Region 4: Richard B. Russell Bldg., 75 Spring St., Atlanta, Ga. 30303 Region 5: 230 So. Dearborn St., Chicago, Ill., 60604 Region 6: 1500 East Bannister Rd., Kansas City, Mo. 64131 Region 7: 819 Taylor St., Ft. Worth, Tex. 76102 Region 8: Building 41, Denver Federal Center, Denver, Colo. 80225 Region 9: 525 Market St., San Francisco, Calif. 94105 Region 10: GSA Center, Auburn, Wash. 98002.
International Boundary and Water Commission, United States and Mexico, U.S. Section.	Brochure: Amistad Dam and Reservoir	Project Engineer, U.S. Section, IBWC, Route 2, Box 37, Highway 90 West, Del Rio, Tex. 78840. No charge.	Project Engineer, U.S. Section, IBWC, Route 2, Box 37, Highway 90 West, Del Rio, Tex. 78840.
Do	Brochure: Falcon Dam and Power Plant	Reservoirs Manager, U.S. Section, IBWC, P.O. Box 1, Falcon Village, Tex. 78545. No charge.	Reservoirs Manager, U.S. Section, IBWC, P.O. Box 1, Falcon Village, Tex. 78545.

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Do	Water Bulletins: Containing data for 1 year covering flow of Rio Grande and related data from Elephant Butte, N. Mex., to Gulf of Mexico, re storage in major reservoirs, diversions, suspended silt, chemical analyses, sanitary aspects of water quality, meteorologic data, and irrigated areas–for years 1931 through 1980.	Division Engineer, Hydrographic Division, U.S. Section, IBWC, 4110 Rio Bravo, El Paso, Tex. 79902. Price: $4.50 per bulletin (data for 1 year). Payable to: International Boundary and Water Commission, U.S. Section.	Division Engineer, Hydrographic Division, U.S. Section, IBWC, 4110 Rio Bravo, El Paso, Tex. 79902.
Do	Water Bulletins: Containing data for 1 year covering flow of Colorado River and other Western Boundary streams, and related data (including Tijuana, Santa Cruz, and San Pedro Rivers, and Whitewater Draw) for years 1980 through 1980.	Division Engineer, Hydrographic Division, U.S. Section, IBWC, 4110 Rio Bravo, El Paso, Tex. 79902. Price: $5.60 per bulletin (data for 1 year). Payable to: International Boundary and Water Commission, U.S. Section.	Division Engineer, Hydrographic Division, U.S. Section, IBWC, 4110 Rio Bravo, El Paso, Tex. 79902.
Do	Color print map – Lower Rio Grande Valley United States and Mexico.	Division Engineer, Projects Division, U.S. Section, IBWC, 4110 Rio Bravo, El Paso, Tex. 79902. Prices: 14>x36> $4.00 per map; 10>x28> $3.00 per map. Payable to: International Boundary and Water Commission, U.S. Section.	Division Engineer, Projects Division, U.S. Section, IBWC, 4110 Rio Bravo, El Paso, Tex. 79902
Do	Annual Report: Operation of Rio Grande Dams and Reservoirs. This report provides data concerning the operation of the international dams and reservoirs constructed by the Governments of the United States and Mexico on the reach of the Rio Grande which forms the boundary between the two countries.	Division Engineer, Hydrographic Division, U.S. Section, IBWC, 4110 Rio Bravo, El Paso, Tex. 79902. No charge.	Division Engineer, Hydrographic Division, U.S. Section, IBWC, 4110 Rio Bravo, El Paso, Tex. 79902
Do	Color print map: El Paso Rio Grande Projects, Canalization and Rectification Projects.	Division Engineer, Projects Division, U.S. Section, IBWC, 4110 Rio Bravo, El Paso, Tex. 79902. Price: $10.00 per map. Payable to International Boundary and Water Commission, U.S. Section.	Division Engineer, Projects Division, U.S. Section, IBWC, 4110 Rio Bravo, El Paso, Tex. 79902
Do	Brochure: Joint Projects of the United States and Mexico through the International Boundary and Water Commission.	Section Secreatry, U.S. Sec., IBWC, 4110 Rio Bravo, El Paso, Texas 79902. Price: $6.00 per brochure. Payable to International Boundary and Water Commission, U.S. Section.	Section Secretary, U.S. Section, IBWC, 4110 Rio Bravo, El Paso, Texas 79902
Office of Personnel Management	Index to Information, OPM Document No. 1. As of November, 1982. A listing of policy and non-policy publications and information systems arranged alphabetically by title and subject. This index includes some information formerly published in the Index to Civil Service Commission Information.	Internal Distribution Unit, Room B-443, Office of Personnel Management, 1900 E Street, NW, Washington, D.C. 20415. Free.	OPM Library or any OPM Office, including regional and area offices.
Pension Benefit Guaranty Corporation, Office of the General Counsel.	Index to Pension Benefit Guaranty Corp. Opinion Manual; Sept. 2, 1974 to Sept. 30, 1982; interpretive letters addressing the provisions of Title IV of the Employee Retirement Income Security Act (ERISA)–plan termination insurance program.	Disclosure Officer, Office of the Executive Director, Pension Benefit Guaranty Corp., Room 7000, 2020 K St. NW., Washington, D.C. 20006; Charge $0.10 per page; Payable to The Pension Benefit Guaranty Corp.; or contact Disclosure Officer for information regarding a subscription to the Opinion Manual.	Disclosure Officer, Office of the Executive Director, (202) 254-4827, 2020 K St. NW., Washington, D.C. 20006
Pension Benefit Guaranty Corporation, Office of Program Operations.	Index to Pension Benefit Guaranty Corp. OPO Operations Manual; as of Sept. 30, 1982; contains statements of basic policies and procedures used by Office of Program Operations staff in administering Title IV of the Employee Retirement Income Security Act (ERISA)—plan termination insurance program.	Disclosure Officer, Office of the Executive Director, Pension Benefit Guaranty Corp., Room 7000, 2020 K St., N.W. Washington, D.C. 20006. Charge $.10 per page. Payable to Pension Benefit Guaranty Corp. or contact Disclosure Officer for price of entire Operations Manual.	Do.
Pension Benefit Guaranty Corporation, Office of the Executive Director.	Index to Pension Benefit Guaranty Corp. Appeals Board decisions; as of Sept. 30, 1982; contains closed appeal case decision letters which are final decisions of the Appeals Board made pursuant to PBGC regulation, 29 CFR Part 2606, Rules for Administrative Review of Agency Decisions.	Disclosure Officer, Office of the Executive Director, Pension Benefit Guaranty Corp., Room 7000, 2020 K St. NW., Washington, D.C. 20006. Charge $.10 per page, payable to Pension Benefit Guaranty Corp.	Do.

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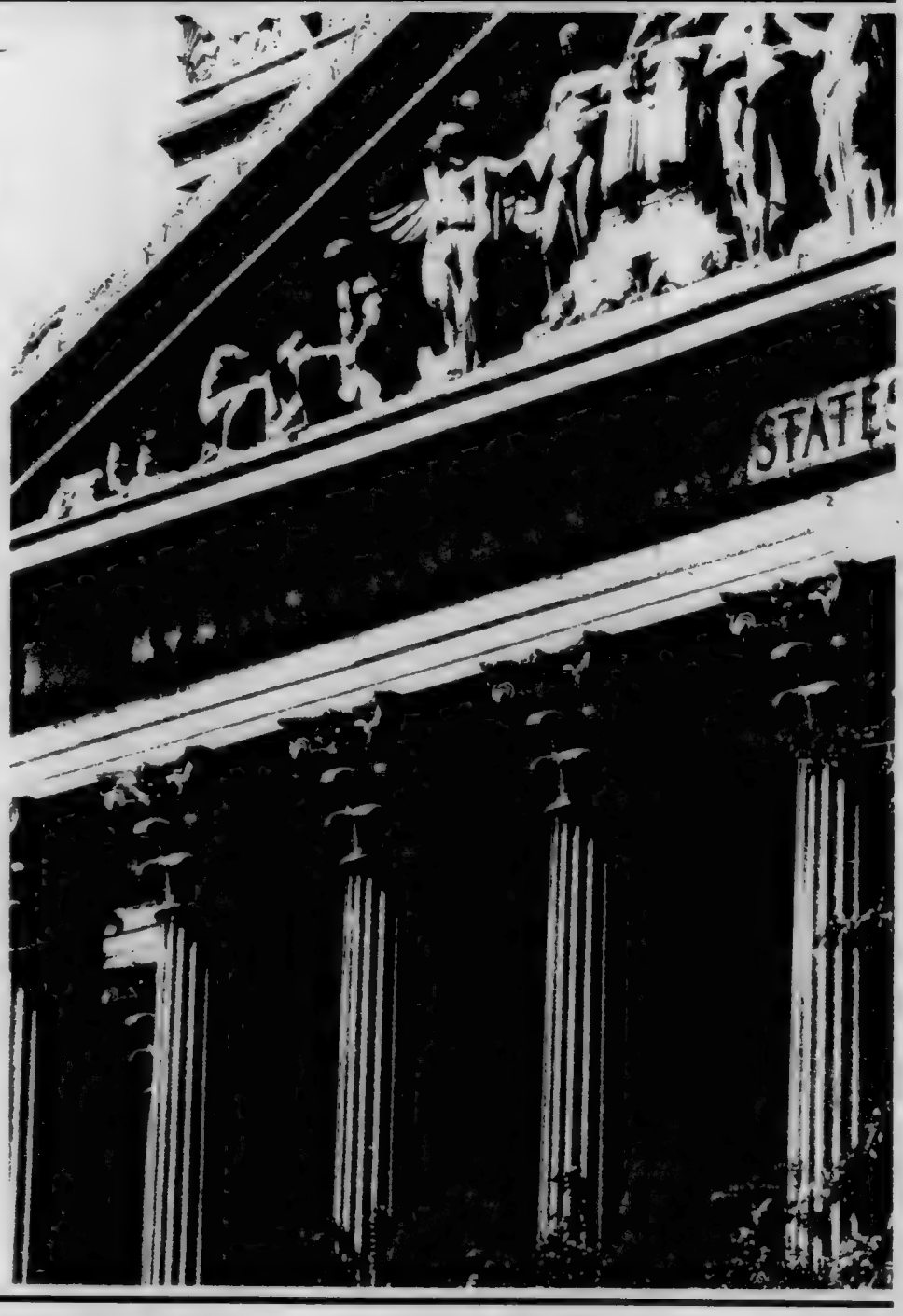

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Dean L. Smith was Chief Editor of the LSA, assisted by Carolyn T. Payne. The LSA was prepared under the direction of Martha B. Girard, assisted by Ruth C. Pontius. INQUIRIES, telephone 202–523–5227.

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922.32 (December 1981 LSA failed to list this section as "Removed; interim" at 46 FR 61652, 12-18-81)

922.33 (December 1981 LSA failed to list this section as "Removed; interim" at 46 FR 61652, 12-18-81)

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(December 1981 LSA incorrectly listed this section as removed at 46 FR 61652, 12-18-81; 922.32 was the section removed at that page.)

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271.703 (d)(74) added..... 15316
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(d)(85) added..... 22947
(d)(76) added..... 15318
(d)(81), (82), and (83) added..... 17054
(d) (86) and (87) added..... 25132
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(d)(12)(ii) revised; (d)(89) added..... 28366

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(d)(91) added 30468
(d)(63) introductory text revised; (d)(63)(iii) added 31263
(d)(12) revised 31864
275.204 (f) amended 19058
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281 Rehearing applications denied 30728
281.110 (b) amended 19058
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281.111 Amended 19085
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281.214 (a) amended 19058
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281.215 Amended 19058
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282.206 (a)(2)(i) and (b) (1) and (2) amended 19058
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282.405 (c)(1) amended 19058
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284 Technical correction 30725
284.6 (a) amended 19058
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284.201 (e) revised 24274
284.208 (d)(1) amended 19058
Limited rehearing granted 28364
284.222 (b) amended 19058
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286.102 (c) amended 19058
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290.102 (d) amended 22949
Limited rehearing granted 28364
292.207 (b)(6)(ii) amended 19058
Limited rehearing granted 28364
294.101 (a) (1), (2), and (b)(4) amended; undesignated note added; interim 20296
357.3 Removed 16318
375 Technical correction 30725
375.202 (b) (1) and (2) amended 19058
Limited rehearing granted 28364
375.301 (a) amended; (c) added 19058
Limited rehearing granted 28364
375.302 (m) and (p) removed 17809
(b) and (g) amended; (f) removed 19058
Limited rehearing granted 28364

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375.303 (c) removed; (d) through (g) redesignated as (c) through (f); introductory text, (b), and new (e) revised 17809
375.304 Amended 19058
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375.307 Introductory text, (a) introductory text, and (10), and (b) introductory text revised; (a)(14) and (p) through (s) added 17809
(g) and (j) amended 19058
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375.308 Introductory text, (l), and (z)(2) revised; (tt) through (ww) added 17810
(h) and (gg) amended 19058
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375.309 Heading and (a) through (d) amended; introductory text revised 17810
(b) and (o) amended 19058
Limited rehearing granted 28364
375.310 (a) amended 19058
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375.312 Added 23150
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385 Added 19022
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388 Added 19052
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388.109 Correctly added 23440

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6.8 (a) and (d) revised; (c) amended 20751

6.14 (g) table amended 19517

10.59 (f) table amended 20752

10.68 (a) amended 27261

18.1 (a)(3) added 27261

18.2 (a) and (c) amended 27261

18.4 (c)(2) amended 27261

18.5 (c) and (d) amended 27261

18.6 (d) amended 27261

18.8 (e)(2) amended; (e)(3) added 27261

18.11 (b), (c), (f), (g), and (h) amended 27262

18.12 (d) and (e) amended 27262

18.20 (a) and (b) amended 27262

18.24 (a) and (b) amended 27262

18.25 (a) amended 27262

18.26 (a) amended 27262

19.18 (b) amended 20753

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19.41 Revised 32416

19.43 Revised 32416

19.44 Revised 32416

24.1 (a) introductory test revised 32419

101.3 (b) amended 21040

101.4 (c) amended 21040

111.29 Existing text designated as (a); (b) added 32419

114.1 (e) removed 27262

114.2 (b) removed 27262

114.22 (a) revised; (b) removed; (c)(3) redesignated as (d) and revised 27262

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114.24 Nomenclature change 27262

114.25 Nomenclature change 27262

114.26 (a), (b), and (c) amended 27262

114.32 Amended 27262

114.34 (b) amended 27262

141.1 (b) revised 32419

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162.45 Heading and (b) revised; interim 20754

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210.57 Redesignated as 210.58; new 210.57 redesignated from 210.56 and (a) revised 25138

210.58 Redesignated as 210.59; new 210.58 redesignated from 210.57 25138

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404.337 (b)(3) revised; (c) added 31542
404.352 (b) introductory text and (1) revised; (c) added 31543
404.429 (b)(2)(iii) corrected; interim 13792
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404.902 Introductory text, (p) and (q) revised; (r) added 31543
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416.1204a Added; interim 24277
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416.1402 (f) through (i) revised 15325
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416.2001 (d) revised 15326
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619 Removed 30239
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1.385-1 (a) introductory text and (1) revised 28916
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5.50 Introductory text revised 23707
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5.59 Revised 23707
5.80 Revised 26823
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12.35 (a)(10) removed 26375
13.5 (c) removed 26375
14.20 (b)(11) removed 26375
15.20 (a)(3) removed 26375
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74.1205 Revised 24284
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74.1206 (a) and (b) revised; (c)(5) added 14146
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74.1330 Added 22510
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80.10 (a) and (b) revised 24692
81.1 (b) table amended 14147, 14148, 22511, 22512, 24285, 24286
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81.10 (o) added 14147
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81.27 (c) introductory text, (1), and (d) table amended 22511
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172.515 (b) amended 27810
172.858 Revised 29950
173.140 Added 28090
175.320 (b)(3)(i) table amended 22512
176.170 (a)(5) table amended 14697, 21239
176.210 (d)(3) amended 17986
177.1050 (d) corrected 16775
177.1210 (b)(5) table amended 22090
177.1315 (a) and (b) revised; (c) and (e) removed; (d) redesignated as (c) 24288
177.1480 (b)(2) corrected 16775
177.1550 (a), (b) introductory text, (d)(2), (e)(2), (3) (i) and (ii) revised; (f) added 14699
177.1820 (b) table amended 14698
177.2600 (c)(4)(i) amended 22089
178.2010 (b) table amended 14700, 16320, 22091, 22513, 30239–30241
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178.3130 (b) table amended 26824
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Rules and Regulations

Federal Register
Vol. 47, No. 127
Thursday, July 1, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 697; Valencia Orange Reg. 696, Amdt. 1]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period July 2–July 8, 1982, and increases the quantity of such oranges that may be so shipped during the period June 25–July 1, 1982. Such action is needed to provide for orderly marketing of fresh Valencia oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: This regulation becomes effective July 2, 1982, and the amendment is effective for the period June 25–July 1, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under Secretary's Memorandum 1512–1, and Executive Order 12291 and has been designated a "non-major" rule. This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on February 5, 1982. The committee met again publicly on June 29, 1982, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valenica oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for Valencia oranges is steady.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of Valencia oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 908

Agricultural marketing service, Marketing agreements and orders, California, Arizona, Oranges (Valencia).

1. Section 908.997 is added as follows:

§ 908.997 Valencia Orange Regulation 697.

The quantities of Valencia oranges grown in Arizona and California which may be handled during the period July 2, 1982, through July 8, 1982, are established as follows:

(1) District 1: 235,000 cartons;
(2) District 2: 265,000 cartons;
(3) District 3: Unlimited cartons.

2. § 908.996 Valencia Orange Regulations 696 (47 FR 27243), is hereby amended by revising subparagraphs (1) and (2) to read:

Section 908.996 Valencia Orange Regulation 696.

* * * * *

(1) District 1: 282,000 cartons;
(2) District 2: 318,000 cartons;
(3) District 3: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: June 30, 1982.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-18153 Filed 6-30-82; 11:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1427

[Amdt. 2]

CCC Cotton Loan Program Regulations Governing 1980 and Subsequent Crops; Packaging of Cotton Pledged as Collateral for Price Support Loans

AGENCY: Commodity Credit Corporation, USDA

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to amend the Commodity Credit Corporation (CCC) Cotton Loan Program Regulations Governing the 1980 and Subsequent Crops concerning the packaging of cotton which is pledged to CCC as collateral for price support loans. The specifications for bale packaging materials used in wrapping cotton for 1982 that were approved and published by the Joint Cotton Industry Bale Packaging Committee (JCIBPC) are acceptable to CCC. Therefore, CCC is incorporating these specifications by reference and will require that 1982-crop cotton pledged to CCC as collateral for price support loan be wrapped to comply with these specifications.

DATE: Effective June 25, 1982.

ADDRESS: Grant Buntrock, Cotton, Grain, and Rice Price Support Division, USDA–ASCS, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Carolyn E. Cozart, Cotton, Grain, and Rice Price Support Division, USDA–

ASCS, P.O. Box 2415, Washington, D.C. 20013, (202) 447–7987. The Final Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from the above-named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in accordance with provisions of Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified "not major." It has been determined that these program provisions will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or (3) significant adverse effect on competition, employment, investment, productivity innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program that this rule applies to are: Commodity Loans and Purchases; 10.051, as found in the Catalog of Federal Domestic Assistance.

This action will not have a significant impact specifically on area and community development. Therefore, a review as established by Office of Management and Budget Circular A–95 was not used to assure that units of local government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not appliable to this rule since CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

A notice of proposed rulemaking amending the regulations governing the cotton loan program was published in the **Federal Register** on December 9, 1981, at 46 FR 60210. Under the proposed rule, CCC would require that cotton which is pledged to CCC as collateral for a price support loan be wrapped in material meeting the specifications for bale packaging materials for cotton adopted and published by the JCIBPC. The written comment period ended February 8, 1982.

There were seven responses to the proposed rule—two from spinners, one from a ginner, two from companies that are ginners, merchants and warehousemen, one from a textile manufacturer and one from the Chairman, Joint Cotton Industry Bale Packaging Committee. The following is a summary of comments received:

Summary of Comments to Notice of Proposed Rulemaking: All comments received were in favor of the proposed change and strongly urged CCC to require that cotton pledged to CCC as collateral for a price support loan be wrapped in compliance with the bale packaging specifications adopted and published by the JCIBPC.

All comments received have been considered in adopting this final rule. It has been determined that the specifications for bale packaging materials used in wrapping cotton will no longer be published by CCC and codified at 7 CFR 1427.1901 through 1427.1905. These regulations will be deleted from the Code of Federal Regulations in the near future. The specifications that were approved and published by the JCIBPC for 1982-crop cotton are acceptable to CCC for packaging cotton pledged to CCC for 1982 price support loans. Therefore, CCC is incorporating these packaging specifications by reference in accordance with 1 CFR Part 51.

Copies of the specifications published by the JCIBPC will be made available to the public upon request by that Committee and by county ASCS offices.

List of Subjects in 7 CFR Part 1427

Cotton, Loan programs, Agriculture, Packaging and containers, Price, Support programs, Surety bonds, Warehouses.

Note.—The Director of the **Federal Register** approved the Incorporation by Reference of the 1982 specifications effective on July 1, 1982.

Final Rule

PART 1427—COTTON

Accordingly, the regulations at 7 CFR 1427.5(l) are amended to read as follows:

§ 1427.5 Eligible cotton.

* * * * *

(l) Each bale must be packaged in materials which meet the specifications adopted and published by the Joint Cotton Industry Bale Packaging Committee (JCIBPC), sponsored by the National Cotton Council of America, for bale coverings and bale ties or must be packaged in material and/or bale coverings and bale ties which are identified and approved by the JCIBPC as experimental packaging material. Heads of bales must be completely covered. Copies of the 1982 Specifications for Cotton Bale Packaging Materials published by the JCIBPC which are incorporated by reference are available to the public upon request at the county ASCS office and at the following address: Joint Cotton Industry Bale Packaging Committee, National Cotton Council of America, P.O. Box 12285, Memphis, Tennessee 38112. Information with respect to experimental packaging material may be obtained from JCIBPC.

* * * * *

(Secs. 4, 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); Secs. 101, 103, 401, 63 Stat. 1051, as amended (7 U.S.C. 1441, 1444, 1421); Sec. 602, 91 Stat. 934 (7 U.S.C. 1444))

Signed at Washington, D.C., June 25, 1982.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 82–17747 Filed 6–30–82; 8:45 am]

BILLING CODE 3410–05–M

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7 CFR Part 1464

Tobacco Loan Program; Deductions From Price Support Advances Paid to Producers

AGENCY: Commodity Credit Corporation (CCC), USDA.

ACTION: Final rule.

SUMMARY: This final rule deletes the specific dollar amount which producer associations, through which the Commodity Credit Corporation (CCC) makes price support available to tobacco producers, may deduct from price support advances paid to producers. Such deduction is to be used to help defray the associations' administrative overhead costs.

This final rule also provides that price support will be made available at auction warehouses for each lot of eligible tobacco when the final bid is less than the price support rate available for the grade of eligible tobacco comprising such lot.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Harry D. Millner, Tobacco and Peanuts Division, ASCS, USDA, P.O. Box 2415, Washington, D.C. 20013. (202) 447–4281. The Final Regulatory Impact Analysis describing the options considered in developing this final rule is available upon request from Harry D. Millner.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified "not major." The provisions of this rule will not result in: (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries,

Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United State-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this rule applies as set forth in the Catalog of Federal Domestic Assistance are: Title: Commodity Loan and Purchases; Number: 10.051. This rule will not have a significant impact specifically on area and community development. Therefore, review as established by Office of Management and Budget (OMB) Circular A–95 was not used to assure that units of local government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the Commodity Credit Corporation is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Section 1109 of the Agriculture and Food Act of 1981 (Pub. L. 97–98) provides that it is the intent of Congress that the tobacco price support and production adjustment program be carried out in such a manner that there would be no net cost to taxpayers, other than administrative costs. In order to accomplish this objective, the 1981 Act directed the Secretary to promulgate by January 1982 such regulations and policies as are within his existing authority.

Accordingly, a notice of proposed rulemaking was published in the **Federal Register** on February 19, 1982 (47 FR 7436) announcing that CCC was proposing to delete the specific amount ($1.00) which producer associations were authorized by CCC to deduct from price support advances paid to producers. The public was afforded 60 days to comment on the proposal. The Department received three written comments by the close of the comment period on April 20, 1982.

Of the three comments received, two respondents were in favor of deleting the $1.00 per hundredweight limitation on the amount which producer associations may deduct from price support advances paid to producers. The other respondent supported the proposed change with a recommendation that the amount deducted for Virginia Fire-cured (type 21) tobacco be increased to at least 6 cents per pound to cover more accurately this association's current overhead expenses. None of the respondents stated specific reasons for supporting the proposal.

Current program regulations authorize the associations to deduct from price support advances paid to producers, an amount which is to be used by the associations to defray their administrative overhead costs. Until the 1965 crop, the authorized deduction for all tobacco marketed at auction warehouses was 12 cents per hundredweight of green tobacco which was pledged to CCC as collateral for a price support loan. From the 1965 crop through the 1973 crop, the deduction was 25 cents. Since 1974, the deduction has remained at $1.00 per hundredweight.

With continuing increases in administrative costs for all associations and the downtrend in the volume of tobacco placed under loan, the $1.00 deduction is no longer sufficient to cover these costs. If the amount deducted does not cover the administrative overhead costs of the associations, the associations borrow amounts from CCC to cover such expenses. By deleting the limitation on the amount which can be deducted from producer advances, the associations' need to borrow funds from CCC in order to cover their administrative costs will be reduced or eliminated. This would also reduce the cost of the program to CCC for those crop years when the proceeds from sale of loan collateral would not have been sufficient to repay CCC in full for the amounts loaned to the associations.

The change in the regulations which deletes the specified amount ($1.00) which may be deducted from price support advances paid to growers necessitates a corresponding change in the procedure for providing price support at auction warehouses. The present regulations specify that contracts between the associations and auction warehouses require that producers must be informed that price support is available for each lot of eligible tobacco offered for sale at auction when the final bid for such lot is less than one bid above the price support advance (price support grade loan rate less the $1.00 deduction) which is available for that particular grade of tobacco. This final rule amends these regulations to require that such contracts between the associations and warehousemen in auction markets must provide for producers to be informed that price support for eligible lots of tobacco is available when the final bid on any lot is less than the price support loan rate for that particular grade of tobacco. Since this amendment to the regulations is technical only, it has been determined that no further public rulemaking is required with respect to this change.

List of Subjects in 7 CFR Part 1464

Loan programs, Agriculture, Price support programs, Tobacco, Warehouses.

Final Rule

PART 1464—TOBACCO

Accordingly, 7 CFR Part 1464 is amended as follows:

1. Section 1464.2(b)(1)(i) is revised to read as follows:

§ 1464.2 Availability of price support.

* * * * *

(b) *Method of providing price support*—(1) *Through auction warehouses.* (i) Price support will be available for each lot of eligible tobacco offered for sale at auction warehouses which have contracted with an association, on a form of agreement approved by CCC, to make price support advances to producers on behalf of the association. Producers will deliver their tobacco to auction warehouses which will display the tobacco and offer it for sale at auction. Each contract between an association and an auction warehouse will require the auction warehouse to see that producers are informed that price support advances are available for each lot of eligible tobacco offered for sale at auction when the final bid is less than the price support rate available for the grade of eligible tobacco comprising such lot. For Flue-cured and Burley tobacco, the associations' contracts with auction warehouses will also require the auction warehouses to mark any tobacco sale bill "No Price Support" if the marketing of the pounds of tobacco covered by such bill will result in the producer marketing in excess of 110 percent of the producer's effective farm marketing quota. Producers will receive price support advances from the warehouseman for any tobacco to be consigned by the warehouseman to the association. Price support advances will be paid to the producer at the time the warehouseman settles with the producer for the entire quantity of the producer's tobacco that has been displayed for inspection and offered for sale on any one day's auction market. The warehouseman will be reimbursed by the association with funds borrowed from CCC.

* * * * *

2. Section 1464.4(a) is revised to read as follows:

§ 1464.4 Deductions from advances.

(a) There may be deducted from price support advances paid to tobacco producers amounts to help defray administrative overhead costs incurred by producers associations through which price support is made available to tobacco producers.

* * * * *

(Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b, 714 c); Secs. 101, 106, 401, 403, 63 Stat. 1051, as amended, 1054, 74 Stat. 6 (7 U.S.C. 1441, 1446, 1421, 1423))

Signed at Washington, D.C., on June 25, 1982.

John R. Block,

Secretary of Agriculture.

[FR Doc. 82-17744 Filed 6-30-82; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Addition of Costa Cruise Line

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule adds Costa Cruise Line to the listing of carriers which have entered into agreements with the Service for the preinspection of their passengers and crews at locations outside the United States.

EFFECTIVE DATE: May 14, 1982.

FOR FURTHER INFORMATION CONTACT: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, DC 20536; Telephone: (202) 633-3048.

SUPPLEMENTARY INFORMATION: This amendment to 8 CFR 238.4 is published pursuant to 5 U.S.C. 552. The Commissioner of Immigration and Naturalization entered into agreement with Costa Cruise Line, to guarantee the preinspection of their passengers and crews as provided by section 238(b) of the Immigration and Nationality Act, as amended, 8 U.S.C. 1228(b).

Preinspection outside the United States facilitates processing passengers and crews upon arrival at a U.S. port of entry and is a convenience to the traveling public.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment merely adds an air carrier to the listing and is editorial in nature.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that the rule will not have a significant economic impact on a substantial number of small entities.

This order constitutes a notice to the public under 5 U.S.C. 5523 and is not a rule within the definition of section 1(a) of E.O. 12291.

List of Subjects in 8 CFR Part 238

Air carriers, Airlines, Aliens, Common carriers, Government contracts, Inspections, Transportation, Travel restriction, Treaties.

PART 238—CONTRACTS WITH TRANSPORTATION LINES

Accordingly, 8 CFR Part 238 is amended as follows:

§ 238.4 [Amended]

1. In § 238.4, Preinspection outside the United States, the listing of transportation lines is amended by adding in alphabetical sequence, "Costa Cruise Line" under "AT VANCOUVER."

* * * * *

(Secs. 103, 66 Stat. 173 (8 U.S.C. 1103); 238, 66 Stat. 202 (8 U.S.C. 1228))

Dated: June 25, 1982.

Andrew J. Carmichael, Jr.,

Associate Commissioner Examinations.

[FR Doc. 82-17723 Filed 6-30-82; 8:45 am]

BILLING CODE 4410-10-M

FARM CREDIT ADMINISTRATION

12 CFR Part 615

Funding and Fiscal Affairs; Use of Debt Management Policies To Control Amount of Outstanding Discount Notes

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration by its Federal Farm Credit Bureau is amending its regulations on funding and fiscal affairs, loan policies and operations, and funding operations. These amended regulations will allow the Farm Credit System Banks to use debt management policies to control the amount of outstanding discount notes as an alternative to maintaining back-up lines of credit, require bank management to adopt policies regarding the formulation of electronic data processing programs, and authorize Federal land banks to make patronage distributions. These amendments are primarily for the purpose of implementing the Farm Credit Act Amendments of 1980 (Pub. L. 96-592) and for clarification.

EFFECTIVE DATE: July 30, 1982.

FOR FURTHER INFORMATION CONTACT: Larry H. Bacon, Deputy Governor, Office of Administration, 490 L'Enfant Plaza, SW., Washington, D.C. 20578, (202-755-2181).

SUPPLEMENTARY INFORMATION: On March 17, 1982, the Farm Credit Administration ("FCA") noticed and published for public comment proposed amendments to 12 CFR Part 615 (47 FR 11536), specifically §§ 615.5105, 615.5150, and 615.5350. The Federal Farm Credit Board ("Board") considered each of the comments received on the proposed amendments and adopted final regulations at its June 7-9, 1982 meeting.

The Board amended 12 CFR 615.5105 to authorize the Farm Credit System ("System") banks to use debt management policies to control the amount of outstanding discount notes as an alternative to maintaining formalized commercial bank lines of credit. Six comments were received on the proposal, all of which favored the regulation as proposed.

The Board amended 12 CFR 615.5150 to require each board of directors of a System bank to adopt policies regarding the formulation of electronic data processing ("EDP") and word processing ("WP") programs. Such policies shall require each System bank to develop short- and long-term EDP/WP plans for the bank and any land bank associations or production credit associations for which it has supervisory responsibility. Bank board EDP/WP policies and bank plans shall be subject to FCA approval prior to implementation. Three comments were received regarding the proposal, all of which favored the regulation as proposed.

The Board amended 12 CFR 615.5350 to implement provisions of the Farm Credit Act Amendments of 1980 (Pub. L. 96-592) which authorize the Federal land banks to make patronage distributions out of net earnings. All five commentators agreed with the proposal and one commentator suggested moving the regulation from Subpart K—Surplus and Reserves to Subpart L—Distribution of Earnings. Since the Board believed the suggestion had merit, a technical correction has been made by moving §§ 615.5350 and 615.5360 which deal with earnings from Subpart K—Surplus and Reserves to Subpart L—Distribution of Earnings.

List of Subjects in 12 CFR Part 615

Accounting, Agriculture, Banks, banking, Government securities, Investments, Rural areas.

PART 615—FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS

For the reasons set out in the preamble, Part 615 of Chapter VI, Title 12 of the Code of Federal Regulations is amended as shown.

1. Section 615.5105 is amended by revising paragraph (c) to read as follows:

Subpart C—Issuance of Bonds, Notes, Debentures and Similar Obligations

* * * * *

§ 615.5105 Consolidated Systemwide notes.

* * * * *

(c) Each bank shall either identify in the debt management policy required under § 615.5104 a maximum amount of discount notes that can be outstanding at any one time, or maintain unencumbered formalized lines of credit from commercial banks or other financial institutions at least equal to one-third of its participation in notes outstanding.

2. Section 615.5150 is amended by revising paragraph (c) to read as follows:

Subpart E—Investments

* * * * *

§ 615.5150 Real and personal property.

* * * * *

(c) Each bank board shall adopt policies to provide bank management with direction in the formulation of electronic data processing (EDP) and word processing (WP) programs. These policies shall require the management of each bank to develop short- and long-term plans to forecast the EDP and WP hardware, software, and communications requirements of the bank and any associations for which it has supervisory responsibility. In accordance with such plans, bank management shall formally approve the purchase or lease of computer systems by the bank or an association, and any replacement equipment, additional components, and data terminals to ensure compatibility between the bank and its associations, adherence to Farm Credit System EDP/WP standards and efficiency of operation. The establishment of computer centers, acquisition of mainframe processors, creation of teleprocessing networks, and major software development efforts shall be addressed in the bank's long-term plan. Bank board policies shall require FCA approval prior to implementation. Bank plans shall require prior FCA approval whenever the agency determines that the EDP operation of a bank does not meet acceptable standards of efficiency or effectiveness.

3. Part 615 is amended by moving §§ 615.5350 and 615.5360 to the beginning of Subpart L.

4. Section 615.5350 is revised to read as follows:

§ 615.5350 Federal land bank earnings.

Federal land banks may pay patronage refunds out of the whole or any part of net earnings which remain after the restoration of the amount of any impairment of capital stock and the maintenance of a reserve account as provided in section 1.17(a) of the Act. Patronage refunds may only be distributed to borrowers and shall be in the form of allocated equities or cash or both under policies prescribed by the bank's board of directors and approved by FCA. A bank may make a patronage refund to borrowers indirectly through an association which shall make a corresponding patronage distribution of like kind and equivalent value to the borrower.

(Secs. 5.9, 5.12, 5.18, Pub. L. 92-181, 85 Stat. 619, 620, 621, 12 U.S.C. 2243, 2246 and 2252)

Donald E. Wilkinson,

Governor.

[FR Doc. 82-17739 Filed 6-30-82; 8:45 am]

BILLING CODE 6705-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-ANE-07 Amdt. 39-4411]

Airworthiness Directives; Pratt & Whitney Aircraft JT3D Turbofan Engine, All Models

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts an Airworthiness Directive (AD) which requires eddy current inspection for cracks in bolt holes, counterweight holes, and snap diameters on all JT3D third stage turbine disks. The AD is needed to detect cracks which could result in an uncontained third stage turbine disk failure.

DATES: Effective Date—This amendment is effective on July 1, 1982. Compliance Schedule—as prescribed in the body of the AD.

ADDRESSES: The applicable Alert Service Bulletin may be obtained from Pratt & Whitney Aircraft, Division of United Technologies Corporation, 400 Main Street, East Hartford, Connecticut 06108. A copy of the Alert Service Bulletin is contained in the Rules Docket, Office of the Regional Counsel, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT:

Ralph S. Hawkins, (ANE-142), Engine Certification Branch, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7347.

SUPPLEMENTARY INFORMATION:

Prior Regulatory History

A proposal to amend Part 39 of the Federal Aviation Regulations (14 CFR Part 39) by adding a new AD applicable to Pratt & Whitney Aircraft JT3D turbofan engines all models, was published in the **Federal Register** on March 15, 1982, (47 FR 11035). Recently, a JT3D engine installed in a DC-8 aircraft experienced an uncontained third stage turbine disk failure during takeoff roll. The failure was caused by a low cycle fatigue crack which originated in the bore of a tierod bolt hole in the third stage turbine disk. Subsequent inspection, under the cognizance of the engine manufacturer, of 150 used JT3D third stage turbine disks, has shown that 91 of those disks exhibit cracks originating at the bolt holes. Additionally, cracks were found in counterweight holes and spacer snap diameter fillet radii on some of these disks. An eddy current inspection technique has been used to detect these cracks which initiate below the surface of the wall of the bolt hole. Since this condition is likely to exist or develop on other engines of the same type design, the AD requires a repetitive eddy current inspection of third stage turbine disks, in accordance with Pratt & Whitney Aircraft Alert Service Bulletin No. 5358, "Engine, disk, 3rd stage turbine, eddy-current inspection and rework," for cracks in the bolt holes, counterweight holes, and spacer snap diameter fillet radii. Part number 416903 is an earlier third stage turbine disk design which is believed to be no longer in service. This AD removes this earlier design from use because it is more prone

to fatigue cracking than the present design.

Interested persons were invited to participate in this rulemaking by submitting written comments on the proposal to the FAA.

One commentator provided the results from the inspection of 49 additional third stage turbine disks, which were not referenced in the Notice of Proposed Rulemaking (NPRM). These 49 additional high cyclic count disks were selected from operators who operate in cold climates and who frequently utilize reduced power for takeoff. It had been felt by some of the engine operators that their type of operation was not represented in the original 101 disk sample. Of the additional 49 third stage turbine disks which were inspected, 35 of them were found to have crack indications which exceed the acceptability limits established in Alert Service Bulletin No. 5358. This commentator also provided the results from the metallurgical examination of the fracture surfaces of four of these disks. Their analysis showed:

A. Striation count data obtained from one of these disks verified a crack initiation life at nearly the same minimum level that was established from the original sample.

B. Striations on another disk verified a crack growth rate the same as measured for disks in the original sample.

C. A third disk, with a .083 inch deep crack in a tierod hole, was estimated to have a fifty percent risk of rupture prior to reaching 8,000 cycles.

This commentator concludes that the physical condition of the additional sample of disks as well as the disk's operating environment does not differ significantly from the original sample of disks and that the inspection schedule in Alert Service Bulletin No. 5358 should be complied with. Additionally this commentator suggested that the sentence in the proposed AD, "Cracked third stage turbine disks must be removed prior to further flight." Be replaced with "Cracked third stage turbine disks can not be continued in service," in order to avoid a possible source of confusion. The FAA concurs with the additional substantiating data provided and also concurs with the proposed wording change, which is being incorporated.

Several commentators expressed concern that in light of the successful operating history of the third stage turbine disk in the JT3D engines (i.e., only one disk failure in twenty years of JT3D operation, utilizing approximately 16,000 third stage turbine disks, in over 180 million flight hours) the bolt hole eddy current inspection schedule is either unnecessary or at least unduly restrictive. While the FAA understands that concern, the metallurgical analysis of the disk which failed as well 6 other used third stage turbine disks has provided data which supports the necessity of the inspections prescribed by this Airworthiness Directive. These data can be summarized as follows: The present retirement life for JT3D third stage turbine disks is 8,000 cycles or 16,000 hours whichever comes first. The turbine disk which failed had accumulated only 5,612 cycles since new, and showed no evidence of improper manufacture. (i.e., This disk met all dimensional, material and hardness requirements.) One of the six other disks which were metallurgically examined showed fatigue crack initiation at as low a cyclic count as the disk which failed. Another of the six other disks which were metallurgically examined showed crack growth as rapid as the disk which failed. Examination of the retirement records for 1,420 disks which had been previously retired from service showed over half of the disks had been retired prior to the accumulation of 6,000 cycles. This "early" retirement is the result of removal of disks which had reached the 16,000 hour retirement life as well as disks which were near to retirement when the engine was disassembled for maintenance and were not reinstalled because it was economically advantageous not to.

Several commentators expressed concern about the financial burden that this AD would impose on them. One commentator does not have the ability to inspect the turbine disks as rapidly as the engines come due for inspection. They estimate one or more aircraft will be grounded for up to 15 weeks while the engines wait for inspection. Another commentator stated it would cost $866,000 to inspect 144 turbine disks which they have installed in their aircraft. Still another commentator stated that the cost of the inspection required by this AD would force him to reduce the operation of his aircraft by 500 flights. The FAA has given these comments consideration and feels the cost of the inspections is justified. If the inspections required by this AD are not performed, several more third stage turbine disk uncontained failures will be the likely result during the next several years.

One commentator referred to the difference in wording of the compliance schedules between Alert Service Bulletin No. 5358 and the text of the AD, and felt that the AD was more restrictive than the Alert Service Bulletin. The compliance schedule in the AD was rewritten to address disks with under 4,500 cycles on the effective date of the AD and to clarify the compliance schedule. The intent of the two schedules is identical, as careful examination will show.

One commentator suggested monitoring of aircraft instrumentation to detect cracked turbine disks prior to failure. "Our aircraft is still equipped with and we are still monitoring the aircraft vibration monitoring system as a part of our engine program. Any condition which would cause a large change in vibration levels would alert us to investigate and correct any unairworthy conditions." The FAA does not feel this will provide a warning indication sufficiently in advance to allow corrective action to be taken. Historically, disk failures in turbine engines have shown normal vibration readings right up to the instant of disk failure.

While the AD was being reviewed by FAA personnel, it was realized that an opportunity for mis-interpretation of the AD existed. The AD does not intend to change the present hourly and cyclic retirement life limits on third stage turbine disks which are listed in the JT3D Overhaul Manual. Additionally, the AD does not intend that third stage turbine disks remain in use beyond the hourly and cyclic retirement life limits now listed in the JT3D Overhaul Manual. For these reasons a sentence is being added "Note: The established life limits for the third stage turbine disks shall not be exceeded."

The FAA has given careful consideration to the comments which were received, and has determined that sufficient evidence exists in the public interest of aviation safety to adopt the proposed rule with only the two minor changes that have been noted. Since these changes are for clarification and to avoid possible misinterpretation, additional notice and public procedure hereon are unnecessary.

List of Subjects in 14 CFR Part 39

Engine, Aircraft, Air transportation, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Pratt & Whitney Aircraft: Applies to all Pratt & Whitney Aircraft JT3D turbofan engines.

Compliance required as indicated, unless already accomplished.

To detect cracks in third stage turbine disks, P/Ns 418903, 438903, and 675803, which could result in fracture of the third stage turbine disk and an uncontained third stage turbine disk failure, inspect third stage turbine disks, P/Ns 438903 and 675803, for cracks in the tierod holes, counterweight holes, and spacer snap diameter fillet radii. Inspect in accordance with Pratt & Whitney Aircraft Alert Service Bulletin No. 5358, dated February 5, 1982, or later FAA approved revision, or equivalent means approved by the Chief, Engine Certification Branch, Federal Aviation Administration, New England Region, per the following schedule:

a. Disks with less than 4,500 cycles on the effective date of this AD shall be inspected before 5,500 cycles.

b. Disks with between 4,500 and 4,999 cycles on the effective date of this AD shall be inspected within 1,000 cycles.

c. Disks with between 5,000 and 5,500 cycles on the effective date of this AD shall be inspected before 6,000 cycles.

d. Disks with more than 5,500 cycles on the effective date of this AD shall be inspected within 500 cycles.

Cracked third turbine disks cannot be continued in service. Any third stage turbine disk which has a crack which is within the allowable crack repair limit(s) specified in the above referenced Pratt & Whitney Aircraft Alert Service Bulletin may be returned to service if it is repaired in accordance with this service bulletin. Any third stage turbine disk which has had all of the tierod holes and all of the counterweight holes repaired in accordance with this service bulletin must be reinspected in accordance with the service bulletin prior to the accumulation of 4,000 additional cycles after inspection. All other third stage turbine disks which are suitable for continued usage per this service bulletin must be reinspected in accordance with this service bulletin prior to the accumulation of 2,500 additional cycles after inspection. These repetitive inspections must be repeated throughout the service life of the third stage turbine disk.

Third stage turbine disks, P/N 418903, shall be removed from service within 500 cycles from the effective date of this AD or by December 31, 1982, whichever comes first. The inspection and rework provisions of Pratt & Whitney Aircraft Alert Service Bulletin No. 5358 do not apply to P/N 418903 third stage turbine disks.

Note.—The established life limits for the third stage turbine disks shall not be exceeded.

Upon request of the operator, an FAA Maintenance Inspector, subject to prior approval of Chief, Engine Certification Branch, FAA, New England Region, may adjust the inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

All persons affected by this directive who have not already received the referenced Alert Service Bulletin from the manufacturer may obtain copies upon request to Pratt & Whitney Aircraft, Division of United Technologies Corporation, 400 Main Street, East Hartford, Connecticut 06108. This document may also be examined at Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803. A historical file on this AD is maintained by the FAA at the New England Region Office.

The undersigned certifies, pursuant to 5 U.S.C. 605(b), that the final rule will not, if promulgated, have a significant impact on a substantial number of small entities.

It is estimated that the domestic small entities which are affected by this AD represent 4.3% of the JT3D aircraft engines owned by the domestic U.S. entities. The total number of domestic U.S. JT3D turbofan engines affected by this AD is 1722. The total number of JT3D turbofan engines (i.e. both domestic and foreign) affected by this AD is 5023.

This amendment becomes effective on July 1, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89).

Note.—The FAA has determined that this AD involves a regulation which is not considered to be major under Executive Order 12291 or significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

A regulatory evaluation prepared for this regulation has been placed in the docket. A copy may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

Issued in Burlington, Massachusetts, on June 17, 1982.

John B. Roach,

Acting Director, New England Region.

[FR Doc. 82-17591 Filed 6-30-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 81-WE-22-AD; Amdt. 39-4406]

Airworthiness Directives; Piccard Balloon Model AX-6 Balloon

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) that requires certain fuel system modifications on Piccard Balloon Model AX-6 balloons. The AD is needed to reduce the delay in fuel shut-off to lessen the risk of fire in a force landing situation.

DATES: Effective July 30, 1982. Compliance required within the next thirty hours time-in-service after the effective date of this AD.

ADDRESSES: The applicable service information may be obtained from General Balloon Corporation, Costa Mesa, California. This information also may be examined at FAA Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168; or Western Aircraft Certification Field Office, 15000 Aviation Blvd., Hawthorne, California 90260.

FOR FURTHER INFORMATION CONTACT: Don Watt, Aerospace Engineer, Propulsion Section, ANM-174W, Western Aircraft Certification Field Office, FAA Northwest Mountain Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009, telephone (213) 536-6382.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to adopt an airworthiness directive which requires certain fuel system modifications on Piccard Balloon Model AX-6 series balloons was published in the **Federal Register** on January 11, 1982, (47 FR 1140). The proposal was prompted by a report of a forced landing situation in which the fuel shut-off rate provisions on the Piccard Balloon Model AX-6 contributed to a hazardous situation involving a fire.

Interested persons have been afforded an opportunity to participate in the making of the amendment. Athough no objections were received, the FAA has again evaluated the proposed rule and concluded that air safety and the public interest require that the rule be adopted as proposed.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Piccard Balloon. Applies to Model AX-6 series hot air balloons certificated in all categories. Compliance required within the next 30 hours time-in-service after the effective date of this AD, unless already accomplished. To prevent slow operation of fuel shut-off during emergency conditions, accomplish the following:

A. Modify the burner and fuel system to incoroprate a P/N PSP 705 quick shut-off

valve at the fuel tank and a shut-off valve P/N PSP 706 on the pilot light system at the burner plate, in accordance with General Balloon Corporation Drawing No. 8200–A, dated September 28, 1981, and General Balloon Corporation Service Letter No. 8, dated December 4, 1981.

B. Install blast valve handle P/N PSP 606 and Return Spring PSP 607 in place of blast valve handle P/N S041–7 per General Balloon Corporation Service Letter No. 8, dated December 4, 1981, and drawing 8200–A, dated September 28, 1981.

C. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Mountain Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 553(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to General Balloon Corporation, Costa Mesa, California.

These documents may also be examined at FAA Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168; or Western Aircraft Certification Field Office, 15000 Aviation Boulevard, Hawthorne, California 90260.

This amendment becomes effective July 30, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—For the reasons discussed earlier in this rulemaking action, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is further certified under the Criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because of the small cost to modify. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Wash. on June 15, 1982.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 82-17560 Filed 6-30-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-ANE-13; Amdt. No. 39-4412]

Teledyne Continental Motors Models TSIO–520–NB, –J, –K, and –N Engines; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: Emergency Airworthiness Directive (AD) 82–09–01 was issued April 16, 1982, and made effective immediately upon receipt by the operators and owners of certain Teledyne Continental Motors Models TSIO–520–NB, –J, –K, and –N engines installed in, but not limited to, Cessna Models 340 and 414 series airplanes. This AD requires inspection of the fuel pressure regulator and replacement as necessary. The AD is needed to detect and replace leaking or damaged fuel pressure regulators which could result in an engine compartment fire.

DATES: Effective July 8, 1982, as to all persons except those persons to whom it was made immediately effective by priority mail, issued April 16, 1982.

ADDRESSES: The applicable service bulletin may be obtained from Teledyne Continental Motors, P.O. Box 90, Mobile, Alabama 36601.

A copy of the applicable service bulletin is contained in the Rules Docket in the Office of the Regional Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and in Room 275, Atlanta Aircraft Certification Office, Federal Aviation Administration, 3400 Norman Berry Drive, East Point, Georgia 30344.

FOR FURTHER INFORMATION CONTACT: R. C. Padgett, ACE–140A, Atlanta Aircraft Certification Office, Federal Aviation Administration, Central Region, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763–7435.

SUPPLEMENTARY INFORMATION: There have been reports of leakage at the fuel line connections on the fuel pressure regulator due to damaged thread bores in the regulator on certain Teledyne Continental Motors Model TSIO–520–NB, –J, –K, and –N engines. This condition could result in an engine compartment fire. The AD requires inspection of the regulator for fuel leakage and subsequent inspection of the fuel line connections at the regulator for damage to the threads in bores and on the fittings and replacement as necessary.

Since it was found that immediate corrective action was required, and notice and public procedure thereon were impracticable and contrary to the public interest, good cause existed for making the AD effective immediately to all known United States operators and owners of aircraft with TCM Models TSIO–520–NB, –J, –K, and –N engines by individual priority mail letters dated April 16, 1982. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to Section 39.13 of Part 39 of the Federal Aviation Regulations to make it effective to all persons.

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, and Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

Teledyne Continental Motors

Applies to the following engines installed in, but not limited to, Cessna Models 340 and 414 series airplanes:

New Engines: TSIO–520–NB serial numbers 519735 thru 519738, 519781 thru 519785, 519885 thru 519890, 519893 thru 519897, 519899 through 519915, 519929 thru 519933, 519935 thru 519937, 519939 thru 519962, 521026 thru 521045, 521049 thru 521074, 521085 thru 521088, 521097, 521141 thru 521168, 521170 thru 521183, 521187 thru 521237, 521239 thru 521247, 521249 thru 521255, 521257, 521258, 521260 thru 521281, 521284 thru 521305, 521307 thru 521335, 521339, 521340, 521342 thru 521345, 521347, 521349, 521351, 521353, 521354, 521357, 521358, 521362, 521365, 521366, 521371, 521378, 521384, 521385, 521393, 521395 521398 521413 thru 521418, 521441, 521442, 521455, 521461.

Rebuilt Engines: TSIO–520–J serial numbers 218830, 218831, 2318836, 218838 thru 218873; TSIO–520–K serial numbers 224563, 224565 thru 224573; TSIO–520–N serial numbers 228231, 228243, 228248 thru 228250, 228255, 228262 thru 228363, 228365 thru 228368, 228373; TSIO–520–NB serial numbers 233976, 233982, 233986, 233987, 233989 thru 234058, 234060 thru 234069, 234071 thru 234074, 234077, 234078.

Compliance is required as indicated unless already accomplished.

To prevent the possibility of a fuel leak which could result in an engine compartment fire, accomplish the following:

A. Prior to next flight, activate the boost pump to static check the fuel pressure regulator inlet and outlet for leaks. Visually inspect in the area of the fuel pressure regulator for the presence of fuel stains. If either inspection indicates a leak or stains, comply with Paragraph B before further flight. If no leak or stain is evident, comply with Paragraph B within the next 10 hours of operation.

B. Remove the fuel fittings from the regulator and inspect the thread bores in the regulator and the threads of the fittings. If the threads in the regulator appear damaged, cut, or chipped (when compared to a normal pipe thread), replace the fuel pressure regulator with a serviceable regulator of a like part number. Replace any damaged fittings. Prior to installing the fittings, clean the threads with clean degreaser, Loctite "Loquic Primer

T' or equivalent, to be sure all oil and dirt is removed. Blow dry with dry compressed air. Apply Loctite Hydraulic Sealant 69 or 569 or equivalent sparingly ¾ of the way around on the fitting threads only. To avoid contamination of the fuel cavity, do not apply sealant to the first thread. Install the fittings until tight (at least 3–5 threads engagement). Allow sealant to cure for 30 minutes before pressure testing.

Note.—Teledyne Continental Motors Service Bulletin No. M82–5, dated April 26, 1982, pertains to this subject.

An equivalent method of compliance may be approved by the Chief, Atlanta Aircraft Certification Office, Federal Aviation Administration, ACE–115A, P.O. Box 20636, Atlanta, Georgia 30320.

This amendment becomes effective July 8, 1982, as to all persons except those to whom it was made immediately effective by priority mail, issued April 16, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under the criteria of DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A regulatory evaluation has been prepared and placed in the regulatory docket. A copy may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

Issued in Burlington, Massachusetts, on June 18, 1982.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 82–17714 Filed 6–30–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 82–AWP–11]

Alteration of Transition Area, Ukiah, California

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters the descripton of the Ukiah, California, 700 foot transition area by adding an extension to the north. This extension is necessary to provide additional controlled airspace for a new instrument approach procedure using the newly installed localizer (LOC) and distance measuring equipment (DME).

EFFECTIVE DATE: 0900 G.m.t., September 2, 1982. Comments on the rule must be received by July 21, 1982.

ADDRESSES: Send comments on the proposal in triplicate to Director, Federal Aviation Administration, Attn: Chief, Airspace and Procedures Branch, AWP–530, 15000 Aviation Boulevard, Lawndale, California 90261. A public docket will be available for examination in the Office of the Regional Counsel, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; telephone: (213) 536–6270.

FOR FURTHER INFORMATION CONTACT: Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; Telephone (213) 536–6182.

SUPPLEMENTARY INFORMATION:

History

The purpose of this amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to designate a 700 foot transition area extension to provide controlled airspace for IFR operations. This amendment represents a change in the technical description of the transition area and imposes no greater constraints on the public than presently exist.

Requests for Comments on the Rule

Although this action is in the form of a final rule and was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking procedures to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the description of the Ukiah, California, transition area by adding an extension which is predicated on the installation of the LOC and DME. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3 dated January 29, 1982.

Under the circumstances presented, the FAA concludes that there is an immediate need for a regulation to redesignate airspace based on the new approach navigational aids. Therefore, I find that notice or public procedure under 5 U.S.C. 353(b) is contrary to the public interest.

List of Subjects in 14 CFR Part 71

Transition area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 G.m.t., September 2, 1982, as follows:

§ 71.181 Ukiah, California

Following * * * "longitude 123° 12′ 00″ W;" add "and within 2.5 miles each side of the Ukiah localizer course extending from the 5 mile radius area to 16 miles north of runway 15 threshold; * * *."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510), Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act (49 U.S.C. 1955(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Los Angeles, California, on June 14, 1982.

R. L. Devereaux,

Acting Director, Western-Pacific Region.

[FR Doc. 82–17715 Filed 6–30–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 82–ACE–15]

Designation of Federal Airways, Area Low Point Routes, Controlled Airspace and Reporting Points; Alteration of Transition Area, Marshall, Mo.

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to alter the 700-foot transition

area at Marshall, Missouri. The City of Marshall, Missouri, has moved the Marshall, Missouri, non-directional radio beacon (NDB) to a new location on the airport. Therefore, the FAA has developed instrument approaches utilitizing the NDB at the new location. A minor alteration to the Marshall transition area is require to include these new instrument approach procedures and to ensure segregation of aircraft utilizing them under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: September 2, 1982.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE–532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–3408.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71.181) is to alter the Marshall, Missouri, transition area. The alteration is necessary due to the relocation of the NDB on the airport. The FAA has developed instrument approaches utilizing the NDB at its new location. The existing transition area contains practically all the airspace needed for the new approaches and the amount of airspace designated as the transition area remains essentially the same except for some minor changes to the transition area extension. The intended effect of this action is to include the new instrument approach procedures within the Marshall, Missouri, transition area in order to ensure segregation of aircraft using these new instrument approach procedures under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). Since this change is not significant and does not impose any additional burden, notice and public procedure under 5 U.S.C. 553(b) is impracticable and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT, September 2, 1982, by altering the following transition area:

Marshall, Missouri

That airspace extending upwards from 700 feet above the surface within a 5-mile radius of the Marshall Memorial Airport (Latitude 39°05'50" N; Longitude 93°12'10" W), and within 3 miles each side of the 353° bearing from the MHL NDB (Latitude 39°05'57" N; Longitude 93°12'11" W), extending from the 5-mile radius area to 8.5 miles north of the NDB facility; and within 3 miles each side of the 190° bearing from the MHL NDB extending from the 5-mile radius area to 8.5 miles south of the NDB facility.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and Sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Mo., on June 18, 1982.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 82–17717 Filed 6–30–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 74–CE–26]

Designation of Federal Airways, Area Low Point Routes, Controlled Airspace and Reporting Points; Alteration of Transition Areas—State of Missouri

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Revision of a final rule.

SUMMARY: This action revises a rule appearing in FR Doc. 75–5738 on page 10172 in the issue of Wednesday, March 5, 1975. Subsequent to the issuance of this rule, it has been determined that the 1,200-foot transition area at Maples, Missouri, was inadvertently not deleted when the State of Missouri was redesignated as a 1,200-foot transition area.

EFFECTIVE DATE: June 18, 1982.

FOR FURTHER INFORMATION CONTACT: Don A. Peterson, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE–532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–3408.

SUPPLEMENTARY INFORMATION: Subsequent to the issuance of the Final Rule on March 5, 1975 (40 FR 10172), redesignating a 1,200-foot transition area for the State of Missouri, it has been determined that the Maples, Missouri, 1,200-foot transition area was inadvertenly not deleted. Since such deletion was intended but not accomplished, action is taken herein to make this revision. Inasmuch as the change is insignificant, notice and public procedure hereon are impractical and not considered necessary.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Rulemaking Docket No. 74–CE–26 (40 FR 10172; March 5, 1975), is hereby amended by adding to the list of cities under the title "Missouri" the words: "Maples, Missouri."

(Sec. 307(a) Federal Aviation Act of 1958, as amended (49 U.S.C. 1348); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); § 11.69 of the Federal Aviation Regulations (14 CFR 11.69))

Note.—This action revises a rule by correcting an inadvertent error. For this reason, the FAA has determined that it involves amendment of a regulation which is (1) not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) it is certified under the criteria of the Regulatory Flexibility Act that the amendment will not have a significant economic impact on a substantial number of small entities.

Issued in Kansas City, Mo., on June 18, 1982.

John E. Shaw.

[FR Doc. 82–17718 Filed 6–30–82; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

Approval of Supplements to the Indiana State Plan: Correction

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final rule; correction.

SUMMARY: The present 29 CFR 1952.324, completed developmental steps, contains one undesignated paragraph stating that the Indiana poster was approved by the Assistant Secretary on March 2, 1976. On October 6, 1981 numerous additional developmental supplements were approved by the

Assistant Secretary (46 FR 49116). The October 6, 1981 notice designated the additional approved supplements as paragraphs (b) through (m) of 29 CFR 1952.324; through an administrative oversight the existing first paragraph of the section remained undesignated. This document corrects 29 CFR 1952.324 by designating the first paragraph as paragraph (a).

FOR FURTHER INFORMATION CONTACT: Dennis J. Lubow, Project Officer, Office of State Programs, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N-3613, Washington, D.C. 20210, (202) 523-6021.

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Accordingly, 29 CFR 1952.324 is corrected by designating the first paragraph thereof as paragraph (a). As corrected, paragraph (a) is revised to read as follows:

§ 1952.324 Completed developmental steps.

(a) In accordance with the requirements of § 1952.10, the Indiana poster was approved for use until Federal enforcement authority and standards become inapplicable to issues covered under the plan, by the Assistant Secretary on March 2, 1976.

* * * * *

(Sec. 18, Pub. L. 91-596, 84 Stat. 1600, 1608 (29 U.S.C. 667))

Signed at Washington, D.C., this 29th day of June 1982.

Thorne G. Auchter,

Assistant Secretary.

[FR Doc. 82-18051 Filed 6-30-82; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Ch. I

[CGO 82-073]

Editorial Name Change

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Inter-Governmental Maritime Consultative Organization (IMCO) officially changed its name to the International Maritime Organization (IMO) on May 22, 1982. This amendment revises the references to IMCO in 33 CFR Chapter I to reflect the current name of the organization.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander James W. Gormanson, Office of Merchant Marine Safety (G-MTH-1/14), Room 1405, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593 (202-426-1217).

SUPPLEMENTARY INFORMATION: Since the editorial change is due to the name change of an international organization which is beyond the control of this agency, notice and public procedure thereon are unnecessary under 5 U.S.C. 553(b)(3)(B). This amendment is effective immediately under 5 U.S.C. 553(d) because it is not a substantive rule. The Coast Guard has determined that this rule—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5-22-80); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. The Coast Guard certifies that this amendment will not have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Accordingly, Chapter I of Title 33 of the Code of Federal Regulations is amended as follows:

1. By amending Chapter I of Title 33, striking the words:

"Inter-Governmental Maritime Consultative Organization;"

"Inter-governmental Maritime Consultative Organization;"

"Intergovernmental Maritime Consultative Organization;" and inserting "International Maritime Organization (IMO, formerly Inter-Governmental Maritime Consultative Organization or IMCO)."

2. By amending Chapter I of Title 33, striking the word "IMCO" and inserting "IMO."

Dated: June 25, 1982.

L. N. Hein,

Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 82-17097 Filed 6-30-82; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 100

[CGD 13-82-07]

Columbia Cup Unlimited Hydroplane Race

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This regulation establishes an area of controlled navigation on the Columbia River from July 28, 1982 until August 1, 1982. This is required due to the unlimited hydroplane races scheduled for this time period as part of the Tri-Cities Water Follies Columbia Cup Unlimited Hydroplane Race. The Coast Guard through this action intends to ensure the safety of spectators and participants in this event.

EFFECTIVE DATE: This regulation is effective from July 28, 1982 until August 1, 1982.

FOR FURTHER INFORMATION CONTACT: LCDR B. W. Mills, Commander(bb), Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Washington 98174, (206) 442-7355.

SUPPLEMENTARY INFORMATION:

Discussion. Each year, the Tri-Cities Water Follies Association sponsors an unlimited hydroplane regatta on the Columbia River near Kennewick, Washington. The event draws a large number of spectators to the beaches and waters surrounding the race course. A sizeable portion of the spectators watch the event from a significant number of pleasure craft anchored near the race course. To ensure the safety of both the spectators and the participants, a special navigational regulation providing the Coast Guard personnel with the authority to control and coordinate general navigation in the waters surrounding the race course during the event is required.

Procedure. This regulation has been promulgated as a Final Rule without any prior announcement or Notice of Proposed Rulemaking as the event involved is an annual affair and the regulation imposed is virtually identical to those which have been in force in prior years without adverse public criticism or comment. Although this special local navigation regulation is published as a Final Rule without prior notice, public comment is nevertheless desirable to ensure that the regulation is both workable and reasonable. Accordingly, persons wishing to comment may do so by submitting written comments to the office listed under "FOR FURTHER INFORMATION CONTACT" in this preamble. Commenters should include their names and addresses, identify the docket number for the rulemaking, and give reasons for their comments. Based upon comments received, the regulation may be changed.

Drafting Information: The principal persons involved in the drafting of this proposal are LCDR B. W. MILLS, USCG, Project Officer, CCGD13 Boating Safety Office, and LCDR R. R. CLARK, USCG, Project Attorney, CCGD13 Legal Office.

Summary of Evaluation: This regulation is considered to be nonsignificant in accordance with guidelines set forth in the Policies and Procedures for Simplification, Analysis and Review of Regulations (DOT Order 2100.00 of 5–22–80). An economic evaluation of this notice has not been conducted since its impact is expected to be minimal. This regulation affects a short section of the Columbia River with only light commercial traffic and will be in effect for only five (5) days, two of those being Saturday and Sunday. On the days of time trials, 28 July to 31 July 1982, the Patrol Commander will allow commercial traffic to transit the area between time trials. On race day, Sunday, 1 August 1982, all traffic will be excluded. Since there was no notice of proposed rulemaking, it is herewith certified in accordance with section 605(b) of the Regulatory Flexibility Act (94 STAT. 1164) that these rules will not have a significant economic impact on a substantial number of small entities. This is clear from the limited, if any impact on commercial marine traffic that will occur as a result of this final rule.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

Final Regulations: In consideration of the foregoing, the Coast Guard proposes to amend Part 100 of Title 33, Code of Federal Regulations, by adding the following new § 100.1310:

§ 100.1310 Columbia River/1982 Columbia Cup Unlimited Hydroplane Race.

(a) From July 28, 1982 to July 31, 1982, this regulation will be in effect from 0800 until 1900 Pacific Daylight time. On August 1, 1982 this regulation will be in effect from 0800 until one hour after the conclusion of the last race.

(b) The area where the Coast Guard will restrict general navigation and anchorage by this regulation during the hours it is in effect is:

(1) The waters of the Columbia River from the western end of Hydro Island to Lake Wallula daybeacon 49, LLP121 located east of the Interstate 395 Bridge (Blue Bridge) at Kennewick, Washington.

(c) The Coast Guard patrol of the area described in paragraph (b) of this section is under the direction of the Coast Guard Patrol Commander. He is empowered to control the movement of vessels in the area described in paragraph (b).

(d) Vessels underway in the area described in paragraph (b) during the hours this regulation is in effect shall do so only at speeds which will create minimum wake, seven (7) miles per hour or less. This maximum speed may be reduced at the discretion of the Patrol Commander.

(e) A succession of sharp, short signals by whistle or horn from vessels patrolling the area under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signalled shall stop and shall comply with the orders of the patrol vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(46 U.S.C. 454; 33 CFR 100.35)

Dated: June 23, 1982.

C. F. DeWolf,

Rear Admiral, U.S. Coast Guard Commander, 13th Coast Guard District.

[FR Doc. 82-17940 Filed 6-30-82; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 100

[CGD 09-82-05]

Joe Gimbrone Memorial Regatta; Special Local Regulation

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard will establish a regulated area in the Niagara River, on July 17 and 18, 1982. This action is required to permit the conducting of an approved marine event. It is intended to restrict vessel navigation in the Niagara River area for the safety of the spectators and participants in the event.

EFFECTIVE DATE: This amendment will be effective only on July 17 and 18, 1982.

FOR FURTHER INFORMATION CONTACT: MSTC Bruce Graham, Office of Search and Rescue, Ninth Coast Guard District, 1240 E 9th St., Cleveland, OH 44199, (216) 522–4420.

SUPPLEMENTARY INFORMATION: This rule is effective in less than 30 days after publishing. On 29 April, 1982, the Coast Guard published a notice of proposed rulemaking in the **Federal Register** for these regulations (47 FR 18373). Interested persons were requested to submit comments and no comments were received.

Drafting Information

The principal persons involved in drafting this rule are MSTC Bruce Graham, Project Officer, Office of Search and Rescue, and LCDR Michael Gentile, Project Attorney, Legal Office, Ninth Coast Guard District.

Discussion of Comments

None was received and no significant differences exist between the proposed and final rule.

Summary of Final Evaluation

The Joe Gimbrone Memorial Regatta will be conducted on the Niagara River, Tonawanda Channel, on July 17 and 18, 1982. This event will have an estimated 80 hydroplanes which could pose hazards to navigation in the area. Vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander (U.S. Coast Guard Group Buffalo, NY). These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. This conclusion follows from the fact that the regulated area in the Tonawanda Channel of the Niagara River can be opened periodically to allow for the passage of commercial vessels. In addition, these regulations are considered to the nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). An economic evaluation has not been conducted since, for the reasons discussed above, its impact is expected to be minimal. In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities. This rule is necessary to insure the protection of life and property in the area during the event.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

In consideration of the foregoing, Part 100 of Title 33 Code of Federal Regulations, is amended by adding the following § 100.35–0905:

§ 100.35–0905 Niagara River, New York/ Tonawanda Channel.

(a) The following area will be restricted to vessel navigation or anchorage from 11:00 a.m. (local time) until 7:00 p.m. on July 17 and 18, 1982.

(1) That portion of the east branch of the Niagara River, Tonawanda Channel, from the overhead cable, 1300 yards northeast of the South Grand Island Bridge, to an east-west line through Tonawanda Channel Buoy 35 (LLP 29).

(b) The patrol of a portion of Niagara River will be under the direction of a

designated Coast Guard Patrol Commander who is empowered to forbid and control movement of vessels in the area before, during, and after the events for such time as he finds it necessary for the safe and orderly conduct of the events.

(c) A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signaled shall stop and shall comply with the orders of the Patrol Vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(d) This section 100.35–0905 will become effective at 11:00 a.m. (local time) on July 17, 1982 and will no longer be effective after 7:00 p.m. on July 18, 1982.

(Sec. 1, 35 Stat. 69 as amended, Sec. 6(b)(1), 80 Stat. 937; 46 U.S.C. 454; 49 U.S.C. 1655(b)(1); 33 CFR 100.35; 49 CFR 1.46(b))

Dated: June 18, 1982.

Henry H. Bell,

Rear Admiral, U.S. Coast Guard Commander, Ninth Coast Guard District.

[FR Doc. 82-17941 Filed 6-30-82; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL-2071-3]

Approval and Promulgation of Implementation Plans; California Nonattainment Area Plans

AGENCY: Environmental Protection Agency.

ACTION: Notice of final rulemaking.

SUMMARY: On September 5 and 15, 1980, the Environmental Protection Agency (EPA) published notices of proposed rulemaking concerning the San Joaquin Valley, Sacramento Valley, and South Central Coast Air Basin nonattainment area plans (NAPs) for ozone, carbon monoxide (CO), and particulate matter (PM).

Today's notice takes final action to approve, conditionally approve, and disapprove portions of the NAPs for Fresno and Ventura Counties and for the Sacramento Metropolitan area (Sacramento, Yolo, and Solano Counties and a portion of Placer County).

DATE: This action is effective July 1, 1982.

ADDRESS: A copy of the NAPs is located at: The Office of the Federal Register, 1100 "L" Street, N.W., Room 8401, Washington, D.C. 20408. Public Information Reference Unit, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Attn: Douglas Grano (415) 974–8222, Director, Air Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105.

SUPPLEMENTARY INFORMATION:

Background

On October 13, 1977, January 2, October 15 and 18, November 13, December 17 and 24, 1979, and February 25, May 1 and June 2, 1980, the California Air Resources Board (ARB) submitted revisions to the California State Implementation Plan (SIP) consisting of a control strategy and regulations for the San Joaquin Valley, Sacramento Valley, and South Central Coast Air Basins. These revisions, which comprise the NAPs, are intended to provide for attainment of the ozone, CO, and PM National Ambient Air Quality Standards (NAAQS) in these Air Basins.

On September 5 and 15, 1980, EPA published notices of proposed rulemaking for the San Joaquin Valley (45 FR 58897), Sacramento Valley (45 FR 58883), and South Central Coast (45 FR 58912) Air Basin NAPs for ozone, CO, and PM. These notices should be used as references in reviewing today's notice.

Supplemental Revisions

After EPA's review, which appears in the September 5 and 15, 1980 notices, the State submitted revisions to the NAPs as discussed below.

California Environmental Quality Act (CEQA)

On October 20, 1980, the State submitted the following portions of CEQA in response to a proposed condition of approval:

Sections 2100; 21001; 21002; 21002.1, 21061; 21063; 21065; 21080.1; 21080.4(a); 21080.5 (a), (b), (c) and (d); 21081; 21082; 21100; 21104; 21151; 21153; and 21160.

EPA has determined that these portions of the CEQA satisfy the requirements of Section 172(b)(11)(A) of the Clean Air Act. The CEQA provisions were incorporated into the California State Implementation Plan in a final rulemaking notice for the South Coast Air Basin NAP published on January 21, 1981 (46 FR 5965).

New Source Review Rules

On March 17, 1980 the State submitted an amendment to Ventura County Rule 26, New Source Review, as a SIP revision. The revision only modifies paragraph 26.3(a)(4) in order to delineate the boundaries of Ventura County's Southern Zone which are used in implementation of the rule.

On March 23, 1981, the State submitted amended Ventura County Rule 26.2, "New or Modified Stationary Sources—Unallocated Pollutants", as a SIP revision. The content of Rule 26.2 remains the same. However, the title has been changed in order to avoid confusion as to which pollutants are addressed in this rule. On September 5, 1980, EPA proposed that the rule be amended to require offsets for new or modified major sources of PM. The title change in Rule 26.2 clarifies that major sources of PM will in fact be included in the permitting process.

EPA finds that these revisions represent a clarification of the rules and do not change their substance. Since an opportunity to comment on the rules has already been given in the proposal notice, further comment is not considered necessary for this minor change and thus EPA finds that "good cause" exists to immediately approve these rules.

Volatile Organic Compound (VOC) Rules

The following rules have been received and evaluated against the requirements for reasonably available control technology (RACT) for Group I control technique guidelines (CTG) categories:

Fresno Rule 410, "Storage of Organic Liquids," submitted May 13, 1980,
Placer County (Mountain Counties Air Basin portion) Rule 213, "Gasoline Transfer into Stationary Storage Containers," submitted May 28, 1981,
Placer County (Mountain Counties Air Basin portion) Rule 216, "Degreasing Operations," submitted May 28, 1981,
Placer County (Mountain Counties Air Basin portion) Rule 223, "Can Coating," submitted May 28, 1981,
Sacramento Rule 13, "Gasoline Transfer into Stationary Storage Containers," submitted December 15, 1980,
Sacramento Rule 18, "Can Coating," submitted June 24, 1980,
Sacramento Rule 20, "Degreasing Operations," submitted October 23, 1981,
Yolo-Solano Rule 2.13(h)(6), "Organic Solvents," submitted March 30, 1981 (cutback asphalts),
Vetura Rule 70, "Transfer of Gasoline into Motor Vehicle Fuel Tanks," submitted October 23, 1981, and
Ventura Rule 71.2, "Storage of Organic Liquids," submitted January 28, 1981.

EPA has evaluated all of the rules described above as Group I CTG category rules and had found that each of them fulfills the requirement for RACT for the corresponding source category. Further, all of the rules listed above are consistent with Section 110 of the Clean Air Act since they provide emission limits necessary to insure attainment of the NAAQS.

The Fresno Rule 410 also addresses requirements for Fixed and Floating Roof Tanks, a Group II CTG category, as does Ventura Rule 71.2, "Storage of Organic Liquids," submitted January 28, 1981. Adequacy of these rules to fulfill Group II RACT requirements is addressed in a separate notice published in the **Federal Register** on July 29, 1981 (46 FR 38725). While EPA believes that these two rules now satisfy the requirements for fixed roof tanks (a Group I CTG source category), final approval of these two rules will be based on the July 29, 1981 proposal.

Revised Sacramento County APCD Rules 13 and 20 contain only minor amendments as compared with Rules 13 and 20 evaluated as part of the September 5, 1980 Notice. Ventura County Rule 70(E) submitted on October 23, 1981 also contains only minor amendments as compared to Rule 70 discussed in the September 5, 1980 notice. Yolo-Solano Rule 2.13(h)(6) has been amended by (1) establishing a limit of 1% on the VOC content of emulsified asphalts, (2) limiting the exemption for stockpiling to only the winter months, and (3) restructuring the rule to clarify the applicability of the rule to cutback asphalt users. These amendments were designed to satisfy each of the deficiencies noted in the September 5, 1980 notice, and therefore, the proposed conditions for Rule 2.13(h)(b) have been satisfied. EPA has determined that "good cause" (see Administrative Procedure Act, 5 U.S.C. 553(b)) exists to approve the above items without providing further notice and opportunity to comment since the revisions represent only minor amendments or merely satisfy certain conditions of approval.

EPA has also determined that the Placer County (Mountain Counties portion) Rules 213, 216, and 223 and Sacramento County Rule 18 are similar and equivalent to the model rules evaluated as part of the September 5, 1980 Notice. As noted in EPA's evaluation of the model rule, the requirements of the model rule were sufficient to allow EPA to rescind the Federal Regulation 40 CFR 52.255, "Gasoline transfer vapor control". EPA is therefore rescinding the Federal Regulation as applicable to Placer County. Because these rules are similar and equivalent, EPA also finds that for good cause an additional notice and comment on these Rules is unnecessary (See U.S.C. Section 553(b)(B), Administrative Procedure Act).

Other NAP Revisions

Fresno County

On October 9, 1980, the ARB submitted the following document in order to satisfy a proposed condition of approval concerning Fresno County:

Air Quality Planning Addendum—Council of Fresno County Governments 1979–84 Overall Work Program. EPA has reviewed the above document and agrees that it contains adequate commitments and schedules for study of transportation control measures.

Sacramento Metropolitan Area

On October 9, 1980, the ARB submitted two items in order to satisfy proposed conditions of approval. EPA's evaluation of these items follows:

1. *Emission Inventory, 1976.*

2. *Air Quality Plan Technical Appendix, January 1979.*

EPA proposed as a condition of approval the submittal of revised CO and hydrocarbon (HC) emission inventories which include emissions for the total nonattainment area and supporting documentation for emission factors and projections. EPA has reviewed the above two items and determined that the condition of approval should be deleted.

Ventura County

On April 1, and July 16, 1981, the ARB submitted nine items in order to satisfy proposed conditions of approval published in the September 5 notice. EPA's evaluation of these items follows:

1. *Appendix B–81, Empirical Kinetic Modeling Approach: Ozone Formation, Transport, and Concentration Relationships in Ventura County; Update of Emission Reduction Required for Attainment of Ozone NAAQS.*

EPA proposed as a condition of approval the submittal of documentation to support the ozone design value. EPA has reviewed the above item and determined that the deficiency has been corrected.

2. Letter: Jan Bush to Mike Redemer, January 23, 1981. (See discussion under item 6.)

3. Letter and enclosures: Janet Lyders to Mike Scheible, February 6, 1981. (See discussion under item 7.)

4. Letter and enclosures: Jan Bush to William Lockett, December 15, 1980. (See discussion under item 6.)

5. Letter and enclosures: Jan Bush to William C. Lockett, October 23, 1980. (See discussion under item 6.)

6. Attachment V—Transportation Control Measures.

EPA proposed as a condition of approval the submittal of (a) currently programmed transportation control measures (TCMs) and (b) schedules and commitments for these measures. EPA has reviewed the above document, together with items 4 and 5, and determined that the condition of approval is satisfied.

EPA also proposed as a condition of approval the submittal of an identification and commitment to the resources needed for implementation of the plan and for analysis and adoption of TCMs. EPA's review of items 4, 5, and 6, found the necessary identification and commitments. Therefore, the condition of approval is met.

7. Ventura Air Quality Management Plan, Appendix Q, *Plan for Attainment of Standards for Total Suspended Particulates in Ventura County: Interim Report,* July, 1980.

EPA proposed as a condition of approval the submittal of documentation to support the particulate matter design value. EPA has reviewed the above document and the information provided in item 2 above and determined that they adequately explain why certain data were not used. The proposed EPA condition of approval is therefore deleted.

EPA also proposed as a condition of approval the submittal of revised emission reduction estimates per control tactic for particulate matter. EPA has determined that the above document satisfies this condition of approval.

8. Attachment IV—Population Forecasts. This item updates population growth forecasts contained in Ventura County's AQMP and proposed for approval September 5, 1980. Since only minor changes are made, this item is approvable.

9. Attachment VI—Implementation of Emission Reductions Required for Attainment of TSP Standards.

EPA proposed as a condition of approval the submittal of needed tasks and a schedule to define nontraditional particulate sources, to characterize secondary particulate sources, and to develop, adopt, submit, and implement control measures. EPA has reviewed the above document and determined that the needed tasks and schedules are provided. Therefore, the condition is satisfied.

EPA has determined that "good cause" exists (see Administrative Procedure Act, 5 U.S.C. 553(b)) to

approve all of the above (twelve) items without providing further notice and opportunity to comment. EPA has already provided opportunity to comment on the substance of these items which were addressed in the September 5, 1980 proposal notice. Additional comment would serve no practical purpose since these revisions merely satisfy certain conditions of approval.

Public Comments

During the public comment period, EPA received comments from the Air Resources Board, the Council of Fresno County Governments, the County of Fresno Department of Health, the Sacramento Regional Area Planning Commission, the County of Sacramento Air Pollution Control District, and the County of Ventura Air Pollution Control District. A document containing the summarization of comments and the EPA response to each, entitled "EPA Public Comment Technical Support Document," is available for public inspection as a part of Document Files NAP–CA–04, 16, and 30 at the EPA library in Washington, D.C., at the EPA Region 9 office in San Francisco, CA and at the other Document locations listed in the September 5, 1980 notices.

EPA Actions

Introduction

The criteria used in EPA's review are detailed in the General Preamble and four supplements referenced in the notice of proposed rulemaking.

While EPA's evaluation of the NAP for ozone includes use of "Control Technique Guidelines" ("CTG's") documents as a "presumptive norm," the states may adjust the recommended controls or develop requirements which are not based on the CTG's, provided that they submit information supporting their decisions.

It should be noted that action may be taken on a portion of a NAP for a specific pollutant or rule. Therefore, a portion of a NAP may be adequate for one pollutant but inadequate for others. Further, a rule may be adequate under Section 110, but inadequate under Section 172 or 173 of the Act. It is EPA's policy to take final action on all portions of a NAP for each pollutant.

Therefore, this notice contains a series of actions for each pollutant and for each portion of the NAP rather than a single action. One of the following three actions may be taken for each portion of a NAP:

1. Disapproval where deficiencies are of such magnitude as to significantly interfere with the basic objective of the NAP; or

2. Approval where the portion of the NAP under consideration meets all requirements; or

3. Approval with conditions where deficiencies exist, but where the effect of the deficiency is not judged to be major and where the State has agreed to take those steps necessary to correct the deficiency. In this case, it is EPA's understanding that the State will proceed expeditiously to correct the noted deficiency by certain dates.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). Under section 307(b)(2), this action may not be challeneged later in proceedings to enforce its requirements.

EPA's final actions described below are based on the proposed rulemaking notice, supplemental revisions submitted by the State, and public comments received by EPA.

Approved Portions of the NAPs

EPA is taking action under Section 110 of the Clean Air Act to approve the following rules since they provide emission limits necessary to insure attainment of the NAAQS: Fresno County rules 409, 409.1, 409.3, 409.4, 409.5, and 411; Placer County rules 212, 213, 215 to 219, and 223; Sacramento County rules 6, 11, 12 and 16 to 20; Ventura County rules 2, 70, 71, 71.1, 71.3, 74.3, 74.4, 74.6, 74.7 and 74.8; and Yolo-Solano rules 2.13(h)(6), 2.14, 2.21, 2.21.1, 2.24, and 2.25.

In addition, EPA is taking action under Part D of the Act to approve the following VOC rules since they fully satisfy the requirements for RACT for Group I CTG source categories: Fresno County rules 409.3, 409.4, 411, and 412; Placer County rules 212 (11/13/79 version) 213, 215, 216, and 223; Sacramento County rules 11, 12, 13, 17, 18, and 20; Yolo-Solano County rules 2.13(h)(6), 2.21, 2.21.1 and 2.25; and Ventura County rules 70, 71, 71.1, 71.3, and 74.8.

As proposed in the September 5 notices and discussed in the Public Comment Technical Support Document, and the SUPPLEMENTAL REVISIONS section of this notice, EPA is taking final action under Section 172 to approve the following portions of the Fresno, Sacramento Metropolitan, and Ventura NAPs for CO, O_3 and PM: emission inventory, moldeling, emission reduction estimates, attainment provision, RFP, legally adopted measures (Ventura only), emissions growth, annual reporting, resources, public and government involvement, public hearing and extension requirements.

Conditionally Approved Portions of the NAPs

As discussed in the proposal notices, the Public Comment Technical Support Document, and the SUPPLEMENTAL REVISIONS section of this notice, the following portions of the NAPs contain minor deficiencies with respect to Sections 172 and 173: legally adopted measures (Sacramento Metropolitan and Fresno areas only), permit program and extension requirements for VOC.

Since the State and the lead planning agencies have assured EPA that they will submit the material to correct the minor deficiencies, EPA takes final action to conditionally approve these portions of the NAP.

To satisfy the conditions of approval, the State must submit the following material by the indicated dates:

1. By October 29, 1982 the NSR rules must be revised to meet the requirements in EPA's amended regulations for NSR under Section 173 of the Clean Air Act (May 13, 1980, 45 FR 31307), August 7, 1980, 45 FR 52676) and October 14, 1981 (46 FR 50766) and submitted as a SIP revision.

2. By October 29, 1982, the State must provide either (1) an adequate demonstration that the following regulations represent RACT, (2) amend the regulations so that they are consistent with the CTG, or (3) demonstrate that the regulations will result in VOC emission reductions which are within five percent of the reductions which would be achieved through the implemention of the CTG recommendations.

Yolo-Solano County APCD

Rule 2.24, "Solvent Cleaning Operations (Degreasing)"

Ventura County APCD

Rule 74.3, "Fabric and Film Coating"

3. By (120 days after publication of this notice), submit commitments and implementation schedules for the five transportation control measures included in the Sacramento Metropolitan and Fresno area plans.

Disapproved Portions of the NAPs

Since the State has not provided the necessary legal authority, the I/M portion of these NAPs for CO and/or O_3 is disapproved.

Final Overall Action on the NAPs for Fresno, Sacramento and Ventura

Since the Fresno and Ventura NAPs for PM contain only minor deficiencies

and since the State has provided assurances to correct these deficiencies, EPA is taking final action to conditionally approve this portion of the NAPs. As a result, the prohibition on construction of major or new or modified sources is no longer in effect in Fresno and Ventura Counties for PM. Further, the prohibition is not in effect for PM sources in the Sacramento Metropolitan area since the area is nonattainment only for the welfare related secondary standard.

Due to the I/M disapproval, today's actions also result in an overall disapproval of the Fresno, Sacramento and Ventura NAPs for CO and O_3. This retains the current prohibition on construction of major new or modified VOC and (except in Ventura County)[1] CO sources in these three nonattainment areas.

Regulatory Process

In those areas for which the State of California has submitted approvable or conditionally approvable NAPs in accordance with the requirements of Part D of the Clean Air Act, EPA has a responsibility to take final action as soon as possible in order to lift the construction prohibition. Since the State has submitted a conditionally approvable NAP for PM for the counties discussed in this notice, EPA finds that good cause exists for making this action immediately effective.

The new SIP requirements approved or conditionally approved by today's notice are an addition to the existing SIP and do not supersede or replace the "old" SIP requirements until a source comes into compliance with the new requirements. For further information, see EPA's General Preamble.

As a result of approval of certain portions of the NAPs, EPA is taking final action to rescind the following analogous portions of 40 CFR Part 52 for the counties indicated:

§ 52.246 *Control of dry cleaning solvent losses* (Placer County)
§ 52.252 *Control of degreasing operations* (Placer County)
§ 52.253 *Metal surface coating thinner and reducer* (Placer County)
§ 52.254 *Organic solvent usage* (Placer County)
§ 52.255 *Gasoline transfer vapor control* (Fresno, Placer, Sacramento, Ventura, and Yolo-Solano Counties)
§ 52.256 *Control of evaporative losses from the filling of vehicular tanks* (Sacramento County)

In addition, § 52.253 and § 52.254 are rescinded as applicable to the coating of metal parts and products for sources in full compliance with Fresno County Rule 409.4 or Yolo-Solano County Rule 2.25.

Under Executive Order 12291, EPA must judge whether a rulemaking action is "major". Further, under the Regulatory Flexibility Act, EPA must assess the effect of the rulemaking action on "small entitites" This regulation is not "major" because it approves state and local actions and imposes no new requirements. I hereby certify that the action will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 12291, this regulation was submitted to the Office of Management and Budget (OMB) for review.

Under the Clean Air Act, any petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 30, 1982. This action may not be challenged later in proceedings to enforce its requirements.

Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1981.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Secs. 110, 129, 171–178, and 301(a), Clean Air Act, as amended [42 U.S.C. 7410, 7429, 7501 to 7508, and 7601(a)]).

Dated: June 14, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart F of Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220 is amended by adding paragraphs (c)(47)(ii)(B), (50)(ix), (52)(xiii) (B) and (xv), (54)(i)(B), (iv) and (v), 56(ii), (58)(iv), (71), (74)(iii), 77(ii)(B), (79)(iii), (82)(i), (85)(iii), (89)(ii), (91), (92)(ii), (95)(ii), (97), and (103) (iv) and (v) as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *
(47) * * *
(ii) * * *
(B) New or amended Rule 409.1.

* * * * *

(50) * * *
(ix) Ventura County APCD.
(A) New or amended Rules 71 and 71.3.

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(52) * * *
(xiii) * * *
(B) New or amended Rules 215 and 219.

* * * * *

(xv) Fresno County APCD.
(A) New or amended Rules 210.1 [except paragraphs (3)(D) and (5)(B)(8)], 210.2, 409.5, 409, 409.3, 409.4, and 411.

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(54) * * *
(i) * * *
(B) New or amended Rule 71.1.

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(iv) * * *
(B) New or amended Rules 2.21, 2.21.1, 2.24 and 2.25.
(v) Sacramento County APCD.
(A) New or amended Rule 17.

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(56) * * *
(ii) Ventura County APCD.
(A) Amended Rule 26.3.

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(58) * * *
(iv) Ventura County APCD.
(A) New or amended Rule 74.3.

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(71) The *San Joaquin Valley Air Basin Control Strategy* (Chapter 16 of the Comprehensive Revisions to the State of California Implementation Plan for the Attainment and Maintenance of Ambient Air Quality Standards) submitted on October 11, 1979, by the Governor's designee. Those portions of the *San Joaquin Valley Air Basin Control Strategy* identified by Tables 16–1a, 1b and 1c (Summary of Plan Compliance with the Clean Air Act Requirements) comprise the submitted plan. The remaining portions are for informational purposes only.

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(74) * * *
(iii) Ventura County APCD.
(A) New Rule 70 (except paragraph E).

* * * * *

(77) * * *
(ii) The South Central Coast Air Basin Control Strategy [Chapter 17 of the Comprehensive Revision to the State of California Implementation Plan for the Attainment and Maintenance of Ambient Air Quality Standards]. Those portions of the South Central Coast Air Basin Control Strategy identified by Tables 17–1 and 17–2 "Location of Plan Elements Which Meet Clean Air Act Requirements" together with the rules identified below comprise the submitted nonattainment area plan. The remaining

[1] Ventura County is attainment for CO.

portions are for informational purposes only.

(A) * * *

(B) Ventura County APCD Rules 26 (except 26.2, 26.3 and 26.4), 74.4, 74.7, and 74.8.

* * * * *

(79) * * *

(iii) Ventura County APCD.

(A) New or amended Rule 2.

* * * * *

(82) * * *

(i) Ventura County APCD.

(A) New or amended Rule 74.6.

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(85) * * *

(iii) Sacramento County APCD.

(A) New or amended Rule 13.

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(89) * * *

(ii) Yolo-Solano County APCD.

(A) New or amended Rule 2.13(h)(6).

* * * * *

(91) The following amendments to the plan were submitted on November 13, 1979, by the Governor's designee.

(i) The Sacramento Valley Air Basin Control Strategy (Chapter 13 of the Comprehensive Revisions to the State of California Implementation Plan for the Attainment and Maintenance of Ambient Air Quality Standards): those portions pertaining to the Sacramento Metropolitan Area including the following rules:

(A) Placer County APCD (Mountain Counties Air Basin portion) Rules 212, 217, and 218.

(B) Sacramento County APCD Rules 6, 11, 12, 16, 19, and 56 (except paragraph (5)(a)(8)).

(C) Yolo-Solano County APCD Rules 2.14 and 3.4 [except paragraph (5)(a)(8)].

* * * * *

(92) * * *

(ii) Placer County (Mountain Counties Air Basin portion).

(A) New or amended Rules 213, 216, and 223.

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(95) * * *

(ii) Ventura County APCD.

(A) Amended Rule 26.2.

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(97) Revised regulations for the following APCDs submitted on June 24, 1980, by the Governor's designee.

(i) Sacramento County APCD.

(A) New or amended Rule 18.

* * * * *

(103) * * *

(iv) Ventura County APCD.

(A) Amended Rule 70(E).

(v) Sacramento County APCD.

(A) Amended Rule 20.

* * * * *

(109) Three items submitted for Fresno County and the Sacramento Metropolitan Area by the Governor's designee on October 9, 1980:

(i) *Air Quality Planning Addendum-Council of Fresno County Governments 1979–84 Overall Work Program.*

(ii) *Emission Inventory, 1976* for the Sacramento Metropolitan Area.

(iii) *Air Quality Plan Technical Appendix, January 1979* for the Sacramento Metropolitan Area.

* * * * *

(110) Five items submitted for Ventura County by the Governor's designee on April 1, 1980:

(i) *Appendix B–81, Empirical Kinetic Modeling Approach: Ozone Formation, Transport, and Concentration Relationships in Ventura County; Update of Emission Reduction Required for Attainment of Ozone NAAQS.*

(ii) Letter: Jan Bush to Mike Redemer, January 23, 1981.

(iii) Letter and enclosures: Janet Lyders to Mike Scheible, February 6, 1981.

(iv) Letter and enclosures: Jan Bush to William Lockett, December 15, 1980.

(v) Letter and enclosures: Jan Bush to William Lockett, October 23, 1980.

* * * * *

(111) Four items submitted for Ventura County by the Governor's designee on July 16, 1981:

(i) Attachment V—Transportation Control Measures.

(ii) Ventura Air Quality Management Plan, Appendix O, *Plan for Attainment of Standards for Total Suspended Particulates In Ventura County: Interim Report,* July, 1980.

(iii) Attachment IV—Population Forecasts.

(iv) Attachment VI—Implementation of Emission Reductions Required for Attainment of TSP Standards.

* * * * *

2. Section 52.222 is amended by adding paragraphs (d)(3)(ii), (4)(ii) and (5) as follows:

§ 52.222 Extensions.

* * * * *

(d) * * *

(3) * * *

(ii) Ventura County for O_3.

(4) * * *

(ii) Fresno County for O_3 and CO.

(A) Fresno-Clovis Metropolitan Area for CO.

(5) Sacramento Valley Air Basin.

(i) Sacramento Metropolitan Area for O_3.

(ii) Sacramento County for CO.

* * * * *

3. Section 52.223 is amended by adding paragraphs (b)(5)(viii) and (6)(ii) as follows:

§ 52.223 Approval status.

* * * * *

(b) * * *

(5) * * *

(viii) Fresno County for TSP.

(6) * * *

(ii) Ventura County for TSP.

* * * * *

(4) Section 52.232 is amended by adding paragraph (a)(11) as follows:

§ 52.232 Part D conditional approval.

(a) * * *

(11) Fresno County, Sacramento Metropolitan, and Ventura County nonattainment areas.

(i) For ozone, CO (except Ventura County) and PM (except Sacramento County):

(A) By (120 days after publication of this notice) the NSR rules must be revised to meet the requirements in EPA's amended regulations for NSR under Section 173 of the Clean Air Act (May 13, 1980 (45 FR 31307)) August 7, 1980 (45 FR 52676), and October 14, 1981 (46 FR 50766).

(ii) For ozone: By (120 days after publication of this notice), the State must provide either (1) an adequate demonstration that the following regulations represent RACT, (2) amend the regulations so that they are consistent with the CTG, or (3) demonstrate that the regulations will result in VOC emission reductions which are within five percent of the reductions which would be achieved through the implementation of the CTG recommendations:

Yolo-Solano County APCD

Rule 2.24, "Solvent Cleaning Operations (Degreasing)".

Ventura County APCD

Rule 74.3, "Fabric and Film Coating".

(iii) For ozone and CO for the Sacramento Metropolitan and Fresno areas:

(A) By October 29, 1982, submit commitments and implementation schedules for the five transportation control measures included in the plans.

* * * * *

5. Section 52.233 is amended by rescinding paragraphs (b), (d)(4), (18), and (28), (e), (f)(1)(i) (b) and (d), and (g)(1) (iv), (xvi) and (xxvi).

* * * * *

6. Section 52.237 is amended by adding paragraph (a)(3), (4) and (5) as follows:

§ 52.237 Part D disapproval.

(a) * * *

(3) The portions of the *San Joaquin Valley Air Basin Control Strategy* which

pertain to an I/M program in Fresno County.

(4) The portions of the *South Central Coast Air Basin Control Strategy* which pertain to an I/M program in Ventura County.

(5) The portions of the *Sacramento Valley Air Basin Control Strategy* which pertain to an I/M program in the Sacramento Metropolitan area.

* * * * *

7. In § 52.238, the entries for Fresno County in the San Joaquin Valley Intrastate, the Sacramento Valley Intrastate, and Ventura County in the South Central Coast Intrastate are revised as follows:

§ 52.238 Attainment dates for national standards.

* * * * *

Air quality control region and nonattainment area	Pollutants						
	TSP		SO_2		NO	CO	O_3
	Primary	Secondary	Primary	Secondary			
* *	*	*	*	*	*		*
San Joaquin Valley Intrastate							
a. Fresno County:							
Fresno-Clovis Metropolitan Area	h	h	d	e	e	i	i.
Remainder	h	h	d	e	e	e	i.
* *	*	*	*	*	*		*
Sacramento Valley Intrastate							
Sacramento Metropolitan Area	d	e	d	e	e	e	i.
Sacramento County	d	h	d	e	e	i	i.
Yolo-Solano County (section)	d	e	d	e	e	e	i.
* *	*	*	*	*	*		*
Mountain Counties Intrastate							
* *	*	*	*	*	*		*
Sacramento Metropolitan Area Placer (portion).	d	e	d	e	e	e	i.
Metropolitan Los Angeles Intrastate							
* *	*	*	*	*	*		*
Ventura County (mainland portion):							
North of Southern Los Padres N.F. boundary.	h	h	d	e	e	e	i.
South of Southern Los Padres N.F. boundary.	h	h	d	e	e	e	i.
* *	*	*	*	*	*		*

8. Section 52.246 is amended by adding paragraph (b)(1)(ii) as follows:

§ 52.246 Control of dry cleaning solvent vapor losses.

* * * * *

(b) * * *

(1) * * *

(ii) Placer County APCD (Mountain Counties Air Basin portion).

* * * * *

9. Section 52.252 is amended by adding paragraph (b)(1)(ii) as follows:

§ 52.252 Control of degreasing operations.

* * * * *

(b) * * *

(1) * * *

(ii) Placer County APCD (Mountain Counties Air Basin portion).

* * * * *

10. Section 52.253 is amended by revising paragraph (b)(1) and by adding paragraph (b)(1) (ii) and (iii) and (b)(3)(viii) to read as follows:

§ 52.253 Metal surface coating thinner and reducer.

* * * * *

(b) * * *

(1) In the following portions of the Sacramento Valley Intrastate Region, this section is either fully rescinded or partially rescinded subject to the conditions specified as follows:

* * * * *

(ii) Placer County APCD (Mountain Counties Air Basin portion).

(iii) This section is rescinded for metal parts and products coaters which are subject to and in full compliance with Yolo-Solano County Rule 2.25 submitted on February 25, 1980.

* * * * *

(3) * * *

(viii) This section is rescinded for metal parts and products coaters which are subject to and in full compliance with Fresno County Rule 409.4 submitted on October 15, 1979.

* * * * *

11. Section 52.254 is amended by revising paragraph (a)(1)(i) and by adding paragraph (a)(3)(iv) to read as follows:

§ 52.254 Organic solvent usage.

(a) * * *

(1) * * *

(i) This section is rescinded entirely for metal parts and products coaters which are subject to and in full compliance with Rule 409.4 for the Fresno County APCD, Rule 410.4 for the Kings County APCD, Rule 410.4 for the Madera County APCD, Rule 409.4 for the Merced County APCD, Rule 409.4 for the San Joaquin County APCD, Rule 409.4 for the Stanislaus County APCD, and Rule 410.4 for the Tulare County APCD.

* * * * *

(3) * * *

(iv) Placer County APCD (Mountain Counties Air Basin portion).

* * * * * *

12. Section 52.255 is amended by revising paragraph (b), by reserving paragraphs (b)(1) (i) and (iv), (b)(2), and (b)(3) (ii)–(viii), and by adding paragraphs (b)(3) (x)–(xii) to read as follows:

§ 52.255 Gasoline transfer vapor control.

* * * * *

(b) This section is applicable in the Metropolitan Los Angeles and Sacramento Valley Intrastate Air Quality Control Regions, as described in 40 CFR Part 81, dated July 1, 1979, with the following exceptions:

(1) * * *

(i) [Reserved]

* * * * *

(iv) [Reserved]

* * * * *

(2) [Reserved]

(3) * * *

(i) * * *

(ii)–(viii) [Reserved]

(ix) * * *

(x) Placer County APCD (Mountain Counties Air Basin portion).

(xi) Sacramento County APCD.

(xii) Yolo-Solano County APCD.

(xiii) Ventura County APCD.

* * * * *

13. Section 52.256 is amended by adding paragraph (b)(3) to read as follows:

§ 52.256 Control of evaporative losses from the filling of vehicular tanks.

* * * * *

(b) * * *

(3) In the following portion of the Sacramento Valley Intrastate Region, this section is rescinded.

(i) Sacramento County APCD.

* * * * *

[FR Doc. 82-17700 Filed 6-30-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[A-6-FRL-2130-4]

Approval and Promulgation of Implementation Plans; Deletion of Five Texas Counties From Stage 1 Vapor Recovery for the Filling of Gasoline Storage Vessels at Motor Vehicle Fuel Dispensing Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action approves a revision to the Texas State Implementation Plan (SIP) submitted to EPA by the Governor on November 2, 1979. This action deletes the counties of Jefferson, Orange, El Paso, Nueces, and Travis from Stage I vapor recovery requirements for the filling of gasoline storage vessels at motor vehicle fuel dispensing facilities (service stations). The State has indicated that none of the sources affected by the November 2, 1979 revision are major, and that emission reductions from this source category are not needed to demonstrate attainment of the National Ambient Air Quality Standards for ozone by 1982.

EFFECTIVE DATE: This action will be effective on August 30, 1982 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Written comments on this action may be submitted to the following address: Environmental Protection Agency, Region 6, Air and Waste Management Division, Air Branch, ATTN: Richard Raybourne, 1201 Elm Street, Dallas, Texas 75270.

The State's submittal is available for inspection during normal business hours at the following locations: Environmental Protection Agency, Public Information Reference Unit, Room 2922, EPA Library, 401 M Street, S.W., Washington, D.C. 20460, and the Office of the Federal Register, 1100 L Street, N.W., Washington, D.C., Room 8401, and at the EPA Region 6 Office address above. EPA's evaluation of the State's submittal, "EPA Review of Texas State Implementation Plan Revision for the Deletion of Five Counties from Requirements of Stage I Vapor Recovery of November 2, 1979; April, 1982, is available at the Region 6 address listed above.

FOR FURTHER INFORMATION CONTACT: Richard Raybourne, SIP Section, 6AW-AS, Environmental Protection Agency, Region 6 Office, (214) 767-1518.

SUPPLEMENTARY INFORMATION: On April 13, 1979, the Governor of Texas submitted SIP revisions pursuant to the requirements of Part D of Title I of the Clean Air Act, as amended in 1977. These revisions included Stage I vapor recovery requirements for service stations at Subsection 131.07.54 (now 115.131) of Texas Air Control Board (TACB) Regulation V. Subsection 131.07.54 as submitted included coverage for the following eleven counties: Bexar, Brazoria, Dallas, El Paso, Galveston, Harris, Jefferson, Orange, Nueces, Tarrant, and Travis. In response to the State's April 13, 1979 submittal, EPA issued a final rule on March 25, 1980 (at 45 FR 19233) which approved the State's regulation for El Paso, Nueces, Ector, Gregg, Jefferson, Orange and Travis Counties. This March 25, 1980 rule further specified that Federal regulations similar to the State's version, promulgated by EPA at 42 FR 37380 and 37381 (on July 21, 1977), would remain in effect for Harris, Galveston, Brazoria, Bexar, Dallas, and Tarrant Counties. On September 7, 1979, the TACB amended Regulation V, Subsection 131.07.54 to delete Jefferson, Orange, El Paso, Nueces, and Travis Counties, and submitted the SIP revision to EPA in November, 1979.

The State's action to delete the five counties was based on EPA guidance provided at 44 FR 20372 on April 4, 1979. This guidance, known as the General Preamble, identified the major considerations that guided EPA's evaluation of SIP revisions submitted according to the requirements of Part D of Title I of the Clean Air Act, as amended in 1977. Regarding ozone control strategies, the General Preamble states in part that for SIPs having attainment dates before the end of 1982, and where photochemical dispersion modeling was not used to determine emission reductions needed to achieve the standards (as was the case for the Texas plan), specific reasonable available control technolgy (RACT) requirements must apply to all major sources covered by Control Technology Guidelines (CTGs). Further, the preamble states that attainment of the standards must be achieved as expeditiously as practicable.

For the filling of service station gasoline storage tanks, the RACT requirements are reflected in TACB Subsection 131.07.54 (Now 115.131). The State, however, has indicated to EPA that none of the sources in counties affected by the November 2, 1979 revision are major (or have the potential to emit more than 100 tons of hydrocarbons per year). In addition, the State has indicated that emission reductions from this source category are not needed to demonstrate attainment of the ozone standards by the end of 1982 in the five counties affected by the revision. EPA, therefore, is approving the State's November 2, 1979 revision on the basis of the rationale as discussed above.

The public should be advised that this action will be effective 60 days from the date of the Federal Register notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments this action will be withdrawn and a subsequent notice will be published before the effective date. The subsequent notice will withdraw the final action and begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), I hereby certify that this action will not have a significant economic impact on a substantial number of small entities (See 46 FR 8709).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 30, 1982. This action may not be challenged later in proceedings to enforce its requirements. [See 307(b)(2).]

Incorporation by reference of the State Implementation Plan for the State of Texas was approved by the Director of the Federal Register on July 1, 1981.

This notice of rulemaking is issued under the authority of sections 110 and 172 of the Clean Air Act as amended.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: June 24, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart SS—Texas

1. Section 52.2270 is amended by adding new paragraph (c)(40) as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

(40) Revisions to Subchapter 115.131 (formerly 131.07.54) of Regulation V were adopted by the Texas Air Control Board on September 7, 1979 and submitted by the Governor to EPA on November 2, 1979 (i.e., removal of Jefferson, Orange, El Paso, Nueces, and Travis Counties).

[FR Doc. 82-17759 Filed 6-30-82; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 60

[NEIC-FRL 2161-2]

Alternate Method 1 to Reference Method 9 of Appendix A—Determination of the Opacity of Emissions From Stationary Sources Remotely by Lidar; Corrections

AGENCY: Environmental Protection Agency (EPA).

ACTION: Corrections to final rule.

SUMMARY: EPA is making corrections to Alternate Method 1, relating to determination of the opacity of emissions from stationary sources remotely by lidar, which was promulgated on Wednesday, October 28, 1981; 46 FR 53144–53162. These corrections are for typographical errors, conversion of the equations for corrected opacity calculations and standard deviation to units of percent, the clarification of a requirement for reference signals, and the insertion of a phrase into a sentence that was omitted in the manuscript version of the final regulation. These corrections are all nonsubstantive changes to this method which do not affect the stringency, the burden of compliance with, or the applicability of this method, and do not affect the cost of compliance.

FOR FURTHER INFORMATION CONTACT: Author W. Dybdahl, (303) 234–4658.

SUPPLEMENTARY INFORMATION: The corrections to FR Doc. 81–31243 appearing on page 53144 in the issue of October 28, 1981 are as follows:

(1) Page 53148, Column 3, Line 26 of section 1.3: "The range of distance" changed to "The range or distance".

(2) Page 53149, Column 1, Line 24 of section 2.1: "D(Lidar" changed to "D(Lidar)".

(3) Page 53149, Column 2, Line 29 from top of page: "(section 2.61)" changed to "(section 2.6.1)".

(4) Page 53149, Column 2, Line 5 of section 2.3.2: "plume drift at 30°" changed to "plume drift of 30°".

(5) Page 53149, Column 2, Line 7 of section 2.3.2: "signals were obtained" changed to "signals was obtained".

(6) Page 53149, Column 2, Last Sentence of section 2.3.2 is changed to read as follows for clarification and ease of use: "An additional set of reference signals shall also be obtained if there is an increase in value of S_{In} (near region standard deviation, Equation AM1–5) or S_{If} (far region standard deviation, Equation AM1–6) that is greater than 6% (full scale) over the respective values calculated from the immediately previous plume signal, and this increase in value remains for 30 seconds or longer."

(7) Page 53154, Column 2, Equation AM1–7 is changed such that S_o is calculated in percent:

$$S_o = \frac{(100\%)}{2}\left(\frac{I_f}{R_f}\frac{R_n}{I_n}\right)^{\frac{1}{2}}\left[\frac{S_{In}^2}{I_n^2} + \frac{S_{If}^2}{I_f^2} + \frac{S_{Rn}^2}{R_n^2} + \frac{S_{Rf}^2}{R_f^2}\right]^{\frac{1}{2}} \qquad \text{(AM1-7)}$$

(8) Page 53154, Column 2, Line 16 from top of page: "emplitude" changed to "amplitude."

(9) Page 53154, Column 3, Equation AM1–8 is changed such that O_{pc} is calculated in percent:

$$O_{pc} = (100\%)\left[1 - (1 - 0.01\,O_p)^{\text{Cos}\,(\pi/2-\varepsilon)}\right]$$

$$= (100\%)\left[1 - (1 - 0.01\,O_p)^{\text{Sin}\,\varepsilon}\right] \qquad \text{(AM1-8)}$$

(10) Page 53154, Column 3, Equation AM1–9 is changed such that O_p may remain in percent:

$$\varepsilon \geq \text{Sin}^{-1}\left[\frac{\ln\,(101 - O_p)}{\ln\,(100 - O_p)}\right] \qquad \text{(AM1-9)}$$

(11) Page 53156, Column 2, Line 6 and Line 12 from top of page:

$R\delta$ changed to R_δ

(12) Page 53156, Column 2, Line 9 and Line 11 from top of page:

$R\alpha$ changed to R_α

(13) Page 53156, Column 2, Equation AM1–12 is changed to present the proper subscript in the denominator:

$$\varepsilon = \text{Cos}^{-1}\left[\frac{R_p^2 + R_\delta^2 - R''^2_s}{2\,R_p\,R_\delta}\right] \qquad \text{(AM1-12)}$$

(14) Page 53156, Column 2, Equation AM1–13 is changed such that O_p may remain in percent:

$$\beta_p \geq \text{Cos}^{-1}\left[\frac{\ln\,(101 - O_p)}{\ln\,(100 - O_p)}\right] \qquad \text{(AM1-13)}$$

(15) Page 53156, Column 2, Equation AM1–14 is changed such that O_{pc} is calculated in percent:

$$O_{pc} = (100\%)\left[1 - (1 - 0.01\,O_p)^{\text{Cos}\beta_p}\right], \qquad \text{(AM1-14)}$$

(16) Page 53162, Column 1, Line 4 of section 4.2 is changed by inserting a phrase as follows: "* * * tests described in section 3, prior to first use of this method. The annual * * *".

Robert M. Perry,

Associate Administrator, Legal and Enforcement Counsel.

[FR Doc. 82–18006 Filed 6–30–82; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 81

[A-9-FRL 2152-4]

Designation of Areas for Air Quality Planning Purposes: Attainment Status Designation: Guam

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: This notice revises the sulfur oxides (SO_x) attainment status designation for certain portions of Guam. The SO_x designation is revised from nonattainment to attainment for all of Guam except the Piti and Tanguisson Power Plant areas. The designation for the Piti and Tanguisson areas remain nonattainment for SO_x. This action is in response to a request for redesignation of SO_x by the Guam Environmental Protection Agency under paragraph 107(d)(5) of the Clean Air Act.

DATE: This action is effective August 2, 1982.

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Air Programs Branch (A-2-3), Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974-8058.

SUPPLEMENTARY INFORMATION: On March 3, 1978, under Paragraph 107(d)(2) of the Clean Air Act (CAA), as amended, EPA promulgated attainment status designations for all states (43 FR 8962). The entire island of Guam was desginated nonattainment for SO_x due to measured ambient air quality violations.

Under paragraph 107(d)(5) of the CAA, a state may revise its designations of attainment status and submit them to EPA for consideration and promulgation. On April 9, 1981, the Guam Environmental Protection Agency (GEPA) requested that Guam's designation for SO_x be changed as follows: (1) the Tanguisson Power Plant area be redesignated to unclassifiable, (2) the Piti Power Plant area remain nonattainment and (3) the remainder of the island be redesignated to attainment.

EPA published a notice of proposed rulemaking on April 20, 1982 (47 FR 16805) which proposed to approve the designations requested by Guam, except with respect to the Tanguisson area. EPA proposed not to redesignate the Tanguisson area because both monitoring and modeling data have shown violations of the SO_x standards due to the power plant's emissions.

The proposal notice provided a 30-day public comment period. No comments were received during this time. Today's notice takes final action to redesignate all of the island of Guam to attainment for SO_x except for the Piti and Tanguisson areas, which remain nonattainment for SO_x.

The boundaries for the two nonattainment areas are:

In the Piti Power Plant area: a line encompassing the area within a 3½ kilometer radius of the stack serving Unit 3 of the Piti Power Plant.

In the Tanguisson Power Plant area: a line encompassing the area within a 3½ kilometer radius of the point halfway between the two stacks serving the Tanguisson Power Plant.

Since the area outside the two boundaries described above is redesignated to attainment, the Part D requirements of the the Clean Air Act no longer apply for SO_x in those areas. The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 30, 1982. This action may not be challenged later in proceedings to enforce its requirements.

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Secs. 107(d) and 301(a) Clean Air Act, as amended (42 U.S.C. 7407(d) and 7601(a)))

Dated: June 23, 1982.

Anne M. Gorsuch,

Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Subpart C of Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart C—Section 107 Attainment Status Designation

1. Section 81.353—Guam; the attainment status for SO_2 is revised to read as follows:

§ 81.353 Guam.

* * * * *

GUAM—SO_2

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
That portion of Guam within a 3½ km radius of the Piti Power Plant.	X			
That portion of Guam within a 3½ km radius of the Tanguisson Power Plant.	X [1]			
Remainder of State (Guam)				X.

[1] EPA designation replaces State designation.

* * * * * * *

[FR Doc. 82-17847 Filed 6-30-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 9E2140/R442; PH-FRL-2146-8]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; 2-Chloro-N-isopropylacetanilide

Correction

In FR Doc. 82-16201 appearing on page 25958 in the issue of Wednesday, June 16, 1982, make the following correction:

On page 25959, middle column, in the table for § 180.211

"Poultry, mbyp..... 0.002(N)"

should have read

"Poultry, mbyp..... 0.02(N)".

BILLING CODE 1505-01-M

40 CFR Parts 264 and 265

[SWH FRL-1 215-8]

Information Collection Requirements; Effective Date

AGENCY: Environmental Protection Agency.

ACTION: Final rule; notice of effective date for information collection requirements.

SUMMARY: This document announces Office of Management and Budget clearance and effectiveness of reporting and recordkeeping requirements contained in EPA rules on liability requirements for owners and operators of hazardous waste treatment, storage, and disposal facilities.

DATES: Effective date for 40 CFR 264.147 (a)(1)(i), (b)(1)(i), (c), (d) and (f)(3)–(6); 264.151 (g), (i) and (j); and 40 CFR 265.147 (a)(1)(i), (b)(1)(i), (b)(5), (c), (d) and (f)(3)–(6): July 15, 1982.

FOR FURTHER INFORMATION CONTACT: Elizabeth Zeller, (202) 382–4751.

SUPPLEMENTARY INFORMATION: This rule provides notice to the public that the effective date for the information collection requirements for financial responsibility for liability coverage under 40 CFR 264 and 265 (47 FR 16554–16561, April 16, 1982) is July 15, 1982. The rule amends the requirements by adding the OMB clearance number to the applicable paragraphs.

Dated: June 24, 1982.

Anne M. Gorsuch,

Administrator.

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

PART 265—INTERIOR STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

§§ 264.147, 264.151, and 265.147 [Amended]

40 CFR Parts 264 and 265 are amended as follows: 40 CFR 264.147(a)(1)(i), (b)(1)(i), (c), (d) and (f)(3)–(6); 264.151(g), (i) and (j); and 40 CFR 265.147(a)(1)(i), (b)(1)(i), (b)(5), (c), (d) and (f)(3)–(6) are amended by adding the OMB Control Number 2000–0445 parenthetically after each paragraph.

[FR Doc. 82–17821 Filed 6–30–82; 8:45 am]

BILLING CODE 6560–50–M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 5–2, 5A–2, 5B–2, 5B–4

Public Contracts and Property Management; Procurement by Formal Advertising

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: The General Services Administration Procurement Regulations, Chapter 5, are amended to transfer policies and procedures regarding Procurement by Formal Advertising from Chapters 5A and 5B. This transfer is part of the action to incorporate appropriate material in Chapters 5A and 5B into Chapter 5. Section 5–2.406 is revised to prescribe procedures for handling of mistakes in bids. Central authorities are designated for administrative determinations and approvals in this area. The intended effect is to have a single GSA-wide procurement regulation.

EFFECTIVE DATE: July 21, 1982.

FOR FURTHER INFORMATION CONTACT: Philip G. Read, Director, Office of Federal Procurement Regulations, Office of Acquisiton Policy (202) 523–4755.

List of Subjects in 41 CFR Part 5–2

Government procurement, Procurement by formal advertising, Labor area classifications.

CHAPTER 5—GENERAL SERVICES ADMINISTRATION PROCUREMENT REGULATIONS

[APD 2800.2 CHGE 23]

1. Part 5–2 is added as follows:

PART 5–2 PROCUREMENT BY FORMAL ADVERTISING

Subpart 5–2.2—Solicitation of Bids

Sec.

5–2.201 Preparation of invitations for bids.
5–2.201–50 Additional items.
5–2.201–51 Grouping of items for aggregate award. (Generally applicable to FSS contracts for supplies.)
5–2.201–52 Weighting of items for aggregate awards (Indefinite quantity contracts).
5–2.201–53 Telegraphic solicitations.
5–2.201–54 Building services.
5–2.201–55 Special minimum bid acceptance time requirements.
5–2.201–56 Discount provision.
5–2.201–57 Price list method of award (Indefinite quantity contracts).
5–2.201–58 Inspection at source.
5–2.201–59 Request for brand name information—limitation.
5–2.201–60 Fire or casualty hazards, or safety or health requirements.
5–2.201–61 Distribution of bidding documents.
5–2.202 Miscellaneous rules for solicitation of bids.
5–2.202–1 Bidding time.
5–2.202–4 Bid samples (Supply contracts).
5–2.202–5 Unsolicited samples, descriptive literature, or brand name references (Supply contracts).
5–2.202–50 Postponement of bid openings.
5–2.202–51 Listing of subcontractors (Construction, repair, and alteration).
5–2.202–52 Substitution of subcontractors named in bids for construction contracts.
5–2.202–53 Unit prices (Construction contracts).
5–2.202–54 Bidders' qualifications for special work (Construction).
5–2.202–55 Use of equipment by the Government (Construction).
5–2.202–56 Charges and deposits for bidding documents.
5–2.202–57 Construction program management.
5–2.202–58 Full maintenance of elevators.
5–2.203 Methods of soliciting bids.
5–2.203–1 Mailing or delivering to prospective bidders.
5–2.203–2 Displaying in public places.
5–2.203–3 Publicity in newspapers and trade journals. (Applicable to repair and alteration, and construction contracts).
5–2.204 Records of invitations for bids and records of bids.
5–2.205 Bidders mailing lists.
5–2.205–1 Establishment of lists.
5–2.205–2 Removal of names from bidders mailing lists (BML).
5–2.205–4 Excessively long bidders mailing lists.
5–2.207 Amendment of invitations for bids.

Subpart 5–2.3—Submission of Bids

5–2.301 Responsiveness of bids (All PBS solicitations).
5–2.302 Time of bid submission.
5–2.303 Late bids.
5–2.303–1 General.
5–2.303–5 Hand-carried bids.
5–2.303–7 Disposition of late bids.
5–2.304 Modification or withdrawal of bids.
5–2.370 Copies of bids required in submission.

Subpart 5–2.4—Opening of bids and Award of Contract

5–2.401 Receipt of safeguarding of bids.
5–2.401–50 Receipt and safeguarding of bid samples.
5–2.402 Opening of bids.
5–2.403 Recording of bids.
5–2.404 Rejection of bids.
5–2.404–2 Rejection of individual bids (Supplies and services).
5–2.404–5 All or none qualifications.
5–2.404–50 Multiple bidding.
5–2.404–51 Rejection under subcontractor listing requirements (Construction).
5–2.406 Mistakes in bids.

Sec.
5-2.406-3 Other mistakes disclosed before award.
5-2.406-4 Disclosure of mistakes after award.
5-2.406-50 Submissions to the Comptroller General.
5-2.407 Award.
5-2.407-1 General.
5-2.407-2 Responsible bidder—Reasonableness of price.
5-2.407-3 Discounts.
5-2.407-5 Other factors to be considered.
5-2.407-6 Equal low bids.
5-2.407-7 Statement and certificate of award.
5-2.407-8 Protests against award.
5-2.407-50 Evaluation of f.o.b. prices.
5-2.407-51 Disposition of contract documents.
5-2.407-52 Awards involving related cases referred to higher authority.
5-2.407-53 Extension of time for bid acceptance.
5-2.407-56 Forms for recommending award(s) (Supplies and services).
5-2.407-57 Preparation of documents for acceptance.
5-2.407-58 Notification of contract award.
5-2.407-59 Notification of proposed substantial awards and awards involving Congressional interest.
5-2.407-60 Erroneous award to higher bidder.
5-2.408 Information to bidders.
5-2.408-50 Restriction on disclosure of inspection or test data.
5-2.450 Advance notices of contract award (Construction).
5-2.450-1 Circumstances which warrant advance notice.
5-2.450-2 Telegraphic notices.
5-2.450-3 Oral notices.
5-2.450-4 Content of notices.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Subpart 5-2.2—Solicitation of Bids

§ 5-2.201 Preparation of invitations for bids.

§ 5-2.201-50 Additional items.

In addition to the requirements of § 1-2.201, the solicitation shall include, as applicable, provisions requiring the bidder to:

(a) Furnish the names of individual(s) to contact for contract administration matters, points of production, inspection, shipping points, notice of shipment, shipping weights, etc.

(b) Furnish after award, information as applicable, catalogs, reports of orders received, shipping reports, etc.

§ 5-2.201-51 Grouping of items for aggregate award. (Generally applicable to FSS contracts for supplies.)

(a) To the maximum extent feasible, contract awards shall be made on an individual item basis. However, aggregate awards of grouped items may at times best serve the Government's interest. This may occur when furniture or fixtures are required for a single project, when uniformity of design is desirable, when the articles required will be assembled and used as a unit, or when factors such as carload shipments, production runs, and quantity discounts, are involved.

(b) Items should not be grouped for aggregate award if it will unduly restrict competition or place a significant portion or class (e.g., small business concerns) of prospective bidders at a competitive disadvantage.

(1) Only items of a related character, normally handled by the majority of interested bidders, should be included in a single group. The grouping of nonrelated items tends to limit competition, provides inequitable treatment to bidders who cannot bid on all items, and may increase Government costs.

(2) Avoid grouping (for aggregate award) requirements for two or more widely dispersed geographic locations. It may restrict competition and may result in higher bid prices. (Some prospective bidders may not be able to offer competitive prices on requirements for some of the locations within the group.) Item grouping may be justified when (i) one location has a large requirement and another location has a requirement too small to individually attract competitive bids, or (ii) it is industry practice to serve outlying locations on a route basis and complete coverage of all locations can only be obtained economically by grouping them for aggregate award. Determinations to group requirements for widely dispersed geographic locations shall not be made below the GS-14 contracting officer level. The procurement case file shall be documented to show the reason for such determinations.

(c) When considering aggregate awards, the solicitation shall clearly state the basis on which awards will be made and require bidders to insert unit prices for each item.

§ 5-2.201-52 Weighting of items for aggregate awards (indefinite quantity contracts).

(a) When it is determined that a provision should be made for aggregate awards in a solicitation for a requirements contract and that the weighted item method of making such awards will be used, state the basis on which the low bidder will be determined.

(b) Include a provision that sets forth a formula for weighting items and states how the formula will be used in determining award. For award purposes, the formula shall indicate the relative weight to be applied to each item in a group. (For definite quantity contracts, use only the quantity of individual items as the basis for evaluating bids on items grouped for aggregate award.)

(c)(1) Items in an aggregate group are assigned weights to establish a basis for selecting the bid which is likely to result in the lowest overall cost to the Government. Since the actual cost to the Government will depend upon the quantities of each item purchased, the weight assigned to each item must be based on the best available information, i.e. previous purchases, sound estimates of requirements, or commercial ratios. Care should be taken to ensure that the formula is sound, based on practical considerations, and will not unfairly restrict competition.

(2) Weights shall not be based on the estimated dollar value of purchases. Weights based on dollar values are more likely to distort bid evaluation and result in the making of awards which will not be at the lowest overall cost to the Government. This distortion will increase as the variation among the prices of the items composing the aggregate becomes greater. In some instances, however, the dollar values of previous purchases (e.g., total dollar value of orders under recent contract) are the only data available. In such cases, satisfactory estimates of the required quantities may be obtained by dividing the total dollar value of purchases of an item by the unit price paid to determine the quantity purchased, and then adjusting that quantity to reflect any expected increase or decrease.

(d) Using the full estimated quantities on weights provides the most accurate results. However, the estimated quantity figures may be reduced to smaller numbers to simplify the computations when evaluating bids. Be sure that the reduced figures are substantially in the same proportion as the estimated quantities so that the results will not be distorted. For example, using the reduced figures in column B, below, as weights in lieu of the quantities in column A, will not materially distort the results and will simplify the evaluation process.

Col. A	Col. B
756,000	75
272,000	27
176,000	18

(e) Weights shall not be adjusted to total a set figure (e.g., 100). Such totals are inconsequential and may create errors which could distort the relative proportions.

§ 5-2.201-53 Telegraphic solicitations.

(a) Bids may be solicited by telegram when the contracting officer determines that there is an urgent need. However, all other applicable requirements of formal advertising must be fulfilled.

(b) Before soliciting by telegram, consider the following:

(1) The factors justifying deviation from the range of bidding times prescribed in § 5-2.202-1.

(2) Use of time of delivery clauses designed to ensure delivery or performance to meet the Government's requirements; and

(3) Authorizing submission of telegraphic bids using prescribed forms.

(c) The use of telegraphic solicitations does not relieve the contracting officer from the responsibility for ensuring full and free competition. Accordingly, the contracting officer shall solicit a sufficient number of prospective bidders to ensure adequate response.

(d) Include written justification in the procurement file for using telegraphic solicitation.

§ 5-2.201-54 Building services.

(a) GSA Form 1467, Solicitation, Offer and Award (Contract for Building Services), GSA Form 1467-A, Solicitation, Instructions and Conditions (Contract for Building Services), and GSA Form 1468, General Provisions (Contract for Building Services), shall be used without limitation as to dollar amount.

(b) GSA Form 527, Contractor's Qualifications and Financial Information, shall be obtained for all contracts of $50,000 or more. The use of GSA Form 527 is optional for contracts under $50,000.

(c) Article 13, Insurance, GSA Form 1468, General Provisions (Contract for Building Services), may require modification when the limits of liability are inadequate to afford proper protection.

§ 5-2.201-55 Special minimum bid acceptance time requirements.

(a) The standard bid acceptance time provision on the face of Standard Form 33 provides that the Government will have a period of 60 days from the bid opening date to accept a bid unless the bidder specifies a different period.

(b) A special minimum bid acceptance time requirement as authorized in § 1-2.201(a)(15) shall only be used when advance approval has been obtained from the appropriate division director. Approval may be given only in cases when, based on experience with previous procurements of the same or similar items, it is relatively certain that either (1) more than 60 days bid acceptance time will be needed, or (2) a bid acceptance time of less than 60 days (e.g., 30 or 45 days) will be adequate, and it is anticipated that one or more bidders will specify less than the stated acceptance period.

§ 5-2.201-56 Discount provisions.

(a) The following provision shall be included in all invitations for bids which provide for trade-in of the old articles:

Discount

Any discount offered will be computed on the price quoted for the new article, without regard to any allowance for trade-in of the old article.

(End of Provision)

(b) When the invitation for bids provides for payment by means of a letter of credit, the following provision shall be entered in the invitation. In addition, when this provision is used, insert the following in the prompt payment discount block (or as a footnote thereto) on the face of Standard Form 33: "see page —— for discounts involving letters of credit."

Discounts Under Letters of Credit

Bidder shall indicate, in the space provided below, any allowance or trade discount offered when payment is to be made under a letter of credit, as described in this invitation. Such discount will be considered in the evaluation of bids. However, any discount offered for payment within a specified period of time will not be considered in evaluation of bids when payment is to be made under a letter of credit. Discount offered: ——.

(End of Provision)

(c) The following clause shall be included in all solicitations for offers and resultant contracts.

Prompt Payments Discount

For the purpose of bid evaluation, any prompt payment discount which is eligible (i.e. for a period of 20 days or more) for consideration in the evaluation of offers pursuant to Article 9(a) of SF 33-A will be applied directly to the price offered. Where a single percentage either as a deduction from or as an addition to the prices is offered under the price list method of making awards, such percentage will be applied first to determine the evaluated price offered, then that price will be reduced by any eligible prompt payment discount offered. For the purpose of payment, when the prompt payment discount is earned, the full discount will be deducted, otherwise any prompt payment discount in excess of 5% will be considered by the Government only as a prompt payment discount of 5%, and any percentage in excess of 5% will be considered as a special discount, which the bidder or offeror agrees that the Government will be entitled to regardless of when payment is made.

(End of Clause)

§ 5-2.201-57 Price list method of award (indefinite quantity contracts).

(a) *General.* Under this method, the invitation for bids lists a price for each items in a group to be awarded in the aggregate and provides for bidders to quote for each aggregate group a single percentage amount either as a deduction from or as an addition to the prices listed for the item in the group. Award is made to the responsible bidder who offers the lowest price on that basis.

(b) *Criteria for use.* If, in connection with the making of indefinite quantity contracts (including Federal Supply Schedule contracts), it has been determined in accordance with § 5-2.201-51 that provision should be made for aggregate awards, the price list method may be used in making such awards, if feasible and more advantageous to the Government than using the weighted item method, administrative costs and other factors considered.

(c) *Preparation of solicitations.* Solicitations that provide for use of the price list method shall be prepared as follows:

(1) The grouping of items for aggregate award shall be in accordance with § 5-2.201-51.

(2) There shall be a preestablished list price in the invitation for each item in each group to be awarded in the aggregate. Such prices shall be developed according to (d) of this section.

(3) Estimated requirements for each item in a group or for the group as a whole should be shown in the solicitation if reliable estimates are available. For term contracts for stores stock items, estimated quantities should be shown only if reliable estimates of demand for each item within an aggregate group can be derived from Government records (or verified contracted sales reports). All such estimates must be reviewed and updated prior to their use in any solicitation.

(4) Arrange the bidding schedule in each solicitation so that it is clear to bidders that only one percentage amount may be quoted for each aggregate group and that it may be quoted either as a deduction from or as an addition to the listed prices (see illustration of bidding schedule arrangement in paragraph (5), of this section). In addition, a clause, substantially as follows, shall be included in the solicitation:

Method of Award

Award will be made in the aggregate by group to the responsible bidder who offers the lowest price in the form of a single percentage (applicable to all items in the group) as a deduction from or addition to each of the list prices set forth for that group.

(End of Clause)

(Note. If the solicitation also includes items to be awarded on an item-by-item basis, it shall provide that the above clause is applicable only to the items grouped for aggregate award.)

(5) The following is an illustration of a bidding schedule arrangement for a group of items for aggregate award under the price list method:

Drills, Twist, High Speed, in accordance with Federal Specification ——— (dated ———) and Amendment ——— (dated ———), Wire gauge sizes, straight shank, short length, Type C:

GROUP 1

[Items 1 through 5]

Item and national stock No.	Drill size	Estimated quantity	List price (ea.)
1 5133-00-189-9246	1	2,800	$11.16
2 5133-00-189-9247	2	2,400	11.16
3 5133-00-189-9248	3	2,800	10.44
4 5133-00-189-9249	4	1,600	10.80
5 5133-00-189-9250	5	2,000	10.80

Bid on each of above items is list price shown minus/plus ___ percent. (Bidder to insert single percentage amount in blank space, and cross out plus or minus, as appropriate.)

(d) *Development of preestablished list prices.* (1) The preestablished list prices used in solicitations must be generally satisfactory to the industry involved. However, adverse reaction from some prospective bidders does not preclude use of this method. Prior to using proposed list prices for the first time, firms expected to submit bids should be given an opportunity to review the proposed list prices. In addition to the proposed list prices, firms should be furnished with information on how the list prices will be used under the price list method. Copies of the draft solicitation may be furnished for this purpose.

(2) If there is a standard industry-wide commercial price list, the prices in that list should be used as the list prices in the solicitation. Each group of items should include only items in that segment of the commercial price list on which it is industry practice to quote the same discount. For example, in the case of window glass it is trade practice to quote different discounts on A and on B quality glass.

(3) If a standard industry-wide commercial price list is not available for the items involved, there may be segments of the industry or certain companies which have established price lists which may be used on a composite basis for developing preestablished list prices. If there are no industry price lists, preestablished list prices may be developed based on knowledge of the trade and previous contract prices. When using either of these two methods in developing preestablished list prices, the contracting officer must ensure that items are properly grouped and that the list prices shown for the items within each group bear a reasonable and balanced relationship to one another. Prior contract prices resulting from aggregate awards made under the weighted item method should not be used as a basis for developing preestablished list prices until such contract prices are carefully checked to ensure they did not result from unbalanced bidding.

§ 5-2.201-58 Inspection at source.

(a) Include the following provision in solicitations when it is determined that inspection is to be performed at source. This provision is included in and becomes applicable when the solicitation so provides.

(b) If source inspection is specified in the solicitation, space must be provided for entering the information called for by paragraph (b) of the provision.

(c) The second sentence of paragraph (b) of the provision, concerning inspection of supplies of foreign origin, may be waived:

(1) When inspection services are available from another Federal agency on the basis of its primary inspection cognizance in a geographic area; (2) When an inspection interchange agreement exists with another agency concerning inspection at a contractor's plant; (3) When procurements to be made for AID specify the area of source; or (4) When other considerations will assure more economical and effective inspection consistent with the best interests of the Government.

When this portion of the provision is to be waived, a statement to that effect shall be made in the schedule. Any such decision should be fully coordinated with the appropriate quality control representative.

Source Inspection

(a) Supplies to be furnished under this contract ordinarily will be inspected at source by the Government prior to shipment from the manufacturing plant or other facility designated by the Contractor, unless (1) the Contractor is notified otherwise in writing by the Contracting Officer or his designated representative, or (2) the Contractor or his subcontractor, pursuant to a Quality Approved Manufacturer Agreement with the General Services Administration, is authorized to issue a certificate covering such supplies at the time of shipment. Notwithstanding the foregoing, the Government may perform any or all tests contained in the contract specifications at a Government facility without prior written notice by the Contracting Officer before release of the supplies for shipment.

(b) Offerors will be required to specify the name and address (including county) of each manufacturing plant or other facility where supplies will be available for inspection, indicating the item number(s) to which each applies. A contract will be awarded only to the responsible offeror (1) who agrees to deliver the item(s) specified by the contract from a plant or warehouse within the United States (including Puerto Rico and the Virgin Islands) that is equipped to perform all inspections and tests required by the contract and specifications, to evidence conformance therewith, or (2) who will arrange with a testing laboratory or other facility in the United States, acceptable to the Government, to perform the required inspections and tests.

(c) Inspection responsibility will be assigned to the Office of Engineering and Technical Management of the GSA regional office having jurisdiction over the State in which the Contractor's or subcontractor's plant or other designated point for source inspection is located. The Contractor shall notify, or arrange for his subcontractor to notify, that office at least 10 days prior to the date when supplies will be ready for inspection. Shipments shall not be made until released by the Office of Engineering and Technical Management unless release is otherwise authorized under terms of a currently applicable Quality Approved Manufacturer Agreement.

(End of Provision)

§ 5-2.201-59 Request for brand name information—limitation.

(a) When an item is described in a solicitation by a formal specification or a detailed purchase description (other than a brand name or equal purchase description), the solicitation shall not require or request that bidders specify the brand names of the products they propose to furnish. However, brand name information may be requested or required in the situations covered in (1) through (3) of this paragraph.

(1) Items for which descriptive literature is requested in accordance with § 1-2.202-5.

(2) Items for which preproduction samples or tests are required in accordance with § 1-2.201(b)(12).

(3) Procurements of qualified products.

(b) This limitation also applies to procurements using "restricted advertising" techniques as described in § 1-1.706 (Procurements set aside for small business) and § 1-6.806

(Restricted solicitation—Balance of Payments Program).

§ 5-2.201-60 Fire or casualty hazards, or safety or health requirements.

(a) Specifications covering electrical equipment, building materials, etc., which involve fire or casualty hazards, or safety or health requirements, normally contain a provision requiring conformance to the standards of nationally recognized technical societies, associations, or laboratories, or other GSA-approved testing laboratories, regarding fire and casualty hazards, explosion protection, or safety or health requirements.

(b) When a specification is not available, or the specification to be used does not include a provision such as that described in paragraph (a) of this § 5-2.201-60 and it is believed that such a provision should be included in the current procurement, the Office of Engineering and Technical Management (FRE) shall be consulted for technical advice. If the contracting officer then determines that the matter should be covered, an appropriate provision shall be included in the solicitation. The provision shall cite the nationally recognized standards requiring compliance. If several such standards are available, the provision shall cite all standards that are acceptable. Since compliance with such standards is normally objectively determinable under regular acceptance inspection and test procedures, no requirement for bidders to submit proof of compliance with the standard shall be included in the provision.

§ 5-2.201-61 Distribution of bidding documents.

(a) Principal construction subcontractors may obtain copies of bid documents by (1) requesting in writing and (2) paying the required bid document charges or deposits, as provided in § 5-2.202-56. (See GSA Overprint of Standard Form 20, Invitation for Bids (Construction Contract) and GSA Form 2056, Pre-Invitation Notice (Construction Contract)).

(b) When copies are not available, subcontractors shall be informed where bid documents may be reviewed.

§ 5-2.202 Miscellaneous rules for solicitation of bids.

§ 5-2.202-1 Bidding time.

(a) *Supplies and Services.* (1) Standard bidding times of 30 days for standard commercial articles or services and 40 days for other than standard commercial articles or services shall generally be used by contracting officers. However, deviations may be called for under certain conditions as illustrated by the following examples:

(i) Less than standard—

(A) A non-complex solicitation for a small number of standard commercial articles or services that will be circulated only within the immediate trading area of the contracting office.

(B) A solicitation covering a requirement for standard commercial articles that requires expedited procurement to meet ship sailing dates, or when delivery time is important buy negotiation under "public exigency" authority is not justified.

(C) Less than standard bidding time shall not be used when the Trade Agreements Act of 1979 applies. In these cases, solicitations shall specify at least a 30-day bidding time.

(ii) More than standard—

(A) A non-complex solicitation for a small number of standard commercial articles or services to be covered under a Federal Supply Schedule contract or term contract.

(B) A solicitation for technical equipment wherein standard commercial items must be modified to meet Government specifications and bidders must prepare samples, drawings, illustrations, etc., which will undergo detailed engineering evaluations.

(2) Deviations from standard bidding times are authorized but require the approvals as set forth in (i) and (ii), of this paragraph:

(i) Less than standard bidding time. Less than the standard bidding time must be approved by the appropriate Branch Chief in the Procurement Division, Central Office, or by the Chief of a regional Procurement Division. Except for non-complex solicitations of the type described in § 5-2.202-1(a)(1)(i) above, no approval shall be given for a bidding time of less than 7 days for standard commercial articles or less than 20 days for other than commercial articles, unless approved by an official at the next higher level of authority.

(ii) More than a standard bidding time. More than a standard bidding time must be approved by the Chief of the appropriate branch in the Procurement Division, Central Office, or by the Director of a regional Procurement Division.

(b) *Construction.* (1) Except as provided in (2) of this paragraph, the following bidding time shall be used.

(i) Not less than 20 days shall be allowed for bid preparation on contracts for repairs and alterations estimated to cost less than $50,000.

(ii) Not less than 30 days shall be allowed for bid preparation on (A) all contracts for new construction and (B) contracts for repair and alterations estimated to cost more than $50,000.

(2) The Regional Director, Contracts Division (National Capital Region—Director, Real Property Contracts Division) may approve a shorter bid preparation time when circumstances justify.

(3) Care must be taken to avoid an unnecessarily long bidding time.

§ 5-2.202-4 Bid samples (Supply contracts).

(a) Solicitations shall list and clearly set forth those characteristics for which bid samples will be examined. Normally only subjective characteristics will be listed. Objective characteristics may be listed when it has been determined, on the basis of past procurement experience or other valid considerations, that examination of such characteristics is essential in the procurement of an acceptable product. When characteristics are listed in the solicitation, the listed characteristics shall be separately shown under the headings of Subjective Characteristics, and Objective Characteristics. Products furnished under any resultant contract shall strictly comply with the listed subjective characteristics of the approved bid sample and shall conform to the specifications as to all other characteristics whether or not listed.

(b) Samples received with bids being considered for award must be from the production of the manufacturer whose product is to be supplied and shall be evaluated with respect to the characteristics listed in the solicitation by the buying activity and the appropriate quality control activity. A written record of the evaluation findings shall be made. If the samples do not meet the listed characteristics, the bid shall be rejected.

(c) When requiring bid samples, the following provision shall be included in the solicitation. This provision may be modified to cover special circumstances, such as those described in § 1-2.202-4.

Bid Samples

(a) Bid samples, in the quantities, sizes, etc., required for the items so indicated in this solicitation, must be (1) furnished as a part of the bid, (2) from the production of the manufacturer whose product is to be supplied, and (3) received before the time set for opening bids. Samples will be evaluated to determine compliance with all characteristics listed for examination in the solicitation.

(b) Failure of samples to conform to all such characteristics will require rejection of the bid. Failure to furnish samples by the time specified in the solicitation will require rejection of the bid, except that a late sample

transmitted by mail will be considered under the provisions for considering late bids, as set forth elsewhere in this solicitation.

(c) Products delivered under any resulting contract shall strictly comply with the approved sample as to the subjective characteristics listed for examination and shall conform to the specifications as to all other characteristics.

(End of Provision)

(d) Bid samples will not normally be inspected until the bidder is being considered for award on the item(s) represented by the sample. Samples shall be evaluated for the characteristics listed in the solicitation. A written record of the evaluation findings shall be made. Bid samples received by the National Tools Center shall be evaluated in the Central Office by a team consisting of representatives from the procurement, quality control, and specification management activities. When laboratory support is required, the QAS will arrange for the testing and the samples shall be hand-carried or sent by another method.

(e) If the samples meet the listed characteristics but there is doubt that the sample meets all of the characteristics required by the specifications, arrangements shall be made for technical evaluation and/or testing by the appropriate quality assurance activity. A report of the evaluation of the sample, showing results with respect to all characteristics examined, shall be furnished promptly to the contracting officer.

(f) If the bid sample is found to conform to the characteristics listed in the solicitation, determination of the prospective contractor's responsibility shall be made in accordance with normal procedures.

(g) If the bid sample has been found to conform to all of the characteristics listed in the solicitation, but found deficient with respect to one or more of the unlisted characteristics, a plant facilities report shall be requested as provided in § 5–1.1205–4. A copy of the sample evaluation report shall be attached to the GSA Form 353 which shall include a request that special attention be given to the prospective contractor's ability (notwithstanding the deficiencies noted with respect to the characteristics not listed in the solicitation which were evaluated) to produce supplies fully conforming to applicable specifications. For example, can the noted deficiencies be corrected by fairly simple production or process control adjustments, or would expensive and time-consuming retooling be involved? The plant facilities report shall include a specific statement regarding the prospective contractor's ability or inability to correct each noted deficiency in objective characteristics as well as an overall appraisal of his capability.

(h) If the plant facilities report is not favorable, a determination of nonresponsibility shall be made based upon the facts and evaluation contained in the report together with any other evidence that may be obtained in a given case bearing on the bidder's inability to meet the standards of responsibility in Subpart 1–1.12.

(i) If the plant facilities report is favorable, award may be made if otherwise proper to the low bidder whose samples conform to the characteristics listed in the solicitation. However, concurrently with award the contracting officer shall specifically, in writing, call to the attention of the contractor the inadequacies of the sample with respect to unlisted characteristics and advise him of his responsibilities to furnish items conforming to all of the requirements of the specification. A copy of the letter shall be furnished to the appropriate Office of Engineering and Technical Management for use when making subsequent inspections.

(j) For further instructions regarding the treatment and evaluation of samples, see § 5–2.401–50.

(k) If bid samples were required on a prior solicitation, written approval of the Office of Engineering and Technical Management (FRE), or the appropriate commodity center specification activity is required prior to waiving the bid sample requirement.

§ 5–2.202–5 Unsolicited samples, descriptive literature, or brand name references (Supply contracts).

(a) The following clause shall be inserted in each solicitation (applicable to formally advertised procurements).

Unsolicited Samples, Descriptive Literature, or Brand Name References

When procurement is effected under specifications or purchase descriptions (other than "brand name or equal") and the Government does not specifically request bid samples, descriptive literature, or references to brand names, models, or part numbers as an integral part of the bid, bids which are accompanied by any of the foregoing will be rejected unless it is clear from the bid or accompanying papers that the samples, descriptive literature, or references to brand names, models, or part numbers are not intended to qualify the bid and that the bidder proposes to furnish items fully in accordance with specifications or purchase descriptions. When offers contain unsolicited material such as samples, descriptive literature, or references to brand names, models, or part numbers, the Government will not be responsible in any way for determining whether the items which are offered meet the Government's requirements set forth in the applicable specifications or purchase descriptions.

(End of Clause)

(b) The following notice shall be included on GSA Form 1602, Notice Concerning Your Solicitation for Offers, except when "brand name or equal" items are being procured.

Unsolicited Material

Bidders are cautioned that the submission of unsolicited bid samples or descriptive literature, or references in the bid to brand names, models, or part numbers may cause rejection of the offer. The bidder's attention is directed to the clause entitled "Unsolicited Samples, Descriptive Literature, or Brand Name References."

(End of Notice)

§ 5–2.202–50 Postponement of bid openings.

(a) The contracting officer may postpone bid openings when it is determined to be in the best interest of the Government. An amendment (see § 1–2.207) to the solicitation must be issued and distributed to all prospective bidders by mail or telegraph as early as possible and prior to the time specified for bid opening. When emergencies or unanticipated events make it impracticable to use normal postponement procedures, bid openings may be postponed without prior notice to prospective bidders. The new time and date set shall be as soon as possible. Prospective bidders shall be notified of the new time and date if circumstances permit.

(b) Bid openings shall be postponed when an important segment of prospective bidders requests additional time for filing bids or the contracting officer has reason to believe that the specified opening date is not appropriate or is not conducive to the maximum practicable competition.

(c) If the contracting officer determines it is in the best interests of the Government, bid openings may be postponed when an emergency interrupts the normal governmental processes in a way that would make the conduct of scheduled bid openings impracticable. Bid openings may also be postponed when the contracting officer has reason to believe that an important segment of bids has been delayed in the mails by events beyond the bidders' control and without fault or negligence of the bidders, such as flood, fire, accident, severe weather conditions, strikes, etc.

(d) Under the circumstances described in paragraph (a) of this § 5–2.202–50, bids and modifications received before

the new time and date set for the opening of bids shall be considered for award. Bids and modifications received thereafter shall be handled according to the provisions of §§ 1–2.303 and 1–2.305 regarding late bids and modifications.

(e) Pursuant to §§ 1–2.404–1(c) or 1–2.407–8(b)(2), consent of surety to extensions of the bid acceptance period need be obtained only if such extension goes beyond the original 60-day period designated in the bid bond, when Standard Form 24, Bid Bond, illustrated at § 1–16.901–24, has been executed.

§ 5–2.202–51 Listing of subcontractors (construction, repair, and alterations).

(a) Except as provided in paragraphs (b) and (c) of this subsection, solicitations for new construction and repair and alteration contracts shall require the bidder to name the subcontractors with whom the bidder proposes to subcontract for performance of onsite work of the categories set forth in the supplement to bid form, List of Subcontractors (see § 5–2.202–51(h)), or to enter the bidder's own name to indicate work that will not be subcontracted. For each project, the contracting officer shall determine the categories of the specified work for which the names are to be submitted, based on the following criteria:

(1) The listing shall include all heating, ventilating, and air-conditioning (HVAC), electrical; and vertical transportation categories regardless of estimated value.

(2) The listing shall also include all categories of work in the project specifications which, individually, are determined by the contracting officer to compose at least 6 percent of the estimated contract price. Categories estimated to cost less than 6 percent shall not be included. When determining which categories constitute 6 percent or more of the total contract price, comptutations for each category shall include all estimated costs of the work in the category (including materials, equipment, and offsite labor as well as onsite labor) plus a prorated share of applicable markups such as those for overhead, profit, and bond premiums.

(3) To identify the work encompassed in a category so the bidders will understand all of the work for which they are obliged to name proposed subcontractors (or themselves), the supplement to bid form, List of Subcontractors, (see § 5–2.202–51(h)), included in the solicitation shall be prepared as follows:

(i) For HVAC, enter on the form: "All HVAC work in Div. 15, Mechanical", and provide several spaces for the bidder to enter more than one name and address as appropriate.

(ii) Identify all other applicable categories on the supplement to bid form, List of Subcontractors, by section number and title as used in the specifications.

(b) Solicitations on separate contracts for phased construction when individual categories of work are bid separately need not include a subcontractor listing requirement unless two or more categories of work (as defined in paragraph (a) of this § 5–2.202–51) are combined in one bid package and the contracting officer, or the contracting officer's designee, determines that the contract offers subcontracting opportunities as indicated by trade practice.

(c) The requirement to name subcontractors shall not be included in solicitations on contracts for new construction or repair and alteration which are not estimated to exced $1 million. It may be omitted from solicitations on specific contracts estimated to exceed this amount, if the contracting officer determines that the listing requirement is not feasible. In such case, the contracting officer should submit these findings for Central Office approval prior to issuance of the solicitation.

(d) When bids on alternates are required, the estimated cost of the maximum amount of work which might be included in an award of the contract shall serve as the basis for determining (1) whether the requirements for listing of subcontractors shall be included in the solicitation and (2) the categories of work to be included in the list.

(e) The list of categories of work (as discussed in § 5–2.202–51(a)) for which subcontractors are required to be named shall be set forth in the supplement to the bid form, List of Subcontractors as illustrated in paragraph (h) of this § 5–2.202–51(a). This supplement shall be prepared as provided in paragraph (a) of this § 5–2.202–51.

(f) The following clause shall be included in the Special Conditions:

Listing of Subcontractors

(a) For each category on the List of Subcontractors, which is included as part of the bid, the bidder shall enter either (1) the name and address of the individual or firm with whom the bidder proposes to subcontract for performance of the category, or (2) the bidder's own name to indicate that the category will not be performed by subcontract.

(b) If the bidder intends to subcontract with more than one subcontractor for a category, or to perform a portion of a category with bidder's own forces and subcontract with one or more subcontractors for the balance of the category, the bidder shall list all individuals or firms (including the bidder) and state the portion (by percentage or narrative description) of the category to be performed by each.

(c) If any alternate bids are required which would change the bidder's selection of subcontractors for designated categories, the bidder shall list (1) the name and address of the individual or firm with whom the bidder proposes to subcontract (or the bidder's own name) for performance of the category if awarded the contract on the base bid only and (2) the individual or firm with whom the bidder proposes to subcontract (or the bidder's own name) if the award includes one or more of the related alternates. The bidder shall clearly show, after each listing, the basis for which each named individual or firm shall be considered to be the listed subcontractor for the category.

(d) The list may be submitted with the bid or separately by telegraph or mail. If mailed separately, the envelope must be sealed, identified as to content, and addressed in the same manner as prescribed for submission of bids. Failure to submit the list by the time set for bid opening shall cause the bid to be considered nonresponsive except under the conditions set out in the Late Bids and Modifications or Withdrawals clause of Standard Form 22, Instructions to Bidders (Construction Contract).

(e) Except as otherwise provided herein, the successful bidder (Contractor) shall not have the onsite work of any listed category or portion of category performed by any individual or firm other than those named in the bid for performance thereof.

(1) The contractor shall perform all onsite work of each category for which the contractor entered the contractor's own name, with personnel carried on the contractor's own payroll (other than operators of leased equipment).

(2) The contractor shall require any firm listed for the entire heating, ventilating, and air-conditioning (HVAC) to be experienced in and normally perform either heating or air-conditioning work. The listed subcontractor shall perform with the subcontractor's own forces at least 30 percent of the onsite labor for the entire HVAC category. If two or more firms are listed, at least one shall meet the experience requirements above and perform a minimum of 30 percent of the onsite labor for the entire category.

(3) For all other categories, the contractor shall require each subcontractor named in the bid for an entire category or portion thereof to perform with personnel carried on the subcontractor's own payroll (other than operators of leased equipment) not less than 70 percent [1] of the onsite work of that category or portion of category.

(f) In the event a subcontractor fails or refuses to perform with the subcontractor's own forces, the minimum amount of onsite work as specified above, the Government

[1] If the contracting officer determines that the 70 percent performance requirement, as stated above, is not feasible for a specific contract, the contracting officer may specify a lesser percentage and submit his findings for Central Office approval prior to issuance of the solicitation.

shall have the right to require the contractor (1) to terminate the subcontract (2) to secure approval for a substitution under the terms and conditions set forth in paragraphs (j) and (l) of this clause.

(g) For the purpose of this requirement, the following definitions apply:

(1) The term "subcontractor" shall mean an individual or firm with whom the bidder proposes to enter into a subcontract for the performance of work on the site, including construction, fabrication, or installation of materials and/or equipment pursuant to the project specifications applicable to any category included on the List of Subcontractors. It excludes any manufacturer, fabricator, or supplier whose onsite work would be limited to incidental activities such as testing or adjusting equipment or material installed by others.

(2) The term "subcontract" includes, in addition to a two-signature document, all transactions resulting from acceptance of offers by awards or notices of awards, agreements and job orders, letter agreements, and letters of intent and orders such as purchase orders, under which the subcontract becomes effective by written acceptance or performance. It also includes modifications thereto.

(3) The term "onsite work" is the cost of labor and supervision and excludes the cost of materials and/or equipment.

(h) Nothing contained in this clause shall be construed as changing the percentage requirement in the General Conditions for the contractor to perform with the contractor's own forces.

(i) The contractor shall be responsible for all aspects of performance by subcontractors.

(j) No substitutions for the individuals or firms named will be permitted except in unusual situations and then only upon the submission in writing to the contracting officer of a complete justification therefor and receipt of the contracting officer's written approval. The contractor shall not be entitled to any increase in the contract price if substitution is authorized. However, the contract price shall be reduced if the contractor's cost of performing the work is decreased as a result of approval of a subcontractor substitution. In the event the contracting officer finds that substitution is not justified, the contractor's failure or refusal to proceed with the work by or through the named subcontractor shall be grounds for termination of the contract under the provisions of the Termination clause of the General Provisions.

(k) Notwithstanding any of the provisions of this clause, the contracting officer shall have authority to disapprove or reject the employment of any subcontractor he has determined nonresponsible or who does not meet the requirements of an applicable Specialist or Competency of Bidder clause.

(1) The contracting officer shall have the right to require any information and supporting evidence he may consider relevant and necessary in connection with the approval or disapproval of a request for substitution and to determine the extent of reduction (if any) in the contract price in the event substitution is approved, including, but not limited to, certified copies of the original worksheets used in the preparation of the bid on the prime contract, certified copies of the offers submitted to the successful bidder by the named subcontractor and the proposed substitute, and affidavits as to the circumstances relating to the request for substitution or the estimated cost of performance by a subcontractor named or proposed as a substitute. The contractor's failure or refusal to proceed with the work by or through a named subcontractor after failing or refusing for an unreasonable period of time to furnish supporting evidence as required by the contracting officer in connection with a request for approval for a substitution shall be grounds for termination under the provisions of the Termination clause of the General Provisions.

(m) Nothing contained in this clause shall in itself be construed to create any contract or property rights in the successful bidder or any subcontractor. The imposition of any requirements under paragraph (k) of this clause or the contracting officer's refusal to approve a substitution pursuant to the provisions of paragraphs (j) and (l) of this clause shall not give rise to any cause of action against the Government by the successful bidder or by any subcontractor engaged or proposed to be engaged by the successful bidder.

(n) If the bidder fails to comply with the requirements of paragraph (a), (b) or (c) of this clause, the bid will be rejected as nonresponsive to the invitation.

(o) In order to implement effectively the objectives of the foregoing provisions and to ensure the timely receipt of accurate bids, the bidder is requested to urge all subcontractors intending to submit a proposal for work involved in the project to submit to all bidders to whom they intend to bid, a written proposal (or written abstract) with or without price, outlining in detail the specific sections of the specifications to be included in their work, as well as any exceptions or exclusions therefrom. It is suggested that such written proposal be submitted to the bidder at least 48 hours in advance of the bid opening.

(End of Clause)

(g) Contracting officers shall treat separate submissions of lists of subcontractors in the same manner as submissions of bids with respect to timeliness of receipt, modification, or withdrawal, and may consider lists of subcontractors, modifications, or withdrawals thereof, received after bid opening time only under the conditions specified in instruction No. 7 of Instruction to Bidders (Standard Form 22). See also § 1–2.201(a)(31).

(h) The supplement to the bid form required by paragraph (e) of this § 5–2.202–51 shall conform to the following format:

Supplement to Bid Form List Of Subcontractors

Project No. ———

Listed below are the names and business addresses as required by the "Listing of Subcontractors" paragraph of the Special Conditions:

Category section number/title	Subcontractor names and business addresses	Portion of category (as applicable)

Note.—The listing of an individual or firm (whether a subcontractor or the bidder) who does not meet the requirements of the Specialist or Competency of Bidder clauses in the specifications, wherever applicable, may be grounds for rejection of the bid.

Name of Bidder: ———

By: ———

Date: ———

(End of Supplement)

§ 5–2.202–52 Substitution of subcontractors named in bids for construction contracts.

(a) The contracting officer may permit substitution of a subcontractor for one named in a bid pursuant to the Listing of Subcontractors provision included in a solicitation, in unusual situations, upon submission by the contractor or bidder of a complete justification. (See paragraph (f) of the clause in § 5–2.202–51(f).) The term "unusual situations" includes, but is not limited to a subcontractor's:

(1) Death or physical disability, if the named subcontractor is an individual;

(2) Dissolution, if a corporation or partnership;

(3) Bankruptcy;

(4) Inability to furnish a reasonable performance and payment bond;

(5) Inability to obtain, or loss of, a license necessary for the performance of the particular category of work;

(6) Failure or inability to comply with a requirement of law applicable to contractors, subcontractors, or construction, alteration, or repair projects;

(7) Failure or refusal to execute the subcontract in accordance with the terms of an offer submitted to the contractor or bidder prior to the latter's submission of his bid, but only when the contracting officer can ascertain with reasonable certainty the terms of such offer. In the absence of any other factors, such failure or refusal will be considered an unusual situation only if the bidder obtained, prior to bidding, an enforceable commitment from the subcontractor involved;

(8) Failure to meet any criteria of responsibility set out in Subpart 1–1.12, but only when the contracting officer finds that substitution for this cause would be in the best interests of the Government (i.e., that it would not be prejudicial to the rights of other bidders and that the contractor or bidder has not attempted to circumvent the restraint on

bid shopping by listing a nonresponsible subcontractor in order to gain an opportunity to bid shop prior to making the requested substitution); or

(9) Failure to meet the qualification requirements of an applicable Specialist or Competency of Bidder clause, but only when the contracting officer, after discussion with the contractor or bidder and, if appropriate, the named subcontractor, finds that substitution for this cause would be in the best interests of the Government as specified in § 5–2.202–52(a)(8), above.

(b) When the contracting officer finds that a proposed substitution is justified, the substitution shall be authorized at no increase in the bid or contract price or at a reduction in the bid or contract price, in accordance with the provisions of the clause, "Listing of Subcontractors".

§ 5–2.202–53 Unit prices (Construction contracts).

(a) Solicitations shall require that bids on unit prices be for the entire quantity on an item included in the contract (this item being excluded from the lump sum bid), so that the unit price can be extended by the number of units required and the extended amount can be added to the lump sum bid to determine the lowest bidder. The applicable sections of the technical specifications shall:

(1) Clearly define the unit (e.g., linear foot, square foot, or cubic yard, etc.)

(2) Provide that the lump sum contract price does not include the item or the installation thereof, payment for which shall be made at the unit price in accordance with the applicable payment provisions.

(3) Provide that the contracting officer shall have the right to increase or decrease the number of units to be furnished and installed. The contractor shall be paid at the contract unit price per specified unit, multiplied by the total number of acceptable units actually installed regardless of adjustments in requirements within the percentage limit specified by the contracting officer. In the event the contracting officer requires an increase or a decrease in the number of units of more than the specified percentage, the contract price shall be equitably adjusted pursuant to the provisions of the Changes clause of Standard Form 23A, and commensurate with the increased or decreased costs per unit resulting from the increase or decrease in requirements. To determine the percentage of increase or decrease allowed without change in the contract unit price, an anlaysis shall be made of the types of fixed costs (such as rental of equipment and moving equipment to and from the site) that will be allocated over the units; the point when such allocated costs would be substantially affected or altered by an increase or decrease in the number of units will be considered in determining the percentage change to be entered in the specification.

(4) Provide that payment in accordance with the payment provisions shall constitute full compensation for furnishing, delivering, handling, and/or installing (as applicable) all material, labor and equipment necessary to meet contract requirements applicable to the unit.

(b) Solicitations shall not include a provision that bids may be adjusted upward or downward in determining the lowest bidder by using unit-price quantities which have been reduced or increased subsequent to advertising and prior to award, even if such quantity changes reflect a change in the requirements for the item.

(c) When unit price bids are required, the following requirements must be included:

(1) The bidder shall enter each required unit price bid in the space provided on the bid form.

(2) The number of units required shall be determined (either from the drawings and specifications or, if not determinable from drawings and specifications, by estimating) and shall be shown on the bid form beside the space provided for the bidder to enter each unit price.

(3) If the item requiring unit price bids is an integral part of the work, without which a contract cannot be awarded, the solicitation shall state that failure to submit unit price bid(s) will render the bid nonresponsive.

(4) The Special Conditions shall contain a statement that the lump sum bid shall not include the cost of any work requiring a unit price bid, and that bidders are required to submit a unit price bid on each specified item of work.

(5) The Special Conditions shall contain a statement that in determining the low bidder, each bidder's unit price(s) will be multiplied by the applicable number of units shown on the bid form and the product(s) will be added to the lump sum bid and such alternate bids as may be accepted.

§ 5–2.202–54 Bidders' qualifications for special work (Construction).

(a) *Elevators.* The following clause shall be inserted in the Special Conditions of all specifications which include installation of new elevators and, where appropriate, may be included in specifications for repair or alteration of elevators:

Competency of Bidder (Elevator)

(1) The bidder, or the subcontractor whom the bidder will use for performance of the elevator work, shall have had at least three years successful experience in installing and servicing elevators.

(2) In addition, the bidder or the subcontractor shall have installed, on at least two prior projects, elevators which are comparable to those required for this project and which have performed satisfactorily under conditions of normal use for a period of not less than one year. To be considered comparable, prior installations shall have not less than the same number of elevators operating together in one group as the largest number in any group specified for this project, except that a group of four may be considered comparable to a larger group specified for this project.

(3) A list of the prior comparable installations by the bidder or by the subcontractor, together with the names and addresses of the buildings, the names of the owners or managers thereof, and any other pertinent information required shall be submitted promptly upon request of the Government.

(4) The names, addresses, experience, and statement of the work to be performed by each subcontractor or second-tier subcontractor whom the bidder or the principal subcontractor, as the case may be, will use for performance of minor portions of the installation of elevators, shall also be submitted promptly upon request by the Government.

(5) The bid may be rejected if the bidder or the elevator subcontractor has established on former jobs, either Government, municipal, or commercial, a record for unsatisfactory elevator installations, has repeatedly failed to complete contracts awarded to him within the contract time, or otherwise fails to meet the experience requirements of this clause.

(End of Clause)

(b) *Specialist.* The following clause shall be inserted in the Special Conditions of all specifications when a specialist is required:

Specialist

The term "Specialist" as used in the specification shall mean an individual or firm of established reputation (or, if newly organized, whose personnel have previously established a reputation in the same field), which is regularly engaged in, and which maintains a regular force of workmen skilled in either (as applicable) manufacturing or fabricating items required by the contract, installing items required by the contract, or otherwise performing work required by the contract. Where the contract specification requires installation by a specialist, that term shall also be deemed to mean either the manufacturer of the item, an individual or firm licensed by the manufacturer, or an individual or firm who will perform the work under the manufacturer's direct supervision.

(End of clause)

§ 5-2.202-55 Use of equipment by the Government (Construction).

(a) On heating and air-conditioning projects in existing buildings or buildings under construction, it may be necessary for the Government to operate all or part of the equipment prior to the final acceptance of the project. In the specifications for a project with a completion date at the beginning of or during either the heating or cooling season, a notice shall be placed in the Special Conditions section to inform the contractor that:

(1) The Government may take over, and operate with Government employees, equipment that is necessary for heating or cooling the areas of the building requiring service, as soon as the installation is sufficiently complete.

(2) The contracting officer will send advance written notice to the contractor stating what items of equipment will be operated, and the date and time such operation will begin.

(3) Government operation of equipment will not relieve the contractor of the one-year guarantee on materials and workmanship provided for in this contract.

(4) The guarantee period, under this contract, for each piece of equipment shall begin at the time the Government takes over its operation.

(b) Specifications may provide that elevators, escalators, and other mechanical equipment may be taken over and operated by the Government under the same conditions as outlined for heating and cooling equipment.

§ 5-2.202-56 Charges and deposits for bidding documents.

This subsection is applicable to construction procurements, including repairs and alterations.

(a) Generally, bid documents will be provided free and without a requirement for either a refundable deposit or a nonrefundable charge, except as provided in § 5-2.202-56(c), below. Bid documents will be provided free for review purposes to plan rooms, contractor service facilities, and other similar places having a legitimate interest in the bidding process.

(b) To encourage the return of specifications and drawings to GSA, a note similar to the following, shall be prominently placed in each solicitation:

Note.—We request your cooperation in returning the bid documents to GSA within 20 calendar days after bid opening date.

(c) If the contracting officer determines before issuance of the solicitation that an insufficient number of sets of bid documents were returned on previous projects, a refundable bid document deposit may be required. Under extraordinary circumstances, a nonrefundable charge may be required for bid documents if approved by the appropriate Assistant Regional Administrator. No charges or deposits shall be made in negotiated procurements.

(1) The amount of deposit for bid documents should be determined on the basis of the actual printing costs of the documents. The following table is for guidance purposes only, and the contracting officer may require amounts higher or lower than those shown. Deposits should not be so high as to discourage bidder participation. Refundable bid document charges are intended to ensure the return of bid documents to the Government for use by the successful contractor and Government personnel, and thus minimize the need for duplication of additional sets. When the administrative cost of processing bid document deposits and returning bid documents is greater than the value of returned documents, the contracting officer should not require deposits.

Estimated project cost range	Guide for refundable bid document deposit
Up to $1,000,000	(1)
$1,000,000 to $5,000,000	$30
$5,000,000 to $10,000,000	40
$10,000,000 and over	50

[1] None.

(2) When a bid document deposit is required, the preinvitation notice shall require that the deposit be made by certified check, cashier's check, or money order in the applicable amount, payable to the General Services Administration. If a deposit is not submitted as specified, a reasonable attempt shall be made to obtain the deposit in the proper form without delay. A record of this contact shall be placed in the contract file. Refund of the bid document deposit will be made for bid documents returned in good condition, without marks, notes, or mutilations, within 20 calendar days after bid opening date. Refunds shall not be made for bid documents returned more than 20 days after bid opening.

(3) The contracting officer shall cite the amount of the refundable deposit on GSA Form 2056, Pre-Invitation Notice (Construction Contract).

§ 5-2.202-57 Construction program management.

(a) *Construction progress chart.* (1) Except when critical path method (CPM) scheduling is to be used, a requirement for a construction progress chart shall be included in all new construction and alteration contracts which specify a contract completion time of more than 75 days. For contracts estimated to exceed $10,000, this will be accomplished by inserting in the contract GSA Form 1139, General Conditions, Section 0010 (see Construction Progress Chart Clause). For contracts estimated not to exceed $10,000 an appropriate clause shall be inserted in the Special Conditions to require the chart.

(2) If a contract estimated to exceed $10,000 specifies a completion time of 75 days or less, or when CPM scheduling is used, the Construction Progress Chart Clause may be deleted from GSA Form 1139.

(b) *Critical path method (CPM) scheduling.* (1) The provisions in PBS Guide Specification 4-01170, Critical Path Method Scheduling, shall be made a part of the contract for all construction projects with an estimated improvement cost of $1,000,000 or more (except phased construction). This specification provides for the use of network plans in planning, coordinating, and performing the work. CPM scheduling may be required for smaller projects, if the contracting officer has available trained personnel who can administer it and there is reasonable assurance that major objections will not be raised by contractors. Unless there are special circumstances which justify its use, CPM scheduling shall not be required for any new construction projects estimated to cost less than $250,000 or for any alteration project estimated to cost less than $500,000. Guide Specification 4-01170 shall be modified to fit the circumstances and conditions of the particular procurement.

§ 5-2.202-58 Full maintenance of elevators.

(a) The specifications for construction of buildings for the Federal Government, mixed-ownership corporations, and the District of Columbia which require the installation of new elevator(s) may, when determined to be appropriate and feasible, include an option for full maintenance of the elevator(s) for a one-year period coinciding with the guarantee period under the construction contract, in order to avoid problems arising from disagreements as to whether service is required under the guarantee or under a separate maintenance arrangement. The specifications shall require that the same elevator contractor or subcontractor install the elevators and

furnish the maintenance, whenever the option is included. A separate bid on the option will be required and the contract shall provide for exercise of the option at any time up to commencement of the guarantee period (or up to acceptance and use by the Government of the first elevator(s) when acceptance may be staggered). When an invitation for bids requires alternate bids affecting the number, combination, or type of elevators to be installed, alternate bids on elevator maintenance options will be required covering each potential combination of base bids and alternates which may be accepted by the Government and which affect elevator maintenance. If the number of alternates affecting elevators and elevator maintenance would require an undue number of alternate bids on elevator maintenance options, maintenance should not be included in the contract.

(b) The cost of elevator maintenance must be funded from an appropriation designated for that purpose. Therefore, prior to advertising the project, approval of the inclusion of the elevator maintenance option in the construction contract shall be sought from the department, office, agency, or other organization which will be responsible for the maintenance of the building upon its completion. The request for approval must be made for each individual project and shall include an estimate of the cost of the elevator maintenance for one year. It should be made well in advance of the time the specifications are scheduled for printing to give the department, office, agency, or other organization ample time to consider the request along with other alternatives for maintenance which may be available to them, such as maintenance by Government-employed mechanics and multi-year maintenance contracts. In the case of non-GSA operated buildings, the approval shall include a commitment that the department, office, agency, or other organization will either (1) reimburse GSA, or (2) pay the contractor directly if GSA is subsequently authorized to exercise the option. If approval is not received, a maintenance option may not be included in the solicitation.

(c) When a separate bid on the maintenance option is required, the solicitation shall reserve to the Government the right to accept or reject the maintenance option bid; if accepted, the maintenance option bid shall be added to the bid on the construction (and to bids on alternates accepted by the Government, if applicable) for purposes of determining the relative standing of the bidders in making the award. The contract shall also provide that the monthly payment for elevator maintenance shall be based upon the ratio which the number of elevators subject to maintenance in a given month bears to the total number of elevators to be maintained for twelve months each.

(d) The inclusion of an elevator maintenance option for a one-year period to coincide with the guarantee period is also authorized for contracts for the modernization of existing elevators when considered to be in the best interests of the Government. Similar procedures to those outlined in paragraphs (a), (b), and (c) of this § 5–2.202–58 shall be followed when such maintenance is included.

(e) Similar maintenance options may be included in the specifications for escalators and dumbwaiters under conditions applicable to elevators.

§ 5–2.203 Methods of soliciting bids.

§ 5–2.203–1 Mailing or delivering to prospective bidders.

(a) A copy of each solicitation for direct delivery purchases shall be provided to the requisitioning office.

(b) Active bidders (current contractors and bidders that responded to recent similar solicitations) shall be provided with bid sets for the same or similar items. Active bidders' names shall be checked against the bidders mailing list printout and, if they are not listed, action shall be taken to include them on the printout.

(c) Addressees on the bidders mailing list printout shall be furnished one copy of the invitation. Active bidders shall be furnished one complete bid set. A bid set should consist of three copies of the solicitation, two to be submitted with the bid and one to be retained for the bidder's own record. Procuring activities shall prepare the required address labels or addressed envelopes for the active bidders and furnish them to the local printing and distribution activity.

(d) The distribution of solicitations shall include the quantities required by the Business Service Center in the region where the solicitation originates. Business Service Centers shall advise contracting offices of quantities required for public display, reference, and for filling requests for copies.

(e) Firms in debarred or ineligible status will be treated in accordance with § 1–1.603.

(f) Solicitations shall provide instructions to bidders giving the exact address where offers are to be mailed or delivered. When appropriate, Optional Form 17, Sealed Bid Label, may be used as an aid in the proper identification.

(g) The following clause shall be included in all solicitations (may be included as a notice on GSA Form 1602 if a cover page is used):

Solicitation Copies

To reduce costs, only a single copy of this solicitation is mailed to addressees on our bidders mailing list, except that complete bid sets are furnished to active bidders who responded to previous solicitations for similar commodities. If additional copies are required (see Block 9, page 1, for number of bid copies to be submitted), you may reproduce them yourself, provided they are complete in every respect, or you may obtain them from the GSA Business Service Center, (*insert address and phone number of the BSC serving the issuing office*).

(End of Clause)

(h) Contracting officers shall ensure that all amendments to solicitations and related notices are furnished promptly to every addressee previously furnished a solicitation.

§ 5–2.203–2 Displaying in public places.

(a) *General.* The Business Service Centers shall display copies of solicitations so that they are readily available and accessible for public examination. After the bid opening date, copies shall be removed from display.

(b) *Building services and repair and alterations contracts.* Complete sets of bidding documents will be provided for public examination to the:

(1) PBS area, field office, and buildings managers, and

(2) Custodian of the building where work is to be performed.

§ 5–2.203–3 Publicity in newspapers and trade journals. (Applicable to repair and alteration, and construction contracts).

(a) Bids shall be solicited through advertisements when authorized by the Commissioner, PBS, or the appropriate Assistant Regional Administrator.

(b) As a rule, paid advertising will be used for all projects in excess of $25,000. Under special circumstances, the Directors of the Design and Construction Divisions (PC) may direct the advertising of projects estimated to cost $25,000 or less. Rates paid for advertising shall not exceed the commercial rate.

(1) *Selection of media.* In selecting advertising media, the following rules shall be observed:

(i) In a small town, the newspaper with the widest circulation shall be chosen. If no local newspaper is published, the order for advertising shall be placed with the newspaper in the nearest town.

(ii) In larger towns and cities having more than one newspaper, and where many projects may be advertised over a 12-month period, care shall be taken to

spread advertising among several newspapers.

(2) *Ad placements.* The following rules shall govern the placement of paid advertising:

(i) Projects under $200,000. Three consecutive notices in a daily newspaper, or one if the paper is published weekly, in the locality nearest the project.

(ii) Projects from $200,000 to $1,000,000. In addition to publicity required for small projects under $200,000, notices will be placed in two trade publications in the locality nearest the project.

(iii) Projects over $1,000,000. In addition to the requirements in paragraph 5–2.203–3(b)(2)(i) above, notices shall be published in four trade publications.

(c) Upon request, single copies of solicitations, or a brief summary thereof, shall be furnished to newspapers, trade journals, magazines, trade societies, and similar organizations, for free publication. When solicitations which include costly material, such as detailed specifications and drawings, are requested by such an organization, the contracting officer shall furnish such material only when it is determined that it is in the best interests of the Government to do so.

§ 5–2.204 Records of invitations for bids and records of bids.

Business Service Centers shall submit promptly to the appropriate contracting officer a supplemental list of firms (including addresses) to whom the BSC furnished solicitations or amendments. Contracting officers shall furnish these firms with applicable amendments or notices.

§ 5–2.205 Bidders mailing lists.

§ 5–2.205–1 Establishment of lists.

(a) Bidders mailing lists shall be established in accordance with § 1–2.205. Contracting officers may use either the computerized central bidders mailing list maintained by Region 8 for supplies and services or local lists maintained by the purchasing activity.

(b) Inquiries from or for business firms requesting inclusion on bidders mailing lists shall be referred to the GSA Business Service Center serving the geographic areas in which the firms are located. Business Service Centers will assist firms to be included on the proper GSA mailing lists and will provide prospective bidders with necessary application forms and related information.

§ 5–2.205–2 Removal of names from bidders mailings lists (BML).

(a) To remove firms from the BML:

(1) Encircle in black on a copy of the applicable bidders mailing list the firms to be removed; and

(2) Attach a cover letter listing the solicitation number to which the firm did not respond, the commodity, the issue and closing dates of the solicitation, and the class and mailing list code (MLC) from GSA Form 1382, List of Commodities and Services, and forward to 8BRC for action. The letter should read substantially as follows:

Please delete the encircled firms which did not respond to solicitation No. —— for ——, issued ————, and opened ——, class ——, and MLC ——.

(3) The procuring activity may retain nonresponding firms on the mailing list if such action is determined advantageous to the procuring activity. Unless the addressee requests removal, addressees such as U.S. Congressional Offices and offices in GSA's Central Office should not be removed from the computerized BML.

(b) Only procuring activities having national responsibility for the items or services shall remove firms from the BML. Other procuring activities shall route such lists and letters through the activity having national commodity or service responsibility for concurrence and forwarding to the Centralized Mailing Lists Services Branch (8BRC) for action.

§ 5–2.205–4 Excessively long bidders mailing lists.

Pre-invitation notices. For contruction contracts, in addition to the requirements in § 1–2.205–4(c), notices shall include an estimate of the cost of the work to be performed, expressed as a range within which the estimate falls.

§ 5–2.207 Amendment of invitations for bids.

(a) For construction contracts, amendments shall not be issued later than 10 days before the date set for opening of bids. Amendments involving wage determinations shall be issued as provided in § 1–18.704.

(b)(1) Amendments of invitations for bids shall be prepared on GSA Form 1747, Amendment to Bid Documents (Construction Contract), and shall be issued to all registered holders of the basic bidding documents issued for the project.

(2) When questions are received too late to permit issuance of an amendment, explanations shall be prepared on GSA Form 1747A, Final Clarifications to Bid Documents (Construction Contract), in the same manner as would have been employed for a timely amendment. The completed form shall be submitted to the contracting officer for consideration prior to contract award.

(c) For supply and service contracts, see § 5–16.901–30–1 for instructions regarding Standard Form 30, Amendment of Solicitation/Modification of Contract.

Subpart 5–2.3—Submission of Bids

§ 5–2.301 Responsiveness of bids (All PBS solicitations).

(a) Telecopier bids, proposals, modifications or withdrawals are not permitted, accepted or honored.

(b) Include this clause in all PBS solicitations:

Telecopier Bids, Proposals, Modifications or Withdrawals

Telecopier bids, proposals or modifications are ineligible for consideration in making an award. Telecopier requests for withdrawal of bids, proposals or modifications are not permitted, accepted or honored.

(End of Clause)

§ 5–2.302 Time of bid submission.

When a telegraphic bid is received by telephone under the circumstances described in § 1–2.302, the identity of the telegraph office employee telephoning the message shall be obtained and recorded in the solicitation file.

§ 5–2.303 Late bids.

§ 5–2.303–1 General.

Upon receipt of a late bid delivered by mail (or telegraph, when authorized), the bid custodian shall record it on the duplicate copy of the list of bidders and have it delivered immediately to the responsible contracting officer.

§ 5–2.302–5 Hand-carried bids.

The delivery of a bid after the bid opening time by other than mail or telegram shall not be accepted. Should a bid custodian become unavoidably in possession of such a bid, it shall be immediately time stamped and handled in the same manner as prescribed for late bids. In addition, the bid custodian shall note on the duplicate copy of the list of bidders when and how the bid was delivered.

§ 5–2.303–7 Disposition of late bids.

A late bid returned to a bidder shall be accompanied by a statement from the contracting officer that the bid was not considered because of its late receipt.

§ 5-2.304 Modification of withdrawal of bids.

(a) Bid modifications received prior to bid opening time shall be handled in the same manner as bids and shall be attached to the related bid envelope to ensure opening at the same time. When a telegraphic modification or withdrawal of a bid is received by telephone under the circumstances described in § 1-2.304, the identity of the telegraph office employee telephoning the message shall be obtained and recorded in the solicitation file. When such a modification results in a bid most advantageous to the Government, the contract award shall be withheld until receipt of the copy of the written telegram.

(b) The receipt required by § 1-2.304 for withdrawal of a bid in person by a bidder or an authorized representative of the bidder before the time set for opening shall be worded as follows:

I certify that I am a bona fide, fully authorized agent for or representative of
(Bidder's name and address)
—whose bid on IFB No. ——— is scheduled for opening on ———. I hereby withdraw that bid from consideration and acknowledge receipt of the unopened bid. ———
(Name and telephone No.)
(Date) ———

(c) The following clause shall be included in all solicitations for supply and service contracts.

Telegraphic Bids or Proposals, Modifications, or Withdrawals of Bids or Proposals

When telegraphic bids or proposals, telegraphic modifications, or telegraphic withdrawals of bids or proposals are authorized by the solicitation, the time of receipt stamped by the Government personnel at the local GSA Communications Center shall be deemed to be the time of receipt at the office designated in the solicitation for receipt of offers or proposals. This clause shall not apply to any authorized telegraphic communications which are not received by the GSA Communications Center.

(End of Clause)

§ 5-2.370 Copies of bids required in submission.

(a) Normally the bidding set mailed to each prospective bidder shall include three copies of the invitation for bids, and three copies of all material the invitation states is attached and incorporated. When material is incorporated by reference and is not required to be returned with the bid, a single copy of such material, if not previously furnished, should be included with each bidding set, as necessary or appropriate. Bids shall be submitted in an original and one copy, the third copy being retained by the bidders. The original will be used by the procurement activity for the tabulation and evaluation of bids. The copy will be retained by the Business Service Center for public information until the bid abstract is available to replace it.

(b) The approval of the director of the appropriate procurement division shall be obtained when it is necessary to vary the normal distribution of the sets.

Subpart 5-2.4 Opening of Bids and Award of Contract

§ 5-2.401 Receipt and safeguarding of bids.

(a) Bids, and modifications in response to solicitations shall be received and safeguarded by the appropriate Business Service Center until the time specified for opening. Adequate space and facilities shall be provided for the receipt and safeguarding of bids for the holding of public bid openings. This shall include a locking-type bid box located within sight of the bid custodian and in a place where bidders or their representatives can readily deposit bids.

(1) Bids received shall be handled as follows:

(i) At the initial point of receipt, each envelope (or other covering) received by mail and identified as containing a bid shall be immediately time-stamped or indicated thereon the place, date, and time of receipt by authorized personnel. Then the bid(s) shall be delivered by special handling to the bid custodian in the Business Service Center. Each Assistant Regional Administrator for External Affairs shall designate bid custodians and alternates as may be required, to perform the functions incident to the receipt, custody, and recording of bids.

(ii) Insufficient postage on bid envelopes shall not be a reason for failure to accept delivery of bids.

(iii) Mailed bids and modifications delivered to the bid custodian prior to bid opening time shall be recorded on the list of bidders on the same day they are delivered and then placed in a suitable locked cabinet.

(iv) Hand-carried bids delivered prior to bid opening time will be deposited in the locked bid box in the Business Service Center. The bid custodian shall have custody of a key or combination to this receptacle. In the event a handcarried bid is not placed in the bid box by the bidder, but is handed to the bid custodian or other Business Service Center personnel, it shall be time stamped immediately and then handled in the same manner as provided for mailed bids. At least once daily (and immediately preceding the time for each scheduled bid opening), the bid custodian shall remove and time stamp the bids, record them and place them with any other bids previously received.

(v) Telegraphic bids and modifications shall be sealed in envelopes immediately upon receipt, appropriately identified, and handled in the same manner as bids submitted by mail.

(vi) For each invitation, the bid custodian shall prepare a list, in duplicate, of the bidders whose bids are received before bid opening time. The list shall show the invitation number and the name and address of each bidder. In addition, when a bid modification is received before bid opening time or when a bid previously recorded on this list is withdrawn, the list shall so indicate.

(2) At the scheduled bid opening time, the bid custodian shall deliver all bids received in response to the invitation, together with both copies of the list of bidders, to the authorized bid opening official or designee, who shall acknowledge receipt of the bids by signing the duplicate copy of the list and returning it to the bid custodian. The original list shall become part of the contract file.

(b) Bids received in unidentified or unsealed envelopes and bids opened by mistake shall be handled in accordance with § 1-2.401(b).

(c) Envelopes in which bids are received shall be retained as part of the individual contract file to assure proper documentation of timely receipt of the bid.

§ 5-2.401-50 Receipt and safeguarding of bid samples.

(a) Bid samples shall be received and safeguarded in accordance with FPR 1-2.401, and this section in either a sample room or the Business Service Center. The term "sample custodian" as used herein refers to both Business Service Center personnel or sample room personnel, as appropriate.

(b) Bid samples submitted in response to a solicitation requirement must be received before bid opening to be considered for award. Samples are to be promptly time-stamped upon receipt by the sample custodian indicating the date and hour received. The sample custodian shall record whether the samples were sent by regular, registered, or certified mail, or by other delivery methods. Each sample container is to be accompanied by GSA Form 434, Sample Record Sheet, included as part of the solicitation. The regulations concerning late bids (§ 1-2.303) also apply to samples received after the time set for receipt of bids.

(c) Bid samples shall be carefully protected against loss, damage, or pilferage. Each sample shall be recorded and tagged showing the firm's name and address, solicitation number, noun name, national stock number (NSN), and date of receipt. If samples or their containers arrive damaged, the sample custodian shall note the condition of the container upon receipt and request a quality assurance specialist (QAS) to verify the actual condition of the samples involved.

(d) Approved samples. (1) Upon award of a contract, the contracting officer shall forward a copy of GSA Form 6419, Transmittal of Contract Award Data, to the sample custodian who shall tag the approved samples showing the contract number and the contract period. When there is only one sample, it shall be hand-carried or sent by an appropriate means of transportation to the manufacturing plant marked to the attention of the QAS. If there are two identical samples, one sample shall be retained in the bid sample room until performance is completed and the other shall be forwarded as stated above. The sample shall have the tag secured by wire with a lead seal. The sample custodian shall notify the Quality Assurance Division of sample shipment by furnishing a copy of GSA Form 6334.

(2) Upon completion of all deliveries/shipments and inspection under the contract, the samples shall be returned to the supplier at the supplier's expense if so indicated on GSA Form 434, Sample Record Sheet. Other samples are to be treated as Government property for use or disposal. In those instances when the contracting officer has indicated that they may be reapplied to a succeeding solicitation, the sample shall be retained in the bid sample room.

(e) Disposition of other samples. (1) Bid samples rejected or untested shall be returned to the supplier at the supplier's expense, if so indicated on GSA Form 434, Sample Record Sheet. The others will be treated as Government property for use or disposal.

(2) Bid samples consumed or destroyed by tests will be disposed of as scrap unless the supplier has requested their return.

(3) Bid samples determined to be received late in accordance with § 1–2.303 shall be held until awards are made and returned to the offeror, freight collect, unless other disposition is requested or agreed to by the bidder.

§ 5–2.402 Opening of bids.

(a) Public bid openings shall be held in the Business Service Center except when determined to be impracticable by the Business Service Center and the contracting officer. The schedule for bid openings shall be developed jointly by the Business Service Center and the contracting officer in order to avoid conflicts. The contracting officer shall be responsible for obtaining space for bid openings which are to be held outside the Business Service Center. As soon as it is determined to hold the bid opening elsewhere, the contracting officer shall inform the Business Service Center serving the geographic area in which the contracting office is located of the invitation number and the location where the public bid opening will be held.

(b) All bids shall be opened by the contracting officer or the contracting officer's designee responsible for the procurement. The designee shall be a qualified employee of the contracting office. Upon authorization by the Head of the Service or Staff Office involved, and the Director of Public Services, bids may be opened by selected Business Service Center personnel. Normally, this authorization will be requested only when the geographic distance separating the Business Service Center where bids are to be delivered and the contracting office makes it impracticable for the contracting officer or designee to be present to open bids.

(c) Bid openings shall be open to business representatives, members of the press, and the general public.

(d) To ensure that bids will be opened to the exact time specified, the bid opening official shall verify the accuracy of the timepiece to be used.

(e) For the information of those bidders present, approximately one-minute prior notice of bid opening will be announced audibly by the bid opening official.

(f) The bid opening official shall take precaution to ensure that the exact time of opening has arrived and shall announce this fact audibly, citing the invitation or invitations scheduled for opening. The opening of bids shall then proceed in full view of the parties present.

(g) In reading bids, the following information from each bid shall be announced when considered practicable and feasible: The name of the bidder, the unit price for each item bid upon, and other pertinent information, such as delivery and discount terms. A copy of each bid submitted in multiple copies shall remain in the bid opening room and be available for public examination until the bid abstract is completed and made available instead. Bids submitted in an original only shall be made available for examination in accordance with § 1–2.402(c).

(h) No person shall tamper with any bid after it has been formally opened. This includes making any alterations or notations with pencil or ink, or disassembling, or withdrawing pages or adding pages not submitted with the bid.

(i) When invitations for bids provide for the submission of bid or performance bonds or like guarantees, arrangements shall be made by the contracting officer or the designee to have a bonded collection officer present when bids are opened to assume custody of guarantees other than bonds. The contracting officer shall retain bonds for checking acceptability. As soon as awards have been made, the contracting officer shall request the collection officer to return guarantees other than bonds to unsuccessful bidders. Bonds need not be returned.

(j) A record of persons attending each bid opening shall be maintained. This record shall include at least the names of persons present, firms or organizations represented, date and time of opening, and the invitation numbers in which each person is interested. The record may be in any suitable form, such as appropriate notations on the reverse of GSA Form 289, Abstract of Bids. The record shall be made a part of the invitation for bids file.

(k) If two or more bid openings are scheduled for the same date and hour and are to be conducted by the same bid opening official, nornally the bid opening for which the greatest number of persons is present shall be conducted first.

(l) When multiple copies of bids are received, the bid opening offical shall verify the entries on all copies. If there is a discrepancy between the copies of a bid, the contracting officer shall direct the bidder's attention to the suspected mistake and shall follow the procedures set forth in § 1–2.406 concerning mistakes in bids.

(m) Envelopes in which bids and bid modifications are received shall be retained in a temporary file until after all awards have been made. At that time, those which bear notations concerning abnormal receipt or opening for identification shall be made a part of the solicitation file and the remainder may be destroyed.

§ 5–2.403 Recording of bids.

(a) The contracting officer shall be responsible for abstracting and

tabulating all bids. (1) For FSS contracts, GSA Form 289, Abstract of Bids, and GSA Form 289a, Abstract of Bids (Continued), normally shall be used. However, when unusual circumstances require a specialized form for abstracting bids, GSA Form 289 need not be used. (2) For PBS contracts, GSA Form 3471 (Feb. 1981) shall normally be used. As soon as possible, but not later than 24 hours after a notice of award has been dispatched to the contractor, a legible copy of the GAS Form 3471, Bid Abstract, showing the award made shall be furnished to the Business Service Center where it shall be made available for public examination for a minimum period of 30 calendar days.

(b) The abstracting and tabulating of bids normally shall be completed within 24 hours after bid opening and a copy shall be delivered immediately to the appropriate Business Service Center where it shall be made available for public examination for a minimum period of 30 days. Late bids determined eligible for consideration shall be included on the bid abstract form. However, if eligibility is established after delivery of the original tabulation, the bids shall be recorded separately, identified as an amendment to the original tabulation, and delivered to the Business Service Center.

(c) Abstracts shall be annotated with (1) the size of the business (small "S" or large "O"), and (2) the status of the bidder (manufacturer or dealer).

(d) The original of all abstracts or tabulations shall be made a part of the official procurement file.

§ 5-2.404 Rejection of bids.

§ 5-2.404-2 Rejection of individual bids (Supplies and services).

(a) Proposed award to other than low offeror. When an award is proposed to other than the low offeror, the responsible contracting officer shall explain the circumstances by using substantially the following format and justify rejection of the low offer either on GSA Form 1535, Recommendation for Award(s) or on a separate sheet.

Award to Other than Low Offeror:
(1) Item number(s) involved;
(2) Names of low offeror(s) and proposed awardee(s);
(3) Low and proposed prices:
(i) Unit
(ii) Totals
(4) Differences:
(i) In total prices
(ii) In percent
(5) Explanation: Example, "FPR 1-2.404-2(a), Failure to conform to the essential requirements of the specifications. The deviation is considered unacceptable."

(i) When a proposed rejection is based on failure to meet Qualified Products List (QPL) requirements, the explanation shall include information as to whether the items offered had been tested and approved for inclusion in the QPL as required by the solicitation; whether the item had been submitted for qualification testing; and/or the status of testing, if available.

(ii) Explanations which involve cases of a sensitive or controversial nature shall be accompanied by all supporting documentation to justify awards to other than low offerors, such as copy of the offer to be rejected, statements from (or record of conversation with) the requisitioning activity, plant facilities and/or financial responsibility reports, relevant correspondence or reports, e.g. with the Small Business Administration on Certificates of Competency matters, copies of Congressional correspondence or other high level interest, etc.

(b) Missing pages in bids. When it is found that pages are missing from a bid which is in line for award, action shall be taken in accordance with (1) or (2) of this paragraph, as appropriate.

(1) If a page or pages are missing from the original bid, or from both the original and signed copy of a bid, the contracting officer shall determine whether it is a major defect or if it constitutes a minor informality or irregularity which may be waived under § 1-2.405. The essential test whether such bid may be considered responsive is whether the bidder's intention to be bound by all substantive portions of the solicitation in any resulting contract is evident from the terms of the bid as submitted. For example, when the solicitation portion of SF 33 specifically identifies the number of pages in the solicitation and the bidder has taken no exception to any portion of the solicitation, the signed offer usually should be considered as evidencing the bidder's intention to be bound by all of the substantive terms and conditions of the solicitation. If there is a need for clarification of the bidder's intent after bid opening with regard to a substantive aspect, such irregularity may not be waived and the bid must be rejected as nonresponsive.

(2) If the missing pages are waived, as a minor informality or irregularity, the contractor shall be advised by letter accompanying the award document identifying the missing pages and incorporating them as part of the contract. The letter should caution the contractor that failure to submit all pages of a bid could cause rejection of a bid as nonresponsive in cases when a missing page contained substantive rather than inconsequential material.

§ 5-2.404-5 All or none qualifications.

The following applies to solicitations for definite quantity and indefinite quantity type contracts.

"All or None" Offers

(a) Unless awards in the aggregate are specifically precluded in this solicitation, the Government reserves the right to evaluate offers and make awards on an "all or none" basis as provided below.

(b) (Applicable to definite quantity contracts.) An offer submitted on an "all or none" or similar basis will be evaluated as follows: The lowest acceptable offer exclusive of the "all or none" offer will be selected with respect to each item (or group of items when the solicitation provides for aggregate awards) and the total cost of all items thus determined shall be compared with the total of the lowest acceptable "all or none" offer. Award will be made to result in the lowest total cost to the Government.

(c) (Applicable only to requirements and indefinite quantity contracts.) An offer submitted on an "all or none" or similar basis will not be considered unless the offer is low on each item to which the "all or none" offer is made applicable. The term "each item" as used in this clause refers either to an item that under the terms of the solicitation may be independently awarded, or to a group of items on which an award is to be made in the aggregate.

(End of Provision)

§ 5-2.404-50 Multiple bidding.

(a) If more than one bid is received from a person or firm, or its affiliates in response to an invitation for bids, such bids shall be considered for award if responsive and otherwise acceptable. If the contracting officer determines that these bids would give such bidders an unfair advantage over other bidders or would otherwise be prejudicial to the best interests of the Government, these bids shall be rejected. See § 5-2.407-6 involving multiple bids which are equal low bids.

(b) If a bidder submits bids on two or more products in response to the same item in an invitation and one of those bids is the lowest received which meets the requirements of the invitation, it may be accepted regardless of whether it is designated by the bidder as an "alternate."

§ 5-2.404-51 Rejection under subcontractor listing requirements (Construction).

When an invitation for bids contains the Listing of Subcontractors clause prescribed in § 5-2.202-51(g), bids shall be rejected if:

(a) The bidder fails either to name a subcontractor or to list the bidder's own firm for any of the categories included on the list other than a category which

was improperly included under the criteria prescribed.

(b) The bidder lists alternate subcontractors for a category, if alternate listing is authorized, without indicating after each listing the basis upon which each named individual or firm shall be deemed to be the listed subcontractor for that category of the work.

(c) A named subcontractor does not meet the standards of responsibility prescribed in Subpart 1–1.12, unless the contracting officer finds that substitution is justifiable under the conditions prescribed.

(d) An individual or firm named on the list does not meet the specified requirements of an applicable Specialist or Competency of Bidder clause, unless the contracting officer finds that substitution is justifiable under the conditions prescribed, or that the deficiency in qualifications is so minor as not to be considered substantive (e.g., a lack of one month of a required three years, experience).

§ 5–2.406 Mistakes in bids.

§ 5–2.406–3 Other mistakes disclosed before award.

(a)(1) The Head of the procuring activity (HPA) is authorized as the central authority to make the administrative determinations permitted in § 1–2.406–3(a) (2), (3), and (4). (See § 1–2.406–3(b)).

(2) The General Counsel, Deputy General Counsel, or an Assistant General Counsel is the approving authority for proposed administrative determinations made by the HPA.

(b)(1) The procuring directors (see § 5–1.250) are authorized to make administrative determinations allowing bids to be withdrawn as permitted in § 1–2.406–3(a) (1) and (3).

(2) For cases arising in the regions, Regional Counsel is the approving authority for proposed determinations made by the procuring directors. For cases arising in the Central Office determinations shall be approved by the appropriate Assistant General Counsel.

(3) Questions arising in these cases shall be forwarded to the HPA for a decision.

(c) All doubtful cases shall be referred to the Comptroller General for an advance decision through the appropriate Assistant General Counsel. (See § 1–2.406–3(3)).

(d) A copy of the administrative determination, including all pertinent data, shall be maintained for 3 years by the office making the administrative determination.

§ 5–2.406–4 Disclosure of mistakes after award.

(a) Contracting Officers are authorized to make administrative determinations to rescind or reform contracts as permitted in § 1–2.406–4(b) (1) and (2) and under the circumstances set forth in paragraph (c) of this section.

(b) Cases arising in the regions shall be reviewed by the HPA and Regional Counsel who will send them with appropriate recommendations to the appropriate Assistant General Counsel for coordination.

(c) Cases arising in the Central Office shall be reviewed by the HPA and forwarded directly to the appropriate Assistant General Counsel for coordination.

(d) A copy of each determination, including all pertinent data, shall be maintained for 3 years by the office making the determination.

§ 5–2.406–50 Submissions to the Comptroller General.

(a) Except as provided in (b) of this section, where the General Counsel determines that a case supporting a mistake in bid is sufficiently doubtful, a decision on the matter may be requested from the Comptroller General.

(b) If time is of the essence, a contracting officer may submit cases of mistake in bid alleged prior to award directly to the Comptroller General without a determination by the General Counsel but with the concurrence of legal counsel.

§ 5–2.407 Award.

§ 5–2.407–1 General.

(a) Bid acceptance should be accomplished in 30 days or less. However, more than 30 days may be required in certain cases, such as those which involve the evaluation of numerous bids for many items, time-consuming laboratory testing of bid samples, or on-sight inspection of bidder's facilities (see § 5–2.202–4).

(b) Pre-award inquiries from bidders normally shall be directed to the Business Service Center in accordance with § 5–2.408(b).

(1) If the inquiry concerns the status of an award and notice of award has not been issued, the response shall be limited to a statement that final award determination has not been made.

(2) A bidder who is pressing for award status may be advised that award will not be made to that bidder if and when such a conclusion has been reached at the appropriate level required by the GSA Delegations of Authority Manual.

(3) The bidder may also be advised if the case has been referred to the Small Business Administration for consideration for Certificate of Competency action and the reasons why.

(4) No information shall be furnished concerning the status of a proposed award being processd through GSA approval channels. When pressed for information under these circumstances, bidders shall be advised that our policy and procedures do not permit the release of information about status of awards while they are in process.

(5) Any action or discussion which may create false impressions in the eyes of prospective contractors about any forthcoming award must be avoided.

(c) The following provision shall be included in all invitations for bids:

Award

Until a formal notice of award is issued, no communication by the Government, whether written or oral, shall be interpreted as a promise that an award will be made.

(End of Provision)

(d) The award date is that date on which the award is mailed, i.e., the bid acceptance document is actually placed into the mailbox or turned over to the U.S. Postal Service for delivery, or otherwise furnished or communicated to the offeror. If the award is made by telegram, the award date is the date on which the offeror receives the telegraphic communication.

§ 5–2.407–2 Responsible bidder—Reasonableness of price.

(a) When only one bid is received in response to an invitation for bids, the bid may be considered and accepted if (1) the specifications used in the invitation were not restrictive, (2) adequate competition was solicited, (3) the price is reasonable, and (4) the bid is otherwise consistent with the invitation for bids.

(b) The responsible contracting officer shall document the contract file to the effect that an award to the only offeror is in the best interest of the Government, particularly regarding price reasonableness. The basis for price reasonableness shall be established from data or information which is available to the contracting officer without contacting the offeror. If after examination of all the information sources they are still inadequate, and readvertising or negotiating with other sources of supply is not feasible, the contracting officer may then contact the offeror to obtain information necessary to establish price reasonableness.

§ 5–2.407–3 Discounts.

(a) No discount offered for payment within less than 20 days will be considered in evaluating bids for award.

(b) When evaluating bids involving trade-in of old articles, discounts offered shall be computed on the entire purchase price of the new articles without regard to the trade-in allowance for the old articles.

(c) All solicitations for offers shall contain the Prompt Payment Discount clause (§ 5–2.201–56(c)).

§ 5–2.407–5 Other factors to be considered.

(a) The cost of contract award and contract administration should be considered in evaluating offers.

(b) Administration costs for issuing and administering separate contracts or purchase orders of small value may at times be greater than savings anticipated by purchasing all items from the lowest bidder. To reduce the incidence of making small awards at net losses to the Government, $50 shall be added in preaward evaluations as the Government's administrative expense for each separate award which does not exceed $2,500.

(c) If, according to § 5–2.407–5(c), it is found to be advantageous for the Government to add a small award ($2,500 or less) to a bidder already in line for award or other item(s), the de facto low bidder shall be advised that an award to him, even though he is the low bidder, would be costlier to the Government than if the award is made to the bidder already in line for other items due to the expense to the Government for administering a separate award. The low bidder may not be interested in receiving only a small part of the items quoted on due to the high administrative expense of filling small orders and would be inclined to agree to forego the small award. Contracting officers shall obtain the offeror's agreement in writing and make it a part of the contract file.

(d) The above procedures do not apply in cases when a separate small award would further procurement objectives with regard to establishing competitive sources on new items for which initial demand is low or unknown, assisting small businesses including minority entrepreneurs, or maintaining bidding opportunities for local suppliers who have previously satisfactorily furnished the items involved.

§ 5–2.407–6 Equal low bids.

(a) In breaking a tie of equal low bids, factors qualifying a bidder for priority in award (see § 1–2.407–6) must have existed on the date of bid opening. Certifications which are granted after the bid opening date cannot be applied to breaking an equal low bid tie.

(b) When a bidder has submitted multiple bids which are equal in all respects to other low bids received in response to the same invitation, only one such bid shall be selected by lot to represent the bidder in the award by lot. (See § 1–2.407–6(b).) This will prevent any bidder from gaining an unfair advantage.

§ 5–2.407–7 Statement and certificate of award.

A record of the method of purchase and basis for award shall be retained in the file and, in addition to the information required by § 1–2.407–7(b), shall include the number of firms solicited. When contracts are awarded to other than the lowest bidder as to price, the original of each such contract shall contain the symbol "AOLB (Award Other than Low Bidder)" in top margin of the contract form, immediately above the "contract number" block on the form.

§ 5–2.407–8 Protests against award.

All protests against award shall be handled in accordance with § 1–2.407–8 and this section.

(a) *Protests lodged with the agency.* Upon the receipt of a written protest, the contracting officer shall assemble the facts, review the protest with assigned counsel, and prepare a written reply to the protester setting forth the contracting officer's final decision. Replies to protests received after award shall be prepared for the signature of the procuring director. When appropriate, concurrence is required from other officials (including members of the contract review committee) who concurred with the contract award involved in the protest.

(b) *Protests lodged with the General Accounting Office (GAO).* Replies to protests lodged with GAO are prepared by the Office of General Counsel. These replies are based on a statement of fact and position prepared by the contracting officer and signed by the procuring directors.

(1) *Submission of statement of fact and position.* Within 6 working days after receipt of the written statement of protest from GAO, the appropriate organizational element shall submit, in triplicate, a properly signed and approved statement of fact and position (with required exhibits) to the Office of General Counsel. Because of the short time frame allowed by GAO (25 working days) for submission of the report, GAO usually informs the appropriate Assistant General Counsel by telephone of protests received or anticipated. This information is relayed immediately to the organizational element directly concerned. The compilation of facts and documentary evidence shall be started as soon as this informal notification of the protest is received by the organizational element. If the statement cannot be prepared within six working days after receipt by the organizational element, the head of the procuring activity shall be notified in writing (with copy to appropriate Assistant General Counsel) of the reasons for the delay and the projected submission date. After submission of the statement to the Office of General Counsel, the contracting officer shall advise counsel of all new developments which may have a bearing on the case. When further actions are required, the contracting officer shall obtain the advice of assigned counsel.

(2) *Preparation of statement of fact and position.* This statement shall contain the elements set forth in (i) thru (ix) of this paragraph, in addition to the requirements of § 1–2.407–8(a)(2). The contracting officer shall review the statement with assigned counsel prior to submission to the procuring director for signature.

(i) The identity of the GAO protest (if made against a solicitation or award) by B-number (GAO case file number), solicitation number, and contract number (if award has been made).

(ii) The full corporate name of the protesting organization and other firms involved when referenced for the first time in the position statement.

(iii) A statement whether the protest has been filed before or after award. If the protest has been filed after award, identify the awardee, the date of award, and the contract number.

(iv) A statement as to the urgency of need for the award. Indicate to what extent the delay in the award may result in significant supply difficulties and give a date when a determination is required for pending awards. See § 5–2.407–8(b)(4) for action required if award must be made prior to resolution of protests.

(v) The date and time of bid opening (specify if the date of bid opening has been extended by subsequent amendments) and the total number of bidders.

(vi) An accurate, complete, and current statement of facts, in chronological order, of all relevant events and administrative actions taken. Include reasons for the actions taken and cite the authorities under which they were taken.

(vii) Any exhibits and/or documentary evidence, in duplicate, as set forth in FPR 1–2.407–8(a)(2) (i) through (vi). Include any other relevant documents believed helpful in

determining the validity of the protest. (This evidence should be referenced and identified within the text of the position statement, alphabetically or numerically, e.g., Tab A, Exhibit 1, etc.).

(viii) A statement setting forth and answering point by point, if possible, all contentions, allegations, and issues raised by the protester.

(ix) Any comments or legal analysis (including legal precedents or authorities) received from assigned counsel.

(3) *Notifying interested parties.* Upon receipt of the complete written statement of protest from GAO, the contracting officer shall, with the concurrence of the appropriate division of the Office of General Counsel, furnish copies of the protest to the contractor (if award has been made) or all bidders who appear to have a substantial and reasonable prospect of receiving an award if the protest is denied. The covering letter shall advise that views or comments may be submitted to GAO, within 10 working days after receipt, with a copy to the contracting officer. A copy of the reply shall be furnished the Office of General Counsel.

(4) *Awards prior to resolution of protest.* If award must be made prior to final resolution of the protest pursuant to FPR 1–2.407–8(b)(4), a written findings and determination must be prepared by the contracting officer and approved by the head of the Central Office service, or designee, with the concurrence of the Assistant General Counsel. In protests involving regional procurements, the findings and determination shall be reviewed and concurred in by the Regional Counsel prior to being submitted to the head of the Central Office service.

(c) *Protest after award* (Construction). (1) When a protest received after award can be resolved at the regional level or the Central Office equivalent, the contracting officer shall ascertain the facts and prepare a reply for signature by the Assistant Regional Administrator, PBS, or by the Assistant Commissioner, Office of Contracts (PP). Each such reply shall be forwarded for concurrence and signature through appropriate legal counsel.

(2) A complete report of all the facts and all pertinent papers relating to protests which cannot be resolved at the regional level, protests to higher authority, and protests to the Comptroller General of the United States, shall be submitted to the Central Office after clearance through regular channels and concurrence by Regional Counsel.

§ 5–2.407–50 Evaluation of f.o.b. prices.

(a) When an invitation for bids provides for bid prices based on delivery at destination, all bids based on f.o.b. shipping point shall be rejected. If no acceptable bids based on f.o.b. destination are received or if comparison of prices f.o.b. shipping point and f.o.b. destination indicates that readvertisement would be in the best interests of the Government, the requirements should be readvertised and provision made for bidders to bid both f.o.b. shipping point and f.o.b. destination.

(b) When the invitation permits bid prices on an f.o.b. destination basis or an f.o.b. shipping point basis, or both, bids shall be considered and award made on whichever will result in the lowest overall cost to the Government. In such cases, all pertinent factors, including transportation costs and bill of lading preparation and processing costs, shall be considered. If not based on published tariffs, these factors should be based on available information and set forth in the solicitation.

(c) The assistance of traffic management personnel shall be obtained whenever transporation must be considered in evaluating bids.

§ 5–2.407–51 Disposition of contract documents.

(a) The originals of all rejected bids, related correspondence, and a copy of the abstract of bids shall be retained by the procuring activity for a period of 1 year. They shall then be forwarded to the appropriate administrative activity for processing in accordance with current procedures on retention and disposal of records. These records shall be kept available for inspection by authorized representatives of the General Accounting Office and the Office of Plans, Programs, and Financial Management may be forwarded to them upon request. Copies of rejected bids which are not needed shall be destroyed after award.

(b) Each no-bid response to an invitation for bids (original only) shall be retained by the procuring activity for a period of 3 months after the date of contract award and then destroyed.

§ 5–2.407–52 Awards involving related cases referred to higher authority.

When a case is to be or has been referred to higher authority for review, any action which might prejudice the freedom of the higher authority to act on that case must be avoided. This includes other awards to the same bidder under the same solicitation.

§ 5–2.407–53 Extension of time for bid acceptance.

(a)(1) Promptly after bids have been tabulated, except as provided in (2) and (3) of this paragraph, a request for an extension of bid acceptance time shall be sent to each bidder who may be in line for award and whose bid specifies a bid acceptance time which is considered by the contracting officer to be insufficient for proper bid evaluation and award. If later it becomes apparent to the contracting officer that award cannot be made within the specified acceptance time, time extensions shall be requested as necessary. If the case in question has been referred to another organizational element for action, that organizational element shall be notified of any extension obtained and shall be requested to complete its action in time to permit award within the extended time.

(2) A bidder whose bid is determined unacceptable by the contracting officer and assigned legal counsel, shall not be requested or otherwise given an opportunity to extend the time for bid acceptance.

(3) When a special minimum bid acceptance time provision is included in the invitation for bids (see § 5–2.201–55), a bidder, whose bid is nonresponsive because it offers a lesser time for bid acceptance than the minimum specified in the invitation, shall not be given an opportunity to extend the time.

(b) Requests for extension of bid acceptance time shall specify the additional acceptance time desired by the Government and shall be reasonable under the circumstances.

(c) If a bidder does not grant the additional bid acceptance time requested, special action shall be taken to accomplish acceptance of the bid within the time allowed by the bidder (see § 5–2.407–1). Should it be advisable to permit the bid to expire, the contracting officer shall promptly, before the expiration of the bid, refer the case to the appropriate division director for decision.

(d) Appropriate legal counsel shall be consulted before an award is made when the acceptance time of an otherwise acceptable bid has expired.

§ 5–2.407–56 Forms for recommending award(s) (Supplies and services).

(a) GSA Form 1535, Recommendation for Award(s), and GSA Form 1535–A, Recommendation for Award(s), Continuation Sheet, shall be used to document all proposed awards of more than $10,000 whether resulting from advertised or negotiated procurements. The use of the form for awards of

$10,000 or less is at the discretion of the procuring activity. One or more awards may be set forth on each form. All information pertinent to the recommendation shall be furnished on the form. The checklist on the back of the form shall be completed. The forms shall be prepared as instructed in §5-16.950-1535-I.

(b) GSA Form 1447, Procurement Case Summary, shall be used to detail the analyses of procurements which require concurrence or approval in accordance with the GSA Delegations of Authority Manual, (ADM P 5450.39A, or FSS P 5450.21).

§ 5-2.407-57 Preparation of documents for acceptance.

The acceptance of an offer received on SF 33, Solicitation, Offer, and Award, shall be as follows:

(a) *Definite-quantity contracts.* (1) *Single consignee.* When only one consignee is involved, notice of award of contract shall be documented on either Standard Form 33, (Award portion accomplished) or on an appropriate purchase order form, as determined by the procuring activity.

(i) When Standard Form 33 is used, the award portion on both the original and duplicate copies of the accepted offer shall be completed. The original contract shall be retained by the Government and the duplicate copy furnished to the contractor. A purchase (delivery) order also must be issued to provide shipping instructions and necessary information copies to others concerned.

(ii) When a purchase order form is used, enter substantially the following: "Your offer on solicitation No. ——— is accepted for items listed herein." Under this procedure, the original contract consists of the original bid signed by the contractor and the paying office copy of the purchase order, signed by the contracting officer. The contractor's copy of the contract consists of his retained copy of the bid and the original purchase order, signed by the contracting officer.

(2) *Multiple consignees.* Award on Standard Form 26, Award/Contract normally is advantageous for contracts involving more than one consignee. However, when numerous items on a single invitation for bids are awarded to one contractor, completion of the Award portion of Standard Form 33 may be more advantageous. Either method of documenting the award is authorized.

(b) *Indefinite quantity contracts.* Awards for indefinite quantity contracts may be documented on either Standard Form 26 or Standard Form 33. "Indefinite" shall be entered in the spaces provided for entering the quantity and dollar amount of such awards.

§ 5-2.407-58 Notification of contract award.

(a) *General.* Successful bidders shall be notified of award by furnishing to such bidders, within the time specified for bid acceptance, documents prepared in accordance with § 5-2.407-57. Bids specifying a certain number of days for acceptance may be accepted any time before midnight of the last day. For definition of what constitutes the actual award date, see § 5-2.407-1(d).

(b) *Evidence of time of receipt.* See 1-1.316-4(e) and § 5-1.316-4.

(c) *Postaward orientation conferences.* For instructions on this subject, see Subparts 1-1.18 and 5-1.18.

§ 5-2.407-59 Notification of proposed substantial awards and awards involving Congressional interest.

(a) *Applicability.* This section applies to notification of proposed awards resulting from either advertised or negotiated solicitations, including modifications and renewals: when the dollar value exceeds or is estimated to exceed $250,000, except as shown in (b) of this section; and when there is Congressional interest regardless of dollar value.

(1) When Congressional interest is involved, GSA Form 2932, Proposed Substantial Contract Awards or a facsimile message shall be prepared for transmittal to the Director of Congressional Affairs (AG) containing the following information:

"Congressional Interest—*(Name of Congressman or Senator)*—(State)—Control No. ——— —*In behalf of (Name of firm and complete address)—If award is not proposed to that bidder, explain why)* ———————."

(2) In addition to the requirement in (a)(1) above, (and in OAD 5410.1, chap. 5), when a Congressional inquiry is made orally with a contracting officer, and award or other information has been promised to a Congressman or Senator, GSA Form 2932, or the facsimile message shall contain the following statement:

Unless notified to the contrary, we will assume that the *(Congressman or Senator)* has been advised by AG.

(b) Notification of proposed awards exceeding or estimated to exceed $250,000 is not required for products whose points of origin are not readily identifiable or which involve foreign production points.

(c) *Codes.* The following codes shall be used in the appropriate columns of GSA Form 2932 or in the facsimile message, as applicable.

(1) *DQ* for definite quantity contract;

(2) *FSS* for Federal Supply Schedule contract;

(3) *TC* for term contract other than Federal Supply Schedule;

(4) *S* for small business concern;

(5) *O* for other than a small business concern;

(6) *NLS* for not labor surplus area; and

(7) *LS* for labor surplus area.

(d) *Notification procedure.*

(1) The director of the procurement activity (central office or regional office) shall be responsible for submitting directly to the Director of Congressional Affairs (AG) complete and factual data pertinent to any proposed award of the type described in paragraph (a) of this section.

(2) Regional offices (except Region W) shall prepare GSA Form 2932 and transmit the notification directly to the Director of Congressional Affairs (AG), by facsimile machine except as shown in paragraph (d)(4) of this section.

(3) Central Office and Region W procurement activities shall prepare GSA Form 2932 and transmit the notification (original only) directly to the Director of Congressional Affairs (AG). The notification(s) shall be placed in a messenger envelope and addressed as follows: PLEASE HAND-CARRY Attention: AG, GS Bldg.

(4) The following additional information shall be furnished on the GSA Form 2932 as applicable.

(i) Under Type of Contract insert "A" for advertised and "N" for negotiated, including the applicable negotiation authority in parentheses; i.e., N(2) for negotiated public exigency.

(ii) Under Point of Production show the name (plant or operational unit), address (including county), and the dollar value for each production point. When the name of the supplier (subcontractor) is different from the contractor, show the supplier's or subcontractor's name, address (including county), and applicable dollar value for each point of production. When the offer does not clearly indicate a specific production point for the item(s); i.e., several sources shown for one item, the word "undeterminable" shall be stated in the Point of Production column, and the various production points (name, address, and county) will be listed. When there are multiple production points and specific items and their points of production are not shown, or when the number of production points exceed 10, show the word multiple and indicate immediately after.

in parentheses, the total number of production points.

(iii) For definite quantity awards, show (A) the quantity and unit, in parentheses, under each production point, (B) the name of the requisition activity next to the applicable quantity, and (C) the requirement or portion thereof for overseas use.

(iv) The contracting officer's name and telephone number shall be typed or printed at the bottom of each report in the event additional information is required by the Director of Congressional Affairs (AG).

(e) *Release of awards.* (1) Unless notified to the contrary, commodity centers and regional and Central Office procurement activities may release awards of the type described in (d)(2) and (3) of this section, or information pertinent thereto, upon the expiration of 2 full workdays (48 hours) after the time and date of transmittal of the GSA Form 2932 or the facsimile message to the Director of Congressional Affairs (AG).

(2) Preaward inquiries from offerors shall be processed in accordance with § 5–2.407–1(b).

(f) Proposed exigency or emergency awards and cases when the acceptance time in an offer is about to expire.

(1) The procurement activities shall transmit notifications as determined by their director (or equivalent) directly to the Director of Congressional Affairs (AG), by telephone, followed by a completed GSA Form 2932 to confirm the oral notification.

(2) Release of notifications which require priority processing by the Director of Congressional Affairs (AG), shall be completed at the time and date specified by AG.

§ 5–2.407–60 Erroneous award to higher bidder.

When an award is erroneously made to other than the low responsive, responsible bidder, the contracting officer shall determine, in conjunction with the Office of Engineering and Technical Management, the extent of contract performance (including deliveries made, if any) and advise the assigned counsel and those officials who concurred in the contract award. If necessary, the low bidder shall be requested to extend the bid acceptance time. Depending upon the extent of performance and advice of assigned counsel, the contracting officer shall then proceed as follows:

(a) *No deliveries made.* Advise the contractor of the error and request a contract cancellation at no cost to either party. If the contractor does not consent to the no cost cancellation, the contracting officer should consider requesting in writing that contract performance be suspended pending further notification. The contracting officer should bear in mind, however, that such a suspension may give rise to a claim by the contractor under the Contract Disputes Act of 1978. The case shall then be reviewed with assigned counsel to determine whether termination for convenience is warranted. Some factors to be considered in this determination are the dollar amount of the contract; the expenses incurred by the contractor (e.g. cost of raw materials); the need for the supplies/services; the additional amount the Government will pay if the contract is not terminated; whether a bid option still exists with the low bidder; and the extent of available competition. The determination to terminate the contract for convenience or to authorize the contractor to continue contract performance shall be concurred in by the procuring director.

(b) *Partial deliveries made.* Advise the contractor of the error and request contract cancellation of the undelivered orders at no cost to either party. If the contractor does not consent to the no cost cancellation, proceed in accordance with (a) of this section. If the final decision changes the contractual relationship, the appropriate accounts payable branch shall be advised accordingly in writing.

(c) *Deliveries completed.* Determine from the Office of Finance if payment has been completed and consult with assigned counsel as to necessary action.

(d) *Replacement of supplies/services.* Requirements for supplies or services covered by the cancellation (or termination) of an erroneously awarded contract shall be validated prior to award to the lowest responsive, responsible bidder. If the bid acceptance time of the lowest responsive, responsible bidder has expired, the canceled/terminated requirements shall, after validation, be obtained by readvertisement or negotiation (if the circumstances warrant).

§5–2.408 Information to bidders.

(a) When considering whether to provide notice to other unsuccessful bidders (see § 1–2.408(a)(3)) contracting officers shall consider the following factors:

(1) Size of the particular procurement;

(2) Number of items and the complexity of the invitation;

(3) Number of bids received;

(4) Necessity for bidders to make arrangements for securing necessary materials, financing, bonding, and other commitments;

(5) Whether procurement of the particular commodity would have any significant impact upon other bidders; and

(6) Availability of the information in Business Service Centers, the Department of Commerce Synopsis, and from any other sources available to anyone having an interest in such information.

(b) Normally, all inquiries whether oral or written, requesting information concerning the status of any bid or invitation for bids, including those not yet publicly opened, those already opened, and those for which abstracts have been prepared, shall be referred to the appropriate Business Service Center for reply.

§ 5–2.408–50 Restriction on disclosure of inspection or test data.

(a) No inspection or test data generated in the process of bid evaluation shall be disclosed except as provided in this subsection. This includes information obtained from inspection or test reports whether prepared by the Government or an outside inspection or testing agency.

(b) Prior to award, no information regarding inspection or test data shall be disclosed to any bidder or individual except Government officials or employees required to have access to such information in connection with bid evaluation and determination of award.

(c) In providing notice of the rejection of a bid, the contracting officer shall (1) inform the bidder concerning the results of tests on the products offered and (2) furnish such information to others in accordance with the Freedom of Information Act (See FPMR § 105–60.)

§ 5–2.450 Advance notices of contract award (Construction).

Advance notices of award shall be in writing over the signature of the contracting officer except as otherwise authorized. When an advance notice of award is issued, it shall be followed as soon as possible by the formal contract document.

§ 5–2.450–1 Circumstances which warrant advance notice.

Advance notices of contract award may be issued by contracting officers under any of the circumstances listed below:

(a) A bid or offer is about to expire and it is necessary to issue an award notice promptly.

(b) Prompt action is necessary to afford the contractor an opportunity to secure necessary materials.

(c) Delivery or performance is urgent and cannot await release of formal contract documents.

(d) The contract involves work of an urgent nature and it is essential that the contractor rush all preliminaries prior to actual starting of work.

(e) Prompt action is necessary to secure advance predelivery samples on contracts.

(f) A prospective contractor requests advice, orally or in writing, as to whether he is to receive the award, and gives sufficient reasons, to the satisfaction of the contracting officer, why advance notice is desirable.

(g) Other compelling circumstances exist and advance notice is concurred in by the head of the procuring activity.

§ 5-2.450-2 Telegraphic notices.

When justified by the circumstances of § 5-2.450-1, telegraphic notice may be used. The notice shall contain, in addition to the requirements set forth in § 5-2.450-4, a statement that written confirmation will follow. Such confirmation shall be issued without delay.

§ 5-2.450-3 Oral notices.

Oral notices shall not be used.

§ 5-2.450-4 Content of notices.

The content of advance notices of award may vary, but the notices shall include all of the essential elements to identify the award, such as: identification of invitation, description of the procurement, and the contract number. No language shall be used which might in any way vary from the terms of the offer.

CHAPTER 5A—GENERAL SERVICES ADMINISTRATION

[APD 2800.3 CHGE 34]

PART 5A-2 [REMOVED]

1. 41 CFR is amended by removing Part 5A-2 Procurement by Formal Advertising.

CHAPTER 5B—GENERAL SERVICES ADMINISTRATION

[APD 2800.4 CHGE 15]

PARTS 5B-2 AND 5B-4 [REMOVED]

1. 41 CFR is amended to by removing Part 5B-2 Procurement by Formal Advertising and Part 5B-4 Special Types and Methods of Procurement.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: June 25, 1982.

Philip G. Read,

Acting Assistant Administrator for Acquisition Policy.

[FR Doc. 82-17942 Filed 6-30-82; 8:45 am]

BILLING CODE 6820-61-M

41 CFR Part 5-16

Procurement Forms; Transfer of Provisions

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: The General Services Procurement Regulations, Chapter 5, are amended by transferring revised policies and procedures concerning Procurement Forms from Chapters 5A and 5B into Chapter 5. The intended effect is to have a single GSA-wide procurement regulation and improve the procurement system.

EFFECTIVE DATE: July 30, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Philip G. Read, Director, Office of Federal Procurement Regulations, Office of Acquisition Policy (202-523-4755).

List of Subjects in 41 CFR Part 5-16

Government procurement, Procurement forms.

CHAPTER 5—GENERAL SERVICES ADMINISTRATION

[APD 2800.2 CHGE 24]

1. The table of contents for Part 5-16 is amended to add the following:

PART 5-16 PROCUREMENT FORMS

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5-16.000 Scope of subpart.
5-16.001 Deviations to prescribed forms.
5-16.002 Optional-use forms.
5-16.003 Forms containing clauses.
5-16.003-1 Meaning of terms.
5-16.003-2 Authority to establish forms.
5-16.003-3 [Reserved]
5-16.003-4 Coordination.
5-16.003-5 Forms incorporated by reference.
5-16.004 Responsibility for maintenance of forms.

Subpart 5-16.1—Forms for Advertised Supply Contracts

5-16.101 Contract forms.
5-16.105 Incorporation of Standard Forms 32 and 33-A by reference.
5-16.150 Miscellaneous forms.

Subpart 5-16.4—Forms for Advertised Construction Contracts

5-16.401 Forms prescribed.
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5-16.701 Forms prescribed.

Subpart 5-16.9—Illustrations of Forms

5-16.900 General.
5-16.900-1 Forms illustrated.
5-16.900-2 Numbering of sections.
5-16.900-3 Cross-references.
5-16.901 Standard forms.
5-16.901-19 Standard Form 19 (GSA Overprint—November 1974), Invitation, Bid, and Award (Construction, Alteration or Repair).
5-16.901-20 Standard Form 20 (GSA Overprint—June 1972), Invitation for Bids (Construction Contract).
5-16.901-30-I Instructions for completing Standard Form 30, Amendment of Solicitation/Modification of Contract.
5-16.901-96 Standard Form 96, Notice of Intention to Make a Service Contract and Response to Notice.
5-16.901-96a Standard Form 96a, Notice of Intention to Make a Service Contract and Response to Notice (Attachment A).
5-16.901-99 Standard Form 99, Notice of Award of Contract.
5-16.950 GSA forms.
5-16.950-72-A GSA Form 72-A, General Services Administration Contractor's Report of Orders Received.
5-16.950-289 GSA Form 289, Abstract of Bids.
5-16.950-289a GSA Form 289a, Abstract of Bids (Continued).
5-16.950-300 GSA Form 300, Order for Supplies or Services.
5-16.950-300-A GSA Form 300-A, Order for Supplies or Services (Continuation).
5-16.950-353 GSA Form 353, Plant Facilities Report.
5-16.950-434 GSA Form 434, Sample Record Sheet.
5-16.950-527 GSA Form 527, Contractor's Qualifications and Financial Information.
5-16.950-618-A GSA Form 618-A, Form letter for informing contractor of labor standards provisions.
5-16.950-618-D GSA Form 618-D, Statement to be Submitted When Work is Performed Personally.
5-16.950-894 GSA Form 894, Financial Responsibility—Inquiry and Reply.
5-16.950-1015 GSA Form 1015, Instructions to Contractors (Construction Contract), Data Required to Substantiate Equitable Adjustments of Time and Time Extension.
5-16.950-1056 GSA Form 1056, Notice of Shipment.
5-16.950-1083 GSA Form 1083, Section 0020, Applicable Minimum Hourly Rates of Wages.
5-16.950-1137 GSA Form 1137, Request, Proposal, and Acceptance Covering Construction Contract Modification.
5-16.950-1139 GSA Form 1139, Section 00100, General Conditions.
5-16.950-1142 GSA Form 1142, Release of Claims.
5-16.950-1171 GSA Form 1171, Application for Presenting New Articles.

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5-16.950-1447 GSA Form 1447, Procurement Case Summary.
5-16.950-1467 GSA Form 1467, Solicitation, Offer, and Award (Contract for Building Services).
5-16.950-1467-A GSA Form 1467-A, Solicitation Instructions and Conditions, (Contract for Building Services).
5-16.950-1468 GSA Form 1468, General Provisions (Contract for Building Services).
5-16.950-1495 GSA Form 1495, Special Provisions (Architect-Engineer Contract).
5-16.950-1535 GSA Form 1535, Recommendation for Award(s).
5-16.950-1535-A GSA Form 1535-A Recommendation for Award(s) (Continuation).
5-16.950-1535-I Instructions for completing GSA Form 1535, Recommendation for Award(s).
5-16.950-1584 GSA Form 1584, Contract Summary.
5-16.950-1584-A GSA Form 1584-A, Contract Summary—Continuation Sheet.
5-16.950-1584-I Instructions for completing GSA Form 1584, Contract Summary.
5-16.950-1602 GSA Form 1602, Notice Concerning Your Solicitation For Offers.
5-16.950-1678 GSA Form 1678, Status Report of Orders and Shipments.
5-16.950-1720 GSA Form 1720, Request for Release of Classified Information to U.S. Industry.
5-16.950-1747 GSA Form 1747, Amendment to Bid Documents (Construction Contract).
5-16.950-1747-I Instructions for use with GSA Form 1747, Amendment to Bid Documents (Construction Contract).
5-16.950-1747-A GSA Form 1747-A, Final Clarifications to Bid Documents (Construction Contract).
5-16.950-1774 GSA Form 1774, Request for Additional Funds and/or Information.
5-16.950-1954 GSA Form 1954, Architect-Engineer Performance Record.
5-16.950-1995 GSA Form 1995, Return of Payroll Document for Correction.
5-16.950-2049 GSA Form 2049, Contractor's Certificate of Conformance.
5-16.950-2056 GSA Form 2056, Pre-Invitation Notice (Construction Contract).
5-16.950-2056-I Instructions for use with GSA Form 2056, Pre-Invitation Notice (Construction Contract).
5-16.950-2097 GSA Form 2097, Offer and Acceptance—Small Purchase.
5-16.950-2402 GSA Form 2402, Form letter for notifying contractor of action taken on shop drawing submittals.
5-16.950-2417 GSA Form 2417, Notice to Proceed.
5-16.950-2419 GSA Form 2419, Certification of Payment to Subcontractors and Suppliers.
5-16.950-2428 GSA Form 2428, Request for Authorization of Additional Classification(s), Rate(s), and Fringe Benefit(s).
5-16.950-2465 GSA Form 2465, Notice of Appeal.
5-16.950-2497 GSA Form 2497, Contractual Document Transmittal Receipt.
5-16.950-2630 GSA Form 2630, Architect-Engineer Cost Estimate.
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5-16.950-2631 GSA Form 2631, Architect-Engineer Cost Estimate Summary.
5-16.950-2728 GSA Form 2728, Procurement Contract Register.
5-16.950-2932 GSA Form 2932, Proposed Substantial Contract Awards.
5-16.950-2967 GSA Form 2967, Request for Specification and/or Purchase Description Action.
5-16.950-3025 GSA Form 3025, NEAR Receiving Report.
5-16.950-3184 GSA Form 3184, GSA Stock Item Direct Delivery Order.
5-16.950-3186 GSA Form 3186, Order for Supplies or Services.
5-16.950-3188 GSA Form 3188, Request for Quotation.
5-16.950-3433 GSA Form 3433, Marking and Shipping Instructions.
5-16.950-3471 GSA Form 3471, Bid Abstract.
5-16.950-6220 GSA Form 6220, Introductory Contractor's Record.
5-16.950-6477 GSA Form 6477, New Item Applications Summary.
5-16.951 Department of Defense forms.
5-16.951-254 DD Form 254, Contract Security Classification Specification.
5-16.954 Department of Labor forms.
5-16.954-347 DL Form WH 347, Payroll (For Contractor's Optional Use).
5-16.954-347-I DL Form WH 347-Inst., Instructions for completing Payroll Form WH 347.
5-16.954-1313 DL WH Publication 1313, Notice to Employees Working on Government Contracts.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

2. 41 CFR Chapter 5 is amended by adding a new Part 5-16 reading as follows:

PART 5-16—PROCUREMENT FORMS

§ 5-16.000 Scope of subpart.

This subpart deals with matters which are generally applicable to forms referenced in this Chapter 5, and sets forth guidelines concerning the development and use by GSA procuring activities of forms not prescribed herein.

§ 5-16.001 Deviations to prescribed forms.

Requests for deviations requiring the approval of the Assistant Administrator for Acquisition Policy (see § 5-1.109(b)(3)) shall be submitted through the Director, Office of Federal Procurement Regulations.

§ 5-16.002 Optional-use forms.

When this Chapter 5 is the prescribing directive of a form authorized for use on an optional basis, the establishment of a form serving substantially the same purpose is not permitted without prior concurrence by the Office of Federal Procurement Regulations. See also the HB, Ch. 2 (OAD P 1824.4A), GSA Forms Management Program, concerning restrictions on the issuance of similar forms.

§ 5-16.003 Forms containing clauses.

§ 5-16.003-1 Meaning of terms.

As used in this § 5-16.003, the word "clauses" means articles referred to in this or other regulations as notices, terms, conditions, provisions, or clauses for inclusion in either a solicitation or contract, and the word "contract" includes both solicitations and contracts.

§ 5-16.003-2 Authority to establish forms.

The Commissioners of the various GSA services are authorized to establish and prescribe the use of GSA forms containing contract clauses (supplementing prescribed standard forms) for attachment to or incorporation by reference in contracts. This authority may be delegated to an official not below the level of Assistant Commissioner or equivalent.

§ 5-16.003-3 [Reserved]

§ 5-16.003-4 Coordination.

Before issuing a new or revised form containing clauses, a copy of the proposed form shall be submitted to the Office of Federal Procurement Regulations for review and concurrence. The originating service will be advised of any imminent changes to FPR or GSPR 5 clauses contained in the form so that this aspect may be taken into consideration.

§ 5-16.003-5 Forms incorporated by reference.

(a) Forms containing clauses usually shall not be incorporated by reference in contracts until a copy of the form has been distributed to all prospective offerors on the applicable bidders mailing list with a request that the form be retained for future reference. Copies of forms shall also be forwarded to GSA Business Service Centers.

(b) A clause substantially as follows shall be used with respect to forms which are not referenced elsewhere in the contract.

Incorporation of Forms

Each of the following forms, receipt of which is acknowledged by the offeror, is hereby incorporated by reference and made a part of this solicitation. Copies of each form, if not enclosed, are available upon request from the issuing office shown in this solicitation or from any General Services Administration Business Service Center.

(Include a listing of appropriate forms and the current edition date of each).

§ 5-16.004 Responsibility for maintenance of forms.

The following applies to GSA forms except those originated by activities which provide administrative or

technical support to all GSA procuring activities (e.g., forms originated by B, X, Z, FQ, and FRE).

(a) As used in this § 5–16.004, the word "maintenance" means the processing of a new or revised form, including coordination with all interested GSA activities (including VR), and the preparation of camera copy, up to the point of issuing a GSPR 5 change publishing the form in this regulation.

(b) If, on the basis of the prescriptive language set forth in this GSPR 5, two or more GSA services are required to use a specified GSA form, the Office of Federal Procurement Regulations shall be responsible for maintenance of the form.

(c) When a GSA form prescribed by this GSPR 5 is required to be used by a particular GSA service (or, the form is required to be used in connection with a purchase program which is managed by a particular service), that service shall be responsible for maintenance of the form.

(d) When a GSA form originated by a service is authorized for use on an optional basis, that service shall retain responsibility for maintenance of the form, notwithstanding that the form may be appropriate for use by other services.

§ 5–16.101 Contract forms.

(a) *Standard Form 33, Solicitation, Offer, and Award.*

(1) The space shown as the "schedule" on page 1 of SF 33 shall be used to (i) identify the type of contract (i.e., requirements, definite quantity, etc.), (ii) include a description of the supplies or services being procured, and (iii) show the period of the contract, if applicable. In addition, when page 4 of SF 33 is not used to list the items being procured, insert the words "Item Listing Begins on Page ——."

(2) When preparing draft solicitations for printing, page 4 of SF 33 shall not be reproduced or used as a part of the item listing (see exception). Instead, solicitation clauses shall begin on page 4, typed on a blank page, and printed front-and-back with page 3 of SF 33. The item listing shall follow the pages containing contract clauses. An exception to this requirement may be made when the entire item listing can be included on one page, i.e., on page 4 of SF 33.

(b) *Standard Form 36, Continuation Sheet.* (1) Section 1–16.101(f) provides that when the columns on SF 36 are not required, a blank sheet may be used if properly identified. For many procurements, particularly requirements-type contracts, columns other than those shown on SF 36 are needed. Consequently, GSA forms containing appropriate columns may be developed for use, or item listing formats may be typed on blank pages, with or without ruled columns.

(2) When SF 36 is used, the "Amount" column shall be shown as not applicable, to avoid problems resulting from possible discrepancies between the unit price and the total price.

§ 5–16.105 Incorporation of Standard Forms 32 and 33–A.

The Commissioner of each GSA service shall designate an office responsible for distributing copies of new editions of SF 32 and SF 33–A in accordance with § 1–16.105.

§ 5–16.150 Miscellaneous forms.

GSA Form 1602, Notice Concerning Your Solicitation For Offers, may be used to: (1) Direct the attention of prospective offerors to special requirements which, if overlooked, may result in rejection of the offer; (2) highlight significant changes from previous solicitations covering the same commodity or service; and (3) include other special notices.

§ 5–16.401 Forms prescribed.

In addition to forms prescribed in Subpart 1–16.4 and elsewhere in this GSPR 5, the following forms are prescribed for use as indicated in connection with advertised construction contracts.

(a) *Standard forms (GSA overprints).* (1) Standard Form 19 (GSA Overprint), Invitation, Bid, and Award (Construction, Alteration or Repair), shall be used in contracts estimated not to exceed $10,000.

(2) Standard Form 20 (GSA Overprint), Invitation for Bids (Construction Contract), shall be used in contracts estimated to exceed $10,000.

(b) *GSA forms.* (1) GSA Form 1015, Instructions to Contractors (Construction Contract), Data Required to Substantiate Equitable Adjustments of Time and Time Extensions.

(2) GSA Form 1083, Section 0020, Applicable Minimum Hourly Rates of Wages.

(3) GSA Form 1137, Request, Proposal, and Acceptance Covering Construction Contract Modification.

(4) GSA Form 1139, Section 00100, General Conditions.

(5) GSA Form 1142, Release of Claims.

(6) GSA Form 2402, Form letter for notifying contractor of action taken on shop drawing submittals.

(7) GSA Form 2417, Notice to Proceed.

(8) GSA Form 2419, Certification of Payment to Subcontractors and Suppliers.

(c) *Other agency forms.* Department of Labor Form, WLSA (WD)–1, Decision of the Secretary, is for use with contracts exceeding $2,000.

§ 5–16.450 Negotiated contracts.

The forms prescribed in § 5–16.401 for mandatory use in advertised construction contracts shall also be used in connection with negotiated contracts when applicable.

§ 5–16.701 Forms prescribed.

The following GSA forms are prescribed for use in connection with negotiated architect-engineer contracts.

(a) GSA Form 1495, Special Provisions (Architect-Engineer Contract).

(b) GSA Form 2630 Architect-Engineer Cost Estimate.

(c) GSA Form 2631, Architect-Engineer Cost Estimate Summary.

§ 5–16.900 General.

§ 5–16.900–1 Forms illustrated.

This subpart contains illustrations of:

(a) Forms prescribed for use by this GSPR 5;

(b) GSA Forms referenced in this GSPR 5 which are authorized for use on an optional basis; and

(c) Selected forms referenced in this GSPR 5 which are prescribed for use in other directives not readily available to procurement personnel.

§ 5–16.900–2 Numbering of sections.

(a) Different section numbers are used in connection with standard forms, GSA forms, and forms issued by other agencies (i.e., §§ 5–16.901, 5–16.950, and 5–16.951 et seq., respectively). Subsection numbers correspond with the number of the form being illustrated.

(b) In some cases, instructions regarding the completion and/or use of a form are included in conjunction with the illustration. These instructions are identified by the addition of the suffix "I" following the subsection number.

§ 5–16.900–3 Cross-references.

A cross-reference is shown in conjunction with each of the forms illustrated in this Subpart 5–16.9. These references identify significant regulatory provisions regarding use of the forms.

Note.—The forms illustrated in this Part 5–16 is filed with the original document and does not appear in this issue.

CHAPTER 5A—OFFICE OF ACQUISITION POLICY, GENERAL SERVICES ADMINISTRATION

[APD 2800.3 CHGE 35]

1. 41 CFR is amended by removing Part 5A–16 as follows:

PART 5-16—[REMOVED]

CHAPTER 5B—OFFICE OF ACQUISITION POLICY, GENERAL SERVICES ADMINISTRATION

[APD 2800.4 CHGE 16]

1. 41 CFR is amended by removing Part 5B-16 as follows:

PART 5B-16—[REMOVED]

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)))

Dated: June 29, 1982.

William B. Ferguson,

Acting Assistant Administrator for Acquisition Policy.

[FR Doc. 82-18052 Filed 6-30-82; 8:45 am]

BILLING CODE 6820-61-M

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41 CFR Parts 5A-71, 5A-72, 5A-74, and 5A-76

[APD 2800.3 CHGE 36]

Deletion of 41 CFR Parts 5A-71, 5A-72, 5A-74, and 5A-76

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: The General Services Administration Procurement Regulations, Chapter 5A, are amended to delete Parts 5A-71, 5A-72, 5A-74, and 5A-76. This change is part of project to have one procurement regulation for GSA. The intended effect of this change is to improve the procurement system.

EFFECTIVE DATE: July 30, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Philip G. Read, Director, Office of Federal Procurement Regulations, Office of Acquisition Policy, (202) 523-4755.

List of Subjects

41 CFR Part 5A-71

Government procurement and nonstock/nonschedule procurements.

41 CFR Part 5A-72

Government procurement, Stock items, Self-service stores.

41 CFR Part 5A-74

Government procurement, Overseas supply support program.

41 CFR Part 5A-76

Government procurement.

1. 41 CFR Part 5A-71 is removed as follows:

PART 5A-71—[REMOVED]

2. 41 CFR Part 5A-72 is removed as follows:

PART 5A-72—[REMOVED]

3. 41 CFR Part 5A-74 is removed as follows:

PART 5A-74—[REMOVED]

4. 41 CFR Part 5A-76 is removed as follows:

PART 5A-76—[REMOVED]

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)))

Dated: June 29, 1982.

William B. Ferguson,

Acting Assistant Administrator for Acquisition Policy.

[FR Doc. 82-18052 Filed 6-30-82; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 122

Governing Body Requirements for Health Systems Agencies

AGENCY: Public Health Service, HHS.

ACTION: Final rule.

SUMMARY: This rule amends the portion of the Health Systems Agency Designation and Funding Regulation (March 26, 1976) prescribing the composition of health systems agency governing bodies and deletes the subsection of that regulation which limits the number of consecutive years a governing body member may serve. This rule is being issued pursuant to a court order.

EFFECTIVE DATE: This rule is effective on July 1, 1982. However, for timing of HSA compliance with § 122.109(b) as revised, see discussion below.

FOR FURTHER INFORMATION CONTACT: Mr. James W. O'Donnell, Acting Director, Division of Planning, Assistance and Assessment, 3700 East-West Highway, Room 6-27, Hyattsville, Maryland 20782, (301) 436-6725.

SUPPLEMENTARY INFORMATION: This rule is being issued pursuant to an Order of the U.S. District Court for the Northern District of Georgia dated March 9, 1982, in the case of *Rakestraw, et al.* v. *Schweiker*, No. C 77-635A, directing the Secretary to promulgate final regulations on the composition of governing bodies of health systems agencies (HSAs) by July 1, 1982.

In a Notice of Proposed Rule Making (NPRM) issued on January 22, 1981 (46 FR 7166), the Assistant Secretary for Health, with the approval of the Secretary of Health and Human Services, proposed to revise Part 122 of Title 42 CFR, the regulations pertaining to HSAs, in a number of respects. The proposal was intended to reflect certain amendments made by the Health Planning and Resources Development Amendments of 1979 (Pub. L. 96-79) to Title XV of the Public Health Service Act ("the Act"). As the preamble of the January 22, 1981 NPRM indicated, an earlier NPRM on the same subject had been published on May 26, 1978 (43 FR 22858). Final publication of those earlier proposed regulations had been delayed awaiting Congressional action which culminated in the enactment on October 4, 1979 of Pub. L. 96-79. This legislation contained significant amendments to those portions of the Act relating to the composition, method of selection, and responsibilities of the governing bodies of HSAs. Those amendments were reflected in the January 22, 1981 NPRM.

Since publication of the January 1981 NPRM, there have been two conflicting developments bearing on the final publication of those proposed regulations:

1. The new Administration proposed to the Congress that Federal funding for HSAs be cut sharply in fiscal year (FY) 1982 and eliminated altogether in FY 1983. Although the ultimate fate of the program is still undetermined (under the present statute the appropriation authorization expires on September 30, 1982). Congress has reduced the appropriation for grants to HSAs from $124.7 million in FY 1980, to $83.7 million in FY 1981, to $37.7 million in FY 1982. Under these circumstances, the Department took the view that final publication of the regulations would serve little purpose.

2. On March 31, 1981, after protracted litigation involving a challenge by health services consumers to the governing body composition of all six HSAs in Georgia and to the Secretary's enforcement of the governing body provisions of the Act, the Court in *Rakestraw* v. *Schweiker* entered an Order which, while generally favorable to the Secretary, directed him to publish final rules on governing body composition that "do more than merely restate the statutory provision." Although the original Order directed publication of the final regulations by July 1, 1981, extensions of that deadline were obtained by the Department due to the program's uncertain future. Finally, in January of this year, the Department asked that the Court either rescind its Order or stay it until Congress extends the program's authorization or allows it to expire on September 30, 1982. The Court declined to do either and on

March 9 directed the Secretary to publish final governing body composition regulations by July 1, 1982.

Accordingly, the rule set out below is effective on July 1, 1982.

We note that the January 22, 1981 NPRM proposed a number of changes in the regulations relating to HSA governing bodies in addition to those concerning the composition of those bodies. This rule, however, affects only 42 CFR 122.109(b), the provision that covers governing body composition, and 42 CFR 122.104(b)(1)(iii)(D), the provision concerning the number of consecutive years a governing body member may serve. Any decision to finalize other portions of the NPRM will await final Congressional action on the future of the health planning program. It is emphasized, however, that to the extent other provisions in Part 122 are no longer consistent with the underlying statute, the statute necessarily controls.

Some 35 responses were received to the invitation for public comment on the January 22, 1981 proposal. Many of those responses expressed support for the proposed changes in the governing body composition requirements. In some cases where opposition to proposed changes was expressed, the changes opposed were merely incorporations of statutory amendments—e.g., the addition of the handicapped as a category of consumers who must be represented on the consumer majority of the governing body (see section 1512(b)(3)(C)(i)(II) of the Act), the addition of "other providers of health care" to the provider portion (see section 1512(b)(3)(C)(ii)(VI)), and the permitted increase in representation of the area's nonmetropolitan population (see section 1512(b)(C)(iii)(II)). Others requested the addition of certain health professionals not specified in the statute, such as psychologists and chiropractors, to the governing body. Several alternatives were suggested to the income groupings proposed in the NPRM. A number of respondents expressed concern with the proposed criteria for determining a health maintenance organization's (HMO's) entitlement to representation—some stated that the criteria were insufficiently generous to developing HMOs, others that they unfairly include HMOs that have not proven themselves viable as health care providers. Some respondents urged that a more detailed percentage methodology be used for determining whether a particular population group is adequately represented on the consumer majority of the governing body, while others opposed the proposed requirement that any identifiable racial or linguistic group which constitutes at least 10 percent of the area's population be represented and urged that the statutory language requiring the consumer majority to be "broadly representative" of the area's various population groups not be elaborated upon in regulations.

After having considered all of the comments received, we have decided that the regulation governing the composition of HSA governing bodies should be revised as proposed in the January 22, 1981 NPRM. We believe the regulation as proposed strikes an appropriate balance in assuring that the interests of the various significant population and provider groups will be articulated and considered by the governing bodies, while avoiding the imposition of rigid quota tests. To the extent that small population groups and types of providers not specified in the statute are left without mandated representation on the governing bodies, accommodation of the interests of those groups is in our view best left to individual HSAs.

In order to minimize disruption of the ongoing activities of HSAs and allow HSAs to identify prospective new governing body members to meet the revised composition requirements, we believe some lead time is necessary. Therefore, the Department will require that each HSA conform its governing body membership to the revised requirements of § 122.109(b) not later than the date of its first regularly scheduled selection of new governing body members that occurs after July 31, 1982.

In addition, in response to a number of requests from HSA representatives, we are deleting § 122.104(b)(1)(iii)(D), which limits to six the number of consecutive years for which a member of an HSA governing body may serve. Some HSAs will be ceasing operations within the next few months because of insufficient operating funds and the expected phaseout of the program, and are experiencing difficulty in attracting qualified replacements for board members whose six years of service are expiring. It would serve no useful purpose at this point to insist upon the governing body turnover that the provision was intended to foster, and would only have the effect of depriving struggling agencies of the needed services of experienced governing body members. In light of the urgent need of some HSAs for the removal of this restriction and of the negligible effect that it will otherwise have on the continued operation of the program, the Secretary has concluded that an invitation for public comment and delay in effective date are unnecessary and contrary to the public interest.

Regulatory Flexibility Act and Executive Order 12991

The Department of Health and Human Services has determined that this rule will not significantly impact on small business and therefore does not require preparation of a Regulatory Flexibility Analysis under the Regulatory Flexibility Act, Pub. L. 96–354.

The Department also had determined that this rule is not a "major rule" under Executive Order 12291. Thus, a regulatory impact analysis is not required because it will not:

(1) Have an annual effect on the economy of $100 million or more;

(2) Impose a major increase in costs or prices for consumers, individual industries; Federal, State or local government agencies; or geographic regions; or

(3) Result in significant adverse effects on competition, employment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 42 CFR Part 122

Health planning, Health care.

Accordingly, 42 CFR 122.109(b) is revised as set out below, and § 122.104(b)(1)(iii)(D) is removed effective on July 1, 1982.

Dated: June 10, 1982.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

Approved: June 24, 1982.

Richard S. Schweiker,

Secretary.

PART 122—HEALTH SYSTEMS AGENCIES

Part 122 of Title 42, CFR, is amended as follows:

1. Paragraph (b) of § 122.109 is revised to read as follows:

§ 122.109 Governing body; executive and other committees.

* * * * *

(b) *Composition.* The membership of the governing body of an agency shall meet the following requirements:

(1) *Consumer composition requirements.* A majority (but not more than 60 per centum) of the members shall be residents of the health service area served by the agency who are consumers of health care and who are not providers of health care, and who

are broadly representative of the health service area. The consumer majority must include individuals representing the principal social, economic, linguistic, handicapped, and racial populations and geographic areas of the health service area and major purchasers of health care in the area.

(i) The purpose of the requirements of this subparagraph is to ensure that each health systems agency will be governed by a body with a consumer majority which, looked at as a whole, includes and may reasonably be expected to consider and articulate the interests of all segments of the population of its health service area in carrying out its health planning functions. Accordingly, while no specific quotas or percentages of representation are required, the Secretary must be satisfied that the consumer majority of the governing body is broadly representative of the entire population of the area. In particular, the following groups must be represented on the consumer majority:

(A) Each identifiable racial or linguistic population group which constitutes at least ten percent of the population of the area;

(B) Lower, middle and upper income economic groups;

(C) Women;

(D) Persons age 65 and over; and

(E) The handicapped, as that term is defined in Section 504 of the Rehabilitation Act of 1973 (see also paragraph (b)(3)(iv) of this section).

(ii) In order to be considered a representative of a specific population group, an individual must either be a member of that group or have been selected as a representative by an organization composed primarily of members of that group.

(iii) For purposes of this paragraph, "major purchaser of health care" means an entity (including a labor organization or a business corporation), other than an entity described in paragraph (b)(2) of this section, which either directly or indirectly (such as through the purchase of group health insurance or hospital or medical service benefits) provides health care for its employees, members, or beneficiaries.

(2) *Provider composition requirements.* The remainder of the members shall be residents of, or individuals whose principal place of business is in, the health service area served by the agency who are providers of health care and who represent:

(i) Physicians (particularly practicing physicians), dentists, nurses, optometrists, podiatrists, physician assistants, and other health professionals;

(ii) Health care institutions (particularly hospitals, long-term care facilities, rehabilitation facilities, alcohol and drug abuse treatment facilities, and health maintenance organizations);

(iii) Health care insurers;

(iv) Health professional schools (which include schools of medicine, dentistry, osteopathy, optometry, podiatry, pharmacy and veterinary medicine as defined in section 724(4) of the Act, and schools of nursing as defined in section 853 of the Act);

(v) The allied health professions; and

(vi) Other providers of health care.

At least one-half of the providers of health care who are members of the governing body shall be direct providers of health care, at least one of whom must be a person engaged in the administration of a hospital.

(3) *Miscellaneous composition requirements.* The total membership as described in paragraphs (b)(1) and (b)(2) of this section shall:

(i) Include (either through consumer or provider members) at least one public elected official and at least one other representative of a unit of general purpose local government in the agency's health service area. To be considered a representative of a unit of general purpose local government, an individual must be appointed by that unit or a combination of such units. Where the health service area of the agency includes an entire State, the government of that State shall be deemed to be a unit of general purpose local government for purposes of this subsection;

(ii) Include representatives of public and private agencies in the area concerned with health;

(iii) Include a percentage of individuals who reside in nonmetropolitan areas within the health service area that is at least equal to the percentage of residents of the area who reside in nonmetropolitan areas;

(iv) Include at least one consumer and one provider member who are knowledgeable about mental health services. The requirement of this subsection pertaining to consumer membership and the requirement of paragraph (b)(1)(i)(E) pertaining to representation of the handicapped may not be satisfied by the designation of a single individual to serve in both capacities;

(v) If the agency serves an area in which there is located one or more hospitals or other health care facilities of the Veterans Administration, include, as a nonvoting, ex officio member, an individual whom the Chief Medical Director of the Veterans Administration shall have designated for that purpose. A member appointed under this subsection shall not be considered in determining the number of members of the governing body for purposes of the numerical limits prescribed by paragraph (c) of this section; and

(vi) If the agency serves a health service area in which there is located one or more health maintenance organizations, include at least one member who is representative of such organizations. For purposes of this subsection, a health maintenance organization shall be considered to be "located in" a health service area if (A) more of the HMO's enrollees reside in the area than in any other health service area, or (B) a health service delivery facility owned or operated by the organization is located in the area, or (C) a substantial number of area residents are enrollees of a health maintenance organization, or (D) a number of physicians are providing health care services to HMO members in the health service area through an independent practice association model health maintenance organization.

* * * * *

§ 122.104 [Amended]

2. Section 122.104(b)(1)(iii)(D) is removed.

(Sec. 1512(a) of the Public Health Service Act (42 U.S.C. 300/–1(a)).

[FR Doc. 82–17948 Filed 6–30–82; 8:45 am]

BILLING CODE 4110–15–M

Health Care Financing Administration

42 CFR Parts 431, 435, and 436

Medicaid Program; Entitlement of Children for Whom Payments Are Made Under the Foster Care Maintenance Payments Program or the Adoption Assistance Program

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: These final regulations implement the Medicaid provisions of the Adoption Assistance and Child Welfare Act of 1980 (Pub. L. 96–272). That law established a new title IV–E of the Social Security Act, providing for adoption subsidies for certain hard-to-place children and for an expanded foster care program. Under the law, children for whom adoption assistance of foster care maintenance payments are made are entitled to Medicaid. These final regulations specify that the State making payments for a child under its

title IV–E program is also responsible for Medicaid for that child.

EFFECTIVE DATE: September 29, 1982.

FOR FURTHER INFORMATION CONTACT: Marinos T. Svolos, (301) 594–9052.

SUPPLEMENTARY INFORMATION:

A. Background

The Adoption Assistance and Child Welfare Act of 1980 (Pub. L. 96–272), enacted June 17, 1980, seeks to assure adequate planning and services to—(1) alleviate family problems that would otherwise result in a child's removal from home; and (2) provide alternative care for a child who cannot return home. The law created a new title IV–E of the Social Security Act (the Act), which replaces the foster care program under title IV–A (Aid to Families with Department Children (AFDC)) and establishes and adoption assistance program that provides continuing adoption subsidies, Medicaid, and title XX (social services) benefits for hard-to-place children with special needs. (Additional changes were made by the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35, which amended title XX to create the Social Services Block Grant and gave States flexibility to determine whether to provide social services to title IV–E individuals.)

The children covered under the adoption program are those who are eligible for AFDC, title IV–E foster care maintenance payments, or Supplemental Security Income (SSI). Regulations implementing the adoption assistance program will be published separately by the Office of Human Development Services.

In addition to providing Federal funds to finance continuing adoption assistance for hard-to-place SSI, AFDC, and title IV–E foster care children with special needs, Pub. L. 96–272 also entitles two new groups to benefits under the foster care maintenance payment program: (1) certain children voluntarily removed from their homes; and (2) children in public non-detention-type child-care facilities that house no more than 25 children. Previously, the law had provided reimbursement for foster care only for children removed from their homes as a result of a judicial determination, and did not permit Federal funds for foster care provided for children in public institutions.

The new provisions of law mandate Medicaid eligibility for all children for whom payments are made under the foster care maintenance payments program or the adoption assistance program. These children are deemed to be recipients of AFDC under title IV–A of the Act. This is required by sections 472(h) and 473(b) of the Act which were added by section 101 of Pub. L. 96–272. (Effective October 1, 1983, section 472(h) will be redesignated as 472(d)). Since AFDC recipients are automatically eligible for Medicaid by virtue of their AFDC recipient status, Pub. L. 96–272, by providing for "deemed" AFDC recipient status, provides mandatory Medicaid coverage for these individuals.

Usually, when a recipient of a cash assistance program that is linked to Medicaid moves to another State, the individual loses eligiblity for that cash assistance program (and Medicaid) in the originating State, and is covered for both programs by the new State if he or she meets that State's requirements.

However, section 475(3)(B) of the Act and section 101(a)(4)(A) of Pub. L. 96–272 require that, for adoption assistance agreements between State social service agencies and adoptive parents entered into on or after October 1, 1983, the agreement must remain in effect regardless of the State in which the adoptive parents reside at any given time. Thus, the originating State will remain responsible for continuing the adoption assistance payments even if the family moves. (Before that date, if the family moves to another State, the originating State may either continue the payments or end the agreement.)

Section 2171 of the 1981 Omnibus Budget Reconciliation Act, Pub. L. 97–35, subsequently amended section 1902(a)(10)(A) of the Act to require a Medicaid agency to provide Medicaid coverage for all children receiving aid or assistance under the State's title IV–E programs. Therefore, so long as a State continues to provide title IV–E assistance, the State is required to continue Medicaid, even if a child moves to a second State.

B. Proposed Regulations

We issued a Notice of Proposed Rulemaking (NPRM) on December 31, 1980 (45 FR 82254). In that document, published before the enactment of Pub. L. 97–35, we proposed that the State making the foster care maintenance payments or the adoption assistance payments would be required to retain responsibility for Medicaid. This was consistent with HCFA policy requiring the State that provides cash assistance resulting in Medicaid eligibility also to have responsibility for Medicaid for the individuals involved. (42 CFR 435.110, 435.120, 435.130, and 436.110 state this policy.) The proposal also represented a continuation of policy in effect under the title IV–A AFDC foster care program, which required that the State with initial responsibility for foster care payments retain that financial responsibility, including Medicaid, when the foster care placement is made out-of-State. As explained above, the policy of requiring that a Medicaid agency provide coverage for all children receiving aid or assistance under the States' title IV–E program was subsequently legislated by section 2171 of Pub. L. 97–35.

C. Final Regulations

Since the Omnibus Budget Reconciliation Act of 1981 mandates the policy we proposed, these final regulations require States to provide Medicaid coverage for all children for whom payments are made under the State's title IV–E program, even if the child moves to another State. We are making the following changes in current regulations:

(1) 42 CFR 431.52, regulations on payments for Medicaid services furnished out of State, is changed to clarify that the originating State retains financial responsibility for Medicaid when a child whose eligibility is based on receipt of title IV–E payments from that State moves to another State.

(2) We are adding 42 CFR 435.118 and 42 CFR 436.118 to require Medicaid coverage of children for whom title IV–E payments are made.

(3) We are amending the definitions relating to institutional status (42 CFR 435.1009) to implement the provision concerning public child-care institutions that accommodate no more than 25 children. Since AFDC-foster care under title IV–A will not be completely phased out until October 1, 1982, the provision applies both to that program and to the foster care maintenance program under title IV–E.

Because 42 CFR 435.1008 prohibits Federal matching in expenditures for services provided to individuals who are inmates of public institutions, we are clarifying the definition of public institution to exclude from this prohibition the non-detention type institutions serving children in foster care who are entitled to Medicaid.

D. Public Comments

We received 24 comments on the NPRM. Twelve of the comments were from child advocacy groups, ten from State agencies, and two from an association representing welfare administrators. The specific comments and our responses are as follows:

1. *Responsibility for Medicaid—*

Comment: Nine commenters agreed that the originating State should be fiscally responsible for the cost of Medicaid when a title IV–E child moves to a second State. However, two commenters recommended that the

receiving State should provide a Medicaid identification card and be fiscally responsible for the Medicaid benefits the child receives in that State. Eleven commenters believe that the use of an out-of-State Medicaid card from the originating State may create unnecessary problems. The problems include—

- For the beneficiary, locating a sufficient number of providers willing to accept out-of-State Medicaid cards. (Some providers may be reluctant because of their unfamiliarity with the requirements of another Medicaid agency.)
- For the originating State, administrative difficulties as it attempts to guarantee service coverage and provider compliance across State lines.

Four commenters supported the use of interstate agreements to address difficulties in providing Medicaid across State lines. Other commenters recommended that interstate agreements be required, or that HCFA develop procedures to resolve these problems.

Response: As a result of the amendment made by Pub. L. 97–35, section 1902(a)(10)(A) of the Act is clear in requiring that the State providing the title IV–E assistance must provide Medicaid. Section 475(3) of the Act requires that as of October 1, 1983, the adoption assistance agreement remain in effect regardless of the State the family resides in at any given time. Therefore, the statute requires the originating State to continue Medicaid even if an eligible child moves to another State. (Our actuaries estimate that fewer than 350 children for whom adoption assistance payments are made will move to another State during the next five years.)

We are not currently developing procedures to solve potential administrative problems that may result from this requirement because we believe that States should be free to agree among themselves on procedures. A State may enter into an agreement with another State to facilitate the provision of Medicaid for title IV–E children who move to a second State. Two States can agree, for example, that the receiving State would issue its Medicaid card and provide its program of Medicaid coverage, so long as the receiving State's program includes the services provided by the originating State. The two States may decide that the originating State should reimburse the receiving State for the Medicaid cost.

States might also agree to accept providers certified by the receiving State. Such an agreement relieves the burden that a provider might have in completing a second State's certification process.

Although we encourage the use of interstate agreements, for the benefit of both beneficiaries and State Medicaid agencies, the statute does not require that States develop those agreements. Section 101(a)(4)(B) of Pub. L. 96–272 provides that any such interstate compacts "are hereby approved by Congress".

2. *Regulatory location of Medicaid revisions—*

Comment: Two commenters recommended that we not amend current Medicaid regulations that deal with residency. We proposed to amend §§ 435.403 and 436.403, regulations on State residence, to clarify that a child receiving payments under title IV–E of the Act remains a resident of the State making those payments, even if the child moves to another State. The commenters suggested that the necessary changes be made in other sections of the regulations because, as proposed, the changes in the residency sections might encourage some States to exclude children from public school unless non-resident tuition was paid (in the case of a child who, for Medicaid purposes only, is considered to be a resident of another State).

Response: The purpose of Medicaid residency requirements is to assure that individuals are not denied eligibility due to a situation in which *no* State assumes responsibility for the individual's Medicaid services.

We believe that, with the change in section 1902(a)(10)(A) of the Act, which clearly connects responsibility for Medicaid to the State providing the title IV–E assistance, there is now no need to change the residency sections of the Medicaid regulations.

3. *Private health insurance—*

Comment: One State agency suggested that, to reduce Medicaid costs, an adoptive parent with health insurance coverage be required to pursue extension of that coverage for an adopted child.

Response: There is no authority in either Pub. L. 96–272 or the Act to require that individuals purchase health insurance. Thus, it would be inconsistent with the Medicaid statute, as well the policy objectives of Pub. L. 96–272 of encouraging adoptions and foster homes for these children, for us to adopt this suggestion. However, Medicaid's responsibility for payment of medical care is only for that portion of covered services not covered by any other third parties. (A third party is any individual, entity or program that is or may be liable to pay all or part of the medical cost of a Medicaid beneficiary. Medicaid third party liability regulations are contained in 42 CFR Part 433, Subpart D.) Therefore, if an adopted child is covered by the parents' insurance, the usual Medicaid rules will apply.

4. *Requirement for adoption assistance payments—*

Comment: Three commenters objected to the provisions that cash payments be required to trigger Medicaid eligibility. They suggested that any assistance made under a title IV–E adoption assistance agreement for the benefit of the child (such as payment for a wheelchair) should trigger Medicaid eligibility for the duration of the adoption assistance agreement. The commenters argued that a requirement for continuing adoption assistance payments is administratively burdensome.

Response: Section 473 of the Act authorizes States to make adoption assistance cash payments on behalf of eligible children. Section 473(b) of the Act allows only the adoption assistance cash payments under the adoption assistance agreement to trigger Medicaid eligibility for these children. Under the provisions of the adoption assistance agreement, States will indicate the amounts of the adoption assistance cash payments, however minimal, and the duration of the agreement.

E. Impact Analyses

Executive Order 12291

We have determined that these final rules do not meet the criteria for a major rule as defined in section 1(b) of Executive Order 12291. That is, these rules will not have an annual effect on the economy of $100 million or more; or cause a major increase in costs or prices for consumers, individual industries, government agencies, or geographic regions; or cause significant adverse effects on business or employment.

We do not anticipate any additional Medicaid costs as a result of Medicaid coverage for children for whom payments are made under the adoption assistance program because all those children were previously eligible for cash assistance and Medicaid. Since these children are considered hard-to-place children for various reasons (age, disabilities, etc.), and the States have unsuccessfully attempted to place the children, it is unlikely that they would be adopted or otherwise removed from Medicaid eligibility, and therefore would have remained on the Medicaid rolls. We expect that in some cases, adoptive parents will include the

children under their private medical insurance, thus reducing Medicaid costs.

We estimate that Medicaid costs for the two new groups of foster care children will amount to approximately $307,000 per year. This is based on estimates of approximately 1,000 children in foster care placement and $307 in medical expenditures per child. (The average projected cost per eligible AFDC child under Medicaid for fiscal year 1982, is $307.)

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980, Pub. L. 96-354, requires that an agency prepare a regulatory flexibility analysis for a proposed rule, or a final rule issued after a proposal, if a rule would have a significant economic impact on a substantial number of small businesses, small non-profit organizations, or small governmental jurisdictions. However, this requirement does not apply to final rules for which a proposed rule was published before January 1, 1981 (section 4 of the Regulatory Flexibility Act). Because the proposed rule that preceded this final rule was published earlier, an analysis is not required under the Regulatory Flexibility Act.

However, we expect that the additional annual cost of the States and Federal government will total less than $1 million per year. Therefore, the Secretary certifies, under section 605(b) of Title 5, United States Code, that this final rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects

42 CFR Part 431

Adoption assistance, Administrative practice and procedure, Contracts (agreements), Fair hearings, Federal financial participation, Foster care maintenance payments, Grant-in-aid program—health, Health facilities, Health maintenance organizations (HMO), Indians, Information (disclosure), Medicaid, Mental health centers, Prepaid health plans, Privacy, Quality control, Reporting requirement.

42 CFR Part 435

Adoption assistance, Aid to families with dependent children, Aliens, Categorically needy, Contracts (agreements—state plan), Eligibility, Foster care maintenance payments, Grant-in-aid program—health, Health facilities, Medicaid, Medically needy, Reporting requirements, Spend-down, Supplemental security income (SSI).

42 CFR Part 436

Adoption assistance; Aid to families with dependent children, Aliens, Contracts (agreements), Eligibility, Foster care maintenance payments, Grant-in-aid program—health, Guam, Health facilities, Medicaid, Puerto Rico, Supplemental security income (SSI), Virgin Islands.

42 CFR Chapter IV is amended as set forth below:

PART 431—STATE ORGANIZATION AND GENERAL ADMINISTRATION

The authority citation for Part 431 reads as follows: Section 1102 of the Social Security Act (42 U.S.C. 1302).

A. Section 431.52 is amended by revising paragraphs (a) and (b) to read as follows:

§ 431.52 Payments for services furnished out of State.

(a) Basis and purpose. This section implements—(1) Section 1902(a)(16) of the Act, which authorizes the Secretary to prescribe State plan requirements for furnishing Medicaid to State residents who are absent from the State; and

(2) Section 1902(a)(10)(A) of the Act, which requires a State plan to provide for Medicaid for all individuals receiving assistance under the State's title IV–E plan.

(b) *Payment for services.* A State plan must provide that the State will furnish Medicaid to—(1) A recipient who is a resident of the State while that recipient is in another State, to the same extent that Medicaid is furnished to residents in the State, when—

(i) Medical services are needed because of a medical emergency;

(ii) Medical services are needed because the recipient's health would be endangered if he were required to travel to his State of residence;

(iii) The State determines, on the basis of medical advice, that the needed medical services, or necessary supplementary resources, are more readily available in the other State; or

(iv) It is general practice for recipients in a particular locality to use medical resources in another State; and

(2) A child for whom the State makes adoption assistance or foster care maintenance payments under title IV–E of the Act.

* * * * *

PART 435—ELIGIBILITY IN THE STATES, DISTRICT OF COLUMBIA AND THE NORTHERN MARIANA ISLANDS

B. Part 435 is amended as follows:

1. The table of contents for Part 435 is amended by adding under Subpart B a new center heading following § 435.115, and a new § 435.118 to read as follows:

* * * * *

Subpart B—Mandatory Coverage of the Categorically Needy

* * * * *

Mandatory Coverage of Adoption Assistance and Foster Care Children

Sec.
435.118 Children for whom adoption assistance or foster care maintenance payments are made.

* * * * *

Authority: Sec. 1102, Social Security Act (42 U.S.C. 1302).

2. A new center heading and § 435.118 are added in Subpart B to read as follows:

Mandatory Coverage of Adoption Assistance and Foster Care Children

§ 435.118 Children for whom adoption assistance or foster care maintenance payments are made.

The agency must provide Medicaid to children for whom adoption assistance or foster care maintenance payments are made under title IV–E of the Act.

3. Section 435.1009 is amended by reprinting the introductory language, adding in alphabetical order the definition of "child-care institution", and revising the definition of "public institution" as follows:

§ 435.1009 Definitions relating to institutional status.

For purposes of FFP, the following definitions apply:

* * * * *

"Child-care institution" means a nonprofit private child-care institution, or a public child-care institution that accommodates no more than twenty-five children, which is licensed by the State in which it is situated, or has been approved by the agency of the State responsible for licensing or approval of institutions of this type, as meeting the standards established for licensing. The term does not include detention facilities, forestry camps, training schools or any other facility operated primarily for the detention of children

who are determined to be delinquent.

* * * * *

"Public institution" means an institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control. The term "public institution" does not include (1) a medical institution as defined in this section; (2) an intermediate care facility as defined in §§ 440.140 and 440.150 of this chapter; (3) a publicly operated community residence that serves no more than 16 residents, as defined in this section; or (4) a child-care institution as defined in this section with respect to (i) children for whom foster care maintenance payments are made under title IV–E of the Act; and (ii) children receiving AFDC—foster care under title IV–A of the Act.

PART 436—ELIGIBILITY IN GUAM, PUERTO RICO, AND THE VIRGIN ISLANDS

C. Part 436 is amended as follows:

1. The table of contents for Part 436 is amended by adding under Subpart B a new § 436.118 to read as follows:

Subpart B—Mandatory Coverage of the Categorically Needy

* * * * *

Sec.

436.118 Children for whom adoption assistance or foster care maintenance payments are made.

* * * * *

Authority: Sec. 1102, Social Security Act (42 U.S.C. 1302)

2. A new § 436.118 is added to read as follows:

§ 436.118 Children for whom adoption assistance or foster care maintenance payments are made.

The agency must provide Medicaid to children for whom adoption assistance or foster care maintenance payments are made under title IV–E of the Act.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: April 28, 1982.

Carolyne K. Davis

Administrator, Health Care Financing Administration.

Approved: June 14, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-17780 Filed 6-30-82; 8:45 am]

BILLING CODE 4120-03-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6290

[M 013681(SD), et al.]

South Dakota; Partial Revocation of Public Land Orders Nos. 1168, 1343, 1344, 1429, 1744, 2165, 2285, 2965, and 3072

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This action will restore approximately 1,600 acres of land in the Black Hills National Forest to operation of the mining laws and to such disposition as may by law be made of national forest lands.

EFFECTIVE DATE: July 28, 1982.

FOR FURTHER INFORMATION CONTACT: Roland F. Lee, Montana State Office, 406–657–6291.

By virtue of the authority vested in the Secretary of the Interior, by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The following identified public land orders which withdrew certain lands for use by the Forest Service as administrative sites, camp, picnic, ranger, and recreation areas, a lookout and a water system site, are hereby partially revoked insofar as they affect the lands described below:

Black Hills Meridian

Black Hills National Forest

M 013681(SD)—Public Land Order No. 1168 dated June 15, 1955

East Spearfish Creek Camp and Picnic Area

T. 4 N., R. 2 E.,
Sec. 26, W½NE¼SW¼, SE¼NW¼SW¼, and SE¼SW¼;
Sec. 35, E½NE¼NW¼.

The above areas aggregate 90 acres, more or less, in Lawrence County.

M 019680(SD)—Public Land Order No. 1343, dated October 1, 1956

Deer Creek Picnic Ground

T. 2 N., R. 5 E.,
Sec. 27, N½SE¼SW¼ (less patented homestead entries).

Headwaters Picnic Ground

T. 2 N., R. 2 E.,
Sec. 4, SW¼NE¼SE¼, SE¼NW¼SE¼, NE¼SW¼SE¼, and SE¼SE¼.

Deerdale Campground

T. 2 N., R. 2 E.,
Sec. 12, NE¼SE¼ (less patented homestead entry).

Rochford Administrative Site

T. 2 N., R. 3 E.,
Sec. 23, E½E½NE¼NE¼, and E½NE¼SE¼NE¼;
Sec. 24, NW¼NW¼, and NW¼SW¼NW¼.

The above areas aggregate 195 acres, more or less, in Lawrence and Pennington Counties.

M 020559(SD)—Public Land Order No. 1344 dated October 10, 1956

Boulder Park Picnic Ground

T. 5 N., R. 4 E.,
Sec. 15, SE¼SE¼SW¼, and SW¼SW¼SE¼;
Sec. 22, NW¼NW¼NE¼, and NE¼NE¼NW¼.

Vanocker Picnic Ground

T. 5 N., R. 5 E.,
Sec. 32, N½NW¼NE¼.

Mann Road Picnic Ground

T. 4 S., R. 2 E.,
Sec. 3, SW¼SW¼SE¼.

Reno Gulch Picnic Ground

T. 2 S., R. 4 E.,
Sec. 3, NW¼NW¼NW¼ part of lot 8;
Sec. 4, NE¼NE¼NE¼ part of lot 3.

Rockerville Camp Ground

T. 1 S., R. 6 E.,
Sec. 14, SW¼SE¼.

Battle Creek Picnic Ground

T. 2 S., R. 6 E.,
Sec. 10, SE¼SW¼NE¼.

The above areas aggregate 140 acres, more or less, in Custer, Meade, Lawrence and Pennington Counties.

M 024510(SD)—Public Land Order No. 2285 dated February 28, 1961

Norris Peak Lookout

T. 2 N., R. 6 E.,
Sec. 29, SW¼SE¼SW¼.

Parker Peak Lookout

T. 7 S., R. 4 E.,
Sec. 31, S½SE¼NW¼, and N½NE¼SW¼.

Boulder Hill Lookout

T. 1 S., R. 6 E.,
Sec. 15, S½SW¼SW¼NW¼, NW¼NW¼SW¼, and N½SW¼NW¼SW¼;
Sec. 16, S½SE¼SE¼NE¼, NE¼NE¼SE¼, and N½SE¼NE¼SE¼.

The above areas aggregate 90 acres, more or less, in Pennington and Fall River Counties.

M 024808(SD)—Public Land Order No. 1744 dated October 6, 1958

Little Spearfish Ranger Station

T. 4 N., R. 1 E.,
Sec. 2, S½SW¼SW¼, and S½N½SW¼SW¼;
Sec. 3, S½SE¼SE¼, S½N½SE¼SE¼, E½SE¼SW¼SE¼, and SE¼NE¼SW¼SE¼.

The above area contains 67.50 acres located in Lawrence County.

M 025762(SD)—Public Land Order No. 1744 dated October 6, 1958

Lone Grave Spring Picnic Ground

T. 5 N., R. 1 E.,
Sec. 31, lot 10.

Moonshine Gulch Picnic Grounds

T. 2 N., R. 3 E.,
Sec. 24, lot 2.

Preacher Smith Picnic Grounds

T. 5 N., R. 3 E.,
Sec. 11, lots 6 and 7.

Jenny Gulch Organization Camp

T. 2 N., R. 5 E.,
Sec. 30, SW¼NE¼, and E½SE¼NW¼.

Haselrodt Recreation Area Addition

T. 4 S., T. 5 E.,
Sec. 10, lots 2, 3, 4, exclusive of M.S. 2124 and 2146; N½NW¼NE¼, SW¼NW¼NE¼, NW¼SW¼NE¼, W½SW¼SW¼NE¼, W½E½SW¼SW¼NE¼, SE¼SE¼NW¼, W½NW¼NW¼SE¼, and W½E½NW¼NW¼SE¼;
Sec. 15, NW¼NW¼;
Sec. 16, NE¼NE¼.

Junction Ranger Station

T. 2 S., R. 3 E.,
Sec. 25, E½SE¼NE¼, N½NE¼SE¼, exclusive of HES 496.
T. 2 S., R. 4 E.,
Sec. 30, lot 3, W½NW¼SE¼, exclusive of HES 496.

Harney Ranger Station

T. 2 S., R. 6 E.,
Sec. 15, Beginning at point No. 1 from thence the ¼ corner on the south line of sec. 10, T. 2 S., R. 6 E., bears N. 54°38′ W., a distance of 0.42 chains, thence, N. 69°49′ W., 22.64 chains to point No. 2; N. 19°36′ E., 9.13 chains to point No. 3; N. 31°52′ E., 21.92 chains to point No. 4; N. 3°02′ E., 15.04 chains to point No. 5; N. 89°36′ E., 18.05 chains to point No. 6; S. 16°17′ W., 15.99 chains to point No. 7; S. 65°58′ W., 4.8 chains to point No. 8; S. 24°11′ E., 18.69 chains to point No. 9; S. 53°48′ E., 6.87 chains to point No. 10; S. 51°56′ W., 19.79 chains to the point of beginning.

The above areas aggregate 606.44 acres, more or less, in Lawrence, Pennington and Custer Counties.

M 032906(SD)—Public Land Order No. 2165 dated July 21, 1960

Este Administrative Site

T. 2 N., R. 5 E.,
Sec. 3, that portion of lot 2 exclusive of M.S. 1487.
T. 3 N., R. 5 E.,
Sec. 34, lot 3.

The above areas aggregate 73 acres, more or less, in Lawrence County.

BLM 033459(SD)—Public Land Order No. 1429 dated June 3, 1957

Pilger Mountain Lookout

T. 7 S., R. 2 E.,
Sec. 4, lots 3 and 4.

The area described above contains 20.87 acres, more or less, in Fall River County.

M 047492(SD)—Public Land Order No. 2965 dated March 18, 1963

Clog Gulch Water System

T. 1 S., R. 5 E.,
Sec. 11, S½SE¼NW¼, NW¼NE¼SW¼, N½NE¼NE¼SW¼, NE¼NW¼SW¼, S½NW¼SW¼ (less patent), and S½NW¼NW¼SW¼ (less patent).

The above area contains 60 acres, more or less, located in Pennington County.

M 051694(SD)—Public Land Order No. 3072 dated May 7, 1963

Pilot Knob Campground Area Extension

T. 2 N., R. 4 E.,
Sec. 1, SE¼SW¼;
Sec. 12, NE¼NW¼, and NW¼NE¼.

Sanator Campground

T. 4 S., R. 4 E.,
Sec. 11, That portion of the SE¼SE¼ east of the centerline of U.S. Highway No. 385;
Sec. 14, That portion of the NE¼NE¼ east of the centerline of U.S. Highway No. 385.

Canyon Campground Recreation Site

T. 6 N., R. 2 E.,
Sec. 27, lots 3 and 4.

Rockerville Campground Area Extension

T. 1 S., R. 6 E.,
Sec. 14, SE¼SW¼.

The above areas aggregate 257.87 acres, more or less, in Lawrence and Custer Counties.

2. At 8 a.m. on July 28, 1982, the lands will be open to location under the United States mining laws and to such forms of disposition as may by law be made of national forest lands.

The lands have been and continue to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 50157, Billings Montana 59107.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 22, 1982.

[FR Doc. 82-17946 Filed 6-30-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6291

[M 42863(SD)]

South Dakota; Partial Revocation of Secretarial Order Dated October 29, 1908

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: The action will restore 55 acres of land in the Black Hills National Forest to operation of the mining laws and to such disposition as may by law be made of national forest land.

EFFECTIVE DATE: July 28, 1982.

FOR FURTHER INFORMATION CONTACT: Roland F. Lee, Montana State Office, 406–657–6291.

By virtue of the authority vested in the Secretary of the Interior, by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Secretarial Order dated October 29, 1908, which withdrew certain lands for use by the Forest Service as an administrative site, is hereby revoked insofar as it affects the following described land:

Black Hills Meridian

Black Hills National Forest, Block Administrative Site

T. 4 N., R. 1 E.,
Metes and bounds in Sections 24, 25 and 26 containing 55 acres, more or less in Lawrence County.

2. At 8 a.m. on July 28, 1982, the land will be open to location under the United States mining laws and to such forms of disposition as may by law be made of national forest land.

The land has been and continues to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 22, 1982.

[FR Doc. 82-17947 Filed 6-30-82; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA 6338]

List of Withdrawal of Flood Insurance Maps Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities where Flood Insurance Rate Maps or Flood Hazard Boundary Maps published by the Director, Federal Emergency Management Agency, have been temporarily withdrawn for administrative or technical reason. During that period that the map is withdrawn, the insurance purchase requirement of the National Flood Insurance Program is suspended.

EFFECTIVE DATES: The date listed in the fifth column of the table.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Acting Director, Natural Hazards Division, (202) 287–0270, 500 C Street Southwest,

Donohoe Building, Room 505, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The list includes the date that each map was withdrawn, and the effective date of its republication, if it has been republished. If a flood-prone location is now being identified on another map, the community name for the effective map is shown.

The Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended, requires, at section 102, the purchase of flood insurance as a condition of Federal financial assistance if such assistance is:

(1) For acquisition and construction of buildings, and

(2) For buildings located in a special flood hazard area identified by the Director of Federal Emergency Management Agency.

The insurance purchase requirement with respect to a particular community may be altered by the issuance or withdrawal of the Federal Emergency Management Agency's (FEMA) official Flood Insurance Rate Map (FIRM) or the Flood Hazard Boundary Map (FHBM). A FHBM is usually designated by the letter "E" following the community number. If the FEMA withdraws a FHBM for any reason the insurance purchase requirement is suspended during the period of withdrawal. However, if the community is in the Regular Program and only the FIRM is withdrawn but a FHBM remains in effect, then flood insurance is still required for properties located in the identified special flood hazard areas shown on the FHBM, but the maximum amount of insurance available for new applications or renewal is first layer coverage under the Emergency Program, since the community's Regular Program status is suspended while the map is withdrawn. (For definitions see 44 CFR Part 59 et seq.)

This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities. As the purpose of this revision is the convenience of the public, notice and public procedure are unnecessary, and cause exists to make this amendment effective upon publication.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. Accordingly, Subchapter B of Chapter 1 of Title 44 of the Code of Federal Regulations is amended as follows:

1. Present § 65.6 is revised to read as follows:

§ 65.6 Administrative withdrawal of maps.

(a) *Flood Hazard Boundary Maps (FHBM's).*

The following is a cumulative list of withdrawals pursuant to this Part:

40 FR 5149
40 FR 17015
40 FR 20798
40 FR 46102
40 FR 53579
40 FR 58672
41 FR 1478
41 FR 50990
41 FR 13352
41 FR 17726
42 FR 8895
42 FR 29433
42 FR 46226
42 FR 64076
43 FR 24019
44 FR 815
44 FR 6383
44 FR 18485
44 FR 25636
44 FR 34120
44 FR 52835
44 FR 57094
45 FR 12421
45 FR 26051
45 FR 31318
45 FR 34120
45 FR 49570
45 FR 52385
46 FR 13695
46 FR 20176
46 FR 26776
46 FR 46810
47 FR 3121
47 FR 18869
47 FR 28657

(b) *Flood Insurance Rate Maps (FIRM's)*

The following is a cumulative list of withdrawals pursuant to the Part:

40 FR 17015
41 FR 1478
42 FR 49811
42 FR 64076
43 FR 24019
44 FR 25636
45 FR 12421
45 FR 49570
46 FR 20176
46 FR 46810
47 FR 3121
47 FR 18869

2. The following additional entries (which will not appear in the Code of Federal Regulations) are made pursuant to § 65.6:

State	Community name, Number	County	Hazard ID date	Rescission date	Reason
CA	City of Calipatria, 060068(E)	Imperial	11–14–75	June 1, 1982	2
CA	City of Coronado, 060287(E)	San Diego	9–10–76	do	2

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: May, 27, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82–17878 Filed 6–30–82; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 65

[Docket No. FEMA–6339]

Communities With No Special Hazard Area for the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency, after consultation with local officials of the communities listed below, has determined, based upon analysis of existing conditions in the communities, that these communities would not be inundated by 100-year flood. Therefore, the Agency is converting the communities listed below to the Regular Program of the National Flood Insurance Program of (NFIP) without a map.

EFFECTIVE DATE: Date listed in fourth column of list of Communities with No Special Flood Hazards.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Chief, Engineering Branch, National Flood Insurance Program, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: In these communities, there is no reason not to make full limits of coverage available. The entire community is now classified as Zone C. In a Zone C, insurance

coverage is available on a voluntary basis at low actuarial nonsubsidized rates. For example, under the Emergency Program in which your community has been participating the rate for a one-story 1–4 family dwelling is $.25 per $100 of coverage. Under the Regular Program, to which your community has been coverted, the equivalent rate is $.10 per $100 coverage. Contents insurance is also available under the Regular Program at low actuarial rates. For example, when all contents are located on the first floor of a residential structure, the premium is $.05 per $100 of coverage.

In addition to the less expensive rates, the maximum coverage available under the Regular Program is significantly greater than that available under the Emergency Program. For example, a single family residential dwelling now can be insured up to a maximum of $185,000 coverage for the structure and $60,000 coverage for contents.

Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agency or broker serving the eligible community.

List of Subjects in 44 CFR Part 65

Flood insurance, Flood plains.

The effective date of conversion to the Regular Program will not appear in the Code of Federal Regulations except for the page number of this entry in the **Federal Register.**

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notices stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

The entry reads as follows:

§ 65.6 List of communities with no special flood hazard areas.

State	County	Community name	Date of conversion to regular program
California	Imperial	City of Calipatria	June 1, 1982.
California	San Diego	City of Coronado	Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 20, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-17877 Filed 6-30-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

[Docket No. FEMA-6340]

Communities With Minimal Flood Hazard Areas for the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency, after consultation with local officials of the communities listed below, has determined, based upon analysis of existing conditions in the communities, that these communities' Special Flood Hazard Areas are small in size, with minimal flooding problems. Because existing conditions indicate that the area is unlikely to be developed in the foreseeable future, there is no immediate need to use the existing detailed study methodology to determine the base flood elevations for the Special Flood Hazard Areas.

Therefore, the Agency is converting the communities listed below to the Regular Program of the National Flood Insurance Program (NFIP) without determining base flood elevations.

EFFECTIVE DATE: Date listed in fourth column of list of Communities with Minimal Flood Hazards Areas.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, (202) 287–0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: In these communities, the full limits of flood insurance coverage are available at actuarial, non-subsidized rates. The rates will vary according to the zone designation of the particular area of the community.

Flood insurance for contents, as well as structures, is available. The maximum coverage available under the Regular Program is significantly greater than that available under the Emergency Program.

Flood insurance coverage for property located in the communities listed can be purchased from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program. The effective date of conversion to the Regular Program will not appear in the Code of Federal Regulations except for the page number of this entry in the **Federal Register.**

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have significant economic impact on a substantial number of small entities. This rule provides routine legal notice regarding the completed stage of engineering tasks in delineating the special flood hazards areas of the specified community and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 65

Flood insurance—flood plains.

PART 65—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

The entry reads as follows:

§ 65.7 List of communities with minimal flood hazards areas.

State	County	Community	Date of conversion to regular program
New York	Cattaraugus	Town of Napoli	July 2, 1982.
New York	Chautauqua	Town of Cherry Creek	July 2, 1982.
Pennsylvania	Crawford	Township of Athens	July 2, 1982.

State	County	Community	Date of conversion to regular program
Pennsylvania	Fulton	Township of Ayr	July 2, 1982.
Pennsylvania	Washington	Township of Blaine	July 2, 1982.
Pennsylvania	Monroe	Township of Jackson	July 2, 1982.
Arkansas	Pope	City of Atkins	July 6, 1982.
Arkansas	Logan	City of Paris	July 6, 1982.
Oklahoma	Washington	City of Dewey	July 6, 1982.
Oklahoma	Logan	Town of Langston	July 6, 1982.
Oklahoma	Cotton	City of Walters	July 6, 1982.
Texas	Robertson	City of Calvert	July 6, 1982.
Texas	Robertson	City of Franklin	July 6, 1982.
Texas	Hill	City of Itasca	July 6, 1982.
Texas	Limestone	Town of Kosse	July 6, 1982.
Texas	Leon and Madison	City of Normangee	July 6, 1982.
Georgia	Clinch	City of Homerville	July 9, 1982.
Georgia	Rabun	Town of Mountain City	July 9, 1982.
Georgia	Haralson	City of Tallapoosa	July 9, 1982.
Georgia	Montgomery	Town of Uvalde	July 9, 1982.
Georgia	Dooly	City of Vienna	July 9, 1982.
Illinois	Grundy	Village of East Brooklyn	July 9, 1982.
New York	Wayne	Town of Butler	July 9, 1982.
New York	Allegany	Town of Grove	July 9, 1982.
New York	Allegany	Town of Independance	July 9, 1982.
Pennsylvania	Lawrence	Borough of Bessemer	July 9, 1982.
Pennsylvania	Schuylkill	Town of Norwegian	July 9, 1982.
Arkansas	Faulkner	City of Greenbrier	July 13, 1982.
Arkansas	Pope	City of London	July 13, 1982.
Arkansas	Logan	City of Magazine	July 13, 1982.
Arkansas	Yell	City of Ola	July 13, 1982.
Louisiana	Unincorporated Areas	St. James Parish	July 13, 1982.
Oklahoma	Rogers Mills	Town of Hammon	July 13, 1982.
Oklahoma	Caddo	Town of Lookeba	July 13, 1982.
Georgia	Walton and Gwinnett	City of Loganville	July 16, 1982.
New York	Allegany	Town of Allen	July 16, 1982.
New York	Allegany	Town of Birdsall	July 16, 1982.
New York	Allegany	Town of Burns	July 16, 1982.
New York	Jefferson	Town of Champion	July 16, 1982.
New York	St. Lawrence	Town of Clare	July 16, 1982.
New York	Herkimer	Town of Columbia	July 16, 1982.
New York	Lewis	Village of Constableville	July 16, 1982.
New York	Cattaraugus	Town of Lyndon	July 16, 1982.
New York	Genesee	Town of Stafford	July 16, 1982.
New York	Wyoming	Town of Weathersfield	July 16, 1982.
Pennsylvania	Berks	Borough of Centerport	July 16, 1982.
Pennsylvania	Mercer	Township of Springfield	July 16, 1982.
Pennsylvania	Berks	Township of Upper Tulpehocken	July 16, 1982.
Virginia	Surry	Town of Dendron	July 16, 1982.
Arkansas	Mississippi	City of Manila	July 20, 1982.
Arkansas	Perry	Town of Perry	July 20, 1982.
Montana	Golden Valley	Town of Ryegate	July 20, 1982.
Oklahoma	Atoka	City of Atoka	July 20, 1982.
Oklahoma	Caddo	Town of Carnegie	July 20, 1982.
Oklahoma	Garvin	Town of Elmore City	July 20, 1982.
Oklahoma	Jefferson	Town of Ryan	July 20, 1982.
Georgia	Hall	Municipality of Oakwood	July 23, 1982.
Georgia	Montgomery	City of Uvalda	July 23, 1982.
Georgia	Warren	City of Warrenton	July 23, 1982.
New York	Chemung	Town of Baldwin	July 23, 1982.
New York	Ontario	Village of Clifton Springs	July 23, 1982.
New York	St. Lawrence	Town of De Peyster	July 23, 1982.
New York	St. Lawrence	Village of Edwards	July 23, 1982.
New York	Cattaraugus	Town of Farmersville	July 23, 1982.
New York	Yates	Town of Italy	July 23, 1982.
New York	Steuben	Town of Jasper	July 23, 1982.
New York	Lewis	Town of Lewis	July 23, 1982.
New York	Livingston	Town of Lima	July 23, 1982.
New York	Green	Town of New Baltimore	July 23, 1982.
New York	Wayne	Town of Wolcott	July 23, 1982.
Pennsylvania	Bradford	Borough of Alba	July 23, 1982.
Pennsylvania	Mercer	Township of East Lackawannock	July 23, 1982.
Arkansas	Little River	City of Foreman	July 27, 1982.
Georgia	Bartow	Town of Adairsville	July 30, 1982.
New York	Allegany	Town of Bolivar	July 30, 1982.
New York	Cattaraugus	Town of Conewango	July 30, 1982.
New York	Allegany	Town of Cuba	July 30, 1982.
New York	St. Lawrence	Town of Edwards	July 30, 1982.
New York	Herkimer	Town of Fairfield	July 30, 1982.
New York	Allegany	Town of Genesee	July 30, 1982.
New York	Jefferson	Town of Pamelia	July 30, 1982.
New York	St. Lawrence	Town of Parishville	July 30, 1982.
New York	Oneida	Village of Prospect	July 30, 1982.
New York	St. Lawrence	Town of Rossie	July 30, 1982.
New York	Herkimer	Town of Webb	July 30, 1982.
Pennsylvania	Northampton	Borough of Chapman	July 30, 1982.
Pennsylvania	Mercer	Borough of Clark	July 30, 1982.
Pennsylvania	Lehigh	Borough of Coopersburg	July 30, 1982.
Pennsylvania	Mercer	Township of Delaware	July 30, 1982.
Pennsylvania	Chester	Township of Elk	July 30, 1982.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: June 7, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-17918 Filed 6-30-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of Phoenix, Arizona Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Phoenix, Arizona. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Phoenix, Arizona, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638-6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 040051 Panel 0075B, published on October 6, 1980, in 45 FR 66116, indicates that Lot 8, Plat of Orchid Park, Phoenix, Arizona, as recorded in Book 67, Page 13, in the Office of the Recorder, Maricopa County, Arizona is located within the Special Flood Hazard Area.

Map No. H & I 040051 Panel 0075B is hereby corrected to reflect that the above mentioned property is not within the Special Flood Hazard Area identified on December 4, 1979. This lot is in Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood Insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: June 11, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-17864 Filed 6-30-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of Davis, California Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Davis, California. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Davis, California, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638-6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 060424 Panel 0002B, published on October 6, 1980, in 45 FR 66117, indicates that Subdivision No. 3025, Pajaro Subdivision, Davis, California, as recorded in Map Book 12, Pages 41 through 44, in the Office of the Recorder, Yolo County, California, is

located within the Special Flood Hazard Area.

Map No. H & I 060424 Panel 0002B is hereby corrected to reflect that the existing structures located on the above mentioned property are not within the Special Flood Hazard Area identified on November 15, 1979. These structures are in Zone C.

Pursuant to the provisions of 5 USC 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: June 11, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82–17885 Filed 6–30–82; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA–5909]

Letter of Map Amendment for Sacramento County, California, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Sacramento County, California. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Sacramento County, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 060262 Panel 0340B, published on October 6, 1980, in 45 FR 66118, indicates that Lots 6A, 7A, 27A, 28A, 35A through 37A, 5B through 7B, 25B through 27B, and 35B through 37B, Rancho Grande, Unit No. 9, Sacramento County, California, recorded as Certificate No. 11403 in Book 148 of Maps, Map No. 15, in the Office of the Recorder, Sacramento County, California, are located within the Special Flood Hazard Area.

Map No. H & I 060262 Panel 0340B is hereby corrected to reflect that the above mentioned lots are not within the Special Flood Hazard Area identified on April 21, 1981. These lots are in Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: June 11, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82–17886 Filed 6–30–82; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA–5909]

Letter of Map Amendment for the City of Sunnyvale, California, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Sunnyvale, California. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Sunnyvale, California, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender

now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 060352 Panel 0001B, published on October 6, 1980, in 45 FR 66119, indicates that Lot 1424, Tract No. 2010, Lakewood Village No. 5, Sunnyvale, California, recorded as Document No. 2871979 in Book 7001, Page 573, in the Office of the Recorder, Santa Clara County, California, is located within the Special Flood Hazard Area.

Map No. H & I 060352 Panel 0001B is hereby corrected to reflect that the above mentioned lot is not within the Special Flood Hazard Area identified on May 15, 1979. This lot is in Zone B.

Pursuant to the provisions of 5 USC 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 27, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-17867 Filed 6-30-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of Safety Harbor, Florida; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Safety Harbor, Florida. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Safety Harbor, Florida that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP): P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map Number H & I 125143 B, Panel 03 published on October 6, 1980 in 45 F.R. 66061 indicates that the property known as Beacon Place East, a Planned Residential District in the City of Safety Harbor, Florida, located in Section 34, Township 28 South, Range 16 East, recorded in Official Record 5069 at Pages 1485 and 1486, and Official Record 5295 at Pages 81 through 83 in the Pinellas County Circuit Court Clerk's Office, and a portion of this property known as Yorktown at Beacon Place, Phase 1, A Condominium, as recorded in Plat Book 51, Page 16 through 19 in the Pinellas County Circuit Court Clerk's Office, are located within the Special Flood Hazard Area.

Map Number H & I 125143 B, Panel 03 is hereby corrected to reflect that the above-mentioned property is not within the Special Flood Hazard Area identified on October 22, 1976. The property is located in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 27, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-17868 Filed 6-30-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for Cobb County, Georgia; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Cobb County, Georgia. It has been determined by the Associate Director, State and

Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Cobb County, Georgia, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP): P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map Number H & I 130052, Panel 0050 A published on October 6, 1980 in 45 FR 66062 indicates that the property located at 5074 Kings Wood Drive, in Cobb County, Georgia, and recorded in Plat Book 77, Page 43 in the Cobb County Clerk's Office is located within the Special Flood Hazard Area.

Map Number H & I 130052, Panel 0050 A, is hereby corrected to reflect that the existing structure located on the above-mentioned property is not within the Special Flood Hazard Area identified on January 3, 1979. The existing structure is located in Zone B. However, the property would still be inundated by a flood having a one-percent chance of occurrence in any given year.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70.

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 27, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-17888 Filed 6-30-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA–5909]

Letter of Map Amendment for the City of Albany, Georgia, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Albany, Georgia. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Albany, Georgia, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner for maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP): P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map Number H & I 130075 B, Panel 03 published on October 6, 1980 in 45 FR 66062 indicates that the property at 512 Summit Drive in the City of Albany, Georgia, also known as Lake Park Subdivision C Section 6, recorded in Plat Book 3, Page 263 in the Office of the Clerk of Dougherty County, Georgia is located within the Special Flood Hazard Area.

Map Number H & I 130075 B, Panel 03 is hereby corrected to reflect that the structure on the above-mentioned lot is not within the Special Flood Hazard Area as identified on August 15, 1977. The structure is located in Zone C. However, the lot would still be inundated by a flood having a one-percent chance of occurrence in any given year.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate

Director, State and Local Programs and Support)

Issued: May 27, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-17870 Filed 6-30-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of Warner Robins, Georgia, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Warner Robins, Georgia. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Warner Robins, Georgia, that certain structures are not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject structures are not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP): P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638-6620.

The map amendments listed below are in accordance with § 70.7(b):

Map Number H & I 130111, Panel 0005 B published on October 6, 1980 in 45 FR 66063 indicates that the subdivision known as Modern Homesites, Inc. in Warner Robins, Georgia, as recorded in Plat Book 14, Page 259 in the Clerk's Office, Houston County, Georgia, is located within the Special Flood Hazard Area.

Map Number H & I 130111, Panel 0005 B is hereby corrected to reflect that the existing structures located on the subdivision known as Modern Homesites, Inc. are not within the Special Flood Hazard Area. The existing structures are located in Zone C. However, the subdivision would still be inundated by a flood having a one-percent chance of occurrence in any given year.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: June 15, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-17871 Filed 6-30-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-6048]

Letter of Map Amendment for the Unincorporated Area of Cook County, Illinois, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the Unincorporated Area of Cook County, Illinois. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Unincorporated Area of Cook County, Illinois, that portions of certain property are not within the Special Flood Hazard Area.

This map amendment, by establishing that portions of the subject property are not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for those portions as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchse flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638-6620 toll free.

The Map amendments listed below are in accordance with § 70.7(b):

Map No. 170054, Panel No. 0040B, published on May 2, 1981, in 46 FR 26307, indicates that portions of a parcel of land, located in the Southwest Quarter of Section 12, Township 42 North, Range 10 East of the Third Principal Meridian, also identified on Tax Map No. 42-10-12F as Parcels Nos. 2-12-300-008 and 2-12-300-013, being a portion of the lands recorded as Document No. 23 667 288, in the Office

of the Recorder of Deeds of Cook County, Illinois, are located within the Special Flood Hazard Area.

Map No. 170054, Panel No. 0040B, is hereby corrected to reflect that the portions of the above-mentioned property that are presently at or above elevation 723.0 feet National Geodetic Vertical Datum (NGVD) as shown on the topographic drawing entitled: Portion of Section 12, T. 42 N., R. 10 E., Cook County, Illinois, dated May 15, 1979, prepared by Chicago Aerial Survey, are not within the Special Flood Hazard Area identified on April 15, 1981. The portions of the property which are presently at or above the above-mentioned elevation are in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 F.R. 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 28, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-17672 Filed 6-30-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of South Beloit, Illinois, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final Rule, Map Correction.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the City of South Beloit, Illinois. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of South Beloit, Illinois, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that portions of the subject property are not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for those portions as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620 toll free.

The Map amendments listed below are in accordance with § 70.7(b):

Map No. 170725, Panel No. 0001B, published on October 6, 1980, in 45 FR 66075, indicates that a parcel of land located in the southeast quarter of Section 6 and the northeast quarter of Section 7, T 46 N, R 2 East of the Third Principal Meridian, City of South Beloit, Winnebago County, Illinois, shown and designated as Lots Nos. 1 through 9 and a portion of the Softball Park on the drawing entitled: Proposed South Beloit Industrial Park, dated October 28, 1980, prepared by R. H. Batterman and Company, Inc., Beloit, Wisconsin, being a portion of the lands recorded as Document No. 1435712 in the Office of the Recorder of Deeds of Winnebago County, Illinois, is located within the Special Flood Hazard Area.

Map No. 170725, Panel No. 0001B, is hereby corrected to reflect that the portions of the above-mentioned property that are presently above the 100-year Base Flood Elevations (BFE's) which vary from elevation 735.5 feet National Geodetic Vertical Datum (NGVD) at the upstream end of the above-mentioned Lot No. 2 to elevation 735.1 feet NGVD at the downstream end of the above-mentioned Lot No. 3 as shown on the drawing entitled: Proposed South Beloit Industrial Park, dated October 28, 1980, prepared by R. H. Batterman and Company, Inc., are not within the Special Flood Hazard Area identified on January 2, 1980. The portions of the property which are presently at or above the above-mentioned elevations are in both Zone B and Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 28, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-17673 Filed 6-30-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-6002]

Letter of Map Amendment for the City of Des Moines, Iowa Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps

identifying Special Flood Hazard Areas have been published. This list included the City of Des Moines, Iowa. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for City of Des Moines, Iowa, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 190227 Panel 0006B, published on March 5, 1981, in 46 FR 15269, indicates that Lot 4, Block 9, Allen's Second Addition; Lot 2, Block 61, Town of De Moine; Lots 9 and 10; Block 63, Town of De Moine; and the South 1 foot of Lot 7 and all of Lot 8, Block 73, Town of De Moine, Des Moines, Iowa, as recorded in Book 5124, Page 324; Book 5134, Page 388; Book 5124, Page 322; and Book 5131, Page 352, respectively, in the Office of the Recorder, Polk County, Iowa are located within the Special Flood Hazard Area.

Map No. H & I 190227 Panel 0006B is hereby corrected to reflect that the above mentioned properties are not within the Special Flood Hazard Area identified on February 4, 1981. These lots are in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

Lists of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support.)

Issued: June 15, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82–17874 Filed 6–30–82; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA–5909]

Letter of Map Amendment for Lafayette Parish, Louisiana Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Lafayette Parish, Louisiana. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Lafayette Parish, Louisiana, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 220101 Panel 0080B, published on October 6, 1980, in 45 FR 66092, indicates that Plaza Village Condominiums, Phases I and II, Lafayette, Louisiana, recorded as File No. 82–001831 and File No. 82–012247, respectively, in the Office of the Clerk, Lafayette Parish, Louisiana, are located within the Special Flood Hazard Area.

Map No. H & I 220101 Panel 0080B is hereby corrected to reflect that the existing structures located on the above mentioned property are not within the Special Flood Hazard Area identified on August 1, 1980. These structures are in Zone B.

Pursuant to the provisions of 5 USC 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support.)

Issued: June 15, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-17875 Filed 6-30-82; 8:45 am]

BILLING CODE 6718-03-M

[Docket No. FEMA-6139]

44 CFR Part 70

[Docket No. FEMA-6139]

Letter of Map Amendment for the City of Sterling Heights, Michigan Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the City of Sterling Heights, Michigan. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Sterling Heights, Michigan, that portions of a certain parcel are not within the Special Flood Hazard Area.

This map amendment, by establishing that portions of the subject parcel are not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for those portions as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–8620 toll free.

The Map amendments listed below are in accordance with § 70.7(b):

Map No. 260128, Panel No. 0015E, published on September 25, 1981, in 46 F.R. 47226, indicates that portions of a parcel of land located in the Southwest Quarter of Section 24, Township 2 North, Range 5 East, City of Sterling Heights, Macomb County, Michigan, being a portion of lands recorded in Liber 3044, Pages 575 through 583, in the Office of the Recorder of Macomb County, Michigan, are located within the Special Flood Hazard Area.

Map No. 260128, Panel No. 0015E, is hereby corrected to reflect that the portions of the above-mentioned parcel that are presently outside the limits of the regulatory floodway of Plum Brook Drain and are at or above 602.8 feet National Geodetic Vertical Datum (NGVD) as shown on a portion of the drawing entitled: Proposed Flood Hazard Boundary Map Amendment-Schoenherr Road and Plum Brook Drain-Section 24, Sheet 1 of 1, dated March 8, 1982, prepared by the City of Sterling Heights, certified and submitted by James R. Ball, P.E., March 16, 1982, are not within the Special Flood Hazard Area identified on August 3, 1981. The portions of the property which are presently outside the regulatory floodway and at or above the above-mentioned elevation are in Zone B and Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 F.R. 19367; and delegation of authority to Associate Director, State and Local Programs and Support.)

Issued: May 28, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-17849 Filed 6-30-82; 8:45 am]

BILLING CODE 6718-03-M

[Docket No. FEMA-6139]

44 CFR Part 70

Letter of Map Amendment for the City of Trenton, Mich., Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the City of Trenton, Michigan. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Trenton, Michigan, that certain structures are not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject structures are not within the Special Flood Hazard Area, removes or reinforces the requirement to purchase flood insurance for those structures as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or

broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620 toll free.

The map amendments listed below are in accordance with § 70.7(b):

Map No. 260244, Panel No. 0003B, published on September 25, 1981, in 46 FR 47227, indicates that the residential structures located on Lot No. 95 and Lots Nos. 142 through 145, Brookview Park Subdivision No. 2, City of Trenton, Wayne County, Michigan, as recorded in Liber 86, Page 99, in the Office of the Register of Deeds of Wayne County, Michigan, are located within the Special Flood Hazard Area.

In addition, Map No. 260244, Panel No. 0003B, indicates that the residential structures located on Lot No. 98 and Lots Nos. 132 through 141, of the above-mentioned property, are located in Zone B.

Map No. 260244, Panel No. 0003B, is hereby corrected to reflect that the residential structures on Lot No. 95 and Lots Nos. 143 and 144, are not located within the Special Flood Hazard Area identified on August 17, 1981. The residential structures are in Zone C.

Furthermore, Map No. 260244, Panel No. 0003B, is hereby corrected to reflect that the residential structures located on Lot No. 98 and Lots Nos. 132 through 142 are in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 28, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-17851 Filed 6-30-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA–6139]

Letter of Map Amendment for the City of Trenton, Mich., Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the City of Trenton, Michigan. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Trenton, Michigan, that certain structures are not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject structures are not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for those structures as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner for maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620 toll free.

The map amendments listed below are in accordance with § 70.7(b):

Map No. 260244, Panel No. 0003B, published on September 25, 1981, in 46 FR 47227, indicates that the residential structures located on Lot No. 95 and Lots Nos. 142 through 145, Brookview Park Subdivision No. 2, City of Trenton, Wayne County, Michigan, as recorded in Liber 82, Page 99, in the Office of the Register of Deeds of Wayne County, Michigan, are located within the Special Flood Hazard Area.

In addition, Map No. 260244, Panel No. 0003B, indicates that the residential structures located on Lot No. 98 and Lots Nos. 132 through 141, of the above-mentioned property, are located in Zone B.

Map No. 260244, Panel No. 0003B, is hereby corrected to reflect that the residential structures on Lot No. 95 and Lots Nos. 143 and 144, are not located within the Special Flood Hazard Area identified on August 17, 1981. The residential structures are in Zone C.

Furthermore, Map No. 260244, Panel No. 0003B, is hereby corrected to reflect that the residential structures located on Lot No. 98 and Lots Nos. 132 through 142 are in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 F.R. 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: June 1, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-17852 Filed 6-30-82; 8:45 am]

BILLING CODE 6718-03-M

[Docket No. FEMA-6139]

44 CFR Part 70

Letter of Map Amendment for the City of Trenton, Mich., Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the City of Trenton, Michigan. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Trenton, Michigan, that certain structures are and certain structures are not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject structures are and are not within the Special Flood Hazard Area, removes or reinforces the requirement to purchase flood insurance for those structures as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620 toll free.

The Map amendments listed below are in accordance with § 70.7(b):

Map No. 260244, Panel No. 0004B, published on September 25, 1981, in 46 FR 47227, indicates that the residential structures located on Lots Nos. 30 through 33 and Lots Nos. 47 and 63, Bates Meadows Subdivision, City of Trenton, Wayne County, Michigan, as recorded in Liber 77 of Plats, Pages 16 and 17, in the Office of the Register of Deeds of Wayne County, Michigan, are located within the Special Flood Hazard Area.

In addition, the above-mentioned Map and Panel Number indicates that the residential structures located on Lots Nos. 101 through 104 of the above-mentioned property are located in Zone C.

Map No. 260244, Panel No. 0004B, is hereby corrected to reflect that the residential structures located in Lots Nos. 30 through 33 and Lots Nos. 47 and 63 are not within the Special Flood Hazard Area identified on August 17, 1981. The structures are in Zone B.

Furthermore, the above-mentioned Map and Panel Number is hereby corrected to reflect that the residential structure located on Lot No. 104 is in Zone A and the residential structures located on Lots Nos. 101 through 103 are in Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: June 1, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-17662 Filed 6-30-82; 8:45 am]

BILLING CODE 6718-03-M

[Docket No. FEMA-5909]

44 CFR Part 70

Letter of Map Amendment for St. Louis County, Mo., Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included St. Louis County, Missouri. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for St. Louis County, Missouri, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 290327 Panel 0150A, published on October 6, 1980, in 45 FR 66107, indicates that Lot 17, The Woodlands Business Park, St. Louis

County, Missouri, as recorded in Book 199, Pages 68 through 71, in the Office of the Recorder, St. Louis County, Missouri, is located within the Special Flood Hazard Area.

Map No. H & I 290327 Panel 0150A is hereby corrected to reflect that the existing structure located on the above mentioned property is not within the Special Flood Hazard Area identified on September 15, 1978. This structure is in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: June 15, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-17860 Filed 6-30-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-6237]

Letter of Map Amendment for the City of Buffalo, N.Y. Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Buffalo, New York. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Buffalo, New York, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaning flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP): P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H and I 360230, Panel 0020 B published on January 25, 1982 in 47 FR 3355 indicates that Lot 21 of Harbour Pointe, being a portion of the Waterfront Village, Part II in the City of Buffalo, New York, as recorded in the Office of the Clerk of Erie County under Map Cover Number 2433, is located within the Special Flood Hazard Area.

Map No. H & I 360230, Panel 0020 B is hereby corrected to reflect that the existing structures on Lot 21 are not within the Special Flood Hazard Area identified on November 16, 1981. The structures are located in Zone B. However, portions of the lot would still be inundated by a flood having a one-percent chance of occurrence in any given year.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70.

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: June 7, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-17854 Filed 6-30-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of Claremore, Okla., Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Claremore, Oklahoma. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Claremore, Oklahoma, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E. Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to

purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 405375 Panel 0005D, published on October 6, 1980, in 45 FR 66095, indicates that a 101 Unit Elderly Section 8 New Housing Project, OK–56–0011–001, located on a 3.2960 acre tract of land in the NW¼ of the NE¼ of the NE¼ of Section 8, T21N, R16E, Claremore, Oklahoma, recorded as Instrument Number 4678 in Book 578, Pages 353 and 354, in the Office of the Clerk, Rodgers County, Oklahoma, is located within the Special Flood Hazard Area.

Map No. H & I 405375 Panel 0005D is hereby corrected to reflect that the above mentioned property is not within the Special Flood Hazard Area identified on January 19, 1982. This property is in Zone B.

Pursuant to provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 26, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-17858 Filed 6-30-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA–5909]

Letter of Map Amendment for the City of Tulsa, Okla., Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final Rule, Map Correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Tulsa, Oklahoma. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Tulsa, Oklahoma, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E.Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 405381D Panel 82, published on October 6, 1980, in 45 FR 66095, indicates that Lot 1, Potts Addition, Tulsa, Oklahoma, recorded as Plat No. 1212, Record No. 658133, in the Office of the County Clerk, Tulsa County, Oklahoma, is located within the Special Flood Hazard Area.

Map No. H & I 405381D Panel 82, is hereby corrected to reflect that the above mentioned lot is not within the Special Flood Hazard Area identified on August 14, 1979. This lot is in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: June 15, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-17856 Filed 6-30-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA–5923]

Letter of Map Amendment for the Township of Falls, Pennsylvania Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the

Township of Falls, Pennsylvania. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Township of Falls, Pennsylvania, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638-6620 toll free.

The Map amendments listed below are in accordance with § 70.7(b):

Map No. 420188, Panels Nos. 0002A and 0005A, published on October 21, 1980, in 45 F.R. 69451, indicates that a parcel of land known as GROWS Landfill, being a portion of Tracts Nos. 19, 20, and 21, Township of Falls, Bucks County, Pennsylvania, as recorded in Deed Book 573, Pages 21 through 23, in the Office of the Recorder of Deeds of Bucks County, Pennsylvania, is located within the Special Flood Hazard Area.

Map No. 420188, Panels Nos. 0002A and 0005A, are hereby corrected to reflect that the above-mentioned property is not within the Special Flood Hazard Area identified on September 30, 1980. The property is in Zone B and Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 F.R. 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 28, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-17857 Filed 6-30-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5977]

Letter of Map Amendment for Greenville County, S.C., Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Greenville County, South Carolina. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Greenville County, South Carolina, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP). P.O. Box. 34294, Bethesda, Maryland 20034, Phone: (800) 638-6620.

The Map amendments listed below are in accordance with § 70.7(b):

Map Number H & I 450089, Panel 0215 A published on January 23, 1981 in 46 FR 7352 indicates that a proposed subdivision known as Holland Place in Greenville County, South Carolina, being a portion of a parcel of land recorded in Volume 1064 at Page 155 in the Office of the County Register of Mesne Conveyance, Greenville County, South Carolina, is located within the Special Flood Hazard Area.

Map Number H & I 450089, Panel 0215 A is hereby corrected to reflect that Lots 23 through 31 of the above-mentioned property are not within the Special Flood Hazard Area. The lots are located in Zone C.

Pursuant to the provisions of 5 USC 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate

Director, State and Local Programs and Support)

Issued: June 15, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-17858 Filed 6-30-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for Hamilton County, Tenn., Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Hamilton County, Tennessee. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Hamilton County, Tennessee that certain property is and is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is and is not within the Special Flood Hazard Area, removes or reinforces the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP): P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638-8620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H and I 470071, Panel 0125 A, published on October 6, 1980 in 45 FR 66071 indicates that the existing structures on Lots 146 through 149 and 171 through 174 of the Subdivision known as Sterling Park, Unit V as recorded in Plat Book Number 26, Page 63 in the Hamilton County Clerk's Office are located within the Special Flood Hazard Area.

In addition, the above-mentioned Map and Panel Number indicates that the existing structures located on Lots 138, 139, 142 and 143 of the above-mentioned property are located in Zone B and that the existing structures located on Lot 141 is in Zone C.

Map No. H and I 470071, Panel 0125 A is hereby corrected to reflect that the existing structures located on Lots 146, 148, 149 and 171 through 174 are not within the Special Flood Hazard Area. The structures are located in Zone B. Portions of these lots would still be inundated by the base flood. Lot 147 is located completely in Zone B.

Furthermore, the above-mentioned Map and Panel Number is hereby corrected to reflect that the existing structures located on Lots 138, 139 and 141 through 143, are in Zone A9.

Pursuant to the provisions of 5 USC 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 27, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-17859 Filed 6-30-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of Abilene, Tex., Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Abilene, Texas. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for City of Abilene, Texas, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E. Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638-8620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 485450 Panel 0020B, published on October 6, 1980, in 45 FR 66097, indicates that Lots 13 and 14, Block F, proposed Quail Park, Section 3,

being 17.81 acres of land out of Lot 7, Anderson and Berry Subdivision of the A. Thompson Survey No. 37, Abilene, Texas, as recorded in Volume 1138, Pages 901 and 902, in the Office of the Clerk, Taylor County, Texas, are located within the Special Flood Hazard Area.

Map No. H & I 485450 Panel 0020B is hereby corrected to reflect that the above mentioned lots are not within the Special Flood Hazard Area identified on August 23, 1979. These lots are in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Loal Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 27, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-17800 Filed 6-30-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of Arlington, Texas, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final Rule, Map Correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Arlington, Texas. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Arlington, Texas, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telphone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 485454 Panel 0020B, published on October 6, 1980, in 45 FR 66097, indicates that Lots 16 through 22, Block 14; Lot 28, Block 17; Lots 1 and 2, Block 18, and Lots 1 through 10 and 34 through 41, Block 19, Spring Valley, Fourth Section, Arlington, Texas, as recorded in Volume 338–150, Page 1, in the Office of the County Clerk, Tarrant County, Texas, are located within the Special Flood Hazard Area.

Map No. H & I 485454 Panel 0020B is hereby corrected to reflect that the above mentioned lots with the exception of the area designated for 40' Drainage and Utility Easement as shown on the Recorded Plat Map cited above, are not within the Special Flood Hazard Area identified on June 20, 1980. These lots are in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 26, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-17801 Filed 6-30-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of Richardson, Texas, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Richardson, Texas. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Richardson, Texas, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency

Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–8620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 480184 Panel 0015B, published on October 6, 1980, in 45 FR 66100, indicates that Lot 7, Block 125, Eleventh Installment of Richardson Heights Addition, Richardson, Texas, recorded as Instrument No. 199389 in Volume 40, Page 205 of Plats, in the Office of the County Clerk, Dallas County, Texas, is located within the Special Flood Hazard Area.

Map No. H & I 480184 Panel 0015B is hereby corrected to reflect that the existing structure located on the above mentioned property is not within the Special Flood Hazard Area identified on December 4, 1979. This structure is in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support.)

Issued: June 7, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82–17882 Filed 6–30–82 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA–5909]

Letter of Map Amendment for the City of Lander, Wyoming, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final Rule, Map Correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Lander, Wyoming. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Lander, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–8620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 560020 Panel 0005D, published on October 6, 1980, in 45 FR 66115, indicates that Lots 6 and 7, Block 2, Plat of the Squaw Creek Addition Replat, Lander, Wyoming, recorded as Document No. 1017015 in MF Drawer 2, Page 80, in the Office of the Clerk and Recorder, Fremont County, Wyoming, are located within the Special Flood Hazard Area.

Map No. H & I 560020 Panel 0005D is hereby corrected to reflect that the above mentioned lots are not within the Special Flood Hazard Area identified on January 19, 1982. These lots are in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support.)

Issued: June 15, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82–17883 Filed 6–30–82; 8:45 am]

BILLING CODE 6718–03–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Ch. I

[CGO 82–072]

Editorial Name Change

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Inter-Governmental Maritime Consultative Organization (IMCO) officially changed its name to the International Maritime Organization (IMO) on May 22, 1982. This amendment revises the references to IMCO in Title 46 CFR Chapter I to reflect the current name of the organization.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander James W. Gormanson, Office of Merchant Marine Safety (G–MTH–1/14), Room 1405, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593 (202–426–1217).

SUPPLEMENTARY INFORMATION: Since the editorial change is due to the name change of an international organization which is beyond the control of this agency, notice and public procedure thereon are unnecessary under 5 U.S.C. 553(b)(3)(B). This amendment is effective immediately under 5 U.S.C. 553(d) because it is not a substantive rule. The Coast Guard has determined that this rule—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. The Coast Guard certifies that this amendment will not have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Accordingly, Chapter I of Title 46 of the Code of Federal Regulations are amended as follows:

1. By amending Chapter I of Title 46, striking the words:

"Inter-Governmental Maritime Consultative Organization;"

"Inter-governmental Maritime Consultative Organization;"

"Intergovernmental Maritime Consultative Organization;" and inserting "International Maritime Organization (IMO, formerly Inter-Governmental Maritime Consultative Organization or IMCO)."

2. By amending Chapter I of Title 46, striking the word "IMCO" and inserting "IMO."

Dated: June 25, 1982.

L. N. Hein,

Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 82–17998 Filed 6–30–82; 8:45 am]

BILLING CODE 4910–14–M

46 CFR Parts 1, 10, 12 and 107

[CGD 82–033]

Establishment of Regional Examination Centers for Issuance of Merchant Marine Licenses and Certificates

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending its regulations by establishing sixteen (16) Regional Examination Centers (RECs) for Licensing and Certification of Seamen on July 1, 1982. These RECs will be the only issuing locations for those licenses or certificates required. This action is required because present and foreseeable budgetary and personnel limitations no longer permit the administration of this function at the location of every Officer in Charge, Marine Inspection.

EFFECTIVE DATE: This amendment becomes effective on July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Commander Scott D. McCowen, Office of Merchant Marine Safety, Merchant Vessel Personnel Qualifications Branch (G–MVP–3/14), Room 1400G, Department of Transportation, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593 (202–426–2240).

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was published in the **Federal Register** of May 3, 1982 (85 FR 18929) which invited comments for 30 days ending June 3, 1982. Interested persons were requested to submit comments and 84 comments were received.

Discussion of Comments

A total of 10 comments requested a public hearing on the proposal. It is believed that the public hearings would serve little additional purpose in that the nature of the written comments submitted by those requesting a public hearing was generally a protest on the curtailment of Coast Guard service and no alternate suggestions (other than to keep certain licensing/certification offices open) were offered.

Comments were received from various sources including private individuals, educational, business, labor, and governmental organizations. Only one comment endorsed the proposal; the remainder varied from modified approval to complete opposition. Those comments expressing complete opposition generally directed their comments to a particular geographic area where an existing licensing/certification facility is scheduled to be closed. Again, the majority of comments failed to offer an alternate or modified program which would enable the Coast Guard to remain within its budget/personnel restrictions in the discharge of this program.

Of these comments offering alternate solutions, two suggested the establishing of locations at which examinations could be monitored. The Coast Guard agrees with this concept to the degree it would be limited to locations where statistical and probable future development indicate an adequate volume of transactions to support the expense of maintaining a complement of 1 or 2 monitors as opposed to the expenses associated with the use of a Traveling Examination Team (TET). At present, two (2) locations—Norfolk, Virginia and San Diego, California are considered appropriate for this treatment. The operation of these monitoring facilities will be restricted to the administration of examinations for licenses (other than the "unlimited" licenses) and certificates, with the administrative processing of applications, examination grading, and license/certificate issuance through an REC. Other locations may be ultimately established as monitor facilities (suggested locations being the Great Lakes and river areas); however, the historic volume from these areas does indicate at present that they can be adequately served through the REC or Traveling Examination Teams.

A total of 67 comments touched on the inconvenience/expense factor applicants for licenses or certificates would have to absorb. The Coast Guard does not dispute this claim, but will implement modified administrative procedures (primarily through use of the mails, group examinations, and monitoring facilities) to minimize these factors.

Four comments specifically addressed a perceived inconvenience in relation to license renewals. Again, converting this type of transaction to a primarily mail operation should help.

Five comments addressed the use of Traveling Examination Teams (TETs). In general they agreed that it is a good proposal for schools and other organizations/associations, etc., which could gather a group of sufficient size to be considered for such service. Their concerns centered on individuals who are not so associated. It is the Coast Guard's experience that a majority of examination candidates do utilize some type of pre-examination preparation through training institutions, upgrading programs, etc. We recognize that those who opt for self study or a

correspondence course type preparation will probably have to go to a REC or monitoring facility. However, we cannot justify maintaining examination capability at all OCMI offices to serve those applicants. The Coast Guard perceives no specific number of candidates needed to request the service of a TET, but suggests that ten (10) would be a mimimum. Recognizing this aspect as being a highly local consideration, no specifics will be stipulated to the RECs. Two comments requested periodic visits, perhaps on a quarterly basis, to outlying areas.

Again, this is considered to be a matter of local (REC) judgment. one comment suggested that travel money for the TETs would probably be one of the first areas of reduction in the event of future budget constrictions. Under the REC concept, travel by the TETs is considered an operational element rather than an administrative activity. Therefore, this travel is considered to be a relatively high priority budget item. One comment proposed that the TETs be made an integral part of the regulations. The Coast Guard does not agree with this proposal, as such action would tend to possibly reduce the efficiency and responsiveness it is desired to impart to this operation. One comment questioned if any restrictions would be placed on the types of examinations that would be administered by the TETs. Ideally, all examinations administered to a particular group would be of the same type, though this is not a necessity. As long as prior arrangements are made with the REC, any type of examination may be administered by a TET at a particular instance.

Nine comments address various aspects of REC administration. A digest of their general questions or areas of concern is as follows:

Physical Facilities

Several comments questioned the ability of the designated REC locations to absorb additional candidates due to size of examination rooms, etc. The REC designated ports have submitted their space needs (based on projected increases in workload) and by inception date (July 1, 1982) will have generally completed the necessary reconfiguration or relocation. The only notable exception is at REC Miami, which will be hopefully resolved by September 1, 1982. Until resolution of this problem, limited licensing/certification activities will be continued at Tampa and San Juan. The expense of the reconfiguration/location is considered to be a one-time-only cost and should be recouped within 1 to 2 years. Another factor which reduced the cost of the physical facilities is the anticipated use of the TETs.

Examination Appointments

Examination appointments are considered necessary to insure an orderly operation of an REC. A number of existing offices use a "standby" system, for use in the case of "no-shows", and to fill the place of unsuccessful candidates. It is contemplated the standbys will fill the vacancies created through failure(s) as they occur rather than just leaving a vacant space for an unnecessarily long period of time.

Mail Transactions

It is contemplated that much of the processing of applications for licenses/certificates will be done by mail, including the processing of applications for: original or up-graded certificates, original/upgraded licenses, and license renewals. This procedure will save time and money on the part of both the applicant and the Coast Guard and will reduce the time a candidate must spend away from his regular employment to that necessary to complete the examination.

Examination Scheduling

The upper level ("unlimited") licenses are presently given on a once a month basis. This will be expanded in the future to twice a month. Since these scheduled examinations take priority, some restriction on the lower level license applicants does exist and will continue to exist if their desired examination date does coincide with the upper level license test dates. A twice monthly schedule should ease this situation since, as long as space is available, the remaining vacancies in the exam room can be filled with other level license/certificate candidates.

Stability of Program Administrators

This problem was recognized in the preamble to the Notice of Proposed Rulemaking (NPRM) on this proposal. As explained in the NPRM, a REC core group is being established to be the professional cadre dealing with this function.

Examination Grading

Two comments addressed this aspect of operation, one being in favor of local grading of all examinations, the other opposed. Opposition was based on an increased chance of error (on the part of the examiner) and the contention that poor questions would not be quickly removed from the examinations. The Coast Guard does not feel that these are particularly valid objections in that the examiner(s) will be particularly careful in grading a marginal candidate, and all the answer sheets for Coast Guard Institute prepared multiple-choice type examinations are periodically submitted to the Institute for analysis and review.

Miscellaneous Considerations

Two comments addressed various other general aspects of the regulations concerning the licensing/certification program. These centered on regulations applicable to particular licenses and certain administrative procedures. As these comments are not considered germane to this particular rulemaking, they will not be addressed.

One comment addressed the wording of the proposed regulations themselves. Concern was expressed that the proposed wording would indicate the licensing and certification functions would be performed only at the particular physical location of an REC which would then make the status/authority of the TETs questionable. The Coast Guard does not share this view. The TETs operate in the name of, and under the authority of, the Officer in Charge, Marine Inspection (OCMI), of the REC location, and this fact is so indicated on any license or certificate issued, irrespective of the fact the particular examination was administered at a location removed from the physical location/city of the OCMI office.

Evaluation and Regulatory Flexibility Analysis

This regulation is not considered to be significant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT ORDER 2100.5 of 5–22–80). A final evaluation has been prepared and has been included in the public docket. A copy of the final evaluation may be obtained from Commandant (G–CMC/44), (CGD 76–193a) U.S. Coast Guard, Washington, D.C. 20593. As explained more fully in the evaluation and in the Notice of Proposed Rulemaking, this rule is expected to result in the reduction of 54 employees positions and annual savings to the government of approximately $850,000. The estimated additional cost to individuals seeking licenses/certificate is $136.00. Although comments were received on this cost analysis, primarily in regard to individual expenses, nothing has been presented which would substantially alter this estimate. The regulation has been evaluated under the Regulatory Flexibility Act. Pub. L. 96–354 (94 Stat.

1164) and is certified as having no significant economic impact on a substantial number of small entities.

List of Subjects

46 CFR Part 1

Administrative practice and procedure, Organization and functions (Government agencies).

46 CFR Part 10

Seaman.

46 CFR Part 12

Seaman.

46 CFR Part 187

Passenger vessels, Seaman.

In consideration of the foregoing, Parts 1, 10, 12, and 187 of the Code of Federal Regulations are amended as follow:

PART 1—ORGANIZATION, GENERAL COURSE AND METHODS GOVERNING MARINE SAFETY FUNCTIONS

1. By adding a note following § 1.05(b) to read as follows:

§ 105. [Amended]

* * * * *

Note.—Licensing and Certification functions are performed only by the Officer in Charge, Marine Inspection, at the following locations:

Boston, MA	St. Louis, MO
New York, NY	Toledo, OH
Baltimore, MD	Long Beach, CA
Charleston, SC	San Francisco, CA
Miami, FL	Seattle, WA
New Orleans, LA	Anchorage, AK
Houston, TX	Juneau, AK
Memphis, TN	Honolulu, HI

Where the term "Officer in Charge, Marine Inspection", or "Marine Inspection Office" is used within the context of Parts 10, 12 or 187 of this chapter, it is understood to mean that particular "Officer" or "Office" at one of the above listed locations.

PART 10—LICENSING OF OFFICERS AND MOTORBOAT OPERATORS AND REGISTRATION OF STAFF OFFICERS

2. By adding § 10.01–7, to read as follows:

§ 10.01–7 Regional Examination Centers.

Licensing and Certification functions are performed only by the Officer in Charge, Marine Inspection, at the following locations:

Boston, MA	St. Louis, MO
New York, NY	Toledo, OH
Baltimore, MD	Long Beach, CA
Charleston, SC	San Francisco, CA
Miami, FL	Seattle, WA
New Orleans, LA	Anchorage, AK
Houston, TX	Juneau, AK
Memphis, TN	Honolulu, HI

Where the term "Officer in Charge, Marine Inspection", or "Marine Inspection Office" is used within the context of this part it is to mean "Officer" or "Office" at one of the above listed locations.

PART 12—CERTIFICATION OF SEAMEN

3. By adding § 12.01–7, to read as follows:

§ 12.01–7 Regional Examination Centers.

Licensing and Certification functions are performed only by the Officer in Charge, Marine Inspection, at the following locations:

Boston, MA	New Orleans, LA
New York, NY	Houston, TX
Baltimore, MD	Memphis, TN
Charleston, SC	St. Louis, MO
Miami, FL	Toledo, OH
Long Beach, CA	Anchorage, AK
San Francisco, CA	Juneau, AK
Seattle, WA	Honolulu, HI

Where the term "Officer in Charge, Marine Inspection," or "Marine Inspection Office" is used within the context of this part it is to mean that "Officer" or "Office" at one of the above listed locations.

PART 187—LICENSING

4. By adding § 187.01–5, to read as follows:

§ 187.01–5 Regional Examination Centers.

The licensing function is performed only by the Officer in Charge, Marine Inspection, at the following locations:

Boston, MA	St. Louis, MO
New York, NY	Toledo, OH
Baltimore, MD	Long Beach, CA
Charleston, SC	San Francisco, CA
Miami, FL	Seattle, WA
New Orleans, LA	Anchorage, AK
Houston, TX	Juneau, AK
Memphis, TN	Honolulu, HI

Where the term "Officer in Charge, Marine Inspection," or "Marine Inspection Office" is used within the context of this part it is to mean that "Officer" or "Office" at one of the above listed locations.

(R.S. 4438 as amended (46 U.S.C. 224); c 258, sec. 3, 70 Stat. 152, as amended, (46 U.S.C. 390b); R.S. 4417a, as amended (46 U.S.C. 391a); c. 155, sec. 17, 54 Stat. 166, as amended (46 U.S.C. 526p); sec. 6(b), 80 Stat. 938 (49 U.S.C. 1655(b)); 49 CFR 1.46(b), unless otherwise noted)

Dated: June 28, 1982.

L. N. Hein,

Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 82–17936 Filed 6–30–82; 8:45 am]

BILLING CODE 4910–14–M

Proposed Rules

Federal Register
Vol. 47, No. 127
Thursday, July 1, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1207

Potato Research and Promotion Plan; Proposed Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rulemaking.

SUMMARY: This notice invites written comments on proposed expenses for the functioning of the National Potato Promotion Board. It would enable the Board to collect assessments from designated handlers on assessable potatoes and to use the resulting funds for its expenses.

DATES: Comments due by July 16, 1982.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077–S, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments shall be submitted and they will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250, (202) 447–2615. The Draft Impact Analysis relating to this proposed rule is available upon request from Mr. Porter.

SUPPLEMENTARY INFORMATION: Information collection requirements contained in this regulation (7 CFR Part 1207) have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB #0581–0093.

This proposed rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "nonmajor" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably affect costs for the directly regulated handlers.

The Potato Board is the administrative agency established under the Potato Research and Promotion Plan (7 CFR 1207). This program is effective under the Potato Research and Promotion Act (7 U.S.C. 2611–2627).

List of Subjects in 7 CFR Part 1207

Administrative practice and procedure, Marketing agreements, Advertising, Agricultural research, Potatoes.

PART 1207—POTATO RESEARCH AND PROMOTION PLAN

It is proposed that § 1207.410 (46 FR 48116, October 1, 1981) be removed and § 1207.411 be added as follows:

§ 1207.411 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period beginning July 1, 1982, and ending June 30, 1983, by the National Potato Promotion Board for its maintenance and functioning and for such purposes as the Secretary determines to be appropriate will amount to $2,470,000.

(b) The rate of assessment to be paid by each designated handler in accordance with the provisons of the Plan shall be one cent ($0.01) per hundredweight of assessable potatoes handled by such person during said fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as an operating monetary reserve.

(d) Terms used in this section have the same meaning as when used in the Potato Research and Promotion Plan.

(Title III of Pub. L. 91–670; 84 Stat. 2041; 7 U.S.C. 2611–2627)

Dated: June 28, 1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82–17089 Filed 6–30–82; 8:45 am]
BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 82–AWP–13]

Proposed Establishment of Control Zone, Camp Pohakuloa, Hawaii

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a control zone at Bradshaw Army Airfield (AAF), Pohakuloa, Hawaii, in order to provide controlled airspace for aircraft executing new instrument approach procedures to Bradshaw Army Airfield (AAF) utilizing the Bradshaw AAF, Nondirectional Radio Beacon (NDB).

DATES: Comments must be received on or before July 26, 1982.

ADDRESSES: Send comments on the proposal in triplicate to Director, Federal Aviation Administration, Attn: Chief, Airspace and Procedures Branch, AWP–530, 15000 Aviation Boulevard, Lawndale, California 90261. A public docket will be available for examination in the Office of the Regional Counsel, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; telephone: (213) 536–6270.

FOR FURTHER INFORMATION CONTACT: Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; Telephone (213) 536–6182

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the Airspace Docket Number and be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261. All communications received on or

before July 26, 1982, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested parties.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Chief, Airspace and Procedures Branch, AWP-530, 15000 Aviation Boulevard, Lawndale, California 90261, or by calling (213) 536-6180. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a control zone for Pohakuloa, Hawaii. This action will provide controlled airspace for aircraft utilizing IFR procedures to and from Bradshaw AAF.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Subpart F, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished in advisory Circular AC 70-3 dated January 29, 1982, as follows:

Pohakuloa, Hawaii.

Within a 5-mile radius of Bradshaw AAF (latitude 19°45'47" N., longitude 155°33'24" W.).

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Los Angeles, California, on June 16, 1982.

Richard L. Devereaux,

Acting Director, Western-Pacific Region.

[FR Doc. 82-17716 Filed 6-30-82; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 253

[EDR-444; Docket 40772; Dated: June 15, 1982]

Terms of Contract of Carriage

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The CAB is considering whether to set disclosure requirements for airlines that incorporate by reference some terms of their contracts of carriage with passengers, and thus to preempt from any State the entire area of what disclosure or notice of contract terms will be made to passengers. As of January 1, 1983, airlines will no longer file tariffs with the CAB containing the contract terms. The proposal responds to suggestions by industry representatives.

DATES: Comments by: August 2, 1982. Reply comments by: August 9, 1982.

Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on the Service List: July 12, 1982.

The Docket Section prepares the Service List and sends it to each person listed on it, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 40772, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Richard B. Dyson, Associate General Counsel, Rules and Legislation, or Joseph A. Brooks, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: The Airline Deregulation Act of 1978 (Pub. L. 95-504) eliminated, as of January 1, 1983, the filing with the Board of airline tariffs for domestic passenger transportation. Tariffs contain the terms of the contract by which an airline agrees to carry a passenger. Because tariffs are filed with an open to challenge by the government, passengers are conclusively presumed to know their terms. For that reason, the text of these terms does not have to be given to passengers, but the contract is assumed to incorporate the contents of applicable tariffs. This makes easy the use of uniform ticket stock by the airlines and travel agents, and simplifies the buying and using of airline tickets by passengers. On the other hand, very few passengers are aware of the availability of tariffs for their inspection, and even if they are, the format in which tariffs are presented makes them virtually impossible for laymen to use. The practical result is that passengers are only aware of those contract terms that carriers choose to disclose to them.

Starting in 1983, there will no longer be tariffs for domestic passenger travel, and airline contracts will be subject to the principles of law that apply to other types of business activity. Carriers may want to incorporate contract terms "by reference" to detailed documents that they do not regularly give to each passenger. Contract law requires, however, that both contracting parties receive reasonable notice of the contract terms. Carriers who attempt to incorporate terms without observing some basic protections may face serious questions of the fairness and even of the validity of airline contracts of carriage. Nevertheless, incorporation by reference appears to be important to the airlines.

For one thing, industry representatives feel that their contracts of carriage generally contain many terms that are of little interest to travelers in normal situations: for example, detailed requirements concerning baggage, rerouting, and amenities during delays. If these provisions were all spelled out in contracts given by each airline to passengers, they would be bulky and expensive documents that would burden travelers and make the ticketing, baggage handling, and boarding process more complicated than it is today. The Board has no evidence that the general public needs or wishes to receive this entire body of information with every flight.

Giving the entire contract to every passenger may complicate sales of transportation by travel agents on the many airlines now certificated. Interline travel would be even more complex, since different contract terms might

apply to the two or more carriers involved.

Airline representatives have suggested the need for legislation to deal with this problem, a copy of which has been placed in the docket of the proceeding. The Board is of the tentative opinion that uniform notice rules for incorporation by reference could, however, go far to meet the need without new legislation, and be issued under its authority to assure the provision of adequate service, and to protect passengers against unfair or deceptive practices.

Such uniform rules would also have the advantage of avoiding the possibility of differing and conflicting State and local laws governing the notice aspects of airline contracts. Within the limited area of contract disclosure requirements for scheduled passenger service in interstate and overseas air transportation, the Board would intend this rule to fully preempt State law. We solicit comment about whether this rule is necessary to achieve the goal of standard ticket stock, and whether it will provide or erode consumer protection.

Proposal

To solicit comments on these issues the Board has decided to propose a set of rules governing notice of terms incorporated by reference in contracts of carriage, to prevent any unfair or deceptive practices or methods of competition. The proposed rule would not determine the substance of the contract terms or their conscionability as determined by the courts, or prevent suits by passengers on the contract terms in either a State or Federal court. It would not specify the details of how the notice is to be written or presented. The proposed rule would thus intrude very little on the contracting process.

The primary proposal would apply only to direct U.S. air carriers providing scheduled passenger service in interstate and overseas air transportation, as defined in the Federal Aviation Act of 1958, with aircraft with more than 60 seats. Cargo carriers and indirect air carriers such as charter operators and freight forwarders do not now file tariffs. They and their customers have evidently adjusted to that contract environment, so for those categories there appear to be no reasons to impose new rules. Similarly, for local, non-interlining flights with small aircraft, the Board has exempted all air carriers from the filing of tariffs. For these operations, involving smaller amounts of money, shorter flights, simpler baggage handling, and generally fewer contingencies than large-aircraft operations, the ending of domestic tariffs will have little or no effect. These proposed rules would therefore not apply to such operations.

Interline travel involving both large and small aircraft raises more complex issues. Small-aircraft operators who interline under joint-fare agreements usually file their fare tariffs, but their practice varies widely concerning the filing of "conditions of carriage" that are the main subject of this rulemaking. The board does not have information as to how carriers large or small intend to deal with conditions of carriage after domestic tariffs end. It may be, for example, that the conditions established by the ticketing carrier will apply to an entire interline trip, regardless of the identity of the other interlining carriers. The Board is tentatively inclined to exempt small-aircraft operations from the proposed rules for all purposes. In the alternative, however, it proposes to include them for operations where they interline with large-aircraft operators, and comments are specifically requested on which application scheme would work best for all concerned.

The rule would provide that two types of notice must accompany any written document given to passengers that embodies their contracts, if the contract incorporates terms by reference. The airline would first give with the ticket "conspicuous" written notice that terms incorporated by reference are part of the contract, and that passengers may receive the full text of those terms. Second, because certain terms of a contract for carriage are important enough that they could cause passengers to change their travel plans, the proposed rule would require separate "conspicuous" written notice of those terms. They would include limitations on a carrier's liability, such as for baggage, limits on the time for making a claim against the airline, limits on the airline's obligation for refunds, and rules about such matters as check-in times and oversales. The notice for those terms would have to be of sufficient clarity and detail that passengers would be aware, or should reasonably be aware, of the main features of the terms. If the notice were not given as required, the airline could not use a term incorporated by reference to the disadvantage of the passenger. This approach tends to make the rule self-enforcing, and minimizes the need for government intervention. Remedies would be those under the governing contract law.

In addition to the required notice, airlines would have to make the full text of any term incorporated by reference in the contract of carriage available for public inspection at their stations and locations for selling transportation. They would have to provide free of charge, upon the request of a passenger, a copy of that text.

Industry representatives have suggested that any such rule should include a provision for future non-documentary (e.g., electronic) ticketing or contracts. If a permanent non-written record were used to embody the contract, the written notices would have to be given passengers when the record was established, or prior to boarding, whichever is earlier.

The proposed rule also takes into account shuttle-type service, where a passenger is typically given only a boarding pass at the gate, with or without a reservation, and then pays for the transportation on the plane. In such a case, the proposed rule would require the specified written notices to be given passengers prior to boarding.

The rule would facilitate the use of standard ticket stock where contract terms are incorporated by reference. It would also serve the purpose of alerting travelers to the main things they should know when purchasing air travel.

Industry representatives should be aware that the Board has made no final decision on the need for a rule in this area. This proposal is intended to bring forth information on the industry need for such a rule, and on what alternatives the industry might adopt, with what costs and benefits, if the Board decides not to go forward with a final rule.

Since the Board is especially interested in determining what effect this proposed rule would have on the traveling public, we invite consumer groups to give us their views. Additionally, this rule, if adopted, would have significant effects on the interrelationship between State and Federal law. We will therefore serve and seek comments on this proposal from the National Association of Attorneys General, the Attorneys General, and consumer affairs offices of the several States.

After reviewing the comments received in response to this proposal, the Board will consider whether to hold a public meeting where interested persons can present their views orally.

Comment Period

In light of the need to decide this issue expeditiously, whether or not the Board adopts a rule, there is good cause for setting a comment period somewhat shorter than usual. The industry must prepare for, and the public should be made aware of, the changes that will occur as a result of the ending of

domestic tariffs on January 1, 1983. The initial comment closing date will therefore be 30 days after publication in the **Federal Register**, with reply comments due 7 days after that.

Regulatory Flexibility Act

In accordance with 5 U.S.C.605(b), as added by the Regulatory Flexibility Act, Pub. L. 96–354, the Board certifies that none of the proposed changes will, if adopted, have a significant economic impact on a substantial number of small entities. The primary proposed rule would apply only to large aircraft operations and thus would not affect small air carriers. The alternative proposal would affect small carriers that interline with large aircraft operators. Its economic impact is not likely to be significant, however, because it would only involve possible minor changes in their ticketing procedures.

List of Subjects in 14 CFR Part 253

Advertising, Air carriers, Air transportation, Claims, Consumer protection, Law, and Travel.

Proposed Rule

The Civil Aeronautics Board proposes to amend 14 CFR Chapter II by adding a new Part 253, *Notice of Terms of Contract of carriage*, to read:

PART 253—NOTICE OF TERMS OF CONTRACT OF CARRIAGE

Sec.
253.1 Propose.
253.2 Applicability.
253.3 Incorporation by reference in the contract of carriage.
253.4 Notice of incorporated terms.
253.5 Carriage without advance tickets.

Authority: Sec. 204, 404, 411, Pub. L. 85–726, as amended, 72 Stat. 743, 760, 769; 49 U.S.C. 1324, 1374, 1381.

§ 2553.1 Purpose.

The purpose of this part is to set disclosure requirements for any terms incorporated by reference into a contract of carriage for scheduled service in interstate and overseas passenger air transportation, in the absence of tariff filing requirements.

§ 253.2 Applicability.

This rule applies to direct air carriers using aircraft with a passenger capacity of more than 60 seats engaged in interstate or overseas scheduled passenger air transportation, and all contracts with passengers by those air carriers for carriage in such air transportation.

Alternate Proposal

To apply the rule also to all air carriers, regardless of aircraft size, involved in single-ticket interlining trips involving at least one segment with over-60-seat aircraft,

§ 253.3 Incorporation by reference in the contract of carriage.

(a) A ticket or other written instrument, or any non-written record that embodies the contract of carriage, that is used by an air carrier and that incorporates contract terms by reference (*i.e.*, without stating their full text), shall contain or be accompanied by notice to the passenger as required by this part. An air carrier may not claim the benefit, as against a passenger, of any contract term incorporated by reference, if adequate written notice of the term has not been provided according to this part.

(b) Each air carrier shall make the full text of each term or condition that it incorporates by reference in a contract of carriage available for public inspection at each location where its passenger transportation is sold.

(c) Each air carrier shall provide free of charge to passengers, upon their request, a copy of the full text of terms or conditions incorporated by reference in the contract of carriage.

§ 253.4 Notice of incorporated terms.

Each air carrier shall include in or with the ticket, or other written instrument that embodies the contract of carriage given to a passenger—

(a) Conspicuous written notice that any terms incorporated by reference are part of the contract, and that passengers have the right, upon request, to receive free of charge the full text of each such incorporated term; and

(b) Conspicuous written notice of the following terms, described with sufficient clarity and detail that the passenger will be aware, or should reasonably be aware, of their main features:

(1) Limits on the air carrier's liability for loss of or damage to or delay of goods or baggage, delay or failure to perform services under the contract, or personal injury or death of passengers.

(2) Limits on the time for making a claim or bringing an action against the carrier for its acts or omissions or those of its agents.

(3) Limits on the carrier's obligation for refunds.

(4) Rights of the carrier to change any term of the contract, including the price.

(5) Rules concerning reservations, reconfirmations, check-in times, refusal of carriage, and oversales.

§ 253.6 Carriage without advance tickets.

(a) If an air carrier offers passenger transportation where the contract of carriage is not made in advance of boarding (*e.g.*, "shuttle" service where payment is made on board), the written notices required by this part shall be given to the passenger before boarding.

(b) If a permanent non-written record is used by a carrier to embody the contract of carriage, the written notices required by this part shall be provided to the passenger at the time and place such record is established, or before boarding, whichever is earlier.

(Secs. 204, 404, 411, Pub. L. 85–726, as amended, 72 Stat. 743, 760, 769; 49 U.S.C. 1324, 1374, 1381)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–17978 Filed 6–30–82; 8:45 am]
BILLING CODE 6320–01–M

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14 CFR Part 262

[EDR–445; Docket 40773]

Agreements Between Air Carriers and Foreign Countries

June 15, 1982.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB is proposing to eliminate its present reporting requirement that every U.S. air carrier file with the Board evidence of each agreement involving operating rights between the air carrier and any foreign country. The agreements are rarely used and are unnecessary for the Board's enforcement duties. This rulemaking is at the Board's initiative.

DATE: Comments by August 30, 1982.

Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on the Service List: July 16, 1982.

The Docket Section prepares the Service List and sends it to each person listed on it, who then serves comments on others on the list.

ADDRESS: Twenty copies of comments should be sent to Docket 40773, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Nancy P. Trowbridge, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428;

(202) 673–5134; or Joanne Petrie, Office of the General Counsel, Rules & Legislation Division, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; (202) 673–5442.

SUPPLEMENTARY INFORMATION: 14 CFR Part 262, *Agreements Between Air Carriers and Foreign Countries*, requires every U.S. air carrier to file with the Board evidence of each agreement that in any way affects or involves operating rights between that air carrier and foreign country. "Agreement" is defined as any permit, concession, franchise, contract, understanding, or arrangement, and also any amendment, modification, renewal, rescission, or revocation thereof.

The reporting requirement was adopted in 1943 to establish a uniform procedure and to give the Board information about agreements filed under sections 407(a), *Filing Reports* and 1002, *International Agreements*, of the Civil Aeronautics Act of 1938, as amended. Apart from a recodification of all the Board's rules in 1949, no change has been made in this part since adoption. For many years, the only documents filed under Part 262 have been operating licenses and permits issued to U.S. air carriers by various foreign countries. The Board's records are incomplete, however, because many carriers have failed to file or keep the information current.

The Board proposes to revoke Part 262 because there are less burdensone ways to obtain the information when it is needed. In the few cases where the Board wanted to review the agreements filed under Part 262, the licenses were obtained directly from the carrier rather than from the board's files in order to ensure that the data were complete and up-to-date. The general reporting requirement has proved to be overinclusive and unnecessary. Elimination of the reporting requirement will remove a burden on both the reporting carriers and the Board, consistent with the goals of the Paperwork Reduction Act and the Airline Deregulation Act. Whenever particular information is needed, the Board has the authority under section 407 of the Federal Aviation Act to require that carriers provide it.

Regulatory Flexibility Act

The Board certifies that this rule, if adopted as proposed, will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, Pub. L. 96–354. Few small airlines have agreements with foreign countries. This proposed change will not have a significant practical or financial impact even for those that are currently required to report.

List Of Subjects in 14 CFR Part 262

Air carriers, Foreign trade.

Part 262 [Removed and Reserved]

Accordingly, the Civil Aeronautics Board proposes to remove and reserve 14 CFR Part 262, *Agreements Between Air Carriers and Foreign Carriers.*

(Secs. 204, 1102, Pub. L. 85–726, as amended, 72 Stat. 743, 797; 49 U.S.C. 1324, 1502)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–17976 Filed 6–30–82; 8:45 am]

BILLING CODE 6320–01–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 210, 229, 231, 240 and 241

[Release Nos. 33–6412; 34–18837; 35–22546; IC–12503; S7–936]

Supplemental Disclosures of Oil and Gas Producing Activities; Proposed Amendment of Rules

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rules.

SUMMARY: The Commission proposes to amend its requirements for supplemental oil and gas disclosures to require compliance with the provisions of a statement of financial accounting standards which the Commission expects will be issured by the Financial Accounting Standards Board ("FASB"). These provisions are set forth in an Exposure Draft recently issued by the FASB. The Commission is proposing rule amendments at this time to facilitate its prompt action on a final FASB standard. In addition, the Commission proposes to eliminate certain requirements for oil and gas disclosures set forth in Industry Guide 2 which duplicate requirements in Regulation S–X and the Exposure Draft. This action is consistent with the commitment announced in Accounting Series Release No. 289 to reexamine existing rules upon the development of an oil and gas disclosure standard by the FASB.

DATE: Comments should be received by the Commission on or before August 31, 1982.

ADDRESS: Comments should refer to File No. S7–936 and be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. All comments will be available for public inspection at the Commission's Public Reference Room.

FOR FURTHER INFORMATION CONTACT: James D. Hall (202–272–2141), M. Elizabeth Rader (202–272–2135) or John W. Albert (202–272–2081), Office of the Chief Accountant, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

Background

In Accounting Series Release No. ("ASR") 253 [1] issued in August 1978, the Commission concluded that significant improvements in the communication of financial position and results of operations of oil and gas producers could be achieved by developing a method of accounting that provides for recognition in financial statements of proved oil and gas reserves as assets and changes in proved oil and gas reserves in earnings and by supplementing historical-cost financial statements with (1) disclosure of certain historical information relating to oil and gas producing activities; and (2) disclosure of information relating to future net revenues from estimated production of proved oil and gas reserves. However, after experimenting with Reserve Recognition Accounting ("RRA"), a method of accounting designed to account for proved oil and gas reserves [2], the Commission announced in ASR 289 [3] its view that RRA did not possess the requisite degree of certainty to be accepted as a primary method of accounting. Therefore, the Commission announced that it no longer considered RRA to be a potential method of accounting in the primary financial statements. The Commission also announced its support of the development of an appropriate set of disclosures to supplement historical-cost financial statements for oil and gas producers. [4]

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[1] Accounting Series Release No. 253, "Adoption of Requirements for Financial Accounting and Reporting Practices for Oil and Gas Producing Activities," August 31, 1978, (43 FR 40680).

[2] See Securities Act Release 5969, "Oil and Gas Producing Activities—Proposed Supplemental Earnings Summary," August 31, 1978, (43 FR 40720); ASR 269, "Oil and Gas Producers—Supplemental Disclosures on the Basis of Reserve Recognition Accounting," September 24, 1979, (44 FR 57080); ASR 270, "Oil and Gas Producers—Postponement of Audit Requirements for Reserve Information," September 24, 1979, (44 FR 57037); and ASR 277, "Oil and Gas Reserve Information—Postponement of Audit Requirement," April 17, 1980, (45 FR 27747).

[3] ASR 289, "Financial Reporting by Oil and Gas Producers," February 26, 1981, (46 FR 15496).

[4] As stated in Financial Reporting Release No. 1, "Codification of Financial Reporting Policies," April 15, 1981. Section 406.02 sets forth the Commission's views on supplemental disclosures related to oil and gas producing activities.

The FASB then started a project to develop a comprehensive set of disclosures about oil and gas producing activities. At the outset of the project, the FASB formed a task force comprised of knowledgeable persons from the oil and gas industry, petroleum engineering and geological consulting firms, the financial community, the public accounting profession, and academe to advise the FASB staff on technical matters encompassed by the scope of the project.

In May 1981, the FASB published an Invitation to Comment entitled "Disclosures about Oil and Gas Producing Activities" and received many letters of comment. It conducted a public hearing at which interested parties presented their views and it held several open meetings to discuss these issues. The task force met twice with the FASB staff and individual task force members provided comments to the FASB and its staff.

During April 1982, the FASB issued an Exposure Draft ("ED") of a proposed statement entitled "Disclosures about Oil and Gas Producing Activities." This proposed statement would apply to publicly held enterprises only and describes a comprehensive set of disclosures about oil and gas producing activities. Those disclosures include the following supplementary information:

- Proved oil and gas reserve quantities.
- Capitalized costs relating to oil and gas producing activities.
- Costs incurred in oil and gas producing activities.
- Results of operations for oil and gas producing activities.
- A standardized measure of discounted future net cash flows relating to proved oil and gas reserves.

Commission Position

The Commission's staff has followed closely the development of the ED and has analyzed its provisions. The Commission believes that the disclosures described by the ED will assist in meeting the objectives of financial reporting set forth in FASB Concepts Statement No. ("SFAC") 1,[5] and that they possess the qualitative characteristics of useful accounting information set forth in SFAC 2.[6]

Disclosures described by the ED would be similar in many respects to disclosures presently required by existing Commission rules. The Commission has evaluated the disclosures described by the ED and believes that such disclosures provide adquate information about oil and gas producing activities particularly because a presentation of a standardized measure of discounted future net cash flow relating to proved oil and gas reserves and a reconciliation of such standardized measure from period to period are included in the disclosure package. Therefore, the Commission proposes to amend its rules to require disclosure in filings with the Commission of the information described by the ED.

In proposing to require compliance with the provisions of the ED, the Commission does not intend to discourage comments about the substantive issues. Moreover, it realizes that because of the FASB's due process procedures, the disclosure provisions ultimately included by the FASB in the final standard may be different from those in the ED. However, the Commission will also review the comment letters on the ED and on this proposal and expects to require compliance with the final standard adopted by the FASB. Therefore, the rules proposed herein refer to the expected FASB final standard.

The Commission especially encourages input concerning a particular existing Regulation S–X disclosure requirement which is not included in the disclosures described by the ED. The Commission believes that separate presentation of amounts of future net revenues from proved reserves applicable to each of the first three succeeding fiscal years may provide information sufficiently useful to be included in the disclosure package. Such disclosure may be particularly important when near-term cash flows are significantly affected by development and production expenditures. In addition, such disclosure may be useful in assessing the predictive value of the standardized measure of discounted future net cash flows related to proved oil and gas reserves. Interested persons are specifically invited to comment to the FASB and the Commission on this issue.

Discussion of Proposed Rule Changes

The disclosures described by the ED are supplemental to the financial statements. Presently, certain of the disclosures required by Regulation S–X, rule 4–10(k), are supplementary information and others are considered to be an integral part of the financial statements. To be consistent, the Commission proposes to delete Rule 4–10(k), and to locate its requirements for supplementary oil and gas disclosures in Item 302 of Regulation S–K, which presently contains rules requiring supplementary financial information about (a) selected quarterly financial data and (b) the effects of changing prices.

If these proposed rule amendments are adopted, § 240.14c–3(a)(3) of the Proxy Rules would require that the oil and gas disclosures be included in the annual report to shareholders as supplementary financial information and Note 1 to § 240.14a–3(b)(1) and Note 1 to § 240.14c–3(a)(1) would be deleted.

Proposed Item 302(c) contains criteria for determining when oil and gas producing activities are significant. The proposed criteria differ from the significance criteria presently provided in Rule 4–10(k) only in that the test related to revenues has been deleted. The proposed criteria are intended to be consistent with the tests used to determine a significant subsidiary as set forth in Regulation S–X, § 210.1–02(v).

The Commission's proposed amendments specify the periods for which the supplementary disclosures should be presented. Whereas the ED specifies that the disclosures be made when a "complete set of financial statements" is presented, the Commission proposes that income statement related disclosures be presented for each annual income statement required, and that balance sheet related disclosures be presented for each year-end balance sheet required.

The following section sets forth a cross reference of subject matter between existing rules under Regulation S–X and the ED.

[5] Statement of Financial Accounting Concepts No. 1, "Objectives of Financial Reporting by Business Enterprises," November 1978.

[6] Statement of Financial Accounting Concepts No. 2, "Qualitative Characteristics of Accounting Information," May 1980.

Regulation S–X, rule 4–10(k) Reference	ED paragraph No.	Explanation
First paragraph	7	Supplementary nature of the disclosures.
Exemption	General materiality standard	Criteria to determine when oil and gas producing activities are significant.
(1)	6	Disclosure of method of accounting.

Regulation S-X, rule 4-10(k) Reference	ED paragraph No.	Explanation
(2)	17	Capitalized costs.
(3)	20, 21	Costs incurred.
(4)(i)	23a, 27	Revenues from producing oil and gas.
(4)(ii)	23-27	Manner of computing revenues from producing oil and gas.
(5)	9-16	Estimated quantities of proved oil and gas reserves.
(6), (6)(i)	28	Future net revenues from estimated production of proved oil and gas reserves.
(6)(ii)	28	Present Value of Estimated Future Net Revenues.
(6)(iii)	31	Other significant information.
(7)	Not included	Summary of Oil and Gas Producing Activities on the Basis of Reserve Recognition Accounting.
(8)	30	Summary of Changes in Present Value of Estimated Future Net Revenues.
(9)	N/A	Safe harbor provision.
N/A	23-27	Results of Operations for Oil and Gas Producing Activities.

Safe Harbor

The Commission intends to provide a safe harbor for disclosures made pursuant to its final Rules. It will incorporate the safe harbor provision now in rule 4-10(k)(9) within Rule 175 under the Securities Act of 1933, 17 CFR 230.175, and within the related safe harbor rules under the other federal securities laws.

Other Proposed Changes

In addition to the requirements of Regulation S-X, requirements for oil and gas disclosures are set forth in Guide 2 of the Industry Guides and Item 102 of Regulation S-K.[7] These requirements have evolved separately from the Regulation S-X provisions,[8] and as a consequence, certain disclosure requirements of Guide 2 are identical to certain Regulation S-X provisions. The Commission proposes to delete the following disclosure requirements from Guide 2:

—Item 1A of Guide 2 which requires disclosure of net quantities of proved reserves, proved developed reserves, qualifying reserves subject to long-term supply agreements with foreign governments, and the registrant's share of reserves of investees accounted for by the equity method.

—Item 1B which requires disclosure of the present value of estimated future net revenues for each of the categories described in Item 1A above.

—Instructions in Item 1A which call for: (1) separate disclosure of reserve quantities and present values by geographic area; and (2) the identity of the country or state where required information is not disclosed or where categories of reserves other than proved are disclosed due to state or foreign regulation.

—Item 3A which requires disclosure of net quantitites produced and net quantities received under qualifying supply contracts with foreign governments in which the registrant acts as producer.

In addition, the instructions in Item 1C of Guide 2 require a registrant to state affirmatively that no major discovery or other favorable or adverse event resulting in a significant change in reserves has occurred subsequent to year end. Since the proposed rules would impose a requirement to disclose a major discovery or favorable or adverse event in interim financial reports and generally accepted accounting principles require disclosure of subsequent events, the specific instruction in Item 1C is also proposed to be eliminated.

While these proposed rules focus only on those provisions of Guide 2 which duplicate requirements in Regulation S-X and disclosures described by the ED, the Commission intends to reexamine the other oil and gas disclosure requirements of Guide 2 and Regulation S-K in the near future. Although other requirements of Guide 2 are not being considered in the rule proposals announced today, commentators are encouraged to address these and any other aspects of the Commission's existing requirements for oil and gas disclosures.

Effective Date and Transition

The Commission proposes that its amended rules become effective upon the effective date of the expected FASB final standard. Similarly, it proposes that its transition period tract that of the expected FASB final standard.

Regulatory Flexibility Act Certification

Pursuant to Section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chairman of the Commission has certified that the amendment proposed herein will not, if adopted, have a significant economic impact on a substantial number of small entities. This certification, including the reasons therefor, is attached to this release.

List of Subjects in 17 CFR Parts 210, 229, 231, 240, and 241

Accounting, Reporting requirements, Securities.

Text of Proposed Rules

Chapter II of Title 17 of the Code of Federal Regulations is proposed to be amended as follows:

PART 210—FORM AND CONTENT OF AND REQUIREMENTS FOR FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, INVESTMENT COMPANY ACT OF 1940, AND ENERGY POLICY AND CONSERVATION ACT OF 1975

§ 210.4-10 [Amended]

1. By removing paragraph (k) of § 210.4-10.

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933 AND SECURITIES EXCHANGE ACT OF 1934 AND ENERGY POLICY AND CONSERVATION ACT OF 1975—REGULATIONS S-K

2. By revising the title of Part 229 to read as above:

3. By adding paragraph (c) to § 229.302 as follows:

§ 229.302 (Item 302) Supplementary financial information.

* * * * *

(c) *Information about oil and gas producing activities.*

Registrants engaged in significant (as defined in Instruction 1 below) oil and gas producing activities shall present in filings under the federal securities laws information about oil and gas producing activities (as those activities are defined in Regulation S-X, § 210.4-10(a)) in accordance with the provisions of Statement of Financial Accounting Standard ("SFAS") No. ——, "Disclosures about Oil and Gas Producing Activities."

Instructions to Paragraph (c).

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[7] In Securities Act Release 6384 (March 3, 1982), disclosure requirements for oil and gas operations were transferred from former item 2(b) of Regulation S-K to Guide 2 of the Industry Guides (47 FR 11476).

[8] Adopted in Securities Act Release 6383, "Adoption of Integrated Disclosure System," March 3, 1982, (47 FR 11380).

1. A registrant is engaged in significant oil and gas producing activities if it meets either of the conditions described below, based on its annual consolidated financial statements:

(i) The total of the "standardized measure of discounted future net cash flows" (as defined in paragraph 28 of SFAS NO. ——), including amounts attributable to investees accounted for under the equity method, plus the net capitalized costs of unproved properties exceeds 10% of the total assets of the registrant and its subsidiaries consolidated as of the end of either of its two most recent fiscal years; or

(ii) Income from continuing operations before income taxes, extraordinary items and cumulative effect of a change in accounting principle attributable to oil and gas producing activities, including amounts applicable to investees accounted for under the equity method, exceeds 10% of such income of the registrant and its subsidiaries consolidated for any of its three most recent fiscal years.

2. (a) SFAS No. —— disclosures that relate to annual periods shall be presented for each annual period for which an income statement is required, (b) SFAS NO. —— disclosures required as of the end of an annual period shall be presented as of the date of each audited balance sheet required, and (c) SFAS NO. —— disclosures required as of the beginning of an annual period shall be presented as of the beginning of each annual period for which an income statement is required.

3. This paragraph, together with § 210.4–10 of Regulation S–X, prescribes financial reporting standards for the preparation of accounts by persons engaged, in whole or in part, in the production of crude oil or natural gas in the United States, pursuant to Section 503 of the Energy Policy and Conservation act of 1975 [42 U.S.C. 6383] ("EPCA") and Section 11(c) of the Energy Supply and Environmental Coordination Act of 1974 [15 U.S.C. 796] ("ESECA") as amended by Section 505 of EPCA. The application of this paragraph to those oil and gas producing operations of companies regulated for ratemaking purposes on an individual-company-cost-of-service basis may, however, give appropriate recognition to differences arising because of the effect of the ratemaking process.

4. Any person exempted by the Department of Energy from any record-keeping or reporting requirements pursuant to Section 11(c) of ESECA, as amended, is similarly exempted from the related provisions of this paragraph in the preparation of accounts pursuant to EPCA. This exemption does not affect the applicability of this paragraph to filings pursuant to the federal securities laws.

PART 231—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

4. By removing Item 1 and paragraph A of Item 3 of the Securities Act Industry Guide 2, Disclosure of Oil and Gas Operations, of Part 231 and redesignating and revising paragraphs B and C of Item 3 as follows.

Guide 2. Disclosure of Oil and Gas Operations.

* * * * *

3. Production

A. For each of the last three fiscal years by the same geographic areas for which production data are required by SFAS No. ——:

(i) The average sales price (including transfers) per unit of oil produced and of gas produced;

(ii) The average production cost (lifting cost) per unit of production.

B. *Instructions.* Generally, net production should include only production that is owned by the registrant and produced to its interest, less royalties and production due others. However, in special situations (e.g., foreign production) net production before royalties may be provided, if more appropriate. If "net before royalty" production figures are furnished, the change from the usage of "net production" should be noted.

Any part of natural gas liquids production obtained through or from processing plant ownership rather than through leasehold ownership should be reported separately, if material.

Production of natural gas should include only marketable production of gas on an "as sold" basis. Production will include dry, residue, and wet gas, depending on whether liquids have been extracted before the registrant passed title. Flared gas, injected gas and gas consumed in operations should be omitted. Recovered gas-lift gas and reproduced gas should not be included until sold.

The transfer price of oil and gas produced should be determined in accordance with SFAS No. ——.

The average production cost per unit of production should be computed using production costs disclosed pursuant to SFAS No. ——. Units of production should be expressed in common units of production with oil or gas converted to a common unit of measure on the basis used in computing amortization (relative energy content or gross revenue method). *See* § 210.4–10(e)(3) or § 210.4–10(i)(3)(iii) of Regulation S–X, whichever is appropriate.

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

§ 240.14a–3 [Amended]

5. By removing "Note 1" to paragraph (b)(1) of § 240.14a–3.

§ 240.14c–3 [Amended]

6. By removing "Note 1" to paragraph (a)(1) of § 240.14c–3.

PART 241—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND THE GENERAL RULES AND REGULATIONS THEREUNDER

7. By conforming Exchange Act Industry Guide 2 Disclosure of Oil and Gas Operations to the amendments proposed for Securities Act Industry Guide 2.

Authority. These amendments are being proposed pursuant to the authority in Sections 6, 7, 8, 10 and 19(a) (15 U.S.C. 77f, 77g, 77h, 77j, 77s) of the Securities Act of 1933; Sections 12, 13, 14, 15(d) and 23(a) (15 U.S.C. 78*l*, 78m, 78n, 78o(d), 78w) of the Securities Exchange Act of 1934; Sections 5(b), 14 and 20(a) (15 U.S.C. 79e, 79n, 79t of the Public Utility Holding Company Act of 1935; Sections 8, 30, 31(c) and 38(a)) (15 U.S.C. 80a–8, 80a–29, 80a–30(c), 80a–37(a)) of the Investment Company Act of 1940.

Pursuant to Section 23(a)(2) of the Securities Exchange Act, the Commission has considered the impact of these proposals on competition and it is not aware at this time of any burden that such rule amendments, if adopted, would impose on competition. However, the Commission specifically invites comments as to the competitive impact of these proposals, if adopted.

In addition, the Commission is mindful of the cost to registrants and others of its proposals and recognizes its responsibilities to weigh with care the costs and benefits which result from its rules. Accordingly, the Commission specifically invites comments on the costs to registrants and others of the adoption of the proposals published herein.

By the Commission.

June 24, 1982.

Shirley E. Hollis,

Assistant Secretary.

Regulatory Flexibility Act Certification

I, John S. R. Shad, Chairman of the Securities and Exchange Commission, hereby certify, pursuant to 5 U.S.C. 605(b) that the proposed amendments contained in Securities Act Release No. 6412 which revise the disclosure requirements for oil and gas producing companies will not have a significant economic impact on a substantial number of small entities.

The reason for this certification is that it is anticipated that the effects of the proposed amendments, if adopted, will not be significant for any entity subject to its provisions and, therefore, will not have a significant economic impact on a substantial number of small entities because the compliance burden is not being increased and the required information is generally available from existing accounting records or otherwise available to the affected companies.

John S. R. Shad,

Chairman.

June 24, 1982.

[FR Doc. 82–17735 Filed 6–30–82; 8:45 am]

BILLING CODE 8010–01–M

17 CFR Parts 230, 239, and 240

[Release Nos. 33-6411 and 34-18836; File No. S7-935]

Registration Statement and Other Disclosure Documents Related to Standardized Options

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission is publishing for public comment two proposed rules and a new optional registration statement which would be available to the two existing issuers of standardized options listed for trading on a securities exchange. In addition, the Commission is seeking comment on a proposed rule which deems certain written options communications not to be a prospectus. The proposed amendments are intended to improve investor understanding of standardized options while reducing compliance costs to registrants and others.

DATE: Comments should be submitted on or before July 30, 1982.

ADDRESSES: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (for comments to be received prior to July 15, 1982) or 450 5th Street, N.W., Washington, D.C. 20549 (for comments to be received after July 15, 1982). Comment letters should refer to File No. S7-935. All public comments received will be available for inspection and copying in the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. 20549 (prior to July 15, 1982) or at 450 5th Street, N.W., Washington, D.C. 20549 (after July 15, 1982).

FOR FURTHER INFORMATION CONTACT: Gregory H. Mathews (202) 272-2589 or John Thomas (202) 272-2748, Division of Corporation Finance, regarding proposed Form S-20, proposed Rule 134a and proposed Rule 135b; and, with respect to proposed Rule 9b-1, William Golden (202) 272-2413, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission is proposing for comment: (1) a new optional registration statement form, Form S-20 (17 CFR 239.20), to be used to register options under the Securities Act of 1933 ("Securities Act") (15 U.S.C. 77a et seq.); (2) Rule 9b-1 (17 CFR 240.9b-1) under the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78a et seq.), which would establish an options disclosure document (the "disclosure document") containing information concerning options and options trading, and (3) Rule 135b (17 CFR 230.135b), which would exempt the disclosure document from the requirements of Section 5 of the Securities Act. The proposals are intended to foster better investor understanding of standardized options trading and to reduce compliance costs by shifting much of the information currently set forth in the registration statement into a new disclosure document containing a simplified explanation of options trading, which would be subject only to anti-fraud liability.

In addition, the Commission is proposing for comment Rule 134a (17 CFR 230.134a), under the Securities Act, which would permit the dissemination of instructional information about options and options trading to the public without such information being deemed to be a prospectus for purposes of Section 5 of the Act.

I. Background

In 1973, when the Chicago Board Options Exchange ("CBOE") was arranging to commence operation of an exchange for the trading of call options, the Division of Corporation Finance took a no action position with respect to CBOE's proposal that the CBOE Clearing Corporation be deemed the sole issuer and registrant of each option contract under the Securities Act of 1933 ("Securities Act").[1] The alternative approach of also treating each individual writer of an option as an issuer probably would have made it impractical for options to be registered and traded. In effect, the issuer, CBOE Clearing Corporation, was created for the purpose of facilitating the public trading of options.

In the absence of an individualized registration statement form, Form S-1 has been used to register options under the Securities Act. At the present time, the Options Clearing Corporation ("OCC")[2] and Trans Canada Options, Inc. ("TCO") are the only issuers of standardized options registered under the Securities Act.

In February 1979, the Commission published the Report of the Special Study of the Options Market ("Options Study") which, among other things, identified several problems arising from the effort to accommodate listed options trading within the existing framework for registering securities under the Securities Act.[3] The Options Study found that the requirements to provide information on the mechanics and risks of options trading, as well as information about the issuer, made the prospectus lengthy and complicated and did not meet the needs of options investors, many of whom may lack the financial background needed to understand the relatively technical descriptions presented in the registration statement.[4] In addition, it found that subjecting the nominal issuer of options to the procedural requirements of the Securities Act resulted in substantial costs,[5] since the operation of Section 10(a)(3) of the Securities Act and the requirements of Form S-1 necessitated revision and redistribution of the prospectus annually.[6]

The Options Study concluded that information relating to options and the trading markets for options should be separated from information about the issuer. Moreover, the staff of the Options Study believed that the information concerning listed options should be presented in a manner "readily understandable" to a reader without a financial background.[7]

Based upon these findings, the Options Study recommended that a specifically tailored Exchange Act disclosure document be developed into which certain of the information currently contained in the options prospectus would be moved. It was contemplated that this disclosure document would present a description of the risks and uses of options trading in a manner that would be intelligible to unsophisticated investors. The Options Study proposed that compliance with the Securities Act should be satisfied by the filing of a special form of registration statement and prospectus designed for the unique nature of an issuer of options, and by delivery of copies of the prospectus to the exchanges.

The optional registration form and rules the Commission is proposing today

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[1] CBOE urged this position on the basis that the CBOE Clearing Corporation would be the obligor for the performance of the contract.

[2] OCC, the successor to the CBOE Clearing Corporation, is jointly owned by the CBOE, the American Stock Exchange, the Pacific Stock Exchange and the Philadephia Stock Exchange.

[3] *Report of the Sepecial Study of the Options Markets to the Securities and Exchange Commission*, 96th Cong., 1st Sess. at 377-83 [Comm. Print 1978) (Hereinafter cited as "*Options Study*").

[4] *Id.* at 337.

[5] *Id.* at 379.

[6] Section 10(a)(3) of the Act prohibits the use of a prospectus more than nine months after the effective date of the registration date if the prospectus contains information which is more than sixteen months old. Item 19 of Form S-1 requires current financial information to be included in a prospectus.

[7] *Options Study* at 380.

are designed to implement the recommendations of the Options Study in this area, although differing somewhat in certain respects.

II. Discussion

Proposed Form S–20 for registration of standardized options under the Securities Act and proposed Rule 9b–1 specifying the requirements of an options disclosure document filed pursuant to the Exchange Act are intended to establish a new disclosure framework specifically tailored to the information needs of investors in standardized options. Under the proposed new system, the exchange(s) on which standardized options are listed would be permitted to prepare a disclosure document describing the uses, mechanics and risks of options trading and other matters in language that can be easily understood by the general investing public. The disclosure document would be an Exchange Act filing subject to review and amendment procedures specified by the Commission. Once this disclosure document became available, registered broker-dealers would be required to provide a copy to each customer at or prior to the approval of the customer's account for trading any options covered by the document.

The issuer of standardized options would be able to use proposed Form S–20 in conjunction with the options disclosure document. The contents of this abbreviated registration form would be limited to information related to the registrant and the securities to be registered. Much of the information currently set forth in the prospectus portion of the registration statement would be shifted into either Part II of the registration statement or into the disclosure document. Disclosure of some information would no longer be required.

Table A indicates the manner in which existing disclosure requirements would be relocated, revised or eliminated. As indicated by Table A, it is contemplated that most subjects required to be addressed could be presented in a significantly streamlined and simplified fashion. The following discussion addresses the major aspects of these proposals.

TABLE A.—PROPOSED REVISION OF OPTIONS DISCLOSURE REQUIREMENTS

Information currently in Form S–1 registration statement	Eliminated	Disclosure Document	Form S–20	
			Pt I	Pt II
1. Glossary of Terms		X		
2. Prospectus Summary	X			
3. Certain Risk Factors	X			
4. Description of Options and Options Trading:				
a. Terms of Options		X		
b. Adjustments in Terms of Options		X		
c. Limitations on Exercise		X[1]		
d. Special Exercise Settlement Procedures		X[1]		
e. Position Limits for Stock Options		X[1]		
f. Certificateless Trading			X[m]	
g. Underlying Securities		X[1]		
h. Hours of Trading For Stock Options		X[m]		
i. Order Placing and Execution		X[m]		
j. Acceptance and Rejection of Transactions by the Registrant			X	
5. Purposes and Risks of Options Transaction:				
a. General		X		
b. Buying Call Options		X		
c. Buying Put Options		X		
d. Writing Call Options		X		
e. Writing Put Options		X		
f. Spread Positions		X		
g. Straddles		X		
h. Miscellaneous Risks		X		
6. The Secondary Market in Options:				
a. General		X[m]		
b. Closing Sale Transactions		X[m]		
c. Closing Purchase Transaction		X[m]		
7. Exercise of Options:				
a. General		X		
b. Tender of Exercise Notices		X		
c. Assignment of Exercise Notices		X		
d. Delivery and Payment		X		
e. Remedies			X[m]	
f. The Back-Up System			X[m]	
8. Margin Requirements		X		
9. Federal Tax Aspects of Stock Options:				
a. Published Tax Rulings		X	or X	
b. Summary of Holding Period Requirements		X	or X	
c. Possible Tax Legislation		X	or X	
10. Transaction Costs:				
a. Commissions		X		
b. Other Charges	X			
c. New York State Transfer Tax	X			
11. The Exchanges and the Registant:				
a. The Exchanges		X		
b. The Registant			X	
c. Litigation Relating to Registant				X
12. Legal Opinions and Experts				X
13. Additional Information		X	X	
14. Financial Statements				X
15. Auditors' Opinion				X

[1] Disclosure generally would be limited to brief reference to the existence of specific exchange rules on the subject.
[m] Indicates that the manner in which the subject is discussed at present should be streamlined and simplified in the proposed disclosure dodcument or proposed Form S–20 Prospectus.

A. *Proposed Form S–20 Registration Statement*

1. *Availability of Form S–20.* Proposed Form S–20 would be available for registration of standardized options.[8] The registrant could be either a domestic or foreign issuer.[9] Use of the form would be optional, and a registrant could continue to utilize Form S–1. The one precondition for use of Form S–20 is that the registrant undertake not to issue, clear, guarantee or accept any security covered by the registration statement until there is a definitive options disclosure document meeting the requirements of proposed Rule 9b–1 of the Exchange Act.

2. *Delivery Requirement.* The Options Study recommended that, in lieu of disseminating a prospectus to investors, the issuer be required to disseminate a disclosure document pursuant to the Exchange Act. The Options Study proposed that the registrant's obligation under the Securities Act to deliver a prospectus to each options investor could be satisfied by filing copies of the prospectus with the exchange on which listed options are traded and having the exchanges provide the prospectus to investors upon their request. While the Commission's proposals include such a disclosure document, the requirement to deliver a short prospectus to investors has been retained.

One of the principal ways by which the full disclosure philosophy of the Securities Act is put into effect is by the prospectus delivery requirements of Section 5(b)(2) of the Securities Act. The commission believes that a delivery requirement is essential to assuring that investors are provided with information about the registrant and the securities being offered [10] as well as with notification that the prospectus must be accompanied or preceded by a disclosure document describing the material aspects of options trading and the possible risks involved.[11]

3. *Information required in the Prospectus.* Part I of proposed Form S–20 is designed to require a brief prospectus that provides the information necessary for an understanding of the issuer's rule with respect to the securities being offered. As currently proposed, it would contain only four items of information about the registrant and the registered securities.

The outside cover of the prospectus would present the information required by Item 501 of Regulation S–K [17 CFR 229.501]. It would include a statement that an options disclosure document addressing the mechanics and risks of options trading should accompany or precede delivery of the prospectus and that the financial statements and other information in Part II of the registration statement, except for the exhibits, are available from the registrant upon request. In addition, a foreign registrant would be required to present the information requested in Item 502(f) of Regulation S–K [17 CFR 229.502(f)]. Item 2 of the proposed Form calls for a description of the registrant, its business and the services it renders. The focus of the item is upon the functions performed by the registrant as a clearing agency in connection with the issuance of options. Item 3 calls for a brief description of the securities being registered, the contractual obligation of the registrant with respect to the securities and any restriction on the purchase of the securities.

Item 4 requires a discussion of the federal tax consequences. It can be argued that the tax consequences of purchase sale and exercise transactions should be presented in connection with the description of the securities being registered. In this regard, the registrant should be as knowledgeable as the options markets with respect to such information. As discussed in connection with the disclosure requirements of proposed Rule 9b–1, there also are sound arguments for requiring the discussion of tax consequences in the options disclosure document. The Commission requests comment on which document should contain this information since the Commission only intends to require such disclosure in one place.

The information required by Part I generally will not automatically become outdated with the passage of time. In order to avoid unnecessary expense and delay, the Commission believes that when there is a material change in the information contained in the prospectus, it usually would be sufficient to update the information by means of a prospectus supplement pursuant to Rule 424(b) or (c). The Commission invites specific comment on whether the information proposed to be required in Part I will, in fact, permit registrants to avoid the cost of redistributing the prospectus each year, and, if not, what changes in the content requirements of Part I or other changes would better achieve this objective.

4. *Information not required in the Prospectus.* Part II of proposed Form S–20, as with Part I, would contain only information concerning the registrant and the securities to be registered. Part II would be required to include: (1) information about officers and directors required by Item 401 of Regulation S–K (17 CFR 229.401), (Item 7); (2) legal proceedings required by Item 103 of Regulation S–K (17 CFR 229.103), (Item 8); (3) exhibits required by Items 601(b)(5) and 601(b)(24) of Regulation S–K (17 CFR 229.601), (Item 9); (4) financial statements required by Regulation S–X (17 CFR 210) and supplementary financial information required by Regulation S–K (Item 10); (5) an undertaking to update the financial information on an annual basis and an undertaking not to issue, clear, guarantee or accept any security registered on Form S–20 until there is a definitive options disclosure document with respect to the options class (Item 11).

B. The Proposed Rule 9b–1 Options Disclosure Document

As noted above, the Options Study recommended that information concerning listed options trading be separated from information about the issuer and that the information be presented in a manner that would be readily understood by the general investing public.[12] Proposed Rule 9b–1 would establish the procedures and disclosure requirements for the simplified disclosure document recommended by the Options Study.

1. *Availability of Rule 9b–1.* The Options Study recommendation dealt exclusively with OCC because, at the time, OCC was the only registered issuer of standardized options.[13] By contrast, proposed Rule 9b–1 would be available to any standardized options market which marketed and sold

[8] The term "standardized options" is defined in proposed Rule 9b–1 to mean option contracts which relate to options classes whose terms are limited to specific expiration dates and exercise prices.

[9] On November 2, 1981, the Commission declared effective the registration statement of the Trans Canada Options Inc. ("TCO"). TCO issues and performs clearing and related functions with respect to standardized options traded on the Toronto Stock Exchange and the Montreal Exchange.

[10] In the past, the Commission staff has taken the position that "where adequate information concerning the company is not readily available from published sources or there are special circumstances regarding the company's affairs which require careful evaluation, provision should be made whereby the prospectus will be delivered. * * *" Release No. 33–4890 (December 20, 1967) (33 FR 507).

[11] Inclusion of a reference to the options disclosure document would notify investors that the disclosure document is part of the package of information intended to provide full and fair disclosure to investors under the federal securities laws.

[12] *See Options Study* at 378–83.

[13] As noted, *supra*, "standardized options" are defined as options contracts traded on an options market which relate to options classes whose terms are limited to specific expiration dates and exercise prices.

options in the United States. The term "options market" is defined broadly in proposed paragraph (a)(1) of the rule to include any national securities exchange, foreign securities exchange, or an automated quotation system of a national securities association. Thus, the four national securities exchanges that currently trade options issued by OCC could utilize the options disclosure document. In addition, the proposed rule could be used by the Montreal and Toronto Stock Exchanges, which trade options issued by TCO, and by the National Association of Securities Dealers, Inc. ("NASD"), which has submitted a proposal to trade through it NASDAQ system options on over-the-counter securities.[14] The rule also would be available to any other standardized options traded on any national or foreign securities exchange which were sold in the United States.

The rule would permit two or more options markets to work together in formulating a single disclosure document covering options traded on each participating options market. In this connection, inasmuch as the current OCC prospectus relates to stock options classes traded on four existing U.S. exchanges, the Commission understands that those exchanges expect to cooperate in the development of a single document relating to these stock options classes. The Commission believes that such cooperation would be highly desirable. Indeed, the Commission believes that preparation of separate disclosure documents by each U.S. options exchange would place unnecessary burdens on broker-dealers and might result in substantial confusion. As a result, the Commission requests commentators to address whether the rule should specifically require options exchanges that permit the trading of options on the same type of underlying securities to jointly prepare an options disclosure document.

Proposed Rule 9b–1(b)(1) provides that, in order for an options market to utilize an options disclosure document, there must also be an effective Form S–20 prospectus relating to the same options classes. This provision ties in to a requirement in proposed Form S–20 that the registrant undertake not to permit the issuance of the options registered thereunder until there is available an options disclosure document covering the options classes being registered which meets the requirements of Rule 9b–1.

2. *Disclosure Requirements.* Proposed Rule 9b–1(c) sets forth the specific categories of information that would be required in the options disclosure document,[15] unless othewise provided by the Commission. These include: (1) A glossary of terms: (2) a description of the mechanics of options trading: (3) a decription of the material risks of trading options; (4) a description of the uses of the options; (5) identification of the market for the options; (6) a discussion of transaction costs; (7) a reference to applicable margin requirements; (8) description of the tax consequences of trading the options, and (9) identification of the instrument or instruments underlying the options. These proposed requirements reflect most of the information unrelated to the registrant which is contained in the current OCC and TCO prospectuses.

As discussed above, the proposal to require discussion of tax consequences in the options disclosure document would, if adopted, replace the proposal to include such a discussion in the prospectus. All information relating to the mechanics, uses and risks of options would be contained in the disclosure document. Therefore, it can be argued that, for the convenience of investors reviewing the information about options trading, the discussion of tax consequences should be set forth in the same place. The Commission specifically requests comment on which of the two proposed locations of the tax consequences discussion would better serve the statutory purpose of investor protection.

For the most part, the information required to be included in the disclosure document, as set forth in paragraph (c), would not change materially over time. Consequently, these matters should be described with particularity. For example, the risks and uses of options trading would remain the same from year to year for most options classes. Other requred information, such as standards for the approval of underlying secuities, margin requirements, and position and exercise limits, which may change with frequency, can be described generically. The Commission believes that usually it would be sufficient for an options market to disclose that there are exchange rules or other provisions relating to these subjects and that interested investors may obtain information concerning current specific standards or restrictions from their broker-dealer. The Commission invites commentators to indicate the extent to which they believe that such generic disclosure should suffice for other subjects and the reasons therefore.

Proposed Rule 9b–1(c)(10) provides that the Commission may require additional or more detailed information in an options disclosure document. Since standardized options trading is relatively new, and is expanding into mew markets and products, new issues and questions may arise that could justify special or more detailed consideration in a disclosure document. Moreover, with respect to options contracts that are not widely traded or whose terms are not widely known or easily discernible, such as newly registered options traded on a foreign securities exchange or new options products, additional information may be needed by investors in order for them to make informed investment decisions. Under the proposal, the Commission would have the flexibility to require that the necessary additional information be included in the disclosure document, even though, as a consequence, the document might be subject to periodic updating or other revision.

3. *Procedural Requirements.* Pursuant to paragraph (b)(1) of proposed rule 9b-1, a disclosure document could generally be furnished to investors on the sixtieth day after filing with the Commission. It is within the Commission's discretion, however, to accelerate or delay clearance of the disclosure document based on its determination as to the adequacy of the information contained in the filing. The proposal also is intended to permit the Commission to condition clearance of an options disclosure document on other action to be taken by the Commission should it determine that, due to the unique nature or circumstances of a particular market, it is necessary to make available to investors additional information beyond that provided in the disclosure document or to take other action for the protection of investors.

Paragraph (b)(2) of proposed Rule 9b-1 indicates that an options disclosure document must be amended to reflect material changes in the information contained therein. The paragraph provides that any such amendment would become definitive thirty days after filing. During the thirty day period, the Commission would review and clear the amendment. The Commission believes that the thirty day time period generally would be appropriate in view

[14] *See* Release No. 34–17158 (September 22, 1980) [45 FR 63596]. The Options Study raised a number of concerns regarding the NASD's proposal, the most important of which was that the proposal would have permitted NASD members to make simultaneous markets in both the option and the underlying stock. *See Options Study* at 956. The NASD currently is not actively pursuing this proposal, and this rule proposal should not be interpreted as setting forth a specific substantive Commission position regarding the NASD proposal.

[15] These generally are the items the Options Study recommended be included in an options disclosure document. *Options Study* at 381.

of the fact that many changes in the information contained in the disclosure document, such as a change in applicable stock exchange rules, can be foreseen by the options markets, and it should be possible in most instances to file an amendment with the Commission prior to the time the information in the disclosure document actually becomes outdated. The rule would give the Commission authority to process the filing sooner, and the Commission anticipates using this authority wherever feasible in cases where the amendment is technical or ministerial or where the amendment reflects a material change that already has occurred.

Paragraph (d) of the proposal prohibits a broker-dealer from either accepting an order from a customer to purchase or sell an options contract or approving a customer's account for options trading unless the broker-dealer has previously provided the customer with a disclosure document meeting the requirements of Rule 9b-1. This delivery requirement includes amendments to the disclosure document. It is intended to ensure that all options investors are provided with understandable information concerning the standardized options they trade, and that thereafter such disclosure is kept current. Proposed paragraph (d) is modeled after various rules of the exchanges, such as CBOE Rule 9.15 and AMEX Rule 926 and follows from the recommendations of the Options Study.

C. Rule 135b

Proposed Rule 135b would deem the option disclosure document filed pursuant to proposed Rule 9b-1 not to be an offer to sell or offer to buy, so that the use of the document would not create liability under Section 5 of the Securities Act. The document, however, still would be subject to the anti-fraud provisions.

D. Proposed Rule 134a

As part of its review of options disclosure practices, the Commission is addressing an additional area of concern regarding options. Rule 134a would specify that certain additional information can be included in a written options communication without it being deemed a prospectus. the Commission is taking this step to remove any impediments to broker-dealers and others who may wish to educate the investing public about options trading. The Commission wishes to emphasize, however, that proposed Rule 134a would not provide a means for distributing selling literature to the public.

Section 2(10)(b) of the Securities Act provides that an advertisement or other communication concerning a security shall not be deemed to be a prospectus if it states from whom a written prospectus can be obtained and does no more than identify the security, state its price and indicate by whom orders will be executed. The Section also gives the Commission authority to permit the inclusion of such other information as may be necessary or appropriate in the public interest and for the protection of investors.[16] The Commission has previously exercised this rulemaking authority to expand what may be permitted in written communications by registered investment companies.[17]

The Commission believes that the complex nature of options trading provides ample justification for developing a rule deeming instructional material about options not to constitute a prospectus. Like investment companies, which are subject to comprehensive regulation under the Investment Company Act of 1940, broker-dealers, which may be interested in utilizing such written communications,[18] are subject to comprehensive regulation by the Commission and by self-regulatory organizations under the Exchange Act.

As proposed, Rule 134a would be applicable only to written communications. For materials to come within the purview of the proposed rule their content must be limited to instructional information which does no more than explain, in general terms, the various strategies of option trading and the nature of the options markets. In addition, there are six conditions in the rule that must be met.

The first condition requires that the materials contain an explanation of the potential risks of options transactions. The risks that must be described are material risks associated with the information presented in the materials. For example, if the materials explain options trading in broad terms, the material risks associated with options trading in general must be disclosed. If the materials explain a specific options strategy, the material risks peculiar to such strategy must be disclosed in comparable detail. The Commission invites comment on whether the information proposed to be permitted in a Rule 134a communication is described in sufficient detail to enable persons to prepare and disseminate written materials pursuant to the Rule.

The second, third and fourth conditions are prohibitions as to what the materials cannot contain—no past or projected performance figures may be used; no recommendation to purchase or sell any option contract may be made; and no option class can be identified. The fifth condition is that the materials state from whom a prospectus may be obtained, and the sixth condition, if applicable, requires a statement identifying the person from whom an options disclosure document meeting the requirements of Rule 9b–1 may be obtained.

If the proposal is adopted, the Commission anticipates that the self-regulatory organizations and the exchanges, which have established review and approval procedures for options communications, would monitor carefully the materials that are distributed to the public pursuant to the provisions of the rule.

In addition to the issues raised above, the Commission requests comment on whether the proposed amendment, if adopted, would have an adverse effect on competition or would impose a burden on competition which is neither necessary nor appropriate in furthering the purposes of the Exchange Act. Comments on this inquiry should include, to the extent feasible, detailed empirical and evidentiary material in support of any conclusions, opinions or positions. Comment on this inquiry will be considered by the Commission in complying with its responsibilities under Section 23(a)(2) of the Exchange Act.

III. Regulatory Flexibility Act Certification

Pursuant to Section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chairman of the Commission has certified that the amendment proposed herein will not, if adopted, have a significant economic impact on a substantial number of small entities. This certification, including the reasons therefor, is attached to this release.

IV. Text of Proposals

List of Subjects in 17 CFR Parts 230, 239, and 240

Reporting Requirements, Securities.

In accordance with the foregoing, Parts 230, 239 and 240 of Chapter II, Title 17 of the Code of Federal Regulations are proposed to be amended as follows:

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[16] Congress granted the Commission this rulemaking authority in view of "the wide variations in the types of issuers, securities, and offerings subject to the Securities Act." S. Rep. No. 1036 at 13, 83d Cong., 2d Sess. (1954).

[17] See Release No. 33–5501 (June 16, 1975) [40 FR 27442].

[18] See, *e.g.*, letter of Merrill Lynch, Pierce, Fenner & Smith dated January 7, 1981, File No. S7–035.

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. By adding § 230.134a to read as follows:

§ 230.134a Options material not deemed a prospectus.

Written materials relating to standardized options, as defined in Rule 9b–1 under the Securities Exchange Act of 1934, shall not be deemed to be a prospectus for the purposes of Section 2(10) of the Securities Act of 1933: *Provided,* That such materials are limited to explanatory information, describing the general nature of the standardized options markets or one or more strategies: *And, Provided further,* That:

(a) The potential risks related to options trading generally and to each strategy addressed are explained;

(b) No past or projected performance figures, including annualized rates of return are used;

(c) No recommendation to purchase or sell any option contract is made;

(d) No specific option class is identified;

(e) The materials contain the name and address of a person or persons from whom a current prospectus meeting the requirements of Section 10 of the Act may be obtained; and

(f) If there is a definitive options disclosure document, as defined in Rule 9b–1 of the Securities Exchange Act of 1934, the materials shall contain the name and address of a person or persons from whom a copy of such document may be obtained.

2. By adding § 230.135b to read as follows:

§ 230.135b Materials not deemed an offer to sell or offer to buy.

For the purposes only of Section 5 of the Act, materials meeting the requirements of Rule 9b–1 of the Securities Exchange Act of 1934 shall not be deemed to constitute an offer to sell or offer to buy any security.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

3. By adding § 239.20 to read as follows: [Form S–20 does not appear in the Code of Federal Regulations].

§ 239.20 Form S–20, for standardized options.

This Form may be used to register standardized options under the Securities Act of 1933 where the issuer undertakes not to issue, clear, guarantee or accept an option registered on Form S–20 unless there is a definitive options disclosure document meeting the requirements of Rule 9b–1 of the Securities Exchange Act of 1934.

Securities and Exchange Commission

Form S–20

Registration Statement Under the Securities Act of 1933

(Exact name of registrant as specified in its charter)

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

(Name, Address, including zip code, and telephone number, including area code, of agent for service)

Approximate date of commencement of proposed sale to public

CALCULATION OF REGISTRATION FEE

Title of securities to be registered	Amount to be registered	Proposed maximum fee or charge per unit	Proposed maximum aggregate fee or charge	Amount of registration fee

Form S–20—GENERAL INSTRUCTIONS

I. *Eligibility requirement for use of Form S–20*

This form may be used for registration of standardized options under the Securities Act of 1933 ("Securities Act") provided that the registrant undertakes not to issue, clear, guarantee or accept an option registered on Form S–20 unless there is a definitive options disclosure document meeting the requirements of Rule 9b–1 of the Securities Exchange Act of 1934 with respect to the options class.

II. *Application of General Rules and Regulations*

A. Attention is directed to the General Rules and Regulations under the Securities Act, particularly those comprising Regulation C [17 CFR 230.400 to 230.494] thereunder. That Regulation contains general requirements regarding the preparation and filing of the registration statement.

B. Attention is directed to Regulation S–K [17 CFR Part 229] for the requirements applicable to the content of the non-financial statement portions of registration statements under the Securities Act. Where this Form directs the registration to furnish information required by Regulation S–K and the item of Regulation S–K so provides, information need only be furnished to the extent appropriate.

Part I. Information Required in Prospectus

Item 1. *Forepart of the Registration Statement and Outside Front Cover Page of Prospectus.* Set forth in the forepart of the registration statement and on the outside front cover page of the prospectus the information required by Item 501 of Regulation S–K [§ 229.501 of this chapter]. In the case of a foreign registrant, the information required by Item 502(f) of Regulation S–K [§ 229.502(f) of this chapter] also shall be included. In addition, the outside front cover page of the prospectus shall contain a statement to the effect that (1) an options disclosure document containing a description of the risks of options transactions is required to be furnished to option investors and stating from whom such a document may be obtained; (2) the financial statements and certain additional information required by Part II of the registration statement, other than exhibits, can be obtained without charge upon request from the registrant; and (3) the exhibits required by Part II of the registration statement can be inspected at the offices of the registrant or obtained from the registrant or the Securities and Exchange Commission upon payment of an appropriate fee.

Item 2. *Description of Registrant.* (a) State the year in which the registrant was organized, its form of organization and the name of the State or other jurisdiction under the laws of which it was organized.

(b) List all the parents of the registrants showing the basis of control.

(c) Briefly describe the business of the registrant and the services rendered by it.

Item 3. *Description of Securities to be Registered.* State the title of the securities to be registered, the rights evidenced by such securities, whether certificates representing these securities are issued, the contractual obligations of the registrant with respect to such securities and any restriction on the purchase of such securities.

Instruction. This item only requires a brief summary of the provisions of the security. A complete legal description of the provisions referred to is not required and should not be given; only a succinct resume is required.

Item 4. *Tax Consequences.* Briefly describe the federal income tax consequences of purchase, sale or exercise transactions to holders and writers of securities registered herein.

Part II. Information Not Required in Prospectus

Item 5. *Directors and Executive Officers.* Furnish the information required by Item 401 of Regulation S–K [§ 229.401 of this chapter].

Item 6. *Legal Proceedings.* Furnish the information required by Item 103 of Regulation S–K [§ 229.103 of this chapter].

Item 7. *Legal Opinions and Experts.* Furnish the information required by Items 601(b)(5) and 601(b)(24) of Regulation S–K [§ 229.601 of this chapter].

Item 8. *Financial Statements.* Include financial statements meeting the requirements of Regulation S–X [17 CFR Part 210] and the supplementary financial information specified by Item 12 of Regulation S–K [17 CFR 229.20].

Item 9. *Undertakings.* Furnish the following undertakings:

1. The undersigned registrant hereby undertakes to file a post-effective amendment, not later than 120 days after the end of each fiscal year subsequent to that

covered by the financial statements presented herein, containing financial statements meeting the requirements of Regulation S–X [17 CFR 210] and the supplementary financial information specified by Item 12 of Regulation S–K [17 CFR 229.20].

2. The undersigned registrant hereby undertakes not to issue, clear, guarantee or accept any security registered herein until there is a definitive options disclosure document meeting the requirements of Rule 9b–1 of the Securities Exchange Act of 1934 with respect to the class options.

Signatures

Pursuant to the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S–20 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of ———, State of ———, on ———, 19—, (Registrant) ——— by (Signature and Title) ———.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

(Signature) ———
(Title) ———
(Date) ———

Instructions 1. The registration statement shall be signed by the registrant, its principal executive officer of officers, its principal financial officer, its controller or principal accounting officer and by at least a majority of the board of directors or persons performing similar functions. If the registrant is a foreign person, the registration statement shall also be signed by its authorized representative in the United States.

2. The name of each person who signs the registration statement shall be typed or printed beneath his signature. Any person who occupies more than one of the specified positions shall indicate each capacity in which he signs the registration statement. Attention is directed to Rule 402 concerning manual signatures and to Item 601 of Regulation S–K concerning signatures pursuant to powers of attorney.

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1934

4. By adding § 240.9b–1 (Rule 9b–1) to read as follows:

§ 240.9b–1 Options disclosure document.

(a) *Definitions.* The following definitions shall apply for the purpose of this rule.

(1) "Options market" means a national securities exchange, an automated quotation system of a national securities association or a foreign securities exchange on which standardized options are traded.

(2) "Options class" means all options contracts covering the same underlying instrument.

(3) "Options disclosure document" means a document prepared by one or more options markets which contains the information required by this rule with respect to the options classes covered by the document.

(4) "Standardized options" are options contracts trading on an options market which relate to options classes the terms of which are limited to specific expiration dates and exercise prices.

(b)(1) Five preliminary copies of an options disclosure document containing the information specified in paragraph (c) of this section shall be filed with the Commission by an options market at least 60 days prior to the date definitive copies are furnished to customers, unless the commission determines otherwise having due regard to the adequacy of the information disclosed and the public interest and protection of investors. Five copies of the definitive options disclosure document shall be filed with the Commission not later than the date the options disclosure document is furnished to customers. Notwithstanding the above, the use of an options disclosure document shall not be permitted unless the options class to which such document relates is the subject of an effective registration statement on Form S–20 under the Securities Act. (2) If the information contained in the options disclosure document becomes materially inaccurate or incomplete or there is an omission of material information necessary to make the disclosure document not misleading, the options market shall file five copies of an amendment to such document with the Commission at least 30 days prior to the date definitive copies are furnished to customers, unless the Commission determines otherwise having due regard to the adequacy of the information disclosed and the public interest and protection of investors. Five copies of the definitive options disclosure document, as amended, shall be filed with the Commission not later than the date the amended options disclosure document is furnished to customers.

(c) *Information required in an options disclosure document.* An options disclosure document shall contain the following information, unless otherwise provided by the Commission, with respect to the options classes covered by the document:

(1) A glossary of terms;

(2) The mechanics of buying, writing and exercising the options, including settlement procedures;

(3) The risks of trading the options;

(4) The uses of the options;

(5) The market for the options;

(6) Transaction costs for the options;

(7) Applicable margin requirements;

(8) The tax consequences of trading the options;

(9) Identification of the instrument or instruments underlying the options class; and

(10) Such other information as the Commission may specify.

(d) *Broker-dealer obligations.* (1) No broker or dealer shall accept an order from a customer to purchase or sell an option contract relating to an options class that is the subject of an options disclosure document, or approve the customer's account for the trading of such option, unless the broker or dealer previously has delivered to the customer the options disclosure document.

(2) If an options disclosure document is amended, each broker and dealer shall promptly send the information contained in the definitive amendment to each customer whose account is approved for trading the options class(es) to which the options disclosure document relates.

Statutory Authority

These amendments are being proposed pursuant to Sections 2, 7, 10 and 19(a) of the Securities Act of 1933 and Sections 9, 15 and 23(a) of the Securities Exchange Act of 1934.

(Secs. 2, 7, 10, 19(a), 48 Stat. 74, 78, 81, 85; secs. 201, 205, 209, 210, 48 Stat. 905, 906, 908; secs. 1–4, 8, 68 Stat. 683, 685; sec. 12(a), 73 Stat. 143; sec. 7(a), 74 Stat. 412; sec. 27(a), 84 Stat. 1433; sec. 306(a)(2), 90 Stat. 57; sec. 505, 94 Stat. 2292; secs. 9, 15, 23(a), 48 Stat. 889, 895, 901; sec. 203(a), 49 Stat. 704; secs. 3, 8, 49 Stat. 1377, 1379; sec. 2, 52 Stat. 1075; secs. 6, 10, 78 Stat. 570–574, 580; sec. 11(d), 84 Stat. 121; sec. 18, 89 Stat. 155; sec. 204, 91 Stat. 1500; 15 U.S.C. 77b, 77g, 77j, 77s(a), 78i, 78o, 78w(a)).

By the Commission.

Dated: June 24, 1982.

Shirley E. Hollis,

Assistant Secretary.

Regulatory Flexibility Act Certification

I, John S.R. Shad, Chairman of the Securities and Exchange Commission, hereby certify, pursuant to 5 U.S.C. 605(b), that the proposed amendments published in Release No. 33–6411 (June 24, 1982) "Registration Statement and Other Disclosure Documents Related to Standardized Options" will not, if promulgated, have a significant economic impact on a substantial number of small entities. The Options Clearing Corporation and the options markets are not small entities. Although it is expected that the proposed amendments will result in a reduction in the aggregate compliance costs of the brokerage industry, it is expected that the impact on individual broker-dealers that are small entities will not be significant.

Dated: June 24, 1982.

John S.R. Shad,

Chairman.

[FR Doc. 82-17736 Filed 6-30-82; 8:45 am]

BILLING CODE 6010-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 31

Proposed Forms W-2c, Statement of Corrected Income and Tax Amounts; W-3c, Transmittal of Corrected Income and Tax Statements

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed forms.

SUMMARY: The Internal Revenue Service is proposing for public comments two new forms for correcting Forms W-2, W-2AS, W-2GU, W-2VI, W-2P, and W-3. The Service, after considering all comments and suggestions, plans to adopt the proposed forms in 1982, with any appropriate changes resulting from the comments.

DATE: Written comments and suggestions should be mailed or delivered by August 16, 1982.

ADDRESS: Written comments and suggestions should be mailed or delivered to the Chairman, Tax Forms Coordinating Committee, Internal Revenue Service, Room 5577, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Nirdlinger, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, telephone (202) 566-6413 (not a toll-free telephone number).

SUPPLEMENTARY INFORMATION: Form W-2c is to be used by an employer (or other payer, in the case of Form W-2P) to correct errors on previously filed Forms W-2, W-2AS, W-2GU, W-2VI, or W-2P. Form W-3c is used to transmit copies of Form W-2c to the Social Security Administration.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978.

Nelson A. Brooke,

Chairman, Tax Forms Coordinating Committee.

BILLING CODE 4830-01-M

Do not staple forms W–2c or W–3c

1 Year Being Corrected: 19	2 Control Number	For Official Use Only OMB No. Expires
3 Form: ☐ W–2 ☐ W–2AS ☐ W–2GU ☐ W–2VI ☐ W–2P ☐ Subtotal		4 Employer's SSA Number 69–
5	Statutory employee / Deceased / Pension Plan / Legal Rep. / 942 employee	6 Employer's State Number
Original	☐ ☐ ☐ ☐ ☐	
Corrected	☐ ☐ ☐ ☐ ☐	
7 Employee's Social Security Number		9 Employer's Federal identification number
8 Employees Name, Address and Zip Code		10 Employer's Name, Address and Zip Code

Changes

Item	(a) As Originally Reported	(b) Correct Information	(c) Difference (b less a)
11 Employee's SSN		See item 7 above	
12 Employee's name —		See item 8 above	
13 FICA Wages			
14 FICA Tips			
15 FICA Tax Withheld			
16 Wages, Tips, and Other Compensation			
17 Federal Income Tax Withheld			
18 Advance EIC Payments			
19 Gross Annuity, Pension, Retire Pay or IRA Payment (W–2P only)			
20 Taxable Amount (W–2P only)			
21 IRA Code (W–2P only)			
22 State or Local Wages			
23 State or Local Income Tax			

24 Explain Changes Here

FORM W–2c STATEMENT OF CORRECTED INCOME AND TAX AMOUNTS

Department of the Treasury
Internal Revenue Service

Copy A For Social Security Administration

General Instructions

A. Purpose of Form.—Form W–2c is used by an employer (or other payer, in the case of Form W–2P) to correct errors in previously filed Forms W–2, W–2P, W–2AS, W–2GU, or W–2VI. Use a separate Form W–3c, Transmittal of Corrected Income and Tax Statements, to transmit each type of form shown in item 3 above.

The W–2c may be used to correct wage and tax information for years 1978 and later. For years before 1978, you must use Form 941c, Statement to Correct Information Previously Reported Under FICA. Section 218 filers (certain State and local governmental employers) must use Form SSA–3964, State's Report of Adjustments, for years before 1982.

B. Where to File.—DO NOT file Form W–2c with the IRS. See the instructions for Form W–3c to find where to file Copy A. Distribute the remaining copies just as you would the original W–2.

C. How to Complete Form W–2c.—For descriptions of individual items, see the instructions for Form W–2 and W–2P. Complete items 1–10 as applicable. For items 11–23 (Changes) complete only those items that are being corrected. Otherwise leave blank.

Form W–2c may be submitted alone (without a W–3c) to correct an employee's name or social security number. If these are the only changes you need to make, complete only items 1–10, and 11 or 12 (whichever is being corrected).

On any line that shows a dollar change, and one of the amounts is zero, enter "zero" or "0.00"—do not leave blank.

Specific Instructions

Item 2.—This is an optional item which employers may use to identify individual forms. You may use up to seven digits.

Item 4.—Employer's SSA Number.—This is a number beginning with "69–" that is assigned to certain State or local governmental employers. Also add your coverage group number and/or PRU number, if assigned.

Item 6.—Employer's State Number.—You are not required to complete this item. This number is assigned by the individual states. You may want to complete this item if you use copies of this form for your State returns.

Items 22 and 23.—State or Local data.—If your ONLY changes to the original W–2 are to State or local data, DO NOT send the W–2c to SSA or your State Social Security Administrator.

Item 24.—Explanation.—You must complete this item if you are a section 218 filer. It is optional for all other employers.

Paperwork Reduction Act Notice.—The Paperwork Reduction Act of 1980 says we must tell you why we are collecting this information, how we will use it, and whether you have to give it to us. We ask for the information to carry out the Internal Revenue and Social Security laws of the United States. We need it to ensure that you are complying with these laws and so that we can figure and collect the correct amount of tax. You are required to give us this information.

353–427–1

1 Year Being Corrected 19	2 Control Number	For Official Use Only OMB No. Expires
3 Form: ☐ W-2 ☐ W-2AS ☐ W-2GU ☐ W-2VI ☐ W-2P ☐ Subtotal		4 Employer's SSA Number 69–
5 Statutory employee / Decessed / Pension Plan / Legal Rep. / 942 employee — Original ☐ ☐ ☐ ☐ ☐ — Corrected ☐ ☐ ☐ ☐ ☐		6 Employer's State Number
7 Employee's Social Security Number		9 Employer's Federal identification number
8 Employees Name, Address and Zip Code		10 Employer's Name, Address and Zip Code

Changes

Item	(a) As Originally Reported	(b) Correct Information	(c) Difference (b less a)
11 Employee's SSN		See item 7 above	
12 Employee's name		See item 8 above	
13 FICA Wages			
14 FICA Tips			
15 FICA Tax Withheld			
16 Wages, Tips, and Other Compensation			
17 Federal Income Tax Withheld			
18 Advance EIC Payments			
19 Gross Annuity, Pension, Retire Pay or IRA Payment (W-2P only)			
20 Taxable Amount (W-2P only)			
21 IRA Code (W-2P only)			
22 State or Local Wages			
23 State or Local Income Tax			

24 Explain Changes Here

FORM W-2c STATEMENT OF CORRECTED INCOME AND TAX AMOUNTS

Department of the Treasury
Internal Revenue Service

Copy 1 For State, City, or Local Tax Department

353-427-1

1 Year Being Corrected 19	2 Control Number	For Official Use Only OMB No. Expires
3 Form: ☐ W-2 ☐ W-2AS ☐ W-2GU ☐ W-2VI ☐ W-2P ☐ Subtotal		4 Employer's SSA Number 69–
5 Statutory employee / Deceased / Pension Plan / Legal Rep. / 942 employer — Original ☐ ☐ ☐ ☐ ☐ — Corrected ☐ ☐ ☐ ☐ ☐		6 Employer's State Number
7 Employee's Social Security Number		9 Employer's Federal identification number
8 Employees Name, Address and Zip Code		10 Employer's Name, Address and Zip Code

Changes

Item	(a) As Originally Reported	(b) Correct Information	(c) Difference (b less a)
11 Employee's SSN		See item 7 above	
12 Employee's name		See item 8 above	
13 FICA Wages			
14 FICA Tips			
15 FICA Tax Withheld			
16 Wages, Tips, and Other Compensation			
17 Federal Income Tax Withheld			
18 Advance EIC Payments			
19 Gross Annuity, Pension, Retire Pay or IRA Payment (W–2P only)			
20 Taxable Amount (W–2P only)			
21 IRA Code (W–2P only)			
22 State or Local Wages			
23 State or Local Income Tax			

24 Explain Changes Here

FORM W–2c STATEMENT OF CORRECTED INCOME AND TAX AMOUNTS

Department of the Treasury
Internal Revenue Service

Copy B to be filed with employee's FEDERAL tax return

This information is being furnished to the Internal Revenue Service

363-427-1

1 Year Being Corrected: 19	2 Control Number	For Official Use Only OMB No. Expires

3 Form: ☐ W–2 ☐ W–2AS ☐ W–2GU ☐ W–2VI ☐ W–2P ☐ Subtotal	4 Employer's SSA Number 69–
5	Statutory employee	De-ceased	Pension Plan	Legal Rep.	942 employee
Original ☐ ☐ ☐ ☐ ☐
Corrected ☐ ☐ ☐ ☐ ☐	6 Employer's State Number
7 Employee's Social Security Number	9 Employer's Federal identification number
8 Employees Name, Address and Zip Code	10 Employer's Name, Address and Zip Code

Changes

Item	(a) As Originally Reported	(b) Correct Information	(c) Difference (b less a)
11 Employee's SSN		See item 7 above	
12 Employee's name		See item 8 above	
13 FICA Wages			
14 FICA Tips			
15 FICA Tax Withheld			
16 Wages, Tips, and Other Compensation			
17 Federal Income Tax Withheld			
18 Advance EIC Payments			
19 Gross Annuity, Pension, Retire Pay or IRA Payment (W–2P only)			
20 Taxable Amount (W–2P only)			
21 IRA Code (W–2P only)			
22 State or Local Wages			
23 State or Local Income Tax			

24 Explain Changes Here

FORM W–2c STATEMENT OF CORRECTED INCOME AND TAX AMOUNTS

Department of the Treasury
Internal Revenue Service

Copy C for employee's records

This information is being furnished to the Internal Revenue Service

Instructions to Recipient

This is a corrected version of the W–2 form checked in item 3 above. If you have already filed a return for the year shown in item 1, you may have to file an amended return if any of the corrections change your tax liability for that year. Contact the Internal Revenue Service (or other taxing authority in the case of Form W–2AS, W–2GU, or W–2VI)for further information.

When you file your return (or amended return, if you have already filed a return for that year), *attach this corrected statement with the original W–2.*

363–427–1

1 Year Being Corrected 19	2 Control Number	For Official Use Only OMB No. Expires
3 Form: ☐ W-2 ☐ W-2AS ☐ W-2GU ☐ W-2VI ☐ W-2P ☐ Subtotal		4 Employer's SSA Number 69–
5 Statutory employee / Deceased / Pension Plan / Legal Rep. / 942 employee — Original ☐ ☐ ☐ ☐ ☐ Corrected ☐ ☐ ☐ ☐ ☐		6 Employer's State Number
7 Employee's Social Security Number		9 Employer's Federal identification number
8 Employees Name, Address and Zip Code		10 Employer's Name, Address and Zip Code

Changes

Item	(a) As Originally Reported	(b) Correct Information	(c) Difference (b less a)
11 Employee's SSN		See item 7 above	
12 Employee's name		See item 8 above	
13 FICA Wages			
14 FICA Tips			
15 FICA Tax Withheld			
16 Wages, Tips, and Other Compensation			
17 Federal Income Tax Withheld			
18 Advance EIC Payments			
19 Gross Annuity, Pension, Retire Pay or IRA Payment (W-2P only)			
20 Taxable Amount (W-2P only)			
21 IRA Code (W-2P only)			
22 State or Local Wages			
23 State or Local Income Tax			

24 Explain Changes Here

FORM W-2c STATEMENT OF CORRECTED INCOME AND TAX AMOUNTS Department of the Treasury Internal Revenue Service

Copy 2 to be filed with employee's State, City, or Local income tax return

363-427-1

1 Year Being Corrected: 19	2 Control Number	For Official Use Only OMB No. Expires	YOUR COPY

3 Form: ☐ W-2 ☐ W-2AS ☐ W-2GU ☐ W-2VI ☐ W-2P ☐ Subtotal	4 Employer's SSA Number 69–
5	Statutory employee	De-ceased	Pension Plan	Legal Rep.	942 employee	6 Employer's State Number
Original ☐ ☐ ☐ ☐ ☐
Corrected ☐ ☐ ☐ ☐ ☐
7 Employee's Social Security Number	9 Employer's Federal identification number
8 Employees Name, Address and Zip Code	10 Employer's Name, Address and Zip Code

Changes

Item	(a) As Originally Reported	(b) Correct Information	(c) Difference (b less a)
11 Employee's SSN		See item 7 above	
12 Employee's name		See item 8 above	
13 FICA Wages			
14 FICA Tips			
15 FICA Tax Withheld			
16 Wages, Tips, and Other Compensation			
17 Federal Income Tax Withheld			
18 Advance EIC Payments			
19 Gross Annuity, Pension, Retire Pay or IRA Payment (W-2P only)			
20 Taxable Amount (W-2P only)			
21 IRA Code (W-2P only)			
22 State or Local Wages			
23 State or Local Income Tax			

24 Explain Changes Here

FORM W-2c STATEMENT OF CORRECTED INCOME AND TAX AMOUNTS

Department of the Treasury
Internal Revenue Service

Copy D for Employer

363-427-1

Do not staple Forms W–3c or W–2c

1 Year being corrected 19__	For Official Use Only OMB No. Expires	4 Employer's telephone number (Optional)
2 Employer's Federal identification number		5 Employer's SSA number (also PRU and L indicator, if assigned) 69--
3 Employer's name, address, and ZIP code		6 Employer's State number
		7 Number of statements attached ▶
		8 With TIN ☐ Without TIN ☐

Kind of payer and corrected tax statements transmitted	9 941/941E ☐	942 ☐	943 ☐	CT–1 ☐	Military ☐	Sec. 218 ☐	10 W–2 ☐	W–2P ☐	W–2AS ☐	W–2GU ☐	W–2VI ☐

CHANGES

Items	(a) As originally reported	(b) Correct information	(c) Difference (b less a)
11 Employer Identification Number		See item 2 above	
12 Establishment Number			
13 Employer's SSA Number (certain State and local governments only)		See item 5 above	
14 FICA Wages			
15 FICA Tips			
16 FICA Tax Withheld			
17 Wages, Tips and Other Compensation			
18 Federal Income Tax Withheld			
19 Advance EIC Payments			
20 Gross Annuity, Pension, Retired Pay, or IRA Amount (W–2P only)			
21 Taxable Amount (W–2P only)			
22 State or Local Wages			
23 State or Local Income Tax			

24 Explain changes here:

Has a corrected employment tax return been filed with the Internal Revenue Service ☐ Yes ☐ No

If "Yes," give date the corrected return was filed ▶

Under penalties of perjury, I declare that I have examined this return, including accompanying documents, and to the best of my knowledge and belief, it is true, correct, and complete. In the case of documents without recipients identifying numbers, I have complied with the requirements of the law by requesting such numbers from the recipients, but did not receive them.

Signature ▶ Title ▶ Date ▶

FORM W–3c TRANSMITTAL OF CORRECTED INCOME AND TAX STATEMENTS

Department of the Treasury Internal Revenue Service

For Paperwork Reduction Act Notice, see other side of this page.

Please return Form W-3c to the Social Security Administration address for your State as listed below.

If your legal residence, principal place of business, office or agency is located in ▼	Use this address ▼
Alaska, Arizona, California, Hawaii, Idaho, Minnesota, Montana, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, Wyoming	Social Security Administration Salinas Data Operations Center Salinas, CA 93911
Arkansas, Colorado, Illinois, Iowa, Kansas, Louisiana, Mississippi, Missouri, Nebraska, New Mexico, Oklahoma, Texas, Wisconsin	Social Security Administration Albuquerque Data Operations Center Albuquerque, NM 87180
Alabama, District of Columbia, Florida, Georgia, Indiana, Kentucky, Maryland, Michigan, North Carolina, Ohio, South Carolina, Tennessee, Virginia, West Virginia	Social Security Administration Office of Central Records Operations Baltimore, MD 21290
Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont	Social Security Administration Wilkes-Barre Data Operations Center Wilkes-Barre, PA 18769
If you have no legal residence or principal place of business in any State	Social Security Administration Office of Central Records Operations Baltimore, MD 21290

Paperwork Reduction Act Notice.—The Paperwork Reduction Act of 1980 says we must tell you why we are collecting this information, how we will use it, and whether you have to give it to us. We ask for the information to carry out the Internal Revenue and Social Security laws of the United States. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax. You are required to give us this information.

1 Year being corrected 19——	OMB No. Expires	For Official Use Only
2 Employer's Federal identification number		4 Employer's telephone number (Optional)
3 Employer's name, address, and ZIP code YOUR COPY		5 Employer's SSA number (also PRU and L indicator, if assigned) 69–
		6 Employer's State number
		7 Number of statements attached ▶
		8 With TIN ☐ Without TIN ☐
Kind of payer and corrected tax statements transmitted	9 941/941E ☐ 942 ☐ 943 ☐ CT–1 ☐ Military ☐ Sec. 218 ☐	10 W–2 ☐ W–2P ☐ W–2AS ☐ W–2GU ☐ W–2VI ☐

CHANGES

Item	(a) As originally reported	(b) Correct information	(c) Difference (b less a)
11 Employer Identification Number		See item 2 above	
12 Establishment Number			
13 Employer's SSA Number (certain State and local governments only)		See item 5 above	
14 FICA Wages			
15 FICA Tips			
16 FICA Tax Withheld			
17 Wages, Tips and Other Compensation			
18 Federal Income Tax Withheld			
19 Advance EIC Payments			
20 Gross Annuity, Pension, Retired Pay, or IRA Amount (W–2P only)			
21 Taxable Amount (W–2P only)			
22 State or Local Wages			
23 State or Local Income Tax			

24 Explain changes here:

Has a corrected employment tax return been filed with the Internal Revenue Service ☐ Yes ☐ No	If "Yes," give date the corrected return was filed ▶

Under penalties of perjury, I declare that I have examined this return, including accompanying documents, and to the best of my knowledge and belief, it is true, correct, and complete. In the case of documents without recipients identifying numbers, I have complied with the requirements of the law by requesting such numbers from the recipients, but did not receive them.

Signature ▶ Title ▶ Date ▶

FORM W–3c TRANSMITTAL OF CORRECTED INCOME AND TAX STATEMENTS Department of the Treasury Internal Revenue Service

For Paperwork Reduction Act Notice, see other side of this page.

Instructions for Form W–3c

The W–3c may be used to correct wage and tax information for years 1978 and later. For years before 1978, you must use Form 941c, Statement to Correct Information Previously Reported Under FICA. Section 218 filers (certain State and local governmental employers) should use Form SSA–3964, State's Report of Adjustments, for years before 1982.

Form W–3c alone (without accompanying Forms W–2c) may be used to correct an EIN or employer's SSA (69) number. If these are the only changes you need to make, complete only items 1, 2 and 11(a) (or 5 and 13(a), whichever is being corrected), 3, 4, and 14(a).

Forms W–2c That You Cannot Deliver.—You will need to keep for 4 years any employee (recipient) copies of Forms W–2c that you tried to deliver but could not.

A. Purpose of Form.—Form W–3c is used to accompany copies of Form W–2c, Statement of Corrected Income and Tax Amounts, sent to the Social Security Administration. A separate W–3c must be used for each type of W–2 (e.g., W–2, W–2P, W–2AS, W–2GU, or W–2VI) being corrected.

B. Who Must File.—Employers and other payers must file Form W–3c to send Copy A of Form W–2c.

The transmitter or sender (including a service bureau, paying agent, or disbursing agent) may sign Form W–3c for the employer or payer only if the sender:

(a) Is authorized to sign by an agency agreement (either oral, written, or implied) that is valid under State law; and

(b) Is authorized by the payer (by either oral, written, or implied agreement) to ask for the taxpayer identifying numbers of payees who are reported on the forms; and

(c) Writes "For (name of payer)" next to the signature.

If an authorized sender signs for the payer, the payer is still responsible for filing, when due, a correct and complete Form W–3c and attachments, and is subject to any penalties that result from not complying with these requirements.

Be sure the payer's name and employer's identification number on Forms W–2c and W–3c are the same as those used on the Form 941, 942, or 943 filed by or for the payer.

C. Where to File.—See list of addresses on the back of the original copy of this Form W–3c.

D. Shipping and Mailing.—If you are correcting more than one kind of form, please group forms of the same kind, and send them in separate groups. For example, if you correct both wages and annuities, file one W–3c to correct the W–2 forms, and another W–3c to correct the W–2P forms. Also, please send forms lacking taxpayer identifying numbers (TIN's) with a separate Form W–3c.

If you have a large number of forms, you may send them in separate packages. Show your name and employer identification number on each package. Number them in order (1 of 4, 2 of 4, etc.), and place Form W–3c in package one. Show the number of packages at the bottom of Form W–3c below the title. If you mail them, you must send them first class.

E. How to Complete Form W–3c.—Please type entries if possible. Send the whole first page with Forms W–2c. Please do not staple them to Form W–3c. Make all dollar entries without the dollar sign but with the decimal point (000.00).

Item 1—Year being corrected.—This is the calendar year of the original W–2, W–2P, etc.

Item 2—Employer's Federal identification number.—Show the correct number assigned to you by the IRS (00–0000000). If the W–3c is being used to correct a number, use line 10(a) to show how the number was incorrectly recorded on the original form.

Item 3—Employer's name, address, and ZIP code.—This should be the same as what is shown on your Form 941, 942, or 943. If available, please use the label sent to you with Publication 393 or 51.

Item 4—Employer's telephone number (Optional).—This may be used if there is a problem in processing your correction. You do not need to fill in this item.

Item 5—Employer's SSA number.—If you checked the section 218 box in item 9, show the number assigned to you by SSA. This number always starts with 69, which is preprinted in this box. Also add the PRU and L indicators, if these have been assigned to you by SSA.

Item 6—Employer's State number.—You are not required to fill in this item. This number is assigned by individual States where your business is located. You may want to complete this item if you use copies of this form for your State returns.

Item 7—Number of statements attached.—Show the number of individual Forms W–2c attached to this Form W–3c.

Item 8—With TIN or Without TIN.—Check only one box. Check the With TIN box when sending Forms W–2c that have recipients' social security numbers. Check the Without TIN box when sending Forms W–2c that do not have recipients' social security numbers.

Items 9 and 10—Kind of corrected tax statements transmitted.—Put an X in the check boxes that apply to you. Check only one box in each grouping (that is, check one box for item 9 to show the type of payer; check one box in item 10 to show whether the forms are Forms W–2 or W–2P).

Item 9—Kind of payer.—Check only one box.

941/941E.—Check this box if you file Form 941 or 941E and none of the other five categories apply.

942.—Check this box if you are a household employer correcting Forms W–2 for household employees. If you also have to correct forms of employees who are not household employees, send each group's Forms W–2c with a separate Form W–3c.

943.—Check this box if you file Form 943 and are correcting forms for agricultural employees. If you also have to correct forms of employees who are not agricultural employees, send each group's Forms W–2c with a separate W–3c. You would send the nonagricultural employees' Forms W–2c with a Form W–3c that generally has a checkmark in the 941/941E box.

CT–1.—Check this box if you are a railroad employer correcting Forms W–2 for employees covered under the Railroad Retirement Tax Act (RRTA). DO NOT show employee RRTA tax in items 14, 15, and 16. These items are ONLY for FICA (social security) information. If you also have to correct forms of employees who are subject to FICA taxes, send each group's Forms W–2 with a separate W–3. Send the FICA tax employees' Forms W–2 with a separate W–3 that has a checkmark in the 941/941E box.

Military.—Check this box if you are a military employer correcting Forms W–2 for members of the uniformed services.

Section 218.—Check this box if you are a State or local government employer correcting Forms W–2 for employees covred under section 218 of the Social Security Act. You must also enter your State SSA number in item 5.

Items 11 through 23—Changes.—For each of the items being corrected, show in column (a) the amount shown on the original W–3, and in column (b) the correct amount that should have been shown on the original W–3. DO NOT just add up the totals from the attached Forms W–2c. Complete only those items that are being corrected. Otherwise, leave blank. CAUTION: Some of the items are numbered differently on the Form W–3.

On any line that shows a dollar change, and one of the amounts is zero, enter "zero" or "0.00"—do not leave blank.

Items 11 and 13—Employer identification number and employer's SSA number.—Your correct numbers should appear in items 2 and 5 respectively. Make entries in column (a) only if the number on the original form was incorrect.

Item 12—Establishment number.—This is for Establishment Reporting Plans. Please show the number you and SSA agreed to.

Items 22 and 23—State and local data.—If your ONLY changs to the original form are to the State and local data, DO NOT send the corrections to SSA or your State Social Security Administrator.

Item 24—Explanation.—You must complete this item if you checked the "Sec. 218" box in item 9. It is optional for all other employers.

☆ U.S. GOVERNMENT PRINTING OFFICE : 1982—O-363-249

363-249–1

[FR Doc. 82–17861 Filed 6–30–82; 8:45 am]

BILLING CODE 4830–01–C

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 251

Geological and Geophysical (G&G) Exploration of the Outer Continental Shelf

AGENCY: Geological Survey, Interior.

ACTION: Notice of proposed rulemaking.

SUMMARY: The proposed amendments of 30 CFR Part 251 relating to geological and geophysical (G&G) exploration of the Outer Continental Shelf are part of a larger effort of the Department of the Interior to streamlining the regulatory requirements governing operations on the Outer Continental Shelf (OCS). The proposed amendment would alleviate an unnecessary burden on the industry operating on the OCS.

DATES: Written comments on this proposal to amend 30 CFR Part 251 must be received on or before the close of business August 2, 1982.

ADDRESSES: Comments may be mailed to: Associate Director for Offshore Minerals Management, Minerals Management Service, 640 National Center, 12203 Sunrise Valley Drive, Reston, Virginia 22091.

FOR FURTHER INFORMATION CONTACT: David A. Schuenke, Offshore Rules and Operations Division, Minerals Management Service, 640 National Center, 12203 Sunrise Valley Drive, Reston, Virginia 22091, (703) 860–7916 or (FTS) 928–7916.

SUPPLEMENTARY INFORMATION:

Background:

This proposed rulemaking is part of an effort by the Department of the Interior to review current regulations and modify or rescind those regulations considered unnecessary, burdensome, or counterproductive. Comments are specifically requested on 30 CFR 251.11 and 251.12. Comments are recommendations are welcomed on any regulatory requirements contained in 30 CFR Part 251.

Discussion of Change

The current regulations require the holder of a permit for geological or geophysical exploration activities for minerals or scientific research on the OCS, to notify the Director, U.S. Geological Survey, immediately in writing, of the acquisition, analysis, or interpretation of geological information or data or the acquisition, processing, reprocessing, or interpretation of any geophysical information or data collected under the permit. It has been recognized that geological data is repeatedly analyzed and geophysical data is reprocessed and interpreted many times after initial acquisition, analysis, and processing, even on a daily basis. Requiring a permittee to notify the Director immediately of any analysis, reprocessing, or interpretation, imposes a time-consuming and excessive paperwork burden on industry. This amendment proposes to eliminate the requirement for repeated immediate notice after the notice of the acquisition, initial analysis, initial processing, and initial interpretation. The remaining notice requirements would be due within 30 days of the acquisition, analysis, processing, or interpretation. Notice covering any additional reanalysis, reprocessing, or additional interpretation would be required 30 days following a specific request by the Director for the information.

Authors: Dan Palubniak, Jane Roberts, Platte Clark, and David Schuenke, U.S. Geological Survey, Department of the Interior, (703) 860–7916.

Environmental Impact, Regulatory Impact Analysis, and Impact on Small Entities. The Department of the Interior has determined that these proposed amendments to 30 CFR 251.11 and 251.12 do not constitute a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. The Department has determined the promulgation of these changes is not a major action requiring preparation of a regulatory impact analysis under Executive Order 12291. It has also been determined that the proposed amendments will not have a significant effect on a substantial number of small entities, therefore, a small entity flexibility analysis is not required under the Regulatory Flexibility Act.

List of Subjects in 30 CFR Part 251

Continental shelf, Freedom of information, Oil and gas exploration, Reporting requirements, Science and technology.

Dated: August 7, 1982.

Daniel N. Miller,

Assistant Secretary of the Interior.

PART 251—GEOLOGICAL AND GEOPHYSICAL (G&G) EXPLORATIONS OF THE OUTER CONTINENTAL SHELF

It is proposed that the first sentence of 30 CFR 251.11(a) be removed and replaced with the following new sentences:

§ 251.11 Inspection, selection, and submission of geological information and data.

(a) Each holder of a permit for geological exploration for mineral resources or geological scientific research shall notify the Director in writing within 30 days of the acquisition, initial analysis, and initial interpretation, of any geological information and data collected under the permit. Within 30 days following the Director's request for any subsequent analysis and interpretation of that geological information or data, the permittee shall submit that information in writing. * * *

* * * * * *

It is proposed that the first sentence of 30 CFR 251.12(a) be removed and replaced with the following two sentences:

§ 251.12 Inspection, selection, and submission of geophysical information and data.

(a) Each holder of permit for geophysical exploration activities for mineral resources or scientific research shall notify the Director in writing within 30 days of the acquistion and intitial processing and initial interpretation of any geophysical information and data collected under the permit. Within 30 days following the receipt of the Director's request for any reprocessing or subsequent interpretation of that geophysical information or data, the permittee shall submit notice of that information in writing. * * *

* * * * * *

[FR Doc. 82–17901 Filed 6–30–82; 8:45 am]

BILLING CODE 4310–31–M

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 700, 701, 740, 741, 742, 743, 744, 745, and 746

Federal Lands Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Notice of Extension of public comment.

SUMMARY: On June 9, 1982 (47 FR 25092), OSM published proposed rules for public comment that would amend 30 CFR Chapter VII, Subchapter D, the Federal lands program, relating to regulation of surface coal mining and reclamation operations on Federal lands. Since its publication, OSM has found it necessary to extend the public

comment period for the convenience of commenters who have indicated that additional time is needed to adequately review and comment on the proposed rule.

DATES: *Written Comments:* The comment period on the proposed rules will extend until 5:00 p.m. (Eastern time) on July 23, 1982.

Public Meetings: Scheduled on request only.

ADDRESSES: *Written Comments:* Hand-delivered to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record (R&I–04), Room 5315, 1100 L Street, N.W., Washington, D.C.; or mail to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record (R&I–04) Room 5315L, 1951 Constitution Ave. N.W., Washington, D.C. 20240.

Public Meetings: OSM Office in Washington, D.C. and Denver, Colorado.

FOR FURTHER INFORMATION CONTACT:
H. Leonard Richeson, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240; 202–343–5866.

Public Meetings: 202–343–5866.

SUPPLEMENTARY INFORMATION:

Public Commenting Procedures

Written Comments: Written comments should be specific, pertain only to issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Commenters are requested to submit five copies of their comments (see "ADDRESSES"). Comments received after the time indicated under "DATES" or at locations other than Washington, D.C., will not necessarily be considered or be included in the Administrative Record for the final rulemaking.

Public Meeting: Persons wishing to meet with OSM representatives to discuss these proposed rules may request a meeting at any of the OSM offices listed in "ADDRESSES" by contacting the person listed under "FOR FURTHER INFORMATION CONTACT".

All such meetings are open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record room (1100 L Street). A written summary of each public meeting will be made part of the Administrative Record.

Dated: June 28, 1982.

William Schmidt,

Assistant Director, Program Operations and Inspections, Office of Surface Mining.

[FR Doc. 82–17621 Filed 6–30–82; 8:45 am]

BILLING CODE 4310–05–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–6286]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Kansas

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; revision.

SUMMARY: Technical information or comments are solicited on the proposed base (100–year) flood elevations listed below for selected locations in the City of McPherson, McPherson County, Kansas.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations scheduled to be published in the *McPherson Sentinel* on March 25, 1982 and April 1, 1982, and at 45 FR 19385 on May 5, 1982, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above named community.

ADDRESSES: See table below:

FOR FURTHER INFORMATION CONTACT:
Mr. Robert G. Chappell, National Flood Insurance Program, (202) 287–0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the City of McPherson, McPherson County, Kansas, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4 (a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the (proposed) flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood Insurance, Floodplains.

The proposed base (100-year) flood elevations for selected locations are:

PROPOSED BASE (100–YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
Kansas	(C) McPherson, McPherson County	Dry Turkey Creek	About 650 feet upstream of confluence of Bull Creek	*1,476
			Just upstream of East Avenue A	*1,480
			Just upstream of East Kansas Avenue	*1,484

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
			Just upstream of Atchison, Topeka, and Santa Fe Railway.	*1,486
			About 1,200 feet upstream of North Maxwell Street	*1,487
		East Branch Dry Turkey Creek	About 650 feet downstream of South Frontage Street	*1,487
			Just upstream of East Kansas Avenue	*1,490
			Just upstream of of East First Street	*1,493
		Dry Turkey Creek Tributary No. 3	Just downstream of Hulse Street	*1,486
			Just upstream of Briarwood Lane	*1,490
		Bull Creek	At confluence with Dry Turkey Creek	*1,476
			Just downstream of Chicago, Rock Island and Pacific Railroad.	*1,478
			Just upstream of South Main Street	*1,483
			Just upstream of West Kansas Avenue	*1,487
		Bull Creek Tributary No. 2	At confluence with Bull Creek	*1,484
			Just upstream of Atchison, Topeka and Santa Fe Railway.	*1,488
			Just upstream of West First Street	*1,492

Maps available for inspection at the City Hall, 400 East Kansas, McPherson, Kansas.

Send comments to Honorable Delbert E. Crabb, Mayor, City of McPherson, City Hall, 400 East Kansas, McPherson, Kansas 67460.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: May 26, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-17881 Filed 6-30-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA-6262]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Tennessee

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule: Revision.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Smyrna, Rutherford County, Tennessee.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 47 FR 12826 on March 25, 1982, and in the *Rutherford Courier* on February 18, and February 25, 1982, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for inspection at Town Hall, 311 Lowry Street, Smyrna, Tennessee 37167.

Send comments to: Mayor J. Sam Ridley or Mr. J. Michael Woods, Town Clerk, Town Hall, P.O. Box 876, Smyrna, Tennessee 37167.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E, National Flood Insurance Program, (202) 287–0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the Town of Smyrna in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(A)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR, Part 67

Flood insurance, Flood plains.

The proposed base (100-year) flood elevations are:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Tennessee	Town of Smyrna, Rutherford County (FEMA-6202)	Stewart Creek	Just downstream of Louisville and Nashville Railroad (abandoned).	*513
			Just upstream of Enon Springs Road	*523
		Harts Branch	Just downstream of U.S. Highways 41 and 70S	*524
			Approximately 200 feet upstream of Maple View Street	*518
		Rock Spring Branch	Just upstream of U.S. Highways 41 and 70S	*525
		Finch Branch	Just downstream of Old Nashville Pike	*544
			Just downstream of Jones Mill Road	*513
			Approximately 100 feet upstream of Jones Mill Road	*514

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: June 7, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-17882 Filed 6-30-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA-6122]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Texas

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule: Revision.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Rosenberg, Fort Bend County, Texas.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 46 FR 6122 on August 4, 1981, and in the *Herald Coaster* on July 8, and July 15, 1981, hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for inspection at City Hall, 2110 South Fourth Street, Rosenberg, Texas 77471.

Send comments to: Honorable Elwood Raines, Mayor of the City of Rosenberg, City Hall, 2110 South Fourth Street, Rosenberg, Texas 77471.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E, National Flood Insurance Program, (202) 287-0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat., 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(A).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The proposed base (100-year) flood elevations are:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
Texas	City of Rosenberg, Fort Bend County (FEMA-6122)	North branch of Dry Creek	Just downstream of Laurel Avenue	*96
			Just upstream of Laurel Avenue	*98
		Dry Creek	Approximately 250 feet upstream of Louise Avenue	*98
			Approximately 200 feet downstream of Fourth Street	*99
			Just downstream of State Highway 36	*99
		Seabourne Creek	Just upstream of Bernard Avenue extended	*97
		Brazos River	Just upstream of 6th Street extended	*93

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: May 26, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-17880 Filed 6-30-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA-6262]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Virginia

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations previously published at 47 FR 12827 on March 25, 1982. This correction notice provides a more accurate representation of the Flood Insurance Study and Flood Insurance Rate Map for the Town of Cape Charles, Northampton County, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Federal Emergency Management Agency, National Flood Insurance Program, (202) 287–0230, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Town of Cape Charles, Northampton County, Virginia, previously published at 47 FR 12827 on March 25, 1982, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposd flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

Under the Source of Flooding of Chesapeake Bay, the base flood elevation for the entire shoreline within the community has been amended to read 11 feet in elevation.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: May 20, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-17879 Filed 6-30-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA-6343]

National Flood Insurance Program; Proposed Zone Designation and Base Flood Elevation Determinations for the City of Jeffersonville, Clark County, Ind.

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations described below.

The proposed base flood elevations and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety-days following the second publication of this proposed rule in the newspaper for local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at the City-County Building, Suite 404, 500 East Court Avenue, Jeffersonville, Indiana.

Send comments to: Honorable Richard Vissing, Mayor, City of Jeffersonville, City-County Building, Suite 404, 500 East Court Avenue, Jeffersonville, Indiana 47130.

FOR FURTHER INFORMATION CONTACT: Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support gives notice of the proposed base flood elevations and zone designations for the City of Jeffersonville, Indiana, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

These zone designations and base (100-year) flood elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents.

The proposed zone designations and base flood elevations are as follows:

Source of flooding and location	Elevation, national geodetic vertical datum (feet)	Zone designation
Woodland Court Tributary: Portion of a recent annexation bounded on the north by an east-west line passing though a point on Allison Lane approximately 1,700 feet north of the junction of Allison Lane and Middle Road, and on the east, south, and west by the corporate limits.	458	A11, B, C.
Silver Creek: Conrail Bridge	459	AE.
Ohio River and Lancaseange Creek: A recent annexation bounded on the north and east by the corporate limits, on the south by the Ohio River, and on the west by a line parallel to and approximately 650 feet east of Hopkins Lane.	451 to 452	A20, B, C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance—flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support).

Issued: June 7, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-17814 Filed 6-30-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA-6341]

Proposed Base Flood Elevations and Zone Designations for the City of National City, San Diego County, Calif.; National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations as described below.

The proposed base flood elevations and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the floodprone areas and the proposed base flood elevations and zone designations are available for review at the Office of the City Clerk, City Hall, 1243 National City Boulevard, National City, California.

Send comments to: Honorable Kile Morgan, Mayor, City of National City, 1243 National City Boulevard, National City, California 92050.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and and Local Programs and Support, gives notice of the proposed base flood elevations and zone designations for the City of National City, California in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

These base flood elevations and zone designations, together witht the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base flood elevations and zone designations are as follows:

Source of flooding and location	Elevation national geodetic vertical datum (feet)	Zone designation
Sweetwater River:		
Just upstream of National Avenue.	15	A16
At a point located approximately 150 feet downstream of D Avenue.	20	A16

All the remaining annexed areas are identified as Zones B and C. The proposed floodway delineation is being added along the aforementioned reach of the Sweetwater River.

Pursuant to the provisions of 5 U.S.C. 506(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of techical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance—flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: May 27, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-17812 Filed 6-30-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA-6342]

Proposed Base Flood Elevations and Zone Designations for the City of Vallejo, Solano County, Calif.; National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations as described below.

The proposed base flood elevations and zone designations are the basis for the flood plain management measures

that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the Narional Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newpaper or local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at the Public Works Department, Vallejo City Hall, 555 Santa Clara Street, California.

Send comments to: Honorable Terry Curtola, Jr., Mayor, City of Vallejo, City Hall, 555 Santa Clara Street, Vallejo, California 94590.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Divisions, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations and zone designations for the City of Vallejo in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

These base flood elevations and zone designations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base flood elevations and zone designations are as follows:

Source of flooding and location	Elevation, national geodetic vertical datum (feet)	Zone designation
Napa River:		
At the northwesternmost corporate limits	5	Zone A1.
At the intersection of Redwood Street and Sacramento Street Canal	5	Zone A1.
At the intersection of El Dorado Street and Illinois Street	6	Zone A1
At Mare Island Strait	5	Zone V1.
Chabot Creek:		
At the confluence with the Napa River	6	Zone A1.
At Sonoma Boulevard	10	Zone A1.
Carquinez Strait:		
At Morrow Cove	8	Zone V1.
At Semple Point	6	Zone V1.
At Elliot Cove	8	Zone V1.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance—flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: June 11, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82–17913 Filed 6–30–82; 8:45 am]
BILLING CODE 6718–03–M

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44 CFR Part 67

[Docket No. FEMA–6344]

Proposed Base Flood Elevations and Zone Designations for the City of Mulvane, Sedgwick and Sumner Counties, Kans.; National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations as described below.

The proposed base flood elevations and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at the Office of the City Administrator, Mulvane City Hall, 211 North Second, Mulvane, Kansas.

Send comments to: Honorable Vivian L. Thompson, Mayor, City of Mulvane, 211 North Second, Mulvane, Kansas 67110.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations and zone designations for the City of Mulvane, Kansas in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

These base flood elevations and zone designations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The

proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base flood elevations and zone designations are as follows:

Source of flooding and location	elevation, national geodetic vertical datum (feet)	Zone designation
Styx Creek:		
Just upstream of Route 15	1,249	Zone A2.
Northernmost corporate limits.	1,254	Zone A2.

The proposed special flood hazard area, identified as Zone A, is being added along an unnamed stream between Louis Drive and the northernmost corporate limits. All the remaining annexed areas are being identified as Zone C. In addition, the proposed floodway delineation is being added along the aforementioned reach of Styx Creek.

Pursuant to the provision of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR 67

Flood insurance—flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: May 19, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-17628 Filed 6-30-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA–6345]

National Flood Insurance Program; Proposed Zone Designation Determinations for the Township of Clinton, Macomb County, Michigan

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed zone designations described below.

The proposed zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at the Administration Building, Department of Planning and Community Development, 40700 Romeo Plank Road, Mt. Clemons, Michigan.

Send comments to: Kenneth H. Bobcean, Supervisor, Township of Clinton, 40700 Romeo Plank Road, Mt. Clemons, Michigan 48044.

FOR FURTHER INFORMATION CONTACT: Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support gives notice of the proposed zone designations for the Township of Clinton, Michigan, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.

These zone designations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents.

The proposed zone designations are as follows:

Source of flooding	Location	Zone designation
Clinton River	Portions of the area bounded on the east by Clinton River Road, on the south by Canal Road, on the north by a line parallel to and approximately 1,100 feet north of Canal Road, and on the west by a line parallel to and approximately 3,450 feet east of Romeo Plank Road.	B.
	Portions of the area bounded on the east and south by Clinton River Road, on the north by Canal Road, and on the west by a line parallel to and approximately 1150 feet east of Romeo Plank Road.	B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance—flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: June 1, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-17616 Filed 6-30-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6346]

National Flood Insurance Program; Proposed Zone Designation and Base Flood Elevation Determinations for the Village of Batavia, Clermont County, Ohio

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations described below.

The proposed base flood elevations and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety-days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at 389 East Main Street, Batavia, Ohio.

Send comments to: Honorable Edmond Parrott, Mayor, Village of Batavia, 389 East Main Street, Batavia, Ohio 45103.

FOR FURTHER INFORMATION CONTRACT: Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support gives notice of the proposed base flood elevations and zone designations for the Village of Batavia, Ohio, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR Part 67.

These zone designations and base (100-year) flood elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents.

The proposed zone designations and base flood elevations are as follows:

Source of flooding and location	Elevation, national geodetic vertical datum (feet)	Zone designation
East Fork Little Miami River:		
Downstream corporate limits	567	A4, B.
Immediately upstream of State Highway 32.	567	A4, B, C.
Main Street	573	A4, B.
Norfolk & Western Railroad	576	A4, B.
Upstream corporate limits	580	A4, B, C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance—flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: June 7, 1982.

Lee M. Thomas,

Associate Directory, State and Local Programs and Support.

[FR Doc. 82-17880 Filed 6-30-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6347]

Proposed Base Flood Elevation and Zone Designation Determinations for the City of Katy, Harris, Waller, and Fort Bend Counties, Tex.; National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations as described below.

The proposed base flood elevations and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at the Office of the City Engineer, 5628 Second Street, Katy, Texas.

Send comments to: Honorable John G. Morrison, Mayor, City of Katy, P.O. Box 617, Katy, Texas 77449.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations and zone designations for the City of Katy, Texas in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 67.

These base flood elevations and zone designations, together with the flood plain management measures required by § 60.3 of the program regulations, are the

minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base flood elevations and zone designations are as follows:

Source of flooding and location	Elevation, national geodetic vertical datum (feet)	Zone designation
Willow Fork Buffalo Bayou:		
Just upstream of Crossover Road.	130	Zone A2.
Just upstream of F.M. 1463	135	Zone A3.
At a point approximately 800 feet upstream of F.M. 1463.	137	Zone A3.
Cane Island Branch: Area located approximately 1100 feet west of Carnation Street	142	Zone A6.

In the recently annexed area along Snake Creek, the proposed special flood hazard area, identified as Zone A, has been added. All the remaining annexed areas have been identified as Zones B and C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: June 7, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-17631 Filed 6-30-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA-6348]

National Flood Insurance Program; Proposed Zone Designation and Base Flood Elevation Determinations for the Town of Man, Logan County, W. Va.

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations described below.

The proposed base flood elevations and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety-days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSED: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at the Town Hall on Market Street, Man, West Virginia.

Send comments to: Honorable Mervil Perry, Mayor, Town of Man, P.O. Box 70, Man, West Virginia 25635.

FOR FURTHER INFORMATION CONTACT: Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support gives notice of the proposed base flood elevations and zone designations for the Town of Man, West Virginia, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

These zone designations and base (100-year) flood elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents.

The proposed zone designations and base flood elevations are as follows:

Source of flooding and location	Elevation, national geodetic vertical datum (feet)	Zone designation
Buffalo Creek:		
Point on Buffalo Creek adjacent to Dunn Avenue.	747	A8, B, C.
Immediately upstream of Market Street.	737	A9, B, C.
Immediately upstream of the Chesapeake and Ohio Railway.	729	A9, B, C.
Guyandotte River:		
Chesapeake and Ohio Railway	732	A9, B, C.
Bridge Street	731	A9, B, C.
Western corporate limits	727	A9, B, C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: June 11, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-17915 Filed 6-30-82; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 172, 173, 175, 177, and 178

[Docket No. HM-139E; Notice 82-6]

Conversion of Individual Exemptions Into Regulations of General Applicability

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The MTB is considering amending the regulations governing the transportation of hazardous materials to incorporate therein a number of changes based on existing exemptions which have been granted to individual applicants allowing them to perform particular functions in a manner that varies from that specified by the regulations.

Adoption of these exemptions as rules of general applicability would provide wider access to the benefits of transportation innovations recognized as effective and safe. In addition, these proposed changes would eliminate the need for recordkeeping by the exemption holder(s); eliminate the need for marking the exemption number on the package and shipping paper(s), and, eliminate the need for MTB to receive, review, docket, evaluate, and issue a renewal of the exemption every two years.

DATE: Comments must be received on or before August 30, 1982.

Address Comments to: Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. Comments should identify the docket and be submitted in five copies. The Dockets Branch is located in Room 8426 of the Nassif Building, 400 Seventh Street, SW., Washington, D.C. Public dockets may be reviewed between the hours of 8:30 a.m. and 5:00 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Darrell L. Raines, Chief, Exemptions and Regulations Termination Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Washington, D.C. 20590 (202-472-2726).

SUPPLEMENTARY INFORMATION: Each of the proposed amendments described in the following table is founded upon either (1) actual shipping experience gained under an exemption, or (2) the data and analysis supplied in the application for an exemption. In each case the resulting level of safety being afforded the public is considered at least equal to the level of safety provided by the current regulations.

These proposals would not significantly affect the cost of regulatory enforcement, nor would additional costs be imposed on the private sector, consumer, or Federal, State or local governments, since these proposals would merely authorize the general use of shipping alternatives previously available to only a few users under exemptions. The safety record of shipments under the identified exemptions demonstrates that significant environmental impacts would not result from any of the proposals. Adoption of an amendment derived from an existing exemption would obviate the need for the exemption and effectively terminate it. Upon such termination the holder of the exemption and parties thereto would be individually notified. Adoption of an amendment derived from an application for exemption should provide the relief sought, in which event the exemption request would be denied and the applicant so notified. In the event the Bureau decides not to adopt any of these proposals, each pertinent application would be evaluated and acted upon in accordance with the applicable provisions of the exemption procedures in 49 CFR Part 107, Subpart B. Consequently, persons commenting on the proposals may wish to address both the proposed amendment and the exemption application.

Each mode of transportation for which a particular exemption is authorized or requested is indicated in the "Nature of Exemption or Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

The MTB has determined that this proposed regulation will not, if promulgated, have a significant economic impact on a substantial number of small entities.

This proposal will not affect not-for-profit enterprises, or small governmental jurisdictions.

The following list of Federal Register Thesaurus of Indexing Terms applies to this notice of proposed rulemaking:

List of Subjects

49 CFR Part 172

Hazardous materials transportation, Labeling, Packaging and containers.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers.

49 CFR Part 175

Hazardous materials transportation, Air carriers.

49 CFR Part 177

Hazardous materials transportation, Motor vehicles.

49 CFR Part 178

Hazardous materials transportation, Packaging and containers.

Exemption No.	Applicant holder	Regulation affected	Nature of exemption or application	Proposed amendment
DOT-E 5464	Allied Chemical Corp., Air Products & Chemicals, Inc., Union Carbide Corp.	§ 173.301(d)(1), § 173.304(a)(2).	Authorizes shipments of Sulfur hexafluoride in DOT Specification 3A1800, 3AA1800, 3AAX2400 and 3T1800 cylinders. Manifolding is authorized and cylinders comply with § 173.301(L). (Modes 1 and 3).	To amend paragraph (d)(1) of § 173.301 to include sulfur hexafluoride and to amend the Table in § 173.304(a)(2) for Sulfur hexafluoride to include DOT-3AAX2400; DOT-3T1800 cylinders.
DOT-E 6616	Fenwal Inc	§ 178.51-15	To manufacture, mark and sell a non-DOT specification spherical, steel pressure vessel manufactured in compliance with DOT Specification 4BA with certain exceptions. NOTE: This exemption and proposed changes were included in HM-139D. However, the earlier changes did not contain all of the requirements specified in the exemption. (Modes 1, 2, 3, 4, 5).	To revise paragraph (a) of § 178.51-15 by adding the following three sentences to read as follows: (a) * * *. Physical test for spheres required on 2 specimens cut from flat representative sample plate of the same heat taken at random from the steel used to produce the sphere. This flat steel from which 2 specimens are to be cut must receive the same heat treatment as the spheres themselves. Sample plates to be taken for each lot of 200 or less spheres.
DOT-E 6618	Monsanto Co	§ 173.374	Authorizes shipments of Nitro-chlorobenzene, para, solid in an insulated DOT Specification MC-312 cargo tank equipped with heating coils. (Mode 1).	To add paragraph (a)(4) to § 173.374 to read as follows: (4) Specification MC-312 (§ 178.343 of this subchapter). Insulated cargo tank equipped with heating coils. Authorized only for nitro-chlorobenzene, para, solid. Not authorized for transportation by water.
DOT-E 6698	Allied Chemical Corp., Ashland Chemical Co., J. T. Baker Chemical Co., Mallinckrodt, Inc., E. I. du Pont de Nemours & Co., MCB Mfg. Chemists, Inc.	§ 178.150-4(a)(1)	Authorizes DOT Specification 33A polystyrene cases to be closed with one-half inch polypropylene strapping or equivalent having a tensile strength of 600 pounds per inch of width instead of the prescribed 1½ inch pressure-sensitive tape. (Modes 1, 2, and 3).	To revise § 178.150-4 by deleting paragraphs (a)(1) and (a)(2). A new paragraph (b) would be added to read as follows: (b) Each case shall be closed for shipment with pressure-sensitive tape, polypropylene strapping, or other efficient means if they perform without failure under the tests prescribed by this section.
DOT-E 7590	National Motor Freight Traffic Assn., Commercial Lovelace Motor Freight, Inc., Pacific Intermountain Express Co., Central Freight Lines, Ind., Ryder Truck Lines, Inc., Smith's Transfer Corp., Transcon Lines, Gordons Transport, Inc..	§ 177.841(e)	Authorizes packages containing Class B poisons to be placed in a specially designed reusable overpack and transported in the same vehicle with foodstuff, feed or any other edible material. (Mode 1).	To revise paragraph (e) of § 177.841 to read as follows: (e) A carrier may not transport a package bearing a poison label in the same motor vehicle with material that is marked as or known to be foodstuff, feed or any other edible material intended for consumption by humans or animals unless the inside package is overpacked in a liquid-tight and dust-proof container identified as package 4000 in the National Motor Freight Classification 100 I.
DOT-E 8315	Air Products & Chemicals, Inc	§ 173.314(c), Note 7	Authorizes shipments of Methyl chloride in DOT Specification 106A500X tanks by cargo vessel. (Mode 3).	To amend the Table entry for "Methyl chloride" in § 173.314(c) to reference Note 25 instead of Note 7 when shipped in DOT-106A500X tanks.
DOT-E 8365	Hercules, Inc.	§ 173.93(a)(10)	Authorizes shipment of Propellant explosives, solid in DOT Specification 21C-400 fiber drums having a maximum net weight of 265 pounds. (Mode 1).	To amend § 173.93(a)(10) by increasing the maximum net weight from 225 pounds to 265 pounds.
DOT-E 8395	3M Company	§ 173.124(a)(3)	Authorizes shipments of Ethylene oxide in inside aluminum cartridges, contents not over 138 grams" each. (Modes 1, 2, 3, 4).	To amend paragraph (a)(3) of § 173.124 by increasing "135 grams" to read "138 grams".
DOT-E 8441	Duracell International, Inc., General Motors Corp., Bunker Ramo Corp., U.S. Dept. of Defense, Power Conversion, Inc., Sanders Associates, Inc., Battery Disposal Technology, Inc., Electrochem Industries, Inc., U.S. Dept. of Energy, Magnavox Electronics Systems Co., Magnavox Electronics Systems Co., Eagle-Picher Industries, Inc., Raytheon Co.		Authorizes shipments of depleted lithium cells and batteries, which when new, met the testing requirements of DOT-E 7052 and did not contain more than 12 grams of lithium per cell in DOT Specification 12B fiberboard boxes having a gross weight not over 65 pounds; or any metal or fiberboard drum that meets the requirements of § 173.24. (Mode 1).	To add a new entry to the Table in § 172.101 for "Lithium batteries, depleted" and add a new paragraph § 173.1015 to read as follows: § 173.1015 *Lithium batteries, depleted.* Depleted lithium batteries and cells which contained not more than 12 grams of lithium, per cell, when new, and are equipped with an effective means of preventing external short circuits may be transported only by motor vehicle to a disposal site, as an ORM-C, when overpacked in strong fiberboard boxes, metal, or fiber drums. All outside packagings must comply with § 173.24.
DOT-E 8446	Ethyl Corp	§ 173.354(a)(2)	Authorizes shipments of Motor fuel antiknock compound in DOT Specification 5B steel drums, with openings not exceeding 2.3 inches in diameter. (Modes 1, 2, and 3).	To revise paragraph (a)(2) of § 173.354 to read as follows: (2) Specification 5, 5A or 5B (§§ 178.80, 178.81, 178.82 of this subchapter). Metal barrels or drums, with openings not exceeding 2.3 inches in diameter. Drums must be capable of withstanding the performance test prescribed for packaging Group 1 liquids having a specific gravity exceeding 1.2 as specified in the IMCO Code for 1A1A drums.
DOT-E 8463	Ethyl Corp	§ 173.262(b)	Authorizes shipments of Hydrobromic acid in a DOT Specification 12A fiberboard box, 275-pound test minimum, having not more than four inside glass bottles each having a capacity not exceeding one-quart, or 12 inside glass bottles each having a capacity not exceeding eight fluid ounces. Each bottle must be enclosed in a metal can and surrounded by a noncombustible cushioning material. (Mode 1).	To add paragraph (6) to § 173.262(b) to read as follows: (6) Specification 12A (178.210 of this subchapter). Fiberboard box with not more than four inside glass bottles not over one-quart capacity each, or 12 inside glass bottles not over eight fluid ounces each. Each bottle must be enclosed in a metal can and surrounded by a noncombustible cushioning material. Box shall be constructed of at least 275-pound test (Mullen or Cady) corrugated fiberboard.

Exemption No.	Applicant holder	Regulation affected	Nature of exemption or application	Proposed amendment
DOT-E [illegible]	Dow Chemical Co	§ 178.102-2(c)	Authorizes the construction of a DOT 6D cylindrical steel overpack with two holes not exceeding ¼ inch each diametrically opposite each other in the overpack body immediately below the top chime instead of immediately above the bottom chime. (Modes 1, 2, 3).	To revise § 178.102-2(c) to read as follows: (c) Two holes not exceeding ¼ inch each are permitted diametrically opposite each other in the overpack body immediately below the top chime or immediately above the double seam of the bottom chime or three holes not exceeding 5/16 inch in diameter on centers 120 degrees apart in the bottom head.
DOT-E 8587	Thatcher Chemical Co, Economics Lab., Inc.	§ 173.256	Authorizes shipments of Compound, cleaning, liquid (containing hydrofluoric acid) in DOT Specification 12P fiberboard boxes with one inside specification 2U polyethylene container of not over 5-gallon capacity. (Mode 1).	To add paragraph (8) to § 173.256 to read as follows: (8) Specification 12P (§ 178.211 of this subchapter). Fiberboard boxes with one inside specification 2U (§ 178.24 of this subchapter) polyethylene container of not over 5-gallon capacity or two inside specification 2U polyethylene containers of not over 2½ gallon capacity each. Wire staples are not authorized for assembly or closure of boxes, except when polyethylene container is completely enclosed in inside boxes free of wire staples or other projections that could cause failures. Not authorized for transportation by air.
DOT-E 8618	Alaska International Air, Inc., South Central Air.	§ 175.320	Authorizes shipments of Fuel, aviation, turbine engine; Methyl alcohol; or Toluene in DOT Specification 5, 5A, 5B, 5C, 5M, 17E or 17C drums of 55-gallon capacity each by Cargo aircraft only within the State of Alaska. (Mode 4).	To amend the Table in § 175.320 by adding the following entry: Fuel aviation, turbine engine; Methyl alcohol; or Toluene * * * Flammable liquid * * * Permitted in metal drums having rated capacity of 55 gallons or less. May not be transported in the same aircraft with materials classed as Class A, B, or C explosives, blasting agents, corrosive materials or oxidizing materials. Permitted in installed tanks each having a capacity of more than 110 gal. subject to the conditions specified in paragraph (c) of this section.
DOT-E 8623	E. I. du Pont de Nemours & Co., W. R. Grace & Co.	§ 173.352(a)(5)	Authorizes shipments of Sodium cyanide solution or Potassium cyanide solution in DOT Specification MC-304, MC-307 and MC-312 cargo tanks having a minimum design pressure of 25 psig. (Mode 1).	To revise § 173.352(a)(5) to read as follows: (5) Specification MC-300, MC-301, MC-302, MC-303, MC-304, MC-305, MC-306, MC-307 or MC-312 (§§ 178.341, 178.342, 178.343 of this subchapter). Tank motor vehicles.
DOT-E 8625	Airco, Inc. (Ohio Medical Products)	§ 173.314	Authorizes shipments of Nitrous oxide in DOT Specification 105A500W or 105A600W tank cars under the same conditions as applicable to carbon dioxide. (Mode 2).	To amend the Table in § 172.101 to include § 173.314 in Column (5)(b) for Nitrous oxide and add Nitrous oxide to the Table in § 173.314(c). Column 2 of the § 173.314(c), Table would read Note 5 and the third Column would read DOT 105A500W, 105A600W, Note 6.
DOT-E 8655	Western Electric Co., Sperry Univac Defense Systems, Digital Equipment Corp., American Chemical & Refining Co. Inc.	§ 173.352(a)	Authorizes shipments of Cyanide solution, n.o.s. in DOT Specification 6D steel overpacks with inside DOT Specification 2S or 2SL polyethylene packaging. (Modes 1 and 3).	To add paragraph (a)(7) to § 173.352 to read as follows: (7) Specification 6D (§ 178.102 of this subchapter). Cylindrical steel overpack with inside Specification 2S or 2SL (§§ 178.35, 178.35a of this subchapter) polyethylene packaging. Not authorized for transportation by air.
DOT-E 8659	Goodyear Tire & Rubber Co	§ 173.224(a)(4)	Authorizes shipments of Diisopropylbenzene hydroperoxide, not exceeding 60% by weight in a nonvolatile solvent in DOT Specification MC-310, MC-311 or MC-312 cargo tanks. Bottom outlets are not authorized. (Mode 1).	To revise paragraph (a)(4) of § 173.224 to read as follows: (4) Specification MC-310, MC-311 or MC-312 (§ 178.343 of this subchapter). Tank motor vehicles. Authorized for diisopropylbenzene hydroperoxide of strength not exceeding 60 percent in a nonvolatile solvent. Bottom outlets are not authorized. Authorized for paramenthane hydroperoxide of strength not exceeding 60 percent in a nonvolatile solvent. Authorized for pinane hydroperoxide of strength not exceeding 45 percent in a nonvolatile solvent. Authorized for cumene hydroperoxide of strength not exceeding 90 percent in a nonvolatile solvent in MC-311 or MC-312 cargo tanks only.
DOT-E 8661	Ethyl Corp	§ 173.119(m)	Authorizes shipments of Meta pheoxybenzaldehyde cyanohydrin (with 12 percent toluene) a flammable liquid which is also a Poison B in DOT Specification 51 portable tanks. Bottom outlets are prohibited. (Modes 1, 2 and 3).	To add paragraph (15) to § 173.119(m) to read as follows: (15) Specification 51 (§ 178.245 of this subchapter). Portable tank. Authorized only for a flammable liquid which is also a Poison B liquid. Botton outlets are not authorized.
DOT-E 8686	NL Industries, Inc.	§ 173.297	Authorizes shipments of Titanium sulfate solution containing not more than 45% sulfunc acid in a DOT Specification 34 polyethylene container without overpack, not over 30-gallon capacity. (Mode 1).	To add paragraph (a)(7) to § 173.297 to read as follows: (7) Specification 34 (§ 178.19 of this subchapter). Polyethylene container without overpack, not over 30-gallon capacity.
DOT-E 8703	Union Carbide Corp	§ 172.101	Authorizes the name "Methyl isocyanate" as a proper shipping name and an identification number "UN 2480" instead of "Flammable liquid, corrosive, n.o.s." and "UN 2924". Packaging is as prescribed in § 173.119, as appropriate. (Modes 1 and 2).	To amend the Table in § 172.101 by adding an entry for "Methyl isocyanate" (see Table at end of document).

Exemption No.	Applicant holder	Regulation affected	Nature of exemption or application	Proposed amendment
DOT-E 8715	W. L. Gore & Associates	§ 173.119(m)(3)	Authorizes shipments of an etchant classed as a flammable liquid which is also corrosive in an inside metal can not over one-pint capacity each, surrounded by a sufficient quantity of noncombustible material to absorb the liquid contents. (Modes 1, 2 and 4).	To revise paragraph (m)(3) of § 173.119 to read as follows: (3) Specification 12B (§ 178.205 of this subchapter). Fiberboard box with inside glass or earthenware containers not over 1-quart capacity each, or inside metal cans not over 1-pint capacity each. Inside containers must be cushioned with incombustible packing material in sufficient quantity to absorb the contents of the inner container. Use of the inside metal can is authorized only for materials which will not react dangerously with the metal can, or be decomposed by contact with it.
DOT-E 8745	Goex, Inc.	§ 173.60, § 178.140	Authorizes shipments of Black powder in DOT Specification 13 metal kegs, not less than 7 inches long. Net weight not less than 6¾ pounds nor more than 150 pounds. Specification 13 was removed by Docket HM-166C on September 11, 1980. At that time, MTB was not aware that this specification packaging was still being manufactured and in general use. (Modes 1, 2, 3).	To add paragraph (a)(1) to § 173.60 to read as follows: (1) Specification 13 (§ 178.140 of this subchapter). Metal kegs, not less than 7 inches long. Net weight not less than 6¾ pounds nor more than 150 pounds. To reinstate § 178.140 to read as it did prior to its removal by Docket No. HM-166C.

§ 172.101 Hazardous materials table.

(1)	(2)	(3)	(3A)	(4)	(5)		(6)		(7)		
					Packaging		Maximum net quantity in one package		Water shipments		
+ EAW	Hazardous materials descriptions and proper shipping names	Hazard class	Identification number	Label(s) required (if not excepted)	Exceptions	Specific requirements	Passenger carrying aircraft or rail car	Cargo only aircraft	Cargo vessel	Passenger vessel	Other requirements
					[A]	[B]	[C]	[D]	[E]	[F]	[G]
	[Add] Lithium batteries, depleted.	ORM-C		None	None	173.1015	Forbidden	Forbidden			
	Methyl isocyanate	Flammable liquid	UN2480	Flammable liquid and Poison.	None	173.119	Forbidden	10 gallons	1	5	Keep cool. Stow away from living quarters and sources of heat.

(49 U.S.C. 1803, 1804, 1808; (49 CFR 1.53, App. A to Part 1, and paragraph (a)(4) of Appendix A to Part 106))

Note.—The Materials Transportation Bureau has determined that this proposed regulation is not a major rule under the terms of Executive Order 12291 and does not require a Regulatory Impact Analysis, nor does it require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). A regulatory evaluation and an environmental assessment are available for review in the Docket. I certify that this proposed regulation if published as a final rule, will not have a significant economic impact on a substantial number of small entities.

Issued in Washington, D.C., on June 22, 1982.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 82-17493 Filed 6-30-82; 8:45 am]

BILLING CODE 4910-60-M

Notices

Federal Register
Vol. 47, No. 127
Thursday, July 1, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Renewals of Designation of Grain Inspection, Inc., and Kankakee Grain Inspection Bureau, Inc.

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces the renewals of designation of Grain Inspection, Inc. (Jamestown), and Kankakee Grain Inspection Bureau, Inc. (Kankakee), as official agencies responsible for providing inspection services under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (Act).

EFFECTIVE DATE: August 1, 1982.

ADDRESS: James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 2405, Auditors Building, Washington, DC 20250, telephone (202) 447–8525.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512–1; therefore the Executive Order and Secretary's Memorandum do not apply to this action.

The January 29, 1982, issue of the **Federal Register** (47 FR 4470) contained a notice from the Federal Grain Inspection Service (FGIS) announcing that Jamestown and Kankakee's designations would terminate on July 31, 1982, and requesting applications for designation as the agency to provide official inspection services within each specified assigned area. Applications were to be postmarked by March 1, 1982.

FGIS announced the names of the applicants for designation for each agency and requested comments on same in the April 1, 1982, issue of the **Federal Register** (47 FR 13980). Comments were to be postmarked by May 17, 1982.

No comments were received regarding the renewal of designation of Jamestown or Kankakee (the only applicants for each respective designation) as the official agency in each area cited in the January 29 issue of the **Federal Register**.

After considering all available information in relation to the criteria for designation in Section 7(f)(1)(A) of the Act, and in accordance with Section 7(f)(1)(B), it has been determined that Jamestown and Kankakee are able to provide official services in the geographic area for which their designations are being renewed. Each assigned area is the entire geographic area as described in the January 29 issue of the **Federal Register**.

Effective August 1, 1982, and terminating July 31, 1985, the responsibility for providing official inspection services in each geographic area as specified above will be assigned to Jamestown and Kankakee, respectively.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspection and where the agency and one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the agencies will provide official inspection services not requiring a licensed inspector to all locations within their geographic area.

Interested persons may contact the Regulatory Branch, specified in the address section of this notice, to obtain a list of the specified service points. Interested persons may also obtain a list of the specified service points by contacting the agencies at the following addresses:

Grain Inspection, Inc., P.O. Box 1652, Jamestown, ND 58401

Kankakee Grain Inspection Bureau, Inc., P.O. Box 102, Kankakee, IL 60901

(Sec. 8, Pub. L. 94–582, 90 Stat. 2873 (7 U.S.C. 79))

Date: June 15, 1982.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 82–17341 Filed 6–30–82; 8:45 am]

BILLING CODE 3410–EN–M

Request for Comments on Applicants for Designation in the Areas Currently Assigned to the Los Angeles Grain Inspection Service, Inc., and Peoria Grain Inspection Service, Inc.

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicants for designation as the official agency in the areas currently assigned to the Los Angeles Grain Inspection Service, Inc. (Los Angeles), and Peoria Grain Inspection Service, Inc. (Peoria). The designations terminate October 31, 1982.

DATE: Comments to be postmarked on or before August 16, 1982.

ADDRESS: Comments must be submitted in writing, in duplicate, to Lewis Lebakken, Jr., Regulations and Directives Management Staff, Federal Grain Inspection Service, U.S. Department of Agriculture, Room 1642, South Building, 1400 Independence Avenue, SW., Washington, DC 20250, telephone (202) 382–0231. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., telephone (202) 382–0231.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512–1; therefore the Executive Order and Secretary's Memorandum do not apply to this action.

The May 3, 1982, issue of the **Federal Register** (47 FR 18942) contained a notice from the Federal Grain Inspection Service requesting applications for designation to perform official inspection services under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (Act), in the areas currently assigned to Los Angeles and Peoria,

respectively. Applications were to be postmarked by June 2, 1982.

One applicant, Los Angeles Grain Inspection Service, Inc., requested designation for all of the geographic area currently assigned to Los Angeles. One applicant, Peoria Grain Inspection Service, Inc., requested designation for all of the geographic area currently assigned to Peoria. Los Angeles and Peoria each applied for a renewal of designation for an additional 3-year period.

In accordance with § 800.206(b)(2) of the regulations under the Act, this notice provides interested persons the opportunity to present their views and comments concerning the applicants for designation. All comments must be submitted to the Regulations and Directives Management Staff, specified in the address section of this notice, and postmarked not later than August 16, 1982 (45 days after publication).

Consideration will be given to comments filed and to other information available before a final decision is made with respect to this matter. Notice of the final decision will be published in the **Federal Register** and the applicants will be informed of the decision in writing.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2873 (7 U.S.C. 79))

Dated: June 15, 1982.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 82-17340 Filed 6-30-82; 8:45 am]

BILLING CODE 3410-EN-M

Termination of Designations of the Minnesota Department of Agriculture and Mississippi Department of Agriculture and Commerce

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces that the designations of two official agencies will terminate, in accordance with the U.S. Grain Standards Act, as amended, on December 31, 1982, and requests applications from parties interested in being designated as agencies to conduct official inspection, official weighing, and supervision of weighing services in the geographic areas currently serviced by each of the specified agencies. The official agencies are the Minnesota Department of Agriculture and Mississippi Department of Agriculture and Commerce.

DATE: Applications to be postmarked on or before August 2, 1982.

ADDRESS: James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 2405 Auditors Building, Washington, DC 20250, telephone (202) 447–8525. All applications submitted pursuant to this notice will be made available for public inspection at the above address during regular business hours.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512–1, therefore the Executive Order and Secretary's Memorandum do not apply to this action.

Section 7(f)(1) and 7A(c)(1) of the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*, at 79(f)(1) and 79a(c)(1)) (Act), specifies that the Administrator of the Federal Grain Inspection Service is authorized, upon application by any qualified agency or person, to designate such agency or person to perform official inspection, official weighing, and supervision of weighing services after a determination is made that the applicant is better able than any other applicant to provide official inspection, official weighing, and supervision of weighing services in an assigned geographic area.

The Minnesota Department of Agriculture, 316 Grain Exchange Building, Minneapolis, Minnesota 55415, was designated as an official agency under the Act for the performance of official inspection functions on July 24, 1978; for weighing functions on November 20, 1978. The Mississippi Department of Agriculture and Commerce was designated as an official agency under the Act for the performance of official inspection functions on July 1, 1978; for weighing functions on November 20, 1978. The agencies' designations for performance of both inspection and weighing functions will terminate on December 31, 1982. This date reflects administrative extensions of official agency designations as discussed in the July 16, 1979, issue of the **Federal Register** (44 FR 41275). Section 7(g)(1) of the Act states generally that designations of official agencies shall terminate no later than triennially and may be renewed according to the criteria and procedures prescribed in the Act.

The geographic area presently assigned to Minnesota pursuant to Section 7(f)(2) of the Act and which is the geographic area that may be assigned to the applicant selected for designation is the entire State of Minnesota, except those export port locations within the State.

The geographic area presently assigned to Mississippi pursuant to Section 7(f)(2) of the Act and which is the geographic area that may be assigned to the applicant selected for designation is the entire State of Mississippi, except those export port locations within the State.

Interested parties, including Minnesota and Mississippi, are hereby given opportunity to apply for designation as the official agency for each respective specified geographic area, as described above, under the provisions of Section 7(f) and 7A(c)(1) of the Act and section 800.196(b) of the regulations issued thereunder. The designations in each specified geographic area are for the period beginning January 1, 1983, and terminating December 31, 1985. Parties wishing to apply for these designations should contact the Chief, Regulatory Branch, Compliance Division, at the address listed above for appropriate forms and information. Applications must be postmarked not later than August 2, 1982 (30 days after publication) to be eligible for consideration.

In making a determination as to which applicant will be designated to provide official inspection, official weighing, and supervision of weighing services in the geographic areas, consideration will be given to all applications submitted and all other information available.

(Sec. 8, Sec. 9, Pub. L. 94–582, 90 Stat. 2873, 2875 (7 U.S.C. 79, 79a))

Date: June 15, 1982.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 82-17339 Filed 6-30-82; 8:45 am]

BILLING CODE 3410-EN-M

Forest Service

Caribou National Forest Grazing Advisory Board Committee; Meeting

The Caribou National Forest Grazing Advisory Board Committee will meet at *9:30 a.m., August 2, 1982,* at the *Montpelier Ranger Station, 431 Clay Street, Montpelier, Idaho.*

The meeting will consist of a field tour of cattle and sheep ranges on the Montpelier Ranger District and a short meeting at the end of the tour to accumulate and discuss the recommendations developed during the day. Agenda items for the tour will include: (1) Discussion and development of the Forest Plan; (2) organization and

operation of the Board; (3) use of the 1982 and 1983 Ranger Betterment Funds; (4) observation of ranger betterment treatment in sage and aspen; (5) physical range improvements; (6) ORV management; (7) noxious weed treatment; (8) discussion of permit transfers, non-use, and delinquent fee payments in relation to the depressed economy.

Lunch will be provided for Forest and Advisory Board members at the Clear Creek Guard Station in Crow Creek.

The meeting is open to the public. Interested persons desiring to make the field trip should furnish their own transportation and lunch. During the last stop of the day, there will be a short meeting to finalize recommendation and to receive oral statements and answer any questions from the public. Written statements may be filed at any time for the Board's consideration.

The meeting will terminate at the Montpelier Ranger Station about 4:30 p.m.

Summary minutes of the tour, meeting, and board recommendations will be maintained in the Forest Supervisor's office in Pocatello and will be available for public inspection within 30 days following the meeting.

Dated: June 24, 1982.

Frank G. Beitia,

Acting Forest Supervisor.

[FR Doc. 82-17931 Filed 6-30-82; 8:45 am]

BILLING CODE 3410-11-M

Office of the Secretary

Forms Under Rewiew by Office of Management and Budget

June 25, 1982.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96-511 applies; (9) Name and telephone number of the agency contact person.

Comments and questions about the items in the listing should be directed to the agency person named at the end of each entry. If you anticipate commenting on a form but find that preparation time will prevent you from submitting comments promptly, you should advise the agency person of your intent as early as possible.

Copies of the proposed forms and supporting documents may be obtained from: Richard J. Schrimper, Statistical Clearance Officer (202) 447-6201.

New

• Rural Electrification Administration
Field Trials
REA Form 399b
On occasion
Businesses or other institutions: 80 responses; 320 hours; not applicable under 3504(h)
Ed Cohen (202) 382-8698

Revised

• Food and Nutrition Service
Food Service Management Company Application for Registration (SFSP)
FNS-189
Annually
State or local governments and businesses or other institutions: 234 responses; 560 hours; not applicable under 3504(h)
Norma Ball (703) 756-3888

Richard J. Schrimper,

Statistical Clearance Officer.

[FR Doc. 82-17749 Filed 6-30-82; 8:45 am]

BILLING CODE 3410-01-M

Joint Committee on the Future of Cooperative Extension; Meeting

Notice is hereby given that the Joint Committee on the Future of Cooperative Extension will meet August 4, 1982, from 8:30 a.m. to 5:00 p.m., August 5, from 8:30 a.m. to 5:00 p.m., and August 6, from 8:30 a.m. to 12:00 p.m., at the Minneapolis Hilton Inn, 1330 Industrial Boulevard, Minneapolis, Minnesota.

The Committee's purpose is to advise the Secretary of Agriculture on policies and programs affecting the mission, future scope and priorities of Cooperative Extension nationally throughout the 1980's and beyond. The agenda for the meeting will consist of a review of the results of the national extension survey, discussion on the future mission of extension, roles, methods, funding, and accountability and evaluation.

The meeting of the Joint Committee on the Future of Cooperative Extension is open to the public for observation on a space available basis.

For additional information contact Dr. Mary Nell Greenwood, Administrator, Extension Service, Room 340 Administration Building, 14th and Independence Avenue, SW, Washington, D.C. 20250. Telephone 202/447-3377. Written comments may also be addressed to Dr. Greenwood.

Mary Nell Greenwood,

Administrator, Extension Service.

[FR Doc. 82-17743 Filed 6-30-82; 8:45 am]

BILLING CODE 3410-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Articles of Quota Cheese; Quarterly Determination and Listing of Foreign Government Subsidies

AGENCY: International Trade Administration, Commerce.

ACTION: Quarterly update of Foreign Government Subsidies on Articles of Quota Cheese.

SUMMARY: The Department of Commerce, in consultation with the Secretary of Agriculture, has prepared a quarterly update to our annual list of foreign government subsidies on articles of quota cheese. We are publishing the current listing of those subsidies that we have determined exist.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Susan E. Silver or Patricia W. Stroup, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, (202) 377-3691.

SUPPLEMENTARY INFORMATION: Section 702(a) of the Trade Agreements Act of 1979 (19 U.S.C. 1202 note) ("the TAA") requires the Department of Commerce ("the Department") to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of quota cheese, as defined in section 701(c)(1) of the TAA, and to publish an annual list and quarterly updates of the type and amount of those subsidies.

The Department has developed, in consultation with the Department of Agriculture, information on subsidies (as defined in section 702(h)(2) of the TAA) being provided either directly or indirectly by foreign governments on articles of quota cheese.

In the current quarter the Department has determined that the subsidy

amounts have changed for each of the countries for which programs were identified in the April 1, 1982, quarterly update to our annual subsidy list. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amount of each subsidy on which information is currently available.

The Department will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which benefit articles of quota cheese to submit such information in writing to the Deputy Assistant Secretary for Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

This determination and notice are in accordance with section 702(a) of the TAA (19 U.S.C. 1202 note).

Dated: June 28, 1982.

Judith Hippler Bello,

Deputy (for Policy) to the Deputy Assistant Secretary for Import Administration.

APPENDIX—QUOTA CHEESE SUBSIDY PROGRAMS

Country and program(s)	Subsidy (per pound)	
	Gross [1]	Net [2]
Belgium: European Community (EC) restitution payments	9.3¢	9.5¢
Canada: Export assistance on certain types of cheese	16.9¢	16.9¢
Denmark: EC restitution payments	3.8¢	3.8¢
Finland:		
Export subsidy	102.2¢	102.2¢
Indirect subsidies	19.5¢	19.5¢
Total	121.7¢	121.7¢
France: EC restitution payments	5.6¢	5.6¢
Ireland: EC restitution payments	7.3¢	7.3¢
Italy: EC restitution payments	19.5¢	19.5¢
Luxembourg: EC restitution payments	9.3¢	9.3¢
Netherlands: EC restitution payments	1.2¢	1.2¢
Norway:		
Indirect (milk) subsidy	21.1¢	21.1¢
Consumer subsidy	46.7¢	46.7¢
Total	67.8¢	67.8¢
Portugal: Direct subsidy on all sales of Gouda cheese	18.1¢	18.1¢
Switzerland: Deficiency payments	82.0¢	82.0¢
United Kingdom: EC restitution payments	4.2¢	4.2¢
West Germany: EC restitution payments	4.8¢	4.8¢

[1] Defined in 19 U.S.C. 1677(5).
[2] Defined in 19 U.S.C. 1677(6).

[FR Doc. 82-17982 Filed 6-30-82; 8:45 am]
BILLING CODE 3510-25-M

Final Affirmative Countervailing Duty Determination Prestressed Concrete Steel Wire Strand From Spain

AGENCY: International Trade Administration, Commerce.

ACTION: Final affirmative countervailing duty determination.

SUMMARY: We have determined that the government of Spain is providing its manufacturers, producers, or exporters of prestressed concrete steel wire strand ("PC strand") with benefits that constitute subsidies within the meaning of the countervailing duty law. The estimated net amount of the subsidy is 1.77 percent of the f.o.b. value of the imported merchandise. Therefore, we are directing the U.S. Customs Service to continue the suspension of liquidation ordered in the preliminary determination of all entries of the product subject to the investigation which are entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or bond in the amount equal to the net subsidy. The U.S. International Trade Commission ("ITC") will determine within 45 days of the publication of this notice whether these imports are materially injuring, or threatening to materially injure, a U.S. industry.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: John R. Brinkmann Jr., Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, (202) 377–4929.

SUPPLEMENTARY INFORMATION:

Final Determination

Based upon our investigation, we determine that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended ("the Act"), are being provided to manufacturers, producers, or exporters in Spain of PC strand as described in the "Scope of Investigation" section of this notice. For the purpose of this investigation, the program found to be a subsidy is the Privileged Circuit Exporter Credits Program: Working Capital Loans. We determine the estimated net subsidy to be 1.77 percent of the f.o.b. value of the imported merchandise.

Case History

On November 5, 1981, we received a petition from counsel on behalf of five domestic manufacturers of PC strand. Those manufacturers are: American Spring Wire Corporation, Armco Inc., Bethlehem Steel Corporation, Florida Wire & Cable Company, and Shinko Wire America, Inc. The petition alleged that certain benefits which constitute bounties or grants within the meaning of section 303 of the Act were being provided, directly or indirectly, to the manufacturers, producers, or exporters in Spain of PC strand.

We reviewed the petition and determined that an investigation should be initiated on November 25, 1981 (46 FR 58543). In that notice we stated that we expected to issue a preliminary determination no later than January 29, 1982. We subsequently determined that the investigation was "extraordinarily complicated," as defined in section 703(c) of the Act, and postponed our preliminary determination (47 FR 2141).

Section 303 of the Act applied to this investigation when it was initiated because at that time, Spain was not a "country under the Agreement" within the meaning of section 701(b) of the Act, and the product at issue was dutiable. Therefore the domestic industry was not required to allege, and the ITC was not required to determine whether, imports of this product caused or threatened material injury to the U.S. industry in question.

A questionnaire concerning the allegations was presented to the government of Spain on December 29, 1981. We received responses to our questionnaries from the government of Spain on February 22 and March 1, 1982.

On April 5, 1982 the Department of Commerce ("the Department") preliminarily determined that the government of Spain was providing its manufacturers, producers, or exporters of PC strand with benefits that are bounties or grants within the meaning of the countervailing duty law (47 FR 15618). We estimated the net bounty or grant to be 1.44 percent of the f.o.b. value of the imported merchandise, and directed the U.S. Customs Service to suspend liquidation of all entries or warehouse withdrawals for consumption of this merchandise and to require a cash deposit or bond in an amount equal to the estimated net bounty or grant.

On April 14 the Office of the U.S. Trade Representative announced that Spain had become a "country under the Agreement." Section 102(a)(2) of the Act governs the treatment of cases in which a country, currently the subject of an investigation, becomes a "country under the Agreement" before a final determination. It states that where a preliminary but not the final determination has been made under section 303 of the Act, the case is to be treated as if the preliminary determination were made under section 703 as of the date Title VII first applied to the case. Therefore, the date Spain became a "country under the Agreement," April 14, 1982, is the date of

the preliminary determination. Notice to this effect was published in the Federal Register of April 29, 1982 (47 FR 18402). We advised the ITC of the status of the case and, in accordance with § 355.25(b) of the Commerce Regulations, made information from our files available to it.

Scope of the Investigation

The merchandise covered by this investigation is prestressed concrete steel wire strand, a product used to compress concrete in order to provide active resistance to loads in such items as girders, beams, pilings, and other building materials. PC strand is currently classified under item number 642.1120 of the *Tariff Schedules of the United States Annotated.*

Analysis of Programs

In its response, the government of Spain provided data for calendar years 1980 and 1981. The government identified two programs, the "Desgravacion Fiscal a la Exportacion" ("DFE") and the Privileged Circuit Exporter Credits, as having been utilized by the Spanish PC strand producers and exporters. Three firms are known to have produced and exported PC strand to the United States during this time period. They are Elaborados Metalicos, S.A. ("EMESA"), Trenzas y Cables de Acero, S.A. ("TYCSA"), and Nueva Montana Quijano, S.A. ("NMQ"). We verified the data pertaining to EMESA and TYCSA as these firms accounted for approximately 98 percent of the exports of PC strand from Spain to the U.S. in 1981.

The following is based upon our analysis of the petition, the response, our vertification and information from interested parties:

Programs Determined To Be Subsidies

We determine that subsidies are being provided to manufacturers, producers, or exporters in Spain of PC strand under the following program:

Privileged Circuit Exporter Credits Program: Working Capital Loans

We determine that the government of Spain is providing subsidies to its manufacturers, producers, or exporters of PC strand through working capital loans under the Privileged Circuit Exporter Credits Program.

The government of Spain requires all Spanish commercial banks to maintain a specific percentage of their lendable funds in privileged circuit accounts. These funds are made available to exporters at preferential interest rates. While there is no direct outlay of government funds, the benefits conferred on the companies are the result of a government mandated program to promote exports. Of the four privileged circuit programs identified by petitioner, we determined that PC strand producers benefited from one by receiving working capital loans.

Under the privileged circuit program, firms may obtain working capital loans for less than one year the total of which is not to exceed a specified percentage of their previous year's exports. In 1981 this percent was 20 percent until November when it was decreased to 16 percent for firms without exporter's cards. For firms with government issued exporter's cards such as EMESA, TYCSA and NMQ, the change was from 30 to 24 percent. In 1981, the privileged circuit working capital loan interest rate ceiling mandated by the government was 10 percent, including fees and commissions.

In the preliminary determination we calculated the amount of the bounty or grant to PC strand producers, by computing the interest on the working capital loans using the 10 percent rate under the privileged circuit program, less commissions and fees, and comparing it with an average interest rate or the rate received commercially by each of the firms on loans of similar duration. A per ton subsidy was calculated by prorating the interest differential for each firm over that firm's total exports of all products in 1981. We weight-averaged the benefits of the companies to arrive at the benefit to PC strand producers. In this final determination we have made adjustments to our calculations to reflect the fact that these working capital loans are available throughout Spain to all parties meeting eligibility requirements. In such instances we calculate the subsidy by comparing the preferential interest rate with the national average commercial interest rate on loans with similar terms and conditions.

In this case TYCSA and EMESA received all their 1981 privileged circuit working capital loans, most of which were approximately one year in length, between June and December, 1981. We determined that for the period June through December 31, 1981, the average prime interest rate was 16.94 percent for loans of 1 year or more and that the average borrowers paid 2 percentage points over the prime rate for loans of this type. As the 10 percent working capital loan rate includes fees and commissions, we also made an addition of 0.5 percent to the commercial rate, which by Spanish law is the maximum allowable charge for fees and commissions.

Based on this data we determined the national average commercial interest rate to average borrowers to be 19.44 percent for one-year loans, including fees and commissions. To determine the benefit, the interest differential of 9.44 percent was applied to the total privileged circuit working capital loans of PC strand producers exporting to the United States. The total working capital loan figure for 1981 was comprised of the actual loans received by TYCSA and EMESA and the amount of loans NMQ (representing 2 percent of the exports to the U.S. in 1981) was eligible to receive under this program in 1981, as specific loan information was not made available. We used 24 percent of the NMQ's 1980 exports to represent this figure. This benefit was prorated over all exports of these companies to arrive at a subsidy per metric ton. We divided this figure by the weighted-average f.o.b. price per metric ton of all PC strand exported to the United States to arrive at the estimated countervailing duty rate of 1.77 percent.

Programs Determined Not To Be Subsidies

We determine that subsidies are not being provided to manufacturers, producers, or exporters of PC strand under the following programs:

1. *Desgravacion Fiscal a la Exportacion (DFE).* Spain employs a cascading tax system. A turnover tax (IGTE) is levied on each sale of a product through its various stages, of production, up to (but not including) the ultimate sale at the retail level. The DFE is the mechanism used in Spain for the rebate of these accumulated taxes (hereafter referred to as "indirect taxes") upon exportation of that product. In this case we have determined that the DFE is a non-excessive rebate of indirect to taxes paid on items physically incorporated into PC strand. These rebate payments meet the requirements of our three-prong test recently upheld by the Court of International Trade in *Industrial Fasteners Group, American Importers Association* v. *United States,* 2 CIT ——, Slip Op. 81–99, October 29, 1981. That test, consisting of three lines of inquiry, all of which must be answered affirmatively to determine that an export payment such as the DFE is not a subsidy, asks the following:

(1) Whether the (export payment) operates for the purpose of rebating indirect taxes, (2) whether there is a clear link between eligibility for (export payments) and payment of indirect taxes, and (3) whether the government has reasonably calculated and documented the actual indirect tax incidence

borne by (exported products) and has demonstrated a clear link between such tax incidence and the amount of the (export payment).

The laws and regulations which establish and control the Spanish tax system, and subsequent submissions by the Spanish regarding the indirect tax incidences on PC strand, satisfy the requirements of this three-prong test. In calculating the DFE payments to be rebated to exporters of PC strand, the Spanish used an input-output table of the economy that defined indirect tax incidences on a sectoral basis. This is the basis for a schedule of border taxes (ICGI) designed to subject imported goods to a tax burden equivalent to that borne by an identical or similar item produced in Spain. The DFE is tied by law to the level of the ICGI.

To demonstrate the actual indirect tax incidence on PC strand the government of Spain provided a "structure of cost" analysis of the product. This identified inputs incorporated into the product and the indirect tax incidence burdening each input.

The "structure of cost" indicated that steel wire rod, the major input physically incorporated into PC strand, accounted for approximately 75 percent of the total cost of producing the product. Three other inputs (lead, packing and other materials) accounted for approximately 1.95 percent of the total cost. The remaining factors included in the cost of producing PC strand were not identified in this "structure of cost" and therefore these other factors were not considered in the calculation of the total indirect tax incidence of items physically incorporated into the production of PC strand. We verified the inputs and their relationship to the total cost of the finished product from company production records. Our verification of these figures at EMESA and TYCSA showed the "structure of cost" inputs and percentages to be correct.

Based on the 1980 IGTE tax rate of 2.4 percent, the total indirect tax burden (including two final stage taxes) on PC strand in 1980 was 12.55 percent. The DFE rate in 1980 did constitute an over-rebate of indirect taxes because the DFE rebate for PC strand was 15.5 percent. However, in January, 1981, the government of Spain increased the IGTE tax rate by 58 percent to 3.8 percent, making the 1981 indirect tax burden on PC strand 19.74 percent. A further increase in the IGTE tax rate in January, 1982 to 4.8 percent increased the indirect tax burden to 23.92 percent. As a result of these increases in the tax rate the over-rebate was eliminated. Therefore we determine that the current DFE rebate of 15.5 percent is less than the indirect tax burden currently borne by this product and thus, in this case, the DFE is not a benefit which constitutes a subsidy.

2. *Benefits to the Steel Industry.* One of the allegations raised by petitioner is that manufacturers of PC strand benefited from indirect subsidies by purchasing wire rod or billets from subsidized Spanish steelmakers. The Department has verified that both EMESA and TYCSA purchased only steel wire rod for their strand production and that these purchases were made from a variety of unrelated domestic and international suppliers at prices which were reasonably comparable. Our verification indicates that these purchases were arm's length transactions. Therefore we have determined that these manufacturers of PC strand are not receiving benefits which constitute subsidies as a result of their transactions with unrelated steel wire rod suppliers.

Programs Not Utilized Or Not Applicable

We determine that the following programs, which were described in the notice of "Initiation of Countervailing Duty Investigation", are not used or are not applicable to manufacturers, producers, or exporters in Spain of PC strand.

1. Certain Privileged Circuit Exporter Credits.

Those privileged circuit programs alleged by the petitioner but not utilized by PC strand producers are:

- Commercial services loans
- Short-term export credit
- Prefinancing of exports

2. Warehouse Construction Loans;
3. Export Credit Insurance;
4. Other benefit programs included in this investigation from prior Spanish countervailing duty cases.

Petitioner's Issues

Issue—Counsel for petitioner argues that the DFE is a subsidy under section 771(5) and example (g) of Annex A to the Subsidies Code and may not be offset by the indirect taxes paid. They further argue that the legislative history of the Act did not intend for tax systems such as the Spanish cascade system to be brought under the administrative practice of finding that the non-excessive remission of indirect taxes is not a subsidy.

DOC Position—The Department does not consider the non-excessive rebate of indirect taxes to be a subsidy. The Court of International Trade upheld the Department's position on this matter in the *Industrial Fasteners* case cited above. Therefore the use of offsets is not an issue here.

Issue—Counsel for petitioner contends that even if they accept the position that the non-excessive remission of turnover taxes is not a subsidy, the methodology employed by the Spanish for deriving the indirect tax amount is an approximation and does not satisfy the "reasonably calculated" part of the three-prong test. Counsel describes the steps in the production of PC strand, and treating each step in the process as a turnover, estimates the incidence of indirect taxes on PC strand. Counsel contends that under this model, and assuming the maximum number of turnovers in the production of PC strand, the DFE rebate is excessive and results in an *ad valorem* subsidy of 11.8 percent.

DOC Position—When analyzing a turnover tax system, we cannot simply count, as counsel suggests, the various turnovers that take place in manufacturing a product to determine the actual incidence of tax paid. Each of the principal inputs entering into the final product has its own pyramid of turnover taxes. The aggregate tax burden is the basis for the DFE rebate. Futhermore the tax is levied on the full value of the product at each turnover resulting in a tax-on-tax effect. The difficulties in a step-by-step analysis of the turnover tax on each input in a product requires countries which utilize such systems to rely on a macroeconomic approach like that of the input-output tables to measure indirect tax incidences.

The methodology used by the Spanish government has been evaluated by the Treasury and Commerce Departments. It is clear from records on previous Spanish countervailing duty cases that Treasury was satisfied that the methodology was based on sound economic principles and established the total turnover tax attributed to various elements in the manufacture of a product. In addition, we have analyzed the Spanish government's methodology with respect to one product and determined that it results in a reasonable calculation of indirect tax incidence. The Spanish government has informed us that the same methodology was applied in calculating indirect tax incidence on all other Spanish products currently subject to U.S. countervailing duty orders or investigations. Since these studies are used by the Spanish government to establish import tax levels as well as export rebates, there is no reason to believe that they are manipulated in order to minimize U.S.

countervailing duties. Therefore we have determined that the Spanish government's input-output system may appropriately be used in our countervailing duty cases.

Issue—Counsel for petitioner states that the Spanish government response to our questionnaire should not have been verified because it was incomplete, conclusory and non-specific. Additionally, where a government or a company fails to disclose information requested during verification, petitioner contends that the Department should use the information provided in the petition.

DOC Position—The Department determined that the response was verifiable. While certain documents requested at verification were not submitted, the Department is satisfied that the documents submitted in place of those requested were adequate to allow a complete verification of the information used in arriving at this determination.

Issue—Counsel challenges the position taken by the Department on indirect subsidies in the preliminary determination on the grounds that it is not consistent with the statutory purpose of the countervailing duty law and is unsupported by economic analysis. Counsel argues that: (1) The distinction between related party suppliers and unrelated party suppliers should not be used as a basis for determining when a benefit "flows through" from the supplier to a purchaser; and (2) the language "directly or indirectly" in sections 701 (a)(1) and 771(5)(B) of the Act allows the Department to find that payments to steel wire rod suppliers constitute subsidies to PC strand producers.

DOC Position—The benefits allegedly conferred by the Spanish government on the primary carbon steel industry would have to be determined to benefit the PC strand industry specifically in order to constitute a countervailable benefit to PC strand producers. We cannot assume that benefits conferred by the government to one party are passed through to an another party without looking at the economic environment surrounding those industries. Petitioner's claim that benefits to wire rod producers are automatically passed through to PC strand producers does not conform with the economic realities of steel consuming industries. This is particularly true when one gives consideration to the concept of "own" price elasticity of demand. It is generally in the commercial interest of a firm receiving a subsidy not to share the benefits with its customers. Hence, when Spanish wire rod producers sold to many different industries and where Spanish PC strand producers bought from several sources, there is no reason to believe that any possible subsidy to the wire rod industry was passed on specifically to the PC strand industry.

Issue—Counsel for petitioner contends that since the PC strand producers currently receive non-privileged circuit working capital loans from banks which own a percentage of their stock, the rates and conditions on all such loans do not comport with commercial considerations, and therefore constitute a countervailable benefit within the meaning of section 701 of the Act.

DOC Position—Because the banks own large percentages of the companies, we consider the rates and conditions of non-privileged circuit working capital loans to be those of intracorporate transactions and not subsidies.

Respondent's Issues

Counsel for TYCSA and EMESA argues that in the preliminary determination the Department overstated the weighted-average subsidy in connection with the Privileged Circuit Exporter Credits Program and cites four areas of contention.

Issue—Commerce should calculate the interest differential for loans obtained on the exports under analysis.

DOC Position—Our calculations include the privileged circuit working capital loans obtained in 1981. Therefore it is appropriate to use the interest differential in effect in 1981 when these loans were received and to spread the benefit from these working capital loans over 1981 export figures.

Issued—Commerce should adjust its calculations to account for prepayment of interest on working capital loans.

DOC Position—The payment terms on these loans are not mandated by the government. They are negotiated with the bank and vary with the company. The difference between the preferential and national average commercial interest rate reflects these varying terms. We did not adjust working capital loans for prepayment of interest because the figure that results from the use of this interest differential in our calculations represents the amount of the subsidy conveyed by the working capital loans program.

Issue—Commerce should ensure comparable treatment of expenses and fees in connection with the making of loans.

DOC Position—As fees and commissions are contained in the preferential working capital loans, we have included a charge for commissions and fees in the average commercial rate.

Issue—Commerce should ensure that a consistent exchange rate is utilized in its calculations.

DOC Position—We used only one exchange rate for currency conversions in our calculations. It was the average exchange rate certified by the Federal Reserve Bank in New York for 1981 of 88.8 pesetas to the dollar.

Verification—In accordance with section 776(a) of the Act, we verified the information submitted in the original response and relied upon in this determination. We used normal verification procedures to verify the government response. This included inspection of government documents, discussions with government and trade association officials, and on-site inspection of the manufacturers' production methods and records.

Administrative Procedures—The Department has afforded interested parties an opportunity to present oral views in accordance with § 355.35 of Commerce Regulations (19 CFR 355.35). A request for a public hearing was made by counsel for petitioners and a hearing was held on April 29, 1982. Counsels for the petitioners and respondents have provided written views in accordance with § 355.34(a) Commerce Regulations (19 CFR 355.34(a)).

Suspension of Liquidation—Customs officers are directed to continue the suspension of liquidation ordered in the preliminary determination of all entries of the product subject to the investigation which are entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or bond in the amount equal to 1.77 percent of the f.o.b. value of the imported merchandise. The security amount established in our April 12, 1982 preliminary determination is no longer in effect.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine on or before August 16, 1982 whether these imports are materially injuring, or

threatening to materially injure, a U.S. industry. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, within seven days of notification by the ITC of that determination, we will issue a countervailing duty order, directing Customs officers to assess a countervailing duty on PC strand from Spain entered or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the estimated net subsidy.

This notice is published pursuant to section 706 of the Act and § 355.33 of the Department of Commerce Regulations (19 CFR 355.33).

Lawrence Brady,

Assistant Secretary for Trade Administration.

June 25, 1982.

[FR Doc. 82-17988 Filed 6-30-82; 8:45 am]

BILLING CODE 3510-25-M

Bicycle Tires and Tubes From Korea; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of anitdumping finding.

SUMMARY: On February 23, 1981, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on bicycle tires and tubes from Korea. The review covers four of the five known exporters of this merchandise to the United States for separate time periods up to March 31, 1980.

Interested parties were given an opportunity to submit oral or written comments on these preliminary results. Four exporters and the petitioner submitted written comments. On April 8, 1981, the Department conducted a hearing requested by two Korean exporters. Three Korean exporters and the petitioner attended and presented oral comments. Based upon analysis of oral and written comments, the Department has adjusted the margins calculated for Hung-A and Korea Inoue Kasei. Margins for the remaining two exporters are unchanged from the margins published in the preliminary results.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph A. Fargo or Michael R. Cox, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-5255).

SUPPLEMENTARY INFORMATION:

Background

On April 13, 1979, a dumping finding with respect to bicycle tires and tubes from Korea was published in the **Federal Register** as Treasury Decision 79-115 (44 FR 22051-2). On February 23, 1981, the Department of Commerce ("the Department") published in the **Federal Register** the preliminary results of its administrative review of the finding (46 FR 13531-2). The Department has now completed that administrative review.

Scope of the Review

The imports covered by the review are bicycle tires and tubes from Korea. The term "bicycle tires and tubes" means pneumatic bicycle tires and tubes, of rubber or plastics, whether such tires and tubes are sold together as units or separately. Bicycle tires and tubes are currently classifiable under items 772.4800 and 772.5700 of the Tariff Schedules of the United States Annotated (TSUSA). The Department knows of a total of five exporters to the United States of Korean bicycle tires and tubes. This review covers four of them for various time periods through March 31, 1980, during which shipments of bicycle tires and tubes were made to the United States. Different time periods are involved for different companies.

During the course of the review, the Department learned of the existence of the fifth firm, Daewoo Industrial Co., Ltd. As a consequence, Daewoo will be included as part of the next administrative review. The cash deposit requirement for Daewoo (based upon the highest rate for firms shipping during the current review period) shall be 5.80%.

Interested parties were afforded an opportunity to furnish oral or written comments. The Department received written comments from four Korean exporters and the petitioner as well as oral views presented by three Korean exporters and the petitioner at a hearing held April 8, 1981. Written comments from Shin Hung concerning its preliminary results were received after the close of the 30-day comment period and, consequently, were not considered by the Department. During the hearing, Dae Yung requested for the first time in this review an adjustment for bad debts in 1979. This request, too, was deemed untimely and not considered. The Department has considered all other written comments, submitted in accordance with section 353.46 of the Commerce Regulations, and oral views in determining these final results of its administrative review.

Analysis of Petitioner's Comments

(1) *Comment:* The Department's allowance of certain claims for adjustment to foreign market value are impermissible because the Department did not establish a direct causal relationship between the alleged differences in circumstances of sale and any difference between the United States price and foreign market value. In the petitioner's view, the Department must require proof not only that there are quantifiable differences in circumstances of sale but also that these differences affect the price differential to the extent of the claimed adjustment.

Position: All adjustments were made in accordance with § 353.15(d) of the Commerce Regulations which states that reasonable allowances will be made for the costs to the seller of any differences in circumstances of sale. This regulation is consistent with section 773(a)(4) of the Tariff Act which states that an allowance will be made for any price difference "wholly or partly" due to differences in circumstances of sale. The Department concludes that the differences in cost constitute a reasonable indication of the differences in price.

(2) *Comment:* Rebates granted by the Korean manufacturers are not directly related to the sales under consideration because (1) the rebates were not based upon particular sales, but rather total sales, and as such were not "rebates" but general "goodwill expenditures" and (2) such after sales rebates were not quantifiable until the end of the rebate period and could not have affected the specific selling prices. The petitioner further contended that the claimed values of the selected rebates were based on averages and not the actual values. Accordingly, the petitioner argued that the Department's allowance of rebates as adjustments to the foreign market values of Hung-A, Dae Yung, and Shin Hung is not supported by substantial evidence and is contrary to law.

Position: The adjustments allowed for certain rebates are quantifiable and directly related to the sales under consideration. Rebate liabilities were incurred by virtue of the sales of bicycle tires and tubes ("tires") during the periods covered. Thus, the end-of-period rebate amount was affected directly by the sale or non-sale of tires, and the tire rebates were directly related to the sales under consideration. Additionally, the actual total rebate amounts used to arrive at per unit rebate figures were

verified by the Department. The per unit figures represent not approximations or estimates, but reasonable allocations of actual costs derived from an actual total rebate amount.

(3) *Comment:* The allowance of adjustments to foreign market value by the Department in the cases of Hung-A, Dae Yung, and Shin Hung for inland freight was improper because the amount of each allowance was an inaccurate estimate and such an adjustment for inland freight is not permitted by the statute.

Position: In making a fair and equitable comparison, the Department believes it is necessary to reduce the United States price and foreign market value being compared to comparable terms. In its simplest form, the calculation will ordinarily be made by taking the ex-factory price for both the sale to the U.S. and for home consumption. In adjusting foreign market value pursuant to section 773(a)(4), for differences in circumstances of sale to permit a fair value comparison on comparable terms, the Department followed a long-standing administrative practice with regard to inland freight and relied on verified total inland freight amounts contained in the administrative record.

(4) *Comment:* The Department's allowance of bonuses to distributors as adjustments to the foreign market values of Dae Yung and Hung-A is not supported by evidence and is contrary to law.

Position: The bonuses paid to distributors are directly analogous to the basis on which rebates are given and, therefore, are valid deductions from the foreign market value. See comment #2 on rebates.

(5) *Comment:* Under sections 402 and 402a of the Tariff Act of 1930 as amended, where particular features and functional attributes are important to individual consumers, products are not commercially interchangeable and, therefore, tires having differing diameters and/or widths are dissimilar products for tariff purposes. Alternatively, if the Department considers this merchandise to be similar, there are significant physical differences between the products being compared which necessitate adjustments, and such adjustments should be based on differences in production costs.

Position: The standard of "commercial interchangeability" developed in the appraisement law context of sections 402 and 402a of the Tariff Act of 1930, as amended, is not directly applicable in the context of an antidumping proceeding. Within the meaning of section 771(16), the Department has determined these tires to be similar merchandise. For purposes of adjusting for differences in similar merchandise, the Department followed § 353.16 of the Department's regulations.

(6) *Comment:* The Department should not allow the additional adjustments claimed by Dae Yung and Hung-A for credit, advertising, entertainment/public relations, and bad debt expenses.

Position: For reasons to be discussed individually under "Analysis of Respondents' Comments," the Department has not allowed any of these requested adjustments.

(7) *Comment:* The methodology of model comparison proposed by Korea Inoue Kasei ("KIK") is unacceptable. Under section 771(16) of the Tariff Act, sales of "such" merchandise are preferred over sales of similar merchandise. Once it has been determined that merchandise identical to the U.S. imported merchandise was sold, here to a third country, then the price for such identical merchandise must form the basis for determining foreign market value. Sales of identical merchandise cannot be disregarded in favor of purportedly similar merchandise.

Position: The Department believes it is proper to resort to similar merchandise comparisons in connection with the KIK transactions in question. To make comparisons on the basis of identical merchandise would, in this case, involve transactions which are too remote in time to form a proper basis for comparison. This would be inappropriate and highly unfair. See discussion under comment #10.

(8) *Comment:* The Department erred in computing purchase price by making an addition for the amount of taxes rebated or not collected by reason of exportation to the U.S. The petitioner argues that the use of a flat percentage does not take into account variations between sizes and styles of tires and is, therefore, a very imprecise allocation method.

Position: The actual total amounts of rebated taxes used to arrive at per unit figures were verified by the Department. These per unit figures represent not imprecise approximations or estimates but reasonable allocations of actual amounts derived from the actual total rebate.

(9) *Comment:* The allowance of an adjustment for insurance costs in the case of Shin Hung was improper for the reasons that such costs constitute a general expense item and that the method of allocation does not lead to unit costs for bicycle tires and tubes.

Position: Shipping insurance costs were incurred by Shin Hung in transporting tires to the warehouses of replacement distributors in the home market for subsequent sales to domestic customers. Further, actual total insurance cost amounts used to arrive at per unit insurance cost figures were verified by the Department. These per unit figures represent not approximations or estimates but reasonable allocations of actual costs derived from an actual total insurance cost amount.

Analysis of Respondents' Comments

(10) *Comment:* KIK contended in its written comments that some of the third-country (Canadian) transactions used to determine its foreign market value occurred at points in time too remote from the U.S. sales dates to form a proper basis for price comparison, particularly in light of the numerous price increases that occurred during 1979 in Canada. KIK submitted extensive schedules of new comparisions for those transactions not reasonably contemporaneous.

Position: The Department has decided to make price comparisons based on reasonably contemporaneous sales in the United States and the foreign market of similar merchandise. The Department defines a reasonably contemporaneous foreign market transaction as one occurring not more than 90 days prior or 45 days subsequent to the date of the U.S. transaction. The prior dates are preferable where they exist. Exceptions may be made in cases of extremely stable prices within the period in question.

The Department's acceptance of this methodology was contingent upon four primary concerns: (1) That the methodology not be advantageous to the respondent, (2) that the methodology comport with § 353.16 of the Deparment's regulations, (3) that the submitted calculations be accurate, and (4) that the Department be able to confirm the correctness of the KIK selections of similar (superior or inferior) Canadian merchandise. The Department was satisfied on the first and second concerns after close scrutiny revealed the methodology was indeed not advantageous to the respondent and was valid as contended by KIK. The comparisons are based either upon the full price for superior articles sold to Canada or, if the Canadian article was inferior, an adjustment was made for differences in market value. Section 353.16 permits adjustments for differences in physical characteristics to be made by reference to either costs or market value. The regulation further provides that "in the case of

merchandise which does not lend itself to comparison with other merchandise for the purpose of this section, any method reasonably calculated to reflect the impact on cost or value of any differences in the merchandise under consideration may be used." The department was satisfied on the third concern after a statistical sampling procedure disclosed that the calculations were accurate and unbiased. The Department was satisfied on the fourth concern after obtaining tire and tube samples from KIK and an independent opinion from the Customs Serivce Import Specialist for tires confirming KIK's similar (superior or inferior) selections. The Department has obtained cost of production information for use in the next administrative review.

(11) *Comment:* Section 772(d)(1)(D) of the Tariff Act requires the amount of countervailing duties imposed to offset an export subsidy on tires exported by KIK to the United States be added to purchase price.

Position: The Department has determined that KIK benefited from subsidy programs not related to exports; thus they are not export subsidies and, as a result, no adjustment to purchase price was appropriate.

(12) *Comment:* Hung-A and Dae Yung provided copies of promissory notes issued by their Korean customers, copies of shipping invoices relating to each note, and balance sheets proving that sales to their replacement market customers are on credit. That Hung-A and Dae Yung sell on credit to Korean replacement market customers, but not to export customers, was also verified in Korea. The Department's disallowance of an adjustment for credit differences in the case of Hung-A and Dae Yung is, therefore, inappropriate.

Position: The respondents presented insufficient information to justify an adjustment for differences in credit. The respondents did not show that such credit costs were attributable to tires, nor did they show those expenses incurred were limited to the home market. Thus, they do not qualify for circumstance of sale adjustment under § 353.15 of the Commerce Regulations. In addition, it is the position of the Department that verification as contemplated in the Tariff Act of 1930, as amended, means confirmation by the Department as to the *accuracy* of information provided by the respondent. Verification in itself does *not* address the question of *analysis and interpretation* of such information.

(13) *Comment:* Hung-A and Dae Yung provided ample evidence of entertainment expenses and the requisite direct relationship of these expenses to sales in the home market. This evidence consists of a list of all entertainment expenses and copies of receipts for such expenses. In addition, these documents were verified in Korea. The Department's disallowance of public relations/entertainment expenses in the case of Hung-A and Dae Yung is, therefore, inappropriate.

Position: General entertainment expense is an overhead category devoted to maintaining goodwill for the seller as distinct from a specific expense incurred in making a particular sale. See comment #12 on verification.

(14) *Comment:* Hung-A and Dae Yung incur bad debt losses on Korean sales but not on export sales, and these losses are reflected in increased prices to Korean customers. In addition, Hung-A and Dae Yung provided lists of dishonored promissory notes and the existence of bad debt losses on home market sales was verified in Korea. The Department's disallowance of bad debt expenses in the case of Hung-A and Dae Yung is, therefore, inappropriate.

Position: Bad debt losses claimed by Hung-A and Dae Yung are general expenses not meeting the directly related criteria of § 353.15 of the Commerce Regulations. See comment #12 on verification.

(15) *Comment:* Hung-A and Dae Yung provided proof of advertising including receipts for advertising costs and specific examples of advertising. In addition, these costs were verified in Korea. The Department's disallowance of an adjustment for advertisting in the case of Hung-A and Dae Yung is, therefore, inappropriate.

Position: The Department determined that, based upon the submitted information, advertising expenses incurred by the Korean manufacturers were a goodwill effort devoted to encouraging purchases from the manufacturers and were not expenses undertaken on behalf of the actual purchasers of merchandise. Therefore, the claimed advertising expenses were not an assumption by the sellers of purchaser's advertising expenses as required in § 353.15(b) of the Commerce Regulations. See comment #12 on verification.

(16) *Comment:* If after verification, the Department is still of the opinion that insufficient information exists to justify the claimed adjustments, then this is ascribable to the failure of the verification team to properly verify data, not to the respondents' failure to make available adequate data.

Position: The purpose of verification is to determine the accuracy of submitted information. It is the responsibility of respondents to correct deficiencies in submissions.

(17) *Comment:* Errors exist in the margin calculation for 20 x 1.75 black tubes of Hung-A. The Department used an incorrect amount to adjust for rebated taxes.

Position: The Department used an adjustment applicable to tires instead of tubes. We have corrected the amount and calculated a new weighted average margin.

Final Results of the Review

As a result of our analysis of oral and written comments, we determine that the following weighted-average margins exist:

Korean exporter	Time period	Margin percent
Dae Yung Commercial Co., Ltd.	3/1/78–12/31/78	5.75
	1/1/79– 3/31/80	1.11
Hung-A Industrial Co., Ltd.	4/1/78–12/31/78	3.62
	1/1/79– 3/31/80	2.12
Korea Inoue Kasei Co., Ltd.	4/1/78–12/31/78	1.11
	1/1/79– 3/31/80	1.03
Shin Hung Rubber Co., Ltd.	1/1/79– 3/31/80	5.66

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all entries made with purchase dates during the time periods involved. Individual differences between purchase price and foreign market value may vary from the percentage states above.

The Department will issue appraisement instruction separately on each exporter directly to the Customs Service.

Further, as provided by § 353.48(b) of the Commerce Regulations, a cash deposit based upon the most recent of the margins calculated above for each firm shall be required on all shipments by these firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. For any shipment from a new exporter (including Daewoo) not covered in this administrative review, unrelated to any covered firm, a cash deposit shall be required at the highest rate for responding firms with shipments during the most recent period. These deposit requirements shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review after publication of these final results.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C.

1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Judith Hippler Bello,

Deputy (for Policy) to the Deputy Assistant Secretary for Import Administration.

June 24, 1982.

[FR Doc. 82-17959 Filed 6-30-82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Marine Mammals; Modification of Permit; California Department of Fish and Game

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Permit No. 351 issued to the California Department of Fish and Game, 1416 Ninth Street, Sacramento, California 95814 on August 28, 1981 (46 FR 43732) as modified on December 17, 1981 (46 FR 62684) is further modified as follows:

Section B-4 is changed to read:

"4. This Permit is valid with respect to the taking authorized herein until December 31, 1983."

The Permit and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: June 22, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-17965 Filed 6-30-82; 8:45 am]

BILLING CODE 3510-22-M

New England Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The New England Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Public Law 94-265), will meet to discuss draft fishery management plans for lobster, scallops, bluefish, billfish and herring, as well as discuss joint venture review criteria and other Council business.

DATES: The public meetings will convene on Tuesday, July 27, 1982, at approximately 10 a.m., and will adjourn on Wednesday, July 28, 1982, at approximately 5 p.m. The meetings may be lengthened or shortened, or agenda items rearranged depending upon progress on the agenda.

ADDRESS: The public meetings will take place at King's Grant Inn, Route 128 at Trask Lane, Danvers, Massachusetts.

FOR FURTHER INFORMATION CONTACT: New England Fishery Management Council, Suntaug Office Park—Five Broadway (Route One), Saugus, Massachusetts 01906, Telephone: (617) 231-0422.

Dated: June 28, 1982.

E. Craig Felber,

Chief, Management Services Staff, National Marine Fisheries Service.

[FR Doc. 82-17966 Filed 6-30-82; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Additional Import Controls on Certain Man-Made Fiber Textile Products From the Republic of Korea

June 25, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Controlling women's, girls' and infants' man-made fiber trousers in Category 648, produced or manufactured in the Republic of Korea and exported during the twelve-month period which began on January 1, 1982, at a level of 306,427 dozen.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926), and May 13, 1982 (47 FR 20654).)

SUMMARY: Under the terms of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of December 23, 1977, as amended, between the Governments of the United States and the Republic of Korea, the United States Government has decided to control imports of man-made fiber textile products in Category 648, produced or manufactured in the Republic of Korea and exported during the twelve-month period which began on January 1, 1982, in addition to those categories previously designated.

EFFECTIVE DATE: July 2, 1982.

FOR FURTHER INFORMATION CONTACT: William Boyd, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-4212).

SUPPLEMENTARY INFORMATION: On December 18, 1981, there was published in the Federal Register (46 FR 61692) a letter dated December 14, 1981 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established levels of restraint for certain specified categories of cotton, wool, and man-made fiber textile products, produced or manufactured in the Republic of Korea, which may be entered into the United States for consumption, or withdrawn, from warehouse for consumption, during the twelve-month period which began on January 1, 1982, and extends through December 31, 1982. In accordance with the terms of the bilateral agreement, as amended, the United States Government has decided also to control imports of man-made fibr textile products in Category 648, produced or manufactured in the Republic of Korea and exported during the twelve-month period which began on January 1, 1982, at a level of 306,427 dozen. Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry for consumption, or withdrawal from warehouse for consumption, of man-made fiber textile products in Category 648 in excess of the designated level of restraint. The level of restraint has not been adjusted to account for any imports after December 31, 1981. Imports in Category 648 during the period which began on January 1, 1982 and extended through May 31, 1982 amounted to 256,851 dozen and will be charged. As the data become available, further charges will be made to account for the period which began on June 1, 1982 and extends to the effective date of this action.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

June 25, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on December 14, 1981 by the

Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool, and man-made fiber textile products, produced or manufactured in the Republic of Korea.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of December 23, 1977, as amended, between the Governments of the United States and Republic of Korea; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on July 2, 1982 and for the twelve-month period beginning on January 1, 1982 and extending through December 31, 1982, entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Category 648, produced or manufactured in Republic of Korea, in excess of 306,427 dozen.[1]

Textile products in Category 648 which have been exported to the United States prior to January 1, 1982 shall not be subject to this directive.

Textile products in Category 648 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a) (1) (A) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926), and May 13, 1982 (47 FR 20654).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of Republic of Korea and with respect to imports of man-made fiber textile products from the Republic of Korea has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-17752 Filed 6-30-82; 8:45 am]

BILLING CODE 3510-25-M

[1]The level of restraint has not been adjusted to reflect any imports after December 31, 1981. Imports during the January-May 1982 period have amounted to 256,851 dozen.

Announcement of New Officials of the Government of the People's Republic of China Authorized To Issue Export Visas for Certain Cotton, Wool, and Man-Made Fiber Textile Products

June 25, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Announcing two new officials of the Government of the People's Republic of China who are authorized to issue export visas for cotton, wool, and man-made fiber textile products from China.

SUMMARY: The Government of the People's Republic of China has notified the United States Government that Li Rixi and Wang Guiziang are now authorized to issue export visas for cotton, wool, and man-made fiber textile products exported to the United States, replacing Ren Yuheng and Ren Hsiaohsuan.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Carl Ruths, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-4212).

SUPPLEMENTARY INFORMATION: On August 5, 1980, a letter dated August 1, 1981 to the Commissioner of Customs from the Chairman of the Committee for the Implementation of Textile Agreements was published in the **Federal Register** (45 FR 51872) which established a new export visa requirement for certain cotton, wool, and man-made fiber textile products, produced or manufactured in the People's Republic of China and exported to the United States. One of the requirements is that the visas must be signed by an official authorized by the Government of the People's Republic of China. The Government of the People's Republic of China has named two new officials to issue export visas. A complete list of officials currently so authorized follows this notice.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

Officials of the Government of the People's Republic of China Authorized To Issue Export Visas for Cotton Wool, and Man-Made Fiber Textiles

Chu Houchung
Wang Chu
Fang Ziping
Duang Juntian
Qi Yiguang
Wang Changjian
Huang Zenghua
Pan Tong
Gao Qingchang
Li Rixi
Wang Guiziang
Li Haoran
Huo Yugui
Qie Daren

[FR Doc. 82-17753 Filed 6-30-82; 8:45 am]

BILLING CODE 3510-25-M

Amendment of Import Restraint Level for Certain Cotton Textile Products from the Republic of Singapore

June 25, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing a specific ceiling of 8,000,000 square yards for Other Woven Fabrics in Category 320, produced or manufactured in Singapore and exported during the twelve-month period which began on January 1, 1982, through an amendment to the bilateral agreement. Import controls are being placed on this category at the new level plus swing and carryforward pursuant to paragraphs 7 and 8 of the bilateral agreement.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926), and May 13, 1982 (47 FR 20654).)

SUMMARY: By an exchange of notes dated May 17, June 12 and June 14, 1982, the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of August 21, 1981, as amended, between the Government of the United States and the Republic of Singapore has been further amended to establish a specific ceiling for Category 320 for the life of this agreement replacing the previous designated consultation level. The specific ceiling for the 1982 agreement year is 8,000,000 square yards and swing and carryforward are being applied.

EFFECTIVE DATES: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Ronald J. Sorini, International Trade Specialist, Office of Textiles are Apparel, U.S. Department of Commerce Washington, D.C. 20230 (202/377-4241).

SUPPLEMENTARY INFORMATION: On December 18, 1981, there was published

in the Federal Register (46 FR 61687) a letter December 15, 1981 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established ceilings for certain specified categories of cotton, wool, and man-made fiber textile products, including Category 320, produced or manufactured in Singapore, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1982 and extends through December 31, 1982. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the twelve-month level previously established for cotton products in Category 320 to 9,143,929 square yards.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

June 25, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 15, 1981 from the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool, and man-made fiber textile products, produced or manufactured in Singapore.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of August 21, 1981, as amended, between the Governments of the United States and Republic of Singapore; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to increase, effective on July 1, 1982 and for the twelve-month period beginning on January 1, 1982 and extending through December 31, 1982, the level of restraint established for cotton textile products in Category 320, produced or manufactured in Singapore, to 9,143,929 square yards.[1]

The action taken with respect to the Government of the Republic of Singapore and with respect to imports of cotton textile products from Singapore has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-17704 Filed 6-30-82; 8:45 am]

BILLING CODE 3510-25-M

[1]The level of restraint has not been adjusted to reflect any imports after December 31, 1981.

DEPARTMENT OF DEFENSE

Department of the Navy

Science and Technology Sub-Panel of the Chief of Naval Operations Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Science and Technology Sub-Panel of the Chief of Naval Operations (CNO) Executive Panel Advisory Committee will meet on July 21 and 22, 1982, from 9 a.m. to 5 p.m. each day, at 200 North Beauregard Street, Alexandria, Virginia. All sessions will be closed to the public.

The entire agenda will consist of discussions and review of the Navy's high energy laser program and High Frontier program and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact: Lieutenant K. M. Cummings, Executive Secretary, CNO Executive Panel Advisory Committee, 200 North Beauregard Street, Room 382, Alexandria, VA 22311, Phone (703) 756-1205.

Dated: June 25, 1982

H. D. Campbell,

Captain, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 82-17700 Filed 6-30-82; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Biomedical Sciences Program; Application Notice for Noncompeting Continuation Awards for Fiscal Year 1982

Applications are invited for noncompeting continuation awards under the Biomedical Sciences Program.

Authority for this program is contained in Title III, Part L, of the Elementary and Secondary Education Act, as amended, (20 U.S.C. 3051–3057).

The Secretary awards grants under the Biomedical Sciences Program to institutions of higher education and combinations of institutions.

The purpose of the awards is to allow applicants to continue projects designed to motivate and educate talented secondary school students from economically disadvantaged backgrounds to prepare for and enter into careers in the biomedical sciences.

Closing date for transmittal of applications: To be assured of consideration for funding, an application for a noncompeting continuation award should be mailed or hand delivered by August 2, 1982.

If an application for a noncompeting continuation award is late, the Department may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications Delivered by Mail: An application sent by mail should be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.112 (Biomedical Sciences), Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service. An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Available Funds: There is authorized $2,880,000 for noncompeting continuation awards under the Biomedical Sciences program in Fiscal Year 1982. It is estimated that these funds could provide continued support for the 12 currently funded projects.

Application Forms: Application forms for noncompeting continuation awards are expected to be ready for mailing no later than July 1, 1982. They are mailed routinely to currently funded projects. If a grantee does not receive the forms by July 12, 1982, the grantee should telephone the Information Systems and Program Support Branch of the Division of Student Services at (202) 245-7070.

Applications must be prepared and submitted in accordance with instructions and forms included in the program information package. The Secretary strongly urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to noncompeting continuation awards are:

(a) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77 and 78). These parts were previously codified as 45 CFR Parts 74, 100a, 100c and 100d respectively.

(b) Regulations governing the Biomedical Sciences Program in 34 CFR Part 647.

Further Information: For further information contact the Program Development Branch, Division of Student Services, U.S. Department of Education (Room 3514, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245-2511.

(20 U.S.C. 3051-3057)

(Catalog of Federal Domestic Assistance Number: 84.112—Biomedical Sciences Program)

Dated: June 28, 1982.

Thomas P. Melady,

Assistant Secretary for Postsecondary Education.

[FR Doc. 82-17550 Filed 6-30-82; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of Assistant Secretary for International Affairs

International Atomic Energy Agreements; Proposed Subsequent Arrangement; European Atomic Energy Community

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for supply of 3 kilograms of uranium enriched to 3.79% in U-235 to the Atomic Energy Establishment, Winfrith, England, for fabrication into foil. The foil is then to be returned to the United States for criticality experiments.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material under Contract Number WC-EU-237 will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than July 16, 1982.

Dated: June 25, 1982.

For the Department of Energy.

George J. Bradley, Jr.,

Principal Deputy of Assistant Secretary for International Affairs.

[FR Doc. 82-17740 Filed 6-30-82; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Proposed Subsequent Arrangement; Japan

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves a joint determination that nuclear material of United States origin may be reprocessed in Japanese facilities under conditions that ensure that safeguards provisions contained in the referenced Agreement for Cooperation may be effectively applied. The facility involved is the Chemical Processing Facility at Tokai-Mura, which is designed to reprocess approximately 7.2 kilograms per year of irradiated uranium contained in spent fuel from the Joyo reactor, which contains about 0.6 kilograms of plutonium.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than July 16, 1982.

Dated: June 25, 1982.

For the Department of Energy.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 82-17741 Filed 6-30-82; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Saber Energy, Inc.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of action taken on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces that it has adopted a Consent Order with Saber Energy, Inc. (Saber) as a final order of the Department.

EFFECTIVE DATE: June 10, 1982.

FOR FURTHER INFORMATION CONTACT: Ben L. Lemos, Director, Dallas Office, Economic Regulatory Administration, Department of Energy, 1341 W. Mockingbird Lane, Rm. 201W, Dallas, Texas 75247, 214/767-7535.

SUPPLEMENTARY INFORMATION: On April 30, 1982, 47 FR 18046, the ERA published a notice in the Federal Register that it had executed a proposed Consent Order with Saber on April 19, 1982 which would not become effective sooner than 30 days after publication of that notice. Pursuant to 10 CFR 205.199J(c), interested persons were invited to submit comments concerning the terms and conditions of the proposed Consent Order.

The Consent Order is intended to settle and resolve civil issues between DOE and Saber relating to Saber's compliance with the Federal petroleum price and allocation regulations for the period September 1973 through January 27, 1981. Under the Consent Order, Saber will refund a total of $1,407,221: $432,859 will be paid to Duquesne Light Company and $974,362 will be paid to DOE with DOE to determine the ultimate disposition of those funds. (The initial **Federal Register** notice, 47 FR at 18647, erroneously stated that the $974,362 would be deposited in the U.S. Treasury as miscellaneous receipts.) In addition, Saber will pay $25,494 as a compromise of civil penalties.

Eight comments were received, and most addressed the question of the appropriate means of distributing the $974,362. Two comments suggested that inasmuch as a part of the violations alleged against Saber related to failure to comply with the entitlements program, the commentors, as entitlement program participants, should share in the proceeds of the Consent Order. Three comments suggested that the Consent Order proceeds, after payment to identifiable injured customers, should be distributed to the various states in proportion to Saber's sales volumes of petroleum products in each state. One of the three further suggested various guidelines for restricting the use of such funds received by each state. One commentor made a specific claim to a certain dollar amount of the Consent Order proceeds. Two comments suggested that the Consent Order be modified to require that the funds be paid to DOE for distribution by the Department's Office of Hearings and Appeals pursuant to 10 CFR Part 205 Subpart V. Another comment suggested that the Consent Order set forth a procedure for claims to be made against the proceeds by injured customers of Saber.

DOE has not yet determined the appropriate disposition of the $974,362. The ultimate distribution of these funds will depend upon several factors, including the type of alleged violations underlying the Consent Order and the ability of the ERA to identify Saber customers, other than those to which Saber has already made refunds, which may be entitled to a refund from these funds. The commentors' suggestions will be considered in determining the appropriate disposition of the funds.

Several comments addressed the refund to Duquesne Light Company, an identifiable Saber customer, which was erroneously identified as Duquesne Light and Power Company in the Consent Order. One comment suggested that the Consent Order be modified to set out the specific factual basis for the payment by Saber to Duquesne and that succeeding notices state these facts. The Consent Order, however, satisfies the regulatory requirement of 10 CFR 205.199J(a) that it "set forth the relevant facts which form the basis for the Order." It is clear from an examination of the Consent Order as a whole that ERA and Saber disagreed as to the lawfulness of the prices Saber charged to Duquesne in the sale of certain products and that the Consent Order settles and resolves this issue by the payment specified, without any findings by DOE or admission by Saber, conditioned on Saber's receiving a release from Duquesne, as provided for in the Consent Order.

Finally, in response to several comments, the following technical corrections and clarifications have been made in the Consent Order. First, the incorrect reference to Duquesne Light and Power Company has been changed to Duquesne Light Company. Second, the Consent Order has been clarified to state that payment to Duquesne will be made within thirty days of the effective date of the Consent Order, conditioned upon Saber's receiving a release, as provided for in the Consent Order, from Duquesne of any claims it may have against Saber related to the Federal petroleum price and allocation regulations. Third, the period covered by the Consent Order has been corrected to end with the date of decontrol, January 28, 1981, rather than December 1981.

Having considered all comments submitted, DOE has determined that the proposed Consent Order with Saber should be made final with the modifications as set out above. This was accomplished by providing actual notice to Saber of this decision on June 10, 1982.

Issued in Washington, D.C., on the 25th day of June, 1982.

Milton C. Lorenz,

Special Counsel, Economic Regulatory Administration.

[FR Doc. 82-17972 Filed 6-30-82; 8:45 am]

BILLING CODE 6450-01-M

[OFC Case No. 52416-9220-21-22,22; Docket No. ERA-FC-82-002]

Order Granting Puget Sound Power and Light Co. Exemptions From Prohibitions of Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Order Granting Puget Sound Power and Light Co. Exemptions From Prohibitions of Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: On March 17, 1982, the Puget Sound Power & Light Company (Puget) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for an order permanently exempting two new proposed powerplants from the provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) (42 U.S.C. 8301 *et seq.*) which (1) prohibit the use of petroleum and natural gas as a primary energy source in new electric powerplants and (2) prohibit the construction of a new powerplant without the capability to use an alternate fuel as a primary energy source. The final rule containing the criteria and procedures for petitioning for exemptions from the prohibitions of FUA was published in the **Federal Register** at 46 FR 59872 (December 7, 1981).

Puget requested permanent peakload exemptions under 10 CFR 503.41 for two simple-cycle combustion turbine generators (Units #1 and #2) with heat input rates of 1,111.37 million Btu per hour each. The proposed units are to be used as peakload powerplants at Puget's Fredonia Generating Station, Near Burlington, Washington. The powerplants will be capable of burning natural gas and petroleum.

Pursuant to section 212(g) of the Act and 10 CFR 503.41, ERA hereby issues this order granting to Puget permanent peakload powerplant exemptions from the prohibitions of FVA for the proposed combustion turbine generators, Units #1 and #2 of the Fredonia Generating Station.

The basis for ERA's order is provided in the **SUPPLEMENTARY INFORMATION** section below.

DATES: In accordance with section 702(a) of FUA, this order and its provisions shall take effect on August 30, 1982.

FOR FURTHER INFORMATION CONTACT:

William H. Freeman, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA-073, 1000 Independence Avenue, SW, Washington, D.C. 20585, Telephone (202) 252-2993

Marya Rowan, Esq., Office of the General Counsel, Department of Energy, Forrestal Building, Room 6B-178, 1000 Independence Avenue, SW, Washington, D.C. 20585, Telephone (202) 252-2967

Jack Vandenberg, Office of Public Information, Economic Regulatory Administration, 12th and Pennsylvania Avenue, Room 7120, Washington, D.C. 20461, Telephone (202) 633-8755

The public file containing a copy of this order and other documents and supporting materials on this proceeding is available for inspection upon request at the Department of Energy Freedom of Information Reading Room, 1000 Independence Avenue, SW, Room 1E-190, Washington, D.C. 20585, Monday through Friday, 8:00 a.m.—4:00 p.m.

SUPPLEMENTARY INFORMATION: Puget proposes to install two simple-cyle combustion turbine generators, designated Units #1 and #2, using petroleum and/or natural gas as a primary energy source at its Fredonia Generating Station. Units #1 and #2 each have a maximum design capacity of 103,760 Kw.

In accordance with the procedural requirements of FUA and 10 CFR 501.3(d), ERA published its Notice of Acceptance of Retition for Exemption and Availability of Certification relating to Units #1 and #2, in the **Federal Register** on April 29, 1982 (47 FR 18408), commencing a 45-day public comment period pursuant to section 701(c) of FUA. As required by section 701(f) of the Act, ERA provided a copy of Puget's petition to the environmental Protection Agency for its comments. During that period, interested persons were also afforded an opportunity to request a public hearing. The period for submitting comments and for requesting a public hearing closed June 14, 1982. No comments were received and no hearing was requested.

Puget certified in its Petition for Exemption that proposed Units #1 and #2, Fredonia Generating Station, will be operated solely as peakload powerplants. To be included within the basic definition of "peakload powerplant" as established by section 103(a) of FUA, an electric-generating unit must be "a powerplant the electrical generation of which in kilowatt hours does not exceed, for any 12-calendar-month period, such powerplant's design capacity muliplied by 1500 hours". Documentary evidence submitted by Puget in support of its certification indicates that the maximum design capacity of each of the proposed combustion turbine generators will be 103,760 Kw and that the maximum generation that will be permitted during any 12-month period for each unit will be 155,640,000 Kwh (103,760 Kw x 1500 =155,640,000 Kwh), constituting a "peakload powerplant" operation within the definition.

Puget has also certified that it will secure all applicable permits and approvals prior to commencement of operation of the new units under exemption.

As ERA determined that no alternate fuels are presently available for use in proposed Units #1 and #2, ERA has waived the requirement of 10 CFR 503.41(a)(2)(ii) for submission of a certification by the Administrator of the Environmental Protection Agency or the director of the appropriate state air pollution control agency that the use by the powerplants of any available alternate fuels as a primary energy source will cause or contribute to a concentration in an air quality control region or any area within the region, of a pollutant for which any national air quality standard is, or would be, exceeded.

DECISION AND ORDER: Accordingly, based upon the entire record of this proceeding, ERA has determined that Puget has satisfied all of the eligibility requirements for the requested exemptions as set forth in 10 CFR 503.41, and pursuant to section 212(g) of FUA, ERA hereby grants Puget permanent exemptions for peakload powerplants for proposed Units #1 and #2 to be installed at the Fredonia Generating Station in Near Burlington, Washington, permitting the use of natural gas and petroleum as a primary energy source in the units.

After review by DOE's Office of Environment of Puget's completed environmental checklist submitted pursuant to 10 CFR 503.13, together with other relevant information, ERA has detemined that the granting of the requested exemption does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act.

Pursuant to section 702(c) of the Act 10 CFR 501.69 any person aggrieved by this order may petition for judicial review at any time before August 30, 1982.

Issued in Washington, D.C., on June 25, 1982.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-17874 Filed 6-30-82; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-82-004; FC Case Number 55242-3063-01-12]

Order Granting Publishers Paper Co. Exemption From Prohibitions of Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Order Granting to Publishers Paper Company an Exemption from the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: On March 10, 1982, Publishers Paper Company (Publishers) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) seeking a permanent site limitation exemption for a major fuel burning installation (MFBI) from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or the Act). Title II of FUA prohibits the use of petroleum and natural gas as a primary energy source in certain new MFBIs. Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA were published in the **Federal Register** at 46 FR 59872 (December 7, 1981). The site limitation exemption criteria is contained in 10 CFR 503.33 of the final rules.

Publishers requested a permanent site limitation exemption in order to burn natural gas or petroleum in a new package boiler, identified as "E" boiler, to be operated at Publishers' pulp and paper mill located within the city limits of Oregon City, Oregon.

Pursuant to section 212(a)(1)(B) of the Act and 10 CFR 503.33, ERA hereby issues this order granting a permanent site limitation exemption from the prohibitions of FUA to Publishers for the new MFBI identified as "E" boiler. The basis for ERA's order is provided in the **SUPPLEMENTARY INFORMATION** section, below.

DATES: In accordance with section 702(a) of FUA, this order and its provisions shall take effect on August 1, 1982.

The public file containing a copy of this order and other documents and supporting materials on this proceeding is available at the Department of Energy Freedom of Information Reading Room, 1000 Independence Avenue SW., Room 1E-190, Washington, D.C. 20585, Monday through Friday, 8:00 a.m.–4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Edward J. Peters, Jr., Office of Fuels Programs, Economic Regulatory

Administration, Forrestal Building, Room GA-073G, 1000 Independence Avenue SW., Washington, D.C. 20485, Phone (202) 252-8162;
Marya Rowan, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6B-178, 1000 Independence Avenue SW., Washington, D.C. 20585, Phone (202) 252-2967;
Jack Vandenberg, Office of Public Information, Economic Regulatory Administration, Department of Energy, Room 7120, Federal Building, 12th & Pennsylvania Avenue NW., Washington, D.C. 20561, Phone (202) 633-8108.

SUPPLEMENTARY INFORMATION: The MFBI for which the petition for exemption has been filed is a package boiler to be operated at Publishers' pulp and paper mill complex, Oregon City, Oregon. The new MFBI, identified as "E" boiler by Publishers, has a design heat input rate of approximately 213 million Btu's per hour. The boiler will burn natural gas with residual oil use during gas curtailment.

In accordance with the procedural requirements of FUA and 10 CFR 501.3(b), ERA published its Notice of Acceptance of Petition for Exemption and Availability of Certification relating to Publisher's MFBI in the **Federal Register** on April 14, 1982 (47 FR 16066), commencing a 45-day public comment period pursuant to section 701(c) of FUA. As required by sections 701(f) and (g) of the Act, ERA provided a copy of Publishers' petition to the Environmental Protection Agency and the Federal Trade Commission for their respective comments. During that period, interested persons were also afforded an opportunity to request a public hearing. The period for submitting comments and for requesting a public hearing closed on June 1, 1982. No comments were received. No hearing was requested.

Decision and Order: Publishers certified in its Petition for Exemption that, due to specific physical limitations, the criteria for a permanent exemption for "E" boiler based upon a site limitation under 10 CFR 503.33(a) are satisfied. Documentary evidence, including an aerial photograph and mill plot plan, submitted by Publishers in support of its certification demonstrated (a) insufficient space at the mill site to install a coal or wood waste boiler and ancillary equipment of the size needed to meet steam requirements; (b) lack of ground space for fuel handling equipment at the rail siding; (c) lack of sufficient space for storage of a reasonable supply of coal (estimated 60,000 sq. ft.) or wood (estimated 150,000 sq. ft.); and (d) lack of sufficient additional space for other necessary fuel handling equipment at the mill site.

Publishers also certified in its petition that the mixtures use criteria in 10 CFR 503.33(a) are satisfied by "E" boiler and by the Oregon City, Oregon, pulp and paper mill complex.

Publishers also furnished ERA with copies of the necessary environmental permits required by federal, state, and local authorities to install and operate "E" boiler.

Accordingly, based upon the entire record of this proceeding, ERA has determined that Publishers has satisfied all the eligibility requirements for the requested exemption as set forth in 10 CFR 503.33, and, pursuant to section 212(a) of FUA, ERA hereby grants Publishers a permanent exemption for "E" boiler located at its pulp and paper mill complex, Oregon City, Oregon, based on the existence of site limitations which do not permit the location or operation of an installation using coal or any othe rreasonably available alternate fuel.

ERA has determined that the granting of the requested exemption does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act.

Pursuant to section 702(c) of the Act and 10 CFR 501.69 any person aggrieved by this order may petition for judicial review at any time before August 1, 1982.

Issued in Washington, D.C., on June 25, 1982.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-17975 Filed 6-30-82; 8:45 am]

BILLING CODE 6450-01-M

Gil Mc Oil Corp.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Gil Mc Oil Corporation (Gil Mc Oil) of Lovington, New Mexico. This Proposed Remedial Order charges Gil Mc Oil with pricing violations in the amount of $110,701.30 connected with the sale of crude oil at prices in excess of those permitted by 10 CFR Part 212, Subpart D during the same period September 1, 1973 through January 27, 1981.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from James A. Martin, Deputy Director, Crude and NGL and Litigation Support Group, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, or by calling (214) 767-7401. Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 12th & Pennsylvania Ave., N.W., Room 3426, Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas, on the 16th day of June, 1982.

James A. Martin,

Deputy Director, Crude and NGL Audit & Litigation Support Group, Economic Regulatory Administration.

[FR Doc. 82-17971 Filed 6-30-82; 8:45 am]

BILLING CODE 6450-01-M

Mercury Production Co.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Mercury Production Company (Mercury) of Fort Worth, Texas. This Proposed Remedial Order charges Mercury with pricing violations in the amount of $288,037.25 connected with the sale of crude oil at prices in excess of those permitted by 10 CFR 212, Subpart D during the time period September 1973 through August 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from James A. Martin, Deputy Director, Crude and NGL & Litigation Support Group, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, or by calling (214) 767-7401. By July 16, 1982, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 12th and Pennsylvania Ave., NW., Room 3426, Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas, on the 16th day of June, 1982.

James A. Martin,

Deputy Director, Crude and NGL Audit and Litigation Support Group, Economic Regulatory Administration.

[FR Doc. 82-17969 Filed 6-30-82; 8:45 am]

BILLING CODE 6450-01-M

Tipperary Corp.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy

hereby gives notice of a Proposed Remedial Order which was issued to Tipperary Corporation (Tipperary) of Midland, Texas. This Proposed Remedial Order charges Tipperary with pricing violations in the amount of $87,322.06 connected with the sale of crude oil at prices in excess of those permitted by 10 CFR 212, Subpart D during the time period July 1977 through January 1979.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from James A. Martin, Deputy Director, Crude and NGL & Litigation Support Group, Economic Regulatory Administration, Departent of Energy, P.O. Box 35228, Dallas, Texas 75235, or by calling (214) 767–7401. By July 16, 1982, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 12th and Pennsylvania Ave., N.W., Room 3426, Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas, on the 16th day of June, 1982.

James A. Martin,

Deputy Director, Crude and NGL Audit and Litigation Support Group, Economic Regulatory Administration.

[FR Doc. 82-17970 Filed 6-30-82; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Agency Forms Submitted to the Office of Management and Budget for Review

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of submission of request for clearance to the Office of Management and Budget.

SUMMARY: Under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), Department of Energy (DOE) notices of proposed collections under review will be published in the **Federal Register** on the Thursday of the week following their submission to the Office of Management and Budget (OMB). Following this notice is a DOE proposal sent to OMB for approval on June 21, 1982.

The entry, listed by the DOE sponsoring office, contains the following information: (1) The form number; (2) Form title; (3) Type of request, e.g., new revision, or extension; (4) Frequency of collection; (5) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (6) Type of respondent; (7) An estimate of the number of respondents; (8) Annual respondent burden, i.e., an estimate of the total number of hours needed to fill out the form; and (9) A brief abstract describing the proposed collection.

DATE: Last Notice published Thursday, June 16, 1982 (47 FR 26181).

FOR FURTHER INFORMATION CONTACT:

John Gross, Director, Forms Clearance and Burden Control Division, Energy Information Administration M. S. 7413, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461 (202) 633–9464.

Jefferson B. Hill, Department of Energy Desk Officer, Office of Management and Budget, 720 Jackson Place, NW., Washington, D.C. 20503 (202) 395–7340.

SUPPLEMENTARY INFORMATION: Copies of proposed collections and supporting documents may be obtained from Mr. Gross. Comments and questions about the items on this list should be directed to the OMB reviewer; comments should also be provided Mr. Gross. If you anticipate commenting on a form, but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer of your intent as early as possible.

Issued in Washington, D.C., June 24, 1982.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

DOE Forms Under Review by OMB

Form No.	Form title	Type of Request	Response frequency	Response obligation	Respondent description	Estimated number of respondents	Annual respondent burden	Abstract
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
EIA: EIA–63.	Annual Solar Thermal Collector and Photo-voltaic Module Manufacturers Survey.	Reinstatement...	Annually.....	Mandatory.....	Manufacturers of solar collectors, and importers of solar collectors.	250	700	EIA uses the form to collect data necessary to execute its role in tracking certain volumetric movements within the solar collector manufacturing industry. Responses will be used to compile statistics on the quantities, types and uses of solar collectors manufactured and imported into the United States.

[FR Doc. 82-17973 Filed 6-30-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 2743-002]

Alaska Power Authority; Notice of Application for Amendment of License

June 28, 1982.

Take notice that the Alaska Power Authority (APA) filed on June 1, 1982, an application for an amendment of license [pursuant to the Federal Power Act and Article 36 of its license] for its Terror Lake Project, FERC Project No. 2743. The project is located on the Terror and Kizhuyak Rivers in the Kodiak Island Borough, Alaska. The changes proposed in the application were discussed in the Commission's Final Environmental Impact Statement for the Terror Lake Project issued August 7, 1981. Correspondence with the Applicant should be directed to: Eric P. Yould, Executive Director, Alaska Power Authority, 334 W. 5th Ave., Anchorage, Alaska 99501.

Project Description—APA filed revised Exhibit K and L drawings detailing its proposal to raise the elevation of the top of the dam from 1,391 feet to 1,428 feet. The reservoir area would increase from 850 acres to 1,020 acres and the usable storage capacity would increase from 78,000 acre-feet to 108,000 acre-feet. The normal maximum water surface elevation would increase from 1,383 feet to 1,420 feet.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the application. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 16, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above-named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17810 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP82-19-002, et al.]

Algonquin Gas Transmission Company, et al.; Filing of Pipeline Refund Reports and Refund Plans

June 25, 1982.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before July 9, 1982. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

APPENDIX

Filing date	Company	Docket No.	Type filing
6-14-82	Algonquin Gas Transmission Co.	RP82-19-002	LFUT report.
6-15-82	Columbia Gas Transmission Corp.	RP81-117-006	Do.
6-15-82	Do.	RP81-117-007	Do.
6-15-82	East Tennessee Natural Gas Co.	RP82-22-002	Do.
6-15-82	Midwestern Gas Transmission Co.	RP82-23-002	Do.
6-15-82	Natural Gas Pipe Line Co. of America.	RP81-120-003	Do.
6-15-82	Northern Natural Gas Co.	RP81-110-003	Do.
6-15-82	Panhandle Eastern Pipe Line Co.	RP81-119-005	Do.
6-15-82	Do.	RP81-119-006	Do.
6-15-82	Tennessee Gas Pipeline Co.	RP81-99-003	Do.
6-15-82	Trunkline Gas Co.	RP81-118-003	Do.
6-16-82	Florida Gas Transmission Co.	RP81-124-003	Do.
6-17-82	Eastern Shore Natural Gas Co.	RP82-26-002	Do.

[FR Doc. 82-17795 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP82-43-000]

Amoco Production Co., Shute Creek Unit No. 4 Well; Petition To Reopen and Vacate Final Well Category Determination and Withdraw Application for Determination

Issued: June 25, 1982.

On April 9, 1982, Amoco Production Company (Amoco) filed with the Federal Energy Regulatory Commission (Commission) a petition to reopen and vacate a final well category determination, and withdraw the application for determination, that gas from the Shute Creek Unit No. 4 well (USGS Docket No. W326-1-T, FERC J.D. No. 82-10512), located in Lincoln, Wyoming, qualified as recompletion tight formation gas pursuant to section

107 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. §§ 3312 (Supp. IV 1980). This determination, made by the former United States Geological Survey in Casper, Wyoming, became a final determination on January 28, 1982, under NGPA section 503(d) and 18 C.F.R. § 275.202 of the Commission's regulations.

Amoco states that a review of its records indicates that the previous operator of the subject well, CIG Exploration, Inc., completed the well for production in the Frontier Formation before July 16, 1970. Amoco states that since completion occurred before July 16, 1979, gas from the subject well cannot qualify as recompletion tight formation gas in accordance with 18 C.F.R. § 271.703(b)(3) of the Commission's regulations. Section 271.703(b)(3) of the Commission's regulations states, *inter alia*, that recompletion tight formation gas is natural gas produced through a well from a designated tight formation not completed for production from such designated tight formation prior to July 16, 1979.

Amoco therefore requests, in accordance with 18 C.F.R. § 275.205, that the Commission reopen and vacate the final well category determination. Amoco also requests, pursuant to 18 C.F.R. § 275.202(d), that the Commission withdraw its application for determination that gas from the subject well qualifies as recompletion tight formation gas.

Amoco further alleges that it has not made any sales of natural gas from the subject well and that gas from the well has not been committed to a gas purchase contract. Amoco thereby states that no refund is necessitated by the requested withdrawal. Notwithstanding this allegation, the Commission hereby gives notice that the question of whether refunds, plus interest as computed under § 154.102(d) of the Commission's regulations, will be required is a matter which is subject to the review and final determination of the Commission.

Any person desiring to be heard or to make any protest to the requested withdrawal should file, on or before August 2, 1982, with the Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of §§ 1.8 or 1.10 of the Rules of Practice and Procedure. All protests filed will be considered in determining the appropriate action to be taken, but will not make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17882 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER 82-454-000]

Black Hills Power and Light Co.; Order Accepting for Filing and Suspending Revised Rates, Granting in Part and Denying in Part Summary Disposition, Granting Intervention, and Establishing Hearing and Price Squeeze Procedures

Issued: June 24, 1982.

On April 13, 1982, Black Hills Power and Light Company (Black Hills) filed a proposed increase in rates for full-requirements firm power service to the City of Gillette, Wyoming (Gillette), its only wholesale customer.[1] The proposed rates would result in an increase in revenues of approximately $749,000 (21.0%) based on the twelve month test period (Period I) ending June 30, 1981. Black Hills requests an effective date of June 30, 1982.

Notice of the filing was issued on April 20, 1982, with responses due on or before May 5, 1982. On May 5, 1982, Gillette filed a protest and petition to intervene. Gillette requests summary disposition with respect to (1) the inclusion in rate base of the unamortized costs associated with an abandoned construction project, (2) a proposed late payment charge, and (3) the proposed treatment of a lease of the Wyodak generating station as a capitalized expense. In addition, Gillette contends that Back Hills' proposed rate increase is excessive and warrants a five month suspension, citing various cost of service issues. Gillette also alleges price squeeze.

On May 19, 1982, Black Hills filed an answer to Gillette's petition and protest. Black Hills opposes the request for a five month suspension, the motions for summary disposition, and the request for a price squeeze investigation.

Discussion

Initially, we find that participation in this proceeding by Gillette is in the public interest, and we shall grant its petition to intervene.

We note that Black Hills has failed to properly normalize all timing differences as required by section 35.25 of the Commission's regulations and Order No. 144-A. Accordingly, we shall require Black Hills to file revised rates and cost of service statements to reflect full tax normalization consistent with Order No. 144-A.[2] The cost data should clearly indicate how and to what extent ACRS tax depreciation deductions and related normalization are reflected in the cost of service.

As indicated by Gillette, Black Hills has included in its rate base the unamortized portion of those costs incurred as a result of the cancellation of its Osage Unit No. 4. The inclusion of such costs in rate base is contrary to well-established precedent. *See, e.g., New England Power Co.*, Opinion No. 49 (July 19, 1979), *aff'd sub nom. NEPCO Municipal Rate Committee and the Electric Departments and Plants of Ashburnham v. F.E.R.C.*, 668 F. 2d. 1327 (D.C. Cir. 1981). Accordingly, we shall grant Gillette's motion for summary disposition of this question and require Black Hills, in refiling its rates and cost of service statements, to exclude the unamortized portion of this property loss from rate base.

The late payment charge and the treatment of the Wyodak lease which are the remaining subjects of Gillette's motion for summary disposition raise questions of law or fact more appropriately resolved on the basis of an evidentiary hearing. We shall therefore deny summary disposition as to these issues.

Our preliminary review of the instant filing and Gillette's pleading indicates that the rates proposed by Black Hills have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the proposed rates for filing, as modified by summary disposition, and suspend them as ordered below.

In *West Texas Utilities Company*, Docket No. ER82-23-000 (February 26, 1982), we explained the Commission's suspension policy and noted that rate filings would ordinarily be suspended for one day where preliminary review indicates that the proposed increase may be unjust and unreasonable but may not generate substantially excessive revenues, as defined in *West Texas*. In the instant proceeding, our examination suggets that the proposed increase, as modified by summary disposition, may not produce excessive revenues. Accordingly, we shall suspend the proposed rates, as modified, for one

[1] *See* Attaqchment A for rate schedule designations.

[2] This conclusion is consistent with our decision in *Wisconsin Electric Power Company*, Docket No. ER82-347-000 (April 13, 1982), as to the most appropriate and equitable manner by which to implement the requirements of Order No. 144-A.

day to become effective subject to refund on July 1, 1982.

In accordance with the Commission's policy and procedures established in *Arkansas Power & Light Company*, Docket No. ER79-339 (August 6, 1979), we shall phase the price squeeze issue raised by Gillette. As we have noted in prior orders, this procedure will allow a decision first to be reached on the cost of service, capitalization, and rate of return issues. If, in the view of Gillette or staff, a price squeeze persists, a second phase of the proceeding may follow.

The Commission orders:

(A) Gillette's motions for summary disposition with regard to the late payment charge and the treatment of the Wyodak lease are hereby denied.

(B) Black Hills' inclusion in rate base of its unamortized investment in the cancelled Osage Unit No. 4 is summarily rejected. Within thirty (30) days of the date of this order, Black Hills shall file revised rates and cost support reflecting this determination and reflecting full tax normalization consistent with the requirements of Order No. 144-A.

(C) Black Hills' proposed rates, as modified by summary disposition, are hereby accepted for filing and suspended to become effective, subject to refund, on July 1, 1982.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules and Practice and Procedure and the regulations under the Federal Power Act [18 C.F.R., Chapter I], a public hearing shall be held concerning the justness and reasonableness of Black Hills' rates.

(E) Gillette is hereby permitted to intervene in this proceeding subject to the Commission's Rules of Practice and Procedure and the regulations under Federal Power Act; *Provided, however,* that participation by Gillette shall be limited to the matters set forth in its petition to intervene; and *provided, further,* that the admission of Gillette shall not be construed as recognition by the Commission that it might be aggrieved by any order or orders entered by the Commission in this proceeding.

(F) The Commission staff shall serve top sheets in this proceeding within ten (10) days of the submission of Black Hills' compliance filing.

(G) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days of the service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(H) The Commission hereby orders initiation of price squeeze procedures and further orders that this proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The presiding judge may modify this schedule for good cause shown. The price squeeze portion of this case shall be governed by the procedures set forth in section 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(I) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Black Hills Power and Light Company, Rate Schedule Designations, Docket No. ER82-454-000

(1) *Black Hills Power and Light Company* Supplement No. 9 to Rate Schedule FPC No. 17 (Supersedes Supplement No. 8 as Supplemented) (Section No. 6 of Submittal).

(2) Supplement No. 10 to Rate Schedule FPC No. 17 (Supersedes Supplement No. 7).

[FR Doc. 82-17811 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. EF81-2011-001 and EF81-2021-001]

Bonneville Power Administration; Order Granting Extension of Interim Rates for a Limited Time

Issued: June 22, 1982.

On May 5, 1982, pursuant to section 7(i)(6) of the Pacific Northwest Electric Power Planning and Conservation Act ("Northwest Act"), Pub. L. No. 96-501, 94 Stat. 2697 (1980), the Bonneville Power Administration ("Bonneville") filed for an extension of interim approval of Bonneville's power rates (Docket No. EF81-2011-000) and transmission rates (Docket No. EF81-2021-000) pending review of an earlier request for final confirmation and approval of these rates by the Commission. The current interim approval expires on July 1, 1982.[1] Bonneville requests an extension of the interlocutory approval for a period not to exceed five years.

In support of the five year extension, Bonneville presents a number of arguments. First, Bonneville notes that it intends to file new power rates to become effective October 1, 1982, consistent with its contract notice. 47 FR 13710 (March 31, 1982). Bonneville submits that if the Commission extends the pending interim power rate only until October 1, and is thereafter unable to act on the interim approval of the new rates by that date, Bonneville will suffer a revenue deficiency. Second, as to the transmission rates, Bonneville submits that it is unable to adjust certain of its contracts for a period of five years following July 1, 1981, the date of the last rate adjustment. Thus, if interim approval of the transmission rates were to expire June 30, 1982, there would be no approved rate for transmission services. Further, Bonnevillle submits that an indefinite extension for up to five years is justified by the voluminous records in both pending dockets and that new preliminary studies show that the filed rates may not be fully compensatory.

Public notice of Bonneville's request for extension of interim rate approval was published in the **Federal Register.** 47 FR 24176 (June 3, 1982). Interested parties were invited to submit comments to the Commission relating to the request for extension of the interim approval by June 10, 1982.

On June 10, 1982, two intervenor groups, the "ICP Companies"[2] and the

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[1] The rates in these two dockets were approved on an interim basis pursuant to section 7(i)(6) of the Northwest Act for one year, through June 30, 1981, by the Assistant Secretary of Energy for Conservation and Renewable Resources. 46 F.R. 33569 (June 24, 1981). In summary, the Act provides for Commission approval of Bonneville's rates on both an interim and final basis. Congress, however, provided a one-year transition period during which the Secretary of Energy (delegated to the Assistant Secretary for Conservation and Renewable Energy) could continue to approve Bonneville's rates on an interim basis. Under this authority these rates were placed in effect on an interim basis by the Assistant Secretary for a one-year period beginning on July 1, 1981. The Assistant Secretary, on behalf of the Administrator of Bonneville, filed with the Commission on June 29, 1981, a request for confirmation and approval on a final basis for a period not to exceed five years. Since the Commission has not taken final action on the pending filings, and since the Act provides that interim rates approved by the Secretary can continue in effect only until July 1, 1982, Commission action is required to extend the interim approval of the filed rates.

[2] This term is used to refer to the intervening utilities who are members of the Intercompany Pool ("ICP"), including Idaho Power Company, Montana Power Company, Pacific Power & Light Company,

"California parties"[3] filed separate comments. The California parties submit that although in their view Bonneville has not met the filing requirements under our Interim Rules,[4] the Commission should nevertheless grant an extension of time for a period of one year on the condition that Bonneville cures it filing by November 1, 1982. This, the California parties maintain, is necessary because it is unclear what rates Bonneville would be allowed to collect if the extension is denied. In order to avoid delay, the California parties have also requested that the Commission rule on the scope of its jurisdiction and hold a hearing on the Bonneville export rates under section 7(k) of the Northwest Act regardless of the authority to review the regional rates under section 7(a). The ICP Companies argue that Bonneville's request for an interim extension should be denied because of failure to comply with our Interim rules. In the alternative, they request that if the Commission deems an extension to be appropriate, such an extension should not exceed six months during which a hearing could be held for purposes of examining Bonneville's additional data in compliance with 18 CFR Part 300.

On June 11, 1982, the Public Power Council (PPC) and the Public Utility District No. 1 of Snohomish County, Washington (the District) filed a petition to intervene, protest, and comments. The District and PPC request that the Commission deny the indefinite extension sought by Bonneville. The District and PPC request that Bonneville be granted essentially only a one year extension of the interim approval of the power and transmission rates. These Bonneville customers also specifically object to the requested five-year extension for transmission rates for fear that power rates will be used to subsidize transmission costs unrecovered by Bonneville's decision not to adjust the transmission rates.

As to PPC's and the District's intervention petition, we note that they have each previously petitioned to intervene in EF81-2011-000. There is thus no need for an additional intervention petition. We further find good cause to accept PPC's and the Districts comments although filed one day out of time.

The Commission finds that the present filing, in conjunction with Bonneville's June 29, 1981 filing for final confirmation and approval, is in substantial compliance with our interim Power Marketing agency filing requirements under Part 300 of the Commission's regulations. Because it is unclear what rates, if any, would be applicable following June 30, 1982, in the absence of Commission action on the requested extension, and in view of the potentially substantial revenue loss to Bonneville and the United States Treasury, we find that the public interest will be best served by granting, in part, Bonneville's request for an extension of the interim approval of the power and transmission rates. However, based on the representations made by Bonneville and the intervenors, the Commission cannot find that good cause exists to grant an extension for up to five years. The Commission believes that an extension of the interim rates until January 1, 1983 should be sufficient to enable Bonneville to file new interim rates.[5] The California parties' request for a hearing under section 7(k) will be dealt with by the Commission in our pending determination of the scope of review under the Northwest Act.

The Commission orders:

(A) The Bonneville Power Administration's request for extension of interim approval of its transmission rates (Docket No. EF81-2021-000) and power rates (Docket No. EF81-2011-000) is granted until January 1, 1983.

(B) The Bonneville Power Administration's request for a five year extension of interim rate approval is denied.

(C) The various requests for denial of the extension of interim approval or extensions of interim approval different from that provided in ordering paragraph (A) are denied.

(D) The California parties' request that the Commission rule on the scope of jurisdiction and hold a hearing under section 7(k) of the Pacific Northwest Electric Power Planning and Conservation Act is denied without prejudice.

(E) The Secretary shall promptly public this order in the **Federal Register**.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17812 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4090-001]

Brazos River Authority; Surrender of Preliminary Permit

June 28, 1982.

Take notice that the Brazos River Authority (BRA) Permittee for the proposed Waco Project No. 4090 has requested that its preliminary permit be terminated. The permit was issued on March 31, 1981, and would have expired on September 1, 1982. The proposed project would have utilized the existing Waco dam and reservoir in McLennan County, Texas. BRA indicates that the project would not appear to be an economic source of energy.

BRA filed its request on June 7, 1982, and the surrender of its permit for Project No. 4090 has been deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17813 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1830-000]

James M. Cain; Notice of Application

June 25, 1982.

The filing individual submits the following:

Take notice that on June 18, 1982, James M. Cain filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

President, Chief Executive Officer and Director—Louisiana Power & Light Company.

President and Director—New Orleans Public Service Inc.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure 918 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies

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Portland General Electric Company, Puget Sound Power & Light Company, Utah Power & Light Company, and Washington Water Power Company. CP National Corporation, another investor-owned utility intervenor, although not a member of the ICP, joins the ICP Companies in their comments.

[3] Pacific Gas & Electric Company, Southern California Edison Company, the Department of Water and Power of the City of Los Angeles, *et al.*, and the California Public Utilities Commission.

[4] 17 FERC ¶61,213, Docket No. RM82-6, Interim Rule (18 CFR Part 300) (Dec. 4, 1981).

[5] Section 7(a)(2) of the Act provides that approval of the rates by this Commission must be based on a finding that the rates are compensatory.

of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17796 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-343-000]

Cities Service Gas Co.; Notice of Application

June 25, 1982.

Take notice that on May 24, 1982, Cities Service Gas Company (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP82-343-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the continued operation of facilities and the sale of natural gas for resale in the Town of Oilton, Oklahoma, presently being served by Applicant, where the distribution system has been acquired by a new owner, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to continue to operate pipeline, measuring, regulating and appurtenant facilities and to sell gas for resale in the Town of Oilton, Oklahoma, formerly operated by the Pact Gas Company (Pact) but now being operated by the Oilton Public Works Authority.

It is stated that a new contract dated March 23, 1982, has been executed with Oilton Public Works Authority covering the sale of gas for resale in this community on the same terms and conditions as the sale to Pact. Applicant states that no new facilities or expenditures are required and that the sales are currently being made to this community under Applicant's Rate Schedules F-1, C-1, and I-1.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 19, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commisson's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17797 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3589-001]

City of Zanesville, Ohio; Surrender of Preliminary Permit

June 28, 1982.

Take notice that the City of Zanesville, Ohio, Permittee for the proposed Dam No. 10 Project No. 3589, requested by letter dated May 20, 1982, that its aforementioned preliminary permit be surrendered. The preliminary permit was issued on May 1, 1981, and would have expired on November 1, 1982. The project would have been located on the Muskingum River in Muskingum County, Ohio. The City states that it has determined that the project is not cost effective at the present time.

The surrender of the permit is in the public interest. Therefore, the surrender of the preliminary permit for Project No. 3589 is accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17815 Filed 6-30-82; 8:45am]

BILLING CODE 6717-01-M

[Docket No. ID-1956-000]

William T. Coleman, Jr., Order Finding Interlock Jurisdictional

Issued: June 22, 1982

On May 11, 1981, as supplemented on June 1, 1981 and April 14, 1982, William T. Coleman, Jr. filed a petition seeking an order that an interlock between Philadelphia Electric Company (PECO) and CIGNA Corporation (CIGNA) is not within the scope of section 305(b) of the Federal Power Act because CIGNA is not a firm authorized by law to underwrite or participate in the marketing of securities of a public utility within the meaning of section 305(b).[1] PECO is, by admission, a public utility for purposes of section 305(b). CIGNA through a series of wholly-owned subsidiaries controls 23.5 percent of the outstanding capital stock of Paine Webber Incorporated, a holding company whose operating subsidiaries underwrite and participate in the marketing of securities including public utility securities.[2]

Notice of Coleman's petition was issued on May 21, 1981, with responses due on or before June 10, 1981. No responses have been filed.

Discussion

Section 305(b) of the Federal Power Act prohibits persons from holding the position of officer or director of a public utility and the position of officer or director of another public utility; of a bank, trust company, banking association, or firm that is authorized to underwrite or participate in the marketing of public utility securities; or of a supplier of electrical equipment to that public utility, unless the holding of such positions has been affirmatively authorized by the Commission upon a showing by the applicant that neither public nor private interests will be adversely affected.[3]

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[1] The original application involved an interlock between PECO and INA Corporation (INA). Effective March 31, 1982, INA and Connecticut General Corporation merged, with the creation of CIGNA as the parent of both a new INA and Connecticut General. Coleman, once a director of INA, is now a director of CIGNA.

[2] By agreement, INA (now presumably CIGNA) through these subsidiaries is entitled to maintain at least a 20 percent interest in Paine Webber's voting stock. The agreement also provides that for five years that ownership interest may not exceed 25 percent. In addition, Paine Webber has agreed to permit the nomination of one INA officer (now presumably one CIGNA corporate family officer) to serve on Paine Webber's board of directors.

Through another subsidiary, INA International Corporation, INA held (now presumably CIGNA holds) a 5 percent interest in the Paris-based Compagnie Financiercе de Suez which, in turn, holds a 6 percent interest in Paine Webber.

[3] 16 U.S.C. § 825(b) (1976). *See George F. Brewer,* Docket No. ID-1818 (April 6, 1981). *Accord, Lelan F. Sillin, Jr.,* 33 F.P.C. 1006, 1007 (1965) *John Edward Aldred,* 2 F.P.C. 247, 249, 260-65 (1940)

CIGNA itself is not authorized to underwrite or participate in the marketing of public utility securities. Whenever there is control by a parent of a subsidiary which is authorized to do so, however, we believe that imputing the activities of the subsidiary to the parent will be necessary to ensure that persons otherwise required to seek Commission authorization to hold proscribed interlocks do not evade this obligation through the fiction of separate corporate identities.[4] The requirements of section 305(b) could be easily circumvented and thus the protection that it offers undone if the conduct of a subsidiary in such situations could not be attributed to the parent.[5]

The presence or absence of control is a question that we believe should turn upon the facts of each particular case. In making this determination, we believe it useful to look in part to the standards found in the Uniform System of Accounts for guidance; the Uniform System of Accounts offers a readily-available, qualitative definition in which a finding of control hinges upon the individual facts of each particular case. Although we are not bound in our analysis by the Uniform System of Accounts and the definition of control found there is not necessarily dispositive, we believe that reference in this instance to the Uniform System of Accounts is appropriate because it provides a touchstone upon which to ground our analysis.[6] We likewise find that reference to the Public Utility Holding Company Act of 1935 is instructive in addressing such questions. The Public Utility Holding Company Act of 1935, the sister statute to Parts II and III of the Federal Power Act, adopts an approach essentially similar to that found in the Uniform System of Accounts, but adds to that a rebuttable presumption of control with an ownership interest of 10 percent or greater.[7]

CIGNA, although not itself authorized to underwrite or participate in the marketing of public utility securities, has a controlling interest in subsidiaries which are authorized to do so. CIGNA currently controls 23.5 percent of Paine Webber's voting stock and in the immediate future can increase that ownership to 25 percent; beyond 1984, CIGNA may increase its ownership interest even further. This gives CIGNA control of the largest single block of outstanding Paine Webber voting stock. Moreover, it appears that CIGNA also has the right to nominate one of its officers to serve on Paine Webber's board of directors. We thus believe that, for purposes of section 305(b), CIGNA has a controlling interest in Paine Webber and we consequently believe that imputing the activities of Paine Webber and its subsidiaries to CIGNA is proper.

Coleman argues that CIGNA does not intend to exercise any control over its subsidiaries and that these subsidiaries will be allowed to operate independently. The potential exercise of corporate authority, however, may be unavoidable.[8] We believe that CIGNA has both the right and the ability to influence the actions of its subsidiaries and such influence may be exerted either explicitly through direct control or implicitly through subtle pressures on Paine Webber's management.[9] Furthermore, intentions in this regard may always change and we believe that such assurances in any event do not substantially mitigate the dangers that may be presented by otherwise proscribed interlocks.[10]

Coleman further contends that Congressional enactment of section 305(c)[11] and the Commission's regulations pursuant to section 305(c)[12] require a finding of no jurisdiction. We do not believe that the enactment of section 305(c) limits in any way our jurisdiction or authority under section 305(b). There is nothing in either the statute or the legislative history which we believe justifies a contrary conclusion; section 305(c) imposes only a reporting requirement and neither amends section 305(b) nor limits the scope of our jurisdiction or authority thereunder.[13] The analysis underlying Part 46 of our regulations likewise imposes no restriction on our jurisdiction or authority under section 305(b). Part 46 of the Commission's regulations grew out of section 305(c) rather than section 305(b); it was intended solely to implement a statutorily imposed reporting requirement, not to define our authority under section 305(b).

Accordingly, we find that the interlock at issue here is within the purview of section 305(b) and does require Commission authorization. Unlike Margery Somers Foster in Docket No. ID–1967–000, however, Coleman did not file an application for Commission authorization under Part 45 of our regulations.[14]

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[4] We recently stated that if "a statutory purpose can be easily frustrated through the use of separate corporate entities, a regulatory commission may look through the corporate form and treat the separate entities as one and the same." Opinion No. 139, *Nantahala Power and Light Co., et al.*, Docket Nos. ER78–828–000, *et al.* (May 14, 1982)

[5] In two recent proceedings, we found that companies which have wholly-owned subsidiaries that are underwriters or dealers in securities would themselves be considered underwriters of dealers in securities. *Margery Somers Foster*, Docket No. ID–1967–000 (May 7, 1982); *Edwin I. Hatch*, Opinion No. 67, Docket No. ID–1424 (November 6, 1979), *reh. denied, Edwin I. Hatch*, Opinion No. 67–A, Docket No. ID–1424 (May 7, 1980), *aff'd in part and rev'd and remanded in part*, 654 F.2d 825 (D.C. Cir. 1981), *order on remand, Edwin I. Hatch*, Docket No. ID–1424 (February 18, 1982). *See Edwin I. Hatch*, Docket No. ID–1424 (February 18, 1977).

[6] 18 C.F.R. Part 101, Definition 5B (1981); 18 C.F.R. Part 104, Definition 5B (1981).

[7] 15 U.S.C. § 79b(a)(8) (1976). *See Louisiana Power & Light Company*, Opinion No. 104, Docket No. ER77–533 (Phase II) (December 16, 1980); *Edwin I. Hatch*, Opinion No. 67, Docket No. ID–1424 (November 6, 1979), *reh. denied, Edwin I. Hatch*, 67–A, Docket No. ID–1424 (May 7, 1980), *aff'd in part and rev'd and remanded in part*, 654 F.2d 825 (D.C. Cir. 1981), *order on remand, Edwin I. Hatch*, Docket No. ID–1424 (February 18, 1982); *Commonwealth Edison Company*, 36 F.P.C. 927, 931–32 (1966), *reh. denied*, 37 F.P.C. 257 (1967), *aff'd*, 394 F.2d 16 (7th Cir.), *cert. denied*, 394 U.S. 453 (1968); *Western Light & Telephone Company*, 33 F.P.C. 1147 1148–49 (1965). We would note the approach we have adopted here comports as well with the standard that we have adopted under section 305(c). *See* 18 C.F.R. § 46.2(d) (1981).

[8] As noted previously, CIGNA, through various subsidiaries, controls the largest single block of outstanding Paine Webber voting stock and is entitled to maintain a corporate family officer on Paine Webber's board of directors. *See* discussion at pages 1, 3 *supra*.

[9] *See Margery Somers Foster*, Docket No. ID–1967–000 (May 7, 1982).

[10] *Hatch* v. *FERC*, 654 F.2d 825, 832 (D.C. Cir. 1981). *See Edward O. Boshell*, Docket No. ID–1107 (August 8, 1955), *reh. denied*, 14 F.P.C. 1003 (1955), *John P. Wagner*, Docket No. ID–1262 (August 8, 1955), *reh. denied, John P. Wagner*, Docket No. ID–1262 (September 26, 1955). *Accord, Edwin I. Hatch*, Docket No. ID–1424 (February 18, 1977).

[11] 16 U.S.C. § 825d(c) (Supp. III 1978).

[12] 18 C.F.R. Part 46 (1981).

[13] What was ultimately to become section 305(c) was proposed originally as an amendment to section 305(b); no change in section 305(b) was ever made, however. There is likewise little evidence in the legislative history that would suggest a limit to our jurisdiction and authority here. *See* H.R. Rep. No. 95–543, 95th Cong., 1st Sess. 48–49 (1977). *Accord*, H.R. Rep. No. 95–1750, 95th Cong., 2d Sess. 99 (1978); S. Rep. No. 95–1292, 95th Cong., 2d Sess. 99 (1978). *See generally, warner-Lambert Co.* v. *FTC*, 562 F.2d 749, 757–58 (D.C. Cir.), *cert. denied*, 435 U.S. 940 (1977). Furthermore, to infer from the actions of a later Congress the intent of an earlier Congress is a hazardous undertaking. *See CPSC* v. *GTE Sylvania*, 447 U.S. 102, 117–18 (1980); *Andrus* v. *Shell Oil Co.*, 446 U.S. 657, 666 n.8 (1980); *TVA* v. *Hill*, 437 U.S. 153, 189–93 (1968); *U.S.* v. *Southern Cable Co.*, 392 U.S. 157, 170 (1968); *U.S.* v. Philadelphia National Bank, 374 U.S. 321, 348–49 (1963); *U.S.* v. *Price*, 361 U.S. 304, 313 (1960). This is particularly true here, where the intent of the earlier, enacting Congress as to section 305(b) is clear.

[14] Coleman asks that a hearing be ordered so that he may present his case to the Commission. Given the nature of the matters presented here, the relevant Commission precedent, and the pleadings before us, we believe that a hearing is neither required nor necessary to a proper resolution of the matters before us. Coleman also asks that, in the event the Commission determines that it has jurisdiction, the Commission not require compliance with its order pending an appeal. While we do not find it appropriate to stay our order *ab initio*, we do

We thus shall require Coleman within forty-five days either to file such an application or to remove himself from one of the positions in question so that he no longer is subject to section 305(b).[15]

The Commission Orders

(A) William T. Coleman, Jr.'s petition for an order finding that an interlock between Philadelphia Electric Company and the CIGNA Corporation is not within the scope of section 305(b) of the Federal Power Act is hereby denied.

(B) William T. Coleman, Jr. is hereby directed within forty-five (45) days of the date of this order either to file an application to hold the interlock described herein or to resign from one of the positions in question so that he no longer is subject to section 305(b) of the Federal Power Act.

(C) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17614 Filed 6-30-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP82-340-000]

June 25, 1982.

Columbia Gas Transmission Corp.; Notice of Application

Take notice that on May 21, 1982, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP82-340-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities for additional new delivery points to existing wholesale customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this application is to construct 49 interconnection tap facilities to provide additional points of delivery.

Applicant estimates that the average cost of an interconnecting tap facility necessary for a point of delivery would be $300 for 44 of the 49 taps. Applicant estimates that the remaining five taps would cost $8,900, $3,400, $26,900, $6,100 and $16,300, respectively. It is further asserted that the total cost would be approximately $75,000 and would be financed through internally generated funds.

The proposed new delivery points are as follows:

1. Columbia Gas of Kentucky, Inc., 1 tap for residential service, 1 tap for combined residential and commercial service—Estimated annual usage of 50, 150 Mcf
2. Columbia Gas of Ohio, Inc., 24 taps for residential service, 2 taps for commercial service, 1 tap for industral service—Estimated annual usage of 29,337 Mcf
3. Columbia Gas of Pennsylvania, Inc., 3 taps for residential service—Estimated annual usage of 450 Mcf
4. Columbia Gas of Virginia, Inc., 1 tap for residential service, 1 tap for combined residential, and commercial service—Estimated annual usage of 27,050 Mcf
5. Columbia Gas of West Virginia, Inc., 13 taps for residential service—Estimated annual usage of 1,950 Mcf
6. The Dayton Power and Light Company, 1 tap for residential service—Estimated annual usage of 8,475 Mcf
7. Washington Gas Light Company, 1 tap for combined residential and commercial service—Estimated annual usage of 1,035,000 Mcf

Any person desiring to be heard or to make any protest with reference to said application should on or before July 19, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17796 Filed 6-30-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. GP82-41-000]

Columbia Gas Transmission Corp.; Notice of Application of Columbia Gas Transmission Corporation for Exception or Waiver of Selected Provisions of the Commission's NGPA Regulations

June 25, 1982.

Take notice that on May 24, 1982, Columbia Gas Transmission Corporation (Columbia) filed pursuant to § 1.7 of the Commission's Regulations [1] an application for an exception or waiver of §§ 271.804(c), 273.204(a)(1)(i) and 273.204(a)(2) of the Commission's regulations under the Natural Gas Policy Act of 1978, (NGPA) 15 U.S.C. §§ 3301-3432. Specifically Columbia requests an exception to the filing deadline contained in § 273.204(a)(2) for wells qualifying under section 107(c)(4) (wells producing gas from the Devonian Shale). Columbia requests that the June 23, 1980 filing deadline be waived for qualifying sales of gas from Devonian Shale for which applications were filed with appropriate state jurisdictional agencies on or before December 1, 1982. Columbia further seeks a waiver of the regulations to enable it to qualify certain of its wells as stripper wells under NGPA section 108 retroactive to December 1, 1978.

Columbia states that the purpose of this application is to permit Columbia to file for NGPA well determinations for certain company-owned wells which have in the past been subject to cost-of-service treatment. This action, Columbia states, is necessitated by the ruling in *Mid-Louisiana Gas Company* v. *FERC* 664 F.2d 530 (5th Cir. 1982). In light of the court's decision in *Mid-Louisiana*, Columbia now seeks to treat all of its company-owned production as a first

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not in this situation believe it appropriate to require Coleman to remove himself from either of his positions during the forty-five days allowed in this order for the filing of a section 305(b) application and during the pendancy of that application. Of course, should he choose not to file such an application, we note that at the end of the forty-five days, he must remove himself from one of the positions in question so that he no longer is subject to section 305(b).

[15] We make no finding here as to whether we would grant or deny such an application.

[1] Columbia amended its original request for relief under § 1.41, by letter dated June 15, 1982.

sale under the NGPA. According to Columbia, this, in turn, requires that Columbia make the proper filings for well determinations required by the Commission's regulations under the NGPA for its "old gas" wells previously subject to cost-of-service regulation.

Columbia indicates that as a result of the *Mid-Louisiana* decision it has many company-owned wells which will qualify under sections 107 and 108 of the NGPA. It maintains that the waivers are necessary to permit it to obtain proper NGPA first sale treatment for production which treatment allegedly was denied under the Commission regulations invalidated by the *Mid-Louisiana* decision. Specifically, Columbia requests an exception to the April 1, 1979 filing deadline contained in § 273.204(a)(1)(i). Columbia proposes that such deadline be waived for wells for which qualifying production data was filed with state jurisdictional agencies on or before December 1, 1982. Columbia also seeks to waive the requirement of § 271.804(c) requiring the qualifying 90-day production period for section 108 wells to fall within 180 days of the date application for a determination. Columbia maintains that these waivers are similar to those earlier granted Columbia as the result of order issued in Docket No. RM80–6, (Order of Director, OPPR, issued August 18, 1981; Order Amending Order of the Director, OPPR, issued October 19, 1981).

Any person desiring to participate in this request for exception should file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure. All petitions to intervene must be filed or or before July 16, 1982.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–17846 Filed 6–30–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP75–158–006]

Consolidated Gas Supply Corp.; Petition To Amend

June 25, 1982.

Take notice that on May 28, 1982, Consolidated Gas Supply Corporation (Petitioner), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP75–158–006 a petition to amend the order issued May 29, 1975,[1] as amended, in Docket No. CP75–158 pursuant to Section 7(c) of the Natural Gas Act so as to authorize minor modifications in the replacement program for its West Virginia wet gas transmission system, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that by order issued May 19, 1975, as amended, Petitioner was authorized to undertake a four-year program to replace its West Virginia wet gas transmission system. Petitioner states that subsequently, various orders issued in this proceeding authorized the abandonment of its Maxwell Compressor Station located in Doddridge County, West Virginia, and the relocation of its single 440 hp compressor unit to Collins Compressor Station also located in Doddridge County, West Virginia.

Petitioner states, however, that increased supplies of locally-produced gas in the area of its Maxwell Compressor Station render it advantageous to retain the station in its present location. Accordingly, Petitioner requests authorization to retain and operate Maxwell Compressor Station located in Doddridge County, West Virginia, rather than relocating its single 440 hp compressor unit to Collins Compressor Station as had been previously approved. Petitioner adds that it appears that local gas available through Collings Compressor Station will remain relatively stable over the foreseeable future.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before July 19, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petiton to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–17790 Filed 6–30–82; 8:45 am]

BILLING CODE 6717–01–M

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

[Docket No. ER82–455–000]

Empire District Electric Co.; Order Accepting for Filing and Suspending Revised Rates, Denying Motion To Reject, Granting Interventions, Granting Request for Summary Disposition, and Establishing Hearing and Price Squeeze Procedures

Issued: June 24, 1982.

On April 19, 1982, Empire District Electric Company (Empire) tendered for filing increased rates for firm power service to five wholesale customers.[1] The proposed rates would increase revenues by approximately $1,277,155 (34.43%) for the calendar year 1982 test period. Empire requests that the rates become effective on July 1, 1982. Empire also states that the proposed rates are intended to apply to Sekan at its Crestline delivery point upon expiration of an existing fixed rate contract for service at that delivery point (November 1, 1983).

Notice of Empire's filing was issued on April 28, 1982, with responses due by May 12, 1982. In response to a request for extension of time filed by Chetopa, the time period for petitions to intervene was extended until June 3, 1982.

On May 12, 1982, Kansas Electric Power Cooperative, Inc., and its two member systems served by Empire, Sekan and Twin Valley (KEPCO), filed a protest, petition to intervene, motion to reject, or in the alternative to require compliance with the Commission's regulations, request for maximum suspension, and request for phased price squeeze proceedings. KEPCO's motion to reject alleges that Empire's filing fails to project Period II coincident peak demands as required by section 35.13(b)(27) of the Commission's regulations. Alternatively, KEPCO requests that the filing be found deficient on the same ground. In addition, KEPCO requests summary disposition as to Empire's inclusion in the capital structure of accumulated deferred income tax (ADIT) and accumulated deferred investment tax credits (ADITC).

In addition, KEPCO alleges that Empire's filing should be rejected with respect to the Crestline delivery point.

[1] Empire's tariff customers are the Cities of Monett (Monett) and Mount Vernon, Missouri, the City of Chetopa, Kansas (Chetopa), the Twin Valley Electric Cooperative, Inc. (Twin Valley), and the Sekan Electric Cooperative Association, Inc. (Sekan). All of these customers (with the exception of Sekan at its Crestline delivery point) are served under the rate schedule designated as: *Empire District Electric Company* First Revised Sheet Nos. 4 and 5 to FERC Electric Tariff, First Revised Volume No. 1 (Supersedes Original Sheet Nos. 4 and 5).

KEPCO also raises several cost of service issues, including (1) rate of return, (2) cash working capital allowance, (3) property and payroll tax expenses, (4) depreciation expense, (5) allocation of revenue credits from off-system sales, (6) transmission loss factors, (7) minimum bill provisions, (8) rate design, (9) tax normalization calculations, and (10) long-term debt interest tax deductions. Finally, KEPCO alleges price squeeze.

On May 24, 1982, Chetopa filed a protest, petition to intervene, motion for maximum suspension, and request for price squeeze procedures. Chetopa alleges that although it has had only limited time to analyze Empire's filing, it has found the depreciation expense to be incorrectly calculated. It further states that Empire has not shown that a suspension period of less than five months is warranted and that Empire's filing creates price discrimination.

On May 14, 1982, Monett filed a letter commenting on Empire's submittal. Monett states that a lesser increase and a six-month suspension are appropriate. Monett does not request intervention.

On May 27, 1982, Empire filed an answer to KEPCO's petition. Empire states that KEPCO's interest in the proceeding is not sufficient to warrant intervenor status and that it has not shown that its interests would be inadequately represented by Sekan and Twin Valley. Empire also rebuts all of KEPCO's substantive allegations.

Discussion

The Commission finds that KEPCO may have an interest not adequately represented by other parties and that its participation, as well as that of the other petitioners to intervene, is in the public interest. Accordingly, each of the petitions to intervene will be granted.

We shall grant KEPCO's request for summary disposition of Empire's inclusion of ADIT and ADITC as separate components of the capital structure and we shall further require Empire to deduct its ADIT balances from rate base. This decision is in accord with *Minnesota Power and Light Company*, Opinion No. 12, Docket No. E-8494 (April 14, 1978) (ADIT) and *Public Service Company of New Mexico*, Docket Nos. ER79-478, *et al.*, (December 19, 1979) (ADITC). Empire will be ordered to file revised rates and revised cost of service statements within 30 days of this order which reflect (1) exclusion of ADIT and ADITC balances from the capital structure, and (2) a rate base reduction for ADIT balances.

We note further that although Empire's filed cost of service supports a wholesale revenue requirement of $4,972,000, its proposed rates when applied to test year billing determinants produce total wholesale revenuese of $4,984,190.[2] Our analysis indicates that the discrepancy is attributable primarily to Empire's failure to reflect fuel clause revenues of $6,466 in deriving the unit energy charge. Consistent with *Potomac Edison Company*, Docket No. ER81-141-000 (April 8, 1981), the unsupported revenue level will be summarily rejected and Empire will be ordered, in refilling its rates, to develop those rates so as to produce revenues no greater than its claimed wholesale revenue requirement.

We decline to reject Empire's filing as to the Crestline delivery point. In our view, *Municipal Electric Utility Ass'n of Alabama, et al.* v. *FPC*, 485 F.2d 467 (D.C. Cir. 1973) permits Empire's filling in this regard. We do note, however, that the rates for Sekan-Crestline may become effective only after Empire timely files a service agreement and revised customer list with the Commission and the Commission, after providing for comments, protests, or interventions, accepts the filing and designates an effective date. KEPCO may renew its specific objections at that time.

As modified by summary dispostition, Empire's submittal substantially complies with the Commission's filling requirements. Thus, we shall deny KEPCO's motion to reject.[3] We note, however, that Empire's filing is not in compliance with the Commission's Order No. 144-A (February 22, 1982) in that it does not reflect tax normalization of all timing differences as specified in that order and does not establish a method to amortize the existing deficiency in the deferred tax account due to previous timing differences which have been flowed through. In accordance with the policy articulated in *Wisconsin Electric Power Company*, Docket No. ER82-347-000 (April 13, 1982), Emprire will be ordered to refile its cost of service and rates to reflect tax normalization procedures consistent with Order No. 144-A, with such revised rates to become effective, subject to refund, on the same date the Commission orders the originally filed rates to become effective.

[2] Although Empire's Period II Statement BG indicates proposed wholesale revenues of $4,986,190, Empire has made two computational errors in applying the proposed rates to the billing determinants which result in a $2,000 over-statement of total wholesale proposed revenues in Statement BG.

[3] *See Municipal Light Boards of Reading and Wakefield, Mass.* v. *FPC*, 450 F.2d 1341 (D.C. Cir. 1971). Empire provided projected Period II coincident peak demand data in Statement BH and in the workpapers supporting its cost of service statements.

Our preliminary examination of Empire's filing and the pleadings indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the rates for filing, as modified by summary disposition, and we shall suspend them as ordered below.

We recently explained the Commission's suspension policy in *West Texas Utilities Company*, Docket No. ER82-23-000 (February 26, 1982). In that order, we noted that rate filings would ordinarily be suspended for one day where preliminary review indicates that the proposed increase may be unjust and unreasonable but may not generate substantially excessive revenues, as defined in *West Texas*. In the instant proceeding our preliminary review suggests that the proposed rates may yield substantially excessive revenues. As we stated in *West Texas*, under such circumstances, we shall suspend the rates for the maximum period. Accordingly, we shall suspend Empire's rates for five months, to become effective, subject to refund, on December 1, 1982.

In light of the intervenors' price squeeze allegations, we shall institute price squeeze procedures and phase those procedures in accordance with the Commission's policy and practice established in *Arkansas Power and Light Company*, Docket No. ER79-339 (August 6, 1979).

The Commission Orders

(A) KEPCO's motion to reject Empire's submittal, in whole or in part, is denied.

(B) Empire's proposed rates are hereby accepted for filing, as modified by summary disposition and subject to refiling in accordance with the requirements of Order No. 144-A, and are suspended for five months from the proposed effective date, to become effective on December 1, 1982, subject to refund.

(C) Empire shall file, within thirty (30) days of the date of this order, revised rates and a revised cost of service which reflect tax normalization procedures consistent with Order No. 144-A, and which reflect the summary dispositions ordered in Paragraphs (D) and (E) below, with such revised rates to become effective on December 1, 1982, subject to refund.

(D) KEPCO's request for summary disposition of Empire's inclusion of ADIT and ADITC in the capital structure is granted. Empire is directed to file revised rates and revised cost of

service statements which reflect (1) exclusion of ADIT and ADITC balances from the capital structure, and (2) a rate base reduction for ADIT balances.

(E) Empire's proposed unit energy charge is summarily rejected. Empire shall file revised rates which produce test period revenues of not more than its claimed wholesale revenue requirement.

(F) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of Empire's rates.

(G) The petitions to intervene in this proceeding are hereby granted subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act; *Provided, however,* that participation by such intervenors shall be limited to the matters set forth in their petitions to intervene; and provided, further, that the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order of the Commission in this proceeding.

(H) We hereby order initiation of price squeeze procedures and further order that the proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The presiding judge may order a change in this schedule for good cause. The price squeeze portion of this case shall be governed by the procedures set forth in section 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(I) The Commission staff shall serve top sheets in this proceeding on or before July 10, 1982.

(J) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days of the service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss) as provided in the Commission's Rules of practice and Procedure.

(K) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17810 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1967-001]

Margery Somers Foster; Order Granting Rehearing and Vacating Stay

Issued: June 22, 1981.

By order issued May 7, 1982, the Commission held that an interlock between Public Service Electric and Gas Company (PSEGCO) and the Prudential Insurance Company of America (Prudential) was within the scope of section 305(b) of the Federal Power Act because of Prudential's control of the Bache Group, Inc. and its subsidiaries. The Commission further found that Margery Somers Foster should be granted authorization to hold that interlock only for so long as Prudential and its subsidiaries do not underwrite or otherwise participate in the distribution and marketing of PSEGCO's or its subsidiaries' securities.[1]

On May 8, 1982, Foster filed a petition for rehearing and a request for a stay of the Commission's order, objecting specifically to the condition imposed by the Commission as to the underwriting and marketing of PSEGCO's and its subsidiaries' securities. By order issued May 18, 1982, the Commission granted rehearing solely for purposes of further consideration and granted the requested stay pending further consideration.

Discussion

The Commission, in its order issued May 7, 1982, approving the interlock stated:

> However, in order to ensure that market manipulation and a lack of arm's-length dealings do not occur, we shall allow Foster to hold the interlock in question only so long as Prudential and its subsidiaries do not underwrite or otherwise participate in the distrubition and marketing of the securities of PSEGCO or its subsidiaries.[10]

Foster argues that in light of the Commission's finding that no adverse effect would result to public or private interests, the condition is unnecessary if not inconsistent. Foster further contends that the condition imposed by the Commission forces her to meet a standard higher than that imposed upon other applicants. Foster also suggests that the condition restricts Prudential and its subsidiaries and PSEGCO and its subsidiaries in their ability to conduct securities transactions to their mutual benefit. It may, as well, preclude PSEGCO from selling securities through public offerings. These consequences, Foster argues, may force her to resign from one or the other of the directorships.

We have consistently expressed our concerns with regard to the potential abuses that may result from such interlocks.[2] We thus seek to prevent such abuses and not merely to remedy those that may already have occurred.[3] Here, we have an interlock held by a distinguished and independent professional, a past professor of economics and dean at various universities, whose value to both PSEGCO and Prudential is considerable. Moreover, she is an outside director as to both companies and she holds the only interlock between the two companies. When taken together, we believe that there will be little opportunity for the abuses that concern us to arise. Upon our further consideration of this matter, we believe that the condition complained of here is not necessary to our finding that no adverse affect on public or private interests will result from the interlock. Certainly the condition would give added assurance that any mischief that might result from an interlock will not result. Nevertheless, the interlock at issue here—a single interlock between

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[1] This condition was expressly intended not to encompass dealings in the so-called secondary securities markets on behalf of investors.

[10] We do not, however, intend to bar Foster from holding this interlock if Prudential and its subsidiaries simply buy or sell securities in the so-called secondary securities markets solely on behalf of investors who desire to buy or sell PSEGCO's securities or the securities of PSEGCO's subsidiaries.

[2] Our earlier decisions make clear Congressional concerns and our continuing concerns with respect to such interlocks and the potential dangers that may arise. *See, e.g., George F. Brewer,* Docket No. ID-1818 (April 6, 1981); *Robert P. Reuss,* Docket No. ID-1823 (June 25, 1979); *Willis C. Fitkin, et al.,* Docket Nos. ID-1709, *et al.* (June 25, 1979); *Charles T. Fisher, III, et al.,* Docket Nos. ID-1758, *et al.,* (June 25, 1979), *order on reh., Charles T. Fisher, III,* Docket Nos. ID-1758 (October 25, 1979); *Lelan F. Sillin, Jr.,* 33 F.P.C. 1006 (1965); *John Edward Aldred,* 2 F.P.C. 247 (1940). *Accord, Hatch v. FERC,* 654 F. 2d 825 (D.C. Cir. 1981).

[3] *See, e.g., Hatch v FERC,* 654 F. 2d 825, 831-32 (D.C. Cir. 1981); *UGI Corp.,* Docket No. ID-1977-000 (May 21, 1982; *George F. Brewer,* Docket No. ID-1818 (April 6, 1981); *Willis C. Fitkin, et al.,* Docket Nos. ID-1709, *et al.* (June 25, 1979); *Charles T. Fisher, III, et al.,* Docket No. ID-1758, *et al.,* (June 25, 1979), *order on reh., Charles T. Fisher, III,* Docket No. ID-1758 (October 25, 1979; *Lelan F. Sillin, Jr.,* 33 F.P.C. 1006 (1965); *John Edward Aldred,* 2 F.P.C. 247 (1940).

the two companies involving an applicant of Foster's standing serving as an outside director as to both companies—is such that the potential dangers that might normally be presented by such interlocks appear to be sufficiently unlikely so as to justify our authorizing the holding of the interlock without the underwriting limitation imposed by our earlier order.

Accordingly, we shall grant Foster's petition for rehearing and vacate the condition to which she objects. We shall likewise vacate the stay imposed by our order of May 18, 1982.

The Commission Orders

(A) The petition for rehearing of Margery Somers Foster is hereby granted. Our order May 7, 1982, is hereby modified by deleting the underwriting limitation from ordering paragraph B.

(B) The stay imposed by Commission order issued May 18, 1982 is hereby vacated.

(C) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17617 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2008-000]

Bernard M. Fox; Notice of Application

June 25, 1982.

The filing individual submits the following:

Take notice that on June 14, 1982, Bernard M. Fox filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions.

Senior Vice President, Connecticut Light and Power Company
Senior Vice President, Holyoke Water Power Company
Senior Vice President, Western Massachusetts Electric Company
Senior Vice President, Hartford Electric Light Company
Senior Vice President, Holyoke Power and Electric Company

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 16, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17663 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. G-5320-000, et al.]

Getty Oil Company (Succ. in Interest to Skelly Oil Co.); Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

June 23, 1982.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before July 8, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and Date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
G-5320-000, June 4, 1982	Getty Oil Company (Succ. in Interest to Skelly Oil Company), P.O. Box 1404, Houston, Texas 77001.	Cities Service Gas Company, Guymon-Hugoton Field, Texas County, Oklahoma.	(1)	14.65
G-11072-000, D, Aug. 30, 1977	Sun Oil Company, P.O. Box 20, Dallas, Texas 75221.	Panhandle Eastern Pipe Line Company, Hansford Field, Hansford County, Texas.	(1)	
G-13673-000 (G-13636), July 23, 1979[2]	Gulf Oil Corporation, P.O. Box 2100, Houston, Texas 77001.	Southern Natural Gas Company, West Bay (Tarkline) Field, Plaquemines Parish, Louisiana.	(1)	15.025
G-16139-000, D, Dec. 22, 1980	do	Transwestern Pipeline Company, Panhandle Area, Various Counties, Texas.	(1)	
G-19402-001, D, May 27, 1982	Shell Offshore Inc. (Succ. in Interest to Shell Oil Company), P.O. Box 2463, Houston, Texas 77001.	Tennessee Gas Pipeline Company, South Pass Block 6 Field, Plaquemines Parish, Offshore Louisiana.	(1)	
C82-1258-000, D, June 10, 1982	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Arkansas Louisiana Gas Company, Canadahoma Field, Coal County, Oklahoma.	(1)	
C87-1802-000 Apr. 29, 1982	Energy Reserves Group, Inc., P.O. Box 1201, 217 North Water Street, Wichita, Kansas 67201.	United Gas Pipe Line Company, Bayou St. Vincent Field, Assumption Parish, Louisiana, Southern Louisiana Area.	(1)	15.025

Docket No. and Date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI74-493-000 (G-7636), B, Feb. 25, 1974.	Mobil Oil Corporation, Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	Coastal States Gas Producing Company, East Mathis Field, San Patricio County, Texas.	(1)	
CI80-41-001, May 28, 1982	Diamond Shamrock Corporation, P.O. Box 631, Amarillo, Texas 79173.	Southern Natural Gas Company, Blocks 114, 115 and 116, Main Pass Area, Offshore Louisiana.	(2)	15.025
CI82-279-000, A, June 1, 1982	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, Texas 75221.	Southern Natural Gas Company, Matagorda Island Block 703, Offshore Texas.	(3)	14.73
CI82-280-000, A, June 2, 1982	Amoco Production Company, P.O. Box 50879, New Orleans, Louisiana 70150.	United Gas Pipe Line Company, High Island Block A-498, Offshore Texas.	(3)	14.73
CI82-281-000 (CI67-372), B, June 2, 1982.	Pennzoil Company, P.O. Box 2967, Houston, Texas 77001.	National Fuel Gas Supply Corp. (Succ. In Interest to Pennsylvania Gas Company), Cooper Field, Sheffield Township, Warren County, Pennsylvania.	(4)	
CI82-282-000, A, June 7, 1982	Odeco Oil & Gas Company, P.O. Box 61780, New Orleans, Louisiana 70161.	Tennessee Gas Pipeline Company, Ship Shoal Block 94, in the Gulf of Mexico, Offshore Louisiana.	(3)	15.025
CI82-283-000, B, June 4, 1982	Prenelta Corporation, 625 First Interstate Building, P.O. Box 2514, Casper, Wyoming 82602.	Colorado Interstate Gas Company, Point of Rocks Field, Sweetwater County, Wyoming.	(5)	
CI82-284-000, A, June 7, 1982	Diamond Shamrock Corporation, P.O. Box 631, Amarillo, Texas 79173.	Trunkline Gas Company, Block A-542, High Island Area, South Addition, Offshore Texas.	(3)	14.73
CI82-285-000, A, June 8, 1982	Zapata Exploration Company, P.O. Box 4240, Houston, Texas 77001.	United Gas Pipe Line Company, West Cameron Block 538, Offshore Louisiana.	(3)	15.025
CI82-286-000, A, June 8, 1982	Getty Oil Company, P.O. Box 1404, Houston, Texas 77001.	Texas Eastern Transmission Corporation, Vermilion Block 264, Offshore Louisiana.	(3)	15.025
CI82-287-000, E, June 8, 1982[20]	The Pittsburg & Midway Coal Mining Co. (Succ. In Interest to The Kemmerer Coal Company), P.O. Box 2100, Houston, Texas 77252.	Northwest Pipeline Corporation, Creston Area, Carbon County, Wyoming.	(5)	14.73
CI82-288-000, E, June 8, 1982[20]	do	Northwest Pipeline Corporation, Barrell Springs Field, Carbon County, Wyoming.	(5)	14.73
CI82-289-000, E, June 10, 1982[20]	do	Northwest Pipeline Corporation, Barrell Springs Field, Carbon County, Wyoming.	(5)	14.73
CI82-290-000, A, June 9, 1982	Getty Oil Company, P.O. Box 1404, Houston, Texas 77001.	Northern Natural Gas Company, High Island Block 199, Offshore Texas.	(3)	14.73
CI82-291-000 (G-16379), B, June 11, 1982.	Mobil Producing Texas & New Mexico Inc., Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	El Paso Natural Gas Company, Bisti Field, San Juan County, New Mexico.	(6)	
CI82-292-000, A, June 14, 1982	Cotlew Corporation, P.O.Box 300, Tulsa, Oklahoma 74102.	Northern Natural Gas Company, Hugoton Field, Texas County, Oklahoma.	(7)	14.73
CI82-293-000, F, June 14, 1982	Sun Exploration and Production Company (Par. Succ. To Singer-Fleischaker Oil Co.), P.O. Box 20, Dallas, Texas 75221.	Michigan-Wisconsin Pipe Line Company, Laverne Field, Harper County, Oklahoma.	(3)	14.73
CI82-294-000, A, June 14, 1982	Conoco Inc., P.O. Box 2197, Houston, Texas 77252	Natural Gas Pipeline Company of America, South Marsh Island Block 288, ("CB") Platform), Offshore Louisiana.	(3)	15.025
CI82-295-000, B, June 10, 1982	Raymond Oil Company, Inc., Suite 800, 200 West Douglas Street, Wichita, Kansas 67202.	Northern Natural Gas Company, Mullinville Field, Kiowa County, Kansas.	(8)	
CI82-296-000, A, June 15, 1982	Pacific Petroleums Inc., P.O. Box 4240, Houston, Texas 77001.	Panhandle Eastern Pipeline Company, High Island Block A-542, Offshore Texas.	(3)	14.73
CI82-297-000, A, June 15, 1982	Zapata Exploration Company, P.O. Box 4240, Houston, Texas 77001.	Panhandle Eastern Pipe Line Company, High Island Block A-542, Offshore Texas.	(3)	14.73
CI82-298-000, A, June 15, 1982	do	Trunkline Gas Company, High Island Block A-542, Offshore Texas.	(3)	14.73
CI82-299-000, A, June 15, 1982	Pacific Petroleums Inc., P.O. Box 4240, Houston, Texas 77001.	Trunkline Gas Company, High Island Block A-542, Offshore Texas.	(3)	14.73
CI71-838-000, D, June 8, 1982	Ashland Exploration, Inc., P.O. Box 391, Ashland, Kentucky 41114.	Texas Gas Transmission Corporation, West Midland Gas Field, Muhlenberg County, Kentucky.	(9)	

[1] Applicant is filing to change delivery point.
[2] Sun released its interest in the Nusbaum-Hart #1 to Daco Lease & Well Service and relinquished its interest in the Nusbaum Lease onto the lease owners.
[3] Applicant requests that sales authorized under its certificate in Docket No. G-13636 and its related FERC G.R.S. No. 336 be consolidated under its certificate in Docket No. G-13673 and its related FERC G.R.S. No. 248. Applicant also requests that Docket No. G-13636 be terminated and its related G.R.S. No. 336 be canceled.
[4] Applicant is filing under contract dated November 1, 1978.
[5] By Assignments dated May 25, 1961, October 25, 1960, November 3, 1960, November 3, 1960 and July 23, 1963 Gulf assigns and transfers all of its leasehold estate rights in and to all of the oil and gas.
[6] Since last production on October 26, 1981, efforts to restore production have been unsuccessful. No drilling or workover proposects remain.
[7] Deletion of acreage due to farm out. (Working interest ownership)
[8] Non-Producing Acreage. Last well plugged and abandoned early 1979 and the lease surrendered.
[9] Gas reserves depleted.
[10] Applicant is filing under letter dated February 16, 1982 and Amendatory Agreement dated February 2, 1982.
[11] Applicant is filing under Gas Purchase Contract and Sales Agreement dated April 7, 1982.
[12] Applicant is filing under Gas Purchase Contract dated April 22, 1982.
[13] Available Supply of Gas is depleted to the extent that Continuance of Service is unwarranted.
[14] Applicant is filing under Gas Purchase Contract dated June 28, 1954, Ratified July 19,1954.
[15] Applicant is filing under Gas Purchase and Sales Agreement dated October 20, 1972.
[16] The well is depleted. Total sales of gas since 1975 amounted to only 1,615 Mcf. Last sales were in July, 1979.
[17] Applicant is filing under Gas Purchase Contract dated April 19, 1982
[18] Applicant is willing and able to render the proposed service and to conform to the provisions of the Natural Gas Act, the National Gas Policy Act and the Commission's rules and regulations thereunder.
[19] Applicant is filing under Gas Purchase Contract dated May 18, 1982.
[20] Effective as of December 31, 1981, Applicant acquired all of the The Kemmerer Coal Company's interest in properties.
[21] Applicant is filing under Contract dated October 12, 1977, as amended.
[22] Applicant is filing under Contract dated October 1, 1976, as amended.
[23] Applicant is filing under Contract dated November 13, 1974, as amended.
[24] Applicant is filing under Gas Purchase Contract dated May 24, 1982.
[25] Applicant is filing under Rollover Gas Purchase Contract dated January 20, 1982.
[26] Applicant is filing under Gas Purchase Contract dated December 1, 1981.
[27] Gas well Uneconed.
[28] Texas Gas, purchaser under the gas purchase contract (Rate Schedule #205), as a result of a judgment in the case of *Rudd* v. *Texas Gas*, Civil Action No. 78-CI-170, has acquired a portion of the lease acreage dedicated to the contract as a part of its Midland Gas Storage Field.
Filing Code: A—Initial Service, B—Abandonment, C—Amendment to add acreage, D—Amendment to delete acreage, E—Total Succession, F—Partial Succession.

[FR Doc. 82-17825 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-2-4-001 (PGA82-2, IPR82-2)]

Granite State Gas Transmission; Revised Proposed Changes in Rates Pursuant To Purchase Gas Cost Adjustment Provisions

June 24, 1982.

Take notice that on June 15, 1982, Granite State Gas Transmission, Inc. (Granite State), 120 Royall Street, Canton, Massachusetts 02021, tendered for filing Substitute First Revised Sheet No. 7 in its FERC Gas Tariff, First Revised Volume No. 1, containing revised proposed changes in rates for effectiveness on July 1, 1982.

Granite State states that, on May 28, 1982, it filed First Revised Sheet No. 7 in its FERC Gas Tariff, First Revised Volume No. 1 containing a purchase gas cost adjustment to reflect an increase in its cost of gas purchased from Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) which Tennessee proposed to make effective on July 1, 1982 and to reflect the amortization of Unrecovered Purchased Gas Costs. According to Granite State, the instant filing is made to correct for a lower rate on its purchases from Tennessee, effective July 1, 1982, and for an error in the determination of the surcharge for the amortization of Unrecovered Purchased Gas Costs and related carrying charges to be applicable as of July 1, 1982.

Granite State further states that its rate adjustments are applicable to its wholesale sales to its two affiliated distribution company customers: Bay State Gas Company and Northern Utilities, Inc. According to Granite State, the effect of the proposed rates in its filing is an increase of approximately $13,614,834 annually, based on purchases and sales for the twelve months ended March 31, 1982.

Granite State requests waiver of the notice provisions of the Commission's Regulations, pursuant to Section 154.51 thereof, and waiver of any other applicable provision of the Regulations, in order to permit the revised rate changes on Substitute First Revised Sheet No. 7 to become effective on July 1, 1982.

According to Granite State, copies of the filing were served upon its customers and the regulatory commissions of the States of Maine, Massachusetts and New Hampshire.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 2, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17828 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2597-001]

The Hartford Electric Light Co. and the Connecticut Light and Power Co.; Notice of Application for Transfer of Major License

June 28, 1982.

Public notice is hereby given that an application was filed on June 14, 1982, under the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r), by The Hartford Electric Light Company (Licensee) and The Connecticut Light and Power Company (Transferee) for transfer of the major license for the Falls Village Project No. 2597. The project is located on the Housatonic River in the town of Falls Village, Litchfield County, Connecticut. Correspondence should be directed to: Mr. William G. Counsil, Senior Vice-President, Northeast Utilities Service Company, P.O. Box 270, Hartford, Connecticut 06101.

The Falls Village Project consists of an existing dam, reservoir, canal works, penstocks and a powerhouse. No changes to the operation of the project would occur as a result of the transfer.

Transferee has proposed to operate the project in accordance with the license. Transfer of the project was necessary as part of a proposed corporate merger between Licensee and Transferee.

Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party or to participate in any hearings, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before August 16, 1982. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17819 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2485-004]

The Hartford Electric Light Co. et al.; Notice of Application For Transfer of Major License Interest

June 28, 1982.

Public notice is hereby given that an application was filed on June 14, 1982, under the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r), by The Hartford Electric Light Company (HELCO), joint Licensee, and The Connecticut Light and Power Company (CL&P), Transferee, for transfer of major license interest in the Northfield Mountain Pumped Storage Project No. 2485. The project is located on the east bank of the Connecticut River in Franklin County, Massachusetts. Correspondence should be directed to: Mr. W. G. Counsil, Senior Vice President, Northeast Utilities Service Company, P.O. Box 270, Hartford, Connecticut 06101 and Robert P. Wax, Esq., Northeast Utilities Service Company, P.O. Box 270, Hartford, Connecticut 06101.

Since 1966, CL&P and HELCO have been wholly-owned operating subsidiaries of Northeast Utilities (NU). The license for Project No. 2485 is presently jointly held by HELCO, CL&P and Western Massachusetts Electric Company (WMECO), another wholly-owned subsidiary of NU. Therefore, with the transfer of HELCO's interest in the license to CL&P, WMECO and CL&P will be the joint licensees for the project.

Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments

filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party or to participate in any hearings, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before Aug. 16, 1982. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17829 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5113-001]

Homestake Consulting and Investments, Inc.; Notice of Surrender of Preliminary Permit

June 25, 1982.

Take notice that Homestake Consulting and Investments, Inc., Permittee for the proposed Canyon Creek Hydroelectric Project No. 5113, has requested that its preliminary permit be terminated. The permit was issued on February 1, 1982, and would have expired July 31, 1983. The project would have been located on the Canyon Creek in Bonner County, Idaho.

The Permittee filed its request on June 1, 1982, and the surrender of the preliminary permit for Project No. 5113 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17834 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5469-001]

Homestake Consulting and Investments, Inc.; Notice of Surrender of Preliminary Permit

June 25, 1982.

Take notice that Homestake Consulting and Investments, Inc., Permittee for the proposed Steep Creek Hydroelectric Project No. 5469, has requested that its preliminary permit be terminated. The permit was issued on February 19, 1982, and would have expired July 31, 1983. The project would have been located on the Steep Creep Creek in Lincoln County, Montana.

The Permittee filed its request on June 1, 1982, and the surrender of the preliminary permit for Project No. 5469 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17835 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5508-001]

Homestake Consulting and Investments, Inc.; Notice of Surrender of Preliminary Permit

June 25, 1982.

Take notice that Homestake Consulting and Investments, Inc. (Homestake), Permittee for the proposed Twin Creek Hydroelectric Project No. 5508, has requested that its preliminary permit be terminated. The permit was issued on April 16, 1982, and would have expired September 30, 1983. The project would have been located on Twin Creek near Troy, in Lincoln County, Montana. Homestake states that the site has been determined unfeasible for hydroelectric development and will not require further study.

Homestake filed its request on June 1, 1982, and the surrender of its permit for Project No. 5508 is deemed effective as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17836 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5491-001]

Homestake Consulting and Investments, Inc.; Surrender of Preliminary Permit

June 25, 1982.

Take notice that Homestake Consulting and Investments, Inc. (Homestake), Permittee for the proposed Cadette Creek Hydroelectric Project No. 5491, has requested that its preliminary permit be terminated. The permit was issued on February 5, 1982, and would have expired July 31, 1983. The project would have been located on Cadette Creek near Eureka, in Lincoln County, Montana. Homestake states that the site has been determined unfeasible for hydroelectric development and will not require further study.

Homestake filed its request on June 1, 1982, and the surrender of its permit for Project No. 5491 is deemed effective as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17837 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5490-000]

Homestake Consulting and Investments, Inc.; Surrender of Preliminary Permit

June 25, 1982.

Take notice that Homestake Consulting and Investments, Inc. (HCI), Permittee for the proposed Red Top Creek Waterpower Project No. 5490, has requested that its preliminary permit be terminated. The permit was issued on February 19, 1982, and would have expired July 31, 1983. The project would have been located on Red Top Creek near Troy, in Lincoln County, Montana. HCI stated that the site is not feasible for hydroelectric development.

HCI filed its request on June 1, 1982, and the surrender of its permit for Project No. 5490 is deemed effective as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17838 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5483-001]

Homestake Consulting and Investments, Inc., Surrender of Preliminary Permit

June 25, 1982.

Take notice that Homestake Consulting and Investments, Inc., Permittee for the proposed Flat Creek Hydroelectric Project No. 5483, has requested that its preliminary permit be terminated. The permit was issued on March 26, 1982, and would have expired August 31, 1983. The project would have been located on the Flat Creek in Lincoln County, Montana.

The Permittee filed its request on June 1, 1982, and the surrender of the preliminary permit for Project No. 5483 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17840 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-0-M

[Project No. 5484-001]

Homestake Consulting and Investments, Inc.; Surrender of Preliminary Permit

June 25, 1982.

Take notice that Homestake Consulting and Investments, Inc. (Homestake), Permittee for the proposed Sutton Creek Hydroelectric Project No. 5484, has requested that its preliminary permit be terminated. The Preliminary

Permit was issued on March 31, 1982, and would have expired on August 31, 1983. The project would have been located on Sutton Creek near Eureka in Lincoln County, Montana. Homestake states that the site has been determined unfeasible for hydroelectric development and will not require further study.

Homestake filed its request on June 1, 1982, and the surrender of its permit for Project No. 5484 is deemed effective as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17841 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6293-000]

Horseshoe Bar Hydro Associates; Notice of Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

June 28, 1982.

Take notice that on May 4, 1982, Horsehoe Bar Hydro Associates (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. §§ 2705 and 2706 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 6293) would be located on the Middle Fork of the American River in Placer County, California. Correspondence with the Applicant should be directed to: Mr. David C. Auslum, Jr., Auslum and Associates, Inc., 601 University Avenue, Suite 288, Sacramento, California 95825.

Project Description—The proposed project would consist of: (1) a 6-foot-high overflow spillway structure with crest elevation 1,041 feet; (2) an existing tunnel about 193 feet long; (3) a powerhouse containing a turbine generator with 3.5–MW capacity and 15.9 GWh annual energy output; and (4) a switchyard adjacent to the powerhouse. The Applicant anticipates that the Pacific Gas and Electric Company will purchase project output and will take delivery at the switchyard.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the California Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before August 13, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 C.F.R. § 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 C.F.R. § 4.33(a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 13, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17821 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6329-000]

Intermountain Power Corp.; Notice of Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

June 28, 1982.

Take notice that on May 13, 1982, Intermountain Power Corporation (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. §§ 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 6329) would be located on South Fork of the Payette River in Boise County, Idaho. Correspondence with the Applicant should be directed to: Mr. Marc A. Auth, President, 4882 Leather Way, Boise, Idaho 83704.

Project Description—The proposed project would consist of: (1) a 70-foot-long, 6-foot-high diversion structure; (2) a 45-foot-wide, 5-foot-high intake structure; (3) a 1,200-foot-long, 12-foot-diameter penstock; (4) a powerhouse containing two generating units with a total installed capacity of 2,980 kW; and (5) a 2,000-foot-long, 34.5–kV transmission line from the powerhouse to an existing transmission line. The Applicant estimates that the average annual energy production would be 12.3 GWh. The project is located entirely on Federal lands within the Boise National Forest.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption for licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Idaho Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before September 7, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR §4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR § 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests or petitions to intervene must be received on or before September 7, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17800 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6396-000]

Lawrence J. McMurtrey; Application for Preliminary Permit

June 28, 1982.

Take notice that Lawrence J. McMurtrey (Applicant) filed on June 2, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for Project No. 6392 to be known as the Boardman Creek Project located on Boardman Creek in Snohomish County, near Darrington, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Lawrence J. McMurtrey, 12122 196th N. E., Redmond, Washington 98052.

Project Description—The proposed project would consist of: (1) two intake structures; (2) 9,000 feet of 24-inch-diameter combination pipeline/penstock; (3) a powerhouse with a proposed rated capacity of 1.46 MW operating under a head of 737 feet; and (4) an 11-mile-long, 115-kV transmission line. The estimated average annual energy production is 7.7 GWhs. The project would be located in Snoqualmie-Mt. Baker National Forest.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks a 24-month permit to study the feasibility of constructing and operating the project. No new road would be required to conduct the studies.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before September 7, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 C.F.R. § 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before September 7, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 C.F.R. § 4.30 et seq. or § 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than November 8, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must

be received on or before September 7, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all captial letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17891 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket TA82-2-48-002]

Michigan Wisconsin Pipe Line Co.; Proposed Changes in F.E.R.C. Gas Tariff

June 25, 1982.

Take notice that on June 11, 1982, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) tendered for filing Third Substitute Second Revised Sheet No. 41 and Second Substitute Third Revised Sheet No. 41 to its F.E.R.C. Gas Tariff, Original Volume No. 1.

These tariff sheets reflect revisions to Section 15.1 of the General Terms and Conditions of Michigan Wisconsin's F.E.R.C. Gas Tariff to provide that actual costs associated with non-concurrent exchange transactions be included in the calculation of the Unrecovered Purchased Gas Cost Account.

Michigan Wisconsin further states that it requests a waiver of the requirements of Part 154 of the Commission's Regulations under the Natural Gas Act to the extent that such waiver may be necessary to permit this filing of Third Substitute Second Revised Sheet No. 41 and Second Substitute Third Revised Sheet No. 41 to be effective May 1, 1981 and May 31, 1981, respectively.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 6, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17842 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3931-001]

Milton-Freewater Light & Power and Oregon Public Power Agency; Surrender of Preliminary Permit

June 28, 1982.

Take notice that Milton-Freewater Light & Power and Oregon Public Power Agency (Milton-Freewater), Permittees for the South Fork Walla Walla River Project No. 3931, have requested that their preliminary permit be terminated. The permit was issued on May 29, 1981, and would have expired on May 1, 1984. The project would have been located on South Fork Walla Walla River in Umatilla County, Oregon. Milton-Freewater states that the project is not feasible. Milton-Freewater filed the request on June 11, 1982, and the surrender of the permit for Project No. 3931 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17813 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER81-764-000]

Minnesota Power and Light Co.; Order Granting Motion To Bill Customers Under Proposed Settlement Contracts in Lieu of Filed Contracts

Issued: June 24, 1982.

On May 20, 1981, Minnesota Power and Light Company (MP&L) filed a motion seeking Commission authorization to bill two of its customers, the Cities of Hibbing and Virginia, Minnesota (Hibbing and Virginia) according to settlement contracts, in lieu of the contracts originally filed in this proceeding. MP&L seeks permission to bill under the settlement contracts, subject to refund, as of June 7, 1982, until such time as a Commission order approving the applicable settlement agreement becomes final and non-appealable. MP&L states that it has contacted counsel for Hibbing and Virginia and is authorized to state that they do not oppose this motion. For the reasons stated below, we shall grant the motion.

MP&L tendered its originally filed rates in this docket on September 15, 1981. By order issued November 13, 1981, the Commission, *inter alia*, accepted for filing the proposed contracts for service to Hibbing and Virginia, suspended the rates for one day to become effective on November 16, 1981, and ordered a hearing to be convened.

By order of February 4, 1982, the presiding administrative law judge divided the proceeding into two phases. In the first phase, all issues raised by MP&L's proposed contracts with Hibbing and Virginia were to be addressed. All other issues were reserved for the second phase.

Settlement negotiations among the parties with respect to the contracts have since resulted in a Settlement Agreement containing revised contracts for service to Hibbing and Virginia. The Settlement Agreement was filed on May 26, 1982.

MP&L's motion would make the settlement provisions available immediately and would minimize MP&L's potential refund liability in the event the Settlement Agreement is approved. MP&L states that the Settlement Agreement provides that the implementation of the settlement contract before approval of the Settlement Agreement, and the revenue level which the settlement contracts produce will not prejudice any party's right with respect to the contracts and corresponding revenue level ultimately found to be just and reasonable in this proceeding. Hibbing and Virginia would be entitled to refunds if the settlement contracts produce revenues in excess of the revenues which would have been produced from the contracts ultimately found to be just and reasonable, and MP&L would be entitled to collect revenues in excess of those collected under the settlement contracts (up to the level which would have been collected under the contracts as originally filed) if the contracts ultimately found to be just and reasonable would have produced revenues in excess of those collected under the Settlement Agreement. MP&L states that Hibbing and Virginia do not oppose the motion. Under the circumstances, we believe the public interest will be served by granting MP&L's motion.

Pursuant to section 35.1(e), 35.11, and 35.17(b) of the Commission's regulations, we find that good cause exists to permit MP&L to bill Hibbing and Virginia under the settlement contracts, subject to refund, as of June 7, 1982, until such time as the Commission acts upon the settlement agreement filed by MP&L on May 26, 1982. This order shall be without prejudice to our subsequent determination on the merits of the proposed settlement.

The Commission orders:

(A) The motion filed by MP&L on May 26, 1982, requesting permission to bill Hibbing and Virginia under the settlement contracts in lieu of the contracts originally filed in this proceeding is hereby granted.

(B) Good cause having been shown, MP&L is hereby authorized, pursuant to sections 35.1(e), 35.11, and 35.17(b) of the Commission's regulations to bill Hibbing and Virginia under the settlement contracts, subject to refund, from June 7, 1982, until final Commission action on the settlement. The rights of the parties shall be reserved as provided for in MP&L's motion.

(C) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17822 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-355-000]

Natural Gas Pipeline Company of America; Notice of Application

June 25, 1982.

Take notice that on June 1, 1982, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP82-355-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing changes in service to certain of its existing customers and the construction and operation of certain facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant assets that its total firm service obligation is presently 3,496,028 Mcf of natural gas per day. Applicant proposes to make available to certain of its customers a total additional firm daily contract quantity (DCQ) of 157,799 Mcf of gas. It is stated that the proposed DCQ changes would be as set forth in the following table:

SUMMARY OF REQUESTED CHANGES IN DAILY CONTRACT QUANTITY

(1,000 ft³ at 14.65 lb/in²a and 1,000 Btu/lb/ft)³

Customer	Existing daily contract quantity		Requested change	Revised daily contract quantity	
	DMQ-1	G-1		DMQ-1	G-1
Brighton, Iowa		[illegible]	51		[illegible]
Central Illinois Public Service Company	[illegible]	3,648	1,252		4,900
Corning Municipal Utilities		1,850	1,150		[illegible]
Entex, Inc		[illegible]	123,150	[illegible]	
Findlay, Illinois		691	[illegible]		[illegible]
Frohna, Missouri		400	100		[illegible]
Grand Tower, Ill		[illegible]	[illegible]		[illegible]
Interstate Power Co	44,272		[illegible]	[illegible]	
Iowa Power and Light Co	20,038		(1,638)	18,400	
Kaskaskia Gas Co		1,600	400		2,000
Lenox, Iowa		2,055	1,010		[illegible]
Missouri Utilities Co		3,782	218		[illegible]
Nashville, Illinois		2,460	[illegible]		[illegible]
Osage Natural Gas Co		[illegible]	100		[illegible]
Perryville, Mo		3,575	700		4,275
Pinckneyville, Ill		[illegible]	[illegible]		[illegible]
Salem, Ill		5,000	2,000	7,000	
Spearville, Kans		378	150	[illegible]	[illegible]
Sullivan, Ill	3,074		1,926		[illegible]
Wilson Gas Service Co, Inc		[illegible]	[illegible]		1,000
Total jurisdictional			155,774		
Phillips Petroleum Co		25,741		2,000	27,741
Northern Gravel Co		100		[illegible]	125
Total direct				2,025	
Total jurisdictional and direct				157,799	

It is stated that in order to accomplish the proposed changes in service, Applicant proposes to construct and operate at a cost of approximately $13,568,000 the following facilities:

(a) 5.05 miles of 36-inch diameter pipeline loop on Applicant's Louisiana pipeline;

(b) 17 miles of 10-inch diameter pipeline to connect a proposed new point of delivery to Applicant's Louisiana line;

(c) 1.5 miles of 6-inch diameter pipeline to connect a proposed new point of delivery to Applicant's Gulf Coast line;

(d) .78 mile of 6-inch diameter pipeline to connect a proposed new point of delivery to Applicant's, Gulf Coast line;

(e) tap connections and metering facilities at both new and existing points of delivery; and

(f) other appurtenant facilities.

Applicant states that its facilities proposal assumes Commission certification of 45.54 miles of 36-inch pipeline loop on its Louisiana line which it has proposed to construct and operate in Docket Nos. CP82-50-000 and CP82-293-000. The cost of the proposed facilities would be financed from general corporate funds, it is stated.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 19, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a

protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17802 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP81-364-005]

Natural Gas Pipeline Company of America; Notice of Petition To Amend

June 24, 1982.

Take notice that on May 28, 1982, Natural Gas Pipeline Company of America (Petitioner), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP81-364-005 a petition to amend the order issued October 27, 1981, in Docket No. CP81-364 pursuant to section 7(c) of the Natural Gas Act so as to authorize the extension of the period of the sale for resale of natural gas to Texas Eastern Transmission Corporation (Texas Eastern), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that by order issued October 27, 1981, in the instant docket, Petitioner was authorized to sell on a best-efforts basis up to 8,000,000 Mcf of natural gas to Texas Eastern for a term of 363 days commencing on the date of initial deliveries. It is further stated that Petitioner and Texas Eastern executed an amendment to their gas sales agreement dated may 29, 1981, extending the term of the sale in order to sell 20,000,000 Mcf for the period of extension.

Pursuant to said amendment, Petitioner hereby requests authorization for the sale for resale and transportation for an additional period of 363 days commencing upon the earlier of (1) October 28, 1982, the expiration date of the existing authorization, or (2) the date upon which Petitioner has sold 18,000,000 Mcf of natural gas to Texas Eastern under the October 27, 1981, order. In addition, Petitioner requests authorization to abandon the sale for resale upon the termination of the sale as extended.

It is stated that daily delivery volumes are estimated at 100 billion Btu of natural gas per day but that Petitioner anticipates varying the daily delivery volumes to accommodate operational needs. Petitioner statres that its gas supply is sufficient to extend the term of the sale to Texas Eastern without impairing or reducing service to its present customers.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before July 15, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17827 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP81-377-002]

Northern Natural Gas Company, Division of InterNorth, Inc.; Petition To Amend

June 25, 1982.

Take notice that on June 11, 1982, Northern Natural Gas Company, Division of InterNorth, Inc. (Petitioner), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP81-377-002 a petition to amend the order issued October 27, 1981, in Docket No. CP81-377-000 pursuant to Section 7(c) of the Natural Gas Act so as to authorize the extension of the term of its sale of natural gas to Texas Eastern Transmission Corporation (Texas Eastern) through October 31, 1983, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that by order issued October 27, 1981, Petitioner was authorized to sell up to 18,000,000 Mcf of natural gas per year to Texas Eastern for a one-year term commencing with the date of initial delivery, October 30, 1981.

It is asserted that pursuant to a gas sales agreement dated June 1, 1981, performance under this agreement would continue in full force and effect through October 31, 1983. Hence Petitioner requests herein authorization extending the sale of natural gas to Texas Eastern to October 31, 1983. Petitioner proposes such extension to continue to aid it in selling gas which is excess to its system requirements and subject to take-or-pay payments.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before July 19, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a

petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17803 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-372-000]

Ohio River Pipeline Corp.; Notice of Application

June 25, 1982.

Take notice that on June 10, 1982, Ohio River Pipeline Corporation (Applicant), 1630 North Meridian Street, Indianapolis, Indiana 46202, filed in Docket No. CP82-372-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon natural gas service to Ohio River Gas Company, Inc. (ORG) and to abandon and transfer to the City of Carrollton, Kentucky (Carrollton), certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authority to abandon sales of natural gas to ORG, an Indiana corporation engaged in the business of rendering gas utility service in Trimble and Carroll Counties, Kentucky. It is asserted that ORG has agreed to sell all its gas utility properties to Carrollton.

Applicant states that after the sale Carrollton would render natural gas service to those areas and customers now being served by ORG. It is explained that Applicant would transfer to Carrollton one Rockwell 6-inch turbo meter, two 2-inch Fisher regulators, and one 3-inch relief Grove valve and associated piping. Applicant would also transfer to Carrollton a cathodic protection rectifier station and its right to purchase from Texas Gas Transmission Corporation 600 Mcf of natural gas per day.

It is therefore stated that the areas currently being served by ORG would thereafter be served by Carrollton.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 19, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 17804 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-109-000]

Pacific Gas Transmission Co.; Change to Exhibit "A" of Executed Service Agreement With Pacific Gas and Electric Company and Request for Expedited Consideration

June 25, 1982.

Take notice that on June 17, 1982 Pacific Gas Transmission Company tendered for filing a "Notice of Change to Exhibit "A" of Executed Service Agreement with Pacific Gas and Electric Company and Request for Expedited Consideration."

PGT states that it has entered into an agreement with its customer, Pacific Gas and Electric Company to revise Exhibit "A" of the service agreement between the two companies. The proposed Fifth Revision of Exhibit "A" continues the reduction of the Daily Contract Quantity from 980 MMcf to 845 MMcf, and the Maximum Daily Demand from 1,066 MMcf to 922 MMcf for the contract years commencing July 1, 1982 through June 30, 1984. The Federal Energy Regulatory Commission had previously authorized a similar reduction of the Daily Contract Quantity and Maximum Daily Demand for the period July 1, 1980 through June 30, 1982.

PGT states that the Revision to Exhibit "A" tracks an Agreement, dated June 2, 1982, that PGT has executed with its Canadian supplier of natural gas, Alberta and Southern Gas Co., Ltd. Under that Agreement, Alberta and Southern has agreed to reduce PGT's minimum purchase obligation by fifteen percent for the contract years commencing July 1, 1982 through June 30, 1984. The Agreement has been submitted to the Economic Regulatory Administration.

PGT states that there is considerable benefit to PG and E in terms of the continued additional flexibility in determining the quantity of gas that will be purchased from Canada. PGT has requested that the Commission waive its notice requirements to allow the proposed Fifth Revision to Exhibit "A" to be made effective on July 1, 1982.

PGT advises that copies of its filing have been mailed to its customers and to interested state commissions.

Any person desiring to be heard or protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC, 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before July 6, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any persons wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17802 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP82-40-000]

Phillips Petroleum Co.; Notice of Petition to Reopen and Vacate Well Category Determination

Issued: June 24, 1982.

On May 20, 1982, Phillips Petroleum Company (Phillips) 336 Home Savings & Loan Building, Bartlesville, Oklahoma 74004 filed with the Federal Energy Regulatory Commission (Commission) a petition to reopen well category determinations for twenty-four wells (identified in appendix hereto) pursuant to the Commission's authority under the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. §§ 3301-3432 (Supp. IV 1980).

Phillips is the operator of all of the wells listed in the petition and owns either all or part of the working interest in each well.

As grounds for its request to reopen and vacate the well category determinations made under NGPA section 108, Phillips states that an "inaccurate 'allowable' method for determination of compliance with the permissible crude oil and gas production limits under section 271.803(b), (c) and (d) of the Commission's regulations was used in qualifying the wells for stripper status."

With respect to the questions of refunds arising out of Phillips' request to reopen and vacate well category determinations, notice is hereby given that whether refunds will be required is a matter subject to the review and final decision of the Commission.

Any person desiring to be heard or to protest this petition should file, within 30 days after publication of this notice in the **Federal Register**, with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, a protest or a petition to intervene in accordance with § 1.8 or § 1.10 of the Commission's Rules of Practice and Procedure. All protests filed with the Commission will be considered, but will not make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

APPENDIX

Well name and number	Jurisdictional agency docket No.	FERC JD control No.
1. GS Andector Unit B-4	F-08-034403	80-38936
2. GS Andector Unit A-5	F-08-017416	80-56697
3. GS Andector Unit A-11	F-08-029295	81-16226
4. GS Andector Unit P-13L	F-08-030677	82-10572
5. TXL A #2C	F-08-026236	81-10783
6. Alma #3	F-08-003837	80-28462
7. Alma #5	F-08-015430	80-54400
8. TXL P#3	F-08-004595	80-16484
9. Millard C-1	F-08-012651	80-39808
10. Santa Fe #7	F-08-[1]	79-21744
11. Kloh B #9	F-08-013962	80-37745
12. Kloh B #10	F-08-012653	80-28970
13. Weatherby A #6	F-7C-026923	81-12057
14. Weatherby A #4	F-7C-037661	81-44379
15. GS Andector Unit F-15	F-08-017282	80-56890
16. GS Andector Unit T-14	F-08-039552	81-49687
17. GS Andector Unit H-17	F-08-003637	80-22234
18. GS Andector Unit E-13	F-08-003647	80-16378
19. GS Andector Unit H-19	F-08-003662	80-31526
20. GS Andector Unit H-01	F-08-021090	81-10509
21. Claruth #2	F-08-013965	80-45657
22. Ember #53	F-08-033119	82-16555
23. Rogers D #6	F-10-025004	81-09249
24. Loesch A #5	F-08-[1]	80-04392

[1] Not available.

The Goldsmith Andector Unit Wells P-13L, F-15 and H-19 (lines 4, 15 and 19 above) do not qualify due to excessive gas production. The remainder fail to qualify due to excessive oil production.

[FR Doc. 82-17606 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-104-000]

Public Service Company of Colorado; Order Granting Motion To Collect Interim Rates Pending Commission Action on Settlement Proposal

Issued: June 24, 1982.

On May 26, 1982, Public Service Company of Colorado (PSC) filed a motion seeking Commission authorization to impose reduced interim rates in lieu of the rates originally filed in this docket. PSC seeks permission to collect the reduced rates, subject to refund, as of June 18, 1982, the date on which the originally filed rates would otherwise become effective following suspension. PSC states that the motion has been filed at the suggestion of its customers and that all of the affected customers join in the company's request. For the reasons stated below, we shall grant the motion.

PSC tendered its originally proposed rates for filing on November 18, 1981. By order issued on January 15, 1982, the Commission, *inter alia*, accepted the proposed rates for filing, suspended their effectiveness until June 18, 1982, and ordered a hearing to be convened. Settlement negotiations among the parties have since resulted in a settlement in principle and PSC indicates that a formal settlement agreement will be filed on or before June 18, 1982.

PSC's motion is designed to make the lower settlement rates immediately available and to minimize the company's potential refund liability. In addition, the motion requests that if the Commission ultimately rejects the settlement, PSC be authorized to collect the originally filed rates immediately thereafter, subject to refund. If the settlement is not approved and the rates ultimately determined to be just and reasonable exceed the settlement rates, PSC seeks authorization to collect, over the succeeding six month period, the difference between the approved rates and the settlement rates retroactive to June 18, 1982. PSC states that its customers unanimously concur in this aspect of the motion. Under the circumstances, we believe that the public interest will be served by granting PSC's motion.

Pursuant to sections 35.1(e), 35.11, and 35.17(b) of the Commission's regulations, we find that good cause exists to permit the collection of the revised interim rates, subject to refund, as of June 10, 1982, until such time as the Commission acts upon the settlement agreement to be filed by PSC. This order, however, shall be without prejudice to our subsequent determination on the merits of the proposed settlement.

The Commission Orders:

(A) The motion filed by PSC on May 26, 1982, requesting permission to collect reduced interim rates in lieu of the rates originally filed in this proceeding is hereby granted.

(B) Good cause having been shown, PSC is hereby authorized, pursuant to sections 35.1(e), 35.11, and 35.17(b) of the Commission's regulations, to collect, subject to refund, the revised rates reflected in its motion from June 18, 1982, until final commission action on the settlement. In the event that the settlement is not approved, the provisions of PSC's motion shall apply as to rates for the interim period.

(C) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17623 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6287-000]

Rainsong Co.; Notice of Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

June 26, 1982.

Take notice that on May 3, 1982, Rainsong Company (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. §§ 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 6287) would be located on Lena Creek, a tributary of the Hamma Hamma River in Jefferson County, Washington. Correspondence with the Applicant should be directed to: Mr. William L. Devine, P.O. Box 66, Maple Falls, Washington 98266.

Project Description—The proposed project would consist of: (1) a 50-foot-long, 5-foot-high diversion structure; (2) a 5,000-foot-long, 36-inch-diameter pipeline/penstock; (3) a powerhouse containing one generating unit with a rated capacity of 5 MW; and (4) a 32,000-foot-long, 115-kV transmission line from the powerhouse to an existing

transmission line. The Applicant estimates that the average annual energy production would be 24 million kWh. The project is located within the boundaries of Olympic National Forest.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, the Washington Department of Fisheries and the Washington Department of Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none.

Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before August 13, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 C.F.R. § 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 C.F.R. § 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 13, 1982.

Filing dnd Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17824 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP80-102-012, et al.]

Southern Natural Gas Company, et al.; Filing of Pipeline Refund Reports and Refund Plans

June 23, 1982.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before July 7, 1982. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

APPENDIX

Filing date	Company	Docket no.	Type filing
May 26, 1982	Southern Natural Gas Company	RP80-102-012	Report.
Do	Transwestern Pipeline Company	RP76-88-011	Report.
May 27, 1982	Natural Gas Pipe Line Company of America	RP73-110-005	Report.
June 7, 1982	Transcontinental Gas Pipe Line Corporation	RP81-125-003	LFUT report.
June 9, 1982	Columbia Gas Transmission Corporation	TA80-1-21-006	Report.
June 14, 1982	Cities Service Gas Company	RP81-127-004	LFUT report.
Do	Tennessee Gas Pipeline Company	RP80-67-010	Report.
June 15, 1982	Mississippi River Transmission Company	RP81-129-005	LFUT report.
Do	Mississippi River Transmission Company	RP81-129-006	LFUT report.
Do	Sea Robin Pipeline Company	RP81-116-006	LFUT report.
Do	Texas Eastern Transmission Corporation	RP81-121-006	LFUT report.
Do	Transwestern Pipeline Company	RP82-34-004	LFUT report.
Do	United Gas Pipe Line Company	RP81-116-006	LFUT report.

[FR Doc. 82-17825 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-361-000]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc., East Tennessee Natural Gas Co.; Notice of Application

June 25, 1982.

Take notice that on June 4, 1982, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, and East Tennessee Natural Gas Company (East Tennessee), P.O. Box 10245, Knoxville, Tennessee 37919, filed in Docket No. CP82-361-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and exchange of natural gas for the account of Houston Lighting & Power Company (HL&P), all of as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants propose to transport and exchange up to 100,000 Mcf of natural gas per day that East Tennessee has arranged to sell to HL&P. It is stated that assuming that service would commence June 15, 1982, Tennessee would be requested to deliver up to 10,850,000 Mcf to Channel Industries Gas Company (Channel) for HL&P on behalf of East Tennessee during the period ending October 31, 1982, based on peak day volumes of 100,000 Mcf for the period from June 15, 1982, through August 31, 1982, and 50,000 Mcf through September and October 1982. It is asserted that Tennessee cannot estimate average daily and monthly quantities because it cannot predict purchase quantities by HL&P. It is asserted that East Tennessee has agreed that it would not request Tennessee to deliver any gas which, if so used by HL&P, would exceed the volumetric limitations imposed on such use of natural gas by the Power Plant and Industrial Fuel Use Act of 1978, unless appropriate waivers are obtained.

Applicants assert that Tennessee would receive gas to be sold to HL&P at a point of interconnection between Applicants in Robertson County, Tennessee, for delivery to Channel for East Tennessee's account, at a point of interconnection between Tennessee and Channel in Newton County, Texas. It is stated that Channel would transport such gas for delivery to Energy Gathering, Inc. (EGI) in Chambers County, Texas. EGI, it is asserted, would then deliver the gas to HL&P; but if it became unnecessary for EGI to transport East Tennessee's gas, deliveries would be made directly from Channel to HL&P.

It is asserted that in return for the service described above, East Tennessee would transport and exchange with Tennessee identical volumes of natural gas purchased from producers in Tennessee. It is, therefore, asserted that the proposed service by both Tennessee and East Tennessee would be rendered on a no fee, exchange basis.

It is stated that the proposed sales price of the gas to be transported to HL&P currently includes a base price of gas of $3.28 per million Btu, plus a transportation fee of 10.39 cents per million Btu for Channel, plus a transportation fee of 3.0 cents per million Btu for EGI, for a total of $3.4139 per million Btu, plus a "brokering" fee for Experanza Gas Company of 5.0 cents per Mcf. The price of the gas sold by East Tennessee is its AOS-1 rate, which is a 100 percent load factor rate, it is explained.

In order to allow the necessary flexibility in expeditiously transporting and exchanging Tennessee's future gas supplies, East Tennessee requests blanket authorization to transportation and exchange such supplies as they become available. It is stated that East Tennessee would promptly notify the Commission each time an additional delivery point into East Tennessee's system under the transportation and exchange agreement is placed in service.

It is asserted that the proposed service, with its potential for reducing the use of imported oil to fuel electric and/or steam boilers, would be in the public interest.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 19, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if not petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17806 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-369-000]

Transcontinental Gas Pipe Line Corp. and Consolidated Gas Supply Corp.; Notice of Aplication

June 25, 1982.

Take notice that on June 8, 1982, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251 and Consolidated Gas Supply Corporation (Consolidated), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP-82-369-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline and appurtenant facilities in the offshore Louisiana area, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants propose herein to construct and operate in the South Timbalier area, offshore Louisiana, 5.15 miles of 12-inch pipeline extending from the connection with Trunkline Gas Company (Trunkline) in Block 179 to the A platform in Block 185, of which Transco would own 75 percent and Consolidated would own 25 percent and 2.50 miles of 12-inch pipeline extending from the A platform to the B platform in Block 185, of which Transco would own 72.67 percent and Consolidated would own 27.33 percent.

It is stated that the maximum capability of the existing and proposed loop facilities would be 80,000 Mcf per day flowing from the B and A platforms in Block 185 to the Trunkline connection in Block 179. Applicant further asserts

that the remaining recoverable reserves total 71,211,000 Mcf of gas with related average day deliverability of 56,723 Mcf in 1983.

It is asserted that the cost of the facilities proposed herein would be approximately $9,706,300. It is explained that Transco's share of the proposed facilities would be financed initially through revolving credit arrangements, short-term loans or funds on hand, with permanent financing to be undertaken as a part of Transco's overall long-term financing programs at later dates, and that Consolidated's share would be financed from funds to be obtained from its parent, Consolidated Natural Gas Company, or from funds on hand.

It is asserted that the proposed facilities would enable Applicants to receive and transport considerably greater volumes of gas than had originally been estimated and thus avoid take-or-pay problems.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 19, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17807 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-363-000]

Transcontinental Gas Pipe Line Corp.; Notice of Application

June 25, 1982.

Take notice that on June 7, 1982, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77151, filed in Docket No. CP82-363-000 an application pursuant to Secton 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas to be contracted hereafter, the transportation where required to implement such sales and the construction and operation of certain facilities required to deliver such gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant asserts that because of the unexpected high rates of deliverability of offshore wells from which Applicant is purchasing gas and the continued increase in the cost of natural gas coincident with an unexpected and sharp softening in prices for petroleum products, Applicant has had approximately 300,000 Mcf per day of gas shut-in during the last twelve months. Therefore, in order to reduce substantial take-or-pay obligations, it is explained, Applicant requests authority herein to sell up to 200,000,000 Mcf of natural gas for a two-year period on an interruptible and limited-term basis.

It is proposed that the price to be paid by purchasers for gas sold under the certificate be set at individually negotiated levels, but for each month of such a sale at no less than the greater of the then current Section 102 rate under the Natural Gas Policy Act of 1978 or Applicant's then average cost of purchased gas included in its most recent Purchased Gas Adjustment (PGA) policy.

Applicant proposes to refund to its customers all revenues received from off-system sales made hereunder in excess of the product of the volume of such sales times Applicant's then average cost of purchased gas included in its most recent PGA filing, plus any out-of-pocket expenses, including cost of fuel, related to such sales which are included in Applicant's price of off-system gas. Such refund, it is asserted, would be accomplished by crediting such excess revenues to Applicant's Account No. 191—Unrecovered Purchased Gas Costs.

Applicant further proposes to notify the Commission as soon as possible after a contract is executed for a sale made hereunder, but in no case later than ten days after the sale is commenced, which notice would set forth the purchaser, the end-use of the gas, the volume, the price, the term of the sale and other pertinent information.

It is proposed that the Commission retain the authority to set the matter for an expedited hearing within thirty days of notification by Applicant. It is further proposed that Applicant report to the Commission the monthly volumes sold pursuant to a sales arrangement, and other desired information, subject to additional reports at the request of the Commission.

Applicant proposes that any sale made pursuant to the requested certificate would be for an initial period not to exceed one year from the date the sale commences. If Applicant proposes to continue a sale beyond the initial period, Applicant would file a request for an extension of the sale at least 90 days before the expiration of the initial period. Applicant requests that if the Commission does not act on any request for an extension before the end of such period, the authorization would be automatically extended for the requested period, but in no event longer than one year or the expiration of the two-year term of the certificate requested herein, whichever is earlier.

It is asserted that all sales made under this arrangement would be interruptible, to be made by applicant only to the extent that they do not inhibit supplying fully the requirements of its on-system customers, and title to any volumes of gas sold under this proposed blanket certificate would pass to the purchaser upon actual physical delivery of the gas to the purchaser or for the account of the purchaser.

Applicant further requests that it be permitted to abandon sales and transportation effective upon the expiration of the contractual term of each individual arrangement authorized by the blanket certificate.

It is asserted that the proposed sales would provide two benefits to Applicant's customers: reduction in resale rates due to the reduction of Applicant's potential take-or-pay obligations and potential reduction in costs as a result of the revenue refund mechanism.

Any person desiring to be heard or to make any protest with reference to said

application should on or before July 19, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17808 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-596-000]

Tucson Electric Power Co.; Notice of Cancellation

June 24, 1982.

The filing Company submits the following:

Take notice that on June 14, 1982, Tucson Electric Power Company ("Tucson") tendered for filing a Notice of Cancellation of Rate Schedule FERC No. 20, which became effective on May 1, 1979.

Tucson states that the aforementioned Rate Schedule is identified as the "TGE-PNM 1979-1981 San Juan Generating Station Power Sale Agreement" between Public Service Company of New Mexico and Tucson. Tucson requests an effective date of April 30, 1982.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before July 8, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17809 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-598-000]

Union Electric Co.; Notice of Filing

June 24, 1982.

The filing Company submits the following:

Take notice that on June 14, 1982, Union Electric Company (Union) tendered for filing a new Wholesale Electric Service Agreement dated January 22, 1982 between Sho-Me Power Corporation and Union. Said Agreement provides for delivery point changes and for increased contract capacity.

Union requests an effective date of April 1, 1982.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before July 8, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17810 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP 82-368-000]

United Gas Pipe Line Co.; Notice of Application

June 24, 1982.

Take notice that on June 8, 1982, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP82-368-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the acquisition and operation of up to four portable compressors for use at variable points on its facilities in northeast Texas and northern Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is asserted that because of the recent and present high levels of producer activity and the age and varying operating pressures of Applicant's lines, Applicant is experiencing severe operational difficulties in attaching, taking and transporting the natural gas available to it. Applicant believes that the best solution would be to allow rapid reaction to operational needs in order to allow acquisition of long-term reserves by the most economical and efficient means. Applicant, therefore, proposes to acquire by lease or purchase and operate up to four compressors of up to 1,000 horsepower each and install, remove and install such compressors at other sites from time to time as required within specified counties in Texas and specified parishes in Louisiana.

It is asserted that the initial installation cost for each unit would not exceed $80,154.00, which cost would be reduced substantially for subsequent installations since certain expenses would be incurred only once.

Applicant asserts that the proposed facilities would lessen the need for both field and permanent main line compression and that additional rights-of-way would not be required because the units would straddle Applicant's existing lines in existing rights-of-way.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 15, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will

not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc 82-17829 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4564-001]

The Village of Winnetka, Ill.; Notice of Surrender of Preliminary Permit

June 25, 1982.

Take notice that The Village of Winnetka, Illinois, Permittee for the Lock and Dam No. 15 on the Mississippi River Project No. 4564, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 4564 was issued on September 24, 1981, and would have expired on September 1, 1983. The project would have been located on the Mississippi River in Rock Island County, Illinois.

Permittee stated that it had encountered circumstances which render it unable to continue to develop the project.

Village of Winnetka, Illinois, filed the request for surrender of Project No. 4564 on May 17, 1982, and the surrender of the preliminary permit for Project No. 4564 has been deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17830 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4098-001]

The Wisconsin Power Incorporated System and the City of Black River Falls; Notice of Application for a Major License

June 28, 1982.

Take notice that The Wisconsin Power Incorporated System and the City of Black River Ralls (Applicant) filed on March 17, 1982, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for continued operation of a water power project to be known as the Hatfield Hydroelectric Project No. 4098. The project would be located on the Black River in Jackson and Clark Counties, Wisconsin. Correspondence with the Applicant should be directed to: Mr. Michael P. May, Boardman, Suhr, Curry & Field, One South Pinckney Street, P.O. Box 927, Madison, WI 53701.

Project Description—The existing project utilizes the existing Hatfield Dam and Lake Arbutus. The project consists of: (1) a 3100–foot long and maximum 40–foot high dam composed of three earth dike sections; (2) a reservoir having a full water level elevation of 885.0 feet-NGVD with a maximum surface area of approximately 945 acres and a gross storage capacity of 10,800 acre-feet; (3) a 12,615–foot long power canal; (4) three steel penstocks with associated penstock headworks; (5) a powerhouse containing two generating units with a total rated capacity of 5900 kW; and (6) appurtenant facilities. The applicant estimates that the average annual energy output is 18,500 MWh.

Purpose of Project—Applicant would distribute the energy generated by the project to its own retail customers.

Competing Applications—This application was filed as a competing application to Northern States Power Company's application for Project No. 4706 filed on May 21, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing applications for licenses or exemptions, or notices of intent to file competing applications, will be accepted for filing in response to this notice. [see: 18 CFR 4.30 et seq. or § 4.101 et seq. (1981), as appropriate].

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, portests, or petitions to intervene must be received on or before August 16, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITON TO INTERVENE", as applicable, and the Project Number of this notice, Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17831 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
						KANSAS CORPORATION COMMISSION			
-ANADARKO PRODUCTION COMPANY				RECEIVED:	06/04/82	JA: KS			
8236651	K82-0367	1512920474		103		BAKER "C" #1	PANOMA	37.0	PANHANDLE EASTERN
8236657	K82-0345	1512920585		103		BROWN "C" #3	INTERSTATE RED CAVE	268.0	PANHANDLE EASTERN
8236605	K82-0393	1518920267		108		FARRAR B #1	PANOMA	8.9	PANHANDLE EASTERN
8236623	K82-0324	1512920531		102-4		FRIEND "A" #1	WINTER	383.0	PANHANDLE EASTERN
8236624	K82-0439	1517520566		102-4		GROSSARDT A #1	SHUCK	1138.0	CIMARRON-QUINQUE
8236578	K82-0440	1512920586		103		LINSCOTT "B" #8	INTERSTATE RED CAVE	45.0	PANHANDLE EASTERN
8236590	K82-0458	1512920542		103		LOW B #2	CIMARRON VALLEY SW	36.5	CIMARRON-QUINQUE
8236596	K82-0444	1517520555		102-4		PRINTZ "B" #2	WIDEAWAKE	1084.0	NORTHERN NATURAL
8236672	K 82-0265	1518920211		108		RATZLAFF B #1	PANOMA	8.5	PANHANDLE EASTERN
8236658	K82-0347	1512920588		103		ROSTETTER "A" #1	INTERSTATE RED CAVE	456.0	PANHANDLE EASTERN
8236606	K82-0394	1517500000		108		SANTA FE LAND IMP CO A #1	EVALYN	1.0	PANHANDLE EASTERN
8236604	K82-0392	1518920202		108		SAVAGE A #1	PANOMA	10.8	PANHANDLE EASTERN
8236652	K82-0368	1518920551		102-3		SCHMIDT C #1	GENTZLER	1533.0	CIMARRON-QUINQUE
8236563	K-82-0412	1512920589		103		SMITH "B" #5	INTERSTATE RED CAVE	273.0	PANHANDLE EASTERN
-ANADOR RESOURCES INC				RECEIVED:	06/04/82	JA: KS			
8236641	K82-0370	1504720887		103		ROENBAUEM 1-3	UNNAMED	66.0	CENTRAL STATES GA
8236653	K82-0369	1504720886		103		TAYLOR 1-24	BORDEWICK E	56.0	CENTRAL STATES GA
-ARCO OIL AND GAS COMPANY				RECEIVED:	06/04/82	JA: KS			
8236576	K82-0418	1500700008		108		L T GROENDYCKE #1	GROENDYCKE	14.6	CITIES SERVICE GA
8236568	K82-0417	1509500000		108		V L CLINE #1	SPIVEY-GRABS-BASIL	17.2	KANSAS POWER & LI
-ASSOCIATES RESOURCE CORP				RECEIVED:	06/04/82	JA: KS			
8236618	K82-0090	1512523449		103		BERGAN #4	EAST COFFEYVILLE	8.5	VERDIGRIS ENERGY
-BENSON MINERAL GROUP				RECEIVED:	06/04/82	JA: KS			
8236649	K82-0364	1512524499		102-2		ERWIN 3-32	JEFFERSON-SYCAMORE	20.1	UNION GAS SYSTEMS
8236650	K82-0365	1512524500		102-2		ERWIN 4-32	JEFFERSON-SYCAMORE	21.5	UNION GAS SYSTEMS
8236610	K82-0339	1514520758		102-4		HAMMEKE A #1-36	BRYANT SE	400.0	NORTHERN NATURAL
8236609	K82-0338	1514520760		102-4		HAMMEKE B #1-20	BRYANT SE	1.3	NORTHERN NATURAL
8236562	K-82-0331	1514520763		102-4		STEFFEN A #1-8	STEFFEN SOUTH	100.0	NORTHERN NATURAL
-BOLERO ENERGY CORP				RECEIVED:	06/04/82	JA: KS			
8236571	K82-0441	1517520554		103		COLLINSON #1	MASSONI EAST	485.0	PANHANDLE EASTERN
-BOWERS DRILLING CO INC				RECEIVED:	06/04/82	JA: KS			
8236551	K82-0405	1515120977		103		FINCHAM #3	BARNES	50.0	CENTRAL STATES GA
-BRADEN-DEEN INC				RECEIVED:	06/04/82	JA: KS			
8236677	K 81-1131	1515100000		108		BARNES #1	CARVER - ROBBINS	12.0	PANHANDLE EASTERN
8236676	K 81-1129	1515100000		108		WHITE GAS UNIT #1	CARVER - ROBBINS	12.0	PANHANDLE EASTERN
-BRADLEY-TARPLEY RESOURCES INC				RECEIVED:	06/04/82	JA: KS			
8236636	K82-0319	1517520534		103		SHIRLEY #1	LEMERT	125.0	NORTHERN NATURAL
-BRYCE F HAYES				RECEIVED:	06/04/82	JA: KS			
8236643	K82-0374	1507700000		108		KIRCHER #1	SHARON	11.0	KANSAS POWER & LI
8236644	K82-0375	1507720565		108		KIRCHER #2	SHARON	11.0	KANSAS POWER & LI

JD NO	JA DKT	API NO	C	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-BYRON E HUMMON JR				RECEIVED:	06/04/82	JA: KS			
8236655	K82-0344	1509720715		103		CECIL #1	VOD NORTHWEST	109.0	KANSAS-NEBRASKA N
8236545	K-82-0359	1519121344		102-2		MUHLENBRUCH #2	CHICASKA	180.0	DELMI GAS PIPELIN
-CARAVEL ENERGY (KANSAS) INC				RECEIVED:	06/04/82	JA: KS			
8236593	K82-0461	1520522525		102-2		CARTER #1	ALTOONA (EAST)	730.0	CITIES SERVICE GA
8236592	K82-0460	1520522526		102-2		CARTER #2	ALTOONA	730.0	CITIES SERVICE GA
8236591	K82-0459	1520521639		102-2		GIBSON II-1	ALTOONA	730.0	CITIES SERVICE GA
8236638	K82-0462	1520521638		102-2		NOAH #1	ALTOONA	730.0	CITIES SERVICE GA
8236594	K82-0463	1520522032		102-2		NOAH #2	ALTOONA	730.0	CITIES SERVICE GA
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	06/04/82	JA: KS			
8236640	K81-0873	1509320551		108		GARDEN "B" #2	FANOMA	0.6	COLORADO INTERSTA
8236678	K 82-0263	1517520553		103		LOWSCOR #2	SILVERMAN	7.3	NORTHERN NATURAL
-CLARKE CORP				RECEIVED:	06/04/82	JA: KS			
8236608	K82-0334	1500721078		103		GRAVES #1-A	HARDTNER	14.6	CITIES SERVICE GA
8236585	K82-0335	1500721260		103		GRAVES #2-A	HARDTNER	14.6	KANSAS GAS SUPPLY
-DUNBAR & SON OIL ENTERPRISES INC				RECEIVED:	06/04/82	JA: KS			
8236629	K82-0266	1503522909		102-2		RICE #5	GUTHRIE	14.6	CITIES SERVICE GA
-EAGLE EXPLORATIONS INC				RECEIVED:	06/04/82	JA: KS			
8236547	K82-0398	1500721148		103		EAGLE SWARTZ #1	WHELAN	36.5	PEOPLES NATURAL G
8236552	K82-0406	1518521145		103		SHOOP #1	MCCANDLESS	72.0	CENTRAL STATES GA
-EDGAR W WHITE				RECEIVED:	06/04/82	JA: KS			
8236586	K82-0341	1512920485		103		INTERSTATE RED CAVE #4	INTERSTATE RED CAVE	36.0	COLORADO INTERSTA
8236654	K82-0343	1512920608		103		SCHWEIZER RED CAVE #3	INTERSTATE RED CAVE	109.0	PANHANDLE EASTERN
8236612	K82-0342	1512920616		103		SCHWEIZER RED CAVE #4	INTERSTATE RED CAVE	36.0	PANHANDLE EASTERN
-ELDON J SCHIERLING				RECEIVED:	06/04/82	JA: KS			
8236678	K 82-0271	1509521053		103		NICHOLAS "B" #1	SPIVEY-GRABS	24.4	PEOPLES NAT GAS C
-F & M OIL CO INC				RECEIVED:	06/04/82	JA: KS			
8236556	K82-0325	1514520780		103		GILCREASE #1	NOT NAMED	113.0	KANSAS-NEBRASKA N
-F G HOLL				RECEIVED:	06/04/82	JA: KS			
8236598	K82-0439	1504720943		102-4		EMBRY #2-23	EMBRY	16.4	NORTHERN NATURAL
8236597	K82-0436	1504720944		102-4		EMBRY "A" #4-23	EMBRY	16.4	NORTHERN NATURAL
-GEO R SHAW				RECEIVED:	06/04/82	JA: KS			
8236567	K82-0416	1515520528		108		WOODSON-JUSTICE 1-A	LERADO	12.0	PANHANDLE EASTERN
-GEORGE R JONES				RECEIVED:	06/04/82	JA: KS			
8236577	K82-0419	1503721273		103		LAWRENCE #2	WILDCAT	96.0	PANHANDLE EASTERN
-GETTY OIL COMPANY				RECEIVED:	06/04/82	JA: KS			
8236584	K82-0276	1502520537		103		THEIS "D" #2A	MCKINNEY	30.0	KANSAS POWER & LI
-GULF OIL CORPORATION				RECEIVED:	06/04/82	JA: KS			
8236541	K-82-0354	1500721285		103		AURORA BANK UNIT #2-5	HARDTNER	9.0	CITIES SERVICE GA
8236639	K82-0355	1500721225		103		AURORA BANK UNIT #3-5	HARDTNER	3.0	CITIES SERVICE GA
8236665	K 82-0258	1509300000		108		BOPP UNIT #1	HUGOTON	5.0	NORTHERN NATURAL
8236666	K 82-0259	1509300000		108		HAWKINS UNIT #1	HUGOTON	18.0	NORTHERN NATURAL
8236664	K82-0256	1509300000		108		HEDGES #1	HUGOTON	3.0	NORTHERN NATURAL
8236667	K 82-0260	1508100000		108		ROGGE UNIT #1	HUGOTON	3.0	NORTHERN NATURAL
-HAROLD J MILBURN				RECEIVED:	06/04/82	JA: KS			
8236559	K82-0328	1507900000		108		SCHERLING UNIT #1	BURRTON NORTHEAST	12.0	PEOPLES NATURAL G
8236560	K82-0329	1507920135		108		WARKENTINE #1	BURRTON NORTHEAST	24.0	PEOPLES NATURAL G
8236561	K-82-0330	1507900000		108		WOODS #1	BURRTON NORTHEAST	11.0	PEOPLES NATURAL G
-HARRIS EXPLORATION CO				RECEIVED:	06/04/82	JA: KS			
8236668	K 82-0261	1509521159		103		WINEINGER #1	NOT DESIGNATED	55.0	PEOPLES NATURAL G
-HELLAR DRILLING CO INC				RECEIVED:	06/04/82	JA: KS			
8236579	K82-0424	1516300000		108		KLEWENO #1	REICHEL	8.0	HELLAR DRILLING C
8236580	K82-0425	1516300000		108		THIELENHAUS #1	REICHEL	4.4	HELLAR DRILLING C

JO NO	JA DKT	API NO	D	SEC(II	SEC(2)	WELL NAME	VOLUME 676 PAGE 003 FIELD NAME	PROD	PURCHASER
-HELMERICH & PAYNE INC				RECEIVED:	06/04/82	JA: KS			
8236566	K-82-415	1508100060		108		BATMAN "B" #1	HUGOTON	2.0	CITIES SERVICE GA
-HUGHES SEEWALD				RECEIVED:	06/04/82	JA: KS			
8236614	K82-0073	1507120078		108		COUPLAND #3	NORTH BRADSHAW	14.8	SUNFLOWER ELECTRI
8236615	K82-0074	1507120072		108		GRIMES #1	NORTH BRADSHAW	14.0	SUNFLOWER ELECTRI
8236616	K82-0075	1507120067		108		SPEARS #1	NORTH BRADSHAW	13.0	SUNFLOWER ELECTRI
8236617	K82-0079	1507120222		103		VOGT #1	NORTH BRADSHAW	80.0	SUNFLOWER ELECTRI
-IMPERIAL OIL COMPANY				RECEIVED:	06/04/82	JA: KS			
8236581	K82-0428	1509720658		108		BURTSFIELD #3-19	VOD	11.6	KANSAS-NEBRASKA N
8236599	K82-0383	1509720784		102-2		BUTLER-THOMPSON #3-24	CARVER ROBBINS WEST	11.0	PANHANDLE EASTERN
8236602	K82-0389	1509720829		102-2		CLARKSON #1-14	CARVER ROBBINS WEST	18.3	PANHANDLE EASTERN
8236600	K82-0384	1509720832		102-2		HENDRICKS #2-14	CARVER ROBBINS WEST	182.5	PANHANDLE EASTERN
8236613	K82-0391	1509720845		102-2		HOFF #3-13	CARVER ROBBINS WEST	36.5	PANHANDLE EASTERN
8236578	K82-0423	1509720525		108		HUCK #1-17	WILDCAT	12.9	NORTHERN NATURAL
-J M HUBER CORPORATION				RECEIVED:	06/04/82	JA: KS			
8236549	K82-0403	1512920451		108		FORTENBAUGH #19-1	PANOMA COUNCIL GROVE	8.5	CITIES SERVICE GA
-JAY ENERGY DEVELOPMENT CORP				RECEIVED:	06/04/82	JA: KS			
8236674	K 82-0254	1511520779		103		JIRAK "A" #1	LOST SPRINGS	7.2	CLOVER PIPELINE C
8236572	K82-0442	1515520699		103		WEBER #1	ZENITH PEACE CREEK	75.0	PEOPLES NATURAL G
-KANEX OIL, INC.				RECEIVED:	06/04/82	JA: KS			
8236611	K82-0340	1505320371		108		ROBISON #1	ELLSWORTH	7.3	NORTHERN NATURAL
-KANSAS PETROLEUM INC				RECEIVED:	06/04/82	JA: KS			
8236575	K82-0457	1509521176		103		MAPLE #2	SPIVEY-GRABS	18.8	NORTHERN NATURAL
-KENNEDY & MITCHELL INC				RECEIVED:	06/04/82	JA: KS			
8236557	K82-0326	1517521445		103		LIBERAL #29-189	LIBERAL SE	150.0	ANADARKO PRODUCTI
-KENNETH N PARTEN				RECEIVED:	06/04/82	JA: KS			
8236573	K82-0451	1515100003		108		COVEY "B" #1	CARVER ROBBINS	18.2	L & M GAS CO
-KRM PETROLEUM CORP				RECEIVED:	06/04/82	JA: KS			
8236625	K82-0447	1503320521		102-4		CHRISTIAN #1-11	COLLIER FLATS SOUTH	130.0	NORTHERN NATURAL
8236595	K-82-0445	1503320541		102-4		SELZER #5-2	COLLIER FLATS SOUTH	16.0	NORTHERN NATURAL
-LADD PETROLEUM CORPORATION				RECEIVED:	06/04/82	JA: KS			
8236558	K82-0327	1505720253		102-2		C S SHELOR #1	EAGER	705.2	
8236582	K82-0432	1502520554		102-2		WEARS #2	WILDCAT	86.8	KANSAS POWER & LI
-MALONE OIL CO				RECEIVED:	06/04/82	JA: KS			
8236631	K82-0284	1515920480		108		FRANCIS MALONE #1	CHASE SILICA	16.4	MAPCO PRODUCTION
-MARCO PRODUCTION CO				RECEIVED:	06/04/82	JA: KS			
8236662	K82-0353	1511520710		108		MAPCO PRODUCTION CO #1 KLENDA	ANTELOPE	6.0	CLOVER PIPELINE C
-MCAAM OIL CO INC				RECEIVED:	06/04/82	JA: KS			
8236548	K82-0399	1507920527		103		COMANCHE WEST #1	MISSISSIPPI	29.2	PEOPLES NATURAL G
8236586	K82-0400	1507920528		103		SIEMENS #1	MISSISSIPPI	109.5	PEOPLES NATURAL G
-MCCOY PETROLEUM CORP.				RECEIVED:	06/04/82	JA: KS			
8236554	K82-0408	1509521225		103		KOHMAN #6	SPIVEY-GRABS	18.0	PEOPLES NATURAL G
-MCGINNESS OIL COMPANY				RECEIVED:	06/04/82	JA: KS			
8236673	K 82-0255	1500721282		103		STERLING #1	STRANATHAN	110.0	PANHANDLE EASTERN
-MOBIL OIL CORP				RECEIVED:	06/04/82	JA: KS			
8236589	K82-0453	1518920557		103		BAKER (RNG 34) #2	PANOMA COUNCIL GROVE	76.8	NORTHERN NATURAL
8236622	K82-0455	1518920559		103		CLARA P RATCLIFF UNIT #1	PANOMA COUNCIL GROVE	76.0	NORTHERN NATURAL
8236620	K82-0452	1518920554		103		E CARPENTER #1 UNIT #2	PANOMA COUNCIL GROVE	70.0	NORTHERN NATURAL
8236621	K82-0454	1518920555		103		KNIER #1 UNIT #2	PANOMA COUNCIL GROVE	76.2	NORTHERN NATURAL
-MOLZ OIL CO				RECEIVED:	06/04/82	JA: KS			
8236669	K 82-0262	1500721274		103		TREFFAS #2	MCGUIRE GOEMANN	33.0	PANHANDLE EASTERN
-MOUNTAIN PETROLEUM CORPORATION				RECEIVED:	06/04/82	JA: KS			
8236633	K-82-0283	1512320113		108		HUEB #1-9	ARMEL	6.0	KANSAS-NEBRASKA N

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-MULL DRILLING CO INC				RECEIVED:	06/04/82	JA: KS			
8236637	K82-0333	1500700000		108		MILLS	PALMER WEST	17.0	CITIES SERVICE GA
8236607	K82-0332	1500700000		108		MILLS #1	PALMER WEST	17.0	CITIES SERVICE GA
-NATIONAL OIL CO				RECEIVED:	06/04/82	JA: KS			
8236550	K82-0404	1500720483		103		J J RANCH #1	SKINNER	55.0	CENTRAL STATES GA
8236632	K82-0285	1500720546		103		NEWTON #1	TRAFFAS	54.0	PEOPLES NATURAL G
-NATIONAL OIL COMPANY				RECEIVED:	06/04/82	JA: KS			
8236583	K82-0275	1518720330		103		WILLIAMS #1	BEAUCHAMP	73.0	KANSAS-NEBRASKA N
-NORTHERN NATURAL GAS PRODUCING CO				RECEIVED:	06/04/82	JA: KS			
8236642	K82-0373	1518920552		103		WULFEMEYER #1-A UNIT #2	PANOMA COUNCIL GROVE	76.0	NORTHERN NATURAL
-OIL LIFT INC				RECEIVED:	06/04/82	JA: KS			
8236671	K 82-0883	1512523021		108		SMITH #1 (API #15-125-23 021)	JEFFERSON SYCAMORE	12.8	PELICAN PIPELINE
-OXFORD EXPLORATION COMPANY				RECEIVED:	06/04/82	JA: KS			
8236675	K 81-1315	1504720879		103		A HAGEWOOD #1-A	MULL	145.0	CENTRAL STATES GA
-PETRO-LEWIS CORPORATION				RECEIVED:	06/04/82	JA: KS			
8236645	K82-0377	1508123041		108		BARBEE #1	HUGOTON	9.1	NORTHERN NATURAL
-PETROLEUM INC				RECEIVED:	06/04/82	JA: KS			
8236542	K82-0356	1500700000		108		DONOVAN "B" SKELLY UNIT #1	DRIFTWOOD	14.6	CITIES SERVICE GA
8236543	K82-0357	1509500000		108		RICKARD "G" #1	SPIVEY GRABS	14.6	KANSAS POWER & LI
8236544	K82-0358	1517500000		108		THOMPSON UNIT #1	THREE STAR	14.6	PANHANDLE EASTERN
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	06/04/82	JA: KS			
8236603	K82-0391	1509500000		108		ALDRICH AB #4	SPIVEY GRABS	2.3	KANSAS POWER & LI
8236555	K82-0410	1509500000		108		TJADEN AB #1	SPIVEY GRABS	4.2	KANSAS POWER & LI
-R CLAY UNDERWOOD				RECEIVED:	06/04/82	JA: KS			
8236663	K 82-0248	1511920254		108		H G ADAMS IV "F" #8	CIMARRON BEND	11.2	COLORADO INTERSTA
-RAINS & WILLIAMSON OIL CO INC				RECEIVED:	06/04/82	JA: KS			
8236569	K82-0433	1515121186		103		LOVE #1	LOVE THREE	36.5	DELHI GAS PIPELIN
-RANGE OIL COMPANY INC				RECEIVED:	06/04/82	JA: KS			
8236553	K82-0407	1503523025		103		VOORHIS #4	BRILEY	0.0	CITIES SERVICE GA
-REACH PETROLEUM CORP				RECEIVED:	06/04/82	JA: KS			
8236574	K82-0456	1507720682		102-2		TRUBY #1	WILDCAT	90.0	QUIVIRA GAS CO
-ROBERT F WHITE				RECEIVED:	06/04/82	JA: KS			
8236656	K82-0346	1502520455		103		THEIS #2	MCKINNEY	108.0	NORTHERN NATURAL
-SHAVMAR OIL CO INC				RECEIVED:	06/04/82	JA: KS			
8236679	K 82-0321	1511520519		108		ALVIN LOVELESS #1 00173-000008	LOST SPRINGS	5.0	CITIES SERVICE GA
8236680	K 82-0322	1511520520		108		ALVIN LOVELESS #2 00173-000008	LOST SPRINGS	5.0	CITIES SERVICE GA
8236681	K 82-0323	1511520556		108		ALVIN LOVELESS #3 00173-000008	LOST SPRINGS	5.0	CITIES SERVICE GA
-SOHIO PETROLEUM CO				RECEIVED:	06/04/82	JA: KS			
8236564	K82-0413	1515121075		103		J LEMON #2	SWISHER	20.4	CENTRAL STATES GA
-TEXACO INC				RECEIVED:	06/04/82	JA: KS			
8236635	K82-0320	1517520594		103		JACK ENGEL UNIT #1	UNNAMED	239.9	CITIES SERVICE GA
-TEXAS ENERGIES INC				RECEIVED:	06/04/82	JA: KS			
8236565	K82-0414	1515121034		103		LETHOLT #1-20	PRATT	36.5	CENTRAL STATES GA
-TXO PRODUCTION CORP				RECEIVED:	06/04/82	JA: KS			
8236633	K82-0286	1502520473		102-2		CHURCH #1	WILDCAT	1.2	
8236634	K82-0287	1507720761		102-2		K U ENDOWMENT #1	WILDCAT	182.5	
8236546	K82-0361	1500721390		102-2		LARSON "A" #2	WILDCAT	181.5	
-W B OSBORN JR (OPERATOR)				RECEIVED:	06/04/82	JA: KS			
8236661	K82-0350	1509300000		102-2		OLSON 1-A	PANOMA (COUNCIL GROVE	30.0	NORTHERN NATURAL
8236668	K82-0349	1509320735		102-2		REXFORD 1-A	PANOMA (COUNCIL GROVE	36.0	NORTHERN NATURAL
8236587	K82-0351	1509300000		103		RINEHART 2A	PANOMA (COUNCIL GROVE	36.0	PEOPLES NATURAL G
8236659	K82-0348	1507500000		102-2		SUGHRUE #2	BRADSHAW	35.0	PEOPLES NATURAL G
-W. L. KIRKMAN, INC.				RECEIVED:	06/04/82	JA: KS			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8236648	K82-0362	1515121028		103		BRIGGMAN "B" #1	WILDCAT	0.5	PANHANDLE EASTERN
-WELLS-BATTELSTEIN OIL & GAS INC				RECEIVED:	06/04/82	JA: KS			
8236628	K82-0382	1501922219		103		AIKEN ACRES "P" (#0572) P-10	FRAZIER	21.9	COOKSON HILLS GAS
8236646	K82-0378	1501922216		103		AIKEN ACRES "P" (#0572) P-6	FRAZIER	45.6	COOKSON HILLS GAS
8236647	K82-0379	1501921672		103		AIKEN ACRES "P" (#0572) P-7	FRAZIER	47.5	COOKSON HILLS GAS
8236626	K82-0380	1501922217		103		AIKEN ACRES "P" (#0572) P-8	FRAZIER	43.1	COOKSON HILLS GAS
8236627	K82-0381	1501922218		103		AIKEN ACRES "P" (#0572) P-9	FRAZIER	18.3	COOKSON HILLS GAS
-VENERT TRICH				RECEIVED:	06/04/82	JA: KS			
8236601	K82-0385	1509720608		103		KENDALL #1	WILDCAT	90.0	PANHANDLE EASTERN
-WILLIFORD ENERGY CO				RECEIVED:	06/04/82	JA: KS			
8236619	K82-0247	1517530569		103		HAYS #1	HUGOTON	45.3	PANHANDLE EASTERN
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PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES									
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-ADOBE OIL & GAS CORPORATION				RECEIVED:	06/03/82	JA: PA			
8236436	11724	3706326529		103		BESSIE TRIMBLE	ROCHESTER MILLS	24.0	T W PHILLIPS CO
8236435	11657	3706326703		103		HARRY RAY "C" #1	CLYMER	24.0	COLUMBIA GAS TRAN
8236434	11633	3706322448		103		SUGAR HILL LIMESTONE #1	DUBOIS	23.0	
-ANGERMAN ASSOCIATES INC				RECEIVED:	06/03/82	JA: PA			
8236437	11664	3706300000		103		T P & T M TEDESCHI #1 - IND-26340	W PA - UPPER DEVONIAN	50.0	T W PHILLIPS GAS
-ASHTOLA PRODUCTION CO				RECEIVED:	06/03/82	JA: PA			
8236438	11680	3705120292		103		DONALD C COTTOM #2	WALTERSBURG	22.0	
8236439	11681	3705120291		103		J HAROLD ARNOLD #2	WALTERSBURG	23.0	
-ATLAS RESOURCES INC				RECEIVED:	06/03/82	JA: PA			
8236440	11691	3706326720		102-2		FRAMPTON #2	GREEN	150.0	COLUMBIA GAS TRAN
8236441	11718	3706326678		102-2		LA NO KE TRIM TREE CO #1	GREEN	0.0	COLUMBIA GAS TRAN
-BOYD & SHRIVER				RECEIVED:	06/03/82	JA: PA			
8236442	11690	3706320541		108		POLLOCK #302	N MAHONING	0.0	PEOPLES NATURAL G
-CABOT OIL & GAS CORP				RECEIVED:	06/03/82	JA: PA			
8236453	11700	3703921431		102-2		ARLYN RUBASH #1	WAYNE	50.0	TENNESSEE GAS PIP
8236465	11699	3703921431		107-TF		ARLYN RUBASH #1	WAYNE	50.0	TENNESSEE GAS PIP
8236445	11618	3703921469		102-2		HARRY A MCCONNELL #1	WAYNE	50.0	TENNESSEE GAS PIP
8236457	11619	3703921469		107-TF		HARRY A MCCONNELL #1	WAYNE	50.0	TENNESSEE GAS PIP
8236450	11674	3703921429		102-2		JACOB LEFFLER #1	WAYNE	50.0	TENNESSEE GAS PIP
8236462	11673	3703921429		107-TF		JACOB LEFFLER #1	WAYNE	50.0	TENNESSEE GAS PIP
8236443	11614	3708520343		102-2		JAMES F PATTERSON #1	FRENCH CREEK	50.0	TENNESSEE GAS PIP
8236455	11615	3708520343		107-TF		JAMES F PATTERSON #1	FRENCH CREEK	50.0	TENNESSEE GAS PIP
8236451	11676	3703921434		102-2		JEWELL ALLEN #2	WAYNE	50.0	TENNESSEE GAS PIP
8236463	11675	3703921434		107-TF		JEWELL ALLEN #2	WAYNE	50.0	TENNESSEE GAS PIP
8236444	11616	3703921507		102-2		LESTER J WRIGHT #1	WAYNE	50.0	TENNESSEE GAS PIP
8236456	11617	3703921507		107-TF		LESTER J WRIGHT #1	WAYNE	50.0	TENNESSEE GAS PIP
8236449	11672	3703921436		102-2		RICHARD B FROGGATT #2	WAYNE	50.0	TENNESSEE GAS PIP
8236461	11671	3703921436		107-TF		RICHARD B FROGGATT #2	WAYNE	50.0	TENNESSEE GAS PIP
8236446	11666	3703921460		102-2		ROBERT KLASEN #1	WAYNE	50.0	TENNESSEE GAS PIP
8236458	11665	3703921460		107-TF		ROBERT KLASEN #1	WAYNE	50.0	TENNESSEE GAS PIP
8236454	11702	3703921439		102-2		ROBERT PEGAN #1	WAYNE	50.0	TENNESSEE GAS PIP
8236466	11701	3703921439		107-TF		ROBERT PEGAN #1	WAYNE	50.0	TENNESSEE GAS PIP
8236447	11678	3703921453		102-2		ROBERT STEIDER #1	WAYNE	50.0	TENNESSEE GAS PIP
8236459	11667	3703921453		107-TF		ROBERT STEIDER #1	WAYNE	50.0	TENNESSEE GAS PIP
8236452	11698	3703921459		102-2		W GLENN HOFFMAN #1	WAYNE	50.0	TENNESSEE GAS PIP
8236464	11697	3703921459		107-TF		W GLENN HOFFMAN #1	WAYNE	50.0	TENNESSEE GAS PIP
8236448	11670	3703920722		102-2		WALTER PEARL #1	WAYNE	50.0	TENNESSEE GAS PIP
8236460	11669	3703920722		107-TF		WALTER PEARL #1	WAYNE	50.0	TENNESSEE GAS PIP

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-CASTLE GAS CO INC				RECEIVED:	06/03/82	JA: PA			
8236469	11650	3706322063		108		E M CARNAHAN #4 (C-105) IND-22063	ARMSTRONG TOWNSHIP	5.0	PEOPLES NATURAL G
8236467	11648	3706324274		108		R&P COAL J BONNER#3 C-509 IND24274	CENTER TOWNSHIP	5.3	COLUMBIA GAS TRAN
8236468	11649	3706324648		108		R&P COAL J BONNER#4 C-540 IND24648	CENTER TOWNSHIP	5.3	COLUMBIA GAS TRAN
8236470	11651	3706324503		108		R&PCOAL JR CARNAHAN#2 C524IND24503	WHITE TOWNSHIP	4.2	COLUMBIA GAS TRAN
8236471	11652	3706323958		108		W R SMITH #6 (C-457) IND-23958	EAST MAHONING TOWNSHI	3.1	PEOPLES NATURAL G
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	06/03/82	JA: PA			
8236477	11708	3706521656		108		AUGUST WERNER #1 WN-1632	MCCALMONT TOWNSHIP	14.0	GENERAL SYSTEM PU
8236479	11710	3702300000		108		B & O RAILROAD #2 WN-1687	GIBSON TOWNSHIP	12.0	GENERAL SYSTEM PU
8236475	11715	3706326619		102-4		G HOLLIDAY ET AL WN-1879	BANKS TOWNSHIP	45.0	GENERAL SYSTEM PU
8236474	11714	3703321105		102-2		HIXON-SELNER UNIT WN-1874	PIKE TOWNSHIP	4.8	GENERAL SYSTEM PU
8236472	11711	3703321115		102-2		JAMES C BROTHERS WN-1856	BURNSIDE TOWNSHIP	113.0	GENERAL SYSTEM PU
8236478	11709	3703320690		108		JAMES O CONRAD WN-1661	PENN TOWNSHIP	1.8	GENERAL SYSTEM PU
8236476	11707	3706521274		108		JOHN E WHIPPLE WN-1540	WINSLOW TOWNSHIP	21.6	GENERAL SYSTEM PU
8236473	11712	3703321167		102-2		LUKE BROWN WN-1868	BURNSIDE TOWNSHIP	24.0	GENERAL SYSTEM PU
-DELTA 88 S T JOINT VENTURE				RECEIVED:	06/03/82	JA: PA			
8236484	11693	3706522182		103		CROASMUN #1	HENDERSON	25.0	T W PHILLIPS GAS
-DOC-NCC SERVICE CO				RECEIVED:	06/03/82	JA: PA			
8236485	11663	3712921955		103		BARTHALOMEW M TULLIO 892-1	E HUNTINGDON	30.0	TEXAS EASTERN TRA
8236486	11716	3712921816		103		RUTH A FELGAR 827-1	PENN	30.0	TEXAS EASTERN TRA
8236487	11717	3712921835		103		WENDELL C LAYMAN 823-4	GIBSON	30.0	TEXAS EASTERN TRA
-DORAN & ASSOCIATES INC				RECEIVED:	06/03/82	JA: PA			
8236490	11661	3706521780		108		E R KUNTZ #2 KL-164	UPPER DEVONIAN SANDS	30.0	CONSOLIDATED GAS
8236489	11660	3706521755		108		NORMAN ZIMMERMAN #1 KL-160	UPPER DEVONIAN SANDS	30.0	CONSOLIDATED GAS
8236488	11662	3708520306		102-2		THIEL COLLEGE #1 KW-2	UPPER DEVONIAN SANDS	30.0	
-DORSO ENERGY				RECEIVED:	06/03/82	JA: PA			
8236491	11551	3706326677		103		JOHN J WEYANDT #1 #170	CRETE	40.0	COLUMBIA GAS TRAN
-EARL M RICHARDS				RECEIVED:	06/03/82	JA: PA			
8236529	11640	3712920031		108		BAZELLA #1	NORTH WASHINGTON	0.0	APOLLO GAS CO
8236530	11645	3712920607		108		OWENS WELL #1	VANDERGRIFT	0.0	APOLLO GAS CO
-EASTERN STATES EXPLORATION CO				RECEIVED:	06/03/82	JA: PA			
8236492	11658	3706522437		103		JAMES E PIERCE #1	RATHMEL	35.0	NATIONAL FUEL GAS
8236493	11659	3706522418		103		RAY S LYONS ESTATE #1	RATHMEL	10.0	NATIONAL FUEL GAS
-EPSILON 1980 S T JOINT VENTURE				RECEIVED:	06/03/82	JA: PA			
8236495	11694	3703321259		103		DE LARME #3	NONE	25.0	CONSOLIDATED GAS
8236494	8823	3706522296		103		O'HARRAH #1	NONE	25.0	NATIONAL FUEL GAS
-HADDAD & BROOKS INC				RECEIVED:	06/03/82	JA: PA			
8236481	11623	3708520290		103		CLARENCE BEGGS UNIT #1	DEER CREEK	40.0	
8236483	11624	3708520290		107-TF		CLARENCE BEGGS UNIT #1	DEER CREEK	40.0	
8236480	11621	3708520294		103		JOHN ENGLERT UNIT #1	DEER CREEK	35.0	
8236482	11622	3708520294		107-TF		JOHN ENGLERT UNIT #1	DEER CREEK	35.0	
-KEYSTONE OIL & GAS PRODUCTIONS INC				RECEIVED:	06/03/82	JA: PA			
8236497	11692	3706325769		103		BUTERBAUGH #4	BUTERBAUGH	78.0	COLUMBIA GAS TRAN
-KRIEBEL WELLS 1981				RECEIVED:	06/03/82	JA: PA			
8236498	11612	3706326550		103		GREENLEE #2	ROCHESTER MILLS	31.5	
-MAC-MAR INC				RECEIVED:	06/03/82	JA: PA			
8236499	11730	3706326648		103		DELUCA #1	CLARKSBURG	34.0	T W PHILLIPS GAS
-MERIDIAN EXPLORATION CORP				RECEIVED:	06/03/82	JA: PA			
8236500	11633	3704921568		102-2		J ARTELLO UNIT #604-1	EDINBORO NORTH	30.0	NATIONAL FUEL GAS
8236508	11688	3704921568		107-TF		J ARTELLO UNIT #604-1	EDINBORO NORTH	30.0	NATIONAL FUEL GAS
8236502	11634	3704921607		102-2		LUCIANO #602-2	EDINBORO NORTH	30.0	NATIONAL FUEL GAS
8236506	11635	3704921607		107-TF		LUCIANO #602-2	EDINBORO NORTH	30.0	NATIONAL FUEL GAS
8236501	11631	3703921413		102-2		LYDIC #603-1	ROCKDALE	30.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8236503	11636	3704921606		102-2		P LUCIANO #601-1	EDINBORO NORTH	30.0	NATIONAL FUEL GAS
8236507	11637	3704921606		107-TF		P LUCIANO #601-1	EDINBORO NORTH	30.0	NATIONAL FUEL GAS
8236505	11632	3703921413		107-TF		R LYDIC #603-1	ROCKDALE	30.0	COLUMBIA GAS TRAN
8236504	10988	3704921250		107-TF		T JANOSIK #557-1	EDINBORO NORTH	0.0	COLUMBIA GAS TRAN
-MERIDIAN OIL & GAS ENT INC				RECEIVED:	06/03/82	JA: PA			
8236509	11689	3703921463		103		A T BOBAN SR #1	BEAVER	36.0	
-D & M DEVELOPMENT CORP				RECEIVED:	06/03/82	JA: PA			
8236517	9492	3706522116		108		A-10 (PERMIT NO JEF-22116)	SIGEL FIELD - CLEAR C	0.0	NATIONAL FUEL GAS
8236518	9493	3706522117		108		A-11 (PERMIT NO JEF-22117)	SIGEL FIELD - CLEAR C	0.7	NATIONAL FUEL GAS
8236510	9484	3706522108		108		A-2 (PERMIT NO JEF-22108	SIGEL FIELD-CLEAR CRE	0.0	NATIONAL FUEL GAS
8236511	9485	3706522109		108		A-3 (PERMIT NO JEF-22109)	SIGEL FIELD-CLEAR CRE	0.0	NATIONAL FUEL GAS
8236512	9486	3706522110		108		A-4 (PERMIT # JEF-22110)	SIGEL FIELD - CLEAR C	0.0	NATIONAL FUEL GAS
8236513	9487	3706522111		108		A-5 (PERMIT NO JEF-22111)	SIGEL - CLEAR CREEK O	0.0	NATIONAL FUEL GAS
8236514	9488	3706522112		108		A-6 (PERMIT NO JEF-22112	SIGEL FIELD - CLEAR C	0.0	NATIONAL FUEL GAS
8236515	9489	3706522113		108		A-7 (PERMIT NO JEF-22113)	SIGEL FIELD-CLEAR CRE	0.0	NATIONAL FUEL GAS
8236516	9490	3706522114		108		A-8 (PERMIT NO JEF-22114)	SIGEL FIELD - CLEAR C	0.0	NATIONAL FUEL GAS
-PHILLIPS PRODUCTION CO				RECEIVED:	06/03/82	JA: PA			
8236520	9373	3706522055		108		JAMES H STALEY	YOUNG	1.0	NATIONAL FUEL GAS
8236519	9180	3706325075		108		LISLE H WALKER #3	CENTER	14.0	COLUMBIA GAS TRAN
-T W PHILLIPS GAS & OIL CO				RECEIVED:	06/03/82	JA: PA			
8236524	11686	3706320575		108		ARTHUR R FLEMING #3	ARMSTRONG	4.8	T W PHILLIPS GAS
8236528	11723	3706320473		108		C P WISSINGER #1	WASHINGTON	3.8	T W PHILLIPS GAS
8236523	11685	3706324767		103		FMLY JOSEPH CAREY #1	CANOE	45.0	T W PHILLIPS GAS
8236521	11683	3706324953		103		HOMER AND IVA M BOWMAN #I	CONEMAUGH	55.8	T W PHILLIPS GAS
8236522	11684	3706521888		103		J M DILTS #2	PERRY	25.0	T W PHILLIPS GAS
8236526	11721	3706320617		108		LEON CZALOWSKI #1	WASHINGTON	2.1	T W PHILLIPS GAS
8236525	11719	3706320396		108		LUELLA M OBERLIN #6	CANOE	5.9	T W PHILLIPS GAS
8236527	11722	3706320253		108		S P KUNKLE #1	WASHINGTON	2.6	T W PHILLIPS GAS
-TEMPLETON ENERGY INC				RECEIVED:	06/03/82	JA: PA			
8236496	11568	3700522642		103		S R SHIREY #2 PA8-2	NEW SALEM	0.0	PEOPLES NATURAL G
-WAINOCO OIL & GAS CO				RECEIVED:	06/03/82	JA: PA			
8236533	11595	3708520275		102-2		HOPE W LEISE #1 (MC-11)	GREENVILLE	8.0	TENNESSEE GAS PIP
8236538	11596	3708520275		107-TF		HOPE W LEISE #1 (MC-11)	GREENVILLE	8.0	TENNESSEE GAS PIP
8236531	11231	3703921392		102-2		MALCOLM E OLSON #1 (W-120)	ATHENS (BLOOMFIELD)	0.0	COLUMBIA GAS TRAN
8236536	11230	3703921392		107-TF		MALCOLM E OLSON #1 (W-120)	ATHENS (BLOOMFIELD)	0.0	COLUMBIA GAS TRAN
8236535	11656	3708520232		102-2		MARVIN KLEINHANS #1 (MC-3)	GREENVILLE	12.0	TENNESSEE GAS PIP
8236540	11655	3708520232		107-TF		MARVIN KLEINHANS #2 (MC-3)	GREENVILLE	12.0	TENNESSEE GAS PIP
8236534	11653	3708520233		102-2		RENA OSBORN #1 (MC-4)	GREENVILLE	6.0	TENNESSEE GAS PIP
8236539	11654	3708520233		107-TF		RENA OSBORN #1 (MC-4)	GREENVILLE	6.0	TENNESSEE GAS PIP
8236532	11594	3708520264		102-2		RODNEY & LARRY TURNER #1 (MC-12)	GREENVILLE	11.0	TENNESSEE GAS PIP
8236537	11593	3708520264		107-TF		RODNEY & LARRY TURNER #1 (MC-12)	GREENVILLE	11.0	TENNESSEE GAS PIP
**********									
WEST VIRGINIA DEPARTMENT OF MINES									
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-CABOT OIL & GAS CORP				RECEIVED:	06/01/82	JA: WV			
8236418		4703903427		108		HUNTINGTON 27-477	CABIN CREEK	21.3	TENNESSEE GAS PIP
8236417		4701900031		108		KANAWHA-GAULEY 7-858	FALLS	3.5	TENNESSEE GAS PIP
8236419		4710900294		108		POCAHONTAS FORD 8-1294	BAILEYSVILLE	28.3	TENNESSEE GAS PIP
8236433		4701900336		108		ROBSON-PRICHARD-LAFOLLETTE 2-550	KANAWHA	3.8	TENNESSEE GAS PIP
-CHASE PETROLEUM				RECEIVED:	06/01/82	JA: WV			
8236412		4708505090		102-3		GRIFFIN #3	CLAY DISTRICT	39.0	
8236409		4708505093		102-3		GRIFFIN #4	CLAY DISTRICT	38.8	
8236411		4708504979		102-3		SPIKER #1	UNION DISTRICT	39.8	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8236418		4708504977		102-3		SPIKER #2	UNION DISTRICT	39.0	
8236415		4708505003		102-3		SPIKER #3	UNION DISTRICT	38.0	
8236414		4708505004		102-3		SPIKER #4	UNION DISTRICT	39.0	
8236413		4708505005		102-3		SPIKER #5	UNION DISTRICT	38.0	
-J & J ENTERPRISES INC				RECEIVED:	06/01/82	JA: WV			
8236422		4701725060		108		J-20	NEW MILTON	0.0	COLUMBIA GAS TRAN
8236423		4701722507		108		J-21 (JJ-2#2)	NEW MILTON	0.0	COLUMBIA GAS TRAN
8236429		4701722618		108		J-231	CENTRAL	0.0	COLUMBIA GAS TRAN
8236416		4702123618		108		J-253	TROY	0.0	CONSOLIDATED GAS
8236430		4701725370		108		J-26 (JJ-6#11)	WEST UNION	0.0	CONSOLIDATED GAS
8236431		4701725395		108		J-28	WEST UNION	0.0	CONSOLIDATED GAS
8236432		4703322170		108		J-55 (S-555-#1)	TENMILE	0.0	CONSOLIDATED GAS
8236424		4701722510		108		J-60 (K-19#2)	WEST UNION	0.0	COLUMBIA GAS TRAN
8236421		4701722503		108		J-62 (K-26#1)	WEST UNION	0.0	COLUMBIA GAS TRAN
8236425		4701722515		108		J-64 (K-19#1)	WEST UNION	0.0	COLUMBIA GAS TRAN
8236426		4701722529		108		J-66 (K-31-#1)	WEST UNION	0.0	COLUMBIA GAS TRAN
8236427		4701722542		108		J-68 (K-305#1)	NEW MILTON	0.0	COLUMBIA GAS TRAN
8236428		4701725800		108		J-74	CENTRAL	0.0	COLUMBIA GAS TRAN
8236428		4701724723		108		J-75	NEW MILTON	0.0	COLUMBIA GAS TRAN
-JIM EMES PETROLEUM CO				RECEIVED:	06/01/82	JA: WV			
8236402		4709500879		103		WILLIAM K JOHNSON #2	LINCOLN	5.0	CONSOLIDATED GAS
-RICHARDS ENERGY CO				RECEIVED:	06/01/82	JA: WV			
8236404		4708525124		103		A K RICHARDS #R-20-RIT 5124	PULLMAN	38.3	CONSOLIDATED GAS
8236408		4708525201		103		A K RICHARDS #R-25-RIT 5201	PULLMAN	23.0	CONSOLIDATED GAS
8236403		4708525121		103		J A WILSON #-21-RIT 5121	PULLMAN	25.6	CONSOLIDATED GAS
8236405		4708525193		103		J A WILSON #R-22-RIT 5193	PULLMAN	20.1	CONSOLIDATED GAS
8236406		4708525194		103		J A WILSON #R-23-RIT 5194	PULLMAN	36.5	CONSOLIDATED GAS
8236407		4708525158		103		J A WILSON #R-24-RIT 5198	PULLMAN	21.9	CONSOLIDATED GAS

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before July 16, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
- 102–2: New well (2.5 mile rule)
- 102–3: New well (1000 ft rule)
- 102–4: New onshore reservoir
- 102–5: New reservoir on old OCS lease

Section 107–DP: 15,000 feet or deeper
- 107–GB: Geopressured brine
- 107–CS: Coal seams
- 107–DV: Devonian shale
- 107–PE: Production enhancement
- 107–TF: New tight formation
- 107–RT: Recompletion tight formation

Section 108: Stripper well
- 108–SA: Seasonally affected
- 108–ER: Enhanced recovery
- 108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–17844 Filed 6–30–82; 8:45 am]

BILLING CODE 6717–01–M

[Volume 677]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: June 24, 1982.

JD NO	JA DKT	API NO	CATEGORY	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
OHIO DEPARTMENT OF NATURAL RESOURCES									
-AMERICAN EXPLORATION CO		RECEIVED: 06/07/82		JA: OH					
8236682		3412723659	108			AMOS SIMS #1		10.0	COLUMBIA GAS TRAN
-AMERICAN WELL MANAGEMENT COMPANY		RECEIVED: 06/07/82		JA: OH					
8236683		3412725246	103	107-TF		JOHN YARGER #1	FULTONHAM	18.0	
-APPALACHIAN EXPLORATION INC		RECEIVED: 06/07/82		JA: OH					
8236686		3410323008	103	107-TF		E BELAK #1	MONTVILLE	73.0	COLUMBIA GAS TRAN
8236687		3416322733	103	107-TF		GRUBISS-BERGSTROM #2	WESTFIELD	18.2	COLUMBIA GAS TRAN
8236684		3410322943	103	107-TF		J ARNDT #1	GUILFORD	18.2	COLUMBIA GAS TRAN
8236685		3410323005	103	107-TF		W SPENCE #1	MONTVILLE	54.8	COLUMBIA GAS TRAN
-BADGER OIL & GAS CO INC		RECEIVED: 06/07/82		JA: OH					
8236688		3416726582	107-DV			ROLEY #1	DEVONIAN SHALE-SOUTHE	0.0	COLUMBIA GAS TRAN
-BECK OIL & GAS CO		RECEIVED: 06/07/82		JA: OH					
8236689		3413322355	103	107-TF		BERNARD VOLL # 1	LAWRENCE	20.6	
-BEREA OIL AND GAS CORPORATION		RECEIVED: 06/07/82		JA: OH					
8236695		3415722367	108			H MILLER #1	GNADENHUTTEN	20.0	ATLANTIC RICHFIEL
8236690		3411925993	103	107-TF		K GRANT #4	UNION	0.0	COLUMBIA GAS TRAN
8236696		3416726547	103	107-TF		P STRAUSS #1	PALMER	0.0	COLUMBIA GAS TRAN
8236693		3415722326	108			STOCKER #1	GNADENHUTTEN	5.0	ATLANTIC RICHFIEL
8236691		3415722279	108			W F MILLER #1	GNADENHUTTEN	6.0	ATLANTIC RICHFIEL
8236692		3415722280	108			W F MILLER #2	GNADENHUTTEN	6.0	ATLANTIC RICHFIEL
8236694		3415722358	108			ZIMMERMAN #1	GNADENHUTTEN	14.0	ATLANTIC RICHFIEL
-BUCKEYE OIL PRODUCING CO		RECEIVED: 06/07/82		JA: OH					
8236698		3416922085	108			FRANKS #2		1.0	COLUMBIA GAS DIST
8236697		3409921062	108			SCHOENI #2		20.0	EAST OHIO GAS CO
-CLINTON OIL CO		RECEIVED: 06/07/82		JA: OH					
8236699		3403123402	108			CORAH SCHULER #1		10.0	NATIONAL GAS & OI
8236702		3411925933	103	107-TF		E KELLY #1-675	NORWICH	10.0	
8236700		3411924586	108			L AND B MCCONNELL UNITIZED #1		10.0	COLUMBIA GAS TRAN
8236701		3411924653	108			M TOTH #2		10.0	NATIONAL GAS & OI
8236703		3415721663	108			R & R MIRACLE UNIT #1		10.0	EAST OHIO GAS
-COLUMBIA GAS TRANSMISSION CORP		RECEIVED: 06/07/82		JA: OH					
8236719		3410300420	108			AUGUSTE FRANZ 704171	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8236711		3407504130	108			BEN M MILLER 703424	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8236722		3411503730	108			CHARLES NEWBURN ETAL 703471	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8236724		3411903740	108			CLIFFORD WAYNE DERRY 704750	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8236726		3416900800	108			D E SHAUM 703966	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8236704		3400500080	108			DONALD ELY DALE 704228	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8236712		3407504980	108			DOYLE J FULMER 704414	SOUTHERN DIST STA OF	2.0	COLUMBIA GAS TRAN
8236729		3416900950	108			EDWARD BUGLE 703930	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8236730		3416900900	108			FARMERS STATE BANK 704234	NORTHERN DIST STE OF	3.0	COLUMBIA GAS TRAN
8236705		3405000100	108			GERALD H HARPSTER 703657	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN

Jb NO	JA DKT	API NO	C	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8236725		3416900790		108		H P MYERS 703850	NORTHERN DIST STE OF	5.0	COLUMBIA GAS TRAN
8236723		3411504630		108		HAZEL E KIDD 704764	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8236716		3409300210		108		HERMAN C GEST 703498	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8236715		3409300170		108		JENNIE N ROUSSEAU 703468	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8236709		3400904880		108		JESSIE VAN DYKE	SOUTHERN DIST STE OF	6.6	COLUMBIA GAS TRAN
8236714		3408300050		108		JOHN ESTABROOK 703490	SOUTHERN DIST STE OF	1.9	COLUMBIA GAS TRAN
8236717		3410300080		108		JOHN KRUK 703422	NORTHERN DIST STE OF	6.0	COLUMBIA GAS TRAN
8236721		3410300520		108		JOSEPH SRODEK 704366	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8236713		3408300040		108		LAWRENCE E SEVERNS 703409	SOUTHERN DIST STE OF	0.7	COLUMBIA GAS TRAN
8236708		3400903540		108		LEE D GLASS 703432	SOUTHERN DIST STE OF	8.0	COLUMBIA GAS TRAN
8236732		3416900960		108		LLOYD E PRIEST 704152	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8236710		3407500230		108		MARLIN L REISING 704309	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8236720		3410300430		108		MARY J GILBERT 704241	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8236728		3416900820		108		MATTHEW J KRAMER 703989	NORTHERN DIST STE OF	4.0	COLUMBIA GAS TRAN
8236706		3400500110		108		OH DIV OF FORESTRY 704348	NORTHERN DIST STE OF	10.6	COLUMBIA GAS TRAN
8236731		3416900940		108		ROGER MARTIN 703873	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8236707		3400500120		108		ROYAL J WELSH 703412	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8236718		3410300330		108		VELDA M BOWERS 704833	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8236727		3416900810		108		VIOLET C BOOTH AGT 703973	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
-EDCO DRILLING & PRODUCING INC				RECEIVED: 06/07/82 JA: OH					
8236733		3403123734		108		SM-2A MCDONALD		18.0	COLUMBIA GAS TRAN
-ENERGY DISTRIBUTORS INC				RECEIVED: 06/07/82 JA: OH					
8236734		3412725582		103	107-TF	GUILLIAMS #7	GRATIOT	15.0	COLUMBIA GAS TRAN
8236735		3412725599		103	107-TF	THOMAS THURN #5	GRATIOT	15.0	COLUMBIA GAS TRAN
-ENTERPRISE ENERGY CORP				RECEIVED: 06/07/82 JA: OH					
8236736		3401920984		107-IF		LLOYD #1	ORANGE	36.5	
8236737		3416320687		103	107-TF	WOODGEARD #1	VINTON	36.5	COLUMBIA GAS TRAN
8236738		3416320692		103	107-TF	WOODGEARD #3	SWAN	36.5	COLUMBIA GAS TRAN
-EVERFLOW EASTERN INC				RECEIVED: 06/07/82 JA: OH					
8236739		3409920761		108		PARSON #1	ELLSWORTH	4.0	AMERICAN ENERGY S
8236740		3409920910		108		WISLER #1A	GOSHEN	0.0	
-GREEN GAS COMPANY				RECEIVED: 06/07/82 JA: OH					
8236741		3411925342		103	107-TF	R ADAM R ECK #1A	SALT CREEK	20.0	NATIONAL GAS & OI
-HERALD OIL & GAS CO				RECEIVED: 06/07/82 JA: OH					
8236742		3410521903		108		GEORGE (JACK) WARNER #1		0.0	COLUMBIA GAS TRAN
8236744		3410521991		108		KENNETH JOHNSON #1		0.0	COLUMBIA GAS TRAN
8236743		3410521923		108		ROBERT KING #2		0.0	COLUMBIA GAS TRAN
-HOLROYD PRODUCTION CO				RECEIVED: 06/07/82 JA: OH					
8236747		3408720211		108		DILLON #1 90-7143		1.0	COLUMBIA GAS TRAN
8236746		3408720209		108		EASTHOM #1 90-7145		1.8	COLUMBIA GAS TRAN
8236748		3408720212		108		SMITH #1 90-7052		4.0	COLUMBIA GAS TRAN
8236745		3408720208		108		THORNTON #1 90-7146		2.0	COLUMBIA GAS TRAN
-HOPCO RESOURCES INC				RECEIVED: 06/07/82 JA: OH					
8236750		3403124782		103	107-TF	HENRY GEHRKE #1A	KEENE	12.0	COLUMBIA GAS TRAN
8236751		3411925134		108		MARY ESTHER VENSIL #1		12.0	COLUMBIA GAS TRAN
8236752		3411925135		108		MARY ESTHER VENSIL #2		12.0	COLUMBIA GAS TRAN
8236749		3403124103		103	107-TF	THOMAS BARCROFT #1	KEENE	12.0	COLUMBIA GAS TRAN
-HOPEWELL OIL AND GAS DEVELOPMENT CO				RECEIVED: 06/07/82 JA: OH					
8236761		3411122270		107-DV		C MAHONEY #1	SUMMERFIELD EAST	5.0	COLUMBIA GAS TRAN
8236766		3411924484	D	107-RT		C RATLIFFE #1	NEWTON	9.0	NATIONAL GAS & OI
8236781		3412725386		103	107-TF	CHARLES & VIOLA FEHRMAN #1	READING	3.9	NATIONAL GAS & OI
8236779		3412724592		107-TF		CHARLES JONES #1	BEARFIELD	7.8	NATIONAL GAS & OI
8236782		3412725421		103	107-TF	CLYDE BUTTS #1	CLAYTON	16.9	NATIONAL GAS & OI

JD NO	JA DKT	API NO	C	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8236767		3411924676		103	107-TF	D SMITH #2	HARRISON	6.0	NATIONAL GAS & OI
8236759		3408923709		103	107-TF	G ROBERTS #2	HANOVER	6.0	NATIONAL GAS & OI
8236778		3411925853		103	107-TF	H & R SHEPPARD #2	NEWTON	10.0	NATIONAL GAS & OI
8236762		3411122437		107-DV		HARRY SMITH #1	SUMMERFIELD EAST	5.0	COLUMBIA GAS TRAN
8236776		3411925616		103	107-TF	HERMAN & ALITA CROCK #2	NEWTON	6.0	NATIONAL GAS & OI
8236772		3411925145		107-TF		HERMAN CROCK #1	NEWTON	12.0	NATIONAL GAS & OI
8236777		3411925783		103	107-TF	HERMAN CROCK #3	NEWTON	30.0	NATIONAL GAS & OI
8236780		3412724953		103	107-TF	KATHRYN COMBS #1	BEARFIELD	3.0	NATIONAL GAS & OI
8236774		3411925465		103	107-TF	L HILL 1A	BRUSCH CREEK	18.0	NATIONAL GAS & OI
8236768		3411924862		103	107-TF	LINDAMOOD #1	SALT CREEK	7.2	NATIONAL GAS & OI
8236765		3411924334	D	107-RT		QUINCY MEREW #1	NEWTON	5.0	NATIONAL GAS & OI
8236769		3411924883		103	107-TF	R HAYES #1A	SPRINGFIELD	5.0	NATIONAL GAS & OI
8236757		3408923439		103	107-RT	R LINN #1	HANOVER	3.0	NATIONAL GAS & OI
8236758		3408923601		103	107-TF	R LINN #2	HANOVER	1.0	NATIONAL GAS & OI
8236770		3411925046		107-TF		R RUCKER #3	NEWTON	15.0	NATIONAL GAS & OI
8236760		3411121961		107-DV		R WILLIAMS #1	LEWISVILLE SOUTH	1.0	COLUMBIA GAS TRAN
8236771		3411925115		103	107-TF	SWINGLE HEIRS #2	CLAY	15.0	NATIONAL GAS & OI
8236775		3411925600		103	107-TF	SWINGLE HEIRS #3	CLAY	6.0	NATIONAL GAS & OI
8236764A		3411924261		103		THE IMLAY CO #1	NEWTON	15.0	NATIONAL GAS & OI
8236764B		3411924261	D	107-RT		THE IMLAY CO #1	NEWTON	15.0	NATIONAL GAS & OI
8236773		3411925427		107-TF		WILLIAM FORTNER #1	NEWTON	5.0	NATIONAL GAS & OI
8236763		3411122726		107-DV		ZELMA MYERS #1	LEWISVILLE SOUTH	20.0	COLUMBIA GAS TRAN
-IRVIN PRODUCING COMPANY				RECEIVED: 06/07/82 JA: OH					
8236783		3411925772		103	107-TF	FRANK GIBSON #1	SPRINGFIELD	10.0	COLUMBIA GAS TRAN
8236784		3411926236		103	107-TF	RICHARD TAYLOR #1	GRATIOT	10.0	NATIONAL GAS & OI
-J P WHITE				RECEIVED: 06/07/82 JA: OH					
8236856		3407072140		107-TF		T & I MOSLEY #1	SHEFFIELD	50.0	OHIO GAS CO
-JONSU OIL CORP				RECEIVED: 06/07/82 JA: OH					
8236785		3403124711		103		ARTHUR #1	SPRING MOUNTAIN	4.0	
-K S T OIL & GAS CO INC				RECEIVED: 06/07/82 JA: OH					
8236786		3401921318		103	107-TF	GARTRELL #3	ORANGE	0.0	REPUBLIC STEEL CO
8236791		3415521811		103	107-TF	GRAND VALLEY #10	TRUMBULL	0.0	REPUBLIC STEEL CO
8236792		3415521812		103	107-TF	GRAND VALLEY #11	BLOOMFIELD	0.0	REPUBLIC STEEL CO
8236790		3415521810		103	107-TF	GRAND VALLEY ENTERPRISES INC #9	BLOOMFIELD	0.0	REPUBLIC STEEL CO
8236795		3415723395		103	107-TF	H BREYER #3	YORK	0.0	
8236793		3415723383		103	107-TF	JOHN EDWARD FOWLER (MINERALS)	WARREN	0.0	
8236787		3415320823		103	107-TF	MARY TEEL #1	NORTHAMPTON	0.0	
8236788		3415320867		103	107-TF	R C QUINE #2	NORTHAMPTON	0.0	
8236794		3415720339		103	107-TF	T V BREYER #5	YORK	0.0	
8236789		3415321044		103	107-TF	UNDERWOOD #1	NORTHAMPTON	0.0	
-KENOIL				RECEIVED: 06/07/82 JA: OH					
8236796		3416922923		107-TF		EMIL CROFT #1	CRESTON	7.0	COLUMBIA GAS TRAN
-LANDPROVEST INC				RECEIVED: 06/07/82 JA: OH					
8236797		3405923140		107-TF		FOLEY #2	CAMBRIDGE	50.0	
-LEADER EQUITIES INC				RECEIVED: 06/07/82 JA: OH					
8236798		3411926158		103	107-TF	CASEY #1	JACKSON	14.0	
-M B OPERATING CO INC				RECEIVED: 06/07/82 JA: OH					
8236801		3415123616		103	107-TF	AKRON NAZARENE CHURCH UNIT #1	NIMISHILLE	11.2	
8236800		3415122043		108		GARNER #1		18.0	EAST OHIO GAS CO
8236799		3401921446		103	107-TF	STARK BRICK CO #2	BROWN	9.1	
-MASH INVESTMENT CO A PARTNERSHIP				RECEIVED: 06/07/82 JA: OH					
8236802		3415521580		107-TF		MASH #5	WARREN	39.0	EASCO ALUMINUM CO
8236803		3415521343		107-TF		MASH INVESTMENT #3	WARREN	39.0	SCHWEBEL BAKING C

JD NO	JA DKT	API NO	D	SEC#1	SEC#2	WELL NAME	FIELD NAME	PROD	PURCHASER
-MUSTANG PETROLEUM INC				RECEIVED: 06/07/82 JA: OH					
8236809		3416726393		107-DV		CLARENCE B PAYNE #1	LUDLOW	25.0	
-NOBLE OIL CORP				RECEIVED: 06/07/82 JA: OH					
8236806		3413321926		107-RT		D & N SMITH #1	EDINBURG	20.0	GENERAL ELECTRIC
8236807		3413322138		107-TF		DRIA #2	EDINBURG	20.0	GENERAL ELECTRIC
8236808		3413322139		107-TF		DRIA #4	EDINBURG	20.0	GENERAL ELECTRIC
8236805		3413321969		107-RT		FOSTER #1	EDINBURG	20.0	GENERAL ELECTRIC
-OHIO OIL & GAS CO				RECEIVED: 06/07/82 JA: OH					
8236815		3415522046		107-TF		GRAZIANO #4	CORTLAND	20.0	COLUMBIA GAS TRAN
8236816		3415522131		107-TF		PHILLIPS #2	GUSTAVUS	20.0	COLUMBIA GAS TRAN
8236814		3415522031		107-TF		ROBERTS #1	CORTLAND	20.0	COLUMBIA GAS TRAN
8236812		3415522005		107-TF		TRUPE #1	CORTLAND	20.0	COLUMBIA GAS TRAN
8236813		3415522022		107-TF		WILLIAMS #1	GUSTAVUS	20.0	COLUMBIA GAS TRAN
-ONEAL PETROLEUM INC				RECEIVED: 06/07/82 JA: OH					
8236811		3405922029	D	108		E ROBINS #2		0.0	
8236810		3405922028	D	108		E ROBINS #3		0.0	
-OXFORD OIL CO				RECEIVED: 06/07/82 JA: OH					
8236817		3411526196		103	107-TF	VERNON SOWERS #1	DRUSH CREEK	11.0	
-PETRO-LEWIS CORPORATION				RECEIVED: 06/07/82 JA: OH					
8236833		3410521671		108		DENZELL WELSH #2	RUTLAND	1.4	COLUMBIA GAS TRAN
-POI ENERGY INC				RECEIVED: 06/07/82 JA: OH					
8236827		3407721116		108		BRASS #1		10.9	
8236828		3413320718		108		DREWS #1		4.2	
8236829		3413320748		108		DREWS #2		4.2	
8236821		3407522167		108		FERGUSON #1		4.1	COLUMBIA GAS TRAN
8236825		3407721080		108		HANASAR #2		2.7	
8236826		3407721082		108		HANSAR #1		2.7	
8236824		3407522772		108		L HAWKINS #3		6.6	COLUMBIA GAS TRAN
8236831		3413320917		108		LAFLAM #1		2.3	
8236822		3407522170		108		LOWDER #1		3.6	COLUMBIA GAS TRAN
8236823		3407522302		108		LOWDER #2		3.6	COLUMBIA GAS TRAN
8236832		3413321859		108		MILLER-STOLTZFUS #1		2.8	
8236818		3407721081		108		RHOA #1		3.2	
8236819		3407721084		108		RHOA #2		3.2	
8236830		3413320837		108		ROSSEGO #1		2.4	
8236820		3407721091		108		TURASZ #1		3.1	
-QUADRANT EXPLORATION				RECEIVED: 06/07/82 JA: OH					
8236834		3416726718		107-DV		EPLER #1-20	LIBERTY	100.0	EAST OHIO GAS CO
-RESOURCE EXPLORATION INC				RECEIVED: 06/07/82 JA: OH					
8236837		3415721565		108		P C C & ST L R R #1	POOLCREEK	4.2	YANKEE RESOURCES
8236835		3415720125		108		R SCHUSS #5 (SHUSS)	POOLCREEK	4.0	YANKEE RESOURCES
8236838		3415721567		108		ROBERT LINT #1	POOLCREEK	4.7	YANKEE RESOURCES
8236836		3415721553		108		WALTER ALBAUGH #1	POOLCREEK	4.1	YANKEE RESOURCES
-RIMCO OPERATING INC				RECEIVED: 06/07/82 JA: OH					
8236841		3416923173		103	107-TF	BOWMAN #2	CHESTER	12.0	COLUMBIA GAS TRAN
8236842		3416923174		103	107-TF	BOWMAN #3	CHESTER	12.0	COLUMBIA GAS TRAN
8236840		3416923139		103	107-TF	SCHROCK #1	GREEN	12.0	COLUMBIA GAS TRAN
8236839		3416922979		103	107-TF	W BOWERS #8	PLAIN	12.0	COLUMBIA GAS TRAN
-SANDHILL ENERGY INC (OH)				RECEIVED: 06/07/82 JA: OH					
8236843		3416726396		107-DV		LLOYD MILLER #28	SALEM	21.9	
-TOWNER PETROLEUM CO				RECEIVED: 06/07/82 JA: OH					
8236849		3405923149		107-DV		BSA/VINCENT #1	GUERNSEY	6.0	TENNESSEE GAS PIP
8236851		3412122037		108		BURNS #4	RICHLAND	2.0	EAST OHIO GAS CO

JD NO	JA DKT	API NO	C	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8236845		3405922274		108		BURROUGHS #1	GUERNSEY	14.0	EAST OHIO GAS
8236844		3405922240		108		DAUGHERTY #1	GUERNSEY	13.0	EAST OHIO GAS
8236846		3405922409		108		E MCCRACKEN	GUERNSEY	1.0	TENNESSEE GAS PIP
8236852		3412122388		108		G RICHEY #1	RICHLAND	5.0	EAST OHIO GAS CO
8236850		3412121672		108		J REED #1	OLIVE	14.0	EAST OHIO GAS CO
8236848		3405922529		108		KENNAN #1	GUERNSEY	12.9	EAST OHIO GAS
8236847		3405922496		108		R DEAN #2	GUERNSEY	4.0	TENNESSEE GAS PIP
8236853		3412122397		108		SCHAFER	OLIVE	6.6	EAST OHIO GAS CO
-UNITED PETROLEUM CORP				RECEIVED:	06/07/82	JA: OH			
8236854		3409920928		107-RT		BRUNNER #1	GOSHEN	350.0	COLUMBIA GAS TRAN
-VALENTINE OIL PROPERTIES				RECEIVED:	06/07/82	JA: OH			
8236855		3416722845		108		S S CHAMBERS #1		0.4	RIVER GAS CO
-VICTOR MCKENZIE				RECEIVED:	06/07/82	JA: OH			
8236804		3412725284		103	107-TF	RUTH SHULTZ #1	HARRISON	5.0	COLUMBIA GAS TRAN
-W H HAAS				RECEIVED:	06/07/82	JA: OH			
8236753		3405320483		102-4		EDGAR COOK #1	PERRY	29.2	
8236754		3405320570		102-4		GILLIAM UNIT #1	PERRY	365.0	
8236755		3405320632		102-4		MELVIN IRWIN #2	RACCOON	1095.0	
8236756		3405320638		102-4		WENDELL HOOVER #1	PERRY	400.0	
-WORTHINGTON OIL COMPANY INC				RECEIVED:	06/07/82	JA: OH			
8236857		3408924308		107-DV		FARMCO #5	NEWARK NORTH	11.0	COLUMBIA GAS TRAN
-WRAY PETROLEUM CORP OF OHIO				RECEIVED:	06/07/82	JA: OH			
8236862		3405320637		102-4		DAVID ALTIZER #1	PERRY	1277.0	
8236858		3405320402		102-4		HUNTINGTON BEAGLE CLUB #1	PERRY	1460.0	
8236859		3405320404		102-4		LUTHER FERGUSON #1	PERRY	456.3	
8236860		3405320485		102-4		MASSEY UNIT #1	PERRY	1825.0	
8236861		3405320492		102-4		MELVIN IRWIN #1	PERRY	29.0	
				-4					

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before July 16, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

FR Doc. 82–17845 Filed 6–30–82; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 5715–000]

Alaska Power Authority; Application for License (Over 5 MW)

June 28, 1982.

Take notice that the Alaska Power Authority (Applicant) filed on December 4, 1981, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for construction and operation of a water power project to be known as the Black Bear Lake Project No. 5715. The project would be located on Black Bear Creek in the Tongass National Forest near the Towns of Klowock, Craig, and Hydaburg, Alaska. Correspondence with the Applicant should be directed to: Mr. Eric P. Yould, Executive Director, Alaska Power Authority, 334 West 5th Ave., Anchorage, Alaska 99501.

Project Description—The proposed project would consist of: (1) A 53-foot-high, 368-foot-long concrete gravity dam at the outlet of Black Bear Lake forming; (2) a reservoir with a surface area of 241 acres and a usable storage capacity of 6,850 acre-feet at normal maximum water surface elevation 1,715 feet; (3) a power conduit consisting of 308 feet of 48-inch-diameter buried steel penstock, a 48-inch-diameter, 1,316-foot concrete lined shaft, a 30-inch-diameter, 1,850-foot-long steel penstock located in an 8-foot-diameter tunnel, and 960 feet of 30-inch-diameter buried steel penstock; (4) a powerhouse at elevation 253 feet containing two generating units with a total installed capacity of .8 MW; (5) a substation adjacent to the powerhouse; (6) 53 miles of 34.5-kV and 12.5-kV transmission lines to the towns of Klowock, Craig, and Hydaburg; (7) a 2-mile-long access road to the vicinity of the powerhouse; and (8) recreation facilities including a boat ramp on Black Lake, a 2,000-foot-long fishing access trail, and an interpretive structure. Applicant estimates that the project would generate an average of 23,700 MWh and cost $30,900,000 in 1981 dollars.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before September 3, 1982, either the competing application itself [See 18 CFR 4.33(a) and (d)] or a notice of intent [See 18 CFR 4.33(b) and (c)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in section 4.33(c) or section 4.101 et seq. (1981).

Comments, Protests, or Petitions To Intervene.—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 3, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Alaska Coastal Management Program—The Division of Policy and Development and Planning, State of Alaska, is reviewing this project for consistency with the approved Alaska Coastal Management Program (ACMP). Comments concerning the ACMP should be sent to: State Clearinghouse, Office of the Governor, Pouch AW, Juneau, AK 99811.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–17780 Filed 6–30–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. SA82–25–000]

Amoco Production Co.; Application for Staff Adustment

June 23, 1982.

On June 3, 1982, Amoco Production Company (Amoco), 500 Jefferson Building, Post Office Box 3092, Houston, Texas 77001 filed as application for adjustment pursuant to section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301–3432, (Supp. IV 1980), and section 1.41 of the Federal Energy Regulatory (Commission Commission) Rules of Practice and Procedure. Specifically, Amoco Seeks an adjustment from section 273.204 of the Commission's regulations.

Amoco States that it would suffer inequity if unable to collect the section 102 price from natural gas sales in place of the section 109 price from the Teledyne "17" Well No. 1 (Teledyne) for the period between March 21, 1979 and January 16, 1981. The difference in price is $1,284,821. Amoco states that it failed to file timely its section 102 application with the jurisdictional agency prior to beginning its sale of gas for the Teledyne Well producing from the *Atoka* formation because it had previously filed a section 102 application for the Teledyne Well producing from the *Morrow* formation. Amoco states that good faith oversight

and confusion caused by the initial administrative burdens placed upon its personnel by the complexities of the NGPA resulted in the untimely filing.

Amoco bases its legal argument on the presence of inequity, especially if the Commission expects refunds in this instance when it did not require refunds for a supposedly similar secton 103 situation. (Order No. 149, Docket No. RM81–31, issued May 28, 1981).

The procedures applicable to the conduct of this adjustment proceeding are found in section 1.41 of the Commission's Rules of Practice and Procedure. Order No. 24, issued March 22, 1979 (44 F.R. 18961, March 30, 1979).

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of section 1.41. All petitions to intervene must be filed on or before July 16, 1982.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–17765 Filed 6–30–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP82–346–000]

Arkansas Louisiana Gas Co., a Division of Arkla, Inc.; Application

June 24, 1982.

Take notice that on May 25, 1982, Arkansas Louisiana Gas Company, a division of Arkla, Inc. (Applicant), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP82–346–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of taps and related facilities on certain jurisdictional gas pipelines, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate taps on the lines identified below adjacent to the following described homes and commercial establishments:

Line	Home or commercial establishment
F–497	Emmett L. Colvin, Box 287, Route 1, Ruston, Louisiana.
636	Norman Morrison, Route 4, Box 112, Coalgate, Oklahoma.

It is asserted that Applicant is requested by local and state authorities to provide natural gas service to persons who live outside of Applicant's distribution systems. Applicant explains that to provide such service it is necessary to tap a jurisdictional pipeline.

It is stated that the estimated cost of a typical tap and related facilities is less than $1,000 to be financed from funds on hand. It is further asserted that gas supply for these customers would be from general system supply with impact on Applicant's supply being negligible.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 16, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (13 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–17766 Filed 6–30–82; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 6168–000]

Richard Bean & Fred Castagna; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

June 25, 1982.

Take notice that on April 5, 1982, Richard Bean and Fred Castagna (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 6168) would be located on Mill Creek, near Burnt Ranch, in Trinity County, California, and occupy U.S. lands within Shasta-Trinity National Forest. Correspondence with the Applicant should be directed to: Fred G. Castagna, 2576 Hartnell Avenue, Redding, California 96002.

Project Description—The proposed project would consist of: (1) a 6-foot-high, 66-foot-long steel and concrete diversion structure; (2) a concrete intake structure; (3) a 145-foot-long steel pipe; (4) a sediment trap; (5) a 4,222-foot-long steel pipe; (6) a 3,077-foot-long steel penstock; (7) a powerhouse containing one generating unit rated at 1500 KW; and (8) a 300-foot-long transmission line. The average annual energy generation is estimated to be 5.9 million kWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Serevice, The National Marine Fisheries Service, and the California Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none.

Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before August 16, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests or petitions to intervene must be received on or before August 16, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17781 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-338-000]

Colorado Interstate Gas Co., Montana-Dakota Utilities Co.; Application

June 24, 1982.

Take notice that on May 20, 1982, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, and Montana-Dakota Utilities Co. (MDU), 400 North Fourth Street, Bismarck, North Dakota 58501, filed in Docket No. CP82-338-000 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the mutual exchange of natural gas in the Madden Field area, Fremont and Natrona Counties, Wyoming, and a one-time accounting balance of non-redelivered exchange supplies between CIG and MDU, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is submitted that CIG and MDU have exchanged gas supplies in their respective gathering systems in the Madden Field area, Fremont and Natrona Counties, Wyoming, pursuant to a gas exchange agreement dated October 27, 1978 (the Madden Agreement). It is further submitted that the Madden Agreement provided that CIG and MDU may deliver volumes of gas to one another from various sources of supply which are remote from one party's gathering system but proximate to the other's in the Madden Field area. Applicants assert that because of the configurations of their gathering systems and an unequal number of connections, maintaining the Madden Agreement in balance with the gathering system became infeasible, and, therefore, the Madden Agreement was amended on January 1, 1982, so as to provide that any imbalances which might occur would be redelivered on a thermally equivalent basis at the existing interconnection of Applicants' main transmission lines in Section 29, Township 39 North, Range 90 West, Fremont County, Wyoming.

It is further stated that exchange imbalances have accrued under a gas transportation and exchange agreement between CIG and MDU (the Fuller Agreement) which is on file with the Commission in Applicants' FERC Gas Tariffs as CIG's Rate Schedule X-22 in Original Volume No. 2 and MDU's Rate Schedule T-1 in First Revised Volume No. 2. In order to facilitate the expeditious and equitable balancing of the Fuller and Madden Agreements, Applicants request authority for a single accounting balance of equivalent volumes under these exchanges. Applicants assert that subsequent to this proposed balancing, they would be able to maintain these exchanges in balance independently.

It is further asserted that at the time of balancing, CIG would pay the transportation fees due for gas accounted for under the Fuller Agreement.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 16, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17707 Filed 6-30-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP82-342-000]

Consolidated Gas Co. of Florida, Inc., and Florida Gas Transmission Co., Application

June 23, 1982.

Take notice that on May 21, 1982, Consolidated Gas Company of Florida, Inc. (Applicant), 9301 SW 56th Street, Miami, Florida 33165, filed in Docket No. CP82-342-000 an application pursuant to Section 7(a) of the Natural Gas Act for an order directing Florida Gas Transmission Company (Respondent) to establish an interconnection of its facilities with those proposed by Applicant and to sell and deliver to Applicant up to 1,200 Mcf of gas per day for resale and distribution in accordance with the applicable terms and conditions of Respondent's FERC Gas Tariff, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant submits that it is in the business of owning and operating an underground liquefied petroleum (propane) gas distribution system, presently providing monthly metered gas service to approximately 2,090 residential and 10 small commercial accounts in Dade County, Florida. It is further submitted that Applicant purchases its entire supply of propane gas from Warren Petroleum Company, a subsidiary of Gulf Oil Corporation.

Applicant asserts that it has experienced low pressure problems during the winter heating seasons, coupled with shortages and uncertainties of supply of propane gas required for Applicant to provide continuing reliable service to its existing high priority market.

Applicant, therefore, proposes that Respondent be directed to provide a delivery point to Applicant by constructing a supply line to Applicant's existing storage site/regulator station from the existing transmission facilities of Respondent which are presently located approximately 3,500 feet from Applicant's existing regulator station. Applicant further proposes that Respondent provide the necessary gate station, regulation and metering equipment to be located on land owned by Applicant at Applicant's present storage site.

Applicant states that it intends to connect its existing underground gas distribution system consisting of approximately 150,000 feet of 1-inch through 4-inch welded steel gas main and approximately 125,000 feet ⅝-inch welded steel service lines to the new supply line and measuring facilities to be provided by Respondent. Applicant further states that it would provide and operate the required regulation equipment, relief valves and odorization equipment at its cost, and to convert all customer-owned applicances from propane to natural gas at its cost.

Applicant further requests that Respondent be directed to provide to Applicant up to 1,200 Mcf of natural gas per day and 900,000 Mcf of natural gas per year.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 23, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 29426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 156.9). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17706 Filed 6-30-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP82-370-000]

El Paso Natural Gas Co.; Application

June 24, 1982.

Take notice that on June 9, 1982, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP82-370-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation on a best efforts basis of up to 15,000 Mcf of natural gas per day for Phillips Pacific Chemical Company (Phillips) and the delivery of such natural gas to Northwest Pipeline Corporation (Northwest) for Phillips' account, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport on a best efforts basis up to 15,000 Mcf of natural gas per day for Phillips and to deliver such natural gas to Northwest, for Phillips' account, at an existing point of interconnection between the pipeline systems of Applicant and Northwest located in La Plata County, Colorado. It is stated that Phillips currently owns and operates an anhydrous ammonia plant in Benton County, Washington (Coulee plant) and that the utilization of natural gas as feedstock at the plant is an essential agricultural use. It is further stated that Phillips advised Applicant that the cost of natural gas has increased to levels which make anhydrous ammonia operation of its Coulee plant uneconomical and that in order to provide an economical source of natural gas Phillips and Southern Union Gathering Company (Gathering Company) entered into a contract dated May 12, 1982, for the sale and purchase of natural gas. Pursuant to the terms of said contract, Phillips would purchase natural gas supplies in excess of Gathering Company's market requirements. It is further stated that Phillips entered into separate transportation agreements with Applicant and Northwest which collectively provide for the transportation of such gas from its source in New Mexico to the Coulee plant. Pursuant to the transportation agreeement, Applicant would receive volumes of natural gas from Gathering Company for Phillips account in San Juan County, New Mexico, and concurrently deliver such gas to Northwest at a point in La Plata County, Colorado, from which point Northwest would transport and redeliver such gas to Phillips at the Coulee plant.

It is stated that the transportation agreement would commence with the date of initial deliveries and extend for a primary term of 6 months and month to month thereafter up to a total of 5 years from the date of initial delivery. It is explained that Applicant's obligation to accept and transport natural gas under the agreement is limited to that volume which Applicant determines it has available existing capacity to accept, transport and redeliver on that day and that in no event shall Applicant be obligated to accept volumes in excess of 15,000 Mcf of natural gas per day. It is stated that the transportation agreeement further limits Applicant's transportation obligations by providing that if on any day Applicant should determine that the transportation capacity of its facilities is insufficient to transport all volumes of natural gas tendered by Phillips and for other

shippers under similar transportation agreements, Applicant would allocate the available transportation capacity *pro rata* among all such similarly situated shippers according to the volumes scheduled to be tendered by such shippers.

Applicant recognizes that from time to time a temporary imbalance may be created between the volumes of natural gas which it receives and the volumes of natural gas that it delivers under the transportation agreement and notes that the parties have agreed to eliminate any imbalance as soon as practical.

For such transportation service Applicant would charge Phillips initially 3.98 cents per Mcf. Applicant states that such rate is comprised of a 3.82 cents per Mcf short haul charge as reflected in Applicant's general rate increase pending at Docket No. RP82–33, plus 0.16 cent per Mcf attributable to the additional GRI surcharge increment which was approved by the Commission in its order issued December 28, 1981, in Docket No. RP81–72, effective January 1, 1982. It is stated that upon the effectiveness of the tariff sheets pending at Docket No. RP82–33, Phillips would pay Applicant the short haul charge which would be reflected from time to time in sheet No. 1–D.2 of Applicant's FERC Gas Tariff, Volume No. 2.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 16, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–17770 Filed 6–30–82; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 5894–000]

Town of Granby, Colorado; Application for Preliminary Permit

June 25, 1982.

Take notice that the Town of Granby, Colorado (Applicant) filed on January 19, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5894 to be known as the Granby Dam Project located on the Colorado River in Grand County, Colorado. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Stan Cazier, Community Building, O and Jasper, Box 17, Granby, Colorado 80446.

Project Description—The proposed project would utilize the existing Bureau of Reclamation's Granby Dam and would consist of: (1) a newly constructed powerhouse containing one or more generating units having a total rated capacity of 8.6 MW; (2) one mile of 69–kV transmission line; and (3) appurtenant facilities. The Applicant estimates that the average annual energy output would be 23.2 GWh. The most likely market for the energy derived at the proposed project would be The Public Service Company of Colorado or an REA.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $35,000.

Competing Applications—This application was filed as a competing application to ENERGENICS SYSTEMS, INC.'s application for Project No. 5574 filed on October 28, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations [see: 18 CFR § 4.30 et. seq. or § 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 29, 1982.

Filing and Service of Reponsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTESTS", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the

Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17782 Filed 6-30-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 6399-000]

Green Mountain Power Corp., Application for Preliminary Permit

June 28, 1982.

Take notice that the Green Mountain Power Corporation (Applicant) filed on June 1, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6399 to be known as the Montpelier Project located on the Winooski River in Washington County, Vermont. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Ray DeForge, P.O. Box 486, Montpelier, Vermont 05602.

Project Description—The proposed project would consist of two inoperable hydroelectric projects known as No. 4 and No. 5.

No. 4 would consist of: (1) an existing rehabilitated concrete gravity type dam with a total length of 227 feet, a spillway length of 152 feet, 20 feet high at the spillway and 6 and 8-foot-high at the left and right spillway abutments, respectively; (2) a small reservoir covering 4 acres with 4 acre-feet of storage; (3) a new 2,900-foot-long and 7-foot-diameter penstock on the north bank; (4) a new powerhouse containing turbine/generator units with an estimated capacity of 1,500 kW under a head of 50 feet; and (5) appurtenant facilities.

No. 5 would consist of: (1) a reconstructed concrete gravity dam with a total length of 174 feet, a spillway length of 143 feet, 15 feet high at the spillway and 8-foot-high at the left and right abutments; (2) a small reservoir covering 4 acres with 12 acre-feet of storage; (3) a new powerhouse constructed as part of the dam containing turbine/generator units with a total installed capacity of 600 kW under a head of 20 feet; and (4) appurtenant facilities.

The total average annual generation of 6.75 million kWh would be used by the Applicant in its own utility system.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 18 months, during which time it would perform surveys and geological investigations, determine the economic feasibility of the project reach final agreement on sale of project power, secure financing commitments, consult with Federal, State, and local government agencies concerning the potential environmental effects of the project, and prepare an application for FERC license, including an environmental report. Applicant estimates the cost of studies under the permit would be $25,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before October 4, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before September 7, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or section 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervent in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 7, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17783 Filed 6-30-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 6398-000]

Hackett Mills Hydro Associates; Application for Preliminary Permit

June 25, 1982.

Take notice that Hackett Mills Hydro Associates (Applicant) filed on June 2, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6398 to be known as the Hackett Mills Project located on the Little Androscoggin River in Poland and Minot, Androscoggin County, Maine. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Wayne L. Rogers, President, Synergics, Inc., 1444 Foxwood Court, Annapolis, Maryland 21401.

Project Description—The proposed project would utilize existing facilities and would consist of: (1) an 8-foot-high, 120-foot-long, rock-filled timber-crib dam with new 2-foot-high flashboards to be added; (2) a reservoir with no storage capacity and a normal water surface elevation with flashboards of 237 feet m.s.l.; (3) canal headworks; (4) a 100-foot-long, 25-foot-wide, 6-foot-deep power canal; (5) a powerhouse containing two, existing, hydromechanical units to be reconditioned and connected to new generators with a rated capacity of 115-kW each and an additional new turbine-generator unit to be installed with a rated capacity of 220-kW; (6) a transmission line; and (7) appurtenant facilities. The Applicant estimates that the average annual energy output would be 2,000,000 kWh. The project is owned

by Mr. Norman LePage of Lewiston, Maine.

Proposed Scope and Cost of Studies Under Permit—The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. The Applicant has estimated that the cost of studies under the preliminary permit would be $35,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before October 4, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before September 2, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et. seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 2, 1982.

Filing and Service of Response Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17784 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3289-001]

Hydro Corp. of Pennsylvania; Surrender of Preliminary Permit

June 23, 1982.

Take notice that Hydro Corporation of Pennsylvania, Permittee for the Alvin R. Bush Project No. 3289 located on the Kettle Creek in Clinton County, Pennsylvania, has requested that its preliminary permit be terminated. The preliminary permit was issued on February 6, 1981, and would have expired on July 31, 1982. The Permittee states that the net energy produced would not compensate for the development costs that would be involved.

Hydro Corporation of Pennsylvania's request was dated February 1, 1982. The surrender of the permit for Project No. 3289 is in the public interest and is accepted as of the date of issuance of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17771 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3531-002]

Hydro-Manufacturing, Inc.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

June 25, 1982.

Take notice that on February 1, 1982, Hydro-Manufacturing, Inc. (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric Project No. 3531 would be located on Branch River in Providence County, Rhode Island. Correspondence with the Applicant should be directed to: Hydro-Manufacturing, Inc., 160 Plainfield Street, Providence, Rhode Island 02909, Attn: William G. Grande, Secretary/Treasurer, and Halliwell Associates, Inc., 865 Waterman Avenue, East Providence, Rhode Island 02914, Attn: Steven Krous, Project Manager.

Project Description—The proposed project would be run-of-the-river, utilizing the site of the old Stamina Mill complex, and would consist of: (1) the existing Forestdale Pond Dam, 108.5 feet long and 16.5 feet high, constructed of granite blocks and provided with a spillway and 2-foot-high flashboards; (2) a reservoir having minimal pondage; (3) a concrete forebay; (4) an intake structure with new headgates and trashracks; (5) two 4-foot-diameter steel penstocks, 60 feet long, leading to (6) a powerhouse containing two turbine-generator units having a total rated capacity of 235 kW; (7) a tailrace just downstream of the dam; (8) a 3,000-foot-long, 23-kV transmission line connecting to an existing sub-station; and (9) appurtenant facilities. The Applicant estimates that the average annual energy output would be 1,388,616 kWh. Project energy would be sold to the Blackstone Valley Electric Company.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the State of Rhode Island Division of Fish and Wildlife are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provided any

comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applicantions—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before August 16, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 16, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17785 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6280-000]

Edward W. Kelly; Application for Preliminary Permit

June 28, 1982.

Take notice that Edward W. Kelly (Applicant) filed on May 3, 1982, and revised on May 24, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6280 to be known as the Croton River Project located on the East Branch of the Croton River in the Town of Southeast, Putnam County, New York. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Stephen F. Burke, 620 Washington Avenue, Rensselaer, New York 12144.

Project Description—The proposed project would utilize existing Applicant-owned facilities consisting of: (1) A 22-foot-high, 100-foot-long masonry overflow gravity-type dam having crest elevation 272.7 feet USGS and having a 20-foot-long sluice and spillway section at the left (south) bank; (2) a reservoir having a surface area of 11.5 acres and a storage capacity of 100 acre-feet; (3) a forebay along the right bank contained by a 90-foot-long stone wall and a 10-foot-long, 24-foot-high concrete intake structure each having crest elevation 274.5 feet USGS; (4) two 48-inch diameter reinforced concrete penstocks having a combined total length of about 1500 feet; and (5) miscellaneous appurtenances.

Applicant proposed to redevelop the existing facilities and would: (1) rehabilitate a 150-foot-long or a 1,500-foot-long penstock; (2) construct a powerhouse containing three generating units having a total rated capacity of 255-kW at a head of 20 feet or a capacity of 510-kW at a head of 39 feet and a flow of 180 cfs; (3) construct a tailrace; and (4) construct a 150-foot-long or a 300-foot-long 4.16-kV transmission line.

Project energy would be used within Applicant's facilities or would be sold to New York State Electric and Gas Corporation. Applicant estimates that the average annual energy output would be between 1,425 MWh and 2,780 MWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 18 months, during which time it would perform hydrological, structural, economic and environmental studies, and would prepare an application for an FERC license. Applicant estimates the cost of the work under the permit would be $30,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before October 4, 1982, the competing application itself [see: 18 CFR 4.30 et. seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before September 3, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules and may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 3, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the

Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17794 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6257-001]

McCloud Community Services District; Application for Preliminary Permit

June 28, 1982.

Take notice that McCloud Community Services District (Applicant) filed on June 4, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6257 to be known as the Squaw Valley Creek Project located on Intake Spring and Upper Elk Spring near McCloud in Siskiyou County, California. The proposed project would affect U.S. lands in Shasta National Forest. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Ronnie N. Clifford, Winzler and Kelly Consulting Engineers, 633 Third Street, Eureka, California 95501.

Project Description—The proposed project would consist of: (1) an existing 10-foot-high diversion structure at the Intake Spring; (2) a 17,000-foot-long, 16-inch-diameter steel penstock carrying water diverted from Intake Spring; (3) an existing 10-foot-high diversion structure at the upper Elk Spring; (4) a 6,000-foot-long, 16-inch-diameter steel penstock carrying water diverted from Upper Elk Spring; (5) a powerhouse with a total installed capacity of 700kW; and (6) a 5000-foot-long, 12.5-kV transmission line. The Applicant estimates that the average annual energy output would be 6.1 million KWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a duration of 36 months during which it would conduct engineering, environmental and economic studies, conduct negotiations with PG&E for sale of power generated from project; and prepare an FERC license application. The cost of conducting these studies is estimated to be $50,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before October 4, 1982, the competing application itself [see: 18 CFR 4.30 et. seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before September 7, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 cfr 4.30 et. seq. or 4.101 et. seq. (1981), as appropriated].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 7, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTESTS", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to interevene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17786 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6395-000]

Lawrence J. McMurtrey; Application for Preliminary Permit

June 28, 1982.

Take notice that Lawrence J. McMurtrey (Applicant) filed on June 2, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. § 791(a) 825(r)] for Project No. 6395 to be known as the Bedal Creek and Chocwich Creek Project located on Bedal and Chocwich Creeks in Snohomish County, near Darrington, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Lawrence J. McMurtrey, 12122—196th N.E., Redmond, Washington 98052.

Project Description—The proposed project would consist of: (1) two intake structures; (2) 9,000 feet of 30-inch-diameter combination pipeline/penstock; (3) a powerhouse with a proposed rated capacity of 1.65 MW operating under a head of 968 feet; and (4) a 14-mile-long, 115-kV transmission line. The estimated average annual energy production is 9.4 GWhs. The project would be located in the Snoqualmie—Mt. Baker National Forest.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks a 24-month permit to study the feasibility of constructing and operating the project. No new road would be required to conduct the studies.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before September 3, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et. seq. (1981); and Docket No. RM81-15, issued

October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before September 3, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than November 2, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determing the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 3, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17787 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6392-000]

Lawrence J. McMurtrey; Application for Preliminary Permit

June 28, 1982.

Take notice that Lawrence J. McMurtrey (Applicant) filed on June 2, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-8a25(r)] for Project No. 6392 to be known as the Jim Creek Project located on Little Jim and Big Jim Creeks in Snohomish County, near Darrington, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Lawrence J. McMurtrey, 12122-196th NE., Redmond, Washington 98052.

Project Description—The proposed project would consist of: (1) two intake structures; (2) 16,000 feet of 36-inch-diameter combination pipeline/penstock; (3) a powerhouse with a proposed rated capacity of 3.75 MW operating under a head of 944 feet; and (4) a 1-mile-long, 115-KV transmission line. The estimated average annual energy production is 19.75 GWhs. The project would be located within a Naval Reservation area in the Snoqualmie-Mt. Baker National Forest.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks a 24-month permit to study the feasibility of constructing and operating the project. No new road would be required to conduct the studies.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before September 7, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et. seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before September 7, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 C.F.R. 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than November 8, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from Applicant.) If an agancy does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 7, 1982.

Filing and Service of Responsive of Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative

of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17788 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6394-000]

Lawrence J. McMurtrey; Application for Preliminary Permit

June 28, 1982.

Take notice that Lawrence J. McMurtrey (Applicant) filed on June 2, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for Project No. 6394 to be known as the Falls Creek Project located on Falls Creek in Snohomish County, near Darrington, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Lawrence J. McMurtrey, 12122–196th NE., Redmond, Washington 98052.

Project Description—The proposed project would consist of: (1) three intake structures; (2) 17,000 feet of 36-inch-diameter combination pipeline/penstock; (3) a powerhouse with a proposed rated capacity of 3.46MW operating under a head of 1,223 feet; and (4) an 11-mile-long, 115–KV transmission line. The estimated average annual energy production is 15.45GWhs. The project would be located in the Snoqualmie-Mt. Baker National Forest.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks a 24-month permit to study the feasibility of constructing and operating the project. No new road would be required to conduct the studies.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before September 7, 1982, the competing application itself or a notice of intent to file such an application [see: 18 CFR 4.30 et. seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before September 7, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than November 8, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 7, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17789 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6391-000]

Lawrence J. McMurtrey; Application for Preliminary Permit

June 28, 1982.

Take notice that Lawrence J. McMurtrey (Applicant) filed on June 2, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6391 to be known as the Marten Creek Project located on Marten Creek, within Mt. Baker-Snoqualmie National Forest in Snohomish County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Lawrence J. McMurtrey, 12122–196th N.E., Redmond, Washington 98052.

Project Description—The proposed project would consist of: (1) an inlet structure in the streambed at elevation 2,640 feet; (2) a diversion pipeline 18 inches in diameter and 6,000 feet long; (3) a powerhouse at elevation 1,520 feet containing a turbine generator with 1.54–MW capacity and 8.1–GWh annual energy output; and (4) a transmission line 2 miles long. The potential market for project output includes the Puget Sound Power and Light Company and Bonneville Power Administration.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a term of 24 months, during which engineering, economic and environmental studies will be conducted to ascertain project feasibility and to support application for license to construct and operate the project. The estimated cost of permit activities is $40,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before September 7, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et. seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before September 7, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR

4.30 et seq. or 4.101 et seq. (1901), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than November 8, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 7, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary

[FR Doc. 82-17790 Filed 6-30-82; 8:45am]

BILLING CODE 6717-01-M

[Project No. 6393-000]

Lawrence J. McMurtrey; Application for Preliminary Permit

June 25, 1982.

Take notice that Lawrence J. McMurtrey (Applicant) filed on June 2, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for Project No. 6393 to be known as the Goodman Creek and Murphy Creek Project located on Goodman and Murphy Creeks in Snohomish County, near Darrington, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Lawrence J. McMurtrey, 12122–196th N.E., Redmond, Washington 98052.

Project Description—The proposed project would consist of: (1) two intake structures; (2) 11,000 feet of 24-inch-diameter combination pipeline/penstock; (3) a powerhouse with a proposed rated capacity of 3.68 MW operating under a head of 1,479 feet; and (4) an 8-mile-long, 115-kV transmission line. The estimated average annual energy production is 19.34 GWhs. The project would be located in the Snoqualmie-Mt. Baker National Forest.

Proposed Scope of studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks a 24-month permit to study the feasibility of constructing and operating the project. No new road would be required to conduct the studies.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before August 16, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et. seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 16, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et. seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than October 15, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 16, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17791 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 3241-002; 3242-002, and 3243-002]

Missouri Joint Municipal Electric Utility Commission; Surrender of Preliminary Permits

June 23, 1982.

Take notice that Missouri Joint Municipal Electric Utility Commission, Permittee for the Mississippi River

Locks and Dams No. 20, 21 and 22, FERC Project Nos. 3241, 3242 and 3243, respectively, has requested that its preliminary permits for the three projects be terminated. The preliminary permits were issued on January 16, 1981, and would have expired on January 15, 1983. The proposed projects would have utilized the U.S. Army Corps of Engineers' Mississippi River Locks and Dams No. 20, 21 and 22 in Lewis, Marion and Ralls Counties, Missouri, respectively.

The Permittee stated that the projects were found not to be economically feasible with the current economic conditions.

The Missouri Joint Municipal Electric Utility Commission filed the request on May 17, 1982, and the surrender of the preliminary permits for Project Nos. 3241, 3242 and 3243 have been deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17773 Filed 6-30-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP80-475-002]

Montana-Dakota Utilities Co.; Petition To Amend

June 24, 1982.

Take notice that on May 20, 1982,[1] Montana-Dakota Utilities Co. (Petitioner), 400 North Fourth Street, Bismarck, North Dakota 58501, filed in Docket No. CP80-475-002 a petition to amend the order issued June 18, 1981, in Docket No. CP80-475-000 pursuant to Section 7 of the Natural Gas Act so as to authorize the construction and operation of 0.5 mile of pipeline and related facilities, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that by order issued June 18, 1981, Petitioner was authorized to construct 4.1 miles of 16-inch O.D. transmission line in Dawson County, Montana. It is stated that, as part of the original 4.1 miles of 16-inch O.D. pipeline, Petitioner intended to replace 0.3 mile of 8⅝-inch O.D. pipeline on a Burlington Northern Railroad bridge across the Yellowstone River with 16-inch O.D. pipeline to be located on the bridge. However, Petitioner informed the Commission in a statement dated December 14, 1981, filed in Docket No. CP80-475 that the Burlington Northern Railroad would not permit replacement of the old pipeline with a larger pipeline and, therefore, the 8⅝-inch O.D. pipeline would be left in place on the railroad bridge. Petitioner maintains that its only alternative is to construct an underwater crossing consisting of 0.5 mile of 16-inch O.D. pipeline.

Petitioner states that construction of the proposed 0.5-mile underwater crossing would complete the segment of 16-inch O.D. pipeline originally authorized for the purpose of allowing Petitioner to meet existing system requirements and to replenish deleted gas storage inventories. The total cost of the proposed underwater crossing is estimated to be $607,000.

It is further stated that Petitioner has obtained the required approval of the Department of the Army—Corps of Engineers, the Dawson County Conservation District, and the Montana Department of Fish and Game.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before July 16, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17772 Filed 6-30-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 5983-000]

Morgan City Corp.; Application for License (5 MW or Less)

June 25, 1982.

Take notice that Morgan City Corporation (Applicant) filed on February 16, 1982, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for construction and operation of a water power project to be known as the Lost Creek Hydro Project No. 5983. The project would be located on Lost Creek, Weber River in Morgan County, Utah. Correspondence with the Applicant should be directed to: Hon. Abbott E. Mikesell, Mayor of Morgan City, 48 West Young Street, Morgan, Utah 84050 and Donald J. White, Hydro Consultants Associated, 50 South Main, Suite No. 600, Salt Lake City, Utah 84144.

Project Description—The proposed project would utilize the existing Bureau of Reclamation's Lost Creek Dam and Reservoir, operated and maintained by the Weber Basin Water Conservancy District, and would consist of: (1) a siphon penstock, 36-inches in diameter and approximately 800 feet long, leading to (2) a powerhouse containing two turbine-generator units having a rated capacity of 150 kW and 450 kW, respectively, for a total rated capacity of 600 kW; (3) a tailrace near the existing outlet works stilling basin; (4) a new 46-kV transmission line, approximately 600 feet long, connecting to an existing 46-kV transmission line; (5) a switchyard; and (6) appurtenant facilities. The Applicant estimates that the average annual energy output would be 3,356,300 kWh. Project energy would be utilized by Morgan City through transmission agreements with Utah Power and Light Company.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed and a competing application to Western Hydro Electric Incorporated's application for Project No. 5243 filed on August 18, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing applications for licenses or exemptions, or notices of intent to file competing applications, will be accepted for filing in response to this notice. [See: 18 CFR 4.30 et seq. or § 4.101 et seq. (1981), as appropriate.]

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[1] The application was initially tendered for filing on May 20, 1982. However, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until May 21, 1982; thus, filing was not completed until the later date.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 9, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17702 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP81-392-001]

Natural Gas Pipeline Co. of America; Petition To Amend

June 24, 1982.

Take notice that on May 28, 1982, Natural Gas Pipeline Company of America (Petitioner), P.O. Box 583, Houston, Texas 77001, filed in Docket No. CP81-392-001 a petition to amend the order issued November 13, 1981, in Docket No. CP81-392-000 pursuant to Section 7(c) of the Natural Gas Act so as to authorize the extension of the period of the limited term transportation for a direct sale and the modification of rates, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that the order issued November 13, 1981, authorized Petitioner to sell up to 37,000,000 Mcf of natural gas to Central Louisiana Electric Company (CLECO) at specified delivery points in Louisiana. Petitioner states that in order to transport the gas to CLECO, Petitioner executed a gas transportation agreement with Louisiana Intrastate Gas Company (LIG). It is further stated that Petitioner would deliver the gas for LIG's account to Louisiana Resources Company (LRC). Petitioner now asserts that because of LIG's difficulties in using LRC's facilities Petitioner has been unable to sell natural gas, and it has, therefore, executed a transportation agreement with Michigan Wisconsin Pipe Line Company (Michigan Wisconsin).

It is submitted that in light of the new transportation agreement with Michigan Wisconsin, Petitioner seeks authority to extend the period of the limited term transportation for a direct sale of natural gas for CLECO for a term of three hundred and sixty-three days from the date of first deliveries, and modify the rate set forth in the order issued November 13, 1981, to permit recovery of a transportation charge which would reflect all the current or future costs that LIG and Michigan Wisconsin would charge Petitioner for such transportation plus the value of fuel gas consumed.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before July 16, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17774 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-362-000]

Northwest Pipeline Corp.; Application

June 24, 1982.

Take notice that on June 7, 1982, Northwest Pipeline Corporation (Applicant), P.O. Box 1526-10466, Salt Lake City, Utah 84110, filed in Docket No. CP82-362-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for the account of Phillips Pacific Chemical Company (Phillips), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to a transportation agreement dated May 12, 1982, Applicant proposes to transport up to 10,000 Mcf of natural gas per day on a best-efforts basis for Phillips, plus, at Applicant's sole discretion, quantities in excess of 10,000 Mcf per day. It is asserted that Phillips would purchase supplies of natural gas from Southern Union Gathering Company (Southern Union) at the Kutz delivery point in San Juan County, New Mexico, and/or at the intersection of Southern Union's facilities with those of El Paso Natural Gas Company (El Paso) at the Chaco delivery point in San Juan County.

Applicant asserts that the supplies purchased by Phillips at the Kutz delivery point would be delivered to Gas Company of New Mexico (GCNM) for Applicant's account. From the Kutz delivery point GCNM would transport the subject gas through its facilities to a point of interconnection with the gathering facilities of Applicant at the Huerfano delivery point in San Juan County, it is asserted. From the Huerfano delivery point, Applicant proposes to transport the natural gas through its San Juan Gathering System to its mainline transmission system at the Ignacio delivery point in La Plata County, Colorado.

It is asserted that the supplies of natural gas purchased by Phillips at the Chaco delivery point would be transported by El Paso, for Phillips' gas through, its mainline for redilvery for Phillips' account, to the Ignacio delivery point where El Paso's facilities would interconnect with Applicant's mainline.

Applicant further asserts that from the Ignacio delivery point it would transport Phillips' account at Applicant's existing Coulee Plant delivery point to Phillips in Benton County, Washington.

It is asserted that fuel gas reimbursements to be provided in kind by Phillips would include any fuel or losses associated with the use of GCNM's facilities to transport Phillips' natural gas from the Kutz delivery point to the Huerfano delivery point, Applicant's San Juan gathering fuel for all volumes received at the Huerfano delivery point and Applicant's mainline fuel for all volumes to be transported from the Ignacio delivery point. It is also asserted that for all volumes of gas transported and redelivered to Phillips by Applicant, Phillips would pay

Applicant the then effective mainline transportation rate set forth on Sheet No. 2 of Applicant's FERC Gas Tariff, Original Volume No. 2. Applicant states that the currently applicable rate is 1.34 cents per million Btu per hundred miles transported and that the mainline transportation from Ignacio to the Coulee Plant delivery point uses 11 one-hundred mile billing units for a total mainline rate of 14.74 cents per million Btu.

Applicant states that for each million Btu of natural gas received at the Huerfano delivery point for Phillips' account Applicant would charge Phillips at Applicant's gathering rate for the San Juan area, which is currently 33.34 cents per million Btu. Applicant further asserts that, in addition to the gathering and transportation charges, Phillips would pay GCNM directly for the costs incurred under the GCNM agreement for GCNM's transportation of Phillips' gas on behalf of Applicant. It is stated that GCNM's current charge is a $280,000 per month service charge plus a basic cost-of-service rate of 36.6 cents per million Btu. Further it is indicated that Phillips would pay El Paso for the gas transported from the Chaco delivery point an initial rate of 3.98 cents per Mcf.

It is asserted that the direct sale gas involved in the instant proposal would be used in the production of anhydrous ammonia at Phillips Coulee Plant and that the gas would be used exclusively as process fuel and feedstock in making the ammonia.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 15, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17775 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4520-001]

City of Seymour, Iowa; Surrender of Preliminary Permit

June 23, 1982.

Take notice that the City of Seymour, Iowa, Permittee for the Rathbun Dam Project No. 4520, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 4520 was issued on November 3, 1981, and would have expired on May 2, 1983. The project would have been located at the U.S. Corps of Engineers' Rathbun Dam in Appanoose County, Iowa.

The Permittee stated that it does not find the project feasible without obtaining a federal grant for the project.

The City of Seymour filed the request on May 13, 1982, and the surrender of the preliminary permit for Project No. 4520 has been deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17769 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4857-000]

Trans Mountain Construction Co.; Surrender of Preliminary Permit

June 23, 1982.

Take notice that the Trans Mountain Construction Co., Permittee for the Blue Valley Ranch, Unit Number 3, Project No. 4857 located on King Creek in Grand County, Colorado has requested that their permit be terminated. The preliminary permit was issued on September 8, 1981, and would have expired on March 1, 1983.

Trans Mountain states that insufficient flows exist at the site rendering the project unfeasible.

Trans Mountain's request was dated May 24, 1982. The surrender of the pemit for Project No. 4857 is in the public interest and is accepted as of the date of issuance of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17776 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP80-106-000]

Trunkline Gas Co.; Informal Settlement Conference

June 23, 1982.

Take notice that an informal settlement conference in the above-captioned docket will commence at 10:00 a.m. on July 1, 1982. This conference is being convened for the purpose of discussing settlement of the issue of proper allocation of pipeline costs of transporting, separating and handling producer-owned liquid and liquefiable hydrocarbons.

This conference will be held in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Customers and other interested persons will be permitted to attend but if such persons have not previously been permitted to intervene in this matter by order of the Commission, attendance will not be deemed to authorize intervention as a party in this proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17777 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5209-002]

Vermont Power Consortium; Application for License (5 MW or Less)

June 25, 1982.

Take notice that Vermont Power Consortium (Applicant) filed on March 9, 1982, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for construction and operation of a water power project to be known as Corning Mill Project No. 5209. The project would be located on Wells River near Newbury, in Orange County, Vermont. Correspondence with the Applicant should be directed to: Mr. John H. Stuart, 120 Lake Street, Burlington, Vermont 05401.

Project Description—The proposed run-of-the-river project would consist of: (1) An existing concrete dam, approximately 20.0 feet high and 69.34 feet long; (2) an existing reservoir with a

10.4-acre surface area, negligible storage capacity, and a surface elevation of 465.66 feet m.s.l.; (3) an existing steel penstock 60 inches in diameter and 449 feet long; (4) an existing powerhouse to contain a new single generating unit having a generating capacity of 320 kW; (5) an additional new powerhouse and turbine/generator to be installed 345 feet west of the existing powerhouse and having a generating capacity of 60 kW; (6) existing 4.6-kV transmission lines; and (7) appurtenant facilities. The Applicant estimates that the average annual energy output would be 1,857,000 kWh. The existing project facilities are owned by William Bushey and Maury Wallace.

Purpose of the Project—Power generated from the project will be sold to Central Vermont Public Service Corporation.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to Newbury Hydro Company's application for Project No. 5261 filed on December 17, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing applications for licenses or exemptions, or notices of intent to file competing applications, will be accepted for filing in response to this notice. [See: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate.]

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 30, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17793 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5046–001]

Vidler Tunnel Water Co.; Surrender of Preliminary Permit

June 23, 1982.

Take notice that the Vidler Tunnel Water Company, Permittee for the Empire Hydro Power Project No. 5046, has requested that its preliminary permit be terminated. The preliminary permit was issued November 27, 1981, and would have expired on May 1, 1983. The project would have been located on the West Fork Clear Creek in Clear Creek County, Colorado. Vidler Tunnel Water Company cites that "Both the lack of flow at the site and the difficulty of construction and operation of this project make the economics very poor."

Vidler Tunnel Water Company filed its request on May 26, 1982, and the surrender of its permit for Project No. 5046 has been deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17778 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6310–000]

Woods Creek, Inc.; Application for License (Over 5 MW)

June 28, 1982.

Take notice that Woods Creek, Inc. (Applicant) filed on May 5, 1982, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for construction and operation of a water power project to be known as Barclay Creek Hydroelectric Project No. 6310. The project would be located on Barclay Creek, partially within the Mt. Baker—Snoqualmie National Forest in Snohomish County, Washington. Correspondence with the Applicant should be directed to: Neil H. Macdonald, Project Manager, Woods Creek, Inc., 14 South Idaho Street, Seattle, Washington 98134.

Project Description—The proposed project would consist of: (1) A 6-foot-high, 60-foot-long reinforced concrete diversion weir at elevation 2,206 feet; (2) an intake channel 30 feet long and an intake structure 15 feet wide by 45 feet long; (3) a penstock 40 inches in diameter and 12,000 feet long; (4) a powerhouse at elevation 853.5 feet containing two turbine generators with a total capacity of 6.8 MW; (5) a tailrace pipeline 800 feet long discharging to the stream at river mile 0.3; (6) a switchyard adjacent to the powerhouse; and (7) a 115-kV overhead transmission line supported on single wood poles extending to an existing Puget Sound Power and Light Company line approximately 0.2 miles southwest of the switchyard. The Applicant estimates the total project capital cost to be $8,343,000.

Purpose of Project—The project has an estimated average annual energy output of 17 GWh. Project output would be sold to a utility in the Pacific Northwest.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before September 3, 1982, either the competing application itself [See 18 CFR 4.33 (a) and (d)] or a notice of intent [See 18 CFR 4.33 (b) and (c)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in section 4.33(c) or section 4.101 et seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to

take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 3, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17779 Filed 6-30-82; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-662-DR]

Oklahoma; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disasterfor the State of Oklahoma (FEMA–662–DR), dated June 18, 1982, and related determinations.

DATED: June 18, 1982.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0501.

NOTICE: Pursuant to the authority vested in the Director of the Federal Emergency Management Agency by the President under Executive Order 12148, effective July 15, 1979, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter of June 18, 1982, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Oklahoma resulting from severe storms and flooding beginning on May 11, 1982, is of sufficient severity and magnitude to warrant a major-disaster declaration under Pub. L. 93–288. I therefore declare that such a major disaster exists in the State of Oklahoma.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the affected areas. You are also authorized to provide Individual Assistance in the affected areas if justified by an additional request from the Governor accompanied by an appropriate commitment. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93–288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area except for technical assistance which will be funded at 100 percent.

The time period prescribed for the implementation of Section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of Federal Emergency Management Agency under Executive Order 12148, and delegated to me by the Director under the Federal Emergency Management Agency Delegation of Authority, I hereby appoint Mr. Lonnie R. Chant of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of Oklahoma to have been affected adversely by this declared major disaster:

The following Counties for Public Assistance only:

Blaine	Logan
Caddo	Okfuskee
Custer	Payne
Kingfisher	Washita
Lincoln	

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance. Billing Code 6718–02)

Lee M. Thomas,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 82-17762 Filed 6-30-82; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL RESERVE SYSTEM

InterFirst Corp.; Acquisition of Bank

InterFirst Corporation, Dallas, Texas, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with Fannin Bancshares, Houston, Texas, and thereby acquire control of Fannin Bank, Houston, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than July 25, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 25, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-17731 Filed 6-30-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the

address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Chillicothe Bancshares, Inc.*, Chillicothe, Missouri; to become a bank holding company by acquiring 80 percent of the voting shares of Community Bank, Chillicothe, Missouri. Comments on this application must be received not later than July 20, 1982.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Olla Bancshares, Inc.*, Olla, Louisiana; to become a bank holding company by acquiring at least 80 percent of the voting shares of The Olla State Bank, Olla, Louisiana. Comments on this application must be received not later than July 25, 1982.

Board of Governors of the Federal Reserve System, June 25, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-17732 Filed 6-30-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifing specifically any questions of fact that are indispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should indentify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than July 20, 1982.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *First National Boston Corporation*, Boston, Massachusetts, (financing, servicing loans, and investment activities; Arizona, Arkansas, California, Colorado, Kansas, Louisiana, Missouri, Nevada, New Mexico, Oklahoma, Texas, and Utah): To engage through it subsidiary, First of Boston Mortgage Corporation, in the following activities: marketing, acquiring, and serveing for its own account, or for the account of others, loans and other extensions of credit including those secured by mortgages of residential or commerical properties or leasehold interests therein; furnishing economic or finanical information on real estate matters; providing portfolio investment advice concerning real estate matters; and providing all such other services and engaging in all such other activities as are incidential to any of the foregoing. These activities will be performed *de novo* by First of Boston Mortgage Corporation at an office located in Dallas, Texas, serving the states of Arizonia, Arkansas, California, Colorado, Kansas, Louisiana, Missouri, Nevada, New Mexico, Oklahoma, Texas, and Utah.

B. **Federal Reserve Bank of Cleveland** (Harry W. Huning, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Pittsburgh National Corporation*, Pittsburgh, Pennsylvania. (financing and servicing activities; Texas): To engage, through its subsidary, The Kissell Company, in making or acquiring and servcing for its own account and for the account of others, loans and other extensions of credit. The services would be conducted from an office in Houston, Texas, serving the Houston greater metropolitan area.

Board of Governors of the Federal Reserve System, June 25, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-17733 Filed 6-30-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Work Group To Review a Draft Report Relating To CDC's Proficiency Testing Program; Open Meeting

On September 21–22, 1982, the Centers for Disease Control (CDC) will convene an open meeting of a work group to review a draft report relating to CDC's Proficiency Testing Program. The meeting is open to the public, limited only by space available.

The meeting is scheduled to convene at 9:00 a.m. in Room B–19, Building 3, Centers for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

For further information, please contact: Dr. Joyce D. K. Essien, Director, Laboratory Improvement Program Office (1–1007), Centers for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia 30333; Telephones: FTS: 236–3262; Commercial: 404/329–3262.

Dated: June 25, 1982.

William H. Foege, M.D.,

Director, Centers for Disease Control.

[FR Doc. 82-17930 Filed 6-30-82; 8:45 am]

BILLING CODE 4160-18-M

Health Care Financing Administration

Medicaid Program; Hearing; Reconsideration of Disapproval of Rhode Island State Plan Amendment

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on August 17, 1982 in Boston, Massachusetts to reconsider our decision to disapprove Rhode Island State plan amendment 81–25.

CLOSING DATE: Request to participate in the hearing as a party must be received by July 16, 1982.

FOR FURTHER INFORMATION CONTACT: Sharyn Smith, Docket Clerk, Bureau of Program Policy, G–20 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207; telephone: (301) 594–8261.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to

deny a Rhode Island State plan amendment.

Section 1116 of the Social Security Act and 45 CFR Parts 201 and 213 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues which will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer on or before July 16, 1982, in accordance with additional requirements contained in 45 CFR 213.15(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins, in accordance with additional requirements contained in 45 CFR 213.15(c)(1).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

The issue in this matter relates to Rhode Island's proposal to establish a separate group of the medically needy defined as those individuals requiring intermediate care facility (ICF) services who have resources at or below $1,500. The amendment also proposed to make ICF services available only to this medically needy group. The Health Care Financing Administration contends that this proposal violates the statute by setting up an invalid medically needy group and violates the comparability requirements of the statute and regulations by improperly differentiating between institutionalized and noninstitutionalized individuals.

The notice to Rhode Island announcing an administrative hearing to reconsider our denial of its State plan amendment reads as follows:

June 24, 1982.

Mr. John J. Affleck,
Director, Department of Social and Rehabilitative Services, 600 New London Avenue, Cranston, Rhode Island 02920.

Dear Mr. Affleck: This is to advise you that your request for reconsideration of my disapproval of Rhode Island State Plan Amendment 81-25 was received on May 27, 1982. This amendment would establish a separate group of the medically needy defined as those individuals requiring intermediate care facility (ICF) services who have resources at or below $1,500. The amendment would also make ICF services available only to this medically needy group. You have requested a reconsideration of whether this plan amendment conforms to the Social Security Act and pertinent regulations.

I am scheduling a hearing on your request to be held on August 17, 1982 at 10:00 a.m. in Room 1211, John F. Kennedy Federal Building, Boston, Massachusetts. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties.

I am designating Mr. Albert Miller as the presiding official. If these arrangements present any problems, please contact Mrs. Sharyn Smith, Docket Clerk. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify Mrs. Smith of the names and addresses of the individuals who will represent the State at the hearing. Mrs. Smith can be reached on (301) 594-8261.

Sincerely yours,

Carolyne K. Davis, *Ph.D.*

(Sec. 1116 of the Social Security Act (42 U.S.C. 1316))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: June 24, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 82-17966 Filed 6-30-82; 8:45 am]
BILLING CODE 4120-03-M

Medicare Program; Economic Index for Physicians' Services for the Period July 1, 1982 Through June 30, 1983

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice sets forth the economic index used in the calculation of prevailing charges for physicians' services under Part B of Medicare (title XVIII of the Social Security Act). The Medicare statute and regulations require that the calculation of these charges be subject to a limit based on appropriate indicators of economic changes. The economic index used for this purpose is 1.949 for the period July 1, 1982 through June 30, 1983. This is an increase of 8.88 percent over the economic index of 1.720 that was used for the previous 12 months.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT:
Paul Riesel (301) 597-1843; or
Joseph Romano (301) 594-1023.

SUPPLEMENTARY INFORMATION:

Background

Payment under Medicare Part B for a physician's service is based on a reasonable charge which may not exceed the lowest of (1) the physician's actual charge for the service, (2) his or her customary charge for that service, or (3) the prevailing charges of physicians for similar services in the locality. The prevailing charge for a service, before adjustment for the economic index, is calculated at the 75th percentile of physician customary charges. Section 1842(b)(3) of the Social Security Act (42 U.S.C. 1395u(b)(3)) and HCFA regulations at 42 CFR 405.504 further require that the prevailing charge for a service in a locality not exceed the level in effect for that service in the locality on June 30, 1973, except to the extent justified on the basis of appropriate indicators of economic change.

42 CFR 405.504 establishes an economic index for this purpose, consisting of two components: One measuring increases in general earnings level (attributable to factors other than increases in productivity) and the other measuring increases in expenses of the kind incurred by physicians.

Calculating the Economic Index

The Senate Finance Committee Report on Pub. L. 92-603 (The Social Security Amendments of 1972) explained that the index is intended to reflect inflationary trends accurately. See, generally, Senate Report No. 92-1230, 92 Cong. 2d Sess. (1972) pages 190-194. To obtain information on income and expenses, HCFA first contracted for a national survey of 5,000 physicians. We used results from an analysis of the data that showed that the expenses of medical practice for self-employed physicians account for approximately 40 percent of the gross income of practice, and net income accounts for approximately 60 percent.

The analysis of the data also calculated weights for each type of practice expense by determining the ratio of the expense of each element to total practice expenses. (For example, the hourly earnings of non-supervisory personnel account for 47 percent of all the practice expenses of a self-employed physician.) The survey was based on a national probability sample of physicians and the results are representative of the distribution of physicians in the United States. We verified that the estimated physician practice expenses are approximately 40 prcent of the gross income of practice with data from other sources.

Items 1 through 6 in Table 1 below are the elements used in computing the increase in the physicians' expenses component of the economic index. Item 9, the net income component, is derived from information contained in items 7 and 8 and reflects increases in general earnings levels exclusive of productivity increases.

The principal source of the remaining data used is the data on labor statistics for calendar year 1981 as set forth in the Current Labor Statistics section of the April 1982 issue of *The Monthly Labor Review*, published by the U.S. Department of Labor. The increase for each element and component from 1980 to 1981 was calculated on the basis of these data and their weighted values were summed. This yielded an increase factor of 1.0911 (see Table 1). That factor, multiplied by the economic index for the period ending June 30, 1982, (see 46 FR 33651–33653, June 30, 1981) adjusted as explained below (1.7862), resulted in the new economic index of 1.949. This means that the prevailing charges for physicians' services to be used during the 12-month period beginning July 1, 1982, may not exceed the prevailing charges in effect on June 30, 1973 by more than 94.9 percent.

Because the Bureau of Labor Statistics has periodically retroactively revised some of the statistics and data on which earlier economic indexes were based, it was necessary for us to recompute some of the values and ratios for earlier years in order to obtain an accurate index for the current year. As a result, the economic index for July 1, 1981 through June 30, 1982 was adjusted from 1.790 to 1.7862. Table 2 sets forth the revised values for that year and the preceding years.

It should be noted that, although we have recalculated prior year indexes, this does not change the applicability of the earlier indexes as published. Rather, prior year figures were recalculated only to reflect newly available data in order to prepare an accurate index for the period beginning July 1, 1982. Thus, the effective increase in the economic index is 8.88 percent above the index used for the previous 12-month period.

TABLE 1.—CALCULATION OF THE INCREASE FACTOR FOR THE PERIOD JULY 1982 THROUGH JUNE 1983 TO BE APPLIED TO THE REVISED ECONOMIC INDEX FOR THE PRIOR 12-MONTH PERIOD

	Ratio of 1981 values to 1980 values	Weight (percent) [1]
1. Hourly earnings of nonsupervisory workers in finance, insurance, and real estate	1.0000	0.47X40
2. Housing component of the consumer price index	1.1140	.23X40
3. Private transportation component of the consumer price index	1.1172	.07X40
4. Drugs and pharmaceutical component of the producer price index	1.1083	.09X40
5. All other miscellaneous expenses (tied to the entire consumer price index)	1.1024	.04X40
6. Premiums for malpractice insurance	[2] 1.2357	.10X40
7. Average weekly earnings of production and nonsupervisory workers	1.0855	
8. Index of output per man hour of employed nonfarm workers	1.0091	
9. Change in average weekly earnings net of change in output per man hour	1.0757	60
Increase factor of the economic index over the prior 12-month period	1.0911	

[1] The weights, including the malpractice component, were derived from a special study done for HCFA by a consultant in 1982. The last previous revision of the weights occurred in 1981. The revised weights from the 1982 study reflect more recent data from a sample of physicians than were available previously.

[2] Derived from a survey of several major insurers.

TABLE 2.—DETERMINATION OF THE ECONOMIC INDEX FOR THE PERIOD JULY 1982 THROUGH JUNE 1983

12-month period ending June 30	Economic index for the period adjusted for revision in BLS statistics since the announcement [1]
1976	1.1761
1977	1.2583
1978	1.3294
1979	1.4028
1980	1.5168
1981	1.6404
1982	1.7862
1983	1.9489

[1] See text for explanation.

Other Matters

We estimate that this annual update will result in an increase of Medicare payments to physicians by approximately $280 million during the period of July 1, 1982 through June 30, 1983. The update is required by statute. Since this notice limits increases in physicians' prevailing charges, is a technical change only (substituting the 1981 inflation factor for the 1980 factor) and involves no changes in substantive program policy, it represents the least possible economic impact. That is, it limits the increases in prevailing charges to account for inflation only. Therefore, this notice is not subject to the requirements of Executive Order 12291 or the Regulatory Flexibility Act, 5 U.S.C. 605(b).

(Sec. 1842(b)(3), of the Social Security Act (42 U.S.C. 1395u(b)(3))

(Catalog of Federal Domestic Assistance Program No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: June 28, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 82-17988 Filed 6-30-82; 8:45 am]

BILLING CODE 4120-03-M

Office of Human Development Services

Statement of Organization, Functions, and Delegations of Authority

This notice amends Part D of the statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services, Office of Human Development Services (OHDS) (45 FR 64253) (1) to reduce the Administration for Native Americans by consolidating management functions and program operation functions and (2) to centralize HDS public affairs functions in the Office of Public Affairs. The language to be inserted to implement these changes is as follows:

1. Part D, Chapter DN, "The Administration for Native Americans", as published in the **Federal Register** on January 27, 1981 (46 FR 8752), is to be deleted in its entirety and replaced by the following:

DN.00 Mission. The Administration for Native Americans (ANA) represents the concerns of American Indians, Alaskan Natives, and Native Hawaiians, hereinafter referred to as Native Americans.

The Administration has primary responsibility for developing policy, legislative proposals and guidance and for providing staff advice to the Assistant Secretary and the Secretary on matters involving the social and economic development of Native Americans. ANA administers grant programs to eligible Indian tribes and Native American organizations in urban and rural areas with funds authorized under the Native American Programs Act of 1974, as amended.

In conjunction with the Office of the Assistant Secretary for Human Development Services, ANA provides Departmental liaison with other Federal agencies on Native American affairs, working to promote social and economic self-sufficiency for Native Americans. Through its policy, liaison, and granting functions, ANA explores new program concepts and new methods for increasing the social and economic development of Native Americans, assures that information about Departmental services and benefits and eligibility criteria is available to Native Americans, and fosters the opportunity

for the exercise of self-determination of Native Americans and their operation of Native American programs and enterprises.

ANA serves as the lead agency within HHS on issues concerning Native Americans. Advocates on behalf of Native Americans in HDS program planning and policy development. Develops standards, provides technical assistance, issues best practices guidelines, initiates policy relative to HDS services provided to Native Americans. In coordination with the Office of Program Coordination and Review, is responsible for the development of strategies for review of State Title IV–B plans and other social service plans as they pertain to Native Americans and for reviewing such services provided to Native Americans. Provides technical assistance and initiates policy relative to the provision of services to Native Americans under sections 803, 804 and 805 of the Native American Programs Act, as amended. Works in collaboration with the Office of Program Coordination and Review in the coordination of HDS training and technical assistance programs.

DN.10 Organization. The Administration for Native Americans is headed by the Commissioner, who reports directly to the Assistant Secretary for Human Development Services, and consists of:

Office of the Commissioner (DN);

Intra-Departmental Council on Indian Affairs (DN–1);

Planning, Management and Policy Control Staff (DNP);

Program Operations Division (DNB).

DN.20 Functions. A. Office of the Commissioner provides overall direction, management strategy and legislative liaison, in consultation with the Assistant Secretary for Human Development Services and the Office of Assistant Secretary for Legislation, for all components of ANA. Serves as advisor to the Assistant Secretary for Human Development Services, the Secretary, and the heads of DHHS agencies administering programs which have a significant impact on Native Americans. On behalf of the Department conducts liaison with and obtains advice from Indian tribes and Native American organizations. Has approval authority for ANA grant awards for financial assistance to American Indian tribes, Alaskan Native organizations, and Native Hawaiian groups. Provides policy direction and guidance ot the HDS Regional Offices with respect to programs for urban Indian, off-reservation Indians and other Native American projects. Has ANA approval authority for all interagency agreements. The Commissioner is Chairman of the Intra-Departmental Council on Indian Affairs.

A. Intra-Departmental Council on Indian Affairs provides general staff support to the Council and to the Commissioner of ANA, the Chairperson of the Council. The Council serves as the focal point within the Department for intra-agency coordination activities relating to Indian affairs to effect cooperation and complementary utilization of the Department's resources for Indian people. Promotes consistent policies on Indian affairs for the entire Department and promotes the full and continuous application of these policies throughout the Department.

Identifies administrative, legislative and regulatory changes or developments necessary for the application of effective and consistent Federal Indian Policy.

B. Planning, Management and Policy Control Staff plans, coordinates, and controls ANA policy, planning, and management activities. Manages the development of regulations, policies and guidelines for ANA. Develops and recommends the implementation of policies in coordination and consultation with the Office of Policy Development/Office of Human Development Services.

In coordination with the Office of Policy Development and the Office of Management Services in the Office of Human Development Services, directs the development of program plans consistent with the Department's requirements. Formulates budget and legislative plans consistent with Departmental and ANA requirements.

Coordinates the reporting by ANA units to the Department of Health and Human Services/Office of Human Development Services management system, including reports on short-range initiatives. Assists the ANA Program Operations Division in developing local program planning capability.

Tracks financial status of all program and Salaries and Expenses accounts and provides financial data to the Commissioner. Furnishes assistance to program specialists on Departmental financial management and on development of ANA fiscal and budget procedures; coordinates with appropriate Office of Human Development services staff units in carrying out these functions.

Provides a wide range of management administrative services in support of all ANA programs and activities. Expedites the progress of all procurements and personnel actions. Serves as ANA Executive Secretariat, controlling the flow of correspondence. Responsible for the receipt of Freedom of Information Requests directed to ANA and coordinates responses to such requests. Coordinates with appropriate Office of Human Development Services units in implementing administrative requirements and procedures.

C. Program Operations Division provides direct financial assistance to American Indian tribal governments, Native Hawaiian organizations, Alaskan Native organizations, urban Indian groups, rural off-reservation Native American groups, and other Native American groups and organizations, including national, regional, statewide, local and inter-tribal consortia groups. Serves as a resource for and liaison among Indian tribes and other Native American groups and organizations and as a link with programs of national significance.

Manages the technical assistance, evaluation, research, demonstration and training projects for the Administration for Native Americans. Carries out special projects and initiatives for the benefit of the ANA service population. Coordinates all inter-agency agreements of ANA with other Federal agencies. Provides coordination for the Reservation Programs Branch, the Special Programs Branch, the Program Support Branch, the ANA Region X Office, and ANA activities in other Office of Human Development Services Regional Offices.

Provides information and program content for plans, budget formulation and policy development for activities authorized under the Native American Programs Act of 1974, as amended. Coordinates in cooperation with the ANA Planning, Management and Policy Control Staff, all matters pertaining to planning, overall ANA management, policy development and control, and program development. In coordination with the Office of Management Services, manages the ANA program management information system to support ANA program reporting, planning, and administration.

2. Part D, Chapter DA, Section DA.20., "Office of Public Affairs," as published in the **Federal Register** on September 29, 1980 (45 FR 64256), is to be deleted in its entirety and replaced by the following:

2. Office of Public Affairs assists the Assistant Secretary for Human Development Services and program Commissioners in the formulation and development of policy having public information and education implications. Provides advice on strategies and approaches to be used to improve public understanding of and access to Office of Human Development Services programs and policies. Represents the Assistant

Secretary and program Commissioners in discussions of major policy issues relating to public affairs. Directs the preparation of speeches, statements, and other information materials. Develops and implements a comprehensive public affairs plan for the Office of Human Development Services. Reviews and evaluates the effectiveness of public information and education programs in the Office of Human Development Services and recommends improvements in scope, operational approach, and policy direction. Provides technical leadership and services on public information and educational to Office of Human Development Services staff and programs in both central and regional offices. Recommends approaches for meeting internal and external communications needs of the Office of Human Development Services.

Plans, organizes and administers the Office of Human Development Services public information program consistent with policy direction established by the Assistant Secretary for Public Affairs and serves as liaison with that office. Coordinates Office of Human Development Services public affairs activities with other parts of the Department of Health and Human Services, Federal agencies, States and local organizations, and other interested parties with related functions. Works to ensure sound and effective relations with the public served or affected by the activities of the Office of Human Development Services and to encourage participation in Office of Human Development Services programs through effective public information programs. For the development and execution of public communications of concern to the Office of Human Development Services, serves as the Office of Human Development Services liaison to the process, radio, TV, professional journals, the White House, the Office of the Secretary/HHS, OASPA, and other government and non-government agencies.

Directs the audio-visual and publication management and distribution system for the Office of Human Development Services. Reviews and approves requests for proposals and program announcements for contracts which involve publications, audio-visual materials, and/or public information and education activities. Provides centralized marketing, printing, distribution, management and graphics design services to the Office of Human Development Services. Serves as the Freedom of Information Office for the Office of Human Development Services.

Dated: June 24, 1982.

Richard S. Schweiker,

Secretary

[FR Doc. 82-17751 Filed 6-30-82; 8:45 am]

BILLING CODE 4130-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Regional Administrator

[Docket No. D-82-669]

Acting Area Manager, Jackson Area Office, Region IV (Atlanta); Designation

AGENCY: Department of Housing and Urban Development.

ACTION: Designation of Order of Succession.

SUMMARY: The Regional Administrator and Area Manager are designating officials who may serve as Acting Area Manager for the Jackson Area Office during the absence, disability, or vacancy in the position of the Area Manager.

EFFECTIVE DATE: March 31, 1982.

FOR FURTHER INFORMATION CONTACT: George A. Milburn, Jr., Director, Management and Budget Division, Office of Regional Administration, Atlanta Regional Office, Department of Housing and Urban Development, Room 664, 75 Spring Street, Atlanta, Georgia 30303, 404-221-5199. This is not a toll-free number.

DESIGNATION: Each of the officials appointed to the following positions is designated to serve as Acting Area Manager during the absence, disability, or vacancy in the position of, the Area Manager, with all the powers, functions, and duties redelegated or assigned to the Area Manager, provided that no official is authorized to serve as Acting Area Manager unless all officials listed before him/her in this designation are unavailable to act by reason of absence, disability or vacancy in the position:

1. Deputy Area Manager
2. Director, Housing Division
3. Director, Community Planning and Development Division
4. Deputy Director for Development, Housing Division
5. Deputy Director for Management, Housing Division
6. Special Assistant to the Area Manager.

This designation supersedes the designation effective September 7, 1978 (43 FR 39859, September 7, 1978).

Authority: Delegation of Authority by the Secretary effective October 1, 1970, (36 FR 3389, February 23, 1971).

This designation shall be effective as of March 31, 1982.

James S. Roland,

Area Manager, Jackson Area Office.

Clifton G. Brown,

Regional Administrator, Region IV (Atlanta).

[FR Doc. 82-17726 Filed 6-30-82; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. D-82-671]

Minneapolis-St. Paul Area Office; Designation

AGENCY: Department of Housing and Urban Development.

ACTION: Designation of order of succession.

SUMMARY: The Regional Administrator and Area Manager are designating officials who may serve as Acting Area Manager during the absence, disability, or vacancy in the position of the Area Manager.

EFFECTIVE DATE: This designation is effective immediately.

FOR FURTHER INFORMATION CONTACT: James P. Zale, Director, Management and Budget Division, Office of Regional Administration, Chicago Regional Office, Department of Housing and Urban Development, 300 South Wacker Drive, Chicago, Illinois 60606, (312) 353-5952, (This is not a toll-free number).

DESIGNATION: Each of the officials appointed to the following positions is designated to serve as Acting Area Manager during the absence, disability, or vacancy in the position of the Area Manager, with all the powers, functions, and duties redelegated or assigned to the Area Manager: Provided, that no official is authorized to serve as Acting Area Manager unless all preceding listed officials in this designation are unavailable to act by reason of absence, disability, or vacancy in the position:

1. Deputy Area Manager
2. Director, Housing Division
3. Area Counsel
4. Director, Community Planning and Development Division
5. Director, Administrative Management Division.

This designation supersedes the designation effective June 19, 1978.

Authority: Delegation of Authority by the Secretary effective October 1, 1970; 36 FR 3389, February 23, 1971.

Thomas T. Feeney,

Area Manager, Mpls-St. Paul Area Office.

Stephen W. Brown,

Acting Regional Administrator, Region V.

[FR Doc. 82-17728 Filed 6-30-82; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. D-82-672]

Milwaukee Area Office; Designation

AGENCY: House & Urban Development Department.

ACTION: Designation of order of succession.

SUMMARY: The Regional Administrator and Area Manager are designating officials who may serve as the Acting Area Manager during the absence, disability, or vacancy in the position of the Area Manager.

EFFECTIVE DATE: The designation is effective January 1, 1982.

FOR FURTHER INFORMATION CONTACT: James P. Zale, Director, Management and Budget Division, Office of Regional Administration, Chicago Regional Office, Department of Housing and Urban Development, 300 South Wacker Drive, Chicago, Illinois 60606, (312) 353-5952. (This is not a toll-free number.)

DESIGNATION: Each of the officials appointed to the following positions is designated to serve as Acting Area Manager during the absence, disability, or vacancy in the position of the Area Manager, with all the powers, functions, and duties redelegated or assigned to the Area Manager: Provided, that no official is authorized to serve as Acting Area Manager unless all preceding listed officials in this designation are unavailable to act by reason of absence, disability, or vacancy in the position:

1. Deputy Area Manager
2. Director, Community Planning & Development Division
3. Director, Housing Division
4. Director, Fair Housing and Equal Opportunity Division
5. Area Counsel
6. Deputy for Management, Housing Division
7. Deputy for Development, Housing Division.

This designation supersedes the designation effective June 19, 1978.

Authority: Delegation of Authority by the Secretary effective October 1, 1970; 36 FR 3389, February 23, 1971.

Patricia M. Jameson,

Acting Area Manager, Milwaukee Area Office.

Stephen W. Brown,

Acting Regional Administrator, Region V.

[FR Doc. 82-17729 Filed 6-30-82; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. D-82-670]

Indianapolis Area Office; Designation

AGENCY: Housing and Urban Development Department.

ACTION: Designation of Order of Succession.

SUMMARY: The Regional Administrator and Area Manager are designating officials who may serve as Acting Area Manager during the absense, disability, or vacancy in the position of the Area Manager.

EFFECTIVE DATE: January 19, 1982.

FOR FURTHER INFORMATION CONTACT: James P. Zale, Director, Management and Budget Division, Office of Regional Administration, Chicago Regional Office, Department of Housing and Urban Development, 300 South Wacker Drive, Chicago, Illinois, 60606. Phone number (312) 353-5952 (This is not a toll-free number).

DESIGNATION: Each of the official appointed to the following positions is designated to serve as Acting Area Manager during the absence, disability, or vacancy in the position of the Area Manager, with all the powers, functions, and duties redelegated or assigned to the Area Manager: Provided that no official is authorized to serve as Acting Area Manager unless all preceding listed officials in this designation are unavailable to act by reason of absence, disability, or vacancy in the position:

1. Deputy Area Manager
2. Director, Housing Division
3. Director, Community Planning & Development Division
4. Area Counsel
5. Director, Administrative Management Division
6. Director, Fair Housing & Equal Opportunity Division
7. Deputy Director for Housing Development
8. Deputy Director for Housing Management.

This designation supersedes the designation published at 43 FR 39861 on September 7, 1978.

Authority: Delegation of Authority by the Secretary effective October 1, 1970; 36 FR 3389, February 23, 1971.

Martha D. Lamkin,

Area Manager, Indianapolis Area Office.

Stephen W. Brown,

Acting Regional Administrator, Region V.

[FR Doc. 82-17730 Filed 6-30-82; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. D-82-673]

Detroit Area Office; Designation

AGENCY: Housing and Urban Development Department.

ACTION: Designation of Order of Succession.

SUMMARY: The Regional Administrator and Area Manager are designated officials as Acting Area Manager during the absence, disability, or vacancy in the position of the Area Manager.

EFFECTIVE DATE: This designation is effective immediately.

FOR FURTHER INFORMATION CONTACT: James Zale, Director, Management and Budget Division, Office of Regional Administration, Chicago Regional Office, Department of Housing and Urban Development, 300 South Wacker Drive, Chicago, Illinois 60606, (312) 353-5952 (This is not a toll-free number).

DESIGNATION: Each of the officials appointed to the following positions is designated to serve as Acting Area Manager during the absence, disability, or vacancy in the position of the Area Manager, with all the powers, functions, and duties redelegated or assigned to the Area Manager: Provided, that no official is authorized to serve as Acting Area Manager unless all preceding listed officials in this designation are unavailable to act by reason of absence, disability, or vacancy in the position:

1. Deputy Area Manager
2. Director, Housing Division
3. Director, Community Planning & Development Division
4. Area Counsel.

This designation supersedes the designation effective June 19, 1978.

AUTHORITY: Delegation of Authority by the Secretary effective October 1, 1970; 36 FR 3389, February 23, 1971.

Stephen W. Brown,

Area Manager, Detroit Area Office.

Stephen W. Brown,

Acting Regional Administrator, Region No. V.

[FR Doc. 82-17734 Filed 6-30-82; 8:45 am]

BILLING CODE 4210-01-M

Office of Secretary

[Docket No. N-82-1136]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New

Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Robert G. Masarsky, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755–5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from Robert G. Masarsky, Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposals should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Notice of Submission of Proposed Information Collections to OMB

Proposal: Forms Relating to National Manufactured Housing Construction and Safety Standards Act
Office: Housing
Form number: NCSBCS 301; 302, 303, and 304
Frequency of Submission: Monthly
Affected Public: Mobile Home Manufacturers
Estimated Burden Hours: 9,792
Status: New
Contact:
John Mason, HUD, (202) 755–6920
Robert Neal, OMB, (202) 395–6880

Proposal: Supplemental Application and Processing Form, Housing for the Elderly or Handicapped
Office: Housing
Form number: HUD–92013–E
Frequency of Submission: On Occasion
Affected Public: Businesses or other Institutions (except farms)
Estimated Burden Hours: 300
Status: Reinstatement
Contact:
John Wells, HUD, (202) 755–5743
Robert Neal, OMB, (202) 395–6880

Proposal: Application for Designation as Fee Personnel
Office: Housing
Form Number: HUD–92563
Frequency of Submission: Annually
Affected Public: Individuals or Households
Estimated Burden Hours: 500
Status: Revision
Contact:
John J. Coonts, HUD, (202) 755–6720
Robert Neal, OMB, (202) 395–6880

Proposal: Community Housing Resource Board Program Monitoring Form
Office: Fair Housing and Equal Opportunity
Foam Number: None
Frequency of Submission: Quarterly
Affected Public: Individuals or Households
Estimated Burden Hours: 560
Status: New
Contact:
Deborah Seabron, HUD, (202) 755–5992
Robert Neal, OMB, (202) 395–6880

Proposal: Application for Coinsurance Benefits
Office: Administration
Form Number: HUD–426, 426A, 426.1 and 427
Frequency of Submission: On Occasion
Affected Public: Businesses or other Institutions (except farms)
Estimated Burden Hours: 134
Status: Revision
Contact:
Curtis Langford, HUD, (202) 755–5747
Robert Neal, OMB, (202) 395–6880

Proposal: Monthly Report of Cooperative Housing Corporation
Office: Housing
Foam Number: HUD–93211
Frequency of Submission: On Occasion
Affected Public: Management Agents for Cooperative Corporations
Estimated Burden Hours: 120
Status: Extension
Contact:
Jerry M. Noel, HUD, (202) 426–7624
Robert Neal, OMB, (202) 395–6880

Proposal: Preliminary site Report by Public Housing Agency
Office: Housing
Form Number: HUD–52651
Frequency of Submission: On Occasion
Affected Public: Public Housing Agencies
Estimated Burden Hours: 1,500
Status: Reinstatement
Contact:
Raymond Hamilton, HUD, (202) 755–5848
Robert Neal, OMB, (202) 395–6880

Proposal: Comparative Analysis of Utility Costs
Office: Housing
Form Number: HUD–51994A thru 51994D
Frequency of Submission: On Occasion
Affected Public: Public Housing Agencies
Estimated Burden Hours: 3,000
Status: Revision
Contact:
Dominic Eng, HUD, (202) 755–6593
Robert Neal, OMB, (202) 395–6880

Proposal: Forms for Application and PHA Proposals
Office: Housing
Form Number: HUD–52470–REV, HUD–52483A, HUD–52485, HUD–52651A and HUD–52482
Frequency of Submission: On Occasion
Affected Public: Public Housing Agencies
Estimated Burden Hours: 9,000
Status: New
Contact:
Raymond Hamilton, HUD, (202) 755–5848
Robert Neal, OMB, (202) 395–6880

Proposal: Community Development Block Grant Small Cities Application Package (HUD Administration)
Office: Community Planning and Development
Form Number: HUD–4045 and TBA4
Frequency of Submission: Annually
Affected Public: State or Local Government
Estimated Burden Hours: 60,000
Status: New
Contact:
Bryant Monroe, HUD, (202) 755–6322
Robert Neal, OMB, (202) 395–6880

Proposal: Preliminary Site Report by Indian Housing Authority
Office: Housing
Form Number: HUD–3188
Frequency of Submission: On Occasion
Affected Public: Indian Housing Authorities
Estimated Burden Hours: 2,548
Status: Extension
Contact:
Edmund P. Carrera, HUD, (202) 755–6522
Robert Neal, OMB, (202) 395–6880

Proposal: Evaluation of the Congregate Housing Services Program: Process Evaluation
Office: Policy Development and Research
Form Number: None
Frequency of Submission: Annually
Affected Public: State and Local Governments
Estimated Burden Hours: 177
Status: New
Contact:
Barbara Haley, HUD, (202) 755–5575
Robert Neal, OMB, (202) 395–6880

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: June 17, 1982.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 82-17020 Filed 6-30-82; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Serial No. I-14950]

Idaho; Proposed Withdrawal Continuation

June 24, 1982.

The Forest Service, Department of Agriculture proposes to continue the existing withdrawal for the following public lands withdrawn by Secretarial Order dated November 13, 1908, for a 50 year period pursuant to Section 204 of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2751; 43 U.S.C. 1714):

Boise Meridian, Idaho

T. 14 N., R. 19 E.,
Sec. 33, Lot 1.

The area described contains 37.29 acres in Custer County, Idaho.

The purpose of the withdrawal is to protect an administrative site and the improvements thereon. The withdrawal closed the described lands to all forms of appropriation under the public land laws, including the mining and mineral leasing laws. No change in the segregative effect or use of the land is proposed by this action.

Notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal continuation. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to the undersigned officer within 90 days of the date of publication of this notice. Upon determination by the State Director, Bureau of Land Management, that a public hearing will be held, a notice will be published in the **Federal Register** giving the time and place of such hearing. In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the proposed withdrawal continuation may be filed with the undersigned officer on or before September 29, 1982.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. He will review the withdrawal justification to insure that the continuation would be consistent with the statutory objectives of the programs for which the land is dedicated, the area involved is the minimum essential to meet the desired needs, the maximum concurrent utilization of the land is provided for, and an agreement is reached on the concurrent management of the land and its resources. He will also prepare a report for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued, and if so, for how long. The final determination on continuation of the withdrawal will be published in the **Federal Register**, the existing withdrawal will continue until such final determination is made.

All communication in connection with this proposed withdrawal continuation should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Federal Building, Box 042, 550 West Fort Street, Boise, Idaho 83724.

William E. Ireland,

Chief, Lands Section.

[FR Doc. 82-17906 Filed 6-30-82; 8:45 am]

BILLING CODE 4310-84-M

[M 55205]

Montana; Realty Action, Modified Competitive Sale of Public Land in Carter County, Mont.

June 22, 1982.

The following described lands have been examined and identified as suitable for disposal by sale pursuant to Sec. 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713 (1976), at no less than the fair market value:

Principal Meridian

T. 8 S., R. 58 E.,
Sec. 20, SW¼SW¼.

The area described contains 40 acres.

The land will be offered for sale by sealed bid utilizing modified competitive bidding procedures. Pilster Ranch Corp., c/o Edward Pilster, the owner of the surrounding private land and the current grazing lessee, is the proposed designated bidder and will be offered the right to meet the highest bid. Refusal or failure to meet the highest bid shall constitute a waiver of such bidding provisions.

The subject land is located 13 miles northwest of Alzada, Montana, south of U.S. Highway 212. The land is isolated, with no legal access, is unusable by the general public, and is difficult and uneconomic to mange as part of the public lands system. The subject land has no unique values and has historically been used for livestock grazing. In addition, part of Mr. Pilster's barn and corral were constructed unintentionally on the public land over 26 years ago. The sale, if consummated, will resolve this unauthorized use.

The proposed sale is consistent with the Bureau's planning system and Carter County government officials have been notified of the proposed sale. Since the land has a low resource value, the transfer of the tract into private ownership will benefit the public interest and provide for better land management.

The terms and conditions applicable to the sale are as follows:

1. All minerals will be reserved to the United States together with the right to explore, prospect for, mine, and remove them under applicable law and regulations;

2. A right-of-way for ditches and canals will be reserved to the United States; and

3. The sale of these lands will be subject to all valid existing rights and reservations of record.

Detailed information concerning the sale, including the planning documents, environmental assessment, and the record of public discussions, is available for review at the Miles City District Office, West of Miles City, P.O. Box 940, Miles City, Montana 59301.

The bid opening for the modified competitive sale of the above-described public land in Carter County, Montana, will be held at the Montana State Office, 222 North 32nd Street, Billings, Montana, on Tuesday, *August 31, 1982*, at 10 a.m.

Bidding Information and Instructions:

Bidder Qualifications: The Federal Land Policy and Management Act requires that bidders be U.S. citizens or, in the case of a corporation, subject to the laws of any state or the U.S. A State, State instrumentality or political subdivision submitting a bid must be authorized to hold property. Any other entity submitting a bid must be legally capable of conveying and holding lands or interests therein under the laws of the State of Montana.

Bids must be made by the principal or his agent.

Bid Standards: No bid will be accepted for less than the appraised value of $4,600 and bids must include all of the land identified in this sale notice.

Method of Bidding: The land will be sold by sealed bid only. Bids delivered or sent by mail will be considered only if received by the Bureau of Land

Management, 222 North 32nd Street, P.O. Box 30157, Billings, Montana 59107, prior to 10 a.m. on August 31. Each bid must be in a sealed envelope accompanied by a certified check, postal money order, bank draft, or cashier's check made payable to the Bureau of Land Management for not less than one-fifth of the amount of the bid. The sealed bid envelope must be marked in the lower left-hand corner as follows:

Public Land Sale M 55205
August 31, 1982

If two or more envelopes containing valid bids of the same amount are received, the determination of which is to be considered the highest bid shall be by drawing. The drawing, if required, shall be held immediately following the opening of the sealed bids. The highest qualifying sealed bid then be publicly declared.

Modified Bidding: For a period of 30 days following the date of the sale, Pilster Ranch Corporation, c/o Mr. Edward Pilster, the owner of the private land surrounding the sale parcels, will be offered the right to meet the highest bid. If he meets the highest bid, the land will be sold to him, and the other bid will be returned. His refusal to meet the highest bid shall constitute a waiver of such bidding provisions.

Final Details: Once a high bid is accepted, the successful bidder shall submit the remainder of the full bid price within the time period designated by the authorized officer. Failure to submit the required amount within the allotted time will result in cancellation of the sale and the deposit will be forfeited.

All bids will be either returned, accepted, or rejected within 60 days of the sale date.

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, P.O. Box 940, Miles City, Montana 59301. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become a final determination of the Department of the Interior.

Kannon Richards,
Acting State Director.

[FR Doc. 82-17906 Filed 6-30-82; 8:45 am]
BILLING CODE 4310-84-M

[OR 29127]

Oregon; Notice of Realty Action; Lease; Public Lands in Baker County

June 24, 1982.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action OR 29127, Recreation and Public Purposes Classification and Lease of Public Land in Baker County, Oregon.

SUMMARY: Notice is hereby given that the City of Sumpter, Oregon has submitted an application to lease several isolated tracts of public land for storage of city equipment, protection and expansion of the city water system; park purposes for future expansion areas for city projects.

The following described land has been examined and classified as suitable for lease or sale under the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869 et seq.):

Willamette Meridian, Oregon

T. 9 S., R. 37 E.,
Sec. 29, lots 14, 15 and 17;
Sec. 30, lot 10.

Encompassing 29.86 acres, more or less.

This decision/notice is based on the following reasons:

1. The lands have been found to be valuable for public purposes and recreational uses.
2. The land is not of national significance and not essential to any Bureau of Land management program
3. The proposed use is in conference with the existing land use plan.
4. The proposed action, will have no significant (including controversial) effects on the human and natural environment.
5. Leasing of the above described lands to the City of Sumpter, Oregon will serve important public objectives, i.e., provide additional lands for expansion of the city's recreational and public purposes projects.
6. The classification, lease and/or patenting of the land to the City of Sumpter, Oregon is in conformance with the Secretary of the Interiors "Good Neighbor Program."
7. The subject lands are isolated, irregular in size and shape and receive only custodial management.

DATES: Until August 9, 1982, interested parties may submit comments to the District Manager, Bureau of Land Management, Federal Building, P.O. Box 987, Baker, Oregon 97814. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of this Department.

FOR FURTHER INFORMATION CONTACT: Information related to this Recreation and Public Purposes Application, including the environmental assessment record, land report, terms and conditions and special stipulations that will be included in the lease, is available for review at the Baker District Office, Federal Building, Baker, Oregon 97814.

SUPPLEMENTARY INFORMATION: The classification and granting of the lease for a maximum period of 25 years with the option to purchase/patent the land will not be adverse to any known public or private interests.

Classification of these lands to the City of Sumpter, Oregon, under the provisions of the above cited authority segregates them from all appropriations, including locations under the mining laws, except as to applications under the Mineral Leasing Laws and applications under the Recreation and Public Purposes Act.

This Recreation and Public Purposes Application is consistent with Bureau of Land Management policies and planning and has been discussed with state and local officials.

Petition for classification OR 29127 is approved as to the land described above.

Name of petitioner: City of Sumpter, by its Mayor.

Type of petition: Recreation and Public Purposes under the Recreation and Public Purposes Act of June 14, 1926, as amended.

Gordon R. Staker,
District Manager.

[FR Doc. 82-17907 Filed 6-30-82; 8:45 am]
BILLING CODE 4310-84-M

Idaho Falls District; Realty Action; Competitive Sale—I-18297; Public Land in Clark County, Idaho

Summary: The following described land has been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713) at no less than the fair market value of $22,000.

Boise Meridian, Idaho

T. 9 N., R. 36 E.,
Sec. 21, NE¼NW¼;
Sec. 32, NW¼SW¼.

The above described land will be sold at public auction by competitive bidding. The land is not being used and is not required for any federal purposes.

It does not complement BLM programs and the location and physical characteristics of the tracts, along with the private ownership of adjoining lands, make it difficult and uneconomical to manage as public land. Disposal would not have any significant effect on resource values and would best serve the public interest.

A patent for the land, when issued, will be subject to the following conditions:

1. A right-of-way for ditches or canals constructed by the authority of the United States. Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. All minerals will be reserved to the United States as required by Section 209(a) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1719.

3. All valid existing rights and reservations of record.

The sale will be held at the Idaho Falls District Office, Bureau of Land Management, 940 Lincoln Road, Idaho Falls, Idaho 83401, at 1:00 p.m. on Thursday, September 30, 1982.

Bidding Information and Instructions:

Bidder Qualifications: The Federal Land Policy and Management Act requires that bidders must be citizens of the United States 18 years of age or over, or, in the case of a corporation, be subject to the laws of any state or the United States. Bids may be made by a principal (the one desiring to purchase the land) or his duly qualified agent.

Bid Standards: No bid will be accepted for less than the appraised fair market value of $22,000. Bids must be for all the land.

Method of Bidding: Bids may be made either by mail or personally at the sale. Bids sent by mail will only be considered if received at the Idaho Falls District Office, 940 Lincoln Road, Idaho Falls, Idaho 83401 prior to 1:00 p.m. on September 30, 1982. Bids sent by mail must be in sealed envelopes accompanied by a certified check, postal money order, bank draft or cashier's check made payable to the Bureau of Land Management for not less than one-fifth of the amount of the bid. The sealed envelopes must be marked in the lower left-hand corner, "Sealed Bid, Public Land Sale I–18297, Sale to be September 30, 1982." If two or more valid sealed bids in the same amount are received and they are the high bid, the determination of which bid is to be considered shall be by a drawing. The drawing, if required, shall be held immediately following the opening of the bids. The highest qualifying sealed bid shall then be announced.

Oral bids will be received immediately after all sealed bids have been opened and the highest sealed bid is announced. The highest sealed bid will be the base for oral bids. All oral bids must be made in increments of not less than $50. Sealed bidders present at the sale may also make oral bids. The highest bid price, either sealed or oral, will establish the sale price. If the highest bid is an oral bid, the successful bidder will be required to pay immediately one-fifth of the high bid price by cash, personal check, money order, bank draft, or any combination of these.

Final Details: The successful high bidder, whether it is by sealed or oral bid, will be required to submit full payment for the balance of the bid within 30 days from the date of the sale. Failure to submit such payment within the 30 day period shall result in cancellation of the sale and the bid deposit shall be forfeited. All unsuccessful sealed bids will be returned within 30 days from the sale date. If no bids for the land, either sealed or oral, are received on the sale date, the sale will be adjourned until the next Wednesday at the same hour and place and continued on each succeeding Wednesday, until the lands are sold as specified in this notice or the sale is otherwise terminated.

Further Information/Inquiries: Further information concerning this sale, including the planning documents and Environmental Assessment, is available for review in the Idaho Falls District Office at the address indicated above. For a period of 45 days from the date of this notice, interested parties may submit comments to the Idaho Falls District Manager. Any adverse comments will be evaluated by the Idaho State Director, Bureau of Land Management, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Dated: June 24, 1982.

O'Dell A. Frandsen,

District Manager.

[FR Doc. 82–17908 Filed 6–30–82; 8:45 am]

BILLING CODE 4310–84–M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Applications

The applicants listed below wish to conduct certain activities with endangered species:

Applicant; The Gorilla Foundation, Woodside, CA (PRT 2–0315)

The applicant requests a permit to import one male lowland gorilla (*Gorilla gorilla*) from the Republique Populaire du Congo for scientific research and enhancement of propagation. The gorilla is being offered as a gift from the Congolese government.

Applicant; The Science Museum of Minnesota, St. Paul, MN (PRT 2–0306)

The applicant requests a permit to import one nile crocodile (*Crocodylus niloticus*) skin and skull collected in Zambia in 1974 for scientific research.

Humane care and treatment during transport, if applicable, has been indicated by the applicants.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia, or by writing to the U.S. Fish and Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications by August 2, 1982 by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: June 28, 1982.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 82–17907 Filed 6–30–82; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

[AA–6698–B]

Alaska Native Claims Selection

On December 17, 1974, Salamatof Native Association, Inc., for the Native village of Salamatof, filed selection application AA–6698–B under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976)) (ANCSA), for the surface estate of certain lands in the vicinity of Kenai and Soldotna, Alaska.

As to the lands described below, the application, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 9,028.10 acres, is considered proper for

acquisition by Salamatof Native Association, Inc. and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA:

Amended U.S. Survey No. 4520, lot 2, situated on the westerly shore of Cook Inlet approximately seven miles northwesterly of West Foreland.

Containing .10 acre.

U.S. Survey No. 4524, Alaska, lots 1 and 2, situated on the northeasterly shore of West Foreland, Trading Bay, Cook Inlet, Alaska.

Containing 10.00 acres.

Seward Meridian, Alaska

T. 8 N., R. 14 W.,

Those portions of Tract A more particularly described as (protracted):

Sec. 5 (fractional), excluding Tract A of U.S. Survey No. 363, U.S. Survey No. 3974, lots 1 and 2, U.S. Survey No. 4520, lots 1 and 2, and U.S. Survey No. 4586 and those lands described in Alaska State Patent No. 700 to the Kenai Peninsula Borough dated January 12, 1968;

Sec. 6, excluding U.S. Survey No. 4520, lot 1 and Alaska State Patent No. 1880 to the Kenai Peninsula Borough described as ASLS 74–19 filed in the Anchorage Recorders Office January 24, 1974;

Sec. 7;

Sec. 8 (fractional), excluding U.S. Survey No. 3974, lots 1 and 2;

Secs. 9 and 16 (fractional);

Secs. 17 to 20, inclusive;

Sec. 21 (fractional), excluding Native allotment AA–8272 Parcel B, U.S. Survey No. 4522, U.S. Survey No. 4523, U.S. Survey No. 4524, lot 1;

Secs. 22 and 27 (fractional), excluding U.S. Survey No. 4524, lot 1;

Sec. 28, excluding U.S. Survey No. 4524, lot 1;

Secs. 29 and 30;

Sec. 31 (fractional);

Secs. 32 and 33;

Sec. 34 (fractional), excluding U.S. Survey No. 4524, lot 2.

Containing approximately 9,018.00 acres.

Aggregating approximately 9,028.10 acres.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for the following reasons: Lands are no longer under Federal jurisdiction, and lands are under applications pending further adjudication. Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

There are no inland water bodies considered to be navigable within the above-described lands.

There are no easements to be reserved pursuant to Sec. 17(b) of ANCSA.

The conveyance issued for the surface estate of the lands described above shall contain the following reservation to the United States:

The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)).

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official supplemental plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section; and

4. The following oil and gas lease: A–035017 located in U.S. Survey No. 4522, U.S. Survey No. 4523, U.S. Survey No. 4524, lot 1, and Tract A protracted Secs. 16, 21, 22, 27, and 28, T. 8 N., R. 14 W., Seward Meridian, Alaska. The act of February 25, 1982 (30 U.S.C. 181).

Salamatof Native Association, Inc., is entitled to conveyance of 92,160 acres of land selected pursuant to Sec. 12(a) of ANCSA. This entitlement is subject to reduction incurred by relinquishments made by Salamatof in the Lake Clark area as required by Sec. 12(a) of Public Law (Pub. L.) 94–204 (89 Stat. 1151), and also to reduction for exchanges pursuant to Sec. 7 of the agrrement of August 17, 1979 as directed by Sec. 1432 of Pub. L. 96–487 (94 Stat. 2543).

Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 27,722.92 acres. In accordance with section 1432 of Pub. L. 96–487, and the agreement of August 17, 1979, those lands to be conveyed to Salamatof within the Kenai National Wildlife Refuge will be charged as 57,480 acres. In view of this, the total acreage chargeable to the Sec. 14(a) entitlement to date is approximately 70,172 acres. The remaining entitlement will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA, conveyance of the subsurface estate of the lands described above shall be issued to Cook Inlet Region, Inc., when the surface estate is conveyed to Salamatof Native Association, Inc., and shall be subject to the same conditions as the surface conveyance.

In accordance with Departmental regulation 43 FR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Anchorage Daily News.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board before June 30, 1982, or to the Interior Board of Land Appeals after June 30, 1982, provided; however, pursuant to Public Law 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken *before June 30, 1982,* the notice of appeal must be filed with the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501.

If an appeal is taken *after June 30, 1982,* the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), address given above. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, address given above.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return

receipt shall have until August 2, 1982, to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board or the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of land requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Salamatof Native Association, Inc., P.O. Box 2682, Kenai, Alaska 99611
State of Alaska, Department of Natural Resources, Division of Research and Development, Pouch 7-005, Anchorage, Alaska 99510
Cook Inlet Region, Inc., P.O. Drawer 4-N, Anchorage, Alaska 99509.

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-17883 Filed 6-30-82; 8:45 am]
BILLING CODE 4310-84-M

[AA-41952]

Alaska Native Claims Selection

On May 5, 1982, Cook Inlet Region, Inc., filed an addition to selection applicaton AA-41952 under the provisions of Secs. 12(b)(6) of the act of January 2, 1976 (89 Stat. 1151), and (I.C.(2). of the Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area, as clarified August 31, 1976 (90 Stat. 1935), for the surface and subsurface estates of a tract of land located on Fire Island, Alaska.

Section 12(b)(6) of the act of January 2, 1976, authorizes conveyance of lands to Cook Inlet Region, Inc., from a selection pool established by the Secretary of the Interior and the General Services Administrator.

The lands are located inside the boundaries of Cooks Inlet Region. The lands herein approved for conveyance within selection AA-41952 were place in the pool of properities available for selection by Cook Inlet Region, Inc., subject to valid existing rights, by notice dated April 8, 1982.

The selection application of Cook Inlet Region, Inc., as to the lands described below is properly filed and meets the requirements of the act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with Federal laws leading to acquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands containing approximately 2,021.53 acres, are considered proper for acquisition by Cook Inlet Region, Inc., and are hereby approved for conveyance pursuant to Sec. 12(b)(6) of the act of January 2, 1976:

Seward Meridian, Alaska (Unsurveyed)

T. 12 N., R. 5 W.,
Sec. 4. (fractional);
Sec. 5. excluding Executive Order 3406;
Sec. 6. (fractional), excluding Executive Order 3406;
Secs. 7, 8, and 9 (fractional).
T. 12 N., R. 6 W.,
Sec. 13 (fractional).

Excluded from the above-described lands are those lands being retained by the Federal Aviation Administration, as noted on Real Estate Data Drawing No. ALD-FIR-040.000, a copy of which is located in case file AA-5898, and more particularly described as follows:

Airfield Site: Commencing at U.S.C. & G. S. Monument "Wright," proceed N. 39°21' W. 1,500.00 feet, more or less, to the point of beginning of this description, said point being on the North shoreline of Fire Island; thence, South 6,900.00 feet, more or less, to a point, said point being on the South shore of Fire Island; thence, Northerly 7,900.00 feet, more or less, along said shoreline to the point of beginning containing 147.60 acres, more or less.

RCAG and Outer Marker Site: Commencing at U.S.C. & G.S. Monument "Wright," proceed S. 38°40'12" W. 3,186.22 feet to the point of beginning of this description; thence, S. 29°47'26" E. 600.00 feet to a point; thence, S. 60°12'34" W. 2,000.00 feet to a point; thence, N. 29°47'26" W. 2,000.00 feet to a point; thence, N. 60°12'34" E. 2,000.00 feet to a point; thence, S. 29°47'26" E. 1,400.00 feet to the point of beginning containing 91.83 acres, more or less.

Housing and VOR Sites: Commencing at U.S.C. & G.S. Azimuth Mark "Bowe," proceed N. 7°58'11" W. 1,312.68 feet to the point of beginning of this description; thence, North 3,660.00 feet to a point; thence, East 4,000.00 feet to a point; thence, South 4,000.00 feet to a point; thence, West 2,618.00 feet to a point; thence, South 2,160.00 feet to a point; thence, West 2,400.00 feet to a point; thence North 2,500.00 feet to a point; thence, East 1,018.00 feet to the point of beginning containing 494.26 acres more or less.

Little Lake Recreation Area and Dump Site: Commencing at the Southwest corner of the housing and VOR site, proceed S. 38°30' W. 3,625.00 feet, more or less, to the point of beginning of this description; thence, South 2,000.00 feet to a point; thence, West 2,000.00 feet to a point; thence, North 3,000.00 feet to a point; thence, East 1,000.00 feet to a point; thence, South 1,000.00 feet to a point; thence, East 1,000.00 feet to the point of beginning containing 114.78 acres, more or less.

Access Roads, Power and Control Cable R.O.W.: A right-of-way, 100 feet wide, centerline description as follows:

a. Commencing at Northwest corner of the housing and VOR site, proceed East 2,115.51 feet to the point of beginning of this description; thence, N. 28°35'00" E. 182.35 feet to a point; thence, N. 60°12'34" E. 4,960.00 feet, more or less, to the West boundary of the RCAG and Outer Marker Site Containing 11.81 acres, more or less.

b. Commencing at the point of beginning of the RCAG and Outer Marker Site, proceed S. 29°47'26" E. 50.00 feet to the point of beginning of this description; then, N. 60°12'34" E. 1,169.49 feet to the West boundary of the airfield site containing 2.68 acres, more or less.

There are no easements to be reserved pursuant to Sec. 17(b) of ANCSA.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat of survey confirming the boundary description and acreage of the lands hereinabove granted; and

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law.

Section 12(b)(6) of Public Law (Pub. L.) 94-204 provides that conveyances pursuant to this section shall be made in exchange for lands or rights to select lands outside the boundaries of Cook

Inlet Region as described in Sec. 12(b)(5) of this act and on the basis of values determined by appraisal. The lands described above have been appraised at a value of $1,525,683. Under Sec. I.C.(2)(e) of the Terms and Conditions, this property constitutes 3,051.366 acre/equivalents. Upon acceptance of title to these lands, Cook Inlet Region, Inc., will relinquish its selection rights to 3,051.366 acres of its out-of-region entitlement.

Conveyance of the remaining entitlement to Cook Inlet Region, Inc., shall be made at a later date.

There are no inland water bodies considered to be navigable within the lands described.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Anchorage Times.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board before June 30, 1982, or to the Interior Board of Land Appeals after June 30, 1982; provided, however, pursuant to Public Law 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken *before June 30, 1982,* the notice of appeal must be filed with the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, and the Regional Solicitor, Office of the Solicitor, 510, L Street, Suite 100, Anchorage, Alaska 99501.

If an appeal is taken *after June 30, 1982,* the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), address given above. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, address given above.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until August 2, 1982, to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board or the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the notice of appeal is: Cook Inlet Region, Inc., P.O. Drawer 4–N, Anchorage, Alaska 99509.

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82–17864 Filed 6–30–82; 8:45 am]

BILLING CODE 4310–84–M

[AA–37846]

Alaska Native Claims Selection

On December 17 and 18, 1974, the village corporations of Nanilchik, Salamatof, Seldovia, Tyonek, Knik, Alexander Creek, and Chickaloon, filed village selection applications AA–6685–D, AA–6698–D, AA–6701–F, AA–6706–F, AA–8485–B, AA–8487–B, and AA–8489–B, under Sec. 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976)) (ANCSA), for lands withdrawn under Section 11(a)(3) of ANCSA. Section 11(a)(3) authorized the Secretary of the Interior to withdraw deficiency lands from the nearest unreserved, vacant and unappropriated public lands when the lands withdrawn by Secs. 11(a)(1) and 11(a)(2) of ANCSA are insufficient to permit a village or regional corporation to select the acreage it is entitled to select. Because of the unresolved eligibility status of Alexander Creek and Salamatof, their applications were filed in four different methods to cover all alternatives in the event both, either or neither Alexander Creek and Salamatof were determined eligible.

In 1976, each of the applications was reviewed for compliance with the statutory and regulatory requirements of ANCSA. The selections filed did not comply with the mandatory selection requirements for compactness and contiguity and included lands not available for selection. Decisions rejecting these applications for these reasons were issued on May 10 through 17 of 1976. These rejections greatly reduced the village selections under Sec. 12(a) of ANCSA.

A petition for reconsideration of the decisions was filed with the Bureau of Land Management (BLM) on May 26, 1976, and denied on June 7, 1976. On June 8 and 18, 1976, notices of appeal were filed by the villages. On July 2, 1976, the Bureau of Land Management requested that the Alaska Native Claims Appeal Board remand the decisions for reconsideration in accordance with a memorandum from the Acting Assistant Secretary, Land and Water Resources, dated June 14, 1976. The Alaska Native Claims Appeal Board remanded the decisions to the Bureau of Land Management on July 8, 1976, and suspended the appeals pending reconsideration and further action by the Bureau of Land Management.

Since the validity of the selections filed by the eligible villages was questioned, and Alexander Creek and Salamatof were still pending a determination on their eligibility, no conveyances of lands within the Sec. 11(a)(3) withdrawals could be made without some remedial action. To resolve the problems of validity, the villages entered into a conveyance agreement with Cook Inlet Region, Inc., on August 28, 1976, which provided that upon conveyance of the deficiency lands to Cook Inlet Region, Inc., the surface estate of the lands selected under Sec. 12(a) will be reconveyed by Cook Inlet Region, Inc., to the village corporations entitled thereto. (See Appendix B of the Agreement of August 31, 1976, a copy of which is filed in BLM case file AA–37846.)

Cook Inlet Region, Inc., and the Secretary of the Interior entered into an agreement on August 31, 1976, wherein the Secretary of the Interior shall convey to Cook Inlet Region, Inc., the surface and subsurface estates of all public lands, subject to valid existing rights, so described in Appendix A to said agreement. Cook Inlet Region, Inc., shall then reconvey the surface estate of some of the lands to certain village corporations pursuant to the conveyance agreement dated August 28, 1976, between Cook Inlet Region, Inc., and the affected village corporations.

On October 4, 1976, Public Law (Pub. L.) 94–456 (90 Stat. 1934, 1935) was passed in which Sec. 4 amended ANCSA to ratify the August 31, 1976, agreement and authorize the Secretary of the Interior to convey lands under application for selection by village corporations within Cook Inlet Region to Cook Inlet Region, Inc., for reconveyance by the region to such

village corporations, such conveyances constituting a portion of their statutory entitlement.

On June 28, 1977, Cook Inlet Region, Inc., filed selection application AA–37846 under the provisions of Secs. 12(a), 12(b) and 12(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611), as amended by Sec. 4 of Pub. L. 94–456 (90 Stat. 1934, 1935).

As to the lands described below, selection application AA–37846, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act, as amended by Sec. 4 of Pub. L. 94–456, and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title. This conveyance shall be considered and treated as a conveyance under ANCSA. In view of the foregoing, the surface and subsurface estates of the following described lands, aggregating approximately 265,000,176 acres, are considered proper for acquisition by Cook Inlet Region, Inc., and are hereby approved for conveyance:

Mineral Survey No. 2236, Alaska, Situated in the Iliamna Mining District.
Containing 67.076 acres.

Seward Meridian, Alaska (Surveyed)

T. 4 S., R. 23 W.,
Sec. 24, lots 1 to 4, inclusive, S½SW¼;
Sec. 25, lots 1 and 2, S½NE¼, NW¼, S½;
Sec. 35.
Containing 1,445.49 acres.

T. 5 S., R. 23 W.,
Sec. 1, lots 1 to 4, inclusive, S½N½, S½;
Sec. 2, lots 1 to 4, inclusive, S½N½, S½;
Sec. 3, lots 1 to 4, inclusive, S½N½, S½;
Sec. 4, lots 1 to 4, inclusive, S½N½, S½;
Sec. 5, lots 1 to 4, inclusive, S½N½, S½;
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 7, lots 1 to 4, inclusive, E½, E½W½;
Secs. 8 to 15, inclusive;
Sec. 17;
Sec. 18, lots 1 to 4, inclusive, E½, E½W½;
Sec. 19, lots 1 to 4, inclusive, E½, E½W½;
Secs. 20 to 29, inclusive;
Sec. 30, lots 1 to 4, inclusive, E½, E½W½;
Sec, 31, lots 1 to 4, inclusive, E½, E½W½;
Secs. 32 to 35, inclusive.
Containing 21,557.97 acres.

T. 5 S., R. 24 W.,
Sec. 21, lot 1;
Sec. 22, lots 1 to 6, inclusive, NE¼, NE¼SE¼;
Secs. 25 and 26;
Sec. 27, lots 1, 2, and 3, NW¼NW¼, S½N½, S½;
Sec. 28, lots 1 to 6, inclusive, SE¼SW¼, SE¼;
Sec. 33, lots 1 to 4, inclusive, NE¼, NE¼NW¼, E½SE¼;
Secs. 34 and 35.
Containing 4,339.11 acres.

T. 6 S., R. 24 W.,
Secs. 1, 2, and 3;
Sec. 4, lots 1 to 4, inclusive, E½, SE¼NW¼, E½SW¼;
Sec. 5, lots 1 and 2;
Sec. 11, lots 1 to 5, inclusive, N½, N½SW¼;
Sec. 12, lots 1 to 4, inclusive, N½.
Containing 3,424.53 acres.
Aggregating 30,834.176 acres.

Seward Meridian, Alaska (Unsurveyed)

T. 3 N., R. 17 W.,
Secs. 5 and 6 (fractional);
Sec. 7 (fractional).
Containing approximately 878 acres.

T. 2 N., R. 18 W.,
Secs. 3, 4, and 5 (fractional);
Sec. 6, excluding U.S. Survey No. 2369;
Sec. 7 (fractional), excluding U.S. Survey No. 1436, U.S. Survey No. 2369 and U.S. Survey No. 3449;
Sec. 8 (fractional), excluding U.S. Survey No. 2369.
Containing approximately 1,848 acres.

T. 3 N., R. 18 W.,
Secs. 1 to 6, inclusive;
Secs. 8, 9, and 10;
Secs. 11 and 12 (fractional);
Secs. 14 and 15 (fractional);
Secs. 16, 17, and 21;
Secs. 22 and 27 (fractional);
Secs. 28 to 33, inclusive;
Sec. 34 (fractional).
Containing approximately 13,877 acres.

T. 4 N., R. 18 W.,
Secs. 4 and 9;
Secs. 16 and 17;
Secs. 20 and 21;
Secs. 28 to 33, inclusive.
Containing approximately 7,616 acres.

T. 2 N., R. 19 W.,
Secs. 1 to 11, inclusive;
Secs. 12, 13, and 14 (fractional);
Secs. 15 to 22, inclusive;
Secs. 23 and 26 (fractional);
Sec. 27 (fractional), excluding U.S. Survey No. 5104 and Native allotment AA–6100;
Secs. 28 and 29;
Sec. 30 (fractional);
Sec. 31 (fractional), excluding U.S. Survey No. 5542;
Sec. 32 (fractional), excluding U.S. Survey No. 4685;
Sec. 33 (fractional);
Sec. 34 (fractional).
Containing approximately 16,339 acres.

T. 3 N., R. 19 W.,
Sec. 19;
Secs. 25 to 36, inclusive.
Containing approximately 8,252 acres.

T. 4 N., R. 19 W.,
Secs. 21 and 22;
Secs. 25, 26, and 27.
Containing approximately 3,200 acres.

T. 2 N., R. 20 W.,
Secs. 13 to 16, inclusive;
Secs. 17 to 22 (fractional), inclusive;
Sec. 23;
Secs. 24 to 28 (fractional), inclusive;
Secs. 29, 30, and 32 (fractional), excluding Mineral Survey No. 2236;
Secs. 33, 34, and 35 (fractional).
Containing approximately 9,070 acres.

T. 3 N., R. 20 W.,
Secs. 2 to 11, inclusive;
Secs. 13, 14, and 15;
Secs. 22 to 25, inclusive;
Sec. 36.
Containing approximately 11,463 acres.

T. 4 N., R. 20 W.,
Secs. 30 to 33, inclusive.
Containing approximately 2,496 acres.

T. 2 N., R. 21 W.,
Secs. 2, 3, and 11 (fractional);
Secs. 13, 14, and 15 (fractional);
Secs. 23 and 26 (fractional).
Containing approximately 3,040 acres.

T. 4 N., R. 21 W.,
Secs. 14 and 15;
Secs. 23, 24, and 25.
Containing approximately 3,200 acres.

T. 4 N., R. 22 W.,
Secs. 14 and 15 (fractional);
Sec. 16 (fractional), excluding Native allotments AA–5596 Tract A, AA–5599, AA–5853, and AA–7473;
Sec. 17 (fractional), excluding Native allotment AA–5853;
Sec. 18 (fractional);
Sec. 19 (fractional), excluding Native allotments AA–5606 Tract B and AA–8205;
Sec. 20 (fractional), excluding Native allotments AA–5596 Tract B, AA–6072, and AA–8205;
Secs. 21 and 22;
Secs. 23 and 26 (fractional);
Secs. 27 and 28;
Sec. 29, excluding Native allotment AA–8205;
Sec. 30, excluding Native allotments AA–5606 Tract B and AA–8205;
Secs. 31 to 34;
Sec. 35 (fractional).
Containing approximately 8,640 acres.

T. 5 S., R. 22 W.,
Sec. 3 (fractional);
Secs. 4 to 8, inclusive;
Secs. 9, 10, and 16 (fractional);
Secs. 17 to 20, inclusive;
Secs. 21 and 28 (fractional);
Secs. 29, 30, and 31;
Secs. 32 and 33 (fractional).
Containing approximately 9,858 acres.

T. 6 S., R. 22 W.,
Secs. 5 and 6 (fractional).
Containing approximately 351 acres.

T. 3 S., R. 23 W.,
Secs. 4 to 8 inclusive;
Secs. 13, 16, and 17;
Secs. 20, 21, and 24;
Secs. 25 to 29, inclusive;
Secs. 31, 32, and 33;
Sec. 34 (fractional);
Sec. 35, excluding Native allotment AA–7755;
Sec. 36 (fractional), excluding Native allotment AA–7755.
Containing approximately 13,793 acres.

T. 4 S., R. 23 W.,
Secs. 1 and 2 (fractional), excluding Native allotment AA–7755;
Sec. 3 (fractional);
Secs. 4, 7, and 8;
Sec. 9 (fractional);

Secs. 14 to 17 (fractional), inclusive;
Sec. 18;
Secs. 19 and 20 (fractional);
Secs. 21 and 22;
Sec. 23 (fractional);
Secs. 26 to 34, inclusive.

Containing approximately 13,520 acres.

T. 6 S., R. 23 W.,
Sec. 1 (fractional);
Sec. 2 (fractional), excluding U.S. Survey No. 5891 and U.S. Survey No. 4854;
Secs. 3 to 10, inclusive;
Sec. 11 (fractional), excluding U.S. Survey No. 4854 and U.S. Survey No. 5891;
Secs. 12, 14, and 15 (fractional);
Secs. 16 and 17;
Secs. 18 to 22 (fractional), inclusive;
Secs. 29 and 30 (fractional).

Containing approximately 10,558 acres.

T. 4 S., R. 24 W.,
Secs. 12, 13, and 14;
Secs. 19 to 36, inclusive.

Containing approximately 13,173 acres.

T. 5 S., R. 24 W.,
Secs. 1 to 5, inclusive;
Secs. 6 and 7 (fractional);
Secs. 8 to 14, inclusive;
Secs. 15 to 18 (fractional), inclusive;
Sec. 21 (fractional), excluding lot 1;
Secs. 23 and 24.

Containing approximately 11,264 acres.

T. 6 S., R. 24 W.,
Sec. 6 (fractional);
Secs. 9 and 10;
Secs. 13 and 14 (fractional);
Secs. 15 and 16;
Secs. 17 to 21 (fractional), inclusive;
Sec. 22;
Secs. 23, 26, 27, and 28 (fractional).

Containing approximately 6,831 acres.

T. 5 S., R. 25 W.,
Secs. 1 and 2 (fractional);
Secs. 3 to 11, inclusive;
Secs. 12 and 13 (fractional);
Secs. 14 to 17, inclusive;
Secs. 20 to 23, inclusive;
Secs. 24 and 25 (fractional);
Secs. 26 to 29, inclusive;
Sec. 31 (fractional);
Secs. 32 to 35, inclusive;
Sec. 36 (fractional).

Containing approximately 20,064 acres.

T. 6 S., R. 25 W.,
Sec. 1 (fractional);
Secs. 2 to 5, inclusive;
Secs. 6 and 7 (fractional);
Secs. 8 to 11, inclusive;
Secs. 12 and 13 (fractional);
Secs. 14 to 17, inclusive;
Sec. 18 (fractional);
Secs. 20 to 23 (fractional), inclusive;
Secs. 27 to 32 (fractional), inclusive.

Containing approximately 12,127 acres.

T. 7 S., R. 25 W.,
Secs. 4 and 5 (fractional);
Secs. 6 and 7;
Secs. 8, 9, and 17 (fractional);
Sec. 18;
Secs. 19 and 20 (fractional).

Containing approximately 4,214 acres.

T. 5 S., R. 26 W.,
Secs. 29 and 30;
Secs. 32 to 35, inclusive.

Containing approximately 3,008 acres.

T. 6 S., R. 26 W.,
Sec. 1 (fractional), excluding U.S. Survey No. 3428;
Sec. 2, excluding U.S. Survey No. 3428;
Secs. 3, 10, and 11;
Secs. 12 and 13 (fractional);
Sec. 14, excluding Native allotments AA–4225 Tract II and AA–6342;
Secs. 15 and 20;
Sec. 21 (fractional), excluding U.S. Survey No. 1752;
Sec. 22 (fractional), excluding Native allotments AA–5606 Tract A and AA–6342;
Sec. 23 (fractional), excluding Native allotments AA–4225 Tract II, AA–4592 Parcel A, and AA–6342;
Sec. 24 (fractional), excluding Native allotment AA–4592 Parcel A;
Sec. 25 (fractional), excluding Native allotment AA–5574;
Sec. 26 (fractional);
Sec. 27 (fractional), excluding Native allotment AA–5575;
Sec. 28 (fractional), excluding Native allotments AA–5575 and AA–5577;
Sec. 29;
Secs. 34, 35, and 36.

Containing approximately 9,717 acres.

T. 7 S., R. 26 W.,
Secs. 1 to 20, inclusive, all;
Secs. 21 to 24 (fractional), inclusive;
Sec. 29 (fractional).

Containing approximately 14,969 acres.
Aggregating approximately 234,166 acres.
Total aggregating approximately 265,000.176 acres.

Excluded from the above-described lands herein approved for conveyance are lands covered by tidal water up to the mean high tide. The actual limits of tidal influence for those water bodies, if any, will be determined at time of survey.

There are no inland water bodies considered to be navigable within the above-described lands.

Within the above-described lands, the following water bodies are considered to be tidally influenced:

Johnson River to the west boundary of Sec. 2, T. 2 S., R. 20 W., Seward Meridian.
Polly Creek to the west boundary of Secs. 6 and 7, T. 2 N., R. 18 W., Seward Meridian.
Iniskin River throughout the selection.
Glacier Creek to the west boundary of Sec. 34, T. 3 S., R. 23 W., Seward Meridian.
Redoubt Creek to the west boundary of Sec. 2, T. 3 N., R. 18 W., Seward Meridian.
Crescent River to the west boundary of Sec. 27, T. 2 N., R. 19 W., Seward Meridian.
Brown Creek to the south boundary of Sec. 2, T. 6 S., R. 23 W., Seward Meridian.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for one or more of the following reasons: Lands are no longer under Federal jurisdiction; or lands are under applications pending further adjudication. Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions do not constitute a rejection of the selection application, unless specifically so stated.

Pursuant to Sec. 4(a) of Pub. L. 94–456, the lands described above will be conveyed as partial satisfaction of the statutory entitlement of certain village corporations within Cook Inlet Region. "Statutory entitlement" of village corporations includes the land entitlements granted under Secs. 12(a) and 12(b) of ANCSA.

Pursuant to the August 31, 1976 agreement, the acreage to be charged against each village's 12(a) entitlement will be determined after reconveyance to those villages by Cook Inlet Region, Inc.

Acreages will be charged against the 12(b) entitlements of the participating village corporations subsequent to reallocation and conveyance of the 12(b) entitlements by Cook Inlet Region, Inc., pursuant to Sec. VII(A) of the Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area as ratified by Public Law 94–204 (89 Stat. 1151). Section VII(A) of the Terms and Conditions reaffirms Cook Inlet Region, Inc.'s, obligation under ANCSA to reallocate Sec. 12(b) entitlements to the participating villages, and lists those lands from which this entitlement will be conveyed.

Section E of the agreement of August 31, 1976, provides that if the Secretary has conveyed more land to Cook Inlet Region, Inc., pursuant to this agreement than the village corporations are actually entitled to receive under Sec. 12 of ANCSA, when added to lands otherwise received by such village corporations, the excess acreage shall be retained by Cook Inlet Region, Inc., and shall be regarded as conveyances of land outside the boundaries of Cook Inlet Region pursuant to Paragraph I(C)(1) of the Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area, and the corporation's out-of-region entitlement will be adjusted accordingly.

Therefore, any lands conveyed herein which are not reconveyed to any village corporation by Cook Inlet Region, Inc., will be charged against the out-of-region entitlement of Cook Inlet Region, Inc.,

under Paragraph I(C)(1) of the Terms and Conditions.

The conveyance issued for the surface and subsurface estates of the lands described above shall contain the following reservation to the United States:

Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), the following public easements, reference by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file AA-16636, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (ATV's) (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

50 Foot Trail—The uses allowed on a fifty (50) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles (ATV's), track vehicles, and four-wheel drive vehicles.

60 Foot Road—The uses allowed on a sixty (60) foot wide road easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles (ATV's), track vehicles, four-wheel drive vehicles, automobiles, and trucks.

One Acre Site—The uses allowed for a site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

Site Easement (Airstrip)—The uses allowed for a site easement (airstrip) are: aircraft landing, vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading or unloading shall be limited to 24 hours.

a. (EIN 20 D9) An easement for a proposed access trail twenty-five (25) feet in width from road FAS Route 424 in Sec. 33, T. 5 S., R. 26 W., Seward Meridian, northerly to public land. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

b. (EIN 21 C5) A site easement for a bush airstrip two hundred and fifty (250) feet in width and three thousand (3,000) feet in length located in Secs. 29, 32, and 33, T. 5 S., R. 26 W., Seward Meridian. The uses allowed are those listed above for an airstrip site.

c. (EIN 23 D9) A one (1) acre site easement upland of the mean high tide line in Sec. 1, T. 5 S., R. 25 W., Seward Meridian, on the westerly shore of Iniskin Bay. The uses allowed are those listed above for a one (1) acre site.

d. (EIN 24 D9) An easement for an existing access trail twenty-five (25) feet in width from Oil Bay in Sec. 11, T. 6 S., R. 24 W., Seward Meridian, northerly to Sec. 36, T. 5 S., R. 24 W., Seward Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

e. (EIN 24a C5) A one (1) acre site easement upland of the mean high tide line in Sec. 11, T. 6 S., R. 24 W., Seward Meridian, on the westerly shore of Oil Bay. The uses allowed are those listed above for a one (1) acre site.

f. (EIN 26 D9, C3) An easement for a proposed access trail twenty-five (25) feet in width from site EIN 27 C5 in Sec. 1, T. 6 S., R. 23 W., Seward Meridian, northerly to public land in Sec. 36, T. 5 S., R. 23 W., Seward Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

g. (EIN 27 C5) A one (1) acre site easement upland of the mean high tide line in Sec. 1, T. 6 S., R. 23 W., Seward Meridian, on the northerly shore of Dry Bay. The uses allowed are those listed above for a one (1) acre site.

h. (EIN 28 D9) An easement for an existing access trail twenty-five (25) feet in width from site EIN 29 C3 in Sec. 17, T. 4 S., R. 22 W., Seward Meridian, southwesterly to Sec. 36, T. 4 S., R. 23 W., Seward Meridian and on to Sec. 16, T. 5 S., R. 23 W., Seward Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

i. (EIN 29 C3) A one (1) acre site easement upland of the mean high tide line in Sec. 17, T. 4 S., R. 22 W., Seward Meridian, on the southerly shore of Chinitna Bay on Seal Spit. The uses allowed are those listed above for a one (1) acre site.

j. (EIN 30 D9) An easement for a proposed access trail twenty-five (25) feet in width from site EIN 23 D9 in Sec. 1, T. 5 S., R. 25 W., Seward Meridian, northerly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

k. (EIN 31 D9) An easement for a proposed access trail twenty-five (25) feet in width from site EIN 32 D9 in Sec. 3, T. 4 S., R. 23 W., Seward Meridian, northerly to public land. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

l. (EIN 32 D9) A one (1) acre site easement upland of the mean high tide line in Sec. 3, T. 4 S., R. 23 W., Seward Meridian, on the left bank of West Glacier Creek. The uses allowed are those listed above for a one (1) acre site.

m. (EIN 38 D9) A one (1) acre site easement upland of the mean high tide line in Sec. 12, T. 2 S., R. 20 W., Seward Meridian, at the mouth of the Johnson River on the right bank. The uses allowed are those listed above for a one (1) acre site.

n. (EIN 39 D9) An easement for a proposed access trail twenty-five (25) feet in width from site EIN 40 D9 in Sec. 2, T. 1 S., R. 20 W., Seward Meridian, southwesterly to public land. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

o. (EIN 40 D9) A one (1) acre site easement upland of the mean high tide line in Sec. 2, T. 1 S., R. 20 W., Seward Meridian, on the westerly shore of the Tuxedni Channel. The uses allowed are those listed above for a one (1) acre site.

p. (EIN 44 D9, C5) A one (1) acre site easement upland of the ordinary high water mark in Sec. 34, T. 2 N., R. 19 W., Seward Meridian, on the left bank of the Crescent River. The uses allowed are those uses listed above for a one (1) acre site.

q. (EIN 47 D9) An easement for a proposed access trail twenty-five (25) feet in width from the east boundary of Sec. 16, T. 4 N., R. 18 W., Seward Meridian through the selected lands in a northwesterly direction upstream along Harriet Creek to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

r. (EIN 67 C5) A one (1) acre site easement upland of the mean high tide line in Sec. 8, T. 2 N., R. 18 W., Seward Meridian, near the mouth of Polly Creek on the shore of Cook Inlet. The uses allowed are those listed above for a one (1) acre site.

s. (EIN 67a C4) A proposed trail twenty-five (25) feet in width from site easement EIN 67 C5 in Sec. 8, T. 2 N., R. 18 W., Seward Meridian, northerly to public land. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent afer approval and filing by the Bureau of Land Management of the official plat, or supplemental plat, of survey confirming

the boundary description and acreage of the lands herein granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA, shall continue to have whatever right of access as is now provided for under existing law;

3. The terms and conditions of the agreement dated August 31, 1976, between Cook Inlet Region, Inc., and the Secretary of the Interior. A copy of the agreement shall be attached to and become a part of the conveyance document and shall be recorded therewith. A copy of the agreement is located in the Bureau of Land Management selection case file for Cook Inlet Region, Inc., serialized AA–37846. Any person wishing to examine this agreement may do so at the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513;

4. Airport lease, A–051273, located in N½ of Sec. 7, T. 2 N., R. 18 W., Seward Meridian, issued to John S. Swiss under the provisions of the act of May 24, 1928 (49 U.S.C. 211–214 (1970)); and

5. Any right-of-way interest in FAS Route Number 424 from Illiamna Bay northeast to Old Illiamna with a spur to Illiamna Lake transferred to the State of Alaska by the quitclaim deed dated June 30, 1959, executed by the Secretary of Commerce under the Authority of the Alaska Omnibus Act, Public Law 86–70 (73 Stat. 141) located in Tps. 5 and 6 S., R. 26 W., Seward Meridian.

Conveyance of the remaining entitlement of Sec. 11(a)(3) lands shall be made to Cook Inlet Region, Inc., at a later date.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Anchorage Times.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 *Code of Federal Regulations* (CFR), Part 4, Subpart E, as revised. However, pursuant to Public Law 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until August 2, 1982, to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Cook Inlet Region, Inc., P.O. Drawer 4–N, Anchorage, Alaska 99509
Ninilchik Natives Association, Inc., P.O. Box 173, Ninilchik, Alaska 99639
Salamatof Native Association, Inc., P.O. Box 2682, Kenai, Alaska 99611
Seldovia Native Association, Inc., P.O. Box 185, Seldovia, Alaska 99663
Tyonek Native Corporation, 445 East Fifth Avenue, Suite 9, Anchorage, Alaska 99501
Knikatnu, Inc., P.O. Box 2130, Wasilla, Alaska 99687
Alexander Creek, Inc., 6126 Tri-Lake Road, Anchorage, Alaska 99502
Chickaloon Moose Creek Native, Association, Inc., 2800 Fairbanks Street, Anchorage, Alaska 99501
State of Alaska, Department of Natural Resources, Division of Technical Services, Pouch 7–005, Anchorage, Alaska 99510

Ann Johnson,
Chief, Branch of ANCSA Adjudication.

[FR Doc. 82–17885 Filed 6–30–82; 8:45 am]
BILLING CODE 4310–84–M

[F–14908–B]

Alaska Native Claims Selection

On October 11, 1974, Sitnasuak Native Corporation, for the Native village of Nome, filed selection application F–14908–B under the provisions of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611) (1976) (ANCSA), for the surface estate of certain lands in the vicinity of Nome.

As to the lands described below, the application submitted by Sitnasuak Native Corporation, as amended, is properly filed, and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to sec. 12(a) of ANCSA, aggregating approximately 9,440 acres, is considered proper for acquisition by Sitnasuak Native Corporation and is hereby approved for conveyance pursuant to Sec. 14(a) of the Alaska Native Claims Settlement Act.

Mineral Survey No. 2297, Alaska, known as "Hub" Placer Claim, comprising "Hub" situate in Section 15, T. 12 S., R. 32 W., Kateel River Meridian, Nome mining district (unsurveyed).

Containing 17.635 acres.

Kateel River Meridian, Alaska (Unsurveyed)

T. 12 S., R. 32 W.,
Secs. 1, 2, and 3;
Sec. 4, excluding Mineral Survey No. 514;
Sec. 5, excluding Mineral Survey No. 514 and Mineral Survey No. 1805;
Sec. 6, excluding Native allotment F–16512;
Sec. 7 (fractional), excluding Mineral Survey No. 348, Mineral Survey No. 1257, Mineral Survey No. 1286, and Mineral Survey No. 1329;
Sec. 8 (fractional), excluding Mineral Survey No. 1329, Mineral Survey No. 1805, and Native allotment F–530 Parcel B;
Sec. 9, excluding Mineral Survey No. 416 and Mineral Survey No. 1146;
Secs. 10, 11, and 12;
Sec. 13 (fractional), excluding U.S. Survey No. 5008;
Sec. 14, excluding Native allotment F–18500 Parcel A;

Sec. 15 (fractional), excluding Mineral Survey No. 2297;
Sec. 16 (fractional), excluding U.S. Survey No. 4427 and Mineral Survey No. 1148;
Sec. 17 (fractional), excluding U.S. Survey No. 4430, Mineral Survey No. 1148, and Native allotment F–530 Parcel B;
Sec. 22 (fractional), excluding Mineral Survey No. 2297;
Sec. 23 (fractional), excluding U.S. Survey No. 4403A (Native allotment F–031356) and Native allotment F–18500 Parcel A;
Sec. 24 (fractional).

Containing approximately 9,422 acres.
Total aggregated acreage approximately 9,440 acres.

All named and unnamed water bodies within the lands to be conveyed were reviewed. Based on existing evidence, it was determined that there are no navigable water bodies within the land described.

Excluded from the above-described lands herein conveyed are lands covered by tidal waters up to the line of mean high tide. The actual limits of tidal influence for those water bodies, if any, will be determined at the time of survey.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for one or more of the following reasons: Lands are no longer under Federal jurisdiction; lands are under applications pending further adjudication; or lands were previously rejected by decision. Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F–14908–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

a. (EIN 45 D1, L) An easement for an existing access trail twenty-five (25) feet in width from Nome in Sec. 36, T. 11 S., R. 34 W., Kateel River Meridian, southeasterly to Solomon. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

b. (EIN 125 D1) An easement for a proposed access trail twenty-five (25) feet in width from the mean high tide line in Sec. 12, T. 12 S., R. 33 W., Kateel River Meridian, northeasterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2) (ANCSA)), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Any right-of-way interest in Federal Aid Secondary (FAS) Route No. 130 (Nome-Council Road) from Nome FAA Airfield east through Nome and Solomon to FAS Route 1304 at Council transferred to the State of Alaska by the quitclaim deed dated June 30, 1959, executed by the Secretary of Commerce under the authority of the Alaska Omnibus Act, Public Law 86–70 (73 Stat. 141) as to T. 12 S., R. 32 W., Secs. 7, 8, 13, 14, 15, 16, 17, 22, 23, and 24, Kateel River Meridian; and

4. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Reindeer Grazing Permit, F–035186, issued to Lawrence T. Davis, on January 1, 1982, located within the lands herein approved for conveyance, will terminate upon conveyance of these lands in accordance with Sec. 9, Additional Condition or Stipulation No. 1 of the permit.

Sitnasuak Native Corporation is entitled to conveyance of 161,280 acres of land selected pursuant to Sec. 12(a) of ANCSA.

Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 79,053 acres. The remaining entitlement of approximately 82,227 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA, conveyance of the subsurface estate of the lands described above shall be issues to Bering Straits Native Corporation when the surface estate is conveyed to Sitnasuak Native Corporation and shall be subject to the same conditions as the surface conveyance.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week for four (4) consecutive weeks in the Nome Nugget.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board before June 30, 1982, or to the Interior Board of Land Appeals after June 30, 1982; provided, however, pursuant to Public Law 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken *before June 30, 1982,* the notice of appeal must be filed with the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501.

If an appeal is taken *after June 30, 1982,* the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), address given above. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copes of

pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, address given above.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until August 2, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board or the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

State of Alaska, Department of Natural Resources, Division of Technical Services, Pouch 7–005, Anchorage, Alaska 99510.
Sitnasuak Native Corporation, P.O. Box 905, Nome, Alaska 99762.
Bering Straits Native Corporation, P.O. Box 1008, Nome, Alaska 99762.

Ruth Stockie,

Acting Chief, Branch of ANCSA Adjudication.

[FR Doc. 82–17686 Filed 6–30–82; 8:45 am]
BILLING CODE 4310–84–M

[F–14908–B]

Alaska Native Claims Selection

On October 11, 1974, Sitnasuak Native Corporation, for the Native village of Nome, filed selection application F–14908–B under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611) (1976) (ANCSA), for the surface estate of certain lands in the vicinity of Nome.

As to the lands described below, the applications submitted by Sitnasuak Native Corporation, as amended, are properly filed, and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 69,612 acres, is considered proper for acquisition by Sitnasuak Native Corporation and is hereby approved for conveyance pursuant to Sec. 14(a) of the Alaska Native Claims Settlement Act.

U.S. Survey No. 4107, lots 2, 6, 7, 8, 9, 11, 12, 13, 14, 19 (excluding Native allotment F–1050 Parcel A), 26, 28, 29, 30, 31, 33, 36, 37, 38, 39, 41, 44, 54, 55, 57, 59, 60, 61, 63, 64, and 69, situated on a spit of land between Norton Sound and Safety Sound and surrounding U.S. Survey No. 2918, Alaska.

Containing approximately 160 acres.

Kateel River Meridian, Alaska

T. 11 S. R. 31 W. (Partially Surveyed),
Secs. 5, 6, and 7, excluding Native allotment F–13772 Parcel A;
Sec. 8;
Sec. 16, excluding U.S. Survey No. 4403 B (Native allotment F–031356 Parcel B) and U.S. Survey No. 5057;
Sec. 17, excluding U.S. Survey No. 4403 B (Native allotment F–031356 Parcel B), Native allotment F–530 Parcel A, and the Eldorado River;
Sec. 18, excluding Native allotment F–13772 Parcel B;
Sec. 19, excluding Native allotments F–14762 Parcel C, F–19304, and the Flambeau River;
Sec. 20, excluding U.S. Survey No. 4403 B (Native allotment F–031356 Parcel B), Native allotments F–14762 Parcel C, F–17528, F–18226, the Eldorado River, the Flambeau River, and Safety Sound;
Sec. 21, excluding U.S. Survey No. 4403 B (Native allotment F–031356 Parcel B) and U.S. Survey No. 5057;
Sec. 28, excluding Safety Sound;
Sec. 29, excluding Native allotments F–14762 Parcel C, F–17528, Safety Sound, and the unnamed slough entering Safety Sound;
Sec. 30, excluding Native allotment F–14762 Parcel C;
Secs. 31, 32, and 33 (fractional).

Containing approximately 8,021 acres.

T. 12 S., R. 31 W. (Surveyed),
Secs. 3, 4, 5, and 6 (fractional);
Sec. 7;
Secs. 8, 9, and 10 (fractional);
Sec. 11 (fractional), excluding U.S. Survey No. 4107;
Secs. 12 and 13 (fractional), excluding U.S. Survey No. 4107 and Native allotment F–18500 Parcel B;
Secs. 15 and 16 (fractional), excluding U.S. Survey No. 4107;
Sec. 17 (fractional), excluding U.S. Survey No. 4107 and Native allotment F–3376 Parcel A;
Sec. 18, excluding Native allotments F–570 and F–3376 Parcel A;
Sec. 19 (fractional), excluding Native allotment F–3376 Parcel A.

Containing approximately 4,601 acres.

T. 10 S., R. 32 W. (Partially Surveyed),
Sec. 36.

Containing approximately 640 acres.

T. 11 S., R. 32 W. (Partially Surveyed),
Secs. 1, 13 and 19;
Secs. 24 and 25;
Secs. 30, 31, and 36.

Containing approximately 5,075 acres.

T. 9 S., R. 34 W. (Partially Surveyed),
Secs. 1, 12, amd 13;
Sec. 21, lot 1;
Secs. 22 to 26, inclusive;
Sec. 27, lot 1;
Secs. 28 and 33;
Sec. 34, lots 1 and 2;
Sec. 35, lot 1;
Sec. 36.

Containing approximately 9,366 acres.

T. 9 S., R. 35W. (Partially Surveyed),
Secs. 4 and 5;
Secs. 6 and 7, excluding Mineral Survey application F–23164;
Secs. 8 and 9;
Sec. 18, excluding Mineral Survey application F–23164;
Sec. 19;
Secs. 29, 30, 31, and 32.

Containing approximately 7,076 acres.

T. 9 S., R. 36W. (Partially Surveyed),
Secs. 1, 2, and 3;
Secs. 4 and 5, excluding Native allotment F–16726;
Secs. 6 and 7;
Secs. 8 and 9; excluding Native allotment F–16726;
Secs. 10 and 11;
Secs. 12 and 13, excluding Mineral Survey appliation F–23164;
Secs. 14 to 18, inclusive;
Secs. 21, 22, and 23;
Secs. 24 and 25, excluding Mineral Survey application F–23164;
Secs. 26, 27, 28, and 33;
Sec. 34, lots 1 and 2;
Sec. 35, excluding Mineral Survey No. 1134;
Sec. 36.

Containing approximately 18,148 acres.

T. 10 S., R. 36 W. (Partially Surveyed),
Secs. 1 and 2;
Sec. 3, lots 1 and 2;
Sec. 4, lots 1 and 2;
Sec. 9, lots 1 and 2;
Secs. 10, 11, and 12;
Sec. 13, lots 1 and 2;
Sec. 14;
Sec. 15, lots 1 and 2;
Sec. 16, lots 1 and 2;
Sec. 22, lots 1 and 2;
Sec. 23, excluding Mineral Survey No. 1200 and Mineral Survey No. 1331;
Sec. 24, lots 1 and 2;
Sec. 25, lots 1 and 2;
Sec. 26; excluding Mineral Survey No. 1102;
Sec. 35;
Sec. 36, lots 1 and 2.

Containing approximately 11,000 acres.

T. 11 S., R. 36 W. (Surveyed),
Sec. 1, lots 1 and 2;

Sec. 2, excluding Mineral Survey No. 1102 and Native allotment F–15016;
Secs. 3 and 4;
Secs. 5 and 6, excluding Native allotment F–16513 Parcel A;
Secs. 7 and 8 (fractional), excluding Native allotment F–16513 Parcel A;
Secs. 9 and 10 (fractional);
Sec. 11, excluding Mineral Survey No. 1102 and Native allotments F–15015, F–15016, and F–15018;
Sec. 12, lots 1 and 3;
Sec. 13 (fractional), excluding Mineral Survey No. 1102 and Native allotment F–15017;
Sec. 14 (fractional), excluding Native allotment F–15017;
Sec. 15 (fractional).

Containing approximately 5,535 acres.

Aggregating approximately 69,452 acres.

Total aggregated acreage, approximately 69,612 acreas.

All named and unnamed water bodies within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

Excluded from the above-described lands herein approved for conveyance are the following water bodies for which a final determination as to tidal influence has been made:

The Eldorado River has tidal influence from its mouth to the east section line of Secs. 17, T. 11 S., R. 31 W., Kateel River Meridian;

The Flambeau River has tidal influence from its mouth to the north section line of Sec. 19, T. 11 S., R. 31 W., Kateel River Meridian;

The Cripple River has tidal influence from its mouth to the north section line of Sec. 12, T. 11 S., R. 36 W., Kateel River Meridian.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for one or more of the following reasons: Lands are no longer under Federal jurisdiction; lands are under applications pending further adjudication; or lands were previously rejected by decision. Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), the following public easements referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F–14908–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25-Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

50-Foot Trail—The uses allowed on a fifty (50) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles, track vehicles and four-wheel drive vehicles.

a. (EIN 3a D1, D9, L) An easement for an existing access trail fifty (50) feet in width from the Nome-Teller Road in Sec. 8, T. 9 S., R. 36 W., Kateel River Meridian, southwesterly to public lands. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

b. (EIN 6 L) An easement for an existing access trail fifty (50) feet in width from the Nome-Teller Road in Sec. 30, T. 9 S., R. 35 W., Kateel River Meridian, easterly to public lands. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

c. (EIN 24 D1, L) An easement for a proposed access trail fifty (50) feet in width from the Jensen's Camp Road in Sec. 12, T. 9 S., R. 34 W., Kateel River Meridian, southwesterly to public lands. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

d. (EIN 43 D1, L) An easement for an existing access trail fifty (50) feet in width from the Jensen's Camp Road in Sec. 12, T. 9 S., R. 34 W., Kateel River Meridian, easterly to public lands. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

e. (EIN 45 D1, L) An easement for an existing access trail twenty-five (25) feet in width from Nome in Sec. 36, T. 11 S., R. 34 W., Kateel River Meridian, southeasterly to Solomon. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

f. (EIN 72 D1, D9, L) An easement for an existing access trail twenty-five (25) feet in width from Nome in Sec. 27, T. 11 S., R. 34 W., Kateel River Meridian, westerly to Teller. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official supplemental plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. A right-of-way, F–025316, located within Sec. 16, T. 9 S., R. 36 W., Kateel River Meridian, for a Federal Aid material site. Act of August 27, 1958, as amended (23 U.S.C. 317);

4. A right-of-way, F–030479, located within Secs. 14, 16, and 17, T. 9 S., R. 36 W., and Sec. 31, T. 9 S., R. 35 W., Kateel River Meridian, for three Federal Aid material sites. Act of August 27, 1958, as amended (23 U.S.C. 317);

5. A right-of-way, F–031401, located within Secs. 5, 6, 7, and 8, T. 9 S., R. 36 W., Kateel River Meridian, 200 feet in width, for a Federal Aid Highway. Act of August 27, 1958, as amended (23 U.S.C. 317);

6. A right-of-way, F–031428, located within Secs. 4, 5, 8, 17 and 18, T. 9 S., R. 36 W., Kateel River Meridian, for a Federal Aid material site. Act of August 27, 1958, as amended (23 U.S.C. 317);

7. A right-of-way, F–033602, Parcel No. 4, located within Secs. 19, 30, and 31, T. 9 S., R. 35 W., Secs. 8, 9, 13, 14, 15, 16, 17, and 24, T. 9 S., R. 36 W., Kateel River Meridian, 200 feet in width, for a Federal Aid Highway. Act of August 27, 1958, as amended (23 U.S.C. 317);

8. Any right-of-way interest in Federal Aid Secondary (FAS) Route No. 130 (Nome-Council Road) from Nome FAA Airfield east through Nome and Solomon to FAS Route 1304 at Council transferred to the State of Alaska by the quitclaim deed dated June 30, 1959, executed by the Secretary of Commerce

under the authority of the Alaska Omnibus Act, Public Law 86–70 (73 Stat. 141) as to T. 12 S., R. 31 W., Kateel River Meridian;

9. Any right-of-way interest in Federal Aid Secondary (FAS) Route No. 131 (Nome-Teller Road) from FAS Route 141 near Nome northwest to Teller transferred to the State of Alaska by the quitclaim deed dated June 30, 1959, executed by the Secretary of Commerce under the authority of the Alaska Omnibus Act, Public Law 86–70 (73 Stat. 141) as to Tps. 9 S., Rs. 35 and 36 W., Kateel River Meridian;

10. Any right-of-way interest in Federal Aid Secondary (FAS) Route No. 1311 (Snake River Road) from FAS Route 131 near Nome, northerly to Jensen's Mining and Recreation area transferred to the State of Alaska by the quitclaim deed dated June 30, 1959, executed by the Secretary of Commerce under the authority of the Alaska Omnibus Act, Public Law 86–70 (73 Stat. 141) as to T. 9 S., R. 34 W., Kateel River Meridian;

11. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Reindeer Grazing Permit, F–23293, issued to Sitnasuak Native Corporation, on January 1, 1982, located within lands herein approved for conveyance, will terminate upon conveyance of these lands in accordance with Sec. 9, Additional Condition or Stipulation No. 1 of the permit.

Reindeer Grazing Permit, F–030165, issued to Wilfred Kakaruk, on January 1, 1982, located within the lands herein approved for conveyance, will terminate upon conveyance of these lands in accordance with Sec. 9, Additional Condition or Stipulation No. 2 of the permit.

Reindeer Grazing Permit, F–035186, issued to Lawrence T. Davis, on January 1, 1982, located within the lands herein approved for conveyance, will terminate upon conveyance of these lands in accordance with Sec. 9, Additional Condition or Stipulation No. 1 of the permit.

Sitnasuak Native Corporation is entitled to conveyance of 161,280 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 69,613 acres. The remaining entitlement of approximately 91,667 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA, conveyance of the subsurface estate of the lands described above shall be issued to Bering Straits Native Corporation when the surface estate is conveyed to Sitnasuak Native Corporation, and shall be subject to the same conditions as the surface conveyance.

In accordance with Departmental regulation 43 CFR 2560.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Nome Nugget.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board before June 30, 1982, or to the Interior Board of Land Appeals after June 30, 1982; provided, however, pursuant to Public Law 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If and appeal is taken *before June 30, 1982,* the notice of appeal must be filed with the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501.

If an appeal is taken *after June 30, 1982,* the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), address given above. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, address given above.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until August 2, 1982, to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board or the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

State of Alaska, Department of Natural Resources, Division of Technical Services, Pouch 7–005, Anchorage, Alaska 99510

Sitnasuak Native Corporation, P.O. Box 905, Nome, Alaska 99762

Bering Straits Native Corporation, P.O. Box 1008, Nome, Alaska 99762

Ruth Stockie,

Acting Chief, Branch of ANCSA Adjudication.

[FR Doc. 82–17687 Filed 6–30–82; 8:45 am]

BILLING CODE 4310–84–M

[F–19571–A]

Alaska Native Claims Selection

On November 13, 1974, Chuloonawick Corporation, for the Native village of Chuloonawick, filed selection application F–19571–A, under the provisions of Sec. 12(a) of the Alaska Native Claims Settlement Act (ANCSA) of December 18, 1971 (43 U.S.C. 1601, 1611 (1976)), as amended, for the surface estate of certain lands in the vicinity of Chuloonawick, including lands within the Clarence Rhode National Wildlife Range (Public Land Order (PLO) 4584), 34 FR 1143.

On December 2, 1980, Sec. 303(7), Public Law 96–487, the Alaska National Interest Lands Conservation Act, established the Yukon Delta National Wildlife Refuge consisting of the Clarence Rhode National Wildlife Range (PLO 4584) and additions thereto.

Section 12(a)(1) of ANCSA provides that village selections shall be made from lands withdrawn by Sec. 11(a). Section 12(a)(1) further provides that no village may select more than 69,120 acres from the National Wildlife Refuge System. This decision approves approximately 3,271 acres of National Wildlife Refuge System lands for conveyance to Chuloonawick Corporation. This acreage does not exceed the 69,120 acres permitted under Sec. 12(a)(1).

As to the lands described below, selection application F–19571–A is properly filed and meets the requirements of ANCSA and of the

regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 62,450 acres, is considered proper for acquisition by Chuloonawick Corporation and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA.

Lands Within Public Land Order 4584 (Clarence Rhode National Wildlife Range), Now Known as the Yukon Delta National Wildlife Refuge

Seward Meridian, Alaska (Unsurveyed)

T. 33 N., R. 78 W.,
Sec. 7, excluding Native allotment F–18716 Parcel B;
Sec. 18, excluding Native allotments F–18716 Parcel B and F–18616 Parcel C;
Sec. 19, that portion within PLO 4584, excluding Native allotments F–18696 Parcel B and F–18466 Parcel B;
Sec. 30, that portion within PLO 4584.
Containing approximately 1,341 acres.

T. 33 N., R. 79 W.,
Sec. 1;
Secs. 2, 3, and 12, those portions within PLO 4584;
Sec. 13, that portion within PLO 4584, excluding Native allotment F–18472 Parcel A;
Secs. 24 and 25, those portions within PLO 4584.
Containing approximately 1,930 acres.
Aggregating approximately 3,271 acres.

Lands Outside Public Land Order 4584 (Clarence Rhode National Wildlife Range), Now Known as the Yukon Delta National Wildlife Refuge

Seward Meridian, Alaska (Unsurveyed)

T. 33 N., R. 78 W.,
Sec. 19, that portion outside PLO 4584, excluding Native allotments F–18696 Parcel B and F–18466 Parcel B;
Sec. 30, that portion outside PLO 4584, excluding Native allotment F–18466 Parcel B;
Secs. 31 and 32.
Containing approximately 1,738 acres.

T. 31 N., R. 79 W.,
Secs. 4, 5, and 6;
Sec. 8;
Sec. 9, excluding Native allotments F–18730 Parcel A and F–18653;
Sec. 10, excluding Native allotments F–18653 and F–18585 Parcel B;
Sec. 16, excluding Native allotment F–18653;
Sec. 21, excluding Native allotment F–18652 Parcel A;
Sec. 28, excluding Native allotment F–18654 Parcel C;
Containing approximately 4,817 acres.

T. 32 N., R. 79 W.,
Secs. 5 to 8, inclusive;
Secs. 17 and 18;
Sec. 19, excluding Native allotment F–18754 Parcel A;
Sec. 20;
Secs. 29 to 33, inclusive.
Containing approximately 6,751 acres.

T. 33 N., R. 79 W.,
Sec. 2, that portion outside PLO 4584;
Sec. 3, that portion outside PLO 4584, excluding Native allotment F–18353 Parcel B;
Secs. 4 to 9, inclusive;
Sec. 10, excluding Native allotment F–18353 Parcel B;
Sec. 11;
Sec. 12, that portion outside PLO 4584;
Sec. 13, that portion outside PLO 4584;
Secs. 14 to 19, inclusive;
Sec. 20, excluding Native allotment F–18696 Parcel A;
Secs. 21, 22, and 23;
Secs. 24 and 25, those portions outside PLO 4584;
Secs. 26, 27, and 28;
Sec. 29, excluding Native allotment F–18466 Parcel A;
Secs. 30 to 36, inclusive.
Containing approximately 18,410 acres.

T. 34 N., R. 79 W.,
Sec. 31.
Containing approximately 495 acres.

T. 32 N., R. 80 W.,
Secs. 1 and 2;
Sec. 3, excluding Native allotment F–18616 Parcel B;
Secs. 4 to 9 inclusive;
Sec. 10, excluding Native allotments F–18472 Parcel B, F–18616 Parcel B, and F–18465 Parcel C;
Sec. 11, excluding Native allotments F–18472 Parcel B, and F–18471 Parcel A;
Sec. 12, excluding Native allotment F–18717 Parcel B;
Sec. 13, excluding Native allotments F–18717 Parcel B, F–18465 Parcel B, and F–18471 Parcel D;
Sec. 14, excluding Native allotments F–18471 Parcels A, B, C, and D, F–18655 Parcel D, F–18465 Parcels A and B, and F–18348 Parcel B;
Secs. 15 to 22, inclusive;
Sec. 23, excluding Native allotment F–18624 Parcel C;
Secs. 24 to 36, inclusive.
Containing approximately 21,651 acres.

T. 33 N., R. 80 W.,
Secs. 1, 12, and 13;
Sec. 24, excluding Native allotment F–18620 Parcel B;
Sec. 25;
Secs. 34, 35, and 36.
Containing approximately 4,840 acres.

T. 34 N., R. 80 W.,
Sec. 36.
Containing approximately 477 acres.
Aggregating approximately 59,179 acres.
Total aggregated acreage approximately 62,450 acres.

Excluded from the above-described lands herein approved for conveyance are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce. Those water bodies are identified on the attached navigability maps, the original of which will be found in easement case file F–19571–EE.

Also excluded from the above-described lands herein approved for conveyance are lands covered by tidal waters up to the line of mean high tide. The actual limits of tidal influence for those water bodies, if any, will be determined at the time of survey.

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded because the lands are under applications pending further adjudication. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), the following public easement, referenced by easement identification number (EIN) on the easement maps attached to this document, a copy of which will be found in case file F–19571–EE, is reserved to the United States. This easement is subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for this type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

(EIN 2 C5, M) An easement twenty-five (25) feet in width for an existing access trail from Chuloonawick in Sec. 14, T. 32 N., R. 80 W., Seward Meridian, southerly to Emmonak. The uses allowed are those listed above for a

twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act (ANCSA) of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Requirements of Sec. 22(g) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1621(g)), that (a) the above-described lands which were, on December 18, 1971, within the boundaries of the Clarence Rhode National Wildlife Range (PLO 4584), now known as the Yukon Delta National Wildlife Refuge (P.L. 96–487), remain subject to the laws and regulations governing use and development of such refuge, and that (b) the right of first refusal, if said land or any part thereof is ever sold by the above-named corporation, is reserved to the United States; and

4. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Chuloonawick Corporation is entitled to conveyance of 69,120 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 62,450 acres. The remaining entitlement of approximately 6,670 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA, conveyance of the subsurface estate of the lands described above, excluding those lands which, on December 18, 1971, were withdrawn by PLO 4584, and which are reserved thereby as a national wildlife refuge, shall be issued to Calista Corporation when the surface estate is conveyed to Chuloonawick Corporation and shall be subject to the same conditions as the surface conveyance. This conveyance to Calista Corporation will include the subsurface estate of those lands outside of PLO 4584, which were withdrawn, subject to valid existing rights, as the Yukon Delta National Wildlife Refuge by Pub. L. 96–487 on December 2, 1980. Section 12(a)(1) of ANCSA provides that when a village corporation selects the surface estate of lands within the National Wildlife Refuge System, the regional corporation may make selections of the subsurface estate, in an equal acreage, from other lands withdrawn by Sec. 11(a) within the region. The total amount of wildlife refuge system lands withdrawn prior to December 18, 1971 which have been approved for conveyance to Chuloonawick Corporation is approximately 3,271 acres, which is less than the 69,120 acres permitted by Sec. 12(a)(1) of ANCSA.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week for four (4) consecutive weeks in The Tundra Drums.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised. However, pursuant to Public Law 96–487, this decision constitutes the final administratve determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances, (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until August 2, 1982, to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing and appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Chuloonawick Corporation,
Chuloonawick, Alaska, Via Emmonak, Alaska 99581
Calista Corporation, 516 Denali Street, Anchorage, Alaska 99501

Ann Johnson,

Chief, Branch of ANCSA, Adjudication.

[FR Doc. 82-17888 Filed 6-30-82; 8:45 am]
BILLING CODE 4310-84-M

[F-14864-A]

Alaska Native Claims Selection

On November 14, 1974, Nunapiglluraq Corporation, for the Native village of Hamilton, filed selection application F-14864–A under the provisions of Sec. 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976)) (ANCSA), as amended, for the surface estate of certain lands in the vicinity of Hamilton, including lands within the Clarence Rhode National Wildlife Range (Public Land Order (PLO) 4584) (34 FR 1143).

On December 2, 1980, Sec. 303(7) of Public Law (Pub. L.) 96–487, Alaska National Interest Lands Conservation Act, established the Yukon Delta National Wildlife Refuge consisting of the Clarence Rhode National Wildlife Range (PLO 4584) and additions thereto.

As to the lands described below, selection application F-14864–A, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of

ANCSA, aggregating approximately 65,081 acres, is considered proper for acquisition by Nunapiglluraq Corporation and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA.

Lands Within Public Land Order (PLO) 4584, Clarence Rhode National Wildlife Range (Now Known as the Yukon Delta National Wildlife Refuge)

Seward Meridian, Alaska (Unsurveyed)

T. 33 N., R. 77 W.,
Sec. 29;
Secs. 30 and 32, that portion within PLO 4584;
Sec. 33.
Containing approximately 1,867 acres.

T. 32 N., R. 78 W.,
Secs. 3 and 4, that portion within PLO 4584.
Containing approximately 155 acres.

T. 33 N., R. 78 W.,
Secs. 2 and 3;
Sec. 4, excluding Native allotment F–18717 Parcel A;
Secs. 11 and 13;
Sec. 14, excluding Native allotment F–18731 Parcel A;
Sec. 24;
Sec. 25, that portion within PLO 4584;
Sec. 34;
Sec. 35, that portion within PLO 4584.
Containing approximately 3,502 acres.

T. 34 N., R. 78 W.,
Sec. 33.
Containing approximately 378 acres.

T. 32 N., R. 79 W.,
Sec. 3, that portion within PLO 4584.
Containing approximately 40 acres.

Aggregating approximately 5,942 acres within PLO 4584.

Lands Outside Public Land Order (PLO) 4584, Clarence Rhode National Wildlife Range (Now Known as the Yukon Delta National Wildlife Refuge)

U.S. Survey No. 2025, of the U.S. School Reserve at Old Fort Hamilton, Territory of Alaska.
Containing 0.89 acres.

Seward Meridian, Alaska (Unsurveyed)

T. 31 N., R. 77 W.,
Secs. 29 to 32, inclusive.
Continuing approximately 1,992 acres.

T. 33 N., R. 77 W.,
Sec. 30, that portion outside PLO 4584;
Sec. 31, excluding Native allotment F–18640 Parcel A;
Sec. 32, that portion outside PLO 4584, excluding Native allotment F–18640 Parcel A.
Containing approximately 889 acres.

T. 31 N., R. 78 W.,
Secs. 1 to 9, inclusive;
Sec. 10, excluding Native allotment F–18756 Parcel D;
Secs. 11 to 29, inclusive;
Sec. 32, excluding Native allotments F–18325 Parcel A, F–18327 Parcel A, and F–18640 Parcel D;
Sec. 33, excluding Native allotments F–18324 Parcel A, F–18325 Parcel A, F–18346 Parcel C, F–18615 Parcel C, F–18655 Parcel C, F–18688 Parcel B, and F–18694 Parcel B;
Sec. 34, excluding Native allotment F–18478 Parcel B;
Sec. 35;
Sec. 36, excluding Native allotment F–18719 Parcel A.
Containing approximately 19,802 acres.

T. 32 N., R. 78 W.,
Sec. 1;
Sec. 2, excluding Native allotments F–18583 Parcel A, and F–18638 Parcel B;
Sec. 3, that portion outside PLO 4584, excluding U.S. Survey No. 2025, and Native allotment F–18372 Parcel A;
Sec. 4, that portion outside PLO 4584;
Secs. 5 to 10, inclusive;
Sec. 11, excluding Native allotments F–18332 Parcel B, F–18638 Parcel C, and F–18692 Parcel A;
Secs. 12 and 13;
Sec. 14, excluding Native allotment F–18637 Parcel B;
Secs. 15 to 35, inclusive;
Sec. 36, excluding Native allotment F–17096 Parcel C.
Containing approximately 21,402 acres.

T. 33 N., R. 78 W.,
Secs. 25 and 35, that portion outside PLO 4584;
Sec. 36.
Containing approximately 630 acres.

T. 31 N., R. 79 W.,
Sec. 1, excluding Native allotment F–18583 Parcel B;
Secs. 2 and 3;
Sec. 11, excluding Native allotments F–18585 Parcel B and F–18644 Parcel A;
Secs. 12 and 13.
Containing approximately 2,818 acres.

T. 32 N., R. 79 W.,
Sec. 1;
Sec. 2, excluding Native allotment F–18729 Parcel C;
Sec. 3, that portion outside PLO 4584;
Secs. 9 to 13, inclusive;
Secs. 14 and 15, excluding Native allotment F–18642 Parcel C;
Sec. 16;
Secs. 21 to 28, inclusive;
Secs. 34, 35, and 36.
Containing approximately 11,605 acres.

Aggregating approximately 59,139 acres outside PLO 4584.

Total aggregated acreage approximately 65,081 acres.

Excluded from the above-described lands herein conveyed are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce, or are pending a tidal determination at the time of survey. Those water bodies are identified on the attached navigability maps, the original of which will be found in easement case file F–14864–EE.

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for one or more of the following reasons: Lands are no longer under Federal jurisdiction; or lands are under applications pending further adjudication. Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f));

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)) the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F–14864–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

Allowable Uses

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

One Acre Site—The uses allowed for a site easement are: vehicle parking (e.g., aircraft, boats, ATV'S, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

a. (EIN 3 D9) A one-(1) acre site easement upland of the mean high tide line in Sec. 3, T. 32 N., R. 78 W., Seward Meridian, on the right bank of Apoon Pass. The uses allowed are those listed above for a one (1) acre site.

b. (EIN 5 C4, C5) An easement for a proposed trail twenty-five (25) feet in width from Hamilton site easement EIN 3 D9 easterly to public land. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permitee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Requirements of Sec. 22(g) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1621(g)), that (a) the above described lands which were, on December 18, 1971, within the boundaries of the Clarence Rhode National Wildlife Range (PLO 4584) (now Known as the Yukon Delta National Wildlife Refuge (Public Law 96–487)), remain subject to the laws and regulations governing use and development of such refuge, and that (b) the right of first refusal, if said land or any part thereof is ever sold by the above-named corporation, is reserved to the United States and

4. Requirement[illegible]of Sec. 14(c) of the Alaska Native Cl[illegible]ms Settlement Act of December 18, 197[illegible]43 U.S.C. 1601, 1613(c)), that the g[illegible]antee hereunder convey those por[illegible]ons, if any, of the lands, hereinabov[illegible]granted, as are prescribed in said[illegible]ection.

Nunapigluraq Corporation is entitled to conveyance of 69,120 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 65,081 acres. The remaining entitlement of approximately 4,039 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA, conveyance of the subsurface estate of the lands described above, including those lands which, on December 18, 1971, were withdrawn by PLO 4584 and which were reserved thereby as a national wildlife refuge, shall be issued to Calista Corporation, when the surface estate is conveyed to Nunapigluraq Corporation, and shall be subject to the same conditions as the surface conveyance. This conveyance to Calista Corporation will include the subsurface estate of those lands outside of PLO 4584, which were withdrawn, subject to valid existing rights, as the Yukon Delta National Wildlife Refuge by Pub. L. 96–487, on December 2, 1980. Section 12(a)(1) of ANCSA provides that when a village corporation selects the surface estate of lands within the National Wildlife Refuge System, the regional corporation may make selections of the subsurface estate, in an equal acreage, from other lands withdrawn by Sec. 11(a) within the region. The total amount of wildlife refuge system lands withdrawn on December 18, 1971 which have been approved for conveyance to Nunapigluraq Corporation is approximately 5,942 acres, which is less than the 69,120 acres permitted by Sec. 12(a)(1) of ANCSA.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in THE TUNDRA DRUMS.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board before June 30, 1982, or to the Interior Board of Land Appeals after June 30, 1982; provided, however, pursuant to Public Law 96–487, this decision constitutes the final administrative determination of the Bureau of Land Mangement concerning navigability of water bodies.

If an appeal is taken before June 30, 1982, the notice of appeal must be filed with the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501.

If an appeal is taken after June 30, 1982, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), address given above. Do not send the appeal directly to Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, address given above.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until August 2, 1982, to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board or the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Nunapigluraq Corporation, Hamilton, via Kotlik, Alaska 99620
Calista Corporation, 516 Denali Street, Anchorage, Alaska 99501

Ann Johnson,
Chief, Branch of ANCSA Adjudication.

[FR Doc. 82–17889 Filed 6–30–82; 8:45 am]
BILLING CODE 4310–84–M

[AA–8103–5]

Alaska Native Claims Selection

On April 2, 1975, Doyon, Limited, filed selection application AA–8103–5, as amended, under the provisions of Sec. 12(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611(c) (1976)) (ANCSA), as amended, for the surface and subsurface estates of certain lands withdrawn pursuant to Sec. 11(a)(1) for the Native village of Shageluk. The application excluded a large unnamed lake in T. 28 N., R. 56 W., Seward Meridian, as being navigable. As this is considered nonnavigable and as Sec. 12(c)(3) and 43 CFR 2652.3(c) require the region to select all available lands within the township, the bed of this water body is considered selected.

As to the lands described below, the application, as amended, is properly filed and meets the requirements of the

Alaska Native Claims Settlement Act, as amended, and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands, selected pursuant to Sec. 12(c) of ANCSA, as amended, aggregating approximately 153,866 acres, are considered proper for acquisition by Doyon, Limited, and are hereby approved for conveyance pursuant to Sec. 14(e) of ANCSA.

Seward Meridian, Alaska (Unsurveyed)

T. 29 N., R. 53 W.,
Secs. 1 to 36, inclusive.
Containing approximately 23,006 acres.
T. 31 N., R. 53 W.,
Secs. 1 to 36, inclusive.
Containing approximately 22,872 acres.
T. 28 N., R. 54 W.,
Secs. 1 to 36, inclusive.
Containing approximately 22,809 acres.
T. 30 N., R. 54 W.,
Secs. 1 and 2;
Sec. 3, excluding Native allotment F–16288 Parcel B;
Secs. 4 to 9, inclusive;
Sec. 10, excluding Native allotment F–16288 Parcel B;
Secs. 11 to 36, inclusive.
Containing approximately 22,539 acres.

Seward Meridian, Alaska (Surveyed)

T. 32 N., R. 54 W.,
Secs. 5 to 9, inclusive;
Sec. 16;
Secs. 17 to 20, inclusive, excluding Native allotment F–13940;
Secs. 21 and 30.
Containing approximately 7,313 acres.
T. 29 N., R. 55 W.,
Secs. 6, 7, and 18;
Sec. 19, excluding Native allotment F–14300 Parcel A.
Containing approximately 2,505 acres.
T. 31 N., R. 535 W.,
Secs. 5 to 8, inclusive;
Sec. 9, excluding U.S. Survey No. 6624 and Native allotment F–14298 Parcel A;
Secs. 15, 16, and 17;
Secs. 21 and 22;
Secs. 30, 31, and 32.
Containing approximately 7,822 acres.
T. 28 N., R. 56 W.,
Sec. 7, excluding U.S. Survey No. 6585 and Native allotment F–13847;
Sec. 8;
Sec. 16, excluding Native allotment F–15001 Parcel A;
Secs. 17 to 20, inclusive;
Sec. 21, excluding Native allotment F–15001 Parcel A;
Sec. 22;
Secs. 27 to 34, inclusive.
Containing approximately 10,532 acres.
T. 30 N., R. 56 W.,
Secs. 1 to 15, inclusive;
Secs. 16 and 17, excluding Native allotment F–13936;
Secs. 18 and 19;
Secs. 28 to 34, inclusive.
Containing approximately 16,234 acres.
T. 32 N., R. 56 W.,
Sec. 2, excluding U.S. Survey No. 6606 and Native allotment F–027929 Parcel A;
Secs. 3 to 11, inclusive;
Secs. 14 and 15;
Sec. 16, excluding U.S. Survey No. 6601 and Native allotment F–14299 Parcel C;
Sec. 17, excluding U.S. Survey No. 6601 and Native allotment F–14299 Parcel A;
Sec. 18;
Sec. 19, excluding Native allotment F–16316 Parcel A;
Sec. 20;
Sec. 21, excluding U.S. Survey No. 6604 and Native allotment F–14299 Parcel B;
Secs. 22 and 23;
Secs. 26 to 32, inclusive;
Secs. 34, 35, and 36.
Containing approximately 18,234 acres.
Aggregating approximately 153,866 acres.

Excluded from the above-described lands herein conveyed are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce. Those water bodies are identified on the attached navigability maps, the original of which will be found in easement case file AA–16630–5.

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded because they are under applications pending further adjudication. Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface and subsurface estates of the lands described above shall contain the following reservation to the United States:

Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), as amended, the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file AA–16630–5, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

a. (EIN 3 C3, D1, D9) An easement for an existing access trail twenty-five (25) feet in width from Anvik to Shageluk and on east to public land. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

b. (EIN 8 D1) an easement for an existing access trail twenty-five (25) feet in width from Grayling southeasterly toward Shageluk. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

c. (EIN 18 C5) An easement for a proposed access trail twenty-five (25) feet in width from Sec. 31, T. 30 N., R. 53 W., Seward Meridian, southwesterly to Sec. 1, T. 29 N., R. 54 W., Seward Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

d. (EIN 19 C5) An easement for a proposed access trail twenty-five (25) feet in width from Sec. 36, T. 30 N., R. 57 W., Seward Meridian, southeasterly to Sec. 6, T. 29 N., R. 56 W., Seward Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

e. (EIN 20 C5) An easement for a proposed access trail twenty-five (25) feet in width from Sec. 36, T. 31 N., R. 54 W., Seward Meridian, southeasterly to Sec. 6, T. 30 N., R. 53 W., Seward Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

f. (EIN 22 C5) An easement for a proposed access trail twenty-five (25) feet in width from Sec. 31, T. 32 N., R. 55 W., Seward Merridian, southwesterly to Sec. 1, T. 31 N., R. 56 W., Seward Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat, or

supplemental plat, of survey confirming the boundary description and acreage of the lands hereinabove granted; and

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), as amended, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law.

To date, approximately 3,255,516 acres of land, selected pursuant to Sec. 12(c) of the Alaska Native Claims Settlement Act, have been approved for conveyance to Doyon, Limited.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the TUNDRA TIMES.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal board before June 30, 1982, or to the Interior Board of Land Appeals after June 30, 1982; provided, however, pursuant to Public Law 96-487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken before June 30, 1982, the notice of appeal must be filed with the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501.

If an appeal is taken after June 30, 1982, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), address given above. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, address given above.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until August 2, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board or the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the notice of appeal is: Doyon, Limited, Land Department, Doyon Building, 201 First Avenue, Fairbanks, Alaska 99701.

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-17880 Filed 6-30-82; 8:45 am]

BILLING CODE 4310-84M

[F-19155-21]

Alaska Native Claims Selection

On April 2, 1975, Doyon, Limited, filed selection application F-19155-21, as amended, under the provisions of Sec. 12(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611(c)) (1976) (ANCSA), as amended, for the surface and subsurface estates of certain lands withdrawn pursuant to Sec. 11(a)(1) for the Native village of Minto.

As to the lands described below, selection application F-19155-21, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands, selected pursuant to Sec. 12(c) of ANCSA, aggregating approximately 45,833 acres, are considered proper for acquisition by Doyon, Limited, and are hereby approved for conveyance pursuant to Sec. 14(e) of ANCSA:

Fairbanks Meridian, Alaska (Unsurveyed)

T. 6 N., R. 8 W.,
Secs. 1 to 36, inclusive.
Containing approximately 22,926 acres.

T. 6 N., R. 10 W.,
Sec. 1, excluding Mineral Survey No. 2313;
Secs. 2 to 36, inclusive.
Containing approximately 22,907 acres.
Aggregating approximately 45,833 acres.

There are no inland water bodies considered to be navigable within the above-described lands.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for the following reason: Lands are under applications pending further adjudication. Lands within Mineral Surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface and subsurface estates of the lands described above shall contain the following reservation to the United States:

Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), as amended, the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in easement case file F-21779-21, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

50 Foot Trail—The uses allowed on a fifty (50) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, and four-wheel drive vehicles.

60 Foot Road—The uses allowed on a sixty (60) foot wide road easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

One Acre Site—The uses allowed for a site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading.

Temporary camping, loading or unloading shall be limited to 24 hours.

a. (EIN 21 D1, L) An easement sixty (60) feet in width for an existing road from the Elliott Highway beginning in Sec. 6, T. 5 N., R. 8 W., Fairbanks Meridian, northerly, then westerly to public land and resources. The uses allowed are those listed for a sixty (60) foot wide road easement.

b. (EIN 21 D1, L) An easement fifty (50) feet in width for an existing access trail for road easement EIN 21 D1, L in Sec. 6, T. 6 N., R. 8 W., Fairbanks Meridian, northeasterly to public land and resources. The uses allowed are those listed for a fifty (50) foot wide trail easement.

c. (EIN 21c D1, L) An easement fifty (50) feet in width for an existing access trail from road easement EIN 21 D1, L in Sec. 14, T. 6 N., R. 10 W., Fairbanks Meridian, westerly to public land and resources. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

d. (EIN 21d C4) A one (1) acre site easement adjacent to road easement EIN 21 D1, L in Sec. 6, T. 6 N., R. 8 W., Fairbanks Meridian. The uses allowed are those listed for a one (1) acre site.

e. (EIN 21e C4) A one (1) acre site easement adjacent to road easement EIN 21 D1, L in Sec. 14, T. 6 N., R. 10 W., Fairbanks Meridian. The uses allowed are those listed for a one (1) acre site.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), as amended, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Any right-of-way interest in the Elliott Highway (FAS Route No. 680) transferred to the State of Alaska by the Quitclaim deed dated June 30, 1959, executed by the Secretary of Commerce under the authority of the Alaska Omnibus Act, Public Law 86-70 (73 Stat. 141) as to: Secs. 25, and 32 to 36 inclusive, T. 6 N., R. 8 W., Fairbanks Meridian; and

4. The following rights-of-way for Federal Aid Material sites. (Section 17 of the Federal Aid Highway Act of November 9, 1921 (23 U.S.C. 18), as amended);

Fairbanks Meridian, Alaska

F-025510 S½
Sec. 35, T. 6 N., R. 8 W.
F-025512 S½
Sec. 32, T. 6 N., R. 8 W.
F-025513 S½
Sec. 32, T. 6 N., R. 8 W.

To date, approximately 3,301,349 acres of land, selected pursuant to Sec. 12(c) of ANCSA, have been approved for conveyance to Doyon, Limited.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the FAIRBANKS DAILY NEWS-MINER.

Any party claiming a property interest in lands affected by this decision, and agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 *Code of Federal Regulations* (CFR), Part 4, Subpart E as revised. However, pursuant to Public Law 96-487, this decision consititutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances, (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until August 2, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. (See enclosed DOI Form 1842-1.)

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Doyon, Limited, Land Department, Doyon Building, 201 First Avenue, Fairbanks, Alaska 99701

State of Alaska, Department of Natural Resources, Division of Technical Services, Pouch 7-005, Anchorage, Alaska 99510

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-17891 Filed 6-30-82; 8:45 am]
BILLING CODE 4310-84-M

[F-14951-A]

Alaska Native Claims Selection

On November 22, 1974, Tununrmiut Rinit Corp., for the Native village of Tununak, filed selection application F-14951-A under the provisions of Sec. 12(a) of the Alaska Native Claims Settlement Act (ANCSA) of December 18, 1971 (43 U.S.C. 1601, 1611 (1976)), as amended, for the surface estate of certain lands in the vicinity of Tununak, including lands within the Clarence Rhode National Wildlife Range (Public Land Order (PLO) 4584), 34 FR 1143, and the Hazen Bay National Wildlife Refuge (Executive Order (EO) 7770).

On December 2, 1980, Sec. 303(7) of Public Law (Pub. L.) 96-487, Alaska National Interest Lands Conservation Act, established the Yukon Delta National Wildlife Refuge, consisting of the existing Clarence Rhode National Wildlife Range (PLO 4584) and the Hazen Bay National Wildlife Refuge (EO 7770) and additions thereto.

As to the lands described below, the application, as amended, submitted by Tununrmiut Rinit Corp., is properly filed and meets the requirements of ANCSA and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 105,072 acres, is considered proper for acquisition by Tununrmiut Rinit Corp. and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA:

Lands Within Public Land Order 4584 (Clarence Rhode National Wildlife Range) and Executive Order 7770 (Hazen Bay National Wildlife Refuge), Now Known as the Yukon Delta National Wildlife Refuge

Seward Meridian, Alaska (Unsurveyed)

T. 5 N., R. 89 W.
Secs. 29 and 30;
Sec. 31, excluding Native allotment F–15801 Parcel B.
Containing approximately 1,781 acres.

T. 8 N., R. 89 W.
Secs. 1 to 26, inclusive;
Sec. 27, excluding Native allotment F–17970 Parcel B;
Secs. 28, 29, and 30;
Sec. 31, excluding Native allotment F–18186 Parcel A;
Sec. 32, excluding Native allotments F–17970 Parcel A and F–18124 Parcel A;
Secs. 33 to 36, inclusive.
Containing approximately 20,238 acres.

T. 4 N., R. 90 W.
Sec. 1;
Sec. 2, excluding Native allotment F–16819 Parcel A;
Secs. 3 to 9, inclusive;
Sec. 10, excluding Native allotments F–16897, F–16899, F–18128 Parcel C, and F–19266;
Sec. 11, excluding Native allotments F–16819 Parcel A and F–17968 Parcel A;
Secs. 12 and 13;
Sec. 14, excluding Native allotments F–15802 Parcel B, F–15903 Parcel A, and F–16821 Parcel B;
Sec. 15, excluding Native allotments F–15804 and F–19139 Parcel B;
Sec. 16, excluding Native allotment F–15804;
Secs. 17 to 20, inclusive;
Sec. 21, excluding Native allotment F–15800 Parcel B;
Sec. 22, excluding Native allotments F–15800 Parcel B and F–17850 Parcel B;
Secs. 23 and 24;
Sec. 25, excluding Native allotment F–18187 Parcel C;
Sec. 26;
Sec. 27, excluding Native allotment F–16122 Parcel B;
Secs. 28 to 34, inclusive;
Sec. 35, excluding Native allotment F–17698 Parcel B;
Sec. 36.
Containing approximately 21,388 acres.

T. 8 N., R. 90 W.
Sec. 1;
Sec. 2 (fractional);
Sec. 13, excluding Native allotment F–18126 Parcel B;
Sec. 14;
Secs. 15 and 22 (fractional);
Sec. 23;
Sec. 24, excluding Native allotment F–18125 Parcel A;
Sec. 25;
Secs. 26, 35, and 36 (fractional).
Containing approximately 4,205 acres.

T. 4 N., R. 91 W.
Sec. 1;
Secs. 2 and 3 (fractional);
Secs. 7 to 10 (fractional), inclusive;
Secs. 11 to 17, inclusive;
Secs. 18, 19, and 20 (fractional);
Secs. 21 to 27, inclusive;
Secs. 28 and 29 (fractional);
Secs. 3 and 34 (fractional);
Secs. 35 and 36.
Containing approximately 14,815 acres.
Aggregating approximately 62,427 acres.

Lands Outside Public Land Order 4584 (Clarence Rhode National Wildlife Range) and Executive Order 7770 (Hazen Bay National Wildlife Refuge), Now Known as the Yukon Delta National Wildlife Refuge

Lot 1 of U.S. Survey No. 4054, Alaska, situated in the village of Tununak located in Hazen Bay on Nelson Island
Containing 9.35 acres.

Seward Meridian, Alaska (Unsurveyed)

T. 9 N., R. 82 W.
Secs. 2 and 3;
Secs. 8 to 18, inclusive;
Sec. 19 (fractional);
Secs. 20 to 24, inclusive;
Secs. 25 to 30 (fractional), inclusive.
Containing approximately 9,334 acres.

T. 7 N., R. 89 W.
Secs. 3 and 4;
Sec. 5, excluding Native allotments F–18121 Parcel A, F–18124 Parcel A, and F–19267 Parcel B;
Secs. 6 and 7 (fractional);
Secs. 8, 9, and 10;
Secs. 15 to 22 inclusive;
Sec. 30.
Containing approxmiately 10,132 acres.

T. 6 N., R. 90 W.
Secs. 3, 4, and 5;
Sec. 6 (fractional);
Secs. 7, 8, and 9;
Sec. 18.
Containing approximately 5,056 acres.

T. 7 N., R. 90 W.
Secs. 12, 13, and 14 (fractional);
Secs. 21, 22, and 23 (fractional);
Secs. 24 to 27, inclusive;
Secs. 28, 29, 31, and 32 (fractional);
Secs. 33, 34, and 35.
Containing approximately 7,725 acres.

T. 6 N., R. 91 W.
Secs. 1, 11, and 12 (fractional);
Sec. 13;
Secs. 14, 15, and 16 (fractional);
Sec. 21 (fractional), excluding U.S. Survey No. 4028 and U.S. Survey No. 4054;
Sec. 22, excluding U.S. Survey No. 4028;
Secs. 23 to 26, inclusive;
Sec. 27, excluding U.S. Survey No. 4028;
Sec. 28 (fractional), excluding U.S. Survey No. 877, U.S. Survey No. 4054, U.S. Survey No. 4028, and permit No. M–75–YD (formerly AA–14024, under the provisions of Sec. 23 of the Airport and Airway Development Act of 1970);
Sec. 29 (fractional), excluding Native allotment F–17845;
Sec. 30 (fractional);
Sec. 31;
Sec. 32, excluding Native allotment F–17845;
Secs. 33 to 36, inclusive.
Containing approximately 10,389 acres.
Aggregating approximately 42,645 acres.

Total aggregated acreage approximately 105,072 acres.

Excluded from the above-described lands herein approved for conveyance are the submerged lands up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce, or are pending a tidal determination at the time of survey. Those water bodies are identified on the attached navigability maps, the original of which will be fouind in easement case file F–14951–EE.

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for one or more of the following reasons: Lands are no longer under Federal jurisdiction or lands are under applications pending further adjudication. Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions *do not* constitute a rejection of the selection.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), the following public easement, referenced by easement identification number (EIN) on the the easement maps attached to this document, copies of which will be found in case file F–14951–EE, is reserved to the United States. This easement is subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for this type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (ATV's) (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

(EIN 2 D1, D9) An easement for an existing access trail twenty-five (25) feet in width from Tununak in Sec. 28, T. 6 N., R. 91 W., Seward Meridian, southeasterly to Toksook Bay. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act (ANCSA) of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Requirements of Sec. 22(g) of the Alaska Native Claims Settlement Act December 18, 1971 (43 U.S.C. 1601, 1621(g)), that (a) the above-described lands which were, on December 18, 1971, within the boundaries of the Clarence Rhode National Wildlife Range (PLO 4584) and the Hazen Bay National Wildlife Refuge (EO 7770) now known as the Yukon Delta National Wildlife Refuge (Pub. L. 96–487) remain subject to the laws and regulations governing use and development of such refuge, and that (b) the right of first refusal, if said land or any part thereof is ever sold by the above-named corporation, is reserved to the United States;

4. The following third-party interest, if valid, created and identified by the U.S. Fish and Wildlife Service, as provided by Sec. 14(g) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(g)):

Permit No. M–96–YD, (formerly AA–13347, under the provisions of the Public Airport Act of May 24, 1928), issued to the State of Alaska, Department of Transportation and Public Facilities for a twenty (20) year airport lease at Tununak, located in Sec. 28, T. 6 N., R. 91 W., Seward Meridian, Alaska; and

5. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Tununrmiut Rinit Corp. is entitled to conveyance of 115,200 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 105,072 acres. The remaining entitlement of approximately 10,128 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA, conveyance of the subsurface estate of the lands described above, excluding those lands which, on December 18, 1971, were withdrawn by PLO 4584 and EO 7770, and which are reserved thereby as a national wildlife refuge, shall be issued to Calista Corporation when the surface estate is conveyed to Tununrmiut Rinit Corp., and shall be subject to the same conditions as the surface conveyance. This conveyance to Calista Corporation will include the subsurface estate of those lands outside of PLO 4584 and EO 7770, which were withdrawn, subject to valid existing rights, as the Yukon Delta National Wildlife Refuge by Pub. L. 96–487, on December 2, 1980. Section 12(a)(1) of ANCSA provides that when a village corporation selects the surface estate of lands within the National Wildlife Refuge System, the regional corporation may make selections of the subsurface estate, in an equal acreage, from other lands withdrawn by Sec. 11(a) within the region. The total amount of wildlife refuge system lands withdrawn prior to December 18, 1971, which have been approved for conveyance to Tununrmiut Rinit Corp. is approximately 62,427 acres, which is less than the 69,120 acres permitted by Sec. 12(a)(1) of ANCSA.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Tundra Drums.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 *Code of Federal Regulations* (CFR), Part 4, Subpart E, as revised. However, pursuant to Public Law 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances, (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until August 2, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. (See enclosed DOI Form 1842–1.)

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Tununrmiut Rinit Corp., Tununak, Alaska 99681

Calista Corporation, 516 Denali Street, Anchorage, Alaska 99501

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82–17882 Filed 6–30–82; 8:45 am]

BILLING CODE 4310–84–M

[F–14904–A]

Alaska Native Claims Selection

On November 22, 1974, Newtok Corporation, Inc., for the Native village of Newtok, filed selection application F–14904–A under the provisions of Sec. 12(a) of the Alaska Native Claims Settlement Act (ANCSA) of December 18, 1971 (43 U.S.C. 1601, 1611 (1976)), as amended, for the surface estate of certain lands in the vicinity of Newtok, including lands within the Clarence Rhode National Wildlife Range (Public Land Order (PLO) 4584), 34 FR 1143.

On December 2, 1980, Sec. 303(7) of Public Law (Pub. L.) 96–487, the Alaska National Interest Lands Conservation Act, established the Yukon Delta National Wildlife Refuge, consisting of

the existing Clarence Rhode National Wildlife Range (PLO 4584), and additions thereto.

As to the lands described below, the application submitted by Newtok Corporation, Inc., is properly filed and meets the requirements of ANCSA and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 82,746 acres, is considered proper for acquisition by Newtok Corporation, Inc., and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA.

Lands Within Public Land Order 4584 (Clarence Rhode National Wildlife Range), Now Known as the Yukon Delta National Wildlife Refuge

Lot 3 of U.S. Survey No. 4042, Alaska, situated near the Bering Sea in the village of Newtok.
Containing 0.18 acre.

Seward Meridian, Alaska (Unsurveyed)

T. 10 N., R. 82 W.
Sec. 4, that portion within PLO 4584;
Secs. 9 and 10, those portions within PLO 4584;
Sec. 23, that portion within PLO 4584.
Containing approximately 873 acres.

T. 10 N., R. 85 W.
Secs. 5, 8, 9, and 10;
Secs. 13, 14, and 15.
Containing approximately 4,480 acres.

T. 11 N., R. 85 W.
Secs. 19, 20, 29, and 32.
Containing approximately 2,535 acres.

T. 12 N., R. 85 W.
Sec. 7.
Containing approximately 610 acres.

T. 11 N., R. 86 W.
Secs. 3 and 10;
Secs. 14 to 20, inclusive;
Secs. 23 and 24;
Secs. 29 and 30;
Sec. 31, excluding Native allotment F-18307 Parcel B.
Containing approximately 6,783 acres.

T.12 N., R. 86 W.
Secs. 10, 11, and 12;
Secs. 15, 22, 27 and 34.
Containing approximately 4,480 acres.

T. 10 N., R. 87 W.
Secs. 1 to 23, inclusive;
Sec. 24, excluding U.S. Survey No. 4042 and Native allotment F-17968 Parcel B;
Secs. 25;
Sec. 26, Excluding Native allotment F-18127 Parcel C;
Secs. 27 to 36, inclusive.
Containing approximately 20,601 acres.

T. 11 N., R. 87 W.
Secs. 7 to 10, inclusive;
Secs. 13, 14, and 15;
Secs. 22 to 27, inclusive;
Secs. 34, 35, and 36.
Containing approximately 9,846 acres.

T. 11 N., R. 88 W.
Secs. 5 and 6;
Secs. 8 to 12, inclusive.
Containing approximately 3,920 acres.

T. 11 N., R. 89 W.
Secs. 1 to 4, inclusive;
Secs. 10 and 11.
Containing approximately 3,295 acres.

T. 12 N., R. 89 W.
Secs. 26, 27, and 28;
Secs. 32 to 35, inclusive.
Containing approximately 3,850 acres.
Aggregating approximately 63,264 acres.

Lands Outside Public Land Order 4584 (Clarence Rhode National Wildlife Range), Now Known as the Yukon Delta National Wildlife Refuge

Seward Meridian, Aoaska (Unsurveyed)

T. 10 N., R. 81 W.
Secs. 7 and 8;
Secs. 17 to 20, inclusive;
Secs. 29 and 30.
Containing approximately 4,966 acres.

T. 10 N., R. 82 W.
Secs. 1 and 2;
Sec. 3, excluding Native allotments F-14254 Parcel A and F-030476;
Sec. 4, that portion outside PLO 4584, excluding Native allotment F-030476;
Secs. 9 and 10, those portionns outside PLO 4584, excluding Native allotments F-030476 and F-0298675;
Secs. 11, 12, and 13;
Secs. 24, 25, and 26.
Containing approximately 5,392 acres.

T. 8 N., R. 86 W.
Secs. 19 and 30.
Containing approximately 1,212 acres.

T. 8 N., R. 87 W.
Sec. 5, excluding Native allotment F-16745;
Secs. 6, 8, 9, and 13;
Sec.14, excluding Native allotment F-17824 Parcel A;
Secs. 15 and 16;
Secs. 22 to 26, inclusive.
Containing approximately 7,910 acres.
Aggregating approximately 19,482 acres.
Total aggregated acreage approximately 82,746 acres.

Excluded from the above-described lands herein conveyed are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce, or are pending a tidal determination at the time of survey. Those water bodies are identified on the attached navigability maps, the orginal of which will be found in easement case file F-14904-EE.

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on available evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for one or more of the following reasons: Lands are no longer under Federal jurisdiction or lands are under applications pending further adjudication. Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions *do not* constitute a rejection of the selection application unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), the following public easement, referenced by easement identification number (EIN) on the easement maps attached to this document, a copy of which will be found in case file F-14904-EE, is reserved to the United States. This easement is subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for this type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

(EIN 7 E) An easement for a proposed access trail twenty-five (25) feet in width from the southern end of the Newtok airstrip in Sec. 24, T. 10 N., R. 87 W., Seward Meridian, easterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those

created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act (ANCSA) of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Requirements of Sec. 22(g) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1621(g)), that (a) the above-described lands which were, on December 18, 1971, within the boundaries of the Clarence Rhode National Wildlife Range (PLO 4584), now known as the Yukon Delta National Wildlife Refuge (Pub. L. 96-487), remain subject to the laws and regulations governing use and development of such refuge, and that (b) the right of first refusal, if said land or any part thereof is ever sold by the above-named corporation, is reserved to the United States; and

4. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Newtok Corporation, Inc., is entitled to conveyance of 92,160 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 82,746 acres. The remaining entitlement of approximately 9,414 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA conveyance of the subsurface estate of the lands described above, excluding those lands which, on December 18, 1971, were withdrawn by PLO 4584, and which are reserved thereby as a national wildlife refuge shall be issued to Calista Corporation, when the surface estate is conveyed to Newtok Corporation, Inc., and shall be subject to that same conditions as the surface conveyance. This conveyance to Calista Corporation will include the subsurface estate of those lands outside of PLO 4584, which were withdrawn, subject to valid existing rights, as the Yukon Delta National Wildlife Refuge by Pub. L. 96-487, on December 2, 1980. Section 12(a)(1) of ANCSA provides that when a village corporation selects the surface estate of lands within the National Wildlife Refuge System, the regional corporation may make selections of the subsurface estate, in an equal acreage, from other lands withdrawn by Sec. 11(a) within the region. The total amount of wildlife refuge system lands withdrawn prior to December 18, 1971, which have been approved for conveyance to Newtok Corporation, Inc., is approximately 63,264 acres, which is less than the 69,120 acres permitted by Sec. 12(a)(1) of ANCSA.

In accordance with Departmental regulations 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Tundra Drums.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title *43 Code of Federal Regulations* (CFR), Part 4, Subpart E, as revised. However, pursuant to Public Law 96-487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until August 2, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Newtok Corporation, Inc., Newtok, Alaska 99559

Calista Corporation, 516 Denali Street, Anchorage, Alaska 99501

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-17803 Filed 6-30-82; 8:45 am]
BILLING CODE 4310-84-M

[F-19155-4]

Alaska Native Claims Selection

On April 2, 1975, Doyon, Limited, filed selection application F-19155-4, as amended, under the provisions of Sec. 12(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611(c) (1976)) (ANCSA), as amended, for the surface and subsurface estates of certain lands withdrawn pursuant to Sec. 11(a)(1) for the Native village of Fort Yukon. The application excluded several water bodies as being navigable. As these are considered nonnavigable and as Sec. 12(c)(3) and 43 CFR 2652.3(c) require the region to select all available lands within the township, the beds of these water bodies are considered selected.

As to the lands described below, the application, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands, selected pursuant to Sec. 12(c) of ANCSA, aggregating approximately 241,676 acres, are considered proper for acquisition by Doyon, Limited, and are hereby approved for conveyance pursuant to Sec. 14(e) of ANCSA.

Fairbanks Meridian, Alaska (Unsurveyed)

T. 19 N., R. 9 E.,
Secs. 1 to 36, inclusive.
Containing approximately 22,843 acres.

T. 21 N., R. 9 E.,
Sec. 1, excluding Native allotment F-13533;
Sec. 2, excluding U.S. Survey No. 5220 and Native allotment F-13533;
Secs. 3, 4, and 5, excluding U.S. Survey No. 5220;

Secs. 7 and 8, excluding U.S. Survey No. 5220;
Sec. 9, excluding U.S. Survey No. 5220 and Native allotment F–16260 Parcel A;
Sec. 10;
Secs. 11 and 12, excluding Native allotment F–13533;
Sec. 13;
Sec. 14, excluding Native allotment F–13841;
Sec. 15;
Sec. 16, excluding U.S. Survey No. 5220 and Native allotment F–16262 Parcel B;
Secs. 17 and 20, excluding U.S. Survey No. 5220;
Sec. 21, excluding U.S. Survey No. 5220 and Native allotment F–16262 Parcel A;
Sec. 22;
Sec. 23, excluding Native allotment F–13841;
Sec. 24, excluding Native allotment F–13449;
Sec. 25, excluding Native allotment F–14722;
Secs. 26 and 27;
Secs. 28, 31, 32, and 33, excluding U.S. Survey No. 5220;
Secs. 34, 35, and 36.

Containing approximately 12,915 acres.

T. 20 N., R. 10 E.,
Secs. 1 and 2, exclusive Native allotment F–14776 Parcel D;
Secs. 3 to 16, inclusive;
Sec. 17, excluding Native allotments F–13402 Parcel B and F–14788;
Secs. 18, 19, and 20, excluding Native allotment F–14788;
Secs. 21 to 36, inclusive.

Containing approximately 18,293 acres.

T. 22 N., R. 10 E.,
Secs. 1, 2, and 3, excluding U.S. Survey No. 5220;
Secs. 9 and 10, excluding U.S. Survey No. 5220;
Secs. 11 to 15, inclusive;
Secs. 16, 17, 20, and 21, excluding U.S. Survey No. 5220;
Secs. 22 to 27, inclusive;
Sec. 28, excluding U.S. Survey No. 5220 and Native allotment F–13717;
Secs. 29, 30, 31, and 32, excluding U.S. Survey No. 5220;
Secs. 33 to 36, inclusive.

Containing approximately 14,247 acres.

T. 19 N., R. 11 E.,
Secs. 1 to 36, inclusive.

Containing approximately 22,827 acres.

T. 21 N., R. 11 E.,
Secs. 1 to 12, inclusive;
Sec. 13, excluding Native allotment F–13538;
Sec. 14, excluding Native allotments F–13538, F–16254, and F–13408;
Secs. 15 to 20, inclusive;
Sec. 21, excluding Native allotments F–14046 Parcel A and F–010702 Parcel B;
Sec. 22, excluding Native allotment F–13253;
Sec. 23, excluding Native allotments F–13408, F–13538, and F–14509;
Sec. 24, excluding Native allotments F–13538, F–14509, and F–16251;
Sec. 25, excluding Native allotments F–14508, F–14509, F–16251, F–13718 Parcel A, F–16290, F–13838, and F–14028;
Sec. 26, excluding Native allotments F–13447, F–13838, F–14283, F–14437 Parcels A and B, F–14441, F–14508, and F–14509;
Sec. 27, excluding Native allotments F–13587 Parcel B and F–13282;
Sec. 28, excluding Native allotments F–16250 and F–13587 Parcel B;
Secs. 29 to 33, inclusive;
Sec. 34, excluding Native allotment F–13254;
Sec. 35, excluding Native allotments F–13838, F–13254, F–14035 Parcel A, F–14283, F–14437 Parcel A, and F–13447;
Sec. 36, excluding Native allotments F–13838, F–14028, F–13541, F–13718 Parcel A, and F–14508.

Containing approximately 18,511 acres.

T. 18 N., R. 12 E.,
Sec. 1, excluding Native allotments F–13701 Parcel B and F–13702;
Sec. 2, excluding Native allotment F–13702;
Secs. 3 to 16, inclusive;
Sec. 17, excluding Native allotment F–15560 Parcel A;
Secs. 18 to 36, inclusive.

Containing approximately 22,767 acres.

T. 22 N., R. 12 E.,
Secs. 1 to 36, inclusive.

Containing approximately 22,919 acres.

T. 19 N., R. 13 E.,
Secs. 1 to 12, inclusive;
Sec. 13, excluding Native allotment F–14720;
Secs. 14 to 23, inclusive;
Sec. 24, excluding Native allotment F–14720;
Secs. 25 to 36, inclusive.

Containing approximately 20,722 acres.

T. 21 N., R. 13 E.,
Secs. 1 to 20, inclusive;
Sec. 21, excluding Native allotment F–14772 Parcel A;
Sec. 22;
Sec. 23, excluding Native allotment F–13351;
Sec. 24;
Sec. 25, excluding Native allotments F–13260 Parcel B and F–14230 Parcel B;
Sec. 26, excluding Native allotments F–13718 Parcel B and F–13351;
Secs. 27 to 31, inclusive;
Sec. 32, excluding Native allotment F–025740;
Secs. 33 and 34;
Sec. 35, excluding Native allotment F–13718 Parcel B;
Sec. 36, excluding Native allotment F–14230 Parcel B.

Containing approximately 20,682 acres.

T. 18 N., R. 14 E.,
Secs. 1 to 17, inclusive;
Secs. 18 and 19, excluding Native allotment F–14713 Parcel A;
Secs. 20 to 28, inclusive;
Sec. 29, excluding Native allotment F–14713 Parcel B;
Secs. 30 and 31;
Sec. 32, excluding Native allotment F–14713 Parcel B;
Secs. 33 to 36, inclusive.

Containing approximately 22,187 acres.

T. 20 N., R. 14 E.,
Secs. 1 to 36, inclusive.

Containing approximately 22,703 acres.

Aggregating approximately 241,676 acres.

Excluded from the above-described lands herein approved for conveyance are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce. Those water bodies are identified on the attached navigability maps, the original of which will be found in easement case file F–21779–4.

All other named and unnamed water bodies within the above-described lands were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for one of the following reasons: Lands are no longer under Federal jurisdiction; or lands are under applications pending further adjudication. Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface and subsurface estates of the lands described above shall contain the following reservation to the United States:

Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), as amended, the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F–21779–4, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

(EIN 1 C3, C5, D4, D9) An easement for an existing access trail twenty-five (25) feet in width from Fort Yukon in Sec. 7, T. 20 N., R. 12 E., Fairbanks Meridian, northerly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

b. (EIN 2 C3, C5, D1) An easement for an existing access trail twenty-five (25) feet in width from Fort Yukon in Sec. 18, T. 20 N., R. 12 E., Fairbanks Meridian, southeasterly to public lands and the village of Circle. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

c. (EIN 3 C3, C5, D1, D9) An easement for an existing access trail twenty-five (25) feet in width from trail EIN 2 C3, C5, D1 in Sec. 29, T. 20 N., R. 12 E., Fairbanks Meridian, southwesterly to public land and the village of Birch Creek. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

d. (EIN 7 C5, D1) An easement for an existing access trail twenty-five (25) feet in width from trail easement EIN 1 C3, C5, D4, D9 in Sec. 7, T. 20 N., R. 12 E., Fairbanks Meridian, westerly to Venetie Landing and public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

e. (EIN 9 C5, L) An easement for an existing access trail twenty-five (25) feet in width from the east terminus of road easement EIN 5a C3, C5, D1 in Secs. 2 and 11, T. 20 N., R. 12 E., Fairbanks Meridian, northeasterly to public lands and the village of Chalkyitsik. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

f. (EIN 25 C4) An easement for a proposed access trail twenty-five (25) feet in width from public lands in Sec. 1, T. 18 N., R. 9 E., Fairbanks Meridian, northeasterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

g. (EIN 26a C4) An easement for a proposed access trail twenty-five (25) feet in width from the east terminus of road easement EIN 5a C3, C5, D1 in Secs. 2 and 11, T. 20 N., R. 12 E., Fairbanks Meridian, southeasterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

h. (EIN 27a C4) An easement for a proposed access trail twenty-fice (25) feet in width from the Yukon River in Sec. 12, T. 18 N., R. 13 E., Fairbanks Meridian, northeasterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the unsurveyed lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), as amended, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

3. The following third-party interests, if valid, identified by U.S. Department of the Interior, Fish and Wildlife Service, as provided by Sec. 14(g) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(g)):

(a) Special use permit, YF–4–82, issued to Bureau of Land Management, Division of Cadastral Survey to authorize the use of helicopter support and landing for cadastral survey of Native allotments within the Yukon Flats National Wildlife Refuge, as to all lands herein approved for conveyance.

(b) Special use permit, YF–12–82, issued to Tanana Chiefs Conference, Inc., to conduct timber inventory in T. 20 N., R. 10 E., Fairbanks Meridian.

To date, approximately 3,543,025 acres of land, selected pursuant to Sec. 12(c) of ANCSA, have been approved for conveyance to Doyon, Limited.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the TUNDRA TIMES.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 *Code of Federal Regulations* (CFR), Part 4, Subpart E, as revised. However, pursuant to Public Law 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances, (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until August 2, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decison shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage Alaska 99513.

If an appeal is taken, the party to be served with a copy of the notice of appeal is: Doyon, Limited, Land Department, Doyon Building, 201 First Avenue, Fairbanks, Alaska 99701.

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-17894 Filed 6-30-82; 8:45 am]

BILLING CODE 4310-84-M

[F–14920–A]

Alaska Native Claims Selection

On November 13, 1974, Arviq Incorporated, for the Native village of Platinum, filed selection application F–14920–A, as amended, under the provisions of Sec. 12(a) of the Alaska Native Claims Settlement Act (ANCSA) of December 18, 1971 (43 U.S.C. 1601, 1611 (1976)), as amended, for the surface estate of certain lands in the vicinity of Platinum, including lands within the Cape Newenham National Wildlife Refuge (Public Land Order (PLO) 4583) 34 FR 1143.

On December 2, 1980, Sec. 303(6), Public Law (Pub. L.) 96–487, Alaska National Interest Lands Conservation Act, established the Togiak National Wildlife Refuge, consisting of the existing Cape Newenham National Wildlife Refuge (PLO 4583), and additions thereto.

Arviq Incorporated, in its November 13, 1974 application, excluded several bodies of water. Because certain of those water bodies have been determined to be nonnavigable, they are considered to be public lands withdrawn under Sec. 11(a)(1) and available for selection by the village pursuant to Sec. 12(a) of ANCSA. Section 12(a) and 43 CFR 2651.4(b) and (c) provide that a village corporation shall, to the extent necessary to obtain its entitlement, select all available lands within the township or townships within which the village is located, and that additional lands selected shall be compact and in whole sections. For these reasons, the water bodies which were improperly excluded in the November 13, 1974 application are considered selected by Arviq Incorporated.

Section 6, T. 11 S., R. 75 W., Seward Meridian, was not included in the written description of the original application, but is shown on the map as selected. Departmental regulation 43 CFR 2650.2(e)(5) provides that when, "the written description shown on the application and the map portrayal accompanying the application do not agree the delineation shown on the map shall be controlling." Therefore, Sec. 6 has been included in the decision to issue conveyance.

As to the lands described below, the application, as amended, submitted by Arviq Incorporated, is properly filed and meets the requirements of ANCSA and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 60,867 acres, is considered proper for acquisition by Arviq Incorporated, and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA.

Lands Within Public Land Order 4583 (Cape Newenham National Wildlife Refuge), Now Known as the Togiak National Wildlife Refuge

Seward Meridian, Alaska (Unsurveyed)

T. 13 S., R. 74 W.
Sec. 22;
Secs. 23 and 24, excluding Native allotment F–16654;
Secs. 25, 26, and 27;
Secs. 34, 35, and 36.
Containing approximately 5,650 acres.

T. 14 S., R. 74 W.
Secs. 1, 2, and 3.
Containing approximately 1,920 acres.
Aggregating approximately 7,570 acres.

Lands Outside Public Land Order 4583 (Cape Newenham National Wildlife Refuge), Now Known as the Togiak National Wildlife Refuge

U.S. Survey No. 2493, Alaska, on north end of spit between Goodnews and Kuskokwim Bays, north of and adjoining a portion of U.S. Survey No. 2374.
Containing 10.88 acres.

U.S. Survey No. 2494, Alaska, on west shore of Goodnews Bay, north of and adjoining U.S. Survey No. 2373.
Containing 8.49 acres.
Aggregating 19.37 acres.

Seward Meridian, Alaska (Unsurveyed)

T. 13 S., R. 73W.
Sec. 6, excluding Native allotment F–13656.
Containing approximately 563 acres.

T. 13 S., R. 74 W.
Sec. 1, excluding Native allotment F–13656;
Sec. 2;
Secs. 3 and 9 (fractional);
Sec. 10 (fractional), excluding Native allotment F–13657 and Native allotment in litigation AA–37801 Parcel 2;
Secs. 11, 12, and 13;
Sec. 14, excluding Native allotment F–15654;
Sec. 15;
Sec. 16 (fractional), excluding Native allotment F–13775 Parcel A;
Sec. 17 (fractional), excluding Native allotments F–13775 Parcel A and F–16175;
Sec. 18 (fractional), excluding Native allotment F–16175;
Sec. 19 (fractional);
Sec. 20, excluding Native allotment F–16175;
Sec. 21;
Secs. 28 to 33, inclusive.
Containing approximately 11,160 acres.

T. 14 S., R. 74 W.
Secs. 4, 5, and 6;
Secs. 8 and 9.
Containing approximately 3,172 acres.

T. 11 S., R. 75 W.
Secs. 1 to 4, inclusive;
Secs. 5 and 6 (fractional);
Sec. 7 (fractional), excluding Native allotment F–17421 Parcel D and Native allotment in litigation AA–37803 Parcel 1;
Secs. 8 to 36, inclusive.
Containing approximately 21,942 acres.

T. 12 S., R. 75 W.
Secs. 1 to 5, inclusive;
Sec. 6 (fractional);
Sec. 7 (fractional), excluding Native allotment F–13756 Parcel C and Native allotment in litigation AA–37802 Parcel 2;
Sec. 8, excluding Native allotment in litigation AA–37802 Parcel 2;
Sec. 9 to 14, inclusive;
Sec. 16;
Sec. 17 (fractional), excluding Native allotment F–16206 Parcel C;
Sec. 18 (fractional);
Sec. 20 (fractional), excluding Native allotment F–17401;
Sec. 21;
Sec. 23, excluding Native allotments F–17422 Parcel C, F–13656 Parcel B, and F–16176;
Sec. 24, excluding Native allotments F–16176, F–16204 Parcel B, and F–13707 Parcel A;
Sec. 25 (fractional), excluding Native allotments F–16204 Parcel B, F–16176, and F–16178;
Sec. 26 (fractional), excluding Native allotments F–16176, F–16579 Parcel C, and F–16178;
Sec. 27;
Secs. 28 and 29 (fractional), excluding Native allotments F–17421 Parcel B and F–17401;
Sec. 33 (fractional);
Sec. 34 (fractional), excluding Native allotment F–13334;
Sec. 35 (fractional), excluding Native allotment F–16203 Parcel B.
Containing approximately 10,199 acres.

T. 13 S., R. 75 W.
Sec. 7 (fractional), excluding Native allotments F–13773 and F–13335;
Sec. 8 (fractional), excluding Native allotment F–13335;
Sec. 17 (fractional), excluding Native allotment F–15624 Parcel A, U.S. Survey No. 2374, U.S. Survey No. 2484, and U.S. Survey No. 2493;
Sec. 20 (fractional), excluding Native allotment F–15624 Parcel A and U.S. Survey No. 2483;
Sec. 24 (fractional), excluding Native allotments F–15671, F–16205 Parcel B, and F–13759 Parcel B;
Sec. 25, excluding Native allotment F–15671;
Sec. 26 (fractional), excluding Native allotments F–15671 and F–17403 Parcel B;
Sec. 27 (fractional), excluding Native allotments F–17405, F–17400, and F–17399;
Sec. 28 (fractional), excluding Native allotment F–17400;
Sec. 29 (fractional), excluding Native allotments F–17404, F–17403 Parcel A, U.S. Survey No. 2373, U.S. Survey No. 2372, U.S. Survey No. 2494, and Air Navigation Site 134;
Sec. 32 (fractional), excluding Native allotments F–17635 Parcel D, F–17402 Parcel A, U.S. Survey No. 2372, and Air Navigation Site 134;
Sec. 33 (fractional), excluding Native allotments F–17399, F–17635 Parcel D, and F–17402 Parcel A;
Sec. 34, excluding Native allotment F–17399;
Secs. 35 and 36.
Containing approximately 4,026 acres.

T. 14 S., R. 75 W.
Secs. 1, 2, and 3;
Sec. 4 (fractional), excluding Native allotment F–17402 Parcel B.
Containing approximately 2,210 acres.
Aggregating approximately 53,297 acres.
Total aggregated acreage approximately 60,867 acres.

Excluded from the above-described lands herein approved for conveyance are lands covered by tidal water up to the mean high tide including, but not limited to the water body as depicted on the attached maps, the original of which

will be found in easement case file F–14920–EE. The actual limits of tidal influence for those water bodies, if any, will be determined at time of survey.

All named and unnamed water bodies within the above-described lands were reviewed and, based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for one or more of the following reasons: Lands are no longer under Federal jurisdiction or lands are under applications pending further adjudication. Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions *do not* constitute a rejection of the selection applications, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F–14920–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

60 Foot Road—The uses allowed on a sixty (60) foot wide road easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

One Acre Site—The uses allowed for a site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading or unloading shall be limited to 24 hours.

a. (EIN 1 C3, C5, D1, D9, M) An easement for an existing access trail twenty-five (25) feet in width from Sec. 19, T. 12 S., R. 74 W., Seward Meridian, northwesterly to public land. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

b. (EIN 3 D1, D9) An easement for an existing access trail twenty-five (25) feet in width from Platinum northeasterly to a point on the north section line of Sec. 6, T. 13 S., R. 73 W., Seward Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

c. (EIN 4 D9) A one (1) acre site easement upland of the mean high tide line in Sec. 29, T. 13 S., R. 75 W., Seward Meridian, on the east side of South Spit. The uses allowed are those listed above for a one (1) acre site easement.

d. (EIN 6 C3, D1) An easement sixty (60) feet in width for an existing road from the northerly end of the South Spit in Sec. 17, T. 13 S., R. 75 W., Seward Meridian, southerly through Sec. 19, T. 14 S., R. 74 W., Seward Meridian. The uses allowed are those listed above for a sixty (60) foot wide road easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act (ANCSA) of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Requirements of Sec. 22(g) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1621(g)), that (a) the above described lands which were, on December 18, 1971, within the boundaries of the Cape Newenham National Wildlife Refuge (PLO 4583) now known as the Togiak National Wildlife Refuge (P.L. 96–487), remain subject to the laws and regulations governing use and development of such refuge, and that (b) the right of first refusal, if said land or any part thereof is ever sold by the above-named corporation, is reserved to the United States; and

4. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Arviq Incorporated is entitled to conveyance of 69,120 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 60,867 acres. The remaining entitlement of approximately 8,253 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA, conveyance of the subsurface estate of the lands described above, excluding those lands which, on December 18, 1971, were withdrawn by PLO 4583 and which are reserved thereby as a national wildlife refuge, shall be issued to Calista Corporation, when the surface estate is conveyed to Arviq Incorporated, and shall be subject to the same conditions as the surface conveyance. This conveyance to Calista Corporation will include the subsurface estate of those lands outside of PLO 4583, which were withdrawn, subject to valid existing rights, as the Togiak National Wildlife Refuge by Pub. L. 96–487, on December 2, 1980. Section 12(a)(1) of ANCSA provides that when a village corporation selects the surface estate of lands within the National Wildlife Refuge System, the regional corporation may make selections of the subsurface estate, in an equal acreage, from other lands withdrawn by Sec. 11(a) within the region. The total amount of wildlife refuge system lands withdrawn prior to December 18, 1971, which have been approved for conveyance to Arviq Incorporated, is approximately 7,570 acres, which is less than the 69,120 acres permitted by Sec. 12(a)(1) of ANCSA.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in THE TUNDRA DRUMS.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land

Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 *Code of Federal Regulations* (CFR), Part 4, Subpart E, as revised. However, pursuant to Public Law 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances, (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until August 2, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Arviq Incorporated, Platinum, Alaska 99651
Calista Corporation, 516 Denali Street, Anchorage, Alaska 99501

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-17886 Filed 6-30-82; 8:45 am]

BILLING CODE 4310-84-M

[F-14824-A]

Alaska Native Claims Selection

On November 18, 1974, Kokarmuit Corporation, for the Native village of Akiak, filed selection application F-14824-A under the provisions of Sec. 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976) (ANCSA)), as amended, for the surface estate of certain lands in the vicinity of Akiak.

Kokarmuit Corporation, in its November 18, 1974 application, excluded several bodies of water. Because certain of those water bodies have been determined to be nonnavigable, they are considered to be public lands withdrawn under Sec. 11(a)(1) and available for selection by the village pursuant to Sec. 12(a) of the Alaska Native Claims Settlement Act. Section 12(a) and 43 CFR 2651.4 (b) and (c) provide that a village corporation must, to the extent necessary to obtain its entitlement, select all available lands within the township or townships within which the village is located, and that additional lands selected shall be compact and in whole sections. For these reasons, the water bodies which were improperly excluded in the November 18, 1974 application are considered selected by Kokarmuit Corporation.

As to the lands described below, the application, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 103,238 acres, is considered proper for acquisition by Kokarmuit Corporation and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA.

U.S. Survey No. 2243, Alaska, situated at the Native village of Akiak, on the right bank of the Kuskokwim River, excluding U.S. Survey No. 5068, Townsite of Akiak, Alaska.

Containing 1,188.67 acres.

U.S. Survey No. 2294, Alaska, situated near the left bank of the Kuskokwim River and adjoining the south side of the unsurveyed town of Akiak, Alaska.

Containing 160 acres.

U.S. Survey No. 5068, Alaska, lot 3, Block 3, and lot 5, Block 1, Tract A, situated on the Kuskokwim River about twenty miles northeast of Bethel, Alaska.

Containing 2.56 acres.

Seward Meridian, Alaska (Unsurveyed)

T. 9 N., R. 65 W.,
Sec. 29;
Sec. 30, excluding Native allotment F-18140;
Secs. 31 and 32.

Containing approximately 2,516 acres.

T. 8 N., R. 66 W.,
Secs. 1 to 6, inclusive;
Sec. 7, excluding Native allotments F-17063 Parcel A and AA-6966 Parcel B;
Secs. 8 to 17, inclusive;
Sec. 18, excluding Native allotment F-17209 Parcel A.

Containing approximately 11,320 acres.

T. 9 N., R. 66 W.,
Sec. 4, excluding Native allotments F-15906 and F-17077;
Sec. 5, excluding Native allotment F-17077;
Sec. 6;
Sec. 7, excluding Native allotment F-17062;
Sec. 8, excluding Native allotment F-17077;
Sec. 9, excluding Native allotments F-15906, F-17077 and F-033569;
Secs. 10 and 15;
Sec. 16, excluding Native allotment F-033569;
Sec. 17, excluding Native allotment F-17081;
Sec. 18, excluding Native allotments F-17081 and F-17082;
Sec. 19, excluding Native allotments F-025251, F-17061, and F-15904;
Sec. 20, excluding Native allotment F-17081;
Secs. 21 and 22;
Sec. 25, excluding Native allotments F-18140 and F-17542;
Sec. 26, excluding Native allotment F-17542;
Sec. 27;
Sec. 28, excluding Native allotment F-030770;
Sec. 29, excluding Native allotments F-030770 and F-15915;
Sec. 30, excluding Native allotment F-025251;
Sec. 31;
Sec. 32, excluding Native allotments F-030770, F-15915 and F-15906;
Sec. 33, excluding Native allotment F-030770;
Sec. 34;
Secs. 35 and 36, excluding Native allotment F-17542.

Containing approximately 15,428 acres.

T. 10 N., R. 66 W.,
Secs. 4 to 7, inclusive;
Sec. 8, excluding Native allotment F-15903 Parcel B;
Secs. 9 and 16;
Sec. 17, excluding U.S. Survey No. 6192 and Native allotment F-15910 Parcel A;
Sec. 18;
Sec. 19, excluding U.S. Survey No. 6192 and Native allotment F-15919 and F-15900 Parcel B;
Sec. 20, excluding U.S. Survey No. 6192 and Native allotment F-15900 Parcel B, F-15910 Parcel A and F-15919;
Sec. 21, excluding Native allotment F-15911;
Sec. 28;
Sec. 29, excluding U.S. Survey No. 6192 and Native allotments F-15919 and F-15900 Parcel B;
Sec. 30, excluding U.S. Survey No. 6192 and Native allotment F-15900 Parcel B;
Secs. 31, 32, and 33.

Containing approximately 10,304 acres.

T. 8 N., R. 67 W.,
Secs. 1 to 4, inclusive;
Secs. 10 to 14, inclusive.
Containing approximately 5,760 acres.
T. 9 N., R. 67 W.,
Secs. 1, 2, and 3;
Sec. 4, excluding U.S. Survey No. 2294;
Sec. 5, excluding U.S. Survey No. 2243, U.S. Survey No. 2294 and U.S. Survey No. 5068;
Sec. 6, excluding U.S. Survey No. 2243 and U.S. Survey No. 5068;
Secs. 7 and 8;
Sec. 9, excluding Native allotment F-17922 Parcel B;
Sec. 10, excluding Native allotments F-18569, F-17922 Parcel B, F-13197 and F-13194;
Sec. 11, excluding Native allotment F-13194;
Sec. 12, excluding Native allotment F-15898;
Sec. 13, excluding Native allotments F-18420 Parcel A and F-15912;
Sec. 14, excluding U.S. Survey No. 6159 and Native allotment F-18420 Parcel A, Native allotment F-17220 Parcel A and F-15912;
Sec. 15, excluding U.S. Survey No. 6159 and Native allotments F-18569, F-17922 Parcel B, F-17220, F-15909, F-13209 and F-13197;
Sec. 16, excluding Native allotment F-17922 Parcel B;
Secs. 17 and 18;
Sec. 19, excluding Native allotments F-15902, F-13301 and F-13205;
Sec. 20, excluding Native allotments F-15902 and F-13301;
Sec. 21;
Sec. 22, excluding U.S. Survey No. 6159 and Native allotment F-15909;
Sec. 23;
Sec. 24, excluding Native allotment F-025251;
Sec. 25, excluding Native allotments F-025251 and F-16846;
Sec. 26, excluding Native allotment F-16846;
Secs. 27 and 28;
Sec. 29, excluding Native allotment F-15902;
Sec. 30, excluding Native allotments F-15901 Parcel B, F-13345 and F-13205;
Sec. 31, excluding Native allotment F-13345;
Secs. 32, 33, and 34;
Secs. 35 and 36, excluding Native allotment F-16846.
Containing approximately 18,037 acres.
T. 10 N., R. 67 W.,
Secs. 1 and 2;
Sec. 3, excluding Native allotment F-15916;
Sec. 4, excluding Native allotment F-15917;
Sec. 5;
Sec. 6, excluding U.S. Survey No. 6195 and Native allotment F-15914;
Secs. 7 to 14, inclusive;
Sec. 15, excluding Native allotment F-15913 Parcel A;
Sec. 16, excluding U.S. Survey No. 6193 and Native allotment F-15905;
Sec. 17, excluding U.S. Survey No. 6193 and Native allotments F-15905 and F-15900 Parcel A;
Secs. 18 and 19;
Sec. 20, excluding U.S. Survey No. 6193 and Native allotment F-15900 Parcel A;
Sec. 21, excluding Native allotment F-15920;
Sec. 22, excluding Native allotment F-15913 Parcels A and B;
Sec. 23, excluding Native allotment F-15913 Parcel B;
Sec. 24;
Sec. 25, excluding Native allotment F-13377;
Secs. 26 and 27;
Sec. 28, excluding Native allotment F-15920;
Secs. 29 and 30, excluding U.S. Survey No. 2243;
Sec. 32, excluding U.S. Survey No. 2243, U.S. Survey No. 2294, and U.S. Survey No. 5068;
Sec. 33, excluding U.S. Survey No. 2294;
Secs. 34, 35, and 36.
Containing approximately 16,927 acres.
T. 11 N., R. 67 W.,
Secs. 20 and 21;
Secs. 28 to 33, inclusive.
Containing approximately 5,075 acres.
T. 9 N., R. 68 W.,
Sec. 1, excluding U.S. Survey No. 5686, and U.S. Survey No. 2243 and Native allotment F-15910;
Sec. 2, excluding U.S. Survey No. 5686 and Native allotment F-15910 Parcel B;
Sec. 3;
Secs. 10 and 11, excluding Native allotment F-13199;
Secs. 12, 13, and 14;
Sec. 15, excluding Native allotments F-16592 and F-16595.
Containing approximately 4,130 acres.
T. 10 N., R. 68 W.,
Secs. 1, 2, and 3;
Secs. 10, 11, and 12;
Secs. 13 and 14, excluding Native allotment F-16593;
Sec. 15;
Secs. 22, 23, and 24;
Sec. 25, excluding U.S. Survey No. 2243;
Secs. 26 and 27;
Secs. 34 and 35;
Sec. 36, excluding U.S. Survey No. 2243.
Containing approximately 11,110 acres.
T. 11 N., R. 68 W.,
Secs. 25 and 36.
Containing approximately 1,280 acres.
Aggregating approximately 103,238 acres.

Excluded from the above-described lands herein approved for conveyance are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade, and commerce, or are pending a tidal determination at the time of survey. Those water bodies are identified on the attached navigability maps, the original of which will be found in easement case file F-14824-EE.

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for the following reason: Lands are under applications pending further adjudicaion. Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F-14824-EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small and large all-terrain vehicles (ATV's) (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

One Acre Site—The uses allowed on a one acre site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

a. (EIN 14 C5) A one (1) acre site easement upland of the ordinary high water mark in Sec. 1, T. 10 N., R. 67 W., Seward Meridian, on the right bank of the Kuskokwim River. The uses allowed are those listed above for a one (1) acre site easement.

b. (EIN 14a C5) An easement for a proposed access trail twenty-five (25) feet in width from site EIN 14 C% northwesterly to public land. The uses allowed are those listed above for a

twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2) (ANCSA)), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Kokarmuit Corporation is entitled to conveyance of 115,200 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 103,238 acres. The remaining entitlement of approximately 11,962 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA, conveyance of the subsurface estate of the lands described above shall be issued to Calista Corporation when the surface estate is conveyed to Kokarmuit Corporation, and shall be subject to the same conditions as the surface conveyance.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week for four (4) consecutive weeks, in the Tundra Drums.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 *Code of Federal Regulations* (CFR), Part 4, Subpart E, as revised. However, pursuant to Public Law 96-487, this decision constitutes the final administrative determination of the Bureau of Land Mangement concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances, (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 510 L Steet, Suite 100, Anchorage, Alaska 99501.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days form the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or to sign the return receipt shall have until August 2, 1982, to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner or and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Kokarmuit Corporation, Akiak, Alaska 99552

Calista Corporation, 516 Denali Street, Anchorage, Alaska 99501

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-17886 Filed 6-30-82; 8:45 am]
BILLING CODE 4310-84-M

[F-14848-A]

Alaska Native Claims Selection

On November 22, 1974, Chefarnrmute, Incorporated, for the Native village of Chefornak, filed selection application F-14848-A, as amended, under the provisions of Sec. 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (ANCSA)), for the surface estate of certain lands in the vicinity of Cherfornak, Alaska, including lands within the Clarence Rhode National Wildlife Range (Public Land Order (PLO) 2213, of December 6, 1960) (25 FR 12597).

On December 2, 1980, Sec. 303(7) of Public Law 96-487, Alaska National Interest Lands Conservation Act, established the Yukon Delta National Wildlife Refuge consisting of the Clarence Rhode National Wildlife Range (PLO 2213) and additions thereto.

As to the lands described below, selection application F-14848-A, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 82,977 acres is considered proper for acquisition by Chefarnrmute, Incorporated and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA.

Lands Outside Public Land Order 2213 (Clarence Rhode National Wildlife Range) Now Known as the Yukon Delta National Wildlife Refuge

Seward Meridian, Alaska (Unsurveyed)

T. 6 N., R. 75 W.,
- Secs. 4 to 9, inclusive;
- Secs. 16 and 17;
- Sec. 18, excluding Native allotment F-025363;
- Sec. 19, excluding U.S. Survey No. 4128 and Native allotment F-025363 and F-14050;
- Secs. 20 and 21;
- Secs. 28 and 29, excluding Native allotment F-18882;
- Secs. 30 and 31, excluding Native allotment F-15942;
- Secs. 32 and 33, excluding Native allotment F-18882.

Containing approximately 10,763 acres.

T. 6 N., R. 76 W.,
- Sec. 1;
- Sec. 2, excluding Native allotments F-17722 and F-17723;
- Sec. 3, excluding Native allotments F-13103 and F-17723;
- Secs. 10 to 15, inclusive;
- Secs. 23 to 26, inclusive;
- Secs. 35 to 36.

Containing approximately 9,250 acres.
Aggregating approximately 20,013 acres.

Lands Within Public Land Order 2213 (Clarence Rhode National Wildlife Range) Now Known as the Yukon Delta National Wildlife Refuge

Seward Meridian, Alaska (Unsurveyed)

T. 1 N., R. 86 W.,
Secs. 1, 2, and 3;
Sec. 4, excluding Natve allotment F–17824 Parcel C;
Secs. 5, 6, and 7;
Sec. 8, excluding Native allotments F–17716 and F–17717 Parcel B, and F–17718 Parcel A;
Secs. 9 and 17, inclusive;
Sec. 18, excluding Native allotment F–17714 Parcl D;
Sec. 19, excluding U.S. Survey No. 4421 and U.S. Survey No. 4094;
Secs. 20 and 21;
Sec. 22, excluding Native allotments F–17709 Parcel B and F–17714 Parcel C;
Sec. 23, excluding Native allotment F–17709 Parcel B;
Secs. 24, 25, and 26;
Sec. 27, excluding Native allotment F–17715 Parcel C;
Secs. 28 to 36, inclusive.
Containing approximately 19,838 acres.

T. 2 N., R. 86 W.,
Sec. 20, excluding Native allotment F–17817 Parcel C;
Secs. 21, 22, and 23;
Secs. 25 to 28, inclusive;
Sec. 34;
Sec. 35, excluding Native allotments F–17714 Parcel B and F–17818 Parcel B.
Containing approximately 5,595 acres.

T. 1 N., R. 87 W.,
Secs. 1 to 8, inclusive;
Secs. 10 and 11;
Sec. 12, excluding Native allotment F–17819 Parcel A;
Sec. 17, excluding Native allotment F–17717 Parcel A;
Secs. 18 and 19;
Sec. 20, excluding Native allotment F–17714 Parcel A;
Secs. 25, 26, and 27;
Secs. 34 and 35;
Sec. 36, excluding Native allotment F–17715 Parcel B.
Containing approximately 12,293 acres.

T. 2 N., R. 87 W.,
Secs. 6 and 7;
Secs. 18 to 22, inclusive;
Secs. 27 to 34, inclusive.
Containing approximately 9,509 acres.

T. 3 N., R. 87 W.,
Sec. 31.
Containing approximately 619 acres.

T. 2 N., R. 88 W.,
Sec. 1;
Sec. 2, excluding Native allotments F–17818 Parcel A and F–17822 Parcel A;
Sec. 3, excluding Native allotment F–17818 Parcel A;
Secs. 9, 10, and 11;
Sec. 12, excluding Native allotment F–17821 Parcel B;
Secs. 13 to 16, inclusive;
Secs. 21 to 27, inclusive;
Sec. 33 (fractional);
Secs. 34, 35, and 36.
Containing approximately 13,630 acres.

T. 3 N., R. 88 W.,
Secs. 35 and 36.
Containing approximately 1,280 acres.
Aggregating approximately 62,964 acres.
Total aggregated acreage approximately 82,977 acres.

Excluded from the above-described lands, herein approved for conveyance are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce or are pending a tidal determination at the time of survey. Those water bodies are identified on the attached navigability maps, the original of which will be found in easement case file F–14848–EE.

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for one or more of the following reasons: Lands are no longer under Federal jurisdiction; lands are under applications pending further adjudication; lands are pending a determination under Sec. 3(e) of ANCSA; or lands were previously rejected by decision. Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservation to the United States.

The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)).

There are no easements to be reserved to the United States pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of ANCSA, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. The following third-party interest, if valid, identified by U.S. Department of the Interior, Fish and Wildlife Service, as provided by Sec. 14(g) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(g)):

Free use permit M–38–YD, issued to the State of Alaska, Department of Transportation and Public Facilities, located in Secs. 19, 30, and 31, T. 1 N., R. 86 W., Seward Meridian, for the propose of establishing, operating, and maintaining the Chefornak airport. (Formerly airport lease F–12088, issued under the provisions of the act of May 24, 1928, as amended (49 U.S.C. 211–214).)

4. Requirements of Sec. 22(g) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1621(g)), that (a) the above described lands which were on December 18, 1971, within the boundaries of the Clarence Rhode National Wildlife Range (PLO 2213) (now known as the Yukon Delta National Wildlife Refuge (Pub. L. 96–487)), remain subject to the laws and regulations governing use and development of such refuge, and that (b) the right of first refusal, if said land or any part thereof is ever sold by the above-named corporation, is reserved to the United States; and

5. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Chefornak is entitled to conveyance of 92,160 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 82,977 acres. The remaining entitlement of approximately 9,183 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA conveyance of the subsurface estate of the lands described above, excluding those lands which, on December 18, 1971, were withdrawn by PLO 2213, and

which were reserved thereby as a national wildlife refuge, shall be issued to Calista Corporation when the surface estate is conveyed to Chefarnrmute, Incorporated, and shall be subject to the same conditions as the surface conveyance. This conveyance to Calista Corporation will include the subsurface estate of those lands outside of PLO 2213, which were withdrawn, subject to valid existing rights, as the Yukon Delta National Wildlife Refuge by Pub. L. 96–487, on December 2, 1980. Section 12(a)(1) of ANCSA provides that when a village corporation selects the surface estate of lands within the National Wildlife Refuge System the regional corporation may make selections of the subsurface estate, in an equal acreage, from other lands withdrawn by Sec. 11(a) within the region. The total amount of wildlife refuge system lands withdrawn on December 18, 1971, which have been approved for conveyance to Chefarnmute, Incorporated is approximately 62,964 acres, which is less than the 69,120 acres permitted by Sec. 12(a)(1) of ANCSA.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in THE TUNDRA DRUMS.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appals, in accordance with the attached regulations in Title 43 *Code of Federal Regulations* (CFR), Part 4, Subpart E, as revised. However, pursuant to Public Law 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances, (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not sent the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until August 2, 1982, to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Chefarnrmute, Incorporated, Chefornak, Alaska 99561

Calista Corporation, 516 Denali Street, Anchorage, Alaska 99501

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-17887 Filed 6-30-82; 8:45 am]

BILLING CODE 4310-84-M

[F-14823-A]

Alaska Native Claims Selection

On November 18, 1974, Akiachuk, Limited, for the Native village of Akiachak, filed selection application F–14823–A, under the provisions of Sec. 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976) (ANCSA)), as amended, for the surface estate of certain lands in the vicinity of Akiachak.

Akiachuk, Limited, in its November 18, 1974 application, excluded several bodies of water. Because certain of those water bodies have been determined to be nonnavigable, they are considered to be public lands withdrawn under Sec. 11(a)(1) and available for selection by the village pursuant to Sec. 12(a) of ANCSA. Section 12(a) and 43 CFR 2651.4 (b) and (c) provide that a village corporation must, to the extent necessary to obtain its entitlement, select all available lands within the township or townships within which the village is located, and that additional lands selected shall be compact and in whole sections. For these reasons, the water bodies which were improperly excluded in the November 18, 1974 application are considered selected by Akiachuk, Limited.

As to the lands described below, the application, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 103,099 acres, is considered proper for acquisition by Akiachuk, Limited and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA.

Lot 2 of U.S. Survey No. 5744, located on the right bank of the Kuskokwim River, approximately 3 miles northeasterly of Kwethluk, Alaska.

Containing 5 acres.

Seward Meridian, Alaska (Unsurveyed)

T. 9 N., R. 68 W.,
- Sec. 4;
- Sec. 5, excluding Native allotments F–17800, F–18748 and U.S. Survey No. 5532;
- Sec. 6, excluding Native allotments F–029194, F–932, F–976, F–18748, U.S. Survey No. 5532, U.S. Survey No. 5737 and airport lease application F–971;
- Sec. 7, excluding Native allotments F–029194, F–9964 Parcel 3, F–12116, F–18748 and U.S. Survey No. 5532;
- Sec. 8, excluding Native allotments F–9964 Parcel 3, F–12116, F–17800, F–17802, F–18748, F–19052, U.S. Survey No. 5532 and U.S. Survey No. 5738;
- Sec. 9, excluding Native allotments F–17802, F–19052 and U.S. Survey No. 5738;
- Sec. 16, excluding Native allotment F–16594 and U.S. Survey No. 6155;
- Sec. 17, excluding Native allotments F–12116, F–16594 and U.S. Survey No. 6155;
- Sec. 18, excluding Native allotment F–12116;
- Sec. 19;
- Sec. 20, excluding Native allotment F–16594 and U.S. Survey No. 6155;
- Sec. 21, excluding Native allotments F–13269, F–13380, F–16594, F–16595, U.S. Survey No. 6155 and U.S. Survey No. 5715.

Containing approximately 4,885 acres.

T. 10 N., R. 68 W.,
- Secs. 4 to 9, inclusive;
- Secs. 16 to 21, inclusive;
- Secs. 28, 29 and 30;
- Sec. 31, excluding Native allotments F–932, F–976, U.S. Survey No. 5737 and airport lease application, F–971;
- Sec. 32, excluding Native allotment F–029987;
- Sec. 33.

Containing approximately 11,127 acres.

T. 11 N., R. 68 W.,
- Secs. 1 and 2;
- Secs. 7, 8 and 9;
- Sec. 10, excluding Native allotment F–13304;
- Sec. 11;

Secs. 14 to 20, inclusive;
Sec. 21, excluding Native allotment F-16800;
Secs. 22 and 23;
Secs. 26, 27, 28 and 29;
Sec. 30, excluding Native allotment F-11706;
Secs. 31 to 35, inclusive.

Containing approximately 15,499 acres.

T. 12 N., R. 68 W.,
Secs. 25 and 26;
Secs. 35 and 36.

Containing approximately 2,405 acres.

T. 9 N., R. 69 W.,
Sec. 1, excluding Native allotments F-029107, F-029108, F-932, F-17797, U.S. Survey No. 4479, U.S. Survey No. 5737 and airport lease application F-971;
Sec. 2, excluding Native allotments F-029190 and F-9909;
Secs. 3, 4, 5 and 6;
Secs. 7 and 8, excluding Native allotment F-17017;
Secs. 9, 10 and 11;
Sec. 12, excluding Native allotments F-029106, F-029108, F-029194, F-977 Parcel B, F-9612 Parcel B, F-17798 and Native allotment litigation AA-37843;
Secs. 13 to 17, inclusive;
Sec. 18, excluding Native allotments F-13945, F-17021 and F-17928 Parcel B;
Sec. 19, excluding Native allotments F-13804, F-17021 and F-17928 Parcel B;
Sec. 20, excluding Native allotments F-13804 and F-17928 Parcel B;
Secs. 21 and 22;
Sec. 23, excluding Native allotment F-17066 Parcel A and U.S. Survey No. 5744;
Sec. 24.

Containing approximately 11,383 acres.

T. 10 N., R. 69 W.,
Sec. 1, excluding Native allotment F-17069;
Sec. 2, excluding Native allotments F-029184, F-17016, F-17083 and U.S. Survey No. 5752;
Sec. 3, excluding Native allotment F-17019 Parcel B and F-17801;
Secs. 4 and 5;
Sec. 6, excluding Native allotment F-029068;
Secs. 7 and 8;
Sec. 9, excluding Native allotments F-17020, F-17799 and U.S. Survey No. 5753;
Sec. 10, excluding Native allotments F-17019 Parcel B, F-17020, F-17799 and U.S. Survey No. 5753;
Secs. 11, 12, 13 and 14;
Secs. 15 and 16, excluding Native allotment F-17799 and U.S. Survey No. 5753;
Secs. 17, 18 and 19;
Sec. 20, excluding Native allotment F-15758 Parcel A;
Sec. 21, excluding Native allotments F-14215 Parcel B, F-15758 Parcel A and U.S. Survey No. 5754;
Secs. 22 to 27, inclusive;
Sec. 28, excluding Native allotment F-14215 Parcel B, U.S. Survey No. 5754 and Native allotment litigation AA-37782;
Secs. 29 to 34, inclusive;
Sec. 35, excluding Native allotment F-9909;
Sec. 36, excluding Native allotments F-029107, F-932, U.S. Survey No. 4479, U.S. Survey No. 5737 and airport lease application F-971.

Containing approximately 19,947 acres.

T. 11 N., R. 69 W.,
Secs. 1 to 23, inclusive;
Secs. 24 and 25, excluding Native allotment F-11706;
Secs. 26 to 34, inclusive;
Sec. 35, excluding Native allotments F-029184 and F-17083;
Sec. 36, excluding Native allotments F-029182, F-029184 and F-17083.

Containing approximately 22,549 acres.

T. 12 N., R. 69 W.,
Secs. 25 to 36, inclusive.

Containing approximately 7,614 acres.

T. 11 N., R. 70 W.,
Secs. 1 and 2;
Secs. 11, 12, 13 and 14;
Secs. 23, 24, 25 and 26;
Secs. 35 and 36.

Containing approximately 7,680 acres.

Aggregating approximately 103,099 acres.

Excluded from the above-described lands herein approved for conveyance are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce. Those water bodies are identified on the attached navigability maps, the original of which will be found in easement case file F-14823-EE.

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for the following reason: lands are under applications pending further adjudication. Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F-14823-EE, are reserved to the United States. All easements are subject to applicable Federal, State or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsleds, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

a. (EIN 1 D1, D9) An easement for an existing access trail twenty-five (25) feet in width from Akiachak in Sec. 36, T. 10 N., R. 69 W., Seward Meridian, northerly to the Yukon River and public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. This easement is limited to winter use only.

b. (EIN 4 D1) An easement for an existing access trail twenty-five (25) feet in width from Akiachak in Sec. 36, T. 10 N., R. 69 W., Seward Meridian, southwesterly to Bethel trail easement EIN 5 D1 in Sec. 24, T. 9 N., R. 70 W., Seward Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. This easement is limited to winter use only.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permitee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act (ANCSA) of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Akiachuk, Limited is entitled to conveyance of 115,200 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 103,099 acres. The remaining entitlement of approximately 12,101 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA, conveyance of the subsurface estate of the lands described above shall be issued to Calista Corporation when the surface estate is conveyed to Akiachuk, Limited, and shall be subject to the same conditions as the surface conveyance.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the Federal Register and once a week, for four (4) consecutive weeks, in THE TUNDRA DRUMS.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 *Code of Federal Regulations* (CFR), Part 4, Subpart E, as revised. However, pursuant to Public Law 96-487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances, (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until August 2, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Akiachuk, Limited, Akiachak, Alaska 99551

Calista Corporation, 516 Denali Street, Anchorage, Alaska 99501

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-17898 Filed 6-30-82; 8:45 am]

BILLING CODE 4310-84-M

[AA-6982-D]

Alaska Native Claims Settlement Act

On December 20, 1974, Kake Tribal Corporation, for the Native village of Kake, filed selection application AA-6982-D under the provisions of Sec. 16(b) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1615(b) (1976) (ANCSA), for the surface estate of certain lands in the vicinity of Kake, Alaska.

As to the lands described below, selection application AA-6982-D is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 16(b) of ANCSA, containing approximately 240 acres, is considered proper for acquisition by Kake Tribal Corporation and is hereby approved for conveyance pursuant to Sec. 14(b) of ANCSA:

Copper River Meridian, Alaska (Unsurveyed)

T. 57 S., R. 73 E.

Sec. 3, W½SE¼, SE¼SE¼ (fractional), excluding ANCSA Sec. 3(e) applications AA-39180 and AA-39181, and Native allotment application A-000071 Parcel A;
Sec. 10, E½ (fractional), that portion located on Kupreanof Island;
Sec. 11, SW¼SW¼ (fractional).

Containing approximately 240 acres.

There are no inland water bodies considered to be navigable within the above-described lands.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for one or more of the following reasons: Lands are under applications pending further adjudication or lands are pending a determination under Sec. 3(e) of ANCSA. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(f); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1616(b), the following public easements, referenced by easement identification number (EIN) on the easement map attached to this document, copies of which will be found in case file AA-6982-EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

60 Foot Road—The uses allowed on a sixty (60) foot wide road easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

a. (EIN 2 C5, G) An easement sixty (60) feet in width for an existing road from the Kake townsite in Sec. 3, T. 57 S., R. 73 E., Copper River Meridian, southeasterly to Portage Bay in Sec. 10, T. 57 S., R. 73 E., Copper River Meridian. The uses allowed are those listed above for a sixty (60) foot wide road easement.

b. (EIN 6 G) An easement sixty (60) feet in width for an existing road from the point where it intersects EIN 2 C5, G, in Sec. 10, T. 57 S., R. 73 E., Copper River Meridian, easterly to the selection boundary in Sec. 11, T. 57 S., R. 73 E., Copper River Meridian. The uses allowed are those listed above for a sixty (60) foot wide road easement.

c. (EIN 7 G) An easement sixty (60) feet in width for an existing road from EIN 6 G in Sec. 10, T. 57 S., R. 73 E., Copper River Meridian, northerly to U.S. Forest Service administrative site facilities in Sec. 10, T. 57 S., R. 73 E.,

Copper River Meridian. The uses allowed are those listed above for a sixty (60) foot wide road easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958, 48 U.S.C. Ch. 2, Sec. 6(g)), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1616(b) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. The following third-party interests, if valid, created and identified by the U.S. Forest Service, as provided by Sec. 14(g) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(g):

a. Special Use Permit issued to Southeastern Telephone Company for an existing right-of-way in Sec. 3, T. 57 S., R. 73 E., Copper River Meridian;

b. Special Use Permit issued to Leo B. Kondro for a floathouse and shore-tie in the NE¼ of Sec. 10, T. 57 S., R. 73 E., Copper River Meridian.

4. Requirements of Sec. 22(k) of the Alaska Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1621(k), that, until December 18, 1983, the portion of the above-described lands located within the boundaries of a national forest shall be managed under the principles of sustained yield and under management practices for protection and enhancement of environmental quality no less stringent than such management practices on adjacent national forest lands; and

5. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(v), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Kake Tribal Corporation is entitled to conveyance of 23,040 acres of land selected pursuant to Sec. 16(b) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 21,952.89 acres. The remaining entitlement of approximately 1,087.11 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ASCSA, conveyance of the subsurface estate of the lands described above shall be issued to Sealaska Corporation when the surface estate is conveyed to Kake Tribal Corporation, and shall be subject to the same conditions as the surface conveyance.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the SOUTHEAST ALASKA EMPIRE (Juneau).

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 *Code of Federal Regulations* (CFR), Part 4, Subpart E, as revised. However, pursuant to Public Law 96-487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until August 2, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Kake Tribal Corporation, P.O. Box 263, Kake, Alaska 99830

Sealaska Corporation, One Sealaska Plaza, Suite 400, Juneau, Alaska 99801

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-17099 Filed 6-30-82; 8:45 am]

BILLING CODE 4310-84-M

Grand Junction District; Grazing Advisory Board Meeting

Notice is hereby given in accordance with Pub. L. 91-463 that a meeting of the Grand Junction District Grazing Advisory Board will be held on Thursday, August 5, 1982.

The meeting will begin at 9 a.m. in the conference room of the Bureau of Land Management Office at 764 Horizon Drive, Grand Junction, Colorado. The agenda for the meeting will include (1) minutes of the previous meeting, (2) election of officers, (3) review of BLM's new range management policy, (4) discussion of livestock grazing alternatives in the Glenwood Springs Resource Management Plan, (5) discussion of the proposed agreement on project funding with the Moab BLM District, (6) review of the range improvement maintenance transfer effort, (7) status of current range improvement projects, (8) new project proposals, (9) future role of the board, and (10) arrangements for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the board between 3:30 and 4:00 p.m., or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 764 Horizon Drive, Grand Junction, Colorado 81501, by July 30, 1982. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the board meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Further information on the meeting may be obtained at the above address or by calling (303) 243–6552.

David A. Jones,

District Manager.

[FR Doc. 82–17903 Filed 6–30–81; 8:45 am]

BILLING CODE 4310–84–M

[OR–12652]

Oregon; Termination of Proposed Withdrawal and Reservation of Lands

Notice of Forest Service, Department of Agriculture, application OR 12652 for withdrawal and reservation of lands was published as FR Doc. 74–15986 on page 25671 of the issue of July 12, 1974, as amended by notice published as FR Doc. 74–18981 on page 29946 of the issue of August 19, 1974. The purpose of the proposed withdrawal was to protect certain recreational values associated with the Ochoco Rockhound Recreation Area, and the following described lands were temporarily segregated from nonmetalliferous mineral location and entry under the mining laws (30 U.S.C. Ch. 2):

Willamette Meridian

Ochoco National Forest

T. 13 S., R. 17 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½, and S½,
Secs. 12 and 13;
Sec. 23, E½;
Sec. 24;
Sec. 25, N½NE¼, NW¼, NE¼SE¼, and S½SE¼;
Sec. 26, NE¼ and S½;
Sec. 27, S½;
Sec. 34;
Sec. 35, NW¼NE¼, NW¼, N½SW¼; SW¼, and E½SE¼;
Sec. 36, NE¼, NE¼NW¼, S½NW¼, and S½.
T. 12 S., R. 18 E.,
Secs. 25 and 26;
Sec. 29, E½;
Sec. 31, lots 3, 4, E½SW¼, and SE¼;
Secs. 35 and 36.
T. 13 S., R. 18 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 3, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 4, lots 1, 2, 3, 4, S½N½, ans S½;
Sec. 6, lots 1, 2, 3, 4, 5, 6, 7, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 7, lots 1, 2, 3, 4, and E½W½
Secs. 9, 10, and 11;
Sec. 12, W½;
Sec. 14, W½;
Sec. 15, N½ and SE¼;
Sec. 16, N½;
Sec. 18, lots 1, 2, 3, 4, and E½W½;
Sec. 19, lots 1, 2, 3, 4, and E½W½;
Sec. 20, SE¼;
Sec. 21, S½;
Sec. 22, NE¼ and S½;
Sec. 23, W½;
Secs. 27 and 28;
Sec. 29, E½;
Sec. 30, lots 3, 4, and E½SW¼;
Sec. 31, lots 1, 2, 3, 4, and E½W½;
Sec. 34, N½.
T. 12 S., R. 19 E.,
Sec. 19, lots 1, 2, 3, 4, E½, E½W½;
Secs. 20 and 21;
Sec. 27, W½;
Secs. 28 and 29;
Sec. 30, lots 1, 2, 3, 4, E½, and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½, E½W½;
Secs. 32 and 33
T. 13 S., R. 19 E.,
Sec. 6, lots 1, 2, 3, 4, 5, S½NE¼, and SE¼NW¼;
Secs. 11 to 14, inclusive.
T. 13 S., R. 20 E.,
Sec. 7, lots 1, 2, 3, 4, E½, and E½W½;
Sec. 16, SW¼;
Sec. 17, S½;
Sec. 18 lots 1, 2, 3, 4, E½, and E½W½.
T. 17 S., R. 20 E.,
Secs. 20, 21, and 28;
Sec. 29, NE¼, E½NW¼, and S½.

The areas described aggregate 32,966.80 acres in Crook and Wheeler Counties, Oregon.

The applicant agency has cancelled the application in its entirety; therefore, pursuant to the regulations contained in 43 CFR 2310.2–1(c), the above described lands will be relieved of the above-mentioned segragative effect at 9:30 a.m., on August 9, 1982.

Dated: June 25, 1982.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82–17904 Filed 6–30–81; 8:45 am]

BILLING CODE 4310–84–M

Revision To Final Wilderness Intensive Inventory

AGENCY: Bureau of Land Management, Interior.

ACTION: Revision of wilderness inventory decision.

SUMMARY: Pursuant to new information, notice is given that the Bureau of Land Management, California, is recommending a revision to the Final Wilderness Intensive Inventory for 71 acres comprising the existing Comb's Peak Wilderness Study Area (WSA CA–060–021A). Specifically, the area is recommended to be dropped from further Wilderness consideration as it does not qualify as a WSA.

The Comb's Peak WSA was identified as a WSA during the Intensive Inventory Phase, when available maps indicated that the Comb's Peak Roadless Area was contiguous to a portion of Anza-Borrego Desert State Park which was being recommended as a unit of the California State Wilderness Preservation System. Recent actions by the State of California have designated the Anza-Borrego Desert Wilderness. Recently prepared maps indicate that the Anza-Borrego Desert Wilderness area is not contiguous to the Comb's Peak area, which at 71 acres in size no longer qualifies as a wilderness study area.

DATE: Public comments and protests will be accepted on or before August 2, 1982. This protest period applies only to the amended decision on Intensive Inventory Unit CA–060–021A. No other part of California's Final Intensive Wilderness Inventory is open to protest.

PROTESTS: Persons wishing to protest this determination shall file a written protest. Protests should include a clear and concise statement of reasons for the protest, and must furnish supporting data to the State Director, Bureau of Land Management, 2800 Cottage Way, Sacramento, California 95825. Protests must be received by the State Director within 30 days unless postmarked on or before that date. The State Director, California, will render a written decision on any protest so received. If no protests are received, the decision of the State Director is considered final.

FOR FURTHER INFORMATION CONTACT: David H. Eslinger, Wilderness Coordinator, Bureau of Land Management, California Desert District, 1695 Spruce Street, Riverside, California 92507. Telephone (714) 351–6397 or 351–6394.

Revised Final Wilderness Intensive Inventory Narrative

CA–060–021A, Comb's Peak A

I. *Physical Boundaries.* The southern boundary is the California Department of Forestry firebreak. Nonpublic lands form the boundaries to the west and north. The Anza-Borrego Desert State Park forms the eastern boundary. The Anza-Borrego Desert State Wilderness to the northeast is offset from, and not contiguous with the unit.

II. *Land Ownership.* The 71-acre unit is composed of public lands.

III. *Description of Environment.* The area consists of a side ridge that extends to the main Bucksnort Mountain Ridge. Generally, dense chaparral covers the unit, but brief openings are found in the vegetation.

IV. *Natural Condition.* Neither roads nor ways intrude into the area. Several rock cairns exist along the ridgeline, but no evidence was found indicating active mining claims. Similar cairns were found in the unit's southeastern streambed. In general, the unit is in a natural condition.

V. *Outstanding Opportunities for Solitude or a Primitive and Unconfined Type of Recreation.* The small size, configuration, and dense vegetation of

the roadless unit generally limits opportunities for solitude or a primitive and unconfined type of recreation.

VI. *Summary of Public Comments.* Public comments varied from general references to gemstone deposits and mines in the region to being potential bighorn sheep habitat. More specific comments referred to managing the area for fire protection, hiking access and wildlife protection. Some public comments agreed with BLM findings.

No mines were found within the unit. Questions of potential mineral and gem deposits are study phase considerations and so are comments on managing the unit.

Ed Hastey,

State Director.

[FR Doc. 82-17910 Filed 6-30-82; 8:45 am]

BILLING CODE 4310-84-M

[U-4933]

Utah; Termination of Classification for Multiple-Use Management and Termination of Mineral Segregation

1. Pursuant to the authority delegated by Bureau Order No. 701 dated July 23, 1964 (29 FR 10526), the Bureau of Land Management Multiple-Use Classification Order U-4933 published in the **Federal Register** August 20, 1968, Vol. 33, No. 162, Pages 11786-7 is hereby terminated, except for lands described in paragraph 3 of this notice.

The public lands involved aggregate 1,645,062 acres in Grand and San Juan Counties.

2. The public lands described in the notices were classified for Multiple-Use Management and segregated from appropriation under the Agricultural Land Laws (43 U.S.C. Parts 7 and 9; 25 U.S.C. 334), and from sales under section 2455 of the Revised Statutes amended (43 U.S.C. 1171). Paragraph 3 also segregated 10,437 acres of the lands from all forms of appropriation, entry, location or selection under the public land laws, including the general mining laws.

3. The lands described in this paragraph will remain segregated under the terms of the original classification, including location for minerals under the general mining laws; and are not affected by this termination.

Salt Lake Meridian, Utah

Picture Frame Arch

T. 27 S., R. 22 E.,
Sec. 21, S½NW¼SE¼, N½SWSE¼, NE¼SE¼SW¼.

Fisher Towers

T. 24 S., R. 24 E.,
Sec. 7, SE¼SE¼;
Sec. 8, S½SW¼;
Sec. 17, all;
Sec. 18, NE¼NE¼.

Castle Rock and Priest and Nuns

T. 25 S., R. 23 E.,
Sec. 3, S½NW¼, SW¼;
Sec. 4, SE¼NE¼, E½SE¼;
Sec. 9, NE¼NE¼;
Sec. 10, NW¼.

Pritchett Arch

T. 26 S., R. 21 E.,
Sec. 25, SW¼SW¼.

Aggregating 1,450 Acres.

4. Pursuant to the regulations set forth in (43 CFR 2461.5(c)(2)), the above classification except lands in paragraph 3 of this notice, is hereby terminated. At 10:00 a.m., on June 30, 1982, the lands described in said Notice of August 20, 1968 will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10:00 a.m., on June 30, 1982 shall be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

5. Subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable laws, the lands described in paragraph 3 of the notice dated August 20, 1968, except for lands in paragraph 3 of this notice, will also be open to location under the United States Mining Laws at 10:00 a.m., on June 30, 1982.

Inquiries concerning these lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

Dated: June 18, 1982.

Roland G. Robinson,

State Director.

[FR Doc. 82-17909 Filed 6-30-82; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

California; Known Geothermal Resources Area

Pursuant to the authority vested in the Secretary of the Interior by Sec. 21(a) of the Geothermal Steam Act of 1970 (84 Stat. 1566, 1572; 30 U.S.C. 1020), and delegations of authority in 220 Departmental Manual 4.1 H, Geological Survey Manual 220.2.3, Conservation Division Supplement (Geological Survey Manual) 220.2.1 G, and Secretarial Order 3071, the following described lands are hereby revoked as the Ford Dry Lake Known Geothermal Resources Area, effective June 4, 1982:

(5) California Ford Dry Lake Known Geothermal Resources Area

San Bernardino Meridian, California

T. 6 S., R. 19 E.,
Secs. 22, 23, 24, 26, 27, 33, 34, and 35.
T. 7 S., R. 19 E.,
Secs. 3, 4, 8, and 9.

The revoked area described aggregates 7,687 acres, more or less.

Dated: June 18, 1982.

Richard M. Bloyd,

Minerals Manager, Western Region.

[FR Doc. 82-17943 Filed 6-30-82; 8:45 am]

BILLING CODE 4310-MR-M

California; Known Geothermal Resources Area

Pursuant to the authority vested in the Secretary of the Interior by Sec. 21(a) of the Geothermal Steam Act of 1970 (84 Stat. 1566, 1572; 30 U.S.C. 1020), and delegations of authority in 220 Departmental Manual 4.1 H, Geological Survey Manual 220.2.3, Conservation Division Supplement (Geological Survey Manual) 220.2.1 G, and Secretarial Order 3071, the following described lands are hereby revoked as the Lovelady Ridge Known Geothermal Resources Area, effective June 4, 1982:

(5) California Lovelady Ridge Known Geothermal Resources Area

Mount Diablo Meridian, California

T. 16 N., R. 6 W.,
Sec. 3, lots 1 to 4, inclusive, S½N½, SW¼, W½SE¼;
Secs. 4 through 11, inclusive;
Sec. 13, W½NW¼;
Sec. 14, NE¼, W½;
Sec. 15.

The revoked area described aggregates 6,879 acres, more or less.

Dated: June 18, 1982.

Richard M. Bloyd,

Minerals Manager, Western Region.

[FR Doc. 82-17944 Filed 6-30-82; 8:45 am]

BILLING CODE 4310-MR-M

California; Known Geothermal Resources Area

Pursuant to the authority vested in the Secretary of the Interior by Sec. 21(a) of the Geothermal Steam Act of 1970 (84 Stat. 1566, 1572; 30 U.S.C. 1020), and delegations of authority in 220 Departmental Manual 4.1 H, Geological Survey Manual 220.2.3, Conservation Division Supplement (Geological Survey Manual) 220.2.1 G, and Secretarial Order 3071, the following described lands are hereby revoked as the Little Horse

Mountain Known Geothermal Resources Area, effective June 4, 1982:

(5) California Little Horse Mountain Known Geothermal Resources Area

Mount Diablo Meridian, California

T. 16 N., R. 8 W.,
Sec. 6.
T. 16 N., R. 9 W.,
Sec. 1, lots 1, 2, 3, and 4, S½N½, N½S½, S½SW¼.

The revoked area described aggregates 1,196 acres, more or less.

Dated: June 18, 1982.

Richard M. Bloyd,

Minerals Manager, Western Region.

[FR Doc. 82-17945 Filed 6-30-82; 8:45 am]

BILLING CODE 4310-MR-M

Office of the Secretary

[516 DM 6, Appendix]

National Environmental Policy Act Revised Implementing Procedures

AGENCY: Department of the Interior.

ACTION: Notice of final revised instructions for the Fish and Wildlife Service.

SUMMARY: This notice announces a complete revision to the actions categorically excluded from the NEPA process for the Fish and Wildlife Service. The proposed revised instructions were published in the **Federal Register** on December 2, 1981 (26 FR 58601).

EFFECTIVE DATE: June 22, 1982.

FOR FURTHER INFORMATION CONTACT: Bruce Blanchard, Director, Office of Environmental Project Review, Office of the Secretary, Department of the Interior, Washington, D.C. 20240, Telephone (202) 343-3891. For Fish and Wildlife Service, contact Paul Burke, Telephone (202) 343-5685.

SUPPLEMENTARY INFORMATION: This is a final revision to Section 1.4 of Appendix I to Chapter 6, Part 516 of the Departmental Manual (516 DM 6, App. 1.4). It replaces the categorical exclusions previously published in the **Federal Register** on July 17, 1980. The Department's NEPA procedures were published on April 23, 1980 (45 FR 47941). This list of categorical exclusions revises and updates the former list of Service actions and is based on continued experience with the NEPA process, especially in regard to actions in the Wildlife Resources and Federal Assistance programs.

The revised categorical exclusions must be taken in conjunction with the CEQ regulations (40 CFR 1500), the Departmental NEPA procedures (516 DM 1–6), and the Service's implementing procedures (516 DM 6, Appendix 1); particularly, with respect to Chapter 2 of the Departmental Manual, Section 2.3A, where guidance is provided to the bureaus as to what types of actions can be categorically excluded. Section 2.3A(3) describes conditions whereby individual actions that otherwise meet the criteria of one or more categorical exclusions may pose the risk of significant impact and thus cannot be excluded from the NEPA process. In addition, program managers within the Service will prepare technical guidance procedures on how these exclusions apply to program-specific actions. Each program's guidance procedures will require the concurrence of the Service's Associate Director—Environment to further enhance Service-wide consistency in NEPA compliance.

The final revised categorical exclusions have been restructured around four subheadings instead of the six subheadings that appeared in the proposed revisions. Also, several exclusions have been combined or eliminated where they were found to be redundant or unnecessary. In addition, some examples (of types of actions) have been eliminated because they were found to be either open to broad interpretation or because they offered only a vague definition.

An area of the proposed revisions has been redefined. As proposed, only lands acquired through grants to States would have been categorically excluded. This has been revised to include lands acquired under specified conditions by the Service as well as by the States through grant programs. This resolves the obvious inconsistency in categorically excluding State, but not Service, land acquisitions. Further, the Service's *Land Acquisition Planning Handbook* (2 REM) details the procedure under which all Service lands must be acquired. Thus, while many Service land acquisitions meet the specified conditions, on environmental assessment will, under normal circumstances, be required. We have also added an exclusion for actions involving more than one bureau in order to be consistent with several other bureau appendices.

The table below is provided to cross-reference the proposed and final sections.

Proposed section	Final section
A(1)	B(1).
A(2)	B(1).
B(1)	B(2).
B(2)	B(2).
B(3)	C(3).
B(4)	B(2).
B(5)	B(4).
B(6)	C(4).
B(7)	B(2).
B(8)	C(5).
B(9)	B(3).
B(10)	B(2).
C(1)	B(6).
C(2)	B(6).
C(3)	None.
D(1)	C(1).
D(2)	C(2).
D(3)	C(6).
E(1)	A(3).
E(2)	A(2).
E(3)	B(6).
E(4)	A(1).
F(1)	D(2).
F(2)	D(2), A(4).
F(3)	D(1).
F(4)	D(2), A(2).
None	A(4).
None	C(7).

Response to Comments

The proposed revisions to the Service's categorical exclusions were published in the **Federal Register** on December 2, 1981 (46 FR 58601) and fifteen comments were received. As a result of these comments and other internal input, several technical changes were made to refine the final list of categorical exclusions. The following is the Service's response to the substantive comments:

Adequate Time Has Not Been Allowed to Evaluate the Existing List of Categorical Exclusions Before Developing the Proposed Revisions.

Two commenters stated that since the existing list of categorical exclusions was less than two years old, the Service has not provided enough time to properly evaluate its effectiveness before attempting to revise it.

The Service's position is that, while eighteen months may not appear to be an adequate review period, it represents, collectively, almost two thousand staff-years of management experience. During that period, more than five hundred EA's and FONSI's were prepared and finalized. While sheer numbers of FONSI's alone cannot justify a categorical exclusion, they were a contributing factor in the decisions to revise the exclusions.

The Revisions Contain Vague or Broad Definitions.

Two commenters questioned the use of vague or overly broad terms in the proposed revisions.

We concur. Many of the qualifying terms have been replaced or eliminated in this final revision. However, some terms remain where more precise alternatives could not be found and their use could not be avoided. This occurs primarily where we have placed limits on the scope of a categorical exclusion. We would welcome further comments

on this subject as we gain more experience in applying these exclusions.

The Risk of Significant Impact.

Three commenters place strong emphasis on their position that the proposed revisions would allow for actions which could cause significant impacts.

The Service's position is that the categorical exclusions identify the types of activities that, based on experience in the vast majority of cases, do not individually or cumulatively cause significant impacts. While it is possible that under certain circumstances on activity might cause a significant impact, such circumstances would be rare, would be recognized and would thereby be treated as exceptions to the exclusion (See 516 DM 2.3A(3)). The Service is not attempting to raise the threshold of "significance," but merely broadening the list of activities that we have determined through experience result in no significant impact. The fact remains that should the possibility of significant impacts be identified, the action proposed must be developed in full compliance with NEPA, the CEQ regulations and 516 DM 2.

Cumulative Impacts May Not Be Given Adequate Consideration.

Two commenters expressed concern for the adequate treatment of cumulative impacts that may be caused by categorically excluded activities.

The need to identify and evaluate cumulative impacts is a valid and substantive concern. All too frequently, major Federal actions are performed with inadequate consideration of cumulative impacts. The revised categorical exclusions have been prepared with careful attention given to all areas where cumulative impacts could be possible. We believe that we have addressed these concerns. In addition, the exception stated in 516 DM 2.3A(3)(f) is designed to assure that any actions with cumulative significant impacts are not categorically excluded.

Actions Affecting Threatened and Endangered Species, Marine Mammals and Eagles Should Not Be Categorically Excluded.

One commenter expressed the concern that threatened and endangered species, marine mammals and eagles would not be given adequate consideration with the categorical exclusion of the Service's wildlife permit activities (50 CFR Chapter 1, Subchapter B). Endangered species and CITES permit applications are reviewed by the Office of Endangered Species (OES) and/or the Office of Scientific Authority (OSA), the Division of Law Enforcement and, where appropriate, the State wildlife resources agency. Endangered Species Act and marine Mammal Protection Act permit applications are given public notice in order to elicit either biological information or public objection. No permit is granted by the Service if there is a finding of jeopardy by OES or a finding of detrimcnt by OSA. Objections and recommendations from responsible parties are fully considered and accommodated wherever possible.

The subject exclusion, C(1), has been modified so that permits involving the killing, the removal from natural habitat or the permanent impairment of reproductive capability of endangered or threatened species, eagles or marine animals are not categorically excluded. It is the Service's position that adequate mechanisms exist to ensure the protection of threatened and endangered species, eagles and marine mammals otherwise affected by the categorical exclusions.

Rights-of-Way.

Four commenters supported the proposed revisions pertaining to rights-of-way and two of them proposed additional exclusions pertaining to designated corridors. Four other commenters opposed the breadth of the rights-of-way provisions and recommended that they be further limited in scope.

We have carefully reviewed these comments and made several clarifying changes. We have not added any exclusions for designating or designated corridors, because the Service does not designate corridors. This is a function of the Bureau of Land Management and only pertains to lands under its jurisdiction.

State Grants.

Seven States supported the exclusions as they pertained to State grants and provided various constructive recommendations. One commenter opposed the State grant provisions because it believed that the resource management actions were too broad and did not qualify for a categorical exemption.

The grant exclusions are primarily incorporated into the general and resource management exclusions. Our responses to comments on these exclusions are provided above.

Dated. June 22, 1982.

William D. Bettenberg,

Deputy Assistant Secretary, Policy, Budget and Administration.

Appendix I

1.4 *Categorical Exclusions:* In addition to the actions listed in the Departmental categorical exlusions outlined in Appendix I of 516 DM 2, many of which the Service also performs, the following FWS actions are designated categorical exclusions unless the action qualifies as an exception under 516 DM 2.3(A)(3):

A. *General:*

(1) Changes or amendments to an approved action when such changes have no potential for causing substantial environmental impact.

(2) Personnel training, environmental interpretation, public safety efforts and other educational activities.

(3) The issuance and modification of procedures, including manuals, orders and field rules, when the impacts are limited to administrative or technological effects.

(4) The acquisition of land in accordance with the Service's procedures, when the acquisition is from a willing seller, the acquistion planning process has been performed in coordination with the affected public and continuance of essentially the exisiting use is planned.

B. *Resource Management:*

(1) Research, inventory and information collection activities directly related to the conservation of fish and wildlife resources which involve negligible animal mortality or habitat destruction, and no introduction of either exotic organisms or contaminants.

(2) The operation, maintenance and management of existing facilities and improvements (i.e., structures, roads), including renovations and replacements which result in no or only minor changes in the capacity, use or purpose of the affected facilities.

(3) The addition of small structures or improvements in the area of exising improvements, which result in no or only minor changes in the capacity, use or purpose of the affected area.

(4) The reintroduction (stocking) of native or established species into suitable habitat within their historic or established range.

(5) Minor changes in the amounts or types of public use on FWS or State-managed lands, in accordance with existing regulations management plans and procedures.

(6) Consultation and technical assistance activities directly related to the conservation of fish and wildlife resources.

C. *Permit and Regulatory Functions:*

(1) The issuance of permits for activities involving fish, wildlife or plants regulated under 50 CFR Chapter 1, Subchapter B, except when such permits involve the killing, the removal from natural habitat or the permanent impairment of reproductive capability of

endangered species, threatened species, eagles or marine mammals.

(2) The issuance of special regulations for public use of FWS-managed land, which maintain essentially the permitted level of use and do not continue a level of use that has resulted in adverse environmental effects.

(3) Permitting a limited additional use of an exising right-of-way, such as the addition of new power or telephone lines where no new structures or improvements are required, or the addition of buried lines.

(4) The issuance or reissuance of rights-of-way and special use permits that result in no or negligible environmental disturbance.

(5) The reissuance of grazing or agricultural use permits which do not increase the level of use nor continue a level of use that has resulted in adverse environmental effects.

(6) Activities directly related to the enforcement of fish and wildlife laws.

(7) Actions where FWS has concurrence or coapproval with another bureau and the action is a categorical exclusion for that bureau.

D. *State Grants:*

(1) State planning grants and the administrative determination that State plans wer prepared in accordance with prescribed standards. However, when the plan is submitted for approval, the program proposed by the plan is subject to the NEPA process.

(2) Grants for categorically excluded actions listed in paragraphs A, B and C above.

[FR Doc. 82-17940 Filed 6-30-82; 8:45 am]
BILLING CODE 4310-31-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Decision-Notice; Finance Applications

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 ICC 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the Federal Register. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy or simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

Dated: June 24, 1982.

Agatha L. Mergenovich,
Secretary.

MC-F-14872, filed June 3, 1982. MILLER TRANSFER AND RIGGING CO. (Miller) (P.O. Box 6077, Akron, OH)—Merger—MIDWEST SPECIALIZED HAULERS, INC. (Midwest) (P.O. Box 243, Cuyahoga Falls, OH). Representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, OH 43215. Applicants seek authority under 49 U.S.C. 11343 to merge the operating rights and properties of Midwest into Miller. Operating rights to be merged are embraced in Certificate MC-108962 and 108962 Sub 8X authorizing service over irregular routes in the transportation of heavy machinery and contractors' machinery, equipment, materials and supplies, between Dubuque, IA and points in IA within 25 miles of Dubuque, on the one hand, and, on the other, points in WI and IL; and commodities, the transportation of which, because of size or weight, require the use of special equipment, between points in MN and WI, on the one hand, and, on the other, points in the US (except OH, WV, VA, MD, PA, DE, NJ, NY, CT, and DC). Transferee is presently authorized to operate in each of the continental United States. Transferor and transferee are each controlled by United Transport Industries, Inc., P.O. Box 1161, Akron, OH 44306, and in turn by Mr. John J. Brutvan, P.O. Box 1161, Akron, OH 44306, each of whom join in the application to continue in control of said operating rights and properties.

MC-F-14867 filed May 27, 1982. McKINLAY TRANSPORT, INC. (McKinlay) (34200 Mound Road, Sterling Heights, MI 48077)—Control—U.S. TRUCK COMPANY, INC. (U.S.) (2290 24th Street, Detroit, MI 48216). Representative: Walter N. Bieneman, 100 West Long Lake Road, Bloomfield Hills, MI 48013. McKinlay a newly formed noncarrier, seeks to acquire control of U.S. through the purchase of stock. McKinlay is a wholly owned subsidiary of Flanvi Transport, Ltd. (Flanvi) Windsor, Ontario, Canada, also a noncarrier, the sole shareholder of which is A. A. Moroun. A. A. Moroun is an officer and shareholder (holder of a 15.163 percent interest) of CenTra, Inc. (CenTra), a holding company controlled by T. J. Moroun and M. J. Moroun, the

father and brother of A. A. Moroun. CenTra controls Central Transport, Inc., a motor common carrier operating under Certificate No. MC–19311 and subnumbers thereunder; C.T. Transport, Inc. a motor common carrier operating under certificate No. MC–141809 and subnumbers thereunder; and Central Cartage Co., a Michigan intrastate motor carrier which controls McKinlay Transport, Ltd., a motor common carrier operating under certificate No. MC–12382 and subnumbers thereunder. Flanvi, A. A. Moroun, T. J. Moroun, and M. J. Moroun join in the application. Neither T. J. Moroun nor M. J. Moroun will have any ownership interest in U.S., but have joined in the application because of the existing family and business relationship with A. A. Moroun. U.S. is a motor common carrier of general commodities operating under Certificate No. MC–59336 (Sub-No. 30) over regular and irregular routes in Michigan, Ohio, and Kentucky.

Notes.—(1) This notice does not purport to be a complete description of the operating rights of the carriers mentioned. (2) application for temporary authority has been filed.

MC–F–14871 filed June 7, 1982. ABF FREIGHT SYSTEM, INC. (ABF) (301 South 11th Street Fort Smith, AR 72901)—Control and Merger—EAST TEXAS MOTOR FREIGHT LINES, INC. (ETMF) (2355 Stemmons Freeway, Dallas, TX 75207). Representatives: Thomas Harper, P.O. Box 43, Fort Smith, AR 72902, and David G. Macdonald, 1000 16th Street, NW., Washington, DC 20036. ABF seeks authority to acquire control of ETMF, through acquisition of its capital stock in exchange for shares of the preferred stock of ARKANSAS BEST CORPORTATION (ABC), a Delaware corporation, a noncarrier and parent of ABF, and merger of ETMF into ABF. ETMF joins in the application as a party applicant. ABC, a noncarrier, except for issuance of carrier-related securities, seeks authority to control the carrier operating rights and properties of ETMF as a consequence of the transaction, in common with ABF and other carriers which it controls, and joins in the application. The operating rights of ETMF to be controlled are contained in certificates issued in Docket No. MC–41432 and sub-numbers thereunder. These authorities authorizes the transportation of general commodities (usual exceptions), between points in the United States (except Alaska and Hawaii). As a matter directly related to and as a necessary step in the transaction proposed, it is proposed that ABF shall become a Delaware corporation, like its parent ABC, to facilitate the issuance of capital stock by ABC for use in the proposed merger of ABF and ETMF. This will be accomplished by re-incorporating ABF as a Delaware corporation or merging ABF into a new corporation—ABF Freight System of Delaware, Inc. (ABF Del.)—at the time of consummation of this ABF–ETMF transaction. Accordingly, authority is sought also under 49 U.S.C. 11343, to authorize the merger of ABF into ABF Del., and immediately thereafter for ABF Del., in place of ABF, to acquire ETMF through merger at the closing. AFB Del. joins in this application for that purpose. Upon completion of the merger of ABF into ABF Del., the latter will have the same officers, directors, operating authority, assets and liabilities as ABF and the same capitalization except for an increase of $1,000 in capital stock and cash. ABC controls, directly or indirectly, two other motor carriers subject to ICC jurisdiction, (1) Container Carrier Corporation (CCC), which holds operating authorities issued in Docket No. MC–135419, and (2) Trans-States Lines, Inc. (TSL), which holds operating authorities issued in Docket No. MC–149026. The operating authorities of CCC authorize transportation of general commodities between ports of entry and points within the United States and of specified commodities between stated points. The operating authorities of TSL authorize transportation of general and specified commodities over regular and irregular routes between designated points. ABC also controls CPI, Inc., a non-carrier but an applicant in Docket No. MC–161412 (also embracing MC–F–14838) for motor carrier authority.

Notes.—(1) This notice does not purport to be a complete description of the operating rights of the carrier involved.

(2) In MC–FC–79791, by decision of May 6, 1982, issued under 49 U.S.C. 10926, and the transfer rules at 49 CFR Part 1132, Review Board No. 3 approved the transfer to COBALT CORPORATION (Cobalt), Commonly-controlled non-carrier to be renamed East Texas Motor Freight Lines, Inc. (New F TMF) at consummation, of Certificates No. MC–41432 and all issued subs thereunder of all of the operating rights of ETMF. It is contemplated that the transfer from ETMF to Cobalt will be consummated at the consummation of the acquisition by ABF Del. of ETMF, so that the carrier control of which will be acquired by ABF will then become new ETMF. Accordingly, Cobalt has joined in this application as an applicant vendor.

(3) An application for temporary authority has been filed.

(4) A directly related application under 49 U.S.C. 11301 and 11302 has been filed in Finance Docket No. 29857, *Arkansas-Best Corporation—Preferred Stock*, to authorize the issuance of 150,000 shares of its preferred stock, redemption value $8,500,000 to be used in the exchange.

(5) Applicant contends that while the transaction involves the elimination of existing competition between ETMF and ABF to a limited extent, the transaction will enhance competition in the field of common carriage of general freight by motor vehicle to the public benefit. To support its contention that competition would be enhanced and not reduced, ABF compares itself and ETMF with the market share of intercity motor carriers of comparable size and breadth of territorial service. ABF ranks 9th with a 3.7 percent market share. ETMF ranks 13th with a 2.6 percent market share. Together they would have a 6.3 percent market share which would rank 5th among carriers listed in a table prepared by applicants comparing 1981 individual and system revenues of principal nationwide, intercity, general commodity motor carriers. Many other carriers participate in the ETMF–ABF relevant market. ABF states that the joinder of itself with ETMF will strengthen the nationwide scope of the ABF service through economies and efficiencies which the added volume and terminal locations will provide, rather than creating a new service. A still more conservative assumption as to the relevant market for such carriers as ABF and ETMF is to limit it to the larger motor carriers on the assumption that greater size produces more direct competition. A table was comprised by applicants of the Intercity General Commodity Motor Carriers having Revenues in 1981 in excess of $20 million, with revenues for 1980 and 1981, ranked according to size of 1981 operating revenues. The source is the carriers' annual reports for 1983 and cumulative 4th quarter reports for 1981. United Parcel, household goods carriers and all carriers classified in TRINC's as special commodity carriers are excluded. The 163 carriers included (for 1981) constitute 20% of the total number (801) of such carriers which reported in 1981. These carriers had aggregate revenues of $14,929,030,000 in 1980 and $16,275,956,000 in 1981. The consolidated 1980 revenues of ABF and ETMF of $473.3 million constituted 3% of the total of this group of carriers for 1980. The consolidated 1981 revenues of ABF and ETMF of $491.2 million in 1981 constituted 3% of the total of this group of carriers for 1980. The consolidated 1981 revenues of ABF and ETMF of $491.2 million in 1981 constituted 3% of the group total for that year. To further show that the transaction would not be anticompetitive, applicants submitted detailed studies identifying carriers operating in competition with ABF. Since there is an abundance of competition, the transaction appears not to involve any monopoly element, and its approval at this stage would not appear to result in material anticompetitive effects.

[FR Doc. 82-17989 Filed 6-30-82; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-165)]

The Alaska Railroad Co.; Exemption for Contract Tariff ICC–ARR–C–0005

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the Federal Rgister.

FOR FURTHER INFORMATION CONTACT: Tom Smerdon (202) 275–7277.

SUPPLEMENTARY INFORMATION: The Alaska Railroad Company (ARR) filed a petition on June 15, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract ICC–ARR–C–0005 filed on June 14, 1982, to become effective June 18, 1982.[1] The contract involves the movement of trailers on flatcars.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. The parties are currently engaged in the purchase, routing and movement of supplies to Alaska to accommodate summer construction requirements and provide inventory required for the short summer Alaska construction season. Short notice effectiveness of the contract will enable the shipper to take maximum advantage of the contract both in pricing its products and expediting their delivery. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

Petitioner's contract ICC–ARR–C–0005 may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(e) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

[1] Because of the lateness in filing the petition, the June 18, 1982 date could not be met.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement in this instance is not necessary to carry out the transportation policy of 49 U.S.C. 10101(a) and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(d) if protests are filed within 15 days of publication in the Federal Register.

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

Authority: 49 U.S.C. 10505.

By the Commission, Division 1, Commissioners Sterrett, Gilliam, and Andre. Commissioner Gilliam concurred with a separate expression.

Dated: June 25, 1982.

Agatha L. Mergenovich,

Secretary.

Commissioner Gilliam, concurring: Having toured the Alaska Railroad last year and learned first-hand the environmental problems faced annually by the Alaska Railroad, I feel the exemption is fully warranted.

[FR Doc. 82–17927 Filed 6–30–82; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 29943]

Johnsonburg, Kane, Warren & Irvine Railway Co.—Knox & Kane Railroad Co.—Gettysburg Railroad Co.—Exemption From 49 U.S.C. 10901 and 11343

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Under 49 U.S.C. 10505, the Interstate Commerce Commission exempts the operation by Johnsonburg, Kane, Warren & Irvine Railway Company (Johnsonburg), of certain track in Pennsylvania from prior approval under 49 U.S.C. 10901 and the common control by two individuals of Johnsonburg, Knox & Kane Railroad Co. and Gettysburg Railroad Co., from prior approval under 49 U.S.C. 11343.

DATES: This exemption is effective on July 1, 1982. Petitions to reopen must be filed by July 21, 1982.

ADDRESSES: Send pleadings to:

(1) Section of Finance, Room 5349, Interstate Commerce Commission, Washington, DC 20423;

(2) Petitioner's representative, Daniel J. Sweeney, 1750 Pennsylvania Ave., N.W., Washington, DC 20006.

Pleadings should refer to Finance Docket No. 29943.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., NW., Washington DC 20423; (202) 289–4357—DC metropolitian area; (800) 424–5403—Toll-free for outside the DC area.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham, Sterrett, Andre, and Simmons. Commissioner Gresham did not participate.

Decided: June 24, 1982.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–17925 Filed 6–30–82; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 387 (Sub-161)]

Missouri Pacific Railroad Co.; Exemption for Contract Tariffs ICC–MP–C–0076 and 0077

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariffs to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Tom Smerdon (202) 275–7277.

SUPPLEMENTARY INFORMATION: The Missouri Pacific Railroad Company (MP) and the Denver and Rio Grande Western Railroad Company (DRGW) filed a petition on June 11, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). Petitioners request that we permit contracts ICC–MP–C–0076 and 0077 fied on May 28, 1982, to become effective on one day's notice. The contracts involve the movement of iron ore.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. The petitioner had asked for a June 16, 1982 effective date to meet the arrival of an ocean vessel. Due to the lateness of the

filing of the petition, this date could not be met. There are, however, other grounds to grant an exemption. The iron ore will be moved inland from Port of Corpus Christi, Texas. The contract will enable the petitioners to use cars which had an immediately preceding southbound movement, resulting in maximum car utilization. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

Petitioners' contracts ICC–MP–C–0076 and 0077 may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(e) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement in this instance is not necessary to carry out the transportation policy of 49 U.S.C. 10101(a) and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(d) if protests are filed within 15 days of publication in the **Federal Register**.

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

Authority: 49 U.S.C. 10505.

Dated: June 24, 1982.

By the Commission, Division 1, Commissioners Sterrett, Gilliam, and Andre.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-17028 Filed 6-30-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 367 (Sub-158)]

Chicago & North Western Transportation Co.—Exemption for Contract Tariff ICC–CNW–C–0183

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway (202) 275–7278.

SUPPLEMENTARY INFORMATION: The Chicago and North Western Transportation Company filed a petition on June 14, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract ICC–CNW–C–0183 to become effective on one day's notice. The contract was filed to become effective on July 7, 1982 and involves silica sand.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. Cf. former section 10762(d)(1). However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. The parties to this contract attempted to have an effective contract by May 1, 1982 which coincided with the contract's adjustment date; however, the negotiations extended beyond this period. Advancement of the effective date will assist the parties in reducing the time lag between the effective date of the contract and the agreed adjustment date provided therein. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

CNW's contract may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

Although the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(e) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to Compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement in these instances is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(d) if protests are filed within 15 days of publication in the **Federal Register.**

This action will not significantly affect the quality of the human environment or conservation of energy resources.

Authority: 49 U.S.C. 10505.

By the Commission, Division 2, Commissioners Sterrett, Taylor, and Simmons.

Dated: June 25, 1982.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-17083 Filed 6-30-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 367 (Sub-164)]

Union Pacific Railroad Co.—Exemption for Contract Tariff ICC–UP–C–0014

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Douglas Galloway (202) 275–7278.

SUPPLEMENTARY INFORMATION: Union Pacific Railroad Company (UP) filed a petition on June 14, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its extension notice contract ICC–UP–C–0014 and to become effective on one day's notice. The amendment will be filed upon the granting of this petition.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. Cf. former section 10762(d)(1). However, the Commission has granted relief under our section 10505 exemption authority in exceptional situation.

The petition shall be granted. Advancement of the supplement's effective date will prevent subject contract from failing by extending the contract's termination date to allow the shipper to meet certain volume requirements. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

UP's contract may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

Although the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission

of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement on this instance is not necessary to carry out the transportation policy of 49 U.S.C. 10101(a) and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(d) if protests are filed within 15 days of publication in the **Federal Register.**

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

Authority: 49 U.S.C. 10505.

Dated: June 25, 1982.

By the Commission, Division 2, Commissioners Sterrett, Taylor, and Simmons.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-17822 Filed 6-30-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29921]

Octoraro Railway, Inc. and Historic Red Clay Valley, Inc.—Exemption Under 49 U.S.C. 10505 From 49 U.S.C. 10901, 11343 and, 11301

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts the acquisition by Historic Red Clay Valley, Inc. (HRCV) of 10.2 miles of track of the Baltimore and Ohio Railroad Company between a point near Landenberg Junction, DE, and the end of the line at or near Hockessin, DE, and maintenance of and operations over the involved line by Octoraro Railway, Inc. from the requirements of prior approval under 49 U.S.C. 10901 and 11343. The Commission also exempts from the requirements of prior approval under 49 U.S.C. 11343 the acquisition of bridge trackage rights by Octoraro through B&O's Wilsmere Yard at Wilmington, DE. Finally, the Commission exempts the issuance of a note by HRCV to B&O from the requirements of 49 U.S.C. 11301.

DATES: These exemptions are effective on August 2, 1982. Petitions to stay the effectiveness of this decision must be filed by July 12, 1982. Petitions for reconsideration must be filed by July 21, 1982.

ADDRESS: Send pleadings to: (1) Interstate Commerce Commission, Section of Finance, Room 5414, Washington, DC 20423; and (2) Petitioners' Representatives:

John L. Richardson, Robert R. Brinker, Suite 1100, 1660 L St., NW., Washington, DC 20036;

Francis G. McKenna, Suite 707, 1000 Connecticut Ave., NW., Washington, DC 20036.

Pleadings should refer to Finance Docket No. 29921.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., NW., Washington, DC 20423; (202) 289-4357—DC metropolitan area; (800) 424-5403—Toll-free for outside the DC area.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham, Sterrett, Andre, and Simmons. Commissioner Gresham did not participate.

Decided: June 24, 1982.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-17824 Filed 6-30-82; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701-TA-86, 87, 92, 93, 94, 96, 97, 99, 101, 104, 105, 107, 109, 117, 119, 121, 123, 124, 128, and 138 (Final)]

Certain Carbon Steel Products From Belgium, Brazil, France, Italy, Luxembourg, the Netherlands, the United Kingdom, and the Federal Republic of Germany; Institution of Final Countervailing Duty Investigations, and Scheduling of Hearing

AGENCY: International Trade Commission.

ACTION: Institution of final countervailing duty investigations and scheduling of a hearing to be held in connection with the investigations.

EFFECTIVE DATE: June 14, 1982.

SUMMARY: As a result of affirmative preliminary determinations by the United States Department of Commerce that there is a reasonable basis to believe or suspect that the Governments of Belgium, Brazil, France, Italy, Luxembourg, the Netherlands, the United Kingdom, and the Federal Republic of Germany (West Germany) are providing, directly or indirectly, subsidies with respect to the manufacture, production, or exportation of certain carbon steel products within the meaning of section 701 of the Tariff Act of 1930 (19 U.S.C. 1671), the United States International Trade Commission hereby gives notice of the institution of the following investigations under section 705(b) of the Act (19 U.S.C. 1671d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of the specified merchandise:

Hot-rolled carbon steel plate, provided for in items 607.6615, 607.9400, 608.0710, and 608.1100 of the Tariff Schedules of the United States Annotated (TSUSA), from—

Belgium (investigation No. 701-TA-86 (Final)),

Brazil (investigation No. 701-TA-87 (Final)),

The United Kingdom (investigation No. 701-TA-92 (Final)), and

West Germany (investigation No. 701-TA-93 (Final));

Hot-rolled carbon steel sheet and strip, provided for in TSUSA items 607.6610, 607.6700, 607.8320, 607.8342, and 607.9400 and 608.1920, 608.2120, and 608.2320, respectively, from—

Belgium (investigation No. 701-TA-94 (Final)),

France (investigation No. 701-TA-96 (Final)),

Italy (investigation No. 701-TA-97 (Final)),

The Netherlands (investigation No. 701-TA-99 (Final)), and

West Germany (investigation No. 701-TA-101 (Final));

Cold-rolled carbon steel sheet and strip, provided for in TSUSA items 607.8320 and 607.8344 and 608.1940, 608.2140, and 608.2340, respectively, from—

France (investigation No. 701-TA-104 (Final)),

Italy (investigation No. 701-TA-105 (Final)),

The Netherlands (sheet only) (investigation No. 701-TA-107 (Final)), and

West Germany (investigation No. 701-TA-109 (Final));

Carbon steel structural shapes, provided for in TSUSA items 609.8005, 609.8015, 609.8035, 609.8041, and 609.8045, from—

Belgium (investigation No. 701-TA-117 (Final)),

France (investigation No. 701-TA-119 (Final)),

Luxembourg (investigation No. 701-TA-121 (Final)),

The United Kindom (investigation No. 701–TA–123 (Final)), and
West Germany (investigation No. 701–TA–124 (Final));

Hot rolled carbon steel bar, provided for in TSUSA items 606.8310, 606.8330, and 606.8350, from the United Kingdom (investigation No. 701–TA–128 (Final)); and

Cold-formed carbon steel bar, provided for in TSUSA items 606.8805 and 606.8815, from the United Kingdom (investigation No. 701–TA–138 (Final)).

FOR FURTHER INFORMATION CONTACT: Mr. Robert Eninger (202–523–0312) or Mr. Daniel Leahy (202–523–1369), Office of Investigations, U.S. International Trade Commission.

SUPPLEMENTARY INFORMATION:

Background

On February 25, 1982, the Commission determined, on the basis of the information developed during the course of its preliminary investigations, that there was a reasonable indication that an industry in the United States was materially injured or threatened with material injury by reason of allegedly subsized imports of the subject carbon steel products from Belgium, Brazil, France, Italy, Luxembourg, the Netherlands, the United Kingdom, and West Germany. The preliminary investigations were instituted in response to petitions filed on January 11, 1982, by seven U.S. steel producers. The Department of Commerce will make its final subsidy determinations in these cases on or before August 24, 1982. The Commission must make its final injury determinations in the investigations within 120 days after the date of Commerce's preliminary subsidy determinations or by October 12, 1982 (19 CFR 207.25). A public version of the staff report containing preliminary findings of fact will be placed in the public record on August 16, 1982, pursuant to section 207.21 of the Commission's Rules of Practice and Procedure (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with these investigations beginnning at 10:00 a.m., e.d.t., on September 1, 1982, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on August 13, 1982. All persons desiring to appear at the hearing and make oral presentations may file prehearing briefs and should attend a prehearing conference to be held at 10:00 a.m., e.d.t., on August 17, 1982, in Room 117 of the U.S. International Trade Commission Building. Prehearing briefs must be filed on or before Augsut 27, 1982.

Testimony at the public hearing is governed by § 207.23 of the Commission's Rules of Practice and Procedure (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to new information. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR 207.22). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on September 10, 1982.

Written Submissions

Any person may submit to the Commission a written statement of information pertinent to the subject of these investigations. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission on or before September 10, 1982. All written submissions except for confidential business data will be available for public inspection.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6).

Service of Documents

Any interested person may appear in these investigations as a party, either in person or be representative, by filing an entry of appearance with the Secretary in accordance with § 201.11 of the Commission's rules (19 CFR 201.11). Each entry of appearance must be filed with the Secretary no later than July 21, 1982.

The Secretary will compile a service list from the entries of appearance filed in these final investigations and from the Commission's record in the preliminary investigations. Any party submitting a document in connection with these investigations shall, in addition to complying with § 201.8 of the Commission's rules (19 CFR 201.8), serve a copy of each such document on all other parties to the investigations. Such service shall conform with the requirements set forth in section 201.16(b) of the rules (19 CFR 201.16(b)).

In addition to the foregoing, each document filed with the Commission in the course of these investigations must include a certificate of service setting forth the manner and date of such service. This certificate will be deemed proof of service of the document. Documents not accompanied by a certificate of service will not be accepted by the Secretary.

For further information concerning the conduct of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, subparts A and C (19 CFR Part 207, 44 FR 76457 as amended in 47 FR 6190 and 47 FR 12792) and Part 201, subparts A through E (19 CFR 201).

This notice is published pursuant to § 207.20 of the Commission's Rules of Practice and Procedure (19 CFR 207.20).

By order of the Commission.

Issued: June 28, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-17628 Filed 6-30-82; 8:45 am]
BILLING CODE 7020-02-M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Meeting

June 28, 1982.

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), as amended notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a meeting on Sunday, Monday, Tuesday, and Wednesday, July 18–21, 1982. The meetings will be held in Rooms 416 and B–100, Page Building #1, 2001 Wisconsin Avenue, NW., Washington, D.C.

The Committee, consisting of 18 non-Federal members appointed by the President and academia, business and industry, public interest organizations and State and local government, was established by Congress by Pub. L. 95–63, on July 5, 1977. Its duties are to (1) undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce with respect to carrying out of the programs administered by the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to the

Congress setting forth an assessment, on a selective basis, of reports as may from time to time be requested by the President or Congress.

The Tentative Agenda is as follows:

Sunday, July 18, 1982

Page Building #1, Room 418, 2001 Wisconsin Avenue, NW., Washington, D.C.

Panel Meeting

9:00 a.m.–3:00 p.m.:
- Coast Guard

Chairman: Michael Naess
Topic: Work Session

Monday, July 19, 1982

Page Building #1, Room 418, 2001 Wisconsin Avenue, NW., Washington, D.C.

Plenary (9:00 a.m.–1:00 p.m.)

9:00 a.m.–9:30 a.m.:
- Announcements

9:30 a.m.–12:00 p.m.:
- Review and Approval of Weather Services Report

12:00 p.m.–1:00 p.m.:
Lunch

Panel Meetings (1:00 p.m.–5:00 p.m.)

1:00 p.m.–3:00 p.m.:
- Ad Hoc Ocean Dumping

Room B–100

2:00 p.m.–5:00 p.m.:
- Ocean Satellites

Chairman: FitzGerald Bemiss
Topic: Ocean Research and Satellites
Speakers:
D. James Baker, University of Washington, Satellites and Oceanography
James O'Brien, Florida State University, Satellites and Oceanography
W. Stanley Wilson, National Aeronautics and Space Administration
Federal Plans and Prospects for Ocean Sensing Satellites
Sylvia Earle, NACOA Member, Submersibles and Oceanography

5:00 p.m.:
Recess

Tuesday, July 20, 1982

Page Building #1, Room 418, 2001 Wisconsin Avenue, NW., Washington, D.C.

Plenary

8:30 a.m.–11:30 a.m.:
- Review and Approval of Fisheries Report

11:30 a.m.–12:30 p.m.:
- Law of the Sea Status

Speaker: Ted Kronmiller, Department of State, Deputy Assistant Secretary for Oceans and Fisheries Affairs

12:30 p.m.–1:30 p.m.:
Lunch

1:30 p.m.–3:30 p.m.:

Plenary

- Marine Transportation Report Status
- Action Items and Panel Reports

3:30 p.m.:
Adjourn Regular Meeting

Panel Meeting

3:30 p.m.–6:30 p.m.:
- Marine Minerals

Chairman: Burt Keenan
Topic: Work Session—Draft Report

6:30 p.m.:
Recess

Wednesday, July 21, 1982

Page Building #1, Room B–100, 2001 Wisconsin Avenue, NW., Washington, D.C.

Panel Meeting Continued

9:00 a.m.–3:00 p.m.
- Marine Minerals

Chairman: Burt Keenan
Topic: Work Session—Draft Report

3:00 p.m.:
Adjourn

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the prerogative to place limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Steven N. Anastasion, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, 3300 Whitehaven Street, NW., Washington, D.C. 20235.

Dated: June 28, 1982.

Steven N. Anastasion,

Executive Director.

[FR Doc. 82-17738 Filed 6-30-82; 8:45 am]

BILLING CODE 3510-12-M

NATIONAL COMMISSION ON SOCIAL SECURITY REFORM

Meeting

AGENCY: National Commission on Social Security Reform.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Commission on Social Security Reform. This notice also describes the functions of the Commission. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This is intended to notify the general public of their opportunity to attend.

DATE: July 19, 1982: 2:00 p.m. to 6:00 p.m.

ADDRESS: Room 2168A–B, Rayburn House Office Building, Washington, DC 20515.

FOR FURTHER INFORMATION CONTACT: Robert J. Myers, Executive Director, 736 Jackson Place, N.W., Washington, D.C. 20503; Telephone-(202)395–5132.

SUPPLEMENTARY INFORMATION: The National Commission on Social Security Reform is established by Executive Order No. 12335, dated December 16, 1981, to provide appropriate recommendations to the Secretary of Health and Human Services, the President, and the Congress on long-term reforms to put Social Security back on a sound financial footing.

The meeting of the Commission is open to the public. The proposed agenda includes:

Discussion of investment procedures of the trust funds
Discussion of various proposals for reform
Such new business as the chairman or the members may put before the Commission

Records are kept of all Commission proceedings, and are available for public inspection at the office of the Executive Director, National Commission on Social Security Reform, 736 Jackson Place, N.W., Washington, DC 20503.

Dated: June 28, 1982.

Robert J. Myers,

Executive Director.

[FR Doc. 82-17963 Filed 6-30-82; 8:45 am]

BILLING CODE 3115-01-M

NATIONAL SCIENCE FOUNDATION

Subpanel for Decision and Management Science of the Advisory Panel for Social and Economic Science; Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Subpanel for Decision and Management Science of the Advisory Panel for Social and Economic Science.
Date/Time: July 22, 1982—8:30 a.m. to 5:00 p.m.
July 23, 1982—8:30 a.m. to 5:00 p.m.
Place: National Science Foundation, 1800 G Street, N.W., Washington, D.C., Room 421
Type of Meeting: Closed
Contact person: Dr. Trudi C. Miller, Acting Program Director, Decision and Management Science, National Science Foundation, Washington, D.C. Room 310, (202) 357–7328.
Purpose of subpanel: To provide advice and recommendations concering support for research in Decision and Management Science.
Agenda: Closed portion: To review and evaluate research proposals and projects as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary and confidential nature, including technical information; financial data, such as salaries; and personal

information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b (c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, National Science Foundation, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

June 29, 1982

[FR Doc. 82-17741 Filed 6-30-82; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Reports, Recommendations, Responses; Availability

Reports Issued:

Aircraft Accident Report—Air Florida Airlines, Inc., McDonnell-Douglas, Inc., DC-10-30CF, N101TV, Miami International Airport, Miami, Florida, September 22, 1981 (NTSB-AAR-82-3).

Recommendations to:

Federal Aviation Administration, Jun. 14, A-82-52: Issue an Airworthiness Directive to require that Bell UH-1B and UH-1D model helicopters and Bell 204B model helicopters be inspected for evidence of fretting on or adjacent to the tail boom aft access panel and the tail boom skin and rivets at station 194, that aircraft found to have fretting or cracking be X-ray inspected for cracks in the magnesium alloy skin beneath the outer aluminum alloy skin in certain locations, that aircraft be repaired, and inspections continue to be made of aircraft on which the initial inspection disclosed no evidence of cracking. *A-82-51:* Publish in the General Aviation Airworthiness Alert (Advisory Circular 43-16) information on failure of the Hartzell propeller A282 inner clamp bolts and the availability of a new bolt as a replacement. *A-82-53 through -55:* Issue an Airworthiness Directive requiring tests or inspections of deicing boots on the Ratier-Figeac model FH 146 propellers to preclude failure of blades by fatigue cracking arising from localized overheating of the boot material; review, and revise if necessary, the deicing boot resistance testing procedures specified in the Ratier-Figeac maintenance manual for model FH 146 propellers to detect faults in the deicer boots which could cause localized overheating; review the design of the Ratier-Figeac model 146 propellers for compatible composition of the deicing boot, its adhesive material, and the propeller blade material in the event it is exposed to excessive heat.

Federal Highway Administration, Jun. 14, H-82-16: Issue an On Guard Bulletin to advise commercial vehicle owners, operators, and maintenance personnel of the correct procedures for installing spindle bearing cups into aluminum wheel hubs.

American Trucking Associations, Inc., Jun. 14, H-82-17: Disseminate to its membership and related organizations information about the correct procedures for installing spindle bearing cups into aluminum wheel hubs.

National Society of Professional Engineers, Jun. 18, P-82-26: Advise members of the circumstances of the August 25, 1981, natural gas main puncture accident in San Francisco, California, and recommend that they confirm the adequacy of their design specifications in providing adequate clearance for affected utilities through consultation with the utility operators, and that they note on their design specifications and drawings that affected utilities are to be notified at least 48 hours in advance of actual excavation, using the one-call system where available.

American Road and Transportation Builders Association and National Utilities Contractors Association, Jun. 18, P-82-29: Advise member construction companies of the details of the August 25, 1981, natural gas main puncture accident in San Francisco, California, and urge them not to excavate until they have notified all operators of underground utilities of their plans to excavate, using one-call service wherever it is available.

Norfolk & Western Railway Company, Jun. 18, R-82-43 through -46: Replace track shunt circuit switch protection that does not have series break-type circuits, with series break-type circuits; establish effective interdepartmental coordination procedures to insure that maintenance of way work involving the signal system will not result in improper functioning of the signal system; review and revise procedures governing the maintenance and tests of signals to insure that tests and inspections are performed in accordance with the Federal Railroad Administration's Rules, Standards and Instructions; enforce effective supervisory monitoring practices to seek consistent compliance with operating rules regarding switches.

Association of American Railroads, Jun. 18, R-82-47: Inform members of the circumstances of the November 28, 1981, accident at Crewe, Virginia, and recommend that they assess their track shunt circuit protection systems and inspection procedures, and take corrective action to prevent similar accidents.

Federal Railroad Administration, Jun. 18, R-82-48: Revise the appropriate regulation, within the Rules, Standards, and Instructions for signal systems, or the interpretation thereof, to require track shunt circuit switch protection to be of the series break-type circuit and require the replacement of track shunt circuit protection systems with series break-type circuits on a priority basis.

Recommendation Responses From:

Secretary of Transportation, Jun. 11, H-81-88 through -92: Federal Highway Administration has initiated a review of current practices and procedures used both by the FHWA field offices and by State and local highway agencies to develop and administer Federal-Aid resurfacing, restoration, and rehabilitation (RRR) projects and programs; the final rule will identify essential factors which must be addressed in each State's criteria and/or procedures approved under the rule; FHWA works with States to develop and refine programming and project selection procedures and reviews annual State programs for use of Federal funds; FHWA uses information from the National Highway Performance Monitoring Study and from accident data collection and evaluation activities conducted by the States in compliance with Highway Safety Program Standards 9 and 10 to evaluate the Federal-Aid systems and all programs, including RRR, and for recommending future program revisions; majority of comments on the rulemaking support a flexible approach for the geometric design of nonfreeway, Federal-aid RRR projects rather than existing procedures and standards for new construction projects.

Federal Aviation Administration, Jun. 11, A-81-82: A rule requiring mandatory compliance with Detroit Diesel Allison Commercial Service Alert Bulletin CEB-A-1144 will be issued soon. *Jun. 11, A-82-43 and -44:* FAA's Transport Airplane Certification Directorate is assessing the problems cited and the need to issue an Airworthiness Directive; the responsibility for the dissemination of a recommendation of this type is within the authority and responsibility of the Safety Board, and dissemination to foreign airworthiness authorities of Safety Board recommendations which specifically call for this type of action is inappropriate for the FAA. *Jun. 11, A-81-155 and -156:* Student evaluations and course grades at the FAA Academy are considered in assignments to towers; for en route center assignments, the new hire is assigned prior to being sent to the Academy; reviewing Technical Appraisal Program to seek ways to increase the frequency of evaluation; a mandatory "Tape Talk" program allows supervisors/evaluators to record and discuss samples of individual controller performance periodically; first-line supervisor in day-to-day observation conducts a continuous controller evaluation of situations which occur in the actual operational environment; recently issued new performance measures that identify performance standards and establish new measures for controller performance. *Jun. 11, A-82-34 through -37:* Issue Emergency Airworthiness Directive T82-08-51 on April 9, 1982; a team from the Aircraft Certification Division will review the fluorescent penetrant inspection procedures, and inspectors for the Flight Standards Division will review the application of these procedures; a team will review the original certification of the CF6-50 high-pressure turbine rotor; transmitted a telegraphic message on April 6, 1982, to foreign authorities of known registration applicable to CF6-50 engines, General Electric Company, FAA facilities, U.S. air carriers using CF 6-50 engines, U.S. military, and other interested groups. *Jun. 18, A-78-57:* There is not enough evidence that lower extremity protection is needed and there is no data on which to base test criteria. *Jun. 18, A-81-26 through -28:* The probability of jamming a single-handle latching system in an accident is a significant factor higher than the probability for such an occurrence with a two-handle design; an exterior door that

opens easily is a prime candidate for inadvertent opening in flight; available data do not adequately support this recommendation either in Part 23 or retroactively in Par 91; has established a project to update regulations to include special conditions that exist for small airplanes and are considered broadly applicable; will consider the need for placing directions for opening on all external doors and emergency exits that are openable from the outside. *Jun. 3[illegible]-74-103:* Concluded that the proposal would have imposed financial burdens on the public not commensurate with an increase in safety. *Jun. 21, A-82-30:* Does not concur in the necessity and feasibility of the proposal.

Pennsylvania Department of Transportation, Jun. 8, H-82-4: The activities proposed for an "Operation Lifesaver" program would not address the majority of accidents occurring at grade crossings in Pennsylvania; a specific grade crossing educational effort aimed at those transporting hazardous materials could be implemented through State's existing activities without implementation of a general "Operation Lifesaver" program.

Association of American Railroads, Jun. 11, R-81-48 through -51: The practice of the head end crew communicating to the conductor the aspects of fixed signals has limited value and might be counterproductive; will not urge member companies to expand the use of recorders, but will disseminate information so that they will be aware of the Board's position. *Jun. 21, I-82-1 through -4:* Suggestions from technical committees of the AAR are being solicited.

National Railroad Passenger Corporation (Amtrak), Jun. 22, R-81-57 through-60:) Concludes that locking devices on rotating seats rather than skirts will minimize leg injuries; much equipment has been retrofitted or ordered with locking devices on rotating seats; collision posts in RTL power car 155 meet or surpass all requirements, and are properly welded to the floor I-beam.

Interstate Natural Gas Association of America, Jun. 21, P-82-19: Forwarded the recommendation to members.

Pacific Gas and Electric Company, Jun. 21, P-82-1 through -3: Is directing special attention to training in the locating and operation of emergency shutdown valves; initiated action to verify the completeness, accuracy, and legibility of all shutdown drawings, plat sheets, and wall maps used for the emergency isolation and shutdown of designated sections of the gas system; instructed division gas superintendents to initiate a procedure to make a positive determination that valves installed to isolate emergency shutdown zones are in good working order.

Note.—Reports may be ordered from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, for a fee covering the cost of printing, mailing, and maintenance. For information on reports call 703-487-4650 and to order subscriptions to reports call 703-487-4630. Single copies of recommendation letters (identified by recommendation number) and response letters are free on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

July 1, 1982.

[FR Doc. 82-17980 Filed 6-30-82; 8:45 am]

BILLING CODE 4910-58-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-237 and 50-249]

Commonwealth Edison Co. (Dresden Nuclear Power Station, Units 2 and 3); Exemption

I

The Commonwealth Edison Company (CECo/the licensee) is the holder of Provisional Operating License No. DPR-19 and Facility Operating License No. DPR-25 (the licenses) which authorize operation of the Dresden Nuclear Power Station, Units 2 and 3, respectively, located in Grundy County, Illinois, at steady state reactor core power levels not in excess of 2527 megawatts thermal (rated power). These licenses provide, among other things, that they are subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

II

Section 50.54(o) of 10 CFR Part 50 requires that primary reactor containments for water cooled power reactors be subject to the requirements of Appendix J to 10 CFR Part 50. Appendix J contains the leakage test requirements, schedules, and acceptance criteria for tests of the leak-tight integrity of the primary reactor containment and systems and components which penetrate the containment. Appendix J was published on February 14, 1973 and in August 1975, each licensee was requested to review the extent to which its facility met the requirements.

On September 26, 1975, Commonwealth Edison Company (CWE but now referred to as CECo) submitted its evaluation of the Zion Station Unit Nos. 1 and 2, Dresden Station Unit Nos. 1, 2, and 3, and Quad Cities Station Unit Now. 1 and 2 in which it assessed compliance with the rule and also requested an exemption from certain requirements of the rule. This Exemption addresses only the Dresden Nuclear Power Station, Units 2 and 3. The CECo submittal for the resden Nuclear Power Station Units 2 and 3 was supplemented by letters dated September 9, 1976 and April 5, 1977. In these submittals, CECo requested that certain test sequences and methodology, components, and penetrations be exempted from Appendix J requirements. The Franklin Research Center, as a consultant to NRR, has reviewed the licensee's submittals and prepared a Technical Evaluation Report (TER) of its findings the NRC staff has reviewed this TER and in its Safety Evaulation Report dated June 25, 1982. The staff has concurred in the TER's bases and findings with the exception of Item 4 below, which required additional staff evaluation prior to determining the acceptability of the licensee's request.

The exemption requests found to be acceptable are as follows:

1. Section III.A.1.(a) of Appendix J requires, in part, that the Type A test be performed as close as practical to the "as is" condition. When excessive leakage paths are identified during the Type A test, the test is to be terminated and leakage through such paths is to be measured by local leakage rate procedures. After repair or adjustment, a subsequent Type A test is performed.

CECo requested an exemption from this requirement in order to perform local valve leakage rate tests (Type C tests) prior to the integrated primary containment leakage rate test (Type A test) and to back-correct the results of the Type A test with the results of the Type C tests. CECo submitted its methodology and justification that performance of the test sequence in this manner would yield conservative results.

We have reviewed CECo's submittals and have concluded that the licensee's methodology will yield conservative results under certain conditions. Therefore, the licensee's request for exemption from the required sequence of conducting Type A and C tests is acceptable, provided that:

a. When performing Type C tests, the conservative assumption that all measured leakage is in a direction out of the containment is applied, unless the test is performed by pressurizing between the isolation valves; and,

b. When performing Type C tests by pressurizing between the isolation valves, the conservative assumption that the two valves leak equally is applied, where the isolation valves are shut by normal operation without preliminary exercising or adjustment.

2. Section II.4.1 of Appendix J requires, in part, Type C testing of containment isolation valves which provide a direct connection between inside and outside atmospheres of the primary reactor containment under normal operation. CECo requested an exemption from this requirement in

order to exclude certain instrument line manual isolation valves from the Type C test requirements and submitted certain design information as justification.

We have reviewed the licensee's submittals and have determined that the instrument line manual isolation valves are not instrument valves which provide a direct connection between the inside and outside atmospheres of the primary reactor containment under normal operation. In addition, the instrument lines were installed in accordance with Regulatory Guide 1.11, Instrument Lines Penetrating Primary Reactor Containment.

Since these valves remain open in both normal and accident conditions, the licensee's request for exemption from Type C test requirements for the instrument line manual isolation valves is acceptable, provided that the affected instrument lines are not isolated from the containment atmosphere during the performance of a Type A test.

3. Section III.C.2 of Appendix J requires, in part, that Type C testing be performed at the peak calculated accident pressure (Pa). CECo requested an exemption from this requirement for the Main Steam Isolation Valves (MSIVs) to permit testing at 25 psig rather than at Pa (48 psig) and submitted certain design information as justification.

The MSIVs are leak tested by pressurizing between the valves. The MSIVs are angled in the main steam lines in the direction of flow in order to afford better sealing upon closure. Consideration of this feature was included at the design stage of the facility when the original test pressure of 25 psig was established. A test pressure of Pa acting under the inboard disc is sufficient to lift the disc off its seats, and results in excessive leakage into the reactor vessel.

We have reviewed the licensee's submittals and have concluded that testing of the MSIVs at a reduced pressure of 25 psig will result in a conservative determination of the leakage rate through the MSIVs and, therefore, the proposed exemption is acceptable.

4. Section III.D.2 of Appendix J requires, in part, that Type B tests be performed on containment airlocks at six-month intervals at a test pressure of not less than Pa. CECo requested an exemption from the frequency requirement in order to permit testing on a schedule consistent with the plant operating cycle (i.e., each refueling outage). CECo also requested an exemption to conduct the tests at a reduced pressure. This latter request was denied by the staff based on the need to periodically demonstrate airlock integrity at accident pressure.

Our contractor's evaluation of the licensee's submittals concluded that the licensee's program related to test frequency and pressure should conform to the requirements of Section III.D.2 of Appendix J. However, subsequent discussions with the licensee regarding test methodology and additional evaluation by us of airlock degradation causal factors and operating history have resulted in a reevaluation of our position. The staff agrees with the licensee that without this exemption from the Appendix J requirements, the plant would have to be shutdown and the equipment hatch opened in order to install a strongback on the inner airlock door to perform the test, and subsequent door and hatch openings to remove it. This would result in an outage of several days for the licensee, the cost of replacement power to the public, and could subject operating personnel to additional radiation exposure. In addition, the additional openings of the equipment hatch and airlock provide additional opportunities for inadvertent seal degradation.

As a result, the staff has reevaluated the six-month test requirement and has developed a revised position which is believed to meet the objectives of Appendix J requirements for containment airlock door tests. This revised position still requires the containment airlock to be tested at six-month intervals at a pressure of Pa in accordance with Appendix J, except that this test interval may be extended up to the next refueling outage (up to a maximum interval between Pa tests of 24 months) if there have been no airlock openings since the last successful test at Pa and a Pa test is performed following the next airlock opening. The intent of the Appendix J requirement is to assure that the airlock door seal integrity is maintained and no degradation has occurred as a result of opening of the airlock doors between testing intervals at Pa. Since there is an inadequate basis to conclude that no airlock seal degradation occurs if the airlock doors have not been opened between extended testing intervals at Pa, we believe that a reduced pressure test or testing between seals every six months should be performed to assure that the airlock door seal integrity is maintained between the extended testing intervals at Pa. We believe this position satisfies the objectives of the requirements. The licensee will be requested to propose appropriate modifications to the Technical Specifications.

Therefore, the exemption from the airlock testing frequency requirement of Appendix J requested by the licensee should be granted provided the licensee complies with the staff's revised position on airlock testing.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. Therefore, the Commission hereby approves the following exemption requests:

1. Exemption is granted from the requirements of Section III.A.1(a) of Appendix J pertaining to the sequence for conducting Type A and Type C tests provided that:

a. When performing Type C tests, the conservative assumption that all measured leakage is in a direction out of the containment is applied unless the test is performed by pressurizing between the isolation valves; and,

b. When performing Type C tests by pressurizing between the isolation valves, the conservative assumption that the two valves leak equally (and therefore one half of the measured leakage is in a direction out of the containment) is applied, where the isolation valves are shut by normal operation without preliminary exercising or adjustment.

2. Exemption is granted from the requirements of Section II.H.1 of Appendix J pertaining to the Type C testing of instrument lines provided that the affected instrument lines are not isolated from the containment atmosphere during the performance of a Type A test.

3. Exemption is granted from the requirements of Section III.C.2 of Appendix J pertaining to the Type C testing of the main steamline isolation valves at a test pressure of Pa. Testing at a reduced pressure of 25 psig is acceptable due to the unique design of the valves.

4. Exemption is granted from the requirements of Section III.D.2 of Appendix J pertaining to the test frequency for conducting Type B tests at six-month intervals at a test pressure of not less than Pa. The test interval may be extended to the next refueling outage, but in no case shall exceed 24 months from the last test at Pa, provided that there have been no airlock openings since the last successful test at Pa and a Pa test is performed following the next airlock opening. A reduced pressure test or testing between seals every six months shall be performed to assure that airlock door seal integrity is

maintained between extended testing intervals at Pa.

The NRC staff has determined that the granting of these exemptions will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

Dated at Bethesda, Maryland, this 25th day of June 1982.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 82-17962 Filed 6-30-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-334]

Duquesne Light Co. etc.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 52 to Facility Operating License No. DPR-66 issued to Duquesne Light Company, Ohio Edison Company, and Pennsylvania Power Company (the licensees), which revised Technical Specifications for operation of the Beaver Valley Power Station, Unit No. 1 (the facility) located in Beaver County, Pennsylvania. The amendment is effective as of the date of issuance.

The amendment grants a temporary waiver of the accuracy requirements for the rod position instrumentation when the plant is below normal power operating temperatures.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated June 16, 1982, (2) Amendment No. 52 to License No. DPR-66, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document room, 1717 H Street, N.W., Washington, D.C. and at the B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 25th day of June, 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-17963 Filed 6-30-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-331]

Iowa Electric Light & Power Co. et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (The Commission) has issued Amendment No. 77 to Facility Operating License No. DPR-49 issued to Iowa Electric Light & Power Company, Central Iowa Power Cooperative, and Corn Belt Power Cooperative, which revises the Technical Specifications for operation of the Duane Arnold Energy Center (DAEC), located in Linn County, Iowa. The amendment is effective as of its date of issuance.

The amendment modifies the Technical Specification to incorporate a detailed definition of the terms Operable and Limiting Conditions for Operation.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated June 17, 1980, (2) Amendment No. 77 to License No. DPR-49 and (3) the Commission's letter to Iowa Electric Light & Power Company dated June 21, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Cedar Rapids Public Library, 426 Third Avenue, S.E., Cedar Rapids, Iowa 52401. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 21st day of June 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-17964 Filed 6-30-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-482 OL]

Kansas Gas & Electric Co., et al. (Wolf Creek Generating Station, Unit 1); Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this operating license proceeding:

Alan S. Rosenthal, Chairman
Dr. John H. Buck
Thomas S. Moore

Dated: June 25, 1982.

Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 82-17965 Filed 6-30-82; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Reactor Radiological Effects; Meeting

The ACRS Subcommittee on Reactor Radiological Effects will hold a meeting on July 20, 1982 in Room 1046, 1717 H Street, NW., Washington, DC. The Subcommittee will listen to presentations and discuss PWR plant radiation exposure experience and measures for reducing the exposures.

In accordance with the procedures

outlined in the Federal Register on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Tuesday, July 20, 1982—8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, industry and other interested persons.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. John C. McKinley or the Staff Engineer, Ms. R. C. Tang (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: June 28, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-17857 Filed 6-30-82; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Reliability and Probabilistic Assessment; Cancellation of Meeting

The ACRS Subcommittee meeting on Reliability and Probabilistic Assessment scheduled for July 7, 1982, which was published in the Federal Register on June 18, 1982 (FR 47 26461), has been cancelled.

Dated: June 28, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-17858 Filed 6-30-82; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Government-wide Debarment, Suspension, and Ineligibility

June 24, 1982.

AGENCY: Office of Management and Budget, Office of Federal Procurement Policy.

ACTION: Policy letter.

SUMMARY: This Policy Letter, issued pursuant to 41 U.S.C. 405, sets forth in Appendix A the Government-wide policies and procedures for debarment and suspension of Government contractors and provides for a consolidated listing of administrative debarments and suspensions. In addition, it provides for a listing of contractors that have been declared ineligible pursuant to statutory authority, Executive orders or other regulatory authorities, but does not set forth the policies and procedures to be followed for such actions.

Amendments to the Federal Procurement Regulations, the Defense Acquisition Regulation, and the National Aeronautics and Space Administration Procurement Regulation will be made in order to implement this Policy Letter. Agencies may also adopt procedures which are not inconsistent with the policies and procedures contained in Appendix A to the Policy Letter in order to permit agency review of the decisions of debarring and suspending officials.

Appendix A to the Policy Letter will be included as subpart 9.4 of the Federal Acquisition Regulation (FAR) at the time of its adoption.

EFFECTIVE DATE: August 30, 1982.

FOR FURTHER INFORMATION CONTACT: Mrs. Patricia A. Szervo, Associate Administrator for Procurement Law and Legislation, 202/395–3501

SUPPLEMENTARY INFORMATION:

Background

The Office of Federal Procurement Policy's (OFPP) request for comments on proposed OFPP Policy Letter 81–3 was published in 46 FR 37832 on July 22, 1981. Amendments to the proposed Policy Letter relating to the disposition of cases during the period of transition to the new procedures were published in 46 FR 45456 on September 11, 1981. More than 600 comments were received in response to those requests.

The General Accounting Office has participated in formulating this Policy Letter and will cooperate in its implementation. In order that the General Service Administration's consolidated list of debarred, suspended and ineligible contractors be complete, the Comptroller General has agreed to provide the General Services Administration expeditiously with the quarterly edition of the "Consolidated List of Persons or Firms Currently Debarred for Violation of Various Public Contracts Incorporating Labor Standards Provisions" (commonly referred to as the "Comptroller General's Debarred Bidders List") and the semi-monthly supplements to the list. The Comptroller General has also agreed to provide the General Services Administration with the information required to be furnished by executive branch agencies under subsection 5(b) of Appendix A with respect to contractors which it has debarred or suspended.

Significant Changes in the Policies and Procedures Set Forth in Appendix A of the Policy Letter

The policies and procedures governing debarment and suspension are set forth in Appendix A to the Policy Letter.

a. *Paragraph 1* has been revised to make it clear that ineligible contractors will be included in the consolidated listing, but that the determinations of ineligibility will not be made pursuant to the Policy Letter.

b. *Paragraph 2* specifically states that the Policy Letter does not apply to recipients of Federal assistance.

c. The general policy statements contained in *paragraph 3* remain unchanged, except that "drastic" has been changed to "serious" in paragraph 3(b).

d. *Paragraph 4* was changed in order to clarify some of the definitions, to include the definition of "ineligible," and to conform the definitions to the text of the policies and procedures.

e. *Paragraph 5* provides for a central reference for debarment and suspension actions taken by agencies. All administrative debarment and suspensions and all determinations of ineligibility will be published in a consolidated list, which be compiled, maintained, and distributed by GSA. Agencies are not prohibited from maintaining their own lists, but they are expect to rely on the consolidated list.

f. *Paragraph 7* was restructured to state more logically the procedures to be followed in debarment. It covers general principles, causes for debarment, procedures, period of debarment, and scope of debarment.

g. *Subparagraph 7.1* provides the debarring official with guidance on factors to consider in deciding whether to debar a contractor. This guidance is

intended to avoid having the decisionmaking become purely mechanical.

The subparagraph also provides for debarment of an entire company unless the debarment order limits the debarment to specific divisions, organizational elements, or commodities of the company. It also provides affiliates an opportunity to challenge the underlying causes for debarment, rather than just challenging their status as affiliates. Finally, the subparagraph restricts another agency from doing business with debarred contractors, unless the agency determines that there are compelling reasons for doing so.

h. The causes for debarment listed in *subparagraph 7.2* have been expanded to include both criminal *and civil* judgments for the offenses listed in subparagraph 7.2 (a). Subparagraph 7.2(b) has been revised to permit consideration of all acts or omissions when making a decision to debar based upon the causes stated in 7.2 (b). When making a determination to debar under either subparagraph 7.2 (a) or (b), it is now clear that evidence of a contractor's lack of responsibility in the past may be considered when determining whether a contractor is *presently* responsible.

i. *Subparagraph 7.3* sets forth the basic procedures which an agency must follow when making a debarment decision. It covers investigation and referral of matters which could lead to debarment, as well as setting forth the procedures governing the debarment decisionmaking process. Each agency is required to establish decisionmaking procedures which are as informal as possible, consistant with the principles of fundamental fairness. The agency procedures afford the contractor notice, an opportunity to submit information and argument in opposition to the proposed debarment, and to contest issues of disputed material fact, and, in certain instances, afford the contractor an opportunity to appear with counsel, submit documentary evidence, present witnesses and confront agency witnesses. The subparagraph also sets forth the form of notice which must be given to a constractor and any specifically named affiliates and requires that the cause for debarment be established by a preponderance of the evidence if it is not based upon criminal conviction or civil judgment.

j. *Subparagraph 7.4* covers the period of debarment, which does not generally exceed 3 years. Agencies may provide for longer periods for debarment if circumstances so warrant. The agency may extend an exis ing debarment if necessary to protec the Government's interests; however, the same procedures used for debarment must be followed to extend the debarment period. The debarring official may also reduce the period of debarment for reasons set forth in the subparagraph.

k. The scope of debarment is determined under *subparagraph 7.5.* The subparagraph also describes when improper conduct may be imputed to a contractor or one of his representatives.

l. *Paragraph 8* was restructured. It covers general principles, causes for suspension, procedures, period of suspension, and scope of suspension.

m. Paragraph 8 of the July 22, 1981, draft version of the proposed Policy Letter was deleted. It covered limited debarments and suspensions.

n. The transition provisions proposed as paragraph 9 in the September 11, 1981, **Federal Register** amendments to the Policy Letter are now covered in the body of the Policy Letter.

Comments

The comments received were considered by an intergovernmental task force on debarment and suspension, which was made up of legal and procurement specialists from various Federal departments and agencies. The final version of Appendix A of the Policy Letter reflects a number of the recommendations contained in the comments.

a. *OFPP's Authority.* OFPP's authority to require Government-wide debarment and suspension was questioned in some of the comments.

Authority to promulgate policy requiring Government-wide debarment and suspension of contractors is derived from OFPP's organic statute. The Administrator for Procurement Policy is required by the Act to provide overall leadership in developing and implementing procurement policies. He is also authorized to issue policy directives in order to promote the policies set forth in the Act, one of which is the development of a system of simplified and uniform procurement policies and procedures. Agencies are required to follow the policy directives. This Policy Letter is promulgated in furtherance of those objectives.

Authority to debar and suspend contractors is derived from the agencies' inherent procurement authority and the need to contract only with responsible contractors.

b. *Government-wide effect of debarments and suspensions.* A number of comments from the private sector disagreed with the automatic Government-wide effect of debarments and suspensions or recommended that additional procedural safeguards be provided.

Government-wide application of debarment and suspension is one of the basic purposes of the Policy Letter. It is inconsistent that a contractor who has been debarred or suspended by one agency can continue to do business with other agencies. This Policy Letter will remedy the inconsistency by providing that a contractor who is not responsible to do business with one agency is not responsible to do business with any agency.

The Policy Letter provides adequate procedural safeguards for the contractor. At the same time, it allows a department or agency to enter into a contract with a debarred or suspended contractor if the agency head determines that compeling reasons justify such action.

c. *Company-wide effect of debarments and suspensions.* A number of the commentors recommeded that the company-wide effect of debarments and suspensions be limited, either by restricting the circumstances in which company-wide debarments and suspensions were applied or by providing for additional procedural safeguards in those actions.

Debarment and suspension will usually be applied company-wide; however, the contractor may submit information to support limiting application of the debarment or suspension to specific parts of the company. The debarring and suspending official must not be so restricted that he cannot exercise the discretion to deal with the variety of organizational forms and styles adopted by modern businesses. The burden of convincing the debarring or suspending official that a particular affiliate or sub-unit of a non-responsible company presents no risk to Federal interests is placed, appropriately, on the contractor. The debarring or suspending offical has discretion to include or exclude the contractor's organizational elements from the debarment or suspension action. Guidance is provided in Appendix A.

Subparagraphs 7.1.b. and 8.1.c. of Appendix A were modified, however, to allow a contractor's affiliate to challenge the basis for its debarment or suspension, rather than only challenging its status as an affiliate.

d. *Evidentiary standards for debarment and suspension.* A number of comments disagreed with the use of "substantial evidence" as the standard necessary to support a debarment decision.

The Task Force agreed that "substantial evidence" was not the appropriate standard for debarment and substituted "preponderance of the evidence." The definitions and applicable procedures have been changed accordingly.

However, "adequate evidence" has been retained as the appropriate standard for suspension, because it is a court-sanctioned standard now used in suspension proceedings. The definition of "adequate evidence" has been rewritten in order to remove the element of speculation from the definition.

e. *Causes for debarment.* Some commentors felt that the causes for debarment were either too vague or did not establish a nexus between the alleged wrongful act and the determination that the contractor lacks the present responsibility necessary to do business with the Government.

The grounds for debarment are intentionally not specific. It would not be possible to enumerate all factors which reflect on a contractor's responsibility and which may be viewed as a reasonable basis for debarment. It is necessary that an element of discretion remain with the debarring official.

Subparagraph 7.1(a) has been expanded to provide guidance to debarring officials by stating that they should consider mitigating factors in deciding whether to debar a contractor. This additional guidance, when read as part of the entire Policy Letter, provides debarring officials with the necessary standards to reach a reasonable decision.

The objective of Appendix A is to assure that Government agencies do not deal with non-responsible business concerns. The concept of business responsibility is one which is well understood in the Government contracting community. Evidence of a contractor's lack of responsibility in the past may be considered when determining whether or not a contractor is presently responsible. The implication in the comments that the determination of responsibility covers something other than present responsibility is an unwarranted reading of the Policy Letter.

These commentors were also concerned that debarment would be used to punish contractors for past transgressions. Debarment is not a form of punishment for Government contractors; it is a procedure which must be available to the Government in order to protect its interests from non-responsible contractors.

f. *Procedures.* There were a number of comments addressing the procedures.

The Policy Letter provides fundamental due process for contractors. Contractors are given notice of the debarment or suspension action, the grounds for such action, an opportunity to submit information in opposition to it, and, in certain instances, an opportunity to appear with counsel, submit documentary evidence, present witnesses and confront any person the agency presents. Nevertheless, as a result of the comments made, the procedures contained in subparagraphs 7.3 and 8.3 were refined.

Some comments suggested that there be a separate board to make debarment and suspension decisions. The guidelines and procedures for making debarment and suspension decisions are specific enough and the official making the decision is at a high enough level in the agency that contractors will be afforded the fairness and objectivity called for in these types of proceedings.

g. *De facto debarments and suspensions.* "De facto" debarment and suspension was raised in a number of comments from the private sector.

This is an issue for the courts to determine on a case-by-case basis and is not addressed in the Policy Letter.

h. *Nolo contendere pleas.* A number of commentors objected to using a conviction based on a *nolo contendere* plea as the basis for debarment. Their contention is that the Federal Rules of Evidence bar use in a civil action of a conviction based on a *nolo contendere* plea as evidence of the facts in question; therefore, they feel that a *nolo contendere* plea should not be used to prove the facts giving rise to the debarment.

The task force rejected this contention. The *fact* of a conviction itself has a significant bearing on a contractor's present responsibility. If a contractor has been convicted based upon a *nolo contendere* plea, he already has received notice of the charge against him, has had an opportunity to defend himself against the charge, and has waived that opportunity under circumstances potentially more serious than a debarment or suspension action. The purpose of this Policy Letter is to afford the contractor notice of and an opportunity to refute the charges against him; however, if the contractor has been afforded this opportunity already and has refused to act upon it, as in a *nolo contendere* plea, no purpose would be served in having the Government duplicate its efforts. (Furthermore, the Rules of Federal Evidence do not apply to these proceedings.)

i. *Definitions.* There were a number of comments addressing various terms in paragraph 4, *Definitions.*

—"Adequate evidence" was changed to assure that the suspending official has *reasonable* belief that the act or omission has occurred, rather than using the more speculative standard that an act or omission *"may* have occurred."

—"Affiliates" was simplified to emphasize the control aspect of the relationship.

—"Contractor" has been simplified; the deleted material is covered under 7.5 "Scope of Department."

—"Debarment" was modified to eliminate possible confusion caused by combining in one term debarments arrived at under procedures laid out in the Policy Letter and those arrived at under procedures established pursuant to statutory authority, Executive orders, or other regulatory authorities for debarring a contractor or otherwise finding him "ineligible" for Government contracts.

—"Ineligible" has been defined in paragraph 3.4, and is used throughout the Policy Letter to refer to determinations of ineligibility under statutory authority, Executive orders, or other regulatory authorities.

—"Legal proceedings" was changed in order to remove the qualification that only criminal proceedings brought by the United States could be grounds for suspension. State-initiated criminal proceedings may also be grounds for suspension. The change also makes it clear that civil proceedings relied upon as the basis for suspension need not be limited to those *initiated* by the Federal Government, so long as the Federal Government is a party.

j. *Exclusion of grants and assistance programs.* Some of the agencies recommended that the scope of Appendix A be expanded to include debarment and suspension of participants in grants and assistance programs.

The policy coverage on debarment and suspension only applies to contractors; however, agencies may wish to adapt the procedures to their dealings with recipients of Federal grants and assistance programs. Determinations of ineligibility are not limited to contracts if they would be otherwise applicable to grants and assistance programs.

k. *Interagency agreements.* Because of staff and budgetary constraints and a low volume of procurement actions, an agency may wish to enter into an agreement to have its debarment and

suspension actions conducted by another agency. Such agreements are not encouraged, but they are not prohibited by these policies.

Other Information

The following matters were considered by the Task Force and found inappropriate for inclusion in the text of Appendix A. However, they are discussed as guidance to the agencies.

a. *Interagency coordination.* Debarment or suspension of a concern or individual by one agency can have an adverse impact on the operations of other agencies. If it appears that there is the potential for an adverse impact on other agencies, the cognizant debarring or suspending official should solicit the comments of those agencies before taking action. If several agencies independently are contemplating a debarment or suspension action against the same contractor, consideration should be given to designating one agency as the lead agency for making the decision. Because of the significant need for interagency coordination, the major procurement agencies should establish a vehicle for exchange of information and efficient administration of debarment and suspension actions.

Withholding payments. If the debarred or suspended contractor has existing contracts with the agency, it often is appropriate to withhold payments under those contracts in order to recover funds paid on other contract as a result of fraud or misconduct. Withholding payments and other common law remedies are effective methods of protecting the Government's interest; appropriate use of such remedies should be the rule rather than the exception.

Contractor certification. Agency comments included a recommendation that Appendix A require certification by contractors that they are not debarred, suspended or otherwise ineligible to receive Government contracts. This recommendation was considered, but not included. Should an agency decide to require a certification in its contract, there is nothing in the Appendix to prohibit it.

b. *Equal Access to Justice Act.* The Equal Access to Justice Act does not apply to these procedures.

c. *Administrative Procedure Act.* The procedures set forth in the Appendix are not subject to the Administrative Procedure Act.

d. *Qualifications of Debarring and Suspending Officials.* It will be the responsibility of each agency head to designate an official within the agency to be the debarring and suspending official. Although this appointment is a matter of agency discretion, the official appointed shall be experienced in the procurement process and have sufficient authority in the agency to be able to exercise independent judgment when making a debarment or suspension determination.

Donald E. Sowle,
Administrator.

[Policy Letter No. 82-1]

To the Heads of Executive Departments and Establishments:

Subject: Policy Guidance Concerning Government-wide Debarment, Suspension, and Ineligibility

June 24, 1982.

Government procurement policy should be uniform and consistent in application. Therefore, this Policy Letter sets forth as Appendix A the policies and procedures governing debarment and suspension of contractors throughout the executive branch and provides for a consolidated list of debarred, suspended, and ineligible contractors.

Contractors who have already been debarred, suspended or declared ineligible as of the effective date of this Policy Letter shall be included in the consolidated list, with an annotation explaining the scope of the exclusion already imposed. That exclusion shall not apply throughout the entire executive branch unless the statutory or regulatory authority upon which it was based required that effect. However, an agency is not prohibited from also debarring or suspending a contractor so listed if the debarment or suspension is based on other grounds. If such a debarment or suspension occurs after the effective date of (and pursuant to) this Policy Letter, it shall apply throughout the entire executive branch and the annotation denoting the limited scope of exclusion shall be removed from the list.

If debarment proceedings have been initiated but no decision has been made before the effective date of this Policy Letter, the debarring official shall issue an amended notice of proposed debarment to the contractor (a) advising the contractor that if debarment is imposed it will be effective throughout the entire executive branch and (b) permitting the contractor 30 days in which to submit any additional information that the contractor considers appropriate in light of the effect of a Government-wide debarment. Agencies shall employ the procedures set forth in this Policy Letter in making their final determinations.

Effective Date. This Policy Letter is effective August 30, 1982, and shall remain in effect until implemented by the Federal Acquisition Regulation.

Concurrence. This Policy Letter has the concurrence of the Director of the Office of Management and Budget.

Donald E. Sowle,
Administrator.

Appendix A—Debarment, Suspension, and Ineligibility

1. *Scope.* (a) This policy letter—

(1) Prescribes policies and procedures governing the debarment and suspension of contractors by agencies for the causes given in subsections 7.2 and 8.2;

(2) Provides for the listing of these debarred and suspended contractors, and of contractors declared ineligible (see the definition of "ineligible" in section 4); and

(3) Sets forth the consequences of this listing.

(b) This policy letter does not prescribe policies and procedures governing declarations of ineligibility. However, it does cover the listing of ineligible contractors (section 5) and the effect of this listing (section 6).

2. *Applicability.* This policy letter does not apply to recipients of Federal assistance.

3. *Policy.* (a) Agencies shall solicit offers from, award contracts to, and consent to subcontracts with responsible business concerns and individuals only. Debarment and suspension by agencies are discretionary actions that, taken in accordance with this policy letter, are appropriate means to effectuate this policy.

(b) The serious nature of debarment and suspension requires that these sanctions be imposed only in the public interest, for the Government's protection and not for purposes of punishment. Agencies shall impose debarment or suspension to protect the Government's interest and only for the causes and in accordance with the procedures set forth in this policy letter.

(c) Agencies shall establish appropriate procedures to implement the policies and procedures of this policy letter.

4. *Definitions.* "Adequate evidence" means information sufficient to support the reasonable belief that a particular act or omission has occurred.

"Affiliates." Business concerns or individuals are affiliates if, directly or indirectly, (a) either one controls or can control the other or (b) a third controls or can control both.

"Agency," as used in this policy letter, means any executive department, military department or defense agency, or other agency or independent establishment of the executive branch.

"Consolidated list of debarred, suspended, and ineligible contractors" means a list compiled, maintained, and distributed by the General Services Administration, in accordance with section 5, containing the names of contractors debarred or suspended by agencies under the procedures of this policy letter, as well as contractors declared ineligible under other statutory or regulatory authority.

"Contractor," as used in this policy letter, means any individual or other legal entity that: (1) Submits offers for or is awarded, or reasonably may be expected to submit offers for or be awarded, a Government contract or a subcontract under a Government contract; or (2) conducts business with the Government as an agent or representative of another contractor.

"Conviction" means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a

conviction entered upon a plea of nolo contendere.

"Debarment," as used in this policy letter, means action taken by a debarring official under section 7 to exclude a contractor from Government contracting for a reasonable, specified period; a contractor so excluded is "debarred."

"Debarring official" means (a) an agency head or (b) a designee authorized by the agency head to impose debarment.

"Indictment" means indictment for a criminal offense. An information or other filing by competent authority charging a criminal offense shall be given the same effect as an indictment.

"Ineligible," as used in this policy letter, means excluded from Government contracting (and subcontracting, if appropriate) pursuant to statutory, Executive order, or regulatory authority other than regulations implementing this policy letter; for example, the Davis-Bacon Act and its related statutes and implementing regulations, the Service Contract Act, the Equal Employment Opportunity Acts and Executive orders, the Walsh-Healey Public Contracts Act, the Buy American Act, and the Environmental Protection Acts and Executive orders.

"Legal proceedings" means any civil judicial proceeding to which the Government is a party or any criminal proceeding. The term includes appeals from such proceedings.

"Preponderance of the evidence" means proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.

"Suspending official" means (a) an agency head or (b) a designee authorized by the agency head to impose suspension.

"Suspension," as used in this policy letter, means action taken by a suspending official under section 8 to disqualify a contractor temporarily from Government contracting; a contractor so disqualified is "suspended."

5. *Consolidated list of debarred, suspended, or ineligible contractors.* (a) The General Services Administration (GSA) shall—

(1) Compile and maintain a current, consolidated list of all contractors debarred, suspended, or declared ineligible by agencies or by the General Accounting Office;

(2) Revise and distribute the list quarterly and issue monthly supplements to all agencies and the General Accounting Office; and

(3) Provide with the list the name and telephone number of the official responsible for its maintenance and distribution.

(b) The consolidated list shall indicate—

(1) The names and addresses of all debarred, suspended, or ineligible contractors, in alphabetical order, with cross-references when more than one name is involved in a single action;

(2) The name of the agency or other authority taking the action;

(3) The cause for the action (see subsections 7.2 and 8.2 for causes authorized under this policy letter) or other statutory or regulatory authority;

(4) The scope of the action;

(5) The termination date for each listing; and

(6) The name and telephone number of the point of contact for the action.

(c) Each agency shall—

(1) Notify GSA of the information required by paragraph (b) above within 5 working days after the action becomes effective;

(2) Notify GSA within 5 working days after modifying or rescinding an action;

(3) Notify GSA of the names and addresses of agency organizations that are to receive the consolidated list and the number of copies to be furnished to each;

(4) In accordance with internal retention procedures, maintain records relating to each suspension or debarment action taken by the agency;

(5) Establish procedures to provide for the effective use of the list, to ensure that the agency does not solicit offers from, award contracts to, or consent to subcontracts with, listed contractors, except as otherwise provided in this policy letter; and

(6) Direct inquiries concerning listed contractors to the agency or other authority that took the action.

6. *Effect of listing.* (a) Contractors debarred or suspended under section 7 or 8 are excluded from receiving contracts, and agencies shall not solicit offers from, award contracts to, or consent to subcontracts with these contractors, unless the acquiring agency's head or a designee determines that there is a compelling reason for such action (see subsection 6.2 and paragraphs 7.1(c) and 8.1(d)).

(b) Contractors listed as having been declared ineligible on the basis of statutory or other regulatory procedures are excluded from receiving contracts and, if applicable, subcontracts, under the conditions and for the period set forth in the statute or regulation. Agencies shall not solicit offers from, award contracts to, or consent to subcontracts with these contractors under those conditions and for that period.

6.1 *Continuation of current contracts.* (a) Notwithstanding the listing of a contractor for the causes set forth in this policy letter, agencies may continue contracts or subcontracts in existence at the time the contractor was debarred or suspended, unless the acquiring agency's head or a designee directs otherwise. A decision as to the type of termination action, if any, to be taken should be made only after review by agency contracting and technical personnel and by counsel to ensure the propriety of the proposed action.

(b) Agencies shall not renew current contracts or subcontracts of debarred or suspended contractors, or otherwise extend their duration, unless the acquiring agency's head or a designee states in writing the compelling reasons for renewal or extension.

6.2 *Restrictions on subcontracting.* When a debarred or suspended contractor is proposed as a subcontractor for any subcontract subject to Government consent, approval shall not be given unless the acquiring agency's head or a designee states in writing the compelling reasons for this approval.

7. *Debarment.*

7.1 *General.* (a) The debarring official may, in the public interest, debar a contractor for any of the causes in subsection 7.2, using the procedures in subsection 7.3. The existence of a cause for debarment under subsection 7.2, however, does not necessarily *require* that the contractor be debarred; the seriousness of the contractor's acts or omissions and any mitigating factors should be considered in making any debarment decision.

(b) Debarment constitutes debarment of all divisions or other organizational elements of the contractor, unless the debarment decision is limited by its terms to specific divisions, organizational elements, or commodities. The debarring official may extend the debarment decision to include any affiliates of the contractor if they are (1) specifically named and (2) given written notice of the proposed debarment and an opportunity to respond (see paragraph 7.3(c)).

(c) A contractor's debarment shall be effective throughout the executive branch of the Government, unless an acquiring agency's head or a designee states in writing the compelling reasons justifying continued business dealings between that agency and the contractor.

7.2 *Causes for debarment.* The debarring official may bebar a contractor for any of the causes listed in paragraphs (a) through (c) following:

(a) Conviction of or civil judgment for—

(1) Commission of fraud or a criminal offense in connection with (i) obtaining, (ii) attempting to obtain, or (iii) performing a public contract or subcontract;

(2) Violation of Federal or State antitrust statutes relating to the submission of offers;

(3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; or

(4) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of a Government contractor or subcontractor.

(b) Violation of the terms of a Government contract or subcontract so serious as to justify debarment, such as—

(1) Willful failure to perform in accordance with the terms of one or more contracts; or

(2) A history of failure to perform, or of unsatisfactory performance of, one or more contracts.

(c) Any other cause of so serious or compelling a nature that it affects the present responsibility of a Government contractor or subcontractor.

7.3 *Procedures.* (a) *Investigation and referral.* Agencies shall establish procedures for the prompt reporting, investigation, and referral to the debarring official of matters appropriate for that official's consideration.

(b) *Decisionmaking process.* (1) Agencies shall establish procedures governing the debarment decisionmaking process that are as informal as practicable, consistent with principles of fundamental fairness. These procedures shall afford the contractor (and any specifically named affiliates) an opportunity to submit, in person, in writing, or through a representative, information and argument in opposition to the proposed debarment.

(2) In actions not based upon a conviction or judgment, if it is found that the contractor's submission in opposition raises a genuine dispute over facts material to the proposed debarment, agencies shall also—

(i) Afford the contractor an opportunity to appear with counsel, submit documentary evidence, present witnesses, and confront any person the agency presents; and

(ii) Make a transcribed record of the proceedings and make it available at cost to the contractor upon request, unless the contractor and the agency, by mutual agreement, waive the requirement for a transcript.

(c) *Notice of proposal to debar.* Debarment shall be initiated by advising the contractor and any specifically named affiliates, by certified mail, return receipt requested—

(1) That debarment is being considered;

(2) Of the reasons for the proposed debarment in terms sufficient to put the contractor on notice of the conduct or transaction(s) upon which it is based;

(3) Of the cause(s) relied upon under subsection 7.2 for proposing debarment;

(4) That, within 30 days after receipt of the notice, the contractor may submit, in person, in writing, or through a representative, information and argument in opposition to the proposed debarment, including any additional specific information that raises a genuine dispute over the material facts;

(5) Of the agency' procedures governing debarment decisionmaking;

(6) Of the potential effect of the proposed debarment; and

(7) If no suspension is in effect under section 8, that no contracts will be awarded to the contractor pending a debarment decision.

(d) *Debarring official's decision.* (1) In actions based upon a conviction or judgment, or in which there is no genuine dispute over material facts, the debarring official shall make a decision on the basis of all the information in the administative record, including any submission made by the contractor. If no suspension is in effect under section 8, the decision shall be made within 30 working days after receipt of any information and argument submitted by the contractor, unless the debarring official extends this period for good cause.

(2)(i) In actions in which additional proceedings are necessary as to disputed material facts, written findings of fact shall be prepared. The debarring official shall base the decision on the facts as found, together with any information and argument submitted by the contractor and any other information in the administrative record.

(ii) The debarring official may refer matters involving disputed material facts to another official for findings of fact. The debarring official may reject any such findings, in whole or in part, only after specifically determining them to be arbitrary and capricious or clearly erroneous.

(iii) The debarring official's decision shall be made after the conclusion of the proceedings with respect to disputed facts.

(3) In any action in which the proposed debarment is not based upon a conviction or civil judgment, the cause for debarment must be established by a preponderance of the evidence.

(e) *Notice of debarring official's decision.* (1) If the debarring official decides to impose debarment, the contractor and any affiliates involved shall be given prompt notice by certified mail, return receipt requested—

(i) Referring to the notice of proposed debarment;

(ii) Specifying the reasons for debarment;

(iii) Stating the period of debarment, including effective dates (see subsection 7.4 below); and

(iv) Advising that the debarment is effective throughout the executive branch of the Government unless the head of an acquiring agency or a designee makes the statement called for by paragraph 7.1(c).

(2) If debarment is not imposed, the debarring official shall promptly notify the contractor and any affiliates involved, by certified mail, return receipt requested.

7.4 *Period of debarment.* (a) Debarment shall be for a period commensurate with the seriousness of the cause(s). Generally, a debarment should not exceed 3 years. If suspension precedes a debarment, the suspension period shall be considered in determining the debarment period.

(b) The debarring official may extend the debarment for an additional period, if that official determines that an extension is necessary to protect the Government's interest. However, a debarment may not be extended solely on the basis of the facts and circumstances upon which the initial debarment action was based. If debarment for an additional period is determined necessary, the procedures of subsection 7.3 above shall be followed to extend the debarment.

(c) The debarring official may reduce the period or extent of debarment, upon the contractor's request, supported by documentation, for reasons such as—

(1) Newly discovered material evidence;

(2) Reversal of the conviction or judgment upon which the debarment was based;

(3) Bona fide change in ownership or management;

(4) Elimination of other causes for which the debarment was imposed; or

(5) Other reasons the debarring official deems appropriate.

7.5 *Scope of debarment.* (a) The fraudulent, criminal, or other seriously improper conduct of any officer, director, shareholder, partner, employee, or other individual associated with a contractor may be imputed to the contractor when the conduct occurred in connection with the individual's performance of duties for or on behalf of the contractor, or with the contractor's knowledge, approval, or acquiescence. The contractor's acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval, or acquiescence.

(b) The fraudulent, criminal, or other seriously improper conduct of a contractor may be imputed to any officer, director, shareholder, partner, employee, or other individual associated with the contractor who participated in, knew of, or had reason to know of the contractor's conduct.

(c) The fraudulent, criminal, or other seriously improper conduct of one contractor participating in a joint venture or similar arrangement may be imputed to other participating contractors if the conduct occurred for or on behalf of the joint venture or similar arrangement or with the knowledge, approval, or acquiescence of these contractors. Acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval, or acquiescence.

8. *Suspension.*

8.1 *General.* (a) The suspending official may, in the public interest, suspend a contractor for any of the causes in subsection 8.2, using the procedures in subsection 8.3.

(b) Suspension is a serious action to be imposed on the basis of adequate evidence, pending the completion of investigation or legal proceedings, when it has been determined that immediate action is necessary to protect the Government's interest. In assessing the adequacy of the evidence, agencies should consider how much information is available, how credible it is given the circumstances, whether or not important allegations are corroborated, and what inferences can reasonably be drawn as a result. This assessment should include an examination of basic documents such as contracts, inspection reports, and correspondence.

(c) Suspension constitutes suspension of all divisions or other organizational elements of the contractor, unless the suspension decision is limited by its terms to specific divisions, organizational elements, or commodities. The suspending official may extend the suspension decision to include any affiliates of the contractor if they are (1) specifically named and (2) given written notice of the suspension and an opportunity to respond (see paragraph 8.3(c)).

(d) A contractor's suspension shall be effective throughout the executive branch of the Government, unless an acquiring agency's head or a designee states in writing the compelling reasons justifying continued business dealings between that agency and the contractor.

8.2 *Causes for suspension.* (a) The suspending official may suspend a contractor suspected, upon adequate evidence, of—

(1) Commission of fraud or a criminal offense in connection with (i) obtaining, (ii) attempting to obtain, or (iii) performing a public contract or subcontract;

(2) Violation of Federal or State antitrust statues relating to the submission of offers;

(3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; or

(4) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of a Government contractor or subcontractor.

(b) Indictment for any of the causes in paragraph (a) above constitutes adequate evidence for suspension.

(c) The suspending official may upon adequate evidence also suspend a contractor for any other cause of so serious or compelling a nature that it affects the present responsibility of a Government contractor or subcontractor.

8.3 *Procedures.* (a) *Investigation and referral.* Agencies shall establish procedures for the prompt reporting, investigation, and referral to the suspending official of matters appropriate for that official's consideration.

(b) *Decisionmaking process.* (1) Agencies shall establish procedures governing the suspension decisionmaking process that are as informal as is practicable, consistent with principles of fundamental fairness. These procedures shall afford the contractor (and any specifically named affiliates) an opportunity, following the imposition of suspension, to submit, in person, in writing or through a representative, information and argument in opposition to the suspension.

(2) In actions not based on an indictment, if it is found that the contractor's submission in opposition raises a genuine dispute over facts material to the suspension and if no determination has been made, on the basis of Department of Justice advice, that substantial interests of the Government in pending or contemplated legal proceedings based on the same facts as the suspension would be prejudiced, agencies shall also—

(i) Afford the contractor an opportunity to appear with counsel, submit documentary evidence, present witnesses and confront any person the agency presents; and

(ii) Make a transcribed record of the proceedings and make it available at cost to the contractor upon request, unless the contractor and the agency, by mutual agreement, waive the requirement for a transcript.

(c) *Notice of suspension.* When a contractor and any specifically named affiliates are suspended, they shall be immediately advised by certified mail, return receipt requested—

(1) That they have been suspended and that the suspension is based on an indictment or other adequate evidence that the contractor has committed irregularities (i) of a serious nature in business dealings with the Government or (ii) seriously reflecting on the propriety of further Government dealings with the contractor; any such irregularities shall be described in terms sufficient to place the contractor on notice without disclosing the Government's evidence;

(2) That the suspension is for a temporary period pending the completion of an investigation and such legal proceeding as may ensue;

(3) Of the cause(s) relied upon under subsection 8.2 for imposing suspension;

(4) Of the effect of the suspension;

(5) That, within 30 days after receipt of the notice, the contractor may submit, in person, in writing or through a representative, information and argument in opposition to the suspension, including any additional specific information that raises a genuine dispute over material facts; and

(6) That additional proceedings to determine disputed material facts will be conducted unless (i) the action is based on an indictment or (ii) a determination is made, on the basis of Department of Justice advice, that the substantial interests of the Government in pending or contemplated legal proceedings based on the same facts as the suspension would be prejudiced.

(d) *Suspending official's decision.* (1) In actions (i) based on an indictment, (ii) in which the contractor's submission does not raise a genuine dispute over material facts; or (iii) in which additional proceedings to determine disputed material facts have been denied on the basis of Department of Justice advice, the suspending official's decision shall be based on all the information in the administrative record, including any submission made by the contractor.

(2)(i) In actions in which additional proceedings are necessary as to disputed material facts, written findings of fact shall be prepared. The suspending official shall base the decision on the facts as found, together with any information and argument submitted by the contractor and any other information in the administrative record.

(ii) The suspending official may refer matters involving disputed material facts to another official for findings of fact. The suspending official may reject any such findings, in whole or in part, only after specifically determining them to be arbitrary and capricious or clearly erroneous.

(iii) The suspending official's decision shall be made after the conclusion of the proceedings with respect to disputed facts.

(3) The suspending official may modify or terminate the suspension or leave it in force (for example, see paragraph 7.4(c) for the reasons for reducing the period or extent of debarment). However, a decision to modify or terminate the suspension shall be without prejudice to the subsequent imposition of suspension by any other agency or the imposition of debarment by any agency.

(4) Prompt written notice of the suspending official's decision shall be sent to the contractor by certified mail, return receipt requested.

8.4 Period of suspension. (a) Suspension shall be for a temporary period pending the completion of investigation and any ensuing legal proceedings, unless sooner terminated by the suspending official or as provided in this subsection 8.4.

(b) If legal proceedings are not initiated within 12 months after the date of the suspension notice, the suspension shall be terminated unless an Assistant Attorney General requests its extension, in which case it may be extended for an additional 6 months. In no event may a suspension extend beyond 18 months, unless legal proceedings have been initiated within that period.

(c) The suspending official shall notify the Department of Justice of the proposed termination of the suspension, at least 30 days before the 12-month period expires, to give that Department an opportunity to request an extension.

8.5 Scope of suspension. The scope of suspension shall be the same as that for debarment (see subsection 7.5), except that the procedures of subsection 8.3 shall be used in imposing suspension.

[FR Doc. 82-17900 Filed 6-30-82; 9:45 am]

BILLING CODE 3110-01-M

POSTAL RATE COMMISSION

Visits

June 25, 1982.

Notice is hereby given that Chairman Steiger, Vice Chairman Folsom, Commissioners Bright and Cruthcher and Commission staff members will make the following visits:

June 29:
- Advertising Distribution Service, Buffalo, MN.

June 30:
- Independent Delivery Service, Minneapolis, MN.
- Minneapolis Star and Tribune, Minneapolis, MN.
- Fingerhut, Inc., Minnetonka, MN.

July 1:
- Billy Graham Association, Minneapolis, MN.

The purpose of the visits is to gain a general knowledge and understanding of alternative delivery operations (ADS and IDS); the country's largest in-house non-profit mailing operation (Billy Graham); the place of newspapers in distribution of circulars and adverstising material (Minneapolis Star and Tribune); the operations of a large direct mailer (Fingerhut). A report of the visits will be filed in the Commission's Docket Room.

David F. Harris,

Secretary.

[FR Doc. 82-17902 Filed 6-30-82; 9:45 am]

BILLING CODE 7715-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 2048]

Connecticut; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that the State of Connecticut constitutes a disaster loan area because of damage resulting from severe storms and flooding beginning on June 4, 1982. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on August 13, 1982, and for economic injury until March 14, 1983, at: U.S. Small Business Administration, One Hartford Square West, Hartford, Connecticut 06106; or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are as follows:

Homeowners with credit available elsewhere	15%
Homeowners without credit available elsewhere	7%
Businesses with credit available elsewhere	10
Businesses without credit available elsewhere	8

Businesses (EIDL) without credit available elsewhere	6
Other (non-profit organizations including charitable and religious organizations)	115

It should be noted that assistance for agricultural enterprises is the primary responsibility of the Farmers Home Administration as specified in Pub. L. 96–302.

Information on recent statutory changes (Pub. L. 97–35, approved August 13, 1981) is available at the above-mentioned office.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: June 18, 1982.

J. C. Sanders,

Administrator.

[FR Doc. 82-17882 Filed 6-30-82; 8:45 am]

BILLING CODE 8025-01-M

Small Business Investment Co.; Maximum Annual Cost of Money to Small Business Concerns

13 CFR 107.301(c) sets forth the SBA Regulation governing the maximum annual cost of money to small business concerns for Financing by small business investment companies.

Section 107.301(c)(2) requires that SBA publish from time to time in the **Federal Register** the current Federal Financing Bank (FFB) rate for use in computing the maximum annual cost of money pursuant to Section 107.301(c)(1). It is anticipated that a rate notice will be published each month.

13 CFR 107.301(c) does not supersede or preempt any applicable law that imposes an interest ceiling lower than the ceiling imposed by that regulation. Attention is directed to new subsection 308(i) of the Small Business Investment Act, added by section 524 of Pub. L. 96–221, March 31, 1980 (94 Stat. 161), to that law's Federal override of State usury ceilings, and to its forfeiture and penalty provisions.

Effective July 1, 1982, and until further notice, the FFB rate to be used for purposes of computing the maximum cost of money pursuant to 13 CFR 107.301(c) is 14.765% per annum.

Dated: June 22, 1982

Edwin T. Holloway,

Associate Administrator for Finance and Investment.

[FR Doc. 82-17883 Filed 6-30-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Study Group 6 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 6 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet July 29, 1982 at 9:00 a.m. in the Fort Monmouth Officers' Club (Gibbs Hall), Tinton Avenue, Fort Monmouth, New Jersey.

Study Group 6 deals with matters relating to the propagation of radio waves in and through the ionosphere. The purpose of the meeting will be to establish a program of work in preparation for the next international meeting of Study Group 6 to be held in Geneva in August 1983.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Admittance of public members will be limited to the seating available.

Requests for further information should be directed to Mr. Gordon Huffcutt, State Department, Washington, D.C. 20520, telephone (202) 632–2592.

Dated: June 17, 1982.

Gordon L. Huffcutt,

Chairman, U.S. CCIR National Committee.

[FR Doc. 82-17935 Filed 6-30-82; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/527]

Modem Working Party of Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that the Modem Working Party of Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on July 14 and 15, 1982 at the Days Inn in Mystic, Connecticut. Meetings will start at 9:00 a.m. on both days.

Study Group D deals with telecommunication matters relating to the development of international digital data transmission services; the Modem Working Party reviews actual and proposed CCITT recommendations pertaining to the specifications and use of modems in data transmission.

The agenda for the meetings will include 9600/9800 two-wire full duplex echo cancelling modems, TR 30.3 transmission line impairments, and discussion of Recommendation V.54.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chair. Requests for further information may be directed to Richard H. Howarth, Office of International Communications Policy, Department of State, Washington, D.C. 20520, telephone (202) 632–1007 or T. de Haas, Chairman of U.S. Study Group D, Institute of Telecommunication Sciences, National Telecommunications and Information Administration, Boulder, Colorado 80303, telephone (303) 499–1000, ext. 3728.

Richard H. Howarth,

Chairman, U.S. CCITT National Committee.

June 17, 1982.

[FR Doc. 82-17934 Filed 6-30-82; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-82-10]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief for specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: July 20, 1982.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–3644.

This notice is published pursuant to paragraphs (c), (e), and (g), of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on June 24, 1982.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
20503	Tenneco Inc. Aviation	14 CFR 61.58(c)	Renewal of Exemption 3106 which allows petitioner's pilots to complete the Boeing 727–100 24-month pilot-in-command check in an FAA-approved simulator.
22788	Empire Airlines, Inc.	14 CFR 121.547	To allow petitioner to admit certain of its personnel to the flight deck for the purpose of firsthand observation of routes, flight and block times, handling capabilities, and scheduling.
23063	Tenneco Inc. Aviation	14 CFR 21.181, 91.27, 91.29 and 91.165	To permit petitioner to use a minimum equipment list and a configuration deviation list to meet requirements for flight operation.
22828	Air Transport Association	14 CFR 121.391(d)	To allow required flight attendants to be located at the mid-cabin flight attendant station during takeoff and landing on B–767 aircraft operated by UAL and AA.
23050	Boeing Commercial	14 CFR 21.231(a)(1)	To allow application of Airplane Company Delegation Option Authorization (DOA) procedures to the type, production, and airworthiness certification of Boeing Models 727, 737, and 747 including derivatives involving major changes exemplified by the 737–300.
16784	Houston Helicopters, Inc.	14 CFR 43.3(h)	Extension of Exemption 2445B to permit petitioner's appropriately trained and certificated pilots to remove, check, and install magnetic series engines used on Bell Model 205 helicopters.
21844	Airborne Express, Inc.	14 CFR 121.619 and 121.639	Amendment of Exemption 3443 to permit petitioner to operate its DC–8 and YS–11 aircraft under the domestic air carrier fuel supply provisions of § 121.639.
23120	American Airlines	14 CFR 121.291(b) (d) and (e)	To permit petitioner to operate its B–747 series airplanes in a 499 passenger-seating configuration using 10 flight attendants without conducting a partial demonstration of emergency evacuation procedures or a simulated ditching when the number, location, or emergency evacuation duties or procedures of flight attendants are changed.
23117	Air Nevada	14 CFR 135.244(a)(b)	To permit petitioner to substitute the hours of pilot-in-command operating experience obtained in commuter air carrier operations over its Grand Canyon route in its Cessna 402 aircraft for the pilot-in-command operating experience required for its single engine aircraft.
23116	CFM International	14 CFR 33.7 and 33.88	To permit petitioner to use alternate compliance procedures for operating limitations for engines and ratings.
22784	CFM International	14 CFR 33.14	To allow petitioner an alternate start-stop stress cycle other than that specified in the operating limitation.
23074	Domar Jet Charter	14 CFR 135.89(b)(3)	To permit petitioner to operate its Gates Learjet aircraft up to flight level 410 without either pilot being required to wear an oxygen mask as long as there are two pilots at the controls and each pilot has a quick-donning type of oxygen mask.
12466	Petroleum Helicopters Inc.	14 CFR 43.3(h)	To permit petitioner's appropriately trained and certificated pilots to remove, check, and reinstall magnetic chip detector plugs on certain Allison 250–C engines, tail rotor gear boxes, and transmissions installed in Bell Model 206 series and Bolkow Model BO–105 helicopters.
23063	Cessna Aircraft Co.	14 CFR 21.231	To permit petitioner to use the authority in Delegation Option Authorization procedures for type, production, and airworthiness certification of airplanes, regardless of type certification basis, as long as the airplanes are of 75,000 pounds maximum gross takeoff weight or less and are not intended for operations under Part 121 of the FAR.
22985	Transamerican Aviation	14 CFR 91.31(a)(3)	To relieve petitioner from certain operating limitations prescribed for its Douglas DC–5A aircraft.
23049	Air Cortez	14 CFR 121.311(e)(f)	To permit petitioner to operate its Fairchild F–27J aircraft without each flight deck station being equipped with a combined safety belt and shoulder harness that meets the applicable requirements and without each flight attendant having a seat for takeoff and landing in the passenger compartment that meets the seat requirements.
22902	Miami Air Lease Inc.	14 CFR Portions of Part 125	To permit petitioner to operate its Douglas DC–8 all-cargo airplanes at an increased zero fuel and landing weight.
23001	Mr. Dean E. May	14 CFR 61.135	To permit petitioner to apply military flight time towards the 50 hours helicopter time required for a commercial pilot certificate.
23060	Gelco Air	14 CFR 135.89	To allow petitioner to operate its Aviona Marcel Dassault Falcon 50 and Falcon 10 aircraft above FL 350 up to and including flight level 410 without requiring one pilot to wear and use an oxygen mask.
22282	Regional Airline	14 CFR 135.261	Amendment to condition number 3 on exemption No. 3535 so that it reads "No flight crewmember may be scheduled for more than 8 hours of flight time in the duty period immediately preceding the 8 hours of consecutive rest, and no more than 8 hours of flight time in the 24-hour period beginning with 8 hours of consecutive rest."
23121	American Express Co.	14 CFR Subpart D of Part 91 and § 91.169	To permit petitioner to operate its helicopter in the same manner as a large turbojet-powered multiengine civil airplane.
19475	Flight Safety Int'l (FSI)	14 CFR 61.63(d) (2) and (3) and 61.157(d)(1).	Renewal of Exemption No. 2954A which permits petitioner's trainees to complete a practical test for the issuance of a type rating to be added to any grade of pilot certificate that includes the items and procedures for testing in an airplane simulator as set forth in Appendix A of Part 61, although FSI does not have an operating certificate.
23064	Cessna Aircraft	14 CFR 47.15(b)	To allow petitioner the use of a special N- number on one of its 172RG aircraft. The number requested is N1CPC.
23118	British Aerospace	14 CFR 25.807(c)(1)	To allow petitioner an alternative exit arrangement for Model BAe 146. The alternative exit arrangement consists of four Type I emergency exits which are positioned two each side of the fuselage; one at each end of the passenger cabin. The petitioner desires to use a passenger seating arrangement of 109 passengers which exceeds by 30 the number allowed for this proposal.

Dispositions of Petitions for Exemption

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
22666	Arabian American Oil Co	14 CFR 61.58(c)	To permit petitioner's pilots in command to complete their entire 24-month pilot-in-command proficiency checks for the B–737 aircraft in FAA-approved visual flight simulators. *Granted May 25, 1982.*
22758	Ports of Call Travel Club	14 CFR 61.57(d)	To permit petitioner to carry passengers during the period 1 hour after sunset and ending 1 hour before sunrise without making at least three takeoffs and three landings within the preceding 90 days. *Granted May 25, 1982.*
21518	Type Rating Training (TRT)	14 CFR 61.63(d) (2) and (3) 61.157(d)(1)	To allow petitioner's trainees to complete a practical test for the issuance of a type rating to be added to any grade of pilot certificate that includes the items and procedures for testing in an airplane simulator. *Granted May 25, 1982.*
17240	Marigold Flying Service, Inc	14 CFR 61 and 141	To permit issuance of a commercial pilot certificate and the conduct of a commercial pilot course, excluding the requirements for (1) 10 hours of flight instruction and practice in an airplane having a retractable landing gear and (2) the IFR operations for the instrument rating course prescribed, subject to certain conditions and limitations. *Granted May 25, 1982.*
22528	Mr. Michael A. Gobbi	14 CFR 65.57	To permit petitioner to apply for an aircraft dispatcher certificate without having been in a position with a scheduled air carrier, scheduled military operations, or other similar experience for 2 of the last 3 years. *Cancelled May 25, 1982.*
22538	Air Methods, Inc	14 CFR 135.223(a)(3)	To permit petitioner to operate helicopters in instrument flight rule conditions with a fuel reserve of not less than 30 minutes, rather than 45 minutes. *Cancelled May 25, 1982.*
22630	Liberty Airlines, Inc	14 CFR 121.61(c)(1)	To allow Mr. Gary H. Smith to serve as Director of Maintenance without meeting the 5-year experience requirement. *Granted May 3, 1982.*
22534	Pipe Fabricators, Inc	14 CFR 43.3(h)	To permit petitioner's appropriately trained and certified pilots to remove, check, and reinstall magnetic chip detector plugs on Hughes 500C helicopter engines, transmissions, and tail rotor gear boxes. *Granted May 6, 1982.*
22537	ERA Helicopters, Inc	14 CFR 43.3(a)(d)(h), and 135.443(b)(3)	To permit petitioner's appropriately trained certificated pilots to change flat tires on Model 24 Learjets in special circumstances. *Granted May 11, 1982.*
22115	Piedmont Aviation, Inc	14 CFR 121.391(a)	Reconsideration of a Denial of Exemption to permit petitioner to block off 12 seats and to operate its B–737 aircraft with two flight attendants when a third flight attendant cannot be made available without undue delay or flight cancellation. *Denied May 10, 1982.*
13199	American Airlines Training Corp	14 CFR 61.63(d)(2)(3)	To amend Exemption 2064D to authorize petitioner to use of an approved flight simulator for certain portions of the type rating evaluation for applicants desiring a type rating to be added to their commercial pilot certificate. *Granted May 14, 1982.*
22557	Hawthorne Aviation	14 CFR 135.261(b)	To permit petitioner to schedule its pilots for only 8 to 9 consecutive hours of rest during the 24-hour period preceding the planned completion of the assignment. *Denied May 18, 1982.*
22554	Petroleum Helicopters, Inc	14 CFR 135.261(a)(1)(2)	To permit petitioner's pilots, when operating helicopters, to accept assignment for duty during flight time without regard to the 24-consecutive-hour requirement, provided flight time in a duty period does not exceed 8 hours for a flightcrew consisting of one pilot and 10 hours for a flightcrew consisting of two pilots and only one duty period is allowed during any 24 consecutive hours. Duty periods shall not exceed 14 hours and rest periods between duty periods shall not be less than 10 hours. *Denied May 18, 1982.*
22547	Mr. Amos K. Lapp	14 CFR 63.35(d)	To permit petitioner to take the flight test, which is required when applying for a flight engineer certificate, even though it has been more than 24 months since he passed the written test. *Denied May 17, 1982.*
22621	Sun Refining and Marketing Co	14 CFR 91.169 and 91.161(a)	To allow petitioner to operate a helicopter under Subpart D governing large and turbojet-powered multiengine civil airplanes. *Granted May 17, 1982.*
22262	Regional Airline Association	14 CFR 135.261(b)	To permit petitioner's members to assign a flight crewmember and for flight crewmembers to accept flight duty time without having had at least 10 consecutive hours of rest during that 24-hour period preceding the planned completion of the flight assignment. *Granted with Conditions May 21, 1982.*
22531	Pyramid Airlines	14 CFR Various Sections Parts 21 and 91	To permit petitioner to use appropriate Minimum Equipment Lists in connection with its operation of two F–27 and six DC–3 U.S.-registered leased aircraft. *Granted May 19, 1982.*
23026	Icelandair S.A. and Overseas National Airways, Inc. (ONA).	14 CFR Portions of Parts 21 and 91	To allow petitioner to operate one U.S.-registered DC–8–55 aircraft, N918R, leased from ONA, and to maintain the aircraft in accordance with ONA's continuous airworthiness maintenance and inspection program and to use the FAA-approved master Minimum Equipment List. *Granted May 19, 1982.*
21758	Great Western Airlines Inc	14 CFR 121.623	Reconsideration of Denial of Exemption to permit petitioner to operate CV–580 cargo aircraft under instrument flight rules without first listing an alternate for each destination in the flight release. *Cancelled May 18, 1982.*
22563	British Midland Airways Ltd. (BMA)	14 CFR Portions of Parts 21 and 91	To permit petitioner to operate a leased U.S.-registered B6–707 under a continuous airworthiness maintenance and inspection program with an FAA-approved minimum equipment list (MEL) using Dan-Air Engineering Ltd., Lasham Airfield, and Sabena Airline to perform maintenance. *Granted May 21, 1982.*
21619	Air Nevada	14 CFR 135.113	To allow petitioner to operate a Cessna 404 aircraft during VFR conditions with a passenger occupying the copilot seat. *Granted June 15, 1982.*
22753	United States Parachute Association	14 CFR 91.47	To permit petitioner to use its DC–3/C–47 and L–18 aircraft to carry 40 and 20 parachutists respectively for hire at the 1982 National Parachuting Championships at Muskogee, Oklahoma. *Granted June 1, 1982.*
22700	Rocky Mountain Airways	14 CFR 65.101(a)(5)	To allow petitioner's Director of Quality Control to apply for a repairman certificate to perform maintenance on various propellers although he only has 14 months of experience. *Withdrawn June 3, 1982.*
21534	Air Florida, Inc. and Transavia Holland	14 CFR Parts 21 and 91	To extend the expiration date of exemption 3207 which permits Transavia Holland to lease and operate, with an MEL during peak winter traffic period, two U.S.-registered Air Florida B–737–200 aircraft. *Granted May 28, 1982.*

DISPOSITIONS OF PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
22567	Air Florida, Inc	14 CFR 121.311(f)	To permit petitioner to operate two DC-9-15F airplanes (N70AF & N73AF) until April 30, 1983, without each flight attendant having a seat for takeoff and landing in the passenger compartment that meets the seat requirements of § 25.785. *Granted May 26, 1982.*
22407	Mr. Lloyd Goheen	14 CFR 65.91(c)(2)	Reconsideration of the Denial of Exemption No. 3459 to permit petitioner to obtain an inspection authorization without having been active in maintaining FAA-certificated aircraft in the past 2 years. *Granted May 26, 1982.*
22589	Rich International Airways, Inc	14 CFR 121.311 (e), (f), and (g), 121.318(b)(2) and 121.319(b)(3).	To allow petitioner to operate its DC-8 airplane, N-43867, under a contract with the Federal government, with a seat for the required flight attendant in the passenger compartment, a public address system and crewmember interphone system which do not meet requirements. *Granted May 13, 1982.*
21815	Air Logistics	14 CFR 43.3 and 43.7	Reconsideration of denial of exemption to allow a person certificated by a foreign country and authorized by that country for the specific make and model of aircraft to perform maintenance, and approve for return to service following maintenance, U.S. aircraft operating in a foreign country. *Denied May 26, 1982.*
22567	Liberty Airlines	14 CFR 121.311(f)	To permit petitioner to operate certain transport category airplanes until October 30, 1982, without each flight attendant having a seat for takeoff and landing in the passenger compartment that meets the seat requirements. *Granted June 7, 1982.*
22576	Ray's Flight Systems	14 CFR 61.157(d)(1) and 61.63(d)(2)	To permit petitioners B737 trainees to complete a practical test for the issuance of a type rating to be added to any grade of pilot certificate that includes the items and procedures for testing in an airplane simulator although petitioner does not hold an operating certificate issued under Part 121. *Granted June 4, 1982.*
22058	La Mancha Aire, Inc	14 CFR 91.31(a)	To allow petitioner to operate its DC-7 airplanes at a 5 percent increase in zero fuel and landing weight. *Granted June 2, 1982.*
21832	Bishop Brothers, Inc	14 CFR 91.31(a)	Amendment to Exemption 3264 to permit petitioner to operate any leased aircraft which falls within the appropriate serial numbers at a 5 percent increased zero fuel and landing weight for the purpose of delivering perishable fish of the Alaskan fishing industry. *Granted June 2, 1982.*
21726	Executive Air Fleet Corp	14 CFR 135.261(a)(2) and (b)	To permit petitioner, when using three-pilot crews, to assign for duty during flight time when the total flight time exceeds 10 hours during any 24 consecutive hours and that assignment does not provide for at least 10 consecutive hours of rest during the 24-hour period proceeding the planned completion of the assignment. *Granted June 1, 1982.*
20048	Chalk's International Airlines, Inc	14 CFR 135.175(a)	To amend exemption 3007 to allow petitioner to conduct day VFR flights in Grumman G-73 aircraft without approved airborne weather radar equipment installed in the aircraft. *Granted June 11, 1982.*
22767	British Aerospace	14 CFR SFAR 41 §§ 5 (e), (g), (i) and (j)	To allow petitioner to operate its Jetstream 3100 aircraft with one Type I exit (main passenger door) and one Type III exit on the opposite side (for accommodation of 16 through 19 passengers). The Jetstream 3100 maximum capacity is 19 passengers. *Granted June 10, 1982.*
21794	Compania Mexicana de Aviaciona, S.A	14 CFR Portions of Parts 21, 43, 91 and 125.	Amendment to exemption No. 3261b to permit petitioner to operate two additional leased, U.S.-registered aircraft under an FAA-approved Master Minimum Equipment List (MMEL) for DC-10 aircraft, and to maintain the aircraft in accordance with the appropriate FAA-approved continuous airworthiness maintenance program for a period of at least 2 years. *Granted June 14, 1982.*
19966	Trans World Airlines	14 CFR 91.32 and 121.333	Renewal of Exemption No. 2914 to permit petitioner continue to operate its Boeing 747SP aircraft above flight level 410 without one pilot at the controls of the airplane wearing and using an oxygen mask. *Granted June 15, 1982.*
21651	China Airlines Limited	14 CFR Portions of Parts 21, 91, and 125	Amendment to exemption No. 3360 to permit petitioner, a foreign air carrier, to operate a second leased U.S.-registered B-747SP aircraft using an FAA (MMEL) and an FAA approved airworthiness maintenance program. *Granted June 16, 1982.*
22634	Chesapeake & Potomac Airways, Inc	14 CFR 135.183(d)	To permit petitioner to conduct helicopter ambulance service over water without the helicopter being equipped with flotation devices. *Denied June 17, 1982.*
22700	Bankair, Inc	14 CFR 135.225(e)(1)	To permit petitioner to operate their aircraft from Myrtle Beach Air Base and Beaufort Marine Corps Air Station using takeoff visibility minimums, subject to the approval of the appropriate military authority, which are less than 1 mile and equal to or greater than the landing visibility minimums established for those airfields. *Granted June 17, 1982.*
22061	National Executive Charter	14 CFR 61.151(a)	To permit William Peter Stamas to obtain an airline transport pilot certificate (ATPC) prior to reaching his 23rd birthday. *Denied June 18, 1982.*

[FR Doc. 82-17736 Filed 6-30-82; 8:45 am]
BILLING CODE 4910-13-C

Environmental Impact Statement; Palm Beach International Airport, West Palm Beach, Florida

AGENCY: Federal Aviation Administration (FAA).

ACTION: Notice of Intent.

SUMMARY: The FAA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed change to aircraft departure procedures at Palm Beach International Airport, West Palm Beach, Florida.

FOR FURTHER INFORMATION CONTACT: Jefferey Griffith, Federal Aviation Administration, Air Traffic Division, 3400 Norman Berry Drive, East Point, Georgia 30344, Telephone: (404) 763-7537.

SUPPLEMENTARY INFORMATION: An Environmental Impact Statement will be prepared for a proposed change to aircraft departure procedures at Palm Beach International Airport, West Palm Beach, Florida. The existing "fan out" departure procedure requires successive assignment of alternating headings to departing aircraft on three flight tracks from each runway. The assigned heading is maintained until the aircraft

has traveled four (4) miles from the end of the runway or reaches an altitude of 3,000 feet prior to making any turns. The proposed procedure would eliminate the "fan out" departure procedure and require all departing turbojet aircraft to remain on runway heading for a distance of four (4) miles from the runway end except on Runway 31 which the heading shall be 290 degrees.

Alternatives under consideration include: 1. Take no action (continue the established "fan out" departure procedure).

2. Eliminate the "fan out" departure procedure and require all departing turbojet aircraft to remain on runway heading for a distance of four (4) miles from the runway and except on runway 31 which the heading shall be 290 degrees.

Scoping: Meetings with federal, state and local agencies with jurisdiction by law or having special expertise to determine the signifcance of impacts that could reasonably be associated with the proposed action will be conducted to determine the range of actions, alternatives and impacts to be considered in this environmental impact statement.

Issued In East Point, Georgia, On June 22, 1982.

Thomas H. Protiva,

Chief, Air Traffic Division, Federal Aviation Administration, Southern Region.

[FR Doc. 82-17816 Filed 6-30-82; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement: Hudson and Nashua, New Hampshire

AGENCY: Federal Highway Administration.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed project in the Town of Hudson, and City of Nashua in New Hampshire which will provide a circumferential highway easterly of Nashua, connecting with the F. E. Everett Turnpike south of and north of the Nashua Central Business District.

FOR FURTHER INFORMATION CONTACT: (1) For FHWA—William F. O'Donnell, New Hampshire Division Office, Telephone (603) 224-3385, Federal Highway Administration, 55 Pleasant Street, Concord, NH 03301; or (2) For the NH Department of Public Works and Highways—Robert G. Kenevel, Telephone (603) 271-3344, NH Department of Public Works and Highways, John O. Morton Building, Concord, NH 03301.

SUPPLEMENTARY INFORMATION: The proposed action consists of two or fourlane freeway-type facility with full control of access, which will begin at the F. E. Everett Turnpike approximately one and one-half miles north of the Massachusetts State Line and run northerly in close proximity to the easterly Nashua/Hudson urban area boundary and forming an eastside circumferential highway of approximately 12 miles in length. The proposed action is intended to improve traffic circulation in Hudson; to alleviate serious traffic congestion at the Route 111 (Taylor's Falls Bridge) crossing of the Merrimack River; and to sustain the economic vitality of both the Nashua and Hudson CBD.

Possible alternatives consist of two or more corridor locations for the northeasterly quadrant, in conjunction with construction in previously acquired right-of-way for the southeasterly quadrant, a two-lane or four-lane highway facility, upgrading of the existing highway system, no-build, or a combination of these alternatives.

The Scoping Process will consist of individual meetings with those agencies believed to have an interest in the study area and potential social, economic and environmental factors affected by the proposed action. These meetings will be initiated in late June or early July 1982. A single formal scoping meeting of all agencies is not planned.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally-assisted programs and projects apply to this program)

Issued on June 22, 1982.

F. T. Comstock, Jr.,

Division Administrator, Concord, New Hampshire.

[FR Doc. 82-17800 Filed 6-30-82; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement; Martin, St. Lucie, and Indian River Counties, Florida

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement (EIS) will be prepared for a proposed highway project in Martin, St. Lucie, and Indian River Counties, Florida.

FOR FURTHER INFORMATION CONTACT: R. V. Robertson, District Engineer, Federal Highway Administration, P.O. Box 1079, Tallahassee, Florida 32302; Telephone (904) 224-8111.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Florida Department of Transportation, will prepare an EIS for a proposal to improve State Road 5/U.S. 1 in Martin, St. Lucie, and Indian River Counties, Florida. The proposed improvement would involve the reconstruction of State Road 5/U.S. 1 from Cove Road in Martin County through St. Lucie County to 17th Street in Vero Beach, Indian River County, Florida, a distance of 37.5 miles. Improvements to the corridor are considered necessary to provide for the existing and projected traffic demand.

Alternatives under consideration include (1) taking no action; (2) widening to a six-lane divided roadway; (3) widening to six lanes plus frontage roads, where feasible; (4) one-way roadway pairs, where feasible; and (5) alternate corridors.

Federal, State, and local agencies have contributed early coordination comments through the A-95 process. Additionally, a project planning team developing this project will contact State, Federal, county, and local agencies for information relative to land use planning, water quality analysis, and local planning needs. Public information meetings will be held during the development of this EIS. In addition, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The draft EIS will be made available for public and agency review and comment prior to the public hearing. A formal scoping meeting will be conducted at the project site during 1982.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the Federal Highway Administration at the address provided above.

Issued: June 21, 1982.

P. E. Carpenter,

Division Administrator, Tallahassee, Florida.

[FR Doc. 82-17708 Filed 6-30-82; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement; Hayward, Calif.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environment Impact Statement will be prepared for a proposed highway project in Hayward, California.

FOR FURTHER INFORMATION CONTACT: David L. Eyres, District Engineer, Federal Highway Administration, P.O. Box 1915, Sacramento, California 95809; telephone (916) 440–3541.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the California Department of Transportation and the City of Hayward will prepare an Environmental Impact Statement (EIS) on a proposal for improvement of the "D" Street Corridor in the City of Hayward, Alameda County, California. The limits of the EIS are to be from the intersection of Soto Road/Myrtle Street with Winton Avenue to the intersection of 2nd Street with "D" Street, a distance of 1.12 to 1.23 miles, depending on the alternate.

The alternatives to be considered in the EIS include: first, the no-build alternative; second, the widening and improvement of existing Winton Avenue and Grand Street to a four-lane divided facility from Soto Road/Myrtle Street to "D" Street; and third, the construction of a four-lane divided facility on a new alignment from Winton Avenue at Soto Road/Myrtle Street to connect with the terminus of "D" Street at Grant Street. Both alternatives, two and three, widen and improve existing "D" Street to a four-lane facility from Grand Street to 2nd Street.

A formal scoping meeting is not planned at this time. If it later becomes apparent that a meeting is necessary, one will be held.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Issued: June 25, 1982.

James H. Lamb,

Acting District Engineer, Sacramento, California.

[FR Doc. 82-17877 Filed 6-30-82; 8:45 am]

BILLING CODE 4910-22-M

Urban Mass Transportation Administration

[Docket 82-E]

Proposed Bonding Policy for Transit Bus Procurements

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice of reopening of comment period.

SUMMARY: On April 29, 1982, UMTA published a Notice announcing a proposed bonding policy for transit bus procurements. UMTA received numerous comments, both in favor of and opposed to the proposed policy, many of which arrived after the formal closing of the comment period. A number of individuals and organizations have expressed an interest in providing additional comments. In order to analyze the comments already submitted, and in order to provide the opportunity to comment further, UMTA is reopening the docket for an additional period of time. Comments are solicited concerning all aspects of the Notice as originally published. In addition, UMTA solicits comments regarding an expansion of the policy to cover all UMTA-assisted equipment purchases. The previous Notice indicated that the policy would only apply to transit buses. UMTA expects to issue a final policy statement by September 1, 1982.

DATE: In order to ensure consideration, comments must be received on or before July 30, 1982. Any comments received after that date will be considered to the extent feasible.

ADDRESS: Comments must be submitted to UMTA Docket No. 82–E, Urban Mass Transportation Administration, Room 9228, 400 Seventh Street, SW., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 8:30 a.m. and 5:00 p.m., Monday through Friday. Receipt of comments will be acknowledged by UMTA if a self-addressed, stamped postcard is included with each comment.

FOR FURTHER INFORMATION CONTACT: Colleen Weule, Chief Counsel's Office, Urban Mass Transportation Administration, Room 9315, 400 Seventh Street, S.W., Washington, D.C. 20590, 202/426–1936.

Dated: June 28, 1982.

Arthur E. Teele, Jr.,

Administrator.

[FR Doc. 82-17901 Filed 6-30-82; 8:45 am]

BILLING CODE 4910-57-M

DEPARTMENT OF THE TREASURY

Secret Service

Appointment of Performance Review Board (PRB) Members

This notice announces the appointment of members of Senior Executive Service Performance Review Boards in accordance with 5 U.S.C. 4314(c)(4) for the rating period beginning July 1, 1981 and ending June 30, 1982. Each PRB will be composed of at least three of the Senior Executive Service members listed below.

Name and Title

John W. Mangels—Director of Operations, Department of the Treasury;

Myron I. Weinstein—Deputy Director, U.S. Secret Service;

Jerry S. Parr—Assistant Director, Protective Research (USSS);

Edward J. Pollard—Assistant Director, Protective Operations (USSS);

Frederick N. White, Jr.—Assistant Director, Administration (USSS);

Richard E. Keiser—Assistant Director, Inspection (USSS);

Larry B. Sheafe—Assistant Director, Investigations (USSS);

Robert R. Snow—Assistant to the Director, Public Affairs (USSS);

William R. Barton—Assistant to the Director, Training (USSS);

Edward P. Walsh—Deputy Assistant Director, Protective Research (USSS);

Gerald W. Bechtle—Deputy Assistant Director, Protective Operations (USSS);

Don A. Edwards—Deputy Assistant Director, Protective Operations (USSS);

Joseph R. Carlon—Deputy Assistant Director, Investigations (USSS).

For Further Information Contact: Wesley Bishop, Chief, Personnel Division, Room 912, 1800 G St., NW., Washington, D.C. 20223; telephone No. 202–535–5800.

John R. Simpson,

Director.

[FR Doc. 82-17756 Filed 6-30-82; 8:45 am]

BILLING CODE 4810-42-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 127
Thursday, July 1, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY CREDIT CORPORATION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 26730, June 21, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2 p.m., June 25, 1982

STATUS: Open/closed.

CHANGES IN MEETING: 1. Adds Supplemental Information: The General Counsel certified that a portion of this meeting could be closed. All members of the Board present as follows voted to close the meeting for item 15:

1. John R. Block, Secretary of Agriculture, Chairman.
2. Mary C. Jarratt, Member.
3. William G. Lesher, Member.
4. Seeley G. Lodwick, Member.
5. C. W. McMillan, Member.
6. Frank W. Naylor, Member.
7. Everett G. Rank, Member.

2. Changes title of item 3 as follows: Docket XCP 137a re: Barley, Corn, Oats, Rye, and Sorghum, Loan and Purchase, Payment, and Production Adjustment Programs for the 1982 through 1985 Marketing Years.

3. Changes title of item 12 as follows: Highlight Summary of the Commodity Credit Corporation (CCC) Claims Reports Memorandum.

4. Changes title of item 14 as follows: Request for Approval of Loan Guaranty Application Pursuant to Docket UCZ 314, "Guarantee of Loans for Pilot Projects for the Production of Industrial Hydrocarbons and Alcohols from Agricultural Commodities and Forest Products".

5. Adds category Other Business:

6. Adds memorandum as item a. under Other Business re: Sugar Statistics Needed for Establishing Import Quotas.

7. Adds memorandum as item b. under Other Business re: Update of Commodity Credit Corporation (CCC)-Owned Inventory.

CONTACT PERSON FOR MORE INFORMATION: George E. Rippel, Acting Secretary, Commodity Credit Corporation, P.O. Box 2415, Room 5714-South Building, U.S. Department of Agriculture, Washington, D.C. 20013; telephone (202) 447–4785.

[S–966–82 Filed 6–29–82; 10:35 am]

BILLING CODE 3410–05–M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 7:40 p.m. on June 25, 1982, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to (1) receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Farmers State Bank of Lewiston, Lewiston, Illinois, which was closed by the Illinois Commissioner of Banks & Trust Companies as of the close of business on Friday, June 25, 1982; (2) accept the bid for the transaction submitted by Farmers State Bank of Fulton County, Lewiston, Illinois, a newly-chartered State bank; (3) approve the application of Farmers State Bank of Fulton County, Lewiston, Illinois for Federal deposit insurance and for consent to purchase the assets of and assume the liability to pay deposits made in Farmers State Bank of Lewiston, Lewiston, Illinois; and (4) provide such financial assistance, pursuant to section 13(e) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)), as was necessary to effect the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Issac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. H. Joe Selby, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: June 28, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–967–82 Filed 6–25–82; 11:13 am]

BILLING CODE 6714–01–M

3

NATIONAL CREDIT UNION ADMINISTRATION

TIME AND DATE: 1 p.m., Wednesday, July 7, 1982.

PLACE: Radisson Chicago Hotel, 505 North Michigan Avenue, Chicago East Room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Review of Central Liquidity Facility lending rate.
2. Report on status of National Credit Union Share Insurance Fund.
3. Final Rule to liberalize Section 701.27–2 of NCUA Rules and Regulations: Credit Union Service Corporations.
4. Final Rule to deregulate Sections 701.26 of NCUA Rules and Regulations: Credit Union Service Contracts and 701.36: Ownership of Fixed Assets.
5. Issuance for public comment of the interim Corporate Federal Credit Union Chartering Guidelines.
6. Proposed Regulation to Amend Part 745 of NCUA Rules and Regulations: Clarification and Definition of Account Insurance Coverage.
7. Advance Notice of Proposed Rulemaking, Deregulation of Part 703 of NCUA Rules and Regulations: Investments and Deposits.
8. Proposed standard amendment to Article XII Section 8 of the Federal Credit Union Bylaws regarding late charges.
9. Proposed delegation of authority to Regional Directors to act upon all charter conversion requests.

RECESS: 2:30 p.m.

TIME AND DATE: 5 p.m., Tuesday, July 6, 1982.

PLACE: Radisson Chicago Hotel, 505 North Michigan Avenue, Chicago Huron Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Requests from federally insured credit unions for special assistance to prevent liquidation under Section 208(a)(1) of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).

2. Requests for mergers with special assistance under Section 208(a)(2) of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, telephone (202) 357–1100.

[S–966–82 Filed 6–29–82; 10:14 am]

BILLING CODE 7535–01–M

4

NUCLEAR REGULATORY COMMISSION

DATE: Week of July 5, 1982.

PLACE: Commissioner's Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED: *Tuesday, July 6:*

2:00 p.m.:
Discussion of License Fees—Proposed Schedule (Public Meeting)

Wednesday, July 7:

10:00 a.m.:
Discussion of Waste Confidence Proceeding (Closed—Exemption 10)
2:00 p.m.:
Discussion of Contested Issues in Susquehanna Operating License Proceeding (Closed—Exemption 10)

Thursday, July 8:

3:00 p.m.:
Affirmation/Discussion Session (Public Meeting)
Affirmation and/or Discussion and Vote:
a. Final Rule Implementing the Equal Access to Justice Act
b. 10 CFR Part 50—General Revision of Appendices G and H, Fracture Toughness and Reactor Vessel Material Surveillance Requirements
c. 10 CFR Part 50—Proposed Rule to Clarify Applicability of License Conditions and Technical Specifications in an Emergency

ADDITIONAL INFORMATION: Discussion of Full Power Operating License for LaSalle—1 scheduled for June 29 was *cancelled.* Affirmation of Amendment to 10 CFR Part 140, "Financial Protection Requirements and Indemnity Agreements" schduled for June 24 moved to July 1. Affirmation of License Fees—Proposed Schedule scheduled for July 1, postponed. On June 24 the Commission voted 5–0 to hold on short notice an Affirmation of Extension of June 30, 1982 Deadline for Environmental Qualifications of Safety Related Electric Equipment.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status of the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410

Walter Magee,

Office of the Secretary

[S–964–82 Filed 6–28–82; 5:00 pm]

BILLING CODE 7590–01–M

federal register

Thursday
July 1, 1982

Part II

Department of the Treasury

Fiscal Service, Bureau of Government Financial Operations

Circular 570; 1982 Revision; Surety Companies Acceptable on Federal Bonds

4810-35-130

DEPARTMENT OF THE TREASURY

FISCAL SERVICE, BUREAU OF GOVERNMENT FINANCIAL OPERATIONS

(Dept. Circular 570; 1982 Rev.)

COMPANIES HOLDING CERTIFICATES OF AUTHORITY AS ACCEPTABLE SURETIES ON FEDERAL BONDS AND AS ACCEPTABLE REINSURING COMPANIES

Effective: July 1, 1982

This circular is published annually, as of July 1, solely for the information of Federal bond-approving officers and persons required to give bonds to the United States. Copies of this circular may be obtained from: Division of Banking and Cash Management, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226. Telephone: (202) 634-5745. Interim changes in the circular are published in the FEDERAL REGISTER as they occur.

The following companies have complied with the law and the regulations of the Treasury Department and are acceptable as sureties and reinsurers on Federal bonds, to the extent and with respect to the localities indicated.

W. E. Douglas
Commissioner
Bureau of Government
Financial Operations

COMPANIES HOLDING CERTIFICATES OF AUTHORITY UNDER SECTIONS 6 TO 13 OF TITLE 6 OF THE UNITED STATES CODE AS ACCEPTABLE SURETIES ON FEDERAL BONDS, INCLUDING REINSURANCE (See Note a/)

IMPORTANT INFORMATION IS CONTAINED IN THE NOTES AT THE END OF THIS TABLE. PLEASE READ THE NOTES CAREFULLY WHEN USING THE CIRCULAR.

AID Insurance Company (Mutual). BUSINESS ADDRESS: 701 Fifth Avenue, Des Moines, Iowa 50309. UNDERWRITING LIMITATION b/: $9,589,000. SURETY LICENSES c/: Ariz., Ark., Cal., Colo., D.C., Idaho, Ill., Ind., Iowa, Kans., Minn., Mo., Mont., Nebr., Nev., N. Mex., N. Dak., Okla., Oreg., S. Dak., Tex., Utah, Wash., Wis., Wyo. INCORPORATED IN: Iowa. FEDERAL PROCESS AGENTS d/.

AIU Insurance Company. BUSINESS ADDRESS: 70 Pine Street, New York, N.Y. 10270. UNDERWRITING LIMITATION b/: $2,832,000. SURETY LICENSES c/: All except C.Z., Del., Guam, Hawaii, Puerto Rico, Wyo. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Acceptance Insurance Company. BUSINESS ADDRESS: One First National Center, Suite 1323, Omaha, Nebr. 68102. UNDERWRITING LIMITATION b/: $281,000. SURETY LICENSES c/: Ariz., Nebr. INCORPORATED IN: Nebr. FEDERAL PROCESS AGENTS d/.

Accredited Surety and Casualty Company, Inc. BUSINESS ADDRESS: 918 South Orange Avenue, Orlando, Fla. 32806. UNDERWRITING LIMITATION b/: $212,000. SURETY LICENSES c/: Ala., Fla., Ga., Ind., La., Miss., Va. INCORPORATED IN: Fla. FEDERAL PROCESS AGENTS d/.

The Aetna Casualty and Surety Company. BUSINESS ADDRESS: 151 Farmington Avenue, Hartford, Conn. 06156. UNDERWRITING LIMITATION b/: $93,415,000. SURETY LICENSES c/: All except C.Z. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

Aetna Casualty and Surety Company of Illinois. BUSINESS ADDRESS: 230 West Monroe Street, Chicago, Ill. 60606. UNDERWRITING LIMITATION b/: $16,155,000. SURETY LICENSES c/: Ala., Alaska, Ariz., Ark., Del., Ga., Idaho, Ill., Ind., Iowa, Ky., La., Md., Mich., Miss., Mo., Mont., Nebr., Nev., N.J., N. Dak., Okla., Oreg., S.C., S. Dak., Tex., Utah, Va., Wash., W. Va., Wis. (Compensation only in Fla., Kans.) INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

Aetna Fire Underwriters Insurance Company. BUSINESS ADDRESS: 55 Elm Street, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $1,092,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

Aetna Insurance Company. BUSINESS ADDRESS: 55 Elm Street, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $35,067,000. SURETY LICENSES c/: All except C.Z. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

Aetna Life and Casualty Company. BUSINESS ADDRESS: 151 Farmington Avenue, Hartford, Conn. 06156. UNDERWRITING LIMITATION b/: $233,497,000. SURETY LICENSES c/: Conn., D.C. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

Aetna Reinsurance Company. BUSINESS ADDRESS: 55 Elm Street, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $2,893,000. SURETY LICENSES c/: All except Ala., C.Z., Guam, Hawaii, Ill., Ind., La., Ohio, Puerto Rico, Tex., Virgin Islands, W. Va. INCORPORATED IN: Del. FEDERAL PROCESS AGENTS d/.

Alaska Pacific Assurance Company. BUSINESS ADDRESS: 1600 Arch Street, Philadelphia, Pa. 19101. UNDERWRITING LIMITATION b/: $2,228,000. SURETY LICENSES c/: Alaska, Cal., Idaho, Oreg., S. Dak. INCORPORATED IN: Alaska. FEDERAL PROCESS AGENTS d/.

*See footnotes at end of table.

Allegheny Mutual Casualty Company. BUSINESS ADDRESS: 485 Chestnut Street, Meadville, Pa. 16335. UNDERWRITING LIMITATION b/: $196,000. SURETY LICENSES c/: D.C., Fla., Ill., Ind., La., Md., Mich., N.J., Ohio, Okla., Pa., Tenn., Tex., Wis. INCORPORATED IN: Pa. FEDERAL PROCESS AGENTS d/.

Allendale Mutual Insurance Company. BUSINESS ADDRESS: Post Office Box 7500, Johnston, Rhode Island 02919. UNDERWRITING LIMITATION b/: $19,789,000. SURETY LICENSES c/: All except C.Z., Del., Fla., Ga., Guam, Hawaii, Kans., La., Oreg., Puerto Rico, S. Dak., W. Va. INCORPORATED IN: R.I. FEDERAL PROCESS AGENTS d/.

Allianz Insurance Company. BUSINESS ADDRESS: Post Office Box 54897, Terminal Annex, Los Angeles, Cal. 90054. UNDERWRITING LIMITATION b/: $2,327,000. SURETY LICENSES c/: All except C.Z., Guam, Okla., Puerto Rico. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Allied Fidelity Insurance Company. BUSINESS ADDRESS: Post Office Box 20112, Indianapolis, Ind. 46220. UNDERWRITING LIMITATION b/: $329,000. SURETY LICENSES c/: All except C.Z., D.C., Guam, Hawaii, Me., Md., Mich., N.J., N.Y., N.C., Pa., Puerto Rico, R.I., S. Dak., Vt., Virgin Islands. INCORPORATED IN: Ind. FEDERAL PROCESS AGENTS d/.

Allstate Insurance Company. BUSINESS ADDRESS: Allstate Plaza, Northbrook, Ill. 60062. UNDERWRITING LIMITATION b/: $239,517,000. SURETY LICENSES c/: All except C.Z., Guam. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

American Agricultural Insurance Company. BUSINESS ADDRESS: 225 Touhy Avenue, Park Ridge, Ill. 60068. UNDERWRITING LIMITATION b/: $4,674,000. SURETY LICENSES c/: Ariz., Colo., Fla., Ga., Idaho, Ill., Ind., Iowa, Mo., N. Mex., N.C., N. Dak., Oreg., Pa., S.C., Tex., Utah, Va., Wash., Wis. (Reinsurance only in Kans., Mass., N.Y.) INCORPORATED IN: Ind. FEDERAL PROCESS AGENTS d/.

American Automobile Insurance Company. BUSINESS ADDRESS: 3333 California Street, San Francisco, Cal. 94119. UNDERWRITING LIMITATION b/: $11,222,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Mo. FEDERAL PROCESS AGENTS d/.

American Bonding Company. BUSINESS ADDRESS: 8601 Beverly Boulevard, Los Angeles, Cal. 90048. UNDERWRITING LIMITATION b/: $230,000. SURETY LICENSES c/: Alaska, Ariz., Ark., Cal., Colo., D.C., Hawaii, Idaho, Iowa, Kans., Miss., Mo., Mont., Nebr., Nev., N. Mex., Okla., Oreg., Tex., Utah, Wash. INCORPORATED IN: Nebr. FEDERAL PROCESS AGENTS d/.

American Casualty Company of Reading, Pennsylvania. BUSINESS ADDRESS: CNA Plaza, Chicago, Ill. 60685. UNDERWRITING LIMITATION b/: $6,810,000. SURETY LICENSES c/: All except Guam, Virgin Islands. INCORPORATED IN: Pa. FEDERAL PROCESS AGENTS d/.

AMERICAN CENTENNIAL INSURANCE COMPANY. BUSINESS ADDRESS: Post Office Box 1319R, 55 Madison Avenue, Morristown, N.J. 07960. UNDERWRITING LIMITATION b/: $1,883,000. SURETY LICENSES c/: All except C.Z., Conn., Hawaii, Ind., Kans., Me, Mass., Mont., Puerto Rico, R.I., Wyo. INCORPORATED IN: Del. FEDERAL PROCESS AGENTS d/.

American Credit Indemnity Company of New York. BUSINESS ADDRESS: 300 St. Paul Place, Baltimore, Md. 21202. UNDERWRITING LIMITATION b/: $4,464,000. SURETY LICENSES c/: All except C.Z., Del., Guam, Hawaii, Puerto Rico, Virgin Islands, Wyo. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

The American Druggists' Insurance Company. BUSINESS ADDRESS: 800 American Building, Cincinnati, Ohio 45202. UNDERWRITING LIMITATION b/: $3,187,000. SURETY LICENSES c/: All except Alaska, Ariz., C.Z., Conn., D.C., Guam, Hawaii, Kans., Nev., N.H., N.J., Puerto Rico, S. Dak., Virgin Islands, Wyo. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

American Economy Insurance Company. BUSINESS ADDRESS: 500 North Meridian Street, Indianapolis, Ind. 46207. UNDERWRITING LIMITATION b/: $10,775,000. SURETY LICENSES c/: All except C.Z., Conn., N.J., Puerto Rico, Virgin Islands. INCORPORATED IN: Ind. FEDERAL PROCESS AGENTS d/.

American Employers' Insurance Company. BUSINESS ADDRESS: One Beacon Street, Boston, Mass. 02108. UNDERWRITING LIMITATION b/: $8,223,000. SURETY LICENSES c/: All except Guam, Kans., Puerto Rico. INCORPORATED IN: Mass. FEDERAL PROCESS AGENTS d/.

AMERICAN-EUROPEAN REINSURANCE CORPORATION. BUSINESS ADDRESS: 280 Park Avenue, New York, N.Y. 10017. UNDERWRITING LIMITATION b/: $1,396,000. SURETY LICENSES c/: Del., N.Y. INCORPORATED IN: Del. FEDERAL PROCESS AGENTS d/.

American Fidelity Company. BUSINESS ADDRESS: Post Office Box 960, Station C, Manchester, N.H. 03105. UNDERWRITING LIMITATION b/: $658,000. SURETY LICENSES c/: Alaska, Conn., D.C., Iowa, Me., Md., Mass., Miss., Nebr., N.H., N. Dak. Okla., R.I., S. Dak., Utah, Vt., W. Va. INCORPORATED IN: Vt. FEDERAL PROCESS AGENTS d/.

American Fidelity Fire Insurance Company. BUSINESS ADDRESS: 100 Crossways Park West, Woodbury, N.Y. 11797. UNDERWRITING LIMITATION b/: $742,000. SURETY LICENSES c/: All except C.Z., Colo., Guam, Hawaii, Mo., Nebr., N.H., Virgin Islands. Note: The most current information available indicates that the company's authority to do business in the states of Massachusetts, Georgia, Connecticut and Illinois is restricted. Questions concerning business in these states should be referred to the respective state insurance departments. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

American Fire and Casualty Company. BUSINESS ADDRESS: 136 North Third Street, Hamilton, Ohio 45025. UNDERWRITING LIMITATION b/: $1,536,000. SURETY LICENSES c/: Ala., Ark., Colo., D.C., Fla., Ga., Kans., Ky., La., Md., Miss., Mo., N.C., Okla., S.C., Tenn., Tex., Va. INCORPORATED IN: Fla. FEDERAL PROCESS AGENTS d/.

American General Fire and Casualty Company. BUSINESS ADDRESS: Post Office Box 1502, Houston, Tex. 77001. UNDERWRITING LIMITATION b/: $2,039,000. SURETY LICENSES c/: Ark., La., N. Mex., Okla., Tex. INCORPORATED IN: Tex. FEDERAL PROCESS AGENTS d/.

American Guarantee and Liability Insurance Company. BUSINESS ADDRESS: 231 North Martingale Road, Schaumburg, Ill. 60196. UNDERWRITING LIMITATION b/: $2,310,000. SURETY LICENSES c/: All except Guam, Hawaii, Puerto Rico, Virgin Islands. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

American Home Assurance Company. BUSINESS ADDRESS: 70 Pine Street, New York, N.Y. 10270. UNDERWRITING LIMITATION b/: $19,556,000. SURETY LICENSES c/: All except C.Z., Puerto Rico. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

American Indemnity Company. BUSINESS ADDRESS: Post Office Box 1259, Galveston, Tex. 77553. UNDERWRITING LIMITATION b/: $3,033,000. SURETY LICENSES c/: Ala., Cal., Colo., D.C., Fla., Ga., Ill., Ind., Iowa, Kans., Ky., La., Miss., Mo., Mont., Nebr., N. Mex., N.C., Ohio, Okla., S.C., Tenn., Tex., Wis., Wyo. INCORPORATED IN: Tex. FEDERAL PROCESS AGENTS d/.

*See footnotes at end of table.

The American Insurance Company. BUSINESS ADDRESS: 3333 California Street, San Francisco, Cal. 94119. UNDERWRITING LIMITATION b/: $21,977,000. SURETY LICENSES c/: All except C.Z., Virgin Islands. INCORPORATED IN: N.J. FEDERAL PROCESS AGENTS d/.

American Manufacturers Mutual Insurance Company. BUSINESS ADDRESS: Long Grove, Ill. 60049. UNDERWRITING LIMITATION b/: $7,848,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

American Motorists Insurance Company. BUSINESS ADDRESS: Long Grove, Ill. 60049. UNDERWRITING LIMITATION b/: $15,791,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

American Mutual Liability Insurance Company. BUSINESS ADDRESS: Wakefield, Mass. 01880. UNDERWRITING LIMITATION b/: $7,834,000. SURETY LICENSES c/: All except C.Z., Guam, Hawaii, Puerto Rico, Virgin Islands. INCORPORATED IN: Mass. FEDERAL PROCESS AGENTS d/.

American National Fire Insurance Company. BUSINESS ADDRESS: 580 Walnut Street, Cincinnati, Ohio 45202. UNDERWRITING LIMITATION b/: $1,375,000. SURETY LICENSES c/: All except C.Z., Guam. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

American Re-Insurance Company. BUSINESS ADDRESS: One Liberty Plaza, 91 Liberty Street, New York, N.Y. 10006. UNDERWRITING LIMITATION b/: $25,800,000. SURETY LICENSES c/: All except Guam, Virgin Islands. INCORPORATED IN: Del. FEDERAL PROCESS AGENTS d/.

American Southern Insurance Company. BUSINESS ADDRESS: Post Office Box 7369, Station C, Atlanta, Ga. 30357. UNDERWRITING LIMITATION b/: $468,000. SURETY LICENSES c/: Ala., Fla., Ga., S.C. INCORPORATED IN: Ga. FEDERAL PROCESS AGENTS d/.

American States Insurance Company. BUSINESS ADDRESS: 500 North Meridian Street, Indianapolis, Ind. 46207. UNDERWRITING LIMITATION b/: $27,045,000. SURETY LICENSES c/: All except C.Z., Conn., Guam, N.Y., Puerto Rico, Virgin Islands. INCORPORATED IN: Ind. FEDERAL PROCESS AGENTS d/.

Amwest Surety Insurance Company. BUSINESS ADDRESS: 6301 Owensmouth Ave., #304, Woodland Hills, Cal. 91367. UNDERWRITING LIMITATION b/: $115,000. SURETY LICENSES c/: Cal. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Antilles Insurance Company. BUSINESS ADDRESS: Post Office Box 3507, Old San Juan, Puerto Rico 00904. UNDERWRITING LIMITATION b/: $509,000. SURETY LICENSES c/: Puerto Rico. INCORPORATED IN: Puerto Rico. FEDERAL PROCESS AGENTS d/.

ANVIL INSURANCE COMPANY. BUSINESS ADDRESS: 1108 W. 17th Street, Santa Ana, Cal. 92706. UNDERWRITING LIMITATION b/: $404,000. SURETY LICENSES c/: Cal., Idaho, Nev. Oreg., Wash. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Argonaut Insurance Company. BUSINESS ADDRESS: 250 Middlefield Road, Menlo Park, Cal. 94025. UNDERWRITING LIMITATION b/: $18,703,000. SURETY LICENSES c/: All except C.Z., Puerto Rico. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Arkwright-Boston Manufacturers Mutual Insurance Company. BUSINESS ADDRESS: 225 Wyman Street, Waltham, Mass. 02154. UNDERWRITING LIMITATION b/: $33,951,000. SURETY LICENSES c/: Cal., Colo., Conn., D.C., Ill., Ind., Iowa, Md., Mass., Mich., Minn., Mo., Nebr., Nev., N.H., N.J., N. Mex., N.Y., N.C., Ohio, R.I., Utah, Vt., Wash., Wyo. INCORPORATED IN: Mass. FEDERAL PROCESS AGENTS d/.

Associated Indemnity Corporation. BUSINESS ADDRESS: 3333 California Street, San Francisco, Cal. 94119. UNDERWRITING LIMITATION b/: $2,656,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Atlanta International Insurance Company. BUSINESS ADDRESS: 1700 A Commerce Drive, Suite 100, Atlanta, Ga. 30318. UNDERWRITING LIMITATION b/: $1,316,000. SURETY LICENSES c/: All except Ala., C.Z., Conn., Del., Fla., Guam, Hawaii, Ind., Ky., Me., Nebr., N.H., N.J., Oreg., Pa., Puerto Rico, Vt., Virgin Islands, Wis., Wyo. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Atlantic Insurance Company. BUSINESS ADDRESS: Post Office Box 1771, Dallas, Tex. 75221. UNDERWRITING LIMITATION b/: $922,000. SURETY LICENSES c/: All except C.Z., Conn., Del., Guam, Hawaii, Idaho, Iowa, La., Me., Mass., Nebr., N.H., N.J., N.Y., N. Dak., Oreg., Puerto Rico, R.I., Vt., Va., Virgin Islands, Wash., Wis., Wyo. INCORPORATED IN: Tex. FEDERAL PROCESS AGENTS d/.

Atlantic Mutual Insurance Company. BUSINESS ADDRESS: Atlantic Building, 45 Wall Street, New York, N.Y. 10005. UNDERWRITING LIMITATION b/: $11,245,000. SURETY LICENSES c/: All except Ala., C.Z., Guam, Hawaii, Virgin Islands. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Auto-Owners Insurance Company. BUSINESS ADDRESS: Post Office Box 30660, Lansing, Mich. 48909. UNDERWRITING LIMITATION b/: $29,789,000. SURETY LICENSES c/: Ala., Ariz., D.C., Fla., Ga., Ill., Ind., Iowa, Ky., Mich., Minn., Mo., Neb., N.C., N. Dak., Ohio, S.C., S. Dak., Tenn., Tex., Wis. INCORPORATED IN: Mich. FEDERAL PROCESS AGENTS d/.

The Automobile Insurance Company of Hartford, Connecticut. BUSINESS ADDRESS: 151 Farmington Avenue, Hartford, Conn. 06156. UNDERWRITING LIMITATION b/: $3,859,000. SURETY LICENSES c/: All except Ala., C.Z., Del., Guam. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

Balboa Insurance Company. BUSINESS ADDRESS: Post Office Box 1770, Newport Beach, Cal. 92663. UNDERWRITING LIMITATION b/: $7,367,000. SURETY LICENSES c/: All except C.Z., La., Puerto Rico. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Bankers Multiple Line Insurance Company. BUSINESS ADDRESS: 4810 North Kenneth Avenue, Chicago, Ill. 60630. UNDERWRITING LIMITATION b/: $2,888,000. SURETY LICENSES c/: All except C.Z., Del., Guam, Hawaii, Idaho, La., Me., Puerto Rico, Virgin Islands. INCORPORATED IN: Iowa. FEDERAL PROCESS AGENTS d/.

Binford Insurance Company. BUSINESS ADDRESS: 5105 Tollview Drive, Suite 195, Rolling Meadows, Ill. 60008. UNDERWRITING LIMITATION b/: $64,000. SURETY LICENSES c/: N. Mex. INCORPORATED IN: N. Mex. FEDERAL PROCESS AGENTS d/.

*See footnotes at end of table.

Boston Old Colony Insurance Company. BUSINESS ADDRESS: 80 Maiden Lane, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $1,184,000. SURETY LICENSES c/: All except C.Z., Guam. INCORPORATED IN: Mass. FEDERAL PROCESS AGENTS d/.

The Buckeye Union Insurance Company. BUSINESS ADDRESS: Post Office Box 1499, Columbus, Ohio 43216. UNDERWRITING LIMITATION b/: $18,287,000. SURETY LICENSES c/: D.C., Fla., Ill., Ind., Ky., Mich., Mo., N.Y., Ohio, Pa., Va., W. Va. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

Builders Mutual Surety Company. BUSINESS ADDRESS: 1545 Wilshire Boulevard, Suite 516, Los Angeles, Cal. 90017. UNDERWRITING LIMITATION b/: $94,000. SURETY LICENSES c/: Cal. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

CNA CASUALTY OF PUERTO RICO. BUSINESS ADDRESS: GPO Box SA, San Juan, Puerto Rico 00936. UNDERWRITING LIMITATION b/: $756,000. SURETY LICENSES c/: Puerto Rico. INCORPORATED IN: Puerto Rico. FEDERAL PROCESS AGENTS d/.

The Camden Fire Insurance Association. BUSINESS ADDRESS: 414 Walnut Street, Philadelphia, Pa. 19106. UNDERWRITING LIMITATION b/: $11,529,000. SURETY LICENSES c/: All except Ala., Ark., C.Z., Del., Ga., Guam, Hawaii, Idaho, La., Me., Miss., Mont., Nebr., N.H., Oreg., Puerto Rico, S.C., S. Dak., Tenn., Tex., Virgin Islands, Wash. (Fidelity only in Ala., S.C.) INCORPORATED IN: N.J. FEDERAL PROCESS AGENTS d/.

Carlisle Insurance Company. BUSINESS ADDRESS: 3435 Wilshire Boulevard, Suite 2504, Los Angeles, Cal. 90010. UNDERWRITING LIMITATION b/: $212,000. SURETY LICENSES c/: Cal. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Centennial Insurance Company. BUSINESS ADDRESS: Atlantic Building, 45 Wall Street, New York, N.Y. 10005. UNDERWRITING LIMITATION b/: $3,678,000. SURETY LICENSES c/: All except Ala., C.Z., Guam, Virgin Islands. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Central Mutual Insurance Company. BUSINESS ADDRESS: 800 South Washington Street, Van Wert, Ohio 45891. UNDERWRITING LIMITATION b/: $5,871,000. SURETY LICENSES c/: All except Ark., C.Z., Guam, N. Dak., Oreg., Puerto Rico, S. Dak., Virgin Islands, Wis. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

Century Indemnity Company. BUSINESS ADDRESS: 55 Elm Street, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $901,000. SURETY LICENSES c/: All except C.Z., Guam, Hawaii, Oreg., Puerto Rico, Virgin Islands. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

CENTURY SURETY COMPANY. BUSINESS ADDRESS: Suite 322, 1889 Fountain Square Court, Suite 322, Columbus, Ohio 43224. UNDERWRITING LIMITATION b/: $297,000. SURETY LICENSES c/: Ohio. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

The Charter Oak Fire Insurance Company. BUSINESS ADDRESS: One Tower Square, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $5,574,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

The Cincinnati Insurance Company. BUSINESS ADDRESS: Post Office Box 14567, Cincinnati, Ohio 45214. UNDERWRITING LIMITATION b/: $10,331,000. SURETY LICENSES c/: Ala., Ariz., Colo., Fla., Ga., Ill., Ind., Iowa, Ky., Mich., Miss., N.C., Ohio, Pa., S.C., Tenn., Tex., Va., W. Va., Wis. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

CLASSIFIED INSURANCE COMPANY. BUSINESS ADDRESS: Post Office Box 1407, Waukesha, Wis. 53187. UNDERWRITING LIMITATION b/: $242,000. SURETY LICENSES c/: Ariz., Cal., Idaho, Iowa, Nev., N. Mex., Oreg., Tex., Utah, Wash., Wis. INCORPORATED IN: Wis. FEDERAL PROCESS AGENTS d/.

Colonial Surety Company. BUSINESS ADDRESS: 9 Parkway Center, Pittsburgh, Pa. 15220. UNDERWRITING LIMITATION b/: $324,000. SURETY LICENSES c/: Del., N.J., Pa. INCORPORATED IN: Pa. FEDERAL PROCESS AGENTS d/.

Commercial Insurance Company of Newark, N.J. BUSINESS ADDRESS: 80 Maiden Lane, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $4,646,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: N.J. FEDERAL PROCESS AGENTS d/.

Commercial Union Insurance Company. BUSINESS ADDRESS: One Beacon Street, Boston, Mass. 02108. UNDERWRITING LIMITATION b/: $30,210,000. SURETY LICENSES c/: All except C.Z., Guam. INCORPORATED IN: Mass. FEDERAL PROCESS AGENTS d/.

Compass Insurance Company. BUSINESS ADDRESS: 1221 River Bend Drive, Dallas, Texas 75247. UNDERWRITING LIMITATION b/: $2,914,000. SURETY LICENSES c/: All except C.Z., Conn., Guam, Hawaii, Ind., Kans., Me., Md., N.J., N.C., Pa., R.I. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

The Connecticut Indemnity Company. BUSINESS ADDRESS: Post Office Box 420, Hartford, Conn. 06141. UNDERWRITING LIMITATION b/: $1,085,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

Consolidated Insurance Company. BUSINESS ADDRESS: 115 North Pennsylvania Street, Indianapolis, Ind. 46204. UNDERWRITING LIMITATION b/: $1,077,000. SURETY LICENSES c/: Fla., Idaho, Ill., Ind., Iowa, Ky., Mich., Ohio, Oreg., Wash., Wis. INCORPORATED IN: Ind. FEDERAL PROCESS AGENTS d/.

Continental Casualty Company. BUSINESS ADDRESS: CNA Plaza, Chicago, Ill. 60685. UNDERWRITING LIMITATION b/: $99,966,000. SURETY LICENSES c/: All except C.Z., Guam. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

The Continental Insurance Company. BUSINESS ADDRESS: 80 Maiden Lane, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $18,727,000. SURETY LICENSES c/: All. INCORPORATED IN: N.H. FEDERAL PROCESS AGENTS d/.

Continental Reinsurance Corporation. BUSINESS ADDRESS: 80 Maiden Lane, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $9,313,000. SURETY LICENSES c/: Alaska, Ariz., Ark., Cal., Colo., D.C., Fla., Hawaii, Idaho, Ill., Ind., Iowa, Mich., Mont., Nev., N.J., N. Mex., N.Y., N.C., Okla., Oreg., Tex., Utah, Va., Wash., Wyo. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

*See footnotes at end of table.

Continental Surety and Fidelity Insurance Company. BUSINESS ADDRESS: Post Office Box 730, Littleton, Colo. 80160. UNDERWRITING LIMITATION b/: $71,000. SURETY LICENSES c/: Colo., N. Mex., INCORPORATED IN: Colo. FEDERAL PROCESS AGENTS d/.

Continental Western Insurance Company. BUSINESS ADDRESS: Post Office Box 1594, Des Moines, Iowa 50306. UNDERWRITING LIMITATION b/: $2,775,000. SURETY LICENSES c/: Ariz., Ark., Colo., D.C., Idaho, Ill., Ind., Iowa, Kans., Ky., Me., Mich., Minn., Mo., Mont., Nebr., Nev., N. Mex., N. Dak., Okla., S. Dak., Tenn., Tex., Utah, Wis., Wyo. INCORPORATED IN: Iowa. FEDERAL PROCESS AGENTS d/.

Contractor's Bonding and Insurance Company. BUSINESS ADDRESS: 1213 Valley Street, Seattle, Wash. 98109. UNDERWRITING LIMITATION b/: $125,000. SURETY LICENSES c/: Wash. INCORPORATED IN: Wash. FEDERAL PROCESS AGENTS d/.

Cooperativa de Seguros Multiples de Puerto Rico. BUSINESS ADDRESS: G.P.O. Box 3846, San Juan, Puerto Rico 00936. UNDERWRITING LIMITATION b/: $1,752,000. SURETY LICENSES c/: Puerto Rico. INCORPORATED IN: Puerto Rico. FEDERAL PROCESS AGENTS d/.

Cornhusker Casualty Company. BUSINESS ADDRESS: Post Office Box 14490, Omaha, Nebr. 68124. UNDERWRITING LIMITATION b/: $2,171,000. SURETY LICENSES c/: Colo., Iowa, Kans, Nebr., S. Dak., Wyo. INCORPORATED IN: Nebr. FEDERAL PROCESS AGENTS d/.

CORONET INSURANCE COMPANY. BUSINESS ADDRESS: 3500 West Peterson Avenue, Chicago, Ill. 60659. UNDERWRITING LIMITATION b/: $701,000. SURETY LICENSES c/: Ill. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

Cotton States Mutual Insurance Company. BUSINESS ADDRESS: Post Office Box 2214, Atlanta, Ga. 30301. UNDERWRITING LIMITATION b/: $2,744,000. SURETY LICENSES c/: Ala., Fla., Ga., Miss., N.C., S.C., Tenn. INCORPORATED IN: Ga. FEDERAL PROCESS AGENTS d/.

Covenant Mutual Insurance Company. BUSINESS ADDRESS: 95 Woodland Street, Hartford, Conn. 06105. UNDERWRITING LIMITATION b/: $3,102,000. SURETY LICENSES c/: Ariz., Cal., Conn., Fla., N.H., Oreg., Wash. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

Cumis Insurance Society, Inc. BUSINESS ADDRESS: Post Office Box 1084, Madison, Wis. 53701. UNDERWRITING LIMITATION b/: $2,791,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: Wis. FEDERAL PROCESS AGENTS d/.

DELTA CASUALTY COMPANY. BUSINESS ADDRESS: 4711 North Clark Street, Chicago, Ill. 60640. UNDERWRITING LIMITATION b/: $294,000. SURETY LICENSES c/: Ill., Iowa. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

Dependable Insurance Company, Inc. BUSINESS ADDRESS: Post Office Box 10169, Jacksonville, Fla. 32207. UNDERWRITING LIMITATION b/: $1,222,000. SURETY LICENSES c/: All except C.Z., Conn., Guam, Me., Mass., N.H., N.J., N.Y., Puerto Rico, R.I., Vt., Virgin Islands. INCORPORATED IN: Fla. FEDERAL PROCESS AGENTS d/.

DEVELOPERS INSURANCE COMPANY. BUSINESS ADDRESS: Post Office Box 1159, Los Alamitos, Cal. 90720. UNDERWRITING LIMITATION b/: $183,000. SURETY LICENSES c/: Cal., Nev. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Eastern Indemnity Company of Maryland. BUSINESS ADDRESS: 6001 Montrose Rd., Rockville, Md. 20852. UNDERWRITING LIMITATION b/: $280,000. SURETY LICENSES c/: Ariz., Ark., D.C., Ind., La., Md., Mich., Miss., N. Mex., Oreg., Pa., S.C., Tex., Va. INCORPORATED IN: Md. FEDERAL PROCESS AGENTS d/.

Empire Fire and Marine Insurance Company. BUSINESS ADDRESS: 1624 Douglas Street, Omaha, Nebr. 68102. UNDERWRITING LIMITATION b/: $2,088,000. SURETY LICENSES c/: All except Cal., C.Z., Conn., Del., D.C., Guam, La., Md., Mass., N.J., N.Y., Oreg., Puerto Rico, R.I., Tenn., Virgin Islands, W. Va. INCORPORATED IN: Nebr. FEDERAL PROCESS AGENTS d/.

The Employers' Fire Insurance Company. BUSINESS ADDRESS: One Beacon Street, Boston, Mass. 02108. UNDERWRITING LIMITATION b/: $3,904,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico. INCORPORATED IN: Mass. FEDERAL PROCESS AGENTS d/.

EMPLOYERS INSURANCE OF WAUSAU A Mutual Company. BUSINESS ADDRESS: 2000 Westwood Drive, Wausau, Wis. 54401. UNDERWRITING LIMITATION b/: $44,309,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: Wis. FEDERAL PROCESS AGENTS d/.

Employers Mutual Casualty Company. BUSINESS ADDRESS: Post Office Box 712, Des Moines, Iowa 50303. UNDERWRITING LIMITATION b/: $10,476,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Iowa. FEDERAL PROCESS AGENTS d/.

Employers Reinsurance Corporation. BUSINESS ADDRESS: 5200 Metcalf, Post Office Box 2991, Overland Park, Kansas 66201. UNDERWRITING LIMITATION b/: $27,665,000. SURETY LICENSES c/: All except C.Z., Guam, Hawaii, Puerto Rico, Virgin Islands. INCORPORATED IN: Mo. FEDERAL PROCESS AGENTS d/.

ENNIA REINSURANCE COMPANY OF AMERICA. BUSINESS ADDRESS: 127 John Street, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $1,036,000. SURETY LICENSES c/: Idaho, Iowa, N.Y., Tex. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Equitable General Insurance Company. BUSINESS ADDRESS: One Equitable General Place, Fort Worth, Tex. 76151. UNDERWRITING LIMITATION b/: $6,114,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: Iowa. FEDERAL PROCESS AGENTS d/.

Farmers Alliance Mutual Insurance Company. BUSINESS ADDRESS: 1122 North Main Street, McPherson, Kansas 67460. UNDERWRITING LIMITATION b/: $2,251,000. SURETY LICENSES c/: Ariz., Ark., Cal., Colo., Idaho, Ill., Ind., Iowa, Kans., Md., Mass., Mich., Minn., Mo., Mont., Nebr., N.H., N.J., N. Mex., N.Y., N.C., N. Dak., Ohio, Okla., Oreg., S.C., S. Dak., Tex., Vt., Wash., Wyo. INCORPORATED IN: Kans. FEDERAL PROCESS AGENTS d/.

Farmland Mutual Insurance Company. BUSINESS ADDRESS: 1963 Bell Avenue, Des Moines, Iowa 50315. UNDERWRITING LIMITATION b/: $2,173,000. SURETY LICENSES c/: Ark., Colo., Ill., Ind., Iowa, Kans., Ky., Minn., Mo., Nebr., N. Dak., Okla., S. Dak., Tex., Wis., Wyo. INCORPORATED IN: Iowa. FEDERAL PROCESS AGENTS d/.

*See footnotes at end of table.

Federal Insurance Company. BUSINESS ADDRESS: 51 John F. Kennedy Parkway, Short Hills, N.J. 07078. UNDERWRITING LIMITATION b/: $35,155,000. SURETY LICENSES c/: All. INCORPORATED IN: N.J. FEDERAL PROCESS AGENTS d/.

Federated Mutual Insurance Company. BUSINESS ADDRESS: 129 East Broadway, Owatonna, Minn. 55060. UNDERWRITING LIMITATION b/: $16,206,000. SURETY LICENSES c/: All except Alaska, C.Z., Guam, Hawaii, N.H., Puerto Rico, Virgin Islands. INCORPORATED IN: Minn. FEDERAL PROCESS AGENTS d/.

The Fidelity and Casualty Company of New York. BUSINESS ADDRESS: 80 Maiden Lane, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $7,305,000. SURETY LICENSES c/: All except Guam, Virgin Islands. INCORPORATED IN: N.H. FEDERAL PROCESS AGENTS d/.

Fidelity and Deposit Company. BUSINESS ADDRESS: Charles and Lexington Streets, Baltimore, Md. 21203. UNDERWRITING LIMITATION b/: $251,000. SURETY LICENSES c/: Md., Tex. INCORPORATED IN: Md. FEDERAL PROCESS AGENTS d/.

Fidelity and Deposit Company of Maryland. BUSINESS ADDRESS: Charles and Lexington Streets, Baltimore, Md. 21203. UNDERWRITING LIMITATION b/: $9,663,000. SURETY LICENSES c/: All except C.Z., Guam. INCORPORATED IN: Md. FEDERAL PROCESS AGENTS d/.

Fireman's Fund Insurance Company. BUSINESS ADDRESS: 3333 California Street, San Francisco, Cal. 94118. UNDERWRITING LIMITATION b/: $78,282,000. SURETY LICENSES c/: All except C.Z. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Firemen's Insurance Company of Newark, New Jersey. BUSINESS ADDRESS: 80 Maiden Lane, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $28,326,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: N.J. FEDERAL PROCESS AGENTS d/.

First Financial Insurance Company. BUSINESS ADDRESS: 401-417 Fayette Avenue, Springfield, Ill. 62704. UNDERWRITING LIMITATION b/: $463,000. SURETY LICENSES c/: Ala., Alaska, Ariz., Ark., Colo., Del., Ga., Idaho, Ill., Ind., Iowa, Ky., Md., Miss., Mo., Mont., N. Mex., N. Dak., Okla., Oreg., S. Dak., Utah, Wash. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

First Insurance Company of Hawaii, Ltd. BUSINESS ADDRESS: Post Office Box 2866, Honolulu, Hawaii 96803. UNDERWRITING LIMITATION b/: $2,304,000. SURETY LICENSES c/: Alaska, Ariz., Cal., Colo., Guam, Hawaii, Ill., Ind., La., Minn., Mo., N.Y., Oreg., Utah, Wash. INCORPORATED IN: Hawaii. FEDERAL PROCESS AGENTS d/.

First National Insurance Company of America. BUSINESS ADDRESS: SAFECO Plaza, Seattle, Wash. 98185. UNDERWRITING LIMITATION b/: $2,206,000. SURETY LICENSES c/: All except C.Z., Guam, Hawaii, Me., N.H., N.J., N.Y., Puerto Rico, Vt., Virgin Islands. INCORPORATED IN: Wash. FEDERAL PROCESS AGENTS d/.

FLORIDA FARM BUREAU MUTUAL INSURANCE COMPANY. BUSINESS ADDRESS: Post Office Box 730, Gainesville, Fla. 32602. UNDERWRITING LIMITATION b/: $584,000. SURETY LICENSES c/: Fla. INCORPORATED IN: Fla. FEDERAL PROCESS AGENTS d/.

Fremont Indemnity Company. BUSINESS ADDRESS: 1709 West Eighth Street, Los Angeles, Cal. 90017. UNDERWRITING LIMITATION b/: $10,033,000. SURETY LICENSES c/: Alaska, Ariz., Cal., Colo., Idaho, Ill., Iowa, La. Mich., Mont., Nev., N. Mex., Ohio, Oreg., Pa., S. Dak., Tex., Utah, Wash. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Fritz Insurance Company. BUSINESS ADDRESS: 5105 Tollview Drive, Suite 195, Rolling Meadows, Ill. 60008. UNDERWRITING LIMITATION b/: $59,000. SURETY LICENSES c/: N. Mex. INCORPORATED IN: N. Mex. FEDERAL PROCESS AGENTS d/.

GENERAL CASUALTY COMPANY OF WISCONSIN. BUSINESS ADDRESS: Post Office Box 369, Madison, Wis. 53701. UNDERWRITING LIMITATION b/: $3,303,000. SURETY LICENSES c/: Ill., Ind., Iowa, Kans., Minn., Miss., Neb., N. Dak., S. Dak., Wis., (Reinsurance only in N.Y.) INCORPORATED IN: Wis. FEDERAL PROCESS AGENTS d/.

General Insurance Company of America. BUSINESS ADDRESS: SAFECO Plaza, Seattle, Wash. 98185. UNDERWRITING LIMITATION b/: $13,485,000. SURETY LICENSES c/: All. INCORPORATED IN: Wash. FEDERAL PROCESS AGENTS d/.

General Reinsurance Corporation. BUSINESS ADDRESS: 600 Steamboat Road, Greenwich, Conn. 06830. UNDERWRITING LIMITATION b/: $74,687,000. SURETY LICENSES c/: All except C.Z., Guam, Hawaii, Puerto Rico, Virgin Islands. INCORPORATED IN: Del. FEDERAL PROCESS AGENTS d/.

GLACIER GENERAL ASSURANCE COMPANY. BUSINESS ADDRESS: Post Office Box 4626, Missoula, Mont. 59806. UNDERWRITING LIMITATION b/: $1,146,000. SURETY LICENSES c/: Cal., Idaho, Mo., N. Dak., Wyo. INCORPORATED IN: Mont. FEDERAL PROCESS AGENTS d/.

The Glens Falls Insurance Company. BUSINESS ADDRESS: 80 Maiden Lane, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $1,684,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: Del. FEDERAL PROCESS AGENTS d/.

Global Surety & Insurance Co. BUSINESS ADDRESS: 160 Kiewit Plaza, Omaha, Nebr. 68131. UNDERWRITING LIMITATION b/: $1,599,000. SURETY LICENSES c/: Ariz., Cal., Mont., Nebr., S. Dak. INCORPORATED IN: Nebr. FEDERAL PROCESS AGENTS d/.

Globe Indemnity Company. BUSINESS ADDRESS: 150 William Street, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $10,755,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Del. FEDERAL PROCESS AGENTS d/.

Grain Dealers Mutual Insurance Company. BUSINESS ADDRESS: Post Office Box 1747, Indianapolis, Ind. 46206. UNDERWRITING LIMITATION b/: $1,900,000. SURETY LICENSES c/: All except Ala., Alaska, C.Z., Conn., Del., D.C., Fla., Guam, Idaho, Me., Md., Mass., Mont., N.H., N.J., N.Y., N. Dak., Pa., Puerto Rico, R.I., Utah, Vt., Virgin Islands, W. Va. INCORPORATED IN: Ind. FEDERAL PROCESS AGENTS d/.

Granite State Insurance Company. BUSINESS ADDRESS: Post Office Box 960, Manchester, N.H. 03107. UNDERWRITING LIMITATION b/: $594,000. SURETY LICENSES c/: All except C.Z., Conn., Del., Guam, Hawaii, Idaho, Puerto Rico. INCORPORATED IN: N.H. FEDERAL PROCESS AGENTS d/.

*See footnotes at end of table.

Great American Insurance Company. BUSINESS ADDRESS: 580 Walnut Street, Cincinnati, Ohio 45202. UNDERWRITING LIMITATION b/: $38,585,000. SURETY LICENSES c/: All except C.Z., Guam. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

Great Northern Insurance Company. BUSINESS ADDRESS: 190 River Road, Summit, N.J. 07901. UNDERWRITING LIMITATION b/: $2,073,000. SURETY LICENSES c/: All except Ala., Ark., Cal., C.Z., Conn., Guam, Idaho, N.C., Puerto Rico, Tenn., Virgin Islands, W. Va. INCORPORATED IN: Minn. FEDERAL PROCESS AGENTS d/.

Greater New York Mutual Insurance Company. BUSINESS ADDRESS: 215 Lexington Avenue, New York, N.Y. 10016. UNDERWRITING LIMITATION b/: $4,491,000. SURETY LICENSES c/: All except Alaska, Ark., C.Z., Guam, Hawaii, La., N.J., Oreg., S.C., Tenn., Virgin Islands. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Gulf Insurance Company. BUSINESS ADDRESS: Post Office Box 1771, Dallas, Tex. 75221. UNDERWRITING LIMITATION b/: $7,618,000. SURETY LICENSES c/: All except C.Z., Guam, Idaho, N.J., Puerto Rico, Virgin Islands. INCORPORATED IN: Mo. FEDERAL PROCESS AGENTS d/.

The Hamilton Mutual Insurance Company of Cincinnati, Ohio. BUSINESS ADDRESS: 1520 Madison Road, Cincinnati, Ohio 45206. UNDERWRITING LIMITATION b/: $468,000. SURETY LICENSES c/: Ind., Ky., Mich., Ohio. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

The Hanover Insurance Company. BUSINESS ADDRESS: 440 Lincoln Street, Worcester, Mass. 01605. UNDERWRITING LIMITATION b/: $19,884,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: N.H. FEDERAL PROCESS AGENTS d/.

Harleysville Mutual Insurance Company. BUSINESS ADDRESS: 355 Maple Avenue, Harleysville, Pa. 19438. UNDERWRITING LIMITATION b/: $10,501,000. SURETY LICENSES c/: Cal., Colo., Del., D.C., Ga., Ill., Ind., Iowa, Kans., Md., Mich., Minn., Miss., Mo., N.J., N. Mex., N.C., Ohio, Okla., Pa., S.C., Tenn., Tex., Utah, Va., W. Va. INCORPORATED IN: Pa. FEDERAL PROCESS AGENTS d/.

Hartford Accident and Indemnity Company. BUSINESS ADDRESS: Hartford Plaza, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $75,738,000. SURETY LICENSES c/: All except Guam. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

Hartford Casualty Insurance Company. BUSINESS ADDRESS: Hartford Plaza, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $8,385,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: N.J. FEDERAL PROCESS AGENTS d/.

Hartford Fire Insurance Company. BUSINESS ADDRESS: Hartford Plaza, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $137,622,000. SURETY LICENSES c/: All except C.Z. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

Hartford Insurance Company of Alabama. BUSINESS ADDRESS: Hartford Plaza, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $850,000. SURETY LICENSES c/: Ala. INCORPORATED IN: Ala. FEDERAL PROCESS AGENTS d/.

Hartford Insurance Company of Illinois. BUSINESS ADDRESS: Hartford Plaza, Hartford Conn. 06115. UNDERWRITING LIMITATION b/: $3,061,000. SURETY LICENSES c/: Ill. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

Hartford Insurance Company of the Midwest. BUSINESS ADDRESS: Hartford Plaza, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $549,000. SURETY LICENSES c/: Ind. INCORPORATED IN: Ind. FEDERAL PROCESS AGENTS d/.

Hartford Insurance Company of the Southeast. BUSINESS ADDRESS: Hartford Plaza, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $294,000. SURETY LICENSES c/: Fla., Ga., La. INCORPORATED IN: Fla. FEDERAL PROCESS AGENTS d/.

Hawkeye-Security Insurance Company. BUSINESS ADDRESS: 1017 Walnut Street, Des Moines, Iowa 50307. UNDERWRITING LIMITATION b/: $2,325,000. SURETY LICENSES c/: Ariz., Colo., D.C., Idaho, Ill., Ind., Iowa, Kans., Md., Mich., Minn., Mo., Mont., Nebr., Nev., N. Mex., N. Dak., Ohio, Pa., S. Dak., Tex., Utah, Va., Wis., Wyo. INCORPORATED IN: Iowa. FEDERAL PROCESS AGENTS d/.

Heritage Insurance Company of America. BUSINESS ADDRESS: 7366 North Lincoln Avenue, Lincolnwood, Ill. 60646. UNDERWRITING LIMITATION b/: $446,000. SURETY LICENSES c/: Alaska, Ariz., Ark., Colo., Fla., Ga., Ill., Mass., Mo., Nev., Okla., Oreg., Va., Wash. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

Highlands Insurance Company. BUSINESS ADDRESS: 600 Jefferson Street, Houston, Tex. 77002. UNDERWRITING LIMITATION b/: $14,922,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: Tex. FEDERAL PROCESS AGENTS d/.

Highlands Underwriters Insurance Company. BUSINESS ADDRESS: 600 Jefferson Street, Houston, Tex. 77002. UNDERWRITING LIMITATION b/: $1,122,000. SURETY LICENSES c/: Ala., Ariz., Ark., Cal., Fla., Ga., La., Miss., N. Mex., Okla., S.C., Tex. INCORPORATED IN: Tex. FEDERAL PROCESS AGENTS d/.

The Home Indemnity Company. BUSINESS ADDRESS: 59 Maiden Lane, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $4,783,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico. INCORPORATED IN: N.H. FEDERAL PROCESS AGENTS d/.

The Home Insurance Company. BUSINESS ADDRESS: 59 Maiden Lane, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $52,661,000. SURETY LICENSES c/: All except C.Z. INCORPORATED IN: N.H. FEDERAL PROCESS AGENTS d/.

Houston General Insurance Company. BUSINESS ADDRESS: Post Office Box 2932, Fort Worth, Tex. 76113-2932. UNDERWRITING LIMITATION b/: $1,101,000. SURETY LICENSES c/: Ala., Alaska, Ariz., Ark., Cal., Colo., Del., Fla., Ga., Ill., Iowa, Kans., Ky., La., Mich., Miss., Mo., Mont., N. Mex., N.Y., N. Dak., Okla., Oreg., S.C., S. Dak., Tenn., Tex., Utah, Wash., Wyo. INCORPORATED IN: Tex. FEDERAL PROCESS AGENTS d/.

Hudson Insurance Company. BUSINESS ADDRESS: 280 Park Avenue, New York, N.Y. 10017. UNDERWRITING LIMITATION b/: $1,896,000. SURETY LICENSES c/: Cal., Del., Iowa, N.H., N.Y. (Reinsurance only in Colo., Md.) INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

*See footnotes at end of table.

IGF Insurance Company. BUSINESS ADDRESS: 315 Shops Building, Des Moines, Iowa 50309. UNDERWRITING LIMITATION b/: $370,000. SURETY LICENSES c/: Ariz., Colo., Iowa, Kans., Mich., Minn., Mo., Mont., Nebr., N. Dak., S. Dak., Wis. INCORPORATED IN: Iowa. FEDERAL PROCESS AGENTS d/.

INA Reinsurance Company. BUSINESS ADDRESS: 1 Franklin Plaza, Philadelphia, Pa. 19102. UNDERWRITING LIMITATION b/: $12,784,000. SURETY LICENSES c/: All except C.Z., Guam, Me., Virgin Islands. INCORPORATED IN: Del. FEDERAL PROCESS AGENTS d/.

INA Underwriters Insurance Company. BUSINESS ADDRESS: 1600 Arch Street, Philadelphia, Pa. 19101. UNDERWRITING LIMITATION b/: $11,458,000. SURETY LICENSES c/: All except Hawaii, La., Puerto Rico. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

IDEAL MUTUAL INSURANCE COMPANY. BUSINESS ADDRESS: 260 Madison Avenue, New York, N.Y. 10016. UNDERWRITING LIMITATION b/: $1,317,000. SURETY LICENSES c/: All except C.Z., Conn., Guam, N.H. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Illinois National Insurance Co. BUSINESS ADDRESS: 133 South 4th Street, Springfield, Ill. 62700. UNDERWRITING LIMITATION b/: $1,142,000. SURETY LICENSES c/: Alaska, Ill., Ind., Iowa, Ky., Md., Mo., Mont., Nebr., N. Mex., N.Y., N. Dak., Ohio, S. Dak., Tex., Utah, Vt., W. Va. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

Indemnity Company of California. BUSINESS ADDRESS: 820 North Parton Street, Santa Ana, Cal. 92701. UNDERWRITING LIMITATION b/: $178,000. SURETY LICENSES c/: Cal. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Indemnity Insurance Company of North America. BUSINESS ADDRESS: 1600 Arch Street, Philadelphia, Pa. 19101. UNDERWRITING LIMITATION b/: $2,913,000. SURETY LICENSES c/: All. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Indiana Insurance Company. BUSINESS ADDRESS: 115 North Pennsylvania Street, Indianapolis, Ind. 46204. UNDERWRITING LIMITATION b/: $5,807,000. SURETY LICENSES c/: Fla., Idaho, Ill., Ind., Iowa, Ky., Mich., Ohio, Oreg., Wash., Wis. INCORPORATED IN: Ind. FEDERAL PROCESS AGENTS d/.

Indiana Lumbermens Mutual Insurance Company. BUSINESS ADDRESS: Post Office Box 68600, Indianapolis, Ind. 46268. UNDERWRITING LIMITATION b/: $1,087,000. SURETY LICENSES c/: Ala., Ariz., Ark., Cal., Colo., Fla., Ga., Idaho, Ill., Ind., Iowa, Kans., Ky., La., Mich., Minn., Miss., Mo., Mont., Nebr., N. Mex., N.C., N. Dak., Ohio, Okla., Oreg., Pa., S.C., S. Dak., Tenn., Tex., Utah, Va., Wash., Wis. INCORPORATED IN: Ind. FEDERAL PROCESS AGENTS d/.

Industrial Indemnity Company. BUSINESS ADDRESS: Post Office Box 3660, San Francisco, Cal. 94119. UNDERWRITING LIMITATION b/: $11,565,000. SURETY LICENSES c/: All except C.Z., Conn., Puerto Rico, Virgin Islands, W. Va. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Inland Insurance Company. BUSINESS ADDRESS: Post Office Box 80468, Lincoln, Nebr. 68501. UNDERWRITING LIMITATION b/: $1,071,000. SURETY LICENSES c/: Colo., Iowa, Kans., Minn., Mont., Nebr., N. Dak., Okla., S. Dak., Wyo. INCORPORATED IN: Nebr. FEDERAL PROCESS AGENTS d/.

Insurance Company of North America. BUSINESS ADDRESS: 1600 Arch Street, Philadelphia, Pa. 19101. UNDERWRITING LIMITATION b/: $74,838,000. SURETY LICENSES c/: All. INCORPORATED IN: Pa. FEDERAL PROCESS AGENTS d/.

Insurance Company of the Pacific Coast. BUSINESS ADDRESS: Post Office Box 1771, Dallas, Tex. 75221. UNDERWRITING LIMITATION b/: $638,000. SURETY LICENSES c/: Cal. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

The Insurance Company of the State of Pennsylvania. BUSINESS ADDRESS: 70 Pine Street, New York, N.Y. 10270. UNDERWRITING LIMITATION b/: $4,277,000. SURETY LICENSES c/: All except C.Z., Guam, Kans., Puerto Rico. INCORPORATED IN: Pa. FEDERAL PROCESS AGENTS d/.

Insurance Company of the West. BUSINESS ADDRESS: Post Office Box 81063, San Diego, Cal. 92138. UNDERWRITING LIMITATION b/: $1,591,000. SURETY LICENSES c/: Ala., Ariz., Cal., Nev., Oreg., Wash. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Integon Indemnity Corporation. BUSINESS ADDRESS: Post Office Box 3199, Winston-Salem, N.C. 27152. UNDERWRITING LIMITATION b/: $483,000. SURETY LICENSES c/: Ala., Alaska, Ariz., Ark., Fla., Ga., Idaho, Ind., Iowa, Kans., Ky., La., Miss., Mo., Nebr., Nev., N. Mex., N.C., Okla., Oreg., S.C., Tenn., Tex., Utah, Va., Wash., W. Va. INCORPORATED IN: N.C. FEDERAL PROCESS AGENTS d/.

Integrity Insurance Company. BUSINESS ADDRESS: Mack Centre Drive - 5th Floor, Paramus, N.J. 07652. UNDERWRITING LIMITATION b/: $1,651,000. SURETY LICENSES c/: All except C.Z., Guam, Nebr., Puerto Rico, Virgin Islands, Wyo. INCORPORATED IN: N.J. FEDERAL PROCESS AGENTS d/.

Integrity Mutual Insurance Company. BUSINESS ADDRESS: Post Office Box 539, Appleton, Wis. 54912. UNDERWRITING LIMITATION b/: $305,000. SURETY LICENSES c/: Minn. INCORPORATED IN: Wis. FEDERAL PROCESS AGENTS d/.

International Cargo and Surety Insurance Company. BUSINESS ADDRESS: 700 Nicholas Boulevard, Elk Grove Village, Ill. 60007. UNDERWRITING LIMITATION b/: $60,000. SURETY LICENSES c/: N. Mex. INCORPORATED IN: N. Mex. FEDERAL PROCESS AGENTS d/.

International Fidelity Insurance Company. BUSINESS ADDRESS: 24 Commerce Street, Newark, N.J. 07102. UNDERWRITING LIMITATION b/: $175,000. SURETY LICENSES c/: Alaska, Ariz., Ark., Colo., Del., Fla., Idaho, Ill., Ind., La., Md., Mass., Mich., Miss., Mo., Mont., Nev., N.J., N. Mex., N.Y., N. Dak., Okla., Oreg., Pa., Puerto Rico, S.C., S. Dak., Tex., Utah, Wash., Wyo. INCORPORATED IN: N.J. FEDERAL PROCESS AGENTS d/.

International Insurance Company. BUSINESS ADDRESS: 233 South Wacker Drive, Chicago, Ill. 60606. UNDERWRITING LIMITATION b/: $3,074,000. SURETY LICENSES c/: All except C.Z., Del., Guam, Hawaii, Kans., La., S.C., Virgin Islands. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

International Service Insurance Company. BUSINESS ADDRESS: Post Office Box 1040, Fort Worth, Tex. 76101. UNDERWRITING LIMITATION b/: $1,983,000. SURETY LICENSES c/: Alaska, Cal., Nebr., N. Mex., Tex. INCORPORATED IN: Tex. FEDERAL PROCESS AGENTS d/.

*See footnotes at end of table.

Investors Insurance Company of America. BUSINESS ADDRESS: 145 No. Franklin Turnpike, Ramsey, N.J. 07446. UNDERWRITING LIMITATION b/: $1,019,000. SURETY LICENSES c/: Fla., Ga., N.J., N.Y. INCORPORATED IN: N.J. FEDERAL PROCESS AGENTS d/.

Iowa National Mutual Insurance Company. BUSINESS ADDRESS: 518 Second Avenue, S.E., Post Office Box 111, Cedar Rapids, Iowa 52406. UNDERWRITING LIMITATION b/: $4,984,000. SURETY LICENSES c/: All except Alaska, Ariz., Cal., C.Z., Conn., Del., D.C., Guam, Hawaii, La., Me., Md., Mass., Miss., Nev., N.H., N.J., N. Mex., Oreg., Puerto Rico, R.I., Tex., Vt., Virgin Islands, W. Va. INCORPORATED IN: Iowa. FEDERAL PROCESS AGENTS d/.

John Deere Insurance Company. BUSINESS ADDRESS: 34th Avenue and 80th St., Moline, Ill. 61265. UNDERWRITING LIMITATION b/: $4,057,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

The Kansas Bankers Surety Company. BUSINESS ADDRESS: Post Office Box 1654, Topeka, Kans. 66601. UNDERWRITING LIMITATION b/: $202,000. SURETY LICENSES c/: D.C., Kans., Mo., Nebr., Wis. INCORPORATED IN: Kans. FEDERAL PROCESS AGENTS d/.

Kansas City Fire and Marine Insurance Company. BUSINESS ADDRESS: 80 Maiden Lane, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $887,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Mo. FEDERAL PROCESS AGENTS d/.

Lawyers Surety Corporation. BUSINESS ADDRESS: 1221 River Bend Drive, Dallas, Tex. 75247. UNDERWRITING LIMITATION b/: $318,000. SURETY LICENSES c/: Ala., Ark., Cal., Fla., Ga., Ill., Ky., Miss., N.C., Okla., S.C., Tenn., Tex. INCORPORATED IN: Tex. FEDERAL PROCESS AGENTS d/.

Liberty Mutual Insurance Company. BUSINESS ADDRESS: 175 Berkeley Street, Boston, Mass. 02117. UNDERWRITING LIMITATION b/: $105,055,000. SURETY LICENSES c/: All except Guam. INCORPORATED IN: Mass. FEDERAL PROCESS AGENTS d/.

Lumbermens Mutual Casualty Company. BUSINESS ADDRESS: Long Grove, Ill. 60049. UNDERWRITING LIMITATION b/: $78,466,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

Maine Bonding and Casualty Company. BUSINESS ADDRESS: Post Office Box 448, Portland, Me. 04112. UNDERWRITING LIMITATION b/: $819,000. SURETY LICENSES c/: Me., Mass., N.H., R.I., Vt. INCORPORATED IN: Me. FEDERAL PROCESS AGENTS d/.

Maryland Casualty Company. BUSINESS ADDRESS: Post Office Box 1228, Baltimore, Md. 21203. UNDERWRITING LIMITATION b/: $40,081,000. SURETY LICENSES c/: All except C.Z., Guam, Mass. INCORPORATED IN: Md. FEDERAL PROCESS AGENTS d/.

Massachusetts Bay Insurance Company. BUSINESS ADDRESS: 440 Lincoln Street, Worcester, Mass. 01605. UNDERWRITING LIMITATION b/: $626,000. SURETY LICENSES c/: Ark., Cal., Colo., Conn., D.C., Fla., Ga., Ill., Ind., Iowa, Kans., Mo., Md., Mass., Mich., Minn., Miss., Mo., Nebr., N.H., N.J., N.Y., N.C., Ohio, Okla., Pa., R.I., S.C., Tenn., Tex., Vt., Va., Wash., Wis. INCORPORATED IN: Mass. FEDERAL PROCESS AGENTS d/.

Mead Reinsurance Corporation. BUSINESS ADDRESS: Courthouse Plaza, N.E., Dayton, Ohio 45463. UNDERWRITING LIMITATION b/: $1,151,000. SURETY LICENSES c/: All except Ark., C.Z., Conn., D.C., Guam, Hawaii, Ill., Kans., Me., Md., Mass., Mo., Nebr., N.H., N.J., Puerto Rico, R.I., S. Dak., Vt., Virgin Islands, W. Va., Wis., Wyo. (Reinsurance only in Kans.) INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

The Mercantile and General Reinsurance Company of America. BUSINESS ADDRESS: 130 John Street, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $2,167,000. SURETY LICENSES c/: Cal., D.C., Idaho, Iowa, Ohio, Pa., Utah, Wis. (Reinsurance only in Colo., Conn., Ind., Kans., Okla., S.C., Tenn., Tex., W. Va.) INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Merchants Bonding Company (Mutual). 1* BUSINESS ADDRESS: 2100 Grand Avenue, Des Moines, Iowa 50312. UNDERWRITING LIMITATION b/: $296,000. SURETY LICENSES c/: Ariz., Cal., Iowa, Kans., Nebr., Okla., Tex. INCORPORATED IN: Iowa. FEDERAL PROCESS AGENTS d/.

Meritplan Insurance Company. BUSINESS ADDRESS: Post Office Box 1770, Newport Beach, Cal. 92660. UNDERWRITING LIMITATION b/: $769,000. SURETY LICENSES c/: Ala., Ariz., Cal., Colo., Del., Fla., Ga., Hawaii, Ind., Iowa, Kan., Ky., La., Md., Mich., Minn., Miss., Mont., Nebr., Nev., N. Mex., N.Y., Ohio, Oreg., S.C., Tex., Utah, Wash., Wis. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Michigan Millers Mutual Insurance Company. BUSINESS ADDRESS: Post Office Box 30060, Lansing, Mich. 48909. UNDERWRITING LIMITATION b/: $4,406,000. SURETY LICENSES c/: Ark., Cal., Colo., Fla., Ind., Kans., Ky., Mich., Mo., Nebr., N.J., N.Y., N.C., Ohio, Okla., Pa., Tenn., Tex., Va., Wash. INCORPORATED IN: Mich. FEDERAL PROCESS AGENTS d/.

Michigan Mutual Insurance Company. BUSINESS ADDRESS: 28 West Adams Avenue, Detroit, Mich. 48226. UNDERWRITING LIMITATION b/: $13,099,000. SURETY LICENSES c/: All except C.Z., Del., D.C., Guam, Hawaii, Oreg., Puerto Rico, Virgin Islands. (Fidelity only in D.C.) INCORPORATED IN: Mich. FEDERAL PROCESS AGENTS d/.

Mid-Century Insurance Company. BUSINESS ADDRESS: Post Office Box 2478, Terminal Annex, Los Angeles, Cal. 90051. UNDERWRITING LIMITATION b/: $2,230,000. SURETY LICENSES c/: Ariz., Ark., Cal., Colo., Del., Idaho, Ill., Ind., Iowa, Mich., Minn., Mo., Mont., Nebr., Nev., N. Mex., N. Dak., Ohio, Okla., Oreg., Tex., Utah, Vt., Wash., Wis., Wyo. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

MID-CONTINENT CASUALTY COMPANY. BUSINESS ADDRESS: Post Office Box 1409, Tulsa, Oklahoma 74101. UNDERWRITING LIMITATION b/: $2,285,000. SURETY LICENSES c/: Ariz., Ark., Colo., Ill., Ind., Iowa, Kans., Minn., Miss., Mo., Mont., Nebr., N. Mex., N. Dak., Okla., S. Dak., Tex., Wyo. INCORPORATED IN: Okla. FEDERAL PROCESS AGENTS d/.

Midland Insurance Company. BUSINESS ADDRESS: 160 Water Street, New York, N.Y. 06115. UNDERWRITING LIMITATION b/: $2,342,000. SURETY LICENSES c/: All except C.Z., Guam. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

*See footnotes at end of table.

Midwestern Casualty & Surety Company. BUSINESS ADDRESS: 7628 Hickman Road, Des Moines, Iowa 50322. UNDERWRITING LIMITATION b/: $80,000. SURETY LICENSES c/: Iowa. INCORPORATED IN: Iowa. FEDERAL PROCESS AGENTS d/.

The Millers Mutual Fire Insurance Company of Texas. BUSINESS ADDRESS: Post Office Box 2269, Fort Worth, Tex. 76113. UNDERWRITING LIMITATION b/: $3,192,000. SURETY LICENSES c/: Ark., Cal., Colo., D.C., Idaho, Ill., Ind., Iowa, La., Minn., Miss., Mo., Mont., Nebr., N.J., N. Mex., Okla., Oreg., Pa., Tex., Wash., Wis., Wyo. INCORPORATED IN: Tex. FEDERAL PROCESS AGENTS d/.

Millers' Mutual Insurance Association of Illinois. BUSINESS ADDRESS: Post Office Box 339, Alton, Ill. 62002. UNDERWRITING LIMITATION b/: $3,330,000. SURETY LICENSES c/: Ala., Ark., Colo., D.C., Ga., Ill., Ind., Iowa, Kans., La., Minn., Miss., Mo., N.C., Okla., S. Dak., Tenn., Wis. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

Millers National Insurance Company. BUSINESS ADDRESS: 29 North Wacker Drive, Chicago, Ill. 60606. UNDERWRITING LIMITATION b/: $1,006,000. SURETY LICENSES c/: All except Alaska, C.Z., Colo., Conn., Del., Guam, Hawaii, La., Me., Miss. Nev., N.H., Pa., Puerto Rico, R.I., Vt., Virgin Islands, Wash. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

Minnesota Trust Company of Austin. BUSINESS ADDRESS: 107 West Oakland, Post Office Box 463, Austin, Minn. 55912. UNDERWRITING LIMITATION b/: $75,000. SURETY LICENSES c/: Minn. INCORPORATED IN: Minn. FEDERAL PROCESS AGENTS d/.

Mission Insurance Company. BUSINESS ADDRESS: 2600 Wilshire Boulevard, Los Angeles, Cal. 90057. UNDERWRITING LIMITATION b/: $18,634,000. SURETY LICENSES c/: All except C.Z., Guam, Me., N.H., Puerto Rico, Virgin Islands INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Morrison Assurance Company, Inc. BUSINESS ADDRESS: 5109 South Lois Avenue, Tampa, Fla. 33681. UNDERWRITING LIMITATION b/: $526,000. SURETY LICENSES c/: Ala., Ariz., Ark., Fla., Ga., Ky., La., Miss., Mont., N. Mex., Okla., S.C., Tenn., Tex., Utah. INCORPORATED IN: Fla. FEDERAL PROCESS AGENTS d/.

MOTORS INSURANCE CORPORATION. BUSINESS ADDRESS: 3044 West Grand Boulevard, Detroit, Mich. 48202. UNDERWRITING LIMITATION b/: $26,757,000. SURETY LICENSES c/: All except Ariz., Ark., Cal., C.Z., Colo., Conn., Guam, Hawaii, Kans., La., Mass., Mo., Mont., Nebr., N.H., Ohio, Oreg., Pa., Puerto Rico, Tenn., Utah, Va., Virgin Islands, Wis. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Munich American Reinsurance Company. BUSINESS ADDRESS: 560 Lexington Avenue, New York, N.Y. 10022. UNDERWRITING LIMITATION b/: $5,108,000. SURETY LICENSES c/: Ark., Cal., Colo., Del., D.C., Ga., Hawaii, Ill., Ind., Iowa, La., N.J., N.Y., Ohio, Pa., S.C., Tex., Va. (Reinsurance only in Conn., Kans., N.H., Okla., Vt.) INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

National American Insurance Company of New York. BUSINESS ADDRESS: 1515 S. 75th St., Post Office Box 3800, Omaha, Nebraska 68103. UNDERWRITING LIMITATION b/: $1,392,000. SURETY LICENSES c/: All except Ariz., C.Z., Del., Guam, Hawaii, Mo:, N. Mex., Puerto Rico, Virgin Islands, Wyo. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

National Automobile and Casualty Insurance Company. BUSINESS ADDRESS: Post Office Box 7040, Pasadena, Cal. 91109. UNDERWRITING LIMITATION b/: $776,000. SURETY LICENSES c/: Alaska, Ariz., Cal., Nev., Tex., Wash. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

National-Ben Franklin Insurance Company of Illinois. BUSINESS ADDRESS: 200 South Wacker Drive, Chicago, Ill. 60606. UNDERWRITING LIMITATION b/: $8,722,000. SURETY LICENSES c/: D.C., Ill., Ind., Iowa, Ky., Minn., N.Y., N.C., N. Dak., Wis. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

National-Ben Franklin Insurance Company of Michigan. BUSINESS ADDRESS: 26899 Northwestern Highway, Southfield, Mich. 48034. UNDERWRITING LIMITATION b/: $2,494,000. SURETY LICENSES c/: D.C., Mich. INCORPORATED IN: Mich. FEDERAL PROCESS AGENTS d/.

National Bonding and Accident Insurance Company. BUSINESS ADDRESS: 4242 Lindell Boulevard, St. Louis, Mo. 63108. UNDERWRITING LIMITATION b/: $238,000. SURETY LICENSES c/: All except C.Z., Guam, Mass., N.C., Puerto Rico, Virgin Islands, Wis. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

National Fire Insurance Company of Hartford. BUSINESS ADDRESS: CNA Plaza, Chicago, Ill. 60685. UNDERWRITING LIMITATION b/: $11,523,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

National Grange Mutual Insurance Company. BUSINESS ADDRESS: 55 West Street, Keene, N.H. 03431. UNDERWRITING LIMITATION b/: $3,481,000. SURETY LICENSES c/: Conn., Del., D.C., Me., Md., Mass., N.H., N.Y., Ohio, Pa., R.I., S.C., Tenn., Vt., Va., W. Va., Wis. INCORPORATED IN: N.H. FEDERAL PROCESS AGENTS d/.

National Indemnity Company. BUSINESS ADDRESS: 3024 Harney Street, Omaha, Nebr. 68131. UNDERWRITING LIMITATION b/: $25,866,000. SURETY LICENSES c/: All except C.Z., Guam, Hawaii, Mass., N.J., N.Y., Puerto Rico. INCORPORATED IN: Nebr. FEDERAL PROCESS AGENTS d/.

THE NATIONAL MUTUAL INSURANCE COMPANY. BUSINESS ADDRESS: Insurance Square, Celina, Ohio 45822. UNDERWRITING LIMITATION b/: $573,000. SURETY LICENSES c/: Ill., Ind., Ky., Mich., Ohio, Pa., S. Dak., W. Va. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

The National Reinsurance Corporation. BUSINESS ADDRESS: 777 Long Ridge Road, Post Office Box 10167, Stamford, Conn. 06904-2167. UNDERWRITING LIMITATION b/: $7,225,000. SURETY LICENSES c/: All except Ala., C.Z., Conn., Fla., Ga., Guam, La., Me., Miss., Mo., N.C., Oreg., S.C., S. Dak., Tenn., Virgin Islands, Wash., W. Va. INCORPORATED IN: Del. FEDERAL PROCESS AGENTS d/.

National Surety Corporation. BUSINESS ADDRESS: 200 West Monroe Street, Chicago, Ill. 60606. UNDERWRITING LIMITATION b/: $12,165,000. SURETY LICENSES c/: All except Guam, Virgin Islands. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

National Union Fire Insurance Company of Pittsburgh, Pa. BUSINESS ADDRESS: 70 Pine Street, New York, N.Y. 10270. UNDERWRITING LIMITATION b/: $14,110,000. SURETY LICENSES c/: All except C.Z. INCORPORATED IN: Pa. FEDERAL PROCESS AGENTS d/.

*See footnotes at end of table.

Nationwide Mutual Insurance Company. BUSINESS ADDRESS: One Nationwide Plaza, Columbus, Ohio 43216. UNDERWRITING LIMITATION b/: $103,151,000. SURETY LICENSES c/: All except Guam. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

The Netherlands Insurance Company. BUSINESS ADDRESS: 62 Maple Avenue, Keene, N.H. 03431. UNDERWRITING LIMITATION b/: $739,000. SURETY LICENSES c/: Ariz., Cal., Idaho, Ind., Iowa, Me., Md., Mass., Mich., Nev., N.H., N.J., N.Y., N.C., Ohio, Oreg., Puerto Rico, R.I., Utah, Vt., Va., Virgin Islands, Wash., Wis. INCORPORATED IN: N.H. FEDERAL PROCESS AGENTS d/.

New Hampshire Insurance Company. BUSINESS ADDRESS: Post Office Box 960, Manchester, N.H. 03107. UNDERWRITING LIMITATION b/: $21,354,000. SURETY LICENSES c/: All. INCORPORATED IN: N.H. FEDERAL PROCESS AGENTS d/.

New South Insurance Company. BUSINESS ADDRESS: Post Office Box 3199, Winston-Salem, N.C. 27152. UNDERWRITING LIMITATION b/: $444,000. SURETY LICENSES c/: Ind., Miss., N.C., Tex., Va., W. Va. INCORPORATED IN: N.C. FEDERAL PROCESS AGENTS d/.

New York Underwriters Insurance Company. BUSINESS ADDRESS: Hartford Plaza, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $6,673,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Newark Insurance Company. BUSINESS ADDRESS: 150 William Street, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $2,841,000. SURETY LICENSES c/: All except C.Z., Guam, Oreg., Puerto Rico, Virgin Islands. INCORPORATED IN: N.J. FEDERAL PROCESS AGENTS d/.

Niagara Fire Insurance Company. BUSINESS ADDRESS: 80 Maiden Lane, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $1,955,000. SURETY LICENSES c/: All except C.Z., Guam. INCORPORATED IN: Del. FEDERAL PROCESS AGENTS d/.

North American Reinsurance Corporation. BUSINESS ADDRESS: 100 East 46th St., New York, N.Y. 10017. UNDERWRITING LIMITATION b/: $11,890,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands, Wyo. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

NORTH EAST INSURANCE COMPANY. BUSINESS ADDRESS: 959 Brighton Avenue, Portland, Me 04102. UNDERWRITING LIMITATION b/: $440,000. SURETY LICENSES c/: Fla., La., Me., Miss., Nev., R.I. INCORPORATED IN: Me. FEDERAL PROCESS AGENTS d/.

The North River Insurance Company. BUSINESS ADDRESS: Post Office Box 2387, Morristown, N.J. 07960. UNDERWRITING LIMITATION b/: $11,662,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: N.J. FEDERAL PROCESS AGENTS d/.

Northbrook Property and Casualty Insurance Company. BUSINESS ADDRESS: Allstate Plaza, Northbrook, Ill. 60062. UNDERWRITING LIMITATION b/: $4,773,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

The Northern Assurance Company of America. BUSINESS ADDRESS: One Beacon Street, Boston, Mass. 02108. UNDERWRITING LIMITATION b/: $6,554,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico. INCORPORATED IN: Vt. FEDERAL PROCESS AGENTS d/.

Northern Insurance Company of New York. BUSINESS ADDRESS: Post Office Box 91, Baltimore, Md. 21203. UNDERWRITING LIMITATION b/: $2,574,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Northwestern National Casualty Company. BUSINESS ADDRESS: Post Office Box 2070, Milwaukee, Wis. 53201. UNDERWRITING LIMITATION b/: $476,000. SURETY LICENSES c/: All except Alaska, C.Z., Conn., Guam, Hawaii, Me., Mass., Nev., N.H., N.J., N.Y., Puerto Rico, Vt., Virgin Islands. INCORPORATED IN: Wis. FEDERAL PROCESS AGENTS d/.

Northwestern National Insurance Company of Milwaukee, Wisconsin. BUSINESS ADDRESS: Post Office Box 2070, Milwaukee, Wis. 53201. UNDERWRITING LIMITATION b/: $7,365,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: Wis. FEDERAL PROCESS AGENTS d/.

Northwestern National Surety Company. BUSINESS ADDRESS: 731 North Jackson Street, Milwaukee, Wis. 53201. UNDERWRITING LIMITATION b/: $1,022,000. SURETY LICENSES c/: Wis. INCORPORATED IN: Wis. FEDERAL PROCESS AGENTS d/.

NORTHWESTERN PACIFIC INDEMNITY COMPANY. BUSINESS ADDRESS: Suite 500, Lloyd Bldg., 700 N.E. Multnomah Street, Portland, Oregon 97232. UNDERWRITING LIMITATION b/: $1,016,000. SURETY LICENSES c/: Cal., Okla., Ore. INCORPORATED IN: Oreg. FEDERAL PROCESS AGENTS d/.

Occidental Fire & Casualty Company of North Carolina. BUSINESS ADDRESS: 5670 S. Syracuse Circle, Suite 500, Englewood, Colo. 80111. UNDERWRITING LIMITATION b/: $614,000. SURETY LICENSES: All except C.Z., Conn., Guam, Hawaii, Me., Mass., N.J., Okla., Puerto Rico, Virgin Islands. INCORPORATED IN: N.C. FEDERAL PROCESS AGENTS d/.

Oceanic Insurance and Surety Company. BUSINESS ADDRESS: 5105 Tollview Drive, Suite 195, Rolling Meadows, Ill. 60008. UNDERWRITING LIMITATION b/: $50,000. SURETY LICENSES c/: N. Mex. INCORPORATED IN: N. Mex. FEDERAL PROCESS AGENTS d/.

The Ohio Casualty Insurance Company. BUSINESS ADDRESS: 136 North Third Street, Hamilton, Ohio 45025. UNDERWRITING LIMITATION b/: $36,855,000. SURETY LICENSES c/: All except C.Z., Guam. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

Ohio Farmers Insurance Company. BUSINESS ADDRESS: Westfield Center, Ohio 44251. UNDERWRITING LIMITATION b/: $11,370,000. SURETY LICENSES c/: All except Alaska, C.Z., Conn., Guam, Hawaii, Kans., Puerto Rico, Virgin Islands. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

Oklahoma Surety Company. BUSINESS ADDRESS: Post Office Box 1409, Tulsa, Okla. 74101. UNDERWRITING LIMITATION b/: $270,000. SURETY LICENSES c/: Kans., Okla., Tex. INCORPORATED IN: Okla. FEDERAL PROCESS AGENTS d/.

Old Republic Insurance Company. BUSINESS ADDRESS: Post Office Box 789, Greensburg, Pa. 15601. UNDERWRITING LIMITATION b/: $918,000. SURETY LICENSES c/: All except C.Z., Puerto Rico, Virgin Islands. INCORPORATED IN: Pa. FEDERAL PROCESS AGENTS d/.

*See footnotes at end of table.

The Omaha Indemnity Company. BUSINESS ADDRESS: 3201 Farnam Street, Omaha, Nebr. 68131. UNDERWRITING LIMITATION b/: $1,654,000. SURETY LICENSES c/: All except La., N.H., N.J. INCORPORATED IN: Wis. FEDERAL PROCESS AGENTS d/.

Oregon Automobile Insurance Company. BUSINESS ADDRESS: Post Office Box 74, Portland, Oreg. 97207. UNDERWRITING LIMITATION b/: $2,840,000. SURETY LICENSES c/: Idaho, Nev., Oreg., Utah, Wash. INCORPORATED IN: Oreg. FEDERAL PROCESS AGENTS d/.

Pacific Employers Insurance Company. BUSINESS ADDRESS: 1600 Arch Street, Philadelphia, Pa. 19101. UNDERWRITING LIMITATION b/: $7,422,000. SURETY LICENSES c/: All except Puerto Rico. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Pacific Indemnity Company. BUSINESS ADDRESS: 190 River Road, Summit, N.J. 07901. UNDERWRITING LIMITATION b/: $7,925,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Pacific Insurance Company, Limited. BUSINESS ADDRESS: Post Office Box 1140, Honolulu, Hawaii 96807. UNDERWRITING LIMITATION b/: $3,198,000. SURETY LICENSES c/: Hawaii. INCORPORATED IN: Hawaii. FEDERAL PROCESS AGENTS d/.

Peerless Insurance Company. BUSINESS ADDRESS: 62 Maple Avenue, Keene, N.H. 03431. UNDERWRITING LIMITATION b/: $3,258,000. SURETY LICENSES c/: All except C.Z., Guam, Hawaii, N.J., Puerto Rico, Virgin Islands. INCORPORATED IN: N.H. FEDERAL PROCESS AGENTS d/.

Pekin Insurance Company. BUSINESS ADDRESS: 2505 Court Street, Pekin, Ill. 61558. UNDERWRITING LIMITATION b/: $814,000. SURETY LICENSES c/: Ill., Ind., Iowa. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

Pennsylvania Manufacturers' Association Insurance Company. BUSINESS ADDRESS: 925 Chestnut Street, Philadelphia, Pa. 19107. UNDERWRITING LIMITATION b/: $6,180,000. SURETY LICENSES c/: All except Ala., Ark., C.Z., Conn., Guam, Hawaii, Kans., Me., Minn., N. Dak., Oreg., Puerto Rico, R.I., S. Dak., Virgin Islands, Wyo. INCORPORATED IN: Pa. FEDERAL PROCESS AGENTS d/.

Pennsylvania Millers Mutual Insurance Company. BUSINESS ADDRESS: 15 Public Square, Wilkes-Barre, Pa. 18773-0016. UNDERWRITING LIMITATION b/: $2,160,000. SURETY LICENSES c/: Ark., Conn., D.C., Fla., Ga., Ind., Kans., Ky., Me., Md., Mass., Miss., Mo., N.H., N.J., N.Y., N.C., N. Dak., Pa., R.I., S.C., Tenn., Vt., Va. INCORPORATED IN: Pa. FEDERAL PROCESS AGENTS d/.

Pennsylvania National Mutual Casualty Insurance Company. BUSINESS ADDRESS: 1900 Derry Street, Harrisburg, Pa. 17105. UNDERWRITING LIMITATION b/: $6,548,000. SURETY LICENSES c/: All except Cal., C.Z., Conn., Guam, Hawaii, Nev., N.H., N. Dak., Puerto Rico, Virgin Islands, Wyo. INCORPORATED IN: Pa. FEDERAL PROCESS AGENTS d/.

The Personal Service Insurance Co. BUSINESS ADDRESS: 100 East Gay Street, Columbus, Ohio 43215. UNDERWRITING LIMITATION b/: $390,000. SURETY LICENSES c/: Ind., Ohio. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

Phoenix Assurance Company of New York. BUSINESS ADDRESS: 80 Maiden Lane, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $5,378,000. SURETY LICENSES c/: All except C.Z., Guam. INCORPORATED IN: N.H. FEDERAL PROCESS AGENTS d/.

The Phoenix Insurance Company. BUSINESS ADDRESS: One Tower Square, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $25,491,000. SURETY LICENSES c/: All except C.Z., Guam. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

PLANET INSURANCE COMPANY. BUSINESS ADDRESS: 4 Penn Center Plaza, Philadelphia, Pa. 19103. UNDERWRITING LIMITATION b/: $498,000. SURETY LICENSES c/: All except Alaska, C.Z., Conn., Hawaii, Puerto Rico, Virgin Islands. INCORPORATED IN: Wis. FEDERAL PROCESS AGENTS d/.

PRESTIGE CASUALTY COMPANY. BUSINESS ADDRESS: 5454 West Fargo Avenue, Skokie, Ill. 60077. UNDERWRITING LIMITATION b/: $653,000. SURETY LICENSES c/: Ariz., Ill., Ind., Mich., Ohio, Tex. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

Progressive Casualty Insurance Company. BUSINESS ADDRESS: 6300 Wilson Mills Road, Mayfield Village, Ohio 44143. UNDERWRITING LIMITATION b/: $8,231,000. SURETY LICENSES c/: All except Ariz., C.Z., Conn., Del., D.C., Guam, Hawaii, Ill., Kans., La., Md., Nebr., N.H., N.Y., Pa., Puerto Rico, S.C., Tex., Utah, Va., Virgin Islands, W. Va., Wis. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

The Progressive Mutual Insurance Company. BUSINESS ADDRESS: 6300 Wilson Mills Road, Mayfield Village, Ohio 44143. UNDERWRITING LIMITATION b/: $599,000. SURETY LICENSES c/: N.J., Ohio. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

Protective Insurance Company. BUSINESS ADDRESS: 3100 North Meridian Street, Indianapolis, Ind. 46208. UNDERWRITING LIMITATION b/: $2,524,000. SURETY LICENSES c/: All except C.Z., Guam, Hawaii, Puerto Rico, Virgin Islands. INCORPORATED IN: Ind. FEDERAL PROCESS AGENTS d/.

Prudential Reinsurance Company. BUSINESS ADDRESS: 213 Washington Street, Post Office Box 908, Newark, N.J. 07101. UNDERWRITING LIMITATION b/: $17,913,000. SURETY LICENSES c/: All except C.Z., Guam, La., Mo., Nev., N.C., Okla., Puerto Rico, S.C., Va., Virgin Islands, W. Va., Wyo. (Reinsurance only in Mo., N.C., W. Va.) INCORPORATED IN: Del. FEDERAL PROCESS AGENTS d/.

Public Service Mutual Insurance Company. BUSINESS ADDRESS: 393 Seventh Avenue, New York, N.Y. 10001. UNDERWRITING LIMITATION b/: $4,261,000. SURETY LICENSES c/: Ariz., Colo., Conn., Del., D.C., Fla., Ga., Idaho, Ill., Ind., Iowa, Me., Md., Mass., Mich., Minn., Miss., N.H., N.J., N.Y., N.C., Ohio, Oreg., Pa., R.I., S.C., Vt., Va., W. Va., Wis. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Puerto Rican-American Insurance Company. BUSINESS ADDRESS: Post Office Box S-112, San Juan, Puerto Rico 00902. UNDERWRITING LIMITATION b/: $2,537,000. SURETY LICENSES c/: Puerto Rico, Virgin Islands. INCORPORATED IN: Puerto Rico. FEDERAL PROCESS AGENTS d/.

Puritan Insurance Company. BUSINESS ADDRESS: Post Office Box 8900, Stamford, Conn. 06904. UNDERWRITING LIMITATION b/: $6,066,000. SURETY LICENSES c/: All except Ala., C.Z., Del., Guam, Virgin Islands. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

*See footnotes at end of table.

Ranger Insurance Company. BUSINESS ADDRESS: Post Office Box 2807, Houston, Tex. 77001. UNDERWRITING LIMITATION b/: $4,638,000. SURETY LICENSES c/: All except C.Z., Conn., Guam, N.J., Puerto Rico, Virgin Islands. INCORPORATED IN: Del. FEDERAL PROCESS AGENTS d/.

Regent Insurance Company. BUSINESS ADDRESS: Post Office Box 369, Madison, Wis. 53701. UNDERWRITING LIMITATION b/: $1,988,000. SURETY LICENSES c/: Ill., Ind., Iowa, Kans., Minn., Miss., Nebr., N. Dak., S. Dak., Wis. (Reinsurance only in N.Y.) INCORPORATED IN: Wis. FEDERAL PROCESS AGENTS d/.

The Reinsurance Corporation of New York. BUSINESS ADDRESS: 99 John Street, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $3,086,000. SURETY LICENSES c/: All except C.Z., Guam, Hawaii, Puerto Rico, Virgin Islands. (Co-surety only in Fla., Mass., Va.) INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Reliance Insurance Company. BUSINESS ADDRESS: 4 Penn Center Plaza, Philadelphia, Pa. 19103. UNDERWRITING LIMITATION b/: $36,192,000. SURETY LICENSES c/: All except C.Z., Guam. INCORPORATED IN: Pa. FEDERAL PROCESS AGENTS d/.

Reliance Insurance Company of New York. BUSINESS ADDRESS: 4 Penn Center Plaza, Philadelphia, Pa. 19103. UNDERWRITING LIMITATION b/: $749,000. SURETY LICENSES c/: N.Y. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Republic-Franklin Insurance Company. BUSINESS ADDRESS: Post Office Box 1438, Columbus, Ohio 43216. UNDERWRITING LIMITATION b/: $187,000. SURETY LICENSES c/: Ind., Mich., Ohio. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

Republic Insurance Company. BUSINESS ADDRESS: Post Office Box 223000, Dallas, Texas 75222. UNDERWRITING LIMITATION b/: $9,083,000. SURETY LICENSES c/: all except Ala., Alaska, C.Z., Fla., Guam, Me., Mass., Mont., N.H., N. Dak., R.I., S. Dak., Vt., Virgin Islands. INCORPORATED IN: Del. FEDERAL PROCESS AGENTS d/.

Republic Western Insurance Company. BUSINESS ADDRESS: 2721 North Central Avenue, Phoenix, Ariz. 85004. UNDERWRITING LIMITATION b/: $1,732,000. SURETY LICENSES c/: All except Alaska, C.Z., Guam, Hawaii, Kans., La., Me., N.H., Okla., Puerto Rico, R.I., Virgin Islands, Wyo. INCORPORATED IN: Ariz. FEDERAL PROCESS AGENTS d/.

Royal Indemnity Company. BUSINESS ADDRESS: 150 William Street, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $9,118,000. SURETY LICENSES c/: All except Puerto Rico, Virgin Islands. INCORPORATED IN: Del. FEDERAL PROCESS AGENTS d/.

Royal Insurance Company of America. BUSINESS ADDRESS: 150 William Street, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $15,311,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

S & H Insurance Company. BUSINESS ADDRESS: 3550 Camino Del Rio North, San Diego, Cal. 92108. UNDERWRITING LIMITATION b/: $1,147,000. SURETY LICENSES c/: Ariz., Cal., Fla., Md., Miss., Nev., N. Mex., Okla., Oreg., S.C., Tex., Utah, Wash. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

SAFECO Insurance Company of America. BUSINESS ADDRESS: SAFECO Plaza, Seattle, Wash. 98185. UNDERWRITING LIMITATION b/: $16,813,000. SURETY LICENSES c/: All except C.Z., N.Y., Puerto Rico, Vt., Virgin Islands. INCORPORATED IN: Wash. FEDERAL PROCESS AGENTS d/.

SAFECO Insurance Company of Illinois. BUSINESS ADDRESS: SAFECO Plaza, Seattle, Wash. 98185. UNDERWRITING LIMITATION b/: $1,446,000. SURETY LICENSES c/: Ill. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

SAFECO National Insurance Company. BUSINESS ADDRESS: SAFECO Plaza, Seattle, Wash. 98185. UNDERWRITING LIMITATION b/: $1,257,000. SURETY LICENSES c/: Mo., N.Y. INCORPORATED IN: Mo. FEDERAL PROCESS AGENTS d/.

St. Paul Fire and Marine Insurance Company. BUSINESS ADDRESS: 385 Washington Street, St. Paul, Minn. 55102. UNDERWRITING LIMITATION b/: $70,602,000. SURETY LICENSES c/: All except C.Z. INCORPORATED IN: Minn. FEDERAL PROCESS AGENTS d/.

Seaboard Surety Company. BUSINESS ADDRESS: 90 William Street, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $4,943,000. SURETY LICENSES c/: All except C.Z. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Security Insurance Company of Hartford. BUSINESS ADDRESS: Post Office Box 420, Hartford, Conn. 06141. UNDERWRITING LIMITATION b/: $2,790,000. SURETY LICENSES c/: All except C.Z., Guam, Mass., N.J., Puerto Rico, Virgin Islands. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

Security National Insurance Company. BUSINESS ADDRESS: Post Office Box 225028, Dallas, Tex. 75265. UNDERWRITING LIMITATION b/: $643,000. SURETY LICENSES c/: Ark., Cal., Colo., Ill., Ind., Kans., Ky., N. Mex., Ohio, Okla., Oreg., Tex., Wash., Wis., Wyo. INCORPORATED IN: Tex. FEDERAL PROCESS AGENTS d/.

Select Insurance Company. BUSINESS ADDRESS: Post Office Box 1771, Dallas, Tex. 75221. UNDERWRITING LIMITATION b/: $1,215,000. SURETY LICENSES c/: All except Ariz., C.Z., Conn., Del., Guam, Hawaii, La., Me., Md., Mass., N.H., N.J., N.Y., N. Dak., Pa., Puerto Rico, R.I., Tenn., Utah, Va., Virgin Islands. INCORPORATED IN: Tex. FEDERAL PROCESS AGENTS d/.

Selected Risks Insurance Company. BUSINESS ADDRESS: Wantage Avenue, Branchville, N.J. 07826. UNDERWRITING LIMITATION b/: $8,727,000. SURETY LICENSES c/: Del., D.C., Md., N.J., Pa., Va. INCORPORATED IN: N.J. FEDERAL PROCESS AGENTS d/.

SENTINEL INSURANCE COMPANY, LTD. BUSINESS ADDRESS: Hartford Plaza, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $757,000. SURETY LICENSES c/: Hawaii. INCORPORATED IN: Hawaii. FEDERAL PROCESS AGENTS d/.

Sentry Indemnity Company. BUSINESS ADDRESS: 1800 North Point Drive, Stevens Point, Wis. 54481. UNDERWRITING LIMITATION b/: $873,000. SURETY LICENSES c/: All except Alaska, C.Z., Conn., Del., D.C., Guam, Hawaii, Me., Mass., Mich., Nebr., N.H., N.J., N.Y., Pa., Puerto Rico, R.I., Vt., Va., Virgin Islands, W. Va. INCORPORATED IN: Wis. FEDERAL PROCESS AGENTS d/.

*See footnotes at end of table.

Sentry Insurance a Mutual Company. BUSINESS ADDRESS: 1800 North Point Drive, Stevens Point, Wis. 54481. UNDERWRITING LIMITATION b/: $12,151,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: Wis. FEDERAL PROCESS AGENTS d/.

Skandia America Reinsurance Corporation. BUSINESS ADDRESS: 200 Park Avenue, New York, N.Y. 10017. UNDERWRITING LIMITATION b/: $9,009,000. SURETY LICENSES c/: Ariz., Cal., Del., D.C., Ill., Ind., Iowa, Mich., Miss., Nebr., N.J., N.Y., Ohio, Okla., Pa., Utah, Wash., Wis. (Reinsurance only in Alaska, Colo., Fla., Ga., Kans., Md., Mass., N.H., S.C., Tex., Vt., W. Va.) INCORPORATED IN: Del. FEDERAL PROCESS AGENTS d/.

South Carolina Insurance Company. BUSINESS ADDRESS: Post Office Box #1, Columbia, S.C. 29202. UNDERWRITING LIMITATION b/: $14,020,000. SURETY LICENSES c/: All except Ark., C.Z., Conn., Del., Guam, Hawaii, Idaho, Kans., La., Me., Mass., N.H., Oreg., Puerto Rico, R.I., Vt., Virgin Islands, Wash. (Reinsurance only in Conn.) INCORPORATED IN: S.C. FEDERAL PROCESS AGENTS d/.

The Standard Fire Insurance Company. BUSINESS ADDRESS: 151 Farmington Avenue, Hartford, Conn. 06156. UNDERWRITING LIMITATION b/: $11,054,000. SURETY LICENSES c/: All except C.Z., Guam, N.J. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

State Automobile Mutual Insurance Company. BUSINESS ADDRESS: 518 East Broad Street, Columbus, Ohio 43216. UNDERWRITING LIMITATION b/: $11,803,000. SURETY LICENSES c/: Ala., Ark., Fla., Ga., Ill., Ind., Ky., Md., Mich., Miss., Mo., N.J., N.C., Ohio, Pa., S.C., Tenn., Va., W. Va. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

State Farm Fire and Casualty Company. BUSINESS ADDRESS: 112 East Washington Street, Bloomington, Ill. 61701. UNDERWRITING LIMITATION b/: $117,742,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

State Surety Company. BUSINESS ADDRESS: 645 Insurance Exchange Building, Des Moines, Iowa 50309. UNDERWRITING LIMITATION b/: $309,000. SURETY LICENSES c/: Ariz., Colo., D.C., Ill., Iowa, Kans., Minn., Mo., Mont., Nebr., N. Dak., Okla., S. Dak., Wis., Wyo. INCORPORATED IN: Iowa. FEDERAL PROCESS AGENTS d/.

Surety Company of the Pacific. BUSINESS ADDRESS: Post Office Box 2105, Santa Monica, Cal. 90406. UNDERWRITING LIMITATION b/: $175,000. SURETY LICENSES c/: Cal. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Surety Insurance Company of California. BUSINESS ADDRESS: Post Office Box 2430, La Habra, Cal. 90631. UNDERWRITING LIMITATION b/: $118,000. SURETY LICENSES c/: Ala., Alaska, Ariz., Ark., Cal., Colo., Ga., Kans., Miss., Mo., Nev., N. Mex., Okla., Oreg., Tex., Wash. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

TEXAS PACIFIC INDEMNITY COMPANY. BUSINESS ADDRESS: Diamond Shamrock Tower, 717 N. Harwood, Dallas, Tex. 75201. UNDERWRITING LIMITATION b/: $322,000. SURETY LICENSES c/: Ark., Tex. INCORPORATED IN: Tex. FEDERAL PROCESS AGENTS d/.

Transamerica Insurance Company. BUSINESS ADDRESS: 1150 South Olive Street, Los Angeles, Cal. 90015. UNDERWRITING LIMITATION b/: $22,617,000. SURETY LICENSES c/: All except C.Z., Puerto Rico, Virgin Islands. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Transamerica Insurance Company of Michigan. BUSINESS ADDRESS: 1150 South Olive Street, Los Angeles, Cal. 90015. UNDERWRITING LIMITATION b/: $9,438,000. SURETY LICENSES c/: Ark., Ill., Ind., Iowa, Kans., Mich., Minn., Ohio, S. Dak. INCORPORATED IN: Mich. FEDERAL PROCESS AGENTS d/.

Transcontinental Insurance Company. BUSINESS ADDRESS: CNA Plaza, Chicago, Ill. 60685. UNDERWRITING LIMITATION b/: $2,916,000. SURETY LICENSES c/: All except C.Z., Guam, Hawaii, Virgin Islands. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Transport Indemnity Company. BUSINESS ADDRESS: 3670 Wilshire Boulevard, Los Angeles, Cal. 90010. UNDERWRITING LIMITATION b/: $2,376,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Transportation Insurance Company. BUSINESS ADDRESS: CNA Plaza, Chicago, Ill. 60685. UNDERWRITING LIMITATION b/: $1,584,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands, W. Va. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

The Travelers Indemnity Company. BUSINESS ADDRESS: One Tower Square, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $91,725,000. SURETY LICENSES c/: All except C.Z. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

The Travelers Indemnity Company of Rhode Island. BUSINESS ADDRESS: One Tower Square, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $8,643,000. SURETY LICENSES c/: All except C.Z., Guam. INCORPORATED IN: R.I. FEDERAL PROCESS AGENTS d/.

Trinity Universal Insurance Company. BUSINESS ADDRESS: Post Office Box 225028, Dallas, Tex. 75265. UNDERWRITING LIMITATION b/: $33,549,000. SURETY LICENSES c/: Ala., Ariz., Ark., Cal., Colo., Ga., Idaho, Ill., Ind., Iowa, Kans., Ky., La., Mich., Miss., Mo., Nebr., N. Mex., Ohio, Okla., Oreg., Tex., Wash., Wis., Wyo. INCORPORATED IN: Tex. FEDERAL PROCESS AGENTS d/.

Trinity Universal Insurance Company of Kansas, Inc. BUSINESS ADDRESS: Post Office Box 225028, Dallas, Tex. 75265. UNDERWRITING LIMITATION b/: $351,000. SURETY LICENSES c/: Ala., Ariz., Colo., Ga., Kans., Ky., La., Ohio, Okla., Tex. INCORPORATED IN: Kans. FEDERAL PROCESS AGENTS d/.

Tri-State Insurance Company. BUSINESS ADDRESS: Post Office Box 3269, Tulsa, Okla. 74102. UNDERWRITING LIMITATION b/: $1,455,000. SURETY LICENSES c/: Ala., Ariz., Ark., Colo., Fla., Ga., Idaho, Ill., Ind., Iowa, Kans., Ky., La., Minn., Miss., Mo., Mont., Nebr., N. Mex., N. Dak., Okla., S. Dak., Tenn., Tex., Utah, Wash., Wyo. INCORPORATED IN: Okla. FEDERAL PROCESS AGENTS d/.

*See footnotes at end of table.

Twin City Fire Insurance Company. BUSINESS ADDRESS: Hartford Plaza, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $3,122,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Minn. FEDERAL PROCESS AGENTS d/.

ULICO CASUALTY COMPANY. BUSINESS ADDRESS: 850 Third Avenue, New York, N.Y. 10022. UNDERWRITING LIMITATION b/: $539,000. SURETY LICENSES c/: Ariz., Colo., Del., D.C., Idaho, Kans., Md., Mich., Mont., N. Mex., N.D., Ohio, Oreg., Pa., S.C., Tex., Va., Wash. INCORPORATED IN: Del. FEDERAL PROCESS AGENTS d/.

Unigard Mutual Insurance Company. BUSINESS ADDRESS: 1215 Fourth Avenue, Seattle, Wash. 98161. UNDERWRITING LIMITATION b/: $3,601,000. SURETY LICENSES c/: All except C.Z., Conn., Ga., Guam, N.J., Puerto Rico, Virgin Islands. INCORPORATED IN: Wash. FEDERAL PROCESS AGENTS d/.

Union Indemnity Insurance Company of New York. BUSINESS ADDRESS: 260 Madison Avenue, New York, N.Y. 10016. UNDERWRITING LIMITATION b/: $746,000. SURETY LICENSES c/: All except Cal., C.Z., Guam, Kans., Me., Md., Minn., N.C., Puerto Rico, S.D., Virgin Islands, W. Va., Wyo. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

United Fire & Casualty Company. BUSINESS ADDRESS: Post Office Box 4909, Cedar Rapids, Iowa 52407. UNDERWRITING LIMITATION b/: $2,483,000. SURETY LICENSES c/: Alaska, Ariz., Ark., Calif., Colo., Idaho, Ill., Ind., Iowa, Kans., La., Minn., Miss., Mo., Mont., Nebr., N.J., N. Mex., N.Y., N. Dak., Ohio, S.C., S. Dak., Tex., Utah, Wash., Wis., Wyo. INCORPORATED IN: Iowa. FEDERAL PROCESS AGENTS d/.

UNITED NATIONAL INSURANCE COMPANY. BUSINESS ADDRESS: 1737 Chestnut Street, Philadelphia, Pa. 19103. UNDERWRITING LIMITATION b/: $919,000. SURETY LICENSES c/: Pa. INCORPORATED IN: Pa. FEDERAL PROCESS AGENTS d/.

United Pacific Insurance Company. BUSINESS ADDRESS: 4 Penn Center Plaza, Philadelphia, Pa. 19103. UNDERWRITING LIMITATION b/: $4,381,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Wash. FEDERAL PROCESS AGENTS d/.

United Pacific Insurance Company of New York. BUSINESS ADDRESS: 4 Penn Center Plaza, Philadelphia, Pa. 19103. UNDERWRITING LIMITATION b/: $715,000. SURETY LICENSES c/: N.Y. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

United States Fidelity and Guaranty Company. BUSINESS ADDRESS: 100 Light Street, Post Office Box 1138, Baltimore, Md. 21203. UNDERWRITING LIMITATION b/: $106,165,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: Md. FEDERAL PROCESS AGENTS d/.

United States Fire Insurance Company. BUSINESS ADDRESS: Post Office Box 2387, Morristown, N.J. 07960. UNDERWRITING LIMITATION b/: $25,984,000. SURETY LICENSES c/: All except C.Z., Guam. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

UNIVERSAL INSURANCE COMPANY. BUSINESS ADDRESS: G.P.O. Box 71338, San Juan, Puerto Rico 00936. UNDERWRITING LIMITATION b/: $1,056,000. SURETY LICENSES c/: Puerto Rico. INCORPORATED IN: Puerto Rico. FEDERAL PROCESS AGENTS d/.

Universal Security Insurance Company. BUSINESS ADDRESS: 5454 Fargo Avenue, Skokie, Illinois 60077. UNDERWRITING LIMITATION b/: $380,000. SURETY LICENSES c/: Ala., Ark., Fla., Ga., Ill., Iowa, Ky., La., Miss., Mo., Oreg., Tenn., Wash. INCORPORATED IN: Tenn. FEDERAL PROCESS AGENTS d/.

Universal Surety Company. BUSINESS ADDRESS: Post Office Box 80468, Lincoln, Nebr. 68501. UNDERWRITING LIMITATION b/: $603,000. SURETY LICENSES c/: Ariz., Colo., Idaho, Ill., Iowa, Kans., Minn., Mo., Mont., Nebr., N. Mex., N. Dak., Ohio, Okla., Oreg., S. Dak., Utah, Wash., Wis., Wyo. INCORPORATED IN: Nebr. FEDERAL PROCESS AGENTS d/.

Universal Underwriters Insurance Company. BUSINESS ADDRESS: 5115 Oak Street, Kansas City, Mo. 64112. UNDERWRITING LIMITATION b/: $14,135,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Mo. FEDERAL PROCESS AGENTS d/.

Utica Mutual Insurance Company. BUSINESS ADDRESS: Post Office Box 530, Utica, N.Y. 13503. UNDERWRITING LIMITATION b/: $8,972,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Valley Forge Insurance Company. BUSINESS ADDRESS: CNA Plaza, Chicago, Ill. 60685. UNDERWRITING LIMITATION b/: $2,695,000. SURETY LICENSES c/: All except Alaska, C.Z., Guam, Hawaii, Puerto Rico, Virgin Islands. INCORPORATED IN: Pa. FEDERAL PROCESS AGENTS d/.

Van Tol Surety Company, Incorporated. BUSINESS ADDRESS: 424 Fifth Street, Brookings, S. Dak. 57006. UNDERWRITING LIMITATION b/: $131,000. SURETY LICENSES c/: S. Dak. INCORPORATED IN: S. Dak. FEDERAL PROCESS AGENTS d/.

Vigilant Insurance Company. BUSINESS ADDRESS: 100 William Street, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $4,758,000. SURETY LICENSES c/: All except C.Z., Guam. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

VOYAGER CASUALTY INSURANCE COMPANY. BUSINESS ADDRESS: Post Office Box 2918, Jacksonville, Fla. 32203. UNDERWRITING LIMITATION b/: $417,000. SURETY LICENSES c/: Ala., Fla., Ga. INCORPORATED IN: Fla. FEDERAL PROCESS AGENTS d/.

Washington International Insurance Company. BUSINESS ADDRESS: 700 Nicholas Blvd., Elk Grove Village, Ill. 60007. UNDERWRITING LIMITATION b/: $249,000. SURETY LICENSES c/: Ariz., Cal., Fla., Ill., Md., Mass., N.Y., Oreg., Tex., Wash. INCORPORATED IN: Ariz. FEDERAL PROCESS AGENTS d/.

West American Insurance Company. BUSINESS ADDRESS: 136 North Third Street, Hamilton, Ohio 45026. UNDERWRITING LIMITATION b/: $22,908,000. SURETY LICENSES c/: All except Alaska, C.Z., Conn., Guam, Hawaii, Me., Mass., Mont., N.H., Puerto Rico, R.I., Vt., Virgin Islands, W. Va. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Westchester Fire Insurance Company. BUSINESS ADDRESS: Post Office Box 2387, Morristown, N.J. 07960. UNDERWRITING LIMITATION b/: $11,900,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

*See footnotes at end of table.

The Western Casualty and Surety Company. BUSINESS ADDRESS: 14 East First Street, Fort Scott, Kans. 66701. UNDERWRITING LIMITATION b/: $19,353,000. SURETY LICENSES c/: All except C.Z., Conn., Guam, Hawaii, Me., Mass., N.H., N.Y., Puerto Rico, Vt., Va., Virgin Islands. INCORPORATED IN: Kans. FEDERAL PROCESS AGENTS d/.

The Western Fire Insurance Company. BUSINESS ADDRESS: 14 East First Street, Fort Scott, Kans. 66701. UNDERWRITING LIMITATION b/: $12,220,000. SURETY LICENSES c/: All except Ala., C.Z., Conn., Del., D.C., Ga., Guam, Hawaii, La., Me., Md., Mass., N.H., N.J., Oreg., Puerto Rico, S.C., Vt., Virgin Islands. INCORPORATED IN: Kans. FEDERAL PROCESS AGENTS d/.

Western Surety Company. BUSINESS ADDRESS: 908 West Avenue North, Sioux Falls, S. Dak. 57192. UNDERWRITING LIMITATION b/: $2,127,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: S. Dak. FEDERAL PROCESS AGENTS d/.

Westfield Insurance Company. BUSINESS ADDRESS: Westfield Center, Ohio 44251. UNDERWRITING LIMITATION b/: $4,800,000. SURETY LICENSES c/: All except Alaska, C.Z., Conn., Fla., Guam, Hawaii, Me., Puerto Rico, Virgin Islands. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

Wilshire Insurance Company. BUSINESS ADDRESS: 5670 S. Syracuse Circle, Suite 500, Englewood, Colo. 80111. UNDERWRITING LIMITATION b/: $715,000. SURETY LICENSES c/: Ariz., Cal., Colo., Hawaii, Idaho, Iowa, Kans., Mont., Nebr., Nev., N. Mex., Oreg., S. Dak., Utah, Wash. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Worldwide Underwriters Insurance Company. BUSINESS ADDRESS: 2000 Westwood Drive, Wausau, Wis. 54401. UNDERWRITING LIMITATION b/: $754,000. SURETY LICENSES c/: Ala., Ariz., Ark., Cal., Colo., Del., Fla., Ga., Idaho, Ind., Iowa, Kans., Ky., La., Mich., Minn., Miss., Mo., Nebr., N. Mex., N.Y., N. Dak., Okla., Oreg., Pa., S.C., S.Dak., Utah, Va., Wash., Wis. INCORPORATED IN: Wis. FEDERAL PROCESS AGENTS d/.

COMPANIES HOLDING CERTIFICATES OF AUTHORITY AS ACCEPTABLE REINSURING COMPANIES
UNDER SECTION 223.3(b) of TREASURY CIRCULAR NO. 297, REVISED SEPTEMBER 1, 1978 (See Note (e))

Alliance Assurance Company, Limited, London, England. BUSINESS ADDRESS (U.S. Office): 190 River Road, Summit, N.J. 07901. UNDERWRITING LIMITATION b/: $2,831,000. FEDERAL PROCESS AGENTS: D.C.

The Canadian Indemnity Company, Winnipeg, Manitoba, Canada. BUSINESS ADDRESS (U.S. Office): 3350 Harbor Boulevard, Costa Mesa, Cal. 92626. UNDERWRITING LIMITATION b/: $2,035,000. FEDERAL PROCESS AGENTS: D.C.

The London Assurance, London, England. BUSINESS ADDRESS (U.S. Office): 190 River Road, Summit, N.J. 07901. UNDERWRITING LIMITATION b/: $3,938,000. FEDERAL PROCESS AGENTS: D.C.

Munich Reinsurance Company, Munich, Germany. BUSINESS ADDRESS (U.S. Office): 560 Lexington Avenue, New York, N.Y. 10022. UNDERWRITING LIMITATION b/: $4,755,000. FEDERAL PROCESS AGENTS: D.C.

Rochdale Insurance Company. BUSINESS ADDRESS: 99 John Street, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $488,000. FEDERAL PROCESS AGENTS: D.C.

The Sea Insurance Company, Limited, London, England. BUSINESS ADDRESS (U.S. Office): 190 River Road, Summit, N.J. 07901. UNDERWRITING LIMITATION b/: $2,356,000. FEDERAL PROCESS AGENTS: D.C.

Sun Insurance Office, Limited, London, England. BUSINESS ADDRESS (U.S. Office): 190 River Road, Summit, N.J. 07901. UNDERWRITING LIMITATION b/: $3,647,000. FEDERAL PROCESS AGENTS: D.C.

Swiss Reinsurance Company, Zurich, Switzerland. BUSINESS ADDRESS (U.S. Office): 100 East 46th Street, New York, N.Y. 10017. UNDERWRITING LIMITATION b/: $15,680,000. FEDERAL PROCESS AGENTS: D.C.

The Tokio Marine and Fire Insurance Company, Limited, Tokyo, Japan. BUSINESS ADDRESS (U.S. OFFICE): 55 Water Street, New York, N.Y. 10041. UNDERWRITING LIMITATION b/: $5,955,000. FEDERAL PROCESS AGENTS: D.C.

"Winterthur" Swiss Insurance Company, Winterthur, Switzerland. BUSINESS ADDRESS (U.S. Office): One World Trade Center, Suite 8419, New York, N.Y. 10048. UNDERWRITING LIMITATION b/: $5,870,000. FEDERAL PROCESS AGENTS: D.C.

Zurich Insurance Company, Zurich, Switzerland. BUSINESS ADDRESS (U.S. Office): 231 North Martingale Road, Schaumburg, Ill. 60196. UNDERWRITING LIMITATION b/: $15,013,000. FEDERAL PROCESS AGENTS: D.C.

FOOTNOTES

1* Merchants Mutual Bonding Company, Des Moines, Iowa -- changed its name to Merchants Bonding Company (Mutual) (See Federal Register of May 12, 1982, pg. 20434)

PLEASE READ THE SUPPORTING NOTES
ON THE NEXT PAGE

NOTES

(a) All certificates of authority expire June 30, and are renewable July 1, annually. Companies holding certificates of authority as acceptable sureties on Federal bonds are also acceptable as reinsuring companies.

(b) Treasury requirements do not limit the penal sum of bonds which surety companies may execute. The net retention, however, cannot exceed the underwriting limitation, and excess risks must be protected by co-insurance, reinsurance, or other methods in accordance with Treasury Circular 297, Revised September 1, 1978 (31 CFR Section 223.10, Section 223.11). When excess risks on bonds in favor of the United States are protected by reinsurance, such reinsurance is to be effected by use of a Treasury reinsurance form to be filed with the bond or within 45 days thereafter. Risks in excess of the limit fixed herein must be reported for the quarter in which they are executed. In protecting such excess, the rating in force on the date of the execution of the risk will govern absolutely. This limit applies until a new rating is established by the Treasury Department.

(c) A surety company must be licensed in the State or other area in which it executes (signs) a bond, but need not be licensed in the State or other area in which the principal resides or where the contract is to be performed (28 Op. Atty. Gen. 127, Dec. 24, 1909; 31 CFR Section 223.5(b)). The term "other area" includes the Canal Zone, District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

(d) FEDERAL PROCESS AGENTS: Treasury approved surety companies are required to appoint Federal process agents in accord with 6 U.S.C. 7 and 31 C.F.R. 224 in the following districts: Where the principal resides; where the obligation is to be performed; and in the District of Columbia where the bond is returnable or filed. No process agent is required in the state or other area wherein the company is incorporated (31 CFR Section 224.2). Beginning with the 1980 publication of the Treasury Circular 570, surety companies' individual listings of Federal process agent appointments will no longer be printed in the Circular 570. However, the name and address of a particular surety's process agent in a particular Federal Judicial District may be obtained from the Clerk of the U.S. District Court in that district. (The appointment documents are on file with the clerks.) (NOTE: A surety company's underwriting agent who furnishes its bonds may or may not be its authorized process agent.)

SERVICE OF PROCESS: Process should be served on the Federal process agent appointed by a surety in a judicial district, except where the appointment of such agent is pending or during the absence of such agent from the district. Only in the event an agent has not been duly appointed, or the appointment is pending, or the agent is absent from the district, should process be served directly on the Clerk of the court pursuant to the provisions of 6 U.S.C. 7.

Title 6, Section 7 of the U.S. Code provides that in the absence of any agent of a company, service of process may be made upon the Clerk of the court within the district where suit is brought, with like effect as upon an agent appointed by the company. The officer serving process upon the Clerk should immediately transmit a copy of the summons by mail to the corporate secretary of the company (at the business address shown in Treasury Circular 570), and state such fact in his return. A judgment, decree, or order of a court entered or made after service of process will be as valid and binding on the company as if served with process in said district.

(e) Companies holding certificates of authority as acceptable reinsuring companies are acceptable only as reinsuring companies on Federal bonds.

[FR Doc. 82-16655 Filed 6-30-82; 8:45 am]
BILLING CODE 4810-35-C

federal register

Thursday
July 1, 1982

Part III

Department of the Interior

Minerals Management Service

Outer Continental Shelf Oil and Gas Operations; Personnel Safety and Protection in Hydrogen Sulfide-Prone Areas

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf Oil and Gas Operations; Personnel Safety and Protection in Hydrogen Sulfide-Prone Areas

AGENCY: Minerals Management Service, Interior.

ACTION: Notice to amend Section 5.2, *Personnel Safety and Protection,* of the Hydrogen Sulfide (H_2S) Standard.

SUMMARY: The Minerals Management Service (MMS) herein amends certain requirements of Section 5.2, *Personnel Safety and Protection,* of the MMS Outer Continental Shelf (OCS) Standard MMSS–OCS–1 (formerly GSS–OCS–1), "Safety Requirements for Drilling Operations in a Hydrogen Sulfide Environment, "First Edition, February 1976, concerning personnel safety and protection in H_2S-prone areas on the OCS.

The amendment rescinds the requirement that personnel undergo an eardrum examination before assignment to H_2S-prone areas and rescinds the requirement that personnel with perforated eardrums be prohibited from working in an H_2S environment. These requirements are unnecessary, expensive, and burdensom.

In addition, the amendment requires the use of pressure-demand-type respirators that will increase personnel safety. Data available indicate that only pressure-demand-type respirators provide the protection needed in H_2S-prone areas.

EFFECTIVE DATE: The amendment becomes effective on August 2, 1982.

ADDRESSES: Reprints of this Notice may be obtained after July 22, 1982, from the following:

Minerals Manager, Alaska OCS Region, Minerals Management Service, U.S. Department of the Interior, P.O. Box 259, Anchorage, Alaska 99510;

Minerals Manager, Atlantic OCS Region, Minerals Management Service, U.S. Department of the Interior, 1951 Kidwell Drive, Suite 601, Vienna, Virginia 22180;

Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, U.S. Department of the Interior, P.O. Box 7944, Metairie, Louisiana 70010;

Minerals Manager, Pacific OCS Region, Minerals Management Service, U.S. Department of the Interior, 1340 West Sixth Street, Los Angeles, California 90017;

Chief, Offshore Minerals, Management Division, MS 640, Minerals Management Service, U.S. Department of the Interior, 12203 Sunrise Valley Drive, Reston, Virginia 22091.

FOR FURTHER INFORMATION CONTACT: Lloyd M. Tracey, Branch of Offshore Rules and Procedures, Mail Stop 640, Minerals Management Service, 12203 Sunrise Valley Drive, Reston, Virginia 22091; telephone (703) 860–7916 or FTS 928–7916.

SUPPLEMENTARY INFORMATION: Under Title 30 of the Code of Federal Regulations, §§ 250.10 and 250.11, and in accordance with the Delegation of Authority published March 14, 1980 (45 FR 16570), and under the authority published February 2, 1982 (45 FR 4751), the Chief, Offshore Minerals, Management Division (C/OMMD), hereby amends section 5.2 of Standard MMSS–OCS–1, as set forth below. This standard is incorporated by reference as a requirement in Paragraph 8, *Hydrogen Sulfide,* of OCS Order No. 2, applicable to all regions of the OCS. This Order implements 30 CFR 250.41, Control of wells.

Background

Section 5.2 of Standard MMSS–OCS–1 presently provides:

> *Personnel Safety and Protection.* All personnel shall undergo an eardrum examination before assignment to H_2S prone areas. Personnel with perforated eardrums shall be prohibited from working in an H_2S environment.

The MMS has medical data to support the contention that these requirements are medically and scientifically unwarranted, they do not improve the health or safety protection of personnel, they are expensive and burdensome to implement, and they are not necessary. When the Standard was originally developed, there was a divergence of opinion on the need for these requirements. After considering the available evidence, the Conservation Division of the U.S. Geological Survey (USGS) (now MMS) adopted the above requirements. This decision was based on the opinions of recognized authorities who believed that a person, while using a breathing apparatus in an H_2S environment, could inhale the toxic gas through a perforated eardrum and the eustachian tube.

Subsection 5.2.5, paragraph (a), did not specify a type of protective breathing apparatus. Now, the MMS has data which indicate that only pressure-demand-type respirators are adequate protection for personnel working in H_2S or sulfur dioxide (SO_2) environments.

As a result of our review of the data available and information contained in our files, the MMS reconsidered these requirements and published in the **Federal Register** on December 28, 1981 (46 FR 62716), a notice to propose an amendment to section 5.2 with a request for comments. Appropriate suggestions received in response to that request have been incorporated in the amendment of section 5.2.

Comments were received during the comment period from the following organizations:

Arco Oil and Gas Company.
Atlantic Richfield Company.
Champlin Petroleum Company.
Cehvron U.S.A. Inc.
Conoco Inc.
Exxon Company, U.S.A.
Offshore Operators Committee.
Standard Oil Company of California (Chevron).
Sun Production Company.
Transco Exploration Company.
Union Oil Company of California.

Summaries of the comments received and discussions for accepting or rejecting the suggestions of the commenters follow.

Summaries and Discussions of Comments Received

All commenters agreed that the revocation of the eardrum examination and the revocation of the prohibition of personnel with perforated eardrums from working in an H_2S environment were warranted. Seven of those commenters also agreed that the requirement for use of pressure-demand-type respirators was adequate and acceptable, but four commenters had reservations or observations that are discussed below.

Comment: One commenter agreed that the revocation of the eardrum examination was reasonable, but did not agree that the requirements concerning the pressure-demand-type respirator was necessary because it was not practical or economically feasible. The commenter stated: "An entire vessel should not be affected if the 'H_2S or SO_2 environment' is confined to closed vessels entered only for maintenance or inspection." The commenters suggested that " 'H_2S or SO_2 environments' should be defined as those *areas* exhibiting concentrations of H_2S and SO_2 in excess of Federal, State, local and company ceiling limits."

Discussion: It appears the commenter has in mind an industrial fixed location where levels of concentration of fumes or gases can be controlled or foreseen.

This might be the case in an offshore production platform where conditions are fairly well established and, what is more important, there is minimal use of personnel. However, this is not the case

on an offshore drilling rig where suddenly, in the process of drilling, the presence of H_2S might be detected in gas-cut drilling mud and the level of concentration in the air can increase rapidly. At times, it could take several hours to bring the condition under control. Moreover, an offshore drilling rig is a location with confined boundaries where escape for personnel may be limited to boarding a helicopter, crewboat, or other similar vessel available in the immediate vicinity.

As shown on Table II, page 4, of the American Petroleum Institute (API) Recommend Practice (RP) for "Safe Drilling of Wells Containing Hydrogen Sulfide," API RP 49, a constant level of concentration of 20 parts per million (ppm) is safe for 8 hours of exposure, but a level of 100 ppm kills the sense of smell in 3 to 15 minutes and exposes individuals to a false sense of safety. As the concentration of H_2S increases further, it can cause unconsciousness followed by death.

In an emergency situation, such as the sudden appearance of H_2S, it might be very difficult or academic to specifically define or ascertain the areas of concentration exhibiting excess of Federal, State, local, and company ceiling limits as suggested by the commenter. In the meantime, personnel should not be expected to bring the H_2S emergency under control while being exposed to unnecessary risks. Therefore, the Standard requires in subsection 5.2.2(a) that protective-breathing apparatus shall be worn by all working personnel when the concentration of H_2S reaches 20 ppm and that all nonworking personnel shall proceed to the safe briefing areas.

As noted in the **Federal Register** Notice of December 28, 1981 (46 FR 62717), it appears that only pressure-demand-type respirators give adequate protection for personnel working in H_2S or SO_2 environments. This conclusion is based mainly on the requirements of the 1980 edition of the American National Standards Institute (ANSI) Standard Z88.2 and on recommendations of the National Institute for Occupational Safety and Health (NIOSH).

With respect to economical feasibility concerning the proposed requirement to use pressure-demand-type respirators in lieu of other respirators, it is noted that it means a cost increase of about $65 per respirator unit. Normally, an offshore drilling/production facility has two crews—a day shift and a night shift—for a total of about 150 persons. About 50 percent of the employees of drilling/production facilities already have pressure-demand-type respirators. Consequently, the $65 multiplied by 75 employees (150/2) represents a one-time cost of $4,875 per drilling/production facility.

This amount is minimal when the safety of 150 persons is considered.

It is also noted that the revocation of the eardrum examination, found reasonable by the commenter, would result in an annual saving of about $10,000 per drilling/production facility to the lessees. The eardrum examination includes doctor's fees, the cost of crew's and/or professional staff's time, transportation cost, etc. Due to the transient nature of drilling work on the OCS, the scheduling for examinations could result in costly disruption of normal drilling activities.

Doctor's fee per employee examined is about $20; labor costs per person working on an offshore drilling rig range from about $20 per hour for a rotary helper (roughneck) to about $50 per hour for a senior drilling engineer; transportation costs per employee before or after assignment to a drilling rig would vary (drilling rigs are usually located between 30 miles to 250 miles from shore); the time lost per employee for examination, including time to come and go from job assignment and time waiting for examination, would vary; and other miscellaneous costs, such as recordkeeping, would also vary. By combining all these factors it can be estimated that, as an average, an eardrum examination would cost about $500 per person. Due to the turnover and transient nature of the work it is estimated that 20 employees (about 13 percent of the 150 employees per drilling/production facility) would require eardrum examinations per rig per year. Therefore, eardrum examinations would cost about $10,000 ($500 x 20) per drilling/production facility per year.

The annual saving of $10,000 per rig as a result of the removal of the eardrum examination requirement would more than offset the one-time cost of $4,875 per rig to purchase the pressure-demand-type respirators. Therefore, we do not agree that the proposed requirement is "not practical or economically feasible" as stated by the commenter.

Comment: One commenter agreed that the revocation of the eardrum examination was warranted and did not have any objections concerning the requirement for pressure-demand-type respirators, but added: "It is presumed that the new wording will not prohibit the use of combination pressure-demand, air-line breathing equipment, with auxiliary self-contained air supply for emergency egress which is considered acceptable for H_2S drilling operations in the latest edition of API RP 49."

Discussion: The presumption of the commenter is correct. The wording of the proposed requirement does not prohibit the use of combination pressure-demand, air-line breathing equipment, with auxiliary self-contained air supply for emergency egress mentioned by the commenter.

Comment: One commenter stated: "We are not opposed to the requirement of pressure-demand-type respirators for use in H_2S and SO_2 environments with accessory equipment to be available as needed. However, we believe that USGS (MMS) should adopt the 50 ppm ANSI Standard Z88.2–1980 rather than a lower standard."

We have determined in telephone consultation with the commenter that ANSI Standard Z88.2–1980 does not specify 50 ppm and that he intended to cite the recommendation of the NIOSH, quoted in the **Federal Register** Notice of December 28, 1981, as follows: "For emergency use, or in unknown concentrations or concentrations in excess of 70 mg/m³ (50 ppm) only a full facepiece positive pressure self contained breathing apparatus is adequate." (It is noted here that in the **Federal Register** Notice of December 28, 1981 (46 FR 62717), the phrase "* * * excess of 70 mg/in³ * * *" was in error; it should have been "* * * excess of 70 mg/m³ * * *").

The commenter explained that he was suggesting that the 50 ppm might be in conflict with statements in other sections of the H_2S Standard, such as subsection 5.2.2(a) where it is stated "If the concentration of H_2S reaches 20 parts per million, protective-breathing apparatus shall be worn by all working personnel * * *."

Discussion: In our opinion, the requirement of subsection 5.2.2(a) does not conflict with the requirement of the proposed revised subsection 5.2.5, paragraph (a), since the former specifies "when" the protective-breathing apparatus should be worn, while the latter specifies "what type" of protective-breathing apparatus should be used.

Moreover, the 20 ppm requirement of subsection 5.2.2(a) is the threshold limit for H_2S given in Table I, page 4, of API RP 49, First Edition, as the acceptable ceiling concentration for 8-hour exposure based on a 40-hour week. We believe that threshold limit is appropriate because an offshore duty tour lasts 12 continuous hours for 7 continuous days on a week-on, week-off basis.

The threshold limit of 20 ppm might be rapidly surpassed when, in the process of drilling, the sudden presence of H_2S is detected; therefore, the difference between 20 ppm and 50 ppm provides an additional safety margin.

Comment: One commenter suggested that the phrase "* * * shall be equipped with * * *" of the proposed revision of subsection 5.2.5, paragraph (a), implied that respirators should be worn at all times and proposed to change the phrase to say "* * * shall have immediate access to * * *" so the requirement would clarify the idea that respirators should be worn only when needed.

Discussion: Although we do not agree that the mentioned phrase has the implication suggested by the commenter, we agree that the commenter's proposed wording change would clarify the interpretation of the proposed requirement. Therefore, we have adopted the suggested wording change and added the words "stored in accordance with 5.2.5(b)" at the end of the sentence. Now the introductory sentence of paragraph (a) of subsection 5.2.5 reads as follows:

> All personnel on a drilling facility or aboard marine vessels serving the facility in H_2S and SO_2 environments shall have immediate access to a pressure-demand type respirator stored in accordance with 5.2.5(b).

Comment: One commenter suggested that the reference to "§§ 11.70 through 11.83–19" in the **Federal Register** Notice of December 28, 1981 (46 FR 62717), should be "§§ 11.70 through 11.85–19."

Discussion: We agree. The reference to "§§ 11.70 through 11.83–19" was in error; it should have been "§§ 11.70 through 11.85–19" as suggested. We have changed the phrase accordingly.

Drafting Information

The primary author of the amendment is Mario Rivero, OCS Orders and Standards Section, Branch of Offshore Rules and Procedures, Mail Stop 640, Minerals Management Service, 12203 Sunrise Valley Drive, Reston, Virginia 22091; telephone (703) 860–7916 or FTS 928–7916.

Statement of Significance

The Department of the Interior has determined that the proposed amendment to the standard does not constitute a major Federal action significantly affecting the quality of the human environment and, therefore, preparation of an environmental impact statement is not required.

The Department has determined that this amendment is not a major action and does not require a regulatory impact analysis under Executive Order 12291.

The Department has determined that this amendment does not have a significant economic effect on a substantial number of small entities and does not require a small entity flexibility analysis under the Regulatory Flexibility Act.

Dated: May 20, 1982.

James N. Parrish,

Acting Chief, Offshore Minerals Management Division.

For the reasons set forth above, section 5.2 of the Standard MMSS–OCS–1 is amended as follows:

1. In section 5.2, the introductory paragraph is removed.

2. In subsection 5.2.5, paragraph (a) is revised to read as follows:

5.2.5. Personnel Protective Equipment.

(a) All personnel on a drills facility or aboard marine vessels serving the facility in H_2S and SO_2 environments shall have immediate access to a pressure-demand-type respirator stored in accordance with 5.2.5(b).

Accessory equipment, such as voice-transmission devices and spectacle kits, shall be make available, as needed.

The design, selection, use, and maintenance of the pressure-demand-type respirator used in a H_2S or SO_2 environment shall conform to—

(1) Title 29 of the *Code of Federal Regulations*, Subpart I—Personnel Protective Equipment, § 1910.132, *General requirements*, and § 1910.134, *Respiratory protection;*

(2) Title 30 of the *Code of Federal Regulations*, Subpart A—General Provisions, § 11.2–1, *Selection, fit, use, and maintenance of approved respirators*, and Subpart H—Self-Contained Breathing Apparatus, §§ 11.70 through 11.85–19; and

(3) American National Standards Institute (ANSI), Inc., Standard ANSI Z88.2–1980, "Practice for Respiratory Protection."

* * * * *

(43 U.S.C. 1334)

[FR Doc. 82–17870 Filed 6–30–82; 8:45 am]
BILLING CODE 4310–MR–M

federal register

Thursday
July 1, 1982

Part IV

Office of Management and Budget

Budget Rescissions and Deferrals

OFFICE OF MANAGEMENT AND BUDGET

Budget Rescissions and Deferrals

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report a proposal to rescind $8 million in budget authority previously provided to the Office of the Federal Inspector of the Alaska Natural Gas Transportation System. In addition, I am reporting a new deferral of $3.6 million in funds appropriated to the Office of the Solicitor and Office of the Secretary of the Department of the Interior.

The details of the rescission proposal and deferral are contained in the attached report.

Ronald Reagan,

THE WHITE HOUSE, June 23, 1982.

BILLING CODE 3110-01-M

Rescission Proposal No: R82-27

CONTENTS OF SPECIAL MESSAGE
(In thousands of dollars)

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Rescission #	Item	Budget Authority
	Other Independent Agencies	
	Office of the Federal Inspector for the Alaska Natural Gas Transportation System	
R82-27	Salaries and expenses.....	8,000
	Subtotal, rescission proposal.	8,000

Deferral #	Item	Budget Authority
	Department of the Interior	
	Office of the Solicitor and Office of the Secretary	
D82-251	Construction management.....	1,613
	Subtotal, deferral.....	1,613
	Total, rescission proposal and deferral.....	11,613

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SUMMARY OF SPECIAL MESSAGES
FOR FY 1982
(in thousands of dollars)

	Rescissions	Deferrals
Fourteenth special message		
New items.....	8,000	1,613
Change to amount previously submitted.....	---	---
Effect of fourteenth special message.....	8,000	1,613
Previous special messages.....	7,576,998	8,135,191
Total amount proposed in special messages.....	7,584,998	8,138,804 1/

1/ This amount represents budget authority except for $20,972 thousand in one general revenue sharing deferral of outlays only (D82-23A).

Rescission Proposal No: R82-27

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency: Office of the Federal Inspector, Alaska Natural Gas Trans. System
Bureau:
Appropriation title & symbol: Salaries and expenses 5220100

New budget authority (P.L. 97-100): $27,425,000
Other budgetary resources: 244,000
Total budgetary resources: 27,669,000
Amount proposed for rescission: $8,000,000

OMB identification code: 52-0100-0-1-276
Grant program: ☐ Yes ☒ No

Legal authority (in addition to sec. 1012):
☐ Antideficiency Act
☐ Other

Type of account or fund:
☒ Annual
☐ Multiple-year _____ (expiration date)
☐ No-year

Type of budget authority:
☒ Appropriation
☐ Contract authority
☐ Other

Justification:

This proposal reflects a two-year delay in the Alaskan gas pipeline project beyond the one-year delay announced in April 1982. The consortium of private companies sponsoring the project now are assuming the project will be completed in 1989. Due to the delays, the Office of the Federal Inspector, which oversees private sector planning and construction of the pipeline, will be unable to expand its program in 1982 as previously planned. Consequently, a rescission of $8,000,000 is being proposed since these funds are no longer needed.

Estimated Effect:

If approved, this rescission proposal would reduce budget authority by $8 million and bring resources in line with the new construction schedule for the project.

Outlay Effects: (in millions of dollars)

1982 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1982	1983	1984	1985
26.1	18.5	7.6	0.4	--	--

R82-27

FEDERAL INSPECTOR FOR THE ALASKA GAS PIPELINE

Permitting and Enforcement

Appropriations under the heading "Federal Inspector for the Alaska Gas Pipeline", provided by Public Law 97-100, are rescinded in the amount of $8,000,000.

Deferral No: D82-251

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Interior	New budget authority (P.L. 97-100): $3,840,000
Bureau: Office of the Solicitor and Office of the Secretary	Other budgetary resources: 4,773,000
Appropriation title & symbol: 142 30103 Construction Management; 141 20103 1	Total budgetary resources: 8,613,000
	Amount to be deferred: Part of year: —; Entire year: 3,613,000
OMB identification code: 84-0103-0-1-306	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act; ☐ Other
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual; ☒ Multiple-year September 30, 1983 / September 30, 1982 (expiration date); ☐ No-year	Type of budget authority: ☒ Appropriation; ☐ Contract authority; ☐ Other

Justification: This appropriation provides for necessary expenses of the Office of Construction Management to assist the bureaus and offices of the Department of the Interior in improving their performance in planning, designing, constructing and operating facilities. Although this function was funded on an annual basis under the "Departmental Management" appropriation in FY 1980, P.L. 96-514 established a separate appropriation for the program in FY 1981 and also provided greater program flexibility by making funds available on a two-year basis. P.L. 97-100 appropriated $3.8 million in FY 1982 to remain available for obligation until the end of FY 1983. Current plans for FY 1982 require only $5 million of the total resources available. Accordingly, $3.6 million is being deferred to provide for the FY 1983 program.

This deferral action is taken under the provisions of the Antideficiency Act 31 U.S.C. 665.

Estimated Effect: Funding availability for FY 1982 will be reduced by $3.6 million with no significant impact on FY 1982 program activity. Carryover balances from FY 1981, as reflected above, will fund the majority of FY 1982 activity. Carryover balances from FY 1982 will provide for a continuation of current operations in FY 1983.

Outlay Effect: This deferral action will have no effect on outlays.

1/ None of these funds is deferred.

[FR Doc. 82-18008 Filed 6-30-82; 8:45 am]
BILLING CODE 3110-01-C

Reader Aids

INFORMATION AND ASSISTANCE
PUBLICATIONS
Code of Federal Regulations
CFR Unit
General Information, indexes and corrections
Incorporation by reference
Printing schedules and pricing information
Federal Register
Corrections
Daily Issue Unit
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FEDERAL REGISTER PAGES AND DATES
29605-29894

Reader Aids

Federal Register
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Thursday, July 1, 1982

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28505-28894.....1

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

TABLE OF EFFECTIVE DATES AND TIME PERIODS—JULY 1982

This table is for determining dates in documents which give advance notice of compliance, impose time limits on public response, or announce meetings.

Agencies using this table in planning publication of their documents must allow sufficient time for printing production.

In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or a holiday, the next Federal business day is used. (see 1 CFR 18.17)

A new table will be published in the first issue of each month.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
July 1	July 16	August 2	August 16	August 30	September 29
July 2	July 19	August 2	August 16	August 31	September 30
July 6	July 21	August 5	August 20	September 7	October 4
July 7	July 22	August 6	August 23	September 7	October 5
July 8	July 23	August 9	August 23	September 7	October 6
July 9	July 26	August 9	August 23	September 7	October 7
July 12	July 27	August 11	August 26	September 10	October 12
July 13	July 28	August 12	August 27	September 13	October 12
July 14	July 29	August 13	August 30	September 13	October 12
July 15	July 30	August 16	August 30	September 13	October 13
July 16	August 2	August 16	August 30	September 14	October 14
July 19	August 3	August 18	September 2	September 17	October 17
July 20	August 4	August 19	September 3	September 20	October 18
July 21	August 5	August 20	September 7	September 20	October 19
July 22	August 6	August 23	September 7	September 20	October 20
July 23	August 9	August 23	September 7	September 21	October 21
July 26	August 10	August 25	September 9	September 24	October 25
July 27	August 11	August 26	September 10	September 27	October 25
July 28	August 12	August 27	September 13	September 27	October 26
July 29	August 13	August 30	September 13	September 27	October 27
July 30	August 16	August 30	September 13	September 28	October 28

CFR CHECKLIST; 1981-82 ISSUANCES

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1981/82. New units issued during the month are announced on the back cover of the daily **Federal Register** as they become available.

For a checklist of current CFR volumes comprising a complete CFR set, see the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR Unit (Rev. as of Jan. 1, 1982):

Title	Price
1-2	$5.50
3	7.00
4	7.50
5 Parts:	
1-1199	8.00
1200-end	6.00
7 Parts:	
0-45	8.50
46-51	7.50
52	8.50
53-209	8.50
210-299	8.00
300-399	6.50
400-699	7.50
700-899	7.50
900-999	9.50
1000-1059	7.50
1060-1119	7.50
1120-1199	6.50
1200-1499	7.50
1500-1899	6.50
1900-1944	8.50
1945-end	8.00
8	6.00
9 Parts:	
1-199	7.50
200-end	7.50
10 Parts:	
0-199	8.50
200-399	7.50
400-499	8.00
500-end	8.00
12 Parts:	
1-199	6.50
300-499	7.00
500-end	8.50
13	8.00
14 Parts:	
1-59	8.00
60-139	8.00
140-199	6.50
200-1199	8.50
1200-end	6.50
15 Parts:	
0-299	8.50
300-399	7.50
400-end	7.50
16 Parts:	
0-149	7.00
150-999	7.00
1000-end	7.50
CFR Index	9.50

CFR Unit (Rev. as of Apr. 1, 1982):

20 Parts:	
400-499	6.00
21 Parts:	
1-99	7.00
200-299	5.50
600-799	5.00
800-1299	7.00
1300-end	5.50
26 Parts:	
1 (§§ 1.170-1.300)	7.50
1 (§§ 1.301-1.400)	7.00
1 (§§ 1.501-1.640)	7.50
1 (§§ 1.1201-end)	9.00
300-499	7.00
600-end	5.50

CFR Unit (Rev. as of July 1, 1981):

28 (Rev. 11/1/81)	8.00
29 Parts:	
0-99	9.50
100-499	6.50
500-899	9.00
900-1899	6.50
1900-1910	9.00
1911-1919	6.00
1920-end	8.50
30 Parts:	
0-199	8.50
200-end	9.00
31 Parts:	
0-199	7.00
200-end	8.00
32 Parts:	
1-39, Vol. I (rev. Aug. 1, 1981)	9.00
1-39, Vol. II (rev. Aug. 1, 1981)	13.00
1-39, Vol. III (rev. Aug. 1, 1981)	9.50
40-399	13.00
400-699	10.00
700-799	8.50
800-999	8.00
1000-end	7.00
33 Parts:	
1-199	9.50
200-end	8.50
34 Parts:	
1-399	14.00
400-end	8.50
35 (Rev. 12/31/81)	6.50
36 Parts:	
1-199	8.50
200-end	7.50
37	6.50
38 Parts:	
0-17	8.00
18-end	7.00
39	6.50
40 Parts:	
0-51	8.50
52	9.50
53-80	9.00
81-99	9.50
100-149	12.00
150-189	7.50
190-399	13.00
400-424	8.00
425-end	8.00
41 Chapters:	
1 (1-1 to 1-10)	8.00
1 (1-11 to App.)-2	7.50
3-6	8.50
7	5.25
8	5.00
9	8.00
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18 (Volume I)	8.00
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18 (Volume III)	8.00
19-100	8.00
101	9.00
102-end	7.00

CFR Unit (Rev. as of Oct. 1, 1981):

42 Parts:	
1-60	7.50
61-399	8.50
400-end	9.00
43 Parts:	
1-999	7.00
1000-3999	8.50
4000-end	6.50
44	7.50
45 Parts:	
1-199	7.00
200-499	6.00
500-1199	7.50
1200-end	7.00
46 Parts:	
1-29	5.50
30-40	5.50
41-69	7.50
70-89	6.00
90-109	6.50
140-155	6.50
156-165	7.00
166-199	6.50
200-399	8.00
400-end	8.00
47 Parts:	
0-19	7.50
20-69	9.50
70-79	8.00
80-end	8.50
49 Parts:	
1-99	6.00
100-177	9.00
178-199	8.00
200-399	7.50
400-999	8.00
1000-1199	7.50
1200-1299	8.00
1300-end	7.00
50 Parts:	
1-199	6.50
200-end	8.00

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1982

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$250.00 (domestic).
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CFR ISSUANCES
Projected 1982 CFR Issuances
January, April and July Quarters

This list restates the publication plans for the January and April, 1982 quarters and projects the publication plans for the July, 1982 quarter. A projected schedule that will include the October, 1982 quarter will appear in the first **Federal Register** issue of October, 1982, immediately after the CFR checklist.

Pricing information is not available on projected issuances. Individual announcements of the actual release of volumes will continue to be printed in the **Federal Register** and will provide the price and ordering information. The monthly CFR checklist and the Annual Cumulative LSA will continue to provide a cumulative list of CFR volumes actually printed.

Normally, CFR volumes are revised according to the following schedule:

Titles 1–16—January 1
Titles 17–27—April 1
Titles 28–41—July 1
Titles 42–50—October 1

All volumes listed below will adhere to these scheduled revision dates unless a notation in the listing indicates a different revision date for a particular volume.

Titles revised as of January 1, 1982:

Title
CFR Index
1–2
3 Compilation
4
5 Parts:
1–1199
1200–end
7 Parts:
0–45
46–51
52
53–209
210–299
300–399
400–699
700–899
900–999
1000–1059
1060–1119
1120–1199
1200–1499
1500–1899
1900–1944
1945–end
8
9 Parts:
1–199
200–end
10 Parts:
0–199
200–399
400–499
500–end
11 (cover only)
12 Parts:
1–199
200–299
300–499
500–end
13
14 Parts:
1–59
60–139
140–199
200–1199
1200–end
15 Parts:
0–299
300–399
400–end
16 Parts:
0–149
150–999
1000–end

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Title
17 Parts:
0–239
240–end
18 Parts:
1–149
150–399
400–end
19
20 Parts:
1–399
400–499
500–end
21 Parts:
1–99
100–169
170–199
200–299
300–499
500–599
600–799
800–1299
1300–end
1308 Table (Cover only)
22
23
24 Parts:
0–199
200–499
500–799
800–1699
1700–end
25
26 Parts:
1(§§ 1.0–1–1.169)
1(§§ 1.170–1.300)
1(§§ 1.301–1.400)
1(§§ 1.401–1.500)
1(§§ 1.501–1.640)
1(§§ 1.641–1.850)
1(§§ 1.851–1.1200)
1(§§ 1.1201–end)
2–29
30–39
40–299
300–499
500–599 (Cover only)
600–end
27 Parts:
1–199
200–end

Titles revised as of July 1, 1982:

Title
28
29 Parts:
0–99
100–499
500–899
900–1899
1900–1910
1911–1919
1920–end
30 Parts:
0–199
200–end
31 Parts:
0–199
200–end
32 Parts:
1–39, Vol. I
1–39, Vol. II
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40–399
400–699
700–799
800–999
1000–end
33 Parts:
1–199
200–end
34 Parts:
1–399
400–end
35
36 Parts:
1–199
200–end
37
38 Parts:
0–17
18–end
39
40 Parts:
0–51
52
53–80
81–99
100–149
150–189
190–399
400–424
425–end
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Chap. 9
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Chap. 101
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List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing June 30, 1982

by the
Public

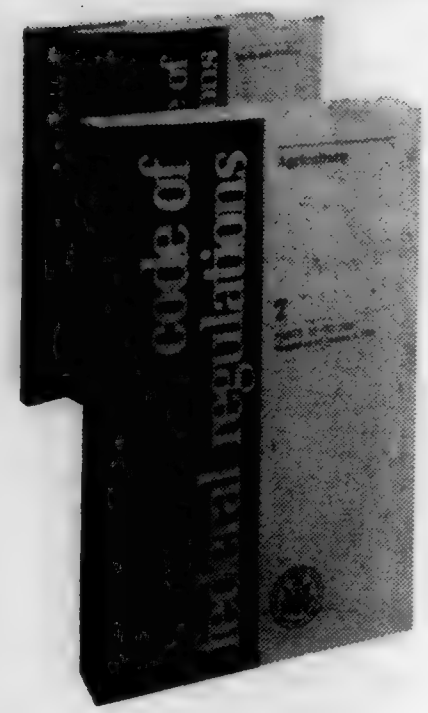

Just Released

Code of Federal Regulations

Revised as of April 1, 1982

Quantity	Volume	Price	Amount
_____	Title 26—Internal Revenue Part 1 (1.170 to 1.300)	$7.50	$_____
_____	Title 26—Internal Revenue Part 1 (1.1201 to end)	9.00	_____
		Total Order	$_____

A Cumulative checklist of CFR issuances for 1981 appears in the back of the first issue of the Federal Register each month in the Reader Aids section. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected).

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7-2-82
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federal register

Friday
July 2, 1982

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Antitrust
Federal Trade Commission
Cotton
Agricultural Marketing Service
Fisheries
National Oceanic and Atmospheric Administration
Flood Insurance
Federal Emergency Management Agency
Freedom of Information
Merit Systems Protection Board
Government Contracts
Employment Standards Administration
Government Employees
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Personnel Management Office
Government Procurement
Energy Department
General Services Administration
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Environmental Protection Agency
Income Taxes
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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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The **Federal Register** will be furnished by mail to subscribers, free of postage, for $300.00 per year, or $150.00 for six months, payable in advance. The charge for individual copies is $1.50 for each issue, or $1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register.**

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Agricultural Marketing Service

Marketing Quotas
Agricultural Stabilization and Conservation Service

Medical Devices
Food and Drug Administration

Quarantine
Animal and Plant Health Inspection Service

Radio
Federal Communications Commission

School Lunch Program
Food and Nutrition Service

Wages
Personnel Management Office

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Title 3—

The President

Proclamation 4950 of June 30, 1982

National NCO/Petty Officer Week, 1982

By the President of the United States of America

A Proclamation

Time has not altered the basic duties and responsibilities of the majority of our Armed Forces personnel since the very foundation of our country was laid in 1776. For more than two hundred years, the American men and women who have so proudly served—and are currently serving—as Noncommissioned Officers and Petty Officers have been regarded as the backbone of the Armed Forces of the United States.

We all should recognize the great sacrifices and significant contributions made to the Nation by our fellow citizens whose traditional role of service to the Nation as soldiers, sailors, airmen, marines, and coast guardsmen is older than the Nation itself. Their spirit and devotion to duty is evident in the long list of recipients of the Medal of Honor and other decorations of personal valor. They are the heart of our Armed Forces which sustain our freedom and way of life. The duties they perform in accomplishing their mission are a necessary and permanent part of this country's defense mechanism. Upon their shoulders lies the defense of our Nation.

By House Joint Resolution 518, the Congress has designated the week commencing with the fourth Monday in June 1982, as "National NCO/Petty Officer Week."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week commencing with the fourth Monday in June 1982 as "National NCO/Petty Officer Week." I call on all Americans, State and local officials and private organizations to join in honoring Noncommissioned Officers and Petty Officers who serve and have served our Nation's defense objectives and to observe this week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 30th day of June in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and sixth.

Ronald Reagan

[FR Doc. 82-18203
Filed 6-30-82; 4:26 pm]
Billing code 3195-01-M

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Presidential Documents

Proclamation 4951 of June 30, 1982

National Children's Day, 1982

By the President of the United States of America

A Proclamation

As the inventors, artists, teachers, farmers, businessmen and women, decision-makers, and leaders of tomorrow, children are our most important resource.

But children need parental love and guidance to reach their fullest potential, and they function most successfully when parents define values, set goals, and provide stability for them.

As parents fulfill their responsibility to love, encourage, and guide their children, youngsters have the opportunity to develop the self-esteem and competence that equip them to make sound decisions when they become adults.

National Children's Day provides a time for us to recognize the value, vitality, and potential of our young people. It is a day to recommit ourselves to nurturing our youth and to helping them achieve a healthy and happy future. We must strive to encourage our children to take advantage of opportunities for positive educational experiences and training, for the manner in which our children grow and learn will dramatically affect how our Nation is able to meet its future challenges.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States, in accordance with House Joint Resolution 191 (Public Law 97–29), do hereby proclaim August 8, 1982, as National Children's Day. I call upon the people of the United States to observe this day with appropriate activities in their homes and communities.

IN WITNESS WHEREOF, I have hereunto set my hand this 30th day of June in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and sixth.

Ronald Reagan

[FR Doc. 82–18204
Filed 6–30–82; 4:27 pm]
Billing code 3195–01–M

Presidential Documents

Executive Order 12369 of June 30, 1982

President's Private Sector Survey on Cost Control in the Federal Government

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to establish, in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), an advisory committee to study cost control in the Federal Government, it is hereby ordered as follows:

Section 1. *Establishment.* (a) There is established the Executive Committee of the President's Private Sector Survey on Cost Control in the Federal Government. The Committee shall be composed of not more than 150 members appointed by the President from among citizens in private life.

(b) The President shall designate a Chairman from among the members of the Committee.

Sec. 2. *Functions.* (a) The Committee shall conduct a private sector survey on cost control in the Federal Government and shall advise the President and the Secretary of Commerce, and other Executive agency heads with respect to improving management and reducing costs.

(b) The Committee shall conduct in-depth reviews of the operations of the Executive agencies as a basis for evaluating potential improvements in agency operations.

(c) In fulfilling its functions the Committee shall consider providing recommendations in the following areas:

(1) Opportunities for increased efficiency and reduced costs in the Federal Government that can be realized by Executive action or legislation;

(2) Areas where managerial accountability can be enhanced and administrative control can be improved;

(3) Opportunities for managerial improvements over both the short and long term;

(4) Specific areas where further study can be justified by potential savings; and

(5) Information and data relating to governmental expenditures, indebtedness, and personnel management.

Sec. 3. *Administration.* (a) The heads of Executive agencies shall, to the extent permitted by law, provide to the Secretary of Commerce, the Committee and its staff units such information, including that relating to the structure, organization, personnel and operations of the Executive agencies, as may be required for carrying out the purposes of this Order.

(b) Members of the Committee shall serve without compensation.

(c) A management office may provide overall administrative staff support to the Committee, guide the day-to-day operations of the Survey and provide liaison with the Executive Office of the President; separate unit staffs may be utilized to provide such staff support as is necessary to accomplish reviews of individual agencies.

(d) The Secretary of Commerce shall, to the extent permitted by law and subject to the availability of funds, provide the Committee with such informa-

tion, administrative services, facilities, staff and other support services it may require.

(e) The Committee is to be funded, staffed and equipped, to the extent practicable and permitted by law, by the private sector without cost to the Federal Government. To accomplish this objective, it is expected that the Secretary of Commerce will engage in a joint project, with a nonprofit organization, pursuant to Section 1 of Public Law 91–412 (15 U.S.C. 1525), for the purpose of providing staff support to the Committee as described in Section 3(c).

Sec. 4. *General Provisions.* (a) Notwithstanding the provisions of any other Executive order, the responsibilities of the President under the Federal Advisory Committee Act, as amended, except that of reporting annually to the Congress, which are applicable to the Committee established by this Order, shall be performed by the Secretary of Commerce in accordance with guidelines and procedures established by the Administrator of General Services.

(b) In accordance with the Federal Advisory Committee Act, as amended, the Committee shall terminate on December 31, 1982, unless sooner extended.

Ronald Reagan

THE WHITE HOUSE,
June 30, 1982.

[FR Doc. 82-18205
Filed 6-30-82; 4:28 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 47, No. 128
Friday, July 2, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 213

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Final rule; technical amendment.

SUMMARY: The Office of Personnel Management (OPM) is issuing a technical amendment to correct an administrative oversight in its regulations which inadvertently removed from Title 5 of the Code of Federal Regulations (5 CFR) certain excepted appointing authorities established by OPM under Schedule A, B, and C of the Excepted Service. The amendment to 5 CFR Part 213 which appeared in the **Federal Register** of April 3, 1981, (46 FR 20146–20148) was intended to remove only those appointing authorities granted to specific agencies under Schedule A, B, and C. However, the regulations also removed excepted appointing authorities available to the Entire Executive Civil Service under Schedule A and B. Provisions concerning publication of notices regarding the specific single-agency appointing authorities which were discussed in the Supplementary Information on April 3, 1981, were also omitted from the regulations. This amendment restores the authorities that are available for use by all agencies to Part 213 and adds provisions for publication of notices of specific single-agency authorities established or revoked. The amendment also restates the waiver of proposed rulemaking procedures and the 30-day delay in effectiveness in the case of establishment, amendment, or revocation of Schedule A, B, or C excepted appointing authorities specifically applicable to a single agency.

EFFECTIVE DATE: July 2, 1982.

FOR FURTHER INFORMATION CONTACT: William Bohling, 202–632–6000.

SUPPLEMENTARY INFORMATION: Excepted appointing authorities established solely for use by one specific agency do not meet the standard of general applicability prescribed by the Federal Register Act for regulations published in either the **Federal Register** or the Code of Federal Regulations. Frequent changes to these excepted appointing authorities make regulations published annually in 5 CFR out of date almost immediately. Therefore, final regulations published April 3, 1981, provided that excepted authorities approved by the Director of the Office of Personnel Management solely for use by a specific agency would be published only as notices in the **Federal Register** and would not be incorporated in 5 CFR. The Supplementary Information to those regulations stated that notice of authorities established and revoked would be published monthly and that a consolidated notice of all authorities, current as of June 30, would be published annually. These publication requirements were omitted from the April 3, 1981, regulations, but are reflected in the revised regulations.

A different situation exists with respect to excepted appointing authorities in Schedules A, B, and C which are available for use by all agencies. (These authorities appear under the headings "Entire Executive Civil Service" in Schedules A, B, and C and "Temporary Organizations" in Schedule A.) Because these authorities have general applicability, that is, they are available for use by all agencies, their publication as regulations in the **Federal Register** and their incorporation in 5 CFR are appropriate. And, because establishment, revocation, or amendment of these authorities is usually proposed by OPM or by only one agency and does not involve direct participation by all affected agencies, the comment and delay provisions of 5 U.S.C. 553 are also appropriate. For these reasons, the final regulations of April 3, 1981, spoke of "individual appointing authorities" and did not remove the general appointing authority in Schedule C § 213.3302 from 5 CFR. The regulations did, however, remove Schedule A §§ 213.3102 and 213.3199 and Schedule B § 213.3202. The revised regulations correct this omission. Establishment, revocation, and amendment of any authority in these generally applicable sections will continue to be accomplished through rulemaking procedures and will be published in 5 CFR.

The revised regulations also reflect a change in the numbering system designating Schedule C excepted appointing authorities. The regulations will now permit OPM to assign each such authority either a number between §§ 213.3302 and 213.3399 or other appropriate number, because numbers used in the automated control system for single-agency Schedule C authorities are more readily recognizable to agencies.

Provisions of the Administrative Procedure Act, codified in section 553 of title 5, United States Code, require that notice of proposed rulemaking be published and comments solicited for any change to regulations, and further require that final regulations be published 30 days before they may become effective. In issuing the final regulations of April 3, 1981, which removed agency excepted appointing authorities from 5 CFR, the Director found that neither the comment period nor the delay in effectiveness serves any practical purpose in the case of specific single-agency appointing authorities. The reasons for this determination were discussed both in those final regulations and in proposed regulations issued December 23, 1980, (45 FR 84808). However, as these discussions did not specifically cite the legal authority for the determination, the waiver is restated here to clarify how actions regarding single-agency authorities meet the criteria for waiver contained in 5 U.S.C.

Pursuant to sections 553(b)(B) and 553(d)(3) of title 5, United States Code, the Director finds that good cause exists to waive the general notice of proposed rulemaking and to make this amendment effective in less than 30 days. The regulation is being made effective immediately because it does not change the substance of the regulations issued April 3, 1981, but merely updates and clarifies these regulations and corrects technical omissions. The Director further finds that good cause exists to waive the general notice of proposed rulemaking and the 30-day delay in effectiveness for all regulations which establish, amend,

or revoke Schedule A, B, or C excepted appointing authorities applicable to a single agency. Because all such regulations are negotiated with, and usually requested by, the affected agency, the required comments are obtained and adequate time to implement the regulation is provided during the negotiation process.

EO 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it affects only the procedures used to publicize excepted service appointing authorities. It does not affect the nature or number of Federal jobs filled in the excepted service.

List of Subjects in 5 CFR Part 213

Government employees.

Office of Personnel Management.
Donald J. Devine,
Director.

PART 213—EXCEPTED SERVICE

Accordingly, the U.S. Office of Personnel Management is correcting 5 CFR Part 213 by adding §§ 213.103, 213.3102, 213.3199, and 213.3202, and by revising § 213.3301 to read as follows:

§ 213.103 Publication of excepted appointing authorities in Schedules A, B, and C.

(a) Schedule A, B, and C appointing authorities available for use by all agencies shall be published as regulations in the **Federal Register** and the Code of Federal Regulations. These authorities shall also be published in the Federal Personnel Manual.

(b) Establishment and revocation of Schedule A, B, and C appointing authorities applicable to a single agency shall be published monthly in the Notices section of the **Federal Register.**

(c) A consolidated listing of all Schedule A, B, and C authorities current as of June 30 of each year, with assigned authority numbers, shall be published annually as a notice in the **Federal Register.**

* * * * *

§ 213.3102 Entire executive civil service.

(a) Positions of Chaplain and Chaplain's Assistant.

(b) Cooks, except at fixed locations such as hospitals, quarantine stations, and penal institutions.

(c) Positions to which appointments are made by the President without confirmation by the Senate.

(d) Attorneys.

(e) Law clerk trainee positions. Appointments under this paragraph shall be confined to graduates of recognized law schools or persons having equivalent experience and shall be for periods not to exceed 14 months pending admission to the bar. No person shall be given more than one appointment under this paragraph. However, an appointment which was initially made for less than 14 months may be extended for not to exceed 14 months in total duration.

(f) Chinese, Japanese, and Hindu interpreters.

(g) Any nontemporary position the duties of which are part-time or intermittent in which the appointee will receive compensation during his/her service year that aggregates not more than 40 percent of the annual salary rate for the first step of grade GS–3. This limitation on compensation includes any premium pay such as for overtime, night, Sunday, or holiday work. It does not, however, include any mandatory within-grade salary increases to which the employee becomes entitled subsequent to appointment under this authority. Appointments under this authority may not be for temporary project employment.

(h) Positions in Federal mental institutions when filled by persons who have been patients of such institutions and have been discharged and are certified by an appropriate medical authority thereof as recovered sufficiently to be regularly employed but it is believed desirable and in the interest of the persons and the institution that they be employed at the institution.

(i) Subject to prior approval of OPM, positions requiring temporary, part-time, or intermittent employment in wage board type occupations (i.e., positions excluded from Classification Act coverage by section 202(7) of the Act) on construction or repair work, where the activity is carried on in localities where examination coverage for the positions has not been provided and where because of employment conditions there is a shortage of available candidates for the positions. Appointments under this paragraph shall not extend beyond 1 year and the employment thereunder shall not exceed 180 working days a year. Seasonal employments of a recurring nature are not authorized under this paragraph.

(j) [Reserved]

(k) Positions without compensation provided appointments thereto meet the requirements of applicable laws relating to compensation.

(l) Positions requiring the temporary or intermittent employment of professional, scientific, or technical experts for consultation purposes.

(m) Nonsupervisory positions of custodial laborer (levels 1, 2, and 3) and general laborer (levels 2 and 3) in field establishments outside central office and regional office cities of OPM where examination coverage has not been provided for the positions, as follows:

(1) For temporary, intermittent, or seasonal employment (exclusive of positions covered by paragraph (l) of this section) not to exceed 180 working days a year in the Departments of Agriculture, Commerce, Interior, and Energy, in the Federal Aviation Administration, and in the International Boundary and Water Commission: or

(2) When it is specifically held by OPM that this authority is applicable for employment in localities that are isolated with respect to labor supply and where there is a shortage of available candidates for the positions.

(n) Any local physician, surgeon, or dentist employed under contract or on a part-time or fee basis.

(o) Positions of a scientific, professional, or analytical nature when filled by bona fide members of the faculty of an accredited college or university who have special qualifications for the positions to which appointed. Employment under this provision shall not exceed 130 working days a year.

(p) Positions of a scientific, professional or analytical nature when filled by bona fide graduate students at accredited colleges or universities provided that the work performed for the agency is to be used by the student as a basis for completing certain academic requirements toward a graduate degree. Appointments under this authority may not exceed 1 year, but may be extended for additional period(s) not to exceed 1 year as long as the conditions for appointment continue to be met. The appointment of any individual under this authority shall terminate upon the individual's completion of requirements for the graduate degree.

(q) Positions at grade GS–7 and below when appointees are to assist scientific, professional, or technical employees. Persons employed under this provision shall be: (1) Bona fide high school science or mathematics teachers or (2) bona fide students at high schools or accredited colleges or universities who are pursuing courses related to the field in which employed. The appointment of

any individual under this authority shall terminate upon the individual's ceasing to be enrolled in a qualifying educational program or to be employed as a teacher. No person shall be employed under this provision in (i) positions of a routine clerical type or (ii) in excess of 1040 working hours a year; except that the 1040 working-hours-a-year limitation shall not apply to positions at grade GS–4 and below which are established in connection with associate degree cooperative education programs. Students enrolled in bachelor's degree cooperative education programs as defined in § 213.3202(a) shall not be employed under this provision. Appointments under this authority may be made only to positions for which qualification standards established under Part 302 of this chapter are consistent with the education and experience standards established for comparable positions in the competitive service. Appointments under this authority may not be used to extend the service limits contained in any other appointing authority.

(r)–(s) [Reserved]

(t) Positions when filled by mentally retarded persons in accordance with written agreements executed between an agency and the OPM. Provisions to be included in such agreements are specified in the Federal Personnel Manual. Upon completion of 2 years of satisfactory service under this authority, the employee may qualify for conversion to competitive status under the provisions of Executive Order 12125 and implementing regulations issued by the Office.

(u) Positions when filled by severely physically handicapped persons who: (1) Under a temporary appointment have demonstrated their ability to perform the duties satisfactorily; or (2) have been certified by counselors of State vocational rehabilitation agencies or the Veterans Administration as likely to succeed in the performance of the duties. Upon completion of 2 years of satisfactory service under this authority, the employee may qualify for conversion to competitive status under the provisions of Executive Order 12125 and implementing regulations issued by the Office.

(v) Between May 13 and September 30 only, temporary Summer Aid positions the duties of which involve work of a routine nature not regularly covered under the General Schedule requiring no specific knowledge or skills, when filled by youths, either (1) appointed under economic needs standards prescribed by the Office of Personnel Management or (2) who are mentally retarded or severely physically handicapped. Youths may not be appointed unless they have reached their 16th birthday. This paragraph shall apply only to positions for which pay is fixed at the highest Federal minimum wage rate established by the Fair Labor Standards Act of 1938, as amended.

(w) Part-time or intermittent positions the duties of which involve routine work up to and including the GS–4 level of difficulty or equivalent under the Federal Wage System, when filled by bona fide students appointed under the Stay-in-School Program. Students may be appointed if they need the earnings from this employment to continue in school or if they are mentally retarded or severely physically handicapped, provided that the following conditions are met:

(1) Appointees are enrolled in or accepted for enrollment as a resident student in a secondary school (or other appropriate school for mentally retarded students) or an institution of higher learning not above the baccalaureate level, accredited by a recognized accrediting body;

(2) Employment does not exceed 20 hours in any calendar week except that students may work full-time whenever their school is officially closed and during any school vacation period;

(3) While employed, appointees continue to maintain an acceptable school standing, although they need not attend school during the summer;

(4) Appointees meet the economic criteria prescribed by the Office of Personnel Management, except that this requirement does not apply to mentally retarded or severely physically handicapped students; and

(5) Salaries are fixed by the agency head at a level commensurate with the duties assigned and the expected level of performance.

Appointments under this authority may not extend beyond 1 year. However, such appointments may be made for additional periods of not to exceed 1 year, each, if the conditions for initial appointment are still met. Student may not be appointed under this authority unless they have reached their 16th birthday. No new appointments may be made between May 13 and August 31, inclusive.

(x) Positions for which a local recruiting shortage exists when filled by inmates of Federal, District of Columbia and State (including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands) penal and correctional institutions under work-release programs authorized by the Prisoner Rehabilitation Act of 1965, the District of Columbia Work Release Act, or under work-release programs authorized by the States. Initial appointments under the authority may not exceed 1 year. An initial appointment may be extended for one or more periods not to exceed 1 additional year each upon a finding that the inmate is still in a work-release status and that a local recruiting shortage still exists. No person may serve under this authority longer than 1-year beyond the date of that person's release from custody.

(y) Positions at grade GS–2 and below for summer employment as defined in § 213.3101(d), of assistants to scientific, professional, and technical employees, when filled by finalists in national science contests.

(z) Not to exceed 30 positions of assistants to top-level Federal officials when filled by persons designated by the President as White House Fellows.

(aa) Scientific and professional research associate positions at GS–11 and above when filled on a temporary basis by persons having a doctoral degree in an appropriate field of study for research activities of mutual interest to appointees and their agencies. Appointments are limited to persons referred by the National Research Council under its post-doctoral research associate program and may be made initially for 1 year only. An agency may extend an appointment made under this authority for up to 1 additional year when the program committee at the laboratory concerned determines that extension will benefit both the associate and the laboratory.

(bb) Positions when filled by aliens in the absence of qualified citizens. Appointments under this authority are subject to prior approval of the Office except when the authority is specifically included in a delegated examining agreement with the Office.

(cc) Positions at GS–15 and below when filled by persons identified as Interchange Executives by the President's Commission on Personnel Interchange. Appointments made under this authority may not extend beyond 2 years.

(dd)–(ee) [Reserved]

(ff) Not to exceed 24 positions when filled in accordance with an agreement between OPM and the Department of Justice by persons in programs administered by the Attorney General of the United States under Pub. L. 91–452 and related statutes. A person appointed under this authority may continue to be employed under it after he ceases to be in a qualifying program only as long as

he remains in the same agency without a break in service.

(gg) [Reserved]

(hh) Positions as needed not in excess of GS–13, whose incumbents will implement the Young Adult Conservation Corps program and are to be paid out of funds allocated under title VIII of the Comprehensive Employment and Training Act of 1973, as amended, or other appropriated funds receiving direct benefits. Employment under this authority is not to exceed September 30, 1982.

(ii) Positions of Presidential Intern, GS–9 and 11, in the Presidential Management Intern program. Initial appointments must be made at the GS–9 level. No one may serve under this authority for more than 2 years. Upon completion of 2 years of satisfactory service under this authority, the employee may qualify for conversion to competitive appointment under the provisions of Executive Order 12008, in accordance with requirements published in the Federal Personnel Manual. Recommendation for conversion may be submitted within 90 days before completion of the service requirement, and conversion will be effective on the date the service requirement is met. Except for the requirement concerning competitive selection from a register, appointments under this paragraph are subject to all the requirements and conditions governing career-conditional appointment, including investigation by OPM to establish an appointee's qualifications and suitability.

(jj) Legal intern positions. Appointments under this paragraph shall be confined to bona fide students at recognized law schools who are candidates for J.D. or LL.B. degrees. Appointments under this authority may not exceed 1 year, but may be extended for additional period(s) not to exceed 1 year as long as the conditions for appointment continue to be met. The appointment of any individual under this authority shall terminate upon the individual's graduation from law school.

(kk) [Reserved]

(ll) Positions as needed of readers for blind employees, interpreters for deaf employees and personal assistants for handicapped employees, filled on a full time, part-time, or intermittent basis.

§ 213.3199 Temporary organizations.

(a) Positions at GS–15 and below on the staffs of temporary boards and commissions which are established by law or Executive order for specified periods not to exceed 4 years to perform specific projects. A temporary board or commission originally established for less than 4 years and subsequently extended may continue to fill its staff positions under this authority as long as its total life, including extension(s), does not exceed 4 years. No board or commission may use this authority for more than 4 years to make appointments and position changes unless prior approval of the Office is obtained.

(b) Positions at GS–15 and below on the staffs of temporary organizations established within continuing agencies when all of the following conditions are met:

(1) The temporary organization is established by an authority outside the agency, usually by law or Executive order;

(2) The temporary organization is established for an initial period of 4 years or less and, if subsequently extended, its total life including extension(s) will not exceed 4 years;

(3) The work to be performed by the temporary organization is outside the agency's continuing responsibilities; and

(4) The positions filled under this authority are those for which other staffing resources or authorities are not available within the agency.

An agency may use this authority to fill positions in organizations which do not meet all of the above conditions or to make appointments and position changes in a single organization during a period longer than 4 years only with prior approval of the Office.

* * * * *

§ 213.3202 Entire executive civil service.

The provisions established under paragraphs (a) through (i) of this section are authorized under provisions of E.O. 12015 and support career-related work-study programs. OPM's requirements relating to appointment under paragraphs (a) through (i) will be published in the Federal Personnel Manual. Further, appointments under paragraphs (a) through (i) are subject to all the requirements and conditions governing career or career-conditional appointments, including investigation by OPM to establish an appointee's qualifications and suitability. Appointments of participants may be converted to career or career-conditional at any time within a 120-day period after satisfactory completion of a career-related work-study program.

(a) Student positions established in connection with a bachelor's degree cooperative education program which provide for a formally arranged schedule of attendance at an institution of higher learning combined with at least 26 weeks, or 1040 hours, of study-related work in a Federal agency. The periods of work and study together must satisfy requirements for a bachelor's degree and must provide the experience necessary for a career or career-conditional appointment to administrative, professional or technical positions in the Federal career service upon the student's graduation.

(b) Student positions established in support of cooperative education programs for graduate students which provide for scheduled periods of attendance at a graduate school combined with at least 16 weeks or 640 hours of study-related work in a Federal agency. The periods of work and study must satisfy requirements for the graduate degree and provide experience necessary for career or career-conditional appointment in the Federal career service upon the student's graduation.

(c) Student positions established in connection with associate degree cooperative education programs which provide for formally arranged schedules of attendance at a recognized 2-year educational institution combined with at least 26 weeks or 1040 hours of study-related work in a Federal agency. The periods of work and study together must satisfy the requirements for graduation and must provide the experience necessary for career or career-conditional appointment in selected occupations in the Federal career service upon the student's graduation.

(d) Student positions established in connection with the Harry S Truman Foundation Scholarship Program under the provisions of Pub. L. 93–842 to permit scheduled periods of attendance at institutions of higher education combined with at least 26 weeks or 1040 hours of study-related work in a Federal agency. The periods of work and study must satisfy requirements of programs established by agreement between the Harry S Truman Scholarship Foundation and the employing agency and provide the experience necessary for career or career-conditional appointment in the Federal career service upon the student's graduation.

(e) Positions at shipyards, air rework facilities and other major industrial activities in the Department of the Navy which prepare students at the high school level, upon satisfactory completion of a cooperative education program of at least 1,040 hours for employment in preapprentice positions or in helper positions at the WG–5 level as pipefitters, marine machinist, inside machinist, welder, sheet metal mechanic, and such other occupations where the journeyman level is WG–9 or above as the Associate Director, Staffing Group, shall have approved,

provided that: (1) Not more than 25 percent of the positions in covered occupations will be filled annually at any single installation through this conversion authority, and (2) the maximum time during which any student will be employed in the program is 18 months, and (3) except for conditions specified in this authority, students will be subject to instructions governing all other high school vocational education students in cooperative education programs, and (4) any student who completes a program without a diploma must have an authenticated certificate from the school indicating satisfactory completion in his/her personnel folder.

(f) Positions under the Federal Junior Fellowship Program, a career-related work-study program covered under the provisions of E.O. 12015.

(g) Positions with the Social Security Administration, Department of Health and Human Services, in a 2-year pilot, career-related work-study program under the provisions of E.O. 12015 for students employed under the Stay-in-School Program. Under this program, the number of annual conversions to competitive service entry level clerk-typist, clerk-stenographer, other general clerical positions, and technician positions related to computer science and the graphic arts are limited to not more than 10 percent of the positions filled in these occupations by the agency annually.

(h)-(i) [Reserved]

(j) Special executive development positions established in connection with Senior Executive Service candidate development programs which have been approved by OPM. A Federal agency may make new appointments under this authority for any period of employment not exceeding 3 years for one individual.

(k) Positions at grades GS–15 and below when filled by individuals who: (1) are placed at a severe disadvantage in obtaining employment because of a psychiatric disability evidenced by hospitalization or outpatient treatment and have had a significant period of substantially disrupted employment because of the disbility; and (2) are certified to a specific position by a State vocational rehabilitation counselor or a Veterans Administration counseling psychologist (or psychiatrist) who indicates that they meet the severe disadvantage criteria stated above, that they are capable of functioning in the positions to which they will be appointed, and that any residual disability is not job related. Employment of any individual under this authority may not exceed 2 years following each significant period of mental illness.

* * * * * *

§ 213.3301 Positions of a confidential or policy-determining character.

Upon specific authorization by OPM, or under the terms of an agreement with OPM, agencies may make appointements under this section to positions in grades GS–15 and below which are policy-determining or which involve a close and confidential working relationship with the head of an agency or other key appointed officials. Positions filled under the authority are excepted from the competitive service and constitute Schedule C. Each position authorized under this section will be assigned a number from 213.3302 to 213.3399, or other appropriate number, to be used by the appointing agency in recording appointments made under that authorization.

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 82–18028 Filed 7–1–82; 8:45 am]
BILLING CODE 6325–01–M

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5 CFR Parts 315 and 316

Noncompetitive Appointment of Certain Former Overseas Employees

AGENCY: Office of Personnel Management.

ACTION: Interim regulations with comments invited for final rulemaking.

SUMMARY: These interim regulations implement Executive Order 12362, Overseas Employment, which permits noncompetitive appointment of certain former overseas employees to competitive civil service positions in the United States. The interim regulations define eligibility for appointment under this order and prescribe the conditions under which eligibles may be appointed.

DATE: Effective Date: July 2, 1982, and until final regulations are issued. Comment Date: Written comments will be considered if received no later than September 30, 1982.

ADDRESS: Send or deliver written comments to Assistant Director for Policy Analysis and Development, Staffing Group, Office of Personnel Management, 1900 E Street, NW., Room 6526, Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Ed McHugh, (202) 632–6817.

SUPPLEMENTARY INFORMATION: On May 12, 1982, the President issued Executive Order 12362 on overseas employment. The Order allows spouses and certain other dependents of military personnel and Federal civilian employees who work in local hire jobs at U.S. military bases and embassies overseas to qualify for direct appointments in the competitive civil service when they return to the United States.

This Executive Order is designed to overcome the growing reluctance of U.S. Government employees and military personnel to accept overseas assignments because of the lack of career employment opportunities for their spouses. A July, 1980 survey of overseas Federal agencies and employees surfaced this problem as a matter of great concern within the foreign affairs and military communities. During congressional consideration of the Foreign Service Act of 1980, the Office of Personnel Management was asked to review policies affecting federally-employed spouses and dependents of overseas U.S. Government military and civilian personnel in order to provide them with an equitable opportunity to earn career status.

Employment opportunities for military and civilian dependents overseas are generally confined to embassies or military bases, because most foreign governments restrict private sector employment to local citizens. Positions available to military and civilian dependents within U.S. activities are usually non-permanent, low-grade jobs which though similar to Stateside career positions in terms of job qualification and classification requirements, do not provide civil service status. Thus dependents who are rotated back to the United States after working for several years in overseas positions, have been unable to use their overseas service to obtain a career civil service appointment. There would be no need for direct appointment eligibility if more overseas positions were filled through career civil service appointments, but for a variety of reasons this is not possible. Many of the dependents serve in "local national" jobs which under treaty would normally be filled by residents of the host country, but are temporarily given back to the United States specifically for the employment of dependents. These jobs would probably be lost to the U.S. if an attempt were made to fill them under career appointments. Use of career appointments for filling local hire positions in the overseas area would also necessitate an expansion of personnel staff to deal with the more complex examining system required and could increase costs for various relocation and cost of living allowances

not now provided to non-career employees.

The Executive Order provides that eligible dependents who accumulate 24 months of service in a local hire overseas position(s) after January 1, 1980, and meet certain other requirements, can receive direct civil service appointments to positions for which they qualify in the United States.

Because of the retroactive feature of the Order providing eligibility to former overseas employees who accumulated 24 months of service after January 1, 1980, the Director of the Office of Personnel Management finds that, pursuant to section 553 of title 5 of the United States Code, good cause exists to waive the general notice of proposed rulemaking and to make this amendment effective in less than 30 days. This will enable eligibles to be appointed immediately and will avoid hardship which would otherwise occur.

E.O. 12291 Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it only affects Federal employees.

List of Subjects in 5 CFR Parts 315 and 316

Government employees.

U.S. Office of Personnel Management
Donald J. Devine,
Director.

Accordingly, the Office of Personnel Management is amending Parts 315 and 316 of Title 5, Code of Federal Regulations, as follows:

PART 315—CAREER AND CAREER-CONDITIONAL EMPLOYMENT

1. In subpart F, § 315.608 is added to read as follows:

§ 315.608 Noncompetitive appointment of certain former overseas employees.

(a) An agency in the executive branch may appoint noncompetitively to a competitive service position within the United States a United States citizen who:

(1) Accumulated 24 months of overseas service in an appropriated fund position(s) under a local hire appointment(s) after January 1, 1980, within a ten-year period from the date of initial appointment;

(2) Received a satisfactory or better performance rating for such overseas service;

(3) Is currently a family member of a civilian employee or of a member of a uniformed service (the civilian or uniformed sponsor) who was officially assigned to the overseas area, and was in this status while serving in the overseas position(s);

(4) Accompanied the civilian or uniformed sponsor on official assignment to the overseas post of duty while serving in the overseas position(s);

(5) Exercises eligibility for noncompetitive appointment within two years of returning to the United States from the overseas tour of duty during which he or she acquired eligibility; and

(6) Meets all qualification requirements for the position in the United States for which he or she is applying.

(b) *Definitions*

"Accompanied the civilian or uniformed sponsor on official assignment to an overseas post of duty" means a family member physically residing with a member of a uniformed service or Federal civilian employee officially assigned to the overseas area while serving in the overseas position or positions.

"Family member" means spouses and unmarried children (under 23 years of age) of a member of a uniformed service or Federal civilian employee officially assigned to the overseas area.

"Federal civilian employee" means employees of the executive, judicial, and legislative branches of the Government of the United States who are officially assigned to the overseas area and serve in appropriated fund positions.

"Local hire" appointments are overseas limited appointments, excepted appointments under Schedule A § 213.3106(b)(6), an "American Family Member" or "Part-time-Intermittent-Temporary" appointment in U.S. diplomatic establishments, or any other nonpermanent appointment in the competitive or excepted service, so designated by the Office of Personnel Management in the Federal Personnel Manual, which is made from applicants residing in the overseas area.

"Member of a uniformed service" means personnel of the Armed Forces (including the Coast Guard), the commissioned corps of the Public Health Service, and the commissioned corps of the National Oceanic and Atmospheric Administration officially assigned to the overseas area.

"Overseas area" means duty locations outside the 50 States of the United States, the District of Columbia, Guam, Puerto Rico and the Virgin Islands.

"United States" means the 50 States, the District of Columbia, Guam, Puerto Rico and the Virgin Islands.

(c) *Conditions* (1) OPM shall publish in the Federal Personnel Manual, uniform local hire procedures for assuring merit selection of eligible overseas employees as well as procedures for assuring that eligible employees have fully satisfactory or better performance ratings for their overseas service.

(2) Any law, Executive order or regulation that disqualifies an applicant for appointment also disqualifies an applicant for appointment under this section.

(d) *Tenure of Appointment* A person appointed under this section becomes a career-conditional employee.

(e) *Acquisition of Competitive Status* A person appointed under this section acquires competitive status automatically upon completion of probation.

* * * * *

PART 316—TEMPORARY AND TERM EMPLOYMENT

2. In Subpart C, § 316.302(c)(3) is revised to read as follows:

§ 316.302 Selection of term employees.

(c) * * *

(3) A person eligible for career or career-conditional appointment under §§ 315.601, 315.605, 315.606 or § 315.608 of this chapter;

* * * * *

3. In Subpart D, § 316.402(b)(2) is revised to read as follows:

§ 316.402 Authorities for temporary appointments.

(b) * * *

(2) A person eligible for career or career-conditional appointment under §§ 315.601, 315.605, 315.606, 315.607 or § 315.608 of this chapter;

* * * * *

(E.O. 12362)

[FR Doc. 82-18070 Filed 7-1-82; 8:45 am]
BILLING CODE 6325-01-M

MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1201

Practices and Procedures; Interim Rule

AGENCY: Merit Systems Protection Board.

ACTION: Interim regulation; request for comment.

SUMMARY: This regulation amends the procedures of the Merit Systems Protection Board with respect to discovery and subpenas. This action provides a simplified procedure for discovery as an aid to parties in preparing their cases for hearing.

DATES: Effective July 2, 1982. Comments should be submitted in writing on or before August 2, 1982.

ADDRESS: Comments should be submitted in writing and addressed to Robert E. Taylor, Secretary, Merit Systems Protection Board, c/o Legal Publications Division, 5205 Leesburg Pike, Suite 1404, Falls Church, VA 22041.

FOR FURTHER INFORMATION CONTACT: Charles J. Stanislav, (202) 653–8900.

SUPPLEMENTARY INFORMATION: This amendment makes it clear that parties are expected to cooperate with each other voluntarily to produce relevant documents and to make witnesses available without the need to resort to orders or subpenas. The amendment also establishes a time frame for discovery.

Subpart B—Hearing Procedures for Appellate Cases.

Discovery

§ 1201.71. Statement of purpose.

This paragraph has been revised to more clearly state the purpose of discovery and to make clear that the parties are expected to proceed without Board intervention.

§ 1201.72. Explanation and scope.

Paragraph (a) has been revised to distinguish discovery from the hearing and to make clear that relevant information not otherwise provided may be obtained from another person and/or party.

Paragraph (b) has been revised to clarify the scope of discovery by requiring that the information sought must reasonably appear to lead to admissible evidence.

Paragraph (c) has been added to identify acceptable discovery methods.

§ 1201.73. Procedures governing discovery.

This section has been retitled and has been completely revised.

Paragraph (a) sets forth the procedures for obtaining discovery from a party.

Paragraph (b) sets forth the procedures for obtaining discovery from a nonparty and describes what is required to obtain the Board's approval, if necessary, to seek discovery of nonparties.

Paragraph (c) describes what is expected in response to discovery requests and what the requesting party may do in the event of a failure or refusal to respond.

Paragraph (d) sets forth time limits for initiating and completing discovery.

§ 1201.74. Orders for discovery.

This section has been retitled and has been completely revised.

Paragraph (a) requires that motions for orders compelling discovery or for appearance of nonparties must be submitted to the presiding official.

Paragraph (b) describes the content of an order compelling discovery.

§ 1201.75. Taking of depositions.

This section has been revised to allow depositions to be taken before any person designated by the Board.

Subpenas

§ 1201.81. Motions for subpenas.

Paragraph (b) has been revised to delete unnecessary information and/or requirements and paragraphs (c) and (d) are removed.

§ 1201.82. Motions to quash.

This section has been revised to delete unnecessary information and/or requirements.

§ 1201.83. Service.

This section has been revised to delete redundant information.

§ 1201.84. Return of service.

This section has been revised to conform with current practice.

§ 1201.85. Enforcement.

This section has been revised to make it clear that requests for enforcement are to be directed to the presiding official.

Regulatory Flexibility Act

The Chairman, Merit Systems Protection Board, certifies that the Board is not required to prepare an initial or final regulatory analysis of this proposed rule, pursuant to section 603 or 604 of the Regulatory Flexibility Act, because of his determination that this rule would not have a significant economic impact on a substantial number of small entities, including small business, small organizational units, and small governmental jurisdictions.

List of Subjects in 5 CFR Part 1201

Administrative practice and procedure, civil rights, government employees.

Accordingly, the Merit Systems Protection Board amends 5 CFR by revising Part 1201, Subpart B, as follows:

PART 1201—PRACTICES AND PROCEDURES

Discovery

1. Section 1201.71 is revised to read as follows:

§ 1201.71 Statement of purpose.

Proceedings before the Board shall be conducted as expeditiously as possible with due regard to the rights of the parties. Discovery is designed to enable a party to obtain relevant information needed for presentation of the party's case. These regulations are intended to provide a simple method of discovery. They will be interpreted and applied so as to avoid delay and to facilitate adjudication of the case. The parties are expected to initiate and complete needed discovery with a minimum of Board intervention.

2. Section 1201.72, paragraphs (a) and (b) are revised and a new paragraph (c) added to read as follows:

§ 1201.72. Explanation and scope.

(a) Explanation: Discovery is the process apart from the hearing whereby a party may obtain relevant information from another person, including a party, which has not otherwise been provided. Relevant information means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence. This information is obtained for the purpose of assisting the parties in developing, preparing, and presenting their cases. The Federal Rules of Civil Procedure may be used as a general guide for discovery practices in proceedings before the Board where appropriate except as to matters sepcifically covered by these regulations. The federal rules shall be interpreted as instructive rather than controlling in any event.

(b) Scope: Any person may be examined pursuant to § 1201.72(c) regarding any nonprivileged matter which is relevant to the issue under appeal including the existence, description, nature, custody, condition, and location of documents or other tangible things and the identity and location of persons having knowledge of relevant facts. The information sought must appear reasonably calculated to lead to the discovery of admissible evidence.

(c) Methods: Discovery may be obtained by one or more of the methods provided under the Federal Rules of Civil Procedure, including: written interrogatories, depositions, production

of documents or things for inspection or copying, and requests for admission addressed to parties.

3. Section 1201.73 is retitled and revised to read as follows:

§ 1201.73. Procedures governing discovery.

(a) Discovery from a party or a nonparty federal agency. A party seeking discovery from another party or from a federal agency not a party shall initiate the process by serving a request for discovery on the other party or the nonparty agency. The request for discovery shall—

(1) State the time limit for responding, as prescribed in § 1201.73(d) and

(2) In the case of a request for deposition of a party or an employee of a federal agency (i) shall specify the time and place of the taking of the deposition and (ii) shall also be served on the person to be deposed.

When a request for discovery is directed to an officer or employee of a federal agency, the agency shall make the officer or employee available on official time for the purpose of responding to the request and shall assist the officer or employee as necessary in providing relevant information that is available to the agency. For purposes of discovery under these regulations, a party includes an intervenor.

(b) Discovery from a nonparty. Parties are encouraged to attempt to obtain voluntary discovery from nonparties whenever possible. A party seeking discovery from a nonparty may initiate the process by serving a request for discovery on that party. Absent such a request or upon failure to obtain voluntary cooperation, discovery from a nonparty may be initiated by a written motion directed to the presiding official, showing the relevance, scope and materiality of the particular information sought, and in the case of a deposition, the date, time, and place of the proposed deposition. A ruling on the motion will be issued by an authorized official of the Board and served on the moving party accompanied by a subpena directed to the individual or entity from which discovery is sought, and specifying the manner and time limit for compliance. It shall be the responsibility of the moving party to serve or arrange for service of a Board-approved discovery request and subpena on the individual or entity.

(c) Responses to discovery requests.

(1) A party, or a federal agency which is not a party, shall answer a discovery request within the time provided by § 1201.73(d)(2) of these regulations either by furnishing to the requesting party the information or testimony requested or agreeing to make deponents available to testify within a reasonable time or by stating an objection to the particular request and the reasons for objection.

(2) Upon the failure or refusal of a party to respond in full to a discovery request, or a nonparty to respond in full to Board-approved discovery, the requesting party may file with the presiding official a motion to compel. The motion shall be accompanied by:

(i) A copy of the original request served on the other party and a statement showing the relevancy and materiality of the information sought.

(ii) A copy of the objections to discovery or, where appropriate, a verified statement that no response has been received.

(d) Time limits.

(1) Requests or motions for discovery shall be initiated within 30 days after the date the petition for appeal was filed.

(2) A party or nonparty shall respond to a discovery request within 15 days after filing of the request or order of the Board. Deposition witnesses shall give their testimony at the time and place stated in the notice of deposition taking or in the subpena.

(3) Motions to depose nonparties (along with a request for a subpena) shall be submitted to the presiding official within the time limits set forth in paragraph (d)(1) above or as otherwise directed.

(4) Motions for an order compelling discovery shall be filed with the presiding official within 7 days of filing of objections or within 5 days of the expiration of the time limits for response when no response is received.

(5) Discovery shall be completed by the time designated by the presiding official but no later than 65 days of the filing of the appeal. A later date may be set by the presiding official after due consideration of the particular situation including the dates set for hearing and closing of the case record.

(6) The time limits prescribed in this section may be altered by the presiding official for good cause.

4. Section 1201.74 is retitled and revised to read as follows:

§ 1201.74 Orders for discovery.

(a) Motion for an Order Compelling Discovery. Motions for orders compelling discovery and motions for appearance of nonparties shall be submitted to the presiding official as set forth at section 1201.73 (c)(2) and (d)(4) above.

(b) Content of Order. Any order issued may include, where appropriate:

(1) Provision for notice to the person to be deposed as to the time and place of such deposition;

(2) Such conditions or limitations concerning the conduct or scope of the proceedings or the subject matter as may be necessary to prevent undue delay or to protect any party or deponent from undue expense, embarrassment or oppression;

(3) Limitations upon the time for conducting depositions, answering written interrogatories, or producing documentary evidence; and

(4) Other restrictions upon the discovery process as determined by the presiding official.

5. Section 1201.75 is retitled and revised to read as follows:

§ 1201.75. Taking of depositions.

Depositions may be taken before any person not interested in the outcome of the proceedings who is authorized by law to administer oaths.

Subpenas

6. Section 1201.81(b) is revised to read as follows:

§ 1201.81. Motions for subpenas.

* * * * *

(b) Form. Motions for subpenas shall be submitted in writing to the presiding official and shall specify with particularity the books, papers, or testimony desired and shall be supported by a showing of general relevance and reasonable scope and a statement of the facts expected to be proven thereby.

7. Section 1201.82 is revised to read as follows:

§ 1201.82. Motion to quash.

Any person against whom a subpena is directed may file a motion to quash or limit the subpena setting forth the reasons why the subpena should not be complied with or why it should be limited in scope. This motion shall be filed with the presiding official.

8. Section 1201.83 is revised to read as follows:

§ 1201.83. Service.

Service of subpena may be made by a United States Marshal or Deputy Marshal or by any person who is over 18 years of age.

9. Section 1201.84 is revised to read as follows:

§ 1201.84. Return of service.

When service of subpena is effected by a person other than a United States Marshal or Deputy Marshal, that person shall certify on the return of service that service was made either: (1) In person,

(2) by registered or certified mail, or (3) by delivery to a responsible person (named) at the residence or place of business (as appropriate) of the person to be served, and that the prescribed fees have been tendered or provided for.

10. Section 1201.85 is revised to read as follows:

§ 1201.85. Enforcement.

In the case of contumacy or failure to obey a subpena issued, the Board, pursuant to 5 U.S.C. 1205(c), may request enforcement of the subpena in the appropriate United States district court. A party desiring enforcement may apply to the presiding official by oral or written request accompanied by a showing of contumacy or failure to obey a subpena.

Dated: June 24, 1982.

For the Board.

Herbert E. Ellingwood,

Chairman.

[FR Doc. 82-18033 Filed 7-1-82; 8:45 am]

BILLING CODE 7400-01-M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 210

National School Lunch Program; Meat Alternate Equivalencies

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice of Delay of Implementation Date.

SUMMARY: This notice announces a delay in implementation of the meat alternate equivalencies for cooked dry beans or peas and eggs published on May 16, 1980 (45 FR 32502). The Department recently proposed (47 FR 28106; June 29, 1982) that these equivalencies be returned to their lower pre-May 1980 levels. The proposal was prompted by reports from schools and manufacturers experiencing difficulties meeting the larger equivalencies. To provide for an adequate comment period on the proposal, the Department is delaying the July 1, 1982, implementation date until comments are analyzed and the proposed rulemaking process is complete.

DATE: The implementation date is delayed until further notice.

FOR FURTHER INFORMATION CONTACT: Cynthia H. Ford, Branch Chief, Room 602, Technical Assistance Branch, Nutrition and Technical Services Division, Food and Nutrition Service, USDA, Alexandria, Virginia 22302, or by telephone: 703-756-3556.

SUPPLEMENTARY INFORMATION: As required by the National School Lunch Act, the Department has established minimum nutritional requirements for lunches served in the National School Lunch Program (NSLP). One of the four lunch components is the meat/meat alternate component. Schools may serve cooked dry beans or peas and eggs to satisfy the meat/meat alternate component.

On May 16, 1980, a final rule was published (45 FR 32502) which increased the equivalencies (portion sizes) of cooked dry beans or peas and eggs. Those schools whose suppliers could not quickly comply with the larger equivalencies were exempt from the July 1, 1980 implementation date for one year. Exemptions were later extended to July 1, 1982 (Notice July 17, 1981; 46 FR 37017). As the July 1, 1982 deadline drew near, schools and food manufacturers were still encountering difficulties in reformulating their products to comply with the larger equivalencies. Therefore, on June 29, 1982, a proposal was published (47 FR 28106) to return the equivalencies for cooked dry beans or peas and eggs to their pre-May 1980 levels.

To provide for an adequate comment period for this proposed rule, the Department must further delay the July 1, 1982 implementation date until comments are analyzed and this proposed rulemaking process is complete. Schools and institutions supplied by food manufacturers who are unable to comply with the May 1980 equivalencies may consider a one-half cup of cooked dry beans or peas, or one large egg, as providing the two ounces of the meat/meat alternate lunch component in the NSLP. Adjustments shall be made where appropriate for age/grade groups I, II, III, and V.

List of subjects in 7 CFR Part 210—Food assistance programs, National School Lunch Program, Grant programs, Social programs, Nutrition, Children, Reporting and recordkeeping requirements, Surplus agricultural commodities.

(Catalog of Federal Domestic Assistance No. 10.555) (Sec. 9, Pub. L. 79-396, 60 Stat. 233, (42 U.S.C. 1758(a))

Samuel J. Cornelius,

Administrator Food and Nutrition Service.

[FR Doc. 82-17996 Filed 7-1-82; 8:45 am]

BILLING CODE 3410-30-M

Animal and Plant Health Inspection Service

[Docket No. 82-322]

7 CFR Part 301

Mediterranean Fruit Fly

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: The Mediterranean Fruit Fly Quarantine and Regulations quarantine California and impose restrictions on the movement of regulated articles from regulated areas in California. This document amends the quarantine and regulations by deleting all of Alameda County and a portion of Santa Clara County from the list of regulated areas. The effect of this action is to delete restrictions on the interstate movement (movement from California into or through any other State, Territory, or District of the United States) of regulated articles from all of Alameda County and a portion of Santa Clara County. This action is warranted because such restrictions are no longer necessary for the purpose of preventing the artificial spread of the Mediterranean fruit fly.

DATES: Effective date of amendment July 7, 1982. Written comments concerning this rule must be received on or before August 31, 1982.

ADDRESSES: Written comments should be submitted to Thomas Lanier, Assistant Director, Regulatory Services Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 643 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 641 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: B. Glen Lee, Emergency Programs Coordinator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 610 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-6365.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This interim rule is issued in conformance with Executive Order 12291, and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this proposed rule would have an annual effect on the

economy of less than $50,000; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and would not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived the review process required by Executive Order 12291. Also, the Assistant Secretary for Marketing and Inspection Services has waived the requirements of Secretary's Memorandum 1512–1.

Certification Under the Regulatory Flexibility Act

Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action affects the interstate movement of regulated articles from all of Alameda County and a portion of Santa Clara County in California. There are thousands of small entities that move such articles interstate from California and many more thousands of small entities that move such articles interstate from other States. However, based on information compiled by the U.S. Department of Agriculture, it has been determined that fewer than 10 small entities move such articles interstate from the previously regulated areas in Alameda and Santa Clara Counties. Further, the overall economic impact from this action is estimated to be less than $50,000.

Emergency Action

Harvey L. Ford, Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, has determined that an emergency situation exists which warrants publication of this document without opportunity for a public comment period because otherwise there would be unnecessary restrictions imposed on the interstate movement of certain articles. This situation requires immediate action to delete such unnecessary restrictions.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this rule are impracticable and contrary to the public interest and good cause is found for making this action effective less than 30 days after publication of this document in the **Federal Register**. Comments are being solicited for 60 days after publication of this document, and a final document discussing comments received and any changes required will be published in the **Federal Register** as soon as possible.

Background

Because of infestations of the Mediterranean fruit fly found in areas in California, the Mediterranean fruit fly quarantine and regulations were made effective on July 20, 1981 (46 FR 37706–37713), and amendments to the quarantine and regulations were made effective on August 7, August 19, September 2, 1981, and on June 1 and June 17, 1982 (46 FR 40203–40205, 42072–42073, 44144–44145; 47 FR 23682–23683 and 26121–26122). The quarantine and regulations are set forth in 7 CFR 301.78 through 301.78–10.

For the purpose of preventing the artificial spread of the Mediterranean fruit fly to noninfested areas in the United States, the quarantine and regulations restrict the interstate movement (movement from California into or through any other State, Territory, or District of the United States) of articles designated as regulated articles from areas designated as regulated areas. The quarantine and regulations currently list as regulated areas all of San Mateo County and portions of Santa Clara and Santa Cruz Counties. Also, prior to the effective date of this document, the quarantine and regulations listed as regulated areas all of Alameda County and a larger portion of Santa Clara County.

Based on trapping and sampling surveys conducted by inspectors of the U.S. Department of Agriculture and State agencies of California, it has now been determined that the Mediterranean fruit fly has been eradicated from Alameda and Santa Clara Counties, except for the following portions of Santa Clara County:

Santa Clara County. That portion of the county beginning at a point where Interstate 280 intersects the San Mateo-Santa Clara County line; then southeasterly along Interstate 280 to its intersection with El Monte Avenue; then northeasterly along said avenue to its intersection with Foothill Expressway; then southeasterly along said expressway to its intersection with Fremont Avenue; then east on Fremont Avenue to its intersection with Hollenbeck Avenue; then north on Hollenbeck Avenue to its intersection with El Camino Real; then southeasterly on El Camino Real to its intersection with Fair Oaks Avenue; then northerly on said avenue to its intersection with Central Expressway; then easterly on said expressway to its intersection with Lawrence Expressway; then northerly on Lawrence Expressway to its intersection with State Route 237; then due north from said intersection along an imaginary line to its intersection with the Alameda-Santa Clara County line; then westerly along said county line to the San Mateo-Santa Clara County line; then southerly along said county line to the point of beginning. Also, that portion of the county beginning at a point where Old Santa Cruz Highway intersects the Santa Cruz-Santa Clara county line; then northeasterly along an imaginary line from said intersection to Mt. Thayer; then southeasterly along an imaginary line from Mt. Thayer to the north end of Loma Prieta Road; then southerly along Loma Prieta Road to its intersection with the Santa Cruz-Santa Clara County line; then northerly along said line to the point of beginning.

Under these circumstances there is no longer a basis for imposing restrictions on the movement of articles from Alameda and Santa Clara Counties, except for the portion of Santa Clara County described above. Therefore, in order to relieve unnecessary restrictions on the interstate movement of articles, it is necessary as an emergency measure to delete from the list of regulated areas all of Alameda County and those areas in Santa Clara County that are not included in the description set forth above.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant pests, Plants (agriculture), Quarantine, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, § 301.78–3(c) of the Mediterranean fruit fly quarantine and regulations (7 CFR 301.78–3(c)) is revised to read as follows:

§ 301.78–3 Regulated Areas.

* * * * *

(c) The areas described below are designated as regulated areas:

California.

San Mateo County. The entire county.

Santa Clara County. That portion of the county beginning at a point where Interstate 280 intersects the San Mateo-Santa Clara County line; then southeasterly along Interstate 280 to its intersection with El Monte Avenue; then northeasterly along said avenue to its intersection with Foothill Expressway; then southeasterly along said expressway to its intersection with Fremont Avenue; then east on Fremont Avenue to its intersection with Hollenbeck Avenue; then

north on Hollenbeck Avenue to its intersection with El Camino Real; then southeasterly on El Camino Real to its intersection with Fair Oaks Avenue; then northerly on said avenue to its intersection with Central Expressway; then easterly on said expressway to its intersection with Lawrence Expressway; then northerly on Lawrence Expressway to its intersection with State Route 237; then due north from said intersection along an imaginary line to its intersection with the Alameda-Santa Clara County line; then westerly along said county line to the San Mateo-Santa Clara County line; then southerly along said county line to the point of beginning. Also, that portion of the county beginning at a point where Old Santa Cruz Highway intersects the Santa Cruz-Santa Clara county line; then northeasterly along an imaginary line from said intersection to Mt. Thayer; then southeasterly along an imaginary line from Mt. Thayer to the north end of Loma Prieta Road; then southerly along Loma Prieta Road to its intersection with the Santa Cruz-Santa Clara County line; then northerly along said line to the point of beginning.

Santa Cruz County. That portion of the county north and west of a line beginning at a point where Loma Prieta Road intersects the Santa Clara-Santa Cruz County line; then southerly along an imaginary line from said intersection to the northeast corner boundary line of the Forest of Nisene Marks State Park; then southerly along the eastern boundary of said State park to its intersection with Aptos Creek Road; then southerly along Aptos Creek Road to its intersection with Soquel Drive; then westerly along Soquel Drive to its intersection with State Route 1; then westerly along State Route 1 to it intersection with Swift Street; then southerly along Swift Street to the Pacific Ocean where the line ends.

(Secs. 6 and 9, 37 Stat. 318, as amended (7 U.S.C. 161, 162); 37 FR 28464, 28477, as amended; 38 FR 19141)

Done at Washington, D.C., this 29th day of June 1982.

Harvey L. Ford,

Deputy Administrator, Plant Protection and Quarantine Animal and Plant Health Inspection Service.

[FR Doc. 82-18071 Filed 7-1-82; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Stabilization and Conservation Service

7 CFR Part 724

Fire-Cured, Dark Air-Cured, Virginia Sun-Cured, Cigar-Binder (Types 51 and 52), Cigar-Filler and Binder (Types 42, 43, 44, 54, and 55) Tobacco Acreage Allotment Regulations

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final Rule.

SUMMARY: Except for technical changes, the interim rule published in the Federal Register on March 12, 1982 (47 FR 10771) is adopted as a final rule. The interim rule amended the regulations at 7 CFR 724.79 to implement the provisions of section 320 of the Agricultural Adjustment Act of 1938, as amended by section 1108 of the Agriculture and Food Act of 1981 (Pub. L. 97-98). Effective on December 22, 1981, nonquota tobacco which is produced in a State where marketing quotas are in effect for a kind of tobacco will be subject to the marketing quota for such kind of tobacco, with certain exceptions.

EFFECTIVE DATE: July 2, 1982.

FOR FURTHER INFORMATION CONTACT: Harry D. Millner, Program Specialist, (202) 447-4281. A Final Regulatory Impact Analysis is available upon request from Mr. Millner.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed in conformance with Executive Order 12291 and Secretary's Memorandum No. 1521-1 and has been classified as "not major". The provisions of this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State or local governments, or a geographical region; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this rule applies as set forth in the Catalog of Federal Domestic Assistance are: Title: Commodity Loan and Purchases, Number: 10.051. This final rule will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A-95 was not used to assure that units of local government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since the Agricultural Stabilization and Conservation Service is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Section 320 of the 1938 Act was originally enacted in 1974 and is designed to preserve the effectiveness of the tobacco program by discouraging the production of tobacco not under quota in areas of the nation where tobacco farmers have elected to comply with marketing quotas.

Section 320 of the 1938 Act was amended by Section 1108 of the Agriculture and Food Act of 1981 effective December 22, 1981. As amended, section 320 provides that, with certain exceptions, any nonquota tobacco produced in an area where quotas for any kind of tobacco are in effect shall be considered to be a quota kind. If marketing quotas are in effect in an area for more than one kind of quota tobacco, nonquota tobacco produced in the area shall be subject to the quota for the kind of tobacco produced in the area having the highest price support under the Agricultural Act of 1949, as amended.

On March 12, 1982, an interim rule was published in the Federal Register (47 FR 10771) amending the regulations at 7 CFR 724.79 to implement the recent amendments to Section 320 of the 1938 Act pertaining to the production of nonquota tobacco in quota areas. The public was afforded 60 days to comment on the interim rule. However, no comments were received during the comment period which ended on May 11, 1982. Thus, the interim rule published on March 12, 1982, is adopted as a final rule, except for technical changes in 7 CFR 724.79(c)(4).

List of Subjects in 7 CFR Part 724

Acreage allotments, Disaster assistance, Marketing quotas, Penalties, pesticides and pests; Reporting requirements, Tobacco.

Final Rule

PART 724—FIRE-CURED, DARK AIR-CURED, VIRGINIA SUN-CURED, CIGAR-BINDER (TYPES 51 AND 52) CIGAR-FILLER AND BINDER (TYPES 42, 43, 44, 53, 54, AND 55) TOBACCO

Accordingly, the interim rule published at 47 FR 10771 which amended the regulations at 7 CFR 724.79 is hereby adopted as a final rule, except that 7 CFR 724.79(c)(4) is amended to read as follows:

§ 724.79 Identification of tobacco subject to quota

* * * * *

(c)(4) tobacco produced in a quota State that is represented to be nonquota tobacco and that is readily and distinguishably different from all kinds of quota tobacco, as determined by the Agricultural Marketing Service, U.S. Department of Agriculture, through application of the standards issued by the Secretary for the inspection and identification of tobacco. Such inspection and identification shall be made prior to removal of the tobacco from the State where it was produced.

[Sec. 301, 313, 314, 320, 372, 375, 52 stat. 38, as amended, 88 stat. 1089, as amended, (7 U.S.C. 1301, 1313, 1314, 1314(f), 1372, 1375)]

Signed in Washington, D.C., on June 24, 1982.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 82-17740 Filed 7-1-82; 8:45 am]

BILLING CODE 3410-05-M

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7 CFR Part 725

[Amdt. 2]

Flue-Cured Tobacco Acreage Allotment and Marketing Quota Regulations

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: Except for technical changes, the interim rule published in the **Federal Register** on March 12, 1982 (47 FR 10772) is adopted as a final rule. The interim rule amended the regulations at 7 CFR 725.85 to implement the provisions of Section 320 of the Agricultural Adjustment Act of 1938, as amended by Section 1108 of the Agriculture and Food Act of 1981 (Pub. L. 97-98). Effective on December 22, 1981, nonquota tobacco which is produced in a State where marketing quotas are in effect for a kind of tobacco will be subject to the marketing quota for such kind of tobacco, with certain exceptions.

EFFECTIVE DATE: July 2, 1982.

FOR FURTHER INFORMATION CONTACT: Thomas R. Burgess, Program Specialist, (202) 447-2715. A Final Regulatory Impact Analysis is available upon request from Mr. Burgess.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed in conformance with Executive Order 12291 and Secretary's Memorandum No. 1521-1 and has been classified as "not major". The provisions of this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State or local governments, or a geographical region; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this rule applies as set forth in the Catalog of Federal Domestic Assistance are: Title: Commodity Loan and Purchases, Number: 10.051. This final rule will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A-95 was not used to assure that units of local government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since the Agricultural Stabilization and Conservation Service is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Section 320 of the 1938 Act was originally enacted in 1974 and is designed to preserve the effectiveness of the tobacco program by discouraging the production of tobacco not under quota in areas of the nation where tobacco farmers have elected to comply with marketing quotas.

Section 320 of the 1938 Act was amended by Section 1108 of the Agriculture and Food Act of 1981 effective December 22, 1981. As amended, Section 320 provides that, with certain exceptions, any nonquota tobacco produced in an area where quotas for any kind of tobacco are in effect shall be considerd to be a quota kind. If marketing quotas are in effect in an area for more than one kind of quota tobacco, nonquota tobacco produced in the area shall be subject to the quota for the kind of tobacco produced in the area having the highest price support under the Agricultural Act of 1949, as amended.

On March 12, 1982, an interim rule was published in the **Federal Register** (47 FR 10772) amending the regulations at 7 CFR 725.85 to implement the recent amendments to Section 320 of the 1938 Act pertaining to the production of nonquota tobacco in quota areas. The public was afforded 60 days to comment on the interim rule. However, no comments were received during the comment period which ended on May 11, 1982. Thus, the interim rule published on March 12, 1982, is adopted as a final rule, except for technical changes in 7 CFR 725.85(c)(4).

List of Subjects in 7 CFR Part 725

Acreage allotments, Disaster assistance, Marketing quotas, Penalties, Pesticides and pests, Reporting requirements, Tobacco.

Final Rule

PART 725—FLUE-CURED TOBACCO

Accordingly, the interim rule published at 47 FR 10772 which amended the regulations at 7 CFR 725.85 is hereby adopted as a final rule, except that 7 CFR 725.85(c)(4) is amended to read as follows:

§ 725.85 Identification of tobacco subject to quota

* * * * *

(c)(4) Tobacco produced in a quota State that is represented to be nonquota tobacco and that is readily and distinguishably different from all kinds of quota tobacco, as determined by the Agricultural Marketing Service, U.S. Department of Agriculture, through application of the standards issued by the Secretary for the inspection and identification of tobacco. Such inspection and identification shall be made prior to removal of the tobacco from the State where it was produced.

(Secs. 301, 313, 314, 320, 317, 372, 375, 52 Stat. 38, as amended, 88 Stat. 1089, as amended, (7 U.S.C. 1301, 1313, 1314, 1314(c), 1314(f), 1372, 1375))

Signed in Washington, D.C., on June 24, 1982.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 82-17745 Filed 7-1-82; 8:45 am]

BILLING CODE 3410-05-M

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7 CFR Part 726

[Amdt. 2]

Burley Tobacco Marketing Quota Regulations

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: Except for technical changes, the interim rule published in the **Federal Register** on March 12, 1982 (47 FR 10773) is adopted as a final rule. The interim rule amended the regulations at 7 CFR 726.80 to implement the provisions of Section 320 of the Agricultural Adjustment Act of 1938, as amended by Section 1108 of the Agriculture and Food Act of 1981 (Publ L. 97-98). Effective on December 22, 1981, nonquota tobacco which is produced in a State where marketing quotas are in effect for a kind of tobacco will be subject to the marketing quota for such kind of tobacco, with certain exceptions.

EFFECTIVE DATE: July 2, 1982.

FOR FURTHER INFORMATION CONTACT: Harry D. Millner, Program Specialist, (202) 447-4281. A Final Regulatory Impact Analysis is available upon request from Mr. Millner.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed in conformance with Executive Order

12291 and Secretary's Memorandum No. 1521–1 and has been classified as "not major". The provisions of this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State or local governments, or a geographical region; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this rule applies as set forth in the Catalog of Federal Domestic Assistance are: Title: Commodity Loan and Purchases, Number: 10.051. This final rule will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since the Agriculture Stabilization and Conservation Service is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Section 320 of the 1938 Act was originally enacted in 1974 and is designed to preserve the effectiveness of the tobacco program by discouraging the production of tobacco nót under quota in areas of the nation where tobacco farmers have elected to comply with marketing quotas.

Section 320 of the 1938 Act was amended by Section 1108 of the Agriculture and Food Act of 1981 effective December 22, 1981. As amended, Section 320 provides that, with certain exceptions, any nonquota tobacco produced in an area where quotas for any kind of tobacco are in effect shall be considered to be a quota kind. If marketing quotas are in effect in an area for more than one kind of quota tobacco, nonquota tobacco produced in the area shall be subject to the quota for the kind of tobacco produced in the area having the highest price support under the Agricultural Act of 1949, as amended.

On March 12, 1982, an interim rule was published in the **Federal Register** (47 FR 10773) amending the regulations at 7 CFR 726.80 to implement the recent amendments to Section 320 of the 1938 Act pertaining to the production of nonquota tobacco in quota areas. The public was afforded 60 days to comment on the interim rule. However, no comments were received during the comment period which ended on May 11, 1982. Thus, the interim rule published on March 12, 1982, is adopted as a final rule, except for technical changes in 7 CFR 726.80(c)(4).

List of Subjects in 7 CFR Part 726

Disaster assistance, Marketing quotas, Penalties, Pesticides and pests, Reporting requirements, Tobacco.

PART 726—BURLEY TOBACCO

Final Rule

Accordingly, the interim rule published at 47 FR 10773 which amended the regulations at 7 CFR 726.80 is hereby adopted as a final rule, except that 7 CFR 726.80(c)(4) is amended to read as follows:

§ 726.80 Identification of Tobacco Subject to Quota

* * * * *

(c)(4) Tobacco produced in a quota State that is represented to be nonquota tobacco and that is readily and distinguishably different from all kinds of quota tobacco, as determined by the Agricultural Marketing Service, U.S. Department of Agriculture, through application of the standards issued by the Secretary for the inspection and identification of tobacco. Such inspection and identification shall be made prior to removal of the tobacco from the State where it was produced.

(Secs. 301, 313, 314, 320, 372, 375, 52 Stat. 38, as amended, 68 Stat. 1089, as amended, (7 U.S.C. 1301, 1313, 1314, 1314(c), 1314(f), 1372, 1375))

Signed in Washington, D.C., on June 24, 1982.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 82–17748 Filed 7–1–82; 8:45 am]

BILLING CODE 3410–05–M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 366]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period July 4–10, 1982. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: July 4, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on July 7, 1981. The committee met again publicly on June 29, 1982, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Agricultural marketing service, Marketing agreements and orders, California, Arizona, Lemons.

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Section 910.666 is added as follows:

§ 910.666 Lemon regulation 366.

The quantity of lemons grown in California and Arizona which may be handled during the period July 4, 1982, through July 10, 1982, is established at 275,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: July 1, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-18309 Filed 7-1-82; 12:43 pm]

BILLING CODE 3410-02-M

Agricultural Marketing Service

7 CFR Part 925

[California Desert Grape Regulation 2, Amendment 1]

Grapes Grown in a Designated Area of Southeastern California; Amendment of Handling Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the regulation currently in effect for grapes grown in Southeastern California by authorizing a packing holiday on July 5, 1982, and authorizing the California Desert Grape Administrative Committee to modify or suspend such holiday regulation without the need for further rulemaking. Such action is necessary to promote orderly marketing in the interest of producers and consumers.

EFFECTIVE DATE: July 2, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably effect costs for the directly regulated handlers.

This amended regulation is issued under marketing agreement and Order No. 925 (7 CFR Part 925), regulating the handling of grapes grown in a designated area of Southeastern California. This marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the California Desert Grape Administrative Committee, established under the marketing agreement and order, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The amended regulation would prohibit the packing of grapes on July 5, 1982, while authorizing the committee to modify or suspend such prohibition at its discretion if marketing conditions warrant without the necessity of further rulemaking. This packing holiday is designed to prevent an accumulation of excessive supplies of grapes at distribution points during and immediately following the long July 4th holiday weekend, when demand is expected to be reduced.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amended regulation is based and the effective date necessary to effectuate the declared policy of the act. It is necessary to effectuate the declared purpose of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 925

Agricultural Marketing Service, Marketing agreements and orders, Grapes, California.

PART 925—GRAPES GROWN IN A DESIGNATED AREA OF SOUTHERN CALIFORNIA

Therefore, § 925.301 is amended by revising the first sentence of the introductory text of the section and paragraph (f) to read as follows:

§ 925.301 California Desert Grape Regulation 2.

During the period May 1, 1982, through July 31, 1982, no person shall handle any variety of grapes unless such grapes are handled in accordance with the requirements of this section, and no person shall pack any such grapes on any Saturday or Sunday, or on July 5, 1982, unless approved in accordance with paragraph (f). * * *

* * * * *

(f) *Suspension of packing holidays.* Upon approval of the committee, the prohibition against packing grapes on any Saturday or Sunday or on July 5, 1982, may be modified or suspended to permit the handling of grapes provided such handling complies with procedures and safeguards specified by the committee.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: June 29, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-18072 Filed 7-1-82; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin and Sulfamethazine

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplement to a new animal drug application (NADA) filed by Quali-Tech Products, Inc., providing for safe and effective use of a premix containing 5 grams per pound each of tylosin and sulfamethazine for making complete swine feeds.

EFFECTIVE DATE: July 2, 1982.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV–136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5247.

SUPPLEMENTARY INFORMATION: Quali-Tech Products, Inc., 318 Lake Hazeltine Dr., Chaska, MN 55318, submitted a supplement to their approved NADA 97–981. The supplement provides for use of a premix containing 5 grams per pound each of tylosin (as tylosin phosphate) and sulfamethazine for making complete swine feeds to be used for (1) maintaining weight gains and feed efficiency in the presence of atrophic rhinitis, (2) lowering the incidence and severity of *Bordetella bronchiseptica* rhinitis, (3) preventing swine dysentery (vibrionic), and (4) controlling swine pneumonias caused by bacterial

pathogens (*Pasteurella multocida* and/or *Corynebacterium pyogenes*).

Elanco Products Co. has authorized use of the safety and effectiveness data contained in their approved NADA's 12–491 and 41–275 to support this approval. Approval of this supplement is based on this data. Because approval of this supplement does not change the approved use of the drug, it poses no increased human risk from exposure to residues of the animal drug.

Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), this supplement is a Category II supplemental NADA which does not require reevaluation of the safety and effectiveness data in NADA's 12–491 and 41–275. The supplement is approved and the regulations are amended accordingly.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 558

Animal drugs; Animal feeds.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.630 [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.630 *Tylosin and sulfamethazine* by removing drug labeler code "016968" from paragraph (b)(3) and by adding it, in numerical sequence, to paragraph (b)(8).

Effective date. July 2, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: June 24, 1982.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 82-17737 Filed 7-1-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Hygromycin B

Correction

In FR Doc. 82–11758, published on page 18593, on Friday, April 30, 1982, in the second column, under § 558.274, in the tenth line "50782" should be corrected to read "050782".

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7822]

Income Tax; Taxable Years Beginning After December 31, 1953; Treatment of Certain Interests in Corporations as Stock or Indebtedness

AGENCY: Internal Revenue Service, Treasury.

ACTION: Amendment of final regulations.

SUMMARY: Section 385 of the Internal Revenue Code relates to the treatment of certain interests in corporations as stock or indebtedness. Final regulations under this section were published in the **Federal Register** on December 31, 1980. This document amends the December 31, 1980 rules by changing the effective date of those rules for the third time. The effective date is changed from July 1, 1982 to 90 days after publication of the revisions proposed in January as final rules, or January 1, 1983, whichever is later.

EFFECTIVE DATE: June 30, 1982.

FOR FURTHER INFORMATION CONTACT: Carolyn Swift of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224 (Attention: CC:LR:T, 202–566–3458, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

Section 385 of the Internal Revenue Code relates to the treatment of certain interests in corporations as stock or indebtedness. Final regulations under section 385 were published in the **Federal Register** for Wednesday, December 31, 1980 (45 FR 86438) as T.D. 7747. These regulations generally would have applied to certain interests in corporations created after April 30, 1981. However, at the invitation of the Treasury and Internal Revenue Service, several public comments on the final regulations were received after December 31, 1980. The comments recommended changes in several areas of these regulations. In order for the Treasury and Internal Revenue Service to have sufficient time to examine these comments and determine whether changes should be made, the regulations were amended to apply to certain interests in corporations only if they were created after December 31, 1981. (T.D. 7774, published in the **Federal Register** for May 1, 1981 (46 F.R. 24945)).

After further examination of the comments and re-evaluation of the regulations, a decision was made to revise provisions of the regulations under section 385. In order to allow Treasury and the Internal Revenue Service additional time to prepare and publish revisions to certain provisions of the regulations, the regulations were amended so that, in general, they would apply to certain interests in corporations only if they were created after June 30, 1982. (T.D. 7801, published in the **Federal Register** for January 5, 1982 (47 FR 147)). Proposed amendments to the regulations were also published as a Notice of Proposed Rulemaking in the **Federal Register** for January 5, 1982 (47 FR 164). Many comments on the proposed amendments were received. In order to allow further consideration of the comments received and to prepare revisions in accordance with the comments for publication as a final rule, the regulations are again amended so that, in general, they will apply to certain interests in corporations only if the interests are created later than 90 days after the publication of the revisions as a final rule, but in no event will they apply to interests created earlier than January 1, 1983. It should also be noted that although this Treasury decision refers to both preferred stock and guaranteed loans, the proposed revisions to the regulations under section 385, which are expected to be finalized soon, remove the provisions relating to preferred stock and to guaranteed loans. It is expected that the regulations under section 385 as revised by the final rule will become effective 90 days after the revisions proposed in January 1982 are published in the **Federal Register** as a final rule but in no event earlier than January 1, 1983.

Regulatory Flexibility Act And Executive Order 12291

The Commissioner of Internal Revenue has determined that this final rule is not a major rule defined in Executive Order 12291 and that a Regulatory Impact Analysis is, therefore, not required. This document is not preceded by a notice of proposed rulemaking. Accordingly, no regulatory flexibility analysis is required.

Drafting Information

The principal author of this regulation is Carolyn Swift of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matter of substance and style.

List of Subjects in 26 CFR 1.301-1—1.385-10

Income taxes, corporations, corporate distributions, corporate adjustments, and reorganizations.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 1 is amended as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph (a)(1) of § 1.385–1 is revised to read as follows:

§ 1.385–1 Stock or indebtedness.

(a) *Effective date*—(1) *In general.* The regulations under section 385 apply to instruments (as defined in § 1.385–3 (c)) and preferred stock issued after 90 days after publication of the final revisions to the section 385 regulations in the **Federal Register**, or, if later, December 31, 1982, and to loans described in § 1.385–7 and guaranteed loans made after 90 days after publication of the final revisions to the section 385 regulations in the **Federal Register**, or, if later, December 31, 1982.

* * * * *

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impractical to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in sections 385 and 7805 of the Internal Revenue Code of 1954 (83 Stat. 613 and 68A Stat. 917; 26 U.S.C. 385 and 7805).

James I. Owens,

Acting Commissioner of Internal Revenue.

Approved: June 28, 1982.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 82-18087 Filed 6-29-82; 4:11 pm]

BILLING CODE 4830-01-M

DEPARTMENT OF LABOR

Employment Standards Administration

29 CFR Part 5

Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: This rule amends Labor Department regulations to provide a variation from the overtime pay requirements of the Contract Work Hours and Safety Standards Act, with respect to pilots and copilots of fixed-wing and rotary-wing aircraft employed by a contractor or subcontractor on government contracts, the principle purpose of which is the furnishing of fire fighting or suppression and related services. This amendment is found to be necessary and proper in the public interest to prevent hardship and to avoid serious impairment of Government business.

EFFECTIVE DATE: August 2, 1982. The newly adopted provisions of paragraph (d) (4) of § 5.15 shall be applicable to contracts entered into pursuant to negotiations concluded or invitations for bids issued on or after August 2, 1982.

FOR FURTHER INFORMATION CONTACT: Dorothy P. Come, Assistant Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue, NW., Washington, D.C. 20210, Telephone: 202–523–8333.

SUPPLEMENTARY INFORMATION: On January 8, 1982, a proposal was published in the **Federal Register** (47 FR 966) to add a new paragraph (4) to § 5.14(d) of regulations, 29 CFR Part 5, to provide a conditional variation from the requirements of section 102 of the Contract Work Hours and Safety Standards Act for the payment of one and one-half times the basic rate of pay for all hours worked in excess of eight in a day and 40 in a workweek with respect to pilots and copilots of fixed-wing and rotary-wing aircraft employed by a contractor or subcontractor on government contracts, the principal purpose of which is the furnishing of fire fighting or suppression and related services. The National Air Tankers Association requested an exemption from the Act's overtime pay requirements based upon their submission that (1) pilots and copilots engaged in fire fighting and related activities are generally paid substantial amounts as a result of receiving a regular salary plus additional amounts for hours of flying time, (2) the majority of overtime hours are caused by fire needs and involve significant amounts of highly paid flying time, and therefore pilots in effect generally receive a premium pay for working overtime, (3) the contractor often has little control over the hours worked by his employees as this is dictated by the Government based upon the current fire danger and the Government's common contractual right to dispatch aircraft and crew from their designated home base to alternate bases throughout the United States, (4) the calculation of overtime pay would be costly and extremely difficult for an employer because the hours of overtime worked vary greatly from week to week, and the pilots are not only often located at a considerable distance from the employer's principal base of operation but are moved from one location to another in response to the needs of the Government, and (5) an exemption would be consistent with the intent of Congress expressed in other statutes involving labor standards for fire fighting activities.

Given these circumstances the Secretary of Labor finds that a conditional variance from the overtime provisions of the Act for contractors and subcontractors employing pilots and copilots of fixed and rotary-wing aircraft on government contracts for fire fighting and related services is necessary and proper in the public interest to prevent hardship and to avoid serious impairment of the conduct of Government business.

Under the variation, qualifying contractors and subcontractors would not be subject to the overtime pay requirement provided certain conditions are met: (1) Pursuant to written agreement between the contractor and employee, the employee must receive gross wages of not less than $300 per week regardless of the total number of hours worked, and the amount of wages

paid the employee in a workweek must not be less than the amount the employee would receive if he were paid the minimum hourly wage required by the Service Contract Act plus one and one-half times the minimum for all overtime hours worked; and (2) the contractor must maintain accurate records of the hours worked by each pilot and copilot.

The enumerated conditions to the variance insure the wage protection for the employees involved and conform with the Act's remedial purposes.

Interested persons were afforded the opportunity to submit comments to the Wage and Hour Division on or before August 2, 1982 publication of the proposal in the **Federal Register.** One comment favoring the proposed amendment was submitted on behalf of the National Air Tankers Association. No other comments were received on the proposal and the proposed amendment is hereby adopted without change except to renumber the amendment as § 5.15(d) in accordance with a final regulation published on May 28, 1982 (47 FR 23658).

Classification

This rule is not classified as a "major rule" under Executive Order 12291 on Federal Regulations, because it is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in cost or prices for consumer, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, no regulatory impact analysis is required.

The Department believes that the rule will have no "significant economic impact upon a substantial number of small entities" within the meaning of section 3(a) of the Regulatory Flexibility Act, Pub. L. No. 96–354, 91 Stat. 1164 (to be codified at 5 U.S.C. 605(b)). The Secretary has certified to the Chief Counsel for Advocacy of the Small Business Administration to this effect. This conclusion is reached because the number of affected business entities is not substantial. Accordingly, no regulatory flexibility analysis is required. However, the variation will relieve a substantial administrative burden on the impacted entities and obviate the possible necessity of altering existing pay structures. Therefore, the regulation is within the spirit of the Regulatory Flexibility Act.

Paperwork Reduction Act

Information collection requirements contained in this regulation have previously been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB control number 1215–0017.

Regulatory Flexibility Act Certification

I, Raymond J. Donovan, Secretary of Labor, hereby certify, pursuant to 5 U.S.C. 605(b), that the rule contained in 29 CFR 5.15(d)(4) concerning a conditional variation from the Contract Work Hours and Safety Standards Act will not have a significant economic impact on a substantial number of small entities.

Signed at Washington, D.C. this 28th day of June 1982.

Raymond J. Donovan,

Secretary of Labor.

This document was prepared under the direction and control of Dorothy P. Come, Assistant Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

List of Subjects in 29 CFR Part 5

Government contracts, Investigations, Labor, Minimum wages, Penalties, Recordkeeping requirements, Reporting requirements, Wages.

Signed at Washington, D.C. this 28th day of June 1982.

William M. Otter,

Administrator.

PART 5—LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (ALSO LABOR STANDARDS PROVISIONS APPLICABLE TO NONCONSTRUCTION CONTRACTS SUBJECT TO THE CONTRACT WORK HOURS AND SAFETY STANDARDS ACT)

Accordingly, 29 CFR 5.15 is amended by adding a new paragraph (d)(4) of § 5.15 as set forth below.

§ 5.15 Limitations, variations, tolerances, and exemptions under the Contract Work Hours and Safety Standards Act.

* * * * *

(d) *Variations.* * * *

(4) Any contractor or subcontractor performing on a government contract the principal purpose of which is the furnishing of fire fighting or suppression and related services, shall not be deemed to be in violation of Section 102 of the Contract Work Hour and Safety Standards Act for failing to pay the overtime compensation required by Section 102 of the Act in accordance with the basic rate of pay as defined in subsection (c)(1) of this section, to any pilot or copilot of a fixed-wing or rotary-wing aircraft employed on such contract if:

(i) Pursuant to a written employment agreement between the contractor and the employee which is arrived at before performance of the work.

(A) The employee receives gross wages of not less than $300 per week regardless of the total number of hours worked in any workweek, and

(B) Within any workweek the total wages which an employee receives are not less than the wages to which the employee would have been entitled in that workweek if the employee were paid the minimum hourly wage required under the contract pursuant to the provisions of the Service Contract Act of 1965 and any applicable wage determination issued thereunder for all hours worked, plus an additional premium payment of one-half times such minimum hourly wage for all hours worked in excess of 8 hours in any calendar day or 40 hours in the workweek;

(ii) The contractor maintains accurate records of the total daily and weekly hours of work performed by such employee on the government contract. In the event these conditions for the exemption are not met, the requirements of section 102 of the Contract Work Hours and Safety Standards Act shall be applicable to the contract from the date the contractor or subcontractor fails to satisfy the conditions until completion of the contract. (Approved by the Office of Management and Budget under OMB control number 1215–0017.)

(40 U.S.C. 327–332; Reorganization Plan No. 14 of 1950, 5 U.S.C. Appendix; 5 U.S.C. 301)

[FR Doc. 82–18167 Filed 7–1–82; 8:45 am]

BILLING CODE 4510–27–M

Occupational Safety and Health Administration

29 CFR Part 1952

Approval of Supplements to the Indiana State Plan; Correction

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final rule; correction.

SUMMARY: The present 29 CFR 1952.324, completed developmental steps, contains one undesignated paragraph stating that the Indiana poster was

approved by the Assistant Secretary on March 2, 1976. On October 6, 1981 numerous additional developmental supplements were approved by the Assistant Secretary (46 FR 49116). The October 6, 1981 notice designated the additional approved supplements as paragraphs (b) through (m) of 29 CFR 1952.324; through an administrative oversight the existing first paragraph of the section remained undesignated. This document corrects 29 CFR 1952.324 by designating the first paragraph as paragraph (a).

FOR FURTHER INFORMATION CONTACT:
Dennis J. Lubow, Project Officer, Office of State Programs, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N-3613, Washington, D.C. 20210, (202) 523-6021.

PART 1925—SAFETY AND HEALTH STANDARDS FOR FEDERAL SERVICE CONTRACTS

Accordingly, 29 CFR 1952.324 is corrected by designating the first paragraph thereof as paragraph (a). As corrected, paragraph (a) is revised to read as follows:

§ 1952.324 Completed developmental steps.

(a) In accordance with the requirements of § 1952.10, the Indiana poster was approved for use until Federal enforcement authority and standards become inapplicable to issues covered under the plan, by the Assistant Secretary on March 2, 1976.

* * * * *

(Sec. 18, Pub. L. 91-596, 84 Stat. 1600, 1608 (29 U.S.C. 667))

Signed at Washington, D.C. this 29th day of June 1982.

Thorne G. Auchter,
Assistant Secretary.

[FR Doc. 82-18051 Filed 6-30-82; 8:45 am]
BILLING CODE 4510-26-M

POSTAL SERVICE

39 CFR Part 233

Rewards

AGENCY: Postal Service.

ACTION: Final rule; correction.

SUMMARY: Postal Service Notice 96, which prescribes the maximum rewards for information leading to the arrest and conviction of any peson for certain postal offenses, has been corrected to remove an inadvertently inserted "not" from the statement of the maximum reward in connection with the robbery of a mail custodian. This document corrects the text of that notice as reproduced in the final rule published June 22, 1982 (47 FR 26831).

FOR FURTHER INFORMATION CONTACT:
C. P. Nelson, (202) 245-5449.

W. Allen Sanders,
Associate General Counsel, Office of General Law and Administration.

PART 233—INSPECTION SERVICE AUTHORITY

Accordingly, the Postal Service is correcting the note to 39 CFR 233.2 to read as follows:

§ 233.2 Circulars and rewards.

* * * * *

(b) * * *

(2) * * *

Note. * * *

The United States Postal Service offers a reward up to the amounts shown for information and services leading to the arrest and conviction of any person for the following offenses:

Robbery, $10,000. Robbery or attempted robbery of any custodian of any mail, or money or other property of the United States under the control and jurisdiction of the United States Postal Service, if such custodian is wounded or killed, or the custodian's life jeopardized; but NOT TO EXCEED $5,000 if the custodian is not wounded or killed, or his life jeopardized.

* * * * *

(39 U.S.C. 401(2), 404(8), 410(b)(2))

[FR Doc. 82-18098 Filed 7-1-82; 8:45 am]
BILLING CODE 7710-12-M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 5-3, 5A-3, and 5B-3

Procurement by Negotiation

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: The General Services Administration Procurement Regulations, Chapter 5, are amended to transfer policies and procedures regarding procurement by negotiation from Chapter 5A and 5B. This transfer is part of the action to incorporate appropriate material in Chapters 5A and 5B into Chapter 5. The intended effect is to have a single GSA-wide procurement regulation.

EFFECTIVE DATE: July 30, 1982.

FOR FURTHER INFORMATION CONTACT:
Mr. Philip G. Read, Director, Federal Procurement Regulations Directorate, Office of Acquisition Policy (202) 523-4755.

List of Subjects in 41 CFR Part 5-3

Government procurement, Procurement by negotiation, Cost accounting standards, and Accounting.

CHAPTER 5—GENERAL SERVICES ADMINISTRATION PROCUREMENT REGULATIONS

[APD 2800.2 CHGE 23]

1. Part 5-3 is added as follows:

PART 5-3—PROCUREMENT BY NEGOTIATION

Subpart 5-3.1—Use of Negotiation

Sec.
5-3.103 Dissemination of procurement information.

Subpart 5-3.2—Circumstances Permitting Negotiation

5-3.202 Public exigency.
5-3.203 Purchases not in excess of $10,000.
5-3.210 Impracticable to secure competition by formal advertising
5-3.270 Negotiation after termination for default.

Subpart 5-3.3—Determinations, Findings, and Authorities

5-3.302 Determinations and findings required.

Subpart 5-3.4—Types of Contracts

5-3.405-5 Cost-plus-a-fixed-fee contract.
5-3.408 Letter contract.

Subpart 5-3.6—Small Purchases

5-3.600 Scope of subpart.
5-3.603 Competition.
5-3.603-1 Solicitation.
5-3.603-2 Data to support small purchases.
5-3.605 Purchase order forms.
5-3.605-1 Standard Form 44, Purchase Order-Invoice-Voucher.
5-3.606 Blanket purchase arrangements.
5-3.606-1 General.
5-3.606-4 Documentation.
5-3.606-50 Advance establishment of supply sources by blanket purchase arrangements.
5-3.652 Oral purchases (supplies and services).
5-3.653 Small purchase procedure using GSA Form 2049, Contractor's Certificate of Conformance.

Subpart 5-3.8—Price Negotiation Policies and Techniques

5-3.802 Preparation for negotiation.
5-3.805 Selection of offerors for negotiation and award.
5-3.805-1 General.
5-3.805-2 Cost-reimbursement type contracts (construction contracts).
5-3.807-3 Cost or pricing data.
5-3.807-6 Refusal to provide cost or pricing data.
5-3.850 Contracts requiring Central Office approval.

Subpart 5-3.50—Solicitation of Offers

5-3.5001 Preparation of solicitation of offers.
5-3.5002 Oral solicitations.

Sec.
5-3.5003 Bidders mailing lists (except ADTS).
5-3.5003-1 Publicizing ADTS procurement actions.
5-3.5004 Recording of bids.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Subpart 5-3.1—Use of Negotiation

§ 5-3.103 Dissemination of procurement information.

(a) Business Service Centers shall be furnished copies, as issued, of each written request for proposals for a procurement estimated to exceed $5,000.

(b) During the preaward period, no information contained in any proposal or quotation or information regarding the number or identity of the offerors shall be made available to the public or to anyone within the Government not having a legitimate interest therein.

(c) The provisions of § 5-2.407-59 regarding notification of proposed substantial awards and awards involving congressional interest shall be followed for negotiated procurements.

(d) The provisions of § 5-1.350 regarding the issuance of advance notices of award shall be followed for all negotiated contracts.

(e) When awards are made on the basis of initial offers received, i.e., no discussions or negotiations are conducted with any offeror, a tabulation sheet shall be prepared and a legible copy shall be furnished to the local Business Service Center within one workday after the award of public examination. Tabulations may be typed or handwritten. They shall include the applicable solicitation numbers, names of offerors, prices offered (including any discounts), successful offeror, and the total dollar amount of the award.

(f) When awards are made following discussions with offerors, only the names of successful offerors and the award prices, including discounts, may be publicly disclosed.

(g) Information concerning unsuccessful offerors may only be released to individual requesters, in accordance with GSA Order ADM 7900.3, GSA Regulations, pursuant to the "Freedom of Information Act". This information may include identity and final prices, including discounts.

(h) The provisions of § 5-2.407-1(b)(5) also apply to negotiated procurements.

(i) Awards involving the Public Buildings Services are subject to the following requirements.

(1) Except for classified procurements negotiated under § 1-3.212, which should not be publicly disclosed procurement activities shall notify Business Service Centers of all completed procurements made by negotiation, including, whenever practicable, small purchases.

(2) Notifications on small purchases which exceed $5,000 shall be accomplished by furnishing the Business Service Centers with copies of procurement documents or by such other form of notification that will provide the Business Service Centers with the significant details of the completed procurement actions.

Subpart 5-3.2—Circumstances Permitting Negotiation

§ 5-3.202 Public exigency.

(a) When contracts are awarded on behalf of other agencies, the public exigency negotiation authority may be used only when the requisitioning agencies have furnished sufficient information for the execution of the findings and determinations required by § 1-3.202(b). Delivery dates which are not supported by further information do not constitute adequate justifications for the use of the authority.

(b) Military purchase requests citing an issue priority designator assigned in accordance with DOD Uniform Material Movement and Issue Priority System (UMMIPS) as prescribed by DOD Directive 4410.6, and civilian agency purchase requests citing a priority designator 03 or 06, prescribed by the FEDSTRIP Operating Guide, Ch. 2-15, may justify negotiation under this or other negotiation authority. The specific circumstances must be set forth in the findings and determination to be made by the contracting officer, in accordance with Comptroller General Decision B-192574, April 13, 1979 (58 Comp. Gen. 415). These issue priority designators are to be generated and provided only by the requisitioning activity to a requester and cannot be generated by anyone else for the purpose of conforming or upgrading the priority designator to a requested delivery date.

§ 5-3.203 Purchases not in excess of $10,000.

Full purchase prices shall be used in determining whether the aggregate amount of a transaction exceeds $10,000. Prompt payment discounts or trade-in values may not be deducted.

§ 5-3.210 Impracticable to secure competition by formal advertising.

This authority shall not be used where negotiation is authorized under §§ 1-3.211, 1-3.212, 1-3.213, or 1-3.214.

§ 5-3.270 Negotiation after termination for default.

(a) Repurchases, following terminations for default, may be effected by formal advertising or negotiation as provided in §§ 1-8.602-6 and 5-8.602-6. However, formal advertising should be employed when feasible.

(b) When the repurchase is negotiated, the contracting officer shall include a statement in the contract file justifying the use of negotiation.

Subpart 5-3.3—Determinations, Findings, and Authorities

§ 5-3.302 Determinations and findings required.

A determination that an advance payment is in the public interest or in the interest of the national defense and is necessary and appropriate (as required by section 305(c) of the Federal Property and Administrative Services Act) must be supported by written findings.

Subpart 5-3.4—Types of Contracts

§ 5-3.405-5 Cost-plus-a-fixed-fee contract.

The fixed fees which may be paid under cost reimbursement contracts are subject to the limitations in § 1-3.405-5 and 41 U.S.C. 254(b) and are as follows:

(a) *General.* Except as provided in (b), below, fixed fees shall not exceed 10 percent of the estimated cost of the contract, exclusive of the fee.

(b) *Experimental, development, or research work.* Fixed fees for experimental, developmental, or research work shall not exceed 15 percent of the estimated cost of the contract, exclusive of the fee.

(c) *Fees.* Fees shall be determined by the head of the procuring activity as defined in § 5-1.206.

§ 5-3.408 Letter contract.

(a) *General.* Letter contracts shall not be used unless it is determined by the contracting officer that no other type of contract is suitable and prior approval has been obtained from the head of the procuring activity, as defined in § 5-1.206.

(b) *Limitation of effectiveness.* A letter contract shall be superseded by a definitive contract not more than 90 days from the date of its execution unless prior approval to extend the letter contract beyond 90 days is obtained from the head of the procuring activity.

(c) *Limitation of liability.* The maximum liability of the Government in a letter contract shall not exceed 50 percent of the total estimated cost of the procurement, except in cases when the cost of specialized equipment or materials (such as mechanical or electrical) to be acquired by the contractor as a part of the contract

exceeds 50 percent of the total estimated cost. The cost of the specialized equipment and material shall be the limitation in those cases when it exceeds the 50 percent limitation.

(d) *Conditions for use.* Letter contracts may be used only on the basis of compliance with the following:

(1) Each letter and definitive contract shall contain all mandatory and other clauses necessary to protect fully the interest of the Government.

(2) Each letter contract shall contain the total estimated cost of the procurement and a provision for further negotiation of the cost.

(3) The fixed fee in a cost-reimbursement type of letter contract shall not exceed the limitations set forth in § 1–3.405–5. In establishing the fixed fee, consideration shall be given to the following:

(i) The degree of risk to the contractor.

(ii) The estimated cost of material, subcontracting, purchased parts, and "off-the-shelf" items as compared with the total estimated definitive contract price.

(iii) The size of the proposed contract.

(4) The profit to be paid shall be consistent with the protection given the contractor in minimizing or removing risk to the contractor and the profit policies prescribed in § 1–3.808.

Subpart 5–3.6—Small Purchases

§ 5–3.600 Scope of subpart.

The following limitations on small purchases are prescribed by this subpart:

(a) Small purchases shall be set aside for small business as provided in § 1–3.603–3 and as required by Public Law 95–507, October 24, 1978.

(b) Small purchases of supplies and materials by organizations other than Federal Supply Service (see GSA Order ADM 2800.10, dated April 29, 1982), in an aggregate amount of not more than $10,000 may be effected in accordance with the provisions of Subpart 1–3.6 when either:

(1) The items required are not available from GSA stock, Federal Supply Schedules, term contracts, or through nearby FSS self-service stores, or

(2) Public exigency precludes the use of FSS sources.

(c) Small business—small purchase set—aside contracts valued in excess of $2,000, for repair, alteration, improvements, painting or decorating of a building, must comply with the statutory requirements applicable to such contracts (see §§ 1–3.603–3, 5–1.706(a), 5–3.203(a), and 1–18.302).

(d) Service contracts are subject to requirements of the Service Contract Act of 1965 (see Subpart 1–12).

§ 5–3.603 Competition.

§ 5–3.603–1 Solicitation.

(a) Supplies and Services (other than construction).

(1) Quotations on small purchases may be solicited orally by telephone or personal contact when the estimated amount does not exceed $5,000.

(2) When written solicitations are required (see § 1–3.603–1), one of the following forms shall be used.

(i) *Standard Form 18, Request for Quotations* (See § 1–16.201). Except as provided in (ii) below, this form shall be used for requesting written quotations. When it is considered advantageous to obtain a firm offer which, upon acceptance by the Government, results in a bilateral contract, the appropriate standard contract forms shall be employed.

(ii) *GSA Form 3186, Request for Quotation* (See § 5–16.950–3186). GSA Form 3186 is authorized for use by the Federal Supply Service with the FSS–19 system in lieu of Standard Form 18.

(iii) *GSA Form 2097, Offer and Acceptance Small Purchase.* GSA Form 2097, Offer and Acceptance—Small Purchase (illustrated in § 5–16.950–2097), is authorized for use by the Federal Supply Service when firm offers are to be solicited.

(A) Buyers shall complete the Request for Offer part of GSA Form 2097. If additional space is needed, Standard Form 36, Continuation Sheet, shall be used.

(B) Upon receipt of offers, the purchase from the successful offeror will be completed by executing the Acceptance portion of GSA Form 2097 and returning to the offeror one manually signed copy of the completed form.

(2) *GSA Form 300, Purchase Order.* When this form is used for small purchases (see § 5–1.7301(a)), the following provision shall be included:

Supplemental Terms and Conditions

This purchase is also subject to the clause entitled Disputes in § 1–7.102–12 of the Federal Procurement Regulations (see FPR Temporary Regulation 55, May 23, 1980). In addition, if the purchase exceeds $5,000, the following clauses are also applicable: (a) Changes (41 CFR 1–7.102–2), (b) Default (41 CFR 1–8.707) and (c) Termination for Convenience of the Government (41 CFR 1–8.705–1). These clauses are incorporated by reference as fully as if set forth at length herein.

(End of Provision)

(b) Construction, alteration, and repair.

(1) Quotations on small purchases of the nature described in § 5–3.600(b) may be solicited orally by telephone or personal contact when:

(i) The estimated cost does not exceed $5,000, and

(ii) The requirement is so simple that it can be accurately and fully conveyed orally, with reasonable assurance that sources will submit quotations that are, in fact, on a competitive footing, and in compliance with all statutory and regulatory requirements.

(2) Quotations shall not be solicited orally for the following:

(i) Contracts over $2,500 which are subject to the Service Contract Act.

(ii) Contracts over $2,000 for construction, alteration, and repair which are subject to the Davis-Bacon Act, Contract Work Hours and Safety Standards Act, or the Copeland (Anti-kickback) Act.

(iii) Contracts over $25,000 which are subject to the Miller Act.

(3) In an emergency, when a procurement is estimated not to exceed $10,000 and a written solicitation is required, competition may be solicited by having prospective sources visit the site and by orally informing them, together, of the exact requirements, to enable the sources to prepare estimates for submitting quotations while the written solicitation is being prepared by the Government. The written solicitation must be issued before written quotations are received to allow prospective offerors to effect any necessary changes in the event that there has been any misunderstanding of the oral description of the work encompassed. Emergencies, for the purpose of this subsection, include situations which, if not corrected promptly, will result in unnecessary expenditure of funds, property damage, personal injury, serious loss of agency efficiency in operations, or interruption of agency functions, any of which could be avoided by immediate corrective action. For emergency procurements which exceed $10,000, see § 1–3.202.

(c) Competition.

(1) The criteria set forth below are designed to provide interested small business concerns an opportunity to participate in small purchases (see §§ 1–3.602(f) and 1–3.603–3 regarding small business-small purchase set-asides).

(2) When the estimated dollar amount does not exceed $500, competitive quotations are desirable but not required. These purchases may be accomplished on the basis of a currently verified quotation from a single supplier, if the price is reasonable and no significant advantage would result from soliciting additional suppliers. However,

such purchases shall be distributed equitably among qualified suppliers.

(3) When the estimated dollar amount of the purchase exceeds $500, quotations should be requested from at least five qualified sources, if that number of sources is available. If more than five qualified sources are normally in active competition and expect to be included in price solicitations, the firms solicited shall be rotated or the number solicited should be increased to include the additional sources to the extent commensurate with the value of the purchase, the potential for additional price savings, and the additional administrative costs involved.

§ 5-3.603-2 Data to support small purchases.

(a) When other than the lowest quotation is accepted, the reason(s) for rejecting any lower quotation shall be entered in the purchase case file.

(b) Purchasing activities shall establish small purchase source lists from a formal mailing list, established in accordance with § 1-2.205, trade publications, Thomas Register, and other comparable publications.

(c) Each small purchase file must include notes explaining how it was determined that the price is reasonable.

§ 5-3.605 Purchase order forms.

§ 5-3.605-1 Standard Form 44, Purchase Order-Invoice-Voucher.

(a) *General.* Use of the Standard Form 44, Purchase Order-Invoice-Voucher (illustrated at § 1-16.901-44), will not serve the best interest of either the Government or business when the accounting system of the seller requires production of an invoice as a matter of routine. In these cases, whichever of the other authorized methods of making small purchases is most appropriate shall be used. Whenever possible, within the dollar value limitations of each method, preference shall be given to the use of imprest funds and blanket purchase arrangements (see § 5-3.606).

(b) *Authorization for using form.* Where necessary, responsible using Standard Form 44 in accordance with this subpart. Purchases over $150 using SF 44 may be made only by contracting officers. (See ADM 2851.3, December 18, 1979, Establishment of GSA-wide Contracting Officer Warrant Program (COWP).)

(c) *Issuance of books from stock.* Issuances of books from stock shall be made only to the appropriate Assistant Commissioners in the Central Office and Assistant Regional Administrators, or to their designees. These officials shall be responsible for the custody and issuance of the books to the users and shall maintain a simple card record for each book issued.

§ 5-3.606 Blanket purchase arrangements.

§ 5-3.606-1 General.

All blanket purchase arrangements are subject to the requirements of small business-small purchase set-asides as set forth in § 1-3.603-3.

§ 5-3.606-4 Documentation.

(a) Blanket purchase arrangements (BPAs) normally shall be documented on a purchase order form. Each blanket purchase arrangement shall contain appropriate provisions relating to the following:

(1) Authorization to the supplier to furnish the supplies or services described in general terms in the arrangement when called for by a contracting officer or person(s) authorized by a contracting officer and listed therein.

(2) Individual call orders against such arrangements shall not exceed $5,000.

(3) The Government will be obligated only to the extent of the call orders actually made against the blanket purchase arrangement by persons authorized by a contracting officer.

(4) Suppliers shall submit an invoice as required, but not more than once a month. The original of each delivery ticket shall accompany the invoice.

(5) The blanket purchase arrangement should specify the place(s) to which deliveries are to be made. (Usually the arrangement will provide for delivery to the requiring activity.)

(6) The arrangement should state the discount terms which will apply to orders placed against the blanket purchase arrangement.

(7) Total anticipated value of purchases under a BPA may not exceed $10,000 (see § 1-3.602(f)).

(8) Certificate of conformance-type shipments may be arranged (see § 5-3.653).

(b) Only officials authorized by a contracting officer and designated in the blanket purchase arrangement shall be permitted to request deliveries. Delivery (call) orders shall usually be made by telephone or in person. Prior to placing calls against the blanket purchase arrangement, each requirement shall be screened for availability from mandatory sources of supply. Necessary controls shall be maintained by the person placing call orders under the blanket purchase arrangement to ensure that any limitation stated therein is not exceeded. The blanket purchase arrangement identification, and requisition number, if any, should be specified each time a delivery is requested.

(c) Each blanket purchase arrangement shall be numbered or otherwise identified in an appropriate manner and shall include the statement, "Negotiation authority—section 302(c)(3), Federal Property and Administrative Services Act of 1949."

(d) When deliveries are made, the receiving activity will retain one copy of the related delivery ticket and return the remaining copies to the supplier; one copy of which is to be signed. Each delivery ticket must contain the following information: blanket purchase arrangement identification; requisition number, if any; the name of the person placing the call; an itemized listing of the materials furnished; and the quantity, price and extension of each item.

§ 5-3.606-50 Advance establishment of supply sources by blanket purchase arrangements.

(a) The following instructions are designed to reduce the administrative costs in connection with processing small purchases. These instructions apply primarily to the purchasing of the following types of requirements:

(1) Low dollar value items for which requirements are too sporadic to be carried in stock or be included in Federal Supply Schedules or term contracts; and

(2) Low dollar value items which are listed in Federal Supply Schedules or term contracts but which are not available from these sources because the quantity required is smaller than the minimum order limitation specified in these contracts and the established contractor is unwilling to accept such an order.

(b) Sections 1-3.606 and this 5-3.606 contain instructions for making small purchases by blanket purchase arrangements (BPAs). This section provides an additional application for the BPA as a single source instrument.

(c) When BPAs are issued to multiple sources, orders are rotated among these sources to achieve an even spread of orders, provided prices are within a narrow competitive range. When prices vary widely, buyers make individual determinations every time they place an order to give the order to that source which offers the best terms (e.g., earlier delivery, if required). Dealing with only a single source during the effective period of the single source BPA would lower the administrative costs. Single source BPAs shall be awarded in accordance with subsection (d).

(d) Generally for any single source BPA, Standard Form 18, Request for Quotations, shall be used for obtaining price information. The request for quotation should make it clear that a BPA will be issued to that responsive quoter who offers the best terms to the Government for the entire requirement, at a stated level of quality, price and other factors considered. To obtain a common denominator for the evaluation of quotations, requirements must be expressed in terms of minimum acceptable quality (applicable specifications, brand names or equal, manufacturer catalogs, etc.). Single source BPAs shall be issued for an entire line of estimated requirements, based on best discounts from established contractors' catalogs and price lists, after assurance that the catalog items of the low quoters are comparable in quality to the items offered by other quoters. Delivery requirments should be stated within a range from immediately to not later than 10 calendar days after receipt of order. The BPA shall contain a provision that no single order placed thereunder shall exceed $5,000, and that no order from another source shall be placed for any item covered by an established Government contract source except (i) when the requirement is below the minimum order quantity stated in the contract and the established contractor is unwilling to accept such an order, or (ii) the requirement is urgent and the established contractor cannot meet the delivery requirement.

(e) The $5,000 individual purchase limitation in (d), above, does not limit orders issued under BPAs established with a Government contractor (e.g. Federal Supply Schedule or term contract), in which case the terms of the applicable contract will govern (see § 1–3.606–1).

(f) Delivery orders under single source BPAs shall be issued on any authorized purchase order form or orally in accordance with this § 5–3.606–50.

§ 5–3.652 Oral purchases (Supplies and services).

(a) When advantageous to the Government, supplies or services may be procured orally in accordance with § 1–3.603–3, from local suppliers at the site of work or use point, or by a supply distribution facility when authorized, using vendors' invoices in lieu of purchase orders.

(b) Oral purchases shall be effected only in accordance with §§ 1–3.6 and 5–3.6, subject to the following:

(1) The amount of any one purchase is $500 or less;

(2) A purchase order is not required by either the supplier or the Government; (In practice, confirming purchase orders are frequently used but are not required by this regulation.) and

(3) Appropriate invoices are obtainable from the supplier.

(c) The items to be purchased shall be domestic source end products, except as provided in § 1–6.1. For special rules governing purchases of hand and measuring tools and stainless steel flatware see §§ 5–6.104–50, 5–6.104–51, and 5–6.104.52.

(d) Each ordering office using this purchasing technique shall require the supplier to submit immediately properly prepared invoices which itemize property or services furnished.

(e) Invoices which evidence receipt of the property or services shall be endorsed by an authorized Government representative.

(f) Informal records shall be maintained by the ordering office when necessary (including identification of the person placing the order) to ensure that the personal property or nonpersonal services ordered are actually received. (See also § 1–3.603.)

(g) To facilitate payment of invoices, ordering offices should advise the paying office when oral purchase arrangements are authorized.

§ 5–3.653 Small purchase procedure using GSA Form 2049, Contractor's Certificate of Conformance.

(a) *General.*

(1) The small purchase procedure using GSA Form 2049, Contractor's Certificate of Conformance, provides for payment for supplies based on the contractor's submission of an invoice with an attached copy of a completed GSA Form 2049 certifying that the supplies have been delivered to the post office, common carrier, or point of first receipt by the Government, and that the contractor agrees to replace, repair, or correct supplies not received at destination, damaged in transit, or not conforming to purchase requirements.

(2) Blanket purchase arrangements may include provisions for using certificate-of-conformance-type shipments.

(b) *Conditions for use.* Subject to the following conditions, careful consideration shall be given to the feasibility of using the certificate-of-conformance for any small purchase procurement which requires direct delivery to a customer:

(1) The value of individual direct shipment orders shall be limited to $10,000 or less;

(2) The title to supplies will vest in the Government upon delivery to the post office or common carrier for mailing or shipment to destination or upon receipt by the Government when shipment is by means other than U.S. Mail or common carrier;

(3) The contractor agrees to replace, repair, or correct at his expense supplies not received at destination, damaged in transit, or not conforming to purchase requirements, provided replacement instructions are furnished the contractor within 90 days from the date of shipment; and

(4) The contractor will perform in accordance with the terms of the purchase order.

(c) *Preparation and execution.*

(1) Purchase orders using the certificate-of-conformance procurement method may be issued on any authorized purchase order form in accordance with Subpart 5–3.6, except that calls against blanket purchase arrangements shall be issued in accordance with § 5–3.606.

(2) Each purchase order using this certificate-of-conformance procedure shall contain the following provision:

> This purchase order is subject to and includes the terms and conditions of GSA Form 2049, Contractor's Certificate of Conformance, a copy of which is attached or available upon request to the Contracting Officer.
>
> (End of Provision)

(3) Special data to be included in purchase orders or blanket purchase arrangements using certificate-of-conformance purchase order procedures include the following:

(i) A requirement to ship the supplies prepaid by common carrier or parcel post;

(ii) A requirement that, when shipment is made by parcel post (U.S. Postal Service) or common carrier, to (A) cite on invoice(s) and copies thereof, the shipment date, name and address of carrier, and bill of lading number or other shipment document number or (B) attach copies of such documents to invoice as evidence of shipment. The invoice(s) shall also be prominently marked "CERTIFICATE OF CONFORMANCE";

(iii) A requirement where delivery is by other than parcel post or common carrier, to attach a receipted copy of the contractor's delivery document to the contractor's invoice(s) and invoice copies;

(iv) A requirement that each invoice under a purchase order using the certificate-of-conformance procedure must be accompanied by GSA Form 2049, Contractor's Certificate of Conformance, completed and signed by the contractor.

(v) A requirement to include the following statement on the consignee's copy of the contractor's invoice(s):

Consignee's Notification to Procurement Division of Nonrecaipt, Damage, or Nonconformance

Consignee shall promptly notify the Contracting Officer, after purchase order delivery date, of supplies not received, damaged in transit, or not conforming with purchase order specifications.

(End of Statement)

Subpart 5-3.8—Price Negotiation Policies and Techniques

§ 5-3.802 Preparation for negotiation.

When time does not permit the use of written solicitations, telegraphic solicitations may be used when specifically authorized by § 5-2.201-53. Telephonic solicitations may be used in urgency situations in accordance with §§ 1-3.202, 5-3.202 and 5-3.5002. Telegraphic and telephonic request must make specific reference to all terms and conditions which will apply. The reasons for the use of telegraphic or telephonic requests shall be entered in the file (see § 1-3.802(c)(5)).

§ 5-3.805 Selection of offerors for negotiation and award.

§ 5-3.805-1 General.

The determining criteria for proposal evaluation and award (when other than the lowest price) should be determined in advance of solicitation. The solicitation shall identify the evaluation criteria (factors) and provide a reasonable idea or specific numerical identification of their relative importance. When percentages or weights are not specified, the evaluation criteria shall be listed in descending order of importance.

§ 5-3.805-2 Cost-reimbursement type contracts (construction contracts).

The considerations and discussions during negotiations of construction contracts shall include, to the extent necessary to resolve uncertainties, such matters as:

(a) The location, size, and character of the work and the estimated cost;

(b) The general conditions for the cost-plus-a-fixed-fee contract and the procedures to be followed thereunder;

(c) The organization the contractor will use at the site and proposed salaries for those employees;

(d) The types and amount of contractor's own equipment available for the project;

(e) The amount and character of work to be performed by the contractor's own forces and by subcontract;

(f) The time for completion, liquidated damages (if specified), insurance, and bonds;

(g) The fixed fee and the basis upon which its amount was predicated. (All of these factors, (a) through (f), affect the amount of the fee.)

§ 5-3.807-3 Cost or pricing data.

(a) Approval of the appropriate procuring director shall be obtained in all cases when it is determined that the requirement for cost or pricing data may be waived (see § 1-3.807-3(b)).

(b) Excuse for failure to submit subcontractor cost and pricing data except when limited to the allowing of additional time, shall require approval of the appropriate procuring director. (See § 1-3.807-3(d)(2)).

§ 5-3.807-6 Refusal to provide cost or pricing data.

Whenever a contractor refuses to provide cost or pricing data, the matter shall be referred to the appropriate procuring director. (See § 1-3.807-6).

§ 5-3.850 Contracts requiring Central Office approval.

Requirements for Central Office approval of regional contracts are set forth in the GSA Delegations of Authority Manual, (ADM P 5450.39B). The following types of contracts shall also be submitted for Central Office approval:

(a) Contracts involving advance payment by the Government; and

(b) All cost, cost-plus-a-fixed-fee, or incentive-type contracts.

Subpart 5-3.50—Solicitation of Offers

§ 5-3.5001 Preparation of solicitation of offers.

(a) In addition to the forms prescribed in Subpart 1-16.2 for negotiated supply contracts, the basic forms to be used for soliciting offers (requests for proposals) on negotiated contracts shall be the same forms prescribed in Subpart 1-16.1 for use when soliciting offers (invitations for bids) under advertised contracts. Generally, a solicitation of offers shall be in writing. However, in appropriate cases as prescribed in § 5-3.5002, proposals or quotations may be solicited orally, provided that the resulting definitive contract is prepared on the prescribed contract form.

(b) Solicitations shall contain the information necessary to enable a prospective offeror to prepare an offer. All such information shall be set forth in full in the solicitation except that Standard Form 32, General Provisions (Supply Contract), Standard Form 33A, Solicitation Instructions and Conditions, and authorized GSA forms, if applicable, may be incorporated by reference after ensuring that the forms have been received by the offerors.

§ 5-3.5002 Oral solicitations.

(a) Oral solicitations, other than for small purchases (see paragraph (b)) are authorized in cases when the processing of a written solicitation would delay the furnishing of the supplies or services to the detriment of the Government. Examples of such circumstances are listed in § 1-3.202. However, an oral solicitation is not to be considered justified solely because a high issue priority designator has been assigned to the requirement or because of public exigency.

(b) Oral solicitations are authorized for small purchases (see Subparts 1-3.603-1(d) and 5-3.603), for the procurement of perishable subsistence, and as indicated in paragraph (a).

(c) In addition to the documentation requirements of Subpart 1-3.3, the contract record should include a summary of the circumstances which constituted the basis for the use of an oral solicitation, the item description, quantity, deliveries required, sources solicited, prices quoted (including name of individual contacted), date and time of contact, and the solicitation number which was provided to the prospective sources. Should the issuance of the resulting contractual instrument be unduly delayed, the contract file shall be documented to describe the reasons for the delay and to justify award based on the oral solicitation.

(d) Oral solicitations shall not be used without prior approval at a level higher than the contracting officer and in accordance with the Contractor Officer Warrent Program in GSA Order ADM 2851.3, December 18, 1979.

(e) The use of oral solicitations does not relieve contracting officers from the obligation to comply with all applicable procurement regulations (e.g., post award notices to offerors, § 1-3.103), price negotiation policies and techniques (Subparts 1-3.8 and 5-3.8), submission of the same terms and conditions to all offerors, etc. In communications with potential contractors, contracting officers shall make it clear that quotations are subject to all applicable procurement regulations, although not expressly detailed, and that prices quoted are for items of domestic origin unless otherwise indicated and include only Federal, State and local taxes applicable to Federal Government transactions.

§ 5–3.5003 Bidders mailing lists (except ADTS).

Bidders mailing lists for negotiated procurements shall be established, maintained, and utilized in accordance with §§ 1–2.205 and 5–2.205.

§ 5–3.5003–1 Publicizing ADTS procurement actions.

Generally, ADTS procurements shall be publicized in the Commerce Business Daily as provided in Subpart 1–1.10. The GSA Centralized Bidders Mailing List may be use for competitive ADPE and software procurement as established in ADTS procedures (see § 1–4.1109–3).

§ 5–3.5004 Recording of bids.

Bids shall be abstracted in accordance with § 5–2.403.

(End of Part)

CHAPTER 5A—OFFICE OF ACQUISITION POLICY, GENERAL SERVICES ADMINISTRATION

[APD 2800.3 CHGE 33]

PART 5A–3 [REMOVED]

1. 41 CFR is amended by removing in its entirety Part 5A–3.

CHAPTER 5B—OFFICE OF ACQUISITION POLICY, GENERAL SERVICES, ADMINISTRATION

[APD 2800.4 CHGE 14]

PART 5B–3 [REMOVED]

1. 41 CFR is amended by removing in its entirety Part 5B–3.

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William B. Ferguson,

Acting Assistant Administrator for Acquisition Policy.

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DEPARTMENT OF ENERGY

41 CFR Parts 9–5, 9–7, 9–23 and 9–50

Amendments to the DOE Procurement Regulations

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: This final rule revises the DOE Procurement Regulations. The revisions will simplify the procurement process by allowing certain decisions to be made at a lower level. Some sections are updated to conform to amendments to the Federal Property Management Regulations and changes in DOE's assignments for management of certain property categories. Also, certain procedures and definitions are clarified. A detailed listing of specific revisions is given below under the section entitled "Supplementary Information."

EFFECTIVE DATE: August 31, 1982.

FOR FURTHER INFORMATION CONTACT:
Richard Langston, Procurement Policy Branch (MA931.1), Policy and Procedures Division, Procurement and Assistance Management Directorate, Department of Energy, (202) 252–8188
Elliot Winnick, Office of General Counsel, AGC for Procurement and Financial Incentives (GC44), Department of Energy, (202) 252–6902.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Statutory and Regulatory Requirements.
III. Public Comments.

Background

Under Section 644 of the Department of Energy Organization Act (hereinafter referred to as "the Act") (Pub. L. 95–91, 91 Stat. 565 (41 U.S.C. 7254)), the Secretary of the Department is authorized to prescribe such procedural rules and regulations as he may deem necessary or appropriate to effectuate the functions vested in him. Accordingly, the Department of Energy Procurement Regulations (DOE–PR) were promulgated with an effective date of June 30, 1979 (see 44 FR 34424).

The specific changes being made are as follows: *Change 6.1* amends § 9–3.807–50, "Approvals and waiver," at paragraph (a) in order to simplify and streamline the procurement process by allowing delegation below the Head of the Procuring Activity of the authority to approve the findings required by FPR § 1–3.807–1(b)(1)(ii)(C) and § 1–3.807–3(f)(1); *Change 6.2* amends § 9–5.5206 in order to delete §§ 9–5.5206–6 and 9–5.5206–7 to assure consistency with amendments to the Federal Property Management Regulations and to delete § 9–5.5206–13 as a result of a change being made at § 9–5.5207; *Change 6.3* amends § 9–5.5207–2 to establish a new property category to be titled "Precious Metals" which will include the previous categories of gold and platinum and will be managed by the Oak Ridge Operations Office; *Change 6.4* amends the Classification and Security clauses at § 9–7.103–50 and § 9–7.103–53; *Change 6.5* adds a new paragraph to § 9–7.104–50, "Priorities, Allocations, and Allotments," informing DOE contractors that they may be eligible for priorities and allocations support in ordering necessary materials and equipment for their contracts, if the purpose of such contracts is to maximize domestic energy supplies; *Change 6.6* amends § 9–7.302–57, "Printing," to clarify the definition of printing and the procedures to be followed regarding printing; *Change 6.7* adds a new § 9–15.205–61 entitled "Printing costs" to note the limitation contained at § 9–7.302–57; *Change 6.8* amends Part 9–23, "Subcontracting Policies and Procedures," to relax the Headquarters review prerequisites, increase emphasis on surveillance, extend the cycle of subsequent reviews, and delegate increased approval authority to the Heads of the Procuring Activities; *Change 6.9* amends § 9–50.5206–6, "Miscellaneous items," to change a citation at paragraph (e), to change the reference at paragraph (1) from the Chicago Operations Office to the Oak Ridge Operations Office, and to remove from paragraph (m) the references to appliances and water coolers inasmuch as Amendment E–247 of the Federal Property Management Regulations (46 FR 34643, July 10, 1981) has changed the procedures for ordering these items; *Change 6.10* amends the "Security" and "Classification" clauses at § 9–50.704–1 and § 9–50.704–4; *Change 6.11* amends § 9–50.704–33, "Priorities, Allocations and Allotments," to reflect the change made at § 9–7.104–5 above; and *Change 6.12* adds a new clause entitled "Printing" at § 9–50.704.49. These changes are designed to provide greater discretion to the Heads of the Procuring Activities in the use of their delegated authority, to provide new guidance and to update the regulations. It is anticipated that these changes will simplify the procurement process and increase the clarity of the regulations.

II. Statutory and Regulatory Requirements

A. Review Under Executive Order 12291

Inasmuch as this final rule relates to agency management of the procurement function, the OMB clearance procedures set forth in Executive Order 12291 (February 17, 1981) are not applicable.

B. Review Under the Regulatory Flexibility Act

This final rule was reviewed under the Regulatory Flexibility Act of 1980, Pub. L. 96–354, which requires preparation of a regulatory flexibility analysis for any rule which is likely to have significant economic impact on a substantial number of small entities. DOE certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities and, therefore, no regulatory flexibility analysis has been prepared.

C. Review Under the Paperwork Reduction Plan Act

DOE has determined that this rulemaking imposes no information collection and reporting requirements on

organizations and individuals external to DOE that may be subject to this regulation in accordance with the Paperwork Reduction Plan Act (44 U.S.C. 3501 *et. seq.*).

D. Review Under the National Environmental Policy Act

DOE has concluded that promulgation of this final rule clearly would not represent a major Federal action having significant impact on the human environment under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 432 *et. seq.*), the Council on Environmental Quality Regulations (40 CFR Parts 1500–1508), and the DOE guidelines (10 CFR 1020), and therefore does not require an environmental impact statement pursuant to NEPA.

III. Public Comment

The changes being made by this final rule were published as a notice of proposed rulemaking on May 3, 1982, 47 FR 18923. That notice invited public comments for a 30 day period ending June 2, 1982. A correction notice was published on June 1, 1982, 47 FR 23780, extending the comment period through June 9, 1982. No comments were received. The revisions contained in this final rule are the same as those contained in the notice of proposed rulemaking except that the changes to the clauses entitled "Security," "Classification," and "Printing" shown at § 9–7.103 and § 9–7.302 (Changes 6.4 and 6.6) are repeated at § 9–50.704 (Changes 6.10 and 6.12). This corrects an oversight in the notice of proposed rulemaking.

List of Subjects in 41 CFR Parts 9–3, 9–5, 9–7, 9–15, 9–23, and 9–50

Government procurement.

For the reasons set forth in the preamble, Chapter 9 of Title 41 of the Code of Federal Regulations is amended as set forth below.

Issued in Washington, D.C. on June 28, 1982.

Hilary J. Rauch,

Director, Procurement and Assistance Management Directorate.

The regulations in 41 CFR Chapter 9 are amended as set forth below.

Authority: Section 644 of the Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 599, (42 U.S.C. 7254).

Note.—As an aid in identifying specific changes to the DOE Procurement Regulations, a two-digit identification number is assigned to each specific change. The first digit represents the numerical sequence of changes; thus, this is Change 6 to indicate that this is the sixth time that DOE has issued a final rule for the purpose of amending 41 CFR Chapter 9. The second digit is the numerical sequence of specific changes within a particular rule; the first change within the sixth rule is identified as Change 6.1

Change 6.1 Section 9–3.807–50, "Approvals and waiver," is amended by deleting the words, "without power of redelegation" from paragraph (a) regarding the authority to approve the findings required by FPR 1–3.807–1(b)(1)(ii)(C) and 1–3.807–3(f)(1). These findings involve determining that a price is not reasonable even though based on adequate price competition or a catalog or market price. The revised text will read:

§ 9–3.807–50 Approvals and waiver.

(a) Heads of Procuring Activities, or their delegees, may approve the findings required by FPR 1–3.807–1(b)(1)(ii)(C) and 1–3.807–3(f)(1) for contracts estimated to be within the limits of the authority delegated to them. In making such delegations, the Heads of the Procuring Activities shall require that either of these approvals be made at a level above the Contracting Officer as is required by FPR 1–3.807–1(b)(ii)(C).

Change 6.2 Section 9–5.5206, "Miscellaneous items," is amended by removing and reserving § 9–5.5206–6, "New electric water coolers," and § 9–5.5206–7, "Appliances." This revision is necessary as Amendment E–247, of the Federal Property Management Regulations (46 FR 34643, July 10, 1981) changed the manner in which these supply items could be procured. Section 9–5.5206–13, "Gold," is also removed and reserved as a result of the change at 6.3 below. The revised text will read:

§ 9–5.5206 Miscellaneous items.

§ 9–5.5206–6 [Reserved]

§ 9–5.5206–7 [Reserved]

§ 9–5.5206–13 [Reserved]

Change 6.3 Section 9–5.5207–2, "Platinum," is amended at both the Table of Contents and the text, to change its title to "Precious Metals," to change the assignment for this item from the Chicago Operations Office to the Oak Ridge Operations Office, and to expand this assignment to include other elements in the platinum family of metals as well as gold and silver. The revised text will read:

§ 9–5.5207–2 Precious metals.

The Oak Ridge Operations Office is responsible for maintaining the DOE supply of precious metals. These metals are platinum, palladium, iridium, osmium, rhodium, ruthenium, gold and silver. Oak Ridge Operations has assigned management of these metals to N.L.O., Inc., P.O. Box 39158, Cincinnati, Ohio 45239. Telephone numbers are (513) 738–1151, extension 228 or F.T.S. 774–8228. DOE Offices and cost-type contractors shall coordinate with N.L.O., Inc. regarding the availability of the above metals prior to the purchase of these metals on the open market.

Change 6.4 The clauses set forth at § 9–7.103–50, "Classification," and 9–7.103–53, "Security," are deleted and replaced by new clauses of the same title. This is necessary to assure compliance with Executive Order 12065, as amended by Executive Orders 12148 and 12163. The nature of the change in the Classification clause is to provide that only an Authorized Classifier may classify documents and to provide that in instances where such authority is delegated to a contractor, it cannot be redelegated or transferred to others. The changes to the Security clause involve specifying "of 1954" after the reference to the "Atomic Energy Act" in the preamble to the clause, adding the definitions of "Classified Information" and "National Security Information," and adding references to the newly defined category. The text of the new clauses is as follows:

§ 9–7.103–50 Classification.

* * * * *

Classification

In the performance of the work under this contract, the contractor shall ensure that an Authorized Original Classifier or Derivative Classifier shall assign classifications to all documents, material, and equipment originated or generated under the contract in accordance with classification regulations and guidance furnished to the contractor by the DOE. Every subcontract and purchase order issued hereunder involving the origination or generation of classified documents, material, or equipment shall include a provision to the effect that in the performance of such subcontract or purchase order, the subcontractor or supplier shall ensure that an Authorized Original Classifier or Derivative Classifier shall assign classifications to all such documents, materials, and equipment in accordance with classification regulations and guidance furnished to such subcontractor or supplier by the contractor.

* * * * *

§ 9–7.103–53 Security.

The following clause is required in contracts entered into under section 31 (research assistance) or 41 (ownership and operation of production facilities) of the Atomic Energy Act of 1954, as amended, and in other contracts and subcontracts, the performance of which involves or is likely to involve classified information.

Security

(a) Contractor's duty to safeguard all classified information. The contractor shall, in accordance with DOE security regulations and requirements, be responsible for safeguarding all classified information, and protecting against sabotage, espionage, loss and theft, the classified documents and material in the contractor's possession in connection with the performance of work under this contract. Except as otherwise expressly provided in this contract, the contractor shall, upon completion or termination of this contract, transmit to DOE any classified matter in the possession of the contractor or any person under the contractor's control in connection with performance of this contract. If retention by the Contractor of any classified matter is required after the completion or termination of the contract and such retention is approved by the Contracting Officer, the contractor will complete a certificate of possession to be furnished to DOE specifying the classified matter to be retained. The certification shall identify the items and types or categories of matter retained, the conditions governing the retention of the matter, and the period of retention, if known. If the retention is approved by the Contracting Officer, the security provisions of the contract will continue to be applicable to the matter retained.

(b) Regulations. The contractor agrees to conform to all security regulations and requirements of DOE.

(c) Definition of classified information. The term "classified information" means Restricted Data, Formerly Restricted Data, and National Security Information.

(d) Definition of Restricted Data. The term "Restricted Data" means all data concerning (1) design, manufacture, or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category pursuant to Section 142 of the Atomic Energy Act of 1954, as amended.

(e) Definition of Formerly Restricted Data. The term "Formerly Restricted Data" means all data removed from the Restricted Data category under section 142 d. of the Atomic Energy Act of 1954, as amended.

(f) Definition of National Security Information. The term "National Security Information" means information or material which is owned by, produced for or by, or under the control of the United States Government, which has been determined pursuant to Executive Order 12065 or prior Orders to require protection against unauthorized disclosure, and which is so designated.

(g) Security clearance of personnel. The contractor shall not permit any individual to have access to any classified information, except in accordance with the Atomic Energy Act of 1954, as amended, Executive Order 12065, and the DOE's regulations or requirements applicable to the particular level and category of classified information to which access is required.

(h) Criminal liability. It is understood that disclosure of any classified information relating to the work or services ordered hereunder to any person not entitled to receive it, or failure to safeguard any classified information that may come to the contractor or any person under the contractor's control in connection with work under this contract, may subject the contractor, its agents, employees, or subcontractors to criminal liability under the laws of the United States. (See the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2100 et seq.; 18 U.S.C. 793 and 794; and Executive Order 12065).

(i) Subcontracts and purchase orders. Except as otherwise authorized in writing by the contracting officer, the contractor shall insert provisions similar to the foregoing in all subcontracts and purchase orders under this contract.

Change 6.5 Section 9–7.104–50. "Priorities, allocations, and allotments," is amended by placing a prefix (a) before the existing text, correcting the name of the Department of Commerce group administering this program, and adding a new paragraph (b) to explain that priorities and allocations support may be available to DOE contractors if the purpose of their contract is to maximize domestic energy supplies. The revised text will read:

§ 9–7.104–50 Priorities, allocations, and allotments.

(a) The following clause may be used only in contracts and orders for military and atomic energy production and directly related activity, and supply contracts directly related thereto, where the programs have been authorized pursuant to the Atomic Energy Act of 1954, as amended.

Priorities, Allocations, and Allotments

The contractor shall follow the rules, regulations, and procedures of the Defense Priorities System and the Defense Materials System, Regulation 1, and all other applicable regulations and orders of the International Trade Administration, Department of Commerce, in obtaining controlled materials and other products and materials needed to fill this order.

(b) Other contracts may be eligible for priorities and allocations support if their purpose is to maximize domestic energy supplies. Eligibility is dependent on an executive decision on a case by case basis. Guidance is provided by DOE Publication PR–0042, "Priorities and Allocations Support for Energy: Keeping Energy Programs on Schedule," dated August 1980, as it may from time to time be revised. If the purpose of the contract is to maximize domestic energy resources, include the following clause:

Priorities, Allocations, and Allotments—Special Clause

This contract may be eligible for priorities and allocations support, as provided for by Section 101(c) of the Defense Production Act of 1950, as amended by the Energy Policy and Conservation Act (Pub. L. 94–163, 42 U.S.C. 6201 *et seq.*) if its purpose is to maximize domestic energy supplies. Eligibility is dependent on an executive decision on a case by case basis with the decision being jointly made by the Departments of Commerce and Energy. DOE Regulations regarding Material Allocation and Priority Performance under Contracts or Orders to Maximize Domestic Energy Supplies can be found at Part 216 of Title 10 of the Code of Federal Regulations (10 CFR 216). Additional guidance is provided by DOE Publication PR–0042, "Priorities and Allocations Support for Energy: Keeping Energy Programs on Schedule," dated August 1980, as it may from time to time be revised. Copies may be obtained by written request to: Department of Energy, Technical Information Center (TIC), Post Office Box 62, Oak Ridge, Tennessee 37830.

Change 6.6 The present § 9–7.302–57, "Printing," is deleted and replaced with new coverage of the same topic. The change is being made to clarify the definition of printing and to provide procedures to be followed by contractor and Government personnel. The revised text will read:

§ 9–7.302–57 Printing.

Title 44, United States Code, "Public Printing and Documents," establishes policies regarding public printing and documents within the Federal Government. It provides that public printing will be accomplished by the Government Printing Office, its regional offices or authorized departmental printing plants. It provides a limited exemption for contractors. Requirements exceeding that limitation are to be accomplished utilizing Government resources. To facilitate this, Contracting Officers shall furnish the necessary forms and instructions to contractors, as called for by DOE Order 1340.1, and include the following clause in all contracts:

Printing

The contractor shall not engage in, nor subcontract for, any printing (as that term is defined in Title I of the Government Printing and Binding Regulations in effect on the effective date of this contract) in connection with the performance of work under this

contract: Provided, however, that performance of a requirement under this contract involving the duplication of less than 5,000 copies of a single page, or not more than 25,000 units in the aggregate of multiple pages, will not be deemed to be printing. A unit is defined as one sheet, size 8½ by 11 inches, one side only, one color.

a. The term "printing" includes the following processes: composition, platemaking, presswork, binding, microform publishing or the end items produced by such processes.

b. If fulfillment of the contract will necessitate reproduction in excess of the limits set forth above, contractors shall provide the Contracting Officer with camera ready copy as may be required elsewhere in the contract. The Contracting Officer will arrange for the production, acquisition, and dissemination of printed matter.

c. Printing services not obtained in compliance with this guidance will result in the cost of such printing being disallowed.

* * * * *

Change 6.7 New §§ 9–15.205–61, 9–15.303–J.45, and 9–15.603–2.B–61 entitled "Printing costs" are added. The text will read as follows:

§ 9–15.205–61 Printing costs

The costs of printing as defined at 9–7.302–57 are allowable only to the extent that they are allowed under the limited exemption provided therein.

* * * * *

§ 9–15.303–J.45 Printing costs

See the limitation at 9–15.205–61.

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§ 9–15.603–2.B–61 Printing costs

See the limitation at 9–15.302–57.

Change 6.8 The existing Table of Contents and text of Part 9–23, "Subcontracting Policies and Procedures," is removed and replaced by the revised Part 9–23 of the same title. This revision is the result of a reassessment of the Contractor Procurement System Review program, which suggested a reduced Headquarters involvement in such reviews. The more significant changes in the revised coverage include (1) relaxing Headquarters review prerequisites, (2) increasing emphasis on surveillance and extending the cycle of subsequent reviews, and (3) delegating increased authority to cognizant HPAs to grant, withhold, or withdraw system approval. The proposed rule contains a number of other less significant changes designed to improve the overall continuity and clarity of the part. The revised text reads:

PART 9–23—SUBCONTRACTING POLICIES AND PROCEDURES

Sec.

9–23.0 Scope of part.
Subpart—9–23.1 Review of contractor procurement systems
Sec.
9–23.100 Scope of subpart.
9–23.101 Objectives.
9–23.102 Responsibilities.
9–23.103 Definitions.
9–23.104 Review criteria.
9–23.105 Types of reviews.
9–23.106 Extent of review.
9–23.107 Review of CPSR Reports.
9–23.108 Granting, continuing, withholding, and withdrawing approval.
9–23.109 Disclosure of approval status of a contractor's procurement system.
9–23.110 Surveillance of the contractor's approved procurement system.

§ 9–23.0 Scope of part.

This part sets forth policies and procedures for evaluation, review, and approval of contractor procurement systems. Reliance upon a contractor's approved procurement system will usually eliminate the need for reviewing and approving or consenting to most individual subcontracts. However, programmatic and other considerations will still require Government involvement at an early stage in procurement action planning and some subcontract approvals.

Subpart 9–23.1—Review of Contractor Procurement Systems

§ 9–23.100 Scope of subpart.

This subpart sets forth requirements for conducting contractor procurement system reviews (CPSRs).

§ 9–23.101 Objectives.

The objectives of the reviews are to provide:

(a) A means for evaluating the efficiency and effectiveness with which the contractor manages the procurement function in spending Government funds;

(b) The basis for the Contracting Officer to grant, continue, withhold, or withdraw approval of the contractor's procurement system;

(c) Reliable current information on contractor procurement systems for use in source selection, determining the appropriate type of contract, estimating contract costs, and establishing profit or fee objectives; and

(d) Current procurement system information for appropriate DOE activities.

§ 9–23.102 Responsibilities.

(a) DOE Contracting Officers, or designees, will conduct CPSRs of DOE cognizant contractors.

(b) Other Federal Agencies/Departments may be requested to conduct CPSRs, as appropriate, for other than DOE cognizant contractors. DOE Contracting Officers shall normally recognize other Federal Agency/Department approvals of contractors' procurement systems within the limitations identified by approving officials of such agencies.

(c) The Senior Procurement Official, Headquarters, is reponsible for overall conduct of the DOE-wide CPSR program.

§ 9–23.103 Definitions.

(a) The term "contractor", as used in this Subpart, refers to a "prime contractor" or "subcontractor" and means a separate entity of a contractor, such as an affiliate, division, or plant, which performs its own purchasing.

(b) The term "DOE cognizant contractors" refers to those contractors over which DOE has cognizance as identified in OMB Circular A–88, or those with which DOE has the preponderance of Government business. The term includes operating contractors, and pilot and demonstration plant contractors.

§ 9–23.104 Review criteria.

(a) A Contractor Procurement System Review (CPSR) is an evaluation of a contractor's procurement system and the effectiveness with which procurements are placed in performance of Government contracts. It is not limited to a specific Government contract.

(b) The Contracting Officer will initiate a CPSR after determining a review is warranted by the nature or extent of subcontracting. Generally, a CPSR shall be performed if the contractor is expected, within the next 12 months, to have in excess of $5,000,000 of Government-funded subcontracting under other than fixed-price contracts awarded on the basis of adequate price competition as defined in FPR 1–3.807(b)(1). (For the purpose of this paragraph, contract modifications are not considered to be competitively awarded). CPSRs should not ordinarily be performed on subcontractors unless, in addition to the criteria for conducting a CPSR on a prime contractor, the following criteria are also satisfied: (1) the preponderance of subcontractor sales is to prime contractors under the Federal Government, and (2) both the prime contractor and the subcontractor agree to performance of a CPSR.

(c) Contractor procurement systems meeting the criteria in paragraph (b) of this section shall not be reviewed if the Contracting Officer determines in writing, with Head of Procuring Activity concurrence, that the extent or nature of the subcontracting will not justify CPSR costs. In exceptional cases, a contractor not meeting the criteria in paragraph (b) of this section, may be reviewed if the

Contracting Officer determines that facts warrant such action.

(d) CPSRs will be conducted in accordance with appropriate agency directives and guidance.

(e) Initial, subsequent, and followup review teams should include appropriate representatives from DOE field offices; other Federal Agency participation may be additionally requested as appropriate. Generally, team composition should not consist exclusively of those who have a day-to-day relationship with the contractor regarding subcontract consent or approval.

§ 9-23.105 Types of reviews.

§ 9-23.105-1 Initial reviews.

An initial review shall be conducted when the contractor meets criteria in § 9-23.104. The review shall be a complete evaluation as described in § 9-23.106.

§ 9-23.105-2 Subsequent reviews.

If a contractor's procurement system is approved, the Contracting Officer shall annually determine the need for a subsequent review if the system still meets the criteria in § 9-23.104. The maximum length of time between subsequent reviews shall be determined by the Head of Procuring Activity based on Contracting Officer's ability to accomplish adequate surveillance of the contractor's procurement system as described in § 9-23.110. A subsequent review may be limited to specific areas, but shall include sufficient consideration of each factor listed in § 9-23-106(a) to establish current adequacy or inadequacy of the entire system. Such review shall generally be conducted to:

(a) Examine changes instituted since the previous review;

(b) Ascertain the status of prior recommendations upon which action has not been completed; and

(c) Determine whether the contractor's procurement system warrants continued approval.

§ 9-23.105-3 Special reviews.

After approval of the contractor's procurement system, the Contracting Officer may initiate special reviews in connection with identified weaknesses resulting from:

(a) Initial, follow-up, or subsequent review;

(b) Review of subcontracts submitted under the notification requirement of contract clauses;

(c) Changes in the contractor's procurement policies, procedures, or personnel;

(d) Changes in plant workload or type of work; or

(e) Information provided by Government personnel.

In conducting such reviews, the same effectiveness criteria used in previous reviews shall be applied to areas being examined.

§ 9-23.105-4 Follow-up reviews.

If approval of a contractor's procurement system is withheld or withdrawn, a follow-up review shall be made as soon as evidence is received from the contractor that factors leading to such action have been corrected. Whether this review consists of complete reexamination of the contractor's procurement system, or is confined to areas found deficient, is a matter of judgment and will depend on the time lapse between notice to the contractor of withholding or withdrawal of approval, and follow-up review.

§ 9-23.106 Extent of review.

(a) Generally, a review shall consist of a complete evaluation of the contractor's procurement system. The review shall be made in accordance with appropriate DOE directives and guidance, and shall give attention to:

(1) Degree of competition obtained;

(2) Pricing policies and techniques, including methods of obtaining accurate, complete, and current cost or pricing data, and certification as required;

(3) Methods of evaluating subcontractors' capabilities and financial responsibility;

(4) Treatment accorded affiliates and other concerns having close working arrangements with the contractor;

(5) Extent to which assurance is obtained that principal subcontractors apply sound pricing practices and have a satisfactory procurement system in dealing with lower-tier subcontractors;

(6) Appropriateness of the types of subcontracts used;

(7) Practices pertaining to small and socially and economically disadvantaged businesses, labor surplus areas, and other socio-economic provisions;

(8) Management surveillance of significant subcontract programs;

(9) Contractor procurement policies and procedures pertaining to such items as "make-or-buy" program, property control, obtaining warranties, and organizational conflicts of interest;

(10) Compliance with cost accounting standards in subcontract award and administration;

(11) Effectiveness of subcontracting policies and procedures;

(12) Effectiveness of policies and procedures for subcontract close-out actions;

(13) Adequacy of sole source justifications;

(14) Conformance of subcontracting terms and conditions with requirements of the prime contract;

(15) Acceptability and completeness of subcontractor representations and certifications;

(16) Adequacy of subcontracting negotiations and documentation; and

(17) Whether required DOE approval or consent has been obtained for subcontracts and deviations from required terms and conditions.

(b) In reviewing the contractor's procurement system, a determination shall be made as to whether subcontracting is competitively accomplished to the maximum practicable extent. This requires ascertaining whether:

(1) A sufficient number of sources are solicited; and

(2) Subcontracting procedures provide other essential elements needed for adequate and effective competition, including:

(i) Adequate description of any factors to be evaluated; and

(ii) Evaluation of all offers on a common basis.

(c) Decisions as to whether commercial items conform to the purpose and intent of the exemption from the requirement to submit and certify current cost or pricing data shall be analyzed.

§ 9-23.107 Review of CPSR Reports.

(a) Review team findings and recommendations contained in the CPSR Report shall be approved by the Head of Procuring Activity before the Contracting Officer makes a determination to continue, grant, withhold, or withdraw approval.

(b) If revisions are to be made to subcontract dollar thresholds or other limitations, the submittal to the HPA shall include:

(1) A stratification of the present subcontract review workload, including average workhours expended and lead times experienced in processing requests for subcontract consent and;

(2) An evaluation of anticipated benefits, including average workhours and lead times saved in processing requests for subcontract consent.

§ 9-23.108 Granting, continuing, withholding, and withdrawing approval.

(a) The Contracting Officer is responsible for granting, continuing, withholding, or withdrawing approval of a contractor's procurement system subject to the requirements of § 9-23.107(a). The Contracting Officer shall

approve a procurement system only after a CPSR discloses that the contractor's procurement policies and practices are effective and provide adequate protection of the Government's interests. Approval of a system shall be withheld if there are major weaknesses, if the contractor is unable to provide sufficient information upon which to base an affirmative determination that its procurement system is adequate and effective or if withholding of approval is otherwise deemed appropriate to protect the Government's interests.

(b) The Contracting Officer shall give the contractor written notice granting, continuing, withholding, or withdrawing approval of the procurement system. If the contractor's system is approved, the notification of approval shall include:

(1) The effective date of the approval;

(2) Approved plant(s), division(s), or facility of the company;

(3) Approval period (usually one year, maximum three years);

(4) Extent of applicability (usually all DOE contracts with the approved facility administered by the involved procurement office, and all such DOE contracts administered by other DOE procurement offices when the cognizant Contracting Officer concurs);

(5) Any special conditions which the contractor must follow in notifying the Contracting Officer or in obtaining Contracting Officer consent or approval (such as intracompany transfers, critical or programmatically important subcontracts, or awards of a noncompetitive subcontract);

(6) Other conditions such as:

(i) Contract terms that need to be changed; and

(ii) Advice that termination of approval will occur upon a change in the procurement system unless approved by the Contracting Officer; and

(7) A statement that approval may be withdrawn at any time at the Government's discretion.

(c) The approval (and any change in dollar thresholds or other limitations) will be based upon the degree of confidence in the contractor's procurement system as determined through the review and the need to maintain a review of the most significant subcontracts, subject to the limitations in § 9–50.302–5(b).

(d) Approval of a contractor's procurement system does not negate the requirement for advance notification except as set forth in § 9–3.901. Advance notification for information purposes is required in the following instances:

(1) Noncompetitive procurement over $25,000;

(2) Intracompany transfers or payment over $10,000; and

(3) Direct reimbursement of costs over $500.

The advance notice shall contain, as a minimum, a description of work, estimated costs, type of contract or reimbursement provisions, and extent of anticipated competition or justification for noncompetitive procurement. The Contracting Officer may at any time request additional information that must be furnished promptly and prior to award of the subcontract.

When approval of the contractor's procurement system is withheld or withdrawn, recommendations for correction of those deficiencies which will permit (after correction and assuming that other areas previously found to be satisfactory are not deficient) the granting or reinstatement of approval should be furnished to the contractor in writing. The contractor shall be requested to furnish as soon as possible (normally within two weeks) a time-phased plan for correction of deficiencies. Submission of periodic status reports to the Contracting Officer shall be required. Contents of contractor procurement systems review reports, and other information disclosed by the contractor during the review shall be divulged only to Government personnel having a need to know. However, the Contracting Officer will furnish three copies of the approved review report (less the contractor's recommendations to the Government) to the contractor for information purposes.

(f) When recommendations are made for improvement of an approved system, the contractor shall be requested to reply as soon as possible (normally within two weeks) as to its concurrence or position with respect to the recommendations.

(g) Copies of CPSR reports, copies of notifications granting, continuing, withholding, or withdrawing approval of a contractor's procurement system, copies of recommendations for improvement of an approved system, copies of notifications (or contract modifications) altering the subcontract consent dollar thresholds, and information received from the contractor pursuant to paragraphs (d) and (e) of this section, shall be transmitted to the Director, Policy and Procedures Division, (Attention MA931), Headquarters.

§ 9–23.109 Disclosure of approval status of a contractor's procurement system.

Upon request, a prime contractor may be informed that the procurement system of a proposed subcontractor has been approved under Government prime contracts, if such is the case. The prime contractor shall be cautioned that approval status is furnished only as of the date of notification and the Government does not assume the responsibility to keep the prime contractor advised of any change in approval status of the proposed subcontractor's procurement system.

§ 9–23.110 Surveillance of the contractor's approved procurement system.

(a) The Contracting Officer must maintain a sufficient level of surveillance to assure that the contractor continues to effectively manage the procurement program. The Contracting Officer shall develop a surveillance plan and submit it to the Head of the Procuring Activity for approval. The surveillance plan shall encompass all phases of the system (pre-award and post-award performance, contract completion, and close-out) and all operations affecting procurement and subcontracting. Surveillance shall consider all elements of the contractor's procurement system including, but not limited to, those items evaluated in the initial review. The surveillance plan must provide for review and consent to placement of a representative sample of subcontracts, including the largest and most complex subcontracts being issued each year.

(b) Certain subcontractors may require additional surveillance based on flowdown of policies concerning cost, schedule, and technical performance.

Change 6.9 Section 9–50.506–6, "Miscellaneous items," is amended at paragraph (e) to change the reference § 9–5.5206–13 to § 9–5.5207–2; is amended at paragraph (1) to indicate that the Oak Ridge Operations Office rather than the Chicago Operations Office is the manager for DOE supplies of the newly designated "Precious Metals" property category; and is amended at paragraph (m), subparagraphs (1) and (2) to delete the references to appliances and new electric water coolers as this guidance has been superseded by Amendment E–247 of the Federal Property Management Regulations, (46 FR 35643, July 10, 1981). Subparagraphs (7) and (8) of paragraph (m) are also revised to correct erroneous references to sections of the Federal Property Management Regulations. The revised text will read:

§ 9–50.506–6 Miscellaneous items (9–5.5206)

* * * * *

(e) Gold (See 9–5.5207–2)

* * * * *

(1) Prior to purchase of any of the precious metals (these are platinum, palladium, iridum, osmium, rhodium, ruthenium, gold and silver) on the open market, contractors shall clear the availability of such metals with N.L.O., Inc. as required by § 9–5.5207–2.

(m) * * *

(1) Reserved

(2) Reserved

* * * * *

(7) Materials handling equipment § 101–25.405 (9–5.5206–15)

(8) Coal § 101.26.602–4 (9–5.5206–18)

Change 6.10 The clauses set forth at § 9–50.704–1, "Security," and § 9–50.704–4, "Classification," are deleted and replaced by new clauses of the same title. This is necessary to assure compliance with Executive Order 12065, as amended by Executive Orders 12148 and 12163. The nature of the change in the Classification clause is to provide that only an Authorized Classifier may classify documents and to provide that in instances where such authority is delegated to a contractor, it cannot be redelegated or transferred to others. The changes to the Security clause involve specifying "of 1954" after the reference to the "Atomic Energy Act" in the preamble to the clause, adding the definitions of "Classified Information" and "National Security Information," and adding references to the newly defined category. The text of the new clauses is as follows:

§ 9–50.704–1 Security.

The following clause is required in contracts entered into under section 31 (research assistance) or 41 (ownership and operation of production facilities) of the Atomic Energy Act of 1954, as amended, and in other contracts and subcontracts, the performance of which involves or is likely to involve classified information.

Security

(a) Contractor's duty to safeguard all classified information. The contractor shall, in accordance with DOE security regulations and requirements, be responsible for safeguarding all classified information, and protecting against sabotage, espionage, loss and theft, the classified documents and material in the contractor's possession in connection with the performance of work under this contract. Except as otherwise expressly provided in this contract, the contractor shall, upon completion or termination of this contract, transmit to DOE any classified matter in the possession of the contractor or any person under the contractor's control in connection with performance of this contract. If retention by the Contractor of any classified matter is required after the completion or termination of the contract and such retention is approved by the Contracting Officer, the contractor will complete a certificate of possession to be furnished to DOE specifying the classified matter to be retained. The certification shall identify the items and types or categories of matter retained, the conditions governing the retention of the matter, and the period of retention, if known. If the retention is approved by the Contracting Officer, the security provisions of the contract will continue to be applicable to the matter retained.

(b) Regulations. The contractor agrees to conform to all security regulations and requirements of DOE.

(c) Definition of classified information. The term "classified information" means Restricted Data, Formerly Restricted Data, and National Security Information.

(d) Definition of Restricted Data. The term "Restricted Data" means all data concerning (1) design, manufacture, or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category pursuant to Section 142 of the Atomic Energy Act of 1954, as amended.

(e) Definition of Formerly Restricted Data. The term "Formerly Restricted Data" means all data removed from the Restricted Data category under section 142d. of the Atomic Energy Act of 1954, as amended.

(f) Definition of National Security Information. The term "National Security Information" means information or material which is owned by, produced for or by, or under the control of the United States Government, which has been determined pursuant to Executive Order 12065 or prior Orders to require protection against unauthorized disclosure, and which is so designated.

(g) Security clearance of personnel. The contractor shall not permit any individual to have access to any classified information, except in accordance with the Atomic Energy Act of 1954, as amended, Executive Order 12065, and the DOE's regulations or requirements applicable to the particular level and category of classified information to which access is required.

(h) Criminal liability. It is understood that disclosure of any classified information relating to the work or services ordered hereunder to any person not entitled to receive it, or failure to safeguard any classified information that may come to the contractor or any person under the contractor's control in connection with work under this contract, may subject the contractor, its agents, employees, or subcontractors to criminal liability under the laws of the United States. (See the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2100 et seq.; 18 U.S.C. 793 and 794; and Executive Order 12065).

(i) Subcontracts and purchase orders. Except as otherwise authorized in writing by the contracting officer, the contractor shall insert provisions similar to the foregoing in all subcontracts and purchase orders under this contract.

§ 9–50.704–4 Classification.

This clause is required in contracts involving classified information.

Classification

In the performance of the work under this contract, the contractor shall ensure that an Authorized Original Classifier or Derivative Classifier shall assign classifications to all documents, material, and equipment originated or generated under the contract in accordance with classification regulations and guidance furnished to the contractor by the DOE. Every subcontract and purchase order issued hereunder involving the origination or generation of classified documents, material, or equipment shall include a provision to the effect that in the performance of such subcontract or purchase order, the subcontractor or supplier shall ensure that an Authorized Original Classifier or Derivative Classifier shall assign classifications to all such documents, materials, and equipment in accordance with classification regulations and guidance furnished to such subcontractor or supplier by the contractor.

* * * * *

Change 6.11 Section 9–50.704–33, "Priorities, allocations, and allotments," is revised by (1) adding a new introductory sentence with the prefix "(a)" before the present text, (2) correcting the reference to the Department of Commerce, International Trade Administration, and (3) by adding a new paragraph (b) to explain that priorities and allocations support may be available to DOE contractors if the purpose of their contract is to maximize domestic energy supplies. The revised text will read:

§ 9–50.704–33 Priorities, allocations, and allotments.

(a) If the contract is for military or atomic energy production use the following clause:

Priorities, Allocations, and Allotments

The contractor shall follow the rules, regulations, and procedures of the Defense Priorities System and the Defense Materials System Regulation I and all other applicable regulations and orders of the International Trade Administration, Department of Commerce, in obtaining controlled materials and other products and materials needed to fill this order.

(b) Other contracts may be eligible for priorities and allocations support if their purpose is to maximize domestic energy supplies. Eligibility is dependent on an executive decision on a case by case basis. Guidance is provided by DOE Publication PR–0042, "Priorities and Allocations Support for Energy: Keeping Energy Programs on Schedule," dated August 1980, as it may from time to time be revised. If the purpose of the contract is to maximize domestic energy resources, include the following clause:

Priorities and Allocations—Special Clause

This contract may be eligible for priorities and allocations support, as provided for by Section 101(c) of the Defense Production Act of 1950, as amended by the Energy Policy and Conservation Act of 1975 if its purpose is to maximize domestic energy supplies. Eligibility is dependent on an executive decision on a case by case basis with the decision being jointly made by the Departments of Commerce and Energy.

DOE Regulations regarding Materials Allocation and Priority Performance under Contracts or Orders to Maximize Domestic Energy Supplies can be found at Part 216 of Title 10 of the Code of Federal Regulations (10 CFR 216). Additional guidance is provided by DOE Publication PR–0042, entitled "Priorities and Allocations Support for Energy: Keeping Energy Programs on Schedule," dated August 1980, as may from time to time be revised. Copies may be obtained by written request to: Department of Energy, Technical Information Center (TIC), Post Office Box 62, Oak Ridge, Tennessee 37830.

Change 6.12 A new clause entitled "Printing" is added as Section 9–50.704–49. The new clause clarifies the procedures to be followed by DOE operating and on-site contractors in the area of printing services. The text will read as follows:

§ 9–50.704.49 Printing.

To the extent that duplicating or printing services may be required elsewhere in this contract, the contractor shall provide or secure such services in accordance with the Government Printing and Binding Regulations, Title 44 of the U.S. Code, and DOE Directives relative thereto.

[FR Doc. 82–16986 Filed 7–1–82; 8:45 am]
BILLING CODE 6450–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6352]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended effective the dates listed within this rule because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATE: The third date ("Susp.") listed in the fifth column.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287–0270, 500 C Street Southwest, Donohoe Building, Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date flood insurance is no longer available in the community.

In addition, the Director of Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elasped since identification of the community as having flood prone areas, as shown on the Federal Emergency Management Agency's initial flood insurance map of the community. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 533(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

Pursuant to the provision of 5 USC 605(b), the Associate Director of State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local flood plain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate flood plain management, thus placing itself in non-compliance of the Federal standards required for community participation.

In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Alabama:					
Choctaw	Butler, city of	0100338	Aug. 7, 1975, emergency; July 5, 1982, regular; July 5, 1982, suspended.	Sept. 24, 1976, Oct. 26, 1979	July 5, 1982.
Cleburne	Heflin, city of	010043A	May 26, 1975, emergency; July 5, 1982, regular; July 5, 1982, suspended.	Nov. 1, 1974	Do.
Calhoun	Jacksonville, city of	0100228	Dec. 31, 1974, emergency; July 5, 1982, regular; July 5, 1982, suspended.	May 17, 1974, Jan. 9, 1976	Do.
Walker	Unincorporated areas	010301B	July 2, 1979 emergency; July 5, 1982, regular; July 5, 1982, suspended.	June 9, 1978	Do.
Arizona: Apache	Unincorporated areas	040001B	Apr. 11, 1975, emergency; July 5, 1982, regular; July 5, 1982, suspended.	Dec. 20, 1974, May 16, 1978	Do.
Connecticut:					
Litchfield	Thomaston, town of	0900558	July 16, 1975, emergency; July 5, 1982, regular; July 5, 1982, suspended.	May 31, 1984, Dec. 17, 1976	Do.
New Haven	Wolcott, town of	0900938	Aug. 6, 1975, emergency; July 5, 1982, regular; July 5, 1982, suspended.	May 3, 1974, Nov. 26, 1976	Do.
Iowa:					
Linn	Center Point, city of	190439A	Oct. 27, 1977, emergency; July 5, 1982, regular; July 5, 1982, suspended.	Oct. 20, 1976	Do.
Do	Marion, city of	1901918	June 30, 1975, emergency; July 5, 1982, regular; July 5, 1982, suspended.	Mar. 1, 1974, Dec. 10, 1976	Do.
Do	Robins, city of	190443A	Jan. 16, 1978, emergency; July 5, 1982, regular; July 5, 1982, suspended.	Mar. 26, 1976	Do.
Kentucky: Greenup	Greenup, city of	2100598	Dec. 15, 1975, emergency; July 5, 1982, regular; July 5, 1982, suspended.	Jan. 23, 1974, June 4, 1976	Do.
Maine: York	Buxton, town of	230146A	Apr. 1, 1976, emergency; July 5, 1982, regular; July 5, 1982, suspended.	Jan. 14, 1977	Do.
Massachusetts:					
Middlesex	Arlington, town of	250177B	Jan. 16, 1974, emergency; July 5, 1982, regular; July 5, 1982, suspended.	June 28, 1974, Jan. 14, 1977	Do.
Do	Cambridge, city of	2501868	July 24, 1975, emergency; July 5, 1982, regular; July 5, 1982, suspended.	June 21, 1974, Nov. 19, 1976	Do.
Berkshire	Clarksburg, town of	2500208	Aug. 11, 1975, emergency; July 5, 1982, regular; July 5, 1982, suspended.	July 26, 1974, Nov. 19, 1976	Do.
Do	Dalton, town of	250021B	Nov. 18, 1974, emergency; July 5, 1982, regular; July 5, 1982, suspended.	Sept. 20, 1974, Jan 21, 1977	Do.
Franklin	Erving, town of	2501168	Oct. 10, 1975, emergency; July 5, 1982, regular; July 5, 1982, suspended.	June 28, 1974, July 30, 1976	Do.
Middlesex	Groton, town of	2501948	Oct. 30, 1975, emergency; July 5, 1982, regular; July 5, 1982, suspended.	Sept. 6, 1974, Nov. 22, 1977	Do.
Do	Hopkinton, town of	2501968	Dec. 3, 1975, emergency; July 5, 1982, regular; July 5, 1982, suspended.	July 19, 1974, Oct. 8, 1976	Do.
Berkshire	Merrimac, town of	2500928	Feb. 7, 1975, emergency; July 5, 1982, regular; July 5, 1982, suspended.	Oct. 18, 1974, Sept. 3, 1976	Do.
Franklin	Orange, town of	2501258	Dec. 14, 1979, emergency; July 5, 1982, regular; July 5, 1982, suspended.	May 31, 1974, May 27, 1977	Do.
Plymouth	Rochester, town of	2502308	Sept. 8, 1975, emergency; July 5, 1982, regular; July 5, 1982, suspended.	July 19, 1974, Nov. 26, 1976	Do.
Worcester	Webster, town of	2503438	July 28, 1975, emergency; July 5, 1982, regular; July 5, 1982, suspended.	July 19, 1974, Mar. 4, 1977	Do.
Norfolk	Wrentham, town of	2502588	Dec. 10, 1974, emergency; July 5, 1982, regular; July 5, 1982, suspended.	July 19, 1974, Feb. 4, 1977	Do.
Missouri: Newton	Neosho, city of	2902658	Apr. 22, 1975, emergency; July 5, 1982, regular; July 5, 1982, suspended.	Jan. 16, 1974, Dec. 26, 1975	Do.
Montana:					
Beaverhead	Dillon, city of	3000688	Nov. 21, 1975, emergency; July 5, 1982, regular; July 5, 1982, suspended.	Nov. 8, 1974, July 30, 1976	Do.
Granite	Drummond, town of	3000338	Aug. 4, 1977, emergency; July 5, 1982, regular; July 5, 1982, suspended.	Mar. 18, 1977	Do.
Do	Unincorporated areas	300141A	Oct. 8, 1976, emergency; July 5, 1982, regular; July 5, 1982, suspended.	do	Do.
Beaverhead	Lima, town of	300177A	Oct. 22, 1975, emergency; July 5, 1982, regular; July 5, 1982, suspended.	do	Do.
Granite	Philipsburg, town of	300117A	Apr. 28, 1978, emergency; July 5, 1982, regular; July 5, 1982, suspended.	Sept. 26, 1975	Do.
New Jersey:					
Bergen	Leonia, borough of	340045A	Aug. 25, 1975, emergency; July 5, 1982, regular; July 5, 1982, suspended.	July 11, 1978	Do.
Morris	Mendham, township of	340511B	Apr. 22, 1975, emergency; July 5, 1982, regular; July 5, 1982, suspended.	Sept. 17, 1976, Dec. 15, 1978	Do.
Salem	Penns Grove, borough of	3404198	Aug. 7, 1975, emergency; July 5, 1982, regular; July 5, 1982, suspended.	June 28, 1974, Mar. 5, 1976	Do.
Gloucester	Swedesboro, borough of	3405198	July 23, 1975, emergency; July 5, 1982, regular; July 5, 1982, suspended.	Nov. 1, 1974, May 28, 1976	Do.
Cumberland	Vineland, city of	3401788	Dec. 17, 1971, emergency; July 5, 1982, regular; July 5, 1982, suspended.	May 4, 1973, July 22, 1977	Do.
Westchester	Ossining, village of	361021B	Oct. 18, 1974, emergency; July 5, 1982, regular; July 5, 1982, suspended.	July 19, 1974, Jan. 30, 1976	Do.
Ohio:					
Stark and Mahoning	Alliance, city of	3905088	July 31, 1975, emergency; July 5, 1982, regular; July 5, 1982, suspended.	June 7, 1974, June 18, 1976	Do.
Stark	Massillon, city of	390517C	Apr. 10, 1975, emergency; July 5, 1982, regular; July 5, 1982, suspended.	Aug. 22, 1975, May 18, 1979, and Jan. 9, 1974.	Do.
Stark, Carroll, Columbiana	Minerva, village of	3905168	May 12, 1975, emergency; July 5, 1982, regular; July 5, 1982, suspended.	July 23, 1976, Mar. 30, 1979	Do.
Stark	Waynesburg, village of	390567B	Apr. 22, 1982, emergency; July 5, 1982, regular; July 5, 1982, suspended.	Mar. 29, 1974, June 11, 1976	Do.
New Mexico:					
Valencia	Grants, city of	350090A	July 25, 1974, emergency; July 5, 1982, regular; July 5, 1982, suspended.	Nov. 12, 1976	Do.
Do	Milan, village of	350093B	Apr. 25, 1975, emergency; July 5, 1982, regular; July 5, 1982, suspended.	June 28, 1974, June 11, 1976	Do.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Lincoln	Ruidoso Downs, village of	350034B	Feb. 18, 1975, emergency; July 5, 1982, regular; July 5, 1982, suspended.	May 3, 1974, June 11, 1976	Do.
North Carolina: Madison	Hot Springs, town of	370153A	Nov. 17, 1977, emergency; July 5, 1982, regular; July 5, 1982, suspended.	Sept. 17, 1976	Do.
South Carolina:					
Chester	Unincorporated areas	450047B	Aug. 20, 1975, emergency; July 5, 1982, regular; July 5, 1982, suspended.	Oct. 18, 1974, Nov. 25, 1977	Do.
Do.	Chester, city of	450048B	July 7, 1975, emergency; July 5, 1982, regular; July 5, 1982, suspended.	June 28, 1974, Apr. 2, 1976	Do.
Lancaster	Lancaster, city of	450121B	Dec. 7, 1973, emergency; July 5, 1982, regular; July 5, 1982, suspended.	May 24, 1974, Sept. 24, 1976	Do.
Tennessee:					
Fayette	Galloway, town of	470048C	Jan. 28, 1976, emergency; July 5, 1982, regular; July 5, 1982, suspended.	Dec. 13, 1974	Do.
Do.	Somerville, town of	470051B	Aug. 27, 1975, emergency; July 5, 1982, regular; July 5, 1982, suspended.	May 17, 1974, Apr. 23, 1976	Do.
Texas:					
Bell	Belton, city of	480026B	July 2, 1974, emergency; July 5, 1982, regular; July 5, 1982, suspended.	Mar. 8, 1974, Jan. 23, 1976	Do.
Tarrant, Denton	South Lake, city of	480612B	Sept. 30, 1974, emergency; July 5, 1982, regular; July 5, 1982, suspended.	June 7, 1977, Feb. 15, 1974	Do.
Vermont: Chittenden	Richmond, town of	500040B	Nov. 8, 1974, emergency; July 5, 1982, regular; July 5, 1982, suspended.	June 4, 1976, Mar 22, 1974	Do.
Virginia: Southampton	Courtland, town of	510152B	Mar. 19, 1975, emergency; July 5, 1982, regular; July 5, 1982, suspended.	Mar. 15, 1974, May 7, 1976	Do.
Texas: Jackson	Edna, city of	485465C	Jan. 29, 1971, emergency; Nov. 12, 1971, regular; July 5, 1982, suspended.	Nov. 11, 1971, July 1, 1974, Apr. 18, 1975.	Do.
Washington: Skagit	Mount Vernon, city of	530159A	Jan. 21, 1975, emergency; May 17, 1982, regular; July 5, 1982, suspended.	May 7, 1976	Do.
Illinois: Scott	Village of Naples	1706098	Mar. 6, 1974, emergency; May 17, 1982, regular; July 5, 1982, suspended.	Apr. 2, 1976, Jan. 9, 1974	Do.
Indiana: Porter	Unincorporated areas	1804258	Sept. 5, 1975, emergency; Apr. 1, 1982, regular; July 5, 1982, suspended.	Apr. 14, 1978, Apr. 1, 1982	Do.

[1] Certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: June 21, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-17919 Filed 7-1-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 64

[Docket No. FEMA 6351]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATE: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 3429, Bethesda, Maryland 20034, Phone: (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (200) 287–0270, 500 C Street Southwest, Donohoe Building, Room 505, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements

or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a compete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Arizona: Navajo	Unincorporated areas	040066B	June 1, 1982, suspension withdrawn.	Aug. 23, 1974 and Jan. 30, 1979.
Alaska:				
Warangell Petersbrug Division.	Petersburg, city of	0200748	do.	June 14, 1974 and Feb. 4, 1977.
Sitka Division.	Sitka, city and borough of	0200088	do.	June 28, 1974 and Sept. 12, 1975.
California:				
Humboldt	Eureka, city of	0600628	do.	May 24, 1974 and Nov. 14, 1975.
Solano	Suisun City, city of	0603728	do.	Mar. 22, 1974 and June 11, 1976.
Tehama	Unincorporated areas	0650648	do.	Mar. 7, 1978.
Florida: Hernando	Brooksville, city of	1203338	do.	Feb. 21, 1975 and Nov. 21, 1975.
Illinois:				
Rock Island	Carbon Cliff, village of	1705848	do.	Apr. 12, 1974 and Apr. 16, 1976.
Kendall and LaSalle	Milligton, village of	1703468	do.	Dec. 28, 1973 and Mar. 5, 1976.
Kendall	Newark, village of	1703448	do.	Nov. 23, 1973 and Mar. 26, 1976.
Do.	Yorkville, city of	1703478	do.	Mar. 29, 1974 and Apr. 9, 1976.
Indiana:				
DuBois	Jasper, city of	1800668	do.	Oct. 26, 1973 and June 11, 1976.
Porter	Portage, city of	1802029	do.	July 26, 1974 and Oct. 31, 1975.
Iowa: Pottawattamie	Underwood, city of	190494A	do.	Mar. 26, 1976.
Kansas: Shawnee	Unincorporated areas	200331C	do.	Feb. 21, 1978 and Dec. 19, 1978.
Massachusetts:				
Berkshire	Hancock, town of	2500258	do.	June 28, 1974 and July 9, 1976.
Do	Lee, town of	2500288	do.	Mar. 22, 1974 and July 2, 1976.
Norfolk	Stoughton, town of	2502538	do.	Aug. 2, 1974 and June 21, 1977.
Middlesex	Sudbury, town of	2502178	do.	Aug. 23, 1974 and Dec. 10, 1976.
Do.	Wayland, town of	2502248	do.	July 26, 1974 and Dec. 24, 1976.
Worcester	West Brookfield, town of	2503468	do.	July 26, 1974 and Oct. 1, 1976.
Berkshire	West Stockbridge, town of	2500458	do.	July 26, 1974 and Aug. 22, 1978.
Plymouth	Mattapoisett, town of	255214A	do.	Jan. 9, 1976.
Michigan:				
Monroe	Luna Pier, city of	2601508	do.	June 28, 1974 and Apr. 2, 1976.
Lenawee	Tecumseh, city of	260117B	do.	May 24, 1974 and June 11, 1976.
Kent	Walker, city of	2601108	do.	Oct. 12, 1973 and June 18,1976.
Minnesota: Nobles	Adrian, city of	270318B	do.	May 3, 1974 and May 21, 1976.
Missouri:				
Jasper	Carl Junction, city of	2901708	do.	Feb. 8, 1974 and Aug 6, 1976.
Stoddard	Dexter, city of	2904248	do.	May 10, 1974 and Apr. 25, 1975.
Laclede	Lebanon, city of	290197B	do.	May 17, 1974 and Jan. 2, 1976.
Nevada: Lincoln	Caliente, city of	320015B	do.	Mar. 29, 1974 and May 2, 1975.
New Jersey:				
Salem	Carney's Point, township of	340424B	do.	Nov. 5, 1976.
Bergen	Palisades Park, borough of	340061	do.	Dec. 28, 1973 and June 18, 1976.
Gloucester	West Deptford, township of	3402148	do.	Mar. 8, 1974 and July 15, 1977.
New York:				
Oswego	Cleveland, village of	360998B	do.	May 31, 1974 and June 4, 1976.
Onondaga	Marcellus, village of	360880	do.	Apr. 12, 1974.
Cayuga	Port Byron, village of	360121C	do.	May 3, 1974, June 11, 1976 and July 29, 1977.
Onondaga	Skaneateles, town of	360592A	do.	Nov. 8, 1974 and Oct. 31, 1975.
North Carolina: Wayne	Goldsboro, city of	370285H	do.	Dec. 24, 1976.
Ohio: Hamilton	Unincorporated areas.	390204B	do.	Apr. 14, 1978.
Oregon:				
Josephine	Cave Junction, city of	4101078	do.	NSFHA.
Yamhill	Dayton, city of	4102528	do.	Jan. 23, 1974 and Jan. 2, 1976.
Josephine	Unincorporated areas	4155908	do.	Aug. 16, 1977.
Pennsylvania:				
Beaver	Daugherty, township of	422313A	do.	Dec. 27, 1974.
Beaver and Lawrence	Ellwood City, borough of	4205678	do.	May 31, 1974 and May 7, 1976.
Blair	Hollidaysburg, borough of	4201628	do.	Oct. 12, 1973 and May 21, 1976.
Beaver	North Sewickley, township of	421161B	do.	Oct. 18, 1974 and May 7, 1976.
Do.	Pulaski, township of	422328A	do.	Dec. 20, 1974.
Juniata	Susquehanna, township of	421746A	do.	Jan. 24, 1975.
Texas:				
Angelina	Lufkin, city of	4800098	do.	Feb 22, 1974 and July 9, 1976.
Tarrant	Watauga, city of	480618B	do.	Mar. 8, 1974 and June 4, 1976.
Washington: King	Bothell, city of	530275B	do.	May 24, 1974 and June 20, 1975.
West Virginia:				
Kanawha	Cedar Grove, town of	540072B	do.	Mar. 8, 1974 and June 4, 1976.
Do.	East Bank, town of	540077B	do.	Mar. 22, 1974 and Sept. 26, 1975.
Wisconsin:				
Kenosha	Twin Lakes, village of	550211B	do.	June 7, 1974 and July 16, 1976.
Walworth	Whitewater, city of	550200B	do.	Jan. 9, 1974 and June 4, 1976.
Connecticut:				
New London	Colchester, town of	0900958	June 15, 1982, suspension withdrawn	Aug. 2, 1974 and Jan. 30, 1976.
Do	colchester, borough of	0901928	do.	June 28, 1974 and May 14, 1976.
Litchfield	Litchfield, town of	090047B	do.	June 21, 1974 and Dec. 17, 1976.
Florida: Pinellas	Pinellas Park, city of	120251C	do.	June 7, 1974, Mar. 28, 1975 and Aug. 15, 1977.
Illinois:				
Sangamon	Rochester, village of	170840A	do.	Mar. 21, 1975.
Kane	Sleepy Hollow, village of	170331B	do.	Apr. 12, 1974 and Apr. 9, 1976.
Massachusetts:				
Worcester	Barre, town of	2502938	do.	May 17, 1974 and Dec. 27, 1977.
Berkshire	Egremont, town of	2502228	do.	June 28, 1974 and Oct. 29, 1976.
Do.	Lanesborough, town of	2502278	do.	Mar. 29, 1974 and Dec. 10, 1976.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Worcester	Lunenburg, town of	2503158	....do	Sept. 6, 1974 and Dec. 10, 1976.
Do	Sterling, town of	2503368	....do	July 19, 1974 and Dec. 17, 1976.
Do	Winchendon, town of	2503488	....do	Aug. 3, 1974 and Sept. 10, 1976.
Plymouth	West Bridgewater, town of	2502848	....do	Aug. 9, 1974 and July 30, 1976.
Michigan:				
Calhoun	Albion, city of	2605028	....do	June 28, 1974 and July 11, 1975.
Washtenaw	Ann Arbor, city of	2602138	....do	June 28, 1974 and Sept. 26, 1975.
Do	Manchester, village of	2603168	....do	Feb. 22, 1974 and Apr. 11, 1975.
Minnesota: Winona	Goodview, city of	2705268	....do	Mar. 18, 1976 and Mar. 16, 1979.
Missouri: St. Louis	Valley Park, city of	2903918	....do	Dec. 17, 1973 and June 18, 1976.
New Hampshire: Coos	Berlin, city of	3300298	....do	Aug. 27, 1976.
New Jersey:				
Passaic	Clifton, city of	3403958	....do	May 31, 1974 and July 2, 1976.
Mercer	Hamilton, township of	3402468	....do	Nov. 4, 1977 and Feb. 24, 1978.
Cumberland	Millville, city of	3401738	....do	Jan. 14, 1977.
New York: Tioga	Berton, town of	3605028	....do	June 21, 1974 and Oct. 31, 1975.
North Caroline: Lenoir	Kinston, city of	370145C	....do	Mar. 15, 1974, Apr. 30, 1976 and July 25, 1980.
Oregon:				
Lane	Junction City, city of	4101248	....do	May 10, 1974 and Aug 6, 1976.
Yamhill	Lafayette, city of	4102548	....do	Nov. 30, 1973 and June 18, 1976.
Multnomah	Unincorporated areas	410179A	....do	
Benton	Philomath, city of	410011B	....do	Feb. 22, 1974 and Feb. 7, 1975.
Utah: Weber	Harrisville, city of	490206A	....do	Aug. 8, 1975.
West Virginia: Kanawah	St. Albans, city of	5400538	....do	Mar. 8, 1974 and Oct. 3, 1975.
Wisconsin: Waukesha	Pewaukee, village of	5504818	....do	Mar. 3, 1976.
Texas:				
Fayette	Flatonia, town of	481102	June 3, 1982, emergency	July 30, 1976.
Howard	Unincorporated areas	481227	....do	Dec. 13, 1977.
Wichita	....do	481189	June 1, 1982, emergency	Aug. 1, 1978.
Tennessee: Morgan	....do	470139	June 3, 1982, emergency	Jan. 17, 1975 and Sept. 1, 1978.
Virginia	Galax, city of	510066C	Sept. 29, 1978, emergency, June 1, 1982 withdrawn.	Aug. 2, 1974, Mar. 19, 1976 Dec. 25, 1981.
New Jersey: Hunterdon	Hampton, borough of	3402308	Oct. 9, 1975, emergency, Apr. 1, 1982, regular, Apr. 1, 1982, suspension, June 7, 1982, reinstated.	June 7, 1974.
Minnesota:				
Aitkin	Aitkin, city of	2700018	June 7, 1974, emergency, Mar. 15, 1982, regular, Mar. 15, 1982, suspension, June 7, 1982, reinstated.	Jan. 9, 1974, and Aug. 13, 1976.
Crow Wing	Riverton, city of	2701008	Jan. 21, 1974, emergency, Sept. 2, 1981, regular, Sept. 2, 1981, suspension, June 10, 1982, reinstated.	June 28, 1974, May 28, 1976.
Wisconsin: Calumet	Stockbridge, village of	550040B	Aug. 25, 1975, emergency, May 3, 1982, regular, May 3, 1982, suspension, June 10, 1982, reinstated.	Aug. 9, 1974 and Sept. 12, 1975.
Minnesota: Clay	Glyndon, city of	270083B	Sept. 26, 1975, emergency, Mar. 2, 1981, regular, Mar. 2, 1981, suspension, June 14, 1982, reinstated.	May 17, 1974 and July 16, 1976.
Illinois: Kendall	Lisbon, village of	170342A	June 11, 1982, emergency, June 11, 1982, regular.	Nov. 1, 1974 and Dec. 14, 1979.
Indiana: Marshall	Argos, town of	180489 New	June 14, 1982, emergency	
Ohio: Williams	Montpelier, village of	390581A	....do	May 31, 1974 and May 21, 1976.
Pennsylvania:				
Clinton	West Keating, township of	421542A	June 15, 1982, emergency	Dec. 6, 1975 and Feb. 22, 1980.
Westmoreland	Export, borough of	4200788	April 17, 1975, emergency, Dec. 15, 1981, regular, Dec. 15, 1981, suspension, Mar. 31, 1982 reinstated.	June 28, 1974 and June 11, 1976.
Kansas: Jackson	Unincorporated areas	200619A	June 14, 1982, emergency, June 18, 1982, emergency,.	May 31, 1977.
Missouri: Lewis	....do	290844A	....do	Sept. 22, 1981.
New York: Franklin	Franklin, town of	361397	....do	July 18, 1975.
Tennessee: Dickson	Unincorporated areas	470046A	....do	Dec. 6, 1974.
Wyoming: Lincoln	Afton, town of	560068	....do	June 21, 1977.
Delaware: Sussex	Dewey Beach, town of [1]	100056	June 18, 1982, emergency, June 18, 1982, regular.	
Michigan: Jackson	Brooklyn, village of	260335	June 18, 1982, emergency, June 18, 1982 regular.	Oct. 8, 1976.
Virginia: Page	Stanley, town of	510255B	June 18, 1982, emergency, June 18, 1982, regular.	Feb. 4, 1977 and Feb. 3, 1982.

[1] The town of Dewey Beach, Sussex County, Del., has adopted an ordinance based on the Oct. 6, 1976, Sussex County Flood Insurance Study. This is a newly incorporated community shown on the Sussex County FIRM. (Comm. No. 100029A, I.D. Date Oct. 6, 1976, Emergency date, Apr. 16, 1971.)

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: June 21, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-17920 Filed 7-1-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 64

[Docket No. FEMA 6349]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP) and eligible for second layer insurance coverage. These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the regular program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (200) 287–0270, 500 C Street Southwest, Donohoe Building—Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective date of authorization of sale of flood insurance for area[1]	Hazard area identified
Arkansas: Saline County	Shannon Hills, city of	056573	790308, emergency; 820517, regular	0
Arizona: Coconino County	Fredonia, town of	040021	750331, emergency; 820517, regular	740607
California:				
Tehama County	Red Bluff, city of	065053	710115, emergency; 820517, regular	740607
1017 Middlefield Rd.	Redwood City, city of	060325	750612, emergency; 820517, regular	740628
Siskiyou County	Siskiyou county[2]	060362	730223, emergency; 820517, regular	771115
Yuba County	Yuba county[2]	060427	740906, emergency; 820517, regular	770906
Connecticut: Hartford County	Marlborough, town of	090148	750205, emergency; 820517, regular	740719
Florida:				
Glades County	Glades county[2]	120095	750715, emergency; 820517, regular	760811
Hendry County	Hendry county[2]	120107	740827, emergency; 820517, regular	760721
Citrus County	Inverness, city of	120348	750715, emergency; 820517, regular	760113
Taylor County	Perry, city of	120003	750130, emergency; 820517, regular	740315
Gulf County	Wewahitchka, city of	120100	760519, emergency; 820517, regular	740909
Georgia: Liberty County	Flemington, city of	130124	741127, emergency; 820517, regular	741018
Iowa:				
Crawford County	Denison, city of	190096	750319, emergency; 820517, regular	740510
Mills County	Glenwood, city of	190203	741205, emergency; 820517, regular	740628
Shelby County	Kirkman, city of	190250	750609, emergency; 820517, regular	750622
Illinois:				
Whiteside County	Fulton, city of	170690	750702, emergency; 820517, regular	740531
Scott County	Naples, village of	170606	740306, emergency; 820517, regular	740109
Indiana:				
Johnson County	Greenwood, city of	180115	750519, emergency; 820517, regular	740109
Warrick County	Newburgh, town of	180276	730112, emergency; 820517, regular	731102
Massachusetts:				
Plymouth County	Bridgewater, town of	250260	751126, emergency; 820517, regular	740719
Worcester County	Templeton, town of	250339	750605, emergency; 820517, regular	740802
Michigan:				
Shiawassee County	Caledonia, township of	260300	740703, emergency; 820517, regular	760103
Clinton County	Watertown, charter township of	260291	740416, emergency; 820517, regular	741018
Minnesota:				
Hennepin County	Brooklyn Park, city of	270152	740205, emergency; 820517, regular	740412
Faribault County	Faribault county[2]	270669	741101, emergency; 820517, regular	770722
Anoka County	Lino Lakes, city of	270016	760430, emergency; 820517, regular	741213
Rock County	Luverne, city of	270411	740701, emergency; 820517, regular	740215
Washington County	Washington county[2]	270499	710430, emergency; 820517, regular	770603

State and county	Location	Community No.	Effective date of authorization of sale of flood insurance for area[1]	Hazard area identified
Missouri: Pemiscot County	Pemiscot county[2]	290779	750408, emergency; 820517, regular	810415
New Hampshire:				
Rockingham County	Exeter, town of	330130	750512, emergency; 820517, regular	740920
Rockingham County	Portsmouth, city of	330139	750710, emergency; 820517, regular	740719
New Jersey:				
Hunterdon County	Glen Gardner, borough of	340235	750708, emergency; 820517, regular	740629
Bergen County	Rockleigh, borough of	340071	750120, emergency; 820517, regular	770225
New York:				
Monroe County	Rush, town of	360432	730725, emergency; 820517, regular	740308
Tioga County	Tioga, town of	360842	750815, emergency; 820517, regular	740906
Ohio:				
Licking County	Alexandria, village of	390329	761126, emergency; 820517, regular	740531
Licking County	Granville, village of	390330	750506, emergency; 820517, regular	740827
Licking County	Johnstown, village of	390334	750624, emergency; 820517, regular	740412
Oregon:				
Lane County	Florence, city of	410123	750327, emergency; 820517, regular	740531
Washington County	Hillsboro, city of	410243	750120, emergency; 820517, regular	740412
Linn County	Tangent, city of	410147	750905, emergency; 820517, regular	760625
Pennsylvania:				
Beaver County	Beaver Falls, city of	420105	741212, emergency; 820517, regular	740822
Beaver County	Big Beaver, borough of	422307	750807, emergency; 820517, regular	750131
Chester County	Coatesville, city of	420274	741226, emergency; 820517, regular	740531
Lawrence County	Neshannock, township of	421794	741122, emergency; 820517, regular	741129
Montgomery County	Upper Salford, township of	421918	760524, emergency; 820517, regular	741206
Tennessee: Wilson County	Mount Juliet, city of	470290	760708, emergency; 820517, regular	750718
Texas:				
Tarrant County	Dalworthington Gardens, town of	481013	770721, emergency; 820517, regular	760906
Brazoria County	Iowa Colony, town of	481071	790808, emergency; 820517, regular	760708
Webb County	Laredo, city of	480651	750807, emergency; 820517, regular	770204
Wisconsin: Outagamie County	Kimberly, village of	550306	750523, emergency; 820517, regular	740614
Arkansas: Calhoun County	Hampton, city of	050029	750402, emergency; 820518, regular	740521
Texas:				
Henderson County	Murchison, city of	480330	810403, emergency; 820518, regular	750611
San Jacinto County	Shepherd, city of	480554	750818, emergency; 820518, regular	740823
Georgia:				
Dawson County	Dawsonville, city of	130064	770314, emergency; 820521, regular	750117
Jones County	Gray, city of	130237	750529, emergency; 820521, regular	740626
New York: Chautauqua County	Villenova, town of	361082	760922, emergency; 820521, regular	770225
Pennsylvania: Carbon County	Lansford, borough of	420250	750929, emergency; 820521, regular	740607
Louisiana: Grant Parish	Pollock, town of	220305	780814, emergency; 820525, regular	750815
Georgia: Franklin County	Franklin Springs, city of	130313	800311, emergency; 820528, regular	750404
New York: Wyoming County	Castile, village of	361563	790925, emergency; 820528, regular	750228
Pennsylvania: Monroe County	Mount Pocono, borough of	420092	761216, emergency; 820528, regular	750124

Total is: 63.

[1] Key for reading 4th column (Effective Date): First two digits designate the year, the middle two digits designate the month, and the last two digits designate the day.
[2] Disaster community.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: June 16, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-17911 Filed 7-1-82; 8:45 am]

BILLING CODE 5718-03-M

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44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base (100-year) flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Federal Emergency Management Agency, National Flood Insurance Program, (202) 287–0230, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 67. An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Agency has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom the authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however,

impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The final base (100-year) flood elevations for selected locations are:

FINAL BASE(100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Arizona	Tucson (city), Pima County (FEMA-6218)	Airport Wash	Intersection of Drexel Road and Airport Wash	*2,477
			Intersection of Ginter Road and Euclid Avenue	*2,528
		Silvercroft Wash	Intersection of West Grant Road and Coyote Drive	*2,301
			25 feet downstream of the intersection of St. Marys Road and Silvercroft Wash.	*2,369
		Tucson Arroyo	Intersection of Brady Avenue and Davis Street	#2
			Intersection of East 6th Street and 9th Avenue	*2,366
			Intersection of North Cherry Avenue and 15th Street	*2,429
		Big Wash	10 feet upstream of the intersection of Mission Road and Big Wash.	*2,418
			Intersection of Placita Salitillo and Calle Del Ray	#1
		Santa Cruz River	Intersection of West Grant Road and Santa Cruz River	*2,302
			50 feet downstream of the intersection of Silverlake Road and Santa Cruz River.	*2,366
			Intersection of Valencia Road and Santa Cruz River	*2,456
		West Branch Santa Cruz River	Intersection of AJO Way and Phoebe Avenue	#2
		Rillito Creek	2,400 feet north along North Tucson Boulevard from its intersection with East Prince Road.	*2,353
		Pantano Wash	Intersection of East 22nd Street and Pantano Wash	*2,608
		Julian Wash	Intersection of Treat Avenue (extended) and Julian Wash.	*2,546
		Tanque Verde Creek	530 feet north along Arbor Circle from its intersection with Calle Eunice. Then 180 feet north.	*2,567
	Maps available for inspection at Department of Engineering, 250 West Alameda, Tucson, Arizona.			
California	Dinuba (city), Tulare County (FEMA-6247)	Shallow Flooding	Intersection of Tulare Street and K Street	#1
			Intersection of P Street and Tulare Street	#2
	Maps available for inspection at Department of Public Works, 405 East El Monte, Dinuba, California.			
Colorado	Canon City (city), Fremont County (FEMA-6247)	Arkansas River	Intersection of Riverside Avenue and Plum Street	*5,340
		Northeast Canon Drainage—East Branch.	Intersection of East Circle Drive and West Circle Drive	*5,335
		Northeast Canon Drainage—West Branch.	Intersection of Allison Avenue and Fifteenth Street	*5,340
		Southeast Canon Drainage	Intersection of Ninth Street and Griffin Avenue	*5,330
		Sand Creek	Intersection of U.S. Highway 50 and Canal Street	*5,370
		Forked Gulch	150 feet upstream from center of Pennsylvania Avenue.	*5,375
		West Forked Gulch	150 feet upstream from northernmost corporate limits	*5,330
	Maps available for inspection at City Engineer's Office, 612 Royal Gorge Boulevard, Canon City, Colorado.			
Illinois	(V), Elwood, Will County (Docket No. FEMA-6247)	Jackson Creek	Just upstream of Brandon Road	*590
			About 1,200 feet downstream of Manhattan Road	*599
	Maps available for inspection at the Village Hall, Mississippi Avenue, Elwood, Illinois.			
Illinois	(Unincorporated) Lake County (Docket No. FEMA-6247).	Des Plaines River	At southern county boundary	*642
			Just upstream of Buckley Road	*659
			At state boundary	*674
		Des Plaines River Tributary (at Russell).	At confluence with Des Plaines River	*673
			Just upstream of Kilbourne Road	*676
			Just upstream of State Highway 173	*692
			Just upstream of Stiehr Road	*703
			Just downstream of Wadsworth Road	*708
			Just upstream of Wadsworth Road	*713
		East Fork Des Plaines River Tributary (at Russell).	At confluence with Des Plaines River Tributary (at Russell).	*685
			Just downstream of State Highway 173	*701
			Just downstream of 21st Street	*709
			Just upstream of 21st Street	*713
			Just downstream of Waverly Street	*722
			Just upstream of Waverly Street	*727
		Skokie River	About 3,800 feet downstream of Elgin, Joliet and Eastern Railway.	*670
			Just upstream of Buckley Road	*684
			About 1,400 feet upstream of Buckley Road	*687
		Middle Fork North Branch Chicago River.	About 1,300 feet downstream of Half Day Road	*656
			About 1,200 feet upstream of Half Day Raod	*658
			About 2.7 miles downstream of State Highway 176	*668
			Just downstream of Elgin, Joliet and Eastern Railway	*674
			About 200 feet downstream of Buckley Road	*692
		West Fork North Branch Chicago River.	About 1,200 feet downstream of Montgomery Drive	*660
			About 200 feet downstream of Half Day Road	*667
			Just upstream of Half Day Road	*679

FINAL BASE(100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Hasting Creek	Just upstream of Unnamed Road (about 2,050 feet downstream of U.S. Highway 45).	*744
			About 1,000 feet downstream of State Highway 132	*786
			Just upstream of State Highway 132	*775
			About 1.6 miles upstream of State Highway 132	*782
		Mill Creek	Just upstream of U.S. Highway 41	*666
			Just downstream of spillway downstream of Stearns School Road.	*711
			Just upstream of spillway downstream of Stearns School Road.	*719
			Just downstream of spillway downstream of Grandwood Drive.	*750
			Just upstream of U.S. Highway 45	*763
			About 4,000 feet downstream of Center Street	*773
			About 2.5 miles upstream of Center Street	*787
		North Mill Creek	About 0.5 mile downstream of Millburn Road	*694
			Just downstream of Kelley Road	*724
			About 800 feet upstream of Kelley Road (upstream of dam).	*741
			At state boundary	*758
		Fox River	At confluence of Flint Creek	*737
			At state boundary	*743
		Buffalo Creek	Just upstream of Arlington Heights Road	*761
			Just upstream of Quentin Road	*764
			At downstream corporate limits of the Village of Lake Zurich.	*816
		Tributary to Buffalo Creek	About 550 feet downstream of Quentin Road	*772
			About 675 feet upstream of Quentin Road	*779
		Mutton Creek	About 1,050 feet downstream of Gravel Pit Road	*754
			Just downstream of Gravel Pit Road	*755
			Just downstream of Darrel Road	*759
		Indian Creek	Just downstream of footbridge (about 1,650 feet upstream of mouth at Des Plaines River).	*646
			About 200 feet upstream of confluence of Seavey Drainage Ditch.	*672
			About 500 feet downstream of confluence of West Branch Indian Creek.	*738
			About 100 feet downstream of spillway for Countryside Lake.	*776
			Just upstream of spillway for Countryside Lake	*786
			Just downstream of Chevy Chase Road	*790
			Just upstream of Chevy Chase Road	*795
			Just downstream of Gilmer Road	*808
			Just upstream of Gilmer Road	*818
			Just downstream of Schwerman Road	*826
		West Branch Indian Creek	About 3,385 feet downstream of Gilmer Road	*734
			Just downstream of spillway	*775
			Just upstream of spillway	*780
			Just downstream of Elgin, Joliet and Eastern railway	*796
		South Branch Indian Creek	At mouth at Indian Creek	*660
			Just downstream of State Highway 22	*681
			Just upstream of State Highway 83	*696
			About 1.1 miles upstream of Old McHenry Road	*748
			Just upstream of State Highway 22	*758
		Aptakisic Creek	Mouth at Des Plaines River	*543
			About 1.0 mile upstream of Pekara Road	*546
			Just downstream of Weiland Road	*671
			Just upstream of Busch Road (Village of Buffalo Grove corporate limit).	*676
			About 450 feet upstream of confluence of tributary to Aptakisic Creek.	*679
		Tributary to Aptakisic Creek	About 1,500 feet upstream of Aptakisic Road	*661
		Irondale Creek	Mouth at Meadow Haven Creek	*663
			Just downstream of Guerin Road	*663
		Meadow Haven Creek	Mouth at Tributary No. 1	*656
			Just downstream of Gerin Road	*678
			Just downstream of O'Plaine Road	*686
		Flint Creek	About 2,400 feet upstream of confluence with Fox River.	*737
			Just upstream of footbridge (about 3,000 feet upstream of mouth at Fox River).	*741
			Just downstream of U.S. Highway 14	*765
		Eagle Creek	About 0.9 mile downstream of Cedar Lake road	*772
			About 1,225 feed upstream of Cedar Lake Road	*784
		Bull Creek	About 1,300 feet upstream of mouth at Des Plaines River.	*658
			About 0.5 mile upstream of confluene of Bull Creek Tributary.	*680
			Just upstream of Midlothian Road	*780
			About 0.8 mile upstream of Midlothian Road	*799
		Bull Creek Tributary	About 250 feet upstream of mouth at Bull Creek	*678
			About 150 feet upstream of Countryside Drive	*719
			About 1,800 feet upstream of State Highway 137	*747
		North Branch Bull Creek Tributary	Mouth at Bull Creek Tributary	*723
			About 1,250 feet upstream of Bull Creek Drive	*733
		West Branch Bull Creek Tributary	Mouth at Bull Creek Tributary	*727
			Just upstream of Bull Creek Drive	*745

FINAL BASE(100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		[illegible]	About 100 feet upstream of Washington Street	*[illegible]
			About 1,450 feet upstream of Washington Street	*691
			About 200 feet upstream of Greenleaf Street	*700
		Nippersink Creek	About 3,500 feet downstream of western county boundary.	*742
			At western county boundary	*744
		Sequoit Creek	About 300 fee downstream of Tiffany Road *.	751
			About 1,000 feet upstream of Soo Line Railroad	*765
			About 100 feet downstream of State Highway 173	*768
		Squaw Creek	Just upstream of State Highway 59	*742
			About 1.2 miles upstream of State Highway 134	*746
			Just upstream of Nippersink Road	*758
			Just upstream of Fairfield Road	*766
			About 1.2 miles upstream of Town Line Road	*784
		Willow Road Creek	About 1,500 feet upstream of confluence with Bangs Lake Drain.	*766
			About 3,800 feet upstream of confluence with Bangs Lake Drain.	*774
		Garland Road Tributary	Within unincorporated area	*776
		Suburban County Club Tributary	At mouth at Des Plaines River	*665
			Just upstream of Chicago and North Western railroad	*671
			Just downstream of Beach Road	*701
		South Fork Suburban Country Club Tributary.	At confluence with Suburban Country Club Tributary	*678
			Just upstream of Wall Avenue	[illegible]
		Tower Lake Creek	Within unincorporated area	*737
		Tributary No. 1	About, 1,800 feet upstream of Buckley Road	*[illegible]
			About 3,000 feet upstream of Guerin Road	*676
		Kimball Avenue Tributary	Within unincorporated area	*776
		Farmington Ditch	Just upstream of Checker Road	*679
			About 2,650 feet upstream Checker Road	*681
		Seavey Drainage Ditch	Just downstream of U.S. Highway 45	*676
			Just upstream of Lake Charles spillway	*696
			About 2,500 feet upstream of Butterfield Road	*712
		Diamond Lake Drain	Just upstream of State Highway 83	*712
			About 1,200 feet upstream of Elgin, Joliet and Eastern railway.	*728
		Deer Lake Drain	At State boundary	*760
			Just upstream of Deer Lake Dam	*769
			Just upstream of Dam No. 2	*772
		Forest Lake Drain	About 1,200 feet upstream of mouth at Indian Creek	*727
			Just upstream of Gilmer Road	*737
			About 2,400 feet upstream of Gilmer Road	*742
		North Shore Drain	Within unincorporated area	*789
		Round Lake Drain	At mouth at Long Lake	*743
			Just upstream of confluence of Round Lake Drain Tributary.	*749
		Round Lake Drain Tributary	About 1,080 feet upstream of mouth at Round Lake Drain.	*751
		Bangs Lake Drain	Just downstream of County Highway 44	*744
			Just downstream of Mac Street	*752
			Just upstream of Mac Street	*757
			About 100 feet upstream of Brown Street	*771
			At confluence of Garland Road Tributary	*776
		Silver Lake Drain	At mouth at Sequoit Creek	*766
			About 2,300 feet upstream of mouth at Sequoit Creek	*767
		Kellogg Ravine	About 3,000 feet downstream of abandoned railroad	*644
			About 300 feet upstream of Kenosha Road	*691
		Slocum Lake Drain	Within community	*737
		North Shore Ditch	Just upstream of Blanchard Road	*651
			About 2,400 feet upstream of Blanchard Road	*654
		Bull Creek (near Waukegan)	Just upstream of Chicago and North Western Railroad	*607
			Just upstream of Sheridan Road	*614
			Just downstream of Talmadge Avenue	*620
			Just upstream of Talmadge Avenue	*627
			Just downstream of Beach Road	*632
			Just upstream of Beach Road	[illegible]
			About 1,600 feet upstream of Dewoody Avenue	*670
		North Arm Flint Creek	Within unincorporated area	*756
		Lake Michigan	Shoreline	*584
		Round Lake	Shoreline	*765
		Diamond Lake	Shoreline	*742
		Sun Lake	Shoreline	*779
		Cedar Lake	Shoreline	*791
		Deep Lake	Shoreline	*780
		Cross Lake	Shoreline	*813
		Channel Lake	Shoreline	*742
		Lake Catherine	Shoreline	*742
		Lake Marie	Shoreline	*742
		Grass Lake	Shoreline	*742
		Bluff Lake	Shoreline	*742
		Petite Lake	Shoreline	*742
		Antioch Lake	Shoreline	*757
		Slocum Lake	Shoreline	*738
		Fox Lake	Shoreline	*742
		Nippersink Lake	Shoreline	*742
		Duck Lake	Shoreline	*742
		Pistakee Lake	Shoreline	*741

FINAL BASE(100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Brandenburg Lake	Shoreline	*741
		Redhead Lake	Shoreline	*741
		Shallow Flooding from Northwest Retention Basin	About 1,000 feet south of intersection of Lake Shore Drive and Druce Lake Road.	*783
Maps available for inspection at the Lake County Department of Planning, Zoning and Environmental Quality, County Building, Room A803, 18 N. County Street, Waukegan, Illinois.				
Illinois	(V), Romeoville, Will County (Docket No. FEMA-6247).	Des Plaines River	About 1,800 feet downstream of Romeo Road	*585
			About 1.2 miles upstream of Romeo Road	*588
Maps available for inspection at the Village Hall, 13 Montrose Drive, Romeoville, Illinois.				
Indiana	(C), Rushville, Rush County (Docket No. FEMA-6247).	Flatrock River	At downstream corporate limits	*950
			Just upstream of Main Street	*955
			Just upstream of Chessie System	*957
			About 0.39 mile upstream of Chessie System	*958
		Hodges Branch	Just upstream of 9th Street	*957
			Just downstream of Main Street	*972
Maps available for inspection at the City Building, Rushville, Indiana.				
Maryland	Millington, town, Kent and Queen Annes County (Docket No. FEMA-6247).	Chester River	Downstream corporate limits	*13
			Upstream corporate limits	*14
Maps available for inspection at the Town Hall, Millington, Maryland.				
Michigan	(Township), Ash, Monroe County (Docket No. FEMA-6247).	Swan Creek	At Labo Road	*590
			Just upstream of Telegraph Road	*598
			At Carleton-Rockwood Road	*602
			Just upstream of Interstate 275	*606
			Just downstream of Grafton Road	*608
		North Branch Swan Creek	Mouth at Swan Creek	*605
			Just downstream of Interstate 275	*607
			At Will Carleton Drive	*612
Maps available for inspection at the Town Hall, 1677 Ready Road, Carleton, Michigan.				
Michigan	(Township), Berlin, Monroe County (Docket No. FEMA-6247).	Huron River	Mouth at Lake Erie	*576
			About 3.5 miles downstream of Telegraph Road	*587
			Just upstream of Telegraph Road	*590
		Lake Erie	Shoreline	*576
		Swan Creek	Mouth at Lake Erie	*576
			Just downstream of Drew Road	*584
			Just upstream of Brandon Road	*586
			About 400 feet upstream of Interstate 75 Southbound	*608
		Moulite Creek	Mouth at Lake Erie	*576
			Just upstream of Hagerman Road	*579
		Laudenschlager Drain	About 3,300 feet downstream of Hagerman Road	*578
			Just downstream of Detroit and Toledo Shoreline Railroad	*583
			Just upstream of Conrail	*586
			About 700 feet upstream of Ready Road	*596
Maps available for inspection at the Town Hall, 5651 Trombley Road, Newport, Michigan.				
Minnesota	(C), Little Canada, Ramsey County (Docket No. FEMA-6247).	Gervais Lake	Shoreline	*852
		Round Lake	Shoreline	*855
		Savage Lake	Shoreline	*857
		Twin Lake	Shoreline	*872
Maps available for inspection at the City Hall, 515 Little Canada Road, Little Canada, Minnesota.				
Missouri	(C), Washington, Franklin County (Docket No. FEMA-6247).	Busch Creek	At confluence with Dubois Creek	*486
			Just upstream of abandoned bridge	*492
			Just downstream of Madison Avenue	*496
			Just upstream of Madison Avenue	*503
			Just downstream of Locust Street	*510
			About 120 feet upstream of Jefferson Street	*515
			Just downstream of Private Road	*523
			Just upstream of Private Road	*531
			About 300 feet downstream of State Highway 100	*535
			Just upstream of State Highway 100	*547
		Southwest Branch Busch Creek	Mouth at Busch Creek	*496
			Just upstream of State Highway 100	*498
			About 1.58 miles upstream of State Highway 100	*507
		South Branch Busch Creek	Mouth at Busch Creek	*488
			At upstream corporate limits	*489
		St. Johns Creek	At Missouri Pacific Railroad	*494
			At upstream corporate limits	*494
		Missouri River	At downstream corporate limits	*460
			About 1.5 miles upstream of confluence of Saint Johns Creek	*494
		Dubois Creek	At downstream corporate limits	*486
			At confluence of Busch Creek	*486
Maps available for inspection at the City Hall, 4th and Jefferson Streets, Washington, Missouri.				
Nebraska	(C), Ashland, Saunders County (Docket No. FEMA-6247).	Salt Creek	Just upstream of U.S. Highway 6	*1,083
			About 200 feet upstream of the Burlington Northern Railroad (upstream of 13th Street).	*1,083
			At County Road 110	*1,085
		Wahoo Creek	At mouth	*1,068

FINAL BASE(100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			About 400 feet upstream of the Burlington Northern Railroad near the northwest extraterritorial limit	*1,078
		Clear Creek	Within extraterritorial limit	*1,071
		Silver Creek	Within extraterritorial limit	*1,071
Maps available for inspection at the City Hall, 1748 Silver Street, Ashland, Nebraska.				
Nebraska	(C), Wilber, Saline County (Docket No. FEMA–6247)	Big Blue River	About 3.3 miles downstream of State Highway 41	*1,310
			About 3.1 miles upstream of State Highway 41	*1,322
		Middle Unnamed Tributary of Big Blue River.	At mouth at Big Blue River	*1,312
			Just upstream of OK Street	*1,320
			About 0.75 mile upstream of Franklin Street	*1,366
		North Unnamed Tributary of Big Blue River.	At mouth at Big Blue River	*1,321
			Just upstream of State Highway 163	*1,325
			About 1.5 miles upstream of mouth (just upstream of County Road).	*1,355
Maps available for inspection at the City Hall, 101 West Third Street, Wilber, Nebraska.				
New Jersey	Mantua, township, Gloucester County (Docket No. FEMA–6247).	Mantua Creek	Downstream corporate limits	*10
			Upstream corporate limits	*11
Maps available for inspection at the Municipal Building, Main Street, Mantua, New Jersey.				
New York	Canajoharie, village, Montgomery County (Docket No. FEMA–6247).	Mohawk River	Downstream corporate limits	*300
			Upstream corporate limits	*302
Maps available for inspection at the Municipal Building, Erie Boulevard, Canajoharie, New York.				
New York	Constantia, town, (Oswego County (Docket No. FEMA–6247).	Oneida Lake	Entire shoreline	*373
		Panther Lake	Entire shoreline	*501
		Frederick Creek	Confluence with Scriba Creek	*373
			Upstream of Tannery Road Dam	*415
			Upstream of Knapp Road	*435
			Approximately 3,400' upstream of Kibbie Lake Road	*477
		Scriba Creek (Lake)	Confluence with Oneida Lake	*373
			Upstream of County Road No. 23 (downstream crossing)	*401
			Upstream of Parker Road	*448
			Upstream of Holley Hole Road	*505
			Upstream Corporate Limits	*548
		Dakins Creek	Confluence with Oneida Lake	*372
			Approximately 300' upstream of Johnson Road	*414
Maps available for inspection at the Town Hall, Frederick Street, Constantia, New York.				
New York	Fort Plain, village, Montgomery County (Docket No. FEMA–6247).	Mohawk River	Downstream corporate limits	*304
			Upstream corporate limits	*307
		Otsquago Creek	Confluence with Mohawk River	*305
			Upstream of South Street bridge	*322
			Upstream corporate limits	*352
Maps available for inspection at the Village Hall, 168 Canal Street, Fort Plain, New York.				
New York	Nelliston, village, Montgomery County (Docket No. FEMA–6247).	Mohawk River	Downstream corporate limits (extended)	*303
			Upstream corporate limits (extended)	*307
Maps available for inspection at the Village Hall, River Street, Nelliston, New York.				
New York	Patchogue, village, Suffolk County (Docket No. FEMA–6247).	Great South Bay	Entire shoreline within community	*8
			West Main Street to Crescent Street extended along southwestern corporate limits.	*5
			Crescent Street extended to Sunset Lane (Strand Drive) extended along southwestern corporate limits.	*8
Maps available for inspection at the Municipal Building, 14 Baker Street, Patchogue, New York.				
Ohio	(C), North Canton, Stark County (Docket No. FEMA–6247).	West Branch Nimishillen Creek	About 1,900 feet downstream of South Main Street	*1,065
			Just upstream of South Main Street	*1,074
			Just upstream of Dam	*1,085
			About 1,400 feet upstream of East Maple Street	*1,090
		Chatham Ditch	About 1,150 feet downstream of Marquardt Avenue	*1,090
			Just upstream of Marquardt Avenue	*1,100
			About 900 feet upstream of Marquardt Avenue	*1,101
		McDowell Ditch	About 2,050 feet downstream of Everhard Avenue	*1,056
			About 150 feet upstream of Everhard Avenue	*1,059
		Zimber Ditch	About 2,700 feet downstream of Glenwood Street Southwest.	*1,062
			About 2,400 feet upstream of Glenwood Street Southwest.	*1,064
Maps available for inspection at the Engineer's Office, City Hall, 145 North Main Street, North Canton, Ohio.				
Oklahoma	City of Oklahoma City, Oklahoma, Canadian, Cleveland, McClain, Pottawatomie Counties (FEMA–6254).	North Canadian River	Just upstream of St. Louis and San Francisco Railroad	*1,107
			Just upstream of Westminster Road	*1,124
			Just downstream of northeast 108th Street	*1,132
			Just downstream of Midwest Boulevard	*1,148
			Just downstream of I–35	*1,174
			Just downstream of Western Avenue	*1,185
			Just upstream of Portland Avenue	*1,196

FINAL BASE(100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just upstream of Chicago Rock Island and Pacific Railroad.	*1,228
		North Canadian Tributary 8	Just upstream of U.S. Highway 66	*1,248
			Just upstream of northeast 93rd Street	*1,152
			Just upstream of Northeast 78th Street	*1,173
			Just downstream of northeast 63rd Street	*1,192
		North Canadian Tributary 9	Just downstream of St. Louis and San Francisco Railway.	*1,153
			Just upstream of Post Road	*1,186
		Crutcho Creek	Just downstream of Arnold Drive	*1,205
			Just downstream of southeast 59th Street	*1,225
			Just downstream of southeast 74th Street	*1,243
		Crutcho Creek Tributary E	Just upstream of southeast 44th Street	*1,210
			Just upstreamof Reserve Road	*1,228
		Crutcho Creek Tributary C	Just upstream of Twinning Drive	*1,213
			Just downstream of Epperly Drive	*1,246
		Crutcho Creek Tributary C-1	Approximately 400 feet downstream of southeast 59th Street.	*1,232
		Crutcho Creek Tributary F	Just upstream of Voorhees Road	*1,228
		Crutcho Creek Tributary G	Approximately 1,400 feet downstream of Atchison Topeka & Santa Fe Railway.	*1,240
		Cherry Creek	Just downstream of Parker Drive	*1,256
		Crooked Oak Creek	Just downstream of I-40	*1,175
			Just downstream of southeast 22nd Street	*1,194
			Just downstream of Grand Boulevard	*1,213
			Just upstream of southeast 44th Street	*1,221
			Just downstream of southeast 59th Street	*1,236
			Just upstream of Atchison Topeka and Santa Fe Railway.	*1,250
		Crooked Oak Creek Tributary A	Just upstream of southeast 74th Street (I-240)	*1,265
		Lightning Creek	Approximately 500 feet upstream of Eastern Avenue	*1,239
			Just upstream of southwest 29th Street	*1,192
			Just downstream of southwest 59th Street.	*1,213
			Just upstream of southwest 67th Street	*1,217
			Just upstream of I-240	*1,225
			Just downstream of Western Avenue	*1,247
			Just downstream of Walker Avenue	*1,264
		Lightning Creek Tributary-1	Just downstream of Southeast 59th Street	*1,224
			Just upstream of Santa Fe Avenue	*1,237
		Lightning Creek Tributary 3	Just upstream of South Walker	*1,231
		Lightning Creek Tributary 6	Approximately 1500 feet upstream of confluence with Lightning Creek.	*1,243
			Just downstream of Pennsylvania Avenue	*1,267
		Twin Creek	Just upstream of Western Avenue	*1,189
			Just upstream of Pennsylvania Avenue	*1,196
			Just upstream of St. Louis San Francisco Railway	*1,210
			Just downstream of southwest 29th Street	*1,221
			Just upstream of southwest 48th Street	*1,241
		Brock Creek	Just upstream of southeast 25th Street (Commerce Street).	*1,201
			Just upstream of southwest 44th Street	*1,223
			Just downstream of southwest 59th Street	*1,238
		North Canadian River Tributary 10	Just downstream of southwest 25th Street	*1,209
			Just upstream of South Portland Avenue	*1,227
		North Canadian River Tributary 12	Approximately 3,000 feet upstream of confluence of North Canadian Tributary 13.	*1,222
		North Canadian River Tributary 13	Just upstream of southwest 29th Street	*1,226
		Campbell Creek	Just upstream of southwest 29th Street	*1,234
		Campbell Creek East Branch	Just upstream of southwest 44th Street	*1,251
		Campbell Creek Middle Branch	Just upstream of Council Road	*1,264
			Just downstream of southwest 59th Street	*1,279
		North Canadian River Tributary 14	Just upstream of West Reno Avenue	*1,216
			Just downstream of Chicago, Rock Island, and Pacific Railroad.	*1,226
			Just upstream of 10th Street	*1,254
			Just downstream of N.W. 16th Street	*1,270
		Mustang Creek	Just upstream of southwest 15th Street	*1,236
			Just downstream of Morgan Road	*1,240
			Just downstream of Sara Road	*1,244
			Just downstream of southwest 29th Street	*1,260
			Just downstream of Czech Hall Road	*1,285
			Just downstream of Cemetary Road	*1,325
		Mustang Creek (New Channel)	Just downstream of Dam	*1,244
		Mustang Creek Tributary 1	Just downstream of southwest 29th Street	*1,241
			Just downstream of southwest 44th Street	*1,263
			Just downstream of southwest 59th Street	*1,288
		Mustang Creek Tributary 1 West Branch.	Just downstream of southwest 59th Street	*1,292
		Mustang Creek Tributary 2	Just downstream of southwest 29th Street	*1,256
			Just upstream of southwest 44th Street	*1,271
			Just upstream of Mustang Road	*1,279
			Just upstream of Czech Hall Road	*1,297
		Mustang Creek Tributary 2 South Branch.	Just downstream of southwest 59th Street	*1,287
		Mustang Creek Tributary 3	Just downstream of southwest 15th Street	*1,263

FINAL BASE(100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just upstream of Mustang Road	*1,268
			Just upstream of Czech Hall Road	*1,289
			Just downstream of Reno Avenue	*1,320
		Mustang Creek Tributary 3 East Branch.	Just upstream of Mustang Road	*1,268
			Just upstream of Reno Avenue	1,281
		Mustang Creek Tributary 3 West Branch.	Just downstream of Wilderood Drive	*1,295
		Mustang Creek Tributary 4	Just downstream of Cemetery Road	*1,306
		Shell Creek	Just upstream of I-40	*1,279
			Just upstream of northwest 23rd Street	*1,285
			Just upstream of northwest 10th Street	*1,296
			Just upstream of West Reno Avenue	*1,305
			Just downstream of southwest 15th Street	*1,318
			Just upstream of southwest 29th Street	*1,332
		Shell Creek Tributary 1	Just downstream of Cimarron Road	*1,306
		Shell Creek Tributary 2	Just downstream of Richland Road	*1,290
		Shell Creek Tributary 3	Just downstream of northwest 10th Street	*1,295
			Just upstream of Richland Road	*1,304
			Just upstream of Frisco Road	*1,331
		Shell Creek Tributary 4	Just upstream of Cimarron Road	*1,306
			Just downstream of West Reno Avenue	*1,312
		Shell Creek Tributary 4 West Branch.	Just upstream of Cimarron Road	*1,299
		Shell Creek Tributary 5	Just upstream of Richland Road	*1,313
			Just upstream of southwest 15th Street	*1,324
			Just downstream of southwest 29th Street	*1,340
		Shell Creek Tributary 5 East Branch.	Approximately 1,000 feet upstream of confluence with Shell Creek-Tributary 5.	*1,316
		Shell Creek Tributary 6	Just upstream of southwest 29th Street	*1,333
		Canadian River	Just upstream of U.S. Highway 62	*1,162
		Canadian River Tributary 1	Just upstream of southwest 149th Street	*1,172
			Just upstream of southwest 134th Street	*1,183
			Just downstream of Pennsylvania Avenue	*1,186
			Just downstream of southwest 119th Street	*1,204
			Just downstream of southwest 104th Street	*1,232
		Tributary 1 of Canadian River Tributary 1.	Just upstream of southwest 149th Street	*1,175
		Tributary of Canadian River Tributary 1.	Just upstream of southwest 149th Street	*1,180
			Just upstream of Western Avenue	*1,191
		Tributary 0 of Canadian River Tributary 1.	Just downstream of southwest 134th Street	*1,190
			Just downstream of Western Avenue	*1,199
		Tributary 3 of Canadian River Tributary 1.	Just downstream of southwest 119th Street	*1,205
		Tributary 4 of Canadian River Tributary 1.	Just upstream of southwest 119th Street	*1,201
		Canadian River Tributary 2	Just upstream of southwest 149th Street	*1,162
			Just downstream of southwest 134th Street	*1,165
			Just upstream of southwest 119th Street	*1,210
		Cow Creek	Just downstream of southwest 134th Street	*1,185
			Just upstream of 119th Street	*1,196
			Just downstream of southwest 104th Street	*1,209
			Just upstream of southwest 89th Street	*1,232
		Cow Creek Tributary 1	Just downstream of southwest 119th Street	*1,202
			Just downstream of southwest 104th Street	*1,232
		Cow Creek Tributary 2	Just upstream of southwest 119th Street	*1,196
			Just upstream of Council Road	*1,237
			Just upstream of County Line Road	*1,259
			Just downstream of southwest 104th Street	*1,274
		North Branch of Cow Creek Tributary 2.	Just upstream of southwest 104th Street	*1,213
			Just downstream of Council Road	*1,257
		West Branch of Cow Creek Tributary 2.	Just upstream of southwest 104th Street	*1,240
		Cow Creek Tributary 3	Just upstream of southwest 104th Street	*1,213
		Deep Fork	Just downstream of Triple X Road	*916
			Just downstream of Choctaw Road	*932
			Just downstream of Memorial Road	*1,007
			Just upstream of northeast 122nd Street	*1,017
			Just downstream of northeast 106th Street	*1,028
			Just upstream of Britton Road	*1,043
			Just upstream of Wilshire Boulevard (78th Street)	*1,052
			Just upstream of northeast 63rd Street	*1,064
			Just upstream of Eastern Avenue	*1,077
			Just upstream of Kelly Avenue	*1,088
			Just downstream of Lincoln Boulevard	*1,091
			Just upstream of Northeast Expressway	*1,111
			Just upstream of Mattern Drive	*1,138
			Just upstream of Young Boulevard	*1,152
			Just downstream of 36th Street	*1,164
			Just upstream of May Avenue	*1,181
			Just downstream of North Roff Street	*1,215
			Just downstream of Warren Avenue	*1,238
		Deep Fork Tributary 4	Approximately 2,500 feet upstream of confluence with Deep Fork.	*1,010
		Deep Fork Tributary 5	Just downstream of Turner Turnpike	*1,011
			Just downstream of northeast 122nd Street	*1,048
		Deep Fork Tributary 6	Just upstream of Interstate Highway 35	*1,046
		Deep Fork Tributary 7	Just upstream of Sooner Road	*1,031
			Just upstream of northeast 93rd Street	*1,070

FINAL BASE(100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Harrison Creek	Just downstream of Interstate Highway 35	*1,040
			Just downstream of Bryant Avenue	*1,053
			Just upstream of Eastern Avenue	*1,073
			Just downstream of Kelley Avenue	*1,105
			Just upstream of 108 Street	*1,127
		Harrison Creek Tributary 1	Approximately 1,500 feet upstream of confluence with Harrison Creek.	*1,051
		Harrison Creek Tributary 2	Just upstream of northeast 122nd Street	*1,063
			Just upstream of Eastern Avenue	*1,082
		West Branch of Harrison Creek Tributary 2.	Approximately 1,000 feet upstream of confluence with Harrison Creek Tributary 2.	*1,069
		Harrison Creek Tributary 3	Just downstream of Kelley Avenue	*1111
		Deep Fork Tributary 9	Just upstream of Missouri-Kansas-Texas Railroad	*1,050
			Just downstream of Wilshire Boulevard (78th Street)	*1,086
		Deep Fork Tributary 10	Just upstream of Interstate Highway 35	*1,052
			Just upstream of Eastern Avenue	*1,073
			Just upstream of Wilshire Boulevard (78th Street)	*1,097
		Deep Fork Tributary 11	Approximately 1,500 feet upstream of confluence with Deep Fork.	*1,072
		Deep Fork Tributary 12	Just upstream of 50th Street	*1,097
		Deep Fork Tributary 13	Just downstream of Grand Boulevard	*1,075
			Just downstream of Eastern Avenue	*1,110
			Just upstream of northeast 36th Street	*1,135
		Deep Fork Tributary 13A	Just upstream of Eastern Avenue	*1,115
		Deep Fork Tributary 13B	Just upstream of 36th Street	*1,127
		Deep Fork Tributary 16	Just downstream of 55th Street	*1,092
			Just upstream of northeast 50th Street	*1,119
			Just downstream of northeast 42nd Street	*1,121
		Deep Fork Tributary 16 West Branch.	Just upstream of northeast 50th Street	*1,112
			Just downstream of Lincoln Boulevard (U.S. Highway 77).	*1,116
		Deep Fork Tributary 17	Just upstream of northeast Expressway	*1,091
			Just downstream of Santa Fe Boulevard	*1,121
			Just downstream of northwest 71st Street	*1,130
		Deep Fork Tributary 18	Just downstream of Private Road	*1,137
			Just downstream of Northwest 35th Street	*1,148
		Deep Fork Tributary 19	Just upstream of North Walker	*1,144
			Just downstream of northwest 36th Street	*1,161
		Deep Fork Tributary 20	Just upstream of Western Avenue	*1,136
		Golf Course Creek	Just upstream of North Bellview Drive	*1,153
			Just downstream of northwest 63rd Street	*1,164
		Golf Course Creek West Branch	Just upstream of Rivera Drive	*1,163
		Cloverleaf Creek	Just downstream of Pennsylvania Avenue	*1,142
			Just downstream of Bellview Drive	*1,153
		Deep Fork Tributary 22	Approximately 1,000 feet upstream of confluence with Deep Fork.	*1,159
		Chisholm Creek	Just downstream of 192nd Street	*1,052
			Just upstream of 178th Street	*1,066
			Just downstream of Western Avenue	*1,096
			Just downstream of Memorial Road	*1,121
			Just downstream of 122nd Street	*1,143
			Just downstream of Pennsylvania Avenue	*1,164
		Chisholm Creek Tributary 3	Just downstream of 192nd Street	*1,067
		Chisholm Creek Tributary 4	Just downstream of Corporate Limits	*1,064
		Chisholm Creek Tributary 6	Just upstream of N.W. 164th Street	*1,085
		Chisholm Creek Tributary 8	Just upstream N.W. 150th Street	*1,098
			Just downstream of Memorial Road	*1,125
		Chisholm Creek Tributary 9	Just downstream of Hefner Road	*1,169
		Deer Creek	Just downstream of Morgan Road	*1,087
			Just downstream of Sara Road	*1,098
			Just upstream of Czech Hall Road	*1,127
			Just downstream of Frisco Road	*1,172
			Just downstream of Richland Road	*1,217
		Walnut Creek	Just upstream of N.W. 164th Street	*1,068
			Just downstream of N.W. 150th Street	*1,090
			Just downstream of N.W. 136th Street	*1,117
			Just upstream of Council Road	*1,167
			Just upstream of Hefner Road	*1,204
			Just upstream of Northwest Expressway	*1,230
		Deer Creek Tributary 3	Just downstream of N.W. 150th Street	*1,087
			Just upstream of Memorial Road	*1,125
			Just upstream of N.W. 122nd Street	*1,176
		Deer Creek Tributary 3 West Branch	Just upstream of County Line Road	*1,152
		Deer Creek Tributary 4	Just downstream of N.W. 122nd Street	*1,167
		Deer Creek Tributary 5	Just upstream of Mustang Road	*1,121
		Deer Creek Tributary 6	Just downstream of Memorial Road	*1,134
		Deer Creek Tributary 7	Just upstream of Memorial Road	*1,125
			Just downstream of Northwest Expressway	*1,161
		Spring Creek of Deer Creek	Just downstream of Memorial Road	*1,129
			Just upstream of N.W. 122nd Street	*1,167
			Just downstream of Czech Hall Road	*1,211
		Deer Creek Tributary 8	Just downstream of Northwest Expressway	*1,149
			Just downstream of Cemetery Road	*1,186
		Deer Creek Tributary 11	Just downstream of Oak Hill Road	*1,178
		Deer Creek Tributary 12	Just downstream of Frisco Road	*1,170
		Deer Creek Tributary 13	Just upstream of Frisco Road	*1,220
		Deer Creek Tributary 14	Just upstream of Memorial Road	*1,225

FINAL BASE(100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Bluff Creek	Just downstream of N.W. 192nd Street	*1,036
			Just downstream of N.W. 122nd Street	*1,096
		Bluff Creek Tributary A	Just downstream of Portland Avenue	*1,082
		Bluff Creek Tributary A–1	Just downstream of Portland Avenue	*1,060
		Dry Creek of Bluff Creek	Just downstream of (West Bound) Memorial Road	*1,090
			Just downstream of Quail Creek Road	*1,139
		Brush Creek of Dry Creek	Just downstream of Oak Hollow Road	*1,132
		Spring Creek of Bluff Creek	Just upstream of MacArthur Boulevard	*1,108
			Just downstream of Britton Road	1,152
			Just downstream of N.W. 83rd Street	*1,180
			Just downstream of N.W. 63rd Street	*1,247
		Spring Creek West Branch	Just downstream of MacAuthur Boulevard	*1,102
			Just downstream of Hefner Road	*1,195
		Silver Creek of Spring Creek	Just downstream of Rockwell Avenue	*1,170
		Bluff Creek above Lake Hefner	Just downstream of Northwest Expressway	*1,215
			Just downstream of N.W. 63rd Street	*1,224
		Hog Creek	Just upstream of southeast 149th Street	*1,056
			Just upstream of southeast 119th Street	*1,072
			Just upstream of Choctaw Road	*1,086
			Just downstream of I–40	*1,116
			Just upstream of Hiwassee Road	*1,149
			Just upstream of Anderson Road	*1,179
			Just downstream of Westminister Road	*1,207
		Hog Creek Tributary 1	Just upstream of Choctaw Road	*1,084
		Hog Creek Tributary 2	Just upstream of Indian Meridian Road	*1,099
			Just upstream of S.E. 104th Street	*1,122
		Hog Creek East Branch	Just downstream Interstate Highway 40th Street	*1,114
			Just upstream of Interstate Highway 40	*1,124
			Just upstream of S.E. 59th Street	*1,149
		Hog Creek West Branch	Just upstream of Hiwassee Road	*1,124
			Just downstream of Anderson Road	*1,138
			Just upstream of Brook Haven Road	*1,185
		Hog Creek West Branch Tributary 1.	Approximately 400 feet upstream of confluence with Hog Creek West Branch.	*1,090
		Hog Creek West Branch Tributary 2.	Just downstream of Hiwassee Road	*1,222
		Hog Creek West Branch Tributary 3.	Just downstream of southeast 74th Street	*1,182
		Hog Creek Tributary 3	Just downstream southeast 59th Street	*1,146
			Just upstream southeast 59th Street	*1,152
		Hog Creek Tributary 5	Just downstream of southeast 44th Street	*1,172
		Hog Creek Tributary 6	Just downstream of southeast 44th Street	*1,155

Maps available for inspection at City Clerk's Office, Room 206, Municipal Building, 200 North Walker Street, Oklahoma City, Oklahoma 73102.

Pennsylvania	Halifax, township, Dauphin County (Docket No. FEMA–6218).	Susquehanna River	Downstream Corporate Limits	*366
			Borough of Halifax downstream Corporate Limits	*371
			Confluence of Gurdy Run	*375
			Upstream Corporate Limits	*381
		Powell Creek	Downstream Corporate Limits	[illegible]
			Approximately 730 feet upstream of Private Road intersect.	*407
			Upstream of State Route 225	*423
			Upstream of Camp Hebron Road (downstream crossing).	*427
			Upstream of Konicks Road	*443
			Downstream of upstream crossing of Camp Hebron Road.	*478
		Armstrong Creek	Upstream of State Route 147	*374
			Confluence of New England Run	*385
			Downstream of 1st Dam	*395
			Upstream of State Route 225	*405
			Downstream Ridge Road	*420
			Approximately 2,275' upstream of Ridge Road	*429
		Gurdy Run	Upstream State Route 147	*375
			Upstream of downstream footbridge	*384
			Upstream Legislative Route 22029	*403
			Downstream of upstream footbridge	*427

Maps available for inspection by contacting Janet Noblit, at the Halifax Township Office, R.D. 3, Box T90, Halifax, Pennsylvania.

Pennsylvania	Windsor, borough, York County (Docket No. FEMA–6181).	Fishing Creek	Downstream corporate limits	*622
			Penn Street (downstream)	*637
			Gay Street (upstream)	*650
			Upstream corporate limits	*678

Maps available for inspection at the Borough Office, Two West Main Street, Windsor, Pennsylvania.

Washington	Cosmopolis (city), Grays Harbor County (FEMA–6247)	Grays Harbor	Intersection of Broadway Street (U.S. 101) and J Street.	*10
		Mill Creek	30 feet upstream of C Street	*21

Maps available for inspection at City Hall, 100 E. 1st., Cosmopolis, Washington.

Washington	Lynden (city), Whatcom County (FEMA–6197)	Nooksack River	Area approximately 150 feet south of intersection of East Front Street and Hawley Street.	*57

Maps available for inspection at City Engineer's Office, 323 Front Street, Lynden, Washington.

FINAL BASE(100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Washington	Waitsburg (city), Walla Walla County (FEMA-6247)	Touchet River	Intersection of First Street and Jay Street	*1,247
			Intersection of Woods Street and U.S. Highway 12	*1,274
		Coppei Creek	Intersection of Arnold Street and Seventh Street	*1,243
			Intersection of Main Street and Sixth Street	#1

Maps available for inspection at City Hall, Waitsburg, Washington.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: June 8, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-17624 Filed 7-1-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base (100-year) flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Federal Emergency Management Agency, National Flood Insurance Program, (202) 287–0230, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 67. An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Agency has resolved the appeals presented by the community.

The Agency has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determintation under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribed how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The final base (100-year) flood elevations for selected locations are:

FINAL BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Illinois	(C) O'Fallon St. Clair County (Docket No. FEMA-6224).	Ogles Creek	Just upstream of Interstate 64	*551
			Just downstream of Old Collinsville Road	*551
		Ogles Creek Tributary	About 200 feet downstream of Crestview Drive	*551
			Just downstream of West Highway Fifty	*552
		Engle Creek	About 370 feet upstream of O'Fallon-Troy Road	*504
			Just downstream of Illinois Terminal Railroad (near confluence of Engle Creek Ditch).	*515
			Just upstream of Illinois Terminal Railroad (near confluence of Engle Creek Ditch).	*520

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just downstream of Illinois Terminal Railroad (near divergence with Engle Creek Ditch.	*523
			Just downstream of West State Street	*533
			Just upstream of Chessie System	*542
			Just downstream of West Highway Fifty	*543
		Engle Creek Ditch	Just upstream of confluence with Engle Creek	*515
			Just downstream of divergence with Engle Creek	*525
Maps available for inspection at the City Hall, 200 North Lincoln Avenue, O'Fallon, Illinois.				
Oklahoma	City of Tulsa, Tulsa and Osage Counties (FEMA 6141).	Arkansas River	Just upstream of 51st Street (US Highway 66, Interstate 44).	*626
			Upstream of Texas and Pacific Railroad (near 31st Street).	*630
			Just upstream of 23rd Street bridge	*631
		Bird Creek	Just downstream of 56th Street North (upstream crossing).	*599
			Just downstream of US Highway 75	*603
		Bird Creek Tributary	Just downstream of Mohawk Park Road	*600
			Just downstream of 36th Street North	*611
		Coal Creek (North Tulsa)	Just downstream of Atchison Topeka and Santa-Fe Railway.	*600
			Just downstream of Apache Street	*618
			Just upstream Apache Street	*620
			Just downstream of Darlington Place	*638
		Coal Creek Tributary	Just upstream New Haven Avenue	*669
		Flat Rock Creek	Just upstream of Cherokee Expressway (US Highway 75).	*604
			Just upstream of Texas and Pacific Railroad	*622
		Flat Rock Creek Tributary	Just downstream of Cherokee Expressway (US Highway 75).	*603
		Dirty Butter Creek	Just downstream of 36th Street North	*621
			Just downstream of Texas and Pacific Railroad	*645
			Just downstream of Hartford Avenue	*652
		Dirty Butter Creek Tributary	Just downstream of Mohawk Boulevard	*631
			Just upstream of Mohawk Boulevard	*641
		Valley View Creek	Just downstream of 46th Street North	*625
			Just upstream of 54th Street North	*657
		Mingo Creek	Just upstream of 56th Street North	*591
			Just upstream of 46th Street North	*596
			Just upstream of 36th Street North	*611
			Just downstream of Apache Street	*613
			Just upstream of Interstate Highway 244	*618
			Just upstream of 11th Street South	*626
			Just upstream of 41st Street South	*652
			Just upstream of Broken Arrow Expressway	*657
			Just downstream of 51st Street South	*662
			Just upstream of 61st Street South	*690
		Douglas Creek	Upstream of 93rd East Avenue	*615
			Just upstream of St. Louis San Francisco Railroad Spur.	*618
		Mill Creek	Just upstream of Memorial Drive	*545
			Just upstream of 73rd Avenue East	*661
			Just downstream of 11th Street at upstream end of underground conduit.	*595
		Jones Creek	Just upstream of Memorial Drive	*647
			Just downstream 69th Avenue East	*656
		Audubon Creek	Just upstream of 90th Avenue East	*645
			Just upstream of Skelly Drive (Interstate Highway 44)	*668
		Bell Creek	Just upstream of 37th Street South	*650
			Just downstream of 93rd East Avenue	*653
			Just upstream of 90th East Avenue	*665
			Just upstream of Broken Arrow Expressway	*667
		Bell Creek Tributary	Just upstream of 41st Street South	*661
			Just upstream of Missouri, Kansas and Texas Railroad	*667
		Fulton Creek	Just upstream of 34th Street South	*654
			Just downstream of 39th Street South	*665
		Alsuma Creek	Just upstream of 46th Place South	*521
			Just downstream of Missouri, Kansas and Texas Railroad.	*670
		Little Creek	Just downstream of Mingo Valley Expressway service road south bound.	*615
			Just upstream of Garnett Road	*617
		Quarry Creek	Just upstream of Apache Street	*633
			Just upstream of 129th East Avenue	*646
		Eagle Creek	Just downstream of St. Louis and San Francisco Railroad.	*620
			Just upstream of St. Louis & San Francisco Railroad	*629
			Just downstream of Pine Street	*647
		Cooley Creek	Approximate 300 feet upstream of Mingo Valley Expressway.	*630
			Just upstream of Garnett Road	*642
			Just upstream of 129th East Avenue	*670
			Just downstream of Small Dam	*672
			Just upstream of Interstate Highway I-44	675
			Just upstream of Small Dam	*683
		Cooley Creek Tributary	Just upstream of Interstate Highway I-44	*678
			Just upstream of 4th Place South	*685

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Tupelo Creek	Just downstream of 11th Street South	*704
			Just upstream of 15th Street South	*730
			Just downstream of 102nd East Avenue	*627
			Just upstream of Mingo Valley Expressway	*633
			Just upstream of 11th Street South	*645
			Just upstream of Interstate Highway I-44	*650
		Tupelo Creek Tributary	Just upstream of 17th Street South	*661
			Just upstream of 119th East Avenue	*665
		Brook Hollow Creek	Just upstream of 121st East Avenue	*670
			Just upstream of Mingo Valley Expressway	*652
			Just upstream of Garnett Road	*661
			Just upstream of 129th Avenue East	*694
		Brook Hollow Creek Tributary	Just upstream of 28th Street South	*710
			Just downstream of Garnett Road	*661
		Sugar Creek	Just upstream of 121st East Avenue	*675
			Just upstream of Mingo Valley Expressway	*651
			Just upstream of Garnett Road	*664
		South Park Creek	Just downstream of 41st Street South	*670
			Just upstream of Mingo Valley Expressway	*656
		Ford Creek	Just upstream of Garnett Road	*666
			Just downstream of intersection of Garnett Road and 51st Street South.	*668
			Just upstream of 129th East Avenue	*693
		Catfish Creek	Just upstream of Broken Arrow Expressway	*708
		Spunky Creek Tributary A	Just downstream of 55th Street South	*670
		Spunky Creek Tributary B	Just upstream of 193rd East Avenue	*634
			Just upstream of 193rd East Avenue	*625
		Spunky Creek Tributary B-1	Just upstream of 177th East Avenue	*636
		Harlow Creek	Just upstream of the downstream low water crossing	*652
			Just upstream of Keystone Expressway (U.S. Highway 64).	*661
		Harlow Creek Tributary	Just upstream of Edison Street	*685
		Blackboy Creek	At West 7th Street	*657
		Vensel Creek	Just downstream of 101st Street	*622
			Just upstream of Harvard Avenue	*647
		Fred Creek	Approximately 100 feet upstream of 83rd Street	*677
			Just downstream of 81st Street	*623
			Just upstream of Evanston Avenue	*666
		Joe Creek	Just upstream of Harvard Avenue	*680
			Just downstream of 71st Street	*622
			Just upstream of 61st Street	*634
		South Fork Joe Creek	Just upstream of 51st Street	*655
			Just upstream of Harvard Avenue	*664
			Just downstream of Marion Street	*682
			Just upstream of New Haven Avenue	*689
		Little Joe Creek	Just downstream of Pittsburgh Avenue	*697
			Just upstream of Harvard Avenue	*655
			Just upstream of New Haven Avenue	*667
			Just upstream of Yale Avenue	*689
		South Fork Little Joe Creek	Just downstream of Hudson Avenue	*700
			Just upstream of Yale Avenue	*695
		North Fork Little Joe Creek	Just upstream of Yale Avenue	*692
		East Branch Joe Creek	Just upstream of 41st Street South	*686
			Just upstream of 38th Street South	*694
		West Branch Joe Creek	Just upstream of 49th Street	*664
			Just downstream of 31st Street	*724
		Crow Creek	Just downstream of Peoria Avenue	*644
			Just upstream of 31st Avenue	*659
		Hager Creek	Just upstream of 91st Street	*628
			Just upstream of the Elwood Avenue crossing north of 81st Street.	*639
		Mooser Creek	Just upstream of Texas and Pacific Railroad	*627
			Just upstream of U.S. Highway 75 (Okmulgee Expressway).	*643
			Just upstream of 33rd West Avenue	*694
		Mooser Creek Tributary	Just upstream of 57th Street extended	*670
			Just downstream of 61st Street	*678
		Cherry Creek (West Tulsa)	Approximately 250 feet upstream of 37th Place	*633
		Red Fork Creek	Just upstream of Union Avenue	*642
			Just downstream of Yukon Avenue	*646
		Nickel Creek	Just upstream of 91st Street	*634
		West Branch Haikey Creek	Just upstream of Garnett Road	*674
			Just downstream of Mingo Road	*694
		Little Haikey Creek	Just upstream of Memorial Drive	*693
			Just upstream of Sewage Plant Access Road	*720
		Little Haikey Creek Tributary	Just downstream of 72nd East Avenue	*721
		Fry Ditch No. 2	Just upstream of 101st Street	*664
			Just downstream of Sheridan Avenue	*686
			Just upstream of 91st Street	*711

Maps available for inspection at City Engineer's Office, City Hall, 200 Civic Center, Room 514, Tulsa, Oklahoma 74103.

Texas	City of El Paso, El Paso County (FEMA 5926)	Arroyo 1	Just upstream of Doniphan Road	*3,756
			Just downstream of Interstate Highway 10 (Southbound Lanes).	*3,822
			Just upstream of Interstate Highway 10 (Northbound Lanes).	*3,824
		Arroyo 2	Just upstream of Doniphan Road	*3,753

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

[illegible]	City/town/county	Source of flooding	Location	#Depth in [illegible] above ground. *Elevation in feet (NGVD)
			Just upstream of Service Road Interstate Highway 10 (Southbound).	*3,807
			Just upstream of Service Road Interstate Highway 10 (Northbound).	*3,814
			Just downstream of Thorn Dam	*3,848
			Just upstream of Thorn Dam	*3,891
			Just downstream of Lakehurst Road	*3,900
		Arroyo 2A	Just upstream of Lakehurst Road	*3,910
		Arroyo 3	Just downstream of Osborne Drive	*3,780
			Just upstream of Interstate Highway 10 (Northbound [illegible].	*3,804
		Arroyo 4	Just upstream of Doniphan Road	*3,745
			Just upstream of Interstate Highway 10 (Northbound Lanes).	*3,790
			Just downstream of Mesa Street	*3,880
			Just upstream of Mesa Street	*3,909
			Just downstream of North Wind Drive	*4,090
			Just upstream of North Wind Drive	*4,113
		Arroyo 5	Just downstream of Interstate Highway 10 (Southbound Lanes).	*3,765
			Just downstream of Mesa Street	*3,930
			Just downstream of Mesa Street	*3,971
		Arroyo 6	Just upstream of Doniphan Road	*3,745
			Just downstream of Delmar Avenue	*3,930
			Just upstream of Isabella Drive	*3,990
			Just upstream of Shadow Mountain Drive	*4,171
		Arroyo 6A	Just upstream of Thunderbird Drive	*4,382
		Arroyo 6B	Just upstream of Thunderbird Drive	*4,360
		Arroyo 7	Just downstream of Interstate Highway 10 (Southbound Lanes).	*3,789
			Just downstream of Mesa Street	*4,060
		Arroyo 8	Just upstream of Doniphan Road	*3,735
			Just downstream of Mesa Street	*4,040
			Just upstream of Mesa Street	*4,058
		Overland Flooding at Northwest of Arroyo 1—North of Mulberry [illegible]	At Achison Topeka and Santa Fe Railway	*3,749
		Ponding area West of Arroyo 1 Through Arroyo 8.	Just downstream of Frontera Road	*3,735
			Just upstream of Belva Road	*3,741
			Just downstream of Mulberry Avenue	*3,752
		Flow Path #11	Just downstream of East West Trail	*3,937
		Flow Path #13 (Drainage Channel #1).	Just upstream of U.S. Highway 54	*3,924
			Just upstream of McCombs Street	*3,957
			Just upstream of Rushing Drive	*3,969
			Just upstream of Kenworthy Drive	*4,037
		Flow Path #13A	Balinger Drive Extended	*4,003
		North East Pond	Donald Street	*3,919
		Flow Path #14 (Drainage Channel #2).	Just upstream of McCombs Street	*3,943
			Just upstream of McKinaw Drive	*3,965
			Just upstream of Rushing Drive	*3,970
			Just upstream of Sunvalley Drive	*4,077
		Flow Path #15	Hugg Street	[illegible]
			Just upstream of Wren Avenue	*3,[illegible]
			Just upstream of Fairbank's Drive	*3,934
		Flow Path #16	Just upstream of Hercules Avenue	*3,880
			Just upstream of Hondo Pass Drive	*3,886
		Flow Path #17 (McKelligon Canyon).	At the road to the Concrete Batch Plant	*4,262
			Just downstream of McKelligon Canyon Road (uppermost crossing before the confluence of Flow Path #17A.	*4,580
		Flow Path #17A (McKelligon Canyon Tributary).	Just upstream of McKelligon Canyon Road	*4,648
		Flow Path #18	Just downstream of U.S. downstream of U.S. Highway 85 (Paisano Drive).	*3,735
			Just upstream of U.S. Highway 85 (Paisano Drive)	*3,743
		Flow Path #19	Just upstream of Atchison Topeka, and Santa Fe Railway.	*3,739
		Flow Path #20	Just upstream of Atchison, Topeka and Santa Fe Railway.	*3,732
			Just upstream of Mesa Street (U.S. Highway 80)	*4,088
		Flow Path #20A	Just downstream of Interstate Highway 10	*3,840
			Just upstream of Interstate Highway 10	*3,847
			Just upstream of Mesa Street (U.S. Highway 85, 185)	*4,131
		Flow Path #21	Just upstream Atchison Topeka and Santa Fe Railway	*3,740
			Just upstream of Southern Pacific Railroad (Easternmost Track).	*3,778
			Just downstream of Mesa Street	*3,880
			Just upstream of Mesa Street	*3,908
		Flow Path #21A	Just upstream of Southern Pacific Railroad	*3,778
			Just downstream of Interstate Highway 10	*3,800
			Just upstream of Stanton Street	*4,098
		Flow Path #22	Just upstream of Van Buren Dam (Reservoir No. 1)	*4,123
			Just downstream of Mail Dam (Approximately 1,550 feet upstream of Reservoir No. 1).	*4,162

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just upstream of Mall Dam (Approximately 1,550 feet upstream of Reservoir No. 1).	*4,202
		Flow Path #23	Just downstream of Residential Street	*3,724
			Just downstream of University Avenue	*3,846
			Just upstream of University Avenue	*3,860
			Just downstream of Scenic Drive	*4,112
		Flow Path #24	Just upstream of La Luz Avenue	*3,744
			Just upstream of Bliss Avenue	*3,759
			Just upstream of Hasting Avenue	*3,780
		Flow Path #25	Just upstream of Alameda Avenue	*3,702
			Just upstream of Durazno Avenue	*3,705
		Flow Path #26 (Phelps Dodge)	At Phelps Dodge Detention Basin	*3,750
			Just upstream of Hawkins Boulevard	*3,772
		Flow Path #27 Playa Drain	Just upstream of Americas Avenue (State Highway 375).	*3,686
			Just upstream of Knights Drive	*3,671
			Just upstream of George Orr Road	*3,686
			Just downstream of Ascarate Wasteway	*3,688
			Just upstream of Ascarate Street	*3,690
		Flow Path #27A (Left Bank Lateral Street, Flow of Flow Path #27).	North of Alameda Avenue	*3,697
		Flow Path #28 (Mesa Drain and Interceptor).	Just downstream of Carl Longuemari Road	*3,662
			Just upstream of Pendale Drive	*3,673
			Just upstream of Yarbrough Drive	*3,683
			Just upstream of Butcher Road	*3,691
		Flow Path #28A (Mesa Drain Below Interceptor).	Just upstream of Americas Avenue	*3,695
			Just upstream of Ivey Road	*3,696
		Flow Path #29	Shallow Flooding, Sheet Flow along Phoenix Drive	#2
			Just upstream of Interstate Highway 10	*3,835
			Just upstream of Jugarberry Drive	*3,866
		Flow Path #30	Just upstream of Mauer Drive	*3,883
		Flow Path #31 (Jesuit Draw)	Just upstream of Ryland Drive	*3,720
			Just upstream of Burnham Road	*3,771
		Flow Path #32	Just upstream of Geranium Drive	*3,683
			Just upstream of Northbound Frontage Road of Interstate Highway 10.	*3,768
		Flow Path #32A	Confluence of Flow Path #32 and Flow Path #32A	*3,766
		Flow Path #33 (Middle Drain)	Just upstream of North Cames Road	*3,667
			Just upstream of Zaragosa Road	*3,670
		Middle Drain Below Interceptor	Just downstream of Inglewood Drive	*3,665
		Flow Path #36	Approximately 450 feet upstream of the confluence of Mesa Spur Drain and Flow Path #36.	*3,663
		Flow Path #37 (Franklin Drain)	Just upstream of Amencas Avenue	*3,664
			Just upstream of Carl Longuemare Road	*3,665
		Shallow Flooding along Franklin Drain (Below Flow Path #28, Mesa Drain and Interceptor).	Just downstream Unnamed Road (At the end of Carl Longuemare Road).	*3,660
		Ponding Area P1	At the Dirt Road	*3,939
		Ponding Area P2	Entire Area	*3,934
		Ponding Area P3	At Montana Street	*3,937
		Ponding Area P4	Entire Area	*3,965
		Ponding Area P5	Entire Area	*3,966
		Ponding Area P6	At Album Road	*3,945
		Ponding Area P7	At Edgemere Boulevard	*3,965
		Ponding Area P8	At Hitchlock Road	*3,966
		Ponding Area P9	At East Glen Drive	*3,964
		Ponding Area P10	At Pico Norte	*3,945
		Ponding Area P11	Entire Area	*3,965
		Ponding Area P12	Entire Area	*3,967
		Shallow Flooding Sheet Flow	East of Lee Trevino Drive and Ponding Areas P11 and P12.	#2
		Ponding Area P13	Entire Area	*3,963
		Ponding Area P14	Entire Area	*3,964
		Ponding Area P15	Entire Area	*3,974
		Ponding Area P16	At Zaragosa Road	*4,003
		Lomaland Basin	Entire Area	*3,683
		*Overflow from Reservoir 1	At Mountain Avenue	#2
		Shallow Flooding, East Bank of Juan De Herrera Lateral Branch "B".	Entire	*3,668
		Shallow Flooding, West Bank of Ysleta Lateral.	At America's Avenue	*3,665
		Shallow Flooding, West of Flow Path #27 (Playa Drain).	Bernadine Avenue	*3,677
		Shallow Flooding, West of Flow Path, #28 (Mesa Drain and Interceptor).	At Oro Verde	*3,664
		Playa Lateral	Approximately 300 feet Southwest of Zaragosa Road	*3,662

Maps available for inspection at City Engineer's Office, City Hall, #2 Civic Center Plaza, El Paso, Texas 79901.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: June 8, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-17825 Filed 7-1-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base (100-year) flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Federal Emergency Management Agency, National Flood Insurance Program, (202) 287-0230, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR Part 67. An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Agency has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The final base (100-year) flood elevations for selected locations are:

FINAL BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	‡Depth in feet above ground. *Elevation in feet (NGVD)
Connecticut	Plymouth, town, Litchfield County (Docket No. FEMA-6079).	Pequabuck River	Downstream corporate limits	*508
			Conrail (upstream)	*555
			U.S. Routes 6 and 202 (upstream)	*566
			Eagle Street (downstream)	*630
			Dam (upstream)	*668
			Preston Road (downstream)	*739
		Poland River	Confluence with Pequabuck River	*589
			North Main Street (upstream)	*603
			State Route 72 (upstream)	*662
			Dam (downstream)	*686
		Naugatuck River	Leadmine Road—extended (upstream)	*496
	Maps available for inspection at the Plymouth Town Hall, Department of Planning, Zoning and Public Works, 19 East Main Street, Terryville, Connecticut.			
Florida	Lantana (town), Palm Beach County, FEMA-6247	Atlantic Ocean—open coast	Approximately 520 feet east of the intersection of State Highway A1A and East Ocean Avenue.	*10
		Atlantic Ocean—Lake Worth	Eastern end of Naomi circle	*9
			Intersection of Prospect Road and Lakeside Place	*8
			Intersection of South Atlantic Drive West and South Atlantic Drive East.	*8
			Intersection of Atlantic Drive West and Barefoot Lane	*7
	Maps available for inspection at Town Hall, Greynolds Circle, Lantana, Florida.			
Florida	Pahokee (city), Palm Beach County, FEMA-6247	Lake Okeechobee	Approximately 900 feet west of the intersection of 14th Terrace and State Highway 715.	*28
			Approximately 700 feet north of the intersection of Pahokee Road and Barfield Highway.	*26
	Maps available for inspection at Building Department, 171 N. Lake Ave., Pahokee, Florida.			

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Florida	Palm Beach County (unincorporated areas),	Atlantic Ocean—open coast	Approximately 550 feet east of the intersection of Del Habour Drive and Ocean Boulevard.	*10
		Atlantic Ocean—Intracoastal Waterway.	Intersection of Harbor Road and Harbor Road South	*7
			Eastern end of Palm Court	*8
			Southern end of Waterway Road	*6
		Atlantic Ocean—Lake Worth and Little Lake Worth.	Intersection of Captains Landing and Captan's Key Drive.	*7
			Northern end of Lake Shore Place	*8
			Intersection of Lost Tree Way and Church Lane	*7
		Atlantic Ocean—Loxahatchee River (including north, northwest, and southwest forks).	Intersection of North Drive and Reverside Boulevard	*8
			Southern end of Holly Lane	*7
			Intersection of Woodridge Terrace and Center Street.	[illegible]
		Lake Okeechobee	Approximately 2,000 feet west of intersection of Hooker Highway and Herbert Hoover Dike.	[illegible]
	Maps available for inspection at Planning, Building & Zoning Department, 810 Datuna Street, West Palm Beach, Florida.			
Idaho	Idaho Falls (city), Bonneville County, FEMA-6247	Snake River	Crest of lower power dam	*4,677
	Maps available for inspection at Mayor's Office, 308 C Street, Idaho Falls, Idaho.			
[illegible]	(V) Beecher, Will County (Docket No. FEMA-6243)	Trim Creek tributary	About 1,200 feet downstream of Indiana Avenue	*701
			Just upstream of Church Road.	*726
		Trim Creek	Within community	*696
	Maps available for inspection at the Clerk's Office, Municipal Building, 724 Penfield Street, Beecher, Illinois.			
Illinois	(C) East Moline, Rock Island County (Docket No. FEMA-6243)	Mississippi River	About 0.38 mile downstream of the downstream corporate limits.	*572
			At the upstream corporate limits	*574
		Rock River	Southeast of State Route 2	*577
		Shallow flooding (ponding due to [illegible].	An area within the Sugar Creek Levee from the 4th Avenue bridge to the mouth of the creek.	*569
			An area about 3,500 feet southwest of mouth of Sugar Creek, along Mississippi River levee.	*570
			An area northeast of 4th Avenue bridge over Sugar Creek.	*573
			An area southeast of the intersection of 7th Street and 5th Avenue.	*574
	Maps available for inspection at the Public Works Department, City Hall Annex, East Moline, Illinois.			
Illinois	(V) Manhattan, Will County (Docket No. FEMA-6247)	Manhattan Creek	Just downstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*666
			Just downstream of Eastern Avenue	*680
	Map available for inspection at the Village Hall, 245 State Street, Manhattan, Illinois.			
Illinois	(V) McHenry Shores, McHenry County (Docket No. FEMA-6247)	Fox River	Within corporate limits	*740
	Maps available for inspection at the McHenry Shores Village Hall, 3215 West Beach Drive, McHenry, Illinois.			
Indiana	(T) Griffith, Lake County (Docket No. FEMA-6247)	Little Calumet River	Within corporate limits	*598
		Cady Marsh ditch	Just upstream of Cline Avenue	*614
			Just downstream of Colfax Street	*615
		Seberger ditch	Within corporate limits	*629
		Turkey Creek	Within corporate limits	*631
	Maps available for inspection at the Town Hall, 111 North Broad Street, Griffith, Indiana.			
Indiana	(Uninc.) Hancock County (Docket No. FEMA-6247)	Little Sugar Creek	About 2,500 feet downstream of County Road 600 South.	[illegible]
			Just Upstream of County Road 600 South	*807
			Just upstream of U.S. Route 52	*822
			Just downstream of County Road 200 South	*847
		Sugar Creek	Just upstream of County Road 600 South	*794
			About 200 feet upstream of County Road 300 South	*812
			Just upstream of U.S. Route 40	*827
			Just upstream of State Route 13	*856
			Just downstream of State Route 234	*871
		Six Mile Creek	Mouth at Big Blue River	*844
			About 400 feet upstream of County Road 800 East	*846
			Just downstream of County Road 1,000 West (upstream crossing).	[illegible]
		Buck Creek	Just upstream of County Line Road	[illegible]
			Just downstream of Conrail	*827
			Just upstream of Conrail	[illegible]
			Just upstream of State Route 234	[illegible]
		Big Blue River	About 1.1 miles downstream of County Road 575 East	[illegible]
			Just downstream of County Road 1000 West	*851
		Brier Creek	Just upstream of County Line Road	[illegible]
			About 2300 feet upstream of County Road 700 West	[illegible]
		Doe Creek	Just upstream of County Line Road	[illegible]

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just upstream of County Road 700 West	*634
			About 2250 feet upstream of County Road 200 South	*644
Maps available for inspection at the Hancock County Courthouse, Surveyor's Office, Greenfield, Indiana.				
Indiana	(T) Highland, Lake County (Docket No. FEMA-6247)	Little Calumet River	Just upstream of Cline Avenue	*598
			At upstream corporate limits	*598
		Cady Marsh ditch	At confluence of Spring Street Ditch	*607
			Just downstream of Cline Avenue	*614
		Hart ditch	At mouth at Little Calumet River	*598
			At confluence of Cady Marsh ditch	*607
		Spring Street Ditch	About 200 feet upstream of mouth at Cady Marsh ditch	*612
			Just downstream of Hart Road	*614
			Just downstream of Main Street	*622
Maps available for inspection at the Town Hall, 3333 Ridge Road, Highland, Indiana.				
Indiana	(T) Mooresville, Morgan County (Docket No. FEMA-6246)	White Lick Creek	At downstream extraterritorial limits	*650
			Just upstream of State Highway 67	*667
			Just upstream of Greencastle Road	*671
			Just downstream of county line road	*678
		East fork White Lick Creek	At mouth	*661
			Just upstream of High Street	*666
			Just upstream of Bridge Street	*670
			At upstream county boundary	*679
Maps available for inspection at the Town Hall, 26 South Indiana, Mooresville, Indiana.				
Indiana	(T) Rome City, Noble County (Docket No. FEMA-6247)	Branch Creek	At western extraterritorial limits	*890
			At confluence of Little Lake	*895
		Little Lake	Shoreline	*895
		Sylvan Lake	Shoreline	*918
Maps available for inspection at the Town Hall, 123 Kerr Avenue, Rome City, Indiana.				
Indiana	(Uninc.) Shelby County (Docket No. FEMA-6247)	Little Sugar Creek	Mouth at Sugar Creek	*783
			Just downstream of County Road 1200	*805
			About 4,300 feet upstream of County Road 300 West	*813
		Snail Creek	Mouth at Sugar Creek	*738
			Just upstream of County Road 400 North	*763
			Just upstream of County Road 400 West	*784
			About 3,600 feet upstream of confluence of Sexton Ditch	*790
		Snodgrass ditch	Mouth at Snail Creek	*790
			About 1,500 feet upstream of confluence of Duckworth Ditch	*799
		Dry fork	Mouth at Snail Creek	*743
			Just downstream of Conrail	*775
			Just upstream of Conrail	*781
			Just downstream of Frontage Road (downstream of Interstate 74)	*789
			About 0.19 mile upstream of County Road 800 North	*791
		Sugar Creek	About 1.9 miles downstream of Mill Dam	*734
			Just upstream of Interstate 74	*770
			Just downstream of County Road 1200 North	*794
		Brandywine Creek	About 0.3 mile downstream of County Road 300 North	*761
			Just upstream of Interstate 74	*775
			Just upstream of County Road 750 North	*803
			About 0.4 mile upstream of Chessie System	*631
		Big Blue River	About 1.0 mile upstream of State Route 44	*729
			About 1.0 mile upstream of Morristown Road	*779
			About 0.7 mile downstream of Freeport Dam	*814
			At upstream county boundary	*832
		Little Blue River	About 1.4 miles downstream of Interstate 74	*765
			Just downstream of Interstate 74	*775
Maps available for inspection at the Planning Commission Office, Shelby County Courthouse, Shelbyville, Indiana.				
Iowa	(C) Bellevue, Jackson County (Docket No. FEMA-6243)	Mississippi River	About 0.7 mile downstream of lock and dam No. 12	*602
			About 0.6 mile upstream of lock and dam No. 12	*603
		Mill Creek	About 150 feet upstream of the Chicago, Milwaukee, St. Paul and Pacific Railroad	*602
			About 1,250 feet upstream of the Chicago, Milwaukee, St. Paul and Pacific Railroad	*603
			About 2,400 feet downstream of State Highway 62	*616
			About 200 feet downstream of State Highway 62	*626
			About 1,300 feet upstream of State Highway 62	*629
Maps available for inspection at the City Hall, Bellevue, Iowa.				
Iowa	(C) Greene, Butler County (Docket No. FEMA-6243)	Shell Rock River	About 3,750 feet downstream of Traer Street dam	*955
			About 100 feet downstream of Traer Street dam	*956
			About 250 feet upstream of Traer Street dam	*956
			About 650 feet upstream of State Highway 14	*960
		Shell Rock River overflow channel	About 650 feet downstream of Main Street	*955
			About 400 feet upstream of Main Street	*958
			About 1,200 feet upstream of Iowa Street	*959

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the City Hall, 123 North Second, Greene, Iowa.				
Iowa	(C) Manchester, Delaware County (Docket No. FEMA-6243)	Maquoketa River	At downstream corporate limits	*920
			Just upstream of West Marion Street	*932
			About 200 feet upstream of West Marion Street	*933
			About 1.9 miles upstream of West Marion Street	*936
		Tributary A	At mouth	*920
			Just upstream of South Brewer Street	*922
			Just upstream of East Main Street	*937
			Just downstream of East Union Street	*943
			About 1,900 feet upstream of East Acers Street	*952
Maps available for inspection at the City Hall, 208 East Main Street, Manchester, Iowa.				
Maryland	Highland Beach, town, Anne Arundel County (Docket No. FEMA-6247)	Chesapeake Bay	Entire shoreline within community	*10
Maps available for inspection by contacting Mr. Chester Pearson, Highland Beach Commissioner, at (202) 547-3742. Send comments to Honorable Chester Pearson.				
Maryland	Poolesville, town, Montgomery County (Docket No. FEMA-6243)	Dry Seneca Creek	Downstream corporate limits	*327
			Approximately 2,600' upstream of downstream corporate limits	*337
			Upstream corporate limits	*367
Maps available for inspection at the Town Hall, Poolesville, Maryland.				
Michigan	(Twp.) Albion, Calhoun County (Docket No. FEMA-6247)	South branch Kalamazoo River	About 2.1 miles downstream of D Drive South	*946
			Just downstream of H Drive South	*955
			Just downstream of L Drive South	*962
		East branch Kalamazoo River	About 3,800 feet downstream of 29½ Mile Road	*943
			About 3,900 feet upstream of 29½ Mile Road	*948
		Unnamed creek	About 2,800 feet downstream of 29½ Mile Road	*948
			Just upstream of 29½ Mile Road	*954
			About 2,650 feet upstream of 29½ Mile Road	*956
Maps available for inspection at the Town Hall, Albion, Michigan.				
Michigan	(C) Eaton Rapids, Eaton County (Docket No. FEMA-6247)	Grand River	About 1.0 mile downstream of confluence of Grand River bypass.	*866
			Just downstream of State Street Dam	*870
			About 1,300 feet upstream of State Street Dam	*873
			At upstream southern corporate limit	*875
		Grand River bypass	Just upstream of Knight Street	*870
			Just upstream of Main Street	*872
		Spring Brook	About 1,500 feet upstream of footbridge	*871
			About 2,600 feet upstream of footbridge	*872
		Shallow flooding (overflow from Grand River and Grand River bypass).	Intersection of Main Street and Hamlin Street	*2
Maps available for inspection at the City Hall, 206 South Main Street, Eaton Rapids, Michigan.				
Michigan	(C) Mason, Ingham County (Docket No. FEMA-6247)	Sycamore Creek	About 1,200 feet downstream of Howell Road	*874
			Just upstream of Cemetery Drive	*879
			Just upstream of Maple Street	*888
			Just downstream of Kipp Road	*894
		Rayner Creek	At confluence with Sycamore Creek	*876
			Just upstream of Rogers Street	*880
			Just upstream of Columbia/Matthews Street	*884
			About 1,300 feet upstream of Matthews Street	*884
		Willow Creek	At confluence with Sycamore Creek	*891
			About 3,000 feet upstream of U.S. Highway 127	*893
Maps available for inspection at the City Hall, 201 West Ash Street, Mason, Michigan.				
Michigan	(Twp.) Pennfield, Calhoun County (Docket No. FEMA-6247)	Battle Creek River	About 850 feet upstream of Verona Dam	*800
			Just upstream of McAllister Road	*839
Maps available for inspection at the Town Hall, 20260 Capital Avenue, N.E., Battle Creek, Michigan.				
Michigan	(Twp.) Summit, Jackson County (Docket No. FEMA-6247)	McCain drain	About 1,800 feet downstream of State Highway 60	*956
			About 2,300 feet upstream of Spring Arbor Road	*963
		Grand River	About 2,100 feet upstream of Losey Avenue	*935
			About 4,600feet downstream of Stonewall Road	*940
			Just downstream of Stonewall Road	*945
			About 4,600 feet upstream of Glenshire Drive	*948
		Peterson Lake drain	Mouth at Grand River	*947
			Just upstream of Badgley Road	*950
			About 2,395 feet upstream of Horton Road	*952
			Just upstream of abandoned railroad bridge	*968
			About 1,600 feet upstream of Voorman Road	*970
		Finton Lake	Shoreline	*960
		Vandercook Lake	Shoreline	*949
		Brown Lake	Shoreline	*948
Maps available for inspection at the Town Hall, 2121 Ferguson Road, Jackson, Michigan.				
Nebraska	(C) Crete, Saline County (Docket No. FEMA-6243)	Big Blue River	About 2.5 miles downstream of State Highway 33	*1,346
			Just upstream of Burlington Northern Railroad	*1,357
			About 1.9 miles upstream of Tuxedo Park Road	*1,360

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Walnut Creek	At mouth	*1,358
			Just downstream of Boswell Avenue	*1,358
			Just upstream of Boswell Avenue	*1,363
			About 7,500 feet upstream of Boswell Avenue	*1,377
Maps available for inspection at the City Hall, 243 East 13th, Crete, Nebraska.				
Nebraska	(V) DeWitt, Saline County (Docket No. FEMA-6247)	Big Blue River	About 5,000 feet downstream of Chicago, Rock Island and Pacific Railroad.	*1,286
			Just feet upstream of Chicago, Rock Island and Pacific Railroad.	*1,292
			About 15,700 feet upstream of Fillmore Avenue	*1,296
		Turkey Creek	About 4,200 feet downstream of Chicago, Rock Island and Pacific Railroad.	*1,288
			About 3,500 feet upstream of Burlington Northern Railroad.	*1,299
		Big Blue River overflow	At Chicago, Rock Island and Pacific Railroad	*1,290
			At Burlington Northern Railroad	*1,292
Maps available for inspection at the City Hall, 406 East Fillmore, DeWitt, Nebraska.				
Nebraska	(C) Omaha, Douglas County (Docket No. FEMA-6216)	Missouri River	At southern county boundary	*978
			About 0.4 mile downstream of Illinois Central Gulf Railroad.	*985
			At northern county boundary	*995
		Big Papillion Creek	About 200 feet downstream of Harrison Street	*1,001
			Just downstream of F Street	*1,015
			Just upstream of Interstate 80	*1,022
			Just downstream of 105th Street	*1,032
			Just downstream of Blondo Street	*1,045
			About 1.1 miles upstream of State Street	*1,082
		Rockbrook Creek	About 1,900 feet downstream of 105th Street	*1,030
			Just downstream of 105th Street	*1,042
			Just upstream of 105th Street	*1,051
			Just downstream of Interstate 680 Ramp	*1,069
		Little Papillion Creek	At mouth	*1,009
			About 175 feet downstream of Union Pacific Railroad	*1,013
			About 300 feet upstream of Union Pacific Railroad	*1,021
			Just upstream of Dodge Street	*1,040
			Just downstream of Fort Street	*1,075
			About 900 feet upstream of State Street	*1,088
		Cole Creek	At mouth	*1,041
			Just downstream of Western Avenue	*1,050
			Just upstream of Western Avenue	*1,055
			Just downstream of Blondo Street	*1,067
			Just upstream of Blondo Street	*1,074
			Just downstream of Maple Street	*1,075
			Just upstream of Maple Street	*1,083
			Just downstream of Military Avenue	*1,093
			Just upstream of Military Avenue	*1,102
			About 1,900 feet upstream of Ames Avenue	*1,110
			Just downstream of Redick Avenue	*1,143
		Thomas Creek	At mouth	*1,060
			Just downstream of Interstate 680	*1,096
			Just upstream of Interstate 680	*1,102
			Just upstream of Bennington Road	*1,151
			At northern county boundary	*1,194
		Hell Creek	Just upstream of Harrison Street	*1,055
			Just downstream of Interstate 80	*1,071
			Just upstream of Interstate 80	*1,080
			Just upstream of Q Street	*1,087
			Just downstream of L Street	*1,087
			Just upstream of L Street	*1,098
			Just downstream of West Center Road	*1,126
			Just upstream of West Center Road	*1,137
			Just downstream of Pacific Street	*1,161
		West Papillion Creek	Just upstream of Harrison Street	*1,044
			Just upstream of 156th Street	*1,077
			Just upstream of Pacific Street	*1,095
			About 1.0 mile upstream of 168th Street	*1,120
		Boxelder Creek	At mouth	*1,071
			Just downstream of 168th Street	*1,101
			About 0.5 mile downstream of 180th Street	*1,116
		North branch West Papillion Creek	At mouth	*1,110
			Just downstream of 168th Street	*1,139
			About 0.34 mile upstream of State Street	*1,164
		Ponca Creek	At mouth	*[illegible]
			Just downstream of Pershing Drive	*1,002
			Just upstream of Pershing Drive	*1,007
			Just downstream of 36th Street	*1,022
			Just upstream of 36th Street	*1,032
			Just downstream of private drive (near Calhoun Road)	*1,051
			Just upstream of private drive (near Calhoun Road)	*1,061
			Just downstream of Calhoun Road	*1,062
Maps available for inspection at the City Planning Department, Omaha/Douglas Civic Center, 1819 Farnham Street, Omaha, Nebraska.				
New Jersey	Ridgefield Park, village, Bergen County (Docket No. FEMA-6243)	Hackensack River	Entire shoreline	*9
		Overpeck Creek	Entire shoreline	*[illegible]
Maps available for inspection at the Municipal Building, 234 Main Street, Ridgefield Park, New Jersey.				

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
New Jersey	Stockton, borough, Hunterdon County (Docket No. FEMA-6246)	Delaware River	Downstream corporate limits	*78
			Bridge Street (upstream side)	*78
			Upstream corporate limits	*84
		Brookville Creek	Confluence with Delaware and Raritan Canal	*78
			Upstream of dam approximately 520' upstream of State Route 29.	*91
			Upstream corporate limits	*143
		Wickecheoke Creek	Confluence with Delaware and Raritan Canal	*84
			State Route 29 (upstream side)	*84
			Upstream corporate limits	*88
	Maps available for inspection at the Municipal Building, Main Street, Stockton, New Jersey.			
New York	Bellport, village, Suffolk County (Docket No. FEMA-6247)	Great South Bay	Mott Drive extended to Brookside Avenue extended	*5
			Brookside Avenue extended to southwest corporate limits.	*5
	Maps available for inspection at the Village Office, 144 South Conventry Road, Bellport, New York.			
New York	Fultonville, village, Montgomery County (Docket No. FEMA-6247)	Mohawk River	Downstream corporate limits (extended)	*287
			Upstream corporate limits (extended)	*291
	Maps available for inspection at the Village Hall, Fultonville, New York.			
New York	Marathon, village, Cortland County (Docket No. FEMA-6224)	Tioughnioga River	Downstream corporate limits	*1,012
			Upstream corporate limits	*1,023
	Maps available for inspection at the Village Office, Four Main Street, Marathon, New York.			
Ohio	(C) Cincinnati, Hamilton County (Docket No. FEMA-6243)	Ohio River	Just upstream of confluence of Muddy Creek	*493
			About 2.0 miles upstream of confluence of Little Miami River.	*502
		Little Miami River	Within community	*501
		Muddy Creek	Within community	*493
		Mill Creek	Just upstream of confluence with Ohio River	*497
			Just downstream of barrier dam (near Eighth Street)	*497
			Just upstream of barrier dam (near Eighth Street)	*481
			Just downstream of Old Ludlow Avenue	*491
			At confluence of East Fork Mill Creek	*539
		East fork Mill Creek	At upstream corporate limits	*540
		West fork	At confluence with Mill Creek (near Gerringer Street)	*485
			About 450 feet upstream of Powers Street	*493
			Just upstream of southbound Beekman Avenue (near Colerain Avenue).	*508
			Just downstream of West Fork Road	*522
			At confluence of McFarland Creek	*565
		Clough Creek	At confluence with Little Miami River	*501
			About 1.75 miles upstream of Beechmont Avenue	*553
		Duck Creek	At confluence with Little Miami River	*501
			Just upstream of Conrail (about 0.8 mile upstream of Wooster Road)	*505
			Just downstream of Red Bank Road	*517
			Just upstream of Chessie System	*537
			About 450 feet downstream of Duck Creek Road	*549
		Congress Run	At confluence with Mill Creek	*520
			About 700 feet upstream of Ridgeway Avenue	*542
			About 620 feet downstream of Ridgeview Drive	*587
			About 100 feet upstream of Ridgeview Drive (at corporate limits).	*622
	Maps available for inspection at the Division of Engineering, City Hall, 801 Plum Street, Cincinnati, Ohio.			
Ohio	(V) Empire, Jefferson County (Docket No. FEMA-6247)	Ohio River	Just downstream of confluence of Jeremy Run	*678
			At upstream corporate limits	*679
	Maps available for inspection at the Mayor's Office, Town Hall, Empire, Ohio.			
Ohio	(V) Stratton, Jefferson County (Docket No. FEMA-6247)	Ohio River	At downstream corporate limit	*679
			At upstream corporate limit	*680
	Maps available for inspection at the Mayor's Office, Town Hall, Third Street, Stratton, Ohio.			
Ohio	(V) Tiltonsville, Jefferson County (Docket No. FEMA-6247)	Ohio River	At downstream corporate limits	*663
			At upstream corporate limits	*663
	Maps available for inspection at the Mayor's Office, Town Hall, Grandview and Market Streets, Tiltonsville, Ohio.			
Ohio	(V) Yorkville, Belmont and Jefferson Counties (Docket No. FEMA-6247)	Ohio River	Just downstream of confluence of Patton Run	*662
			About 0.8 mile upstream of Pike Island lock and dam	*663
		Deep Run	At mouth	*662
			Just downstream of State Route 7	*662
	Maps available for inspection at the President's Office, Town Hall, 324 Market Street, Yorkville, Ohio.			
Utah	Utah County (unincorporated areas), FEMA-6247	Utah Lake	Intersection of 7300 North and 8000 West	*4,495
			Approximately 1,000 feet west of the intersection of Geneva Road and 5200 North.	*4,495
			Intersection of 4800 West and 5400 South	*4,496
			Intersection of Interstate Highway 15 and 2400 South	*4,496

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Dry Creek	Eastern side of 8000 West over the channel	*4,622
			State Highway 80 over the channel	*4,770
		American Fork River	4800 West over the channel	*4,901
		Hobble Creek	Upstream side of Mapleton Drive over the channel	*4,816
		Jordan River	Approximately 1,000 feet east of the intersection of Cedar Fort Road and 10400 West.	*4,494
		Provo River	Downstream side of State Highway 78 over the channel	*4,692
Maps available for inspection at Office of the County Engineer, County Building, 115 S. University Ave., Room 112, Provo, Utah.				
Virginia	Tangier, town, Accomack County (Docket No. FEMA-6247)	Chesapeake Bay	Entire shoreline within community	*6
		Tangier north channel	Entire shoreline within community	*6
		Tangier Sound	Entire shoreline within community	*6
Maps available for inspection at the Municipal Building, Tangier, Virginia.				
Wisconsin	(C) Chilton, Calumet County (Docket No. FEMA-6247)	South branch Manitowoc River	About 0.32 mile downstream of East Main Street	*842
			Just downstream of dam (about 0.02 mile downstream of State Street).	*850
			Just upstream of State Street	*887
			About 1.11 miles upstream of State Street	*890
Maps available for inspection at the Office of the City Clerk, City Hall, 42 School Street, Chilton, Wisconsin.				

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: June 8, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-17626 Filed 7-1-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base (100-year) flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Federal Emergency Management Agency, National Flood Insurance Program, (202) 287–0230, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 67. An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Agency has developed criteria for flood plain management in floodprone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The final base (100-year) flood elevations for selected locations are:

FINAL BASE (100YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
California	Costa Mesa (city), Orange County (FEMA-5944)	Santa Ana River	Swan Drive between Sandpiper Drive and Albatross Drive.	*16
			Intersection of Albatross Drive and Adams Avenue	*19
			Intersection of South Coast Drive and Harbor Boulevard.	*32
			Begonia Avenue	*32
	Maps available for inspection at Planning Department, City Hall, Costa Mesa, California.			
California	Garden Grove (city), Orange County (FEMA-5944)	Santa Ana River	Intersection of Westminster Avenue and Taft Street	#3
			Intersection of Trask Avenue and Lilly Street	*104
			Intersection of Garden Grove Boulevard and Fairview Street	#1
			Intersection of Oertly Drive and Willowood Avenue	*121
			Intersection of Trask Avenue and Haverwood Drive	#2
			Intersection of Harbor Boulevard and Flagstone Avenue.	#3
	Maps available for inspection at Public Works, 11391 Arcacia Parkway, Garden Grove, California.			
California	Hercules (city); Contra Costa County (FEMA-6143)	Refugio Creek	100 feet upstream from centerline of Southern Pacific Railroad.	*0
			Confluence with West Branch Refugio Creek	*38
			100 feet upstream from centerline of C Street	*81
			100 feet upstream from centerline of Redwood Road	*175
		West Branch Refugio Creek	100 feet downstream from centerline of San Pablo Avenue.	*32
			125 feet upstream from centerline of Interstate Highway 80.	*52
		East Branch Refugio Creek	350 feet downstream from centerline of Interstate Highway 80.	*30
			150 feet upstream from Interstate Highway 80 off ramp to Willow Avenue.	*38
		Pinole Creek	800 feet west from intersection of Hercules Avenue and Baccus Avenue.	*9
	Maps available for inspection at City Hall, 555 Railroad Avenue, Hercules, California.			
California	Westminster (city), Orange County (FEMA-5938)	Santa Ana River	Carnation Drive	#3
			Parkview Avenue	#3
			Carnegie Avenue	#3
	Maps available for inspection at City Hall, Westminster, California.			
Montana	Beaverhead County (unincorporated areas) (FEMA-6197).	Beaverhead River	Intersection of Beaverhead River and center of Interstate Highway 15.	*5,077
		Sheetflow	800 feet northwest from the confluence of Stodden Ditch and Beaverhead River.	#1
		Beaverhead River Overbank	50 feet upstream from center of Webster Lane	*5,084
		Blacktail Deer Creek	30 feet upstream from center of Interstate Highway 15 Access.	*5,072
		Junction Creek	Intersection of Junction Creek and center of Union Pacific Railroad.	*6,331
		Junction Creek Overbank	At the confluence of Junction Creek Overbank and Alder Creek.	*6,285
		Sheetflow	200 feet southwest from intersection of Union Pacific Railroad and Junction Creek.	#1
		Selway Slough	Intersection of Selway Slough and center of Schular Lane.	*5,044
		Stodden Slough	At the confluence of Stodden Slough and Stodden Ditch.	#1
	Maps available for inspection at Planning Department, Beaverhead County Courthouse, Dillon, Montana.			

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective january 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: June 7, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-17627 Filed 7-1-82; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 83, and 87

[Gen. Docket No. 81-696; FCC 82-257]

Frequencies Available for Aeronautical Radionavigation and Maritime Mobile Communications

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: These rule changes allocate more spectrum space for the Aeronautical Radionavigation and Maritime Mobile services. The rules adopted permit assignment of frequencies in the band 435–490 kHz to Government aeronautical radiobeacon stations and the broadcast of urgent navigational and meteorological warnings by U.S. Coast Guard stations. The rapid increase in the number and greater distance offshore of the oil drilling rigs has placed a requirement for additional aeronautical radiobeacons for helicopter operations. The World Administrative Radio Conference, 1979, recommended that administrations select a frequency on a world-wide basis for transmission of navigational and meteorological warnings by coast stations. The United States designates the frequency 518 kHz for this purpose. These changes will improve the safety of aircraft and ships by improving the communications and the available aids to navigation.

EFFECTIVE DATE: July 19, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nicholas G. Bagnato, Private Radio Bureau, (202) 632–7175.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 2

Treaties, Allocations.

47 CFR Part 83

Ship stations, Telegraph.

47 CFR Part 87

Aeronautical stations.

In the matter of amendment of Parts 2, 83 and 87 to make frequencies in the band 415–435 kHz available for aeronautical radionavigation, to add a footnote permitting assignments to the aeronautical radionavigation service in the band 435–490 kHz, to designate 518 kHz for transmission of meteorological and navigational warnings, and to add Maritime Mobile (ships) as a primary service in the band 510–525 kHz.

Report and Order; Proceeding Terminated

Adopted: June 7, 1982.

Released: June 11, 1982.

1. In the Report and Order we are making more spectrum space available to aeronautical radiobeacons and providing a discrete frequency for broadcast of urgent navigational and meteorological warnings to ships.

Background

2. *Aeronautical Radiobeacons:* Radiobeacons in the band 190–525 kHz are normally operated by the U.S. Government. However, authorizations may be made by the Commission for non-Government operation of navigation aids in this band. Such authorizations are subject to coordination between the Commission and the Government agencies concerned. A special showing is required of need for service which the Government is not prepared to provide. For example, the Commission often licenses private radiobeacons at an offshore platform used by a private company.

3. *Warnings to ships:* The World Administrative Radio Conference, 1979, recommended that administrations consider designating one frequency in the bands 435–495 kHz or 505–525.5 kHz on a worldwide basis for narrow-band direct-printing telegraphy transmissions by coast stations of navigational and meteorological warnings to ships. Some administrations have designated 518 kHz for this purpose.[1] In the U.S. the band 510–525 kHz is currently used primarily for aeronautical radionavigation (radiobeacons).

4. *Government Request:* The Interdepartment Radio Advisory Committee (IRAC) of the National Telecommunications and Information Agency (NTIA) requested changes to the national Table of Allocations as follows:

a. In the band 415–435 kHz add Aeronautical Radionavigation as a primary service shared equally with Maritime Mobile as a primary service;

b. In the band 435–490 kHz add a US footnote permitting assignments to the Government Aeronautical Radionavigation service. This allocation will permit greater flexibility in the assignment of radiobeacons for Government stations where the Government station can accept the conditions specified in the footnote (secondary and no voice); and

c. In the band 510–525 kHz add Maritime Mobile as a primary service shared equally with Aeronautical Radionavigation as a primary service. Maritime Radionavigation (radiobeacons) as a secondary service is to be deleted since the maritime radionavigation would be incompatible with the proposed use of 518 kHz. A new US footnote is added to define the use of 518 kHz for U.S. Coast Guard stations to broadcast urgent navigational and meteorological warnings to ships using narrow-band direct-printing telegraphy.

Notice of Proposed Rule Making

5. In response to IRAC's request, the Commission released a Notice of Proposed Rule Making[2] proposing (1) to make more spectrum space available for aeronautical radionavigation beacons through sharing with maritime mobile in the existing bands, (2) to add new footnotes to the Table of Frequency Allocations which defines the use of 518 kHz for broadcast of urgent navigational and meteorological warnings and to define the procedures for making assignments to aeronautical radionavigation stations and (3) to amend the Table of Frequency Allocations to make maritime mobile a primary service and delete maritime radionavigation (radiobeacons) as a secondary service in the band 510–525 kHz.

Comments

6. Comments were filed by the following organizations:

a. The Aircraft Radio and Control Division of Cessna Aircraft Company;

b. The Southern Avionics Company; and

c. The Aircraft Owners and Pilots Associations.

All of the above organizations supported the Commission's proposal and urged its adoption.

Commission Action

7. The commenters affirmed the requirement for additional spectrum for radiobeacons in the aeronautical service and strongly endorsed the proposed rule changes. These changes would reduce frequency congestion, optimize the use of the frequencies available for aeronautical navigation and help meet the high demand for radiobeacon assignments at small airports. No opposition was received concerning the designation of 518 kHz as the single frequency in the MF band for the

[1] Docket No. 80-184, FCC 81-573, Released January 8, 1982. 47 FR 1022.

[2] Docket No. 81-696, FCC 81-432, released October 8, 1981. 46 FR 51784.

broadcast of urgent navigational and meteorological information.

8. We conclude it is in the public interest to provide additional spectrum for aeronautical radiobeacons and to designate the frequency 518 kHz for the broadcasting of urgent navigational and meteorological information. Therefore, we are amending §§ 2.106, 83.316 and 87.501 as proposed.

9. The adopted rules primarily pertain to the use of the spectrum for radionavigation and safety communications by ships and aircraft. In most cases, these rules will provide a marginal basis for improvement in the availability of navigation aids and meteorological information. Therefore, the Commission has determined that sections 603 and 604 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) do not apply to this rulemaking proceeding, because the rules will not, if promulgated, have a significant economic impact on a substantial number of small entities.

10. Regarding questions on matters covered in this document contact Nicholas G. Bagnato at (202) 632–7175.

11. Accordingly, it is ordered, That pursuant to the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, Parts 2, 83 and 87 of the Commission's rules are amended, as set forth in the attached Appendix, effective July 19, 1982.

12. It is further ordered, That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Parts 2, 83 and 87 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

Section 2.106, the Table of Frequency Allocations is revised and new footnotes US 231 and US 232 are added to read as follows:

§ 2.106 Table of frequency allocations.

* * * * *

FEDERAL COMMUNICATIONS COMMISSION

Band (kHz)	Service	Class of station	Frequency (kHz)	Nature of services of stations
7	8	9	10	11—
*	* *	* *	*	* *
415–435	AERONAUTICAL RADIO-NAVIGATION.	Radionavigation land		AERONAUTICAL RADIO-NAVIGATION.
	MARITIME MOBILE. (186)	Coast. Ship		MARITIME MOBILE. (telegraphy).
435–490 (US 231)	MARITIME MOBILE. (186)	Coast. Ship		MARITIME MOBILE. (telegraphy).
*	* *	* *	*	* *
510–525 (US 14) (US 18) (US 225) (US 232).	AERONAUTICAL RADIO-NAVIGATION.	Radionavigation land		AERONAUTICAL RADIO-NAVIGATION.
(US 232)	MARITIME MOBILE. (186)	Ship	510, 512, 518	MARITIME MOBILE (telegraphy).

* * * * * * *

US 231: When an assignment cannot be obtained in the bands between 200 and 525 kHz, which are allocated to aeronautical radionavigation, assignments may be made to aeronautical radiobeacons in the maritime mobile band 435–490 kHz, on a secondary basis, subject to the coordination and agreement of those agencies having assignments within the maritime mobile band which may be affected. Assignments to aeronautical radionavigation radiobeacons in the band 435–490 kHz shall not be a bar to any required changes to the maritime mobile radio service and shall be limited to Government stations not employing voice emissions.

US 232: The frequency 518 kHz may be used by coast stations operated by the U.S. Coast Guard for the transmission of meteorological and navigational warnings to ships by means of narrow-band direct-printing telegraphy.

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

In § 83.316, paragraphs (b) and (c) are revised to read as follows:

§ 83.316 Frequencies in the bands 90–160 kHz and 405–535 kHz available to ship stations for radiotelegraphy.

* * * * *

(b) 405–535 kHz:

kHz
410[1]
425
444[1]
454
468
480
500 calling and distress
512[1]
518[1]

[1] Subject to the special conditions and limitations set forth in paragraph (c) of this section.

(c)(1) Except for distress communications, the frequency 444 kHz is for communication with U.S. Government stations only. Its use is subject to the condition that harmful interference is not caused to the service of any coast station.

(2) The frequency 410 kHz may be used for radiodetermination and for communication by radiotelegraph with radio direction-finding stations concerning radiodetermination.

(3) The frequency 512 kHz may be used as a supplementary calling frequency when 500 kHz is being used for distress purposes and as a working frequency, except in those areas where it is in use as a supplementary calling frequency when 500 kHz is being used for distress purposes.

(4) The frequency 518 kHz is a receive only frequency by ship stations. It may be used by coast stations operated by the U.S. Coast Guard for the transmission of meteorological and navigational warnings to ships by means of narrow-band direct-printing telegraphy.

PART 87—AVIATION SERVICES

In § 87.501, paragraph (f) is revised to read as follows:

§ 87.501 Frequencies available.

* * * * *

(f) Radiobeacon stations: 190–285 kHz; 325–435 kHz; and 510–525 kHz.

* * * * *

[FR Doc. 82-17847 Filed 7-1-82; 8:45 am]

BILLING CODE 6210-01-M

Proposed Rules

Federal Register
Vol. 47, No. 128
Friday, July 2, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 550 and 551

Pay Administration (General) and Federal Pay Administration Under the Fair Labor Standards Act; Computing Fractional Hours of Overtime Work

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking, with comments requested.

SUMMARY: OMP is proposing to amend its general pay administration regulations to provide administrative procedures for crediting fractional hours of overtime work during which an employee performs the principal activities of his or her position. It is also proposing to amend both its general pay administration regulations and its regulations for pay administration under the Fair Labor Standards Act (FLSA) to provide consistent administrative procedures for the treatment of time spent in preshift and postshift activities. These actions are being proposed to simplify pay administration by providing the same procedures for crediting fractional hours of overtime work and for determining the creditability of time spent in preshift and postshift activities under the overtime provisions of title, 5 U.S. Code, and the FLSA.

DATE: Written comments will be considered if received no later than August 31, 1982.

ADDRESS: Send or deliver written comments to Craig B. Pettibone, Assistant Director for Pay and Benefits Policy, Compensation Group, P.O. Box 57, Room 4351, Office of Personnel Management, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: Mary Angel, (202) 632–4684, or Dwight Brown, (202) 632–4634.

SUPPLEMENTARY INFORMATION: These proposed regulations provide formal instructions for the treatment of fractional hours of overtime work performed by employees subject to 5 CFR Part 550. The instructions parallel the instructions for the treatment of fractional hours of overtime work performed by employees covered by 5 CFR Part 551. (45 FR 85659). These regulations also propose to amend 5 CFR Parts and 551 to provide the same administrative procedures for the treatment of time spent in preshift and postshift activities under both Parts.

General Information

Work-related activities performed by an employee fall into two categories: First, the principal activities of an employee's position (these are the activities that the employee was hired to perform); and second, the preshift and postshift activities that may be associated with an employee's position (these are the activities that an employee performs in preparation for the beginning of the workday or after the conclusion of the workday).

All work, including overtime work, that an employee performs to accomplish the principal activities of his or her position is compensable. These proposed regulations provide administrative procedures for the treatment of fractional hours of overtime work, since overtime work may be performed in increments of time that are less than an hour and less than the fraction of an hour that the agency may use to account for such work. In addition, these proposed regulations differentiate between overtime work that is regularly scheduled and overtime work that is irregular or occasional. Time spent in preshift and postshift activities is also compensable (1) if the activities are, in fact, work, and (2) if the activities involve a substantial amount of time and effort on a daily basis. The proposed regulations provide administrative procedures for determining whether and how to credit time spent in preshift and postshift activities.

Principal Activities

All regulary scheduled overtime work is creditable in determining the amount of overtime pay to which an employee is entitled. An agency must compensate an employee for all regularly scheduled overtime work.

The proposed regulations provide that an agency shall compensate an employee for irregular or occasional overtime work by using one of the following four methods. An agency shall:

(1) Compensate the employee for every minute of irregular or occasional overtime work; or

(2) Limit the performance of irregular or occasional overtime work to the full increment used to credit that work; or

(3) Round irregular or occasional overtime work on a daily basis; or

(4) Round irregular or occasional overtime work on a weekly basis.

If an agency rounds irregular or occasional overtime work on a daily or weekly basis, it shall establish a fraction of an hour, equal to or less than a quarter of an hour, for crediting that work. The agency must round down to the next lower fraction of an hour those odd minutes of irregular or occasional overtime work that are less than 50 percent of the fraction used to compute that work and must round up to the next higher fraction of an hour those odd minutes of irregular or occasional overtime work that equal or exceed 50 percent of the fraction of an hour used to compute that work.

The Comptroller General has indicated that the General Accounting Office would have no objection if OPM were to provide by regulation for rounding odd minutes of irregular or occasional overtime work under 5 CFR Part 550.

Preshift and Postshift Activities

In determining whether preshift and postshift activities performed by an employee are compensable, an agency must first determine whether the activities are work. If the agency determines that they are work, it then must determine whether they require a substantial amount of time and effort.

If an employee performs preshift or postshift activities that are integral to the principal activity of his or her position, those preshift or postshift activities are work. However, if the employee performs preshift or postshift activities that are not closely related to the principal activity of his or her position, those preshift or postshift activities are not work.

If an agency determines that preshift or postshift activities are work, it must then determine whether the amount of time and effort involved in the performance of those activities is substantial. The courts and the

Comptroller General have generally held that more than ten minutes per day is a substantial amount of time and effort and that ten minutes or less per day is nominal and may be disregarded. These proposed regulations provide that if an employee spends more than ten minutes per day in preshift or postshift activities that are work, that time is compensable. The proposed regulations also provide that if an employee spends ten minutes or less per day in preshift or postshift activities that are work, that time is not compensable. This proposed change is, therefore, consistent with current procedures.

If an agency determines that preshift or postshift activities are not closely related to the principal activity or an employee's position and, therefore, are not work, those activities are generally noncompensable. However, there are two instances in which time spent in such activities is compensable: (1) When such nonwork activities immediately follow compensable preshift activities or (2) when they immediately precede compensable postshift activities. Whatever the amount of time involved, such activities are compensable because they are a part of the workday.

Preparatory and Concluding Activities Under FLSA

Finally, the proposed regulations will amend existing regulations that describe Federal Pay Administration Under the Fair Labor Standards Act (5 CFR Part 551).

Current regulations provide that a preparatory or concluding activity that is integral to the performance of a principal activity is part of the workday and is, therefore, compensable. They also provide a preparatory or concluding activity that is not integral to the performance of the principal activity is not part of the workday and is not compensable.

The proposed amendment to § 551.412, Title 5, CFR, would make preparatory and concluding activities that are integral to the performance of the principal activity(s) part of the workday if the aggregate time an employee spends in such activity(s) is more than ten minutes per day. It would also make preparatory and concluding activities that are not integral to the performance of the principal activity part of the workday only if they are performed after the commencement of the workday and before cessation of the workday. It would provide, therefore, the same treatment for time spent in preparatory and concluding activities under 5 CFR Part 551 and for time spent in preshift or postshift activities under 5 CFR Part 550.

Summary

The proposed amendments to 5 CFR Parts 550 and 551 would make it possible for agencies to simplify pay administration by using the same administrative procedures under both Parts to credit fractional hours of overtime work and to determine the creditability of time spent in preshift or postshift activities. OPM strongly encourages agencies to use the same administrative procedures under both Parts.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that, within the scope of the Regulatory Flexibility Act, this regulation will not have a significant economic impact on a substantial number of small entities as it provides procedures only for the computation of fractional hours of overtime work for Federal employees.

List of Subjects in 5 CFR 550 and 551

Government employees, Wages, Civil defense, Administrative practice and procedure, Fair Labor Standard Act, Travel, Manpower training programs.

Office of Personnel Management.

Donald J. Devine,

Director.

Accordingly, OPM proposes to amend Parts 550 and 551 of Title 5, Code of Federal Regulations, as shown below:

PART 550—PAY ADMINISTRATION (GENERAL)

§ 550.111 [Amended]

(1) Section 550.111 is amended by removing the words "each hour of" after the phrase "* * * overtime work means * * *" in paragraphs (a) and (d).

(2) Section 550.112 is amended by redesignating paragraphs (a) through (f) as paragraphs (d) through (i) respectively, and by adding new paragraphs (a) through (c) to read as follows:

§ 550.112 Computation of overtime work.

(a) *Regular overtime work.* An agency shall credit every minute of overtime work that is included in an employee's daily tour of duty.

(b) *Irregular or occasional overtime work.* (1) An agency shall use one of the following administrative procedures to credit irregular or occasional overtime work:

(i) Credit every minute of irregular or occasional overtime work.

(ii) Limit the performance of irregular or occasional overtime work to the full increment used to credit that work.

(iii) Round irregular or occasional overtime work on a daily basis.

(iv) Round irregular or occasional overtime work on a weekly basis.

(2) If an agency provides for rounding irregular or occasional overtime work, the following procedures shall apply:

(i) The agency shall establish a fraction of an hour, equal to or less than a quarter of an hour, for crediting that work. Agency policy or negotiated agreement may provide for fractions of less than a quarter hour.

(ii) The agency shall round down to the next lower increment those odd minutes of work that are less than 50 percent of the fraction used to compute that work and shall round up to the next higher increment those odd minutes of work that equal or exceed 50 percent of the fraction used to compute that work.

(c) *Preshift or postshift activities.* A preshift activity is and activity that an employee performs in preparation for commencement of his or her daily tour of duty and a postshift activity is a concluding activity that an employee performs after the completion of his or her daily tour of duty. Such activities are not principal activities of the employee's position. They are not within the purview of paragraphs (a) and (b) of this section.

(1) A preshift or postshift activity that is closely related to the principal activity(s) of the employee's position and is indispensable to its performance is an integral part of the principal activity. If the total time spent in that activity(s) is more than ten minutes per daily tour of duty, the agency shall credit it as hours of work.

(2) If a preshift or postshift activity is not an integral part of the principal activity(s), the agency shall credit the time spent in that activity as hours of work only if—

(i) The activity is performed immediately after a creditable preshift activity and before the daily tour of duty; or

(ii) The activity is performed immediately after the daily tour of duty and before a creditable postshift activity.

* * * * *

PART 551—PAY ADMINISTRATION UNDER THE FAIR LABOR STANDARDS ACT

Section 551.412 is revised to read as follows:

§ 551.412 Preparatory or concluding activities.

(a) A preparatory or concluding activity that is closely related to the principal activity(s) and is indispensable to its performance is an integral part of the principal activity(s). If the total time spent in that activity(s) is more than ten minutes per day, it is part of the workday and it shall be disregarded.

(b) A preparatory or concluding activity that is not an integral part of the principal activity(s) is not a part of the workday. Such an activity is a preliminary or postliminary activity and is not considered hours of work. However, any preliminary activity that is performed after the commencement of the workday or any postliminary activity that is performed prior to the cessation of the workday shall be included in hours of work.

(5 U.S.C. 5548(a); 29 U.S.C. 204(f))

[FR Doc. 82-18029 Filed 7-1-82; 8:45 am]
BILLING CODE 6325-01-M

MERIT SYSTEMS PROTECTION BOARD

5 CFR Parts 1204 and 1205

Freedom of Information Act; Privacy Act

AGENCY: Merit Systems Protection Board.

ACTION: Proposed amendment of rules.

SUMMARY: The merit Systems Protection Board proposes to amend its regulations to set forth realistic charges for photocopy and search fees incurred in granting Freedom of Information Act and Privacy Act requests; to limit the time period within which an initial denial may be appealed; and to reflect changes in titles of "Field Offices" and "Chief Appeals Officers" to "Regional Offices" and "Regional Directors," respectively.

DATE: Comments must be received on or before August 2, 1982.

ADDRESS: Comments should be addressed to Robert E. Taylor, Secretary, Merit Systems Protection Board, c/o Legal Publications Division, Suite 1404, 5205 Leesburg Pike, Falls Church, VA 22041.

FOR FURTHER INFORMATION CONTACT: Kathy Semone, (202) 653-7200.

SUPPLEMENTARY INFORMATION: Under the Freedom of Information Act and the Privacy Act, the Merit Systems Protection Board may establish fees for photocopying documents to be released, 5 U.S.C. 552(a)(4)(A), 552a(f)(5). Additionally, under the Freedom of Information Act, fees may be charged for the time expended searching for documents 5 U.S.C. 552(a)(4)(A). The current regulations need clarification regarding the calculation of fees for photocopying, duplication or audio and video tapes, and postage costs; to account for partial hours of search time; to differentiate between clerical and professional employees' search time; and to establish a time limit within which an appeal from an initial denial must be filed.

Regulatory Flexibility Act Statement

The Chairman, Merit Systems Protection Board, certifies that the Board is not required to prepare an initial or final regulatory analysis of this proposed rule change pursuant to section 603 or 604 of the Regulatory Flexibility Act, because of the determination that this rule would not have a significant economic impact on a substantial number of small entities, including business, small organizational units, and small governmental jurisdictions.

List of Subjects

5 CFR Part 1204

Freedom of Information Act.

5 CFR Part 1205

Privacy Act.

Pursuant to 5 U.S.C. 1205(g), it is proposed that Parts 1204 and 1205 of Subchapter A of Chapter II of Title 5, Code of Federal Regulations, be amended as follows:

PART 1204—FREEDOM OF INFORMATION ACT

1. Paragraphs (a) and (c) of § 1204.11 are revised to read as follows:

§ 1204.11 Submission of request.

(a) *Place.* Requests for copies of records shall be made to the appropriate regional office of the Board, or the Office of the Secretary, Merit Systems Protection Board, Washington, D.C. If the requestor has reason to believe the records in question are located in a regional office, it is appropriate to submit the request to that office. Requests to the region shall be addressed to the Regional Director at the appropriate regional office listed in appendix II of 5 CFR Part 1201. Requests shall be made during normal business hours, or submitted by mail. Requests shall be in writing.

* * * * *

(c) *Payment.* Records usually will not be released until fees have been received unless the fees are waived according to § 1204.13(a)(4) of this part. The Secretary of Regional Directors may release information before fee receipt when, in their judgment, the circumstances warrant such action.

2. Paragraph (d) of § 1204.12 is revised to read as follows:

§ 1204.12 Time limitations and determinations.

* * * * *

(d) *Determining Officials.* Determinations on requests shall be made by the Secretary of the Board or any Director of one of the MSPB regional offices.

3. The entire § 1204.13 fees is revised as follows:

§ 1204.13 Fees.

(a) Requests for records are subject to the following schedule of costs:

(1) *Duplication.* (i) The per page charge for photocopying is $.10.

(ii) Fees for duplication or transcription of audio or video tape recordings shall be charged at the actual cost to the MSPB.

(iii) Fees for search and duplication of automated records shall be charged at the actual cost to MSPB and will be provided upon request.

(2) *Manual Records Search.* $2.50 per quarter-hour if conducted by a clerical employee; $5.00 per quarter-hour if conducted by a professional or managerial employee.

(3) *Postage.* Fees for postage shall be charged at the actual cost to MSPB.

(b) *Waiver or Reduction of Fees.* The Secretary or Regional Director shall waive or reduce a fee when it is determined that furnishing the information will primarily benefit the general public. The existence of one or more of the five factors below will be considered in granting a waiver or reduction of the fee. However, the existence of one of the factors standing alone, shall not mean that the fee will be automatically waived or reduced.

(1) Whether the information is likely to result in the receipt of benefits by a larger number of persons;

(2) Whether waiver or reduction of the fee will result in the relief of a substantial personal hardship;

(3) Whether the MSPB costs for administrative processing of the fee will exceed the amount of the fee collected;

(4) Whether there is an indication that releasing the information is likely to benefit the commercial or other private interests of the requester rather than the general public;

(5) Whether the records requested are available from another source.

4. Paragraph (c) is added to § 1204.21 to read:

§ 1204.21 Submission.

* * * * *

(c) *Time Limit.* An appeal must be submitted within 30 days of the issuance of the denial.

PART 1205—PRIVACY ACT

5. Paragraph (a) of § 1205.11 is revised to read as follows:

§ 1205.11 Submission of request.

(a) *Place.* Inquiries or requests for access to records shall be made to the appropriate regional office of the Board, or the Office of the Secretary, Merit Systems Protection Board, Washington, D.C. 20419. If the requestor has reason to believe the records in question are located in a regional office, it is appropriate to submit the request to that office. Requests to the region shall be addressed to the Regional Director at the appropriate regional office listed in Appendix II of 5 CFR Part 1201.

* * * * *

6. Paragraph (d) is added to § 1205.11 to read:

* * * * *

(d) *Payment.* Records usually will not be released until fees have been received. The Secretary or the Regional Directors may release information before fee receipt when in their judgment, the circumstances warrant such action.

7. Paragraph (d) of § 1205.12 is revised to read as follows:

§ 1205.12 Time limitations and determinations.

(d) *Determining Officials.* Determinations on requests shall be made by the Secretary of the Board or by any Director of one of the MSPB regional offices.

8. Paragraph (b) of § 1205.16 is revised to read as follows:

§ 1205.16 Fees.

* * * * *

(b) *Duplication.* (1) The per page charge for photocopying is $.10.

(2) Fees for duplication or transcription of audio or video tape recordings shall be charged at the actual cost to the MSPB.

(3) Fees for duplication of automated records shall be charged at the actual cost to MSPB and will be provided upon request.

9. Paragraph (c) is added to § 1205.31 to read as follows:

§ 1205.31 Submission of appeals.

* * * * *

(c) *Time Limit.* An appeal must be submitted within 30 days of the issuance of a denial.

Dated: June 23, 1982.

Herbert E. Ellingwood,

Chairman.

[FR Doc. 82-17604 Filed 7-1-82; 8:45 am]

BILLING CODE 7400-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 101

Warehouse Charges, Proposed Rulemaking

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rulemaking.

SUMMARY: Section 101.29 of the Regulations for Cotton Warehouses issued under the U.S. Warehouse Act specifies that "For the purposes of this section the cotton season shall commerce, with respect to each warehouse, at such time not later than September 15 of each year, as the operator of the warehouse shall select, and he shall notify the Department in writing not less than five days next preceding the date selected."

The purpose of this action is to change the date "September 15" to "September 1," as suggested by the cotton trade.

DATE: Written comments should be filed not later than July 19, 1982.

ADDRESS: Comments should be filed in triplicate with the Hearing Clerk, U.S. Department of Agriculture, 14th & Independence Avenue, S.W., Washington, D.C. 20250, where they will be available for public inspection during regular business hours.

FOR FURTHER INFORMATION CONTACT: Dr. Orval Kerchner, Chief, Warehouse Development Branch, Warehouse Division, Agricultural Marketing Service, Department of Agriculture, Washington, D.C. 20250 (202–447–3616).

SUPPLEMENTARY INFORMATION: Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that the Agricultural Marketing Service (AMS), pursuant to the authority conferred by section 28 of the U.S. Warehouse Act (7 U.S.C. 268, hereinafter the "Warehouse Act"), is amending the warehouse regulations for the storage of cotton appearing in Part 101 of Subchapter E of Chapter 1 of Title 7 of the Code of Federal Regulations (7 CFR Part 101).

Section 101.29 of the Regulations for Cotton Warehouses issued under the Warehouse Act specifies in part that "For the purposes of this section the cotton season shall commerce, with respect to each warehouse, at such time not later than September 15 of each year, as the operator of the warehouse shall select, and he shall notify the Department in writing not less than five days next preceding the date selected." The purpose of this action is to change the date "September 15" to "September 1."

This same section provides in part that "A licensed warehouseman shall not make any unreasonable, exorbitant, or discriminatory charge for services rendered. Before a license to conduct a warehouse is granted under the Act, the warehouseman shall file with the Department a copy of his rules, if any, and a schedule of the charges to be made by him if licensed. Effective at the beginning of any cotton season, a licensed warehouseman may change his rate of charges for storage and other services, and the new rates may apply to all cotton then in storage as well as cotton received thereafter. At or before the beginning of each season every licensed warehouseman shall file with the Department a copy of his rules, if any, and of his schedule of charges for the ensuing season. Should a licensed warehouseman wish to make changes in his rates to become effective at any time other than at the beginning of a season, he shall file with the Department an amended schedule showing the contemplated changes, accompanied by a statement setting forth reasons therefor. No increase in the storage rate shown in such an amended schedule shall apply to cotton in storage at the time the change become effective. A licensed warehouseman may demand payment of all accrued charges at the close of each cotton season. If, upon demand, the owner of the cotton refuses to pay such charges at the end of a season, the warehouseman may take such action to enforce collection of his charges as is permitted by the laws of the State in which the warehouse is located. Each licensed warehouseman shall keep a copy of his current rules and schedule of charges exposed conspicuously in the place prescribed by § 101.6 and at such other place accessible to the public as the Secretary or his designated representative may from time to time designate."

Most cotton warehousemen licensed under provisions of the U.S. Warehouse Act also are approved under a Commodity Credit Corporation Cotton Storage Agreement. This agreement provides that "Subject to the provisions of the Cotton Storage Agreement, CCC–823 (10–1–75) and supplements or amendments thereto, entered into between the parties hereto, this Schedule of Rates shall become effective

as of October 1, 1981, and shall continue in effect unless superseded on October 1, 1982, or on a subsequent annual renewal date (October 1) of the agreement by the warehouseman submitting new rates at least 30 days prior to such annual renewal date of the agreement. The warehouseman warrants that the rates for services provided in Part A of this agreement will not be in excess of the rates charged other customers for the same services during the period this schedule is in effect."

Certain of the cotton trade have requested that the two governmental agencies correct what appears to be an inconsistency in otherwise similar requirements which can facilitate compliance by the trade. The Agricultural Marketing Service is willing to consider a change if such change will accomplish the avowed purpose. The propose action will do so and comments are elicited from all the cotton trade as to their feelings on this matter.

This action was reviewed under the USDA procedure established in accordance with Executive Order 12291 of February 7, 1981, and was classified "nonmajor" as it does not meet the criteria contained therein for major regulatory actions. William T. Manley, Deputy Administrator for Marketing Program Operations, determined that the action would not have a significant impact on a substantial number of small business entities because licensing is an elective of the applicant and use of the services is voluntary.

List of Subjects in 7 CFR Part 101

Administrative practice and procedure, Agriculture commodities, Cotton warehouses.

PART 101—COTTON WAREHOUSE

The regulations, therefore, are proposed to be amended as follows:

§ 101.29 [Amended]

1. Section 101.29 is amended by changing "September 15" to "September 1."

Done at Washington, D.C., June 28, 1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-18000 Filed 7-1-82; 8:45 am]

BILLING CODE 3410-02-M

Food and Nutrition Service

7 CFR Part 210

National School Lunch Program; Meat Alternate Equivalencies

Cross Reference: For a document published by the food and Nutrition Service that delays the implemtation of a final rule relating to meat alternate equivalencies for cooked dry beans or peas and eggs published May 16, 1980 (45 FR 32502) until comments are analyzed and the proposed rulemaking process is complete on a document published June 29, 1982 (47 FR 28106) regarding a proposal that these equivalencies be returned to their lower pre-May 1980 levels, see the Final Rules section of this issue. Refer in the table of contents under "Food and Nutrition Service" to determine the appropriate page number.

BILLING CODE 3410-30-M

Food Safety and Inspection Service

9 CFR Parts 307 and 381

[Docket No. 82-007E]

Reimbursement for Preparation and Cleanup Time; Extension of Comment Period

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed Rule; extension of comment period.

SUMMARY: On May 7, 1982, the Agency published a proposal to amend the overtime and holiday inspection service sections of the Federal meat and poultry products inspection regulations. The Agency has determined that it will extend the comment period an additional 30 days.

DATE: Comments must be received on or before August 5, 1982.

ADDRESS: Written comments to: Regulations Office, Attn: Annie Johnson, FSIS Hearing Clerk, Room 2637, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250. Oral comments to: Mark Manis, (202) 447-4820.

FOR FURTHER INFORMATION CONTACT: Mark Manis, Acting Director, Labor Management Relations Staff, Administrative Management, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-4820.

SUPPLEMENTARY INFORMATION: On May 7, 1982, the Agency published a proposed rule in the **Federal Register** (47 FR 19701) to amend Federal meat and poultry products inspection regulations relating to overtime and holiday inspection service. The Agency received a request dated June 24, 1982, from the National Broiler Council to extend the comment period to allow additional time to study the proposal and submit comments. The Agency is interested in receiving additional data on this proposal and has determined that there is sufficient justification for extending the comment period for 30 days.

Done at Washington, D.C., on: June 29, 1982.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 82-18134 Filed 7-1-82; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 154, 157, 375 and 381

[Docket No. RM82-25-000]

Fees Applicable to Producer Matters Under the Natural Gas Act; Extension of Time for Comments

June 28, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE

ACTION: Notice of Proposed Rulemaking; extensions of comment period.

SUMMARY: On May 6, 1982, the Commission issued a Notice of Proposed Rulemaking involving fees applicable to producer matters under the Natural Gas Act (47 FR 20621, May 13, 1982). The comment period is being extended at the request of the Santa Fe Energy Company and Exxon Corporation.

DATE: Comments must be submitted on or before August 5, 1982.

ADDRESS: Submit comments to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Kenneth F. Plumb, Secretary, (202) 357-8400.

Kenneth F. Plumb,

Secretary.

On June 9, 1982, and June 14, 1982, Santa Fe Energy Company (Santa Fe) and Exxon Corporation (Exxon) filed respective motions for an extension of time to file comments in response to the Commission's Notice of Proposed Rulemaking issued May 6, 1982, in the above-docketed proceeding. Santa Fe's motion states that the company requires additional time in order to develop the

necessary facts to comment on this proposed rule. In its motion, Exxon requests that this extension be granted pending the Commission's placement of additional cost data in the public file, as indicated in the May 6, 1982, notice.

Because of the unanticipated delay in the placement of additional data in the public file of this proposed rule, notice is hereby given that an extension of time for the filing of comments is granted to an including August 5, 1982.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18095 Filed 7-1-82; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 201

[Docket No. R-82-980]

Property Improvement and Mobile Home Loans

Correction

In FR Doc. 82-17235 appearing on page 27867, in the issue of Monday, June 28, 1982, make the following corrections:

1. On page 27868, first column, the "DATE:" paragraph, the comment date should have read "August 27, 1982".

2. On page 27869, the figure in the column "Two or more" for "Washington, DC—MD—VA, SMSA" reading "52000" should read "52,500".

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-4-FRL-2099-6]

Approval and Promulgation of Implementation Plan Mississippi; Revised Nonattainment Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On November 17, 1981, the State of Mississippi adopted a revision to the State Implementation Plan regarding nonattainment areas. This revision was submitted to EPA for approval on November 25, 1981. EPA has reviewed this submittal and found that it satisfies the requirements of 40 CFR 51.18 as amended on May 13 and August 7, 1980 and is therefore proposing to approve Mississippi's revised nonattainment plan. The public is invited to comment on this regulation.

DATE: To be considered, comments must be submitted on or before August 2, 1982.

ADDRESSES: Written comments should be addressed to Denise Pack of EPA Region IV's Air and Waste Management Division (see EPA Region IV address below). Copies of the materials submitted by Mississippi may be examined during normal business hours at the following locations:

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street, N.E., Atlanta, GA 30365

Mississippi Department of Natural Resources, Bureau of Pollution Control, P.O. Box 827, Jackson, MS 39205

FOR FURTHER INFORMATION CONTACT: Denise Pack of EPA Region IV, Air and Waste Management Division, at the above listed address and phone 404/881-3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION: On May 13, 1980 and on August 7, 1980 EPA promulgated amendments to the regulations for new source review in areas of nonattainment. The May 13, 1980, **Federal Register** notice (45 FR 31304) required States to modify their SIP to: (1) Require new sources locating in all portions of designated nonattainment areas to undergo nonattainment review; (2) preclude sources outside designated nonattainment areas from exacerbating violations; and (3) preclude sources from significantly impacting newly discovered non-attainment areas. The August 7, 1980, **Federal Register** notice (45 FR 52676) required Part D SIPs to be more stringent for modified sources in nonattainment areas.

On November 12, 1981, the Mississippi Commission on Natural Resources adopted an amendment to Mississippi Regulation APC-S-2. "Permit Regulations for Construction and/or Operation of Air Emission Equipment."

This regulation specifies the conditions that a new facility which is a major stationary source or major modification must satisfy in order to receive a permit to construct in a nonattainment area or in an area that impacts a nonattainment area. The regulation requires the facility to meet the lowest achievable emission rate (LAER) for the applicable air pollutant and when the nonattainment area implementation plan contains a reasonable further progress schedule (RFP), meet the schedule for compliance. The owner or operator of a source must also demonstrate that all major stationary sources owned or operated by such person in the State of Mississippi are in compliance or are on a schedule of compliance.

Additionally, the regulation affects sources locating in or near areas where an air quality standard is being or will be exceeded but for which no nonattainment area implementation plan has been adopted. The State of Mississippi has clarified the purpose of this portion (Section 2.4.8.3.) of its regulation. Section 2.5.8.3 applies only to: (1) Sources located in designated attainment areas where ambient monitoring indicates that the area is in fact nonattainment; (2) sources located in attainment areas that will cause violation of an ambient air quality standards and (3) sources located in nonattainment areas without approved Part D plans. After 18 months, a newly designated nonattainment area without an approved Part D plan is subject to the construction moratorium provisions of the Clean Air Act (40 CFR 52.24). The Mississippi regulation applies EPA's Emission Offset Ruling (40 CFR 51.18, Appendix S) to any facility that is a major source or major modification included in the above three categories.

Mississippi will be applying its new source review rules (APC-S-2 and the amended Appendix G-2) to the one designated nonattainment area in the State (Laurel, Mississippi). The Mississippi revisions are fully approvable as currently applied although several provisions of the state's rules do not fully conform with EPA's requirements.

Under section 171(2) of the Clean Air Act, state new source review rules must apply to all nonattainment areas that are designated as such under section 107(d) of the Act. Mississippi references its own nonattainment designations. At present, the federal and state nonattainment designations are identical (i.e., Laurel). If, in the future, EPA designates an area nonattainment and Mississippi does not, some new or modified major stationary sources could be inappropriately exempted from Part D requirements (e.g., LAER, offsets, statewide compliance). However, Mississippi is aware of this potential deficiency, does not anticipate any new designations by either EPA or the state, and has agreed to resolve any problems if and when they occur.

Further, the Mississippi rule authorizes exemptions from the offset requirements for resource recovery facilities, sources switching fuel due to lack of adequate fuel supplies and sources required to make changes

because of EPA regulations (refineries). These exemptions are not provided for in 40 CFR 51.18(j) and are allowed only insofar as they are consistent with the State's demonstration of reasonable further progress. These exemptions are insignificant as applied to Laurel because: (1) It is the only nonattainment area in the State and Masonite Corporation, the only major source in the area, currently burns woodwaste and heavy oil. Conversion from these fuels is unlikely: (2) the area has a relatively small population and does not generate enough waste to make the location of a resource recovery incinerator in the area feasible; and (3) there are no refineries located in the area.

EPA has reviewed the submitted material and found it has met the provisions of 40 CFR Part 51. Pursuant to EPA's rulemaking of October 14, 1981 (46 FR 50766), EPA has reviewed the Mississippi SIP and determined that the State's adoption of a plantwide definition of source in their New Source Review rules is consistent with the Mississippi control strategy demonstrating attainment and reasonable further progress for TSP in Laurel, the one TSP nonattainment area in the State. The State control strategy relies on a growth allowance to accommodate major new and modified sources, minor new and modified sources, and increases in secondary emissions. Laurel is currently operating under the growth allowance. As described above, Laurel is not a large industrial area and is anticipating little, if any, growth. Therefore, the State NSR rule is consistent with the attainment demonstration because it is unlikely that the growth allowance will be consumed.

Furthermore even if growth prospects increase and the growth allowance were to be consumed, the State can rely on its offset provision. The offset provision states that major new and modified sources must offset both their increase in emissions, and any increase in emissions resulting from minor source growth and new secondary emissions that is not otherwise accounted for in the State's attainment demonstration. The offset provision will be able to accommodate increases in emissions because the NSR rule will cover the same new "green field" plants (i.e., major new sources, as opposed to major modifications) under the plantwide definition as it does under the dual definition. Although the new plantwide definition could result in the issuance of fewer NSR permits for major modifications, and thus fewer opportunities for the State to require offsets, the difference between the plantwide definition and the dual definition is insignificant. Currently, there is only one major source in the area that could cause a major modification, and that source is not planning to "net" any major modifications out of NSR requirements. Therefore, even under the offset provision, the State NSR rule appears to be consistent with Mississippi's attainment demonstration.

Therefore, EPA is today proposing to approve the State's submittal as satisfying the requirements of an acceptable plan and is soliciting public comment on the regulation.

Pursuant to the provisions of 5 U.S.C. 605(b) the Administrator has certified (46 FR 8709) that the proposed rule will not if promulgated have a significant economic impact on a substantial number of small entities. This action only approves state actions. It imposes no new requirements.

The Office of Management and Budget has exempted this proposed rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Sec. 110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502))

Dated: March 31, 1982.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 82-18006 Filed 7-1-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 81

[A-5-FRL-2157-4]

Designation of Areas for Air Quality Planning Purposes Attainment Status Designations; Michigan

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA is today proposing to change the designation for a portion of Midland County from non-attainment to attainment for the sulfur dioxide (SO_2) National Ambient Air Quality Standard (NAAQS). This revision to the Michigan State Implementation Plan (SIP) is based on a request from the State to redesignate this area.

DATE: Comments must be received on or before August 2, 1982.

ADDRESSES: Copies of the redesignation request and the supporting technical information are available at the following addresses:

Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604

Michigan Department of Natural Resources, Air Quality Division, State Secondary Government Complex, General Office Building, 7150 Harris Drive, Lansing, Michigan 48917

Written comments on this action should be addressed to:

Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604

FOR FURTHER INFORMATION CONTACT: Toni Lesser at the EPA, Region V, address listed above or call (312) 886-6037.

SUPPLEMENTARY INFORMATION: The Clean Air Act (Act) amendments of 1977 added section 107(d) to the Act. This section directed each State to submit to the Administrator of EPA a list of the NAAQS attainment status for all areas within the State. On March 3, 1978 (43 FR 8962), and on October 5, 1978 (43 FR 45993), pursuant to the requirements of section 107 of the Act. EPA designated certain areas in each state as nonattainment with respect to NAAQS for several pollutants including SO_2.

The primary SO_2 NAAQS is violated when either: (1) The annual arithmetic mean value of monitored SO_2 concentration exceeds 80 micrograms per cubic meter of air (80 $\mu g/m^3$) (the annual primary standard), or (2) the maximum 24-hour concentration of SO_2 at any site exceeds 365 $\mu g/m^3$ more than once per year (the 24-hour primary standard). The secondary SO_2 NAAQS is violated when the maximum 3-hour concentration at any site exceeds 1,300 $\mu g/m^3$ more than once per year.

A portion of Midland County, Michigan (36 square miles surrounding the Dow Chemical plant) was designated as a nonattainment area for the primary SO_2 NAAQS in the March 3, 1978 (43 FR 8964), **Federal Register** . This nonattainment designation was based on the fact that the Dow Chemical Midland plant operated a Supplementary Control System (SCS), in contravention to section 123 of the Act, in order to attain the SO_2 NAAQS. Dow Chemical's Midland plant is the major source of SO_2 emissions in Midland County.

On May 6, 1980 (45 FR 29790), EPA approved Michigan's SO_2 control strategy required by Part D of the Act for Midland County. The strategy

requires Dow Chemical to comply with the 1 percent sulfur content limitation contained in Michigan's Rule 336.1401. In that notice, EPA approved the Midland County strategy stating that the available information demonstrated that enforcement of those regulations will protect the ambient air quality in Midland County.

On September 28, 1981, the U.S. District Court for the Eastern District of Michigan in the case of the U.S.A. vs Dow Chemical Company, signed a consent decree which, among other items, committed Dow to comply with the requirements of R336.1401 by September 1, 1982.

On December 21, 1981, the State of Michigan requested that EPA designate Midland County as attainment for SO_2. Michigan indicated that, as of September 1, 1981, the Dow Chemical Company is no longer operating an SCS and that Dow Chemical is now burning compliance fuel (1 percent sulfur content). This switch to a lower sulfur content fuel has resulted in a significant reduction in sulfur dioxide emissions in the Midland area.

EPA has reviewed Michigan's request to redesignate a portion of Midland County from primary non-attainment to attainment for SO_2 and today is proposing to approve the State's request. As noted in EPA's rulemaking of May 6, 1980, EPA believes that Dow's compliance with the 1 percent sulfur limit in R336.1401 will assure attainment of the SO_2 NAAQS in Midland County. Therefore, EPA is proposing approval of the redesignation of Midland County as attainment for SO_2 based on Michigan's certification that Dow has been in compliance with R336.1401 since September 1, 1981.

A 30-day public comment period is being provided on this notice of proposed rulemaking. Public comment received on or before August 2, 1982 will be considered in EPA's final rulemaking. When possible, comments should be submitted in triplicate. All comments will be available for inspection during normal business hours at the Region V Office.

Under 5 U.S.C. 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities (46 FR 8709). This action proposes to approve a revision to the attainment status designation within the terms of this certification and it imposes no additional regulatory requirements.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Sec. 107(d) of the Clean Air Act, as amended (42 U.S.C. 7407))

Dated: June 16, 1982.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 82-18049 Filed 7-1-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 720

[OPTS 50019A; (TSH-FRL 2121-8)]

Premanufacture Notices; Substantiation of Confidentiality Claims

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule Related Notice.

SUMMARY: On November 7, 1980, EPA issued a Statement of Revised Interim Policy for submission of premanufacture notices (PMNs) under section 5 of the Toxic Substances Control Act in which the Agency encouraged PMNs submitters to substantiate claims of confidentiality at the time of submission. If confidentiality claims were not substantiated at the time of submission, EPA stated that it would send the submitter a letter requesting substantiation. EPA has reconsidered this policy and will no longer routinely request substantiation of confidentiality claims in PMNs. Substantiation will only be requested when EPA receives a request under the Freedom of Information Act or when, for some other reason, EPA decides that it must make a final confidentiality determination. However, the Agency will continue to require substantiation of chemical identity confidentiality claims made for PMNs for which EPA receives a notice of commencement of manufacture or import.

DATE: Written comments must be submitted by September 29, 1982. Procedures described in this notice will become effective upon publication of this notice.

ADDRESS: All comments should bear the identifying notation OPTS 50019A and be addressed to: Document Control Officer, Office of Toxic Substances (TS-793), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS-799), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, Toll Free: (800-424-9065), In Washington: (544-1404), Outside the USA: (Operator-202-544-1404).

SUPPLEMENTARY INFORMATION: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance for a commercial purpose to submit a PMN to EPA at least 90 days before he commences manufacture or importation. A "new" chemical substance is one that is not included on the TSCA section 8(b) Inventory of Chemical Substances. At the end of the notice review period, the PMN submitter may manufacture or import the substance unless EPA has taken action to ban or otherwise regulate it. EPA proposed rules containing premanufacture notification and review procedures, 40 CFR Part 720, published in the **Federal Register** of January 10, 1979 (44 FR 2242), and published reproposals of certain provisions of the rules in the **Federal Register** of October 16, 1979 (44 FR 59764).

The premanufacture notification requirements of section 5 of TSCA went into effect on July 1, 1979. Since the proposed premanufacture notification rules had not been promulgated at that time, EPA issued a Statement of Interim Policy, published in the **Federal Register** of May 15, 1979 (44 FR 28564), which discussed the premanufacture notification requirements and the procedures EPA would follow in implementing those requirements pending promulgation of final rules. In the **Federal Register** of November 7, 1980 (45 FR 73478), EPA issued a Statement of Revised Interim Policy which expanded on the original May statement and discussed additional matters.

I. Substantiation of Confidentiality Claims

One of the matters discussed in the November Statement of Revised Interim Policy was substantiation of confidentiality claims. Under the Revised Interim Policy, submitters of PMNs are required to make any claims of confidentiality for information in the PMN at the time of submission. If submitters fail to make the claims at that time, EPA places the PMN in a public file and otherwise treats the notice as available to the public. The requirement to make all confidentiality claims at the time of submission remains unchanged.

The November statement also encouraged submitters of PMNs to substantiate their claims of confidentiality at the time of submission of the PMN. The submitters could use

the substantiation scheme in the EPA proposed PMN form. EPA also stated that, if the submitter failed to substantiate at the time of submission, EPA would send a letter to the submitter, shortly after receiving the PMN, requesting substantiation.

The decision to request substantiation of confidentiality claims for all PMNs shortly after submission was based on the Agency's desire to respond promptly to Freedom of Information Act (FOIA) requests for PMN information. The Agency, based on its experience up to that time, anticipated receiving large numbers of FOIA requests and wanted to be able to respond to those requests quickly so that FOIA requesters would receive a response within the 90-day PMN review period.

EPA has been operating under the Revised Interim Policy for a year and a half. In that time, EPA has not received large numbers of FOIA requests for confidential PMN information. At the same time, the substantiation requirement has not led to a reduction in the volume of information claimed confidential.

Based on this experience, EPA has reconsidered its policy of automatically requesting substantiation of all confidentiality claims in each PMN. Requiring substantiation of confidentiality claims can be an additional burden on submitters and the agency. If there are no FOIA requests for the information claimed confidential in a PMN, and EPA has no other reason to make a final confidentiality determination, EPA and the submitter have incurred that burden unnecessarily. The volume of FOIA requesters seeking confidential business information from PMNs has decreased since the substantiation requirement was imposed. Most requesters are satisfied with the sanitized copies of PMNs which submitters or EPA produce. At the same time, EPA has had little reason to initiate final confidentiality determinations for any other reason. In addition, when companies have been asked to substantiate claims, they have not withdrawn or limited their claims. Thus, requesting substantiation does not seem to have reduced the number of confidentiality claims.

As a result of these considerations, EPA has decided to no longer routinely request substantiation of confidentiality claims made in PMNs under the Interim Policy. Instead, EPA will request substantiation of confidentiality claims only when it receives an FOIA request for the information claimed as confidential or when EPA has its own reasons for making a final confidentiality determination, such as when regulatory action is contemplated for the PMN substance. In the proposed premanufacture notification rules, EPA proposed requiring substantiation of confidentiality claims at the time of submission. EPA has not decided whether this requirement will be part of the final rules. The policy announced today applies only to the interim period until the final rules are promulgated. During the interim period, EPA will continue to monitor the nature and volume of FOIA requests, the speed with which EPA is able to respond to FOIA requests, and the nature and extent of confidentiality claims made by submitters. EPA will consider this in deciding what substantiation requirements, if any, should appear in the final rule.

Claims will still be asserted by marking the appropriate box on the reporting form and signing the certification statement. If a submitter does not use the reporting form he should bracket or otherwise clearly identify the items of information claimed confidential. EPA still encourages submitters to use the EPA proposed PMN form for reporting.

EPA still believes that it is useful for PMN submitters to substantiate their confidentiality claims at the time of submission using the scheme contained in the EPA proposed form. Substantiating claims at the time of submission may be easier and less burdensome than having to do so at a later date. In addition, working through the substantiation responses can help a submitter determine whether certain confidentiality claims are the appropriate ones to make.

EPA's decision to remove the requirement that PMN confidentiality claims be substantiated at the time of their assertion does not modify the Agency's existing confidentiality requirements for PMN chemicals which are added to the TSCA Chemical Substances Inventory. After the end of the Notice review period and absent regulatory action by EPA, a PMN submitter may begin manufacture or import operations upon providing EPA a notice of commencement of manufacture or import. Substances for which EPA receives such a notice are thereafter listed by the Agency on the TSCA Chemical Substances Inventory.

Confidentiality claims made for PMN chemicals which are to be added to the Inventory must be asserted at the time of submission of a notice of commencement of manufacture or import. Failure to assert claims at that time will result in the publication of the relevant information on the Inventory. If a person asserts a claim of confidentiality for the specific chemical identity, he must substantiate that claim by providing EPA with detailed answers to the eleven questions which appear near the end of page 28569 of the **Federal Register** of May 15, 1979 (44 FR 28558). If this substantiation does not accompany the notice of commencement, the Agency sends the submitter a letter listing the substantiation questions which must be answered. If EPA does not receive a response within ten days, the Agency treats the claim as waived and publishes the chemical identity in the monthly **Federal Register** PMN report.

II. Submission of Sanitized PMN Forms

EPA's May 15, 1979, Statement of Interim Policy "strongly encourages" submitters to send both sanitized and unsanitized versions of their PMN's to the Agency.

EPA believes that the preparation of sanitized versions of PMNs by submitters improves the effectiveness of the PMN process in two ways. First, it results in a more efficient allocation of resources. The person asserting the confidentiality claim, who is more familiar with its nature, extent, and rationale, will in the same exercise sanitize the PMN, extracting any evidence of the confidential information. This frees the Agency's limited resources from the task of having to create a sanitized copy. Secondly, the submission of sanitized versions of PMNs by the manufacturers will reduce the chance of any error by EPA. Since EPA presently sanitizes hundreds of PMNs a year, it is possible, in spite of EPA's best efforts, that mistakes will be made. A submitter can minimize this risk by sanitizing its own PMN.

III. Regulatory Impact Requirements

Under Executive Order 12291, EPA must judge whether a "regulation" is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This "regulation" is not major because it is not expected to have an annual effect on the economy of $100 million or more, result in major cost or price increases to consumers, industry, government agencies, or geographic regions, or adversely affect competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This "regulation" was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

EPA has determined that this document does not come under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, because less than ten parties are expected to be affected by any new information collection requirements in the notice.

(Sec. 5, Pub. L. 94-469, 90 Stat. 2013, [15 U.S.C. 2604])

List of Subjects in 40 CFR Part 720

Environmental protection, Chemicals, Premanufacture notifications, Hazardous materials, Recordkeeping and reporting requirements.

Dated: June 8, 1982.

John A. Todhunter,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 82-17750 Filed 7-1 Filed 7-1-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3140

Public Information Meeting on Competitive Tar Sand Leasing Program

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Information Meeting on the Competitive Tar Sand Leasing Program proposed rulemaking.

SUMMARY: To announce a public information meeting on July 15, 1982, at 7:00 p.m., in Room 127, Salt Palace Convention Center, West Temple and First South Streets, Salt Lake City, Utah.

The purpose of this meeting is to discuss the proposed rulemaking (47 FR 25720; June 14, 1982) on the competitive tar sand leasing program as required by the Combined Hydrocarbon Leasing Act of 1981.

DATE: Additional written comments may be submitted before August 13, 1982.

ADDRESS: Comments on the proposed rulemaking should be sent to: Director (140), Bureau of Land Management, 18th & C Streets, N.W., Washington, D.C. 20240.

Comments will be available for public review in Room 5555 of the above address during regular working hours (7:45 a.m. to 4:15 p.m.), Monday through Friday, during office hours on regular working days.

FOR FURTHER INFORMATION CONTACT:

Edward E. Coggs (202) 343-3258.

James M. Parker,

Associate Director.

June 30, 1982.

[FR Doc. 82-18133 Filed 7-1-82; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 2628-116]

Ocean Salmon Fisheries Off the Coasts of California, Oregon, and Washington

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule and availability of plan amendment.

SUMMARY: NOAA makes available copies of a Secretarial plan amendment and proposes implementing regulations for the ocean commercial salmon fisheries off the coasts of southern Oregon and California. Comments are requested on both the Secretarial plan amendment and these proposed rules. The regulations provide management measures identical to those implemented by emergency rule on June 1, 1982. The regulations are intended to prevent overfishing, to allow more salmon to survive the ocean fisheries and reach the Indian subsistence fisheries in internal waters, and to achieve spawning escapement requirements.

DATE: Comments on the Secretarial plan amendment and this proposed rule must be received by August 16, 1982.

ADDRESS: Submit comments to and copies of a Secretarial plan amendment, and a supplemental regulatory impact review/initial regulatory flexibility analysis for these regulations, are available from the Director, Northwest Region, National Marine Fisheries Service (NMFS), 7600 Sand Point Way N.E., BIN C15700, Seattle, WA 98115; or from the Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731.

FOR FURTHER INFORMATION CONTACT: H. A. Larkins (Regional Director, NMFS) 206-527-6150; or A. W. Ford (Regional Director, NMFS) 213-548-2575.

SUPPLEMENTARY INFORMATION: The fishery management plan (FMP) for the Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon, and California, prepared by the Pacific Fishery Management Council (Council), was approved by the Assistant Administrator for Fisheries, NOAA, (Assistant Administrator) on March 2, 1978. Regulations to implement the FMP were first published on April 14, 1978 (43 FR 15629), as emergency rules. Regulations to implement the 1981 amendment to the FMP were issued as final rules on September 9, 1981 (46 FR 44989), as corrected on September 18, 1981 (46 FR 45960), except off California where 1980 regulations were reinstated (published on January 29, 1982, 47 FR 4275).

The Council amended the FMP to improve management of the salmon fisheries in 1982. The 1982 amendment was intended to (1) provide adequate spawning escapements from ocean salmon fisheries for the various salmon runs; (2) meet treaty obligations to Indian fishermen; and (3) allow for a reasonable harvest for each segment of the salmon fishery, including the commercial and recreational ocean fisheries and the various internal water fisheries. The Council's 1982 FMP amendment, as it applies to the commercial salmon fishery north of Cape Blanco, Oregon, and to the recreational fisheries coastwide, was approved by the Assistant Administrator on May 6, 1982, under section 304 of the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.* (Magnuson Act). Emergency interim rules to implement those portions of the Council's amendment were published on May 18, 1982 (47 FR 21256). The portion of the Council's recommended amendment for the commercial fisheries south of Cape Blanco was disapproved by the Assistant Administrator because it would not have allowed sufficient spawning escapement to the Klamath River and upper Sacramento River and would have unduly restricted the ocean harvest.

On April 23, 1982, the Council notified the Assistant Administrator that it did not intend to alter its 1982 recommendation for the management of the commercial ocean salmon fisheries south of Cape Blanco. Therefore, a Secretarial amendment was prepared to amend the FMP and implement appropriate management measures pertaining to the Klamath River and upper Sacramento River chinook stocks under section 304(c) of the Magnuson Act. That section authorizes the Secretary of Commerce (Secretary) to prepare FMPs or amendment to FMPs if the involved Council does not develop such FMP or amendment within a

reasonable period. The Council was apprised of the Secretary's intention to prepare a Secretarial amendment prior to publication of an emergency interim rule on June 1, 1982, under paragraph 305(e)(2) of the Magnuson Act. The Secretarial amendment was submitted to the Council for review and comment.

Current information on the abundance of major stocks of chinook and coho salmon available in 1982 to the commercial ocean fisheries south of Cape Blanco was summarized briefly in the preamble to the emergency interim rule that implemented the approved portions of the Council's 1982 amendment (47 FR 21256). Resource status information is also discussed in detail in Chapter IV of the report that accompanied the Council's FMP amendment. Status of stocks information and other factors were considered when the management measures that are contained within the Secretarial amendment were selected.

The preamble to the emergency interim rule for the commercial fisheries south of Cape Blanco, Oregon (47 FR 24134, June 3, 1982), thoroughly discussed the management measures contained in the Secretarial amendment and the regulations, which are identical to those being proposed herein. Comments on the proposed regulations and the Secretarial amendment will be accepted for 45 days from the publication date of this notice. Anyone interested in commenting on the proposed regulations should submit comments to the address shown above.

Classification

The Assistant Administrator has determined that these proposed regulations are necessary and appropriate for conservation of the salmon resources and management of the salmon fisheries off the coasts of Oregon and California and that they are consistent with the Magnuson Act, including the national standards, and other applicable law.

The NOAA Administrator has determined that these proposed rules are not "major" under Executive Order (E.O.) 12291 requiring a regulatory impact analysis. A supplement to the regulatory impact review/initial regulatory flexibility analysis (RIR/IRFA) has been prepared. This review contains an analysis of the expected impacts of the management measures and alternative management options. The review supports the determination that these rules are not "major" under E.O. 12291 criteria.

The NOAA Administrator has determined that an emergency situation exists for purposes of section 8(a)(1) of E.O. 12291 for the following reasons. As was stated in the preamble to the emergency interim rules that became effective on June 1, there is a critical need for specific regulations for the 1982 commercial salmon fisheries south of Cape Blanco, Oregon. This includes the need to have final regulations in place at the end of the period of emergency regulations (August 29), under section 305(e) of the Magnuson Act, since the season off southern Oregon runs through October 31, and the season off California runs through September 30. A reversion to prior regulations after August 29 (that is, to 1981 regulations off southern Oregon and to 1980 regulations off California) additionally would cause untoward confusion in the fisheries. Section 305(a) of the Magnuson Act requires that the public have an opportunity to comment on proposed regulations during a 45-day period. The duration of that comment period, together with periods specified for OMB review of the proposed and final versions of this rule, would not permit final rules to be promulgated by August 29. Thus it is impracticable to compy with section 3(c)(3) of E.O. 12291, which requires that NOAA transmit to the Director of the Office of Management and Budget (OMB) a copy of every nonmajor rule, at least 10 days prior to publication. However, a copy of these proposed regulations and a copy of the supplements RIR have been transmitted to the Director of OMB.

The NOAA Administrator also has determined that the emergency rules implementing the 1982 amended plan will have a significant economic impact on a substantial number of small entities for purposes of the Regulatory Flexibility Act, 5 U.S.C. 601–12. The supplement to the RIR/IRFA prepared for the Secretarial amendment, which comprises Appendix G of the FMP, indicates that the relatively less restrictive management measures imposed on the commercial ocean salmon fisheries south of Cape Blanco will have beneficial economic impacts on commercial fishermen and industries dependent on the ocean salmon fisheries. The estimate of exvessel revenue in 1982 compared to 1981 will be about the same for the troll fisheries between Cape Blanco and the California-Oregon border and will increase by about $1,500,000 for the troll fisheries off California.

A final supplement to the Environmental Impact Statement (FSEIS) for the 1982 FMP amendment was filed with the Environmental Protection Agency. A notice of availability of the FSEIS was published on April 30, 1982 (47 FR 18652). The action that is represented by these proposed regulations was within the range of alternatives analyzed in the FSEIS for the 1982 amendment. Therefore an additional supplement is not required.

These proposed regulations pertaining to the commercial fisheries south of Cape Blanco, Oregon, do not entail any Federal collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3507.

List of Subjects in 50 CFR Part 661

Fish, Fisheries, Fishing, Indians.

Dated: June 29, 1982

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

PART 661—OCEAN SALMON FISHERIES OFF THE COASTS OF CALIFORNIA OREGON AND WASHINGTON

For the reasons set out in the preamble, 50 CFR Part 661, is proposed to be amended as follows:

1. The authority citation for Part 661 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*

§ 661.3 [Amended]

2. In § 661.3, the definition of *Subarea* is amended by revising paragraph (e)(2), and paragraph (f)(1) to read as follows:

* * * * * * *

(e) Subarea E:

(1) * * *

(2) Southern boundary: a line extended due west from Point Arena, California, at 39°00′00″ N. latitude.

(f) Subarea F:

(1) Northern boundary: a line extended due west from Point Arena, California, at 39°00′00″ N. latitude.

* * * * *

3. In § 661.20, paragraphs (a)(4)(i) through (iv), (a)(5)(i) through (iii), and (a)(6)(i) through (iii); the seasons indicated for Subareas D through F in the table at paragraph (b)(2); and paragraph (b)(3) are revised to read as follows:

§ 661.20 Commercial fishing.

(a) * * *

(4) Subarea D (Cape Blanco, Oregon, to the Oregon-California border):

(i) The season for all salmon species, except coho, begins on May 1 and ends on May 31; during this season, only the gear specified in § 661.20(b)(2) may be used.

(ii) The season for all salmon species, except coho, reopens on June 1 and ends on June 8; during this season, only the

gear specified in § 661.20(b)(3) may be used.

(iii) The season for all salmon species, including coho, begins on July 1 and ends when the commercial coho quota is reached.

(iv) The season for all salmon species, except coho, continues from the date the commercial coho quota is reached and ends on October 31; during this season, only the gear specified in § 661.20(b)(3) may be used before September 6, and only the gear specified in § 661.20(b)(2) may be used after September 5.

(5) Subarea E (Oregon-California border to Point Arena, California):

(i) Subsequent to the 1982 season, the season for all salmon species, except coho, begins on May 1 and ends on May 24; during this season, only the gear specified in § 661.20(b)(2) may be used.

(ii) The season for all salmon species, including coho, begins on May 25 and ends on June 8.

(iii) The season for all salmon species, including coho, reopens on July 1 and ends on September 30.

(6) Subarea F (Point Arena, California, to U.S.-Mexico border):

(i) Subsequent to the 1982 season, the season for all salmon species, except coho, begins on April 22 and ends on May 24; during this season, only the gear specified in § 661.20(b)(2) may be used.

(ii) The season for all salmon species, including coho, begins on May 25 and ends on June 15.

(iii) The season for all salmon species, including coho, reopens on July 1 and ends on September 30.

(b) * * *

(2) * * *

Subarea and Season

A May 1–31
B May 1–31
C May 1–31 and after September 5 during the season specified in § 661.20(a)(3)(iv)
D May 1–31 and after September 5 during the season specified in § 661.20(a)(4)(iv)
E May 1–24 (subsequent to the 1982 season)
F April 22–May 24 (subsequent to the 1982 season)

* * * * *

(3) No person shall engage in commercial salmon fishing using other than hooks with whole natural bait or salmon plugs not less than five (5) inches long from June 1 to June 15 in subarea C, from June 1 to June 8 in subarea D, or from the date the coho commercial quota is reached to September 5 in subareas C and D. Gear commonly known as "spoons," "wobblers," "dodgers," and flexible plastic lures, are not considered salmon plugs, and are prohibited during the times specified in this § 661.20(b)(3).

* * * * *

[FR Doc. 82-18154 Filed 6-30-82; 11:48 am]
BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 47, No. 128
Friday, July 2, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Privacy Act of 1974; Systems of Records

Correction

In FR Doc. 82–16697, published at page 26680, on Monday, June 21, 1982, make the following corrections:

1. On page 26680, in the first column, in the "AGENCY" line, "Agricultural Department" should be corrected to read "Agricultural Marketing Service".

2. On page 26682, in the second column, under "USDA/P&SA–1", in the "System name" paragraph, in the second line "Administrative administration" should be corrected to read "Administration administrative".

BILLING CODE 1505-01-M

Rural Electrification Administration

East River Electric Power Cooperative, Inc.; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: REA has made a Finding of No Significant Impact concerning the proposed construction by the East River Electric Power Cooperative, Inc., (East River) of a 22.5 km (14 mi), 115 kV transmission line and a 115/69 kV substation. The line would connect the proposed East River, Ivanhoe Substation in Lincoln County, Minnesota, to the proposed Western Area Power Administration's (WAPA) Brookings to White, 21 km (13 mi), 230 kV transmission line in Brookings County, South Dakota.

FOR FURTHER INFORMATION CONTACT: REA's Finding of No Significant Impact and Environmental Assessment and East River's Borrower's Environmental Report (BER) may be obtained at the Office of the Director, Power Supply Division, Room 0230, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250, telephone (202) 382–1400, or the East River Electric Cooperative, Inc., Drawer E, Madison, South Dakota 57042, telephone (605) 256–4536.

SUPPLEMENTARY INFORMATION: Since the East River and WAPA proposd lines cannot initially operate independently, REA considered both lines as a single project for the purpose of environmental review. REA has prepared an Environmental Assessment (EA) concerning the project which incorporated the East River BER and the WAPA EA. REA's independent evaluation of the combined project leads to the conclusion that approval of the project does not represent a major Federal action that would significantly affect the quality of the human environment.

Alternatives discussed in the EA are no action, an alternate type of construction and alternative line routing and substation sitings. The nature of the alternative routes and sites is that the alternatives are located in Lincoln County, Minnesota, and Brookings County, South Dakota, are of comparable size, and the terrain is similar. REA has determined the proposed project is an acceptable alternative because it would avoid, to the extent practicable, closed section lines, cultural resources, important farmland, endangered species habitat, wetlands and floodplains.

Approximately 0.13 km (0.08 mi) of wetlands and 1.1 km (0.7 mi) of floodplain would be crossed. REA has determined that there is no practicable alternative to crossing these areas and with single pole construction there should be no long term effects to the ecological functions of these areas. Further information concerning alternatives and environmental impacts is in the EA.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated: June 25, 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 82–16004 Filed 7–1–82; 8:45 am]

BILLING CODE 3410–15–M

Soil Conservation Service

Ala-Tom Resource Conservation and Development Area, Alabama

AGENCY: Soil Conservation Service.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Ala-Tom RC&D Area, Perry, Dallas, Marengo, Choctaw, Clarke, Wilcox, Monroe, Washington, and Conecuh Counties, Alabama.

FOR FURTHER INFORMATION CONTACT: Ernest V. Todd, State Conservationist, Soil Conservation Service, P.O. Box 311, Auburn, Alabama 36830, telephone (205) 821–8070.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Ernest V. Todd, State Conversationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The area measure concerns a plan for recreation facilities and critical area treatment. The planned works of improvement include picnic tables, grills and benches, picnic shelters, electric and water facilities, comfort station, boat launching, and parking areas. Conservation practices include subsurface drains, diversions, grading and shaping, critical area stabilization, and seeding.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and

interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Ernest V. Todd.

No administrative action on implementation of the proposal will be taken until August 2, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: June 25, 1982.

Ernest V. Todd,

State Conservationist.

[FR Doc. 82-17936 Filed 7-1-82; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits; Week Ended: June 25, 1982

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
June 21, 1982	40792	United Air Carriers, Inc. d/b/a Oversees National Airways, c/o Richard J. Kendall, Shaw, Pittman, Potts & Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036. Application of United Air Carriers, Inc. d/b/a Oversees National Airways, pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests authority to provide scheduled foreign air transportation of persons, property, and mail including combination passenger and cargo scheduled services, as follows: Between New York, New York, Amsterdam, The Netherlands, Beirut, Lebanon, Amman, Jordan, Kuwait, Abu Dhabi, and Dubai, United Arab Emirates. Conforming Applications, motions to modify scope and Answers may be filed by July 19, 1982.
June 23, 1982	40798	Capitol Air, Inc., P.O. Box 325, Smyrna, Tennessee 37167. Conforming Application of Capitol Air, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests issuance or amendment of a certificate of public convenience and necessity to engage in scheduled foreign air transportation of persons, property and mail between: A. "the terminal point Dallas/Fort Worth, Texas, on the one hand and the terminal point London, England on the other hand." B. "The terminal point Dallas/Fort Worth, Texas, the intermediate point London, England; and a terminal point or points in Belgium, The Netherlands, Luxembourg, the Federal Republic of Germany, Switzerland, Bahrain, Egypt, Kuwait, Oman, Qatar, the United Arab Emirates, and Athens, Greece." Answers may be filed by July 7, 1982.
June 24, 1982	40707	Air Florida, Inc., 3900 N.W. 79 Avenue, Miami, Florida 33166. Application of Air Florida, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations, requests an amendment of its certificate of public convenience and necessity for Route 197-F authorizing it to engage in air transportation with respect to persons, property and mail as follows: Between the terminal point Miami, Florida, via the intermediate point London, England and the coterminal points Copenhagen, Denmark; Oslo, Stavanger and Bergen, Norway; Stockholm and Gothenburg, Sweden and Helsinki, Finland. Conforming Applications, motions to modify scope and Answers may be filed by July 22, 1982.
June 25, 1982	40799	KLM Royal Dutch Airlines, c/o Paul V. Millaud, 437 Madison Avenue, New York, New York 10022. Application of KLM Royal Dutch Airlines, pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations, requests that its foreign air carrier permit be amended in the following respects: A. Delete route segment (2) and substitute therefor the following: (2) Between a point or points in The Netherlands and the intermediate point in Anchorage, Alaska, and between the point in Anchorage, Alaska and the points Tokyo, Japan; Seoul, Republic of Korea, Taipei, Taiwan, Republic of China. B. Wherever and whenever in the paragraphs following the route segments, the words "Tokyo, Japan" appear, the same shall be deleted and replaced by the following: "Tokyo, Japan; Seoul, Republic of Korea, Taipei, Taiwan, Republic of China." Answers may be filed by July 23, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-18119 Filed 7-1-82; 8:45 am]

BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

Wyoming Advisory Committee; Agenda and Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Wyoming Advisory Committee to the Commission will convene at 11:00 a.m. and will end at 2:00 p.m., on July 31, 1982, at the Hitching Post Inn, 1700 Lincolnway, in the Cheyenne Room, Cheyenne, Wyoming, 82001. The purpose of this meeting will be to review recent Commission activities, discuss followup activities to the report, *Workplace Conditions in Wyoming* and to plan for future Committee projects.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Jamie C. Ring, 520 Parkview Drive, Casper, Wyoming, 82601, (307) 268-2269 or the Rocky Mountain Regional Office, Brook Towers, 1020 Fifteenth Street, Suite 2235, Denver, Colorado, 80202, (303) 837-2211.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., June 29, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-18013 Filed 7-1-82; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Bureau of Industrial Economics

[Docket No. 2654-115]

List of Names and Addresses of Bona Fide Motor-Vehicle Manufacturers

AGENCY: Bureau of Industrial Economics, Office of Producer Goods, Commerce.

ACTION: List of Names and Addresses of Bona Fide Motor-Vehicle Manufacturers.

SUMMARY: In accordance with headnote 2 to subpart B, Part 6, Schedule 6 of the Revised Tariff Schedules of the United States (19 U.S.C. 1202) and 15 CFR Chapter VI Part 615, the following is a list of the names and addresses of bona fide motor-vehicle manufacturers, as determined by the Director, Bureau of Industrial Economics, Department of Commerce, and the effective date for each such determination. Each determination shall be effective for the 12-month period beginning on the determination date shown following the name and address of each manufactuer. From time to time this list will be revised, as may be appropriate, to reflect additions, deletions, or other necessary changes.

EFFECTIVE DATE: May 1, 1982.

FOR FURTHER INFORMATION CONTACT: Joe Kellagher, Automotive Equipment Div., 566-7410.

Beatrice N. Vaccara,

Director, Bureau of Industrial Economics.

United States Bona Fide Motor Vehicle Manufacturers List May 1, 1982 With Date of Certification

Allentown Brake and Wheel Service, Inc., R.D. 3, P.O. Box 2088, Allentown, Pennsylvania 18001, October 19, 1981

American La France, Div. of A-T-O, Inc., 100 East LaFrance Street, Elmira, New York 14902, July 8, 1981

American Motors Corporation, 27777 Franklin Road, Southfield, Michigan 48034, January 1, 1982

American Trailer Service, Inc., 2814 North Cleveland Avenue, St. Paul, Minnesota 55113, January 1, 1982

American Transportation Corporation, Highway 65 South, Conway, Arkansas 72032, April 19, 1982

Amthor's Welding Service, Inc., 307 State Route 52 East, Walden, New York 12586, July 9, 1981

H.G. Anderson Equipment Corporation, 480 South Street, Rensselaer, N.Y. 12144, October 4, 1981

Antietam Equipment Corporation, P.O. Box 91, Hagerstown, Maryland 21740-0091, January 1, 1982

Arkansas Trailer Mfg., Inc., P.O. Box 4080, 32nd & Elm Street, Little Rock, Arkansas 72214, January 1, 1982

Arrow Trailer & Equipment Co., 140 North Dirksen Parkway, Springfield, Illinois 62702, March 31, 1982

Artic Enterprises, Inc., P.O. Box 635, Thief River Falls, Minnesota 56701, August 1, 1981

Attex International Inc., 6168 Woodbine Avenue, Ravenna, Ohio 44266, August 1, 1981

Automated Waste Equipment Company, Incorporated, 328 Fourth Street, Trenton, New Jersey 08638, September 1, 1981

Automotive Service Company, 111-113 North Waterloo, Jackson, Michigan 49204, January 18, 1982

Avanti Motor Corporation, P.O. Box 1916, South Bend, Indiana 46634, January 1, 1982

Aztec Products, P.O. Box 659, Mansfield, Texas 74808, December 1, 1981

Beam Truck and Body Inc., 433 Cumberland Hill Road, Woonsocket, Rhode Island 02895, September 1, 1981

Bender's Sales and Service Inc., 4805 Holland, Saginaw, Michigan 48601, November 15, 1981

Benson Truck Bodies, Inc., P.O. Box 49, Mineral Wells, W.V. 26150, August 1, 1981

Bernardo Truck Equipment Corp., 625 Main St. (Route 38), Wilmington, Mass. 01887, March 1, 1982

Bethlehem Fabricators, Inc., 1700 Riverside Drive, P.O. Box A, Bethlehem, Pennsylvania 18015, January 20, 1982

Allan U. Bevier, Inc., 1201 Ridgely Street, Baltimore, Maryland 21230, April 1, 1982

Bibeau Enterprises, Route 102, Londonderry, N.H. 03053, October 15, 1981

Blue Bird Body Company, P.O. Box 937, North Macon Road, Fort Valley, Georgia 31030, January 18, 1982

Boone Trailers, Inc., 154 Park Street, P.O. Box 109, Palmer, Massachusetts 01069, December 31, 1981

Boyertown Auto Body Works, Third and Walnut Streets, Boyertown, Pennsylvania 19512, September 1, 1981

Brake and Electric Sales Corp., 300 Mystic Avenue, Medford, Massachusetts 02155, December 1,1981

Brown Cargo Van, Inc., 807 East 29th Street, Lawrence, Kansas 66044, April 30, 1982

Bud Industries, Inc., 100 Pulaski Street, West Warwick, Rhode Island 02893, December 5, 1981

Bus Andrews Equipment Sales and Service, Inc., 2828 E. Kearney Street, Springfield, Missouri 65803, February 1, 1982

Bus Industries of America, Inc., Base Road, R.D. #1, Oriskany, N.Y. 13424, April 1, 1982

Caelter Industries, Inc., Purdy Avenue, Watertown, New York 13601, April 1, 1982

Capacity of Texas, Inc., P.O. Box 7848, Longview, Texas 75607, December 1, 1981

Capitol Trailer & Body Company, 3420 E. Broadway, P.O. Box 3191, North Little Rock, Arkansas 72117, December 1, 1981

The Carnegie Body Company, 9500 Brookpark Road, Cleveland, Ohio 44129, January 1, 1981

Carpenter Body Works, Inc., 1500 W. Main Street, Mitchell, Indiana 47446, January 1, 1982

Centennial Industries Div., Douglas & Lomason Co., P.O. Box 708, Columbus, Georgia 31993, June 1, 1981

Champion Home Builders Co., 5573 E. North Street, Dryden, Michigan 48428, August 1, 1981

Checker Motors Corporation, 2016 N. Pitcher Street, Kalamazoo, Michigan 49007, January 1, 1982

Cherry Valley Tank Div., Inc., 75 Cantiague Road, Westbury, New York 11590, April 1, 1982

Chrysler Corporation, CIMS 418-37-10, Chrysler Center, 12000 Lynn Townsend Drive, Highland Park, Michigan 48288, January 14, 1982

B.M. Clark Company, Inc., Route 17, P.O. Box 185, Union, Maine 04862, January 14, 1982

D. W. Clark Road Equipment, 448 East Brighton Avenue, Syracuse, New York 13205, May 1, 1982

Clark Enginering of Brownwood, Inc., P.O. Drawer 1386, Brownwood, Texas 76801, January 1, 1982

Clark Truck Equipment Company, 6821 Academy Parkway West, N.E., P.O. Box 3483, Albuquerque, New Mexico 87190, January 1, 1982

Clemett and Company, Inc., 2020 Lemoyne Street, Syracuse, New York 13211, September 1, 1981

Collins Industries, Inc., Box 58 H.A.B.I.T., Hutchinson, Kansas 67501, January 1, 1982

Commercial Truck & Trailer, Inc., 313 N. State Street, Girad, Ohio 44420, January 1, 1982

Cook Body Company, 3701 Harlee Avenue, Charlotte, North Carolina 28208, October 22, 1981

Correct Manufacturing Corporation, London Road Extension, Delaware, Ohio 43015, July 1, 1981

Crane Carrier Company, 1925 North Sheridan, Tulsa, Oklahoma 74151, January 1, 1982

Crenshaw Corporation, P.O. Box 24217, 1700 Commerce Road, Richmond, Virginia 23224, July 1, 1981

Crown Coach Corporation, 2428 East 12th Street, Los Angeles, California 90021, March 20, 1982

Dakota Manufacturing Co., Inc., 1910 South Rowley, Mitchell, South Dakota, 37301, November 1, 1981

Daleiden's, Inc., 425 E. Vine Street, Kalamazoo, Michigan 49001, January 31, 1982

Dealers Truck Equipment Inc., 2123 Fern Valley Road, P.O. Box 23224, Louisville, Kentucky 40213, March 1, 1982

Dealers Truck Equipment Co., Inc., 2460 Midway Street, P.O. Box 31435, Shreveport, Louisiana 71130, January 1, 1982

Decker Tank Company, 63 Royal Avenue, Hawthorne, New Jersey 07506, November 3, 1981

John Deere Horicon, Works of Deere and Company, 220 East Lake Street, Horicon, Wisconsin 53032, June 1, 1981

Delevan Industries, Inc., 1728 Walden Avenue, Buffalo, New York 14225, May 1, 1982

Dunham Manufacturing Co., Inc., P.O. Box 430, Minden, Louisiana 71055, January 1, 1982

Duralite Truck Body and Container Corporation, 1300 Bush Street, Baltimore, Maryland 21230, January 1, 1982

Eagle International, Inc., P.O. Box 4119, 2045 Les Mauldin Blvd., Brownsville, Texas 78520, January 1, 1982

Eastern Tank Corporation, 290 Pennsylvania Avenue, Paterson, New Jersey 07503, January 1, 1982
Eggiman Motor and Equipment Sales, Inc., 1813 West Beltline Highway, P.O. Box 9432, Madison, Wisconsin 53715, December 31, 1981
Eight Point Trailer Corporation, 6100 E. Washington Boulevard, Los Angeles, California 90040, January 18, 1982
Elder International, P.O. Box 2061, Houston, Texas 77001, August 1, 1981
Equipment Service, Inc., 40 Airport Road, Hartford, Connecticut 06114, April 1, 1982
E. & R. Trailer Sales, Inc., R.R. #1, Middle Point, Ohio 45863, January 1, 1982
Euclid, Incorporated, 22221 St. Clair Avenue, Cleveland, Ohio 44117, August 1, 1981
Ewell Equipment Company, 307 N. Timberland Drive, Lufkin, Texas 75901, February 2, 1982
Excalibur Automobile Corporation, 1735 South 106th Street, Milwaukee, Wisconsin 53214, May 22, 1981
Fontaine Truck Equipment Company, 653 Beale, P.O. Box 502, Memphis, Tennessee 38101, January 1, 1982
Ford Motor Company, The American Road, Dearborn, Michigan 48121, January 18, 1982
Freightliner Corporation, 4747 North Channel Avenue, Portland, Oregon 97217, December 14, 1981
French Tool & Manufacturing, 2501 Commerce Drive, Midland, Texas. 79703, July 1, 1981
Freuhauf Corporation, 10900 Harper Avenue, P.O. Box 238, Detroit, Michigan 48232, December 1, 1981
FWD Corporation, 105 East 12th Street, Clintonville, Wisconsin 54929, January 1, 1982
Peter Garafano & Son, Inc., 500 Marshall Street, Paterson, New Jersey 07503, June 5, 1981
Garnon Truck Equipment Company, 1617 Peninsula Drive, P.O. Box 1358, Erie, Pennsylvania 16505, January 1, 1982
General Motors Corporation, Room 12–136, 3044 West Grand Boulevard, Detroit, Michigan 48202, January 19, 1982
General Truck Equipment & Trailer Sales, P.O. Box 6954, 5310 Broadway Avenue, Jacksonville, Florida 32236–6954, January 1, 1982
Gillig Corporation, P.O. Box 3008, 25800 Clawiter Road, Hayward, California 94540, January 1, 1982
Gilson Brothers Company, P.O. Box 152, Plymouth, Wisconsin 53073, September 26, 1981
Gooch Brake & Equipment Company, 506 Grand Avenue, Kansas City, Missouri 64106, January 1, 1982
Granning Service Corporation, 3040 Wyoming Avenue, Dearborn, Michigan 48120, January 1, 1982
Gratiot Equipment Co., 1244 E. Center Street, P.O. Box 125, Ithaca, Michigan 48847, September 1, 1981
The Greyhound Corporation, Greyhound Tower, Phoenix, Arizona 85077 (doing business through) Motor Coach Industries, Inc., Pembina, North Dakota 58271, and Transportation Mfg. Corp., Roswell, New Mexico 88201, August 1, 1981
Grumman Flexible Corporation, 970 Pittsburgh Drive, Delaware, Ohio 43015, January 1, 1982
Grumman Olson Division, Grumman Allied Industries, 445 Broad Hollow Road, Melville, New York 11747, November 1, 1981
Hackney and Sons, 400 Hackney Avenue, P.O. Box 880, Washington, North Carolina 27889, January 1, 1982
Hackney & Sons (Midwest), Inc., West Laurel Street and Hackney Avenue, Independence, Kansas 67301, September 23, 1981
Hallenberger, Inc., 5716 Boonville Highway, P.O. Box 5085, Evansville, Indiana 47715, December 31, 1981
Harley-Davidson Motor Co., Inc., 3700 West Juneau Avenue, Milwaukee, Wisconsin 53201, April 1, 1982
Harris Truck and Trailer Sales, Incorporated, I–55 and Airport Exit, P.O. Box 619, Cape Girardeau, Missouri 63701, January 1, 1982
Heil Equipment Company of Philadelphia, Incorporated, 1223 Ridge Pike, Conshohocken, Pennsylvania 19428, January 1, 1982
Hendrickson Manufacturing Co., P.O. Box 249, Burr Ridge, Illinois 60521, January 1, 1982
The Hess & Eisenhardt Co., 8959 Blue Ash Road, Cincinnati, Ohio 45242, January 9, 1982
Hews Company, Inc., 190 Rumery Street, P.O. Box 2520, South Portland, Maine 04106, January 18, 1982
Hilbilt Mfg. Company, Division of Hill Equip. Co., Route 7, Box 5089, Benton, Arkansas 72015, January 1, 1982
Hutco of Oklahoma, 14001 East Admiral Place, Tulsa, Oklahoma 74116, January 1, 1982
IBEX Manufacturing, Inc., 2384 South Redwood Road, P.O. Box 25846, Salt Lake City, Utah 84125, August 1, 1981
Illinois Auto Central, Inc., 4750 S. Central Avenue, Chicago, Illinois 60638, October 1, 1981
International Harvester Co., 401 North Michigan Avenue, Chicago, Illinois 60611, January 18, 1982
Iroquois Mfg. Co., Inc., Richmond Road, Hinesburg, Vermont 05461 March 1, 1982
Isometrics, Inc., P.O. Box 660, 1402 N. Scales Street, Reidsville, North Carolina 27320, March 31, 1982
IVECO Trucks of North America, P.O. Box 1102, 1730 Walton Road, Blue Bell, Pennsylvania 19422, January 1, 1982
Jeep Corporation, 27777 Franklin Road, Southfield, Michigan 48034, January 1, 1982
Kaffenbarger Welding Company, 10100 Ballentine Pike, New Carlisle, Ohio 45344, January 1, 1982
Kawasaki Motors Corporation, 2009 E. Edinger Avenue, Santa Ana, California 92705, January 1, 1982
Kay Wheel Sales Co., Inc., 1771 Tomlinson Road, Philadelphia, Pennsylvania 19116, September 24, 1981
Kencar Equipment Company, 1906 Lakeview Avenue, Dayton, Ohio 45408–1398, January 1, 1982
Keystone Coach Manufacturing Co. of Florida, Inc., 501 Nova Road, P.O. Box 1055, Ormond Beach, Florida 32074, April 1, 1982
Leland Equipment Company, 3647 South 122 East Avenue, P.O. Box 45128, Tulsa, Oklahoma 74145, January 18, 1982
Loadcraft, Division of Allied Products Corporation, P.O. Box 431, Curtis Field, Brady, Texas 76825, November 1, 1981
Long Trailer Service, Inc., P.O. Box 5105, Greenville, South Carolina 29606, January 1, 1982
M & M Equipment, Inc., P.O. Box 152, Lebanon, New Hampshire 03766, March 14, 1982
Mack Trucks, Inc., P.O. Box M, Allentown, Pennsylvania 18105, January 1, 1982
Maday Body & Equipment Corp., 575 Howard Street, Buffalo, New York 14206, January 1, 1982
Madison Truck Equipment, Inc., 2410 South Stoughton Road, Madison, Wisconsin 53716, October 22, 1981
Manning Equipment, Inc., 12000 Westport Road, P.O. Box 23229, Louisville, Kentucky 40223, April 16, 1982
Marion Body Works, Inc., 211 W. Ramsdell Street, P.O. Box 500, Marion, WI. 54950–0500, January 1, 1982
Mark Body, Division Core Industries, P.O. Box 128, 50625 Richard W. Boulevard, Mt. Clemens, Michigan 48043–0128, March 31, 1982
Marmon Motor Co., P.O. Box 402009, Garland, Texas 75040, September 1, 1981
Maxon Industries, Inc., 5750 South Eastern Avenue, City of Commerce, California 90040, August 16, 1981
Meadows Hydraulics Sales and Service, Inc., U.S. 13 and S. Division St., Fruitland, Maryland 21826, September 23, 1981
Mercedes-Benz of North America, Inc., One Mercedes Drive, Montvale, New Jersey 07645, January 1, 1982
W.F. Mickey Body Co., Inc., P.O. Box 2044, 1505 Bethel Drive, High Point, North Carolina 27261, September 23, 1981
Mid West Truck Equipment Sales, Division of Electrographic Corp., 4041 No. Brush College Road, R.R. #7, Box 463F, Decatur, Illinois 62521, February 22, 1982
Middlekauff, Incorporated, 1615 Ketcham Avenue, Toledo, Ohio 43606, January 18, 1982
Mike & Joe Equipment Co., Inc., Rochester Road Equipment, Inc., 1240 Jefferson Road, Rochester, N.Y. 14623, June 1, 1981
Millington Truck Body Co., Inc., 8440 N. State Street, P.O. Box 281, Millington, Michigan 48746, December 1, 1981
Moline Body Company, 222 52nd Street, Moline, Illinois 61265, January 6, 1982
Moore and Sons, Inc., P.O. Box 30991, 2900 Airways Boulevard, Memphis, Tennessee 38130, December 31, 1981
Morgan Trailer Mfg. Co., t/a Morgan Corporation, Joanna Road, Box 258, Morgantown, Pennsylvania 19543, January 1, 1982
Motor Truck Equipment Corp., 2950 Irving Blvd., P.O. Box 47385, Dallas, Texas 75247, December 31, 1981
Multi Body & Hoist, 180 Varick Avenue, Brooklyn, N.Y. 11237, December 1, 1981
Nabors Trailer, Inc., P.O. Box 979, Mansfield, Louisiana 71052, January 1, 1982

Neil's Automotive Service, Inc., 167 E. Kalamazoo Avenue, Kalamazoo, Michigan 49007, January 1, 1982
Nelson Manufacturing Company, 6448 U.S. Route 224, R.R. #1, Ottawa, Ohio 45875, January 1, 1982
The Ness Company, Inc., P.O. Box 667, 270 N. Zarfoss Drive, York, Pennsylvania 17405, January 1, 1982
New Method Equipment Company, P.O. Box 4638, 707 27th Avenue, S.W., Cedar Rapids, Iowa 52404, December 31, 1981
Novi Manufacturing Company, 25701 Seeley Road, Novi, Michigan 48050, November 1, 1981
Ohio Truck Equipment, Inc., 4100 Rev Drive, Cincinnati, Ohio 45232, December 10, 1981
Omaha Standard, Inc., 2401 W. Broadway, Council Bluffs, Iowa 51501, January 1, 1982
Oshkosh Truck Corporation, 2307 Oregon Street, P.O. Box 2566, Oshkosh, Wisconsin 54903, January 18, 1982
Ottawa Truck Corporation, Gulf & Western Manufacturing Co., 415 East Dundee Street, Ottawa, Kansas 66067, December 10, 1981
Outboard Marine Corporation, 100 Sea Horse Drive, Waukegan, Illinois 60085, January 18 1982
PACCAR, Incorporated, d/b/a Kenworth Truck Company, Peterbilt Motors Company, P.O. Box 1518, Bellevue, Washington 98009, January 18, 1982
Palmer Spring Company, 355 Forest Avenue, Portland, Maine 04101, January 18, 1982
Peabody Galion, P.O. Box 607, 500 Sherman Street, Galion, Ohio 44833, October 31, 1981
Peerless Division, Lear Siegler, Incorporated, 18205 S. W. Boones Ferry Road, Tualatin, Oregon 97062 January 9, 1982
Perfection Equipment Company, P.O. Box 75540, 5100 West Reno, Oklahoma City, Oklahoma 73147, January 12, 1982
Petroleum Equipment and Supply Company, Inc., 34 Fulton Street, New Haven, Connecticut 06512, February 20, 1982
Phoenix Manufacturing, Inc., 375 West Union Street, Nanticoke, Pennsylvania 18634, February 20, 1982
Polaris Industries, Inc., 1225 North County Road 18, Minneapolis, Minnesota 55440, February 1, 1982
Power Brake Service & Equip. Co., Inc., 1022 Carnegie Avenue, Cleveland, Ohio 44115, December 31, 1981
Power Equipment Sales & Service, Inc., 2729 Agnes, P.O. Box 9156, Corpus Christi, TX 78403, June 1, 1981
Progress Industries, Inc., 400 East Progress Street, Arthur, Illinois 61911, October 1, 1981
PSI Mobile Products, Inc., 25 Eldridge, Mt. Clements, Michigan 48043, July 1, 1981
Quality Truck & Equipment Co., P.O. Box 102, I–55 Beltline and Mercer Avenue, Bloomington, Illinois 61701, November 15, 1981
R/S Truck Body Company, Inc., P.O. Box 420, Allen, Kentucky 41601, September 23, 1981
Recreative Industries, Inc., 60 Depot Street, Buffalo, Now York 14206, July 13, 1981
Rhode Island Petroleum Equipment, 464 Broadway, Pawtucket, R.I. 02860, July 31, 1981
Rowland Truck Equipment, Inc., 2900 N.W. 73rd Street, Miami, Florida 33147, November 19, 1980
Ryder Truck Rental, Inc., 4709 West 96th Street, P.O. Box 68490, Indianapolis, Indiana 46206, January 1, 1982
Scientific Brake and Equipment Co., P.O. Box 840, 314 W. Genesee Avenue, Saginaw, Michigan 48606, January 19, 1982
Sharpsville Steel Equip., Co., 6th & Main Streets, Sharpsville, Pennsylvania 16150, January 2, 1982
Shear Truck Mfg. Co., Inc., 2321 East Pioneer Drive, Irving, TX. 75601, October 20, 1981
Skillcraft Industries, Inc., 1270 Ogden Road, Venice, Florida 33595, September 1, 1981
Somerset Welding & Steel, Inc., P.O. Box 628, 773 S. Center Avenue, Somerset, Pennsylvania 15501, January 1, 1982
South Florida Engineers, Inc., 5911 E. Buffalo Avenue, P.O. Box 11927, Tampa, Florida 33680, July 2, 1981
Steffen, Incorporated, 623 West 7th Street, Sioux City, Iowa 51103, November 4, 1981
Taylor-Dunn Mfg. Company, 2114 West Ball Road, Anaheim, California 92804, October 3, 1981
Terex Corporation, State Route 91, Hudson, Ohio 44236, January 1, 1982
Thomas Built Buses, Inc., 1408 Courtesy Road, P.O. Box 2450, High Point, North Carolina 27261, March 1, 1982
Traffic Transport Engineering, Inc., 28900 Goddard Road, Romulus, Michigan 48174, July 1, 1981
Transport Equipment Company, 3400 6th Avenue, South, P.O. Box 3817, Seattle, Washington 98124, January 18, 1982
Triangle Fleet Service, 801 Coliseum Blvd. West, Fort Wayne, Indiana 46808, January 1, 1982
Truck Equipment, Inc., P.O. Box 3265, 1560 N.E. 44th Avenue, Des Moines, Iowa 50316, January 1, 1982
Truckers Equipment, Inc., P.O. Box 1086, 85 East Longfield Avenue, Mansfield, Ohio 44901, March 16, 1982
Truckers Equipment, Inc., 1501 N. Port Avenue, Corpus Christi, Texas 78408–0747, December 1, 1981
Truckers Equipment, Inc., 2022 N. 77 Sunshine Strip, Harlingen, Texas 78550, December 1, 1981
Truck Equipment, Inc., 680 Potts Avenue, Green Bay, Wisconsin 54304, January 1, 1982
Truck Equipment Service Company, 800 Oak Street, Lincoln, Nebraska 68521, January 1, 1982
Truck Parts and Equipment, Inc., 4501 West Esthner, Wichita, Kansas 67209, December 11, 1981
Twin Bay Industries, Inc., 8980 Cairn Highway, P.O. Box 37, Elk Rapids, Michigan 49629, April 30, 1981
Union City Body Company, Inc., 1015 West Pearl Street, Union City, Indiana 47390, September 1, 1981
Unit Rig & Equipment Co., 4110 S. 100th E. Avenue, Tulsa, Oklahoma 74145, January 1, 1982
Universal Go Tract of Georgia Ltd., 963 Industrial Park Drive, Marietta, Georgia 30062, June 1, 1981
Valley Truck and Equipment Company, Inc., P.O. Box 16, Trevett Road, Boston, New York 14025, October 15, 1981
Van Con, Incorporated, 123 Williams Street, Middlesex, New Jersey 08846, September 1, 1981
Volkswagen of America, Inc., 27621 Parkview Boulevard, Warren, Michigan 48092, October 11, 1981
Volvo White Truck Corporation, P.O. Box D–1, 1031 Summit Avenue, Greensboro, N.C. 27402, January 1, 1982
WABCO Construction & Mining Equipment, a Division of American Standard, Inc., 2300 N.E. Adams Street, P.O. Box 240, Peoria, Illinois 61639, February 1, 1982
Walter Equipment USA, Inc., Northeastern Industrial Park, P.O. Box 279, Guilderland Center, NY 12085, January 1, 1982
D. P. Way Corporation, 3822 W. Elm Street, P.O. Box 09336, Milwaukee, Wisconsin 53209, December 31, 1981
Wayne Corporation (an Indian Head Company), P.O. Box 1447, Industries Road, Richmond, Indiana 47374, October 31, 1981
Wayne Engineering Corporation, 2412 West 27th Street, Cedar Falls, Iowa 50613, October 31, 1981
Winnebago Industries, Inc., P.O. Box 152, Jct. Highways 9 and 69, Forest City, Iowa 50436, March 19, 1982
Wyman's, Incorporated, P.O. Box 541, Northfield Road, Montpelier, Vermont 05602, July 1, 1981

[FR Doc. 82–18075 Filed 7–1–82; 8:45 am]
BILLING CODE 3510–30–M

International Trade Administration

Bicycle Speedometers From Japan; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On November 17, 1981, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on bicycle speedometers from Japan. This review covers 23 of the 25 known manufacturers, resellers and exporters of this merchandise to the United States and various time periods through October 31, 1981.

Interested parties were given an opportunity to submit oral or written comments, and a public hearing was conducted on January 12, 1982. Based on comments received, the Department has made adjustments to the margins for 14 firms. The margins in the preliminary results remain unchanged for all other firms.

EFFECTIVE DATE: July 2, 1982.

FOR FURTHER INFORMATION CONTACT: Betsy E. Stillman of David R. Chapman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. (202–377–2923).

SUPPLEMENTARY INFORMATION

Background

On November 22, 1972, a dumping finding with respect to bicycle speedometers from Japan was published in the **Federal Register** as Treasury Decision 72-322 (37 FR 24826). On November 17, 1981, the Department of Commerce ("the Department") published in the **Federal Register** the preliminary results of its administrative review of the finding (46 FR 56486-88). The Department has now completed that administrative review.

Scope of the Review

Imports covered by this finding are shipments of bicycle speedometers including double gear hub drive and single gear hub drive speedometers used on exercisers. Such speedometers are currently classifiable under items 711.9300 and 711.9820 of the Tariff Schedules of the United States Anotated (TSUSA).

The preliminary results of review covered the 23 known firms engaged in the manufacture, sale, or export of bicycle speedometers for use on bicycles to the United States and various time periods from January 1, 1972 through October 31, 1980. While we have now concluded that the finding covers exerciser speedometers, we will examine sales of such speedometers in subsequent administrative reviews.

Analysis of Comments Received

Interested parties were invited to comment on our preliminary results. At the request of the petitioner, Stewart-Warner Corporation, and various respondents and importers, we held a hearing on January 12, 1982.

We received the following comments from the petitioner, Stewart-Warner.

(1) Comment

All speedometers suitable for use on exercisers, including double gear hub drive speedometers, are within the scope of the antidumping finding because such speedometers are of the class or kind of merchandise which the Treasury Department and the Tariff Commission investigated in 1972.

Position

In the notice of preliminary results of administrative review, we tentatively concluded that double gear hub drive speedometers are not within the scope of this antidumping finding, for the following reasons: (1) The finding was limited to "bicycle speedometers" classifiable under item 711.93 of the Tariff Schedules of the United States (TSUS), and (2) The U.S. Customs Service recently ruled that, because double gear hub drive speedometers are not chiefly used on bicycles, they are not classifiable as bicycle speedometers.

Subsequent to publication of our preliminary results, we received and considered comments from interested parties, physical exhibits, and the record of the Tariff Commission's original investigation of injury in this case. After further consideration of the issue, we have reached the final determination that double gear hub drive speedometers *are* included within the scope of the finding on bicycle speedometers.

Item 711.93 TSUS at the time of the fair value investigation covered single gear hub drive speedometers that were usable on both bicycles and exercisers. The Treasury Department's and the Tariff Commission's investigations both included single gear hub drive speedometers usable on both bicycles and exercisers. We conclude that the fair value investigation covered most, if not all, types of speedometers marketed at the time that were used on bicycles and exercisers.

Subsequent to the date of the finding, double gear hub drive speedometers were first developed and marketed. The differences in physical appearance, cost, and function between the double and single gear hub drive speedometers are minimal. Both types of speedometers are sold by wholesale distributors in kit form for use on either bicycles or exercisers. Both types are also sold to bicycle or exerciser original equipment manufacturers.

Merchandise of the same class or kind as single gear hub drive speedometers is included within this finding of dumping, regardless of its chief use and current classification. Accordingly, all bicycle speedometers suitable for use on exercisers, including double gear hub drive speedometers, are within the scope of the finding because such speedometers are of the class or kind of merchandise which the Treasury Department and the Tariff Commission investigated in 1972.

(2) Comment

The Department is required by statute to ascertain and verify the cost of production of bicycle speedometers sold by Sanyo Electric.

Position

The Department did not review or verify the cost of production for Sanyo in response to the petitioner's allegation. The Department received the petitioner's supporting documentation for the allegation too late to use in this administrative review, *i.e.*, after the hearing. The administrative burden on the Department to investigate, analyze, verify, and allow comment now on the possible existence of below cost sales would significantly delay the current administrative review. To be considered all allegations must be supported by some evidence and should have been submitted to the Department prior to the hearing. In future administrative reviews, such allegations and supporting documentation must be submitted prior to publication of the notice of preliminary results of review.

(3) Comment

The Department should reject all information regarding foreign market value submitted by Asahi in response to the Department's questionnaire as untimely and incomplete. The Department should instead use the best information otherwise available in making its final determination for Asahi in this review. The best information otherwise available is that based on another manufacturer's home market prices.

Position

The Department agrees that the responses by Asahi are incomplete or too late and will not consider them. Instead the Department is using the best information otherwise available.

Despite the Department's requests, Asahi omitted from its responses data which were critical to the Department's calculations for its notice of preliminary results of administrative review. Asahi submitted the requested information after the hearing. Consideration of Asahi's entirely new submission of data would have caused the Department to delay unduly the completion of this administrative review. Asahi's omissions from its responses to our questionnaires for this review have caused the Department to employ in the preliminary results an incorrect basis of calculation for foreign market value, that is, constructed value. The Department must, therefore, now resort to best information otherwise available.

As the Department concluded in the section 751 review of *Michelin X-Radial Steel Belted Tires from Canada* (46 FR 48737-41), the best information otherwise available is not the best information that a respondent is willing to produce. We scheduled verification of Asahi's constructed value data without knowing that the respondent had omitted significant and relevant facts from its responses which would have demonstrated, among other things, that Asahi had adequate home market sales. Therefore, the results of this verification are unacceptable.

Petitioner maintains that the best information otherwise available is

another firm's prices in the home market. The Department however believes that is is more reasonable to use as the best information otherwise available, for firms investigated at the fair value stage, the highest current rate for responding firms, since it is both higher than the most recent rate for Asahi and higher than its fair value rate. The highest current rate for responding firms is 26.44%

(4) Comment

The Department's adjustments to Sanyo's home market price for certain differences in circumstances of sale, *i.e.*, advertising, credit costs and inland freight, were not in accordance with law because there is no indication that any price differential is related to differences in these costs and because the expenses were not shown to be directly related to the sales under consideration.

Position

In making comparisons, the Department reduces the United States price and foreign market value to comparable terms. In its simplest form, the calculation compares ex-factory prices for sales to the U.S. and for sales to the home market. We made adjustments for advertising and credit costs in accordance with section 353.15(d) of the Commerce Regulations which states that reasonable allowances will be made for the *costs* to the seller of any differences in circumstances of sale. This regulation is consistent with section 773(a)(4) of the Tariff Act, which states that an allowance will be made for any price difference "wholly or partly" due to differences in circumstances of sale. We conclude that the differences in cost constitute a reasonable indication of the differences in price. Furthermore, the circumstances of sales adjustments were, when necessary, based on reasonable allocations of selling costs shown in product sales records of the narrowest corporate accounting unit. *See Brother Industries, Ltd., et al.* v. *United States*, 3 C.I.T. ——,Slip Op. 82–34 (April 30, 1982).

(5) Comment

The Department should have considered offers to sell in the home market before adopting third-country sales as a proxy for foregin market value in the case of Kaken Corporation.

Position

The Department knows of no *bona fide* offers for sale by Kaken Corporation in its home market and the petitioner has not provided any information regarding such offers. Therefore, we used third-country sales to establish foreign market value.

(6) Comment

The Department used the margins stated in Treasury master lists as best information available for deposit and assessment purposes. The petitioner contends that the Department should reevaluate the data underlying margins taken from previously issued Treasury master lists.

Position

As described in the Department's notice of final results for *Impression Fabric of Man-Made Fiber from Japan* (47 FR 17319–17321), as a general rule the Department presumes Treasury's master lists were correct.

(7) Comment

Sanyo excluded from its questionnaire responses most of its home market speedometer sales. The Department should require more complete information from Sanyo.

Position

Sanyo explained that the discrepancy arose because Sanyo reported sales of only those types of speedometers sold to the United States. The Department's questionnaire to manufacturers and sellers does request that total sales, both by quantity and by value, of similar as well as identifical merchandise be reported. Sanyo, however, did provide at our request and in a timely manner sufficient information to determine that the home market models chosen for comparison were the most similar, and that the quantity of these models sold in the home market was sufficient to establish that a viable home market existed for comparison to U.S. price.

(8) Comment

The Department should investigate the transshipment of Japanese bicycle speedometers through Canada to the U.S.

Position

The Department will investigate transshipments of Japanese bicycle speedometers through Canada should our records indicate that such transshipments are occurring. The Department's records do not indicate that such transshipments occurred during the period covered by this administrative review. The petitioner did not provide any information to the contrary for this period.

(9) Comment

The Department should monitor Japanese exports of bicycle and exerciser speedometers to the United States for possible diversion by manufacturers from trading companies with high estimated duty deposit rates to trading companies with no, or low, estimated duty deposit rates.

Position

The Department is aware of the potential for such diversion and believes that the section 751 review process provides adequate protection.

We received the following comments from Sanyo Electric.

(10) Comment

The petitioner has presented no evidence which would justify a cost of production inquiry as to Sanyo.

Position

See our position under Comment 2.

(11) Comment

Rather than compare Sanyo's sales to a large U.S. "mass merchandiser" with Sanyo's sales to dealers in the home market, the Department should compare Sanyo's U.S. sales to Sanyo's home market sales to its large distributor customer. This distributor customer buys Sanyo speedometers in quantities comparable to that of Sanyo's U.S. customer.

Position

The Department has reexamined its records and has determined that, in terms of function in the marketplace, both the home market dealers and Sanyo's large distributor customer are at a level of trade comparable to the U.S. "mass merchandiser" (retailer). Our calculation of foreign market value includes the sales to Sanyo's large distributor customer.

(12) Comment

The Department should not establish purchase price based on sales by Sanyo to trading companies since Sanyo had no definitive knowledge of the ultimate destination of the merchandise. The Department should use the F.O.B. Japan prices at which the trading companies sold to unrelated U.S. importers as a basis for purchase price.

Position

Records in the Department's possession indicate that Sanyo knew the destination of the merchandise when it sold to the trading companies. Therefore, the use of Sanyo's prices to

the trading companies conforms to section 772(b) of the Tariff Act.

(13) Comment

If the Department continues to adhere to its position that Sanyo's price to the trading companies should be the basis for calculating purchase price, the Department must ascertain the cost to the trading companies for all storage, transportation and repackaging costs incurred after purchase from Sanyo, and purchase prices must be increased by the amounts of such additional costs and expenses pursuant to section 772(d)(1)(A) of the Tariff Act.

Position

The Department maintains that the merchandise is packed, ready for shipment to the U.S., at the time of the sale to the trading companies. There is no indication that the trading companies added any charge for export packing. The Department would not allow addition for storage and transportation as described by Sanyo.

(14) Comment

Sanyo maintains that, since the Department calculated foreign market value on the basis of sales to distributors for comparison with Sanyo sales to trading companies, the Department incorrectly included sales to a bicycle manufacturer in its computation.

Position

Our aim was not to use sales to bicycle manufacturers in calculating foreign market value. We have rechecked our calculations and have eliminated any such sales.

(15) Comment

Sanyo claimed that the Department's use of packing costs on 1978 direct sales to the U.S. as best information available for a packing cost adjustment for 1976 sales to trading companies was improper. The Department should use as best information the packing cost information on the firm's 1977 sales to trading companies.

Position

The Department has decided that the best information available for the packing costs of home market and trading company sales prior to 1977 is actual data for sales which took place from 1977 through the end of the review period. We have calculated a weighted average packing cost for each market for the whole period and determined the relationship of that cost to the weighted average price in each market for the whole period. We then applied the ratio derived for each market to the actual unit price of each transaction in the U.S. and home market. We determined the derived difference in the packing costs between the two markets on each transaction and adjusted the foreign market value for these differences.

(16) Comment

The Department should include one specific 1979 home market sale in its calculation of foreign market value for Sanyo with respect to sales to a particular trading company.

Position

We agree and have adjusted our calculations accordingly.

We received the following comments from Asahi.

(17) Comment

Treasury, in its determination of sales at less than fair value, and the Tariff Commission, in its injury determination, did not include exerciser speedometers in their findings because: (1) the petitioner's original complaint and the Treasury fair value investigation referred only to bicycle speedometers; (2) at the time of the Treasury/Tariff Commission investigations, no exerciser speedometers were being produced in Japan for export to the United States; (3) none of the bicycle speedometers imported from Japan were marketed for use on exercisers. Furthermore, exerciser speedometers are not of the same class or kind of merchandise as bicycle speedometers under the Department's criteria.

Position

See our position under Comments 1 and 21.

(18) Comment

The Department's methodology in calculating constructed value and purchase price for Asahi is incorrect. Instead of using constructed value, the Department should accept new data submitted by Asahi after publication of the preliminary results notice which will eliminate the Department's need to use constructed value. With regard to purchase price, inland freight from Asahi to trading companies should not have been deducted.

Position

With regard to constructed value the Department considers the initial responses by Asahi to be incomplete and the new responses untimely and will not consider them. Instead the Department is using the best information otherwise available for cash deposit and assessment purposes. The best information otherwise available for Asahi is the highest current rate for responding firms. See our position under Comment 3. As for purchase price, deduction of inland freight is appropriate under section 772(d)(2)(A) of the Tariff Act.

(19) Comment

The petitioner has not presented any evidence to justify a cost of production investigation with respect to Asahi's bicycle speedometers. The Department's verification of Asahi's cost information rebuts petitioner's claim.

Position

See our position under Comment 3.

We received the following comments from various importers.

(20) Comment

Dorcy Cycle and Service Cycle Supply maintained that the Department's methodology for calculating constructed value for Asahi was incorrect. Furthermore, Dorcy maintained that petitioner's estimate of Japanese production costs was irrelevant in light of the Department's verification of Asahi's constructed value. Service Cycle argued, in addition, that the Department should make an upward adjustment to purchase price to account for defective merchandise.

Position

The Department does not intend to use any of the data regarding Asahi merchandise. The Department considers the initial information submitted by Asahi to be incomplete and the new responses untimely.

(21) Comment

Diversified Products argued that double gear hub drive speedometers classifiable under 711.98 TSUS were not included in the original antidumping investigation either by Treasury or the Tariff Commission. The petition, Treasury, and the Tariff Commission described the merchandise as classifiable under 711.93 TSUS. Only aftermarket/accessory type bicycle speedometers, not original equipment type speedometers, were the subject of the Tariff Commission investigation. Therefore, only those bicycle speedometers under 711.93 TSUS, which are attachable to bicycles or exercise machines, are subject to the finding. The Department cannot expand the scope of the original determination by now relying on the questionnaire of the Tariff Commission. Double gear hub drive speedometers used on exercisers are not

of the same class or kind as bicycle speedometers.

Position

See our position under Comment 1. The scope of the fair value investigation was defined to include all bicycle speedometers, not just those sold in the aftermarket. Therefore, the finding covered bicycle speedometers sold to original equipment manufacturers and aftermarket distributors.

(22) Comment

N.S. International argued that both double gear hub drive speedometers and single gear hub drive speedometers chiefly used with exercise cycles are not within the class or kind of merchandise included within the scope of the finding. N.S. International also argued that exerciser speedometers were not included in the original investigation because Treasury looked only at bicycle speedometers classifiable under 711.93 TSUS, not exerciser speedometers. Under the Antidumping Act of 1921 ("the 1921 Act"), the Tariff Commission could not expand the scope of Treasury's investigation.

Position

See our position under Comments 1 and 21. Even if we assume that, under the 1921 Act, Treasury had the exclusive responsibility for establishing the scope of the investigation, we maintain that the record of the Tariff Commission investigation properly reflected the scope of the investigation by Treasury.

Final results of the review

Based on our analysis of the comments received, we have changed the margins for 14 firms:

Manufacturer/exporter	Time period	Margin (percent)
A & A Japan Ltd. (mfr.—Kaisan Corporation)	11/1/78–10/31/80	9.38
Royal Industries Limited (seller—Nihon Seiki Co., Ltd.) (mfr.—Asahi Keiki Seisakusho Co., Ltd.)	7/1/79–10/31/80	26.44
Yagami Corporation (mfr.—Asahi Keiki Seisakusho Co., Ltd.)	7/1/79–10/31/80	26.44
(mfr.—Taiyo Electric Co., Ltd.)[1]	1/1/72–5/31/73	7.0
	6/1/78–10/31/80	7.0
(seller—Sanyo Electric Company, Ltd.)	4/1/78–10/31/80	26.44
Edner Inc.	1/1/75–10/31/80	[2]0.0
Shin-Ei Trading Co., Ltd.	1/1/75–10/31/80	[2]0.0
Hatsuno Electric Industrial Co., Ltd.	1/1/75–10/31/80	[2]0.0
Honda Lock K.	2/1/79–10/31/80	[2]0.0
Kuwahara Co., Ltd.	8/1/78–10/31/80	[2]0.0
Maruka Machinery	4/1/78–10/31/80	[2]0.0
Sanyo Electric Trading Company, Ltd. (seller—Sanyo Electric Company, Ltd.)	4/1/78–10/31/80	5.76
Meroi Ltd. (seller unknown)	2/1/77–10/31/80	26.44
(seller—Sanyo Electric Company, Ltd.)	6/1/78–10/31/80	24.16
Fujimoto Trading Co., Ltd. (seller—Sanyo Electric Company, Ltd.)	11/1/74–10/31/80	0.02
Toshoku, Ltd. (seller—Nichebei Fuji Cycle Co., Ltd.) (seller—Sanyo Electric Company, Ltd.)	1/1/78–10/31/80	17.24
(seller—Sankyo International K.K.)	1/1/78–10/31/80	26.44
Inoue Trading Company (seller—Sanyo Electric Company, Ltd.)	7/1/78–10/31/80	15.18
Tokyo Pac Sales, Ltd.[3]	5/1/74–5/31/74	3.87
(seller—Sanyo Electric Company, Ltd.)	6/1/74–10/31/80	3.87
Sanyei Corporation (seller—Sankyo International K.K.)	1/1/75–10/31/80	26.44

[1] No shipments during period.
[2] Firm no longer exists.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries with purchase dates during the periods of review. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will separately issue appraisement instructions to the Customs Service.

Further, as provided by section 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the most recent of the margins calculated above shall be required on all shipments by these firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. For any shipment from a new exporter not covered in this review, unrelated to any covered firm, a cash deposit shall be required at the highest rate for responding firms with shipments during the most recent period in which shipments occurred. These deposit requirements shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of November 1982. The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and section 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: June 28, 1982.

Judith Hippler Bello,

Deputy (for Policy) to the Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-18078 Filed 7-1-82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

National Marine Fisheries Service; Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take endangered species as authorized by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217–222).

1. Applicant:

a. Name: South Carolina Wildlife and Marine Resources Department (P307).

b. Address: P.O. Box 167, Columbia, South Carolina 29202.

2. Type of Permit: To enhance the propagation and survival.

3. Names and Number of Animals: Shortnose sturgeon (Acipenser brevirostrum), 1,200 per year.

4. Type of Take: The proposed research studies are to determine the occurrence, distribution, life history, and ecology of shortnose sturgeon in South Carolina. The research will involve the temporary maintenance of some adult specimens for propagation studies, tagging for population studies, radio tagging for distribution studies, and the collection of some specimens for biological data.

5. Location of Activity: All major lakes, river systems, and coastal areas of South Carolina.

6. Period of Activity: 5 years.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, on or before August 2, 1982. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southeast Region,

9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: June 28, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-18073 Filed 7-1-82; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Restraint Level for Certain Cotton Apparel From Pakistan

June 29, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Adjusting the level of restraint established for cotton trousers in Category 347/348, produced or manufactured in Pakistan and exported during the twelve-month period which began on January 1, 1982, by the deduction of 6,017 dozen in overshipments from 1981 in Category 347. The adjusted level for 1982 will be 218,983 dozen.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926), and May 13, 1982 (47 FR 20654)).

SUMMARY: Under the terms of the Bilateral Cotton Textile Agreement of March 9 and 11, 1982 between the Governments of the United States and Pakistan, the United States Government is adjusting the level of restraint for cotton textile products in Category 347/348 for 1982 to account for 1981 overshipments in Category 347 amounting to 6,017 dozen.

EFFECTIVE DATE: July 6, 1982.

FOR FURTHER INFORMATION CONTACT: Gordana Slijepcevic, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-4212).

SUPPLEMENTARY INFORMATION: On March 26, 1982 there was published in the **Federal Register** (47 FR 13024) a letter dated March 22, 1982 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established levels of restraint for certain cotton textile products, including Category 347/348, produced or manufactured in Pakistan and exported during the twelve-month period which began on January 1, 1982. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to reduce the level of restraint for Category 347/348 to 218,983 dozen.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

June 29, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This letter amends, but does not cancel, the letter of March 22, 1981 which directed you to prohibit entry during the twleve-month period which began on January 1, 1982 and extends through December 31, 1982 of cotton textile products in certain specified categories, produced or manufactured in Pakistan.

Effective on July 6, 1982, the directive of March 22, 1981 is amended to reduce the level of restraint established for Category 347/348 to 218,983 dozen.[1]

The action taken with respect to the Government of Pakistan and with respect to imports of cotton textile products from Pakistan has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register**.

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-18074 Filed 7-1-82; 8:45 am]

BILLING CODE 3510-25-M

[1] The level of restraint has not been adjusted to account for any imports after December 31, 1981.

COMMODITY CREDIT CORPORATION

1982 Crop Price Support Rates—Flue Cured Tobacco

Correction

In FR Doc. 82-16558, published at page 26418, on Friday, June 18, 1982, make the following corrections:

1. On page 26419, in th second column, in the twentieth line "b¢fr" should be corrected to read "B6FR"; in the twenty-first line "B6FR" should be corrected to read "B4R".

2. Also on page 26419, in the third column, in the twelfth line "B5GK" should be corrected to read "B6GK"; in the thirteenth line "B6GG" should be corrected to read "B5GG".

BILLING CODE 1505-01-M

COMMODITY FUTURES TRADING COMMISSION

Proposed Collections of Information

In compliance with the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), the Commodity Futures Trading Commission has submitted to the Office of Management and Budget for its review a series of proposed regulations that would expand the Commission's commodity options pilot program to include the trading of options on physical commodities. Interested members of the public may obtain a complete copy of these information collection proposals by contacting Joseph Salazar at (202) 254-9735. Persons wishing to comment on the Paperwork Reduction Act implications of these proposals are asked to send a copy of their comments to Mr. Salazar at the Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, DC. 20581, and to the OMB Desk Officer for the agency, Robert Veeder, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

Dated: June 28, 1982.

Jane K. Stucky,

Secretary of the Commission.

[FR Doc. 82-18015 Filed 7-1-82; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board, 1982 Summer Study Group on Chemcial Warfare; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).
Dates of meeting: Tuesday, 20 July 1982; Wednesday, 21 July 1982.
Times: 0830-1700 hours on 20 July (Closed); 0830-1600 hours on 21 July (Closed).
Place: The U.S. Army Nuclear and Chemical Agency, 7500 Backlick Road, Springfield, Virginia.

Agenda: The Army Science Board 1982 Summer Study Group on Chemcial Warfare will meet for a final coordination meeting and update on special topics and other Service RDTE programs prior to the writing session in August. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 695–3039 or 697–9703.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 82-18000 Filed 7-1-82; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board, Ad Hoc Subgroup on Robotics/Artificial Intelligence; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB)

Dates of meeting: Tuesday, 27 July 1982; Wednesday, 28 July 1982

Times: 0830–1700 hours on 27 July (Closed); 0830–1600 hours on 28 July (Closed)

Place: The BDM Corporation, 7915 Jones Branch Drive, McLean, Virginia

Agenda: The Army Science Board Ad Hoc Subgroup on Robotics/Artificial Intelligence will be meeting to review previous inputs, receive and present briefings, hold discussions, and do preliminary report writing on applications of this technology for the Army. This meeting will be closed to the public in accordance with Section 562b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 695–3039 or 697–9703.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 82-18001 Filed 7-1-82; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board, Specialty Subgroup on Human Resources; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB)

Dates of meeting: Thursday, 29 July 1982; Friday, 30 July 1982

Times: 0830–1700 hours, 29 July (Open); 0830–1600 hours, 30 July (Open)

PLACE: The Pentagon, Conference Room 2E715B, Washington, D.C. 20310

AGENDA: The Army Science Board Specialty Subgroup on Human Resources will meet to receive briefings and hold discussions in that specific area of Army research, development, and acquisition with respect to the major issues, developments and opportunities. Among the briefers will be the Deputy Chief of Staff for Personnel and representatives from the U.S. Army Soldier Support Center. This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. In order to be able to accommodate prospective attendees, the Army Science Board Administrative Officer, Helen M. Bowen, must be notified no later than 28 July 1982. For further information call the ASB at (202) 695–3039 or 697–9703.

Helen M. Bowen,

Administrative Office.

[FR Doc. 82-18002 Filed 7-1-82; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board, Ballastic Missile Defense Study Subgroup; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB)

Date of meeting: Thursday, 29 July 1982

Time: 0830–1700 hours on 29 July (Closed)

Place: Denver, Colorado (Exact location to be determined.)

Agenda: The Army Science Board Subgroup conducting a study on Ballistic Missile Defense will meet to receive classified briefings, present progress briefings, and hold discussions of same. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and non-classified matters to be discussed are so inextricably interwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 695–3039 or 697–9703.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 82-18003 Filed 7-1-82; 8:45 am]

BILLING CODE 3710-08-M

Department of the Navy

Privacy Act of 1974; Amendments to Systems of Records

AGENCY: Department of the Navy, DOD.

ACTION: Amendments to Systems of Records.

SUMMARY: The U.S. Marine Corps proposes to amend 2 systems of records in its inventory of systems of records subject to the Privacy Act of 1974. The proposed changes to these systems notices are set forth below followed by the notices as amended.

DATE: The proposed action will be effective without further notice on August 2, 1982, unless comments are received which would result in a contrary determination.

ADDRESS: Send any comments to the system manager identified in the system notice.

FOR FURTHER INFORMATION CONTACT: Mrs. B. L. Thompson, Privacy Act Coordinator, Headquarters, U.S. Marine Corps, Washington, D.C. 20380, telephone: (202) 694–1452.

SUPPLEMENTARY INFORMATION: The U.S. Marine Corps systems notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a) Pub. L. 93–579 were published in the **Federal Register** as follows:

FR Doc. 81–697 (46 FR 6639) January 21, 1981

FR Doc. 82–674 (47 FR 2629) January 18, 1982

FR Doc. 82–2408 (47 FR 4328) January 29, 1982

FR Doc. 82–9405 (47 FR 14939) April 7, 1982

These changes do not require an altered system report as prescribed in 5 U.S.C. 552a(o).

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

June 28, 1982.

Amendments

MFD00003

System name: Joint Uniform Military Pay System/Manpower Management System (JUMPS/MMS) (46 FR 6643) January 21, 1981

Changes:

Categories of records in the system: Beginning in line 10, delete the words "Federal Indemnity Compensation Act" and substitute the words "Federal Insurance Contributions Act." Add to end of paragraph the words "weight control/military appearance data."

Retention and disposal: In line 3, delete the words "6 months" and substitute "11 months."

MFD00005

System name: Retired Pay/Personnel System (RPPS) (47 FR 2629) January 18, 1982

Changes:

Categories of records in the system: In line 42, delete the words "Fiscal Year and Month" and substitute "Physical Exam (Year and Month)." Add following words to the end of the paragraph: "Premobilization Flag; Preassigned Monitored Command Code; Civil Reform Act of 1978 (PAYCAP)."

MFD00003

SYSTEM NAME:

Joint Uniform Military Pay System/ Manpower Management System (JUMPS/MMS)

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains personnel and pay data which includes: Name, grade, SSN, date of birth, citizenship, marital status, home of record, dependents information, record of emergency data, enlistment contract or officer acceptance form identification, duty status, population group, sex, ethnic group, duty information, duty station/personnel assignment and unit information, security investigation, military pay record data such as information contained on the Leave and Earnings Statement which may include base pay/ allowances/allotments/bond authorization, health care coverage, special pay and bonus data, Federal and State Withholding/Income Tax Data, Federal Insurance Contributions Act Tax Withholding Data, Serviceman's Group Life Insurance Deductions, leave account, wage and tax summaries, separation document code, test scores/ information, language proficiency, military/civilian/off-duty education, training information, awards, combat tour information, aviation/pilot/flying time data, lineal precedence number, limited duty officer/warrant officer footnote, TAD data, power of attorney, moral code, conduct and proficiency marks, years in service, promotional data, weight control/military appearance data.

* * * * *

RETENTION AND DISPOSAL:

Magnetic records are maintained on all military personnel and certain civilians while they are in service or employed by the service and for a period of 11 months after separation. Paper and film records are maintained for a period of 10 years after the final transaction, then they are destroyed. End calendar and fiscal year "snapshots" of the MMS data base are maintained indefinitely in magnetic form at Headquarters, U.S. Marine Corps.

* * * * *

MFD00005

SYSTEM NAME:

Retired Pay/Personnel System (RPPS)

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

The RPPS automated system of records contains the following fields (data elements and data sets): Retired/ Retainer Date; Retainer Date; Pay Change; Information Status; Social Security Numbert (SSN) and Last, First, and Middle Initial (Key); Deletion Date; SSN; Retired Category Code; Member's Name; Pay Entry Base Date; Service for Pay; Active Service; Other Military Service Number (MSN); Prior MSN/ SSN/Key; Rank Code; Race Code; Sex Code; Disability Percent; Heroism Pay; Pay Table Code; Recomputation Age; Retirement Laws; Functional Account Number; Ranks; Birthdates; Pay Delete/ Suspense Code; Retired Serviceman's Family Protection Pay; Reserve Retirement Credit Points; Allotment Data; Withhlding Tax Data; Wage and Tax Summaries; Gross Pay; Taxable Pay; Withholding Tax; Dependency Indemnity Compensation; Pension Act of 1944 (Veterans Administration (VA) Wavier); Pension Act of 1964 (Dual Compensation GI); Retired Serviceman's Family Protection Plan; Survivor Benefit Plan; Social Security; Scheduled Collections; Net Pay; Special Handling Code (Check Delivery); Accumulated Summaries; Home Mailing Address; Check Mailing Address; Pay Distribution; Last Change Posted; Date Member Eligible to Retire; Date Arrived Continental United States Without Dependents; Primary Military Occupational Specialty; Districts; Highest Rank Held Satisfactorily; Service Prior to 1 July 1949; Service After 1 July 1949; Active Duty After Transfer to Fleet/Retired Rolls; Date Next Physical Exam (Year and Month); VA Disease Codes; Department of Defense Disease Codes; Nearest Hospital (See Table 9); Personnel Accounting Separation Designator; Earnings Statement Flag; Disability Pay; Change of Address Flag; Last Time Processed by Update-Extractor; SSN Validation; Remarks Area; One-Time Credit-Checkage; Scheduled Collection; Veterans Administration Claim Number; Tower Amendment Code; Premobilization Flag; Preassigned Monitored Command Code; Civil Service Reform Act of 1978 (PAYCAP).

[FR Doc. 82-18002 Filed 7-1-82; 8:45 am]
BILLING CODE 3810-01-M

Office of the Secretary of Defense

Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of Subsection (d) of Section 10 of Pub. L. 92–463, as amended by Section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of a Panel of the DIA Advisory Committee has been scheduled as follows: September 1, 1982, Wednesday, Plaza West, Rosslyn, Va.

The entire meeting, commencing at 0900 hours is devoted to the discussion of classified information as defind in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on intelligence support to tactical commanders.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

June 28, 1982.

[FR Doc. 82-18001 Filed 7-1-82; 8:45 am]
BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

National Advisory Council on Women's Educational Programs; Tentative Meeting

AGENCY: National Advisory Council on Women's Educational Programs.

ACTION: Notice of tentative meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a meeting of the National Advisory Council on Women's Educational Programs, tentatively scheduled pending confirmation of the new appointees. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: July 19, 1982, 9:00 a.m. to 4:00 p.m. and July 20, 1982, 9:00 a.m. to 5:00 p.m.

ADDRESS: The meeting will be held in the Council offices at 1832 M Street, N.W., Suite 821, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Kathleen Dauito, Administrative Officer, National Advisory Council on Women's Educational Programs, 1832 M Street

NW., Suite 821, Washington, D.C., 20036, (202) 653–5846.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Women's Educational Programs is established pursuant to Pub. L. 95–561. The Council is mandated to (a) advise the Secretary on matters relating to equal education opportunities for women and policy matters relating to the administration of the Women's Educational Equity Act of 1978; (b) make recommendations to the Secretary with respect to the allocation of any funds pursuant to the Act, including criteria developed to insure an appropriate geographical distribution of approved programs and projects throughout the Nation; (c) recommend criteria for the establishment of program priorities; (d) make such reports as the Council determines appropriate to the President and Congress on the activities of the Council; and (e) disseminate information concerning the activities of the Council.

The National Advisory Council on Women's Educational Programs plans to meet from 9:00 a.m. to 4:00 p.m. on July 19, 1982, and from 9:00 a.m. to 5:00 p.m. on July 20, 1982 in the Council offices at 1832 M Street, N.W., Suite 821, Washington, D.C.

The proposed agenda for July 19, 1982 includes: general orientation information for new members; an overview of the Counctil's history, mandate, activities, and relationship to the Education Department and Congress; discussion of the economic and academic status of women today, with presentations by representatives of government agencies and the educational community.

On July 20, 1982, the agenda includes: the viewing of two films developed by projects funded under the Women's Educational Equity Act; discussions on Title IX, sexual harassment in academe, and adult women's educational needs; review of the Council's Policies and Procedures; election of Chair and Vice Chair; and plans for future meetings and activities.

The meeting of the Council will be open to the public. Records will be kept of the proceedings and will be available for public inspection at the office of the National Advisory Council on Women's Educational Programs, 1832 M Street, N.W., Suite 821, Washington, D.C., 20036.

Signed at Washington, D.C., on June 29, 1982.

Joy R. Simonson,

Executive Director.

[FR Doc. 82-18048 Filed 7-1-82; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER82-605-000]

Arkansas Power & Light Co.; Filing

June 28, 1982.

The filing Company submits the following:

Take notice that on June 17, 1982, Arkansas Power & Light Company (AP&L) tendered for filing a letter Agreement dated May 4, 1982 between AP&L and the City of Ruston, Louisiana (Ruston) for transmission service through the system of AP&L to the system of Louisiana Power & Light Company to permit a sale by Arkansas Electric Cooperative Corporation to Ruston of 27 MW capacity and associated energy.

AP&L requests an effective date of May 15, 1982, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 14, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18049 Filed 7-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-606-000]

Arkansas Power & Light Co.; Filing

June 28, 1982.

The filing Company submits the following:

Take notice that on June 17, 1982, Arkansas Power & Light Company (AP&L) tendered for filing a letter Agreement dated May 4, 1982 between AP&L and the City of Ruston, Louisiana (Ruston) for transmission service through the system of AP&L to the system of Louisiana Power & Light Company to permit a sale by Southwestern Power Administration to Ruston of 6 MW capacity and associated energy.

AP&L requests an effective date of July 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 14, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18047 Filed 7-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL79-20-000]

Buckeye Power, Inc. v. Cincinnati Gas & Electric Co.; Refund Report

June 28, 1982.

Take notice that on April 22, 1982, the Cincinnati Gas & Electric Company filed a refund report. Such report is made pursuant to the Commission's order issued on January 25, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before July 12, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18050 Filed 7-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-603-000]

Cleveland Electric Illuminating Co.; Filing

June 28, 1982.

The filing company submits the following:

Take notice that on June 16, 1982, the Cleveland Electric Illuminating

Company (CEI) tendered for filing an executed Service Agreement and Exhibits A and B thereto, providing for transmission by CEI of approximately 50 MW of power from the 345-kv interconnection point on CEI's Juniper-Canton Line with the Ohio Power Company to the City of Cleveland, Ohio (City) in accordance with the terms and conditions of CEI's FERC Transmission Service Tariff.

CEI has requested waiver of the FERC's 60-day notice requirement in order to permit commencement of transmission service on June 1, 1982.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 14, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc 82-18100 Filed 7-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-111-000]

Commercial Pipeline Co., Inc.; Proposed Change in FERC Tariff

June 28, 1982.

Take notice that Commercial Pipeline Co., Inc. ("Commercial"), on June 22, 1982, tendered for filing proposed changes in its FERC Gas Tariff, Volume No. 1. Specifically, Commercial tendered for filing the following:

Thirty-Ninth Revised Sheet No. 3A Superseding Substitute Thirty-Eighth Revised Sheet No. 3A
Sixth Revised Sheet No. 7A Superseding Fifth Revised Sheet No. 7A
First Revised Sheet No. 7B Superseding Original Sheet No. 7B
Original Sheet No. 7C

The proposed changes revise the Purchased Gas Adjustment Clause ("PGA") of Commercial's FERC Gas Tariff to include the cost of company use and lost and unaccounted for gas. Commercial states that the effect of the proposed change is to calculate its PGA on the basis of the total sales methodology instead of the current total purchased volume method. Commercial requests that notice be waived to permit its filing herein to become effective June 23, 1982.

Copies of the filing were served on Commercial's FERC jurisdictional customers, the Kansas Corporation Commission and the Missouri Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before July 7, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18101 Filed 7-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-607-000]

Consolidated Edison Company of New York, Inc.; Filing

June 28, 1982.

The filing Company submits the following:

Take notice that on June 17, 1982, Consolidated Edison Company of New York, Inc. ("Con Edison") tendered for filing, as a supplement to a rate schedule an amendment to an exchange agreement with three companies of the Northeast Utilities system (the "NU Companies"): The Connecticut Light and Power Company, The Hartford Electric Light Company and Western Massachussetts Electric Company.

Con Edison states that the amendment makes only minor changes in Con Edison Rate Schedule FERC No. 48 (and by concurrence, The Connecticut Light and Power Company Rate Schedule FERC No. 175; The Hartford Electric Light Company Rate Schedule FERC No. 172; and Western Massachusetts Electric Company Rate Schedule FERC No. 148), as heretofore supplemented. Con Edison further states that the principal change brought about by the amendment would be the use of the most current Pumping-Generation Ratio used by the New England Power Exchange for the NU Companies' pumped storage project.

Con Edison requests an effective date of December 7, 1981, and therefore requests waiver of the Commission's notice requirements.

Con Edison states that a copy of its filing was served on the NU Companies.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 14, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18102 Filed 7-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-604-000]

Florida Power & Light Co.; Filing

June 28, 1982.

The filing Company submits the following:

Take notice that Florida Power & Light Company (FPL), on June 16, 1982, tendered for filing document entitled Amendment Number Thirteen to Agreement to Provide Specified Transmission Service Between Flordia Power & Light Company and Fort Pierce Utilities Authority.

Amendment Number Thirteen updates the rates for transmission service provided by FPL, bringing them in accord with the increased rates filed by the Commission on July 1, 1981, in *Florida Power & Light Company* Docket No. ER81-588-000.

FPL requests that waiver of Section 35.3 of the Commission's Regulations be granted and that the proposed Amendment be made effective Immediately. FPL state that copies of the filing were served on the Director of Utilities, Fort Pierce Utilities Authority.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR

Section 1.8, 1.10). All such petitions or protest should be filed on or before July 14, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspect.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18103 Filed 7-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-376-000]

Gas Company of New Mexico; Application

June 29, 1982.

Take notice that on June 15, 1982, Gas Company of New Mexico (Applicant), 1800 First International Building, Dallas, Texas 75270, filed in Docket No. CP82-376-000 an application pursuant to Section 7(c) of the Natural Gas Act and Sections 284.217 and 284.222 of the Commission's Regulations for authorization to transport natural gas for the account of Northwest Pipeline Corporation (Northwest), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport up to 10.5 billion Btu of natural gas per day for Northwest which gas would be part of an overall arrangement whereby natural gas would be transported to Phillips Pacific Chemical Company (Phillips Pacific), an agricultural end user. Phillips Pacific, it is asserted, would purchase natural gas from Southern Union Gathering Company (Gathering Company) at either the Kutz or Chaco delivery point in San Juan County, New Mexico. The gas sold at the Kutz delivery point, it is explained, would be delivered by Gathering Company into Applicant's pipeline system which would receive such gas for the account of Northwest and transport and redeliver such gas to Northwest in San Juan County, New Mexico. It is asserted that Northwest would then transport the gas to Phillips Pacific's Coulee plant.

Applicant states that if Northwest is unable to receive part or all of the deliveries from Applicant, Gathering Company would deliver and sell part or all of the volumes to Phillips Pacific at the Chaco delivery point. El Paso Natural Gas Company would then transport the volumes for the account of Northwest for redelivery of the volumes in La Plata County, Colorado. Applicant states that Northwest would thereafter transport the gas for ultimate delivery to Phillips Pacific's plant.

It is asserted that service would commence as soon as temporary authorization has been obtained and would continue for six months thereafter, and, possibly, for a longer period.

It is asserted that Applicant would charge a transportation rate equal to the approved rate contained in its Rate Schedule 61, on file with the New Mexico Public Service Commission.

Applicant asserts that it is unable to transport gas on a self-executing basis because Northwest would not hold title to the gas during transit nor would it be acquiring that gas for resale; rather, title to the gas would reside at all times with Phillips Pacific. It is further asserted that the subject gas would be used as feedstock and process fuel in the manufacture of fertilizer at the Coulee, Washington, plant; hence, would be classified as an essential agricultural use.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 20, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc 82-18104 Filed 7-1-82 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-2-13-000]

Gas Gathering Corp.; Proposed PGA Rate Adjustment

June 25, 1982.

Take notice that on May 27, 1982, Gas Gathering Corporation (GGC) tendered for filing Thirteenth Revised Sheet No. 8 of 8, Supplement No. 24 to Rate Schedule No. 2, with an effective date of July 1, 1982. The filing amounts to a 35.68354¢ per Mcf in gas costs and a 26.48045 per Mcf reduction in the surcharge from 23.02678¢ to 3.45369¢ to amortize a credit balance of $31,040.70 in the deferred purchased gas cost account.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 2, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this file are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18111 Filed 7-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-602-000]

The Hartford Electric Light Co.; Filing

June 28, 1982.

The filing Company submits the following:

Take notice that on June 16, 1982, The Hartford Electric Light Company (HELCO) tendered for filing as an initial rate schedule an agreement (the Exchange Agreement) between HELCO, The Connecticut Light and Power Company (CL&P), Western Massachusetts Electric Company (WMECO, and together with HELCO and CL&P, the NU Companies) and Fitchburg Gas and Electric Light Company (FG&E). The Exchange Agreement, dated as of October 10, 1981, provides for an exchange of excess capacity and associated energy from the Northeast Utilities system ("system power") for an equal amount of capacity from FG&E's gas turbine Unit No. 7 (the Exchange Unit). HELCO states that the timing of the exchanges cannot be accurately estimated but that the NU companies and FG&E enter into an exchange only when it was economic to do so.

FG&E will pay a capacity charge to the NU Companies for each exchange in an amount equal to the capacity exchange amount (expressed in kilowatts) for such exchange times $0.003 per kilowatt. FG&E will pay an energy charge to the NU Companies for each exchange in an amount equal to the kilowatthours provided by the NU Companies during such exchange times an energy charge rate. The energy

charge rate is based on the heat rate and the New England Power Exchange's replacement fuel price of the generating unit(s) which the NU Companies determine to be available to provide system power at the time of an exchange.

The NU Companies will pay FG&E an energy charge for each exchange in an amount equal to the kilowatthours provided by FG&E during such exchange times an energy charge rate. The energy charge rate is based on the heat rate and the New England Power Pool Exchange's replacement fuel price for the Exchange Unit. The NU Companies will pay a variable maintenance charge for each exchange equal to the product of the heat content of the fuel consumed (expressed in BTU's), the variable maintenance rate (expressed in $/BTU) and the NU Companies fractional entitlement in the Exchange Unit.

HELCO requests an effective date of October 10, 1981, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were mailed to CL&P, WMECO and FG&E

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 13, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18112 Filed 7-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-608-000]

Mississippi Power Co.; Filing

June 28, 1982.

The filing Company submits the following:

Take notice that on June 17, 1982, Mississippi Power Company (Mississippi) tendered for filing a Notice of Termination of the December 4, 1981, agreement effective May 30, 1982.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 14, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protests parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

FR Doc. 82-18105 Filed 7-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-600-000]

New England Power Co., et al.; Filing

June 28, 1982.

The filing Company submits the following:

Take notice that New England Power Company (NEP), New England Electric Transmission Corporation (NEET), Vermont Electric Power Company (VELCO), and Vermont Electric Transmission Company (VETCO), on June 15, 1982, tendered for filing proposed new contracts which, when accepted, will permit the participating New England utilities to obtain access to and the benefits of hydroelectric energy from Hydro-Quebec. The filings are in furtherance of the interconnection of the facilities of the New England Power Pool (NEPOOL) with those of the Hydro-Quebec system by the construction of a high voltage direct current (dc) transmission line between a substation located in the vicinity of Sherbrooke, Quebec and a terminal facility at NEP's Comerford hydroelectric generation Station. Hydro-Quebec will construct and operate all facilities on the Canadian side of the border. In the United States the converter terminal facility will be constructed and operated by NEET, a wholly-owned subsidiary of the New England Electric System. The United States portion of the transmission line will be constructed either by NEET or by VETCO, a wholly-owned subsidiary of VELCO, depending upon whether the line is to be located in New Hampshire or in Vermont. Applications have been filed with state officials for the required state regulatory approvals and with the Economic Regulatory Administration of the Deparment of Energy which has jurisdiction over the required Presidential Permit.

The contracts filed with us for approval include: (1) Phase I Terminal Facility Support Agreement, as amended, between NEET and the participating New England Utilities; (2) Phase I New Hampshire Transmission Line Support Agreement between NEET and the participating New England Utilities; (3) Phase I Vermont Transmision Line Support Agreement, as amended, between VETCO and the participating New England Utilities; (4) Agreement with respect to Use of Quebec Interconnection, as amended, which sets forth the rights of the participating New England utilities to the benefits and savings associated with the Interconnection; (5) Agreements between VELCO and the participating Vermont utilities backing-up VELCO's obligations under the Line and Terminal Facility Support Agreements; (6) Agreement between VELCO and VETCO covering the operation of Vermont facilities; (7) Agreement between NEP and NEET providing for the lease of certain property and facilities; (8) Upper Development—Lower Development Transmission Line Support Agreement between NEP and NEET covering the operation of and support payments for the transmision facilities required by NEP to be performed by NEET.

The filing letter indicates that three agreements will be executed by Hydro-Quebec and the NEPOOL participants: an Interconnection Agreement, an Energy Banking Agreement and an Energy Contract. These agreements provide arrangements pursuant to which the participating New England utilities should be able to obtain surplus and pre-scheduled energy from Hydro-Quebec. In addition, they would allow the New England utilities to take advantage of the immense storage facilities available on the Hydro-Quebec system and thereby to transmit energy north for storage during NEPOOL's off-peak hours and receive energy back during on-peak hours. The filing indicates that the interconnection is cost justified even if the only benefits available to New England are as a result of energy banking. The pay-back period is accelerated if surplus energy is made available to the NEPOOL participants by Hydro-Quebec. In addition the filing indicates that the proposed arrangements will reduce significantly the present reliance of New England utilities on foreign oil, and would reduce as well the reserve margin required by the NEPOOL participants.

Copies of the filing were served on all affected utilities and on each of the six New England utility Commissions.

Any person desiring to be heard or to protest said applications should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 GFR 1.8, 1.10). All such petitions or protests should be filed on or befor July 20, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

FR Doc. 82-18106 Filed 7-1-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-599-000]

New England Power Pool; Filing

June 28, 1982.

The filing Company submits the following:

Take notice that on June 15, 1982, the New England Power Pool (NEPOOL) filed an Agreement Amending New England Power Pool Agreement (Amendment), dated as of December 1, 1981, which modifies the provisions of the New England Power Pool Agreement, dated as of September 1, 1971.

The NEPOOL Executive Committee states that NEPOOL participant utilities have entered into agreements covering the support and use of a proposed interconnection with Quebec. The Amendment revises Section 14.1 of the NEPOOL Agreement and adds a new Section 14.5 to the NEPOOL Agreement. These changes to the NEPOOL Agreement provide for administration of funds resulting from transactions over the proposed interconnection between Hydro-Quebec and NEPOOL participant utilities.

NEPOOL proposes that the Amendment become effective as of September 14, 1982, and has requested waiver of the Commission's customary notice rules to permit the Amendment to become effective more than on hundred and twenty days before service is first rendered over the planned interconnection facilities.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 20, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18107 Filed 7-1-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-601-000]

Northern States Power Co.; Filing

June 28, 1982.

The filing Company submits the following:

Take notice that Northern States Power Company on June 16, 1982, tendered for filing Supplement No. 1, dated June 2, 1982, to the Interconnection and Interchange Agreement, dated June 23, 1978, with Interstate Power Company.

Supplement No. 1 amends the Interconnection and Interchange Agreement to add a second point of interconnection at New Prague, Minnesota.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protests with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 13, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18108 Filed 7-1-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP82-365-000]

Northwest Pipeline Corp.; Application

June 29, 1982.

Take notice that on June 8, 1982, Northwest Pipeline Corporation (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP82-365-000 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities to expand an existing point of delivery for Cascade Natural Gas Corporation (Cascade) and the reallocation of natural gas service to Cascade and for permission and approval to abandon certain natural gas facilities presently utilized for the sale and delivery to Cascade, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that by letter dated May 3, 1982, Cascade requested that Applicant increase the measuring and regulating capability of its Umatilla meter station facilities in Umatilla County, Oregon. It is further stated that Cascade informed Applicant that the modification of the existing delivery point would enable Cascade to provide firm natural gas service to an essential agricultural user located near Umatilla, Oregon, and that Cascade intends to provide proposed firm service by reallocating a portion of its currently authorized Rate Schedule ODL-1 service presently allocated to Longview-Kelso and environs to the proposed delivery point.

Specifically, Applicant proposes to construct and operate the following facilities:

(i) A metering and regulating station with appurtenances, to be designated the Umatilla meter station, located in Umatilla County, Oregon.

(ii) A 4-inch tap replacing the existing 2-inch tap on Northwest's 26-inch O.D. mainline located in Umatilla County, Oregon.

Applicant states that the maximum daily delivery obligation would be 5,444 Mcf of gas per day through the expanded Umatilla meter station.

It is stated that pursuant to a letter agreement dated May 3, 1982, Cascade has agreed to reimburse Applicant for all out-of-pocket costs incurred in constructing the proposed delivery point. The total cost of constructing the proposed facilities is estimated to be $139,450.

It is further stated that Cascade would install any additional downstream facilities necessary to effectuate the ultimate delivery of natural gas received

by Cascade through the Umatilla meter station.

Applicant also proposes to reallocate 55,000 therms equivalent from its existing Longview-Kelso and environs delivery point to the Umatilla meter station. The proposed reallocation of Applicant's maximum daily delivery obligation is as follows:

Delivery points	ODL-1 service agreement maximum daily delivery obligation (therms)	
	Presently effective	Proposed
Umatilla meter station	[illegible]	57,600
Longview-Kelso and environs	504,000	449,000
Total	[illegible]	506,600

Applicant states that the volumes of natural gas to be sold and delivered at the proposed meter station would be taken from volumes of natural gas which Applicant has heretofore been authorized to sell and deliver to Cascade under Applicant's existing Rate Schedule ODL–1 and that no increase in the daily contract quantity of natural gas which Applicant is authorized to sell and deliver to Cascade is proposed.

The facilities which Applicant hereby seeks permission and approval to abandon are specifically described as follows:

Umatilla Meter Station.

One positive displacement meter and 2-inch tap with the associated appurtenances located in Umatilla County, Oregon.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 20, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc 82–18109 Filed 7–1–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER82–569–000]

Pacific Power & Light Co.; Filing

June 28, 1982.

The filing Company submits the following:

Take notice that Pacific Power & Light Company (Pacific) on June 2, 1982, tendered for filing, in accordance with Section 35.12 of the Commission 's Regulations, a Letter Agreement between Carbon Power & Light, Inc. (Carbon) and Pacific dated March 19, 1982 and executed by Carbon on April 21, 1982. The Letter Agreement provides for Pacific to provide Carbon with up to 3 MW of emergency service.

Pacific requests the rate schedule to become effective sixty days after the filing date.

Copies of the filing were supplied to Carbon.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 12, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–18110 Filed 7–1–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP81–438–002]

Texas Sea Rim Pipeline, Inc.; Amendment to Application

June 29, 1982.

Take notice that on May 28, 1982,[1] Texas Sea Rim Pipeline, Inc. (Applicant), P.O. Box 71, Conroe, Texas 77301, filed in Docket No. CP81–438–002 pursuant to Section 7(c) of the Natural Gas Act an amendment to its application filed November 25, 1981, in the instant docket so as to reflect removal of the volumetric limitation of 70,000 Mcf of natural gas per day which Applicant proposed to transport for Natural Gas Pipeline Company of America (Natural), all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

It is stated that Applicant proposed the transportation of up to 70,000 Mcf of natural gas per day from Outer Continental Shelf Block 9 and purchased by Natural. Applicant states that the volumes are delivered to Natural at the outlet side of field separation facilities located on The Superior Oil Company's existing Platform No. 2 in the Sabine Pass Area, offshore Texas, and then transported onshore through Applicant's existing point of interconnection in Jefferson County, Texas.

Applicant requests authority to transport any and all OCS Block 9 gas sold to Natural up to the maximum capacity of the 14-inch pipeline.

Applicant proposes a permanent rate for this additional transportation of 5.37 cents per Mcf.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before July 20, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the

[1] The application was initially tendered for filing on May 28, 1982. However, the fee required by § 159.1 of the regulations under the Natural Gas Act (18 CFR 159.1) was not paid until June 3, 1982; thus, filing was not completed until the later date.

appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18113 Filed 7-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-110-000]

Transcontinental Gas Pipe Line Corp.; Tariff Filing

June 28, 1982.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on June 21, 1982 tendered for filing the following revised tariff sheets to the Purchased Gas Adjustment Clause (Section 22) contained in the General Terms and Conditions of Second Revised Volume No. 1 of its FERC Gas Tariff:

Fifth Revised Sheet No. 247
Third Revised Sheet No. 250
First Revised Sheet No. 250-A
Original Sheet No. 250-B

The revised tariff sheets are proposed to become effective on July 22, 1982.

Transco states that the purpose of this filing is to revise the procedure to reflect in Transco's rates any over or under recovered purchased gas costs pursuant to Section 22.5 of the PGA Clause, in order to reduce the fluctuations in recovery of the Deferred Account which exists under the method prescribed in the presently effective tariff. Transco proposes to change its procedure for determining the Deferred Adjustment by subdividing Account No. 191 so that the accumulated Unrecovered Purchased Gas Cost for each six month period and the amortization thereof through the Deferred Adjustment will be accounted for separately. Any balance, positive or negative, of Unrecovered Purchased Gas Costs remaining of the amortization will be transferred forward to the current accumulation period. In addition to this change, the method of determining carrying charges on Account No. 191 has been removed from the definition of Account (Section 22.3(h)) and placed in the section relating to the determination of the Deferred Adjustment (Section 22.5(a)).

Transco further states that copies of the instant filing have been sent to each of its customers and State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protests with the Federal Energy Regulatory Commission, 825 North Capitol Street NE. Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 7, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18114 Filed 7-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-609-000]

Wisconsin Electric Power Co.; Filing

June 28, 1982.

The filing Company submits the following:

Take notice that Wisconsin Electric Power Company ("the Company") on *June 18, 1982,* tendered for filing executed service agreements with the City of Crystal Falls, Michigan ("Crystal Falls") and the City of Norway, Michigan ("Norway") to become effective May 14, 1982 and April 5, 1982 respectively.

The Company requests waiver of the Commission's 60-day notice requirement in order to allow the said effective dates.

Copies of this filing have been served on Crystal Falls, Norway and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice. All such protests should be filed on or before July 14, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of the application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18115 Filed 7-1-82; 8:45 am]

BILLING CODE 6717-01-M

Western Area Power Administration

Pick-Sloan Missouri Basin Program; Notice of a Rate Order

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of a rate order—Pick-Sloan Missouri Basin Program.

SUMMARY: Notice is given of Rate Order No. WAPA-12 of the Assistant Secretary for Conservation and Renewable Energy for placing increased power rates into effect on an interim basis for Pick-Sloan Missouri Basin Program (P-SMBP) power marketed by the Western Area Power Administration (Western).

The rate adjustment would increase average annual revenues from firm power sales in both the Eastern Division and the Western Division by a total of about $6 million to meet cost recovery criteria.

The proposed wholesale firm power rate for the Eastern Division of the P-SMBP consists of a capacity charge of $1.35 per kW-month plus a two step energy charge of 3.62 mills per kWh for all energy use up to and including that associated with a 60 percent monthly load factor and 7.00 mills per kWh for all additional energy use. This is expected to yield 5.80 mills per kWh, an increase of 0.65 mills per kWh over the 5.15 mills per kWh the existing rates were designed to yield. The Eastern Division peaking rate would also be increased to correspond with the proposed firm power capacity and energy rates. The charge for maintenance energy sales will be increased to 12 mills per kWh.

The proposed wholesale firm power rate for the Western Division consists of a capacity charge of $1.43 per kW-month plus 4.30 mills per kWh for energy associated with firms sales. This is expected to yield 7.20 mills per kWh, an increase of 0.65 mills per kWh over the 6.55 mills per kWh the existing rates were designed to yield. A new schedule for peaking power consistent with the firm power rate is proposed at $1.43 per kW-month with no energy being associated with the peaking service. In addition, a transmission service charge of 1.1 mills per kWh is proposed for both the Colorado River Storage Project and auxiliary wheeling over the Western Division transmission system.

The proposed wholesale composite firm power rate for both the Eastern and Western Divisions is expected to yield 6.10 mills per kWh, a 0.65 mills per kWh increase over the 5.45 mills per kWh the existing rate was designed to yield.

This rate order also contains discussion of the principal factors leading to the decisions on the rate increase and responses to the major comments, criticisms, and alternatives offered during the rate adjustment proceedings.

Effective date: The new rates would become effective on the first day of the first full billing period beginning on or after August 1, 1982.

FOR FURTHER INFORMATION CONTACT:

Mr. James D. Davies, Area Manager, Billings Area Office, Western Area Power Administration, P.O. Box EGY, Billings, MT 59101, (406) 657–6532

Mr. Conrad K. Miller, Chief, Rates and Statistics Branch, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401, (303) 231–1535

Mr. James A. Braxdale, Office of Power Marketing Coordination, Mail Station 3344, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, (202) 633–8338.

SUPPLEMENTARY INFORMATION: By Delegation Order No. 0204–33, effective January 1, 1979 (43 FR 60636, December 28, 1978), the Secretary of Energy delegated to the Assistant Secretary for Resource Applications the authority to develop power and transmission rates, acting by and through the Administrator, and to confirm, approve, and place in effect such rates on an interim basis. Department of Energy procedures for public participation in power and transmission rate adjustments issued on December 23, 1980 (45 FR 86976, December 31, 1980), were effective on December 31, 1980 with minor clarifying corrections on January 16, 1981 (46 FR 6864, January 22, 1981). The delegation order was amended effective March 19, 1981, and the procedures were further amended effective February 24, 1981 (46 FR 25426, May 7, 1981), in order to change all references from "Assistant Secretary for Resource Applications" to "Assistant Secretary for Conservation and Renewable Energy." The amendment was necessary as a result of the transfer on February 24, 1981, of the Office of Power Marketing Coordination and the power marketing administrations from the Assistant Secretary for Resource Applications to the Assistant Secretary for Conservation and Renewable Energy.

Proceedings on the proposed rate adjustment were initiated on December 29, 1981, with a mailing to all firm power customers and other interested persons of a draft customer brochure explaining the need for an increase and announcing a series of informal customer meetings. These meetings were conducted at four through January 21, 1982. At these preliminary meetings, Western's representatives explained the need for the increase and answered questions from interested persons.

On February 16, 1982, a 90-day customer consultation and comment period was initiated with an announcement of the proposed rate adjustment published in the **Federal Register** at 47 FR 6705. The February 16 notice also announced four public information forums conducted March 1 through March 4, 1982, and four public comment forums conducted April 5 through April 8, 1982. This announcement was later amended at 47 FR 10899 to add locations and telephone numbers where records could be examined. The information forums were further advertised with a February 16, 1982, press release and a February 18, 1982, customer mailing of a final customer brochure.

The comment forums were further advertised with a March 22, 1982, press release and customer mailing.

Public comments received have been considered in the preparation of this rate order.

Therefore, Rate Order No. WAPA–12 confirming and approving increased power rates on an interim basis is hereby issued, and the rates will be promptly submitted to the Federal Energy Regulatory Commission for confirmation and approval on a final basis.

Issued in Washington, D.C., June 28, 1982.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 82–18088 Filed 7–1–82; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–2161–7]

Availability of Environmental Impact Statements Filed June 21 Through June 25, 1982 Pursuant to 40 CFR Part 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities, General Information, 382–5075 or 382–5076.

Corps of Engineers:

EIS No. 820431, Final, COE, CA, North Bay Aqueduct Phase II, Construction, Permit, Solano County, Due: Aug. 2, 1982.

EIS No. 820424, Final, COE, LA, Deep Draft Access Improvements, New Orleans and Baton Rouge Ports, Due: Aug. 2, 1982.

EIS No. 820423, FSuppl, COE, PR, San Juan Harbor Navigational Improvements, Due: Aug. 2, 1982.

EIS No. 820414, Report, COE, MO, Stockton Lake, Sac River Downstream Flooding, Cedar County, Due: Aug. 2, 1982.

Department of Interior:

EIS No. 820422, Report, IBR, NB, Norden Dam, O'Neill Unit, Pick Sloan Missouri River Basin Program, Due: Aug. 27, 1982.

EIS No. 820425, Draft, BLM, CA, Clear Lake Resource Area, Wilderness Study, Napa, Lake and Yolo Cos. Due: Aug. 27, 1982.

EIS No. 820415, Draft, BLM, UT, Pinyon Planning Unit, Grazing Management Program, Due: Aug. 16, 1982.

Department of Transportation:

EIS No. 820428, Final, FHW, IL, US 51 Construction, Maroa to Bloomington, Macon and Dewitt Counties, Due: Aug. 2, 1982.

EIS No. 820417, Final, FHW, NB, NB–14 Improvements, Kansas/Nebraska Line, Superior, Nuckolls County, Due: Aug. 4, 1982.

EIS No. 820427, Final, FHW, NM, North-South Coors Boulevard and Coors Road Connection, Construction, Due: Aug. 2, 1982.

EIS No. 820416, Draft, CGD, FL, Garrison Channel Bridge Construction, Permit, Hillsborough County, Due: Aug. 16, 1982.

Environmental Protection Agency:

EIS No. 820429, Final, EPA, AR, Little Rock/Adams Field WWT Facilities, Grant, Pulaski County, Due: Aug. 2, 1982.

Department of Housing and Urban Development:

EIS No. 820419, Draft, HUD, CA, Canyon Lake Hills, Mortgage Insurance, Lake Elsinore, Riverside Co., Due: Aug. 16, 1982.

EIS No. 820426, Draft, HUD, CO, Grand Junction Areawide Study, Mesa County, Due: Aug. 16, 1982.

EIS No. 820430, Draft, HUD, IL, Butterfield Development, Mortgage Insurance, Aurora, DuPage County, Due: Aug. 16, 1982.

EIS No. 820420, Final, HUD, AL, Prattville East Development, Mortgage Insurance, Autauga County, Due: Aug. 2, 1982.

Nuclear Regulatory Commission:

EIS No. 820418, Final, NRC, KS, Wolf Creek Generating Station, Unit 1, License, Coffey County, Due: Aug. 2, 1982.

Department of Agriculture:

EIS No. 820413, Draft, SCS, NB, Wolf and Wildcat Creeks, Watershed Protection/Flood Prevention Plan, Due: Aug. 16, 1982.

EIS No. 820421, Final, SCS, TX, Pine Creek Watershed Protection/Flood Control Plan, Lamar County, Due: Aug. 2, 1982.

Amended Notices:

EIS No. 820341, Suppl, COE, CA, South Fork Flood Control Project, Santa Clara River, Los Angeles Co. *Published FR 06/04/82—Review extended, Due: July 30, 1982.

EIS No. 820376, Draft, BLM, UT, Ashley Creek Planning Area, Livestock Grazing Management Program *Published FR 06/18/82—Review extended, Due: Aug. 11, 1982.

EIS No. 820402, Draft, MMS, SEV, ATL 1983 OCS Oil/Gas Lease Sale #76 Offshore Mid-Atlantic States *Published FR 06/

25/82—Review extended, Due: Aug. 24, 1982.
EIS No. 820311, Final, USN, CA, fiscal year 1982–fiscal year 1986 Department of Defense Family Housing Project, San Diego Co. *Published FR 05/28/82—Review extended, Due: July 14, 1982.
EIS No. 820363, Draft, AFS, CA, Los Padres NF and Navajo Area Mineral Exploration Plan, Approval *Published FR 06/11/82—Officially withdrawn, Due:
Dated: June 29, 1982.

Paul C. Cahill,

Director, Office of Federal Activities.

[FR Doc. 82-18120 Filed 7-1-82; 8:45 am]

BILLING CODE 6560-50-M

[PF-276; PH-FRL 2160-4]

Certain Companies; Food and Feed Additive Petitions

AGENCIES: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA announces receipt of food and feed additive petitions proposing establishment of regulations permitting residues of certain pesticide chemicals in or on certain agricultural commodities.

ADDRESS: Written comments to: Franklin D. R. Gee, Product Manager (PM–17), Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Written comments may be submitted while the petitions are pending before the agency. The comments are to be identified by the document control number "[PF–276]" and the specific petition number. All written comments filed in response to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Franklin D. R. Gee, (703–557–2690).

SUPPLEMENTARY INFORMATION: EPA gives notice that the following food and feed additive petitions have been submitted to the Agency requesting establishment of regulations for pesticide chemicals in or on certain agricultural commodities in accordance with the Federal Food, Drug, and Cosmetic Act.

FAP 1H5312. Zoecon Corp., 975 California Ave., Palo Alto, CA 94304. Proposes amending 21 CFR Part 193 by establishing a regulation permitting residues of the insecticide insect growth regulator methoprene (isopropyl (*E,E*)-11-methoxy-3,7,11-trimethyl-2,4-dodecadienoate) in or on the commodities dried apples, dried apricots, dried peaches, dried prunes, raisins, wheat flour, macaroni (wheat), rice cereal, rye cereal, barley cereal, wheat cereal, corn cereal, corn meal, grits, hominy, oat cereal, spices, and dry dog food at 10.0 parts per million (ppm) in connection with an experimental use program.

FAP 1H5304. Zoecon Corp. Proposes amending 21 CFR Part 193 by establishing a regulation permitting residues of the insecticide *N*-[2-chloro-4-(trifluoromethyl)phenyl]-*D*-valine(+)-alpha-cyano(3-phenoxyphenyl)methyl ester in or on the commodity cottonseed oil at 1.0 ppm in connection with an experimental use program.

FAP 1H5304. Zoecon Corp. Proposes amending 21 CFR Part 561 by establishing a regulation permitting residues of the insecticide *N*-[2-chloro-4-(trifluoromethyl)phenyl]-*D*-valine(+)-alpha-cyano(3-phenoxyphenyl)methyl ester in or on the commodity cottonseed hulls at 0.3 ppm in connection with an experimental use program.

FAP 2H5338. Ciba-Geigy Corp., Agricultural Division, Greensboro, NC 27409. Proposes amending 21 CFR Part 561 by establishing a regulation permitting residues of the insecticide *N*-cyclopyl-1,3,5-triazine-2,4,6-triamine in or on the commodity poultry feeds at 5.0 ppm in connection with an experimental use program.

(Sec. 409(b)(5), 72 Stat. 1786, (21 U.S.C. 346))

Dated: June 22, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-18007 Filed 7-1-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51420; TSH-FRL 2160-6]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of seventeen PMNs and provides a summary of each.

DATES: Close of Review Period:
PMN 82–446, 82–447, and 82–448, September 16, 1982.
PMN 82–449, 82–450, 82–451, 82–452, and 82–453, September 19, 1982.
PMN 82–454, 82–455, 82–456, 82–457, 82–458, and 82–459, September 20, 1982.
PMN 82–460, September 21, 1982.
PMN 82–461 and 82–462, September 22, 1982.

Written comments by:
PMN 82–446, 82–447, and 82–448, August 17, 1982.
PMN 82–449, 82–450, 82–451, 82–452, and 82–453, August 20, 1982.
PMN 82–454, 82–455, 82–456, 82–457, 82–458, and 82–459, August 21, 1982.
PMN 82–460, August 22, 1982.
PMN 82–461 and 82–462, August 23, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS–51420]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, DC 20460, (202–382–3532).

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M St., SW., Washington, DC 20460, (202–382–3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the public reading room E–107.

PMN 82–446

Manufacturer. Confidential.
Chemical. (G) Substituted imidazolidinone.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture, processing, use and disposal: dermal, a total of 20 workers, up to 1 hr/da, up to 250 da/yr.
Environmental Release/Disposal. 1,000–10,000 kg/yr released to land. Disposal by publicly owned treatment works (POTW) and approved landfill.

PMN 82–447

Manufacturer. Confidential.
Chemical. (G) Substituted imidazolidinone.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.

Exposure. Manufacture, processing, use and disposal: dermal, a total of 20 workers, up to 1 hr/da, up to 250 da/yr.
Environmental Release/Disposal. 1,000–10,000 kg/yr released to land. Disposal by POTW and approved landfill.

PMN 82–448

Importer. Confidential.
Chemical. (G) A reaction of phenylenebis [[[(butane derivative)-substituted]-phenyl]azo], compound with organic acids.
Use/Import. (S) Industrial colorant for paper. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. Negligible.
Environmental Release/Disposal. No release.

PMN 82–449

Manufacturer. The Upjohn Company.
Chemical. (S) 1-cyclohexen-1-amine, N,N-dibutyl.
Use/Production. (G) Intermediate chemical. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture, processing, use and disposal: dermal and inhalation, a total of 12 workers, up to 8 hrs/da, up to 200 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to water 8 hrs/da, 50 da/yr. Disposal by POTW, landfill and solidification.

PMN 82–450

Manufacturer. Confidential.
Chemical. (G) Amino alkyl alkoxy silanes.
Use/Production. (S) Additive in industrial maintenance and construction formulations. Prod. range: Confidential.
Toxicity Data. Acute oral: >16 ml/kg; Acute dermal: 16.0 ml/kg; Skin irritation: Moderate; Eye irritation: Severe; Inhalation: No deaths; Ames Test: Negative; COD: 2.0 mg/mg; BOD day 5: 32%.
Exposure. Manufacture and processing: dermal, inhalation and eye, a total of 20 workers, up to 3 hrs/da, up to 23 da/yr.
Environmental Release/Disposal. No release. Disposal by approved landfill.

PMN 82–451

Importer. Sandoz Colors and Chemicals Company.
Chemical. (G) Metal complexed disazo compound.
Use/Import. (S) Industrial textile fiber colorant. Import range: Confidential.
Toxicity Data. Acute oral: >5,000 mg/kg; Skin irritation: Non-irritant; Eye irritation: Moderate irritant.
Exposure. Use: dermal and inhalation, 1 worker, 1 hr/da.
Environmental Release/Disposal. 10–100 kg/yr released to water 1 hr/da. Disposal by POTW and on site biological waste treatment.

PMN 82–452

Manufacturer. Confidential.
Chemical. (G) Benzoxazole oxazolidinone.
Use/Production. (G) Dye. Prod. range: Confidential.
Toxicity Data. Confidential.
Exposure. Manufacture and processing: dermal and inhalation, a total of 5 workers, up to 0–1 μgm/da, up to 365 da/yr.
Environmental Release/Disposal. 0–50 gms released to water.

PMN 82–453

Manufacturer. Confidential.
Chemical. (G) Benzoxazolium salt.
Use/Production. (G) Dye. Prod. range: Confidential.
Toxicity Data. Confidential.
Exposure. Confidential.
Environmental Release/Disposal. No release.

PMN 82–454

Manufacturer. Confidential.
Chemical. (G) Saturated polyester resin.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture, processing and use: dermal, a total of 6 workers, up to 24 hrs/da, up to 250 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air. Disposal by incineration.

PMN 82–455

Manufacturer. Confidential.
Chemical. (G) Polyhaloalkoxyarylamide.
Use/Production. (S) Site-limited intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral: >500 mg/kg; Acute dermal: > 500 mg/kg; Eye irritation: Slight irritant; Inhalation: >1.42 mg/L.
Exposure. Manufacture and processing: dermal and inhalation, a total of 2 workers, up to 24 hrs/da, up to 10 da/yr.
Environmental Release/Disposal. Negligible. Disposal by incineration.

PMN 82–456

Manufacturer. Uniroyal Chemical Company.
Chemical. (G) Isocyanate terminated polyether polyurethane prepolymer.
Use/Production. (S) Molded good applications. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: 4 workers.
Environmental Release/Disposal. No release. Disposal by approved landfill.

PMN 82–457

Manufacturer. Confidential.
Chemical. (G) Alkyd derivative from fatty acids, substituted alkanoic acids, a carbomonocyclic anhydride, polyols and esters.
Use/Production. (G) Open use. Prod. range: 50,000–600,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture, processing and use: dermal and eye, a total of 142 workers, up to 6 hrs/da, up to 240 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air and water with 10–10,000 kg/yr to land. Disposal by incineration, landfill and sold as fuel.

PMN 82–458

Manufacturer. Confidential.
Chemical. (G) Polymer of a vegetable oil derivative, alkane diols and a carbomonocyclic anhydride.
Use/Production. (G) Open use. Prod. range: 30,000–450,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture, processing and use: dermal, a total of 111 workers, up to 6 hrs/da, up to 69 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air and water with 10–10,000 kg/yr to land. Disposal by incineration and landfill.

PMN 82–459

Manufacturer. Dow Corning Corporation.
Chemical. (G) Silicon substituted organic ester.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral: >5,000 mg/kg; Acute dermal: >2,000 mg/kg; Skin irritation: Non-irritant; Eye irritation: Non-irritant; E. Coli Assay: Non-mutagenic; Ames Test: Non-mutagenic; Fish 96 hr: >100 parts per million (ppm); Daphnia 48 hr: >100 ppm.
Exposure. Manufacture: 1 worker, 1 hr/da, 5 da/yr.
Environmental Release/Disposal. No release.

PMN 82–460

Manufacturer. Confidential.
Chemical. (G) Dialkyl amide of an alkenedioic acid.
Use/Production. (G) Open use. Prod. range: 20,000–200,000 kg/yr.
Toxicity Data. Acute oral: >5 g/kg; Skin irritation: Negative; Eye irritation: Positive.
Exposure. Manufacture, processing and use: dermal and inhalation, a total

of 10 workers, up to 8 hrs/da, up to 260 da/yr.

Environmental Release/Disposal. Release to water. Disposal by POTW.

PMN 82-461

Manufacturer. Confidential.

Chemical. (G) Diacyl peroxide.

Use/Production. (S) Polymerization initiator. Prod. range: Confidential.

Toxicity Data. Confidential.

Exposure. Processing (User): Dermal and inhalation.

Environmental Release/Disposal. No release.

PMN 82-462

Manufacturer. Confidential.

Chemical. (G) Trisubstituted benzoxazole.

Use/Production. (G) Site-limited intermediate. Prod. range: 60,000 kg/yr.

Toxicity Data. Acute oral: >3,000 mg/kg; Acute dermal: >1,000 mg/kg; Skin irritation: Slight; Eye irritation: Slight.

Exposure. Manufacture and use: minimal dermal and inhalation, a total of 80 workers, up to 2 hrs/da, up to 10 da/yr.

Environmental Release/Disposal. No release.

Dated: June 28, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82-17784 Filed 7-1-82; 8:45 am]

BILLING CODE 6560-35-M

[OPTS-59093; TSH-FRL 2160-7]

Certain Chemicals; Premanufacture Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's revised statement of interim policy published in the **Federal Register** of November 7, 1980 (45 FR 74378). This notice, issued under section 5(h)(6) of TSCA, announces receipt of two applications for exemptions, provides a summary, and requests comments on the appropriateness of granting each of the exemptions.

DATE: Written comments by July 19, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS-59093]" and the specific TME number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Management Support Division, Environmental Protection Agency, Rm. E-401, 401 M Street, SW., Washington, DC 20460,

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M Street, SW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TME received by EPA. The complete non-confidential document is available in the public reading room E-107.

TME 82-28

Close of Review Period. August 7, 1982.

Manufacturer. Confidential.

Chemical. (G) Modified acrylate ester.

Use/Production. (G) Specialty ink. Prod. range: 5,000 lbs for 1 yr.

Toxicity Data. No data submitted.

Exposure. 3 or 4 workers may have dermal exposure during processing and up to 6 may have dermal exposure during formulation.

Environmental Release/Disposal. No release.

TME 82-29

Close of Review Period. August 7, 1982.

Manufacturer. Confidential.

Chemical. (G) Modified acrylate ester.

Use/Production. (G) Specialty ink. Prod. range: 5,000 lbs for 1 yr.

Toxicity Data. No data submitted.

Exposure. 3 or 4 workers may have dermal exposure during processing and up to 6 may have dermal exposure during formulation.

Environmental Release/Disposal. No release.

Dated: June 28, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82-17785 Filed 7-1-82; 8:45 am]

BILLING CODE 6560-50-M

[WH-FRL 2161-4]

State of Iowa; Water Programs: Determination of Primary Enforcement Responsibility

This public notice is issued pursuant to section 1413 of the Safe Drinking Water Act, as amended (42 U.S.C. 300f *et seq.*), and 40 CFR 142.10, published at 41 FR 2918 (January 20, 1976).

An application dated May 24, 1982, was received from the Executive Director of the Iowa Department of Environmental Quality, requesting that the State of Iowa be granted primary enforcement responsibility for public water systems in the State of Iowa, in accordance with the provisions of the Safe Drinking Water Act.

I have determined that the State of Iowa currently meets the conditions of the Safe Drinking Water Act and regulations for the assumption of primary enforcement responsibility for public water systems in the State of Iowa. The State—

1. Has adopted drinking water regulations which are no less stringent than the National Interim Primary Drinking Water Regulations;

2. Has adopted and will implement adequate procedures for the enforcement of such State regulations; including adequate monitoring and inspections;

3. Will keep such records and make such reports as required;

4. If it permits variances or exemptions from the requirements of its regulations, will issue such variances and exemptions in accordance with the provisions of the National Primary Drinking Water Regulations;

5. Has adopted and can implement an adequate plan for the provision of safe drinking water under emergency conditions.

While the State currently meets the requirements for primary enforcement responsibility, the Iowa General Assembly in May 1982, enacted a new law that amends the definition of "public water supply system" in the Iowa Department of Environmental Quality Act. The Act currently defines "public water supply system" as including systems that serve at least "fifteen service connections" or "twenty-five individuals." This definition is consistent with section 1401(4) of the Safe Drinking Water Act and 40 CFR 141.2(c) of the National Primary Drinking Water Regulations. The new law would amend the definition in the Iowa Department of Environmental Quality Act, limiting its coverage to systems that serve at least "twenty service connections" and "one

hundred individuals." The effective date of the new law is July 1, 1983.

The new definition of "public water supply system" is inconsistent with the Safe Drinking Water Act and the National Primary Drinking Water Regulations. The new definition would remove all systems serving less than one hundred individuals from the jurisdiction of the Iowa Department of Environmental Quality Act. A State may exercise primary enforcement responsibility pursuant to the Safe Drinking Water Act only during those periods that the Administrator of EPA determines the State has regulations "no less stringent than" the National Primary Drinking Water Regulations. Section 1413(a)(1). The National Primary Drinking Water Regulations provide that a State may exercise primary enforcement jurisdiction during any period for which the Administrator determines that the State has statutory authority to apply State regulations "to all public water systems in the State covered by the national primary drinking water regulations." 40 CFR 142.10(b)(6)(i).

If the new Iowa law redefining "public water supply system" becomes effective as scheduled on July 1, 1983, the State of Iowa will no longer meet the requirements for primacy in the Safe Drinking Water Act or the National Primary Drinking Water Regulations. Therefore, I am providing that my determination that the State of Iowa meets the requirements for primary enforcement responsibility will automatically terminate on July 1, 1983, if the new definition becomes effective. However, if the current definition of "public water supply system" in the Iowa Department Environmental Quality Act (fifteen service connections and twenty-five individuals) is not amended and, therefore, the new definition does not take effect, my determination will not terminate on July 1, 1983. This extraordinary action of granting primary enforcement responsibility with an automatic termination date is warranted in view of the fact that the Iowa Department of Environmental Quality Act has already been amended making the Act's coverage substantially less inclusive than the Safe Drinking Water Act. It is fundamental to any State's assumption of primary enforcement responsibility that the State law not be less inclusive than the Safe Drinking Water Act as to the universe of systems subject to that law. While Iowa's current drinking water program is approvable, that program, through the amended law to become effective on July 1, 1983, will be modified to a form that will no longer be approvable. Iowa's approvable program is scheduled to terminate on July 1, 1983. Therefore, my determination that Iowa meets the requirement for primary enforcement responsibility also must terminate on July 1, 1983, unless the currently effective program is not modified to make its coverage less inclusive than that of the Safe Drinking Water Act.

All interested parties are invited to submit written comments on this determination and and may request a public hearing. Written comments and/or a request for a public hearing must be submitted on or before August 2, 1982. A request for a public hearing shall include the following information:

1. The name, address and telephone number of the individual, organization or other entity requesting a hearing.

2. A brief statement of the requesting person's interest in the Regional Administrator's determination and information that the requesting person intends to submit at such hearing.

3. The signature of the individual making the request; or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. If is determined that a public hearing is appropriate said hearing will be held at 10 a.m. on Monday, August 2, 1982, in the Main Auditorium located in the Henry A. Wallace Building, 900 East Grand Avenue, Des Moines, Iowa 50319. If no timely and appropriate request for a hearing is received and the Regional Administrator does not elect to hold a hearing on his own motion, the scheduled hearing will not be held and this determination shall become effective thirty (30) days after issuance of this initial notice.

Commenters requesting a public hearing will be notified. Other interested parties should contact the Environmental Protection Agency or the Iowa Department of Environmental Quality for additional information.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

A complete copy of the Iowa application for redelegation of primary enforcement responsibility is available for public inspection during normal business hours at the Office of the Regional Administrator, Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106, and at the following location in Iowa:

The Iowa Department of Environmental Quality, Henry A. Wallace Building, 900 East Grand Avenue, Des Moines, Iowa 50319.

John J. Franke, Jr.,

Regional Administrator, Region VII.

June 29, 1982.

[FR Doc. 82-18050 Filed 7-1-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

[Agreement No. 10453]

Availability of Finding of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Energy and Environmental Impact has determined that the Commission's decision on Agreement No. 10453 will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, and that preparation of an environmental impact statement is not required.

The agreement is between Empresa Lineas Maritimas Argentinas (ELMA) and Bottacchi, S.A. de Navegacion C.F.I.I. (Bottacchi) operating Argentine flag common carrier vessels between U.S. Atlantic ports and ports in Brazil, Uruguay, Argentina and Paraguay. Under the terms of the agreement, each party will, from time to time, charter space on vessels operated by it to the other party, and the parties will cooperate with each other to rationalize sailings in the trade.

This Finding of No Significant Impact (FONSI) will become final within 20 days of publication of this notice in the **Federal Register** unless a petition for review is filed pursuant to 46 CFR 547.6(b).

The FONSI and related environmental assessment are available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523-5725.

Francis C. Hurney,

Secretary.

[FR Doc. 82-18002 Filed 7-1-82; 8:45 am]

BILLING CODE 6730-01-M

Security for the Protection of the Public Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Pub. L. 89–777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR 540): The Black Sea Shipping Company, c/o March Shipping Passenger Services, 1001 Franklin Ave., Garden City, New York 11530.

Dated: June 29, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82–18008 Filed 7–1–82; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Pub. L. 89–777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540): The Black Sea Shipping Company, c/o March Shipping Passenger Services, 1001 Franklin Ave., Garden City, New York 11530.

This Certificate expires August 22, 1982.

Dated: June 29, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82–18004 Filed 7–1–82; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

Annual Report; Availability

Pursuant to the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) and Circular A–63, revised, of the Office of Management and Budget—notice is hereby given to the availability of the Federal Prevailing Rate Advisory Committee 1981 Annual Report.

The report summarizes the activities and recommendations of the Committee to the Director, Office of Personnel Management in dealing with the Federal prevailing rate systems for craft, trade, and labor employees paid from either appropriated or nonappropriated funds during calendar year 1981.

Single copies of the report will be furnished without charge. Multiple copies can be furnished at a fair and equitable fee upon written request addressed to the Chairman, Federal Prevailing Rate Advisory Committee, Office of Personnel Management, Room 1340, 1900 E Street, N.W., Washington, D.C. 20415.

The report may be otherwise examined and/or copies obtained at the above office and address between the hours of 8:15 a.m. and 4:45 p.m. Monday through Friday, legal holidays excluded.

William B. Davidson, Jr.,

Chairman, Federal Prevailing Rate Advisory Committee.

June 28, 1981.

[FR Doc. 82–18040 Filed 7–1–82; 8:45 am]

BILLING CODE 5325–01–M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than July 28, 1982.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 55480:

1. *AmeriCorp*, Shawnee, Oklahoma, (insurance activities; Oklahoma): To engage indirectly through a subsidiary, Banker's Insurance Agency of Shawnee, Inc., Shawnee, Oklahoma, in the sale of life, accident and health, and mortgage cancellation insurance directly related to extensions of credit by AmeriCorp's subsidiary bank, American National Bank and Trust Company of Shawnee, Shawnee, Oklahoma. These activities would be conducted from an office in Shawnee, Oklahoma, serving Pottawatomie County, Oklahoma.

2. *Morrow & Keeling, Inc.*, Chanute, Kansas, (insurance activities; Kansas): To engage in the sale of credit life, accident and health insurance related to extensions of credit by its subsidiary bank. These activities would be conducted in Chanute, Kansas, serving Chanute and the surrounding area.

Board of Governors of the Federal Reserve System, June 28, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82–18009 Filed 7–1–82; 8:45 am]

BILLING CODE 6210–01–M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of

fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Central Bancshares, Inc.*, Glenmora, Louisiana; to become a bank holding company by acquiring 80 percent of the voting shares of Central Bank & Trust Company, Glenmora, Louisiana. Comments on this application must be received not later than July 28, 1982.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Savanna Bancorp., Inc.*, Savanna, Illinois; to become a bank holding company by acquiring 80 percent of the voting shares of Savanna State Bank, Savanna, Illinois. Comments on this application must be received not later than July 28, 1982.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 55480:

1. *Docking Bank Consulting Company*, Arkansas City, Kansas; to become a bank holding company by acquiring 50 percent or more of the voting shares of The Union State Bank, Arkansas City, Kansas. Comments on this application must be received not later than July 28, 1982.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *The Banc of San Jacinto County Bancshares, Inc.*, Coldspring, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of The Bank of San Jacinto County, Coldspring, Texas. Comments on this application must be received not later than July 28, 1982.

Board of Governors of the Federal Reserve System, June 28, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-18010 Filed 7-1-82; 8:45 am]

BILLING CODE 6210-01-M

First National Corp. of Jacksonville; Formation of Bank Holding Company

First National Corporation of Jacksonville, Jacksonville, Alabama, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of The First National Bank of Jacksonville, Jacksonville, Alabama. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

First National Corporation of Jacksonville, Alabama, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage in the activities of acting as agent or broker for the sale of credit life and health and accident insurance. These activities would be performed from offices of Applicant's subsidiary in Jacksonville and Anniston, Alabama, and the geographic area to be served is Calhoun County, Alabama. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than July 28, 1982.

Board of Governors of the Federal Reserve System, June 28, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-18012 Filed 7-1-82; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in wiritng to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Bancrop of Belleville, Inc.*, Belleville, Illinois; to acquire at least 80 percent of the voting shares or assets of Dupo State Savings Bank, Dupo, Illinois. Comments on this application must be received not later than July 28, 1982.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Guardian Banshares, Inc.*, Alliance, Nebraska; to acquire 19.975 percent of the voting shares of Bridgeport State Company, Bridgeport, Nebraska. Comment on this application must be received not later than July 28, 1982.

2. *Hemingford Banshares, Inc.*, Hemingford, Nebraska; to acquire 19.975 percent of the voting shares of Bridgeport State Company, Bridgeport, Nebraska. Comments on this application must be received not later than July 28, 1982.

3. *Hyannis Banshares, Inc.*, Hyannis, Nebraska; to acquire 24.9 percent of the voting shares of Bridgeport State Company, Bridgeport, Nebraska. Comments on this application must be received not later than July 28, 1982.

4. *Mullen Banshares, Inc.*, Mullen, Nebraska; to acquire 24.9 percent of the voting shares of Bridgeport State Company, Bridgeport, Nebraska. Comments on this application must be received not later than July 28, 1982.

5. *Thedford Banshares, Inc.*, Thedford, Nebraska; to acquire 10.25 percent of the voting shares of Bridgeport State Company, Bridgeport, Nebraska. Comments on this application must be received not later than July 28, 1982.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Carthage Bancshares, Inc.*, Carthage, Texas; to acquire 100 percent of the voting shares of assets of First National Bank of Beckville, Beckville, Texas, a proposed new bank. Comments on this application must be received not later than July 28, 1982.

2. *National Bancshares Corporation of Texas*, San Antonio, Texas; to acquire 100 percent of the voting shares or assets of Peoples Bank, Houston, Texas. Comments on this application must be received not later than July 28, 1982.

Board of Governors of the Federal Reserve System, June 28, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-18011 Filed 7-1-82; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Early Termination of the Waiting Period of the Premerger Notification Rules; Marjorie S. Gray

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Marjorie S. Gray is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain voting securities of Bill S. Saxon. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: June 4, 1982.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-18040 Filed 7-1-82; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules; Louis A. Farris

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Louis A. Farris is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain voting securities of The Retirement Research Foundation. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Louis A. Farris. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: June 4, 1982.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-18041 Filed 7-1-82; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules; Investors Management Corporation

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Investors Management Corporation is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain voting securities of Sirloin Stockade, Inc., a subsidiary of Lucky Stores, Inc. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: June 4, 1982.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-18037 Filed 7-1-82; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules; James P. Linn

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: James P. Linn is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain voting securities of Bill D. Saxon. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in

response to a request for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: June 4, 1982.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202) 523–3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82–18038 Filed 7–1–82; 8:45 am]

BILLING CODE 6750–01–M

Early Termination of the Waiting Period of the Premerger Notification Rules; Kerr-McGee Corp.

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Kerr-McGee Corp. is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all voting securities of Coquina Oil Corp. and Coquina Petroleum Inc., from Fluor Corp. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Fluor Corp. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: June 11 1982.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202) 523–3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82–18039 Filed 7–1–82; 8:45 am]

BILLING CODE 6750–01–M

Early Termination of the Waiting Period of the Premerger Notification Rules; WICOR, Inc.

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: WICOR, Inc. is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain voting securities of Sta-Rite Industries, Inc. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: June 4, 1982.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202) 523–3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82–18036 Filed 7–1–82; 8:45 am]

BILLING CODE 6750–01–M

GENERAL SERVICES ADMINISTRATION

[F–82–21]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Louisiana Public Service Commission involving intrastate telecommunications service rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority contained in the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly Sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the Louisiana Public Service Commission involving the application of the South Central Bell Telephone Company in Docket No. U–15445 for an increase in rates for telecommunications services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

d. The Department of Defense shall add the General Services Administration to its service list in this case so that GSA will receive copies of

testimony, briefs, and other Department of Defense filings.

Dated: June 21, 1982.

Francis A. McDonough,

Deputy Commissioner for Government-wide Management, Automated Data and Telecommunications Service.

[FR Doc. 82-18069 Filed 7-1-82; 8:45 am]

BILLING CODE 6820-25-M

[F-82-20]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Minnesota Public Utilities Commission involving intrastate telecommunications service rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority contained in the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly Sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the Minnesota Public Utilities Commission involving the application of the Northwestern Bell Telephone Company in Docket No. P-421/GR-82-203 for an increase in rates for telecommunications services. The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

d. The Department of Defense shall add the General Services Administration to its service list in this case so that GSA will receive copies of testimony, briefs and other Department of Defense filings.

Dated: June 21, 1982.

Francis A. McDonough,

Deputy Commissioner for Government-wide Management, Automated Data and Telecommunications Service.

[FR Doc. 82-18068 Filed 7-1-82; 8:45 am]

BILLING CODE 6820-25-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 82N-0154]

FDA Policy Relating to Limitations of Labeling Terminology in Over-the-Counter Drug Monographs; Public Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice of public hearing.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a public hearing will be held on the agency's policy of limiting the terms that may be used in over-the-counter (OTC) drug product's label to the specific terminology included in the applicable final OTC drug monograph. This policy, known as the "exclusivity" policy, has been challenged throughout the OTC drug review process, and the agency has been petitioned for a hearing respecting the policy's implementation in the context of the nighttime sleep-aid and stimulant drug products monographs. Although interested persons are invited to submit comments on any aspect of the exclusivity policy regarding any OTC drug product, the Commissioner of Food and Drugs will structure the hearing to seek answers to the specific questions listed below in this notice.

DATES: Written notices of participation must be filed by August 13, 1982. The public hearing will be held on September 29, 1982, beginning at 9 a.m.

ADDRESSES: The hearing will be held in conference rooms D, E, and F, Parklawn Building, 5600 Fishers Lane, Rockville, MD. Written notices of participation should be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, National Center for Drugs and Biologics (HFD-510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-4960.

SUPPLEMENTARY INFORMATION: The Commissioner will hold a public hearing on the agency's policy relating to limitations on labeling terminology in OTC drug monographs. The hearing will be held on September 29, 1982, beginning at 9 a.m., in conference rooms D, E, and F, Parklawn Building, 5600 Fishers Lane, Rockville, MD.

FDA published the tentative final monographs (proposed regulations) for OTC nighttime sleep-aid and stimulant drug products in the **Federal Register** of June 13, 1978 (43 FR 25544). The tentative final monograph for nighttime sleep-aid drug products stated that the labeled indications for such products "shall be limited to one or more of the following phrases: 'Helps fall asleep', 'For relief of occasional sleeplessness', 'Helps to reduce difficulty in falling asleep.' " The tentative final monograph for stimulant drug products stated that the labeled indication for such products "shall be limited to the following phrase: 'Helps restore mental alertness or wakefulness when experiencing fatigue or drowsiness.' " In accordance with FDA policy, all other claims or representations of indications would be excluded from the monograph. Thus, any nighttime sleep-aid or stimulant drug product containing labeling that included claims or representations other than those phrases listed above would be a new drug and/or misbranded under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(p) and 352). A hearing has been requested to challenge the proposed limitations of labeling terminolgy.

The policy of limiting monograph labeling terminology to specific words and phrases considered and approved by FDA is known as the "exclusivity" policy. It has been the subject of comment throughout the OTC drug review process. With the publication of the tentative final monograph for OTC antacid drug products in the **Federal Register** of November 12, 1973 (38 FR 31260), FDA responded to comments proposing that terms other than those specified in the monograph should be allowed in the product labeling. The agency concluded that the terms recommended by the panel fully met the intent of the regulation. The agency further explained that allowing each manufacturer to select words other than those set forth in the monograph would result in continued consumer confusion and deception (38 FR 31264).

With the publication of the final monograph for OTC antiacid drug products in the **Federal Register** of June 4, 1974 (39 FR 19862), the agency addressed a comment that the language required for a labeling warning should not be mandatory because a manufacturer may wish to use minor variations in words to provide clearer understanding by consumers. The agency responded as follows (39 FR 19868):

> The Commissioner believes that uniformity in labeling language is essential to consumers. For this reason, the combining of warnings is permitted only where it will retain uniform terminology. Allowing minor word variations, or rearrangement of the same words, would result in similar or

confusing warnings which would not be in the best interest of the public.

In the **Federal Register** of March 13, 1975 (40 FR 11718), FDA announced an amendment to the monographs for OTC antacid and antiflatulent drug products. Those monographs previously required that such products have labeling that "represents or suggests" the product as therapy for certain conditions set forth in quotation marks. A comment stated that the phrase "represents or suggests" raised the question whether terms analogous or similar to the quoted conditions could be used. The agency restated the position that allowing each manufacturer to select its own terminology would result in continued consumer confusion and deception. To clarify the effect of the exclusivity policy, FDA amended the monographs by deleting the phrase "represents or suggests" and substituting the requirement that the labeling of the product "identify" the product with only the specified terms. The controversy concerning exclusivity was not, however, abated, even though in subsequent tentative final monographs FDA has consistently expanded the labeling recommended by the panels to include alternative terminology suggested in comments.

Subsequently, comments both supporting and objecting to the exclusivity policy were submitted to a number of OTC drug rulemaking proceedings, including the proposed monograph for OTC nighttime sleep-aid and stimulant drug products. The comments objecting to the limitation on labeling terminology charged that it is unduly restrictive, unconstitutional, and contrary to the purpose of the Federal Food, Drug, and Cosmetic Act in that it prevents manufacturers from using truthful alternative wording. FDA responded to these comments in the tentative final monographs for OTC nighttime sleep-aid and stimulant drug products as follows (43 FR 25554):

> The Commissioner believes that labeling terminology relating to indications for use is inseparable from the scientific and medical determinations made by the panel and by FDA concerning the conditions under which a drug ingredient is safe and effective. If a manufacturer varies the terminology approved in the monograph, it is representing its product as safe and effective for a condition for which the product's ingredients have not been found to be safe and effective, or else it is assuming that the variant terminology means the same thing as the terminology approved in the monograph. To permit this practice would defeat the purpose of the OTC Drug Review. The Commissioner believes that the listed indications provide a concise description of those therapeutic effects that scientists recognize OTC nighttime sleep-aids to have, in language that is clear, accurate, and meaningful to the layman. If alternative wording or synonyms are desired, the agency may be petitioned for their inclusion in the monograph.
>
> The Commissioner rejects the contention that limiting permissible labeling claims to those approved in the monograph is unlawful and unconstitutional because it prohibits use of truthful alternative wording. The purpose of the OTC Drug Review is to determine which claims are truthful and which are not, and ample opportunity is provided to settle the question through the OTC Drug Review and monograph amendment procedures.

The agency further noted, in a response to a comment on the exclusivity policy as it relates to both nighttime sleep-aid and stimulant drug products, that the agency would permit alternative terminology only after approval of an appropriate petition to the agency under § 330.10(a)(12) (21 CFR 330.10(a)(12)) and publication of an amendment to an appropriate monograph (43 FR 25545).

The objections to the exclusivity policy were resubmitted with respect to nighttime sleep-aid and stimulant drug products after publication of the tentative final monographs, and an oral hearing was requested. Because of the frequency with which the issue of exclusivity has been raised and is likely to be raised again with respect to future monographs, FDA is granting the request for a hearing to consider whether the agency's long-stated policy on labeling exclusivity for OTC drugs should be retained, modified, or eliminated. The OTC drug review regulations at § 330.10(a)(8) provide that after reviewing objections filed in response to a tentative final monograph, the Commissioner may, by notice in the **Federal Register**, grant an oral hearing. The procedures for such a hearing are set forth in 21 CFR Part 15; the hearing on exclusivity is granted in accordance with these regulations. The agency has also received a number of requests for hearings on other issues in the nighttime sleep-aid and stimulant drug products rulemaking. Those other hearing requests have not as yet been granted or denied, but are still under consideration.

The scope of the hearing now being granted broadly encompasses all aspects, both practical and legal, of the exclusively policy and its possible alternatives, and participants are invited to comment on any matter related to that policy. The inquiry will be structured, however, to seek answers to the following questions:

(1) Does the government have a substantial interest in restricting the terminology used in the labeling of OTC drug products?

(2) If the government's interest is substantial, does restricting labeling to terminology approved by FDA in a final monograph directly advance this interest?

(3) Is the restriction imposed by the exclusivity policy more extensive than is necessary to serve that interest?

(4) By imposing such a restriction, does the agency exceed its authority under the Federal Food, Drug, and Cosmetic Act?

(5) Is the restriction a prior restraint on free speech that is prohibited by the Constitution?

(6) Should there be limitations on terminology used in the labeling of OTC drug products? If the current policy of exclusivity of labeling should be changed, what changes would be desirable from the standpoints of consumers and marketers? The following alternatives have been identified:

(a) Provide a separate list of approved synonyms maintained on file in the Dockets Management Branch. This alternative would retain the exclusivity policy but provide a simplier and more expeditious means of obtaining additional acceptable language for use in labeling.

(b) Require specific information to be included in a designated area of a product's labeling without deviation from the approved language, but permit manufacturers to use their own synonymous language outside the designated area. This alternative would preserve the exclusivity policy with respect to claims made in the designated area, thus providing consumers with an FDA-approved source of information on the label itself, while at the same time allowing manufacturers the flexibility to employ reasonable interpretive language elsewhere in the product's labeling. The agency believes that this alternative represents a compromise that may incorporate the advantages of the exclusivity policy while avoiding some of its perceived rigidity.

(c) Allow manufacturers to interpret the claims included in a monograph in synonymous language. This alternative would abandon the exclusivity policy. Manufacturers would still be required to employ accurate, nonmisleading terminology, but would not have to obtain FDA's prior approval for the language chosen.

The agency is interested in hearing comments on each of these alternatives.

Interested persons who wish to participate must send a notice of participation on or before August 13, 1982, to the Dockets Management Branch, Food and Drug Administration,

Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. All notices submitted should be identified with the docket number found in brackets in the heading of this notice and should contain the following information: name; address; telephone number; business affiliation, if any, of the person desiring to make a presentation; and the approximate amount of time requested for the presentation.

Groups having similar interests are requested to consolidate their comments and present them through a single representative. FDA may require joint presentations by persons with common interests. After reviewing the notices of participation, FDA will notify each participant of the schedule and time allotted to each person.

The administrative record will remain open for 15 days after the hearing to allow comment on matters raised at the hearing.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 505, 701(a), 52 Stat. 1040–42 as amended, 1050–53 as amended, 1055 (21 U.S.C. 321, 352, 355, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.10).

Dated: June 25, 1982.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 82-18016 Filed 7-1-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket Nos. 80P–0501 and 81P–0115]

Coherent, Inc., and Cooper Medical Devices Corp., Microsurgical Argon Laser Intended for Use in Otology; Panel Recommendations on Petitions for Reclassification; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is extending the time for submitting comments on the notice of panel recommendations on the petitions submitted by Coherent, Inc., and Cooper Medical Devices Corp., to reclassify from class III (premarket approval) into class II (performance standards) the microsurgical argon laser intended for use in otology and for use in otoloaryngology. FDA is taking this action in response to a request for an extension of the comment period.

DATE: Comments by July 10, 1982.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Denis L. McCarthy, Bureau of Radiological Health (HFX–460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3426.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 11, 1982 (47 FR 20188), FDA issued for public comment a notice of panel recommendations on petitions submitted by Coherent, Inc., and Cooper Medical Devices Corp. to reclassify from class III into class II the microsurgical argon laser intended respectively for use in otology and in otolaryngology. The notice provides a 30-day comment period which ends on June 10, 1982. On May 27, 1982, FDA received from Cooper Medical Devices Corp. a request for an extension of the comment period. Cooper states that it is now gathering and evaluating information and clinical data directly relevant to its reclassification petition, but will be unable to complete its evaluation and submit it with the company's comments in the comment period specified in the notice.

FDA agrees that additional time for the preparation and submission of meaningful information and clinical data is in the public interest. Therefore, FDA is granting a 30-day extension of the comment period to July 10, 1982.

Interested persons may, on or before July 10, 1982, submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding the notice. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the generic name of the device and the docket numbers found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 28, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-17986 Filed 6-29-82; 10:01 am]

BILLING CODE 4160-01-M

[Docket No. 81N–0200]

Review of Agency Rules

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its current priorities for reviewing the agency's existing rules under the Regulatory Flexibility Act (Pub. L. 96–354) and Executive Order 12291. FDA has undertaken a systematic review of its existing rules for the purpose of identifying and eliminating any unnecessary regulatory burdens on the public.

FOR FURTHER INFORMATION CONTACT: Richard T. Hunt, Regulations Policy Staff (HFC–10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3480.

SUPPLEMENTARY INFORMATION:

Background

FDA is committed to eliminating unnecessary regulatory burdens while maintaining appropriate public protection. In the **Federal Register** of July 14, 1981 (46 FR 36333), FDA published a notice announcing its plan for undertaking a systematic review of its existing rules in accordance with requirements of the Regulatory Flexibility Act and Executive Order 12291. The review is designed to identify rules that ought to be revised or revoked because they impose unnecessary burdens on the public generally or on specific segments of the public such as small business. The notice identified FDA's principal criteria to be used in establishing review priorities—the greatest opportunity for cost reduction and the availability of data. Because FDA believes it important that those affected by its regulations have an opportunity to participate in the review, notice also solicited data, information, and views form the public to assist the agency in identifying unduly burdensome regulations and in establishing an appropriate review schedule.

Public Comments

In response to the July 14, 1981 notice, the agency received comments from 125 individuals and organizations concerning over 100 regulations, some of which were the subject of multiple comments. These comments represented a broad spectrum of interests including individual firms, trade associations, health professionals, consumer groups, and academic institutions.

A substantial portion of the comments were concentrated in a few regulatory areas. The targets of greatest public interest were regulations dealing with investigational new drug and new drug applications, food labeling, bioresearch monitoring, and current good manufacturing practice. These regulatory areas accounted for more than 30 percent of the comments received. The majority of comments on these and other regulations recommended revision rather than

revocation of the regulations. Some of the difficulties described by the comments included duplication of regulations, possible mismatches between the level of regulatory effort and the degree of risk associated with product usage, and obsolescence of regulations because of new technological developments.

Review Priorities

FDA has selected the regulations listed below as its highest review priorities at this time. By September 1983, FDA expects to review each of these reglations and decide whether to retain it unchanged or to initiate rulemaking to revise or revoke it. These priorities are the result of a systematic, agencywide assessment of public comments as well as other available information. Several consideration went into developing the priorities, including the level of public interest, the potential for a major reduction of economic impact, and the ability to distribute the review workload among available FDA staff. In selected instances, however, regulations have been included on this initial priority list even though FDA received few comments concerning them and the economic impact of the regulations is minor. These latter regulations are included because reviews have been underway, revisions are now being recommended, and the unnecessary regulatory burden can be removed soon.

21 CFR	Regulation
Sections: 102.30 to 102.35	Common or usual names for non-standardized foods—juice beverages.
Part:	
110	Current good manufacturing practice in manufacturing, processing, packing, or holding human food.
203	Patient package inserts for prescription drug products.
211	Current good manufacturing practice for finished pharmaceuticals.
Parts 310 and 314	New drug applications.
Part 312	New drugs for investigational use.
Parts 430 to 460	Antibiotic certification.
Part:	
606	Current good manufacturing practice for human blood and blood products.
640	Additional standards for human blood and blood products.
660	Additional standards for diagnostic substances for laboratory tests.
Section: 740.17	Bubble bath products.
Part:	
813	Investigational exemptions for intraocular lenses.
1002	Records and reports (radiological health).

Three of the regulations listed deal with current good manufacturing practice. Although all current good manufacturing practice and current good laboratory practice regulations will be scheduled for review, the substantial size of the effort restricts the agency's immediate attention to those current good manufacturing practice regulations included in the priority list.

The agency will select future priorities as reviews are completed and additional information on economic impact is received. From time to time, the agency expects to solicit information from the public to help select these priorities and conduct reviews.

Burden Assessment

In the process of reviewing an existing regulation, FDA will first ascertain if the regulation imposes a burden that would necessitate substantial economic analysis. If so, the agency will take prompt action to collect, analyze, and interpret the required information. Any regulation suspected of having a substantial impact will be assessed to determine how the costs and benefits would change if the regulation were rescinded or modified. This approach will not seek to estimate the historical impact of a regulation; i.e., the accumulated burden and benefit of the requirement from its inception. Rather, the agency will determine what current costs may be avoided if a requirement is rescinded or modified. It is anticipated that this analysis will frequently require assistance from the persons affected by the regulation in question.

When each review is completed, the agency will take appropriate action to achieve regulatory objectives with the least cost burden. Any proposed revisions or revocations of regulations that result from these reviews will be listed in future semiannual agendas of regulations and will be published in the **Federal Register** for public comment.

Dated: June 25, 1982.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 82-18017 Filed 7-1-82; 8:45 am]

BILLING CODE 4160-01-M

Health Resources Administration

Grants to State Health Planning and Development Agencies Determination of Population of the States

This notice provides the population figures the Department will use when it determines the amount of grants to State Health Planning and Development Agencies (State Agencies).

Section 1525 of the Public Health Service Act (added by the National Health Planning and Resources Development Act of 1974, Public Law 93-641 and the Health Planning and Resources Development Amendments of 1979, P.L. 96-79), authorized the Secretary of Health and Human Services to make grants (hereinafter referred to as "planning grants") to State Agencies to assist them to meet their operating costs. The amount of the planning grant is determined in accordance with a formula and is based in part on a determination by the Secretary of the population of the States. The formula is provided in the regulations governing grants to State Agencies (42 CFR Part 123, Subpart C). Section 123.204(b) of these regulations provides that the Secretary will determine the population of each State based upon the latest available estimate from the Department of Commerce, and will publish annually in the **Federal Register** a list of all States and their populations. This list is based on the 1980 Census of Population and Housing, final report of the Bureau of Census, Publication PHC 80-V-1, and Executive Order 12256, (published in the **Federal Register** December 18, 1980).

Accordingly, the Secretary has made the following determination of populations of the States.

Dated: June 28, 1982.

Robert Graham,

Acting Administrator, Health Resources Administration.

POPULATION OF THE STATES FOR PURPOSES OF DETERMINATION OF PLANNING AND DEVELOPMENT GRANTS, FISCAL YEAR 1982

State	Population
Alabama	3,890,171
Alaska	400,481
American Samoa	32,396
Arizona	2,718,016
Arkansas	2,295,902
California	23,673,412
Colorado	2,888,834
Connecticut	3,107,906
Delaware	595,225
District of Columbia	637,981
Florida	9,839,602
Georgia	5,454,896
Guam	105,821
Hawaii	965,000
Idaho	943,935
Illinois	11,420,191
Indiana	5,490,250
Iowa	2,913,437
Kansas	2,363,358
Kentucky	3,661,433
Louisiana	4,204,742
Maine	1,124,660
Maryland	4,216,756
Massachusetts	5,737,717
Michigan	9,258,584
Minnesota	4,077,478
Mississippi	2,520,638
Missouri	4,917,584
Montana	786,690
Nebraska	1,570,096
Nevada	799,554
New Hampshire	920,610
New Jersey	7,372,016
New Mexico	1,300,198
New York	17,565,456
North Carolina	5,874,456
North Dakota	652,695
North Mariana Islands	16,758
Ohio	10,797,579
Oklahoma	3,025,568
Oregon	2,632,643
Pennsylvania	11,867,718

POPULATION OF THE STATES FOR PURPOSES OF DETERMINATION OF PLANNING AND DEVELOPMENT GRANTS, FISCAL YEAR 1982—Continued

State	Population
Puerto Rico	3,187,570
Rhode Island	947,154
South Carolina	3,119,208
South Dakota	690,178
Tennessee	4,590,870
Texas	14,229,793
Trust Territory	116,974
Utah	1,461,117
Vermont	511,456
Virginia	5,346,490
Virgin Islands	95,591
Washington	4,130,233
West Virginia	1,949,644
Wisconsin	4,706,195
Wyoming	470,816
Total	230,191,774

[FR Doc. 82-18056 Filed 7-1-82; 8:45 am]

BILLING CODE 4160-15-M

Determination of Population of Health Service Areas

Section 1516 of the Public Health Service Act (added by the National Health Planning and Resources Development Act of 1974, Pub. L. 93-641 and the Health Planning and Resources Development Amendments of 1979, P.L. 96-79), authorizes the Secretary of Health and Human Services to make grants (hereinafter referred to as "planning grants") to health systems agencies to assist them in meeting their costs of operation. The amount of the planning grant to each health systems agency is determined in accordance with a formula set forth in amended section 1516, and is based in part upon a determination by the Secretary of the population of the health service area to be served by each agency. The governing regulations, at 42 CFR 122.205, provide that the Secretary will determine the population of the areas based upon the latest available estimate from the Department of Commerce, and will publish annually in the **Federal Register** a list of all health service areas and their populations. The populations of the health service areas are to be published prior to the final allocation of funds in each fiscal year.

In accordance with the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35) the Governors of five States (Alabama, Louisiana, Missouri, Nebraska, and Ohio) have recently requested and received approval from the Secretary for their States to be designated under section 1536 of the Act. Therefore, the attached population figures exclude the HSAs in these States since they are being eliminated in accordance with section 1536. Additionally, pursuant to section 1536 of the Act, certain States (Hawaii and Rhode Island), do not have health service areas established within them or health systems agencies designated for them but are nonetheless eligible to receive planning grants under section 1516 based in part upon their population. This Notice sets forth their populations as of April 1, 1980, on the same basis as for health service areas.

The Secretary of Health and Human Services has determined, for purposes of the determination of planning grants for health systems agencies for Fiscal Year 1982, that the population of the health service areas and the areas designated under section 1536, based on the latest available estimate from the Department of Commerce, are to be derived from the April 1, 1980 population counts, issued by the Bureau of Census. These Series PHC 80-V, population reports furnish the latest available census population counts for the population of States by counties, incorporated places, and selected minor jurisdictions which are on a comparable, uniform, and consistent basis as needed for the derivation of population totals for health service areas. Data from the Department of Treasury, Office of Revenue Sharing, "Census Tribal Population List", were used to make adjustment of the population of health service areas in Arizona and the health service area that includes portions of Arizona, New Mexico, and Utah.

The population of the health service and other areas as described above are, except for adjustments made to those areas as required by Executive Order 12256, (published in the **Federal Register**, December 18, 1980), which deals with the census estimates of Cuban and Haitian entrants to the United States between April 1, 1980 and September 30, 1980, the same as those published in the **Federal Register**, March 3, 1982. The population figures used in making the adjustments were published by the Census Bureau in the **Federal Register**, June 24, 1981.

Accordingly, the Secretary has made the following determination of the populations of the health service areas and areas designated under section 1536 as described above.

Dated: June 28, 1982.

Robert Graham,

Acting Administrator, Health Resources Administration.

HEALTH SERVICE AREA POPULATIONS FOR PURPOSES OF DETERMINATION OF PLANNING GRANTS IN FISCAL YEAR 1982[1]

Elids	Health service areas	Population
Alaska	1	49,660
	2	269,123
	3	81,698
Arizona	1	1,030,301
	2	671,159
	3	191,962
	4, including Utah No. 2—4,560 and New Mexico No. 2—47,868.	124,575
	5	146,247
Arkansas	1	718,790
	2	575,596
	3	490,396
	4	492,891
California	1	661,141
	2	1,256,581
	3	834,229
	4	1,490,380
	5	1,762,751
	6	822,845
	7	1,295,231
	8	858,935
	9	1,311,815
	10	826,550
	11	7,480,927
	12	1,583,712
	13	1,931,880
	14	1,954,146
Colorado	1	1,986,273
	2	612,200
	3	290,411
Connecticut	1	836,563
	2	597,180
	3	497,893
	4	805,246
	5	480,894
Delaware	1	595,225
Florida	1	802,457
	2	846,758
	3	748,532
	4	1,719,604
	5	1,232,860
	6	884,520
	7	806,571
	8	1,015,823
	9	1,781,647
Georgia	(1), see Tennessee, No. 3	
	2	582,323
	3	2,298,313
	4, including South Carolina No. 5—105,625.	658,204
	5	822,557
	6	566,677
	7	603,673
Hawaii	Sec. 1536	965,000
Idaho	1	943,935
Illinois	1	884,609
	2	715,657
	3	586,564
	4	799,284
	5	640,113
	6	3,006,461
	7	2,909,036
	8	866,901
	9	495,170
	10, including Iowa No. 3—200,458.	443,680
Indiana	1	1,972,537
	2	2,162,653
	3	1,355,109
Iowa	1	2,542,294
	2	
Kansas	(3), see Illinois No. 10	
	1	
	2	506,423
	3	850,853
Kentucky	1	1,823,584
	2	1,571,632
Maine	1	1,124,660
Maryland	1	804,315
	2	579,203
	3	832,425
	4	2,174,023
	5	290,620

HEALTH SERVICE AREA POPULATIONS FOR PURPOSES OF DETERMINATION OF PLANNING GRANTS IN FISCAL YEAR 1982[1]—Continued

State	Health service areas	Population
Massachusetts	1	803,517
	2	680,521
	3	487,934
	4	2,110,619
	5	1,823,073
	6	831,903
Michigan	1	4,582,201
	2	700,181
	3	783,576
	4	1,067,078
	5	591,827
	6	769,929
	7	324,066
	8	319,757
Minnesota	(1), see North Dakota No. 2.	
	2, including Wisconsin No. 7—135,901.	479,182
	(3), see North Dakota No. 3.	
	4	453,260
	5	1,965,925
	6	525,256
	7	805,765
Mississippi	1	2,525,635
Montana	1	786,690
Nevada	1	337,366
	2	462,176
New Hampshire	1	920,610
New Jersey	1	1,280,500
	2	1,864,323
	3	561,492
	4	2,043,957
	5	1,506,035
New Mexico	1	1,262,250
	(2), see Arizona No 4.	
New York	1	1,564,728
	2	1,203,152
	3	1,465,734
	4, including Pennsylvania No. 8—107,144.	419,948
	5	1,362,774
	6	1,591,563
	7	7,078,200
	8	2,606,083
North Carolina	1	1,017,120
	2	1,114,710
	3	995,736
	4	817,809
	5	897,615
	6	1,331,899
North Dakota	1	299,396
	2, including Minnesota No. 1—160,365.	305,879
	3, including Minnesota No. 3—202, 513.	410,256
Oklahoma	1	3,025,410
Oregon	1	1,139,399
	2	1,139,486
	3	353,916
Pennsylvania	1	3,082,889
	2	934,313
	3	611,556
	4	1,413,581
	5	754,574
	6	2,688,755
	7	770,648
	(8), see New York No. 4.	
	9	903,006
Rhode Island	Sec. 1536	947,154
South Carolina	1	822,338
	2	863,394
	3	624,679
	4	703,172
	(5), see Georgia No. 4	
South Dakota	1	690,178
Tennessee	1, including Virginia No. 5—30,597.	508,676
	2	845,039
	3, including Georgia No. 1—105,779.	604,496
	4	1,515,692
	5	462,561
	6	959,720
Texas	1	378,174
	2	366,963
	3	500,350
	4	869,715
	5	3,258,412

HEALTH SERVICE AREA POPULATIONS FOR PURPOSES OF DETERMINATION OF PLANNING GRANTS IN FISCAL YEAR 1982[1]—Continued

State	Health service areas	Population
	6	1,353,640
	7	806,568
	8	1,266,036
	9	1,349,485
	10	854,874
	11	3,276,626
	12	345,900
Utah	1	1,456,567
	(2), see Arizona No. 4	
Vermont	1	511,456
Virginia	1	685,756
	2	1,105,804
	3	1,159,661
	4	950,110
	5	1,334,409
	(6), see Tennessee No. 1.	
Washington	1	2,529,374
	2	583,643
	3	488,237
	4	518,979
West Virginia	1	1,949,644
Wisconsin	1	827,173
	2	1,765,089
	3	471,676
	4	511,263
	5	502,595
	6	402,068
	(7), see Minnesota No. 2	
Wyoming	1	470,816
Total	178	198,743,450

[1] Population based on Bureau of the Census population counts as of April 1, 1980 and Executive Order 12256 (published in the FEDERAL REGISTER, December 16, 1980) as noted in the accompanying text of this Notice.

[FR Doc. 82-18057 Filed 7-1-82; 8:45 am]
BILLING CODE 4160-15-M

Office of Refugee Resettlement

Demonstration Projects To Involve Community and Corporate Business Leadership Effectively in Refugee Job Development and Job Placement Programs; Announcement of the Availability of Grant Funds

Closing Date: August 20, 1982. An application must be mailed or hand-delivered by the closing date.

The Director invites applications for demonstration projects to involve community and corporate business leadership in refugee job development and job placement programs.

Authorization

Authority for this activity is contained in the Immigration and Nationality Act (8 U.S.C. 1522) as amended by the Refugee Act of 1980, Section 412, Pub. L. 96-212. No Catalogue of Federal Domestic Assistance Number has been issued.

Available Funds

It is expected that approximately $250,000 will be available for new grants in fiscal year 1982. The Director estimates that these funds could support three (3) projects. The anticipated award for a project is between $80,000 and $100,000.

However, these estimates do not bind the Office of Refugee Resettlement to a specific number of grants or to the amount of any grant unless the amount is otherwise specified by statute or regulations.

Awards will be for one year with no further funding anticipated.

Summary

This announcement governs the award of grants to public entities and non-profit organizations for the development of new and innovative methods to involve community and business leadership effectively in refugee job development and job placement programs. These projects include provision for the dissemination of these methods to employment service providers serving the refugee population.

Applications Delivered by Mail

An application sent by mail must be addressed to the U.S. Department of Health and Human Services, Social Security Administration, Office of Refugee Resettlement, Grants Management Branch, Room 1332, Switzer Building, 330 C Street, S.W., Washington, D.C. 20201. An applicant must show proof of mailing consisting of one of the following:

(1) A legible dated U.S. Postal Service postmark;

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service;

(3) A dated shipping label, invoice or receipt from a commercial carrier.

If an application is sent through the U.S. Postal Service, the Director does not accept either of the following as prof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

Applicants should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, the applicant should check with its local post office.

Applicants are encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand

An application that is hand delivered must be taken to the U.S. Department of Health and Human Services, Social Security Administration, Office of Refugee Resettlement, Grants Management Branch, Room 1332, Switzer Building, 330 C Street, S.W., Washington, D.C. 20201.

The Grants Management Branch will accept a hand-delivered application

between 8:30 am and 5:00 pm Eastern Daylight Time daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted after 5:00 pm on the closing date.

FOR FURTHER INFORMATION CONTACT:
U.S. Department of Health and Human Services, Social Security Administration, Office of Refugee Resettlement, Program Services Branch, Room 1332, Switzer Building, 330 C Street, S.W., Washington, D.C. 20201, telephone (202) 245–0403.

SUPPLEMENTARY INFORMATION:

I. Program Objectives

This announcement describes the availability of funding for national projects to demonstrate new and innovative methods to involve community and business leadership effectively in developing job opportunities for refugees and in managing job placement programs that respond to the needs of employers and contribute to the economic self-sufficiency of refugees. Grant awards under this announcement will be for a twelve-month period following the date of award.

The objectives of these projects are to develop new sources of employment for refugees, to heighten the awareness of the business community of the refugee work force, and to increase refugee employment. Employment service providers in the field have indicated that employers whh are familiar with refugees found them to be industrious and dependable. Yet, some sources have also indicated that the corporate world is not fully aware of refugees' potential contributions, and that many service providers are not adequately accessing community and corporate leadership. This grant program is designed to facilitate the development of processes that reduce refugee dependency and increase self-sufficiency.

More effective involvement of the community and corporate business leaders would address the problem of refugee unemployment. Providing employment for refugees will not only reduce the cost of public assistance but also preserve the limited social services resources for the truly needy. Refugees who work contribute to the society and lessen the burden of local communities. Futhermore, mental health experts have also found that refugees who work are adjusting to their new life more quickly.

Projects funded under this grant announcement will focus upon the development, testing and dissemination of methods of accessing "gatekeepers" in various types of businesses and corporations in order to increase their employment of refugees. These methods must be applicable to existing employment service programs and must fall within the scope of the ORR social services program. They must provide for the development of more effective linkages between business and corporate leaders and job development staff in refugee social service agencies.

II. Eligible Grantees

Eligible grantees are public entities and organizations incorporated as non-profit under the laws of their State. Private for profit agencies or firms are not eligible.

III. Activities

The grantees shall be required to carry out the following tasks:

Task 1: Develop methods to improve the delivery of employment services through more effective involvement of community and corporate business leaders. Grantees shall identify the barriers and deficiencies in the present system of job development for refugees and develop methods to eliminate those barriers and increase the accessibility of the corporate sector. The proposed methods should be designed to:

(a) access the gatekeepers of national corporations, or corporations with facilities in several communities and of local businesses; (b) increase the cooperation of the corporate sector through its own institutions such as the Chamber of Commerce, the Private Industry Council or the National Alliance of Business; and (c) use the resources untapped within a community such as the Senior Corps of Retired Executives (SCORE), the Rotary Club, etc. Tasks 1b and 1c could be substituted in the proposal by any appropriate creative methodology that results in the expansion of job opportunities for refugees.

Task 2: Produce and field test materials and instructions to be used by refugee employment service providers to implement the methodology proposed. At a minimum, these materials must include: description of the innovative concepts and evaluation instrument; description of the infrastructure of the community with particular emphasis upon the business sector; identification of the target group of employers and community organizations as well collateral materials to be used by service providers. These materials may include printed materials such as posters and pamphlets, direct mail materials, slides, video or other visual aids and usage instructions.

Task 3: Implement the proposed concepts by systematic application and evaluation of the designed methods at a minimum of three demonstration sites. These sites must be representative of communities having the majority of refugees; in particular those communities that have a significant number of refugees. Cooperation and collaboration with all refugee employment services at the demonstration sites are required. One of the demonstrations in each approved grant must involve the headquarters of a national corporation and/or a company with facilities in more than one community. Demonstrations may include three or more different community sites of a single corporation as well as one or more locally based companies.

Task 4: Revised materials and evaluation instrument produced under Task 2 to reflect the results of the activities at the three demonstration sites. The final products should be organized into a technical assistance package.

Task 5: Design and implement a dissemination plan for the final products of the grant. The dissemination plan should be national in scope and must be coordinated with the Office of Refugee Resettlement. Implementation may be in the form of workshops, training or on-site technical assistance, or other appropriate mechanisms.

Creation of advisory boards made up of representatives from the business community, the refugee employment services staff and other civic groups are strongly encouraged.

IV. A–95 Notification Process

OMB Circular A–95 is expected to be rescinded prior to the closing date for the receipt of applications, making the applicability of Circular A–95 to this program moot.

V. Application Submission and Approval Procedures

Applicants may request grant applications from the Department of Health and Human Services, Social Security Administration, Office of Refugee Resettlement, Grants Management Branch, Room 1332, Switzer Building, 330 C Street, S.W., Washington, D.C. 20201, 202–245–0403. Prospective grantees must submit an original application and two copies to the Grants Management Branch.

An independent panel will be convened to evaluate and rate applications. Final funding decisions will be made by the Director of the Office of Refugee Resettlement. Criteria for panel evaluation are listed in Section VII below. It is estimated that grant

awards will be issued on or about September 15, 1982.

VI. Applicable Regulations

The following HHS regulations apply to grants under this Notice:

45 CFR Part 16 Department Grant Appeals Process;

45 CFR Part 74 Administration of Grants;

45 CFR Part 75 Informal Grant Appeals Process;

45 CFR Part 80 Nondiscrimination Under Programs Receiving Federal Assistance Through the Department of Health and Human Services Effectuation of Title VI of the Civil Rights Act of 1964.

45 CFR Part 81 Practice and Procedures for Hearings Under Part 80 of this Title.

45 CFR Part 84 Nondiscrimination on the Basis of Handicap in Programs and Activities Benefitting from Federal Financial Assistance.

45 CFR Part 90 Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance.

VII. Criteria for Evaluating Applications

Project grant applications will be evaluated and rated according to the following criteria:

A. Completeness and Responsiveness of the Proposed Program Design and Implementation Plan

- Identification and analysis of barriers and deficiencies in existing job development and job placement programs for refugees. (10 points)
- Presentation of a clear and comprehensive work plan to accomplish the task of (a) developing creative and cost-effective methods to involve community and business leadership in expanding job opportunities for refugees, (b) preparing materials to assist employment service providers in implementing the proposed methods; (c) implementing the conceptualized methods at demonstration sites; (d) producing the technical assistance materials and (e) designing and implementing the dissemination plan. (30 points)

B. Applicant Capacity

- Previous experience and success of the applicant organization in accessing major corporations and/or associations and organizations of the business community at national and local levels. (25 points)
- Evidence of the applicant organization's capacity for administrative management including organization chart for the proposed project. (5 points)
- Qualifications of individual professionals to administer the project. Appointment of key staff will be subject to ORR approval. (15 points)
- Adequacy and accessibility of facilities and other resources to implement the proposed project. (5 points)

C. Project Evaluation

- Plan for project self-evaluation including methodology for evaluating the proposed methods and for measuring outcomes. (5 points)

D. Financial Management

- Reasonableness of estimated costs in relation to anticipated results (cost/benefit ratio). (5 points)

VIII. Application Content

All applicants will use Standard Form SSA–96, "Federal Assistance" in submitting project proposals. Grant applications must also include the following:

1. Identification and description of the barriers and deficiencies of the refugee job development and job placement program;
2. A work plan to meet the project objectives, including identification of all services and materials to be developed and the dissemination plan. The work plan should describe in detail the proposed tasks and subtasks as indicated in Section V above;
3. A management plan for fiscal and program administration to accomplish the grant objectives including a project management chart, time line and staff assignments;
4. Detailed program budget;
5. Description of the applicant organization. If other than a public agency, description of its organizational mandate, funding sources, key staff and principal officers, organization address and telephone number;
6. Documentation of applicant's experience with the services proposed including description of other projects similar to the proposed activities; and
7. Documentation on non-profit status—IRS form 501 C3 or equivalent.

IX. Records and Reports

Grantees will be required to maintain such fiscal and operational records as are necessary for federal monitoring and auditing of the grants. This record keeping shall include but not be limited to:

(1) All materials to be disseminated; and

(2) Quarterly fiscal and program progress reports due 30 days after the last calendar day of each quarter following the effective date of the grant award.

Phillip N. Hawkes,

Director, Office of Refugee Resettlement.

June 29, 1982.

[FR Doc. 82-18067 Filed 7-1-82; 8:45 am]

BILLING CODE 4100-11-M

Technical Assistance to Mutual Assistance Associations in Business Development and Business Management; Announcement of the Availability of Grant Funds

Closing Date: August 20, 1982. An application must be mailed or hand-delivered by the closing date.

The Director invites applications for projects offering technical assistance to mutual assistance associations in business development and business management.

Authorization

Authority for this activity is contained in the Immigration and Nationality Act (8 U.S.C. 1522) as amended by the Refugee Act of 1980, Section 412, Public Law 96–212. No Catalog of Federal Domestic Assistance number has been issued.

Available Funds

It is expected that approximately $250,000 will be available for new grants in fiscal year 1982. The Director estimates that these funds could support three (3) projects. The anticipated award for a project is between $50,000 and $100,000.

However, these estimates do not bind the Office of Refugee Resettlement to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Awards will be for one year with no further funding anticipated.

Summary

This announcement governs the award of grants to provide funding for the delivery of technical assistance to Mutual Assistance Associations (MAAs) and refugee organizations in business development activities. Under this announcement, MAAs on behalf of their community and in cooperation with business experts will have access to technical assistance from experienced consultants and trainers. The grantee will develop a methodology and implementation process to attain maximum impact on MAA and refugee community business development, business management and training activities.

Applications Delivered by Mail

An application sent by mail must be addressed to the U.S. Department of Health and Human Services, Social Security Administration, Office of Refugee Resettlement, Grants Management Branch, Room 1332, Switzer Building, 330 C Street, S.W., Washington, D.C. 20201. An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice or receipt from a commercial carrier.

If an application is sent through the U.S. Postal Service, the Director does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

Applicants should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, the applicant should check with its local postal office.

Applicants are encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand

An application that is hand delivered must be taken to the U.S. Department of Health and Human Services, Social Security Administration, Office of Refugee Resettlement, Grants Management Branch, Room 1332, Switzer Building, 330 C Street, S.W., Washington, D.C. 20201.

The Grants Management Branch will accept a hand-delivered application between 8:30 am and 5:00 pm Eastern Daylight Time daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted after 5:00 pm on the closing date.

FOR FURTHER INFORMATION CONTACT:

U.S. Department of Health & Human Services, Social Security Administration, Office of Refugee Resettlement, Room 1332, Switzer Building, 330 C Street, S.W., Washington, D.C. 20201, telephone (202) 245–0403.

SUPPLEMENTARY INFORMATION:

I. Program Objectives

This announcement describes the availability of funding for grants supporting the provision of technical assistance (T.A.) to Mutual Assistance Associations and refugee organizations involved in business development activities. It is anticipated that either an MAA with demonstrable business development experience and/or expert staff or a business organization working in close cooperation with an MAA, will be able to accomplish the objectives of this project. The successful grantee will develop a methodology for the delivery of T.A. to refugees in several communities. Grantees will be excepted to use local resources where available while providing business management training and on-site consultations to refugee organizations seeking business opportunities or refugee businesses already established, seeking T.A.

Many refugee groups have developed an interest and have become involved in various kinds of business and economic development activities as a means of achieving economic self-sufficiency and increasing job opportunities for refugees. Refugee businesses are seen as potential sources of employment, especially in areas where other job opportunities for refugees may be limited. Moreover, the presence of refugee businesses in a community can provide role models of effective refugee adaptation to their new environment.

As members of the refugee community have become increasingly interested in and able to assist their countrymen in business activity, MAAs have become directly involved in business development. Their leaders have recognized the need for business management training and direct consultation by persons experienced in American business practices. This program is directed at increasing refugee opportunities and successes in business through consultations with refugee businesses and refugee organizations exploring business ventures.

Proposals should detail substance, process, and format. Business development activities such as feasibility planning, "the business-package" preparation, and provision of information on business resources are potential topics for inclusion in this program. Additionally, such business services as assistance in marketing, bookkeeping, merchandising, inventory control, and referrals to professional resources for follow-up, may also be included.

It is important to the success of this program that the relationships between refugee community organizations and business organizations become explicit. Therefore, it is a requirement under this application notice, that the prospective grantee demonstrate an agreement for a specific amount of cash or a specific in-kind contribution from the business community or other non-public sources. In-kind contributions may involve specific assignments of significant staff resources or the loan of key personnel to the funded project.

The successful grantees under this announcement will provide detailed, hands-on instruction and consultation to MAAs, refugee organizations, and refugee businesses in business development activities.

II. Eligible Grantees

MAAs and other non-profit organizations with demonstrated experience in consulting and training in business development, and/or business management are eligible to apply for a grant under this program. MAAs or consortia of MAAs, or MAAs working with a specific agreement with a management/business consultant organization, are prospective applicants. An MAA is defined, for purposes of this grant, as an incorporated non-profit refugee organization.

III. Activities

Successful applicants under this announcement will have business development, management consultation and training expertise. It is anticipated that prospective grantees will demonstrate current contacts and experience in the business sector, knowledge of the refugee community, and skill in providing training and on-site technical assistance.

Applicants will be expected to design a methodology and time/task specification of how they plan to approach business development assistance and management training to refugees in several communities. It is anticipated that some combination of practitioner workshops, site visits, consultations and/or conferences may be included as part of a design for programs proposed under this announcement.

The applicant is required to document business development expertise, refugee-community access and a commitment of specific resources from the corporate sector or business community. It is expected that the applicant will clearly show how their proposal will result in an improved capacity for refugee involvement in business activity and a greater number of refugee-owned or operated business establishments which extend employment opportunities for refugees. The proposed program and its prospective accomplishments should all be stated in measurable terms.

Though initial needs assessments may be necessary, it is expected that prospective grantees will be familiar enough with the needs of refugee

community groups and business development opportunities that substantial business development and training needs assessments can be minimized. Target populations should be identified and justified in the proposal.

IV. A–95 Notification Process

OMB Circular A–95 is expected to be rescinded prior to the closing date for the receipt of applications, making the applicability of A–95 to this program moot.

V. Application Submission and Approval Procedures

Applicants may request grant applications from the Department of Health and Human Services, Social Security Administration, Office of Refugee Resettlement, Grants Management Branch, 330 C Street, SW., Washington, D.C. 20201, 202–245–0403. Prospective grantees must submit an original application and two copies to the Grants Management Branch.

An independent panel will be convened to evaluate and rate applications. Final funding decisions will be made by the Director of the Office of Refugee Resettlement. Criteria for panel evaluation are listed under IX below. It is estimated that grant awards will be issued on or about September 15, 1982.

VI. Applicable Regulations

The following HHS regulations apply to grants under this notice:

45 CFR Part 16 Department Grant Appeals Process;

45 CFR Part 74 Administration of Grants;

45 CFR Part 75 Informal Grant Appeals Procedures;

45 CFR Part 80 Nondiscrimination under programs receiving Federal Assistance through the Department of Health and Human Services Effectuation of Title VI of the Civil Rights Act of 1964.

45 CFR Part 81 Practice and Procedures for Hearings under Part 80 of this Title.

45 CFR Part 84 Nondiscrimination on the Basis of Handicap in Programs and Activities Benefitting from Federal Financial Assistance.

45 CFR Part 90 Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance.

VII. Criteria for Evaluating Applications

Project grant applications will be evaluated and rated according to the following criteria:

1. The presentation of a clear, efficient, cost-effective plan for organizing, developing, and accomplishing the tasks and program outlined in the proposal. Demonstrated organizational capacity for overall administrative management. (15 points)

2. The extent to which the applicant can demonstrate through past experience in business development, the ability to deliver the proposed services including meeting program timelines. (25 points)

3. An operationally feasible plan for the establishment of an efficient, supportive and collaborative working relationship with the refugee community, and the business sector. The extent to which there is documentation for the relationships required for the success of the program. (20 points)

4. The extent and appropriateness of the cash or in-kind contribution (the non-federal match) from the business sector to the applicant. The applicant should be able to demonstrate a private-section commitment that will serve as a foundation for current and on-going activities. (20 points)

5. The extent to which activities can be evaluated quantitatively and qualitatively as demonstrated by a reasonable plan for project evaluation; and the extent to which program goals are being or can be met. (10 points)

6. The reasonableness of anticipated costs. (10 points)

VIII. Application Content

All applicants will use Standard Form SSA 96 in submitting project proposals. Grant applications must also include the following:

1. Description of the applicant organization including its organizational mandate, funding sources, principal officers, addresses, telephone number, and photo copies of the organization's certificate of non-profit status (501–C–3–papers).

2. A listing and explanation of any previous, relevant applicant experience related to this project. Appropriate projects may include (but are not limited to) small business development, organizing and developing management training programs, management consultation and/or economic development consultation; intensive work with refugees and/or other special populations; refugee resettlement activities; or other similar specialized projects.

3. Specification of project goals, objectives, and a work plan for their accomplishment. This plan should specifically include a task by task implementation and time schedule.

4. A description of arrangements and documentation showing how requirements for the non-federal match contribution will be met. Match-participation may be in the form of corporate cash or personnel loans, foundation support, and/or significant organizational staff support. The matching contribution should be described as follows:

(a) Amount of money;

(b) Percentage of staff time contributed;

(c) Description of relevant skills of loaned personnel;

(d) Sources of contribution.

5. Establishment of an advisory board reflecting experience and expertise relative to the project objectives must be detailed. It is expected that one or more refugee organizations will be represented on this board.

6. Position descriptions and qualifications for the project director and key staff. All staff must possess demonstrable relevant experience for the functions they are hired to perform.

7. Detailed Program Budget.

IX. Records and Reports

Grantees will be required to maintain such fiscal and operational records as are necessary for Federal monitoring and auditing of the grant. In addition to the fiscal reporting requirements delineated in 45 CFR Part 74, quarterly project program reports will be required—due 30 days after the last day of each quarter following the effective date of the grant. The format for these reports will be provided by the Office of Refugee Resettlement.

Phillip N. Hawkes,

Director, Office of Refugee Resettlement.

June 29, 1982.

[FR Doc. 82–18116 Filed 7–1–82; 8:45 am]

BILLING CODE 4190–11–M

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on June 18.

Public Health Service

National Institutes of Health

Subject: Guest Researcher Assignment Form (NIH–590)—New.

Respondents: Individuals.

Alcohol Drug Abuse and Mental Health Administration

Subject: Drug Abuse Warning Network (0930–0078)—Revision.

Respondents: Hospital emergency rooms and medical examiners/coroners.

Center for Disease Control

Subject: National Evaluation of School Health Curriculum—New.

Respondents: Individuals or households/state or local governments.

OMB Desk Officer: Richard Eisinger

Food and Drug Administration

Subject: Investigational Device Exemption Reports and Records (0910–0078)—Extension.

Respondents: Individuals or households/businesses or other institutions.

OMB Desk Officer: Fay S. Iudicello.

Social Security Administration

Subject: Request for Authorization to Report Annual Wage and Social Security Contributions on Magnetic Tape (SSA–2478, 2479, 2480, 2481, 2482)—New.

Respondents: State or local governments/businesses or other institutions.

OMB Desk Officer: Milo Sunderhauf.

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202–245–6511.

Written comments and recommendations for the proposed information collections should be sent directly to both the HHS Reports Clearance Officer and the appropiate OMB Desk Officer designated above at the following addresses:

J. J. Strnad, HHS Reports Clearance Officer, Hubert H. Humphrey Building, Room 524.F, Washington, D.C. 20201.

OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503, Attn: (name of OMB Desk Officer).

Dated: June 25, 1982.

Dale W. Sopper,

Assistant Secretary for Management and Budget.

[FR Doc. 82–17920 Filed 7–1–82; 8:45 am]

BILLING CODE 4150–04–M

Public Health Service

Privary Act of 1974; Waiver of Advance Notice Period for a New System of Records

AGENCY: Public Health Service, HHS.

ACTION: Waiver of advance notice period for a new system of records.

SUMMARY: **Federal Register** document 82–16416, appearing at page 26240 in the issue for Thursday, June 17, 1982, provided notification of a new system of records proposed by the Alcohol, Drug Abuse and Mental Health Administration. That system is 09–30–0041, "Subject-Participants in a Drug Abuse Research Study on Naltrexone," HHS/ADAMHA/NIDA. The document stated that the Public Health Service had requested that the Office of Management and Budget (OMB) grant a waiver of the usual requirements that a system of records not be put into effect until 60 days after the report is sent to OMB and the Congress.

OMB granted the requested waiver on June 11, 1982.

Accordingly, the new system of records, 09–30–0041, became effective upon the date of the waiver except for the routine uses established for the system. They will become effective July 19, 1982, following the public comment period.

Dated: June 24, 1982.

Wilford J. Forbush,

Deputy Assistant Secretary for Health Operations and Director, Office of Management.

[FR Doc. 82–18016 Filed 7–1–82; 8:45 am]

BILLING CODE 4160–25–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[INT DEIS 82–41]

Availability of Draft Environmental Impact Statement and Notice of Public Hearing; Preliminary Wilderness Recommendations for the Clear Lake Resource Area, Ukiah District, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared a draft environmental impact statement concerning preliminary wilderness recommendations for the Clear Lake Resource Area, Ukiah District, California. The proposed action is to designate the Cedar Roughs Wilderness Study Area (WSA) and the Rocky Creek-Cache Creek WSA as nonsuitable for wilderness. Alternatives considered include all wilderness, no wilderness, partial wilderness, and no action.

DATES: Comments on the draft environmental impact statement are being solicited from public agencies and interested inviduals and organizations. The Bureau of Land Management invites written comments on the statement to be submitted by September 1, 1982, to the District Manager, Ukiah District, P.O. Box 940, 555 Leslie Street, Ukiah, California 95482.

A public hearing on the wilderness study will be held from 7:00 p.m. to 10:00 p.m. on August 2, 1982, at 292 West Beamer Street, Woodland, California.

ADDRESSES: A limited number of copies of the draft environmental impact statement are available at the Ukiah District Office and at the following locations:

California State Office, Bureau of Land Management, 2800 Cottage Way, Sacramento, CA 95825, Telephone: (916) 484–4541

Washington Office, Bureau of Land Management, Interior Building, 18th and C Streets, N.W., Washington, D.C. 20240

FOR FURTHER INFORMATION CONTACT: Stanley R. Whitmarsh, Recreation Planner, Bureau of Land Management, Ukiah District Office, P.O. Box 940, 555 Leslie Street, Ukiah, California 95482, Telephone (707) 462–3873.

Dated: June 16, 1982.

Van W. Manning,

District Manager.

[FR Doc. 82–17560 Filed 7–1–82; 8:45 am]

BILLING CODE 4310–84–M

Issuance of Land Exchange Conveyance Document; Exchange of Public and Private Lands; Bear Lake County, Idaho

The United States has issued an Exchange Conveyance Document to Lazy C–H Ranch, Inc., Route 1, Montpelier, Idaho 83524, for the following described lands under Section 206 of the Federal Land Policy and Management Act of 1976.

Boise Meridian, Idaho

T. 14 S., R. 45 E.,
Sec. 23, NE¼NE¼.
Comprising 40.00 acres of public land.

In exchange for these lands, the United States acquired the following described lands:

Boise Meridian, Idaho

T. 14 S., R. 45 E.,
Sec. 13, SE¼SE¼.
Comprising 40.00 acres of private land.

The purpose of this exchange was to consolidate public land for better

management, authorize farming of the public land by transferring it to private ownership, and provide long-term benefits to the Government in livestock forage and wildlife habitat. The public interest was well served through completion of this exchange.

The values of the Federal public land and the non-Federal land in the exchange were appraised at $7,350.00 and $6,000.00 respectively. An equalization payment of $1,350.00 was paid to the United States by Lazy C–H Ranch, Inc.

Dated: June 25, 1982.

Louis B. Bellosi,

Chief, Division of Operations.

[FR Doc. 82–18086 Filed 7–1–82; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Outer Continental Shelf Offshore the Middle Atlantic States; Availability of Draft Environmental Impact Statement and Location and Dates of Public Hearing Regarding Proposed Oil and Gas Lease Sale No. 76

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Minerals Management Service has prepared a draft environmental impact statement relating to a proposed oil and gas lease sale offering tracts consisting of 24.6 million acres of submerged lands on the Outer Continental Shelf offshore the Middle Atlantic States (OCS Sale No. 76).

Single copies of the draft environmental impact statement can be obtained from the Manager, Atlantic OCS Region, Minerals Management Service, 1951 Kidwell Drive, Suite 601, Vienna, VA 22180 and from the Offshore Environmental Assessment Division, Minerals Management Service, Washington, D.C. 20240.

Copies of the draft environmental impact statement will also be available for review in the following public libraries:

East Albermarle Regional Library, 205 E. Main Street, P.O. Box 303, Elizabeth City, NC 28560
New Bern-Craven County Public Library, 400 Johnson Street, New Bern, NC 27909
Olivia Raney Public Library, 104 Fayetteville Street, Raleigh, NC 27601
Wilmington Public Library, 409 Market Street, Wilmington, NC 28401
New York Public Library, 5th Avenue & 42nd Street, New York, NY 10018
Nassau Library System, Reference Division, 900 Jerusalem Avenue, Uniondale, NY 11553
Suffolk Cooperative Library, 627 N. Sunrise Service Road, P.O. Box 1672, Bellport, NY 11713
Trenton Free Public Library, 120 Academy Street, Trenton, NJ 08608
Atlantic City Free Library, Illinois & Pacific Avenues, Atlantic City, NJ 08401
Providence Public Library, 150 Empire Street, Providence, RI 02903
Newport Public Library, Aquidneck Park, Newport, RI 02840
Boston Public Library, Copley Square, Boston, MA 02117
Christian Science Monitor, 1 Norway Street, Boston, MA 02115
Free Library of Philadelphia, Logan Circle, Philadelphia, PA 19141
Rehoboth Beach Public Library, Municipal Center, Rehoboth Avenue, Rehoboth Beach, DE 19971
Ocean County Library, 15 Hooper Avenue, Toms River, NJ 08753
Atlantic County Library,Surrogate Building, Mays Landing, NJ 08330
Public Library, 105 45th Street, Sea Isle City NJ 08243
Public Library, 639 Washington Street, Cape May, NJ 08204
Enoch Pratt Free Library, 400 Catherdral Street, Baltimore, MD 21201
Norfolk Public Library System, 301 S. City Hall Avenue, Norfolk, VA 23510
Monmouth County Library, 25 Broad Street, Freehold, NJ 07728
East Bruswick Public Library, 2 Jean Walling Civic Center, East Brunswick, NJ 08816
New Jersey State Library, P.O. Box 1898, Trenton, NJ 08625
Eastern Shore Area Library, 122–126 South Division Salisbury, MD 21801
Wilmington Institute Free Library and Newcastle County Free Library, 10th & Market Street, Wilmington, DE 19801

In accordance with 43 CFR 3314.1, public hearings will be held on September 15, 1982, at the Omni International Hotel, Waterfront Drive and St. Paul Boulevard, Norfolk, Virginia for the purpose of receiving comments regarding the Middle Atlantic OCS leasing proposal. The hearings will begin at 10:00 a.m., E.D.T., and will conclude at 5:00 p.m., or earlier if all scheduled witnesses have testified.

The hearings will provide the Secretary of the Interior with additional information from both public and private sectors to help evaluate fully the potential effects of leasing oil and gas tracts offshore the Middle Atlantic States. In addition, the proceedings will give the Secretary the opportunity to receive further comments and views of concerned Federal, State, and local agencies.

Interested individuals, representatives of organizations, and public officials who wish to testify at the hearing are requested to contact the Manager, Atlantic OCS Region, Minerals Management Service, at the above address by 4:30 p.m., September 8, 1982. Written comments from those unable to attend the hearing also should be addressed to the Manager, Atlantic OCS Region, Minerals Management Service at the above address. The Minerals Management Service will accept written testimony and comments on the draft environmental impact statement until September 20, 1982. Time limitations make it necessary to limit the length of oral presentations to ten (10) minutes. An oral statement may be supplemented, however, by a more complete written statement which may be submitted to the hearing officer at the time of presentation of the oral statement. Written statements presented in person at the hearing will be considered as part of the hearing record. To the extent that time is available after presentation of oral statements by those who have given advance notice, the hearing officer will give others present an opportunity to be heard.

After testimony and comments have been received and analyzed, a final environmental impact statement will be prepared.

Dated: June 29, 1982.

David C. Russell,

Deputy Director, Minerals Management Service.

Approved:

Bruce Blanchard,

Director, Environmental Project Review.

[FR Doc. 82–18046 Filed 7–1–82; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

Availability of Draft Development Concept Plan; Upper Frijoles and Back Gate Areas, Bandelier National Monument, Santa Fe, Sandoval and Los Alamos Counties, New Mexico

Pursuant to the National Environmental Policy Act of 1969, Title 40 of the Code of Federal Regulations, and Part 516 of the Departmental Manual, the National Park Service has prepared a Draft Development Concept Plan for the Upper Frijoles and Back Gate areas of Bandelier National Monument, Santa Fe, Sandoval and Los Alamos Counties, New Mexico.

The Draft Development Concept Plan for the Upper Frijoles and Back Gate areas has been prepared to provide

additional visitor use and improve and upgrade existing visitor facilities.

The Draft Development Concept Plan is available for review in the Office of the Superintendent, Bandelier National Monument, Los Alamos, New Mexico 87544; and the Southwest Regional Office, National Park Service, 1100 Old Santa Fe Trail, Santa Fe, New Mexico. Copies of the document may be obtained, upon request, from Bandelier National Monument, at the address provided above.

Anyone wishing to provide comments on the Draft Development Concept Plan should provide them to the Superintendent, Bandelier National Monument, Los Alamos, New Mexico 87544, by August 2, 1982.

Dated: June 23, 1982.

Robert Kerr,

Regional Director, Southwest Region.

[FR Doc. 82-18058 Filed 7-1-82; 8:45 am]

BILLING CODE 4310-70-M

Availability of Plan of Operations for the Purpose of Oil Drilling Operations; Big Cypress National Preserve

In accordance with § 9.52 of Title 36 of the Code of Federal Regulations, Big Cypress National Preserve has received from Clayton Williams, Jr., a Plan of Operations for a seismic survey in the Barnes Strand to Windmill Prairie area of the Preserve. The public is invited to review and comment on the Plan of Operations, copies of which are available for review during normal business hours at Everglades National Park, Route 27, 12 miles south of Homestead Florida; Big Cypress National Preserve, Ochopee, Florida; Miami-Dade Public Library System, Main Library, 1 Biscayne Boulevard, Miami, Florida; Collier County Public Library, 650 Central Avenue, Naples, Florida; and at the National Park Service, Southeast Regional Office, 75 Spring Street, S.W., Atlanta, Georgia. Comments received on or before August 2, 1982 will be entered into the official record. For further information, contact Pat Tolle, Management Assistant, Everglades National Park (305) 247-6211.

Dated: June 29, 1982.

Neal G. Guse,

Acting Regional Director, Southeast Region.

[FR Doc. 82-18186 Filed 7-1-82; 8:45 am]

BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Abandoned Mine Land Reclamation Program; Ohio

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Receipt of the Abandoned Mine Land Reclamation (AMLR) Grant Application from the State of Ohio.

SUMMARY: On June 2, 1982, the State of Ohio submitted to OSM its proposed AMLR grant application under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The grant will not be approved until the Secretary has approved the Title IV Reclamation Program.

ADDRESSES: Copies of the full text of the proposed Ohio grant application are available for review during regular business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement, Ohio State Office, 2242 So. Hamilton Road, Columbus, Ohio 43227, and

Nina Rose Hatfield, State Office Director, Office of Surface Mining Reclamation and Enforcement, Ohio State Office, 2242 S. Hamilton Road, Columbus, Ohio 43227.

FOR FURTHER INFORMATION CONTACT: Nina Rose Hatfield, State Director, Ohio State Office, 614/469-2500.

SUPPLEMENTARY INFORMATION: On October 20, 1980, a State reclamation plan was submitted to the Secretary. The Ohio Plan has been reviewed by the Secretary and is presently awaiting approval. Under Section 405(f) of the SMCRA, the Secretary cannot approve a State AMLR program grant unless that State has an approved State AMLR program pursuant to Section 405(d) of the SMCRA.

On June 2, 1982, OSM received an AMLR grant application from the State of Ohio.

Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Public Law 95-87, 30 U.S.C. 1201 *et seq.*, establishes an AMLR program for the purposes of reclaiming and restoring land and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation under the program are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State and Federal law.

Each State having within its borders coal mined lands eligible for reclamation under Title IV of SMCRA may submit to the Secretary a State reclamation grant application to implement the provisions of the approved State Reclamation Plan. However, grants for reclamation may be issued only to States with an approved Title V Regulatory Program for active mine reclamation and an approved Title IV Reclamation Program. The grant application received from the State of Ohio will be reviewed and held pending a final approval by the Secretary on the State's Title IV program in accordance with SMCRA.

This notice describes the nature of the proposed projects. This publication does not represent any decision by the Secretary on the Title IV Reclamation Program, but is published solely for the purpose of expediting the review process and the implementation of the reclamation program if the Title IV program of the State of Ohio is approved.

The Director has found that the State has given the public adequate notice and opportunity to comment in public hearings, and the record of such hearings does not reflect major unresolved controversies.

OSM intends to continue to discuss the State's application with representatives of the State throughout the review process.

In order to comply with the requirements of the National Environmental Policy Act, OSM will assess the environmental effects of all State reclamation projects. The primary basis for this assessment will be the environmental information provided in the project grant application.

The Ohio AMLR grant application can be approved if:

1. The Director finds that the public has been given adequate notice and opportunity to comment, and the record does not reflect major unresolved controversies.

2. Views of other Federal agencies have been solicited and considered.

3. The application meets all the requirements of the OSM, AMLR program provisions and the required Federal circulars.

4. The State has an approved regulatory program and an approved State reclamation plan.

The following constitutes a summary of the contents of the submission:

1. Designation of authorized State Agency to administer the program,

2. Objectives and need for the assistance,
3. Project ranking and selection,
4. Coordination with other reclamation programs,
5. Results and benefits expected,
6. Plan of action pertaining to the scope,
7. Monthly or quarterly projections of accomplishments to be achieved,
8. Kinds of data to be collected and maintained,
9. Criteria used to evaluate the results and success of the projects,
10. Key individuals to be employed,
11. Precise location of the project and area to be served,
12. Budgetary calculations for each project,
13. Description of the public's participation in planning and preparation of the grant application,
14. A complete environmental assessment for each project.

Reclamation projects included in application and location:

Athens County
- Nelsonville Mine Seeps (mine seeps)

Belmont County
- Barton (Village of) (mine drainage and gob pile)
- Belmont County Road 10 (landslide and mine seepage)
- Blaine School Subsidence (subsidence)
- Coe (subsidence)
- Glenns Run (gob pile)
- Goosetown (mine seepage)
- Holloway (strip mine and stream restoration)
- Indian Run (gob pile)
- Perko (mine seepage and landslide)
- Zemba (mine seepage)

Carroll County
- Holland (mine shafts)

Columbiana County
- Columbiana County Shafts (mine shafts)

Coshocton County
- Mills (subsidence)

Gallia County
- Africa Road (eroded strip mine, toxic spoil)

Harrison County
- Cavin (subsidence)
- Green Township Road 64 (pit seepage)
- Harrison County Road 2 (dangerous highwall)

Jackson County
- Jackson County Road 40 (landside)
- Walton Shaft (mine shaft)

Jefferson County
- Jefferson County Road 1 (landslide)
- Jefferson County Road 53 (Lake George) (road flooding, blocked drainage system)
- Jug Run II (mine drainage)
- Little Short Creek (gob pile, strip mine)
- Richmond (Village) (dangerous highwall and pit)
- Rivers (landslide)
- WTOV (mine shaft)

Mahoning County
- Mahoning County Shafts (mine shafts)
- Tecumseh Trailer Park (dangerous highwall)
- Youngstown Shafts (mine shafts)

Meigs County
- Lewis/Wolfe Drive (mine shafts)
- Little Leading Creek (strip mine, acid mine drainage, sedimentation, flooding)
- Meigs #2 (strip mine, sedimentation, flooding)
- Snowville (strip mine, sedimentation, acid water, flooding)

Noble County
- Whiskey Run (erosion, blocked drainage system, flooding)

Perry County
- Bond (subsidence)
- Fee-German (subsidence)
- New Lexington Subsidence (subsidence)
- New Lexington Reservoir II (mine drainage)

Summit County
- Barberton (subsidence)

Trumbull County
- Trumbull County Shafts II and III (mine shafts)

Tuscarawas County
- Martin-Velleca (mine seepage)
- Uhrichsville (mine seepage)
- Warwick Township Road 269 (mine seepage).

Dated: June 22, 1982.

J. Steven Griles,

Director, Office of Surface Mining.

[FR Doc. 82-18143 Filed 7-1-82; 8:45 am]

BILLING CODE 4310-05-M

Abandoned Mine Land Reclamation Program; Tennessee

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Receipt of the Abandoned Mine Land Reclamation (AMLR) Grant Application from the State of Tennessee.

SUMMARY: On April 18, 1982, the State of Tennessee submitted to OSM its proposed AMLR grant application under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The grant will not be approved until the Secretary has approved the Title V Regulatory Program and the Title IV Reclamation Program.

ADDRESSES: Copies of the full text of the proposed Tennessee grant application are available for review during regular business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement, Region II, 530 Gay Street, Suite 500, Knoxville, Tennessee 37902 and

Tennessee Division of Surface Mining, Abandoned Lands Section, Dempster Building, 305 West Springdale, Knoxville, Tennessee 37917, Contact Person: Tim Eagle

FOR FURTHER INFORMATION CONTACT: W. Hord Tipton, Acting Regional Director, Office of Surface Mining Reclamation and Enforcement, 530 Gay Street, Suite 500, Knoxville, Tennessee 37902, (615) 971-5231.

SUPPLEMENTARY INFORMATION: On March 24, 1982, a State reclamation plan was submitted to the Secretary. Action by the Secretary on the plan has been delayed because Tennessee does not have an approved State regulatory program under Title V of SMCRA. Under Section 405(c) of the SMCRA, the Secretary cannot approve a State AMLR program unless that State has an approved State regulatory program pursuant to Section 503 of the SMCRA.

On April 18, 1982, OSM received an AMLR grant application from the State of Tennessee.

Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*, establishes an AMLR program for the purposes of reclaiming and restoring land and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation under the program are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State and Federal law.

Each State having within its borders coal mined lands eligible for reclamation under Title IV of SMCRA may submit to the Secretary a State reclamation grant application to implement the provisions of the approved State Reclamation Plan. However, grants for reclamation may be issued only to States with an approved Title V Regulatory Program for active mine reclamation and an approved Title IV Reclamation Program. The grant application received from the State of Tennessee will be reviewed and held pending a final approval by the Secretary on the State's Title V and Title IV programs in accordance with SMCRA.

This notice describes the nature of the proposed projects. This publication does

not represent any decision by the Secretary on the Title V Regulatory Program or the Title IV Reclamation Program, but is published solely for the purpose of expediting the review process and the implementation of the reclamation program, if the Title V and Title IV programs of the State of Tennessee are approved.

The Director has found that the State has given the public adequate notice and opportunity to comment in public hearings, and the record of such hearings does not reflect major unresolved controversies.

The Department intends to continue to discuss the State's application with representatives of the State throughout the review process.

In order to comply with the requirements of the National Environmental Policy Act, OSM will assess the environmental effects of all State reclamation projects. The primary basis for this assessment will be the environmental information provided in the project grant application.

The Tennessee AMLR grant application can be approved if:

1. The Director finds that the public has been given adequate notice and opportunity to comment, and the record does not reflect major unresolved controversies.
2. Views of other Federal agencies have been solicited and considered.
3. The application meets all the requirements of the OSM, AMLR program provisions and the required Federal circulars.
4. The State has an approved regulatory program and an approved State reclamation plan.

The following constitutes a summary of the contents of the submission:

1. Designation of authorized State Agency to administer the program,
2. Objectives and need for the assistance,
3. Project ranking and selection,
4. Coordination with other reclamation programs,
5. Results and benefits expected,
6. Plan of action pertaining to the scope,
7. Monthly or quarterly projections of accomplishments to be achieved,
8. Kinds of data to be collected and maintained,
9. Criteria used to evalute the results and success of the projects,
10. Key individuals to be employed,
11. Precise location of the project and area to be served,
12. Budgetary calculations for each project,
13. Description of the public's participation in planning and preparation of the grant application, and
14. A complete environmental assessment for each project.

Reclamation projects included in the application and their location:

1. Title: Royal Blue Mine Reclamation Project; Location: Western Campbell County; Description: Seal portals and eliminate hazardous structures.
2. Title: 19–B Garbage Dump Reclamation Project; Location: Northern Central Scott County; Description: Eliminate hazardous impoundments, highwalls, and garbage.
3. Title: Frozen Head Reclamation Project; Location: Eastern Morgan County; Description: Seal portals, eliminate hazardous structures, and stabilize disposal areas.
4. Title: Kent Hollow Landslide Reclamation Project; Location: Central Campbell County; Description: Stabilize landslide.
5. Title: Stinging Fork Reclamation Project; Location: Bledsoe County; Description: Eliminate hazardous highway and sources of poor water quality.
6. Title: Twinton Reclamation Project; Location: Western Fentress County; Description: Seal airshaft, eliminate hazardous structure, and reclaim gob material.
7. Title: Tennessee Big Creek Phase I Maintenance; Location: Grundy County; Description: Liming, fertilizing, revegetation; and reworking drain crossings.

Dated: June 23, 1982.

J. Steven Griles,

Director, Office of Surface Mining.

[FR Doc. 82–18144 Filed 7–1–82; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or to use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Albertson's, Inc., P.O Box 20, 250 Parkcenter Blvd., Boise, ID 83726.
2. Wholly-owned subsidiary: Albertson's Trucking, Inc. (an Idaho corporation).
1. Parent corporation and address of principal office: Martin Gas Sales, Inc., P.O. Drawer 191, Kilgore, TX 75662.
2. Wholly-owned subsidiaries which will participate in the operations, and States of incorporation: A. Martin Gas Transport, Inc., Texas Corporation; B. Heavy Fuels, Inc., Texas Corporation; C. Martin Truck Leasing, Inc., Texas Corporation; and D. Transport, Inc., Mississippi Corporation.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–18024 Filed 7–1–82; 8:45 am]

BILLING CODE 7035-01-M

[Vol. No. 274]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: June 28, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the Federal Register of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Canadian Carrier Applicants: In the event an application to transport property, filed by a Canadian domiciled motor carrier, is unopposed, it will be reopened on the Commission's own motion for receipt of additional evidence and further consideration in light of the record developed in Ex Parte No. MC–157, *Investigation Into Canadian Law and Policy Regarding Applications of American Motor Carriers For Canadian Operating Authority.*

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Shaffer, Ewing, and Williams.

Agatha L. Mergenovich,

Secretary.

MC 110686 (Sub-70)X, filed May 3, 1982 and previously noticed in **Federal Register** of June 9, 1982, republished as corrected this issue. Applicant: McCORMICK DRAY LINE, INC., Avis, PA 17721. Representative: David A. Sutherland, Suite 400, 1150 Connecticut Ave. NW., Washington, DC 20036. Lead aend Subs 5, 7, 8, 9, 10, 12, 13, 15, 16, 17, 19, 21, 22, 24, 25, 26, 28, 30, 32, 34, 35, 36, 39, 41, 42, 44, 47, 48, 49, 51F, 52, 54, 55F, 56F, 63F, 64F, 65F, 67F, and 69 certificates, broaden as previously published and, in addition, (A) broaden commodity descriptions as follows: Sub 52, to "transportation equipment, internal combustion engines, transportation equipment and internal combustion engine parts, and materials, equipment, and supplies used in the manufacture and distribution thereof," from aircraft and internal combustion engines and parts, and materials, equipment, and supplies; (B) broaden cities as follows: lead certificate, Schuylkill County, PA (Mahoney City and Pottsville); Clinton County, PA (Lock Haven, Woolrich, Beech Creek, and Renovo); Camden and Gloucester Counties, NJ and Philadelphia County, PA (Camden, NJ); Sub 32, Clinton County, PA (Avis) and Sub 36, Knox County, IL (Galesburg). The purpose of this republication is to correct inadvertent omissions and errors.

MC 121811 (Sub-10)X, filed June 22, 1982. Applicant: McCLELLAN ENTERPRISES, Inc., P.O. Box 1327, Tifton, GA 31794. Representative: J. L. Fant, P.O. Box 577, Jonesboro, GA 30237. Sub 3F, broaden lumber to "lumber and wood products."

MC 124170 (Sub-191)X, filed October 21, 1981 and previously noticed in **Federal Register** November 9, 1981, republished as corrected this issue. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detriot, MI 48207. Representative: William J. Boyd, Suite 205, 2021 Midwest Road, Oak Brook, IL 60521. Lead and Subs 3, 8, 12, 13, 14, 15, 19, 22, 23, 26, 31, 32, 33, 40, 48, 55, 64, 66, 68, 71, 72, 76, 82F, 89F, 90F, 92F, 95F, 103F, 106F, 107F, 110F, 111F, 113F, 120F, 121F, 122F, 125F, 129F, 130F, 146F, 147F, 150F, 152F, and 157 certificates and 159F permit, broaden as previously published and, in addition, in the lead and Sub-Nos. 76, 89, and 107, Philadephia, PA, to Bucks, Montgomery, Chester, Delaware, and Philadelphia Counties, PA, New Castle County, DE, and Salem, Gloucester, Camden, Burlington, Mercer, Hunterdon, and Monmouth Counties, NJ. The purpose of this republication is to allow broadening of Philadelphia under the standards enunciated in No. MC 87523 (Sub-No. 119)X, *Stewart Trucking Company—Administrative Appeal* (not printed), decided December 17, 1981.

MC 127955 (Sub-13)X, filed June 21, 1982. Applicant: RICCI TRANSPORTATION CO., INC., Odessa Ave. and Aloe St., Pomona, NJ 08240. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. Sub 4 certificate: broaden to (1) "food and related products" from malt beverages in containers; (2) county-wide authority: (a) Onondaga County, NY (Syracuse), (b) Forsyth County, NC (Winston-Salem), and (c) Atlantic County, NJ (Landisville); and (3) radial authority.

MC 146084 (Sub-4)X, filed June 21, 1982. Applicant: THOMAS R. GOLTZ, d.b.a. GOLTZ TRUCKING, Box 91 Young America, IN 46998. Representative: Robert W. Loser II, 1101 Chamber of Commerce Bldg., 320 N. Meridian St., Indianapolis, IN 46204. Sub 2, remove against commodities-in-bulk restrictions from salt/salt products and materials equipment and supplies used in manufacture/distribution thereof; and broaden territorial scope to between points in U.S., under continuing contract(s) with named shipper.

MC 156927 (Sub-1)X, filed June 21, 1982. Applicant: C & L TRUCKING COMPANY, 1827 Clement St., P.O. Box 2347, Alameda, CA 94501. Representative: Charles L. Coleman, III, Two Embarcadero Center, San Francisco, CA 94111. Lead certificate: (1) eliminate the restriction "to traffic having an immediately prior or subsequent movement by water;" and (2) broaden to countywide authority: San Francisco, Alameda, Contra Costa, San Mateo, Santa Clara and Marin Counties, CA (from points in the San Francisco, Alameda, Richmond, and Oakland, CA commercial zones).

[FR Doc. 82-18025 Filed 7-1-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP3–099

Decided: June 23, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Williams not participating.)

MC 159655, filed June 15, 1982. Applicant: SHERRIN TRUCKING, INC., Route 1, Box 606, Wingate, NC 28174. Representative: David W. Erdman, 300 Law Bldg., Charlotte, NC 28202, (704) 372–7664. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 162484, filed June 11, 1982. Applicant: ROOSEVELT JOHNSON, d.b.a. R. JOHNSON REFRIGERATED TRUCKING SERVICE, P.O. Box 4232, Stockton, CA 95204. Representative: Arden Riess, P.O. Box 7965, Stockton, CA 95207, (209) 957–6128. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP4–232

Decided: June 28, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 136816 (Sub–16), filed June 21, 1982. Applicant: THE UNIVERSE COMPANY, INC., 3523 L St., Omaha, NE 68107. Representative: Arlyn L. Westergren, 9202 W Dodge Rd., Suite 201, Omaha, NE 68114, (402) 397–7033. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 162476, filed June 14, 1982. Applicant: FREIGHT-RIGHT, 3941 Edge Rd., Pittsburgh, PA 15227. Representative: Edward M. Roberts, Sr. (same address as applicant), (412) 881–1146. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 162536, filed May 27, 1982. Applicant: SWIFT INTERNATIONAL, INC., 7901 4th St., North, Suite 308, St. Petersburg, FL 33704. Representative: Robert J. Gallaher, 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036, (202) 785–0024. As a broker of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP4–234

Decided: June 23, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Williams not participating.)

MC 59117 (Sub-87), filed November 14, 1980. Applicant: ELLIOTT TRUCK LINE, INC., P.O. Box 1, Vinita, OK 74301. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068, (816) 781–6000. Transporting *general commodities* (except classes A and B explosives, and household goods), between Excelsior Springs, Altamont, and Maysville, MO; Arriba, Burlington, Calhan, Flagler, Limon, Roman, Simla, and Stratton, CO; and Smith Center, Belleville, Mankato, Cuba, Norton, and Colby, KS, on the one hand, and, on the other, points in the U.S. (except AK and HI). Condition: Issuance of a certificate in this proceeding is conditioned upon applicant certifying to the Commission, prior to commencing operations, that all rail service has actually terminated at specified points. The certification should be sent to the Deputy Director, Section of Operating Rights, Interstate Commerce Commission, Washington, DC 20423.

MC 141197 (Sub-50), filed November 20, 1980. Applicant: FLEMING-BABCOCK, INC., 4106 Mattox Rd., Riverside, MO 64151. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068, (816) 781–6000. Transporting *general commodities* (except classes A and B explosives and household goods), between Excelsior Springs, Altamont, and Maysville, MO; Arriba, Burlington, Calhan, Flagler, Limon, Roman, Simla, and Stratton, CO; and Smith Center, Belleville, Mankato, Cuba, Norton, and Colby, KS, on the one hand, and, on the other, points in the U.S. (except AK and HI). Condition: Issuance of a certificate in this proceeding is conditioned upon applicant certifying to the Commission, prior to commencing operations, that all rail service has actually terminated at specified points. The certification should be sent to the Deputy Director, Section of Operating Rights, Interstate Commerce Commission, Washington, DC 20423.

MC 162277, filed June 1, 1982. Applicant: QUICKY MESSENGER SERVICE, 160 Corabelle Ave., Lodi, NJ 07644. Representative: Donald M. Ferraiolo, 1040 Clifton Ave., Clifton, NJ 07013, (201) 777–6767. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

Volume No. OP4–238

Decided: June 25, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 162527, filed June 17, 1982. Applicant: TERRY L. HODGE TRUCKING CO., 33312 29th Place S.W., Federal Way, WA 98003. Representative: Terry L. Hodge (same address as applicant), (206) 927–8137. Transporting *food and other edible products and byproducts for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–18028 Filed 7–1–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applicatins involving duly noted

problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (excepts those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OP2-137

Decided: June 24, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 98713 (Sub-9), filed June 16, 1982. Applicant: ORANGE BELT STAGES, 525 East Acequia St., Visalia, CA 93277. Representative: T. S. Haworth (same address as applicant), 415-393-9000. Transporting, over *Regular Routes, passengers and their baggage and express and newspapers*, in the same vehicle with passengers (1) between Fresno and Lemoore, CA: for Fresno over CA Hwy 99 to junction CA Hwy 43, then over CA Hwy 43 to Hanford, then over CA Hwy 198 to Lemoore, and return over the same route, (2) between Fresno, CA and junction CA Hwy 41 and CA Hwy 46, over CA Hwy 41, (3) between Fresno and Visalia, CA: from Fresno over CA Hwy 99 to Selma, then over unnumbered Hwys to Parlier, Reedley, and Dinuba, CA, to junction CA Hwy 63 at Orosi, then over CA Hwy 63 to Visalia, and return over the same route, and (4) serving all intermediate points in routes (1) through (3) above. Condition: Issuance of this certificate is subject to prior or coincidental cancellation of applicant's written request of Certificate of Registration No. MC-98713 (Sub-No. 5).

Note.—Applicant may track this authority with its existing authority.

MC 107012 (Sub-769), filed May 28, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, Fort Wayne, IN 46818. Representative: Bruce W. Boyarko, (same address as applicant), 219-429-2224. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Hart Stores, Inc., Division Big Bear Foods, Inc., of Columbus, OH.

MC 107012 (Sub-772), filed June 7, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, Fort Wayne, IN 46818. Representative: Bruce W. Boyarko, (same address as applicant), 219-429-2224. Transporting *general commodities* (except classed A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Mobil Corporation, of Fairfax, VA.

MC 124692 (Sub-376), filed June 14, 1982. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT 59806. Representative: James B. Hovland, 525 Lumber Exchange Building, Ten South Fifth St., Minneapolis, MN 55402, (612) 340-0806. Transporting *lumber and wood products*, between points in the U.S. (except AK and HI).

MC 127253 (Sub-56), filed May 10, 1982, published in the **Federal Register** issue of June 2, 1982, and republished, as corrected, this issue. Applicant: STEWCO, INC., P.O. Box 728, Waskom, TX 76592. Representative: Fredrick S. Wetzel III, P.O. Box 5606, North Little Rock, AR 72119, 501-376-3700. Transporting *commodities in bulk*, between points in Arkansas and Phillips Counties, AR, on the one hand, and on the other, points in the U.S. (except AK and HI). The purpose of this republication is to correct the territorial description.

MC 145042 (Sub-19), filed June 15, 1982. Applicant: ZEELAND FARM SERVICES, INC., 2468 84th Ave., Zeeland, MI 49464. Representative: James R. Neal, 1200 Bank of Lansing Building, Lansing, MI 48933, 517-482-2400. Transporting (1) *clay, stone and glass products*, (2) *containers, container closures, glassware, packaging products, container components and scrap materials*, between those points in the U.S. in and east of ND, SD, NE, KS, OK and TX.

MC 145773 (Sub-20), filed June 21, 1982. Applicant: KIRK BROS. TRANSPORTATION, INC., 800 Vandemark Rd., Sidney, OH 45365. Representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, OH 43215, 614-228-1541. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of welding equipment and welding wires, between points in the U.S. (except AK and HI), under continuing contract(s) with Hobart Brothers Company, of Troy, OH.

MC 147203 (Sub-7), filed June 21, 1982. Applicant: HUDSON PRODUCTS, INC., Monroe Ave. North and 4th St., North Hudson, WI 54016. Representative: Grant J. Merritt, 4444 IDS Center, Minneapolis, MN 55402, (612) 339-4546.Transporting *such commodities* as are dealt in or used by manufacturers and distributors of grass-catcher lawn mower bags, between points in MN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 154283 (Sub-2), filed June 21, 1982. Applicant: ELGIN MILK SERVICE, INC., Rte. 1, Elgin, MN 55932. Representative: Stephen F. Grinnel, 1600 TCF Tower, 121 South 8th St., Minneapolis, MN 55402, 612-333-1341. Transporting *food and related products* between points in the U.S., under continuing contract(s) with Associated Milk Producers, Inc., of Rochester, MN.

MC 162082, filed May 18, 1982. Applicant: ADOBE GROUP TOURS, 964 Chorro St., Suite 1, San Luis Obispo, CA 93401. Representative: Michael E. McLarney, 229 Westmont Ave., San Luis Obispo, CA 93401, (805) 544-2089. As a *broker* at San Luis Obispo, CA, in arranging for the transportation, by motor vehicle, of *passengers and their baggage, in the same vehicle with passengers*, in special and charter operations, beginning and ending at points in CA, and extending to points in the U.S.

MC 162112, filed June 15, 1982. Applicant: DOUG GAUT, d.b.a. LITTLE EAGLE EXPRESS, 2132 Neubert Rd., Knoxville, TN 37914. Representative: Kathleen D. Day, 4507 Doris Circle, Knoxville, TN 37918, 615–922–7453. Transporting *food and related products*, between Louisville and Lexington, KY, on the one hand, and, on the other, Rossville, GA, and Strawberry Plains, Knoxville, and Kingsport, TN, under continuing contract(s) with Volunteer Foods Corp., of Rossville, GA, Smokey Mountain Sales, Inc., of Strawberry Plains, TN, Pyramid Brokerage, Inc., of Knoxville, TN, and Giant Foods, Inc., of Kingsport, TN.

MC 162472, filed June 14, 1982. Applicant: ROLLAND G. PHILLIPS, d.b.a. PHILLIPS TRUCKING, 3 Moss Street, Hudson Falls, NY 12839. Representative: W. Norman Charles, P.O. Box 724, Glens Falls, NY 12801, 518–792–0957. Transporting *such commodities* as are dealt in or used by manufacturers of electrical equipment, electrical products, energy systems, and plastic articles, between points in Washington County, NY, on the one hand, and, on the other, points in AL, CT, DE, FL, GA, IL, IN, KY, MA, MD, ME, MI, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VA, VT, WV, WI, and DC.

MC 162523, filed June 21, 1982. Applicant: ROCCO G. ONORATO, d.b.a. NATICK CITGO, 62 E. Central St., Natick, MA 01760. Representative: Francis J. Lynch, 1627 Main St., Brockton, MA 02401, 617–583–7268. Transporting *motor vehicles*, between points in CT, DE, RI, NJ, NY, GA, VA, WV, SC, VT, MI, ME, FL, OH, PA, NH, MD, MA, and DC.

MC 162563, filed June 21, 1982. Applicant: JEAN AND DAN FORD TRAVEL AGENCY, INC., P.O. Box 798, Main St., Taylorville, MS 39168. Representative: Jean K. Ford, (same address as applicant), 601–785–6553. As a *broker*, at Taylorsville, MS, in arranging for the transportation by motor vehicle, of *passengers and their baggage*, between points in MS, on the one hand, and, on the other, points in the U.S.

Volume No. OP3–098

Decided: June 25, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 106074 (Sub-193), filed June 14, 1982. Applicant: B AND P MOTOR LINES, INC., Shiloh Rd. and U.S. Hwy. 221, S., Forest City, NC 28043. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30342, (404) 256–4320. Transporting *petroleum and petroleum products*, between Tulsa, OK, Denver, CO, Casper, WY, Hammond, IN, Whiting, IN, Doraville, GA, and Guntersville, AL, on the one hand, and on the other, points in the U.S. (except AK and HI).

MC 11504 (Sub-12), filed June 17, 1982. Applicant: STARR TRANSIT CO., INC., 2531 E. State St., Trenton, NJ 08619. Representative: Alan R. Squires, 818 Widener Bldg., 1339 Chestnut St., Philadelphia, PA 19107. Over regular routes, transporting *passengers and their baggage*, in the same vehicle with passengers, between Philadelphia, PA, and Atlantic City, NJ: from Philadelphia over Interstate Hwy 76 to junction Atlantic City Expressway, and then over the Atlantic City Expressway to Atlantic City, and return over the same route, serving no intermediate points.

MC 124905 (Sub-10), filed June 14, 1982. Applicant: GARY W. GRAY TRUCKING, INC., P.O. Box 48, Delaware, NJ 07833. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517, (717) 344–8030. Transporting *cement*, between points in the U.S. (except AK and HI), under continuing contract(s) with Best Block Co., Inc., of Metuchen, NJ, and its affiliates, Best Block of Toms River, of Toms River, NJ, Best Block of Belmar, of Belmar, NJ, Best Block of New Jersey, Best Block of Yardville, of Yardville, NJ, Best Block of Trenton, of Trenton, NJ, and Diversified Concrete Products, Inc., of South Plainfield, NJ.

MC 130475 (Sub-2), filed June 17, 1982. Applicant: ELEANOR B. YORK, d.b.a. YORK TOURS, 345 N. Bartlett St., Medford, OR 97501. Representative: Jerry R. Woods, 1600 One Main Pl., 101 SW Main St., Portland, OR 97204, (503) 224–5525. Transporting *passengers and their baggage*, in charter and special operations, between points in Jackson and Josephine Counties, OR, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 135154 (Sub-11), filed June 14, 1982. Applicant: BADGER LINES, INC., P.O. Box 2049, Milwaukee, WI 53201. Representative: William P. Dineen, 710 North Plankinton Ave., Milwaukee, WI 53203, (404) 273–7410. Transporting *paper and related products*, between points in Marion Country, IN, on the one hand, and, on the other, points in IA, IL, KY, MI, MN, MO, OH, PA, TN, WI, and WV.

MC 138184 (Sub-5), filed May 28, 1982. Applicant: WALLACE TRUCKING COMPANY, Rt. 4, Box A–71, Laurinburg, NC 28352. Representative: F. Kent Burns, P.O. Box 2479, Raleigh, NC 27602, (919) 828–2421. Transporting *medical supplies and health care products*, between points in the U.S. (except AK and HI).

MC 150124 (Sub-3), filed June 17, 1982. Applicant: MARBERN TRUCKING, INC., RD #1, Box 75, Albany St., West Winfield, NY 13491. Representative: Murray J.S. Kirshtein, 118 Bleecker St., Utica, NY 13501, (315) 797–1970. Transporting (1) *steel*, (2) *finished metal stamping*, (3) *sand blasting sand*, (4) *castings*, (5) *coatings*, (6) *manufacturing equipment*, (7) *metal fabrications*, (8) *tanks*, (9) *pressure vessels*, (10) *furnace parts*, and (11) *boilers and weldaments*, between points in the U.S. (except AK and HI), under continuing contract(s) with Mohawk Metal Products, Co., Inc., of Frankfort, NY.

MC 150844 (Sub-3), filed June 16, 1982. Applicant: WILLIAM J. KLEIN, P.O. Box 334, Douglasville, PA 19518. Representative: Nicholas E. Chimicles, 110 Montgomery Ave., Bala Cynwyd, PA 19004, (215) 667–170. Transporting *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, beginning and ending at points in Berks, Chester and Montgomery Counties, PA, and that part of Lancaster County, PA east of PA Hwy 322, and extending to points in the U.S. (except AK and HI).

MC 153714 (Sub-3), filed June 14, 1982. Applicant: WILLIAM A. MURRAY, d.b.a. FREDDY'S TRUCKING, 2200 S.E. 45th #49, Hillsboro, OR 97123. Representative: William A. Murray (same address as applicant), (503) 640–8303. Transporting (1) *alcoholic beverages*, between points in CA and those points in Multnomah and Hood River Counties, OR, Humboldt and Clark Counties, NV, Salt Lake County, UT, Denver County, CO, Laramie County, WY, Lewis and Clark County, MT, Ada County, ID, Pima and Maricopa Counties, AZ, and King and Spokane Counties, WA, (2) *Beer and wine*, between points in Marion and Multnomah Counties, OR, and King County, WA, and (3) *pulp, paper and related products*, between Orange and Los Angeles Counties, CA, and Lane, Marion, and Multnomah Counties, OR, King and Spokane Counties, WA, and Latah and Kootena Counties, ID.

MC 155044 (Sub-2), filed June 15, 1982. Applicant: WILKE FREIGHT LINE, INCORPORATED, 843 West College Ave., Waukesha, WI 53186. Representative: Joseph E. Ludden, P.O. Box 1567, 2702 South Ave., La Crosse, WI 54601, (608) 788–2000. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 155694 (Sub-1), filed June 14, 1982. Applicant: DYNASTY CORPORATION,

R.D. 1, Box 1097, Nescopeck, PA 18635. Representative: Peter Wolff, 722 Pittston Ave., Scranton, PA 18505, (717) 342–7595. Transporting *furniture and fixtures, machinery, rubber and plastic products,* between points in the U.S., under continuing contract(s) with Berwick Lighting Company, of Berwick, PA.

MC 162495, filed June 14, 1982. Applicant: WANDER LAND TOURS, INC., 9800 Watson Rd., St. Louis, MO 63126. Representative: W. R. England III, P.O. Box 456, Jefferson City, MO 65102, (314) 634–7166. As a *broker,* at St. Louis, MO, in arranging for transportation of *passengers and their baggage,* by motor vehicle, in special and charter operations, beginning at St. Louis, MO, and points in St. Louis, Franklin, Jefferson, and St. Charles Counties, MO, and Clinton, Monroe, and St. Clair Counties, IL, and extending to points in the U.S. (except HI).

MC 162514, filed June 15, 1982. Applicant: WEB TRANSPORT, Div. of Taylor Enterprises, Inc., 700 East Pratt Blvd., Elk Grove Village, IL 60007. Representative: Abraham A. Diamond, 29 South La Salle St., Chicago, IL 60603, (312) 236–0548. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 162525, filed June 17, 1982. Applicant: 3 C, INC., P.O. Box 18425, Oklahoma City, OK 73154. Representative: Jim Patton, 3925 N.W. 10th St., Box 75613, Oklahoma City, OK 73147, (405) 943–2466. Transporting *oilfield equipment, materials and supplies,* between points in OK, on the one hand, and, on the other, points in TX.

Volume No. OP4–231

Decided: June 24, 1982.

Bt the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 149406 (Sub-15), filed June 14, 1982. Applicant: E.W. WYLIE CORPORATION, P.O. Box 1188, Fargo, ND 58107. Representative: Robert D. Gisvold, 1600 TCF Tower, 121 S 8th St., Minneapolis, MN 55402. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with ITOFCA, Inc., of Downers Grove, IL.

MC 150896 (Sub-2), filed June 11, 1982. Applicant: HUMCO, INC, E Furnace Branch Rd., Suite TC–106, Glen Burnie, MD 21061. Representative: Richard P. Taylor, 1250 Connecticute Ave. NW., Washington, D.C. 20036 (202) 862–2126. Transporting *motor vehicles,* between points in DE, FL, IL, MD, NJ, NY, NC, OH, PA, VA, WY and DC.

MC 151566 (Sub-24), filed June 14, 1982. Applicant: PERRY TRANSPORT, INC., 14375, 172nd Ave., Grand Haven, MI 49417. Representative: Richard O. Peel (same address as applicant), (616) 842–3550. Transporting *metal products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Technology Incorporated, or Grand Haven, MI.

MC 159876 (Sub-1), filed June 17, 1982. Applicant: K–K JR. TRUCKING, a division of K–K Jr. Enterprises, Inc., 14266 Catalina St., San Leandro, CA 94577. Representative: Eugene Q. Carmody, 15523 Sedgeman St., San Leandro, CA 94579, (415) 357–6236. Transporting *magazines, scrap or waste paper for recycling,* and *such commodities* as are manufactured, dealt in or used by printing and publishing plants and houses, between points in the U.S. (except AK and HI), under continuing contract(s) with Pacific Press, Inc., Division of Arcata Graphics, of Vernon, CA.

MC 162346, filed June 17, 1982. Applicant: BREAK BULK SERVICE, INC., d.b.a. BBST, 2211 Wood St., Oakland, CA 94607. Representative: Albert Lau (same address as applicant), (415) 763–6175. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between San Francisco, CA and points in Alameda County, CA, on the one hand, and, on the other, points in Butte, Colusa, Fresno, Kings, Lake, Madera, Mendocino, Merced, Napa, Placer, San Benito, Santa Clara, Shasta, Solano, Sonoma, Sutter, Tehama, Tulare, Glenn, Yolo, Yuba, Marin, Monterey, Sacramento, San Mateo, Santa Cruz, Amador, Contra Costa, Kern, San Joaquin, and Stanislaus Counties, CA.

MC 162546, filed June 18, 1982. Applicant: CHIP TRUCKING, INC., Route 130, Cranbury, NJ 08512. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 234–0301. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Volume No. OP4–233

Decided: June 23, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Williams not participating.)

MC 98937 (Sub-2), filed May 27, 1982. Applicant: WILBRAHAM TRUCKING CORP., 70 Windsor St., W. Springfield, MA 01090. Representative: James M. Burns, 1383 Main St., Suite 13, Springfield, MA 01103, (413) 871–8205. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in CT, MA, RI, and VT. Condition: This grant of authority is condition upon cancellation, at applicant's written request of Certificate of Registration No. MC–98937 Sub 1.

MC 156707 (Sub-1), filed June 11, 1982. Applicant: MWK TRANSPORT CO., INC., 5401 W Donges Bay Rd., Mequon, WI 53092. Representative: Michael J. Wyngaard, 150 E Gilman St., Madison, WI 53703, (608) 256–7444. Transporting *textile mill products,* between points in U.S. (except AK and HI), under continuing contract(s) with Junior House, Inc., of Milwaukee, WI.

MC 159037 filed June 18, 1982. Applicant: B & D MACHINERY SERVICES, LTD., P.O. Box 116, Elrose, Saskatchewan Canada S0L 0Z0.Representative: Robert N. Maxwell, P.O. Box 2471, Fargo, ND 58108, (701) 237–4223. Transporting *machinery,* between the ports of entry on the International Boundary line between the U.S. and Canada at points in MT and ND, on the one hand, and, on the other, points in MT, ND, and SD.

Volume No. OP4–235

Decided: June 28, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

FF–606, filed June 18, 1982. Applicant: APOLLO FORWARDERS, INC., 260 21st St., Richmond, CA 94801. Representative: Alan F. Wohlstetter, 1700 K St., N.W., Washington, DC 20006, (202) 833–8884. As a freight forwarder in the transportation of *used household goods, unaccompanied baggage, and used automobiles,* between points in the U.S.

MC 144776 (Sub-16), filed June 21, 1982. Applicant: APACHE TRANSPORT, INC., 833 Warner St., SW., Atlanta, GA 30310. Representative: Virgil H. Smith, 74 Hwy N. Box 245, Tyrone, GA 30290, (404) 969–1980. Transporting *such commodities* as are dealt in or used by the manufacturers and distributors of carbon paper, between Chicago, IL, Los Angeles, CA, and points in De Kalb County, GA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 146496 (Sub-15), filed June 18, 1982. Applicant: JOSEPH MOVING & STORAGE CO., INC., d.b.a. ST. JOSEPH MOTOR LINES, 5724 New Peachtree

Rd., Chamblee, GA 30341. Representative: Thomas H. Davis (same address as applicant), (404) 452–1744.Transporting *tires and tire related products*, between points in the U.S. under continuing contract(s) with Dunlop Tire Company, Div. of Dunlop Tire & Rubber Corporation, of Buffalo, NY.

MC 157406 (Sub-3), filed June 21, 1982. Applicant: AUTAUGA TRANSPORT, INC., 1410 South Memorial Dr., Prattville, AL 36067. Representative: Terry P. Wilson, 428 South Lawrence, Montgomery, AL 36104 (205) 262–2756. Transporting (1) *wood and steel reels*, and (2) *pulp, paper and related products*, between points in the U.S., under continuing contract(s) with Sonoco Products Company, of Hartsville, SC.

MC 159766 (Sub-1), filed June 18, 1982. Applicant: G & G DRAYAGE, INC., 22 Mill Race Dr., St. Peters, MO 63376. Representative: Robert L. Graves (same address as applicant), (314) 441–3357. Transporting *such commodities* as are dealt in and used by manufacturers of printer's ink, between points in the U.S. (except AK and HI), under continuing contract(s) with Crown Zellerbach, Inc., Ink Div. of St. Louis, MO.

MC 162486, filed June 14, 1982. Applicant: R. CRAIG McGLOTHLEN and ANTHONY J. DERDA d.b.a. COZY LIMO TRAVEL, 3102 Western Ave., South Bend, IN 46619. Representative: R. Craig McGlothlen (same address as applicant), (219) 288–2331. Transporting *passengers and their baggage*, between South Bend, IN and Chicago O'Hare International Airport, Chicago, IL.

Volume No. OP4–236

Decided: June 28, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

FF 16 (Sub-2), filed June 14, 1982. Applicant: SPRINGMEIER SHIPPING COMPANY, INC., 1116 Cass Ave., St. Louis, MO 63106. Representative: Russell F. Kroeger (same address as applicant), (314) 241–0860. As a *freight forwarder*, in connection with the transportation of *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 144476 (Sub-1), filed June 14, 1982. Applicant: METZ BEVERAGE COMPANY, P.O. Box 828, Sheridan, WY 82801. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, (208) 343–3071. Transporting *such commodities* as are dealt in or used by retail grocery and food business houses, between points in CA, CO, OR and WA, on the one hand, and, on the other, points in MT, NE and WY.

MC 147916 (Sub-8), filed June 22, 1982. Applicant: GUMPAC EXPRESS, INC., P.O. Box 2489, Kirkland, WA 98203. Representative: Richard J. Howard, 3201 Bank of California Center, Seattle, WA 98124, (206) 464–4224. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with American Fine Foods, Inc., of Payette, ID.

MC 149546 (Sub-33), filed June 23, 1982. Applicant: D & T TRUCKING CO., INC., P.O. Box 12505, New Brighton, MN 55112. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542–1121. Transporting *food and related products*, between points in the U.S. (except AK and HI).

MC 155316 (Sub-1), filed June 15, 1982. Applicant: EARL EDWARD KLADSTRUP JR., d.b.a. SEE TAHOE TOURS, P.O. Box 8128, Incline Village, NV 89450. Representative: Randall M. Faccinto, P.O. Box 2819, Truckee, CA 95734, (916) 587–3862. Transporting *passengers and their baggage*, in special or charter operations, in sightseeing and pleasure tours, in vehicles of a maximum capacity of 25 passengers, between points in Storey and Lyon Counties, NV, and Sierra, Alpine and Mono Counties, CA.

MC 156606 (Sub-1), filed June 14, 1982. Applicant: ROBERT L. LAVER AND WALMA J. LAVER, d.b.a. LAVER TRUCKING, Rt. 1, LaHarpe, KS 66751. Representative: Eugene W. Haitt, 207 Casson Bldg., 603 Topeka Blvd., Topeka, KS 66603, 1–(913) 232–7263. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in TX, OK, KS, NE, AR, MO, LA, SD, CO, and IA.

MC 157816 (Sub-1), filed June 22, 1982. Applicant: DANIEL E. KOCH, INC., Star Route Box 20, Scappoose, OR 97056. Representative: Russell M. Allen, 1200 Jackson Tower, Portland, OR 97205, (503) 224–4840. Transporting *metal products*, between points in OR and CA, on the one hand, and, on the other, points in NV, CA and ID.

MC 161836, filed June 21, 1982. Applicant: RONALD W. PETERS d.b.a. R.W. PETERS, TRUCKING CO., Rt. 2, Box 498, Ridgeway, VA 24148. Representative: Ronald W. Peters (same address as applicant), (703) 957–2732. Transporting *furniture*, between points in Henry and Smyth Counties, VA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162516, filed June 14, 1982. Applicant: GRACE G. PHINICIE, d.b.a. PHINICIE'S BUS TOURS, 217 Ridge Ave., Waynesboro, PA 17268. Representative: Grace G. Phinicie (same address as applicant), (717) 672–8791. As a *broker*, at Waynesboro, PA, in arranging for the transportation of *passengers and their baggage*, between points in PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162556, filed June 18, 1982. Applicant: AMERICAN ORIENT FORWARDING COMPANY, 11209 S La Cienega Blvd., Los Angeles, CA 90045. Representative: John C. Wiesener, Jr., 48 Farnwood Rd., Mt. Laurel, NJ 08054, (609) 234–5541. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 162586, filed June 21, 1982. Applicant: MAR–LYN TRANSPORT CORPORATION, 104 Marilyn Place, Clifton, NJ 07011. Representative: Edward L. Nehez, P.O. Box Y, Roseland, NJ 07068, (201) 992–2200. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Crest Chemical Corp., of Newark, NJ, Heller & Usdan, Inc., of Moonachie, NJ, Ilford, Inc., of Paramus, NJ, Barra Corp., of W Caldwell, NJ, and Fintex, Inc., of Elmwood Park, NJ.

Volume No. OP4–237

Decided: June 28, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 60157 (Sub-35), filed June 17, 1982. Applicant: C. A. WHITE TRUCKING COMPANY, 5327 N. Central Expressway, Suite 316, Dallas, TX 75205. Representative: Bernard H. English, 6270 Firth Rd., Forth Worth, TX 76116, (817) 7301–8431. Transporting (1) *Mercer commodities*, (2) *earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, service, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, betweeen points in the U.S., including AK, but excluding HI.

MC 139927 (Sub-1), filed June 21, 1982. Applicant: HOWES & HOWES TRUCKING, INC., 5301 North M–37, Messick, MI 49668. Representative: William B. Elmer, P.O. Box 801, Traverse City, MI 49684, (616) 941–5313. Transporting *ores and minerals, and fertilizer,* between points in Mi, on the one hand, and, on the other, points on the International Boundary Line between the U.S. and Canada.

MC 148987 (Sub-4), filed June 21, 1982. Applicant: W. C. CARRIERS, INC., 5229 N.W. 5th St., P.O. Box 519, Bethany, OK 73008. Representative: Kenneth L. Peacher, 3925 N. Ann Arbor, Oklahoma City, OK 73122, (405) 495–6915. Transporting *water well pumps, tanks, filters, motors, purifiers,* and *related products,* between points in OK , on the one hand, and, on the other, points in TX, LA, AR, MO, KS, NM, CO, WY, NE, SD, ND, AZ, CA, and UT.

MC 148987 (Sub-5), filed June 21, 1982. Applicant: W. C. CARRIERS, INC., 5229 N.W. 5th St., P.O. Box 519, Bethany, OK 73008. Representative: Kenneth L. Peacher, 3925 N. Ann Arbor, Oklahoma City, OK 73122, (405) 495–6915. Transporting *dry drilling fluid additives,* between points in Benton and Washington Counties, AR, and Kimble County, TX, on the one hand, and, on the other, points in the U.S. ont the west of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN.

MC 154127 (Sub-4), filed June 17, 1982. Applicant: A. LUURTSEMA PRODUCE, INC., 5367 School St., P.O. Box 67, Hudsonville, MI 49426. Representative: Michael D. McCormick, 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 638–1301. Transporting *food and related products,* between points in the U.S., under continuing contract(s) with New Era Canning Company, of New Era, MI, Oceana Canning Company, of Shelby, MI and National Fruit Products, Inc. of Winchester, VA.

MC 154757 (Sub-1), filed June 21, 1982. Applicant: ATLANTIC TRANSPORT CO., 2152 Hanover Ave., Allentown, PA 18103. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107, (215) 735–3090. Transporting *such commodities* as are dealt in by manufacturers and distributors of beverages, (1) between points in DE, MD, NJ, NY, PA, and DC, and (2) between points in (1) above, on the one hand, and, on the other, points in VA, WV, NC, SC, GA, OH, IN, IL, MI, and WI.

MC 155287 (Sub-1), filed June 21, 1982. Applicant: GARY B. FLOSS, d.b.a. FLOSS TRUCKING, 2235 Lincoln St., Lot 27, Cedar Falls, IA 50613. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Edina, MN 55424, (612) 927–8855. Transporting *mobile homes and portable buildings,* between points in MN, ND, SD, IA, MO, NE, WI, IL, and IN.

MC 162557, filed June 18, 1982. Applicant: JACK BENOFF, 9710 Glenhope Road, Philadelphia, PA 19115. Representative: Edward Benoff, 1710 Two Girard Plaza, Philadelphia, PA 19102, (215) 665–1555. To operate as a *broker at* points in Bucks and Philadelphia Counties, PA, in arranging for the transportation of *passengers and their baggage,* between points in PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162627, filed June 23, 1982. Applicant: ROUNDS TRAVEL & TOURS, INC., 35 Dorrance St., Providence, RI 02903. Representative: Stephen E. Miller (same address as applicant), (401) 272–2600. To operate as a *broker,* at Providence, RI, in interstate or foreign commerce, in arranging for the transportation of *passengers and their baggage,* in special and charter operations, between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–18027 Filed 7–1–82; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–6 (Sub-No. 117]

Railroads; Burlington Northern Railroad Co.; Abandonment Between Rolla and St. John, ND; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that the Commission, Review Board Number 3, has issued a certificate authorizing the abandonment of a line of railroad known as the Rolla, ND, to St. John, ND line extending from milepost 47.75 near Rolla, ND, to milepost 54.99 at the end of the line near St. John, ND, a distance of 7.24 miles, in Rolette County, ND, subject to certain conditions. Since no investigation was instituted, the requirement of § 1121.38(b) of the regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–18023 Filed 7–1–82; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–6 (Sub-No. 116)]

Railroads; Burlington Northern Railroad Co.; Abandonment Between Montana City and Basin, in Jefferson County, MT; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that the Commission, Review Board Number 3, has issued a certificate authorizing the Burlington Northern Railroad Comapny to abandon a line of railroad known as the Montana City to Basin, Montana Line extending from railroad milepost 222.76 near Montana City, to railroad milepost 256.95 at the end of the line near Basin, a distance of 34.19 miles, in Jefferson County, MT, subject to certain conditions. Since no investigation was instituted, the requirement of § 1121. 38(b) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from

publication of this Notice. The offer, as filed, shall contain information required pursuant § 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-18020 Filed 7-1-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-36 (Sub-No. 16)]

Railroads; Oregon Short Line Railroad Co.; Abandonment and Discontinuance of Service by Union Pacific Railroad Co. Between Richfield and Ketchum, ID; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that the Commission, Review Board Number 3, has issued a certificate authorizing abandonment by Oregon Short Line Railroad Company and discontinuance of service by Union Pacific Railroad Company on a line of railroad known as the Ketchum Branch extending from railroad milepost 15.65 near Richfield, ID, to the end of the line at milepost 69.84 near Ketchum, ID, a distance of 54.19 miles, in Blaine and Lincoln Counties, ID, subject to certain conditions. Since no investigation was instituted, the requirement of § 1121.38(b) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abondonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-18021 Filed 7-1-82; 8:45 am]

BILLING CODE 7035-01-M

[No. 38828]

Three Way Corp.; Petition for Exemption From Tariff Filing Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Three Way Corporation, an applicant for motor contract carrier authority, has requested exemption from the tariff requirements in 49 U.S.C. 10702, 10761, and 10762. The sought relief is provisionally granted.

DATES: Comments are due by July 19, 1982. The sought relief will become effective on August 3, 1982 if no adverse comments are received.

ADDRESS: Send an original and six copies of comments to: Section of Rates, Interstate Commerce Commission, Room 5340, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275-7277, or Stuart Postow, (202) 275-6439.

SUPPLEMENTARY INFORMATION: Petitioner, Three Way Corporation, is a specialist in the transportation of so-called "third proviso" household goods described in 49 CFR 1056.1(a)(3). It holds nationwide common carrier authority for this traffic, pursuant to which it serves the transportation needs of the aerospace, electronic, medical, scientific, and other high-technology industries. Recently it decided to expand into contract carrier service and has filed its first (temporary authority) application, No. MC-151878 (Sub-No. 6-2TA).

Three Way seeks an exemption from the tariff-filing requirements of 49 U.S.C. 10702, 10761, and 10762 for the contract operations in its pending application. Petitioner is anxious to avoid unnecessary expenses which may handicap its efforts to provide economical and efficient service.

We do not feel that, in the absence of compelling circumstances, it is in the public interest to consider exemptions of such a limited nature as are involved in an application for temporary authority or other instances restricted by time or breadth. On the other hand, there is nothing in the petition indicating that Three Way would be adverse to an exemption for all of its contract operations, and we will consider the petition on this basis. Petitioner may, of course, submit comments indicating why a more limited exemption would be appropriate.

Relying on exemptions granted to another carrier, Three Way has offered to provide a copy of the rate provisions of its contract to interested parties upon request. However, in No. 38749, *UTF Carriers, Inc.—Petition for Exemption from Tariff Filing Requirements under 49 U.S.C. 10761(b)*, decided May 28, 1982 (not printed), the Commission recently granted an exemption without the requirements that the carrier furnish this information. Since the offer to make rates available appears to be based solely on a perception that the petition might be denied without this feature, which has been clarified by the Commission to the contrary, and since the petition is predicated on a desire to avoid all unnecessary costs of doing business in a regulated environment, we will consider the petition as though the offer had not been made.

We therefore provisionally grant the sought exemption. If we receive timely filed adverse comments, we will issue a further decision addressing them and deciding whether this tentative approval ought to be made final.

This decision would not appear to have a significant effect on either the quality of the human environment or conservation of energy resources. However, comments may be submitted on these issues.

(49 U.S.C. 10702(b), 10761(b) and 10762(f))

Decided: June 25, 1982.

By the Commission, Division 2, Commissioners Gresham, Taylor, and Simmons. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-18022 Filed 7-1-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Attorney General

Proposed Consent Decree In an Action To Require Compliance With Provisions of the Clean Water Act

In accordance with Department Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on May 6, 1982 a Consent Decree resolving two cases styled *United States* v. *Rockingham Poultry Marketing Cooperative*, Civil Action Nos. 78-0089 and 79-0045, was

lodged with the United States District Court for the Western District of Virginia. The proposed decree requires Defendant to install waste treatment equipment, to pay a civil penalty and to comply with its National Pollution Discharge Elimination System permits.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice written comments relating to the proposed decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C., and refer to *United States* v. *Rockingham Poultry Marketing Cooperative,* (W.D. Va., Civil Action Nos. 78-0089 and 79-0045), DOJ Nos. 90-5-1-1055 an 90-5-1-1-1196.

The proposed decree may be examined at the Office of the Clerk, U.S. Distirict Court, Roanoke, Virginia; Office of the United States Attorney, P.O. Box 1709 Roanoke, Virginia 24008; Region III Office of the Environmental Protection Agency, Office of Regional Counsel, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106 and the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Ninth and Pennsylvania Avenue, N.W., Room 1515, Washington, D.C. 20530. In requesting a copy, please enclose a check in the amount of $1.40 payable to the Treasurer of the United States ($.10 per page reproduction cost).

Anthony C. Liotta,

Acting, Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 82-18065 Filed 7-1-82; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Voluntary Protection Programs To Supplement Enforcement and To Provide Safe and Healthful Working Conditions

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of implementation of revised voluntary protection programs.

SUMMARY: OSHA announces the implementation of three Voluntary Protection Programs. The programs, revised from the January 19, 1982, notice in the **Federal Register** (47 FR 2796), seek out and recognize exemplary safety and health programs as a means of expanding worker protection. Companies, general contractors, and small business organizations which meet specified programmatic safety and health criteria, which go beyond OSHA standards in providing safe and healthful workplaces for their employees, and which want to do more than is required to help the agency accomplish the goals of the Act are the applicants OSHA seeks for these voluntary programs. In return, OSHA will remove participants from general schedule inspection lists and give priority attention to any which request a variance.

The programs are called "Star," "Try," and "Praise." "Star" is aimed at those workplaces having superior safety and health programs that go beyond OSHA standards in providing worker protection, through either employee participation or management initiative efforts. "Star" is designed to demonstrate that good safety and health programs can prevent injury and illness. "Try" is a broader and, in a sense, more flexible program. On one hand, "Try" is designed to evaluate alternative internal safety and/or health systems for the prevention of workplace injuries and illnesses. On the other hand, "Try" allows participation by firms which have good safety records or are anxious to improve them. Finally, "Praise" is a recognition program for employers in low-hazard industries with good safety programs who have been successful in preventing injuries. The unifying purpose of all these programs is injury and illness prevention.

We have simplified the Voluntary Protection Programs. The six experimental programs originally announced in the earlier **Federal Register** notice have been reduced to three. "Star" now applies to any industries. In addition, while labor management committees were originally required for participation, the new Star Program will be available for either employee participation or management initiative projects. "Try" has also been expanded to allow management initiative projects. "Praise" remains a recognition program for companies which have good safety records.

Applicants now eligible for "Star" and "Try" include companies, general contractors, or groups of small businesses. Applicants which operate a single site, a multiple-employer single site, or multiple sites organized by one company, corporation, or organization may be eligible. While the group approach, allowing several small firms to participate as one applicant, is not feasible for "Praise," many small businesses may individually qualify for participation in the program.

Internal complaint mechanisms will be required for "Star" and "Try" programs to give participants an opportunity to resolve complaints without OSHA involvement. Agency and internal complaint records will be reviewed as part of each program's evaluation. Complaints to OSHA from employees whose employer is participating in a voluntary program will be handled in accordance with OSHA procedures. For evaluation purposes the employee will be queried regarding his/her knowledge and use of the internal system.

Instead of the Resource Liaison contemplated in the earlier **Federal Register** notice, an OSHA official with technical expertise will be designated as the contact person for each Voluntary Protection Program. Except for construction sites under "Star" and the experimental programs under "Try," the contact person will have no required on-site presence. On-site assistance for the two excepted situations will be arranged before approval.

Pre-approval program reviews will be conducted except where information gathered by an inspection within the last 18 months can be used to verify the information submitted by the applicant. Where reviews are necessary, they will be done by OSHA staff from the national office and field. Information gathered in such reviews will not be made available to enforcement personnel. Each review will be arranged at the applicant's convenience and will take no more than two days. Experience rates are only one factor that OSHA will weigh in considering these programs. These provide an indication, not a conclusive measure, of performance. The other qualifications are spelled out in the program descriptions which follow. Those accepted into "Star" will be evaluated after three years, unless serious problems are identified earlier, and "Try" participants will be evaluated annually.

We have clarified labor-management committee responsibilities for those programs where such committees are used. Assuring abatement is a management prerogative and responsibility, and we have made this clear in the revised programs.

The agency will accept applications from interested parties for any of the programs, and, in accordance with the guidelines set forth above, may conduct on-site reviews of sites which appear to meet all of the program requirements, and will approve a limited number of participants in each category. We will remain cooperative and flexible in considering programs which will achieve our purpose. We will not, however, in any way diminish employer

or employee rights and responsibilities. OSHA will periodically evaluate the Voluntary Protection Programs to determine what changes, if any, the agency should make.

EFFECTIVE DATE: July 6, 1982.

FOR FURTHER INFORMATION CONTACT: Frank Frodyma, Office of Policy Analysis, Integration and Evaluation, Occupational Safety and Health Administration, 200 Constitution Avenue, N.W., Washington, D.C. 20210, (202) 523–8021.

SUPPLEMENTARY INFORMATION:

I. Background

A. Introduction

On January 19, 1982, the Occupational Safety and Health Administration ("OSHA" and the "agency") published in the **Federal Register** a notice requesting information and comment about several possible initiatives to provide incentives for voluntary safety and health protection efforts by employers and employees. The agency invited public comments on the specified programs and requested suggestions for alternative programs. Comments were to be submitted by March 15, 1982.

The agency received numberous comments from businesses, unions, trade associations, State Labor Departments, and others. All submissions were made part of the official record and were considered.

B. Statutory Framework

The Occupational Safety and Health Act of 1970, 29 U.S.C. 651 et seq. (the "Act" and the "OSH Act"), was enacted "to assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources."

Section 2(b) provides a blueprint of activities which OSHA can use to carry out these purposes. In particular, the following provisions constitute the legislative authority for the Voluntary Protection Programs announced herein:

"* * * (1) by encouraging employers and employees in their efforts to reduce the number of occupational safety and health hazards at their places of employment, and to stimulate employers and employees to institute new and to perfect existing programs for providing safe and healthful working conditions;"

"* * * (4) by building upon advances already made through employer and employee initiative for providing safe and healthful working conditions;"

"* * * (13) by encouraging joint labor-management efforts to reduce injuries and disease arising out of employment."

II. Voluntary Protection Programs

OSHA will accept applications for three Voluntary Protection Programs. The core program is the Star Program. As its name suggests, it is based on the characteristics of the most comprehensive safety and/or health programs used by American industry. Its standards are high, and it is not expected that large numbers of interested applicants will have the qualifications required for participation. It does recognize excellence in achieving significant accident reductions in high hazard industries by permitting applicants whose rates are lower than the average for their specific industry, but not necessarily lower than the national average for all manufacturing, to qualify if the other structural requirements are met.

Those employers whose programs and/or rates do not meet the "Star" requirements may be qualified for the more flexible experimental Try Program. In order to keep the flexibility desired in the program, OSHA has set very minimal and general requirements for "Try." Employers applying for "Try," however, will be expected to demonstrate to OSHA's satisfaction that significant accident or illness prevention will occur under the program.

Finally, the Praise Program provides the opportunity for OSHA to give recognition to employers in low-hazard industries who have better records than average for their industries. The Praise Program is a very different concept than "Star" or "Try," and different results should be expected from it. Protections, precautions and criteria found in "Star" and "Try" are neither necessary nor appropriate for "Praise." Only the lowest hazard firms of low-hazard industries are eligible for this performance recognition program. Because these firms are in low-hazard industries which do not appear on OSHA's targeting lists, they do not now receive routine inspections.

The emplasis in all of these programs is on implemented safety and/or health programs which encompass not just OSHA standards but all aspects of health or safety relevant to the worksite covered by the program. They are voluntary programs in that they are not and will not be mandated. It is completely the decision of individual businesses and, where applicable, their unions, as to whether they wish to apply for participation. OSHA is seeking only those who want to cooperate in good faith with the agency to demonstrate the importance of good internal safety and/or health systems for the prevention of injuries and illnesses. OSHA encourages program participants to set goals for realistic reduction of injuries, illnesses and workplace hazards and for improved safety and/or health planning and programming. An applicant may be a company, a general contractor, or an organization of small businesses. An applicant which operates a single site, a multiple-employer single site, or multiple sites organized by one company, corporation or organization may be eligible.

Certain requirements pertain to all three programs. All require implemented safety programs. In all cases where employees take on safety-related duties for a voluntary program, the employer must assure that those employees will be protected from discriminatory actions resulting from those duties, just as Section 11(c) of the Act protects employees for the exercise of rights under the Act. Without such assurance, employees could not be expected to carry out these assigned safety duties with complete confidence.

It is also necessary to assure that voluntary programs are implemented in an atmosphere of cooperation if they are to succeed. Therefore, if a site covered by an application for any of these programs has a significant proportion of its employees organized by one or more collective bargaining agents, the employer must be able to demonstrate that the collective bargaining agent(s) do(es) not object to participation in such a program. Without such a demonstration, OSHA will not be able to approve program participation.

Once an applicant has been approved for participation in a program, all employees at the specific site covered by the approval, including new hires as they arrive, must be informed of the specifics of the approved program. Employees who understand these programs will be more likely to be aware of safety needs and will be able to help the programs succeed.

In all of these programs at all times, as in all agency initiatives, OSHA shall assure that participation in any of these programs shall not in any way diminish existing employer and employee rights and responsibilities under the Occupational Safety and Health Act of 1970. More specific information about each of the programs follows.

The Praise Program

The Praise Program is directed toward employers in low-hazard industries who have good safety records and active safety programs. It is designed to provide recognition for past achievement in safety and to encourage

continued improvements where possible. It will cover safety only.

Goals and Objectives

1. To recognize employers who have provided effective safety protection.

2. To encourage continued improvement in workplace safety conditions.

Qualifications

1. The applicant must be a member of a low-hazard industry which is defined as an industry which has an average lost workday injury case rate below the national average for the private sector; and,

2. The applicant must have an average lost workday injury case rate and injury incidence rate for the last five years below the national average for the specific (three or four digit SIC) relevant industry.

a. An applicant in business for less than five years but more than two may be considered on the basis of the average rates for the years actually in business.

b. OSHA shall reserve the right to review injury rates annually.

The Star Program

The Star Program is aimed at leaders in injury, illness and accident prevention programs. The Star Program may cover either safety or health, or both. There are two types of Star Programs, employee participation programs requiring the use of labor-management committees and management initiative programs requiring management accountability for safety and/or health and the provision of information feedback to all establishment employees. Due to the unique nature of the construction industry, particularly the seriousness of hazards, changing worksite conditions, its expanding and contracting workforce and high turnover, we will, for the foreseeable future, consider only proposals for employee participation programs in this industry. All participants in the Star Program shall be evaluated every three years.

Goals and Objectives

1. To demonstrate the importance of comprehensive safety and/or health programs in the prevention of workplace injuries and/or illnesses.

2. To provide recognition to safety and health leaders.

3. To form a nucleus of workplaces for increased cooperative approaches to occupational safety and health problems.

4. To maintain excellent employee protection and to improve it where possible through the internal systems of the workplace.

General Qualifications for All Star Programs

1. The applicant must have an average of *both* lost workday injury case rates and injury incidence rates for the most recent three year period at or below the national average for the specific (three or four digit SIC) relevant industry.

2. If the applicant has been inspected by OSHA in the last three years, the inspection and abatement history should indicate good faith efforts to improve safety and health. For example, the company will not be eligible if it has received any upheld citations for willful violations of OSHA standards in the last three years.

3. The applicant must provide agreed-upon evaluation data for OSHA review.

4. The applicant must provide to OSHA written evidence of a safety program which establishes basic objectives in terms of the specific needs and problems of the company; addresses hazards specific to the workplace; includes any necessary personal protective equipment requirements; includes an employee training program in safe work practices; is effectively communicated and enforced; clearly assigns responsibilities for workplace safety and demonstrates high-level commitment and involvement.

5. The applicant must have an internal mechanism for responding to employee safety (and health) complaints in a timely fashion.

6. If health is to be covered by the program, the applicant shall provide a description of the program (which may be part of the safety program) which establishes basic objectives in terms of the specific health needs and problems of the company. It must include, as appropriate, an outline for company implementation and a means for monitoring and evaluating the program. Company procedures should include, as appropriate: industrial hygiene sampling and surveying; personal protective equipment program rules; employee training in personal protective devices, work practices and hazardous material handling; and medical recordkeeping. The health program must include:

(1) The services of appropriately trained personnel for initial and periodic monitoring of the workplace;

(2) A medical program including the availability of physician services; and,

(3) Testing, analyzing and sampling or surveys performed in accordance with nationally recognized procedures.

Additional Qualifications for Star Employee Participation Programs Only

1. The applicant must be able to demonstrate that it has a joint employer-employee committee for safety (and health) with the following characteristics:

a. A minimum of one year's experience providing safety (and health) advice and making periodic site inspections (construction applicants are exempted from this requirement);

b. Has at least equal representation by bona fide worker representatives who work at the site and who are either elected by all employees or selected by a duly authorized representative organization;

c. Meets regularly, keeps minutes of the meetings, and has a quorum consisting of at least half of the members of the committee with representatives of both employees and management; and,

d. Makes workplace inspections (with at least one worker representative) regularly, as needed, and has provided for at least yearly coverage of the whole worksite.

2. The joint committee must be allowed to:

a. Observe or assist in the investigation and documentation of major accidents;

b. Have access to all relevant safety and health information; and,

c. Have training so that the committee can recognize hazards, and have continued training as needed.

3. The applicant must assure that:

a. All hazards noted during site inspections by the joint committee or by management will be abated in a timely manner; and,

b. The following information will be retained and available for OSHA review during the pre-approval stage and for evaluation:

(1) Safety (and health, where applicable) program(s);

(2) Copies of the log of injuries and illnesses and the OSHA 101 or its equivalent;

(3) Agreement between management and the employee representatives concerning the functions of the committee and its organization;

(4) Minutes of each committee meeting;

(5) Committee inspection and accident investigation records; and,

(6) Records of employee safety (and health) complaints received and action taken, taking into account appropriate privacy interests.

Additional Qualifications for Star Management Initiative Programs Only

1. The applicant must be able to demonstrate that, for at least one year, it has had the following characteristics:

a. Reasonable site access to certified safety (and health) professionals as well as medical personnel;

b. A system for holding line managers and supervisors accountable for safety (and health) conditions;

c. Routine site inspections by safety (and health) professionals which provide for at least yearly coverage of the whole worksite and for written reports of findings and abatement; and,

d. Internal safety (and health) audit or evaluation.

2. The applicant must routinely review job hazards for inclusion in training and hazard control programs.

3. The applicant must demonstrate that:

a. All hazards noted during management site inspections will be abated in a timely manner; and,

b. The following information will be retained and available for OSHA review:

(1) Written safety (and health) program(s);

(2) Copies of the log of injuries and illness and the OSHA 101 or its equivalent;

(3) Monitoring and sampling records (if health is covered by the program);

(4) Staff inspection and accident investigation records which also shall be available upon request for review by employees included in the program;

(5) Records of employee safety (and health) complaints received and action taken, taking into account appropriate privacy interest; and

(6) Annual internal evaluations or audits.

The Try Program

The Try Program is an experimental program to determine the effectiveness of alternative internal safety and health systems and to provide an opportunity for participation by employers who want to cooperate closely with OSHA to improve their safety and health performance. Unlike "Star," qualifications for firms wishing to take part in "Try" are fairly general. This will allow the greatest flexibility in experimental program design. OSHA will, however, review each program to assure that it contains the elements necessary for success in meeting stated goals. Because of the experimental nature of "Try" and OSHA's limited resources, OSHA may not be able to accept all applicants satisfying minimum requirements.

Like "Star," "Try" may cover either safety or health or both. There are also both employee-participation and management initiative versions of "Try." Also like "Star," only proposals for employee participation programs will be considered in the construction industry. "Try" programs will be established for a period of time agreed upon in advance of approval and will be evaluated annually. The evaluation design will not be standardized but will instead be molded to fit each program. Demonstrably successful "Try" programs or ideas may be incorporated into "Star."

Goals and Objectives

1. To demonstrate the importance of complete safety (and health) programs in the prevention of workplace injuries (and illnesses).

2. To provide recognition and support to the provision of innovation in safety (and health) programs.

3. To increase safety (and health) protection through the internal systems of the workplace.

4. To develop and evaluate alternative internal systems for the prevention of workplace injuries (and illnesses).

General Qualifications for All Try Programs

1. The applicant should have an average of either the lost workday injury case rate *or* the injury incidence rate for the most recent three-year period which is at or below the national average for the specific industry (three or four digit SIC), show a downward trend over a three-year period, or indicate goals for reducing these rates and the methods by which the goals will be achieved.

2. If the applicant has been inspected by OSHA in the last three years, the inspection and abatement history should indicate good faith efforts to improve safety (and health).

3. The applicant must provide to OSHA written evidence of a program giving official recognition to the voluntary program, and the program itself must establish basic objectives in terms of the specific needs and problems of the company; address hazards specific to the workplace(s); include personal protective equipment requirements and an employee training program in safe work practices; be effectively communicated and enforced; clearly assign responsibilities for workplace safety (and health) and demonstrate high-level commitment and involvement.

4. The applicant must provide agree-upon evaluation data.

5. The applicant must make regular site inspections, conduct accident investigations, and have an internal mechanism for responding to employee safety (and health) complaints in a timely fashion.

6. The applicant should have available sufficient safety (and health) resources for the size of the establishment(s) covered and the types of hazards faced.

Additional Qualifications for Try Employee Participation Programs

1. The program must have some aspect of active (rather than passive) employee participation.

2. Where employee representatives are used, they should be elected by all employees or selected by a duly authorized respresentative organization.

Additional Qualifications for Try Management Initiative Programs

1. The program should include a system for holding managers accountable for safety (and health) conditions.

2. The applicant should be willing to institute an internal system of audit or evaluation, if not already in place.

3. Staff inspection and accident investigation reports shall be available upon request for review by covered employees.

OSHA Responsibilities for "Praise," "Star" and "Try"

OSHA Contact Person

An OSHA technical official will be assigned to each program as a contact person. This person will be available to assist the participants as needed to assure smooth interface with OSHA and to provide expertise as required.

Pre-Approval Program Review

The "Praise" review will be confined to a review of records and a general assessment of safety conditions and facilities. Pre-approval review for "Star" and "Try" will include interviewing relevant parties such as committee representatives in employee participation programs, as well as reviewing records and a general assessment of (health and) safety conditions and facilities. Such information will not be made available to enforcement personnel. Preapproval program reviews will be arranged at the convenience of the applicant, if on-site review is necessary. If the applicant has been inspected within the last 18 months, an on-site review may not be necessary.

Enforcement Activity

Programmed Inspections. Work sites enrolled in a program will be removed

from OSHA's general schedule inspection list.

Workplace Complaints. Complaints will be handled in accordance with standard OSHA procedures. The employee will be queried regarding his knowledge and use of the internal complaint system.

Fatalities and Accidents. All fatalities or accidents shall be handled in accordance with standard OSHA procedures.

Variances

If a participant desires a variance from a standard, the OSHA contact will be available to assist in formulating the application, if requested. OSHA will ensure that the application receives attention in a timely manner. If the request is approved, OSHA will grant an interim order permitting the variance while the formal procedures are implemented.

Evaluation

OSHA will monitor the Praise Program by reviewing annual injury incidence and lost workday injury case rates. OSHA reserves the right to conduct on-site visits, in coordination with the company, to validate the safety program if serious problems arise.

All "Star" programs shall be evaluated every three years with a yearly review of experience rates and complaint activity. All "Try" programs will be evaluated annually for the duration of the program.

The following factors will be used to measure the effectiveness of "Star" and "Try" programs:

1. Comparison of rates to the industry average;
2. Satisfaction of the participants; and,
3. Nature and validity of complaints received by OSHA.

Employee participation programs will also be evaluated on the effectiveness of the joint committees. "Try" programs will have other individually designed evaluation measures.

Termination of Participation in the Programs

Participation can be terminated in either of two ways:

1. The firm or (where applicable) the employee representative(s) or (where applicable) the sponsoring organization may send a written notification of termination to OSHA and to any other party or parties 30 days prior to termination (except where another time period has been agreed upon before approval); or,

2. OSHA may withdraw approval with written notification to the firm and (where applicable) to the employee representative(s) or (where applicable) to the sponsoring organization 30 days prior to termination (except where another time period has been agreed upon before approval).

Program Application

Effective this date, initial applications for any of the three programs should be sent directly to the OSHA Office of Policy Analysis, Integration and Evaluation (see contact address). After an initial period to allow adjustment to the application process for streamlining and other improvements, applications may also be forwarded to the appropriate OSHA Regional Administrator(s). OSHA staff will assist interested parties in the preparation of complete applications. OSHA assumes that these programs will generate wide-spread interest and expects a significant number of applications. Should the number of applicants exceed OSHA's available resources, OSHA may limit the number initially approved to achieve appropriate geographical and industry distribution and to establish firmly the principles of the different programs.

III. Summary and Analysis of Comments

Clarification

Several misconceptions about the agency's intentions regarding Voluntary Protection Programs were evidenced in the comments. Some commentors interpreted "voluntary" to mean that employers could choose whether or not to comply with OSHA regulations. In fact, what is voluntary is the choice to participate in these special programs, not whether to comply with OSHA regulations.

A few commentors suggested that OSHA planned to require the use of labor-management safety and health committees in all cases. The agency recognizes that, in many areas, particularly in unionized workplaces, labor-management committees have made important contributions to worker protection. On the other hand, OSHA is well aware that there are employers without labor-management committees who have been successful in providing safe workplaces. The Voluntary Protection Programs are designed to recognize the effective efforts in both the use of labor-management committees and management intensive systems and possibly in alternative systems. We understand, however, that a voluntary program can succeed in a unionized establishment only if a non-adversarial climate exists. We will, therefore, expect an applicant with an organized workplace to demonstrate that the relevant union does not object to the firm's proposal. We anticipate that recognition of good systems will encourage innovation in providing safe and healthful workplaces.

A few commentors expressed concern that all of the requirements suggested for participation in the voluntary programs would be mandatory for all companies. Although, for the construction industry, safety programs and self-inspections are already required by OSHA standards, it was never OSHA's intention that any firm would have to adopt any particular method or establish any system not already required or in place. As one commentor stated, "To restructure existing programs which have been effective will not be an acceptable option." We whole-heartedly agree. OSHA designed the Voluntary Protection Programs primarily for those companies with demonstrated records of success and with superior safety and health programs already in place.

One commentor urged that OSHA hold public hearings. While there is no requirement to hold hearings on the voluntary programs, OSHA already has held numerous meetings with representative groups to elicit opinions and has established a record of public comment which provided ample opportunity for proponents and opponents to make their views known. Hearings would, therefore, be redundant, costly and serve no useful purpose.

The January **Federal Register** notice indicated that the Voluntary Protection Programs would be started on an experimental basis with a few pilot projects; however, OSHA feels confident that the programs as now structured will not require this developmental stage. On the other hand, the number of participants will be limited by OSHA's resources for review, assistance, and evaluation. At this point the agency plans to use the voluntary programs to form a strategy of positive impact. The programs are intended to encourage the formation of a nucleus of companies with superior health and/or safety programs for a progressively more cooperative, non-adversarial relationship with OSHA; to provide recognition to companies with good programs and to encourage their expanded use; and to facilitate the provision of safety and health programs to groups of small businesses.

Simplification

Many commentors expressed the view that the programs should be simplified and criteria for participation expressed in performance-oriented terms. In an

effort to keep the programs simple and uncluttered, the six previously announced programs have been condensed to three.

The agency has combined the concepts of STAR, "Build" and PRIME into one program, retained the "Star" title and aimed the program at the best workplaces which can form a nucleus of cooperative activity with OSHA. There will be two types of "Star" workplaces: "Star" employee participation and "Star" management initiative. "Try" will be retained and expanded to include management initiative programs so that OSHA can evaluate alternative internal systems for the prevention of workplace injuries and illnesses and so that firms who have good safety records or are anxious to improve them may participate. "Praise" remains a recognition program for companies in low-hazard industries which have good safety records and active safety programs. The agency has simplified qualifications for the programs so that companies with different safety and health systems, with quantifiable results, may be eligible for participation.

Applicant Eligibility

The question of whether programs should be approved by individual site or for multiple sites prompted a variety of responses. Those favoring approval on an individual site basis pointed out that the conditions, as well as the severity of hazards, vary from one site to another within a corporation and that the normal management structure is organized by site. Those favoring multi-site approval maintained that a corporate-wide program is managed by the same executive, that a good corporate safety and health program could only be effective if implemented corporate-wide, and that a small facility could utilize corporate resources. Other commentors expressed the view that companies should be allowed to choose which form of participation would be most effective for them based on the structure of their safety and health programs. One commentor observed that control of the safety and health program is the central issue, and where control can be demonstrated, participation should be permitted on a corporate-wide basis. To provide flexibility and meet the needs of potential applicants, the agency has decided to allow participation for companies either by site or by multiple sites. Each participating site will, at OSHA's discretion, receive an individual evaluation.

The agency has concluded that a good way to provide for small businesses that cannot qualify on their own for participation in "Star" or "Try" is to allow the participation of organizations representing groups of small businesses. Since this is a new concept, the agency does not expect many small business groups to meet the qualifications for "Star," although OSHA will accept applications fro any which think they do. Such groups, more likely, will be eligible for "Try." If, in reviewing initial applications, the agency finds that organizations of small businesses do not fit well into either the Star or Try Programs as designed, the agency will make the necessary changes and announce them in the Federal Register.

Incentives

The record confirms OSHA's suggestion that exemption from general schedule inspections should serve as an incentive for participation in Voluntary Protection programs.

Several commentors suggested that OSHA provide expedited procedures for granting variances to standards for participants. Recognizing that a variance will be granted only where an employer can demonstrate that the conditions are as safe and healthful as those required by the standards, OSHA will work with participants to ensure that variances, where warranted, are authorized in a timely fashion. As with all variances, employees would have to be notified of the variance application, when submitted, and an interim order, if granted.

Complaints

As indicated in the January **Federal Register** notice, accidents, fatalities and complaints of imminent danger will be handled through standard OSHA procedures.

The question of complaint handling received much attention. Some commentors recommended that all complaints should be referred to the participating organizations. Others recommended that all complaints be handled in accordance with OSHA procedures. We now recognize that the complaint procedure suggested in the former **Federal Register** notice added to the complexity of the programs. Therefore, we have reached what we feel is the appropriate middle ground by, on one hand, requiring that all participants in the "Star" or "Try" voluntary programs have some means whereby employees can notify their employers of hazardous conditions that they believe are present in their workplaces. On the other hand, OSHA will handle employee complaints in accordance with its current system. We think that we ought to recognize, however, the fact that there may always be some well-intentioned individuals who simply may not be aware of the existence of an internal system at their workplaces. Therefore, when an employee whose employer is participating in a voluntary program calls an OSHA office to register a complaint, the individual will be queried regarding his or her knowledge and use of the internal system. This will give us a means, admittedly imprecise, to measure a participant's communications with employees and employees' reactions to the internal system.

Resource Liaison

In discussing the role of the Resource Liaison (RL), a wide variety of commentors, representing unions, trade associations, businesses, and academics, expressed concern that the previously described role of the RL would be a strain on OSHA's limited resources and would detract from OSHA's enforcement efforts. Others pointed out that companies with superior programs do not need more intensive oversight from OSHA than they are currently receiving in order for them to provide safe and healthful workplaces.

These are valid considerations, and accordingly, OSHA has concluded that instead of an RL there will be a contact person designated for each program. This individual will be available to provide assistance on request but will not have a specific on-site monitoring role. There are two exceptions. Where a labor-management committee is newly organized for participation in the Star Program in construction, there will be some oversight required to be agreed upon by the parties. Each Try program also will require more supervision to be negotiated on a case-by-case basis.

Pre-Approval Program Review

The comments confirm the need for pre-approval program review to verify the information submitted by the applicant. OSHA will conduct an on-site program review of each program for which verification information does not exist from a recent (within 18 months) inspection. On-site review, where necessary, will take no more than two days at each site and will be conducted by OSHA staff from the national office and field. The review will include a records check, talks with relevant parties and a general evaluation of safety and health conditions. A review will be conducted only after the agency is satisfied that, on paper, the applicant meets the requirements for participation. The review will be arranged at the convenience of the applicant, and

information gathered will not be made available to enforcement personnel.

Evaluation

The record also substantiates the need for periodic evaluation. Each "Star" program will be evaluated after three years' operation, unless serious problems are identified earlier. "Star" management initiative programs will also be required to conduct at least annual self-evaluations. "Try" programs will continue to be evaluated annually by OSHA, although a successful "Try" program may eventually move into the "Star" category and thereby modify the evaluation requirements.

Most commentors agreed that a specification requiring that a company maintain evaluation data for OSHA review should be included in the voluntary programs. Commentors recommended several kinds of records that OSHA might review including: internal complaint records; accident investigation reports; self-audit or evaluation reports; worksite inspection reports; health monitoring and sampling records, where applicable; labor-management committee records, where applicable; and the injury-illness log. The parties to voluntary programs will have to make a good faith effort to evaluate the needs and accomplishments of each individual program. There is no universal yardstick to measure every aspect of a voluntary program. Thus, the particular data needed for each evaluation will be tailored to a certain extent to the individual safety (and health) program.

Experience Rates

Many commentors expressed concern that OSHA might base program evaluation solely on experience rates such as injury incidence rates, lost workday injury case rates or experience modification factors assigned by insurance companies. Our position is that experience rates must be considered as an indicator, not a conclusive measure, of performance. The Voluntary Protection Programs are designed to verify our belief that a comprehensive prevention program will provide a safe workplace.

A few commentors suggested that falsification of records could be a potential problem. Some commentors suggested having the responsible person sign the record. The OSHA 101 form and the OSHA 200 summary require signatures now. Since OSHA will use experience rates in conjuction with other measures, the agency does not consider that falsification will be a major concern. In addition, as many commentors noted, the criminal penalties for records falsification that OSHA already has in place are a considerable deterrent.

Some commentors questioned the use of workers' compensation data since that data may be affected by various factors unrelated to safety and health. OSHA is aware that, even under the best of circumstances, workers' compensation data will not provide a "match" to the OSHA log; however, we believe that first reports of injury (workers' compensation information) can provide some useful data. Another objection raised to the use of workers' compensation data was that it was an intrusion into an area beyond our jurisdiction. Under current OSHA regulations, employers may use workers. compensation reports instead of the OSHA form 101 to supplement the information on the OSHA 200 log. OSHA will only use workers compensation reports in Voluntary Protection Programs when the employer has chosen to substitute them in this manner.

The use of experience rating modification factors was suggested as the sole measure of performance by one commentor. While OSHA recognizes that experience rating has worked well for the insurance industry, experience modifiers have limitations that preclude the agency's using them as the single criteria for participation. This notice has already addressed the question of basing these programs on experience rates alone. In addition, experience modifiers are not universally available and may be skewed if a firm pays the injured worker's compensation costs rather than submitting a claim. Where the employer makes the experience modifier available and its use is valid, OSHA will accept it as one indicator of a firm's safety performance.

In responding to the question concerning what experience rates OSHA should use in its criteria, commentors strongly favored using both lost workday injury case rates and injury incidence rates averaged over three years and compared to the national average for the specific industry. As one commentor stated, "Qualification based on a combination of lost workday cases and incidence rates will give a better picture of the recent effectiveness of an employer's accident prevention program than qualification based on lost workday cases alone." The agency has adapted that recommendation to each Voluntary Protection Program, giving consideration to the other qualifications for participation in each. The individual program descriptions elaborate upon the requirements.

Committee Responsibilities

A number of comments were received regarding the responsibilities of labor-management committees in those programs where they are used. Most commentors thought that the responsibilities suggested by OSHA were reasonable and proper. Many commentors did, however, express concern that committee members might be held liable for workplace injuries and illnesses. This is not our intent, and it is important to guard against such liability. The committees, any organizations represented on them, and any individuals serving on them are not assuming the employer's statutory or common law responsibilities for providing safe and healthful workplaces, and the committees are in no way undertaking to guarantee a safe and healthful work environment. Instead, the committees are an additional tool to be used with those provided for in the law. Thus, the firm will continue to assure that any hazard in violation of OSHA standards noted by the committee will be abated in a timely fashion.

Many commentors expressed the view that requiring a specific frequency for labor-management committee meetings and inspections was unnecessarily rigid and that the optimum frequency should be determined on an individual basis by the participants. OSHA agrees that this is an area where more achievement-oriented criteria should be applied. Although OSHA prefers monthly meetings and inspections, the agency would consider less frequent arrangements depending on the size of the firm and the hazards in the workplaces if the arrangements are agreed to by all parties. In all cases, OSHA would expect that, at a minimum, the entire worksite would be inspected once each year.

The agency requested comment on training of new hires and of labor-management committee members. The record in regard to training new hires on the existence of the Voluntary Protection Program and the use of the labor-management committee clearly recognizes the need to include these topics in the new hire's initial orientation, and that is what OSHA will expect. Commentors suggested various alternatives for committee training, including OSHA's 10-hour course, use of the OSHA-funded consultation service, private consultants and insurance companies. The agency believes this is another area where achievement-oriented language is appropriate. OSHA's major concern is that committee members are able to

recognize hazards. The applicant must be able to demonstrate this to OSHA's satisfaction.

Construction

Since the structure for establishing and monitoring construction programs is not substantively dissimilar to "Star," the agency concluded that a separate program is not needed. OSHA has addressed this issue in the integration of the construction voluntary protection program into "Star." In integrating the proposed "Build" program into "Star", OSHA has also transferred the elements drawn up by the Construction Advisory Committee to apply to construction sites only. These include construction site eligibility for employee participation programs only, the acceptance of new labor-management committees for "Star" and a stronger role for the OSHA contact person.

The restriction of construction applicants to employee participation programs is a reflection of the seriousness of the hazards in the construction industry and the need for cooperation between employees and management to alleviate those hazards. Since management initiative programs will not be open to construction sites and since employee participation is relatively new in the construction industry, committees will not be required to have one year's experience as they are in other industries with long histories of effective cooperative problem solving. In these cases, the OSHA contact person assigned to assist the site program will have an expanded role as agreed upon before approval.

In addition, based upon the comments received, we have decided, that for a particular site to be eligible for participation in "Star," all subcontractors at the site must be covered by a participatory arrangement with the general contractor. Since the agency is offering participation to organizations of small businesses, OSHA will consider applications from associations of contractors which provide a system of protection to the participating worksites. Even in this case, however, the agency expects that all the subcontractors on each site will be included in the general contractor's program. The size of these group programs, the duration of the general contractor's involvement at a particular worksite, or the stage of construction at any site will not be relevant criteria for choosing group programs, but they are important considerations for a program at a single site.

Consultation

While OSHA-funded consultation services can be useful resources for businesses needing help in establishing good health and safety programs, the consultation services cannot be used to provide routine services or run a firm's safety and health program. The agency expects that companies which apply for participation in the Star Program will already have established superior health and safety programs and probably have no need for OSHA-financed consultation services. Those companies and small businesses which need help in improving their programs would find the Try Program more appropriate for them.

State Plans

The agency, in an effort to obtain the views of those potentially affected, requested comment on how State participation in any of these voluntary programs should be implemented. Most commentors favored encouraging some type of State participation.

OSHA will provide States with information from the voluntary programs and will work with them to develop an equitable method for handling employers under their jurisdiction who wish to participate in any of the Voluntary Protection Programs. Indeed, many States already have programs similar to "Praise". The agency expects that other States may choose to develop voluntary programs similar to "Star" and "Try".

Termination

Two questions were posed by OSHA concerning termination of individual Voluntary Protection Programs. The first addressed what changes in experience rates, if any, should cause termination. Many commentors expressed the view that participants should be allowed a range of acceptable performance and that deviation above the range should be investigated. Since experience rates are only one consideration that OSHA will use, the agency may examine rate increases to determine why they have occurred.

The second question addressed the need for immediate termination. Our conclusion is that the question of continuing approval should depend on whether or not a program is constituted properly to respond to situations as they develop. OSHA has the authority to cancel a program, or to take other appropriate action, as well as the obligation to investigate fatalities or accidents and to issue necessary citations. Even when good faith is shown, however, we realize that some situations will not yield dramatic changes quickly. We recognize, nevertheless, that situations may arise where one of the parties may want to withdraw from the program, and we feel it is equitable, in most cases, to establish a 30-day notice period prior to termination.

IV. Decision

After carefully reviewing all the submissions in the record and having made every effort to be responsive to the concerns raised, the Assistant Secretary has decided to implement the Voluntary Protection Programs as revised herein.

V. Effective Date

July 6, 1982.

VI. Authority

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, United States Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C., this twenty-ninth day of June, 1982.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 82-18014 Filed 7-1-82; 8:45 am]
BILLING CODE 4510-26-M

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 82-105; Exemption Application No. D-3186]

Exemption From the Prohibitions for Certain Transactions Involving the Anderson's Employees Profit Sharing Trust Located in Newport, Minnesota

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption will permit the sale of an unimproved parcel of real property (the Property) by the Anderson's Employees Profit-Sharing Trust (the Trust) to Mr. Dale G. Anderson (Mr. Anderson), a disqualified person with respect to the Trust. Because Mr. Anderson is the sole owner of Dale G. Anderson Construction, Inc., the sponsor of the Trust, and is the only participant in the Trust, there is no jurisdiction under Title I of the Employee Retirement Income Security Act of 1974 (the Act) pursuant to 29 CFR 2510.3-3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Internal Revenue Code of 1954 (the Code).

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On May 21, 1982, notice was published in the **Federal Register** (47 FR 22248) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code, for the above-described transaction. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 4975(c)(2) of the Code does not relieve a fiduciary or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 4975(c)(2) of the Code and the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722, and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Trust and of its participant and beneficiaries; and

(c) It is protective of the rights of the participant and beneficiaries of the Trust.

Accordingly, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale of the Property by the Trust to Mr. Anderson for $195,000, provided that this amount is not less than the fair market value of the Property on the date of sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 24th day of June, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-18090 Filed 7-1-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-106; Exemption Application Nos. D-3210 and D-3211]

Exemption From the Prohibitions for Certain Transactions Involving the Bell System Trust Located in New York, New York

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption permits: (1) The lease (the Lease) of a portion of an office building (the Building) by the Bell System Trust (the Trust) to Citicorp Acceptance Corporation (CAC), a wholly-owned subsidiary of Citicorp which is a party in interest with respect to the Trust; and (2) the future renewal or extension of the Lease.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Sandler of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216. (202) 523-8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On May 7, 1982, notice was published in the **Federal Register** (47 FR 19815) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (D) of the Code, for the above-described transactions. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. The applicant has represented that a copy of the notice was distributed in accordance with the requirements set forth in the proposed exemption. No public comments were received by the Department. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These

provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b) of the Act and section 4975(c)(1)(E) and (F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Trust and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Trust.

Accordingly, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to: (1) The Lease by the Trust to CAC; and (2) the renewal or extension of the Lease, provided that the terms and conditions of the Lease and any extension or renewal thereof are and will remain at least as favorable to the Trust as those it could obtain from an unrelated party.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 28th day of June 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-18091 Filed 7-1-82; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

National Council on the Humanities Advisory Committee; Meeting

June 28, 1982.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended) notice is hereby given that a meeting of the National Council on the Humanities will be held in Washington, D.C. on July 29–30, 1982.

The purpose of the meeting is to advise the Chairman of the National Endowment for the Humanities with respect to policies, programs, and procedures for carrying out his functions, and to review applications for financial support and gifts offered to the Endowment and to make recommendations thereon to the Chairman.

The meeting will be held in the Shoreham Building, 806 15th Street, N.W., Washington, D.C. A portion of the morning and afternoon sessions on July 29 and the afternoon session on July 30, 1982 will not be open to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code because the Council will consider information that may disclose: Trade secrets and commercial or financial information obtained from a person and privileged or confidential; information of a personal nature the disclosure of which will constitute a clearly unwarranted invasion of personal privacy; and information the disclosure of which would significantly frustrate implementation of proposed agency action. I have made this determination under the authority granted me by the Chairman's Delegation of Authority dated January 15, 1978.

The agenda for the sessions on July 29, 1982 follows:

(Open to the public)

8:00–9:00—Coffee for Council Members in Chairman's Office

9:00–10:30—Committee Meetings—Policy Discussion

Education and State Programs, Room 1025

Fellowship Programs, Room 314

General Programs, Room 807

Research and Office of Planning, Room 1134

10:30 to Adjourn—Consideration of specific applications, (closed to the public for the reasons stated above).

The morning session on July 30, 1982 will convene at 8:30 a.m. in the 1st Floor Conference Room and will be open to the public. The agenda for the morning session will be as follows: (Coffee for Staff and Council Attending Meeting will be served from 8:30 a.m.—9:00 a.m.).

Minutes of the Previous Meeting

Reports

A. Introductory Remarks
B. Introduction of New Staff
C. Chairman's Grants
D. Application Report
E. Gifts and Matching Report
F. FY 1982 Program Funding
G. FY 1983 Appropriations Request
H. FY 1984 Budget Planning
I. Ratification of Actions of 64th Meeting
J. Conflicts of Interest Resolution
K. President's Initiative on Historically Black Colleges and Universities
L. Recommendation of Applications by Council Members
M. Committee Reports on Policy and General Matters
   a. Education Programs
   b. State Programs
   c. General Programs
   d. Research Programs
   e. Planning and Assessment Studies
   f. Fellowship Programs

The remainder of the proposed meeting will be given to the consideration of specific applications (closed to the public for the reasons stated above).

Further information about this meeting can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, Washington, D.C. 20506, or call area code 202–724–0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 82-18042 Filed 7-1-82; 8:45 am]

BILLING CODE 7536-01-M

NATIONAL SCIENCE FOUNDATION

Subcommittee for Oversight and Evaluation of the Ocean Sciences Research Section; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science

Foundation announces the following meeting.

Name: Subcommittee for Oversight and Evaluation of the Ocean Sciences Research Section of the Advisory Committee for Ocean Sciences
Date and time: July 15 and 16 and 21 and 22, 1982; 9 a.m. to 5 p.m. each day
Place: Room 609 and 628, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550
Type of meeting: Closed
Contact person: Dr. Grant Gross, Director, Division of Ocean Sciences, Room 609, National Science Foundation, Washington, D.C. 20550—Telephone: 202–357–9639

Purpose of subcommittee: To provide expert assistance in carrying out external oversight which is concerned with the examination of decisions made, procedures and policies in effect and focuses on operations and activities, priorities, program balance, and selection of awards.

Agenda: Review and comparison of proposals (and supporting documentation) including review of peer review materials and other privileged materials.

Reason for closing: The subcommittee will be reviewing grants and declination jackets which contain the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This session will also include a review of the peer review documentation pertaining to applicants. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determination by the Director, NSF, on July 6, 1979.

Reason for late notice: This meeting notice was inadvertently misplaced by administrative staff.

M. Rebecca Winkler,

Committee Management Coordinator.

June 29, 1982.

[FR Doc. 82–18000 Filed 7–1–82; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–317]

Baltimore Gas & Electric Co.; Issuance of Amendment To Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 71 to Facility Operating License No. DPR–53, issued to Baltimore Gas and Electric Company, which revised Technical Specifications for operation of the Calvert Cliffs Nuclear Power Plant, Unit No. 1 located in Calvert County, Maryland. The amendment is effective as of the date of issuance.

The amendment authorizes operation of Calvert Cliffs Unit No. 1 during Cycle 6 at a rated thermal power of 2700 MWt.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of Proposed Issuance of Amendment to Facility Operating License in connection with this action was published in the **Federal Register** on May 4, 1982 (47 FR 19256). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For futher details with respect to this action, see (1) the application for amendment dated February 17, 1982 as supplemented April 29, 1982, (2) Amendment No. 71 to License No. DPR–53, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and the Calvert County Library, Prince Frederick, Maryland. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 24th day of June, 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82–18117 Filed 7–1–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–400 OL, 50–401 OL]

Carolina Power & Light Co. and North Carolina Municipal Power Agency No. 3 (Shearon Harris Nuclear Power Plant, Units 1 and 2); Order (Establishing Time and Place of Prehearing Conference)

June 28, 1982.

The Board's Order of June 4, 1982 changed the date for the special prehearing conference previously scheduled for June 14–15, 1982, to July 13–14, 1982. The conference will be held at North Carolina Utilities Commission, Main Hearing Room, Room 217, The Dobbs Government Building, 430 N. Salisbury Street, P.O. Box 991, Raleigh, North Carolina 28602, beginning at 9:00 a.m. The conference may continue on the 15th, if necessary.

Dated at Bethesda, Maryland, this 28th day of June, 1982.

For the Atomic Safety and Licensing Board.

James L. Kelley,

Chairman, Administrative Judge.

[FR Doc. 82–18118 Filed 7–1–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–537]

U.S. Department of Energy; Tennessee Valley Authority and Project Management Corp.; Availability of Site Suitability Report for Clinch River Breeeder Reactor Plant

Correction

In FR Doc. 82–17399, published on page 27998, on Monday, June 28, 1982, the heading should read as printed above.

BILLING CODE 1505–01–M

OFFICE OF PERSONNEL MANAGEMENT

Federal Employees Pay Council; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the President's Pay Agent announces the following meeting:

Name: Federal Employees Pay Council.
Date and time: July 20, 1982, 2:00 p.m.
Place: U.S. Office of Personnell Management, 1900 E Street NW., Washington, D.C., Room 5A06A.
Type of meeting: Open.

Contact person: Samuel Zattiero, staff contact person, U.S. Office of Personnel Management, 1900 E Street NW., Washington, D.C., Telephone (202) 632–4533.

Purpose of meeting: To discuss procedures to govern Agent/Council discussions.

For the President's Pay Agent.

Donald J. Devine,

Director, Office of Personnel Management.

[FR Doc. 82–18047 Filed 7–1–82; 8:45 am]

BILLING CODE 6325–01–M

Proposed Extension of Forms Submitted to OMB for Review

AGENCY: Office of Personnel Management.

ACTION: Notice of proposed extension of forms.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980, this notice announces a proposed extension of forms which collect information from the public. Supplemental Qualifications Statements are completed by applicants for Federal positions throughout the Government. The Office of Personnel Management uses the information to examine the qualifications of applicants. For copies of this proposal, call John P. Weld, Agency Clearance Officer, on (202) 632–7720.

DATES: Comments on this proposal should be received within 10 working days from (date of publication).

ADDRESSES: Send or deliver comments to:

John P. Weld, Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E Street, NW., Room 6H28, Washington, D.C. 20415, and

Mr. Frank Reeder, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT:
John P. Weld, 632–7720.
Office of Personnel Management.

Donald J. Devine,
Director.

[FR Doc. 82–18055 Filed 7–1–82; 8:45 am]
BILLING CODE 6325–01–M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

SUBJECT: Draft annual report.

ACTION: Notice.

SUMMARY: The Council hereby announces the availability of its Draft Annual Report pursuant to section 4(h)(12)(A) of the Northwest Power Act (P.L. 96–501, 94 Stat. 2697, 16 U.S.C. 839) and invites comments.

DATES: Copies of the Draft Annual Report will be available on July 1, 1982. Comments must be submitted on or before August 13, 1982.

ADDRESS: Copies may be requested by calling Ms. Beata Teberg toll free within the Western United States at 1–800–547–0134 or within Oregon and outside the Western United States at (503) 222–5161. Comments should be submitted in writing to Ms. Torian Donohoe, 700 S.W. Taylor Street, Suite 200, Portland, Oregon 97205.

Dated: June 24, 1982.

Edward Sheets,
Executive Director.

[FR Doc. 82–18148 Filed 7–1–82; 8:45 am]
BILLING CODE 6820–SC–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 22552; 70–6680]

Consolidated Natural Gas Co. and CNG Energy Co.; Proposed Acquisition of Common Stock by Holding Company in New Subsidiary

June 28, 1982.

In the matter of Consolidated Natural Gas Company; 100 Broadway, New York, New York 10005 and CNG Energy Company, Four Gateway Center, Pittsburgh, Pennsylvania 15222 (70–6680).

Consolidated Natural Gas Company ("Consolidated"), a registered holding company, and CNG Energy Company ("CNG Energy"), have filed an application-declaration and amendments thereto pursuant to Sections 6, 7, 9(a), 10 and 11 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50(a)(3) promulgated thereunder.

CNG Energy, a new Delaware corporation organized by Consolidated, has an initial authorized capital stock of $12,500,000 divided into 125,000 shares, each having a par value of $100. No shares have been issued. Consolidated has requested authorization to acquire from time to time through May 31, 1983 and CNG Energy requests authorization to issue up to an aggregate of 21,000 shares of the common stock of CNG Energy for a cash consideration of $100 per share, up to an aggregate of $2,100,000. CNG Energy would apply $1,800,000 of the proceeds for feasibility studies, payment of bills incurred to date of approximately $200,000 and such other costs as may be incurred to May 31, 1983 with respect to energy projects. The balance of approximately $300,000 would be applied to CNG Energy's Natural Gas Vehicle Division ("NGV") which would engage in the distribution, installation, servicing and financing of duel fuel conversion equipment for short-haul automotive fleets and fueling stations. Approximately $25,000 of that balance would be applied to operation requirements of NGV and approximately $275,000 would be applied to NGV customer financing through May 31, 1983 for the proposed NGV activities. It is stated that the authorization requested in this proceeding does not constitute approval of participation in energy projects other than the proposed activities of CNG Energy through its NGV Division.

The NGV Division of CNG Energy proposes to acquire the necessary dual fuel conversion epuipment, including engine adjustment apparatus and compression and storage equipment for resale to customer fleets. The equipment would be financed by lease or notes. NGV Division would install fleet vehicles and a refueling station on the fleet owner's premises and make any necessary connections to a system distribution company's gas line. The NGV Division in some instances would co-own and operate shared fueling stations to achieve economies; for example, a small town's school buses and municipal fleet may want to use a common fueling station. The NGV Division may also enter into service contracts for the maintenance of refueling station compression equipment.

NGV Division estimates it could distribute, install and service conversion equipment for 30–35 vehicles per month. The prospective customers of NGV Division are municipalities, school districts and private companies having fleets of automobiles, trucks and buses which travel in the range of 100 to 250 miles before returning. Some 450,000 fleet vehicles are in the Consolidated System's retail distribution area although not all can be considered candidates for conversion. The application states that conversion to natural gas as a vehicle fuel is economic. Propane, however, is stated to be the major competitor. Natural gas currently costs about 55 cents per gallon in terms of gasoline equivalence whereas gasoline costs $1.10 to $1.20 per gallon. The cost differential would permit a return on and return of capital expended by customers for conversion to natural gas. There is generally a 2–3 year simple payback period. Installed equipment cost is approximately $1,500 for an automobile and $2,200 for a truck. Refueling station equipment averages $1,000 to $1,500 per vehicle. Most of the conversion equipment is expected to outlive the vehicle and is transferable to other vehicles with minimal reinstallation costs.

Initially, the NGV Division would not have any full time employees. It would rely on employees from the system service company to provide accounting, financial, clerical support and one or more system subsidiaries to provide credit, management, operating and technical support. Services normally

provided to customers by a distribution subsidary would also be provided to natural gas vehicle customers by the local distribution subsidiary. Services not normally provided such as maintenance service on refueling stations, would be charged, at cost, and paid by NGV which would, in turn, be reimbursed by the customer. The NGV Division may initially arrange for independent contractors to install conversion kits, maintain the equipment and construct the refueling stations because of lack of qualified personnel in the distribution companies to handle this business. Work performed by independent contractors would be paid by the NGV Division but reimbursed by the customer. Charges to customers would reflect an element of profit.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by July 22, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-delcaration, as amended or as it may be further amended, may be permitted to become effective.

For the Comission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-18078 Filed 7-1-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12509; 812-5194]

Real Estate Associates Limited V, et al.; Filing of Application

June 28, 1982.

In the matter of Real Estate Associates Limited V, National Partnership Investments Corp., and National Partnership Investments Associates II, 1880 Century Park East, Los Angeles, CA 90067 (812-5194).

Notice is hereby given that Real Estate Associates Limited V ("Partnership"), a California limited partnership, and its general partners, National Partnership Investments Corp. ("NAPICO"), and National Partnership Investments Associates II ("NPIA II") (NAPICO AND NPIA II are hereinafter collectively referred to as "General Partners" and, with the Partnership, as "Applicants"), filed an application on May 27, 1982, and an amendment thereto on June 22, 1982, for an order of the Commission, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting the Partnership from all provisions of the Act. All interested persons are referred to the application of file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that the partnership was formed under the California Limited Partnership Act for the primary purpose of providing a vehicle for private investment in government-assisted rental housing for low and moderate income families in accordance with the express determination by Congress in Section 901 of Title IX of the Housing and Urban Development Act of 1968 ("Title IX"). It is asserted that the Partnership will operate as a "two-tier" partnership, *i.e.*, the Partnership will invest primarily in other limited partnerships which, in turn, will be engaged in the development, building, ownership, or leasing of to-be-constructed, rehabilitated, or existing housing projects for low and moderate income persons. The application states that NPIA II is a California limited partnership, and that the general partner of NPIA II is Charles H. Boxenbaum, who is Chairman of the Board of NAPICO, and the limited partners of NPIA II are Nicholas G. Ciriello, who is the President of NAPICO, and Leonard A. Crosby, III, who is an executive officer of NAPICO. It is asserted that the Partnership is organized as a limited partnership because a limited partnership is the only form of organization which provides an investor with both (1) the ability to claim on this individual tax return the deductions, losses, credits and other tax items the Partnership can pass through and (2) liability limited to his capital investment.

The application states that the Partnership will publicly offer units, consisting of two limited partnership interests and a warrant ("Warrant") to purchase two additional limited partnership interests, exercisable approximately twelve months after the initiation of the offering of Units. It is asserted that in the event that any Warrant is not exercised, the related limited partnership interest may be sold by the Partnership to other qualified offerees. Applicants represent that the Partnership will file a registration statement on Form S-11 covering 1,500 units to be offered at a maximum price of $5,000 per unit including selling commissions, and an additional 3,000 limited partnership interests to be purchased upon exercise of the Warrants or otherwise sold to qualified investors. It is asserted that in order to provide for the orderly closing of the offering, in the event subscriptions for in excess of 1,500 units are received, the Partnership is registering 150 additional units over and above the 1,500 maximum number of units and an additional 300 limited partnership interests for sale upon the exercise of the Warrants.

Applicants represent that offers to sell and sales to the public of the units and the limited partnership interests sold upon the non-exercise of the Warrants are proposed to be effected, on a best-efforts basis, through E. F. Hutton & Company Inc., and other selected members of the National Association of Securities Dealers, Inc., none of which owns or holds any interest in either of the General Partners or will have or has any other material relationship with their respective directors, officers or partners. The application states that the total capital of the Partnership, assuming all units are sold and all Warrants are exercised, will be $15,017,050 before deductions for sales commissions and expenses of the offering. This amount includes subscription notes for $12,500 and $4,550 from the General Partners and initial limited partners, respectively. Applicants represent that if only the minimum number of units are sold and no Warrants are exercised, the total capital of the Partnership after deductions for sales commissions and expenses of the offering will be approximately $1,073,050; of this amount, $12,500 will be contributed by the General Partners, $4,550 by the initial limited partner, and approximately $1,056,000 will be received from public investors, net of selling commissions, on the sale of Units alone.

It is asserted that the General Partners will be entitled, regardless of the number of Units and of limited partnership interests sold, to receive 1% of the Partnership's profits, losses and distributions.

Applicants represent that the amount of distributions of net cash flow from the Partnership that the General Partners are entitled to receive, by reason of their 1% interest, is reduced, however, by the amount of the annual management fees paid to them, and that therefore, it is

anticipated that as a practical matter the General Partners will not receive any distributions from cash flow.

The application states that the Partnership will invest not less than 75% of the total to be invested in properties in local limited partnerships which own or lease housing projects benefitting from federal, state or local government assistance. It is asserted that the Partnership may invest up to 25% of such proceeds in conventional residential projects or in local limited partnerships owning residential projects which do not participate in any government-assistance programs. Applicants represent that the Partnership has not yet identified any specific local limited partnerships or projects in which it proposes to invest. The application states that the General Partners will assess each project before the Partnership invests. The Partnership's prospectus states that there is no assurance that any interests in local limited partnerships will be available in suitable locations or upon satisfactory terms. It is asserted in the prospectus that, in the event such investments are not immediately available on satisfactory terms, the Partnership may temporarily invest all or part of the proceeds of the offering in short-term, highly liquid investments, such as United States Treasury Bills, and other short-term government contracts, commercial paper (investment grade), bank certificates of deposit and tax-exempt bonds and notes or registered investment companies holding such securities.

Applicants state that the Partnership will be controlled by the General Partners pursuant to the Partnership Agreement, and that the limited partners, consistent with their limited liability status, will not be entitled to participate in the control of the Partnership's business. It is asserted, however, that a majority in interest of the limited partners will have the right to amend the Partnership Agreement, dissolve the Partnership, remove one or more of the General Partners and elect successor general partners, and continue the Partnership upon the death, insanity, retirement, or bankruptcy of a General Partner. Applicants represent that, also under the Partnership Agreement, each limited partner or his representative is entitled to review the records of the Partnership at reasonable times. The application states that, as provided in the Partnership Agreement, each limited partner will receive an annual report within 120 days after the end of each fiscal year containing a balance sheet, statement of income, partners' equity, and changes in financial position for such fiscal year, all of which shall be prepared in accordance with generally accepted accounting principles and accompanied by a report and opinion of an independent accountant. The annual report shall also include a report of the Partnership's activities during the year and a cash flow statement setting forth distributions to limited partners and specifying the sources of cash for those distributions. It is asserted that the General Partners will also distribute interim reports of operations to the Limited Partners. Applicants further state that the Partnership will file with the Commission, pursuant to Section 15(d) of the Securities Exchange Act of 1934, all required annual reports, quarterly reports, and current reports on Forms 10–K, 10–Q, and 8–K, as well as any other reports required by that act. Further, NAPICO, a registered investment adviser, will file with the Commission all reports required under the Investment Advisers Act of 1940.

The application states that the General Partners and the officers and directors of the corporate General Partner may not be liable to the Partnership for certain acts and omissions to act since provision has been made in the Partnership Agreement for indemnification of the General Partners. It is asserted, however, that indemnification is conditioned upon the General Partners and the officers and directors of the corporate General Partner sued being successful in whole or in part in such litigation, or that the subject proceeding is settled with approval of the court; in any event, the court must find that such person's conduct fairly and equitably merits indemnity in the amount claimed. The Partnership's prospectus states that, insofar as indemnification for liabilities arising under the Securities Act of 1933, as amended, may be provided to officers, directors, and controlling persons, the General Partners have been advised that, in the opinion of the Commission, such indemnification is contrary to public policy and is, therefore, unenforceable.

Applicants state that, as set forth in the Partnership Agreement and described in the prospectus, the General Partners will receive certain fees for the services that render to the Partnership. It is stated in the Prospectus that none of such fees was determined as a result of arm's length negotiations. Applicants represent that all of such fees are in substantial conformity with the standards imposed by the Statement of Policy Regarding Real Estate Programs adopted by the North American Securities Administrators Association, Inc., effective March 30, 1982, and the Rules of the California Corporate Commissioner as to Real Estate Programs, and to the best of the General Partners' knowledge all such fees are in compliance with the current Statement and Rules promulgated by those authorities.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction from the provisions of the Act and the rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Without conceding that the Partnership is an investment company as that term is defined in the Act, Applicants request that the Partnership be exempted from the provisions of the Act. In support of this request, Applicants state that the requested exemption is both necessary and proper in the public interest and consistent with the protection of investors and the purposes and policies underlying the Act.

Applicants state that, by investing in limited partnership interests of local limited partnerships which develop housing for low and moderate income persons, the Partnership is implementing the national policy enunciated by Congress in Title IX. It is asserted that investment in subsidized low and moderate income housing is not economically suitable for private investors without the tax and organizational advantages of the limited partnership form The application states that the limited partnership form of organization is, however, incompatible with the operational framework of the Act. Applicants represent that to discourage the two-tier limited partnership arrangements by application of the Act would result in elimination of the best available means of attracting private equity capital into government-assisted housing, and would frustrate national policy.

The application states that the Partnership's structure, policies, and protective provisions are consistent with the principal investor protection sections of the Act. In addition, it is asserted that the Units and additional limited partnership interests will be sold only to relatively sophisticated investors who have special qualifications. Applicants represent that, in order to

become a limited partner, an investor must represent, *inter alia*, that he (i) has (A) a net worth (exclusive of home, furnishings and automobiles) of at least $30,000 and (B) an annual gross income of at least $30,000, or (ii) has a net worth (exclusive of home, furnishings, and automobiles) of at least $200,000 or is purchasing in a fiduciary capacity for a person or entity which has such net worth and annual income as set forth in clause (i) or such net worth as set forth in clause (ii), and that he is aware of the risks involved in investing in the Partnership. Further, he must represent that some part of his income for 1983 will be subject to federal income tax at the rate of 38% or more and that he anticipates that some part of his income for the next four years will, but for his investment in the Units or other tax shelters, be taxable at the federal tax rate of 38% or more. Finally, Applicants state that, in addition to the basic fact that the contemplated arrangement is not susceptible to abuses of the sort the Act was designed to remedy, the controls imposed on the Partnership by various state and federal agency regulations and under the Partnership's governing instruments provide protection to investors comparable to that provided by the Act.

Notice is further given that any interested person may, not later than July 23, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-18077 Filed 7-1-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12506; 812-5064]

T. Rowe Price Growth Stock Fund, Inc., et al.; Filing of Application

June 25, 1982.

In the matter of T. Rowe Price Growth Stock Fund, Inc., T. Rowe Price Tax-Free Income Fund, Inc., T. Rowe Price Associates, Inc., 100 East Pratt Street, Baltimore, Maryland 21202, (812–5064).

Notice is hereby given that T. Rowe Price Growth Stock Fund, Inc. ("Growth Stock"), T. Rowe Price Tax-Free Income Fund, Inc. ("Tax-Free") (collectively referred to as the "Funds"), and T. Rowe Price Associates, Inc. ("Price Associates") (collectively referred to with the Funds as the "Applicants") filed an application on December 28, 1981, and an amendment thereto on April 26, 1982, requesting an order of the Commission, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), declaring that Richard W. Case, a director of the Funds, shall not be deemed an interested person of Price Associates or of the Funds as defined in Section 2(a)(19) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The Funds are Maryland corporations registered under the Act as open-end, management investment companies. Price Associates, a Maryland corporation registered as an investment adviser under the Investment Advisers Act of 1940, serves as investment adviser to the Funds.

Mr. Case is a member of the Maryland bar who is, and since 1955 has been, a member of the law firm of Smith, Sommerville & Case ("SS & C") of Baltimore, Maryland. Mr. Case is, and since 1961 has been, a member of the board of directors of Growth Stock and he is, and since 1979 has been, a member of the board of directors of Tax-Free.

Applicants state that SS & C has rendered legal services to and received legal fees from Price Associates in recent years (including 1981 but excluding 1980), but that the firm has never provided legal services to or received legal fees from either of the Funds or from any of the other investment companies advised by Price Associates. Therefore, Mr. Case has been classified as an "interested director" of each of the Funds in accordance with the provisions of Section 2(a)(19)(A)(iii) of the Act, which provides, in substance, that any person who is an interested person of the investment adviser to an investment company is an interested person of that investment company, and Section 2(a)(19)(B)(iv) of the Act, which provides, in substance, that any partner or employee of any law firm which acted as legal counsel to an investment adviser to an investment company within the last two fiscal years of such investment company is an interested person of such investment adviser.

Applicants state that Mr. Case has advised the board of directors of each of the Funds that, notwithstanding the receipt of fee income in 1981, SS & C effectively ceased to serve Price Associates as legal counsel prior to 1980, and that the 1981 fee income arose from services relating to a Maryland state income tax refund claim for the years 1972 and 1973 that SS & C undertook to prosecute on behalf of Price Associates, on a contingent fee basis. Applicants further state that Mr. Case has advised the boards of directors of the Funds that he was not involved in or in any way responsible for the matter. It was handled by another partner of SS & C, David Bielawski; SS & C's primary reason for undertaking the matter was to give Mr. Bielawski experience in tax litigation involving a legal question of importance to Maryland corporations generally.

Applicants represent that the legal fees received by SS & C for legal services to Price Associates during the period 1972 to 1981 were not material when compared to the total revenues of SS & C during that period. Applicants further represent that during that period SS & C did not act as general counsel to Price Associates, did not bear overall responsibility for the corporate legal affairs of Price Associates, and its work generally did not involve responsibility for such affairs. In addition, the legal services rendered by SS & C in the years subsequent to 1976 did not involve the relationship of Price Associates to either of the Funds or to any other investment company served by Price Associates as investment adviser. Finally, Applicants represent that Price Associates will not utilize the legal services of SS & C as counsel in the future.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order, upon application, may conditionally or unconditionally exempt any person or transaction from any

provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants state that the directors of the Funds consider Mr. Case to be a man of experience and high standing at the bar, with a long and distinguished tenure as a director of the Funds. Applicants further state that, while nominally an interested director because of the relationship of his firm to Price Associates, Mr. Case has always been, and has been regarded by his colleagues on the boards of the Funds as, a man of outstanding intelligence, integrity and independence of mind, who has always made the well-being of the stockholders of the Funds his primary concern.

Applicants state that, for these reasons, the disinterested directors on the boards of directors of the Funds, as well as the representatives of Price Associates on those boards, have concluded that the interests of the Funds, and their stockbrokers, would be enhanced by a change in the status of Mr. Case that would enable him to participate in the deliberations of the directors (including but not limited to the annual deliberations with respect to the continuation of the investment advisory agreement and the fidelity bond) in the capacity of a disinterested director.

Accordingly, Applicants submit that the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than July 19, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his/her interest, the reason for such a request, and the issues, if any, of fact or law proposed to be controverted, or he/she may request that he/she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82–18079 Filed 7–1–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 22548, 70–6428]

Systems Fuels, Inc., et al.; Changes in Financing Arrangements Related To Purchase of Fuel by Nonutility Subsidiary for Use by Operating Companies

June 25, 1982.

In the matter of System Fuels, Inc., Noro Plaza, 666 Poydras, New Orleans, Louisiana 70130, Arkansas Power & Light Company, 142 Delaronde Street, New Orleans, Louisiana 70174, Mississippi Power & Light Company, Electric Building, Jackson, Mississippi 39205, and New Orleans Public Service Inc., 317 Baronne Street, New Orleans, Louisiana 70112 (70–6428).

Arkansas Power & Light Company, Louisiana Power & Light Company, Mississippi Power & Light Company, and New Orleans Public Service Inc. (collectively, the "Operating Companies"), all public utility subsidiary companies of Middle South Utilities, Inc. ("Middle South"), a registered holding company, together with System Fuels, Inc. ("SFI"), a jointly owned nonutility subsidiary company of the Operating Companies, have filed with this Commission a post-effective amendment to the declaration previously filed in this proceeding pursuant to Sections 6(a), 7, 12(b) and 12(f) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 45 and 50(a)(5) thereunder.

Pursuant to the Commission's orders, dated May 21, 1980 and May 19, 1981 (HCAR Nos. 21584 and 22056), SFI, in order to finance fuel oil inventory, has, together with the Operating Companies, entered into a loan agreement, dated as of May 28, 1980, as amended ("Loan Agreement"), with Clipper Oil Corporation ("Clipper"). Under the Loan Agreement, Clipper makes loans to SFI in amounts not in excess of $100,000,000 at any one time outstanding out of the proceeds of commercial paper notes issued and sold by Clipper or the proceeds of revolving credit borrowings obtained by Clipper under a Credit Agreement, dated as of May 28, 1980, as amended ("Credit Agreement"), between Clipper and Bank of America National Trust and Savings Association. (HCAR No. 21584, May 21, 1980), (HCAR No. 22056, May 19, 1981.)

Pursuant to the provisions of the Loan Agreement, SFI has notified Clipper of its desire to extend the term of the Loan Agreement for an additional twelve month period, to July 31, 1983, and Clipper has agreed to such extension. The effectiveness of such extension is subject to the receipt of Commission approval. A corresponding extension of the term of the Credit Agreement would also be made. Authorization by the Commission is hereby requested to extend the term of the Loan Agreement and for SFI to continue to make borrowings thereunder during such extended term. No further changes in the transactions previously authorized have been or are expected to be effected thereby.

SFI is currently conducting negotiations to further amend the Loan Agreement to provide for, among other things, a three year renewal period. Such further amendment to the Loan Agreement will be the subject of a separate filing with the Commission. In the event that the Loan Agreement is not so amended, authorization is hereby requested for additional twelve-month extensions of the Loan Agreement without further Commission authorization. The Loan Agreement may be terminated if, at any time, SFE gives Clipper five days prior written notice thereof and pays various amounts owed in connection with the Loan Agreement, including payment of all loans (as that term is defined in the Loan Agreement) and other amounts owed to Clipper thereunder.

The amended declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by July 16, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarants at addresses specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing,

if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-18082 Filed 7-1-82; 0:45 am]

BILLING CODE 8010-01-M

[Release No. 12508; 812-5182]

Tax-Exempt Money Market Fund, Inc.; Filing of Application

June 25, 1982.

In the matter of Tax-Exempt Money Market Fund, Inc., 120 South LaSalle Street, Chicago, Illinois 60603, (812-5182).

Notice is hereby given that Tax-Exempt Money Market Fund, Inc. ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on April 29, 1982, requesting an order of the Commission pursuant to Section 6(c) of the Act exempting Applicant to the extent necessary from (1) the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to permit Applicant (a) to compute its net asset value per share using the amortized cost method of valuation, (b) to consider the maturity of variable rate demand notes and loan participations in its portfolio as the longer of the notice period required before the Applicant would be entitled to prepayment on the not or the period remaining until the note's next interest rate adjustment; and (c) to value in the manner described herein, rights acquired from issuers, dealers, or banks to sell portfolio securities to such persons; and (2) the provisions of Section 12(d)(3) of the Act to permit Applicant to acquire rights to sell its portfolio securities to brokers or dealers. All interested persons are referred to the application on file with the Commission for a statement of the representation therein, which are summarized below.

Applicant states that is a "money market" fund organized under the laws of Maryland to provide, through investment in a professionally-managed portfolio of high quality municipal securities, current income which is exempt from Federal income taxes to the extent consistent with stability of capital. Applicant further states that municipal securities in which it may invest ("municipal Securities") consist of obligations issued by or on behalf of state, territories, or possessions of the United States and the District of Columbia and their political subdivisions, agencies, or instrumentalities, the income from which is exempt from federal income tax.

Applicant represents that, in pursuing its investment objectives, it will only invest in "high quality" Municipal Securities, which at the time of purchase: (a) are rated within the two highest ratings for municipal obligations (Aaa or Aa) assigned by Moody's Investor's Service, Inc. ("Moody's") or (AAA or AA) assigned by Standard & Poor's Corporation ("S&P"); (b) are guaranteed or insured by the U.S. Government as to payment of principal and interest, such as tax-exempt project notes; (c) are fully collaterized by an escrow of U.S. Government securities or other securities acceptable to the Fund's adviser; (d) have a Moody's short-term municipal securities rating of MIG-2 or higher or a municipal commercial paper rating of A-2 or higher; (e) are unrated, if longer term municipal securities of that issuer are rated within the two highest rating categories by Moody's or S&P; or (f) are determined to be at least equal in quality to one more of the above ratings in the discretion of Applicant's investment adviser. Applicant further state that from time to time on a temporary basis, Applicant's portfolio may be invested in taxable short-term investments subject to quality limitations similar to those applicable for rated municipal Securities. Applicant represents that it seeks to maintain a $1.00 constant net asset value per share by keeping its dollar-weighted average portfolio maturity below 120 days, excluding from dividends unrealized gains and losses and gains and losses realized on the disposition of portfolio securities prior to maturity, and computing net asset value per share according to the amortized cost method of valuation.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to others securities and assets, fair value as determined in good faith by the board of directors. Rule 22c-1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing and redeemable security shall sell, redeem or repurchase any such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

Rule 2a-4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value and other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the investment company. Prior to the filing of the application, the Commission expressed its view that, among other things, (1) Rule 2a-4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent generally, with the provisions of Rule 2a-4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977). In view of the foregoing, Applicant requests exemptions from Section 2(a)(41) of the ACT and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant to value its portfolio by means of the amortized cost method of valuation.

In support of the relief requested, Applicant represents that amortized cost value represents the fair value of its portfolio securities. Applicant further states that its board of directors believes that the use of the amortized cost valuation method will benefit Applicant and its shareholders. It is stated that Applicant's investors would have, if the requested exemptions are granted, all the conveniences and advantages of a stable price of $1.00 per share under conditions designed to provide adequate safeguards concerning portfolio quality and in accordance with procedures designed to assure equitable treatment of investors and shareholders. In addition, Applicant has consented to the imposition of the following conditions in an order granting the exemptive relief it requests:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's Board of Directors undertakes—as a particular responsibility within its overall duty of care owed to Applicant's shareholders—

to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objective, to stabilize Applicant's net asset value per share, as computed for the purposes of distribution, redemption, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the Board of Directors shall be the following:

(a) Review by the Board of Directors as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of Applicant's net asset value per share as determined by using available market quotations from the $1.00 amortized cost price per share, and maintenance of records of such review.[1]

(b) In the event such deviation from Applicant's $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the Board of Directors will promptly consider what action, if any, should be initiated.

(c) Where the Board of Directors believes that the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which action may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten Applicant's average portfolio maturity; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

4. Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the Board of Directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the Board of Directors' meetings. The documents preserved, pursuant to this condition, shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act as though such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which the Board of Directors determines present minimal credit risks, and which are of high quality as determined by any major rating service, or in the case of any instrument that is not rated, of comparable quality as determined by Applicant's Board of Directors.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to condition 2(c) above was taken during the preceding fiscal quarter, and, if any action was taken, will describe the nature and circumstances of such action.

Applicant states that the proliferation of tax-exempt mutual funds has significantly increased the demand for short-term tax-exempt instruments and, as a result, available yields on such instuments have tended to decline. At the same time, Applicant states, certain issuers of tax-exempt instruments have sought to lengthen their maturities for reasons including the costs associated with repeated short-term issues. It is stated that these factors have lead to the offering of an increasing number of variable rate instruments.

Applicant states that it expects to invest a substantial portion of its assets in "variable rate" notes and "variable rate" loan participations. It is stated that these instruments have rates of interest which are renegotiated at least every 60 days, such that the value of the instrument should be equivalent to par value on each interest rate adjustment date. Applicant further states that the interest rate on variable rate notes is ordinarly determined by reference to or is a percentage of a bank's prime rate, the ninety-day U.S. Treasury Bill rate, the rate of return on commerical paper or bank certificates of deposit, or some similar objective standard at the time of renegotiation. It is also stated that variable rate loan participations are similar to variable rate notes except that they are made available through a commerical bank which arranges the tax-exempt loan.

Applicant further states that, in order to induce long-term borrowing relationships, issuers have begun offering higher yields on variable rate notes and loan participations containing a "demand" feature allowing either party to terminate the obligation with relatively short notice. Applicant states that it believes that the acquisition of such variable rate demand instruments would provide shareholders with a higher tax-exempt return without subjecting them to increased investment risk.

Applicant represents that, in accordance with the foregoing factors, it proposes to acquire, normally in negotiated transactions with the issuers, tax-exempt variable rate demand notes having the following features: (1) each instrument would have an interest rate determined by a prescribed formula and adjusted at periodic intervals not to exceed 60 days; (2) Applicant could at any time demand prepayment of the unpaid principal balance plus accrued interest thereon and would be entitled to repayment within a prescribed notice period not to exceed seven calendar days; (3) issuers could, at their discretion, prepay the outstanding principal plus accrued interest thereon upon notice to Applicant within a period comparable to the notice periods required for Applicant to demand prepayment; (4) absent an earlier exercise by Applicant or an issuer of their respective prepayment privileges, the principal and interest under each note would be payable on a date exceeding one year from the date of purchase by Applicant; (5) each note purchased by Applicant would be determined under procedures prescribed by Applicant's Board of Directors to present minimal credit risks and would be rated by a major rating service within its two highest rating categories or, if not rated, would be determined by Applicant's investment adviser to be comparable to tax-exempt securities within such rating of i.e., "high quality". Applicant states that the issuer's obligation to pay principal on its obligations would be supported by an irrevocable, unconditional bank letter or

[1] To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its Board of Directors in the exercise of its discretion to be appropriate indicators of value, which may include among others, (i) quotations or estimates of market value for individual portfolio instruments, or (ii) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant states that it will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

credit where necessary to ensure that the instruments were of "high quality" (i.e., where the Board of Directors could not determine that a note is of "high quality" without a letter of credit). Applicant states that, if a letter of credit is a feature of an instrument when it is purchased by Applicant, the instrument will continue to be supported by such letter of credit unless the quality of the instrument raises to within the two highest ratings, or the equivalent, without the letter of credit.

Applicant represents that its investment adviser intends to evaluate not less frequently than monthly the credit of the issuers of variable rate instruments and the backing banks in accordance with other procedures used to evaluate the quality of portfolio securities. Applicant further represents that it will dispose of any instrument (by exercising the demand privilege, where beneficial on notes having such right) where, due to an adverse change in the issuer's credit, Applicant's investment adviser or any rating service concludes that the note is no longer or "high quality" or is otherwise unsuitable for continued investment by Applicant.

Applicant states that it will normally have an unconditional right to sell the notes at any time. Applicant represents that any variable rate instrument that is not freely assignable would be required to be backed by an irrevocable, unconditional letter of credit from banks which would, in the opinion of Applicant's investment adviser, present minimal risk of default and would be major United States commercial banks having outstanding certificates of deposit suitable for inclusion in portfolios of high quality short-term money market instruments.

Applicant states that it proposes to acquire variable rate notes, variable rate loan participations and variable rate demand notes and loan participations as described above and to consider the maturity of such obligations for purposes of computing its dollar-weighted average portfolio maturity, as the longer of the notice period required before Applicant is entitled to prepayment under the instrument or the period remaining until the instrument's next interest rate adjustment.

Applicant further states that where the period remaining until the next interest rate adjustment is different from the notice period required for payment (i.e., for those securities with a demand feature), it would utilize the longer of the two periods for purposes of computing weighted average maturity. Applicant asserts that this approach would be the most conservative under the circumstances.

Applicant states, in addition, that in the case of variable rate notes or variable rate loan participations which do not have a demand feature, Applicant will only invest in instruments having a remaining maturity on the face of the instrument of one year or less. It is asserted that this practice, in addition to Applicant's requirement that the instruments be renegotiable at least every sixty days, should result in such notes having a value equal to par on each interest rate adjustment date.

Applicant submits that there are two general reasons for restricting the maturities of Applicant's portfolio securities. First, it is stated, lengthening the period to maturity of a fixed rate debt security valued according to the amortized cost method generally increases the risk that unrealized gains or losses will cause the security's amortized cost value to deviate materially from its current market value. Applicant states that this risk (because it primarily results from fluctuations in prevailing interest rates) is the "market risk". The second reason for limiting maturity, Applicant states, is that the"credit risk" represented by an instrument is generally perceived to increase as the instrument's maturity is lengthened. Applicant asserts that neither its proposed purchase of variable rate notes, variable rate loan participations and variable rate demand notes and loan participations nor its proposed method of computing its dollar-weighted average portfolio maturity would conflict with the intent of the order sought herein. Applicant states that because a note's interest rate adjustment provision reflects the prevailing rate from time to time on comparable tax-exempt securities, unrealized gains and losses with respect to any instrument would be eliminated as of each interest rate adjustment date. Absent unusual circumstances, Applicant asserts that the rate adjustment provision will permit the instruments to be sold at par on each interest rate adjustment date. Applicant further states that if the interest rate, as adjusted, does not sufficiently eliminate material unrealized appreciation or depreciation on the adjustment day (due to unforeseen circumstances other than a decline in the rating of the instruments to below high quality), Applicant undertakes to demand prepayment of the instrument in full. Applicant also states that it would sell the instruments or exercise its demand privilege (whichever is more beneficial) if, due to an advers change in the issuer's credit, the instruments are no longer high quality. Applicant asserts that the maturity of a note for purposes of determining its market risk is appropriately measured by the notice period required before Applicant is entitled to prepayment in full and that for purposes of measuring either of these risks, the maturity of an instrument would never exceed one year.

In connection with its proposed use of the amortized cost valuation method, subject to the conditions specified hereinabove, Applicant requests an exemption pursuant to Section 6(c) of the Act, to the extent necessary, to acquire variable rate demand notes and loan participations as described above and to consider the maturing of such instruments, for purposes of computing its dollar-weighted average portfolio maturity, as the longer of the notice period required before Applicant would be entitled to prepayment thereon, or the period remaining until the instrument's next interest rate adjustment. Applicant states that such exemption is appropriate in the public interest, and consistent with the protection of investors. Applicant asserts the ability to acquire variable rate demand notes and loan participations under the conditions described above is appropriate because it would not increase the credit or market risk to which Applicant and its shareholders will be exposed and is in the public interest because it would permit Applicant to purchase portfolio securities with possibly higher yields than would be available for fixed-rate securities of comparable quality.

Applicant further states that, in addition to a constant net asset value per share, its shareholders require the ability to receive same-day redemption proceeds in federal funds. It is stated further that "expedited" wire redemption orders received before 11:00 a.m., Chicago time, will be effected at the net asset value determined at 11:00 a.m. and shareholders will receive same-day redemption proceeds in federal funds. Applicant states that the federal funds "wire" closes for transmission purposes at 3:00 p.m. Eastern time, and that therefore Applicant has little time to obtain, either from maturing portfolio securities or settlements arranged that day on sales of securities, the cash needed to meet net redemptions. It is further stated that because periods of net redemptions cannot be predicted and the maturity dates of Municipal Securities held in Applicant's portfolio normally are non-negotiable, Applicant maintains that it cannot rely on scheduled maturities to meet net redemptions. In addition, Applicant asserts that regular settlement on sales of portfolio securities may take

five business days; thus, it is stated, unless prior arrangements assuring immediate liquidity have been made, the negotiation of same-day settlements on sales of portfolio securities within the brief time available is frequently impossible or may require Applicant to receive a less favorable execution price on a sale even though the securities sold have a short remaining maturity.

Applicant states that it proposes to improve its portfolio liquidity by assuring same-day settlements on portfolio sales, and thus facilitate the same-day payments of redemption proceeds in federal funds, through the acquisition of "Standby Commitments", sometimes characterized as "puts". A Standby Commitment, Applicant states, is a right of a fund, when it purchases a Municipal Security for its portfolio from an issuer, dealer, or bank, to sell the same principal amount of such securities back to the seller, at the fund's option, at a specified price. Applicant states further that its investment policies permit the acquisition of Standby Commitments solely to facilitate portfolio liquidity, and that the acquisition or exercisability of a Standby Commitment will not affect the valuation or maturity of its underlying portfolio.

Applicant states that the Standby Commitments will have the following features: (1) they will be in writing and will be physically held by Applicant's custodian; (2) they may be exercisable by Applicant at any time prior to the underlying security's maturity; (3) Applicant's rights to exercise them will be unconditional and unqualified; (4) they will be entered into only with dealers, or banks who, in the investment adviser's opinion, present a minimal risk of default; (5) although they will not be transferable, Municipal Securities pruchased subject to such commitments could be sold to a third party at any time, even though the commitment was outstanding; and (6) their exercise price will be (i) Applicant's acquisition cost of the Municipal Securities which are subject to the commitment (excluding any acrued interest paid on their acquisition) less any amortized market premium or plus any amortized market or original issue discount during the period Applicant owned the securities, plus (ii) all interest accrued on the securities since the last interest payment date during the period the securities were owned by Applicant. Applicant further states that since it will value its Municipal Securities on an amortized cost basis, the amount payable under a Standby Commitment will be substantially the same as the value assigned by Applicant to the underlying securities. Moreover, Applicant submits that there is little risk of an event occurring which would make the amortized cost valuation of its portfolio securities inappropriate; however, Applicant represents that in the unlikely event that the market or fair value of securities in its portfolio were not substantially equivalent to their amortized cost value, the securities would be valued on the basis of available market information and held to maturity. Applicant represents that it expects to refrain from exercising the Standby Commitments in such a situation to avoid imposing a loss on an issuer, dealer, or bank and jeopardizing Applicant's business relationship with that entity.

Applicant states that it expects that Standby Commitments generally will be available without the payment of any direct or indirect consideration. However, if necessary or advisable, Applicant states that it will pay for Standby Commitments, either separately in cash or by paying a higher price for portfolio securities which are acquired subject to the commitment.

Applicant asserts that it is difficult to evaluate the likelihood of use of the potential benefit of a Standby Commitment. Therefore, Applicant states that its Board of Directors will determine that Standby Commitments have a "fair value" of zero, regardless of whether any direct or indirect consideration is paid. Where Applicant has paid for a Standby Commitment, Applicant states that its cost will be reflected as unrealized depreciation for the period during which the commitment is held. In addition, for purposes of complying with the other conditions of its amortized cost order that the dollar-weighted average maturity of its portfolio shall not exceed 120 days, Applicant states that the maturity of a portfolio security shall not be considered shortened or otherwise affected by any Standby Commitment to which such security is subject.

Applicant states that it has been advised by its counsel that the Internal Revenue Service ("IRS") has issued a favorable private ruling to the effect that a registered investment company will be the owner of municipal securities acquired subject to a put option and that interest on the securities will be tax-exempt to the company. Applicant states, however, that it does not intend to seek a favorable ruling from the IRS with respect to its Standby Commitments. Applicant further states that there is no assurance that Standby Commitments will be available to it nor does Applicant assume that such commitments would continue to be available under all market conditions.

Section 12(d) of the Act, in relevant part, prohibits any registered investment company from purchasing or otherwise acquiring any security issued by or any other interest in the business of any person who is a broker, a dealer, is engaged in the underwriting, or is an investment adviser. Therefore, Applicant requests an order pursuant to Section 6(c) of the Act exempting it from the provisions of Section 12(d)(3) of the Act to the extent necessary to permit its acquisition of Standby Commitments from brokers or dealers. Applicant also requests, pursuant to Section 6(c) of the Act, an exemption from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder, pemitting it to value Standby Commitments in the manner described hereinabove.

Applicant asserts that this relief is appropriate in the public interest, and consistent with the protection of investors. Applicant asserts that the proposed acquisition of Standby Commitments will not affect its net asset value per share for purposes of sales and redemptions and will not pose new investment risks, but rather will improve its liquidity and ability to pay redemption proceeds the same day in federal funds. Applicant states that its reliance upon the credit of issuers, dealers, or banks from which it purchases commitments will be secured to the extent of the value of the underlying municipal securities which are subject to these commitments. Therefore, Applicant asserts that a Standby Commitment presents less risk than a bank certificate of deposit and will be qualitatively no greater a risk than the risk of loss faced by any investment company which is holding securities pending settlement after having agreed to sell the securities to a broker or dealer in the ordinary course of business. Moreover, Applicant states that its investment adviser intends to evaluate periodically the credit of institutions issuing Standby Commitments. For that reason and in light of determining Applicant's net asset value, Applicant states that the acquisition of such commitments will not meaningfully expose its assets to the entrepreneurial risks of the investment banking business, nor require it to evaluate the credit of brokers or dealers in determining its net asset value.

Notice is hereby given that any interested person may, not later than July 20, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied

by a statement as to the nature of his/her interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he/she may request that he/she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82–18083 Filed 7–1–82; 8:45 am]

BILLING CODE 8010–01–M

Boston Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

June 28, 1982.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the common stock of:

Delmed Inc., Common Stock, $.10 Par Value (File No. 7–6255)

This security is listed and registered on one or more other national securities exchanges and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before July 20, 1982 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if its finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–18081 Filed 7–1–82; 8:45 am]

BILLING CODE 8010–01–M

Pacific Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

June 28, 1982.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Southmark Corporation, Common Stock, $1 Par Value (File No. 7–6253)

Genuine Parts Company, Common Stock, $1 Par Value (File No. 7–6254)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before July 20, 1982 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–18080 Filed 7–1–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 18845; File No. SR–CBOE–82–6]

Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc.

June 28, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on June 9, 1982, the Chicago Board Options Exchange, Incorporated ("CBOE") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change provides a clarification of the Exchange's interpretation of Rule 4.11 on position limits. The proposed rule change indicates that the Exchange, in aggregating options positions, will consider not only a person's ownership interest in different accounts, but also the person's actual ability to exercise control over the position. Under the proposed rule change, CBOE will determine, on a case-by-case basis, whether a person is able to control an options position. The CBOE has indicated that the proposed rule change will not have an impact on competition.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 under the Act. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission by July 23, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, DC 20549. Reference should be made to File No. SR–CBOE–82–6.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5

U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-18084 Filed 7-1-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18844; SR-OCC-82-6]

Options Clearing Corporation ("OCC"); Order Approving Proposed Rule Change

June 25, 1982.

On February 24, 1982, OCC filed with the Commission pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), (the "Act") and Rule 19b-4 thereunder, a proposed rule change that allows OCC to implement its pilot Escrow Receipt Depository ("ERD") program on a full-scale basis. ERD automates the processing of escrow deposits and allows related premium settlements between clearing members and ERD participating banks to be effected through OCC's facilities.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 18689, April 16, 1982) and by publication in the **Federal Register** (47 FR 18080, April 27, 1982). No letters of comment were received by the Commission.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies, and in particular, the requirements of Section 17A of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-18085 Filed 7-1-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 06/06-0258]

Texas Commerce Investment Co.; Issuance of a License To Operate as a Small Business Investment Company

On March 26, 1982, a notice was published in the **Federal Register** (47 FR 13071), stating that Texas Commerce Investment Company, located at 712 Main Street, Houston, Texas 77002, has filed an application with the Small Business Administration pursuant to 13 CFR 107.102 (1982), for a license to operate as a small business investment company under the provisions of Section 301(c) of the Small Business Investment Act of 1958, as amended.

The period for comment expired on April 12, 1982, and no significant comments were received.

Notice is herey given that considering the application and other pertinent information, SBA has issued License No. 06/06-0258 to Texas Commerce Investment Company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: June 25, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-18080 Filed 7-1-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Privacy Act of 1974; Proposed Revision of a System of Records

AGENCY: Internal Revenue Service, Treasury.

ACTION: Proposed Revision of a System of Records.

SUMMARY: Pursuant to the requirements of the Privacy Act of 1974 (5 U.S.C. 552a), the Department of the Treasury, Internal Revenue Service, gives notice of proposed revisions to Treasury/IRS System of Records entitled, TDA (Taxpayer Delinquent Accounts)—Treasury/IRS 26.019. Treasury/IRS 26.019 is being modified to include child support obligation accounts which are collected by the Internal Revenue Service.

DATES: Public comments must be received on or before August 2, 1982. If no comments are received, to which the Department publishes a revision to incorporate comments, this system will become effective on August 31, 1982.

ADDRESS: Assistant Commissioner (Collection), Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Goldsmith, Chief, Office of Planning and Management, Assistant Commissioner (Collection), Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, (202) 566-4250.

Dated: June 22, 1982.

George Astengo,

Acting Assistant Secretary (Administration).

Notice of Revised System of Records

Treasury/IRS 26.019

The following system is revised:

TREASURY/IRS 26.019

SYSTEM NAME:

TDA (Taxpayer Delinquent Accounts) including subsystems: (a) Adjustment and Payment Tracer Files, (b) Collateral Files, (c) Seized Property Records, (d) Tax Collection Waiver (Form 900) Files, and (e) Accounts on Child Support Obligations, OP:C—Treasury/IRS.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers on whom Federal tax assessments have been made and persons who owe child support obligations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, taxpayer identification number, information about basis of assessment, including class of tax, period, dollar amounts, chronological investigative history, cancelled checks, amended returns, claims, collateral submitted to stay collection, copies of notices of Federal tax liens, revenue officer reports, waivers to extend statutory period for collection, etc., and similar information about persons who owe child support obligations. This system includes installment agreement files; Delinquent Account Inventory Profiles (DAIPs); Currently Not Collectible Registers; Currently Not Collectible Registers (over $25,000); advance dated remittance check files; currently not collectible accounts files; a file of taxpayer names entered in the Treasury Enforcement Communications System; and, a code identifying taxpayers that threatened or assaulted IRS employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 6305, 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine disclosure may be made to the extent provided by law or regulation (included 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable). For additional routine uses, see Appendix AA.

RETRIEVABILITY:

By name of taxpayer or person who owes child support obligations.

SAFEGUARDS:

Access controls will be not less than that provided for by IRM 1(16)12, Manager's Security Handbook.

RETENTION AND DISPOSAL:

As specified in IRM 1(15)59.24, Records Control Schedule 204 for Collection, Taxpayer Service and Problem Resolution Program—District Offices, and IRM 1(15)59.26, Records Control Schedule 206 for Service Centers.

[FR Doc. 82-18004 Filed 7-1-82; 8:45 am]

BILLING CODE 4830-01-M

Public Information Collection Requirements Submitted to OMB for Review

During the period June 18 through June 24, 1982, the Department of Treasury submitted the following public information collection requirements to OMB, for review and clearance under the Paperwork Reduction Act of 1980, P.L. 96-511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634-2179. Comments regarding these information collections should be addressed to the Treasury Reports Management Officer, Information Resources Management Division, Room 309, 1625 I St. NW., Washington, D.C. 20220; *and* to the OMB reviewer listed at the end of each entry.

Date Submitted: June 23, 1982.
Submitting Bureau: Bureau of Government Financial Operations.
OMB Number: 1510-0019.
Form Number: TFS 1133.
Type of Submission: Revision.
Title: Claim Against the United States for the Proceeds of a Government Check.
Purpose: This form is used to record information pertaining to adjudicating the payee's request for payment for a lost, mutilated or stolen U.S. Government check.
OMB Reviewer: Suzanne Evinger, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.
Date Submitted: June 24, 1982.
Submitting Bureau: U.S. Customs Service.
OMB Number: 1515-0014.
Form Number: CF 4455.
Type of Submission: Extension.
Title: Certificate of Registration.
Purpose: The executed form certifies that the returned articles meeting Customs requirements are the same as those previously exported for the purpose of alterating, repair, use abroad, replacement, processing or other, and are therefore entitled to duty free entry.
OMB Reviewer: Suzanne Evinger, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.
Date Submitted: June 24, 1982.
Submitting Bureau: Internal Revenue Service.
OMB Number: 1545-0232.
Form Number: 6497.
Type of Submission: Extension.
Title: Information Return of Energy Grants or Subsidized Energy Financing.
Purpose: The form is to be filed by any governmental agency (Federal, State, or local) or its agent that makes grants or subsidized financing for energy conservation projects. The information is required to be reported under IRC section 6050D. The information is used to be sure that energy credits are not taken for government-financed projects.
OMB Reviewer: Michael Abrahams, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.
Date Submitted: June 21, 1982.
Submitting Bureau: Internal Revenue Service.
OMB Number: 1545-0387.
Form Number: 4419.
Type of Submission: Revision.
Title: Application for Magnetic Media Reporting of Information Returns.
Purpose: 26 U.S.C. 6041 and 6042 require that all persons engaged in a trade or business and making payments of taxable income are required to file reports of this income with IRS. Payers who wish to file these returns on magnetic media instead of paper documents must complete Form 4419 to receive authorization for filing on tape.
OMB Reviewer: Michael Abrahams, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.
Date Submitted: June 24, 1982.
Submitting Bureau: Internal Revenue Service.
OMB Number: 1545-0212.
Form Number: 5558.
Type of Submission: Revision.
Title: Application for Extension of Time to File Certain Employee Plan Returns.
Purpose: Used by employers to request extensions of time to file employee plan annual information returns and the employee plan excise tax return (Form 5330). The data supplied in this form is used to determine if such extension of time is warranted.
OMB Reviewer: Michael Abrahams, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Joy Tucker,

Departmental Reports Management Officer.

June 28, 1982.

[FR Doc. 82-18054 Filed 7-1-82; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 128
Friday, July 2, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Tuesday, July 6, 1982, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,284-L—Franklin National Bank, New York, New York
Case No. 45,286-L—American City Bank & Trust Company, National Association, Milwaukee, Wisconsin
Case No. 45,287-SR—Farmers Bank of Petersburg, Petersburg, Kentucky
Case No. 45,290-SR—The Peoples Bank of the Virgin Islands, Charlotte Amalie, Virgin Islands
Case No. 45,292—The Greenwich Savings Bank, New York, New York

Recommendation with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Gibbs, Roper, Loots & Williams, Milwaukee, Wisconsin, in connection with the liquidation of American City Bank & Trust Company, National Association, Milwaukee, Wisconsin.

Memorandum and resolution re: Delegation of authority to administer petty cash funds.

Report of committees and officers:

Minutes of the actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.
Reports of the Division of Bank Supervision with respect to applications or requests approved by the Director or Associate Director of the Division and the various Regional Directors pursuant to authority delegated by the Board of Directors.
Report of the Director, Division of Liquidation:
Memorandum re: Morrice State Bank, Morrice, Michigan, Termination of Field Liquidation Office
Report of the General Counsel:
Memorandum re: Report of Actions Approved Under Delegated Authority: Settlements of Claims and Attorneys' Fees Approved for Payment
Reports of the Director, Office of Corporate Audits:
Memorandum re: Office of Corporate Audits' Quarterly Certification of Division of Liquidation Approvals Under Delegated Authority
Audit Report re: Project Review of the Accounts Receivable Subsystem—Interim Audit Report #2, dated June 1, 1982.

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 500 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: June 29, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-971-82 Filed 6-30-82; 11:11 am]

BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Tuesday, July 6, 1982, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b (c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii), of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents, or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Recommendations regarding the liqudiation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,272-NR—United States National Bank, San Diego, California
Memorandum and Resolution re: The Hamilton National Bank of Chattanooga, Chattanooga, Tennessee.

Memorandum re: Corporation policy regarding leave-without-pay for the purpose of obtaining an advanced degree or taking a sabbatical to teach or study in a job-related area.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4025.

Dated: June 29, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–973–82 Filed 6–30–82; 11:11 am]

BILLING CODE 6714–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, June 28, 1982, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Memorandum and Resolution re: Proposed amendments to Parts 303, 304, and 347 of the Corporations's rules and regulations, entitled "Applications, Requests, Submittals, and Notices of Acquisition of Control," "Forms, Instructions, and Reports," and "Foreign Activities of Insured State Nonmember Banks," respectively, which would expedite the processing of applications for consent to establish foreign and domestic branches (including remote service facilities) and to relocate offices.

By the same majority vote, the Board further determined that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: June 30, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–75–82 Filed 6–30–82; 3:40 pm]

BILLING CODE 6714–01–M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, June 28, 1982, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Discussion of an FDIC assistance agreement with an insured bank.

Discussion of a proposal regarding a branch of an insured bank.

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), (c)(9)(A)(ii) and (c)(9)(B)).

Dated: June 30, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–976–82 Filed 6–30–82; 3:07 pm]

BILLING CODE 6714–01–M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

Cancellation of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the special open meeting of the Corporation's Board of Directors scheduled for 2:00 p.m. on Wednesday, June 30, 1982, at which the Board was to take up the following matter, has been cancelled:

Petition of the Investment Company Institute seeking a public hearing and certain other relief in connection with the creation and operation by The Boston Five Cents Savings Bank, Boston, Massachusetts, of two wholly-owned subsidiaries to advise and distribute shares in a mutual fund.

No earlier notice of the cancellation of the meeting was practicable.

Dated: June 30, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–977–82 Filed 6–30–82; 3:08 pm]

BILLING CODE 6714–01–M

6

FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 11 a.m., Wednesday, July 7, 1982, following a recess at the conclusion of the open meeting.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Federal Reserve Bank and Branch director appointments.

3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: June 29, 1982.

James McAfee,

Associate Secretary of the Board.

[S–969–82 Filed 6–30–82; 8:50 am]

BILLING CODE 6210–01–M

7

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10 a.m., Wednesday, July 7, 1982.

PLACE: Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposals with respect to contemporaneous reserve requirements. (Proposed earlier for public comment: Docket No. R–0371)

2. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: June 29, 1982.

James McAfee,

Associate Secretary of the Board.

[S-069-82 Filed 6-30-82; 8:49 am]

BILLING CODE 6210-01-M

8

FEDERAL TRADE COMMISSION

TIME AND DATE: 2 p.m., Tuesday, July 6, 1982.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

STATUS: Open.

MATTER TO BE CONSIDERED: Policy Review Session on Civil Penalties.

CONTACT PERSON FOR MORE INFORMATION:
Susan B. Ticknor, Office of Public Information: (202) 523-1892; Recorded Message: (202) 523-3806.

[S-070-82 Filed 6-30-82; 10:34 am]

BILLING CODE 6750-01-M

9

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published.

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, June 22, 1982.

CHANGES IN THE MEETING: Additional meeting. The following item will be considered at a closed meeting scheduled for Tuesday, June 29, 1982, at 5:30 p.m.:

Settlement of injunctive actions.

Chairman Shad and Commissioners Evans, Thomas and Longstreth determined by vote that Commission business required consideration of this matter and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Bob Zutz at (202) 272-2091.

June 29, 1982.

[S-073-82 Filed 6-30-82; 11:41 am]

BILLING CODE 8010-01-M

10

TENNESSEE VALLEY AUTHORITY

TIME AND DATE: 10:15 a.m. (e.d.t.), Wednesday, July 7, 1982.

PLACE: TVA, West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

Action Items

A—Project Authorizations

1. Project Authorization No. 3241.4—Amendment to project authorization for wet-process phosphoric acid pilot-plant processes.

B—Purchase Awards

1. Request for delegation of procurement authority for negotiation of discounted enrichment services.
2. Amendment to contract 80K34-827436 with The Babcock & Wilcox Company, Barberton, Ohio, for boiler balanced-draft conversion at Paradise Steam Plant units 1 and 2.
3. Proposed contracts with the Louisville & Nashville Railroad for unit-train transportation of coal.

C—Power Items

*1. Proposed uranium loan to Urangesellschaft U.S.A., Inc.
*2. Cogeneration agreement with Weyerhaeuser Company, Columbus, Mississippi.
3. Lease and amendatory agreement with Cumberland Electric Membership Corporation covering arrangements for lease of TVA's Ashland City, Green Brier, Lone Oak, Orlinda, and Shady Grove 69-kV substations to permit higher voltage service.
4. Deed covering conveyance of TVA's Hamilton 46-kV Substation property to Kerr-McGee Chemical Corporation at Hamilton, Mississippi.
5. Adoption of supplemental resolution authorizing 1982 Series C power bonds.
6. Resolution authorizing the Chairman and other executive officers to take further action relating to issuance and sale of 1982 Series C power bonds.

D—Personnel Items

1. Renewal of consulting contract with John M. Kellberg, Knoxville, Tennessee, for advice and assistance in connection with design and construction of hydro and thermal power plants, requested by the Office of Engineering Design and Construction.
2. Renewal of consulting contract with Roland A. Kampmeier, Chattanooga, Tennessee, for advice and assistance in connection with TVA's power programs and energy-related programs, requested by the Office of Power.
3. Amendment to personal services contract with Wyle Laboratories, Huntsville, Alabama, for engineering and related services, requested by the Office of Engineering Design and Construction.
4. Personal services contract with Allied Nuclear, Inc., Freemont, California, for services of health physics technicians, requested by the Office of Power.
5. Personal services contract with Sasser's Consulting Services, Inc., Tavares, Florida, for services of health physics technicians, requested by the Office of Power.

F—Unclassified

1. Revised budget plan for fiscal year 1982—midyear review.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245-0101.

Dated: June 30, 1982.

[S-074-82 Filed 6-30-82; 2:09 pm]

BILLING CODE 8120-01-M

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*Items approved by individual Board members. This would give formal ratification of the Board's action.

federal register

Friday
July 2, 1982

Part II

Department of Health and Human Services

Food and Drug Administration

Orthopedic Devices; General Provisions and Classification of 77 Devices

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 888

[Docket No. 78N-2830]

Orthopedic Devices; General Provisions and Classification of 77 Devices

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing general rules applicable to the classification of orthopedic devices in commercial distribution. The Medical Device Amendments of 1976 require the agency to classify all medical devices intended for human use into three categories: class I, general controls; class II, performance standards; and class III, premarket approval. In the preamble, FDA describes the development of the proposed regulation classifying 77 orthopedic devices. The preamble also describes the activities of the Orthopedic Device Section of the Surgical and Rehabilitation Devices Panel (formerly the Orthopedic Device Classification Panel), an FDA advisory committee that makes recommendations to FDA concerning the classification of orthopedic devices.

DATES: Comments by October 1, 1982. FDA proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: James G. Dillon, Bureau of Medical Devices (HFK-410), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Device Classification System

The Medical Device Amendments of 1976 (the amendments) (Pub. L. 94-295), establish a comprehensive system for the regulation of medical devices intended for human use. One provision of the amendments, section 513 of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. 360c) establishes three categories (classes) of devices, depending on the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories are as follows: class I, general controls; class II, performance standards; and class III, premarket approval.

Most devices are not classified under section 513 of the act until after FDA has (1) received a recommendation from a device panel (an FDA advisory committee); (2) published the panel's recommendation for comment, along with a proposed regulation classifying the device; and (3) published a final regulation classifying the device. These steps must precede the classification of any device that was in commercial distribution before May 28, 1976 (the date of enactment of the amendments) and that was not previously regarded by FDA as a new drug under section 505 of the act (21 U.S.C. 355). A device that is first offered for commercial distribution after May 28, 1976, and that is substantially equivalent to a device classified under this scheme, is classified in the same class as the device to which it is substantially equivalent.

A device that FDA previously regarded as a new drug, or a newly offered device that is not substantially equivalent to a device that was in commercial distribution before the amendments, is classified by statute into class III. These two types of devices are classified into class III without any FDA rulemaking proceedings. The agency determines whether new devices are substantially equivalent to previously offered devices by means of the premarket notification procedure in section 510(k) of the act (21 U.S.C. 360(k)) and Part 807 of the regulations (21 CFR Part 807).

Related Regulations

In the **Federal Register** of July 28, 1978 (43 FR 32988), the agency issued final regulations describing the procedures for classifying devices intended for human use. These regulations, which were proposed in the **Federal Register** of September 13, 1977 (42 FR 46028), supplement the agency's regulations in Part 14 (21 CFR Part 14) governing the use of advisory committees. The agency also issued interim device classification procedures in a notice published in the **Federal Register** of May 19, 1975 (40 FR 21848).

Activities of Panel

Anticipating enactment of the amendments, FDA established several advisory committees to make preliminary recommendations on device classification. The Orthopedic Device Classification Panel (the Panel) was originally chartered on April 25, 1972, as the Panel on Review of Orthopedic Devices. FDA placed a report of the Panel's tentative classification recommendations on file with the Dockets Management Branch (HFA-305), Food and Drug Administration, and announced the availability of the report to the public by notice published in the **Federal Register** of June 25, 1976 (41 FR 26245). On August 9, 1976, the Panel and other preamendments device classification panels were rechartered to reflect their new responsibilities under the amendments. The agency directed each panel to reconsider its preamendments classification recommendations in light of the new requirements. In 1976 and 1977, the Panel reviewed all devices that FDA had referred to it to make certain that its recommendations were in accord with the amendments. Throughout the Panel's deliberations, interested persons were given an opportunity to present their views, data, and other information concerning the classification of orthopedic devices. The Panel also invited experts to testify and sought information from the published literature on many devices.

In October 1977, the Panel submitted to FDA a preliminary report of its recommendations. The report included a roster of current and former Panel members and consultants and listed all meeting dates. The agency placed a copy of the report in the Dockets Management Branch (HFA-305), Food and Drug Administration, and announced its availability to the public by notice published in the **Federal Register** of November 29, 1977 (42 FR 60792). Also available in the Dockets Management Branch are summary minutes from all Panel meetings, verbatim transcripts of meetings held after May 28, 1976 (the date of enactment of the amendments), and all references cited in this proposal.

On April 28, 1978, the agency terminated all of the device classification panels and then reestablished them with the same functions, but with new names and a new structure. FDA published notices of these changes in the **Federal Register** of May 19, 1978 (43 FR 21666, 21667, and 21668) and May 26, 1978 (43 FR 22672 and 22673). The Orthopedic Device Classification Panel was terminated, and its functions are now conducted by the Orthopedic Device Section of the Surgical and Rehabilitation Devices Panel.

Most of the Panel classification recommendations published in this preamble are those made in 1977 by the earlier Orthopedic Device Classification Panel. But recommendations on the following nine orthopedic devices are

those made on November 19, 1980, by the Orthopedic Device Section of the Surgical and Rehabilitation Devices Panel (Ref. 1):

Section	Device	Docket No.	Class
888.3300	Hip joint metal constrained prosthesis.	78N-3070	III.
888.3310	Hip joint metal/polymer constrained prosthesis.	78N-3071	III.
888.3370	Hip joint (hemi-hip) acetabular metal prosthesis.	78N-3076	III.
888.3400	Hip joint femoral (hemi-hip) resurfacing prosthesis.	78N-3080	II.
888.3510	Knee joint femorotibial metal/polymer constrained prosthesis.	78N-3084	II.
888.3660	Shoulder joint glenoid (hemi-shoulder) prosthesis.	78N-3058	III.
888.5940	Cast components	78N-3123	I.
888.5950	AC-powered cast removal instruments.	78N-3124	II.
888.5960	Manual cast application/removal instruments.	78N-3125	I.

Relationship Between the Device Names in the Device Registration and Listing Codes and the Device Names in Classification Regulations

Some manufacturers have become accustomed to identifying a device by its registration and listing name and code used for purposes of device listing under section 510 of the act (21 U.S.C. 360). However, FDA is still making changes in the names and identifications of generic types of devices in the classification regulations for all devices for which final regulations have not been published. Because FDA has not used the present device registration and listing names in the proposed and final classification regulations, FDA has prepared an index of names of generic types of medical devices used in classification regulations to aid a manufacturer in matching its device with the proper classification regulation. The index shows the device registration and listing product code for each device reviewed by a classification panel and the corresponding name of the generic type of device and classification panel in which device classification will be published in the **Federal Register**. The agency announced the availability of this index in the **Federal Register** of March 6, 1979 (44 FR 12269). If necessary, this index will be updated and the availability of the revised index will be reannounced in the **Federal Register**. FDA believes that, because this index is available, it is unnecessary to include or cross-reference the present device registration and listing name and product code in the classification regulations. In the future, following publication of most of the device classification regulations, the agency will revise and reissue the device registration and listing product code, so the device names to be used for registration and listing correspond to the device names in the final device classification regulations.

List of Orthopedic Devices

In 1972, FDA surveyed device manufacturers to identify the devices for which classification regulations would be needed. Following this survey, FDA developed a list of orthopedic devices. The Panel supplemented the list using its members' knowledge of orthopedic devices in use. Devices that were solely for experimental or investigational use, that were not generally available, or that had been regarded as new drugs were not included. Additional orthopedic devices, which were not included in this list and which were commercially available before May 28, 1976, will be added to the list as necessary.

FDA is proposing to establish a new Part 888 in Title 21 of the Code of Federal Regulations. Part 888 will consist of sections identifying each orthopedic device with a brief narrative description and stating the classification of that device. The list of orthopedic devices appears elsewhere in this preamble.

Orthopedic Device Classifications

FDA is proposing to classify 77 orthopedic devices. The agency is proposing to classify 15 orthopedic devices into class I (general controls), 38 orthopedic into class II (performance standards), and 24 orthopedic devices into class III (premarket approval). The agency also is publishing the recommendations of the Panel regarding these devices, as required by section 513 (c)(2) and (d)(1) of the act (21 U.S.C. 360c (c)(2) and (d)(1)).

Panel Recommendations

The Panel recommendation concerning an orthopedic device includes the information described below.

1. *Identification.* Both the Panel recommendation and the proposed FDA classification include a brief narrative identification of the generic type of the device. The identification statement is necessarily broad because it applies to a category or type of device rather than to a specific device. As explained in proposed § 888.1, any manufacturer of a newly offered device who files a premarket notification submission under section 510(k) of the act (21 U.S.C. 360(k)) and Part 807 (21 CFR Part 807) of the regulations cannot show merely that the device is accurately described by the section title and identification provisions of a classification regulation. Although a newly offered device may be described accurately by the title and identification in a classification regulation, it is nevertheless in class III under section 513(f) of the act if it is not substantially equivalent to a preamendments device (or to a postamendments device that has already been reclassified from class III into class I or class II). It is not practical for FDA to publish an identification of each type of device that is so detailed as to anticipate every product feature that may be relevant in determining whether a new device is substantially equivalent to previous devices classified by the regulation. The agency believes that this problem was recognized in, and addressed by, the premarket notification procedures in section 510(k) of the act. Accordingly, any manufacturer who submits a premarket notification submission should state why the manufacturer believes the device is substantially equivalent to other devices in commercial distribution, as required by § 807.87 (21 CFR 807.87), and whether the device is described in a classification regulation.

Some products have both medical and nonmedical uses. FDA will regulate a multipurpose product as a medical device if it is intended for a medical purpose, i.e., for "use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease," or "to affect the structure or any function of the body." (Section 201(h) of the act (21 U.S.C. 321(h)).) FDA will determine the intended use of a product based upon the expressions of the person legally responsible for its labeling and by the circumstances surrounding its distribution. The most important factors the agency will consider in determining the intended use of a particular product are the labeling, advertising, and other representations accompanying the product. Products that have medical uses only are clearly intended for medical purposes and, therefore, will be regulated as medical devices whether or not medical claims are made for them.

Composition of materials used in orthopedic prosthetic devices: The Panel believed that the generic chemical formula of materials should be omitted from the proposed name of the device, although material specifications may be placed in the device's identification. Use of the general term "metal" in the proposed name of the device means that a component of the device is made of one or more kinds of metal or metal alloys. Use of the general term "polymer" in the proposed name of the

device means that a component is made of one or more kinds of synthetic compounds, usually of high molecular weight, consisting of up to millions of repeated, linked units, each a relatively low molecular weight molecule.

Resurfacing technique: Because of resurfacing techniques, certain joint prostheses require far less bone resection than other devices intended to repair or replace the same joint. The amount of bone resection may or may not affect the safety and effectiveness of the implantation of the prosthesis. When a resurfacing technique is used, the proposed name of the prosthesis includes this information.

Degree of constraint: Certain joint prostheses provide more constraint of joint movement than others. FDA believes that the degree of constraint is an important factor affecting the safety and effectiveness of orthopedic prostheses. Consequently, FDA considered the degree of constraint imposed by the prosthesis when determining whether to propose classification of the device into class II or class III. Because of the lack of consistent descriptive terminology in the literature, FDA is proposing the following standard terms for categorizing the degree of constraint, based on concepts developed by Chao and Mullen (Ref. 2).

(a) A *constrained* joint prosthesis is used for joint replacement and prevents dislocation of the prosthesis in more than one anatomic plane and consists of either a single, flexible, across-the-joint component or more than one component linked together or affined.

(b) a *semi-constrained* joint prosthesis is used for partial or total replacement and limits translation and rotation of the prosthesis in one or more planes via the geometry of its articulating surfaces. It has no across-the-joint linkage.

(c) A *non-constrained* joint prosthesis is used for partial or total joint replacement and restricts minimally prosthesis movement in one or more planes. Its components have no across-the-joint linkage.

Standardized names of orthopedic prosthetic devices intended for joint replacement. Based on recommendations made by Panel members and on current terminology used in the medical literature, FDA is proposing that certain information be included in the names of the generic types of orthopedic prosthetic devices intended for joint replacement. FDA proposes that the generic names of devices intended for joint replacement identify:

(1) The joint or tissue being replaced and, if appropriate, the articulating bone surfaces;

(2) The general type of materials used in the device, if appropriate;

(3) The degree of constraint being imposed by the device, if appropriate;

(4) When a resurfacing technique is used;

(5) When the device is not implanted into the bone with a polymethylmethacrylate-type luting agent (bone cement), if appropriate; and

(6) That the device is a prosthesis.

2. *Recommended classification.* Each Panel's recommendation describes whether the device is recommended for classification into class I, class II, or class III.

For each device recommended for classification into class I, the Panel considered whether the device should be exempt from any requirements under certain sections of the act; section 510 (21 U.S.C. 360, registration), section 519 (21 U.S.C. 360i, records and reports), and section 520(f) (21 U.S.C. 360j(f), the good manufacturing practice (GMP) requirements). The Panel recommended that the manufacturers of several devices be exempted from section 510, section 519, and section 520(f) of the act. The agency's policy concerning these exemption recommendations is discussed below in the section of this proposal concerning "Exemptions for Class I Devices."

A Panel recommendation that a device be classified into class II includes the Panel's recommended priority ("high," "medium," or "low") for establishing a performance standard for the device. Similarly, each Panel recommendation that a device be classified into class III includes the Panel's recommended priority ("high," "medium," or "low") for application of premarket approval requirements to that device. As explained below in the section of this notice concerning "Priorities for Class II and Class III Devices," however, the agency is not proposing the establishment of FDA priorities at this time.

3. *Summary of reasons for recommendation.* The summary of reasons for the Panel's recommendation explains why the Panel believes that a particular device meets the statutory criteria for classification into class I, II, or III.

Except in those instances in which FDA's classification proposal differs from the Panel's recommendation, FDA is adopting the Panel's summary of reasons as the agency's statement of the reasons for issuing the regulations, as required by section 517(f) of the act (21 U.S.C. 360g(f).

4. *Summary of data on which the recommendation is based.* In many cases, the Panel based its recommendations on the Panel members' personal knowledge of, and clinical experience with, the devices under review. The Panel particularly relied upon clinical experience and judgement when considering a simple device that had been used extensively and was accepted widely before the amendments were enacted. The legislative history of the amendments provides that the term "data" has a special meaning in section 513(c)(2)(A) of the act, which requires that a Panel recommendation summarize the data upon which a recommendation is based. As used in that section, "data" refer not only to the results of scientific experiments, but also to less formal evidence, other scientific information, or judgements of experts (House Committee on Interstate and Foreign Commerce, Medical Device Amendments of 1976, H.R. Rept. No. 94-853, 94th Congress, 2d Session 40 (1976)). FDA has determined that clinical experience and judgment constitute valid scientific evidence for classifying certain devices.

In many cases, FDA sought more data and information concerning the classification of a device than were cited by the Panel. References to these data and information are found in the section for each orthopedic device under the heading "Panel Recommendations and FDA's Proposed Classifications."

The agency is adopting as its statement of the basis for issuing the regulation under section 517(f) of the act, the Panel's summary of the data on which a recommendation to classify a device is based, together with any additional data and information cited in FDA's proposed classifications.

5. *Risks to health.* In identifying the risks to health presented by orthopedic devices, the Panel recognized that few devices are completely free of risk. The Panel listed the risks it considered most significant, especially those that are unique to the individual device. In some cases, FDA has identified risks to health presented by a device in addition to those listed by the Panel. These additional risks are set out for each device in the preamble under the heading "Panel Recommendations and FDA's Classifications."

In addition to those hazards explicitly mentioned, the Panel and FDA recognize that there are general hazards associated with orthepedic prosthetic devices, such as risk of infection, risk of thromboemboli generation, risk of corrosion of metal implants, risk of

reoperation, and other possible complications due to use of bone cement and metal alloys. Specifically, Rae (Ref. 3) has shown that ingested particles of orthopedic alloys induce cellular damage. His work demonstrates that the alternations in phagocytic activity could be a factor in the development of late infections complicating joint replacement. This inhibition is one of several virulence enhancement mechanisms postulated by Elek and Conen (Ref. 4) to explain the 10,000-fold enhancement of infection in humans by the presence of a foreign body. A recent study by Johnson and Fromm (Ref. 5) corroborates the importance of a foreign body in decreasing a host's resistance to infection. Merritt and coworkers (Ref. 6) believe that the frequently occurring fibrous encapsulation of a prosthesis results in an avascular zone in which pathogens (disease-producing organisms) can grow; and both groups confirm experimentally that the presence of an implant inhibits the host's ability to combat infection.

Swanson, et al. (Ref. 7) performed laboratory testing of an orthopedic implant that is composed of cobalt-chromium-molybdenum, a widely used alloy. Swanson showed that wear debris was evident for the device examined. When the wear debris produced was injected into rats, tumorogenesis was observed among a significant proportion of the rats. The tests by Swanson showed that the wear debris from this device had a cancer-causing effect in rats. The clinical significance of this finding is unknown. Recent preliminary investigations by Memoli, et al. (Ref. 8) indicate a trend suggesting that animals with metal implants, especially those containing nickle, may be at a greater risk for the increased development of malignancy, especially sarcomas and lymphoreticular neoplasms.

Berger and Salzman (Ref. 9) provide a review of the nature and mechanisms of the complications subsequent to thromboemboli generation. They note that the surface of an implanted prosthesis can initiate or enhance the formation of thromboemboli. Walldius (Ref. 10) summarizes a portion of the literature enumerating deaths attributable to lipoemboli released from medullary cavities during prosthesis implantation. Walldius also notes hypotension, cardiac arrest, and other cardiovascular disturbances that result from the local and systemic toxicity of the polymethylmethacrylate (bone cement) monomer.

Also, polymethylmethacrylate bone cement, which generates heat during polymerization, is considered by some authors (Refs. 10, 11, and 12) to cause thermal damage, bone death, and subsequent bone resorption, which could be important factors in device loosening (Refs. 12 and 13). However, others (Refs. 14 and 15) believe that the heat of cement polymerization during implantation procedures is not great enough to cause permanent damage. These researchers believe that use of the cement and the revascularization of bone leads to the formation of a fibrous membrane which is a factor in loosening. When a joint is replaced with a prosthesis, the patient may have, over time, an increased risk of mutagenesis (Ref. 16), carcinogenesis (Refs. 17 through 26), and teratogenesis (Refs. 27, 28, and 29). The clinical significance of these increased risks is unknown.

Because the classification recommendations and FDA regulations may not identify all risks to health presented by orthopedic devices, future regulations establishing performance standards under section 514 of the act (21 U.S.C. 360d) or requiring premarket approval under section 515(b) of the act (21 U.S.C. 360e(b)) may identify additional risks to health to be addressed by FDA requirements.

Proposed Classification

Each section for an orthopedic device under the heading "Panel Recommendations and FDA's Proposed Classifications," states whether or not FDA agrees with the Panel's recommendation and describes the agency's proposed classification of the device.

FDA is proposing to classify into class III 11 orthopedic prosthetic devices that the earlier Orthopedic Device Classification Panel had, in 1976 and 1977, recommended be classified into class II. As explained in greater detail below in the preambles to these proposals, the agency has determined that performance standards will not adequately assure the safe use of these devices, because their designs, or the materials used in the devices, have not had sufficient clinical use to establish fully the persons for whom the devices are intended and the proper conditions of use.

After receiving the Panel recommendations, FDA in 1980 reviewed all data on orthopedic devices and prepared summaries based on this review. At FDA's request (Ref. 30), these summaries were reviewed for scientific completeness and accuracy, but not for regulatory recommendations, by individual orthopedic surgeons specializing in the use of the devices being classified, through the assistance of the American Academy of Orthopedic Surgeons.

Based on this review and reassessment of the device classifications recommended by the earlier Panel, FDA has made the present proposed classifications. On November 19, 1980, these proposed classifications as well as the reasons for the changes, were presented to the Orthopedic Device Section. At that time the current panel made general recommendations regarding certain generic types of devices (Ref. 30). FDA is proposing to classify into class II several orthopedic devices for which various complications have been reported. The majority of the complications involved were determined not to be device-related, such as failures due to the design of or materials used in the devices. Instead, these complications were determined to be primarily attributable to various nondevice related factors for which premarket approval would not necessarily provide additional assurance of safety and effectiveness. For example, orthopedic devices usually are implanted in aged patients with progressive diseases, particularly osteoarthritis and rheumatoid arthritis. Also, the skill of the orthopedic surgeon performing the implant procedure is an important variable in clinical outcomes. FDA believes that requiring additinal studies on these devices to be undertaken in support of a PMA would not result in new information that would help reduce the risks to health presented by use of these devices. Moreover, FDA believes that sufficient data already exist to establish the persons for whom these devices are intended and the proper conditions of their use. In proposing that these devices be classified into class II, FDA relied heavily on the scientific and clinical judgment of the members of the advisory panel, who are knowledgeable about the history and development of these devices.

FDA cautions that the final classification of a device may differ from the proposal. Factors that may cause such a change include comments, FDA's reconsideration of existing data and information, and FDA's consideration of new data and information.

Priorities for Class II and Class III Devices

When the Panel recommends classification of a device into class II or class III, section 513(c)(2)(A) of the act requires that the Panel recommendation include, to the extent practicable, a recommendation for the assignment of a

priority for establishment of performance standards for the device or premarket approval requirements. In developing its advice concerning the priorities ("high," "medium," or "low") to be accorded devices recommended for classification into class II or class III, the Panel compared each device with other orthopedic devices, based on information available to the Panel members concerning the relative importance of use of the device and the relative risks presented by the device.

The Panel recommended assignment of a "high priority" only to those class II or class III devices which the Panel believed should receive the agency's immediate attention.

FDA is not proposing at this time to establish priorities for development of performance standards for all class II devices. Section 513(d)(3) of the act authorizes, but does not require, establishment of these priorities. In the **Federal Register** of February 1, 1980 (45 FR 7489 and 45 FR 7493), FDA published notices identifying the class II devices the agency determined to warrant a high priority for the development of performance standards. At a later date, the agency will establish priorities for the development of standards for the remaining class II devices. All priorities established by the agency are based on the panel's recommendations, available resources, and other relevant factors. The agency's priorities will be reflected in the agency's annual budget request and other publicly available documents and may be published in the **Federal Register.**

FDA intends to proceed as quickly as the agency's and the Panel's resources permit to require premarket approval of devices classified into class III. Two factors affect the length of time before FDA requires submission of premarket approval applications for any particular device that is classified by an FDA regulation into class III: the number of devices reviewed by a panel and the priority of a particular device in relation to other class III devices considered by a panel. For example, where FDA classifies into class III only a few devices within a Panel's specialty area, FDA may, at the same time, publish regulations under section 515(b) of the act requiring premarket approval for any of the class III devices considered by the Panel, regardless of whether of a high or a low priority. Where practical, FDA will publish these section 515(b) regulations during the grace period (30 months) following classification. During this 30-month period a device classified into class III by FDA regulation may lawfully remain on the market without a premarket approval application. The grace period is authorized by section 501(f) of the act (21 U.S.C. 351(f)).

Exemptions for Class I Devices

Section 513 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360c) provides that FDA may exempt a device recommended for classification into class I from a requirement under the following sections of the act: section 510 (21 U.S.C. 360), registration; section 519 (21 U.S.C. 360i), records and reports, and section 520(f) (21 U.S.C. 360j(f)), good manufacturing practice.

Under section 510 of the act, a person "engaged in the manufacture, preparation, propagation, compounding or processing of * * * a device or devices" must register with FDA (section 510(b) through (i)), file a list of devices (section 510(j)), and notify FDA at least 90 days before beginning commercial distribution of a device (section 510(k)). (See 21 CFR Part 807.) Section 510(g)(4) authorizes the agency to exempt a device from section 510 if it finds that compliance with that section is not necessary for the protection of the public health. In § 807.65 (21 CFR 807.65), FDA has exempted certain classes of persons from section 510 of the act. Several device panels have recommended that manufacturers of certain class I devices also be exempted from all or some of the requirements of section 510. The agency has determined that protection of the public health requires that manufacturers of medical devices, other than those already exempt under § 807.65, register and list their products with FDA to ensure that the agency can identify these manufacturers and their products and conduct necessary inspections.

The agency has determined, however, that it is not necessary for the protection of the public health that FDA receive premarket notification submissions for certain devices. Thus, the agency has proposed to exempt manufacturers of certain devices from Subpart E of Part 807 of the regulations, which implements section 510(k) of the act. The agency does not, at this time, anticipate that premarket approval will be required for these devices. The agency believes that the semiannual updating of device listing under section 510(j)(2) of the act will provide FDA with adequate notice of new products within these generic types of devices.

Section 519 of the act authorizes FDA to issue regulations requiring device manufacturers, importers, and distributors to establish and maintain such records, make such reports, and provide such information as the agency may reasonably require to assure that devices are not adulterated or misbranded and to otherwise assure their safety and effectiveness. The records and reports requirements in several of FDA's present device regulations are authorized, wholly or in part, by section 519. The most extensive of these requirements are found in the device good manufacturing practice (GMP) regulation under Part 820 (21 CFR Part 820), published in the **Federal Register** of July 21, 1978 (43 FR 31508). In the future, FDA will publish other regulations under section 519 of the act, including final regulations requiring reports to FDA of experiences with medical devices. (A proposed regulation to require such reports was published in the **Federal Register** of November 18, 1980 (45 FR 76183).) Until final records and reports regulations are issued, FDA believes that it cannot properly issue exemptions from them. Whenever the agency proposes device regulations that include records and reports requirements, interested persons may submit comments requesting that certain classes of manufacturers or other persons be exempted from the requirements, and FDA will issue exemptions that are appropriate.

The only type of exemption from records and reports requirements that FDA is proposing now, in device classification regulations, is an exemption of certain manufacturers from most requirements of the device GMP regulation. As explained below, the exemption will not extend to two device GMP records requirements.

The device GMP regulation was published in final form in the **Federal Register** of July 21, 1978 (43 FR 31506). At the time of the earlier Orthopedic Device Classification Panel's recommendations, the GMP regulation had not yet been promulgated, and the agency had not yet developed criteria for exempting manufacturers of a class I device from GMP requirements. The agency has now decided that, if any one of the following criteria is met, FDA will consider exempting from the GMP regulation manufacturers of a class I device that is not labeled or otherwise represented as sterile. The agency will not, however, exempt manufacturers of a device from general requirements concerning records or complaint files. The criteria are:

1. FDA has determined, based on adequate information about current practices in the manufacture of the device and about user experience with the device, that application of the GMP regulation is unlikely to improve the safety and effectiveness of the device.

2. FDA has determined that all possible defects relating to the safety and effectiveness of the device are readily detectable before use, either through visual examination by the user or by routine testing, e.g., testing a clinical laboratory reagent with positive and negative controls.

3. FDA has determined that any defect in the device that is not readily detectable will not result in a device failure that could have an adverse effect on the patient or other user.

FDA has determined that no device that is labeled or otherwise represented as sterile will be exempted from the device GMP regulation. A sterile device must be subject to the entire GMP regulation to ensure that manufacturers adequately reduce during the manufacturing process the bioburden (number of microorganisms) on the device and in its components. This reduction is accomplished through adherence to a comprehensive quality assurance program, such as that required by the GMP regulation, with adequate environmental controls, trained personnel, appropriate maintenance and calibration of sterilization equipment, recordkeeping concerning lot sterility, strict packaging and labeling controls, and other quality assurance measures.

The agency also has determined that no exemption from the device GMP regulation will extend to § 820.180, with respect to general requirements concerning records, or § 820.198, with respect to maintenance of complaint files. The agency believes that granting exemptions from these sections would not be in the public interest and that compliance with these sections is not unduly burdensome for device manufacturers. To ensure that device manufacturers have adequate systems for complaint investigation and followup, all manufacturers are required to comply with the complaint file requirements. All device manufacturers also are required to comply with the general requirements concerning records to ensure that FDA has access to complaint files, is able to investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and can determine whether the exemption from other sections of the GMP regulation is still appropriate.

In general, FDA has not initiated proposals to exempt manufacturers of devices from requirements under section 510 or 520(f) of the act, but has acted on the basis of exemption recommendations of the device classification panels. However, occasionally FDA has proposed to exempt manufacturers of certain devices classified into class I or class II from the requirements of certain sections of the GMP regulation, according to the prescribed exemption criteria. Manufacturers and other interested persons may submit comments on the appropriateness of the proposed exemptions of manufacturers of devices, whether the exemptions are proposed in response to recommendations of the panels or on the agency's initiative. Comments requesting additional exemptions should be supported by information showing that the exemption of manufacturers of a device from the premarket notification requirement or the GMP regulation is consistent with the criteria discussed above.

Guidelines for Preparing Petitions Requesting Exemption or Variance from the Device GMP Regulation for Devices Classified into Class I or Class II

FDA has prepared guidelines on the procedures that should be followed by persons who wish to submit petitions for exemption or variance from the device GMP regulation. These petitions may be submitted in accordance with provisions of section 520(f)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(f)(2)). The agency announced the availability of the guidelines in a notice published in the **Federal Register** of January 18, 1980 (45 FR 3671).

List of Orthopedic Devices

The following is a list of orthopedic devices that FDA is proposing to classify, the section and subpart of Part 888 in Title 21 of the Code of Federal Regulations under which the regulation classifying the device will be codified, the docket number of the proposed classification regulation, and the proposed classification of each device.

Section	Device	Docket No.	Class
Subpart B—Orthopedic Diagnostic Devices			
888.1100	Arthroscope	78N-3041	II.
888.1240	AC-powered dynamometer	78N-3330	II.
888.1250	Nonpowered dynamometer	78N-3042	I.
888.1500	AC-powered goniometer	78N-3043	II.
888.1520	Nonpowered goniometer	78N-3044	I.
Subpart D—Orthopedic Prosthetic Devices			
888.3000	Bone cap	78N-3046	II.
888.3010	Bone fixation cerclage	78N-3051	II.
888.3020	Intramedullary fixation rod	78N-3056	II.
888.3025	Passive tendon prosthesis	78N-3096	II.
888.3030	Single/multiple component metallic bone fixation appliances and accessories.	78N-3049	II.
888.3040	Smooth or threaded metallic bone fixation fastener.	78N-3052	II.
888.3050	Spinal interlaminal fixation orthosis.	78N-3047	II.
888.3060	Spinal intervertebral body fixation orthosis.	78N-3048	II.
888.3100	Ankle joint metal/composite semi-constrained prosthesis.	78N-3059	III.
888.3110	Ankle joint metal/polymer semi-constrained prosthesis.	78N-3060	II.
888.3120	Ankle joint metal/polymer non-constrained prosthesis.	78N-3061	III.
888.3150	Elbow joint constrained prosthesis.	78N-3062	III.
888.3160	Elbow joint semi-constrained prosthesis.	78N-3063	II.
888.3170	Elbow joint radial (hemi-elbow) prosthesis.	78N-3064	II.
888.3180	Elbow joint humeral (hemi-elbow) uncemented prosthesis.	78N-3065	III.
888.3200	Finger joint metal/metal constrained uncemented prosthesis.	78N-3066	III.
888.3210	Finger joint metal/metal constrained prosthesis.	78N-3301	III.
888.3220	Finger joint metal/polymer constrained prosthesis.	78N-3067	III.
888.3230	Finger joint polymer constrained prosthesis.	78N-3068	II.
888.3300	Hip joint metal constrained prosthesis.	78N-3070	III.
888.3310	Hip joint metal/polymer constrained prosthesis.	78N-3071	III.
888.3320	Hip joint metal/metal semi-constrained, with a cemented acetabular component, prosthesis.	78N-3072	III.
888.3330	Hip joint metal/metal semi-constrained, with an uncemented acetabular component, prosthesis.	78N-3073	III.
888.3340	Hip joint metal/composite semi-constrained prosthesis.	78N-3074	III.
888.3350	Hip joint metal/polymer semi-constrained prosthesis.	78N-3075	II.
888.3360	Hip joint femoral (hemi-hip) metallic prosthesis.	78N-3077	II.
888.3370	Hip joint (hemi-hip) acetabular metal prosthesis.	78N-3076	III.
888.3380	Hip joint femoral (hemi-hip) trunnion-bearing metal/polyacetal prosthesis.	78N-3078	III.
888.3390	Hip joint femoral (hemi-hip) metal/polymer prosthesis.	78N-3079	II.
888.3400	Hip joint femoral (hemi-hip) resurfacing prosthesis.	78N-3080	II.
888.3410	Hip joint metal/polymer semi-constrained resurfacing prosthesis.	78N-3081	III.
888.3480	Knee joint femorotibial metallic constrained prosthesis.	78N-3082	II.
888.3490	Knee joint femorotibial metal/composite non-constrained prosthesis.	78N-3083	III.
888.3500	Knee joint femorotibial metal/composite semi-constrained prosthesis.	78N-3302	III.
888.3510	Knee joint femorotibial metal/polymer constrained prosthesis.	78N-3084	II.
888.3520	Knee joint femorotibial metal/polymer non-constrained prosthesis.	78N-3085	II.
888.3530	Knee joint femorotibial metal/polymer semi-constrained prosthesis.	78N-3086	II.
888.3540	Knee joint patellofemoral polymer/metal semi-constrained prosthesis.	78N-3087	III.
888.3550	Knee joint patellofemorotibial polymer/metal/metal constrained prosthesis.	78N-3088	II.

Section	Device	Docket No.	Class
888.3560	Knee joint patello/femoro-tibial polymer/metal/polymer semi-constrained prosthesis.	78N-3090	II.
888.3570	Knee joint femoral (hemi-knee) metallic uncemented prosthesis.	78N-3091	III.
888.3580	Knee joint patellar (hemi-knee) metallic resurfacing uncemented prosthesis.	78N-3092	II.
888.3590	Knee joint tibial (hemi-knee) metallic resurfacing uncemented prosthesis.	78N-3093	II.
888.3640	Shoulder joint constrained prosthesis.	78N-3094	III.
888.3650	Shoulder joint non-constrained prosthesis.	78N-3095	III.
888.3660	Shoulder joint semi-constrained prosthesis.	78N-3096	III.
888.3680	Shoulder joint glenoid (hemi-shoulder) prosthesis.	78N-3058	III.
888.3690	Shoulder joint humeral (hemi-shoulder) metallic uncemented prosthesis.	78N-3097	II.
888.3720	Toe joint constrained uncemented prosthesis.	78N-3099	II.
888.3730	Toe joint phalangeal (hemi-toe) prosthesis.	78N-3100	II.
888.3750	Wrist joint carpal lunate prosthesis.	78N-3101	II.
888.3760	Wrist joint carpal scaphoid prosthesis.	78N-3102	II.
888.3770	Wrist joint carpal trapezium prosthesis.	78N-3304	II.
888.3780	Wrist joint polymer constrained uncemented prosthesis.	78N-3103	II.
888.3790	Wrist joint metal constrained prosthesis.	78N-3305	III.
888.3800	Wrist joint semi-constrained prosthesis.	78N-3104	II.
888.3810	Wrist joint ulnar (hemi-wrist) prosthesis.	78N-3105	II.

Subpart E—Orthopedic Surgery Devices

888.4150	Calipers for clinical use	78N-3106	I.
888.4200	Cement dispenser	78N-3107	I.
888.4210	Cement mixer for clinical use.	78N-3108	I.
888.4220	Cement monomer vapor evacuator.	78N-3109	I.
888.4230	Cement ventilation tube	78N-3110	I.
888.4300	Depth gauge for clinical use.	78N-3111	I.
888.4540	Orthopedic manual surgical instrument.	78N-3114	I.
888.4580	Sonic surgical instrument and accessories/attachments.	78N-3116	II.
888.4800	Protractor for clinical use	78N-3117	I.
888.4850	Template for clinical use	78N-3118	I.
888.5850	Nonpowered orthopedic traction apparatus and accessories.	78N-3120	I.
888.5890	Noninvasive traction components.	78N-3122	I.
888.5940	Cast components	78N-3123	I.
888.5960	AC-powered cast removal instruments.	78N-3124	II.
888.5980	Manual cast application/removal instruments.	78N-3125	I.

Devices Considered by Two or More Panels

Many devices were reviewed by two or more device panels. The Orthopedic Device Section of the Surgical and Rehabilitation Devices panel and the other sections or panels listed below made classification recommendations concerning the following devices:

Device	Other sections or panel(s)
Clamp	General and Plastic Surgery Device Section of the Surgical and Rehabilitation Devices Panel.
Hemostat	Do.
Elevator	Do.
Forceps	Do.
Guide	Do.
Knife	Do.
Mallet	Do.
Rasp	Do.
Retractor	Do.
Spatula	Do.
Staple	Do.
Surgical table with orthopedic accessories.	Do.
AC-powered surgical table with orthopedic accessories.	Do.
Air pressure tourniquet	Do.
Hip prosthesis acetabular mesh	Do.
Hip prosthesis cement restrictor	Do.
Curette	Do.
Bone hook	Do.
Cutting instrument	Do.
Osteotome	Do.
Surgical pliers	Do.
Powered orthopedic surgical instrument motors and accessories/attachments.	Do.
Pneumatically powered orthopedic surgical instrument motors and accessories/attachments.	Do.
Diaphram stimulator	Neurological Device Section of the Respiratory and Nervous System Devices Panel.
Internal peroneal extremity stimulator.	Do.

The agency is not at this time publishing the recommendations of the Orthopedic Device Section of the Surgical and Rehabilitation Devices Panel to classify the devices listed above. The agency has published these recommendations and proposed classification regulations along with the recommendations of other Panels that reviewed the devices. These other Panel's recommendations have already been published in the Federal Register. The following table shows the current structure of the advisory committees involved with classification of medical devices and a list of all proposed and final classification regulations published to date:

Panel/Section Name and Publication Date in **Federal Register**

Circulatory Systems Devices Panel—March 9, 1979 44 FR 13284–13434 (proposals); February 5, 1980, 45 FR 7904–7971 (final regulations).

Clinical Chemistry and Hematology Devices Panel:

Clinical Chemistry Device Section—February 2, 1982, 47 FR 4802–4929 (proposals).

Clinical Toxicology Device Section—February 2, 1982, 47 FR 4802–4929 (proposals).

Hematology and Pathology Device Section—September 11, 1979, 44 FR 52950–53063 (proposals); September 12, 1980, 45 FR 60570–60651 (final regulations).

General Medical Devices Panel:

General Hospital and Personal Use Device Section—August 24, 1979, 44 FR 49844–49954 (proposals); October 21, 1980, 45 FR 69678–69737 (final regulations).

Gastroenterology-Urology Device Section—January 23, 1981, 46 FR 7562–7641 (proposals).

Immunology and Microbiology Devices Panel:

Obstetrics-Gynecology Device Section—April 3, 1979, 44 FR 19894–19971 (proposals); February 26, 1980, 45 FR 12682–12720 (final regulation).

Microbiology Device Section—April 22, 1980, 45 FR 27204–27359 (proposals).

Obstetrics-Gynecology and Radiologic Devices Panel:

Obstetrics-Gynecology Device Section—April 3, 1979, 44 FR 19894–19971 (proposals); February 26, 1980, 45 FR 12682–12720 (final regulations).

Radiology Device Section—January 29, 1982, 47 FR 4406–4451 (proposals).

Ophthalmic; Ear, Nose, Throat; and Dental Devices Panel:

Ophthalmic Device Section—January 26, 1982, 47 FR 3694–3749 (proposals).

Ear, Nose, and Throat Device Section—January 22, 1982, 47 FR 3280–3325 (proposals).

Dental Device Section—December 30, 1980, 45 FR 85962–86168 (proposals).

Respiratory and Nervous System Devices Panel:

Anesthesiology Device Section—November 2, 1979, 44 FR 63292–63426 (proposals).

Neurological Device Section—November 28, 1978, 43 FR 54640–55732 (proposals); September 4, 1979, 44 FR 51726–51778 (final regulations).

Surgical and Rehabilitation Devices Panel:

Physical Medicine Device Section—August 28, 1979, 44 FR 50458–50537 (proposals).

Orthopedic Device Section—(*Insert date of publication in the* **Federal Register**) (proposals).

General and Plastic Surgery Device Section—January 19, 1982, 47 FR 2810–2853 (proposals).

Panel Recommendations and FDA's Proposed Classifications

§ 888.1100; Docket No. 78N–3041; Arthroscope.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of arthroscopes:

1. Identification: An arthroscope is a type of electrically powered endoscope that is intended to make visible the interior of a joint. The arthroscope may be combined with accessories to permit surgency in selected anatomic locations.

2. Recommended classification: Class II. The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel

recommends that arthroscopes be classified into class II because the electrical properties of the device must be controlled by a performance standard to prevent electrical shock to the patient or operator. The Panel believes that general controls alone will not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device and that sufficient information exists to establish a standard. The Panel also recommends that the device's labeling include instructions for the proper care of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Electrical shock: Excessive current leakage from this device may cause electrical shock to the patient or operator. (b) Infection: The introduction of microbes associated with a nonsterile device may cause infection. (c) Tissue Trauma: Defective components or faulty construction of the device could result in breakage of the arthroscope while inside the joint, resulting in tissue trauma.

EDA agrees with the Panel recommendation and is proposing that arthroscopes be classified into class II. The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to minimize the risks to health presented by use of the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

§ 888.1240; Docket No. 78N–3300; AC-powered dynamometer.

The Orthopedic Device Classification Panel and the Anesthesiology Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of AC-powered dynamometers:

1. Identification: An AC-powered dynamometer is an electrically powered device intended for medical purposes to assess neuromuscular function or degree of neuromuscular blockage by measuring, with a force transducer (a device that translates force into electrical impulses), the grip-strength of a patient's hand.

2. Recommended classification: Class II. The Panels recommend that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: Both Panels recommend that AC-powered dynamometers be classified into class II because the electrical properties of the device must be controlled by a performance standard to prevent electrical shock to the patient or operator. The Anesthesiology Device Classification Panel also believes that the accuracy and reproducibility of the device must be controlled by a performance standard to prevent the generation of erroneous grip-strength data that may lead to inaccurate estimates of neuromuscular blockage. The Panels believe that general controls alone will not provide sufficient control over these characteristics. The Panels believe that a performance standard will provide reasonable assurance of the safety and effectiveness of the device and that sufficient information exists to establish a standard.

4. Summary of data on which the recommendation is based: Both Panels based their recommendations on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Electrical shock: Excessive current leakage from this device may cause electrical shock to the patient or operator. (b) Misdiagnosis and inappropriate therapy: Failure of the device to provide accurate data may lead to error in the estimates of neuromuscular function or blockage in the patient. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

FDA agrees with the recommendations of the Orthopedic Device Classification Panel and the Anesthesiology Device Classification Panel and is proposing that AC-powered dynamometers be classified into class II. The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to minimize the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device, and sufficient information exists to establish a performance standard. The agency has reviewed both Panels' recommendations for AC-powered dynamometers and has concluded that the classification of this device should be published in the part of the Code of Federal Regulations for orthopedic devices.

§ 888.1250; Docket No. 78N–3042; Nonpowered dynamometer.

The Orthopedic Device Classification Panel, the Neurology Device Classification Panel, and the Physical Medicine Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of nonpowered dynamometers:

1. Identification: A nonpowered dynamometer is a mechanical device intended for medical purposes to measure the pinch and grip muscle strength of a patient's hand.

2. Recommended classification: All three Panels recommend that nonpowered dynamometers be classified into Class I. The Orthopedic Device Classification Panel recommends that this device be exempt from the premarket notification procedures under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)) and the good manufacturing practice (GMP) regulation under section 520(f) of the act (21 U.S.C. 360j(f)). The Neurology Device Classification Panel and the Physical Medicine Device Classification Panel recommend that there be no exemptions.

3. Summary of reasons for recommendation: The three Panels recommend that nonpowered dynamometers be classified into class I because general controls are sufficient to provide reasonable assurance of the saftey and effectiveness of the device. The Orthopedic Panel recommends that the manufacturer be exempt from premarket notification procedures and the GMP regulation because it believes that adherence to the regulation would not improve the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panels based their recommendations on the Panel members' knowledge of, and clinical experience with, nonpowered dynamometers.

5. Risks to health: None identified.

FDA agrees with the recommendations of the three Panels and is proposing that nonpowered dynamometers be classified into class I. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

In response to the Orthopedic Device Classification Panel's recommendation that manufacturers of nonpowered dynamometers be exempt from section 510(k) of the act (21 U.S.C. 360(k)), FDA is proposing that these manufacturers be subject to registration and device listing under section 510 (a) through (j) of the act, but exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations. Under section 510(g)(4) of the act, the agency may exempt a

manufacturer from section 510 only if it finds that compliance with the section is not necessary for the protection of the public health. In the case of registration and listing by manufacturers of nonpowered dynamometers, the agency cannot make the required finding. To protect the public health, the agency needs to be able to identify the firms manufacturing this device and to conduct necessary inspections. The agency has determined, however, that it is not necessary for the protection of the public health that FDA receive premarket notification submissions concerning nonpowered dynamometers. The agency does not anticipate at this time that premarket approval will be required for this device. The agency believes that the semiannual updating of device listing under section 510(j)(2) of the act will provide FDA with adequate notice concerning new products within this generic type of device.

In response to the Orthopedic Device Classification Panel's recommendation that manufacturers of nonpowered dynamometers be exempt from the device GMP regulation under section 520(f) of the act (21 U.S.C. 360j(f)), FDA is proposing that these manufacturers be exempt from all requirements of the GMP regulation with the exception of § 820.180, regarding general requirements concerning records, and § 820.198, regarding maintenance of complaint files. Based on available information about current practices used in the manufacture of the device and user experience with the device, the agency has determined that application of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the safety and effectiveness of the device. The agency believes, however, that manufacturers of nonpowered dynamometers should be required to comply with the complaint file requirements of § 820.198 to ensure that these manufacturers have adequate systems for complaint investigation and followup. The agency also believes that manufacturers of nonpowered dynamometers should be required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate. See the discussion under the heading "Exemptions for Class I Devices" for further explanation of the agency's policies concerning exemptions.

The agency has reviewed the three Panel's recommendations for nonpowered dynamometers and has concluded that the classification of this device should be published in the part of the Code of Federal Regulations for orthopedic devices.

§ 888.1500; Docket No. 78N–3043; AC-powered goniometer.

The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of AC-powered goniometers:

1. Identification: An AC-powered goniometer is an AC-powered measuring and recording device intended to evaluate joint function by measuring ranges of motion, acceleration, or forces exerted by a joint.

2. Recommended classificatioin: Class II. The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that AC-powered goniometers be classified into class II because the electrical properties of the device must be controlled by a performance standard to prevent electrical shock to the patient or operator. The Panel believes that general conrols alone will not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device and that sufficient information exists to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: Electrical shock: Excessive current leakage from this device may cause electrical shock to the patient or operator.

FDA agrees with the Panel recommendation and is proposing that AC-powered goniometers be classified into class II. The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to minimize the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device. FDA has reviewed the recommendation of the Physical Medicine Device Classification Panel for AC-powered goniometers and has concluded that the classification of this device should be published in the part of the Code of Federal Regulations for orthopedic devices.

§ 888.1520; Docket No. 78N–3044; Nonpowered goniometer.

The Orthopedic Device Classification Panel and the Physical Medicine Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of nonpowered goniometers:

1. Identification: A nonpowered goniometer is a mechanical device intended for medical purposes to measure the range of motion of joints.

2. Recommended classification: Both Panels recommend that nonpowered goniometers be classified into class I. The Orthopedic Device Classification Panel recommends that this device be exempt from premarket notification procedures under section 510(k) of the act and the GMP regulation under section 520(f) of the act. The Physical Medicine Device Classification Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panels recommend that nonpowered goniometers be classified into class I because general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Orthopedic Device Classification Panel believes that manufacturers of the device should not be required to comply with premarket notification procedures or with the GMP regulation in manufacturing the device because it believes that adherence to these regulations would not improve the safety and effectiveness of the device. The Orthopedic Device Classification Panel believes that this simple device presents no risks to health and all possible defects are readily detectable before use.

4. Summary of data on which the recommendation is based: Both Panels based their recommendations on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

FDA agrees with the recommendations of the Orthopedic Device Classification Panel and the Physical Medicine Device Classification Panel and is proposing that nonpowered goniometers be classified into class I. The agency believes that general controls are sufficient to provide

reasonable assurance of the safety and effectiveness of the device.

In response to the Panel's recommendation that manufacturers of nonpowered goniometers be exempt from section 510(k) and 520(f) of the act, FDA is proposing that manufacturers of this device be exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations. FDA is proposing that a manufacturer of these devices be exempt from all requirements in the GMP regulation with the exception of § 820.180, regarding general requirements concerning records, and § 820.198, regarding maintenance of complaint files. See § 886.1250 *Nonpowered dynamometer* in an earlier section of the preamble and the discussion under the heading "Exemptions for Class I Devices" for further explanation of the agency's policies concerning exemptions.

The agency has reviewed the Panels' recommendations for nonpowered goniometers and has concluded that the classification of this device should be published in the part of the Code of Federal Regulations for orthopedic devices.

§ 888.3000; Docket No. 78N–3046; Bone cap.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of bone caps:

1. Identification: A bone cap is a mushroom-shaped implanted device made of either silicone elastomer or ultra-high molecular weight polyethylene. It is intended to cover the severed end of a long bone, such as the humerus or tibia, to control bone overgrowth in juvenile amputees.

2. Recommended classification: Class II. The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that bone caps be classified into class II because the design, material composition, and mechanical properties of the device, such as its flexibility, rigidity, strength, and surface finish, should be controlled to prevent loss or reduction of limb function, adverse tissue reaction, or infection. The Panel believes that general controls alone will not provide sufficient control over these characteristics. Although bone caps are implanted devices, the Panel believes that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of these devices.

4. Summary of data on which the recommendation is based: The Panel based its recommendations on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Loss or reduction of function: Improper design or inadequate mechanical properties of the device, such as its lack of strength or resistance to wear, may result in a loss or reduction of joint function due to excessive wear, fracture, deformation of the device, or loosening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away from the surfaces of the device and the release of materials to the surrounding tissues and systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection.

FDA agrees with the Panel recommendation and is proposing that bone caps be classified into class II. FDA has reviewed the data on which the Panel recommendation is based and has sought additional information on the safety and effectiveness of these devices. Silicone bone caps have been used since 1963 to control the bone overgrowth phenomenon in juvenile amputees. They have been found to successfully control bone overgrowth and provide a pain-free amputation stump (Ref. 31). Implantation of the device in animals has shown that the bone end heals and contours to the inside surface of the device (Ref. 32).

Although bone caps are implanted devices, FDA has determined that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of these devices. In addition, FDA has identified and assessed the major risks to health associated with use of these devices. FDA believes that the major risks, i.e., loosening, infection, and adverse tissue reaction, are related to biological responses of the human body to the presence of the device and the device design, and not to physical failure(s) of the device. Clinical experience with these devices has established the persons for whose use the devices are intended and the proper conditions of use. FDA has determined that the probable benefit to health from proper use of these devices outweighs any likelihood of injury or illness resulting from their use. FDA further believes that informative labeling and compliance with general controls may greatly reduce the risks to health associated with the use of these devices. The agency believes that a performance standard is necessary because general controls alone are insufficient to minimize the risks to health presented by these devices.

§ 888.3010; Docket No. 78N–3051; Bone fixation cerclage.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of bone fixation cerclages:

1. Identification: A bone fixation cerclage is an implanted device that is made of alloys, such as cobalt-chromium-molybdenum, and that consists of a metallic ribbon of flat sheet or a wire. When implanted, the device is wrapped around the shaft of a long bone, anchored to the bone with wire or screws, and used in the fixation of fractures.

2. Recommended classification: Class II. The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that bone fixation cerclages be classified into class II because the design, material composition, and mechanical properties of the device, such as its flexibility, rigidity, strength, and surface finish, should be controlled to prevent loss or reduction of limb function, nonunion or malunion of bone, adverse tissue reaction, or infection. The Panel believes that general controls alone will not provide sufficient control over these characteristics.

Although bone fixation cerclages are implanted devices, the Panel believes that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that the labeling for the device include information on the dimensions and mechanical properties of the device, and identify the materials used in the device by both their common names and engineering classifications.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, bone fixation cerclages and on a review of the recent

medical literature, which indicates that there are few device-related complications. Buhler (Ref. 33) reported one case of infection and two cases of delayed unions out of a total of 198 cases. There were no reported implant failures.

Fenyo (Ref. 34) reviewed cases of fractures treated with bone fixation cerclages over a 12-year period and reported that there were no reported device failures. Two authors (Refs. 35 through 37) reported that nonunion or malunion, a risk associated with the use of this device, may be due to improper application of the cerclage wire.

5. Risks to health: (a) Adverse tissues reaction: Inadequate biologial or mechanical properties of the device, such as its lack of biocompatibility, may result in an adverse tissue reaction due to dissolution or corrosion of the implant and the release of materials from the device to the surrounding tissues and systemic circulation. (b) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection. (c) Nonunion or malunion: Delayed or malunion of the bone fracture may occur due to inappropriate tension on the device, inadequate mechanical strength, or other mechanical imperfections, leading to device failure and loss of fracture fixation.

FDA agrees with the Panel recommendation and is proposing that bone fixation cerclages be classified into class II. Although bone fixation cerclages are implanted devices, FDA has determined that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of these devices. In addition, FDA has identified and assessed the major risks to health associated with the use of these devices. FDA believes that the major risks, i.e., infection and adverse tissue reaction, are related to biological responses of the human body to the presence of the device and the device design, and not to physical failure(s) of the device. Clinical experience with these devices has established the persons for whose use the devices are intended and the proper conditions of use. FDA has determined that the probable benefit to health from proper use of these devices outweighs any likelihood of injury or illness resulting from their use. FDA further believes that informative labeling and compliance with general controls may greatly reduce the risks to health associated with the use of these devices. The agency believes that a performance standard is necessary because general controls alone are insufficient to minimize the risks to health presented by these devices.

§ 888.3020; Docket No. 78N–3056; Intremedullary fixation rod.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of intramedullary fixation rods;

1. Identification: An intramedullary fixation rod is an implanted device that consists of a rod made of alloys, such as cobalt-chromium-molybedenum and stainless steel. It is inserted into the medullary (bone marrow) canal of long bones for the fixation of fractures.

2. Recommended classification: Class II. The Panel recommends that establishment of a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that intramedullary fixation rods be classified into class II because the design, material composition, and mechanical properties of the device, such as its flexibility, rigidity, strength, and surface finish, should be controlled to prevent loss or reduction of limb function, adverse tissue reaction, or infection. The Panel believes that general controls alone will not provide sufficient control over these characteristics.

Although intramedullary fixation rods are implanted devices, the Panel believes that premarket approval is not necessary because there is sufficient information to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of these devices. The Panel also recommends that the labeling of the device provide information on the dimensions and mechanical properties of the device, and identify the materials used in the device by both their common names and engineering classifications.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device, and on a review of the medical literature. Bohles (Ref. 38) reported that, of 283 patients with closed fractures treated with an intramedullary rod, 8 (2.8 percent) developed infections. In addition, of 25 patients with open fractures (4 percent) treated by implanting the device, 1 developed an infection. Despite these infections, union of the fracture was accomplished in all cases. Schneider (Ref. 39) concluded that, after 18 years of experience with more than 280 cases of open reduction and internal fixation of the femur with four-flanged self cutting intramedullary fixation rods, it is his opinion that the operation is safe and effective. Clawson, et al. (Ref. 40), reported that intramedullary reaming and implantation of an intramedullary fixation rod is a safe method for treating most femoral shaft fractures and for obtaining early functional recovery. He stated that, regardless of the severity of injury, 20 percent of the patients he treated by intramedullary reaming and implantation of an intramedullary fixation rod were fully weight-bearing in 1 week, and 73 percent were fully weight-bearing within 2 months. Cristensen (Ref. 41) concluded that the Kuentscher method provides remarkably rapid consolidation and restoration of function even in difficult cases of nonunion of shaft fracture, particularly of the femur. Allen, et al. (Ref. 42), reported that excellent fixation was achieved and very early weight-bearing was possible in 40 patients with traumatic and pathological fractures and osteotomies of the femur. In all fresh fractures and uninfected nonunions, union occurred promptly, and, in most instances, bone grafting was not required.

5. Risks to health: (a) Loss or reduction of limb function: Improper design or inadequate mechanical properties of the device, such as its lack of strength or rigidity, may result in nonunion or malunion of the bone due to flexing, fracture, or deformation of the device and subsequent loss of limb function. Migration of the fractured device may cause damage to adjacent hard and soft tissues. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to dissolution or corrosion of the device and the release of materials to the surrounding tissues and systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection.

FDA agrees with the Panel recommendation and is proposing that intramedullary fixation rods be classified into class II. Although intramedualllary fixation rods are implanted devices, FDA has determined that premarket approval is not necessary because suffcient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of these devices. In addition, FDA has identified and

assessed the major risks to health associated with the use of these devices. FDA believes that the major risks, i.e., loosening, infection, and adverse tissue reaction, are related to biological responses of the human body to the presence of the device and the device design, and not to physical failure(s) of the device. Clinical experience with these devices has established the persons for whose use the devices are intended and the proper conditions of use. FDA has determined that the probable benefit to health from proper use of these devices outweighs any likelihood of injury or illness resulting from their use. FDA further believes that informative labeling and compliance with general controls will greatly reduce the risks to health associated with the use of these devices. The agency believes that a performance standard is necessary because general controls alone are insufficient to minimize the risks to health presented by these devices.

§ 888.3025; Docket No. 78N–3098; Passive tendon prosthesis.

The Orthopedic Device Classification Panel and the General and Plastic Surgery Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of passive tendon prostheses:

1. Identification: A passive tendon prosthesis is an implanted device made of silicone elastomer or a polyester reinforced medical grade silicone elastomer intended for use in the surgical reconstruction of a flexor tendon of the hand. The device is implanted for a period of 2 to 6 months to aid growth of a new tendon sheath. The device is not intended as a permanent implant nor to function as a replacement for the ligament or tendon nor to function as a scaffold for soft tissue ingrowth.

2. Recommended classification: Class II. Both Panels recommend that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: Both Panels recommend that passive tendon prostheses be classified into class II because the design, material composition, and mechanical properties of the device, such as its flexibility, rigidity, strength, and surface finish, should be controlled to prevent loss or reduction of hand function, adverse tissue reaction, or infection. The Panels believe that general controls alone will not provide sufficient control over these characteristics.

Although passive tendon prostheses are implanted devices, the Panels believe that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of these devices.

4. Summary of data on which the recommendation is based: Both Panels based their recommendations on the Panel members' personal knowledge of, and clinical experience with, the device and on a review of the pertinent medical literature. The device is used when the tendon injury is so severe that good results would not be expected with conventional tendon grafting (Refs. 43 through 45). Weinstein, et al. (Ref. 45), reported on 28 cases of device implantation and noted that while there were frequent complications after both stages of the two-stage surgical procedure used in tendon reconstructions, the device was valuable in the treatment of severely damaged fingers. Hunter, et al. (Ref. 46), reported on 74 cases of implantation of the device. Hunter noted that the satisfactory results obtained using the device were distinctly better than results previously obtained without the use of the device. Animal studies (Ref. 47) and histological examination of tissue removed from patients receiving the device (Ref. 43) indicated that the device was well tolerated by the body.

5. Risks to health: (a) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection. (b) Adverse tissue reaction: Inadequate biological properties of the device, such as its lack of biocompatibility, may result in an adverse tissue reaction due to dissolution and the release of materials from the device to the surrounding tissues and systemic circulation.

FDA agrees with the recommendations of both Panels and is proposing that passive tendon prostheses be classified into class II. Although passive tendon prostheses are implanted devices, FDA has determined that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of these devices. In addition, FDA has identified and assessed the major risks to health associated with the use of these devices. FDA believes that the major risks, i.e., infection and adverse tissue reaction, are related to biological responses of the human body to the presence of the device and the device design, and not to physical failure(s) of the device. Clinical experience with these devices has established the persons for whose use the devices are intended and the proper conditions of use. FDA has determined that the probable benefit to health from proper use of these devices outweighs any likelihood of injury or illness resulting from their use. FDA further believes that informative labeling and compliance with general controls may greatly reduce the risks to health associated with use of these devices. The agency believes that a performance standard is necessary because general controls alone are insufficient to minimize the risks to health presented by these devices.

The agency has reviewed the recommendations of both Panels for passive tendon prostheses and has concluded that classification of this device should be published in the part of the Code of Federal Regulations for orthopedic devices.

§ 888.3030; Docket No. 78N–3049; Single/multiple component metallic bone fixation appliances and accessories.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of single/multiple component metallic bone fixation appliances and accessories:

1. Identification: Single/multiple component metallic bone fixation appliances and accessories are implanted devices, consisting of one or more metallic components and their metallic fasteners. The devices contain a plate, a nail/plate combination, or a blade/plate combination that is made of alloys, such as cobalt-chromium-molybdenum, stainless steel, or titanium, that is intended to be held in position with fasteners, such as screws and nails, or bolts, nuts, and washers. These devices are intended to be used for fixation of fractures of the proximal or distal end of long bones, such as intracapsular, intertrochanteric, intercervical, supracondylar, or condylar fractures of the femur; for fusion of a joint; or for surgical procedures that involve cutting a bone. The device is intended to be implanted or attached through the skin so that a pulling force (traction) may be applied to the skeletal system.

2. Recommended classification: Class II. The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that the device be classified into class II because the

design, material composition, and mechanical properties of the device, such as its flexibility, rigidity, strength, and surface finish, should be controlled to prevent nonunion of fractures, bone necrosis, infection, or adverse tissue reaction. The Panel believes that general controls alone will not provide sufficient control over these characteristics.

Although single/multiple component metallic bone fixation appliances and accessories are implanted devices, the Panel believes that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of these devices. The Panel recommends that the labeling for the device include information on the device dimensions and mechanical properties and identify the materials used in the device by both their common names and engineering classifications.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and its review of the medical literature. Elliott (Ref. 48) reported his clinical experience using a femoral condyle blade/plate on 17 patients. All fractures healed without infections, and there were no instances of nonunion of the fractures and no bending or breakage of the device. Chiron, et al. (Ref. 49), reported on 72 fractures of the distal third of the femur treated by condylar plates. He reported that all fractures healed, and that excellent or good results were obtained with 72 percent of the fractures. Banks (Ref. 50) concludes that the incidence of nonunion in displaced intracapsular femoral neck fractures may be decreased by accurate reduction, adequately placed internal fixation, and carefully supervised postoperative care.

Brown, et al. (Ref. 51), reported that in 17 supracondylar and 5 intercondylar fracture cases, all but 2 of the patients regained 65 degrees of flexion within 10 to 12 weeks. Shelton, et al. (Ref. 52), reported that among 14 supracondylar fractures, excellent restoration was obtained in almost every instance. There were 2 instances of slight plat malalignment resulting in 5 degrees varus and 5 degrees valgus angulation. Each patient achieved rapid clinical union and satisfactory knee movement. The average patient had at least 90 degrees flexion by the third month, and after 1 year had achieved an average of 125 degrees flexion. Two patients had a very slight radiographic malunion. Shelton, et al., concluded that the two malunions were clinically insignificant and were due to improper positioning of the plate.

Burwell (Ref. 53) conducted a survey of 181 fractures of the tibial shaft that were treated by implantation of rigid fixation plates. After 1 year followup, there were three delayed unions (about 2 percent) and eight nonunions (about 4.4 percent). Infection developed in 12 patients (about 6.6 percent). No mechanical failures of the implant were reported, and no patient had residual stiffness of the knee after implantation. Berkin and Marshall (Ref. 54) reported an overall postoperative infection rate of 4.8 percent in 135 tibial fixations and 1.7 percent infection rate in 57 femoral fixations. All the infections eventually healed and the fractures achieved solid union 4 to 24 months after operation.

Scales and Perry (Ref. 55) analyzed 393 bone plates out of 4,769 implanted plates that had been removed from patients. Several clinical reasons for removal were given: one hundred and seventy-eight plates were removed routinely, 126 because of pain, and 14 because of defects in the plates. At no time was corrosion stated by the surgeon to be the reason for removal of the implant.

Ruedi, et al. (Ref. 56), reported that, among over 400 tibia fractures, good to very good results were obtained in 90 percent of the open fractures and in 97 percent of the closed fractures.

Reported complications relating to use of bone fixation screws include: (a) screw loosening (Refs. 53 and 56 through 60) often resulting in loss of fracture fixation and, in one instance, limb paralysis due to traumatization of an artery (Ref. 60); (b) formation of a bursa (a cyst caused by friction or other mechanical cause) over the head of the screw (Ref. 59); and (c) screw fracture (Ref. 53). Several authors (Refs. 53, 61, and 62) noted that if screws cannot be properly tightened, micromotion between the screw and the bone may occur and may lead to bone resorption and loosening of the device. Scales and Perry (Ref. 55) reported that the fracture rates of screws were 0.85 percent for stainless steel screws, 6.0 percent for cobalt-chromium-molybdenum screws, and 7.7 percent for titanium screws.

A review of the recent medical literature on implanted bolts, nuts, and washers revealed that complications associated with these articles include fracture of devices (Refs. 55 and 63), corrosion of the metal at contacting surfaces (Refs. 55 and 64), and bone weakening due to the presence of holes drilled for bolts (Ref. 65).

5. Risks to health: (a) Nonunion of fractures: Improper design or performance of the device may result in nonunion of a fracture. (b) Bone necrosis (destruction): The presence of the device may sever the blood supply to a significant segment of bone. Since bone tissue, especially cortical bone, requires the integrity of its canalicular mechanism for nutrition, any permanent interruption of the vasculature leads to irreversible necrosis (Ref. 66). (c) Infection: The presence of the prothesis within the body may lead to an increased risk of infection. Improper configuration of the device or the finish on the device's surfaces can also lead to infection. (d) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility, may result in an adverse tissue reaction due to dissolution or corrosion of the implant and the release of materials to the surrounding tissues and systemic circulation. (e) Loss or reduction in limb function: Inadequate mechanical properties, such as its lack of strength, rigidity, or improper design of the device, may result in nonunion or malunion due to flexing, fracture, or deformation of the device and subsequent loss or reduction of limb function. Migration of the fractured device may cause damage to adjacent hard and soft tissues.

FDA agrees with the Panel recommendation for single/multiple component metallic bone fixation appliances and accessories and is proposing that these devices be classified into class II. FDA has sought additional data and documentation on the use of these devices. Black (Ref. 67) reported that this treatment of hip fractures is generally a successful procedure, with a small number of clinical failures, a small number of device failures, and a still smaller number of device failures that result in clinical failure. Black summarized several clinical studies that reported an average failure rate of 6 percent.

Holt (Ref. 68) reported that, after 16 years of use, the Holt nail offers distinct advantages in the management of trochanteric fractures in both young and old patients. The incidence of complications is low, and mechanical failures of the implant have been virtually eliminated.

Fielding (Ref. 69) reported that, from 1955 to 1971, the telescoping Pugh nail was used in 256 displaced intracapsular fractures with known end results. Ninety percent united and avascular necroses were seen in 18.5 percent of the united fractures. Since many of the patients

with avascular necrosis had no pain, they were considered satisfactory results.

Ecker, et al. (Ref. 70), reported the results of sixty-two intertrochanteric hip fractures treated with a compression screw. Three nonunions and one malunion gave the technique a failure rate of only 6.4 percent. Seinsheimer (Ref. 71) reported no failures of bone fixation in a total of 47 cases. Banks (Ref. 50) reported that, with adequate reduction, impaction and accurate internal fixation, intracapsular fracture of the femoral neck can be expected to heal in at least 90 percent of the patients. Friedmann (Ref. 72) reported that the Massie nail has been used in 25 cases, with satisfactory results in 23 cases.

Harrington, et al. (Ref. 73), reported that a sliding compression screw-plate combination was used in 72 patients who were followed for more than 12 months after surgery. Sixty-seven fractures progressed to rapid union with good valgus reduction maintained. The average time to fracture union was 3.5 months. Jacobs, et al. (Ref. 74), reported that, of 101 patients treated with a sliding screw-plate developed by Pohl, 2 cases failed because of loss of fixation, 3 cases because of symptomatic penetration, and 1 case because of malunion, with a total failure rate of 6 percent. Hansen, et al. (Ref. 75), reported that, in 42 out of 48 cases (88 percent), fractures were united successfully after a single operative procedure. Six patients (12.5 percent) experienced nonunion and required further surgery. Baker (Ref. 76) reported that overall end results were rated excellent in 67.7 percent and poor in 32.3 percent of the fractures. Massie (Ref. 77) reported that nonunion has not been observed where the patient was completely immobilized.

Cohen, et al. (Ref. 78), reported that corrosion of cobalt-chromium implants is rare, despite widespread use of alloys with slightly different composition and forming techniques between plates and screws. The authors concluded that corrosion may be present to some degree but may not cause clinical problems. Rose, et al. (Ref. 79), reported that analysis of a broken vitallium nail/plate device used to fix an intertrochanteric fracture of the hip revealed that the nail was composed of cast vitallium and the plate of wrought vitallium. The condition of the fracture surface led the authors to believe that brittle failure had occurred and that the fracture crack had initiated from the region of nail/plate contact. These authors suggested that wrought and cast vitallium should not be used in combination.

Zickel (Ref. 80) reported that the Zickel devices obtain an adequate anchor in both proximal and distal fragments of the femur. He stated that the devices provide strong immobilization, permit early ambulation, and control angulation and rotation of fragments. Mickelson, et al. (Ref. 81), reported that of 21 patients who were treated with a Zickel nail for neoplastic pathological fracture or impending pathological fracture, 19 patients were restored to bed-chair status by the third postoperative day and 20 were able to walk. Failure of fixation did not occur in any patient, and there were no infections. Cuthbert, et al. (Ref. 82), reported excellent results with use of the Kuntscher Y Nail in the treatment of intertrochanteric and subtrochanteric fractures of the femur.

Although single/multiple component metallic bone fixation appliances and accessories are implanted devices, FDA has determined that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of these devices. In addition, FDA has identified and assessed the major risks to health associated with the use of these devices. FDA believes that the major risks, i.e., loosening, infection, and adverse tissue reaction, are related to biological responses of the human body to the presence of the device and device design, and not to physical failure(s) of the device. Clinical experience with these devices has established the persons for whose use the devices are intended and the proper conditions of use. FDA has determined that the probable benefit to health from proper use of these devices outweighs any likelihood of injury or illness resulting from their use. FDA believes that informative labeling and compliance with general controls may greatly reduce the risks to health associated with the use of these devices. The agency believes that a performance standard is necessary because general controls alone are insufficient to minimize the risks to health presented by these devices.

§ 888.3040; Docket No. 78N–3053; Smooth or threaded bone fixation fastener.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of smooth or threaded metallic bone fixation fasteners:

1. Identification: A smooth or threaded metallic bone fixation fastener is an implanted device that consists of a stiff wire segment or rod made of alloys, such as cobalt-chromium-molybdenum and stainless steel, and that may be smooth on the outside, fully or partially threaded, straight or U-shaped; and may be either blunt pointed, sharp pointed or have a formed, slotted head on the end. It is intended to be used for fixation of bone fractures, bone reconstructions, as a guide pin for insertion of other implants, or to be implanted through the skin so that a pulling force (traction) may be applied to the skeletal system.

2. Recommended classification: Class II. The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that smooth or threaded metallic bone fixation fasteners be classified into class II because the design, material composition, and mechanical properties of the device, such as its flexibility, rigidity, strength, and surface finish, should be controlled to prevent loss or reduction of limb function, adverse tissue reaction, or infection. The Panel believes that general controls alone will not provide sufficient control over these characteristics.

Although smooth or threaded bone fixation fasteners are implanted devices, the Panel believes that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that the labeling for the device include information on the dimensions and the mechanical properties of the device, and identify the materials used in the device by both their common names and engineering classifications.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and on a review of the recent medical literature.

The medical literature regarding smooth metallic bone fixation fasteners reveals that there a few implant-related complications or implant failures associated with the device. A review by Fenyo (Ref. 83), covering a 12-year period and 41 cases, revealed no fractures of implants. Jones and Esah (Ref. 84) reported on six cases of radial fracture fixation in which there were no implant-related complications. Green

(Ref. 85) reported on 75 cases of intraarticular fractures treated with pin fixation, in which the results were evaluated as "good to excellent" in 86 percent of the cases. The most common complication Green reported was failure to maintain the restoration of radial length and inclination achieved by the initial reduction. He noted that up to 5 millimeters of radial length was lost due to bending of the device.

Another report (Ref. 86) noted that when the device was used in 30 patients to fuse shoulder joints, 20 patients (66 percent) attained a primary fusion, and 5 patients (17 percent) required a third operation to achieve a solid fusion. Once fusion was attained, 86 percent of the patients had excellent or good results. The chief cause of failure of arthrodesis was immoblization for too short a period of time.

Device-related complications were reported by Flynn, Matthews, and Benoit (Ref. 87) in a review of a series of 52 supracondylar fractures of the humerus in children. Both smooth and threaded pins were used. During long-term followup, the authors concluded that satisfactory results were achieved in 98 percent of the cases. They reported the following complications: vascular complications (18 percent), vascular and neuropathy complications (8 percent), muscular complications (1 percent), loss of fracture reduction (3 percent), and pin extrusion (1 percent). There were no instances of device fracture. Other reports in the medical literature involving bone fixation screws list the following device-related complications: (a) screw loosening (Refs. 57, 88, and 90 through 93) often resulting in loss of fracture fixation and, in one instance, limb paralysis due to traumatization of an artery (Ref. 93); (b) formation of a bursa (a cyst caused by friction or other mechanical cause) over the head of the screw (Ref. 92); and (c) device fracture (Ref. 94). Several authors (Refs. 62, 88, and 95) noted that if screws cannot be properly tightened, micromotion between the screw and the bone may occur and may lead to bone resorption and loosening of the device. Scales and Perry (Ref. 94) reported that the fracture rates of screws is 0.85 percent for stainless steel screws, 6.0 percent for cobalt-chromium-molybdenum screws, and 7.7 percent for titanium screws.

5. Risks to health: (a) Loss or reduction of limb function: Improper design or inadequate mechanical properties of the device, such as its lack of strength or rigidity, may result in nonunion or malunion due to flexing, fracture, or deformation of the device and subsequent loss of limb function. When the device is used as a guide pin for other implants, device failure due to inadequate mechanical properties could lengthen the time of surgery and result in an increased risk of operative complications. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility, may result in an adverse tissue reaction due to dissolution or corrosion of the implant and the release of materials to the surrounding tissues and systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk infection. (d) Nonunion or malunion of a fracture: Improper design or faulty performance of the device could result in a loss of traction and nonunion or malunion of a fracture.

FDA agrees with the Panel recommendation and is proposing that smooth or threaded metallic bone fixation fasteners be classified into class II. Although smooth or threaded metallic bone fixation fasteners are implanted devices, FDA has determined that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of these devices.

In addition, FDA has identified and assessed the major risks to health associated with use of these devices. FDA believes that the major risks, i.e., breakage, plastic deformation, and excessive elastic deformation, are bulk-material mechanical property failures of the device and the risks are attributed primarily to the device design and/or material and secondarily to host-tissue effects upon the device/material. Clinical experience with these devices has established the persons for whose use the devices are intended and the proper conditions of use. FDA has determined that the probable benefit to health from proper use of these devices outweighs any likelihood of injury or illness resulting from their use. FDA believes that informative labeling and compliance with general controls may greatly reduce the risks to health associated with the use of these devices. The agency believes that a performance standard is necessary because general controls alone are insufficient to minimize the risk to health presented by these devices.

§ 888.3050; Docket No. 78N–3047; Spinal interlaminal fixation orthosis.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of spinal interlaminal fixation orthoses:

1. Identification: A spinal interlaminal fixation orthosis is an implanted device made of an alloy, such as stainless steel, that consists of various hooks and a posteriorly placed compression or distraction rod. The device is implanted, usually across three adjacent vertebrae, to straighten and immobilize the spine to allow bone grafts to unite and fuse the vertebrae together. The device is used primarily in the treatment of scoliosis (a lateral curvature of the spine), but it also has been used in the treatment of fracture or dislocation of the spine, grades 3 and 4 of spondylolisthesis (a dislocation of the spinal column), and lower back syndrome.

2. Recommended classification: Class II. The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that spinal interlaminal fixation orthoses be classified into class II because the design, material composition, and mechanical properties of the device, such as its flexibility, rigidity, strength, and surface finish, should be controlled to prevent adverse tissue reaction, infection, or paralysis. The Panel believes that general controls alone will not provide sufficient control over these characteristics.

Although a spinal interlaminal fixation orthosis is an implanted device, the Panel believes that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that the labeling for the device provide information on the strength of the device and identify the materials used in the device by both their common names and engineering classifications.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and on a review of the medical literature.

5. Risks to health: (a) Adverse tissue reaction: Inadequate properties of the device, such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to dissolution or corrosion of the implant and a release of materials from the device to the surrounding tissues and the systemic circulation. (b) Infection: The presence of the orthosis within the body may lead to an increased risk of infection. (c) Paralysis:

Paralysis may occur with loosening, migration, or breakage of the device.

FDA agrees with the Panel recommendation and is proposing that spinal interlaminal fixation orthoses, such as the Harrington device, be classified into class II. FDA has sought additional data on the use of the devices. The most common spinal interlaminal fixation orthosis is the Harrington device. As shown by the quantity of published literature, the Harrington device is widely used in the correction of scoliosis (lateral curvature of the spine). Reports in the literature differ as to whether untreated scoliosis causes significant problems, such as pain, disability, cardiopulmonary decompensation, and death. Nachemson (Ref. 97) reported that scoliotic patients had a mortality rate double that of the general population and that those patients with a severe thoracic curve had a mortality rate four times that of the general population. Nachemson also indicated that patients generally exhibited increasing respiratory troubles with increasing age and an increasing spinal curve. In contrast, Collis and Ponsetti (Ref. 98) found a death rate in untreated scoliotics similar to that of the normal population.

In studies reviewed by the Panel, the success of the Harrington device in maintaining a surgical reduction in spinal curvature was suggested. In 1962, Harrington (Ref. 99) reported on a study of use of the device in three clinical groups. Group I showed 58 percent reduction in spinal curvature, Group II showed 59 percent, and Group III, 84 percent. In 1973, Harrington and Dickson (Ref. 100) reported the results of an 11-year investigation of 578 cases. This study was divided into 8 consecutive study groups. With each of the 8 groups, the study took "a step in the evolution of the design of the device and a corresponding change either in spinal fusion procedure or the postoperative management." The investigators reported an average spinal curvature reduction of about 63 percent. Dickson and Harrington (Ref. 101), reported an average spinal curve reduction of 65.3 percent. O'Brien and Yau's (Ref. 102) clinical studies showed an 88 percent reduction of spinal curvature.

When Harrington reported the initial results of implantation of the device in 129 patients, complications were high (Ref. 99). Twenty-seven instrument fractures were reported. Bone erosion occurred in 28 percent of the cases. Nonunion (failed fusion) was reported in 10 cases. Fifty-eight percent of the device fractures occurred in the first 19 of the 129 cases. Failures of the device were minimized through changes in the design of the device, surgical technique, and postoperative care.

In the 11-year investigation of 578 cases reported by Harrington and Dickson (Ref. 100), the major complications included: nonunion (3 percent), broken rod with overlap (10 percent), hematoma (1 percent), wound infection (1 percent), hepatitis (one case), and death (one case). The overall major complication rate started with a 29 percent occurrence in group 1, and gradually diminished, with no major complications reported in group 8.

Dawson, et al. (Ref. 103), used the Harrington device in a study of 82 adult scoliotic patients. With an average followup of 3.5 years, Dawson reported the following complication rates: nonunion—27 percent, infection—21 percent (subsequently lowered to 2 to 3 percent when prophylactic antibiotics were used) with no chronic infection, and death—6 percent; however, all patients who died had severe pulmonary disease.

Kostuik, et al. (Ref. 104), used the Harrington device in 107 patients and reported the following late complication rates: nonunion (10 percent), chronic infection (0 percent), painful instrumentation (4 percent), loose rods (1 percent), donor site numbness (1 percent), neuroma (1 percent), and loss of lumbar lordosis (1 percent).

Dickson and Harrington (Ref. 101) reported on use of the device in 384 patients. Genitourinary infection (5 percent) was the most prevalent early complication, and device fracture (6 percent) was the most prevalent late complication.

Bonnet and Brown (Ref. 105) reported one rod fracture in 150 cases. Nonunion was the most prevalent complication in Bonnet's study. This complication occurred initially in 38 percent of the cases, but was reduced to 27 percent in the latest clinical group.

Goldstein reported no device fractures in 107 patients (Ref. 106). Dolan and MacEwen (Ref. 107), in a review of 173 cases involving the Harrington device, reported nonunion in 15 patients and only 3 device fractures.

Spinal interlaminal fixation orthoses are implantable devices purported or represented for a use which is of substantial importance in preventing impairment of human health. FDA believes that clinical experience with the designs of these devices and the materials used in them have established the persons for whose use the devices are intended and the proper conditions of use. The agency believes that the probable benefit to health from use of these devices outweighs any likelihood of illness or injury resulting from their use. FDA believes that informative labeling will help minimize the risks to health associated with the use of these devices.

Although spinal interlaminal fixation orthoses are implanted devices, FDA believes that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of these devices. The agency believes that a performance standard is necessary because general controls alone are insufficient to minimize the risks to health presented by these devices.

§ 888.3060; Docket No. 78N–3048; Spinal intervertebral body fixation orthosis.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of spinal intervertebral body fixation orthoses:

1. Identification: A spinal intervertebral body fixation orthosis is an implanted device made of titanium. It consists of various vertebral plates that are punched into each of a series of vertebral bodies. An eye-type screw is inserted in a hole in the center of each of the plates. A braided cable is threaded through each eye-type screw. The cable is tightened with a tension device and it is fastened or crimped at each eye-type screw. The device is intended to apply force to a series of vertebrae to correct "sway back", scoliosis (lateral curvature of the spine), or other conditions.

2. Recommended classification: Class II. The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendations: The Panel recommends that spinal intervertebral body fixation orthoses be classified into class II because the design, material composition, and mechanical properties of the device, such as its flexibility, rigidity, strength, and surface finish, should be controlled to prevent adverse tissue reaction, infection, or paralysis. The Panel believes that general controls alone will not provide sufficient control over these characteristics.

Although these are implanted devices, the Panel believes that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that the labeling

for the device include information on the dimensions and kinematics of the device and its strength and wear characteristics.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away from the surfaces of the device and the release of materials from the device to the surrounding tissues and the systemic circulation. (b) Infection: The presence of the orthosis within the body may lead to an increased risk of infection. (c) Paralysis: Paralysis may occur with loosening, migration, or breakage of the device.

FDA agrees with the Panel recommendation and is proposing that spinal intervertebral body orthoses, such as the Dwyer device, be classified into class II. The agency has obtained additional data and information describing the use of spinal intervertebral body fixation orthoses (Refs. 108 through 119). The device is intended primarily for use in the treatment of scoliosis, but it is also intended for fixation of the spine so that bone grafts can unite properly. Because the device is implanted on the front of the spine, implantation requires a more extensive surgical exposure than required for the implantation of spinal interlaminal fixation orthoses (§ 888.3050).

The safety and effectiveness of implantation of spinal intervertebral body fixation orthoses in the treatment of scoliosis is still being assessed (Ref. 114). Recent studies (Refs. 114, 116, and 117) report use of the device for a variety of treatments, i.e., idiopathic thoracolumbar and lumbar spinal curves, spinal curves associated with deficient posterior elements, spinal curves with marked forward curve of the lumbar spine (lordosis), and spinal curves associated with muscle paralysis. Because the device may be placed on the front of the spine, it is implanted to treat "sway back." Paralytic scoliosis is a lateral curvature of the spine caused by muscle paralysis on one side of the spinal column. Paralytic spinal curves usually involve a series of vertebra, and bone grafts inserted to correct such curves have a higher incidence of nonunion (Ref. 114). Although spinal intervertebral body fixation orthoses are indicated for use alone in the treatment of paralytic spinal curves, the preferred method of treatment is the combined use of both spinal intervertebral body fixation orthoses and spinal interlaminal fixation orthoses (§ 888.3050), a posteriorly placed compression or distraction rod (Refs. 113, 114, 116, 117, and 118). Use of spinal intervertebral body fixation orthoses is contraindicated for use in treatment of both high thoracic curves and "hunchback" (Refs. 114, 116, and 117).

FDA's search of the medical literature revealed only three studies showing long-term use of spinal intervertebral body fixation orthoses (Refs. 110, 111, and 114). Dwyer (Ref. 110) reported use of the device in 51 patients. The major complication reported involved the patients' respiratory system and two instances of nonunion of bone grafts. Most of the respiratory complications are attributed to the extensive surgery required to implant the device, and not to problems with the device itself. Dwyer, et al. (Ref. 111), reported use of the device in 77 patients with an overall complication rate of 43 percent. The complications reported included progressive "hunchback" in 18 patients, loss of correction in 22 patients, nonunion of bone grafts in 15 patients, device failure in 5 patients, deep paravertebral infection in 3 patients, and retroperitoneal fibrosis (fibrosis between the lining of the intestinal cavity and the spine) in one patient. Hall (Ref. 113) reported use of the device in 77 patients and the major complication involved nonunion of bone grafts. Twelve percent of the patients had a major nonunion resulting in reoperation. Fourteen percent had a minor nonunion with implant failure, but without serious impairment of function of the patient.

Two recent case reports in the literature (Refs. 112 and 115) provide information on complications associated with use of spinal intervertebral body fixation orthoses. Eisenstein and O'Brien (Ref. 112) reported chylothorax (an accumulation of chyle, a milky fluid, in the pleural cavity). Silber and McMaster (Ref. 115) reported a case of retroperitoneal fibrosis with hydronephrosis (a collection of urine in the distended pelvis of the kidney caused by obstructed outflow—pressure of the urine in time causes atrophy of the kidney structure, and the whole organ is converted to a large cyst). Both of the above complications may be caused by the demanding surgery involved with implanting the device, and not from the device itself. Additionally, Schafer, et al. (Ref. 119), reported that improper crimping of the head of the eye-screw inserted into the intervertebral body could shred the cable, eventually resulting in cable failure. The authors noted that 5 out of 6 heads of eye-screws and 2 out of 4 heads of eye-screws were found to be cracked following improper crimping.

Thus, spinal intervertebral body fixation orthoses are implanted devices that are purported or represented to be for use in relieving disabling pain and restoring or minimizing further loss of functional use of the spine. FDA believes these uses are of substantial importance in preventing impairment of human health. FDA further believes that clinical experience with these devices or the materials used in these devices has established the persons for whose use the devices are intended and the proper conditions of use. The agency believes that the probable benefit to health from use of the devices outweighs any likelihood of illness or injury resulting from their use. FDA further believes that informative labeling will help minimize the risks to health associated with the use of these devices.

Although spinal intervertebral body fixation orthoses are implanted devices, FDA believes that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of these devices. The agency believes that a performance standard is necessary because general controls alone are insufficient to minimize the risks to health presented by these devices.

§ 888.3100; Docket No. 78N–3059; Ankle joint metal/composite semi-constrained prosthesis.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of ankle joint metal/composite semi-constrained prostheses:

1. Identification: An ankle joint metal/composite semi-constrained prosthesis is an implanted device intended to replace an ankle joint. The device limits translation and rotation in one or more planes via the geometry of its articulating surfaces. It has no linkage across-the-joint. This generic type of device includes prostheses that consist of a talar resurfacing component made of alloys, such as cobalt-chromium-molybdenum, and a tibial resurfacing component fabricated from a carbon fiber reinforced ultra-high molecular weight polyethylene composite, and is limited to those devices intended for implantation with a polymethylmethacrylate luting agent (bone cement).

2. Recommended classification: Class III. The Panel recommends that premarket approval of this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that ankle joint metal/composite semi-constrained prostheses be classified into class III because the device is implanted and is intended to be used in relieving disabling pain and in restoring or minimizing futher loss of functional use of a joint or limb. The Panel believes these users are of substantial importance in preventing impairment of human health.

The Panel believes that general controls alone will not provide sufficient control over these characteristics. The Panel also believes that it is not possible to establish an adequate performance standard for the device. There is a lack of safety and effectiveness data to demonstrate the satisfactory performance of the device. The Panel has found that insufficient information exists to support the conclusion that general controls or performance standards will be adequate to provide reasonable assurance of the safety and effectiveness of the device. Therefore, the device must be subject to premarket approval to assure its safety and effectiveness.

The Panel also recommends that the labeling for the device include information on the dimensions and kinematics of the device and its strength and wear characteristics.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' clinical experience with similar devices and a series of presentations to the Panel (Refs. 120 and 121). Dr. Robert Johnson (Rensselaer Polytechnic Institute) compared the physical properties of the carbon fiber reinforced ultra-high molecular weight polyethylene composite material with the physical properties of conventional polyethlene material. He found that the reinforced material was superior to the conventional polyethylene material regarding compressive deformation, flexural stress, compressive creep, modulus of elasticity, and fatigue. Dr. Johnson also noted that the technology of composite materials such as carbon-fiber-reinforced polyethylene is in its infancy with regard to engineering in general.

Dr. Jack Lemons (University of Alabama) presented the results of toxicity tests on the carbon fiber reinforced material. The results of in vitro tests showed the material, and extracts from the material, to be noncytotoxic to monolayers of cells and nonhemolytic to rabbit blood. The results of in vivo tests indicated that the material was nonirritating, nontoxic, and did not produce adverse effects after up on 15 months of implantation. The results of subacute toxicity tests indicated that intracutaneous extracts of the material were nonirritating when injected into rabbits; that systemic injections produced no adverse effects in mice; and that when the material was implanted along the backs of rabbits, it was nontoxic when it was evaluated at 6 and 12 weeks. The results of the chronic toxicity tests indicated that polyethylene material reinforced with carbon fibers was noncytotoxic, nontoxic, nonirritating, and produced no adverse effects when it was injected into the knee spaces of four rabbits and evaluated 15 months later. Dr. Lemons determined that these tests show that the carbon fiber reinforced material is biocompatible.

Dr. Joel Schilling (Portland, OR) presented a report on the histological examination of pieces of tissue removed from a patient who had received an ultra-high molecular weight polyethylene prosthesis in one ankle and a carbon fiber reinforced ultra-high molecular weight polyethylene composite prosthesis in the other. Dr. Schilling found that there was minimal tissue reaction to either type of material and that there seemed to be very little reaction to the carbon fragments.

Dr. Robert Volz (University of Arizona) presented a comparison of the effect of temperature on the conventional ultra-high molecular weight polyethylene and on the carbon fiber reinforced material. Dr. Volz concluded that the carbon fiber reinforced material offered considerable improvement in its resistance to deformation at body temperatures (i.e., 37° C) and at 96° C, the temperature reached during polymerization of methylmethacrylate cement.

At the July Panel meeting (Ref. 121), Robert Fuson, M.D. (Zimmer-USA), summarized the clinical experience with prostheses made from the carbon fiber reinforced material. A total of 86 acetabular components for total hip prostheses, 18 tibial components for total knees, and 23 tibial components for total ankles have been implanted. Of these, 65 hip, 18 knee, and 22 ankle components have been implanted for more than 6 months. Only 61 hip components, 11 knee components, and 12 ankle components have been implanted for over 1 year. Only five implantations (ankle) had been clinically followed for 2 years. No adverse reactions related to these prostheses were reported.

5. Risks to health: (a) Loss or reduction of joint function: Improper design or inadequate mechanical properties of the device, such as its lack of strength and resistance to wear, may result in a loss or reduction of joint function due to excessive wear, fracture, deformation of the device, or loosening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to a dissolution or wearing away from the surfaces of the device and the release of materials from the device to the surrounding tissues and systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection.

FDA agrees with the Panel recommendation and is proposing that ankle joint metal/composite semi-constrained prostheses be classified into class III. FDA finds that these implanted devices are intended to be used in relieving disabling pain and in restoring or minimizing further loss of functional use of a joint or limb. FDA believes these uses are of substantial importance in preventing impairment of human health. FDA believes that insufficient clinical experience exists to fully establish the persons for whose use the devices are intended and the proper conditions of use. The agency believes that the probable benefit to health from use of the devices does not compare favorably with the likelihood of illness or injury resulting from their use.

Because of the lack of adequate data to demonstrate the safety and effectiveness of these implanted devices, FDA believes that use of the ankle joint metal/composite semi-constrained prosthesis presents an unreasonable risk of illness or injury. Because these devices are intended to be implanted in the human body, the Federal Food, Drug, and Cosmetic Act requires that they be classified into class III unless FDA determines that premarket approval is not necessary to provide reasonable assurance of the safety and effectiveness of these devices. On the basis of available information, FDA cannot make this determination. Moreover, FDA believes that insufficient information exists to support the conclusion that general controls or performance standards will provide reasonable assurance of the safety and effectiveness of these devices. Therefore, FDA is proposing that these devices be classified into class III.

§ 888.3110; Docket No. 78N–3060; Ankle joint metal/polymer semi-constrained prosthesis.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of ankle joint metal/polymer semi-constrained prostheses:

1. Identification: An ankle joint metal/polymer semi-constrained prosthesis is an implanted device intended to replace an ankle joint. The device limits translation and rotation in one or more planes via the geometry of its articulating surfaces and has no linkage across-the-joint. This generic type of device includes prostheses that have a talar resurfacing component made of alloys, such as cobalt-chromium-molybdenum, and a tibial resurfacing component made of ultra-high molecular weight polyethylene, and is limited to those devices intended for implantation with a polymethylmethacrylate luting agent (bone cement).

2. Recommended classification: Class II. The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that ankle joint metal/polymer semiconstrained prostheses be classified into class II because the design, material composition, and mechanical properties of the device, such as its flexibility, rigidity, strength, and surface finish, should be controlled to prevent loss or reduction of joint function, adverse tissue reaction, or infection. The Panel believes that general controls alone will not provide sufficient control over these characteristics.

Although ankle joint metal/polymer semi-constrained prostheses are implanted devices, the Panel believes that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that the labeling for the device include information on the dimensions and kinematics of the device and its strength and wear characteristics.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on three oral presentations to the Panel, and the Panel members' knowledge of the medical literature. On July 15, 1977, oral presentations to the Panel were made by Drs. Harry Groth, Theodore Waugh, and Arthur Steffee (Ref. 122). Dr. Groth discussed the clinical results obtained following implantation of 31 Oregon design ankle prostheses. Seventeen of these devices had been implanted for 1 year or more. The maximum time of implantation was reported as 2 years. The clinical results were reported as "fair" in 4 patients, and as "good" or "excellent" in the remaining 27.

Dr. Waugh presented the clinical results obtained using the University of California at Irvine (UCI) design ankle prosthesis. This prosthesis had been implanted in 63 patients, 35 to 40 of whom had had the devices implanted for more than 2 years.

Dr. Steffee discussed the clinical results obtained following implantation of 37 Bech-Steffee design ankle prostheses. The minimum time of implantation of these devices was reported as 2 months, and the maximum time was 46 months.

Drs. Groth, Waugh, and Steffee reported the following total complications associated with use of the three prosthesis designs they studied: five cases of device loosening, two cases of joint infection, one case of joint instability, two cases of malpositioning of the prosthesis, eight cases of wound healing problems, and two cases of pulmonary embolism.

In another oral presentation before the Panel on November 19, 1980 (Ref. 123), Dr. Paul Thompson discussed the results he obtained using the TPR® ankle prosthesis. He said that the device had been implanted in 43 patients over a 6-year period and that excellent or good results were obtained in 75 percent of these patients, and poor results were obtained in 25 percent. Complete freedom from pain was achieved in 32 percent. Sixty-five percent of the patients complained of mild discomfort and 7 percent had constant pain. Reoperations were done on eight patients (19 percent) for loosened prostheses; two patients of the eight had two reoperations, the remaining six had one reoperation.

5. Risks to health: (a) Loss or reduction of joint function: Improper design or inadequate mechanical properties of the device, such as its lack of strength and resistance to wear, may result in a loss or reduction of joint function due to excessive wear, fracture, deformation of the device, or loosening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away from the surfaces of the device and the release of materials from the device to the surrounding tissues and systemic circulation. (c) Infection: the presence of the prosthesis within the body may lead to an increased risk of infection.

FDA agrees with the Panel recommendation and is proposing that ankle joint metal/polymer semi-constrained prostheses be classified into class II. FDA has sought additional data and information on the safety and effectiveness of these devices. Several publications (Refs. 124 and 125) were available describing the biomechanics of the ankle joint prosthesis and the rationale behind a number of ankle prosthesis designs. Other publications (Refs. 126 through 129) presented clinical results obtained using the devices.

Stauffer (Ref. 126) reported that the early results obtained with the Mayo design prosthesis were favorable. He stated that, of 20 patients in whom the Mayo design ankle prosthesis was implanted, six complications occurred: 3 cases of fracture of the medial malleolus; 1 case of impingement of the lateral malleolus or the talus; 1 case of loosening of the tibial component, following a patient's fall, and 1 case of rotation of the subtalor joint by the anchoring fins of the talar component. In a subsequent publication (Ref. 127), Stauffer reported the clinical results obtained from 72 patients involving 76 implantations. In 63 of these patients, the devices had been implanted for more than 6 months. Of these 63 patients, good results were obtained in 52, fair results in 6, and poor results in 5. A number of complications were reported: one case of deep infection requiring removal of the components; five cases of delayed wound healing; one case of thrombophlebitis; five cases of fracture of the medial malleolus; and three cases of device loosening. Reoperations were required in five patients due to impingement of the lateral malleolus or the talus.

Evanski and Waugh (Ref. 128) reported on ankle prostheses that had been implanted in 29 patients. Twenty-five patients received the UCI design ankle prosthesis and four received the Smith design ankle prosthesis. The authors stated that sufficient data were available to evaluate the results in 28 patients. The average period of followup for these patients was 9 months. Significant improvement was noted in function, pain relief, and range of motion. Complications included: three cases of wound healing problems and two cases of malalignment of the components, one requiring reoperation. There were two failures: one patient required a joint fusion and the other an

amputation following postoperative occlusion of the posterior tibial artery.

Scholz (Ref. 129) reported on the implantation of 31 devices of his design in 30 patients who were candidates for ankle arthrodesis. The devices were implanted over a 2-year period. It was reported that, in general, pain was eliminated or reduced, function was improved, and motion of the joint was generally sufficient to allow normal heal-toe gait without a limp. It was also reported that there were no major complications associated with the device. However, reoperation was necessary in one patient to reposition a tibial component that had been incorrectly aligned and had loosened. Scholz stated that no devices had been removed to arthrodese the joint, but that arthrodesis was possible if the components had to be removed at a future date.

Although ankle joint metal/polymer semi-constrained prostheses are implanted devices, FDA has determined that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of these devices. In addition, FDA has identified and assessed the major risks to health associated with the use of these devices. FDA believes that the major risks, i.e., loosening, infection, and adverse tissue reaction, are related to biological responses of the human body to the presence of the device, the device design, and the underlying joint pathology, and not to physical failure(s) of the device. Thrombophlebitis and infection are risks of any serious operation and are not necessarily caused by poor performance of the device. Clinical experience with these devices has established the persons for whose use the devices are intended and the proper conditions of use. FDA has determined that the probable benefit to health from proper use of these devices outweighs any likelihood of injury or illness resulting from their use. FDA further believes that informative labeling and compliance with general controls may greatly reduce the risks to health associated with the use of these devices. The agency believes that a performance standard is necessary because general controls alone are insufficient to minimize the risks to health presented by these devices.

§ 888.3120; Docket No. 78N–3061; Ankle joint metal/polymer non-constrained prosthesis.

The Orthopedic Device Classification Panel, an FDA Advisory committee, made the following recommendation regarding the classification of ankle joint metal/polymer non-constrained prostheses:

1. Identification: An ankle joint metal/polymer non-constrained prosthesis is an implanted device intended to replace an ankle joint. The device limits minimally (less than normal anatomic constraints) translation in one or more planes. It has no linkage across-the-joint. This generic type of device includes prostheses that have a tibial component made of alloys, such as cobalt-chromium-molybdenum, and a talar component made of ultra-high molecular weight polyethylene, and is limited to those devices intended for implantation with a polymethylmethacrylate luting agent (bone cement).

2. Recommended classification: Class III. The Panel recommends that premarket approval of this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that ankle joint metal/polymer non-constrained prostheses be classified into class III because these implanted devices are intended to be used in relieving disabling pain and in restoring or minimizing further loss of functional use of a joint or limb. The panel believes these uses are of substantial importance in preventing impairment of human health.

The Panel believes that general controls alone will not provide sufficient control over these characteristics. The Panel also believes that it is not possible to establish an adequate performance standard for the device. There is a lack of safety and effectiveness data to demonstrate the satisfactory performance of the device. The Panel has found that insufficient information exists to support the conclusion that general controls of performance standards will be adequate to provide reasonable assurance of the safety and effectiveness of the device. Therefore, the device must be subject to premarket approval to assure its safety and effectiveness.

The Panel also recommends that the labeling for the device include information on the dimensions and kinematics of the device and its strength and wear characteristics.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of the device and on the available medical literature. According to Freeman (Ref. 130), "It is still too early to say whether this operation (total ankle joint replacement) offers any advantages over arthrodesis * * *. It would appear a comfortable mobile ankle can be produced but how reliably this can be done and how long the results will last is impossible to say."

5. Risks to health: (a) Loss or reduction of joint function: Improper design or inadequate mechanical properties of the device, such as its lack of strength and resistance to wear, may result in a loss or reduction of joint function due to excessive wear, fracture, deformation of the device, or loosening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away from the surfaces of the device and the release of materials from the device to the surrouding tissues and systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection.

FDA agrees with the Panel recommendation and is proposing that ankle joint metal/polymer non-constrained prostheses be classified into class III. The agency has reviewed the Panel recommendation and has sought additional information describing the safety and effectiveness of these devices. The only available clinical study on the device has been done by S. E. Newton (Ref. 131). Since 1973, 50 patients have had this prosthesis implanted. There have been 20 (40 percent) reported failures. FDA believes these data are insufficient to establish the safety and effectiveness of ankle joint metal/polymer non-constrained prostheses.

FDA finds that ankle joint metal/polymer non-constrained prostheses are implanted devices that are intended to be used in relieving disabling pain and in restoring or minimizing further loss of functional use of a joint or limb. FDA believes these uses are of substantial importance in preventing impairment of human health. FDA believes that insufficient clinical experience exists to fully establish the persons for whose use the devices are intended and the proper conditions of use. The agency believes that the probable benefit to health from use of the devices does not compare favorably with the likelihood of illness or injury resulting from their use.

Because of the lack of adequate data to demonstrate the safety and effectiveness of these implanted devices, FDA believes that use of the ankle joint metal/polymer non-constrained prosthesis presents an

unreasonable risk of illness or injury. Because these devices are intended to be implanted in the human body, the Federal Food, Drug, and Cosmetic Act requires that they be classified into class III unless FDA determines that premarket approval is not necessary to provide reasonable assurance of the safety and effectiveness of these devices. On the basis of available information, FDA cannot make that determination. Moreover, FDA believes that insufficient information exists to support the conclusion that general controls or performance standards will provide reasonable assurance of the safety and effectiveness of these devices. Therefore, FDA is proposing that these devices be classified into class III.

§ 888.3150; Docket No. 78N–3062; Elbow joint constrained prosthesis.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of elbow joint contrained prostheses:

1. Identification: An elbow joint constrained prosthesis is an implanted device made exclusively of alloys, such as cobalt-chromium-molybdenum, or made from these alloys and ultra-high molecular weight polyethylene, that is intended to replace an elbow joint. The device prevents dislocation in more than one anatomic plane and consists of two components which are linked together (or affined). The generic type of device is limited to those prostheses intended for implantation with a polymethylmethacrylate luting agent (bone cement).

2. Recommended classification: Class II. The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that elbow joint constrained prostheses be classified into class II because the design, material composition, and mechanical properties of the device, such its flexibility, rigidity, strength, and surface finish, should be controlled to prevent loss or reduction of joint function, adverse tissue reaction, or infection. The Panel believes that general controls alone will not provide sufficient control over these characteristics.

Although these are implanted devices, the Panel believes that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device. The Panel also recommends that the labeling for the device include information on the dimensions and kinematics of the device and its strength and wear characteristics.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on an oral presentation to the Panel and their knowledge of the medical literature. On April 14, 1977, the Panel heard an oral presentation by Dr. Rowland Pritchard (Ref. 132). Dr. Pritchard summarized his experience with the Pritchard-Walker prosthesis which has a metallic ulnar component and a polyethylene humeral component. Dr. Pritchard reported that he had implanted 25 of the devices and that 18 (72 percent) of the patients were free from pain. Dr. Pritchard indicated that the devices had been implanted for as little as 2 years in some patients and as long as 3 years in others. Dr. Pritchard stated that the polyethylene humeral component of two of the devices (8 percent) had fractured and that there were two other complications, one case of infection and one case of radial nerve palsy (paralysis).

5. Risks to health: (a) Loss or reduction of joint function: Improper design or inadequate mechanical properties of the device, such as its lack of strength and resistance to wear, may result in a loss or reduction of joint function due to excessive wear, fracture, deformation of the device, or loosening of the device in the surgical cavity.

(b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility or resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away from the surfaces of the device and the release of materials from the device to the surrounding tissues and systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection.

FDA disagrees with the Panel recommendation and is proposing that contrained elbow joint prostheses be classified into class III. FDA has sought additional information on the safety and effectiveness of the device. The agency has reviewed the current medical literature pertinent to elbow joint constrained prostheses. The literature reviewed pertains to both the earlier designs of constrained elbow prostheses, the "rigid-hinge" devices such as the St. George and Coonrad designs, and the more recent "loose-hinge" devices, such as the Schlein, Ewald, Pritchad-Walker, and Mayo designs.

Although good results with the rigidly hinged devices were found initially, several investigators (Refs. 132 through 134) reported that serious complications were associated with long-term implantation of these devices. Souter (Ref. 134) described three serious long-term complications associated with the use of these devices: (1) loosening of the devices resulting in joint instability, (2) bone erosion and resorption resulting in fracture of the bone surrounding the devices, and (3) the difficulty in salvaging the joint if the device is removed.

A high incidence of complications, particularly loosening, was reported by many investigators using a variety of constrained elbow designs. Dee (Ref. 133) evaluated 40 patients 2 to 5 years after they had received an elbow joint metallic rigid-hinged prosthesis. Eleven (27.5 percent) of the prostheses had loosened; the majority of these loosening 2 or more years after surgery. Only two cases of loosening had been evident 1 year after implantation, and only six after 3 years. Souter (Ref. 134) reported that 12 out of 25 prostheses (48 percent) had loosened after an average time of implantation of 5 years and 3 months. Eleven (44 percent) of the patients had unstable joints. Devas (Ref. 135) used a rigid-hinged device with metallic humeral and ulnar components and a polyethylene bushing in nine patients. He reported that four out of nine (44 percent) of the devices had loosened or were suspected of being loose and concluded that the long-term results did not warrant continuing the procedure.

Gshwend, Sheier, and Bahler (Ref. 136) and Ewald (Ref. 137) reported on their clinical results with the G.S.B metallic rigid-hinged device. Gshwend, et al. (Ref. 136), reported that one-third of the 40 prostheses implanted in their study were subject to loosening 1 to 5 years after implantation. Ewald (Ref. 137) reported that in his study, 2 out of 13 (15 percent) of the devices had loosened 10 to 21 months after implantation. Other reported hazards and complications include fracture of the polyethylene components of devices due to inadequate mechanical strength of the material (Ref. 138), metal sensitivity in patients with metallic prostheses due to the accumulation of metallic wear debris (Ref. 133), and the potential for extensive bone infection related to the long intramedullary stems of the devices (Ref. 134). The high incidence of complications with these devices has been attributed to the inability of a "rigid" hinge to accommodate the torque forces that

occur during axial rotation of the forearm (Refs. 134, 138, and 139). FDA recognizes that the "loose" hinge elbow prosthesis (e.g., Pritchard-Walker) is designed to allow some side-to-side motion and thus reduce the rate of loosening found with the "rigid" hinged devices. Dr. Pritchard reported to the Panel that there were no cases of devices loosening in 25 patients, 2 to 3 years after implantation of the devices.

Schlein (Ref. 140) reported that over 400 loose-hinged elbow prostheses were implanted over a 3-year period. Schlein reported the following complications in the series of 400 implantations: 11 cases of device loosening (2.75 percent); 4 cases of infection (1 percent); 2 cases of device fractures (0.5 percent); and 6 cases of bone fractures (1.5 percent). FDA notes that: (1) The high incidence of device loosening associated with the constrained elbow prostheses (i.e., Dee, Shiers, McKee, modified McKee, Coonrad, and G.S.B. designs) has been attributed to inadequate device design (Refs. 133 through 135, 139, and 141 through 143); (2) the biomechanics of the elbow joint are reportedly not well understood (Refs. 144 and 145); and (3) biomedical analysis is reportedly needed to establish design criteria for development of optimum design for the prosthesis (Ref. 141).

FDA finds that elbow joint constrained prostheses are implanted devices that are intended to be used in relieving disabling pain and in restoring or minimizing further loss of functional use of a joint or limb. FDA believes these uses are of substantial importance in preventing impairment of human health. FDA believes that insufficient clinical experience exists to fully establish the persons for whose use the devices are intended and the proper conditions of use. The agency believes that the probable benefit to health from use of the devices does not compare favorably with the likelihood of illness or injury resulting from their use.

Because of the lack of adequate data to demonstrate the safety and effectiveness of these implanted devices, FDA believes that uncontrolled use of the elbow joint constrained prosthesis presents an unreasonable risk of illness or injury.

Because these devices are intended to be implanted in the human body, the Federal Food, Drug, and Cosmetic Act requires that they be classified into class III unless FDA determines that premarket approval is not necessary to provide reasonable assurance of the safety and effectiveness of these devices. On the basis of available information, FDA cannot make this determination. Moreover, FDA believes that insufficient information exists to support the conclusion that general controls or performance standards will provide reasonable assurance of the safety and effectiveness of these devices. Therefore, FDA is proposing that these devices be classified into class III.

§ 888.3160; Docket No. 78N–3063; Elbow joint semi-constrained prosthesis.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of elbow joint semi-constrained prostheses:

1. Identification: An elbow joint semi-constrained prosthesis is an implanted device intended to replace an elbow joint. The device limits translation and rotation in one or more planes via the geometry of its articulating surfaces. It has no linkage across-the-joint. This generic type of device includes prostheses that consist of a humeral resurfacing component made of alloys, such as cobalt-chromium-molybdenum, and a radial resurfacing component made of ultra-high molecular weight polyethylene. This generic type of device is limited to those devices intended for implantation with a polymethylmethacrylate luting agent (bone cement).

2. Recommended classification: Class II. The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that elbow joint semi-constrained prostheses be classified into class II because the design, material composition, and mechanical properties of the device, such as its flexibility, rigidity, strength, and surface finish, should be controlled to prevent loss or reduction of joint function, adverse tissue reaction, or infection. The Panel believes that general controls alone will not provide sufficent control over these characteristics.

Although elbow joint semi-constrained prostheses are implanted devices, the Panel believes that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that the labeling for the device include information on the dimensions and kinematics of the device and its strength and wear characteristics.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Loss or reduction of joint function: Improper design or inadequate mechanical properties of the device, such as its lack of strength and resistance to wear, may result in a loss or reduction in joint function due to excessive wear, fracture, deformation of the device, or loosening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility or resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away from the surfaces of the device and the release of materials from the device to the surrounding tissues and systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection.

FDA agrees with the Panel recommendation and is proposing that elbow joint semi-constrained prostheses be classified into class II. FDA has sought additional data and information on the safety and effectiveness of the device. Cavendish and Elloy (Ref. 144) discuss 10 Liverpool prostheses that had been implanted from 18 months to 3 years. One failed due to infection and one due to bone fracture. The other eight cases resulted in an adequate range of motion and the patients were pain free. Ewald, et al. (Ref. 147), reported on 50 implantations of the Ewald prosthesis. The maximum followup was reported as 2 years and 9 months, the minimum as 6 months, and the median as 18 months. Pain relief and functional improvement were reported to have been uniformly excellent. Complications included: two cases (4 percent) of dislocation of the device; two cases (4 percent) of infection; two cases (4 percent) of ulnar nerve palsy, one of which was permanent; and one (2 percent) unstable elbow attributed to the failure of a previous operative procedure. The authors concluded that the angle of the device stem caused inherent elbow instability and dislocation in some patients. These complications prompted the authors to design four additional stem angles. The biomechanics of the elbow joint are still being characterized (Refs. 144, 145, and 150), and continuing studies are needed to optimize the design of the device (Refs. 150 through 153).

Although elbow joint semi-constrained prostheses are implanted devices, FDA has determined that premarket approval is not necessary because sufficient information exists to establish a performance standard that

will provide reasonable assurance of the safety and effectiveness of these devices. In addition, FDA has identified and assessed the major risks to health accompanying the use of these devices. FDA believes that the major risks, i.e., loosening, infection, and adverse tissue reaction, are related to biological responses of the human body to the presence of the device, the device design, and the underlying joint pathology, and not to physical failure(s) of the device. Clinical experience with these devices has established the persons for whose use the devices are intended and the proper conditions of use. FDA has determined that the probable benefit to health from proper use of these devices outweighs any likelihood of injury or illness resulting from their use. FDA further believes that informative labeling and compliance with general controls may greatly reduce the risks to health associated with the use of these devices. The agency believes that a performance standard is necessary because general controls alone are insufficient to minimize the risks to health presented by these devices.

§ 888.3170; Docket No. 78N–3064; Elbow joint radial (hemi-elbow) prosthesis.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of elbow joint radial (hemi-elbow) prostheses:

1. Identification: An elbow joint radial (hemi-elbow) prosthesis is an implanted device made of medical grade silicone elastomer intended to replace the proximal end of the radius. The device is intended for implantation without a polymethylmethacrylate luting agent (bone cement).

2. Recommended classification: Class II. The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that elbow joint radial (hemi-elbow) uncemented prostheses be classified into class II because the design, material composition, and mechanical properties of the device, such as its flexibility, rigidity, strength, and surface finish, should be controlled to prevent loss or reduction of joint function, adverse tissue reaction, or infection. The Panel believes that general controls alone will not provide sufficient control over these characteristics.

Although elbow joint radial (hemi-elbow) prostheses are implanted devices, the Panel believes that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that the labeling for the device include information on the dimensions and kinematics of the device and its strength and wear characteristics.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Loss or reduction of joint function: Improper design or inadequate mechanical properties of the device, such as its lack of strength and resistance to wear, may result in a loss or reduction of joint function due to excessive wear, fracture, deformation of the device components, or loosening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away from the surfaces of the device and the release of materials from the device to the surrounding tissue and systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection.

FDA agrees with the Panel recommendation and is proposing that elbow joint radial (hemi-elbow) prostheses be classified into class II. FDA has sought additional data and information on the safety and effectiveness of these devices. Swanson (Ref. 154) reported on the implantation of the devices in 44 patients, including 9 patients who were operated on bilaterally. Of these 53 implanted devices, 28 were followed for 6 months to 2 years, and 25 were followed for 2 to 5 years. Results were evaluated with regard to pain relief, stability, and mobility of the elbow joint. Pain was reported to have been relieved in all 53 elbows, and stability was reported to be good. There was also a reported increase in range of motion of the joint, especially in pronation and supination. Roentgenograms made 6 months to 5 years after surgery were used to evaluate the condition of the bone surrounding the implant. Examination of the roentgenograms demonstrated good acceptance of the implant. In one case, the bone around the stem of the implant was found to have resorbed, and the implant was noted to have loosened. However, there were no adverse clinical effects associated with this anomaly. The advantages of the use of the prosthesis over simple resection of the radial head (without use of an implant) were summarized by the researcher to be: (1) better pain relief; (2) increased range of motion; (3) preservation of joint alignment and prevention of migration of the radial shaft; and (4) prevention of bone overgrowth and spiking at the resected end of the radius.

Although elbow joint radial (hemi-elbow) protheses are implanted devices, FDA has determined that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of these devices. In addition, FDA has identified and assessed the major risks to health associated with the use of these devices. FDA believes that the major risks, i.e., loosening, infection, and adverse tissue reaction, are related to biological responses of the human body to the presence of the device, the device design, and the underlying joint pathology, and not to physical failure(s) of the device. Clinical experience with these devices has established the persons for whose use the devices are intended and the proper conditions of use. FDA has determined that the probable benefit to health from proper use of these devices outweighs any likelihood of injury or illness resulting from their use. FDA further believes that informative labeling and compliance with general controls may greatly reduce the risks to health associated with the use of these devices. The agency believes that a performance standard is necessary because general controls alone are insufficient to minimize the risks to health presented by these devices.

§ 888.3180; Docket No. 78N–3065; Elbow joint humeral (hemi-elbow) uncemented prosthesis.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of elbow joint humeral (hemi-elbow) uncemented prostheses:

1. Identification: An elbow joint humeral (hemi-elbow) uncemented prosthesis is an implanted device made of alloys, such as cobalt-chromium-molybdenum, that is intended to replace the distal end of the humerus formed by the trochlea humeri and the capitulum humeri. The device is intended for implantation without a polymethyl-methacrylate luting agent (bone cement).

2. Recommended classification: Class II. The Panel recommends that

establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that elbow joint humeral (hemi-elbow) uncemented prostheses be classified into class II because the design, material composition, and mechanical properties of the device, such as its flexibility, rigidity, strength, and surface finish, should be controlled to prevent loss or reduction of limb function, adverse tissue reaction, or infection. The Panel believes that general controls alone will not provide sufficient control over these characteristics.

Although these are implanted devices, the Panel believes that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device. The Panel also recommends that the labeling for the device include information on the dimensions and kinematics of the device and its strength and wear characteristics.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Loss or reduction of joint function: Improper design or inadequate mechanical properties of the device, such as its lack of strength and resistance to wear, may result in the loss or reduction of joint function due to excessive wear, fracture, deformation of the device, or loosening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away from the surfaces of the device and release of materials from the device to the surrounding tissues and systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection.

FDA disagrees with the Panel recommendation and is proposing that elbow joint humeral (hemi-elbow) uncemented prostheses be classified into class III. FDA has sought additional data and information on the safety and effectiveness of these devices. The agency has reviewed the available medical literature pertaining to elbow joint humeral (hemi-elbow) uncemented prostheses. A recent publication (Ref. 155) reported that the devices have been implanted in over 100 patients worldwide. However, the only available clinical data are the results of 2 surgeons who implanted 18 devices over a 10-year period (Ref. 155). An earlier publication (Ref. 156) discusses the clinical results in what appears to be the first 10 of these 18 implantations. The devices had been implanted in nine patients (one patient had prostheses implanted bilaterally). These patients were evaluated 1 to 7 years later and only four patients (44 percent) had stable, pain-free elbows with a functional range of motion. New bone growth restricted or totally blocked elbow joint motion in three patients. The device was removed in two other patients; because of joint pain and swelling in one; and because the device had dislocated and was eroding through the skin in the other.

FDA finds that elbow joint humeral (hemi-elbow) uncemented prostheses are implanted devices that are intended to be used in relieving disabling pain and in restoring or minimizing further loss of functional use of a joint or limb. FDA believes these uses are of substantial importance in preventing impairment of human health. FDA believes that insufficient clinical experience exists to establish the persons for whose use the devices are intended and the proper conditions of use. The agency believes that the probable benefit to health from use of these devices does not compare favorably with the likelihood of illness or injury resulting from their use.

Because of the lack of adequate data to demonstrate the safety and effectiveness of these implanted devices, FDA believes that use of the elbow joint humeral (hemi-elbow) uncemented prosthesis presents an unreasonable risk of illnes or injury. Because these devices are intended to be implanted in the human body, the Federal Food, Drug, and Cosmetic Act requires that they be classified into class III unless FDA determines that premarket approval is not necessary to provide reasonable assurance of the safety and effectiveness of these devices. On the basis of available information, FDA cannot make this determination. Moreover, FDA believes that insufficient information exists to support the conclusion that general controls or performance standards will provide reasonable assurance of the safety and effectiveness of these devices. Therefore, FDA is proposing that these devices be classified into class III.

§ 888.3200; Docket No. 78N–3066; Finger joint metal/metal constrained uncemented prosthesis.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of finger joint metal/metal constrained uncemented prostheses:

1. Identification: A finger joint metal/metal constrained uncemented prosthesis is an implanted device intended to replace a metacarpophalangeal or proximal interphalangeal (finger) joint. The device prevents dislocation in more than one anatomic plane and consists of two components which are linked together. This generic type of device includes prostheses made by alloys, such as cobalt-chromium-molybdenum, or prostheses made from alloys and ultra-high molecular weight polyethylene. This generic type of device is limited to prostheses intended to be implanted without a polymethylmethacrylate luting agent (bone cement).

2. Recommended classification: Class II. The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that finger joint metal/metal constrained uncemented prostheses be classified into class II because the design, material composition, and mechanical properties of the device, such as its flexibility, rigidity, strength, and surface finish, should be controlled to prevent loss or reduction of limb function, adverse tissue reaction, or infection. The Panel believes that general controls alone will not provide sufficient control over these characteristics.

Although finger joint metal/metal constrained uncemented prostheses are implanted devices, the Panel believes that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectivness of the device. The Panel also recommends that the labeling for the device include information on the dimensions and kinematics of the device and its strength and wear characteristics.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with the device.

5. Risks to health: (a) Loss or reduction of joint function: Improper

design or inadequate mechanical properties of the device, such as its lack of strength and resistance to wear, may result in a loss or reduction of joint function due to excessive wear, fracture, deformation of the device, or lossening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away from the surfaces of the device and the release of materials from the device to the surrounding tissues and systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection.

FDA disagrees with the Panel recommendation and is proposing that finger joint metal/metal constrainted uncemented prostheses he classified into class III. FDA has reviewed the available medical literature pertaining to these prostheses. The only finger joint metal/metal constrained uncemented proshtesis discussed in the literature is a two-pronged stainless steel hinged prosthesis which was developed by Flatt for use in the metacarpophalangeal (MCP) and the proximal interphalangeal (PIP) joints of the fingers.

Flatt presented clincial results with the Flatt finger prosthesis in a series of publications over a 12-year period (Refs. 157 through 162). Thirty-one prostheses had been implanted for 6 months or more (6 months to 34 months); 23 in the PIP joint and 8 in the MCP joint (Ref. 157). In the earliest of these reports (Ref. 157), Flatt noted that despite early encouraging clinical results, the long-term outlook for the device did not look favorable. In particular, Flatt noted that the bone absorption which occurs around the neck of the prosthesis may possibly lead to obstruction of flexion. Flatt also noted that possible complications from use of the device might be: (1) Bone erosion in patients in whom the intramedullary prongs have been forced together in the medullary canal, and (2) metal fatigue and fracture of the intramedullary prongs.

Subsequent publications by Flatt (Refs. 161 and 162) show that the predicted complications did, in fact, occur. Flatt and Ellison (Ref. 161) reported on the implantation of 242 prostheses (167 in the MCP joint and 75 in the PIP joint) with an average followup of 6.2 years (range 1 to 12 years). Twenty-six (10.7 percent) of the prostheses (15 MCP and 11 PIP) had to be removed for the following reasons: periarticular fibrosis (bone resorption) and settling, 14; failure (i.e., fracture) of both intramedullary prongs, 2; failure of the screw holding the hinge together, 2; breakdown of the skin over the prosthesis, 5; and infection, 3. The author reported that of the prostheses that required removal, more than half were removed because of settling within the recipient bones. Bone absorption around the intramedullary prongs, scarring, or heterotrophic bone formation around the hinge caused sufficient mechanical difficulties to necessitate removal of the prosthesis. Flatt and Ellison noted that the gradually progressing periarticular fibrosis (bone resorption) resulted in a decreased range of joint motion and was related to very active use of the hand.

Girzados and Clayton (Ref. 163) reported on the implantation of 23 Flatt finger prostheses in 11 patients with an average followup of 44 months (range 24 to 73 months). Of the 23 prostheses implanted, 11 were in the MCP joints of the fingers, 8 were in the PIP joints of the fingers, and 4 were in the MCP joints of the thumb. Bone absorption around the neck and stems of the prosthesis occurred in 16 of the 23 (69 percent) joints. Six prostheses (26 percent) were rated as poor results: three had no motion postoperatively; one was grossly unstable; and two were implanted in a patient with active rheumatoid disease who, over a period of 64 months, had intermittent swelling and pain over the joints that had been replaced with the prostheses. The authors reported that "good" or "fair" results were obtained in 13 (56 percent) of the joints. However, the number of patients having pain-free stable joints with a useful range of motion (defined as "good") as opposed to those with limited motion, minimal pain, and instability (defined as "fair") could not be determined.

Problems associated with the Flatt finger prosthesis have been recognized by many authors (Refs. 164 through 170). Several authors (Refs. 164 and 165) reported that these prostheses have not been generally accepted because of the accompanying bone resorption. McFarland (Ref. 166) reported that the Flatt prosthesis has been only moderately successful, that complications are frequent and include bone overgrowth with loss of motion, migration of the prosthesis due to bone erosion, and metal failures (i.e., device fractures). Smith and Broudy (Ref. 170) and Goldner and Urbaniak (Ref. 168) noted that the bone resorption and subsequent migration of the devices is caused by the use of a rigid material in osteoporotic bone. Smith and Broudy (Ref. 170) also noted that the intramedullary prongs frequently migrate through the cortex and occasionally the hinge will break or the overlying skin will ulcerate, causing tendon rupture and infection.

FDA finds that finger joint metal/metal constrained uncemented prostheses are implanted devices that are intended to be used in relieving disabling pain and in restoring or minimizing further loss of functional use of a joint or limb. FDA believes these uses are of substantial importance in preventing impairment of human health. FDA believes that insufficient clinical experience exists to fully establish the persons for whose use the devices are intended and the proper conditions of use. The agency believes that the probable benefit to health from use of these devices does not compare favorably with the likelihood of injury of illness resulting from their use.

Because of the lack of adequate data to demonstrate the safety and effectiveness of these implanted devices, FDA believes that use of the finger joint metal/metal constrained uncemented prosthesis presents an unreasonable risk of illness or injury. Because these devices are intended to be implanted in the human body, the Federal Food, Drug, and Cosmetic Act requires that they be classified into class III unless FDA determines that premarket approval is not necessary to provide reasonable assurance of the safety and effectiveness of these devices. On the basis of available information, FDA cannot make that determination. Moreover, FDA believes that insufficient information exists to support the conclusion that general controls or performance standards will provide reasonable assurance of the safety and effectiveness of these devices. Therefore, FDA is proposing that these devices be classified into class III.

§ 888.3210; Docket No. 78N–3301; Finger joint metal/metal constrained prosthesis.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of finger joint metal/metal constrained prostheses:

1. Identification: A finger joint metal/metal constrained prosthesis is an implanted device intended to replace a metacarpophalangeal (finger) joint. This device prevents dislocation in more than one anatomic plane and has components which are linked together. This generic type of device includes prostheses that are made of alloys, such as cobalt-chromium-molybdenum, and is limited

to those devices intended for implantation with a polymethylmethacrylate luting agent (bone cement).

2. Recommended classification: Class II. The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that finger joint metal/metal constrained prostheses be classified into class II because the design, material composition, and mechanical properties of the device, such as its flexibility, rigidity, strength, and surface finish, should be controlled to prevent loss or reduction of limb function, adverse tissue reaction, or infection. The Panel believes that general controls alone will not provide sufficient control over these characteristics.

Although these are implanted devices, the Panel believes that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that the labeling for the device include information on the dimensions and kinematics of the device and its strength and wear characteristics.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel member's personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Loss or reduction of joint function: Improper design or inadequate mechanical properties of the device, such as its lack of strength and resistance to wear, may result in a loss or reduction of joint function due to excessive wear, fracture, deformation of the device, or loosening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away from the surfaces of the device and the release of materials from the device to the surrounding tissues and systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection.

FDA disagrees with the Panel recommendation and is proposing that finger joint metal/metal constrained prostheses be classified into class III. FDA has sought additional information on the safety and effectiveness of these devices and has reviewed the available medical literature pertaining to these devices. Two types of these prostheses were discussed in the literature: (1) The Link prosthesis, a metallic hinge intended to replace the metacarpophalangeal joint of a finger or thumb, and (2) the Biomedical Laboratories of the University of Cincinnati (BLUC) prosthesis, a hinged metallic prosthesis intended to replace the metacarpophalangeal joint of the thumb.

Devas and Shah (Refs. 171 and 172) reported on the implementation of 51 Link prostheses in 25 patients with an average postoperative followup of 4 years (range 2 to 6 years). In 15 (30 percent) of these implantations, the patient had persistent pain in the joint and what was described as a useless finger. The authors believed that the proportion of patients with pain was far too large to make the treatment method freely available. They noted that the main cause of failure was due to loosening of the prostheses with disruption (erosion) of the bone. They also noted that in most of the joints with good and fair results the prosthesis had become loose but that the patients were free from symptoms at the time of evaluation. It was believed that prosthesis loosening may have been caused by fixation of the components by injecting the cement into the metacarpal and phalangeal bone shafts, and it was noted that a modified prosthesis with a different technique of insertion was being considered (Ref. 172). Several papers (Refs. 173 and 174) described the design and testing of the BLUC thumb prostheses. Clinical results, however, were not presented. FDA believes that the data available on the devices, the clinical results of the use of the devices in 25 patients with a reported failure rate of 30 percent, and the recommendation by the authors that the procedure not be made freely available, do not establish the long-term safety and effectiveness of finger joint metal/metal constrained prostheses.

FDA finds that finger joint metal/metal constrained prostheses are implanted devices that are intended to be used in relieving disabling pain and in restoring or minimizing further loss of functional use of a finger joint. FDA believes these uses are of substantial importance in preventing impairment of human health. FDA also believes that insufficient clinical experience exists to establish the persons for whose use the devices are intended and the proper conditions of use. The agency believes that the probable benefit to health from use of the devices does not compare favorably with the likelihood of injury or illness resulting from their use.

Because of the lack of adequate data to demonstrate the safety and effectiveness of these implanted devices, FDA believes that the use of finger joint metal/metal constrained prostheses presents an unreasonable risk of illness or injury.

Because these devices are intended to be implanted in the human body, the Federal Food, Drug, and Cosmetic Act requires that they be classified into class III unless FDA determines that premarket approval is not necessary to provide reasonable assurance of the safety and effectiveness of these devices. On the basis of available information, FDA cannot make this determination. Moreover, FDA believes that insufficient information exists to support the conclusion that general controls or performance standards will provide reasonable assurance of the safety and effectiveness of these devices. Therefore, FDA is proposing that these devices be classified into class III.

§ 888.3220; Docket No. 78N–3067; Finger joint metal/polymer constrained prosthesis.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of finger joint metal/polymer constrained prostheses:

1. Identification: A finger joint metal/polymer constrained prosthesis is an implanted device intended to replace a metacarpophalangeal or proximal interphalangeal (finger) joint. The device prevents dislocation in more than one anatomic plane, and consists of two components which are linked together. This generic type of device includes prostheses that are made of alloys, such as cobalt-chromium-molybdenum, and ultra-high molecular weight polyethylene, and is limited to those devices that are intended for implantation with a polymethylmethacrylate luting agent (bone cement).

2. Recommended classification: Class II. The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that finger joint metal/polymer constrained prostheses be classified into class II because the design, material composition, and mechanical properties of the device, such as its flexibility, rigidity, strength, and surface finish, should be controlled to prevent loss or reduction of joint function, adverse tissue reaction, or

infection. The Panel believes that general controls alone will not provide sufficient control over these characteristics.

Although these are implanted devices, the Panel believes that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device. The Panel also recommends that the labeling for the device include information on the dimensions and kinematics of the device and its strength and wear characteristics.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Loss or reduction of joint function: Improper design or inadequate mechanical properties of the device, such as its lack of strength and resistance to wear, may result in a loss or reduction of joint function due to excessive wear, fracture, deformation of the device, or loosening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away from the surfaces of the device and the release of materials from the device to the surrounding tissues and systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection.

FDA disagrees with the Panel recommendation and is proposing that finger joint metal/polymer constrained prostheses be classified into class III. FDA has sought additional information on the safety and effectiveness of these devices and has reviewed six references which discuss the device. Two (Refs. 175 and 176) discuss the design criteria for these devices; two (Refs. 177 and 178) review the evolution of the design of these devices; and four (Refs. 175, 176, 179, and 180) describe new prosthesis designs. The prosthesis designs discussed in the literature include: the St. George, Steffee, Schultz, Nicolle, Schetrumpf, Vari-Axle, and load stabilizing prostheses, all of which were designed for the metacarpophalengeal (MCP) joint. Smith and Broudy (Ref. 177) reported that a device similar in design to the Steffee prosthesis had been developed for the proximal interphalangeal (PIP) joint.

Clinical results were available for only two prosthesis designs, the Vari-Axle and the Nicolle designs (Refs. 175 and 179). Long-term clinical results, however, are not available for any of the designs. Walker, et al., reported on 21 patients with Vari-Axle prostheses (Ref. 175). The average postoperative time was 15 months (range 6 months to 3 years). While pain relief was noted to be good, the range of motion dropped from 33 degrees preoperatively to 22 degrees, a reportedly disappointing result. These authors noted that short-term and long-term mechanical tests were performed on the device because of the potential distortions which occur in polyethylene intramedullary stems. Based on the results of these tests, the authors concluded that the polyethylene stems of the Vari-Axle prosthesis might fail over the long term. Nicolle (Ref. 179) evaluated 20 patients with Nicolle prostheses. The average postoperative time was 12 months. The range of joint motion was not reported. The author reported that the degree of ulnar drift (joint deformity) was improved by surgery and improved further with postoperative rehabilitation, but that from 12 months on a progressive ulnar drift was observed, the reason for which was not clear. Nicolle noted that a longer followup and additional patients are required before the reported results can be regarded as statistically significant.

Smith and Broudy reported that the various designs of finger joint metal/polymer constrained prostheses are undergoing clinical and laboratory trials (Ref. 177). Walker (Ref. 178) noted that the advantages of the metal/polymer designs need to be shown. Problems associated with other designs of this prosthesis were identified by several authors (Refs. 175, 177, and 178). Walker, et al. (Ref. 175), reported that the postoperative range of motion with the St. George design was often limited due to the ingress of fibrous tissue into the joint. Smith and Broudy (Ref. 177) reported that while satisfactory results had been obtained in 80 percent of the patients with the Steffee prosthesis, the active range of motion was limited to only 50 percent of normal and deformity recurred in some patients, prompting a revision of the prosthesis design. Walker (Ref. 178) commented on the design of the Schultz prosthesis, stating that it allows too must rotation and there is an inadequate bearing between the metal and plastic components.

FDA finds that finger joint metal/polymer constrained prostheses are implanted devices that are intended to be used in relieving disabling pain and in restoring or minimizing further loss of functional use of a finger joint. FDA believes these uses are of substantial importance in preventing impairment of human health. FDA believes that insufficient clinical experience exists to fully establish the persons for whose use these devices are intended and the proper conditions of use. The agency believes that the probable benefit to health from use of these devices does not compare favorably with the likelihood of injury or illness resulting from their use.

Because of the lack of adequate data to demonstrate the safety and effectiveness of these implanted devices, FDA believes that use of the finger joint metal/polymer constrained prosthesis presents an unreasonable risk of illness or injury. Because these devices are intended to be implanted in the human body, the Federal Food, Drug, and Cosmetic Act requires that they be classified into class III unless FDA determines that premarket approval is not necessary to provide reasonable assurance of the safety and effectiveness of these devices. On the basis of available information, FDA cannot make this determination. FDA believes that insufficient information exists to support the conclusion that general controls will provide reasonable assurance of the safety and effectiveness of these devices. Therefore, FDA is proposing that these devices be classified into class III.

§ 888.3230; Docket No. 78N–3068; Finger joint polymer constrained prosthesis.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of finger joint polymer constrained prostheses:

1. Identification: A finger joint polymer constrained prosthesis is an implemented device intended to replace a metacarpophalangeal or proximal interphalangeal (finger) joint. This generic type of device includes prosthesis that consist of a single flexible across-the-joint component made from either a silicone elastomer or a combination of polypropylene and polyester material. The flexible across-the-joint component may be covered with a silicone rubber sleeve. These prostheses are intended to be implanted with a polymethyl-methacrylate luting agent (bone cement).

2. Recommended classification: Class II. The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that finger joint polymer constrained prostheses be classified into class II because the design, material composition, and mechanical properties

of the device, such as its flexibility, rigitity, strength, and surface finish, should be controlled to prevent loss or reduction of joint function, adverse tissue reaction, or infection. The Panel believes that general controls alone will not provide sufficient control over these characteristics.

Although a finger joint polymer constrained prosthesis is an implanted device, the Panel believes that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that the labeling for the device include information on the dimensions and kinematics of the device and its strength and wear characteristics.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Loss or reduction of joint function: Improper design of inadequate mechanical properties of the device, such as its lack of strength and resistance to wear, may result in a loss or reduction of joint function due to excessive wear, fracture, deformation of the device, or loosening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away from the surfaces of the device and the release of materials from the device to the surrounding tissues and systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection.

FDA agrees with the Panel recommendation and is proposing that finger joint polymer constrained prostheses be classified into class II. FDA has sought additional data and information on these prostheses. Clinical results on three designs of finger joint polymer constrained prostheses were presented in the literature: the Calnan-Nicolle prosthesis, intended for use in the metacarpophalangeal (MCP) and proximal interphalangeal (PIP) joints of the fingers; the Niebauer prosthesis also intended for use in the MCP and PIP joints of the fingers; and the Swanson prosthesis intended for use in the MCP and PIP joints of the fingers and for the MCP joint of the thumb.

1. *Calnan-Nicolle Prosthesis.* This device has two components, an across-the-joint component having intramedullary stems and a flexible hinge made of polypropylene, and a silicone rubber sleeve which encapsulates the flexible hinge portion of the device (Ref. 181). Griffiths and Nicolle (Ref. 182) reported on the clinical results 8 to 37 months (average of 20 months) after implantation of the Calnan-Nicolle device in 112 MCP joints in 31 patients. Complete relief from pain was obtained in four (13 percent) patients. There was much improvement over preoperative pain status in 13 (42 percent), moderate pain relief in 10 (32 percent), and little pain relief in 4 (13 percent) patients. These authors reported that a deterioration in the performance of the prosthesis occurred in up to half of the patients between 1 and 2 years after insertion of the prosthesis; and that part of the deterioration in function was due directly to mechanical failure of the prosthesis. The range of joint motion had deteriorated over time in 33 of the 40 (82.5 percent) hands on which surgery was performed. Joint deformity was "corrected and held" in 10 of 31 hands (32 percent), was corrected initially but recurred in 14 of 31 (45 percent) hands and worsened in 7 of 31 (23 percent) hands. The silicone capsule (sleeve) had fractured in 31 of the 112 prostheses (28 percent). The polypropylene stems had fractured in five joints (5 percent). Nicolle (Ref. 179) noted that time and experience had shown that the polypropylene hinge of the Calnan-Nicolle prosthesis does not appear to be strong enough to fully withstand the compression and torsional stresses that may occur in the use of the hand.

2. *Niebauer Prosthesis.* This device consists of a single, flexible, across-the-joint component. The intramedullary stems and the flexible hinge portion of the device are made of silicone to allow tissue penetration and fixation of the stems. Beckenbaugh, et al. (Ref. 184), reported clinical results 12 to 65 months (average 32 months) after implantation in the MCP joints of 68 Niebauer prostheses and found a fracture rate of the device of 38.2 percent (26 devices), recurrence of clinical deformity in 44.1 percent (30 devices) and recurrence of pain in 2 percent. Goldner, et al. (Ref. 185), reported a fracture rate of 29.7 percent in 37 prostheses implanted for 6.5 years and a 17.5 percent fracture rate in 143 prostheses implanted 4 to 6 years. These authors believe that the silicone-polyester material used in the device may absorb lipids and become brittle, and that eventual fracture of the prosthesis is a possibility, but that fracture does not preclude a good functional result. Goldner, et al. (Ref. 186), evaluated 103 patients over a 4-year period. Pain was relieved or greatly diminished postoperatively in all but 8 of the 103 patients. The average active range of motion in these patients was 51 degrees. The range of motion was noted to increase up to about 1 year postoperatively; and then thought to decrease slightly, possibly due to enlarged bony outgrowths from the surface of the bone and impingement of peripheral bone on the hinge of the device. In two (2 percent) of patients, the device had fractured, which was accompanied by deformity and a moderate amount of pain.

Hagert (Ref. 187) conducted x-ray examinations on 41 joints with Niebauer implants. This author reprted that of the 41 prostheses studied, 26 (63.4 percent) were found to be damaged (i.e., cracked within the implant mid-section, fragmented at the midsection, or fractured at the hinge), 1 to 36 months postoperatively. This author believed that the Niebauer implant might be too weak to withstand forces in the MCP joints, and that a possible contributing factor was the use of materials (polyester fiber and silicone rubber) with differing elasticity. This author noted that the Niebauer implant was reported to have withstood 100 million flexions during mechanical tests bending it around a fixed axis, but not exposing it simultaneously to shearing type forces which are present in the MCP joint. These shearing forces were reportedly most probably responsible for the deformation of the implant and the subsequent damage observed. Niebauer, et al. (Ref. 188), reported that destruction of the bone around the hinge of the device had occurred in a few cases and that this atrophy may be the result of pressure from the prosthesis. In an evaluation by x-ray of the 41 Niebauer prostheses, Hagert (Ref. 187) observed bone resorption in 23 of the 41 joints (56 percent). The cortex of the one was penetrated in 13 (32 percent) of these joints. It was reported that the observed erosion of the bone is most likely caused by motion of the intramedullary stems within the medullary cavity, and is exaggerated by the rough polyester surface of the device.

3. *Swanson Prosthesis.* This device is made entirely of silicone rubber and is designed to act as an internal mold, maintaining joint alignment, becoming encapsulated and stabilized by fibrous tissue, and gliding or moving within the medullary cavity rather than being fixed to the bone (Ref. 189). A number of reports (Refs. 184, and 189 through 195) were found describing the use of the Swanson prostheses in the MCP joints

of the fingers, but few reports (Refs. 196 through 199) were available describing the use of this device in the MCP joint of the thumb, or the PIP joints of the fingers. In 1976, it was reported that a new "high performance" silicone elastomer material had been developed for use in the Swanson prosthesis. With the exception of one report (Ref. 198), the available clinical data was obtained using prostheses made from the "conventional" silicone elastomer. Fracture of implants made of the "conventional" silicone elastomer appears to be the most frequently reported failure. Beckenbaugh, et al. (Ref. 184), reported that of 186 Swanson prostheses implanted in the MCP joint for an average of 32 months (range 12 months to 65 months) 28.3 percent (49) had fractured. Hagert, et al. (Ref. 191), reported that of 104 Swanson implants evaluated, 25 percent (26) had failed, either by cracking or fragmenting and fracturing within the followup period of 1.5 to 5 years. Mannerfelt, et al. (Ref. 192), reported a fracture rate of 2.8 percent in 144 joints evaluated 1.5 to 3.5 years (average 2.5 years) after implantation. Ferlic, et al. (Ref. 193), reported a 9 months (average 3.2 years) after implantation. Swanson (Ref. 189) reported the lowest rate of fracture, 0.88 percent, in a field clinic series involving over 3,000 implants with a followup of from 6 to 30 months.

The effects of fracture of the device on the clinical results were evaluated by several authors. Aptekar, et al. (Ref. 194), described the occurrence of detritic synovitis (inflammation of the synovial tissue) due to shards of silicone rubber found in relation to a broken prosthesis. Beckenbaugh, et al (Ref. 184), noted that recurrence of deformity was associated with implant fracture, i.e., ulnar drift, in 14 percent; weakness or instability in 21 percent; hyperextension in 11 percent; and some clinical deformities in 43 percent; but that while the recurrence of deformity implied that soft tissue balance was not present after the implant fractured, it was not clear whether the imbalance caused the fracture or developed because of it.

Hagert (Ref. 195) believed that the increased displacement (i.e., ulnar deviation) noted in some joints with fractured implants may indicate insufficiency of the fibrous capsule surrounding the implant to restrain the forces occurring at the MCP joint. This pressure, combined with movement of the implant within the medullary canal was reportedly found to cause a moderately progressive bone resorption throughout the followup period in all of the 36 joints examined. Resorption was observed around the midsection of the prosthesis where the implant was in close contact with bone and around the intramedullary stems of the device. Erosion of bone around the midsection of the device led to various degrees of migration of the device in 28 out of 36 (78 percent) of the joints examined. The author found that decreased joint flexion was observed due either to the distal migration of the implant or a growing volar bony spur in 13 out of the 39 (33 percent) joints examined. He concluded that the design of the device may be insufficient to fully restrain the volarly and proximally directed forces in the MCP joint and the serious decrease of flexion. Hagert, et al. (Ref. 191), reported that while it is generally accepted that silicone rubber absorbs lipids and other substances, the effects on material changes and degradation is not adequately known. Weightman, et al. (Ref. 196), noted that lipid absorption could contribute to mechanical failure of the prostheses, as chemical deterioration is known to be a prime initiator of fatigue failures of polymers. Other clinical results have been reported in the literature (Refs. 189, 192, 196, and 198) on the use of this prosthesis in large numbers of patients. These results were very similar to those summarized previously.

Although finger joint polymer constrained prostheses are implanted devices, FDA has determined that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of these devices. In addition, FDA had identified and assessed the major risks to health associated with the use of these devices. FDA believes that the major risks, i.e., fracture, loosening, and adverse tissue reaction, are related to biological responses of the human body to the presence of the device, the device design, and the underlying joint pathology. Clinical experience with these devices has established the persons for whose use the devices are intented and the proper conditions of use. FDA has determined that the probable benefit to health from proper use of these devices outweights any likelihood of injury of illness resulting from their use. FDA further believes that informative labeling and compliance with general controls may greatly reduce the risks to health associated with the use of these devices. The agency believes that a performance standard is necessary because general controls alone are insufficient to minimize the risks to health presented by these devices.

§ 888.3300; Docket No. 78N–3070; Hip joint metal constrained prosthesis.

The Orthopedic Device Classification Panel, and FDA advisory committee, made the following recommendation regarding the classification of hip joint metal constrained prostheses:

1. Identification: A hip joint metal constrained prosthesis is an implanted device intended to replace a hip joint. The device prevents dislocation in more than one anatomic plane and has components that are linked together. This generic type of device includes prostheses that have a femoral component made of alloys, such as cobalt-chromium-molybdenum, and a acetabular component made of an alloy with an ultra-high molecular weight polyethylene insert, and is limited to those devices intended for implantation with a polymethyl-methacrylate luting agent (bone cement).

2. Recommended classification: Class III. The Panel recommends that premarket approval of this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that hip joint metal constrained prostheses be classified into class III because the device is implanted and is intended to be used in relieving disabling pain and in restoring or minimizing further loss of functional use of a joint or limb. The Panel believes these uses are of substantial importance in preventing impairment of human health.

The Panel believes that general controls alone will not provide sufficient control over these characteristics. The Panel also believes that it is not possible to establish an adequate performance standard for the device. There is a lack of safety and effectiveness data to demonstrate the satisfactory performance of the device. The Panel has found that insufficient information exists to support the conclusion that general controls of performance standards will be adequate to provide reasonable assurance of the safety and effectiveness of the device. Therefore, the device must be subject to premarket approval to assure its safety and effectiveness.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: The Panel identified the following risks to health: (a) Loss or reduction of joint function: Improper

design or inadequate mechanical properties of the device, such as its lack of strength and resistance to wear, may result in a loss or reduction of joint function due to excessive wear, fracture, deformation of the device, or loosening of the device, or loosening of the device in the surgical cavity. (d) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility and resistance to wear, may result in and adverse tissue reaction due to a dissolution or wearing away from the surfaces of the device and the release of material from the device to the surrounding tissues and systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection.

FDA agrees with the Panel recommendation and is proposing that hip joint metal constrained prostheses be classified into class III. The agency has obtained additional data and information describing the use of hip joint metal constrained prostheses. Sivash (Ref. 200) reported on implantation in 164 patients; followup time was 1 to 9 years. Breakage of the prosthesis was reported in 13 (8 percent) of the patients.

FDA finds that these implanted devices are intended to be used in relieving disabling pain and in restoring or minimizing further loss of functional use of a joint or limb. FDA believes these uses are of substantial importance in preventing impairment of human health. FDA also believes that insufficient clinical experience exists to fully establish the persons for whose use the devices are intended and the proper conditions of use. The agency believes that the probable benefit to health from use of these devices does not compare favorably with the likelihood of injury or illness resulting from their use.

Because of the lack of adequate data to demonstrate the safety and effectiveness of these implanted devices, FDA believes that use of the hip joint metal constrained prosthesis presents an unreasonable risk of illness or injury. Because these devices are intended to be implanted in the human body, the Federal Food, Drug, and Cosmetic Act requires that they can be classified into class III unless FDA determines that premarket approval is not necessary to provide reasonable assurance of the safety and effectiveness of these devices. On the basis of available information, FDA cannot make this determination. Moreover, FDA believes that insufficient information exists to support the conclusion that general controls or performance standards will provide reasonable assurance of the safety and effectiveness of these devices. Therefore, FDA is proposing that these devices be classified into class III.

§ 888.3310; Docket No. 78N–3071; Hip joint metal/polymer constrained prosthesis.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of hip joint metal/polymer constrained prostheses:

1. Identification: A hip joint metal/polymer constrained prosthesis is an implanted device intended to replace a hip joint. The device prevents dislocation in more than one anatomic plane and has components that are linked together. This generic type of device includes prostheses that have a femoral component made of alloys, such as cobalt-chromium-molybdenum, and an acetabular component made of ultra-high molecular weight polyethylene. This generic type of device is limited to those devices intended for implantation with a polymethylmethacrylate luting agent (bone cement).

2. Recommended classification: Class III. The Panel recommends that premarket approval of this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that hip joint metal/polymer constrained prostheses be classified into class III because these devices are implanted and are intended to be used in relieving disabling pain and in restoring or minimizing further loss of functional use of a joint or limb. The Panel believes these uses are of substantial importance in preventing impairment of human health.

The Panel believes that general controls alone will not provide sufficient control over these characteristics. The Panel also believes that it is not possible to establish an adequate performance standard for the device. There is a lack of safety and effectiveness data to demonstrate the satisfactory performance of the device. The Panel has found that insufficient information exists to support the conclusion that general controls or performance standards will be adequate to provide reasonable assurance of the safety and effectiveness of the device. Therefore, the device must be subject to premarket approval to assure its safety and effectiveness.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Loss or reduction of joint function: Improper design of inadequate mechanical properties of the device, such as its lack of strength and resistance to wear, may result in a loss or reduction of joint function due to excessive wear, fracture, deformation of the device, or loosening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away from the surfaces of the device and the release of materials from the device to the surrounding tissues and systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection.

FDA agrees with the Panel recommendation and is proposing that hip joint metal/polymer constrained prostheses be classified into class III. FDA finds that these implanted devices are intended to be used in relieving disabling pain and in restoring or minimizing further loss of functional use of a joint or limb. FDA believes these uses are of substantial importance in preventing impairment of human health. FDA believes that insufficient clinical experience exists to fully establish the persons for whose use the devices are intended and the proper conditions of use. The agency believes that the probable benefit to health from use of the devices does not compare favorably with the likelihood of injury or illness resulting from their use.

Because of the lack of adequate data to demonstrate the safety and effectiveness of these implanted devices, FDA believes that use of hip joint metal/polymer constrained prostheses presents an unreasonable risk of illness or injury. Because these devices are intended to be implanted in the human body, the Federal Food, Drug, and Cosmetic Act requires that they be classified into class III unless FDA determines that premarket approval is not necessary to provide reasonable assurance of the safety and effectiveness of these devices. On the basis of available information, FDA cannot make that determination. Moreover, the agency believes that insufficient information exists to support the conclusion that general controls or performance standards will provide reasonable assurance of the safety and effectiveness of these devices. Therefore, FDA is proposing that these devices be classified into class III.

§ 888.3320; Docket No. 78N–3072; Hip joint metal/metal semi-constrained, with a cemented acetabular component, prosthesis.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of a hip joint metal/metal semi-constrained, with a cemented acetabular component, prostheses.

1. Identification: A hip joint metal/metal semi-constrained, with a cemented acetabular component, prosthesis is an implanted two-part device intended to replace a hip joint. The device limits translation and rotation in one or more planes via the geometry of its articulating surfaces. It has no linkage across-the-joint. This generic type of device includes prostheses that consist of a femoral and an acetabular component, both made of alloys such as cobalt-chromium-molybdenum. This generic type of device is limited to those devices intended for implantation with a polymethylmethacrylate luting agent (bone cement).

2. Recommended classification: Class II. The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that hip joint metal/metal semi-constrained, with a cemented acetabular component, prostheses be classified into class II because the design, material composition, and mechanical properties of the device, such as its flexibility, regidity, strength, and surface finish, should be controlled to prevent loss or reduction of joint function, adverse tissue reaction, or infection. The Panel believes that general controls alone will not provide sufficient control over these characteristics.

Although these are implanted devices, the Panel believes that premarket approval is not necessary becuase sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device. The Panel also recommends that the labeling for the device include information on the dimensions and kinematics of the device and its strength and wear characteristics.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and their knowledge of the medical literature. Wilson, et al. (Ref. 201), reported on 100 McKee-Farrar total hip replacements performed in 86 patients. Substantial improvements were observed in walking function and mobility of hips for periods of 2 to 4 years following implantation. Wilson also noted that patients have been so satisfied with the devices, that continued use and further development of this type of operation is warranted. Prosthesis loosening in 20 percent of patients was the main complication.

Bentley, et al. (Ref. 202), performed hip replacements using 101 McKee-Farrar prostheses and 128 Charnley prostheses, both of which have the two components of the device fixed in place with bone cement. Total pain relief was obtained in 83 percent of the patients with the McKee-Farrar hip replacement compared with 96 percent of the patients with the Charnley hip replacement. Range of hip movement of more than 100 degrees was obtained by 88 percent of the patients with the McKee-Farrar hip replacement and 89 percent of the patients with the Charnley prosthesis. However, the Charnley prosthesis allowed an average of over 40 degrees more total range. During followup of patients from 1 to 4 years, complications included three deep wound infections and three cases of loosening of the femoral component of the McKee-Farrar compared with none with the Charnley. Bentley determined that the Charnley prosthesis gave superior results to the McKee-Farrar.

Using radiology, Mendes (Ref. 203) evaluated 100 hips replaced with cemented McKee-Farrar prostheses. A 12 percent failure rate was reported after 2 to 4 years of followup. Also reported was a 4 percent incidence of various radiologic signs which were associated with a high incidence of failure, such as new periosteal bone formation at the level of the prosthetic stem; progressive resorption of the neck stump; line of bone density surrounding the cemented implant; extensive heterotopic ossification; infection; and incidence of sterile (i.e., not associated with an infection) loosening.

5. Risks to health: (a) Loss or reduction of joint function: Improper design or inadequate mechanical properties of the device, such as its lack of strength and resistance to wear, may result in the loss or reduction of joint function due to excessive wear, fracture, deformation of the device components, or loosening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility, may result in an adverse tissue reaction due to dissolution or wearing away of the articulating surfaces of the device and the release of materials from the device to the surrounding tissues and the systemic circulation. (c) Infection: The presense of the prosthesis within the body may lead to an increased risk of infection.

FDA disagrees with the Panel recommendation and is proposing that hip joint metal/metal semi-constrained, with a cemented acetabular component, prostheses be classified into class III. The agency believes that a performance standard is necesary for these devices because general controls alone are sufficient to minimize the risks to health presented by these devices.

FDA finds that hip joint metal/metal semi-constrained, with a cemented acetabular component, prostheses are implanted devices that are intended to be used in relieving disabling pain and in restoring or minimizing further loss of functional use of a joint or limb. FDA believes these uses are of substantial importance in preventing impairment of human health. FDA believes that insufficient clinical experience exists to fully establish the persons for whose use the devices are intended and the proper conditions of use. The agency believes that the probable benefit to health from use of the devices does not compare favorably with the likelihood of injury or illness resulting from their use.

Because of the lack of adequate data to demonstrate the safety and effectiveness of these implanted devices, FDA believes that use of the hip joint metal/metal semi-constrained, with a cemented acetabular component, prostheses presents an unreasonable risk of illness or injury. Because these devices are intended to be implanted in the human body, the Federal Food, Drug, and Cosmetic Act requires that they be classified into class III unless FDA determines that premarket approval is not necessary to provide reasonable assurance of the safety and effectiveness of these devices. On the basis of available information, FDA cannot make this determination. Moreover, FDA believes that insufficient information exists to support the conclusion that general controls or performance standards will provide reasonable assurance of the safety and effectiveness of these devices. Therefore, FDA is proposing that these devices be classified into class III.

§ 888.3330; Docket No. 78N–3073; Hip joint metal/metal semi-constrained, with an uncemented acetabular component, prosthesis.

The Orthopedic Device Classification Panel, an FDA advisory committee,

made the following recommendation regarding the classification of hip joint metal/metal semi-constrained, with an uncemented acetabular component, prostheses:

1. Identification: A hip joint metal/metal semi-constrained, with an uncemented acetabular component, proshtesis is an implanted two-part device intended to replace a hip joint. The device limits translation and rotation in one or more planes via the geometry of its articulating surfaces. It has no linkage across-the-joint. This generic type of device includes prostheses that consist of a femoral and an acetabular component, both made of alloys, such as cobalt-chromium-molybdenum. The femoral component is intended to be fixed with bone cement. The acetabular component is intended to be used without a polymethylmethacrylate luting agent (bone cement).

2. Recommended classification: Class II. The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that hip joint metal/metal semi-constrained, with an uncemented acetabular component, prostheses be classified into class II because the design, material composition, and mechanical properties of the device, such as its flexibility, rigidity, strength, and surface finish, should be controlled to prevent loss or reduction of joint function, adverse tissue reaction, or infection. The Panel believes that general controls alone will not provide sufficient control over these characteristics.

Although these are implanted devices, the Panel believes that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectivness of the device. The Panel also recommends that the labeling for the device include information on the dimensions and kinematics of the device and its strength and wear characteristics.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and their review of the medical literature.

5. Risks to health: (a) Loss or reduction of joint function: Improper design of inadequate mechanical properties of the device, such as its lack of strenth and resistance to wear, may result in the loss or reduction of joint function due to excessive wear, fracture, deformation of the device's components, or loosening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility or resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away of the surfaces of the device and the release of materials from the device to the surrounding tissues and the systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection.

FDA disagrees with the Panel recommendation and is proposing that hip joint metal/metal semi-constrained, with an uncemented acetabular component, prostheses be classified into class III. FDA has obtained additional information regarding these devices. Ring (Ref. 204) has implemented about 1,000 of the devices using an uncemented acetabular component during an 8-year period with 942 devices available for followup. The early implants (169) had a followup time ranging from 5 to 8 years. In this group, 45 percent had excellent results, 29 percent had good results, 10 percent fair results, and 16 percent poor results. The second group (535) had a followup time of 1 to 5 years with excellent results being obtained in 69 percent of the cases, 21 percent good, 6 percent fair, and 4 percent poor. The remaining 238 cases were the most recent with followup time of less than 1 year. In the 942 cases reviewed, there were 35 revisions performed due to loosening. In the initial series, the revision rate was 14 percent, whereas the revision rate for the second series was only 2 percent. The third series had not had any revisions. Lindholm (Ref. 205) used the Ring prostheses with an uncemented acetabular component and reported 20 percent of the patients had little or no improvement after the device was implanted.

The agency has reviewed the pertinent engineering and clinical literature and has determined that insufficient information exists to establish a performance standard for hip joint metal/metal semi-constrained, with an uncemented acetabular component, prostheses. FDA has found a lack of correlation(s) between pertinent preclinical mechanical tests (i.e., wear rates, fracture resistance, etc.) of this device and clinical findings. The agency notes that there is little information on the devices with an uncemented acetabular component available from investigators other than reports from the inventor/developer of the original design of this device (Ring). FDA believes that the initial clinical experiences of investigator Ring have not been shown to be representative of the anticipated general clinical experience with these devices, and that the available data and information are not sufficient to assure the safety and effectiveness of the device with an uncemented acetabular component.

FDA finds that hip joint metal/metal semi-constrained, with an uncemented acetabular component, prostheses are implanted devices that are intended to be used in relieving disabling pain and in restoring or minimizing further loss of functional use of a joint or limb. FDA believes these uses are of a substantial importance in preventing impairment of human health.

FDA believes that insufficient clinical experience exists to fully establish the persons for whose use the devices are intended and the proper conditions of use. The agency believes that the probable benefit to health from use of these devices does not compare favorably with the likelihood of injury or illness resulting from their use.

Because of the lack of adequate data to demonstrate the safety and effectiveness of these implanted devices, FDA believes that use of the hip joint metal/metal semi-constrained, with an uncemented acetabular component, prostheses presents an unreasonable risk of illness or injury. Because these devices are intended to be implanted in the human body, the Federal Food, Drug, and Cosmetic Act requires that they be classified into class III unless FDA determines that premarket approval is not necessary to provide reasonable assurance of the safety and effectiveness of these devices. On the basis of available information, FDA cannot make this determination. Moreover, FDA believes that insufficient information exists to support the conclusion that general controls or performance standards will provide reasonable assurance of the safety and effectiveness of these devices. Therefore, FDA is proposing that these devices be classified into class III.

§ 888.3340; Docket No. 78N–3074; Hip joint metal/composite semi-constrained prosthesis.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of hip joint metal/composite semi-constrained prostheses:

1. Identification: A hip joint metal/composite semi-constrained prosthesis is an implanted two-part device

intended to replace a hip joint. The device limits translation and rotation in one or more planes via the geometry of its articulating surfaces. It has no linkage across-the-joint. This generic type of device includes prostheses that consist of a femoral component made of alloys such as cobalt-chromium-molybdenum, and an acetabular component made of carbon fiber reinforced ultra-high molecular weight polyethylene. Both components are intended to be implanted with a polymethylmethacrylate luting agent (bone cement).

2. Recommended classification: The Panel recommends that hip joint metal/composite semi-constrained prostheses be classified into class III. The Panel recommends that premarket approval of this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that hip joint metal/composite semi-constrained prostheses be classified into class III because these devices are implanted and are intended to be used in relieving disabling pain and in restoring or minimizing further loss of functional use of a joint or limb. The Panel believes these uses are of substantial importance in preventing impairment of human health.

The Panel believes that general controls alone will not provide sufficient control over these characteristics. The Panel also believes that it is not possible to establish an adequate performance standard for the device. There is a lack of safety and effectiveness data to demonstrate the satisfactory performance of the device. The Panel has found that insufficient information exists to support the conclusion that general controls or performance standards will be adequate to provide reasonable assurance of the safety and effectiveness of the device. Therefore, the device must be subject to premarket approval to assure its safety and effectiveness.

The Panel also recommends that the labeling for the device include information on the dimensions and kinematics of the device and its strength and wear characteristics.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel member's clinical experience with similar devices and a series of presentations to the Panel (Refs. 206 and 207). Dr. Robert Johnson (Rensselaer Polytechnical Institute) compared the physical properties of the carbon fiber reinforced ultra-high molecular weight polyethylene composite material with the physical properties of conventional polyethylene material. He found that the reinforced material was superior to the conventional polyethylene material regarding compressive deformation, flexural stress, compressive creep, modulus of elasticity, and fatigue. Dr. Johnson also noted that the technology of composite materials such as carbon fiber reinforced polyethylene is in its infancy with regard to engineering in general.

Dr. Jack Lemons (University of Alabama) presented the results of toxicity tests on the carbon fiber reinforced material. The results of in vitro tests showed the material, and extracts from the material, to be noncytotoxic to monolayers of cells and nonhemolytic to rabbit blood. The results of in vivo tests indicated that the material was nonirritating, nontoxic, and did not produce adverse effects after up to 15 months of implantation. The results of subacute toxicity tests indicated that intracutaneous extracts of the material were nonirritating when injected into rabbits; the systemic injections produced no adverse effects in mice; and that when the material was implanted along the backs of rabbits, it was nontoxic when it was evaluated at 6 and 12 weeks. The result of the chronic toxicity tests indicated that polyethylene material reinforced with carbon fibers was noncytotoxic, nontoxic, nonirritating, and produced no adverse effects when it was injected into the knee spaces of four rabbits and evaluated 15 months later. Dr. Lemons determined that these tests show that the carbon fiber reinforced material is biocompatible.

Dr. Joel Schilling (Portland, OR) presented a report on the histological examination of pieces of tissue removed from the patient who had received an ultra-high molecular weight polyethylene prosthesis in one ankle and a carbon fiber reinforced ultra-high molecular weight polyethylene composite prosthesis in the other. Dr. Schilling found that there was minimal tissue reaction to either type of material and that there seemed to be very little reaction to the carbon fragments.

Dr. Robert Volz (University of Arizona) presented a comparison of the effect of temperature on the conventional ultra-high molecular weight polyethylene and on the carbon fiber reinforced material. Dr. Volz concluded that the carbon fiber reinforced material offered considerable improvement in its resistance to deformation at body temperatures (i.e., 37° C) and at 96° C, the temperature reached during polymerization of methylmethacrylate cement.

At the July Panel meeting (Ref. 207), Robert Fuson, M.D. (Zimmer-USA), summarized the clinical experience with prostheses made from the carbon fiber reinforced material. A total of 86 acetabular components for total hip prostheses, 18 tibial components for total knees, and 23 tibial components for total ankles have been implanted. Of these, 65 hip, 16 knee, and 22 ankle components have been implanted for more than 6 months. Only 61 hip components, 11 knee components, and 12 ankle components have been implanted for over 1 year. Only five implantations (ankle) had been clinically followed for 2 years. No adverse reactions related to these prostheses were reported.

5. Risks to health: (a) Loss or reduction of joint function: Improper design or inadequate mechanical properties of the device, such as its lack of strength and resistance to wear, may result in a loss of joint function due to excessive wear, fracture, deformation of the device's components, or loosening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility or resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away of the articulating surfaces of the device and the release of materials from the device to the surrounding tissues and systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection.

FDA agrees with the Panel recommendation and is proposing that hip joint metal/composite semi-constrained prostheses be classified into class III. FDA finds that these implanted devices are intended to be used in relieving disabling pain and in restoring or minimizing further loss of functional use of a joint or limb. FDA believes these uses are of substantial importance in preventing impairment of human health. FDA believes insufficient clinical experience exists to fully establish the persons for whose use the devices are intended and the proper conditions of use. The agency believes that the probable benefit to health from use of the devices does not compare favorably with the likelihood of illness or injury resulting from their use.

Because of the lack of adequate data to demonstrate the safety and effectiveness of these implanted devices, FDA believes that use of hip joint metal/composite semi-constrained prostheses presents an unreasonable risk of illness or injury. Because these devices are intended to be implanted in the human body, the Federal Food, Drug,

and Cosmetic Act requires that they be classified into class III unless FDA determines that premarket approval is not necessary to provide reasonable assurance of the safety and effectiveness of these devices. On the basis of available information, FDA cannot make this determination. Moreover, the agency believes that insufficient information exists to support the conclusion that general controls or performance standards will provide reasonable assurance of the safety and effectiveness of these devices. Therefore, FDA is proposing that these devices be classified into class III.

§ 888.3350; Docket No. 78N–3075; Hip joint metal/polymer semi-constrained prosthesis.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of hip joint metal/polymer semi-constrained prostheses:

1. Identification: A hip joint metal/polymer semi-constrained prosthesis is an implanted device intended to replace a hip joint. The device limits translation and rotation in one or more planes via the geometry of its articulating surfaces. It has no linkage across-the-joint. This generic type of device includes prostheses that have a femoral component made of alloys, such as cobalt-chromium-molybdenum, and an acetabular resurfacing component made of ultra-high molecular weight polyethylene, and is limited to those devices intended for implantation with a polymethylmethacrylate luting agent (bone cement).

2. Recommended classification: Class II. The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that hip joint metal/polymer semi-constrained prostheses be classified into class II because the design, material composition, and mechanical properties of the device, such as its flexibility, rigidity, strength, and surface finish, should be controlled to prevent loss or reduction of joint function, adverse tissue reaction, or infection. The Panel believes that general controls alone will not provide sufficient control over these characteristics.

Although hip joint metal/polymer semi-constrained prostheses are implanted devices, the Panel believes that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of these devices. The Panel recommends that the labeling for the device include information on the dimensions and kinematics of the device and its strength and wear characteristics.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Loss or reduction of joint function: Improper design or inadequate mechanical properties of the device, such as its lack of strength and resistance to wear, may result in a loss or reduction of joint function due to excessive wear, fracture, deformation of the device, or loosening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away from the surfaces of the device and the release of materials from the device to the surrounding tissues and systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection.

FDA agrees with the Panel recommendation and is proposing that hip joint metal/polymer semi-constrained prostheses be classified into class II. FDA has obtained additional data and information on the use of hip joint metal/polymer semi-contsrained prostheses. The following device-related risks to health were either identified by the Panel or reported in the literature: (a) Device loosening, (b) calcar resorption, (c) femoral component fracture, (d) excessive acetabular component wear, and (e) adverse tissue reaction to the wear debris produced by the device.

(a) *Device loosening:* Device loosening has been reported as a complication that results in pain and inability to walk (Ref. 208). FDA notes that the etiology of this complication is not known. Several postulated causes are: (1) sepsis; (2) cancellous bone fatigue; (3) prosthetic failure due to the device design; (4) bone resorption; (5) concentration of stresses due to the varying modulus of elasticity of bone, cement, and prosthesis; (6) granulomatous reaction to wear particles; and (7) bone necrosis and tissue reactions caused by thermal effects of bone cement. Reports in the literature indicate that aseptic loosening of cemented acetabular and femoral components occurs in a significant number of cases (Refs. 209 and 210), and that the rate of loosening may increase over time (Refs. 211 and 212). In a 1977 review of the experience with total hip prostheses, Wilson, et al. (Ref. 213), concluded that further research was needed in preventing the breakdown of the bone/bone cement interface.

A number of writers have discussed the association between device loosening and the presence of a radiolucent line observed as a demarcation between the bone cement that is holding the prosthetic component in place and the underlying supporting bone. Several authors believe that radiolucent lines observed at the bone/bone cement interface do not always signify looseness or implant failure (Refs. 214 through 217). Some writers, however, such as Desemet, et al. (Ref. 215), believe that while radiolucent lines at the edge of the bone cement in the femur are not necessarily associated with clincial evidence of loosening (e.g., severe pain on walking), they do indicate a lack of firm bonding which may predispose the patient to loosening at a later date. Other authors (Refs. 218 and 219) suggest that the progressive development of a radiological separation of the convex curve (lateral border) of the prosthesis from the cement is the first sign of femoral component loosening.

A number of authors (Refs. 220, 221, and 222) identified resorption of bone in the region of the calcar at the proximal end of the femur as contributing factor in device loosening. Simon, et al. (Ref. 223), reported that fatigue of the cancellous bone in the acetabulum is a possible explanation for device lossening. Still other investigators (Refs. 224 and 225) believe that eventual loosening of the prosthesis is due to a foreign body reaction to particles of polyethylene material that leads to replacement by soft tissue of bone at the bone/bone cement interface.

(b) *Calcar resorption:* Resorption of bone in the region of the calcar has been reported (Refs. 222, 226, and 227) as a probable contributing cause of cement failure, prosthesis loosening, or fracture of the femoral component of hip prostheses. The etiology of this complication is not known, but several possible causes have been discussed in the medical literature. Oh and Harris (Ref. 222), for example, reported that calcar resorption may be due to disuse atrophy of the bone in this region, causing increased cement failure, prosthesis loosening, and stem fracture. These authors also noted that the design of the prosthesis affects the transfer of forces to the bone in the calcar region and could contribute to the resorption of the calcar femorale observed after total

hip replacement. Marmor (Ref. 218) described 10 cases of femoral component loosening occurring in patients who were overweight. This author suggested that collapse of the cancellous bone in the region of the calcar and femoral component loosening may be a result of the stress of excessive body weight on the femoral component. Harris, et al. (Ref. 228), described four cases of extensive bone resorption in the region of the calcar occurring 33 months to approximately 5 years postoperatively. These authors noted that while the cause of bone resorption in these cases is not known, they believe that the lysis was secondary to loosening and fragmentation of the bone cement. Charnley and Cupic (Ref. 230) reported that, in some cases of calcar resorption, there may be evidence of harmful tissue reaction to particles of polyethylene worn away from the hip socket. In a subsequent publication, Bocco, Langan, and Charnley (Ref. 220) reported that while the role that wear particles of polyethylene play in destructive changes in the calcar are unknown, there is no doubt that these particles are frequently found during histological examinations of the calcar region.

(c) *Femoral component fracture:* Fracture (fatigue failure) of the femoral component of a hip prosthesis is believed to be a product of repetitive cyclic load (such as occurs during walking), usually initiated at a point of high tensile stress (such as the lateral surface of the stem). Cracks form in the material and grow slowly across the stem until the reamining metal cannot support the body weight and fractures completely (Ref. 227). A number of device-related factors which may predispose an implant to fracture were identified in the literature, including: (1) the use of materials with inadequate mechanical properties (Refs. 227, 231, 232, and 233); (2) inadequate quality controls in manufacture and metallurgical defects in the device (Refs. 227, 233, 234, 235, 236, and 269); (3) device design (Refs. 227 and 236); and (4) mechanical loosening of the femoral component following loss of cement support in the calcar region (Refs. 222, 226, 227, 236, and 270). A number of authors (Refs. 231, 234, 237, and 238) have reported the incidence of femoral stem fracture in their patients to range from 0.23 percent to 11 percent in the first 5 years. Some authors (Refs. 236 and 239) believe that the incidence of fracture increases with longer postoperative followup.

The role of calcar resorption in femoral stem failure was discussed by several authors. Andriacchi, et al. (Ref. 226), found that the loss of proximal stem support at the region of the calcar femorale will result in fatigue failure of the device component. Markolf and Amstutz (Ref. 236) report that a minimal degree of loosening may result in a marked increase in tensile stress imposed on the device. Charnley (Ref. 237) believed that erosion of the bone in the region of the medial femoral neck (i.e., the calcar femorale) leading to defective cement support of the device in this area was possibly the predominant factor leading to fracture of the prosthesis. Marmor (Ref. 218) described the following sequence of events in the patients whose prostheses eventually fractured: bony resorption in the region of the medial femoral neck, followed by fracture of the bone cement, medial displacement of the femoral implant components and, ultimately, bending or breakage of the device.

(d) *Acetabular component wear:* An increased wear rate of the acetabular component of the device is believed to be due to the presence of trapped particles, such as polyethylene wear debris, bone, or bone cement (Refs. 225, 240, 241, and 242). Several aspects of prosthesis design (i.e., the size of the head of the femoral prosthesis) and quality control of the components (i.e., properties of the polyethylene material, and the surface finish of the metallic component) were noted to affect the rate of polyethylene wear (Refs. 241 and 243). Clarke, et al. (Ref. 244), and other authors (Refs. 240, 245, and 246) have examined acetabular components that had been removed from patients. They believe that the in vivo wear rate could be as low as 0.01 millimeter per year but it can increase to as high as 0.5 millimeters per year if bone cement particles are present and induce wear of these components. Dowling, et al. (Ref. 240), believe that laboratory tests alone are not sufficient to predict the long-term wear and deformation of the polyethylene component in the human body. They have found that the device wear rates are higher in the body than laboratory tests predict and believe that this increase is due to the presence of joint fluid and the temperature of the hip joint and may lead to stress corrosion and creep of the polyethylene material.

(e) *Adverse response to wear debris:* A number of authors discussed the possible long-term effects of wear debris. Winter (Ref. 247) noted that the material characteristics responsible for biological reactivity of foreign bodies are size, shape, chemical composition, surface properties, and the number of particles present. While the physical properties of the implant inserted by the surgeon can be specified (i.e., standards on material composition), inevitable wear and corrosion produce undefined soluble and insoluble materials whose potential effects are largely unknown. Bullough (Ref. 248) commented that the physical size of the particles may be very important. This author states that medical experience with particulate wear debris from joint implants is relatively limited compared to experience with other implants such as bone nails and bone plates. Other investigators (Refs. 210 and 224) believe that a foreign body reaction to particles of polyethylene material will lead to replacement by soft tissue of bone at the bone-cement interface and eventually to loosening of the prosthesis.

Summary of clinical results: Clinical results of less than 5 years were available for the following designs of the hip joint metal/polymer semi-constrained prosthesis (Refs. 249 through 268): Charnley-Muller, Aufranc-Turner, Harris, Minneapolis, Leinbach, St. George, Bechtol, Brunswick, and the Trapezoidal–28. Clinical results from use of the devices for 5 or more years were available for only two of these designs, the St. George and the Charnley (Refs. 229, 230, 261, 272, 273, and 274).

Buchholz and Noack (Ref. 261) reported results following implantation of the St. George design prosthesis. They reported followup for over 5 years for 271 cases, followup between 2 to 5 years for 1,731 cases, and less than 2 years followup for 1,203 cases. The average age of the patients at the time of surgery was 61 years (range 17 to 95 years). These authors found that pain was reduced and gait distance and mobility of patients had improved more than 100 percent when compared to the preoperative conditions. The following complications and complication rates were found: aseptic loosening—1.09 percent; fracture of the prosthesis—0.06 percent; transitory nerve damage—1.52 percent; permanent nerve damage—0.41 percent; dislocation of the device components—1.15 percent; periarticular calcification and ossification—7.64 percent; deep infection—2.3 percent; and pulmonary embolism—0.4 percent. There were 248 deaths (7.4 percent). The cause of 13 (0.4 percent) of these deaths was identified and reported to be due to pulmonary embolism.

Results of use of the Charnley prosthesis for over 5 years were reported by Nicholson (Ref. 229) and by Charnley and his coworkers (Refs. 230, 272, 273, and 274). Nicholson reported on the implantation of 900 Charnley prostheses with followup ranging from 1

to 6 years. Results of use for 5 or more years were reported on 30 of these 900 device implantations. The author calculated the incidence of mechanical problems occurring in prostheses which had been implanted for 3 to 4 years. Thirteen (8.5 percent) of the devices (seven femoral components and six acetabular components) had loosened, and the femoral component of one device had fractured. The author also reviewed the radiological results in 250 consecutive cases. The clinical followup times of these cases were not given. Resorption of 5 to 8 millimeters of bone at the proximal end of the femur (calcar femorale) was observed in 57 hips (22.8 percent). The femoral component was observed to have settled in nine (3.6 percent) of the cases.

Charnley and Cupic (Ref. 230) reported on the implantation of 106 Charnley prostheses with a clinical followup of 9 to 10 years. The average age of the patients in this series was reported to be 65 at the time of the operation. Pain, function, and mobility were evaluated in these patients. Eighty-eight hips (83 percent) were rated free of pain and eight others (7.5 percent) were reated as having slight or transient pain. Function was evaluated in 53 hips, and was rated as normal in 45 hips (85 percent), taking into account the advanced-age of a number of patients. Mobility was assessed in 75 hips. Fourteen hips (18.6 percent) were rated normal and 45 (60 percent) as having a total range of motion of between 161 and 120 degrees. The total failure rate was reported as 9.6 percent, three failures (3.0 percent) due to mechanical lossening of the device components, and eight failures (6.6 percent) due to infection.

Griffith, Seidenstein, el al. (Ref. 274), reviewed the long-term results of the Charnley prosthesis used in 461 patients, 86 of whom had hip prostheses implanted in both hips for a total of 547 hip replacement operations. Pain, function, and mobility were evaluated in these patients and of the 547 operated hips, 472 (86 percent) were free of pain; 61 (11 percent) had slight or intermittent pain; 11 (2 percent) had pain; and 3 (0.5 percent) had severe pain. Function and mobility were evaluated in all cases and the operation was reported to be 80 to 85 percent successful. The following complications and complication rates were reported: Three cases of fracture of the femoral component; seven cases of femoral component loosening; five cases of acetabular component loosening; eight cases of device dislocation; and a 2.2 percent incidence of infection. In addition, the authors evaluated the incidence of pathological changes at the cement-bone interface and reported: cavitation of the bone of the calcar in 25 hips (4.5 percent); cavitation of the acetabulum in 1 case; the presence of endosteal cysts in the femur in 2 patients; and subsidence of the femoral component in 49 hips (8.9 percent). There was some degree of cement demarcation of the femoral component in 44 cases (7.9 percent) and of the acetabular component in 294 cases (53.7 percent). The agency reviewed additional publications, but they lacked sufficient information on either the number of patients in whom the devices had been implanted for 5 or more years or the results obtained in these patients (Refs. 258, 259, 260, and 271).

Although hip joint metal/polymer semi-constrained prostheses are implanted devices, FDA has determined that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of these devices. In addition, FDA has identified and assessed the major risks to health that have been associated with use of these devices. FDA believes that the major risks, i.e., loosening, infection, and adverse tissue reaction, are related to biological responses of the human body to the presence of the device, the device design, and the underlying joint pathology, and not to physical failure(s) of the device. Clinical experience with these devices has established the persons for whose use the devices are intended and the proper conditions of use, except the uncertainty of predicting in which patients bone cement problems will arise. FDA has determined that the probable benefit to health from proper use of these devices outweighs any likelihood of injury or illness resulting from the use. FDA further believes that informative labeling and compliance with general controls may greatly reduce the risks to health associated with use of these devices. The agency believes that a performance standard is necessary because general controls alone are insufficient to minimize the risks to health presented by these devices.

§ 888.3360; Docket No. 78N–3077; Hip joint femoral (hemi-hip) metallic prosthesis.

The Orthopedic Device Classification Panel, an advisory committee, made the following recommendation regarding the classification of hip joint femoral (hemi-hip) metallic prostheses:

1. Identification: A hip joint femoral (hemi-hip) metallic prosthesis is an implanted device intended to replace a portion of the hip joint. This generic type of device includes prostheses that have a femoral component made of alloys, such as cobalt-chromium-molybdenum. This generic type of device includes designs which are intended to be fixed to the bone with a polmethylmethacrylate luting agent (bone cement), as well as designs which have large window-like holes in the stem of the device and which are intended to be used without bone cement. However, in these latter designs, fixation of the device is not achieved by means of bone ingrowth.

2. Recommended classification: Class II. The Panel recommends that establishing a performance standard for this device be high priority.

3. Summary of reasons for recommendation: The Panel recommends that hip joint femoral (hemi-hip) metallic prostheses be classified into class II because the design, material composition, and mechanical properties of the device, such as its flexibility, rigidity, strength, and surface finish, should be controlled to prevent loss of reduction of joint function, adverse tissue reaction, or infection. The Panel believes that general controls alone will not provide sufficient control over these characteristics.

Although a hip joint femoral (hemi-hip) metallic prosthesis is an implanted device, the Panel believes that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that the labeling for the device include information on the dimensions and kinematics of the device and its strength and wear characteristics.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Loss or reduction of joint function: Improper design or inadequate mechanical properties of the device, such as its lack of strength and resistance to wear, may result in a loss or reduction of joint function due to excessive wear, fracture, deformation of the device, or loosening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away from

the surfaces of the device and the release of materials from the device to the surrounding tissues and systemic circulation. (c) Infection: The presence of a prosthesis within the body may lead to an increased risk of infection.

FDA agrees with the Panel recommendation and is proposing that hip joint femoral (hemi-hip) metallic prostheses be classified into class II. FDA believes that the hip joint femoral (hemi-hip) metallic prosthesis presents essentially the same risks to health as that of the femoral component alone, of the hip joint metal/polymer simi-constrained prosthesis used for total hip replacement (see § 888.3350; Docket No. 78N–3075). Therefore, the discussion and references cited in § 888.3350 are incorporated by reference to support the proposed classification of hip joint femoral (hemi-hip) metallic prostheses into class II.

Although hip joint femoral (hemi-hip) metallic prostheses are implanted devices, FDA has determined that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of these devices. In addition, FDA has identified and assessed the major risks to health associated with the use of these devices. FDA believes that the major risks, i.e., loosening, infection, and adverse tissue reaction, are related to biological responses to the human body to the presence of the device, the device design, and the underlying joint pathology, and not to physical failure(s) of the device. Clinical experience with these devices has established the persons for whose use the devices are intended and the proper conditions of use. FDA has determined that the probable benefit to health from proper use of these devices outweighs any likelihood of injury or illness resulting from their use. FDA further believes that informative labeling and compliance with general controls may greatly reduce the risks to health associated with the use of these devices. The agency believes that a performance standard is necessary because general controls alone are insufficient to minimize the risks to health presented by these devices.

§ 888.3370; Docket No. 78N–3076; Hip joint (hemi-hip) acetabular metal prosthesis.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendations regarding the classification of hip joint (hemi-hip) acetabular metal prostheses:

1. Identification: A hip hoint (hemi-hip) acetabular metal prosthesis is an implanted device intended to replace a portion of the hip joint. This generic type of device includes prostheses that have an acetabular component made of alloys, such as cobalt-chromium-molybdenum. This generic type of device is limited to those devices intended for implantation with a polymethylmethacrylate luting agent (bone cement).

2. Recommended classification: Class III. The Panel recommends that premarket approval of this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that hip joint (hemi-hip) acetabular metal prostheses be classified into class III because these devices are implanted and are intended to be used in relieving disabling pain and in restoring or minimizing further loss of functional use of a joint or limb. The Panel believes these uses are of substantial importance in preventing impairment of human health.

The Panel believes that general controls alone will not provide sufficient control over these characteristics. The Panel believes that it is not possible to establish an adequate performance standard for the device. There is a lack of safety and effectiveness data to demonstrate the satisfactory performance of the device. The Panel has found that insufficient information exists to support the conclusion that general controls or performance standards will be adequate to provide reasonable assurance of the safety and effectiveness of the device. Therefore, the device must be subject to premarket approval to assure its safety and effectiveness.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Loss or reduction of joint function: Improper design or inadequate mechanical properties of the device, such as its lack of strength and resistance to wear, may result in a loss or reduction of joint function due to excessive wear, fracture, deformation of the device, or loosening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away from the surfaces of the device and the release of materials from the device to the surrounding tissues and systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection.

FDA agrees with the Panel recommendation and is proposing that hip joint (hemi-hip) acetabular metal prostheses be classified into class III. The agency finds that these implanted devices are intended to be used in relieving disabling pain and in restoring or minimizing further loss of functional use of a joint or limb. FDA believes these uses are of substantial importance in preventing impairment of human health. FDA believes that insufficient clinical experience exists to fully establish the persons for whose use the devices are intended and the proper conditions of use. The agency believes that the probable benefit to health from use of these devices does not compare favorably with the likelihood of injury or illness resulting from their use.

Because of the lack of adequate data to demonstrate the safety and effectiveness of these implanted devices, FDA believes that use of the hip joint (hemi-hip) acetabular metal prosthesis presents an unreasonable risk of illness or injury. Because these devices are intended to be implanted in the human body, the Federal Food, Drug, and Cosmetic Act requires that they be classified into class III unless FDA determines that premarket approval is not necessary to provide reasonable assurance of the safety and effectiveness of these devices. On the basis of available information, FDA cannot make that determination. Moreover, FDA believes that insufficient information exists to support the conclusion that general controls or performance standards will provide reasonable assurance of the safety and effectiveness of these devices. Therefore, FDA is proposing that these devices be classified into class III.

§ 888.3380; Docket No. 78N–3078; Hip joint femoral (hemi-hip) trunnion-bearing metal/polyacetal prosthesis.

The Orthopedic Device Classification Panel, and FDA advisory committee, made the following recommendation regarding the classification of hip joint femoral (hemi-hip) trunnion-bearing metal/polyacetal prostheses:

1. Identification: A hip joint femoral (hemi-hip) trunnion-bearing metal/polyacetal prosthesis is an implanted two-part device intended to replace the head and neck of the femur. This generic type of device includes prostheses that consist of a metallic stem made of alloys, such as cobalt-chromium-molybdenum, with an integrated

cylindrical trunnion bearing at the upper end of the stem that fits into a recess in the head of the device. The head of the device is made of polyacetal (polyoxymethylene) and it is covered by a metallic alloy, such as cobalt-chromium-molybdenum. The trunnion bearing allows the head of the device to rotate on its stem. The prosthesis stem is intended for implantation with a polymethylmethacrylate luting agent (bone cement).

2. Recommended classification: Class II. The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendations: The Panel recommends that hip joint femoral (hemi-hip) trunnion-bearing metal/polyacetal prostheses be classified into class II because the design, material composition, and mechanical properties of the device, such as its flexibility, rigidity, strength, and surface finish, should be controlled to prevent loss or reduction of joint function, adverse tissue reaction, or infection. The Panel believes that general controls alone will not provide sufficient control over these characteristics.

Although hip joint femoral (hemi-hip) trunnion-bearing metal/polyacetal prostheses are implanted devices, the Panel believes that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device. The Panel also recommends that the labeling for the device include information on the dimensions and kinematics of the device and its strength and wear characteristics.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel member's personal knowledge of, and clinical experience with, the device and on a presentation to the Panel. Dr. Ian Goldie (University of Goteborg) (Ref. 285) presented the results of several Norwegian studies with these prostheses. Dr. Goldie referred to Christiansen's series of 241 hips in which excellent results were obtained in 57 percent of the cases and good results in 33 percent. In this series, there were five infections, seven cases of loosening of the acetabular cup, two dislocations shortly after operation, two cases of femoral perforation, and three cases of heterotopic ossification. Dr. Goldie then presented the results of his own series of 61 patients. In the 19 patients with 2 years followup, and in the 28 patients with 6 months followup, there were no complications. However, in the remaining 14 patients with a followup of 1 year, there were the following complications: 2 dislocations between the head and the cup, 2 cases of heterotopic ossification, and 2 patients with inexplicable pain.

5. Risks to health: (a) Loss or reduction of joint function: Improper design or inadequate mechnical properties of the device, such as its lack of strength and resistance to wear, may result in a loss or reduction in joint function due to excessive wear, fracture, deformation of the device components, or loosening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility or resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away of the surfaces of the device and the release of materials from the device to the surrounding tissues and systemic circulation. (c) Infection: The presence of a prosthesis within the body may lead to an increased risk of infection.

FDA disagrees with the Panel recommendation and is proposing that hip joint femoral (hemi-hip) trunnion-bearing metal/polyacetal prostheses be classified into class III. FDA has sought additional data and information on the safety and effectiveness of these devices. A review of the medical literature revealed a disagreement regarding the resistance to wear of polyacetal materials. McKellop, et al. (Ref. 286), report that laboratory wear rates for polyacetal range from 70 percent lower than polyethylene to 540 percent higher. Dumbleton (Ref. 287) reports wear in the trunnion sleeve of the device and that polyacetal exhibits a low resistance to wear. Because of the potential problems involving its resistance to wear, the long-term effectiveness of this device is questionable. The initial investigator and his associates have been the primary users of this device. Long-term followup data available only from the initial investigator. Clinical cases documenting effectiveness and safety of the device involving usage of less than 3 years.

FDA finds that hip joint femoral (hemi-hip) trunnion-bearing metal/polyacetal prostheses are implanted devices that are intended to be used in relieving disabling pain and in restoring or minimizing further loss of functional use of a joint or limb. FDA believes these uses are of substantial importance in preventing impairment of human health. FDA believes that insufficient clinical experience exists to fully establish the persons for whose use the devices are intended and the proper conditions of use. The agency believes that the probable benefit to health from use of these devices does not compare favorably with the likelihood of illness or injury resulting from their use.

Because of the lack of adequate data to demonstrate the safety and effectiveness of these implanted devices, FDA believes that uncontrolled use of hip joint femoral (hemi-hip) trunnion-bearing metal/polyacetal prostheses presents an unreasonable risk of illness or injury. Because these devices are intended to be implanted in the human body, the Federal Food, Drug, and Cosmetic Act requires that they be classified in class III, unless FDA determines that premarket approval is not necessary to provide reasonable assurance of the safety and effectiveness of these devices. On the basis of available information, FDA cannot make this determination. Moreover, FDA believes that insufficient information exists to support a conclusion that general controls or performance standards will provide reasonable assurance of the safety and effectiveness of these devices. Therefore, FDA is proposing that these devices be classified into class III.

§ 888.3390; Docket No. 78N–3079; Hip joint femoral (hemi-hip) metal/polymer prosthesis.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of hip joint femoral (hemi-hip) metal/polymer prostheses:

1. Identification: A hip joint femoral (hemi-hip) metal/polymer prosthesis is an implanted device intended to replace the head and neck of the femur. This generic type of device includes prostheses that have a femoral component made of alloys, such as cobalt-chromium-molybdenum, and a snap-fit acetabular component made of an alloy, such as cobalt-chromium-molybdenum, and ultra-high molecular weight polyethylene. This generic type of device may be fixed to the bone with a polymethyl-methacrylate luting agent (bone cement) or implanted by impaction.

2. Recommended classification: Class II. The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that hip joint femoral (hemi-hip) metal/polymer prostheses be classified into class II because the design, meterial compostion, and mechanical properties of the device.

such as its flexibility, rigidity, strength, and surface finish should be controlled to prevent loss or reduction of joint function, adverse tissue reaction, or infection. The Panel believes that performance standard will control the risks associated with the device. The Panel recommends that the labeling for the device include information on the dimensions and kinematics of the device and its strength and wear characteristics.

4. Summary of data on which the recommendations is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device, their knowledge of the medical literature, and presentations of clinical data made before the Panel.

Drs. Richard Strauss and Andrew Schildhous (Bronx-Lebanon Hospital Center) made a presentation before the Panel on the clinical performance of the Bateman hip prosthesis (Ref. 288). Dr. Strauss outlined his 5-year experience with the Bateman prosthesis in 84 patients. The primary diagnosis in these patients was intracapsular fracture of the proximal femur. Dr. Strauss stated that the of question of whether the femur stem of the implant should be cemented or noncemented was decided at the time of surgery. The complications reported during the clinical study were for dislocations and two superficial infections. Dr. Strauss pointed out that, to date, there has been no clinical evidence of acetabular wear in any of the cases.

Dr. William Weat (San Leandro, CA) presented to the Panel his experience with the Bateman prosthesis on a series of 55 hips in 53 patients. Complications in the clinical study included two dislocations. In addition, five patients died of unrelated causes, three were converted to total replacement, and two could not be traced. The followup period averaged 19½ months for 43 patients, representing 45 hips. Pain was absent in 36 patients, mild in 6, and significant enough to limit function in 1. Gait was normal in 27 patients, limited by some unrelated problem in 12, and limited by some problem related to the hip prosthesis in 6. The range of motion was considered functional in 39 patients and limited in 6. Overall, the results were considered excellent in 69 percent of the patients, good in 22 percent, and poor in 4 cases (9 percent). Dr. West concluded that the Bateman design of the hip joint femoral (hemi-hip) metal/polymer prosthesis is a satisfactory method of treatment for a number of disorders of the femoral head and neck and that these results will stand the test of, at least, and intermediate period of time. Dr. West commented that fluoroscopic examination of the hip during walking indicated that the prosthesis is capable of functioning as designed for at least 30 months postoperatively.

5. Risks to health: (a) Loss or reduction of joint function: Improper design of inadequate mechanical properties of the device, such as its lack of strength and resistance to wear, may result in a loss or reduction of joint function due to excessive wear, fracture, deformation of the device, or loosening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away from the surfaces of the device and the release of materials from the device to the surrounding tissues and the systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection.

FDA agrees with the Panel recommendation and is proposing that hip joint femoral (hemi-hip) metal/polymer prostheses be classified into class II. The agency has obtained additional data and information describing the use of the hip joint femoral (hemi-hip) metal/polymer prostheses. The most common problems associated with use of the device that have been reported in the literature are device dislocation and related complications. Anderson (Ref. 289) reported on two cases of dislocation and component separation of the Bateman hip prosthesis, which he believed were due to inadequate immobilization of the patient after surgery. Barmada (Ref. 290) has also reported two cases of dislocations, which he attributes to impingement of the outer cup within the acetabulum while the hip was forced into flexion, adduction and internal rotation. Drinker and Murray (Ref. 291) compared 101 Bateman hemiarthroplasties with 160 cemented Thompson hemiarthroplastics with respect to complications and short-term results. Ten patients with the Bateman implant and 10 with a Thompson device were examined an average of 3.0 and 3.4 years postoperatively. The differences in the mean Harris-hip rating score were significant and probably resulted from the mean differences in their mean ages (74.4 and 81.1 years). There were nine dislocations for seven patients with the Bateman prostheses. Five of the nine could not be rectified by closed reduction. In the Thompson series, 12 dislocations occurred in 7 patients. All were successfully treated via closed reduction. Drinker and Murray believe that motion at the low-friction inner bearing of the Bateman prosthesis, which was expected to provide added stability and lower rates of dislocation compared to conventional single-bearing designs, either does not occur in vivo as predicted or that other more important factors are operative in determining the potential for dislocation. These authors performed motion studies in thirteen patients at 2.0 and 3.4 years postoperatively, and found that far less inner bearing motion existed than is allowed by the implant itself. In half of the patients, there was a reduction in inner bearing motion over time, and in almost all patients studied at any given time there was a marked reduction in inner bearing motion with weight-bearing compared with the supine unloaded position. The reduction in inner bearing motion on weight bearing was believed to be caused by an increase in inner bearing friction when the concentric artificial bearing surfaces of the device are compressed, lose lubricant, and become relatively less mobile, while the less concentric outer bearing surfaces (i.e., the acetabular cartilage and the cobalt-chromium surface of the device) may retain lubricant and remain relatively more mobile.

Langan (Ref. 292) reported on 90 Ciliberty bipolar prostheses that he implanted. Sixty-five prostheses were available for followup. The average followup time was 19 months. Eighty-six percent of the operated hips had very good or excellent motion. Roentgenograms were taken immediately after the operations. The cups of the prostheses were seen to be in neutral orientations with the patients own pelvis (i.e., approximately 45 degrees to the transverse axis of the pelvis). By 1 year followup, however, only 12 percent were noted to be in the neutral position; the remainder had gone into a vertical position. Also, four dislocations occurred, which Langan attributed to poor surgical technique or judgment. Langan reported that the short-term clinical results were excellent, but longer term clinical data are needed.

Although hip joint femoral (hemi-hip) metal/polymer prostheses are implanted devices, FDA has determined that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of these devices. In addition, FDA has identified and assessed the major risks to health

accompanying the use of these devices. FDA believes that the major risks, i.e., loosening, infection, dislocation, and adverse tissue reaction, are related to biological responses of the human body to the presence of the device, the device design, and the underlying joint pathology, and not to physical failure(s) of the device. Clinical experience with these devices has established the persons for whose use the devices are intended and the proper conditions of use. FDA has determined that the probable benefit to health from proper use of these devices outweighs any likelihood of injury or illness resulting from their use. FDA further believes that informative labeling and compliance with general controls may greatly reduce the risks to health accompanying the use of these devices. The agency believes that a performance standard is necessary because general controls alone are insufficient to minimize the risks to health presented by these devices.

§ 888.3400; Docket No. 78N–3080; Hip joint femoral (hemi-hip) resurfacing prosthesis.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of hip joint femoral (hemi-hip) resurfacing prostheses:

1. Identification: A hip joint femoral (hemi-hip) resurfacing prosthesis is an implanted device intended to replace a portion of the hip joint. This generic type of device includes prostheses that have a femoral resurfacing component made of alloys, such as cobalt-chromium-molybdenum.

2. Recommended classification: Class II. The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that hip joint femoral (hemi-hip) resurfacing prostheses be classified into class II because the design, material composition, and mechanical properties of the device, such as its flexibility, rigidity, strength, and surface finish, should be controlled to prevent loss or reduction of joint function, adverse tissue reaction, or infection. The Panel believes that general controls alone will not provide sufficient control over these characteristics.

Although hip joint femoral (hemi-hip) resurfacing prostheses are implanted devices, the Panel believes that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device. In addition, the Panel reviewed literature pertaining to the device. Aufranc and Sweet (Ref. 293) reported on the clinical results obtained from use in 171 patients. Results were classified as excellent, good, or satisfactory in 164 hips (82 percent) and unsatisfactory in 37 (22 percent). Johnson and Larson (Ref. 294) reported the results of followup of 251 patients with a minimum followup of 3 years. Overall improvement occurred in 90 percent of the patients; pain relief occurred in 67 percent and pain was reduced in 90 percent.

5. Risks to health: (a) Loss or reduction of joint function: Improper design or inadequate mechanical properties of the device, such as its lack of strength and resistance to wear, may result in a loss or reduction of joint function due to excessive wear, fracture, deformation of the device, or loosening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away from the surfaces of the device and the release of materials from the device to the surrounding tissues and systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection.

FDA agrees with the Panel recommendation and is proposing that hip joint femoral (hemi-hip) resurfacing prostheses be classified into class II. Although hip joint femoral (hemi-hip) resurfacing prostheses are implanted devices, FDA has determined that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of these devices. In addition, FDA has identified and assessed the major risks to health associated with the use of these devices. FDA believes that the major risks, i.e., loosening, infection, and adverse tissue reaction, are related to biological responses of the human body to the presence of the device, the device design, and the underlying joint pathology, and not to physical failure(s) of the device. Clinical experience with these devices has established the persons for whose use the devices are intended and the proper conditions of use. FDA has determined that the probable benefit to health from proper use of these devices outweighs any likelihood of injury or illness resulting from their use. FDA further believes that informative labeling and compliance with general controls may greatly reduce the risks to health associated with use of these devices. The agency believes that a performance standard is necessary because general controls alone are insufficient to minimize the risks to health presented by these devices.

§ 888.3410; Docket No. 78N–3081; Hip joint metal/polymer semi-constrained resurfacing prosthesis.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of hip joint metal/polymer semi-constrained resurfacing prostheses:

1. Identification: A hip joint metal/polymer semi-constrained resurfacing prosthesis is an implanted two-part device intended to replace the articulating surfaces of the hip while preserving the femoral head and neck. The device limits translation and rotation in one or more planes via the geometry of its articulating surfaces. It has no linkage across-the-joint. This generic type of device includes prostheses that consist of a femoral cap component made of alloy, such as cobalt-chromium-molybdenum, that is placed over a surgically prepared femoral head, and an acetabular resurfacing polymer component. Both components are intended for implantation with a polymethylmethacrylate luting agent (bone cement).

2. Recommended classification: Class II. The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that the device be classified into class II because the design, material composition, and mechanical properties of the device, such as its flexibility, rigidity, strength, and surface finish, should be controlled to prevent loss or reduction of joint function, adverse tissue reaction, or infection. The Panel believes that general controls alone will not provide sufficient control over these characteristics.

Although hip joint metal/polymer semi-constrained resurfacing prostheses are implanted devices, the Panel believes that premarket approval is not necessary because sufficient information exists to establish a

performance standard that will provide reasonable assurance of the safety and effectiveness of the device. The Panel also recommends that the labeling for the device include information on the dimensions and kinematics of the device and its strength and wear characteristics.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and their knowledge of the medical literature.

5. Risks to health: (a) Loss or reduction of joint function: Improper design or inadequate mechanical properties of the devices, such as its lack of strength and resistance to wear, may result in a loss or reduction of joint function due to excesive wear, fracture, deformation of the device components, or loosening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away of the articulating surfaces of the device and the release of materials from the device to the surrounding tissues and the systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection.

FDA disagrees with the Panel recommendation and is proposing that hip joint metal/polymer semi-constrained resurfacing prostheses be classified into class III. The agency has obtained additional data and information on the use of hip joint metal/polymer semi-constrained resurfacing prostheses. Total surface replacement hip arthroplasty developed as a result of experience gained with conventional hip replacement and Smith Petersen's cup arthroplasty. In 1951, Charnley (Ref. 295) carried out the first double cup replacement of the hip utilizing polytetrafluoroethylene. These prostheses were fixed to the bone without bone cement. It is now known that polytetrafluoroethylene is an unsatisfactory material when it articulates against itself. The resultant debris leads to a low grade inflamatory response in which granulation tissue invades the boneprosthesis interface and loosens the prosthesis. Failure, therefore, was not inherent in the concept but resulted from the absense of satisfactory materials and bonding techniques. In 1960, Townley used polyurethane to anchor a metal cup to the femoral head and to resurface the acetabulum. The material and the results were so unsatisfactory that the procedure was abandoned (Ref. 295). The third attempt to modify conventional cup arthroplasty was carried out by Muller in 1968 (Ref. 295). Muller employed components fabricated from cobalt-chrome alloy. The symptomatic results were unsatisfactory and the prostheses were not stable on the femur. As a result, he abondoned the procedure. In 1970, Gerard used cups composed of cobalt-chrome alloy that were not cemented. The results were not fully satisfactory and Gerard therefore introduced a prosthesis in which the acetabular component was made of high density polyethlene and the fermoral component of metal. The high density polyethylene acetabular component moved against both the metal femoral component and the bone, generating polyethlene wear debris. Bone resorption resulted and, hence, Gerard abandoned this prosthesis. Gerard then introduced his third and present prosthesis in which the acetabular component had a metal outer surface moving against the bone of the acetabulum and an inner surface fashioned of polyethylene which moved against the metal femoral component.

During 1970–1977, Gerard (Ref. 296) implanted various designs of his device in 337 hips. He reported that the results in 289 hips which had been followed for over 6 months were excellent in 114, good in 124, fair in 41, and poor in 10. The failures, with the exception of cases of infection or periarticular calcification, were attributed to the early material combinations and to the surgical technique.

In 1971, Trentani at the Rizzoli Institute in Bologna (Ref. 297) and Furuya (Ref. 298) in Tokyo independently carried out a cemented double cup arthroplasty. Trentani reported excellent results in 70 percent of his cases over a 2 to 6 year followup. He reported a total of 9 failures (12 percent) out of 70 patients. Four of the cases were breakage at the base of the neck of the femur following violent trauma. In the other five cases, the femoral component loosend. Furuya (Ref. 298) performed the operation on 13 hips with followup ranging from 3 to 6 years. In seven of these cases, revision was required within a period of 1 through 5 years. The reasons for the failure were fracture of the femoral neck secondary to osteonecrosis in one hip and loosening of the acetabular socket in six hips.

Freeman (Ref. 299) began work on double cup arthroplasty in 1970. From 1972 through 1974, 32 hips were replaced. Fourteen of these devices failed. These failures were attributable to loosening. The first 16 prostheses consisted of a polyethylene femoral component and a metal acetabular component. In five of these hips, one or both components loosened. Freeman believed that the high incidence of loosening in this group of hips was due to the fact that convex polyethylene wears rapidly and thus generates large quantities of intra-articular polyethylene debris. Freeman postulated that eight femoral neck fractures could be attributed to varus placement of the prosthesis and the making of a notch in the superior cortex. The prosthesis was then redesigned so that the femoral component was metal. From November 1974 to December 1977, 116 hips were implanted with the new design. Range of motion was improved in 90 percent of cases. Complications were minimal. One femoral neck fracture was reported along with one incidence of loosening.

Capello (Ref. 300) reported on use of the device in 66 cases. These cases were followed over an average of 22 months. According to the Iowa Hip Rating Scale that Capello employed, an average score of 91.4 out of 100 was reported. The average range of motion was 105 degrees. He reported eight femoral neck fractures and loosening of eight acetabular components.

Wagner (Ref. 301) performed 322 metal resurfacing operations. His results were generally favorable, with only a total of six components loosening. Tanaka (Ref. 302) performed 37 surface replacements on 57 joints. The average followup was 2 years. Seventy-three percent of the hips were pain-free. Walking ability improved in 31 patients. In 1975, Amstutz (Ref. 303) developed a further variant of a cemented double cup prosthesis. In 100 procedures with an average followup of 8 months, only 3 cases required revision. Walking function, arc of flexion, and rotation improved after the operation.

FDA finds that hip joint metal/polymer semi-constrained resurfacing prostheses are implanted devices that are intended to be used in relieving disabling pain and in restoring or minimizing further loss of functional use of a joint or limb. FDA believes these uses are of substantial importance in preventing impairment of human health. FDA believes that insufficient clinical experience exists to fully establish the persons for whose use the devices are intended and the proper conditions of use. The agency believes that the probable benefit to health from use of these devices does not compare

favorably with the likelihood of injury or illness resulting from their use.

Because of the lack of adequate data to demonstrate the safety and effectiveness of these implanted devices, FDA believes that uncontrolled use of the hip joint metal/polymer semi-constrained resurfacing prosthesis presents an unreasonable risk of illness or injury. Because these devices are intended to be implanted in the human body, the Federal Food, Drug, and Cosmetic Act requires that they be classified into class III unless FDA determines that premarket approval is not necessary to provide reasonable assurance of the safety and effectiveness of these devices. On the basis of available information, FDA cannot make this determination. Moreover, FDA believes that insufficient information exists to support the conclusion that general controls or performance standards will provide reasonable assurance of the safety and effectiveness of these devices. Therefore, FDA is proposing that these devices be classified into class III.

§ 888.3480; Docket No. 78N–3082; Knee joint femorotibial metallic constrained prosthesis.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of knee joint femorotibial metallic constrained prostheses:

1. Identification: A knee joint femorotibial metallic constrained prosthesis is an implanted device intended partially to replace a knee joint. The device prevents dislocation in more than one anatomic plane and has components that are linked together. The only knee joint movement allowed by the device is in the sagittal plane. This generic type of device includes prostheses that have an intramedullary stem at both the proximal and distal locations. The upper and lower components may be joined either by a solid bolt or pin, an internally threaded bolt with locking screw, or a bolt retained by circlip. The components of the device are made of alloys, such as cobalt-chromium-molybdenum. The stems of the device may be perforated, but are intended to be implanted with a polymethylmethacrylate luting agent (bone cement).

2. Recommended classification: Class II. The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that knee joint femorotibial metallic constrained prostheses be classified into class II because the design, material composition, and mechanical properties of the device, such as its flexibility, rigidity, strength, and surface finish, should be controlled to prevent loss or reduction of joint function, adverse tissue reaction, or infection. The Panel believes that general controls alone will not provide sufficient control over these characteristics.

Although a knee joint femorotibial metallic constrained prosthesis is an implanted device, the Panel believes that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that the labeling for the device include information on the dimensions and kinematics of the device and its strength and wear characteristics.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and experience with, the device, and its review of the medical literature. Results from using the device in more than 720 cases have been reported in the medical literature in the United States during the past 3 years (Refs. 304, 310, and 313). There are also reports in the medical literature documenting use of the device in several thousand cases worldwide during the past 10 years. The Panel believes that this extensive clinical use has revealed the usual mechanical problems, implant loosening and settling. The Panel determined that the overall risks resulting from use of the prosthesis were no worse than the risks associated with major knee surgery without implantation of a prosthesis.

5. Risks to health: (a) Loss or reduction of joint function: Improper design or inadequate mechanical properties of the device, such as its lack of strength and resistance to wear, may result in a loss or reduction of joint function due to excessive wear, fracture, deformation of the device, or loosening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away from the surfaces of the device and the release of materials from the device to the surrounding tissues and systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection.

FDA agrees with the Panel recommendation and is proposing that knee joint femorotibial metallic constrained prosthesis be classified into class II. The agency believes that there is sufficient information to establish a performance standard for this device. Of the 957 patients reviewed by the Panel who have had this prosthesis implanted and who were discussed in the worldwide medical literature (Refs. 304 through 314), 108 (11 percent) suffered implant failure, 233 (24 percent) of the cases had complications, and 104 (11 percent) had loosening of the prosthesis.

FDA has sought additional data on the safety and effectiveness of this device. Kettelkamp (Ref. 315) reported that the failure rate for the device ranges from 5 percent to 24 percent for the hinged metal knee prosthesis, with a short followup time. Kettlekamp (Ref. 315) and Chand (Ref. 316) both believe that excessive forces may be applied to the intramedullary stem bone cement interface because the constrained prosthesis hinge prevents medial/lateral joint movement. Kettlekamp believes that if the stem loosens the cement may rub away and destroy the surrounding bone, causing a larger cavity and making revision difficult or impossible.

Kettlekamp reviewed reports in the medical literature on use of 576 Walldius hinged knee prostheses. In one group of 144 implantations, complications occurred in 29 cases (13 percent). In the remaining 432 cases, 89 (20 percent) were classified as failures, 33 (7 percent) required reoperations, and 53 (12 percent) had loosening. Fractures occurred in 11 cases (2 percent) and deep infection was reported in 35 knees (8 percent). Kettlekamp reported that the incidence of complication increased with the length of reported followup. Brady (Ref. 313) reviewed results of implanting the Shiers design of this device in 288 knees. He reported poor results in 71 knees (24 percent), reoperation was required in 33 knees (11 percent), and loosening observed in 56 knees (19 percent). Brady states that the major problems involved with use of this prosthesis are the absence of axial (medial) rotation, the necessary resection of large amounts of bone, and the creation of physiologic dead space.

Kettlekamp (Ref. 315) and Deburge, et al. (Ref. 317), report that the major problem with the Shiers design prosthesis is loosening. Deburge reported a loosening rate of 15 percent (22 patients) during a 5-year followup of the request of implanting the Guepar contrained knee prosthesis in 152 patients. However, less than half of these instances of device loosening were

symptomatic (10 of 22 patients). Reoperations were peroformed on the 10 patients. Other authors (Ref. 310) believe that the rate of loosening of the prosthesis is higher, possibly around 80 percent, but that only a small percentage of those patients with device loosening are symptomatic.

Arden and Kamdar (Ref. 318) reported followup for 7 years on implantation of 193 Shiers design prostheses. They reported that 11 percent of the patients had aseptic loosening. Kaushal (Ref. 319) reported followup examination of a series of 30 knees about 42 months following implantation of the prosthesis. The examination revealed that 13 knees (46 percent) had phlebothrombosis, 8 knees (11 percent) and asymptomatic loosening, 4 knees (5.4 percent) had deep infections, and 3 knees (4.3 percent) had symptomatic loosening. The major problems with use of the prosthesis were settling, loosening, and limitation on the range of joint motion allowed. In preliminary data, Van Camp (Ref. 320) showed that stress loading appeared to cause mechancial loosening of the device.

Walker (Ref. 321) stated that the valgus angle of the knee was ignored in the older designs of this prosthesis. Walker said this design problem resulted in lateral stress on the intramedullary stems of the device. This theory was verified experimentally by Wagner and Bourgois (Ref. 322). Wagner and Bourgois also showed that, in both the Walldius and Shiers designs of the prosthesis, the prosthesis' axis of rotation was not equivalent to the axis of the anatomic joint it replaced. These researchers said the pin in the Shiers prosthesis was turned down on the axis and that it might loosen if the prosthesis were overstressed. Because the axle pin of the Walldius prosthesis is clamped on one side, the location of the axis causes localized wear.

Although infection immediately following implantation of a prosthesis is primarily a result of surgical technique, Swanson, et al. (Ref. 323), state that the design of the prosthesis may minimize the rate of infection associated with implantation. Swanson found that the infection rate was lower when less bone was removed for insertion of the device. Phillips and Taylor (Ref. 308) report that most groups of patients who have received this prosthesis have suffered about a 10 percent higher incidence of infection than patients in whom other generic types of knee prostheses have been implanted.

In cases of total failure of implantation of a joint prosthesis, the prosthesis may be removed and the joint fused (arthrodesis). The rate of success is performing arthrodesis is related to the amount of bone that was removed to implant the device. Arthrodesis is difficult following implantation of a constrained joint replacement device (Ref. 324).

Although knee joint femorotibial metallic constrained prostheses are implanted devices, FDA has determined that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the devices. In addition, FDA has indentified and assessed the major risks to health accompaning the use of the devices. FDA believes that the major risks, i.e., loosening, infection, and adverse tissue reaction, are related to biological responses of the human body to the presence of the device, the device design, and the underlying joint pathology, and not to physical failure(s) of the device. Clinical experience with these devices has established the persons for whose use the devices are intended and the proper conditions of use. FDA has determined that the probable benefit to health from proper use of these devices outweighs any likelihood of injury or illiness resulting from their use. FDA further believes that information labeling and compliance with general controls may greatly reduce the risks to health associated with the use of these devices. The agency believes that a performance standard is necesssary because general controls alone are insufficient to minimize the risks to health presented by these devices.

§ 888.3490; Docket No. 78N–3083; Knee joint femorotibial metal/composite non-constrained prosthesis.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendations regarding the classification of knee joint femorotibial metal/composite non-constrained prostheses:

1. Identification: A knee joint femorotibial metal/composite non-constrained prosthesis is an implanted device intended partially to replace a knee joint. The device limits minimally (less than normal anatomic constraints) translation in one or more planes. It has no linkage across-the-joint. This generic type of device includes prostheses that have a femoral condylar resurfacing component or components made of alloys, such as cobalt-chromium-molybdenum, and a tibial condylar component or components made of ultra-high molecular weight polyethylene with carbon-fibers composite and are intended for implantation with a polymethylmethacrylate luting agent (bone cement).

2. Recommended classification: Class III. The Panel recommends that premarket approval of this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that knee joint femorotibial metal/composite non-constrained prostheses be classified into class III because these devices are implanted and are intended to be used in relieving disabling pain and in restoring or minimizing further loss of functional use of joint or limb. The Panel believes these uses are of substantial importance in preventing impairment of human health.

The Panel believes that general controls alone will not provide sufficient control over these characteristics. The Panel also believes that it is not possible to establish an adequate performance standard for the device. There is a lack of safety and effectiveness data to demonstrate the satisfactory performance of the device. The Panel has found that insufficient information exists to support the conclusion that general controls or performance standards will be adequate to provide reasonable assurance of the safety and effectiveness of the device. Therefore, the device must be subject to premarket approval to assure its safety and effectiveness.

The Panel also recommends that the labeling for the device include information on the dimensions and kinematics of the device and its strength and wear characteristics.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' clinical experience with similar devices and a series of presentations made to the Panel (Refs. 325 and 326). Dr. Robert Johnson (Rensselear Polytechnic Institute) compared the physical properties of the carbon-fiber-reinforced ultra-high molecular weight polyethylene composite material with the physical properties of conventional polyethylene material. He found that the reinforced material was superior to the conventional polyethylene material regarding compressive deformation, flexural stress, compressive creep, modulus of elasticity, and fatigue. Dr. Johnson also noted that the technology of composite materials such as carbon-fiber-reinforced polyethylene is in its infancy with regard to engineering in general.

Dr. Jack Lemons (University of Alabama) presented the results of

toxicity tests on the carbon-fiber-reinforced material. The results of in vitro tests showed the material, and extracts from the material, to be noncytotoxic to monolayers of cells and nonhemolytic to rabbit blood. The results of in vivo tests indicated that the material was nonirritating, nontoxic, and did not produce adverse effects after up to 15 months of implantation. The results of subacute toxicity tests indicated that intracutaneous extracts of the material were nonirritating when injected into rabbits; that systemic injections produced no adverse effects in mice; and that when the material was implanted along the backs of rabbits, it was nontoxic when it was evaluated at 6 and 12 weeks. The results of the chronic toxicity tests indicated that polyethylene material reinforced with carbon fibers was noncytotoxic, nontoxic, nonirritating, and produced no adverse effects when it was injected into the knee spaces of four rabbits and evaluated 15 months later. Dr. Lemons determined that these tests show that the carbon-fiber/reinforced material is biocompatible.

Dr. Joel Schilling (Portland, OR) presented a report on the histological examination of pieces of tissue removed from a patient who had received an untra-high molecular weight polyethylene prosthesis in one ankle and a carbon-fiber-reinforced ultra-high molecular weight polyethylene composite prosthesis in the other. Dr. Schilling found that there was minimal tissue reaction to either type of material and that there seemed to be very little reaction to the carbon fragments.

Dr. Robert Volz (University of Arizona) presented a comparison of the effect of temperature on the conventional ultra-high molecular weight polyethylene and on the carbon-fiber-reinforced material. Dr. Volz concluded that the carbon-fiber-reinforced material offered considerable improvement in its resistance to deformation at body temperatures (i.e., 37° C) and at 96° C, the temperature reached during polymerization of methylmethacrylate cement.

At the July Panel meeting (Ref. 326) Robert Fuson, M.D., (Zimmer-USA) summarized the clinical experiences with prostheses made from the carbon-fiber-reinforced material. A total of 86 acetabular components for total hip prostheses, 18 tibial components for total knees, and 23 tibial components for total ankles have been implanted. Of these, 65 hip, 18 knee, and 22 ankle components have been implanted for more than 6 months. Only 61 hip components, 11 knee components, and 12 ankle components have been implanted for over 1 year. Only five implantations (ankle) had been clinically followed for 2 years. No adverse reactions related to these prostheses were reported.

5. Risks to health: (a) Loss or reduction of joint function: Improper design, or inadequate mechanical properties of the device, such as its lack of strength and resistance to wear, may result in a loss or reduction of joint function due to excessive wear, fracture, deformation of the device, or loosening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away from the surfaces of the device and the release of materials from the device to the surrounding tissues and systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection.

FDA agrees with the Panel recommendation and is proposing that knee joint femorotibial metal/composite non-constrained prostheses be classified into class III. FDA finds that these implanted devices are intended to be used in relieving disabling pain and in restoring or minimizing further loss of functional use of a joint or limb. FDA believes these uses are of substantial importance in preventing impairment of human health. Because these devices have not been studied for more than 2 years, FDA believes insufficient clinical experience exists to fully establish the persons for whose use the devices are intended an the proper conditions of use. The agency believes that the probable benefit to health from use of the devices does not compare favorably with the likelihood of illness or injury resulting from their use.

Because of the lack of adequate data to demonstrate the safety and effectiveness of these implanted devices, FDA believes that use of the knee joint femorotibial metal/composite non-constrained prosthesis presents an unreasonable risk of illness or injury. Because these devices are intended to be implanted in the human body, the Federal Food, Drug, and Cosmetic Act requires that they be classified into class III unless FDA determines that premarket approval is not necessary to provide reasonable assurance of the safety and effectiveness of these devices. On the basis of available information, FDA cannot make that determination. Moreover, FDA believes that insufficient information exists to support the conclusion that general controls or performance standards will provide reasonable assurance of the safety and effectiveness of the device. Therefore, FDA is proposing that these devices be classified into class III.

§ 888.3500; Docket No. 78N–3302; Knee joint femorotibial metal/composite semi-constrained prosthesis.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of knee joint femorotibial metal/composite semi-constrained prostheses:

1. Identification: A knee joint femorotibial metal/composite semi-constrained prosthesis is an implanted two-part device intended partially to replace a knee joint. The device limits translation and rotation in one or more planes via the geometry of its articulating surfaces. It has no linkage across-the-joint. This generic type of device includes prostheses that have a femoral component made of alloys, such as cobalt-chromium-molybdenum, and a tibial component with the articulating surfaces made of ultra-high molecular weight polyethylene with carbon-fiber composite and is limited to those devices intended for implantation with a polymethylmethacrylate luting agent (bone cement).

2. Recommended classification: Class III. The Panel recommends that premarket approval of this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that knee joint femorotibial metal/composite semi-constrained prostheses be classified into class III because these devices are implanted and are intended to be used in relieving disabling pain and in restoring or minimizing further loss of functional use of a joint or limb. The Panel believes these uses are of substantial importance in preventing impairment of human health. The Panel believes that general controls alone will not provide sufficient control over these characteristics. The Panel also believes that it is not possible to establish an adequate performance standard for the device. There is a lack of safety and effectiveness data to demonstrate the satisfactory performance of the device. The Panel has found that insufficient information exists to support the conclusion that performance standards will be adequate to provide reasonable assurance of the safety and effectiveness of the device. Therefore, the device must be subject to premarket approval to assure its safety and effectiveness.

The Panel also recommends that the labeling for the device include information on the dimensions and kinematics of the device and its strength and wear characteristics.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' clinical experience with similar devices and a series of presentations to the Panel (Refs. 325 and 326). A discussion of these presentations is given in this preamble under § 888.3490.

5. Risks to health: (a) Loss or reduction of joint function: Improper design or inadequate mechanical properties of the device, such as its lack of strength and resistance to wear, may result in a loss or reduction of joint function due to excessive wear, fracture, deformation of the device, or loosening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to a dissolution or wearing away from the surfaces of the device and the release of materials from the device to the surrounding tissues and systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection.

FDA agrees with the Panel recommendation and is proposing that knee joint femorotibial metal/composite semi-constrained prostheses be classified into class III. FDA finds that these implanted devices are intended to be used in relieving disabling pain and in restoring or minimizing further loss of functional use of a joint or limb. FDA believes these uses are of substantial importance in preventing impairment of human health. However, FDA believes insufficient clinical experience exists to fully establish the persons for whose use the devices are intended and the proper conditions of use. The agency believes that the probable benefit to health from use of the devices does not compare favorably with the likelihood of illness or injury resulting from their use.

Because of the lack of adequate data to demonstrate the safety and effectiveness of these implanted devices, FDA believes that use of the knee joint femorotibial metal/composite semi-constrained prosthesis presents a potential unreasonable risk of illness or injury. Because these devices are intended to be implanted in the human body, the Federal Food, Drug, and Cosmetic Act requires that they be classified into class III unless FDA determines that premarket approval is not necessary to provide reasonable assurance of the safety and effectiveness of these devices. On the basis of available information, FDA cannot make that determination. Moreover, FDA believes that insufficient information exists to support the conclusion that general controls or performance standards will provide reasonable assurance of the safety and effectiveness of these devices. Therefore, FDA is proposing that these devices be classified into class III.

§ 888.3510; Docket No. 78N–3084; Knee joint femorotibial metal/polymer constrained prosthesis.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of knee joint femorotibial metal/polymer constrained prostheses:

1. Identification: A knee joint femorotibial metal/polymer constrained prosthesis is an implanted device intended partially to replace a knee joint. The device limits translation or rotation in one or more planes and has components that are linked together or affined. This generic type of device includes prostheses composed of a ball-and-socket joint located between a stemmed femoral and a stemmed tibial component and a runner and track joint between each pair of femoral and tibial condyles. The ball-and-socket joint is composed of a ball at the head of a column rising from the stemmed tibial component. The ball, the column, the tibial plateau, and the stem for fixation of the tibial component are made of an alloy, such as cobalt-chromium-molybdenum. The ball of the tibial component is held within the socket of the femoral component by the femoral component's flat outer surface. The flat outer surface of the tibial component abuts both a reciprocal flat surface within the cavity of the femoral component and flanges on the femoral component designed to prevent distal displacement. The stem of the femoral component is made of an alloy, such as cobalt-chromium-molybdenum, but the socket of the component is made of ultra-high molecular weight polyethylene. The femoral component has metallic runners which align with the ultra-high molecular weight polyethylene tracks that press-fit onto the metallic tibial component. This generic type of device is limited to those devices intended to be implanted with a polymethylmethacrylate luting agent (bone cement).

2. Recommended classification: Class II. The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that knee joint femorotibial metal/polymer constrained prostheses be classified into class II because the design, material composition, and mechanical properties of the device, such as its flexibility, rigidity, strength, and surface finish, should be controlled to prevent loss or reduction of joint function, adverse tissue reaction, or infection. The Panel believes that general controls alone will not provide sufficient control over these characteristics.

Although a knee joint femorotibial metal/polymer constrained prosthesis is an implanted device, the Panel believes that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that the labeling for the device include information on the dimensions and kinematics of the device and its strength and wear characteristics.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and experience with, the device. Long-term followup data are not available for this generic device. The only clinical data available on use of this device is reported by Matthews, Kaufer, and Sonstegard, the inventors/developers (Ref. 327). These data have shown 22 patients having 25 prosthesis implanted with a followup of 1 to 1.5 years.

5. Risks to health: (a) Loss or reduction of joint function: Improper design or inadequate mechanical properties of the device, such as its lack of strength and resistance to wear, may result in a loss or reduction of joint function due to excessive wear, fracture, deformation of the device, or loosening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away from the surfaces of the device and the release of materials from the device to the surrounding tissues and systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection.

FDA agrees with the Panel recommendation and is proposing that knee joint femorotibial metal/polymer constrained prostheses be classified into class II. The agency believes that there

is sufficient information to establish a performance standard for this device. FDA notes that clinical results after long-term (5 or more years) implantation of the devices have not been reported. Matthers, et al. (Ref. 328), report that the recipients of the implants have only been followed for up to 2 years. FDA notes that the only available pertinent publications (Refs. 328 and 329) are those of the initial investigations of the new prosthesis design.

Despite the absence of published reports of long-term clinical followup, FDA has determined that premarket approval of knee joint femorotibial metal/polymer constrained prostheses is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of these devices. In addition, FDA has identified and assessed the major risks to health associated with the use of these devices. FDA believes that the major risks, i.e., loosening, infection, and adverse tissue reaction, are related to biological responses of the human body to the presence of the device, the device design, and the underlying joint pathology, and not to physical failure(s) of the device. Short-term clinical experience with these devices has established the persons for whose use the devices are intended and the proper conditions of use. FDA has determined that the probable benefit to health from proper use of these devices outweighs any likelihood of injury or illness resulting from their use. FDA believes that informative labeling and compliance with general controls may greatly reduce the risks to health accompanying the use of these devices. The agency believes that a performance standard is necessary because general controls alone are insufficient to minimize the risks to health presented by these devices.

§ 888.3520; Docket No. 78N–3085; Knee joint femorotibial metal/polymer non-constrained prosthesis.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of knee joint femorotibial metal/polymer non-constrained prosthesis:

1. Identification: A knee joint femorotibial metal/polymer non-constrained prosthesis is an implanted device intended partially to replace a knee joint. The device limits minimally (less than normal anatomic constraints) translation in one or more planes. It has no linkage across-the-joint. This generic type of device includes prostheses that have a femoral condylar resurfacing component or components made of alloys, such as combalt-chromium-molybdenum, and a tibial component or components made of ultra-high molecular weight polyethylene, and are intended to be implanted with a polymethylmethacrylate luting agent (bone cement).

2. Recommended classification: Class II. The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that knee joint femorotibial metal/polymer non-constrained prostheses be classified into class II because the design, material composition, and mechanical properties of the device, such as its flexibility, rigidity, strength, and surface finish, should be controlled to prevent loss or reduction of joint function, adverse tissue reaction, or infection. The Panel believes that general controls alone will not provide sufficient control over these characteristics.

Although knee joint femorotibial metal/polymer non-constrained prostheses are implanted devices, the Panel believes that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that labeling for the device include information on the dimensions and kinematics of the device and its strength and wear characteristics.

4. Summary of data on which the recommendation is based: the Panel based its recommendation on the Panel members' personal knowledge of, and experience with, the device.

5. Risks to health: (a) Loss or reduction of joint function: Improper design or inadequate mechanical properties of the device, such as its lack of strength and resistance to wear, may result in a loss or reduction of joint function due to excessive wear, fracture, deformation of the device, or loosening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away from the surfaces of the device and the release of materials from the device to the surrounding tissues and systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection.

FDA agrees with the Panel recommendation and its proposing that knee joint femorotibial metal/polymer non-constrained prostheses be classified into class II. FDA has sought additional data and documentation of the safety and effectiveness of these devices. Marmor (Refs. 330 and 331) reported early results from use of the device. In 1977 (Ref. 332), Chand reported Marmor's results with 103 patients (21 bilateral) with a followup range of 24 to 42 months. The reported incidence of complications ranged from: general—none reported; remote—6 deaths (5.7 percent) from causes reportedly unrelated to the device; systemic—one thrombophlebitis (less than 1 percent); and local—at least 29 percent. The most frequent complication early in the series of patients was immediate postoperative infection with an incidence of 28.8 percent (21 of 73). The next most frequent complication was tibial component loosening, with a reported incidence of 11.6 percent (12 of 102). The reoperation rate for this series was reported as 12 of 123 knees or 9.8 percent.

FDA's review of available literature (Refs. 333 through 337) failed to disclose device experience which would significantly alter the trends already suggested, with the exception of the report of Sneppen, Fredensborg, et al. (Ref. 336), who reported 6 postoperative dislocations out of 50 implantations for a patellofemoral complication incidence of 12 percent.

It has been reported that hundreds of surgeons in the United States and many other parts of the world are implanting the generic knee joint femorotibial metal/polymer non-constrained prosthesis (Ref. 338). Reports of grating, dislocation, or pain associated with the device (Refs. 330, 334, 335, 336, and 339) are attributed by Carlova (Ref. 338) to an "inadvertent" design change of the most widely used size of femoral component. Marmor also recommended not using the 6-millimeter-thick hemitibial components because the polyethylene tended to buckle and loosen (Ref. 339).

As an example of a series of patients with intermediate-term followup, Cracchiolo, et al. (Ref. 340), reported on 118 Gunston/Cracchiolo prostheses that had been implanted in 93 patients. General complications reported were: 1 incidence each of hepatitis and drug allergy; remote complications consisted of 1 patient with cholecystitis and 26 cases of catheter-associated urinary tract infection. The principal systemic intraoperative complication reported was 9 arrhythmias or other

cardiopulmonary events. Local complications included 2 nerve palsies (presumably chronic), 1 femoral artery occlusion necessitating emergency reoperation, 6 prosthesis subluxations, 5 component loosenings, 1 bone fracture, 4 patients with persistent disabling pain, and 22 patients whose postoperative ability to walk unaided was less than fair. The presumed failure incidence during a mean followup of 40 months (range: 24 to 75 months) was 19.4 percent (18 of 93, excluding the "poor" status patients noted above) for this series; including at least a 12.9 percent reoperation incidence.

The following intermediate-term complications have been reported: device loosening/bone resorption (Refs. 341 and 342); design-associated recurrence of musculotendinous contractures or soft tissue deformities (Ref. 343); loss of function associated with pain or change in joint biomechanics (Refs. 334, 339, 343, and 344), and complications relating to tribologic properties, such as friction, lubrication, or wear (Refs. 345 through 359).

Although knee joint femorotibial metal/polymer nonconstrained prostheses are implanted devices, FDA has determined that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of these devices. In addition, FDA has identified and assessed the major risks to health associated with the use of these devices. FDA believes that the major risks, i.e., loosening, infection, and adverse tissue reaction, are related to biological responses of the human body to the presence of the device, the device design, and the underlying joint pathology, and not to physical failure(s) of the device. Clinical experience with these devices has established the persons for whose use the devices are intended and the proper conditions of use. FDA has determined that the probable benefit to health from proper use of these devices outweighs any likelihood of injury or illness resulting from their use. FDA further believes that informative labeling and compliance with general controls may greatly reduce the risks to health associated with the use of these devices. The agency believes that a performance standard is necessary because general controls alone are insufficient to minimize the risks to health presented by these devices.

§ 888.3530; Docket No. 78N-3086; Knee joint femorotibial metal/polymer semi-constrained prosthesis.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of knee joint femorotibial metal/polymer semi-constrained prostheses:

1. Identification: A knee joint femorotibial metal/polymer semi-constrained prosthesis is an implanted device intended partially to replace a knee joint. The device limits translation and rotation in one or more planes via the geometry of its articulating surfaces. It has no linkage across-the-joint. This generic type of device includes prostheses that consists of a femoral component made of alloys, such as cobalt-chromium-molybdenum, and a tibial component made of ultra-high molecular weight polyethylene, and is limited to those devices intended to be implanted with a polymethylmethacrylate luting agent (bone cement).

2. Recommended classification: Class II. The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that knee joint femorotibial metal/polymer semi-constrained prostheses be classified into class II because the design, material composition, and mechanical properties of the device, such as its flexibility, rigidity, strength, and surface finish, should be controlled to prevent loss or reduction of joint function, adverse tissue reaction, or infection. The Panel belives that general controls alone will not provide sufficient control over these characteristics.

Although these are implanted devices, the Panel believes that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that the labeling for the device include information on the dimensions and kineamatics of the device and its strength and wear characteristics.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and experience with, the device.

5. Risks to health: (a) Loss or reduction of joint function: Improper design or inadequate mechanical properties of the device, such as its lack of strength and resistance to wear, may result in a loss or reduction of joint function due to excessive wear, fracture, deformation of the device, or loosening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away from the surfaces of the device and the release of materials from the device to the surrounding tissues and systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection.

FDA agrees with the Panel recommendation and is proposing that knee joint femorotibial metal/polymer semi-constrained prostheses be classified into class II. FDA has sought additional data and information on the safety and effectiveness of these devices. The following data is representative of clinical experience within the immediate postoperative and short-term followup interval reported by users other than the inventor/developers of the prosthesis. The incidence of complications reported by Holman and Tyer (Ref. 360) was: remote—(2 percent); systemic—(5.7 percent); and local—(not determinable). The failure rate was approximately 15 percent (8 of 53) for this series of semi-constrained knee prostheses, with a followup range of 1 to 10 months. The incidence of complications reported by Insall, et al. (Ref. 361), was: remote—none reported; systemic—(7 percent); and local—(20 percent). The device failure rate was approximately 22 percent (11 of 50 cases) for this series, with a followup of less than 14 months. At least 6 of the clinical failures required a minimum of 1 reoperation and 4 required removal of the prosthesis. Fox (Ref. 362) reported that over a period of 33 months, 74 prostheses were implanted in 62 patients, of which 29 were included in the author's clinical statistics. Local complications included 6 tibial component loosenings, 2 loose tibial markers, and 8 malpositionings of components. Thirty-one knees in an unknown number of patients had at least 1 complication; 9 patients had 2 or more complications. The clinical failure rate was at a minimum of 16 percent (10 of 62) for this series, assuming that each reoperation not otherwise identified was performed upon a different patient, with a followup range of a few days up to 34 months.

Riley and Hungerford (Ref. 363) reported that care in patient selection combined with strict attention to

operative detail can minimize complications caused by surgical procedure. These authors reported that during a period of 41 months, 58 prostheses were implanted in 48, reheumatoid arthritic patients. Three patients died less than 24 months following implantation of the prosthesis and were excluded from the data tabulations. Systemic complications reported were one death from cardiac arrest. Local complications included 1 palsy (transient), 1 residual flexion contracture requiring reoperation, at least 2 confirmed component loosenings, 4 patients with persistent disabling pain, and 1 patient with prominent patellofemoral symptons requiring reoperation. The failure rate was 27.1 percent (13 of 48) for this series—including 8.3 percent reoperation incidence—with a median followup of 36 months (range: 2 weeks to 64 months).

Cracchiolo, et al. (Ref. 364), reported that 92 Geometric prostheses had been implanted in 81 patients. General complications reported were 1 incidence each of hepatitis and pneumonia and 5 of drug allergy; remote complications consisted of 30 cases of catheter-associated urinary tract infection (an incidence of 37 percent). The principal systemic intraoperative complication reported was 6 arrhythmias or other cardiopulmonary events. Local complications included 1 nerve palsy (presumably chronic), 4 deep wound infections (necessitating reoperation), 2 bone fractures, 1 presumed component fracture, 1 dislocation, 9 component loosenings, at least 3 patients with persistent, disabling pain (2 necessitating reoperation) and 25 patients whose postoperative ability to walk unaided was less than fair. The presumed failure incidence was 21 percent (17 of 81, excluding the patients with poor walking status noted above). Only 1 or 2 of the failures occurred later than the first postoperative year. There was at least an 18.5 percent reoperation incidence, with a mean followup of 41 months (range: 24 to 78 months).

Larsson and Ahlgren (Ref. 365) reported on 29 Geometric prostheses that had been implanted in 27 patients. General complications reported were limited to 1 incidence of pneumonia; no remote complications were identified. The principal systemic complication was 1 death attributed to cardiovascular disease sometime after a 12-month postoperative visit. Local complications included 3 deep-wound infections (1 immediate and 2 later than 6 months postoperatively), 3 tibial component loosenings (11.1 percent incidence at 2.5, 3, and 3.5 years postoperatively), 15 patients with less than a 90° flexion/extension arc, 4 patients with radiologic evidence of bone resorption around the tibial component, 5 with persistent swelling, and 6 patients who required support to enable walking.

The following intermediate-term complications have been reported: bony or soft-tissue necrosis (Refs. 9 and 89); design-induced recurrence of musculotendinous contractures or soft-tissue deformities (Refs. 343 and 96); device loosening/bone resorption (Refs. 89, 341, and 342); infection (Refs. 146, 148, 149, 183, 323, and 408); loss of function associated with pain or change in joint biomechanics (Refs. 344 and 360); and complications relating to tribologic properties, such as friction, lubrication, or wear (Refs. 241 through 243 and 345 through 359).

Although knee joint femorotibial metal/polymer semi-constrained prostheses are implanted devices, FDA has determined that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of these devices. In addition, FDA has identified and assessed the major risks to health associated with the use of these devices. FDA believes that the major risks, i.e., loosening, infection, and adverse tissue reaction, are related to biological responses of the human body to the presence of the device, the device design, and the underlying joint pathology, and not to physical failure(s) of the device. Clinical experience with these devices has established the persons for whose use the devices are intended and the proper conditions of use. FDA has determined that the probable benefit to health from proper use of these devices outweighs any likelihood of injury or illness resulting from their use. FDA further believes that informative labeling and compliance with general controls may greatly reduce the risks to health associated with the use of these devices. The agency believes that a performance standard is necessary because general controls alone are insufficient to minimize the risks to health presented by these devices.

§ 888.3540; Docket No. 78N–3087; Knee joint patellofemoral polymer/metal semi-constrained prosthesis.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of knee joint patellofemoral polymer/metal semi-constrained prostheses:

1. Identification: A knee joint patellofemoral polymer/metal semi-constrained prosthesis is an implanted two-part device intended partially to replace a knee joint in the treatment of primary patellofemoral arthritis or chondromalcia. The device limits translation and rotation in one or more planes via the geometry of its articulating surfaces. It as no linkage across-the-joint. This generic type of device includes a component made of alloys, such as cobalt-chromium-molybdenum or austenitic steel, for resurfacing the intercondylar groove (femoral sulcus) on the anterior aspect of the distal femur, and a patellar component made of ultra-high molecular weight polyethylene. This generic type of device is limited to those devices intended for implantation with a polymethylmethacrylate luting agent (bone cement). The patellar component is designed to be implanted only with its femoral component.

2. Recommended classification: Class II. The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that knee joint patellofemoral polymer/metal semi-constrained prostheses be classified into class II because the design, material composition, and mechanical properties of the device, such as its flexibility, rigidity, strength, and surface finish, should be controlled to prevent loss or reduction of joint function, adverse tissue reaction, or infection. The Panel has limited the indications for use of the device to treatment of primary patellofemoral arthritis or chondromalacia (Ref. 366). The Panel believes that general controls alone will not provide sufficient control over these characteristics.

Although a knee joint patellofemoral polymer/metal semi-constrained prosthesis is an implanted device, the Panel believes that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device. The Panel believes that, despite the risk of infection, the rate of clinical success associated with implantation of these prostheses surpasses that achieved with more established procedures.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and experience with, similar devices and a presentation made to the Panel (Ref.

366). James Fox reported on his clinical experience with this generic type of device. Fox stated that patellofemoral joint replacement was performed in more than 60 knees, with followup since 1974. He reported that he, as well as his patients, were pleased with the results.

5. Risks to health: (a) Loss or reduction of joint function: Improper design or inadequate mechanical properties of the device, such as its lack of strength and resistance to wear, may result in a loss or reduction of joint function due to excessive wear, fracture, deformation of the device, or loosening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to dissolution of wearing away from the surfaces of the device and the release of materials from the device to the surrounding tissues and systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection.

FDA disagrees with the Panel recommendation and is proposing that knee joint patellofemoral polymer/metal semi-constrained prostheses be classified into class III. Other than the presentation to the Panel made by James Fox (Ref. 366), FDA is not aware of any clinical data of this device. Moreover, because Dr. Fox provided no details regarding the device or its implantation procedure, FDA is not certain that the devices Dr. Fox implanted belong to this generic class.

FDA has reviewed the pertinent engineering and clinical literature to determine whether sufficient information exists to permit the establishment of a performance standard for this device. FDA has found that the literature discussing the most crucial information needed to establish a standard is inadequate. For example, the correlation between pertinent preclinical mechanical tests and clinical findings are unknown.

FDA finds that knee joint patellofemoral polymer/metal semi-constrained prostheses are implanted devices that are intended to be used in relieving disabling pain and in restoring or minimizing further loss of functional use of a joint of limb. FDA believes these uses are of substantial importance in preventing impairment of human health. However, FDA believes insufficient clinical experience exists to fully establish the persons for whose use the devices are intended and the proper conditions of use. The agency believes that the probable benefit to health from use of these devices does not compare favorably with the likelihood of illness or injury resulting from their use.

Because of the lack of adequate data to demonstrate the safety and effectiveness of these implanted devices, FDA believes that use of knee joint patellofemoral polymer/metal semi-constrained prostheses prevents an unreasonable risk of illness or injury. Because these devices are intended to be implanted in the human body, the Federal Food, Drug, and Cosmetic Act requires that they be classified into class III unless FDA determines that premarket approval is not necessary to provide reasonable assurance of the safety and effectiveness of these devices. On the basis of available information, FDA cannot make that determination. FDA believes that insufficient information exists to support the conclusion that general controls or performance standards will provide reasonable assurance of the safety and effectiveness of the devices. Therefore, FDA is proposing that these devices be classified into class III.

§ 888.3550; Docket No. 78N–3088; Knee joint patellofemorotibial polymer/metal/metal constrained prosthesis.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of knee joint patellofemorotibial polymer/metal/metal constrained prostheses:

1. Identification: A knee joint patellofemorotibial polymer/metal/metal constrained prosthesis is an implanted device intended to replace a knee joint. The device prevents dislocation in more than one anatomic plane and has components that are linked together. This generic type of device includes prostheses that have a femoral component, a tibial component, a cylindrical bolt and accompanying locking hardware that are all made of alloys, such as cobalt-chromium-molybdenum, and a retropatellar resurfacing component made of ultra-high molecular weight polyethylene. The retropatellar resurfacing component may be attached to the resected patella either with a metallic screw or luting agent. All stemmed metallic components within this generic class are intended to be implanted with a polymethylmethacrylate luting agent (bone cement).

2. Recommended classification: Class II. The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that knee joint patellofemorotibial polymer/metal/metal constrained prostheses be classified into class II because the design, material composition, and mechanical properties of the device, such as its flexibility, rigidity, strength, and surface finish, should be controlled to prevent loss or reduction of joint function, adverse tissue reaction, or infection. The Panel believes that general controls alone will not provide sufficient control over these characteristics.

Although a knee joint patellofemorotibial polymer/metal/metal constrained prosthesis is an implanted device, the Panel believes that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device. The Panel believes that, despite the risk of infection, the rate of clinical success associated with implantation of these prostheses surpasses that achieved with more established procedures. The Panel recommends that the labeling for the device include information on the dimensions and kinematics of the device and its strength and wear characteristics.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and experience with, the device and a presentation made to the Panel. Dr. Roland Pritchard and Dr. James Fox (Ref. 366) described their experiences with various patellofemoral joint replacing devices including this generic type of device. Dr. Pritchard has implanted patellofemorotibial joint prostheses in at least 100 patients during the past 3 years. Also, Dr. Fox reported that he has achieved good results in over 60 cases since 1974.

5. Risks to health: (a) Loss or reduction of joint function: Improper design or inadequate mechanical properties of the device, such as its lack of strength and resistance to wear, may result in a loss or reduction of joint function due to excessive wear, fracture, deformation of the device, or loosening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away from the surface of the device and the release of materials from the device to the surrounding tissues and systemic circulation. (c) Infection: The presence

of the prosthesis within the body may lead to an increased risk of infection.

FDA agrees with the Panel recommendation and is proposing that knee joint patellofemorotibial polymer/metal/metal constrained prostheses be classified into class II. FDA has sought additional data and information on the safety and effectiveness of these devices.

In May 1962, Young (Ref. 368) reported on a series of 16 patients ranging in age from 31 to 70 years who had a Young design prosthesis implanted (two were bilateral implantations). With a followup time between 9 and 61 months (median of 20 months), 7 of these 16 experienced a clinical failure (43.8 percent) with a mean time of about 9 months before prosthesis removal and arthrodesis (joint fusion). In a later report in 1971, Young, (Ref. 373) stratified results by indication: at least 3 of 19 osteoarthrotic knees were failures (15.8 percent incidence); at least 17 of 45 rheumatoid knees failed (37.8 percent incidence); of 4 replacements for giant-cell tumor, 2 failed (50 percent incidence); and at least 6 of 10 traumatic arthritic kees failed (60 percent incidence). Young noted that 9 knees examined sometime after initial implantation demonstrated darkening in tissue adjacent to metallic components. Young believed that the darkening of tissue was caused by tissue contamination from corrosion products. Young also believed that similar tissue darkening was noted by Girzadas, Geens, et al. (Ref. 369). Young believed that the darkening was caused by the bolts used in his design that were made from a cobalt-based alloy, whereas the other components were made from a casting alloy. Young stated that, as a result of his survey of the clinical results of 85 physicians who had implanted the Young-design prosthesis, he was not optimistic about use of the hinged metal/metal knee prostheses and their furture for replacement arthroplasty.

In 1973, Hanslik (Ref. 374), reported results of using the device in 50 patients (two bilaterally implanted), principally for the indication of osteoarthrosis. Minimum followup was not given, while maximum followup was possibly 4 years. The patients ranged in age from 56 to 76 years. At least four failures (8 percent) were associated with restricted gliding of the patellofemoral articulation: one of these was attributed to polymethylmethacrylate-induced bony necrosis. Hanslik used the Young (Ref. 368) design of prosthesis and had made major modifications in implantation technique as recommended by Friedebold and Radloff (Refs. 367 and 370 through 372). Hanslik performed partial resection of the patella rather than total excision and used a polymethylmethacrylate luting agent to grout the medullary stems (presumably in addition to the cancellous bone screws recommended by Young). Friedebold and Radloff (Ref. 372) reported on use of the prosthesis in femorotibial replacement in 11 patients ranging in age from 50 to 80 years, with between 6 months and 5 years of followup. There were three failures (27.3 percent).

Although knee joint patellofemorotibial polymer/metal/metal constrained prostheses are implanted devices, FDA has determined that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of these devices. In addition, FDA has identified and assessed the major risks to health associated with the use of these devices. FDA believes that the major risks, i.e., loosening, infection, and adverse tissue reaction, are related to biological responses of the human body to the presence of the device, the device design, and the underlying joint pathology, and not to physical failure(s) of the device. Clinical experience with these devices has established the persons for whose use the devices are intended and the proper conditions of use. FDA has determined that the probable benefit to health from proper use of these devices outweighs any likelihood of injury or illness resulting from their use. FDA believes that informative labeling and compliance with general controls may greatly reduce the risks to health associated with the use of these devices. The agency believes that a performance standard is necessary because general controls alone are insufficient to minimize the risks to health presented by these devices.

§ 888.3560; Docket No. 78N–3090; Knee joint patellofemorotibial polymer/metal/ploymer semi-constrained prosthesis.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of knee joint patellofemorotibial polymer/metal/polymer semi-constrained prostheses:

1. Identification: A knee joint patellofemorotibial polymer/metal/polymer semi-constrained prosthesis is an implanted device intended to replace a knee joint. The device limits translation and rotation in one or more planes via the geometry of its articulating surfaces. It has no linkage across-the-joint. This generic type of device includes prostheses that have a femoral component made of alloys, such as cobalt-chromium-molybdenum, and a tibial component or components and a retropatellar resurfacing component made of ultra-high molecular weight polyethylene. This generic type of device is limited to those devices intended to be implanted with a polymethylmethacrylate luting agent (bone cement).

2. Recommended classification: Class II. The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that knee joint patellofemorotibial polymer/metal/polymer semi-constrained prostheses be classified into class II because the design, material composition, and mechancial properties of the device, such as its flexibility, rigidity, strength, and surface finish, should be controlled to prevent loss or reduction of joint function, adverse tissue reaction, or infection. The Panel believes that general controls will not provide sufficient control over these characteristics.

Although a knee joint patellofemorotibial polymer/metal/polymer semi-constrained prosthesis is an implanted device, the Panel believes that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device. The Panel believes that, while the risk of infection is greater, the rate of clinical success associated with implantation of this prosthesis surpasses that achieved with more established procedures. The Panel also believes that a performance standard will adequately control the risks associated with the device, such as problems relating to device geometry or mechanical design, and component loosening.

The Panel recommends that the labeling for the device include information on the dimensions and kinematics of the device and its strength and wear characteristics.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and experience with, the device.

5. Risks to health: (a) Loss or reduction of joint function: Improper design, or inadequate mechanical

properties of the device, such as its lack of strength and resistance to wear, may result in a loss or reduction of joint function due to excessive wear, fracture, deformation of the device, or loosening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away from the surfaces of the device and the release of materials from the device to the surrounding tissues and systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection.

FDA agrees with the Panel recommendation and is proposing that knee joint patellofemorotibial polymer/metal/polymer semi-constrained prostheses be classified into class II. FDA has sought additional data and information on the safety and effectiveness of these devices. Insall, Ranawat, and coworkers (Refs. 375 through 379) reported on the implantation of the device in 183 patients (220 devices). Complications reported were: general—8 deaths (causes unspecified) reported within 3 years after implantation; remote—none reported; systemic—4 percent from clinical signs and symptoms, 35 percent with "positive" radiographic venograms (which imply blockage of a blood vessel), 11 percent with "positive" radiographic lung scans (direct evidence of clot in pulmonary artery); and local—greater than 23 percent. Of the 220 knees involved, 3 of 139 osteoarthritic knees and 1 of the 81 rheumatoid arthritic knees developed partial femorotibial dislocations.

The complications exhibiting the greatest incidence were: superficial infection (wound drainage) (22.9 percent); developing radiolucency in one or more components (22 percent); tibial component anteroposterior tilt greater than 5 degrees (8 percent); femoral component valgus tilt greater than 5 degrees (5 percent) delayed wound healing (3.8 percent); and pain persisting or originating postoperatively (3.6 percent).

Although knee joint patellofemorotibial polymer/metal/polymer semi-constrained prostheses are implanted devices, FDA has determined that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of these devices. In addition, FDA has identified and assessed the major risks to health accompanying the use of these devices. FDA believes that the major risks, i.e., loosening, infection, and adverse tissue reaction, are related to biological responses of the human body to the presence of the device, the device design, and the underlying joint pathology, and not to physical failure(s) of the device. Clinical experience with these devices has established the persons for whose use the devices are intended and the proper conditions of use. FDA has determined that the probable benefit to health from proper use of these devices outweighs any likelihood of injury or illness resulting from their use. FDA further believes that labeling and compliance with general controls may greatly reduce the risks to health associated with the use of these devices. The agency believes that a performance standard is necessary because general controls alone are insufficient to minimize the risks to health presented by these devices.

§ 888.3570; Docket No. 78N–3091; Knee joint femoral (hemi-knee) metallic uncemented prosthesis.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of knee joint femoral (hemi-knee) metallic uncemented prostheses:

1. Identification: A knee joint femoral (hemi-knee) metallic uncemented prosthesis is an implanted device made of alloys, such as cobalt-chromium-molybdenum, that is intended to replace part of a knee joint. The device limits translation and rotation in one or more planes via the geometry of its articulating surfaces. It has no linkage across-the-joint. This generic type of device includes prostheses that consist of a femoral component with or without protuberance(s) for the enhancement of fixation and is limited to those devices intended for implantation without use of polymethylmethacrylate luting agent (bone cement).

2. Recommended classification: Class II. The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that knee joint femoral (hemi-knee) metallic uncemented prostheses be classified into class II because the design, material composition, and mechanical properties of the device, such as its flexibility, rigidity, strength, and surface finish, should be controlled to prevent loss or reduction of limb function, adverse tissue reaction, or infection. The Panel believes that general controls alone will not provide sufficient control over these characteristics. Although a knee joint femoral (hemi-knee) metallic uncemented prosthesis is an implanted device, the Panel believes that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device. The Panel also recommends that the labeling for the device include information on the dimensions and kinematics of the device and its strength and wear characteristics.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and experience with, the device.

5. Risks to health: (a) Loss or reduction of joint or limb function: Improper design or inadequate mechanical properties of the device, such as its lack of strength and resistance to wear, may result in the loss or reduction of joint function due to excessive wear, fracture, deformation of the device, or loosening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away from the surfaces of the device and the release of materials from the device to the surrounding tissues and the systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection. (d) Death: Death may result from lipoembolic sequelae or thromboembolic complications during or immediately following implantation.

FDA disagrees with the Panel recommendation and is proposing that knee joint femoral (hemi-knee) metallic uncemented prostheses be classified into class III. FDA has sought additional data on the safety and effectiveness of the device. FDA is concerned about both the severity of the clinical complications resulting from use of the device and the rate at which these complications occur. The agency used the complication classification scheme developed by Fox (Ref. 380) and grouped complications by time periods following surgical implantation; immediate postoperative complications, within two weeks; short term, within 24 months; and long term, more than 24 months. Platt and Pepler reported in 1969 their clinical results on 55 patients who had this prosthesis implanted with up to 10 years followup

(Ref. 381). Their reported incidence of complications ranged from: (1) General—none reported, and (2) systemic—none reported; to (3) remote—1 late (2 years postoperatively) paranoid schizophrenia (1.8 percent); and (4) local—at least 45 percent. The most frequent complication was immediate postoperative infection with a presumed incidence of 25.5 percent. The reoperation rate for this series of patients was reported as 20 out of 62 knees or 32.4 percent; assuming only one reoperation per patient a 36.4 percent revision rate will result.

Aufranc and Jones, et al. (Refs. 382 through 384), made extensive modifications to M. Smith-Peterson's original "keeled" femoral condylar mold (Ref. 385) and commenced a series of device implantations employing a noncemented stemmed implant in 1952. Clinical results on 64 patients with a minimum of 1-year followup showed that the incidence of complications were, (1) zero for general and remote categories (2) 3.1 percent for systemic (2 thrombophlebitic episodes), and (3) a minimum of 25 percent for cumulated local complications. Matching Platt and Pepler's experience (Ref. 381), the most frequent complication observed was immediate postoperative infection with a presumed incidence of 20.3 percent. This series of patients, as of mid-1969, displayed a reoperation rate of 14 out of 79 knees (17.7 percent), assuming only one reoperation per patient. Considering this result, with their report of 16 clinical results rated at less than "fair," the failure rate is calculated as 38 percent with an average followup time of 87 months. Aufranc and Jones (Ref. 382) note that 6 of their initial 14 implantations were failures (42.9 percent) with a maximum followup of 5 years; apparently 10 more years of surgical experience reduced the overall failure rate by 5 percent, without altering the principal reported failure modes: infection and "poor" clinical result.

Further review of available literature (Refs. 386 through 395), failed to disclose device experience which would significantly alter the trends described above.

FDA finds that knee joint femoral (hemi-knee) metallic uncemented prostheses are implanted devices that are intended to be used in relieving disabling pain and in restoring or minimizing futher loss of functional use of a joint or a limb. FDA believes these uses are of substantial importance in preventing impairment of human health. However, FDA believes that insufficient clinical experience exists to fully establish the persons for whose use the devices are intended and the proper conditions of use. The agency believes that the probable benefit to health from use of the devices does not compare favorably with the likelihood of illness or injury resulting from their use.

Because of the lack of adequate data to demonstrate the safety and effectiveness of these implanted devices, FDA believes that use of the knee joint femoral (hemi-knee) metallic uncemented prosthesis presents an unreasonable risk of illness or injury. Because these devices are intended to be implanted in the human body, the Federal Food, Drug, and Cosmetic Act requires that they be classified into class III unless FDA determines that premarket approval is not necessary to provide reasonable assurance of the safety and effectiveness of these devices. On the basis of available information, FDA cannot make this determination. Moreover, FDA believes that insufficient information exists to support the conclusion that general controls or performance standards will provide reasonable assurance of the safety and effectiveness of these devices. Therefore, FDA is proposing that these devices be classified into class III.

§ 888.3580; Docket No. 78N–3092; Knee joint patellar (hemi-knee) metallic resurfacing uncemented prosthesis.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of knee joint patellar (hemi-knee) metallic resurfacing uncemented prostheses:

1. Identification: A knee joint patellar (hemi-knee) metallic resurfacing uncemented prosthesis is an implanted device made of alloys, such as cobalt-chromium-molybdenum, intended to replace the retropatellar articular surface of the patellofemoral joint. The device limits minimally (less than normal anatomic constraints) translation in one or more planes. It has no linkage across-the-joint. This generic type of device includes prostheses that have a retropatellar resurfacing component and an orthopedic screw to transfix the patellar remnant. This generic type of device is limited to those devices intended for implantation without use of polymethylmethacrylate luting agent (bone cement). The device is intended for use only in treatment of degenerative and posttraumatic patellar (osteo) arthritis.

2. Recommended classification: Class II. The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that knee joint patellar (hemi-knee) metallic resurfacing uncemented prostheses be classified into class II because the design, material composition, and mechanical properties of the device, such as its flexibility, rigidity, strength, and surface finish, should be controlled to prevent loss or reduction of joint function, adverse tissue reaction, or infection. The Panel believes that general controls alone will not provide sufficient control over these characteristics. Although these are implanted devices, the Panel believes that premarket approval is not necessary because sufficient information exists to establish performance standards that will provide reasonable assurance of the safety and effectiveness of the device. The Panel recommended that the indications for use of the device be limited to degenerative and posttraumatic patellar arthritis (Ref. 396). The Panel recommends that the labeling for the device include information on the dimensions and kinematics of the device and its strength and wear characteristics.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Loss or reduction of joint function: Improper design or inadequate mechanical properties of the device, such as its lack of strength and resistance to wear, may result in a loss or reduction of joint function due to excessive wear, fracture, deformation of the device, or loosening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away from the surfaces of the device and the release of materials from the device to the surrounding tissues and systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection.

FDA agrees with the Panel recommendation and is proposing that knee joint pateller (hemi-knee) metallic resurfacing uncemented prostheses be classified into class II. FDA has sought additional data and information on the safety and effectiveness of these devices. In 1955, D. C. McKeever (Ref. 397) reported results obtained from implanting this device in 39 patients (4 bilaterally). The reported median

followup time was 54 months. Reported complications were limited to: 2 patients in which too large a prosthesis had been implanted, thus unnecessarily prolonging convalescence; 3 patients with short-term deep infection; 1 patient with a late developing deep infection; and 1 patient with bone necrosis. Four of these complication occurrences necessitated reoperation for removal of the device and 3 knees were arthrodesed as well, producing a cumulative failure rate of 10.3 percent for the series.

DePalma, et al. (Ref. 398), employed the McKeever design in a series of patients, 17 of which were discussed in 1960. With a median followup time of 35 months, they reported only three results that they considered less than good; two fair and one poor. No appearance of complications or reoperations were reported, producing a cumulative failure rate of 5.9 percent. In 1973, Levitt (Ref. 399) reviewed DePalma's series of patients when 68 devices had been implanted (including bilaterals). When a prosthesis was implanted, patients with degenerative joint diseases frequently had had one or more other surgical procedures performed concurrently on the same joint. Levitt noted a readily detectable continuing progression of arthritic degeneration with time as followups were extended. Levitt reexamined 10 out of 20 patients of DePalma's series and determined that 50 percent had unsatisfactory results. He concluded that it was impossible to determine the clinical success of the prosthesis in a joint involved with degenerative disease upon which one or more other surgical procedures had been carried out concurrently with implantation, i.e., a determination of whether the unsatisfactory result(s) was secondary to the continuation of the disease process or to the inefficacy of the prosthesis.

Vermeulen and coworkers in 1973 (Ref. 400) reported results in eight aged female patients with from 3 to 8 years followup. It was not possible to determine from the report the degree of individual clinical improvement.

In reviewing osteoarthrosis of the patellofemoral joint, I. S. Smillie remarked in 1975 that the McKeever prosthesis has not met with success in other surgeons' hands (Ref. 401). This view has been corroborated by a panel member, who noted that the devices did not demonstrate much clinical success and that many of them had to be removed (Ref. 402), and they have seen limited use since the decade of the fifties (Ref. 398).

In 1975, Hanslik (Ref. 403) reported on a series of implantations of the McKeever patellar resurfacing device accompanied by tibial plateau resection and stapling (proximal tibial osteotomy). Seventy-six patients (2 bilaterals) with from 1 to 4.5 years followup were reviewed; however, it was impossible to determine from the report the degree of individual clinical improvement. FDA notes that because the two procedures were done concurrently, it is not possible to attribute any degree of clinical success entirely to the patellar resurfacing device. FDA is unaware of any published data since 1975 showing use of this generic type of device.

Although knee joint patellar (hemi-knee) metallic resurfacing uncemented prostheses are implanted devices, FDA has determined that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of these devices. In addition, FDA has identified and assessed the major risks to health associated with the use of these devices. FDA believes that the major risks, i.e., loosening, infection, and adverse tissue reaction, are related to biological responses of the human body to the presence of the device, the device design, and the underlying joint pathology, and not to physical failure(s) of the device. Clinical experience with these devices has established the persons for whose use the devices are intended and the proper conditions of use. FDA has determined that the probable benefit to health from proper use of these devices outweighs any likelihood of injury or illness resulting from their use. FDA believes that informative labeling and compliance with general controls may greatly reduce the risks to health associated with the use of these devices. The agency believes that a performance standard is necessary because general controls alone are insufficient to minimize the risks to health presented by these devices.

§ 888.3590; Docket No. 78N–3093; Knee joint tibial (hemi-knee) metallic resurfacing uncemented prosthesis.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of knee joint tibial (hemi-knee) metallic resurfacing uncemented prostheses:

1. Identification: A knee joint tibial (hemi-knee) metallic resurfacing uncemented prosthesis is an implanted device intended partially to replace a knee joint. The device limits minimally (less than normal anatomic constraints) translation in one or more planes. It has no linkage across-the-joint. This prosthesis is made of alloys, such as cobalt-chromium-molybdenum, and is intended to resurface one tibial condyle. The generic type of device is limited to those devices intended for implantation without the use of a polymethylmethacrylate luting agent (bone cement).

2. Recommended classification: Class II. The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that knee joint tibial (hemi-knee) metallic resurfacing uncemented prostheses be classified into class II because the design, material composition, and mechanical properties of the device, such as its flexibility, rigidity, strength, and surface finish, should be controlled to prevent loss or reduction of joint function, adverse tissue reaction, or infection. The Panel believes that general controls alone will not provide sufficient control over these characteristics.

Although these are implanted devices, and Panel believes that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device. the Panel recommends that the labeling for the device include information on the dimensions and kinematics of the device and its strength and wear characteristics.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Loss or reduction of joint function: Improper design or inadequate mechanical properties of the device, such as its lack of strength and resistance to wear, may result in a loss or reduction of joint function due to excessive wear, fracture, deformation of the device, or loosening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properities of the device such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away from the surfaces of the device and the release of materials from the device to the surrounding tissues and systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection.

FDA agrees with the Panel recommendation and is proposing that

knee joint tibial (hemi-knee) metallic resurfacing uncemented prostheses be classified into class II. FDA has sought additional data and information on the safety and effectiveness of these devices.

Stauffer, et al. (Ref. 404), reported their results following implantation of the prosthesis in 28 patients (9 were bilaterally implanted) with a mean followup of 18 months (range: 7 to 34 months). The principal local complications included recurring valgus deformity, patellofemoral pain, and decreased patellar mobility. Seventeen of 37 knees were rated "poor" on the authors' evaluation scale, resulting in a 45.9 percent failure rate. The authors emphasized that the physical condition of a patient's patellofemoral joint before implantation was a major factor in the postoperative functional results. The authors suggested that the condition of a patient's patellofemoral joint be evaluated and reported at the time the prosthesis is implanted, to allow more accurate assessment of the safety and effectiveness of the prosthesis after implantation.

Burrough, et al. (Ref. 405), compared the implantation in the patient's tibia of one tibial condylar resurfacing prosthesis with the implantation of two of the prostheses. Twenty of their 22 patients were rheumatoid arthritics. Equal numbers of patients' knees had one or two tibial condyles resurfaced with the prosthesis, with a mean followup of 10.6 months (range: 2 through 14 months). No complications were reported. Burrough, et al., stated that implantation of two of the prostheses in a patient's tibia provided more improvement in walking and more pain reduction than implantation of one of the devices. However, Henderson and Peterson (Ref. 406) and Clary and Couk (Ref. 407) disagree. FDA reviewed other published reports of clinical studies of tibial resurfacing prostheses (Refs. 408 through 442). Two reports—that of Friedebold and Radloff (Ref. 422) and that of Lowe and coworkers (Ref. 425)—describe the use of a polymethylmethacrylate luting agent to fix the prosthesis into the surgically prepared cavity. The original developers of the prosthesis intended that the device not be cemented (Refs. 409, 410, 418, and 442). The identification of the knee joint tibial (hemi-knee) metallic resurfacing uncemented prosthesis excludes the use of a polymethylmethacrylate luting agent with this device, because FDA believes that insufficient information exists to establish a performance standard when a luting agent is used with the device.

Although knee joint tibial (hemi-knee) metallic non-constrained resurfacing uncemented prostheses are implanted devices, FDA has determined that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of these devices. In addition, FDA has identified and assessed the major risks to health associated with the use of these devices. FDA believes that the major risks, i.e., loosening, infection, and adverse tissue reaction, are related to biological responses of the human body to the presence of the device, the device design, and the underlying joint pathology, and not to physical failure(s) of the device. Clinical experience with these devices has established the persons for whose use the devices are intended and the proper conditions of use. FDA has determined that the probable benefit to health from proper use of these devices outweighs any likelihood of injury or illness resulting from their use. FDA further believes that informative labeling and compliance with general controls may greatly reduce the risks to health associated with the use of these devices.

§ 888.3640; Docket No. 78N–3094; Shoulder joint constrained prostheses.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of shoulder joint constrained prostheses:

1. Identification: A shoulder joint constrained prosthesis is an implanted device intended to replace a shoulder joint. The device prevents dislocation in more than one anatomic plane and has components that are linked together. This generic type of device includes prostheses that have a humeral component made of alloys, such as cobalt-chromium-molybdenum, and a glenoid component made of this alloy or a combination of this alloy and ultra-high molecular weight polyethylene. This generic type of device is limited to those devices intended for implantation with a polymethylmethacrylate luting agent (bone cement).

2. Recommended classification: Class III. The Panel recommend that premarket approval of this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that shoulder joint constrained prostheses be classified into class III because the device is implanted and is intended to be used in relieving disabling pain and in restoring or minimizing further loss of functional use of a joint or limb. The Panel believes these uses are of substantial importance in preventing impairment of human health.

The Panel believes that general controls alone will not provide sufficient control over these characteristics. The Panel also believes that it is not possible to establish an adequate performance standard for the device. There is a lack of safety and effectiveness data to demonstrate the satisfactory performance of the device. The Panel has found that insufficient information exists to support the conclusion that general controls or performance standards will be adequate to provide reasonable assurance of the safety and effectiveness of the device. Therefore, the device must be subject to premarket approval to assure its safety and effectiveness.

The Panel also recommends that the labeling for the device include information on the dimensions and kinematics of the device and its strength and wear characteristics.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of the device and on their knowledge of the medical literature (Refs. 443 through 446). Two of these references (Refs. 443 and 444) describe a shoulder joint constrained prosthesis (Fenlin and Zippel designs) and report that implantation of the device relieved pain in 16 of 17 patients. In the patient with the painful prosthesis, the authors believed that the device had loosened. The times of implantation were not reported.

Fenlin (Ref. 445) reported that the Fenlin design prosthesis had been implanted in five patients. The results in three of these patients were discussed. One patient was described as being free of pain, and able to use the operated shoulder for all normal activities, except those requiring elevation of the arm above 80°. The length of followup in this patient was 20 months. Complications were reported in the other two patients. In one patient, the device had loosened at 3 months postoperatively, due to abnormal anatomy of the glenoid. The second patient suffered partial nerve palsy due to damage of the axillary nerve during surgery. Linscheid and Cofield (Ref. 446) reported on the implantation of 13 constrained shoulder joint prostheses (6 of the Stanmore design, and 7 of the Bickel design). The average time of followup was reported as 13 months and ranged from 2 to 26 months. There were two cases of dislocations of the Stanmore design

prosthesis and one case of dislocation of the Bickel design prosthesis. There were two additional complications reported with the Bickel design device; one case of fracture of the humeral component and one case of loosening of the glenoid component.

5. Risks to health: (a) Loss or reduction of joint function: Improper design or inadequate mechanical properties of the device, such as its lack of strength and resistance to wear may result in a loss or reduction of joint function due to excessive wear, fracture, deformation of the device, or lossening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away from the surfaces of the device and the release of materials from the device to the surrounding tissues and systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection.

FDA agrees with the recommendation of the Panel and is proposing that shoulder joint constrained prostheses be classified into class III. FDA has sought additional data and information on the safety and effectiveness of these devices. Cofield (Ref. 447) reported that prosthetic replacement of the shoulder joint is an experimental, investigational procedure. This author noted that basic knowledge about shoulder biomechanics is limited and that current knowledge of shoulder prostheses is not sufficient to establish the requirements of a prosthetic replacement. Buechel, et al. (Ref. 448), noted that complications with current shoulder prostheses have been associated with the designs of the devices: (1) The Bickel design shoulder joint prosthesis was reported to dislocate and loosen due to the limited motion of the prosthesis; (2) the prosthesis design used by Lettin and Scales (presumably the Stanmore design shoulder prosthesis) was reported to significantly limit joint motion, then sublux, and eventually dislocate at the extremes of normal joint motion. Clinical results with several prosthesis designs were reported by Cofield (Ref. 447, 449, and 450). Eleven persons in whom Bickel design prostheses had been implanted were evaluated 18 months to 39 months postoperatively (Ref. 449). Three (27 percent) were experiencing significant pain. The components of the Bickel device had dislocated in two cases. The glenoid component had dislodged from the scapula in two cases and loosened in one. The humeral component had fractured in two other cases. Reoperation was required in four patients and was needed in two or three others. Cofield reported that further clinical and mechanical deterioration in these patients was anticipated due to progressive loosening of the glenoid components and fatigue fracture of the neck of the humeral component, which was not believed to be strong enough. These authors concluded that this type of shoulder joint replacement (i.e., the Bickel design) is not justified. Cofield (Refs. 447 and 450) also reported clinical results in nine patients who had received Stanmore prostheses. After an average postoperative time of 1 year (ranging between 4 and 18 months), six patients had satisfactory relief of pain and three had significant pain. The glenoid component had loosened in two patients. FDA concurs with the Panel that the reported clinical experience with these devices does not establish their long-term safety and effectiveness.

FDA finds that shoulder joint constrained prostheses are implanted devices that are intended to be used in relieving disabling pain and in restoring or minimizing further loss of functional use of a joint or a limb. FDA believes these uses are of substantial importance in preventing impairment of human health. FDA believes that insufficient clinical experience exists to fully establish the persons for whose use the devices are intended and the proper conditions of use. The agency believes that the probable benefit to health from use of the devices does not compare favorably with the likelihood of illness or injury resulting from their use.

Because of the lack of adequate data to demonstrate the safety and effectiveness of these implanted devices, FDA believes that use of the shoulder joint constrained prosthesis presents an unreasonable risk of illness or injury. Because these devices are intended to be implanted in the human body, the Federal Food, Drug, and Cosmetic Act requires that they be classified into class III unless FDA determines that premarket approval is not necessary to provide reasonable assurance of the safety and effectiveness of these devices. On the basis of available information, FDA cannot make that determination. FDA believes that insufficient information exists to support the conclusion that general controls or performance standards will provide reasonable assurance of the safety and effectiveness of these devices. Therefore, FDA is proposing that these devices be classified into class III.

§ 888.3650; Docket No. 78N–3095; Shoulder joint non-constrained prosthesis.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of shoulder joint non-constrained prostheses:

1. Identification: A shoulder joint non-constrained prosthesis is an implanted device intended to replace a shoulder joint. The device limits minimally (less than normal anatomic constraints) translation in one or more planes. It has no linkage across-the-joint. This generic type of device includes prostheses that have a humeral component made of alloys, such as cobalt-chromium-molybdenum, and a glenoid resurfacing component made of ultra-high molecular weight polyethylene, and is limited to those devices intended for implantation with a polymethylmethacrylate luting agent (bone cement).

2. Recommended classification: Class III. The Panel recommends that premarket approval of this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that shoulder joint non-constrained prostheses be classified into class III because the devices are implanted and are intended to be used in relieving disabling pain and in restoring or minimizing further loss of functional use of a joint or limb. The Panel believes these uses are of substantial importance in preventing impairment of human health. The Panel believes that general controls alone will not provide sufficient control over these characteristics. The Panel believes that it is not possible to establish an adequate performance standard for the device. There is a lack of safety and effectiveness data to demonstrate the satisfactory performance of the device. The Panel also believes that insufficient information exists to support the conclusion that general controls or performance standards will be adequate to provide reasonable assurance of the safety and effectiveness of the device. Therefore, the device must be subject to premarket approval to assure its safety and effectiveness.

The Panel recommends that the labeling for the device include information on the dimensions and kinematics of the device and its strength and wear characteristics.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of the

device and on their knowledge of the medical literature.

5. Risks to health: (a) Loss or reduction of joint function: Improper design or inadequate mechanical properties of the device, such as its lack of strength and resistance to wear, may result in a loss of reduction of joint function due to excessive wear, fracture, deformation of the device, or loosening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away from the surfaces of the device and the release of materials from the device to the surrounding tissues and systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection.

FDA agrees with the Panel recommendation and is proposing that shoulder joint non-constrained prostheses be classified into class III. FDA has reviewed the Panel recommendation and has sought additional information on the safety and effectiveness of the device. After reviewing the clinical experience with the device, Cofield (Ref. 451) reported that clinical results from implantation of four of these prostheses had been presented. Published clinical reports were available for only one of these implantations. Neer (Ref. 452) reported that the early results were good with the device he implanted. Cofield (Ref. 451) also presented his clinical experience with the device. Cofield discussed 40 of his patients, 33 of whom have had shoulder joint non-constrained prostheses implanted for more than 3 months. He did not report the maximum or average times of implantation. Complications included one infection requiring removal of the device, one postoperative dislocation of the joint which required reoperation, one axillary nerve injury which also required reoperation, one case of heterotopic bone formation, and one retearing of a muscle cuff repair.

FDA finds that shoulder joint non-constrained prostheses are implanted devices that are intended to be used in relieving disabling pain and in restoring or minimizing further loss of functional use of a joint or limb. FDA believes these uses are of substantial importance in preventing impairment of human health. FDA believes that insufficient clinical experience exists to fully establish the persons for whose use the devices are intended and the proper conditions of use. The agency believes that the probable benefit to health from use of the devices does not compare favorably with the likelihood of illness or injury resulting from their use.

Because of the lack of adequate data to demonstrate the safety and effectiveness of these implanted devices, FDA believes that use of the shoulder joint non-constrained prosthesis presents an unreasonable risk of illness or injury. Because these devices are intended to be implanted in the human body, the Federal Food, Drug, and Cosmetic Act requires that they be classified into class III unless FDA determines that premarket approval is not necessary to provide reasonable assurance of the safety and effectiveness of these devices. On the basis of available information, FDA cannot make this determination. FDA believes that insufficient information exists to support the conclusion that general controls or performance standards will provide reasonable assurance of the safety and effectiveness of these devices. Therefore, FDA is proposing that these devices be classified into class III.

§ 888.3660; Docket No. 78N–3096; Shoulder joint semi-constrained prosthesis.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of shoulder joint semi-constrained prostheses:

1. Identification: A shoulder joint semi-constrained prothesis is an implanted device intended to replace a shoulder joint. The device limits translation and rotation in one or more planes via the geometry of its articulating surfaces. It has no linkage across-the-joint. This generic type of device includes prostheses that have a humeral resurfacing component made of alloys, such as cobalt-chromium-molybdenum, and a glenoid resurfacing component made of ultra-high molecular weight polyethylene, and is limited to those devices intended for implantation with a polymethyl-methacrylate luting agent (bone cement).

2. Recommended classification: Class III. The Panel recommends that premarket approval of this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that shoulder joint semi-constrained prostheses be classified into class III because the devices are implanted and are intended to be used in relieving disabling pain and in restoring or minimizing further loss of functional use of a joint or limb. The Panel believes these uses are of substantial importance in preventing impairment of human health.

The Panel believes that general controls alone will not provide sufficient control over these characteristics. The Panel believes that it is not possible to establish an adequate performance standard for the device. There is a lack of safety and effectiveness data to demonstrate the satisfactory performance of the device. The Panel has found that insufficient information exists to support the conclusion that general controls or performance standards will be adequate to provide reasonable assurance of the safety and effectiveness of the device. Therefore, the device must be subject to premarket approval to assure its safety and effectiveness.

The Panel recommends that the labeling for the device include information on the dimensions and kinematics of the device and its strength and wear characteristics.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of the device and on their knowledge of the medical literature.

5. Risks to health; (a) Loss or reduction of joint function: Improper design or inadequate mechanical properties of the device, such as its lack of strength and resistance to wear, may result in a loss or reduction of joint function due to excessive wear, fracture, deformation of the device, or loosening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away from the surfaces of the device and the release of materials from the device to the surrounding tissues and systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection.

FDA agress with the Panel recommendation and is proposing that shoulder joint semi-constrained prostheses be classified into class III. FDA has sought additional data and information on the safety and effectiveness of the device. Preliminary clinical results with the device were reported by Siegel, et al. (Ref. 453). The authors implanted the St. George design shoulder prosthesis in 28 patients. Postoperative evaluation of 24 patients early in the series revealed that the best results, including pain relief and increased joint range of motion, were obtained on rheumatoid patients.

Complications included infection in one patient and dislocation of the device in two others. The authors stated that longer periods of observation were needed to determine the indications for use of a total shoulder prosthesis of this design.

FDA believes that Siegel, et al.'s, data are insufficient to establish the safety and effectiveness of the prostheses. Additional studies with longer followup times are needed. FDA finds that shoulder joint semi-constrained prostheses are implanted devices that are intended to be used in relieving disabling pain and in restoring or minimizing further loss of functional use of a joint or limb. FDA believes these uses are of substantial importance in preventing impairment of human health. FDA believes that insufficient clinical experience exists to fully establish the persons for whose use the devices are intended and the proper conditions of use. The agency believes that the probable benefit to health from use of the devices does not compare favorably with the likelihood of illness or injury resulting from their use.

Because of the lack of adequate data to demonstrate the safety and effectiveness of these implanted devices, FDA believes that use of the shoulder joint semi-constrained prosthesis presents an unreasonable risk of illness or injury. Because these devices are intended to be implanted in the human body, the Federal Food, Drug, and Cosmetic Act required that they be classified into class III unless FDA determines that premarket approval is not necessary to provide reasonable assurance of the safety and effectiveness of these devices. On the basis of available information, FDA cannot make that determination. Moreover, FDA believes that insufficient information exists to support the conclusion that general controls or performance standards will provide reasonable assurance of the safety and effectiveness of these devices. Therefore, FDA is proposing that these devices be classified into class III.

§ 888.3680; Docket No. 78N–3058; Shoulder joint glenoid (hemi-shoulder) prosthesis.

The Orthopedic Device Classification Panel, and FDA advisory committee, made the following recommendations regarding the classification of shoulder joint glenoid (hemi-shoulder) prostheses:

1. Identification: A shoulder joint glenoid (hemi-shoulder) prosthesis is an implanted device that has a glenoid (socket) component made of alloys, such as cobalt-chromium-molybdenum, and that is intended to replace a portion of the shoulder joint. This generic type of device is limited to those devices intended for implantation with a ploymethylethacrylate luting agent (bone cement).

2. Recommended classification: Class III. The Panel recommends that premarket approval of this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that shoulder joint glenoid (hemi-shoulder) prostheses be classified into class III because the device is implanted and is intended to be used in relieving disabling pain and in restoring or minimizing further loss of functional use of a joint or limb. The Panel believes these uses are of substantial importance in preventing impairment of human health.

The Panel believes that general controls alone will not provide sufficient control over these characteristics. The Panel also believes that it is not possible to establish an adequate performance standard for the device. There is a lack of safety and effectiveness data to demonstrate the satisfactory performance of the device. The Panel has found that insufficient information exists to support the conclusion that general controls or performance standards will be adequate to provide reasonable assurance of the safety and effectiveness of the device. Therefore, the device must be subject to premarket approval to assure its safety and effectiveness.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Loss or reduction of joint function: Inproper design or inadequate mechanical properties of the device, such as its lack of strength and resistance to wear, may result in a loss or reduction of joint function due to excessive wear, fracture, deformation of the device, or loosening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away from the surfaces of the device and the release of materials from the device to the surrounding tissues and systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection.

FDA agrees with the Panel recommendation and is proposing that shoulder joint glenoid (hemi-shoulder) prostheses be classified into class III. FDA finds that these implanted devices are intended to be used in relieving disabling pain and in restoring or minimizing further loss of functional use of a joint or limb. FDA believes these uses are of substantial importance in preventing impairment of human health. FDA believes that insufficient clinical experience exists to fully establish the persons for whose use these devices are intended and the proper conditions of use. The agency believes that the probable benefit to health from use of these devices does not compare favorable with the likelihood of injury or illness resulting from their use.

Because of the lack of adequate data to demonstrate the safety and effectiveness of these implanted devices, FDA believes that use of the shoulder joint glenoid (hemi-shoulder) prosthesis presents an unreasonable risk of illness or injury. Because these devices are intended to be implanted in the human body, the Federal Food, Drug, and Cosmetic Act requires that they be classified into class III unless FDA determines that premarket approval is not necessary to provide reasonable assurance of the safety and effectiveness of these devices. On the basis of available information, FDA cannot make this determination. Moreover, FDA believes that insufficient information exists to support the conclusion that general controls or performance standards will provide reasonable assurance of the safety and effectiveness of these devices. Therefore, FDA is proposing that these devices be classified into class III.

§ 888.3690; Docket No. 78N–3097; Shoulder joint humeral (hemi-shoulder) metallic uncemented prosthesis.

The orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of shoulder joint humeral (hemi-shoulder) metallic uncemented prostheses:

1. Identification: A shoulder joint humeral (hemi-shoulder) metallic uncemented prosthesis is an implanted intramedullary stemmed device made of alloys, such as cobalt-chromium-molybdenum. It is intended to replace the articular surface of the proximal end of the humerus and to be fixed without a polymethylmethacrylate luting agent (bone cement),

2. Recommended classification: Class II. The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that shoulder joint humeral

(hemi-shoulder) metallic uncemented prostheses be classified into class II because the design, material composition, and mechanical properties of the device, such as its flexibility, rigidity, strength, and surface finish, should be controlled to prevent loss or reduction of joint function, adverse tissue reaction, or infection. The Panel believes that general controls will not provide sufficient control over these characteristics.

Although a shoulder joint humeral (hemi-shoulder) metallic uncemented prosthesis is an implanted device, the Panel believes that premarket approval is not necessary because there is sufficient information to establish a standard that will provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that labeling for the device include information on the dimensions and kinematics of the device and its strength and wear characteristics.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and their knowledge of the medical literature.

5. Risks to health: (a) Loss or reduction of joint function: Improper design or inadequate mechanical properties of the device, such as its lack of strength and resistance to wear, may result in a loss or reduction of joint function due to excessive wear, fracture, deformation of the device, or loosening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequte biological or mechanical properties of the device, such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away of the articulating surfaces of the device and the release of materials from the device to the surrounding tissues and systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection.

FDA agrees with the Panel recommendation and is proposing that shoulder joint humeral (hemi-shoulder) metallic uncemented prostheses be classified into class II. FDA has sought additional data and documentation on the safety and effectiveness of this device. Four surgeons reported clinical use of this device (Refs. 454 through 457). In 1955, the Neer device was described (Ref. 454), and clinical results were presented on 12 patients with a time of followup from 2 months to 23 months. Eleven were free from pain, and in the remaining patient, the pain was believed to be caused by improper seating of the device. In 1969, Oster (Ref. 455) reported on four patients who received the Neer prostheses for the treatment of fracture dislocations. The time of followup ranged from 4 months to 18 months, with an average time of 10 months. Two patients had the devices implanted for 1 year or more. The range of motion was reported as limited in two and poor in one. In the fourth patient, the prosthesis had dislocated, reoperation was required, and the prosthesis was removed later due to infection. The author commented that satisfactory results had been obtained in two of the four cases and that the unsatisfactory results in two patients were due to one patient's refusal to cooperate during rehabilitation and the other patient's delay in seeking treatment.

In 1975, Clayton and Ferlic (Ref. 456) reported on the use of the device in eight patients with rheumatoid arthritis. The time of followup ranged from 2 months to 20 months, with an average time of 8 months. All eight patients had pain preoperatively. Postoperative improvements were reported in seven of the eight patients, with four patients having complete relief of pain. Postoperative improvements in range of motion were reported in six patients.

Neer (Ref. 457), the originator of the prosthesis, reported on the long-term results with this device. The devices had been implanted in 21 patients for 5 or more years and the average followup in this series of patients was 6 years, ranging from 8 months to 20 years. Neer reported that excellent results were obtained in 10 of these patients, satisfactory results in 8, and unsatisfactory results in 3. There was no radiologic evidence of loosening of the stem of the prosthesis in the medullary canal and no instance of settling of the prosthesis in the humerus. Neer reported that there were no postoperative complications or significant local complications and only one instance of dislocation, this occurring in a patient with poliomyelitis.

FDA reviewed several reports (Refs. 458 through 461) on the use of custom-made humeral prostheses that are not the same generic type of device as that classified herein. The custom-made devices, which were made of polymeric materials rather than metal, were attached to the bone by bone plates rather than through an intramedullary stem and were designed to replace portions of the long bone of the humerus rather than the articular head. Because of these differences, the clinical experience with these custom-made devices cannot be compared to the experience reported for the shoulder joint humeral (hemi-shoulder) metallic uncemented prosthesis.

Although shoulder joint humeral (hemi-shoulder) metallic uncemented prostheses are implanted devices, FDA has determined that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of these devices. In addition, FDA has identified and assessed the major risks to health associated with the use of these devices. FDA believes that the major risks, i.e., loosening, infection, and adverse tissue reaction, are related to biological responses of the human body to the presence of the device, the device design, and the underlying joint pathology, and not to physical failure(s) of the device. Clinical experience with these devices has established the persons for whose use the devices are intended and the proper conditions of use. FDA has determined that the probable benefit to health from proper use of these devices outweighs any likelihood of injury or illness resulting from their use. FDA further believes that informative labeling and compliance with general controls may greatly reduce the risks to health associated with the use of these devices. The agency believes that a performance standard is necessary because general controls alone are insufficient to minimize the risks to health presented by these devices.

§ 888.3720; Docket No. 78N–3099; Toe joint constrained uncemented prosthesis.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of toe joint constrained uncemented prostheses:

1. Identification: A toe joint constrained uncemented prosthesis is an implanted device made of silicone elastomer or polyester reinforced silicone elastomer. It is intended to be used without a polymethylmethacrylate luting agent (bone cement) to replace the first metatarsophalangeal (big toe) joint. This generic type of device consists of a single flexible across-the-joint component that prevents dislocation in more than one anatomic plane.

2. Recommended classification: Class II. The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that toe jont constrained

uncemented prostheses be classified into class II because the design, material composition, and mechanical properties of the device, such as its flexibility, rigidity, strength, and surface finish, should be controlled to prevent loss or reduction of joint function, adverse tissue reaction, or infection. The Panel believes that general controls alone will not provide sufficient control over these characteristics.

Although these are implanted devices, the Panel believes that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that the labeling for the device include information on the dimensions and kinematics of the device and its strength and wear characteristics.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and on their knowledge of the medical literature.

5. Risks to health: (a) Loss or reduction of joint function: Improper design or inadequate mechanical properties of the device, such as its lack of strength and resistance to wear, may result in a loss or reduction of joint function due to excessive wear, fracture, deformation of the device, or loosening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away from the surfaces of the device and the release of materials from the device to the surrounding tissues and systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection.

FDA agrees with the Panel recommendation and is proposing that toe joint constrained uncemented prostheses be classified into class II. FDA has sought additional data and information on the safety and effectiveness of the toe joint constrained uncemented prostheses. Several reports described the use of the prostheses in the metatarsophalangeal (MTP) joints of the foot (Refs. 462 through 467).

Although toe joint constrained uncemented prostheses are implanted devices, FDA has determined that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of these devices. In addtion, FDA has identified and assessed the major risks to health associated with the use of these devices. FDA believes that the major risks, i.e., loosening, infection, and adverse tissue reaction, are related to biological responses of the human body to the presence of the device, the device design, and the underlying joint pathology, and not to physical failure(s) of the device. Clinical experience with these devices has established the persons for whose use the devices are intended and the proper conditions of use. FDA had determined that the probable benefit to health from proper use of these devices outweighs any likelihood of injury or illness resulting from their use. FDA further believes that informative labeling and compliance with general controls may greatly reduce the risks to health associated with the use of these devices. The agency believes that a performance standard is necessary because general controls alone are insufficient to minimize the risks to health presented by these devices.

§ 888.3730; Docket No. 78N–3100; Toe joint phalangeal (hemi-toe) prosthesis.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of toe joint phalangeal (hemi-toe) prostheses:

1. Identification: A toe joint phalangeal (hemi-toe) prosthesis is an implanted device made of silicone elastomer intended to replace the base of the proximal phalanx of the toe.

2. Recommended classification: Class II. The Panel recommends that establishing a peformance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that toe joint phalangeal (hemi-toe) prostheses be classified into class II because the design, material composition, and mechanical properties of the device, such as its flexibility, rigidity, strength, and surface finish, should be controlled to prevent loss or reduction of joint function, adverse tissue reaction, or infection. The Panel believes that general controls alone will not provide sufficient control over these characteristics.

Although these are implanted devices, the Panel believes that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that the labeling for the device include information on the dimensions and kinematics of the device and its strength and wear characteristics.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and their knowledge of the medical literature.

5. Risks to health: (a) Loss or reduction of joint function: Improper design or inadequate mechanical properties of the device, such as its lack of strength and resistance to wear, may result in a loss of joint function due to excessive wear, fracture, deformation of the device, or loosening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away from the surfaces of the device and the release of materials from the device to the surrounding tissues and systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection.

FDA agrees with the Panel recommendation and its proposing that toe joint phalangeal (hemi-toe) prostheses be classified into class II. The agency has reviewed the Panel recommendation and has obtained additional data and information describing the use of toe joint phalangeal (hemi-toe) prostheses (Refs. 468 through 472). Swanson, et al. (Refs. 468 and 469), described the development of the prostheses and the surgical technique and reported on 55 patients who received the prostheses. The average range of postoperative joint motion was reported to be 60 degrees in extension and 5 degrees in flexion.

La Porta, et al. (Ref. 470), reported on 536 devices which had been implanted over a 4-year period with excellent postoperative results in 150 out of 536 joints (27.9 percent), good results in 39.1 percent, fair results in 22.9 percent, and poor results in 10.1 percent.

Albin and Weil (Ref. 471) reported that silicone implant arthroplasty had been performed on 1,000 feet at Northlake Community Hospital. Of those 1,000, 150 feet, all of which were operated on by, or under the direct supervision of two surgeons, were selected for evaluation of this procedure. They reported that clinical examinations were made of 50 feet and that radiographic examinations were made of 100 feet with an average followup time of 12.5 months. These

authors reported that the postoperative average active range of joint motion was 43 degrees and that the average passive range of motion was 60 degrees. They reported that there was a recurrence of abduction deviation in 70 percent of the cases and a recurrence of valgus rotation in 48 percent. They reported that while 62 percent of the patients had a good distribution of body weight over the operated joint, this percentage may be improved by a modification of the surgical technique.

Recently, Caneva (Ref. 472) recommended cautious use of this prosthesis in young, extremely active individuals. This author reported that degenerative changes in the bone opposing the prostheses had occurred in four young active male patients about 6 months after surgery. These patients experienced pain, edema, and restricted joint motion.

Although toe joint phalangeal (hemi-toe) prostheses are implanted devices, FDA has determined that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of these devices. In addition, FDA has identified and assessed the major risk to health associated with the use of these devices. FDA believes that the major risk, bone resorption, is related to biological responses of the human body to the presence of the device, the device design, and the underlying joint pathology, and not to physical failure(s) of the device. Clinical experience with these devices has established the persons for whose use the devices are intended and the proper conditions of use. FDA has determined that the probable benefit to health from proper use of these devices outweighs any likelihood of injury or illness resulting from their use. FDA further believes that informative labeling and compliance with general controls may greatly reduce the risks to health associated with the use of these devices. The agency believes that a performance standard is necessary because general controls alone are insufficient to minimize the risks to health presented by these devices.

§ 888.3750; Docket No. 78N–3101; Wrist joint carpal lunate prosthesis.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of wrist joint carpal lunate prostheses:

1. Identification: A wrist joint carpal lunate prosthesis is a one-piece implanted device made of silicone elastomer. It is intended to replace the carpal lunate bone of the wrist.

2. Recommended classification: Class II. The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that wrist joint carpal lunate prostheses be classified into class II because the design, material composition, and mechanical properties of the device, such as its flexibility, rigidity, strength, and surface finish, should be controlled to prevent loss or reduction of joint function, adverse tissue reaction, or infection. The Panel believes that general controls alone will not provide sufficient control over these characteristics.

Although carpal lunate prostheses are implanted devices, the Panel believes that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that the labeling of the device describe its dimensions.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Loss or reduction of joint function: Improper design or inadequate mechanical properties of the device, such as its lack of strength and resistance to wear, may result in loss or reduction of joint function due to excessive wear, fracture, deformation of the device, or loosening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility or resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away from the surfaces of the device and the release of materials from the device to the surrounding tissues and systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection.

FDA agrees with the Panel recommendation and is proposing that wrist joint carpal lunate prostheses be classified into class II. FDA has sought additional data and information on the safety and effectiveness of these devices. The agency has reviewed the available medical literature pertaining to silicone wrist joint carpal lunate prostheses. Roca, et al. (Ref. 473), reported clinical results obtained in 10 patients in whom the prosthesis had been implanted for 2 years. The results were rated as satisfactory in seven patients and unsatisfactory in three. The unsatisfactory results were due to dislocation of the device in two cases and medial nerve paresthesia of unexplained origin in the other patient. Lichtman, et al. (Ref. 474), compared the results of implantation of the prosthesis with plaster immobilization of the joint—a nonsurgical alternative treatment in patients with Kienbock's disease (degeneration of the carpal lunate bone)—to establish more clearly the indications for the prosthesis and the timing for the procedure. These investigators concluded that plaster immobilization gave unsatisfactory results, particularly when compared to results obtained from implantation of the device before the carpal lunate bone had collapsed. Twenty devices had been implanted, 14 of which produced satisfactory results when evaluated at 10 through 54 months postoperatively (average was 27 months). The device was noted to have dislocated in 8 patients: in 5 of the 6 patients with unsatisfactory results and in 3 of the 14 patients with satisfactory results. These authors also reported that the original design of the device was modified by deepening the concavities on its surface to provide a more secure articulation between the device and the carpal bones and to reduce the incidence of device dislocation.

Although wrist joint carpal lunate prostheses are implanted devices, FDA has determined that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of these devices. In addition, FDA has identified and assessed the major risks to health associated with the use of these devices. FDA believes that the major risks, i.e., loosening, infection, and adverse tissue reaction, are related to biological responses of the human body to the presence of the device, the device design, and the underlying joint pathology, and not to physical failure(s) of the device. Clinical experience with these devices has established the persons for whose use the devices are intended and the proper conditions of use. FDA has determined that the probable benefit to health from proper use of these devices outweighs any likelihood of injury or illness resulting from their use. FDA further believes that informative labeling and compliance with general controls may greatly reduce the risks to health associated with the use of these devices. The agency believes that a performance

standard is necessary because general controls alone are insufficient to minimize the risks to health presented by these devices.

§ 888.3760; Docket No. 78N–3102; Wrist joint carpal scaphoid prosthesis.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of wrist joint carpal scaphoid prostheses:

1. Identification: A wrist joint carpal scaphoid prosthesis is a one-piece implanted device made of silicone elastomer intended to replace the carpal scaphoid bone of the wrist.

2. Recommended classification: Class II. The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that wrist joint carpal scaphoid prostheses be classified into class II because the design, material composition, and mechanical properties of the device, such as its flexibility, rigidity, strength, and surface finish, should be controlled to prevent loss or reduction of joint function, adverse tissue reaction, or infection. The Panel believes that general controls alone will not provide sufficient control over these characteristics.

Although these are implanted devices, the Panel believes that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that the labeling of the device describe its dimensions.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Loss or reduction of joint function: Improper design or inadequate mechanical properties of the device, such as its lack of strength or resistance to wear, may result in a loss or reduction of joint function due to excessive wear, fracture, deformation of the device, or loosening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away from the surfaces of the device and the release of materials from the device to the surrounding tissues and systemic circulation. (c) Infection: The presence of a prosthesis within the body may lead to an increased risk of infection.

FDA agrees with the Panel recommendation and is proposing that wrist joint carpal scaphoid prostheses be classified into class II. The agency obtained additional data and information describing the use of wrist joint carpal scaphoid prostheses. Swanson (Ref. 475) reported that development of the wrist joint carpal scaphoid prosthesis was prompted by the shortcomings of most other current procedures, such as replacement of the carpal scaphoid with a metallic or an acrylic prosthesis. Swanson noted that investigators of these other devices reported problems concerning implant loosening and bone resorption due to the hardness of the implanted material. A recent publication (Ref. 476) cites problems associated with silicone carpal scaphoid prostheses that included fracture of the stem of the prosthesis and implant loosening.

Although wrist joint carpal scaphoid prostheses are implanted devices, FDA has determined that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of these devices. In addition, FDA has identified and assessed the major risks to health associated with the use of these devices. FDA believes that the major risks, i.e., loosening, infection, and adverse tissue reaction, are related to biological responses of the human body to the presence of the device, the device design, and the underlying joint pathology, and not to physical failure(s) of the device. Clinical experience with these devices has established the persons for whose use the devices are intended and the proper conditions of use. FDA has determined that the probable benefit to health from proper use of these devices outweighs any likelihood of injury or illness resulting from their use. FDA further believes that informative labeling and compliance with general controls may greatly reduce the risks to health associated with the use of these devices. The agency believes that a performance standard is necessary because general controls alone are insufficient to minimize the risks to health presented by these devices.

§ 888.3770; Docket No. 78N–3304; Wrist joint carpal trapezium prosthesis.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of wrist joint carpal trapezium prostheses:

1. Identification: A wrist joint carpal trapezium prosthesis is a one-piece implanted device made of silicone elastomer or silicone elastomer/polyester material intended to replace the carpal trapezium bone of the wrist.

2. Recommended classification: Class II. The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that wrist joint carpal trapezium prostheses be classified into class II because the design, material composition, and mechanical properties of the device, such as its flexibility, rigidity, strength, and surface finish, should be controlled to prevent loss or reduction of joint function, adverse tissue reaction, or infection. The Panel believes that general controls alone will not provide sufficient control over these characteristics.

Although wrist joint carpal trapezium prostheses are implanted devices, the Panel believes that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Loss or reduction of joint function: Improper design or inadequate mechanical properties of the device, such as its lack of strength and resistance to wear, may result in a loss or reduction of joint function due to excessive wear, fracture, deformation of the device, or loosening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away from the surfaces of the device and the release of materials from the device to the surrounding tissues and systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection.

FDA agrees with the Panel recommendation and is proposing that wrist joint carpal trapezium prostheses be classified into class II. The agency has sought additional data and information on the safety and effectiveness of these devices. Three types of implant arthroplasty concerning the trapezium are discussed in the medical literature: resurfacing of the

metacarpal surface as described by Kessler and Crawford (Refs. 477 and 478); resurfacing of the trapezial surface as described by Ashworth (Ref. 479); and complete excision and replacement of the trapezium bone with a Swanson-type silicone elastomer or Niebauer-type silicone elastomer/polyester prosthesis (Refs. 480 through 487).

Kessler (Ref. 477) reported that 11 of the 18 patients treated by resurfacing the metacarpal surface with a silicone prosthesis were free from pain 2 years postoperatively. Crawford (Ref. 478) reported that of nine patients receiving this resurfacing prosthesis, improved function was encountered initially, but that within 4 to 8 weeks signs of chronic synovitis were present in all patients. The prosthesis had also subluxated and dislocated in five cases (55 percent). When three of these resurfacing prostheses were removed and replaced with Swanson or Niebauer prostheses, all of the resurfacing prostheses were found to be badly torn. Microsilastic particles were found within the synovium of all joints, with abundant foreign body giant cell reaction. The author concluded that the base of the resurfacing prosthesis was much too weak to allow normal thumb function and that the results obtained with the resurfacing prosthesis did not compare well with the results expected after excision of the trapezium (an alternative treatment), with or without prosthetic replacement of the trapezium.

Ashworth (Ref. 479) reported the results of resurfacing of the trapezium in 42 patients. The trapezium was resurfaced with a silicone prosthesis, using a neurosurgical burr-hole cover that had been adapted by reshaping. The prosthesis was inserted in a hole drilled into the trapezium. Patients were evaluated 1 to 75 months (average 31 months) postoperatively. The results were considered excellent if pain was absent and there had been no decrease in abduction or grip strength. Forty patients were evaluated as having excellent results using these criteria. In the other two patients, the operation was considered to be a failure because the device fractured. The authors believed that, in both cases, the failure was due to error in surgical technique.

A number of authors reported on the use of Swanson (Refs. 480, and 482 through 487) and Niebauer (Refs. 481 and 483) prostheses to replace the entire trapezium. Haffajee (Ref. 480) reported on the implantation of the Swanson prosthesis in 100 hands with a postoperative followup of 1 to 5 years. He found that pain was relieved in all but five hands. While there were no device fractures, there were 19 device dislocations. Swanson (Ref. 486) reported on the implantation of the Swanson prosthesis in 46 patients. The postoperative followup ranged from 6 months to 5½ years, with a followup of 2 or more years in 32 patients. Pain was completely relieved in all 46, but the device had subluxated in 8 patients. Ferlic (Ref. 481) evaluated postoperative results in 11 patients 1 to 3 years after they received Niebauer prostheses. Ferlic found that all patients were satisfied, principally because of relief of pain. There were no device dislocations.

Weilby (Ref. 482) reported that of 100 consecutive patients receiving the Swanson prosthesis, 32 (32 percent) showed implant subluxation with varying degrees of disfunction and complaints. Reoperation for removal of the implant was advised in 16 cases (16 percent). Haffajee (Ref. 480) reported a dislocation rate of 19 percent (9 occurring with the original Swanson design prosthesis and 10 with the newer design). Dislocation of the prosthesis affected the range of thumb abduction, and was noted in 13 of the 15 hands, in the series in which abduction was not improved. Lister (Ref. 484) reported a subluxation rate of 25 percent. Two-thirds of these patients complained of instability and persistent loss of strength and reoperations were necessary for removal of the prosthesis. Sarkin (Ref. 485) reported that of five patients receiving a silicone implant, the prosthesis had subluxated in two (40 percent) and had dislocated in another, requiring surgical removal.

The causes of subluxation and dislocation of the prostheses were considered by several authors. Swanson (Ref. 486) reported that the 8 cases of subluxation which occurred in his series of 46 patients were due to: incomplete removal of the trapezium in 3 patients; uncorrected hyperextension deformity in 4 patients; and inadequate capsular repair around the implant in 1 patient. He reported a mild subluxation in one patient due to a capsular tear unrecognized during surgery. Weilby (Ref. 482) identified several other reasons for dislocation: the use of too large an implant; incomplete removal of osteophytes; damage to the ligaments and joint capsule by previous surgical procedures; and use of an incorrect postoperative dressing. Haffajee (Ref. 480) believed that positioning the base of the implant in the shaft of the bone so that the base/shaft angle was 80° or less might reduce bone implant dislocations. Several authors (Refs. 480, 483, 484, and 485) discussed the effects of a variety of surgical procedures, particularly the use of tendons to stabilize the implant, on the incidence of implant subluxation. Others (Refs. 480 and 484) believed that the design of the Swanson implant encouraged subluxation and one (Ref. 484) recommended that the design be modified.

Although wrist joint carpal trapezium prostheses are implanted devices, FDA has determined that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of these devices. In addition, FDA has identified and assessed the major risks to health associated with the use of these devices. FDA believes that the major risks, i.e., loosening, infection, and adverse tissue reaction, are related to biological responses of the human body to the presence of the device, the device design, and the underlying joint pathology, and not to physical failure(s) of the device. Clinical experience with these devices has established the persons for whose use the devices are intended and the proper conditions of use. FDA has determined that the probable benefit to health from proper use of these devices outweighs any likelihood of injury or illness resulting from their use. FDA further believes that informative labeling and compliance with general controls may greatly reduce the risks to health associated with use of these devices. The agency believes that a performance standard is necessary because general controls alone are insufficient to minimize the risks to health presented by these devices.

§ 888.3780; Docket No. 78N–3103; Wrist joint polymer constrained uncemented prosthesis.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of wrist joint polymer constrained uncemented prostheses:

1. Identification: A wrist joint polymer constrained uncemented prosthesis is an implanted device made of polyester-reinforced silicone elastomer. It is intended to be used without a polymethylmethacrylate luting agent (bone cement) to replace a wrist joint. This generic type of device consists of a single flexible across-the-joint component that prevents dislocation in more than one anatomic plane.

2. Recommended classification: Class II. The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that wrist joint polymer constrained uncemented prostheses be classified into class II because the design, material composition, and mechanical properties of the device, such as its flexibility, rigidity, strength, and surface finish, should be controlled to prevent loss or reduction of joint function, adverse tissue reaction, or infection. The Panel believes that general controls alone will not provide sufficient control over these characteristics.

Although wrist joint polymer constrained uncemented prostheses are implanted devices, the Panel believes that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommenation on the Panel members' personal knowledge of the device; oral presentations made to the Panel on November 14, 1977 (Ref. 488) and March 21, 1978 (Ref. 489); written reports prepared by physicians using the devices (Refs. 490 and 491); and the Panel members' knowledge of the medical literature.

On November 14, 1977, Dr. Alfred Swanson presented clinical results on use of the device in 59 patients (Ref. 488). A total of 76 devices had been implanted. Thirty of these prostheses were made from "conventional" medical grade silicone elastomer and 46 were made from a "high performance" silicone elastomer, a new formulation which was developed to provide increased resistance to tearing and implant fracture. Fifty-six devices had been implanted for over 1 year (range was 12 months to 91 months). Twenty-one devices had been implanted for 1 to 2 years, 17 for 2 to 3 years and 18 for over 3 years. Pain, range of motion, and grasp strength were evaluated pre- and postoperatively. The average range of joint motion had increased from 38 degrees flexion and 6 degrees extension to 41 degrees flexion and 21 degrees extension. Grasp strength had increased from an average of 7 pounds to an average of 12 pounds. The percentage of patients who were pain free increased from 16 percent preoperatively to 89 percent postoperatively. The following complications were reported: four cases of recurrent synovitis, three implant fractures, and one case of severe tendon imbalance.

On March 21, 1978, Mr. Eldon Frisch presented a summary of the postoperative results that had been obtained during clinical testing of the prosthesis (Ref. 489). Postoperative clinical results had been provided by 32 physicians on 101 prostheses made of "conventional" silicone elastomer, and on 200 prostheses made from the "high performance" elastomer. Mr. Frisch reported that good and fair results had been obtained in over 90 percent of the cases with regard to pain relief, joint stability and joint range of motion. The following complications had been reported: seven fractures of implants made of the "conventional" elastomer and one fracture of an implant made of the "high performance" elastomer.

The following additional data on the "high performance" elastomer implants were presented at the March 21, 1978 Panel meeting: two oral presentations and two written reports prepared by physicians who had used the device (Refs. 489 through 491). Drs. John Madden and Edward Nalebuff made oral presentations to the Panel (Ref. 489). Dr. Nalebuff had implanted 37 devices with an average postoperative followup time of 13 months (range 4 through 25 months) and Dr. Madden had implanted 5 devices with an average postoperative followup of 8 months (range 6 months through 1 year). Based on their short-term clinical experience with the device, both surgeons reported that they were satisfied with the results. Dr. Nalebuff reported that the device: (1) Relieved pain in a significant number of patients; (2) provided satisfactory stability; and (3) made it possible to correct joint deformity, maintaining an average of 64 degrees of motion.

Drs. Edward Hay, Alonzo Kornegay, and Spencer Rowland submitted written reports of their short-term clinical results with the device (Refs. 490 and 491). Drs. Hay and Kornegay reported that devices had been implanted in 11 patients with an average postoperative followup of 11⅓ months (range 3 to 22 months). Pain relief was excellent and wrist joint motion was improved in eight patients. Dr. Rowland reported that 18 devices (15 of the "high performance" elastomer, and 3 of the "conventional" elastomer) had been implanted in 14 patients for at least 1 year (maximum of 30 months). It was reported that all patients had pain-free wrists at the time of evaluation and that none of the patients had lost wrist joint motion.

5. Risks to health: (a) Loss or reduction of joint function: Improper design or inadequate mechanical properties of the device, such as its lack of strength and resistance to wear, may result in a loss or reduction of joint function due to excessive wear, fracture, deformation of the device, or loosening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away from the surfaces of the device and the release of materials from the device to the surrounding tissues and the systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection.

FDA agrees with the Panel recommendation and is proposing that wrist joint polymer constrained uncemented prostheses be classified into class II. In proposing to classify this device into class II, the agency is relying on the same data discussed by the Panel in support of its recommendation that the device be classified into class II. Although wrist joint polymer constrained uncemented prostheses are implanted devices, FDA has determined that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of these devices. In addition, FDA has identified and assessed the major risks to health accociated with use of these devices. FDA believes that the major risks, i.e., loosening, infection, and adverse tissue reaction, are related to biological responses of the human body to the presence of the device, the device design and the underlying joint pathology, and not to physical failure(s) of the device. Clinical experience with these devices has established the persons for whose use the devices are intended and the proper conditions of use. FDA has determined that the probable benefit to health from proper use of these devices outweighs any likelihood of injury or illness resulting from their use. FDA further believes that informative labeling and compliance with general controls may greatly reduce the risks to health associated with use of these devices. The agency believes that a performance standard is necessary because general controls alone are insufficient to minimize the risks to health presented by these devices.

§ 888.3790; Docket No. 78N–3305; Wrist joint mental constrained prosthesis.

The Orthopedic Device Classification Panel, and FDA advisory committee, made the following recommendation regarding the classification of wrist joint metal contrained prostheses:

1. Identification: A wrist joint metal constrained prosthesis is an implanted

device intended to replace a wrist joint. The device prevents dislocation in more than one anatomic plane and consists of either a single flexible across-the-joint component or two components linked together. This generic type of device is limited to a device which is made of alloys, such as cobalt-chromium-molybdenum, and is limited to those devices intended for implantation with a polymethylmethacrylate luting agent (bone cement).

2. Recommended classification: Class III. The Panel recommends that premarket approval of this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that wrist joint metal constrained prostheses be classified into class III because the device is implanted and is intended to be used in relieving disabling pain and in restoring or minimizing further loss of functional use of a joint or limb. The Panel believes these uses are of substantial importance in preventing impairment of human health.

The Panel believes that general controls alone will not provide sufficient control over these characteristics. The Panel also believes that it is not possible to establish an adequate performance standard for the device. There is a lack of safety and effectiveness data to demonstrate the satisfactory performance of the device. The Panel has found that insufficient information exists to support the conclusion that general controls or performance standards will be adequate to provide reasonable assurance of the safety and effectiveness of the device. Therefore, the device must be subject to premarket approval to assure its safety and effectiveness.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of the device and on the available medical literature. Gschwend, et al. (Ref. 492), used this prosthesis in 15 cases from 1971–1975. Fixation was reported to be inadequate and not correlated to loads imposed on the wrist joint. In three cases (20 percent), the distal stem became loose. The stem fractured in two cases (13 percent). On one occasion (6.6 percent) the metacarpal bone broke. In another case, as a result of a disturbance of muscle balance, the investigators observed a fixed ulnar deviation of the wrist joint with a tendency toward radial penetration of the medullary canal of the third metacarpal bone. The investigators also described three cases (20 percent) of a sinking of the prosthesis into the capitate through the third metacarpal.

5. Risks to health: (a) Loss or reduction of joint function: Improper design or inadequate mechanical properties of the device, such as its lack of strength and resistence to wear, may result in a loss or reduction of joint function due to excessive wear, fracture, deformation of the device, or loosening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away from the surfaces of the device and release of materials from the device to the surrounding tissues and systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection.

FDA agrees with the Panel recommendation and is proposing that wrist joint metal constrained prostheses be classified into class III. FDA finds that these implanted devices and intended to be used in relieving disabling pain and in restoring or minimizing further loss of functional use of a joint or limb. FDA believes these uses are of substantial importance in preventing impairment of human health. FDA believes that insufficient clinical experience exists fully establish the persons for use the devices are intended and the proper conditions of use. The agency believes that the probable benefit to health from use of these devices does not compare favorably with the likelihood of illness or injury resulting from their use.

Because of the lack of adequate data to demonstrate the safety and effectiveness of these implanted devices, FDA believes that use of wrist joint metal constrained prostheses presents an unreasonable risk of illness or injury. Because these devices are intended to be implanted in the human body, the Federal Food, Drug, and Cosmetic Act requires that they be classified into class III unless FDA determines that premarket approval is not necessary to provide reasonable assurance of the safety and effectiveness of these devices. On the basis of available information, FDA cannot make that determination. FDA believes that insufficient information exists to support the conclusion that general controls or performance standards will provide reasonable assurance of the safety and effectiveness of these devices. Therefore, FDA is proposing that these devices be classified into class III.

§ 888.3800; Docket No. 78N–3104; Wrist Joint Semi-Constrained Prosthesis

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of wrist joint semi-constrained prostheses:

1. Identification: A wrist joint semi-constrained prosthesis is an implanted device intended to replace a wrist joint. The device limits translation and rotation in one or more planes via the geometry of its articulating surfaces. It has no linkage across-the-joint. This generic type of device includes prostheses that have either (a) a one-part radial component made of alloys, such as cobalt-chromium-molybdenum, with an ultra-high molecular weight polyethylene bearing surface, or (b) a two-part radial component made of alloys and an ultra-high molecular weight polyethylene ball that is mounted on the radial component with a trunnion bearing. The metallic portion of the two-part radial component is inserted into the radius. These devices have a metacarpal component(s) made of alloys, such as cobalt-chromium-molybdenum. This generic type of device is limited to those devices intended to be implanted with a polymethylmethacrylate luting agent (bone cement).

2. Recommended classification: Class II. The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that wrist joint semi-constrained prostheses be classified into class II because the design, material composition, and mechanical properties of the device, such as its flexibility, rigidity, strength, and surface finish, should be controlled to prevent loss or reduction of joint function, adverse tissue reaction, or infection. The Panel believes that general controls alone will not provide sufficient control over these characteristics.

Although wrist joint semi-constrained prostheses are implanted devices, the Panel believes that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that the labeling for the device include information on the dimensions and kinematics of the device and its strength and wear characteristics.

4. Summary of data on which the recommendation is based: The Panel

based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device, and on several oral presentations made to the Panel. On April 15, 1977, Dr. Robert Volz (Ref. 493) discussed the clinical results obtained following implantation of the AMC-type wrist joint semi-constrained prosthesis. Fifty prostheses had been implanted, 21 by Dr. Volz and 29 by 15 other surgeons participating in the clinical study. The minimum and maximum times the devices had been implanted were reported as 6 months and 33 months, respectively. Dr. Volz noted that the most consistent complication was a tendency of the wrist to drift into an abnormal position (ulnar deviation). At the time of evaluation, about 75 percent of the patients were pain free while 25 percent experienced mild pain. On July 15, 1977, Dr. Robert Beckenbaugh (Ref. 494) made a presentation to the Panel on his clinical experience with the Meuli wrist joint semi-constrained prosthesis. Eighty-four prostheses had been implanted. The average time of implantation was reported as 14 months, with over half of the patients having had the prostheses implanted for 18 months. Dr. Beckenbaugh reported that there had been some problems with positioning of the prosthesis, resulting in a tendency of the wrist to drift into ulnar deviation. These problems required reoperation in 36 percent of the patients receiving the prosthesis in the surgeon's first year of experience with the devices, 20 percent of those implanted received reoperation in his second year of experience with it and 4 percent in his third year. This reduction in the rates of reoperation were related to increased experience with the procedure and the bending and cutting of the intramedullary stems of the metacarpal component of the device. Ninety-three percent of the patients were pain free at the time of the last evaluation. Dr. Frank R. Noyes, a consultant to the Panel, noted that long-term results of the use of wrist joint semi-constrained prostheses were not available and that these results would be required in the future to ascertain whether the Panel's classification recommendation is still appropriate.

5. Risks to health: (a) Loss or reduction of joint function: Improper design or inadequate mechanical properties of the device, such as its lack of strength and resistance to wear, may result in a loss or reduction of joint function due to excessive wear, fracture, deformation of the device, or loosening of the device in the surgical cavity. (b) Adverse tissue reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away from the surfaces of the device and the release of materials from the device to the surrounding tissues and systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection.

FDA agrees with the Panel recommendation and is proposing that wrist joint semi-constrained prostheses be classified into class II. The agency has sought additional information on the use of wrist joint semi-constrained prostheses. The data presented to the Panel by Drs. Beckenbaugh and Volz (Refs. 493 and 494) contained early clinical studies regarding the series of patients involved (Refs. 495 through 498). The only other available published clinical data on wrist joint semi-constrained prostheses are reports from the originator of the Meuli design of the prosthesis (Ref. 499). Meuli reported the clinical results of a series of 21 patients in whom 26 prostheses had been implanted over 5.5 year period. There were nine failures: two infections, one case of device loosening, four cases of ankylosis, and two cases of severe synovitis due to the use of polyester material in an earlier design of the device. On final analysis, however, 18 of the 21 patients were satisfied with the results.

Although wrist joint semi-constrained prostheses are implanted devices, FDA has determined that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of these devices. In addition, FDA has identified and assessed the major risks to health associated with the use of these devices. FDA believes that the major risks, i.e., loosening, infection, and adverse tissue reaction, are related to biological responses of the human body to the presence of the device, the device design, and the underlying joint pathology, and not to physical failure(s) of the device. Clinical experience with these devices has established the persons for whose use the devices are intended and the proper conditions of use. FDA has determined that the probable benefit to health from proper use of these devices outweighs any likelihood of injury or illness resulting from their use. FDA further believes that informative labeling and compliance with general controls may greatly reduce the risks to health associated with use of these devices. The agency believes that a performance standard is necessary because general controls alone are insufficient to minimize the risks to health presented by these devices.

§ 888.3810; Docket No. 78N-3105; Wrist joint ulnar (hemi-wrist) prosthesis.

The Orthopedic Device Classification Panel, and FDA advisory committee, made the following recommendation regarding the classification of wrist joint ulnar (hemi-wrist) prostheses:

1. Identification: A wrist joint ulnar (hemi-wrist) prosthesis is a mushroom-shaped implanted device that is made of a medical grade silicone elastomer or ultra-high molecular weight polyethylene. It is intended to be inserted into the intramedullary canal of the bone and held in place by a suture. Its purpose is to cover the resected end of the distal ulna to control bone overgrowth and to provide an articular surface for the radius and carpus.

2. Recommended classification: Class II. The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that wrist joint ulnar (hemi-wrist) prostheses be classified into class II because the design, material composition, and mechanical properties of the device, such as its flexibility, rigidity, strength, and surface finish, should be controlled to prevent loss or reduction of joint function, adverse tissue reaction, or infection. The Panel believes that general controls alone will not provide sufficient control over these characteristics.

Although wrist joint ulnar (hemi-wrist) postheses are implanted devices, the Panel believes that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device. The Panel also recommends that the labeling of the device describe its dimensions.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Loss or reduction of joint function: Improper design or inadequate mechanical properties of the device, such as its lack of strength or resistance to wear, may result in a loss or reduction of joint function due to fracture or deformation of the device, or migration of the device in the surgical cavity. (b) Adverse tissue

reaction: Inadequate biological or mechanical properties of the device, such as its lack of biocompatibility and resistance to wear, may result in an adverse tissue reaction due to dissolution or wearing away from the surfaces of the device and the release of materials from the device to the surrounding tissues and systemic circulation. (c) Infection: The presence of the prosthesis within the body may lead to an increased risk of infection.

FDA agrees with the Panel recommendation and is proposing that wrist joint ulnar (hemi-wrist) prostheses be classified into class II. The agency has sought additional information on the safety and effectiveness of these devices. Two publications (Refs. 500 and 501) presented reports of clinical uses of the devices. Swanson (Ref. 500) presented results on a series of 54 patients. Bilateral implantations were perfrmed in 19 cases providing a total of 73 device implantations. Improvement was reported in the average postoperative values for pronation and supination, extension and flexion, and ulnar and radial deviation. Two types of complications were reported: (1) Migration of the implant in five cases in which the implant was not sutured in place; and (2) significant amounts of bone resorption in the distal centimeter of the ulnar in two other cases. Bone resorption was attributed to the design of the cuff of the device which was reported to have produced an excessively tight fit on the bone. The device and the surgical implantation procedure were reported to have been modified as a result of the adverse effects.

Three years after the initial results were presented by Swanson (Ref. 500), Berg (Ref. 501) reported his clinical results from four patients. The length of postoperative followup ranged from 8 months to 2½ years (average 20 months). Bone resorption was noted to have occurred beneath the cuff of the device in the patient with the longest followup. The author noted that while the followup periods were short, the early results were promising. It was reported that all four patients had relief of pain and that in no case was there a decrease of function, motion, or grip strength after the procedure.

Although wrist joint ulnar (hemi-wrist) prostheses are implanted devices, FDA has determined that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of these devices. In addition, FDA has identified and assessed the major risks to health associated with use of these devices. FDA believes that the major risks, i.e., loosening, infection, and adverse tissue reaction, are related to biological responses of the human body to the presence of the device, the device design, and the underlying joint pathology, and not to physical failure(s) of the device.

Clinical experience with these devices has established the persons for whose use the devices are intended and the proper conditions of use. FDA has determined that the probable benefit to health from proper use of the devices outweighs any likelihood of injury or illness resulting from their use. FDA further believes that informative labeling and compliance with general controls may greatly reduce the risks to health associated with use of these devices. The agency believes that performance standard is necessary because general controls alone are insufficient to minimize the risks to health presented by these devices.

§ 888.4150; Docket No. 78N–3106; Calipers for clinical use.

The Orthopedic Device Classification Panel, and FDA advisory committee, made the following recommendation regarding the classification of calipers for clinical use:

1. Identification: A caliper for clinical use is a compass-like device intended for use in measuring the thickness or diameter of a part of the body or the distance between two body surfaces, such as for measuring an excised skeletal specimen to determine the proper replacement size of a prosthesis.

2. Recommended classification: Class I. The Panel recommends that the device be exempt from the premarket notification procedures under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)) and the good manufacturing practice (GMP) regulation under section 520(f) of the act (21 U.S.C. 360j(f)).

3. Summary of reasons for recommendation: The panel recommends that calipers for clinical use be classified into class I because general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel believes that manufacturers of the device should not be required to comply with premarket notification procedures or with the GMP regulation in manufacturing the device because this simple device presents no risks to health and all possible defects are readily detectable before use. The Panel noted that this device must be sterilizable.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

FDA agrees with the Panel recommendation and is proposing that calipers for clinical use be classified into class I. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

In response to the Panel's recommendation that manufacturers of calipers for clinical use be exempt from sections 510(k) and 520(f) of the act, FDA is proposing that these manufacturers be subject to registration and device listing under section 510 (a) through (j) of the act, but exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations. FDA disagrees with the Panel's recommendation that manufacturers of calipers for clinical use be exempt from the GMP regulation under section 520(f) of the act. The agency believes that compliance with this regulation is necessary to assure the quality of this device and thus its safety, effectiveness, and compliance with the adulteration and misbranding provisions of the act. Compliance with the GMP regulation will help prevent defects in calipers for clinical use that could harm users. See § 888.1250 *Nonpowered dynamometer* in an earlier section of the preamble and the discussion under the heading "Exemptions for Class I Devices" for further explanation of the agency's policies concerning exemptions.

§ 888.4200; Docket No. 78N–3107; Cement dispenser.

The Orthopedic Device Classification Panel, and FDA advisory committee, made the following recommendation regarding the classification of cement dispensers:

1. Identification: A cement dispenser is a nonpowered syringe like device intended for use in placing bone cement into surgical sites.

2. Recommended classification: Class I. The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that cement dispensers be classified into class I because general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. This is a relatively simple device with few risks associated with its use. The Panel does not believe that this device requires

performance standards to control the identified risks to health.

4. Summary of data on which the recommendation is based: Cement dispensers are routinely used for a variety of surgical procedures, such as fixation of prostheses and repair of bone fractures. The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: Adverse tissue reaction: The chemically reactive materials present in bone cement may dissolve or leach substances from the device and cause the patient to have an adverse tissue reaction.

FDA agrees with the Panel recommendation and is proposing that cement dispensers be classified into class I with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

§ 888.4210; Docket No. 78N–3108; Cement mixer for clinical use.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of cement mixers for clinical use:

1. Identification: A cement mixer for clinical use is a device consisting of a container intended for use in mixing bone cement.

2. Recommended classification: Class I. The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recomends that cement mixers for clinical use be classified into class I because general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. This is a relatively simple device with few risks associated with its use. The Panel does not believe that this device requires performance standards to control the identified risk to health. The Panel also recommends that the material from which the device is fabricated be identified in the device labeling.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: Adverse tissue reaction: The chemically reactive materials present in bone cement may dissolve or leach substances from the device and cause the patient to have an adverse tissue reaction.

FDA agrees with the Panel recommendation and is proposing that cement mixers for clinical use be classified into class I with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

§ 888.4220; Docket No. 78N–3109; Cement monomer vapor evacuator.

The Orthopedic Device Classification Panel, and FDA advisory committee, made the following recommendation regarding the classification of cement monomer vapor evacuators:

1. Identification: A cement monomer vapor evacuator is a device intended for use during surgery for the containment or removal of bone cement monomer vapor or the removal of other undesirable fumes.

2. Recommended clasification: Class I. The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that cement monomer vapor evacuators be classified into class I because general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

FDA agrees with the Panel recommendation and is proposing that cement monomer vapor evacuators be classified into class I with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

§ 888.4230; Docket No. 78N–3110; Cement ventilation tube.

The Orthopedic Device Classification Panel, and FDA advisory committee, made the following recommendation regarding the classification of cement ventilation tubes:

1. Identification: A cement ventilation tube is a device, usually made from plastic, that consists of a segment of tubing that is intended to be inserted into a surgical cavity to allow the release of air or fluid from the cavity as it is being filled with bone cement.

2. Recommended classification: Class I. The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that cement ventilation tubes be classified into class I because general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. This is a relatively simple device with few risks associated with its use. The Panel does not believe that this device requires performance standards to control the identified risk to health.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: Adverse tissue reaction: The chemically reactive materials present in bone cement may dissolve or leach substances from the device and cause the patient to have an adverse tissue reaction.

FDA agrees with the Panel recommendation and is proposing that cement ventilation tubes be classified into class I with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

§ 888.4300; Docket No. 78N–3111; Depth gauge for clinical use.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of depth gauges for clinical use:

1. Identification: A depth gauge for clinical use is a device consisting of an instrument with a graduated scale intended for various uses, such as to determine the proper length of screws for fastening the ends of a fractured bone.

2. Recommended classification: Class I. The Panel recommends that this device be exempt from the premarket notification procedures under section 510(k) of the act and the GMP regulation under section 520(f) of the act.

3. Summary of reasons for recommendation: The Panel recommends that depth gauges for clinical use be classified into class I because general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel believes that manufacturers of the device should not be required to comply with premarket notification procedures or with the good manufacturing practice regulation because this simple device presents no risks to health and all possible defects are readily detectable before use.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

FDA agrees with the Panel recommendation and is proposing that gauges that clinical use be classified

into class I. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

In response to the Panel's recommendation that manufacturers of depth gauges for clinical use be exempt from sections 510(k) and 520(f) of the act, FDA is proposing that these manufacturers be exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations. FDA disagrees with the Panel's recommendation that manufacturers of depth gauges for clinical use be exempt from the GMP regulation under section 520(f) of the act. The agency believes that compliance with this regulation is necessary to assure the quality of this device and thus its safety, effectiveness, and compliance with the adulteration and misbranding provisions of the act. Compliance with the GMP regulation will help prevent defects in depth gauges for clinical use that could harm users. See § 888.1250 *Nonpowered dynamometer* in an earlier section of the preamble and the discussion under the heading "Exemptions for Class I Devices" for further explanation of the agency's policies concerning exemptions.

§ 888.4540; Docket No. 78N-3114; Orthopedic manual surgicial instrument.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of orthopedic manual surgical instruments:

1. Identification: An orthopedic manual surgical instrument is a nonpowered handheld device intended for medical purposes to manipulate tissue, or for use with other devices in orthopedic surgery. This generic type of device includes the cerclage applier, awl, bender, drill brace, broach, burr, corkscrew, countersink, pin crimper, wire cutter, prosthesis driver, extractor, file, fork, needle holder, impactor, bending or contouring instrument, compression instrument, passer, socket positioner, probe, femoral neck punch, socket pusher, reamer, rongeur, scissors, screwdriver, bone skid, staple driver, bone screw starter, surgical stripper, tamp, bone tap, trephine, wire twister, and wrench.

2. Recommended classification: Class I. The Panel recommends that these devices be exempt from premarket notification procedures under section 510(k) of the act and the GMP regulation under section 520(f) of the act, except those requirements pertaining to quality control.

3. Summary of reasons for recommendation: The Panel recommends that orthopedic manual surgical instruments be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. Orthopedic manual surgical instruments have been used for many years in a variety of surgical procedures. These are simple, nonpowered devices that present no undue hazards when used for the purposes for which they were designed.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members, personal knowledge of, and clinical experience with, the device.

5. Risks to health: Tissue damage and adverse tissue reaction: Inadequate mechanical properties, such as lack of material strength of the device, may result in device fracture and possible tissue damage and, if fragments of the fractured device remain in the tissue, an adverse tissue reaction may result.

FDA agrees with the Panel recommendation and is proposing that orthopedic manual surgical instruments be classified into class I. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the devices.

In response to the Panel's recommendation that manufacturers of orthopedic manual surgical instruments be exempt from sections 510(k) and 520(f) of the act, FDA is proposing that these manufacturers be exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations. FDA disagrees with the Panel's recommendation that manufacturers of orthopedic manual surgical instruments be exempt from the GMP regulation under section 520(f) of the act. The agency believes that compliance with this regulation is necessary to assure the quality of these devices and thus their safety, effectiveness, and compliance with the adulteration and misbranding provisions of the act. Compliance with the GMP regulation will help prevent defects in orthopedic manual surgical instruments that could harm users. See § 888.1250 *Nonpowered dynamometer* in an earlier section of the preamble and the discussion under the heading "Exemptions for Class I Devices" for further explanation of the agency's policies concerning exemptions.

§ 888.4580; Docket No. 78N-3116; Sonic surgical instrument and accessories/ attachments.

The Orthopedic Device Classification Panel and the Neurological Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of sonic surgical instruments and accessories/ attachments:

1. Identification: A sonic surgical instrument is a hand-held device with various accessories or attachments, such as a cutting tip that vibrates at high frequencies, and is intended for medical purposes to cut bone or other materials, such as acrylic.

2. Recommended classification: Class II. Both Panels recommend that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: Both Panels recommend that the device be classified into class II because certain characteristics of this device, such as its electrical properties, must be controlled by a performance standard. The Panels believe that general controls alone would not provide sufficient safeguards over the dangers associated with use of the device. The Panels believe that a performance standard will provide reasonable assurance of the safety and effectiveness of the device and that sufficient information exists to establish a standard.

4. Summary of data on which the recommendation is based: Both Panels based their recommendations on the potential hazards associated with the device and on the Panel members' clinical experience with the device. The Panel members believe that the data indicate that the device will cut bone as safely as other techniques without apparent damage to surrounding tissue or bone.

5. Risks to health: (a) Electrical shock: Excessive current leakage from the device may cause electrical shock to the patient or operator. (b) Hard or soft tissue injury: Excessive sonic energy may result in injury to the hard or soft tissue being cut.

FDA agrees with the recommendations of both Panels and is proposing that sonic surgical instruments and accessories or attachments be classified into class II. The agency believes that a performance standard is necessary for these devices because general controls alone are insufficient to minimize the risks to health presented by these devices. A performance standard will provide

reasonable assurance of the safety and effectiveness of these devices. The agency also believes that sufficient information exists to establish a performance standard for these devices. FDA has reviewed the recommendations of the Orthopedic Device Classification Panel and of the Neurological Device Classification Panel for sonic surgical instruments and accessories or attachments and has determined that the classification of these devices should be published in the part of the Code of Federal Regulations for orthopedic devices.

§ 888.4600; Docket No. 78N–3117; Protractor for clinical use.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of protractors for clinical use:

1. Identification: A protractor for clinical use is a device intended for use in measuring the angles of bones, such as on X-rays or in surgery.

2. Recommended classification: Class I. The Panel recommends that the device be exempt from the premarket notification procedures under section 510(k) of the act and the GMP regulation under section 520(f) of the act.

3. Summary of reasons for recommendation: The Panel recommends that protractors for clinical use be classified into class I because general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel believes that manufacturers of the device should not be required to comply with premarket notification procedures or with the good manufacturing practice regulation in manufacturing the device because this simple device presents no risks to health and all possible defects are readily detectable before use.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

FDA agrees with the Panel recommendation and is proposing that protractors for clinical use be classified into class I. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

In response to the Panel's recommendation that manufacturers of protractors for clinical use be exempt from sections 510(k) and 520(f) of the act, FDA is proposing that these manufacturers be exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations. FDA disagrees with the Panel's recommendation that manufacturers of protractors for clinical use be exempt from the GMP regulation under section 520(f) of the act. The agency believes that compliance with this regulation is necessary to assure the quality of this device and thus its safety, effectiveness, and compliance with the adulteration and misbranding provisions of the act. Compliance with the GMP regulation will help prevent defects in protractors for clinical use that could harm users. See § 888.1250 *Nonpowered dynamometer* in an earlier section of the preamble and the discussion under the heading "Exemptions for Class I Devices" for further explanation of the agency's policies concerning exemptions.

§ 888.4800; Docket No. 78N–3118; Template for clinical use.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of templates for clinical use:

1. Identification: A template for clinical use is a device that consists of a pattern or guide intended for medical purposes, such as selecting or positioning orthopedic implants or guiding the marking of tissue before cutting.

2. Recommended classification: Class I. The Panel recommends that the device be exempt from the premarket notification procedures under section 510(k) of the act and the GMP regulation under section 520(f) of the act.

3. Summary of reasons for recommendation: The Panel recommends that templates for clinical use be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel believes that manufacturers of the device should not be required to comply with the premarket notification procedures or with the good manufacturing practice regulation because all possible defects are readily detectable before use.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: Tissue damage and adverse tissue reaction: Fracture of the device could injure surrounding tissue and, if device fragments remain in the tissue, could cause an adverse tissue reaction.

FDA agrees with the Panel recommendation and is proposing that templates for clinical use be classified into class I. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

In response to the Panel's recommendations that manufacturers of protractors for clinical use be exempt from sections 510(k) and 520(f) of the act, FDA is proposing that these manufacturers be exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations. FDA disagrees with the Panel's recommendation that manufacturers of templates for clinical use be exempt from the GMP regulation under section 520(f) of the act. The agency believes that compliance with this regulation is necessary to control the risk to health identified by the Panel. Compliance with the GMP regulation will help prevent defects in templates for clinical use that could harm patients. See § 888.1250 *Nonpowered dynamometer* in an earlier section of the preamble and the discussion under the heading "Exemptions for Class I Devices" for further explanation of the agency's policies concerning exemptions.

§ 888.5850; Docket No. 78N–3120; Nonpowered orthopedic traction apparatus and accessories.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of nonpowered orthopedic traction apparatus and accessories:

1. Identification: A nonpowered orthopedic traction apparatus is a device that consists of a rigid frame with nonpowered traction accessories, such as cords, pulleys, or weights, and that is intended to apply a therapeutic pulling force to the skeletal system.

2. Recommended classification: Class I. The Panel recommends that the device be exempt from the premarket notification procedures under section 510(k) of the act and the GMP regulation under section 520(f) of the act.

3. Summary of reasons for recommendation: The Panel recommends that nonpowered orthopedic traction apparatus and accessories be classified into class I because general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel believes that manufacturers of the device should not be required to comply with the premarket notification procedures or with the good manufacturing practice regulation because these simple devices present no

risks to health and all possible defects are readily detectable before use.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and experience with, nonpowered orthopedic traction apparatus and accessories.

5. Risks to health: None identified.

FDA agrees with the panel recommendation and is proposing that nonpowered orthopedic traction apparatus and accessories be classified into class I.

In response to the Panel's recommendation that manufacturers of nonpowered orthopedic traction apparatus and accessories be exempt from sections 510(k) and 520(f) of the act, FDA is proposing that these manufacturers be exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations. FDA is proposing that manufacturers of these devices be exempt from all requirements of the GMP regulation with the exception of § 820.180, regarding general requirements concerning records, and § 820.198, regarding maintenance of complaint files. See § 888.1250 *Nonpowered dynamometer* in an earlier section of the preamble and the discussion under the heading "Exemptions for Class I Devices" for further explanation of the agency's policies concerning exemptions.

§ 888.5890; Docket No. 78N–3122; Noninvasive traction component.

The Orthopedic Device Classification Panel, and FDA advisory committee, made the following recommendation regarding the classification of noninvasive traction components:

1. Identification: A noninvasive traction component is a device, such as a head halter, pelvic belt, or a traction splint, that does not penetrate the skin and is intended to assist in connecting a patient to a traction apparatus so that a therapeutic pulling force may be applied to the patient's body.

2. Recommended classification: Class I. The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that noninvasive traction components be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

FDA agrees with the Panel recommendation and is proposing that noninvasive traction components be classified into class I with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

§ 888.5940; Docket No. 78N–3123; Cast component.

The Orthopedic Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of cast components:

1. Identification: A cast component is a device intended for medical purposes to protect or support a cast. This generic type of device includes the cast heel, toe cap, cast support, and walking iron.

2. Recommended classification: Class I. The Panel recommends that the device be exempt from the GMP regulation under section 520(f) of the act.

3. Summary of reasons for recommendation: The Panel recommends that cast components be classified into class I because general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel does not believe that this device requires performance standards. The Panel recommends that the manufacturer be exempt from the good manufacturing practice requirements because adherence to the good manufacturing practice regulation would not improve the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

FDA agrees with the Panel recommendation and is proposing that cast components be classified into class I. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the devices.

In response to the Panel's recommendation that manufacturers of cast components be exempt from section 520(f) of the act, FDA is proposing that a manufacturer of these devices be exempt from all requirements of the GMP regulation with the exception of § 820.180, regarding general requirements concerning records, and § 820.198, regarding maintenance of complaint files. See § 888.1250 *Nonpowered dynamometer* in an earlier section of the preamble and the discussion under the heading "Exemptions for Class I Devices" for further explanation of the agency's policies concerning exemptions.

§ 888.5960; Docket No. 78N–3124; AC-powered cast removal instrument.

The Orthopedic Device Classification Panel, an FDA advisory committee made the following recommendation regarding the classficiation of AC-powered cast removal instruments:

1. Identification: An AC-powered cast removal instrument is an AC-powered hand-held device intended to remove a cast from a patient. This generic type of device includes the electric cast cutter and cast vacuum.

2. Recommended classification: Class II. The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that AC-powered cast removal instruments be classified into Class II because the electrical properties of the device must be controlled to prevent electrical injury to the patient or operator. The Panel believes that general controls alone will not provide sufficient safeguards over the dangers associated with use of the device. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device and that sufficient information exists to establish a standard.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: Electrical injury: Excessive current leakage from this device may cause electrical injury to the patient or operator.

FDA agrees with the Panel recommendation and is proposing that AC-powered cast removal instruments be classified into class II. The agency believes that a performance standard is necessary for these devices because general controls alone are insufficient to minimize the risks to health presented by these devices. A performance standard will provide reasonable assurance of the safety and effectiveness of these devices. The agency also believes that there is sufficient information to establish a performance standard for these devices.

§ 888.5980; Docket No. 78N–3125; Manual cast application and removal instrument.

The Orthopedic Device Classification Panel, an FDA advisory committee,

made the following recommendation regarding the classification of manual cast application and removal instruments:

1. Identification: A manual cast application and removal instrument is a nonpowered hand-held device intended to be used in applying or removing a cast. This generic type of device includes the cast knife, cast spreader, plaster saw, plaster dispenser, and casting stand.

2. Recommended classification: Class I. The Panel recommends that the device be exempt from the CMP regulation under section 520(f) of the act.

3. Summary of reasons for recommendation: The Panel recommends that manual cast application and removal instruments be classified into class I because general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel does not believe that these devices require performance standards. The Panel recommends that the manufacturer be exempt from the good manufacturing practice requirements because adherence to the good manufacturing practice regulation would not improve the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

FDA agrees with the Panel recommendation and is proposing that manual cast application and removal instruments be classified into class I. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of these devices.

In response to the Panel's recommendation that manufacturers of manual cast application and removal instruments be exempt from section 520(f) of the act, FDA is proposing that a manufacturer of these devices be exempt from all requirements in the GMP regulation, with the exception of § 820.180, regarding general requirements concerning records, and § 820.198, regarding maintenance of complaint files. See § 888.1250 *Nonpowered dynamometer* in an earlier section of the preamble and the discussion under the heading "Exemptions for Class I Devices" for further explanation of the agency's policies concerning exemptions.

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The following information has been placed in the Dockets Management Branch (address above) and may be seen by interested persons from 9 a.m. to 4 p.m., Monday through Friday.

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Environmental Impact

The agency has determined pursuant to 21 CFR 25.24(b)(12) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 888

Medical devices, Orthopedic devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), it is proposed that Chapter I of Title 21 of the Code of Federal Regulations be amended by adding new Part 888, to read as follows:

PART 888—ORTHOPEDIC DEVICES

Subpart A—General Provisions

Sec.
888.1 Scope.

Subpart B—Orthopedic Diagnostic Devices

888.1100 Arthoscope.
888.1240 AC-powered dynamometer.
888.1250 Nonpowered dynamometer.
888.1500 AC-powered goniometer.
888.1520 Nonpowered goniometer.

Subpart D—Orthopedic Prosthetic Devices

888.3000 Bone cap.
888.3010 Bone fixation cerclage.
888.3020 Intramedullary fixation rod.
888.3025 Passive tendon prosthesis.
888.3030 Single/multiple component metallic bone fixation appliances and accessories.
888.3040 Smooth or threaded metallic bone fixation fastener.
888.3050 Spinal interlaminal fixation orthosis.
888.3060 Spinal intervertebral body fixation orthosis.
888.3100 Ankle joint metal/composite semi-constrained prosthesis.
888.3110 Ankle joint metal/polymer semi-constrained prosthesis.
888.3120 Ankle joint metal/polymer non-constrained prosthesis.
888.3150 Elbow joint constrained prosthesis.
888.3160 Elbow joint semi-constrained prosthesis.
888.3170 Elbow joint radial (hemi-elbow) prosthesis.
888.3180 Elbow joint humeral (hemi-elbow) uncemented prosthesis.
888.3200 Finger joint metal/metal constrained uncemented prosthesis.
888.3210 Finger joint metal/metal contrained prosthesis.
888.3220 Finger joint metal/polymer constrained prosthesis.
888.3230 Finger joint polymer constrained prosthesis.
888.3300 Hip joint metal constrained prosthesis.
888.3310 Hip joint metal/polymer constrained prosthesis.
888.3320 Hip joint metal/metal semi-constrained, with a cemented acetabular component, prosthesis.
888.3330 Hip joint metal/metal semi-constrained, with an uncemented acetabular component, prosthesis.
888.3340 Hip joint metal/composite semi-constrained prosthesis.
888.3350 Hip joint metal/polymer semi-constrained prosthesis.
888.3360 Hip joint femoral (hemi-hip) metallic prosthesis.
888.3370 Hip joint (hemi-hip) acetabular metal prosthesis.
888.3380 Hip joint femoral (hemi-hip) trunnion-bearing metal/polyacetal prosthesis.
888.3390 Hip joint femoral (hemi-hip) metal/polymer prosthesis.
888.3400 Hip joint femoral (hemi-hip) resurfacing prosthesis
888.3410 Hip joint metal/polymer semi-constrained resurfacing prosthesis
888.3480 Knee joint femorotibial metallic constrained prosthesis.
888.3490 Knee joint femorotibial metal/composite non-constrained prosthesis.
888.3500 Knee joint femorotibial metal/composite semi-constrained prosthesis.
888.3510 Knee joint femorotibial metal/polymer constrained prosthesis.
888.3520 Knee joint femorotibial metal/polymer non-constrained prosthesis.
888.3530 Knee joint femorotibial metal/polymer semi-constrained prosthesis.
888.3540 Knee joint patellofemoral polymer/metal semi-constrained prosthesis.
888.3550 Knee joint patellofemorotibial polymer/metal/metal constrained prosthesis.
888.3560 Knee joint patellofemorotibial polymer/metal/polymer semi-constrained prosthesis.
888.3570 Knee joint femoral (hemi-knee) metallic uncemented prosthesis.
888.3580 Knee joint patellar (hemi-knee) metallic resurfacing uncemented prosthesis.
888.3590 Knee joint tibial (hemi-knee) metallic resurfacing uncemented prosthesis.
888.3640 Shoulder joint constrained prosthesis.
888.3650 Shoulder joint non-constrained prosthesis.
888.3660 Shoulder joint semi-constrained prosthesis.
888.3680 Shoulder joint glenoid (hemi-shoulder) prosthesis.
888.3690 Shoulder joint humeral (hemi-shoulder) metallic uncemented prosthesis.
888.3720 Toe joint constrained uncemented prosthesis.
888.3730 Toe joint phalangeal (hemi-toe) prosthesis.
888.3750 Wrist joint carpal lunate prosthesis.
888.3760 Wrist joint carpal scaphoid prosthesis.
888.3770 Wrist joint trapezium prosthesis.
888.3780 Wrist joint polymer constrained uncemented prosthesis.
888.3790 Wrist joint metal constrained prosthesis.
888.3800 Wrist joint semi-constrained prosthesis.
888.3810 Wrist joint ulnar (hemi-wrist) prosthesis.
888.4150 Calipers for clinical use.
888.4200 Cement dispenser.
888.4210 Cement mixer for clinical use.
888.4220 Cement monomer vapor evacuator.
888.4230 Cement ventilation tube.
888.4300 Depth gauge for clinical use.
888.4540 Orthopedic manual surgical instrument.
888.4580 Sonic surgical instrument and accessories/attachments.
888.4600 Protractor for clinical use.
888.4800 Template for clinical use.
888.5850 Nonpowered orthopedic traction apparatus and accessories.
888.5890 Noninvasive traction components.
888.5940 Cast components.
888.5960 AC-powered cast removal instruments.
888.5980 Manual cast application/removal instruments.

Authority: Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).

Subpart A—General Provisions

§ 888.1 Scope.

(a) This part sets forth the classification of orthopedic devices intended for human use that are in commercial distribution.

(b) The identification of a device in a regulation in this part is not a precise description of every device that is, or will be, subject to the regulation. A manufacturer who submits a premarket notification submission for a device under Part 807 cannot show merely that the device is accurately described by the section title and identification provision of a regulation in this part, but shall state why the device is substantially equivalent to other devices, as required by § 807.87.

(c) To avoid duplicative listings, an orthopedic device that has two or more types of uses (e.g., used both as a diagnostic device and as a surgery device) is listed on one subpart only.

(d) References in this part to regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21 unless otherwise noted.

Subpart B—Orthopedic Diagnostic Devices

§ 888.1100 Arthroscope.

(a) *Identification.* An arthroscope is a type of electrically powered endoscope that is intended to make visible the interior of a joint. The arthroscope may be combined with accessories to permit surgery in selected anatomic locations.

(b) *Classification.* Class II (performance standards).

§ 888.1240 AC-powered dynamometer.

(a) *Identification.* An AC-powered dynamometer is an electrically powered device intended for medical purposes to assess neuromuscular function or degree of neuromuscular blockage by measuring, with a force transducer (a device that translates force into electrical impulses), the grip-strength of a patient's hand.

(b) *Classification.* Class II (performance standards).

§ 888.1250 Nonpowered dynamometer.

(a) *Identification.* A nonpowered dynamometer is a mechanical device intended for medical purposes to measure the pinch and grip muscle strength of a patient's hand.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807. The device also is exempt from the good manufacturing practice regulation in Part 820, with the exception of § 820.180, regarding general requirements concerning records, and § 820.198, regarding complaint files.

§ 888.1500 AC-powered goniometer.

(a) *Identification.* An AC-powered goniometer is an AC-powered measuring and recording device intended to evaluate joint function by measuring ranges of motion, acceleration, or forces exerted by a joint.

(b) *Classification.* Class II (performance standards).

§ 888.1520 Nonpowered goniometer.

(a) *Identification.* A nonpowered goniometer is a mechanical device intended for medical purposes to measure the range of motion of joints.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807. The device also is exempt from the good manufacturing practice regulation in Part 820, with the exception of § 820.180, regarding general requirements concerning records, and § 820.198, regarding complaint files.

Subpart D—Orthopedic Prosthetic Devices

§ 888.3000 Bone cap.

(a) *Identification.* A bone cap is a mushroom-shaped implanted device made of either silicone elastomer or ultra-high molecular weight polyethylene. It is intended to cover the severed end of a long bone, such as the humerus or tibia, to control bone overgrowth in juvenile amputees.

(b) *Classification.* Class II (performance standards).

§ 888.3010 Bone fixation cerclage.

(a) *Identification.* A bone fixation cerclage is an implanted device that is made of alloys such as cobalt-chromium-molybdenum, and that consists of a metallic ribbon or flat sheet or a wire. When implanted, the device is wrapped around the shaft of a long bone, anchored to the bone with wire or screws, and used in the fixation of fractures.

(b) *Classification.* Class II (performance standards).

§ 888.3020 Intramedullary fixation rod.

(a) *Identification.* An intramedullary fixation rod is an implanted device that consists of a rod made of alloys, such as cobalt-chromium-molybdenum and stainless steel. It is inserted into the medullary (bone marrow) canal of long bones for the fixation of fractures.

(b) *Classification.* Class II (performance standards).

§ 888.3025 Passive tendon prosthesis.

(a) *Identification.* A passive tendon prosthesis is an implanted device made of silicone elastomer or a polyester reinforced medical grade silicone elastomer intended for use in the surgical reconstruction of a flexor tendon of the hand. The device is implanted for a period of 2 to 6 months to aid growth of a new tendon sheath. The device is not intended as a permanent implant nor to function as a replacement for the ligament or tendon nor to function as a scaffold for soft tissue ingrowth.

(b) *Classification.* Class II (performance standards).

§ 888.3030 Single/multiple component metallic bone fixation appliances and accessories.

(a) *Identification.* Single/mutliple component metallic bone fixation appliances and accessories are implanted devices, consisting of one or more metallic components and their metallic fasteners. The devices contain a plate, a nail/plate combination, or a blade/plate combination that is made of alloys, such as cobalt-chromium-molybdenum, stainless steel, and titanium, that is intended to be held in position with fasteners, such as screws and nails, or bolts, nuts, and washers. These devices are intended to be used for fixation of fractures of the proximal or distal end of long bones, such as intracapsular, intertrochanteric, intercervical, supracondylar, or condylar fractures of the femur; for fusion of a joint; or for surgical procedures that involve cutting a bone. The device is intended to be implanted or attached through the skin so that a pulling force (traction) may be applied to the skeletel system.

(b) *Classification.* Class II (performance standard).

§ 888.3040 Smooth or threaded metallic bone fixation fastener.

(a) *Identification.* A smooth or threaded metallic bone fixation fastener is an implanted device that consists of a stiff wire segment or rod made of alloys, such as cobalt-chromium-molybdenum and stainless steel, and that may be smooth on the outside, fully or partially threaded, straight or U-shaped; and may be either blunt pointed, sharp pointed or have a formed, slotted head on the end. It is intended to be used for fixation of bone fractures, bone reconstructions, as a guide pin for insertion of other implants, or to be implanted through the skin so that a pulling force (traction) may be applied to the skeletal system.

(b) *Classification.* Class II (performance standards).

§ 888.3050 Spinal interlaminal fixation orthosis.

(a) *Identification.* A spinal interlaminal fixation orthosis is an implanted device made of an alloy, such as stainless steel, that consists of various hooks and a posteriorly placed compression or distraction rod. The device is implanted, usually across three adjacent vertebrae, to straighten and immobilize the spine to allow bone grafts to unite and fuse the vertebrae together. The device is used primarily in the treatment of scoliosis (a lateral curvature of the spine), but it also has been used in the treatment of fracture or dislocation of the spine, grades 3 and 4 of spondylolisthesis (a dislocation of the spinal column), and lower back syndrome.

(b) *Classification.* Class II (performance standards).

§ 888.3060 Spinal intervertebral body fixation orthosis.

(a) *Identification.* A spinal intervertebral body fixation orthosis is an implanted device made of titanium. It consists of various vertebral plates that are punched into each of a series of vertebral bodies. An eye-type screw is inserted in a hole in the center of each of the plates. A braided cable is threaded through each eye-type screw. The cable is tightened with a tension device and it is fastened or crimped at each eye-type screw. The device is intended to apply force to a series of vertebrae to correct "sway back", scoliosis (lateral curvature of the spine), or other conditions.

(b) *Classification.* Class II (performance standards).

§ 888.3100 Ankle joint metal/composite semi-constrained prosthesis.

(a) *Identification.* An ankle joint metal/composite semi-constrained prosthesis is an implanted device intended to replace an ankle joint. The device limits translation and rotation in one or more planes via the geometry of its articulating surfaces. It has no linkage across-the-joint. This generic type of device includes prostheses that consist of a talar resurfacing component made of alloys, such as cobalt-

chromium-molybdenum, and a tibial resurfacing component fabricated from a carbon fiber reinforced ultra-high molecular weight polyethylene composite, and is limited to those devices intended for implantation with a polymethylmethacrylate luting agent (bone cement).

(b) *Classification.* Class III (premarket approval).

§ 888.3110 Ankle joint metal/polymer semi-constrained prosthesis.

(a) *Identification.* An ankle joint metal/polymer semi-constrained prosthesis is an implanted device intended to replace an ankle joint. The device limits translation and rotation in one or more planes via the geometry of its articulating surfaces and has no linkage across-the-joint. This generic type of device includes prostheses that have a talar resurfacing component made of alloys, such as cobalt-chromium-molybdenum, and a tibial resurfacing component made of ultra-high molecular weight polyethylene, and is limited to those devices intended for implantation with a polymethylmethacrylate luting agent (bone cement).

(b) *Classification.* Class II (performance standards).

§ 888.3120 Anke joint metal/polymer non-constrained prostheses.

(a) *Identification.* An ankle joint metal/polymer non-constrained prosthesis is an implanted device intended to replace an ankle joint. The device limits minimally (less than normal anatomic constraints) translation in one or more planes. It has no linkage across-the-joint. This generic type of device includes prostheses that have a tibial component made of alloys, such as cobalt-chromium-molybdenum, and a talar component made of ultra-high molecular weight polyethylene, and is limited to those devices intended for implantation with a polymethylmethacrylate luting agent (bone cement).

(b) *Classification.* Class III (premarket approval).

§ 888.3150 Elbow joint constrained prosthesis.

(a) *Identification.* An elbow joint constrained prosthesis is an implanted device made exclusively of alloys, such as cobalt-chromium-molybdenum, or made from these alloys and ultra-high molecular weight polyethylene, that is intended to replace an elbow joint. The device prevents dislocation in more than one anatomic plane and consists of two components which are linked together (or affined). The generic type of device is limited to those prostheses intended for implantation with a polymethylmethacrylate luting agent (bone cement).

(b) *Classification.* Class III (premarket approval).

§ 888.3160 Elbow joint semiconstrained prosthesis.

(a) *Identification.* An elbow joint semi-constrained prosthesis is an implanted device intended to replace an elbow joint. The device limits translation and rotation in one or more planes via the geometry of its articulating surfaces. It has no linkage across-the-joint. This generic type of device includes prostheses that consist of a humeral resurfacing compoonent made of alloys, such as cobalt-chromium-molybdenum, and a radial resurfacing component made of ultra-high molecular weight polyethylene. This generic type of device is limited to those devices intended for implantation with a polymethylmethacrylate luting agent (bone cement).

(b) Classification. Class II (performance standards).

§ 888.3170 Elbow joint radial (hemi-elbow) prosthesis.

(a) *Identification.* An elbow joint radial (hemi-elbow) prosthesis is an implanted device made of medical grade silicone elastomer intended to replace the proximal end of the radius. The device is intended for implantation without a polymethylmethacryate luting agent (bone cement).

(b) Classification. Class II (performance standards).

§ 888.3180 Elbow joint humeral (hemi-elbow) uncemented prosthesis.

(a) *Identification.* An elbow joint humeral (hemi-elbow) uncemented prosthesis is an implanted device made of alloys, such as cobalt-chromium-molybdenum, that is intended to replace the distal end of the humerus formed by the trochlea humeri and the capitulum humeri. The device is intended for implantation without a polymethylmethacrylate luting agent (bone cement).

(b) Classification. Class III (premarket approval).

§ 888.3200 Finger joint metal/metal constrained uncemented prosthesis.

(a) *Identification.* A finger joint metal/metal constrained uncemented prosthesis is an implanted device intended to replace a metacarpophalangeal or proximal interphalangeal (finger) joint. The device prevents dislocation in more than one anatomic plane and consists of two components which are linked together. This generic type of device includes prostheses made of alloys, such as cobalt-chromium-molybdenum, or prostheses made from alloys and ultrahigh molecular weight polyethylene. This generic type of device is limited to prostheses intended to be implanted without a polymethylmethacrylate luting agent (bone cement).

(b) Classification. Class III (premarket approval).

§ 888.3210 Finger joint metal/metal constrained prosthesis.

(a) *Identification.* A finger joint metal/metal constrained uncemented prosthesis is an implanted device intended to replace a metacarpophalangeal (finger) joint. This device prevents dislocation in more than one anatomic plane and has components which are linked together. This generic type of device includes prostheses made of alloys, such as cobalt-chromium-molybdenum, and is limited to those to those devices intended for implantation with a polymethylmethacrylate luting agent (bone cement).

(b) Classification. Class III (premarket approval).

§ 888.3220 Finger joint metal/metal constrained prosthesis.

(a) *Identification.* A finger joint metal/polymer constrained prosthesis is an implanted device intended to replace a metacarpophalangeal or proximal interphalangeal (finger) joint. The device prevents dislocation in more than one anatomic plane, and consists of two components which are linked together. This generic type of device includes prostheses made of alloys, such as cobalt-chromium-molybdenum, an ultra-high molecular weight polyethylene, and is limited to those devices that are intended for implantation with a polymethylmethacrylate luting agent (bone cement).

(b) *Classification.* Class III (premarket approval).

§ 888.3230 Finger joint polymer constrained prosthesis.

(a) *Identification.* A finger joint polymer constrained prosthesis is an implanted device intended to replace a metacarpophalangeal or proximal interphalangeal (finger) joint. This generic type of device includes prostheses that consist of a single flexible across-the-joint component made from either a silicone elastomer or a combination of polypropylene and polyester material. The flexibile across-the-joint component may be covered with a silicone rubber sleeve. These prostheses are intended to be implanted

without a polymethylmethacrylate luting agent (bone cement).

(b) *Classification.* Class II (performance standards).

§ 888.3300 Hip joint metal constrained prosthesis.

(a) *Identification.* A hip joint metal constrained prosthesis is an implanted device intended to replace a hip joint. The device prevents dislocation in more than one anatomic plane and has components that are linked together. This generic type of device includes prostheses that have a femoral component made of alloys, such as cobalt-chromium-molybdenum, and an acetabular component made of an alloy with an ultra-high molecular weight polyethylene insert, and is limited to those devices intended for implantation with a polymethylmethacrylate luting agent (bone cement).

(b) *Classification.* Class III (premarket approval).

§ 888.3310 Hip joint metal/polymer constrained prosthesis.

(a) *Identification.* A hip joint metal/polymer contrained prosthesis is an implanted device intended to replace a hip joint. The device prevents dislocation in more than oen anatomic plane and has components that are linked together. This generic type of device includes prostheses that have a femoral component made of alloys, such as cobalt-chromium-molybdenum, and an acetabular component made of ultra-high molecular weight polyethylene. This generic type of device is limited to those devices intended for implantation with a polymethylmethacrylate luting agent (bone cement).

(b) *Classification.* Class III (premarket approval).

§ 888.3320 Hip joint metal/metal semi-constrained, with a cemented acetabular component, prosthesis.

(a) *Identification.* A hip joint metal/metal semi-constrained, with a cemented acetabular component, prosthesis is an implanted two-part device intended to replace a hip joint. The device limits translation and rotation in one or more planes via the geometry of its articulating surfaces. It has no linkage across-the-joint. This generic type of device includes prostheses that consist of a femoral and an acetabular component, both made of alloys such as cobalt-chromium-molybdenum. This generic type of device is limited to those devices intended for implantation with a polymethylmethacrylate luting agent (bone cement).

(b) *Classification.* Class III (premarket approval).

§ 888.3330 Hip joint metal/metal semi-constrained, with an uncemented acetabular component, prosthesis.

(a) *Identification.* A hip joint metal/metal semi-constrained, with an uncemented acetabular component, prosthesis is an implanted two-part device intended to replace a hip joint. The device limits translation and rotation in one or more planes via the geometry of its articulating surfaces. It has no linkage across-the-joint. This generic type of device includes prostheses that consist of a femoral and an acetabular component, both made of alloys, such as cobalt-chromium-molybdenum. The femoral component is intended to be fixed with bone cement. The acetabular component is intended to be used without a polymethylmethacrylate luting agent (bone cement).

(b) *Classification.* Class III (premarket approval).

§ 888.3340 Hip joint metal/composite semi-constrained prosthesis.

(a) *Identification.* A hip joint metal/composite semi-constrained prosthesis is an implanted two-part device intended to replace a hip joint. The device limits translation and rotation in one or more planes via the geometry of its articulating surfaces. It has no linkage across-the-joint. This generic type of device includes prostheses that consist of a femoral component made of alloys such as cobalt-chromium-molybdenum, and an acetabular component made of carbon fiber reinforced ultra-high molecular weight polyethylene. Both components are intended to be implanted with a polymethylmethacrylate luting agent (bone cement).

(b) *Classification.* Class III (premarket approval).

§ 888.3350 Hip joint metal/polymer semi-constrained prosthesis.

(a) *Identification.* A hip joint metal/polymer semi-constrained prosthesis is an implanted device intended to replace a hip joint. The device limits translation and rotation in one or more planes via the geometry of its articulating surfaces. It has no linkage across-the-joint. This generic type of device includes prostheses that have a femoral component made of alloys, such as cobalt-chromium-molybdenum, and an acetabular resurfacing component made of ultra-high molecular weight polyethylene, and is limited to those devices intended for implantation with a polymethylmethacrylate luting agent (bone cement).

(b) *Classification.* Class II (performance standards).

§ 888.3360 Hip joint femoral (hemi-hip) metallic prosthesis.

(a) *Identification.* A hip joint femoral (hemi-hip) metallic prosthesis is an implanted device intended to replace a portion of the hip joint. This generic type of device includes prostheses that have a femoral component made of alloys, such as cobalt-chromium-molybdenum. This generic type of device includes designs which are intended to be fixed to the bone with a polymethylmethacrylate luting agent (bone cement), as well as designs which have large window-like holes in the stem of the device and which are intended to be used without bone cement. However, in these latter designs, fixation of the device is not achieved by means of bone ingrowth.

(b) *Classification.* Class II (performance standards).

§ 888.3370 Hip joint (hemi-hip) acetabular metal prosthesis.

(a) *Identification.* A hip joint (hemi-hip) acetabular metal prosthesis is an implanted device intended to replace a portion of the hip joint. This generic type of device includes prostheses that have an acetabular component made of alloys, such as cobalt-chromium-molybdenum. This generic type of device is limited to those devices intended for implantation with a polymethylmethacrylate luting agent (bone cement).

(b) *Classification.* Class III (premarket approval).

§ 888.3380 Hip joint femoral (hemi-hip) trunnion-bearing metal/polyacetal prosthesis.

(a) *Identification.* A hip joint femoral (hemi-hip) trunnion-bearing metal/polyacetal prosthesis is an implanted two-part device intended to replace the head and neck of the femur. This generic type of device includes prostheses that consist of a metallic stem made of alloys, such as cobalt-chromium-molybdenum, with an integrated cylindrical trunnion bearing at the upper end of the stem that fits into a recess in the head of the device. The head of the device is made of polyacetal (polyoxymethylene) and it is covered by a metallic alloy, such as cobalt-chromium-molybdenum. The trunnion bearing allows the head of the device to rotate on its stem. The prosthesis stem is intended for implantation with a polymethylmethacrylate luting agent (bone cement).

(b) *Classification.* Class III (premarket approval).

§ 888.3390 Hip joint femoral hemi-hip metal/polymer prosthesis.

(a) *Identification.* A hip joint femoral hemi-hip metal/polymer prosthesis is an implanted two-part device intended to replace the head and neck of the femur. This generic type of device includes prostheses that have a femoral component made of alloys, such as cobalt-chromium-molybdenum, and a snap-fit acetabular component made of an alloy, such as cobalt-chromium-molybdenum, and ultra-high molecular weight polyethylene. This generic type of device may be fixed to the bone with a polymethylmethacrylate luting agent (bone cement) or implanted by impaction.

(b) *Classification.* Class II (performance standards).

§ 888.3400 Hip joint femoral (hemi-hip) resurfacing prosthesis.

(a) *Identification.* A hip joint femoral (hemi-hip) resurfacing prosthesis is an implanted device intended to replace a portion of the hip joint. This generic type of device includes prostheses that have a femoral resurfacing component made of alloys, such as cobalt-chromium-molybdenum.

(b) *Classification.* Class II (performance standards).

§ 888.3410 Hip joint metal/polymer semi-constrained resurfacing prosthesis.

(a) *Identification.* A hip joint metal/polymer semi-constrained resurfacing prosthesis is an implanted two-part device intended to replace the articulating surfaces of the hip while preserving the femoral head and neck. The device limits translation and rotation in one or more planes via the geometry of its articulating surfaces. It has no linkage across-the-joint. This generic type of device includes prostheses that consist of a femoral cap component made of alloy, such as cobalt-chromium-molybdenum, that is placed over a surgically prepared femoral head, and an acetabular resurfacing polymer component. Both components are intended for implantation with a polymethylmethacrylate luting agent (bone cement).

(b) *Classification.* Class III (premarket approval).

§ 888.3480 Knee joint femorotibial metallic constrained prosthesis.

(a) *Identification.* A knee joint femorotibial metallic constrained prosthesis is an implanted device intended partially to replace a knee joint. The device prevents dislocation in more than one anatomic plane and has components that are linked together. The only knee joint movement allowed by the device is in the sagittal plane. This generic type of device includes prostheses that have an intramedullary stem at both the proximal and distal locations. The upper and lower components may be joined either by a solid bolt or pin, and internally threaded bolt with locking screw, or a bolt retained by circlip. The components of the device are made of alloys, such as cobalt-chromium-molybdenum. The stems of the device may be perforated, but are intended to be implanted with a polymethylmethacrylate luting agent (bone cement).

(b) *Classification.* Class II (performance standards).

§ 888.3490 Knee joint femorotibial metal/composite non-constrained prosthesis.

(a) Identification. A knee joint femorotibial metal/composite non-constrained prosthesis is an implanted device intended partially to replace a knee joint. The device limits minimally (less than normal anatomic constraints) translation in one or more planes. It has no linkage across-the-joint. This generic type of device includes prostheses that have a femoral condylar resurfacing component or components made of alloys, such as cobalt-chromium-molybdenum, and a tibial condylar component or components made of ultra-high molecular weight polyethylene with carbon-fibers composite and are intended for implantation with a polymethylmethacrylate luting agent (bone cement).

(b) *Classification.* Class III (premarket approval).

§ 888.3500 Knee joint femorotibial metal/composite semi-constrained prosthesis.

(a) *Identification.* A knee joint femorotibial metal/composite semi-constrained prosthesis is an implanted two-part device intended partially to replace a knee joint. The device limits translation and rotation in one or more plans via the geometry of its articulating surfaces. It has no linkage across-the-joint. This generic type of device includes prostheses that have a femoral component made of alloys, such as cobalt-chromium-molybdenum and a tibial component with the articulating surfaces made of ultra-high molecular weight polyethylene with carbon-fibers composite and is limited to those devices intended for implantation with a polymethylmethacrylate luting agent (bone cement).

(b) *Classification.* Class III (premarket approval).

§ 888.3510 Knee joint femorotibial metal/polymer constrained prosthesis.

(a) *Identification.* A knee joint femorotibial metal/polymer constrained prosthesis is an implanted device intended partially to replace a knee joint. The device limits translation or rotation in one or more planes and has components that are linked together or affined. This generic type of device includes prostheses composed of a ball-and-socket joint located between a stemmed femoral and a stemmed tibial component and a runner and track joint between each pair of femoral and tibial condyles. The ball-and-socket joint is composed of a ball at the head of a column rising from the stemmed tibial component. The ball, the column, the tibial plateau, and the stem for fixation of the tibial component are made of an alloy, such as cobalt-chromium-molybdenum. The ball of the tibial component is held within the socket of the femoral component by the femoral component's flat outer surface. The flat outer surface of the tibial component abuts both a reciprocal flat surface within the cavity of the femoral component and flanges on the femoral component designed to prevent distal displacement. The stem of the femoral component is made of an alloy, such as cobalt-chronium-molybdenum, but the socket of the component is made of ultra-high molecular weight polyethylene. The femoral component has metallic runners which align with the ultra-high molecular weight polyethylene tracks that press-fit into the metallic tibial component. This generic type of device is limited to those devices intended to be implanted with a polymethylmethacrylate luting agent (bone cement).

(b) *Classification.* Class II (performance standards).

§ 888.3520 Knee joint femorotibial metal/polymer nonconstrained prosthesis.

(a) *Identification.* A knee joint femorotibial metal/polymer non-constrained prosthesis is an implanted device intended partially to replace a knee joint. The device limits minimally (less than normal anatomic constraints) translation in one or more planes. It has no linkage across-the-joint. This generic type of device includes prostheses that have a femoral condylar resurfacing component or components made of alloys, such as cobalt-chromium-molybdenum, and a tibial component or components made of ultra-high molecular weight polyethylene, and are intended to be implanted with a polymethylmethacrylate luting agent (bone cement).

(b) *Classification.* Class II (performance standards).

§ 888.3530 Knee joint femorotibial metal/polymer semi-constrained prosthesis.

(a) *Identification.* A knee joint femorotibial metal/polymer semi-constrained prosthesis is an implanted device intended partially to replace a knee joint. The device limits translation and rotation in one or more planes via the geometry of its articulating surfaces.

It has no linkage across-the-joint. This generic type of device includes prostheses that consists of a femoral component made of alloys, such as cobalt-chronium-molybdenum, and a tibial component made of ultra-high molecular weight polyethylene, and is limited to those devices intended to be implanted with a polymethylmethacrylate luting agent (bone cement).

(b) *Classification.* Class II (performance standards).

§ 888.3540. Knee joint patellofemoral polymer/metal semi-constrained prosthesis.

(a) *Identification.* A knee joint patellofemoral polymer/metal semi-constrained prosthesis is an implanted two-part device intended partially to replace a knee joint in the treatment of primary patellofemoral arthritis or chondromalacia. The device limits translation and rotation in one or more planes via the geometry of its articulating surfaces. It has no linkage across-the-joint. This generic type of device includes a component made of alloys, such as cobalt-chromium-molybdenum or austenitic steel, for resurfacing the intercondylar groove (femoral sulcus) on the anterior aspects of the distal demur, and a patellar component made of ultra-high molecular weight polyethylene. This generic type of device is limited to those devices intended for implantation with a polymethylmethacrylate luting agent (bone cement). The patellar component is designed to be implanted only with its femoral component.

(b) *Classification.* Class III (premarket approval).

§ 888.3550 Knee joint patellofemorotibial polymer/metal/metal constrained prosthesis.

(a) *Identification.* A knee joint patellofemorotibial polymer/metal/metal constrained prosthesis is an implanted device intended to replace a knee joint. The device prevents dislocation in more than one anatomic plane and has components that are linked together. This generic type of device includes prostheses that have a femoral component, a tibial component, a cylindrical bolt and accompanying locking hardware that are all made of alloys, such as cobalt-chromium-molybdenum, and a retropatellar resurfacing component made of ultra-high molecular weight polyethylene. The retropatellar resurfacing component may be attached to the resected patella either with a metallic acrew or luting agent. All stemmed metallic components within this generic class are intended to be implanted with a polymethyl-methacrylate luting agent (bone cement).

(b) *Classification.* Class II (performance standards).

§ 888.3560 Knee joint patellofemorotibial polymer/metal/polymer semi-constrained prosthesis.

(a) *Identification.* A knee joint patellofemorotibial polymer/metal/polymer semi-constrained prosthesis is an implanted device intended to replace a knee joint. The device limits translation and rotation in one or more plans via the geometry of its articulating surfaces. It has no linkage across-the-joint.

This generic type of device includes prostheses that have a femoral component made of alloys, such as cobalt-chromium-molybdenum, and a tibial component or components and a retropatellar resurfacing component made of ultra-high molecular weight polyethylene. This generic type of device is limited to those devices intended to be implanted with polymethylmethacrylate luting agent (bone cement).

(b) *Classification.* Class II (performance standards).

§ 888.3570 Knee joint femoral (hemi-knee) metallic uncemented prosthesis.

(a) *Indentification.* A knee joint femoral (hemi-knee) metallic uncemented prosthesis is an implanted device made of alloys, such as cobalt-chromium-molybdenum, that is intended to replace part of a knee joint. The device limits translation and rotation in one or more planes via the geometry of its articulating surfaces. It has no linkage across-the-joint. This generic type of device includes prostheses that consist of a femoral component with or without protuberance(s) for the enhancement of fixation and is limited to those devices intended for implantation without use of polymethylmethacrylate luting agent (bone cement).

(b) *Classification.* Class III (premarket approval).

§ 888.3580 Knee joint patellar (hemi-knee) metallic resurfacing uncemented prosthesis.

(a) *Identification.* A knee joint patellar (hemi-knee) metallic resurfacing uncemented prosthesis is an implanted device made of alloys, such as cobalt-chromium-molybdenum, intended to replace the retropatellar articular surface of the patellofemoral joint. The device limits minimally (less than normal anatomic constraints) translation in one or more planes. It has no linkage across-the-joint. This generic type of device includes prostheses that have a retropatellar resurfacing component and an orthopedic screw to transfix the patellar remnant. This generic type of device is limited to those devices intended for implantation without use of polymethylmethacrylate luting agent (bone cement). The device is intended for use only in treatment of degenerative and posttraumatic patellar (osteo) arthritis.

(b) *Classification.* Class II (performance standards).

§ 888.3590 Knee joint tibial (hemi-knee) metallic resurfacing uncemented prostheses.

(a) *Identification.* A knee joint tibial (hemi-knee) metallic resurfacing uncemented prosthesis is an implanted device intended partially to replace a knee joint. The device limits minimally (less than normal anatomic constraints) translation in one or more planes. It has no linkage across-the-joint. This prosthesis is made of alloys, such as cobalt-chromium-molybdenum, and is intended to resurface one tibial condyle. The generic type of device is limited to those devices intended for implantation without the use of a polymethylmethacrylate luting agent (bone cement).

(b) *Classification.* Class II (performance standards).

§ 888.3640 Shoulder joint constrained prosthesis.

(a) *Identification.* A shoulder joint constrained prosthesis is an implanted device intended to replace a shoulder joint. The device prevents dislocation in more than one anatomic plane and has components that are linked together. This generic type of device includes prostheses that have a humeral component made of alloys, such as cobalt-chromium-molybdenum, and a glenoid component made of this alloy or a combination of this alloy and ultra-high molecular weight polyethylene. This generic type of device is limited to those devices intended for implantation with a polymethylmethacrylate luting agent (bone cement).

(b) *Classification.* Class III (premarket approval).

§ 888.3650 Shoulder joint non-constrained prosthesis.

(a) *Identification.* A shoulder joint non-constrained prosthesis is an implanted device intended to replace a shoulder joint. The device limits minimally (less than normal anatomic constraints) translation in one or more planes. It has no linkage across-the-joint. This generic type of device includes prostheses that have a humeral component made of alloys, such as cobalt-chromium-molybdenum, and a glenoid resurfacing component made of ultra-high molecular weight polyethylene, and is limited to those devices intended for implantation with a polymethylmethacrylate luting agent (bone cement).

(b) *Classification.* Class III (premarket approval).

§ 888.3660 Shoulder joint semi-constrained prosthesis.

(a) *Identification.* A shoulder joint semi-constrained prosthesis is an implanted device intended to replace a shoulder joint. The device limits translation and rotation in one or more planes via the geometry of its articulating surfaces. It has no linkage across-the-joint. This generic type of device includes prostheses that have a humeral resurfacing component made of alloys, such as cobalt-chromium-molybdenum, and a glenoid resurfacing component made of ultra-high molecular weight polyethylene, and is limited to those devices intended for implantation with a polymethylmethacrylate luting agent (bone cement).

(b) *Classification.* Class III (premarket approval).

§ 888.3680 Shoulder joint glenoid (hemi-shoulder) prosthesis.

(a) *Identification .* A shoulder joint glenoid (hemi-shoulder) prosthesis is an implanted device that has a glenoid (socket) component made of alloys, such as cobalt-chromium-molybdenum, and that is intended to replace a portion of the shoulder joint. This generic type of device is limited to those devices intended for implantation with a polymethylmethacrylate luting agent (bone cement).

(b) *Classification.* Class III (premarket approval).

§ 888.3690 Shoulder joint humeral (hemi-shoulder) metallic uncemented prosthesis.

(a) *Identification.* A shoulder joint humeral (hemi-shoulder) metallic uncemented prosthesis is an implanted intramedullary stemmed device made of alloys, such as cobalt-chromium-molybdenum.

It is intended to replace the articular surface of the proximal end of the humerus and to be fixed without a polymethylmethacrylate luting agent (bone cement).

(b) *Classification.* Class II (performance standards).

§ 888.3720 Toe joint constrained uncemented prosthesis.

(a) *Identification.* A toe joint constrained uncemented prosthesis is an implanted device made of silicone elastomer or polyester reinforced silicone elastomer. It is intended to be used without a polymethylmethacrylate luting agent (bone cement) to replace the first metatarsophalangeal (big toe) joint. This generic type of device consists of a single flexible across-the-joint component that prevents dislocation in more than one anatomic plane.

(b) *Classification.* Class II (performance standards).

§ 888.3730 Toe joint phalangeal (hemi-toe) prosthesis.

(a) *Identification.* A toe joint phalangeal (hemi-toe) prosthesis is an implanted device made of silicone elastomer intended to replace the base of the proximal phalanx of the toe.

(b) *Classification.* Class II (performance standards).

§ 888.3750 Wrist joint carpal lunate prosthesis.

(a) *Identification.* A wrist joint carpal lunate prosthesis is a one-piece implanted device made of silicone elastomer. It is intended to replace the carpal lunate bone of the wrist.

(b) *Classification.* Class II (performance standards).

§ 888.3760 Wrist joint carpal scaphoid prosthesis.

(a) *Identification.* A wrist joint carpal scaphoid prosthesis is a one-piece implanted device made of silicone elastomer or silicone elastomer intended to replace the carpal scaphoid bone of the wrist.

(b) *Classification.* Class II (performance standards).

§ 888.3770 Wrist joint carpal trapezium prosthesis.

(a) *Identification.* A wrist joint carpal trapezium prosthesis is a one-piece implanted device made of silicone elastomer/polyester material intended to replace the carpal trapezium bone of the wrist.

(b) *Classification.* Class II (performance standards).

§ 888.3780 Wrist joint polymer constrained uncemented prosthesis.

(a) *Identification.* A wrist joint polymer constrained uncemented prosthesis is an implanted device made of polyester-reinforced silicone elastomer. It is intended to be used without a polymethylmethacrylate luting agent (bone cement) to replace a wrist joint. This generic type of device consists of a single flexible across-the-joint component that prevents dislocation in more than one anatomic plane.

(b) *Classification.* Class II (performance standards).

§ 888.3790 Wrist joint metal constrained prosthesis.

(a) *Identification.* A wrist joint metal constrained prosthesis is an implanted device intended to replace a wrist joint. The device prevents dislocation in more than one anatomic plane and consists of either a single flexible across-the-joint component or two components linked together. This generic type of device is limited to a device which is made of alloys, such as cobalt-chromium-molybdenum, and is limited to those devices intended for implantation with a polymethylmethacrylate luting agent (bone cement).

(b) *Classification.* Class II (premarket approval).

§ 888.3800 Wrist joint semi-constrained prosthesis.

(a) *Identification.* A wrist joint semi-constrained prosthesis is an implanted device intended to replace a wrist joint. The device limits translation and rotation in one or more planes via the geometry of its articulating surfaces. It has no linkage across-the-joint. This generic type of device includes prosthesis that have either (1) a one-part radial component made of alloys, such as cobalt-chromium-molybdenum, with an ultra-high molecular weight polyethylene bearing surface, or (2) a two-part radial component made of alloys and an ultra-high molecular weight polyethylene ball that is mounted on the radial component with a trunnion bearing. The metallic portion of the two-part radial component is inserted into the radius. These devices have a metacarpal component(s) made of alloys, such as cobalt-chromium-molybdenum. This generic type of device is limited to those devices intended to be implanted with a polymethylmethacrylate luting agent (bone cement).

(b) *Classification.* Class II (performance standards).

§ 888.3810 Wrist joint ulnar (hemi-wrist) prosthesis.

(a) *Identification.* A wrist joint ulnar (hemi-wrist) prosthesis is a mushroom-shaped implanted device that is made of a medical grade silicone elastomer or ultra-high molecular weight polyethylene. It is intended to be inserted into the intramedullary canal of the bone and held in place by a suture. Its purpose is to cover the resected end of the distal ulna to control bone overgrowth and to provide an articular surface for the radius and carpus.

(b) *Classification.* Class II (performance standards).

Subpart E—Orthopedic Surgery Devices

§ 888.4150 Calipers for clinical use.

(a) *Identification.* A caliper for clinical use is a compass-like device intended for use in measuing the thickness or diameter of a part of the body or the distance between two body surfaces, such as for measuring an excised skeletal specimen to determine the proper replacement size of a prosthesis.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807.

§ 888.4200 Cement dispenser.

(a) *Identification.* A cement dispenser is a nonpowered syringe like device intended for use in placing bone cement into surgical sites.

(b) *Classification.* Class I (general controls).

§ 888.4210 Cement mixer for clinical use.

(a) *Identification.* A cement mixer for clinical use is a device consisting of a container intended for use in mixing bone cement.

(b) *Classification.* Class I (general controls).

§ 888.4220 Cement monomer vapor evacuator.

(a) *Identification.* A cement monomer vapor evacuator is a device intended for use during surgery for the containment or removal of bone cement monomer vapor or the removal of other undesirable fumes.

(b) *Classification.* Class I (general controls).

§ 888.4230 Cement ventilation tube.

(a) *Identification.* A cement ventilation tube is a device usually made of plastic, that consists of a segment of tubing that is intended to be inserted into a surgical cavity to allow the release of air or fluid from the cavity as it is being filled with bone cement.

(b) *Classification.* Class I (general controls).

§ 888.4300 Depth gauge for clinical use.

(a) *Identification.* A depth gauge for clinical use is a device consisting of an instrument with a graduated scale intended for various uses, such as to determine the proper length of screws for fastening the ends of a fractured bone.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807.

§ 888.4540 Orthopedic manual surgical instrument.

(a) *Identification.* An orthopedic manual surgical instrument is a nonpowered hand-held device intended for medical purposes to manipulate tissue, or for use with other devices in orthopedic surgery. This generic type of device includes the cerclage applier, awl, bender, drill brace, broach, burr, corkscrew, countersink, pin crimper, wire cutter, prosthesis driver, extractor, file, fork, needle holder, impactor, bending or contouring instrument, compression instrument, passer, socket positioner, probe, femoral neck punch, socket pusher, reamer, rongeur, scissors, screwdriver, bone skid, staple driver, bone screw starter, surgical stripper, tamp, bone tap, trephine, wire twister, and wrench.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807.

§ 888.4580 Sonic surgical instrument and accessories/attachments.

(a) *Identification.* A sonic surgical instrument is a hand-held device with various accessories or attachments, such as a cutting tip that vibrates at high frequencies, and is intended for medical purposes to cut bone or other materials, such as acrylic.

(b) *Classification.* Class II (performance standards).

§ 888.4600 Protractor for clinical use.

(a) *Identification.* A protractor for clinical use is a device intended for use in measuring the angles of bones, such as on x-rays or in a surgery.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807.

§ 888.4800 Template for clinical use.

(a) *Identification.* A template for clinical use is a device that consists of a pattern or guide intended for medical purposes, such as selecting or positioning orthopedic implants or guiding the marking of tissue before cutting.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807.

§ 888.5850 Nonpowered orthopedic traction apparatus and accessories.

(a) *Identification.* A nonpowered orthopedic traction apparatus is a device that consists of a rigid frame with nonpowered traction accessories, such as cords, pulleys, or weights, and that is intended to apply a therapeutic pulling force to the skeletal system.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807. The device also is exempt from the good manufacturing practices regulation in Part 820 with the exception of § 820.180, regarding general requirements concerning records, and § 820.198, regarding complaint files.

§ 888.5890 Noninvasive traction component.

(a) *Identification.* A noninvasive traction component is a device, such as a head halter, pelvic belt, or a traction splint, that does not penetrate the skin and is intended to assist in connecting a patient to a traction apparatus so that a therapeutic pulling force may be applied to the patient's body.

(b) *Classification.* Class I (general controls).

§ 888.5940 Cast component.

(a) *Identification.* A cast component is a device intended for medical purposes to protect or support a cast. This generic type of device includes the cast heel, top cap, cast support, and walking iron.

(b) *Classification.* Class I (general controls). The device is exempt from the good manufacturing practice regulation in Part 820, with the exception of § 820.180, regarding general requirements concerning records, and § 820.198, regarding complaint files.

§ 888.5960 AC-powered cast removal instrument.

(a) *Identification.* An AC-powered cast removal instrument is an AC-powered hand-held device intended to remove a cast from a patient. This generic type of device includes the electric cast cutter and cast vacuum.

(b) *Classification.* Class II (performance standards).

§ 888.5980 Manual cast aplication and removal instrument.

(a) *Identification.* A manual cast application and removal instrument is a nonpowered hand-held device intended

to be used in applying or removing a cast. This generic type of device includes the cast knife, cast spreader, plaster saw, plaster dispenser, and casting stand.

(b) *Classification.* Class I (general controls). The device is exempt from the good manufacturing practice regulation in Part 820, with the exception of § 820.180, regarding general requirements concerning records, and § 820.198, regarding complaint files.

Because FDA believes that more time is needed for interested persons to submit comments on the classification of the numerous devices in this proposed regulation and the need to stagger the comment periods to allow an orderly review of all of the outstanding proposed classification regulations, FDA is providing a period through October 1, 1982 for interested persons to comment on this proposal. FDA finds in accordance with section 520(d)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(d)(2)) that good cause exists to extend the comment period beyond 90 days. Similar extensions of comment periods were granted for good cause for other proposed classification regulations. (See the **Federal Register** of March 19, 1982 (47 FR 11879).)

Interested persons may, on or before October 1, 1982 submit to the Dockets Management Branch (address above), written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments regarding the general provisions are to be identified with the docket number found in brackets in the heading of this document. Comments regarding a particular device are to be identified with the docket number for that device found in the "Panel Recommendations and FDA's Proposed Classifications" sections. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

The Food and Drug Administration has carefuly analyzed the economic effects of this proposed rule and certifies that, if promulgated, the rule will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act. In accordance with section 3(g)(1) of Executive Order 12291, the impact of this proposed rule has been carefully analyzed, and it has been determined that this proposal does not constitute a major rule as defined in section 1(b) of the Executive Order. Rules proposing classification of devices into class I generally maintain the status quo: These devices are now subject to only the general controls provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351, 352, 360, 360f, 360h, 360i, and 360j) and, under the proposed rules, would remain subject only to such controls either in their entirety or with certain exemptions. Devices classified into class II would also remain subject only to the general controls provisions of the act unless and until an applicable performance standard were established. Similarly, devices classified into class III remain subject only to the general controls provisions of the act until an additional regulation is promulgated pursuant to section 515(b) of the act (21 U.S.C. 360e(b)) requiring that such devices have in effect approved applications for premarket approval. In accordance with section 501(f)(2)(B) of the act (21 U.S.C. 351(f)(2)(B)), devices classified by regulation into class III may remain in commercial distribution without an approved premarket aproval application for 30 months following the effective date of classification of the device into class III, or for 90 days following the promulgation of a regulation under section 515(b) of the act (21 U.S.C. 360e(b)), whichever occurs lafer. In sum, device classification rules do not have a significant impact on a substantial number of small entities and are not major rules.

Dated: June 7, 1982.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 82-17576 Filed 7-1-82; 8:45 am]

BILLING CODE 4160-01-M

federal register

Friday
July 2, 1982

Part III

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Florida:	
FL82–1005	Feb. 19, 1982.
FL82–1019	Mar. 12, 1982.
FL82–1015	Mar. 5, 1982.
Washington, D.C.: DC81–3040	June 5, 1981.
Maryland: DC81–3040	June 5, 1981
Virginia: DC81–3040	June 5, 1981.
Colorado:	
CO82–5103	Feb. 12, 1982.
CO82–5104	Feb. 26, 1982.
Idaho: ID81–5157	Oct. 9, 1981.
Pennsylvania:	
PA79–3020	July 20, 1979.
PA81–3027	July 17, 1981.
PA81–3041	July 6, 1981.
PA81–3051	Sept. 4, 1981.
PA81–3058	Aug. 28, 1981.
PA81–3066	Oct. 23, 1981.
PA81–3068	Sept. 25, 1981.
PA81–3069	Sept. 25, 1981
PA81–2072	Oct. 2, 1981.
PA81–3073	Oct. 2, 1981.
PA81–3081	Oct. 23, 1981.
PA81–3090	Dec. 18, 1981.
PA82–3010	Mar. 5, 1982.
PA82–3011	Mar. 12, 1982.
PA82–3012	Mar. 5, 1982.
PA82–3016	May 14, 1982.
PA82–3017	Mar. 26, 1982.
PA81–3076	Oct. 9, 1981.
PA81–3077	Oct. 9, 1981.
PA81–3080	Oct. 23, 1981.
Indiana: IN80–2015	Apr. 11, 1980.
Tennessee: TN81–1202	May 1, 1981.
South Dakota: SD81–5150	Sept. 4, 1981.
SD81–5151	Sept. 4, 1981.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Georgia: GA82–107(GA82–1033)	Feb. 19, 1982.

Please note that we are changing the format for **Federal Register** wage decisions to coincide with the provisions of All Agency Memorandum No. 132

dated January 29, 1980, which provides that the Department of Labor will discontinue identifying fringe benefits separately. Rather, they will be stated as a composite figure which is the total hourly equivalent value of fringe benefits found to be prevailing. Fringe benefits which can not be stated in monetary terms will be shown in footnotes. This procedure is being phased in gradually.

Signed at Washington, D.C., this 25th day of June 1982.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

MODIFICATION PAGE 1

DECISION NO. FL82-1005 - MOD. # 1
(47 FR 7596 - February 19, 1982)
Duval County, Florida
Building Construction

CHANGE:

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$14.21	1.88
BOILERMAKERS	14.50	3.015
BRICKLAYERS	11.65	1.41
IRONWORKERS	12.75	1.78
LABORERS:		
Gunnite Workers, Mechanical Tool Oper., Power Buggy Oper., & Pipelayers	7.92	.70
Unskilled	7.72	.70
LINEMEN:		
Lineman	12.60	3.228
Cable Splicer	12.80	3.234
Heavy Equipment Operator	11.00	2.37
Winch Truck Operator	8.75	2.003
Groundmen	6.50	1.625
POWER EQUIPMENT OPERATORS:		
Group I	12.84	1.70
Group II	11.56	1.70
Group III	9.26	1.70

DECISION NO. FL82-1019 - MOD. #2
(47 FR 10946 - March 12, 1982)
BUILDING CONSTRUCTION
VOLUSIA COUNTY, FLORIDA
(except Cape Kennedy Space Flight Center & Cape Canaveral Air Force Station)

CHANGE:

ASBESTOS WORKERS	$14.21	3.10
CARPENTERS	11.07	1.50
IRONWORKERS	12.78	3.10
POWER EQUIPMENT OPERATORS:		
Group I	12.84	1.70
Group II	11.56	1.70
Group III	9.26	1.70

Decision No. FL82-1015 - Mod. #2
(45 FR 9654 - 3/5/82)
BUILDING CONSTRUCTION
ORANGE COUNTY, FLORIDA

CHANGE:

IRONWORKERS	$12.78	3.10

DECISION NO. DC81-3040 - MOD. #11
(46 FR 30290 - June 5, 1981)
DISTRICT OF COLUMBIA; MARYLAND-MONTGOMERY AND PRINCE GEORGES; D.C TRAINING SCHOOL; Virginia-INDEPENDENT CITY OF ALEXANDRIA, ARLINGTON AND FAIRFAX COUNTIES

CORRECTION TO MOD. #9 PUBLISHED IN THE FEDERAL REGISTER MAY 28, 1982: "Marble Setters" should read "Stone Masons and Marble Setters"

CHANGE:

LABORERS (EXCLUDING HEAVY CONSTRUCTION)		
Plumbers' Laborers	10.52	2.84

DECISION NO. CO82-5103 - Mod. #5
(47 FR 6549 - February 12, 1982)
Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Eagle, Elbert, Gilpin, Grand, Jefferson, Lake, Larimar, Morgan, Park, Summit, and Weld Counties, Colorado

Change:

Asbestos Workers	$17.49	$2.52

DECISION NO. CO82-5104 - Mod. #6
(47 FR 8497 - February 26, 1982)
El Paso County, Colorado

Change:

Asbestos Workers	$17.49	$2.52

MODIFICATION PAGE 2

DECISION NO, ID81-5157 - Mod #11
(46 FR 50223 - Oct. 9, 1981)
Statewide Idaho

CHANGE:

CEMENT MASONS (AREA 1)

GROUP	BASE RATE (Zone 1)
1	$15.50
2	16.00
3	16.50

ZONE DIFFERENTIAL (Add to Base Rate)
Zone 2 $1.15
Zone 3 1.60
Zone 4 2.30
Zone 5 2.95

FRINGE BENEFITS:
Health and Welfare $1.05
Pension 2.00
Apprenticeship Training .15

LABORERS (AREA 1):

GROUP	BASE RATE (Zone 1) (Building, Heavy, and Highway Projects)
1	$13.72
2	13.97
3	14.22
4	14.47

ZONE DIFFERENTIAL (Add to Base Rate) (Heavy & Highway projects only, does not apply to Building Projects)
Zone 2 $1.15
Zone 3 1.60
Zone 4 2.30
Zone 5 2.95

FRINGE BENEFITS:
Health and Welfare $1.62
Pension 1.30
Apprenticeship Training .20

POWER EQUIPMENT OPERATORS (AREA 1):

GROUP	BASE RATE (Zone 1)
1	$13.65
2	13.95
3	14.50
4	14.65
5	14.80
6	15.05
7	15.30
8	16.30

ZONE DIFFERENTIAL (Add to Base Rate)
Zone 2 $1.25
Zone 3 1.75
Zone 4 2.50
Zone 5 3.05

FRINGE BENEFITS:
Health and Welfare $1.50
Pension 2.50
Apprenticeship Training .10

TRUCK DRIVERS (AREA 1):

GROUP	BASE RATE (Zone 1)
1	$15.19
2	15.23
3	15.29
4	15.38
5	15.59
6	15.63
7	15.69
8	15.73
9	15.84
10	15.88
11	16.19
12	16.33
13	16.49
14	16.63

ZONE DIFFERENTIAL (Add to Base Rate)
Zone 2 $1.25
Zone 3 1.75
Zone 4 2.50
Zone 5 3.05

FRINGE BENEFITS:
Health and Welfare $1.73
Pension 1.61
Apprenticeship Training .09

MODIFICATION PAGE 3

MODIFICATION PAGE 4

MODIFICATION PAGE 3

DECISION NO. PA79-3020	Basic Hourly Rates	Fringe Benefits
MOD. NO. 9		
(44 FR 42880 - July 20, 1979)		
Carbon, Monroe County, including Tobyhanna Army Depot, and Pike County, Pa.		
CHANGE:		
Electricians:		
Carbon County: Penn Forest, Lehigh, Lausane, Banks, Packer, Mauch Chunk, Franklin, Mahoning Townships and East Side Borough in their entirety, and that portion of Kidder Township South of State Highway 940, but excluding Perryville Borough	$14.07	1.95+3%
Glaziers		
Zone 2	13.10	1.95
Ironworkers:		
Zone 1	16.95	3.20
Millwrights		
Zone 3	15.77	1.95
Piledrivermen	13.67	5.31+g
Plumbers		
Zone 1	14.59	3.10

DECISION NO. PA81-3027		
MOD. NO. 6		
(46 FR 37712 - July 17, 1981)		
Franklin County, Pennsylvania		
Electricians	14.21	1.67 +3½%
Ironworkers	15.765	3.245
Sheet Metal Workers	15.01	3.04

DECISION NO PA81-3041	Basic Hourly Rates	Fringe Benefits
MOD. NO. 7		
(46 FR 34934 - July 6, 1981)		
Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Cameron, Centre, Clarion, Clearfield, Clinton Crawford, Elk, Erie, Fayette Forest, Franklin, Fulton, Greene, Huntingdon, Indiana, Jefferson, Mercer, Lawrence, McKean, Mifflin, Potter, Somerset, Venango, Warren, Washington, & Westmoreland, Counties, Pennsylvania		
CHANGE:		
Ironworkers		
Zone 2		
Structural, Ornamental & Reinforcing	$15.765	3.245

DECISION NO. PA81-3051		
MOD. NO. 6		
(46 FR 44653 - Sept. 4, 1981)		
Luzerne County, Pennsylvania		
CHANGE:		
Carpenters:		
Black Creek, Butler, Dennison, Foster, Hazle, Hollenback, Nescopeck, Sugarloaf, and Lower Salem Township	13.40	1.95
Electricians:		
Hazleton, Nescopeck, Hollenbach, Black Creek, Sugar Loaf, Hazle, Butler, Foster Twps., and the Borough of White Haven in their entirety and that portion of Dennison Twp., south and west of the Central Railroad of New Jersey line between Wright Township and White Haven	14.07	1.95 +3%

MODIFICATION PAGE 4

DECISION NO. PA81-3051, CONT'D	Basic Hourly Rates	Fringe Benefits
Ironworkers:		
Structural & Ornamental	$16.35	3.30
Reinforcing	16.25	3.30
Millwrights	15.77	1.95
Piledrivermen	13.67	5.31+g
Plumbers	14.59	3.10

DECISION NO. PA81-3058		
MOD. NO. 10		
(46 FR 43596 - August 28, 1981)		
Adams, Berks, Bradford, Carbon Columbia, Cumberland, Dauphin, Juniata, Lackawanna, Lancaster Lebanon, Lehigh, Luzerne, Lycoming, Monroe, Montour, Northampton, Northumberland, Perry, Pike, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming & York Counties, Pa.		
CHANGE:		
Ironworkers:		
Structural, Ornamental & Reinforcing		
Adams, Cumberland, Dauphin, Lancaster, Lebanon, Lycoming, Montour, Northumberland, Juniata, Perry, Snyder, Union & York Counties	15.765	3.245
LINE CONSTRUCTION:		
Northampton County:		
Linemen	16.94	.60 +3-3/8%
Winch truck operator	11.86	.60 +3-3/8%
Truck Drivers	11.01	.60 +3-3/8%
Groundman	10.16	.60 +3-3/8%

DECISION NO. PA81-3066	Basic Hourly Rates	Fringe Benefits
MOD. NO. 4		
(46 FR 52081 - October 23, 1981)		
Dauphin, Cumberland, Perry, Juniata, Nem Cumberland Depot, In York County, Pennsylvania		
CHANGE:		
Carpenters	13.40	1.95
Electricians	14.21	1.67+ 3½%
Ironworkers:		
Structural, Ornamental & Reinforcing	15.765	3.245
Lathers	13.40	1.95
Millwrights	15.77	1.95
Piledrivermen	13.67	5.31+d
Sheet Metal Workers	15.01	3.04

DECISION NO. PA81-3068		
MOD. NO. 7		
(46 FR 47403 - September 25, 1981)		
Lebanon County, Pennsylvania		
CHANGE:		
Carpenters	13.40	1.95
Ironworkers	15.765	3.245
Lathers	13.40	1.95
Millwrights	15.77	1.95
Piledrivermen	13.67	5.31+d
OMIT:		
Electricians:		
That portion of Lebanon County that is North and West of Interstate Route 81, incl. all of the Fort Indiantown Gap Military Reservation	13.56	1.32+3½%
That portion of Lebanon Co. which extends South and East of Interstate Route 81	13.09	1.32+3½%
ADD:		
Electricians	14.21	1.67+3½%

MODIFICATION PAGE 5

DECISION NO. PA81-3069 MOD. NO. 5 (46 FR 47401 - September 25, 1981) Berks County, Pennsylvania	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Electricians:		
Marion, Tulpehocken & Bethel Townships	$14.21	1.67+3½%
Ironworkers:		
Structural & Ornamental, bridge	15.90	3.25
Reinforcing	15.90	3.25
Piledrivermen	13.67	5.31+a

DECISION NO. PA81-3072 MOD. NO. 4 (46 FR 48851 - October 2, 1981) Adams & York Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Carpenters:		
Adams County	13.40	1.95
Electricians:		
Franklin, Carrol, Monaghan and Fairview Twps.	14.21	1.67 +3½%
Ironworkers	15.765	3.245
Lathers	13.40	1.95
Millwrights:		
Adams County	15.77	1.95
York County	13.29	1.68
Piledrivermen	13.67	5.31+c
Roofers, Composition	12.75	1.61
Sheet Metal Workers	15.01	3.04

DECISION NO. PA81-3073 MOD. NO. 3 (46 FR 48853 - October 2, 1981) Northumberland County, Pennsylvania	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Carpenters	$12.72	1.95
Electricians:		
Delaware, Lewis & Trubut Twps.	12.21	3.18+3%
Ironworkers	15.765	3.245
Lathers	12.72	1.95
Millwrights	15.77	1.95
Piledrivermen	13.67	5.31+a

DECISION NO. PA81-3081 - MOD. #3 (46 FR 52080 - October 23, 1981) SULLIVAN COUNTY, PA.	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ELECTRICIANS:		
Western part of County	12.21	3.18+3%
GLAZIERS	13.10	1.95
IRONWORKERS:		
Structural	16.35	3.30
Reinforcing	16.25	3.30
MILLWRIGHTS	15.77	1.95
PILEDRIVERMEN	13.67	5.31+b
PLUMBERS & STEAMFITTERS	15.81	2.19
CARPENTERS		
Remainder of County	12.72	1.95

DECISION NO. PA81-3090 - MOD. #4 (46 FR 61813 - December 18 1981) LYCOMING COUNTY, PA.	Basic Hourly Rates	Fringe Benefits
CHANGE:		
CARPENTERS	12.72	1.95
IRONWORKERS	15.765	3.245
LATHERS	12.72	1.95
MILLWRIGHTS	15.77	1.95
PILEDRIVERMEN	13.67	5.31+d

MODIFICATION PAGE 6

DECISION NO. PA82-3010 - MOD. #2 (47 FR 9684 - March 5, 1982) CLINTON, CENTRE, HUNTINGDON, FULTON & MIFFLIN COUNTIES, PENNSYLVANIA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ELECTRICIANS:		
Clinton County in its entirety; Townships in Centre County; Burnside, Curtin, Liberty, Howard, Marion, Walker, Miles and Haines	12.21	3.18+3%
IRONWORKERS:		
Huntingdon & Mifflin Cos.	15.765	3.245
PLUMBERS & STEAMFITTERS:		
Clinton County	15.81	2.19
SHEET METAL WORKERS		
Centre, Huntingdon, Fulton & Mifflin Cos., Pennsylvania	15.01	3.04

DECISION NO. PA82-3011 - MOD. #2 (47 FR 10983 - March 12, 1982) BRADFORD, TIOGA & UNION COUNTIES, PENNSYLVANIA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ELECTRICIANS:		
Tioga County in its entirety; remainder of Union and Bradford Cos. Bradford County; Town of Towanda, that portion of the County West of the Susquehanna River South of Towanda and West of U.S. Highway 309, North of Towanda	12.21	3.18+3%
	14.15	2.75+3%
GLAZIERS:		
Bradford & Tioga Cos.	13.10	1.95
IRONWORKERS:		
Structural, ornamental & Reinforcing Union Co.	15.765	3.245
MILLWRIGHTS	15.77	1.95
PILEDRIVERMEN	13.67	5.31+d
PLUMBERS & STEAMFITTERS:		
Western half of Bradford County	14.59	3.10

DECISION NO. PA82-3012 - MOD. #3 (47 FR 9681 - March 5, 1982) COLUMBIA, MONTOUR & SNYDER COUNTIES, PA.	Basic Hourly Rates	Fringe Benefits
CHANGE:		
CARPENTERS	12.72	1.95
ELECTRICIANS:		
Berwick Borough in Columbia County	14.07	1.95+3%
South of U.S. Highway #522 in Snyder County	14.21	1.67+3 ½%
IRONWORKERS:		
Montour & Snyder	15.765	3.245
Structural & Ornamental Columbia County	16.35	3.30
Reinforcing Columbia County	16.25	3.30
LATHERS	12.72	1.95
MILLWRIGHTS	15.77	1.95
PILEDRIVERMEN	13.67	5.31+d

DECISION NO. PA82-3016 - MOD. #1 (47 FR 20990 - May 14, 1982) NORTHAMPTON COUNTY, PA.	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ELECTRICIANS:		
Remainder of County	16.00	3%+2.69
LABORERS:		
Laborers & Window Cleaners	9.44	1.81
Operator of jackhammer, paving breaking and other pneumatic and mechanical tools coming under the jurisdiction of laborers, laying of all clay, terra cotta, ironstone, vitrified concrete or non-metallic pipe and the making of joints fmr the same and cofferdams (below 10')	9.69	1.81
Wagon drills and men handling burning torches in the wrecking of buildings	10.19	1.81

MODIFICATION PAGE 7

DECISION NO. PA82-3016 -	Basic Hourly Rates	Fringe Benefits

MODIFICATION PAGE 8

DECISION NO. PA82-3077 -	Basic Hourly Rates	Fringe Benefits

DECISION NO. PA82-3016 - (CONT'D)	Basic Hourly Rates	Fringe Benefits
Plaster and mason tenders scaffold builders and handling of all materials to be used by plasterers and masons, brick and block loaded on pallets, cement finishers tenders, gunniting and molded-D and sandblaster helpers, power buggies, all floor hardner and "cure" application shall be the work of the mason tender. All pump such as the concrete, plasterer, mortar and water, installing plastic or other non-solid refactory materials in connection with the boiler work	9.94	1.81
Barko Tamper Operator	10.46	1.81
IRONWORKERS	16.95	3.20
LINE CONSTRUCTION:		
Linemen	16.94	.60+3 3/8%
Cable Splicer	16.94	"
Groundmen	10.16	"
Winch Truck Operator	11.86	"
PAINTERS (BETHLEHEM):		
Brush	14.70	2.2%
Structural Steel	15.00	2.2%
Spray	15.70	2.28
GLAZIERS	12.79	1.465
PILEDRIVERMEN	13.67	5.31+a
SHEET METAL WORKERS	15.01	3.04
SOFT FLOOR LAYERS	12.80	2.95

DECISION NO. PA82-3017 - MOD. #2 (47 FR 13108 - March 26, 1982) LACKAWANNA, SUSQUEHANNA, WAYNE & WYOMING COUNTIES, PENNSYLVANIA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
GLAZIERS	13.10	1.95
IRONWORKERS:		
Lackawanna, Wayne and Wyoming Cos.		
Structural and ornamental	16.35	3.30
Reinforcing	16.25	3.30
MILLWRIGHTS:		
Wyoming County:		
East of Susquehanna River	15.77	1.95
PILEDRIVERMEN	13.67	5.31+d
PLUMBERS	14.59	3.10

DECISION NO. PA81-3076 - MOD. #5 (46 FR 50263 - October 9, 1981) SCHUYLKILL COUNTY, PA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
CARPENTERS	13.40	1.95
ELECTRICIANS:		
North Union, East Union, West Mahony, (excluding Frackville Borough), Mahony, Delano, Kline, Rush, Ryan, Blythe, Schuylkill, Walker, Rahn, East Brunswick and West Penn. Twps.	14.07	3%
Tremont and Pine Grove Townships	14.21	1.67+ 3½%
IRONWORKERS	15.90	3.25
LATHERS	13.40	1.95
PILEDRIVERMEN	13.67	5.31+d
MILLWRIGHTS	15.77	1.95

DECISION NO. PA81-3077 - MOD. #5 (46 FR 50265 - October 9, 1981) LANCASTER COUNTY, PA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
CARPENTERS	13.40	1.95
ELECTRICIANS:		
That portion northwest of a line extending from the Susquehanna River to the intersection of State Highways 441 and 241 along 241 to the Borough of Elizabethtown, around the limits of Elizabethtown on the west and north side, but including the Masonic Homes		

DECISION NO. PA82-3077 - (CONT'D)	Basic Hourly Rates	Fringe Benefits
in Elizabeth town, continuing along State Highway 241 to Lebanon County and that portion north of the Pennsylvania Turnpike, but including all Buildings on the Turnpike, from Lebanon County line to West Cocalico Tw	14.11	1.67+3 ¾%
IRONWORKERS	15.76%	3.245
LATHERS	13.40	1.95
MILLWRIGHTS	15.77	1.95
PILEDRIVERMEN	13.67	5.31+d

DECISION NO. PA81-3080 - MOD. #1 (46 FR 52078 - October 23, 1981) LEHIGH COUNTY, PA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BRICKLAYERS & STONEMASONS	13.45	3.00
CARPENTERS	14.01	2.35
CEMENT MASONS	14.68	1.60
ELECTRICIANS	14.55	3%+1.8%
GLAZIERS	12.79	1.465
LABORERS:		
Laborers & window cleaner	9.44	1.81
Operator of jackhammer, paving breaking and other pneumatic and mechanical tools coming under the jurisdiction of laborers, laying of all clay terra cotta, ironstone, vitrified concrete or non-metallic pipe and the making of joints for same and cofferdams (below 10')	9.69	1.81
Wagon drills and men handling burning torches in the wrecking of buildings	10.19	1.81
Plasterer and mason tenders, scaffold builders and handling of all material to be used by plasterers and masons, brick and block loaded on pallets, cement finisher tenders, gunniting and molde -D and sandblaster helper power buggies, all floor hardner and "cure" applicatimn shall be work of the mason tender, all pumps such as the concrete, plasterer mortar and water, installing plastic or other nonsolid rafractory materials in connection with thm boiler work	9.94	1.81
Barko tamper operator	10.46	1.81
MARBLE SETTERS	12.50	3.00
MILLWRIGHTS	14.41	2.35
PAINTERS:		
Brush	14.70	2.28
Structural Steel	15.00	2.28
Spray	15.70	2.28
PILEDRIVERMEN	13.67	5.31+d
PLASTERERS	14.63	1.50
PLUMBERS	18.33	2.65
POWER EQUIPMENT OPERATORS:		
Group 1	14.85	25.6%+ a
Group 2	14.56	"
Group 3	13.69	"
Group 4	12.92	"
Group 5	12.45	"
Group 6	11.54	"
Group 7	15.10	"
Group 7-A	15.35	"
Group 7-B	15.59	"
SHEET METAL WORKERS	15.01	3.04
SOFT FLOOR LAYERS	12.80	2.95
SPRINKLER FITTERS	16.92	2.95
STEAMFITTERS	17.86	3.11

DECISION NO. IN80-3015 - MOD. #3 (46 FR 24985 - April 11, 1980) Statewide, Except Lake, LaPorte, Porter and St. Joseph Counties, Ind.	Basic Hourly Rates	Fringe Benefits
Changes:		
POWER EQUIPMENT OPERATORS: (Tunnel & Sewer Construction)		
Benton, Carroll, Cass, Clinton, Delaware, Fayette, Fulton, Grant Hamilton, Hancock, Henry, Howard, Johnson, Madison, Marion, Miami, Randolph, Rush, Shelby, Tippecanoe, Tipton, Union, Wabash, Wayne, & White Cos.:		
Group I	$16.55	2.20
Group II	15.55	2.20
Group III	12.75	2.20
Group IV	11.25	2.20

DECISION #TN81-1188 - MOD. #6 (46 FR 24886 - May 1, 1981) Shelby County, Tennessee	Basic Hourly Rates	Fringe Benefits
Change:		
Cement Masons	$12.75	2.30

DECISION NO. SD81-5150 - Mod. #3 (46 FR 44656 - September 4, 1981) Minnehaha County, South Dakota	Basic Hourly Rates	Fringe Benefits
Changes:		
Bricklayers; Stonemasons	$13.60	$1.55
Sheet Metal Workers	12.95	1.85+ 3%
Sprinkler Fitters	15.17	2.83

DECISION NO. SD81-5151 - Mod. #3 (46 FR 44657-September 4, 1981) Meade and Pennington Counties, South Dakota	Basic Hourly Rates	Fringe Benefits
Change:		
Electricians:		
Electricians	$12.65	$1.90+ 10%
Cable Splicers	13.20	1.90+ 10%
Sheet Metal Workers	12.80	1.22+ 3%
Sprinkler Fitters	15.17	2.83

STATE: GEORGIA — COUNTIES: CLAYTON, DEKALB & FULTON

DECISION NUMBER GA82-1033 — DATE: DATE OF PUBLICATION

Supersedes Decision Number GA82-1007, dated 2-19-82 in 46 FR 7599.

DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not include single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$14.10	1.95
BOILERMAKERS	14.50	3.015
BRICKLAYERS & STONE MASONS	13.22	2.10
CARPENTERS, DRYWALL HANGERS & RESILIENT FLOOR LAYERS	13.50	1.77
CARPET LAYERS	10.05	1.77
CEMENT MASONS	13.20	1.40
ELECTRICIANS:		
Wiremen	14.45	20%+a+b
Cable Splicers	15.35	20%+a+b
ELEVATOR CONST. MECHANICS	12.51	2.465 +a+b
ELEVATOR CONST. HELPERS	8.76	2.465 +a+b
GLAZIERS	13.45	1.84
IRONWORKERS	14.17	1.97
LATHERS	11.80	.66
MARBLE MASONS, TILE SETTERS, & TERRAZZO WORKERS	13.22	2.03
MARBLE, TILE, & TERRAZZO FINISHERS	9.69	.66
MILLWRIGHTS	13.88	1.82
PAINTERS:		
Brush, Roller & Drywall Finishers	13.00	2.45
Paperhangers	13.25	2.45
Drywall taping (where pressurized tools are used), boatswain chair & windowjack work, all steel above 25' (where no scaffold is erected), & any scaffold above 25' (not floored solid)	13.50	2.45
Spray, steamcleaning, waterblasting, sandblasting, steeple-jack work, gold leafing, stencil designing, graining, & marbelizing	14.00	2.45
PILEDRIVERMEN	13.65	1.77
PLASTERERS	13.42	1.65
PLUMBERS & PIPEFITTERS	13.80	2.24
ROOFERS	10.45	.55
SHEET METAL WORKERS	14.09	2.14
SPRINKLER FITTERS	14.57	2.83

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:

a. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.

b. Vacation Pay Credit: Employer contributes 8% of the basic hourly rate for employees with 5 years or more of service, or 6% for employees with 6 months to 5 years of service..

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

DECISION NO. GA82-1033

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits
GROUP A	13.35	1.88
GROUP A-1	13.24	1.88
GROUP B	12.89	1.88
GROUP B-1	12.67	1.88
GROUP C	10.46	1.88
GROUP D-1	11.26	1.88
GROUP D-2	9.65	1.88
GROUP E	9.87	1.88
GROUP F	8.57	1.88

LABORERS		Basic Hourly Rates	Fringe Benefits
GROUP 1		9.51	1.02
GROUP 2		9.73	1.02
GROUP 3		10.01	1.02
GROUP 4		10.26	1.02
GROUP 5		10.58	1.02
GROUP 6	(25¢ above rate for classification under which employed)		

DECISION NO. GA82-1033

CLASSIFICATION DEFINITIONS - LABORERS

GROUP 1 - Batch plant man; buggy rollers (Ga.); cleaners, brick or lumber; clearing of right-of-way & building site (hand tools); concrete curer-sealer and liquid hardner; conveyor operator, used in tending plasterers & bricklayers; electricians laborer; excavator, backfiller, grader, hand; forklift operator, walk-type mech. used in tending plasterers and bricklayers; form oilers; form stripper; metal pan handler; plumber laborer; pipe doper; precast slab layer (floor, roofs, walks, curbs); puddlers, concrete; rail porter; railroad track laborer; reinforcing steel handler; scaffolds and staging for masons & Plasterers, erecting & removing; mummifyer, concrete, mech. or hand; sheeting and shoring laborers; steam jennies, used in cleaning equipment; tenders (all crafts); tool room man; truck spotter dumper; water boy; winch handles (manual); wrecking buildings & miscellaneous structures.

GROUP 2 - All tool operators: air, electric or gas powered, such as jackhammer, paving breaker, tampers, vibrator, spade, chipping hammer, & barco tamp.; bucket dump man, concrete; burner demolition work; chain saw operator; form setter, steel; mixer, mortar, cement, grout, clay, etc. (hand machine oper.); mortar mixer used in connection with hose for gypsum roofs, plastering, asbestos, fiber, soundproofing, etc.; motorized post hole digger; power saw operator, concrete, outside building; steam cleaning machine operator; sewer pipe layer, yarner, wiper & pot pot man; slip form raisers steel or wood, jack or screw type, wheelbarrow operator, motorized.

GROUP 3 - Powderman tender; wagon drill operator, track or wheel type and other equipment used in drilling for blasting.

GROUP 4 - Caisson work, hole man; tunnel laborer.

GROUP 5 - Nozzleman, concrete pneu.; powderman.

GROUP 6 - Chimneys or stacks, isolated.

DECISION NO. GA82-1033

CLASSIFICATION DEFINITIONS - POWER EQUIPMENT OPERATORS:

GROUP A - Crane operator (truck, tower, crawler, or locomotive);

GROUP A-1 - Backhoe operator, clamshell operator, concrete mix operator - mix plant, concrete pump operator - Ridley or similar type, derrick operator, dragline operator, drill operator - caisson foundation type, elevator operator - temporary construction elevator used to haul building material and personnel, elevating grader operator, hoisting engine operator, locomotive operator, mechancis - heavy duty, concrete paving mixer operator, pile driver operator, rock crusher operator, shovel operator, trenching machine operator over 6 feet depth capacity, tugger hoist operator, well drill operator - performing foundation work, winch truck operator - hoisting material, air compressor operator - 365 C.F.M. and over, furnishing air simultaneously for more than one contractor.

GROUP B - Bulldozer operator, dewatering system operator - where multiple pumps are used, dozer shovel operator, drill operator - Quarry Master type, fireman - stationary or portable, forklift operator, generator operator - 75 K.V.A. and over, motor grader operator, motor scraper operator (pans), oilers on cranes with earth boring drill attachmd with a separate power source, pusher dozer operator, self propelled compactor operator with blade, tractor operator with special equipment, trenching machine operator - up to and including 6 feet depth capacity, well point system operator (including the operation of all pumps on project operated by the contractor.

GROUP B-1 - Elevator operator - inside electric permanent house elevator used to haul building materials and personnel.

GROUP C - Air compressor - 600 cubic feet and over, air compressor operator-battery of two 300 cubic feet and over, hydrohammer operator, concrete batch plant operator.

GROUP D-1 - Oiler-greaser truck, trunk or locomotive crane.

GROUP D-2 - Oiler - unspecified, pump operator - over 4", up to 4 batteries, welding machine operator - 4 or more batteries, portable, gas, or diesel driven.

GROUP E - Concrete mixer operator - skip types except paving mixers, concrete finishing machine operator, concrete paving machine operator, roller operator - asphalt type, well drill operator - not performing foundation work.

GROUP F - Air compressor operator - over 150 CFM but less than 600 cubic feet, conveyor operator - chain or belt type, sand blasting machine operator, water pump operator 4 inches and over, up to and including three welding machines do not require an operator.

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Friday
July 2, 1982

Part IV

Department of the Interior

Minerals Management Service

Oil and Gas Leasing; Outer Continental Shelf: Central and Northern California, South Atlantic, Lower Cook Inlet/Shelikof Strait and Mid-Atlantic

4310-84

UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE

Outer Continental Shelf
Central and Northern California, South Atlantic, Lower Cook Inlet/
Shelikof Strait and Mid-Atlantic

Oil and Gas Lease Sale No. RS-2

1. Authority. This notice is published pursuant to the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1331-1343), as amended (92 Stat. 629), and the regulations issued thereunder (43 CFR Part 3300). A revision of 43 CFR 3300 appears in the Federal Register of June 15, 1982, at 47 FR 25967 and 26031. The revised regulations will be effective on July 16, 1982, and will therefore apply to this sale.

2. Filing of Bids. Sealed bids may be delivered, in person, to Homer Benton, Room No. 2515, U.S. Department of the Interior, 18th & C Streets, N.W., Washington, D.C., on August 4, 1982, until 4:30 p.m., or to Room 1C100, Auditorium, Geological Survey National Center, 12201 Sunrise Valley Drive, Reston, Virginia, between the hours of 8:30 a.m., e.s.t. and 9:30 a.m., e.s.t., August 5, 1982. Bids received by the authorized officer later than the times and dates specified above will be returned unopened to the bidders. Bids may not be modified or withdrawn unless written modification or withdrawal is received by the authorized officer prior to 9:30 a.m., e.s.t., August 5, 1982. All bids must be submitted and will be considered in accordance with applicable regulations, including 43 CFR Part 3300. The list of restricted joint bidders which applies to this sale was published in 47 FR 14785; April 6, 1982.

3. Method of Bidding. A separate bid in a sealed envelope, labeled, "Sealed Bid for Oil and Gas Lease (insert number of tract), not to be opened until 10 a.m., e.s.t., August 5, 1982," must be submitted for each tract. A suggested form appears in 43 CFR Part 3300, Appendix A. Bidders are advised that tract numbers are assigned solely for administrative purposes and are not the same as block numbers found on official protraction diagrams. All bids received shall be deemed submitted for a numbered tract. Bidders must submit with each bid one-fifth of the cash bonus in cash or by cashier's check, bank draft, or certified check, payable to the order of the Bureau of Land Management. No bid for less than a full tract as described in paragraph 12 will be considered. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to no more than five decimal places after the decimal point, e.g., 50.12345 percent. The previous requirement for a joint bidder's statement under 43 CFR 3316.4(g) has been rescinded by the latest revision of regulations at 43 CFR 3300 (see paragraph 1, above). Other documents may be required of bidders under 43 CFR 3316.4. Bidders are warned against violation of 18 U.S.C. 1860, prohibiting unlawful combination or intimidation of bidders.

4. Bidding Systems. All leases awarded for this sale will provide for a yearly rental payment of $8 per hectare or fraction thereof. Leases awarded under 4(a), (b), and (c) will provide for a minimum annual royalty payment of $8 per hectare or fraction thereof. The following systems will be utilized.

a) Bonus Bidding with a 16-2/3 Percent Royalty. Bids on tracts R53-156, R53-157, R53-162, R53-164, R53-169, R53-170, R53-171, R53-176, R53-190, R53-191, R56-189 thru R56-286, R60-1 thru R60-17, R60-19, R60-21, R60-22, R60-23, R60-25 thru R60-72, R60-86 thru R60-110, R60-112, R60-113, R60-115, R60-116, R60-153, R59-1, R59-23, R59-62, and R59-222 must be submitted on a cash bonus basis with a fixed royalty of 16-2/3 percent. All leases awarded under this system will provide for a minimum royalty payment of $8 per

below. The determination of the value of the production on which royalty is

awarded under this system will provide for a minimum royalty payment of $8 per hectare or fraction thereof due at the end of each lease year beginning with the first lease year following a discovery on the lease.

b) Bonus Bidding with a 12-1/2 Percent Royalty. Bids on tracts R56-22, R56-26, R56-27, R56-30, R56-33 thru R56-39, R56-46 thru R56-51, R56-53 thru R56-66, R56-69 thru R56-71, R56-73 thru R56-76, R56-78, R56-79, R56-162 thru R56-173, R59-2, R59-3, R59-5 thru R59-9, R59-11 thru R59-13, R59-16 thru R59-20, R59-24, R59-26 thru R59-28, R59-31 thru R59-35, R59-38 thru R59-42, R59-45 thru R59-50, R59-53 thru R59-56, R59-60, R59-61, R59-63 thru R59-65, R59-69 thru R59-71, R59-76, R59-77, R59-82 thru R59-84, R59-88 thru R59-94, R59-97 thru R59-102, R59-105, R59-114, R59-123, R59-196, R59-197, R59-198, R59-202 thru R59-206, R59-209 thru R59-212, R59-215 thru R59-221, R59-223 thru R59-233, R59-237, R59-238, R59-239, R59-242 thru R59-244, R59-248 thru R59-250, R59-252 and R59-253 must be submitted on a cash bonus basis with a fixed royalty of 12-1/2 percent.

c) Bonus Bidding with a Fixed Sliding Scale Royalty. Bids on tracts R53-197, R53-198, R53-199, R53-204, R53-205, R53-211, R53-212, R53-213, R53-218, R53-219, R53-220, R53-221, R53-225, R53-226, R53-227, R53-231, and R53-233 must be submitted on a cash bonus bid basis with the percent royalty due, in amount or value of production fixed according to the sliding scale formula described below. This formula fixes the percent royalty at a level determined by the value of lease production during each calendar quarter. For purposes of determining the royalty percent due on production during a quarter, the value of production during the quarter will be adjusted for inflation as described below. The determination of the value of the production on which royalty is due will be made pursuant to 30 CFR 250.64.

The fixed sliding scale formula operates in the following way: when the quarterly value of production, adjusted for inflation, is less than or equal to $14.787863 million, a royalty of 16.66667 percent in amount or value of production will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than $14.787864 million, but less than or equal to $1197.206141 million, the royalty percent due on the unadjusted value or amount of production is given by

$$Rj = b[\ln (Vj/S)]$$

where

Rj = the percent royalty that is due and payable on the unadjusted amount or value of all production saved, removed or sold in quarter j

b = 11.0

ln = natural logarithm

Vj = the value of production in quarter j, adjusted for inflation, in millions of dollars

S = 3.25

When the adjusted quarterly value of production is equal to or greater than $1197.206141 million, a royalty of 65.00000 percent in amount or value of production will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production.

In determining the quarterly percent royalty due, Rj, the calculation will be carried to five decimal places (for example, 17.10773 percent). This calculation will incorporate the adjusted quarterly value of production, Vj, in millions of dollars, rounded to the sixth digit, i.e., to the nearest dollar (for example, 15.392847 millions of dollars).

TABLE 1. HYPOTHETICAL QUARTERLY ROYALTY CALCULATIONS

(A) Actual Value of Quarterly Production (Millions of Dollars)	(B) GNP Fixed Weighted Price Index	(C) Inflation Factor[1]	(D) Adjusted Value of Quarterly Production[2] (Vj, Millions of $)	(E) Percent Royalty Rate (Rj)	(F) Royalty Payment[3] (Millions of Dollars)
10.000000	200.0	4/3	7.500000	16.66667	1.666667
30.000000	200.0	4/3	22.500000	21.28346	6.385039
90.000000	200.0	4/3	67.500000	33.36819	30.031378
270.000000	200.0	4/3	202.500000	45.45293	122.722921
810.000000	200.0	4/3	607.500000	57.53767	466.055118
10.000000	250.0	5/3	6.000000	16.66667	1.666667
30.000000	250.0	5/3	18.000000	18.82809	5.648665
90.000000	250.0	5/3	54.000000	30.91362	27.922257
270.000000	250.0	5/3	162.000000	42.99835	116.095557
810.000000	250.0	5/3	486.000000	55.08308	446.173028

1 Column (B) divided by 150.0 (assumed value of GNP fixed weighted price index at time leases are issued).

2 Column (A) divided by Inflation Factor.

3 Column (A) times Column (E) divided by 100. All values are rounded for display purposes only.

Figure 1
Form of the Sliding Royalty Schedule

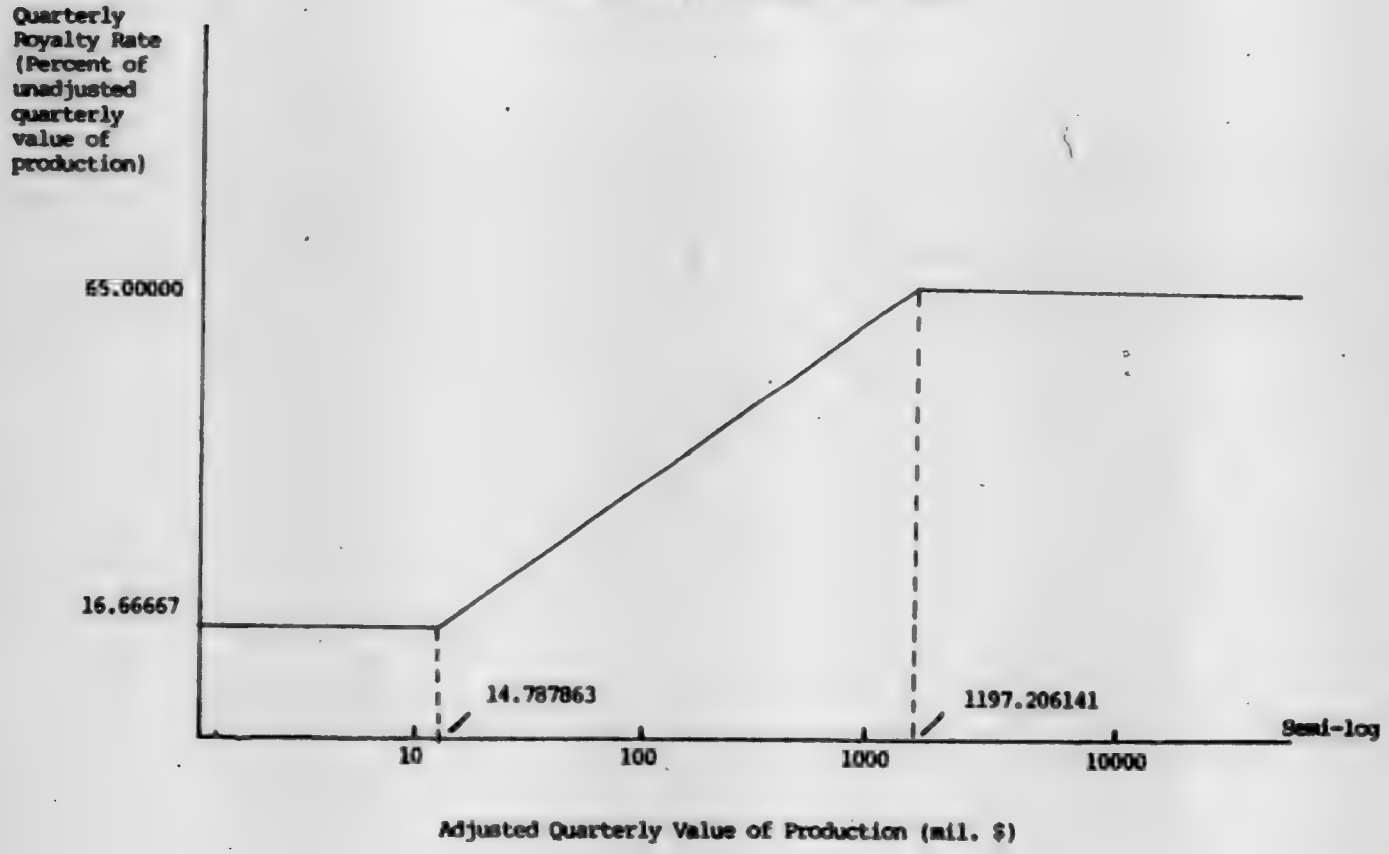

The form of the sliding scale royalty schedule is illustrated in Figure 1. Note that the effective quarterly royalty rate depends upon the inflation adjusted quarterly value of production. However, this rate is applied to the unadjusted quarterly value of production to determine the royalty payments due.

In adjusting the quarterly value of production for use in calculating the percent royalty due on production during the quarter, the actual value of production will be adjusted to account for the effects of inflation by dividing the actual value of production by the following inflation adjustment factor. The inflation adjustment factor used will be the ratio of the GNP fixed weighted price index for the calendar quarter preceding the quarter of production to the value of that index for the quarter preceding June, 1981. The GNP fixed weighted price index is published monthly in the Survey of Current Business by the Bureau of Economic Analysis, U.S. Department of Commerce. The percent royalty will be due and payable on the actual amount or value of production saved, removed, or sold as determined pursuant to 30 CFR 250.64. The timing of procedures for inflation adjustments and determinations of the royalty due will be specified at a later date. Table 1 provides hypothetical examples of quarterly royalty calculations using the sliding scale formula just described under two different values for the quarterly price index.

d) Bonus Bidding with a Fixed Net Profit Share. Bids on tracts R56-80 thru R56-83, R56-85 thru R56-99, R56-102, R56-103, R56-105, R56-106, R56-109 thru R56-124, R56-127, R56-128, R59-106 thru R59-109, R59-115 thru R59-118, R59-124 thru R59-128, R59-133 thru R59-137, R59-142 thru R59-145, R59-150, R59-151, R59-157, R59-158, R59-163, R59-164, R59-169 thru R59-171, R59-176 thru R59-178, R59-182 thru R59-184, R59-188 thru R59-191, and R59-195 must be submitted on a cash bonus basis with a fixed net profit share rate of 30 percent and a 1.50 capital recovery factor.

Tracts R56-131 thru R56-161, R56-175 thru R56-181, R56-185, R56-186 and R56-188 must be submitted on a cash bonus basis with a fixed net profit share rate of 45 percent and a 0.50 capital recovery factor.

Tracts R60-73 thru R60-85, R60-117, R60-119, R60-121 thru R60-123, R60-125, R60-127 thru R60-131, R60-133 thru R60-138, and R60-141 thru R60-152 must be submitted on a cash bonus basis with a fixed net profit share rate of 40 percent and a 0.75 capital recovery factor. The net profit share payment shall be calculated according to the regulation in 10 CFR 390.

5. Equal Opportunity. Each bidder must have submitted by 9:30 a.m., e.s.t., August 5, 1982, the certification required by 41 CFR 60-1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form 1140-8 (November 1973), and the Affirmative Action Representation Form, Form 1140-7 (December 1971). See Section 14 "Information to Lessees." These forms should be filed with the Minerals Manager, Atlantic Outer Continental Shelf Region, formerly New York OCS Office, Suite 32-120, 26 Federal Plaza, New York, New York, 10278, along with a statement as to which OCS Office maintains the bidder's company qualification file.

6. Bid Opening. Bids will be opened on August 5, 1982, beginning at 10 a.m., e.s.t., in Room 1C100, Auditorium at the second address stated in paragraph 2. The opening of the bids is for the sole purpose of publicly announcing bids received and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight, August 5, 1982, that bid will be returned unopened to the bidder as soon thereafter as possible.

7. Deposit of Payment. Any cash, cashier's checks, certified checks, or bank drafts submitted with a bid may be deposited in a suspense account in the U.S. Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

8. Withdrawal of Tracts. The United States reserves the right to withdraw any tract from this sale prior to issuance of a written acceptance of a bid for that tract.

9. Acceptance or Rejection of Bids. The United States reserves the right to reject any and all bids for any tract. In any case, no bid for any tract will be accepted and no lease for any tract will be awarded to any bidder unless:

(a) The bidder has complied with all requirements of this notice and applicable regulations;

(b) The bid is the highest valid cash bonus bid; and

(c) The amount of the bid has been determined to be adequate by the Secretary of the Interior.

No bid will be considered for acceptance unless it offers a cash bonus in the amount of $62 or more per hectare or fraction thereof.

10. Successful Bidders. Each person who has submitted a bid accepted by the Secretary of the Interior will be required to execute copies of the lease specified below, pay the balance of the cash bonus bid together with the first year's rental and satisfy the bonding requirements of 43 CFR Subpart 3318 within the time provided in 43 CFR 3316.5. A modification of the payments procedure for successful bidders appears in the latest revision of 43 CFR 3300 (see paragraph 1, above). These changes do not apply to the submission of the one-fifth bonus with bids, described in paragraph 3, above.

11. Official Protraction Diagrams. Tracts offered for lease may be located on the following official protraction diagrams which are available at a cost of $2.00 each from:

(a) the Minerals Manager, Pacific Outer Continental Shelf Region, formerly Pacific OCS Office, 1340 W. 6th Street, Room 200, Los Angeles, California 90017,

NI 10-3 San Luis Obispo

NI 10-6 Santa Maria

(b) the Minerals Manager, Atlantic Outer Continental Shelf Region, formerly New York OCS Office, Suite 32-120, 26 Federal Plaza, New York, New York, 10278,

NI 18-2 Manteo

NI 18-5

NI 18-7 Cape Fear

NI 17-12 James Island

NH 17-6

NH 17-2 Brunswick

NH 17-5 Jacksonville

NJ 18-3 Hudson Canynn

NJ 18-6 Wilmington Canyon

NJ 18-8 Chincoteague

NJ 18-9 Baltimore Rise

(c) the Minerals Manager, Alaska Outer Continental Shelf Region, formerly Alaska OCS Office, 620 East 10th Avenue, P.O. Box 1159, Anchorage, Alaska 99510,

NO 5-1, Iliamna

NO 5-2, Seldovia

NO 5-3, Mt. Katmai

NO 5-4, Afognak

TRACT LIST
SALE RS-2

NO 5-4, Afognak

12. Tract Descriptions.

Note: There may be gaps in the numbers of the tracts listed. Some of the blocks identified in the final environmental impact statements may not be included in this notice.

The tracts offered for bids are as follows:

TRACT LIST
SALE RS-2

OCS OFFICIAL PROTRACTION DIAGRAM, SAN LUIS OBISPO, NI 10-3
(Approved March 26, 1976)

Tract	Block	Description	Hectares
R53-156	897	All	2304.00
R53-157	898	All	2304.00
R53-162	941	All	2304.00
R53-164	943	All	2304.00
R53-169	985	All	2304.00
R53-170	986	All	2304.00
R53-171	987	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, SANTA MARIA, NI 10-6
(Approved March 26, 1976)

Tract	Block	Description	Hectares
R53-176	16	All	2304.00
R53-190	105	All	2304.00
R53-191	106	All	2304.00
R53-197	150	All	2304.00
R53-198	151	All	2304.00
R53-199	152	All	2304.00
R53-204	195	All	2304.00
R53-205	196	All	2304.00
R53-211	239	All	2304.00
R53-212	240	All	2304.00
R53-213	241	All	2304.00
R53-218	283	All	2304.00
R53-219	284	All	2304.00
R53-220	285	All	2304.00
R53-221	286	All	2304.00
R53-225	328	All	2304.00
R53-226	329	All	2304.00
R53-227	330	All	2304.00
R53-231	373	All	2304.00
R53-233	375	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, MANTEO NI 18-2
(Approved October 31, 1974)

Tract	Block	Description	Hectares
R56-22	555	All	2304.00
R56-26	641	All	2304.00
R56-27	642	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, NI 18-5
(Approved August 1, 1975)

Tract	Block	Description	Hectares
R56-30	751	All	2304.00
R56-33	754	All	2304.00
R56-34	794	All	2304.00
R56-35	795	All	2304.00
R56-36	796	All	2304.00
R56-37	837	All	2304.00
R56-38	838	All	2304.00
R56-39	839	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, CAPE FEAR NI 18-7
(Approved June 11, 1975; Revised January 27, 1976; Revised June 3, 1976)

Tract	Block	Description	Hectares
R56-46	175	All	2304.00
R56-47	176	All	2304.00
R56-48	219	All	2304.00
R56-49	220	All	2304.00

CAPE FEAR NI 18-7 (continued)

Tract	Block	Description	Hectares
R56-50	262	All	2304.00
R56-51	263	All	2304.00
R56-53	306	All	2304.00
R56-54	307	All	2304.00
R56-55	308	All	2304.00
R56-56	350	All	2304.00
R56-57	351	All	2304.00
R56-58	352	All	2304.00
R56-59	393	All	2304.00
R56-60	394	All	2304.00
R56-61	395	All	2304.00
R56-62	396	All	2304.00
R56-63	437	All	2304.00
R56-64	438	All	2304.00
R56-65	439	All	2304.00
R56-66	440	All	2304.00
R56-69	483	All	2304.00
R56-70	484	All	2304.00
R56-71	524	All	2304.00
R56-73	526	All	2304.00
R56-74	527	All	2304.00
R56-75	528	All	2304.00
R56-76	568	All	2304.00
R56-78	570	All	2304.00
R56-79	571	All	2304.00
R56-80	611	All	2304.00
R56-81	612	All	2304.00
R56-82	613	All	2304.00
R56-83	614	All	2304.00
R56-85	654	All	2304.00
R56-86	655	All	2304.00
R56-87	656	All	2304.00
R56-88	657	All	2304.00
R56-89	658	All	2304.00
R56-90	698	All	2304.00
R56-91	699	All	2304.00
R56-92	700	All	2304.00
R56-93	701	All	2304.00
R56-94	702	All	2304.00
R56-95	741	All	2304.00
R56-96	742	All	2304.00
R56-97	743	All	2304.00
R56-98	744	All	2304.00
R56-99	745	All	2304.00
R56-102	785	All	2304.00
R56-103	786	All	2304.00
R56-105	788	All	2304.00
R56-106	789	All	2304.00

CAPE FEAR NI 18-7 (continued)

Tract	Block	Description	Hectares

JAMES ISLAND NI 17-12 (continued)

CAPE FEAR NI 18-7 (continued)

Tract	Block	Description	Hectares
R56-109	828	All	2304.00
R56-110	829	All	2304.00
R56-111	830	All	2304.00
R56-112	831	All	2304.00
R56-113	832	All	2304.00
R56-114	834	All	2304.00
R56-115	872	All	2304.00
R56-116	873	All	2304.00
R56-117	874	All	2304.00
R56-118	875	All	2304.00
R56-119	876	All	2304.00
R56-120	916	All	2304.00
R56-121	917	All	2304.00
R56-122	918	All	2304.00
R56-123	919	All	2304.00
R56-124	960	All	2304.00
R56-127	963	All	2304.00
R56-128	1004	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, JAMES ISLAND NI 17-12
(Approved June 11, 1975)

Tract	Block	Description	Hectares
R56-131	242	All	2304.00
R56-132	243	All	2304.00
R56-133	244	All	2304.00
R56-134	245	All	2304.00
R56-135	246	All	2304.00
R56-136	247	All	2304.00
R56-137	285	All	2304.00
R56-138	286	All	2304.00
R56-139	287	All	2304.00
R56-140	288	All	2304.00
R56-141	289	All	2304.00
R56-142	290	All	2304.00
R56-143	291	All	2304.00
R56-144	329	All	2304.00
R56-145	330	All	2304.00
R56-146	331	All	2304.00
R56-147	334	All	2304.00
R56-148	335	All	2304.00
R56-149	373	All	2304.00
R56-150	374	All	2304.00
R56-151	800	All	2304.00
R56-152	841	All	2304.00
R56-153	842	All	2304.00
R56-154	843	All	2304.00
R56-155	844	All	2304.00
R56-156	885	All	2304.00

JAMES ISLAND NI 17-12 (continued)

Tract	Block	Description	Hectares
R56-157	886	All	2304.00
R56-158	887	All	2304.00
R56-159	888	All	2304.00
R56-160	929	All	2304.00
R56-161	930	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, STETSON MESA NH 17-6
(Approved June 11, 1975)

Tract	Block	Description	Hectares
R56-162	181	All	2304.00
R56-163	182	All	2304.00
R56-164	224	All	2304.00
R56-165	225	All	2304.00
R56-166	226	All	2304.00
R56-167	268	All	2304.00
R56-168	269	All	2304.00
R56-169	312	All	2304.00
R56-170	313	All	2304.00
R56-171	355	All	2304.00
R56-172	356	All	2304.00
R56-173	357	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, BRUNSWICK NH 17-2
(Approved April 29, 1975; Revised September 1, 1978)

Tract	Block	Description	Hectares
R56-175	256	All	2304.00
R56-176	257	All	2304.00
R56-177	298	All	2304.00
R56-178	299	All	2304.00
R56-179	300	All	2304.00
R56-180	301	All	2304.00
R56-181	341	All	2304.00
R56-185	345	All	2304.00
R56-186	386	All	2304.00
R56-188	388	All	2304.00
R56-189	695	All	2304.00
R56-190	696	All	2304.00
R56-191	697	All	2304.00
R56-192	738	All	2304.00
R56-193	739	All	2304.00

BRUMSWICK NH 17-2 (continued)

Tract	Bluck	Description	Hectares
R56-194	740	All	2304.00
R56-195	741	All	2304.00
R56-196	781	All	2304.00
R56-197	782	All	2304.00
R56-198	783	All	2304.00
R56-199	825	All	2304.00
R56-200	826	All	2304.00
R56-201	827	All	2304.00
R56-202	910	All	2304.00
R56-203	911	All	2304.00
R56-204	914	All	2304.00
R56-205	916	All	2304.00
R56-206	917	All	2304.00
R56-207	952	All	2304.00
R56-208	953	All	2304.00
R56-209	954	All	2304.00
R56-210	955	All	2304.00
R56-211	960	All	2304.00
R56-212	961	All	2304.00
R56-213	962	All	2304.00
R56-214	993	All	2304.00
R56-215	994	All	2304.00
R56-216	995	All	2304.00
R56-217	996	All	2304.00
R56-218	997	All	2304.00
R56-219	998	All	2304.00
R56-220	999	All	2304.00
R56-221	1000	All	2304.00
R56-222	1002	All	2304.00
R56-223	1006	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, JACKSONVILLE NH 17-5
(Approved April 29, 1975)

Tract	Block	Description	Hectares
R56-224	24	All	2304.00
R56-225	27	All	2304.00
R56-226	28	All	2304.00
R56-227	29	All	2304.00
R56-228	30	All	2304.00
R56-229	31	All	2304.00
R56-230	32	All	2304.00
R56-231	33	All	2304.00

JACKSONVILLE NH 17-5 (continued)

Tract	Block	Description	Hectares
R56-232	37	All	2304.00
R56-233	69	All	2304.00
R56-234	70	All	2304.00
R56-235	71	All	2304.00
R56-236	72	All	2304.00
R56-237	73	All	2304.00
R56-238	74	All	2304.00
R56-239	79	All	2304.00
R56-240	80	All	2304.00
R56-241	113	All	2304.00
R56-242	114	All	2304.00
R56-243	115	All	2304.00
R56-244	116	All	2304.00
R56-245	117	All	2304.00
R56-246	124	All	2304.00
R56-247	158	All	2304.00
R56-248	159	All	2304.00
R56-249	160	All	2304.00
R56-250	161	All	2304.00
R56-251	162	All	2304.00
R56-252	203	All	2304.00
R56-253	204	All	2304.00
R56-254	205	All	2304.00
R56-255	206	All	2304.00
R56-256	207	All	2304.00
R56-257	247	All	2304.00
R56-258	248	All	2304.00
R56-259	249	All	2304.00
R56-260	250	All	2304.00
R56-261	251	All	2304.00
R56-262	253	All	2304.00
R56-263	292	All	2304.00
R56-264	293	All	2304.00
R56-265	294	All	2304.00
R56-266	295	All	2304.00
R56-267	296	All	2304.00
R56-268	340	All	2304.00
R56-269	382	All	2304.00
R56-270	426	All	2304.00
R56-271	431	All	2304.00
R56-272	432	All	2304.00
R56-273	465	All	2304.00
R56-274	470	All	2304.00
R56-275	475	All	2304.00
R56-276	476	All	2304.00
R56-277	509	All	2304.00

JACKSONVILLE NH 17-5 (continued)

Tract	Block	Description	Hectares
R56-278	510	All	2304.00
R56-279	511	All	2304.00
R56-280	512	All	2304.00
R56-281	513	All	2304.00

JACKSONVILLE NH 17-5 (continued)

Tract	Block	Description	Hectares
R56-278	513	All	2304.00
R56-279	514	All	2304.00
R56-280	515	All	2304.00
R56-281	516	All	2304.00
R56-282	561	All	2304.00
R56-283	601	All	2304.00
R56-284	602	All	2304.00
R56-285	645	All	2304.00
R56-286	646	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, ILIAMNA NO 5-1
(Approved March 20, 1975)

Tract	Block	Description	Hectares
R60-1	484	All	2304.00
R60-2	527	All	2304.00
R60-3	615	All	2304.00
R60-4	659	All	2304.00
R60-5	703	All	2304.00
R60-6	748	All	2304.00
R60-7	836	All	2304.00
R60-8	880	All	2304.00
R60-9	923	All	2304.00
R60-10	924	All	2304.00
R60-11	968	All	2304.00
R60-12	1011	All	2304.00
R60-13	1012	All	2304.00
R60-14	1055	All	2304.00
R60-15	1056	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, SELDOVIA NO 5-2
(Approved March 20, 1975)

Tract	Block	Description	Hectares
R60-16	93	1/	588.65
R60-17	94	All	2304.00
R60-19	138	All	2304.00
R60-21	182	All	2304.00
R60-22	186	All	2304.00
R60-23	224	All	2304.00
R60-26	228	All	2304.00
R60-27	229	All	2304.00
R60-28	230	All	2304.00

1/ Seaward of the three geographical mile line.

SELDOVIA NO 5-2 (continued)

Tract	Block	Description	Hectares
R60-29	268	All	2304.00
R60-30	269	All	2304.00
R60-31	270	All	2304.00
R60-32	271	All	2304.00
R60-33	272	All	2304.00
R60-34	273	All	2304.00
R60-35	312	All	2304.00
R60-36	313	All	2304.00
R60-37	314	All	2304.00
R60-38	315	All	2304.00
R60-39	316	All	2304.00
R60-40	317	All	2304.00
R60-41	359	All	2304.00
R60-42	360	All	2304.00
R60-43	361	All	2304.00
R60-44	404	All	2304.00
R60-45	405	All	2304.00
R60-46	487	All	2304.00
R60-47	533	All	2304.00
R60-48	580	All	2304.00
R60-49	621	All	2304.00
R60-50	625	All	2304.00
R60-51	661	All	2304.00
R60-52	662	All	2304.00
R60-53	663	All	2304.00
R60-54	664	All	2304.00
R60-55	665	All	2304.00
R60-56	666	All	2304.00
R60-57	669	All	2304.00
R60-58	705	All	2304.00
R60-59	706	All	2304.00
R60-60	707	All	2304.00
R60-61	713	All	2304.00
R60-62	751	All	2304.00
R60-63	756	All	2304.00
R60-64	757	All	2304.00
R60-65	793	All	2304.00
R60-66	795	All	2304.00
R60-67	800	All	2304.00
R60-68	837	All	2304.00
R60-69	838	All	2304.00
R60-70	881	All	2304.00
R60-71	882	All	2304.00
R60-72	925	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, MT. KATMAI NO 5-3
(Approved July 3, 1975)

Tract	Block	Description	Hectares
R60-73	43	All	2304.00
R60-74	44	All	2304.00
R60-75	88	All	2304.00
R60-76	131	E1/2E1/2	576.00
R60-77	132	All	2304.00
R60-78	176	All	2304.00
R60-79	219	NE1/4,SE1/4NW1/4, E1/2NE1/4NW1/4, S1/2 1/	1752.09
R60-80	220	All	2304.00
R60-81	263	1/	2176.96
R60-82	264	All	2304.00
R60-83	306	1/	2163.71
R60-84	307	All	2304.00
R60-85	308	All	2304.00
R60-86	350	All	2304.00
R60-87	351	All	2304.00
R60-88	352	All	2304.00
R60-89	394	All	2304.00
R60-90	395	All	2304.00
R60-91	396	All	2304.00
R60-92	438	All	2304.00
R60-93	439	All	2304.00
R60-94	479	All	2304.00
R60-95	480	All	2304.00
R60-96	481	All	2304.00
R60-97	482	All	2304.00
R60-98	483	All	2304.00
R60-99	522	All	2304.00
R60-100	523	All	2304.00
R60-101	524	All	2304.00
R60-102	525	All	2304.00
R60-103	526	All	2304.00
R60-104	565	All	2304.00
R60-105	566	All	2304.00
R60-106	567	All	2304.00
R60-107	568	All	2304.00
R60-108	569	All	2304.00
R60-109	570	All	2304.00
R60-110	607	All	2304.00
R60-112	609	All	2304.00
R60-113	610	All	2304.00
R60-115	612	All	2304.00
R60-116	613	All	2304.00
R60-117	651	All	2304.00

1/ Seaward of the three geographical mile line.

MT. KATMAI NO 5-3 (continued)

Tract	Block	Description	Hectares
R60-119	653	All	2304.00
R60-121	655	All	2304.00
R60-122	656	All	2304.00
R60-123	695	All	2304.00
R60-125	697	All	2304.00
R60-127	699	All	2304.00
R60-128	737	E1/2,E1/2W1/2	1728.00
R60-129	738	All	2304.00
R60-130	739	All	2304.00
R60-131	740	All	2304.00
R60-133	742	All	2304.00
R60-134	781	All	2404.00
R60-135	782	All	2304.00
R60-136	783	All	2304.00
R60-137	784	All	2304.00
R60-138	785	All	2304.00
R60-141	827	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, AFOGNAK NO 5-4
(Approved July 3, 1975)

Tract	Block	Description	Hectares
R60-142	48	All	2304.00
R60-143	90	All	2304.00
R60-144	91	All	2304.00
R60-145	92	All	2304.00
R60-146	133	All	2304.00
R60-147	134	All	2304.00
R60-148	135	All	2304.00
R60-149	177	All	2304.00
R60-150	178	All	2304.00
R60-151	221	All	2304.00
R60-152	265	All	2304.00
R60-153	309	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, HUDSON CANYON NJ 18-2

OCS OFFICIAL PROTRACTION DIAGRAM, HUDSON CANYON NJ 18-3
(Approved October 31, 1974)

Tract	Block	Description	Hectares
R59-1	686	All	2304.00
R59-2	689	All	2304.00
R59-3	691	All	2304.00
R59-5	694	All	2304.00
R59-6	733	All	2304.00
R59-7	734	All	2304.00
R59-8	735	All	2304.00
R59-9	736	All	2304.00
R59-11	775	All	2304.00
R59-12	776	All	2304.00
R59-13	777	All	2304.00
R59-16	780	All	2304.00
R59-17	781	All	2304.00
R59-18	818	All	2304.00
R59-19	819	All	2304.00
R59-20	820	All	2304.00
R59-24	824	All	2304.00
R59-25	856	All	2304.00
R59-26	862	All	2304.00
R59-27	863	All	2304.00
R59-28	864	All	2304.00
R59-31	867	All	2304.00
R59-32	904	All	2304.00
R59-33	905	All	2304.00
R59-34	906	All	2304.00
R59-35	907	All	2304.00
R59-38	910	All	2304.00
R59-39	911	All	2304.00
R59-40	948	All	2304.00
R59-41	949	All	2304.00
R59-42	950	All	2304.00
R59-45	953	All	2304.00
R59-46	954	All	2304.00
R59-47	990	All	2304.00
R59-48	991	All	2304.00
R59-49	992	All	2304.00
R59-50	993	All	2304.00
R59-53	996	All	2304.00
R59-54	997	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, WILMINGTON CANYON NJ 18-6
(Approved October 31, 1974)

Tract	Block	Description	Hectares
R59-55	22	All	2304.00
R59-56	23	All	2304.00
R59-60	27	All	2304.00
R59-61	28	All	2304.00
R59-62	63	All	2304.00
R59-63	65	All	2304.00
R59-64	66	All	2304.00
R59-65	67	All	2304.00
R59-69	71	All	2304.00
R59-70	108	All	2304.00
R59-71	109	All	2304.00
R59-76	114	All	2304.00
R59-77	152	All	2304.00
R59-82	157	All	2304.00
R59-83	194	All	2304.00
R59-84	196	All	2304.00
R59-88	200	All	2304.00
R59-89	235	All	2304.00
R59-90	236	All	2304.00
R59-91	237	All	2304.00
R59-92	238	All	2304.00
R59-93	239	All	2304.00
R59-94	240	All	2304.00
R59-97	243	All	2304.00
R59-98	279	All	2304.00
R59-99	280	All	2304.00
R59-100	281	All	2304.00
R59-101	282	All	2304.00
R59-102	283	All	2304.00
R59-105	286	All	2304.00
R59-106	322	All	2304.00
R59-107	323	All	2304.00
R59-108	324	All	2304.00
R59-109	325	All	2304.00
R59-114	330	All	2304.00
R59-115	365	All	2304.00
R59-116	366	All	2304.00
R59-117	367	All	2304.00
R59-118	368	All	2304.00
R59-123	373	All	2304.00
R59-124	408	All	2304.00
R59-125	409	All	2304.00
R59-126	410	All	2304.00

WILMINGTON CANYON NJ 18-6 (continued)

R59-127	411	All	2304.00
R59-128	412	All	2304.00
R59-133	417	All	2304.00
R59-134	452	All	2304.00
R59-135	453	All	2304.00
R59-136	454	All	2304.00
R59-137	455	All	2304.00
R59-142	460	All	2304.00
R59-143	496	All	2304.00
R59-144	497	All	2304.00
R59-145	498	All	2304.00
R59-150	503	All	2304.00
R59-151	540	All	2304.00
R59-157	546	All	2304.00
R59-158	584	All	2304.00
R59-163	589	All	2304.00
R59-164	627	All	2304.00
R59-169	632	All	2304.00
R59-170	669	All	2304.00
R59-171	670	All	2304.00
R59-176	712	All	2304.00
R59-177	713	All	2304.00
R59-178	714	All	2304.00
R59-182	755	All	2304.00
R59-183	756	All	2304.00
R59-184	757	All	2304.00
R59-188	761	All	2304.00
R59-189	798	All	2304.00
R59-190	799	All	2304.00
R59-191	800	All	2304.00
R59-195	804	All	2304.00
R59-196	841	All	2304.00
R59-197	842	All	2304.00
R59-198	843	All	2304.00
R59-202	883	All	2304.00
R59-203	884	All	2304.00
R59-204	885	All	2304.00
R59-205	886	All	2304.00
R59-206	887	All	2304.00
R59-209	927	All	2304.00
R59-210	928	All	2304.00
R59-211	929	All	2304.00
R59-212	930	All	2304.00
R59-215	933	All	2304.00
R59-216	971	All	2304.00
R59-217	972	All	2304.00
R59-218	973	All	2304.00
R59-219	974	All	2304.00
R59-220	975	All	2304.00
R59-221	976	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, CHINCOTEAGUE NJ 18-8
(Approved December 2, 1976)

Tract	Block	Description	Hectares
R59-222	41	All	2304.00
R59-223	129	All	2304.00
R59-224	216	All	2304.00
R59-225	217	All	2304.00
R59-226	260	All	2304.00
R59-227	261	All	2304.00
R59-228	304	All	2304.00
R59-229	305	All	2304.00
R59-230	347	All	2304.00
R59-231	348	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, BALTIMORE RISE NJ 18-9
(Approved December 6, 1976)

Tract	Block	Description	Hectares
R59-232	2	All	2304.00
R59-233	3	All	2304.00
R59-237	45	All	2304.00
R59-238	46	All	2304.00
R59-239	47	All	2304.00
R59-242	50	All	2304.00
R59-243	89	All	2304.00
R59-244	90	All	2304.00
R59-248	133	All	2304.00
R59-249	134	All	2304.00
R59-250	135	All	2304.00
R59-252	177	All	2304.00
R59-253	178	All	2304.00

13. Lease Terms and Stipulations.

(a) Leases resulting from this sale for tracts R56-22, R56-26,

as determined by the sliding scale royalty formula as follows. When the

quarterly value of production, adjusted for inflation

13. Lease Terms and Stipulations.

(a) Leases resulting from this sale for tracts R56-22, R56-26, R56-27, R56-30, R56-33 thru R56-39, R56-46 thru R56-51, R56-53 thru R56-66, R56-69, R56-70, R56-71, R56-73 thru R56-76, R56-78 thru R56-83, R56-85 thru R56-99, R56-102, R56-103, R56-105, R56-106, R56-109 thru R56-124, R56-127, R56-128, R56-182 thru R56-173, R59-3, R59-5, R59-7 thru R59-9, R59-11 thru R59-13, R59-16 thru R59-20, R59-24, R59-26 thru R59-28, R59-31 thru R59-35, R59-38 thru R59-42, R59-45 thru R59-50, R59-53 thru R59-56, R59-60, R59-61, R59-63 thru R59-65, R59-69 thru R59-71, R59-76, R59-77, R59-82 thru R59-84, R59-88, R59-91 thru R59-94, R59-97, R59-100, R59-101, R59-102, R59-105, R59-108, R59-109, R59-114, R59-117, R59-118, R59-123, R59-126, R59-127, R59-128, R59-133, R59-136, R59-137, R59-142 thru R59-145, R59-150, R59-151, R59-157, R59-158, R59-163, R59-164, R59-169 thru R59-171, R59-176 thru R59-178, R59-182 thru R59-184, R59-188 thru R59-191, R59-195 thru R59-198, R59-202 thru R59-206, R59-209 thru R59-212, R59-215 thru R59-221, R59-224 thru R59-233, R59-237, R59-238, R59-239, R59-242 thru R59-244, R59-248 thru R59-250, R59-252 and R59-253 will be for an initial term of 10 years. All other leases issued as a result of this sale will be for an initial term of five years. Leases issued as a result of this sale will be on Form 3300-1 (September 1978), available from the Outer Continental Shelf Regional Offices listed in paragraph 11, above.

(b) For leases resulting from this sale for tracts offered on a cash bonus basis with fixed sliding scale royalty, listed in paragraph 4(c), Form 3300-1 will be amended as follows:

Sec. 6 Royalty on Production. (a) The lessee agrees to pay the lessor royalty at that percent in amount or value of production from the leased area as determined by the sliding scale royalty formula as follows. When the quarterly value of production, adjusted for inflation, is less than or equal to $14.787863 million, a royalty of 16.66667 percent in amount or value of production will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than $14.787864 million, but less than or equal to $1197.206141 million, the royalty percent due on the unadjusted value or amount of production is given by:

$$Rj = b[\ln (Vj/S)]$$

where

Rj = the percent royalty that is due and payable on the unadjusted amount or value of all production saved, removed or sold in quarter j

b = 11.0

ln = natural logarithm

Vj = the value of production in quarter j, adjusted for inflation, in millions of dollars

S = 3.35

When the adjusted quarterly value of production is equal to or greater than $1197.206142 million, a royalty of 65.00000 percent in amount or value of production will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production.

In determining the quarterly percent royalty due, Rj, the calculation will be carried to five decimal places (for example, 17.10773 percent). This calculation will incorporate the adjusted quarterly value of production, Vj, in millions of dollars, rounded to the sixth digit i.e., to the nearest dollar (for example, 15.392847 millions of dollars). Gas of all kinds (except helium) is subject to royalty. The lessor shall determine whether production royalty shall be paid in amount or value.

(c) For leases resulting from this sale for tracts offered on a cash bonus basis with a fixed net profit share, listed in paragraph 4(d), Form 3300-1 will be amended as follows:

Sec. 4 Rentals. The phrase "which commences prior to a discovery in paying quantities of oil or gas on the leased area" is hereby deleted and replaced by "which commences prior to the date the first net profit share payment becomes due."

Sec. 5. Minimum Royalty. Hereby deleted.

Sec. 6. Royalty on Production. Hereby replaced by Fixed Net Profit Share. The lessee agrees to pay a net profit share rate of __ percent with a ___ capital recovery factor, calculated pursuant to 10 CFR 390.

(d) Except as otherwise noted, the following stipulations will be included in each lease resulting from this sale. It is intended that each tract will be offered with the same stipulations and conditions as previously offered in Sale Nos. 53, 56, 60 and 59. In the following stipulations the term DMMOFO refers to the Regional Deputy Minerals Manager, Offshore Field Operations, Minerals Management Service, formerly Deputy Conservation Manager, Field Operations, U.S. Geological Survey and the term Manager refers to the Minerals Manager of the Outer Continental Shelf (OCS) Region, formerly Manager of the Outer Continental Shelf Office.

Stipulation No. 1

If the DMMOFO has reason to believe that a site, structure, or object of historical or archaeological significance, hereinafter referred to as a "cultural resource," may exist in the lease area and gives the lessee written notice that the lessor is invoking the provisions of this stipulation, the lessee shall upon receipt of such notice comply with the following requirements:

Prior to any drilling activity or the construction or placement of any structure for exploration or development on the lease, including but not limited to, well drilling and pipeline and platform placement, hereinafter in this stipulation referred to as "operation," the lessee shall conduct remote sensing surveys to determine the potential existence of any cultural resource that may be affected by such operations. All data produced by such remote sensing surveys as well as other pertinent natural and cultural environmental data shall be examined by a qualified marine survey archaeologist to determine if indicators are present suggesting the existence of a cultural resource that may be adversely affected by any lease operation. A report of this survey and assessment prepared by the marine survey archaeologist shall be submitted by the lessee to the DMMOFO and the Manager for review.

If such cultural resource indicators are present the lessee shall: (1) locate the site of such operation so as not to adversely affect the identified location; or (2) establish, to the satisfaction of the DMMOFO, on the basis of further archaeological investigation conducted by a qualified marine survey archaeologist or underwater archaeologist using such survey equipment and techniques as deemed necessary by the DMMOFO, either that such operation shall not adversely affect the location identified or that the potential cultural resource suggested by the occurrence of the indicators does not exist.

A report of this investigation prepared by the marine survey archaeologist or underwater archaeologist shall be submitted to the DMMOFO and the Manager for their review. Should the DMMOFO determine that the existence of a cultural resource which may be adversely affected by such operation is sufficiently established to warrant protection, the lessee shall take no action that may result in an adverse effect on such cultural resource until the DMMOFO has given directions as to its preservation.

The lessee agrees that if any site, structure, or object of historical or archaeological significance should be discovered during the conduct of any operations on the leased area, he shall report immediately such findings to the DMMOFO and make every reasonable effort to preserve and protect the cultural resource from damage until the DMMOFO has given directions as to its preservation.

Stipulation No. 2

To be included only in leases resulting from this sale for all tracts with the prefix R53-.

(a) If the DMMOFO has reason to believe that biological populations or habitats exist and require protection, he shall give the lessee notice that the lessor is invoking the provisions of this stipulation and the lessee shall comply with the following requirements. Prior to any drilling activity or the construction or placement of any structure for exploration or development on lease areas including, but not limited to, well drilling and pipeline and platform placement hereinafter referred to as "operation," the lessee shall conduct site specific surveys as approved by the DMMOFO and in accordance with prescribed biological survey requirements to determine the existence of any special biological resource including, but not limited to:

(1) Very unusual, rare, or uncommon ecosystems or ecotones.

(2) A species of limited regional distribution that may be adversely affected by any lease operations.

If the results of such surveys suggest the existence of a special biological resource that may be adversely affected by any lease operation, the lessee shall: (1) relocate the site of such operation so as not to adversely affect the resources identified; or (2) establish to the satisfaction of the DMMOFO

If exploratory drilling operations are allowed, site-specific surveys shall be conducted to determine the potential for unstable bottom conditions. If emplacement of structures (platforms) or seafloor wellheads for production or

If the results of such surveys suggest the existence of a special biological resource that may be adversely affected by any lease operation, the lessee shall: (1) relocate the site of such operation so as not to adversely affect the resources identified; or (2) establish to the satisfaction of the DMMOFO, on the basis of the site specific survey, either that such operation will not have a significant adverse effect upon the resource identified or that a special biological resource does not exist. The DMMOFO will review all data submitted and determine, in writing, whether a special biological resource exists and whether it may be significantly affected by the lessee's operations. The lessee may take no action until the DMMOFO has given the lessee written directions on how to proceed.

(b) The lessee agrees that if any area of biological significance should be discovered during the conduct of any operations on the leased area, he shall report immediately such findings to the DMMOFO, and make every reasonable effort to preserve and protect the biolelgical resource from damage until the DMMOFO has given the lessee directions with respect to its protection.

Stipulation No. 3

(a) To be included in any lease resulting from this sale for tracts: R53-156, R53-157, R53-162, and R53-164.

Exploratory drilling operations, emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas, and the emplacement of pipelines will not be allowed within the potentially unstable portion of this lease block unless or until the lessee has demonstrated to the DMMOFO's satisfaction that mass movement of sediments is unlikely or that exploratory drilling operations, structures (platforms), casing, wellheads and pipelines can be safely designed to protect the environment in case such mass movement occure at the proposed location. This may necessitate that all exploration for and development of oil or gas be performed from locations outside of the area of unstable sediments, either within or outside of this lease block.

If exploratory drilling operations are allowed, site-specific surveys shall be conducted to determine the potential for unstable bottom conditions. If emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas is allowed, all such unstable areas must be mapped. The DMMOFO may also require soil testing before exploration and production operations are allowed.

(b) To be included in any lease resulting from this sale for tracts: R53-226, R53-227, R53-231, and R53-233.

Exploratory drilling operations, emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas, and the emplacement of pipelines will not be allowed within the potentially unstable portions of this lease block unless or until the lessee has demonstrated to the DMMOFO's satisfaction that exploratory drilling operations, structures (platforms), casing, wellheads and pipelines can be safely designed to protect the environment at the proposed location. This may necessitate that all exploration for and development of oil or gas be performed from locations outside of the area of submarine canyons or channels, either within or outside of this lease block.

If exploratory drilling operations are allowed, site-specific surveys shall be conducted to determine the potential for unstable bottom conditions. If emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas is allowed, all such unstable areas must be mapped. The DMMOFO may also require soil testing before exploration and production operations are allowed.

Stipulation No. 4

To be included only in leases resulting from this sale for: all tracts with the prefix R53-; all tracts with the prefix R56- except R56-26 and R56-27; tracts R59-5, R59-17, R59-32, R59-33, R59-40, R59-41, R59-42, R59-47 thru R59-50, R59-55, R59-56, R59-60 thru R59-65, R59-69 thru R59-71, R59-76, R59-77, R59-82 thru R59-84, R59-88 thru R59-94, R59-97 thru R59-102, R59-105 thru R59-109, R59-114 thru R59-118, R59-23 thru R59-128, R59-133 thru R59-137, R59-142 thru R59-145, R59-150, R59-151, R59-157, R59-158, R59-163, R59-164, R59-169, R59-202, R59-209, R59-210, R59-216, R59-217, R59-218, R59-222 thru R59-233, R59-237 thru R59-239, R59-242 thru R59-244, R59-248 thru R59-250, R59-252, and R59-253.

In this stipulation, the relevant military facilities are as follows for the tracts specified. All tracts with the prefix R53-: the Western Space and Missile Center (WSMC), Vandenberg AFB, Lompoc, California; The Pacific Missile Test Center (PMTC), Pt. Mugu, California; and the Fleet Area Control and Surveillance Facility (FACSFAC), San Diego, California. Tracts R56-22, R56-30, R56-33 thru R56-39, R56-46 thru R56-51, R56-53 thru R56-66, R56-69 thru R56-71, R56-73 thru R56-78, R56-78 thru R56-83, R56-85 thru R56-99, R56-101, R56-103, R56-105, R56-106, R56-109 thru R56-114, R56-117, R56-120, R59-5, R59-17, R59-32, R59-33, R59-40, R59-41, R59-42, R59-47 thru R59-50, R59-55, R59-56, R59-60 thru R59-65, R59-69 thru R59-71, R59-76, R59-77, R59-82 thru R59-84, R59-88 thru R59-94, R59-97 thru R59-102, R59-105 thru R59-120, R59-133 thru R59-137, R59-142 thru R59-145, R59-150, R59-151, R59-157, R59-158, R59-163, R59-164, R59-169, R59-202, R59-209, R59-210, R59-216, R59-217, R59-218, R59-222 thru R59-244, R59-248 thru R59-250, R59-252 and R59-253: Fleet Area Control and Surveillance Facility, Virginia Capes OPAREA, Naval Air Station Oceana, Virginia Beach, Virginia. Tracts R56-131 thru R56-161: Charlestnn Operating Area Coordinator, Charlestom, South Carolina. Tracts R56-162 thru R56-173, R56-175 thru R56-181, R56-185, R56-186, R56-188 thru R56-286: Fleet Area Control and Surveillance Facility, Jacksonville, Florida.

Whether or not compensation for such damage or injury might be due under a theory of strict or absolute liability or otherwise, the lessee assumes all risks of damage or injury to persons or property, which occur in, on, or above the Outer Continental Shelf, to any person or persons or to any property of any person or persons who are agents, employees or invitees of the lessee, its agents, independent contractors or subcontractors doing business with the lessee in connection with any activities being performed by the lessee in, on, or above the Outer Continental Shelf, if such injury or damage to such person or property occurs by reason of the activities of any agency of the U.S. Government, its contractors, or subcontractors, or any of their officers, agents or employees, being conducted as a part of, or in connection with, the programs and activities of the relevant military facility.

Notwithstanding any limitations of the lessee's liability in section 14 of the lease, the lessee assumes the risk whether such injury or damage is caused

in whole or in part by any act or omission, regardless of negligence or fault, of the United States, its contractors or subcontractors, or any of their officers, agents, or employees. The lessee further agrees to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the lessee, and to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the agents, employees, or invitees of the lessee, its agents or any independent contractors or subcontractors doing business with the lessee in connection with the programs and activities of the aforementioned military installations and agencies, whether the same be caused in whole or in part by the negligence or fault of the United States, its contractors, or subcontractors, or any of their officers, agents, or employees and whether such claims might be sustained under theories of strict or absolute liability or otherwise.

The lessee agrees to control his own electromagnetic emissions and those of his agents, employees, invitees, independent contractors or subcontractors emanating from individual, designated defense warning areas in accordance with requirements specified by the Commander of the relevant military facility to the degree necessary to prevent damage to, or unacceptable interference with Department of Defense flight, testing or operations activities conducted within individual, designated warning areas. Necessary monitoring, control, and coordination with the lessee, his agents, employees, invitees, independent contractors or subcontractors, will be effected by the Commander of the appropriate onshore military installation conducting operations in the particular warning area: provided, however, that control of such electromagnetic emissions shall permit at least one continuous channel of communication between a lessee, its agents, employees, invitees, independent contractors or subcontractors and onshore facilities.

The lessee agrees that prior to operating or causing to be operated on its behalf boat or aircraft traffic into individual, designated warning areas, the lessee shall coordinate and comply with the instructions from the Commander of the relevant military facility, or other appropriate military agency. Such coordination and instruction will provide for positive control of boats and aircraft operating in the warning areas at all times.

Stipulation No. 5

To be included only in leases resulting from this sale for tracts with the prefix R53-.

The lessee, recognizing that mineral exploration and exploitation and recovery operations of the leased areas of submerged lands can impede tactical military operations, hereby recognizes and agrees that the United States reserves and has the right to temporarily suspend operations of the lessee under this lease in the interests of national security requirements. Such temporary suspension of operations, including the evacuation of personnel, and appropriate sheltering of personnel not evacuated (an appropriate shelter shall mean the protection of all lessee personnel for the entire duration of any Department of Defense activity from flying or falling objects or substances), will come into effect upon the order of the DMMOFO, after consultation with the Commander, Western Space and Missile Center (WSMC), Vandenberg AFB, Lompoc, California, the Commander, Pacific Missile Test Center (PMTC), Pt. Mugu, California, and the Commander, Fleet Area Control and Surveillance Facility (FACSFAC), San Diego, California, or other appropriate military agency, or higher authority, when national security interests necessitate such action. It is understood that any temporary suspension of operations for national security may not exceed 72 hours; however, any such suspension may be extended by order of the DMMOFO. During such periods equipment may remain in place.

Stipulation No. 6

To be included only in leases resulting from this sale for all tracts with the prefix R53-.

(a) Pipelines will be required: 1) if pipeline rights-of-way can be determined and obtained; 2) if laying of such pipelines is technologically feasible and environmentally preferable; and 3) if, in the opinion of the lessor, pipelines can be laid without net social loss, taking into account any incremental costs of pipelines over alternative methods of transportation and any incremental benefits in the form of increased environmental protection or reduced multiple use conflicts. The lessor specifically reserves the right to require that any pipeline used for transporting production to shore be placed in certain designated management areas. In selecting the means of transportation, consideration will be given to any recommendations of the intergovernmental planning program for assessment and management of transportation of Outer Continental Shelf oil and gas with the participation of Federal, State and local governments and the industry.

(b) Following the development of sufficient pipeline capacity, no crude oil production will be transported by surface vessel from offshore production sites, except in the case of emergency. Determinations as to emergency conditions and appropriate responses to these conditions will be made by the DMMOFO.

(c) Where the three criteria set forth in the first sentence of this stipulation are not met and surface transportation must be employed, all vessels used for carrying hydrocarbons to shore from the leased area will conform with all standards established for such vessels, pursuant to the Ports and Waterways Safety Act of 1978 (33 U.S.C. 1221 et seq.).

Stipulation No. 7

To be included only in leases resulting from this sale for all tracts with the prefix R53-.

(a) Wells. Subsea well heads and temporary abandonments, or suspended operations that leave protrusions above the sea floor, shall be protected, if feasible and as appropriate, in such a manner as to allow commercial fisheries trawling gear to pass over the structure without snagging or otherwise damaging the structures or the fishing gear. Latitude and longitude coordinates of these structures, along with water depths, shall be submitted to the DMMOFO. The coordinates of such structures will be determined by the lessee utilizing state-of-the-art navigation systems with accuracy of at least ±50 feet (15.25 meters) at 200 miles (322 kilometers).

(b) Pipelines. All pipelines, unless buried, including gathering lines, shall have a smooth surface design. In the event that an irregular pipe surface is unavoidable due to the need for valves, anodes or other structures, it shall, as appropriate, be protected in such a manner as to allow trawling gear to pass over the object without snagging or otherwise damaging the structure or the fishing gear.

(1) No producing well may be drilled where the well bore in the producing intervals is closer to the seaward boundary of the State of California than the distance agreed to between the State and the Department based on analysis of

surface is unavoidable due to the need for valves, anodes or other structures, it shall, as appropriate, be protected in such a manner as to allow trawling gear to pass over the object without snagging or otherwise damaging the structure or the fishing gear.

Stipulation No. 8

To be included only in the leases resulting from this sale for all tracts with the prefix R53-.

The lessee shall include in his exploration and development plans, submitted under 30 CFR 250.34, a proposed fisheries training program for review and approval by the DMMOFO. The training program shall be for the personnel involved in vessel operations (related to offshore exploration and development and production operations), and platform and shorebased supervisors. The purpose of the training program shall be to familiarize persons working on the project of the value of the commercial fishing industry, the methods of offshore fishing operations, the potential conflicts between fishing operations and offshore oil and gas activities, the locations of marine mammal and bird rookery sites in the area, the seasonal abundance and sensitivities of these animals to disturbance, and the Federal laws that have been established to protect endangered and threatened species from harassment and injury. The program shall be formulated and implemented by qualified instructors.

Stipulation No. 9

To be included only in the leases resulting from this sale for the fixed sliding scale royalty tracts identified in paragraph 4(c) of this notice.

(a) The royalty rate on production from this lease is subject to consideration for reduction under the same authority that applies to all other oil and gas leases on the Outer Continental Shelf (30 CFR 250.21). The Director, Minerals Management Service may grant a reduction for only one year at a time and reduction of royalty rates will not be approved unless production has been under way for one year or more.

(b) Although the royalty rate specified in section 6(a) of this lease or as subsequently modified in accordance with applicable regulations and stipulations is applicable to all production under this lease, not more than 16-2/3 percent of the production from the lease area may be taken as royalty in amount, except as provided in sec. 15(d); the royalty on any portion of the production from the lease in excess of 16-2/3 percent may only be taken in value of the production from the lease area.

Stipulation No. 10

This stipulation shall be effective for each tract to which it applies only if the Secretary of the Interior and the Governor of the State of California, prior to the approval of a development and production plan for that tract by the Department of the Interior, enter into an agreement pursuant to section 8(g) of the Outer Continental Shelf Lands Act, as amended, 43 U.S.C. section 1337(g). If such agreement has been entered into, this stipulation is to be applied to leases resulting from this sale for tract R53-233.

(1) No producing well may be drilled where the well bore in the producing intervals is closer to the seaward boundary of the State of California than the distance agreed to between the State and the Department based on analysis of pertinent site-specific data, except that in no event shall the agreed distance be further than 750 feet from the seaward boundary of the State. In the absence of an agreed distance, no well shall be drilled closer than 500 feet to the seaward boundary of the State.

(2) The constraint in paragraph (1) shall not apply:

(a) If oil or gas pools or fields underlying both the Outer Continental Shelf and lands subject to the jurisdiction of California are included in a production unit entered into by the relevant lessees and approved by the lessors, or in a production unit entered into by the Federal lessee and the State of California when it is a carried, non-operating owner.

(b) If, in the absence of a production unit as described in (a) above, the State of California permits production from State lands from a point closer than 750 feet from the Federal-State boundary. In the event that such production from State lands does occur, the Federal lessee shall be allowed to produce from offset wells equally close to the boundary in the area of Federal jurisdiction.

Stipulation No. 11

To be included only in leases resulting from this sale for all tracts with the prefix R56-.

Prior to any drilling activity or the construction or placement of any structure for exploration or development on a lease, including but not limited to well drilling and pipeline and platform placement, the lessee will submit to the DMMOFO as part of his exploration and/or development plan a bathymetry map, prepared utilizing remote sensing and/or other survey techniques. This map will include interpretations for the presence of live bottom areas within a minimum of 1,820 m radius of the proposed exploration or production activity site.

For the purpose of this stipulation, live bottom areas are defined as those areas which contain biological assemblages consisting of such sessile invertebrates as sea fans, sea whips, hydroids, anemones, ascidians, sponges, bryozoans, or corals living upon and attached to naturally occurring hard or rocky formations with rough, broken, or smooth topography; or whose lithotope favors the accumulation of turtles, fishes, and other fauna.

If it is determined that the remote sensing data indicate the presence of hard or live bottom areas, the lessee will also submit to the DMMOFO photo-documentation of the sea bottom near proposed exploratory drilling sites or proposed platform locations.

If it is determined that live bottom areas might be adversely impacted by the proposed activities, then the DMMOFO will require the lessee to undertake any measure deemed economically, environmentally, and technically feasible to

protect live bottom areas. These measures may include, but are not limited to, the following:

(a) The relocation of operations to avoid live bottom areas;
(b) The shunting of all drilling fluids and cuttings in such a manner as to avoid live bottom areas;
(c) The transportation of drilling fluids and cuttings to approved disposal sites; and
(d) The monitoring of live bottom areas to assess the adequacy of any mitigation measures taken and the impact of lessee initiated activities.

Stipulation No. 12

To be included only in leases resulting from this sale for tracts R56-27, R56-117 through R56-119, R56-122 and R56-123.

Portions of this lease may be subject to mass movement of sediments related to unstable slopes with associated shallow faulting. Exploratory drilling operations, emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas, and the emplacement of pipelines will not be allowed within the potentially unstable portions of this lease block unless or until the lessee has demonstrated to the DMMOFO's satisfaction that mass movement of sediments is unlikely or that exploratory drilling operations, structures (platforms), casing, wellheads, and pipelines can be safely designed to protect the environment in case such mass movement occurs at the proposed location. This may necessitate that all exploration for and development of oil or gas be performed from locations outside of the area of unstable sediments, either within or outside of this lease block.

If exploratory drilling operations are allowed, site-specific surveys shall be conducted to determine the potential for unstable bottom conditions. If emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas is allowed, all such unstable areas must be mapped. The DMMOFO may also require soil testing before exploration and production operations are allowed.

Stipulation No. 13

To be included in any lease resulting from this sale for tracts R56-167, R56-169, R56-171, and R56-172.

The lessee shall conduct remote sensing and/or other surveys as specified by the DMMOFO to determine the existence of any unexploded ordnance. The lessee's report to the DMMOFO should document all indications of magnetic or side scan sonar anomalies on the sea floor.

Stipulation No. 14

To be included in leases resulting from this sale for all tracts with the prefix R56-.

Pipelines will be required: (1) if pipeline rights-of-way can be determined and obtained; (2) if laying such pipelines is technically feasible and environmentally preferable; and (3) if, in the opinion of the lessor, pipelines can be laid without net social loss, taking into account any incremental costs of pipelines over alternative methods of transportation and any incremental benefits in the form of increased environmental protection or reduced multiple use conflicts. The lessor specifically reserves the right to require that any pipeline used for transporting production to shore be placed in certain designated management areas. In selecting the means of transportation, consideration will be given to any recommendation of the intergovernmental planning program for assessment and management of transportation of Outer Continental Shelf oil and gas with the participation of Federal, State, and local governments and the industry. Where feasible, all pipelines, including both flow lines and gathering lines for oil and gas, shall be buried to a depth suitable for adequate protection from water currents, sand waves, storm scouring, fisheries trawling gear, and other uses as determined on a case-by-case basis.

Following the development of sufficient pipeline capacity, no crude oil production will be transported by surface vessel from offshore production sites, except in the case of emergency. Determinations as to emergency conditions and appropriate responses to these conditions will be made by the DMMOFO. Where the three criteria set forth in the first sentence of this stipulation are not met and surface transportation must be employed, all vessels used for carrying hydrocarbons to shore from the leased area will conform with all standards established for such vessels, pursuant to the Ports and Waterways Safety Act of 1978 (33 U.S.C. 1221 et seq.).

Stipulation No. 15

To be included only in leases resulting from this sale for tracts with the prefix R60-.

If the DMMOFO has reason to believe that biological populations or habitats exist and require protection, he shall give the lessee notice that the lessor is invoking the provisions of this stipulation and the lessee shall comply with the following requirements:

Prior to the commencement of any drilling activity, or construction or placement of any structure for exploration or development activity, the lessee shall conduct site-specific environmental surveys or studies, including sampling as approved by the DMMOFO, to characterize existing environmental conditions in an identified zone prior to oil and gas operations, and to determine the extent and composition of biological populations or habitats, and the effects of proposed operations on the populations or habitats which might require additional protective measures. The nature and extent of any such surveys or studies will be determined by the DMMOFO on a case-by-case basis.

Based on any surveys or studies which the DMMOFO may require of the lessee, the DMMOFO may require the lessee to: (1) relocate the site of operations so as not to affect adversely the significant biological populations or habitats deserving protention; (2) modify operations in such a way as not to affect adversely the significant biological populations or habitats deserving protection; or (3) establish to the satisfaction of the DMMOFO that such operations will not adversely affect the significant biological populations or habitats deserving protection. Based on any surveys or studies which the

DMMOFO may also require of the lessee, the DMMOFO may require the lessee to provide for periodic sampling of environmental conditions during operations.

reduced multiple use conflicts. The lessor specifically reserves the right to require that any pipeline used for transporting production to shore be placed

DMMOFO may also require of the lessee, the DMMOFO may require the lessee to provide for periodic sampling of environmental conditions during operations.

The lessee shall submit all data obtained in the course of such surveys or studies to the DMMOFO, with the locational information for drilling or other activity. The lessee may take no action that might result in any effect on the biological populations or habitats surveyed, until the DMMOFO provides written directions to the lessee with regard to permissible actions.

In the event that important biological populations or habitats are identified subsequent to commencement of operations, the lessee shall make every reasonable effort to preserve and protect all biological populations and habitats within the lease area, until the DMMOFO provides written instructions to the lessee with regard to the biological populations or habitats identified.

Stipulation No. 16

To be included only in leases resulting from this sale for all tracts with the prefix R60-.

The lessee shall include in any exploration and development plans, submitted under 30 CFR 250.34, a proposed environmental training program for all personnel involved in exploration or development activities (including personnel of the lessee's contractors and subcontractors) for review and approval by the DMMOFO. The program shall be designed to inform each person working on the project of specific types of environmental, social, and cultural concerns which relate to the individual's job. The program shall be formulated by qualified instructors experienced in each pertinent field of study, and shall employ effective methods to insure that personnel are informed of archaeological, geological, and biological resources, including bird colonies and sea mammal concentration areas, to insure the importance of avoidance and non-harassment of wildlife resources is understood.

The program shall be designed to increase the sensitivity and understanding of personnel to the community values, customs, and lifestyles in areas in which such personnel will be operating and shall include information concerning avoidance of conflicts with commercial fishing operations and with commercial fishing gear.

The lessee shall also submit for review and approval a continuing technical environmental briefing program for supervisory and managerial personnel of the lessee and its agents, contractors, and subcontractors.

Stipulation No. 17

To be included only in leases resulting from this sale for tracts with the prefix R60-.

Pipelines will be required: (a) if pipeline rights-of-way can be determined and obtained; (b) if laying such pipelines is technologically feasible and environmentally preferable; and (c) if, in the opinion of the lessor, pipelines can be laid without net social loss, taking into account any incremental costs of pipelines over alternative methods of transportation and any incremental benefits in the form of increased environmental protection or reduced multiple use conflicts. The lessor specifically reserves the right to require that any pipeline used for transporting production to shore be placed in certain designated management areas. In selecting the means of transportation, consideration will be given to any recommendation of the intergovernmental planning program for assessment and management of transportation of Outer Continental Shelf oil and gas with participation of Federal, State, and local governments and industry.

All pipelines, including both flow lines and gathering lines for oil and gas, shall be designed and constructed to provide for adequate protection from water currents, storms, geohazards, fisheries trawling gear, and other hazards as determined on a case-by-case basis.

Following the development of sufficient pipeline capacity, no crude oil production will be transported by surface vessel from offshore production sites, except in the case of emergency. Determinations as to emergency conditions and appropriate responses to these conditions will be made by the DMMOFO.

Where the three criteria set forth in the first sentence of this stipulation are not met and surface transportation must be employed, all vessels used for carrying hydrocarbons to shore from the leased area will conform with all standards established for such vessels, pursuant to the Ports and Waterways Safety Act of 1978 (33 U.S.C. 1221 et seq.).

Stipulation No. 18

To be included only in leases resulting from this sale for all tracts with the prefix R60-.

(a) Wells. Subsea wellheads and temporary abandonments, or suspended operations that leave protrusions above the sea floor, shall be protected, if feasible and as appropriate, in such a manner as to allow commercial fisheries trawling gear to pass over the structure without snagging or otherwise damaging the structures or the fishing gear. Latitude and longitude coordinates of these structures, along with water depths, shall be submitted to the DMMOFO. The coordinates of such structures will be determined by the lessee utilizing state-of-the-art navigation systems with accuracy of at least ±50 feet (15.25 meters) at 200 miles (322 kilometers).

(b) Pipelines. All pipelines, unless buried, including gathering lines, shall have a smooth surface design. In the event that an irregular pipe surface is unavoidable due to the need for valves, anodes or other structures, it shall, as appropriate, be protected in such a manner as to allow trawling gear to pass over the object without snagging or otherwise damaging the structure or the fishing gear.

Stipulation No. 19

To be included only in the leases resulting from this sale for all tracts with the prefix R59-.

If biological populations or habitats which may require additional protection are identified by the DMMOFO on any tracts in the leasing area, the DMMOFO will require the lessee to conduct environmental surveys or studies, including sampling, as

approved by the DMMOFO, to determine existing environmental conditions, the extent and composition of biological populations or habitats, and the effects of proposed or existing operations on the populations or habitats which might require additional protective measures. The DMMOFO will give written notification to the lessee of his decision to require such surveys. The nature and extent of any surveys or studies will be determined by the DMMOFO on a case-by-case basis.

Based on any surveys or studies which the DMMOFO may require of the lessee, the DMMOFO may require the lessee to: (1) relocate the site of operations so as not to adversely affect the biological populations or habitats deserving protection; or (2) modify operations in such a way as not to adversely affect the biological populations or habitats deserving protection; or (3) establish to the satisfaction of the DMMOFO that such operations will not adversely affect the biological populations or habitats deserving protection.

Operations, including siting, must be conducted to insure the protection and continued viability of the biological populations or habitats deserving protection in a manner consistent with the other purposes of the Outer Continental Shelf Lands Act, as amended.

The lessee will submit all data obtained in the course of such surveys to the DMMOFO, with the locational information for drilling or other activity. The lessee may take no action that might affect the biological populations or habitats surveyed, until the DMMOFO provides written directions to the lessee, with regard to permissible actions.

In the event that biological populations or habitats deserving protection are identified subsequent to commencement of operations, the lessee shall make every reasonable effort to preserve and protect all biological populations and habitats within the lease area, until the DMMOFO provides written instructions to the lessee with regard to the biological populations or habitats identified.

Stipulation No. 20

To be included only in leases resulting from this sale for tracts with the prefix R59-.

Pipelines will be required, (1) if pipeline rights-of-way can be determined and obtained, (2) if laying such pipelines is technologically feasible and environmentally preferable, and (3) if, in the opinion of the lessor, pipelines can be laid without net social loss, taking into account any incremental costs of pipelines over alternative methods of transportation and any incremental benefits in the form of increased environmental protection or reduced multiple use conflicts. The lessor specifically reserves the right to require that any pipeline used for transporting production to shore be placed in certain designated management areas. In selecting the means of transportation, consideration will be given to any recommendation of the Intergovernmental Planning Program for Outer Continental Shelf Oil and Gas Leasing, Transportation and Related Facilities, with the participation of Federal and State governments, industry, and private interests. Where feasible and environmentally preferable, all pipelines, including both flow lines and gathering lines for oil and gas, shall be buried to a depth suitable for adequate protection from water currents, sand waves, storm scouring, fisheries trawling gear, and other factors as determined on a case-by-case basis.

Following the completion of pipeline installation, no crude oil production will be transported by surface vessel from offshore production sites, except in the case of emergency. Determinations as to emergency conditions and appropriate responses to these conditions will be made by the DMMOFO. Where the three criteria set forth in the first sentence of this stipulation are not met and surface transportation must be employed, all vessels used for carrying hydrocarbons to shore from the leased area will conform with all applicable sections of Titles 33 and 46 of the U.S. Code and the regulations issued thereunder by the U.S. Coast Guard.

Stipulation No. 21

To be included only in the leases resulting from this sale for all tracts with the prefix R59-.

The DMMOFO may require the lessee to dispose of drill cuttings and drilling muds by shunting the material to a depth and location below the ocean surface as specified by the DMMOFO, or by transporting the material to disposal sites approved and permitted by appropriate regulatory agencies. After consultation with the appropriate regulatory agencies, the DMMOFO shall determine the method of disposal based upon review of relevant sources of information.

Based upon the composition of produced formation waters the site-specific environmental conditions in a leasing area, and data from relevant sources, the DMMOFO may require the lessee to reinject formation waters. The DMMOFO shall provide written notice to the lessee of a decision to require reinjection of such formation waters.

Stipulation No. 22

To be included only in leases resulting from this sale for tracts R59-47 through R59-253.

(a) Whether or not compensation for such damage or injury might be due under a theory of strict or absolute liability or otherwise, the lessee assumes all risks of damage or injury to persons or property, which occurs in, on, or above the Outer Continental Shelf, to any person or persons or to any property of any person or persons who are agents, employees or invitees of the lessee, its agents, independent contractors or subcontractors doing business with the lessee in connection with any activities being performed by the lessee in, on, or above the Outer Continental Shelf, if such injury or damage to such person or property occurs by reason of the activities of any agency of the U.S. Government, its contractors, or subcontractors, or any of their officers, agents or employees, being conducted as a part of, or in connection with, the programs and activities of the National Aeronautics and Space Administration (NASA), Wallops Flight Center. The lessee assumes this risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault, of the United States, its contractors or subcontractors, or any of their officers, agents, or employees.

Notwithstanding any limitations of the lessee's liability in section 14 of the lease, the lessee assumes this risk whether such injury or damage is caused in

Tracts	NJ 18-3	(Hudson Canyon) (Continued)
R59-7	- 734	W1/2SW1/4

Notwithstanding any limitations of the lessee's liability in section 14 of the lease, the lessee assumes this risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault, of the United States, its contractors or subcontractors, or any of their officers, agents, or employees. The lessee further agrees to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the lessee, the agents, employees, or invitees of the lessee, its agents, or any independent contractors or subcontractors doing business with the lessee in connection with the programs and activities of the NASA, Wallops Flight Center, whether the same be caused in whole or in part by the negligence or fault of the United States, its contractors, or subcontractors or any of their officers, agents, or employees, and whether such claims might be sustained under a theory of strict or absolute liability or otherwise.

(b) The lessee, when operating or causing to be operated on its behalf, boat, ship, or aircraft traffic into the leased area or surrounding area of the lease, including any part of the Outer Continental Shelf between the 35th and 39th parallels, shall enter into an agreement with the Director, Wallops Flight Center, prior to commencing such traffic. Such agreement shall provide for positive control of boats, ships, and aircraft operating in the above designated areas and will provide for the avoidance of interference with the programs and activities of the NASA Wallops Flight Center.

(c) Upon recommendation by the Director, Wallops Flight Center, when the activities of the NASA Wallops Flight Center may endanger personnel or property, the lessee agrees, upon receipt of notice from the DMMOFO, to evacuate all personnel from all structures on the lease and to shut-in and secure all wells and other equipment, including pipelines on the lease, within 48 hours or within such longer period as may be specified by the DMMOFO. The DMMOFO shall not require evacuation of personnel and shutting-in and securing of equipment for a period of time greater than 72 hours; however, such period of time may be extended by subsequent notice from the DMMOFO. Equipment and structures may remain in place on the lease during such time as the evacuation remains in effect.

(d) The lessee agrees to control his own electromagnetic emissions and those of his agents, employees, invitees, independent contractors or subcontractors emanating from the leased area or surrounding area of the lease, including any part of the Outer Continental Shelf between the 35th and 39th parallels, in accordance with the requirements specified by the Director, Wallops Flight Center, to the degree necessary to prevent damage to, or unacceptable interference with, the programs and activities of the NASA, Wallops Flight Center.

Stipulation No. 3]

Leases for the following tracts will include this stipulation, which will apply only to operations within the designated portions of such tracts:

Tracts Showing Evidence of Mass Movement

Tracts	NJ 18-3 (Hudson Canyon)
R59-6	- 733 NW1/4SW1/4, S1/2NE1/4, NE1/4SE1/4
R59-7	- 734 W1/2SW1/4
R59-8	- 735 NW1/4
R59-13	- 777 N1/2NE1/4
R59-16	- 780 S1/2NW1/4, W1/2SW1/4
R59-17	- 781 SE1/4, E1/2SW1/4, SW1/4SW1/4, S1/2NE1/4, SE1/4NW1/4
R59-24	- 824 S1/2, S1/2N1/2
R59-31	- 867 SE1/4NW1/4, NE1/4SW1/4, S1/2NE1/4, N1/2SE1/4
R59-38	- 910 W1/2NW1/4, NE1/4NW1/4, NE1/4, SE1/4, SE1/4SW1/4
R59-39	- 911 S1/2, S1/2NW1/4, NW1/4NW1/4, S1/2NE1/4, NE1/4NE 1/4
R59-45	- 953 S1/2NE1/4, N1/2SE1/4
R59-46	- 954 NW1/4SW1/4, NE1/4NW1/4, N1/2NE1/4, SE1/4NE1/4
R59-49	- 990 SW1/4NW1/4, W1/2SW1/4
R59-50	- 993 NE1/4SE 1/4
	NJ 18-6 (Wilmington Canyon)
R59-55	- 22 N1/2NE1/4
R59-56	- 23 S1/2NW1/4, NW1/4NW1/4, N1/2SW1/4, W1/2SE1/4
R59-61	- 28 SE1/4SE1/4
R59-62	- 63 NE1/4SE1/4
R59-70	- 108 SW1/4NE1/4, NW1/4SE1/4
R59-76	- 114 SW1/4SW1/4
R59-82	- 157 NE1/4NE1/4
R59-135	- 453 SE1/4
R59-136	- 454 S1/2NW1/4
R59-143	- 496 NE1/4SE1/4
R59-144	- 497 NW1/4, NW1/4NE1/4, NW1/4SW1/4
R59-157	- 546 S1/2SW1/4, NE1/4SW1/4
R59-164	- 627 N1/2NW1/4
R59-191	- 800 SW1/4SE1/4
R59-198	- 843 E1/2NW1/4
R59-220	- 975 SW1/4SW1/4
	NJ 18-8 (Chincoteague)
R59-228	- 304 SE1/4SE1/4
R59-229	- 305 SW1/4SW1/4
R59-231	- 348 E1/2E1/2
	NJ 18-9 (Baltimore Rise)
R59-242	- 50 N1/2NE1/4
R59-244	- 90 SE1/4SW1/4
R59-248	- 133 E1/2NE1/4, NE1/4SE1/4
R59-249	- 134 N1/2, N1/2SW1/4, NW1/4SE1/4

Tracts Showing Evidence of Shallow Faults

	NJ 18-3 (Hudson Canyon)
R59-28	- 864 SE1/4NE1/4
R59-38	- 910 S1/2NE1/4, W1/2NW1/4, NW1/4SE1/4
R59-39	- 911 NE1/4NE1/4, S1/2NE1/4, SW1/4SW1/4, E1/2SW1/4, NW1/4SE1/4
R59-45	- 953 NW1/4SW1/4, SW1/4NW1/4, NW1/4NE1/4
R59-46	- 954 NE1/4NE1/4

Tracts NJ 18-X (Wilmington Canyon)

R59-114 - 330 N1/2SW1/4, NW1/4SW1/4
R59-125 - 373 NE1/4NF1/4

Portions of this tract may be subject to unstable slopes or shallow faults, (mass movement of sediments). Exploratory drilling operations, emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas, and the emplacement of pipelines will not be allowed within the potentially unstable portions of this lease block unless or until the lessee has demonstrated to the DMMOFO's satisfaction that mass movement of sediment is unlikely or that exploratory drilling operations, structures (platforms), casing, wellheads and pipelines can be safely designed to protect the environment in case such mass movement occurs at the proposed location. This may necessitate that all exploration for and development of oil or gas be performed from locations outside of the area of instability, either within or outside of this lease block.

If exploratory drilling operations are allowed, site-specific surveys shall be conducted to determine the potential for unstable bottom conditions. The extension of these surveys may be required outside of the leased block. If emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas are allowed, all such unstable areas must be mapped. The DMMOFO may also require soil testing before exploration and production operations are allowed.

Stipulation No. 24

To be included only in leases resulting from this sale for tracts R59-60, R59-61, R59-69, and R59-115.

If the DMMOFO believes any undetonated explosives may exist in a leased tract, the lessee shall conduct surveys as specified by the DMMOFO to determine the location of any undetonated explosives. Upon completion of any such surveys, the lessee shall forward a report and all pertinent data to the DMMOFO for review. Should the DMMOFO determine that the existence of such devices may adversely affect any activity or operation, such as the construction or placement of any structure for exploration or development on the lease, the lessee shall take no action until the DMMOFO has given directions as to the conduct of that operation.

Stipulation No. 25

To be included only in the leases resulting from this sale for the net profit share tracts listed in paragraph 4(d) of this notice.

The net profit share payment specified in sec. 6 of this lease may be satisfied in whole or in part by the lessor taking production in amount rather than in value. However, no more than 16-2/3 percent of the production from the lease area may be taken in amount, except as provided in sec. 15(d). The net profit share obligations of the lessee shall be calculated to include as a credit, the value of production taken in amount by the lessor.

14. Information to Lessees. With respect to tracts with the prefix R53-, the Department of the Interior will seek the advice of the State of California and other Federal agencies to identify areas of special biological or cultural resources.

Operations on some of the tracts offered for lease may be restricted by designation of fairways, precautionary zones, or traffic separation schemes established by the Coast Guard pursuant to the Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.). Such areas might be established, among other reasons, for the purpose of protecting commercial fisheries. Corps of Engineers permits are required for construction of any artificial islands, installations and other devices permanently or temporarily attached to the seabed located on the Outer Continental Shelf in accordance with section 4(e) of the Outer Continental Shelf Lands Act of 1953, as amended.

Bidders are advised that the Departments of the Interior and Transportation have entered into a Memorandum of Understanding dated May 8, 1976, concerning the design, installation, operation and maintenance of offshore pipelines. Bidders should consult both Departments for regulations applicable to offshore pipelines.

Bidders are also advised that in accordance with sec. 16 of each lease offered at this sale, the lessor may require a lessee to operate under a unit, pooling, or drilling agreement, and that the lessor will give particular consideration to requiring unitization in instances where one or more reservoirs underlie two or more leases with a different royalty rate, or a royalty rate based on a sliding scale, or a fixed net profit share.

With respect to leases resulting from this sale for all tracts with the prefix R53-, to reduce the impacts of aircraft disturbances at seabird colonies and marine mammal rookeries along the coast, a distance of at least one mile from the coastline and an altitude of 1,000 feet should be maintained

exist or that exploratory drilling operations, structures (platforms), casing,

and marine mammal rookeries along the coast, a distance of at least one mile from the coastline and an altitude of 1,000 feet should be maintained, consistent with aircraft safety, from specific areas to be identified by the DMMOFO. The lessee is advised that all violations may be reported to the U.S. Fish and Wildlife Service, National Marine Fisheries Service, or the California Department of Fish and Game, as appropriate, for disposition.

Revisions of Department of Labor regulations on Affirmative Action requirements for Government Contractors (including lessees) have been deferred, pending review of those regulations (see Federal Register of August 25, 1981, at 46 F.R. 42865 and 42968). Should those changes become effective at any time before the issuance of leases resulting from this sale, Section 18 of the lease form, Form 3300-1 (September 1978), would be deleted from leases resulting from this sale. In addition, existing stocks of the Affirmative Action Forms described in section 5 of this notice contain language that would be superseded by the revised regulations at 41 CFR 60-1.5(a)(1) and 60-1.7(a)(1).

Pending the issuance of revised versions of Forms 1140-7 and 1140-8 by the Bureau of Land Management, submission of Form 1140-7 (December 1971) and Form 1140-8 (November 1973) will not invalidate an otherwise acceptable bid, and the revised regulations' requirements will be deemed to be part of the existing Affirmative Action Forms.

Notice is hereby given that portions of tracts R53-199, R53-205, R53-211, R53-213, R53-219, R53-221, R53-227, and R53-233 may contain a shallow "bright spot" seismic amplitude anomaly which may be indicative of a shallow gas deposit. Surface occupancy above this anomaly and drilling through the anomaly will not be allowed unless or until the lessee has demonstrated to the DMMOFO's satisfaction that a potentially hazardous accumulation of shallow gas does not exist or that exploratory drilling operations, structures (platforms), casing, and wellheads can be placed or drilling plans designed to assure safe operations in the area above the anomaly. This may necessitate that all exploration for and development of oil and gas be performed from locations outside the area of concern, either within or outside this lease block.

In implementing stipulation 8, the DMMOFO will require that training programs include the locations of marine mammal and bird rookery sites in the area, the seasonal abundance and sensitivities of these animals to disturbance, and the Federal laws that have been established to protect endangered and threatened species from harassment and injury.

With respect to tracts with the prefix R56-, the Department of the Interior will seek the advice of the States of North Carolina, South Carolina, Georgia, and Florida, and other Federal agencies, to identify areas of special concern which might require appropriate protective measures for live bottom areas and areas which might contain cultural resources. If it is determined that live bottom areas might be adversely affected by the proposed activities, then the DMMOFO, in consultation with the Regional Director, Fish and Wildlife Service (FWS), the States, EPA, and other Federal agencies with jurisdiction and expertise to protect the environment, will require the lessee, pursuant to Section 5(a) of the OCS Lands Act, as amended, to undertake any measures to protect live bottom areas.

With respect to leases resulting from this sale for all tracts with the prefix R56-, bidders are advised that the West Indian manatee is a marine mammal which is officially listed as an Endangered Species by the Department of the Interior. It is protected by the Endangered Species Act of 1973, as amended (87 Stat. 884, 16 U.S.C. 1531-1543), and the Marine Mammal Protection

Act of 1972, as amended (86 Stat. 1027, 16 U.S.C. 1361-1407), and various other State and Federal laws and regulations. On October 22, 1979, (44 FR 60963) Interior promulgated regulations (50 CFR 17.100-17.108) providing a means for establishing manatee protection areas. Also, the Florida Manatee Sanctuary Act of 1978 declares the entire State of Florida a "refuge and sanctuary for the manatees." A cooperative agreement between Interior and Florida on endangered species became effective on June 23, 1976. A similar cooperative agreement with the State of Georgia became effective on October 6, 1977.

For those tracts listed in paragraph 13(a) above providing for leases with an initial period of more than five years, bidders are advised that pursuant to 30 CFR 250.34-1(a)(3), the lessee shall submit to the DMMOFO either an exploration plan or a general statement of exploration intentions prior to the end of the ninth lease year.

With respect to leases resulting from this sale for all tracts with the prefix R60-, bidders are advised that the conduct of all activities related to leases issued as a result of this lease sale, the lessee and its agents, contractors, and subcontractors will be subject to the provisions of the Marine Mammal Protection Act of 1972, the Endangered Species Act of 1973, as amended, and International Treaties. Violations of these Acts and Treaties may be reported to the National Marine Fisheries Service or U.S. Fish and Wildlife Service, as appropriate. The lessee or his contractors should be aware that disturbance of wildlife could be determined to constitute harassment, and thereby be in violation of existing laws. Behavioral disturbance of most birds and mammals found in or near the sale 60 area would be unlikely if ocean vessels and aircraft maintained at least a 1-mile distance from observed wildlife or known wildlife concentration areas such as bird colonies or marine mammal rookeries. Therefore, in concurrence with the National Marine Fisheries Service and the U.S. Fish and Wildlife Service, it is recommended that aircraft or vessels operated by lessees maintain at least a 1-mile distance from observed wildlife or known wildlife concentration areas. Human safety will take precedence at all times over distances recommended herein for avoidance or disturbance of wildlife. Maps locating major wildlife concentration areas are available through the DMMOFO and appropriate resource agencies.

With respect to leases resulting from this sale for all tracts with the prefix R60-, bidders are advised that the State of Alaska will be consulted by the DMMOFO throughout the stages of OCS development. In addition to State involvement in the Intergovernmental Planning Program (IPP), the Scientific Committee of the OCS Advisory Board, and the review of exploration and development plans, the DMMOFO may involve the State in the implementation of Stipulation 15.

With respect to leases resulting from this sale for all tracts with the prefix R59-, bidders are advised that: In the enforcement of Stipulation No. 19, the DMMOFO will receive recommendations from the Biological Task Force (BTF) composed of designated representatives of the Minerals Management Service, Fish and Wildlife Service, the National Marine Fisheries Service, and the Environmental Protection Agency. The task force may consult with representatives of the affected States before making recommendations to the DMMOFO. It is intended that this BTF will remain in existence throughout the operating life of the field. The DMMOFO will consult with the BTF in identifying areas or resources of biological importance, on the conduct of the biological surveys by lessees, and on the appropriate course of action after the surveys have been conducted. In a memorandum to the DMMOFO (April 9, 1980), the Biological Task Force identifed submarine canyons as areas of biological concern for which it may recommend

15. OCS Orders. Operations on all leases resulting from this sale will

submarine canyons as areas of biological concern for which it may recommend biological surveys or other monitoring programs. Lack of available "site-specific" information precludes the identification at this time of specific lease tracts for which such studies will or will not be recommended. Based on information generated from on-going canyon studies and on the level of drilling activity at a given time, the Task Force will determine on a case-by-case basis whether or not to recommend biological studies or monitoring programs prior to or during exploration and/or production-related OCS operations in or adjacent to submarine canyons.

With respect to leases resulting from this sale on tracts R59-33, R59-34, R59-35, R59-38, R59-39, R59-41, R59-42, R59-45, R59-46, R59-50, R59-53, R59-54, R59-60, R59-61, R59-69, R59-75, R59-76, and R59-82, the following requirement will apply: At least 20 days prior to moving a rig on-site, the lessee must notify the Chief, Marine and Wetlands Protection Branch, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, Suite 1642, New York, New York 10278, in writing, stating on what date a rig is to be moved on-site.

With respect to leases resulting from the sale for all tracts with the prefix R59-, lessees are encouraged to include a fisheries training program in their exploration and development plans. This training program should be designed to familiarize platform and shore based supervisors and persons involved in vessel operations with the value of the commercial fishing industry, the methods of offshore fishing operations, and the potential hazards, conflicts, and impacts resulting from offshore oil and gas activites. This program should be formulated and implemented by qualified and experienced instructors in fishing activities, methods of communication, and navigational safety.

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15. OCS Orders. Operations on all leases resulting from this sale will be conducted in accordance with the provisions of all relevant OCS Orders, as of their effective date, and any other applicable OCS Order as it becomes effective.

Director, Minerals Management Service
Harold E. Doley, Jr.

Approved: JUN 28 1982

Under Secretary of the Interior
Donald P. Hodel

4310-84

UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE

Outer Continental Shelf
Central and Northern California, South Atlantic,
Lower Cook Inlet/Shelikof Strait and Mid-Atlantic

Notice of Leasing Systems, Sale No. RS-2

Sec. 8(a)(8) (43 U.S.C. 1337 (a)(8)) of the Outer Continental Shelf (OCS) Lands Act, as amended, requires that, at least 30 days before any lease sale, a notice be submitted to the Congress and published in the Federal Register:

(A) identifying the bidding systems to be used and the reasons for such use; and

(B) designating the tracts to be offered under such bidding system and the reasons for such designation.

This notice is published pursuant to these requirements.

A. Bidding systems to be used. In OCS Sale No. RS-2, tracts will be offered under the following four bidding systems as authorized by Sec. 8(a)(1) (43 U.S.C. 1337 (a)(1)): (1) bonus bidding with a fixed 16-2/3 percent royalty on 210 tracts, (2) bonus bidding with a fixed 12-1/2 percent royalty on 161 tracts, (3) bonus bidding with a sliding scale royalty on 17 tracts, and (4) bonus bidding with a fixed net profit share on 166 tracts.

(1) Bonus Bidding with a 16-2/3 Percent Royalty. This system is authorized by Sec. (8)(a)(1)(A) of the OCS Lands Act, as amended. This system has been used extensively since the passage of the OCS Lands Act in 1953 and imposes greater risks on the lessee than systems with higher contingency payments, but may yield more rewards if a commercial field is discovered. The relatively high front-end payments required may encourage rapid exploration.

(2) Bonus Bidding with a 12-1/2 Percent Royalty. This system is authorized by Sec. (8)(a)(1)(A) of the OCS Lands Act, as amended. This system has been chosen for certain deep water tracts proposed for Sale RS-2 because these tracts are expected to require substantially higher exploration, development, and production costs, as well as longer times before initial production, in comparison to shallow water tracts. DOI analyses indicate that the minimum economically developable discovery on a tract in such deepwater areas under a fixed 12-1/2 percent royalty system would be less than for the same tracts under a 16-2/3 percent royalty system. As a result, more tracts may be explored and developed. In addition, the lower royalty rate system is expected to yield more rapid production rates and higher economic profits. It is not anticipated, however, that the larger cash bonus bid associated with a lower royalty rate will significantly reduce competition, since the higher costs for exploration and development are the primary restraints to competition.

(3) Bonus Bidding with a Sliding Scale Royalty. This system is authorized by Sec. (8)(a)(1)(C) of the OCS Lands Act, as amended. The sliding scale is designed to establish higher royalty rates for larger reservoirs with higher production rates. As such, the expected bonus is reduced compared to a fixed one-sixth royalty system. This may improve competition for leases, and also tends to reduce the likelihood of production losses that could result if higher royalty rates are set by other means, such as royalty bidding, prior to reservoir delineation and production. The sliding scale formula provided for Sale RS-2 is based on the current assumed range of costs and wellhead prices for this area.

The fixed sliding scale formula operates in the following

The fixed sliding scale formula operates in the following way: when the quarterly value of production, adjusted for inflation, is less than or equal to $14.787863 million, a royalty of 16.66667 percent in amount or value of production saved, removed or sold will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than $14.787864 million, but less than or equal to $1197.206141 million, the royalty percent due on the unadjusted value or amount of production is given by

$$Rj = b\ [\ln (Vj/S)]$$

where

Rj = the percent royalty that is due and payable on the unadjusted amount or value of all production saved, removed or sold in quarter j

b = 11.0

ln = natural logarithm

Vj = the value production in quarter j, adjusted for inflation, in millions of dollars

S = 3.25

When the adjusted quarterly value of production is equal to or greater than $1197.206142 million, a royalty of 65.00000 percent in amount or value of production saved, removed or sold will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production saved, removed or sold.

In adjusting the quarterly value of production for use in calculating the percent royalty due on production during the quarter, the actual value of production will be adjusted to account for the effects of inflation by dividing the actual value of production by the following inflation adjustment factor. The inflation adjustment factor used will be the ratio of the GNP fixed weighted price index for the calendar quarter preceding the quarter of production to the value of that index for the quarter preceding June, 1981. The GNP fixed weighted price index is published monthly in the Survey of Current Business by the Bureau of Economic Analysis, U.S. Department of Commerce. The percent royalty will be due and payable on the actual amount or value of production saved, removed, or sold as determined pursuant to 30 CFR 250.64.

(4) Bonus Bidding with a Fixed Net Profit Share. This system is authorized by Sec. (8)(a)(1)(D) of the OCS Lands Act, as amended. This system was established by Department of Energy (DOE) regulations effective May 14, 1980 (45 Fed. Reg. 36784 May 30, 1980). This system has been used in ten previous OCS sales. The profit share system designed for this sale may increase competition by generating greater contingency payments to the Government and thereby reducing the initial cash bonus. It may also increase the volume of production because certain allowable capital costs can be deducted prior to any liability for profit share payments. In addition, the profit share system may foster the development of marginal fields when compared to a royalty system since the Government shares more of the risk and the lessees' incremental costs are lower in the presence of a capital recovery.

A profit share system which uses cash bonus as the bid variable avoids percentage bids at high levels which would make future development either economically inefficient or simply uneconomic. In addition, it is easier to administer and unitize adjacent tracts with similar profit share rates. Furthermore, a fixed profit share better assures that firms who can produce at lower costs are more likely to obtain leases than would be the case if it were possible for less efficient firms to simply bid away higher percentages of lower profits.

For 83 tracts, firms will be permitted a capital recovery factor of 1.50 over their actual allowable costs before any profit share payments are due. The profit share rate for these tracts is 30 percent. Forty-one tracts will have a capital recovery factor of 0.50 and a profit share rate of 45 percent. Forty-two tracts will have a capital recovery factor of 0.75 and a profit share rate of 40 percent. These parameters were selected on the basis of DOE and DOI studies regarding the effect on bonuses, profit-share payments, Government receipts, gross production, minimal economic tract sizes and particularly on the incentive to alter the production profile.

(B) Designation of Tracts. The selection of tracts to be offered under the four systems was based on the following factors:

(1) As a rule, tracts are to be offered using the same bidding system as was designated for these tracts at the preceding sale during calendar year 1981.

(2) Lease terms on adjacent tracts were considered in order to reduce administrative costs and barriers to unitization, and to enhance orderly development of each field.

(3) Generally, tracts in deep water were selected for 1/8 royalty based on the favorable performance of this system in these high cost areas.

The specific tracts to be offered under each system are as follows:

(a) Bonus Bidding with a 16-2/3 Percent Royalty--Tracts R53-156, R53-157 R53-162, R53-164, R53-169 thru R53-171, R53-176, R53-190, R53-191, R56-189 thru R56-2[illegible]6, R60-1 thru R60-17, R60-19, R60-21 thru R60-23, R60-26 thru R60-72, R60-86 thru R60-110, R60-112, R60-113, R60-115, R60-116, R60-153, R59-1, R59-25, R59-62, and R59-222.

(b) Bonus Bidding with a 12-1/2 Percent Royalty--Tracts R56-[illegible]2, R56-26, R56-27, R56-30, R56-33 thru R56-39, R56-46 thru R56-51, R56-53 thru R56-66, R56-69 thru R5[illegible]-71, R56-73 thru R5[illegible]-76, R56-78, R56-79, R5[illegible]-1[illegible]2 thru R5[illegible]-17[illegible], R[illegible]-2, R[illegible]9-3, R59-5 thru R59-9, R59-11 thru R59-13, R59-16 thru R[illegible]9-2[illegible], R59-24, R5[illegible]-26 thru R59-2[illegible], R59-31 thru R59-55, R5[illegible]-[illegible] thru R5[illegible]-4[illegible], R5[illegible]-4[illegible] thru R[illegible]9-50, R[illegible]9-53 thru R5[illegible]-56, R59-60, R59-61, R59-63 thru R5[illegible]-65, R5[illegible]-69 thru R59-71, R59-76, R59-77, R59-82 thru R59-84, RS-88 thru R59-94, R59-97 thru R59-102, R59-105, R59-114, R59-123, R59-196 thru R59-198, R59-202 thru R50-206, R59-209 thru R59-212, R59-215 thru R59-221, R59-223 thru R59-233, R59-237 thru R59-239, R59-242 thru R59-244, R59-248 thru R59-250, R59-252 and R59-253.

(c) Bonus Bidding with a Sliding Scale Royalty--Tracts R53-1[illegible]7 thru R5[illegible]-1[illegible]9, R53-[illegible]04, R53-2[illegible], R[illegible]3-[illegible]11 thru R53-213, R53-21[illegible] thru R[illegible]3-[illegible]21, R[illegible]-225 thru R[illegible]-227, R53-[illegible]31, and R5[illegible]-23[illegible].

(d) Bonus Bidding with a Fixed Net Profit Share--All remaining tracts.

Director, Minerals Management Service
Harold E. Doley, Jr.

Approved: [illegible]

Under Secretary of the Interior
Donald Paul Hodel

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federal register

Friday
July 2, 1982

Part V

Federal Trade Commission

Premerger Notification Program; Paperwork Burden

FEDERAL TRADE COMMISSION

16 CFR Parts 801, 802 and 803

Premerger Notification Program; Paperwork Burden

AGENCY: Federal Trade Commission.

ACTION: Notice of request for comments.

SUMMARY: The purpose of this notice of request for comments by the Federal Trade Commission is to incorporate public views on the operation of the Hart-Scott-Rodino premerger notification program prior to formulating specific proposals. The Federal Trade Commission, with the concurrence of the Assistant Attorney General for Antitrust, has several times amended the rules in order to improve the program's effectiveness and lessen the burden of complying with the rules. This review of the program is principally directed toward reducing the cost to the public of complying with the rules.

DATES: Comments must be received on or before August 2, 1982.

ADDRESSES: Written comments should be submitted to both (1) the Secretary, Federal Trade Commission, Room 172, Washington, D.C. 20580 and (2) the Assistant Attorney General, Antitrust Division, Department of Justice, Room 3214, Washington, D.C. 20530.

FOR FURTHER INFORMATION CONTACT: Roberta S. Baruch, Attorney or Kenneth M. Davidson, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580. Telephone: (202) 523–3404.

SUPPLEMENTARY INFORMATION: In furtherance of the effort to reduce the overall paperwork burden imposed by the Hart-Scott-Rodino premerger notification rules, the staff of the Federal Trade Commission has developed information relevant to the operation of the rules and has considered preliminarily four approaches to lessening the burden.

This notice is divided into three parts. Part One describes the development of the notification rules. Part Two provides tables summarizing enforcement activities of the Federal Trade Commission and the Department of Justice and premerger notification filings received during 1981. Part Three presents the four approaches to reducing the paperwork burden—raising the dollar reporting thresholds, establishing higher dollar reporting thresholds for specific industries, eliminating subsequent notification requirements for certain transactions and permitting incorporation by reference in relating transactions—and a preliminary discussion of the merits of these approaches.

Part One

Background. In 1976, the Congress enacted section 7A of the Clayton Act (the Hart-Scott-Rodino Antitrust Improvement Act of 1976, 15 U.S.C. 18a) to improve the effectiveness of antitrust enforcement. Previously the antitrust agencies often lacked the necessary information and sufficient time to obtain an adequate remedy for an illegal acquisition. The Federal Trade Commission has summarized congressional objectives of the Act:

> [T]he Act requires that the agencies receive prior notification of significant acquisitions between sizeable parties, provides certain tools to facilitate a prompt but thorough investigation, assures an opportunity to seek a preliminary injunction before the parties are legally free to complete the transaction and eliminates the problem of unscrambling the assets when one of the agencies obtains an order injoining consummation of the acquisition. (Third Annual Report to Congress by the Federal Trade Commission pursuant to section 201 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, dated December 31, 1979, at p. 2).

The premerger notification rules (16 CFR Parts 801, 802, and 803) closely track the specific provisions of the Act. The statutory limits on the size of persons and transactions subject to the reporting requirements were incorporated into the original rules, along with the categorical exemptions listed in the Act. Since then, pursuant to their authority under section 7A of the Clayton Act (15 U.S.C. 18a(d)(2)(B)), the antitrust enforcement agencies have adopted additional exemptions to reduced the compliance burden.

The Act exempts two categories of transactions that are unlikely to result in antitrust violations. One kind is defined in terms of the size——*i.e.*, the dollar value of the parties and of the transaction. The second kind is based on the nature of the transaction. For example, acquisitions of goods or reality in the ordinary course of business, limited acquisitions of or by foreign persons, and certain acquisitions in regulated industries are exempt under the Act.

During the three years that the premerger program has been in operation, the Commission has taken several steps to reduce the reporting burden.

- On November 19, 1979 (44 FR 66782), the Commission amended the premerger rules to exempt many acquisitions valued at less than $15 million, so that smaller transactions covered by the Act—but generally unlikely to raise antitrust concerns—no longer have to be reported. 16 CFR 802.20.
- On April 7, 1981, the Bureau of Competition issued a formal interpretation permitting reporting parties to incorporate by reference certain documents they may have submitted with a previous filing. CCH Trade Regulation Reporter ¶ 42,475. (This change is also included in the recently proposed amendments to the premerger rules.)
- In response to suggestions from the public, the Bureau of Competition has changed the format of the report form to make it more convenient to use. In addition, this new form further reduces the number of documents that must be submitted with the filing, reflecting the staff's experience that certain documents are not likely to contain information important to antitrust enforcement decisions.

In addition to the steps already taken to reduce the reporting burden, the Commission also has proposed additional ways to reduce the burden. On July 29, 1981, the Commission published for comment a notice of proposed rulemaking (46 FR 38710) that would exempt certain transactions that are reviewed by federal regualtory agencies from the premerger reporting requirements.

Under the proposal, the following transactions would be exempted from the reporting requirement:

- Certain transactions that require approval by the Civil Aeronautics Board.
- Certain transactions that require the consent or approval of the appropriate regulatory agency under the Change in Bank Control Act or the Change in Savings and Loan Control Act.

The quantity of informtion that must be submitted by filing persons would be reduced as follows:

- Copies of documents that were prepared for the Securities and Exchange Commission and were submitted with a previous filing could be incorporated by reference in a subsequent filing by the same person.
- Registration statements filed with the Securities and Exchange Commission that do not directly relate to the transaction being reported would not have to be submitted.

The final form of these rules is currently being reviewed. That form will reflect both the comments received on the proposed rules and the results of an independent study of the premerger rules conducted by Professor Samuel C. Thompson of the University of Virginia.

Professor Thompson's study, *Evaluation of the Premerger Notification Program,* is available from the Federal Trade Commission which funded the study.

The Federal Trade Commission's premerger notification office has begun a project to lessen the burden of complying with the notification rules for persons who are unfamiliar with the rules. The premerger notification office is preparing two sets of introductory materials. One set will explain in simplified terms what transactions are subject to the prior notification requirements of the rules, and will provide references to key sections of the rules. The other will explain in basic terms how to fill out the notification form and provide examples of common entries. The Commission welcomes suggestions from the public on topics to be included in these introductory materials.

The Federal Trade Commission also welcomes comments on the information contained in Part Two and the questions raised in Part Three of this notice.

Part Two

A. A Profile of Premerger Notification Transactions and Preliminary Enforcement Activities During 1981

The tables in this section provide a statistical profile of merger and acquisition transactions that were subject to filing requirements during 1981. The transactions have been grouped according to various criteria (e.g., size of transaction, size of acquiring firm, percentage of voting securities acquired and industry grouping). The various criteria are compared in the tables with the level of enforcement interest as indicated by a "clearance" or a "second request."

The measures of enforcement interest chosen reflect the division of enforcement authority between the Federal trade Commission and the Department of Justice and the investigatory authority conferred by the Hart-Scott-Rodino amendments. All premerger notification filings are sent to both agencies because both have authority under the Clayton Antitrust Act to prevent unlawful transactions and each agency briefly reviews all filings. If either or both agencies decide the transaction should be scrutinized more closely then a "clearance" process is undertaken to insure that only one agency will proceed with an investigation. If further analysis suggests the possibility of an antitrust violation, the investigating agency will typically utilize the premerger act's authority to issue a request for additional information ("second request") to the parties to the transaction.

"Clearance" and "second requests" have been chosen as measures of enforcement interest rather than lawsuits brought or won or settlements agreed upon for two reasons. First, the number of instances in which lawsuits are instituted or settlements are reached are too few to draw conclusions about the relevance of the various criteria. Second, and more importantly, the purpose of the Hart-Scott-Rodino amendments was to provide premerger scrutiny of those transactions that are likely to violate the antitrust laws. The universe of transactions that ought to receive close review corresponds most closely to those where clearance has been granted or a second request has issued.

The current universe of transactions for specific industries is too small to suggest any pattern of enforcement activity by size of transaction. Accordingly the tables only detail enforcement activity by industry group.

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TABLE I

ACQUISITIONS BY SIZE OF TRANSACTION, 1/ 1981
(By Size Range)

Transaction Range ($ Millions)	H-S-R Transactions		Clearance Granted to FTC or DOJ					Second Requests Issued				
	Number 2/	Percent 3/	Number		Percent 4/			Number		Percent 4/		
			FTC	DOJ	FTC	DOJ	Total	FTC	DOJ	FTC	DOJ	Total
Less than 15	87	11.4	7	3	8.0	3.4	11.5	2	1	2.3	1.1	3.4
15 up to 25	173	22.7	13	12	7.5	6.9	14.5	9	6	5.2	3.5	8.7
25 up to 50	207	27.2	23	18	11.1	8.7	19.8	6	7	2.9	3.4	6.3
50 up to 100	125	16.4	18	9	14.4	7.2	21.6	12	5	9.6	4.0	13.6
100 up to 150	53	7.0	6	3	11.3	5.7	17.0	4	-	7.5	-	7.5
150 up to 200	24	3.1	6	2	25.0	8.3	33.3	2	-	8.3	-	8.3
200 up to 300	34	4.5	9	4	26.5	11.8	38.2	6	1	17.6	2.9	20.6
300 up to 500	23	3.0	10	3	43.4	13.0	56.5	4	3	17.4	13.0	30.4
500 up to 1000	18	2.4	6	3	33.3	16.7	50.0	3	2	16.7	11.1	27.8
1000 and up	18	2.4	6	5	33.3	27.8	61.1	3	2	16.7	11.1	27.8
All Transactions	762	100.0	104	62	13.6	8.1	21.8	51	27	6.7	3.5	10.2

1/ The size of transaction is based on the aggregate total amount of voting securities and assets to be held by the acquiring person as a result of the transaction and is taken from the response to item 3(c) of the premerger notification and report form.

2/ During calendar year 1981, 1083 transactions were reported under the Hart-Scott-Rodino premerger notification program. The smaller number, 762, reflects adjustments to eliminate the following types of transactions: (1) 211 transactions reported under Sections 7A(c)(6) and 7A(c)(8) (transactions involving certain financial businesses and regulated industries); (2) 27 transactions which were followed by separate notifications for one or more additional transactions between the same parties during 1981 (such transactions are listed here as a single consolidated transaction); (3) 31 transactions found to be non-reportable; (4) 4 incomplete transactions (only one party to the transaction filed notification) and; (5) 48 secondary acquisitions (filed pursuant to Section 801.30(a)(4)) reported as a result of reportable primary transactions. The table does not however, exclude 23 competing offers or 74 multiple-party transactions (transactions involving two or more acquiring or acquired persons).

3/ Percentage of total transactions.

4/ Percentage of transaction range group.

Note: Detail may not add to total due to rounding.

TABLE II

TABLE II

ACQUISITIONS BY SIZE OF TRANSACTION 1/, 1981
(Cumulative)

Transaction Amount ($ Million)	H-S-R Transactions		Clearance Granted to FTC or DOJ					Second Requests Issued				
			Number		Percentage of Total Number of Clearances Granted			Number		Percentage of Total Number of Second Requests		
	Number 2/	Percent	FTC	DOJ	FTC	DOJ	Total	FTC	DOJ	FTC	DOJ	Total
Less than 15	87	11.4	7	3	4.2	1.8	6.0	2	1	2.6	1.3	3.8
Less than 25	260	34.1	20	15	12.0	9.0	21.1	11	7	14.1	9.0	23.1
Less than 50	467	61.3	43	33	25.9	19.9	45.8	17	14	21.8	17.9	39.7
Less than 100	592	77.7	61	42	36.7	25.3	62.0	29	19	37.2	24.4	61.5
Less than 150	645	84.6	67	45	40.4	27.1	67.5	33	19	42.3	24.4	66.7
Less than 200	669	87.8	73	47	44.0	28.3	72.3	35	19	44.9	24.4	69.2
Less than 300	703	92.3	82	51	49.4	30.7	80.1	41	20	52.6	25.6	78.2
Less than 500	726	95.3	92	54	55.4	32.5	88.0	45	23	57.7	29.5	87.2
Less than 1000	744	97.6	98	57	59.0	34.3	93.4	48	25	61.5	32.1	93.6
All transactions	762	100.0	104	62	62.7	37.3	100.0	51	27	65.4	34.6	100.0

1/ The size of transaction is based on the aggregate total amount of voting securities and assets to be held by the acquiring person as a result of the transaction and is taken from the response to item 3(c) of the premerger notification and report form.

2/ During calendar year 1981, 1083 transactions were reported under the Hart-Scott-Rodino premerger notification program. The smaller number, 762, reflects adjustments to eliminate the following types of transactions: (1) 211 transactions reported under Sections 7A(c)(6) and 7A(c)(8) (transactions involving certain financial businesses and regulated industries); (2) 27 transactions which were followed by separate notifications for one or more additional transactions between the same parties during 1981 (such transactions are listed here as a single consolidated transaction); (3) 31 transactions found to be non-reportable; (4) 4 incomplete transactions (only one party to the transaction filed notification) and; (5) 48 secondary acquisitions (filed pursuant to Section 801.30(a)(4)) reported as a result of reportable primary transactions. The table does not however, exclude 23 competing offers or 74 multiple-party transactions (transactions involving two or more acquiring or acquired persons).

Note: Detail may not add to total due to rounding.

TABLE III

TRANSACTIONS INVOLVING THE GRANTING OF CLEARANCE BY AGENCY, 1981

Transaction Range ($ Millions)	Clearance Granted By Agency			Clearance Granted as a Percentage of:								
				Total Number of Transactions 1/			Transactions in Each Transaction Range Group 2/			Total Number of Clearances Granted		
	FTC	DOJ	Total	FTC	DOJ	Total	FTC	DOJ	Total	FTC	DOJ	Total
Less than 15	7	3	10	0.9	0.4	1.3	8.0	3.4	11.5	4.2	1.8	6.0
15 up to 25	13	12	25	1.7	1.6	3.3	7.5	6.9	14.5	7.8	7.2	15.1
25 up to 50	23	18	41	3.0	2.4	5.4	11.1	8.7	19.8	13.9	10.8	24.7
50 up to 100	18	9	27	2.4	1.2	3.5	14.4	7.2	21.6	10.8	5.4	16.3
100 up to 150	6	3	9	0.8	0.4	1.2	11.3	5.7	17.0	3.6	1.8	5.4
150 up to 200	6	2	8	0.8	0.3	1.0	25.0	8.3	33.3	3.6	1.2	4.8
200 up to 300	9	4	13	1.2	0.5	1.7	26.5	11.8	38.2	5.4	2.4	7.8
300 up to 500	10	3	13	1.3	0.4	1.7	43.4	13.0	56.5	6.0	1.8	7.8
500 up to 1000	6	3	9	0.8	0.4	1.2	33.3	16.7	50.0	3.6	1.8	5.4
1000 and up	6	5	11	0.8	0.7	1.4	33.3	27.8	61.1	3.6	3.0	6.6
All Clearances	104	62	166	13.6	8.1	21.8	13.6	8.1	21.8	62.7	37.3	100.0

1/ During calendar year 1981, 1083 transactions were reported under the Hart-Scott-Rodino premerger notification program. The smaller number, 762, reflects adjustments to eliminate the following types of transactions: (1) 211 transactions reported under Sections 7A(c)(6) and 7A(c)(8) (transactions involving certain financial businesses and regulated industries); (2) 27 transactions which were followed by separate notifications for one or more additional transactions between the same parties during 1981 (such transactions are listed here as a single consolidated transaction); (3) 31 transactions found to be non-reportable; (4) 4 incomplete transactions (only one party to the transaction filed notification) and; (5) 48 secondary acquisitions (filed pursuant to Section 801.30(a)(4)) reported as a result of reportable primary transactions. The table does not however, exclude 23 competing offers or 74 multiple-party transactions (transactions involving two or more acquiring or acquired persons).

2/ Percentages also appear in TABLE I.

Note: Detail may not add to total due to rounding.

TABLE IV

TABLE IV

TRANSACTIONS INVOLVING THE ISSUANCE OF SECOND REQUESTS, 1981

Transaction Range ($ Millions)	Transactions Involving the Issuance of Second Requests			Second Requests Issued as a Percentage of: Total Number of Transactions 1/			Transactions In Each Transaction Range Group 2/			Total Number of Second Requests		
	FTC	DOJ	Total	FTC	DOJ	Total	FTC	DOJ	Total	FTC	DOJ	Total
Less than 15	2	1	3	0.3	0.1	0.4	2.3	1.1	3.4	2.6	1.3	3.8
15 up to 25	9	6	15	1.2	0.8	2.0	5.2	3.5	8.7	11.5	7.7	19.2
25 up to 50	6	7	13	0.8	0.9	1.7	2.9	3.4	6.3	7.7	9.0	16.7
50 up to 100	12	5	17	1.6	0.7	2.2	9.6	4.0	13.6	15.4	6.4	21.8
100 up to 150	4	-	4	0.5	-	0.5	7.5	-	7.5	5.1	-	5.1
150 up to 200	2	-	2	0.3	-	0.3	8.3	-	8.3	2.6	-	2.6
200 up to 300	6	1	7	0.8	0.1	0.9	17.6	2.9	20.6	7.7	1.3	9.0
300 up to 500	4	3	7	0.5	0.4	0.9	17.4	13.0	30.4	5.1	3.8	9.0
500 up to 1000	3	2	5	0.4	0.3	0.7	16.7	11.1	27.8	3.8	2.6	6.4
1000 and up	3	2	5	0.4	0.3	0.7	16.7	11.1	27.8	3.8	2.6	6.4
All Transactions	51	27	78	6.7	3.5	10.2	6.7	3.5	10.2	65.4	34.6	100.0

1/ During calendar year 1981, 1083 transactions were reported under the Hart-Scott-Rodino premerger notification program. The smaller number, 762, reflects adjustments to eliminate the following types of transactions: (1) 211 transactions reported under Sections 7A(c)(6) and 7A(c)(8) (transactions involving certain financial businesses and regulated industries); (2) 27 transactions which were followed by separate notifications for one or more additional transactions between the same parties during 1981 (such transactions are listed here as a single consolidated transaction); (3) 31 transactions found to be non-reportable; (4) 4 incomplete transactions (only one party to the transaction filed notification) and; (5) 48 secondary acquisitions (filed pursuant to Section 801.30(a)(4)) reported as a result of reportable primary transactions. The table does not however, exclude 23 competing offers or 74 multiple-party transactions (transactions involving two or more acquiring or acquired persons).

2/ Percentages also appear in TABLE I.

Note: Detail may not add to total due to rounding.

TABLE V

ACQUISITIONS BY REPORTING THRESHOLD, 1981

Threshold	H-S-R Transactions		Clearance Granted to FTC or DOJ					Second Requests Issued				
			Number		Percentage of Threshold Group			Number		Percentage of Threshold Group		
	Number 1/	Percent	FTC	DOJ	FTC	DOJ	Total	FTC	DOJ	FTC	DOJ	Total
$15 Million	20	2.6	1	-	5.0	-	5.0	-	-	-	-	-
15%	48	6.3	9	4	18.8	8.3	27.1	5	1	10.4	2.1	12.5
25%	41	5.4	5	2	12.2	4.9	17.1	2	-	4.9	-	4.9
50%	470	61.7	63	34	13.4	7.2	20.4	24	14	5.1	3.0	8.1
Assets Only	183	24.0	26	22	14.2	12.0	26.2	20	12	10.9	6.6	17.5
All Transactions	762	100.0	104	62	13.6	8.1	21.8	51	27	6.7	3.5	10.2

1/ During calendar year 1981, 1083 transactions were reported under the Hart-Scott-Rodino premerger notification program. The smaller number, 762, reflects adjustments to eliminate the following types of transactions: (1) 211 transactions reported under Sections 7A(c)(6) and 7A(c)(8) (transactions involving certain financial businesses and regulated industries); (2) 27 transactions which were followed by separate notifications for one or more additional transactions between the same parties during 1981 (such transactions are listed here as a single consolidated transaction); (3) 31 transactions found to be non-reportable; (4) 4 incomplete transactions (only one party to the transaction filed notification) and; (5) 48 secondary acquisitions (filed pursuant to Section 801.30(a)(4)) reported as a result of reportable primary transactions. The table does not however, exclude 23 competing offers or 74 multiple-party transactions (transactions involving two or more acquiring or acquired persons).

Note: Detail may not add to total due to rounding.

TABLE VI

TRANSACTIONS BY ASSETS OF ACQUIRING PERSONS, 1981

Asset Range ($ Millions)	H-S-R Transactions		Clearance Granted to FTC or DOJ					Second Requests Issued				
			Number		Percentage of Asset Range Group			Number		Percentage of Asset Range Group		
	Number 1/	Percent	FTC	DOJ	FTC	DOJ	Total	FTC	DOJ	FTC	DOJ	Total
Less than 15	13	1.7	-	-	-	-	-	-	-	-	-	-
15 up to 25	10	1.3	1	-	10.0	-	10.0	1	-	10.0	-	10.0
25 up to 50	28	3.7	1	4	3.6	14.3	17.9	1	3	3.6	10.7	14.3
50 up to 100	43	5.6	4	5	9.3	11.6	20.9	-	2	-	4.7	4.7
100 up to 150	49	6.4	5	5	10.2	10.2	20.4	3	-	6.1	-	6.1
150 up to 200	39	5.1	5	2	12.8	5.1	17.9	2	-	5.1	-	5.1
200 up to 300	52	6.8	8	4	15.4	7.7	23.1	2	1	3.8	1.9	5.8
300 up to 500	86	11.3	4	6	4.7	7.0	11.6	2	5	2.3	5.8	8.1
500 up to 1000	112	14.7	11	8	9.8	7.1	17.0	5	3	4.5	2.7	7.1
1000 and up	320	42.0	64	27	20.0	8.4	28.4	35	12	10.9	3.8	14.7
Assets not available	10 2/	1.3	1	1	10.0	10.0	20.0	-	1	-	10.0	10.0
All Transactions	762	100.0	104	62	13.6	8.1	21.8	51	27	6.7	3.5	10.2

1/ During calendar year 1981, 1083 transactions were reported under the Hart-Scott-Rodino premerger notification program. The smaller number, 762, reflects adjustments to eliminate the following types of transactions: (1) 211 transactions reported under Sections 7A(c)(6) and 7A(c)(8) (transactions involving certain financial businesses and regulated industries); (2) 27 transactions which were followed by separate notifications for one or more additional transactions between the same parties during 1981 (such transactions are listed here as a single consolidated transaction); (3) 31 transactions found to be non-reportable; (4) 4 incomplete transactions (only one party to the transaction filed notification) and; (5) 48 secondary acquisitions (filed pursuant to Section 801.30(a)(4)) reported as a result of reportable primary transactions. The table does not however, exclude 23 competing offers or 74 multiple-party transactions (transactions involving two or more acquiring or acquired persons).

2/ This category is made up 9 acquiring individuals whose assets could not be accurately determined based on the submitted documents and a foreign acquiring person wholly-owned by a foreign government.

Note: Detail may not add to total due to rounding.

TABLE VII

TRANSACTIONS BY SALES OF ACQUIRING PERSONS, 1981

Sales Range ($ Millions)	H-S-R Transactions		Clearance Granted to FTC or DOJ					Second Requests Issued				
			Number		Percentage of Sales Range Group			Number		Percentage of Sales Range Group		
	Number 1/	Percent	FTC	DOJ	FTC	DOJ	Total	FTC	DOJ	FTC	DOJ	Total
Less than 15	22	2.9	1	-	4.5	-	4.5	1	-	4.5	-	4.5
15 up to 25	17	2.2	-	1	-	5.9	5.9	-	1	-	5.9	5.9
25 up to 50	22	2.9	-	1	-	4.5	4.5	-	-	-	-	-
50 up to 100	36	4.7	-	2	-	5.6	5.6	-	2	-	5.6	5.6
100 up to 150	50	6.6	6	6	12.0	12.0	24.0	1	2	2.0	4.0	6.0
150 up to 200	28	3.7	-	5	-	17.9	17.9	-	-	-	-	-
200 up to 300	60	7.9	7	3	11.7	5.0	16.7	5	1	8.3	1.7	10.0
300 up to 500	69	9.1	8	5	11.6	7.2	18.8	2	3	2.9	4.3	7.2
500 up to 1000	96	12.6	14	5	14.6	5.2	19.8	7	3	7.3	3.1	10.4
1000 and up	338	44.6	68	33	20.1	9.8	29.9	35	14	10.4	4.1	14.5
Sales not available	24 2/	3.1	-	1	-	4.2	4.2	-	1	-	4.2	4.2
All Transactions	762	100.0	104	62	13.6	8.1	21.8	51	27	6.7	3.5	10.2

1/ During calendar year 1981, 1083 transactions were reported under the Hart-Scott-Rodino premerger notification program. The smaller number, 762, reflects adjustments to eliminate the following types of transactions: (1) 211 transactions reported under Sections 7A(c)(6) and 7A(c)(8) (transactions involving certain financial businesses and regulated industries); (2) 27 transactions which were followed by separate notifications for one or more additional transactions between the same parties during 1981 (such transactions are listed here as a single consolidated transaction); (3) 31 transactions found to be non-reportable; (4) 4 incomplete transactions (only one party to the transaction filed notification) and; (5) 48 secondary acquisitions (filed pursuant to Section 801.30(a)(4)) reported as a result of reportable primary transactions. The table does not however, exclude 23 competing offers or 74 multiple-party transactions (transactions involving two or more acquiring or acquired persons).

2/ Transactions in this category include acquiring individuals whose sales could not be accurately determined, newly formed acquiring companies and foreign companies with no U.S. operations.

Note: Detail may not add to total due to rounding.

TABLE VIII

TRANSACTIONS BY ASSETS OF ACQUIRED ENTITY 1/, 1981

Asset Range ($ Millions)	H-S-R Transactions		Clearance Granted to FTC or DOJ					Second Requests Issued				
			Number		Percentage of Asset Range Group			Number		Percentage of Asset Range Group		
	Number 2/	Percent	FTC	DOJ	FTC	DOJ	Total	FTC	DOJ	FTC	DOJ	Total
Less than 15	83	10.9	4	3	4.8	3.6	8.4	2	2	2.4	2.4	4.8
15 up to 25	108	14.2	10	10	9.3	9.3	18.5	6	4	5.6	3.7	9.3
25 up to 50	145	19.0	16	15	11.0	10.3	21.4	7	6	4.8	4.1	9.0
50 up to 100	117	15.4	18	8	15.4	6.8	22.2	10	3	8.5	2.6	11.1
100 up to 150	58	7.6	10	1	17.2	1.7	19.0	6	-	10.3	-	10.3
150 up to 200	28	3.7	3	4	10.7	14.3	25.0	1	2	3.5	7.1	10.7
200 up to 300	46	6.0	8	3	17.4	6.5	23.9	5	1	10.9	2.2	13.0
300 up to 500	39	5.1	6	3	15.4	7.7	23.1	2	1	5.1	2.6	7.7
500 up to 1000	43	5.6	7	4	16.3	9.3	25.6	3	4	7.0	9.3	16.3
1000 and up	56	7.3	14	6	25.0	10.7	35.7	7	2	12.5	3.6	16.1
Assets not available	39 3/	5.1	8	5	20.5	12.8	33.3	2	2	5.1	5.1	10.3
All Transactions	762	100.0	104	62	13.6	8.1	21.8	51	27	6.7	3.5	10.2

1/ The assets of the acquired entity were taken from responses to item 2(d)(i) (Assets to be Acquired) or from items 4(a) or 4(b) (SEC documents and annual reports) of the premerger notification and report form.

2/ During calendar year 1981, 1083 transactions were reported under the Hart-Scott-Rodino premerger notification program. The smaller number, 762, reflects adjustments to eliminate the following types of transactions: (1) 211 transactions reported under Sections 7A(c)(6) and 7A(c)(8) (transactions involving certain financial businesses and regulated industries); (2) 27 transactions which were followed by separate notifications for one or more additional transactions between the same parties during 1981 (such transactions are listed here as a single consolidated transaction); (3) 31 transactions found to be non-reportable; (4) 4 incomplete transactions (only one party to the transaction filed notification) and; (5) 48 secondary acquisitions (filed pursuant to Section 801.30(a)(4)) reported as a result of reportable primary transactions. The table does not however, exclude 23 competing offers or 74 multiple-party transactions (transactions involving two or more acquiring or acquired persons).

3/ For thirty-three of these transactions the value of the assets up the entity being acquired is not available. The other six transactions involve the formation of joint ventures, none of which had any assets.

Note: Detail may not add to total due to rounding.

TABLE IX

TRANSACTIONS BY SALES OF ACQUIRED ENTITY 1/, 1981

Sales Range ($ Millions)	H-S-R Transactions		Clearance Granted to FTC or DOJ					Second Request Issued				
	Number 2/	Percent	Number		Percentage of Sales Range Group			Number		Percentage of Sales Range Group		
			FTC	DOJ	FTC	DOJ	Total	FTC	DOJ	FTC	DOJ	Total
Less than 15	90	11.8	6	2	6.7	2.2	8.9	2	1	2.2	1.1	3.3
15 up to 25	73	9.6	8	3	11.0	4.1	15.1	6	1	8.2	1.4	9.6
25 up to 50	140	18.4	8	13	5.7	9.3	15.0	2	5	1.4	3.6	5.0
50 up to 100	141	18.5	20	12	14.2	8.5	22.7	10	6	7.1	4.3	11.3
100 up to 150	48	6.3	7	6	14.6	12.5	27.1	4	3	8.3	6.2	14.6
150 up to 200	31	4.1	4	3	12.9	9.7	22.6	3	-	9.7	-	9.7
200 up to 300	30	3.9	8	1	26.7	3.3	30.0	2	-	6.7	-	6.7
300 up to 500	47	6.2	12	7	25.5	14.9	40.4	8	2	17.0	4.3	21.3
500 up to 1000	46	6.0	12	3	26.1	6.5	32.6	4	3	8.7	6.5	15.2
1000 and up	64	8.4	14	8	21.9	12.5	34.4	7	4	10.9	6.2	17.2
Sales not available	52 3/	6.8	5	4	9.6	7.7	17.3	3	2	5.8	3.8	9.6
All Transactions	762	100.0	104	62	13.6	8.1	21.8	51	27	6.7	3.5	10.2

1/ The sales of the acquired entity were taken from responses to items 5 (dollar revenues) and items 4(a) and 4(b) (SEC documents and annual reports) of the premerger notification and report form.

2/ During calendar year 1981, 1083 transactions were reported under the Hart-Scott-Rodino premerger notification program. The smaller number, 762, reflects adjustments to eliminate the following types of transactions: (1) 211 transactions reported under Sections 7A(c)(6) and 7A(c)(8) (transactions involving certain financial businesses and regulated industries); (2) 27 transactions which were followed by separate notifications for one or more additional transactions between the same parties during 1981 (such transactions are listed here as a single consolidated transaction); (3) 31 transactions found to be non-reportable; (4) 4 incomplete transactions (only one party to the transaction filed notification) and; (5) 48 secondary acquisitions (filed pursuant to Section 801.30(a)(4)) reported as a result of reportable primary transactions. The table does not however, exclude 23 competing offers or 74 multiple-party transactions (transactions involving two or more acquiring or acquired persons).

3/ Transactions in this category are represented by the acquisition of newly formed corporations or corporate joint ventures from which no sales have been generated and the acquisition of assets which had produced no sales or revenues.

Note: Detail may not add to total due to rounding.

TABLE X

INDUSTRY GROUP OF ACQUIRING PERSON AND ACQUIRED ENTITY, 1981

2-Digit SIC Code 1/	Industry Description	Acquiring Person						Acquired Entity							Number of 2-Digit Intra-Industry Transactions
			Clearance Granted to FTC or DOJ			Second Requests Issued			Clearance Granted to FTC or DOJ			Second Requests Issued			
		Number 2/	FTC	DOJ	Total	FTC	DOJ	Total	Number 2/	FTC	DOJ	Total	FTC	DOJ	Total	
01	Agricultural Production-Crops	2	-	-	-	-	-	-	2	-	1	1	-	-	-	1
02	Agricultural Production-Livestock	1	-	-	-	-	-	-	1	-	-	-	-	-	-	-
10	Metal Mining	4	-	-	-	-	-	-	4	1	-	1	1	-	1	-
11	Anthracite Mining	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-
12	Bituminous Coal and Lignite Mining	3	-	-	-	-	-	-	16	3	1	4	-	-	-	3
13	Oil and Gas Extraction	27	1	3	4	1	3	4	36	2	2	4	-	1	1	11
14	Mining and Quarrying of Nonmetallic Minerals, Except Fuels	3	1	-	1	-	-	-	3	1	-	1	-	-	-	-
15	Building Construction-General Contractors and Operative Builders	10	-	-	-	-	-	-	5	-	-	-	-	-	-	5
16	Construction other than Building Construction-General Contractors	4	-	-	-	-	-	-	6	-	1	1	-	1	1	-
17	Construction-Special Trade Contractors	1	-	-	-	-	-	-	2	-	1	1	-	-	-	-
20	Food and Kindred Products	42	8	6	14	4	2	6	44	9	6	15	5	4	9	27
21	Tobacco Manufacturers	3	1	-	1	-	-	-	-	-	-	-	-	-	-	-
22	Textile Mill Products	1	-	-	-	-	-	-	2	-	1	1	-	1	1	-
23	Apparel and other Finished Products made from Fabrics and Similar Materials	1	-	-	-	-	-	-	4	-	-	-	-	-	-	1
24	Lumber and Wood Products, Except Furniture	5	-	-	-	-	-	-	6	-	-	-	-	-	-	1
25	Furniture and Fixtures	2	-	-	-	-	-	-	2	-	2	2	-	1	1	-
26	Paper and Allied Products	9	2	-	2	1	-	1	7	2	-	2	-	-	-	2
27	Printing, Publishing and Allied Industries	18	-	-	-	-	-	-	12	-	-	-	-	-	-	5
28	Chemicals and Allied Products	30	7	4	11	2	3	5	20	6	4	10	3	3	6	16
29	Petroleum Refining and Related Industries	20	7	1	8	5	1	6	18	4	3	7	3	1	4	4
30	Rubber and Misc. Plastics Products	7	3	1	4	1	-	1	12	1	-	1	-	-	-	1
31	Leather and Leather Products	2	1	-	1	-	-	-	-	-	-	-	-	-	-	-
32	Stone, Clay, Glass, and Concrete Products	9	3	1	4	3	-	3	18	7	1	8	6	-	6	5
33	Primary Metal Industries	26	8	2	10	3	-	3	20	4	2	6	4	1	5	3
34	Fabricated Metal Products, Except Machinery and Transportation Equipment	20	5	4	9	1	1	2	20	3	4	7	2	1	3	8
35	Machinery, Except Electrical	67	12	3	15	10	3	13	51	11	4	15	7	3	10	23
36	Electrical and Electronic Machinery, Equipment and Supplies	17	6	2	8	3	1	4	32	10	3	13	5	2	7	9
37	Transportation Equipment	11	2	1	3	-	-	-	15	4	3	7	1	1	2	3
38	Measuring, Analyzing and Controlling Instruments; Photographic, Medical and Optical Goods; Watches and Clocks	4	-	1	1	-	-	-	13	4	-	4	3	-	3	1
39	Miscellaneous Manufacturing Industries	1	1	-	1	1	-	1	6	1	-	1	1	-	1	1

TABLE X (continued)

INDUSTRY GROUP OF ACQUIRING PERSON AND ACQUIRED ENTITY, 1981

2-Digit SIC Code 1/	Industry Description	Acquiring Person							Acquired Entity							Number of 2-Digit Intra-Industry Transactions
			Clearance Granted to FTC or DOJ			Second Requests Issued				Clearance Granted to FTC or DOJ			Second Requests Issued			
		Number 2/	FTC	DOJ	Total	FTC	DOJ	Total	Number 2/	FTC	DOJ	Total	FTC	DOJ	Total	
40	Railroad Transportation	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-
42	Motor Freight Transportation and Warehousing	6	-	-	-	-	-	-	4	-	-	-	-	-	-	-
44	Water Transportation	6	-	-	-	-	-	-	7	-	-	-	-	-	-	2
45	Transportation by Air	1	-	-	-	-	-	-	4	1	-	1	1	-	1	-
47	Transportation Services	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-
48	Communication	16	2	1	3	1	-	1	28	-	-	-	-	-	-	7
49	Electric, Gas, and Sanitary Services	13	-	-	-	-	-	-	5	-	-	-	-	-	-	1
50	Wholesale Trade-Durable Goods	32	3	4	7	3	1	4	32	4	2	6	3	-	3	12
51	Wholesale Trade-Nondurable Goods	32	-	6	6	-	3	3	34	4	3	7	1	1	2	11
52	Building Materials, Hardware, Garden Supply and Mobile Home Dealers	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-
53	General Merchandise Stores	13	5	2	7	-	-	-	8	3	1	4	-	-	-	5
54	Food Stores	9	2	-	2	-	-	-	4	1	-	1	-	-	-	3
55	Automotive Dealers and Gasoline Service Stations	-	-	-	-	-	-	-	2	-	-	-	-	-	-	-
56	Apparel and Accessory Stores	2	-	-	-	-	-	-	6	-	-	-	-	-	-	-
57	Furniture, Home Furnishings, and Equipment Stores	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-
58	Eating and Drinking Places	4	-	-	-	-	-	-	6	-	2	2	-	-	-	2
59	Miscellaneous Retail	11	-	1	1	-	-	-	14	1	1	2	-	-	-	8
60	Banking	6	-	-	-	-	-	-	7	-	-	-	-	-	-	5
61	Credit Agencies other than Banks	15	1	-	1	-	-	-	23	-	-	-	-	-	-	10
62	Security and Commodity Brokers, Dealers, Exchanges, and Services	14	-	-	-	-	-	-	12	2	-	2	-	-	-	5
63	Insurance	43	3	1	4	1	1	2	46	2	1	3	1	-	1	30
64	Insurance Agents, Brokers, and Service	5	-	-	-	-	-	-	6	1	-	1	1	-	1	3
65	Real Estate	13	-	-	-	-	-	-	11	-	-	-	-	-	-	3
67	Holding and other Investment Offices	16	-	-	-	-	-	-	11	1	-	1	-	-	-	5
70	Hotels, Rooming Houses, Camps, and other Lodging Places	5	-	1	1	-	-	-	8	-	-	-	-	-	-	2
72	Personal Services	2	1	-	1	-	-	-	3	1	-	1	-	-	-	2
73	Business Services	9	-	3	3	-	1	1	18	1	3	4	-	2	2	5
75	Automotive Repair, Services, and Garages	1	1	-	1	1	-	1	7	-	-	-	-	-	-	-
76	Miscellaneous Repair Services	1	-	-	-	-	-	-	1	-	-	-	-	-	-	-
78	Motion Pictures	6	-	2	2	-	1	1	4	-	1	1	-	1	1	1
79	Amusement and Recreation Services, Except Motion Pictures	2	-	-	-	-	-	-	5	-	-	-	-	-	-	-
80	Health Services	20	3	7	10	2	3	3	23	4	7	11	2	3	5	19

TABLE X (continued)

INDUSTRY GROUP OF ACQUIRING PERSON AND ACQUIRED ENTITY, 1981

TABLE X (continued)

INDUSTRY GROUP OF ACQUIRING PERSON AND ACQUIRED ENTITY, 1981

2-Digit SIC Code 1/	Industry Description	Acquiring Person							Acquired Entity							Number of 2-Digit Intra-Industry Transactions
			Clearance Granted to FTC or DOJ			Second Requests Issued				Clearance Granted to FTC or DOJ			Second Requests Issued			
		Number 2/	FTC	DOJ	Total	FTC	DOJ	Total	Number 2/	FTC	DOJ	Total	FTC	DOJ	Total	
89	Miscellaneous Services	6	-	-	-	-	-	-	3	-	-	-	-	-	-	-
99	Unclassifiable Establishments	-	-	-	-	-	-	-	2	-	-	-	-	-	-	-
DV	Diversified Companies	87	14	4	18	7	3	10	24	4	-	4	-	-	-	7
00	Not Available	34 3/	1	1	2	1	-	1	4 4/	1	2	3	1	-	1	1
	All Transactions	762	104	62	166	51	27	78	762	104	62	166	51	27	78	279

1/ 2-Digit SIC codes are part of the system of Standard Industrial Classification established by the U.S. Government, Standard Industrial Classification Manual, 1972 Executive Office of the President - Office of Management and Budget. The SIC groupings used in this table were determined from responses submitted by filing parties to item 5 of the premerger notification and report form.

2/ During calendar year 1981, 1083 transactions were reported under the Hart-Scott-Rodino premerger notification program. The smaller number, 762, reflects adjustments to eliminate the following types of transactions: (1) 211 transactions reported under Sections 7A(c)(6) and 7A(c)(8) (transactions involving certain financial businesses and regulated industries); (2) 27 transactions which were followed by separate notifications for one or more additional transactions between the same parties during 1981 (such transactions are listed here as a single consolidated transaction); (3) 31 transactions found to be non-reportable; (4) 4 incomplete transactions (only one party to the transaction filed notification) and; (5) 48 secondary acquisitions (filed pursuant to Section 801.30(a)(4)) reported as a result of reportable primary transactions. The table does not however, exclude 23 competing offers or 74 multiple-party transactions (transactions involving two or more acquiring or acquired persons).

3/ Transactions included in this category represent newly formed companies, companies with no U.S. operations and notification filed by individuals.

4/ Transactions included in this category represent the acquisition of newly formed companies and the acquisition of assets located outside the U.S.

Note: Detail may not add to total due to rounding.

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B. Summary of Transaction Notifications Received and Formal Enforcement Activity Taken Since the Inception of the Premerger Notification Program

The table in this section presents the number of filings received annually under the Hart-Scott-Rodino premerger notification program and the number of formal enforcement actions taken by the Federal Trade Commission and the Department of Justice with respect to mergers since the program went into effect. The number of filings listed in this table for 1981 is greater than the number of transactions included in tables in the previous section because it includes banking mergers, secondary acquisitions and two-step mergers. The formal enforcement actions listed here are not necessarily based on premerger notification filings.

These formal actions do not represent the full enforcement impact of the program. For example, these categories do not reflect transactions that were abandoned after the parties learned that an enforcement agency intended to oppose consummation of the transaction. Nor do they reflect transactions that were deterred because of the assurance that enforcement agencies would review all transactions subject to premerger notification program.

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TABLE XI

PREMERGER TRANSACTIONS FILED AND MERGER ENFORCEMENT ACTIVITY SINCE

TABLE XI

PREMERGER TRANSACTIONS FILED AND MERGER ENFORCEMENT ACTIVITY SINCE THE HART-SCOTT-RODINO ANTITRUST IMPROVEMENTS ACT BECAME EFFECTIVE

Calendar Year	Number of FTC Enforcement Actions Authorized 3/				Number of DOJ Enforcement Actions 3/		
	Number of Transactions	Preliminary Injunctions	Consent Orders	Complaints 4/ Issued	Preliminary Injunctions	Consent Agreements	Actions Initiated
1978 1/ 2/	355	0	2	4	2	2	8
1979 2/	868	3	6	4	6	3	10
1980	824	2	13	5	3	4	5
1981	1083	4	6	4	0	2	2

1/ The premerger notification rules went into effect on September 5, 1978.

2/ Revised rule 16 CFR § 802.20 went into effect on November 21, 1979. This rule expanded considerably the number of transactions valued at $15 million or less that are exempt from reporting requirements.

3/ These legal actions taken by the Federal Trade Commission and the Department of Justice may or may not be based on premerger filings.

4/ Does not include complaints where consent order was obtained in the same year.

Source: Second, Third, Fourth and Fifth Annual Reports to Congress pursuant to Section 201 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976 and supplemented by enforcement agency data.

BILLING CODE 6750-01-C

Part Three

A. Should the size of Person or Size of Transaction Dollar Reporting Levels Be Raised Based On

- *Enforcement Patterns?*
- *Inflation?*

Background. Section 7A of the Clayton Act, 18 U.S.C. 18a (The Hart-Scott-Rodino Antitrust Improvements Act of 1976) requires, in part, that any merger or acquisition between a business entity with annual sales or assets exceeding $100 million and a business entity with annual sales or assets exceeding $10 million which involve the purchase of more than $15 million in voting securities and assets be reported in the prescribed manner prior to consummating the transaction. The Federal Trade Commission, with the concurrence of the Assistant Attorney General for Antitrust was granted authority to exempt transactions "which are not likely to violate the antitrust laws." Section 7A(d)(2) of the Clayton Act, 15 U.S.C. 18a(d)(2). The issue considered here is whether the materials presented in Part Two concerning enforcement patterns and the inflation since 1976 provide an adequate basis for increasing the dollar size for reportability.

One index for accommodating the effect of inflation is the implicit price deflator for the Gross National Product. This index is a broad indicator of price trends that includes personal consumption expenditures for durable goods, nondurable goods, and services; gross private domestic investment in farm and nonfarm structures, residential and nonresidential structures, and producers' durable equipment; imports and exports; and government purchases of goods and services.

The GNP implicit price deflator has increased about 47 percent since 1976, as shown in the following table:

GNP Implicit Price Deflator

1976=100

1976	100.00
1977	105.84
1978	113.58
1979	123.21
1980	134.25
1981	146.61

Source: Department of Commerce, *Survey of Current Business.* (Index converted to a 1976 basis.)

Preliminary Conclusion: The preliminary conclusion of the staff is that if any changes are warranted in dollar levels such changes should be limited to the size of transaction. There appears to be some basis for raising the size of transaction test to $25 million.

Discussion

Inflation. The staff does not believe that, by itself, inflation provides an adequate basis for creating exemptions under section 7A(d)(2) of the Clayton Act, 15 U.S.C. 18a(d)(2). Congress did not index dollar amounts to accommodate inflation; rather it conditioned the exemption authority on a finding concerning the likelihood of antitrust violations. In addition the staff believes that automatically indexing stated dollar amounts would unnecessarily complicate an already intricate statutory structure.

Nevertheless, the staff does believe that inflation may have some legitimate role in establishing reporting exemptions if used in conjunction with other factors. This role is based on the apparent Congressional decision that only larger transactions be subject to notification requirements, an intention that is eroded by inflation. The greater Congressional concern about larger transactions is generally related to antitrust analysis where market share (for which size is an imperfect surrogate) is often used as an indicator of market power. Therefore inflation in conjunction with other indications that smaller transactions are of lesser antitrust significance might justify an increase in the size of person or size of transaction test.

Enforcement Patterns. Table I suggests that there is some correlation between the size of transactions and enforcement interest by the Federal Trade Commission and Department of Justice. This pattern is also evident in Tables VIII and IX which reflect the size of acquired entities. No comparable pattern is evident from the tables based on the size of acquiring firm or the percentages of voting securities being acquired.

While Table I suggests a pattern that enforcement interest increases with size of transaction, it does not indicate either a complete lack of enforcement interest below a certain size or a dramatic break (i.e. increase) in enforcement interest above a particular size level. Thus, the tables by themselves do not provide a natural or obvious choice for a new size of transaction test. Nevertheless it might be justifiable to raise the size of transaction threshold to $25 million on the grounds that both: the enforcement interest in transactions below $25 million has been relatively low—approximately one of each seven transactions receive "clearance" for investigation; and, the increase in nominal dollar amount from $15 million to $25 million does not greatly raise in constant dollars the size of transaction test chosen by the Congress in 1976 for § 7A(a)(3)(B). (This approach would also eliminate all transactions currently reportable under 16 CFR 802.20(b)). On the other hand, raising the transaction size to $25 million would eliminate eighteen of the seventy-eight second requests issued by the Federal Trade Commission and the Department of Justice during 1981. In other words, the increase in size of transaction test would eliminate almost one quarter of the transactions which received the highest level of preliminary antitrust scrutiny.

B. Should Separate Size of Person or Size of Transaction Tests Be Established for Specific Industries Based On

- *Enforcement Patterns?*
- *Industry Size Characteristics?*

Background. The 1976 Hart-Scott-Rodino Antitrust amendments to the Clayton Act exempt or modify reporting requirements for transactions involving firms in particular industries and for transactions involving particular kinds of goods. For example, section 7A(c) of the Act, 15 U.S.C. 18a(c), exempts transactions in specified regulated industries and sales of goods and realty in the ordinary course of business. But the Act does not provide for different dollar size tests for different industries. On the other hand, prior to section 7A of the Act the Federal Trade Commission initiated premerger notification requirements which established size criteria for transactions in the cement, dairy and food distribution industries that were lower than the subsequent criteria established under section 7A. *Commission Enforcement Policy with Respect to Vertical Mergers in the Cement Industry,* January 17, 1967, CCH Trade Regulation Reporter ¶ 4520; *Commission Enforcement Policy with Respect to Mergers in the Food Distribution Industries,* January 17, 1967, CCH Trade Regulation Reporter ¶ 4525; *Enforcement Policy with Respect to Mergers in the Dairy Industry,* 43 FR 1992, January 13, 1978, amended 43 FR 28046, June 28, 1978. These programs arose out of a history of antitrust litigation and the programs relied on industry definitions based on that litigation experience.

Preliminary Conclusion. The staff does not believe it is likely that an administrable premerger notification system can be established which sets separate size requirements for different industries.

Discussion. While the staff recognizes the significance of a $15 or $25 million transaction varies in different industries, it has not developed a generally satisfactory method to establish appropriate levels for different industries or to identify which transactions should be included within an industry. Establishing separate industry reporting criteria raises a host of difficult and related issues.

As noted earlier the number of premerger filings for specific industries was not large enough to discern patterns of enforcement activity even using the grossly overbroad industry categories that are defined by two digit Standard Industrial Classifications (SIC). While two digit SIC definitions almost surely comprehend too many different business activities to provide a useful definition of an industry, are there better uniform definitions? How many separate industry categories with separate reporting criteria should be established? Will the establishment of a multitude of separate standards unduly complicate an already complex statutory program? If separate reporting criteria are established for a few industries, will the absence of separate criteria be unfair to some of the remaining industries that are lumped together under general reporting criteria? In the absence of clear benchmarks reflecting size-based enforcement patterns for specific industries, how should the size criteria be established for different industries? If separate size criteria are to be set with reference to the minimum efficient scale of firms within an industry, how is this always controversial question of scale economies to be determined? And how would the industry be monitored to determine technological or organizational changes in scale economies?

Assuming industries could be defined and relevant size criteria could be determined for individual industries it is not obvious how reporting parties would identify whether transactions would meet specific industry criteria. For example, if reportability of a transaction depended on the acquiring firm and the acquired entity having a specified combined amount of annual sales or revenues from particular goods or services, or assets engaged in certain specified activities, how would an acquiring firm be able to predict the relevant sales or assets level of the prospective acquired entity to determine reportability prior to consummating the transaction?

The objections to establishing separate size requirements for different industries are practical, not theoretical. It may be possible at some point to overcome these practical problems and establish separate reporting thresholds for certain industries under the Hart-Scott-Rodino premerger notification system. Acceptable separate industry size tests must satisfy three requirements: the criteria which define the industry must be objective; the size threshold must be based on antitrust considerations; and, acquiring parties must be able to determine which industry size thresholds apply prior to consummating a transaction. The appropriateness of higher separate size thresholds ought to be established by data showing that a significant number of transactions in that industry are being reported which generate very little antitrust enforcement interest.

C. Should the Requirement That a Party File Separate Notifications for Additional Purchases of Voting Securities of One Business Entity Be

- *Eliminated?*
- *Simplified?*

Background. Under existing rules 16 CFR 801.1(h) a person who purchases the voting securities of a business entity in several transactions may be required to file several premerger notifications. The requirement for additional filings is triggered by the person increasing its holdings of voting securities beyond several threshold levels which are stated in terms of percentages of the total number of voting securities of the business entity. For example, a party is required to file once for acquisitions of 15 percent or more of a business entity's voting securities. Before the same party can acquire 25 percent or more of the voting securities of the same entity it must file again, and finally, prior to acquiring 50 percent of the entity's securities it must file again. Where a party knows how many securities it ultimately wishes to purchase it may avoid multiple filings by filing for the highest applicable threshold initially.

Under proposed rule 16 CFR 803.2(e) a party who files for the acquisition of voting securities at one threshold may for a period of 90 days incorporate by reference any documents or information contained in the notification in any subsequent filing to cross another threshold. Under 16 CFR 804.7 a party may acquire voting securities pursuant to the notification for a period of one year. If the minimum percentage of securities filed for are acquired within one year the party may, pursuant to 16 CFR 802.21(b), buy additional securities (but not more than the maximum permitted at that threshold) for an additional four years.

Preliminary Conclusion. The staff does not believe that the subsequent notification requirements should be eliminated; however the staff does believe that the incorporation by reference standard of proposed § 803.2(e) could be expanded to a period of up to one year for subsequent filings for higher thresholds of voting securities.

Discussion. The staff continues to believe that it is useful to require multiple notifications for acquisitions of voting securities for reasons already stated by the Federal Trade Commission. In its Statement of Basis and Purpose for § 801.1(h) the Commission said, "working control or significant influence may arise at different points with respect to different companies. The * * * [lower] thresholds give the enforcement agencies adequate opportunities to assess the ability of a significant minority shareholder to influence or direct management, "43 FR 33465, July 31, 1978.

Although it is important that the enforcement agencies receive notice prior to a person increasing its securities holdings significantly, the information sent to the agencies in successive filings is often identical, apart from the statement of holdings. For this reason proposed § 803.2(e) permits parties to incorporate by reference any documents or information contained in their previous filing for a period of 90 days. Limiting the right to incorporate by reference to 90 days reflected practical considerations about the period of time the enforcement agencies can reasonably maintain access to filed information and the extent to which a filing for a higher threshold is likely to differ from a previous filing.

Upon further consideration, the staff believes that the time period during which incorporation by reference is permitted might appropriately be extended to one year. The one year period for incorporation by reference would then match the period established by § 803.7, during which a party may purchase voting securities pursuant to a filed notification.

D. Should a Party Filing for an Acquisition Be Permitted to Incorporate by Reference Information or Documents Contained Therein in Related Secondary Acquisitions?

Background. Under existing rules, 16 CFR 801.4, whenever a party obtains control of a business entity it is also deemed to be separately acquiring any voting shares held by that business entity. The acquisition of these voting shares (i.e. the "secondary acquisitions") will trigger separate

reporting obligations if the direct acquisition of such shares would have been reportable. So, for example, an acquiring person is required to file six separate notifications if it acquired one large firm which held more than fifteen percent of the voting securities of five firms each valued at more than $15 million.

Preliminary Conclusion. The staff believes that a party should be permitted to incorporate by reference any information or documents in related "secondary acquisitions."

Discussion. Experience has shown that multiple filing of identical information in related secondary acquisitions is unnecessary.

List of Subjects in 16 CFR Parts 801, 802 and 803

Antitrust.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-18035 Filed 7-1-82; 8:45 am]

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federal register

Friday
July 2, 1982

Part VI

Department of Commerce

National Oceanic and Atmospheric Administration

Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 640

[Docket No. 2614-107]

Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic

AGENCY: National Oceanic and Atmospheric Administration, (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NOAA issues final regulations to implement the Fishery Management Plan for the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic. The intended effect of these regulations is to prevent overfishing, increase the yield from the fishery, reduce user—group conflicts, and obtain the basic information required for improved management of the fishery.

EFFECTIVE DATES: June 30, 1982; except for §§ 640.6, 640.20(c), 640.21, 640.22, 640.23, 640.24, and those prohibitions in § 640.7 that cross-reference these sections, which are effective on July 26, 1982.

ADDRESSES: A copy of the Regulatory Impact Review may be obtained from Jack T. Brawner, Regional Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Jack T. Brawner, 813-893-3141.

SUPPLEMENTARY INFORMATION: These regulations implement the Fishery Management Plan for Spiny Lobster in the Gulf of Mexico and South Atlantic (FMP). This FMP was prepared jointly by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils). The Assistant Administrator for Fisheries, NOAA, approved the FMP on February 2, 1982, under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). A notice of proposed rulemaking was published on March 12, 1982 (47 FR 10878), initiating a 45-day comment period which ended April 26, 1982.

An emergency interim rule implementing the closed season portion of the FMP was published on March 30, 1982 (47 FR 13353), under section 305(e) of the Magnuson Act. The interim rule was effective for 45 days (April 1 through May 15) and was extended for an additional 45 days on May 16, 1982 (47 FR 21256).

The preamble to the notice of proposed rulemaking contains information on the spiny lobster fishery, its economic value, and its relative importance to the recreational and commercial sectors. The problems in the fishery (i.e., harvest of undersized lobsters and harvest during the spawning season) and the management measures to resolve them are also discussed in detail.

Section 640.5, Recordkeeping and reporting, was reserved in the proposed regulations. This section is also being reserved in this final rule, because the reporting system has not been completely developed and forms have not yet been prepared. It is anticipated that the mandatory reporting system will be implemented by regulatory amendment shortly after sampling procedures and reporting forms are developed and approved. The forms will be submitted to the Office of Management and Budget for approval under section 3507 of the Paperwork Reduction Act, Pub. L. 96-511.

Response to Comments

No comments were received on the FMP during the public comment period; however, the Coast Guard recommended several changes in the proposed regulations. One other comment was received which opposed implementing by emergency regulations the closed season in the FCZ.

That commenter, representing spiny lobster fishermen who fish beyond the fishery conservation zone (FCZ) during Florida's closed season, strongly objected to the emergency interim rule to close the fishing season. The following specific objections were raised: (1) No emergency exists; (2) the rule prevents all feasible fishing for spiny lobster beyond Florida's territorial limits; (3) the 200-mile limit is inappropriate because lobsters do not migrate across the Gulf Stream into Florida's waters; and (4) the rule was introduced in a manner designed to avoid public protest.

In the judgment of the Councils, the National Marine Fisheries Service (NMFS), and numerous fishermen who testified at public hearings, the increasing harvest of lobsters from the FCZ during the time the State has a closed fishing season to protect the major reproductive period constituted a resource emergency. The spiny lobster fishery is a high-value fishery subjected to intensive fishing effort. Extensive harvest during the spawning season would seriously reduce reproductive potential and result in recruitment overfishing.

The emergency rule governs fishing for spiny lobster in portions of the Atlantic Ocean and Gulf of Mexico over which the United States exercises exclusive management authority. Lobster fishing outside of U.S. waters during the closed season is not governed by these regulations. However, lobster fishermen transporting their catch from outside U.S. waters through the FCZ must document, with proper bills of lading, that the lobsters were taken from waters outside the FCZ and, therefore, were not taken in violation of the regulations.

Although the issue of larval recruitment has not been resolved conclusively, the Councils and NMFS believe there is sufficient scientific evidence to indicate that lobsters spawning in the FCZ may contribute significantly to the stock within U.S. waters. The protection of the spawning stock during the closed season is considered to be a sound conservation measure. The question of whether lobsters spawning beyond U.S. waters contribute to the U.S. stock is irrelevant, because the regulations do not pertain to fishing activities beyond the FCZ.

The Councils and NMFS ensured that the public would have an adequate opportunity to comment on all aspects of the FMP, including the closed season. Eight public hearings, including three in the Florida Keys, were held (February 10 through February 19, 1981) to receive public comment on the FMP. A 45-day comment period (January 23, 1981, through March 9, 1981) was also provided to allow the public to send written comments on the draft environmental impact statement. There was strong support for the measure from both commercial and recreational fishermen, and no comments objecting to the closed season were received. An additional 45-day public comment period on the FMP and proposed regulations was initiated by publication of the proposed rule in the Federal Register on March 12, 1982.

Changes From the Proposed Rule

This final rule differs from the proposed rule in that a provision has been added, § 640.20(d), to prohibit possession of spiny lobsters in the FCZ during the closed season. A new paragraph (e) was added to § 640.7, Prohibitions, to reference this provision. These modifications are consistent with the FMP and the intended effect of the proposed rule and will facilitate enforcement of the closed season. This prohibition eliminates the burden of requiring enforcement personnel to observe the actual takings of lobsters from the FCZ during the closed season, and the allowance for possession of lobsters accompanied by a proper bill of lading will avoid any adverse impacts

on fishermen who have legally harvested lobsters.

To further protect undersized lobsters and in keeping with the intent of the FMP, a sentence was added to § 640.22(b) specifying that undersized lobsters may not be retained aboard vessels that are docked. Other changes, discussed in the following paragraphs, have been made in the final rule in response to comments received during the public comment period. In addition, minor changes have been made to clarify the definitions of "commercial fisherman," "degradable panel," "fishery conservation zone," "Regional Director," and the texts of §§ 640.1, 640.4, 640.7(j), 640.20 (a)(1) and (d), and 640.22(a). Also, a new paragraph (d) was added to § 640.6 to clarify that each trap or string of traps is to be marked with a buoy.

The Coast Guard provided the only comments received on the proposed regulations. It recommended that § 640.3(b) be revised to include Monitor Marine Sanctuary, Key Largo Coral Reef Marine Sanctuary and Gray's Reef National Marine Sanctuary. Section 640.3(b) was rewritten to clarify that these regulations apply within the boundaries of any national park, monument, or marine sanctuary within the FCZ.

The Coast Guard also noted that the vessel identification requirements as written in § 640.6 apply to all vessels fishing recreationally or commercially, with or without traps. The Councils intended that the identification system would apply only to vessels engaged in the spiny lobster trap fishery. Section 640.6 of the final rule has been revised to clarify that requirement.

The Coast Guard also recommended that the language in § 640.8 be revised to reflect more accurately current boarding practices and to accommodate fishermen. Section 640.8 has been rewritten to comply with the Coast Guard's suggestions.

Classification

The Assistant Administrator, after considering all comments received on the FMP, emergency regulations, and proposed regulations, has determined that the FMP and the final regulations comply with the national standards, other provisions of the Magnuson Act, and other applicable law.

The adoption and implementation of the FMP is a major Federal action that will have a significant impact on the quality of the human environment. Under the National Environmental Policy Act and NOAA Directive 02–10, a draft environmental impact statement was filed with the Environmental Protection Agency. The notice of availability was published on January 23, 1981 (46 FR 7433). The final environmental impact statement was filed and a notice of availability was published on March 19, 1982 (47 FR 11960).

The NOAA Administrator has determined that these rules are not major under Executive Order 12291. A Regulatory Impact Review (RIR) has been prepared which analyzes the expected benefits and costs of the regulatory action. The review provides the basis for the Administrator's determination. The RIR indicates that the final regulations will result in benefits to fishermen and the economy which substantially exceed the total costs incurred by government and the private sector. Benefits expected to accrue during the first year of implementation include a $3.3 million increase in industry revenue, increased recreational participation, and a substantial reduction of user-group conflicts. The regulations are designed to prevent overfishing and increase the landings of spiny lobsters without unduly burdening any user groups.

These regulations will be enforced via a State/Federal cooperative agreement that will maximize cost effectiveness. Enforcement will be accomplished with existing resources. Compliance with the regulation requiring vessel and gear markings will impose a minimal burden on new participants; virtually all current participants have complied with this requirement by adopting the markings required by the State of Florida.

The implementing regulations do not contain any information collection requirements, as defined by the Paperwork Reduction Act, for individuals, small businesses, or other persons, since the data collection system will not be implemented at this time. Prior to implementation of the data collection system, forms will be approved by the Office of Management and Budget.

These regulations will have a significant impact on a substantial number of small entities under the Regulatory Flexibility Act. A final regulatory flexibility analysis has been prepared in compliance with the Regulatory Flexbility Act, and has been combined with the RIR which is summarized above and is available (see "addresses").

The Assistant Administrator has determined that there is good cause to waive all or part of the 30-day period of delayed effectiveness required under the Administrative Procedure Act (APA). The closed season in the FCZ is intended to occur concurrently with the closure of State waters by the State of Florida. The State waters are closed to spiny lobster fishing from April 1 through July 25. This year, the season was closed in the FCZ by an emergency interim rule. The interim rule expires on June 29, but the closed season does not end until July 25. To maintain the continuity of the closed season and protect the spawning stock in the FCZ, it is essential that certain portions of these final regulations governing the closure be implemented on June 30 (see "effective dates"). All remaining sections of the regulations will be effective on July 26 to coincide with the beginning of the fishing season.

List of Subjects in 50 CFR Part 640

Fish; Fisheries; Fishing.

Dated: June 30, 1982.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

50 CFR is amended by adding a new Part 640 to read as follows:

PART 640—SPINY LOBSTER FISHERY OF THE GULF OF MEXICO AND SOUTH ATLANTIC

Subpart A—General Provisions

Sec.

640.1 Purpose and scope.
640.2 Definitions.
640.3 Relation to other laws.
640.4 Vessels, permits, and fees.
640.5 Recordkeeping and reporting.
[Reserved]
640.6 Gear and vessel identification.
640.7 General prohibitions.
640.8 Enforcement.
640.9 Penalties.

Subpart B—Management Measures

640.20 Seasons.
640.21 Harvest limitations.
640.22 Size limitations.
640.23 Gear limitations.
640.24 Authorized activities.

Authority: 16 U.S.C. 1801 *et seq.*

Subpart A—General Provisions

§ 640.1 Purpose and scope.

The purpose of this part is to implement the Fishery Management Plan for the Spiny Lobster Fishery of the Gulf of Mexico and South Alantic developed by the South Atlantic and Gulf of Mexico Fishery Management Councils under the Magnuson Act. The regulations in this Part govern fishing for spiny lobster by vessels of the United States within the FCZ in the Atlantic Ocean and Gulf of Mexico along the coast of the South Atlantic States from the Virginia/North Carolina border south and through the Gulf of Mexico.

§ 640.2 Definitions.

In addition to the definitions in the Magnuson Act, and unless the context requires otherwise, the terms used in this part have the following meanings:

Authorized Officer means:

(a) Any commissioned, warrant, or petty officer of the United States Coast Guard;

(b) Any certified enforcement officer or special agent of the National Marine Fisheries Service;

(c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary and the Commandant of the Coast Guard to enforce the provisions of the Magnuson Act; or

(d) Any Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

Carapace length means a head-length measurement taken from the orbital notch inside the orbital spine, in a line parallel to the lateral rostral sulcus, to the posterior margin of the cephalothorax (Figure 1).

Figure 1

Center Director means the Center Director, Southeast Fisheries Center, National Marine Fisheries Service, 75 Virginia Beach Drive, Miami, Florida 33149; telephone 305–361–5761.

Commercial fisherman means a fisherman who sells all or any part of his catch.

Degradable panel means a panel constructed of wood, cotton, or other material that will degrade at the same rate as a wooden trap.

Fish includes the spiny lobster, *Panulirus argus*.

Fishery conservation zone (FCZ) means that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Fishing means any activity, other than scientific research conducted by a scientific research vessel, which involves:

(a) The catching, taking, or harvesting of fish;

(b) The attempted catching, taking, or harvesting of fish;

(c) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(d) Any operations at sea in support of, or in preparation for, any activity described in paragraph (a), (b), or (c) of this definition.

Fishing vessel means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for:

(a) Fishing; or

(b) Aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Live box means a container used for holding live lobsters aboard a vessel.

Magnuson Act means the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*).

Management area means that area of the FCZ adjacent to the territorial sea off the coasts of the States adjacent to the Gulf of Mexico and off the Atlantic Coast south of the Virginia-North Carolina border.

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

Owner, with respect to any vessel means:

(a) Any person who owns that vessel in whole or in part;

(b) Any charterer of the vessel, whether bareboat, time, or voyage;

(c) Any person who acts in the capacity of a charterer, including, but not limited to, parties to a management agreement, operating agreement, or other similar arrangement that bestows control over the destination, function, or operation of the vessel; or

(d) Any agent designated as such by any person described in paragraph (a), (b), or (c) of this definition.

Person means any individual (whether or not a citizen of the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

Recreational fisherman means a fisherman who does not sell any part of his catch.

Regional Director means the Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702; telephone 813–893–3141, or his designee.

Secretary means the Secretary of Commerce or a designee.

Spiny lobster means the species *Panulirus argus*.

Tail length means the measurement, with the tail in a straight, flat position, from the anterior end of the exoskeleton ("shell") of the first abdominal (tail) segment to the tip of the closed tail.

U.S.-harvested fish means fish caught, taken, or harvested by vessels of the United States within any fishery regulated under the Magnuson Act.

Vessel of the United States means:

(a) A vessel documented or numbered by the U.S. Coast Guard under U.S. law; or

(b) A vessel under five net tons which is registered under the laws of any State.

§ 640.3 Relation to other laws.

(a) The regulations in this Part apply within the boundaries of any national park, monument, or marine sanctuary in the Gulf of Mexico and South Atlantic FCZ.

(b) Persons affected by these regulations should be aware that other Federal and State statutes and regulations may apply to their activities.

(c) Certain responsibilities relating to data collection and enforcement may be performed by authorized State personnel under a cooperative agreement entered into by the State, the U.S. Coast Guard, and the Secretary.

§ 640.4 Vessel permits and fees.

No permits are required for fishing vessels engaged in commercial fishing for spiny lobsters within the FCZ (but

see vessel identification requirements in § 640.6(a)).

§ 640.5 Recordkeeping and reporting. [Reserved]

§ 640.6 Gear and vessel identification.

(a) Traps, buoys, and all vessels and boats engaged in the spiny lobster trap fishery must be identified by the number and color code issued by the Regional Director, or through Florida's identification system.

(b) An application for a Federal number and color code must be submitted and signed by the owner or operator of the vessel on an appropriate form obtained from the Regional Director. The application must be sumbitted to the Regional Director 45 days prior to the date on which the applicant desires receipt of the number and color code.

(c) Vessels and boats engaged in the spiny lobster trap fishery must permanently and conspicuously display such color code and number in a manner as to be readily identifiable from the air and water; such color representation must be in the form of a circle at least 20 inches in diameter and the identification number must be at least 10 inches high.

(d) Each trap, unless part of a string of traps, must be marked by a floating buoy or a buoy designed to be submerged and automatically released at a certain time. Each string of traps must be marked with a buoy at each end of the string.

(e) Buoys must be of such color as to be easily distinguished, seen, and located; the identification number must be legible and at least 3 inches high on each buoy.

(f) Each trap, can, drum, or similar device must have a legible identification number at least 3 inches high permanently attached as in the case of buoys.

(g) All spiny lobster traps fished in the FCZ will be presumed to be the property of the most recently documented owner.

(h) Upon the sale or transfer of all or part of an owner's interest in spiny lobster traps which are fished in the FCZ, that owner must report the sale or transfer within 15 days to the Regional Director if the identification number and color code for those traps were issued by the Regional Director.

(i) Unmarked spiny lobster traps fished in the FCZ at any time are illegal gear, which may be disposed of in any appropriate manner by the Secretary or the Secretary's designee (including an Authorized Officer). Lines and buoys are considered part of the trap. If owners of these unmarked traps can be ascertained, those owners remain subject to appropriate civil penalties.

§ 640.7 General prohibitions.

It is unlawful for any person to:

(a) Fish for spiny lobster without a vessel number, or falsify or fail to affix and maintain vessel and gear markings, as required by § 640.6;

(b) Fail to comply immediately with enforcement and boarding procedures specified in § 640.8;

(c) Place traps in the water or harvest spiny lobsters from traps before or after the dates specified in § 640.20(a);

(d) Harvest spiny lobster by methods other than traps during the closed season specified in § 640.20 (b) and (c);

(e) Possess spiny lobster or any parts thereof in the FCZ, except as specified in § 640.20;

(f) Retain on board or possess on land any berried lobster taken in the FCZ;

(g) Strip eggs from or otherwise molest any berried lobster;

(h) Pull or tend traps except during the hours specified in § 640.21(b);

(i) Willfully tend, open, pull, or otherwise molest another person's traps, except as provided in § 640.21(b);

(j) Catch or retain more lobsters during the special nontrap recreational fishery than are specified in § 640.21(c);

(k) Retain lobsters smaller than the minimum size, except as specified in § 640.22;

(l) Use traps without degradable panels, or prohibited gear or methods, as specified in § 640.23;

(m) Possess, have custody or control of, ship, transport, offer for sale, sell, purchase, import without a proper bill of lading, land or export any spiny lobster or parts thereof taken or retained in violation of the Magnuson Act, this part, or any other regulation promulgated under the Magnuson Act;

(n) Refuse to permit an Authorized Officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Magnuson Act, this part, or any other regulation or permit issued under the Magnuson Act;

(o) Forcibly assault, resist, oppose, impede, intimidate or interfere with any Authorized Officer in the conduct of any search or inspection described in paragraph (n) of this section;

(p) Resist a lawful arrest for any act prohibited by this part;

(q) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this part;

(r) Transfer directly or indirectly, or attempt to so transfer, any U.S.-harvested fish to any foreign fishing vessel while such foreign vessel is within the FCZ, unless the foreign fishing vessel has been issued a permit under Section 204 of the Magnuson Act which authorizes the receipt by such vessel of the U.S.-harvested fish of the species concerned; or

(s) Violate any other provision of this part, the Magnuson Act, or any regulation or permit issued under the Magnuson Act.

§ 640.8 Enforcement.

(a) *General.* The operator of any fishing vessel subject to this part shall immediately comply with instructions issued by an Authorized Officer to facilitate safe boarding and inspection of the vessel, its gear, equipment, documents, and catch for purposes of enforcing the Magnuson Act and this part.

(b) *Signals.* Upon being approached by a Coast Guard cutter or aircraft, or any other vessel or aircraft authorized to enforce the Magnuson Act, the operator of a fishing vessel shall be alert for signals conveying enforcement instructions. The VHF–FM radiotelephone is the normal method of communicating between vessels. However, visual methods or loudhailer may be used if the radio does not work. The following signals, extracted from U.S. Hydrographic Office publication H.O. 102 International Code of Signals, may be communicated by flashing light or signal flags:

(1) "L" means "You should stop your vessel instantly."

(2) "SQ3" means "You should stop or heave to; I am going to board you."

(3) "AA AA AA etc." is the call to an unknown station or general call. The operator should respond by identifying his vessel by radio, visual signals, or illuminating his vessel identification required by § 640.6(a) and (b).

(4) "RY–CY" means "You should proceed at low speed. A boat is coming to you."

(c) *Boarding.* A vessel signaled to stop or heave to for boarding must:

(1) Stop immediately and lay to or maneuver in such a way as to permit the Authorized Officer and his party aboard;

(2) Provide a safe ladder for the Authorized Officer and his party, if necessary;

(3) When necessary to facilitate the boarding, provide a man rope, safety line, and illunmination for the ladder; and

(4) Take such other actions as necessary to ensure the safety of the

Authorized Officer and his party and to facilitate the bording.

§ 640.9 Penalties.

Any person or fishing vessel found to be in violation of this part is subject to the civil and criminal penalty provisions and forfeiture provisions of the Magnuson Act, and to 50 CFR Parts 620 (Citations) and 621 (Civil Procedures) and other applicable law.

Subpart B—Management Measures

§ 640.20 Seasons.

(a) *Trap fishery.* (1) The trap fishing season for spiny lobster begins on July 26, one hour before official sunrise, and ends March 31, one hour after official sunset. Traps may be placed in the water on or after July 21, but spiny lobsters may not be harvested until the beginning of the season. Traps must be removed prior to April 6; any spiny lobsters taken between April 1 and April 6 must be returned to the water unharmed.

(2) Traps in the management area during the period between 0001 hours April 6 and 2400 hours July 20 will be considered unclaimed or abandoned property and may be disposed of according to § 640.6(i).

(b) *Non-trap fishery.* The fishing season for other harvesting methods begins 0001 hours July 26 and ends 2400 hours March 31.

(c) *Non-trap recreational fishery.* There is a special non-trap recreational fishing season the first full weekend preceding July 21 from 0001 hours Saturday until 2400 hours Sunday.

(d) *Possession.* Spiny lobsters or any parts thereof may be possessed in the FCZ only during the seasons specified in paragraphs (a), (b), and (c) of this section, unless accompanied by a proper bill of lading or other proof indicating lawful harvest outside the FCZ.

§ 640.21 Harvest limitations.

(a) *Berried lobsters.* All berried (egg-bearing) lobsters must be returned to the water unharmed. Berried lobsters may not be stripped of their eggs or otherwise molested. If found in a trap, a berried lobster may be retained in the trap if it is immediately returned to the water.

(b) *Pulling traps.* (1) Traps may be pulled or tended only during the period beginning one hour before official sunrise and ending one hour after official sunset.

(2) Traps may be pulled or tended only by the owner's vessel, unless the boat tending another person's trap has on board written consent of the trap owner.

(c) *Recreational catch.* During the two-day season described in § 640.20(c), the catch is limited to six lobsters per person per day, up to a maximum of 24 lobsters per boat per day.

§ 640.22 Size limitations.

(a) *Carapace length.* Except as provided in paragraph (b) of this section, spiny lobsters with a carapace length of 3.0 inches or less, or with a tail length of less than 5.5 inches, must be returned immediately to the water unharmed.

(b) *Attractants.* Live lobsters under the minimum size may be held in a shaded live box aboard a vessel for use as attractants in traps. No more than three undersized lobsters for each trap carried on board, or 200 undersized lobsters, whichever is greater, may be retained. Undersized lobsters to be used as attractants in traps may not be retained aboard vessels or boats that are docked.

§ 640.23 Gear limitations.

(a) *Degradable panel.* Traps constructed of material other than wood must have a panel constructed of wood, cotton, or other degradable material located in the upper half of the sides or on top of the trap, that, when removed, will leave an opening in the trap no smaller than the diameter found at the throat or entrance of the trap.

(b) *Prohibited gear and methods.* (1) Spiny lobster may not be taken with spears, hooks, or similar devices, or grear containing such devices. In the FCZ, the possession of speared, pierced, or punctured lobsters is prima-facie evidence that prohibited gear was used to take such lobsters.

(2) Spiny lobsters may not be taken with poisons or explosives.

§ 640.24 Authorized activities.

The Secretary may authorize, for the acquisition of information and data, activities otherwise prohibited by these regulations.

[FR Doc. 82-18224 Filed 6-30-82; 5:06 pm]
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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

List of Public Laws

Last Listing June 30, 1982

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

H.R. 3112 / Pub. L. 97–205 Voting Rights Act Amendments of 1982. (June 29, 1982; 96 Stat. 131) Price: $2.00.

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federal register

Tuesday
July 6, 1982

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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 82-325]

Mediterranean Fruit Fly

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the Mediterranean fruit fly quarantine and regulations which quarantine California and impose restrictions on the movement of regulated articles from regulated areas in California, by adding a portion of San Joaquin County to the list of regulated areas. This action is necessary as an emergency measure for the purpose of preventing the artificial spread of the Mediterranean fruit fly into noninfested areas of the United States. The effect of this action is to impose restrictions on the interstate movement (movement from California into or through any other State, Territory, or District of the United States) of regulated articles from the portion of San Joaquin County added to the list of regulated areas.

DATES: Effective date of amendment July 6, 1982. Written comments concerning this interim rule must be received on or before September 7, 1982.

ADDRESSES: Written comments should be submitted to Thomas Lanier, Assistant Director, Regulatory Services Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 643 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 641 of the Federal Building between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: B. Glen Lee, Emergency Programs Coordinator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 610 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-6365.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This interim rule is issued in conformance with Executive Order 12291, and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this interim rule would have an estimated annual effect on the economy of less than $100,000; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and would not cause significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived the review process required by Executive Order 12291. Also, the Assistant Secretary for Marketing and Inspection Services has waived the requirements of Secretary's Memorandum 1512-1 for this rulemaking action.

Certification Under the Regulatory Flexibility Act

Dr. H. C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action affects the interstate movement of regulated articles from a portion of San Joaquin County in California. There are thousands of small entities that move such articles interstate from California and many more thousands of small entities that move such articles interstate from other States. However, based on information compiled by the U.S. Department of Agriculture, it has been determined that approximately 30 small entities move such articles interstate from such portion of San Joaquin County. Further, the overall economic impact from this action is estimated to be less then $100,000.

Emergency Action

Harvey L. Ford, Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, has determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this interim rule. Due to the possibility that the Mediterranean fruit fly could be spread artificially to noninfested areas of the United States, a situation exists requiring immediate action to better control the spread of this pest.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this interim rule are impracticable and contrary to the public interest; and good cause is found for making this interim rule effective less than 30 days after publication of this document in the **Federal Register**. Comments are being solicited for 60 days after publication of this document, and a final document discussing comments received and any amendments required will be published in the **Federal Register** as soon as possible.

Background

The Mediterranean fruit fly, *Ceratitis capitata* Wiedemann, is one of the world's most destructive pests of numerous fruits and vegetables, especially citrus fruits. It can cause serious economic losses. Heavy infestations can cause complete loss of crops, and losses of 25 to 50 percent are not uncommon. Its short life cycle permits the rapid development of serious outbreaks.

Because of infestations of the Mediterranean fruit fly found in areas in California, the Mediterranean fruit fly quarantine and regulations were made effective on July 20, 1981 (46 FR 37706-37713), and amendments to the quarantine and regulations were made on August 7, August 19, and September 2, 1981, and on June 1, June 17, and July 2, 1982 (46 FR 40203-40205, 42072-42073, 44144-44145; 47 FR 23682-23683, 26121-26122, and 28909-28911). The quarantine

and regulations are set forth 7 CFR 301.78 through 301.78–10.

For the purpose of preventing the artificial spread of the Mediterranean fruit fly to noninfested areas in the United States, the quarantine and regulations restrict the interstate movement (movement from California into or through any other State, Territory, or District of the United States) of articles designated as regulated articles from areas designated as regulated areas. For the reasons explained below, it is necessary to amend the quarantine and regulations on an emergency basis by adding a portion of San Joaquin County to the list of regulated areas. Regulated areas are listed in § 301.78–3 of the quarantine and regulations (7 CFR 301.78–3).

Prior to the effective date of this document, all of San Mateo County and portions of Santa Clara and Santa Cruz Counties were designated as regulated areas. However, based on trapping surveys conducted by inspectors of the U.S. Department of Agriculture and State agencies of California, it has been determined that the Mediterranean fruit fly now occurs in a portion of San Joaquin County. Therefore, in order to prevent the further spread of the Mediterranean fruit fly, it is necessary as an emergency measure to amend § 301.78–3(c) of the quarantine and regulations (7 CFR 301.78–3(c)) to add to the list of regulated areas the following area in San Joaquin County in which the Mediterranean fruit fly now occurs:

San Joaquin County. That portion of San Joaquin County bounded by a line beginning where Interstate 5 intersects with the Calaveras River, then easterly along the Calaveras River to a point where it intersects with West Lane, then easterly along an imaginary line to the point where Cherryland Road intersects with Waterloo Road, then northeasterly along Waterloo Road to its intersection with Beyer Lane, then southerly along Beyer Lane to its intersection with the Stockton Terminal and Eastern Railroad, then easterly along said railroad to its intersection with Baldwin Lane, then southerly along Baldwin Lane to its intersection with State Highway 26, then easterly along State Highway 26 to its intersection with Alpine Road, then southerly along Alpine Road to its intersection with the Southern Pacific Railroad, then easterly along said railroad to a point lying due north of the junction of Farmington Road and Kaiser Road, then southerly along an imaginary line to the junction of Farmington Road and Kaiser Road, then southerly along Kaiser Road to the point where it ends, then southerly along an imaginary line to its intersection with Lone Tree Creek, then westerly along an imaginary line to the point where Union Road intersects with Lovelace Road, then westerly along Lovelace Road to its intersection with Airport Way (Durham Ferry Road), then westerly along an imaginary line to a point where Interstate 5 intersects with Manila Road, then westerly along Manila Road to its end, then westerly along an imaginary line to the beginning of Carlin Road, then westerly along Carlin Road to the point where Carlin Road intersects with Roberts Road, then northerly along Roberts Road to its intersection with Mueller Road, then due north along an imaginary line to its intersection with the San Joaquin River, then northerly and easterly along the San Joaquin River to its intersection with the Smith Canal, then easterly along the Smith Canal to its intersection with Interstate 5, then northerly along Interstate 5 to its intersection with the Calaveras River, the point of beginning.

List of Subjects in 7 CFR Part 301

Agricultural commodites, Plant pests, Plants (Agriculture), Quarantine, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, § 301.78–3(c) of the Mediterranean fruit fly quarantine and regulations (7 CFR 301.78–3(c)) is revised to read as follows:

§ 301.78–3 Regulated areas.

* * * * *

(c) The areas described below are designated as regulated areas:

California

San Joaquin County. That portion of San Joaquin County bounded by a line beginning where Interstate 5 intersects with the Calaveras River, then easterly along the Calaveras River to a point where it intersects with West Lane, then easterly along an imaginary line to the point where Cherryland Road intersects with Waterloo Road, then northeasterly along Waterloo Road to its intersection with Beyer Lane, then southerly along Beyer Lane to its intersection with the Stockton Terminal and Eastern Railroad, then easterly along said railroad to its intersection with Baldwin Lane, then southerly along Baldwin Lane to its intersection with State Highway 26, then easterly along State Highway 26 to its intersection with Alpine Road, then southerly along Alpine Road to its intersection with the Southern Pacific Railroad, then easterly along said railroad to a point lying due north of the junction of Farmington Road and Kaiser Road, then southerly along an imaginary line to the junction of Farmington Road and Kaiser Road, then southerly along Kaiser Road to the point where it ends, then southerly along an imaginary line to its intersection with Lone Tree Creek, then westerly along an imaginary line to the point where Union Road intersects with Lovelace Road, then westerly along Lovelace Road to its intersection with Airport Way (Durham Ferry Road), then westerly along an imaginary line to a point where Interstate 5 intersects with Manila Road, then westerly along Manila Road to its end, then westerly along an imaginary line to the beginning of Carlin Road, then westerly along Carlin Road to the point where Carlin Road intersects with Roberts Road, then northerly along Roberts Road to its intersection with Mueller Road, then due north along an imaginary line to its intersection with the San Joaquin River, then northerly and easterly along the San Joaquin River to its intersection with the Smith Canal, then easterly along the Smith Canal to its intersection with Interstate 5, then northerly along Interstate 5 to its intersection with the Calaveras River, the point of beginning.

San Mateo County. The entire county.

Santa Clara County. That portion of the county beginning at a point where Interstate 280 intersects the San Mateo-Santa Clara County line; then southeasterly along Interstate 280 to its intersection with El Monte Avenue; then northeasterly along said avenue to its intersection with Foothill Expressway; then southeasterly along said expressway to its intersection with Fremont Avenue; then east on Fremont Avenue to its intersection with Hollenbeck Avenue; then north on Hollenbeck Avenue to its intersection with El Camino Real; then southeasterly on El Camino Real to its intersection with Fair Oaks Avenue; then northerly on said avenue to its intersection with Central Expressway; then easterly on said expressway to its intersection with Lawrence Expressway; then northerly on Lawrence Expressway to its intersection with State Route 237; then due north from said intersection along an imaginary line to its intersection with the Alameda-Santa Clara County line; then westerly along said county line to the San Mateo-Santa Clara County line; then southerly along said county line to the point of beginning. Also, that portion of the county beginning at a point where Old Santa Cruz Highway intersects the Santa Cruz-Santa Clara county line; then northeasterly along an imaginary line from said intersection to Mt. Thayer; then southeasterly along an imaginary line from Mt. Thayer to the north end of Loma Prieta Road; then southerly along Loma Prieta Road to its intersection with the Santa Cruz-Santa Clara County line; then northerly along said line to the point of beginning.

Santa Cruz County. That portion of the county north and west of a line beginning at a point where Loma Prieta Road intersects the Santa Clara-Santa Cruz County line; then southerly along an imaginary line from said intersection to the northeast corner boundary line of the Forest of Nisene Marks State Park; then southerly along the eastern boundary of said State park to its intersection with Aptos Creek Road; then southerly along Aptos Creek Road to its intersection with Soquel Drive; then westerly along Soquel Drive to its intersection with State Route 1; then westerly along State Route 1 to its intersection with

Swift Street; then southerly along Swift Street to the Pacific Ocean where the line ends.

(Secs. 8 and 9, 37 Stat. 318, as amended (7 U.S.C. 161, 162); 37 FR 28464, 28477, as amended; 38 FR 19141)

Done at Washington, D.C., this 30th day of June 1982.

Harvey L. Ford,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 82-18176 Filed 7-2-82; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF ENERGY

10 CFR Parts 500 and 503

[Docket No. ERA-R-80-24]

Powerplant and Industrial Fuel Use Act of 1978; Cogeneration Exemption; Final Rules

AGENCY: Department of Energy.

ACTION: Final rules.

SUMMARY: The Department of Energy (DOE) is revising its final rules governing the cogeneration exemption under the Powerplant and Industrial Fuel Use Act of 1978 ("FUA" or "the Act") (46 FR 59872, 59914, December 7, 1982) ("final rules") by adopting in final form some of the rule modifications set forth in its Notice of Proposed Rulemaking (45 FR 53368, August 11, 1980) ("August 11 NOPR") to exclude from the definition of "electric generating unit," and hence from the definition of "electric powerplant," any cogeneration facility less than half of the *net* annual electric power generation of which is sold to or exchanged with an electric utility for resale. DOE is also adopting revisions to its eligibility criteria for the cogeneration exemption under § 503.37 of the final rules, first, to permit the oil and gas savings calculation to be made on the basis of a Regional Estimates Table or other reasonable estimate; second, to clarify its intention that in meeting the oil and natural gas savings requirement for the exemption, facilities that are non-jurisdictional under the Act may be included; and third, to clarify the basis upon which a petitioner may qualify under the public interest criterion. Finally, DOE is revising the definition of "Cogeneration facility" to broaden the number of facilities which can seek to qualify for the exemption.

EFFECTIVE DATE: The final rules adopted herein shall become effective on August 6, 1982. In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting or recordkeeping provisions included in § 503.47 of this final rule will be submitted for approval to the Office of Management and Budget (OMB). These provisions are not effective until OMB approval has been obtained.

FOR FURTHER INFORMATION CONTACT:

Constance L. Buckley, Fuels Conversion Division, Fuels Program, Economic Regulatory Administration, Forrestal Building, 1000 Independence Avenue SW., Room GA-093, RG-62, Washington, D.C. 20585, (202) 252-1774

Henry K. Garson, Office of the General Counsel, Department of Energy, Room 6B-178, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-2967

Jack Vandenberg, Office of Public Information, Economic Regulatory Administration, Department of Energy, Room 7120, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, (202) 633-8108.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Comments.
III. Procedural Matters.

I. Background

On May 17, 1979, the Economic Regulatory Administration (ERA) of DOE published its interim rules for new facilities ((44 FR 28950) ("interim rules")). Sections 503.37 and 505.27 of the interim rules provided the requirements for obtaining a permanent cogeneration exemption from the prohibitions of Title II of FUA for, respectively, new powerplants and new major fuel burning installations (MFBI's). In its August 11 NOPR, ERA proposed to amend the foregoing provisions of the final rules so as to encourage cogeneration in those regions of the country where there is a potential for oil and gas savings, while ensuring that new alternate fuel fired capacity would not be deferred. The public comment period on the August 11 NOPR expired on November 7, 1980. To date, DOE has taken no further action on the August 11 NOPR.

In its final rules, DOE adopted the interim cogeneration exemption rules in final form, consolidating the powerplant and MFBI sections into § 503.37. Noting that it was "currently in the process of reviewing its cogeneration policies" (46 FR 59882 December 7, 1981), DOE simplified the procedures for obtaining the exemption but deferred action on substantive revisions recommended by the commenters.

In recognition of the important role cogeneration technologies can play in assisting the Nation to meet the energy goals of increased fuel efficiency and oil and natural gas savings, DOE is now finalizing several aspects of its August 11 NOPR concerning cogeneration. Consistent with the directive of the President's Task Force on Regulatory Relief, to "[R]educe the burdens of existing and future regulations * * * and insure well reasoned regulations * * *" (Executive Order No. 12291), these revisions will have the effect of minimizing unnecessary regulatory intervention in fuel use decisionmaking by private industry.

II. Comments

A. *Definition of Cogeneration Facility.* Under § 500.2 of DOE's final rule, a "cogeneration facility" must generate electricity that constitutes more than ten (10) percent and less than ninety (90) percent of the useful energy output of the facility. In response to comments received concerning this standard, DOE has concluded that the 10 percent minimum could exclude many energy-saving cogeneration facilities from eligibility for an exemption under the Act. Specific examples of both topping and bottoming cycle cogenerators have been described where it would not be possible to convert 10 percent of the thermal energy to electricity. Despite the fact that these configurations are less common, DOE believes that such systems should be able to take advantage of the cogeneration exemption, and is therefore adopting a 5 percent minimum electrical output test in lieu of the prior 10 percent minimum test.

B. *Definition of Electric Generating Unit.* Section 103(a)(7)(A) of FUA defines "powerplant," in part, as "any stationary electric generating unit, consisting of a boiler, a gas turbine, or a combined cycle unit, which produces electric power for purposes of sale or exchange * * *" Excluded from the definition of "electric generating unit" under section 102(a)(7)(B) of FUA, however, is any cogeneration facility, less than half of the annual electric power of which is sold or exchanged for resale, "as determined by the Secretary."

Under the foregoing definition, as interpreted in DOE's final rules, a cogenerator performing an essentially industrial function could be designated as a powerplant if more than 50 percent of its electrical output is sold or exchanged, even though such electrical output constitutes a small percentage of the total energy output of the facility. Designation as a powerplant would subject the facility to the Title II

prohibitions applicable to new powerplants, which, unlike the Title II prohibitions applicable to new MFBI's, prohibit oil and natural gas use both in boilers and non-boilers, and prohibit the construction of new powerplants without alternate fuel burning capability.

The August 11 NOPR stated that the foregoing definition of electric generating unit "might result in the designation of most new industrial cogenerators as powerplants and discourage persons planning new facilities from including cogeneration capacity due to the regulatory requirements of obtaining an exemption" (45 FR 53369). DOE proposed several alternatives for remedying this problem. Under one alternative, electricity sold by the cogenerator to the grid would be offset by purchases of electricity by the cogenerator for its own use. The resulting focus on the percentage of *net* electrical power which is sold or exchanged to persons other than the cogenerator would minimize the number of essentially industrial cogenerators falling within the definition of electric generating unit, thereby minimizing the number of industrial facilities which would be subject to the prohibitions applicable to new electric powerplants.

Comments received by DOE generally endorsed revision of the definition of electric generating unit. DOE has determined that adoption of the foregoing proposal will help encourage cogeneration in a manner consistent with the purposes of the Act, and with the President's directive, described *supra*, to minimize regulatory burdens. The definition of "electric generating unit" adopted herein therefore excludes any cogeneration facility, less than half of the net annual electric power generation of which is sold or exchanged for resale. Excluded from the phrase "net annual electric power generation" are sales or exchanges among owners of the cogenerator, *and* sales or exchanges to or with a utility for resale to the cogenerating supplier.

C. *Calculation of Oil and Gas Savings.* To qualify for a cogeneration exemption under § 503.37(a)(1), a petitioner under the current final rule must certify that it would consume less oil or natural gas with its cogeneration facility than without it. DOE has received many comments recommending that this test should encompass oil and gas savings which would be realized in facilities which are not subject to the prohibitions of the Act, as well as in those that are. DOE already explicitly authorizes oil and gas savings attributable to sub-jurisdictional units (under 100 MM Btu per hour heat input rate) to be included in the foregoing oil and gas savings calculation, but does not explicitly address the issue of the inclusion of other non-jurisdictional units, such as heaters, kilns and other fuel combustors. In response to the comments on this issue, DOE wishes to clarify at this time that it will permit a petitioner under § 503.37(a)(1) to calculate its oil and gas savings on the basis of *total* savings attributable to the proposed cogeneration facility, regardless of the status under FUA of the units in which such fuel may be burned.

Many commenters felt that the evidentiary requirement in § 503.37(b)(1)(iv) for a 10-year forecast of utility electrical generation which would be displaced by the proposed cogenerator was onerous and unwarranted. In the August 11 NOPR, DOE proposed to permit use of a Regional Estimates Table provided therein or other estimate of oil and gas savings by the petitioner in lieu of the 10-year forecast. Commenters endorsed this proposal. DOE is therefore adopting this revision to the evidentiary requirement to permit petitioners to employ the 10-year forecast, the Regional Estimates Table (reproduced herein), or any other estimate of oil and gas savings which might better reflect petitioner's specific situation.

D. *Public Interest Criterion.* In response to comments, DOE is revising § 503.37(a)(2) of its final rules to clarify that the conditions indicated therein, technical innovation and maintaining industry in urban areas, are exemplary only, and that other evidence may be presented to convince DOE that grant of the exemption would be in the public interest.

III. Procedural Matters

A. *Selection 102 of the National Environmental Policy Act (NEPA).* DOE has determined that adoption of these rules in final form is not a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(c) of NEPA. Therefore, the preparation of an Environmental Impact Statement for these rules is not required.

B. *Regulatory Flexibility Act.* DOE has determined that the rules adopted herein in final form will not negatively impact firms that are "small entities" within the meaning of the Regulatory Flexibility Act. Accordingly, DOE certifies that this rule is not likely to have a significant economic impact on a substantial number of small entities within the meaning of that Act. Therefore, DOE is not required to publish a final regulatory flexibility analysis under section 603 of that Act.

C. *Executive Order No. 12291.* DOE has determined that the rules adopted herein in final form are not major rules under Executive Order No. 12291, which requires the preparation of a Regulatory Impact Analysis for major regulations. These final rules will not be likely to result in an annual effect on the economy of $100 million or more. DOE foresees no major increase in costs of prices for consumers, industries, geographic regions, or Federal, State or local government agencies. DOE does not consider it likely that these rules will result in significant adverse effects on competition, employment, investment, or productivity. Therefore, no Regulatory Impact Analysis is required. These final rules were submitted to OMB for review at least 10 days prior to their publication.

List of Subjects in 10 CFR Parts 500 and 503

Business and industry; Electric powerplants; Energy conservation; Natural gas; Petroleum.

(Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 565 (42 U.S.C. 7101 *et seq.*), Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95–620, 92 Stat. 3289 (42 U.S.C. 8301 *et seq.*); E.O. 12009, FR 46267, September 15, 1977)

In consideration of the foregoing, Parts 500 and 503, Subchapter E, "Alternate Fuels" of Chapter II, Tile 10 of the Code of Federal Regulations, are amended as set forth below.

Issued in Washington, D.C. on June 25, 1982.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

PART 500—DEFINITIONS

For the reasons set out in the Preamble, Part 500 of Chapter II, Title 10 of the Code of Federal Regulations is amended by revising the definitions of "Cogeneration facility" and "Electric generating unit" in § 500.2, *General definitions*, to read as follows:

§ 500.2 General definitions.

* * * * *

"Cogeneration facility" means an electric powerplant or a major fuel burning installation that produces:

(1) Electric power; and

(2) Any other form of useful energy (such as steam, gas or heat) that is, or will be used, for industrial, commercial, or space heating purposes. In addition, for purposes of this definition, electricity

generated by the cogeneration facility must constitute more than five (5) percent and less than ninety (90) percent of the useful energy output of the facility.

* * * * *

"Electric generating unit" does not include:

(1) * * *

(2) Any cogeneration facility from which less than 50 percent of the net annual electric power generation is sold or exchanged for resale. Excluded from "net annual electric power generation" are sales or exchanges: (i) Among owners of the cogeneration facility; and (ii) To or with an electric utility for resale by the utility to the cogenerating supplier.

Note.—* * *

* * * * *

PART 503—NEW FACILITIES

Subpart D—Permanent Exemptions for New Facilities

For the reasons set out in the Preamble, Subpart D of Part 503 of Chapter II, Title 10 of the Code of Federal Regulations is amended by revising paragraphs (a)(2) and (b)(1)(iv) and adding a new paragraph (e) to § 503.37 (Cogeneration) as follows:

§ 503.37 Cogeneration.

(a) *Eligibility.* * * *

(1) * * *

(2) Demonstrating that:

(i) It would be in the public interest to grant an exemption to the cogeneration facility because of special circumstances such as technical innovation, maintaining industry in urban areas, or other reasons which convince DOE that granting of the exemption would be in the public interest; and

(ii) Use of mixtures is not feasible, as required under § 503.9 of these regulations.

(b) * * *

(1) * * *

(i) * * *

(ii) * * *

(iii) * * *

(iv) The petitioner may include the oil or gas that would be consumed by powerplants to generate electricity supplied to the grid to the extent that such electricity, if petitioner cogenerates, will no longer be supplied by the grid. The oil or gas portion must be based on:

(A) A 10-year forecast that includes new construction and retirement of plants within those 10 years;

(B) The Regional Estimates Table set out in paragraph (e) of this section; or

(C) Other estimates of oil and gas savings which better reflect petitioner's specific situation.

* * * * *

(e) *Regional estimates of oil and gas savings.* The following table provides regional estimates of the number of Btu's of oil/gas which may be expected to be saved per kilowatt hour (kWh) of electricity displaced by cogenerated electricity. These estimates may be used by a petitioner in calculating oil/gas savings pursuant to paragraph (b) of this section.

TABLE—REGIONAL ESTIMATES OF OIL/GAS SAVINGS ATTRIBUTABLE TO ELECTRICITY BACKED OFF THE GRID BY COGENERATION[1]

Region name		Oil/gas savings Btu/kWh
NPCC	New England, New York	7,200
MAAC	Pennsylvania, New Jersey, Maryland, Delaware, D.C.	4,700
SERC	Virginia, N. Carolina, S. Carolina, Georgia, Alabama, Tennessee, Eastern Mississippi, Florida panhandle.	300
Florida	Florida (except panhandle)	8,900
ECAR	Ohio, W. Virginia, Kentucky, Indiana, Southern Michigan.	100
MAIN	Illinois, Eastern Wisconsin, Eastern Missouri, Northern Michigan.	200
SPP	Western Mississippi, Arkansas, Northern Louisiana, Southern and Western Missouri, Kansas, Northern and Eastern Texas, Oklahoma, Eastern New Mexico.	7,000
ERCOT	Texas (except SPP areas)	9,900
MARCA	Eastern Montana, N. Dakota, Minnesota, Iowa, Nebraska, Western Wisconsin.	800
WSCC/East	Southern Idaho, Central Montana, Utah, Wyoming, Colorado, Western New Mexico, Arizona.	1,000
WSCC/West	California, Oregon, Washington, Nevada, Areas served by Bonneville Power Administration.	7,000

[1] Data are based upon expected utility capacity and oil/gas use in 1988 (*Preliminary Data on Incremental Utility Oil and Gas Consumption*, May, 1980).

Example: The proposed cogeneration project is located in Eastern Mississippi, and would displace one million kilowatt hours (kWh) from the grid each year. To determine oil/gas savings associated with electricity backed off the grid:

1. The above table identifies your region as "SERC."

2. The oil/gas savings for your region according to the table are 300 Btu/kWh.

3. The annual oil/gas savings attributable to electricity backed off the grid by your cogenerator is: 1,000,000 kWh × 300 Btu/kWh = 300,000,000 Btu.

[FR Doc. 82-18216 Filed 7-2-82; 8:45 am]

BILLING CODE 6450-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 125

[Revision 1, Amdt. 2]

Procurement Assistance; Eligibility Requirements for Certificate of Competency Applicants

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This notice withdraws the amendment made to 13 CFR 125.5, regarding eligibility requirements for certificate of competency applicants for procurement assistance, on May 24, 1982, by the final rule published at 47 FR 22347–22349. That final rule was erroneously published in the Federal Register prior to approval by the Office of Management and Budget pursuant to the provisions of Executive Order 12291. Therefore, SBA is hereby withdrawing that rule at this time pending such review and approval, and restoring 13 CFR 125.5 to its status prior to May 24, 1982.

EFFECTIVE DATE: July 6, 1982.

FOR FURTHER INFORMATION CONTACT: Robert J. Moffitt, Director, Office of Industrial Assistance, 1441 L Street, N.W., Washington, D.C. 20416, (202) 653–7035.

List of Subjects in 13 CFR Part 125

Government contracts, Government procurement, Small businesses, Technical assistance, Certificates of competency.

PART 125—PROCUREMENT ASSISTANCE

Accordingly, 13 CFR 125.5 is revised to read as follows:

§ 125.5 Certificate of competency program.

The Certificate of Competency program is authorized under section 8(b)(7) (A), (B), and (C) of the Small Business Act. A Certificate of Competency (COC) is a written instrument issued by SBA to a Government contracting officer, certifying that a small concern (or group of such concerns) named therein possesess the responsibility and/or eligibility to perform a specific Government procurement (or sale) contract.

Issuance

(a) Government procurement officers, and officers engaged in the sale and disposal of Federal property, upon determining and documenting that a small business lacks certain elements of

responsibility, including but not limited to competency, capability, capacity, credit, integrity, perseverance, and tenacity, notify SBA of such determination. Award is withheld by the contracting officer for a period up to 15 working days following the date of receipt by SBA of notice of such determination (with appropriate documentation) in order to permit SBA to investigate the elements referred and certify as to the bidder's responsibility with respect to the elements referred.

(b) Upon receipt of this notification, SBA personnel then contact the company concerned to inform it of the impending decision, and to offer an opportunity to apply to SBA for a COC. A concern wishing to apply to SBA for a COC advises the SBA regional office for the geographic area within which the concern is located. Upon timely receipt of required documentation, a team of SBA personnel is sent to the firm to investigate the responsibility of the applicant as to the specific elements of responsibility referred to SBA and make recommendations to the Regional Administrator.

(c) If the Regional Administrator's decision is negative, the COC is denied and both the firm and procuring activity are notified. If the Regional Administrator's decision is affirmative and the procurement is less than $500,000, the Regional Administrator issues a COC. Contracting officers will be informed in advance of issuing. For procurements in excess of $500,000, if the Regional Administrator recommends issuance of the Certificate, the Associate Administrator for Procurement Assistance, SBA Central Office, causes a review to be made and either issues or denies the Certificate. If the Associate Administrator's decision is negative, the firm and procuring activity are so informed; if affirmative, a letter certifying the responsibility of the firm as to the elements of responsibility referred (the Certificate of Competency) is sent to the procuring activity and the applicant informed of such issuance by the regional office. By terms of the Small Business Act, as amended, the COC is conclusive as to responsibility. Contracting officers are directed to award a contract without requiring the firm to meet any other requirement with respect to responsibility.

(d) The notification to an unsuccessful applicant concern will briefly state the reason for denial and inform the applicant that a meeting may be requested with the appropriate SBA regional personnel to discuss the reasons for denial. Upon receipt of a request for such a meeting, the appropriate regional personnel will confer with the applicant and explain fully the reasons for SBA's action. However, such conference will be for the sole purpose of enabling the applicant to improve or correct deficiencies and will not constitute a basis for reopening the case in which the Certificate was denied.

(e) After a COC is awarded for capacity or credit and the contract is let to the applicant, SBA keeps a close watch on the progress. Monthly checks are made by SBA field personnel who report directly to the Central Office on the status of the contract. In this way SBA technical assistance is constantly available to the contractor.

(f) A small business concern shall not be eligible for a COC unless it performs a significant portion of the contract with its own facilities and personnel to assure SBA that the bidder is not simply an agent.

(g) A non-manufacturing concern which submits bids or offers in its own name on a set-aside procurement shall not be eligible for a COC unless the end items to be furnished under the contract will be manufactured by a small business concern in the United States. The product of a large business may only be supplied on a non-set-aside procurement and that product and the responsibility of the manufacturer must be acceptable to the procuring activity. The responsibility of the small non-manufacturer is certified, not the large manufacturer. In the event of a tie bid, preference shall be given to the concern supplying the product of a small business.

(h) A Government procurement officer documenting that a small concern is ineligible due to the provisions of section 35(a) of Title 41, U.S.C. (the Walsh-Healey Public Contracts Act) notifies SBA of such determination. SBA may certify the concern is eligible for the specific contract or concur with the finding of inelgibility and refer the matter to the Secretary of Labor for final disposition.

(i) SBA by law issues a certification on the basis that officers of the Government having procurement or property disposal powers are directed to accept such certification as conclusive, and shall let the contract to such concern without requiring it to meet any other requirement of responsibility or eligibility.

(Sec. 8(b)(7) of Small Business Act, as amended)

Dated: June 28, 1982.

James C. Sanders,

Administrator.

[FR Doc. 82-18008 Filed 7-2-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-NW-47-AD; Amdt. 39-4413]

Airworthiness Directives; British Aerospace Model HS/BH/DH 125 Airplanes Up To and Including Series 600

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Rescission of final rule.

SUMMARY: This amendment rescinds an existing Airworthiness Directive (AD), 82-06-08, which required a one-time inspection for clearance between the left hand engine fuel line and the flap control unit input lever on HS/BH/DH 125 airplanes. A previously published AD (81-06-06) addresses the same problem.

DATE: Effective date July 12, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Harold N. Wantiez, Foreign Aircraft Certification Branch, ANM-150S, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, Telephone (206) 767-2530. Mailing address: FAA Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: AD 82-06-08 required a one-time inspection for adequate clearance and relocation, as necessary, of the left hand engine fuel line on HS/BH/DH 125 airplanes in accordance with British Aerospace Aircraft Group 125 Service Bulletin No. 28-69, Revision 1, dated June 25, 1979. After the AD was published, it was learned that an existing AD, 81-06-06, also required the same service bulletin inspection. AD 82-06-08 is considered to be unnecessary and is accordingly rescinded.

Since this amendment relieves a restriction, it has no adverse economic impact, and imposes no additional burden on any person. Therefore, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by rescinding Airworthiness Directive 82-08-08 (Amendment 39-4366, 47 FR 16616, April 19, 1982).

This rescission becomes effective July 12, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The Federal Aviation Administration has determined that this document involves an amendment that is relieving in nature and does not impose any additional burden on any person. This amendment is not major under Executive Order 12291 (46 FR 13193; February 19, 1981) and not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Because its anticipated impact is so minimal, it does not warrant preparation of a regulatory evaluation. I certify that it will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act because it is relieving in nature and because it involves few, if any, small entities.

Issued in Seattle, Washington, on June 21, 1982.

Robert O. Brown,

Acting Director, Northwest Mountain Region.

[FR Doc. 82-18019 Filed 7-2-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 82-AGL-4]

Alteration of Control Zone; North Dakota

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal Action is to redescribe the Grand Forks Air Force Base, North Dakota, airport control zone by reference to the airport's geographical position in lieu of any reference to the Red River VOR.

The intended effect of this action is to ensure and maintain controlled airspace within the described control zone as necessary for aeronautical operations at Grand Forks, AFB, and to insure segregation of the aircraft using approach procedures in instrument weather conditions from other aircraft operating under visual weather conditions.

EFFECTIVE DATE: September 2, 1982.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: The Grand Forks AFB control zone description currently makes reference to the Red River VOR. The Air Force intends to decommission the VOR for economic and maintenance reasons. It is necessary to redescribe the control zone prior to initiating any action toward decommissioning the Red River VOR. The new description designates small portions of airspace east and west of the current north extension, and east and west of the current south extension, where the airspace will not be designated as controlled from the surface up to the base of the existing 700-foot transition area. The new description will also return a portion approximately 2 miles by 3½ miles of the current south extension to a non-controlled status where the floor of the designated airspace will be raised from the surface up to 700 feet above the surface.

Aeronautical maps and charts will reflect the defined areas which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

History

On page 19552 of the **Federal Register** dated May 6, 1982, the FAA proposed to amend § 71.171 of the Federal Aviation Regulations (14 CFR Part 71) so as to alter the control zone near Grand Forks, North Dakota (Grand Forks Air Force Base). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.171 of Part 71 of the Federal Aviation Regulations was published in Advisory Circular AC 70-3 dated January 29, 1982.

List of Subjects in 14 CFR Part 71

Control zones, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT, September 2, 1982, as follows:

Grand Forks, North Dakota (Grand Forks Air Force Base)

Within a 5-mile radius of Grand Forks AFB Airport (Latitude 47°57'40" N., Longitude 97°24'03" W.); within 2.5 miles each side of the 003° bearing from the airport, extending from the 5-mile radius zone to 7 miles north of the airport; within 2.5 miles each side of the 175° bearing from the airport, extending from the 5-mile radius zone to 7 miles south of the airport.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)) and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It is certified that this—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Illinois, on June 22, 1982.

Paul K. Bohr,

Director, Great Lakes Region.

[FR Doc. 82-17984 Filed 7-2-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 82-ASW-23]

Alteration of Transition Area; Paragould, AR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will alter the transition area at Paragould, AR. The intended effect of the amendment is to provide adequate controlled airspace for aircraft executing a new instrument approach procedure to the Paragould Municipal Airport, AR. This amendment is necessary to provide controlled airspace for aircraft executing a new instrument approach procedure using a nondirectional radio beacon (NDB) located at latitude 36°01'48"N., longitude 90°35'49"W.

EFFECTIVE DATE: September 2, 1982.

FOR FURTHER INFORMATION CONTACT: James L. Owens, Airspace and Procedures Branch (ASW-536), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O.

Box 1689, Fort Worth, TX 76101, telephone (817) 624–4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

On May 17, 1982, a notice of proposed rulemaking was published in the **Federal Register** (47 FR 21080) stating that the Federal Aviation Administration proposed to alter the Paragould, AR, transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes, this amendment is that proposed in the notice.

List of Subjects in 14 CFR Part 71

Control zones, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, by the Administrator, Subpart G of Part 71, § 71.181, of the Federal Aviation Regulations (14 CFR Part 71) as republished in Advisory Circular AC 70–3 dated January 29, 1982, is amended, effective 0901 G.m.t., September 2, 1982, as follows:

Paragould, AR Revised

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Paragould Municipal Airport, AR (latitude 36°03'41" N., longitude 90°30'41" W.), and within 2.5 miles each side of the 247° bearing from the Walcott NDB (latitude 36°01'48" N., longitude 90°35'49" W.) extending from the 5-mile radius to 11 miles southwest of the NDB, excluding the portion within the Jonesboro, AR, Control Zone.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 1103; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. It is certified that the rule will not have a significant economic impact on a substantial number of small entities as the anticipated impact is minimal.

Issued in Fort Worth, TX, on June 25, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82-17981 Filed 7-2-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 81-AGL-49]

Alteration of Transition Area; Fairfield, Ill.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal Action is to designate additional controlled airspace determined necessary to encompass a new instrument procedure and to return some designated airspace to a non-controlled status due to the cancellation of an instrument procedure. Both procedures involve Fairfield Municipal Airport, Fairfield, Illinois.

EFFECTIVE DATE: September 2, 1982.

FOR FURTHER INFORMATION CONTACT:

Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL–530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694–7360.

SUPPLEMENTARY INFORMATION: The additional airspace required will contain a new NDB Runway 9 approach procedure and will be within 4 miles each side of the 260° bearing from the Fairfield NDB facility extending from the 5-mile radius to 8½ miles west-southwest of the NDB. A prior NDB Runway 36 instrument procedure has been cancelled, and the airspace to be returned to a non-controlled status is within 3 miles each side of the 179° bearing from the Fairfield Airport extending from the 5-mile radius to 8 miles south of the airport.

In the area of the additional airspace, the floor of the controlled airspace will be lowered from 1,200 feet above the surface to 700 feet above the surface. The development of the new procedure requires that the FAA alter the designated airspace to insure that the procedure will be contained within the controlled airspace. The minimum descent altitudes for the NDB Runway 9 procedure may be established below the floor of the 700-foot controlled airspace.

In the area of the revoked airspace, the floor of the controlled airspace will be raised from 700 feet above the surface to 1,200 feet above the surface.

Aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

History

On page 19551 of the **Federal Register** dated May 6, 1982, the FAA proposed to amend § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) so as to alter the transition area airspace near Fairfield, Illinois. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3 dated January 29, 1982.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me, Section 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., September 2, 1982, as follows:

Fairfield, Illinois

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Fairfield Municipal Airport (latitude 38°23'00" N., longitude 88°25'00" W.); and within 4 miles each side of the NDB facility 260° bearing, extending from the 5-mile radius to 8½ miles west-southwest of the NDB.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)) and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It is certified that this—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air naviation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Illinois, on June 22, 1982.

Paul K. Bohr,

Director, Great Lakes Region.

[FR Doc. 82-17981 Filed 7-2-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 81-AGL-47]

Alteration of Transition Area; Illinois

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal Action is to designate an additional amount of controlled airspace determined necessary to encompass an NDB Runway 22 instrument procedure for Casey Municipal Airport, Casey, Illinois. The additional airspace is within 3 miles each side of the 050° bearing from the airport extending from the 5-mile radius to 8 miles northeast.

The intended effect of this action is to insure segregation of the aircraft using approach procedures in instrument weather conditions from other aircraft operating under visual weather conditions.

EFFECTIVE DATE: September 2, 1982.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: The development of the procedure requires that the FAA alter the designated airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitudes for this procedure may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts will reflect the defined areas which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

History

On page 17304 of the **Federal Register** dated April 22, 1982, the FAA proposed to amend § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) so as to alter the transition area airspace near Casey, Illinois. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was published in Advisory Circular AC 70-3 dated January 29, 1982.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT, September 2, 1982, as follows:

Casey, Illinois

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Casey Municipal Airport (latitude 39°18'07" N., longitude 88°00'13" W.); within 3 miles each side of the 211° bearing from the airport extending from the 5-mile radius area to 8 miles southwest of the airport; and within 3 miles each side of the 050° bearing from the airport extending from the 5-mile radius area to 8 miles northeast of the airport.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)) and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Illinois, on June 21, 1982.

Paul K. Bohr,

Director, Great Lakes Region.

[FR Doc. 82-17980 Filed 7-2-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-AGL-7]

Alteration of Transition Area, Portland, Ind.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to designate an additional amount of controlled airspace determined necessary to encompass an NDB Runway 9 instrument procedure for Steed Field Airport, Portland, Indiana. The additional airspace is within 3 miles each side of the 280° bearing from the airport extending from the 6-mile radius to 8.5 miles west of the airport.

The intended effect of this action is to insure segregation of the aircraft using approach procedures in instrument weather conditions from other aircraft operating under visual weather conditions.

EFFECTIVE DATE: September 2, 1982.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: The development of the proposed procedure requires that the FAA alter the designated airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitudes for this procedure may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts will reflect the defined areas which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

History

On page 17303 of the **Federal Register** dated April 22, 1982, the FAA proposed to amend Section 71.181 of the Federal Aviation Regulations (14 CFR Part 71) so as to alter the transition area airspace near Portland, Indiana. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT, September 2, 1982, as follows:

Portland, Indiana

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Steed Field Airport (latitude 40°26'59" N., longitude 84°59'11" W.); and within 2 miles each side of the 100° bearing from Steed Field Airport, extending from the 6-mile

radius to 8 miles east of the airport; and within 3 miles each side of the 280° bearing from the Steed Field Airport, extending from the 6-mile radius to 8.5 miles west of the airport.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a))– and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)) and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Illinois, on June 11, 1982.

Paul K. Bohr,

Director, Great Lakes Region.

[FR Doc. 82-17980 Filed 7-2-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-AGL-10]

Designation of Transition Area, Indiana

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to designate controlled airspace near Jeffersonville, Indiana, to accommodate a new instrument approach into Clark County Airport, Jeffersonville, Indiana, established on the basis of a request from the Clark County Airport officials to provide that facility with instrument approach capability utilizing the Nabb, Indiana VORTAC.

The intended effect of this action is to insure segregation of the aircraft using approach procedures in instrument weather conditions from other aircraft operating under visual weather conditions.

EFFECTIVE DATE: September 2, 1982.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL–530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinios 60018, telephone (312) 694–7360.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace in this area will be lowered from 1200′ above ground to 700′ above ground. The development of the proposed instrument procedures requires that the FAA lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimun descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts will reflect the area of the instrument procedures, which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements. The Clark County Airport symbol will also be depicted at the same time.

History

On page 19552 of the **Federal Register** dated May 6, 1982, the FAA proposed to amend Section 71.181 of the Federal Aviation Regulations (14 CFR Part 71) so as to establish a 700-foot controlled airspace transition area near Jeffersonville, Indiana. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was published in Advisory Circular AC 70–3 dated January 29, 1982.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Section 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT, September 2, 1982, as follows:

Jeffersonville, Indiana

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Clark County Airport (latitude 38°21′57″N., longitude 85°44′18″W), excluding the portion designated as Louisville, Kentucky; and within 1.75 miles each side of the Nabb, Indiana, VORTAC 199 radial extending from the 6.5-mile radius to 7.5 miles northeast of Clark County Airport.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)) and 14 CFR 11. 69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It is certified that this—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Illinois, on June 22, 1982.

Paul K. Bohr,

Director, Great Lakes Region.

[FR Doc. 82-17985 Filed 7-2-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ACE-07]

Designation of Transition Area; Smith Center, Kansas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to designate a 700-foot transition area at Smith Center, Kansas, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Smith Center, Kansas, Municipal Airport, utilizing the Mankato VOR/DME as a navigational aid. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: September 2, 1982.

FOR FURTHER INFORMATION CONTACT: Don A. Peterson, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE–532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374–3408.

SUPPLEMENTARY INFORMATION: To enhance airport usage, a new instrument approach procedure to the Smith Center, Kansas, Municipal Airport is being established utilizing the Mankato VOR/DME as a navigational aid. The establishment of an instrument approach procedure based on this approach aid entails designation of a transition area at Smith Center, Kansas, at or above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. Transition areas are designed to contain

IFR operations in controlled airspace during portions of the terminal operation and while transiting between the terminal and enroute environment. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). This action will change the airport status from VFR to IFR.

Discussion of Comments

On page 12808 of the Federal Register dated March 25, 1982, the Federal Aviation Administration published a Notice of Proposed Rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Smith Center, Kansas. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t. September 2, 1982, by designating the following transition area:

Smith Center, Kansas

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Smith Center Municipal Airport (Latitude 39°45'41.5"N, Longitude 98°47'31.5"W).

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Missouri, on June 23, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82-18122 Filed 7-2-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ASO-20]

Alteration of Control Zone; Jackson, Mississippi

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters the Jackson, Mississippi, Control Zone by revoking an arrival extension associated with Hawkins Field. A change in instrument approach procedures at Hawkins Field negates the need for the Control Zone extension.

DATES: Effective date: 0901 G.m.t., October 28, 1982. Comments must be received on or before October 1, 1982.

ADDRESSES: Send comments on the rule in triplicate to:

Federal Aviation Administration, Chief, Airspace and Procedures Branch, ASO-530, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320;

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves revocation of an unneeded Control Zone extension at Hawkins Field and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the Jackson, Mississippi, Control Zone by revoking an unneeded arrival extension associated with Hawkins Field. The arrival extension was previously designated to provide controlled airspace for aircraft executing the VOR-A instrument approach procedure to Hawkins Field. Establishment of an Instrument Landing System to serve Hawkins Field negates the need for the VOR-A instrument approach procedure and associated arrival extension. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982. Under the circumstances presented, the FAA concludes that there is a need for a regulation to revoke the unneeded Control Zone extension. Since this amendment relieves a restriction and imposes no additional burden on any person, I find that notice or public procedure under 5 U.S.C. 553(b) is unnecessary and impracticable.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Control zone.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 G.m.t., October 28, 1982, as follows:

Jackson, Mississippi—Amended

By deleting the words "* * * within 2.5 miles each side of the Jackson VORTAC 194° radial, extending from the 5-mile radius zone to 1 mile south of the VORTAC * * *"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic

procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on June 14, 1982.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 82-17094 Filed 7-2-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ASO-9]

Alteration of Transition Area, Wadesboro, N.C.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction of final rule.

SUMMARY: This action corrects the description of the amended Wadesboro, North Carolina, transition area. The final rule published in the **Federal Register** (47 FR 23700) on Tuesday, June 1, 1982, altered the Wadesboro, North Carolina, transition area by adding an extension and reference to the Wadesboro NDB. When the transition area was redefined to incorporate the above changes, the geographical coordinates of the NDB were erroneously listed. The purpose of this amendment is to correct the defectively written description. Since this action is editorial in nature, further notice and public procedure are not necessary. The effective date of this correction coincides with the effectivity of the original amendment. To avoid confusion, the complete description, as corrected, is presented in the text of this corrective amendment.

EFFECTIVE DATE: 0901 G.m.t., September 2, 1982.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

SUPPLEMENTARY INFORMATION:

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the amended description of the Wadesboro, North Carolina, transition area (14 CFR 71.181) published on June 1, 1982, (47 FR 23700) is revoked in its entirety and substituted for it, effective 0901 G.m.t., September 2, 1982, is a corrected description to read as follows:

Wadesboro, North Carolina—Revised

By deleting the words "* * * southwest of the VORTAC * * *" and substituting for them the words "* * * southwest of the VORTAC; within 3 miles each side of the 340° bearing from the Wadesboro RBN (Lat. 35°01'26"N., Long. 80°05'00"W.), extending from the 6.5-mile radius area to 8.5 miles north of the RBN * * *"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on June 24, 1982.

Thomas H. Protiva,

Acting Director, Southern Region.

[FR Doc. 82-18123 Filed 7-2-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-AGL-5]

Designation of Transition Area, Ohio

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to designate controlled airspace near Beach City, Ohio, to accommodate a new instrument approach into Beach City Airport, established on the basis of a request from the Beach City Airport officials to provide that facility with instrument approach capability utilizing the Briggs, Ohio, VORTAC.

The intended effect of this action is to insure segregation of the aircraft using approach procedures in instrument weather conditions from other aircraft operating under visual weather conditions.

EFFECTIVE DATE: September 2, 1982.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace in this area will be lowered from 1200' above ground to 700' above ground. The development of the proposed instrument procedures requires that the FAA lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

History

On page 17305 of the **Federal Register** dated April 22, 1982, the FAA proposed to amend § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) so as to establish a 700-foot controlled airspace transition area near Beach City, Ohio. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT, September 2, 1982, as follows:

Beach City, Ohio

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Beach City Airport (latitude 40°38'47.5" N, longitude 81°33'20.3" W), excluding that portion which overlies the Akron, Ohio, transition area.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)) and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to

keep them operationally current. It is certified that this—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Illinois, on June 21, 1982.

Paul K. Bohr,

Director, Great Lakes Region.

[FR Doc. 82-17983 Filed 7-2-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-AGL-3]

Designation of Transition Area, Wisconsin

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to designate controlled airspace near Ladysmith, Wisconsin, to accommodate a new NDB Runway 32 instrument approach into Rusk County Airport, established on the basis of a request from the Rusk County Airport officials to provide that facility with instrument approach capability.

The intended effect of this action is to insure segregation of the aircraft using approach procedures in instrument weather conditions from other aircraft operating under visual weather conditons.

EFFECTIVE DATE: September 2, 1982.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace in this area will be lowered from 1,200' above ground to 700' above ground. The development of the proposed instrument procedures requires that the FAA lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

History

On page 19554 of the **Federal Register** dated May 6, 1982, the FAA proposed to amend § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) so as to establish a 700-foot controlled airspace transition area near Ladysmith, Wisconsin. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was published in Advisory Circular AC 70-3 dated January 29, 1982.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended effective 0901 GMT, September 2, 1982, as follows:

Ladysmith, Wisconsin

That airspace extending upward from 700 feet above the surface within a 6½ mile radius of the Rusk County Airport (latitude 45°29'57" N., Longitude 91°00'06" W.) at Ladysmith, Wisconsin, and extending 3 miles either side of the 151° bearing from the Ladysmith NDB, extending from 6½ miles to 8½ miles.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.C.S. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)) and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It is certified that this—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Illinois, on June 22, 1982.

Paul K. Bohr,

Director, Great Lakes Region.

[FR Doc. 82-17982 Filed 7-2-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 91

[Docket No. 21022A; Reg. Notice No. 91-100]

Emergency Air Traffic Regulations Issued Under Section 91.100 of the Federal Aviation Regulations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Update of emergency air traffic regulations.

SUMMARY: Section 91.100 of the Federal Aviation Regulations (FAR) (14 CFR 91.100) requires aircraft operators to comply with emergency air traffic regulations issued under that section and covered by Notices to Airmen (NOTAMs) that are also issued under that section. This documemt provides notice of regulations already adopted that were immediately effective under § 91.100, for which the FAA has also issued NOTAMs. It adds, to Notice 91-100, emergency regulations implementing Special Federal Aviation Regulation (SFAR) No. 44, as amended, that were necessary to respond to a shortage in air traffic control personnel.

EFFECTIVE DATE/TIME: As stated in each regulation listed.

ADDRESSES: Send comments on the listed regulations, in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 21022A, 800 Independence Avenue, SW., Washington, DC 20591. Comments may be examined in the Rules Docket, Room 915, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: B. Keith Potts, Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 426-3731.

SUPPLEMENTARY INFORMATION:

Comments Invited

The regulations issued under § 91.100 and listed herein are emergency final rules involving immediate air traffic requirements throughout the United States. The need for immediate regulatory response under § 91.100 is stated at 46 FR 16666, *et. seq.* In issuing

the regulations in this notice, the FAA has found that the conditions cited in § 91.100 exist or will exist and that the regulations are necessary in order to respond to those conditions in the public interest. Where necessary, these regulations may be supplemented or amended hourly, or even more frequently, as air traffic conditions change. Accordingly, good cause exists for making these regulations effective immediately, without prior notice and public procedure.

Comments are invited on any aspect of the listed regulations, individually or cumulatively, and on any aspect of the emergency air traffic control conditions they respond to. When § 91.100 was issued, the FAA noted that it was an emergency regulation under Executive Order 12291 and DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and had no cost impact in itself since it was only procedural. However, the FAA also stated (at 46 FR 16669) that the regulations distributed in accordance with § 91.100 will be evaluated individually, as appropriate, to determine whether they have cost impacts. To assist the FAA in determining, as soon as practicable after issuance, the cost impacts of the regulations issued under § 91.100, comments on economic impact are specifically invited.

Commenters wishing the FAA to acknowledge receipt of their comments in response to these rules must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 21022A." The postcard will be date/time stamped and returned to the commenter.

Effect of Publication

Publication, in the **Federal Register**, of emergency air traffic regulations issued under § 91.100 provides constructive legal notice of those regulations to all persons who may not have received the NOTAMs concerning those regulations or who otherwise may not have legal notice of the adoption of those regulations. This document provides this constructive legal notice of immediately effective emergency regulations that have already been adopted. Additional emergency rules will be published periodically if the need for their adoption continues.

Availability Prior to Publication: Preflight Requirement

Since there is a necessary time lag between the issuance of emergency air traffic regulations and NOTAMs under § 91.100 and the publication of these regulations in the **Federal Register**, and since these regulations and NOTAMs respond to emergency conditions that exist, or will exist, relating to the FAA's ability to operate the Air Traffic Control System, the NOTAMs concerning these regulations are available at operating air traffic facilities and Regional Air Traffic Division offices prior to **Federal Register** publication and as long as they remain effective. Under § 91.5 *Preflight Action* (14 CFR 91.5), each pilot in command is required to familiarize himself or herself with all available information concerning, each flight.

Air Traffic Controller Shortage: SFAR No. 44, as Amended

The air traffic regulations listed in this amendment to Notice 91–100 follow the adoption of SFAR No. 44, as amended, in response to an organized air traffic controller job action. The emergency aspects of that action are described at 46 FR 39997, *et seq.* As a result, air traffic control facilities have experienced staffing shortages that have reduced the level of air traffic that can be handled with the required levels of safety and efficiency. To ensure that these levels of safety and efficiency are fully maintained during this shortage of air traffic personnel, the emergency regulations listed in section 2 of this notice have been issued under § 91.100.

Regulatory Impact

The FAA has determined that the regulations listed in this notice are emergency regulations that are not major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to these regulations, since they were issued in response to existing or expected emergency conditions relative to FAA's ability to operate the Air Traffic Control System. It has been further determined that the listed regulations are emergency regulations under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If these regulations are later determined to be significant, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

List of Subjects in 14 CFR Part 91

Air traffic control, Airspace, Aviation safety.

Notice of Adoption

Accordingly, pursuant to the authority delegated to me by the Administrator in § 91.100 of the Federal Aviation Regulations (14 CFR 91.100; 46 FR 16666, March 13, 1981) and that cited below, the following emergency air traffic regulations have been adopted and covered by NOTAMS under that section.

(Secs. 307, 313(a), 601, 603, 902, 1110, and 1202, Federal Aviation Act of 1958, as amended (49 U.S.C. 1348, 1354(a), 1421, 1442, 1443, 1472, 1510, and 1522); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

In consideration of the foregoing, § 2 of Notice 91–100 is hereby amended by adding the following emergency regulations following the regulation numbered FDC No. 2/204.

Air Traffic Controller Shortage of 1981, and Related Emergency Conditions (SFAR–44, as Amended; Docket No. 21022A).

* * * * *

FDC 2/698 Emergency Flight Rules March 22, 1982. Flight Plan Filing—Augusta, Georgia/Masters Golf Tournament Reservation Rule effective March 22, 1982, 1720 G.m.t.

The Masters event is expected to cause approximately 1,000 IFR aircraft operations to be added to the Air Traffic Control (ATC) system. To accommodate this traffic without excessive arrival delays and excessive inconvenience to the public, increased ATC staffing and arrival reservations will be required.

Current rules issued under SFAR No. 44, as amended, do not provide the air traffic system with the flexibility to accommodate much of this added traffic. For example, only a departure reservation, regardless of destination, is required under the General Aviation Reservation Rule (GAR). This precludes ATC facilities from effectively managing an above normal and concentrated arrival demand for a specific destination.

Pilots proposing general aviation flight to the Augusta area will be excluded from the requirements of the GAR once they have obtained an IFR arrival reservation from the Central Flow Control Facility (CFCF). However, IFR departure reservation provisions under GAR will remain in effect for flights departing the Augusta area. Reservations for VFR flight will not be required; however, appropriately rated pilots should anticipate the possibility of instrument meteorological conditions and flights plan accordingly.

Accordingly, pursuant to SFAR No. 44, as amended, and FAR § 91.100, the

following rule is effective immediately to provide for the safe, orderly handling and movement of IFR traffic.

1. No person may operate a nonscheduled general aviation flight under IFR into the specified area between the hours of 0800 e.s.t. to 1200 e.s.t. during the period beginning April 6, 1982, and ending on April 12, 1982, without an IFR arrival reservation issued by the CFCF.

2. For the purpose of this rule, the specified area includes the airspace within a 30-nautical mile radius of Augusta, Georgia, and includes the following airports:

Thompson McDuffie County
Daniel
Bush
Aiken

3. Each person planning IFR flight into the specified area shall comply with paragraphs 4 through 6 of this rule in lieu of GAR requirements.

4. Arrival reservations must be obained from the CFCF (Telephone Number (202) 382–6868).

5. No person may contact the CFCF for the purpose of obtaining an IFR arrival reservation under this rule prior to 0900 e.s.t. on April 3, 1982.

6. Each person receiving an IFR arrival reservations number from the CFCF must include it in the remarks section of the appropriate IFR flight plan as filed with ATC.

FDC 2/735 Emergency Flight Rules April 26–May 2, 1982. Flight Plan Filing—Louisville, Kentucky/Kentucky Derby Reservation Rule effective March 26, 1982, 1705 G.m.t.

The Derby event is expected to cause approximately 500 IFR aircraft operations to be added to the Air Traffic Control (ATC) system. To accommodate this traffic without excessive arrival delays and inconvenience to the public, increased ATC staffing and arrival reservations will be required.

Current rules issued under SFAR No. 44, as amended, do not provide the air traffic system with the flexibility to accommodate much of this added traffic. For example, only a departure reservation, regardless of destination, is required under the General Aviation Reservation Rule (GAR). This precludes ATC facilities from effectively managing an above normal and concentrated arrival demand for a specific destination. Further, under the GAR, departure reservations cannot be obtained earlier than 24 hours prior to the estimated departure time. This provision does not facilitate accommodation planning.

Pilots proposing general aviation flight to the Louisville area will be excluded from the requirements of the GAR once they have obtained an IFR arrival reservation. Departure reservations for IFR flight from the Louisville area will be required and advance request and filing will be necessary.

Reservations for VFR flight will not be required; however, appropriately rated pilots should anticipate the possibility of instrument meteorological conditions and flight plan accordingly. Pilots who plan IFR return flights and obtain IFR departure reservations under this rule, have the advantage of being able to know their return departure date and time prior to leaving their "home" for the Louisville area.

Accordingly, pursuant to SFAR No. 44, as amended, and FAR § 91.100, the following rule is effective immediately to provide for the safe, orderly handling and movement of IFR traffic:

1. No person may operate a nonscheduled general aviation flight under IFR into or out of the specified area during the specified periods without an IFR arrival reservation issued by the Central Flow Control Facility (CFCF) or an IFR departure reservation issued by Louisville Flight Service Station (FSS).

2. For the purpose of this rule, the specified area includes the airspace within which a 30-nautical mile radius of the Standiford Airport, Louisville, Kentucky, and includes the Standiford and Bowman Airports.

3. For the purpose of this rule, the specified periods are as follows:

Arrivals—April 29, 1000 G.m.t., to May 2, 0100 G.m.t. Departures—May 1, 2200 to 0300 G.m.t.; May 2, 1100 to 0200 G.m.t.

4. Each person planning IFR flight under this rule shall comply with this rule in lieu of the GAR requirements.

5. Arrival reservations must be obtained from the CFCF (telephone number (202) 382–6868).

6. Departure reservations for flight from the specified area must be obtained from the Louisville FSS (telephone number (502) 451–5344) and flight plans must be filed with Louisville FSS no later than 4 hours prior to the proposed departure time.

7. No person may request a reservation under this rule prior to 1200 G.m.t. on April 26, 1982.

8. Each person receiving a reservation number must include it in the remarks section of the IFR flight plan as filed with ATC for the inbound and outbound flights, as appropriate.

FDC 2/862 Cancel FDC 2/698.

FDC 2/867 Emergency Flight Rules April 19, 1982. Flight Plan Filing—General Aviation Reservation Rule effective April 19, 1982, 0600 local time.

The IFR capacity of the enroute Air Traffic Control (ATC) system has increased and permits relaxation of the IFR Flight Plan Filing/General Aviation Reservation (GAR) Rule. Specifically, the Salt Lake and Seattle ARTCCs are now able to accommodate certain aircraft from FL 180 through FL 280 without requiring reservations under the GAR. Other operators will also benefit from this relaxation because there will be less demand for available reservations. Accordingly, pursuant to SFAR No. 44, as amended, and FAR § 91.100, the following regulation is effective in the 20 conterminous ARTCC areas to provide for the safe, orderly handling and movement of IFR traffic.

1. All aircraft operators planning a flight under IFR with a proposed departure/enroute pick-up time from 0600 LCL to 1959 LCL shall file a flight plan with and obtain a departure/enroute pick-up reservation from an FAA Flight Service Station (FSS) at least 30 minutes before but not more than 24 hours before his/her proposed departure/enroute time if any segment of the flight will enter ARTCC airspace.

2. ATC clearance must be requested not later than 30 minutes after proposed departure/enroute pick-up time.

3. Multiple-Leg Flight Plans may be filed provided—

A. The conditions of paragraph 1 above are met.

B. The last proposed departure/enroute pick-up time does not exceed the 24-hour filing time limitation specified in paragraph 1 above.

C. The same departure/enroute pick-up point is not specified twice in the request.

D. The request does not involve more than three departure/enroute pick-up points.

4. The provisions of this regulation do not apply to the following operators and flights:

A. FAR Part 121 or Part 135 operators with FAA/ICAO approved two-letter and three-letter call signs.

B. Military flights.

C. Medical emergency flights.

D. Presidential and Vice-Presidential flights.

E. FAA critical flights.

F. FAR Part 93 Subpart K flights to or from high density airports during the period airport reservations are required. Reservations at these airports: John F. Kennedy Airport, La Guardia Airport, Chicago O'Hare Airport, and Washington National Airport, may be adjusted consistent with the pro rate reductions in effect for the time the reservation is requested.

G. Flights originating within the airspace areas of Anchorage and Honolulu Air Route Traffic Control Centers.

H. Turbojet aircraft operations at FL 290 and above.

I. Nonstop flights destined for airports outside the continental United States.

J. Turboprop and turbosupercharged aircraft operations at FL 180 through FL 280 within or between the Seattle and Salt Lake ARTCC areas.

5. Limitations on obtaining an IFR clearance while airborne remain in effect in the Anchorage ARTCC area as specified in the pertinent regulatory NOTAM.

FDC 2/915 Cancel FDC 1/2760 and FDC 1/2775.

FDC 2/973 Emergency Flight Rules May 1–May 6, 1982. Flight Plan Filing—Houston, Texas/Offshore Oil Technology Conference Reservation Rule effective April 26, 1982, 2030 G.m.t.

The offshore oil technology conference event is expected to cause approximately 1,000 IFR aircraft operations to be added to the Air Traffic Control (ATC) system. To accommodate this traffic without excessive delays, increased ATC staffing and arrival reservations will be required. Current rules issued under SFAR No. 44, as amended, do not provide the ATC system with the flexibility to accommodate much of this added traffic. For example only a departure reservation, regardless of destination, is required under the General Aviation Reservation (GAR) Rule. This precludes ATC facilities from effectively managing an above normal and concentrated arrival demand for a specific destination. Pilots proposing general aviation flight to the Houston area will be excluded from the requirements of the GAR once they have obtained an IFR arrival reservation. However, departure reservations for IFR flight from the Houston area will still be required under GAR. Reservations for VFR flight will not be required; however, appropriately rated pilots should anticipate the possibility of instrument meteorological conditions and flight plan accordingly. Pursuant to SFAR No. 44, as amended, and FAR § 91.100, the following rule is effective immediately to provide for the safe, orderly handling and movement of IFR traffic:

1. No person may operate a nonscheduled general aviation flight under IFR into the following airports during the effective periods of this rule without a reservation issued under this rule: Houston Intercontinental Airport and William P. Hobby Airport.

2. The effective periods are as follows:

Arrivals—May 3 through May 6, 1982, daily from 0700 to 2100 c.d.t.

3. Each person planning IFR flight under this rule shall comply with, in lieu of the GAR, the following:

A. Reservations may only be requested after 1400 G.m.t. on May 1, 1982.

B. An arrival reservation is required and must be obtained from the Central Flow Control Facility (Telephone Number (202) 382–6886.

C. Flight plans may only be filed after receiving a reservation but must be filed at least 4 hours prior to the proposed departure time.

4. Each person receiving a reservation number under this rule must include it in the remarks section of the appropriate flight plan as filed with ATC.

FDC 2/1049 Cancel 2/735.

FDC 2/1087 Cancel 2/973.

FDC 1/1093 Emergency Flight Rules May 24–June 2, 1982. Flight Plan Filing—Indianapolis, Indiana/Indy 500 Reservation Rule effective May 7, 1982, 1958 GMT.

The Indy event is expected to cause approximately 1,400 IFR aircraft operations to be added to the Air Traffic Control (ATC) system. To accommodate this traffic without excessive delays and inconvenience to the public, increased ATC staffing and reservations will be required.

Current rules issued under SFAR No. 44, as amended, do not provide the air traffic system with the flexibility to accommodate much of this added traffic. For example, only a departure reservation, regardless of destination, is required under the General Aviation Reservation (GAR) Rule. This precludes ATC facilities from effectively managing an above normal and concentrated arrival demand for a specific destination. Further, under the GAR, departure reservations cannot be obtained earlier than 24 hours prior to the estimated departure time. This provision does not facilitate accommodation planning.

Pilots proposing general aviation flight to the Indianapolis area will be excluded from the requirements of the GAR once they have obtained an IFR arrival reservation. Departure reservations for IFR flight from the Indianapolis area will be required and advance request and filing will be necessary.

Reservations for VFR flight will not be required; however, appropriately rated pilots should anticipate the possibility of instrument meteorological conditions and flight plan accordingly. Pilots who plan IFR return flights and obtain IFR departure reservations under this rule have the advantage of being able to know their return departure date and time prior to leaving their "home" for the Indianapolis area.

Accordingly, pursuant to SFAR No. 44, as amended, and FAR § 91.100, the following rule is effective immediately to provide for the safe, orderly handling and movement of IFR traffic:

1. No person may operate a nonscheduled general aviation flight under IFR into or out of the Indianapolis area during the effective periods of this rule without a reservation issued under this rule.

2. The Indianapolis area includes the airspace within a 30-nautical mile radius of Indianapolis, Indiana, and includes the following airports:

Indianapolis International (IND)
Speedway (3SY)
Metropolitan (4I8)
Mt. Comfort (2IN2)
Brownsburg (I01)
Eagle Creek (I14)
Terry (I52)
Brookside (I21)
Skyway (5I1)
Lebanon (6I4)

3. The effective periods are as follows:

Arrivals—May 28, 1100 G.m.t. to May 30, 1600 G.m.t.

Departures—May 30, 2000 G.m.t. to June 2, 0300 G.m.t.

4. Each person planning IFR flight under this rule shall comply with, in lieu of the GAR, the following:

A. Reservations may only be requested after 1400 G.m.t. on May 24, 1982.

B. An arrival reservation to the Indianapolis area is required and must be obtained from the Central Flow Control Facility (Telephone Number (202) 382–6866).

C. A departure reservation from the Indianapolis area is required and must be obtained from the Indianapolis FSS (Telephone Number (317) 244–3316).

D. Flight plans may only be filed after receiving a reservation but must be filed at least 4 hours prior to the proposed departure time.

E. Flight plans for flight from the Indianapolis area must be filed with Indianapolis FSS.

5. Each person receiving a reservation number under this rule must include it in the remarks section of the appropriate flight plan as filed with ATC.

FDC 2/1099 Emergency Flight Rules May 24–June 2, 1982. Flight Plan Filing—Indianapolis, Indiana/Indy 500 Reservation Rule effective May 10, 1982, 1352 G.m.t..

The Indy event is expected to cause approximately 1,400 IFR aircraft operations to be added to the Air Traffic

Control (ATC) system. To accommodate this traffic without excessive delays and inconvenience to the public, increased ATC staffing and reservations will be required.

Current rules issued under SFAR No. 44, as amended, do not provide the air traffic system with the flexibility to accommodate much of this added traffic. For example, only a departure reservation, regardless of destination, is required under the General Aviation Reservation (GAR) Rule. This precludes ATC facilities from effectively managing an above normal and concentrated arrival demand for a specific destination. Further, under the GAR, departure reservations cannot be obtained earlier than 24 hours prior to the estimated departure time. This provision does not facilitate accommodation planning.

Pilots proposing general aviation flight to the Indianapolis area will be excluded from the requirements of the GAR once they have obtained an IFR arrival reservation. Departure reservations for IFR flight from the Indianapolis area will be required and advance request and filing will be necessary.

Reservations for VFR flight will not be required; however, appropriately rated pilots should anticipate the possibility of instrument meteorological conditions and flight plan accordingly. Pilots who plan IFR return flights and obtain IFR departure reservations under this rule have the advantage of being able to know their return departure date and time prior to leaving their "home" for the Indianapolis area.

Accordingly, pursuant to SFAR No. 44, as amended, and FAR § 91.100, the following rule is effective immediately to provide for the safe, orderly handling and movement of IFR traffic:

1. No person may operate a nonscheduled general aviation flight under IFR into or out of the Indianapolis area during the effective periods of this rule without a reservation issued under this rule.

2. The Indianapolis area includes the airspace within a 30-nautical mile radius of Indianapolis, Indiana, and includes the following airports:

Indianapolis International (IND)
Speedway (3SY)
Metropolitan (4I8)
Mt. Comfort (2IN2)
Brownsburg (I01)
Eagle Creek (I14)
Terry (I52)
Brookside (I21)
Skyway (5I1)
Lebanon (6I4)

3. The effective periods are as follows:

Arrivals—May 28, 1100 G.m.t. to May 30, 1600 G.m.t.

Departures—May 30, 2000 G.m.t. to June 2, 0300 G.m.t.

4. Each person planning IFR flight under this rule shall comply with, in lieu of the GAR, the following:

A. Reservations may only be requested after 1400 G.m.t. on May 24, 1982.

B. An arrival reservation to the Indianapolis area is required and must be obtained from the Central Flow Control Facility (Telephone Number (202) 382–6866).

C. A departure reservation from the Indianapolis area is required and must be obtained from the Indianapolis FSS (Telephone Number (317) 244–3316).

D. Flight plans may only be filed after receiving a reservation but must be filed at least 4 hours prior to the proposed departure time.

E. Flight plans for flight from the Indianapolis area must be filed with Indianapolis FSS.

5. Each person receiving a reservation number under this rule must include it in the remarks section of the appropriate flight plan as filed with ATC.

Cancel FDC 1/1093.

FDC 2/1235 Emergency Flight Plan Rules June 7, 1982. IFR Flight Plan Filing/General Aviation Reservation Rule effective June 7, 1982, 0600 local time.

The IFR capacity of the enroute ATC system is increasing and permits relaxation of the IFR Flight Plan Filing/General Aviation Reservation (GAR) Rule. Some ARTCCs are able to accommodate more operations under certain conditions without requiring reservations under the GAR rule. Other operators will also benefit from this relaxation because there will be less demand for available reservations. Although it has been possible to relax the GAR in some cases, it has also become necessary to require a minimum distance for turbojet operations at FL 290 and above because of problems created by aircraft attempting to attain that altitude on short trips. Accordingly, pursuant to Special Federal Aviation Regulation No. 44, as amended, and Federal Aviation Regulations Section 91.100, the following regulation is effective in the 20 conterminous ARTCC areas to provide for the safe, orderly handling and movement of IFR traffic.

1. All aircraft operators planning a flight under IFR with a proposed departure/enroute pick-up time from 0600 LCL to 1959 LCL shall file a flight plan with and obtain a departure/enroute pick-up reservation from an FAA Flight Service Station at least 30 minutes before but not more than 24 hours before his/her proposed departure/enroute time if any segment of the flight will enter ARTCC airspace.

2. ATC clearance must be requested not later than 30 minutes after proposed departure/enroute pick-up time.

3. Multiple-Leg Flight Plans may be filed provided—

A. The conditions of paragraph 1 above, are met.

B. The last proposed departure/enroute pick-up time does not exceed the 24-hour filing time limitation specified in paragraph 1, above.

C. The same departure/enroute pick-up point is not specified twice in the request.

D. The request does not involve more than three departure/enroute pick-up points.

4. The provisions of this regulation do not apply to the following operators and flights:

A. FAR Part 121 or Part 135 operators with FAA/ICAO approved two-letter or three-letter call signs.

B. Military flights.

C. Medical emergency flights.

D. Presidential or Vice-Presidential flights.

E. FAA critical flights.

F. FAR Part 93 Subpart K flights to or from high density airports during the period airport reservations are required. Reservations at these airports: John F. Kennedy Airport, LaGuardia Airport, Chicago O'Hare Airport, and Washington National Airport, may be adjusted consistent with the pro rata reductions in effect for the time the reservation is requested.

FDC 2/1279 Cancel FDC 2/1099.

FDC 2/1344 Cancel FDC 2/867.

Issued in Washington, D.C., on June 25, 1982.

R. J. Van Vuren,

Director, Air Traffic Service.

[FR Doc. 82-17992 Filed 7-2-82; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 385

[Reg. OR-199; Organization Reg. Amdt. No. 126]

Delegations and Review of Action Under Delegation; Nonhearing Matters

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB delegates authority to the Director, Bureau of Domestic Aviation and Director, Bureau of International Aviation, to issue orders instituting investigations of applicants for airline certificates. These instituting orders are generally routine, and this delegation will save time in responding to certificate applications.

DATES: Adopted: June 29, 1982. Effective: July 6, 1982.

FOR FURTHER INFORMATION CONTACT: David Schaffer, Office of the General Counsel, Rules & Legislation Division, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; (202) 673–5442.

SUPPLEMENTARY INFORMATION: Under section 401 of the Federal Aviation Act, a person seeking to engage in air transportation must first obtain a certificate of public convenience and necessity from the Board. Presently, when the Board receives an application for a section 401 certificate, it issues an order instituting an investigation to examine whether the applicant is fit, willing, and able to provide the air service it proposes and other matters relating to its application. While the investigation might not be of a routine nature, the order instituting that investigation is. The Board is therefore delegating authority to its Bureau of Domestic Aviation to issue such an order when the applicant is proposing to provide domestic, or domestic and foreign, transportation. When the applicant is proposing to provide foreign air transportation only, authority is delegated to the Director, Bureau of International Aviation, to issue the instituting order. These delegations will save time in responding initially to certificate applications. If, however, objections are raised to the application that should be discussed in the instituting order, or nonoral expedited procedures are being proposed, then the order will have to be handled by the Board. The ultimate question of whether the certificate should be granted is addressed by the Board in a later order after the investigation is completed.

Since this is a rule of agency organization and procedure, the Board finds that notice and public procedure are unnecessary and that the rule may take effect in less than 30 days.

List of Subjects in 14 CFR Part 385

Administrative practice and procedure, Authority delegations.

PART 385—DELEGATIONS AND REVIEW OF ACTION UNDER DELEGATION; NONHEARING MATTERS

Accordingly, the Board amends 14 CFR Part 385, *Delegation and Review of Action Under Delegation; Nonhearing Matters*, as follows:

1. The authority for Part 385 is:

Authority: Secs. 102, 204, 401, 402, 403, 407, 416, Pub. L. 85–726, as amended, 72 Stat. 740, 743, 754, 757, 758, 766, 771, 49 U.S.C. 1302, 1324, 1371, 1372, 1373, 1377, 1386; Reorganization Plan No. 3 of 1961, 26 FR 5989.

2. A new paragraph (v) is added to § 385.13, to read:

§ 385.13 Delegation to the Director, Bureau of Domestic Aviation.

The Board delegates to the Director, Bureau of Domestic Aviation the authority to:

* * * * *

(v) With respect to an application under section 401 of the Act for a certificate to engage in interstate, overseas, and foreign scheduled air transportation or to engage in interstate, overseas, or foreign charter air transportation, issue an order instituting an investigation of the applicant's fitness and other issues related to the application, where no person has already filed an objection to the application and the investigation will be conducted by oral hearing procedures.

* * * * *

3. A new paragraph (j) is added to § 385.26, to read:

§ 385.26 Delegation to the Director, Bureau of International Aviation.

The Board delegates to the Director, Bureau of International Aviation the authority to:

* * * * *

(j) With respect to an application under section 401 of the Act for a certificate to engage in foreign air transportation, issue an order instituting an investigation of the applicant's fitness and other issues related to the application, where no person has already filed an objection to the application and the investigation will be conducted by oral hearing procedures.

* * * * *

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–18214 Filed 7–2–82; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 32

[T.D. 7823]

Temporary Employment Tax Regulations Under the Act of December 29, 1981 (Pub. L. 97–123); Withholding Social Security or Railroad Retirement Tax From Sick Pay

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides temporary regulations governing withholding, depositing, and paying social security or railroad retirement taxes on payments made on account of sickness or accident disability. Changes to the applicable tax law were made by the Act of December 29, 1981 (Pub. L. 97–123). These regulations affect employers and third parties making payments and employees receiving payments on account of sickness or accident disability and provide them with the guidance necessary to comply with the law.

DATE: The regulations apply to payments made on account of sickness or accident disability on or after January 1, 1982.

FOR FURTHER INFORMATION CONTACT: Pamela F. Olson of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3459).

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary regulations relating to withholding, depositing, and paying social security or railroad retirement taxes on payments made on account of sickness or accident disability under sections 3121 and 3231 of the Internal Revenue Code of 1954, as amended by section 3 of the Act of December 29, 1981 (Pub. L. 97–123, 95 Stat. 1662, 1663). Further, a new Part 32, Temporary Employment Tax Regulations under the Act of December 29, 1981 (Pub. L. 97–123), is added by this document to Title 26 of the Code of Federal Regulations. The temporary regulations provided by this document will remain in effect until superseded by final regulations on this subject.

General Rule

The temporary regulations require an

employer or third party making a payment on account of sickness or accident disability on or after January 1, 1982, to withhold, deposit, and pay the applicable social security or railroad retirement taxes based on the amount of the payment and provide a receipt of the amount of any such payment to the employee pursuant to section 6051. The regulations allow third parties to transfer to the employer liability for paying the employer portion of the tax and responsibility for providing a receipt to the employee if they promptly (1) withhold the employee share of the tax, (2) deposit such portion pursuant to section 6302, and (3) notify the employer for whom services are normally rendered of the amount of the payment.

The regulations define "employer for whom services are normally rendered" as the last employer for whom the employee worked. Notification of the employer will be considered to be prompt if such notice is mailed on or before the required date for the deposit of the employee share of the tax by the third party. For purposes of the employer's paying the employer portion of the tax, payment to the employee will be deemed to have been made on the date that the employer receives notice of such payment from the third party.

The regulations do not apply to a payment which is made under a workmen's compensation law, the Railroad Retirement Act, the Railroad Unemployment Insurance Act for days of sickness related to on-the-job injury, or which is unrelated to absence from work, is made after the expiration of six calendar months following the last calendar month in which the employee worked, or is attributable to a contribution by the employee.

The regulations allow a third party to request and rely on certain information from the employer in order to avoid overpayment of tax with respect to any employee receiving a payment on account of sickness or accident disability.

The regulations provide that no penalty or interest will be assessed for the failure to make timely payment of tax from January 1, 1982, through June 30, 1982.

Employees of State and local governments may or may not be participants in the social security system. State and local governments that have elected to become part of the social security system do so by means of an agreement with the Secretary of Health and Human Services. Under these agreements, State governments make contributions equivalent to the social security tax which are deposited in Federal Reserve banks and accounted for to the Social Security Administration. Third parties making payments to employees of State and local governments should, therefore, contact the State or local government to determine the proper procedures to follow to insure correct and timely deposits and accurate wage reports.

Evaluation of the effectiveness of these regulations will be based on comments received from offices within the Treasury and the Internal Revenue Service, other governmental agencies, and the public.

Non-Applicability of Executive Order 12291

The Treasury Department has determined that this temporary regulation is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 28, 1982.

Regulatory Flexibility Act

No general notice of proposed rulemaking is required by 5 U.S.C. 553(b) for temporary regulations. Accordingly, the Regulatory Flexibility Act does not apply and no Regulatory Flexibility Analysis is required for this rule.

Drafting Information

The principal author of these regulations is Pamela F. Olson of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, on matters of both substance and style.

List of Subjects in 26 CFR Part 32

Employment taxes, Social security, Railroad retirement.

Adoption of Amendments to the Regulations

Accordingly, a new Part 32, Temporary Employment Tax Regulations under the Act of December 29, 1981 (Pub. L. 97-123), is added to Title 26 of the Code of Federal Regulations. Part 32 reads as follows:

PART 32—TEMPORARY EMPLOYMENT TAX REGULATIONS UNDER THE ACT OF DECEMBER 29, 1981 (PUB. L. 97-123)

Sec.

32.1 Social security taxes with respect to payments on account of sickness or accident disability.
32.2 Railroad retirement taxes with respect to payments on account of sickness or accident disability.

Authority: 95 Stat. 1662 and 1663, 26 U.S.C. 3121(a) and 3231(e)(4); 68A Stat. 917, 26 U.S.C. 7805.

§ 32.1 Social security taxes with respect to payments on account of sickness or accident disability.

(a) *General rule.* Notwithstanding the provisions of § 31.3121(a)(2)-1(a)(2), the amount of any payment on or after January 1, 1982, made to, or on behalf of, an employee or any of his dependents on account of sickness or accident disability is not excluded from the term "wages" as defined in section 3121(a)(2)(B) unless such payment is—

(1) Received under a workmen's compensation law, or

(2) Made by a third party pursuant to a contractual agreement between the employer and third party entered into prior to December 14, 1981, but then only if—

(i) The third party's coverage for that employee's group ceases prior to March 1, 1982,

(ii) No third party payment is made to such employee under that contract after February 28, 1982, and

(iii) The cessation of the third party's coverage for that employee's group indefinitely terminates the contractual relationship between the third party and the employer as to sickness and accident disability benefits for that employee's group.

See section 3121(a)(4) and § 31.3121(a)(4)-1 for the exclusion from the term "wages" of any payment on account of sickness or accident disability made after the expiration of 6 calendar months following the last calendar month in which the employee worked.

(b) *Examples.* The application of the provisions of subparagraph (2) of paragraph (a) may be illustrated by the following examples:

Example (1). Company Q enters into a contract on August 31, 1981, with Insurance Company R to provide sickness and accident disability payments to Q's employees. The contract expires on February 28, 1982. On March 1, 1982, Q enters into a new contract with R to provide sickness and accident disability payments to Q's employees. Payments made by R pursuant to the contract expiring February 28, 1982, are included in "wages" as defined in section 3121(a)(2)(B).

Example (2). Company S enters into a contract on November 15, 1981, with Insurance Company T to provide sickness and accident disability payments to S's employees. The contract expires on February 15, 1982, and is not renewed. A, one of S's employees, has been receiving sickness payments from T since December 1, 1981. T makes its final payment to A on February 22, 1982. The payments made by T to A pursuant to its contract with S are not included in "wages" as defined in section 3121(a)(2)(B).

(c) *Workmen's compensation laws.* (1) For purposes of paragraph (a)(1) of this

section, a payment made under a workmen's compensation law does not include a payment made pursuant to a State temporary disability insurance law.

(2) If an employee receives a payment on account of sickness or accident disability which is not made under a workmen's compensation law and which must be repaid if the employee receives a workmen's compensation award with respect to the same period of absence from work, such payment is not excluded from the term "wages" as defined in section 3121(a)(2)(B).

(d) *Sickness or accident disability.* For purposes of paragraph (a) of this section, a payment made on account of sickness or accident disability includes any payment for personal injuries or sickness includible in gross income under section 105(a) and the regulations thereunder and thus does not include—

(1) Any amount which is expended for medical care as described in section 105(b) and § 1.105–2,

(2) Any payment which is unrelated to absence from work as described in section 105(c) and § 1.105–3, or

(3) Any payment or a portion thereof which is attributable to a contribution by the employee as determined in paragraphs (d) and (e) of § 1.105–1.

A payment made on account of sickness or accident disability does not include any payment which is excludable from gross income under section 104(a) (2), (4), or (5). An employee who elects to reduce his compensation or to forgo an increase in his compensation under a salary reduction agreement with an employer will not be deemed to have made employee contributions to the sickness or accident disability plan or system if the employee is not subject to income or social security taxes on the reduction in compensation. A tax which is paid by an employee to fund a State temporary disability insurance program is not considered a contribution by the employee for purposes of subparagraph (2) of this paragraph (d).

(e) *Payments by third parties.* (1) Any third party making a payment on account of sickness or accident disability which payment is not excluded from the term "wages" under paragraph (a) of this section shall be treated as the employer with respect to such wages, except as provided in subparagraphs (2) and (3) of this paragraph. Accordingly, such third party must withhold from such payment the tax imposed on the employee by section 3101, pay the tax imposed on employers by section 3111, deposit such taxes pursuant to section 6302 and § 31.6302(c)–1(a), and provide the receipts required by section 6051 and §§ 31.6051–1 and 31.6051–2.

(2) If any third party who is treated as the employer solely by reason of the applicability of subparagraph (1) of this paragraph promptly—

(i) Withholds the tax imposed on the employee by section 3101,

(ii) Deposits such tax pursuant to section 6302 and § 31.6302(c)–1(a), and

(iii) Notifies the employer for whom services are normally rendered of the amount of the wages paid on which tax was withheld and deposited,

then the employer (and not the third party) shall be required to pay the tax imposed by section 3111 and to comply with the requirements of section 6051 and §§ 31.6051–1 and 31.6051–2 with respect to the wages. For purposes of subdivision (ii) of this subparagraph, the taxes described in subdivision (i) shall be treated by the third party as if included in the term "taxes" as defined in § 31.6302(c)–1(a)(1)(iii). For purposes of subdivision (iii) of this subparagraph, the notice must be provided by the third party within the time required for the deposit of the tax under subdivision (ii) of this subparagraph. For the purpose of providing the notice, the rules of section 7502(a), relating to timely mailing being treated as timely filing, shall apply. The employer, if notified pursuant to subdivision (iii) of this subparagraph by a third party who has complied with the requirements of subdivisions (i) and (ii) of this subparagraph, must deposit the tax imposed by section 3111 in accordance with § 31.6302(c)–1(a). For purposes of § 31.6302(c)–1(a)(1)(iii)(*b*), with respect to the employer for whom services are normally rendered the term "taxes" shall not include any tax imposed on employers by section 3111 that is required to be paid by a third party under subparagraph (1) of this paragraph until the employer receives notification from the third party under subdivision (iii) of this subparagraph (2).

(3) A third party making a payment on account of sickness or accident disability to an employee as agent for the employer or making such a payment directly to the employer shall not be treated as the employer under subparagraph (1) with respect to such payment unless the agency agreement so provides. The determining factor as to whether a third party is an agent of the employer is whether the third party bears any insurance risk. If the third party bears no insurance risk and is reimbursed on a cost plus fee basis, the third party is an agent of the employer even if the third party is responsible for making determinations of the eligibility of individual employees of the employer for payments on account of sickness or accident disability. If the third party is paid an insurance premium and not reimbursed on a cost plus fee basis, the third party is not an agent of the employer, but the third party is treated as the employer as provided in subparagraph (1) of this paragraph (e).

(4) In order to avoid overpayment of taxes which would result from paying taxes—

(i) On remuneration which exceeds the annual contribution and benefit base (as described in section 3121(a)(1)),

(ii) With respect to a period of time which exceeds the 6-calendar-month period described in section 3121(a)(4), or

(iii) On a payment or a portion thereof which is attributable to a contribution by the employee,

the third party may request information from the employer as to the total wages earned by the employee for the calendar year in which the third party is making payments, as to the last date on which the employee worked for the employer during such year, and as to the amount of any contribution by the employee. Except if the third party has reason not to believe any information supplied by the employer as the result of a request made pursuant to the preceding sentence, the third party may rely on such information in complying with the requirements of subparagraphs (1) and (2) of this paragraph (e). The third party may not rely on representations of the employee as to the information which may be requested of the employer in complying with the requirements of subparagraphs (1) and (2) of this paragraph (e).

5. The application of the provisions of this paragraph may be illustrated by the following examples:

Example (1). Pursuant to an agreement with Company U, Insurance Company V makes payments on account of sickness or accident disability to U's employees. Such payments are not made under a workmen's compensation law. U reimburses V for all such payments and pays V a fee for its expenses of administering the payments. V is not treated as the employer with respect to such payments.

Example (2). Pursuant to an agreement with Company W, Insurance Company X indemnifies W for the amount of any payments which W must make to an employee on account of sickness or accident disability. Such payments are not made under a workmen's compensation law. X makes its indemnity payments directly to W. W makes the payments to its employees. X is not treated as the employer with respect to such payments.

Example (3). Pursuant to an agreement with Company Y (which is not an agency agreement described in subparagraph (3) of this § 32.1(e)), Insurance Company Z makes

payments on account of sickness or accident disability to Y's employees. Such payments are not made under a workmen's compensation law. Z does not notify Y of the amount of such payments. Z is treated as the employer with respect to such payments.

(f) *Penalties and interest on payments made from January 1, 1982, to June 30 1982.* No penalty under section 6656(a) or interest under section 6601 will be assessed for the failure to make timely payments to the tax imposed by section 3101 or section 3111 on payments made on account of sickness or accident disability, which payments of tax are made after December 31, 1981, and before July 1, 1982, to the extent that the failure is due to reasonable cause and not willful neglect.

(g) *Special rules.* (1) For purposes of subdivision (iii) of paragraph (e)(2), the last employer for whom the employee worked prior to becoming sick or disabled or for whom the employee was working at the time he became sick or disabled shall be deemed to be the employer for whom services are normally rendered, provided that such employer made contributions on behalf of such employee to the plan or system under which the employee is being paid.

(2) The application of the provisions of subparagraph (1) of this paragraph (g) may be illustrated by the following examples:

Example (1). B is employed by Company M. B becomes sick and is absent from work for 3 months. While B is absent from work, he receives sick pay from Insurance Company N pursuant to a plan established by M and to which M has made contributions on behalf of B. M is the employer for whom services are normally rendered by B.

Example (2). C is employed by Company O and is also employed on a part-time basis by Company Q. C becomes sick while at work at Q's place of business. C is absent from work for 3 months. While C is absent from work he receives sick pay from Insurance Company P pursuant to a plan established by O and to which O has made contributions on behalf of C. O is the employer for whom services are normally rendered by C.

Example (3). D is a member of a labor union whose members receive health and welfare benefit payments from a trust fund which is supported by the contributions of the various employers who employ the labor union's members. D has been employed by Company R for 4 days when he becomes sick and is absent from work for 3 months. While D is absent form work he receives sick pay from his union's trust fund to which R has made contributions on D's behalf. R is the employer for whom services are normally rendered by D.

(3) For purposes of paragraph (e) of this section, in the case of payments on account of sickness or accident disability made to employees by a third party insurer pursuant to a contract of insurance with a multiemployer plan which is obligated to make payments on account of sickness or accident disability to such employees pursuant to a collectively bargained agreement, if the third party insurer making the payments complies with the requirements of subdivisions (i) and (ii) of subparagraph (2) of paragraph (e) and notifies the plan of the amount of wages paid on which tax was withheld and deposited within the time required for notification of the employer under subparagraph (2) of paragraph (e), then the plan (and not the third party insurer) shall be required to pay the tax imposed by section 3111 and to comply with the requirements of section 6051 and §§ 31.6051–1 and 31.6051–2 with respect to such payments unless, within 6 business days of the receipt of such notification, the plan notifies the employer for whom services are normally rendered of the amount of the wages on which tax was withheld and deposited. If the plan provides such notice to the employer, the employer (and not the plan) shall be required to pay the tax imposed by section 3111 and to comply with the requirements of section 6051 and §§ 31.6051–1 and 31.6051–2 with respect to the wages.

§ 32.2 Railroad retirement taxes with respect to payments on account of sickness or accident disability.

(a) *General rule.* Notwithstanding the provisions of § 31.3231(e)–1(a)(3)(i), the amount of any payment on or after January 1, 1982, made to, or on behalf of, an employee or any of his dependents on account of sickness or accident disability is not excluded from the term "compensation" as defined in section 3231(e)(1) (for purposes of applying sections 3201(b) and 3221(b) (and so much of section 3211(a) as relates to the rates of the taxes imposed by sections 3101 and 3111)) unless such payment is—

(1) Received under a workmen's compensation law,

(2) Received as a benefit under the Railroad Retirement Act of 1974,

(3) Made after the expiration of 6 calendar months following the last calendar month in which such employee worked,

(4) Made by a third party pursuant to a contractual agreement between the employer and third party entered into prior to December 14, 1981, but then only if—

(i) The third party's coverage for that employee's group ceases prior to March 1, 1982,

(ii) No third party payment is made to such employee under that contract after February 28, 1982, and

(iii) The cessation of the third party's coverage for that employee's group terminates indefinitely the contractual relationship between the third party and the employer as to sickness and accident disability benefits for that employee's group; or

(5) Made under section 2(a) of the Railroad Unemployment Insurance Act for days of sickness, to the extent that such sickness (as determined in accordance with standards prescribed by the Railroad Retirement Board) is the result of on-the-job injury.

The 6-calendar-month provision described in subparagraph (3) of this paragraph shall be applied in a manner comparable to the 6-calendar-month provision described in § 31.3121(a)(4)–1.

(b) *Examples.* The application of the provisions of subparagraph (4) of paragraph (a) may be illustrated by the following examples:

Example (1). Company Q enters into a contract on August 31, 1981, with Insurance Company R to provide sickness and accident disability payments to Q's employees. The contract expires on February 28, 1982. On March 1, 1982, Q enters into a new contract with R to provide sickness and accident disability payments to Q's employees. Payments made by R pursuant to the contract expiring February 28, 1982, are included in "compensation" as defined in section 3231(e)(1).

Example (2). Company S enters into a contract on November 15, 1981 with Insurance Company T to provide sickness and accident disability payments to S's employees. The contract expires on February 15, 1982, and is not renewed. A, one of S's employees, has been receiving sickness payments from T since December 1, 1981. T makes its final payment to A on February 22, 1982. The payments made by T to A pursuant to its contract with S are not included in "compensation" as defined in section 3231(e)(1).

(c) *Workmen's compensation laws.* (1) For purposes of paragraph (a)(1) of this section, a payment made under a workmen's compensation law does not include a payment made pursuant to a State temporary disability insurance law.

(2) If an employee receives a payment on account of sickness or accident disability which is not excluded from the term "compensation" under paragraph (a) (1) or (2) of this section and which must be repaid if the employee receives a workmen's compensation award with respect to the same period of absence from work, such payment is not excluded from the term "compensation" as defined in section 3231(e)(1).

(d) *Sickness or accident disability.* For purposes of paragraph (a) of this

section, a payment made on account of sickness or accident disability includes any payment for personal injuries or sickness includible in gross income under section 105(a) and the regulations thereunder and thus does not include—

(1) Any amount which is expended for medical care as described in section 105(b) and § 1.105–2,

(2) Any payment which is unrelated to absence from work as described in section 105(c) and § 1.105–3, or

(3) Any payment or a portion thereof which is attributable to a contribution by the employee as determined in paragraphs (d) and (e) of § 1.105–1.

A payment made on account of sickness or accident disability does not include any payment which is excludable from gross income under section 104(a) (4) or (5).

An employee who elects to reduce his compensation or to forgo an increase in his compensation under a salary reduction agreement with an employer will not be deemed to have made employee contributions to the sickness or accident disability plan or system if the employee is not subject to income or railroad retirement taxes on the reduction in compensation.

A tax which is paid by an employee to fund a State temporary disability insurance program is not considered a contribution by the employee for purposes of subparagraph (2) of this paragraph (d).

(e) *Payments by third parties.* (1) Any third party making a payment on account of sickness or accident disability which payment is not excluded from the term "compensation" under paragraph (a) of this section shall be treated as the employer with respect to such compensation, except as provided in subparagraphs (2) and (3) of this paragraph. Accordingly, such third party must withhold from such payment the tax imposed on the employee by section 3201 and the tax imposed on the employee representative by section 3211, if applicable, pay the tax imposed on employers by section 3221, deposit such taxes pursuant to section 6302 and § 31.6302(c)–2(a), and provide the receipts required by section 6051 and §§ 31.6051–1 and 31.6051–2.

(2) If any third party who is treated as the employer solely by reason of the applicability of subparagraph (1) of this paragraph promptly—

(i) Withholds the tax imposed on the employee by section 3201 and the tax imposed on the employee representative by section 3211, if applicable,

(ii) Deposits such tax pursuant to section 6302 and § 31.6302(c)–2(a), and

(iii) Notifies the employer for whom services are normally rendered of the amount of the compensation paid on which tax was withheld and deposited,

then the employer (and not the third party) shall be required to pay the tax imposed by section 3221 and to comply with the requirements of section 6051 and §§ 31.6051–1 and 31.6051–2 with respect to the compensation. For purposes of subdivision (ii) of this subparagraph, the tax described in subdivision (i) shall be treated by the third party as if included in the employee tax described in § 31.6302(c)–2(a)(1)(i). For purposes of subdivision (iii) of this subparagraph, the notice must be provided by the third party within the time required for the deposit of the tax under subdivision (ii) of this subparagraph. For the purpose of providing the notice, the rules of section 7502(a), relating to timely mailing being treated as timely filing, shall apply. The employer, if notified pursuant to subdivision (iii) of this subparagraph by a third party who has complied with the requirements of subdivisions (i) and (ii) of this subparagraph, must deposit the tax imposed by section 3221 in accordance with § 31.6302(c)–(2)(a). For purposes of § 31.6302(c)–2(a)(1)(ii), with respect to the employer for whom services are normally rendered the term "taxes" shall not include any tax imposed on employers by section 3111 that is required to be paid by a third party under subparagraph (1) of this paragraph until the employer receives notification from the third party under subdivision (iii) of this subparagraph (2).

(3) A third party making a payment on account of sickness or accident disability to an employee as agent for the employer or making such a payment directly to the employer shall not be treated as the employer under subparagraph (1) with respect to such payment unless the agency agreement so provides. The determining factor as to whether a third party is an agent of the employer is whether the third party bears any insurance risk. If the third party bears no insurance risk and is reimbursed on a cost plus fee basis, the third party is an agent of the employer even if the third party is responsible for making determinations of the eligibility of individual employees of the employer for payments on account of sickness or accident disability. If the third party is paid an insurance premium and not reimbursed on a cost plus fee basis, the third party is not a agent of the employer, but the third party is treated as the employer as provided in paragraph (1) of this paragraph (e).

(4) In order to avoid overpayment of taxes which would result from paying taxes—

(i) On remuneration which exceeds one-twelfth of the annual contribution and benefit base (as described in section 3121(a)(1)) each month,

(ii) With respect to a period of time which exceeds the 6-calendar-month period described in subparagraph (3) of paragraph (a) of this section, or

(iii) On a payment or a portion thereof which is attributable to a contribution by the employee,

the third party may request information from the employer as to the total wages earned by the employee for the calendar month in which the third party is making payments, as to the last date on which the employee worked for the employer, and as to the amount of any contribution by the employee. Except if the third party has reason not to believe any information supplied by the employer as the result of a request made pursuant to the preceding sentence, the third party may rely on such information in complying with the requirements of subparagraphs (1) and (2) of this paragraph (e). The third party may not rely on representations of the employee as to the information which may be requested of the employer in complying with the requirements of subparagraphs (1) and (2) of this paragraph (e).

(5) The application of the provisions of this paragraph (e) may be illustrated by the following examples:

Example (1). Pursuant to an agreement with Company U, Insurance Company V makes payments on account of sickness or accident disability to U's employees. Such payments are not made under a workmen's compensation law, the Railroad Retirement Act of 1974, or the Railroad Unemployment Insurance Act for days of sickness. U reimburses V for all such payments and pays V a fee for its expenses of administering the payments. V is not treated as the employer with respect to such payments.

Example (2). Pursuant to an agreement with Company W, Insurance Company X indemnifies W for the amount of any payments which X must make to an employee on account of sickness or accident disability. Such payments are not made under a workmen's compensation law, the Railroad Retirement Act of 1974, or the Railroad Unemployment Insurance Act for days of sickness. X makes its indemnity payments directly to W. W makes the payments to its employees. X is not treated as the employer with respect to such payments.

Example (3). Pursuant to an agreement with Company Y (which is not an agency agreement described in subparagraph (3) of this § 32.2(e)), Insurance Company Z makes payments on account of sickness or accident disability to Y's employees. Such payments are not made under a workmen's compensation law, the Railroad Retirement Act of 1974, or the Railroad Unemployment Insurance Act for days of sickness. Z does not notify Y of the amount of such payments.

Z is treated as the employer with respect to such payments.

(f) *Penalties and interest on payments made from January 1, 1982 to June 30, 1982.* No penalty under section 6656(a) or interest under section 6601 will be assessed for the failure to make timely payments of the tax imposed by section 3201, 3211, or 3221 on payments made on account of sickness or accident disability, which payments of tax are made after December 31, 1981, and before July 1, 1982, to the extent that the failure is due to reasonable cause and not willful neglect.

(g) *Special rules.* (1) For purposes of subdivision (iii) of paragraph (e)(2), the last employer for whom the employee worked prior to becoming sick or disabled or for whom the employee was working at the time he became sick or disabled shall be deemed to be the employer for whom services are normally rendered, provided that such employer made contributions on behalf of such employee to the plan or system under which the employee is being paid.

(2) The application of the provisions of subparagraph (1) of this paragraph (g) may be illustrated by the following examples:

Example (1). B is employed by Company M. B becomes sick and is absent from work for 3 months. While B is absent from work, he receives sick pay from Insurance Company N pursuant to a plan established by M and to which M has made contributions on behalf of B. M is the employer for whom services are normally rendered by B.

Example (2). C is employed by Company O and is also employed on a part-time basis by Company Q. C becomes sick while at work at Qs place of business. C is absent from work for 3 months. While C is absent from work, he receives sick pay from Insurance Company P pursuant to a a plan established by O and to which O has made contributions on behalf of C. O is the employer for whom services are normally rendered by C.

Example (3). D is a member of a labor union whose members receive health and welfare benefit payments from a trust fund which is supported by the contributions of the various employers who employ the labor union's members. D has been employed by Company R for 4 days when he becomes sick and is absent from work for 3 months. While D is absent from work he receives sick pay from his union's trust fund to which R has made contributions on D's behalf. R is the employer for whom services are normally rendered by D.

(3) For purposes of paragraph (e) of this section, in the case of payments on account of sickness or accident disability made to employees by a third party insurer pursuant to a contract of insurance with a multiemployer plan which is obligated to make payments on account of sickness or accident disability to such employees pursuant to a collectively bargained agreement, if the third party insurer making the payments complies with the requirements of subdivisions (i) and (ii) of subparagraph (2) of paragraph (e) and notifies the plan of the amount of compensation paid on which tax was withheld and deposited within the time required for notification of the employer under subparagraph (2) of paragraph (e), then the plan (and not the third party insurer) shall be required to pay the tax imposed by section 3221 and to comply with the requirements of section 6051 and §§ 31.6051–1 and 31.6051–2 with respect to such payments unless, within 6 business days of the receipt of such notification, the plan notifies the employer for whom services are normally rendered of the amount of the compenation on which tax was withheld and deposited. If the plan provides such notice to the employer, the employer (and not the plan) shall be required to pay the tax imposed by section 3221 and to comply with the requirements of section 6051 and §§ 31.6051–1 and 31.6051–2 with respect to the compensation.

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(Sec. 3121(a), 3231(e)(4), and 7805 of the Internal Revenue Code of 1954 (95 Stat. 1662, 26 U.S.C. 3121(a); 95 Stat. 1663, 26 U.S.C. 3231(e)(4); 68A Stat. 917, 26 U.S.C. 7805))

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: June 30, 1982.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 82–18164 Filed 6–30–82; 3:59 pm]

BILLING CODE 4830–01–M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 261

Prohibitions

AGENCY: Forest Service, USDA.

ACTION: Final Rule.

SUMMARY: The Forest Service anticipates a large increase in the number of volunteers and hosted enrollees providing services on National Forest System lands this year. The rule will assure that volunteers and hosted enrollees are protected from threats or interference in the course of performing their duties.

EFFECTIVE DATE: July 6, 1982.

FOR FURTHER INFORMATION CONTACT: Ernie Andersen, Fiscal and Accounting Management Staff, USDA-Forest Service, Room 701–RPE, P.O. Box 2417, Washington, D.C. 20013, (703) 235–8484.

SUPPLEMENTARY INFORMATION: The range of acceptable behavior and prohibited behavior by visitors to National Forest lands is set forth in 36 CFR Part 261, Prohibitions. This regulation was recently updated (46 FR 33518) and became effective on July 30, 1981.

Section 261.3 relates to threatening or intimidating a Forest officer. A Forest officer is defined under § 261.2 as an employee of the Forest Service. Forest Service volunteers or hosted enrollees may receive subsistence and may be covered under the Workman's Compensation Act and Federal Tort Claims Act; however, they are not Forest Service employees. Therefore, they are not presently covered under § 261.3 nor included in the definition of a Forest officer.

Forest Service volunteers and hosted enrollees work side by side with Forest officers and often perform similar duties. The Forest Service anticipates a large increase in the number of volunteers and hosted enrollees providing services on National Forest System lands this year. Therefore, the Secretary of Agriculture is amending 36 CFR Part 261 by adding § 261.3a, prohibiting threatening or intimidating a Forest Service volunteer or hosted enrollee. Also § 261.2 Definitions, is amended to define volunteer or hosted enrollee.

In accordance with exceptions to rulemaking procedures in 5 U.S.C. 553 and Department of Agriculture policy (36 FR 13804), it has been determined that advance notice and request for comments are unnecessary. The need to have this amendment effective prior to the start of the summer season to protect the large number of additional volunteers and hosted enrollees expected is good cause for making the amendment effective upon issuance.

This action has been reviewed pursuant to Executive Order 12291 and it has been determined that this document is not a major rule and does not require a regulatory impact analysis. The rule will have no impact on the economy and will result in no increase in cost or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions. The rule will have no effect on competition, employment, investment

productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

It has been determined that this action does not require a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.,) because the action will not have a significant economic impact on a substantial number of small entities since it imposes no direct or indirect cost on small entities except for the possibility of fine for violation of a prohibited act; it imposes no paperwork or recordkeeping requirements of small entities; it does not affect the competitive position of small entities in relation to large entities; and it does not affect cash flow, liquidity, or ability to remain in the market for small entities.

This final rule will be referenced and listed in the Code of Federal Regulations Index under the following terms: National Forest, Forest Service, and Law Enforcement.

For the reasons set out in the preamble, Part 261 of Chapter II of Title 36, Code of Federal Regulations is amended as follows:

PART 261—PROHIBITIONS

1. Revise the table of contents by adding § 261.3a to read as follows:

Sec.

* * * * *

§ 261.3a Interfering with a volunteer or hosted enrollee.

* * * * *

2. The authority citation for Part 261 reads as follows:

Authority: 30 Stat. 35, as amended (16 U.S.C. 551); Sec. 1, 33 Stat. 628 (16 U.S.C. 472); 50 Stat. 526, as amended (7 U.S.C. 1011, (f)); 82 Stat. 916 (16 U.S.C. 1281 (d)); 82 Stat. 922 (16 U.S.C. 1246, (i)), unless otherwise noted.

Subpart A—General Prohibitions

3. Amend § 261.2 by adding in alphabetical order the following definition:

§ 261.2 Definitions.

* * * * *

"Volunteer or hosted enrollee" means any person, not a Forest Service employee, officially participating in a Forest Service human resource program as authorized by an act of Congress and identified to accomplish one or more of the following objectives: provide skills training; education; useful work; develop understanding of ecological systems and conservation of natural resources; build cultural and communication bridges between various socioeconomic groups; and further the administration, development, and management of National Forest resources, forest research, and State and Private Forest activities.

* * * * *

4. Add a new § 261.3a to read as follows:

§ 261.3a Interfering with a volunteer or hosted enrollee.

The following is prohibited:

Threatening, intimidating, or intentionally interfering with any Forest Service volunteer or hosted enrollee while engaged in, or on account of, the performance of duties for the protection, improvement, or administration of the National Forest System or other duties assigned by the Forest Service.

John R. Block,

Secretary.

June 29, 1982.

[FR Doc. 82-18191 Filed 7-2-82; 8:45 am]

BILLING CODE 3410-01-M

VETERANS ADMINISTRATION

38 CFR Part 36

Loan Guaranty; Geographical Limits on Grants for Specially Adapted Housing Benefits for Seriously Disabled Veterans

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The VA (Veterans Administration) is amending its regulations by limiting grants of specially adapted housing benefits for seriously disabled veterans to properties located within the United States, its Territories or possessions. By regulation, the VA currently limits home, mobile home, condominium and direct loans to properties located within the United States, its Territories or possessions. This final regulation makes the geographical limitations for specially adapted housing grants coincide with the geographical limits for the various VA home loan programs.

EFFECTIVE DATE: June 17, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Lyman T. Miller, Assistant Director for Construction and Valuation (262), Loan Guaranty Service, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420, (202) 389-2691.

SUPPLEMENTARY INFORMATION: The VA is authorized by chapter 21 of title 38, United States Code, to assist certain severely disabled veterans to acquire housing adapted to their particular handicap or adapt existing housing to their handicap. Assistance is in the form of a one-time cash grant to the eligible veterans.

The VA is adding § 36.4411 to the VA regulations governing specially adapted housing benefits to limit these types of benefits to properties located in the United States, its Territories or possessions. Similar restrictions are currently in place in the home and condominium, mobile home and direct loan regulations (§ 36.4329, 36.4214, and 36.4523, respectively).

On December 29, 1981, the VA published for comment in the Federal Register (46 FR 62868) the proposed regulation explaining our intent to promulgate § 36.4411 of the specially adapted housing regulations to limit grants for the acquisition or special adaptation of housing to properties located in the United States, its Territories or possessions. The Federal Register publication contained a full explanation of the reasons for imposing the limitation. We pointed out that the number of seriously disabled veterans potentially affected by the regulation who are now residing in foreign countries would be approximately 59 veterans. The VA received one letter commenting on the proposal stating that since so few veterans are affected, the VA should accommodate them by approving a grant request for a specially adapted home wherever they may want it.

The absence of loan guaranty facilities makes it impractical to authorize such grants in areas outside the sovereign jurisdiction of the United States. A veteran grant-beneficiary should receive certain services and protections from the VA such as assistance in securing a loan, inspection of the site of the home, and compliance inspections by a duly authorized inspector during the construction of a new dwelling or the alteration of an existing home. In addition, the VA must assure that the veteran has legal title to the real estate involved for the housing grant and that the housing grant or home adaptations grant is used for the authorized purpose. These administrative requirements are necessary to assure that the veteran receives the benefits he or she is entitled to and that the Government's funds are properly expended. Because of the practical difficulties in the oversight responsibilities of the VA which would be inherent in making grants for

properties located in foreign countries, it is not feasible to approve grant applications outside of the United States of America.

The regulation has been reviewed pursuant to Executive Order 12291 and will not impact on the public or private sectors as a major rule as defined by the Executive Order. The regulation, therefore, is found to be nonmajor.

The Administrator hereby certifies that the regulation will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), the regulation is therefore exempt from the final regulatory flexibility analyses requirements of sections 603 and 604. This regulation will only impact upon veterans with certain disabilities residing in foreign countries and will not impact upon small entities located in the United States, its Territories, or possessions. There will be no compliance costs or reporting burdens on individuals or organizations.

List of Subjects in 38 CFR Part 36

Condominiums, Handicapped, Housing, Loan programs—housing and community development, Mobile homes, Veterans, Veterans Administration.

(Sec. 210(c)(1), 801(a) and (b) of title 38, U.S.C.) (Catalog of Federal Domestic Assistance Program number 64.106).

Approved: June 17, 1982

Robert P. Nimmo,

Administrator.

PART 36—LOAN GUARANTY

Section 36.4411 is added as follows:

§ 36.4411 Geographical limits.

Any real property purchased, constructed, altered, improved, repaired, or specially adapted, in whole or in part, with the proceeds of any specially adapted housing grant, shall be situated in the United States, which, for purposes of 38 U.S.C. Chapter 21, is defined as the several States, Territories, and possessions, including the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other area over which the United States may, at some future date, acquire sovereignty.

(38 U.S.C. 210(c), 801(a) and (b)).

[FR Doc. 82-18160 Filed 7-2-82; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL 2142-8]

California State Implementation Plan Revisions

AGENCY: Environmental Protection Agency.

ACTION: Notice of final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve revisions to rules of the Bay Area and South Coast Air Quality Management Districts (AQMD) and the Kern and San Diego County Air Pollution Control Districts (APCDs) submitted by the California Air Resources Board (ARB) for incorporation into the California State Implementation Plan (SIP). These revisions generally are administrative and retain equivalent emission control requirements. EPA reviewed these rules with respect to the Clean Air Act and determined that they should be approved.

DATE: This action is effective September 7, 1982.

ADDRESSES: Copies of the revisions are available for public inspection during normal business hours at the EPA Region 9 office and the following locations:

Public Information Reference Unit, Environmental Protection Agency, Library, 401 M Street SW., Room 2404, Washington, D.C. 20460.

Library, Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, State Implementation Plan Section, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974–8058.

SUPPLEMENTARY INFORMATION: The ARB submitted as SIP revisions the following rules on the indicated dates:

Bay Area AQMD

July 30, 1981

Regulation 2 Permits—Rule 2
- 2–2–114 Exemption, Non Ozone Precursor

Regulation 5 Open Burning
- 5–401.13 Allowable Fires—Wildlife Management

June 22, 1981

Regulation 5 Open Burning
- 5–401.3 Allowable Fires—Orchard Pruning and Attrition

January 28, 1981
- 1–112 Breakdown
- 1–113 Discretionary Enforcement, Breakdown
- 1–115 Exemptions, Modifications to Meet Emission Standards

Regulation 9 Inorganic Gaseous Pollutants—Rule 3
- 9–3–202 Modified Heat Transfer Operation

July 10, 1980

Regulation 1 General Provisions and Definitions
- 1–206 Bar
- 1–541 Emission Excesses

Regulation 9 Inorganic Gaseous Pollutants—Rule 1
- 9–1–600 Manual of Procedures
- 9–1–601 Sampling and Analysis of Gas Streams
- 9–1–602 Sulfur Content of Fuels
- 9–1–603 Averaging Times
- 9–1–604 Ground Level Monitoring
- 9–1–605 Emission Monitoring

June 2, 1980

Regulation 1 General Provisions and Definitions
- 1–520 Emission Monitoring
- 1–542 Area Concentration Excesses
- 1–600 Manual of Procedures
- 1–601 Approval of Sampling Facilities
- 1–602 Area and Source Monitoring Requirements
- 1–603 Visible Emissions
- 1–604 Opacity Measurements

Regulation 6 Particulate Matter and Visible Emissions
- 6–305 Visible Particles
- 6–311 General Operations
- 6–600 Manual of Procedures
- 6–601 Particulate Matter, Sampling, Sampling Facilities, Opacity Instruments and Appraisal of Visible Emissions

Regulation 11 Hazardous Pollutants—Rule 1
- 11–1–500 Monitoring and Recording
- 11–1–501 Monitoring
- 11–1–600 Manual of Procedures
- 11–1–601 Determination of Emissions Limits
- 11–1–602 Determination of Background Concentrations
- 11–1–603 Monitoring Equipment

May 13, 1980

Regulation 8 Organic Compounds
Rule 21 Rubber Tire Manufacturing Operations

January 14, 1980

Regulation 2 Permits—Rule 1
- 2–1–100 General
- 2–1–101 Description
- 2–1–102 Applicable Requirements

2-1-111 Exemption, Sources and Operations
2-1-112 Exemption, Equipment
2-1-408 Action on Applications

Kern County

July 30, 1981

Rule 108 Stack Monitoring
Rule 201 Permits Required
Rule 301 Permit Fee
Rule 302 Permit Fee Schedule
Rule 305 Hearing Board Fees

March 23, 1981

Rule 202 Exemptions
Rule 202.1 Experimental Research Operations
Rule 426 Experimental Research Operations

December 15, 1980

Rule 110 Arrests and Notices to Appear
Rule 417.1 Agricultural Burning

January 8, 1980

Rule 424(F) Small Producers Exemption

San Diego County

May 20, 1982

Rule 40 Permit Fees

March 1, 1982

Rule 62 Sulfur Content of Fuels
Rule 53 Specific Contaminants

October 23, 1981

Rule 42 Hearing Board Fees
Rule 64 Reduction of Animal Matter
Rule 101 Definitions
Rule 102 Open Fires, Western Section
Rule 103 Open Fires, Eastern Section
Rule 109 Temporary Suspension of Permits

May 28, 1981

Rule 21 Permit Conditions

January 28, 1981

Rule 20.1 Definitions

May 23, 1979

Rule 11 Exemptions

South Coast AQMD

May 20, 1982

Rule 431.1 Sulfur Content of Gaseous Fuel

March 1, 1982

Rule 474 Fuel Burning Equipment, NO_x

October 23, 1981

Rule 504.1 Rules for Which Variances Are Not Allowed
Rule 218 Stack Monitoring
Rule 219 Exemptions Not Requiring a Written Permit Pursuant to Regulation II
Rule 220 Exemption—Net Increase in Emissions
Rule 409 Combustion Contaminants
Rule 502 Filing Petitions

November 5, 1981

Rule 444 Open Fires

July 14, 1981

Rule 301 Permit Fees

May 28, 1981

Rule 1113 Architectural Coatings

January 28, 1981

Rule 1115 Motor Vehicle Assembly Line Coating Operations.

Under Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove these regulations as SIP revisions. All rules submitted have been evaluated and found to be in accordance with EPA policy and 40 CFR Part 51. EPA's detailed evaluation of the submitted rules is available at the EPA Library in Washington, D.C., and the Region 9 office.

It is the purpose of this notice to approve all the rule revisions listed above and to incorporate them into the California SIP. This is being done without prior proposal because the revisions are noncontroversial, have limited impact, and no comments are anticipated. The public should be advised that this action will be effective September 7, 1982. However, if notice is received by EPA within 30 days that someone wishes to submit adverse or critical comments, the approval action will be withdrawn and a subsequent notice will be published before the effective date. The subsequent notice will indefinitely postpone the effective date, modify the final action to a proposed action and establish a comment period.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under the Clean Air Act, any petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 7, 1982. This action may not be challenged later in proceedings to enforce its requirements.

Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1981.

(Secs. 110 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410 and 7601(a)))

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: June 14, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart F of Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220 is amended by adding paragraphs (c)(51)(vii)(C), (c)(73)(i)(B), (c)(75)(ii), (c)(79)(ii)(B), (c)(83)(i)(C), (c)(85)(x)(A), (c)(86)(i)(D), (c)(92)(v)(B) and (vi)(A), (c)(93)(ii)(C), (c)(95)(i)(C), (c)(98)(ix), (c)(x), and (c)(xi), (c)(101)(i)(B) and (ii)(B), (c)(102)(iv), (c)(103)(ii)(B) and (xviii), (c)(104)(ii), (121), and (125) to read as follows:

§ 52.220 Identification of plan.

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(c) * * *

(51) * * *

(vii) * * *

(C) New or amended Rule 11.

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(73) * * *

(i) * * *

(B) New or amended Regulation 2, Rule 1: 2-1-100 to 2-1-102, 2-1-111, 2-1-112, and 2-1-408.

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(75) * * *

(ii) New or amended Rule 424(F).

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(79) * * *

(ii) * * *

(B) New or amended Regulation 1: 1-206, 1-520, 1-542, and 1-600 to 1-604; Regulation 6: 6-305, 6-311, 6-600, and 6-601; and Regulation 11: 11-1-500, 11-1-501, and 11-1-600 to 11-1-603.

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(83) * * *

(i) * * *

(C) New or amended Regulation 8: Rule 21.

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(85) * * *

(x) Kern County APCD.

(A) New or Amended Rules 110 and 417.1.

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(86) * * *

(i) * * *

(D) New or amended Rule 1–541 and Regulation 9, Rules 9–1–600 to 9–1–605.

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(92) * * *

(v) * * *

(B) New or amended Rule 21.

(vi) South Coast AQMD.

(A) New or amended Rule 113.

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(93) * * *

(ii) * * *

(C) New or amended Regulation 5, Rule 5–401.3.

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(95) * * *

(i) * * *

(C) New or amended Rules 202, 202.1, and 426.

* * * * *

(98) * * *

(ix) Bay Area AQMD.

(A) New or amended Rules 1–112, 1–113, 1–115 and Regulation 9, Rule 9–3–202.

(x) South Coast AQMD.

(A) New or amended Rule 1115.

(xi) San Diego County APCD.

* * * * *

(101) * * *

(i) * * *

(B) New or amended Regulation 2, Rule 2–2–114; Regulation 5, Rule 5–401.13; and Manual of Procedures—Volume I to Volume VI.

(ii) * * *

(B) New or amended Rules 108, 201, 301, 302, and 305.

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(102) * * *

(iv) South Coast AQMD.

(A) New or amended Rule 301.

* * * * *

(103) * * *

(ii) * * *

(B) New or amended Rules 42, 64, 101–103, and 109.

* * * * *

(xviii) South Coast AQMD.

(A) New or amended Rules 504.1, 218, 219, 220, 409, and 502.

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(104) * * *

(ii) South Coast AQMD.

(A) New or amended Rule 444.

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(121) Revised regulations for the following APCDs submitted on March 1, 1982 by the Governor's designee.

(i) South Coast AQMD.

(A) New or amended Rule 474.

(ii) San Diego County APCD.

(A) New or amended Rules 62 and 53.

* * * * *

(125) Revised Regulations for the following APCDs submitted on May 20, 1982 by the Governor's designee.

(i) San Diego County APCD.

(A) New or amended Rule 40.

(ii) South Coast AQMD.

(A) New or amended Rule 431.1.

* * * * *

[FR Doc. 82–18172 Filed 7–3–82; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 52

[A–7–2139–2]

Missouri; Approval and Promulgation of State Implementation Plans; MO 83

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action approves a state implementation plan (SIP) revision submitted by the State of Missouri which exempts existing Missouri type charcoal kilns from the process weight regulation contained in the approved SIP. EPA proposed to approve the revision on April 12, 1982 at 47 FR 15609, and asked for comments on the proposed action. One comment letter was received and the relevant issues raised in that letter have been considered in this final rulemaking.

DATE: This rule will become effective August 5, 1982.

ADDRESSES: Copies of the SIP revision are available for inspection during normal business hours at the following addresses:

Environmental Protection Agency, Region VII, Air Branch, 324 East 11th Street, Kansas City, Missouri 64106

Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, D.C. 20460

Missouri Department of Natural Resources, 1101 Rear Southwest Boulevard, Jefferson City, Missouri 65102

FOR FURTHER INFORMATION CONTACT: Dewayne E. Durst, Air Branch, Environmental Protection Agency, Region VII, 324 East 11th Street, Kansas City, Missouri 64106 (816) 374–3791.

SUPPLEMENTARY INFORMATION: On September 5, 1980, the State of Missouri submitted a revision to their SIP which exempts existing Missouri type charcoal operations from the process weight provision of state regulations.

On November 4, 1981 (46 FR 54730), EPA announced the availability of this submittal and approved it as a revision to the Missouri SIP. The rationale for the approval is contained in the November 4, 1981 **Federal Register**. In the approval notice, EPA advised the public that the effective date of the approval would be deferred for 60 days. If notice was received within 30 days after publication that someone wanted to submit adverse or critical comments, the approval would be withdrawn and a new rulemaking action would be initiated to provide for a public comment period. Notice was received within 30 days that someone did want to submit adverse or critical comments. On April 12, 1982 (47 FR 15581) EPA withdrew the final rulemaking and provided notice that public comments were being solicited in a notice of proposal rulemaking (47 FR 15609).

One comment letter was received on the proposal to approve the state submittal. The commenter questioned EPA's conclusion that the ambient air quality standards are not violated in the vicinity of Missouri type charcoal kilns even when the kilns are not controlled. This question was in response to a statement in the November 4, 1981 **Federal Register** which indicated visible emissions are 100% opacity during portions of the charcoal production cycle. The determination that Missouri type charcoal kilns do not cause violations of the National Ambient Air Quality Standard (NAAQS) for particulates was based upon ambient sampling studies conducted by the State of Missouri at the property line of charcoal kilns. The statement in the **Federal Register** concerning opacity levels from Missouri type charcoal kilns was provided as background information but did not serve as a basis for approving or disapproving the SIP revision which exempted the kilns from the process weight regulation.

There are several reasons why high opacity levels from a Missouri type charcoal kiln do not result in violations of the NAAQS. The stacks on the kilns generally do not extend above roof level and thus are approximately ten feet above grade. This tends to limit dispersion. Also, exit velocities are very low (about 1.5 meters per second). These two factors cause the ambient impact of the stack emissions to be greatest very close to the kilns. Because the kilns are located in isolated areas and the kiln operations are generally located at some distance from the owners property line, the impact of the emission on surrounding property is diminished.

In addition, because the stack gases are at or near the saturation point, there can be interference from water vapor in

any visible emission observation. This causes visible emission observations to be higher than if the plume were dry and the opacity readings reflected only the particulate concentration in the stack emissions.

The commenter also stated that the rulemaking did not identify all the polynuclear aromatic hydrocarbons and other pyrolysis products which are emitted in charcoal production. The commenter questioned whether the toxicity of these emissions was considered in this rulemaking action.

Stack tests were conducted at a Missouri type charcoal kiln by an EPA contractor in an attempt to better define the particulate emission rates from the kiln. Incidental to these tests, data was collected on polycyclic organic matter in the stack emissions. Even though the presence of some organic materials was confirmed by the tests, because of the variability in stack emissions due to kiln operation, different types of wood used to make the charcoal, the lack of standardized test methods for these compounds and the absence of standards to relate adverse health effects to exposure levels, the toxicity of the emissions from Missouri charcoal kilns was not evaluated as part of this rulemaking.

Under the Clean Air Act, EPA's analysis of the revision is limited to the narrow issue whether the NAAQS for particulates would be attained and maintained, and whether the other requirements of Section 110(a)(2) of the Act have been met. The impact of the revision on emissions other than particulates is not relevant to the analysis.

The comment letter on the proposal indicates that EPA argued that charcoal kilns should be exempt because they operate under low profit margins. Even though the statement concerning economic feasibility of control was mentioned in the **Federal Register** notice, the decision to approve the revision is based upon the requirements of Section 110(a)(2) of the Clean Air Act, which do not include economic considerations.

The comments also stated that exemption of Missouri type charcoal kilns from the process weight requirement would place charcoal production facilities in other states at a competitive disadvantage and thus should not be approved by EPA. While consideration of economic factors is proper for states in developing SIP control strategy alternatives, EPA's review is limited as described in the preceeding paragraph. The State of Missouri demonstrated that this revision would not jeopardize the air quality standards, and would meet the other requirements of the Act. Therefore, EPA must approve the revision as part of the Missouri SIP.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Sec. 110 of the Clean Air Act)

Dated: June 23, 1982.

Anne M. Gorsuch,

Administrator.

Note.—Incorporation by Reference of the State Implementation Plan for the State of Missouri was approved by the Director of the Federal Register on July 1, 1981 (42 U.S.C. 7401).

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter 1 Title 40 of the Federal Regulations is amended as follows:

Subpart AA—Missouri

1. Section 52.1320 is amended by adding a new paragraph (c)(33) to read as follows:

§ 52.1320 Identification of plan

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

(33) On September 5, 1980, the Missouri Department of Natural Resources submitted a revision of Missouri Rule 10 CSR 10–3.050, Restriction of Emission of Particulate Matter from Industrial Processes, which exempts existing Missouri type charcoal kilns from the Rule.

[FR Doc. 82-18186 Filed 7-2-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 62

[A-4-FRL 2142-4]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Mississippi and South Carolina; Emissions from Existing Facilities

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is today announcing approval of the following submittals by the States of Mississippi and South Carolina.

Mississippi 111(d) Plans: On September 17, 1981 the Mississippi Bureau of Pollution Control (BPC) submitted to EPA source-specific regulations establishing emission limits for designated pollutants. These regulations were submitted to satisfy the requirements of § 111(d) of the Clean Air Act (CAA) and meet the requirements of 40 CFR 60, Subpart B. Mississippi's regulations apply to fluoride emissions from phosphate fertilizer plants and sulfuric acid mist from sulfuric acid plants.

South Carolina—111(d) Plans: On December 22, 1981 the South Carolina Department of Health and Environmental Control (DHEC) submitted to EPA regulations establishing emission limits for sources of designated pollutants. These regulations were submitted to satisfy the requirements of section 111(d) of the Clean Air Act (CAA) and conform to the specifications of 40 CFR 60, Subpart B. South Carolina's regulations apply to sulfuric acid mist emissions from existing sulfuric acid plants and total reduced sulfur emissions from existing kraft pulp mills. On November 2, 1977, South Carolina certified to EPA that there are no phosphate fertilizer plants in the State subject to 111(d) requirements.

EFFECTIVE DATE: This action will be effective September 7, 1982 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: You may examine copies of the materials submitted by the States during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460

Environmental Protection Agency, Region IV, Air Management Branch,

345 Courtland Street NE., Atlanta, Georgia 30365

The material submitted by the State of Mississippi can also be examined at: Bureau of Pollution Control, Mississippi Dept. of Natural Resources, 2380 Highway 80 West, Jackson, Mississippi 39209.

The material submitted by the State of South Carolina can also be examined at: Bureau of Air Quality Control, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201.

FOR FURTHER INFORMATION CONTACT: Ms. Denise W. Pack, Air Management Branch, EPA Region IV at the above address and telephone number 404/881-3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION: Section 111(d) of the Clean Air Act specifies that each State shall develop and submit a plan which establishes standards of performance for certain existing sources. The States of Mississippi and South Carolina have complied with these requirements. The following is a synopsis of their submittals.

- *Mississippi—111(d):* On September 17, 1981 the Mississippi Bureau of Pollution Control (BPC) submitted a plan to control pollutants designated under section 111(d) of the Clean Air Act. These emission limits apply to three emission points located at the Mississippi Chemical Corporation's Pascagoula facility. The No. 2 sulfuric acid plant will be limited to emissions of 0.50 pounds per ton of acid mist from the sulfuric acid plant and from the oleum plant. The production rate in both cases is expressed as 100% sulfuric acid (H_2SO_4). The triple superphosphate plant (TSP) is limited to 0.2 pounds of fluoride (F-) per ton of phosphorus pentoxide (P_2O_5) input and the phosphoric acid (H_3PO_4) plant is limited to 0.02 pounds of fluoride (F-) per ton of phosphorus pentoxide input.
- *South Carolina—111(d):* On December 22, 1981, the South Carolina Department of Health and Environmental Control submitted a plan for the control of pollutants designated under § 111(d) of the CAA. This plan establishes emission limits that apply to five sources located in South Carolina. One source, W. R. Grace and Company's sulfuric acid plant, is limited to 0.50 pounds per ton of sulfuric acid mist per ton of 100% sulfuric acid produced. This emission limit (South Carolina Air Pollution Control Regulations and Standards, Regulation No. 62.5, Standard No. 4, Section I) was established prior to promulgation of the final guideline document and is identical to that contained in EPA's guideline document. It was approved earlier as part of the State's implementation plan on May 31, 1972 (37 FR 10842), and this regulation had earlier been subjected to a public hearing which satisfies the requirements of 40 CFR 60.23.

Emission limits under section 111(d) also apply to numerous emission points at the Westvaco International Paper Company, Bowater Carolina Co. and South Carolina Industries. These sources are kraft paper facilities and the pollutant controlled is total reduced sulfur (TRS). The plan limits the rate of TRS emissions from recovery furnaces to 25 parts per million (ppm) for cross recovery furnaces, 20 ppm for old design recovery furnaces and 5 ppm for new design recovery furnaces. Digester systems, multiple-effect evaporator systems, and condensate stripper systems are each limited to 5 ppm. Lime kilns are limited to 20 ppm and smelt dissolving tank emissions are limited to 0.0084 g/kg black liquor solids (BLS) (South Carolina Air Pollution Control Regulations and Standards, Regulation No. 62.5, Standard No. 4, Section VII).

EPA has reviewed the above regulations and determined that the emission limits conform to those specified in the applicable guideline documents issued by EPA pursuant to 40 CFR Part 60.

Action. EPA has reviewed the Mississippi and South Carolina submittals and found that they satisfy the requirements of section 111(d) of the Clean Air Act. Therefore, EPA is today announcing approval of these plans. Since the plans are minor in scope and are not of a controversial nature this action is being taken without prior notice.

The public should be advised that this action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under 5 U.S.C. section 605(b), I have previously certified that the present rule will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

The Office of Management and Budget has exempted this regulation from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 62

Air pollution control, Fluoride, Sulfur, Administrative practice and procedure, Intergovernmental relations, Reporting and recordkeeping requirements.

(Sec. 111, Clean Air Act, as amended (42 U.S.C. 7411))

Dated: June 30, 1982.

Anne M. Gorsuch,

Administrator.

PART 62—APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

Part 62 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

1. Subpart Z is added to read as follows:

Subpart Z—Mississippi

Plan for the Control of Designated Pollutants From Existing Facilities [Section 111(d) Plan]

Sec.
62.6100 Identification of plan.

Sulfuric Acid Mist From Existing Sulfuric Acid Plants

62.6110 Identification of sources.

Fluoride Emissions From Phosphate Fertilizer Plants

62.6120 Identification of sources.

Subpart Z—Mississippi

Plan for the Control of Designated Pollutants From Existing Facilities (Section 111(d) Plan)

§ 62.6100 Identification of plan.

(a) Identification of plan: Untitled (section 111(d) Plan).

(b) The plan was officially submitted as follows:

(1) Control of sulfuric acid mist emissions from existing facilities at sulfuric acid plants, submitted on September 17, 1981.

(c) Designated facilities: The plan applies to existing facilities in the following categories of sources:

(1) Sulfuric acid plants.

(2) Phosphate fertilizer plants.

Sulfuric Acid Mist From Existing Sulfuric Acid Plants

§ 62.6110 Identification of sources.

The plan applies to existing plants at the following locations: Sulfur burning plant and oleum plant of Mississippi Chemical Corporation in Pascagoula.

Fluoride Emissions From Phosphate Fertilizer Plants

§ 62.6120 Identification of sources.

The plan applies to existing facilities at the following phosphate fertilizer plants.

(1) Mississippi Chemical Corporation in Pascagoula.

2. Subpart PP is added to read as follows:

Subpart PP—South Carolina

Plan for the Control of Designated Pollutants From Existing Facilities (Section 111(d) Plan)

Sec.

62.10100 Identification of plan.

Sulfuric Acid Mist From Existing Sulfuric Acid Plants

62.10110 Identification of sources.

Total Reduced Sulfur Emissions From Kraft Pulp Mills

62.10120 Identification of sources.

Fluoride Emissions From Phosphate Fertilizer Plants

62.10130 Identification of plan—Negative declaration.

Subpart PP—South Carolina

Plan for the Control of Designated Pollutants From Existing Facilities (Section 111(d) Plan)

§ 62.10100 Identification of Plan.

(a) Identification of Plan: South Carolina Designated Facility Plan (section 111(d) Plan).

(b) The plan was officially submitted as follows: (1) Implementation Plan for Control of Designated Pollutants, including sulfuric acid mist from sulfuric acid plants and total reduced sulfur from kraft pulp mills, submitted on December 22, 1981.

(c) Designated facilities: The plan applies to existing facilities in the following categories sources:

(1) Sulfuric acid plants.

(2) Kraft Pulp Mills.

Sulfuric Acid Mist From Sulfuric Acid Plants

§ 62.10110 Identification of sources.

The plan applies to existing plants at the following locations:

(1) Sulfur-burning plants of W. R. Grace and Company's plant in Charleston.

(2) There are no bound sulfur or oleum plants.

Total Reduced Sulfur Emissions From Kraft Pulp Mills

§ 62.10120 Identification of sources.

The plan applies to existing facilities at the following Kraft Pulp Mills:

(1) Westvaco in North Charleston.

(2) International Paper Company in Georgetown.

(3) Bowater Carolina Company in Catawba.

(4) South Carolina Industries in Florence.

Fluoride Emissions From Phosphate Fertilizer Plants

§ 62.10130 Identification of plan—negative declaration.

The South Carolina Department of Health and Environmental Control submitted on November 2, 1977, a letter certifying that there are no existing phosphate fertilizer plants in the State subject to Part 60, Subpart B, of this Chapter.

[FR Doc. 82-18310 Filed 7-2-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 123

[W-6-FRL 2161-1]

Arkansas Department of Pollution Control and Ecology; Underground Injection Control; Program Approval

AGENCY: Environmental Protection Agency.

ACTION: Approval of State program.

SUMMARY: The State of Arkansas has submitted an application under Section 1422 of the Safe Drinking Water Act for the approval of an Underground Injection Control (UIC) program governing Classes I, III, IV, and V injection wells. After careful review of the application and comments received from the public, the Agency has determined that the State's injection well program for Classes I, III, IV, and V wells meets the requirements of Section 1422 of the Act. Therefore, this application covering Classes I, III, IV, and V injections is approved.

EFFECTIVE DATE: This approval is effective July 6, 1982.

FOR FURTHER INFORMATION CONTACT: Shirley Augurson, Ground Water Protection Section, U.S. Environmental Protection Agency, Region VI, 1201 Elm Street, Dallas, Texas 75270, (214) 767-2774. Copies of the responsiveness summary are available from the above address.

SUPPLEMENTAL INFORMATION: Part C of the Safe Drinking Water Act (SWDA) provides for an Underground Injection Control (UIC) program. Section 1421 of the SDWA requires the Administrator to promulgate minimum requirements for effective State programs to prevent underground injection which endangers drinking water sources. The Administrator is also to list in the Federal Register each State for which in his judgment a State UIC program may be necessary. Each State listed shall submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State: (i) Has adopted after reasonable notice and public hearings, an UIC program which meets the requirements of regulations in effect under Section 1421 of the SDWA; and (ii) will keep such records and make such reports with respect to its activities under its UIC program as the Administrator may require by regulations. After reasonable opportunity for public comment, the Administrator shall by rule approve, disapprove or approve in part and disapprove in part, the State's UIC program.

The SDWA was amended on December 5, 1980, to include Section 1425, which establishes an alternative method by which a State may obtain primary enforcement responsibility for those portions of its UIC program related to the recovery and production of oil and natural gas (Class II wells). Specifically, instead of meeting the Consolidated Permits Regulations (40 CFR Parts 122, 123 and 124) and related Technical Criteria and Standards (40 CFR 146), a State may demonstrate that its program meets the more general statutory requirements of section 1421(b)(1) (A) through (D) and represents an effective program to prevent endangerment of underground sources of drinking water.

The State of Arkansas was listed as needing a UIC program on September 25, 1978 (43 FR 43420). The State of Arkansas submitted an application under section 1422 on April 1, 1982, for the approval of a UIC program governing Classes I, III, IV and V injection wells to be administered by the Arkansas State Department of Pollution Control and Ecology (ADPCE). On April 9, 1982, EPA published notice of its receipt of the application, requested public comments, and scheduled a public hearing on the Arkansas UIC program submitted by the ADPCE (47 FR 5262). A public hearing was held on May 13, 1982 in Little Rock, Arkansas. After careful review of the application and comments received from the public, I have determined that the Arkansas UIC program submitted by the ADPCE meets the requirements established by Federal regulations pursuant to section 1422 of the SDWA, and hereby approve it.

EPA is publishing this approval effective immediately so that Arkansas can begin issuing UIC permits for

Classes I, III, IV, and V wells under the UIC program.

List of Subjects in 40 CFR Part 123

Hazardous materials, Indians—lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

OMB Approval

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that approval by EPA under Section 1422 of the Safe Drinking Water Act of the application by the Arkansas Department of Pollution Control and Ecology will not have a significant economic impact on a substantial number of small entities, since this rule only approves State actions. It imposes no new requirements on small entities.

Dated: June 29, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-18191 Filed 7-2-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 21

[Gen. Docket No. 79-188; RM-3247; FCC 82-215]

Domestic Public Fixed Radio Service; Amendment of the Commission's Rules To Allocate Spectrum for, and To Establish Other Rules and Policies Pertaining to the Use of Radio in Digital Termination Systems for the Provision of Digital Communications Services

AGENCY: Federal Communications Commission

ACTION: Final rule.

SUMMARY: The reconsideration order grants requests for modification of technical standards for digital termination systems (DTSs) used in the Digital Electronic Message Service (DEMS). To facilitate the delivery of higher data rate service, the standards are modified in major part to require that DTS stations must not exceed a power level per frequency bandwidth, a change from our Rules which had specified a power level without a reference to bandwidth. These standards and others are tailored to ensure that DTS not interfere with a NASA-operated passive service. The Order denies requests for changes in other technical matters, and of a policy, procedural, and legal nature.

EFFECTIVE DATE: August 5, 1982.

ADDRESS: Federal Communications Commission.

FOR FURTHER INFORMATION CONTACT:

J. Bertron Withers, Jr., Office of Science and Technology, 2025 M Street, NW, Room 7002, Washington, D.C. 20554; (202) 653-6128;

Kevin J. Kelley, Domestic Facilities, Common Carrier Bureau, 1229 20th Street, NW, Room A-326, Washington, D.C. 20554; (202) 632-6430.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 21

Point-to-multipoint microwave.

In the matter of amendment of Parts 2, 21, 87, and 90 of the Commission's rules to allocate spectrum for, and to establish other rules and policies pertaining to, the use of radio in digital termination systems for the provision of digital communications services; memorandum opinion and order.

Adopted: May 13, 1982.

Released: June 28, 1982.

I. Introduction

1. On April 17, 1981, the Commission released the *First Report and Order (Report & Order)* in General Docket No. 79-188, *Digital Termination Systems*, 86 FCC 2d 360 (1981). In that *Report & Order* the Commission reallocated 130 MHz of radio frequency spectrum in the 10.55-10.68 GHz (10.6 GHz) band and adopted rules for digital termination systems (DTSs) and associated point-to-point links. The allocation permitted establishment of an end-to-end common carrier digital communications service, which we called Digital Electronic Message Service (DEMS). One hunderd MHz was allocated to DTS, which transmits omni-directionally from each nodal station in a point-to-multipoint manner to user stations that transmit back to the nodal station in a point-to-point manner. The other 30 MHz was allocated to provide for point-to-point communication links between DTS nodal stations within the same Standard Metropolitan Statistical Area (SMSA) and to interconnect them with a city-wide collection and distribution station (co-located with or used to communicate with a satellite earth station used to interconnect different SMSAs in a single intercity DEMS network). These links are referred to as internodal links. The allocation is sufficient to accommodate up to seven Extended networks (those providing service to 30 or more SMSAs) and six Limited networks (those providing service to fewer than 30 SMSAs). Petitions for reconsideration of the *Report & Order* have been filed by the National Academy of Sciences ("NAS"), Contemporary Communications Corporation ("CCC"), the People of the State of California and the Public Utilities Commission of the State of California ("the State of California"), Local Digital Distribution Company ("LDD"), and Satellite Business Systems ("SBS"). In response to these petitions thirteen pleadings have been filed.[1]

2. The petitions for reconsideration can be divided into those concerning technical standards and those concerning procedural, policy, and legal matters. The petitions filed by NAS, LDD and SBS relate to technical standards that were adopted in the *Report & Order*. The parties request that the Commission make refinements to the DTS technical standards to assure compatibility with non-DTS operations and to broaden DTS design flexibility. NAS asks the Commission to re-examine the possibility of sharing problems between the Radio Astronomy Service and DTS internodal links in the 10.615-10.630 GHz band. LDD and SBS request that the Commission adopt a power limit for DTS in terms of power spectral density rather than absolute power, and to eliminate the minimum sidelobe suppression and gain requirements for user station antennas. Additionally, LDD has asked the Commission to alter the Rules governing the use of the 30 MHz (10.585-10.600 GHz) reserved for 5 years for Extended network use only.[2]

3. The State of California argues that the Commission erred in concluding that it could preempt regulation by the states of intrastate use of DTS facilities. CCC requests reconsideration of a broad range of policy and procedural questions. It asserts that: (a) The Commission did not adequately consider whether the Multipoint Distribution Service (MDS), with

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[1] These pleadings were filed by LDD, SBS, ISA Communications Services, Inc. (ISACOMM), the National Aeronautics and Space Administration (NASA), each of which filed both an Opposition and a Reply with ISACOMM filing 2 replies. Additionally, Tymnet, Inc. and Charles M. Firestone of Los Angeles, California submitted oppositions, and CCC and the State of California submitted replies.

[2] Discussed in the Report & Order at para. 37, 86 FCC 2d at 374, and codified in Rule § 21.502(e), 47 CFR 21.502(e).

augmentation, could satisfy the public's digital communications needs, (b) the notice of proposed rulemaking (NPRM)[3] was not sufficient to alert commenters as to all areas in which the Commission ultimately adopted rules, (c) the Commission abdicated its responsibilities by failing to impose technical standards for interconnection, (d) there is no support for the Commission's adoption of "30" as the number of cities necessary for an Extended network and (e) the Commission should eliminate the preference for Extended networks. Finally, CCC asks for oral argument, a period of further public comment, and a suspension of the acceptance of DEMS applications.

4. Our spectrum allocation to DTS and the authorization of common carrier services using DTS was based on a finding that such actions were in the public interest. The Commission concluded that there is a public demand for the digital communications network services and that these services could be provided most rapidly and effectively using DTS. We also concluded that for DTS and the networks that make possible the intercity connections, minimal technical standards would permit greater flexibility in system design. The regulation of DEMS, technical and non-technical, touches many areas of traditional common carrier regulation. Detailed regulatory intervention was avoided to the extent feasible, however, to permit the marketplace to determine the ultimate contours of the new service. We also avoided establishing detailed service guidelines because the ultimate nature of the services to be provided over DTS is unknown.

5. We grant the petitions for reconsideration of technical standards largely to insure the compatibility of DTS operations with environmental passive sensors. We deny the petitions for reconsideration concerning radio astronomy, federal preemption of state regulation, and other legal and policy matters. In reaching these decisions we deal with the various issues for reconsideration in light of the above-stated principles. We consider the technical issues raised by NAS, LDD, and SBS first.

II. Technical Issues

A. LDD and SBS Petitions

6. LDD and SBS endorse the Commission's reallocation of the spectrum at 10.55–10.68 GHz and the adoption of other rules and policies for the establishment of DEMS. They concur that the action we took in the *Report & Order* is clearly in the public interest and support our stated policy goal of system design flexibility and adoption of only those technical standards necessary to ensure a reasonably efficient use of the spectrum. Nevertheless, the overriding concern of these two petitioners is that some of these technical standards could frustrate the achievement of that goal. They ask that the Commission modify the technical standards by expressing power limitations for nodal stations and user stations in terms of transmitter output power per unit bandwidth instead of absolute transmitter output power and absolute effective isotropic radiated power (EIRP), respectively. They also request that minimum radiation suppression standards for user station antennas be relaxed. LDD requests that the 2.5 MHz channelization plan for the reserve be altered to accommodate Extended DEMS carriers, which use a 5 MHz channel.

7. LDD's and SBS's primary concern centers on our specification of a maximum of 0.5 watt as an absolute output power level for a DTS transmitter. This power limitation is significant only for the nodal stations, whose transmitter output power is nominally in that range, rather than the lower powered DTS user stations. LDD asserts that the 0.5 watt absolute power level, along with our specification of a 23 dBW EIRP limit for user stations, would impose a practical limit on the data rate that could be sent over DTS, and would be both spectrally and economically inefficient. SBS contends that by maintaining such limits we have unnecessarily restricted the coverage area of a DTS channel carrying higher data rates than 256 kb/s. They both recognize that the power restrictions were adopted in order to protect from interference the National Aeronautics and Space Administration's (NASA's) satellites in the Earth Exploration Satellite Service (EESS), but claim that our goal of design flexibility may suffer. More specifically, the Commission has improperly determined these power levels based on the XTEN system design [4] of 250 kHz subchannels, despite not having specified that particular channelization in the Rules, according to LDD and SBS. The 250 kHz subchannels were designed to support a data rate approximately 250 kilobits per second (kb/s). Should a DTS carrier have a need to accommodate a higher data rate within the adopted power limits,[5] all other things being equal, a shorter path length would be required. They point out that a shorter path length would increase system costs, and thereby the prices charged subscribers, because additional nodes would be needed to serve a city. Higher data rates could only be accommodated if the carrier were willing to make one or more system design changes including lower received signal levels, reduced link margins, condensed geographic coverage, or other changes affecting the quality of service. LDD also points out that spectral efficiency would suffer because of the increased need for internodal communications.

8. Additionally, LDD questions whether the absolute power limits for nodal station transmitters will in fact be adequate to protect the satellite-mounted environmental passive sensors in the EESS from interference. The satellite-borne sensors operate in the 10.6–10.7 GHz band, the majority of which is shared with DTS. LDD gives an example of a configuration of six nodal radios, each emitting 0.5 watt on adjacent 250 kHz channels for a total power output of 3 watts over 1.5 MHz. Since the rules as adopted in the *Report & Order* would not permit a single DTS radio emitting at 3 watts, LDD alleges that an inconsistency exists. LDD contends that the two configurations are virtually the same from the perspective of a passive sensor. Recognizing that the power limits as adopted are in accord with Footnote 831 of the international table of Frequency Allocations, LDD and SBS request that we initiate the coordination procedure stated in the footnote to implement a varying technical standard.[6] LDD also points out

[3] Notice of Proposed Rulemaking and Inquiry, FCC 79–464, released August 29, 1979, 44 FR 51257 (1979).

[4] XTEN is the system design concept that Xerox Corporation intended to employ for its DEMS entrant. Although Xerox filed the petition instituting this present docket to reallocate spectrum and to establish DEMS, it has since abandoned its plans to build XTEN. *See* the Wall Street Journal, May 15, 1981.

[5] These limits only refer to the absolute transmitter output power, not the effective isotropic radiated power limit of +40 dBW (*See* Rule § 21.507). A DTS nodal station in a system designed like XTEN's would have an EIRP of +13 dBW (16 dBi antenna gain and −3 dBW (0.5 watt) transmitter power), well below +40.

[6] The pertinent part of footnote 831 to the Table of Frequency Allocations of the Radio Regulations of the International Telecommunications Union (ITU) states: "In the band 10.6–10.68 GHz, stations of the fixed and mobile, except aeronautical mobile, services shall be limited to a maximum equivalent isotropically radiated power of 40 dBW and the power delivered to the antenna shall not exceed −3 dBW. These limits may be exceeded subject to agreement obtained under a procedure set forth in Article 14 * * *" The adoption of the footnote had

that the power limits we adopted for the entire band of 10.55–10.68 GHz are more restrictive than those specified in the footnote, which only applies to the band segment 10.60–10.68 GHz.

9. To resolve these problems, SBS and LDD propose a power limitation of 0.5 watt per 250 kHz for DTS nodal transmitters. Additionally, LDD proposes a 23 dBW EIRP per 250 kHz for user stations. They argue that operation in accord with these standards would permit higher data rate transmissions and could provide even more protection of NASA's passive sensing satellites, given that the number of DTS stations is not limited by the Rules adopted.

10. LDD and SBS also urge the Commission to eliminate the Standard B sidelobe suppression and the 34 dBi minimum gain for user station antennas. The petitioners contend that imposition of these standards would cause user stations to be more expensive, unnecessarily escalating system costs. They argue that since the sidelobe suppression standards were adopted to protect against interference between cochannel DTS user stations, and since such stations in a given SMSA are within the control of the DEMS carrier, it should be left as a matter of the carrier's business discretion to provide whatever level of interference protection it deems appropriate. SBS additionally suggests that imposition of Standard B radiation standards could adversely impact the acceptability of DTS in metropolitan areas by effectively prohibiting aesthetically more pleasing antennas smaller than 0.6 meter (2 feet) in diameter. [7]

11. Finally, LDD urges that the 30 MHz in the two bands from 10.585–10.600 GHz and from 10.650 GHz be structured into 5 MHz channels rather than 2.5 MHz channels as adopted. This spectrum is reserved for Extended carriers for 5 years after the release of the *Report & Order*. *See* § 21.502(g) of Our Rules, 47 CFR 21.502(g), and paras. 36 and 37 of the *Report & Order*, 86 FCC 2d at 373. LDD points out that an Extended carrier would require two 2.5 MHz channels and would need sufficient spectrum at the inner edges of the two channels to comply with the emission limitations of Section 21.106, 47 CFR 21.106. LDD notes that this spectrum, intended to protect against intersystem interference, is unnecessary for an Extended carrier since the two 2.5 MHz channels would then be intrasystem. LDD requests that we channelize the reserve into 5 MHz segments to eliminate this anomaly. Alternatively, the petitioner requests that we permit a licensee using two contiguous 2.5 MHz channels to comply with the technical standards applicable for a single 5 MHz channel.

B. Opposition to LDD and SBS

12. An opposition was filed by NASA to LDD's and SBS's petitions for reconsideration. ISA Communication Services, Inc. (ISACOMM) and Tymnet, Inc. (Tymnet), on the other hand, while opposing the petitions filed by CCC and the state of California on non-technical matters, explicitly supported the requests by SBS and LDD that the Commission adopt power spectral density limitations for DTS and delete Standard B antenna requirements for user stations. NASA contends that these modifications of the DTS technical rules could make remote sensing in the 10.6–10.7 GHz band impossible. NASA states that the 0.5 watt maximum transmitter power limit was critically based on the projected number of transmitters in the 10.6–10.7 GHz band within line-of-sight to the passive sensor. [8] Because interference to the passive sensors is based on the combined interference power from all sources, any increase in the power of each station could necessitate a reduction in the population of transmitters to keep interference below the maximum allowable level for the sensors. NASA also is opposed to the SBS and LDD proposals to relax the performance standards for user station antennas. It contends that a deletion of those standards to permit the use of smaller lower-gain antennas would allow their broader beamwidths to increase the geographic area where interference to the passive sensors could occur. NASA indicates that higher power transmitters would be acceptable, however, provided that the Commission adopts rules limiting the total number of transmitters in the 10.60–10.68 GHz band to the number needed to keep the total interference potential to the passive sensors below the harmful interference threshold.

13. In its statement in opposition, NASA related that it had met with LDD and was optimistic that together they could develop mutually satisfactory technical parameters for DTS. More meetings between LDD and NASA followed to resolve the issue. [9] Each party reports in its Reply that they reached agreement on parameters that would enhance DEM's market viability and minimize interference to passive sensors. SBS and ISACOMM did not participate in the discussions but both express support for that agreement. In its reply NASA urges the Commission to incorporate the terms of the resolution in the Rules. The terms of the agreement as stated by LDD in its Reply are the following:

(a) The power limitation of nodal stations should be specified at 0.5 watt per 250 kHz.

(b) The power limitation of user stations should be specified at 40 milliwatts per 250 kHz.

(c) The number of nodal stations should be limited over the next five years to 4000.

(d) At the end of that period, the Commission should, if it rechannelizes the unused portions of the band, re-examine the numerical limitation on the number of nodal stations in light of improvements in radiometer technology and of the demand for 10 GHz DTS.

(e) The present requirement that user station antennas comply with Standard B sidelobe standards should be preserved.

14. LDD cites four factors in support of the proposed resolution. First, since nodal stations used for Extended DEMS operate below 10.6 GHz, no limitation on DTS power is needed. Second, Limited system nodal stations, to operate on frequencies above 10.6 GHz in the 15 MHz from 10.600 to 10.615 GHz, are unlikely to be implemented to the degree that they would present a significant interference potential to NASA's passive sensors. NASA expects that progress in passive sensor radiometer research and development should result in radiometers requiring only an 85 MHz bandwidth instead of 100 MHz (from 10.6 to 10.7 GHz). Consequently, the lower 15 MHz of the band where Limited system nodal stations operate would no longer be required for passive sensor operation. Third, DTS would cause interference to passive sensors primarily because of the mainlobe and sidelobe radiation from the user stations. The total amount of radiation from user stations is dependent on their population. Given a DTS system design of three or four

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been proposed by the United States at NASA's urging to insure protection of remote passive sensors.

[7] The gain of the standard commercial 0.6 meter (2 foot) parabolic antenna is 34 dBi (at 10.6 GHz), which is the minimum gain for user station antennas as set forth in Rule § 21.106(c). Since the gain of a parabolic antenna decreases with its diameter (or aperature), an antenna smaller than 0.6 meter has a gain less than the minimum mandated by our Rules.

[8] NASA had originally proposed the power limits as part of the effort to develop U.S. positions for the 1979 WARC.

[9] In order that LDD and NASA might complete these meetings, we granted a second extension of time for the filing of reply comments. Order Further Extending Time for Filing Replies, Mimeo 002671 (Chief Scientists), released August 7, 1981, 46 FR 40904, August 13, 1981.

sectors about each local node with user stations employing a time division multiple access multiplexing scheme, only one user station per sector would be transmitting at any one instant of time. The number of user stations above which the threshold of unacceptable interference will be reached would then be determined by the total number of sectors rather than the user stations themselves. The limiting number of DTS nodes was determined to be 4000, however, assuming a system design of three sectors per node [10] and power density limits at 40 milliwatts per 250 kHz. The limit of 4000 nodes was deemed to be far in excess of the projected number that would be implemented in the next five years.[11] Fourth, two major uncertainties were foremost in recommending that the Commission maintain its posture of flexibility and await the passage of at least five years before establishing more definitive rules. The uncertainties are: (a) forecasting the market demand for DTS-provided services, and thus the number of DTS nodes, and (b) the degree of improvement in radiometer technology so that bandwidths smaller than 100 MHz could be employed. LDD submits that the Commission goal of providing DTS licensees the maximum design flexibility consistent with the public interest can be more fully realized under these proposed technical standards. At the same time these standards insure, contends LDD, that the interference potential to NASA's passive sensors from DTS operations at 10 GHz will be considerably lessened.

C. Discussion of Power Limitations

15. In the *Report & Order* we sought to ensure system design flexibility in many aspects of the DTS technical requirements. For example, we did not specify subchannel bandwidth or require a cellular reuse design configuration.[12] In accord with this philosophy, we stated that we did not wish to constrain system design by imposing power limits more stringent than necessary to avoid interference. We pointed out, however, that the power emitted in the 10.60–10.68 GHz band would be subject to limits imposed by the international Radio Regulations for all terrestrial stations operating in this band.[13] We noted in the *Report & Order* that despite our request made in the NPRM that commenters offer alternative, more efficient DTS designs, no designs of sufficient detail were submitted.[14] A prime factor in our adoption of 0.5 watt as the maximum transmitter power for DTS, however, was that it was proposed to be employed in XTEN. This proposed system was the only full-scale system concept of sufficient technical detail before us. Additionally, virtually all of the parties commenting on the NPRM gave their support or at least found no fault with the XTEN design including the maximum user station power of 0.04 watt. The record we had before us clearly supported adoption of the power limits as used for XTEN. We did modify the power limits for user stations and required, in response to NASA's concerns, an EIRP limit, albeit 3 dB higher than the 20 dBW NASA had recommended.

16. The concerns raised above by LDD and SBS, however, persuade us that our policy goal of allowing DTS licensees the greatest freedom in system design consistent with our mandate to limit interference to other systems would be greatly served by adoption of power spectral density limits. As we recognized in the *Report & Order*, the power required to support a signalling rate higher than 256 kb/s would have to be greater than the maximums we had adopted (given the same path lengths and antennas).[15] To remain within these maximums and provide a data rate greater than 256 kb/s to the user subscriber, a licensee probably would have to shorten the usable DTS path lengths, thereby requiring more nodal stations to provide the same coverage area. Absorbing the costs of additional nodal stations would constitute an economic penalty for DTS carriers. Adoption of a power spectral density rather than an absolute power limit would allow a DTS carrier to offer higher data rates without shortening path lengths. As related above, however, the 0.5 watt absolute power limit is imposed by the international Radio Regulations, and is intended to protect NASA's passive sensors from harmful interference. Since NASA, nonetheless, agrees with the power spectral density limits (and the limit on the number of DTS nodes) advanced by the LDD and SBS, the prospect of such interference presumably would not be measurably increased, if at all. We also note approvingly that the agreement recommends maintenance of the requirement that user station antennas comply with Standard B radiation suppression limits. The resolution by NASA and LDD, since it apparently serves the interests of DTS users and would also minimize the interference potential to passive sensors, we believe, serves the public interest very well. ISACOMM and SBS in their comments give explicit support to the resolution. Moreover, in the additional comment period initiated to give other parties an opportunity to comment on the NASA–LDD agreement, no pleadings were filed by any party.

17. Operation of DTS stations under a power density limit, despite no significant change in the interference potential to passive sensors, would not be in accordance with the technical provisions of Footnote 831. We note, however, that since the provisions of the footnote were intended to protect NASA's passive sensors in the EESS, and NASA now agrees that EESS will not be adversely impacted by the new DTS technical standards, adoption of these standards would in fact accomplish the objective of the footnote. Nevertheless, we will notify the administrations (countries) whose radio services might be affected by a variance from the footnote provisions of our

[10] The majority of DTS applicants thus far have proposed a system design with three 120° sectors per nodal station. The applicants are the following: ISACOMM, Tymnet, SBS, GTE Telenet Communications Corp., CCC, Graphic Scanning Corp., National Microwave Interconnect Corp., Digitial Terminations Services, Inc., MCI Telecommunications Corp., Via/Net Coe., Data Source Inc., Local Area Telecommunications, Inc., RCA Network Services, Inc., The Western Union Telegraph Co., Federal Express Corp., ITT World Communications Inc., ICOM, Inc., Southern Pacific Communications Co., Satellite Systems Corp., First Communications Group, Inc., Cox Cable Communications, Inc., Citicorp Digital Exchange, Inc., Western Tele-Communications, Inc., General Communication Inc., American Business Communications Co., DEMS of Delaware Valley, Inc., U.S. Telephone Communications, Inc.

[11] Two considerations suggest that the limit of 4000 nodal stations will not be binding. First, the limit was endorsed by LDD, a major provider of DTS equipment, which presumably made a well-informed forecast of the potential market for DTS. Furthermore, no other equipment supplier, prospective DEMS licensee, or any other party opposed the NASA–LDD resolution. See para. 16 *infra*. Thus, none of the entities in the best position to forecast future DTS demand objected.

Second, there is spectrum available for seven Extended and six Limited systems in any given SMSA. Assuming a single node per system, if each Extended system channel were in use in 100 cities and each Limited system channel were in use in 30 cities, there would be 880 nodes in operation. At present, none of the 30 applications on file for DEMS calls for more than *one* nodal station per city. While expansion may prompt installation of additional nodal stations in the large cities, it seems unlikely that enough will be added by 1986 to make the constraint binding.

[12] *See Report & Order* at paras. 45–47, 86 FCC 2d at 377.

[13] *Id.* at paras. 50 and 52, at 379.

[14] GTE did propose in its comments, however, a DTS power density limitation to ease frequency coordination between systems offering subchannel data rates higher than 256 kb/s. XTEN was to offer this rate over a 250 kHz subchannel. *See* comments of GTE Service Corp. on the NPRM in this docket (filed January 14, 1979) at p. 8.

[15] See Report & Order at para. 50, 86 FCC 2d at 379.

intentions. Our preliminary survey of stations operating in the 10.60–10.68 GHz band in Mexico and Canada reveals little or no activity. We therefore expect no significant problems with interference to Mexican and Canadian 10.6 GHz operations in this band. Consequently, we adopt each term of the proposed resolution including the power limitations on DTS transmitters as expressed in power spectral densities and the restriction on the number of user stations.[16]

D. Extended Network Use of the Reserve Spectrum

18. With respect to LDD's request concerning the use of the reserve spectrum by Extended systems, we agree that an Extended network system employing two contiguous 2.5 MHz channels should only be required to have emission limitation bands at the outer edges of the resulting 5 MHz channel. In providing for these band segments at the edges of the assigned channel, we only sought to minimize primarily the adjacent channel interference to other DTS networks operating in the same SMSA. Thus, these band segments at the inner edges of the two contiguous 2.5 MHz channels used by a single Extended licensee are unnecessary. In any event, rechannelizing the reserve into 5 MHz channels to eliminate this requirement, as LDD requests, would defeat the flexibility built into the channelization scheme. That flexibility is necessary given the uncertainty as to what extent the market for local distribution can be met by Limited networks. We shall amend our Rules to make our intent more explicit, however. Therefore, we adopt the alternative of permitting an Extended licensee using two contiguous 2.5 MHz channels to employ the technical standards that are required for a single 5 MHz channel. *See* Appendix, amended Section 21.502(e)(1).

E. NAS Petition re Radio Astronomy

19. NAS's concern is that the electromagnetic compatibility of certain uses of the reallocated spectrum and radioastronomy is questionable in the 10.60–10.68 GHz band. NAS states that because it anticipated that DTS would function only in metropolitan areas, it did not anticipate that radiation from DTSs would cause harmful interference to the Radio Astronomy Service (RAS) since its sites are located outside of heavily populated areas. This evaluation led to the assumption that all reallocated frequencies would be strictly intracity. Since our rules, which established internodal links in the 10.550–10.565 and 10.615–10.630 GHz bands, permits other uses, NAS fears that these uses might be intercity and thus cause unacceptable interference to radio astronomy operations, internationally approved in the 10.60–10.68 GHz band. NAS holds this view despite the fact that in the United States only 10.68–10.70 GHz is allocated for radio astronomy. NAS alleges that we did not consider radio astronomy during the proceedings in the docket. It therefore requests that we do so, reconsider possible sharing problems, and that we specifically address them in this Order.

20. In the work conducted in preparation of the NPRM, the staff considered the compatibility of RAS with DTS operations only in the 10.68–10.70 GHz band,[17] which is adjacent to the 10.55–10.68 GHz band. These two bands have been allocated exclusively on a domestic basis to RAS and to fixed stations, respectively. While we recognized that 10.60–10.68 GHz was allocated internationally to RAS on a primary-shared basis, our investigation focused on the compatibility of operations to be conducted in accord with our domestic allocation table. We found no major problems with DTS adjacent to the RAS allocation. The Commission adopts new allocations, such as the one for DTS and its associated internodal links, in accord with the domestic Table of Frequency Allocations. In doing so we consider whether authorized services in this country might adversely affect foreign radio operations that are in compliance with certain international allocations that the U.S. may have chosen not to implement.[18] Since the international allocation to radio astronomy has not been implemented in the U.S. in the band 10.615–10.630 GHz, reserved for DTS internodal links and for other point-to-point operations, we foresaw no adverse impact to RAS.

21. NAS's concern with the interference potential of fixed stations in the 10.615–10.630 GHz band centers on those few stations that might not be used intracity for communications between nodal stations. It assumes that those few stations, unlike internodal links, could be operated between cities and thereby cause interference to radio astronomy sites, located away from metropolitan areas.

22. At the outset, we note that despite the fact that RAS has primary co-equal status internationally with fixed stations in the 10.60–10.68 GHz band, it has neither a primary nor secondary status domestically. The domestic Table of Frequency Allocations consequently does not provide RAS any protection from interference from allocated services. We are, however, mindful of the national importance of radio astronomy, and the existing Rules give evidence of this concern. Rule Section 21.113 specifies that radiation from other services is to be restricted in certain specified geographical areas ("quiet zones") about radio astronomy sites.

23. At the time of the adoption of the *Report & Order* we contemplated, and we still believe, that the 10.615–10.630 GHz band (and 10.550–10.565 GHz) will not be employed for intercity links. This judgment and the conclusion that these uses, if so employed, would have no significant impact on the Radio Astronomy Service are based on four factors. First, the DEMS rules state an explicit preference for internodal links in the band of interest. (*See* § 21.502(d)). To the degree that the use of DEMS is extensive, the likelihood diminishes that these frequencies would be used for other than internodal links. Second, it is highly unlikely that the relatively narrow 2.5 MHz and 1.25 MHz bandwidths[19] of the point-to-point channels in the 10.615–10.630 GHz band would be attractive to non-DTS users. Operation at 10 GHz with these narrow channels would require much tighter frequency stability than presently required for non-DTS links to preserve a reasonably usable information bandwidth. Consideration of microwave channels in other existing services is instructive. For the next lower frequency band to 10 GHz, the narrowest channel width is 5 MHz. For the next higher band, the narrowest channel is 10 MHz.[20] These narrow channels, two to

[16] *See* Appendix, Rule §§ 21.506 and 21.512, 47 CFR 21.506 and 21.512, as amended.

[17] *See* NPRM, 44 FR at 51281, footnote 10.

[18] For uses permitted by domestic allocations that conflict with the allocations set forth in the Radio Regulations, the U.S. remains obligated (having bound itself by treaty) to avoid "* * * causing harmful interference to services rendered by the stations of another country." Art. 6, section 2 [para. 340], ITU Radio Regulations (1982). Therefore, this Commission will adopt non-conforming domestic allocations for services only when there is virtually no prospect of causing such interference. When there may be interference (usually along the borders), bilateral agreements are effected between the U.S. and the affected countries. In the case of the 10.60–10.68 GHz band, RAS and Fixed services have primary co-equal status internationally. [The 1982 Regulations cited here are presently before Congress for the advice and consent of the Senate. The obligations are not different from those of the 1959 Regulations.]

[19] These are the channel widths of the internodal links used for Extended and Limited DEMS, respectively. *See* Rule § 21.502(d), 47 CFR 21.502(d).

[20] In the 6.525–6.875 GHz band, channels of 5 or 10 MHz may be authorized. In the 12.2–12.7 GHz band

four times as wide as those in question, have experienced meager use themselves since users in these bands generally employ channels up to 10 and 20 MHz wide, respectively. To the degree that the non-use of these 5 and 10 MHz channels is related to their channel width,[21] the likelihood of use of the 1.25 and 2.5 MHz channels is considerably lessened. Third, the relatively short range of the 10 GHz signal markedly reduces its potential for interference. And finally, to traverse the longer intercity routes, more radio relay stations would be required than at a lower frequency because of the short path lengths. The additional investment for more sites would undoubtedly inhibit use of 10 GHz for other than intracity purposes.

24. Finally, NAS states that the U.S. advocacy for a radio astronomy allocation internationally implies that the U.S. would implement that allocation domestically. It should be noted that the concerns of NAS and other members of the radio astronomy community have been addressed in the *Third Notice of Inquiry* in Docket 80-739, which deals with the domestic implementation of the Final Acts of the 1979 WARC.[22] We believe that the *Third Notice* is the most appropriate vehicle to resolve any remaining uncertainties regarding the radio astronomy allocation.

25. Aside from the recognized importance of radio astronomy, however, the operation of stations in an allocated service must take precedence over a non-allocated radio service like RAS if we are to preserve a semblance of order and creditability in the national frequency allocation table. This policy notwithstanding, we do not expect, for the reasons stated, that uses permitted in this newly allocated spectrum for point-to-point links will cause interference to RAS. We therefore affirm our decision in the *Report & Order* not to preclude innovative uses of this spectrum by reserving it only for internodal links.

III. Procedural, Policy, and Legal Matters

A. Contemporary Communications Petition

26. CCC argues that we did not adequately consider whether MDS with augmentation, could meet the public's need for networks providing intracity distribution of digital communications. A number of MDS interests has argued in initial comments that MDS carriers could meet the perceived public need for a DTS-type system. Although we did not specifically address this question in the *Report & Order* we do not believe that it was necessary for us to do so. An agency is not required to specifically address every proposal that is made in a rulemaking proceeding. It need only give a concise statement of the basis and purpose of the rules adopted. 5 U.S.C. 553(c); *Kennecott Copper Corp. v. EPA*, 462 F. 2d 846 (D.C. Cir. 1972). Inherent in the Commission's conclusion to create a new service was a finding that MDS could not meet the perceived needs of the public.[23]

27. CCC alleges that only modest augmentation of the rules would be necessary before MDS licensees could provide the type of services that can be provided over DTS facilities. Our analysis, however, is that this is simply not correct. Virtually all the rules adopted for DTS would have had to have been adopted for MDS (*e.g.*, reallocation of spectrum), and MDS operators would have had to substantially redesign their systems. It was thus entirely reasonable for us to allocate spectrum to DTS. In any event, we fail to see how MDS operators have been adversely affected by the Commission's action since they are not precluded from applying for DTS licenses.

28. CCC's second argument is that the Commission did not give adequate notice of the actions it took in the *Report & Order*. In particular, it alleges that the Commission should not have allocated spectrum for internodal links since the NPRM did not propose such an allocation. We reject this argument. The general rule is that an agency need not give notice of every proposal that the agency might adopt and that notice is adequate if it is "sufficiently descriptive of subjects and issues involved so that interested parties [may comment." *Ethyl Corp. v. EPA*, 541 F.2d 1 (D.C. Cir.), *cert. denied*, 426 U.S. 941 (1976). In the NPRM the Commission stated that in Xerox's petition for rulemaking there was "no clear justification" for internodal links since they could be authorized in existing common carrier, terrestrial fixed point-to-point bands. The Commission did, however, "invite further comment on this question." 44 FR at 51259. Since the Commission asked for comments on the Xerox proposal, parties were on sufficient notice to comment and, in fact, many parties did. The fact that CCC's predecessor in interest did not comment does not affect the adequacy of the notice given or the viability of our decision to allocate spectrum for internodal links.

29. CCC's next argument is that the Commission "virtual[ly] abdicat[ed] its responsibility when it refused to adopt technical standards for interconnection between carriers and did not set forth guidelines with respect to interconnection of equipment." With respect to both these issues we decided that it would be unnecessarily restrictive of technological development to specify standards at this time. In order to encourage interconnection, we did, however, require publication of necessary interface information. We believe that the course we adopted in the *Report & Order* was proper. It is well settled that the choice of whether an agency will proceed by rulemaking or on a case-by-case basis lies primarily in the informed discretion of the administrative agency. *Apex Oil Co. v. FEA*, 443 F. Supp. 647 (D.D.C. 1977). Here we opted for deciding questions that may arise on a case-by-case basis, at least initially. We believe this is reasonable for a new service and we note that many of the commenters favored it.

30. Finally, CCC argues that we did not adequately justify the conclusion that the predominant need is for Extended systems and the establishment of a 30-SMSA minimum for Extended networks. CCC argues that the supply structure should be determined by competitive markets. While we agree that competition should determine the supply structure generally, in allocating spectrum to various services, this Commission obviously must make some judgments as to the need for various services. It this case we concluded that the predominant need in this country was for networks covering a large number of cities. This conclusion was fully supported by the record. Several commenters projected a market demand

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10 or 20 MHz channels may be authorized. These channels are used in the Private Operational Fixed Services. Common carriers operating at 6 GHz and at 11 GHz utilize channels 30 and 40 MHz wide, respectively.

[21] Another factor explaining this non-use is that employment of the 5 and 10 MHz channels exposes users to a greater interference potential because the channels are interstitial. Interstitial channels are part of the channel plans listed in Part 94 for the Operational-Fixed Microwave Service. The center frequency of such a channel lies at the common edges of two adjacent channels, each of which is normally twice the bandwidth of the interstitial channel. For analog signals, since the signal power is concentrated at or near the center frequency in a channel, interference due to the close proximity of the interstitial and adjacent channels is minimized. For digital signals, because the relatively uniform dispersion of the signal power across the channel for most commonly used modulation schemes, the feasibility of using interstitial channels for digital transmission is reduced.

[22] FCC 81-323, released August 7, 1981, 46 FR 40536 (1981).

[23] We also note that in the NPRM the Commission did consider and reject the MDS frequencies for DTS because of their limitations. See NPRM, 44 FR at 51261, footnote 16.

for Extended networks and a study by NASA supported our conclusion. We rejected the idea that the supply structure should be determined completely by competitive markets since interconnection of smaller networks was thought to be difficult. Clearly, there was sufficient analysis before us to make the determination that CCC – attacks.

31. Our adoption of thirty as the number of SMSAs in which a carrier must operate before it will be considered an Extended system likewise is justifiable. *See WJG Telephone Co. v. FCC*, No. 81–1461 (D.C. Cir. April 9, 1982). Our Intention, as expressed in the *Report & Order*, was to encourage the establishment of Extended DEMS networks offering a nationwide capability, while lowering barriers to entry. We did not wish to take any action that would unnecessarily limit the number of applicants, and thus we sought to find the minimum number of cities that would provide a truly nationwide system. We also believed that in order to justify the investment in an Extended system, there would have to be several large corporations or institutions as potential customers. Since 28 of the largest SMSA's had three or more Fortune 500 companies we balanced the 28-criterion and the 50-SMSA proposal put forth by Xerox and the Justice Department, and concluded that a 30-city criterion would best serve our desire to encourage truly national networks without erecting unnecessary barriers to entry.

32. Finally, oral argument on any of these points would not enhance, or assist us in making these decisions. Oral argument would result in greater delay and expense, with no apparent benefit. *See United States v. FCC*, 652 F.2d 72 (D.C. Cir. 1980).

B. State of California Petition

33. In its petition for reconsideration the State of California argues that we erred in preempting regulation by the states of intrastate use of the proposed service. It alleges that no conflict between interstate and intrastate interests has been demonstrated. In the *Report & Order* we stated that it was our intention to "preempt *inconsistent* state regulation of technical standards, market entry standards and rate and tariff regulations of all carriers using DTS facilities," 86 FCC 2d at 390 (emphasis added). We believe that the State of California may have misinterpreted our order with respect to preemption. We did not state, nor did we intend, to preempt all state regulation regardless of its effect upon interstate services or national policy goals. We see no need to foreclose legitimate state policies as long as they are not inconsistent with our national DEMS regulatory policy and do not burden the rendition of interstate DEMS service. Should a question ever arise as to whether a particular state regulation is, or may be, inconsistent with our national DEMS regulatory policy, we stand ready to rule on its consistency or lack thereof expeditiously.

IV. Miscellaneous

34. It has come to our attention that because of an error in Appendix B of the *Report & Order* there has been some confusion as to the status of § 21.100(d) of our Rules, 47 CFR 21.100(d). We wish to make it clear that we amended only the first sentence of paragraph (d) and that the remainder of Section 21.100(d) was to remain untouched. Some of the companies that publish our rules have recently included only the first sentence of paragraph (d) as the entire § 21.100(d). Section 21.100(d) is an important rule involving frequency coordination and we shall formally readopt the entire § 21.100(d) to ensure that there is no confusion as to our intent. *See* Appendix pp. A–1 through A–3. In addition, we have recently realized that in adopting the new rules for DEMS we neglected to amend the Table of Contents of Part 21. We therefore adopt such changes herein.

35. Finally, we note that language used in the *Report & Order* and the rules that we adopted relating to the amount of time in which construction must be completed may have caused confusion. In the *Report & Order*, we stated that construction must be completed within a number of months after receipt of Section 214 authorization. In the Rules we state our intention that construction be completed within a number of months of receipt of the construction permit. These two statements are not inconsistent because we envision granting simultaneously Section 214 authorization and the Title III construction permit.[24]

V. Conclusion

36. In acting upon the petitions for reconsideration of certain technical standards, we have made modifications that do not disturb the regulatory scheme adopted for DTS in the *Report & Order*. By adopting the maximum power density standards, clarifying the requirements for use of the reserved channels by Extended DEMS, and by not restricting the allowed uses of the 10 GHz point-to-point links as NAS requests, we further our goal of system design flexibility. The changes that we adopt also enhance DTS's viability and promote efficient use of the 10 GHz spectrum by providing for compatibility with other services using this spectrum. The proposed resolution arrived at by LDD and NASA as to the technical standards also serve the FCC well in relieving us from expenditure of our limited resources to make detailed technical analyses of their contending views. In adopting the terms of the resolution, we believe it is in the public interest to provide for the most efficient radio local distribution services and not to endanger the nation's environmental remote sensing program. The adjustment in DTS technical standards allows the achievement of these goals.

37. Finally, we deny the petitions for reconsideration filed by CCC and the state of California. There was sufficient notice, and justification for the rules and policies adopted in the *Report & Order*. We have not, as the state of California seems to assert, preempted all state regulation of DEMS carriers. Rather, we have simply indicated our intent to preempt state regulation that is inconsistent with interstate service or federal policies. Clearly, the Commission has authority to do so.

VI. Ordering Clauses

38. Accordingly, it is ordered, under the provisions of Section 1, 4(i), 303, and 403 of the Communications Act of 1934, as amended, that the First Report and Order adopted in this docket proceeding is modified to the extent set forth herein.

39. It is further ordered that the petitions for reconsideration of the First Report and Order are granted to the extent set forth herein and otherwise denied.

40. It is further ordered that §§ 21.13, 21.100, 21.502, 21.506, and 21.507 of the Commission's Rules are amended as set forth below, and that § 21.512 is added to the Rules, effective August 5, 1982.

(Secs. 4, 303, 48 stat., as amended 1066, 1082; 47 U.S.C. 154, 303)

[24] DEMS networks will be authorized under Section 214 and Title III of the Act. We will not require, however, that applicants file separate Section 214 applications. The filing of information required to be submitted in a Title III application, when viewed in conjunction with the public interest determination made in this proceeding, will be sufficient to make the necessary determinations under Section 214 and Title III of the Act. The applicants will be required to satisfy the notification requirements set forth in Section 214(b) and § 1.766 of the Commission's Rules.

Federal Communications Commission.
William J. Tricarico,
Secretary.

Appendix

Chapter I, Part 21 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 21—DOMESTIC PUBLIC FIXED RADIO SERVICE

1. The Table of Contents to Part 21 is amended by revising Subpart B and adding Subpart G as follows:

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Subpart B—Applications and Licenses

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Sec.
21.7 Standard application forms for point-to-point microwave radio, local television transmission, multipoint distribution, and digital electronic message services.

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Subpart G—Digital Electronic Message Service

Sec.
21.500 Eligibility.
21.501 Digital termination nodal stations may be authorized only as part of a digital termination system.
21.502 Frequencies.
21.503 Frequency stability.
21.504 Frequency interference.
21.505 Purpose and permissible service.
21.506 Transmitter power.
21.507 Radiated power limitation in the 10 600–10 680 MHz band.
21.508 Emissions and bandwidth.
21.509 Antennas.
21.510 Interconnection.
21.511 Spectrum utilization.
21.512 Limitation on number of nodal stations.

2. Section 21.13 is amended by revising paragraph (f)(1) to read as follows:

§ 21.13 General application requirements.

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(f)(1) Except for applications in the Multipoint Distribution Service and the Digital Electronic Message Service, an applicant shall include a copy of the franchise or other authorization issued by appropriate regulatory authorities, when required by applicable local laws. If no such local requirement exists, or if Commission authority is a prerequisite for such authorization, a statement to this effect shall be included in the application.

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3. Section 21.100 is amended by revising paragraph (d) to read as follows:

§ 21.100 Frequencies.

* * * * *

(d) All applicants for regular authorization in the Point-to-Point Microwave Radio and Local Television Transmission Services shall, before filing an application or major amendment to a pending application, coordinate proposed frequency useage with existing users in the area and other applicants with previously filed applications, whose facilities could affect or be affected by the new proposal in terms of frequency interference or restricted ultimate system capacity. In coordinating frequency usage with stations in the fixed satellite service, applicants shall also comply with the requirements of § 21.706 (c) and (d). In engineering a system or modification thereto, the applicant shall by appropriate studies and analyses select sites, transmitters, antennas and frequencies that will avoid harmful interference to other users. All applicants, permittees and licensees shall cooperate fully and make reasonable efforts to resolve technical problems and conflicts that may inhibit the most effective and efficient use of the radio spectrum; however, the party being coordinated with is not obligated to suggest changes or re-engineer a proposal in cases involving conflicts. Applicants should make every reasonable effort to avoid blocking the growth of systems that are likely to need additional capacity in the foreseeable future. The applicant shall identify in the application all entities with which the technical proposal was coordinated. In the event that technical problems are not resolved or if the existing licensee, permittee or applicant does not respond to coordination efforts within 30 days after notification, an explanation shall be submitted with the application. Where technical problems are resolved by an agreement or operating arrangement between the parties that would require special procedures be taken to reduce the likelihood of harmful interference (such as the use of artificial site shielding) or would result in a reduction of quality or capacity of either system, the details thereof shall be contained in the application. The following guidelines are applicable to the coordination procedure:

(1) Coordination involves two separate elements: notification and response. Both or either may be oral or in written form. To be acceptable for filing, all applications and major technical amendments must certify that coordination, including response, has been completed. The names of the carriers with which coordination was accomplished must be specified.

(2) Notification must include relevant technical details of the proposal. At minimum, this should include, as applicable, the following:

Transmitting station name.
Transmitting station coordinates.
Frequencies and polarizations to be added or changed.
Transmitting equipment type, its stability, actual output power, and emission designator.
Transmitting antenna type of model and, if required, a typical pattern and maximum gain.
Transmitting antenna height above ground level and ground elevation above mean sea level.
Receiving station name.
Receiving station coordinates.
Receiving antenna type and model and, if required, a typical pattern and maximum gain.
Receiving antenna height above ground level and ground elevation above mean sea level.
Path azimuth and distance.

(3) For transmitters employing digital modulation techniques at frequencies below 15 GHz, the notification should clearly identify the type of modulation. Upon request, additional details of the operating characteristics of the equipment shall also be furnished.

(4) Response to notification should be made as quickly as possible, even if no technical problems are anticipated. Every reasonable effort should be made by all carriers to eliminate all problems and conflicts. If no response to notification is received within 30 days, the applicant will be deemed to have made reasonable efforts to coordinate and may file his application without a response.

(5) The 30-day notification period is calculated from the date of receipt by the carrier being notified. If notification is by mail, this date may be ascertained by: (i) The return receipt on certified mail, (ii) the enclosure of a card to be dated and returned by the recipient, or (iii) a conservative estimate of the time required for the mail to reach its destination. In the latter case, the estimated date when the 30-day period would expire should be stated in the notification.

(6) All technical problems that come to light during coordination must be resolved unless a statement is included with the application to the effect that the applicant is unable or unwilling to resolve the conflict and briefly the reason therefor.

(7) Where a number of technical

changes become necessary for a system during the course of coordination, an attempt should be made to minimize the number of separate notifications for these changes. Where the changes are incorporated into a completely revised notice, the items that were changed from the previous notice should be identified.

(8) Where subsequent changes are not numerous or complex, the carrier receiving the changed notification should make an effort to respond in less than 30 days. Where the notifying carrier believes a shorter response time is reasonable and appropriate, it may be helpful for him to so indicate in the notice and perhaps suggest a response date.

(9) If it is determined that a subsequent change could have no impact on some carriers receiving the original notification, it is not necessary to coordinate the change with such carrier. However, these carriers should be advised of the change and the opinion that coordination is not required for said change.

(10) Carriers should supply to all other carriers, or known carrier applicants, within their areas of operations, the name, address and telephone number of their coordination representatives. Upon request from coordinating carriers or applicants, data and information concerning existing or proposed facilities and future growth plans in the area of interest should be furnished unless such request is unreasonable or would impose a significant burden in compilation.

(11) Carriers should keep other carriers with which they are coordinating advised of deletions or changes in plans for facilities previously coordinated. If applications have not been filed 6 months after coordination was completed, carriers may assume, unless notified otherwise, that such frequency use is no longer desired.

* * * * *

4. Section 21.502 is amended by revising paragraph (e)(1) to read as follows:

§ 21.502 Frequencies.

* * * * *

(e) * * *

(1) An Extended network licensee will be assigned one pair of channels from Group A and the corresponding pair of channels from Group B. These channels may be adjacent, if available as such. The channel from Group A will be used for the Digital Termination Nodal Station transmitter and the channel from Group B will be used for Digital Termination User Station transmitter. Each pair of channels if adjacent may be used as a single channel by all Extended network licensees. Extended licensees may choose to comply with technical standards for use of a single 5 MHz channel. Extended network assignments will start with channels 19 and 20 and proceed upward.

* * * * *

5. Section 21.506 is amended by revising paragraphs (a) through (c) and adding paragraph (d) to read as follows:

§ 21.506 Transmitter power.

(a) The output power of a Digital Electronic Message Service nodal transmitter shall not exceed 0.5 watt per 250 kHz. Further, each application shall contain an analysis demonstrating compliance with § 21.107(a).

(b) The output power of a Digital Electronic Message Service user transmitter shall not exceed 0.04 watt per 250 kHz.

(c) The transmitter power in terms of the watts specified in this Section is the peak envelope power of the emission measured at the associated antenna input port.

(d) Operating power shall not exceed the anthorized power my more than ten (10) percent of the authorized power in watts at any time.

6. Section 21.507 is revised to read as follows:

§ 21.507 Radiated power limitation in the 10-600-10-680, MHz band.

The effective isotropic radiated power (EIRP) of stations in the 10 600—10 680 MHz band cannot exceed the following limits: (1) Digital Termination Stations—+40 dBW, (2) Point-to-Point Microwave Stations used for internodal communications—+40 dBW.

7. Section 21.512 is added to read as follows:

§ 21.512 Limitation on number of nodal stations.

The total number of nodal stations authorized in the Digital Electronic Message Service shall be limited to 4000 until April 16, 1986. All applications to provide the Digital Electronic Message Service are subject to this limitation. After this date, the limitations may be revised upon re-evaluation of the demand for Digital Electronic Message Service and technological improvements in digital termination systems and other systems sharing the 10 550—10 680 MHz frequency band.

[FR Doc. 82-18137 Filed 7-2-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 81-773; RM-3871, RM-3913]

TV Broadcast Station in Norwell, New Bedford, and Vineyard Haven, Massachusetts, and Kittery, Maine; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Channel 46 to Norwell, Massachusetts, and Channel 58 to Vineyard Haven, Massachusetts, as first commercial TV channels, in response to requests from Mid-Shore Communications, Inc. and Metrovision, Inc., respectively, and also substitutes UHF TV channels at New Bedford, Massachusetts, and Kittery, Maine.

DATE: Effective August 26, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Phil Cross, Broadcast Bureau, (202) 632-5414.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Adopted: June 17, 1982.

Released: June 24, 1982.

In the matter of amendment of § 73.606(b) Table of Assignments, TV Broadcast Stations, (Norwell, New Bedford, and Vineyard Haven, Massachusetts, and Kittery, Maine); (BC Docket No. 81-773; RM-3871, RM-3913); report and order, (proceeding terminated).

1. The Commission has before it for consideration a Notice of Proposed Rule Making, 46 FR 58716, published December 3, 1981, in response to separate petitions by Mid-Shore Communications, Inc. ("Mid-Shore") and Metrovision, Inc. ("Metrovision").

2. Mid-Shore proposed the assignment of UHF television Channel 46 to Norwell, Massachusetts, and the related substitution of Channel *34 for Channel *47 at New Bedford, Massachusetts, and the substitution of Channel *39 for Channel *34 at Kittery, Maine (RM-3871).

3. Metrovision proposed the assignment of UHF television Channel 19 to Vineyard Haven, Massachusetts (RM-3913).

4. The requests were consolidated in this proceeding because of a short-spacing conflict between the proposals for Vineyard Haven, Massachusetts

(Channel 19), and New Bedford, Massachusetts (Channel *34). To remove the conflict, we proposed the assignment of Channel 58 to Vineyard Haven in lieu of Channel 19.

5. The proposal for Kittery (Channel *39) will require a site restriction of 1.5 kilometers (0.9 miles) northeast of the community. All other assignments can be made in compliance with the minimum distance separation requirements. Canadian concurrence has been obtained.

6. Each of the petitioners filed comments in which it reaffirmed its intention to file for the respective channel, if assigned. Clark F. Smidt filed comments in support of both proposals. No oppositions were filed.

7. Norwell (population not listed in the 1980 U.S. Census) is located in Plymouth County (population 405,437),[1] approximately 37 kilometers (23 miles) southeast of Boston. It has no local television service.

8. Vineyard Haven (population 1,600), in Dukes County (population 8,942), is located on the Island of Martha's Vineyard, approximately 105 kilometers (67 miles) south of Boston. Vineyard Haven also has no local television service.

9. We believe that the public interest would be served by the assignment of Channel 46 to Norwell and Channel 58 to Vineyard Haven in accordance with the proposals. An interest has been shown for their use, and such assignments would provide each of the two communities with a station which could render a first local TV service.

10. Authority for the adoption of the amendments herein is contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.281 and 0.204(b) of the Commission's Rules.

11. Accordingly, it is ordered, That effective August 26, 1982, Section 73.606(b) of the Commission's Rules, the TV Table of Assignments, is amended with regard to the following communities:

City	Channel No.
Kittery, Maine	*39
New Bedford, Massachusetts	6+, 28–, *34

[1] Population figures are taken from the 1980 U.S. Census, Advance Report.

City	Channel No.
Norwell, Massachusetts	46+
Vineyard Haven, Massachusetts	58+

12. It is further ordered, That this proceeding is terminated.

13. For further information concerning the above, contact Phil Cross, Broadcast Bureau, (202) 632–5414.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division Broadcast Bureau

[FR Doc. 82-18140 Filed 7-3-82; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1036

[Ex Parte No. 252 (Sub-No. 5)] [1]

Elimination of Incentive Per Diem Charges; Removal of Rules

AGENCY: Interstate Commerce Commission.

ACTION: Removal of rules.

SUMMARY: The decision in Ex Parte No. 252 (Sub-No. 5), served August 26, 1980 directed that the rules concerning the use of earmarked funds at 49 CFR 1036.3, 1036.4, and 1036.5 shall remain in effect until June 30, 1982. Notice is given of the termination of the regulations on June 30, 1982. Name railroads shall inform the Commission of the disposition of unspent IPD funds.

EFFECTIVE DATES: Rules are terminated on June 30, 1982. Carriers shall file the requested information on or before August 5, 1982.

FOR FURTHER INFORMATION CONTACT:
John J. Sado, (202) 275–7656 or
William T. Bono, (202) 275–7354.

SUPPLEMENTARY INFORMATION: Our August 26, 1980 decision in this proceeding (45 FR 58158, September 8, 1980) eliminated the regulations for the earning of incentive per diem (IPD) on boxcars, XF cars, and gondolas. (49 CFR 1036.1, 1036.2, 1036.6, and 1036.7. The regulations at 49 CFR 1036.3, 1036.4, and 1036.5 for spending those accumulated funds were to remain in effect to June 30, 1982 in order to ensure the orderly and proper expenditure of all remaining IPD funds. Although the rules expire on that date, they provide § 1036.4(f)) that the Commission will investigate any non-expenditure of such funds and take corrective action under 49 U.S.C. 11702 (formerly 49 U.S.C. 10(12)) if warranted. Upon investigation of Commission records submitted by the carriers and informal contact of Commission staff with the carriers, we have determined that the following rail carriers have upspent IPD funds:

1. Chicago West Pullman & Southern.
2. Detroit, Toledo & Ironton.
3. Illinois Terminal (purchased by N&W).
4. Western Maryland.
5. Denver & Rio Grande Western.
6. Lake Superior & Ishpeming.
7. Missouri, Kansas, Texas.
8. Roscoe, Snyder & Pacific.
9. Union Pacific.
10. Canadian National.

In order to bring the IPD program to an orderly termination, carriers shall inform the Commission within 30 days following publication of this decision in the **Federal Register** if they have spent the accumulated IPD funds and, if not, when they shall do so, or whether they seek other relief.

List of Subjects in 49 CFR Part 1036

Railroads.

PART 1036—INCENTIVE PER DIEM CHARGES ON BOXCARS AND GONDOLAS

§§ 1036.3 through 1036.5 [Removed]

Title 49 of the Code of Federal Regulations is amended by removing §§ 1036.3 to 1036.5 in Part 1036—Incentive Per Diem Charges on Boxcars and Gondolas, effective June 30, 1982.

This action will not significantly affect the quality of the human environment or conversation of energy resources.

Decided: June 25, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison. Commissioner Sterrett would limit the notice to an announcement that the expired regulations are being removed from the Code of Federal Regulations. Commissioner Gradison did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-18157 Filed 7-3-82; 8:45 am]

BILLING CODE 7035-01-M

[1] Ex Parte No. 252 (Sub-No. 1), *Incentive Per Diem Charges (1968) and XF Cars*, and Ex Parte No. 252 (Sub-No. 2), *Incentive Per Diem Charges Gondolas*.

Proposed Rules

Federal Register
Vol. 47, No. 129
Tuesday, July 6, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1030

[Docket No. AO-361-A19]

Milk in the Chicago Regional Marketing Area; Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and To Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision recommends lowering the shipping requirements for pool supply plants under the Chicago Regional milk order for the months of September, October, November and December. Conforming changes in the limits on diverted milk are provided for the same months. The decision is based on industry proposals considered at a public hearing held March 30, 1982. The recommended order amendments are necessary to reflect current marketing conditions and to assure orderly marketing in the Chicago Regional area.

DATE: Comments are due on or before July 21, 1982.

ADDRESS: Comments (four copies) should be filed with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, 202/447-7311.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

This action will not have a major economic impact on a substantial number of small entities. The amendments would promote orderly marketing of milk by producers and regulated handlers.

Prior documents in this proceeding:

Notice of Hearing: Issued March 10, 1982; published March 16, 1982 (47 FR 11283).

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Chicago Regional marketing area. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C., 20250, on or before July 21, 1982. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed amendments set forth below are based on the record of a public hearing held at Madison, Wisconsin, on March 30, 1982, pursuant to the notice thereof issued March 10, 1982 (47 FR 11283).

The material issues on the record of the hearing relate to:

1. Pooling standards for supply plants.
2. Need for emergency action.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Pooling standards for supply plants.* The pool supply plant shipping percentages should be reduced 5 percentage points for each of the months of September through December. The new percentages should be 25 percent for September, 30 percent for October and November and 20 percent for December.

The present minimum shipping percentages for pool supply plants are 30 percent for September, 35 percent for October and November, 25 percent for December, and 20 percent for all other months. Also, a supply plant which meets the shipping requirements for pool plant status during each of the months of September through March may continue to be a pool plant without shipments to pool distributing plants during each of the following months of April through August. Basically, the percentages represent the amount of a supply plant's receipts from producers that must be delivered to pool distributing plants.

The order provides also that the Director of the Dairy Division may increase or decrease, on a temporary basis, the supply plant shipping percentages by up to 10 percentage points, for any of the months of September through March if, after investigation, it is found that such revision is necessary to obtain needed shipments or to prevent uneconomic shipments of milk to distributing plants. This provision (§ 1030.7(b)(5)) is referred to herein as the Director's discretionary authority. Similarly, the Director has the authority to make temporary adjustments in the order's diversion allowances. Such allowances represent the amount of milk from producers that may be delivered directly from farms to nonpool plants and still be pooled and priced under the order. Milk that is diverted from pool plants normally is being disposed of in surplus uses.

The Central Milk Producers Cooperative (CMPC), a group of 14 cooperatives representing a substantial proportion of the producers supplying milk to the Chicago Regional market, proposed the reduction of the shipping requirements for pool supply plants by 5 percentage points for each of the months of September, October, November and December. The proponent's witness said that the percentages now provided are too high in relation to present marketing conditions for the Chicago Regional area. The witness said that the shipping requirements for supply plants should be reduced to prevent inefficient movements of milk since a lesser proportion of the available milk supplies at supply plants is needed at distributing plants.

CMPC also proposed in the hearing notice that the supply plant shipping percentages and diversion allowances be temporarily revised pursuant to the Director's discretionary authority in an

amount up to 10 percentage points to prevent uneconomic deliveries of milk to distributing plants. At the hearing, the witness for CMPC said that the organization had decided to delay a request for action under the Director's discretionary authority until mid-summer when the industry would have more specific milk production and sales data for the market. In his view, a better analysis could be made at that time concerning any temporary change.

Farmers Union Milk Marketing Cooperative (FU) supported the first proposal of CMPC. In addition, the FU witness presented two modifications to reduce the shipping requirements for pool supply plants during each of the months of January, February and March. The witness proposed that the shipping requirements for supply plants be eliminated during January, February and March if the supply plant had satisfied the requirements for pool plant status during each of the preceding months of September, October, November and December. The witness said that the modified proposal would further eliminate uneconomic movements of milk from supply plants and promote more orderly marketing conditions in the Chicago Regional market.

The FU witness suggested that an alternative to the complete elimination of shipping requirements during January through March would be to reduce the shipping percentage to 10 percent from the 20 percent now provided. The witness said that this modification would allow the minimum shipping requirement to vary between 0 percent and 20 percent by the use of the Director's discretionary authority. The witness said that the reduction or elimination of shipping requirements in this way would contribute to orderly marketing in the Chicago Regional area by reducing uneconomic shipments of milk.

Two proprietary handlers opposed any reduction in the minimum performance standards for supply plants. Each spokesman said that lowering the requirements would encourage more milk to be pooled under the order. They said that the market presently has adequate supplies of milk and that additional milk is not needed.

A dairy industry consultant proposed that the Director's discretionary authority be eliminated. He said that any adjustment to the supply plant shipping percentages and diversion allowances should be made only after a hearing had been held to consider any such change.

In a post-hearing brief, a spokesman for a trade association of cheese plants supported the CMPC proposal. Also, he urged the elimination of the provision that milk from a farm shall not be eligible for diversion unless during the months of September through March at least one day's production is physically received during the month at the pool plant from which diverted. He said that such elimination would not affect adversely the availability of milk for the fluid market.

In support of lower shipping requirements for supply plants, the CMPC witness said that the proposed adjustments were necessary to prevent uneconomic and inefficient movements of milk. He said that the receipts of milk from producers during each of the months of September through December 1981 exceeded receipts from producers for these same months in 1980 by more than ten percent. To illustrate current marketing problems, the CMPC witness presented a projection of the proportion of supply plant milk expected to be shipped to distributing plants by 49 of the supply plants associated with the CMPC group during the months of September 1982 through March 1983, as follows:

Month/year	Projected shipping percentage	Order's shipping percentage
September 1982	22.2	30
October	24.4	35
November	24.8	35
December	23.4	25
January 1983	22.6	20
February	20.9	20
March	19.2	20

The 1982–83 estimated figures were based on the assumption that receipts of producer milk would continue to increase during the coming September-March 1982–83 period by 3 to 5 percent over the receipts for each of the respective months of the previous year. Class I sales were estimated to be the same for each month during the 1982–83 period as the sales had been for the respective months in the 1981–82 period. The witness said that the proposed reduction in the shipping percentages for supply plants for the September through December period was needed to eliminate uneconomic movements of milk for the sole purpose of qualifying supply plants for pool status.

The Farmers Union witness supported the reduction in the supply plant shipping requirements by five percentage points for each of the months of September, October, November and December. The witness said that the proposed reduction for each month was needed to reduce shipments of milk from supply plants to distributing plants when such shipments were not needed to insure an adequate supply of fluid milk for the market. He noted that from 1976 to 1981 the average monthly quantity of pooled producer milk had increased from 814 million pounds to 1,041 million pounds, an increase of 227 million pounds per month. He said that the Class I use had declined from a monthly average in 1976 of 259 million pounds to a 1981 monthly average of 246 million pounds. The witness said that the monthly average Class I use as a percentage of total pool milk had declined from 32 percent in 1976 to 24 percent in 1981. The witness projected that the continued increases in milk production in 1982, coupled with no indication of improved Class I sales, would cause a further decline in the Class I utilization percentage of total milk receipts in 1982.

The FU witness testified that over the past four years the shipping percentages for supply plants had been reduced temporarily by the Director's discretionary authority in at least two months each year during the September through December period. He noted that under the revisions the shipping requirements for September, October and November in both 1980 and 1981 were not greater than those proposed at this hearing. He said that the shipping requirements for September-November 1981 were, in fact, lower than the percentages proposed by CMPC. He urged that the proposal to reduce the shipping requirements for the September-December period be adopted.

At the hearing, the Farmers Union representative proposed a modification of the supply plant shipping performance standards for the months of January through March. The proposal was not contained in the hearing notice, and it was presented as an appropriate modification of the CMPC proposal. The witness proposed that if a supply plant had been a pool plant during each of the preceding months of September through December, it could be a pool plant for each of the following months of January through August without shipping milk to distributing plants. This modification would eliminate any minimum shipping requirements during January, February and March for supply plants if the plants had been pool plants during the preceding September through December period. This proposed change in the order would extend the current zero shipping standards for qualified supply plants from the months of April through August to a period of January through August each year.

The FU witness said that the proposal would eliminate additional uneconomic

movements of milk from supply plants. He said that the proposal would reinstate the shipping performance standards for supply plants for January, February and March which prevailed prior to 1974. He said that from the order's inception in July 1968 to 1974 zero shipping requirements were applicable during these months to plants satisfying the shipping requirements during the previous fall months. He testified that the 20 percent shipping requirement for the January-March period was unnecessary with a larger volume of milk in the pool and lower Class I use. In his view, reducing the uneconomic movement of milk would promote more orderly marketing conditions for the Chicago Regional area.

The Farmers Union witness presented an alternative modification of the supply plant shipping percentages for January, February and March. He said that if the shipping percentages were not eliminated for these months, the minimum shipping percentages for each month should be reduced to 10 percent from 20 percent. He testified that with a 10 percent minimum shipping requirement, the Director of the Dairy Division could use his discretionary authority to reduce the shipping percentage to zero or to increase the minimum percentage to 20 percent, if needed. He indicated, however, that the minimum shipping requirements for January, February and March could safely be eliminated without jeopardizing the availability of milk for Class I use by handlers.

In a post-hearing brief, a proprietary handler regulated by the Chicago Regional order supported the CMPC proposal to reduce by 5 percentage points the minimum shipping percentages for pool supply plants for each of the months of September through December. He opposed any revision of the shipping percentages for the months of January, February and March. He said that if the minimum percentages for these three months were reduced to zero, there would be no shipping requirements for eight months each year. He said that this lack of shipping requirements would create problems for a Class I handler in obtaining milk at a reasonable plant charge in the months of January, February and March. He said that the Director of the Dairy Division could increase or decrease the shipping percentages by up to 10 percentage points. He thus believed that no change need be made in the minimum shipping performance standards for January, February and March as proposed by Farmers Union.

The present shipping percentages for supply plants were established on the basis of a public hearing in June 1975. Changes in marketing conditions since that time have resulted in these shipping percentages no longer being appropriate for the market.

Total producer milk pooled in the Chicago Regional market has increased each month over the same month of the previous year since May 1979. Prior to that, there have been only four months since the June 1975 hearing in which total producer milk receipts were less than the same month of the previous year. These months were December 1977, July and August 1978 and April 1979.

For the four-month periods of September through December from 1975 to 1981, the average total milk pooled monthly increased each year over the average total of the previous year by 8.7 percent in 1976, 2.0 percent in 1977, 1.1 percent in 1978, 8.1 percent in 1979, 7.5 percent in 1980 and 10.7 percent in 1981.

For the Chicago Regional market, the proportion of total producer milk received at supply plants was 85.0 percent, 89.4 percent, 91.4 percent, 95.9 percent, 96.3 percent and 96.6 percent, respectively, for the September–December periods of 1976 through 1981.

The proportion of producer milk received at pool supply plants that was shipped to pool distributing plants was 32.9 percent, 38.7 percent, 36.9 percent, 35.1 percent, 33.9 percent, and 29.4 percent, respectively, for the September–December periods of 1976–1981.

The percent of total producer milk receipts classified as Class I for the years of 1975–1981 was 36 percent, 32 percent, 31 percent, 30 percent, 28 percent, 26 percent and 24 percent, respectively. A comparison of the average Class I utilization of producer receipts for the 1975–81 September–December periods showed a similar downward trend: 39.8 percent, 35.1 percent, 34.5 percent, 33.1 percent, 30.2 percent, 28.3 percent, and 25.2 percent, respectively.

The market data establish that during the past six years total producer milk receipts have grown each year, and at an increasing rate since 1976. The Class I utilization percentage of total receipts of producer milk has shown a steady decline since 1975. Also, the market data establish that the percentage of total milk received at distributing plants directly from farms decreased from 15 percent in the September–December 1976 period to less than 4 percent in the 1981 September–December period. Supply plants now account for 96 percent of the milk in the market that is received from producers. Also, a smaller percentage of the milk that is received at pool supply plants is now needed to satisfy the needs of distributing plants in the market during the September–December periods.

Changes in the market's supply situation have resulted in a number of adjustments in recent years to the pooling standards for supply plants. On the basis of a hearing in June 1975, shipping percentages for supply plants were decreased to the current performance levels for the August–March period. On the basis of a hearing in June 1976, with the amended order effective on August 1, 1977, August was eliminated as part of the qualifying period and the shipping requirements of individual supply plants qualifying in a unit were also eliminated. Subsequently, from August 1977, the supply plant shipping requirements were decreased in 15 months by the Director's discretionary authority: 5 percentage points in November 1977, October and November 1978, October and November 1979, September, October and November 1980, December 1981, January, February and March 1982: 7.5 percentage points in September 1981; and 10 percentage points in October and November 1981.

Shipping standards for supply plants have been used in the Chicago Regional market to assure the availability of milk for distributing plants. Although adequate milk supplies for Class I use are pooled under the order, there would be no incentive under the present Chicago Regional order for supply plants to ship milk to bottling plants in the market without performance standards to encourage such shipments. Performance standards based on association of pooled milk supplies with fluid milk outlets in the market have been needed to assure that milk is made available to such outlets. Nevertheless, such standards for supply plants have had to be adjusted as marketing conditions have changed in the Chicago Regional area. The Director's discretionary authority has been used within its limits to reflect changed marketing conditions, with most adjustments occurring in the September through December period. In October and November 1981, the full authority for a 10 percentage point change was used. The evidence presented at the hearing indicated that marketing conditions have changed from those conditions that existed in 1976, and that amendatory action is needed concerning

the supply plant shipping standards for the September through December period.

Failure to lower the supply plant shipping standards when increased supplies of milk are available on the market could result in disorderly marketing conditions. Supply plant operators could be expected to take whatever actions might be necessary to keep the milk normally associated with the market pooled under the order. Actions might include, for example, intensive efforts to seek outlets in other markets to which qualifying shipments from supply plants could be made. Also, handlers might seek access to outlets, both within and outside the Chicago area, by offering marketing services at less than actual cost. These various efforts to maintain fluid milk outlets can result in disruptions in the normal supply patterns for plants and producers. Such disruptions are not in keeping with the intent of the order to foster orderly marketing.

With the changes in the pooling standards, it is desirable that conforming changes be made in the limits on the amount of milk that may be diverted from pool plants to nonpool plants. The current provisions limit the diversions by handlers to nonpool plants to not more than 65 percent during the months of September, October and November, and 80 percent during the months of December through March, of the total quantity of producer milk of each handler.

The witness for the proponent cooperatives testified that with a reduction in the supply plant shipping percentages, a corresponding change in the diversion limits would be appropriate.

The maximum percentage for diversion limits for September, October and November should be increased by 5 percentage points, so that the limit would by 70 percent of the total quantity of producer milk reported by each handler. It is noted that the previous combination of the supply plant shipping percentage and the diversion limit for the month of September totaled 95 percent. This same total would be kept under the provisions adopted in this decision since there were no suggestions at the hearing to change this relationship and no evidence of any problems associated with this matter.

The proposals to reduce or eliminate the shipping requirements for supply plants during the months of January, February and March should not be adopted. Although adequate milk supplies for Class I use are pooled under the order, there would be no incentive under the order for supply plants to ship milk to bottling plants in the market without performance standards to encourage such shipments. Performance standards based on the association of pooled milk supplies with fluid milk outlets in the market are needed to assure that milk is made available to such outlets.

The witness for Farmers Union urged that the shipping percentages for January, February and March be eliminated or reduced for all supply plants that had been pool supply plants during the preceding September through December period. The current 20 percent shipping percentage for each month of January, February and March is the lowest shipping requirement under the order. Since August 1977, the supply plant shipping requirements were decreased in only three months during the January through March periods by the Director's discretionary authority, i.e., 5 percentage points in January, February and March 1982. There is no persuasive evidence in the record that the marketing conditions in the Chicago Regional market have changed sufficiently to require a lowering of the 20 percent standard for the months of January, February and March. The Director's discretionary authority remains available for use, if needed, to reflect any changed marketing conditions. The proposals to have zero or reduced shipping standards for pool supply plants in the months of January, February and March are denied.

In a post-hearing brief, a spokesman for a trade association of cheese plants in Wisconsin and Illinois supported the CMPC reduction in the supply plant shipping requirements and an increase in the diversion percentages to reflect the marketing conditions of the Chicago Regional market. Also, he urged the elimination of the order requirement that milk from a farm shall not be eligible for diversion unless, during the months of September through March, at least one day's production is physically received during the month at the pool plant from which diverted. He said in the brief that the one-day-a-month shipment during September through March is unnecessary. In his view, the present provision causes uneconomic movements of milk. He said that the elimination of such requirement would not affect adversely the availability of milk for the fluid market.

The one-day-a-month delivery requirement for milk from producers during the months of September through March was not a proposal that was included in the notice for this hearing or discussed as an appropriate modification of the proposals that had been included in the hearing notice. Therefore, it would be inappropriate in this decision to propose any changes with the above requirement. Accordingly, the proposal is denied.

Two witnesses for proprietary handlers objected to the adoption of any reduction in performance standards for supply plants. One proprietary handler testified on behalf of himself and three other handlers. He said that the proposed lower shipping requirements would allow more milk to enter the pool and would lower the blend price paid to producers in the market. He said that the marketing problems being considered at the hearing were due to increasing milk production and decreasing consumption of milk products. He said that the proposal would encourage an even greater level of production in the Chicago market and further increase what he perceived to be an oversupply of milk.

A second handler testified that lowering the shipping standards would add more milk to the market and lower the blend price paid to producers. He was concerned that he would have less milk available for his business if the lower shipping percentages were adopted.

The testimony of each of these witnesses related to their perception of an oversupply of milk for the Chicago Regional market and for the nation. They said that additional milk would be pooled on the market if the shipping percentages were reduced for supply plants, which they said in turn would lower the blend price paid to producers. Neither witness, however, offered any information to establish how the additional milk would materialize. The evidence in the hearing record does not reveal any large quantity of fluid-grade milk in the area that is not already associated with the Chicago Regional market.

The adopted reduction in the shipping percentages for pool supply plants during the September–December period would provide for the continuation of reasonable performance standards in the Chicago Regional market. The reduced standards would permit those producers who have shown their association with the market to maintain their identity to share in the marketwide proceeds of this market as it is presently constituted. The evidence in the hearing record does not reveal that the availability of milk for Class I use by handlers would be jeopardized if the shipping percentages are reduced. The adopted minimum shipping percentages are reasonable and appropriate.

No action should be taken concerning the revision of the supply plant shipping

percentages pursuant to § 1030.7(b)(5) at this time. The hearing notice contained a proposal to revise the supply plant shipping percentages and diversion allowances pursuant to § 1030.7(b)(5) in an amount up to 10 percentage points to prevent uneconomic shipments. The current order provisions authorize the Director of the Dairy Division to increase or decrease the supply plant shipping percentages and diversion allowances by up to 10 percentage points if it is found that such revision is necessary to obtain needed shipments or to prevent uneconomic shipments.

At the hearing, the CMPC witness stated that the proponent organization had decided to delay its request for any action under § 1030.7(b)(5) until mid-summer. The witness stated that more substantive projections of anticipated receipts of producer milk and anticipated Class I sales could be made and his group would assess the needed temporary use of § 1030.7(b)(5) at that time.

At the hearing and in his post-hearing brief, a dairy industry consultant said, in connection with the proposal, that the Director of the Dairy Division had acted in an irresponsible manner in reducing the shipping percentages in the past and had abused his authority under the order. The witness said that the reduction of uneconomic shipments of milk was not the only reason for lowering the shipping percentages. He claimed that the lower percentages had created a tight market for Class I milk which permitted CMPC to strengthen its over-order prices to handlers. The witness indicated that the Director's discretionary provision had been used 22 times since it was adopted and that only once had the provision been used to increase the shipping percentages. He said also that with approximately one billion pounds of milk in the order that it was unbelievable that any provisions would be in the order that would extend to the Director of the Dairy Division the authority to lower or raise the shipping percentage by up to 10 percentage points and, in effect, control 100 million pounds of milk. The consultant said that such discretionary authority was contrary to the public interest and was unnecessary for the orderly marketing of milk. He proposed that the supply plant shipping percentages and diversion allowances be adjusted by the Department only after a public hearing. He said that any hearing could be held after a three-day notice. The witness, in effect, proposed to eliminate the Director's discretionary authority.

The Director's discretionary authority was included in the order at the time of its promulgation on July 1, 1968, and has remained essentially unchanged since that time. The order is quite explicit on what the Director must do before he may make any revision in the shipping percentages. The Director must issue a notice stating that revision is being considered and invite data, views and arguments on such proposed revision. Only after analysis of all available information may the Director make findings and conclusions. For each month that the Director has revised the supply plant shipping requirements since the inception of the order, the Director of the Dairy Division has followed the procedure prescribed by the order.

Since January 1975, the Director has determined that the marketing conditions in the Chicago Regional market have required a revision in the shipping percentages for 18 months. The hearing record provides no factual basis for the view that the lowering of the shipping standards had tightened the availability of milk to distributing plants for Class I use. The judicious use of the Director's discretionary authority has made the provision an effective tool in helping to maintain the orderly marketing conditions found in the Chicago Regional market. The proposal to eliminate such authority is contrary to promoting orderly marketing conditions and is denied.

2. *Need for emergency action.* There is no need to omit the issuance of a recommended decision as requested.

The request for emergency action by proponents was based on the view that the Department would not have sufficient time after the hearing to issue both a recommended and final decision and make any action taken effective by September 1, 1982.

Interested parties should have an opportunity to file exceptions to the findings and conclusions contained herein. It now appears feasible, and with a reasonable time for exceptions, to issue a final order by September 1. Even if such action does not become effective by this date, an alternate means of adjusting the supply plant shipping percentages is available upon request to and action by the Director of the Dairy Division.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

List of Subjects in 7 CFR Part 1030

Milk marketing orders, Milk, Dairy products.

Recommended Marketing Agreement and Order Amending the Order

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Chicago Regional marketing area is recommended as the detailed and appropriate means by which the

foregoing conclusions may be carried out:

PART 1030—MILK IN THE CHICAGO REGIONAL MARKETING AREA

— 1. Section 1030.7(b) is revised to read as follows:

§ 1030.7 Pool plant.

* * * * *

(b) A supply plant or unit of supply plants described in paragraph (b)(6) of this section from which the quantity of fluid milk products (except filled milk) and condensed skim milk shipped or transshipped and physically unloaded into plants described in paragraph (b)(2) of this section as a percent of the Grade A milk received at the plant(s) from dairy farmers (except dairy farmers described in § 1030.12(b)) and handlers described in § 1030.9(c), including producer milk diverted pursuant to § 1030.13 but excluding packaged fluid milk products that are disposed of from such plant(s) as route disposition, is not less than 25 percent for September, 30 percent for each of the months of October and November, and 20 percent for all other months, subject to the following additional conditions:

* * * * *

2. Section 1030.13(d)(3) is revised to read as follows:

§ 1030.13 Producer milk.

* * * * *

(d) * * *

(3) Milk diverted to a nonpool plant(s) for the account of the operator of a pool plant, or a handler described in § 1030.9(b), may not exceed 70 percent during the months of September, October, and November, and 80 percent during the months of December through March of the total quantity of producer milk for which it is the handler (or, in the case of a cooperative the producer milk that the cooperative association causes to be delivered to or diverted from pool plants) subject to temporary revision of the specified percentages pursuant to § 1030.7(b)(5);

* * * * *

Signed at Washington, D.C., on June 30, 1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-18215 Filed 7-2-82; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket No. PRM-50-33]

National Emergency Management Association; Filing of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Receipt of Petition for Rulemaking from the National Emergency Management Association.

SUMMARY: The Commission is publishing for public comment this notice of receipt of a petition for rulemaking dated March 17, 1982, which was filed with the Commission by the National Emergency Management Association. The petition, which has been assigned Docket No. PRM-50-33, requests that the Commission amend its regulations in 10 CFR Part 50 to reduce the frequency of emergency training exercises at nuclear power plants involving state and local government.

DATE: Comment period expires September 7, 1982.

ADDRESSES: A copy of the petition for rulemaking is available for public inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, DC. A copy of the petition may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

All persons who desire to submit written comments concerning the petition for rulemaking should send their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT: John D. Philips, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492-7086 or Toll Free: 800-368-5642.

SUPPLEMENTARY INFORMATION: The petitioner states that the National Emergency Management Association (NEMA), which is comprised of directors of state emergency services programs, believes that the current requirement for an annual exercise, at each nuclear power plant site within a state is imposing an impossible burden on state resources.

The petitioner requests that 10 CFR Part 50, Appendix E, section IV.F.1. be revised to read as follows:

"1. Each licensee at each site shall exercise annually its onsite emergency plan to test as much of the licensee emergency plan as is reasonably achievable.[1]

The licensee exercises shall include participation by offsite agencies at the following frequencies:

a. at least once every two years with full participation [2] by local agencies and with at least partial participation [3] by States within the plume exposure EPZ.

b. at least once every 7 years with full participation by local agencies within the plume exposure EPZ and full participation by States within the plume exposure and ingestion EPZs.

b.1. these exercises shall be more frequent than once every 7 years as necessary to enable full participation in an exercise by each State within a plume exposure pathway EPZ at least once every two years.

In support of its proposed amendments to 10 CFR Part 50 the petitioner states that NEMA acknowledges the need for appropriate plans, training, drills, and exercises to prepare for accidents but feels that the requirement for an annual full-scale exercise is placing a financial burden on state and local governments that they will be unable to carry on a continuing basis.

Dated at Washington, DC this 30th day of June 1982.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 82-18228 Filed 7-2-82; 8:45 am]

BILLING CODE 7590-01-M

[1] Site specific simulators may be used in lieu of the control room for exercises which do not require offsite authority participation. Use of site specific simulators during joint exercises for the purpose of generating displays in the TSC and EOF is acceptable provided appropriate measures are taken to assure the reliability and availability of the TSC and EOF equipment should an actual event occur during such use.

[2] "Full participation" when used in conjunction with emergency preparedness exercises means all involved offsite agencies shall physically and actively take part in the exercise to test all major elements of the integrated plans.

[3] "Partial participation" when used in conjunction with emergency preparedness exercises means involved offsite agencies shall actively take part in the exercise at least enough to test direction and control functions. "Direction and control functions" means that the participant shall demonstrate a) at least protective action decisionmaking, and b) communications capabilities among affected State agencies, local agencies and the affected licensee.

FEDERAL RESERVE SYSTEM

12 CFR Part 220

[Docket No. R-0389]

Credit by Brokers and Dealers; Extension of Comment Period for Revised Regulation T

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed revision of Regulation T; extension of comment period.

SUMMARY: On March 24, 1982, the Board proposed for public comment a completely revised and simplified Regulation T, credit by brokers and dealers (see 47 FR 13376, March 30, 1982). At the request of a significant number of interested parties the Board of Governors of the Federal Reserve System has extended from June 25, 1982 to July 26, 1982 the period for receipt of public comment on the revised Regulation T.

DATE: Comments must be received on or before July 26, 1982.

ADDRESSES: Comments, which should refer to Docket No. R-0389, may be mailed to the Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, D.C. 20551 or delivered to Room B-2223 between 8:45 a.m. and 5:15 p.m. Comments received may also be inspected at Room B-1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 261.6(a) of the Board's Rule Regarding Availability of Information (12 CFR 261.6(a)).

FOR FURTHER INFORMATION CONTACT: At the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, contact: Laura Homer, Securities Credit Officer or John Kelly, Attorney, Division of Banking Supervision and Regulation (202) 452-2781, or Robert Rewald, Economist, Division of Research and Statistics (202) 452-3637. At the Federal Reserve Bank of New York, contact: Mindy Silverman, Assistant Counsel, (212) 791-5032 or James McNeil, Chief, Regulations Division, (212) 791-5914.

List of Subjects in 12 CFR Part 220

Banks, Banking, Brokers, Credit, Investments, Margin, Margin requirements, Reporting requirements, Securities.

Accordingly, pursuant to sections 3, 7, 8 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78c, g, h and w) the Board proposes to extend the comment period on the completely revised Regulation T.

By order of the Board of Governors, acting through its Secretary under delegated authority, June 29, 1982.

William G. Wiles,

Secretary of the Board.

[FR Doc. 82-18130 Filed 7-2-82; 8:45 am]

BILLING CODE 6210-01-M

14 CFR Part 39

[Docket No. 82-NM-38-AD]

Airworthiness Directives: McDonnell Douglas Model DC-10 Series Airplanes With Operable Galley Lifts

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes a new Airworthiness Directive (AD) that would require modification of the galley lift electrical interlock system on McDonnell Douglas Model DC-10 Series airplanes. The modification would consist of installation of hermetically sealed switches, structural protection of the switch installation, replacement of the existing plunger type electrical interlock switch actuators with leaf spring actuators, and installation of additional warning placards. This AD is needed to assure reliable operation of the galley lift system's electrical interlocks, thus minimizing a potential operational hazard to personnel associated with galley lift electrical interlock system malfunctions.

DATES: September 7, 1982. All affected aircraft must be in compliance with the provisions of the AD no later than April 15, 1983.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). This information also may be examined at FAA Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington 98168, or 4344 Donald Douglas Drive, Long Beach California 90808.

FOR FURTHER INFORMATION CONTACT: Gilbert L. Thompson, Aerospace Engineer, Systems and Equipment Branch, ANM-130L, Federal Aviation Administration, Northwest Mountain Region, Los Angeles Area Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548-2831.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 82-NM-38-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion: On September 19, 1981, a flight attendant, while executing her duties in the lower galley of a DC-10-30 aircraft enroute from Baltimore-Washington International Airport, U.S.A. to Gatwick International Airport, U.K., became trapped between the top of the service cart in the galley personnel lift and the ceiling of the lower galley and as a result sustained fatal injuries. In response to this incident, the FAA has conducted an extensive investigation into the total operational history of the DC-10 galley lift systems. In giving this investigation the greatest breadth possible, data relative to galley lift system operational performance was obtained from numerous sources: FAA Service Difficulty Reports, National Transportation Safety Board (NTSB) Reports, the manufacturer, the Association of Flight Attendants, previously submitted testimony, and actual field inspections. The FAA has learned, from collation of the data obtained, that several factors are contributing to the safety hazards associated with operation of the DC-10 galley lifts. These factors include elements of human factors, maintenance, and system design, each of which contributes to the overall system safety problem.

In the area of human factors, flight attendant knowledge of, and operator training procedures for, operation of the

DC–10 galley lift systems vary considerably. This results in some flight crews being well educated concerning galley lift operating procedures and safety factors, including electrical and mechanical interlocks, while others understand no more than the basic rudiments of normal operation. In contrast, crew members are instructed on how to override the interlock systems when malfunctions occur so that the passenger service does not suffer any interruption. Also, although the Minimum Equipment List disallows the use of galley cart/personnel lifts if the door electrical interlock switch system is inoperative, many operators have dispatched regularly using lifts with these switches inoperative. The lack of knowledge concerning proper use of the safety features provided in the DC–10 lift systems design, and the negative training resulting from intentional circumvention of these provisions, have a definite effect upon the occurrence of injuries sustained from the use of these lift systems. To help alleviate this problem, the McDonnell Douglas Corporation has initiated revisions to the DC–10 Flight Crew Operating Manual, Volume III, designed to provide DC–10 operators and their flight crews the pertinent descriptions and operating instructions for proper use of the galley lift systems. This revision, which consists of the addition of Chapter 01–35–01, was published May 1, 1982.

In investigating lift system problems involving maintenance and design related factors, fifteen incidents/accidents related to DC–10 cart/personnel lift malfunctions dating back to August 1973 were evaluated. One third of these cases involved malfunction of the electrical interlock switches due to foreign substance contamination or physical damage. In contrast, the lift system's control logic, including the STOP function logic, was evaluated and not found to be a causal factor in any of the fifteen cases. This evaluation was conducted to assess the validity of proposing that the STOP function be given priority over all other control functions. Due to the absence of a causal relationship, the proposed design changes do not involve modifications to the control logic. However, it is recognized that those accidents involving a failure of an interlock switch would not have occurred if the stop command logic had priority over all other control functions and was used at the time of the accident. Interested parties are encouraged to comment on the merit of this conclusion and provide additional data commensurate with such comments. Anyone knowledgeable of a control logic modification which will provide a priority override feature at each lift control station is further encouraged to submit design details of such as part of their reply. In pursuing the sources of contamination and physical damage, it was found that the switch location makes the switch susceptible to contamination from spillage of fluids in the galley area, cleaning fluids, etc. This can result in internal failure of the non-hermetically sealed switches, as well as contamination of the switch plunger actuator in such a manner as to prevent proper switch operation. In addition, the electrical interlock switch installations and door mechanical interlocks are being damaged by serving carts striking the lift center door jamb post and lift doors. Serving cart impact damage to the door jamb center post can cause distortion of the electrical interlock switch body (housing) and/or switch bracketry which may result in unreliable switch operation. Serving cart impact damage to galley lift doors can distort or "spring" the door sufficiently to impair mechanical interlock operation. Door damage also can cause misalignment of the door/interlock switch position to such a degree that the door, when closed, will not depress the interlock switch plunger actuator sufficiently to enable normal lift operation. This condition has induced the flight attendants to operate the lifts with the door open and interlock switches bypassed to facilitate passenger meal service.

To improve reliability of the electrical interlock switches and provide protection from physical damage, this proposed AD would result in design changes to the galley lift interlock system encompassing hermetically sealed switches and structural protection of the switch installation. In addition, the plunger design for mechanical actuation of the electrical interlock switches would be eliminated in favor of a more reliable leaf spring design. These proposed modifications would provide for reliable operation of the lift system's electrical interlocks and when coupled with the enhanced maintenance surveillance outlined in FAA Order 8340.1A, Change 55, dated October 30, 1981, and DC–10 Maintenance Review Board Documents as revised November 1981, Item 253600, should minimize the occurrence of galley lift electrical interlock system malfunctions. The date of April 15, 1983, is proposed by which all affected aircraft must be in compliance with the provisions of the AD, considering the availability of parts and consistent with the associated impact upon operational safety.

It is estimated that 119 U.S. registered airplanes would be affected by this AD, that it would take approximately 13.0 man-hours per airplane to accomplish the required actions, and that the average labor costs would be $35 per man-hour. The actual costs of modification parts are estimated to be $6,000 per aircraft. Based on these figures, the total cost impact of this AD on the U.S. fleet is estimated to be $768,145. No small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC–10–10,– 10F, –15, –30, and –30F series airplanes with operable galley lifts, certificated in all categories. Compliance required by April 15, 1983, unless already accomplished. To minimize the potential operational hazard to personnel associated with galley lift electrical interlock system malfunctions, accomplish the following:

A. Replace the galley lift system electrical interlock switches with hermetically sealed switches as outlined in the Accomplishment Instructions of McDonnell Douglas DC–10 Service Bulletin 25–266, dated July 23, 1979, or later revisions approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Mountain Region.

B. Replace the plunger type interlock switch actuators with leaf spring actuators, install structural protection for the interlock switches, and install additional warning placards as outlined in the Accomplishment Instructions of McDonnell Douglas DC–10 Service Bulletin 25–307, original issue, or later revisions approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Mountain Region.

C. Alternate means of compliance with this AD which provide an equivalent level of safety may be used when approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Mountain Region.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this proposal who have not already received these documents from the manufacturer may obtain copies upon request to the McDonnell Douglas

Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1–750 (54–60).

These documents also may be examined at FAA Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington 98188, or 4344 Donald Douglas Drive, Long Beach, California 90808.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

Note.—For the reasons discussed earlier in the preamble: the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have significant economic impact on a substantial number of small entities. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Seattle, Washington on June 24, 1982.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 82–17079 Filed 7–3–82; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket Number 81–NW–58–AD]

Airworthiness Directive; Boeing Model 727 and 737 Series Airplanes.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking: extension of comment period.

SUMMARY: This Document further extends the comment period for a Notice of Proposed Rulemaking issued on March 22, 1982 (47 FR 12186). That NPRM proposed the installation of a positive cockpit system to indicate normal and unwanted engine starter operation.

DATES: The comment period for this NPRM is hereby extended from May 31, 1982, to July 31, 1982.

ADDRESSES: Submit written comments on the proposed rule in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket, Docket No. 81–NW–58–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin Mullin, Propulsion Branch, ANM–140S, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, 9010 E. Marginal Way South, Seattle, Washington, telephone: (206) 767–2520.

SUPPLEMENTARY INFORMATION: Notice of Proposed Rulemaking (NPRM), Docket Number 81–NW–58–AD, was published in the Federal Register on March 22, 1982 (47 FR 12186). The proposed rule would require the installation of a cockpit system that would provide a positive indication of the normal and unwanted operation of the engine starters. This action is necessary to alert flight crews of unwanted starter operation so that they might take action before the starter is destroyed and damages other equipment or aircraft structure.

The original comment period is extended from May 31, 1982, to July 31, 1982, at the request of the Air Transport Association (ATA) in their Telex of May 19, 1982. The purpose of the request is to allow the ATA member airlines time to thoroughly analyze the available service difficulty information and present detailed comments relating to the NPRM and possible alternate methods of achieving an equivalent level of safety.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Since it has been determined that an extension of the comment period would be in the public interest in that a greater number of possible alternate solutions can be explored, the comment period for this NPRM is hereby extended until July 31, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

Note.—Since this action merely extends the time period for public comment on a Notice of Proposed Rulemaking and imposes no additional burden on any person, it may be made effective in less than 30 days. It is neither a proposed nor final rule and, therefore, is not subject to Executive Order 12291, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (47 FR 11031; February 26, 1979).

Issued in Seattle, Washington on June 21, 1982.

Robert O. Brown,

Acting Director, Northwest Mountain Region.

[FR Doc. 82–17080 Filed 7–3–82; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 82–AGL–14]

Proposed Alteration of Transition Area; Illinois

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate an additional amount of airspace northeast of the airport determined to be necessary to contain the existing Salem-Leckrone NDB Runway 18, Amendment 7, Standard Instrument Approach Procedure (SIAP).

The intended effect of this action is to insure segregation of the aircraft using approach procedures in instrument weather conditions from other aircraft operating under visual weather conditions.

DATE: Comments must be received on or before August 2, 1982.

ADDRESS: Send comments on the proposal in triplicate to FAA Office of Regional Counsel, AGL–7, Attention: Rules Docket Clerk, Docket No. 82–AGL–14, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

An informal docket will also be available for examination during normal business hours in the Airspace, Procedures, and Automation Branch, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL–530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694–7360.

SUPPLEMENTARY INFORMATION: The development of the proposed procedure requires that the FAA alter the designated airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitudes for this procedure may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts will reflect the defined areas which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82–AGL–14." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerened with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426–8058.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2, which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area airspace near Salem, Illinois.

Section 71.181 of Part 71 of the Federal Aviation Regulations was published in Advisory Circular AC 70–3 dated January 29, 1982.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Salem, Illinois

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Salem-Leckrone Airport (latitude 38°38'45" N., longitude 88°57'45" W.); and within 4.2 miles each side of the 007° T bearing from Salem-Leckrone Airport, extending from the 5-mile radius area to 8.5 miles north of the airport.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It is certified that this—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria or the Regulatory Flexibility Act.

Issued in Des Plaines, Illinois, on June 16, 1982.

Monte R. Belger,

Acting Director, Great Lakes Region.

[FR Doc. 82-17988 Filed 7-2-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ACE-08]

Transition Area; Webster City, Iowa; Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to alter the 700-foot transition area at Webster City, Iowa, by adding an extension to the transition area northwest of the Webster City Municipal Airport. This alteration will provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Webster City Municipal Airport utilizing the Fort Dodge, Iowa, VOR as a navigational aid.

DATE: Comments must be received on or before August 13, 1982.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE–530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the supplemental proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before the closing date for comments will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this supplemental NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374–3408.

Communications must identify the notice number of this supplemental NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

In an NPRM published in the Federal Register on April 1, 1982 (47 FR 13835), the FAA proposed an amendment to Subpart G, § 71.181, of the Federal Aviation Regulations (14 CFR 71.181) by altering the 700-foot transition area at Webster City, Iowa. To enhance airport usage, an additional instrument approach procedure to the Webster City, Iowa, Municipal Airport is being established utilizing the Fort Dodge, Iowa, VOR as a navigational aid.

Subsequent to publication of the NPRM, the FAA has determined that the airspace set forth in the proposed Webster City transition area alteration description must be further altered. This is necessary because the approach procedure has been modified which, in turn, requires additional airspace in the form of an extension northwest of the airport.

The establishment of a new instrument approach procedure, based on this navigational aid, entails alteration of the transition area at Webster City, Iowa, at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposed to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71), by altering the following transition area:

Webster City, Iowa

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Webster City Municipal Airport (Latitude 42° 26′ 15″N, Longitude 93° 52′ 10″W) and 4½ miles each side of the FOD 112°R extending from the 6-mile radius area to 7 miles northwest of the airport.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65).

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Missouri, on June 23, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82-18126 Filed 7-2-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-AGL-12]

Proposed Designation of Transition Area; Michigan

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to designate a new controlled airspace area near Frankfort, Michigan, to accommodate a new instrument approach into Frankfort City-County Airport, Frankfort, Michigan, established on the basis of a request from the Frankfort Airport officials to provide that facility with instrument approach capability.

The intended effect of this action is to insure segregation of the aircraft using approach procedures in instrument weather conditons from other aircraft operating under visual weather conditions.

DATE: Comments must be received on or before August 2, 1982.

ADDRESS: Send comments on the proposal in triplicate to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 82-AGL-12, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

An informal docket will also be available for examination during normal business hours in the Airspace, Procedures, and Automation Branch, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois, 60018.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace in this area will be lowered from 1200′ above ground to 700′ above ground. The development of the proposed instrument procedures requires that the FAA lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82-AGL-12." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2, which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a new 700-foot controlled airspace transition area near Frankfort, Michigan.

Section 71.181 of Part 71 of the Federal Aviation Regulations was published in Advisory Circular AC 70-3 dated January 29, 1982.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Frankfort, Michigan

That airspace extending upward from 700 feet above the surface within 5 miles of the Frankfort City-County Airport (latitude 44°37'30" N., longitude 86°12'30" W.) and 3 miles each side of the 184° bearing from the Frankfort Airport extending from 5 miles to 7½ miles.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It is certified that this—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Illinois, on June 16, 1982.

Monte R. Belger,

Acting Director, Great Lakes Region.

[FR Doc. 82-17000 Filed 7-2-82; 9:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 82-AGL-13]

Proposed Alteration of Transition Area; Minnesota

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to alter the Faribault, Minnesota, transition area by designating an additional amount of airspace necessary for the establishment of an RNAV Runway 12 instrument approach procedure to serve Faribault Municipal Airport.

The intended effect of this action is to insure segregation of the aircraft using approach procedures in instrument weather conditions from other aircraft operating under visual weather conditions.

DATE: Comments must be received on or before August 2, 1982.

ADDRESS: Send comments on the proposal in triplicate to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 82-AGL-13, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

An informal docket will also be available for examination during normal business hours in the Airspace, Procedures, and Automation Branch, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: The airspace involved would be an area approximately 1 mile by 5 miles located northwest of the airport and extending from the 5-mile radius to 6 miles.

The development of the proposed procedure requires that the FAA alter the designated airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitudes for this procedure may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts will reflect the defined areas which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82-AGL-13." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2, which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR

Part 71) to alter the transition area airspace near Faribault, Minnesota.

Section 71.181 of Part 71 of the Federal Aviation Regulations was published in Advisory Circular AC 70-3 dated January 29, 1982.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Faribault, Minnesota

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Faribault Municipal Airport (latitude 44°19'30" N., longitude 93°18'30" W.), within 2½ miles each side of the 302° bearing from the Faribault Municipal Airport extending from the 5-mile radius to 6 miles, and within 1.25 miles each side of the 199° bearing from the Faribault Municipal Airport extending from the Faribault 5-mile radius to 9 miles southwest of the airport excluding the portion within the Owatonna, Minnesota, transition area.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It is certified that this—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Illinois, on June 16, 1982.

Monte R. Belger,

Acting Director, Great Lakes Region.

[FR Doc. 82-17986 Filed 7-2-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-AGL-1]

Cancellation of Control Zone; South Dakota

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of Notice of Proposed Rulemaking.

SUMMARY: This action withdraws a proposal circularized by letter dated February 3, 1982, to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71). The proposed amendment would have canceled the existing Michell, South Dakota, control zone due to the non-availability of required weather observations. Subsequent to the circular being issued for Notice of Proposed Rulemaking, Mesaba Airlines assumed the responsibility for recording and providing the required weather observations. From April 1, 1982, until present, the observations have been in accordance with established procedures and all indications are that they will continue to be in the future. As a result, the FAA has determined that the proposed amendment is no longer required.

EFFECTIVE DATE: July 6, 1982.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

List of Subjects in 14 CFR Part 71

Control zones, Aviation safety.

Withdrawal of the proposal

Pursuant to the authority delegated to me, effective upon publication in the **Federal Register**, the proposal to amend § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as described in Airspace Docket No. 82-AGL-1 and circularized on February 3, 1982, is hereby withdrawn.

Note.—The FAA certifies that this Withdrawal of Proposed Rulemaking only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It is certified that this—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal.

Issued in Des Plaines, Illinois, on June 22, 1982.

Paul K. Bohr,

Director, Great Lakes Region.

[FR Doc. 82-17987 Filed 7-2-82; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 240 and 249

[Release No. 34-18843; File No. S7-937]

Proposed Revision of Rule 6a-2, Form 1 and Form 1-A Under the Securities Exchange Act of 1934

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission is publishing for comment proposed amendments to the form prescribed by the Commission for applications for, or exemption from, registration as a national securities exchange, and the form for amendments to and/or supplementation of such registration or exemption statements. The proposed amendments are designed principally to eliminate obsolete and duplicative filing requirements and generally to bring these forms into conformity with the Securities Exchange Act of 1934, as amended by the 1975 Amendments. The Commission also is proposing amendments to its rule requiring national securities exchanges to file annual amendments to their registration or exemption statements in order to reflect the proposed amendments with respect to the form on which those statements are filed with the Commission.

DATE: Comments should be submitted on or before September 4, 1982.

ADDRESSES: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Room 892, 500 North Capitol Street, Washington, D.C. 20549. (Comments which will be received after July 15, 1982, should be addressed to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549.) All comment letters should refer to File No. S7-937 and will be available for public inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street, N.W., Washington, D.C. 20549 (after July 3, 1982, 450 5th Street, N.W., Washington, D.C.).

FOR FURTHER INFORMATION CONTACT: Judith W. Axe, Division of Market Regulation, Securities and Exchange Commission, Room 357, 500 North Capitol Street, Washington, D.C. 20549 (after July 15, 1982, 450 5th Street, N.W. Washington, D.C.), (202) 272-2398.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 5 (15 U.S.C. 78e) of the Securities Exchange Act of 1934 (the "Act") generally prohibits securities transactions on an exchange unless the exchange is registered with the Commission pursuant to Section 6 of the Act (15 U.S.C. 78f) or is specifically exempted from registration by the Commission. Section 6 sets forth the conditions for exchange registration, including the filing of an application for registration, in a form prescribed by the Commission, that contains the rules of the exchange and any other information and documents deemed necessary or appropriate by the Commission.[1]

Pursuant to Section 6, the Commission adopted Rule 6a–1 (17 CFR 240.6a–1) and Rule 6a–2 (17 CFR 240.6a–2).[2] Rule 6a–1 generally requires an applicant for registration as a national securities exchange, or for exemption from registration, to file an application with the Commission on Form 1 together with accompanying exhibits.[3] Rule 6a–2 generally requires each registered or exempted exchange to update its statement by filing an annual amendment on Form 1–A, setting forth any changes in the information contained in the statement or in specified exhibits which have not been reported previously in an annual amendment.

Forms 1 and 1–A were last amended on January 1, 1950, simultaneously with the adoption of Rules 6a–1 and 6a–2. Since that time, the enactment of the Securities Acts Amendments of 1975 ("1975 Amendments")[4] has altered significantly the regulatory scheme applicable to national securities exchanges, and technological advances have greatly changed the manner in which securities exchanges operate. The Commission believes that it is appropriate at this time to amend Rule 6a–2 and Forms 1 and 1–A to reflect these changes. In addition, as a result of its experience in administering Rules 6a–1 and 6a–2 and reviewing Forms 1 and 1–A, the Commission preliminarily believes that certain of the information currently required by the forms either duplicates information which is otherwise available to the Commission or imposes collection and reporting burdens on exchanges that outweigh the value of the information provided. The proposed amendments are intended to eliminate such unnecessary and unjustified requirements. In this regard, the proposed regulations for the most part are deregulatory in nature; the Commission believes that they will reduce the burdens associated with both the preparation by exchange officials and the review by Commission staff members of Forms 1 and 1–A.

II. Synopsis of Proposals

A. Form 1

The Form 1 application for registration or exemption from registration as a national securities exchange consists of a cover sheet, an informational statement and a set of 18 exhibits. The statement is comprised of 22 questions ("Items") which generally relate to the organization of the exchange (Item 1–8), its membership requirements (Items 9–13), and the manner in which business is conducted on the exchange (Items 14–20). More detailed information is provided by the lists and documents which comprise the exhibits to Form 1.[5] Finally, each exchange is required to indicate its agreement to (i) comply, and enforce compliance by its members, with the Act and (ii) furnish to the Commission copies of all amendments to its rules (Items 21 and 22).

The Commission has reviewed Form 1 and has concluded that a number of the items in the informational statement are obsolete or duplicative and should be eliminated. Other items in the informational statement, as well as certain of the exhibits, require modification to reflect changes in the Act since the time of their adoption and to improve the usefulness of the information provided.

The discussion below highlights only the major substantive changes which are being proposed to Form 1. Reference should be made to the text of the proposal for a complete review of all proposed changes.

Information Contained in Exchange Rules: Current Items 5, 10–15, 17–18 and 20. There are a number of items in the Form 1 statement which are designed to elicit information about the exchange which generally is included in the rules of the exchange.[6] The items in question relate to such matters as the election of exchange officers; the duties and obligations of each class of exchange membership, including the capital requirements imposed by the exchange and the financial statements the exchange requires its members to file; and exchange disciplinary rules (Items 5, 10, 11, 12 and 13 respectively). Further items require the exchange to provide information concerning the days and hours of trading on the exchange; whether trading is continuous or call; whether the exchange provides for odd-lot trading and, if so, how differentials are determined; the type of information recorded regarding orders received on the exchange floor; and exchange policies with respect to limitation or prohibition of listing securities on the exchange within a specified period after issuance (Items 14, 15, 17, 18 and 20 respectively). These matters also are normally the subject of exchange rules. Since the rules of the exchange (and its affiliates and subsidiaries) are required to be submitted as Exhibits (A) (1), (2) and (3) to Form 1, the Commission does not believe it is necessary to have the statement portion of Form 1 request information generally found in exchanges' rules.[7] Therefore, the Commission is proposing to delete Items 5, 10–15, 17–18 and 20 from the Form 1 statement in order to eliminate the duplicative reporting they require.[8]

Affiliates and Subsidiaries: Current Item 8. (Proposed Item 7). This item seeks information with respect to the

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[1] Pursuant to Section 6(b), the Commission may not grant registration unless it makes the findings contained therein.

[2] Securities Exchange Act Release No. 4383 (January 1, 1950), 14 FR 7759 (December 29, 1949).

[3] Rule 6a–1 also requires an exchange, promptly after discovering that any information in its statement or any exhibit or amendment thereto was inaccurate when filed, to file with the Commission an amendment (on Form 1–A) correcting such inaccuracy.

[4] Pub. L. No. 94–29 (June 4, 1975).

[5] Specifically, the exhibits include: (i) Copies of the rules of the exchange, its affiliates and subsidiaries (Exhibits A (1), (2) and (3)); (ii) a complete set of the forms used by the exchange regarding applications for membership or for employment by or affiliation with a member (Exhibit B); (iii) a complete set of the financial statements, reports or questionnaires required of members (Exhibit C); (iv) the forms used in connection with listing applications and agreements (Exhibit D); (v) current financial data, *i.e.*, balance sheets and income and expense statements for the exchange, its affiliates and subsidiaries (Exhibits E and F); (vi) a list of the officers, directors and committee members of the exchange, its affiliates and subsidiaries (Exhibits G and H); (vii) a list of exchange members, both individuals and firms (Exhibits I and J); (viii) a list of nonmembers who are extended a rate lower than the fixed commission rate for business transacted on the exchange (Exhibit K); and (ix) schedules of securities listed and admitted to unlisted trading privileges on the exchange (Exhibits L and M).

[6] The term "rules of an exchange," as defined in Section 3(a)(27) of the Act, includes an exchange's constitution, articles of incorporation, by-laws, and rules or instruments corresponding to the foregoing, and such of the stated policies, practices and interpretations of the exchange as the Commission, by rule, may determine to be necessary or appropriate in the public interest or for the protection of investors to be deemed to be rules of such exchange.

[7] Furthermore, changes in exchange rules are readily available to the Commission and the public. Pursuant to Section 19(b) of the Act and Rule 19b–4 thereunder, proposed rules and rule changes generally must be submitted to the Commission, published for public comment, and approved by the Commission, before they take effect.

[8] As a result of the deletions of these items, Items 6, 7, 8, 9 and 16 would be renumbered as 5, 6, 7, 8, and 9 respectively.

exchange's current affiliates and subsidiaries. The Commission is proposing to amend the item to require the exchange also to provide information with respect to any affiliate or subsidiary which ceased to be associated with the exchange during the previous year.

Member Activity Breakdown: Current Item 18. (Proposed Item 8). This item, which requires the exchange to provide information with respect to the number of members engaged in specified activities or functions (*e.g.*, floor broker, specialist, odd-lot dealer), would be amended to reflect changes in the types of functions performed by exchange members as well as the development of new categories of membership (*e.g.*, electronic membership, physical access membership).

Transaction Reporting: Current Item 19. This item requires the exchange to describe the methods by which transactions on the exchange are reported to members of the exchange and the public. Since transaction reporting by exchanges is, for the most part, governed by transaction reporting plans filed with, and declared effective by, the Commission pursuant to Rule 11Aa3–1 (17 CFR 240.11Aa3–1), the Commission believes that inclusion of this item in the informational statement is unnecessary and duplicative. The Commission therefore proposes deletion of this item.

Required Agreements: Current Items 21 and 22. Items 21 and 22 solicit agreements which Section 6(a) of the Act (as it existed prior to the 1975 Amendments) required a registration statement to contain but which have been rendered obsolete by the 1975 Amendments. Specifically, Section 6(a) previously required an exchange to agree (i) to comply, and to enforce compliance by its members with the provisions of the Act, and any amendment thereto and any rule or regulation made or to be made thereunder; and (ii) to furnish to the Commission copies of any amendments to the rules of the exchange forthwith upon their adoption.

Under the 1975 Amendments, the requirement that exchanges enforce compliance with the Act has been made explicit under Section 6(b)(1) and 19(g) of the Act.[9] Similarly, Section 19(b) of the Act requires the filing of all proposed rule changes with the Commission and provides for prior Commission review and approval of such rule changes (subject to certain exceptions). As a result, the agreements required by current Items 21 and 22 are no longer necessary and the Commission therefore proposes to delete both items.

Exchange Forms: Exhibit B. Exhibit B would be amended to eliminate paragraph (2) which deals with approval of a firm as a "member firm" of the exchange. Since paragraph (1) deals with applications for "membership" in the exchange, and "member" is defined in Section 3(a)(3)(A) of the Act, as amended by the 1975 Amendments, to include member firms, paragraph (2) is now redundant. In addition, existing paragraphs (3) and (4) would be consolidated into a new paragraph (2) which would require the filing of all forms pertaining to applications for approval of any "person associated with a member." That term, which is defined in Section 3(a)(22) of the Act, includes those persons presently referred to in paragraphs (3) and (4) of the exhibit.

Amendments also are being proposed to Exhibit B to reflect the prohibition of fixed commission rates found in Section 6(e)(1) of the Act, which was added by the 1975 Amendments.[10] Specifically, Exhibit B(5), dealing with an application to be extended a lower rate of commission than is charged the general public, would be deleted because it seeks information about a practice which no longer is permitted under the Act.[11]

Financial Statements: Exhibits E and F. These exhibits are designed to obtain information concerning the financial status of the exchange and its affiliates and subsidiaries. These exhibits would be amended to require audited annual financial statements in order to better enable the Commission to carry out its oversight of the exchanges.[12]

Officers, Governors and Committees: Exhibit G. This exhibit, which requires a list of current officers, governors and committee members of the exchange, would be amended to require information about any individuals who held those offices or positions and who resigned or were terminated during the previous year. This information would help assure that the Commission has full records of the individuals who held positions of authority at the exchange at any given time.

List of Members Firms: Exhibit J. This exhibit, which requires an alphabetical list of all member firms of the exchange, would be amended to delete subsection (4), which currently requires that the exchange provide a list of the partners or officers and directors of each such member firm. In view of the frequency with which personnel changes are made within these organizations, there appears to be little value in requiring the exchanges to provide this information.

Proposed Exhibit M. A new exhibit, Exhibit M, would be added to require information about securities admitted to trading on the exchange subject to an exemption from registration under Section 12(a) of the Act. This information, together with the information in Exhibits K and L, (current Exhibits L and M) regarding listed securities and securities admitted to unlisted trading privileges, will provide the Commission with a complete list of all securities traded on the exchange.

B. Form 1–A and Rule 6a–2

Form 1–A is the form used by an exchange to amend its application for registration or exemption from registration as a national securities exchange. The Form includes amended versions of any items of the Form 1 statement which have changed in the previous year, and, pursuant to Rule 6a–2, either amended or completely new versions of the exhibits to Form 1. Because the annual amendments are tied to the specific items and exhibits in Form 1,[13] all of the changes proposed on Form 1 also would apply to annual amendments filed by the exchanges.

Rule 6a–2. Rule 6a–2 divides the information which an exchange is required to include in its annual Form 1–A submission into three categories: (i) Changes in the information contained in the statement or Exhibits A–D which have not been previously reported in an annual amendment; (ii) Exhibits E and F, completed as of the end of the latest

[9] That requirement includes associated persons of members as well as the members themselves. In addition, Section 6(b)(1) of the Act, as amended by the 1975 Amendments, requires the Commission, as a condition of registration, to make a finding that the exchange is so organized and has the capacity to enforce compliance with the Act.

[10] Pursuant to Section 6(e)(1), since May 1, 1976, no national securities exchange has been permitted to impose or fix any schedule of commissions, allowances discounts, or other fees to be charged by its members.

[11] Similarly, current Exhibit K, which requires a list of persons who are extended a lower rate of commission for exchange transactions, also would be deleted as no longer consistent with the Act. As a result of the deletion of Exhibit K, Exhibits L and M would be renumbered as Exhibits K and L, respectively.

[12] Some exchanges have attempted to comply with these requirements by filing consolidated financial statements covering the exchange and one or more of its affiliates and subsidiaries. The Commission wishes to clarify that an exchange may submit consolidated statements in addition to, but not in lieu of, the separate financial statements required by the exhibits.

[13] Form 1–A consists in its entirety of a cover sheet accompanied by a set of instructions on how properly to prepare an annual amendment to Form 1.

fiscal year; and (iii) the remaining Exhibits, G–M, updated as of the latest practicable date within three months of the date on which the annual amendment is filed. The Commission is proposing to amend Rule 6a–2 to move Exhibits A(1), (2) and (3) from the first to the third category, thereby requiring that exchanges annually submit a complete, updated set of their rules. Requiring these materials to be filed each year would enable the Commission to maintain a historical public record of exchange rules which would supplement the requirement contained in Section 19(b) of the Act that exchanges file with the Commission all changes in their rules. The Commission does not believe such a requirement would be burdensome to exchanges. In this regard, it should be noted that this requirement can be met by merely providing a xeroxed copy of the exchange's rules and that several exchanges already include copies of their rules in their Form 1–A each year. Moreover, when coupled with deletion of a number of items in the information statement and the requirement that rule changes be filed as part of the annual amendment, the Commission believes that the overall burden on exchanges would be reduced.

Instructions to and Format of the Forms. In addition to changes to the content of the forms, several changes are being proposed with respect to the preparation and physical format of the forms. These amendments are designed to simplify the preparation of the forms by exchange staff, as well as to expedite Commission review of the completed forms.

Instruction numbers 3 and 4 of Form 1, and numbers 2 and 4 of Form 1–A require that the forms be "typed or printed on good quality unglazed white paper, 8-½ by 13 inches in size and shall have a margin of at least 1-½ inches on the left." These instructions would be amended to require the use of 8-½ x 11 inch paper, to accommodate the Commission's micrographics filing program.[14]

[14] The Commission is proposing to adopt a uniform size (8-½ x 11 inch) for all applications, statements reports, documents and amendments thereto filed with the Commission in order to achieve maximum cost-efficiency in the Commission's micrographics filing program. (Securities Exchange Commission Release No. 18794) (June 7, 1982), 47 FR 25372 (June 11, 1982). In addition, as the Release pointed out, the Judicial Conference of the United States has adopted the 8-½ x 11 inch paper size standard for use throughout the federal judiciary effective January 1, 1983. Many state courts also have adopted the letter size requirement.

Exhibits B, C, and D of Form 1 require the exchanges to provide sets of forms and documents relating to such matters as: approval of member organizations and registered representatives thereof; members' financial statements; and applications for listing securities. A footnote is being proposed to these three exhibits which would require the exchanges to provide a table of contents to each exhibit, listing the forms contained therein. Where this has been done by some exchanges in the past, it has served as a checklist for the exchange to assure that all relevant forms are included, and additionally has expedited the Commission staff's review of these forms.

Finally, because of the number of changes which are being proposed to the forms and for purposes of clarity, the Commission intends to request, pursuant to Rule 6a–1(d), that each exchange file, as its 1983 Form 1–A annual amendment, a complete new registration statement and all exhibits which are prescribed to be filed in connection therewith.[15] This request is intended to avoid the confusion that would otherwise result due to the renumbering of some items and exhibits, and to assure that all of the exchanges answer each new item and exhibit. The Commission does not believe that a special, one-time request that exchanges file a complete new registration statement and exhibits will present any significant burden on the exchanges, especially since most of the exchanges continuously update their registration forms and exhibits, in the process of preparing for the submission of the annual amendement.

III. Regulatory Flexibility Act Considerations

The Regulatory Flexibility Act, which became effective on January 1, 1981, imposes new procedural steps applicable to agency rulemaking which has a "significant economic impact on a substantial number of small entities." [16]

[15] Rule 6a–1(d) states that "[w]henever the number of changes to be reported in an amendment, or the number of amendments filed, are so great that the purpose of clarity will be promoted by the filing of a new complete statement and exhibits, an exchange may, at its election, or shall, upon request of the Commission, file as an amendment a complete new statement together with all exhibits which are prescribed to be filed in connection with Form 1."

[16] Although Section 601(b) of the Regulatory Flexibility Act defines the term "small entity," the statute permits agencies to formulate their own definitions. The Commission has adopted definitions of the term small entity for purposes of Commission rulemaking in accordance with the Regulatory Flexibility Act. Those definitions, as relevant to this proposed amendment, are set forth in Rule 0–10, 17 CFR 240.0–10. *See* Securities Exchange Act Release No. 18452, (January 28, 1982), 47 FR 5215 (February 4, 1982). A national securities exchange is a "small business" or "small organization" under Rule 0–10 if the exchange has been exempted from the reporting requirements of Section 240.11Aa3–1. Of the 10 exchanges registered with the Commission only the Spokane and Intermountain Stock Exchanges have such an exemption.

The Chairman of the Commission has certified pursuant to the Regulatory Flexibility Act that the proposed amendments to Forms 1 and 1–A, prescribed by the Commission for applications for, or exemption from, registration as a national securities exchange, and for amendments to and/or supplementation of such registration or exemption statements, respectively, and Rule 6a–2,[17] if adopted, will not have a significant economic impact on a substantial number of small entities, or any other entities. The amendments to Forms 1 and 1–A are designed to eliminate duplicative and obsolete disclosure requirements, to bring the contents of the Forms into conformity with the Act as amended in 1975, and to provide the Commission with information which more accurately describes the current securities exchanges and the markets they provide.

List of Subjects in 17 CFR Parts 240 and 249

Reporting requirements, Securities.

IV. Text of Amendments

The proposed amendments to Forms 1 and 1–A are intended to bring the Forms into conformity with the Securities Exchange Act as revised by the 1975 amendments, to update their contents to properly reflect the current trading environment, and to eliminate obsolete and duplicative requirements. Accordingly, pursuant to its authority under the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq., as amended by Pub. L. No. 94–29 (June 4, 1975)] and particularly Sections 3, 5, 6, 17, 19 and 23 thereof [15 U.S.C. 78c, 78e, 78f, 78q, 78s and 78w], the Commission proposes to amend Title 17, Chapter II of the Code of Federal Regulations as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. By revising § 240.6a–2 to read:

[17] The amendments to Rule 6a–2 are being made to reflect the changes being made to Forms 1 and 1–A and would have no discrete impact on securities exchanges.

§ 240.6a–2 Annual amendments to registration statements or exemption statements of exchanges.

On or before June 30 of each year, each exchange registered as a national securities exchange or exempted from such registration shall file an annual amendment setting forth:

(a) All changes, and the effective dates thereof, which have been affected in any of the information contained or incorporated in the statement, or in exhibits B, C and D, and which have not previously been reported in an annual amendment. Such amendment shall bring the statement and Exhibits B, C and D up to date as of the latest practicable date within one month of the date on which the amendment is filed. In the event that no changes have occurred in any of this material during the period covered by the amendment, a statement to that effect shall be set forth in the amendment.

(b) Complete exhibits E and F as of the end of the latest fiscal year of the exchange, and of each affiliate and subsidiary listed in answer to Item 7 of the statement. In the event that Exhibit F is inapplicable to the exchange for the reason that it has no affiliate or subsidiary, the amendment shall include a statement to that effect in lieu of the information called for in Exhibit F.

(c) Complete exhibits A(1), A(2), A(3), G, H, I, J, K, L and M. The information contained in these exhibits shall be up to date as of the latest practicable date within 3 months of the date on which the annual amendment is filed.

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

2. By revising Form 1 in § 249.1 to read as follows:

(Form 1 does not appear in the Code of Federal Regulations)

Securities and Exchange Commission, Washington, D.C.

Form 1

Application for Registration or Exemption From Registration as a National Securities Exchange

On the basis of the attached statement and exhibits, the undersigned hereby applies for registration* exemption from registration* as a national securities exchange, pursuant to Section 6 of the Securities Exchange Act of 1934 and the rules and regulations thereunder.

Exchange

By _____
Name Title

Date: _____

(SEAL)

Attest: _____
Name Title

*Strike out inapplicable words.

Instructions for Form 1 and Accompanying Statement and Exhibits

1. Form 1 and the accompanying statement and exhibits shall be filed in duplicate, each of which shall be signed and attested by duly authorized officials of the exchange.

2. An exchange may use the printed Form 1 and statement. If the space provided in the statement for an answer to any item is insufficient, the answer may be typed on a separate insert page or pages which shall be incorporated into the statment by reference thereto in the space provided for the item.

3. If the exchange does not use the printed Form 1 and statement it shall type or print a complete Form 1 and statement containing both the items in each and the answers thereto. Form 1 and the accompanying statement and exhibits shall be typed or printed on good quality unglazed white paper, 8½ x 11 inches in size and shall have a margin of at least 1½ inches on the left.

4. If the information called for by any exhibit is available in printed form, the printed material may be used provided it does not exceed 8½ x 11 inches in size.

5. If any item of the statement is inapplicable, a statement to that effect shall be made following the item. If any exhibit called for is inapplicable, a statement to that effect shall be furnished in lieu of such exhibit.

6. All answers to items of the statement shall be stated as briefly as completeness will permit, and may be expanded upon or qualified by reference to applicable pages, articles, sections or paragraphs of any exhibit.

STATEMENT

Securities and Exchange Commission, Washington, D.C.

Statement to be Filed in Connection With an Application for Registration or Exemption from Registration as a National Securities Exchange under the Securities Exchange Act of 1934.

Organization

1. State the exact name of the exchange:

2. State the address and telephone number of the exchange:

3. (a) State the form of organization of the exchange: (e.g., association, corporation, etc.)

(b) State the date of organization in present form. If originally organized in another form also give date and form of original organization:

(c) Name the state and provide reference to any statute thereof under which the exchange is organized:

(d) State the name of each exchange which has been merged into, absorbed by, or consolidated with the subject exchange since September 1, 1934, giving the date when each merger, absorption, or consolidation occurred:

4. State the date upon which the fiscal year of the exchange ends:

5. State the name and address of counsel for the exchange:

6. State the name and address of the person hereby authorized to receive service of process and notices on behalf of the exchange:

7. For each organization which during the previous year has been affiliated with or subsidiary to the exchange, either directly or indirectly, through security ownership, joint membership or otherwise, provide the following information:

(a) Name and address of the organization:

(b) Form of organization (e.g., association, corporation, etc.)

(c) Name of state and reference to any statute thereof under which organized:

(d) Date of organization in present form:

(e) Brief description of the nature and extent of affiliation:

(f) Brief description of its business or functions:

(g) Name of any of the organizations identified above which ceased to be associated with the exchange during the previous year, and a brief statement of the reasons for the termination of the association:

8. State the classes of membership (*e.g.*, full membership, associate membership, physical access membership, electronic access membership, etc.) and indicate the number of members in each category.

9. State as nearly as practicable the number of persons who are engaged primarily in the following activities of functions on or through the facilities of the exchange:[1]

(1) Floor brokers:

(2) Specialists:

(3) Odd lot dealers:

(4) Other market makers:

(5) Proprietary traders (on the exchange floor):

(6) Inactive or other function:

(b) State the estimated average total number of members in attendance at security trading sessions:

Exhibits

Exhibits to be filed in connection with (i) an Application for Registration or Exemption from Registration as a National Securities Exchange pursuant

[1] Where more than one type of person engages in any of the six types of activities or functions enumerated in this item, identify each such type (e.g., proprietary trader, Registered Competitive Trader and Registered Competitive Market Maker) and state the number of members in each.

to Section 6 of the Securities Exchange Act of 1934 and Rule 6a–1 thereunder or (ii) an Annual Amendment pursuant to Rule 6a-2.[2]

Exhibit A(1)

A copy of the constitution, articles of incorporation or association with all amendments thereto, and of existing by-laws or rules or instruments corresponding thereto, whatever the name, of the exchange.

Exhibit A(2)

A copy of all written rulings, settled practices having the effect of rules, and interpretations of the Governing Board or other committee of the exchange in respect of any of the provisions of the constitution, by-laws, rules or trading practices of the exchange, which are not included in the material submitted under Exhibit A(1).

Exhibit A(3)

A copy of the constitution, articles of incorporation or association with all amendments thereto, and of existing by-laws or rules or instruments corresponding thereto, whatever the name, of each affiliate and subsidiary listed in answer to Item 7 of the Statement.

Exhibit B

A complete set of all forms[3] pertaining to:

(1) Application for membership[4] in the exchange.

(2) Application for approval as a person associated with a member[5] of the exchange.

(3) Matters similar to any of the foregoing.

Exhibit C

A complete set of all forms of financial statements, reports or questionnaires required of members, relating to such matters as members' financial responsibility or minimum capital requirements.

Exhibit D

A complete set of documents, comprising the exchange's listing applications, including the agreements required to be executed in connection therewith, and a schedule of listing fees.

Exhibit E

Audited annual financial statements of the exchange which (1) are for the latest fiscal year; (2) are prepared in accordance with generally accepted accounting principles; and (3) are covered by a report prepared by an independent public accountant.

Exhibit F

Audited annual financial statements for each affiliate and subsidiary listed in Item 7 of the statement, which (1) are for the latest fiscal year; (2) are prepared in accordance with generally accepted accounting principles; and (3) are covered by a report prepared by an independent public accountant.

Exhibit G

A list of the present officers, governors, members of all standing committees,[6] or persons performing functions similar to any of the foregoing, whatever their title or technical status may be, of the exchange, who presently hold or have held their offices or positions during the previous year, indicating for each:

(1) Name.

(2) Title.

(3) Dates of commencement and termination of term of office or position.

(4) Length of time each has held the same office or position.

(5) Type of business in which each is primarily engaged (*e.g.*, floor broker, specialist, odd lot dealer, etc.).

Exhibit H

A list of the present officers, directors, members of all standing committees or persons performing functions similar to any of the foregoing, whatever their title or technical status may be, of each affiliate and subsidiary listed in answer to Item 7 of the Statement, indicating for each:

(1) Name.

(2) Title.

Exhibit I

A list as of latest practicable date[7] alphabetically arranged of all individual members of the exchange indicating for each:[8]

(1) Name.

(2) Date of election to membership.

(3) Name of firm with which he is associated and his relationship thereto (*e.g.*, partner, officer, director, employee).

(4) Business address.

Exhibit J

A list as of latest practicable date alphabetically arranged of all member organizations of the exchange indicating for each:

(1) Name.

(2) Form of organization (*e.g.*, sole proprietorship, partnership, corporation, etc.).

(3) Principal place of business and telephone number.

(4) Designate the individuals whose membership it uses.

Exhibit K

A schedule of securities listed on the exchange indicating for each:

(1) Name of issuer.

(2) Description of security.

Exhibit L

A schedule of securities admitted to unlisted trading privileges on the exchange showing for each:

(1) Name of issuer.

(2) Description of security.

Exhibit M

A schedule of unregistered securities admitted to trading on the exchange, which are exempt from registration under Section 12(a) of the Act, indicating for each:

(1) Name of issuer.

(2) Description of security.

(3) Specific statutory exemption claimed (e.g., Rule 12a–6).

3. By revising Form 1–A in § 249.1a to read as follows: (Form 1–A does not appear in the Code of Federal Regulations)

Securities and Exchange Commission, Washington, D.C.

Form 1–A

Amendment to an Application for Registration or Exemption From Registration as a National Securities Exchange

Amendment No. ——

Designate the type of amendment as follows:

Annual Amendment (Rule 6a–2) period covered ———— to ———— ☐

Other Amendment (Rule 6a–1(c) or (d)) ☐

The undersigned exchange hereby submits the attached material as an

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[2] If any exhibit called for is inapplicable, a statement to that effect shall be furnished in lieu of such exhibit.

[3] Provide separate tables of contents listing (by title and/or number) the forms included in Exhibits B, C, and D.

[4] The terms "member" and "membership" are used interchangeably. Unless the context otherwise requires, "member" has the same meaning as that provided in Section 3(a)(3)(A) of the Act.

[5] The term "person associated with a member" has the same meaning as that provided in Section 3(a)(2) of the Act.

[6] For Exhibits G and H, group members of each standing committee together.

[7] For Exhibits I, J, K, L and M, indicate the date as of which each list or schedule is prepared.

[8] For Exhibits I and J, if more than one class of membership is provided for by the constitution and rules of the exchange, either (1) list separately accordingly to class; or (2) indicate the class of membership applicable.

amendment to its application for registration* exemption from registration* as a national securities exchange in respect of the items and/or exhibits listed below:

Exchange

By _____

Name Title

Date: _____

(SEAL)

Attest: _____

Name Title

Instructions for Form 1–A

1. Amendments on Form 1–A and the material attached thereto shall be filed in duplicate, each of which shall be signed and attested by duly authorized officials of the exchange. Each Form 1–A shall be dated and numbered in the order of filing. The type of amendment, whether annual or other, shall be specified in the space provided on the Form.

2. An exchange may use the printed Form 1–A. If it does not use the printed Form 1–A it shall type or print a complete Form 1–A on good quality unglazed white paper, 8½ x 11 inches in size, and shall have a margin of at least 1½ inches on the left. All material filed with such form shall comply with the same requirements.

3. If the information called for by any exhibit is available in printed form, the printed material may be used provided it does not exceed 8½ x 11 inches in size.

4. Any number of items or exhibits being amended may be listed on one Form 1–A.

* * * * *

V. Solicitation of Comments

All interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make submissions should submit three copies thereof to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than September 4, 1982. (Comments which will be received after July 15, 1982, should be addressed to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549.)

Reference should be made to File No. S7–937. All submissions will be made available for public inspection at the Commission's Public Reference Section, Room 6101, 1100 L Street, N.W., Washington, D.C. (after July 15, 1982, 450 5th Street, N.W., Washington, D.C.).

*Strike out inapplicable words.

By the Commission.

George A. Fitzsimmons,

Secretary.

June 25, 1982.

Securities and Exchange Commission, Regulatory Flexibility Act Certification

I, John S. R. Shad, Chairman of the Securities and Exchange Commission, hereby certify pursuant to 5 U.S.C. 605(b) that the proposed amendments to Rule 6a–2 and Forms 1 and 1–A set forth in Securities Exchange Act Release No. 18843, if promulgated, will not have a significant economic impact on a substantial number of small entities. Forms 1 and 1–A are prescribed by the Commission for applications for, or exemption from, registration as a national securities exchange, and for amendments to and/or supplementation of such registration or exemption statements, respectively. The proposed amendments are designed to eliminate duplicative and obsolete disclosure requirements and to provide the Commission with information which more accurately describes the current securities exchanges and the markets they provide.

Dated: June 25, 1982.

John S. R. Shad,

Chairman.

[FR Doc. 82–18206 Filed 7–2–82; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79–76–126 (Oklahoma-2)]

High-Cost Gas Produced From Tight Formations; Notice of Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107 (c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107 (c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may recieve an incentive price (18 GFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of Oklahoma that the "Cleveland Sand" of the "Kansas City group," be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on July 30, 1982. Public hearing: no public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on July 15, 1982.

ADDRESS: Comments and requests for hearing must be filed with the Office of the secretary, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or John Roy Johnson, (202) 357–8731.

SUPPLEMENTARY INFORMATION:

Issued June 30, 1982.

I. Background

On May 24, 1982, the Oklahoma Corporation Commission (Oklahoma) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the "Cleveland Sand" of the "Kansas City group," located in Ellis County, Oklahoma, be designated as a tight formation. Pursuant to § 271.703 (c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Oklahoma's recommendation that the "Cleveland Sand" of the "Kansas City group," be designated a tight formation should be adopted. Oklahoma's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Oklahoma has recommended that the "Cleveland Sand" in Section 6 through 8 and 16 through 18, Township 20 North, Range 24 West; Sections 1 through 6 and 11 through 13, Township 20 north, Range 25 West; and Sections 35 and 36, Township 21 North, Range 25 West, in the Gage Southwest Field in Ellis County, Oklahoma, be designated a tight formation. The "Cleveland Sand" is a depositional unit of Pennsylvanian, Early Missourian age and occurs as a lenticular sandstone trending northwest-southeast on the northwestern flank of the Anadarko Basin. It consists of an argillaceous, fine- to very fine-grained sandstone that is composed of quartz, feldspar, clay, mica, and micaceous metamorphic rock fragments. The top of the recommended interval in found at a depth of 7,850 to 8,300 feet and ranges from 71 to 114 feet below the base of the "Checkerboard limestone" (a drillers' term). The base of the interval is marked

by the top of the Marmaton Group of Des Moinesian age.

The gross thickness of the "Cleveland Sand" ranges from 40 to 60 feet and averages 54 feet; the net sandstone thickness ranges from 5 to 32 feet and averages 19 feet.

III. Discussion of Recommendation

Oklahoma claims in its submission that evidence gethered through information and testimony presented at a public hearing held April 28, 1982, by the Oklahoma Corporation Commission on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not esxpected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended fromation is expected to produce more than five (5) barrels of oil per day.

Oklahoma further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Oklahoma that the "Cleveland Sand" of the "Kansas City group," as described and delineated in Oklahoma's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views, or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before July 30, 1982. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76-120 (Oklahoma-2), and should give reasons including supporting data for any recommendations. Commerits should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that he wishes to make an oral presentation and therefore requests a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than July 15, 1982.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Oklahoma's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—CEILING PRICES

Section 271.703 is amended by adding new paragraph (d)(123) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(123) *"Cleveland Sand" of the "Kansas City Group" in Oklahoma.* RM79-76-120 (Oklahoma-2).

(i) *Delineation of formation.* The designated interval is found in Sections 6 through 8 and 16 through 18, Township 20 North, Range 24 West; Sections 1 through 6, 11 through 13, Township 20 North, Range 25 West; and Sections 35 and 36, Township 21 North, Range 25 West, in the Gage Southwest Field, northwestern Oklahoma, in Ellis County. It is a depositional unit of Pennsylvanian, Early Missourian age and occurs as a lenticular argillaceous feldspathic sandstone trending northwest-southeast on the northwestern flank of the Anadarko Basin.

(ii) *Depth.* The depth to the top of the designated interval ranges from 7,850 to 8,300 feet. The top of the designated interval ranges from 71 to 114 feet below the base of the "Checkerboard limestone" (a drillers' term), and the base of the interval is marked by the top of the Marmaton Group of Des Moinesian age. The gross thickness of the "Cleveland Sand" ranges from 40 to 60 feet and averages 54 feet; the net sandstone thickness ranges from 5 to 32 feet and averages 19 feet.

[FR Doc. 82-18243 Filed 7-3-82; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 31

[LR-23-82]

Withholding Social Security or Railroad Retirement Tax From Sick Pay

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this **Federal Register**, the Internal Revenue Service is publishing temporary regulations that relate to withholding social security or railroad retirement tax from sick pay. The text of those temporary regulations also serves as the comment document for this proposed rulemaking.

DATES: Written comments and requests for a public hearing must be delivered by September 7, 1982. The regulations are proposed to be effective with respect to sick pay payments made on or after January 1, 1982.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Reveune, Attention: CC:LR:T (LR-23-82), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Pamela F. Olson of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3459).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations in the Rules and Regulations portion of this issue of the **Federal Register** add a new Part 32 to Title 26 of the Code of Federal Regulations. The final regulations, which this document proposes be based on those temporary regulations, would be added to Part 31 of Title 26 of the Code of Federal Regulations. Section 32.1 would become § 31.3121(a)(2)-2, § 32.2 would become § 31.3231(e)-2, and Part 32 would be deleted.

The regulations would require an employer or third party making a payment on account of sickness or accident disability on or after January 1, 1982, to withhold, deposit, and pay the applicable social security or railroad retirement taxes based on the amount of the payment and provide a receipt of the amount of any such payment to the employee pursuant to section 6051. The regulations would allow third parties to transfer to the employer liability for paying the employer portion of the tax and responsibility for providing a receipt to the employee if they promptly (1) withhold the employee share of the tax, (2) deposit such portion pursuant to section 6302, and (3) notify the employer for whom services are normally rendered of the amount of the payment. Notification of the employer would be considered to be prompt if such notice is mailed on or before the required date for the deposit of the employee share of the tax by the third party. For purposes of the employer's paying the employer portion of the tax, payment to the employee would be deemed to have been made on the date that the employer receives notice of such payment from the third party.

The proposed regulations define "employer for whom services are normally rendered" as the last employer for whom the employee worked. Alternatives to this rule were considered for multiemployer plans. These alternatives included (1) allowing each plan to establish its own definition of "employer for whom services are normally rendered," (2) allocating the burden among all of the employers for whom the employee performed services over some period prior to the disability, (3) defining "employer for whom services are normally rendered" as the employer for whom the employee worked the most hours over some period prior to the disability, and (4) providing no definition of "employer for whom services are normally rendered." All of these alternatives were rejected in favor of the last employer rule because it was believed to be the rule which was most feasible administratively for the multiemployer plans, the employers, and the Service. For purposes of multiemployer plans which have purchased insurance to provide benefits to covered employees, the trust fund would be considered to be the third party making payments on account of sickness or accident disability provided the insurer withholds and deposits the tax imposed on the employee and notifies the plan of the payments. In order to relieve itself of liability, any such notified multiemployer plan which would itself be treated as the third party payer must, within 6 days of receipt of notification from the insurance company, notify the last employer for whom the employee worked.

The proposed regulations would not apply to a payment which is made under a workmen's compensation law, the Railroad Retirement Act, the Railroad Unemployment Insurance Act for days of sickness related to on-the-job injury, or which is unrelated to absence from work, is made after the expiration of six calendar months following the last calendar month in which the employee worked, or is attributable to a contribution by the employee.

The proposed regulations would allow a third party to request and rely on certain information from the employer in order to avoid overpayment of tax with respect to any employee receiving a payment on account of sickness or accident disability.

Employees of State and local governments may or may not be participants in the social security system. State and local governments that have elected to become part of the social security system do so by means of an agreement with the Secretary of Health and Human Services. Under these agreements, State governments make contributions equivalent to the social security tax which are deposited in Federal Reserve banks and accounted for to the Social Security Administration. Third parties making payments to employees of State and local governments should, therefore, contact the State or local government to determine the proper procedures to follow to insure correct and timely deposits and accurate wage reports.

The regulations are necessary because of the amendments made to section 3121(a) and 3231(e) by Pub. L. 97-123 (95 Stat. 1659). These statutory changes are effective with respect to payments made on or after January 1, 1982, on account of sickness or accident disability. These regulations are proposed to be issued under the authority contained in sections 3121(a) and 3231(e) (95 Stat. 1662 and 1663; 26 U.S.C. 3121(a) and 3231(e)) and 7805 (68A Stat. 917; 26 U.S.C. 7805) of the Internal Revenue Code of 1954.

Non-Applicability of Executive Order 12291

The Treasury Department has determined that this proposed regulation is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 28, 1982.

Regulatory Flexibility Act

Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

[FR Doc. 82-18185 Filed 6-30-82; 4:00 pm]
BILLING CODE 4830-01-M

VETERANS ADMINISTRATION

38 CFR Part 21

Veterans' Benefits; Courses Taken by Nonmatriculated Students

AGENCY: Veterans Administration.

ACTION: Proposed regulation.

SUMMARY: This proposed regulation states how the VA (Veterans Administration) will determine whether a degree-seeking student, who has not matriculated, is in a program of education. The law states that a veteran or eligible person must be in a program of education before he or she can receive educational assistance allowance from the VA. This will better acquaint the public with the standards the VA will use to implement the provision of law.

DATES: Comments must be received on or before August 5, 1982. It is proposed to make this amendment effective the date of final approval.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue,

N.W., Washington, D. C. 20420. All written comments received will be available for inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until August 16, 1982. Persons visiting the Veterans Administration Central Office in Washington, D. C. for the purpose of inspecting comments will be received by the Central Office Veterans Services Unit in room 132. Visitors to a VA field station will be informed that the records are available for inspection only in Central Office and will be furnished the address and room number.

SUPPLEMENTARY INFORMATION: Section 21.4252 is amended to state when the VA will approve the enrollment of a nonmatriculated, degree-seeking veteran or eligible person.

The law requires veterans and eligible people to be in a program of education in order to receive educational assistance allowance. The courses in a program of education must be recognized as necessary to reach the goal of the program. When a degree-seeking student takes occasional courses without matriculating, it is difficult for the VA to determine if the student is actually in a program of education. This proposed regulation states how the VA will make this determination.

The VA has determined that this proposed regulation is not a major rule as that term is defined by Executive Order 12291, Federal Regulation. The annual effect on the economy will be less that $100 million. It will not result in any major costs or prices for anyone. It will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans' Affairs hereby certifies that this proposed regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), this regulation therefore is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reason for this certification is that only a small percentage of educational institutions which are small entities as defined in RFA do not already have rules which are as strict or stricter than those contained in the proposed § 21.4252(l)(1). Furthermore, the VA is not aware of any educational institutions which are small entities offering courses that will be affected by proposed § 21.4252(l)(2). The VA does not think that it is likely that small entities will begin offering these courses in the foreseeable future.

The governmental jurisdictions supporting the public colleges which have programs affected by § 21.4252(l)(3) are not small entities as defined by RFA.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting requirements, Schools, Veterans, Veterans Administration, Vocational education, Vocational rehabilitation.

(The Catalog of Federal Domestic Assistance numbers are 64.111, 64.117 and 64.120.)

Approved: June 17, 1982.

Robert P. Nimmo,

Administrator.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

The Veterans Administration proposes to amend 38 CFR Part 21 to read as follows:

In § 21.4252, paragraph (l) is added as follows:

§ 21.4252 Courses precluded.

* * * * *

(l) *Courses taken by a nonmatriculated student who is pursuing a degree.* The provisions of this paragraph apply to veterans and eligible persons who are pursuing a degree, but who have not matriculated. The Veterans Administration considers a student to have matriculated when he or she has been formally admitted to a college or university as a degree-seeking student.

(1) Some colleges or universities admit students provisionally, pending receipt of test results or transcripts. The Veterans Administration may approve such a veteran's or eligible person's enrollment in a course or subject only if the veteran or eligible person matriculates during the first two terms, quarters or semesters following his or her admission.

(2) The first portion of the courses leading to a single degree may be offered at one college or university. The remaining courses are not offered at that college or university, but are offered at a second college or university which grants the degree based upon the combined credits earned by the student. If the student is not required to matriculate during the portion of the program offered at the first college or university, the Veterans Administration may approve an enrollment in a course or subject that is part of that portion of the program only if the college or university granting the degree certifies, concurrently with the student's enrollment in the first portion of the program, that—

(i) Full credit will be granted for the subjects taken in the portion of the curriculum offered at the first college or university,

(ii) In the last 5 years at least three students who have completed the first part of the program have been accepted into the second part of the program;

(iii) At least 90 percent of those who have applied for admission to the second part of the program, after successfully completing the first part, have been admitted.

(iv) The student will be required to matriculate during the first two terms, quarters or semesters following his or her admission to the second part of the program.

(3) The first portion of the upper division subjects or courses in a baccalaureate degree program may be given at a public, 2-year college while the remainder may be offered at a public, 4-year college or university. When the college or university does not require the student to matriculate while pursuing the upper division study at the 2-year college, the Veterans Administration may approve an enrollment in course offered in the program at the 2-year college only if the college or university granting the baccalaureate degree certifies that—

(i) Full credit is granted for the course upon the student's transfer to the college or university granting the baccalaureate degree,

(ii) The courses taken at the 2-year college will be acceptable in partial fulfillment for the baccalaureate degree, and

(iii) The student will be required to matriculate during the first two terms, quarters or semesters following his or her admission to the college or university granting the baccalaureate degree.

(4) Except as provided in paragraph (l), (1), (2), and (3) of this section, the Veterans Administration will not approve a veteran's or eligible person's enrollment in a course or subject if the veteran or eligible person—

(i) Is pursuing a degree, and

(ii) Is not matriculated.

(5) Nothing in this paragraph shall prevent a State approving agency from including more restrictive matriculation

requirements in its approval criteria. (38 U.S.C. 1652)

[FR Doc. 82-18179 Filed 7-2-82; 8:45 am]
BILLING CODE 8320-01-M

VETERANS ADMINISTRATION

DEPARTMENT OF DEFENSE

Office of the Secretary

38 CFR Part 21

Extension of the Post-Vietnam Era Veterans' Educational Assistance Program

AGENCY: Veterans Administration and Department of Defense.

ACTION: Proposed regulations.

SUMMARY: These proposed regulations, issued jointly by the Veterans Administration and the Department of Defense, are necessary because President Reagan has extended VEAP (the Post-Vietnam Era Veterans' Educational Assistance Program). The Veterans Administration will no longer contribute to the fund for training that occurs after December 31, 1981. These contributions will now be made by the Secretary of Defense. The Veterans' Education and Employment Assistance Act of 1976 requires this change in funding following an extension of the program.

DATES: Comments must be received on or before August 5, 1982. It is proposed that these regulations be made effective January 1, 1982.

ADDRESSES: Interested persons are invited to submit written comments, suggestions or objections regarding this proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between 8 a.m. and 4:30 p.m. Monday through Friday (except holidays), until August 16, 1982. Persons visiting the Veterans Administration Central Office in Washington, D.C. for the purpose of inspecting comments will be received by the Central Office Veterans Services Unit in room 132 of the above address. Visitors to VA field stations will be informed that the records are available for inspection only in Central Office and will be furnished the address and room number.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, Washington, DC 20420 (202-389-2092).

SUPPLEMENTARY INFORMATION: Section 21.5054 is revised to permit individuals to participate in VEAP after December 31, 1981. Sections 21.5132 and 21.5138 are revised to provide that the Veterans Administration will not longer contribute to the fund for training that occurs after December 31, 1981. These contributions will now be made by the Secretary of Defense. The Veterans' Education and Employment Assistance Act of 1976 requires this change in funding following an extension of the program.

The agencies have determined that these proposed regulations contain no major rules as that term is defined by Executive Order 12291, Federal Regulation. The annual effect on the economy will be less than $100 million. They will not result in any major increases in costs or prices for anyone. They will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans' Affairs and the Secretary of Defense hereby certify that these proposed regulations will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), these proposed regulations therefore are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reasons for these certifications are as follows:

These regulations regulate individuals and provide for internal shifts within the Federal government in the funding for this program.

They will have no significant impact on small entities (i.e. small businesses, small private and nonprofit organizations, and small governmental jurisdictions.)

Approved: March 19, 1982.

Charles T. Hagel,

Deputy Administrator.

Approved: June 17, 1982.

R. Dean Tice,

Deputy Assistant Secretary of Defense.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs-education, Loan programs-education, reporting requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

PART 21—PROTECTION OF PRIVACY

It is proposed to amend 38 CFR Part 21 as follows:

1. Section 21.5054 is revised as follows:

§ 21.5054 Dates of participation.

An individual may participate after December 31, 1976. An individual was not eligible for benefits before July 1, 1977 unless discharged after January 1, 1977 for a service-connected condition. The first date on which an individual on active duty enrolled in a course, or courses or a program of education leading to a secondary school diploma or an equivalency certificate may receive benefits is subject to the eligibility requirements of § 21.5040(b)(4) and (5). (38 U.S.C. 1631 (a) and (b): Pub. L. 96-466, 94 Stat. 2171)

2. In § 21.5132, paragraph (b) (2) and (3) is revised as folows:

§ 21.5132 Criteria used in determining benefit payments.

* * * * *

(b) *Contributions.* * * *

(2) The amount the Veterans Administration has contributed to the fund for the individual. This is twice the individual's contribution. The Secretary of Defense will make this contribution instead of the Veterans Administration for all payments made for training that occurs after December 31, 1981.

(3) Any additional amount the Secretary of Defense has contributed to the fund for the individual. (38 U.S.C. 1631)

3. In § 21.5138, paragraph (b) (6), (7) and (10) is revised as follows:

§ 21.5138 Computation of benefit payments and monthly rates.

* * * * *

(b) *Computation of benefit payment.* The Veterans Administration will compute benefits payments as follows for all training except for those individuals to whom § 21.5136(b)(1) or § 21.5139 applies. (38 U.S.C. 1631; Pub. L. 96-466, 94 Stat. 2171)

* * * * *

(6) Enter two times the amount in line 11.....(12) ———

(This is the Veterans Administration's portion of benefit payments for training completed before January 1, 1982. The Secretary of Defense will contribute this portion of the benefit payment for training that occurs after December 31, 1981.)

(7) Enter the amount of the additonal contributions, if any, remaining in the fund which the Secretary of Defense contributed for the individual.....(j)———

* * * * *

(10) Divide line k by line 1. Enter the

quotient.....(13)——

(This is the Department of Defense's portion for training completed before January 1, 1982. For training completed after December 31, 1981, this is the second part of the Department of Defense's portion.) (38 U.S.C. 1631)

* * * * *

[FR Doc. 82-18240 Filed 7-2-82; 8:45 am]
BILLING CODE 8320-01-M

VETERANS ADMINISTRATION

38 CFR Part 36

Loan Guaranty; State and Local Housing Authorities Title Limitations and the Acceptability of Age Restrictions on VA Guaranteed Loans

AGENCY: Veterans Administration.

ACTION: Proposed Regulations.

SUMMARY: The VA (Veterans Administration) is proposing to amend its regulations to enable veterans to participate simultaneously in affordable housing programs sponsored by State and local government agencies and to obtain VA guaranteed loans. These amendments, if adopted, would aid low- or moderate-income families seeking to obtain housing.

The VA is also proposing to amend its regulations to authorize the acceptance of properties securing VA guaranteed loans when the sale, lease, or occupancy of the dwelling unit is restricted on the basis of age. VA guaranteed loans could then be used to obtain housing in retirement communities or other developments with age restrictions.

DATES: Comments must be received on or before August 5, 1982. It is proposed to make these amendments effective on the date of approval of the final regulations.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding this proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between 8 a.m. and 4:30 p.m., Monday through Friday (except holidays) until August 16, 1982. Persons visiting the Veterans Administration Central Office in Washington, D.C. for the purpose of inspecting comments will be received by the Central Office Veterans Services Unit in room 132 of the above address. Visitors to VA field stations will be informed that the records are available for inspection only in Central Office and will be furnished the address and room number.

FOR FURTHER INFORMATION CONTACT: Mr. George D. Moerman, Assistant Director for Loan Policy (264), Loan Guaranty Service, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420, 202-389-3042.

SUPPLEMENTARY INFORMATION: On April 10, 1981, the VA published an Advance Notice of Proposed Regulations (46 FR 21389) requesting comment on whether to develop regulations which would allow veterans to simultaneously participate in the programs of State and local housing agencies and the VA guaranteed home loan program. Seventeen comments were received, all of which were favorable. The restrictions in the State and local programs which preclude VA guaranteed loans fall into two categories: restrictions on loan assumptions and title restrictions. The loan restrictions were the subject of a separate regulatory action on October 20, 1981 (46 FR 51384). It is now proposed to amend §§ 36.4253(b)(5), 36.4350(b)(5) and 36.4358(c)(5) to accommodate the requirements of certain State and local housing programs concerning title restrictions.

One of the benefits of the VA loan programs is the right of the veteran obtaining a home or mobile home with a VA guaranteed loan to sell, lease, rent or otherwise dispose of the property as he or she chooses. This finds expression in present §36.4253(b)(5), 36.4350(b)(5) and 36.4358(c)(5) all of which limit and in some cases prohibit restrictions on the veteran's sale of the property. The prohibition is based on the general proposition that restrictions on the veteran's right to sell, lease or otherwise convey the property is an undesirable impediment upon the veteran homeowner's right to use and enjoy his/her property.

In recent years an increasing number of homes have been financed under plans of State and local government agencies to make housing affordable for those who otherwise might not be able to purchase a home. These programs offer an advantage to persons eligible to participate: housing at a reduced price. Such programs have taken a variety of forms, and additional varieties are likely to appear. One method grants developers a waiver of certain zoning, subdivision, or occupancy requirements in return for the eventual sale of some of the homes at below market prices. An example of this approach would be allowing a developer to construct more units per acre on land zoned for a smaller number. In return, the developer agrees to sell the additional units under the guidelines of the affordable housing program.

Rules for participation in these programs have been established by the housing authorities. They are usually based on income (sometimes with regard to family size) of the applicant in relation to area median income or other designated income level. Since these programs are intended to provide affordable housing for targeted groups of individuals and families, the housing agencies have devised ways for assuring that the benefits of the program accrue only to the intended beneficiaries. Often, restrictions are imposed on the resale of the property, either generally or for a prescribed number of years. The controls include rights of first refusal, age restrictions, rental restrictions, occupancy requirements, income restrictions, an agreement to forfeit all or part of any excess proceeds from a sale, or other deed, and/or mortgage restrictions which prevent the home seller from freely selling his/her home. The controls are designed to prevent, for example, an individual from entering the program, acquiring a home, and immediately selling the home to an ineligible party, who would then receive the benefit.

By itself a restriction on the homeowner's right to convey a home is usually undesirable. However, it is desirable that a purchaser be able to acquire the home in the first place, and the restrictions can be considered a part of the price which must be paid if the program benefits are to reach the intended beneficiaries. It is possible that by agreeing to the restrictions, the purchaser acquires a home otherwise not affordable or at a price otherwise not available.

Accordingly, it is proposed to amend §§ 36.4253(b)(5), 36.4350(b)(5), and 36.4358(c)(5) to permit restrictions like those discussed above, established by a State, Territorial, or local government agency for the purpose of providing assistance to low and moderate income purchasers. The following governmentally imposed restrictions are considered to be reasonable in nature and necessary to preserve the integrity of such programs: (1) An option by the housing authority to either purchase or designate an eligible purchaser, within 30 days of receipt of a notice from the homeowner that he/she intends to sell. This covenant must not restrict the homeowner's rights for more than 10 years; (2) A right to specify the maximum resale price at which a homeowner may sell his/her home. This

covenant must not restrict the homeowner's rights for more than 10 years, and the maximum resale price must equal at least the original home purchase price plus a reasonable portion of the increased costs of housing in the area between the date of original purchase and resale plus the value of any capital improvements added by the homeowner; or (3) Such other reasonable restrictions imposed by the housing authority as necessary to insure either that a property acquired under a low- or moderate-income program will be made available to an eligible purchaser or to prevent a purchaser from receiving a windfall profit, if the restriction has been approved by the Administrator.

To the extent that any restriction has an impact on the value of the property, it will be reflected in the VA determination of reasonable value, and reflected in the maximum amount which a veteran may borrow on a VA guaranteed loan.

The VA is also proposing to amend §§ 36.4253(b)(5), 36.4350(b)(5) and 36.4358(c)(5) to authorize the acceptance of properties as security for VA guaranteed loans when the properties have title or deed restrictions limiting the sale, lease, or occupancy of dwelling units on the basis of age. For instance, one development might require that no children under the age of 18 may reside more than 30 days in a dwelling unit, while another might require that one of the purchasers of a dwelling must have attained the age of 65. Age restrictions may limit the ability of a person to sell or lease a home, or they may restrict who may occupy the home. In this case a person has a more limited market of individuals to whom he/she may sell the property. In addition, a person could be placed in the difficult position of having to move from his/her home if the family composition no longer met the age restriction requirements, (e.g., the retired couple living in a retirement community who must assume the care of grandchildren upon the death of the parents).

Some State courts have upheld the validity of age restrictions in housing. The median age of the average American is increasing, and many homeowners prefer to live in "childless" or "retirement" communities. The VA neither encourages nor discourages the purchase by veterans of homes in communities with age restrictions. We do believe, however, the VA should allow within public policy limitations, the purchase by a veteran of the home of the veteran's choice. We are therefore proposing to amend §§ 36.4253(b)(5), 36.4350(b)(5), and 36.4358(c)(5) to allow VA guaranteed loans for homes which are restricted as to sale, lease, or occupancy on the basis of age, except where the Administrator determines that the restriction would work an undue hardship upon the owner in case of a sudden or unforeseen event, or be likely to increase the risk of the veteran losing his/her home through violation of the age restriction which would thereby increase the chance of the veteran defaulting on his/her monthly loan payments.

With regard to both the proposed acceptance of title restrictions imposed by State and local housing assistance authorities and the proposed acceptance of developments with title or other limitations based on age, the restrictions imposed must be fully explained to the veteran-applicant. The veteran's written consent to the restrictions must accompany the application for home or mobile home loan guaranty or the report of a home or mobile home loan processed on the automatic basis. In addition, the proposed amendments, if adopted, will authorize the Administrator to refuse to participate in or to discontinue participation in a State or local housing program requiring deed restrictions or a condominium or planned unit development with age restrictions if the restrictions are found to be detrimental to the best interests of veterans or to the Government.

Comments are specifically requested on the reasonableness of these proposed regulations. For instance, as to deed restrictions, is it reasonable time limit to require that housing authorities wishing to exercise a purchase option must do so within 30 days of notification by the home seller of his/her intent to sell? Should the housing authority restrictions be accepted even if they restrict the owner's property rights for periods of longer than 10 years? Should other deed restrictions be presumed reasonable in the regulations? As to age restrictions, are our concerns as to the inheritance of a property in a retirement community by a minor child or the problems of a retired couple who suddenly become the guardians of a minor child reasonable? Will many condominiums or planned unit developments with age restrictions be prevented from participating in the VA program because of these regulatory safeguards? Should other safeguards be considered as to State and local housing authority restrictions or age restrictions?

The Administrator hereby certifies that these proposed regulations will not, in themselves, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), these proposed regulations are therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The proposed regulations, if adopted, should indirectly aid small government jurisdictions who wish to assist low- and moderate-income families obtain housing and should indirectly aid small businesses who wish to build homes or lend funds to such families. The proposed regulations should have no adverse impact upon small organizations. No compliance costs or reporting burdens will be imposed by these proposed regulations upon small entities.

The proposed amendments have been reviewed pursuant to Executive Order 12291 and have been found to be nonmajor regulations. The regulations provide the opportunity for veterans to obtain VA guaranteed loans and also participate in State and local affordable housing programs.

The regulations will not impact on the public or private sectors as a major rule. They will not have an annual effect on the economy of $100 million or more, cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 38 CFR Part 36

Condominiums, Handicapped, Housing, Loan programs—housing and community development, Mobile homes, Veterans.

(Catalog of Federal Domestic Assistance Program numbers, 64.114 and 64.119)

The amendments are proposed under authority granted to the Administrator by sections 210(c), 1803(c) and 1819(g) of title 38, United States Code.

Approved: June 1, 1982.

Robert P. Nimmo,

Administrator.

PART 36—LOAN GUARANTY

The Veterans Administration proposes to amend 38 CFR Part 36 as follows:

1. In § 36.4253(b)(5), subdivision (iv) is added as follows:

§ 36.4253 Title and lien requirements.

* * * * *

(b) * * *
(5) * * *

(iv) Notwithstanding the provisions of paragraphs (b)(5) (i), (ii), and (iii) of this section, a property shall not be considered ineligible pursuant to paragraph (a) of this section if:

(A) The veteran obtained the property under a program established by a State or political subdivision thereof designed to assist low- or moderate-income purchasers, and as a precondition to participating in the program a purchaser must agree to one or more of the following restrictions:

(*1*) If the property is resold within a period of not more than 10 years after the veteran acquires title, the veteran must first offer the property to the government housing agency, or a low- or moderate-income purchaser designated by such agency, provided the option to purchase is exercised within 30 days after notice by the veteran to the agency of the veteran's intention to sell;

(*2*) If the property is resold within a period of not more than 10 years after the veteran acquires title, a governmental agency may specify a maximum price which the veteran may receive for the property upon resale; or

(*3*) Such other restriction approved by the Administrator designed to insure either that a property acquired under such program again be made available to low- or moderate-income purchasers, or to prevent a private purchaser from obtaining a windfall profit on the resale of such property, while assuring that the veteran has a reasonable opportunity to dispose of the property without undue difficulty at a reasonable price.

The maximum sale price of a property under any of the restrictions of paragraph (b)(5)(iv)(A) of this section shall not be less than the lowest of the following: The price designated by the veteran as the asking price; the appraised value of the property; or the original purchase price of the property, increased by a factor reflecting all or a reasonable portion of the increased costs of housing in the area between the date of original purchase and resale, plus the reasonable value of any capital improvements made by the veteran, plus a reasonable real estate commission; or

(B) A restriction on title is established limiting the sale, lease, or occupancy, of a dwelling to persons based on age, including prohibitions against the permanent occupancy of the dwelling by children. The Administrator may, however, refuse to approve a property with such a restriction if its operation would work an undue hardship upon the owner in the case of sudden, unforeseen events or be likely to result in an increased risk of default. Examples of restrictions that might work an undue hardship include, but are not limited to, requirements for an immediate sale if the owner-occupant became the guardian of a minor child upon the death of the child's parents, and restrictions that did not permit persons younger than the specified age who inherit the property either to rent such property to a qualified occupant, or sell such property within a reasonable period of time to a qualified buyer at a fair market price; and

(C) The veteran is fully informed and consents in writing to the housing restrictions. A copy of the veteran's consent statement must be forwarded with the application for mobile home loan guaranty or the report of a mobile home loan processed on the automatic basis; (38 U.S.C. 1819(g))

* * * * *

2a. In § 36.4350, the introductory portion of paragraph (b)(5)(ii) is amended and (b)(5)(ii)(*b*)(*5*) as published in FR Doc. 76–29306 at 41 FR 44040, October 6, 1976 is corrected to read "(iii)". A new subdivision (iv) is added. Such subdivisions to read as follows:

§ 36.4350 Estate of veteran in real property.

* * * * *

(b) * * *
(5) * * *

(ii) A condominium estate established by the filing for record of the Master Deed, or other enabling document before December 1, 1976 will not fail to comply with the requirements of paragraph (a) of this section by reason of:

* * * * *

(iii) Any property subject to a restriction on the owner's right to convey to any party of the owner's choice, which restriction is established by a document recorded on or after December 1, 1976, will not qualify as security for a guaranteed or insured loan. A prohibition or restriction on leasing an individual unit in a condominium will not cause the condominium estate to fail to qualify as security for such loan, provided the restriction is in accordance with § 36.4358(c);

(iv) Notwithstanding the provisions of paragraph (b)(5)(i), (ii), and (iii) of this section, a property shall not be considered ineligible pursuant to paragraph (a) of this section if:

(*a*) The veteran obtained the property under a program established by a State or political subdivision thereof designed to assist low- or moderate-income purchasers, and as a precondition to participating in the program a purchaser must agree to one or more of the following restrictions:

(*1*) If the property is resold within a period of not more than 10 years after the veteran acquires title, the veteran must first offer the property to the government housing agency, or a low- or moderate-income purchaser designated by such agency, provided the option to purchase is exercised within 30 days after notice by the veteran to the agency of the veteran's intention to sell;

(*2*) If the property is resold within a period of not more than 10 years after the veteran acquires title, a governmental agency may specify a maximum price which the veteran may receive for the property upon resale; or

(*3*) Such other restriction approved by the Administrator designed to insure either that a property acquired under such program again be made available to low- or moderate-income purchasers, or to prevent a private purchaser from obtaining a windfall profit on the resale of such property, while assuring that the veteran has a reasonable opportunity to dispose of the property without undue difficulty at a reasonable price.

The maximum sale price of a property under any of the restrictions of paragraph (b)(5)(iv)(*a*) of this section shall not be less than the lowest of the following: The price designated by the veteran as the asking price; the appraised value of the property; or the original purchase price of the property, increased by a factor reflecting all or a reasonable portion of the increased costs of housing in the area between the date of original purchase and resale, plus the reasonable value of any capital improvements made by the veteran, plus a reasonable real estate commission; or

(*b*) A restriction on title is established limiting the sale, lease, or occupancy, of a dwelling to persons based on age, including prohibitions against the permanent occupancy of the dwelling by children. The Administrator may, however, refuse to approve a property with such a restriction if its operation would work an undue hardship upon the owner in the case of sudden, unforeseen events or be likely to result in an increased risk of default. Examples of restrictions that might work an undue hardship include, but are not limited to, requirements for an immediate sale if the owner-occupant became the guardian of a minor child upon the death of the child's parents, and restrictions that did not permit persons younger than the specified age who inherit the property either to rent such property to a qualified occupant, or sell such property within a reasonable period of time to a

qualified buyer at a fair market price; and

(c) The veteran is fully informed and consents in writing to the housing restrictions. A copy of the veteran's consent statement must be forwarded with the application for home loan guaranty or the report of a home loan processed on the automatic basis; (38 U.S.C. 1803(c)).

* * * * *

§ 36.4350 [Amended]

b. In 38 CFR Part 36, § 36.4350(b)(5)(ii)(*b*)(*6*)–(*8*), the codification is changed from figures appearing in italics (*6*)–(*8*) to those appearing in arabic numbers (6)–(8).

3. In § 36.4358, paragraph, (5) is revised as follows:

§ 36.4358 Rights and restrictions.

* * * * *

(c) * * *

(5) *Right of first refusal.* The right of a unit owner to sell, transfer, or otherwise convey his or her unit in a condominium shall not be subject to any right of first refusal or similar restriction if the declaration or similar document is recorded on or after December 1, 1976. If the declaration was recorded prior to December 1, 1976, the right of first refusal must comply with § 36.4350(b)(5)(ii). Provided, however, restrictions on the basis of age or restrictions established by a State, Territorial, or local government agency as part of a program for providing assistance to low- and moderate-income purchasers shall be governed by § 36.4350(b)(5)(iv). (38 U.S.C. 1803(c))

[FR Doc. 82-18178 Filed 7-2-82; 8:45 am]

BILLING CODE 8320-01-M

POSTAL SERVICE

39 CFR Part 111

Poisons and Controlled Substances; Mailability; Withdrawal of Proposal

AGENCY: Postal Service.

ACTION: Withdrawal of proposal.

SUMMARY: The Postal Service withdraws a proposed amendment which would have revised regulations on the mailing of poisons, poisonous drugs and medicines, and controlled substances with the intent of bringing them more strictly within the letter of the underlying statute. Public comments received on the proposal generally opposed the change and favored continued use of the mails to distribute prescription medicines in accordance with current regulations. In place of changes in regulations, the Postal Service is now considering seeking clarifying legislation concerning its authority to permit such mailings.

FOR FURTHER INFORMATION CONTACT: George C. Davis, Assistant General Counsel, Consumer Protection Division, Law Department, Room 9014, 475 L'Enfant Plaza West, S.W., Washington, D.C. 20260; (202) 245–4385.

SUPPLEMENTARY INFORMATION: In March, 1980, the Postal Service proposed amending the Domestic Mail Manual to limit the mailing of poisons and controlled substances to shipments between persons in the categories established by 18 U.S.C. 1716 (1976) (45 FR 20118, 26983, 38419). This proposal was prompted by concern within the Postal Service that the broadly-phrased postal regulations permit mailings which are not permissible under section 1716. That provision prohibits the mailing of "[a]ll kinds of poisons" but allows the Postal Service to permit mailings, to and from all persons, of such poisonous articles as "are not outwardly or of their own force dangerous or injurious to life, health, or property," provided the mailings satisfy the requirements of postal regulations imposing requirements for preparation and packaging. 18 U.S.C. 1716(b) (1976). But, with respect to "poisonous drugs and medicines," the statute only grants the Postal Service discretion to limit such mailings to shipments between narrowly defined classes of persons specified by the statute (e.g., manufacturers, dealers, licensed physicians, etc.). 18 U.S.C. 1716(d), (e) (1976). We have been concerned that nothing in the statute specifically authorizes the Postal Service to permit the mailing of such substances to or from persons not within the specified classes (e.g., from a physician to his or her patient). *See, Bruce v. United States*, 202 F.2d 98 (8th Cir. 1912). It has been argued that the Postal Service may either limit mailings of these substances to those within the specified classes or allow unrestricted mailings. Following the former alternative would seem to preclude legitimate mailings of pharmaceuticals to patients while the latter would seem to open the mails to free traffic in abuseable pharmaceuticals.

The Postal Service received 47 comments on the published proposal. The majority objected to it. The most frequently expressed concern was that the elderly, the infirm, and those living in the nation's rural areas could not readily obtain prescription medicines if they were not allowed to receive them through the mails. Several of the comments also referred to the problems the proposal would cause for people traveling a considerable distance from their regular pharmacist. Support for the proposal was expressed by pharmacists concerned about the potential commercial disadvantage that large-scale mail order marketing of prescription drugs might present.

Because the issue, as reflected in the comments, is one of national policy regarding the availability and marketing of prescription drugs, and considering that the underlying statute is written in antiquated language which is not as clear as it might be, the Postal Service has decided to withdraw the proposed amendments to its rules. We are considering instead the submission of a legislative proposal for congressional consideration to amend 18 U.S.C. 1716 to clarify that mailings now taking place under present regulations are permissible. This will establish in the appropriate forum an opportunity for the presentation and consideration of all views relevant to the question of distribution by mail of prescription drugs containing controlled substances.

The Postal Service welcomes any suggestions as to the issues which a clarifying amendment to section 1716 should address and what it should say.

Therefore, the Postal Service is withdrawing its Proposed Rule, (39 CFR Part 111) which was published at 45 FR 20118, March 27, 1980, and the comment period extended at 45 FR 26983, April 22, 1980, and 45 FR 38419, June 9, 1980.

(39 U.S.C. 101, 401(2), (10), 3661(a); 18 U.S.C. 1716)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 82-18345 Filed 7-2-82; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-2159-8]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking; extension of the comment period.

SUMMARY: On May 28, 1982 (47 FR 22976), EPA proposed rulemaking on Indiana's Floyd County SO_2 SIP strategy. Public comments were due by June 25, 1982. Indiana and a local utility requested a 30-day extension of the public comment period. Indiana wishes

to obtain the concurrence of the Indiana Air Pollution Control Board prior to submitting its comments. EPA, therefore, is extending the public comment period until July 25, 1982.

DATE: Comments on the Floyd County SO_2 revision to the Indiana State Implementation Plan (SIP) and on EPA's proposed action must be submitted by July 25, 1982.

ADDRESSES: Comments on the SIP revision and on EPA's proposed action should be addressed to Gary Gulezian, Chief, Regulatory Analysis Section, EPA Region V (5AP–11), 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Robert Miller, (312) 886–6031.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: June 22, 1982.

Alan Levin,

Regional Administrator.

[FR Doc. 82-18198 Filed 7-2-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Parts 122 and 264

[SWH-FRL 2158-6]

Hazardous Waste Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of Public Meeting.

SUMMARY: This notice announces a public meeting to discuss the hazardous waste permit program. The purpose of the meeting is to obtain public comment and suggestions on methods to simplify, expedite and reduce the costs of preparing and processing hazardous waste permit applications.

DATE: July 22, 1982, 9:00 a.m. to 12 noon.

ADDRESS: The public meeting will be held at the Environmental Protection Agency, Room 2409, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: For general information contact the RCRA Superfund Hotline, 800/424–9346 (382–3000 in Washington, D.C.). For specific information contact John H. Skinner, Director, State Programs and Resource Recovery Division, Office of Solid Waste, (202) 755–9107 or David Sussman, (202) 382–4692.

SUPPLEMENTARY INFORMATION: EPA is responsible for administering the Federal program for issuing permits to hazardous waste treatment, storage and disposal facilities under the Resource Conservation and Recovery Act (RCRA). Procedures for issuing these permits have been promulgated at 40 CFR Part 122 and technical standards which apply to permitted facilities have been promulgated at 40 CFR Part 264. RCRA permits will be issued by EPA or by States authorized for that purpose under section 3006 of the Act.

There are approximately 10,500 existing hazardous waste management facilities in the United States subject to the RCRA permit program. These facilities are currently operating under interim status as provided by section 3005(e) of RCRA and will eventually all be issued RCRA permits. New hazardous waste management facilities cannot begin construction or operation without a RCRA permit. (See 40 CFR 122.22(b)). Also a RCRA permit is required in order for certain existing facilities to expand or add new processes. (See 40 CFR 122.23 (b) and (c) for regulations governing changes in facilities during interim status.)

EPA intends that RCRA permits provide for full protection of public health and the environment as required by the statute and that the requirements for public participation in the permitting process are fully complied with. At the same time EPA intends to expedite the issuance of permits to new hazardous waste management facilities and to expansions of existing facilities. This is important so that the RCRA permit process does not impede the development of new hazardous waste processing capacity or impede other industrial development dependent on that capacity.

Expediting issuance of permits to new facilities and expansions of existing facilities should enhance protection of public health and the environment by adding new capacity constructed in conformance with the RCRA technical standards. EPA believes that the RCRA permit program can be administered in a manner that will achieve these goals but it will take a concerted cooperative effort by EPA, State and local agencies, the regulated community and the public at large.

The purpose of the July 22, 1982 public meeting is to obtain suggestions and comment from the interested public, industry and State agencies on methods of expediting the issuance of RCRA permits. The meeting will cover the following items:

1. EPA will discuss its overall permitting strategy including, permit issuance priorities, scheduling and relationship between EPA and State agencies.

2. The following draft documents will be discussed:

a. An applicant's guide for preparing a permit application for hazardous waste storage facilities.

b. A training course for applicants for storage facility permits.

c. A model permit for hazardous waste storage in containers, tanks and piles.

d. A RCRA permit writer's guide.

3. There will be a discussion of EPA plans to develop model permits, permit applicant guides and training materials for hazardous waste incinerators and land disposal facilities.

4. There will be a discussion of EPA plans for Class Permits. Under this approach standardized permits would be issued to classes of facilities using simplified application and processing procedures.

5. There will be a discussion of the need for special permitting procedures for mobile treatment facilities.

6. EPA will ask for public and industry suggestions of ways to simplify, expedite and reduce the cost of preparing and processing applications.

Also at the meeting EPA will discuss the formation of a task force (subject to Federal Advisory Committee Act constraints) to carry out further work in this area, and will solicit sugestions for members of that task force.

The meeting is open to the general public. EPA is especially interested in participation and comments from individuals who will be preparing permit applications and individuals who are familiar with similar permit programs at the Federal, State or local levels. To this end, invitations have been extended to the following organizations and other groups to participate:

1. American Institute of Iron and Steel.
2. American Mining Congress.
3. American Petroleum Institute.
4. Association of State and Territorial Solid Waste Management Officials.
5. Chemical Manufacturers Association.
6. Conservation Foundation.
7. Environmental Defense Fund.
8. Ferroalloys Association.
9. Government Refuse Collection and Disposal Association.
10. Hazardous Waste Treatment Council.
11. National Conference of State Legislatures.
12. National Paint and Coatings Association.
13. Natural Resources Defense Council.
14. National Solid Waste Management Association.
15. Synthetic Organic Chemical Manufacturers Association.

16. Utility Solid Waste Advisory Group.

Dated: June 21, 1982.

Rita M. Lavelle,

Assistant Administrator.

[FR Doc. 82-18182 Filed 7-2-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 433

Medicaid Program; Interest on Disputed Medicaid Claims

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: This proposal would clarify HCFA policies relating to disallowances of State claims for Federal matching of State Medicaid expenditures.

Before the enactment of the Omnibus Reconciliation Act of 1980 (Pub. L. 96-499), States were permitted to retain, interest-free, the Federal matching funds for State Medicaid expenditures that had been disallowed, until there was a final Federal determination under the administrative appeals process. If the determination upheld part or all of the disallowance, the State returned only that amount and did not pay the Federal government any interest.

Section 961(a) of the Omnibus Reconciliation Act of 1980 changed these procedures by giving the State the options, if it appeals a disallowance, of returning the disallowed funds to HCFA, or of retaining the disallowed funds held by the State until there is a final determination but paying interest on any portion of the disallowance that is sustained on appeal.

The statute is self-implementing, and the proposed regulations are intended simply to specify the procedures to be followed when a State chooses to retain the funds.

DATES: To assure consideration, comments should be mailed by September 7, 1982.

ADDRESS: Address comments in writing to: Administrator, Department of Health and Human Services, Health Care Financing Administration, P.O. Box 17076, Baltimore, Maryland 21235.

If you prefer, you may deliver your comments to Room 309-G Hubert H. Humphrey Building, 200 Independence Ave, S.W., Washington, D.C., or to Room 789, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to BPO-16-P. Agencies and organizations are requested to submit comments in duplicate.

Comments will be available for public inspection, beginning approximately two weeks after publication, in Room 309-G of the Department's office at 200 Independence Ave., S.W., Washington, D.C., 20201 on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202-245-7890).

Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments and will respond to them in the preamble to that rule.

FOR FURTHER INFORMATION, CONTACT: Gilda Martin, (301) 597-1399.

SUPPLEMENTARY INFORMATION:

Background

In the Medicaid program, the Federal government shares with the States the cost of services furnished to beneficiaries. The Federal government's share is determined by a formula based on the State's per capita income with special provisions for administrative expenditures. (See section 1903 of the Social Security Act and 42 CFR 433.10 and 433.15.) To obtain the Federal government's share (which is called Federal financial participation, or FFP), each State requests from HCFA (the Federal agency that administers the Medicaid program), on a quarterly basis, the amount the State estimates will be the FFP for the following fiscal quarter. On the basis of these estimates, we advance the funds by awarding a grant, and after the end of the quarter the State sends in a quarterly expenditure report that reflects the actual expenditures incurred by the State. We review the report and determine whether the State has claimed reimbursement for any expenditures that are not allowable.

If we determine that the State erroneously requested FFP on any of its claims, a notice of disallowance for those claims is issued. At the point of disallowance a claim may be "paid" or "unpaid". Under section 1116(d) of the Act and the procedures in 45 CFR Part 16, States are entitled to appeal disallowances to the Department's Grant Appeals Board. If the State does appeal, it retains the funds for claims that have been paid until the appeal is resolved. However, if we issue the notice of disallowance before we issue the final grant award for the quarterly expenditures, we do not pay the unapproved claim and we hold the funds during any subsequent appeal. If the State does not file an appeal of a paid claim, we subtract the amount of the disallowance from the State's next quarterly grant. In effect, the adjusted grant is our retroactive payment of the actual FFP due the State.

If the review of the quarterly expenditure report precedes the issuance of the grant award for those expenditures, we may defer payment of a claim pending the submission by the State of additional information and documentation to substantiate the allowability of the claim (45 CFR 201.15). Once the claim is deferred, the State's next grant award is adjusted to subtract payment of the claim. If further review of the claim establishes it as unallowable, we formally notify the State of the disallowance and of its appeal rights; if we meet certain time limits specified in the deferral regulation (45 CFR 201.15), the funds involved in a deferred claim are held by us, rather than by the State at the time of the disallowance. If we do not meet the time limits for review of a deferred claim, the State receives its payment of the deferred amount in a subsequent grant and retains it, subject to a later determination concerning whether it should be disallowed.

Statutory Amendment

Section 961(a) of the Omnibus Reconciliation Act (Pub. L. 96-499) amended section 1903(d) of the Social Security Act by adding a new paragraph (5). This paragraph was then amended by section 2163 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35). Under the provisions of the new paragraph, a State that disagrees with HCFA's decision to disallow a claim, and appeals the disallowance under section 1116(d) of the Social Security Act, has the option of returning the disputed amount to HCFA or of retaining the funds, as it does now, pending the final determination of the Grant Appeals Board. If the State chooses to retain the funds and the Board's final determination upholds all or part of the disallowance, the State must pay interest on any funds it retained that the Board has ruled were properly disallowed. The interest is computed at the rate (determined by the Secretary) based on the average of the bond equivalent of the weekly 90-day Treasury bill auction rates during the period for which the State owes the interest. The period over which interest may be charged begins on the date the amount was formally disallowed and ends on the date of the Board's final determination. Under the 1980 Act, this period will not exceed 12 months for

disallowances made before October 1, 1981. However, the limitation to the duration of the interest period is eliminated by section 2163 of the Omnibus Budget Reconciliation Act of 1981, which was effective August 13, 1981. The law does not affect any disallowance, regardless of when it is made, for any services furnished before October 1, 1980.

A decision on an appealed disallowance may sometimes take up to two years. Although, in a majority of appeals, States are not upheld and return a substantial amount of money to HCFA, the procedure in use before the enactment of the 1980 Act allowed States to benefit, in effect, from an interest-free loan. During the appeals process, the Federal government lost the benefit of the funds and was required to borrow additional funds to meet its cash needs. The purpose of the statutory amendment is to save the Federal government the additional interest expense incurred during the administrative appeals process when the disallowance is upheld.

Provisions of the Regulations

The provisions of the new regulations would parallel the statute with clarifying or implementing policy as discussed below.

The new regulations would add a new section, 42 CFR 433.38, Interest Charged on Disallowed Claims, to the Medicaid regulations. We would have a cross-reference in the new section to 45 CFR Part 201, Subpart B, Review and Audits. That subpart contains the Department's rules on action taken in disallowance situations in several Federal programs, including Medicaid.

A. Notice of State's Options

Under the proposed regulations, a disallowance notice would inform the State about the actions it should take if it wishes to retain disallowed funds. The State would have 30 days from the date of receipt of the notice of disallowance (as established by a certified mail receipt) to notify the HCFA Regional Administrator in writing that it intends to retain the disallowed funds pending a decision on the State's appeal by the Grant Appeals Board. If the State does not notify the Regional Administrator that it wishes to retain the funds, we would recover the amount of payment in controversy in the next grant award after the 30 days. (We would allow time for a letter mailed near the end of the 30 days to reach us before recovering the money.)

B. Amount of Interest

The proposed regulations would define how the interest owed by the State would be calculated if the State had retained any funds that remained disallowed in the final determination.

To establish the interest rate, we would total the bond equivalent rates of each weekly auction of 90-day Treasury bills in effect after the date of the disallowance and before the date of the Board's final determination and divide the total by the number of rates considered. The bond equivalent rate is the true discount rate. (31 CFR, Part 306, Appendix to subpart E.) The true discount rate is determined by:

(1) Subtracting the sale price of the bill from its face value to obtain the amount of discount;

(2) Dividing the amount of the discount by the number of days the bill is to run to obtain the amount of discount per day;

(3) Multiplying the amount of discount per day by the actual number of days in the year from date of issue (365 ordinarily, but 366 if February 29 falls within the year from the date of issue) to obtain the amount of discount per year; and

(4) Dividing the amount of discount per year by the sale price of the bill to obtain the true discount rate.

For example: 90-day bill (The bill actually runs 91 days)

Principal amount—maturity value	$100.00
Sale price of bill	−96.965
Amount of discount	3.035

$3.035 − 91x365 − $96.965 = 10.865 (true discount rate)

If the true discount rates, determined in this manner, for each weekly auction in effect between the date of disallowance and the date of final determination were 17.865, 16.865, and 15.865, the total of these rates, divided by three, would result in an average rate of 16.865. This average rate would be applied as the interest rate under the provisions of the proposed regulation.

As indicated above, interest charges would begin on the date of the disallowance letter and end on the date of the Board's final determination. However, consistent with the 1980 Act, the regulations would specify that we would not charge interest for more than 12 months for disallowances issued between October 1, 1980 and August 13, 1981, when the 1981 Act became effective.

C. Limitations on Applicability

1. Any interest charged to a state under the proposed regulations would be applied only to the amount of FFP disallowed for services furnished on or after October 1, 1980.

2. Funds retained by the Federal government because of a deferral would not be subject to the provisions of the proposed regulations. That is, if we defer a claim and later disallow it within the time limits of 45 CFR 201.15, we would not transfer the funds in dispute to the State to hold during the appeals process. Since the State does not have the funds in its possession at the time of a timely disallowance following deferral, it may not "retain" them. Deferred claims that are disallowed, therefore, fall outside the scope of these proposed regulations because the State would never have received possession of the disputed funds. As such, there would be nothing for the State to retain. We reach this conclusion because there is nothing in the legislative history for section 961 that would indicate any Congressional dissatisfaction with the Department's deferral procedures. In the absence of any such indication, it is unlikely that congress intended to nullify the deferral process. Therefore, these proposed regulations would exclude from coverage any claim that HCFA has deferred and disallowed in a timely fashion.

3. The date of the "final determination", which ends the interest period, would be the date of the decision (under 45 CFR 16.10) of the Grant Appeals Board on the claim in dispute; it does not include any judicial decisions. The final determination would be that of the Grant Appeals Board. The Conference Report accompanying the Reconciliation Act [House Report No. 96–1479, 96th Cong., 2nd Sess. 152–153 (1980)] indicates that, although the House and Senate bills would have permitted States to retain disputed claims throughout all appeals, the Conference Committee agreed that section 961 gave the States the option to retain disputed funds only through completion of the administrative appeals process.

If the State were to withdraw its appeal to the Board on all or part of the disallowed claim, we would charge the State interest on that portion on which it withdrew its appeal through the date on which the State notifies HCFA in writing of the amount on which it is withdrawing the appeal.

D. Procedures for Recovery of Retained Funds and Interest

If the Board's final determination upholds the disallowance and the State has retained the disallowed funds during the administrative appeals process, we would offset, from the next

Medicaid grant awarded to the State after the final determination, an amount equal to that specified in the final determination, plus interest on the amount disallowed.

The grant award would show the amount of FFP and interest deducted from the grant as calculated under the provisions of the proposed regulations.

Impact Analyses

Executive Order 12291

The Secretary has determined that the proposed regulations do not meet the criteria for a "major rule", as defined by Section 1(b) of Executive Order 12291. That is, the proposed regulations will not—

- Have an annual effect on the economy of $100 million or more;
- Result in a major increase in costs or prices for consumers, any industries, any government agencies or any geographic regions; or
- Have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or import markets.

These proposed regulations are intended to implement legislation that imposes an interest charge on disallowed funds that a State retains pending completion of the administrative appeals process. We estimate that the legislation would save the Federal government about $5 million each year beginning with fiscal year 1982. This figure is projected based on the following information.

In our estimate we are assuming that:

(1) The bond equivalent rate remains approximately the same as it has been the past few quarters;

(2) The amount of disallowed claims appealed remains stable;

(3) The amount of the disallowed claims held by the State at the time the disallowance is issued and the percentage upheld by the Board remain stable;

(4) The amount appealed in FY 82 for expenditures incurred before October 1, 1980 is insignificant; and

(5) The average length of an appeal is nine months.

For the first nine months of fiscal year 1981, State claims for $64 million have been disallowed (all of which are for expenditures incurred before October 1980). Based on the criteria above and at a bond equivalent rate of 15 percent, we project that the States will incur interest of $5 million for fiscal year 1982. (The amount for FY 1981 will be insignificant since there will be a relatively small amount disallowed by September 30, 1981, for expenditures for services furnished after September 30, 1980.)

The statute is self-implementing; these proposed regulations establish the procedures to be followed when a State chooses to retain funds during the appeal of a disallowance.

Regulatory Flexibility Act

Section 603(a) of Pub. L. 96-354 (the Regulatory Flexibility Act of 1980) requires that each Federal agency prepare, and make available for public comment, an initial regulatory flexibility analysis (IRFA) when the agency is required by the Administrative Procedure Act (5 U.S.C. 553) to publish a notice of proposed rulemaking. The IRFA is intended to explain what effect regulatory actions by agencies would have on small businesses and other small entities.

As defined by the Regulatory Flexibility Act, the term "small entities" includes "small governmental jurisdictions". The latter term is defined as local governments (cities, counties, towns, townships, villages, school districts, or other special districts) with a population of less than 50,000 persons.

As explained above, the legislation requires a State agency to pay interest on disallowed claims that the State retains during the administrative appeals process, if the Grant Appeals Board upholds the disallowance. The proposed regulations establish the procedures to be used to implement the legislation. Because Medicaid State agencies do not fall into the category of small governmental jurisdictions, the Secretary certifies, under section 605(b) of the Regulatory Flexibility Act, that the proposed regulations will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 42 CFR Part 433

Administrative practice and procedure, Assignment of rights, Claims, Contracts (agreements), Cost allocation, Federal financial participation, Federal matching provision, Grant-in-Aid program—health, Mechanized claims processing and information retrieval systems, Medicaid, State fiscal administration, Third party liability.

PART 433—DRY BEAN CROP INSURANCE

42 CFR Part 433 is amended as follows:

1. The authority citation for Part 433 is revised to read as follows:

Authority: Secs. 1102, 1902(a)(25), 1903(d)(2), 1903(d)(5), 1903(o), 1903(p), and 1912 of the Social Security Act (42 U.S.C. 1302, 1396a(a)(25), 1396b(d)(2), 1396b(d)(5), 1396b(o), 1396b(p), and 1396k), unless otherwise noted.

2. The Table of Contents is amended by adding a new § 433.38 to subpart B as follows:

Subpart B—General Administrative Requirements

* * * * *

Sec.
433.38 Interest charge on disallowed claims for FFP.

3. A new § 433.38 is added as follows:

§ 433.38 Interest charge on disallowed claims for FFP.

(a) *Basis and scope.* This section is based on section 1903(d)(5) of the Act, which requires that the Secretary charge a State interest on the Federal share of claims that have been disallowed but have been retained by the State during the administrative appeals process under section 1116(d) of the Act and that the Secretary later recovers after the administrative appeals process has been completed. This section does not apply to—

(1) Claims that have been deferred by the Secretary and disallowed within the time limits of 45 CFR 201.15, Deferral of claims for Federal financial participation; or

(2) Claims for expenditures that have never been paid on a grant award; or

(3) Disallowances of any claims for services furnished before October 1, 1980, regardless of the date of the claim submitted to HCFA.

(b) *General principles.* HCFA will charge a State interest on FFP when—

(1) HCFA has notified the Medicaid agency under 45 CFR 201.14 that a State claim for FFP is not allowable;

(2) The agency has appealed the disallowance to the Grant Appeals Board under 45 CFR Part 16 and has retained the FFP during the administrative appeals process; and

(3) The Board has made a final determination upholding part or all of the disallowance, or the agency has withdrawn its appeal on all or part of the disallowance.

(c) *State procedures.* (1) If the Medicaid agency has appealed a disallowance to the Board and wishes to retain the disallowed funds until the Board issues a final determination, the agency must notify the HCFA Regional Administrator of its decision to do so.

(2) The agency must mail its notice to the HCFA Regional Administrator within 30 days of the date of receipt of

the notice of the disallowance, as established by the certified mail receipt accompanying the notice.

(3) If the agency does not notify the HCFA Regional Administrator within the time limit set forth in paragraph (c)(2) of this section, HCFA will recover the amount of the disallowed funds from the next possible Medicaid grant award to the State.

(d) *Amount of interest charged.* (1) If the agency chooses to retain disallowed funds while awaiting the Board's final determination and that determination shows that any amount was properly disallowed, HCFA will offset from the next Medicaid grant award to the State the amount of the disallowance specified in the Board's final determination, plus interest on that amount.

(2) If the agency chooses to retain disallowed FFP and later withdraws its appeal on part or all of the FFP, interest will be charged on that portion of the FFP that had been retained by the agency through the date HCFA receives written notice from the agency of the amount of FFP for which it is withdrawing its appeal.

(3) The interest charge is at the rate HCFA determines to be the average of the bond equivalent of the weekly 90-day Treasury bill auction rates during the period for which interest will be charged.

(e) *Duration of interest.* (1) Except as specified in paragraph (d)(2) of this section, the interest charge on the amount of disallowed FFP retained by the agency will begin on the date of the disallowance notice and end on the date of the final determination by the Board or on the date the agency notifies HCFA in writing that it is withdrawing its appeal, either on all or on a specified portion of the disallowed amount.

(2) HCFA will not charge interest on FFP retained by an agency for more than 12 months for disallowances of FFP made between October 1, 1980 and August 13, 1981.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: May 17, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: June 14, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-18194 Filed 7-6-82; 8:45 am]

BILLING CODE 4120-03-M

FEDERAL MARITIME COMMISSION

46 CFR Parts 502, 522, 531, 536, and 540

[Docket No. 82-33]

Filing and Service Fees

AGENCY: Federal Maritime Commission.

ACTION: Proposed rule.

SUMMARY: This would establish fees for licensing and regulatory activities which are currently not subject to any charges. Specifically, new fees are proposed for filing complaints, petitions for declaratory orders and general petitions, special dockets, informal adjudication of small claims, conciliation services, tariff special permission applications (domestic and foreign), temporary tariff filings and applications for passenger vessel certification.

DATE: Comments due on or before September 7, 1982.

ADDRESSES: Comments (Original and 15 copies) and requests for further information should be directed to: Secretary, Federal Maritime Commission, 1100 L. Street, N.W., Room 11101, Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, (202) 523-5725.

SUPPLEMENTARY INFORMATION: The Independent Offices Appropriations Act of 1952 (Title V) provides that "any work, service, publication, report, document, benefit, privilege, authority, use, franchise, license, permit, certificate, registration, or similar thing of value or utility performed, furnished, provided, granted, prepared, or issued by any Federal agency * * * to or for any person * * * shall be self-sustaining to the full extent possible." In order to meet this objective, Title V authorizes the head of each agency to prescribe by regulation such fees and charges as are determined "to be fair and equitable taking into consideration direct and indirect cost to the government, value to the recipient, public policy or interest served and other pertinent facts." (31 U.S.C. 483a).

This statute also provides that the fees and charges shall be as uniform as practicable and subject to such policies as the President may prescribe. On September 23, 1959, the Bureau of the Budget, now the Office of Management and Budget, issued Circular No. A-25, which sets forth general policies for developing a fair, equitable and uniform system of charges for certain government services. Circular No. A-25 requires that a reasonable charge be made to recipients of a measurable unit or amount of Federal Government service from which they derive a benefit in order that the Government recover the full cost of rendering that service. The Circular further calls for a periodic reassessment of costs, with related adjustment of fees, if necessary, and the establishment of new fees where none exists.

The Commission conveys special benefits to identifiable recipients above and beyond those which accrue to the public at large. It is, therefore, appropriate that these recipients should pay a reasonable charge for the benefits received.

The Commission's current schedule of filing and service fees has been in effect since August 15, 1979. Most of the fees established at that time are no longer representative of the Commission's actual cost for providing such services. The Commission, therefore, proposes to update its fees schedules to remedy the disparity between costs incurred and revenues collected for special services provided even though total costs will not be recovered through this means. In addition, the Commission is proposing to establish several new fees for services it provides. The proposed new fees are set forth in this Notice. The proposed schedule amending current fees is set forth in Docket No. 82-32.

In arriving at these fees, considerable effort has been directed towards selecting those services provided by the Commission which are readily identifiable and provide a service of value and utility to a recipient at its request, and assigning to each a fair and equitable assessment. A summary schedule of fees and costs and a detailed summary of the data used to arrive at these fees are available from the Secretary of the Commission upon written request.

Accordingly, the establishment of filing and service fees is proposed for the following services.

The Commission's Rules of Practice and Procedure provide for the filing of complaints, petitions for declaratory orders, general petitions, special docket applications, small claims and requests for conciliation services (46 CFR 502.62, *et seq.*). All of these filings or applications for relief require initial administrative processing by the Office of the Secretary in order to review their purpose, record their assignment to the proper office for processing and to ensure they are properly docketed or documented. The proposed fee for each complaint or petition is $50. In addition to documentation and processing requirements, these items require a docket binder and publication notice in the **Federal Register**. Petitions for

intervention and petitions for reconsideration are not included. The proposed fee for special docket applications, small claims and conciliation service is $25. These items require initial administrative processing but they do not require docket binders nor Federal Register notices.

Section 18(b)(3) of the Shipping Act, 1916 (46 U.S.C. 817b) and the Commission's Rules of Practice and Procedure (46 CFR 502.91, *et seq.*) enable a carrier to file an application for permission to refund or waive collection of a portion of freight charges if a tariff error was clerical, administrative or inadvertent. This special docket procedure allows an applicant to adjust rates for a shipper without resorting to possible costly and lengthy formal proceedings. This procedure contemplates written documentation, thus eliminating the need for oral hearings. Therefore, the proposed fee of $25 is not a barrier to filing a special docket application and it may provide an incentive for the elimination of tariff errors.

The Commission's Rules of Practice and Procedure (46 CFR 502.304) also provide a procedure which enables a claimant to seek recovery of damages or overcharges from a common carrier in the amount of $5,000 or less. Through this informal procedure for adjudication of small claims, claimants may avoid the use of costly and lengthy formal proceedings for settlement of claims. The need for oral hearings is eliminated since this procedure relies on written documentation and correspondence. The proposed fee of $25 is not a barrier to utilization of this procedure.

We are not now considering an assessment of fees for filing of agreements under section 15 of the Shipping Act, 1916 (46 U.S.C. 814), exclusive of connecting carrier agreements, nor fees for filing of dual rate contracts in light of legislation now pending before the Congress which could, if enacted, result in considerable changes in the processing of such filings.

Connecting carrier agreement requirements (46 CFR 524.4(b)) concerning nonexclusive transshipment arrangements are being amended to include an $8.50 proposed filing fee. These agreements are filed with the Commission for information purposes. The administrative cost of processing this routine type of agreement is reasonable and the proposed filing fee would recover most of the direct cost associated with recording, analyzing and filing the agreement.

The requirements of filing special permission applications in tariffs in the domestic offshore commerce are being amended to include the $90 proposed fee (46 CFR 531.18). Rate changes or the issuance of new or initial rates to take effect on short notice and other waivers of domestic tariff filing requirements are permitted upon a showing of good cause to the Commission. Recipients of domestic tariff special permission authority benefit by obtaining relief from specific tariff rules which would otherwise prove to be economically more costly or time-consuming.

Temporary tariff filings in the foreign commerce are permitted in order to facilitate the filing of rate changes as quickly as possible and to eliminate the delay necessitated by preparation and filing of permanent revised pages. Temporary tariff filings impose a considerable workload burden upon the Commission staff due to the double handling of temporary tariff changes—once when the temporary filing is received and once again when the permanent page replaces the temporary filing. A limited number of carriers and conferences utilize temporary tariff filing procedures. Imposing the proposed filing fee for the use of the temporary filing procedure is not unduly burdensome on the carriers or conferences benefiting from the procedure. The temporary tariff amendment requirements (46 CFR 536.10(c)) are being amended to include the proposed $3 per filing fee.

Recipients of foreign tariff special permission authority benefit by obtaining relief from specific tariff rules which would otherwise prove to be economically more costly or time-consuming. Issuance of new or initial rates or increases in rates are permitted to go into effect on less than statutory notice upon a showing of good cause in the special permission application. However, evaluation of the justification provided by the applicant requires a considerable amount of Commission staff effort, and administrative processing also adds to the costs of reviewing each application. The special permission application requirements (46 CFR 536.15) are being amended to include the $90 proposed fee.

Passenger vessel operators or other persons seeking to establish financial responsibility under section 3 of Pub. L. 89–777 (46 U.S.C. 817e) in order to carry passengers are required to obtain a certificate (performance) from the Commission which allows them to do business in the United States and requires them to indemnify passengers for nonperformance of transportation to which passengers would be entitled.

The requirements for filing a performance certificate application (46 CFR 540.4) are being amended to include a $1,600 proposed filing fee. The Commission is authorized to issue a certificate only after determining that the financial responsibility of the applicant is adequate. After the certificate is issued and unearned passenger revenue is received by the applicant, the Commission must determine that a minimum of 110 percent of revenue remains available for protection of the passengers in case of nonperformance of the voyage. The certification, revenue verification and post voyage conclusion processes consume extensive time and effort by the Commission. The proposed filing fee would help offset the costs of providing this service to the applicants and it would not be an undue burden upon them.

Passenger operators seeking to establish financial responsibility under section 2 of Pub. L. 89–777 (46 U.S.C. 817d) in order to carry passengers are required to obtain a certificate (casualty) because it allows them to do business in the United States and to meet any liability arising from death or injury to passengers or other persons on voyages.

The requirements for filing a casualty certificate application (46 CFR 540.23) are being amended to include an $800 proposed filing fee. The Commission is authorized to issue a certificate as evidence of adequate financial responsibility to meet liability which may be incurred for death or injury on voyages. The proposed filing fee would help offset the costs of providing this service to applicants and would not be an undue burden upon them.

List of Subjects in 46 CFR Parts 502, 524, 531, 536, and 540

Maritime carriers, Freight forwarders, Practice and procedure, Fees and user charges.

Therefore, pursuant to 5 U.S.C. 553, section 43 of the Shipping Act, 1916 (46 U.S.C. 841a), and Title V of the Independent Offices Appropriations Act of 1952 (31 U.S.C. 483a), notice is hereby given that the Federal Maritime Commission proposes to amend Title 46 of the Code of Federal Regulations as follows:

PART 502—RULES OF PRACTICE AND PROCEDURE

1. Part 502—*Rules of Practice and procedure* is proposed to be amended in the following respects.

a. In § 502.62 the title is proposed to be amended and a new sentence is proposed to be added reading as follows:

§ 502.62 Complaints and fee.

* * * The complaint shall be accompanied by remittance of a $50 filing fee.

b. In § 502.68 the title is proposed to be amended and a new sentence is proposed to be added to paragraph (a) reading as follows:

§ 502.68 Declaratory orders and fee.

(a) * * * Petitions shall be accompanied by remittance of a $50 filing fee.

* * * * *

c. In § 502.69 the title is proposed to be amended and a new sentence is proposed to be added reading as follows:

§ 502.69 Petitions—general and fee.

* * * Petitions shall be accompanied by remittance of a $50 filing fee.

d. In § 502.92 the title is proposed to be amended and a new sentence is proposed to be added to paragraph (a)(3) reading as follows:

§ 502.92 Special docket applications and fee.

* * * * *

(a)(3) * * * The application for refund or waiver must be acompanied by remittance of a $25 filing fee.

* * * * *

e. In § 502.182 the title is proposed to be amended and a new sentence is proposed to be added reading as follows:

§ 502.182 Complaint and memorandum of facts and arguments and filing fee.

* * * The complaint shall be accompanied by remittance of a $50 filing fee.

f. In § 502.304 the title is proposed to be amended and a new sentence is proposed to be added to paragraph (b) reading as follows:

§ 502.304 Procedure and filing fee.

* * * * *

(b) * * * Such claims shall be accompanied by remittance of a $25 filing fee.

g. In § 502.404 the title is proposed to be amended and a new sentence is proposed to be added to paragraph (a) reading as follows:

§ 502.404 Procedure and fee.

(a) * * * The request shall be accompanied by remittance of a $25 service fee.

* * * * *

PART 524—EXEMPTION OF CERTAIN AGREEMENTS FROM THE REQUIREMENTS OF SECTION 15, SHIPPING ACT, 1916

2. Part 524—*Exemption of Certain Agreements from the Requirements of Section 15, Shipping Act, 1916* is proposed to be amended by adding a new sentence to § 524.4(b) reading as follows:

§ 524.4 Conditions for exemption of transshipment agreements.

* * * * *

(b) * * * Such agreements shall be accompanied by a filing fee remittance of $8.50.

* * * * *

PART 531—PUBLISHING, FILING AND POSTING OF TARIFFS IN DOMESTIC OFFSHORE COMMERCE

3. Part 531—*Publishing, Filing and Posting of Tariffs in Domestic Offshore Commerce* is proposed to be amended by adding a new subparagraph (3) to § 531.18(a) as follows:

§ 531.18 Applications for special permission.

(a) * * *

(3) An application for special permission shall be accompanied by a $90 filing fee.

* * * * *

PART 536—PUBLISHING AND FILING TARIFFS BY COMMON CARRIERS IN THE FOREIGN COMMERCE OF THE UNITED STATES

4. Part 536—*Publishing and Filing Tariffs by Common Carriers in The Foreign Commerce of the United States* is proposed to be amended in the following respects.

a. In § 536.10 a new sentence is proposed to be added to paragraph (c)(5) reading as follows:

§ 536.10 Amendments to tariffs.

* * * * *

(c) * * *

(5) * * * A filing fee remittance of $3 per page shall accompany each permanent filing received to replace a temporary filing.

* * * * *

b. In § 536.15 a new sentence is proposed to be added to paragraph (b) reading as follows:

§ 536.15 Applications for special permission.

* * * * *

(b) * * * Such applications shall be accompanied by a filing fee remittance of $90.

* * * * *

PART 540—SECURITY FOR THE PROTECTION OF THE PUBLIC

5. Part 540—*Security for the Protection of the Public* is proposed to be amended in the following respects.

a. in § 540.4 a new sentence is proposed to be added to paragraph (b) reading as follows:

§ 540.4 Procedure for establishing financial responsibility.

* * * * *

(b) * * *An application for a Certificate (Performance) shall be accompained by a filing fee remittance of $1,600.

* * * * *

b. In § 540.23 a new sentence is proposed to be added to paragraph (b) reading as follows:

§ 540.23 Procedure for establishing financial responsibility.

* * * * *

(b) * * *An application for a Certificate (Casualty) shall be accompanied by a filing fee remittance of $800.

* * * * *

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82-18107 Filed 7-2-82; 8:45 am]

BILLING CODE 6730-01-M

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46 CFR Parts 503, 542, 543, and 544

[Docket No. 82-32]

Filing and Service Fees

AGENCY: Federal Maritime Commission.

ACTION: Proposed rule.

SUMMARY: This would revise existing fees for licensing and regulatory activities. Fees for public information, financial responsibility for water pollution and financial responsibility for oil pollution are being amended.

DATE: Comments due on or before September 7, 1982.

ADDRESSES: Comments (Original and 15 copies) and requests for further information should be directed to: Secretary, Federal Maritime Commission, 1100 L Street, N.W., Room 11101, Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, (202) 523-5725.

SUPPLEMENTARY INFORMATION: The Independent Offices Appropriations Act of 1952 (Title V) provides that "any work, service, publication, report, document, benefit, privilege, authority, use, franchise, license, permit, certificate, registration, or similar thing

of value or utility performed, furnished, provided, granted, prepared, or issued by any Federal agency * * * to or for any person * * * shall be self-sustaining to the full extent possible." In order to meet this objective, Title V authorizes the head of each agency to prescribe by regulation such fees and charges as are determined "to be fair and equitable taking into consideration direct and indirect cost to the government, value to the recipient, public policy or interest served and other pertinent facts." (31 U.S.C. 483a)

This statute also provides that the fees and charges shall be as uniform as practicable and subject to such policies as the President may prescribe. On September 23, 1959, the Bureau of the Budget, now the Office of Management and Budget, issued Circular No. A–25, which sets forth general policies for developing a fair, equitable and uniform system of charges for certain government services. Circular No. A–25 requires that a reasonable charge by made to recipients of a measurable unit or amount of Federal Government service from which they derive a benefit in order that the Government recover the full cost of rendering that service. The Circular further calls for a periodical reassessment of costs, with related adjustment of fees, if necessary, and the establishment of new fees where none exists.

The Commission conveys special benefits to identifiable recipients above and beyond those which accrue to the public at large. It is, therefore, appropriate that these recipients should pay a reasonable charge for the benefits received.

The Commission's current schedule of filing and service fees has been in effect since August 15, 1979. Most of the fees established at that time are no longer representative of the Commission's actual cost for providing such services. The Commission, therefore, proposes to update its fees schedule to remedy the disparity between costs incurred and revenues collected for special services provided even though total costs will not be recovered through this means.

Accordingly, the revision of filing and service fees is proposed for the following services and benefits. A summary schedule of fees and costs and a detailed summary of the data used to arrive at such fees are available from the Secretary of the Commission upon written request.

The Commission's rules on public information (46 CFR 503.43) contain the fees to be charged for services provided to the public. These fees are being revised to equate them with the current costs of providing services. Subparagrah (c)(5) is deleted to eliminate confusion over the single tariff page copy exception to charging for copies made. The fees for having one's name placed on the mailing list of a specific docket (§ 503.43(e)) and the "Automobile Manufacturer's Measurements" publication (§ 503.43(f)) will remain unchanged.

The Commission's rules on vessel certification for water pollution (46 CFR Part 542) and for oil pollution (46 CFR Parts 543 and 544) are being revised to set the new application fee at $75 and the certificate fee at $40. The new application fee is a $25 reduction from the previous fee and is based upon costs associated with processing new applications. The $40 certificate fee is a $20 increase over the previous fee, and is based upon the costs of processing certificates, responding to inquiries about certificates and administering the program to ensure it is effective. The other major change is the rewording of 542.13(d) to delete redundant language that is no longer applicable.

List of Subjects in 46 CFR Parts 503, 542, 543 and 544

Maritime Carriers, Freight Fowarders, Practice and Procedure, Fees and User Charges.

Therefore, pursuant to 5 U.S.C. 553, section 43 of the Shipping Act, 1916 (46 U.S.C. 841a), and Title V of the Independent Offices Appropriations Act of 1952 (31 U.S.C. 483a), notice is hereby given that the Federal Maritime Commission proposed to amend Title 46 of the Code of Federal Regulations as follows:

PART 503—PUBLIC INFORMATION

1. Part 503 would be amended in the following respects.

§ 503.43 [Amended]

In § 503.43 "Fees for services," in paragraph (b), "$3" would be amended to read "$5"; in paragraph (c)(1) "$5" would be amended to read "$7"; in paragraph (c)(3) "$5" would be amended to read "$7"; in paragraph (c)(4) "$1" would be amended to read "$2.50"; paragraph (c)(5) would be deleted; in paragraph (d)(1) "$175" would be amended to read "$195"; in paragraph (d)(2) "$50" would be amended to read "$120"; in paragraph (d)(3) "$12.50" and "$2" would be amended to read "$16.50" and "$3.25" respectively; in paragraph (g) "$2.50" and "$1.50" would be amended to read "$4.25" and "$4" respectively; in paragraph (h) "$10" would be amended to read "$13."

§ 503.69 [Amended]

In § 503.69 (b)(2) "$2" would be amended to read "$5."

PART 542—FINANCIAL RESPONSIBILITY FOR WATER POLLUTION

2. Part 542 would be amended in the following respects.

In § 542.13 "Fees," the references in paragraphs (d) and (e) to "$100" and "$20" would be amended to read "$75" and "$40" respectively and in paragraph (f) the reference to "$10" would be amended to read "$20." Additionally, the first sentence of paragraph (d) would be amended to read as follows.

§ 542.13 Fees.

* * * * *

(d) Each applicant who submits Application Form FMC–321 for the first time shall pay an initial, nonrefundable application fee of $75.

PART 543—FINANCIAL RESPONSIBILITY FOR OIL POLLUTION—ALASKA PIPELINE

3. Part 543 would be amended in the following respects.

§ 543.9 [Amended]

In § 543.9 "Fees," the references in paragraphs (d) and (e) to "$100" and "$20" would be amended to read "$75" and "$40" respectively and in paragraph (f) the reference to "$10" would be amended to read "$20."

PART 544—FINANCIAL RESPONSIBILITY FOR OIL POLLUTION—OUTER CONTINENTAL SHELF

4. Part 544 would be amended in the following respects.

§ 544.12 [Amended]

In § 544.12 "Fees," the references in paragraphs (d) and (e) to "$100" and "$20" would be amended to read "$75" and "$40" respectively and in paragraph (f) the reference to "$10" would be amended to read "$20."

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82-18109 Filed 7-8-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[BC Docket No. 82-320; FCC 82-267]

Suburban Community Policy, Berwick Doctrine, and de Facto Reallocation Policy

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission solicits comment on a proposal to eliminate three policies: The Suburban Community Policy, which is applicable in the licensing of AM radio stations, and the Berwick Doctrine and the de facto real-location policy which are applicable in the licensing of commercial FM radio and television stations. The Commission believes that these policies are no longer necessary as tools for the implementation of section 307(b) of the Communications Act, 47 U.S.C. 307(b), which requires the Commission to "make such distribution of licenses, frequencies, hours and operation and of power among the several states and communities as to provide a fair, efficient, and equitable distribution of radio service to each of the same.". Other rules and policies can be relied on to assure that licensees serve their designated communities. The effect of this action would be to expedite the licensing process for radio and television stations.

DATES: Comments are due on August 5, 1982, and reply comments are due on August 25, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mary Catherine Kilday, Broadcast Bureau, at (202) 632-3922.

SUPPLEMENTARY INFORMATION: In the matter of The Suburban Community Policy, the *Berwick* Doctrine, and the *De Facto* Reallocation Policy; BC Docket No. 82-320.

Notice of Proposed Rulemaking

Adopted: June 10, 1982.

Released: June 29, 1982.

I. Introduction

1. The Commission today initiates a rulemaking proceeding seeking comment on three of our long-standing policies, the suburban community policy, the *Berwick* doctrine, and the *de facto* reallocation policy. This action is prompted by the remand of two cases by the United States Court of Appeals for the District of Columbia, *Communications Investment Corporation* v. *FCC*, 641 F.2d 954 (1981) (*CIC*), and by our desire to review and evaluate all of our rules and policies. The *CIC* court determined that the Commission had failed to follow its own and court precedent in authorizing, without a hearing, a transmitter location which objectors claimed constituted *de facto* reallocation of two class C FM stations from their city of license to a larger community. The court derived from the precedents nine factors [1] for determining when an evidentiary hearing is required on *de facto* reallocation and *Berwick* doctrine issues before a transmitter location can be approved. The court, however, recognizing Commission discretion over hearing designations, stated in the ordering clause, "We recognize * * * that the Commission, by modifying its policies and practices, could affect the nature of and the extent to which an evidentiary hearing is required." 641 F.2d at 978.

2. We have reviewed the *de facto* reallocation policy and the *Berwick* doctrine, which are applicable in the licensing of commercial FM radio and television stations. We have also reviewed the suburban community policy, the AM radio corollary to the *Berwick* doctrine and the policy from which the *Berwick* doctrine was derived. Because these policies are tools to aid in the implementation of section 307(b) of the Communications Act of 1934, 47 U.S.C. 307(b), we will discuss that statutory requirement before setting out the results of our review and our reasons for proposing elimination of these policies in all phases of licensing for radio and television stations.

II. Section 307(b)

3. Section 307(b) requires the Commission "make such distribution of licenses, frequencies, hours and operation and of power among the several states and communities as to provide a fair, efficient, and equitable distribution of radio service to each of the same."[2] Congress enacted section 307(b) in order to assure that broadcast facilities were distributed equitably throughout the nation and not concentrated in and around large population centers. The Commission implemented section 307(b) in commercial FM radio and TV by establishing and incorporating in its rules a Table of Assignments[3] for each service. These tables provide for a distribution of channels to specific communities throughout the United States based, in part, on fixed mileage separations. A party wishing to locate an FM radio or television station in a community not listed in the Table must petition for a rulemaking to amend the Table to add the desired community. This rulemaking proceeding is followed by a separate licensing proceeding which, if there is more than one applicant for the channel, includes a comparative hearing. Commission rules permit a station to be located within 15 miles (TV or Class B/C FM)[4] or 10 miles (Class A FM) of the community listed in the Table of Assignments.[5] If multiple applicants vie for a single frequency within the 15-mile or 10-mile limit, and these applications propose different communities of license, then a second section 307(b) determination must be made during the hearing.

4. In contrast, AM and noncommercial FM frequencies[6] are allocated on a demand basis, with an applicant requesting the desired community and providing engineering exhibits to show the absence of harmful

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[1] The nine factors are: The ratio of the population of the city of license to that of the larger city; the ratio of the distance between the proposed site and the city of license to the distance between the site and the larger community; the ratio of the signal strength in the city of license to the signal strength in the larger city; a loss area in the city of license or surrounding areas; whether the proposed site is already in use by larger city stations; whether the station is commonly owned with an AM station in the larger city and plans to share programming, staff or facilities with it; whether the station has evinced a prior intent to locate in the larger city; whether the station proposes to move its studio to the larger city; and whether there is a unique advantage to the site proposed.

[2] In September, 1981, the Commission recommended to Congress the deletion of section 307(b) on the basis that a fair and equitable distribution of service now exists and further implementation runs counter to the public interest by delaying authorization of service. *FCC News*, Report No. 5068, Mimeo 003451 (September 17, 1981). The Congress has not acted on the recommendation. We have continued to implement our statutory obligations under section 307(b) and will do so for as long as that section is a part of the Communications Act. Similarly, the proposals we make today will not cause us to diminish our statutory responsibilities under section 307(b).

[3] 47 CFR 73.202 contains the FM Radio Table of Assignments and 47 CFR 73.606 contains the Television Table of Assignments.

[4] A Class A FM station is designed to render service to a relatively small community, city, or town, and the surrounding rural area. A Class B FM station is designed to render service to a sizeable community, city, or town, or to the principal city or cities of an urbanized area, and to the surrounding area. A Class C FM station is designed to render service to a community, city, or town, and large surrounding area.

[5] 47 CFR 73.203(b) and 73.607(b).

[6] For the noncommercial FM service, there is a limited Table of Assignments for allocations near the Mexican Border. *See* 47 CFR 73.504. These allocations can be changed only by rulemaking. They do not, however, include most noncommercial FM stations.

interference to existing stations. Section 307(b) considerations are made during the one-step proceeding to process the construction permit application. This can result in a hearing if petitions to deny are filed raising substantial and material questions of fact or where there are mutually exclusive applications.

5. Objectives and priorities guide the Commission's section 307(b) determinations. These set-up preferences for applicants proposing to serve communities lacking service or with fewer services than other nearby communities. Consequently, an incentive exists for applicants to specify unserved or underserved communities as their city of license while actually intending to serve larger nearby communities. Concern that Commission allocations might not result in service to the communities designated led to the policies which are the subjects of this Notice.

III. The Suburban Community Policy; the Berwick Doctrine; the de Facto Reallocation Policy

6. The suburban community policy was enunciated by the Commission in 1965. *Policy Statement on section 307(b) Considerations for Standard Broadcast Facilities Involving Suburban Communities,* 2 FCC 2d 190 (1965) (*The 1965 Policy Statement*). The Commission stated that where:

> The applicant's proposed 5 mV/m daytime contour would penetrate the geographic boundaries of any community with a population of over 50,000 persons and having at least twice the population of the applicant's specified community * * * a presumption will arise that the applicant realistically proposes to serve that larger community rather than its specified community.

Id. at 193. The policy placed the burden on the applicant to include in the application material rebutting the presumption. Failing that, an evidentiary hearing would be held to determine whether the application should be treated as a proposal for the specified community or for the larger community.

7. In 1975, the Commission limited the application of the suburban community policy to situations involving competing applicants in a hearing context. *Amendment of Part 73 of the Commission's Rules Regarding AM Station Assignment Standards,* 54 FCC 2d 1 (1975). The Commission decided to relax application of the policy due to concern that retention of the presumption would be inconsistent with the new acceptability criteria adopted in the proceeding. Because a hearing would have to take place when multiple applicants were competing from one allocation whether or not this issue was involved, the Commission elected to maintain the presumption in that instance only.

8. The *Berwick* doctrine applied the public interest considerations underlying the AM suburban community policy statement to FM radio and television. *Berwick Broadcasting Corporation,* 20 FCC 2d 393 (1969). The *Berwick* doctrine, involves

> * * * an applicant's *intent* to direct its programming efforts and overall broadcast operations toward a nearby larger community rather than to the smaller suburban community which it has specified as its community of license.

Hall Broadcasting Co., 71 FCC 2d 235, 237 (1979). In such a situation, an evidentiary hearing would be required to determine the community the applicant realistically intended to serve. Because of the difference in the systems for allocating AM radio on the one hand, and FM radio and TV on the other,

> a petitioner seeking to raise a *Berwick* issue is not entitled to the presumption created by the *[1965] Policy Statement,* and must come forward with allegations tending to establish that the applicant will not realistically serve his specified community.

Public Service Broadcasters, Inc., 50 FCC 2d 1038, 1039 (1975).

9. *De facto* reallocation issues arise only in FM radio and TV authorization proceedings, the services allocated by means of Tables of Assignments.

> *[D]e facto* reallocation involves an attempt to utilize a channel assigned to one community in order to establish a broadcast service in another community, thereby depriving the assigned community of service from that channel.

Hall Broadcasting Co., Inc., supra, at 237. The Commission has made clear that in assessing allegations of *de facto* reallocation, its primary concern is whether there would be both a removal of the channel from one city and its effective use to provide service to another city. Both elements must be present. *Central Alabama Broadcasters, Inc.,* 68 FCC 2d 1339, 1340 (1978); *Hall Broadcasting Co., Inc., supra.*

III. Discussion

10. The initial issue to be considered is whether departure from these existing policies would be inconsistent with the intent of section 307(b) of the Communications Act. The Act does not mandate that the Commission apply any specific criteria or use any particular system to assure that Section 307(b) is complied with. The legislative history underlying Section 9 of the Radio Act of 1927, the predecessor to section 307(b), shows that the Commission was intended to retain considerable flexibility in setting policy in this area:

> We have recognized * * * that it is not the right of a community to demand a station, not a right of a particular state to demand a station, but it was the right of the entire people to service that should determine the distribution of those stations; and it is written here in express language that it shall be the duty of this commission * * * to make such a distribution of stations, licenses and power as will give all the communities and states fair and equitable service, and that is the sound basis on which legislation of this character should be founded. We have done that.

68 Cong. Rec. 2580 (1927) (Statement of Congressman White). The broad powers conferred on the Commission by section 307(b) and by collateral sections 303(a), (b), (d), (h), and (r) have been construed by the Courts as vesting considerable discretion in the Commission to determine how channels should be allocated to best attain the Section 1 goal of making available, so far as possible, to all the people of the United States, a rapid, efficient, nationwide radio service. See e.g., *FCC* v. *Pottsville Broadcasting Co.,* 309 U.S. 134 (1940), *National Broadcasting Co.* v. *United States,* 319 U.S. 190 (1943).

11. Thus, the general question we seek to resolve in this proceeding is whether any legitimate public policy considerations are served by the application of the suburban community, *Berwick* and *de facto* reallocation criteria to determine an applicant's compliance with section 307(b). We are aware that these issues, to a considerable extent, may lend themselves to resolution in the context of *ad hoc* adjudications rather than by rulemaking, see, e.g., *SEC* v. *Chenery Corp.,* 322 U.S. 194, *reh. denied,* 332 U.S. 733 (1947). However, although the policy predicates of these different tests are generally very similar, our interpretation and application of them has begun to exhibit a certain asymmetry. For example, the four cases from which the CIC majority constructed its nine-factor test were decided between 1963 and 1969.[7] However, other cases decided before commission action in the *CIC* cases arrived at contrary conclusions—as the reviewing court in *CIC* duly noted. The Court's holding in *CIC* was not dissimilar to a 1972 opinion regarding the suburban community policy. In *Northern Indiana Broadcasters, Inc.* v. *FCC,* 459 F.2d 1351

[7] The cases were: *Wometco Enterprises, Inc.* v. *FCC,* 314 F.2d 266 (D.C. Cir. 1963); *Louisiana Television Broadcasting Corp.* v. *FCC,* 347 F.2d 806 (D.C. Cir. 1965); *Santa Fe Television, Inc.,* 18 FCC 2d 741 (1969); *Berwick supra.*

(D.C. Cir. 1972), the Court found that AM applicants were left "devoid of any guidelines as to the type and degree of evidence required to rebut the Commission's Policy Statement," and stated that it was "incumbent" upon the Commission to clarify them. Finally, we note that although we decided on May 20, 1982 to stop entertaining *Berwick* doctrine issues during rulemaking proceedings to amend the FM Table of Assignments, *Report and Order* in BC Docket No. 80–130, 47 F.R. 28624, we have not taken similar action with respect to the TV Table of Assignments, despite the similarity of the policies involved. Therefore, we believe that a generic rulemaking is in order to definitively and uniformly resolve these related policy issues, and to assure that, in reaching our ultimate determinations, we will be able to "supply a reasoned analysis indicating that prior policies and standards are being deliberately changed, not casually ignored." *Greater Boston Television Corp.* v. *FCC*, 444 F.2d 841, 352 (D.C. Cir.), *cert. denied*, 403 U.S. 923 (1971).

12. The first major issue we seek to explore is whether the application of the suburban community, *Berwick*, and *de facto* reallocation criteria may no longer be necessary to further any legitimate public policy concerns under section 307(b). In this regard, it is germane to consider the relative maturity of the radio and television industry in terms of station assignments. We believe that our actions over the years to obtain a satisfactory implementation of section 307(b) has resulted in a substantial dispersion of radio and television services throughout the United States. The Commission has found that "there is not part of the contiguous 48 states which lacks at least some aural broadcast service, and almost no place * * * where multiple skywave services are not available." *Clear Channel Broadcasting in the AM Broadcast Band*, 78 FCC 2d 1345, 1358 (1980). Similarly, in the television service, the Commission has stated that the "Table of Assignments * * * was designed to provide service to as large a part of the population as was possible and at the same time to provide local outlets for as many communities as possible * * * the goals of the Table have been largely achieved * * * *Inquiry Into the Future Role of Low-Power Television Broadcasting*, FCC 80–503, 45 F.R. 69178, 69179 (Oct. 17, 1980). At the end of fiscal 1981, there were 9,451 authorized AM and FM radio stations and 1,176 authorized VHF and UHF TV stations. In addition, many areas receive radio and television service beyond stations' predicted service areas via 633 FM and 4,761 TV translators, 4,400 cable systems and sophisticated home antennas and receiver systems. This amplitude of programming outlets will increase even further in the near future. The Commission has recently established a new low-power television service that promises to provide video services to rural areas that now receive the fewer broadcast signals. Rural areas also stand to benefit from the direct broadcast satellite proposal that the Commission has under consideration.[8] In sum, there is now a well dispersed system of video and aural services already in place with more in the offing. In light of this fact, it may be less necessary for the Commission to scrutinize these issues as rigorously as it did in former days, when the allocations structure was relatively new and therefore, the need to take particular care to establish a "fair and equitable" general distribution of stations may have been correspondingly greater. We request comment on this issue.

13. Our second principal concern is that this detailed scrutiny, if no longer necessary, may impose unwarranted costs on the parties and the public. In a number of instances, these policies, rather than making the distribution of services more fair and equitable, serve only to delay new service and additional competition. Several general situations can illustrate these points. For example, because a section 307(b) preference can be dispositive when selecting among basically qualified candidates in a comparative hearing,[9] allegations are frequently made that FM radio and TV competitors do not intend to serve their designated communities, but rather a larger nearby one.[10] These allegations, often not well founded and propounded by licensees in the larger market, are merely tactical actions intended to delay or to prevent new competition.[11] Resolution of them requires the parties to expend large sums for legal and engineering counsel [12] and the Commission to allocate increasingly scarce resources. Moreover, in some circumstances *Berwick* doctrine and *de facto* reallocation questions are susceptible of relitigation in television licensing cases. Even though the Commission by way of rulemaking, may have amended the Table of Assignments and, arguably, resolved the section 307(b) issue, mutually-exclusive applicants may still reargue the issue at the comparative hearing stage.[13] Finally, we would note that it is unnecessary to have a comparative situation to bring the problems associated with these policies into play. *Berwick* doctrine and *de facto* reallocation issues also come up in uncontested proceedings for FM radio and television channels. We request interested parties to comment with specificity on the issue of the costs imposed by these policies and whether or not they are warranted by offsetting benefits. We also seek comment on how we should proceed if the Commission's decision results in the deletion of the policies. For instance, should these issues, as a matter or equity, continue to be applied to applications which have been filed and cut-off as if the policies had not been eliminated? Should the issues be deleted for cases in hearing, at the time the *Report and Order* in this proceeding becomes effective? We welcome suggestions on these questions of implementation.

14. Another area of concern is the realization that in seeking comment on the abolition of these policies, we are risking a return to the situation the policies were designed to correct, namely the acquisition of a section 307(b) preference by designating a suburban community while proposing power adequate to cover a nearby metropolitan area. We find that situation no more palatable now than we did in 1965 when the suburban community policy went into effect. We believe that a solution may be found in a redefinition of community. We seek comment on whether community could be redefined for section 307(b) purposes to mean the metropolitan area effectively covered by the signal of the proposed service. By utilizing such a definition, the comparative preference

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[8] *Notice of Proposed Policy Statement and Rulemaking*, General Docket No. 80–603, 45 F.R. 30124, June 1, 1981. On October 28, 1981, we announced our acceptance of eight interim direct broadcast satellite applications. *Public Notice* No. FCC 81–507, Mimeo No. 30225.

[9] *FCC* v. *Allentown Broadcasting Corp.*, 349 U.S. 348 (1955).

[10] The suburban community presumption arises automatically in AM radio comparative proceedings whenever the requisite populations and 5 mV/m signal penetration are involved. By contrast, proponents of the issues must raise the *Berwick* doctrine and the *de facto* reallocation issue in FM and TV licensing proceedings.

[11] *See* "Petition for Extraordinary Relief" filed by Son Broadcasting, Inc. in BC Docket No. 80–436, on May 8, 1981 at 25–26 and Att. 3. In a review of 50 cases which a key-word search of the Lexis "FCC Library" reported from 1966 to April, 1981, the Commission raised the *de facto* reallocation *sua sponte* only two times.

[12] The *CIC* court quoted from the pleadings of one of the parties, that a hearing on the *de facto* reallocation issue in that proceeding would have meant a delay of up to two years and an estimated cost of $50,000 for attorneys' fees.

[13] The ten and fifteen-mile rule, discussed above at paragraph 3, can give rise to a new round of pleadings on section 307(b), including *Berwick* and *de facto* reallocations issues.

for designating a suburb, while proposing power sufficient to cover the metropolitan area, would be removed. If the power proposed in the application would permit service to the entire metropolitan area and not just the designated suburb, the application would be treated as one for the metropolitan area. If the power were adequate to serve the suburb only, then the application would be so treated, with the attendant prospect of a section 307(b) preference.

15. The possibility of a new concept of community raises several other questions on which we invite comment. For instance, if a new definition is possible, should we use it in licensing all three services, even though the problems the definition is attempting to solve are less troublesome in the services allocated by Tables of Assignments? Also, should we use the popoulation criteria in the current suburban community policy, e.g., central city of 50,000 persons, suburb of 25,000 persons, as the trigger bringing into play the new community definition? Or should we use a Standard Metropolitan Statistical Area (SMSA), or similar measure, as the trigger?

16. If this proposal results in the elimination of the policies in question, we will be able to rely on other rules and policies, already in place, to assure that licensees serve their designated communities. For example, FM radio and TV rules contain Tables of Assignments, specifically adopted to fulfill the mandate of section 307(b), that distribute stations to communities throughout the United States and its territories. For AM and FM radio and for television, Commission rules require that the station be licensed to its principal community [14] and that it maintain a main studio in its principal community.[15] The rules also establish guidelines for AM, FM and TV transmitter locations designed to assure that stations cover their communities of license with designated minimum signal strengths.[16] Since "programming is of the essence of radio service * * *" *En Banc Programming Inquiry*, 44 FCC 2303, 2311 (1960), the Commission has enunciated policy guidelines requiring a licensee to "discover and fulfill the tastes, needs and desires of his service area." *Id.* at 2312. We believe that compliance with these rules and policies is a more accurate means of determining whether a licensee will be operating so as to serve its community than the inquiry necessitated under the suburban community policy, the *Berwick* doctrine and the *de facto* reallocation policy.

17. In conclusion, our review of the suburban community policy, the *Berwick* doctrine, and the *de facto* reallocation policy leads us to believe that they no longer may serve the public interest and should, therefore, be abolished. We believe that they may be employed to thwart competition and diversity of media voices. We believe that the authorization of service process for radio and television would be made less costly and more timely without these policies. We believe that the importance of these policies in furthering the mandate of section 307(b) has been diminished due to the dispersion of radio and television service throughout the United States. We believe that we can be assured that licensees will direct their service to the specified community of license through the implementation of other rules and policies we have on the books. We invite comment on the views expressed in this Notice and on our proposal. Because we have two cases on remand which will await the outcome of this proceeding, we will be compelled to adhere to strict deadlines on the comment periods: 30 days for comments and 20 days for reply comments.

18. Regulatory Flexibility Act Initial Analysis.

I. Reason for Action

This proposal was prompted by a remand from the Court of Appeals for the District of Columbia inviting our review of reallocation policies and by the Commission's ongoing review and evaluation of all rules and policies.

II(a). Objective

To seek comment on whether or not these policies, designed to fulfill the mandate or § 307(b) of the Communications Act, continue to serve the public interest in light of the substantial dispersion of radio and television service that exists throughout the United States and the costs involved in implementation.

II(b). Legal Basis

The legal basis for seeking comment on these policies is found in sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

III. Description, Potential Impact and Number of Small Entities Affected

The time and costs involved in licensing AM, FM, and TV stations will be reduced. Small entities will no longer face the time and costs involved in hearings designated to resolve these issues. It has been estimated that attorneys' fees alone can run $50,000 when a hearing is required in the licensing process; delays can be up to two years.

IV. Recording, Record Keeping and Other Compliance Requirements

None after licensing.

V. Federal Rules Which Overlap, Duplicate or Conflict With These Policies

None.

VI. Any Significant Alternative Minimizing Impact on Small Entities and Consistent with Stated Objectives.

None.

Filing Responses to this Notice

19. For purposes of this non-restricted Notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the time a Public Notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its fact that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, Section 1.1231 of the Commission's rules, 47 CFR 1.1231.

20. Pursuant to applicable procedures set forth in § 1.415 of the Commission's

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[14] 47 CFR 73.1120.

[15] 47 CFR 73.1125. "The Commission has frequently ruled that a station is identified by the place where its studios are kept, not the location of its transmitter or antenna." *Community Telecasting Co.* v. *FCC*, 255 F.2d 891, 893 (1958).

[16] 47 CFR 73.188(AM); 73.315(FM); 73.685(TV).

rules, interested parties may file comments on or before August 5, 1982, and reply comments on or before August 25, 1982. All relevant and timely comments and reply comments will be considered by the Commission before further action is taken in this proceeding. The Commission may also consider any other relevant information brought to its attention.

21. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a written summary indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the *Report and Order*. In accordance with the provision of § 1.419 of the FCC's Rules and Regulations, an original and 5 copies of all comments, replies or other documents filed in this proceeding shall be furnished to the FCC. Participants filing the required copies who also desire that each Commissioner receive a personal copy of the comments may file an additional 6 copies. Members of the general public who wish to express their interest by participating informally in this proceeding may do so by submitting one copy of their comments, without regard to form, provided that 82-320 is specified in the heading. Such informal participants who desire that responsible members of the staff receive a personal copy may file an additional five copies. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room (Room 239) at headquarters in Washington, D.C. (1919 M Street, N.W.). Further information concerning this proceeding may be obtained from Mary Catherine Kilday, Broadcast Bureau, 202-632-3922.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Concurring Opinion of Commissioner Abbott Washburn in Which Commissioner Joseph R. Fogarty Joins

Re: Notice of Proposed Rulemaking to Eliminate the Suburban Community Policy, the Berwick Doctrine and the de Facto Reallocation Policy

I concur in this item to emphasize that the three policies at issue were designed for a specific purpose. That purpose, valid then as now, flowed from section 307(b) of the Communications Act and was to insure that licensees served their communities of license. Technologies like Direct Broadcast Satellite (DBS) and Low Power Television which are not yet available to the public do not serve communities today; and to the extent that translators, cable television and DBS deliver programming designed for an audience other than a particular local one, neither do they address the local audience's unique needs. Until these and other technologies develop, the elusive goal of broad-based local service to the community persists, as does the statutory obligation of this Commission to help achieve it. Commissioner Fogarty and I disagreed with the majority's decision to ask the Congress for repeal of 307(b). But I trust that there is unanimity on the Commission to enforce it as long as it remains a part of the Act, and that a proposal to eliminate these three imperfect Commission policies does not reflect a premature—and impermissible—abandonment of 307(b).

[FR Doc. 82-18166 Filed 7-2-82; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-193; RM-4043]

FM Broadcast Station in Hope, Arkansas; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension for filing reply comments.

SUMMARY: This action extends the time for filing reply comments in response to a request by Newport Broadcasting Company, with respect to a proceeding involving a proposed channel allocation to Hope, Arkansas. Counsel states that additional time is needed to prepare an informed response to comments in support of the Hope proposal.

DATE: Reply comments must be filed on or before July 8, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (Hope, Arkansas); order extending time for filing reply comments.

Adopted: June 17, 1982.

Released: June 23, 1982.

By the Chief, Policy and Rules Division.

1. On April 2, 1982, the Commission adopted a Notice of Proposed Rule Making, 47 FR 16807, published April 20, 1982, in the above-referenced proceeding. Comments have been filed and reply comments were due June 8, 1982.

2. We now have before us for consideration a request for extension of time for filing reply comments to and including July 8, 1982, submitted by counsel for Newport Broadcasting Company ("Newport"), licensee of Station KHPA(FM), Hope, Arkansas.

3. Counsel states that it was recently apprised that supporting comments were filed by Freddie Riley, the initial proponent herein, as well as James Mason. Yet, it states that these pleadings have not been available for public inspection in the Commission's Public Reference Room and that Riley's filing was not discovered until June 8, 1982, the date heretofore established for filing reply comments. In view of this oversight, counsel seeks additional time in which to review these filings, and to enable it to prepare an informed response.

4. Although counsel does not indicate the consent of other parties regarding this extension, a certificate of service is attached.

5. Section 1.46(b) of the Commission's Rules states that extension requests must be filed seven days in advance of the deadline. Although this request was not received within the required time frame, the Commission is of the view that, under the circumstances cited, additional time is warranted in which to formulate reply comments. The Commission believes it would be in the public interest to have this material available to it in arriving at a decision herein.

6. Accordingly, It is ordered, That the request for extension of time filed on behalf of Newport Broadcasting Company is granted and the time for filing reply comments in BC Docket No. 82-193 (RM-4043) is extended to and including July 8, 1982.

7. This action is taken pursuant to authority contained in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's Rules.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-18165 Filed 7-2-82; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-323; RM-4088]

FM Broadcast Station in Ishpeming, Michigan; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to substitute Channel 298 for Channel 296A as Ishpeming, Michigan and modify the Class A license accordingly, in response to a petition filed by the licensee, Taconite Broadcasting, Inc.

DATES: Comments must be filed on or before August 2, 1982, and reply comments on or before August 17, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Ishpeming, Michigan), Notice of Proposed Rule Making, BC Docket No. 82–323, RM–4088.

Adopted: June 15, 1982.

Released: June 18, 1982.

By the Chief, Policy and Rules Division.

1. A petition for rule making was filed on March 18, 1982, by Taconite Broadcasting, Inc. ("petitioner"),[1] which seeks to substitute Class C Channel 298 for Channel 296A at Ishpeming, Michigan, and to modify the license for Station WMQT(FM) (Channel 296A) to specify operation on Channel 298.

2. Ishpeming (population 7,538),[2] in Marquette County (population 74,101), is located in Michigan's upper peninsula approximately 16 kilometers (10 miles) southwest of Marquette, Michigan. It is served by fulltime AM Station WJPD, daytime-only AM Station WUPY, FM Station WJPD–FM (Channel 222) and FM Station WMQT (Channel 296A).

3. In support of the proposal the petitioner claims that Ishpeming is one of the principal cities in the peninsula area, and that Marquette County geographically is one of the largest counties in the nation. The city and county population are said to be sufficiently large enough to warrant a Class C channel. The proposed assignment would adequately serve the outlying portions of the city, particularly in light of the hilly terrain intervening between Ishpeming and the northern, eastern and southern extremes of the county. Taconite further claims that the substitution of Channel 298 for Channel 296A would further the Commission's policy of avoiding an intermixture of classes of channels in the same community. See *Rome, New York*, 43 Fed Reg. 10343, published March 13, 1978. It also asserts that it could eliminate the unfair and disproportionate commercial advantage now maintained by its Class C competitor, in addition to expanding the service area.

4. According to the information submitted by the petitioner, the proposed substitution of channels will have a minimal impact on the allocation of the co-channel and adjacent channels since there are no communities in the precluded area with a population over 1,000 persons. Thus, we find that preclusion appears to present no obstacle in the substitution of channels.

5. Inasmuch as the proposed Class C facility would provide expanded service to the area and remove the intermixture that currently exists at Ishpeming, we believe comments should be submitted on the proposal. The transmitter site is restricted to 1.7 miles southwest of the city to meet spacing requirements to Sault Saint Marie, Canada (Channel 297). Station WMQT would have to change its transmitter site from its present location in order to comply with the spacing requirements. In accordance with established policy we shall propose to modify the license of Station WMQT (FM) (Channel 296A) to specify operation on Channel 298. However, if another party should indicate an interest in the Class C assignment, then the modification could not be implemented. See *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976). Instead, an opportunity for the filing of a competing application must be provided.

6. Canadian concurrence in this assignment is required since Ishpeming, Michigan, is located within 320 kilometers (200 miles) of the U.S.-Canadian border.

7. In view of the apparent need for a wide coverage area station, the Commission proposes to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules, as it pertains to Ishpeming, Michigan, as follows:

City	Channel No.	
	Present	Proposed
Ishpeming, Michigan	222, 296A	222, 298

8. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

9. Interested parties may file comments on or before August 2, 1982, and reply comments on or before August 17, 1982, and are advised to read the Appendix for the proper procedures.

10. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

11. For further information concerning this proceeding, contact Montrose Tyree, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to the authority found in Sections 4(i), 5(d)(l), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) and 0.204(b) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in

[1] Taconite Broadcasting, Inc. is the licensee of Stations (WUPY(AM) and WMQT(FM), Ishpeming, Michigan.

[2] Population figures are taken from the 1980 U.S. Census.

the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleading, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 82-18139 Filed 7-2-82; 0:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-332; RM-4070]

FM Broadcast Stations in Oakes, North Dakota; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the substitution of Class C FM Channel 222 for unused Channel 252A at Oakes, North Dakota, in response to a petition filed by Kingsley H. Murphy, Jr.

DATES: Comments must be filed on or before August 9, 1982, and reply comments must be filed on or before August 26, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202)632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of Amendment of § 73.202(b) Table of Assignments, FM Broadcast Stations. (Oakes, North Dakota) (BC Docket No. 82-332; RM-4070); Notice of proposed rule making.

Adopted: June 16, 1982.

Released: June 24, 1982.

By the Chief, Policy and Rules Division:

1. Kingsley H. Murphy, Jr. ("petitioner") has filed a petition for rule making requesting the substitution of Class C Channel 222 for unused Channel 252A at Oakes, North Dakota. The assignment can be made in conformity with the minimum distance separation requirements of § 73.207 of the Commission's Rules, and petitioner states that he will apply for the channel, if assigned.

2. Oakes (population 2,112), in Dickey County (population 7,207), is located approximately 216 kilometers (135 miles) southeast of Bismarck, North Dakota. It is served by daytime only AM Station KDDR, licensed to the petitioner herein, and is assigned unused and unapplied for FM Channel 252A.

3. Petitioner states that Oakes' population increased over 21% between 1970-1980, and that he expects this trend will continue as a federally funded irrigation project is completed. According to petitioner, Oakes is a major retail area for southeastern North Dakota, and has its contingent of professional offices and other facilities which serve the city and surrounding area. It has one local weekly newspaper available to its residents.

4. In support of his request for a wide-coverage area Class C channel, petitioner states that other than its existing daytime only AM station, the closest broadcast facility to Oakes is AM Station KOVC in Valley City, North Dakota, which is approximately 60 miles away. Moreover, petitioner asserts that none of the counties surrounding Oakes has any local aural service.

5. Petitioner advises that assignment of Channel 222 will cause preclusion on the co-channel, as well as the first and second adjacent channels, 223 and 224A. Petitioner provided a list of those communities containing a population in excess of 5,000 persons which would sustain preclusion as a result of the proposed assignment, and advised that alternate channels are available thereto.

6. Petitioner indicates that the proposed Class C assignment would provide a first FM service to sparsely populated areas comprising 9,369 square kilometers (3,660 square miles), wherein 23,459 persons reside.

7. The Commission does not normally assign high-power Class C channels to communities the size of Oakes, absent some showing that a significant amount of first or second service could be provided. Here, the provision of first service is substantial. Additionally, no expression of interest in the Class A allocation has been received. In view of these considerations, we believe a sufficient showing has been made to justify proposing a Class C assignment to Oakes.

8. Since Oakes is located within 320 kilometers (200 miles) of the United States-Canadian border, the proposed substitution of Channel 222 for 252A at Oakes, North Dakota, requires our coordination with the Canadian Government.

9. In light of the foregoing, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Oakes, North Dakota	252A	222

10. The Commission's authority to institute rule making proceedings showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

11. Interested parties may file comments on or before August 9, 1982, and reply comments on or before August 26, 1982, and are advised to read the Appendix for the proper procedures.

12. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

13. For further information concerning this proceeding, contact Nancy Joyner, Broadcast Bureau, (202)632–7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) and 0.204(b) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 82-18141 Filed 7-2-82; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-322; RM-4105]

FM Broadcast Station in Robstown, Texas; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes a noncommercial educational FM channel assignment to Robstown, Texas, in response to a petition filed by Robstown Independent School District.

DATES: Comments must be filed on or before August 2, 1982, and reply comments on or before August 17, 1962.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N., Lipp, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of Amendment of § 73.504(a), Table of Assignments, Noncommercial Educational FM Stations (Robstown, Texas); Notice of proposed rule making, BC Docket No. 82–322, RM–4105.

Adopted: June 15, 1962.
Released: June 18, 1982.

By the Chief, Policy and Rules division:

1. A petition for rule making was filed April 26, 1982, by the Robstown Independent School District ("petitioner") proposing the assignment of Channel 208A to Robstown, Texas, for noncommercial educational use.

Petitioner states that it will file an application for the channel, if assigned.

2. Robstown (population 12,100)[1] is located in Nueces County (population 268,215), approximately 24 kilometers (15 miles) west of Corpus Christi, Texas. It is served by daytime-only AM Station KROB, FM Station KROB (Channel 260) and has one noncommercial educational FM assignment (Channel 216A, application pending).

3. The Robstown Independent School District has an enrollment of approximately 4,400 students—1,100 in high school—of which 96 percent are Hispanic. If the application is approved, petitioner could use the station in the high school to teach all aspects of communications, including broadcast production and technical operations, thus furthering a significant educational purpose. We are told that petitioner intends to disseminate information about the school system and bilingual programming for the benefit of students and families with little or no proficiency in the English language. This program would help accomplish a major goal of the bilingual education section of the Educational Acts Amendment of 1978, 20 U.S.C. § 3231.[2] The Commission acknowledges receipt of the supplemental "Request for Expedited Action" from petitioner.

4. In view of the fact that the proposed channel could provide a second noncommercial educational FM service to Robstown, the Commission believes it is appropriate to propose amending the Noncommercial Educational FM Table of Assignments, § 73.504(a) of the Commission's Rules, with regard to the following community:

City	Channel No.	
	Present	Proposed
Robstown, Texas	216A	208A, 216A

5. Since Robstown is located within 320 kilometers (199 miles) of the U.S.-Mexican border, the proposed assignment requires concurrence of the Mexican government.

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before August 2, 1982, and reply comments on or before August 17, 1982, and are advised to read the Appendix for the proper procedures.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.504(a) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Martin Blumenthal,

Assistant Chief, Policy and Rules Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, § 73.504(a) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

[1] Population figures are taken from the 1980 U.S. Census, Advance Report.

[2] This need has been recognized by the State and Federal authorities which have already provided funding for the station.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-18139 Filed 7-2-82; 9:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-333; RM-3997]

FM Broadcast Station in Del Rio, Texas; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the assignment of Channel 249A to Del Rio, Texas, as a second FM service, in response to a petition filed by Grande Broadcasting, Inc.

DATES: Comments must be filed on or before August 9, 1982, and reply comments on or before August 26, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Del Rio, Texas); Notice of proposed rule making; BC Docket No. 82-333, RM-3997.

Adopted: June 16, 1982.

Released: June 24, 1982.

1. Grande Broadcasting, Inc. ("petitioner") filed a petition for rule making requesting the assignment of Channel 249A to Del Rio, Texas, as that community's second FM assignment. Del Rio is currently served by two full-time AM stations (KDLK and KWMC) and FM Station KLKE (Channel 232A).

2. In support of the proposal, the petitioner submitted population and demographic information pertaining to Del Rio and requested a waiver of the requirement for a formal preclusion study. The Commission, on May 20, 1982, adopted a *Second Report and Order*, BC Docket 80-130, revising the FM assigment polices. In accordance with the newly developed policies, it is no longer necessary to consider population and demographic data or preclusion matters, except where conflicting assignment proposals are involved. Petitioner has indicated that the proposed assignment meets the mileage separation requirements of the Commission's Rules.

3. Since Del Rio is located within 320 kilometers (199 miles) of the U.S.-Mexican border, the proposed assignment requires concurrence of the Mexican Government.

4. In view of the foregoing information and the fact that the assignment would provide a second commercial FM broadcast service, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Rules, as follows:

City	Channel No.	
	Present	Proposed
Del Rio, Texas	232A	232A, 249A

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before August 9, 1982, and reply comments on or before August 26, 1982, and are advised to read the Appendix for the proper procedures.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that section 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Montrose Tyree, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307 (b) of the Communications Act of 1934, as amended, §§ 0.281(b)(6) and 0.204(b) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the notice of proposed rule making to which this Appendix is attached Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-18142 Filed 7-2-82; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
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Tuesday, July 6, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

National Advisory Committee for Tobacco Inspection Services; First Meeting

The National Advisory Committee for Tabacco Inspection Services will meet at 10 a.m., July 22, 1982, in Room 2096 South Building, United States Department of Agriculture, located at 14th and Independence Avenue, S.W., Washington, D.C, 20250.

The meeting will commence with an orientation of the newly established membership, distribution of informational materials and an explanation of the responsibilities of Committee members.

Immediately following the orientation session will be a review of various regulations issued pursuant to the Tobacco Inspection Act (49 Stat. 7 U.S.C. 511 *et seq.*) and discussion of the level of inspection and related services and the fees and charges associated with providing these services.

The meeting is open to the public though space and facilities are limited. Public participation will be limited to written statements submitted before or at the meeting unless otherwise requested by the Committee Chairperson. Persons, other than members, who wish to address the Committee at the meetng should contract J. T. Bunn, Deputy Director, Tobacco Division, Agricultural Marketing Service, 300—12th Street, S.W., United States Department of Agriculture, Washington, D.C. 20250, (202) 447–7235.

Dated: June 30, 1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc.82–18175 Filed 7–2–82; 8:45 am]
BILLING CODE 3410–02–M

Agricultural Stabilization and Conservation Service

1982 Rice Program; Determinations Regarding the 1982-Crop Rice Loan and Purchase Rate, Established (Target) Price, Acreage Reduction Program, and Land Diversion Payment Program

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of determinations of the 1982 crop rice loan and purchase rate, established (target) price, acreage reduction program, and land diversion payment program.

SUMMARY: The purpose of this notice is to set forth the following determinations with respect to the 1982 crop of rice: (1) the loan and purchase rate will be $8.14 per hundredweight; (2) the established (target) price will be $10.85 per hundredweight; (3) a 15 percent acreage reduction program is established; and (4) there will be no land diversion payments. These determinations are required to be made in accordance with Section 101(i) of the Agricultural Act of 1949, as amended by the Agriculture and Food Act of 1981, (hereinafter referred to as the "Act").

EFFECTIVE DATE: January 29, 1982.

ADDRESS: Director, Analysis Division, ASCS, USDA, Room 3741, South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Dr. Howard C. Williams, Director, Analysis Division, ASCS, USDA, Room 3741, South Building, P.O. Box 2415, Washington, D.C. 20013 (202) 447–3391. The Regulatory Impact Analysis describing the options considered in developing these determinations is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: These determinations have been reviewed in accordance with the provisions of Executive Order 12291 and Secretary's Memorandum No. 1512–1 and have been classified as "major." These determinations have been classified as "major" because they are expected to affect the supply and price of rice during the 1982–83 marketing year, which will in turn impact upon producers, processors, exporters and consumers of rice.

The titles and numbers of the federal assistance program that this notice applies to are: TITLE-Rice Production Stabilization; Number 10.065, and TITLE-Commodity Loan and Purchases; Number 10.051 as found in the Catalog of Federal Domestic Assistance.

These actions will not have a significant impact specifically on area and community development. Therefore, review as established under Office of Management and Budget (OMB) Circular A–95 was not used to assure that units of local government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since there is no requirement that a notice of proposed rulemaking be published with respect to the subject matter of these determinations in accordance with 5 U.S.C. 553 or any other provision of law.

1. *Loan and Purchase Rate.* Section 101(i)(1) of the Act provides that the Secretary shall make available to producers in the several States of the United States loans and purchases for the 1982 crop of rice at such level as bears the same ratio to the loan level for the preceding year's crop as the established price for each such crop bears to the established price for the preceding year's crop. If the Secretary determines that loans and purchases at the foregoing level would substantially discourage the exportation of rice and result in excessive stocks of rice in the United States, the Secretary may establish loans and purchases at such level, not less than $8.00 per hundredweight, as the Secretary determines necessary to avoid such consequences.

2. *Established (Target) Price.* Section 101(i)(2)(C) of the Act provides that the established price for rice shall be not less than $10.85 per hundredweight for the 1982 crop. Such established price may be adjusted by the Secretary as the Secretary determines to be appropriate to reflect any change in (a) the average adjusted cost of production per acre for the two crop years (1980 and 1981) immediately preceding the year for which the determination is made from (b) the average adjusted cost of production per acre for the two crop years (1979 and 1980) immediately preceding the year previous to the one for which the determination is made. The adjusted cost of production for each of such years may be determined by the Secretary on the basis of such

information as the Secretary finds necessary and appropriate for the purpose and may include variable costs, machinery ownership costs, and general farm overhead costs, allocated to the crops involved on the basis of the proportion of the value of the total production derived from each crop.

3. *Acreage Reduction Program.* Section 101(i)(5)(A) of the Act provides that the Secretary may establish a limitation on the acreage planted to rice if the Secretary determines that the total supply of rice, in the absence of such limitation, will be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. Such limitation shall be achieved by applying a uniform percentage reduction to the acreage base for each rice-producing farm. Producers who knowingly produce rice in excess of the permitted rice acreage for the farm shall be ineligible for rice loans, purchases, and payments with respect to that farm. If an acreage limitation is in effect for any crop, the national program acreage, voluntary reduction percentage, program allocation factor, and the application of the program allocation factor to the individual farm program acreage are not applicable to such crop.

4. *Land Diversion Payment Program.* Section 101(i)(5)(B) of the Act provides that the Secretary may make land diversion payments to producers of rice, whether or not an acreage limitation for rice is in effect, if the Secretary determines that such land diversion payments are necessary to assist in adjusting the total national acreage of rice to desirable goals. Such land diversion payments shall be made to producers who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with such producers.

With respect to the determination of the acreage reduction program, the following options were considered for the 1982-crop rice program: (1) no acreage reduction program; (2) 10 percent acreage reduction program; (3) 15 percent acreage reduction program; (4) 20 percent acreage reduction program; and (5) 10 percent acreage reduction program combined with a 5 percent land diversion payment program. All options were evaluated in the context of relatively large world rice stocks in 1982/83.

World rice production in 1982/83 is forecast at about 415 million tons (rough basis) depending on growing conditions. This represents an increase of about 1.5 percent from 1981/82 production of 409 million metric tons. World trade in 1983 is tentatively forecast at 12.2 million tons (milled basis) but with large carryover stocks in key exporting and importing countries, world trade in 1983 should again be keenly competitive.

In the absence of an acreage reduction program, 1982 planted acreage is estimated at about 3.85 million acres, resulting in production of about 171.5 million hundredweights and total supply of about 225.6 million hundredweights. Total domestic and export use under this program option is estimated at about 151.7 million hundredweights, resulting in total ending stocks of about 70.3 million hundredweights. Under this option, the season average price for rice is estimated at $9.00 per hundredweight, resulting in total deficiency payments of approximately $302.1 million and total government outlays of about $408.9 million.

Under a 10 percent acreage reduction program, 1982 planted acreage is estimated at about 3.41 million acres, resulting in production of about 155.8 million hundredweights and total supply of about 209.9 million hundredweights. Total domestic and export use under this program option is estimated at about 148.1 million hundredweights, resulting in total ending stocks of about 58.2 million hundredweights. Under this option, the season average price for rice is estimated at $10.25 per hundredweight, resulting in total deficiency payments of approximately $110.8 million and total government outlays of about $122.2 million.

Under a 15 percent acreage reduction program, 1982 planted acreage is estimated at about 3.50 million acres, resulting in production of about 159.0 million hundredweights and total supply of about 213.1 million hundredweights. Total domestic and export use under this program option is estimated at about 148.1 million hundredweights, resulting in total ending stocks of about 61.4 million hundredweights. Under this option, the season average price for rice is estimated at $10.25 per hundredweight, resulting in total deficiency payments of approximately $98.4 million and total government outlays of about $122.6 million.

Under a 5 percent land diversion payment program combined with a 10 percent acreage reduction program, 1982 planted acreage is estimated at about 3.45 million acres, resulting in production of about 157.0 million hundredweights and total supply of about 211.1 million hundredweights. Total domestic and export use under this program option is estimated at about 148.1 million hundredweights, resulting in total ending stocks of about 59.4 million hundredweights. Under this option, the season average price for rice is estimated at $10.25 per hundredweight, resulting in total deficiency payments of approximately $112.5 million and total government outlays of about $139.2 million.

Under a 20 percent acreage reduction program, planted acreage is estimated at about 3.45 million acres, resulting in production of about 157.4 million hundredweights and total supply of about 211.5 million hundredweights. Total domestic and export use under this program option is estimated at about 148.1 million hundredweights, resulting in total ending stocks of about 59.8 million hundredweights. Under this option, the season average price for rice is estimated at $10.25 per hundredweight, resulting in total deficiency payments of approximately $81.3 million and total government outlays of about $99.5 million.

The 1982 rice program determinations provide the optimal balance between the multiple objectives of providing adequate rice supplies for domestic and export utilization, maintaining adequate carryover stocks, supporting farm income, combating inflation, holding down treasury costs, and conserving natural resources.

The determinations contained herein are required under Section 101(i) of the Act which was enacted into law December 22, 1981. On January 29, 1982 the Secretary announced by press release the various program determinations for the 1982 rice program which are set forth in this notice. Accordingly, the purpose of this notice is to affirm the program determinations which have previously been announced. Thus, it has been determined that no further public rulemaking is required with respect to the following determinations:

Determinations

1. *Loan and Purchase Level.* In accordance with Section 101(i)(1) of the Act, it is hereby determined that the loan and purchase rate for 1982-crop rice is $8.14 per hundredweight. Exports of rice in 1982/83 are forecast to be at about the same level as in 1981/82. It has been determined that the loan and purchase level established herein will not substantially discourage the exportation of rice and result in excessive stocks of rice in the United States.

2. *Established (Target) Price.* In accordance with Section 101(i)(2)(C) of the Act, it is hereby determined that the established (target) price for 1982-crop

rice is $10.85 per hundredweight, the minimum required by law.

3. *Acreage Reduction Program.* In accordance with Section 101(i)(5)(A) of the Act, it is hereby determined that a 15 percent reduction shall be applicable to the acreage planted to rice in 1982. The Secretary has determined that the total supply of rice, in the absence of such limitation, will be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency.

4. *Land Diversion Payments.* In accordance with Section 101(i)(5)(B) of the Act, it is hereby determined that Land diversion payments are not necessary to assist in adjusting the total national acreage of rice to desirable goals and therefore such payments will not be made for the 1982 crop of rice.

(Sec. 101(i), 95 Stat. 1242, (7 U.S.C. 1441), Sec. 1101, 95 Stat. 1263, (7 U.S.C. 1308))

Signed in Washington, D.C. June 30, 1982.

John R. Block,

Secretary.

[FR Doc. 82-18311 Filed 7-2-82; 8:45 am]

BILLING CODE 3410-05-M

1982 Wheat Program; Determinations Regarding the Proclamation of 1982-Crop Program Provisions For Wheat

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of determination of 1982-crop program provisions for wheat.

SUMMARY: The purpose of this notice is to set forth the following determinations with respect to the 1982 crop of wheat: (1) The loan and purchase rate will be $3.55 per bushel; (2) The established (target) price will be $4.05 per bushel; (3) An Acreage Reduction Program for wheat will be in effect with a uniform reduction of 15 percent; (4) No land diversion payments, set-aside or special haying and grazing program; and (5) Certain provisions with respect to a farmer-owned wheat reserve (FOWR) program. These determinations are required to be made in accordance with Sections 107B, 109, and 110 of the Agricultural Act of 1949 as amended by the Agricultural and Food Act of 1981 (hereinafter referred to as the "Act").

EFFECTIVE DATE: January 29, 1982.

ADDRESS: Dr. Howard C. Williams, Director, Analysis Division, USDA–ASCS, Room 3741, South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Bruce R. Weber, Agricultural Marketing Specialist, Analysis Division, USDA–ASCS, P.O. Box 2415, Washington, D.C. 20013 or call (202) 447–4146. The Final Regulatory Impact Analysis describing the obtions considered in developing this Notice of Determination is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been designated as "major". It has been determined that these program provisions will result in an annual effect on the economy of $100 million or more.

The title and number of the federal assistance program that this notice applied to are: TITLE—Wheat Production Stabilization: Number 10.058 and TITLE-Commodity Loans and Purchases: Number 10.051, as found in the catalog of Federal Domestic Assistance.

These actions will not have a significant impact specifically on area and community development. Therefore, a review as established by OMB Circular A95 was not used to assure that units of local Government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since there is no requirement that a notice of proposed rulemaking be published with respect to the subject matter of these determinations in accordance with 5 U.S.C. 553 or any other provision of law.

This notice sets forth determinations with respect to the following issues:

1. *Loan and Purchase Level.* Section 107B(a) of the Act provides that the Secretary shall make available to producers loans and purchases for the 1982 crop of wheat at such level, not less than $3.55 per bushel, as the Secretary determines will maintain the competitive relationship of wheat to other grains in domestic and export markets after taking into consideration the cost of producing wheat, supply and demand conditions, and world prices for wheat.

2. *Established (Target) Price.* Section 107B(b)(1)(C) of the Act, as amended, provides that the 1982–crop established (target) price shall not be less than $4.05 per bushel. The Secretary may adjust this established price to reflect any change in (i) the average adjusted cost of production per acre for the 2 crop years immediately preceding the year for which the determination is made from (ii) the average adjusted cost of production per acre for the 2 crop years immediately preceding the year previous to the one for which the determination is made.

3. *Acreage Reduction Program (ARP).* Sections 107B(e)(1) and (2) of the Act provide that the Secretary may provide for an acreage reduction program if he determines that the total supply of wheat, in the absence of such program, will be excessive, taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices to meet a national emergency. The Secretary shall announce any such acreage reduction program for the 1982 crop of wheat as soon as possible after the enactment of the Argiculture and Food Act of 1981. Such limitation shall be achieved by applying a uniform percentage reduction to the acreage base established for each wheat-producing farm. Producers who knowingly produce wheat in excess of the permitted wheat acreage for the farm shall be ineligible for wheat loans, purchases and payments with respect to that farm. If an acreage reduction program is in effect for any crop, the national program acreage, program allocation factor and the voluntary acreage reduction provisions are not applicable to such crop. The individual farm program acreage shall be the acreage planted on the farm to wheat for harvest within the permitted wheat acreage for the farm.

4. *Land Diverison Program.* Section 107B(e)(5) of the Act provides that the Secretary may make land diversion payments to producers of wheat, whether or not an acreage reduction or set-aside program for wheat is in effect, if the Secretary determines that such land diversion payments are necessary to assist in adjusting the total national acreage of wheat to desirable goals.

5. *Producer Reserve Program.* Section 110 of the Act provides that the Secretary shall formulate and administer a program under which producers of wheat will be able to store wheat when in abundant supply and extend the time for its orderly marketing. Reserve loans shall be made at such level of support as the Secretary determines appropriate, except that the loan rate shall not be less than the current level of support provided for under the wheat program established in accordance with Section 107B of the Act. The program may provide for (1) repayment of such loans in not less than three years nor more than five years: (2) payments to producers for storage in such amounts and under such conditions as are determined to be appropriate to encourage producers to participate in the program; (3) a rate of interest not less than the rate of interest charged the Commodity Credit Corporation by the United States Treasury, except that the

Secretary may waive or adjust such interest as the Secretary deems appropriate; (4) recovery of amounts paid for storage, and for the payment of additional interest or other charges if such loans are repaid by producers before the market price for wheat has reached the trigger release level; and (5) conditions designed to induce producers to redeem and market the wheat securing such loans without regard to the maturity dates thereof whenever the Secretary determines that the market price for the commodity has attained a specified level (trigger release level), as determined by the Secretary. The Secretary shall announce the terms and conditions of the producer storage program as far in advance of making loans as practicable. In such announcement, the Secretary shall specify the quantity of wheat to be stored under the program which the Secretary determines appropriate to promote the orderly marketing of wheat. The Secretary may place an upper limit on the amount of wheat placed in the reserve but such upper limit may not be less than seven hundred million bushels of wheat.

6. *Special Grazing and Haying Program.* Section 109 of the Act provides that the Secretary is authorized to administer a special wheat acreage grazing and haying program. If a special grazing and haying program is implemented, a producer shall be permitted to designate a portion of the acreage on the farm intended to be planted to wheat, feed grains, or upland cotton for harvest, not in excess of 40 per centum thereof, or 50 acres, whichever greater, which shall be planted to wheat (or some other commodity other than corn or grain sorghum) and used by the producer for grazing purposes or hay rather than for commercial grain production. The Secretary shall pay the producer participating in this special program an amount determined by multiplying the farm program payment yield for wheat established for the farm, by the number of acres included in the special program, by a rate of payment determined by the Secretary to be fair and reasonable. Acreage included in the special program shall be in addition to any acreage included in any set-aside, reduced acreage or land diversion program.

7. *Set-Aside Program.* Sections 107B (e) (1) and (3) of the Act provide that the Secretary may provide for a set-aside program if he determines that the total supply of wheat, in the absence of such a program, will be excessive, taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices to meet a national emergency.

8. *Grazing and Haying of Designated ARP Acreage.* Section 107B(e)(4) of the Act provides the Secretary may permit all or any part of the conservation use acreage to be devoted to sweet sorghum, hay and grazing or the production of quar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, or any other commodity, if he determines such crop production is needed to provide an adequate supply of such commodities, is not likely to increase the cost of price support program, and will not affect farm income adversely.

The following program options were considered for the 1982 crop of wheat: (1) no acreage reduction program; (2) a 15 percent acreage reduction program with a $3.85 extended loan rate for reserve entry; (3) a 15 percent acreage reduction program with a $4.00 extended loan rate for reserve entry (the selected option); (4) a 5 percent acreage reduction program with a 10 percent land diversion program and a $3.85 extended loan rate for reserve entry; (5) a 5 percent acreage reduction program with a 10 percent land diversion program and a $4.00 extended loan rate for reserve entry; (6) a 10 percent acreage reduction program with a 5 percent land diversion program and a $3.85 extended loan rate for reserve entry; (7) a 10 percent acreage reduction program with a 5 percent land diversion program and a $4.00 extended loan rate for reserve entry; and (8) a 10 percent acreage reduction program with a $3.85 extended loan rate for reserve entry. These options were considered with data that were current on January 29, 1982.

Selected Option: Under a 15 percent acreage reduction program with a $4.00 extended loan rate for reserve entry, the 1982 wheat crop harvested acreage is estimated to be 76.6 million acres with production forecast at 2,675 million bushels. Total domestic and export utilization is expected to be 2,675 million bushels with ending stocks estimates to be 1,064 million bushels. The season average price is estimated to be $3.90 per bushel, resulting in deficiency payments of $325 million and net government outlays for fiscal year (FY) 1983 of $853 million.

Other Options Considered: Without an acreage reduction program for the 1982 wheat crop, U.S. harvested wheat acreage was estimated to be 79.7 million acres, resulting in production of 2,745 million bushels. Combined domestic and export utilization is estimated to be 2,680 million bushels with ending stocks rising to 1,129 million bushels. The season average wheat farm price for this option was forecast to be $3.80 per bushel, resulting in deficiency payments of $1,020 million and total government outlays for FY 1983 of $1,827 million.

Under a 15 percent acreage reduction program with a $3.85 extended loan rate for reserve entry, the 1982 crop harvested acreage was estimated at 77.9 million acres with production estimated to be 2,700 million bushels. Total domestic and export utilization was expected to be 2,680 million bushels for this option with ending stocks at 1,084 million bushels. The season average price was forecast to be $3.80 per bushel, resulting in deficiency payments of $375 million and net government outlays for FY 1983 of $853 million.

Under a 5 percent acreage reduction program with a 10 percent land diversion payment program and a $3.85 extended loan rate for reserve entry, the 1982 harvested acreage was estimated to be 76.2 million acres with production estimated to be 2,660 million bushels. Total domestic and export utilization was expected to be 2,675 million bushels with ending stocks estimated at 1,049 million bushels. The season average price was forecast at be $3.90 per bushel resulting in deficiency payments of $465 million. A diversion payment at $2.00 per bushel ($66.00/acre) resulted in payments of $101 million. The estimated net government outlays for FY 1983 for this option were $1,019 million.

Under a 5 percent acreage reduction program with a 10 percent land diversion payment program and a $4.00 extended loan rate for reserve entry, the 1982 harvested acreage was estimated to be 75.1 million acres with production estimated to be 2,630 million bushels. Total domestic and export utilization was exptected to be 2,665 million bushels and ending stocks were estimated at 1,029 million bushels. The season average price was forecast at $4.05 per bushel resulting in deficiency payments of $280 million. A diversion payment at $2.00 per bushel ($66.00/acre) resulted in payments of $119 million. The estimated net government outlays for FY 1983 were $843 million.

Under a 10 percent acreage reduction program with a 5 percent land diversion payment program and a $3.85 extended loan rate for reserve entry, the 1982 harvested acreage was estimated to be 76.4 million acres with production estimated at 2,667 million bushels. Total domestic and export utilization was expected to be 2,675 million bushels with ending stocks at 1,054 million bushels. The season average price was

estimated to be $3.88 per bushel resulting in deficiency payments of $400 million. Diversion payment amounted to $101 million with net government outlays for FY 1983 for this option at $941 million.

Under a 10 percent acreage reduction program with a 5 percent land diversion payment program and a $4.00 extended loan rate for reserve entry, the 1982 harvested acreage was estimated to be 75.6 million acres with production at 2,640 million bushels. Total domestic and export utilization was exptected to be 2,665 million bushels and ending stocks at 1,039 million bushels. The season average price was estimated at $4.00 per bushel resulting in deficiency payments of $285 million. Diversion payments amounted to $111 million with estimated net government outlays for FY 1983 of $842 million.

Under a 10 percent acreage reduction program, the 1982 harvested acreage was estimated to be 78.5 million acres with production at 2,715 million bushels. Total domestic and export utilization was exptected to be 2,680 million bushels and ending stocks at 1,099 million bushels. The season average price was estimated to be $3.83 per bushel, resulting in deficiency payments of $400 million and estimated net government outlays for FY 1983 of $865 million.

A number of the determinations with respect to the wheat program are generally required to be made by Section 107B(e)(1) of the Act not later than August 15 prior to the calendar year in which the crop is harvested. However, in the case of the 1982 crop, the Secretary is required to announce such programs provisions as soon as practicable after enactment of the Agriculture and Food Act of 1981, which was December 22, 1981. On January 29, 1982, the Secretary announced by press release the various program determinations for the 1982 crop of wheat which are set forth in this notice. Accordingly, the purpose of the notice is to affirm the program determinations which have previously been announced. Thus, it has been determined that no further public rulemaking is required with respect to the following determinations:

Determinations

1. *Loan and Purchase Level.* In accordance with Section 107B(a) of the Act, it is hereby determined that the loan and purchase rate for 1982-crop wheat is $3.55 per bushel.

2. *Established (Target) Price.* In accordance with Section 107B(b)(1)(C) of the Act, it is hereby determined that the established (target) price for wheat is $4.05 per bushel.

3. *Acreage Reduction Program (ARP).* In accordance with Section 107B(e)(2) of the Act, it is hereby determined that a 15 percent reduction shall be applicable to the acreage planted to wheat in 1982. The Secretary has determined that the total supply of wheat, in the absence of such a limitation, will be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. This option was selected because it provides the best balance between the multiple objectives of providing adequate wheat supplies for domestic and foreign utilization, while maintaining adequate carryover stocks, supporting farm income, combating inflation, holding down Treasury costs and conserving natural resources.

4. *Land Diversion Payments.* In accordance with Section 107B(e)(5) of the Act, it is hereby determined that land diversion payments are not necessary to assist in adjusting the total national acreage of wheat to desirable goals and, therefore, such payments will not be made for the 1982 crop of wheat.

5. *Producer Reserve Program.* In accordance with Section 110 of the Act, it is hereby determined that the provisions of the 1982 producer reserve program will include the following: (a) producers will be permitted immediate entry into the reserve by obtaining an extended price support loan at the rate of $4.00 per bushel; (b) the trigger release level will be $4.65 per bushel; (c) producers will be charged interest at the rate charged the Commodity Credit Corporation for its borrowing from the United States Treasury, but such interest will be waived after the first year; and (d) a storage payment of $.265 per bushel. It has been determined that there will be no upper limit on the quantity of 1982 crop of wheat placed in the producer reserve program.

6. *Special Haying and Grazing Program.* In accordance with Section 109 of the Act, it is hereby determined that there will be no special haying and grazing program for the 1982 crop of wheat.

7. *Set-Aside Program.* In accordance with Sections 107B (e) (1) and (3) of the Act, it is hereby determined that there will be no set-aside program for the 1982 crop of wheat.

8. *Grazing and Haying of designated ARP Acreage.* In accordance with Section 107B(e)(4) of the Act, it is hereby determined that winter wheat producers who have planted wheat before January 29, 1982, and who designate such as ARP acreage, shall be permitted to graze and hay such acreage. This is being permitted to allow winter wheat producers the opportunity to offset additional costs incurred in planting excess wheat as a result of the late ARP announcement.

(Secs. 107B, 109, 110, 1001; 95 Stat. 1221, 1257, 91 st. 950, as amended, (7 U.S.C. 1445b–1, 1445d, 1445e, and 1309)

Signed in Washington, D.C. June 30, 1982.

John R. Block,

Secretary.

[FR Doc. 82-18913 Filed 7-8-82; 8:45 am]

BILLING CODE 3410-05-M

Food and Nutrition Service

National School Lunch, School Breakfast, and Special Milk Programs; National Average Payments/Maximum Reimbursement Rates

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces adjustments to the "national average payments", the amount of money the Federal Government gives States for lunches and breakfasts served to children participating in the National School Lunch and School Breakfast Programs. The Department also announces adjustments in the "maximum reimbursement rates", the maximum per lunch rate a State can provide its School Food Authorities for lunches served to children participating in the lunch programs. Further, this notice announces the rate of reimbursement for a half-pint of milk served to nonneedy children in a school or institution which participates in *only* the Special Milk Program for Children. These adjusted payments and rates are in effect from July 1, 1982–June 30, 1983, and will be adjusted on an annual basis each July. The annual payments and rates adjustments for the school lunch and school breakfast programs reflect changes in the food away from home series of the Consumer Price Index for all Urban Consumers. The annual rate adjustment for milk reflects changes in the Producer Price Index for Fresh Processed Milk

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION:

Stanley C. Garnett, Branch Chief, Policy and Program Development Branch, School Programs Division, FNS, USDA, Alexandria, Virginia 22302 (703) 756–3620.

SUPPLEMENTAL INFORMATION:

Classification

This notice has been reviewed under Executive Order 12291 and has been classified not major because it does not meet any of the three criteria identified under the Executive Order. The action announced in the notice will not have an annual effect on the economy of $100 million, will not cause a major increase in costs or prices and will not have a significant impact on competition, employment, investment, productivity, innovation or on the ability of U.S. enterprises to compete with foreign based enterprises in domestic or foreign markets.

This notice has also been reviewed with regard to the requirements of Public Law 96–354, the Regulatory Flexibility Act. The Administrator of the Food and Nutrition Service, has certified that this action will not have a significant adverse economic impact on a substantial number of small entities.

This notice imposes no new reporting or recordkeeping provisions that are subject to OMB review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3587).

Definitions

The terms used in this notice shall have the meanings ascribed to them in the regulations governing the National School Lunch Program (7 CFR Part 210), the regulations for School Breakfast Program (7 CFR Part 220) and the regulations for Determining Eligibility for Free and Reduced Price Meals for Free Milk in Schools (7 CFR Part 245).

Background

Special Milk Program for Children—Pursuant to Section 3 of the Child Nutrition Act, as amended (42 U.S.C. 1772), the Department announces the rate of reimbursement for a half-pint of milk served to nonneedy children in a school or institution which participates in *only* the Special Milk Program for Children. This rate is adjusted annually to reflect changes in the Producer Price Index for Fresh Processed Milk.

For the period July 1, 1982 to June 30, 1983, the rate of reimbursement for a half-pint of milk served to a nonneedy child in a school or institution which participates in *only* the Special Milk Program is *9.25* cents. This reflects an increase of *2.77* percent over the old rate based on a change in the Producer Price Index for Fresh Processed Milk during the period May 1981 to May 1982.

As a reminder, schools or institutions with pricing programs, which elect to serve milk free to eligible children, continue to receive the average cost of a half-pint of milk (the total cost of all milk purchased during the claim period divided by the total number of purchased half-pints) for each half-pint served to an eligible child.

National School Lunch and School Breakfast Programs—Pursuant to Section 11 of the National School Lunch Act, as amended (42 U.S.C. 1759a) and Section 4 of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1773), the Department annually announces the adjustments to the national average payment factors, and to the maximum reimbursement rates for lunches served to children participating in the National School Lunch Program. Adjustments are made each July 1, based on changes in the food away from home series of the Consumer Price Index for all Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

Lunch Payment Factors—Section 4 of the National School Lunch Act provides general cash for food assistance payments to States to assist schools in purchasing food. There are two Section 4 Nationial Average Payment Factors (NAPFs) for lunches served under the National School Lunch Program. The lower payment factor applies to lunches served in School Food Authorities in which *less than 60 percent* of the lunches served in the school lunch program during the second preceding school year were served free or at a reduced price. The higher payment factor applies to lunches served in School Food Authorities in which *60 percent or more* of the lunches served during the second preceding school year were served free or at a reduced price.

To supplement these Section 4 payments, Section 11 of the National School Lunch Act provides special cash assistance payments to aid schools in providing free and reduced price lunches. The Section 11 NAPF for each reduced price lunch served is set at *40 cents* less than the factor for each free lunch.

As authorized under section 8 and 11 of the National School Lunch Act, maximum reimbursement rates for each type of lunch are prescribed by the Department in this notice. These maximum rates ensure equitable disbursement of Federal funds to School Food Authorities.

Breakfast Payment Factors—Section 4 of the Child Nutrition Act of 1966, as amended, establishes national average payment factors for free, reduced price and paid breakfasts served under the School Breakfast Program and additional payments for schools determined to be "severe need because they serve a high percentage of needy children." The NAPF for reduced price breakfasts in *one-half* the NAPF for free breakfasts or *30 cents* less than the NAPF for free breakfasts, whichever is greater.

Revised Payments

The following specific Section 4 and Section 11 National Average Payment Factors and maximum payments are in effect through June 30, 1983. Due to a higher cost of living, the average payments and maximum reimbursements for Alaska and Hawaii are higher than those for all other States. The Virgin Islands, Puerto Rico and the Pacific Territories use the figures specified for the contiguous States.

National School Lunch Program Payments

Section 4 National Average Payment Factors—In School Food Authorities which served *less than 60 percent* free and reduced price lunches in School Year 1980–81 the payments:

Contiguous States—11.00 cents, maximum rate *19.00* cents; Alaska—*18.00* cents, maximum rate *29.50* cents; *Hawaii—13.00* cents, maximum rate *22.00* cents.

In School Food Authorities which served *60 percent or more* free and reduced price lunches in School Year 1980–81 the Section 4 payments are: *Contiguous States—13.00* cents, maximum rate *19.00* cents; *Alaska—20.00* cents, maximum rate *29.50* cents, *Hawaii—15.00* cents, maximum rate *22.00* cents.

Section 11 National Average Payment Factors—Contiguous States— free lunches *104.00* cents, reduced price lunches *64.00* cents; *Alaska*—free lunches *168.50* cents, reduced price lunches *128,50* cents, *Hawaii*—free lunches *121.75* cents, reduced price *81.75* cents.

School Breakfast Program Payments

For schools "*not in severe need*" the payments are: *Contiguous States*—free breakfast *60.00* cents, reduced price breakfast *30.00* cents, paid breakfast *8.75* cents; *Alaska*—free breakfast *97.25* cents, reduced price breakfast *48.75* cents, paid breakfast *14.00* cents; *Hawaii*— free breakfast *70.25*, reduced price *35.25* cents, paid breakfast *10.25* cents.

For Schools in *"severe need"* the payments are: *Contiguous States*— free breakfast *72.25* cents, reduced price breakfast *42.25* cents, paid breakfast *8.75* cents; *Alaska*—free breakfast *117.00*

cents, reduced price breakfast *87.00* cents, paid breakfast *14.00* cents; *Hawaii*—free breakfast *84.50* cents, reduced price breakfast *54.50* cents, paid breakfast *10.25* cents.

Payment Chart

The following chart illustrates: the lunch national average payment factors with the sections 4 and 11 already combined to indicate the per meal amount; the maximum lunch reimbursement rates; the breakfast national average payment factors incuding severe need schools; and the milk reimbursement rates. All amounts are expressed in dollars or fractions thereof. The payment factors and reimbursements used for the Virgin Islands, Puerto Rico and the Pacific Territories and those specified for the contiguous States.

(Catalog of Federl Domestic Assistance Nos. 10.553, 10.555 and 10.556)

(Secs. 4, 8, and 11 of the National School Lunch Act, as amended, (42 U.S.C. 1753, 1757, 1759(a) and Sections 3 and 4(b) of the Child Nutrition Act, as amended, (42 U.S.C. 1772 and 42 U.S.C. 1773))

Dated: June 30, 1982.

Robert E. Leard.

Acting Administrator, Food and Nutrition Service.

SCHOOL PROGRAMS—MEAL AND MILK PAYMENTS TO STATES AND SCHOOL FOOD AUTHORITIES

[Expressed in dollars or fractions thereof, effectiv: from July 1, 1982 to June 30, 1983]

National school lunch program [1]	Less than 60%	60% or more	Maximum rate
Contiguous States:			
Paid	.1100	.1300	.1900
Reduced price	.7500	.7700	.9200
Free	1.1500	1.1700	1.3200
Alaska:			
Paid	.1800	.2000	.2950
Reduced price	1.2850	1.4850	1.7250
Free	1.8650	1.8650	2.1250
Hawaii:			
Paid	.1300	.1500	.2200
Reduced price	.9475	.9675	1.1400
Free	1.3475	1.3675	1.5400

School breakfast program	Non-severe need	Severe need	
Contiguous States:			
Paid	.0875	.0875	
Reduced price	.3000	.4225	N/A.
Free	.6000	.7225	
Alaska:			
Paid	.1400	.1400	
Reduced price	.4875	.6700	N/A.
Free	.9725	1.1700	
Hawaii:			
Paid	.1025	.1025	
Reduced price	.3525	.5450	N/A.
Free	.7025	.8450	

Special milk program	All milk	Paid milk	Free milk
Pricing programs without free option.	0.825	N/A	N/A.
Pricing programs with free option.	N/A	.0925	[2]
Nonpricing programs	.0825	N/A	N/A.

[1] Payments listed for Free and Reduced Price Lunches include both Section 4 and 11 funds.
[2] Average cost ½ pint milk.

[FR Doc. 82-18171 Filed 7-2-82; 8:45 am]

BILLING CODE 3410-30-M

Soil Conservation Service

Black River Watershed, Vermont; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Black River Watershed, Orleans and Lamoille Counties, Vermont.

FOR FURTHER INFORMATION CONTACT: John C. Titchner, State Conservationist, Soil Conservation Service, Room 205, One Burlington Square, Burlington, Vermont, 05401, telephone (802) 951–6795.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, John C. Titchner, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for watershed protection and water quality improvement. The planned works of improvement include conservation land treatment measures and agricultural waste management practices.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting John C. Titchner.

No administrative action on implementation of the proposal will be taken until August 5, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Protection Program. Office of Management and Budget Circular A95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: June 24, 1982.

John C. Titchner,

State Conservationist.

[FR Doc. 82-18343 Filed 7-2-82; 8:45 am]

BILLING CODE 3410-16-M

Kokomo Road Agricultural Land Drainage RC&D Measure, New York; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Kokomo Road Agricultural Land Drainage RC&D Measure Plan, Franklin County, New York.

FOR FURTHER INFORMATION CONTACT: Paul A. Dodd, State Conservationist, Soil Conservation Service, James M. Hanley Federal Building, 100 S. Clinton Street, Room 771, Syracuse, New York 13260, telephone (315) 423–5521.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Paul A. Dodd, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns agricultural land drainage to relieve wetness problems that are extensive enough to adversely effect the communities efficiency of land use, level of income, and quality of the environment. The planned works of improvement include modification of 2,480 feet of existing channel by clearing and deepening to a depth of approximately 4–6 feet, revegetation of disturbed areas, and installation of 2,370 ft. of waterway, 40

ft. wide with a closed drain outlet along the side of the waterway.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Paul A. Dodd.

No administrative action on implementation of the proposal will be taken until August 5, 1982.

Dated: June 29, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding state and local clearinghouse review of Federal and federally assisted programs and projects is applicable.)

Ron E. Hendricks,

Acting State Conservationist.

[FR Doc. 82-18238 Filed 7-2-82; 8:45 am]

BILLING CODE 3410-16-M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of ATBCB Meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (ATBCB) has scheduled a meeting to be held from 10:00 AM to 5:00 PM, Tuesday, July 13, 1982. The ATBCB will meet from 10:00 AM to 12:00 noon in a Closed Session with Board members and ATBCB staff only. The Open Session of the ATBCB will be held from 1:30 PM to 5:00 PM in the Main Hall of the Disabled American Veterans National Service Headquarters, 807 Maine Avenue, S.W., Washington, D.C. 20024. Items to be considered are as follows: election of an ATBCB Vice Chairperson; approval of FY 1984 Budget Initiatives; approval of FY 1981 Annual Report. Also to be discusseed: A proposal that the next ATBCB meeting be held in a setting conducive to working on improved communications, planning, and Board member teamwork; and a report by ATBCB staff to Board members on the status of ATBCB related litigation and investigations, anticipated or currently in progress.

DATE: July 13, 1982, Open Session—1:30 PM–5:00 PM.

ADDRESS: Main Hall, Disabled American Veterans National Service and Legislative Headquarters, 807 Maine Avenue, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Larry Allison, Director of Public Information (202) 245–1591 (voice or TDD).

Committee meetings of the ATBCB will be held on Monday, July 12, 1982, in the Hubert Humphrey Building. Contact Larry Allison, Director of Public Information (202) 245–1591 (voice or TDD), for further information.

Wm. Bradford Reynolds,

Chairperson.

[FR Doc. 82-18240 Filed 7-2-82; 8:45 am]

BILLING CODE 6820-97-M

DEPARTMENT OF COMMERCE

International Trade Administration

Final Affirmative Countervailing Duty Determination; Potassium Permanganate From Spain

AGENCY: International Trade Administration, Commerce.

ACTION: Final Affirmative Countervailing Duty Determination.

SUMMARY: We have determined that the government of Spain is providing its producer and exporter of potassium permanganate with certain benefits which constitute subsidies within the meaning of the countervailing duty law. The net amount of the subsidy is 0.74 percent of the f.o.b. value of the imported merchandise. Therefore, we are directing the U.S. Customs Service to suspend liquidation of all entries of the product subject to the determination which are entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or bond in the amount equal to the net subsidy. The U.S. International Trade Commission ("ITC") will determine within 75 days of the publication of this notice whether these imports are materially injuring, or threatening to materially injure, a U.S. industry.

EFFECTIVE DATE: July 6, 1982.

FOR FURTHER INFORMATION CONTACT: G. Leon McNeill, Supervisory Import Administration Specialist, Office of Investigations, International Trade Administration, Department of Commerce, Washington, D.C. 20230, (202) 377–1273.

SUPPLEMENTARY INFORMATION:

Final Determination

Based upon our investigation, we determine that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended ("the Act"), are being provided to the producer and exporter in Spain of potassium permanganate as described in the "Scope of Investigation" section of this notice. For the purpose of this investigation, the program found to be a subsidy is the Privileged Circuit Exporter Credits Program: Working Capital Loans. We determine the net subsidy to be 0.74 percent of the f.o.b. value of the imported merchandise.

Case History

On November 10, 1981, we received a petition in proper form from counsel representing the Carus Chemical Company of La Salle, Illinois. The petition alleged that the government of Spain subsidizes its producers and exporters of potassium permanganate through a tax rebate which exceeds the amount of indirect taxes actually borne by items physically incorporated into the final product. This rebate is provided through a program called the "Desgravacion Fiscal a la Exportacion." The petitioner estimated the amount of the subsidy under this program to range from 10 to 12 percent of the value of the product.

We reviewed the petition and determined that it contained sufficient grounds upon which to initiate an investigation. Therefore, on November 25, 1981, we initiated our investigation (46 FR 58282).

Section 303 of the Act applied to this investigation when it was initiated because at that time, Spain was not a "country under the Agreement" within the meaning of section 701(b) of the Act, and the product at issue was dutiable. Therefore, the domestic industry was not required to allege, and the ITC was not required to determine whether, imports of this product caused or threatened material injury to the U.S. industry in question.

A questionnaire was presented to the government of Spain on December 11, 1981. The government of Spain completed its response to our questionnaire on January 20, 1982.

On February 3, 1982, we issued a Preliminary Negative Countervailing Duty Determination which was published in the Federal Register of February 9, 1982 (47 FR 5924). It stated that we had preliminarily determined that the government of Spain was not providing its producer and exporter of

potassium permanganate with benefits that are bounties or grants within the meaning of the countervailing duty law.

On April 14, 1982, the Office of the U.S. Trade Representative announced that Spain had become a "country under the Agreement." Section 102(a)(2) of the Act governs the treatment of cases in which a country, currently the subject of an investigation, becomes a "country under the Agreement" before a final determination. It states that where a preliminary but not the final determination has been made under section 303 of the Act, the case is to be treated as if the preliminary determination were made under section 703 as of the date Title VII first applied to the case. Therefore, the date Spain became a "country under the Agreement," April 14, 1982, is the date of the preliminary determination. Notice to this effect was published in the Federal Register of April 26, 1982 (47 FR 17844).

Scope of Investigation

The merchandise covered by this investigation, potassium permanganate, is a purple salt used primarily as an oxidant in organic chemicals, as a disinfectant, as a deodorizer, and as a bleach. This merchandise is used in potable and water waste treatment and ferrous metal descaling. Potassium permanganate is currently classifiable under item 420.28 of the *Tariff Schedules of the United States.*

Analysis of Programs

In its response, the government of Spain provided data for the applicable periods. The government identified two programs, the "Desgravacion Fiscal a la Exportacion" ("DFE") and the Privileged Circuit Exporter Credits, as having been utilized by the Spanish potassium permanganate producer and exporter. Asturquimic, S.A. is the only known producer and exporter of potassium permanganate to the United States during this time period.

We verified data pertaining to Asturquimica, but it refused to allow the Department access to all of its records pertaining to working capital loans under the privileged circuit exporter credits program. Therefore, the Department has used the best information otherwise available which in this case is the verified information with the exception of the data pertaining to the working capital loans. With respect to the working capital loan program, the Department used the maximum loan eligibility under Spanish law as the amount of loans received by Asturquimica.

The following is based upon our analysis of the petition, the response, our verification and information from interested parties:

Programs Determined To Be Subsidies

We determine that subsidies are being provided to the producer and exporter in Spain of potassium permanganate under the following program:

Privileged Circuit Exporter Credits Program: Working Capital Loans

We determine that the government of Spain is providing subsidies to its producer and exporter of potassium permanganate through working capital loans under the Privileged Circuit Exporter Credits Program.

The government of Spain requires all Spanish commercial banks to maintain a specific percentage of their lendable funds in privileged circuit accounts. These funds are made available to exporters at preferential interest rates. While there is no direct outlay of government funds, the benefits conferred on the companies are the result of a government mandated program to promote exports. We determined that the potassium permanganate producer and exporter benefited from the privileged circuit working capital loans program.

Under the privileged circuit program, firms may obtain working capital loans for one year or less in amounts based on a percentage of the value of their exports in the previous year. In November 1981, this percentage was decreased from 20 to 16 percent for firms without exporter's cards and from 30 to 24 percent for firms with government issued exporter's cards. Asturquimica does not have an exporter's card. In 1981, the working capital loan interest rate ceiling mandated by the government was 10 percent, including fees and commissions.

In the preliminary determination we calculated the amount of the bounty or grant to the potassium permanganate producer and exporter, by computing the interest on the working capital loans using the 10 percent rate under the privileged circuit program, including commissions and fees, and comparing it with the commercial interest rate of 11.5 percent (which was the ceiling on interest rates for short-term commercial loans prior to March 1, 1981). To determine the benefit, the interest rate differential of 1.5 percent was applied to the total loans received under this program. The result was then divided by Asturquimica's total exports of potassium permanganate in 1981.

Upon verification, we discovered that the ceiling on interest rates on the short-term commercial loans was eliminated effective March 1, 1981. Therefore, in this final determination we calculated the subsidy by comparing the difference between the preferential interest rate and the national average commercial interest rate on comparable commercial loans.

We determined that for the period, March through December 31, 1981, the average prime interest rate was 16.95 percent for short-term loans and that the average borrower paid 2 percentage points over the prime rate for loans of this type. As the 10 percent working capital loan rate includes fees and commissions, we made an additional adjustment of 0.5 percent to the commercial rate, which by Spanish law is the maximum allowable charge for fees and commissions.

Based on this data we determined the national average commercial interest rate to average borrowers to be 19.45 percent for short-term loans, including fees and commissions. To determine the benefit, the interest differential of 9.45 percent was applied to the maximum amount of loans that Asturquimica was eligible to receive under the working capital loans program in 1981. The amount was divided by Asturquimica's total exports of potassium permanganate in 1981 to arrive at the countervailing duty rate of 0.74 percent.

Programs Determined Not To Be Subsidies

We determine that subsidies are not being provided to the producer and exporter of potassium permanganate under the following program.

Desgravacion Fiscal a la Exportacion ("DFE")

Spain employs a cascading tax system. A turnover tax ("IGTE") is levied on each sale of a product through its various stages of production, up to (but not including) the ultimate sale at the retail level. The DFE is the mechanism used in Spain for the rebate of these accumulated taxes (hereafter referred to as "indirect taxes") upon exportation of that product. In this case we have determined that the DFE is a non-excessive rebate of indirect taxes paid on items physically incorporated into potassium permanganate. These rebate payments meet the requirements of our three-prong test recently upheld by the Court of International Trade in *Industrial Fasteners Group, American Importers Association* v. *United States*, 2 CIT ——, Slip Op. 81-99, October 29, 1981. That test, consisting of three lines of inquiry, all of which must be answered affirmatively to determine that an export payment such as the DFE is not a subsidy, asks the following:

(1) Whether the (export payment) operates for the purpose of rebating indirect taxes, (2) whether there is a clear link between eligibility for (export payments) and payment of indirect taxes, and (3) whether the government has reasonably calculated and documented the actual indirect tax incidence borne by (exported products) and has demonstrated a clear link between such tax incidence and the amount of the (export payment).

The laws and regulations which establish and control the Spanish tax system, and subsequent submissions by the Spanish regarding the indirect tax incidences on potassium permanganate, satisfy the requirements of this three-prong test. In calculating the DFE payments to be rebated to the exporter of potassium permanganate, the Spanish used an input-output table of the economy to define indirect tax incidences on a sectoral basis. This is the basis for a schedule of border taxes ("ICGI") designed to subject imported goods to a tax burden equivalent to that borne by an identical or similar item produced in Spain. The DFE is tied by law to the level of the ICGI.

To demonstrate the indirect tax incidence on potassium permanganate, the government of Spain provided a "structure of cost" analysis of the product. This identified inputs incorporated into the product and the indirect tax incidence borne by each input. Upon examination of company production records, we verified this "structure of cost" analysis, to determine which inputs were physically incorporated into the product and to establish the proper level of indirect taxes. Our verification showed the "structure of cost" inputs and percentages to be correct.

We have determined the following items are physically incorporated into the final product: pyrolusite, caustic potash, and secondary/free flowing materials. We have also determined that packing and final stage taxes are included in the total cost of the product.

We have determined that the following items are not physically incorporated into the final product: fuel oil, electricity (used as a fuel source for utilities), electricity (used in the electrolysis process), depreciation, and other manufacturing expenses.

Based on the 1980 IGTE tax rate of 2.4 percent, the total indirect tax burden (including packing and final stage taxes) on potassium permanganate in 1980 was 5.32 percent. The DFE rate in 1980 did constitute an over-rebate of indirect taxes because the DFE rebate for potassium permanganate was 8.5 percent. However, in January, 1981, the government of Spain increased the IGTE tax rate by 58 percent to 3.8 percent, making the 1981 indirect tax burden on potassium permanganate 8.42 percent. A further increase in the IGTE tax rate in January, 1982, to 4.6 percent increased the indirect tax burden to 10.20 percent. As a result of these increases in the tax rate, the over-rebate was eliminated. Therefore we determine that the current DFE rebate of 8.5 percent is less than the indirect tax burden currently borne by this product in 1982; and thus, in this case, the DFE is not a benefit which constitutes a subsidy.

Petitioner's Issues

Issue

Petitioner claims that the government of Spain has failed to meet the third requirement of ITA's three-prong test to determine if an export payment constitutes an excessive rebate of indirect taxes and, therefore, is a subsidy. This third prong is "whether the government has reasonably calculated and documented the actual indirect tax incidence borne by (exported products) and has demonstrated a clear link between such tax incidence and the amount of the (export payment)."

DOC Position

The methodology used by the Spanish government has been evaluated by the Treasury and Commerce Departments. It is clear from records on previous Spanish countervailing duty cases that Treasury was satisfied that the methodology was based on sound economic principles and reasonably established the total turnover tax attributed to various elements in the manufacture of a product. In addition, we have analyzed the Spanish government's methodology with respect to one product and determined that it results in a reasonable calculation of indirect tax incidence. The Spanish government has informed us that the same methodology was applied in calculating indirect tax incidence on all other Spanish products currently subject to U.S. countervailing duty orders or investigations. Since these studies are used by the Spanish government to establish import tax levels as well as export rebates, there is no reason to believe that they are manipulated in order to minimize U.S. countervailing duties. Therefore we have determined that the Spanish government's input-output system may appropriately be used in our countervailing duty cases.

Issue

Petitioner claims that ITA's verification report is defective because the verification was not "successfully completed" and, since an incomplete verification does not satisfy the requirements of 19 U.S.C. 1677(e)(a), none of the conclusions in the report are legally supported.

DOC Position

The Department followed its normal verification procedures in attempting to verify the submission in this case. Any information which could not be verified was not relied upon in making this final determination. We used best information available for the working capital loans because the company refused us access to all records pertaining to such loans. In this case we assumed that the company received the maximum amount of its eligibility which was 16 percent of the value of its 1980 exports of potassium permanganate.

Issue

Since exhibits to the verification report were not made available to the petitioner, the verification of items supported by these exhibits are mere assertions and cannot be relied upon.

DOC Position

It is the policy of the Department of Commerce not to disclose confidential exhibits collected during verification proceedings. Verification exhibits are copies of actual company books and records, which are used to substantiate data to which petitioner already has access. Petitioner has, therefore, not been denied any information necessary for making comments to the Commerce Department.

Issue

Petitioner alleges that certain documents were not described or identified in the verification report and are, therefore, tantamount to mere assertions and cannot be relied upon for verification.

DOC Position

The Department determines that the verification report adequately describes and identifies each document examined during the course of the verification.

Issue

Petitioner claims that the discrepancy, as indicated in the verification report, between the structure of costs provided in the Spanish government's response and documents furnished by Asturquimica cannot be resolved through the examination of tariff schedules. Furthermore, petitioner claims that since ITA failed to explain the relationship between tariff schedules

and structure of costs, they do not deem the verification complete or valid.

DOC Position

The information provided by the government of Spain on the indirect tax incidence during the verification differs slightly from the information provided in their questionnaire response. The documents provided by the government of Spain at the time of verification were physically examined and found to be verifiable. ITA officials were able to verify the indirect tax percentages applied to each input of the structure of cost by examining the border tariff column of the *Arancel* (Spanish tariff schedule). The indirect tax percentages included in the *Arancel* were derived from the government of Spain's input-output matrix study. The input-output matrix was derived from an earlier study and has not been superseded by any subsequent study for determining indirect tax percentages and is considered a valid study. Therefore, we conclude that the indirect tax percentages relating to the structure of cost of potassium permanganate have been properly verified.

Issue

ITA failed to verify the percentages of secondary/free flowing materials contained in the Spanish response, and, as a result, the taxes relating to this input cannot be considered in determining the tax incidence.

DOC Position

The verification report did not refer specifically to secondary/free flowing materials. However, this item was verified and mentioned in the verification report in the category identified as "other inputs" that were physically incorporated into the product. Therefore, this input was taken into consideration in determining the indirect tax incidence relating to potassium permanganate.

Issue

Petitioner claims that since ITA failed to elicit information as to the degree, if any, which Asturquimica is vertically integrated, the costs of the various materials required as inputs to produce potassium permanganate cannot be verified. Petitioner also claims that items selected for random examination, such as invoices and cancelled checks, cannot be relied upon for verification unless they show the number of items examined, date of each item, how they were selected, and a sound relationship to inventory.

DOC Position

As a matter of course in conducting any verification, we examine numerous documents. In this case the documents examined verified that Asturquimica purchases the raw materials used in the production of potassium permanganate from sources which are not vertically integrated. The statutes require that we report the method and procedures used for verification. It does not require an exact inventory of every item verified.

Issue

Petitioner claims that the benefit attributable to Asturquimica from the preferential loan program should be the difference between the interest rates on subsidized loans and the commercially available interest rates. Petitioner also claims that since the interest on the respondent's preferential loan was prepaid, it must be characterized as a loan placement fee and subtracted from the interest.

DOC Position

Consistent with other recent determinations on this issue by the Department, we calculated the subsidy under the preferential loan program on the basis of a comparison between the interest rates on preferential loans and the interest rate on comparable national commercial loans.

The payment terms on commercial loans are not mandated by the government. They are negotiated with the bank and vary with the company. These terms may require prepayment of interest which may similarly be required for preferential loans.

Since the prepayment of interest is a practice common to both preferential and commercial loans, we made no adjustment to the nominal rate differential between preferential and commercial loans.

Issue

Petitioner claims that electricity used in the electrolysis process is not a physically incorporated input.

DOC Position

Based on the government of Spain's questionnaire reponse and our verification, we have concluded that the electricity used in the electrolysis process is not a physical input because it does not meet the criteria set forth in the physical incorporation test (See Annex 1.1 of part 355 of the Commerce Department's Regulations).

Respondent's Issues

Issue

Respondent claims ITA should consider the electricity used in the electrolysis process as physically incorporated into the product.

DOC Position

As indicated in our response to petitioner's claim, we have determined that electricity used in the electrolysis process does not meet the criteria set forth in the physical incorporation test.

Issue

Respondent claims that of the three government-sponsored loans received by Asturquimica, two were made before the ceiling on commercial loans was eliminated and that, since the period of investigation extended through September 30, 1981, Asturquimica benefited from the third loan for a period of only 19 day.

DOC Position

Consistent with other recent determinations on this issue by the Department, the subsidy on the extension of a loan at a preferential interest rate is computed by comparing what a company would pay a normal commercial lender in principal and interest in any given year with what the company actually pays on the preferential loan in that year. In this case, Asturquimica refused to allow verification of all loan information. Therefore, based on best information available, we assumed that it made maximum use of the preferential loans available to it, which is 16 percent of its previous years (1980) export sales. We then multiplied the resulting figure by the difference between the national commercial interest rate and the preferential interest rate and divided by the value of Asturquimica's 1981 export sales.

Issue

Respondent claims that the maximum amount of loans permitted under the working capital loans program cannot be greater than 16 percent of the previous year's exports.

DOC Position

We agree with respondent. Our calculation of the subsidy value for the preferential loan program is based on 16 percent of the value of Asturquimica's exports of potassium permanganate for 1980.

Verification

In accordance with section 776(a) of the Act, we verified certain information submitted in the government of Spain's questionnaire response and relied upon it in this determination. Where information could not be verified we used the best information available. We used normal verification procedures to verify the government's response. This included inspection of government documents, discussions with government officials, and on-site inspections of the manufacturer's operations and records.

Administrative Procedures

The Department has afforded interested parties an opportunity to present oral views in accordance with the Department of Commerce's Regulations (19 CFR 355.35). No request was received for a public hearing in this case. Written views have been received and considered in accordance with the Department of Commerce's Regulations (19 CFR 355.34(a)).

Suspension of Liquidation

In accordance with section 703 of the Act, we are directing the U.S. Customs Service to suspend the liquidation of all entries of potassium permanganate which are entered or withdrawn from warehouse, for consumption, on or after date of publication of this notice in the **Federal Register**, and to require a cash deposit or bond in the amount equal to 0.74 percent of the f.o.b. value. This suspension will remain in effect until further notice.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine within 75 days of the publication of this notice whether these imports are materially injuring, or threatening to materially injure, a U.S. industry. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, within seven days of notification by the ITC of that determination, we will issue a countervailing duty order, directing Customs officers to assess a countervailing duty on potassium permanganate from Spain entered or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the estimated net subsidy.

This notice is published pursuant to section 705 of the Act and section 355.33 of the Department of Commerce Regulations (19 CFR 355.33).

Judith Hippler Bello,

Acting Assistant Secretary for Trade Administration.

June 28, 1982.

[FR Doc. 82-18221 Filed 7-3-82; 8:45 am]

BILLING CODE 3510-25-M

[Case No. 629]

Jim A. Nissmo and Jim Nissmo Elektronik, A.B.; Order Temporarily Denying Export Privileges

In the matter of Jim A. Nissmo, N. Grangesbergsgatan 19, Box 16106, S–200 25 Malmo, Sweden, Respondent, and Jim Nissmo Elektronik, A.B., N. Grangesbergsgatan 19, Box 16106, S–200 25 Malmo, Sweden, Respondent.

The Department of Commerce (the "Department"), pursuant to the provisions of Section 388.19 of the Export Administration Regulations (15 CFR 368, *et seq.* (1981)) (the "Regulations"), has petitioned the Hearing Commissioner for an order temporarily denying all export privileges to Jim A. Nissmo and Jim Nissmo Elektronik, A.B. ("Nissmo Elektronik").

The Department states that Jim A. Nissmo and Nissmo Elektronik are under investigation by the Department's Office of Export Compliance. As part of this investigation, the Office of Export Compliance, by letter of September 28, 1981, formally requested the respondents, in connection with a post-shipment check and pursuant to § 387.8 of the Regulations, to answer written interrogatories and to produce records in their possession within 20 days of receipt of the letter. In a reply letter of November 10, 1981, the respondents acknowledged receipt of the September 28 letter. They did not, however, furnish responsive answers to the interrogatories, nor did they produce the requested records.

The Department thereafter asked U.S. Embassy officials in Sweden to make a physical inspection of certain equipment imported by Nissmo Elektronik from the United States. On March 8, 1982, Nissmo Elektronik denied permission for the inspection.

Based upon the showing made by the Department, I find: (i) that the reasons given by the respondents for the continued failure to answer responsively the interrogatories and to produce the requested records do not constitute good cause for such failure, and (ii) that an order temporarily denying all export privileges to Jim A. Nissmo and Nissmo Elektronik is required in the public interest to facilitate enforcement of the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401, *et seq.* (Supp. III 1979)), and of Section 387.8 of the Regulations, and to permit completion of the Department's investigation.

Anybody who is now or who may in the future be dealing with the above-named respondents in transactions that in any way involve U.S.-origin commodities or technical data is specifically alerted to the provisions set forth in Paragraph IV below.

Accordingly, it is hereby ordered:

I. All outstanding validated export licenses in which respondents appear or participate, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Administration for cancellation.

II. The respondents, their successors or assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity, (a) as a party or as a representative of a party to a validated export license application, (b) in the preparation or filing of any export license application or reexportation authorization, or of any document to be submitted therewith, (c) in the obtaining or using of any validated or general export license or other export control document, (d) in the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data in whole or in part, exported or to be exported from the United States, and (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondents, but also to their agents and employees and to any successor and to any person, firm, corporation, or business organization with which they now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or services related thereto.

IV. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Administration, shall do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with any named respondent or related party, or whereby any named respondent or related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States, by, to, or for any named respondent or related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

V. This order is effective immediately. It remains in effect until June 28, 1987 or until the respondents answer responsively the interrogatories or show good cause for their failure to do so. The respondents may, pursuant to the provisions of §388.19(b) of the Regulations, move at any time to vacate or modify this temporary denial order by filing with the Hearing Commissioner, International Trade Administration, U.S. Department of Commerce, Room 3886D, 14th and Constitution Avenue, N.W., Washington, D.C. 20230, an appropriate motion for relief, supporting by substantial evidence, and may also request an oral hearing thereon. Such hearing, if requested, shall be held before the Hearing Commissioner at the earliest convenient date. A copy of this order and Parts 387 and 388 of the Regulations shall be served upon the respondents.

Dated: June 29, 1982.

Thomas W. Hoya,

Hearing Commissioner.

[FR Doc. 82-18228 Filed 7-2-82; 8:45 am]

BILLING CODE 3510-25-M

Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles

The following is a consolidated decision on applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to each of the applications in this consolidated decisions is available for public review between 8:30 a.m. and 5:00 p.m. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Decision: Applications denied. Applicants have failed to establish that instruments or apparatus of equivalent scientific value to the foreign articles for such purposes as the foreign articles are intended to be used, are not being manufactued in the United States.

Reasons: Section 301.8 of the Regulations provides in pertinent part:

> The applicant shall on or before the 20th day following the date of such notice, inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article for the same intended purposes to which the denied application relates. The applicant shall then resubmit the new application on or before the 90th day following the date of the notice of denial without prejudice to resubmission, unless an extension of time is granted by the Deputy Assistant Secretary in writing prior to the exiration of the 90-day period.
>
> ***If the applicant fails, within the applicable time periods specified above, to either (a) inform the Deputy Assistant Secretary whether it intends to resubmit anothh application for the same article to which the denial without prejudice to resubmission relates, or (b) resubmit the new application, the prior denial without prejudice to resubmission has the effect of a final decision by the Deputy Assistant Secretary on the application within the context of § 301.11 (Emphasis added).

The meaning of the section is that should an applicant either fail to notify the Deputy Assistant Secretary of its intent to resubmit another application for the same article to which the denial without prejudice relates within the 20-day period, or fails to resubmit a new application within the 90-day period, the prior denial without prejudice to resubmission will have the effect of a final denial of the application.

None of the applicants to which this consolidate decision relates has satisfied the requirements set forth above; therefore, the prior denials without prejudice have the effect of a final decision denying their respective applications.

Section 301.8 further provides:

> * * * the Deputy Assistant Secretary shall transmit a summary of the prior denial without prejudice to resubmission, to the **Federal Register** for publication, to the Commissiner of Customs, and to the applicant.

Docket No.: 81-00194. Applicant: Southeast Missouri State University, 900 Normal, Cape Girardeau, MO 63701. Article: Microscope Photometer, TM 3-C and Accessories. Date of denial without prejudice to resubmission: January 26, 1982.

Docket No.: 81-00217. Applicant: University of California, San Diego, LaJolla, CA 92093. Article: GS VII Nude Ion Source. Date of denial without prejudice to resubmission: January 27, 1982.

Docket No.: 81-00253. Applicant: Massachusetts Institute of Technology, Cambridge, MA. 02139. Article: Dye Laser, Model FL-2002. Date of denial without prejudice to resubmission: January 26, 1982.

Docket No.: 81-00259. Applicant: Donald N. Sharp Mem. Comm. Hospital, Owned & Operated by San Diego Hospital Association, 7901 Frost Street, San Diego, CA 92123. Article: Electron Microscope, Model EM 109 with Accessories. Date of denial without prejudice to resubmission: February 9, 1982.

Docket No.: 81-00265. Applicant: State of North Caroline, Department of Agriculture, 1 W. Edenton Street, Raleigh, NC 27611. Article: Electron Miscoscope, Model H-300 with Accessories. Date of denial without prejudice to resubmission: February 9, 1982.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Activing Director, Statutory Import Programs Staff.

[FR Doc. 82-18241 Filed 7-2-82; 8:45 am]

BILLING CODE 3510-25-M

Incentives/Disincentives Subcommittee of the President's Export Council; Open Meeting

AGENCY: International Trade Administration.

ACTION: Notice.

SUMMARY: The President's Export Council was initially established by Executive Order 11753 of December 20, 1973. The Council was reconstituted by Executive Order 12131 of May 4, 1979, and continued by Executive Order 12258 of December 31, 1980. The Council's purpose is to advise the President on matters relating to United States export trade. The Incentives/Disincentives Subcommittee was formed by the Council to study, and make recommendations on, incentives and disincentives to export trade.

TIME AND PLACE: July 19, 1982, from 2:00 p.m.–5:00 p.m. The meeting will be held at the Department of Commerce, 14th & Constitution Avenue, N.W., Room 3407, Washington, D.C. 20230.

AGENDA: Opening remarks:

Task Force and status reports on:
—Extraterritoriality of U.S. laws
—Antiboycott regulations
—DISC and other tax issues
—Other task force issues of current interest
Discussion of Recommendations for Executive Committee Meeting
General Discussion and Public Comment

PUBLIC PARTICIPATION: The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT: Elisabeth Maatsch, Room 3213, U.S. Department of Commerce, Washington, D.C. 20230; Telephone: (202) 377–1125.

Dated: June 30, 1982.

Henry Misisco,

Acting Director, Office of Policy and Coordination.

[FR Doc. 82–18342 Filed 7–2–82; 8:45 am]
BILLING CODE 3510–25–M

DEPARTMENT OF DEFENSE

Department of the Army

Armed Forces Institute of Pathology Scientific Advisory Board; Meeting

In order to comply with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of the meeting of the Armed Forces Institute of Pathology's Scientific Advisory Board, August 12–13, 1982, 0830 hours in the Director's Conference Room, Armed Forces Institute of Pathology, Washington, D.C. 20306. This meeting will be open to the public.

The proposed agenda will include professional discussion of the mission of the Armed Forces Institute of Pathology relating to consultation, education and research. The Executive Secretary from whom substantive program information may be obtained is Colonel Orlyn C. Oestereich, Executive Officer, Armed Forces Institute of Pathology, Washington, D.C. 20306, telephone 202–576–2900.

For the Director.

Richard L. Clark,

Major, MSC, USA, Adjutant.

[FR Doc. 82–18335 Filed 7–2–82; 8:45 am]
BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Vocational Education Act: Intent To Repay Funds Recovered as a Result of a Final Decision of the Assistant Secretary for Vocational and Adult Education to the Oklahoma State Department of Vocational and Technical Educations

AGENCY: Education Department.

ACTION: Notice of Intent to Award Grantback Funds.

SUMMARY: Under section 456 of the General Education Provisions Act (GEPA), the Secretary intends to repay under a grantback arrangement to the Oklahoma State Department of Vocational and Technical Education (State Board) an amount equal to 75 percent of funds recovered by the Department of Education (ED). The repayment is a result of a September 15, 1981 final decision by the Assistant Secretary for Vocatonal and Adult Education. This notice describes the State Board's plans for the use of repaid funds and the terms and conditions under which the Secretary intends to make these funds available.

DATE: All written comments should be received on or before August 5, 1982.

ADDRESS: All written comments should be submitted to Dr. LeRoy Cornelsen, Director, Division of State Vocational Programs, U.S. Department of Education, 400 Maryland Avenue, S.W., (Room 5640, ROB–3), Washington, D.C. 20202

FOR FURTHER INFORMATION CONTACT: Dr. LeRoy Cornelsen, (202) 472–3440.

SUPPLEMENTARY INFORMATION:

A. Background

The Office of the Inspector General of the Department of Education conducted an audit of Oklahoma's Vocational Education Act (VEA) expenditures for the period July 1, 1978 through June 30, 1979. The purpose of the audit was to determine whether vocational training was provided to eligible individuals in accordance with VEA requirements and approved State Plans. In its audit report dated April 2, 1981, the Office of the Inspector General found that the State Board did not spend the minimum amount required on programs to serve students with limited-English-speaking ability (LESA). According to the VEA (Sec. 110(b)(2); 20 U.S.C. 2310) and its implementing regulations (34 CFR 400.313(a)(2)), the percentage of section 110(b)(1) funds (funds set aside for disadvantaged persons, persons with limited English-speaking ability, and stipends) a State sets aside for providing programs to serve LESA students must be the same as the ratio of the LESA population of 15 to 24 year olds to the whole population of 15 to 24 year olds in that State. The Oklahoma State Department of Vocational and Technical Education had determined that $20,072 of its Fiscal Year 1978 allotment of Federal VEA funds should be set aside and spent only on programs serving LESA students. However, the State Board did not spend any Fiscal Year 1978 funds on LESA projects. In a final determination letter dated September 15, 1981, the Assistant Secretary for Vocational and Adult Education upheld the auditor's finding and requested a refund of $20,072. Soon thereafter the State Board refunded this amount to ED.

B. Authority for Awarding a Grantback

Section 456(a) of GEPA, 20 U.S.C. 1234e, provides that whenever the Commissioner (now Secretary) has recovered funds following a final audit determination with respect to an applicable program, the Secretary may consider those funds to be additional funds available funds available for that program and may arrange to repay to the State agency affected by that determination an amount not to exceed 75 percent of the recovered funds. The Secretary may enter into this so-called "grantback" arrangement if the Secretary determines that (1) the practices and procedures of the State Board that resulted in the audit determination have been corrected, and that the State Boad is, in all other respects, in compliance with requirements of the applicable program; (2) the State Board has submitted to the Secretary a plan for the use of the funds to be awarded under the grantback arrangement which meets the requirements of the program, and, to the extent possible, benefits the population that was affected by the failure to comply or by the misexpenditures that resulted in the audit exception; and (3)

the use of the funds to be awarded under the grantback arrangement in accordance with the State Board's plan would serve to achieve the purposes of the program under which funds were originally granted.

C. Request for Repayment of Funds Awarded Under a Grantback Arrangement

In a letter dated November 5, 1981, the State Board formally requested that repayment of $15,054, which is 75 percent of the $20,072 recovered as a result of the audit, be made under a grantback arrangement. This request was made after ED had recovered the outstanding claim against the State Board as a result of the Assistant Secretary's final determination. In accordance with section 456(a)(1) of GEPA, the State Board provided assurances that the practices of the State Board that resulted in the audit determination have been corrected, and that the State Board will, in all other respects, comply with all the requirements of the program.

D. Plan for Use of Funds Awarded Under a Grantback Arrangement

In accordance with section 456(a)(2) of GEPA, the State Board, in its November 5, 1981 request, submitted a plan to use the grantback funds to provide support services to LESA students in regular vocational programs. The objectives of the projects are—

(1) To encourage limited English-speaking students to continue regular vocational training by developing a program to provide LESA students with sufficient English language skills to enable them to enter and progress in the world of work;

(2) To provide special assistance to limited English-speaking students who may otherwise be unable to succeed in a regular program of vocational education. For example, such assistance may consist of one-on-one tutorial aid and the adaptation of curriculum materials to meet the particular needs of these students;

(3) To work with each limited English-speaking student, using the instructional materials from that student's vocational program to develop English skills;

(4) To develop self-assistance skills in limited English-speaking student to make them as independent as possible in locating reference materials, using tables of contents, or locating items in an index;

(5) To work individually with the limited English-speaking students to develop life skills needed for job acquisition and retention (i.e., completing employment applications and managing checking accounts and personal money); and

(6) To provide job placement services to limited English-speaking students in regular vocational programs.

E. The Secretary's Determinations

Based upon a review of the State Board's request for the repayment of funds and the assurances provided therein, including the State Board's plan for expending the funds, the Secretary makes the following determinations:

(1) The State Board has corrected the practices and procedures that resulted in the audit exception;

(2) The plan submitted by the State Board for the use of the grantback funds meets the requirements of the Vocational Education Act and benefits the population, i.e., LESA students, affected by the misexpenditures which resulted in the audit exception;

(3) The use of the funds to be awarded under the grantback arrangement will serve to achieve the purposes of the Vocational Education Act.

These determinations are based upon the best information available to the Secretary at the present time. If this information is not accurate or complete, the Secretary is not precluded from taking appropriate administrative action.

F. Notice of the Secretary's Intent To Enter Into a Grantback Arrangement

Section 456(d) of GEPA requires that, at least thirty days prior to entering into an arrangement to award funds under a grantback, the Secretary must publish in the **Federal Register** a notice of intent to do so, and the terms and conditions under which the payments will be made.

In accordance with the above requirement, notice is hereby given that the Secretary intends to make funds available to the Oklahoma State Department of Vocational and Technical Education under a grantback arrangement. The grantback award will be in the amount of $15,054, which is 75 percent—the maximum percentage authorized by the statute—of the amount of funds recovered by ED as a result of the Assistant Secretary's final audit determination. The Secretary's intention to award the maximum amount possible of grantback funds under Section 456 is based on the following factors:

(1) The Secretary's determinations outlined in Section E of this notice; and

(2) The timely payment by the State Board of all funds owed to ED as a result of the final decision of the Assistant Secretary.

G. Terms and Conditions Under Which Payments Under a Grant-Back Arrangement Will Be Made

Section 456(b) of GEPA provides that any payments made under a grantback arrangement shall be subject to terms and conditions which the Secretary deems necessary to accomplish the purposes of the affected programs, including the submission of periodic reports on the use of the repaid funds and evidence that the State Board has consulted with parents or representatives of the population that will benefit from the grantback award.

The State Board agrees to comply with the following terms and conditions under which payments under a grantback arrangement will be made:

(1) The funds awarded under the grantback must be spent in accordance with—

(a) All applicable statutory and regulatory requirements, including applicable excess cost and matching requirements, and

(b) The plan that was submitted in conjunction with the November 5, 1981 request, and any amendments to that plan that have been approved by the Secretary.

(2) Under section 456(c) of GEPA, all funds received under a grantback arrangement must be obligated not later than September 30, 1984, which is three fiscal years following the fiscal year in which the Assistant Secretary's final decision was made.

(3) The State Board must, not later than January 1, 1985, submit a rpeort to the Secretary which—

(a) Indicates how the funds awarded under the grantback have been used;

(b) Shows that the funds awarded under the grantback have been liquidated;

(c) Describes the results and effectiveness of the project for which the funds were spent; and

(d) Describes the consultation with parents or representatives of the population that will benefit from the grantback payments.

(4) Separate accounting records must be maintained documenting the expenditures of funds awarded under the grantback arrangement.

Invitation to Comment

The Secretary invites public comments on the notice of intent to award funds under a grantback arrangement to the Oklahoma State Department of Vocational and Technical Education.

Interested persons may send written comments to Dr. LeRoy Cornelsen at the

address at the beginning of this notice. All comments should be received on or before August 5, 1982.

(Catalog of Federal Domestic Assistance Number 84.048, State Vocational Education Program)

Dated: June 28, 1982.

T. H. Bell,

Secretary of Education.

[FR Doc. 82-18195 Filed 7-2-82; 8:45 am]

BILLING CODE 4000-01-M

Office of Postsecondary Education

Upward Bound Program; Applications To Serve as Field Readers

AGENCY: Department of Education.

ACTION: Notice for individuals interested in reviewing Upward Bound program applications submitted under programs administered by the Division of Student Services in fiscal year 1983.

SUMMARY: The Assistant Secretary for Postsecondary Education, Department of Education, invites applications from qualified and interested individuals to serve as field readers for the Upward Bound Program (Catalog of Federal Domestic Assistance Program, No. 84.047). The final regulations for the Upward Bound Program were published as 34 CFR Part 645 in the **Federal Register** on March 3, 1982 (47 FR 9158–9168) and June 8, 1982 (47 FR 24938–24945). Interested parties are encouraged to review these regulations before applying for reader candidacy.

Each year the Secretary selects field readers who have expertise in designing curriculum, teaching, counseling or administering Upward Bound programs or similar programs which provide educational services to disadvantaged groups. Once field reader applications are received, reader candidate information is stored in a computer. The initial selection of field readers is made from this computerized roster. Final selection of field readers is made following a more careful review of the reader application forms and résumés maintained on file. The existence, characteristics, and use of this system of records were announced in a notice (18–40–0079) published on June 2, 1981 in the **Federal Register** (46 FR 29652).

Interested persons may obtain applications to serve as field readers by calling or writing Ms. Loretta Smith at the address given below. Applications for the fiscal year 1983 funding cycle must be received by November 15, 1982 in time for a planned panel meeting in January, 1983.

FOR FURTHER INFORMATION CONTACT:

Ms. Loretta Smith, Chief, Program Support Section, Division of Student Services, U.S. Department of Education, 400 Maryland Avenue, S.W., (Room 3042, ROB–3), Washington, D.C. 20202. Telephone: (202) 245–7070.

(Catalog of Federal Domestic Assistance No. 84.047; Upward Bound Program)

Dated: June 29, 1982.

Thomas P. Melady,

Assistant Secretary for Postsecondary Education.

[FR Doc. 82-18196 Filed 7-2-82; 8:45 am]

BILLING CODE 4000-01-M

Executive Committee of the Intergovernmental Advisory Council on Education; Meeting

AGENCY: Executive Committee of the Intergovernmental Advisory Council on Education.

ACTION: Notice of closed meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of the Executive Committee of the Intergovernmental Advisory Council on Education. Notice of this meeting is required under section 10(a) (2) of the Federal Advisory Committee Act.

DATE: July 19, 1982

ADDRESS: Department of Education, 400 Maryland Avenue SW., Rm. 4027, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT:

Laverne Johnson, Office of the Deputy Under Secretary for Intergovernmental and Interagency Affairs, Department of Education, 400 Maryland Avenue SW., Washington, D.C. 20202, (202) 472–6464.

SUPPLEMENTARY INFORMATION: The Executive Committee meeting will be closed to the public to interview applicants for the position of Executive Director of the Council. The meeting will be closed under the authority of section 10 (d) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. Appendix 1) and under exemptions (2) and (6) contained in the Government in the Sunshine Act (Pub. L. 94–409; 5 U.S.C. 522b (c) (2) and (6)). Discussion will include consideration of the qualifications and fitness of the candidates and will touch upon matters which would constitute a serious invasion of privacy if conducted in open session.

A summary of the activities at the closed session and related matters which are informative to the public consistent with the policy of Title 5 U.S.C. 552b (c) will be available to the public within 14 days of the meeting.

Signed at Washington, D.C. on June 30, 1982.

William F. Keough,

Acting Deputy Under Secretary for Intergovernmental and Interagency Affairs.

[FR Doc. 82-18163 Filed 7-2-82; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of Energy Research

Magnetic Fusion Advisory Committee, Panel on Tandem Mirror and Steady State Tokamak Programs; Open Meeting

Notice is hereby given of the following meeting:

Name: Panel on Tandem Mirror and Steady State Tokamak Programs of the Magnetic Fusion Advisory Committee.

Date and Time: July 14, 1982—9:00 a.m.–5:00 p.m., July 15, 1982—9:00 a.m.–5:00 p.m.

Place: General Atomic Company, 10955 John Jay Hopkins Drive, San Diego, California (La Jolla).

Contact: Ms. L. R. Ledman, Magnetic Fusion Advisory Committee Secretary, U.S. Department of Energy, Office of Energy Research, Office of Fusion Energy (ER–50.2), Mail Station G–256, Washington, D.C. 20545, Telephone: (301) 353–3598.

Purpose of the Parent Committee—To provide advice to the Secretary of Energy on the Department's Magnetic Fusion Energy Program, including periodic reviews of elements of the program and recommendations of changes based on scientific and technological advances or other factors; advice on long-range plans, priorities and strategies to demonstrate the scientific and engineering feasibility of fusion; advice on recommended appropriate levels of funding to develop those strategies and to help maintain appropriate balance between competing elements of the program.

Tentative Agenda: Discussion of draft report outline and future meeting plans.

Public Participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Any person who wishes to make an oral statement should contact L. R. Ledman five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Issued at Washington, DC, on June 25, 1982.

J. Ronald Young,

Associate Director for Management, Office of Energy Research.

[FR Doc. 82-18138 Filed 7-2-82; 8:45 am]

BILLING CODE 6450-01-M

Magnetic Fusion Advisory Committee, Panel on Stellarator, Elmo Bumpy Torus and Reverse Field Pinch Programs; Open Meeting

Notice is hereby given of the following meeting:

Name: Panel on Stellarator, Elmo Bumpy Torus and Reverse Field Pinch Programs of the Magnetic Fusion Advisory Committee.

Date and Time: July 27, 1982—9:00 a.m.–5:00 p.m., July 28, 1982—9:00 a.m.–5:00 p.m., July 29, 1982—9:00 a.m.–5:00 p.m.

Place: Hacienda Room, Faculty Center, UCLA, Los Angeles, California.

Contact: Ms. L. R. Ledman, Magnetic Fusion Advisory Committee Secretary, U.S. Department of Energy, Office of Energy Research, Office of Fusion Energy (ER–50.2), Mail Station G–256, Washington, DC 20545, Telephone: (301) 353–3598.

Purpose of the Parent Committee—To provide advice to the Secretary of Energy on the Department's Magnetic Fusion Energy Program, including periodic reviews of elements of the program and recommendations of changes based on scientific and technological advances or other factors; advice on long-range plans, priorities and strategies to demonstrate the scientific and engineering feasibility of fusion; advice on recommended appropriate levels of funding to develop those strategies and to help maintain appropriate balance between competing elements of the program.

Tentative Agenda: Discussion of draft report outline and future meeting plans.

Public Participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Any person who wishes to make an oral statement should contact L. R. Ledman five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Issued at Washington, DC, on June 25, 1982.

J. Ronald Young,

Associate Director for Management, Office of Energy Research.

[FR Doc. 82–18136 Filed 7–2–82; 8:45 am]

BILLING CODE 6450–01–M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: June 29, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
LOUISIANA OFFICE OF CONSERVATION									
-EXXON CORPORATION				RECEIVED:	06/07/82	JA: LA			
8236865	81-2266	1707522465		102-4		ORLEANS LEVEE BOARD #70	POTASH	25.0	UNITED GAS PIPE L
8236864	81-2267	1707522782		102-4		ORLEANS LEVEE BOARD N #10 VUA	POTASH	500.0	
-GRAHAM OIL & GAS LTD				RECEIVED:	06/07/82	JA: LA			
8236863	81-2748	1705721708		102-4		PELTO #1	VALENTINE 9096	2400.0	SOUTH COAST GAS C
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-AMOCO PRODUCTION CO				RECEIVED:	06/07/82	JA: NM			
8236867		3004508395		108		SAMMONS GAS COM "B" #1	BLANCO-MESAVERDE	21.0	EL PASO NATURAL G
-CROWN CENTRAL PETROLEUM CORP				RECEIVED:	06/07/82	JA: NM			
8236868		3002500000		103		MCCALLISTER #2	W NADINE-DRINKARD	70.0	WARREN PETROLEUM
-DOYLE HARTMAN OIL OPERATOR				RECEIVED:	06/07/82	JA: NM			
8236879		3002527676		103		OTIS L JONES #2	JALMAT (GAS)	122.0	EL PASO NATURAL G
-HARVEY E YATES COMPANY				RECEIVED:	06/07/82	JA: NM			
8236869		3002527444		107-TF		MCDONALD UNIT #1	WILDCAT	0.0	EL PASO NATURAL G
-KERSEY & COMPANY				RECEIVED:	06/07/82	JA: NM			
8236877		3001523925		103		RED LAKE PREMIER SAND UNIT #2	RED LAKE QN GRBG S A	0.0	GAS CO OF NEW MEX
-MARBOB ENERGY CORPORATION				RECEIVED:	06/07/82	JA: NM			
8236882		3001523724		103		WEST ARTESIA GRBG UT TR 12 #24	ARTESIA QUEEN GRAYBUR	0.5	PHILLIPS PETROLEU
8236883		3001523639		103		WEST ARTESIA GRBG UT TR 5 WELL #22	ARTESIA QUEEN GRAYBUR	3.5	PHILLIPS PETROLEU
8236884		3001523741		103		WEST ARTESIA GRBG UT TR 8 WELL #25	ARTESIA QUEEN GRAYBUR	17.5	PHILLIPS PETROLEU
-MERRION OIL & GAS CORP				RECEIVED:	06/07/82	JA: NM			
8236871		3003922904		103		FIKES COM #1	DEVILS FORK GALLUP	95.0	EL PASO NATURAL G
-NORTHWEST PIPELINE CORPORATION				RECEIVED:	06/07/82	JA: NM			
8237108	NM0058-82PB	3003900000		108-PB		S/J 30-5 UNIT #2 R	BLANCO	19.0	NORTHWEST PIPELIN
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	06/07/82	JA: NM			
8236873		3002502836		108		E VAC GB/SA U TR 2054 - #002	VACUUM GB/SA	1.0	EL PASO NATURAL G
8236874	90835 T	3002502086		108		E VAC GB/SA U TR 2437 #001	VACUUM GB/SA	1.0	EL PASO NATURAL G
8236872		3002502087		108		E VAC GB/SA UNIT TR 2437 #002	VACUUM GB/SA	1.0	EL PASO NATURAL G
8236866		3002527733		103		MEXCO A-7	MALJAMAR GB/SA	21.0	EL PASO NATURAL G
-READ & STEVENS INC				RECEIVED:	06/07/82	JA: NM			
8236887		3001523945		103		CARRASCO #1	UND NORTH LOVING MORR	155.0	EL PASO NATURAL G
8236885		3001523872		103		DARTMOUTH #3	UND BUNKER HILL PENRO	1.0	PHILLIPS PETROLEU
8236886		3001524012		103		GULF WEST MESA #6	UND BUNKER HILL PENRO	1.0	PHILLIPS PETROLEU
-SOUTHLAND ROYALTY CO				RECEIVED:	06/07/82	JA: NM			
8236870		3004523672		103		MANGUM #5-E	BLOOMFIELD	200.0	SOUTHERN UNION GA
-UNION TEXAS PETROLEUM				RECEIVED:	06/07/82	JA: NM			
8236880		3004525108		103		CULPEPPER-MARTIN 3-M	BLANCO MESAVERDE	365.0	SOUTHERN UNION GA
8236881		3004525108		103		CULPEPPER-MARTIN 3-M	BASIN DAKOTA	182.5	SOUTHERN UNION GA
8236875		3004525109		103		CULPEPPER-MARTIN 4-M	BLANCO MESAVERDE	292.0	SOUTHERN UNION GA

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8236876		3004525109		103		CULPEPPER-MARTIN 4-M	BASIN DAKOTA	73.0	SOUTHERN UNION GA
-YATES PETROLEUM CORPORATION				RECEIVED:	06/07/82	JA: NM			
8236878		3002527712		103		WOODPECKER "SY" ST #1	SAUNDERS PERMO UPPER	0.0	WARREN PETROLEUM
OKLAHOMA CORPORATION COMMISSION									
-AL RCCORD INC				RECEIVED:	06/01/82	JA: OK			
8237013	03567	3509321252		103		KOEHN 1-21			
-AR-CAN RESOURCES INC				RECEIVED:	06/04/82	JA: OK			
8237074	17226	3510121070		102-2	103	BEENE #1	MENO-RINGWOOD	68.8	UNION TEXAS PETRO
8237075	17225	3510121026		102-2	103	HARRISON #4	YAHOLA	51.5	PHILLIPS PETROLEU
8237076	17224	3510120967		102-2	103	WHITE #1	YAHOLA	106.6	PHILLIPS PETROLEU
-AN-SON CORPORATION				RECEIVED:	06/01/82	JA: OK	YAHOLA	715.4	PHILLIPS PETROLEU
8237023	14604	3508720658		103		ALLISON #1			
-AN-SON CORPORATION				RECEIVED:	06/03/82	JA: OK	S GOLDSBY	8.0	
8237038	13592	3503920496		102-4		HERIFORD #1			
-ANADARKO PRODUCTION COMPANY				RECEIVED:	06/03/82	JA: OK	S LEEDY	51.1	
8236966	17149	3513921555		102-4		SHIELDS B-1			
-ANDOVER OIL COMPANY				RECEIVED:	06/04/82	JA: OK	HOUGH S	36.0	PHILLIPS PETROLEU
*8237097	14295	3501721786		108		E M KIRBY #14-1			
-APOLLO PRODUCTION LTD				RECEIVED:	06/01/82	JA: OK		18.0	TRANSOK GAS PIPE
8236995	14601	3507323303		103		COFFEY #35-15			
-APOLLO PRODUCTION LTD				RECEIVED:	06/03/82	JA: OK	N E OKARCHE	66.0	SID RICHARDSON CA
8237027	14602	3507323355		103		DORA REHERMAN #11-14			
8237028	14608	3507323155		103		WITTROCK #35-11	NE OKARCHE	62.0	SID RICHARDSON CA
-ARAPAHO PETROLEUM INCORPORATED				RECEIVED:	06/01/82	JA: OK	SOONER TREND	57.0	SID RICHARDSON CA
8237022	14608	3504722473		103		MARNEY 1-17			
8236996	14607	3507323004		103		MORSEMAN 1-7	SOONER TREND	122.0	PHILLIPS PETROLEU
-ARCO OIL AND GAS COMPANY				RECEIVED:	06/03/82	JA: OK	SOONER TREND	46.0	PHILLIPS PETROLEU
8236965	17241	3504321405		102-4		PRESLEY UNIT #2			
-B R POLK INC				RECEIVED:	06/04/82	JA: OK	PUTNAM	300.0	MOBIL OIL CORP
8237055	14727	3508321864		103		GERALDINE #1			
8237054	14728	3508320775		103		HAMIEL #1	S ORLANDO	25.0	EASON OIL CO
-BOBBY J DARNELL				RECEIVED:	06/01/82	JA: OK	S E MARSHALL	25.0	EASON OIL CO
8237000	14594	3508321860		103		BIRCKET #1			
8237001	14592	3508321022		103		DUNSMORE #1	S E ORLANDO	36.5	EASON OIL CO
-BURRY ENTERPRISES				RECEIVED:	06/01/82	JA: OK	S MULHALL	424.0	EASON OIL CO
8237014	17223	3514520857		102-2	103	HORN #1			
-CHASE EXPLORATION CORP				RECEIVED:	06/03/82	JA: OK	REDBIRD	215.5	NATURAL GAS ENTER
8237038	12421	3507121275		108		BUESING 1-9			
8237039	12487	3507121116		108		CHAPPELL-WA #1-5	UNNAMED	2.2	CITIES SERVICE GA
8237042	12492	3507121532		108		CHAPPELL/MALE 1F #2-5	UNNAMED	0.3	CITIES SERVICE GA
8237040	12488	3507121734		108		CLINE #1-12	UNNAMED	0.3	CITIES SERVICE GA
8237041	12489	3507121735		108		CLINE #2-12	UNNAMED	0.7	CITIES SERVICE GA
8237043	12497	3507121231		108		CUMMINGS #2-1	UNNAMED	0.3	CITIES SERVICE GA
8237034	12523	3507121533		108		VOEGELE #3-21	UNNAMED	0.8	CITIES SERVICE GA
8237035	12522	3507121611		108		VOEGELE 2-28	UNNAMED	0.2	CITIES SERVICE GA
-CITIES SERVICE COMPANY				RECEIVED:	06/03/82	JA: OK	UNNAMED	0.2	CITIES SERVICE GA
8237032	17004	3513921486		102-4		KENNEDY B #2			
-CLARK RESOURCES INC				RECEIVED:	06/03/82	JA: OK	S E EVA	54.8	NORTHERN NATURAL
8236968	14736	3504722815		103		BINGHAM 32-1			
-COLOMA PETROLEUM INC				RECEIVED:	06/01/82	JA: OK	SOONER TREND	130.8	CITIES SERVICE GA
8236998	14596	3504722561		103		ANNA #1	SOONER TREND	125.0	GRACE PETROLEUM C

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8236999	14595	3504722563		103		DAILEY #1	SOONER TREND	100.0	GRACE PETROLEUM C
-COPELAND ENERGY CORP				RECEIVED:		06/03/82 JA: OK			
8236970	14719	3508321588		103		BUELL #1	NE CASHION	60.0	
-DAL TEX OIL CO INC				RECEIVED:		06/01/82 JA: OK			
8237019	14612	3514321624		103		FITZPATRICK #1	MOUNDS DIST	159.0	PHILLIPS PETROLEU
8237018	14613	3514321375		103		G MOORE #1	MOUNDS DIST	60.0	PHILLIPS PETROLEU
8237020	14611	3511100000		103		MINNIE TIGER #1	MOUNDS DIST	135.0	PHILLIPS PETROLEU
8237021	14610	3511122976		103		MINNIE TIGER #3	MOUNDS DIST	234.0	PHILLIPS PETROLEU
8237017	14614	3511122975		103		MINNIE TIGER #4	MOUNDS DIST	234.0	PHILLIPS PETROLEU
-DALCO PETROLEUM INC				RECEIVED:		06/04/82 JA: OK			
8237052	14731	3507322488		103		YOUNG #1	SOONER TREND	91.3	CITIES SERVICE GA
-DAVIS OIL COMPANY				RECEIVED:		06/03/82 JA: OK			
8236978	03921	3517207240		103		BOSTON-RADER #1	UNNAMED	30.0	PHILLIPS PETROLEU
8236977	03931	3503920279		103		WINGARD #3	SOUTH THOMAS	1500.0	PUBLIC SERVICE CO
-DEAN CLARK				RECEIVED:		06/01/82 JA: OK			
8237007	14434	3511100000		108		KIMBLE #2	UNKNOWN- NE SW SW-SEC	0.0	PHILLIPS PETROLEU
-DEAN CLARK				RECEIVED:		06/04/82 JA: OK			
8237058	14696	3511123245		103		KECK #1-3	E OKMULGEE SW SE SW S	34.2	PHILLIPS PETROLEU
-DIAMOND SHAMROCK CORPORATION				RECEIVED:		06/03/82 JA: OK			
8237033	14817	3512920603		102-4		H A THOMAS "B" #1	RED FORK	126.0	TRANSWESTERN PIPE
-EL PASO NATURAL GAS COMPANY				RECEIVED:		06/03/82 JA: OK			
8236961	14512	3500935560		108		PUCKETT #2	ERICK SOUTH - BROWN D	18.0	EL PASO NATURAL G
-ELDER & VAUGHN				RECEIVED:		06/03/82 JA: OK			
8236971	14689	3508720607		103		DOLESE #1	N E NEWCASTLE	90.0	SUN GAS CO
-ESTATE OF H L HUNT				RECEIVED:		06/03/82 JA: OK			
8237036	14336	3509321255		108		GOSNEY UNIT #1	CHEYENNE VALLEY	16.0	DELHI GAS PIPELIN
8237037	14528	3509320772		108		N L DAVISON #2	DANE	3.5	DELHI GAS PIPELIN
-F C D OIL CORP				RECEIVED:		06/01/82 JA: OK			
8237006	14593	3504722829		103		NOTEWARE 1-25	EAST NORTH GREEN VALL	127.0	AMINOIL USA INC
-F C D OIL CORP				RECEIVED:		06/03/82 JA: OK			
8236993	14662	3507323181		103		BROWN I-12	SOONER TREND	11.0	PHILLIPS PETROLEU
-FLOYD BERGEN				RECEIVED:		06/03/82 JA: OK			
8236963	14417	3512128799		103		J DANIEL #2	BLOCKER	150.0	SE TRANSMISSION &
-FUSULINA PETROLEUM CORP				RECEIVED:		06/04/82 JA: OK			
8237095	14644	3507322674		103		GRELLNER-DOWNEN 1-35	SOONER TREND	0.0	PANHANDLE EASTERN
-GILL-MAC INC				RECEIVED:		06/04/82 JA: OK			
8237083	16149	3505300000		103		GURLEY #4		0.0	CITIES SERVICE GA
8237082	16150	3505300000		103		GURLEY #5		0.0	CITIES SERVICE GA
8237084	16148	3505300000		103		GURLEY HAWKINS #2		0.0	CITIES SERVICE GA
8237080	16152	3505320744		103		SMETANA #1		73.0	CITIES SERVICE GA
8237081	16151	3505320793		103		SMETANA #2		73.0	CITIES SERVICE GA
-GLEN BARRETT				RECEIVED:		06/04/82 JA: OK			
8237050	14740	3512300000		103		BARRETT B 1	BYNG	1764.0	ARKANSAS LOUISIAN
-GULF OIL CORPORATION				RECEIVED:		06/03/82 JA: OK			
8236959	14650	3501520959		102-4		J R EPPERLY #1-24	LIBBIE	0.0	ONG WESTERN INC
-H & L OPERATING COMPANY				RECEIVED:		06/03/82 JA: OK			
8236979	14271	3513920690		108		MESSINGER #1	GUYMON-HUGOTON	17.4	NORTHERN NATURAL
-HADSON PETROLEUM CORP				RECEIVED:		06/04/82 JA: OK			
8237057	14706	3513722892		103		LINDSEY 1-3	PURDY	188.0	
-HAMILTON BROTHERS OIL CO				RECEIVED:		06/03/82 JA: OK			
8236992	14646	3512120796		103		SHANN #1-21	WILDCAT	40.0	ARKANSAS LOUISIAN
-HARPER OIL COMPANY				RECEIVED:		06/04/82 JA: OK			
8237088	14714	3504321296		103		BINGHAM #1	W FONDA	360.0	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8237085	14717	3503920156		103		CATTLE CO 4-D
8237087	14715	3504722807		103		DANA #2
8237086	14716	3501120939		103		GROENDYKE #1
				RECEIVED:	06/04/82	JA: OK
-HEATH OIL CO INC						
8237072	14733	3507122216		103		ARNOLD #3
8237071	14734	3507122217		103		ARNOLD #4
				RECEIVED:	06/04/82	JA: OK
-HUNT OIL COMPANY						
8237091	14529	3509321233		108		LEO BOWERS #1
8237092	14527	3509321257		108		SEABOURN #2
				RECEIVED:	06/03/82	JA: OK
-INTER-GLOBE ENERGY INC						
8236987	14656	3508121367		103		CORRENTE #1-3
				RECEIVED:	06/04/82	JA: OK
-J R THOMPSON						
8237046	14749	3511122958		103		SOUDER #2
				RECEIVED:	06/01/82	JA: OK
-JACK BOWLES						
8237024	14587	3504722120		103		NONA JOHNSON #1
				RECEIVED:	06/04/82	JA: OK
-JERRY MOORE INC						
8237078	16154	3505320446		103		EARLY #2
8237079	16153	3505320470		103		GURLEY AETNA #1
8237077	16155	3505320768		103		VERNON #1
				RECEIVED:	06/04/82	JA: OK
-JET OIL COMPANY						
8237056	14697	3508332174		103		GILMORE #1
				RECEIVED:	06/01/82	JA: OK
-JONES & PELLOW OIL CO						
8237003	14521	3507323147		103		GREENFIELD 25-2
				RECEIVED:	06/04/82	JA: OK
-KAISER-FRANCIS OIL COMPANY						
8237094	14333	3501720675		108		OGLE #1
8237093	14334	3504720934		108		SCHROEDER ESTATE #1-23
				RECEIVED:	06/03/82	JA: OK
-KEITH F WALKER						
8236969	14728	3509920272		103		BURKS
				RECEIVED:	06/03/82	JA: OK
-LADD PETROLEUM CORPORATION						
8236962	14471	3504722888		108		MCINTOSH LANG #1
				RECEIVED:	06/03/82	JA: OK
-LAGUNA PETROLEUM CO						
8236990	14649	3501121506		103		COFFEY #1
				RECEIVED:	06/04/82	JA: OK
-LEWIS EXPLORATION INC						
8237065	14753	3507122225		103		BERGMAN #1
8237066	14754	3507122223		103		BERGMAN #2
8237067	14755	3507122224		103		BERGMAN #3
8237068	14756	3507122222		103		BERGMAN #4
8237069	14757	3507122317		103		BERGMAN #5
8237070	14758	3507122318		103		BERGMAN #6
8237044	14759	3507122368		103		BERGMAN #7
8237045	14760	3507122369		103		BERGMAN #8
				RECEIVED:	06/07/82	JA: OK
-LINCOLN ROCK CORP						
8237026	86903	3508500000		103		28B #1
				RECEIVED:	06/03/82	JA: OK
-LOBAR OIL CO INC						
8236981	12225	3508320876		103		NELLIE BLY #1
				RECEIVED:	06/04/82	JA: OK
-M M RESOURCES INC						
8237048	14746	3511721311		103		DALLAS #1
8237047	14747	3511721280		103		LEAH #1
8237049	14745	3511721361		103		PAM #1
				RECEIVED:	06/04/82	JA: OK
-MACK OIL CO						
8237062	14763	3505320757		103		HARDIMAN #3
8237063	14762	3501722075		103		MALLEN #1
8237064	14761	3501722055		103		ZUM #1

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FIELD NAME	PROD	PURCHASER
SOUTH FAY	54.0	OKLAHOMA GAS & EL
N ENID	182.0	CHAMPLIN PETROLEU
SQUAW CREEK	365.0	OKLAHOMA GAS & EL
NO NAME	26.4	CITIES SERVICE GA
NO NAME	33.8	CITIES SERVICE GA
DANE	6.0	DELHI GAS PIPELIN
DANE	8.8	DELHI GAS PIPELIN
	8.0	SUN GAS CO
NE SW NE SECTION 2 14	91.3	PHILLIPS PETROLEU
SOUTH HAYWARD	8.8	AMINOIL USA INC
	8.8	CITIES SERVICE GA
	0.0	CITIES SERVICE GA
	0.0	SUN GAS CO
ORLANDO	5.8	EASON OIL CO
SOONER TREND	3.8	CONOCO INC
S E WATONGA	5.8	OKLAHOMA GAS & EL
SPRING VALLEY	17.8	GRACE PETROLEUM C
	1.2	AMINOIL USA INC
N E ENID	14.8	CITIES SERVICE GA
EAST WATONGA MORROW	0.0	DELHI GAS PIPELIN
DILWORTH	0.0	NEWKIRK GAS TRANS
DILWORTH	0.0	NEWKIRK GAS TRANS
DILWORTH	0.0	NEWKIRK GAS TRANS
DILWORTH	0.0	NEWKIRK GAS TRANS
DILWORTH	0.0	NEWKIRK GAS TRANS
DILWORTH	0.0	NEWKIRK GAS TRANS
DILWORTH	0.0	NEWKIRK GAS TRANS
DILWORTH	0.0	NEWKIRK GAS TRANS
NORTHEAST MARIETTA	5.0	CIMARRON TRANSMIS
CRESCENT-LOVELL	8.8	EASON OIL CO
	36.0	MID-AMERICA GAS L
	36.0	MID-AMERICA GAS L
	36.5	MID-AMERICA GAS L
SOUTH NASH	250.0	
N CONCHO	50.0	PHILLIPS PETROLEU
S E OKARCHE	50.0	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME		
-MAGIC CIRCLE ENERGY CORP				RECEIVED:	06/04/82	JA: OK		
8237051	14732	3507323196		103		RYLAND #1		
-MAGUIRE OIL COMPANY				RECEIVED:	06/04/82	JA: OK		
8237060	14692	3509300000		103		FOSTER "A" #1		
8237059	14693	3500320897		103		KIRKENDALL "B" #1		
-MARION CORPORATION				RECEIVED:	06/01/82	JA: OK		
8237011	13736	3514721800		102-2		WILLIAM LITTLE #M-1		
-MEL-RAY OIL CO				RECEIVED:	06/03/82	JA: OK		
8236984	16156	3505320767		103		HOLDEN #1		
-MURCHISON OIL & GAS INC				RECEIVED:	06/01/82	JA: OK		
8237008	14408	3504921714		103		DRISKILL #1		
-NATIONAL OIL COMPANY				RECEIVED:	06/04/82	JA: OK		
8237061	14691	3502720456		103		OSBORNE #1 027-66421		
-P-T LTD #1				RECEIVED:	06/03/82	JA: OK		
8236991	14648	3504722671		103		HUNTER 33-1		
-PCX CORP				RECEIVED:	06/03/82	JA: OK		
8237031	18815	3501521124		107-DP		FINNEY #1		
-PETROLEUM RESERVE CORP				RECEIVED:	06/01/82	JA: OK		
8236994	14598	3510321449		103		CINNAMON 21-1		
-PROEX ENERGY CORP				RECEIVED:	06/04/82	JA: OK		
8237096	14305	3504722613		103		GREGORY #21-1		
-RACK OIL INC				RECEIVED:	06/03/82	JA: OK		
8236986	14657	3511921546		103		BARROWS #1		
8236958	14658	3511921580		103		ISBELL #1		
-RALPH E PLOTNER OIL & GAS INVEST IN				RECEIVED:	06/03/82	JA: OK		
8237029	14378	3501721981		103		ALICE "K" #1		
8236989	14651	3501722881		103		STOVER #1		
8236988	14652	3501722074		103		WARD #1		
-RDN ENERGY INC				RECEIVED:	06/01/82	JA: OK		
8237002	14581	3509322241		103		FARBER #1		
-RICKS EXPLORATION CO				RECEIVED:	06/03/82	JA: OK		
8236975	12383	3502720340		103		HAMM 15B		
8236974	12545	3502720504		103		HAMM 15C		
8236976	12144	3507322631		103		LOOSEN 32A		
-SAMSON RESOURCES COMPANY				RECEIVED:	06/03/82	JA: OK		
8236985	15192	3507920424		102-2	103	REUBEN #2 - MID-ATOKA		
-SENECA OIL COMPANY				RECEIVED:	06/04/82	JA: OK		
8237098	13168	3501722026		103		BROWN ADLER #2-8		
8237099	13093	3513921456		103		REUSZER #1-31		
-SHAR-ALAN OIL CO				RECEIVED:	06/01/82	JA: OK		
8237018	14693	3507323178		103		LULU WILLIAMS #1		
-SOUTHLAND ROYALTY CO				RECEIVED:	06/01/82	JA: OK		
8237025	14534	3515121155		103		BUCKLAND #2-8		
-SOUTHWESTERN EXPLOR CONSULTANTS INC				RECEIVED:	06/04/82	JA: OK		
8237053	14730	3510321440		103		MCNEIL #1		
-SUN OIL COMPANY (DELAWARE)				RECEIVED:	06/01/82	JA: OK		
8237004	14515	3508520455		103		TESTERMAN #1		
-SUN OIL COMPANY (DELAWARE)				RECEIVED:	06/03/82	JA: OK		
8236960	14514	3501100000		108		GLADYS BEDWELL #1		
-SUN OIL COMPANY (DELAWARE)				RECEIVED:	06/04/82	JA: OK		
8237073	08545	3503700000		108		STEWARTFEE #44		
-SUNDANCE ENERGY CORP				RECEIVED:	06/03/82	JA: OK		
8236972	14669	3504722755		103		BONNETT #1-A		

FIELD NAME	PROD	PURCHASER
WEST CRESENT	0.0	CONOCO INC
CHANEY DELL	0.2	
CHANEY DELL	0.2	
	766.5	
	0.0	CITIES SERVICE GA
KLONDIKE	73.0	AMINOIL USA INC
SOUTH MOORE	378.0	SUN GAS CO
SOONER TREND	35.0	WELLHEAD ENTERPRI
WILDCAT	0.0	EL PASO NATURAL G
POLO	55.0	AMINOIL USA INC
	419.8	PIONEER GAS PRODU
CUSHING	15.0	PARKS ENERGY INVE
CUSHING	15.5	PARKS ENERGY INVE
WEST EDMOND	0.0	PHILLIPS PETROLEU
WEST PIEDMONT	36.0	PHILLIPS PETROLEU
WEST PIEDMONT	18.0	PHILLIPS PETROLEU
N E AMES	109.5	CITIES SERVICE GA
N W NORMAN	40.0	SUN GAS CO
N W NORMAN	51.0	SUN GAS CO
WEST OKARCHE	431.0	PHILLIPS PETROLEU
NORTH SPIRO	547.5	ARKANSAS LOUISIAN
PIEDMONT	1170.0	
WEST DOMBEY	640.0	PANHANDLE EASTERN
WEST CASHION	0.0	CONOCO INC
S W AVARD	500.0	PANHANDLE EASTERN
POLO	0.0	ARCO OIL & GAS CO
N MARIETTA	79.0	AMINOIL USA INC
O'KEENE N W	12.0	OKLAHOMA NATURAL
CUSHING	0.0	ARCO OIL & GAS CO
S HUNTER	100.0	GRACE PETROLEUM C

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-TENNECO OIL COMPANY				RECEIVED:	06/03/82	JA: OK			
8236964	14337	3515330045		108		MILTON H WHEELOCK #2-4	QUINLAN N W	18.0	MICHIGAN WISCONSI
-TEXAS OIL & GAS CORP				RECEIVED:	06/04/82	JA: OK			
8237089	14667	3513921525		103		DUCKETT "B" #1	W DOMBEY	591.0	
8237090	14668	3506120456		103		WALKER "L" #1	WILDCAT	697.0	
-THE WIL-MC OIL CORP				RECEIVED:	06/01/82	JA: OK			
8237015	17283	3513721525		102-4		EDWARDS "E" #3 (144-5)	COMANCHE	203.8	
8237089	14238	35P1520861		103		HERBERT GUY 1-8	SOUTH ONEY	202.4	DELHI GAS PIPELIN
-TOMLINSON OIL CO INC				RECEIVED:	06/03/82	JA: OK			
8236983	17097	3504520981		102-4 103		POLIN #1	NOT APPLICABLE	159.1	
-TOWNER PETROLEUM CO				RECEIVED:	06/03/82	JA: OK			
8236988	12276	3501721835		102-2		MESCHBERGER #21-1	CONCHO	0.0	PHILLIPS PETROLEU
-TRICO DRILLING COMPANY INC				RECEIVED:	06/01/82	JA: OK			
8236997	14597	3508720627		103		JOHN BAILEY #1	SOUTH FREENY	50.0	SUN GAS CO
-TXO PRODUCTION CORP				RECEIVED:	06/01/82	JA: OK			
8237016	16988	3506120482		102-2		BLANKENSHIP "A" #1	WILDCAT	418.0	
-TXO PRODUCTION CORP				RECEIVED:	06/03/82	JA: OK			
8236973	14665	3515321259		103		MOREHART "A" #1	WILDCAT	63.0	
-VULCAN ENERGY CORP				RECEIVED:	06/01/82	JA: OK			
8237012	11425	3508321588		102-4		TUCKER #1	CRESCENT	90.0	EASON OIL CO
-WALTER A KELLY JR				RECEIVED:	06/03/82	JA: OK			
8236982	17238	3511921683		102-2		AHRBERG #2	NORTHWEST BOOMER LAKE	30.0	ARCO OIL & GAS CO
-WHITMAR EXPLORATION CO				RECEIVED:	06/03/82	JA: OK			
8236967	14860	3507920416		102-4 103		GARLAND COAL #1-23	WEST CEDARS	360.0	ARKANSAS LOUISIAN
-WOODS PETROLEUM CORPORATION				RECEIVED:	06/01/82	JA: OK			
8237005	14518	3505121130		103		SAVAGE #21-1	WATONGA	281.0	TRANSOK PIPE LINE

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WEST VIRGINIA DEPARTMENT OF MINES

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-BEREA OIL AND GAS CORPORATION				RECEIVED:	06/07/82	JA: WV			
*8236921		4708121627		102-4		D GOODWIN #1	BARKER	36.0	CONSOLIDATED GAS
*8236920		4708121621		102-4		D P HANEY #1	VALLEY	51.0	CONSOLIDATED GAS
*8236917		4708121594		103		G L YEAGER #1	BARKER	68.0	CONSOLIDATED GAS
*8236922		4708121594		102-4		G L YEAGER #1	BARKER	68.0	CONSOLIDATED GAS
*8236923		4708121459		102-4		MCCLAIN #2	VALLEY	75.0	CONSOLIDATED GAS
-BOGERT COAL & GAS				RECEIVED:	06/07/82	JA: WV			
8236895		4708100731		108		BROWN #1	PHILIPPI DIST	10.0	CONSOLIDATED GAS
-CABOT OIL & GAS CORP				RECEIVED:	06/04/82	JA: WV			
8236942		4707901035		107-DV		PUTNAM B-22	UNION	40.0	TENNESSEE GAS PIP
8236945		4707901035		103		PUTNAM B-22	UNION	40.0	TENNESSEE GAS PIP
8236943		4707901053		107-DV		PUTNAM B-34	UNION	39.0	TENNESSEE GAS PIP
8236944		4707901053		103		PUTNAM B-34	UNION	39.0	TENNESSEE GAS PIP
-CABOT OIL & GAS CORP				RECEIVED:	06/07/82	JA: WV			
8236916		4703903647		107-DV		JOHN TAIT #1	WASHINGTON	43.0	TENNESSEE GAS PIP
-CHASE PETROLEUM				RECEIVED:	06/04/82	JA: WV			
8236949		4708505090		107-DV		GRIFFIN #3	CLAY DISTRICT	38.0	
8236954		4708505093		107-DV		GRIFFIN #4	CLAY DISTRICT	38.0	
8236955		4701702897		107-DV		HEDRICK LEGGETT #1	SOUTHWEST DISTRICT	28.0	
8236951		4701702898		107-DV		HEDRICK LEGGETT #2	SOUTHWEST DISTRICT	28.0	
8236950		4701702899		107-DV		HEDRICK LEGGETT #3	SOUTHWEST DISTRICT	29.0	
8236953		4708504979		107-DV		SPIKER #1	UNION DISTRICT	39.0	
8236946		4708504977		107-DV		SPIKER #2	UNION DISTRICT	39.0	UNDEDICATED
8236947		4708505003		107-DV		SPIKER #3	UNION DISTRICT	38.0	

DD NO	JA OKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8236957		4708505004		107-DV		SPIKER #4
8236948		4708505005		107-DV		SPIKER #5
8236952		4701702876		107-DV		STINESPRING #3
8236956		4701702877		107-DV		STINESPRING #4
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	06/07/82	JA: WV
8236901		4703301030		108		ANITA B GOFF 12275
8236900		4703301934		108		GEORGE H BERRY 12566
8236902		4708100707		108		JUNIOR LANTZ 11942
8236903		4703301835		108		VANCE WARD 11833
8236898		4704102851		108		WILLIAM J WOOFTER 12855
8236899		4704102174		108		WILLIAM WINANS 12487
-CONTINENTAL PETROLEUM CO				RECEIVED:	06/07/82	JA: WV
8236891		4708701723		103		J C CARPER #1
-D C MALCOLM INC				RECEIVED:	06/07/82	JA: WV
8236897		4703903783		107-DV		ALDERSON #4
-DEVON CORPORATION				RECEIVED:	06/07/82	JA: WV
8236892		4703501626		103		CARL W PIGNATO #969
-EASTERN AMERICAN ENERGY CORPORATION				RECEIVED:	06/04/82	JA: WV
8236940		4704103109		103		LOUDIN #4
8236941		4704103109		107-DV		LOUDIN #4
-JAMES F SCOTT				RECEIVED:	06/07/82	JA: WV
8236906		4703302679		103		CATHERINE COURTNEY S-390
8236907		4701703028		103		EVA CASWELL #2 S-367
8236908		4700101562		103		HILLMAN COAL & COKE S-371
8236905		4703302676		103		VIOLET RODNEY #1 S-391
8236904		4703302677		103		VIOLET RODNEY #2 S-392
-JOHNSON EXPLORATION CO				RECEIVED:	06/07/82	JA: WV
8236918		4702103848		103		G A BUSH #1-J
8236919		4702103848		107-DV		G A BUSH #1-J
-LINVILLE GAS CO				RECEIVED:	06/07/82	JA: WV
8236888		4704322523		107-DV		OKEY LINVILLE #1
-ROYAL OIL & GAS CORPORATION				RECEIVED:	06/07/82	JA: WV
8236889		4702103676		103		NETTIE BUSH #2
-SENECA-UPSHUR PETROLEUM CO				RECEIVED:	06/07/82	JA: WV
8236915		4705900975		107-DV		C-10
8236909		4705900976		107-DV		C-11
8236910		4705900969		107-DV		C-13
8236911		4705900970		107-DV		C-14
8236912		4705900978		107-DV		C-20
8236914		4705900981		107-DV		C-21
8236913		4705900982		107-DV		C-22
-SPARTAN GAS COMPANY				RECEIVED:	06/07/82	JA: WV
8236893		4710900863		103		Y & O COAL CO 85-S-276
-STONEWALL GAS CO INC				RECEIVED:	06/04/82	JA: WV
8236939		4701702995		103		E MAY SUMNERS #1 79-S
-TRIO OIL & GAS CO INC				RECEIVED:	06/07/82	JA: WV
8236894		4701700521		108		S N MONTGOMERY LEASE WELL #3
-TVI OIL CO				RECEIVED:	06/07/82	JA: WV
8236896		4708505123		107-DV		WALLER #1

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WYOMING OIL & GAS CONSERVATION COMMISSION

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-J C BAKER & SONS INC RECEIVED: 06/07/82 JA: WY

FIELD NAME	PROD	PURCHASER
UNION DISTRICT	39.0	
UNION DISTRICT	38.0	
SOUTHWEST DISTRICT	28.0	
SOUTHWEST DISTRICT	29.0	
COAL DISTRICT	0.5	GENERAL SYSTEM PU
EAGLE DISTRICT	0.6	GENERAL SYSTEM PU
PHILLIPPI DISTRICT	0.5	GENERAL SYSTEM PU
GRANT DISTRICT	0.3	GENERAL SYSTEM PU
FREEMANS CREEK DISTRI	6.2	GENERAL SYSTEM PU
FREEMAN'S CREEK DISTR	0.4	GENERAL SYSTEM PU
GLENVILLE SOUTH	11.0	CONSOLIDATED GAS
BLUE CREEK	36.0	COLUMBIA GAS TRAN
RIPLEY	68.0	DEVON PIPELINE CO
COURTHOUSE	25.0	
COURTHOUSE	25.0	
UNION	36.0	CONSOLIDATED GAS
GREENBRIER	16.0	CONSOLIDATED GAS
PLEASANT	26.0	CONSOLIDATED GAS
UNION	69.0	CONSOLIDATED GAS
UNION	64.0	CONSOLIDATED GAS
LEADING CREEK	11.0	COLUMBIA GAS TRAN
LEADING CREEK	11.0	COLUMBIA GAS TRAN
JEFFERSON DISTRICT	0.0	COLUMBIA GAS TRAN
LEADING CREEK,	90.0	CONSOLIDATED GAS
HARDEE	35.0	COLUMBIA GAS TRAN
HARDEE	35.0	COLUMBIA GAS TRAN
HARDEE	35.0	COLUMBIA GAS TRAN
HARDEE	35.0	COLUMBIA GAS TRAN
HARDEE	35.0	COLUMBIA GAS TRAN
HARDEE	35.0	COLUMBIA GAS TRAN
HARDEE	35.0	COLUMBIA GAS TRAN
OCEANA	73.0	COLUMBIA GAS TRAN
GREENBRIER DISTRICT	20.0	CONSOLIDATED GAS
WEST UNION DISTRICT	1.5	CONSOLIDATED GAS
GRANT	0.0	CONSOLIDATED GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8236898		4900701658		103		LAKE & HOPKINS	SALT LICK DIST	20.0	CONSOLIDATED GAS
-ARCO OIL AND GAS COMPANY				RECEIVED:	06/07/82	JA: NM 8			
8237136	NM-0136-82	3002532039		108		JUSTIS FEDERAL #3-Y	JUSTIS (BLINEBRY)	3.0	EL PASO NATURAL G
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, DENVER,CO									
-MESA PETROLEUM CO				RECEIVED:	06/08/82	JA: CO 1			
8236935	CD 0152-82	0512506633		102-2	107-TF	ECKELY FEDERAL 28 #2	ECKLEY	104.0	
-TETON ENERGY CO INC				RECEIVED:	06/08/82	JA: CO 1			
8236937	CD 0156-82	0510308748		103	107-TF	FEDERAL 9-4	SOUTH DOUGLAS CREEK	39.0	NORTHWEST PIPELIN
-WALTER S FEES JR				RECEIVED:	06/08/82	JA: CO 1			
8236936	CD 0533-81	0507708311		102-3		HUNTERS CANYON UNIT #6	HUNTERS CANYON	0.0	WESTERN SLOPE GAS
-ARCO OIL AND GAS COMPANY				RECEIVED:	06/08/82	JA: UT 1			
8236926	UD 0190-82	4301905513		108		SAN ARROYO UNIT #19	SAN ARROYO	9.0	MESA PIPELINE CO
8236932	UD 0195-82	4301905520		108		SAN ARROYO UNIT #22	SAN ARROYO	7.0	MESA PIPELINE CO
8236927	UD 0194-82	4301905497		108		SAN ARROYO UNIT #26	SAN ARROYO	12.0	MESA PIPELINE CO
8236931	UD 0191-82	4301905509		108		SAN ARROYO UNIT #29	SAN ARROYO	15.0	MESA PIPELINE CO
-COASTAL OIL & GAS CORP				RECEIVED:	06/08/82	JA: UT 1			
8236928	UD 0196-82	4304730536		103	107-TF	NBU 38N2 (13-10-22)	NATURAL BUTTES	264.0	COLORADO INTERSTA
8236934	UD 0160-82	4304730838		103	107-TF	NBU 58N2 (27-10-22)	NATURAL BUTTES	383.0	COLORADO INTERSTA
8236933	UD 0164-82	4304731090		103	107-TF	NBU 69N2 (35-9-21)	NATURAL BUTTES	127.0	COLORADO INTERSTA
-EXXON CORPORATION				RECEIVED:	06/08/82	JA: UT 1			
8236925	CD0180-82	4304731035		103		UTE TRIBAL UNIT #1 ALTERNATE	BLUEBELL	1.0	GARY ENERGY CORP
8236930	UD 0181-82	4304730931		103		UTE TRIBAL UNIT COM #1	BLUEBELL	2.0	GARY ENERGY CORP
-MCOR OIL & GAS CORP				RECEIVED:	06/08/82	JA: UT 1			
8236938	UD 0357-81	4303730622		102-4		FEDERAL 3-19	SQUAW CANYON	164.3	EL PASO NATURAL G
-ODEGARD RESOURCES INC				RECEIVED:	06/08/82	JA: UT 1			
8236929	UD 0161-82	4301930895		103		FEDERAL "C" #1	WESTWATER	270.0	NORTHWEST PIPELIN
8236924	UD0162-82	4301930891		103		FEDERAL "D" #1	WESTWATER	306.0	NORTHWEST PIPELIN
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, ALBUQUERQUE,NM									
-AMOCO PRODUCTION CO				RECEIVED:	06/07/82	JA: NM 4			
8237120	NM-0896-81	3001523181		102-4		FEDERAL "AI" COM #1	WILDCAT MORROW	256.0	LLANO INC
8237122	NM-1044-81	3001523384		102-4		FEDERAL "BB" #1	UND SCOGGIN DRAW MORR	383.0	LLANO INC
8237118	NM-0748-81	3001523458		102-4		FEDERAL BN #1	UND MORROW	1000.0	EL PASO NATURAL G
8237147	NM 0290-82	3004524865		103		GALLEGOS CANYON UNIT #209E	BASIN DAKOTA	0.0	EL PASO NATURAL G
8237146	NM 0289-82	3004524948		103		GALLEGOS CANYON UNIT #226E	BASIN DAKOTA	17.0	EL PASO NATURAL G
8237148	NM 0291-82	3004525210		103		GALLEGOS CANYON UNIT #263E	BASIN DAKOTA	28.0	AMOCO GAS CO
8237165	NM 0311-82	3004524756		103		GINTHER GAS COM #2E	BASIN DAKOTA	43.0	EL PASO NATURAL G
8237145	NM 0288-82	3003922482		103		JICARILLA CONTRACT 146 #31	OTERO CHACRA	30.0	EL PASO NATURAL G
8237143	NM-0288-82	3003905525		108		JICARILLA 35-A GAS COM #1	BASIN DAKOTA	0.0	EL PASO NATURAL G
8237166	NM 0312-82	3004524478		103		MARTIN GAS COM "C" #1E	BASIN DAKOTA	26.0	EL PASO NATURAL G
8237144	NM 0287-82	3004524478		103		MARTIN GAS COM "I" #1	UNDESIGNATED CHACRA	13.0	EL PASO NATURAL G
8237167	NM 0313-82	3004524662		103		R P HARGRAVE "J" #1E	BASIN DAKOTA	16.0	SOUTHERN UNION GA
-ANTWEIL OIL CO				RECEIVED:	06/07/82	JA: NM 4			
8237119	NM-0886-81	3001523561		102-4		FEDERAL HG #1	HG MORROW GAS	0.0	LLANO INC
-ARCO OIL AND GAS COMPANY				RECEIVED:	06/07/82	JA: NM 4			
8237179	NM 0330-82	3004525254		103		MADDOX WN FEDERAL #4F (DK)	BASIN DAKOTA	146.0	NORTHWEST PIPELIN
-BLACKWOOD & NICHOLS CO LTD				RECEIVED:	06/07/82	JA: NM 4			
8237174	NM 0332-82	3004525235		103		NORTHEAST BLANCO UNIT #53A	BLANCO MESAVERDE D-28	200.0	EL PASO NATURAL G
-CITIES SERVICE COMPANY				RECEIVED:	06/07/82	JA: NM 4			
8237168	NM 0314-82	3001523508		103		GOVERNMENT-AM COM #1	UND N TURKEY TRACK (M	73.0	

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-COTTON PETROLEUM CORPORATION				RECEIVED:	06/07/82	JA: NM 4			
8237129	NM-1961-81	3003922214	108			APACHE #38	SOUTH BLANCO - PICTUR	35.0	NORTHWEST PIPELIN
-DAVE M THOMAS JR				RECEIVED:	06/07/82	JA: NM 4			
8237117	NM-0576-81	3004320268	108			CHACON JICARILLA #9	BALLARD PICTURED CLIF	18.2	EL PASO NATURAL G
-DOME PETROLEUM CORP				RECEIVED:	06/07/82	JA: NM 4			
8237160	NM 0304-82	3004524049	103			DOME FEDERAL 17-27-13 #4	WAW FRUITLAND - P C	49.6	EL PASO NATURAL G
8237159	NM 0303-82	3004524047	103			DOME FEDERAL 7-27-13 #3	WAW FRUITLAND - PICTU	38.4	EL PASO NATURAL G
8237158	NM 0302-82	3004523398	103			DOME FEDERAL 8-27-13 #1	WAW FRUITLAND - P C	77.4	EL PASO NATURAL G
-EL PASO NATURAL GAS COMPANY				RECEIVED:	06/07/82	JA: NM 4			
8237125	NM-1735-81	3004511747	108			BLANCO #17	SOUTH BLANCO - PICTUR	24.0	EL PASO NATURAL G
8237183	NM-0346-82	3002524561	108			COOPER FEDERAL #1	COOPER MORROW	23.0	EL PASO NATURAL G
8237173	NM 0331-82	3004524847	103			HUERFANO UNIT #215E	BASIN DAKOTA	50.0	EL PASO NATURAL G
8237182	NM-0345-82	3004521139	108			HUGHES A #8	BLANCO PICTURED CLIFF	19.0	EL PASO NATURAL G
8237139	NM-0179-82	3003906017	108			JICARILLA E #10	SOUTH BLANCO - PICTUR	21.0	EL PASO NATURAL G
8237121	NM-0984-81	3004520456	108			MCCULLEY #8	AZTEC PICTURED CLIFFS	17.0	EL PASO NATURAL G
8237128	NM-1943-81	3004509054	108			MURPHY E #3	AZTEC PICTURED CLIFFS	22.0	EL PASO NATURAL G
8237188	NM-0343-82	3003920715	108			RINCON UNIT #195	SOUTH BLANCO-PICTURED	19.0	EL PASO NATURAL G
8237108	NM 0836-81PB	3003982363	108-PB			SAN JUAN 27-5 UNIT #80	TAPACITO- PICTURED CL	19.0	EL PASO NATURAL G
8237110	NM0868-82PB	3003920574	108-PB			SAN JUAN 28-6 UNIT #130	BASIN - DAKOTA	20.0	EL PASO NATURAL G
8237127	NM-1921-81	3003921732	108			SAN JUAN 28-7 UNIT #110	BASIN DAKOTA	21.0	EL PASO NATURAL G
8237181	NM-0344-82	3003920797	108			SAN JUAN 28-7 UNIT #179	BLANCO-PICTURED CLIFF	18.0	EL PASO NATURAL G
8237154	NM 0296-82	3003922762	103			SAN JUAN 29-7 UNIT #117	BASIN DAKOTA	110.0	EL PASO NATURAL G
8237124	NM-1070-81	3003982387	108			SAN JUAN 30-4 UNIT #33	BLANCO-MESAVERDE	25.0	EL PASO NATURAL G
8237126	NM-1002-81	3003907889	108			SAN JUAN 30-6 UNIT #46	BLANCO - MESA VERDE	22.0	EL PASO NATURAL G
8237153	NM 0295-82	3003922652	103			SAN JUAN 30-6 UNIT #73A	BLANCO MESAVERDE	260.0	EL PASO NATURAL G
8237152	NM 0294-82	3003922651	103			SAN JUAN 30-6 UNIT #84A	BLANCO MESAVERDE	250.0	EL PASO NATURAL G
8237151	NM 0293-82	3003922654	103			SAN JUAN 30-6 UNIT #94A	BLANCO MESAVERDE	250.0	EL PASO NATURAL G
-ENERGY RESERVES GROUP INC				RECEIVED:	06/07/82	JA: NM 4			
8237131	NM-0064-82	3003922856	103			JICARILLA 35 #14	WEST LINDRITH GALLUP-	29.9	NORTHWEST PIPELIN
-ENSERCH EXPLORATION INC				RECEIVED:	06/07/82	JA: NM 4			
8237172	NM 0330-82	3004120625	103			SCOTT-FEDERAL #1	N PETERSON	5.0	TRANSWESTERN PIPE
-FRED POOL JR				RECEIVED:	06/07/82	JA: NM 4			
8237140	NM-0289-82	3000560957	107-TF			M & M FEDERAL #1	UND WILDCAT	0.0	TRANSWESTERN PIPE
8237138	NM-2039-81	3000560957	102-2			M&M FEDERAL #1	UND WILDCAT	0.0	TRANSWESTERN PIPE
-GETTY OIL COMPANY				RECEIVED:	06/07/82	JA: NM 4			
8237156	NM 0298-82	3002527481	103			MYERS LANGLIE MATTIX UNIT #166	LANGLIE MATTIX	2.6	EL PASO NATURAL G
8237157	NM 0299-82	3002527482	103			MYERS LANGLIE MATTIX UNIT #182	LANGLIE MATTIX	6.6	EL PASO NATURAL G
8237155	NM 0297-82	3002526985	103			MYERS LANGLIE MATTIX UNIT #230	LANGLIE MATTIX	47.5	EL PASO NATURAL G
-J GLENN TURNER				RECEIVED:	06/07/82	JA: NM 4			
8237171	NM 0325-82	3004508080	103			EST OF J GLENN TURNER HEIRS 1 FD28	BASIN-DAKOTA	156.0	EL PASO NATURAL G
-MARATHON OIL COMPANY				RECEIVED:	06/07/82	JA: NM 4			
8237116	NM-0149-81	3003922434	103			JICARILLA APACHE #26-E	JICARILLA APACHE	185.0	NORTHWEST PIPELIN
-MESA PETROLEUM CO				RECEIVED:	06/07/82	JA: NM 4			
8237138	NM-0163-82	3003922759	102-2			SOUTH BLANCO NAVAJO 31 #2	LYBROOK GALLUP EXT	37.0	GAS CO OF NEW MEX
-MOBIL PROD TEXAS & NEW MEXICO INC				RECEIVED:	06/07/82	JA: NM 4			
8237178	NM-0323-82	3004509323	108-SA			STEPHENS GAS UNIT #1	BASIN DAKOTA	2.2	NORTHWEST PIPELIN
-NORTHWEST PIPELINE CORPORATION				RECEIVED:	06/07/82	JA: NM 4			
8237103	NM0851-82PB	3004521487	108-PB			HOLT UNIT #3	BLANCO PICTURED CLIFF	21.0	NORTHWEST PIPELIN
8237104	NM0854-82-PB	3003907946	108-PB			ROSA UNIT #15	BLANCO	11.0	NORTHWEST PIPELIN
8237105	NM0855-82PB	3003907963	108-PB			ROSA UNIT #16	BLANCO MV	0.0	EL PASO NATURAL G
8237106	NM0856-82PB	3003907955	108-PB			ROSA UNIT #19	BLANCO MV	15.0	NORTHWEST PIPELIN
8237107	NM0857-82PB	3003900000	108-PB			ROSA UNIT 14	BLANCO	12.0	NORTHWEST PIPELIN
8237113	NM0899-82PB	3003900000	108-PB			S/J 30-5 UNIT #2 R	BLANCO	19.0	NORTHWEST PIPELIN

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-NORTHWEST PIPELINE CORPORATION				RECEIVED:	06/07/82	JA: NM 4			
8237102	NM0850-82PB	3004521486	108-PB			HOLT UNIT #2	BLANCO PICTURED CLIFF	21.0	NORTHWEST PIPELIN
8237101	NM0849-82PB	3004521485	108-PB			HOLT UNIT #1	BLANCO PICTURED CLIFF	21.0	NORTHWEST PIPELIN
8237111	NM0869-82PB	3003920573	108-PB			SAN JUAN 28-6 UNIT #131	BLANCO PICTURED CLIFF	21.0	NORTHWEST PIPELIN
8237112	NM0870-82PB	3003920572	108-PB			SAN JUAN 28-6 UNIT #132	BLANCO PICTURED CLIFF	21.0	NORTHWEST PIPELIN
8237114	NM0871-82PB	3003920571	108-PB			SAN JUAN 28-6 UNIT #133	BLANCO PICTURED CLIFF	21.0	NORTHWEST PIPELIN
8237115	NM0872-82PB	3003920570	108-PB			SAN JUAN 28-6 UNIT #134	BLANCO PICTURED CLIFF	21.0	NORTHWEST PIPELIN
8237109	NM0867-82PB	3003920575	108-PB			SAN JUAN 28-6 UNIT #135	BLANCO PICTURED CLIFF	21.0	NORTHWEST PIPELIN
8237116	NM0873-82PB	3003920569	108-PB			SAN JUAN 28-6 UNIT #136	BLANCO PICTURED CLIFF	21.0	NORTHWEST PIPELIN
8237117	NM0874-82PB	3003920568	108-PB			SAN JUAN 28-6 UNIT #137	BLANCO PICTURED CLIFF	21.0	NORTHWEST PIPELIN
8237118	NM0875-82PB	3003920567	108-PB			SAN JUAN 28-6 UNIT #138	BLANCO PICTURED CLIFF	21.0	NORTHWEST PIPELIN
8237119	NM0876-82PB	3003920566	108-PB			SAN JUAN 28-6 UNIT #139	BLANCO PICTURED CLIFF	21.0	NORTHWEST PIPELIN
8237120	NM0877-82PB	3003920565	108-PB			SAN JUAN 28-6 UNIT #140	BLANCO PICTURED CLIFF	21.0	NORTHWEST PIPELIN
8237122	NM0878-82PB	3003920564	108-PB			SAN JUAN 28-6 UNIT #141	BLANCO PICTURED CLIFF	21.0	NORTHWEST PIPELIN
8237123	NM0879-82PB	3003920563	108-PB			SAN JUAN 28-6 UNIT #142	BLANCO PICTURED CLIFF	21.0	NORTHWEST PIPELIN
8237174	NM0880-82PB	3003920562	108-PB			SAN JUAN 28-6 UNIT #143	BLANCO PICTURED CLIFF	21.0	NORTHWEST PIPELIN
8237175	NM0881-82PB	3003920561	108-PB			SAN JUAN 28-6 UNIT #144	BLANCO PICTURED CLIFF	21.0	NORTHWEST PIPELIN
8237176	NM0882-82PB	3003920560	108-PB			SAN JUAN 28-6 UNIT #145	BLANCO PICTURED CLIFF	21.0	NORTHWEST PIPELIN
8237177	NM0883-82PB	3003920559	108-PB			SAN JUAN 28-6 UNIT #146	BLANCO PICTURED CLIFF	21.0	NORTHWEST PIPELIN
8237179	NM0884-82PB	3003920558	108-PB			SAN JUAN 28-6 UNIT #147	BLANCO PICTURED CLIFF	21.0	NORTHWEST PIPELIN
8237180	NM0885-82PB	3003920557	108-PB			SAN JUAN 28-6 UNIT #148	BLANCO PICTURED CLIFF	21.0	NORTHWEST PIPELIN
8237104	NM-0342-82	3003920796	108			SAN JUAN 28-7 UNIT #178	BLANCO-PICTURED CLIFF	18.0	EL PASO NATURAL G
8237183	NM-0341-82	3003920795	108			SAN JUAN 28-7 UNIT #180	BLANCO-PICTURED CLIFF	18.0	EL PASO NATURAL G
8237184	NM-0340-82	3003920794	108			SAN JUAN 28-7 UNIT #181	BLANCO-PICTURED CLIFF	18.0	EL PASO NATURAL G
8237185	NM-0339-82	3003920793	108			SAN JUAN 28-7 UNIT #182	BLANCO-PICTURED CLIFF	18.0	EL PASO NATURAL G
8237186	NM-0338-82	3003920792	108			SAN JUAN 28-7 UNIT #183	BLANCO-PICTURED CLIFF	18.0	EL PASO NATURAL G
8237187	NM-0337-82	3003920791	108			SAN JUAN 28-7 UNIT #184	BLANCO-PICTURED CLIFF	18.0	EL PASO NATURAL G
8237189	NM-0336-82	3003920790	108			SAN JUAN 28-7 UNIT #185	BLANCO-PICTURED CLIFF	18.0	EL PASO NATURAL G
8237190	NM-0335-82	3003920789	108			SAN JUAN 28-7 UNIT #186	BLANCO-PICTURED CLIFF	18.0	EL PASO NATURAL G
8237191

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8237109	NM0059-82PB	3003907799		108-PB		S/J 30-5 UNIT #30	BLANCO	13.0	NORTHWEST PIPELIN
8237112	NM0097-82PB	3003907799		108-PB		S/J 30-5 UNIT #30	BLANCO	13.0	NORTHWEST PIPELIN
8237102	NM 0050-82PB	3003920712		108-PB		SAN JUAN 29-5 #68	BASIN DAKOTA	19.0	EL PASO NATURAL G
8237114	NM0100-82PB	3003921028		108-PB		SAN JUAN 29-5 UNIT #61	BLANCO MESAVERDE	0.0	EL PASO NATURAL G
8237101	NM 0049-82PB	3003900009		108-PB		SAN JUAN 29-5 78	BASIN DAKOTA	21.0	NORTHWEST PIPELIN
8237169	NM-0318-82	3003907572		108		SAN JUAN 29-6 UNIT #91	BASIN DAKOTA	19.0	NORTHWEST PIPELIN
8237111	NM0096-82PB	3003907835		108-PB		SAN JUAN 30-5 UNIT 25	BLANCO MESAVERDE	6.0	EL PASO NATURAL G
8237115	NM0101-82PB	3003907987		108-PB		SAN JUAN 31-6 #14	BLANCO MESAVERDE	0.0	EL PASO NATURAL G
-PERRY R BASS				RECEIVED:	06/07/82	JA: NM 4			
8237137	NM-016282103	3001523473		103		BIG EDDY UNIT #70	UNDESIGNATED	300.0	NATURAL GAS PIPEL
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	06/07/82	JA: NM 4			
8237141	NM-0278-82	3002526901		103		SHELLY FEDERAL COMM #1	NORTH LUSK BONE SPRIN	50.0	CONOCO INC
-SOUTHLAND ROYALTY CO				RECEIVED:	06/07/82	JA: NM 4			
8237175	NM 0336-82-A	3004525037		103		CAIN #22	BLANCO	200.0	SOUTHERN UNION GA
8237176	NM 0336-82-B	3004525037		103		CAIN #22	BASIN	75.0	SOUTHERN UNION GA
8237177	NM 0337-82-A	3004525039		103		COOPER #3-E	CROUCH MESA	1050.0	SOUTHERN UNION GA
8237178	NM 0337-82-B	3004525039		103		COOPER #3-E	BASIN	225.0	SOUTHERN UNION GA
8237184	NM 0368-82	3001523449		103		EMPIRE FEDERAL "35" COM #1	UNDESIGNATED	95.0	NORTHERN NATURAL
-SUPRON ENERGY CORPORATION				RECEIVED:	06/07/82	JA: NM 4			
8237149	NM 0292-82-A	3004525078		103		TALIAFERRO #3-E	BLANCO MESAVERDE	0.0	SOUTHERN UNION GA
8237150	NM 0292-82-B	3004525078		103		TALIAFERRO #3-E	BASIN DAKOTA	6.0	SOUTHERN UNION GA
-TENNECO OIL COMPANY				RECEIVED:	06/07/82	JA: NM 4			
8237164	NM 0309-82	3004525022		103		FLORANCE #126	BASIN DAKOTA	500.0	EL PASO NATURAL G
8237161	NM 0305-82	3004524923		103		HEATON COM B3	BASIN DAKOTA	500.0	EL PASO NATURAL G
8237162	NM 0306-82	3004524806		103		NEAL COM #2	BASIN DAKOTA	500.0	EL PASO NATURAL G
8237163	NM 0308-82	3004524924		103		NEWBERRY B 1E	BASIN DAKOTA	586.0	NORTHWEST PIPELIN
-YATES PETROLEUM CORPORATION				RECEIVED:	06/07/82	JA: NM 4			
8237123	NM-1581-81	3001523642		103		FEDERAL "AB" #8	PENASCO DRAW-SA-YESO	0.0	TRANSWESTERN PIPE
8237135	NM-0128-82	3000561154		103	107-TF	LEEMAN "DC" FEDERAL #2	UND ABO	0.0	TRANSWESTERN PIPE
-BARUCH-FOSTER CORP				RECEIVED:	06/07/82	JA: OK 4			
8237142	OKA-0279-82	3511921230		108		NORA BARKER HEIRS #1	RAVENDALE	8.0	CITIES SERVICE GA
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	06/07/82	JA: OK 4			
8237133	OKA 0125-82	3501521142		103		E BINGER UNIT #59-2	EAST BINGER	0.0	OKLAHOMA NATURAL
8237132	NM-0105-82	3501520324		108		EAST BINGER UNIT #27-61		0.0	OKLAHOMA NATURAL
8237134	OKA 0126-82	3501521146		103		EAST BINGER UNIT #58-2	EAST BINGER	0.0	OKLAHOMA NATURAL

OTHER PURCHASERS VOLUME NO :678

8236917	BROOKLYN UNION GAS CO
8236920	BROOKLYN UNION GAS CO
8236921	BROOKLYN UNION GAS CO
8236922	BROOKLYN UNION GAS CO
8236923	BROOKLYN UNION GAS CO
8237097	PUBLIC SERVICE CO OF OKLA

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18291 Filed 7-2-82; 8:45 am]

BILLING CODE 6717-01-C

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-A G HILL			RECEIVED: 06/10/82 JA: TX						
8237406	F-08-051642	4237133465		102-4		TREES "43" WELL #3	A G H (CHERRY CANYON)	29.2	WARREN PETROLEUM
-ADAMS ENERGY CO			RECEIVED: 06/10/82 JA: TX						
8237209	F-10-040427	4206530938		103		MCCONNELL L S R-1	PANHANDLE WEST	0.0	KERR-MCGEE CORP
-ADOBE OIL & GAS CORPORATION			RECEIVED: 06/10/82 JA: TX						
8237469	F-8A-051802	4244531024		103		MULDROW "A" #5	PRENTICE N W (SAN AND	8.0	AMOCO PRODUCTION
-ALAMO PETROLEUM COMPANY			RECEIVED: 06/10/82 JA: TX						
8237239	F-02-043952	4223931557		102-4	103	ROSE & SAMPLE #2	EL TORO	150.0	VALERO TRANSMISSI
-AMAX PETROLEUM CORPORATION			RECEIVED: 06/10/82 JA: TX						
8237325	F-03-049943	4215731275		102-4	103	J W FARRIS #1	KATY S (FIRST WILCOX)	1300.0	HOUSTON PIPE LINE
8237393	F-03-051435	4215731207		102-2		L R MORGAN #1	KATY S (FIRST WILCOX)	1300.0	HOUSTON PIPE LINE
-AMERICAN QUASAR PETROLEUM CO			RECEIVED: 06/10/82 JA: TX						
8237213	F-09-041132	4218130772		102-4		W STRICKLAND GAS UNIT #1	NW NEW MAG	0.0	
-AMMEX PETROLEUM INC			RECEIVED: 06/10/82 JA: TX						
8237334	F-03-050488	4214931165		102-2	103	GLYNDA #1	GIDDINGS (AUSTIN CHAL	756.0	CLAJON GAS CO
8237333	F-03-050400	4205132032		102-2	103	TOMMY UNIT #1	BIG A (TAYLOR)	76.3	CLAJON GAS CO
-AMOCO PRODUCTION CO			RECEIVED: 06/10/82 JA: TX						
8237507	F-8A-051942	4218930332		103		ANTON - IRISH CLEARFORK UNIT #448	ANTON - IRISH	0.3	PIONEER CORP
8237472	F-04051812	4247933162		102-4	107-TF	KILLAM HURD AMOCO ALEXANDER #2	DEL MAR (LOWER HIRSCH	149.7	DELMI GAS PIPELIN
8237471	F-04-051811	4247932948		102-4	107-TF	KILLAM HURD AMOCO TRAUTMAN #1	DEL MAR (LOWER HIRSCH	649.7	DELMI GAS PIPELIN
8237438	F-08-051742	4213533656		103		NORTH COWDEN UNIT #1115	COWDEN NORTH	31.0	PIONEER CORP
-ANDERSON PETROLEUM INC			RECEIVED: 06/10/82 JA: TX						
8237279	F-7C-046829	4210532143		108		ELMER HOOVER HATTON ESTATE "I" 1-13	OZONA (CANYON SAND)	0.0	ANDERSON PIPELINE
8237278	F-7C-046827	4210532165		108		ELMER HOOVER HATTON ESTATE "J" 2-13	OZONA (CANYON SAND)	0.0	ANDERSON PIPELINE
8237277	F-7C-046822	4210531658		108		IRA CARSON "A" 3-48	OZONA (CANYON SAND)	0.0	ANDERSON PIPELINE
8237273	F-7C-046797	4210531688		108		IRA CARSON "D" 1-2	OZONA (CANYON SAND)	0.0	ANDERSON PIPELINE
8237276	F-7C-046820	4210532123		108		LAURA HOOVER ESTATE "A" 1-40	OZONA (CANYON SAND)	0.0	ANDERSON PIPELINE
8237274	F-7C-046807	4210532185		108		LAURA HOOVER ESTATE "C" 1-41	OZONA (CANYON SAND)	0.0	ANDERSON PIPELINE
8237275	F-7C-046812	4210532225		108		MOODY MINERALS "A" 3-29A	OZONA (CANYON SAND)	0.0	ANDERSON PIPELINE
-ARCADIA REFINING CO			RECEIVED: 06/10/82 JA: TX						
8237214	F-06-041384	4240131888		103	107-TF	T P CANNON #1	HENDERSON NORTH (COTT	0.0	UNITED GAS PIPELI
-ARCO OIL AND GAS COMPANY			RECEIVED: 06/10/82 JA: TX						
8237255	F-7C-045737	4231131652		103		P KYNETTE #29	S CAMPANA (QUEEN 5900	146.0	ARCO PETROLEUM PR
8237271	F-06-046726	4236531281		102-2	107-TF	S W WILCOTS GAS UNIT #2	CARTHAGE (COTTON VALL	200.0	SOUTHERN NATURAL
8237298	F-04-048313	4221531081		102-4		SCHUSTER GAS UNIT #2	DONNA (MONTGOMERY)	1080.0	TENNESSEE GAS PIP
8237509	F-08-051958	4232930985		103		W M SCHROCK"22" #7	SPRABERRY (TREND AREA	22.0	EL PASO NATURAL G
-ASPEN PETROLEUM INC			RECEIVED: 06/10/82 JA: TX						
8237487	F-10-051879	4217930898		103		SHERIDAN #7 04719	PANHANDLE GRAY COUNTY	72.0	CABOT PIPELINE CO
8237486	F-10-051878	4217930980		103		SHERIDAN #8 04719	PANHANDLE GRAY COUNTY	72.0	CABOT PIPELINE CO
-ASTRO PRODUCTION INC			RECEIVED: 06/10/82 JA: TX						
8237485	F-34-051622	4247932969		102-2		HAIZLIP #6	LAREDO N (WILCOX)	691.0	TRANSCONTINENTAL

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-ATARCO									

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-ATAPCO						
8237424	F-09-051718	4249731553				RECEIVED: 06/10/82 JA: TX
8237425	F-09-051721	4249732069		103		EAST UNIT #3-3 #16204
-BAJA ENERGY INC				103		EAST UNIT #4-6 #16204
8237387	F-7C-051365	4208131188				RECEIVED: 06/10/82 JA: TX
-BEAL OPERATING				102-4		PRICE "A" #1
8237237	F-7B-043791	4208300080				RECEIVED: 06/10/82 JA: TX
-BERT FIELDS JR				102-4		RUTH ANN HEMPHILL #5 (096241)
8237234	F-7C-043664	4238300000				RECEIVED: 06/10/82 JA: TX
8237233	F-7C-043658	4238300000		108		UNIVERSITY "E" #2
-BILL FORNEY INC				108		UNIVERSITY "F" #7
8237493	F-02-051891	4229732703				RECEIVED: 06/10/82 JA: TX
-BLACK JACK RESOURCES INC				102-4		J T LYNE GAS "B" #2 RRC# 098616
8237294	F-83-047991	4248132116				RECEIVED: 06/10/82 JA: TX
-BLAIR OIL COMPANY				103		DONALD DUNCAN #1
8237408	F-10-051657	4223300000				RECEIVED: 06/10/82 JA: TX
-BLAIR OIL COMPANY				108		KIRK-FARRINGTON #1
8237250	F-10-045829	4206530930				RECEIVED: 06/10/82 JA: TX
-BLUESKY OIL & GAS INC				103		SHELIA #4
8237267	F-03-046358	4205131452				RECEIVED: 06/10/82 JA: TX
-BOB WALLACE OIL INC				102-2	103	W HELWIG #1
8237354	F-10-050840	4206531080				RECEIVED: 06/10/82 JA: TX
-CAMBRIDGE & NAIL				103		CULBERTSON (04944) # 4-6
8237196	F-10-036838	4221131053				RECEIVED: 06/10/82 JA: TX
-CARAWAY OPERATING CO				108		HUMPHREYS #1 ID NO 81020
8237468	F-7C-051795	4241331188				RECEIVED: 06/10/82 JA: TX
-CHAMPLIN PETROLEUM COMPANY				103		MRS A B THOMERSON "B" #2H (09375)
*8237195	F-04-035121	4224900000				RECEIVED: 06/10/82 JA: TX
-CHEVRON U S A INC				108		G P WARDNER #119
8237291	F-03-047775	4235130358				RECEIVED: 06/10/82 JA: TX
8237451	F-8A-051765	4241532134		102-4		C T BLEDSOE "B" UNIT #1
8237452	F-8A-051766	4241532115		103		SACROC UNIT #39-8
8237453	F-8A-051767	4241532022		103		SACROC UNIT #68-7
8237458	F-8A-051784	4241532117		103		SACROC UNIT #69-5
-CITIES SERVICE COMPANY				103		SACROC UNIT #71-7
8237436	F-08-051740	4238931208				RECEIVED: 06/10/82 JA: TX
-CLEMENTS ENERGY INC				103		PERKINS F #1
8237496	F-08-051897	4249531322				RECEIVED: 06/10/82 JA: TX
-COLUMBIA GAS DEVELOPMENT CORP				103		VEST RANCH #1
8237500	F-03-051922	4205131876				RECEIVED: 06/10/82 JA: TX
-CONOCO INC				102-2		MARION J FILIPPONE #6
8237284	F-04-040017	4250531367				RECEIVED: 06/10/82 JA: TX
-CONSOLIDATED OIL & GAS INC				103	107-TF	BELIA R BENAVIDES "B" #2
8237474	F-04-051827	4247932411				RECEIVED: 06/10/82 JA: TX
-COPET INC				103	107-TF	HACHAR #15
8237392	F-7B-051434	4204900000				RECEIVED: 06/10/82 JA: TX
-COTTON PETROLEUM CORPORATION				103		OLIVER STEEL/JENNY BELL FISHER A-2
8237263	F-08-046195	4247532362				RECEIVED: 06/10/82 JA: TX
8237258	F-7C-046092	4246131778		103		UNIVERSITY 18-18 #1
-CROWN EXPLORATION CO				103		UNIVERSITY 3-9 #1
8237379	F-7B-051313	4215100000				RECEIVED: 06/10/82 JA: TX
-DAVID A SCHLACHTER OIL & GAS				103		PLEMONS #2
8237352	F-08-050377	4200333016				RECEIVED: 06/10/82 JA: TX
				103		CASCADE "B" #3

FIELD NAME	PROD	PURCHASER
ALVORD SOUTH (CADDO C	2.0	MITCHELL ENERGY C
ALVORD SOUTH (CADDO C	5.4	MITCHELL ENERGY C
ACR (CANYON)	71.0	SUN OIL CO
HEMPHILL (MORRIS)	90.0	ODESSA NATURAL CO
BLOCK 49 (2450)	0.0	J L DAVIS
BLOCK 49 (2450)	1.3	J L DAVIS
CHARLINE (FORNEY)	0.0TRA	NSCONTINE NTAL
EGYPT FIELD (ALEX EDG	54.8	TEXAS EASTERN TRA
SHIRLEY-TONKAWA	20.0	NORTHERN NATURAL
PANHANDLE - CARSON CO	0.0	PANHANDLE EASTERN
GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
PANHANDLE CARSON COUN	81.0	CABOT PIPELINE CO
TWISTER (DOUGLAS)	0.0	NORTHERN NATURAL
TOE NAIL (STRAWN)	53.0	ARCO OIL & GAS CO
STRATTON	13.5	TENNESSEE GAS PIP
LEMONVILLE (YEGUA L)	401.5	VALERO TRANSMISSI
KELLY-SNYDER	6.0	EL PASO NATURAL G
KELLY-SNYDER	7.0	EL PASO NATURAL G
KELLY-SNYDER	41.0	EL PASO NATURAL G
KELLY-SNYDER	27.0	EL PASO NATURAL G
COLLIE (DELAWARE)	23.0	INTRATEX GAS CO
ARENOSO (STRAWN DETRI	60.0	PHILLIPS PETROLEU
GIDDINGS (AUSTIN CHAL	4.0	FERGUSON CROSSING
HONDIDO (LOBO)	700.0	
LAREDO (NAVARRO)	121.0	VALERO TRANSMISSI
BROWN COUNTY REGULAR	10.0	LONE STAR GAS CO
WAR-WINK SO (WOLFCAMP	0.0	TEXACO INC
SPRAYBERRY (TREND ARE	10.0	PHILLIPS PETROLEU
ROYSTON	0.0	LONE STAR GAS CO
GOLDSMITH N (SAN ANDR	17.5	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-DAVIS OIL COMPANY				RECEIVED:	06/10/82	JA: TX			
8237350	F-7C-050754	4209530585		102-4		SMITH LAND & CATTLE COMPANY #1	PAINT ROCK SW (GARDNE	438.0	LONE STAR GAS CO
-DELTA DRILLING CO				RECEIVED:	06/10/82	JA: TX			
8237190	F-7C-018720	4243500000		108-ER		SHURLEY #2	SAWYER (CANYON SAND)	21.9	NORTHERN NATURAL
-DELTA OIL & GAS CO				RECEIVED:	06/10/82	JA: TX			
8237342	F-7B-050651	4242900000		103		DICK ATKINS RRC #80504	CRYSTAL FALLS EAST (C	0.0	SUN GAS TRANSMISS
8237477	F-7B-051845	4242900000		108		M M ROGERS ESTATE "H" RRC #16849 #1	STEPHENS COUNTY REGUL	5.4	LONE STAR GAS CO
8237375	F-7B-051250	4236300000		103		ROGERS ROGERS & KING "A" RRC #85838	R R & K (2900)	0.0	LONE STAR GAS CO
-DEMARCO OIL & GAS INC				RECEIVED:	06/10/82	JA: TX			
8237344	F-7B-050667	4244131758		103		PATTERSON 17466	LAWN SOUTHWEST	12.0	UNION TEXAS PETRO
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	06/10/82	JA: TX			
8237264	F-7B-046213	4236332739		103		PARISH 36 #1	JVT	0.0	
8237497	F-10-051908	4221100000		108		WILLIAM DALE NIX "R" #1-89	CANADIAN NW	7.0	NORTHERN NATURAL
-EL RAN INC				RECEIVED:	06/10/82	JA: TX			
8237394	F-8A-051459	4221900000		103		DAVIS #11 RRC #61676	LEVELLAND	89.8	EL PASO NATURAL G
-ENSERCH EXPLORATION INC				RECEIVED:	06/10/82	JA: TX			
8237283	F-06-047093	4218300000		108		B A SKIPPER "A" #1	WILLOW SPRINGS	1.0	WESTERN GAS CORP
-EXXON CORPORATION				RECEIVED:	06/10/82	JA: TX			
8237292	F-02-04848	4229732609		103		CHARLES MCCASLIN #18F #98109	RAMIRENA SW (YEGUA 7	778.0	NATURAL GAS PIPEL
8237504	F-04-051933	4213135188		102-4		D C R C STATE "A"-4 (94924)	GOV'T WELLS N (A-93)	115.0	
8237402	F-04-051604	4204730983		102-4		D J SULLIVAN "B" 53 (10813)	PITA (C-10-E SEG II)	26.8	TENNESSEE GAS PIP
8237398	F-08-051408	4208332937		103		FULLERTON CLEARFORK UNIT #1243	FULLERTON	15.0	PHILLIPS PETROLEU
8237373	F-08-051243	4200332967		103		FULLERTON CLEARFORK UNIT #3119	FULLERTON	15.8	PHILLIPS PETROLEU
*8237585	F-03-051937	4215731178		103		J M P DAVIS EST #62-L	THOMPSON SOUTH	320.0	ARMCO STEEL CORP
*8237492	F-04-051888	4227331184		102-4		K R VISNAGA 16 (097711)	YEARY (I-15)	255.0	ARMCO STEEL CORP
*8237487	F-03-051656	4215731202		103		LOCKWOOD & SHARP "A" #95	THOMPSON	17.0	ARMCO STEEL CORP
8237374	F-08-051245	4200333059		103		MEANS/SAN ANDRES/UNIT #1456	MEANS	15.0	PHILLIPS PETROLEU
8237583	F-04-051932	4224730834		102-4		MRS A M K BASS "B" 17-D (90027)	KELSEY DEEP (6060)	3.6	TRUNKLINE GAS CO
8237395	F-7C-051476	4241330958		107-TF		PEARL WILLIAMS #10U	DOVE CREEK (CANYON C)	196.8	NORTHERN NATURAL
*8237348	F-04-050709	4204730992		102-4		RJK JR TR VIBORAS PAST 98 (098896)	VIBORAS (ZONE 1 VIII	65.0	ARMCO STEEL CORP
8237288	F-8A-047550	4216532227		103		ROBERTSON CLEARFORK UNIT #8303	ROBERTSON N (CLEARFOR	15.0	PHILLIPS PETROLEU
8237403	F-04-051605	4226130648		103		SARITA FIELD OIL & GAS 168 (086963)	SARITA (3-E)	55.0	NATURAL GAS PIPEL
8237435	F-04-051738	4226130649		103		SARITA FIELD OIL & GAS 169 (09964)	SARITA (7-8.W)	5.0	NATURAL GAS PIPEL
8237391	F-04-051404	4226130562		103		SARITA GAS UNIT 7 2-D (97534)	SARITA (FLEMING)	234.8	NATURAL GAS PIPEL
8237305	F-04-048767	4248930673		103		SAUZ RANCH MULATOS PAST 175 (09940	WILLAMAR WEST (MIOCEN	200.0	NATURAL GAS PIPEL
8237353	F-7C-050810	4246131739		103		STATE UNIVERSITY "EJ" #1	SPRABERRY (TREND AREA	21.0	
8237506	F-03-051938	4228131338		103		WEBSTER FIELD UNIT #1322	WEBSTER	176.0	HOUSTON PIPELINE
-FARGO ENERGY CORP				RECEIVED:	06/10/82	JA: TX			
8237410	F-03-051662	4205132129		102-2		BURLESON FEDERAL #1	GIDDINGS (AUSTIN CHAL	365.0	PHILLIPS PETROLEU
8237409	F-03-051661	4214930970		102-2		CASPER #1 RRC #14235	GIDDINGS (AUSTIN CHAL	1.8	PHILLIPS PETROLEU
-FISHER-WEBB INC				RECEIVED:	06/10/82	JA: TX			
8237449	F-7C-051763	4208131099		103		HARRIS "B" #4	BLOODWORTH SOUTH (570	30.0	SUN GAS CO
8237456	F-7C-051775	4208130985		103		HARRIS ESTATE #2	BLOODWORTH SOUTH (570	50.0	SUN EXPLORATION &
-FRANK CASS				RECEIVED:	06/10/82	JA: TX			
8237314	F-7C-049416	4243532681		103	107-TF	ALLISON-MIERS 8001 RRC #098339	SAWYER (CANYON)	300.0	EL PASO NATURAL G
-GAS DEVELOPMENT CORP				RECEIVED:	06/10/82	JA: TX			
8237307	F-7C-048870	4243532633		103	107-TF	JO NELL JOHNSON "18" #4	JO NELL (CANYON "D")	182.5	NORTHERN NATURAL
-GAYLYN EXPLORATION-TENSTRIKE				RECEIVED:	06/10/82	JA: TX			
8237385	F-09-051348	4223700000		102-4		J D WALDEN #1	WALDEN (3318)	75.0	SOUTHWESTERN GAS
-GENERAL PRODUCTION CORP				RECEIVED:	06/10/82	JA: TX			
8237241	F-06-044415	4295100000		103		HELEN DOSS "A" #1	WILLARD (NAVARRO)	8.0	FERGUSON CROSSING
8237323	F-03-049797	4247730455		103		SCOTT-LEWIS UNIT #1	GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO
-GETTY OIL COMPANY				RECEIVED:	06/10/82	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8237240	F-06-044346	4236500000		103	107-TF	BEALL NORMAN #5
8237236	F-06-043715	4236500000		103	107-TF	BLANKENSHIP #3
8237244	F-06-044573	4236500000		103	107-TF	E C POWERS #4
8237238	F-06-043898	4240100000		102-4	103	J N HALE #1
8237243	F-06-044572	4236500000		103	107-TF	J T ROSS UNIT #3
8237272	F-06-046765	4236500000		103	107-TF	WERNER-WHITE #1
-GHR ENERGY CORP				RECEIVED: 06/10/82 JA: TX		
8237295	F-04-048000	4250531362		102-4	107-TF	MCASKILL #6
8237286	F-04-047451	4247933038		102-4	107-TF	ROTTERSMAN #3
8237300	F-04-048500	4247900000		102-4	107-TF	VAQUILLAS #6
-GMV CORP				RECEIVED: 06/10/82 JA: TX		
8237331	F-08-050360	4230130322		107-DP		SHARP NOSE #1
-GOLDEN ENGINEERING INC				RECEIVED: 06/10/82 JA: TX		
8237311	F-03-049177	4214931254		102-2		RICHARD C ULLRICH #1
-GOLDKING PRODUCTION COMPANY				RECEIVED: 06/10/82 JA: TX		
8237266	F-04-046278	4221500000		102-4		HANKAMER "A" #3
8237265	F-04-046236	4235500000		102-4		MANLEY #2-L
-GUEST ENERGY CORP				RECEIVED: 06/10/82 JA: TX		
8237327	F-78-049977	4213333160		103		BACON #1
-GULF OIL CORPORATION				RECEIVED: 06/10/82 JA: TX		
8237201	F-89-039096	4239330844		102-4		CHAMBERS J S #3-66
8237188	F-10-07535	4239300000		108-ER		JOHN HAGGARD #15
8237202	F-10-039751	4219597018		108		SHELTON #1
-GUPTON GAS CO				RECEIVED: 06/10/82 JA: TX		
8237384	F-78-051344	4236700000		103		DOSS #1 096635
-H L BROWN JR				RECEIVED: 06/10/82 JA: TX		
8237427	F-08-051727	4231732418		103		CORONET #1
8237426	F-08-051726	4231732440		103		SLAUGHTER-HARRIS #3
-H V RISIEN				RECEIVED: 06/10/82 JA: TX		
8237389	F-84-049056	4224931497		103		BUEHRING CARVER #3
-HANLEY COMPANY				RECEIVED: 06/10/82 JA: TX		
8237459	F-7C-051783	4238332133		103		UNIVERSITY 2-25A (7C-09337) #1
8237462	F-7C-051786	4238332140		103		UNIVERSITY 2-25B (7C-09338) #1
8237461	F-7C-051785	4238332146		103		UNIVERSITY 2-25C (7C-09380) #1
8237460	F-7C-051784	4238332145		103		UNIVERSITY 2-25D (7C-09379) #1
8237463	F-7C-051787	4238331988		103		UNIVERSITY 2-26C (7C-09378) #1
-HANSON MINERALS CO				RECEIVED: 06/10/82 JA: TX		
8237222	F-81-042159	4231131564		102-4		HAGIST RANCH GAS UNIT #1
-HEWIT & DOUGHERTY				RECEIVED: 06/10/82 JA: TX		
8237588	F-82-051955	4239100000		103		ROCHE "D" #4
-HEXAGON OIL & GAS INC				RECEIVED: 06/10/82 JA: TX		
8237433	F-78-051735	4236332737		103		COLE #1
8237434	F-78-051736	4236332653		103		DUNAWAY #1
8237432	F-78-051734	4237332712		103		FULTON #1
8237431	F-78-051733	4236332707		103		GILBERT #1
8237428	F-78-051729	4236332708		103		GOLDSTON #1
8237430	F-78-051731	4236332672		103		MATNEY #1
-HEYDRICK PETROLEUM CO				RECEIVED: 06/10/82 JA: TX		
8237377	F-89-051257	4207732559		103		A VEITENHEIMER 1-C
8237376	F-09-051256	4207700000		103		AL R LINDEMAN #1 RRC#21227
8237366		4207732109		102-4		P VEITENEHIMER #1 RRC#-21373
-HILL INTERNATIONAL PRODUCTION CO				RECEIVED: 06/10/82 JA: TX		
8237228	F-06-041089	4240100000		103	107-TF	N C NORRIS #2

FIELD NAME	PROD	PURCHASER
CARTHAGE (COTTON VALL	0.0	UNITED GAS PIPELI
CARTHAGE (COTTON VALL	0.0	UNITED GAS PIPELI
CARTHAGE (COTTON VALL	8.0	UNITED GAS PIPELI
REDWINE (TRAVIS PEAK	0.0	UNITED GAS PIPELI
CARTHAGE (COTTON VALL	6.8	UNITED GAS PIPELI
CARTHAGE (COTTON VALL	0.0	UNITED GAS PIPELI
MCASKILL (LOBO 9900)	110.0	VALERO TRANSMISSI
ROTTERSMAN (9820)	365.0	VALERO TRANSMISSI
VAQUILLAS RANCH (WILC	219.0	VALERO TRANSMISSI
ARAPAHO (MORROW)	237.0	EL PASO NATURAL G
GIDDINGS (AUSTIN CHAL	117.0	CLAJON GAS CO
SAN SALVADOR (7750')	0.0	ESPERANZA PIPELIN
DOUGHTY (FRIO 9950')	0.0	HOUSTON PIPELINE
MANGUM NORTH (3200)	3.0	ODESSA NATURAL CO
WILDCAT	110.0	MICHIGAN WISCONSI
QUINDUNO	0.5	NATURAL GAS PIPEL
CLEMENTINE	4.8	NORTHERN NATURAL
(NEW FIELD DISCOVERY)	180.0	LONE STAR GAS CO
SULPHUR DRAW (DEAN 87	24.5	GETTY OIL CO
SULPHUR DRAW (DEAN)	547.5	GETTY OIL CO
WADE CITY (HET 2980)	485.0	VALERO TRANSMISSI
SPRABERRY (TREND AREA	8.0	NORTHERN NATURAL
SPRABERRY (TREND AREA	8.0	NORTHERN NATURAL
SPRABERRY (TREND AREA	8.0	NORTHERN NATURAL
SPRABERRY (TREND AREA	8.0	NORTHERN NATURAL
SPRABERRY (TREND AREA	8.0	NORTHERN NATURAL
HAGIST RANCH (800')	73.0	SEAGULL PIPELINE
ROCHE WEST (6300' SAN	51.1	TENNESSEE GAS PIP
MORGAN MILL (MARBLE F	206.0	INTRASTATE GATHER
BRAZOS E (CADDO)	68.0	INTRASTATE GATHER
MORGAN MILL (MARBLE F	74.0	INTRASTATE GATHER
MORGAN MILL (MARBLE F	21.0	INTRASTATE GATHER
MORGAN MILL (MARBLE F	127.0	INTRASTATE GATHER
MORGAN MILL (MARBLE F	25.0	INTRASTATE GATHER
SCALING RANCH SOUTH (	1.8	FAGADAU ENERGY CO
SCALING RANCH SOUTH (	8.7	FAGADAU ENERGY CO
ARROWHEAD (CADDO)	1.6	FAGADAU ENERGY CO
OAK HILL (COTTON VALL	0.0	DELHI GAS PIPELIN

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-HMG OIL COMPANY				RECEIVED:	06/10/82	JA: TX
8237187	F-10-004819	4221130911		103	107-TF	L L JONES "36" #1
8237349	F-7C-050730	4243500000		103	107-TF	SHURLEY "141" #5
-HUMBLE EXPLORATION CO INC				RECEIVED:	06/10/82	JA: TX
8237232	F-03-043592	4228700000		102-2	103	JOSIE LAUDERDALE #1
8237249	F-03-044985	4247700000		102-2	103	OCTAVIA #1 -
8237247	F-01-044838	4217700000		102-2	103	RACHEL #1 -
-HUNT OIL COMPANY				RECEIVED:	06/10/82	JA: TX
8237337	F-06-050517	4228930442		102-2		CHALLACOMBE RANCH #1
-J A MARCH				RECEIVED:	06/10/82	JA: TX
8237324	F-7C-049806	4245130799		102-4	103	JOHNSON RANCH #1
-J C MCCABE				RECEIVED:	06/10/82	JA: TX
8237278	F-04-046538	4250531395		103		MINNANT HEIRS "A"-1
8237269	F-04-046536	4250531395		103		MINNANT HEIRS "A"-2
-J CLEO THOMPSON & JAMES CLEO THOMPS				RECEIVED:	06/10/82	JA: TX
8237361	F-7C-051161	4210533900		102-4		UNIVERSITY 30-27 #1
-J M HUBER CORPORATION				RECEIVED:	06/10/82	JA: TX
8237347	F-10-050682	4223331283		103		MAGNOLIA HERRING #22
-JAKO OIL OF TEXAS INC				RECEIVED:	06/10/82	JA: TX
8237304	F-7B-048691	4213333402		102-4		HARRELSON #1
-JOHN L COX				RECEIVED:	06/10/82	JA: TX
8237219	F-08-041785	4232900000		103		BUCHANAN "B" #1-X RRC #21513
8237261	F-08-046140	4231700080		103		GRAY UNIT #2 RRC #15885
8237259	F-08-046137	4231732449		103		HOUSTON WOODY #2-4 RRC #21906
8237203	F-08-039877	4231700000		103		MARY WOLERT #1-X RRC #22332
8237260	F-08-046138	4231732466		103		MELTON MCMORRIES #1
8237218	F-7C-041765	4246131797		103		POWELL "13" #1
8237197	F-7C-038014	4246131773		103		POWELL "16" #1 RRC #09153
8237216	F-7C-041757	4246131796		103		POWELL "26" #1
8237262	F-7C-046146	4238332122		103		ROCKER B "F" #5-4 RRC #04577
8237217	F-7C-041761	4238300000		103		ROCKER B "K" #5-X RRC #04686
-JONES CO				RECEIVED:	06/10/82	JA: TX
8237411	F-7B-051671	4241733837		102-4		MATTHEWS "14" #2 (95818)
8237412	F-7B-051672	4241733376		102-4		MATTHEWS "23" #1 (90296)
8237413	F-7B-051674	4241733688		102-4		MATTHEWS "23" #3 (16914)
8237414	F-7B-051676	4241734106		102-4		MATTHEWS "23" #5 (17096)
8237488	F-7B-051881	4241733556		102-4		NEWELL "114" #1 (16672)
8237489	F-7B-051883	4241733618		102-4		NEWELL "114" #2 (094514)
8237490	F-7B-051884	4241733557		102-4		NEWELL "2" #1 (092722)
8237511	F-7B-051962	4205932692		103		RAY GREEN "2295" #1 (15928)
8237510	F-7B-051961	4205933208		103		RAY GREEN "2295" #2 (15928)
8237513	F-7B-051964	4205933277		103		RAY GREEN "2295A" #2 (17227)
8237512	F-7B-051963	4205933369		103		RAY GREEN "2295A" #4 (17227)
8237352	F-7B-050795	4242903160		102-4		ROY CORBETT #6
8237338	F-7B-050565	4241734160		102-4		SOUTH GREEN "68B" #1
-L & L PETROLEUM CORPORATION				RECEIVED:	06/10/82	JA: TX
8237381	F-02-051326	4229732752		102-4	103	ANNA MAY MCNEILL #1
-LAYTON ENTERPRISES INC				RECEIVED:	06/10/82	JA: TX
8237400	F-8A-051521	4207931476		103		REED WRIGHT #33
-LIVINGSTON ENERGY CORP				RECEIVED:	06/10/82	JA: TX
8237228	F-08-043196	4236300000		103		LINUS TUCKER #1
-LLOYD PATTON				RECEIVED:	06/10/82	JA: TX
8237429	F-7B-051730	4233243200		102-4		BENNIE W EVANS JR #1

FIELD NAME	PROD	PURCHASER
VIKING	306.0	KANSAS NEBRASKA N
SAWYER (CANYON)	0.0	INTRATEX GAS CO
GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
PEACH CREEK (AUSTIN C	0.0	
SUPRON (PETTIT)	630.0	LONE STAR GAS CO
JOHNSON RANCH (ELLENB	136.0	PRODUCERS GAS CO
MINNANT RANCH FIELD	36.0	HOUSTON PIPE LINE
MINNANT RANCH FIELD	72.0	HOUSTON PIPE LINE
UNIVERSITY 31 (QUEEN)	150.0	
PANHANDLE	43.0	COLORADO INTERSTA
RICHARDSON (MARBLE FA	55.0	SOUTHWESTERN GAS
SPRABERRY (TREND AREA	18.0	PHILLIPS PETROLEU
SPRABERRY (TREND AREA	10.0	PHILLIPS PETR CO
SPRABERRY (TREND AREA	18.0	ALPINE OIL CO
SPRABERRY (TREND AREA	10.0	ALPINE OIL CO
SPRABERRY (TREND AREA	16.0	ALPINE OIL CO
SPRABERRY (TREND AREA	10.0	MOBIL PRODUCING T
SPRABERRY (TREND AREA	10.0	MOBIL PRODUCING T
SPRABERRY (TREND AREA	10.0	MOBIL PRODUCING T
SPRABERRY (TREND AREA	10.0	EL PASO NATURAL G
SPRABERRY (TREND AREA	18.0	EL PASO NATURAL G
MATTHEWS (CONGLOMERAT	206.0	DELHI GAS PIPELIN
MATTHEWS (CADDO)	1236.0	DELHI GAS PIPELIN
MATTHEWS (CHAPPEL)	46.0	DELHI GAS PIPELIN
MATTHEWS (ELLEN)	55.0	DELHI GAS PIPELIN
NEWELL (MISSISSIPPIAN	99.0	DELHI GAS PIPELIN
NEWELL (CADDO)	188.0	DELHI GAS PIPELIN
NEWELL (CADDO)	139.0	DELHI GAS PIPELIN
CALLAHAN COUNTY REGUL	1.0	DELHI GAS PIPELIN
CALLAHAN COUNTY REGUL	1.0	DELHI GAS PIPELIN
CALLAHAN COUNTY REGUL	1.0	DELHI GAS PIPELIN
CALLAHAN COUNTY REGUL	1.0	DELHI GAS PIPELIN
CORBETT (STRAWN)	496.0	SOUTHWESTERN GAS
ROCKWELL E (CONGL)	684.0	DELHI GAS PIPELIN
MCNEILL (YEGUA 5800)	182.0	VALLEY GAS TRANSM
LEVELLAND	7.8	CITIES SERVICE CO
RECTOR (MARBLE FALLS)	81.0	CHRISTIE GAS TRAN
GORDON S E (CONGLOMER	365.0	LONE STAR GAS CO

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-LLOYD PATTON				RECEIVED:	06/10/82	JA: TX
8237430	F-7B-051731	4233243201		102-4		BENNIE W EVANS JR #2
-LOMAX EXPLORATION CO				RECEIVED:	06/10/82	JA: TX
8237316	F-7C-050450	4246131800		103		POWELL "14" #1
-LONE STAR PRODUCING CO				RECEIVED:	06/10/82	JA: TX
8237284	F-7C-049000	4246131787		103		POWELL "A" #1
-M & M OIL CO				RECEIVED:	06/10/82	JA: TX
8237222	F-7C-042000	4246131776		103		POWELL "A" #2
-MAGNOLIA PETROLEUM CO				RECEIVED:	06/10/82	JA: TX
8237208	F-7C-039877	4246131774		103		POWELL "A" #3
-MARATHON OIL CO				RECEIVED:	06/10/82	JA: TX
8237209	F-7C-039877	4246131775		103		POWELL "A" #4
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237210	F-7C-039877	4246131777		103		POWELL "A" #5
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237211	F-7C-039877	4246131778		103		POWELL "A" #6
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237212	F-7C-039877	4246131779		103		POWELL "A" #7
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237213	F-7C-039877	4246131780		103		POWELL "A" #8
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237214	F-7C-039877	4246131781		103		POWELL "A" #9
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237215	F-7C-039877	4246131782		103		POWELL "A" #10
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237220	F-7C-041766	4246131783		103		POWELL "A" #11
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237221	F-7C-041767	4246131784		103		POWELL "A" #12
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237223	F-7C-042001	4246131785		103		POWELL "A" #13
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237224	F-7C-042002	4246131786		103		POWELL "A" #14
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237225	F-7C-042003	4246131788		103		POWELL "A" #15
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237226	F-7C-042004	4246131789		103		POWELL "A" #16
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237227	F-7C-042005	4246131790		103		POWELL "A" #17
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237229	F-7C-043197	4246131791		103		POWELL "A" #18
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237230	F-7C-043198	4246131792		103		POWELL "A" #19
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237231	F-7C-043199	4246131793		103		POWELL "A" #20
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237233	F-7C-043200	4246131794		103		POWELL "A" #21
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237234	F-7C-043201	4246131795		103		POWELL "A" #22
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237235	F-7C-043202	4246131798		103		POWELL "A" #23
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237236	F-7C-043203	4246131799		103		POWELL "A" #24
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237237	F-7C-043204	4246131801		103		POWELL "A" #25
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237238	F-7C-043205	4246131802		103		POWELL "A" #26
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237239	F-7C-043206	4246131803		103		POWELL "A" #27
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237240	F-7C-043207	4246131804		103		POWELL "A" #28
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237241	F-7C-043208	4246131805		103		POWELL "A" #29
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237242	F-7C-043209	4246131806		103		POWELL "A" #30
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237243	F-7C-043210	4246131807		103		POWELL "A" #31
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237244	F-7C-043211	4246131808		103		POWELL "A" #32
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237245	F-7C-043212	4246131809		103		POWELL "A" #33
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237246	F-7C-043213	4246131810		103		POWELL "A" #34
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237248	F-7C-044984	4246131811		103		POWELL "A" #35
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237250	F-7C-044986	4246131812		103		POWELL "A" #36
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237251	F-7C-044987	4246131813		103		POWELL "A" #37
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237252	F-7C-044988	4246131814		103		POWELL "A" #38
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237253	F-7C-044989	4246131815		103		POWELL "A" #39
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237254	F-7C-044990	4246131816		103		POWELL "A" #40
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237255	F-7C-044991	4246131817		103		POWELL "A" #41
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237256	F-7C-044992	4246131818		103		POWELL "A" #42
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237257	F-7C-044993	4246131819		103		POWELL "A" #43
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237258	F-7C-044994	4246131820		103		POWELL "A" #44
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237263	F-7C-046147	4246131821		103		POWELL "A" #45
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237264	F-7C-046148	4246131822		103		POWELL "A" #46
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237265	F-7C-046149	4246131823		103		POWELL "A" #47
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237266	F-7C-046150	4246131824		103		POWELL "A" #48
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237267	F-7C-046151	4246131825		103		POWELL "A" #49
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237268	F-7C-046152	4246131826		103		POWELL "A" #50
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237270	F-7C-046153	4246131827		103		POWELL "A" #51
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237271	F-7C-046154	4246131828		103		POWELL "A" #52
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237272	F-7C-046155	4246131829		103		POWELL "A" #53
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237273	F-7C-046156	4246131830		103		POWELL "A" #54
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237274	F-7C-046157	4246131831		103		POWELL "A" #55
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237275	F-7C-046158	4246131832		103		POWELL "A" #56
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237276	F-7C-046159	4246131833		103		POWELL "A" #57
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237277	F-7C-046160	4246131834		103		POWELL "A" #58
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237279	F-7C-046161	4246131835		103		POWELL "A" #59
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237280	F-7C-046162	4246131836		103		POWELL "A" #60
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237281	F-7C-046163	4246131837		103		POWELL "A" #61
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237282	F-7C-046164	4246131838		103		POWELL "A" #62
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237283	F-7C-046165	4246131839		103		POWELL "A" #63
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237285	F-7C-049001	4246131840		103		POWELL "A" #64
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237286	F-7C-049002	4246131841		103		POWELL "A" #65
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237287	F-7C-049003	4246131842		103		POWELL "A" #66
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237288	F-7C-049004	4246131843		103		POWELL "A" #67
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237289	F-7C-049005	4246131844		103		POWELL "A" #68
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237290	F-7C-049006	4246131845		103		POWELL "A" #69
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237291	F-7C-049007	4246131846		103		POWELL "A" #70
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237292	F-7C-049008	4246131847		103		POWELL "A" #71
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237293	F-7C-049009	4246131848		103		POWELL "A" #72
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237294	F-7C-049010	4246131849		103		POWELL "A" #73
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237295	F-7C-049011	4246131850		103		POWELL "A" #74
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237296	F-7C-049012	4246131851		103		POWELL "A" #75
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237297	F-7C-049013	4246131852		103		POWELL "A" #76
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237298	F-7C-049014	4246131853		103		POWELL "A" #77
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237299	F-7C-049015	4246131854		103		POWELL "A" #78
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237300	F-7C-049016	4246131855		103		POWELL "A" #79
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237301	F-7C-049017	4246131856		103		POWELL "A" #80
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237302	F-7C-049018	4246131857		103		POWELL "A" #81
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237303	F-7C-049019	4246131858		103		POWELL "A" #82
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237305	F-7C-049020	4246131859		103		POWELL "A" #83
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237306	F-7C-049021	4246131860		103		POWELL "A" #84
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237307	F-7C-049022	4246131861		103		POWELL "A" #85
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237308	F-7C-049023	4246131862		103		POWELL "A" #86
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237309	F-7C-049024	4246131863		103		POWELL "A" #87
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237310	F-7C-049025	4246131864		103		POWELL "A" #88
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237311	F-7C-049026	4246131865		103		POWELL "A" #89
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237312	F-7C-049027	4246131866		103		POWELL "A" #90
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237313	F-7C-049028	4246131867		103		POWELL "A" #91
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237314	F-7C-049029	4246131868		103		POWELL "A" #92
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237315	F-7C-049030	4246131869		103		POWELL "A" #93
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237317	F-7C-050451	4246131870		103		POWELL "A" #94
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237318	F-7C-050452	4246131871		103		POWELL "A" #95
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237319	F-7C-050453	4246131872		103		POWELL "A" #96
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237320	F-7C-050454	4246131873		103		POWELL "A" #97
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237321	F-7C-050455	4246131874		103		POWELL "A" #98
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237322	F-7C-050456	4246131875		103		POWELL "A" #99
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237323	F-7C-050457	4246131876		103		POWELL "A" #100
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237325	F-7C-050458	4246131877		103		POWELL "A" #101
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237326	F-7C-050459	4246131878		103		POWELL "A" #102
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237327	F-7C-050460	4246131879		103		POWELL "A" #103
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237328	F-7C-050461	4246131880		103		POWELL "A" #104
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237329	F-7C-050462	4246131881		103		POWELL "A" #105
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237330	F-7C-050463	4246131882		103		POWELL "A" #106
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237331	F-7C-050464	4246131883		103		POWELL "A" #107
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237332	F-7C-050465	4246131884		103		POWELL "A" #108
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237333	F-7C-050466	4246131885		103		POWELL "A" #109
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237334	F-7C-050467	4246131886		103		POWELL "A" #110
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237335	F-7C-050468	4246131887		103		POWELL "A" #111
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237336	F-7C-050469	4246131888		103		POWELL "A" #112
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237339	F-7C-050470	4246131889		103		POWELL "A" #113
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237340	F-7C-050471	4246131890		103		POWELL "A" #114
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237341	F-7C-050472	4246131891		103		POWELL "A" #115
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237342	F-7C-050473	4246131892		103		POWELL "A" #116
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237343	F-7C-050474	4246131893		103		POWELL "A" #117
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237344	F-7C-050475	4246131894		103		POWELL "A" #118
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237345	F-7C-050476	4246131895		103		POWELL "A" #119
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237346	F-7C-050477	4246131896		103		POWELL "A" #120
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237348	F-7C-050478	4246131897		103		POWELL "A" #121
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237350	F-7C-050479	4246131898		103		POWELL "A" #122
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237351	F-7C-050480	4246131899		103		POWELL "A" #123
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237353	F-7C-050481	4246131900		103		POWELL "A" #124
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237354	F-7C-050482	4246131901		103		POWELL "A" #125
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237355	F-7C-050483	4246131902		103		POWELL "A" #126
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237356	F-7C-050484	4246131903		103		POWELL "A" #127
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/10/82	JA: TX
8237357	F-7C-050485	4246131904		103		POWELL "A" #128
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-MCCOMMONS OIL COMPANY				RECEIVED:	06/10/82	JA: TX
8237478	F-09-051851	4249700000		108		MONTGOMERY HEIRS #1
-MCCULLOCH OIL CORP OF TEXAS				RECEIVED:	06/10/82	JA: TX
8237355	F-10-050856	4221100000		108		STUDER #2
-MCIVER INC				RECEIVED:	06/10/82	JA: TX
8237225	F-7B-043070	4208300000		102-4		ETHEL MATHEWS #1
-MCMURREY PETROLEUM INC				RECEIVED:	06/10/82	JA: TX
8237242	F-05-044435	4246730515		103		H LONG #1
-MEG PETROLEUM CORP				RECEIVED:	06/10/82	JA: TX
8237439	F-7B-051748	4235331150		103		MCLAUGHLIN #5
-MERCURY EXPLORATION CO				RECEIVED:	06/10/82	JA: TX
8237370	F-7B-051222	4205933211		102-4		ALBERT BETCHER #1
8237367	F-7B-051216	4225331835		102-4		J W TINER #1
8237369	F-7B-051218	4225331890		102-4		JONES #1
8237368	F-7B-051217	4225331917		102-4		TINER "A" #1
-MELBOURNE OIL COMPANY				RECEIVED:	06/10/82	JA: TX
8237254	F-10-045525	4229530561		102-4		RADAR #1 RRC LSE #05007
8237383	F-10-051342	4229531154		103		SCHULTZ "716" #2 RRC ID #05053
-MILES PRODUCTION CO				RECEIVED:	06/10/82	JA: TX
8237359	F-09-051146	4223734184		102-4		M P NOEFLE "F" #2 (PENDING)
-MITCHELL ENERGY CORPORATION				RECEIVED:	06/10/82	JA: TX
8237210	F-09-040513	4223733434		103		I P LEWIS #2
8237290	F-09-047773	4249700000		108		M L WAGGONER #11 #29310
8237289	F-09-047763	4249700000		108		SAM LYNCH #1 20593
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:	06/10/82	JA: TX
*8237381	F-04-048509	4247932815		107-TF		SOUTH CALLAGHAN RANCH #5
-MONSANTO COMPANY				RECEIVED:	06/10/82	JA: TX
8237448	F-08-051759	4247532520		103		THORNTON #3
8237443	F-08-051754	4200333073		103		UNIVERSITY "A" 14-19 #1
8237442	F-08-051753	4200333074		103		UNIVERSITY "A" 14-19 #5
8237441	F-08-051752	4200333130		103		UNIVERSITY "A" 14-19 #6
8237440	F-08-051751	4200333125		103		UNIVERSITY "A" 14-19 #7
8237445	F-08-051756	4200333075		103		UNIVERSITY "B" 14-19 #1
8237446	F-08-051757	4200333129		103		UNIVERSITY "B" 14-19 #2
8237447	F-08-051758	4200333124		103		UNIVERSITY "B" 14-19 #3
8237444	F-7C-051755	4210533453		103		UNIVERSITY 46-13 #1
-MORROW RESOURCES INC				RECEIVED:	06/10/82	JA: TX
8237473	F-7C-051818	4245130909		102-2	107-TF	MATHEWS #3
-MOSBACHER PRODUCTION CO				RECEIVED:	06/10/82	JA: TX
8237470	F-03-051810	4248100000		108		DONALD DUNCAN #1
8237501	F-01-051924	4217731133		103		MELVA R BURGE #1
-MR OIL CO				RECEIVED:	06/10/82	JA: TX
8237483	F-08-051872	4247532418		103		MCFARLAND I B SEC 29 #15
-MURPHY M BAXTER				RECEIVED:	06/10/82	JA: TX
8237382	F-02-051332	4223931628		102-4		MCCORMACK #1
-MYRL M FURRY				RECEIVED:	06/10/82	JA: TX
8237330	F-7C-050347	4230730489		103		L S WALKER "C" #3
-NELSON & TUCKER OPERATING CO				RECEIVED:	06/10/82	JA: TX
8237329	F-03-050234	4248132151		102-4		DUNCAN A-10
-NORTH RIDGE CORP				RECEIVED:	06/10/82	JA: TX
*8237268	F-7B-046469	4213333441		102-4	103	B A DAVIS #1
-NUCORP ENERGY INC				RECEIVED:	06/10/82	JA: TX
8237362	F-03-051177	4228730980		102-2		MAURICE MALUSCHKA

FIELD NAME	PROD	PURCHASER
BOONSVILLE BEND (CONG	18.0	NATURAL GAS PIPEL
CANADIAN SE - DOUGLAS	18.0	NORTHERN NATURAL
TRICKHAM (CROSSCUT)	7.0	LONE STAR GAS CO
FRUITVALE EAST (RODES	288.0	UNITED GAS PIPELI
JHM (CANYON)	162.0	SUN GAS CO
TURNAROUND - GRAY SAN	32.0	LONE STAR GAS CO
ACE-TINER (CANYON REE	36.0	PALO DURO PIPELIN
ACE-JONES - CANYON RE	60.0	PALO DURO PIPELIN
ACE-TINER (CANYON REE	27.0	PALO DURO PIPELIN
CARROLL (CLEVELAND)	18.0	TRANSWESTERN PIPE
SKUNK CREEK (HEPLER)	30.0	TRANSWESTERN PIPE
ANTELOPE SE (MARBLE F	30.0	SOUTHWESTERN GAS
MARYETTA (ATOKA 5360)	60.0	SOUTHWESTERN GAS
BOONSVILLE (BEND CONG	18.4	LONE STAR GAS CO
GREENWOOD (ATOKA 6650	8.8	NATURAL GAS PIPEL
BECCERO CREEK (WILCOX	324.0	UNITED TEXAS TRAN
RHODA WALKER (CANYON	41.0	NORTHERN NATURAL
SHAFTER LAKE (SAN AND	6.0	
SHAFTER LAKE (SAN AND	7.0	
SHAFTER LAKE (SAN AND	7.0	
SHAFTER LAKE (SAN AND	7.0	
SHAFTER LAKE (SAN AND	14.0	
SHAFTER LAKE (SAN AND	5.0	
SHAFTER LAKE (SAN AND	6.0	
BLOCK 46 EAST (GRAYBU	6.0	
K M B (STRAWN)	117.7	LONE STAR GAS CO
DUNCAN (WILCOX)	1.0	VALERO TRANSMISSI
COST (AUSTIN CHALK)	143.0	VALERO TRANSMISSI
WARD-ESTES NORTH	63.0	WESTERN COUNTIES
WESTHOFF RANCH (FRIO	73.0	CHANNEL INDUSTRIE
WALKER - GRANT (STRAW	3.8	SIOUX PIPELINE CO
SPANISH CAMP NORTH 84	91.0	TEXAS EASTERN TRA
RANGER (BLACK LIME WE	8.8	PRISM ENTERPRISES
GIDDINGS (AUSTIN CHAL	9.0	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-ONEOK EXPLORATION CO				RECEIVED:	06/10/82	JA: TX			
8237293	F-10-047986	4229530688		103		KLEIWER UNIT #2	FOLLETT NW (MORROW UP	20.0	PHILLIPS PETROLEU
-OWL PETROLEUM CO				RECEIVED:	06/10/82	JA: TX			
8237284	F-03-047095	4208931192		103		W W ALLEN #1	GARWOOD	40.0	LONE STAR GAS CO
8237285	F-02-047096	4223900000		102-4		WILLIAM BORCHERS #2-T	MCDANIEL	60.0	TEXAS EASTERN TRA
-OXY PETROLEUM INC				RECEIVED:	06/10/82	JA: TX			
8237287	F-04-040151	4260330175		102-4		STATE LEASE M-77220 845-S #3 U	MATAGORDA ISLAND BLOC	720.0	CHANNEL INDUSTRIE
8237288	F-04-050152	4260330175		102-4		STATE LEASE M-77220 845-S #3L	MATAGORDA ISLAND BLOC	720.0	CHANNEL INDUSTRIE
-PAUL E CAMERON JR INC				RECEIVED:	06/10/82	JA: TX			
8237322	F-03-049791	4218500000		102-4		FREEMAN UNIT #1	IOLA EAST (GEORGETOWN	146.0	MORGAS CO
-POC GAS CO				RECEIVED:	06/10/82	JA: TX			
8237328	F-08-050168	4237100000		103		UNIVERSITY "A-3" #7	CARDINAL (QUEEN W)	36.0	NORTHERN NATURAL
-PEL-TEX OIL COMPANY INC				RECEIVED:	06/10/82	JA: TX			
8237191	F-03-028516	4215731122		102-4		M MILLER #1-T	ROSENBURG (FRIO 5600)	556.5	UNITED GAS PIPE L
-PENNZOIL PRODUCING COMPANY				RECEIVED:	06/10/82	JA: TX			
8237280	F-06-046972	4236531310		103	107-TF	TILLERY #3	BETHANY EAST/COTTON V	475.0	UNITED GAS PIPE L
-PETRO-LEWIS CORPORATION				RECEIVED:	06/10/82	JA: TX			
8237454	F-7C-051768	4223531891		103		ELLA C SUGG #5	HONDA	40.0	J L DAVIS CORP
-PETROLEUM TECHNICAL SERVICES CO				RECEIVED:	06/10/82	JA: TX			
8237356	F-10-050948	4229531129		103		BALLENTINE #1	MAMMOTH CREEK NORTH (	1525.0	TRANSWESTERN PIPE
-PETROLEUM UNLIMITED INC				RECEIVED:	06/10/82	JA: TX			
8237286	F-03-040186	4208931228		102-4		DORIS LEE CLIPSON #1	ROCK ISLAND (FRIO 342	127.8	HOUSTON PIPELINE
-PETRUS OPERATING CO INC				RECEIVED:	06/10/82	JA: TX			
8237360	F-06-051152	4240131303		102-4		CLARENCE MILEY #1	EZIM (PETTIT)	0.0	VALERO TRANSMISSI
8237336	F-06-050589	4240131334		102-4		MCMILLAN UNIT 2 #1	EZIM (PETTIT)	0.0	VALERO TRANSMISSI
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	06/10/82	JA: TX			
*8237321	F-10-049748	4223300000		108		BARNES B #2	MORSE S W BROWN DOLOM	0.0	EL PASO NATURAL G
8237479	F-08-051854	4213531992		108		COWDEN U #2	DONNALLY (SAN ANDRES)	5.0	EL PASO NATURAL G
8237194	F-10-033881	4248300000		108		DESON #12	PANHANDLE WHEELER	0.0	
8237351	F-08-050775	4200304596		108		EMBAR B #28-C	GOLDSMITH N (SAN ANDR	21.0	EL PASO NATURAL G
8237346	F-10-050679	4217900000		103		GATSY #4	PANHANDLE GRAY	0.0	
*8237192	F-10-030124	4242130247		103		STARNES G #2	TEXAS HUGOTON	0.0	EL PASO NATURAL G
8237227	F-08-043168	4200304784		108		UNIVERSITY ANDREWS #77	EMBAR (PERMIAN)	0.0	EL PASO NATURAL G
-PIONEER PRODUCTION CORPORATION				RECEIVED:	06/10/82	JA: TX			
8237358	F-8A-051059	4221933428		103		SCHOENROCK #1-21	MUNNIE (CLEARFORK)	0.0	
8237455	F-10-051771	4229500000		108		SCHULTZ "C" #1	MAMMOTH CREEK (CLEVEL	0.0	TRANSWESTERN PIPE
-POWCO OIL & GAS INC				RECEIVED:	06/10/82	JA: TX			
8237388	F-06-051372	4245900000		103	107-TF	B J PORTER JR #1	GLENWOOD (COTTON VALL	345.0	DELHI GAS PIPELIN
-PRAIRIE PRODUCING CO				RECEIVED:	06/10/82	JA: TX			
8237252	F-03-045238	4224130346		102-4		CHAMPION UNIT #1-C 014884	GIST WEST (6700 FB-B)	36.0	TEXAS EASTERN TRA
8237253	F-03-045238	4224130346		102-4		CHAMPION UNIT #1-T 096163	GIST WEST (7200 FB2)	360.0	TEXAS EASTERN TRA
8237282	F-06-047886	4234730656		102-4		HARTT #1 097203	NACONICHE CREEK (TRAV	400.0	UNITED GAS PIPELI
-PREMIUM OIL & GAS INC				RECEIVED:	06/10/82	JA: TX			
8237399	F-7C-051499	4245100000		103		KILE #1	KENT (STRAWN LOWER)	100.0	ARCO OIL & GAS CO
-PYRO ENERGY CORP				RECEIVED:	06/10/82	JA: TX			
8237345	F-01-050674	4217730000		102-2		J VLASAK #1	PEACH CREEK (AUSTIN C	0.0	VALERO TRANSMISSI
-QUINTEX PETROLEUM CORP				RECEIVED:	06/10/82	JA: TX			
8237219	F-02-041497	4229732614		102-4		E A HINES #1-L	MOUNTAINVIEW N E (WIL	700.0	VALERO TRANSMISSI
-R M ENGELKE				RECEIVED:	06/10/82	JA: TX			
8237287	F-02-047499	4223731175		103		JOHN M BENNETT "B" #1	LASALLE	42.9	TENNESSEE GAS PIP
-RALPH L WAY INC				RECEIVED:	06/10/82	JA: TX			
8237496	F-7C-051917	4238331893		103		UNIVERSITY "B" #14	FARMER (SAN ANDRES)	6.6	NORTHERN NATURAL
8237499	F-7C-051919	4238331892		103		UNIVERSITY "B" #15	FARMER (SAN ANDRES)	5.6	NORTHERN NATURAL

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-RAMCO OIL & GAS INC				RECEIVED:	06/10/82	JA: TX			
8237397	F-7C-051497	4245100000		103		KILE #2	KENT (STRAWN LOWER)	100.0	ARCO OIL & GAS CO
-RANCHO OIL CO				RECEIVED:	06/10/82	JA: TX			
8237290	F-03-047086	4208931228		102-4		DORIS LEE CLIPSON #2	ROCK ISLAND (FRIO 342	127.8	HOUSTON PIPELINE
-RANGER OIL CO				RECEIVED:	06/10/82	JA: TX			
8237240	F-02-041497	4229732614		102-4		E A HINES #1-L	MOUNTAINVIEW N E (WIL	700.0	VALERO TRANSMISSI
-RAYMOND OIL & GAS INC				RECEIVED:	06/10/82	JA: TX			
8237289	F-03-047086	4208931228		102-4		DORIS LEE CLIPSON #2	ROCK ISLAND (FRIO 342	127.8	HOUSTON PIPELINE
-RAYMOND PETROLEUM AGENCY				RECEIVED:	06/10/82	JA: TX			
8237291	F-03-047086	4208931228		102-4		DORIS LEE CLIPSON #2	ROCK ISLAND (FRIO 342	127.8	HOUSTON PIPELINE
-RAYMOND PETROLEUM AGENCY				RECEIVED:	06/10/82	JA: TX			
8237292	F-03-047086	4208931228		102-4		DORIS LEE CLIPSON #2	ROCK ISLAND (FRIO 342	127.8	HOUSTON PIPELINE
-RAYMOND PETROLEUM AGENCY				RECEIVED:	06/10/82	JA: TX			
8237293	F-03-047086	4208931228		102-4		DORIS LEE CLIPSON #2	ROCK ISLAND (FRIO 342	127.8	HOUSTON PIPELINE
-RAYMOND PETROLEUM AGENCY				RECEIVED:	06/10/82	JA: TX			
8237294	F-03-047086	4208931228		102-4		DORIS LEE CLIPSON #2	ROCK ISLAND (FRIO 342	127.8	HOUSTON PIPELINE
-RAYMOND PETROLEUM AGENCY				RECEIVED:	06/10/82	JA: TX			
8237295	F-03-047086	4208931228		102-4		DORIS LEE CLIPSON #2	ROCK ISLAND (FRIO 342	127.8	HOUSTON PIPELINE
-RAYMOND PETROLEUM AGENCY				RECEIVED:	06/10/82	JA: TX			
8237296	F-03-047086	4208931228		102-4		DORIS LEE CLIPSON #2	ROCK ISLAND (FRIO 342	127.8	HOUSTON PIPELINE
-RAYMOND PETROLEUM AGENCY				RECEIVED:	06/10/82	JA: TX			
8237297	F-03-047086	4208931228		102-4		DORIS LEE CLIPSON #2	ROCK ISLAND (FRIO 342	127.8	HOUSTON PIPELINE
-RAYMOND PETROLEUM AGENCY				RECEIVED:	06/10/82	JA: TX			
8237298	F-03-047086	4208931228		102-4		DORIS LEE CLIPSON #2	ROCK ISLAND (FRIO 342	127.8	HOUSTON PIPELINE
-RAYMOND PETROLEUM AGENCY				RECEIVED:	06/10/82	JA: TX			
8237299	F-03-047086	4208931228		102-4		DORIS LEE CLIPSON #2	ROCK ISLAND (FRIO 342	127.8	HOUSTON PIPELINE
-RAYMOND PETROLEUM AGENCY				RECEIVED:	06/10/82	JA: TX			
8237300	F-03-047086	4208931228		102-4		DORIS LEE CLIPSON #2	ROCK ISLAND (FRIO 342	127.8	HOUSTON PIPELINE
-RAYMOND PETROLEUM AGENCY				RECEIVED:	06/10/82	JA: TX			
8237301	F-03-047086	4208931228		102-4		DORIS LEE CLIPSON #2	ROCK ISLAND (FRIO 342	127.8	HOUSTON PIPELINE
-RAYMOND PETROLEUM AGENCY				RECEIVED:	06/10/82	JA: TX			
8237302	F-03-047086	4208931228		102-4		DORIS LEE CLIPSON #2	ROCK ISLAND (FRIO 342	127.8	HOUSTON PIPELINE
-RAYMOND PETROLEUM AGENCY				RECEIVED:	06/10/82	JA: TX			
8237303	F-03-047086	4208931228		102-4		DORIS LEE CLIPSON #2	ROCK ISLAND (FRIO 342	127.8	HOUSTON PIPELINE
-RAYMOND PETROLEUM AGENCY				RECEIVED:	06/10/82	JA: TX			
8237304	F-03-047086	4208931228		102-4		DORIS LEE CLIPSON #2	ROCK ISLAND (FRIO 342	127.8	HOUSTON PIPELINE
-RAYMOND PETROLEUM AGENCY				RECEIVED:	06/10/82	JA: TX			
8237305	F-03-047086	4208931228		102-4		DORIS LEE CLIPSON #2	ROCK ISLAND (FRIO 342	127.8	HOUSTON PIPELINE
-RAYMOND PETROLEUM AGENCY				RECEIVED:	06/10/82	JA: TX			
8237306	F-03-047086	4208931228		102-4		DORIS LEE CLIPSON #2	ROCK ISLAND (FRIO 342	127.8	HOUSTON PIPELINE
-RAYMOND PETROLEUM AGENCY				RECEIVED:	06/10/82	JA: TX			
8237307	F-03-047086	4208931228		102-4		DORIS LEE CLIPSON #2	ROCK ISLAND (FRIO 342	127.8	HOUSTON PIPELINE
-RAYMOND PETROLEUM AGENCY				RECEIVED:	06/10/82	JA: TX			
8237308	F-03-047086	4208931228		102-4		DORIS LEE CLIPSON #2	ROCK ISLAND (FRIO 342	127.8	HOUSTON PIPELINE
-RAYMOND PETROLEUM AGENCY				RECEIVED:	06/10/82	JA: TX			
8237309	F-03-047086	4208931228		102-4		DORIS LEE CLIPSON #2	ROCK ISLAND (FRIO 342	127.8	HOUSTON PIPELINE
-RAYMOND PETROLEUM AGENCY				RECEIVED:	06/10/82	JA: TX			
8237310	F-03-047086	4208931228		102-4		DORIS LEE CLIPSON #2	ROCK ISLAND (FRIO 342	127.8	HOUSTON PIPELINE
-RAYMOND PETROLEUM AGENCY				RECEIVED:	06/10/82	JA: TX			
8237311	F-03-047086	4208931228		102-4		DORIS LEE CLIPSON #2	ROCK ISLAND (FRIO 342	127.8	HOUSTON PIPELINE
-RAYMOND PETROLEUM AGENCY				RECEIVED:	06/10/82	JA: TX			
8237312	F-03-047086	4208931228		102-4		DORIS LEE CLIPSON #2	ROCK ISLAND (FRIO 342	127.8	HOUSTON PIPELINE
-RAYMOND PETROLEUM AGENCY				RECEIVED:	06/10/82	JA: TX			
8237313	F-03-047086	4208931228		102-4		DORIS LEE CLIPSON #2	ROCK ISLAND (FRIO 342	127.8	HOUSTON PIPELINE
-RAYMOND PETROLEUM AGENCY				RECEIVED:	06/10/82	JA: TX			
8237314	F-03-047086	4208931228		102-4		DORIS LEE CLIPSON #2	ROCK ISLAND (FRIO 342	127.8	HOUSTON PIPELINE
-RAYMOND PETROLEUM AGENCY				RECEIVED:	06/10/82	JA: TX			
8237315	F-03-047086	4208931228		102-4		DORIS LEE CLIPSON #2	ROCK ISLAND (FRIO 342	127.8	HOUSTON PIPELINE
-RAYMOND PETROLEUM AGENCY				RECEIVED:	06/10/82	JA: TX			
8237316	F-03-047086	4208931228		102-4		DORIS LEE CLIPSON #2	ROCK ISLAND (FRIO 342	127.8	HOUSTON PIPELINE
-RAYMOND PETROLEUM AGENCY				RECEIVED:	06/10/82	JA: TX			
8237317	F-03-047086	4208931228		102-4		DORIS LEE CLIPSON #2	ROCK ISLAND (FRIO 342	127.8	HOUSTON PIPELINE
-RAYMOND PETROLEUM AGENCY				RECEIVED:	06/10/82	JA: TX			
8237318	F-03-047086	4208931228		102-4		DORIS LEE CLIPSON #2	ROCK ISLAND (FRIO 342	127.8	HOUSTON PIPELINE
-RAYMOND PETROLEUM AGENCY				RECEIVED:	06/10/82	JA: TX			
8237319	F-03-047086	4208931228		102-4		DORIS LEE CLIPSON #2	ROCK ISLAND (FRIO 342	127.8	HOUSTON PIPELINE
-RAYMOND PETROLEUM AGENCY				RECEIVED:	06/10/82	JA: TX			
8237320	F-03-047086	4208931228		102-4		DORIS LEE CLIPSON #2	ROCK ISLAND (FRIO 342	127.8	HOUSTON PIPELINE

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
RAY TEMPLETON CO						
8237481	F-78-051566	4208332783		RECEIVED:	06/10/82	JA: TX
				103		D A COOK #1
REO INDUSTRIES INC				RECEIVED:	06/10/82	JA: TX
8237372	F-10-051226	4223300000		103		WHITTENBURG 33-4
SAGE ENERGY CO				RECEIVED:	06/10/82	JA: TX
8237343	F-03-050663	4205100000		102-2		BIRCH CREEK "B" #2
8237318	F-03-049697	4205100000		102-2		BIRCH CREEK "D" #1 RRC #
8237357	F-8A-050946	4203300009		103		E G CATES #1
8237348	F-03-050596	4205100000		102-2		NEWT UNIT #1 RRC #
8237317	F-03-049679	4205100000		102-2		RATHJEN UNIT #1 RRC #
SANEDAN OIL CORPORATION				RECEIVED:	06/10/82	JA: TX
8237223	F-03-042587	4222500000		102-4		KENNON #1
SANCHEZ-OBRIEN OIL & GAS CORP				RECEIVED:	06/10/82	JA: TX
8237205	F-02-040018	4205731057		102-4		A W HAHN #1 API NO 42 057 31057
8237211	F-02-040867	4229732643		102-4		GODFREY-BRYSCH GAS UNIT #2 WELL #1
SANDEFER OIL & GAS INC				RECEIVED:	06/10/82	JA: TX
8237482	F-03-051870	4232131064		103		STEWART SAVAGE #1-14128
SANTA FE ENERGY PRODUCTS CO				RECEIVED:	06/10/82	JA: TX
8237484	F-03-051618	4205100000		102-2		JAMES LASTLY #4
SHAR-ALAN OIL CO				RECEIVED:	06/10/82	JA: TX
8237208	F-03-039856	4231338305		103		H L HENSARLING #1
8237257	F-03-046049	4231330330		103		H L HENSARLING #2
SHELDON PETROLEUM CO				RECEIVED:	06/10/82	JA: TX
8237221	F-78-042041	4205900000		103		CHATHAM #1
SPARKMAN PRODUCING CO				RECEIVED:	06/10/82	JA: TX
8237467	F-04-051791	4221500000		102-4		R L HINOJOSA #1-T
8237335	F-02-050490	4212331181		102-4		SAGER #1
SUN EXPLORATION & PRODUCTION CO				RECEIVED:	06/10/82	JA: TX
8237420	F-04-051697	4242700000		108		B G DEGARCIA 32L
8237339	F-8A-050573	4250132133		103		BENNETT RANCH UNIT #327
8237306	F-04-048811	4242700000		108		GEORGE M SPEER-STATE B #18
8237423	F-8A-051700	4207931373		103		LEAGUE 91 PROJECT LEASE #207
8237383	F-78-048619	4213333148		103		N C GAILEY UNIT #6
8237382	F-78-048613	4213333147		103		N C GAILEY UNIT #7
8237417	F-78-051694	4214300000		108		T P FEE (DIAZ) #12
8237416	F-78-051693	4214300000		108		T P FEE (DIAZ) #13
8237415	F-78-051691	4214300000		108		T P FEE (DIAZ) #15
8237422	F-78-051699	4214300000		108		T P FEE (DIAZ) #4
8237421	F-78-051698	4214300000		108		T P FEE (DIAZ) #8
8237418	F-78-051695	4214300000		108		T P FEE (DIAZ) WELL #5
8237419	F-78-051696	4214300000		108		T P FEE DEED #2 #1
SUN OIL COMPANY (DELAWARE)				RECEIVED:	06/10/82	JA: TX
8237193	F-7C-030743	4208100000		108		J S WALKER #2
TALON OIL CO				RECEIVED:	06/10/82	JA: TX
8237318	F-02-049166	4217500000		108		ELENORA NATHO #97117
TARTAN OIL & GAS				RECEIVED:	06/10/82	JA: TX
8237326	F-03-049944	4215700000		102-4		MARTHA W PILCIK #1
TAYLOR OPERATING COMPANY				RECEIVED:	06/10/82	JA: TX
8237484	F-09-051874	4223700000		103		JOHNSON RANCH "B" #2 (21679)
8237246	F-78-044750	4213300000		103		MCCOLLUM #1 (95434)
8237485	F-09-051875	4207700000		103		NOLEN "A" #1 (22023)
8237245	F-09-044749	4223700000		103		P L CRUM OIL UNIT #1 (21353)
8237319	F-09-049711	4249700000		103		STULTZ #1 (90885)

FIELD NAME	PROD	PURCHASER
NEECE (GARDNER)	30.0	LONE STAR GAS CO
PANHANDLE HUTCHINSON	0.0	TRANS-PAN PIPELIN
GIDDINGS (AUSTIN CHAL	246.6	PHILLIPS PETROLEU
GIDDINGS (AUSTIN CHAL	200.0	PHILLIPS PETROLEU
ACKERLY (DEAN SAND)	11.0	TEXACO INC
GIDDINGS (AUSTIN CHAL	146.0	PHILLIPS PETROLEU
GIDDINGS (AUSTIN CHAL	150.0	PHILLIPS PETROLEU
FT TRINIDAD NE (GLENN	275.0	SOUTH TEXAS GATHE
COLOMA CREEK N (7575)	500.0	UNITED TEXAS TRAN
WEST GEORGE WEST (105	500.0	UNITED TEXAS TRAN
WADSWORTH CH-1	20.0	DOW CHEMICAL CO
GIDDINGS (AUSTIN-CHAL	365.0	FERGUSON CROSSING
FT TRINIDAD-BARRETT E	0.0	SOUTH TEXAS GATHE
FT TRINIDAD-BARRETT E	0.0	SOUTH TEXAS GATHE
OPLIN (GRAY SAND)	0.0	
LA REFORMA E (FRIO 67	73.0	VALERO INTERSTATE
ARNECKEVILLE (2650)	28.0	UNITED GAS PIPELI
BAROSA SOUTH (FRIO 47	5.0	
WASSON	2.0	SHELL OIL CO
SUN	16.0	
SLAUGHTER	10.0	AMOCO PRODUCTION
EASTLAND COUNTY REGUL	8.0	SOUTHWESTERN GAS
EASTLAND COUNTY REGUL	11.0	SOUTHWESTERN GAS
DIAZ (STRAWN)	5.0	SOUTHWESTERN GAS
DIAZ (STRAWN)	9.0	SOUTHWESTERN GAS
DIAZ (STRAWN)	10.0	SOUTHWESTERN GAS
DIAZ (STRAWN)	8.0	SOUTHWESTERN GAS
DIAZ (STRAWN)	7.0	SOUTHWESTERN GAS
DIAZ (STRAWN)	3.0	SOUTHWESTERN GAS
X-RAY (MARBLE FALLS)	9.0	LONE STAR GAS CO
JAMESON SE (STRAWN)	19.0	LONE STAR GAS CO
WEESATCHE WEST (YEGUA	6.0	UNITED GAS PIPELI
MOORES ORCHARD (YEGUA	30.0	
JACK COUNTY REGULAR	14.6	LONE STAR GAS CO
SIPE SPRINGS (MARBLE	15.0	LONE STAR GAS CO
BUFFALO SPRINGS SOUTH	69.4	LONE STAR GAS CO
CRUM (MARBLE FALLS)	1.5	SOUTHWESTERN GAS
BOONSVILLE (BEND CONG	29.2	NATURAL GAS PIPEL

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-TENNECO OIL COMPANY				RECEIVED:	06/10/82	JA: TX			
8237281	F-10-047012	4239330818		103		BRAINARD #1-7	WILLOW CREEK (UPPER M	0.0	TRANSWESTERN PIPE
8237341	F-10-050610	4239330621		102-2		MORRISON #2-8	CAT CREEK	399.6	TRANSWESTERN PIPE
-TEXACO INC				RECEIVED:	06/10/82	JA: TX			
8237312	F-8A-049314	4221900000		103		IRA P DELOACHE #24	LEVELLAND	37.6	AMOCO PRODUCTION
8237308	F-8A-049040	4221933350		103		IRA P DELOACHE #37	LEVELLAND	32.5	AMOCO PRODUCTION
8237313	F-8A-049315	4221933349		103		IRA P DELOACHE #38	LEVELLAND	82.1	AMOCO PRODUCTION
8237320	F-8A-049738	4221933318		103		IRA P DELOACHE #50	LEVELLAND	17.2	AMOCO PRODUCTION
-TEXAS GENERAL PETROLEUM CORP				RECEIVED:	06/10/82	JA: TX			
8237363	F-03-051197	4214931225		102-2		B H DRAWE #1	GIDDINGS (AUSTIN CHAL	73.0	PHILLIPS PETROLEU
8237386	F-01-051361	4217731149		102-4		BILLY WINKENWERDER #1	WINKENWERDER (BUDA) F	47.0	
8237371	F-03-051224	4214931092		102-2		DONNIE ALBERS #1	GIDDINGS (AUSTIN CHAL	18.1	PHILLIPS PETROLEU
8237365	F-03-051199	4204130616		102-2		J W LESTER UNIT #1	KURTEN (BUDA)	73.0	
8237364	F-03-051198	4214931058		102-2		ROBERT WALSH #1	GIDDINGS (AUSTIN CHAL	17.2	PHILLIPS PETROLEU
-TEXAS OIL & GAS CORP				RECEIVED:	06/10/82	JA: TX			
8237297	F-05-048053	4234932053		103	107-TF	INMON "C" #1	KERENS S (CVL)	0.0	
8237212	F-02-041130	4223931392		108		WEARDEN #5	WEARDEN FIELD	0.0	TENNESSEE GAS PIP
-THE ARD DRILLING COMPANY INC				RECEIVED:	06/10/82	JA: TX			
8237296	F-8A-048012	4207931199		103		C S DEAN #1-R #91530	LEVELLAND (SAN ANDRES	292.0	EL PASO NATURAL G
-THROCKMORTON GAS SYSTEMS				RECEIVED:	06/10/82	JA: TX			
8237199	F-7B-038427	4244732636		102-2		PUTNAM #8 "A" (17374)	RICHARDS RANCH (MISSI	0.0	WARREN PETROLEUM
-TIPPERARY OIL AND GAS CORP				RECEIVED:	06/10/82	JA: TX			
8237458	F-01-051782	4211730847		103		W L BARNETT #4	COST (AUSTIN CHALK)	365.0	HNG PETROCHEMICAL
-TOM KIDD OIL PROPERTIES				RECEIVED:	06/10/82	JA: TX			
8237198	F-09-038070	4223700000		102-4		A V HANNAH #1 RRC ID #07649	MARBLE FALLS	144.0	SOUTHWESTERN GAS
-TOTAL ENERGY CO OF TEXAS				RECEIVED:	06/10/82	JA: TX			
8237315	F-12-049532	4217900000		108		JOHNSON #107	PANHANDLE GRAY	0.0	PHILLIPS PETROLEU
-TXO PRODUCTION CORP				RECEIVED:	06/10/82	JA: TX			
8237226	F-02-043139	4246900000		102-4		ADCOCK #4	RICHARD ADCOCK (3400*	0.0	UNITED GAS PIPELI
8237256	F-04-045916	4226130541		102-4		ERCK #20	MCGILL (9400* SEGMENT	0.0	DELHI GAS PIPELIN
8237231	F-02-043366	4228500000		108		HANCOCK UNIT #1-1	PROVIDENT CITY (WILCO	0.0	TEXAS EASTERN TRA
8237248	F-04-044959	4250531221		103		LOPENO #32	LOPENO	0.0	DELHI GAS PIPELIN
8237230	F-02-043258	4239131317		103		MARBERRY B-4	MCFADDIN (5300*)	0.0	UNITED GAS PIPELI
8237388	F-06-051319	4226330937		102-4		MICHAELS "A" #1	WOODLAWN (PETTIT-PAGE	0.0	DELHI GAS PIPELIN
8237229	F-02-043258	4212331178		103		RUSSELMAN CATTLE CO H-2	BALFOUR (YEGUA 5350*)	0.0	DELHI GAS PIPELIN
-U S OPERATING INC				RECEIVED:	06/10/82	JA: TX			
8237299	F-03-048487	4228730963		102-4		EUGENIA UNIT #1 RRC ID N/A	GIDDINGS (AUSTIN CHAL	0.0	PERRY PIPELINE CO
-UNION OIL COMPANY OF CALIF				RECEIVED:	06/10/82	JA: TX			
8237502	F-08-051929	4200332972		103		FUHRMAN-MASCHO UNIT #805 BLK 10	FUHRMAN-MASCHO	1.0	PHILLIPS PETROLEU
-W B TRAMMELL				RECEIVED:	06/10/82	JA: TX			
8237398	F-7B-051488	4215131416		102-4		W B TRAMMELL #2-24	JUDY GAIL EAST (CANYO	0.0	PALO DURO PIPELIN
8237397	F-7B-051487	4215131416		102-4		W B TRAMMELL #4-24	JUDY GAIL EAST (CANYO	0.0	PALO DURO PIPELIN
-W L BRUCE OPERATOR				RECEIVED:	06/10/82	JA: TX			
8237437	F-10-051741	4206531056		103		ENSERCH #2 RRC#04953	PANHANDLE CARSON	220.0	GETTY OIL CO
8237457	F-10-051780	4234130739		103		RESER #7 03709	PANHANDLE MOORE A B	547.0	PHILLIPS PETROLEU
-W R EDWARDS JR				RECEIVED:	06/10/82	JA: TX			
8237465	F-10-051789	4223300000		103		BEARKILLER #13	PANHANDLE HUTCHINSON	250.0	PANHANDLE PRODUCI
8237464	F-10-051788	4223300000		103		BEARKILLER #14	PANHANDLE	250.0	PANHANDLE PRODUCI
8237496	F-10-051481	4223300000		103		BEARKILLER #30	PANHANDLE HUTCHINSON	150.0	PANHANDLE PRODUCI
8237495	F-10-051896	4223300000		103		BEARKILLER #35	PANHANDLE HUTCHINSON	350.0	PANHANDLE PRODUCI
8237494	F-10-051895	4223300000		103		BEARKILLER #37	PANHANDLE HUTCHINSON	350.0	PANHANDLE PRODUCI
8237491	F-10-051885	4223300000		103		BEARKILLER #40	PANHANDLE HUTCHINSON	350.0	PANHANDLE PRODUCI
8237466	F-10-051790	4223300000		103		BEARKILLER #7	PANHANDLE HUTCHINSON	250.0	PANHANDLE PRODUCI

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-WARREN PETR CO A DIV OF GULF OIL CO			RECEIVED:	06/10/82	JA: TX				
8237186	F-08-004684	4210331955		103		P J LEA #76	LEA (SAN ANDRES)	8.0	EL PASO NATURAL G
-WES-MOR DRILLING INC			RECEIVED:	06/10/82	JA: TX				
8237389	F-09-051384	4223734058		102-4	103	ELSIE RIDER "A" #4	BARTON CHAPEL S (ELLE	0.0	LONE STAR GAS CO
8237475	F-09-051829	4250335689		103		HARRISON #1 RRC ID #22021	BO SCAN (CONGL)	87.6	SUN GAS TRANSMISS
-WESTERN CHIEF OIL & GAS CO			RECEIVED:	06/10/82	JA: TX				
8237251	F-09-045032	4250334848		103		ARTHUR S SHANAFELT #1 116316	YOUNG COUNTY REGULAR	14.5	SOUTHWESTERN GAS
8237316	F-09-049555	4250335598		103		ARTHUR S SHANAFELT #3 ID PENDING	YOUNG COUNTY REGULAR	18.0	SOUTHWESTERN GAS
-WILHAM INVESTMENTS INC			RECEIVED:	06/10/82	JA: TX				
8237189	F-10-018224	4235700000		108		E M MCGARRAUGH "A" #1 (22342)	LIPS (CLEVELAND)	19.0	NORTHERN NATURAL
-WILLIAM PERLMAN			RECEIVED:	06/10/82	JA: TX				
8237185	F-7C-000712	4243500000		103		BROCKMAN 54-4	SAWYER (CANYON)	0.0	EL PASO NATURAL G
-WILSON EXPLORATION CO			RECEIVED:	06/10/82	JA: TX				
8237235	F-06-043668	4236500000		103		JERNIGAN UNIT #2 RRC ID #40708	CARTHAGE (TRAVIS PEAK	6.0	ARKANSAS LOUISIAN
-WINN EXPLORATION/DULCE CO			RECEIVED:	06/10/82	JA: TX				
8237378	F-01-051258	4250731585		102-4		PRYOR RANCH #47	WINN-DULCE	0.0	NORTHERN NATURAL
-WOODS PETROLEUM CORPORATION			RECEIVED:	06/10/82	JA: TX				
8237480	F-8A-051855	4207931454		102-4	103	RJR RANCH #4-1	BONANZA (SAN ANDRES)	5.0	WARREN PETROLEUM
8237481	F-8A-051856	4207931455		102-4	103	RJR RANCH #4-2	BONANZA (SAN ANDRES)	5.0	WARREN PETROLEUM
-WY-VEL CORP			RECEIVED:	06/10/82	JA: TX				
8237476	F-10-051833	4217931119		103		O'NEAL (05037) #2	PANHANDLE	140.0	GETTY OIL CO
-XB ENERGY SERVICES INC			RECEIVED:	06/10/82	JA: TX				
8237224	F-01-043058	4216331961		103		ARTHUR HURT JR 3-8	PEARSALL (AUSTIN CHAL	0.0	TGP INC

OTHER PURCHASERS VOLUME NO :679

8237192	PANHANDLE EASTERN P L CO
8237195	COLUMBIA GAS TRANS CORP
8237268	LONE STAR GAS CO
8237301	TRANSCONTINENTAL GAS P L CO
8237321	PANHANDLE EASTERN P L CO
8237348	E I DUPONT DE*NEMOURS & CO INC
8237407	E I DUPONT DE*NEMOURS & CO INC
8237492	E I DUPONT DE*NEMOURS & CO INC
8237505	E I DUPONT DE*NEMOURS & CO INC

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18292 Filed 7-2-82; 8:45 am]

BILLING CODE 6717-01-C

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: June 29, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	Issued June 29, 1982	FIELD NAME	PROD	PURCHASER
LOUISIANA OFFICE OF CONSERVATION										
-BETHLAN PRODUCTION CORP							RECEIVED: 06/10/82 JA: LA			
8237535	82-0358	1707321370	108			A THIBEAUX #1		MONROE GAS FIELD	14.8	IMC PIPELINE CO I
8237542	82-0359	1707321407	108			A THIBEAUX #2		MONROE GAS FIELD	14.8	IMC PIPELINE CO I
8237541	82-0360	1707321422	108			A THIBEAUX #3		MONROE GAS FIELD	14.8	IMC PIPELINE CO I
8237540	82-0361	1707321406	108			CUMMINS #1		MONROE GAS FIELD	8.6	IMC PIPELINE CO I
8237584	82-0199	1707321767	103			FIDDLER #1		MONROE GAS FIELD	16.2	IMC PIPELINE CO I
8237576	82-0193	1707321620	108			INABNET-BETHLAN #1		MONROE GAS FIELD	11.2	IMC PIPELINE CO I
8237579	82-0194	1707321621	108			INABNET-BETHLAN #2		MONROE GAS FIELD	16.8	IMC PIPELINE CO I
8237578	82-0195	1707321622	108			INABNET-BETHLAN #3		MONROE GAS FIELD	16.8	IMC PIPELINE CO I
8237580	82-0196	1707321625	108			INABNET-BETHLAN #4		MONROE GAS FIELD	11.2	IMC PIPELINE CO I
8237581	82-0197	1707321765	103			MAE POWELL #1		MONROE	19.8	IMC PIPELINE CO I
8237582	82-0198	1707321766	103			MAE POWELL #2		MONROE GAS FIELD	19.8	IMC PIPELINE CO I
8237546	82-0191	1707321611	108			MARCOVITZ #1		MONROE GAS FIELD	5.4	IMC PIPELINE CO I
8237577	82-0192	1707321612	108			PERRY JONES #1		MONROE GAS FIELD	2.5	IMC PIPELINE CO I
-C SMITH							RECEIVED: 06/10/82 JA: LA			
8237558	82-0302	1711123473	103		107-TF	MASHAW #1		MONROE	11.0	WEST MONROE GAS G
-DRK EXPLORATION & DEVELOPMENT							RECEIVED: 06/10/82 JA: LA			
8237566	82-0419	1711123320	103		107-TF	OLLIE ALBRITTON #1		MONROE	9.0	WEST MONROE GAS G
-DYNAMIC EXPLORATION INC							RECEIVED: 06/10/82 JA: LA			
8237685	82-0458	1711321144	102-A			D J NUNEZ #1 (SIDETRACK HOLE)		GROSSE ISLE	110.0	UNITED GAS PIPELI
-ERGON INC							RECEIVED: 06/10/82 JA: LA			
8237596	82-0285	1711123191	103		107-TF	C L ALLEN #2		MONROE (6824)	12.1	TEXAS GAS TRANSMI
8237526	82-0306	1711123276	103		107-TF	C W WHEELER #3		MONROE (6824)	11.5	TEXAS GAS TRANSMI
8237567	82-0421	1711123357	103		107-TF	EDWIN RAMSEY #1		MONROE (6824)	13.3	TEXAS GAS TRANSMI
8237523	82-0425	1711123285	103		107-TF	J K WALKER #1		MONROE (6824)	12.1	TEXAS GAS TRANSMI
8237568	82-0422	1711122990	103		107-TF	J M EDWARDS #1		MONROE (6824)	14.9	TEXAS GAS TRANSMI
8237536	82-0357	1711123448	103		107-TF	MARTHA FREE #1		MONROE (6824)	13.3	TEXAS GAS TRANSMI
8237554	82-0423	1711123192	103		107-TF	MILES GREEN #1		MONROE (6824)	2340.0	TEXAS GAS TRANSMI
8237569	82-0424	1711123203	103		107-TF	R F COX #1		MONROE (6824)	11.5	TEXAS GAS TRANSMI
8237537	82-0356	1711123359	103		107-TF	W A EDWARDS #2		MONROE (6824)	9.9	TEXAS GAS TRANSMI
8237527	82-0305	1711123198	103		107-TF	W T PRATT #1		MONROE (6824)	13.7	TEXAS GAS TRANSMI
-GAS RESOURCES INC							RECEIVED: 06/10/82 JA: LA			
8237555	82-0482	1711122089	108			EXXON #10		MONROE GAS	2.0	IMC EXPLORATION C
8237521	82-0483	1711122187	108			EXXON #11		MONROE GAS	4.0	IMC EXPLORATION C
8237571	82-0484	1711122210	108			EXXON #12		MONROE GAS	4.0	IMC EXPLORATION C
8237570	82-0485	1711122409	108			EXXON #13		MONROE GAS	21.0	IMC EXPLORATION C
8237519	82-0480	1711122115	108			EXXON #7		MONROE GAS	4.0	IMC EXPLORATION C
8237520	82-0481	1711122116	108			EXXON #8		MONROE GAS	2.0	IMC EXPLORATION C
-GLENDA PETROLEUM CORP							RECEIVED: 06/10/82 JA: LA			
8237524	82-0446	1707321747	103			MCKNIGHT #10 S/N 174904		MONROE	15.0	UNITED GAS PIPELI
8237607	82-0447	1707321748	103			MCKNIGHT #11 S/N 174905		MONROE	15.0	UNITED GAS PIPELI

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8237686	82-0448	1707321749		103		MCKNIGHT #12 S/N 174986	MONROE	15.0	UNITED GAS PIPELI
8237530	82-0352	1707321743		103		MCKNIGHT #6 S/N 174980	MONROE	15.0	UNITED GAS PIPELI
8237534	82-0353	1707321515		103		PENNZOIL 28 #3 S/N 176968	MONROE	15.0	UNITED GAS PIPELI
8237533	82-0354	1707321517		103		PENNZOIL 28 #5 S/N 176970	MONROE	15.0	UNITED GAS PIPELI
8237538	82-0355	1707321494		103		PENNZOIL 4 #10 S/N 176963	MONROE	15.0	UNITED GAS PIPELI
8237604	82-0499	1707321761		103		STEELE WILLIAMS #2 S/N 175151	MONROE	15.0	UNITED GAS PIPELI
8237601	82-0495	1707321726		103		WILLIAMS #1 S/N 174570	MONROE	15.0	UNITED GAS PIPELI
8237602	82-0496	1707321727		103		WILLIAMS #2 S/N 174571	MONROE	15.0	UNITED GAS PIPELI
8237603	82-0497	1707321728		103		WILLIAMS #3 S/N 174572	MONROE	15.0	UNITED GAS PIPELI
8237575	82-0498	1707321729		103		WILLIAMS #4 S/N 174573	MONROE	15.0	UNITED GAS PIPELI
-GODFREY & RILEY				RECEIVED:	06/10/82	JA: LA			
8237518	82-0478	1711122957		108		EUBANKS #8	MONROE	13.5	IMC PIPELINE CO I
-GULF OIL CORPORATION				RECEIVED:	05/05/82	JA: LA			
8237682	81-2732	1707522720		103		S L 195 OO #97	WEST BLACK BAY FIELD	9.5	SOUTHERN NATURAL
-HADDOX PETROLEUM CORP				RECEIVED:	06/10/82	JA: LA			
8237531	82-0332	1711123379		103		DAY #1	MONROE	227.8	LOUISIANA POWER &
8237522	82-0490	1707321840		103		INABNET C #1	MONROE	12.8	MID LOUISIANA GAS
8237572	82-0491	1707321841		103		INABNET C #2	MONROE	12.8	MID LOUISIANA GAS
8237532	82-0331	1711123281		103		JOHN S MEDLIN #1	MONROE	18.3	LOUISIANA POWER &
8237516	82-0476	1711123462		103		PEEK ESTATE #1	MONROE	10.9	MID LOUISIANA GAS
8237517	82-0477	1711123463		103		PEEK ESTATE #2	MONROE	10.9	MID LOUISIANA GAS
8237557	82-0299	1711123396		103		U S A #1	MONROE	14.6	IMC PIPELINE CO I
-IMC EXPLORATION COMPANY				RECEIVED:	06/10/82	JA: LA			
8237574	82-0493	1706120153		108		C WILKERSON #1 C RA SUI	RUSTON	9.0	LOUISIANA GAS INT
8237600	82-0492	1706120189		108		RAY E UPCHURCH #1 LCV RA SUA	HICO-KNOWLES	9.0	MISSISSIPPI RIVER
-K D LANKFORD JR & L&N DRLG CO				RECEIVED:	06/10/82	JA: LA			
8237528	82-0328	1711121475		108		EDWARDS #1	MONROE	20.0	UNITED GAS PIPE L
8237529	82-0329	1711121675		108		EDWARDS #2	MONROE	20.0	UNITED GAS PIPE L
-MID LOUISIANA GAS COMPANY				RECEIVED:	06/10/82	JA: LA			
8237563	82-0365	1706721650		103		MLGC FEE GAS #1077	MONROE GAS FIELD	18.3	MID LOUISIANA GAS
8237545	82-0366	1706721651		103		MLGC FEE GAS #1078	MONROE GAS FIELD	8.0	MID LOUISIANA GAS
8237564	82-0367	1711123296		103		MLGC FEE GAS #1079	MONROE GAS FIELD	25.5	MID LOUISIANA GAS
8237539	82-0362	1707321790		103		MLGC FEE GAS #1083	MONROE GAS FIELD	36.5	MID LOUISIANA GAS
8237544	82-0363	1707321791		103		MLGC FEE GAS #1084	MONROE GAS FIELD	36.5	MID LOUISIANA GAS
8237543	82-0364	1711123398		103		MLGC FEE GAS #1102	MONROE GAS FIELD	36.5	MID LOUISIANA GAS
-PENNZOIL PRODUCING COMPANY				RECEIVED:	06/10/82	JA: LA			
8237547	82-0469	1707321693		103		FEE 709 #1	MONROE	25.0	UNITED GAS PIPE L
8237553	82-0468	1707321700		103		FEE 709 #10	MONROE	25.0	UNITED GAS PIPE L
8237548	82-0470	1707321694		103		FEE 709 #2	MONROE	25.0	UNITED GAS PIPE L
8237549	82-0471	1707321695		103		FEE 709 #3	MONROE	25.0	UNITED GAS PIPE L
8237550	82-0472	1707321696		103		FEE 709 #4	MONROE	25.0	UNITED GAS PIPE L
8237551	82-0473	1707321697		103		FEE 709 #5	MONROE	25.0	UNITED GAS PIPE L
8237514	82-0474	1707321698		103		FEE 709 #6	MONROE	25.0	UNITED GAS PIPE L
8237525	82-0466	1707321701		103		FEE 709 #7	MONROE	25.0	UNITED GAS PIPE L
8237552	82-0467	1707321703		103		FEE 709 #9	MONROE	25.0	UNITED GAS PIPE L
-PETRO-LEWIS CORPORATION				RECEIVED:	06/10/82	JA: LA			
8237586	82-0246	1711102593		108		FROST LUMBER IND #2	MONROE	14.7	SOUTHERN NATURAL
8237589	82-0249	1711120944		108		FROST LUMBER IND D-15	MONROE	0.0	SOUTHERN NATURAL
8237590	82-0250	1711121061		108		N R NOLAN #7	MONROE	17.8	SOUTHERN NATURAL
8237591	82-0251	1707321082		108		REA GREEN #14	MONROE	6.9	SOUTHERN NATURAL
8237585	82-0245	1707300561		108		ROBERTSON-REED #1	MONROE	12.2	SOUTHERN NATURAL
8237583	82-0244	1707306579		108		SLAGLE JOHNSON FEE CHAUVIN #1	MONROE	19.2	SOUTHERN NATURAL
8237587	82-0247	1711101461		108		UNION POWER CO C-9	MONROE	19.7	SOUTHERN NATURAL

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8237588	82-0248	1711101596		108		UNION PRODUCING CO B-7	MONROE	20.4	SOUTHERN NATURAL
-RALPH L LEADERBRAND				RECEIVED: 06/10/82 JA: LA					
8237556	82-0488	1703100220		108		JETER SU R ALSTON #1 42022	LOGANSPORT	0.0	SOUTHERN NATURAL
-REMUDA OIL & GAS CO				RECEIVED: 06/10/82 JA: LA					
8237573	81-2787	1708120383		103		T P STEPHENS #1	RED RIVER BULL BAYOU	1.0	ROMANOFF CORP
-SHADRACK PRODUCTION CO				RECEIVED: 06/10/82 JA: LA					
8237598	82-0287	1711123388		103	107-TF	DAY #1	MONROE	13.0	WEST MONROE GAS G
8237560	82-0289	1711123390		103	107-TF	DONALD DAY #1	MONROE	13.0	WEST MONROE GAS G
8237599	82-0288	1711123389		103	107-TF	DOYLE CROW #1	MONROE	13.0	WEST MONROE GAS G
8237562	82-0291	1711123392		103	107-TF	EAST UNION ACADEMY #1	MONROE	13.0	WEST MONROE GAS G
8237561	82-0290	1711123391		103	107-TF	GEORGE #1	MONROE	13.0	WEST MONROE GAS G
8237565	82-0368	1711123403		103	107-TF	REPPOND-BRYANT #1	MONROE	13.0	WEST MONROE GAS G
8237597	82-0286	1711123387		103	107-TF	T BAKER #1	MONROE	13.0	WEST MONROE GAS G
-WELLS-BATTELSTEIN OIL & GAS INC				RECEIVED: 06/10/82 JA: LA					
8237515	82-0475	1711123442		103		PEARL RHYMES #1	MONROE GAS	30.0	I M C PIPELINE CO
8237559	82-0304	1711123311		103	107-TF	RABUN #2	MONROE	60.0	WEST MONROE GAS G
-WEST MONROE JOINT VENTURE				RECEIVED: 06/10/82 JA: LA					
8237592	82-0276	1711122180		107-TF		SCHUTZE #1	MONROE	8.0	TEXAS GAS TRANSMI
8237593	82-0277	1711122255		107-TF		SCHUTZE #2	MONROE	8.0	TEXAS GAS TRANSMI
8237594	82-0278	1711122440		107-TF		SCHUTZE #3	MONROE	8.0	TEXAS GAS TRANSMI
8237595	82-0279	1711122636		107-TF		SCHUTZE #4	MONROE	8.0	TEXAS GAS TRANSMI
********** MICHIGAN DEPARTMENT OF NATURAL RESOURCES **********									
-SUN OIL COMPANY (DELAWARE)				RECEIVED: 06/08/82 JA: MI					
8237659		2108733731		103		HARLAND WELKE #1	RICH	0.0	SOUTHEASTERN MICH
********** NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION **********									
-BEREA OIL AND GAS CORPORATION				RECEIVED: 06/10/82 JA: NY					
8237640	2528	3101316060		107-TF		DAVID BALL UNIT #1	GERRY	12.5	COLUMBIA GAS TRAN
8237639	2526	3101315692		107-TF		NYS REFORESTATION AREA #1 - WELL #1	CHERRY CREEK	18.0	COLUMBIA GAS TRAN
8237642	2529	3101316062		107-TF		T REARICK UNIT #1	GERRY	0.1	COLUMBIA GAS TRAN
-COLUMBIA GAS TRANSMISSION CORP				RECEIVED: 06/10/82 JA: NY					
8237638	2006	3101314583		102-2		LEONARD J HUTCHISON 620087	PANAMA	31.5	COLUMBIA GAS TRAN
-CUMBERLAND OIL CORP				RECEIVED: 06/10/82 JA: NY					
8237635	2480	3101316313		107-TF		LYLE SAGER #1	LAKESHORE	20.0	NATIONAL FUEL GAS
-DESERT GAS EXPLORATION CO INC				RECEIVED: 06/10/82 JA: NY					
8237628	2507	3101315026		107-TF		BENDER UNIT #1 - DG #121	LAKESHORE	8.0	NATIONAL FUEL GAS
8237633	2512	3101315027		107-TF		BENDER UNIT #2 - DG #122	LAKESHORE	0.0	NATIONAL FUEL GAS
8237634	2513	3101315028		107-TF		BENDER UNIT #3 - DG #123	LAKESHORE	0.0	NATIONAL FUEL GAS
8237649	2504	3101315012		107-TF		KIRYLENKO UNIT #1 - DG #120	LAKESHORE	0.0	NATIONAL FUEL GAS
8237629	2508	3101314181		107-TF		LARRAINE UNIT #1 - DG#111	LAKESHORE	0.0	NATIONAL FUEL GAS
8237648	2505	3101314527		107-TF		LUDWIG UNIT #1 - DG #124	LAKESHORE	0.0	NATIONAL FUEL GAS
8237631	2510	3101316026		107-TF		SMITH UNIT #1 - DG-#129	LAKESHORE	0.0	NATIONAL FUEL GAS
8237647	2506	3101316027		107-TF		SMITH UNIT #2 - DG-#130	LAKESHORE	0.0	NATIONAL FUEL GAS
8237636	2509	3101300080		107-TF		TRI VAL FARMS #3 DG #127	LAKESHORE	0.0	NATIONAL FUEL GAS
8237645	2514	3101315045		107-TF		TRI-VAL FARMS #1 - DG #125	LAKESHORE	0.0	NATIONAL FUEL GAS
8237632	2511	3101315656		107-TF		TRI-VAL FARMS #4 - DG #4	LAKESHORE	0.0	NATIONAL FUEL GAS
-ECLIPSE MANAGEMENT ASSOCIATES INC				RECEIVED: 06/10/82 JA: NY					
8237641	2092	3101314396		108		BESCH #3 #3127	LAKE SHORE	0.0	NATIONAL FUEL GAS
8237644	1784	3101314394		108		BESCH I #3125	LAKE SHORE	9.0	NATIONAL FUEL GAS
8237643	2373	3101314330		108		THOMPSON #2 #3101	LAKE SHORE	17.0	NATIONAL FUEL GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-ENVIROGAS INC				RECEIVED:	05/12/82	JA: NY			
8237768	1909	3101315287		107-TF		H PAULUS #1	LAKESHORE	18.0	COLUMBIA GAS TRAN
-ENVIROGAS INC				RECEIVED:	06/10/82	JA: NY			
8237656	2499	3101315941		107-TF		FLUVANNA COMMUNITY CHURCH #1	WILDCAT	18.0	NATIONAL FUEL GAS
8237658	2498	3101315959		107-TF		R SHAVER #1	WILDCAT	18.0	NATIONAL FUEL GAS
-MAYNARD OIL COMPANY				RECEIVED:	06/10/82	JA: NY			
8237637	3454	3102917183		103		CASH C #1 #02322		0.0	NATIONAL FUEL GAS
8237636	3453	3102917169		103		MULHOLLAN #1	ORCHARD PARK	0.0	NATIONAL FUEL GAS
-OILMARK & CO INC				RECEIVED:	06/10/82	JA: NY			
8237625	2435	3101315363		107-TF		BUSAN #1	LAKESHORE	12.0	NATIONAL FUEL GAS
8237618	2437	3101314476		107-TF		ELLIS #1	LAKESHORE	10.0	COLUMBIA GAS TRAN
8237655	2427	3101315837		107-TF		G WINCH #2	LAKESHORE	20.0	COLUMBIA GAS TRAN
8237626	2439	3101314830		107-TF		H JOHNSON #1	GERRY	20.0	COLUMBIA GAS TRAN
8237619	2438	3101313959		107-TF		HANKS #1	LAKESHORE	20.0	COLUMBIA GAS TRAN
8237627	2440	3101314834		107-TF		KOPROWSKI #1	LAKESHORE	10.0	NATIONAL FUEL GAS
8237608	2441	3101314835		107-TF		KOPROWSKI #2	LAKESHORE	10.0	NATIONAL FUEL GAS
8237610	2443	3101314630		107-TF		MULLARD CHARLES JR #2	STEBBINS CORNERS	15.0	COLUMBIA GAS TRAN
8237609	2442	3101314629		107-TF		MULLARD JR #1	STEBBINS CORNERS	15.0	COLUMBIA GAS TRAN
8237611	2444	3101314472		107-TF		MULLARD SR #1	BUSTI	60.0	NATIONAL FUEL GAS
8237620	2445	3101314627		107-TF		MULLARD SR #2	BUSTI	10.0	NATIONAL FUEL GAS
8237621	2446	3101314828		107-TF		P PETERSON #2	GERRY	20.0	COLUMBIA GAS TRAN
8237622	2447	3101315310		107-TF		R RAMMELT #1	LAKESHORE	12.0	NATIONAL FUEL GAS
8237623	2448	3101314831		107-TF		ROLPH #1	LAKESHORE	15.0	COLUMBIA GAS TRAN
8237624	2449	3101314475		107-TF		SHERMET #1	LAKESHORE	20.0	COLUMBIA GAS TRAN
-US ENERGY DEVELOPMENT CORP				RECEIVED:	06/10/82	JA: NY			
8237616	2418	3101315415		107-TF		C OLSEN #1	GERRY	20.0	COLUMBIA GAS TRAN
8237650	2424	3101315498		107-TF		DANIELSON #1	BUSTI	20.0	NATIONAL FUEL GAS
8237654	2425	3101315499		107-TF		DANIELSON #2	BUSTI	20.0	NATIONAL FUEL GAS
8237615	2417	3101315418		107-TF		H OLMSTEAD #1	GERRY	20.0	COLUMBIA GAS TRAN
8237651	2423	3101315419		107-TF		HAMMOND #1	GERRY	20.0	NATIONAL FUEL GAS
8237613	2415	3101315420		107-TF		HAMMOND #2	GERRY	20.0	NATIONAL FUEL GAS
8237612	2414	3101314462		107-TF		MARKHAM #1	LAKESHORE	20.0	COLUMBIA GAS TRAN
8237614	2416	3101314463		107-TF		MARKHAM #2	LAKESHORE	20.0	COLUMBIA GAS TRAN
8237617	2419	3101314827		107-TF		P PETERSON #1	GERRY	15.0	COLUMBIA GAS TRAN
8237646	2420	3101314464		107-TF		WESTFIELD FISH & GAME #1	LAKESHORE	20.0	COLUMBIA GAS TRAN
8237653	2421	3101314465		107-TF		WESTFIELD FISH & GAME #2	LAKESHORE	37.0	COLUMBIA GAS TRAN
8237652	2422	3101315364		107-TF		WESTFIELD FISH & GAME #3	LAKESHORE	20.0	COLUMBIA GAS TRAN
8237657	2479	3101315407		107-TF		WOLFF #2	LAKESHORE	20.0	COLUMBIA GAS TRAN
OKLAHOMA CORPORATION COMMISSION									
-ANADARKO PRODUCTION COMPANY				RECEIVED:	06/07/82	JA: OK			
8237741	17274	3500722170		102-4		PATTERSON "C" #1	FLORIS	118.0	PANHANDLE EASTERN
8237758	14764	3513920968		108		POLLOCK A #2	RICHLAND CENTER NORTH	8.0	PANHANDLE EASTERN
-ARAPAHO PETROLEUM INCORPORATED				RECEIVED:	06/07/82	JA: OK			
8237681	14609	3504722580		103		B LEE 1-30	SOONER TREND	146.0	PHILLIPS PETROLEU
-BLUE QUAIL ENERGY INC				RECEIVED:	06/07/82	JA: OK			
8237680	14390	3510920448		103		ATLEE #1	NW NW NW SEC 31 T12N	210.0	CONOCO INC
-BOGERT OIL CO				RECEIVED:	06/07/82	JA: OK			
8237661	14688	3507323139		103		CHLOUBER #4-16	SOONER TREND	306.0	PHILLIPS PETROLEU
-C F BRAUN & CO				RECEIVED:	06/07/82	JA: OK			
8237671	17325	3512920611		102-2		LOVETT #1	WICKHAM RANCH	365.0	DELHI GAS PIPELIN
-C J CASSELMAN				RECEIVED:	06/07/82	JA: OK			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8237678	13209	3511100000		108		EVANS #1-A
				RECEIVED:	06/07/82	JA: OK
-CHASE EXPLORATION CORP						
8237754	12486	3507121276		108		BUESING 2-9
8237753	12490	3507121166		108		COFFEE #1-1
8237750	12508	3507121323		108		KUCERA #2-8
8237744	12531	3507120841		108		MILLER #2-24
8237743	12538	3507121299		108		SCOTT #1-10
8237751	12501	3507121326		108		SHEIR #2-29
8237749	12513	3507120884		108		TAYLOR 4-22
8237748	12524	3507121206		108		VOLGELL #1-21
8237747	12526	3507121279		108		WATHOR 1-11
8237745	12536	3507121639		108		WOOD #2-31
8237746	12527	3507121488		108		WRIGHT 1-31
8237752	12498	3507121492		108		WRIGHT 2-31
				RECEIVED:	06/07/82	JA: OK
-CLARK RESOURCES INC						
8237665	14818	3509322374		103		CAMPBELL 22-1
				RECEIVED:	06/09/82	JA: OK
-COTTON PETROLEUM CORPORATION						
8237683	14845	3504520994		103		JOE #1
				RECEIVED:	06/07/82	JA: OK
-CUSHING DRILLING FUND LTD 80						
8237732	14255	3511921315		102-2	103	HILBERT #1
				RECEIVED:	06/09/82	JA: OK
-DAWN ENERGY CO						
8237712	14767	3513921479		103		MCDONALD #1-22
				RECEIVED:	06/07/82	JA: OK
-DEVON CORPORATION						
8237669	14823	3513321634		103		W N GOSS #3
				RECEIVED:	06/09/82	JA: OK
-DLB ENERGY CORP						
8237724	17244	3507323468		102-4	103	COFFEY #32-6
				RECEIVED:	06/07/82	JA: OK
-DYCO PETROLEUM CORPORATION						
8237662	14769	3505121099		103		SHOCKEY #1-25
				RECEIVED:	06/07/82	JA: OK
-EAGLE MINERALS INC.						
8237735	17272	3514920252		102-4		FERGUSON #1
				RECEIVED:	06/09/82	JA: OK
-EASON OIL COMPANY						
8237704	14701	3508720651		103		E M GARRETT #1-15
				RECEIVED:	06/09/82	JA: OK
-ENNEX PRODUCTION COMPANY						
8237722	16808	3503920498		102-4	103	HERRING #1
				RECEIVED:	06/09/82	JA: OK
-ENTEX PETROLEUM INC						
8237705	14702	3505121156		103		OSCAR LEONARD HEIRS #2
				RECEIVED:	06/09/82	JA: OK
-FUNK EXPLORATION INC						
8237713	14777	3508722225		103		DOUBLE CHECK #1
8237714	14779	3508722216		103		RUSSELL #1
				RECEIVED:	06/09/82	JA: OK
-FUSULINA PETROLEUM CORP						
8237688	14844	3504722765		103		KENNEDY 1-29
				RECEIVED:	06/07/82	JA: OK
-GRACE PETROLEUM CORPORATION						
8237739	17285	3512520616		102-2		JASON #1
				RECEIVED:	06/09/82	JA: OK
-HANOVER MANAGEMENT CO						
8237707	14704	3506100000		103		DOSS #1
				RECEIVED:	06/07/82	JA: OK
-HARTER OIL CO						
8237675	17356	3510120660		102-2		DAVID HALL #1 OTC 101-68080
8237674	17328	3510120675		102-2		DAVID HALL #2 OTC 101-68080
				RECEIVED:	06/07/82	JA: OK
-INEXCO OIL COMPANY						
8237737	17277	3512920711		102-4		GATES #1-3
8237738	17278	3512920596		102-4		ROGER MILLS #1-18
8237736	17276	3512920597		102-4		WICKHAM #1-31
				RECEIVED:	06/09/82	JA: OK
-J R THOMPSON						

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FIELD NAME	PROD	PURCHASER
MORRIS	10.8	PHILLIPS PETROLEU
UNNAMED	0.1	CITIES SERVICE GA
UNNAMED	0.3	CITIES SERVICE GA
UNNAMED	0.9	CITIES SERVICE GA
UNNAMED	4.0	CITIES SERVICE GA
UNNAMED	0.0	CITIES SERVICE GA
UNNAMED	0.1	CITIES SERVICE GA
UNNAMED	0.0	CITIES SERVICE GA
UNNAMED	1.6	CITIES SERVICE GA
UNNAMED	0.1	CITIES SERVICE GA
UNNAMED	1.6	CITIES SERVICE GA
UNNAMED	0.4	CITIES SERVICE GA
UNNAMED	0.4	CITIES SERVICE GA
SOONER TREND	90.0	CITIES SERVICE GA
GAGE	260.0	PHILLIPS PETROLEU
INGALLS	36.5	COLORADO GAS COMP
NORTH RICE	54.8	PHILLIPS PETROLEU
ONG	0.0	ARCO OIL & GAS CO
SOONER TREND	0.0	PHILLIPS PETROLEU
UNDESIGNATED	180.0	MOBIL OIL CORP
	200.0	OKLAHOMA NATURAL
	14.0	SUNGAS CO
ANTHON	0.0	
N E VERDEN	28.0	MOBIL OIL CORP
S BALKO	0.0	
ROCANE - LAVERNE	0.0	
SOONER TREND	33.0	PHILLIPS PETROLEU
INDIAN GULCH	0.0	
NOT YET ASSIGNED	73.0	ARKANSAS LOUISIAN
COLE DISTRICT	0.0	PHILLIPS PETROLEU
COLE DISTRICT	25.6	PHILLIPS PETROLEU
NORTH EAST STRONG CIT	220.0	
NORTH EAST STRONG CIT	500.0	
NORTH EAST STRONG CIT	300.0	

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8237733	17275	3512920598		102-4		WICKHAM #1-32
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-JAMES E WHITE						
8237716	14781	3508722217		103		BOWLES #1
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-JAMES E WHITE & ASSOCIATES						
8237715	14780	3508722218		103		BOWLES #2
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-JAMES E WHITE & ASSOCIATES						
8237717	14782	3508722219		103		BOWLES #3
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-JAMES E WHITE & ASSOCIATES						
8237718	14783	3508722220		103		BOWLES #4
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-JAMES E WHITE & ASSOCIATES						
8237719	14784	3508722221		103		BOWLES #5
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-JAMES E WHITE & ASSOCIATES						
8237720	14785	3508722222		103		BOWLES #6
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-JAMES E WHITE & ASSOCIATES						
8237721	14786	3508722223		103		BOWLES #7
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-JAMES E WHITE & ASSOCIATES						
8237710	14787	3508722224		103		BOWLES #8
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-JAMES E WHITE & ASSOCIATES						
8237709	14788	3508722226		103		BOWLES #9
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-JAMES E WHITE & ASSOCIATES						
8237708	14789	3508722227		103		BOWLES #10
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-JAMES E WHITE & ASSOCIATES						
8237711	14790	3508722228		103		BOWLES #11
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-JAMES E WHITE & ASSOCIATES						
8237740	17286	3512520617		102-2		JASON #2
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-JAMES E WHITE & ASSOCIATES						
8237741	17287	3512520618		102-2		JASON #3
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-JAMES E WHITE & ASSOCIATES						
8237742	17288	3512520619		102-2		JASON #4
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-JAMES E WHITE & ASSOCIATES						
8237729	17289	3512520620		102-2		JASON #5
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-JAMES E WHITE & ASSOCIATES						
8237730	17290	3512520621		102-2		JASON #6
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-JAMES E WHITE & ASSOCIATES						
8237731	17291	3512520622		102-2		JASON #7
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8237726	17292	3512520623		102-2		JASON #8
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8237727	17293	3512520624		102-2		JASON #9
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8237728	17294	3512520625		102-2		JASON #10
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8237725	17295	3512520626		102-2		JASON #11
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8237723	17296	3512520627		102-2		JASON #12
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8237697	14791	3508722229		103		MARTIN #1
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8237698	14792	3508722230		103		MARTIN #2
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8237699	14793	3508722231		103		MARTIN #3
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8237700	14794	3508722232		103		MARTIN #4
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8237701	14795	3508722233		103		MARTIN #5
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8237702	14796	3508722234		103		MARTIN #6
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8237703	14797	3508722235		103		MARTIN #7
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8237696	14798	3508722236		103		MARTIN #8
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8237695	14799	3508722237		103		MARTIN #9
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8237694	14800	3508722238		103		MARTIN #10
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8237693	14801	3508722239		103		MARTIN #11
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8237692	14802	3508722240		103		MARTIN #12
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8237691	14803	3508722241		103		MARTIN #13
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8237689	14805	3508722243		103		MARTIN #15
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8237687	14806	3508722244		103		MARTIN #16
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8237686	14807	3508722245		103		MARTIN #17
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8237685	14808	3508722246		103		MARTIN #18
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8237684	14809	3508722247		103		MARTIN #19
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8237681	14811	3508722249		103		MARTIN #21
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8237680	14812	3508722250		103		MARTIN #22
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8237679	14813	3508722251		103		MARTIN #23
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8237677	14814	3508722252		103		MARTIN #24
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8237676	14815	3508722253		103		MARTIN #25
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8237672	14816	3508722254		103		MARTIN #26
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8237671	14817	3508722255		103		MARTIN #27
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8237670	14818	3508722256		103		MARTIN #28
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8237668	14819	3508722257		103		MARTIN #29
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8237663	14823	3508722261		103		MARTIN #33
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8237661	14824	3508722262		103		MARTIN #34
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8237660	14825	3508722263		103		MARTIN #35
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8237659	14826	3508722264		103		MARTIN #36
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8237658	14827	3508722265		103		MARTIN #37
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8237657	14828	3508722266		103		MARTIN #38
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8237656	14829	3508722267		103		MARTIN #39
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8237654	14831	3508722269		103		MARTIN #41
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8237653	14832	3508722270		103		MARTIN #42
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8237652	14833	3508722271		103		MARTIN #43
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8237651	14834	3508722272		103		MARTIN #44
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8237649	14836	3508722274		103		MARTIN #46
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8237648	14837	3508722275		103		MARTIN #47
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8237647	14838	3508722276		103		MARTIN #48
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8237646	14839	3508722277		103		MARTIN #49
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8237645	14840	3508722278		103		MARTIN #50
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8237644	14841	3508722279		103		MARTIN #51
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8237643	14842	3508722280		103		MARTIN #52
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8237642	14843	3508722281		103		MARTIN #53
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8237641	14844	3508722282		103		MARTIN #54
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8237640	14845	3508722283		103		MARTIN #55
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8237639	14846	3508722284		103		MARTIN #56
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8237638	14847	3508722285		103		MARTIN #57
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8237637	14848	3508722286		103		MARTIN #58
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8237636	14849	3508722287		103		MARTIN #59
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8237635	14850	3508722288		103		MARTIN #60
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8237634	14851	3508722289		103		MARTIN #61
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8237633	14852	3508722290		103		MARTIN #62
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-JAMES E WHITE & ASSOCIATES						
8237632	14853	3508722291		103		MARTIN #63
				RECEIVED:	06/09/82	JA: OK
-JAMES E WHITE & ASSOCIATES						
8237631	14854	3508722292		103		MARTIN #64
				RECEIVED:	06/09/82	JA: OK
-JAMES E WHITE & ASSOCIATES						
8237630	14855	3508722293		103		MARTIN #65
				RECEIVED:	06/09/82	JA: OK
-JAMES E WHITE & ASSOCIATES						
8237629	14856	3508722294		103		MARTIN #66
				RECEIVED:	06/09/82	JA: OK
-JAMES E WHITE & ASSOCIATES						
8237628	14857	3508722295		103		MARTIN #67
				RECEIVED:	06/09/82	JA: OK
-JAMES E WHITE & ASSOCIATES						
8237627	14858	3508722296		103		MARTIN #68
				RECEIVED:	06/09/82	JA: OK
-JAMES E WHITE & ASSOCIATES						
8237626	14859	3508722297		103		MARTIN #69
				RECEIVED:	06/09/82	JA: OK
-JAMES E WHITE & ASSOCIATES						
8237625	14860	3508722298		103		MARTIN #70
				RECEIVED:	06/09/82	JA: OK
-JAMES E WHITE & ASSOCIATES						
8237624	14861	3508722299		103		MARTIN #71
				RECEIVED:	06/09/82	JA: OK
-JAMES E WHITE & ASSOCIATES						
8237623	14862	3508722300		103		MARTIN #72
				RECEIVED:	06/09/82	JA: OK
-JAMES E WHITE & ASSOCIATES						
8237622	14863	3508722301		103		MARTIN #73
				RECEIVED:	06/09/82	JA: OK
-JAMES E WHITE & ASSOCIATES						
8237621	14864	3508722302		103		MARTIN #74
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-JAMES E WHITE & ASSOCIATES						
8237620	14865	3508722303		103		MARTIN #75
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-JAMES E WHITE & ASSOCIATES						
8237619	14866	3508722304		103		MARTIN #76
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-JAMES E WHITE & ASSOCIATES						
8237618	14867	3508722305		103		MARTIN #77
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-JAMES E WHITE & ASSOCIATES						
8237617	14868	3508722306		103		MARTIN #78
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8237616	14869	3508722307		103		MARTIN #79
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8237615	14870	3508722308		103		MARTIN #80
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-JAMES E WHITE & ASSOCIATES						
8237614	14871	3508722309		103		MARTIN #81
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-JAMES E WHITE & ASSOCIATES						
8237613	14872	3508722310		103		MARTIN #82
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-JAMES E WHITE & ASSOCIATES						
8237612	14873	3508722311		103		MARTIN #83
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-JAMES E WHITE & ASSOCIATES						
8237611	14874	3508722312		103		MARTIN #84
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-JAMES E WHITE & ASSOCIATES						
8237610	14875	3508722313		103		MARTIN #85
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8237609	14876	3508722314		103		MARTIN #86
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8237608	14877	3508722315		103		MARTIN #87
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-JAMES E WHITE & ASSOCIATES						
8237607	14878	3508722316		103		MARTIN #88
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-JAMES E WHITE & ASSOCIATES						
8237606	14879	3508722317		103		MARTIN #89
				RECEIVED:	06/09/82	JA: OK
-JAMES E WHITE & ASSOCIATES						
8237605	14880	3508722318		103		MARTIN #90
				RECEIVED:	06/09/82	JA: OK
-JAMES E WHITE & ASSOCIATES						
8237604	14881	3508722319		103		MARTIN #91
				RECEIVED:	06/09/82	JA: OK
-JAMES E WHITE & ASSOCIATES						
8237603	14882	3508722320		103		MARTIN #92
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-JAMES E WHITE & ASSOCIATES						
8237602	14883	3508722321		103		MARTIN #93
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8237601	14884	3508722322		103		MARTIN #94
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8237600	14885	3508722323		103		MARTIN #95
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8237599	14886	3508722324		103		MARTIN #96
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8237598	14887	3508722325		103		MARTIN #97
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8237597	14888	3508722326		103		MARTIN #98
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8237596	14889	3508722327		103		MARTIN #99
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8237595	14890	3508722328		103		MARTIN #100
				RECEIVED:	06/09/82	JA: OK
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8237594	14891	3508722329		103		MARTIN #101
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8237593	14892	3508722330		103		MARTIN #102
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8237592	14893	3508722331		103		MARTIN #103
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-JAMES E WHITE & ASSOCIATES						
8237591	14894	3508722332		103		MARTIN #104
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-JAMES E WHITE & ASSOCIATES						
8237590	14895	3508722333		103		MARTIN #105
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8237589	14896	3508722334		103		MARTIN #106
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-JAMES E WHITE & ASSOCIATES						
8237588	14897	3508722335		103		MARTIN #107
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-JAMES E WHITE & ASSOCIATES						
8237587	14898	3508722336		103		MARTIN #108
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-JAMES E WHITE & ASSOCIATES						
8237586	14899	3508722337		103		MARTIN #109
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-JAMES E WHITE & ASSOCIATES						
8237585	14900	3508722338		103		MARTIN #110
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-JAMES E WHITE & ASSOCIATES						
8237584	14901	3508722339		103		MARTIN #111
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-JAMES E WHITE & ASSOCIATES						
8237583	14902	3508722340		103		MARTIN #112
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-JAMES E WHITE & ASSOCIATES						
8237582	14903	3508722341		103		MARTIN #113
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-JAMES E WHITE & ASSOCIATES						
8237581	14904	3508722342		103		MARTIN #114
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-JAMES E WHITE & ASSOCIATES						
8237580	14905	3508722343		103		MARTIN #115
				RECEIVED:	06/09/82	JA: OK
-JAMES E WHITE & ASSOCIATES						
8237579	14906	3508722344		103		MARTIN #116

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8237709	14743	3511122429		103		DENHAM 1A
8237710	14776	3511121684		103		SIMS 1A
-JAMES C MEADE				RECEIVED:	06/09/82	JA: OK
8237711	14765	3504321260		103		LADD CURTIS #2
-JCCO INC				RECEIVED:	06/09/82	JA: OK
8237706	14703	3503120744		103		HUNTER #1 - SEC 17
-JERNIGAN OIL CORP				RECEIVED:	06/07/82	JA: OK
8237670	17324	3509321235		102-2		WARNER #1
-JOHNSON-GIPSON OIL CO				RECEIVED:	06/09/82	JA: OK
8237717	14803	3506321351		103		LETA M CHAPMAN #3
8237719	14805	3506321250		103		LETA M CHAPMAN EST #1-10
8237718	14804	3506321322		103		LETA M CHAPMAN EST #2
-KENNEDY & MITCHELL INC				RECEIVED:	06/07/82	JA: OK
8237677	02253	3505900000		102-4		WEAVER #14-104
-KLINE & PITTENGER EXPLORATION				RECEIVED:	06/09/82	JA: OK
8237690	14824	3504722649		103		CAMPBELL #1
-L O WARD				RECEIVED:	06/07/82	JA: OK
8237759	14771	3504722468		103		BLANSIT A-3
-LADD PETROLEUM CORPORATION				RECEIVED:	06/07/82	JA: OK
8237733	14470	3504700000		108		HOPWOOD B #1
-LEWIS EXPLORATION INC				RECEIVED:	06/09/82	JA: OK
8237684	13898	3507122077		108		CHRISTENSEN #2
8237696	13896	3507100000		108		CHRISTENSEN 1-B
8237686	13899	3507100000		108		CHRISTENSEN 3
8237685	13897	3507121616		108		CURL #1
8237687	13900	3507100000		108		CURL 1 A
-MAGIC CIRCLE ENERGY CORP				RECEIVED:	06/07/82	JA: OK
8237763	14786	3515121194		103		JOHN HULL #1
-MAPCO PRODUCTION COMPANY				RECEIVED:	06/07/82	JA: OK
8237765	17123	3501922452		102-4	103	WILLIAMS #1-18
-MERLIN PETROLEUM CORP				RECEIVED:	06/09/82	JA: OK
8237723	17130	3508322005		102-2		WRIGHT #1
-NATURAL GAS COMPRESSION CORP				RECEIVED:	06/09/82	JA: OK
8237694	13549	3500700000		108		FLANIGAN #1-27
-PARK CENTER OIL & GAS INC				RECEIVED:	06/07/82	JA: OK
8237768	14786	3510321523		103		BEZDICEK #10-1
8237762	14783	3510321378		103		BEZDICEK PARK CENTER 1-2
8237761	14781	3510321399		103		MARY BEZDICEK 2-2
-PARK CENTER OIL & GAS INC				RECEIVED:	06/09/82	JA: OK
8237715	14782	3510321520		103		BEZDICEK #2-10
-PELTO OIL CO				RECEIVED:	06/07/82	JA: OK
8237660	14647	3504722556		103		SIMONS #1
-PETRO-LEWIS CORPORATION				RECEIVED:	06/07/82	JA: OK
8237731	14172	3500300000		108		DAISY 15-1
8237726	13868	3507300000		108		HAJEK 14-1
8237729	14170	3500300000		108		LEWIS 18-1
8237764	14787	3507323319		103		MERCER 20-1
8237730	14171	3500300000		108		NANCY 12-1
8237728	14169	3500300000		108		NORMA 13-1
8237727	14168	3500300000		108		STEWART 14 #1
-PETRO-LEWIS CORPORATION				RECEIVED:	06/09/82	JA: OK
8237689	14415	3509223400		103		HAMMER 7-2
8237695	13805	3507300000		108		RIVERSIDE 8-1

FIELD NAME	PROD	PURCHASER
NW-SW-NE SEC 35-15N 1	36.5	PHILLIPS PETROLEU
SENWNW SE 1/4 SEC 35-	25.6	PHILLIPS PETROLEU
HUCMAC	365.0	TRANSOK PIPE LINE
PUMPKIN CENTER	18.0	MANN INDUSTRIES I
	8.0	CONOCO INC
HOLDENVILLE	23.0	ARCO OIL & GAS CO
HOLDENVILLE	23.1	ARCO OIL & GAS CO
HOLDENVILLE	20.0	ARCO OIL & GAS CO
UNDESIGNATED FIELD (S	60.0	NORTHERN NATURAL
NW CARRIER	18.0	PANHANDLE EASTERN
SOONER TREND	30.2	OKLAHOMA NATURAL
N E ENID	11.0	CITIES SERVICE GA
UNNAMED	15.6	CITIES SERVICE GA
UNNAMED	12.0	CITIES SERVICE GA
UNNAMED	17.7	CITIES SERVICE GA
UNNAMED	6.4	CITIES SERVICE GA
UNNAMED	63.5	CITIES SERVICE GA
WILDCAT	186.0	
WEST HEWITT FIELD	36.0	AMINOIL USA INC
NORTH COON CREEK	0.5	WESTERN STATES GA
LIGHT GAS AREA	15.0	PANHANDLE EASTERN
S PERRY	233.0	AMINOIL USA INC
S E PERRY	37.0	AMINOIL USA INC
S E PERRY	37.0	AMINOIL USA INC
S PERRY	233.0	AMINOIL USA INC
SOUTH COVINGTON	20.0	OKLAHOMA NATURAL
RINGWOOD	9.9	PARTNERSHIP PROPE
SOONER TREND	0.1	PARTNERSHIP PROPE
SOONER TREND	19.4	PARTNERSHIP PROPE
SOONER TREND	57.0	PARTNERSHIP PROPE
SOONER TREND	8.8	PARTNERSHIP PROPE
SOONER TREND	8.4	AMINOIL USA INC
RINGWOOD	4.4	PARTNERSHIP PROPE
SOONER TREND FIELD	100.4	CITIES SERVICE GA
SOONER TREND	7.9	PARTNERSHIP PROPE

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	06/09/82	JA: OK
8237720	14810	3501721242		108-ER		BONHOFF "B" #1
-RAIZEN OIL CO				RECEIVED:	06/09/82	JA: OK
8237708	14711	3504921748		103		ISAAC #1 DEAN
-RALPH E PLOTNER OIL & GAS INVEST			IN	RECEIVED:	06/09/82	JA: OK
8237693	13305	3501721993		103		BRODERSEN #1-33
-READING & BATES PETROLEUM CO				RECEIVED:	06/07/82	JA: OK
8237672	17290	3503920627		102-2		FLAMING #1-5
-RESOURCES INVESTMENT CORPORATION				RECEIVED:	06/07/82	JA: OK
8237667	14820	3512722546		103		IDELL #2
-RICK BUCK				RECEIVED:	06/07/82	JA: OK
8237663	14815	3504722651		103		JULIE ANN #1
-RICKS EXPLORATION CO				RECEIVED:	06/07/82	JA: OK
8237756	12892	3504321325		103		FRANCIS #3A
8237757	13240	3504520918		103		NEW 13A
8237755	12871	3502720479		103		TULLIUS 15A
-SAKET PETROLEUM CO				RECEIVED:	06/07/82	JA: OK
8237679	13779	3511122473		103		BADGER TRUST #2
-SAXON OIL COMPANY				RECEIVED:	06/09/82	JA: OK
8237721	16081	3503120849		107-DP		LONE WOLF #1
-SENECA OIL COMPANY				RECEIVED:	06/09/82	JA: OK
8237716	14831	3501722056		103		EVERY #2-31
-SOUTHLAND ROYALTY CO				RECEIVED:	06/07/82	JA: OK
8237673	10913	3515120977		108-PB		MARIE #1-11
-SUN OIL COMPANY (DELAWARE)				RECEIVED:	06/07/82	JA: OK
8237725	14359	3501900000		108		HEFNER "F" #4
-TENNECO OIL COMPANY				RECEIVED:	06/07/82	JA: OK
8237742	13276	3515320165		118-ER		ALEXANDER GARVIE #4-33
8237666	14819	3504321322		103		CROSS #1-2
8237676	17337	3504321306		102-4		PERCY #1-16
-TEXAS OIL & GAS CORP				RECEIVED:	06/09/82	JA: OK
8237692	13122	3503920528		103		SMITH HH #1
-TEXOMA RESOURCES INC				RECEIVED:	06/09/82	JA: OK
8237691	12973	3507323240		103		BRAME #1-24
-THE WIL-MC OIL CORP				RECEIVED:	06/07/82	JA: OK
8237748	17315	3513722043		102-4		EDWARDS ESTATE #1 (151-10)
-THOMAS N BERRY & CO				RECEIVED:	06/07/82	JA: OK
8237668	14822	3503723589		103		TIGER #2
-WALKER CORP				RECEIVED:	06/07/82	JA: OK
8237734	14700	3501721866		103		CHESTER BRAKEFIELD #36-1
-WALTER A KELLY JR				RECEIVED:	06/07/82	JA: OK
8237766	17231	3511921813		102-2		AHRBERG #3
8237767	17233	3511921885		102-2		BRATCHER-STATE #1
-WESSELY ENERGY CORPORATION				RECEIVED:	06/07/82	JA: OK
8237664	14816	3504921586		103		HOLT #1-16
-WESTWOOD ENERGY INC				RECEIVED:	06/09/82	JA: OK
8237697	17372	3511900000		102-4	103	DAVIDSON #1 (119-68649)
8237703	17376	3511900000		102-4	103	DELAY #2 (119-63170)
8237700	17373	3511900000		102-4	103	DOLL #1 (119-68818)
8237695	17374	3511900000		102-4	103	FRANK FORD (119-63171)
8237701	17379	3511900000		102-4		MARATHON ELLIOTT (119-64178)
8237698	17375	3511900000		102-4	103	MATHENY #1 (119-62518)
8237702	17377	3511900000		102-4		MILLS #1 (119-68534)

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FIELD NAME	PROD	PURCHASER
NORTH CONCHO	10.0	PANHANDLE EASTERN
PAULS VALLEY	100.0	WARREN PETROLEUM
WEST PIEDMONT	45.0	PHILLIPS PETROLEU
PITTS CREEK	216.0	
N W NORMAN	186.5	SUN GAS CO
EAST BISON	126.0	PAN HANDLE EASTER
PUTNAM	109.0	MOBIL OIL CORP
S E HARMON	108.0	PHILLIPS PETROLEU
N W NORMAN	54.0	SUN GAS CO
	0.0	PHILLIPS PETROLEU
	0.0	MICHIGAN-WISCONSI
PIEDMONT	0.0	
S W FREEDOM	21.0	PANHANDLE EASTERN
FOX GRAHAM	6.1	AMINOIL USA INC
CHESTER WEST	12.0	MICHIGAN-WISCONSI
SQUIRREL CREEK	12.0	
N W NOBSCOT	55.0	
S W ALEDO	1084.0	
SOONER TREND	500.0	CONOCO INC
COMANCHE	203.7	
SOUTHWEST KELLYVILLE	12.0	GOLDEN ARROW GAS
E YUKON	277.0	CONOCO INC
NORTHWEST BOOMER LAKE	6.0	ARCO OIL & GAS CO
NORTHWEST BOOMER LAKE	12.0	ARCO OIL & GAS CO
N ANTIOCH	41.0	WARREN PETROLEUM
MARKHAM	0.5	PHILLIPS PETROLEU
MARKHAM	16.0	PHILLIPS PETROLEU
MARKHAM	2.0	PHILLIPS PETROLEU
MARKHAM	0.5	PHILLIPS PETROLEU
MARKHAM	24.0	PHILLIPS PETROLEU
MARKHAM	9.0	PHILLIPS PETROLEU
MARKHAM	21.0	PHILLIPS PETROLEU

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before July 21, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1,000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–18293 Filed 7–2–82; 8:45 am]
BILLING CODE 6717–01–M

JD NO	JA DKT	API NO	C	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROC	PURCHASER
OHIO DEPARTMENT OF NATURAL RESOURCES									
-B T SIMPSON JR				RECEIVED:	06/11/82	JA: OH			
8238065		3407523494	103			STEPHEN EILER #3	WELCOME	60.0	COLUMBIA GAS TRAN
8238064		3407523733	103			W BIRD & M BOMER #3	WELCOME	60.0	COLUMBIA GAS TRAN
-BEREA OIL AND GAS CORPORATION				RECEIVED:	06/11/82	JA: OH			
8237771		3411925841	103	107-TF		J VANREETH #1	UNION	8.8	COLUMBIA GAS TRAN
-BUCKEYE CRUDE EXPLORATION INC				RECEIVED:	06/11/82	JA: OH			
8237885		3400922062	107-TF			JOHNSON #1	AMES	1.5	COLUMBIA GAS TRAN
8237887		3400922160	107-TF			JOHNSON #11	AMES	1.0	COLUMBIA GAS TRAN
8237811		3400922180	107-TF			JOHNSON #12	AMES	4.3	COLUMBIA GAS TRAN
8237810		3400922179	107-TF			JOHNSON #13	AMES	4.3	COLUMBIA GAS TRAN
8237808		3400922177	107-TF			JOHNSON #14	AMES	3.5	COLUMBIA GAS TRAN
8237809		3400922178	107-TF			JOHNSON #15	AMES	2.8	COLUMBIA GAS TRAN
8237883		3400921766	107-TF			JOHNSON #2	AMES	2.3	COLUMBIA GAS TRAN
8237804		3400922060	107-TF			JOHNSON #3	AMES	4.3	COLUMBIA GAS TRAN
8237806		3400922127	107-TF			JOHNSON #8	AMES	3.6	COLUMBIA GAS TRAN
-CARL E SMITH PETROLEUM INC				RECEIVED:	06/11/82	JA: OH			
8238066		3410522091	103			HOMER A COLE #270	ORANGE	15.6	COLUMBIA GAS TRAN
-CLEARFORK OIL CO				RECEIVED:	06/11/82	JA: OH			
8237812		3411122549	107-DV			C WECKBACHER #2	WASHINGTON	18.0	COLUMBIA GAS TRAN
-CLINTON OIL CO				RECEIVED:	06/11/82	JA: OH			
8237813		3412725523	103	107-TF		O SIDWELL #1-711	DEAVERTOWN	10.0	
-COLUMBIA GAS TRANSMISSION CORP				RECEIVED:	06/11/82	JA: OH			
8237838		3410300210	108			ADOLF MUREN 703769	NORTHERN DIST STE OF	0.7	COLUMBIA GAS TRAN
8237816		3400500130	108			ALBERT HEFFNER 704687	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8237868		3416900910	108			ALVIN S ROBER 704257	NORTHERN DIST STE OF	3.0	COLUMBIA GAS TRAN
8237833		3409300220	108			BUNDY GREKCO 704423	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8237862		3416721333	108			CLAIR LEWIS ETAL 704504	SOUTHERN DIST STE OF	0.5	COLUMBIA GAS TRAN
8237859		3416302420	108			CLYDIA WING ET AL 701020	SOUTHERN DIST STE OF	3.0	COLUMBIA GAS TRAN
8237857		3412103900	108			CONSOLIDATION COAL 701278	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8237843		3413308320	108			D C HALLER	NORTHERN DIST STE OF	0.7	COLUMBIA GAS TRAN
8237820		3407503990	108			DAVID J MILLER ETAL	SOUTHERN DIST STE OF	3.0	COLUMBIA GAS TRAN
8237848		3410300450	108			DOUGLAS A BALLASH	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8237861		3416701750	108			EDITH HANDSCHUMACHER 701253	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8237839		3410300220	108			EMILY KRANTZ 703782	NORTHERN DIST STE OF	0.6	COLUMBIA GAS TRAN
8237855		3411106630	108			ESTHER V KILGORE 701120	SOUTHERN DIST STE OF	6.7	COLUMBIA GAS TRAN
8237825		3408300090	108			ETHEL M SHRIMPLIN 701172	SOUTHERN DIST STE OF	0.0	COLUMBIA GAS TRAN
8237869		3416900920	108			F E GINGERY 704431	NORTHERN DIST STE OF	3.0	COLUMBIA GAS TRAN
8237823		3408300060	108			FLOYD D SWANGER 703514	SOUTHERN DIST STE OF	2.8	COLUMBIA GAS TRAN
8237824		3408300080	108			FOURSQUARE E DIST 701104	SOUTHERN DIST STE OF	0.0	COLUMBIA GAS TRAN
8237827		3408900070	108			HAROLD R BODKIN 700457	SOUTHERN DIST STE OF	1.8	COLUMBIA GAS TRAN
8237817		3400904300	108			HARRY G HENRY 703522	SOUTHERN DIST STE OF	0.5	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8237856		3411107320		108		HELEN E BURKHART 701241	SOUTHERN DIST STE OF	0.8	COLUMBIA GAS TRAN
8237866		3416900870		108		HILTON E BOWMAN 704039	NORTHERN DIST STE OF	4.0	COLUMBIA GAS TRAN
8237864		3416900780		108		HOWARD M HINES 703626	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8237834		3410300040		108		ISSAC FETTER 700315	NORTHERN DIST STE OF	0.6	COLUMBIA GAS TRAN
8237841		3410300280		108		JACK E BLANK 701194	NORTHERN DIST STE OF	5.0	COLUMBIA GAS TRAN
8237851		3410300490		108		JAMES A WILSON ETAL 701026	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8237814		3400500050		108		JAMES MARKLING ETAL 701398	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8237836		3410300090		108		JOHN KRUK 703629	NORTHERN DIST STE OF	3.0	COLUMBIA GAS TRAN
8237853		3410300240		108		JOHN T WOLFE AGENT 700371	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8237822		3407504970		108		JOHN W STITZLEIN 704275	SOUTHERN DIST STE OF	3.0	COLUMBIA GAS TRAN
8237819		3407503160		108		JONATHAN C YODER	SOUTHERN DIST STE OF	0.9	COLUMBIA GAS TRAN
8237854		3410302180		108		LENNA CHASE ETAL 704709	SOUTHERN DIST STE OF	0.0	COLUMBIA GAS TRAN
8237826		3408900050		108		LEORA M WARNER 701191		0.7	COLUMBIA GAS TRAN
8237830		3408900120		108		LICKING RURAL 703682	SOUTHERN DIST STE OF	0.2	COLUMBIA GAS TRAN
8237846		3410300410		108		LOUIS PERZY 703738	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8237850		3410300470		108		LOUISE HERRON ETAL 704662	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8237821		3407504960		108		MARTHA MASTER 704029	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8237858		3416301430		108		MARY P VERKAMP 701267	SOUTHERN DIST STE OF	6.9	COLUMBIA GAS TRAN
8237860		3416304270		108		MARY P VERKAMP 701379	SOUTHERN DIST STE OF	0.5	COLUMBIA GAS TRAN
8237815		3400500090		108		MAY FLETCHER 703842	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8237844		3418300360		108		MICHAEL F FECHKO 700952	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8237845		3410300370		108		MYRTLE GARMAN 701238	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8237835		3410300060		108		ORA SHILLING 704059	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8237852		3410300500		108		PAUL O EMERSON 701347	NORTHERN DIST STE OF	0.7	COLUMBIA GAS TRAN
8237828		3408900030		108		RALPH J CALLAN 703698	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8237818		3400947400		108		RAYMOND H MAXWELL 704745	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8237865		3416900850		108		ROBERT MESKER 701027	NORTHERN DIST STE OF	0.7	COLUMBIA GAS TRAN
8237849		3410300460		108		RONALD L DOUGSTRUP 704545	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8237831		3409300110		108		ROY W MAYES 704435	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8237829		3408900110		108		STANLEY HAAS 700433	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8237837		3410300100		108		THOMAS H PURSLEY 704716	NORTHERN DIST STE OF	6.8	COLUMBIA GAS TRAN
8237847		3410300440		108		VERNER DIETRICH 704497	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8237848		3410300250		108		VICTOR E RUPERT 701033	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8237842		3410300310		108		W B CLEVELAND 704050	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8237832		3409300180		108		WALTER KOBASUK 703528	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8237867		3416900890		108		WILLIAM CLEVELAND 704100	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8237863		3416900410		108		WILLIAM D FARRISS 704676	NORTHERN DIST STE OF	0.3	COLUMBIA GAS TRAN
-DOLPHA ANDERSON				RECEIVED:	06/11/82	JA: OH			
8237769		3416725084		108		KRIS-MAR #1	WARREN TWP	4.4	GAS TRANSPORT CO
-EDWARD E ATHA				RECEIVED:	06/11/82	JA: OH			
8237770A		3400922469		103		SUGAR KNOLL FARMS #1	ALFRED	12.8	
8237770B		3400922469	D	107-TF		SUGAR KNOLL FARMS #1	ALFRED	12.8	
-ENERGY UNLIMITED INC				RECEIVED:	06/11/82	JA: OH			
8237872		3400922458		107-TF		GOLDSBERRY #1	LODI TOWNSHIP	0.0	COLUMBIA GAS TRAN
8237870		3400922408		107-TF		JONES #1	LODI TOWNSHIP	0.0	COLUMBIA GAS TRAN
8237873		3400922459		107-TF		MERRILL #1	LODI TOWNSHIP	0.0	COLUMBIA GAS TRAN
8237874		3416725370		107-DV		SWOPE #1	LUDLOW TOWNSHIP	0.0	COLUMBIA GAS TRAN
8237871		3400922409		107-TF		WINNER #1	LODI TOWNSHIP	0.0	COLUMBIA GAS TRAN
-ENTERPRISE ENERGY CORP				RECEIVED:	06/11/82	JA: OH			
8237875		3405923139		107-TF		MID-OHIO COAL #9	JACKSON	27.3	COLUMBIA GAS TRAN
-GEO ENERGY INC				RECEIVED:	06/11/82	JA: OH			
8237918		3411925475		107-TF		BOYD KENNEDY #31-1	RICH HILL	5.0	COLUMBIA GAS TRAN
-GNC ENERGY CORP				RECEIVED:	06/11/82	JA: OH			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8237898		3411522115		107-TF		A MARGARET YERIAN #1	MALTA	15.0	TENNESSEE GAS PIP
8237899		3411522323		107-TF		A MARGARET YERIAN #4A	MALTA	15.0	TENNESSEE GAS PIP
8237900		3411522408		107-TF		BARKMAN RAYMOND & CLARA #3	ROKEBY LOCK	15.0	COLUMBIA GAS TRAN
8237879		3411522053		107-TF		EDGAR GIBSON #1	MALTA	15.0	TENNESSEE GAS PIP
8237878		3411522052		107-TF		EDGAR GIBSON #3	MALTA	15.0	TENNESSEE GAS PIP
8237903		3411522456		107-TF		JOHN & BARBARA SCHODITSCH #2	ROKEBY LOCK	0.0	COLUMBIA GAS TRAN
8237892		3411522084		107-TF		JOHN & SARAH EPPLEY #1	MALTA	15.0	TENNESSEE GAS PIP
8237893		3411522085		107-TF		JOHN & SARAH EPPLEY #2	MALTA	15.0	TENNESSEE GAS PIP
8237896		3411522113		107-TF		JOSEPH PEYTON #1	MALTA	15.0	TENNESSEE GAS PIP
8237897		3411522114		107-TF		JOSEPH PEYTON #3	MALTA	15.0	TENNESSEE GAS PIP
8237908		3411522622		103		KENNETH & ANITA BENJAMIN #1	RINGGOLD	15.0	
8237880		3411522064		107-TF		ORLIE WESTFALL #1	MALTA	15.0	TENNESSEE GAS PIP
8237901		3411522453		107-TF		RAYMOND & CLARA BARKMAN #10	ROKEBY LOCK	15.0	COLUMBIA GAS TRAN
8237905		3411522458		107-TF		RAYMOND & CLARA BARKMAN #12	ROKEBY LOCK	15.0	COLUMBIA GAS TRAN
8237904		3411522457		107-TF		RAYMOND & CLARA BARKMAN #9	ROKEBY LOCK	15.0	COLUMBIA GAS TRAN
8237881		3411522067		107-TF		ROBERT & PEARL DAVIS #1	MALTA	15.0	TENNESSEE GAS PIP
8237894		3411522093		107-TF		ROBERT & PEARL DAVIS #2	MALTA	15.0	TENNESSEE GAS PIP
8237882		3411522068		107-TF		ROBERT & PEARL DAVIS #3	MALTA	15.0	TENNESSEE GAS PIP
8237883		3411522069		107-TF		ROBERT & PEARL DAVIS #5	MALTA	15.0	TENNESSEE GAS PIP
8237895		3411522107		107-TF		ROBERT & PEARL DAVIS #9	MALTA	15.0	TENNESSEE GAS PIP
8237888		3411522080		107-TF		RONNIE FOUTS #2	MALTA	15.0	TENNESSEE GAS PIP
8237889		3411522081		107-TF		RONNIE FOUTS #4	MALTA	15.0	TENNESSEE GAS PIP
8237890		3411522082		107-TF		RONNIE FOUTS #5	MALTA	15.0	TENNESSEE GAS PIP
8237891		3411522083		107-TF		RONNIE FOUTS #8	MALTA	15.0	TENNESSEE GAS PIP
8237884		3411522070		107-TF		ROY WISEMAN #1	MALTA	15.0	TENNESSEE GAS PIP
8237885		3411522071		107-TF		ROY WISEMAN #3	MALTA	15.0	TENNESSEE GAS PIP
8237886		3411522072		107-TF		ROY WISEMAN #5	MALTA	15.0	TENNESSEE GAS PIP
8237887		3411522073		107-TF		ROY WISEMAN #7	MALTA	15.0	TENNESSEE GAS PIP
8237910		3411522704		103		RUSSELL B ABEL #1	RINGGOLD	15.0	
8237902		3411522455		107-TF		SCHODITSCH JOHN & BARBARA #1	ROKEBY LOCK	15.0	COLUMBIA GAS TRAN
8237906		3411522459		107-TF		WARREN & HELEN CLARK #1	YORK	15.0	COLUMBIA GAS TRAN
8237907		3411522460		103	107-TF	WARREN & HELEN CLARK #2	ROKEBY LOCK	15.0	COLUMBIA GAS TRAN
8237909		3411522623		103		WARREN & LILLIE FUSSNER #1	RINGGOLD	15.0	
8237876		3411521950		107-TF		WILLIAM CLEMENS ET AL #2	MALTA	15.0	TENNESSEE GAS PIP
8237877		3411521952		107-TF		WILLIAM CLEMENS ET AL #4	MALTA	15.0	TENNESSEE GAS PIP
-GWF CORP				RECEIVED: 06/11/82 JA: OH					
8237911		3400922117		107-TF		BYRON W JAMES #1	LODI	0.0	COLUMBIA GAS TRAN
8237914		3400922136		107-TF		CLARENCE FROST #1	ROME	0.0	COLUMBIA GAS TRAN
8237912		3400922118		107-TF		J BERRY #1	ROME	0.0	COLUMBIA GAS TRAN
8237913		3400922119		107-TF		PHILLIP LAVELLE #1	ROME	80.0	COLUMBIA GAS TRAN
8237916		3400922158		107-TF		RALPH BYRON #1	ROME	20.0	COLUMBIA GAS TRAN
8237917		3400922379		107-TF		ROBERT A BOBO #1A	LODI	10.0	COLUMBIA GAS TRAN
8237915		3400922146		107-TF		ROY PARSONS #2	ROME	20.0	COLUMBIA GAS TRAN
-HERALD OIL & GAS CO				RECEIVED: 06/11/82 JA: OH					
8237980		3410522355		107-TF		ALVIN WAGGONER #1	SCIPIO	0.0	COLUMBIA GAS TRAN
8237976		3410522189		107-TF		BOB BRANHAM #1	SCIPIO	0.0	COLUMBIA GAS TRAN
8237953		3410521924		107-TF		C O HARRISON #1	RUTLAND	0.0	COLUMBIA GAS TRAN
8237955		3410521937		107-TF		C O ROGERS #1	BEDFORD	0.0	COLUMBIA GAS TRAN
8237977		3410522201		107-TF		CARL NICHOLS #1	SALISBURY	0.0	COLUMBIA GAS TRAN
8237934		3410521830		107-TF		CHARLES DAVIDSON #1	RUTLAND	5.4	COLUMBIA GAS TRAN
8237963		3410522095		107-TF		CLIFFORD WHITINGTON #1	RUTLAND	0.0	COLUMBIA GAS TRAN
8237919		3405320418		107-TF		CROW & MORGAN #1	CHESHIRE	0.0	COLUMBIA GAS TRAN
8237920		3405320445		107-TF		CROW & MORGAN #2	CHESHIRE	5.4	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8237921		3405320446		107-TF		CROW & MORGAN #3	CHESHIRE	5.4	COLUMBIA GAS TRAN
8237958		3410521961		107-TF		DALE LITTLE #1	SALISBURY	0.0	COLUMBIA GAS TRAN
8237947		3410521897		107-TF		DAVID PRICE #1	SALISBURY	0.0	COLUMBIA GAS TRAN
8237937		3410521834		107-TF		DENNIS PALMER #1	SALISBURY	5.4	COLUMBIA GAS TRAN
8237936		3410521833		107-TF		DENNIS SAELENS #1	SALISBURY	5.4	COLUMBIA GAS TRAN
8237935		3410521832		107-TF		DORIS WOODYARD #1	SALISBURY	5.4	COLUMBIA GAS TRAN
8237932		3410521810		107-TF		DREHEL #5	RUTLAND	5.4	COLUMBIA GAS TRAN
8237931		3410521809		107-TF		DREHEL #6	RUTLAND	5.4	COLUMBIA GAS TRAN
8237930		3410520486		107-TF		DREHEL #7	CHESHIRE	5.4	COLUMBIA GAS TRAN
8237928		3405320696		107-TF		EMMETT ELLIOTT #1	ADDISON	0.0	COLUMBIA GAS TRAN
8237961		3410522072		107-TF		FELIX ALIRE #1	SCIPIO	0.0	COLUMBIA GAS TRAN
8237951		3410521913		107-TF		FRED THOMPSON #1	SALISBURY	5.0	COLUMBIA GAS TRAN
8237957		3410521951		107-TF		FRICK-PULLINS #1	SALISBURY	0.0	COLUMBIA GAS TRAN
8237974		3410522184		107-TF		GUY HARPER #1	SCIPIO	0.0	COLUMBIA GAS TRAN
8237948		3410521898		107-TF		GUY SARGENT #1	SALISBURY	0.0	COLUMBIA GAS TRAN
8237964		3410522096		107-TF		HAROLD & OKEY CART #1	RUTLAND	0.0	COLUMBIA GAS TRAN
8237942		3410521872		107-TF		HARTWELL CURD #1	SALISBURY	0.0	COLUMBIA GAS TRAN
8237965		3410522097		107-TF		HOWARD THOMA #1	SALISBURY	5.4	COLUMBIA GAS TRAN
8237969		3410522158		107-TF		HUGH MITCHELL #1	SALISBURY	5.4	COLUMBIA GAS TRAN
8237949		3410521903		107-TF		JACK (GEORGE) WARNER #1	SALISBURY	5.0	COLUMBIA GAS TRAN
8237945		3410521895		107-TF		JAMES DREHEL #8	RUTLAND	0.0	COLUMBIA GAS TRAN
8237946		3410521896		107-TF		JAMES DREHEL #9	RUTLAND	0.0	COLUMBIA GAS TRAN
8237960		3410521992		107-TF		JAMES JOHNSON #1	SALISBURY	0.0	COLUMBIA GAS TRAN
8237922		3405320493		107-TF		JAY HALL JR #1	CHESHIRE	0.0	COLUMBIA GAS TRAN
8237972		3410522178		107-TF		KENNETH EBLIN #1	RUTLAND	5.0	COLUMBIA GAS TRAN
8237959		3410521991		107-TF		KENNETH JOHNSON #1	SALISBURY	0.0	COLUMBIA GAS TRAN
8237971		3410522176		107-TF		LARRY PICKENS #1	SALISBURY	5.0	COLUMBIA GAS TRAN
8237933		3410521829		107-TF		LEO DEL DAVIDSON #1	RUTLAND	5.4	COLUMBIA GAS TRAN
8237926		3405320679		107-TF		LLOYD HASKINS #1	LLOYD HASKINS	0.0	COLUMBIA GAS TRAN
8237944		3410521874		107-TF		LONG-SAYRE #1	SALISBURY	5.4	COLUMBIA GAS TRAN
8237962		3410522086		107-TF		MANNING WEBSTER #1	SALISBURY	0.0	COLUMBIA GAS TRAN
8237968		3410522145		107-TF		MANNING WEBSTER #2	SALISBURY	5.4	COLUMBIA GAS TRAN
8237983		3410522402		107-TF		MARY ANNE WHITT DANNER #1	SHADE	0.0	COLUMBIA GAS TRAN
8237923		3405320520		107-TF		MARY DARNELL #1	CHESHIRE	0.0	COLUMBIA GAS TRAN
8237956		3410521941		107-TF		NANCY REED #2	RUTLAND	0.0	COLUMBIA GAS TRAN
8237967		3410522099		107-TF		OLIN BOOTHE #1	SALISBURY	0.0	COLUMBIA GAS TRAN
8237929		3405320697		107-TF		ORLAND ELLIOTT #1	ADDISON	0.0	COLUMBIA GAS TRAN
8237941		3410521871		107-TF		PAUL MCELROY #1	SALISBURY	0.0	COLUMBIA GAS TRAN
8237925		3405320533		107-TF		PERRY WILLIAMS #1	ADDISON	5.4	COLUMBIA GAS TRAN
8237975		3410522185		107-TF		REED & GENE JEFFERS #1	COLUMBIA	0.0	COLUMBIA GAS TRAN
8237943		3410521873		107-TF		RICHARD REUTER #1	SALISBURY	5.4	COLUMBIA GAS TRAN
8237966		3410522098		107-TF		RICHARD RUSSELL #1	SALISBURY	0.0	COLUMBIA GAS TRAN
8237978		3410522202		107-TF		RIGHTHOUSE #1	SALISBURY	0.0	COLUMBIA GAS TRAN
8237982		3410522368		107-TF		ROBERT ALKIRE #1	ALBANY	0.0	COLUMBIA GAS TRAN
8237952		3410521923		107-TF		ROBERT KING #2	RUTLAND	5.0	COLUMBIA GAS TRAN
8237970		3410522156		107-TF		ROBERT RICHARD #1	SALISBURY	0.0	COLUMBIA GAS TRAN
8237979		3410522354		107-TF		ROGER BROWN #1	SALISBURY	0.0	COLUMBIA GAS TRAN
8237973		3410522179		107-TF		ROLAND MORRIS #1	RUTLAND	0.0	COLUMBIA GAS TRAN
8237927		3405320677		107-TF		ROY E MOONEY #1	ROY E MOONEY	0.0	COLUMBIA GAS TRAN
8237981		3410522366		107-TF		SHERMAN BASHAM #1	RULLAND	0.0	COLUMBIA GAS TRAN
8237954		3410521930		107-TF		TED WARNER #1	SALISBURY	5.4	COLUMBIA GAS TRAN
8237939		3410521883		107-TF		TIM WOODYARD #2	SALISBURY	5.4	COLUMBIA GAS TRAN
8237938		3410521841		107-TF		TIM WOODYARD #3	SALISBURY	5.4	COLUMBIA GAS TRAN

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JD NO	JA CKT	API NO	C	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8237940		3410521866		107-TF		TIM WOODYARD #5	SALISBURY	0.0	COLUMBIA GAS TRAN
8237924		3405320521		107-TF		VERA THOMAS #1	CHESHIRE	0.0	COLUMBIA GAS TRAN
8237950		3410521999		107-TF		WILLIAM ASBECK #1	BEDFORD	0.0	COLUMBIA GAS TRAN
-HOLROYD PRODUCTION CO				RECEIVED:	06/11/82	JA: OH			
8237985		3408720188		108		P&M REDDEN #1 20 5118		7.0	COLUMBIA GAS TRAN
-HOPEWELL OIL AND GAS DEVELOPMENT CO				RECEIVED:	06/11/82	JA: OH			
8237986A		3408923653		103		G ROBERTS #1	HANOVER	5.0	NATIONAL GAS & OI
8237986B		3408923653	D	107-TF		G ROBERTS #1	HANOVER	5.0	NATIONAL GAS & OI
8237987		3411122277		107-DV		JOSEPH KUHN #1	CALDWELL EAST	10.0	COLUMBIA GAS TRAN
-IRVIN PRODUCING COMPANY				RECEIVED:	06/11/82	JA: OH			
8237988		3412724524		108		KERMIT HOPE B-1		1.0	COLUMBIA GAS TRAN
-J D DRILLING CO				RECEIVED:	06/11/82	JA: OH			
8237994		3410522378		107-DV		FRANK & D M CLELAND #1	NEW HAVEN	7.0	COLUMBIA GAS TRAN
8237991		3410522222		107-DV		JACK SHARPNACK HEIRS #1	RAVENSWOOD	8.0	COLUMBIA GAS TRAN
8237992		3410522231		107-DV		JUANITA LANNIGAN #1	LEBANON	7.0	COLUMBIA GAS TRAN
8237990		3410522196		107-DV		K C & HELEN WALLBROWN #1	RAVENSWOOD	7.0	COLUMBIA GAS TRAN
8237993		3410522288		107-DV		LAURENCE GLUESENCAMP #1	PORTLAND	5.0	COLUMBIA GAS TRAN
8237989		3410522090		103		RAYMOND J SMITH #2	POMEROY	9.0	COLUMBIA GAS TRAN
-JOHN TANSKY				RECEIVED:	06/11/82	JA: OH			
8238069		3400922572		103	107-TF	EULA WILSON #1	SHADE	15.0	
8238068		3400922394		103	107-TF	RAINBOW LAKE OF ATHENS INC #1	ALEXANDER	15.0	
8238067		3400922077		107-TF		RICHARD GRIM #1	LODI	18.0	COLUMBIA GAS TRAN
-JONSU OIL CORP				RECEIVED:	06/11/82	JA: OH			
8237995		3403124679		103		CDF UNIT #1	SPRING MOUNTAIN	4.0	
8237996		3403124681		103		KARL #1	SPRING MOUNTAIN	3.0	
-L & M OPERATING INC				RECEIVED:	06/11/82	JA: OH			
8237998		3416743270		108		ANDREW RAUCH #1		12.8	GAS TRANSPORT INC
-L & M PETROLEUM INC				RECEIVED:	06/11/82	JA: OH			
8237999		3412724728		108		CLARENCE NICELY #1		15.5	NATIONAL OIL & GA
8238000		3416725243		108		WILLIAM SCHILLING #2		12.8	GAS TRANSPORT INC
-LARRY M WRIGHT INC				RECEIVED:	06/11/82	JA: OH			
8238089		3400922095		107-TF		JOHN LOWE #1	LODI	3.0	COLUMBIA GAS TRAN
8238090		3410521976		107-TF		ROBERT L JONES #1	BEDFORD	5.0	COLUMBIA GAS TRAN
-LOMAK PETROLEUM INC				RECEIVED:	06/11/82	JA: OH			
8238001		3411925656		107-TF		N MOORE #6	BLUE ROCK	12.0	ROVI RESOURCES
8238002		3411925875		107-TF		N MOORE #7	BLUE ROCK	12.0	ROVI RESOURCES
8238003		3411925946		107-TF		N MOORE #8	BLUE ROCK	8.0	ROVI RESOURCES
-M B OPERATING CO INC				RECEIVED:	06/11/82	JA: OH			
8238085		3401921471		103	107-TF	DECKMAN UNIT #1	BROWN	11.0	
8238013		3415723645		103	107-TF	E MARKLEY ESTATES #9	DOVER	32.9	
8238009		3415123636		103	107-TF	GLASALEE FARM #1	ROBERTSVILLE	9.1	
8238011		3415722031		103	107-TF	HICKMAN UNIT #1	BOLIVAR	54.8	
8238007		3415123550		103	107-TF	HOCKLEY #1	SUGAR CREEK	91.3	
8238015		3415723623		103	107-TF	M W C D #11	FAIRFIELD	40.2	
8238012		3415723622		103	107-TF	M W C D #8	WAYNE	32.9	
8238008		3415123618		103	107-TF	MARKS #1	NIMISHILLEN	11.0	
8238006		3401921467		103	107-TF	MCCONNELL UNIT #1	SCIO	14.6	
8238014		3415123655		103	107-TF	P BURGER UNIT #1-B	LIMAVILLE	21.9	
8238004		3401921445		103	107-TF	UDECK #1	BROWN	16.4	
8238010		3415123666		103	107-TF	WITTE UNIT #2	LIMAVILLE	5.5	
-MUMMA OIL AND GAS CO				RECEIVED:	06/11/82	JA: OH			
8238617		3499920255		108		BOPP #1		5.8	EAST OHIO GAS CO
-MURPHY OIL CO				RECEIVED:	06/11/82	JA: OH			

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8238018		3400922010		108		CROWELL #1		2.5	COLUMBIA GAS TRAN
8238019		3410521890		107-TF		HAYES #1	BEDFORD	6.8	COLUMBIA GAS TRAN
-NATIONAL PRODUCTION CORPORATION				RECEIVED:	06/11/82	JA: OH			
8238020		3412108230		108		PEKARI #1		2.8	NATIONAL GAS & OI
8238021		3412109300		108		WILLIAMS #1		2.9	NATIONAL GAS & OI
-NEIMART EXPL & DEVELOPMENT CO				RECEIVED:	06/11/82	JA: OH			
8238023		3412122590		107-DV		CARL BAKER WELL #1	ELK	50.0	
8238022		3412122589		107-DV		LOTTIE & BERNARD CRUM #3	ELK	50.0	
-O S WITTMER				RECEIVED:	06/11/82	JA: OH			
8238083		3400922468		103	107-TF	JOHN LEY #1	ATHENS	20.0	
-POI ENERGY INC				RECEIVED:	06/11/82	JA: OH			
8238024		3413320772		108		ALLIED CONCRETE #1		5.0	
8238032		3413320854		108		ALLIED CONCRETE #2		4.9	
8238057		3413321201		108		ALLIED CONCRETE #3		4.9	
8238027		3413320833		108		BRUGMANN #2		6.8	
8238047		3413321061		108		BRUGMANN SAND & GRAVEL #2		10.6	
8238037		3413320977		108		BURKE #2		5.2	
8238028		3413320838		108		DANNER #1		3.2	
8238031		3413320851		108		DANNER #2		3.2	CLINTON SAND
8238041		3413321017		108		DEEVERS #1		10.5	
8238040		3413321016		108		DEEVERS #2		10.5	
8238026		3413320797		108		DREWS #3		4.3	
8238029		3413320839		108		DVORAK #1		0.4	
8238048		3413321078		108		EISENTRAUT #1		13.5	
8238055		3413321186		108		HANNUM #1		4.9	
8238058		3413321236		108		HANNUM #2		4.9	
8238046		3413321053		108		HARMON #1		1.3	
8238045		3413321052		108		HARMON #2		6.7	
8238054		3413321173		108		HARMON #3		1.3	
8238044		3413321020		108		JECKEL #2		1.4	
8238042		3413321018		108		JECKEL-STATLANDER #1		2.9	
8238036		3413320924		108		MILESKI #1		3.1	
8238050		3413321147		108		MILLER #1		2.1	
8238056		3413321192		108		NOVAK #1		6.7	
8238053		3413321167		108		NOVAK #2		6.7	
8238059		3415320578		108		PARKER #1		25.2	
8238035		3413320900		108		PULVER #1		3.2	
8238033		3413320860		108		SHOPE #1		0.7	
8238043		3413321019		108		SOLAK #2		4.0	
8238030		3413320850		108		STENER #1		21.0	
8238051		3413321148		108		STOLTZFUS #1		12.4	
8238052		3413321149		108		STOLTZFUS #2		12.4	
8238034		3413320865		108		STUTZMAN #1		2.3	
8238038		3413320987		108		STUTZMAN #2		2.3	
8238039		3413321015		108		WHITE OAK FARM #1		1.6	
8238049		3413321093		108		WHITE-RICHARDS-BOONE #1		16.1	
8238025		3413320785		108		YOST #1		5.7	
-R GENE BRASEL DBA BRASEL & BRASEL				RECEIVED:	06/11/82	JA: OH			
8237778		3405320417		107-TF		BRADBURY-QUEEN #1	CHESHIRE	1.5	COLUMBIA GAS TRAN
8237788		3405320547		107-TF		C WILLIAM PRICE #2	CHESHIRE	1.5	COLUMBIA GAS TRAN
8237789		3405320548		107-TF		C WILLIAM PRICE #3	CHESHIRE	1.0	COLUMBIA GAS TRAN
8237784		3405320496		107-TF		CLARENCE BESTER #1	ADDISON	1.0	COLUMBIA GAS TRAN
8237777		3405320406		107-TF		EDWARD SPEARS #1	CHESHIRE	1.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8237775		3405320385		107-TF		FROLEY-STALEY #1	ADDISON	2.0	COLUMBIA GAS TRAN
8237774		3405320375		107-TF		G E CARNATTE #1	GALLIPOLIS	1.0	COLUMBIA GAS TRAN
8237785		3405320497		107-TF		HAROLD MOTTER #1	ADDISON	2.0	COLUMBIA GAS TRAN
8237782		3405320491		107-TF		JAMES BAIRD #1	GALLAPOLIS	1.5	COLUMBIA GAS TRAN
8237786		3405320499		107-TF		JAMES FRALEY #1	ADDISON	2.0	COLUMBIA GAS TRAN
8237793		3405320575		107-TF		JAMES MCQUARD #1	ADDISON	2.0	COLUMBIA GAS TRAN
8237794		3405320610		107-TF		JAMES MINK #2	ADDISON	2.5	COLUMBIA GAS TRAN
8237776		3405320399		107-TF		JOHN W RIFE #1	ADDISON	5.0	COLUMBIA GAS TRAN
8237800		3405320672		107-TF		JOHN W RIFE #3	CHESHIRE	5.0	COLUMBIA GAS TRAN
8237772		3405320349		107-TF		JOHNSON-HALLIDAY #1	CHESHIRE	5.0	COLUMBIA GAS TRAN
8237788		3405320471		107-TF		JONES MINK #1	ADDISON	2.5	COLUMBIA GAS TRAN
8237795		3405320622		107-TF		LESLEY R SAXTON #1	ADDISON	1.0	COLUMBIA GAS TRAN
8237796		3405320624		107-TF		LESLEY R SAXTON #2	ADDISON	1.0	COLUMBIA GAS TRAN
8237791		3405320565		107-TF		MARION THOMAS #1	CHESHIRE	5.0	COLUMBIA GAS TRAN
8237779		3405320449		107-TF		MARY RAYNES #1	ADDISON	2.0	COLUMBIA GAS TRAN
8237773		3405320355		107-TF		MILDRED GILMAN #1	CHESHIRE	1.5	COLUMBIA GAS TRAN
8237781		3405320489		107-TF		MOORE-MYERS #1	ADDISON	1.0	COLUMBIA GAS TRAN
8237801		3405320681		107-TF		MOORE-MYERS #2	ADDISON	3.0	COLUMBIA GAS TRAN
8237790		3405320564		107-TF		MULFORD UNIT #1	CHESHIRE	3.0	COLUMBIA GAS TRAN
8237792		3405320571		107-TF		ROUSH PROPERTY #1	ADDISON	1.0	COLUMBIA GAS TRAN
8237787		3405320511		107-TF		STELLA PEARL ARNOLD #1	ADDISON	2.0	COLUMBIA GAS TRAN
8237797		3405320634		107-TF		W BRADBURY #1	CHESHIRE	1.5	COLUMBIA GAS TRAN
8237783		3405320494		107-TF		W BRADBURY #2	CHESHIRE	1.5	COLUMBIA GAS TRAN
8237798		3405320635		107-TF		W BRADBURY #3	CHESHIRE	1.5	COLUMBIA GAS TRAN
8237799		3405320636		107-TF		W BRADBURY #4	CHESHIRE	1.5	COLUMBIA GAS TRAN
8237802		3410521962		103		W RIFE #3	RUTLAND	2.0	COLUMBIA GAS TRAN
-R WOLFE OIL & GAS				RECEIVED:	06/11/82	JA: OH			
8238084		3400922028		107-TF		SEEL #3	ROME	5.0	COLUMBIA GAS TRAN
8238085		3400922054		107-TF		SEEL #4 P.2054	ROME	15.0	COLUMBIA GAS TRAN
8238087		3400920760		107-TF		WEBB #1 P.2076	ROME	5.0	COLUMBIA GAS TRAN
8238086		3400920580		107-TF		WILLIAMS #1 P.2058	CANAAN	10.0	COLUMBIA GAS TRAN
-RICHARD W ULLMAN				RECEIVED:	06/11/82	JA: OH			
8238080		3400922490		107-TF		LEWIS #1	SHARPSBURG	18.0	COLUMBIA GAS TRAN
8238081		3411522687		107-TF		STRIGHT #1	CHESTERHILL	18.9	COLUMBIA GAS TRAN
-SANDHILL ENERGY INC (OH)				RECEIVED:	06/11/82	JA: OH			
8238068		3411122806		103	107-DV	FLOYD BUSCHE #1	NEW MATAMORAS	14.6	
8238062		3416726755		107-DV		H STEVEN ALLOWAY #2	GRANDVIEW	21.9	
8238061		3416726537		103		ROAM ADKINS #1	NEW MATAMORAS	91.3	
8238063		3416726844		107-DV		YOHO #1	NEW MATAMORAS	10.0	
-TERRY M KRAMER				RECEIVED:	06/11/82	JA: OH			
8237997		3405320576		107-TF		SHAVER #1	ADDISON	20.0	COLUMBIA GAS TRAN
-TIGER OIL INC				RECEIVED:	06/11/82	JA: OH			
8238071		3412122054	D	107-RT		ALICE GORRELL #1	SHARON	0.0	EAST OHIO GAS CO
8238070		3411122634	D	107-TF		MARTHA SHEETS #1	WASHINGTON	0.0	RIVER GAS CO
8238072		3412122123	D	107-RT		VERNON WHITE #1	OLIVE	15.0	EAST OHIO GAS CO
-UNIVERSAL MINERALS INC				RECEIVED:	06/11/82	JA: OH			
8238079		3416726926		103		CALDWELL #2	WARREN	0.5	
8238076		3416726439		103		HINTON #1	WARREN	0.5	
8238077		3416726440		103		JOHNSON #1	WARREN	0.5	
8238074		3416725755		103		LANE #1	WARREN	0.5	
8238075		3416725825		103		PORTER #1	WARREN	0.5	
8238073		3416725731		103		POTTS #1	WARREN	0.5	
8238078		3416726529		103		VICKERS #1	WARREN	0.5	

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-VICTOR MCKENZIE				RECEIVED: 06/11/82		JA: OH			
8238016		3412725483		103		PAUL BEAVER #1	READING	12.0	NATIONAL GAS & OI
-WHITMAN OIL & GAS CORP				RECEIVED: 06/11/82		JA: OH			
8238082		3416726900		107-DV		F HOLLENBACH #1	RINARD MILLS	15.0	COLUMBIA GAS TRAN
-WILLIAM F HILL				RECEIVED: 06/11/82		JA: OH			
8237984		3407523710		103		YODER LUMBER #2	GLENMONT	6.0	COLUMBIA GAS TRAN
-WRAY PETROLEUM CORP OF OHIO				RECEIVED: 06/11/82		JA: OH			
8238088		3413322489		103 -DV	107-TF	OLGIN UNIT #1	NELSON	18.0	EAST OHIO GAS CO

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18204 Filed 7-8-82; 8:45 am]

BILLING CODE 6717-01-C

[Project No. 6251-000]

A&J Construction, Inc.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

June 30, 1982.

Take notice that on April 23, 1982, A&J Construction, Inc. (Applicant) filed an application, under section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 6251) would be located on Deep Creek, within the Payette National Forest, near Cambridge, in Adams County, Idaho. Correspondence with the Applicant should be directed to: Ms. Helen Chenoweth, P.O. Box 893, Boise, Idaho 83701.

Project Description—The proposed project would consist of: (1) A 3-foot-high, 30-foot-long diversion structure at Deep Creek and a 3-foot-high, 20-foot-long diversion structure at Oxbow Creek; (2) a 10,000-foot-long, 38-inch-diameter penstock; (3) a powerhouse containing one generating unit with an installed capacity of 2,982 kW; (4) a 0.25-mile-long, 13.8-kV underground transmission line from the powerhouse to an existing Hells Canyon Dam substation. The Applicant estimates that the average annual energy production would be 16.43 million kWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Idaho Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before August 23, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 23, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18283 Filed 7-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6285-000]

City of Arcata, California; Application for Preliminary Permit

June 30, 1982.

Take notice that the The City of Arcata, California (Applicant) filed on May 3, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 6285 to be known as the Yager Creek South Fork Waterpower Project located on Yager Creek South Fork in Humboldt County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Rory Robinson, City Manager, City of Arcata, 736 F Street, Arcata, California 95521.

Project Description—The proposed project would consist of: (1) A 12-foot-long, 3-foot-high diversion structure; (2) a 6,000-foot-long, 36-inch-diameter conduit; (3) an 8,000-foot-long, 30-inch-diameter penstock; (4) a powerhouse with a total installed capacity of 1,000 kW; and (5) a 15,000-foot-long, 12-kV transmission line from the powerhouse to an existing transmission line. The applicant estimates that the average annual energy production would be 3 million kWh.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authroize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which it would conduct the technical, evnironmental and economic studies and also prepare an FERC license application. The Applicant estimates that the cost of undertaking these studies will be $60.000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before September 13, 1982, the competing application itself, or a notice of intent to file such an application. (See: 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before September 13, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for prelimnary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than November 12, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 13, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18386 Filed 7-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6290-000]

City of Arcata, California; Application for Preliminary Permit

June 30, 1982.

Take notice that The City of Arcata, California (Applicant) filed on May 3, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r) for Project No. 6290 to be known as the Yager Creek North Fork Waterpower Project located on Yager Creek North Fork in Humboldt County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Rory Robinson, City Manager, City of Arcata, 736 F Street, Arcata, California 95521.

Project Description—The proposed project would consist of: (1) A 20-foot-long, 4-foot-high diversion structure; (2) an 8,000-foot-long, 48-inch-diameter diversion conduit; (3) a 600-foot-long, 42-inch-diameter penstock; (4) a powerhouse with a total installed capacity of 900 kW; and (5) a 5,000-foot-long, 12-kV transmission line from the powerhouse to an existing transmission line. The Applicant estimates that the average annual energy production would be 2.7 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which it would conduct the technical, environmental and economic studies and also prepare an FERC license application. The Applicant estimates that the cost of undertaking these studies would be $60,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before September 13, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before September 13, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et. seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than November 12, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 13, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative

of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18287 Filed 7-2-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-481-000]

Arizona Public Service Co.; Order Accepting for Filing and Suspending Revised Rates, Denying Motions for Rejection and for Summary Disposition, Granting Interventions, and Establishing Hearing Procedures

June 28, 1982.

On April 29, 1982, Arizona Public Service Company (APS) tendered for filing proposed changes in rates for wholesale service to its four full requirements and thirteen partial requirements customers.[1] The proposed rates would increase revenues from jurisdictional sales and service by approximately $25 million (30.5%) for the twelve month test period ending March 31, 1983. APS requests that its proposed rate increase for Washington, San Carlos, Colorado River, Wellton-Mohawk, Citizens, AEPC, ED–4, ED–5, Plains, and Wickenburg become effective on June 29, 1982 (60 days after filing). APS states that its contracts with ED–1, ED–3, ED–6, ED–7, Buckeye, Maricopa, Roosevelt, and Papago do not permit unilateral rate increases and therefore APS requests that the increased rates to these customers become effective upon issuance of a final Commission order.

Notice of the filing was issued on May 6, 1982, with responses due on or before May 24, 1982. The Town of Wickenburg, Arizona (Wickenburg) filed a timely petition to intervene, protest, and motion to reject the filing or, alternatively, to suspend the proposed rates for five months. Wickenburg, a full requirements wholesale customer of APS, contends that the proposed rates are unlawful and unreasonable, and so excessive as to be discriminatory and anticompetitive. Wickenburg also raises various cost of service issues.

Washington Water Power Company (Washington), Citizens Utilities Company (Citizens), and Arizona Electric Power Cooperative, Inc. (AEPCO) also filed timely petitions to intervene, asserting that they, as wholesale customers of APS, are interested parties who cannot be adequately represented by any other party to these proceedings. None of these petitioners has requested a hearing or other specific Commission action.

On May 24, 1982, Plains filed a protest and petition to intervene and a request that the proposed rates be suspended for five months. In support of its request for a five month suspension, Plains cites various cost of service issues including demand allocation and improper allocation of sales expense, information expense, and customer service expense to wholesale customers. Additionally, Plains requests summary disposition with respect to APS' use of a revenue credit treatment for its transmission services on the grounds that such treatment is contrary to Commission Opinion No. 137. Plains also requests summary disposition of APS' subfunctionalized approach for allocating its transmission costs contending that such approach is also inconsistent with Opinion No. 137.

Maricopa, Arizona Power Authority (APA), and Wellton-Mohawk separately filed timely protests and petitions to intervene requesting that the filing be rejected on the grounds that it contains various questionable cost of service items including improper demand allocation, improper functionalization of materials and supplies, and improper treatment of revenues derived from APS' sale of Cholla Unit No. 4 output to Utah Power and Light Company. If the filing is not rejected, APA and Wellton-Mohawk alternatively request that the filing be suspended for five months.

On May 24, 1982, Papago also protested and petitioned to intervene requesting rejection on the grounds that the filing unlawfully imposes cost for the retroactive make-up of deficiencies in deferred taxes due to the use of flow-through accounting in prior years. Papago contends that Order Nos. 144 and 144–A do not authorize retroactive tax normalization for companies which were compelled by Commission ruling to flow through tax benefits. Papago further contends that APS' proposed twelve year amortization period for its unfunded tax liability is unreasonable and should be extended over a much longer period of time. In addition, Papago contends that APS has erroneously computed its unfunded tax liability.

If the filing is not rejected in its entirety, Papago alternatively requests that the proposed rate increase with respect to Papago be rejected for failure to meet the *Mobile-Sierra* burden of proof on the grounds that APS can only increase its rates to Papago upon meeting such proof. If the filing is not summarily rejected, Papago requests that an evidentiary hearing be held. Papago objects to various costs of service issues contained in APS' filing including (1) inclusion of unappropriated, undistributed subsidiary earnings in the equity component of the company's capital structure, (2) use of revenue credits to reflect APS' cost of serving the Navajo Tribal Utility Authority (NTUA), and (3) treatment of the sale of tax benefits associated with APS' Cholla Unit No. 4.

On May 20, 1982, ED–1, ED–3, ED–6, ED–7, Buckeye, and Roosevelt filed a joint petition to intervene stating that the proposed rates are unjust, unreasonable, and unduly discriminatory. Additionally, the petitioners state that their contracts with APS provide that the rates charged by APS may not exceed the rates charged by APS to its retail irrigation customers. The petitioners state that they will be unable to determine whether or not the contract provision has been violated until after the issuance of a final Commission order establishing the rates to be charged by APS.

Discussion

We find that participation in this proceeding by the petitioners is in the public interest. Therefore, we shall grant the petitions to intervene. Because APS's submittal substantially complies with the Commission's filing requirements and is not barred by contract, we shall deny the various motions to reject.[2]

With respect to Plains' request for summary rejection of APS's use of a revenue credit treatment for its transmission services on the grounds that such treatment is contrary to Opinion No. 137 (March 2, 1982), we note that the Commission has issued an order granting rehearing of Opinion No. 137 for the limited purpose of further consideration. Plains also requests summary disposition with respect to APS' subfunctionalized approach for allocating transmission costs on the grounds that such an approach fails to comply with the rolled-in method adopted by Opinion No. 137. We shall deny both requests for summary disposition due to the fact that Opinion No. 137 has not yet become final. If appropriate, based on the outcome of Opinion No. 137 and the absence of changed circumstances, the presiding judge may entertain a renewed motion for summary action.

Our preliminary review reveals that, despite allegations to the contrary, APS

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[1] *See* Attachment A for customers and rate schedule designations.

[2] *See Municipal Light Boards of Reading and Wakefield, Massachusetts* v. *FPC*, 450 F.2d 1341 (D.C. Cir. 1971).

has properly functionalized materials and supplies, and has allocated its demand costs in a manner consistent with Opinion No. 137. We believe that the proper treatment of revenues from APS' sale of Cholla No. 4 output to Utah Power and Light Company is an issue which should be addressed at hearing.

As noted, Papago requests rejection of the filing on the grounds that APS has improperly handled its deferred taxes and its unfunded tax liability, in contravention of Order Nos. 144 and 144–A. We note that Order Nos. 144 and 144–A require jurisdictional electric utilities to fully normalize the tax effects of all timing difference transactions and to provide a make-up provision in their cost of service for any unfunded tax liabilities. This requirement applies for all utilities regardless of whether they voluntarily or involuntarily used a flow-through method prior to fully normalizing. In Order Nos. 144 and 144–A, the Commission concluded that the method for computing a company's unfunded tax liability and the amortization period for such liability would be determined on a case-by-case basis. Accordingly, the propriety of the company's method of computing its unfunded tax liability and the proper amortization period are issues appropriate for consideration at hearing.

We shall also deny Papago's request for summary action with respect to the proposed rates for failure to meet the *Mobile-Sierra* burden of proof. The Commission determined in *Arizona Public Service Company,* Docket No. ER76–530,[3] that APS may increase its rates to Papago prospectively only but that APS is not required to meet the *Mobile-Sierra* burden of proof.

Our preliminary review of APS' filing and the pleadings indicates that APS' revised rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the proposed rates for filing and suspend them as ordered below.

We recently explained the Commission's ploicy regarding rate suspensions in *West Texas Utilities Company,* Docket No. ER82–23–000 (February 6, 1982). As explained there, where our preliminary examination indicates that the proposed rates may be unjust and unreasonable, but may not be substantially excessive, as described in *West Texas,* we shall impose a one day suspension. Here, our preliminary review indicates that the proposed rates may not result in excess revenues. Therefore, as to Washington, San Carlos, Colorado River, Wellton-Mohawk, Citizens, AEPC, ED–4, ED–5, Plains, and Wickenburg we shall suspend the rates for one day to become effective, subject to refund, on June 30, 1982. With respect to ED–1, ED–3, ED–6, ED–7, Buckeye, Maricopa, Roosevelt, and Papago, we will set the proposed rates for investigation under section 206 of the Federal Power Act, to become effective following a final Commission order. As noted by certain of the intervenors, several of APS' customers are served under contracts which provide that the rates to them may not exceed APS' retail irrigation rates approved by the Arizona Corporation Commission. In light of this contractual provision, the rates applicable to these customers which are allowed to become effective following a final Commission order will remain subject to downward adjustment to insure that the proposed rates do not exceed APS' retail irrigation rates.

In accordance with the Commission's policy and practice established in *Arkansas Power and Light Company,* Docket No. ER79–339 (August 6, 1979), we shall phase the price squeeze issue raised by Wickenburg.

The Commission orders:

(A) All motions to reject APS' filing are hereby denied.

(B) All motions for summary disposition are hereby denied.

(C) APS' proposed rates for ED–1, ED–3, ED–6, ED–7, Buckeye, Maricopa, Roosevelt and Papago are hereby accepted for filing, and are set for investigation to become effective, if at all, following a final Commission order in this docket. The rates for ED–1, ED–3, ED–6, ED–7, Buckeye, and Roosevelt shall thereafter remain subject to downward adjustment to the extent that the approved rates exceed APS' retail irrigation rates then in effect as approved by the Arizonia Corporation Commission.

(D) APS' proposed rates for Washington, San Carlos, Colorado River, Wellton-Mohawk, Citizens, AEPC, ED–4, ED–5 Plains, and Wickenburg are hereby accepted for filing and suspended for one day from 60 days after filing to become effective on June 30, 1982, subject to refund.

(E) Pursuant to the authority contained in the subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of APS' rates.

(F) The petitions to intervene in this proceeding are hereby granted subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act; *Provided, however,* that participation by such intervenors shall be limited to the matters set forth in their petitions to intervene; and *provided, further,* that the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order of the Commission in this proceeding.

(G) The Commission staff shall serve top sheets in this proceeding within ten (10) days of the date of this order.

(H) A presiding administrative Law Judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding Judge is authorized to establish procedural dates and to rule of all motions (except motions to consolidate or sever and motions to dismiss) as provided in the Commission's Rule of Practice and Procedure.

(I) The Commission hereby orders initiation of price squeeze procedures and further orders that this proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion extablishing the rate which, but for consideration of price squeeze, would be just and reasonable. The presiding judge may modify this schedule for good cause shown. The price squeeze portion of this case shall be governed by the procedures set forth in section 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(J) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[3] Order on Remand, issued January 25, 1982, 18 FERC ¶61,066.

Attachment A

ARIZONA PUBLIC SERVICE COMPANY

[Docket No. ER82-481-000]

Designations	Other parties	Descriptions
(1) Supplement No. 28 to Rate Schedule FPC No. 12	Electrical District No. 3	Rates.
(2) Supplement No. 29 to Rate Schedule FPC No. 12 (Supersedes Supplement No. 27)	do	Fuel cost adjustment clause.
(3) Supplement No. 28 to Rate Schedule FPC No. 13	Electrical District No. 7	Rates.
(4) Supplement No. 29 to Rate Schedule FPC No. 13 (Supersedes Supplement No. 27)	do	Fuel cost adjustment clause.
(5) Supplement No. 28 to Rate Schedule FPC No. 4	Maricopa County Municipal Water Conservation District	Rate.
(6) Supplement No. 29 to Rate Schedule FPC No. 14 (Supersedes Supplement No. 27)	do	Fuel cost adjustment clause.
(7) Supplement No. 28 to Rate Schedule FPC No. 15	Roosevelt Irrigation District	Rates.
(8) Supplement No. 29 to Rate Schedule FPC No. 15 (Supersedes Supplement No. 27)	do	Fuel cost adjustment clause.
(9) Supplement No. 19 to Rate Schedule FPC No. 16	Buckeye Water Conservation and Drainage District	Rates.
(10) Supplement No. 20 to Rate Schedule FPC No. 16 (Supersedes Supplement No. 18)	do	Fuel cost adjustment clause.
(11) Supplement No. 29 to Rate Schedule FPC No. 35	Electrical District No. 6	Rates.
(12) Supplement No. 29 to Rate Schedule FPC No. 36 (Supersedes Supplement No. 27)	do	Fuel cost adjustment clause.
(13) Supplement No. 23 to Rate Schedule FPC No.50	Citizens Utilities Company	Rates.
(14) Supplement No. 24 to Rate Schedule FPC No.50 (Supersedes Supplement No. 20)	do	Fuel cost adjustment clause.
(15) Supplement No. 11 to Rate Schedule FPC No.52	Papago Tribal Utility Authority	Rates.
(16) Supplement No. 12 to Rate Schedule FPC No.52	do	Fuel cost adjustment clause.
(17) Supplement No. 12 to Rate Schedule FPC No.57	Arizona Electric Cooperative, Inc.	Rates.
(18) Supplement No. 13 to Rate Schedule FPC No.57 (Supersedes Supplement No. 11)	do	Fuel cost adjustment clause.
(19) Supplement No. 15 to Rate Schedule FPC No.58	Wellton-Mohawk Irrigation and Drainage District	Rates.
(20) Supplement No. 16 to Rate Schedule FPC No.58 (Supersedes Supplement No. 12)	do	Fuel cost adjustment clause.
(21) Supplement No. 18 to Rate Schedule FPC No.59	Arizona Power Authority	Rates.
(22) Supplement No. 19 to Rate Schedule FPC No.59 (Supersedes Supplement No. 16)	do	Fuel cost adjustment clause.
(23) Supplement No. 13 to Rate Schedule FPC No.65	Colorado River Indian Irrigation Project	Rates.
(24) Supplement No. 14 to Rate Schedule FPC No.65 (Supersedes Supplement No. 12)	do	Fuel cost adjustment clause.
(25) Supplement No. 14 to Rate Schedule FPC No.66	San Carlos Indian Irrigation Project	Rates.
(26) Supplement No. 15 to Rate Schedule FPC No.66 (Supersedes Supplement No. 13)	do	Fuel cost adjustment clause.
(27) Supplement No. 9 to Rate Schedule FPC No.68	Electrical District No. 1	Rates.
(28) Supplement No. 10 to Rate Schedule FPC No.68 (Supersedes Supplement No. 8)	do	Fuel cost adjustment clause.
(29) Supplement No. 7 to Rate Schedule FERC No.74	Town of Wickenburg	Rates.
(30) Supplement No. 8 to Rate Schedule FERC No.74 (Supersedes Supplement No. 5)	do	Fuel cost adjustment clause.
(31) Supplement No. 6 to Rate Schedule FERC No.83	Plains Electric Generation and Transmission Coop	Rates.
(32) Supplement No. 7 to Rate Schedule FERC No.83 (Supersedes Supplement No. 5)	do	Fuel cost adjustment clause.
(33) Supplement No. 5 to Rate Schedule FERC No.84	Washington Water Power Company	Rates.
(34) Supplement No. 6 to Rate Schedule FERC No.84 (Supersedes Supplement No. 5)	do	Fuel cost adjustment clause.

[FR Doc. 82-18348 Filed 7-2-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-611-000]

Arizona Public Service Co., Notice of Filing

June 29, 1982.

The filing Company submits the following:

Take notice that on June 18, 1982, Arizona Public Service Company (Arizona) tendered for filing revised Exhibit "B" dated October 31, 1981, to the Wholesale Power Agreement between Plains Electric Generation and Transmission Cooperative, Inc. and Arizona respectively, previously designated APS–FERC Rate Schedule No. 83. This revision of Exhibit "B" of the Agreement revised the expected contract demands for the years 1982 through 1984.

It is requested that this revision become effective January 1, 1982, and therefore waiver of the Commission's notice requirements is requested.

Any person desiring to be heard or to protest said filing should file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 15, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18249 Filed 7-2-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 5953-000]

Stephen E. and George S. Austin; Application for Preliminary Permit

June 30, 1982.

Take notice that Stephen E. and George S. Austin (Applicant) filed on February 8, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5953 to be known as the Pike Mill Project located on the Moose River in Essex County, Vermont. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Stephen E. or George S. Austin, Box 20, Concord, Vermont 05824.

Project Description—The proposed project would consist of: (1) A newly constructed 13-foot high concrete dam; (2) a proposed reservoir with a surface elevation of 965 feet NGVD with an estimated storage capacity of 54 acre-feet; (3) a 300-foot long tailrace; (4) a new powerhouse containing one generating unit with a rated capacity of 105 kW; (5) a new transmission line; and (6) appurtenant facilities. The Applicant estimates that the average annual energy output would be 450,000 to 500,000 kWh. The most likely market for the energy derived at the proposed project would be the Central Vermont Public Service Corporation. The project property is owned by Robert Beede of Concord, Vermont, Floyd Lanphere of Hyde Park, Vermont, Frank Balazs of Maple Wood, New Jersey, and Alphonse Leonardis of Haskellstown, New Jersey.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a

study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $15,749.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before September 1, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before September 1, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than November 1, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 1, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–18278 Filed 7–3–82; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 6343–000]

Tim Breaux; Application for Preliminary Permit

June 30, 1982.

Take notice that Tim Breaux (Applicant) filed on May 19, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6343 to be known as the Dinner Creek Hydropower Project located on Dinner Creek River within Mt. Hood National Forest in Clackamas County, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Tim Breaux, Westates Power Co., 7548 SE 30 Ave. Portland, Oregon 97202.

Project Description—The proposed project would consist of: (1) A 2-foot-high, 3-foot-wide diversion structure; (2) a 12-inch-diameter, 7400-foot-long penstock; (3) a powerhouse containing a generating unit with a rated capacity of 568 kW; and (4) appurtenant facilities. The Applicant estimates a 2.21 GWh average annual energy production.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Application has requested a 36-month permit to prepare a definitive project report including preliminary designs, and geological, environmental, and economic feasibility studies. The cost of forementioned activities along with preparation of an environmental impact report, obtaining agreements with Federal, State, and local agencies, and preparing a license application is estimated by the Applicant to be $100,980. Power would be sold to Portland General Electric.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before September 13, 1982, the competing application itself, or a notice of intent to file such application (see 18 CFR 4.30 et seq. (1981); and Docket No. Rm81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before September 13, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than November 12, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 13, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of

the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18284 Filed 7-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5586-002]

Eda I. Brown; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

June 29, 1982.

Take notice that on May 27, 1982, Eda I. Brown (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2706, and *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 5586) would be located on the Wallkill River in Ulster County, New York. Correspondence with the Applicant should be directed to: Ruben S. Brown of Ruben S. Brown, Inc., 2112 Broadway, Suite 401, New York, New York 10023.

Project Description—The proposed project would consist of: (1) The existing concrete gravity dam 5½ feet high and 290 feet long; (2) a reservoir with normal water surface elevation of 252.5 feet msl, a storage capacity of 144 acre-feet, and a surface area of 36 acres; (3) existing headrace gates and a headrace channel approximately 347 feet long and verying betwen 40 and 50 feet in width; (4) the existing intake; (5) a new powerhouse having units with a total capacity of 600 kW; (6) the existing 876-foot-long tailrace; and (7) appurtenant facilities.

Purpose of Exemption—an exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exempiton from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

The Applicant estimates that annual energy production would be 3,670,000 kWh and estimates the cost of the project would be $1,100,000. All project facilities are owned by the Applicant. All project energy would be sold to the Central Hudson Gas and Electric Company.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Services, and the New York State Department of Environmental Conservation are requested, for the purposes set forth in section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of any agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before August 9, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 9, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATIONS," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 18279 Filed 7-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6380-000]

Cataldo Hydro Power Associates; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

June 30, 1982.

Take notice that on June 1, 1982, Cataldo Hydro Power Associates (Applicant) filed an application, under section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2706 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric Project No. 6380 would be located on the Black River in the Village of Port Leyden, Town of Leyden, Lewis County, New York. Correspondence with the Applicant should be directed to: Mr. Malden V. Frank, One Lincoln Center, Suite 1225, Syracuse, New York 13202.

Project Description—The existing Applicant-owned facilities consist of: (1) A breached dam about 90 feet in length;

and (2) the remains of the former dam abutments, powerhouse, and transmission route.

Applicant proposes to: (1) Reconstruct the dam to be a 140-foot-long 10-foot-high concrete gravity overflow-type dam having spillway crest elevation 854 feet m.s.l.; (2) construct an integral intake and powerhouse structure containing a generating unit rated at 1,710-kW operated under a 21-foot head and at a flow of 1,200 cfs; (3) construct an upstream 30-foot-long 9-foot-high concrete gravity overflow-type weir having crest elevation 854 feet m.s.l.; (4) re-create a reservoir with a surface area of about 8 acres and negligible storage capacity at normal surface elevation 854 feet m.s.l.; (5) reconstruct a 2,000-foot-long 4.16-kV transmission line; and (6) construct an access road.

Project energy would be sold to Niagara Mohawk Power Corporation. Applicant estimates that the average annual energy output would be 9,300,000 kWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the New York State Department of Environmental Conservation are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before August 27, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 27, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16265 Filed 7-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-620-000]

Central Power & Light Co.; Filing

June 29, 1982.

The filing Company submits the following:

Take notice that Central Power and Light Company ("Company"), on June 21, 1982, tendered for filing a First Amendment to Transmission Services Agreement ("Agreement") between Company and Houston Lighting and Power ("HL&P"). Accompanying the Agreement is the Rate Schedule change (designated TS No. 64) revised, supplement No. 2 and a cost of service study. The Company has requested that the First Amendment and rate schedule change be made effective as of January 1, 1982.

Any person desiring to be heard or to protest the application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 15, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16250 Filed 7-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3309-001]

Arthur E. Cohen; Application for License (5 MW or Less)

June 29, 1982.

Take notice that Arther E. Cohen, (Applicant) filed on May 3, 1982, an application for license (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for construction and operation of water power project to be known as the Nash Mill Project No. 3309. The project would be located on the Ashuelot River in the Town of Marlow in Cheshire County, New Hampshire. Correspondence with the Applicant should be directed to: Arthur E. Cohen, 22 Hanover Street, Keene, New Hampshire 03431.

Project Description—The proposed run-of-the-river project would consist of: (1) A breached stone and masonry dam

to be rehabilitated, consisting of a 100-foot-long dam section nine feet high and two spillway sections, a 40-foot-long ungated spillway seven feet high and a 21-foot-long gated spillway seven feet high; (2) a new reservoir with an area of two acres and a storage of 10 acre-feet; (3) a new penstock 1,500 feet long and 2.0 or 2.5 feet in diameter placed on the southern bank; (4) a new 11 by 14-foot powerhouse containing one cross-flow 90-kW turbine/generator unit operating under a head of 43 feet; (5) a new tailrace 600 feet long; (6) a new 1,000-foot-long, 12.5-kV transmission line; and (7) appurtenant facilities.

Purpose of Project—The average annual generation of 474,000 kWh would be sold to the Public Service Company of New Hampshire.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before September 9, 1982, either the competing application itself (see 18 CFR 4.33 (a) and (d)) or a notice of intent (See 18 CFR 4.33 (b) and (c)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 9, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18361 Filed 7-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-612-000]

Duke Power Co.; Filing

June 29, 1982.

Take notice that Duke Power Company (Duke Power) tendered for filing on June 18, 1982 a supplement to the Company's Electric Power Contract with the City of Gastonia. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FERC No. 227.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for the following decrease in contract demand: Delivery Point No. 1 from 9,000 KW to 4,000 KW.

Duke Power indicates that this supplement also includes an estimate of sales and revenue for twelve months immediately preceding and for the twelve months immediately succeeding the effective date. Duke Power proposes an effective date of August 18, 1982

According to Duke Power copies of this filing were mailed to the City of Gastonia and the North Carolina Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 15, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18251 Filed 7-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-613-000]

Duke Power Co.; Filing

June 30, 1982.

Take notice that Duke Power Company (Duke Power) tendered for filing on June 18, 1982 a supplement to the Company's Electric Power Contract with the Town of Forest City. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FERC No. 237.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for the following increase in contract demand: Delivery Point No. 2 from 13,000 KW to 17,000 KW.

Duke Power indicates that this supplement also includes an estimate of sales and revenue for twelve months immediately preceding and for the twelve months immediately succeeding the effective date. Duke Power proposes an effective date of September 17, 1982.

According to Duke Power copies of this filing were mailed to the Town of Forest City and the North Carolina Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 15, 1982. Protests will be considered by the

Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16268 Filed 7-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA82-27-000]

Orville Eberly; Application for Adjustment

June 29, 1982.

On June 21, 1982, Orville Eberly (Eberly) filed with the Federal Energy Regulatory Commission (Commission) an application for an adjustment under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301 *et seq.* (Supp. IV 1980), and § 1.41 of the Commission's Rules of Practice and Procedure. By his application, Eberly seeks a waiver of the provision contained in NGPA section 503(c)(2), which generally precludes the Commission from making well eligibility determinations under NGPA section 503(a) until the Commission has received an executive waiver, in the form of a written agreement, from the jurisdictional agency authorized by section 503 to make such determinations.

Eberly specifically requests that the Commission itself make a determination with respect to natural gas produced from the Swartzenruber No. 1 Gas Well, in Garrett County, Maryland, that such gas qualifies as stripper well natural gas under section 108 of the NGPA.

In support of his application, Eberly states the following. On March 6, 1979, he filed an application seeking a section 108 determination for the Swartzenruber No. 1 Gas Well, with the Energy and Coastal Zone Administration of the Maryland Department of Natural Resources (Maryland). Maryland did not act on the application, and forwarded it to the Commission for processing. The Commission declined to act directly on the application since Maryland had neither requested a waiver in writing nor entered into a written agreement with the Commission required under section 503(c). In September, 1981, Maryland advised Eberly that it would submit a plan to the Commission pursuant to which it would asume responsibility for initial determinations under the NGPA. As of April 1, 1982, no action had been taken by Maryland.

Eberly states that Columbia Gas Transmission Corporation, which purchases the gas produced from the subject well, is and has always been willing to pay the maximum lawful price for such gas, provided the determination was received and the price was contractually authorized. Eberly states that the inability to collect the section 108 price from December 1, 1978, under § 273.204 of the Commission's regulations, has caused it to sustain a loss in revenues through March 1982 totalling $94,003.89. Furthermore, due to an expected increase in operating costs, Eberly claims that the well will operate at a loss and that this would force a premature abandonment of the subject well. Eberly alleges that the $94,000 revenue loss plus anticipated losses due to operation and maintenance expenses create a special hardship warranting the grant of the adjustment sought.

The procedures applicable to the conduct of this proceeding are found in § 1.41 of the Commission's Rules of Practice and Procedure. Any person desiring to particpate in this proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed on or before July 21, 1982.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16769 Filed 7-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-33-000]

El Paso Natural Gas Co.; Informal Settlement Conference

June 29, 1982.

Take notice that an informal settlement conference in the above-captioned docket will be convened at 10:00 a.m. on July 13, 1982, at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in a Commission meeting room to be announced.

Customers and other persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance at the conference will not be deemed to authorize intervention as a party in the proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16252 Filed 7-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5852-000]

Fort Independence Indian Reservation; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

June 29, 1982.

Take notice that the Fort Independence Indian Reservation, (Applicant) filed an application under section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (FERC Project No. 5852) would be located on Oak Creek in Inyo County, California, near the City of Independence. Correspondence with the Applicant should be directed to: Vernon Miller, Chairman, Fort Independence Tribal Council, P.O. Box 67, Independence, California 93526.

Project Description—The proposed hydroelectric development would be constructed in conjunction with Applicant's plans to construct a new diversion structure and conduit to upgrade the reservation's water supply. The proposed project would consist of: (1) A new diversion structure at elevation 4,280 feet on Oak Creek; (2) a new 16-inch-diameter, 5,400-foot-long pipeline; (3) a powerhouse at elevation 4,020 feet containing a single 100-kW generating unit; and (4) electrical and transmission equipment to connect to a nearby transmission line. Applicant estimates that the project would have an average annual generation of 700,000 kWh and an estimated construction cost of $263,200.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the California Department of Fish and Game are requested, for the purposes set forth in section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an

agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before August 23, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 23, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, 825 North Capitol Street, NE., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18252 Filed 7-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-618-000]

Idaho Power Co.; Filing

June 29, 1982.

The filing Company submits the following:

Take Notice that on June 21, 1982, Idaho Power Company (Idaho), tendered for filing a revised Appendix 1 as required by Exhibit C for retail sales in the States of Idaho and Nevada, together with the Bonneville Power Administration's Average System Cost Reports in which Bonneville determined the Average System Cost for the residential jurisdictions of Idaho and Nevada, in accordance with the provisions of the Residential Purchase and Sale Agreement (Agreement) between Idaho and the Bonneville Power Administration (BPA). Idaho also submitted its agreement with and/or objections to BPA's Average System Cost Adjustments.

The Agreement was entered into pursuant to the Pacific Northwest Electric Power Planning and Conservation Act, Pub. L. 96-501. The Agreement provides for the exchange of electric power between Idaho and BPA for the benefit of Idaho's residential and farm customers.

A copy of the filing was served upon BPA and all parties that made comment on Idaho's Appendix 1 Filings.

Any person desiring to be heard or to protest said finding should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E. Washington, D.C. 20406, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 15, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb

Secretary.

[FR Doc. 82-18250 Filed 7-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-610-000]

Jersey Central Power & Light Co.; Filing

June 29, 1982.

The filing Company submits the following:

Take notice that on June 14, 1982, Jersey Central Power & Light Company (Jersey Central) tendered for filing revised Phase A rate sheets and revised Statements BI and BG. Jersey Central requests that these items be substituted for the corresponding items filed on March 31, 1982. Jersey Central states that these revised rate sheets do not change the total revenue level that Jersey Central proposes to collect under its Phase A rates.

Jersey Central proposes an effective date as of June 1, 1982.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 14, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18254 Filed 7-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RA82-16-000]

Little American Refining, Inc.; Filing of Petition for Review

June 29, 1982.

Take notice that Little America Refining, Inc., on April 2, 1982, filed a Petition for Review under 42 U.S.C. 7194(b) (1977 Supp.) from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all

participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before July 14, 1982, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before July 14, 1982, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through the Office of General Counsel, the Deputy General Counsel for Enforcement and Litigation, Department of Energy, Room 6H-025, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18255 Filed 7-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6331-000]

McGowan Properties and John L. Thompson; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

June 30, 1982.

Take notice that on May 14, 1982, McGowan Properties and John L. Thompson (Applicant) filed an application under section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 6331) would be located on an unnamed Tributary to the Columbia River, Pacific County, Washington. Correspondence with the Applicant should be directed to: Dr. John Thompson, Carbon River Enterprises, Carbon River Ranch, Carbonado, Washington 98323.

Project Description—The proposed project would consist of: (1) A 7-foot-high, 42-foot-wide diversion structure; (2) a 10-inch-diameter, 3,000-foot-long penstock; (3) a powerhouse containing a turbine-generating unit with a rated capacity of 30 kW; and (4) appurtenant facilities. Applicant estimates a 194,000 kWh average annual energy production.

Purpose of Exemption—An exemption, if issured, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project. Power would be sold to Pacific County Public Utility.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the State of Washington's Department of Fisheries and Department of Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none.

Other Federal, State, and local agencies are requested to provide any comments they may have have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before August 27, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an intersted person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 27, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc 82-18270 Filed 7-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5430-001]

Lawrence J. McMurtrey; Application for Preliminary Permit

June 30, 1982.

Take notice that Lawrence J. McMurtrey (Applicant) filed on June 2, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 5430 to be known as the Deception Creek Project located on Deception and

Sawyer Creeks within Mt. Baker-Snoqualmie National Forest in King County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Lawrence J. McMurtrey, 12122 196th N.E., Redmond, Washington 98052.

Project Description—The proposed project would consist of: (1) Three streambed inlets at elevation 3700 feet; (2) a 30-inch-diameter diversion pipeline totalling 30,000 feet in length; (3) a powerhouse at elevation 1800 feet containing a turbine generator with 4.73-MW capacity and 24-GWh average annual output; and (4) a transmission line 0.2 miles long. The potential market for project output includes Puget Sound Power and Light Company and Bonneville Power Administration.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The applicant seeks issuance of a preliminary permit for a term of 24 months during which engineering, economic and environmental studies will be conducted to ascertain project feasibility and to support application for a license to construct and operate the project. The estimated cost of permit activities is $40,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before September 17, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before September 17, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than November 16, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 17, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION" "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18256 Filed 7-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6306-000]

Lawrence J. McMurtrey; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

June 29, 1982.

Take notice that on May 7, 1982, Lawrence J. McMurtrey (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 6306) would be located on Black Creek, a tributary of Big Creek and Suiattle River, Snohomish County, Washington. Correspondence with the Applicant should be directed to: Mr. Lawrence J. McMurtrey, 12122-196th N.E., Redmond, Washington 98052.

Project Description—The proposed project would consist of: (1) an inlet structure; (2) a 6,000-foot-long, 36-inch-diameter pipeline/penstock; (3) a powerhouse containing one generating unit with a rated capacity of 2.3 NW; and (4) a 14-mile-long, 55-kV transmission line from the powerhouse to an existing transmission line. The power generated will be sold to Puget Sound Power and Light Company, the Bonneville Power Administration, or Intalco Aluminum Company. The Applicant estimates that the average annual energy production would be 9.97 GWh. The project is located entirely within the boundaries of Mt. Baker-Snoqualmie National Forest.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, the Washington Department of Fisheries and the Washington Department of Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before August 19, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules and Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 19, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc 82-18283 Filed 7-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5676-003]

Lawrence J. McMurtrey; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

June 30, 1982.

Take notice that on April 21, 1982, Lawrence J. McMurtrey (Applicant) filed an application, under section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 5676) would be located on Silver Creek, within the Mt. Baker-Snoqualmie National Forest, near Galena, in Snohomish County, Washington. Correspondence with the Applicant should be directed to: Mr. Lawrence J. McMurtrey, 12122 196th N.E., Redmond, Washington, 98052.

Project Description—The proposed project would consist of: (1) Two 3-foot-high, 3-foot-wide concrete diversion ditches buried in the stream-bed, one on each of the two tributaries to Silver Creek; (2) a 11,200-foot-long, 30-inch-diameter steel penstock; (3) a powerhouse containing one generating unit with an installed capacity of 2,000 kW; (4) a 9-mile-long, 12.5-kV transmission line from the powerhouse to existing Puget Sound Power and Light Company transmission line. The Applicant estimates that the average annual energy production would be 11.0 million kWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Washington Department of Fisheries and Department of Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must be also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission on or before August 23, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR § 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 23, 1982.

Filing and Service of Reponsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission,

Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18271 Filed 7-3-82; 8:45 am]

BILLING CODE 6701-01-M

[Project No. 6307-000]

Lawrence J. McMurtrey; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

June 29, 1982.

Take notice that on May 7, 1982, Lawrence J. McMurtrey (Applicant) filed an application, under section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydro-electric project (Project No. 6307) would be located on Found Creek within Mt. Snoqualmie National Forest, Skagit County, Washington. Correspondence with the Applicant should be directed to: Lawrence J. McMurtrey, 12122 196th, N.E., Redmond, Washington 98052.

Project Description—The proposed project would consist of: (1) A 8-foot-high diversion structure; (2) a 42-inch-diameter, 5000-foot-long penstock; (3) a powerhouse containing a turbine-generating unit with a rated capacity of 4.59 MW; and (4) appurtenant facilities. The applicant estimates a 20.12 GWh average annual energy production.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project. Power would be sold to Puget Sound Power and Light Company.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the State of Washington's Department of Game and Department of Fisheries are requested, for the purposes set forth in section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before August 9, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 19, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18204 Filed 7-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-616-000]

Middle South Energy, Inc.; Filing

June 30, 1982.

The filing Company submits the following:

Take notice that on June 18, 1982, Middle South Energy, Inc. (MSE) tendered for filing as an initial rate schedule pursuant to § 35.12 of the Commission's Regulations, a Unit Power Sales Agreement dated June 10, 1982 between MSE and Arkansas Power & Light Company (AP&L), Louisiana Power & Light Company (LP&L), Mississippi Power & Light Company (MP&L), and New Orleans Public Service Inc. (NOPSI). These Companies are all wholly-owned subsidiaries of Middle South Utilities, Inc., a holding company registered under the Public Utility Holding Company Act of 1935.

MSE states that under the Unit Power Sales Agreement, it will sell to LP&L, MP&L and NOPSI all of the capacity and energy available to MSE from the Grand Gulf Nuclear Electric Station, a two-unit nuclear fueled generating station under construction near Port Gibson, Mississippi, as follows:

	Entitlement percentage	
	Unit No. 1	Unit No. 2
LP&L	36.57	26.23
MP&L	31.53	43.87
NOPSI	29.90	29.90

MSE states that the Unit Power Sales Agreement is proposed to become effective on the date of initiation of service from Unit No. 1, which is expected on or about October 1, 1982. The proposed rate is based on the cost of service of each unit, as described in the Unit Power Sales Agreement except that, prior to commercial operation of each unit, incidental power produced in

connection with final testing and preliminary operation will be delivered to the purchasers at a rate equal to the incremental cost of energy displaced by such power on the Middle South System.

Copies of the filing were served upon AP&L, LP&L, MP&L and NOPSI.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commissioner's rules of practice and procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 15, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18285 Filed 7-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-614-000]

Montana Power Co.; Filing

June 30, 1982.

Take notice that on June 18, 1982, the Montana Power Company (Montana) tendered for filing a Notice of Cancellation of Rate Schedule 121 and all its supplements, an agreement for the sale of firm energy between Montana and the City of Burbank (Burbank). Montana states that this agreement has expired as of its own terms and has not been renewed.

Montana requests an effective date of February 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 15, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18272 Filed 7-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-619-000]

New England Power Pool; Filing

June 29, 1982.

The filing Company submits the following:

Take notice that on June 21, 1982, the New England Power Pool (NEPOOL), tendered for filing a NEPOOL Agreement dated September 1, 1971, as amended, signed by the Concord Municipal Light Plant. NEPOOL indicates that the New England Power Pool Agreement has previously been filed with the Commission as a rate schedule (designated NEPOOL FPC No. 1).

The NEPOOL Management Committee states that the filing makes no change in the NEPOOL Agreement other than to make the Concord Municipal Light Plant an additional pool participant.

NEPOOL proposes an effective date of June 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 15, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18287 Filed 7-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-617-000]

Niagara Mohawk Power Corp.; Filing

June 30, 1982.

Take notice that Niagara Mohawk Power Corporation (Niagara), on June 21, 1982, tendered for filing as a rate schedule an agreement between Niagara, Connecticut Light and Power Company, The Hartford Electric Light Company, and Western Massachusetts Electric Company, collectively called the Northeast Utilities Companies, dated September 29, 1981.

Niagara states that the agreement provides for the sale of surplus energy as scheduled by the Northeast Utilities Companies.

Niagara requests an effective date of September 30, 1981, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon the Connecticut Light and Power Company, Western Massachusetts Electric Company, the Hartford Electric Light Company and the Public Service Commission of the State of New York.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 15, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18273 Filed 7-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER81-651-000]

Northern States Power Co. (Minnesota); Notice of Refund Compliance Report

June 29, 1982.

The filing Company submits the following:

Take notice that on June 11, 1982, Northern States Power Company (Minnesota) filed a refund compliance report pursuant to the Commission's order of April 29, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before July 14, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18256 Filed 7-2-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP82-354-000]

Northwest Pipeline Corp.; Application

June 30, 1982.

Take notice that on June 1, 1982, Northwest Pipeline Corporation (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP82-354-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for the account of Phillips Pacific Chemical Company (Phillips), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes the best-efforts transportation of up to 5,000 Mcf of natural gas per day for the account of Phillips plus at Applicant's sole discretion the transportation of quantities in excess of 5,000 Mcf per day. It is asserted that Phillips would purchase supplies of natural gas from Rocky Mountain Natural Gas Company, Inc. (Rocky Mountain) at the interconnection of Rocky Mountain's facilities with Applicant's Piceance Creek trunkline in Rio Blanco County, Colorado. It is further asserted that Phillips would purchase supplies from RMNG Gathering Company (RMNG) at the interconnection of RMNG's facilities with Applicant's Ignacio-Sumas mainline in Mesa County, Colorado.

It is stated that pursuant to a gas gathering and transportation agreement dated May 12, 1982, Applicant would utilize its mainline facilities to transport Phillips' gas from the Rocky Mountain and RMNG receipt points to Applicant's existing Coulee Plant delivery point to Phillips in Benton County, Washington.

Applicant states that the volumes delivered by it to Phillips would be thermally equivalent to volumes purchased by Phillips and delivered to Applicant at the Rocky Mountain and RMNG receipt points. The mainline transmission fuel reimbursement to be provided in kind by Phillips would be calculated in accordance with the rates set forth on Sheet 2 of Applicant's FERC Gas Tariff, Original No. 2., it is explained.

For gas transported and redelivered to Phillips by Applicant, it is asserted that Phillips would pay Applicant the then effective mainline transportation rate set forth on Sheet No. 2 of Applicant's FERC Gas Tariff Original volume No. 2. It is stated that the currently applicable rate is 1.34 cents per million Btu per hundred miles transported. For the mainline transportation from the Rocky Mountain and RMNG receipt points to the Coulee Plant delivery point in Washington, the rate would be 12.06 cents per million Btu, it is stated.

Applicant states that because the gas would be used for fertilizer production the gas use qualifies as an essential agricultural use pursuant to the U.S. Department of Agriculture's regulations (7 CFR 2900.3).

Any person desiring to be heard or to make any protest with reference to said application should on or before July 21, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18258 Filed 7-2-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP82-105-000]

Panhandle Eastern Pipe Line Co.; Complaint and Request for Evidentiary Hearing

June 30, 1982.

Take notice that on June 10, 1982, Central Illinois Light Company (CILCO) tendered for filing, pursuant to section 5 of the Natural Gas Act, 15 U.S.C. 717d, and section 1.6 of the Commission's Rules of Practice and Procedure, a compliant and Request for Evidentiary Hearing (Complaint) seeking changes in Panhandle Eastern Pipe Line Company's (Panhandle) FERC Gas Tariff, Original Volume No. 1.

CILCO states that Panhandle is CILCO's sole supplier of natural gas for CILCO's Peoria/Peking service area. CILCO is seeking to purchase an additional supply of natural gas from Natural Gas Pipeline Company of America (Natural) for resale in its Peoria/Pekin service area so as to improve its reliability of service and permit possible reductions in its cost of gas. Panhandler's Tariff General Terms and Conditions contain a restriction which states that a distribution company customer is not a General Service Buyer and cannot receive service under a General Service Rate Schedule if it is supplied by another pipeline for deliveries in the same service area. If CILCO cannot receive service under Rate Schedule G-2, service would have to be rendered under Panhandle's Rate Schedule LS-2, which would result in a dramatic rate increase for CILCO. The increased rate that would result from service under Rate Schedule LS-2, plus the cost of the facilities which CILCO would have to build to obtain service from Natural (approximately $15 million), would make the new service uneconomic.

In addition, CILCO states that inquiries have been made of Panhandle to determine if it will continue to serve CILCO under Rate Schedule G-2 after service is commenced by Natural, but Panhandle has not given an answer to CILCO's inquiry. CILCO believes that the question of which rate schedule would be applicable for service by Panhandle to CILCO must be resolved before CILCO can decide whether to proceed to obtain a supplemental service from Natural.

A copy of this filing was served on Panhandle.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8

and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18267 Filed 7-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5086-001]

Redlands Water and Power Co.; Notice of Surrender of Preliminary Permit

June 30, 1982.

Take notice that Redlands Water and Power Company, Permittee for the Redlands Plant No. 2 Project No. 5086, has requested that its preliminary permit be terminated. The preliminary permit was issued March 17, 1982, and would have expired on September 1, 1983. The project would have been located on the Gunnison River near Grand Junction in Mesa County, Colorado. The Redlands Water and Power Company states that "* * * the * * * project has been cancelled."

Redlands Water and Power Company filed its request on June 14, 1982, and the surrender of its permit for Project No. 5086 has been deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18259 Filed 7-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER81-436-000]

South Carolina Electric & Gas Co.; Compliance Report

June 29, 1982.

The filing Company submits the following:

Take notice that on June 14, 1982, South Carolina Electric & Gas Company filed a refund compliance report pursuant to the Commission's letter order dated April 29, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before July 14, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18260 Filed 7-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-25-001]

Stone Container Corp.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility; Correction

June 30, 1982.

In Docket No. QF82-25-001 appearing in the **Federal Register** issue of June 10, 1982 on page 25192, make the following correction: On page 25192, in the first column, in the third complete paragraph, lines one and two:

"The facility is located in Coshocton, Illinois." is corrected to read "The facility is located in Coshocton, Ohio."

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18289 Filed 7-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-156-000]

Summer House Inn; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

June 30, 1982.

On June 11, 1982, Summer House Inn, 7955 La Jolla Shores Drive, La Jolla, California 92037, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility will be located in La Jolla, California. The primary energy source will be natural gas. The electric power production capacity of the facility will be 100 kilowatts. Waste heat will be recovered from jacket water and exhaust gases of the internal combustion engine at a rate of 600,000 Btu/hr., of which 401,000 Btu/hr. will be used for domestic hot water and heat. Installation of the facility is scheduled to begin in June 1982. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed on or before August 5, 1982 and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18274 Filed 7-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-615-000]

Tampa Electric Co.; Filing

June 30, 1982.

Take notice that on June 18, 1982, Tampa Electric Company (Tampa Electric) tendered for filing revised cost support schedules showing a change in the daily capacity charge for its scheduled interchange service provided under interchange agreements with Florida Power Corporation, Florida Power & Light Company, Fort Pierce Utilities Authority, Jacksonville Electric Authority, Sebring Utilities Commission, and the Cities of Kissimmee, Lakeland, St. Cloud, and Vero Beach, Florida. Tampa Electric states that the revised charge of $122.41 per MW per day is based on 1981 data, and is derived by the same method that is shown in the cost support schedules submitted with the original filing of the interchange agreements.

Tampa Electric requests that the revised daily capacity charge be made effective as of May 1, 1982. Accordingly, Tampa Electric requests that the Commission waive the 60-day notice requirement under § 35.3(a) of its Regulations, 18 CFR 35.3(a) (1981).

Tampa Electric states that a copy of the filing has been served upon each of the above-named parties to interchange agreements with Tampa Electric, as well as the Florida Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 and 1.10. All such petitions or protests should be filed on or before July 15, 1982. Protests will be considered by the

Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18275 Filed 7-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-344-000]

Texas Eastern Transmission Corp. and United Gas Pipe Line Co.; Application

June 30, 1982.

Take notice that on May 25, 1982, Texas Eastern Transmission Corporation (TETCO), P.O. Box 2521, Houston, Texas 77252, and United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP82-344-000 a joint application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of 11.4 miles of 8-inch pipeline and related facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants request authorization to construct and operate 11.4 miles of 8-inch pipeline and related facilites from the A Platform in High Island Block A-289, East Addition, South Extension, offshore Texas, to a subsea tie-in on Natural Gas Pipeline Company of America's (Natural) 16-inch pipeline in West Cameron Block 543, South Addition, offshore Louisiana.

It is stated that the proposed facilities would permit Applicants to attach quantities of natural gas which they have available from the High Island Block A-289 Field which consists of two leases in High Island Block A-289 and High Island Block A-290 (HIA-289 and HIA-290). It is further stated that TETCO has entered into a contract with McMORAN Offshore Exploration Company (McMORAN) for the purchase of its 48 percent interest in this field and would be entering into a contract with Getty Oil Company for the purchase of its 18.67 percent interest in the same field. It is stated that United has entered into a contract with the Natomas Offshore Exploration, Inc., for its 33.33 percent interest in this field.

Applicants assert that McMORAN, as operator, has discovered substantial gas reserves in HIA-289 and HIA-290 and has installed one platform, the A platform, in HIA-289 which is being used for development of both blocks. It is noted that six development wells have been drilled and completed and production from the High Island Block A-289 Field is presently available. Applicants estimate that approximately 26,700,000 Mcf of recoverable proved gas reserves would be available from the High Island Block A-289 Field for delivery through the HIA-289 pipeline. Total deliverability is expected to be 25,000 Mcf per day.

It is stated that the quantities of gas purchased by Applicants would be delivered to Natural at a subsea tie-in to Natural's 16-inch pipeline in West Cameron Block 543 and that TETCO's gas would be transported by Natural pursuant to a transportation agreement, Natural's Rate Schedule X-63, to an existing point of interconnection between Natural's 16-inch pipeline and the offshore pipeline system of Stingray Pipeline Company (Stingray) in West Cameron Block 565, South Addition, offshore Louisiana. Applicants states that at this point of interconnection the quantities of gas would be exchanged pursuant to a transportation and exchange agreement between TETCO and Natural (Rate Schedules X-84 and X-89, respectively). It is further stated that United's gas would be transported by Natural, pursuant to a transportation and exchange agreement to an existing point of interconnection between Natural's 16-inch pipeline and the offshore pipeline system of Stingray in West Cameron Block 565.

TETCO states that it previously entered into a transportation and exchange agreement with Natural which provides TETCO access to developing gas supplies remote from its existing system. It is stated that such agreement obviates the need for TETCO to construct extensive facilities to connect firm gas supplies and that said transportation and exchange agreement would be amended to add a new delivery point and exchange point in order for TETCO to attach quanities of natural gas from the High Island Block A-289 Field.

The total project cost is estimated at $8,513,000 which would be divided between Applicants according to their percentage ownership. Thus, TETCO would finance $5,676,000 based on its 66.667 percent ownership and United would finance $2,837,000 based on its 33.333 percent ownership. It is further stated that the pipeline would have a maximum capacity of 34,000 Mcf of natural gas per day and that TETCO would operate the facilities.

TETCO submits that it is in the public interest to permit it to track the transportation costs associated with these arrangements.

Any Person desiring to be heard or to make any protest with reference to said application should on or before July 21, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any peson wishing to to become a a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise adivsed, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18280 Filed 7-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6321-000]

County of Tuolumne, California; Application for Preliminary Permit

June 29, 1982.

Take notice that The County of Tuolumne, California (Applicant) filed on May 12, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 6321 to be known as the Pilot Ridge Project located on South Fork of the Tuolumne River in Tuolumne County, California. The application is on file with the

Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Clyde W. May, Chairperson, Board of Supervisors, County of Tuolumne, 2 South Green Street, Sonora, California 95370.

Project Description—The proposed project would consist of: (1) A 900-foot-long, 250-foot-high earthen dam; (2) a 300-foot-long, 12-inch-diameter penstock for Pilot Ridge Dam Fish Release Power Plant; (3) a 2500-foot-long, 42-inch-diameter penstock for the Colfax Spring Power Plant; (4) a powerhouse with an installed capacity of 213 kW and an estimated annual energy generation of 1.9 million kWh at the Pilot Ridge Dam Fish Release Power Plant; (5) a powerhouse with an installed capacity of 3,800 kW and an estimated annual energy generation of 15 million kWh at the Colfax Spring Power Plant; and (6) a 1000-foot-long, 13.2-kV transmission line. The project is located on Federal lands within the Stanislaus National Forest.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which it would conduct the technical, environmental and economic studies; and also prepare an FERC license application. No new roads would be needed for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $300,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before September 9, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before September 9, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than November 8, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 9, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18390 Filed 7-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER81-388-000, ER78-522, IN80-14, EL80-9 and EL80-16]

Virginia Electric and Power Co.; Order Conditionally Accepting Settlement and Terminating Investigation

June 28, 1982.

On December 31, 1981, Virginia Electric and Power Company (VEPCO) filed a proposed settlement agreement designed to resolve all matters in Docket No. ER81-388-000, and to eliminate potential refund obligations arising from Docket Nos. ER78-522 (Phase II), IN80-14, EL80-9 and EL80-16 (investigation dockets). The settlement was certified to the Commission by the presiding law judge on February 8, 1982, with a supplemental certification on February 9, 1982. For the reasons stated below, the Commission accepts the terms of the proposed settlement conditioned on the modification agreed to by the parties and set forth herein.

I. Background

Docket No. ER 81-388-000 involves a March 31, 1981, rate increase filing by which VEPCO sought an annual rate increase of more than $41 million from its wholesale customers. The Commission permitted the proposed rates to become effective September 1, 1981, subject to refund, but ordered revised rates to reflect summary disposition of four issues. VEPCO filed revised rates on June 29, 1981 which increased annual wholesale rates by more than $38 million. This includes an annual increase of $11.9 million to VEPCO's municipal customers and an annual increase of more than $26 million to its cooperative customers. Under the proposed settlement, the annual increase to the municipal customers would be reduced to $9.2 million and the annual increase to the cooperative customers would be reduced to $23 million.

In Docket No. EL80-9, Operation Overcharge filed a complaint against VEPCO protesting VEPCO's excessive rates resultng from alleged management imprudence. In Docket No. EL80-16, the State of North Carolina and the Public Staff of the North Carolina Utilities Commission requested a hearing and investigation of VEPCO's management practices (*e.g.*, failure to properly maintain equipment, failure to more rapidly convert to coal, and improperly passing through unreasonable costs to wholesale customers through its fuel adjustment clause).[1] By order issued

[1] Since 1978, the Virginia State Corporation Commission (VSCC) has issued three orders, and the North Carolina Utilities Commission (NCUC) has issued two orders, finding that VEPCO incurred unreasonable costs resulting from the mismanagement of its fossil plants. In August 1981, the Virginia Commission in Case No. PUE8100025 set VEPCO's rates at the low end of the zone of reasonableness and stated that it would again review the preformance of VEPCO's units in the near future. In July 1979, the North Carolina Utilities Commission issued an opinion in a quarterly fuel cost proceeding involving VEPCO. In that case, the NCUC found, among other things, that "VEPCO's comparatively high rates for electric service in North Carolina were primarily due to its cost of

March 14, 1980, in Docket No. IN80–14, the Commission's Office of Enforcement was directed to institute a private, formal investigation under Section 307 of the Federal Power Act to consider, among other things, allegations of management imprudence. On April 10, 1981, the Commission rendered a decision (Opinion No. 118) in Docket No. ER78–522. That opinion phased the ER78–522 docket, reserving the possiblity of a Phase II hearing and additional adjustments in the Phase I rates depending on the outcome of the private, formal investigation in Docket No. IN80–14.[2]

All of VEPCO's wholesale municipal customers and wholesale cooperative customers are parties to the settlement.[3] Comments in support of the settlement were filed by ElectriCities of North Carolina, Bear Island Paper Company, North Carolina Electric Membership Corporation and Albermarle Electric Membership Corporation, Old Dominion Electric Cooperative, and VEPCO.

II. The Proposed Settlement

The principal provisions of the proposed settlement are as follows:

1. *Revised rate schedules.* VEPCO agrees that, effective September 1, 1981, the discounts for high voltage service would be applicable to delivery points with delivery voltages of 46 kV or higher which were connected on or before December 1, 1981. New services connected after that date must be 69 kV or higher to qualify for the discounts.

The revised rate schedules contain a substantially revised fuel adjustment clause (FAC) designed to approximate the fuel collection procedures used by VEPCO for its Virginia retail customers. Fuel cost recovery would be based on an estimate of fuel costs for a 12-month period beginning April of each year, subject to revision after six months' actual experience. VEPCO would be allowed to use deferred accounting for fuel in order to properly match fuel expenses and fuel revenues for financial reporting purposes. VEPCO would make every reasonable effort to provide the wholesale customers delayed recovery of fuel similar to any delayed collection voluntarily provided by the company to its Virginia retail customers. The parties submit that the revised FAC would be an essential element in resolving price squeeze allegations, and request any necessary waiver of 18 CFR 35.14 requirements, if appropriate.

The settlement revenues would provide recovery to VEPCO, over a 10-year period, of costs associated with cancellation of North Anna Unit 4 and Surry Units 3 and 4.

The revised rate schedules would become effective September 1, 1981, and any difference between the revenues collected under the rates filed June 29, 1981, and those which would have been collected under the settlement rates would be refunded with interest.

The petitions for review pending before the United States Court of Appeals for the District of Columbia Circuit in *North Carolina Electric Membership Corp. and Albermarle Electric Membership Corp. v. F.E.R.C.* (No. 81–1887) and *Virginia Electric and Power Co. v. F.E.R.C.* (No. 81–1948) would be dismissed.

2. *Moratorium.* If VEPCO requests an effective date prior to September 1, 1982, for the rates in its next wholesale rate increase filing, the company would request suspension of the rates until Septmber 1, 1982.[4]

3. *FERC investigation of VEPCO.* All parties, including all wholesale and cooperative customers and their successors, have agreed to waive any refunds that might result from Docket Nos. IN80–14, EL80–9, EL80–16 and ER78–522 (Phase II) or any other docket that may be established to investigate the relationship between VEPCO's wholesale rates and the allegations made in those dockets. This waiver would apply to revenues received by VEPCO from its wholesale customers, whether received through base rates or FACs, through September 1, 1982, or such later date as the next rate increase filing becomes effective. For rates becoming effective after September 1, 1982, the parties agreed not to raise the issues previously raised in the investigation dockets, and to waive refunds arising from such issues unless the issues raised relate to allegations that company activities subsequent to September 1, 1982 are improperly affecting rates. The customers would not be prevented from seeking or relying on data subsequent to September 1, 1981.

In approving the settlement, the Commission would be deemed to have acknowledged that no Commission order would provide for refunds by VEPCO that would relate to the issues raised in the investigation dockets.

4. *Interruptible rate.* An interruptible rate is being filed for service in situations in which the customer has agreed to interrupt load for a period of six hours designated in advance by VEPCO. The cost savings to VEPCO, arrived at as part of the overall settlement, are reflected as a credit to the rate. The energy rate is split between on-peak and off-peak service. Such interruptible service would begin on the first day of the billing month following the billing month in which the Commission issued an order approving the settlement agreement.

5. *Justification for the proposed settlement.* The parties agree that the settlement rates would in part be attributed to the resolution of the issues raised in the investigation dockets.

6. *Accounting for disposal of nuclear fuel and decommissioning of nuclear plants.* The company would record a revenue credit, excluding tax adjustments, of 0.089 cents per kwh sold for the cooperatives (0.087 cents/kwh for in-reactor fuel and 0.002 cents/kwh for discharged nuclear fuel) and 0.089 cents per kwh sold for the municipalities (0.085 cents/kwh for in-reactor fuel and 0.004 cents/kwh for discharged nuclear fuel). This represents recovery of the costs of disposal of nuclear fuel. The accounting methodology would remain consistent with Opinion No. 118.

VEPCO would record a revenue credit, excluding tax adjustments, of 0.006 cents per kilowatt-hour sold for the cooperative and municipal customers, representing recovery of the cost of decommissioning VEPCO nuclear plants. The accounting methodology

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fuels used in the generation of electricity." The NCUC found that VEPCO's mismanagement and inefficiency had caused higher fuel costs and ordered the refund of fuel costs deemed unreasonably incurred. In 1981, the NCUC heard the issue of VEPCO's imprudent management in VEPCO's next general rate case. It found therein that VEPCO had passed $4 million to $6 million in imprudently incurred fuel costs on to NCUC-jurisdictional customers in 1979 alone. The NCUC concluded that adjustments for mismanagement should be reflected in VEPCO's rate of return and, accordingly, set VEPCO's rate of return at the low end of the zone of reasonableness, resulting in a reduction in rates of $8.28 million below the amount that it could have allowed based on VEPCO's cost of service, and $3.7 million below VEPCO's requested increase. VEPCO did not appeal this order.

[2] Parties to the settlement include VEPCO, ElectriCities of North Carolina, representing all of VEPCO's wholesale municipal customers, Old Dominion Electric Cooperative, Prince William Electric Cooperative, North Carolina Electric Membership Corporation and Albermarle Electric Membership Corporation, collectively representing all of VEPCO's Rural Electric Cooperative customers, and Bear Island Paper Company.

[3] On January 20, 1982, VEPCO filed a Motion to Terminate Dockets, including Docket Nos. ER78–522 (Phase II), IN80–14, EL80–9 and EL80–16. On February 2, 1982, intervenors North Carolina Electric Membership Corporation and Albemarle Electric Membership Corporation filed a concurrence in that motion. It should be noted that motions do not lie in an investigation conducted pursuant to the Rules Relating to Investigation. For that reason, the motion as it relates to Docket No. IN80–14 has been considered as a "statement" pursuant to Section 1b.18 of such rules.

[4] Consistent with the moratorium provision, the Commission has suspended the rates in VEPCO's next wholesale rate increase filing, Docket No. ER82–423–000, until September 2, 1982, subjectd to refund.

used would remain consistent with Opinion No. 118. By letter filed with the Commission on April 2, 1982, VEPCO states that its intent is to include decommissioning costs as an element of its depreciation rate at the level set forth in the settlement agreement, and to utilize a memorandum account, established by class of customer, which will be credited with .006¢ for each kilowatt-hour sold.

The parties have agreed that VEPCO, in its next wholesale rate filing, may use the amounts recorded as described above, maintained separately by classes of customers, when added to the amounts previously recorded, as the basis for determining the shortfall or excess in such accounts.

7. Conditions. The settlement is expressly conditioned on the Commission accepting all of its provisions without change or condition; waiving the requirements of 18 CFR 35.3 (notice requirements) to the extent necessary to effect all of the settlement provisions; and waiving the requirements of 18 CFR 35.13 (filing of changes in rate schedules) with respect to the Rate Schedules RC, RS and RC-Interruptible.

III. Staff's Objections

In its comments on the settlement agreement filed on January 19, 1982, the Commission's trial staff, while noting that the proposed settlement rates appear to be justified as they relate to Docket No. ER81-388-000, objected to section III of the settlement (number 3 in Part II above), in which the customers agreed to waive any refund rights which might result from the Commission's investigation in Docket No. IN80-14. According to trial staff, it was unable to evaluate the reasonableness of section III of the settlement prior to completion of the investigation in Docket No. IN80-14, since it did not know whether the appropriate revenue level would be affected by the investigation. Approval of the waiver, noted the staff, would allow the investigation to be "emasculated" since section III would eliminate any possible retroactive remedy resulting from the investigation. In its supplemental comments filed February 1, 1982, staff also argued that it was necessary for the Commission independently to determine whether the settlement is just and reasonable and in the public interest. To staff, it was impossible for the Commission to make that determination in the instant case until it reviewed the Enforcement Division's Report of Investigation. The staff requested that the Commission defer action on the settlement until the investigation in Docket No. IN80-14 was completed.

VEPCO and its customers opposed the staff's position. Their comments indicated that: (1) The refund waiver provision was an integral part of the settlement and its rejection would nullify the entire agreement; (2) the settlement rates reflected consideration of the possible effect of any remedies which might result from the investigation; (3) the parties who filed the complaints against VEPCO resulting in the Commission instituting its private investigation were each served with a copy of the settlement agreement and raised no objection to it; (4) delay in acting upon the settlement would harm certain of the customers.

IV. Report of Investigation in Docket No. IN80-14

During the month of April 1982, the Enforcement Division submitted to the Commission its Report of Investigation in Docket No. IN80-14 (Report).[5] The Report presents information which raises questions with respect to VEPCO's operation and maintenance of five of its fossil-fired units and its negotiation and administration of four coal contracts. The Report indicates that VEPCO may have incurred unreasonable fuel costs between 1975 and 1980 which were passed on to customers within the jurisdiction of this Commission. The Report also raises questions as to the contract negotiations for the construction of one of its nuclear plants, with the result that VEPCO may have paid its contractor unreasonable costs which are part of VEPCO's rate base.

Staff found that in 1979 and 1980, VEPCO became increasingly attentive to the management practices which caused its poor availability and high heat rates in its fossil-fired units. VEPCO apparently has replaced virtually all of its management personnel connected with fossil unit electrical generation. In 1980, VEPCO created a new position and hired an Executive Vice President for Power, who appears to be taking positive steps to improve system operation. VEPCO has also completed "renovation outages" on its five large coal-fired units in an apparent effort to improve their performance. In addition, VEPCO has begun making capital improvements to its generating units which are apparently designed to improve their reliability and efficiency. Staff concluded that these impovements, carried out properly, should have a significant impact on the availability and heat rate of VEPCO's fossil-fired plants.

The Commission does not herein make any factual determination as to the information contained in either Staff's Report or VEPCO's submission (and indeed could not do so without first holding a hearing on the *matters* raised). Nonetheless, the information contained in the Report raises questions as to VEPCO's past management practices, and whether VEPCO's customers have paid just and reasonable rates for electric service.

V. Discussion

The Commission has no objection to most of the provisions in the proposed settlement. We note that the settlement provides for a rate of return which is substantially below that recommended by Staff. However, the Commission objects to Article III of the proposed settlement. That part provides that the parties would waive their right to additional refunds that might become due to them as a result of the investigation dockets or any other docket that may be established to investigate the relationship between VEPCO's wholesale rates and the allegations made in those dockets. Article III also provides that the parties would not raise the issues previously raised in the investigation dockets unless the issues relate to activities subsequent to September 1, 1982, and involve data subsequent to September 1, 1981.

The Commission has an obligation independent of the parties, in the public interest, to examine the justness and reasonableness of rates and charges.[6] The Commission will not, as a matter of policy, permit private parties to limit potential remedies available to it, including the ordering of refunds. Nor will the Commission permit parties to unilaterally limit the nature or scope of issues the Commission can raise in

[5] On April 29, 1982, VEPCO submitted a Memorandum to the Commission on Behalf of Virginia Electric and Power Company in Docket No. IN80-14 addressing certain issues raised in the investigation.

[6] In this matter, as in all other matters, the Commission must exercise its judgment and discretion and render its decisions not only in its role as arbiter of the interests of the immediate parties to the case, but also in its statutorily mandated role as the protector of the public interest. This latter role is acknowledged and given substance by the standard which governs the Commission's approval of settlement agreements. See § 1.18(e)(3) and (4)(i) of the Commission's Rules of Practice and Procedure, 18 CFR 1.18(e)(3) and (4)(i). Thus, before approving a settlement, regardless of whether it is contested or enjoys the unanimous support of the parties, the Commission is obliged to make an independent determination that the settlement is just and reasonable and in the public interest. *Mobil Oil Corporation v. FPC*, 417 U.S. 283 (1973); *George Mitchell and Associates, Inc.*, Opinion No. 640, 49 F.P.C. 424 (1973).

future proceedings. The question of the proper action to take as a result of a formal investigation is a matter entirely within the discretion of the Commission, and the Commission will brook no interference with that discretion. Thus, based on Article III of the settlement, the Commission cannot and will not accept the settlement as submitted.

As noted above, the Commission is not herein making findings concerning the information contained in the Report of Investigation since there has been no adjudication of those issues. Nor can the Commission utilize, nor has it utilized, the information contained therein as the basis for taking action on the settlement in the instant docket. The Report is not a public document and is not a part of the docket in which the settlement was filed. Nonetheless, the Report raises serious concerns as to VEPCO's past practices, and as to whether VEPCO's future practices will be proper. Staff notes in the Report, however, that VEPCO has recently made substantial efforts to improve its management.

The Commission believes it is in everyone's interest, including the public interest, to resolve the investigation dockets as expeditiously as possible. Accordingly the Commission has resolved its concerns expressed herein by conditioning the approval of the proposed settlement on the withdrawal of Article III, in its entirety, and acceptance by the parties of the modifications set forth below.[7] These modifications are designed to ensure that VEPCO will continue to improve in the areas addressed in the Report, *i.e.*, controlling costs and managing prudently in the areas of fossil unit operation and maintenance, coal procurement, and construction contracting and administration. Finally, the Commission terminates its investigation in Docket No. IN80–14 and closes the investigation dockets, ER78–522 (Phase II), IN80–14, EL80–9 and EL80–16.

The Commission orders:

(A) The settlement agreement filed in the above-captioned docket on December 31, 1981, is accepted conditioned upon the parties' withdrawal of Article III of the settlement agreement and acceptance of the following modifications:

1. VEPCO will report to the Commission every six months for three years on its progress in controlling costs and managing prudently in the areas of fossil unit operation and maintenance, coal procurement, and construction contracting and administration. The information required in these reports will be developed by Commission staff. The first report will be submitted by VEPCO beginning on September 1, 1982, and will cover the first six months of 1982. A new docket will be opened for the purpose of monitoring the filing of these reports.

2. A special audit committee of Commission staff will be established to review the periodic reports. The Committee will have the authority to seek additional information with regard to these reports. The Virginia and North Carolina Commissions will be invited to send representatives to sit on the committee or to share the information developed.

3. VEPCO's semi-annual reports and any other information submitted to the audit committee will be considered in each VEPCO rate proceeding for three years. If any of the issues listed in condition 1 is raised in any such rate proceeding or any proceeding under Section 206 of the FPA, there will be no presumption of justness and reasonableness (including prudence) of costs incurred and VEPCO will bear the initial burden of proof with respect to these issues.

4. The Commission believes it necessary that there be an incentive for VEPCO to continue to improve its performance in the future. Commission staff and the parties will negotiate a sliding rate of return tied to generating unit performance based on indices such as equivalent availability and heat rate to be applied in Docket No. ER82–423–000 and future rate proceedings. All parties, including staff, are also urged to consider the use of a maintenance cost tracking provision.

5. VEPCO shall not pass on to its wholesale customers any costs, including attorney's fees, incurred as a result of the investigation in Docket No. IN80–14. All costs, if any, related to the investigation will be deleted from the rate proposed in Docket No. ER82–423–000, and all future dockets.

6. Information obtained in the course of Docket No. IN80–14 will be admissible for any relevant purpose (provided that it meets the customary tests for admissibility) in any future proceedings involving VEPCO. In the event that there are proceedings involving allegations of unreasonable costs arising out of activities which occurred after September 1, 1982, the information obtained in Docket No. IN80–14 may be used to demonstrate a course of conduct or for any other relevant purpose, and the use of such evidence would not preclude refunds to customers related to the post-September 1, 1982 activities. However, periods prior to September 1, 1982, will be closed as to refund obligations.

(B) Within 15 days of the issuance of this Order, all parties shall formally indicate acceptance or rejection of the Commission's modifications.

(C) The private, formal investigation conducted by the Division of Enforcement in Docket No. IN80–14 is terminated and the investigation dockets, ER78–522 (Phase II), IN80–14, EL80–9, and EL80–16 are closed.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–18261 Filed 7–2–82; 8:45 am]

BILLING CODE 6717–01–M

[7] On May 19, 1982 and May 24, 1982, Staff presented the results of its investigation and the proposed modifications to the settlement agreement to the Company and its wholesale customers. All of the parties to the Settlement Agreement have assented to the modifications listed herein and the six conditions set forth below.

[Project No. 6311-000]

Western Hydro Electric, Inc.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

June 30, 1982.

Take notice that on May 11, 1982, Western Hydro Electric, Incorporated (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 6311) would be located on Money Creek, a tributary of the South Fork Skykomish River in King County, Washington. Correspondence with the Applicant should be directed to: Mr. Donald J. White, Vice President, Western Hydro Electric, Incorporated, Commercial Security Bank Building, Suite 600, 50 S. Main Street, Salt Lake City, Utah 84144.

Project Description—The proposed project would consist of: (1) A 70-foot-long, 5-foot-high diversion structure; (2) a 17,200-foot-long, 36-inch-diameter pipeline/penstock; (3) a powerhouse containing one generating unit with an installed capacity of 3,900 kW; and (4) a 0.5-mile-long, 115-kV transmission line from the powerhouse to an existing transmission line. The Applicant estimates that the average annual energy production would be approximately 16.6 GWh. The project is located entirely on Federal lands within the Snoqualmie National Forest.

Purpose of Exemption—An exemption, if issued, gives the Exemptee

priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, the State of Washington Department of Fisheries, and State of Washington Department of Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none.

Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of any agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before August 25, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 25, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-18262 Filed 7-2-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 6351-000]

Western Hydro Electric, Inc.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

June 30, 1982.

Take notice that on May 20, 1982, Western Hydro Electric, Inc. (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 6351) would be located on Briggs Creek, within Siskiyou National Forest in Josephine County, Oregon.

Correspondence with the Applicant should be directed to: Donald J. White, Vice President, Western Hydro Electric, Inc., Commercial Security Bank Building, Suite 600, 50 South Main St., Salt Lake City, Utah 84144.

Project Description—The proposed project would consist of: (1) A 5-foot-high reinforced concrete diversion structure with crest at elevation 1375 feet; (2) a pipeline and a penstock 84 inches in diameter by 8300 feet and 700 feet long, respectively; (3) a powerhouse containing a turbine generator with 4.7-MW capacity and 20.5-GWh annual energy output; and (4) a tailrace at elevation 940 feet.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Oregon State Department of Fish and Wildlife are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before August 23, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and

(c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 23, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENT," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18276 Filed 7-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-157-000]

Woods Creek, Inc., Woods Creek Project; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

June 30, 1982.

On June 15, 1982, Woods Creek, Inc., 14 South Idaho Street, Seattle, Washington 98134, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The hydroelectric small power production facility will be located near Monroe, Snohomish County, Washington. The electric power production capacity of the facility will be 600 kilowatts. The facility will not be located within one mile of any other small power production facility owned by Woods Creek, Inc. which uses the same energy source. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed on or before August 5, 1982 and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18277 Filed 7-2-82; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Notices of Objection to Proposed Remedial Orders Filed Period of May 24 Through June 4, 1982

During the period of May 24 through June 4, 1982, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 on or before July 26, 1982. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

June 28, 1982.

County Fuel Co., Inc., Baltimore, Md., Motor Gasoline, HRO-0058

On June 1, 1982, County Fuel Company, Inc., 5711 O'Donnell St., Baltimore, Maryland, 21224 filed a Notice of Objection to a Proposed Remedial Order which the DOE Philadelphia Field Office of Enforcement issued to the firm on May 24, 1982. In the PRO the Philadelphia Field Office found that from March 1, 1979 to March 18, 1980 County Fuel sold motor gasoline to end-users and resellers at prices in excess of those permitted under 10 CFR 212.93. According to the PRO the County Fuel Company, Inc. violation resulted in $197,305.00 of overcharges.

Secor Petroleum Co., Inc., Englewood Cliffs, N.J., Crude Oil, HRO-0059

On June 1, 1982, Secor Petroleum Co., Inc., 333 Sylvan Avenue, Englewood Cliffs, New Jersey 07632, filed a Notice of Objection to a Proposed Remedial Order which the DOE Tulsa, Oklahoma District Office of Enforcement issued to the firm on April 23, 1982. In the PRO, the Tulsa, Oklahoma Office found that during the period November 1979 through December 1980, Secor charged prices in certain resales of crude oil exceeding maximum permissible price levels under DOE regulations. According to the PRO, the Secor violation resulted in $204,404 of overcharges.

Spencer Companies, Birmingham, Ala., Motor Gasoline, HRO-0060

On June 1, 1982, the Spencer Companies, P.O. Box 45, Huntsville, Alabama 35804, filed a Notice of Objection to a Proposed Remedial Order which the DOE Atlanta District Office of Enforcement issued to the firm on May 10, 1982. In the PRO the Atlanta District found that from January 19, 1979 to December 31, 1979 Spencer made sales of motor gasoline at prices in excess of maximum lawful prices determined in accordance with 10 CFR 212.93. According to the PRO the Spencer Companies violation resulted in $126,755.48 of overcharges.

Thomas P. Reidy, Inc., Houston, Texas, Motor Gasoline, HRO-0062

On June 4, 1982, Thomas P. Reidy, Inc., 1100 Milam, Suite 2170, Houston, Texas 77002, filed a Notice of Objection to a Proposed Remedial Order which the DOE Kansas City Office of Enforcement issued to the firm on May 3, 1982. In the PRO the Kansas City Office found that from November 1, 1973 to May 3, 1975, Reidy charged prices for motor gasoline and fuel oil in excess of those permitted under the DOE regulations. According to the PRO the Reidy violation resulted in $8,463,808.04 of overcharges.

[FR Doc. 82-18182 Filed 7-2-82; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51409A; TSH-FRL 2161-5]

Toxic Substances; 3,4-Dichlorophenol; Premanufacture Notice; Extension of Review Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is extending the review period for an additional 90 days for premanufacture notice (PMN) P-82-251, under the authority of section 5(c) of the Toxic Substances Control Act (TSCA). The review period will now expire on September 28, 1982. The PMN was submitted by Velsicol Chemical Corp. for 3,4-dichlorophenol. The chemical substance will be used as a component of a paint stripping formulation.

FOR FURTHER INFORMATION CONTACT: Richard Green, Chemical Control Division (TS-794), Environmental Protection Agency, Rm. E-208, 401 M St., SW., Washington, DC 20460, (202-755-9190).

SUPPLEMENTARY INFORMATION:

Background

Under section 5 of TSCA anyone who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a premanufacture notice (PMN) to EPA 90 days prior to commencement of manufacture or import. Under section 5(c) EPA may extend the notice period for good cause for additional periods, not to exceed an aggregate of 180 days from the date of receipt. EPA issued proposed rules to implement the premanufacture notification program in the **Federal Register** of January 10, 1979 (44 FR 2263). Section 720.35 of the proposed rules addressed the section 5(c) extension authority and provided examples of situations in which the Agency believed there would be good cause to extend the notice period.

Review to Date

On April 2, 1982, EPA received PMN P-82-251 from Velsicol Chemical Corp. for 3,4-dichlorophenol. Velsicol has claimed the estimated production volume, and information on their process and on the impurities present in the PMN chemical to be confidential business information. The PMN stated that the substance would be used as a component of a paint stripping formulation. Notice of receipt of the PMN was published in the **Federal Register** of April 16, 1982 (47 FR 16403). The original 90-day review period was scheduled to expire on June 30, 1982.

In its evaluation of the substance described in PMN P-82-251, EPA reviewed information provided by the submitter, as well as that which was obtained from the relevant technical literature. Substances similar in chemical structure to the PMN substance were also examined.

EPA's detailed analysis addressed the following: effects on human health, absorption into the body via oral, dermal and inhalation exposure, metabolic pathways, environmental fate, dermal absorption, effects on aquatic organisms, identity and levels of impurities, human exposure, release to the environment, degree of risk relative to available commercial substitutes, potential marketability, and other information required to resolve outstanding issues.

As a result of this analysis, EPA has reason to believe the following:

1. The PMN substance and/or the impurities present in it are expected to produce these adverse effects on human health: irreversible eye damage, chloracne, liver damage, oncogenicity, fetotoxicity, and reproductive effects.

2. The PMN substance and/or the impurities present in it are expected to produce adverse acute and chronic effects on aquatic organisms.

3. Significant human exposure to the PMN substance and impurities may occur during use of the paint stripping formulation.

4. Significant quantities of the PMN substance may be released to the aquatic environment.

Extension of the Review Period

Based on its analysis to date, EPA is taking initial steps toward regulating the substance submitted for review in PMN P-82-251 under section 5(f) of TSCA. The Agency requires an extension of the review period to prepare the appropriate documents for regulatory action. An administrative order under section 5(f), if adopted as the Agency option, must be issued no later than 45 days prior to expiration of the review period. Therefore, EPA has determined that good cause exists to extend the review period for an additional 90 days, to September 28, 1982.

Public Record

PMN P-82-251 is available for public inspection in Room E-106, at the EPA Headquarters, address given above, from 8:00 a.m. to 4:00 p.m., Monday through Friday. Information claimed to be confidential by the submitter has been deleted from the documents in the public record.

Dated: June 25, 1982.

John A. Todhunter,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 82-18189 Filed 7-2-82; 8:45 am]

BILLING CODE 6560-50-M

[OLCE-FRL 2153-2]

Withdrawal of Application Under the Steel Industry Compliance Extension Act; Kaiser Steel Corp.

AGENCY: Environmental Protection Agency.

ACTION: Notice of withdrawal of application.

SUMMARY: EPA announces that Kaiser Steel Corporation has withdrawn its application under the Steel Industry Compliance Extension Act of 1981.

DATES: Effective May 19, 1982.

FOR FURTHER INFORMATION CONTACT: Michael Alushin (EN-341), Acting Deputy Associate Enforcement Counsel for Air, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 382-2820.

SUPPLEMENTARY INFORMATION: On October 20, 1981, Kaiser Steel Corporation submitted to the Environmental Protection Agency and application under the Steel Industry Compliance Extension Act of 1981. Notice of receipt of the application was published at 46 FR 55000. On May 19, 1982, Kaiser Steel Corporation withdrew the application from further consideration by EPA. EPA, therefore, will not further process the application. The application and supplementary materials, excluding confidential information, is available for public inspection at the Central Docket Room, West Tower, EPA Headquarters, 401 M Street, S.W., Washington, D.C. Refer to Docket No. EN 81-16G.

Anne M. Gorsuch,

Administrator.

June 28, 1982.

[FR Doc. 82-18186 Filed 7-2-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 80-765]

American Telephone and Telegraph Co.; Revisions to Tariff F.C.C. No. 259, Wide Area Telecommunications Services (WATS); Memorandum Opinion and Order

Adopted: June 14, 1982.

Released: June 16, 1982.

1. On April 16, 1982, the Commission initiated an investigation in order to determine, among other things, whether the tariff and rate structure differences between Wide Area Telecommunications Service (WATS) and Message Telecommunications Service (MTS) are justified.[1] The Commission specifically sought comment on whether under section 202(a) of the Act, 47 U.S.C. 202(a), the discrimination between MTS and WATS is lawful. The justification for MTS and WATS rates and rate structure differences has been a central point of Commission inquiry since the finding that they constituted "like" communication service within the meaning of section 202(a) of the Act.[2]

2. Pursuant to the designation order in this proceeding, initial comments are currently due on June 17, 1982. However, by a decision filed June 11, 1982, the U.S. Court of Appeals for the District of Columbia Circuit has vacated the like service order and remanded for further proceedings as the Commission may wish to pursue. In view of this development, we have determined to defer the submission date for comments and proposals until July 19, 1982. During this time we will consider the effect of the ruling, if any, on the investigation. Should we conclude that either substantive or procedural modification of this proceeding is necessary, we will issue a further order on these matters.

3. Accordingly, it is ordered, That the American Telephone and Telegraph Company and interested parties shall file comments on the matters set for investigation in this proceeding on or before July 19, 1982.

4. It is further ordered That this Order shall be published in the Federal Register.

Federal Communications Commission.

Gary M. Epstein,

Chief, Common Carrier Bureau.

[FR Doc. 82-18128 Filed 7-2-82; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 82-346; File No. 22983-CD-P-(1)-81, etc.]

Central Mobile Radio Phone Service, Inc. et al; Designating Applications for Consolidated Hearing on Stated Issues

Adopted June 23, 1982.

Released June 25, 1982.

In the matter of applications of Central Mobile Radio Phone Service, Inc. for a construction permit for an additional channel for Station KUC994 on frequency 35.66 MHz at Columbus, Ohio, in the Domestic Public Land Mobile Radio Service, CC Docket No. 82-346, File No. 22983-CD-P-(1)-81; for a construction permit for an additional channel for Station KUS346 on frequency 35.66 MHz at Springfield, Ohio, in the Domestic Public Land Mobile Radio Service, DD Docket No. 82-347, File No. 22994-CD-P-(1)-81; for a construction permit for an additional channel for Station KUC929 on frequency 35.66 MHz at Cincinnati, Ohio, in the Domestic Public Land Mobile Radio Service, CC Docket No. 82-348, File No. 22996-CD-P-(1)-81; for a construction permit for an additional channel for Station KUO557 on frequency 35.66 MHz at Toledo, Ohio, in the Domestic Public Land Mobile Radio Service; CC Docket No. 82-349, File No. 22997-CD-P-(1)-81; Inc. Order designating applications for hearing.

1. Presently before the Chief, Mobile Services Division, pursuant to delegated authority, are the captioned applications of Central Mobile Radio Phone Service, Inc. (Central). Our review of the Central applications has raised a question concerning whether the applicant has demonstrated a need for the additional frequency that each of the applications has requested. Based on the analysis below, we are designating the applications for consolidated hearing on the common issue of whether there is sufficient need for any or all of the requested frequencies. We find Central to be otherwise qualified to receive a license.

2. *Columbus.* Central has submitted a traffic loading study pursuant to § 22.516 of the Rules in an attempt to demonstrate need for the additional one-way frequency it requests at Columbus, Ohio. However, the loading study submitted does not demonstrate sufficient traffic to justify an additional frequency. Central presently has one paging frequency in the Columbus area. The application is requesting an additional paging frequency. The traffic loading study shows an average peak hour usage of only 17.3 minutes for the existing paging frequency. This results in a probability of blocking of 0.29 for the existing paging frequency. As a result, we will designate an issue as to whether the applicant's Columbus application has demonstrated a need for an additional frequency.

3. *Springfield.* Central has submitted a traffic loading study pursuant to § 22.516 of the Rules in an attempt to demonstrate need for the additional one-way frequency it requests at Springfield, Ohio. However, the loading study submitted does not demonstrate sufficient traffic to justify an additional frequency. Central presently has one paging frequency in the Springfield area. The application is requesting an additional paging frequency. The traffic loading study shows an average peak hour usage of only 16.0 minutes for the existing paging frequency. This results in a probability of blocking of 0.27 for the existing paging frequency. As a result, we will designate an issue as to whether the applicant's Springfield application has demonstrated a need for an additional frequency.

4. *Cincinnati.* Central has submitted a traffic loading study pursuant to § 22.516 of the Rules in an attempt to demonstrate need for the additional one-way frequency it requests at Cincinnati, Ohio. However, the loading study submitted does not demonstrate sufficient traffic to justify an additional frequency. Central presently has one paging frequency in the Cincinnati area. The application is requesting an additional paging frequency. The traffic loading study shows an average peak hour usage of only 27.0 minutes for the existing paging frequency. This results in a probability of blocking of 0.45 for the existing paging frequency. As a result, we will designate an issue as to whether the applicant's Cincinnati application has demonstrated a need for an additional frequency.

5. *Toledo.* Central has submitted a traffic loading study pursuant to § 22.516 of the Rules in an attempt to demonstrate need for the additional one-way frequency it requests at Toledo, Ohio. However, the loading study submitted does not demonstrate sufficient traffic to justify an additional frequency. Central presently has three paging frequencies, 35.58, 152.24, and 158.70 MHz, herein designated frequencies 1, 2, and 3 in the Toledo area. The application is requesting an additional frequency. The traffic loading study shows average peak hour usages of 14.0, 47.0, and 49.7 minutes for frequencies 1 to 3 respectively. Since frequency 1 shows a probability of blocking less than 0.5, we will designate an issue as to whether the applicant's Toledo application has demonstrated a need for an additional frequency.

6. Accordingly, it is ordered, that the captioned applications of Central Mobile Radio Phone Service, File Nos. 22983-CD-P-(1)-81, 22994-CD-P-(1)-81, 22996-CD-P-(1)-81 and 22997-CD-P-(1)-81 are designated for hearing in a

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[1] See, *Memorandum Opinion and Order* (Order), FCC 82-179, released April 16, 1982 (47 FR 20177, 5-11-82).

[2] See, AT&T, 70 FCC 2d 583 (1978) *recon. denied*, 79 FCC 2d 10 (1980), *appeal docketed subnom.* Ad Hoc Telecommunications Users Committee v. FCC, D.C. Cir. No. 80-1785 (Like Service).

consolidated proceeding upon the following issues: [1]

(a) To determine whether the applicant has demonstrated a sufficient public need for each of the proposed facilities; and

(b) To determine, in light of evidence adduced pursuant to the foregoing issues, what disposition of the referenced applications would best serve the public interest, convenience and necessity.

7. It is further ordered, that the hearing be held at a time and place and before an Administrative Law Judge to be specified in a subsequent order.

8. It is further ordered, that the Chief, Common Carrier Bureau, is made a party to the proceeding.

9. It is further ordered, that the applicant shall file a written notice of appearance under § 1.221 of the Commission's Rules within 20 days of the release date of this order.

10. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

William F. Adler,

Chief, Mobile Services Division, Common Carrier Bureau.

[FR Doc. 82-18127 Filed 7-3-82; 8:45 am]
BILLING CODE 8712-01-M

Commissioners Jones and Dawson Issue Concurring Statements on Suspension and Investigation of AT&T/BSOC 8 Tariff

June 28, 1982.

On April 29 the Commission suspended for five months and began an investigation of proposed revisions filed by AT&T and the Bell System Operating Companies (BSOCs) to AT&T Tariff BSOC 8 which would increase ENFIA rates paid by carriers other than telephone companies (47 FR 24621; June 7, 1982)

Commissioners Anne P. Jones and Mimi W. Dawson concurred in the result of that action and have now issued the attached statements.

William J. Tricarico,

Secretary, Federal Communications Commission.

April 29, 1982.

Concurring Statement of Commissioner Anne P. Jones

In Re:

American Telephone and Telegraph Company and the Bell System Operating Companies Tariff F.C.C. No. 8 (BSOC 8)—Transmittal No. 53

Exchange Network Facilities for Interstate Access (ENFIA)—CC Docket No. 78-371

Today the Commission has set an interim value for the minutes of use and SEP amount as defined in the ENFIA agreement and instituted an investigation into the proper value of these factors. To the extent that the determination of these values represents an inherently subjective determination of the discount which the OCCs should receive for less-than-equivalent interconnection, the whole concept of an objective investigation has little meaning.

I do not with to discuss how the Commission got itself into this current quagmire. I am much more interested in how we should get ourselves out. The ENFIA agreement implemented a special-purpose access charge. The rational long-term solution to all of these problems should come within the context of the Commission's Access Charge Proceeding in CC Docket No. 78-72.

As I will explain below, I believe the Commission can solve the general access problem, but only if we are willing to abandon the current practice of allocating non-traffic-sensitive plant on a traffic-sensitive or usage basis.

Every telephone subscriber has a dedicated facility between his or her telephone and the first point of traffic concentration, which is usually the local switch. The telephone, and other customer premises equipment, will be deregulated under the Commission's decision in Computer II. It is also possible that the Commission will ultimately order the detariffing and deregulation of inside wiring—the wiring between the telephone and the point of connection with the wire which enters the premises from the outside. In any case, it will be possible to define the place within the Customer premises where regulated facilities begin. Moving from this point towards the local switching office, it is possible to define the place where dedicated facilities stop and traffic concentration begins. It is the facilities between these two points, where regulation begins and where traffic concentration begins, which I will refer to as "non-traffic-sensitive plant."

These facilities are necessary for completion of any call, be it to next door or halfway around the world. But in themselves these facilities are not sufficient for the creation of any useful service. Most importantly, the cost of this subscriber access to the local switch does not vary according to use. This suggests that the subscriber should pay for these facilities directly and explicitly as a part of his or her telephone bill. I will refer to this concept as *direct assignment*. To explain the relevance of direct assignment to the OCC access problem, some more background is necessary.

The public switched telephone network was not designed for interexchange competition. The current numbering plan has been in use nationally since 1947. When the network was designed it was natural to assume that there would be only one interexchange carrier. To suppose otherwise, and to believe that the design of the network was some kind of anti-competitive plot, is to give AT & T long-range planning far more credit than it deserves!

Given the state of the public switched network, it is presently not possible in most locations to give the OCCs the same quality of local interconnection as is given to the Bell/Independent interexchange "partnership".

The interconnection which the OCCs do receive is inferior to that given the "partnership" in many ways. OCC customers have to dial more digits, and may endure more impairments because of the path taken to get to the OCC switch. The OCCs may have difficulty determining when a customer starts talking if they don't receive a network signal called answer supervision. An OCC cannot collect a toll bill by threatening to terminate local service, as can the Bell/Independent "partnership".

From a subjective standpoint, the *value* of the interconnection which the OCCs presently receive may be considerably less than the value of the interconnection received by the "partnership". But yet—and this I think is the crux of the problem—the *cost* of OCC interconnection as based upon current separations concepts may not be reduced in full proportion to its lesser value as compared to the "partnership" interconnection.

This, I think, presents the fundamental dilemma. If, relative to the access provided the "partnership", the only interconnection which the OCCs can be offered has a value which is well below its cost as determined by separations concepts, then access price cannot be set according to this cost, because this would place the OCCs at a competitive disadvantage. But basing access on some subjective determination of value is just that—subjective, and not well suited to the current regulatory process in a competitive environment—as the current experience with the ENFIA tariff has shown.

The Modification of the 1956 Consent Decree, agreed to by AT & T and the Department of Justice last January and

[1] Although these applications are not directly tied together, they are being designated in consolidated proceeding, rather than separate proceedings for the convenience of the applicant and the administrative convenience of the Commission staff.

now under review by the Court, requires that the public switched network be changed so that the Bell Operating Companies will be able to offer access to all interexchange carriers on an equal basis. These changes will not happen overnight. They will occur on a phased basis, since they become more feasible with the introduction of more local electronic switching.

Before equal access is available, the Modification of Final Judgment would allow a value-of-service discount for lower quality access. However, once equal access is available, all access must be cost-justified.

I agree that value of service pricing has no place in the post-divestiture environment when equivalent access can be offered to the OCCs. Less-than-equivalent access should still be available, but interexchange carriers should be required to pay the full cost of such access.

What does this have to do with direct assignment? Without direct assignment, the cost of equivalent and less-than-equivalent access would be close to the same, because the costs in both cases would be dominated by non-traffic-sensitive costs and not by traffic sensitive switching costs, although switching accounts for the technical differences between different qualities of interconnection.

Consider the ENFIA tariff, where rate element 1 corresponds to the trunk between the OCC switch and the local end office; rate element 2, to the end office switch and rate element 3, to the loop between the end office and the customer premises. Under today's order this tariff was set on an interim basis at about $180, but about $147 of this amount is in rate element 3, which is non-traffic-sensitive plant—mostly the simple wire between the end office and the customer premises—which has nothing to do with the quality of interconnection afforded the OCCs.

With direct assignment, rate element 3 would simply be removed from the access tariffs of all the carriers. The price of access for all carriers would be greatly reduced, and this in itself would mitigate the access problem. But of equal importance, the percentage of cost difference between different qualities of interconnection would increase, since access costs would then be more dominated by rate element 2. These costs may come more closely into line with the relative subjective values of their corresponding access arrangement.

Thus it might be possible to have an access which is both cost-based and equitable, and which would permit different carriers to use different qualtities of interconnection if they so desired.

Concurring Statement of Commissioner Mimi Weyforth Dawson

Re: Exchange Network Facilities for Interstate Access (ENFIA) and Bell System Operating Companies Tariff FCC No. 8 [1]

With these decisions the Commission is extending an agreement among AT&T, GTE and several other common carriers (OCCs) concerning the terms and conditions of interconnection to AT&T's and GTE's local operating companies, suspending AT&T's tariff which purports to honor the terms of that agreement and prescribing an interim rate pending the outcome of the investigation. I agree with the outcome of these decisions because I believe it does not produce an unreasonable increase in the interconnection rate for the OCCs. For reasons set forth below, any greater increase would not be appropriate in view of our projected course in resolving jurisdictional separations and access questions. However, I do not agree with the methodology used, *i.e.*, freezing the discount applied to level of payment,[2] and utilizing the number of billed minutes as a mechanism for adjusting the rate. I object to the focus on the billed minutes because it lends what may be undue credence to the practice of applying a traffic sensitive measure to determine the rate for use on non-tariff sensitive plant.

Rather, I urge the Commission to adopt a timetable that would establish parity of interconnection and access charges for all interstate competitors. That timetable could track the one agreed upon by AT&T and the Department of Justice in the proposed modification of the 1956 Consent Decree. In the interim, I believe the Commission should have increased the level of payment in ENFIA for Rate Level D to 65 percent. Additionally, if the access charge proceeding is not resolved prior to the onset of the fifth year of the ENFIA agreement, the level of payment should be increased to 75 percent. Finally, OCC minutes for interstate ratemaking purposes should be set equal to those used for separations purposes,[3] until the Commission determines an appropriate method by which to allocate NTS costs among interstate services. To do otherwise, in my opinion, would discourage efficient use of the telecommunications network.

As the preceding discussion indicates, the appropriate solution to any interim or final access charge question requires not only an understanding of today's exchange access costs and terms of exchange access, but also requires an in-depth look at jurisdictional separations and the interconnection agreements contained in the proposed Consent Decree modification between AT&T and the Department of Justice. We must evaluate any approach we take prior to solution of these issues in light of what the ultimate interconnection charges are likely to be when the anticipated changes in jurisdictional separations are completed and the right to equal interconnection for all interstate competitors is secured.

Currently, MTS and equivalent services pay, either directly or indirectly through the settlements process, the equivalent of an exchange access charge that contributes towards the costs of: (1) Connecting facilities between the toll switching center and the local company's central office; (2) local exchange switching and trunking facilities; and (3) non-traffic sensitive (NTS) subscriber plant (which consists of regulated customer premises equipment, inside wiring, the customer-dedicated local telephone lines extending from the customer premises to the local central office, and the customer-dedicated portions of the local switch). The third cost element represents, by far, the largest part of the exchange access expense that providers of MTS and equivalent services contribute to the local exchange carrier. For this element, the OCCs pay 55 percent of the amount that AT&T and GTE pay for an equivalent number of MTS/WATS minutes. Private line services, it should be noted, make no interstate contribution to local exchange carriers for subscriber plant.

The allocation of NTS subscriber plant is both the most important and the most controversial factor in determining costs for access purposes. Of course, any allocation of NTS costs between jurisdictions must be arbitrary "because there is no purely economic method of allocation." [4] Nevertheless, the

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[1] Action taken by the Commission on April 14, and April 29, 1982.

[2] Because of the significant disparity in interconnection between the OCC and the AT&T/independent long distance services, the Commission has determined that a 55 percent discount is appropriate for the OCCs during the interim period prior to resolution of the access charge proceeding. The Commission believes this proceeding will be resolved before the extended ENFIA agreement expires on April 16, 1984.

[3] The Commission recently froze the percentage of non-traffic sensitive costs allocated to the interstate jurisdiction at 1981 levels. See Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board (CC Docket No. 80-286), FCC 82-93, released February 26, 1982. OCC minutes for separations purposes have been frozen at 3000 minutes per ENFIA line.

[4] See *MCI* v. *FCC*, D.C. Cir. 81-1052 at 16 (1982).

percentage of NTS costs allocated to the interstate jurisdiction has risen over time from strict relative usage to the subscriber plant factor. With the onset of competition in the telecommunications industry, however, numerous parties have argued that the subscriber plant factor is not economically sustainable because the new competitors will simply bypass the local exchange to avoid paying excessive access charges. In response, the Commission has established a Federal/State Joint Board to examine the legal, economic and equitable arguments for changing the current allocation of exchange costs between jurisdictions.

The record amassed in the Joint Board proceeding to date is voluminous. Over seventeen volumes of comments have been filed in addition to cost data for over seven hundred telephone companies. The commenters, in my opinion, argue persuasively that the portion of NTS costs allocated to the interstate jurisdiction must drop considerably to conform with the dynamics of a competitive market. While the exact percentage to be allocated among jurisdictions, or the manner in which it should be allocated, has not been determined by this Commission, I think it is significant for our purposes here that the majority of respondents, including AT&T, support an interstate allocation of NTS costs of no more than about 10 percent, including appropriate adjustments to this average for areas in need of relief from significant upward rate pressure.

Acknowledging potential changes in jurisdictional separations is critical to our decision here because any interim access charge must be a stepping stone on the path that leads to our final destination. As mentioned, the record in the Joint Board proceeding supports a substantial reduction in the portion of NTS costs allocated to the interstate jurisdiction. Such a reduction means that the separations amount that the OCCs must pay for in the ENFIA tariff would drop precipitously. Assuming for illustrative purposes that the interstate allocation of NTS plant will drop to ten percent, then the ultimate charge for OCC access to the local exchange will not be significantly greater than the interim rate being prescribed through this order. This is true *even if* the level of payment in the ENFIA agreement is increased to 100 percent and AT&T's estimates concerning OCC minutes per line are employed for ratemaking purposes. Of course, if the Commission were to allocate NTS plant between jurisdictions on the principal of economic efficiency alone, the interstate portion of NTS costs would be much less than 10 percent.[5] This would result in even lower access charges for interstate competitors.

Faced with these longer term considerations, the Commission essentially is being forced in this proceeding to make premature judgments concerning quality of interconnection and the actual costs for that interconnection. It seems clear to me that the present record does not present any irrefutable facts on either of these issues. The only undisputed fact is that the parties have agreed to disagree. Moreover, the Commission has not made any fundamental or lasting decisions concerning separations, the allocation of costs among interstate services or interconnection, and we have seen that these parameters will be changing over time.

Therefore, I concur in these decisions only to the extent that I believe the interim rate prescription is in the public interest and will not be disruptive to the market. However, I sincerely regret that this Commission has missed the opportunity to spell out the beginning of a rational approach to resolving the issues of access and separations. Without such a beginning, I am fearful that any investigatory efforts in this area will simply act to obfuscate the real issue of how costs should be allocated efficiently.

[FR Doc. 82-18129 Filed 7-2-82; 8:45 am]
BILLING CODE 6712-01-M

Public Information Collection and Recordkeeping Requirements Submitted to Office of Management and Budget for Review

June 28, 1982.

The Federal Communications Commission has submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511.

Copies of these submissions are available from Richard D. Goodfriend, Agency Clearance Officer, (202) 632-7513. Comments should be sent to Edward H. Clarke, Office of Management and Budget, OIRA, Room 3201 NEOB, 726 Jackson Place, NW., Washington, D.C. 20503.

Title: Broadcast Station Operating Logs under § 73.1820
Action: New submission
Burden: 10,184 Responses; 78,416 Hours

Abstract: Required of licensees of all commercial and non-commercial AM, FM and TV broadcast stations. Logs shall be kept by licensed operator or automatic device. Data is used to assess station's performance.

Title: Broadcast Station Maintenance Logs under § 73.1830
Action: New submission
Burden: 10,184 Responses; 60,232 Hours

Abstract: Required of licensees of all commercial and non-commercial AM, FM and TV broadcast stations. Logs shall be kept by licensed operator or automatic device. Data is used to assess station's performance.

Title: Annual Report Form M—Telephone Companies
Action: Extension
Burden: 79 Responses; 9,480 Hours

Title: Application for Construction Permit for Translator or Low Power Television Broadcast Station
Form No.: FCC 346
Action: Revision
Burden: 11,200 Responses; 313,600 Hours

Title: Application for New or Modified Common Carrier Radio Station Construction Permit Under Parts 22 and 25
Form No.: FCC 401
Action: Revision
Burden: 5,000 Responses; 60,300 Hours

Title: Application for and Certification of Overtime Services Involving Inspection of Ship Radio Equipment
Form No.: FCC 808
Action: Extension
Burden: 200 Responses; 17 Hours

William J. Tricarico,
Secretary, Federal Communications Commission.

[FR Doc. 82-18128 Filed 7-2-82; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

FEMA Advisory Board; Continuation

In accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I (Supp. II, 1972)) and Office of Management and Budget Circular A-63 of March 1974, the Director of FEMA has determined that the continuation of the FEMA Advisory Board is in the public interest in connection with the performaance of duties imposed on the agency by law.

As the principal advisory body to the Director, the objective of the Board is to continue to provide him with independent advice on the adequacy of FEMA plans and programs in areas of civil emergencies, such as: natural or man-made disasters; Mobilization of

[5] See, e.g., the Comments of NTIA in Docket 80-286, August 18, 1981.

resources and stabilization of the economy during crisis or war; civil defense and continuity-of-government measures during conflict; essential post-conflict resources management for national reconstitution; and other civil emergency roles assigned by Acts of Congress or by Executive Order.

The Board will draw on the expertise of its members and other sources (e.g., FEMA emergency plans and programs, analyses, interrelated activities of other Agencies) to continue to provide advice and make recommendations to the Director. In addition to its evaluating role on FEMA high priority civil preparedness programs, the Board will continue to provide advice concerning mission priorities, methodology for addressing objectives, training-education exercise programs, and new concepts related to emergency preparedness.

The Board functions solely as an advisory body, and complies fully with the provisions of the Federal Advisory Committee Act (the "Act").

The Board consists of 20 members that have been appointed by the Director. This membership assures a balanced representation of experts in areas of natural disasters and national security, such as: physical scientists and engineers, sociologists, political scientists, and economic experts drawn from universities, industry, nonprofit organizations, etc. The members will serve at the discretion of the Director for a two-year term.

Interested persons are invited to submit comments regarding the recommendation to continue the FEMA Advisory Board. Such comments, as well as any inquiries, may be addressed to the Rules Docket Clerk, Federal Emergency Management Agency, Washington, D.C. 20472.

Dated: June 17, 1982.

Louis O. Giuffrida,

Director.

[FR Doc. 82-18130 Filed 7-2-82; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL MARITIME COMMISSION

Havana Steamship Conference, Havana Northbound Rate Agreement, Santiago De Cuba Conference; Cancellation

Filing Parties:

Mr. George Walls, Director, Fleet Engineering Operations, United Brands Co., 1271 Avenue of the Americas, New York, N.Y. 10020;

Mr. R. J. Finnan, Chief Tariff Publishing Officer, Lykes Bros. Steamship Co., Inc., 300 Poydras Street, New Orleans, La. 70130.

Summary: The Cuba conferences are comprised of the Havana Steamship Conference, Agreement 4189; the Havana Northbound Rate Agreement 7550; and the Santiago de Cuba Conference, Agreement 7650. The membership of each is as follows:

Agreement 4189—Flota Mercante Grancolombiana, S.A. (Flota)—United Brands Co. (UBC).

Agreement 7550—Flota Lykes Bros. Steamship Co., Inc. (Lykes) UBC.

Agreement 7650—Lykes UBC.

Inasmuch as there has been no agreement activity by the members in the relevant conference trades since approximately 1964, the Commission corresponded with the members recommending that the agreements be cancelled. On June 3, 1982, the Commission received notice from UBC that it concurred in the cancellation of all three agreements. On June 17, notice was received from Lykes that it concurred in the cancellation of Agreements 7550 and 7650. Flota has not yet responded. Accordingly, notice is hereby given that Agreements 4189, 7550, and 7650 will be terminated effective July 21, 1982.

Dated: July 1, 1982.

Robert G. Drew,

Director, Bureau of Agreements.

[FR Doc. 82-18308 Filed 7-2-82; 8:45 am]

BILLING CODE 6730-01-M

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10327; or may inspect the agreements at the Field Offices Located at New York N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, by July 26, 1982. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: T-4052.

Filing Party: Malcolm Hunter, City Attorney, City of Richmond, Richmond, California 94804.

Summary: Agreement No. T-4052 is a nonexclusive preferential berth assignment and terminal services agreement between the City of Richmond (City) and Johnson Line AB, East Asiatic Company, Ltd., and Blue Star Line, Ltd. (Assignee) (operating a joint service known as Johnson Scanstar). It provides for City's assignment to Assignee of a nonexclusive preferential berth at Container Terminal No. 3 of the Port of Richmond. City and/or its designated terminal operator shall provide complete terminal services to Assignee at the terminal. Assignee shall use the premises as its published regularly scheduled San Francisco Bay Area port for the docking, mooring, loading and discharging of its container vessels and activities incidental thereto. Assignee shall compensate City according to City's marine terminal tariff with certain exceptions. Revenues from wharfage assessed pursuant to said tariff shall be shared between the City and Assignee. The term of the agreement is three years with renewal options.

Agreement No.: 2846-51.

Filing Party: Anthony J. Ciccone, Jr., Esquire, Billig, Sher & Jones, P.C., Suite 300, 2033 K Street, N.W., Washington, D.C. 20006.

Summary: Agreement No. 2846-51 modifies the basic agreement of the West Coast of Italy, Sicilian and Adriatic Ports/North Atlantic Range Conference by providing for an expansion of the conference's European inland rate-making authority to include all other interior points in Continental Europe to the extent such cargo moves through ports of Italy and Yugoslavia.

Agreements Nos.: 2744-48, 7590-31 and 7890-17.

Filing Party: Nathan J. Bayer, Esquire, Freehill, Hogan & Mahar, 80 Pine Street, New York, New York 10005.

Summary: Agreement No. 2744–48, the Atlantic and Gulf/West Coast of South America Conference; Agreement No. 7590–31, the East Coast Colombia Conference; and Agreement No. 7890–17, the West Coast of South America Northbound Conference amends their basic agreement by increasing (1) the security deposit each member line would be required to maintain from $25,000 to $50,000 and (2) the level of fines which may be assessed by the Neutral Body for the commission of a malpractice from $10,000 to $50,000.

Agreement No.: 9648–A–17.

Filing Party: Wade S. Hooker, Jr., Esquire, Burlingham Underwood & Lord, One Battery Park Plaza, New York, New York 10004.

Summary: Agreement No. 9648–A–17 would amend the basic agreement of the Inter-American Freight Conference to specifically describe credit practices of the conference.

By Order of the Federal Maritime Commission.

Dated: July 1, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82–18307 Filed 7–2–82; 8:45 am]

BILLING CODE 6730–01–M

[Independent Ocean Freight Forwarder License No. 1566R]

Nationwide International Forwarders and Brokers, Inc.; Reinstatement of License

By Federal Maritime Commission Order served and published in the **Federal Register**, Nationwide International Forwarders and Brokers, Inc.'s Independent Ocean Freight Forwarder License No. 1566R was revoked, effective May 20, 1982. The Order of Revocation was served on June 2, 1982. Nationwide International Forwarders and Brokers, Inc. meets all the requirements for licensing as an independent ocean freight forwarder, and a valid surety bond in favor of the firm is on file with the Commission.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in section 10.01(a) of Commission Order No. 1 (Revised), dated November 12, 1981, Independent Ocean Freight Forwarder License No. 1566R shall be reissued to Nationwide International Forwarders and Brokers, Inc., effective May 20, 1982. A copy of this notice shall be published in the **Federal Register** and served upon Nationwide International Forwarders and Brokers, Inc.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 82–18208 Filed 7–2–82; 8:45 am]

BILLING CODE 6730–01–M

[Independent Ocean Freight Forwarder License No. 2044–R]

IMX Port Services Co. (IMX Corp., d.b.a.); Order of Revocation

On June 14, 1982, IMX Port Services Co. (IMX Corporation, d.b.a.), 351 California Street, Suite 510, San Francisco, CA 94104 surrendered its Independent Ocean Freight Forwarder License No. 2044–R for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 10.01(e) dated November 12, 1981;

It is ordered, that Independent Ocean Freight Forwarder License No. 2044–R issued to IMX Port Services Co. (IMX Corporation, d.b.a.) be revoked effective June 14, 1982, without prejudice to reapplication for a license in the future.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon IMX Port Services Co. (IMX Corporation, d.b.a.).

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 82–18210 Filed 7–2–82; 8:45 am]

BILLING CODE CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Citizens and Southern Georgia Corp.; Proposed Acquisition of Lloyd of Louisiana Finance Company, Inc.

Citizens and Southern Georgia Corporation, Atlanta, Georgia has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 CFR 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 U.S.C. 225.4(b)(2)), for permission to acquire voting shares of Lloyd of Louisiana Finance Company, Inc., Harvey, Louisiana.

Applicant states that the proposed subsidiary would engage in the consumer and commercial financing activities, including the extension of direct loans to consumers, the discount of retail and installment notes and contracts, the purchase of retail and installment notes and contracts, the purchase of real estate notes, the extension of direct loans to dealers for financing of inventory (floor planning) and working capital purposes; making, acquiring or soliciting for its own account or for the account of others loans and other extensions of credit; and acting as agent for the sale of life, accident and casualty and physical damage insurance directly related to its extensions of credit. These activities would be performed from offices of Applicant's subsidiary in Harvey, Louisiana, and the geographic area to be served is New Orleans, Louisiana. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received no later than July 24, 1982.

Board of Governors of the Federal Reserve System, June 24, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82–18187 Filed 7–2–82; 8:45 am]

BILLING CODE 6210–01–M

First American Bank Corp.; Acquisition of Bank

First American Bank Corporation, Kalamazoo, Michigan, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with Mid Michigan Bank Corporation, Gladwin, Michigan. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

First American Bank Corporation, Kalamazoo, Michigan, is not engaged in any nonbank activities that require separate Board approval under the Act.

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than July 23, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 24, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-18189 Filed 7-2-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Chicago** (Frankling D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Midstate Financial Corp.*, Brownsburg, Indiana. Application is also made on Brownsburg Service Bank, Brownsburg, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to Hendricks County Bank and Trust Company, Brownsburg, Indiana, for prior approval to merge with Hendricks County Bank and Trust Company, Brownsburg, Indiana, and to become a member of the Federal Reserve System. Comments on this application must be received not later than July 24, 1982.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Transworld Bancorp*, Sherman Oaks, California; to become a bank holding company by acquiring 100 percent of the voting shares of Transworld Bank, Sherman Oaks, California. Comments on this application must be received not later than July 24, 1982.

Board of Governors of the Federal Reserve System, June 24, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-18190 Filed 7-2-82; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. Interested persons may express their views in writing to the address indicated for the application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Citizens and Southern Georgia Corporation*, Atlanta Georgia; to acquire at least 51 percent of the voting shares or assets of The Citizens and Southern Bank of Dalton, Dalton, Georgia. Comments on this application must be received not later than July 24, 1982.

Board of Governors of the Federal Reserve System, June 24, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-18186 Filed 7-2-82; 8:45 am]

BILLING CODE 6210-01-M

Agency Forms Under Review

June 30, 1982.

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act (44 U.S.C. Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibilities under the act also considers comments on the forms and recordkeeping requirements that will affect the public. Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. OMB's usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occassionally the public interest requires more rapid action.

List of Forms Under Review

Immediately following the submission of a request by the Federal Reserve for OMB approval of a reporting or recordkeeping requirement, a description of the report will be published in the **Federal Register**. This information will contain the name and telephone number of the Federal Reserve Board clearance officer (from whom a copy of the form and supporting documents is available). The entries will be grouped by type of submission—i.e., new forms, revisions, extensions (burden change), extensions (no change), and reinstatements. Each report description contains the following information:

—The title of the form.
—The Federal Reserve report form number, if applicable.
—How often the form must be filled out.
—Who will be required or asked to report.
—The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected.
—Whether small businesses or organizations are affected.

—A description of the Federal budget functional category that covers the information collection.
—An estimate of the number of responses.
—An estimate of the total number of hours needed to fill out the form on an annual basis.
—An estimate of the average number of hours per respondent.
—Respondent's obligation to reply.
—Confidentiality promised by agency.
—An estimate of the cost to the Federal Government.
—An estimate of the cost to the public.
—The number of forms in the request for approval.
—An indication of whether section 3504(h) of Pub. L. 96–511 applies.
—The name, address, and telephone number of the person or office responsible for OMB review, and
—An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the Federal Reserve Board clearance officer whose name, address, and telephone number appears below. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review.

For Further Information Contact:

Federal Reserve Board Clearance Officer—William R. Jones—Financial Reports Section, Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–2983)

OMB Reviewer—Richard Sheppard—Office of Information and Regulatory Affairs, Ofice of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503 (202–395–6880)

Revised Forms Under Review

1. Applications to Establish a Foreign Branch of a Member Bank:

On occasion
Member banks
SIC: 602
Small businesses are not affected
General government: 23 responses; 236 hours; 10.3 hours; mandatory (12 U.S.C. 601); yes; $46,000 Federal cost; $7,080 public cost; 2 forms; not applicable under section 3504(h)

This is a prior notification to establish a foreign branch of a member bank (when the bank already has a branch in two foreign countries) and an application for authority, under Section 25 of the FRA, to establish a branch of a member bank in a foreign country.

2. Applications to establish Edge Corporations, to establish branches of Edge Corporations and to Amend Articles of Association of Edge Corporations:

On occasion
Member banks, Bank Holding Companies, Edge Corporations
SIC: 602, 605, 671
Small businesses are not affected
General government: 104 responses; 1,540 hours; 14.8 hours; mandatory (12 U.S.C. 601; 12 U.S.C. 611); yes, with exception to Application to Amend Articles; $300,000 Federal cost; $46,200 public cost; 3 forms; not applicable under section 3504(h)

This is an application to establish an Edge Corporation (Section 25(a) of the Federal Reserve Act empowers the Board to charter Edge Corporations), to establish branches of Edge Corporations as authorized by Regulation K, and an application to Amend Articles of Association of an Edge Corporation (relates to changes in the fundamental constitution of such a corporation, such as name, location, and capital stock).

3. Notification and application by Member Banks, Bank Holding Companies, and Edge and Agreement Corporations to invest in a foreign subsidiary, joint venture, or in other foreign organizations:

On occasion
Member banks, Bank Holding Companies, Edge Corporations
SIC: 602, 605, 671
Small businesses are not affected
General government: 76 responses; 1,508 hours; 19.8 hours; mandatory (12 U.S.C. 601; 12 U.S.C. 611; 12 U.S.C. 1843); yes, $300,000 Federal cost; $45,240 public cost; 2 forms; not applicable under section 3504(h)

The requirements involved here are: (1) A 60 days' prior notification to make an investment in a foreign company by a member bank, Bank Holding Company, or Edge or Agreement Corporation; (2) an application by a member bank, Bank Holding Company, or Edge or Agreement Corporation to make a foreign investment.

Board of Governors of the Federal Reserve System, June 30, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82–18301 Filed 7–3–82; 8:45 am]

BILLING CODE 6210–01–M

First Atlanta Corp.; Proposed Acquisition of Bank Holding Company; Correction

This document corrects a previous **Federal Register** document (FR Doc. 82–17372) published at page 27963 of the issue of June 28, 1982. Aplicant has pending an application to acquire 15.4 percent of the voting shares of First South Bankcorp., Columbus, Georgia. Applicant now seeks to acquire an additional 50.1 percent of the voting shares of First South Bankcorp.

Board of Governors of the Federal Reserve System, June 30, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82–18296 Filed 7–3–82; 8:45 am]

BILLING CODE 6210–01–M

Consumer Advisory Council; Meeting of Consumer Advisory Council

The Consumer Advisory Council will meet on Wednesday, July 28, and Thursday, July 29. The meeting, which will be open to public observation, will take place in Terrace Room E of the Martin Building. The July 28 session is expected to begin at 1 p.m. and to continue until 5 p.m. The July 29 session is expected to begin at 9 a.m. and to conclude at 3 p.m., with a lunch break from 1 to 2 p.m. The Martin Building is located on C Street, Northwest, between 20th and 21st Streets in Washington, D.C.

The Council's function is to advise the Board on the exercise of the Board's responsibilities under the Consumer Credit Protection Act and on other matters on which the Board seeks its advice. Time permitting, the Council will consider the following topics:

1. *Consumer Complaints and Implementation of the Board's Authority To Prohibit Unfair or Deceptive Bank Practices*
A discussion of the Board's procedures for investigating and resolving consumer complaints about state member banks, and of its authority to prohibit potential unfair or deceptive banking practices.
2. *Further Simplification of Consumer Regulations*
Consideration of further efforts to reduce compliance burdens of the Truth in Lending, Electronic Fund Transfer, Equal Credit Opportunity, and Fair Credit Reporting Acts.
A discussion of the various procedures used by the Board to review, on a continuing basis, consumer protection regulations.
3. *Changing Regulatory Limits on Financial Institutions and the Impact on Consumers*
A discussion of how the existing financial regulatory structure restricts the activities of regulated institutions; how

these restrictions affect the range, kind, and cost of financial services available to consumers; and whether it is desirable and possible to correct current regulatory inequities.

4. *Board Credit Card Study*
A discussion of the credit card study (which the Board is directed to undertake, under the Cash Discount Act enacted in July 1981) of the effects of credit card usage on card issuers, merchants, and consumers.

5. *Regulatory Update*
A status report on recent Board regulatory actions in the area of consumer financial services.

Other matters previously considered by the Council or initiated by Council members also may be discussed.

Persons wishing to submit to the Council their views regarding any of the above topics may do so by sending written statements to Ms. Kay Oliver, Secretary, Consumer Advisory Council, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Comments must be received no later than close of business Friday, July 23, and must be of a quality suitable for reproduction.

Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at (202) 452–3204.

Board of Governors of the Federal Reserve System, June 30, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82–18302 Filed 7–2–82; 8:45 am]

BILLING CODE 6210–01–M

GENERAL SERVICES ADMINISTRATION

[F–82–22]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Colorado Public Utilities Commission involving intrastate telecommunications service rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority contained in the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly Sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the Colorado Public Utilities Commission involving the application of the Mountain Bell Telephone Company for an increase in rates for telecommunications services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

d. The Department of Defense shall add the General Services Administration to its service list in this case so that GSA will receive copies of testimony, briefs and other Department of Defense filings.

Dated: June 22, 1982.

Francis A. McDonough,

Deputy Commissioner for Governmentwide Management Automated Data and Telecommunications Service.

[FR Doc. 82–18148 Filed 7–2–82; 8:45 am]

BILLING CODE 6820–25–M

[E–82–19]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the New Mexico Public Service Commission involving electric rates, Docket No. 1727.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in the Administrator of General Services by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the New Mexico Public Service Commission involving the petition of the Southwestern Public Service Company for an increase in its electric rates, Docket No. 1727.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration (GSA), and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

d. The Department of Defense shall add GSA to its service list in this case so that GSA will receive copies of testimony, briefs, and other Department of Defense filings.

Dated: June 9, 1982.

Allan W. Beres,

Commissioner, Transportation and Public Utilities Service.

[FR Doc. 82–18149 Filed 7–2–82; 8:45 am]

BILLING CODE 6820–AM–M

National Archives and Records Service

Tenth Annual Report of the President on Federal Advisory Committees Covering the Calendar Year 1981; Availability of Publication

The above report, prepared in accordance with section 2 of Executive Order 12024 to fulfill the requirements of section 6(c) of the Federal Advisory Committee Act, as amended (Public Law 92–463, 5 U.S.C., App.), has been transmitted by the President to the Congress on April 19, 1982.

The report, a summary of the activities, status, and changes in the composition of Federal Advisory Committees, is available to Federal government sources by contacting the Committee Management Secretariat (NFC), Office of the Federal Register, National Archives and Records Service, Washington, DC 20408, telephone (202) 523–4983.

Purchase of the report by the general public is available through the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. The price is $6.00, the stock number is 040–000–00454–8, and the catalog number is Pr 40.10:981.

The Compilation of Agency Submissions incorporating detailed information on each advisory committee, and used to prepare the report, is available for public inspection at the Committee Management Secretariat, Room 9403, 1100 L Street, N.W., Washington, DC, and at the Library of Congress Serial Division, Room 133, Madison Building, First Street and Independence Avenue, S.E., Washington, DC, telephone (202) 287–5690.

Dated: June 23, 1982.

Edward Weldon,

Acting Archivist of the United States.

[FR Doc. 82-18147 Filed 7-2-82; 8:45 am]

BILLING CODE 4320-25-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Health Maintenance Organizations

Correction

In FR Doc. 82-16303 appearing on page 26239, in the issue for Thursday, June 17, 1982, make the following corrections:

On page 26240, first column, paragraph No. "3.", the twenty-sixth entry, "Farmingham" should be changed to read "Framingham".

(2) On page 26240, second column, line ten, the zip code for Lincoln, "02173" should be changed to "01773".

(3) In the same column, line fifteen, the zip code for Medfield, "02053" should be changed to "02052".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before June 25, 1982. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20243. Written comments should be submitted by July 21, 1982.

Carol D. Shull,

Acting Keeper of the National Register.

CALIFORNIA

Yolo County

Woodland, *Beamer, R. H. House,* 19 3rd St.

LOUISIANA

Avoyelles Parish

Hamburg, *Calliham Plantation House,* Old Hwy 1

Caddo Parish

Shreveport, *Dodd College President's Home,* 601 Ockley Dr.

Orleans Parish

New Orleans, *Bayou St. John,* Lake Ponchartrain to Lafitte St.

Rapides Parish

Boyce vicinity, *Blanchard House,* W. of Boyce on Bayou Jean de Jean

NEBRASKA

York County

Benedict vicinity, *Jeffery, W. S., Farmstead,* W. of Benedict

NEW JERSEY

Essex County

Glen Ridge, *Glen Ridge Historic District,* Roughly bounded by Essex and Bay Aves., Washington and Carteret Sts. and Glenfield Park

NEW YORK

Albany County

Albany, *Arnold, Benjamin Walworth, House and Carriage House,* 465 State St. and 307 Washington Ave.

New York County

New York, *East 73rd Street Historic District,* 161–179 and 166–182 East 73rd St.

Tompkins County

Ithaca, *St. James AME Zion Church,* 116–118 Cleveland Ave.

Westchester County

Ossining, *Highland Cottage (Squire House),* 36 S. Highland Ave.

OHIO

Hamilton County

Cincinnati, *Carew Tower (Starrett Netherland Plaza Hotel),* W. 5th St. and Fountain Sq.

Cincinnati, *Haddon Hall,* 3418 Readin Rd.

UTAH

Salt Lake County

Salt Lake City, *Capitol Hill Historic District,* Roughly bounded by Beck, Main and Wall Sts., 300 N. Victory Rd. and Capitol Blvd.

Sanpete County

Mt. Pleasant, *Nielson, N. S., House,* 179 W. Main

Utah County

Lehi, *Austin, Thomas, House,* 427 East 500 North

WYOMING

Fremont County

Dubois vicinity, *Brooks Lake Lodge,* Lower Brooks Lake—Shoshone National Forest.

[FR Doc. 82-18059 Filed 7-2-82; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Volume No. 9]

Motor Carrier; Intrastate Application(s)

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate of foreign commerce within the limits of the intrastate authority sought, pursuant to section 10931 (formerly section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

Kansas Docket No. 127,854M Route 18195, filed May 17, 1982. Applicant: OIL SERVICES, INC., Box 672, Chanute, KS 66720. Representative: John E. Jandera, P.O. Box 1979, Topeka, KS 66601. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: Crude Oil, between points in KS on and east of U.S. Hwy 81. Intrastate, interstate and foreign commerce authority sought. Hearing: August 17, 1982, at Topeka, KS, State Office Building, 4th Floor. Request for procedural information should be addressed to the Kansas State Corporation Commission, 4th Fl., State Office Bldg., Topeka, KS 66612–1571, and should be directed to the Interstate Commerce Commission.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-18158 Filed 7-2-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Decision Notice; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It Is Ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC–FC–79861. By decision of June 15, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to Big Bear Cartage, Inc. of Certificate of Registration No. MC–98917 (Sub-No. 1) issued September 21, 1970 to Berens Express, Inc. Authorizing the transportation of *Milk, electrical supplies, pottery and supplies, hardware, dry goods, dairy foods and commodities general,* (except commodities in bulk and those contaminating or injurious to other lading), within a fifty (50) mile radius of Antioch, IL and to transport such property to or from any point outside of such authorized area of operation for a shipper within such area. Representative: Irwin D. Rozner, Attorney At Law, 134 N. La Salle Street, Chicago, IL 60602.

MC–FC–79867. By decision of June 17, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to H-H-B MOVERS CORP. of Brooklyn, NY of Certificates No. MC–47511 issued to ROBERT J. ZUCKER DBA PARK-EAST MOVERS of New York, NY authorizing the transportation of *household goods*, between New York, NY on the one hand, and, on the other, points in NY, CT, MD, RI, PA, DE, MA, NJ and DC. Representative: Arthur J. Piken, Piken & Piken, 95–25 Queens Blvd., Rego Park, NY 11374.

Notes.—TA lease is not sought. Transferee is not a carrier.

MC–FC–79869. By decision of June 17, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer of MELBURN TRUCK LINES, A DIVISION OF FOBASCO LIMITED, of Toronto, Canada, of Certificate No. MC–133327 (Sub-No. 5), issued to MELBURN TRUCK LINES (TORONTO) CO. LTD., of Ontario, Canada, which authorizes the transportation, as a common carrier, in foreign commerce only, of *general commodities* (except classes A and B explosives), between the ports of entry on the International Boundary line between the U.S. and Canada, in MI and NY, on the one hand, and, on the other, points in the U.S. Representative: Daniel W. Krane, P.O. Box E, Shiremanstown, PA 17011.

Note.—Transferee is not a carrier.

MC–FC–79871. By decision of June 17, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to MODESITT TRUCKING CORPORATION, of Olney, IL, of Permit No. MC–139557 (Sub-No. 2), issued to R. S. BROWN TRUCKING, INC., also of Olney, IL, which authorizes the transportation of (1) *dairy products* as described in Section B of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209, and (2) *buttermilk, flavored milk, cottage cheese, dips, ice cream mix, fruit juices, and sour cream,* from Olney, IL, to points in that part of IN on and west of U.S. Hwy 31, with restrictions, under continuing contract(s) with Prairie Farms Dairy, Inc., of Olney, IL. Representative: Robert T. Lawley, 300 Reisch Building, Springfield, IL 62701.

Note.—Transferee is not a carrier.

MC–FC–79872. By decision of June 18, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to R & B EXPRESS, INC., of Orlando, FL, of Certificate Nos. MC–105782 (Sub-Nos. 3, 8, 9, 14, 15, 16, 18, and 19), issued to HUGHES REFRIGERATED EXPRESS, INC., of Haines City, FL, which authorize the transportation, as summarized, of (1) *frozen foods* and *frozen foods with mixed loads of frozen and chilled vegetables and berries,* within specified points in AR, CO, CT, DE, FL, GA, IL, IN, KY, ME, MA, MD, MI, MO, NY, NJ, NC, OH, PA, RI, SC, TN, TX, VA, WI, and DC; (2) *meats,* within specified points in NE, AL, FL, GA, NC, SC, TN, and IA; (3) *tile,* from specified points in PA to points in GA and FL; and (4) *bananas,* from Tampa, FL, to points in AL, GA, IL, IN, IA, KS, KY, MA, MI, MN, MO, NJ, NY, NC, OH, PA, SC, TN, VA, WV and WI, and from Philadelphia, PA, to specified points in IL, MA, OH, and NY. Representative: James E. Wharton, 100 S. Orange Avenue, Suite 811, Metcalf Building, Orlando, FL 32801.

Note.—Transferee is not a carrier. This proceeding was previously docketed No. MC–F–14875.

MC–FC–79878. By decision of June 18, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to TRANSCOR, INC., of Philadelphia, PA, of Certificate No. MC–136733 and Permit No. MC–136733 (Sub-No. 2) issued to WEISS TRANSPORTATION CO., INC., which authorize the transportation, as a common carrier, of (1) *new furniture* (a) between points in Philadelphia County, PA, on the one hand, and, on the other, points in MD and DC, and Trenton, NJ, and points in that part of NJ south of NJ Hwy 33, (b) from Detroit, MI, to points in that part of the Lower Peninsula (of MI) on and south of MI Hwy 55, and points in 14 named counties in OH, and (c) from Philadelphia, PA, to points in 18 named counties in PA, with restriction; (2) *new furniture,* other than new furniture included within the description of household goods as defined by the Commission, between Philadelphia, PA, on the one hand, and, on the other, points in DE; and (3) *household and commercial appliances, radios, televisions, stereos and component parts thereof, phonographs, and tape recorders,* from Philadelphia, PA, to points in DE and points in that part of NJ south of NJ Hwy 33; and as a contract carrier, of *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Associated Warehousing Corp., of Philadelphia, PA. Representative: Raymond A. Thistle, Jr.,

426 Cottman St., Five Cottman Court, Jenkintown, PA 19046.

Note.—Transferee is not a carrier.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-18160 Filed 7-2-82; 8:45 am]

BILLING CODE 7035-01-M

[OP2-136A]

Motor Carriers; Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Decided: June 24, 1982.

By the Commission, Review Board Number 1, Members Parker, Chandler, and Fortier.

Agatha L. Mergenovich,

Secretary.

MC-F-14873, filed June 7, 1982. OTTO M. BUDIG SR., MARIAN K. BUDIG, OTTO M. BUDIG, JR., and GEORGE J. BUDIG (Applicants), all of 1100 Gest St., Cincinnati, OH, 45203—continuance in control—PARSEC, INC. (Parsec) (same address as applicants). Representative: John L. Alden, 1398 W. Fifth Ave., Columbus, OH 43212, 614-481-8821. Applicants, as individuals, seek authority to continue in control of Parsec, upon institution by Parsec of operations, in interstate or foreign commerce, as a contract carrier. Parsec presently holds no permanent authority. Applicants, non-carriers, own all of the stock of Budig Trucking Co., a motor common carrier, operating pursuant to certificates issued under MC-77016 and subs thereunder.

Note.—Simultaneously with this filing Parsec has filed a permanent contract carrier application, published in this same **Federal Register** issue.

[FR Doc. 82-18162 Filed 7-2-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume 275]

Motor Carriers; Permanent Authority Decision; Restriction Removals; Decision-Notice

Decided: June 30, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Canadian Carrier Applicants

In the event an application to transport property, filed by a Canadian domiciled motor carrier, is unopposed, it will be reopened on the Commission's own motion for receipt of additional evidence and further consideration in light of the record developed in Ex Parte No. MC-157, *Investigation Into Canadian Law and Policy Regarding Applications of American Motor Carriers For Canadian Operating Authority.*

Findings

We find, preliminarily, that each applicant has demonstrated that it requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Shaffer, Ewing, and Williams.

Agatha L. Mergenovich,

Secretary.

MC 136738 (Sub-4)X, filed June 21, 1982. Applicant: DEAKAL CARTING CORP., 1 Winchester Dr., Lindenhurst, NY 11757. Representative: John L. Alfano, 550 Mamaroneck Ave., Harrison, NY 10528. Lead and Subs 1 and 3 permits: (1) Broaden the commodity description from "record jackets, and paper and paper products used in the manufacture of record jackets" to "pulp, paper, and related products, and printed matter" and (2) broaden the territorial description to between points in the United States under continuing contract(s) with named shippers.

MC 141514 (Sub-3)X, filed June 11, 1982. Applicant: BURGENER CONTRACT CARRIER, LTD., Route 2, Prairie River Ave., Merrill, WI 54452. Representative: Edward J. Gerrity, P.O. Box 914, Appleton, WI 54912. Lead and Sub-1 permits: (1) Broaden Petroleum lubricants, fuel additives, hydraulic fluids, and roof or driveway coatings and sealers, in containers, (lead and Sub 1) and cattle oilers, cattle oil and hog oil (Sub 1) to "petroleum, natural gas and their products", and (2) broaden to between points in the United States (except AK and HI), under continuing contract(s) with named shipper in both permits.

MC 149565 (Sub-4)X, filed June 22, 1982. Applicant: G. L. DUNPHY & SONS, INC., R.F.D. No. 1, Box 2350, North Anson, ME 04958. Representative: William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210. Sub-1: Broaden (a) Arnold Hill, Black Brook, Clayburg, Clintonville, Harkness, Hawkeye, Lapham's Mills, Otis Junction, Peasleeville, Peru, Plattsburgh, Rogers, Salmon River Junction, Schuyler Falls, South Junction and Swastika, NY, to Clinton County, NY, and (b) Au Sable Forks, Keeseville, North Pole, Upper Jay and Wilmington, NY, to Essex County, NY.

MC 156821 (Sub-5)X, filed June 21, 1982. Applicant: PHOENIX TRUCKING COMPANY, 6751 Tallmadge Rd., Rootstown, OH 44272. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. Sub 1: (1) Broaden iron and steel articles to "metal products"; (2) remove the facilities limitations; (3) change one-way to radial authority; and (4) replace cities with county-wide authority: Stueben, OH (Jefferson County, OH, Hancock and Brooke Counties, WV and Washington County, PA); Weirton, WV (Hancock and Brooke Counties, WV and Jefferson County, OH); Beaver Falls, PA (Beaver County); Alliance, OH (Stark County); Lackawanna, NY (Erie County); Buffalo, NY (Erie County, (A)(6)); Youngstown, OH (Mahoning County); and Warren, OH (Trumbull County).

[FR Doc. 82-18161 Filed 7-2-82; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. OPY-2-136]

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following operating rights applications, filed on or after July 3, 1980, are filed in connection with pending finance applications under 49 U.S.C. 10926, 11343 or 11344. The applications are governed by Special Rule 252 of the Commission's General Rules of Practice (49 CFR 1100.252).

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Persons submitting protests to applications filed in connection with pending finance applications are requested to indicate across the front page of all documents and letters submitted that the involved proceeding is directly related to a finance application and the finance docket number should be provided. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. However, the Commission may have modified the application to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements as to the finance application *or* to the following operating rights applications directly related thereto filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except where the application involves duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice by effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Decided: June 24, 1982.

By the Commission, Review Board Number 1, Members Parker, Chandler, and Fortier.

Agatha L. Mergenovich,

Secretary.

MC 158202, filed June 7, 1982. Applicant: PARSEC, INC., 1100 Gest St., Cincinnati, OH 45203. Representative: John L. Alden, 1396 W. Fifth Ave., Columbus, OH 43212, 614-481-8821. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Kenner Products Company, Division of C.P.G. Products Corp., of Cincinnati, OH.

Note.—This application is directly related to MC-F-14873, published in this same **Federal Register** issue.

[FR Doc. 82-18163 Filed 7-2-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any

application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the asbsence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP1–109

Decided: June 23, 1982.

MC 37640 (Sub-12), filed June 17, 1982. Applicant: TRANSPORTATION ENTERPRISES, INC., 1135 Gunter, Austin, TX 78702. Representative: Paul D. Angenend, P.O. Box 2207, 1806 Rio Grande, Austin, TX 78768, (512) 476–6391. Transporting (1) over regular routes, *passengers and their baggage, and express, newspapers, and mail, in the same vehicle with passengers,* (a) between Houston, TX and Freeport, TX, over TX Hwy 228; and (b) between Clute, TX, and Lake Jackson, TX, over TX Hwy 332, serving all intermediate points; and (2) over irregular routes, passengers and their baggage, in the same vehicle with passengers, in charter and special operations, beginning and ending at Houston, TX, and points in Harris, Ft. Bend, and Brazoria Counties, TX and extending to points in the U.S. (except AK and HI).

MC 96840 (Sub-2), filed June 11, 1982. Applicant: I. E. MILLER OF EUNICE, INC., P.O. Box 472, Eunice, LA 70535. Representative: C. W. Ferebee, 3910 FM 1960 W., Suite 106, Houston, TX 77068, (713) 537–8156. Transporting (1) *Mercer commodities;* and (2) *earth drilling machinery, and machinery, equipment, materials, supplies, and pipe incidental to, or used in, or in connection with:* (a) The transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removable of commodities into or from holes or wells, between points in LA, TX, MS, AR and OK.

MC 98291 (Sub-5), filed June 17, 1982. Applicant: KUNKLE TRANSFER & STORAGE CO., 420 South Third Ave., Phoenix, AZ 85003. Representative: Bettie M. Ringle (same address as applicant), (602) 254–5305. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AZ, CA, NV, and UT.

MC 126421 (Sub-14), filed June 14, 1982. Applicant: GYPSUM TRANSPORT, INC., East Hwy. 80 (P.O. Drawer 2879), Abilene, TX 79604. Representative: Jerry Prestridge, P.O. Box 1148, Austin, TX 78767, (512) 472–8800. Transporting (1) *lumber and wood products;* and (2) *building materials,* between points in AL, AR, LA and MS, on the one hand, and, on the other, points in TX.

MC 134820 (Sub-15), filed June 14, 1982. Applicant: R. S. ALBRIGHT, INC., 6610 Ellis Ave. South, P.O. Box 81025, Seattle, WA 98108. Representative: James T. Johnson, 1610 IBM Bldg., Seattle, WA 98101, (206) 624–2832. Transporting *paper and paper products* (1) between points in WI, on the one hand, on the other, points in TX and AR; and (2) between points in AR, on the one hand, on the other, points in WA, OR and CA.

MC 135231 (Sub-73), filed June 14, 1982. Applicant: NORTH STAR TRANSPORT, INC., Rt. 1, Highway 59 North, Thief River Falls, MN 56701. Representative: Robert P. Sack, P.O. Box 21–307, Eagan, MN 55121, (612) 452–8770. Transporting *metal products,* between points in DuPage County, IL, and Traverse County, MI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 139380 (Sub-13), filed June 18, 1982. Applicant: STIDHAM TRUCKING, INC., P.O. Box 308, Yreka, CA 96097. Representative: O. L. Stidham (same address as applicant), (916) 842–4161. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Wickes Wood Products, of Wilsonville, OR.

MC 144121 (Sub-14), filed June 7, 1982. Applicant: LARRY'S EXPRESS, INC., 720 Lake Street, Tomah, WI 54660. Representative: James A. Spiegel, Olde Town Office Park, 6333 Odana Road, Madison, WI 53719, (608) 273–1003. Transporting *chemicals and related products, and animal litter,* between points in Vernon County, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 145811 (Sub-1), filed June 14, 1982. Applicant: SURFACE TRANSPORTATION CO., INC., Old Federal Shipyard, So. Kearney, NJ 07032. Representative: Ronald I. Shapes, 450 Seventh Ave., New York, NY 10123, (212) 239–4610. Transporting *general commodities* (except classes A and B explosives, commodities in bulk (and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Intermodal Warehouse Corp., of Kearney, NJ.

MC 145890 (Sub-4), filed June 14, 1982. Applicant: EUGENE W. BELL d.b.a.,

BELL TRUCKING, 1047 Shoemaker Ave., Shoemakersville, PA 19555. Representative: Milton W. Flack, 8484 Wilshire Blvd., #840, Beverly Hills, CA 90211, (213) 655–3573. Transporting *food and related products,* between points in CA, IL, MD, PA and TX, on the one hand, and, on the other, points in the U.S. except AK and HI).

MC 148791 (Sub-25), filed June 18, 1982. Applicant: TRANSPORT-WEST, INC., 2125 N. Redwood Rd., Salt Lake City, UT 84116. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84110, (801) 531–1777. Transporting *pulp, paper and related products,* between points in the U.S., under continuing contract(s) with Crown Zellerbach Corporation, of Bogalusa, LA.

MC 149121 (Sub-4), filed June 14, 1982. Applicant: GROAT BROTHERS, INC., d.b.a. RIDGEFIELD WOOD WASTE CO., P.O. Box 111, Ridgefield, WA 98642. Representitive: Lloyd L. Groat (same address as applicant), (206) 887–4600. Transporting (1) *building materials;* (2) *heavy equipment;* and (3) *bulk commodities;* between points in CA, ID, MT, OR, WA and ports of entry on the International Boundary line between the U.S. and Canada, located at points in WA.

MC 151751 (Sub-4), filed June 11, 1982. Applicant: BRUNSON, INC., P.O. Box 489, Dodge City, KS 67801. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612, (913) 233–9629. Transporting *food and related products,* (1) between points in Dawson County, NE, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) between points in Taylor County, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 154861 (Sub-11), filed June 14, 1982. Applicant: CAROLINE MOTOR EXPRESS, INC., P.O. Box 550, Forest City, NC 28043. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Avenue, NW., Washington, D.C. 20005, (202) 347–9332. Transporting *food and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Swift Independent Packing Company, of Chicago, IL.

MC 154861 (Sub-12), filed June 18, 1982. Applicant: CAROLINA MOTOR EXPRESS, INC., P.O. Box 550, Forest City, NC 28043. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Ave., NW., Washington, D.C. 20005, (202) 347–9332.Transporting *food and related products,* between points in the U.S. (except AK and HI).

MC 155061 (Sub-2), filed June 11, 1982. Applicant: MARYVILLE-ALCOA TRANSPORTATION SYSTEM, INC., P.O. Box 378, Alcoa, TN 37701 Representative: Edward P. Bocko, P.O. Box 496, Mineral Ridge, OH 44440, (216) 652–2789. Transporting *such commodities as are dealt in or used by retail tire and automotive parts stores,* between points in TN, on the one hand, and, on the other, those points in and east of MN, IA, MO, AR and TX.

MC 156890 (Sub-1), filed June 14, 1982. Applicant: B. L. REEVER TRANSPORT, P.O. Box 8122, 449 First St., Toledo, OH 43605. Representative: Barry Lee Reever, P.O. Box 8122, 920 Willow St., Toledo, OH 43605, (419)–691–8001. Transporting (1) *iron and steel articles;* (2) *metal products;* and (3) *building materials,* between points in Lucas County, OH, on the one hand, and, on the other, points in MI, IN, IL, PA, NY, TN, KY and OH.

MC 161170 (Sub-4), filed June 17, 1982. Applicant: TRAFCON SERVICES, INC., 2310 Orange Ave., N.E., Roanke, VA 24012. Representative: Robert G. Parks, 20 Walnut St., Suite 101, Wellesley Hills, MA 02181, (6) 235–5571. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Omni Products, Inc., of Warwick, RI.

MC 161540, served June 15, 1982. Applicant SHIPPERS TERMINAL CO., INC., 2500 83rd St., Bldg. 12, North Bergen NJ 07047. Representative: H. Neil Garson, 3251 Old Lee Highway, Fairfax, Va 22030, (703)–691–0900. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between New York, NY, and points in Nassau, Suffolk and Westchester Counties, NY, and Passaic, Bergen, Hudson, Essex, Morris, Union, Somerset, Hunterdon, Middlesex, Mercer, Monmouth, Ocean, Burlington, Camden and Gloucester Counties, NJ.

MC 162460, filed June 14, 1982. Applicant: B. J. EXPRESS, INC., P.O. Box 4601, Spencer, IA 51301. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309, (515)–282–3525. Transporting *food and related products,* between points in the U.S., under continuing contract(s) with Land O'Lakes, Inc., Spencer Beef Division, of Arden Hills, MN.

MC 162500, filed June 15, 1982. Applicant: L.R.C. TRUCK LINE, INC., State Highway #9, Richburg, SC 29729. Representative: William H. Borghesani, Jr., 1150 17th St., N.W., Suite 1000, Washington, DC 20036. Transporting (1) *general commodities* (except classes A and B explosives, household, goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with (a) Peyton's, Inc., of Louisville, KY; (b) Bell Pharmacal Corp., or Greenville, SC; (c) SuperX Drugs Corp., of Cincinnati, OH: (d) Springs Industries, Inc., of Fort Mill, SC; and (e) The Kroger Co., of Cincinnati, OH; and (2) *cheese and cheese products,* between points in the U.S. (except Ak and HI), under continuing contract(s) with Pace Dairy Foods Company, of Rochester, MN.

MC 162521, filed June 17, 1982. Applicant: R. W. REESE TRUCKING, INC., 49 Grant St., Tidioute, PA 16351. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222, (412) 471–3300. Transporting *petroleum and petroleum products,* between points in PA, on the one hand, and, on the other, points in DE, MD, NJ, NY, OH, VA and WV.

MC 162550, filed June 18, 1982. Applicant: C. C. MANGUM, INC., P.O. Box 5936, Raleigh, NC 27650. Representative: Archie W. Andrews, P.O. Box 1166, Eden, NC 27288, (919) 627–0555. Transporting *machinery,* betwee those n points in the U.S. in and east of WI, IA, MO, AR and LA.

Volume No. OP1–111

Decided: June 25, 1982.

MC 37490 (Sub-10), filed June 21, 1982. Applicant: DUNCAN TRUCK SERVICE, INC., 100 Park Ave., Flandreau, SD 57028. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102, (612) 227–7731. Transporting *metal products and machinery,* between points in Eaton County, MI, on the one hand, and, on the other, points in IL, IN, MI, MN, SD, and WI.

MC 37830 (Sub-14), filed June 21, 1982. Applicant: COHENNO, INC., 92 Evans Drive, Stoughton, MA 02072. Representative: John G. Feehan, 78 Middle St., Portland, MA 04112, (207) 774–1486. Transporting *lumber, building materials and supplies, and tools,* between points in ME, NH, VT, MA, RI, CT, NY, and NJ.

MC 115771 (Sub-18), filed June 21, 1982. Applicant: SEAWHEELS, INC., P.O. Box 810, Carlisle, PA 17013. Representative: William A. Chesnutt, Suite 960, 1333 New Hampshire Ave., N.W., Washington, DC 20036, (202) 659–5157. Transporting *general commodities* (except classes A and B explosives and household goods), between points in AZ, AR, CO, ID, IL, IN, IA, KS, KY, MI, MN, MO, MT, NE, NV, NM, ND, OH, SD, TN, UT, VT, WV, WI, and WY, on the one

hand, and, on the other, points in the U.S. (except AK and HI).

MC 121081 (Sub-10), filed June 18, 1982. Applicant: COLUMBUS MOTOR LINES, INC., P.O. Box 26741, Charlotte, NC 28213. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168, (703) 629–2818. Transporting (1) *metal products,* between points in Guilford County, NC, on the one hand, and, on the other, points in AR, LA, MO, OK, and TX; and (2) *rubber and plastic products,* between points in Mecklenburg County, NC, on the one hand, and, on the other, points in CO, KS, NE, OK, TX, and WY.

MC 134311 (Sub-1), filed June 18, 1982. Applicant: GERALDINE BENNETT AND RICHARD F. ROTH, d.b.a. BENNETT & ROTH TRUCKING, R.R. #1, Burlington, IA 52601. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting *furniture and fixtures, and baskets,* between Burlington, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI)

MC 141361 (Sub-5), filed June 14, 1982. Applicant: LONSBERG TRUCKING AND MATERIALS, INC., 545 Broadway, Platteville, WI 53818. Representative: A. R. Hanson, 2105 Madison Street, Madison, WI 53711, (608) 251–7841. Transporting *chemicals,* between points in Dubuque County, IA, and Jo Daviess County, IL, on the one hand, and, on the other, points in Grant, Lafayette and Iowa Counties, WI.

MC 144991 (Sub-4), filed June 16, 1982. Applicant: KINGSWAY TRANSPORTS, INC., 1480 Military Road, Kenmore, NY 14217. Representative: John W. Bryant, 900 Guardian Building, Detroit, MI 48226, (313) 963–3750. Transporting over regular routes, *general commodities,* (except classes A and B explosives, household goods, and commodities in bulk), between Stroudsburg, PA, and Philadelphia, PA, from Stroudsburg over PA Hwy 33 to Junction U.S. Hwy 22, then over U.S. Hwy 22 to Junction PA Hwy 309, then over PA Hwy 309 and city streets to Philadelphia, and return over the same route.

MC 148141 (Sub-5), filed June 15, 1982. Applicant: GOODY PRODUCTS, INC., 969 Newark Turnpike, Kearny, NJ 07032. Representative: William Jacobs (same address as applicant), (201) 997–3000. Transporting *copper cathodes, bars and rods, and molybdenum,* between points in Gila and Pima Counties, AZ, on the one hand, and, on the other, points in AL, AR, CT, GA, LA, MS, NJ, and TX, under continuing contract(s) with Cities Service Co., of Miami, AZ.

MC 150301 (Sub-21), filed June 18, 1982. Applicant: EQUITY TRANSPORTATION COMPANY, INC., 9744 E. Fulton Rd., Ada, MI 49301. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, (616) 459–6121. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in the U.S., under continuing contract(s) with Mark Charcoal Co., of Chicago, IL; Fearn International, of Franklin Park, IL; Vydel Corporation of America, of Highland Park, IL; and Foulds, Inc., of Libertyville, IL.

MC 151270 (Sub-2), filed June 17, 1982. Applicant: BATESVILLE CASKET COMPANY, Highway 46, Batesville, IN 47006. Representative: John P. Fonte, 1333 New Hampshire Avenue, NW., Suite 400, Washington, DC 20036, (202) 887–4090. Transporting *rubber and plastic products,* between points in the U.S., under continuing contract(s) with General Foam Corp., of Paramus, NJ.

MC 151751 (Sub-3), filed June 10, 1982. Applicant: BRUNSON, INC., P.O. Box 489, Dodge City, KS 67801. Representative: Clyde N. Christey, Ks. Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612, (913) 233–9629. Transporting *stone and stone products,* (1) between points in Polk County, AR and Knox County, IN, on the one hand, and, on the other, points in VT, TX, OK, GA, ND, SD, and LA, and (2) between points in Polk County, AR, Knox County, TN, and Bonneville County, ID, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 158081, filed June 18, 1982. Applicant: J. R. SOPKO, INC., Box 388, Cooks Cross Road, Pittstown, NJ 08867. Representative: John R. Sopko, RD #1, Box 388, Pittstown, NJ 08867, (201) 735–7882. Transporting *petroleum products and petroleum by-products, and hazardous waste,* between points in the U.S., under continuing contract(s) with Brookhaven National Laboratory, of Upton, Long Island, NY.

NC 159221 (Sub-2), filed June 14, 1982. Applicant: S.K.T., 623 N.E. 10th St., Minot, ND 58701. Representative: Jack L. Schiller, 123–60 83rd Ave., Kew Gardens, NY 11415, (212) 263–2078. Transporting *general commodities* (except classes A and B explosives, commodities in bulk and household goods), between points in ND, on the one hand, and, on the other, points in AL, AR, AZ, CA, CO, FL, GA, IA, ID, IL, IN, KS, KY, LA, MA, MD, ME, MI, MN, MO, MS, MT, NC, ND, NE, NJ, NM, NV, NY, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, WA, WI, WY, and DC.

MC 159880, filed June 18, 1982. Applicant: FREIGHT HAULERS INTERNATIONAL, INC., 7335 N. W. 79th Terr., Miami, FL 33166. Representative: Richard B. Austin, 320 Rochester Bldg., 8390 N.W. 53rd St., Miami, FL 33166, (305) 592–0036. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in FL.

MC 160890, filed June 14, 1982. Applicant: STEVEN C. MEIMANN, d.b.a. MEIMANN SEED CO., R.R. #2, Zearing, IA 50278. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309, (515) 244–2329. Transporting *liquors and wines,* between Jacksonville, FL, Owensboro, KY, and Cincinnati, OH, on the one hand, and, on the other, points in Nicollett County, MN.

MC 161930, filed June 21, 1982. Applicant: FLEENOR BROS., LTD., 328 Panorama Crescent, Courtenay, British Columbia Canada V9N 6V2. Representative: George LaBissoniere, 15 S. Grady Way, Suite 239, Renton, WA 98055, (206) 228–3807. Transporting (1) *shakes and shingles,* between ports of entry on the international boundary line between the U.S. and Canada in WA, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Watkins Sawmills Ltd., of Mission, British Columbia, Canada, and (2) *classes A and B explosives,* between points in Jasper County, MO, Natrona County, WY, and Cherokee County, KS, on the one hand, and, on the other, ports of entry on the international boundary line between the U.S. and Canada in WA, under continuing contract(s) with Canadian Explosives Ltd., of Comox, British Columbia, Canada. Condition: To the extent this certificate authorizes the transportation of classes A and B explosives, it shall expire 5 years from date of issuance.

MC 161950 (Sub-1), filed June 21, 1982. Applicant: SDS TRANSPORT CO., INC., 381 Quincy Ave., Quincy, MA 02169. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108, (617) 742–3530. Transporting *rubber and plastic products and machinery,* between points in the U.S. (except AK and HI).

MC 162450, filed June 11, 1982. Applicant: SENS TRANSPORT LTD., 625 McDonald Street, Regina, Saskatchewan S4I 4X1. Representative: Charles E. Johnson, PO Box 2056, Bismarck, ND 58502, (701) 223–5300. Transporting (1) *fertilizer,* between the ports of entry on the international

boundary line between the U.S. and Canada in MT, ND, and MN, on the one hand, and, on the other, points in MT, ND, SD, and MN; (2) *farm machinery, and parts and attachments for farm machinery,* between ports of entry on the international boundary line between the U.S. and Canada in ND, MT, and MN, on the one hand, and, on the other, points in ND, SD, MN, IA, IL, WI, and MT; (3) *agricultural chemicals,* between ports of entry on the international boundary line between the U.S. and Canada in MT, on the one hand, and, on the other, points in MT; (4) *mustard seed,* between ports of entry on the international boundary line between the U.S. and Canada in ND, and MT, on the one hand, and, on the other, points in ND, SD, MN, WI, KS, OK, TX, IL, IN, IA, MO, WY, and CO; (5) *recyclable materials, hides, metal products and building materials,* between ports of entry on the international boundary line between the U.S. and Canada in WA, ID, MT, ND, and MN, on the one hand, and, on the other, points in MT, WY, ID, ND, SD, UT, NE, and CO; (6) *tanks and new trailers,* between ports of entry on the international boundary line between the U.S. and Canada in ND, on the one hand, and, on the other, points in ND; and (7) *feed and feed ingredients,* between ports of entry on the international boundary line between the U.S. and Canada in ND and MT, on the one hand, and, on the other, points in ND, SD, MN, and IA.

MC 162591, filed June 21, 1982. Applicant: McKILLICAN COACH, LTD., 1521 Crestlawn Dr., Burnaby, British Columbia, Canada V5B 3J9, Representative: Kenneth R. Mitchell, 2320A Milwaukee Way, Tacoma, WA 98421, (206) 383–3998. Transporting *passengers and their baggage,* in the same vehicle with passengers, between points in the U.S. (except AK and HI), under continuing contract(s) with McKillican Coach Tours of North Burnaby, British Columbia, Canada and Maple Leaf Travel Ltd., of Vancouver, British Columbia, Canada.

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Decided: June 25, 1982.

MC 2202 (Sub-683), filed June 21, 1982. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Blvd., P.O. Box 471, Akron, OH 44309. Representative: William O. Turney, 7101 Wisconsin Ave., Suite 1010, Washington, DC 20014, 301–986–1410. Transporting *general commodities* (except household goods classes A and B explosives, and commodities in bulk), between points in the U.S., (except AK and HI), under continuing contract(s) with Uniroyal, Inc., World Headquarters, of Middlebury, CT.

MC 12462 (Sub-2), filed June 21, 1982. Applicant: TRAVEL TOURS, INC., 100 Hatteras Bldg., 5624 Executive Center Dr., P.O. Box 25403, Charlotte, NC 28212. Representative: Maxwell A. Howell, 1100 Investment Bldg., 1511 K Street NW., Washington, DC 20005, 202–783–7900. As a broker, in arranging for the transportation, by motor vehicle of *passengers and their baggage,* in the same vehicle with passengers, in charter and special operations, between points in the U.S. (including AK and HI).

MC 107012 (Sub-774), filed June 18, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same address as applicant), 219–429–2224. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S., under continuing contract(s) with The May Department Stores Co., of St. Louis, MO.

MC 107012 (Sub-775), filed June 18, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same address as applicant), 219–429–2224. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S., under continuing contract(s) with Whirlpool Corporation, of Benton Harbor, MI.

MC 112223 (Sub-137), filed June 18, 1982. Applicant: QUICKIE TRANSPORT COMPANY, 1700 New Brighton Blvd., Minneapolis, MN 55413. Representative: Earl Hacking (same address as applicant), 612–781–6853. Transporting *commodities in bulk,* between points in AR, CO, IA, IL, IN, KS, LA, MI, MN, MO, MT, NE, ND, OK, OH, SD, TX, WI, and WY.

MC 124813 (Sub-242), filed June 18, 1982. Applicant: UMTHUN TRUCKING CO., 910 South Jackson St., Eagle Grove, IA 50533. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309, 515–282–3525. Transporting *lumber and wood products, and building materials,* between points in the U.S. (except AK and HI), under continuing contract(s) with (a) Key Wholesale Building Products, Inc., of Mason City, IA, and (b) Muhl Lumber Company, of Fort Dodge, IA.

MC 134112 (Sub-10), filed June 21, 1982. Applicant: NATIONAL FREIGHTWAYS, INC., 1923 S. 111th St., Omaha, NE 68144. Representative: Gerard Spittler (same address as applicant), 712–347–6300. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between those points in the U.S. in and east of ND, SD, NE, CO, OK, and TX.

MC 134453 (Sub-31), filed June 21, 1982. Applicant: STERNLITE TRANSPORTATION COMPANY, Winsted, MN 55359. Representative: Robert P. Sack, P.O. Box 21–307, Eagan, MN 55121, 612–452–8770. Transporting *metal products, glass, clay or stone products, wood products, and plastic products,* between points in Tarrant County, TX, Hanover County, VA, Jefferson County, AL, Cook County, IL, Los Angeles County, CA, King County, WA, Jackson County, MO, and Cuyahoga and Franklin Counties, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 143702 (Sub-23), filed June 16, 1982. Applicant: ALL FREIGHT SYSTEMS, INC., 1026 South 10th St., Kansas City, KS 66105. Representative: Donald J. Quinn, Commerce Bank Bldg., 8901 State Line, Suite 232, Kansas City, MO 64114, 816–444–7474. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Associated Wholesale Grocers, Inc., of Kansas City, KS.

MC 148833 (Sub-9), filed June 18, 1982. Applicant: REBEL EXPRESS, INC., Box 98, Dawson, IA 50066. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309, 515–245–4300. Transporting *food and related products,* between points in the U.S. (except AK and HI).

MC 152622 (Sub-3), filed June 18, 1982. Applicant: DARYL THOMASON TRUCKING, INC., P.O. Box 1087, Broken Bow, OK 74728. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103, 817–332–4718. Transporting *forest products, lumber and wood products, gypsum products, and pulp, paper, and related products,* between points in the U.S., (except AK and HI), under continuing contract(s) with Weyerhaeuser Company, of Hot Springs, AR.

MC 153773 (Sub-2), filed June 17, 1982. Applicant: NDC TRUCKING CO., P.O. Box 7304, Longview, TX 75601. Representative: William Sheridan, P.O. Drawer, Irving, TX 75062, (214) 255–6279. Transporting (1) *pulp, paper, and related products, and printed matter,* between points in Lehigh and Montgomery

Counties, PA, and Gregg County, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI), (2) *such commodities* as are dealt in by manufacturers or distributors of fabricated metal products, between Dallas, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (3) *such commodities* as are dealt in by manufacturers or distributors of furniture or fixtures, between points in Dallas and Gregg Counties, TX, Madison County, IN, Gordon County, GA, Montgomery County, PA, Riverside, Mendocino, and Solano Counties, CA, and Worcester County, MA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 159053 (Sub-1), filed June 17, 1982. Applicant: KORTH TRANSFER, INC., P.O. Box 247, Reedsburg, WI 53959. Representative: Donald B. Levine, 29 South LaSalle St., Chicago, IL 60603, 312–236–9375. Transporting *chemicals and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Sicalco, Ltd., of Oak Brook, IL.

MC 161953, filed May 10, 1982. Applicant: SINDICATO DE TRABAJADORES DE TRANSPORTES, Lopez de Lara 3205, Nuevo Laredo, Tamoulipas, Mexico. Representative: Eduardo Pena, Jr., Solar Bldg., 1000 16th St., NW., Suite L150, Washington, DC 20036, 202–347–0906. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between ports of entry on the international boundary line between the U.S. and the Republic of Mexico, on the one hand, and, on the other, Laredo, TX.

MC 162313, filed June 2, 1982. Applicant: ROBERT L. AND DIANA R. LAWSON, d.b.a. FLATLAND TOURS, P.O. Box 4, Harbeson, DE 19951. Representative: Dean N. Wolfe, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840–8565. As a *broker,* at Gaithersburg, MD, in arranging for the transportation, by motor vehicle, of *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, beginning and ending at points in DE, MD, NJ, PA and VA, and extending to points in the U.S. (including AK and HI)

MC 162543, filed June 18, 1982. Applicant: STANDARD DISTRIBUTING COMPANY OF FREMONT, INC., 601 East Dodge St., Fremont, NE 68025. Representative: Donald L. Stern, Suite 610, 7171 Mercy Rd., Omaha, NE 68106, (402) 392–1220. Transporting *food and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Signature Foods, Inc., of Omaha, NE.

MC 162552, filed June 18, 1982. Applicant: RONMAT LEASING, INC., 126 Crosswinds Ct., Murrysville, PA 15668. Representative: Arthur J. Diskin, 402 Law & Finance Bldg., Pittsburgh, PA 15219, 412–281–9494. Transporting *glass, glassware, and insulation,* between points in the U.S. (including AK but excluding HI), under continuing contract(s) with Pittsburgh Corning Corporation, of Pittsburgh, PA.

MC 162562, filed June 21, 1982. Applicant: OIL FIELD TRUCKING SERVICE COMPANY, P.O. Box 3261, Lufkin, TX 75901. Representative: M. D. Richey, 7601 Mapleleaf Dr., Fort Worth, TX 76180. Transporting *general commodities* (except commodities in bulk, household goods and commodities in bulk) between points in the U.S. (including AK but excluding HI) under continuing contract(s) with (a) Lufkin Industries, Inc., of Lufkin, TX and (b) Western Barite Corporation, of Yukon, OK.

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Decided: June 28, 1982.

MC 152813 (Sub-3), filed June 22, 1982. Applicant: FRESH EXPRESS, INC., 55 Produce Row, St. Louis, MO 63102. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501, 402–475–6761. Transporting *metal products and lumber and wood products,* between points in the U.S. (except AK and HI).

MC 152813 (Sub-4), filed June 21, 1982. Applicant: FRESH EXPRESS, INC., 55 Produce Row, St. Louis, MO 63102. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501, 402–475–6761. Transporting *lumber and wood products and metal products,* between points in Morgan County, IL, on the one hand, and, on the other points in the U.S. (except AK and HI).

MC 160852, filed June 21, 1982. Applicant: FISHER FREIGHT SERVICES, INC., P.O. Box 47062, Dallas, TX 75247. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062, 214–255–6279. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of sound, communications, educational, and entertainment materials, between points in the U.S. (except AK and HI).

MC 162582, filed June 21, 1982. Applicant: WARE COACH, INC., P.O. Box 56, Manor, GA 31550. Representative: Earl Daniel Smith, Jr., P.O. Box 475, Nahunta, GA 31553, 912–462–6383. Transporting *passengers and their baggage,* in the same vehicle with passengers, in charter operation, beginning and ending at points in Ware County, GA, and extending to points in the U.S.

MC 162593, filed June 21, 1982. Applicant: F & E TRUCKING CORPORATION, 1036 Longshadow Court, El Cajon, CA 92020. Representative: Edward T. Denny, Jr., (same address as applicant), 714–442–5586. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with (a) F & E Sales, of Cajon, CA, and Cascade West Materials, Inc., of Lake Oswego, OR.

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Decided: June 29, 1982.

MC 102343 (Sub-14), June 21, 1982. Applicant: JOHN KAUSER TRUCKING SERVICE, INC., 850 W. Harrison St., Paulding, OH 45879. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *fertilizer and fertilizer ingredients,* between points in IN, MI and OH.

MC 127042 (Sub-312), filed June 21, 1982. Applicant: HAGEN, INC., P.O. Box 3208, Sioux City, IA 51102. Representative: Fred E. Hagen (same as applicant), (712) 255–8986. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AZ, CA, CO, ID, IL, IN, IA, KS, KY, MI, MN, MO, MT, NE, NV, NM, ND, OH, OK, OR, SD, TN, TX, UT, WA, WI and WY.

MC 147142 (Sub-2), filed June 23, 1982. Applicant: MERIC TRUCKING & LEASING, INC., 300 Winston Drive, Cliffside Park, NJ 07010. Representative: Kenneth M. Piken, Queens Office Tower, 95–25 Queens Blvd., Rego Park, NY 11374, (212) 275–1000. Transporting *rubber and miscellaneous plastic products and containers,* between points in the U.S., under a continuing contract(s) with Mercury Foam Corp., of Hackensack, NJ, and Liqui-Box Corp., of Auburn, MA.

MC 148873 (Sub-7), filed June 24, 1982. Applicant: ROAD-CON SYSTEMS, INC., 2500 83rd St., North Bergen, NJ 07047. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, 201–234–0301. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Cyro Industries, of Woodcliff Lake, NJ.

MC 152033 (Sub-5), filed June 21, 1982. Applicant: WILLIAM J. TIGHE TRUCKING COMPANY, INC., 1513 Palisade Ave., Union City, NJ 07087. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 234–0301. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 153993 (Sub-5), filed June 23, 1982. Applicant: TKN, INC., 1242 Shawmut Ave., New Bedford, MA 02746. Representative: Terrence M. Murphy (same address as applicant), (1–617) 996–3755. Transporting *oil well and water well steel pipe supplies and raw materials used in the manufacture of oil well and water well steel pipe and machinery and equipment*, between points in the U.S., under continuing contract(s) with CSK, Industries, of Midland, TX.

MC 162023 (Sub-1), filed June 24, 1982. Applicant: FREDERICK TRANSPORT (U.S.), INC., 4000 49th Ave., Moline, IL 61265. Representative: Jeremy Kahn, Suite 733, Investment Bldg., 1511 K St., NW., Washington, DC 20005, 202–783–3525. Transporting *printed matter*, between points in IL and IA, on the one hand, and, on the other, points in the U.S. (except AK and HI). Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority, please submit a copy of the affidavit or proof of filing the application(s) for common control to team 2, Room 2379.

MC 162373, filed June 21, 1982. Applicant: CANADA DRY/GRAF'S TRANSPORT CORPORATION, 4040 West Greenfield Avenue, Milwaukee, WI 53215. Representative: Richard D. Armstrong, 925 Hyland Drive, Stoughton, WI 53589, (608) 873–8929. Transporting *liquors, wine, brandy and brandy spirits, and soft drinks*, and *such commodities* as are used in the production, manufacture and distribution of such commodities, between points in WI, on the one hand, and, on the other, points in CT, CO, IA, IN, IL, KY, MD, MI, MN, MO, NJ, NY, OH, PA, TN, VA and WV.

[FR Doc. 82-18104 Filed 7-2-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested only on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP1–110

Decided: June 23, 1982.

By the Commission, Review Board Number 1, Members Parker, Chandler and Fortier.

MC 162451, filed June 11, 1982. Applicant: OSAGE AIR FREIGHT, P.O. Box 60133 AMF, Houston, TX 77205. Representative: John L. Piercy (same address as applicant), (713)–449–9118. Transporting *Shipments weighing 100 pounds* or less if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 162471, filed June 11, 1982. Applicant: ROBERT LOYAL GRAVES, d.b.a. CONSOLIDATED BROKER'S COMPANY, 22 Mill Race Drive, St. Peters, MO 63376. Representative: Dennis Michael Doyle, 4475 West Pine, #706, St. Louis, MO 63108, (314)–533–2916. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 162480, filed June 14, 1982. Applicant: THOMAS E. PREWITT and EDWARD M. PREWITT, d.b.a. T & E PREWITT TRUCKING, 142 Pearl St., Schofield, WI 54476. Representative: Michael S. Varda, P.O. Box 2509, Madison, WI 53701, (608)–255–8891. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP1–112

Decided: June 25, 1982.

By the Commission, Review Board Number 1, Members Parker, Chandler and Fortier.

MC 82841 (Sub-327), filed June 14, 1982. Applicant: HUNT TRANSPORTATION, INC., 10770 "I" Street, Omaha, NE 68127. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NE 68106, (402) 392–1220. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 126791 (Sub-7), filed June 15, 1982. Applicant: SUTTER MOVING & STORAGE CO., INC., 4503 Railroad Avenue, Sacramento, CA 95826. Representative: Floyd L. Farano, 2555 E. Chapman Avenue, Suite 415, Fullerton, CA 92631, (714) 773–411. Transporting *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in CA, OR, WA, NV and AZ.

MC 139380 (Sub-12), filed June 18, 1982. Applicant: STIDHAM TRUCKING, INC., P.O. Box 308, Yreka, CA 96097. Representative: O. L. Stidham (same address as applicant), (916) 842–4161. Transporting for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except except AK and HI).

MC 153071 (Sub–1), filed June 18, 1982. Applicant: LENAWEE COUNTY RAILROAD COMPANY, INC., 708 E. Michigan St., Adrian, MI 49221. Representative: John D. Heffner, 1776 K St., N.W., Suite 700, Wahington, DC 20006, (202) 298–0600. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Detroit, MI, Toledo, OH and points in Williams County, OH, on the one hand, and, on the other, points in Lenawee, Monroe and Washtenaw Counties, MI.

MC 162501, filed June 16, 1982. Applicant: JIMMY R. MOORE, dba JIMMY MOORE TRUCKING, 14710 Lakewood Blvd. Sp. 1, Bellflower, CA 90706. Representative: Jimmy Moore (same address as applicant), (213) 531–0618. Transporting (1) *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle; and (2) transporting for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 162520, filed June 17, 1982. Applicant: HAROLD D. CHASE, 121 North Grove Street, Berlin, WI 54923. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, P.O. Box 5086, Madison, WI 53705–0086, (608) 238–3119. Transporting *food and other edible poroducts and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 162540, filed June 18, 1982. Applicant: OSCAR BOYER, d.b.a. BOYER TRUCKING CO., 32569 S.E. New Rd., Eagle Creek, OR 97022. Representative: Oscar Boyer (same address as applicant), (503) 637–3660. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 162541, filed June 18, 1982. Applicant: HOWARD-STERLING, INC., 695 Honeysuckle Lane, N.W., Gainesville, GA 30501. Representative: C. P. Howard (same address as applicant), (404) 534–5042. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 162561, filed June 21, 1982. Applicant: DOUBLE H. ENTERPRISES, INC., Route 20, Palmer, MA 01069. Representative: David H. Marshall, 101 State St., Suite 304, Springfield, MA 01103, (413) 732–1136. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP2–138

Decided: June 25, 1982.

By the Commission, Review Board Number 1, Members Parker, Chandler, and Fortier.

MC 162363, filed June 7, 1982. Applicant: TRANSPORTATION & CONSOLIDATION SERVICES, INC., 100 Sonwil Drive, Buffalo, NY 14225. Representative: Robert D. Gunderman, Can-Am Bldg., 101 Niagara St., Buffalo, NY 14202, 716–854–5870. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 162493, filed June 15, 1982. Applicant: ROBERT R. TORRA (CHB) INC., 9475 N.W. 13th St., Miami, FL 33172. Representative: Robert R. Torra (same as applicant), (305) 592–3046. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 162522, filed June 17, 1982. Applicant: ROBERT LIPIN, 21500 Trolley Industrial Dr., Taylor, MI 48180. Representative: John F. Wicken, Jr., 1301 Merchants Plaza, Indianapolis, IN 46204, 317–638–1301. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 162542, filed June 18, 1982. Applicant: ESPELAND TRUCKING, INC., 442 Cleveland Ave., Winnebago, MN 56098. Representative: Robert N. Maxwell, P.O. Box 2471, Fargo, ND 58108, 701–237–4223. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 162553, filed June 18, 1982. Applicant: LARRY D. HAYES, 305 N. 2nd, Edina, MO 63537. Representative: Larry D. Hayes (same address as applicant), 816–397–2580. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP2–141

Decided: June 28, 1982

By the Commission, Review Board Number 1, Members Parker, Chandler, and Fortier.

MC 112422 (Sub-12), filed June 21, 1982. Applicant: SAM VAN GALDER, INC., 715 South Pearl St., Janesville, WI 53545. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5086, Madision WI 53705–0086, 608–238–3119. Transporting, (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI); and (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 162592, filed June 21, 1982. Applicant: PROGRESSIVE

TRANSPORT, INC., 922 N. Industrial Blvd., Dallas, TX 75207. Representative: Sam Hallman, 4555 1st National Bank Bldg., Dallas, TX 75202, 214–741–6263. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (including AK, but excluding HI).

MC 162603, filed June 21, 1982. Applicant: GERALD F. WHITEHURST, d.b.a. WHITEHURST FREIGHT, 1701 Ce Ora Circle, Garland TX 75042. Representative: James O. Houchins, 312 Congress Ave., Suite 210, P.O. Box 6366, Austin, TX 78701, 512–479–0777. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 162633, filed June 21, 1982. Applicant: SALEM TRUCKING, 250 North Second St., Box 276, Butterfield, MN 56120. Representative: Joseph Salem (same address as applicant), 507–956–2321. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP2–142

Decided: June 29, 1982.

By the Commission, Review Board Number 1, Members Parker, Chandler, and Fortier.

MC 148812 (Sub-3), filed June 21, 1982. Applicant: GEORGE ROMINGER, d.b.a. GEORGE ROMINGER TRUCKING, 206 Lincoln (PO Box 822), Ellensburg, WA 98926. Representative: Jim Pitzer, 15 S. Grady Way, Suite 321, Renton, WA 98055–3273, (206) 235–1111. Transporting *food and edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs) *agricultural limestone and fertilizers, and other soil conditioners* by owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 162312, filed June 1, 1982. Applicant: FRANK E. LONGTINE, d.b.a. LONGTINE TRUCKING, Route 2, Lake Park, MN 56554. Representative: Frank E. Longtine (same as applicant), (218) 532–2770. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S., (except AK and HI).

MC 162333, filed June 3, 1982. Applicant: EXECUTIVE SERVICES OF GREENWICH, INC., Putnam Green 23G, Greenwich, CT 06830. Representative: Bruce J. Robbins, 18 East 48th St., New York, NY 10017, 212–755–9400. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

Volume No. OP3–101

Decided: June 29, 1982.

By the Commission, Review Board, Number 2, Members Carleton, Fisher, and Williams.

MC 138174 (Sub-6), filed June 22, 1982. Applicant: JET DELIVERY SYSTEMS, INC., 6903 NE. 79th Ct., P.O. Box 20245, Portland, OR 97220. Representative: Leland O. Johnson (same address as applicant), (503) 256–3621. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 160995 (Sub-1), filed June 24, 1982. Applicant: CLARK KENT EXPRESS, INC., 1161 Paterson Plank Rd., Secaucus, NJ 07094. Representative: Michael R. Werner, 241 Cedar Lane, Teaneck, NJ 07666, (201) 836–1144. As a *broker of general commodities*, (except household goods), between points in the U.S.

MC 162505, filed June 16, 1982. Applicant: CLIPPERSHIP LTD., 402 So. Boston St., Galion, OH 44823. Representative: Robert Smith (same address as applicant), (419) 468–9579. As a broker of *general commodities* (except household goods), between points in the U.S.

MC 162595, filed June 21, 1982. Applicant: FREIGHT LINE, INC., 3000 East Grauwyler Road, Irving, TX 75061. Representative: Sam Hallman, 4555 First National Bank Bldg., Dallas, TX 75202, (214) 741–6263. As a broker of *general commodities* (except household goods), between points in the U.S. (except HI).

MC 162614, filed June 22, 1982. Applicant: KENDALL TRUCKING AND GRADING, INC., Route 2, Box 18E, Wasesboro, NC 28170. Representative: Barry Weintraub, Suite 510, 8133 Leesburg Pike, Vienna, VA 22180, (703) 442–8330. (A) As a *broker* of *general commodities* (except household goods), between points in the U.S.; and (B) Transporting, for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

Volume No. OP4–240

Decided: June 28, 1982.

By the Commission, Review Board Number 2, Members Carleton, Fisher, and Williams. Member Williams not participating.

MC 97257 (Sub-5), filed June 21, 1982. Applicant: MIDLAND TRANSPORT, INC., 56 E. 25th St., Chicago Heights, IL 60411. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602, (312) 755–3230. Transporting *general commodities* (except classes A and B explosives, and household goods), between Hallville, Beason, and Burtonview, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI). Condition: Issuance of a certificate in this proceeding is conditioned upon applicant certifying to the Commission, prior to commencing operations, that all rail service has actually terminated at specified points. The certification should be sent to the Deputy Director, Section of Operating Rights, Interstate Commerce Commission, Washington, D.C. 20423.

MC 162477, filed June 14, 1982. Applicant: CAMBRIDGE DISTRIBUTION, INC., 355 Carob, Compton, CA 90220. Representative: Milton W. Flack, 8484 Wilshire Blvd., #840, Beverly Hills, CA 90211, (213) 655–3573. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–18296 Filed 7–6–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon

which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no signficant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–182

The following applications were filed in region I: Send Protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 134806 (Sub-1–33TA), filed June 25, 1982. Applicant: B–D–R TRANSPORT, INC., Vernon Drive, P.O. Box 1277, Brattleboro, VT 05301. Representative: Edward T. Love, 4401 East-West Highway, Suite 404, Bethesda, MD 20814. *Contract carrier:* irregular routes: *Steel bolts and screws* from Billerica, MA to San Francisco, CA, Denver, CO, and Salt Lake City, UT, under continuing contract(s) with Precision Socket Screw, Inc., Billerica, MA. Supporting shipper: Precision Socket Screw, Inc., 13 Linnell Circle, Billerica, MA 01821.

MC 161678 (Sub-1–2TA), filed June 22, 1982. Applicant: CAPE TRANSIT CORP., 5501 Ocean Avenue, Wildwood Crest, NJ 08160. Representative: Andrew J. Carraway, Suite 1301, 1600 Wilson Boulevard, Arlington, VA 22209. *Passengers and their baggage, in charter and special operations,* between points in Sussex County, DE, and Worcester County, MD, to Atlantic City, NJ, and return. Supporting shipper: Harah's Marina Hotel Casino, 1725 Brigantine Blvd., Atlantic City, NJ 08401.

MC 119192 (Sub-1–2TA), filed June 24, 1982. Applicant: EASTERN DELIVERY SERVICE, INC., 80 Central Avenue, Bridgeport, CT 06607. Representative: Gerald A. Joseloff, 410 Asylum Street, Hartford, CT 06103. *Contract carrier:* Irregular routes: *Such merchandise as is dealt in or used by retail department stores* between Ridgefield, NJ, on the one hand, and, on the other, points in CT and NY under continuing contract(s) with J. C. Penny Company, Inc. of Langhorn, Pa. Supporting shipper: J. C. Penny Co., Inc., 905 Wheeler Way, Buck County Business Park, Langhorn, PA 19047.

MC 126965 (Sub-1–2TA), filed June 23, 1982. Applicant: CLIFFORD B. FINKLE, JR., 800 Bloomfield Avenue, P.O. Box 682, Allwood Sta., Clifton, NJ 07012. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Contract carrier:* Irregular routes: *Paper and paper products and materials, equipment and supplies used in the manufacturing, packaging and sales thereof, (except in bulk)* between Luke and Biggs, MD, and Meriden, CT. on the one hand, and, on the other, points in GA, MA, MS, MI, NJ, NY, NC, OH, PA, SC, VA and WI, under continuing contract(s) with Westvaco Corp., New York, NY. Supporting shipper: Westvaco Corp., 299 Park Avenue, New York, NY 10171.

MC 162545 (Sub-1–1TA), filed June 18, 1982. Applicant: FRANCRETE CORPORATION, One Van Street, P.O. Box 137, Staten Island, NY 10310. Representative: Edward F. Bowes, 7 Becker Farm Road, P.O. Box Y, Roseland, NJ 07068. *Contract carrier:* Irregular routes: *Sugar* from Yonkers and Briarcliff Manor, NY to points and places in CT, DE, MA, MD, NJ, NY, PA, RI and VT under continuing contract(s) with Refined Sugars, Inc., Yonkers, NY. Supporting shipper: Refined Sugars, Inc., Yonkers, NY.

MC 139069 (Sub-1–1TA), filed June 14, 1982. Applicant: GIROUX'S EXPRESS, INC., 10 Rex Drive, Braintree, MA 02184. Representative: John F. O'Donnell, Barrett and O'Donnell, 60 Adams Street, P.O. Box 238, Milton, MA 02187. *General commodities (except hazardous waste, Classes A & B explosives, household goods, and commodities in bulk),* between points in CT, MA, ME, NH, RI, and VT. Supporting shipper(s): There are seven statements in support of this application which may be examined at the I.C.C. Regional Office in Boston, MA.

MC 30144 (Sub-1–1TA), filed June 23, 1982. Applicant: GEORGE W. JEWETT & SON, INC., Route 5, Cornish, ME 04020. Representative: David R. Hastings II, Hastings & Son, P.A., 8 Portland Street, Fryburg, ME 04037. *Contract carrier:* Irregular routes: *(1) Petroleum products, both in bulk, and packaged,* from Bayonne, NJ to points in CO, RI, MA, NH, VT and ME, under continuing contract(s) with M. W. Sewall and Co. of Bath, ME and Bill's Oil Service, of Waterville, ME; *(2) Frozen ice cream, in packages,* from Framingham, MA to Conway, NH, under continuing contract(s) with Abbott's Ice Cream, Inc. of Conway, NH. Supporting shipper(s): M. W. Sewall and Co., P.O. Box 245, Bath, ME 04530; Bill's Oil Service, 19½ Temple Street, Waterville, ME 04901; Abbott's Ice Cream, Inc., P.O. Box 411, Conway, NH 03818.

MC 162594 (Sub-1–1TA), filed June 23, 1982. Applicant: JOSEPHINE JOHNSON, d.b.a. JOHNSON TRUCKING, P.O. Box 493, Bayonne, NJ 07002. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Contract carrier:* Irregular routes: *Empty cartons, empty plastic containers in cartons and petroleum products in packages* between points in Bergen, Essex, Hudson and Union Counties, NJ, on the one hand, and, on the other, Baltimore, MD, and points in Baltimore and Harford Counties, MD, under continuing contract(s) with Exxon Co., U.S.A., Houston, TX. Supporting shipper: Exxon Company, U.S.A., P.O. Box 2180, Houston, TX 77001.

MC 162632 (Sub-1–1TA), filed June 23, 1982. Applicant: NATHANIEL JOHNSON, INC., 326 Brookfield Place, Rahway, NJ 07065. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Contract carrier:* Irregular routes: *Paper and paper products and plastic and plastic products* between the facilities of Accurate Box Co., Inc., Newark, NJ, on the one hand, and on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Accurate Box Co., Inc., Newark, NJ. Supporting shipper: Accurate Box Co., Inc., 651 North 3rd Street, Newark, NJ 07107.

MC 113784 (Sub-1–7TA), filed June 24, 1982. Applicant: LAIDLAW TRANSPORT LIMITED, 65 Guise Street, P.O. Box 3020, Hamilton, Ontario, CD L8L 7X7. Representative: Harold G. Hernly, Jr., Hernly & Booker, P.C., P.O. Box 1281, Old Town Station, Alexandria, VA 22313. *Road construction equipment* between Portsmouth, VA and points on the International Boundary Line between the U.S. and CD. Supporting shipper: Sheridan Equipment Co., Sheridan Circle, Toronto, Ontario, CD.

MC 148873 (Sub-1–1TA), filed June 24, 1982. Applicant: ROAD-CON SYSTEMS, INC., 2500 83rd Street, North Bergen, NJ 07047. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier:* Irregular routes: *Acrylic sheets and molding compounds,*

from Wallingford, CT and Sanford, ME to points in CA, GA, IL, MI, OH, TN, and TX, under continuing contract(s) with Cyro Industries, Woodcliff Lake, N.J. Supporting shipper: Cyro Industries, 155 Tice Blvd., Woodcliff Lake, NJ 07675.

MC 120888 (Sub-1–1TA), filed June 21, 1982. Applicant: SHEPARD'S EXPRESS, INC., 207 Mill Street, Leominster, MA 01453. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877. *Contract carrier:* Irregular routes: *Electrical and electronic equipment and parts, computers, data processing components and materials and supplies used in the manufacture, processing distribution, sale and use of such commodities* between points in ME, MA, NH, RI, VT, CT, and NY, under continuing contract(s) with Digital Equipment Corporation, Northborough, MA. Supporting shipper: Digital Equipment Corporation, 450 Whitney Street, Northborough, MA 01532.

MC 145288 (Sub-1–1TA), republication, filed June 1, 1982. Applicant: SPECIALIZED HAULING CORPORATION, Box 488, Barre, VT 05641. Representative: John P. Monte, Box 686, Barre, VT 05641. *Treated utility poles, cross-arms and railroad ties,* from points in the states of FL, GA, MD, NC and SC to points in the states of CT, MA, MD, ME, NH, PA, RI and VT. Supporting shipper: Southern Wood Piedmont Company, P.O. Box 5447, Spartanburg, SC 29304. Sole purpose of the republication is to include NY and NJ as destination States.

MC 162587 (Sub-1–1TA), filed June 22, 1982. Applicant: JOHN F. SULLIVAN, d.b.a. SULLIVAN ENTERPRISES, Aldis Street, P.O. Box 997, St. Albans, VT 05478. Representative: John F. Sullivan (same as applicant). *Contract carrier:* irregular routes: *Liquor* between St. Albans, VT, and Champlain, NY, under continuing contract(s) with Central Vermont Railway, Incorporated of St. Albans, VT. Supporting shipper: Central Vermont Railway, Incorporated, Federal Street, St. Albans, VT 05478.

The following applications were filed in Region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St., Rm. 620, Philadelphia, PA 19106.

MC 141344 (Sub-II–1TA), filed June 17, 1982. Applicant: ALLEN TRANSPORT CORPORATION, P.O. Box 9072, Richmond, VA 23228. Representative: Paul D. Collins, 7761 Lakeforest Dr., Richmond, VA 23235. Contract, irregular: *(1) Tubular products, steam & gas generator parts, boiler parts, fabricated machinery & machinery parts; (2) aerators and materials, supplies and equipment used in the manufacture, sale and distribution thereof; and (3) engines, engines sets, generators, power system units and materials, supplies and equipment used in the manufacture, sale and distribution thereof,* between points in Hanover County, VA, on the one hand, and, on the other, points in AL, FL, LA, MS and TX, under continuing contract(s) with (1) International Tubular Products Co., (2) EPI, Inc. and (3) Cogenic Energy Systems, Inc. for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): International Tubular Products Co., U.S. Hwy. 1, Ashland, VA; EPI, Inc., Erie, RD, Mechanicsville, VA, and Cogenic Energy Systems, Inc., 307 Leadbetter Rd., Ashland, VA.

MC 162537 (Sub-2–1TA), filed June 17, 1982. Applicant: ANDERSON BUS SERVICE, INC., 2732 Kirkland Dr., N.W., Roanoke, VA 24017. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. *Passengers and their baggage, in the same vehicle with passengers, in round trip and one-way charter operations,* between Roanoke, Moneta, Salem and Martinsville, VA, on the one hand, and, on the other, points in LA, FL, TN, DC, SC, NC, NJ, PA, OH, NY, GA, MD, CT, MA and WV, for 270 days. An underlying ETA seeks 120 days authority. There are 21 statements in support attached to this application which may be examined at the Phila. Regional Office listed.

MC 72069 (Sub-II–16TA), filed June 17, 1982. Applicant: BLUE HEN LINES, INC., P.O. Box 280, Milford, DE 19963. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St., N.W., Washington, D.C. 20005. *Shoes and handbags,* from Elizabeth and Paterson, NJ, Lawrence and Boston, MA, Flushing and New York, NY, and Altoona and Akron, PA, and points in their commercial zones, to Elkridge, MD, for 270 days. Supporting shippers: Shoe World, Inc., Elkridge, MD 21227.

MC 152509 (Sub-II–32TA), filed June 18, 1982. Applicant: CONTRACT TRANSPORTATION SYSTEMS CO., 1370 Ontario St., Cleveland, OH 44101. Representative: J. L. Nedrich (same as applicant). Contract Irregular: *general commodities,* between all points in the United States (except AK and HI) under continuing contract(s) with Lawson Products Company for 270 days. An underlying eta seeks 120 days authority. Supporting shipper: Lawson Products Company, 1666 East Toughey, Des Plaines, IL 60018.

MC 152509 (Sub-II–33TA), filed June 18, 1982. Applicant: CONTRACT TRANSPORTATION SYSTEMS CO., 1370 Ontario St., Cleveland, OH 44101. Representative: J. L. Nedrich (same as applicant). Contract Irregular: *general commodities,* (except household goods and classes A and B explosives) between all points in the United States (except AK and HI) under continuing contract(s) with Charles McAlpin Brokerage, Inc. for 270 days. Supporting shipper: Charles McAlpin Brokerage, Inc., Rt 4, Box 71–A, Decatur, AL 35603.

MC 162538 (Sub-II–1TA), filed June 17, 1982. Applicant: DAHLMEYER'S EXPRESS INC., 952 Oranmore St., Pittsburgh, PA 15201. Representative: Dahlmeyer Hurd (same address as applicant). Contract Irregular: *General commodities, (except HHG's as defined by the Commission, and Classes A & B explosives)* between Pittsburgh, PA, on the one hand, and, on the other, points in KY, MD, PA, OH and WV, under continuing contract(s) with Commonwealth Warehouse & Storage, Inc. An underlying ETA seeks 120 days authority. Supporting shipper(s): Commonwealth Warehouse & Storage, Inc., 123 36th St., Pittsburgh, PA 15201.

MC 158859 (Sub-II–7TA), filed June 18, 1982. Applicant: O. DEAN TRANSPORTATION, INC., 406 W. Williamsburg Rd., Sandston, Va. 23150. Representative: P. Owen Dean (same as applicant). Contract, irregular: *Pulp and paper products, materials, supplies and equipment to manufacture same* between West Point, VA, on the one hand, and, on the other, points in PA, NJ, NY, MA, and CO. An underlying ETA seeks 120 days authority. Supporting shipper(s): The Chespeake Corp. of VA, P.O. Box 311, West Point, VA 23181.

MC 128136 (Sub-II–2TA), filed June 15, 1982. Applicant: FARM & FOREST TRUCK SERVICE, INC., 1648 N. Lincoln Ave., Salem, Ohio 44460. Representative: Paul D. Collins, 7761 Lakeforest Drive, Richmond, Virginia 23235. Contract irregular: (1) *Iron or steel, flats, plate or coils:* Between points in Butler, Mercer and Westmoreland Counties, PA, on the one hand, and on the other points in Halifax County, Va. under continuing contract(s) with Westinghouse Electric Corporation, Pittsburgh, Pa.; (2) *Lumber and forest products, and materials, supplies and equipment used in the manufacture, sale and distribution of lumber and forest products:* between points in Charlotte County, Va., on the one hand, and, on the other, points in DC, MD, NJ, NY, NC, PA, and WV, under continuing contract(s) with Stanley Land and Lumber Corp., Drakes Branch, Va.: (3) *Lumber and forest products, and treated lumber:* (a) between points in Craven County, NC, on the one hand, and, on the other

points in OH, VA, and points in PA, in and west of U.S. Highway 15, and (b) between points in Allegheny County, PA, on the one hand, and, on the other, points in OH, under continuing contract(s) with Sylvania Lumber Company, North Jackson, Ohio: (4) *Lumber and Forest Products:* Between points in Halifax County, NC, on the one hand, and, on the other, points in DE, MD, NJ, PA, VA, WV and DC, under continuing contract(s) with Coastal Lumber Company for 270 days. And underlying ETA seeks 120 days authority. Supporting Shipper(s): Westinghouse Electric Corporation, Westinghouse Building, Gateway Center, Pittsburgh, PA 15222; Sylvania Lumber Co., P.O. Box 368, Rosemont Road, North Jackson, OH 44451; Stanley Land & Lumber Corp., P.O. Box 221, Drakes Branch, VA 23937; Coastal Lumber Company, Box 829, Weldon, NC 27890.

MC 146551 (Sub-2–7TA), filed June 14, 1982. Applicant: TAYLOR TRANSPORT, INC., Route 2, State Rte 66 N, Defiance, OH 43512. Representative: Owen B. Katzman, 1828 L Street, N.W. Suite 1111, Washington, D.C. 20036. Contract irregular *General Commodities* (except household goods, classes A and B explosives, and commodities in bulk) between points in OH, PA, and NY, on the one hand, and, on the other, points in the U.S. (including AK but excluding HI) under a continuing contract with Marine Intermodal Cooperative Association of Portland, OR. for 270 days. An underlying ETA seeks 120 days authority. Supporting Shipper(s): Marine Intermodal Cooperative Association, P.O. Box 3589, Portland, OR 97208.

MC 161157 (Sub-II–2TA), filed June 10, 1982. Applicant: TOP LINE EXPRESS, INC., 110 N. Elizabeth St., Lima, OH 45801. Representative: Stephen L. Oliver, 275 E. State St., Columbus, OH 43215. *General commodities* (except classes A and B explosives, commodities in bulk, and household goods), between Toledo and Columbus, OH, on the one hand, and, on the other, points OH for 270 days. Restricted to shipments having prior or subsequent movements by rail. An underlying ETA seeks 120 days authority. Supporting shipper(s): The Procter & Gamble Company, P.O. Box 599, Cincinnati, OH 45201.

MC 162332 (Sub-II–TA), filed June 17, 1982. Applicant: VALE TRANSPORT SERVICES, INC., 135 Wyandot Ave., Marion, OH 43302. Representative: Richard Rueda, 135 N. 4th St., Phila., PA 19106. Contract irregular *foodstuffs, except commodities in bulk, and in tank vehicles,* between points in OH, on the one hand, and, on the other, points in AL, AZ, AR, CA, CT, DE, DC, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NV, NC, ND, PA, OH, OK, RI, SC, TN, TX, VA, WV and WI, under continuing contract(s) with Popped-Right, Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Popped-Right, Inc., 135 Wyandot Ave., Marion, OH 43302.

MC 155912 (Sub-II–3TA), filed June 21, 1982. Applicant: BALTIMORE WAREHOUSING & TRANSPORTATION, INC., 2701 Boston Street, Baltimore, MD 21224. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St., N.W., Washington, DC 20005. *General commodities,* except commodities in bulk and Classes A and B explosives, between Baltimore, MD, on the one hand, and, on the other, points in the U.S. located in and east of MN, IA, MO, OK and TX; restricted to traffic having a prior or subsequent movement by water, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Stevens Forwarders, Inc., Saginaw, MI 48605; United Transportation Systems, Inc., Baltimore, MD 21224; Routed Thur-Pac, Inc., Baltimore, MD 21234: Sea Land Service, Inc., Baltimore, MD 21224.

MC 152726 (Sub-II–2TA), filed June 21, 1982. Applicant: CENTRAL VALLEY TRANSPORTATION, INC., P.O. Box 125, Howard, PA 16841. Representative: Raymond A. Richards, 35 Curtice PK, Webster, NY 14580. *Scrap metals,* from points in NY to points in NJ and PA. An underlying ETA seeks 120 days authority. Supporting shipper(s): Roth Steel Corp., 800 W. Hiawatha Blvd., Syracuse, NY 13204.

MC 144118 (Sub-2–1TA), filed June 21, 1982. Applicant: COMPUTER TRANSPORT OF OHIO, INC., 3699 Interchange Road, Columbus, OH 42301. Representative: Bruce E. Mitchell, Esq., 3390 Peachtree Road, N.E., Suite 520, Atlanta, GA 30326. *Duplicating machines, computers, typewriters, instruments, and photographic goods; related materials, equipment and supplies,* between points in OH, IL, IN, KY, MI, NY, PA, VA and WV for 270 days. Supporting Shippers: Xerox Corporation, 3000 Des Plaines Ave., Des Plaines, IL 60018 and Addressograph Multigraph International, 1834 Waldon Office, Schaumburg, IL 60196.

MC 152509 (Sub-II–34TA), filed June 21, 1982. Applicant: CONTRACT TRANSPORTATION SYSTEMS CO., 1370 Ontario St., Cleveland, OH 44101. Representative: J. L. Nedrich (same as applicant). Contract, irregular route: *(KDF) knock down flat corrugated boxes* between all points in the United States (except AK and HI), under continuing contracts(s) with Corr Pak, Inc. for 270 days. Supporting shipper: Corr Pak, Inc., 990 Jersey Ave, New Brunswick, N.J. 08901.

MC 152509 (Sub-II–35TA), filed June 21, 1982. Applicant: CONTRACT TRANSPORTATION SYSTEMS CO., 1370 Ontario St., Cleveland, OH 44101. Representative: J. L. Nedrich (same as applicant). Contract, irregular route: *General commodities* (except household goods and classes A and B explosives) between all points in the United States (except AK and HI) under continuing contract(s) with Charles McAlpin Brokerage, Inc. for 270 days. Supporting shipper: Charles McAlpin Brokerage, Inc., Rt 4, Box 71–A, Decatur, AL 35603.

MC 152509 (Sub-II–36TA), filed June 21, 1982. Applicant: CONTRACT TRANSPORTATION SYSTEMS CO., 1370 Ontario St., Cleveland, OH 44101. Representative: J. L. Nedrich (same as applicant). Contract, irregular route: *Air filtration equipment and parts,* between points in Illinois, North Carolina, California, New Jersey and Massachusetts, under continuing contract(s) with Farr Company for 270 days. Supporting shipper: Farr Company, P.O. Box 92187 Airport Station, Los Angeles, CA 90009.

MC 152509 (Sub-II–37TA), filed June 21, 1982. Applicant: CONTRACT TRANSPORTATION SYSTEMS CO., 1370 Ontario St., Cleveland, OH 44101. Representative: J. L. Nedrich (same as applicant), (216) 566–2677. Contract, irregular route: *(KDF) knock down flat corrugated boxes* between all points in the United States (except AK and HI), under continuing contract(s) with Corr Pak, Inc. for 270 days. Supporting shipper: Corr Pak, Inc. 990 Jersey Ave., New Brunswick, N.J. 08901.

MC 157195 (Sub-II–1TA), filed June 21, 1982. Applicant: DANIEL E. GAGAIN, d.b.a. D & L TRUCKING, 5715 Angola Road, P.O. Box 7490, Toledo, OH 43615. Representative: Keith D. Warner, 5732 W. Rowland Rd., Toledo, OH 43613. Contract, irregular: *General Commodities* (except Classes A & B explosives, household goods (as defined by the Commission) and commodities in bulk) between points in IN, MI and OH, on the one hand, and, on the other, points in the United States (except AK and HI) for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Expert Freight Brokerage, Inc., 5405 Southwyck Dr., Suite 105, Toledo, OH 43614.

MC 144780 (Sub-II–3TA), filed June 22, 1982. Applicant: PAUL EVANS & SONS TRUCKING, INC., P.O. Box 185,

Wilmington, OH 45177. Representative: John L. Alden, 1396 W. Fifth Ave., Columbus, OH 43212. *Contract:* Irregular: *Coal,* from Jackson, Perry, Tuscarawas and Licking Counties, OH, to Coldwater and Detroit, MI and Decatur, IN, under continuing contract(s) with M.S.S. Industrial Sales, Inc. of Cincinnati, OH for 270 days. An underlying ETA has been filed seeking 120 days authority. Supporting shipper: M.S.S. Industrial Sales, Inc., 1048 Cloverfield Lane, Cincinnati, OH 45224.

MC 128136 (Sub No. II-3TA), filed June 21, 1982. Applicant: FARM & FOREST TRUCK SERVICE, INC., 1648 N. Lincoln Ave., Salem, OH 44460. Representative: Paul D. Collins, 7761 Lakeforest Drive, Richmond, VA 23235. *Machinery, machine parts, metal and electrical products, fabricated sheet metal, machinery bases, fabricated iron and steel articles, and materials, supplies, and materials used in the manufacture, sales and distribution thereof,* between points in Columbiana, Mahoning and Trumbull Counties, Ohio, on the one hand, and, on the other, points in KY, IL, IN, MD, NJ, NY, PA, TX, and WV for 270 days. Restricted to traffic originating at or destine to the facilities on NRM Corporation, Firestone Sheet Metal, Inc. or Tri-Fab, Inc. Underlying ETA seeks authority for 120 days. Supporting shippers: NRM Corporation, 400 West Railroad Ave., Columbiana, OH 44408; Firestone Sheet Metal, Inc., 1100 S. Ellsworth Ave., Salem, OH 44460; Tri-Fab, Inc., 10359 W. South Range Rd., Salem, OH 44460.

MC 107012 (Sub-II–224TA), filed June 21, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). Contract Irregular *household goods* between points in the United States, under continuing contract(s) with International Harvester Company of Chicago, IL for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: International Harvester Company, 401 N. Michigan Avenue, Chicago, IL 60611.

MC 107012 (Sub-II–225TA), filed June 21, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same as applicant). Contract, irregular: *General commodities (except classes A and B explosives, commodities in bulk, and household goods as defined by the Commission)* between points in the U.S., under continuing contract(s) with The May Department Stores Co., St. Louis, MO for 270 days. Supporting shipper: The May Department Stores Co., 611 Olive St., St. Louis, MO 63101.

MC 107012 (Sub-II–226TA), filed June 21, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same as applicant). Contract, irregular: *General commodities (except classes A & B explosives, commodities in bulk, and household goods as defined by the Commission)* between points in the U.S., under continuing contract(s) with Whirlpool Corporation, Benton Harbor, MI for 270 days. Supporting shipper: Whirlpool Corporation, 2000 U.S. 33 North, Benton Harbor, MI 49022.

MC 147313 (Sub-4TA), filed June 18, 1982. Applicant: JOHN PFROMMER, INC., Box 307, Douglassville, PA 19518. Representative: Theodore Polydoroff, Suite 301, 1301 Dolley Madison Blvd., McLean, VA 22101 *Coke, in bulk, in dump trucks,* from Tonawanda, NY to Boyertown, PA. An underlying ETA seeks 120 days authority. Supporting shipper(s): The Eastern Foundry Co., Div. of Peerless Industries, Spring & Schaeffer Sts., Boyertown, PA 19512.

MC 154361 (Sub-II–4TA), filed June 21, 1982. Applicant: PRETLOW BROS. TRUCKING CO., INC., 121 E. Marshall St., Richmond, VA 23219. Representative: Revardo C. Pretlow (same address as applicant). *General commodities (except Household Goods, Classes A & B explosives and commodities in bulk)* for the account of the U.S. Government, between Norfolk, VA, Washington, DC and Patuxent River, MD. An underlying ETA seeks 120 days authority. Supporting shipper(s): U.S. Army Legal Services Agency, Department of Defense, 5611 Columbia Pike, Falls Church, VA 22041.

MC 57992 (Sub-II–1TA), filed June 23, 1982. Applicant: RONALD E. SEWELL, an Individual, d.b.a. Sewell Parcel Service, 2622 Cora Ave., Cincinnati, OH 45211. Representative: James E. Phillipps, 414 Walnut St., Cincinnati, OH 45202. Contract Irregular: *Paper Products* such as paper plates, butter dishes, aluminum foil and pans, and *Plastic Products,* plastic sheeting, plastic drinking straws, beverage stirrers. Nested dishes from Covington, KY to points in FL for 270 days. Supporting shipper(s): (1) Premier Industries, Inc., 200 Madison Ave., Covington, KY 41011.

The following applications were filed in Region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, N.E., Atlanta, GA 30309.

MC 160725 (Sub-3–2TA), filed June 22, 1982. Applicant: A & S TRUCKING COMPANY, INC., 404 E. Cross Street, Cleveland, MS 38732. Representative: Harold H. Mitchell, Jr., P.O. Box 1295, Greenville, MS 38701. *Iron and steel articles* between points in AL, AR, GA, LA, MS, and TX. Supporting shipper: Cives Steel Company, P.O. Box 609, Rosedale, MS 38769.

MC 162214 (Sub-3–1TA) filed June 22, 1982. Applicant: ANN BAILEY d.b.a. A. BAILEY TRUCKING, Route 2, Box 553, Shepherdsville, KY 40165. Representative: Ann Bailey, Route 2, Box 553, Shepherdsville, KY 40165. (1) *Metallurgical coke* from Middletown, OH to Louisville, KY. (2) *Lightweight aggregate* from KY to points in OH, IN, and TN. Supporting shipper: Airco Carbide, 10200 Linn Station Road, Louisville, KY 40223. Kentucky Solite Corp., Brooks, KY 40109.

MC 146869, (Sub-3–8TA), filed June 22, 1982. Applicant: CARRIER FREIGHT LINES, INC., P.O. Box 813, Hickory, NC 28601. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204. *Buffing compounds,* from Chicago, IL; Senica, MO; Cairo, IL; Erie, MI; and Butler, PA; to Conover, NC. Supporting shipper: Jackson Buff Corporation, Box 1065, Conover, NC 28613.

MC 119917 (Sub-3–11TA), filed June 23, 1982. Applicant: DUDLEY TRUCKING COMPANY, INC., 724 Memorial Drive, S.E., Atlanta, GA 30316. Representative: Timothy C. Miller, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. *General commodities (except in bulk, household goods and classes A and B explosives)* between the commerical zones of Jacksonville, FL; Atlanta, GA; Boston, MA; Jersey City, North Bergen and Secaucus, NJ; New York, NY; Charlotte, Goldsboro and Raleigh, NC; Philadelphia, PA; Cranston, RI; Greenville, SC and Richmond, VA, restricted to traffic moving for the account of the Charlotte Freight Association, Inc. Supporting shipper: Charlotte Freight Association, Inc., P.O. Box 8825, Charlotte, NC 28208.

MC 162618 (Sub-3–1TA), filed June 22, 1982. Applicant: LANCASTER TOURS, INC., P.O. Box 521, Lancaster, SC 29720. Representative: James K. Davis, P.O. Box 337, Lancaster, SC 29720. *Passengers and their baggage, in special and charter operations,* beginning and ending at points in Cherokee, Chester, Chesterfield, Darlington, Fairfield, Florence, Kershaw, Lancaster, Newberry, Union, and York Counties, SC, and extending to points in the U.S., (except AK and HI). Supporting

shippers: There are five (5) statements of support which may be examined at the Atlanta, GA, Regional Office.

MC 145779 (Sub-3–2TA), Filed June 23, 1982. Applicant: OIL SERVICE COMPANY, INC., Route 3, Petty Lane, Columbia, TN 38401. Representative: Edward C. Blank, II, P.O. Box 1004, Columbia, TN 38401. *Oil Rubber Processing* from Harris County, TX, East Baton Rouge and Baton Rouge Parishes, LA to Jefferson County, KY. Supporting shipper: George Whitesides Company, 3048 Michigan Drive, Louisville, KY. 40212.

MC 162615 (Sub-3–1TA), Filed June 22, 1982. Applicant: P. M. EXPRESS, INC., 5455 Marina Cove, Memphis, Tennessee 38115. Representative: R. Connor Wiggins, Jr., Attorney at Law, 100 North Main Building #909, Memphis, Tennessee 38103. *General commodities* between Memphis, TN and its commericial zone, on the one hand, and, on the other, Rome, GA, and points in TN on and west of U.S. Highway 231; points in MS on and north of U.S. Highway 80; points in AL on, north and west of U.S. Highways 82 and 231; points in KY on and west of the Tennessee River; and points in AR on and east of U.S. Highways 65 and 167; and points in Hot Spring County, AR restricted to traffic having a prior or subsequent movement by rail. There are five supporting shipper statements attached to this application which may be reviewed at the Regional office in Atlanta, GA.

MC 162624, (Sub–3–1 TA), filed June 23, 1982. Applicant: PERRY BUS LINE, 1403 Cambridge Road, P.O. Box 1351, Perry, GA 31069. Representative: Carlene M. Smith (same address as applicant). *Passengers and their baggage in special and charter operations,* Beginning and ending in Houston, Macon, Taylor, Crawford, Peach, Dooly, Chatham, Sumter, Crisp, Lee, Dougherty, Monroe, Bibb, Pulaski, Schley, Tift, Colquitt, Lowndes, Muscogee Counties in GA and extending to all points in the US except AK and HI. Supporting shipper: There are fourteen support statements attached to this application which may be examined at the ICC Regional Office, Atlanta, GA.

MC 162625, (Sub–3–1 TA), filed June 23, 1982. Applicant: PRICE BROS. TRUCKING CO., INC., P.O. Box 68, Main Street, Louisville, AL 36048. Representative: V. Lee Pelfrey, 104 Court Square, Clayton, AL 36016. 1. *Lumber and lumber articles, wood, to include treated lumber and material, equipment and supplies used in the manufacture, production, or sale of lumber and lumber articles (except commodities in bulk, in tank vehicles),* between the plant sites of Slawson Lumber Co., Inc., at Louisville, AL; and Southeast Wood Treating, Inc., at Louisville, AL, on the one hand, and, on the other, points in GA, FL, MS, LA, AR, TX, TN, NC, SC, VA, OH, IN, IL and KY. 2. *Fertilizer,* between the plant sites of Grant Bros. Ag. Store, Inc., at Louisville, AL; and Farmer's Warehouse at Louisville, AL, on the one hand, and, on the other, points in AL, GA, FL and MS. Supporting Shippers: Grant Bros. Ag. Store, Inc., Clayton Street, Louisville, AL 36048; Farmer's Warehouse, Clayton Street, Louisville, AL 36048, Slawson Lumber Co., Inc., P.O. Box 97, Louisville, AL 36048 and Southeast Wood Treating, Inc., P.O. Box 25, Louisville, AL 36048.

MC 150612, (Sub–3–1 TA), filed June 23, 1982. Applicant: SOUTHEASTERN SALES & DESIGNS, INC., P.O. Box 199, Counce, TN 38326. Representative: W. M. Rhodes (same address as applicant). *Iron and steel and iron and steel articles* between Tishomingo County, MS on the one hand, and, on the other, points in AL, MS, TN, GA, AR, and FL having a prior or subsequent movement by water. Supporting shipper: Yellow Creek State Inland Port Authority, Route 4, Box 509, Iuka, MS 38852.

MC 143315 (Sub-3–1TA), filed June 23, 1982. Applicant: RENT-A-BUS, INC., d.b.a. SUNWAY CHARTERS, Highway 17 S, Myrtle Beach, SC 29577. Representative: Bruce E. Mitchell, 3390 Peachtree Road, N.E., Suite 520, Atlanta, GA 30328. *Passengers and their baggage, in the same vehicle with passengers, in charter and special operations,* beginning and ending at points in SC and NC and extending to points in the U.S. (including AK, but excluding HI). There are five statements of support which can be examined at ICC Regional Office, Atlanta, GA.

MC 140645 (Sub-3–5TA), filed June 22, 1982. Applicant: UNITED TRUCKING, INC., 100 Stoffel Dr., Tallapoosa, GA 30176. Representative: Clyde W. Carver, Atty., P.O. Box 720434, Atlanta, GA 30328. *Petroleum products in containers,* from Putnam County, OH, to points in AL, FL, GA, MS, NC, SC and TN. Supporting shipper: Konalrad Products, Inc., 501 S. Basiner Rd., Pandora, OH 45877.

MC 162289 (Sub-3–1TA), filed June 23, 1982. Applicant: VALLEY COACH COMPANY, P.O. Box 155, Fayetteville, NC 28301. Representative: John W. McLaurin (same address as applicant). *Passengers and baggage in special and charter operations,* between Cumberland, Sampson, and Robeson Counties, North Carolina to FL, GA, NY, VA, Washington, DC. Supporting shippers; There are seven (7) statements of support which may be examined at the ICC office in Atlanta, GA.

MC 144776 (Sub-3–7TA), filed June 23, 1982. Applicant: APACHE TRANSPORT, INC., 833 Warner Street, S.W., Atlanta, GA 30310. Representative: Virgil H. Smith, 74 Highway N. Box 245, Tyrone, GA 30290. *One time carbon paper and/or related raw materials used in the Manufacturing of the same,* Between the facilities of American Tara Corp. in the U.S. on the one hand and points in the U.S. on the other hand, (except AK and HI). Supporting shipper: American Tara Corp., 5669 New Peachtree Rd., Chamblee, GA 30341.

MC 148976 (Sub-3–3TA), filed June 23, 1982. Applicant: H & W TRANSFER AND CARTAGE SERVICE, INC., 611 South Main Street, Cedartown, GA 30125. Representative: Bruce E. Mitchell, 3390 Peachtree Road, N.E., Suite 520, Atlanta, GA 30328. *Contract,* irregular *plastic products,* between the facilities of Shenandoah Plastics, at, or near, Rome, GA, on the one hand, and, on the other, points in the U.S. (except AK and HI) under contract or continuing contract(s) with Shenandoah Plastics. Supporting shipper: Shenandoah Plastics, P.O. Box 2488, Rome, GA 30161.

MC 161867 (Sub-3–1TA), filed May 26, 1982. Applicant: JERRY E. McCOY, Route 2, Box 360, Cleveland, NC 27013. Representative: Jerry E. McCoy (same as above). *Passengers* between Rowan and Iredell Counties, NC on the one hand, and, on the other, Catawba Project in York County, SC. Supporting shippers: There are five statements of support which may be examined at the Interstate Commerce Commission Regional Office in Atlanta, GA.

MC 157140 (Sub-3–1TA), filed June 28, 1982. Applicant: TRICO EQUIPMENT, INCORPORATED, P.O. Box 669, Ahoskie, NC 27910. Representative: Carroll B. Jackson, 1610 Vincennes Rd., Richmond, VA 23229. (1) *Iron or steel roofing, decking, joists, sheets and iron or steel articles and (2) materials, equipment and supplies* used in the manufacture, distribution and sales of commodities in (1) above, between Chesapeake and Virginia Beach, VA; Baltimore, MD; Fayetteville, NC; Frazer and Philadelphia, PA; (and points in their commercial zones), on the one hand, and, on the other, points in CT, DE, FL, GA, IN, MA, MD, ME, MI, NC, NH, NJ, NY, OH, PA, RI, SC, VA, VT, WV and DC (includes shipments having a prior or subsequent movement in interstate or foreign commerce). Supporting shipper: South East Metal

Deck, Inc., 1400 Cavalier Boulevard, Chesapeake, VA 23323.

The following applications were filed in Region 4. Send protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 15735 (Sub-4–20TA), filed June 18, 1982. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Martin T. Boratyn, P.O. Box 4403, Chicago, IL 60680.*Contract* Irregular: *Computerized telephone communications equipment, computers and equipment racks, materials, supplies and parts used in the manufacture, repair and installation of communications equipment* between points in the U.S. (except AK and HI) under a continuing contract with Racal-Milgo, Inc., Supporting shipper: Racal-Milgo, Inc., 7460 N.W. 52nd St., Miami, FL 33166.

MC 129189 (Sub-4–4TA), filed June 22, 1982. Applicant: WING CARTAGE COMPANY, 4141 George Place, Schiller Park, IL 60176. Representative: Arnold L. Burke, 180 North LaSalle St., Suite 3520, Chicago, IL 60601. *Prestressed concrete building materials and shoring materials*, from Hodgkins, IL to points and places in KA. Supporting shipper: National Filigree, Inc., 475 W. 55th Street, Countryside, IL 60575.

MC 140283 (Sub-4–1TA), filed June 21, 1982. Applicant: McHENRY TRUCK LINE, INC., 3939 Albany St., McHenry, IL 60050. Representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, WI 54956. *Printed matter and materials, euipment and supplies used in the manufacture, sale and distribution of printed matter* between Elkhorn, WI and Crystal Lake, IL. An underlying ETA seeks 120 days authority. Supporting shipper: Graftek Press, 6704 S. Pingree Road, Crystal Lake, IL 60014.

MC 142711 (Sub-4–1TA), filed June 21, 1982. Applicant: BERRYMAN TRANSFER & STORAGE CO., INC., 1830 Mound Road, Joliet, IL 60436. Representative: Anthony E. Young, 29 South LaSalle St., Suite 350, Chicago, IL 60603. *Contract*, irregular, *Boiler tubes, refractory materials, and related products*, (a) from Chicago, IL to Cattlesburg, KY, and (b) from Greenville, PA to Chicago, IL, under continuing contract(s) with V. J. Mattson Company. Supporting shipper: V. J. Mattson Company, 6450 South Austin Avenue, Chicago, IL 60638.

MC 146277 (Sub-4–1TA), filed June 21, 1982. Applicant: ALLAN FODNESS, d.b.a. Al's Trucking, Route 1, Lennox, SD 57037. Representative: Thomas J. Simmons, P.O. Box 480, Sioux Falls, SD 57101. *Fertilizer*, from Hawarden and Sioux City, IA, Omaha, NE, and Minneapolis/St. Paul, MN, to points in Lincoln, Turner, and Union counties, SD. An underlying ETA seeks 120 days. Supporting shippers: (1) Brenner Elevator, Worthing, SD 57077; (2) Dakota Fertilizer & Chemical, Inc., Canton, SD 57013, and (3) Full Circle, Inc., Parker, SD 57053.

MC 15432 (Sub-4–2), filed June 21, 1982. Applicant: VERNON MARTELL, 2434 Hillview Ave., Bismarck, ND 58501. Representative: Charles E. Johnson, 220 N. 4th Street, Box 2056, Bismarck, ND 58502–2056. *Oil, in drums and cases*, from Oil City, PA and Port Arthur, TX, to the facilities of A & I Distributors, Bismarck, ND. Underlying ETA seeks 120 day authority. Supporting shipper: A & I Distributors, Bismarck, ND 58501.

MC 153077 (Sub-4–4TA), filed June 21, 1982. Applicant: TOTAL TRANSPORTATION, INC., 1601 99th Lane N.E., Minneapolis, MN 55434. Representative: Stanley C. Olsen, Jr., 5200 Willson Road, Suite 307, Edina, MN 55424, (612) 927–8855. *Plastic articles* from Chicago, IL, to Minneapolis, MN; Davenport, IA; Kansas City and St. Louis, MO; and Oklahoma City, OK; for 270 days. Supporting shipper: Progressive Sales Corporation, 1005 Republic Drive, Addison, IL 60101.

MC 155364 (Sub-4–4TA), filed June 21, 1982. Applicant: SINCLAIR CARTAGE, INC., 9700 South Madison Street, Hinsdale, IL 60521. Representative: EDWARD G. FINNEGAN, LTD., 134 North La Salle Street, Suite 1016, Chicago, IL 60602. *Petroleum, petroleum products, chemicals, and tar products in bulk*, between points in IA, IL, KY, MI, MN, OH, IN and WI. Supporting shippers: W. H. Barber Company, 3650 South Homan Avenue, Chicago, IL 60632; LA Chemicals Ltd., 4335 South Western Boulevard, Chicago, IL 60609; Exxon Company, U.S.A., 800 Bell Street, P.O. Box 2180, Houston, Texas 77001; Chempet Corporation, 1750 Armitage Court, Addison, IL 60101, and Seneca Petroleum Co., Inc., 13301 South Cicero Avenue, Crestwood, IL 60445.

MC 161810 (Sub-4–2TA), filed June 23, 1982. Applicant: M & E MILK TRANSPORT, INC., R.R. 3, Box 243, Middlebury, IN 46540. Representative: Barry Weintraub, Suite 510, 8133 Leesburg Pike, Vienna, VA 22180. *Contract: Irregular;* Transporting *corn syrup* from Dayton, OH, Hammond, IN, Chicago, IL to and its commercial zone and Keokuk, IA Ligonier, IN, under continuing contract with Kidd and Company, Inc. Supporting shipper(s): Kidd and Company, Inc., 308 N. Martin St., Ligonier, IN 46767.

MC 162574 (Sub-4–1TA), filed June 22, 1982. Applicant: INTERNATIONAL INVESTMENTS CORP., d.b.a. UNIVERSAL TRUCKING, Route 1, Argonne, WI 54511. Representative: Richard A. Westley, Attorney, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705–0086. (1) *Lumber, lumber products and building materials and supplies*, from points in the U.S. in, north and west of OH, IN, IL, MO, AR, and LA (except AK and HI) to the facilities of Hofkens Bldg. & Supply, Inc. at or near Crandon and Kimberly, WI. (2) *Building materials*, from points in IL, IA, and MN to the facilities of Amerhardt Ltd., at or near Green Bay, WI. An underlying ETA seeks 120 day authority. Supporting shippers: Hofkens Bldg. & Supply, Inc., 406 North Lake Avenue, Crandon, WI 54520 and Amerhardt Ltd., P.O. Box 3068, Green Bay, WI 54303.

MC 162610 (Sub-4–1TA), filed June 22, 1982. Applicant: JETM DISTRIBUTION SYSTEMS, INC., 9915 South Trumbull, Evergreen Park, IL 60642. Representative: William D. Brejcha, Sullivan & Associates, Ltd., 180 N. Michigan Ave., Suite 1700, Chicago, IL 60601. *Contract;* irregular: *General commodities* (except Classes A & B explosives, household goods as defined by the Commission, and commodities in bulk) from the facilities of Dry Storage Corporation in Cook and Du-Page Counties, IL to points in the U.S. (except AK and HI), restricted to traffic moving under continuing contract(s) with Dry Storage Corporation of Des Plaines, IL. Supporting shipper: Dry Storage Corporation, Des Plaines, IL.

MC 162611 (Sub-4–1TA), filed June 21, 1982. Applicant: SHIPLEY DISTRIBUTORS, INC., 1127 Dearborn St., Aurora, IL 60505. Representative: Anthony E. Young, 29 South Lasalle St., Suite 350, Chicago, IL 60603. *Paper and paper products* from the facilities of Trinity Mid-West Corp., located at or near Plainfield, IL to points in MN and WI. Supporting shipper: Trinity Med-West Corp., P.O. Box 301, Planifield, IL 60544.

MC 162612 (Sub-4–1TA), filed June 21, 1982. Applicant: BAZIL & HILDA BRANDY d.b.a. BRANDY TRUCKING COMPANY, 5529 Montclair St., Detroit, MI 48213. Representative: Eddie D. Smith (attorney), 1450 City National Bank Building, Detroit, MI 48226. *General Commodities*, (except bulk commodities, express, newspapers, baggage of passengers or passengers). Between Dearborn, MI, and Detroit, MI, and points in KY, IL, IN, MI, MO, OH, TN, and WI. Supporting shipper: Anchor

Conveyor, 6906 Kingsley Ave., Dearborn, MI 48126. Supporting shipper: National Metal Fabricators Inc., 6101 Cook, Detroit, MI 48210.

MC 162619 (Sub-4–1TA), filed June 21, 1982. Applicant: FRANK ADAIR d.b.a. ADAIR'S TRANSPORT, 502 Avenue M South, Saskatoon, Saskatchewan S7M 2K9. Representative: Charles E. Johnson, 220 N. 4th Street, P.O. Box 2056, Bismarck, ND 58502–2056. Transporting *fertilizer* from ports of entry on the International Boundary line between the U.S. and CN located in ND and MT on the one hand, and, on the other, points in ND, SD, MN, IA, WS, and MT. *ETA seeks 120 days authority.* Supporting shippers: Midland Cooperatives, Inc., Minneapolis, MN; Cargill, Inc., Gluek, MN; ConAgra, Inc., Wolf Point, MT; and Sioux Fertilizer, Inc., Hawardin, IA.

The following applications were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, P.O. Box 17150, Fort Worth, TX 76102.

MC 134009 (Sub-5–1TA), filed June 21, 1982. Applicant: SECURITY ARMORED CAR SERVICE, INC., 1022 South 9th Street, St. Louis, MO 63104. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105. Contract, Irregular: *Money, coin, currency, checks, gold, silver, bullion, precious metals and stones, jewelry, stamps, negotiable and non-negotiable instruments and securities, stocks, bonds, and other rare and valuable documents of unusually high value,* between points and places in the U.S. (except AK and HI) under continuing contract with the Federal Reserve Bank of St. Louis. Supporting shipper: Federal Reserve Bank of St. Louis, 410 Locust Street, St. Louis, MO 63101.

MC 152959 (Sub-5–15TA), filed June 21, 1982. Applicant: MOBILE EXPRESS, INC., P.O. Box 8167, Longview, TX 75607. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. Contract: Irregular *Trailers or Trailer Chassis and/or Parts Thereof* between points in the U.S. Restricted to shipments for the Account of The Heil Company. Supporting shipper: The Neil Company, 5101 Austin Rd., Hixson, TN 37343.

MC 153773 (Sub-5–6TA), filed June 21, 1982. Applicant: NDC TRUCKING CORP., P.O. Box 7384, Longview, TX 75601. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. *Alcoholic Beverages or Wines* between points in CA on the one hand, and, on the other, points in TX. Restricted to shipments for the account of Maxwell Distributing Co. Supporting shipper: Maxwell Distributing Co., P.O. Box 1588, Longview, TX 75606.

MC 157591 (Sub-5–2TA), filed June 21, 1982. Applicant: WALTER M. NICKELS d.b.a. NICKELS FARM, Raymondville, MO 65555. Representative: Walter M. Nickels (same address as applicant). Contract, irregular: *Processed log products, millwork, building materials, salvage, and accessories, parts and supplies for assembly, processing, and manufacture of log homes,* between Houston, MO, on the one hand, and, on the other, points in the U.S. (except AK and HI) under continuing contract(s) with New England Log Homes, Inc. Supporting shipper: New England Log Homes, Inc., 801 Industrial Dr., Houston, MO 65483.

MC 157942 (Sub-5–TA), filed June 21, 1982. Applicant: TRUMAN BARKS, d.b.a. BARKS TRUCKING CO., Greenville, MO 63944. Representative: Stephen G. Newman, P.O. Box 456, Jefferson City, MO 65102. *Lumber and wood products,* between points in AL, AR, GA, IL, IN, KS, KY, MI, MS, MN, NE, OH, OK, and TX. Supporting shipper: Kennedy Forest Products, Inc., Kalamazoo, MI.

MC 162255 (Sub-5–1 TA), filed June 21, 1982 Applicant: BAILEY GRAIN & SUPPLY, P.O. Box 167, Morrill, KS. 66515. Representative: Bruce C. Harrington, KS Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS. 66612. (Part 1) *liquid nitrogen solution* (a) From Beatrice, Omaha, Nebraska City and Fall City, NE and Creston, IA to the facilities of Fairview Fertilizer Co., Inc. at or near Fairview, KS; (b) From the facilities of Fairview Fertilizer Co., Inc. at or near Fairview, KS to points in NE; (c) From Sugar Creek, MO to the facilities of Vassar Elevator Inc. at or near Vassar, Lyndon or Melvern, KS and the facilities of Morrill Elevator, Inc. at or near Morrill, KS and (d) From Fall City, LaPlatte and Beatrice, NE and Mound City and Kansas City, MO to the facilities of Morrill Elevator, Inc. at or near Morrill, KS. (Part 2) *dry fertilizer materials,* (a) From Beatrice, Nebraska City and Fall City, NE to the facilities of Fairview Fertilizer Co. Inc. at or near Fairview, KS and from Sugar Creek, MO to the facilities of Vassar Elevator, Inc. at or near Vassar, Lyndon and Melvern, KS and the facilities of Morrill Elevator Inc. at or near Morrill, KS and (b) From LaPlatte, NE; Catoosa, OK and Joplin, Brunswick, and Kansas City, MO to the facilities of Morrill Elevator, Inc at or near Morrill, KS. Supporting shippers: Wittwer Fertilizer Service, Dawson, NE 68337; Morrill Elevator Co. Inc., Morrill, KS 66515; and Fairview Fertilizer Co. Inc., Fairview, KS 66425.

MC 162255 (Sub-5–2 TA), filed June 21, 1982. Applicant: BAILEY GRAIN & SUPPLY, P.O. Box 167, Morrill, KS. 66515. Representative: Bruce C. Harrington, KS Credit Union Bldg., 1010 Tyler Suite 110L, Topeka, KS 66612. *Fertilizer,* Between the facilities of Quad-State Terminals, Inc. at or near Mound City, Craig and Bigelow, MO, on the one hand, and points in KS, NE, IA, OK and NM, on the other hand. Supporting shippers: Quad-State Terminals, Inc., Mound City, MO 64470.

MC 162499 (Sub-5–1 TA), filed June 21, 1982. Applicant: SCHNUCKS TRANSPORTATION COMPANY, 12921 Enterprise Way, Bridgeton, MO 63044. Representative: William H. Borghesani, Jr., 1150 17th St., N.W., Suite 1000, Washington, D.C. 20036. Contract, irregular, *general commodities (except classes A & B explosives, household goods, and commodities in bulk)* between, on the one hand, points in St. Louis County, MO; and, on the other, points in the U.S. except AK and HI under continuing contract(s) with Panasonic, St. Louis, MO; Purex Corp., St. Louis, MO; General Merchandisers, Inc., Hazelwood, MO; Wetterau Incorporated, Hazelwood, MO; Vi-Jon Laboratories, Inc., St. Louis, MO; and Schnucks Distributing Co., Inc., Bridgeton, MO. Supporting shippers: 6.

MC 162566 (Sub-5–1 TA), filed June 21, 1982. Applicant: LEONARD & IRIS PALMER TRUCKING, INC., P.O. Box 187, Wilsonville, NE 69046. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Cheese,* from the commercial zones of Oxford and Hebron, NE and Garnett, KS, to pts in the U.S. (except AK and HI). Supporting shippers: Oxford Cheese Corporation, Northwest Hwy. 46, Oxford, NE 68967.

MC 162569 (Sub-5–1TA), filed June 21, 1982. Applicant: G. R. JONES, d.b.a. G. R. JONES CONSTRUCTION COMPANY, Route 1, Box 101AA, Folsom, LA 70437. Representative: Fred W. Johnson, Jr., P.O. Box 1291, Jackson, MS 39205. Contract; irregular: *coal* having a prior movement by water, between Orleans Parish, LA and Bogalusa, LA under continuing contract(s) with Crown-Zellerbach Corporation, Bogalusa, LA.

MC 162577 (Sub-5–1TA), filed June 21, 1982. Applicant: TIFFANY TRUCK LINES LIMITED, 4921 Camp Street, New Orleans, LA 70115. Representative: Timothy E. Jilek (same as applicant). *General Commodities (Except class A and B explosives),* between New Orleans on the one hand, and other pts in AL, AR, LA, TX, MS, TN and further

restricted to prior or subsequent movement by rail or water. Supporting shippers: Dalton Steamship, 736 Union Street, New Orleans, LA 70130; Care Shipping, Inc., 419 Rue Decatur, Suite 108, New Orleans, LA 70130; and McTeer Int'l Freight Forwarding Co., P.O. Box 8346, Savannah, GA 31432.

MC 110567 (Sub-5–9TA), filed June 24, 1982. Applicant: SOONER TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: Kenneth L. Kessler, P.O. Box 855, Des Moines, IA 50304. Contract; iregular: *such commodities as are distributed by retail grocery stores,* between La Salle County, IL, on the one hand, and, on the other, pts in AL, AR, CO, CT, FL, GA, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NJ, NY, NC, ND, OH, OK, PA, SD, TN, TX, VA, WI and DC. Supporting shipper: Sunstar Foods, Inc., Streator, IL.

MC 149139 (Sub-5–1TA), filed June 25, 1982. Applicant: YOUNGBLOOD ENTERPRISES, INC., P.O. Box 470, Haynesville, LA 71038. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. *Oilfield equipment, materials and supplies* from Bossier and Caddo Parishes to pts in OK, TX, AR and MS. Supporting shipper(s): Badak Energy Services, Inc., 7505 Pines Road, Suite 1220, Shreveport, LA 71129; Tri State Oil Tool Industrial, Inc., 2570 E. Texas, Bossier City, LA 71111; Oilfield Rentals Services, Inc., P.O. Box 6102, Bossier City, LA 71111.

MC 149222 (Sub-5–1TA), filed June 25, 1982. Applicant: DAVID FESSLER, R.R. #1, Swaledale, IA 50477. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Steel bins,* from Milford, IN, to Pts in Hancock County, IA. Supporting shipper: North Iowa Grain Equipment, Inc., 75 N. State Street, Garner, IA 50438.

MC 151641 (Sub-5–5TA), filed June 25, 1982. Applicant: WILLIAM E. JOHNSON, d.b.a. WILLIAM E. JOHNSON TRUCKING, 11211 Sherman Avenue, Dallas, TX 75220. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. *Food and related products* from Wichita, KS to points in NV, CA, ID, OR, WA, CO, UT, OK, NM, AZ, AR and TX. Supporting shipper: Dold Foods, Inc., 2929 N. Ohio, Wichita, KS 67219.

MC 151753 (Sub-5–7TA), filed June 25, 1982. Applicant: M. W. CYCLE HAULER, INC., 11909 Santa Fe Drive, Lenexa, KS. 66215. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS. 66612. *Paper and paper products and articles and materials and supplies necessary in the manufacture, sale and distribution of paper and paper products,* Between the Commercial zone of Aurora, OH, on the one hand, and points and places in the U.S. (except AK and HI), on the other hand. Supporting shipper: Chemtrol Adhesives, Inc., 180 Lena Drive, Aurora, OH 44202.

MC 151819 (Sub-5–27TA), filed June 24, 1982. Applicant: CARGO-MASTER, INC., 2815 Gaston Ave., Dallas, TX 75226. Representative: Jackson Salasky (same as above). *Malt beverages and related materials and supplies* from the facilities of the Joseph Schlitz Brewing Co., Winston-Salem, NC to all points in and north of VA, WV, and PA. Supporting shippers: 17.

MC 154883 (Sub-5–8TA), filed June 23, 1982. Applicant: LOGGINS TRUCKING COMPANY, P.O. Box 6676, Tyler, TX 75711. Representative: Larry Loggins (same as applicant). Contract; Irregular. *Ice Cream and Related Products,* from Lodi, NJ. to Dallas, TX. Supporting shipper: Vesel Food Distributors, Inc., 4320 Springvalley Rd., Dallas, TX 75234.

MC 154883 (Sub-5–9TA), filed June 24, 1982. Applicant: LOGGINS TRUCKING COMPANY, P.O. Box 6676, Tyler, TX 75711. Representative: Larry Loggins (same as applicant). Contract; Irregular. *Ice Cream and Related Products,* from Greencastle, PA. to points in TX. Supporting shipper: Colombo Inc., Danton Drive, Methuen, MA 01845.

MC 154883 (Sub-5–10TA), filed June 24, 1982. Applicant: LOGGINS TRUCKING COMPANY, P.O. Box 6676, Tyler, TX 75711. Representative: Larry Loggins (same as applicant). Contract; Irregular. *Ice Cream and Related Products,* from Alexandria VA to points in TX. Supporting shipper: Meadow Gold Products Inc., 400 Calvert Ave., Alexandria, VA 22313.

MC 159792 (Sub-5–3TA), filed June 25, 1982. Applicant: Mid-America Dairymen, Inc., P.O. Box 1837 S.S.S., Springfield, MO 65805. Representative: E. R. Grant (same address as applicant). *Petroleum and petroleum products (except in bulk),* from St. Louis, MO, and Ponca City, OK to the facilities of Ohio Falls Oil Co., Inc., at Louisville, KY, and Evansville Petroleum Co., Inc., at Evansville, IN. Supporting shipper: Ohio Falls Oil Company, Inc., 4509 Poplar Level Road, Louisville, KY.

MC 160879 (Sub-5–2TA), filed June 24, 1982. Applicant: MILLER SPECIALTY TRUCKING, INC., P.O. Box 414, Ardmore, OK 73401. Representative: Herbert H. Thomas, 2222 South Tower, Plaza of the Americas, Dallas, TX 75201. *General Commodities (except Classes A and B explosives, hazardous waste, household goods and commodities in bulk).* Restricted to traffic having a prior or subsequent movement by rail between Grayson County, TX, on the one hand, and on the other, points in TX and OK. Supporting Shipper: P and M Sales, Inc., Tishomingo, OK, Rio City Terminal Co., Inc., Garland, TX.

MC 162083 (Sub-5–2TA), filed June 24, 1982. Applicant: PRATER ENTERPRISES, INC., Route 2, Box 54, Canadian, TX 79014. Representative: Timothy Mashburn, P.O. Box 2207, Austin, Texas 78768–2207. *Machinery, equipment, materials and supplies used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products,* between points in Hemphill County, TX, on the one hand, and, on the other, points in Roger Mills, Custer, Ellis, Oklahoma, Harmon, Beckham, Woodward, Washita, Cimarron, Texas, Beaver, Harper, Dewey and Greer Counties, OK; Seward County, KS. Supporting Shippers: Oilfield Rental Service, Box 1229, Canadian, TX 79014; Wildcat Mud, Inc., Box 668, Canadian, TX 79014; Drilling Mud, Inc., Box 958, Canadian, TX 79014; and E.T.S. Enterprises, Inc. Box 955, Canadian, TX 79014.

MC 162576 (Sub-5–TA), filed June 24, 1982. Applicant: TANCO DISTRIBUTING COMPANY, P.O. Box 4423, El Paso, TX 79914. Representative: Gene Crutcher (same as Applican:). *Foodstuffs, including Meats, Meat By-Products and Packing House Products,* between El Paso County, TX, on the one hand, and, on the other, points in AZ, NM, and TX. Supporting Shipper: John Morrell & Company, Chicago, IL.

MC 162622 (Sub-5–1TA), filed June 24, 1982. Applicant: TRADE SHOW SPECIALISTS, INC., Route 5, Box 365, Rosie, AR 72571. Representative: R. Connor Wiggins, Jr., 100 North Main Bldg., Suite 909, Memphis, TN 38103. *Exhibit stalls, booths, paraphernalia and accessories* between Memphis, TN, Cincinnati, OH, Ft. Wayne, IN, and Jackson, MI, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shippers: Richards Manufacturing Co., Inc., 1450 East Brooks Road, Memphis, TN 38116; Aeroquip Corporation, 300 Southeast Avenue, Jackson, MI 49203; and Display Sales, Inc., 5555 Fair Lane, Cincinnati, OH 45227.

MC 162636 (Sub-5–1TA), filed June 24, 1982. Applicant: CONTRACT EXPRESS, INC., 937 State Line Road, Kansas City, MO 64101. Representative: Lawrence P. Kahn, 633 West Wisconsin Avenue,

Milwaukee, WI. 53203. Contract, irregular; *Dated publications and printed matter* from the plant site of Publisher Accredited Transportation, Kansas City, MO. U.S. Supporting shipper: Publisher Accredited Transportation, 5326 Winner Road, Kansas City, MO. 64127.

MC 162851 (Sub-5–1TA), filed June 25, 1982. Applicant: R. M. or V. W. BROACH d.b.a. BROACH CO., P.O. Box 177, Spavinaw, OK 74366. Representative: Jack R. Anderson, Suite 305 Reunion Center, 9 East Fourth Street, Tulsa, OK 74103. *(1) Industrial and Oil Field Heat Exchange Equipment and (2) equipment and materials used in the manufacture and distribution of the commodities named in part (1)* above between the plant site of The G. C. Broach Company located in Tulsa, OK on the one hand, and, on the other, all points in the U.S. (except AK and HI). Supporting shipper: The G. C. Broach Company, 7667 E. 46th Pl., Tulsa, OK 74145.

The following applications were filed in region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, 211 Main St., Suite 501, Sn Francisco, CA 94105.Q02

MC 149195 (Sub-6–16TA), filed June 21, 1982. Applicant: ARCADIAN MOTOR CARRIERS, 1100 Sierra St., Kingsburg, CA 93631. Representative: James F. Hauenstein, 1100 Sierra St., Kingsburg, CA 93631. *Lighting fixtures* from Martin, TN to points in CA, for 270 days. Supporting shipper: The Miller Company, P.O. Box 500, Martin, TN.

MC 133779 (Sub-6–5TA), filed June 17, 1982. Applicant: FUNDIS COMPANY, P.O. Box 740, Lovelock, NV 89419. Representative: Edwin Meyer, P.O. Box 7042, Reno, NV 89510. (1) *Diatomaceous Earth (diatomite), mixtures of diatomaceous earth and alkyl napthalene and sodium sulfonate, and wood pulp* from Clark and Colado, NV to points in the U.S. except for AZ, CA, ID, OR, UT, WA & WY. (2) *Materials and supplies used in the manufacture and distribution* of #1 from all points in the U.S. to Clark and Colado, NV, for 270 days. Supporting shipper: Eagle Picher Industries, Inc., P.O. Box 12130, Reno, NV 89510.

MC 1515 (Sub 6-21TA), filed June 22, 1982. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: M. G. Gragg (same as Applicant). *Common carrier,* regular route, *passengers and their baggage and express and newspapers in the same vehicles with passengers,* between Ephrata and the junction of WA State Hwy 171 and Interstate Hwy 90: From Ephrata over WA State Hwy 282 to junction of WA State Hwy 17, thence over WA State Hwy 17 to junction WA State Hwy 171, thence over WA State Hwy 171 to Moses Lake, thence over WA State Hwy 171 to junction Interstate Hwy 90 and return over the same route, serving all intermediate points for 180 days. An underlying E.T.A. seeks 90 days authority. Applicant intends to tack this authority with authority it presently holds in MC 1515. Supporting shippers: There are six (6) shippers. Their statements may be examined at the Regional Office listed above.

MC 161516 (Sub-6–1TA), filed June 22, 1982. Applicant: BRUCE HANNAH TRUCK LINES, LTD., Box 149, Acme, Alberta, CD T0M 0A0. Representative: G. Robert Crotty, Jr., 18 Sixth St. North, Room 200, Great Falls, MT 59401. *Contract Carrier,* Irregular routes: *Bulk and bag fertilizer,* from Great Falls, Conrad, Havre, Cut Bank, and Hingham, MT to U.S.-Canada ports of entry in MT, for the accounts of N. Jorgensen Fuel & Fertilizer and Alberta Sugar Co., and Southern Alberta Cooperative Association, Ltd., for 270 days. Supporting shippers: N. Jorgensen Fuel & Fertilizer, SS1–1–12, Lethbridge, Alberta Canada T1J 4B3; Alberta Sugar Co., 306 Tenth St. So., Lethbridge, Alberta, Canada T1J 2M6; and Southern Alberta Cooperative Association, Ltd., 1221 Second Ave. So., Lethbridge, Alberta, Canada T1J 0E4.

MC 162590 (Sub-6–1TA), filed June 21, 1982. Applicant: J BAR L COMPANY, INC., 1000 First Ave., N., Billings, MT 59101. Representative: Joel E. Guthals, P.O. Box 1977, Billings, MT 59103. *Contract* irregular *General commodities, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment* between points in MT under continuing contracts, with Billings Shipping Corporation, Billings Furniture Pool Association, Billings Retail Shippers Association, Montana Shippers and Receivers Association, Great Falls Shipping Association, and Missoula Shippers Association for 270 days. There are 6 shippers. Their statements may be examined at the Regional Office listed above.

MC 161885 (Sub-6–1TA), filed June 24, 1982. Applicant: ROBERT L. NEWSOM, d.b.a. NEWSOM TRANSPORTATION, 1005 Jewell Ave., Salt Lake City, UT 84104. Representative: Bruce W. Shand, Ste. 280, 311 S. State St., Salt Lake City, UT 84111. *Contract Carrier;* irregular routes: *food and related products,* from (a) Clinton, OK to Denver, CO and points in UT; (b) from Denver, CO to Points in UT and ID and (c) from Seattle, WA to points in ID and UT under a continuing contract (s) with Bar-S Foods Co., for 270 days. An ETA seeks 120 days authority. Supporting shipper: Bar-S Foods Co., 3443 N. Central Ave., Phoenix, AZ 85026.

MC 145321 (Sub-6–1TA), filed June 21, 1982. Applicant: RAY L. and CHERYLE RICHTER, d.b.a. WOOD-PLY MATERIALS TRADING AND TRANSPORT CO., P.O. Box 23127, Portland, OR 97223. Representative: Ray L. Richter (same as applicant). *Building Materials* between points in CA on the one hand, and, on the other, points in AZ, ID, CO, NM, NV, OR, and WA, for 270 days. Supporting shipper: Marine Intermodal Cooperative Assn., 4533 N. Channel Ave., Portland, OR 97208.

MC 149100 (Sub-6–12TA), filed June 24, 1982. Applicant: JIM PALMER TRUCKING, 9730 Derby Dr., Missoula, MT 59801. Representative: John T. Wirth, 717 17th St., Ste 2600, Denver, CO 80202–3357. *Contract carrier,* irregular routes: *Lumber and wood products and forest products,* from points in MT, ID, OR, and WA to points in MI, ND, SD, NE, MN, IA, WI, IL, IN, and OH, under continuing contract(s) with Viking Forest Products of Minneapolis, MN, for 270 days. Supporting shipper: Viking Forest Products, P.O.B. 35811, Minneapolis, MN 55435.

WC 1338 (Sub.-2–TA), filed June 15, 1982. Applicant: THE BINKLEY COMPANY, d.b.a. NORTHWEST NAVIGATION, P.O. Box 1065, Bethel, AK 99559. Representative: Johne Binkley (same as applicant). By order served June 24, 1982, Regional Motor Carrier Board 6 granted The Binkley Company d.b.a. Northwest Navigation, Bethel, AK 180 days temporary authority to engage in the business of transportation by water vessel, in interstate commerce: Common Carrier, General commodities, between points on the Kuskokwim River and its tributaries from its mouth to and including Medfra, AK. Supporting Shippers: Lower Kuskokwim School District, P.O.B. 305, Bethel, AK 99559, AndKusuk School District, P.O.B. 108, Aniak, AK 99557. Any interested party may file a petition for reconsideration within 20 days of the date of this publication. Within 20 days after the filing of such petition with the Commission, any interested party may file and serve a reply thereto. Petitions and replies should be sent to Regional Motor Carrier Board 6, Interstate

Commerce Commission, San Francisco, CA 94105.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-18297 Filed 7-3-82; 8:45 am]

BILLING CODE 7035-01-M

[Application MC-1527]

Released Rate

AGENCY: Interstate Commerce Commission.

ACTION: Notice. Released Rate Application No. MC-1527.

SUMMARY: National Motor Freight Traffic Association, on behalf of all common carriers and freight forwarders named as participants in the National Motor Freight Classification ICC NMF-100-I, seek to amend Released Rate Order No. MC-314 (Household Goods) by adding thereto the following Note reference:

"If shipper fails to execute the above statement or designates its value exceeding $5.00 per pound, shipment will not be accepted, but if shipment is inadvertently accepted, it will be considered as being released at the lowest valuation provided and shipment will move, and be charged for, on the basis of such limitations of liability."

ADDRESS OF APPLICANT: Mr. William W. Pugh, Counsel, National Motor Freight Traffic Association, Inc., 1616 P Street, N.W., Washington, DC 20036, Tel. (202) 797-5310.

FOR FURTHER INFORMATION CONTACT: Mr. Howard J. Rooney, Jr., Bureau of Traffic, Interstate Commerce Commission, Washington, DC 20423, Tel. (202) 275-7390 or 0782.

SUPPLEMENTARY INFORMATION: Relief is sought under 49 U.S.C. 10730 and 11707.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-18156 Filed 7-2-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket 29945]

Louisville and Nashville Railroad Company—Exemption—Abandonment in Hopkins County, KY

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the requirements of prior approval under 49 U.S.C. 10903 the abandonment by the Louisville and Nashville Railroad Company of 2.63 miles of track in Hopkins County, KY, extending from Milepost 261.31 at Romney, KY, to Milepost 263.94 at Powerfull, KY, subject to the standard labor protection.

DATES: This exemption will be effective on August 5, 1982. Petitions to stay the effectiveness of the decision must be filed by July 16, 1982, and petitions for reconsideration must be filed by July 26, 1982.

ADDRESSES: Send pleadings to:

(1) Section of Finance, Room 5449, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioners' representative: R. Lyle Key, Jr., Asst. General Solicitor, 500 Water Street, Jacksonville, FL 32202.

Pleadings should refer to Finance Docket No. 29945.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th & Constitution Ave., NW., Washington, DC 20423, (202) 289-4357—DC metropolitan area, (800) 424-5403—Toll-free for outside the DC area.

Decided: June 28, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam Commissioners Gresham, Sterrett, Andre, and Simmons.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-18158 Filed 7-3-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte 387 (Sub-167)]

Chesapeake & Ohio Railway Co.; Exemption for Contract Tariff ICC-CO-C-0016

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Tom Smerdon, (202) 275-7277.

SUPPLEMENTARY INFORMATION: The Chesapeake and Ohio Railway Company (CO) filed a petition on June 18, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract tariff ICC-CO-C-0016 filed on June 17, 1982, to become effective on one day's notice. The contract involves the movement of fertilizer.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. Short notice effectiveness of the contract will enable the shipper to move its inventory under economically feasible terms and before the end of the current fertilizer application season. Moreover, without the exemption, there is the possibility of the temporary shutdown of the shipper's phosphate mines. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

Petitioner's contract tariff ICC-CO-C-0016 may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(e) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement in this instance is not necessary to carry out the transportation policy of 49 U.S.C. 10101(a) and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(d) if protests are filed within 15 days of publication in the Federal Register.

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Dated: June 29, 1982.

By the Commission, Division 1, Commissioners Sterrett, Simmons and Gardison. Commissioner Gradison did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-18300 Filed 7-3-82; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-C-10799]

Petition for Declaratory Order; Transportation of Hazardous Wastes

AGENCY: Interstate Commerce Commission.

ACTION: Declaratory order.

SUMMARY: The Commission has determined that hazardous wastes of no economic value destined for disposal (other than nuclear or radioactive waste) do not constitute "property" within the meaning of 49 U.S.C. 10521. Accordingly, the Commission does not have jurisdiction over the for-hire transportation by motor carriers of such wastes. Administrative Ruling No. 130 is vacated.

EFFECTIVE DATE: August 6, 1982.

FOR FURTHER INFORMATION CONTACT: Paul Grossman, (202) 275–7976 or Howell I. Sporn, (202) 275–7691.

SUPPLEMENTARY INFORMATION: On November 18, 1980, the Commission's Office of Compliance and Consumer Assistance [(OCCA) formerly the Office of Consumer Protection (OCP)], issued a tentative ruling which provides that authority from the Commission is required for the transportation of hazardous materials and toxic wastes in interstate or foreign commerce by for-hire carriers. Administrative Ruling No. 130, *Transportation of Toxic Wastes*, 45 FR 78246 (November 25, 1980). OCCA's ruling was based primarily on the decision in *Nuclear Diagnostic Labs., Contr. Car. Applic.*, 131 M.C.C. 578 (1979), where the Commission concluded that it has jurisdiction over the for-hire transportation of radioactive waste materials destined for burial.

The Hazardous Waste Services Association (HWSA), by petition filed February 12, 1981, requested that the Commission stay Administrative Ruling No. 130 pending reconsideration or, alternatively, issue a declaratory order removing all uncertainty concerning the validity of the ruling. National Tank Truck Carriers, Inc. (NTTC), by petition filed February 27, 1981, sought a declaratory order revoking Administrative Ruling No. 130 and affirmatively finding that the transportation of hazardous wastes is exempt from Commission regulation. On March 4, 1981, OCCA concurred in HWSA's petition to the Commission to issue a declaratory order and asked the Commission to assert jurisdiction over the transportation of hazardous wastes.

In response to these petitions, the Commission, on April 14, 1981, instituted this declaratory order proceeding to determine whether hazardous wastes are "property" within the meaning of 49 U.S.C. 10521. Notice was published in the **Federal Register** on April 20, 1981, at 46 FR 22697.

Comments

The great majority of the comments filed in this proceeding oppose the Commission's exercise of jurisdiction over the for-hire transportation of hazardous wastes. Most of the comments consist of 1 to 2 page letters from waste management companies which simply register their opposition to the Commission exercising jurisdiction. In addition, jurisdiction is opposed in more substantial pleadings by three generators of hazardous wastes, three associations of hazardous waste companies, two carriers, and the U.S. Department of Transportation (DOT).

The Commission's exercise of jurisdiction is supported by three State regulatory commissions, two trade associations, a regulated carrier, and OCCA.

The arguments raised by the parties opposing the commission's exercise of jurisdiction may be grouped into four fundamental areas:

1. *Commission regulation will serve no useful purpose.* Opponents argue that DOT and Environmental Protection Agency (EPA) regulations are sufficient to ensure the safe carriage of hazardous waste materials, and that Commission licensing would merely impose another unnecessary layer of regulation.

2. *Cost of complying with Commission regulations.* Opponents are, of course, reluctant to absorb the costs of filing for operating authority, publishing tariffs, and complying with other Commission regulations. They argue that these costs outweigh the "benefits" of regulation.

3. *Insurance companies can perform Commission functions.* Opponents state that since DOT and EPA regulations require substantial insurance coverage for transporters of hazardous waste materials, it is standard practice for insurers to examine the proposed insured for risk before issuing policies. Insurance risks are unable to obtain insurance and, thus, may not operate legally even if there is no licensing requirement.

4. *Private carriage exception.* Opponents point out that, as a practical matter, even if hazardous waste is "property," many hazardous waste transporters will still not be obliged to obtain authority from the Commission. If the transportation is in furtherance of a "primary business" other than transportation, the transporter is not subject to the Commission's jurisdiction (49 U.S.C. 10524). Indeed, in the *Nuclear Diagnostic* case, *supra*, The Commission determined that although nuclear waste was property, the transporter in that case was exempt from Commission jurisdiction under the primary business test. 131 M.C.C. 578, at 585.

Similarly, the arguments of the parties favoring the Commission's exercise of jurisdiction may be categorized in four basic areas:

1. *Unique nature of the traffic.* Proponents argue that, unlike other hazardous materials, there is little incentive for carriers of hazardous wastes to comply with existing DOT and EPA regulations. While both the shipper and receiver will be interested in the safe carriage of hazardous materials other than wastes, the primary interest of a shipper of hazardous wastes is the elimination of the waste. It has little concern for what happens afterward. Illicit dumping then becomes a problem. A carrier doing the work for even a reputable manufacturer or government agency may dump the material indiscriminately without the generator's knowledge.

2. *Organized crime involvement in the disposal of hazardous waste.* Proponents argue that the requirement of a Commission license and the availability of Commission enforcement activities should result in greater compliance with DOT and EPA regulations. On December 16, 1980, the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce, House of Representatives, held hearings on organized crime involvement in the disposal of hazardous waste. The testimony included statements from organized crime figures to the effect that the organized crime element has had some success in subverting DOT and EPA regulations, including the manifest tracking systems employed by EPA to monitor disposal of hazardous waste.

3. *Assistance to State enforcement activities.* Regulatory bodies in Alabama, Arkansas, and Tennessee argue that the Commission's exercise of jurisdiction would aid regulation and enforcement of safety standards by the State commissions. In many cases, State commission enforcement personnel will be the only officers making the necessary spot checks of safety compliance on the highways, and these efforts could be helped by Commission licensing and the registration of operating authority with the State commission.

4. *Prospective finding of fitness.* Proponents argue that DOT and EPA sanctions relate to an after-the-fact failure to observe regulations, but they do not preclude an unfit carrier from operating. The Commission, it is argued, is in a better proition to prevent carriers who are likely to violate safety regulations from operating in interstate commerce.

Discussion and Conclusions

We have considered the comments filed in this proceeding and conclude

that hazardous wastes destined for disposal (other than nuclear or radioactive waste) do not constitute "property" within the meaning of 49 U.S.C. 10521. Accordingly, the Commission does not have jurisdiction over the for-hire transportation by motor carriers of such wastes.

Section 10521 provides, as pertinent, that the Commission has jurisdiction over the transportation by motor carriers "to the extent that passengers, property, or both," are transported in interstate or foreign commerce.

"Property" is not defined in the Act and the Commission has, from time to time, been confronted with the question of what constitutes property for the purposes of Commission jurisdiction. In *Joray Trucking Corp., Common Carrier Application,* 99 M.C.C. 109 (1965), consideration was given to whether debris and rubble constitute property. It was held that since they have no value (in fact have only a negative value) and none of the attributes commonly associated with the word property, such material should not be considered "property" for determining the jurisdictional scope of the Interstate Commerce Act. It was also found that even if these materials were regarded as property, the proposed service would still be private carriage and not subject to the Commission's regulations.

In *Long Island Nuclear Service Corp. Com. Car. Applic.,* 110 M.C.C. 398 (1969), the Commission reached a different conclusion with regard to the transportation of radioactive waste destined for burial. Like debris, these materials had no economic value or use and had no disposition other than burial at an approved site. Nevertheless, the Commission looked beyond the mere value of the materials and concluded that economic value alone is not the sole test in determining whether or not a particular commodity is "property" for jurisdicational purposes. The Commission reasoned that the term is used in the Act in its broadest sense and that the overall and substantial public interest in responsible for-hire transportation of dangerous materials must be taken into account in considering whether such commodities are included within the term "property." It was concluded that the inherent attributes of radioactive materials, even though destined for burial and even without economic value, are sufficiently important to require the Commission's continued jurisdiction over the transportation of such materials.

In *Nuclear Diagnostic, supra,* the Commission held again that radioactive waste destined for burial constitutes "property" within the meaning of the Act. The Commission reasoned that while the term "property" is subject to many different meanings, it connotes ownership as well as economic value. It concluded that the public interest and the national transportation policy (49 U.S.C. 10101) compelled use of a broader definition of the term, thus meriting jurisdiction and thereby meeting the express goals of the national transportation policy. However, the decision in the *Nuclear Diagnostic* case differed significantly from that in *Long Island Nuclear, supra,* in one important sense. The thrust of the argument in the *Nuclear Diagnostic* case for exercising jurisdiction was that the remedial aims of the Act required the Commission to exercise jurisdiction to ensure that adequate transportation service is available because many carriers considered radioactive wastes unattractive commodities to transport. In fact, the refusal of 22 rail carriers to carry radioactive wastes was the subject of extensive litigation, ultimately resulting in a decision that the Commission did hold jurisdiction over the transportation of the involved radioactive wastes. *Akron, Canton & Youngstown R.R.* v. *ICC,* 611 F. 2d 1162 (6th Cir. 1979). Accordingly, the Commission has in recent years exercised its jurisdiction over the transportation of radioactive wastes both by motor and rail carriers. The need for exercising jurisdiction in this area has arisen primarily from the reluctance of carriers to handle such wastes because of the inherent dangers of the traffic.

The Commission had not, however, attempted to exercise jurisdiction over the transportation of hazardous wastes (other than nuclear or radioactive wastes) destined for disposal, until the promulgation of Administrative Ruling No. 130. That ruling appears to be a departure from existing precedent. As a general rule, the Commission has considered commodities transported for the purpose of disposal as exempt from our regulation. See, *Transportation of "Waste" Products for Reuse,* 114 M.C.C. 92, 108 (1971) and *Joray, supra.* An exception to this general rule had been carried out for radioactive wastes for the reasons discussed above. However, we find no compelling reason to conclude that other hazardous wastes require similar treatment. For one thing, unlike in the area of radioactive wastes, there appear to be a large number of carriers and waste management companies anxious to handle hazardous waste traffic. Therefore, no argument in favor of jurisdiction can be made on the basis of a need to assure the availability of adequate transportation service.

Secondly, we cannot ignore the fact that, as a class, radioactive wastes are inherently more dangerous than other hazardous wastes. While appropriate packaging is the key to safe carriage, the failure to properly package most hazardous materials normally will result in some physical evidence of the defect (leakage, emission of fumes, etc.). With radioactive wastes, the danger is the absence of any phsyical evidence of leakage or emission.

The arguments of those favoring our exercise of jurisdiction are unconvincing. We fail to see how Commission regulation of hazardous waste traffic will solve the problem of illicit dumping or organized crime involvement in hazardous waste transportation, particularly in view of the Commission's limited budget for enforcement activities. The States are in a better position to monitor these activities. While an argument is made that regulation would aid State enforcement activities, the limited interest of only three State regulatory bodies in this proceeding would appear to diminish such an argument.

The most compelling argument in favor of exercising jurisdiction is the Commission's position of being able to assess an applicant's fitness during the application process and thereby screen out carriers who are likely to be unwilling to comply with DOT and EPA regulations. However, as noted by several commentors, many hazardous waste transporters would be exempt from the Commission's jurisdiction in any event because of the exemption from regulation contained at 49 U.S.C. 10524 for transportation in furtherance of a "primary business."

Section 306(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 49 U.S.C. 9610 *et seq.*, added subsection (h)(1) to 49 U.S.C. 11901, which increases the penalties that may be imposed on motor carriers illegally transporting hazardous wastes. Two parties favoring the Commission's exercise of jurisdiction over hazardous wastes contend that section 306(c) is an expression by Congress that these materials are subject to the Commission's jurisdiction. The legislative history of that section, however, clearly indicates that Congress was aware that the jurisdictional issue had not been settled and that section 306(c) was not intended to resolve the issue. 126 Cong. Rec. S. 16427 (Daily ed. Dec. 12, 1980). Therefore, this legislation does not appear to have any impact upon our decision here.

Accordingly, we can find no justification for excepting hazardous wastes from the general rule that commodities of no economic value are not "property" for purposes of Commission jurisdiction.

Administrative Ruling No. 130 will be vacated, and the transportation of hazardous wastes of no economic value destined for disposal (other than radioactive or nuclear wastes) will not be subject to Commission jurisdiction.

We find:

Hazardous wastes of no economic value destined for disposal (other than radioactive or nuclear wastes) do not constitute "property" within the meaning of 49 U.S.C. 10521.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

Administrative Ruling No. 130 is vacated. This proceeding is discontinued.

Decided: June 24, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham, Sterrett, Andre, and Simmons. Vice Chairman Gilliam dissented with a separate expression. Commissioner Gresham did not participate.

Agatha L. Mergenovich,

Secretary.

Vice Chairman Gilliam, dissenting

I have great faith in the abilities of the U.S. private transportation sector to function efficiently with a minimal amount of government intervention. I also believe very strongly that the competitive economic dynamics of the U.S. transportation marketplace are themselves self-enforcing in that competition itself provides greater possibilities for quality service and reasonable rates. I have long been supportive of those goals. There are instances, however, where these types of economic considerations must be overridden by a compelling practical public interest in maintaining regulation for the sake of health and safety. That principle is violated in this case. I find myself in complete and fundamental disagreement with the majority on the issue of continued regulation of the transportation of hazardous wastes. I believe that continued regulation of hazardous waste transportation is essential and necessary to public health and safety and that the Commission's decision to abandon its jurisdiction in this area is hasty, unwise and represents unsound public policy.

The majority, in rejecting arguments for retention of jurisdiction, casually asserts that that retaining jurisdiction will not "solve" illicit dumping problems or affect hazardous waste transporters acting in furtherance of a primary business. Conceding this and further conceding that our modest regulatory efforts will not "solve" the problems of organized crime or illegal dumping, the "solution" of doing nothing "solves" nothing and protects no one. How much illegal dumping could be interrupted by even a relatively small enforcement effort? What percentage of hazardous waste transporters would be exempt from our jurisdiction? How many carriers would be deterred from violations given the existence of even a modest enforcement effort? The majority opinion is silent on these questions.[1] Clearly, something other than an "all or nothing" approach is needed in this area rather than this hasty and unfortunate rush to leave the field.

In addition to promulgating poor public policy, the decision also does violence to the case law that is used to buttress it. The decision holds hazardous wastes not to be "property" while claiming that our continuing jurisdiction over radioactive waste is "an exception to the general rule" that commodities transported for the purpose of disposal are exempt from Commission regulation. The Commission last provided guidance on the issue of hazardous waste as property in *Nuclear Diagnostic Labs Contr. Car. Applic.* 131 M.C.C. 578 (1979). There we approved the following factors for use in determining whether waste is property:

1. Whether the materials are transported over long distances;

2. Whether they generate significant public concern; and

3. Whether carriers may consider them unattractive to transport. *Id.*, at 581.

There is no doubt that radioactive wastes in that case met these requirements and were properly classified as property, thus making them subject to our regulation. In the instant case, however, the majority refuses to accord the same protection to the public in the case of hazardous waste. So, according to this decision we now have a peculiar dichotomy in which hazardous radioactive waste is subject to our regulation while more "ordinary" but still hazardous waste is not. I find such reasoning tortuously strained and the attempted distinctions unpersuasive.[2]

In sum, I find this decision in error on both law and public policy. Our hasty exit from this important area does not serve the public well. Additionally, this decision does a disservice to the thousands of conscientious shippers and transporters of hazardous wastes who properly rely on *someone* to keep the rotten apples off the road so as to help preserve and assure good safety records and reasonable insurance premiums. I strongly dissent from this decision which tells the public and the industry that they should no longer look to the ICC for assistance.

[FR Doc. 82-18280 Filed 7-2-82; 8:45 am]

BILLING CODE 7035-01-M

[1] The scope and magnitude of the problem is indicated by the fact that in 1980 EPA received notice from 35,000 entities indicating plans to generate, dispose of or transport hazardous wastes.

[2] Additionally, the decision's effort to rely on *Transportation of Waste Products for Reuse* 114 M.C.C. 92 (1971) and *Jorgy Trucking Corp. Com. Car. Applic.*, 99 M.C.C. 109 (1965) fails because neither case involved hazardous wastes.

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

Office of Juvenile Justice and Delinquency Prevention; National Institute for Juvenile Justice and Delinquency Prevention; Announcement of Cancellation of the National Juvenile Justice Standards Resource and Demonstration Program

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Announcement of cancellation of draft solicitation for applications for the National Juvenile Justice Standards Resource and Demonstration Program.

SUMMARY: Notice is hereby given that the National Institute for Juvenile Justice and Delinquency Prevention, Office of Juvenile Justice and Delinquency Prevention, pursuant to the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 42 U.S.C. 5601 et seq., is cancelling its Draft Solicitation for Applications: National Juvenile Justice Standards Resource and Demonstration Program, which was announced in the Federal Register, Vol. 47, No. 116, Wednesday, June 16, 1982, pp. 26055–26056.

FOR FURTHER INFORMATION CONTACT: Barabara Allen-Hagen, National Institute for Juvenile Justice and Delinquency Prevention, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue N.W., Washington, D.C. 20531. Telephone: 202/724–7573.

SUPPLEMENTARY INFORMATION: The National Institute for Juvenile Justice and Delinquency Prevention is cancelling, until further notice, the National Juvenile Justice Standards Resource and Demonstration Program for the following reasons:

(1) The proposed program addresses a primary statutory function of the National Advisory Committee (NAC) for Juvenile Justice and delinquency Prevention;

(2) OJJDP wishes to have the NAC review and officially advise the Office on the direction, scope and methodology of future standards activities; and

(3) The NAC is considering as an agenda item for its work the development of model legislation based on standards. Therefore the relationship of the Demonstration Program to the possible model code work must be examined.

Parties who would have been interested in responding to the draft solicitation are advised to do no further work on it.

Other options for accomplishing standards adoption and implementation are being considered.

Charles A. Lauer,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 82-18209 Filed 7-2-82; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Office of Pension and Welfare Benefit Programs

[Application No. D-3115]

Proposed Exemption for Certain Transactions Involving the Stout-Wall Research, Inc., Profit Sharing Plan Located in Loveland, Colorado

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt: (1) For a period of seven years, the proposed loans of money (the Loans) by the Stout-Wall Research, Inc. Profit Sharing Plan (the Plan) to Stout-Wall Research, Inc. (the Employer); and (2) the guarantee of the obligation of the Employer in such Loans by Roy C. Stout, Jr. (Stout) and Robert Wall (Wall), parties in interest with respect to the Plan. The proposed exemption, if granted, would affect the Employer, Stout, Wall, the participants and beneficiaries of the Plan and other persons participating in the proposed transactions.

DATES: Written comments and requests for a public hearing must be received by the Department on or before August 20, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-3115. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Katherine D. Lewis of the Department, telephone (202) 523-8972. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the trustee of the Plan, Affiliated First National Bank of Loveland, Colorado (the Bank), pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a profit sharing plan with ten participants and net assets of approximately $131,655 on March 31, 1982. The Employer is a Colorado corporation engaged in the formulation and marketing of agricultural chemicals. Fifty percent of the outstanding stock of the Employer is owned by Wall and fifty percent is owned by Stout.

2. An exemption is requested to permit the Plan to enter into a loan agreement (the Loan Agreement) with the Employer whereby the Plan will periodically lend to the Employer amounts of money up to an aggregate at any point in time of 25 percent of the Plan's assets. The Loans will be made over a seven year period, the first day of which will be the date the grant of an exemption is published in the Federal Register. All of the proposed Loans will mature and become due and payable on or before the last day of such seven year period. The interest rate for any Loan granted under the Loan Agreement will be the prime rate charged by the Bank in effect at the time of the making of the Loan. In no event will the rate of interest on any Loan be less than 11 percent per annum. Each Loan will have a maturity of not more than 180 days. Upon maturity, the entire principal amount of each Loan plus accrued interest will be due and payable.

3. All Loans made under the Loan Agreement will be secured by a perfected first security interest in the accounts receivable (the Receivables) of the Employer. The Receivables will have, at all times during the term of the Loan Agreement, a value in excess of 200 percent of the outstanding aggregate Loan balances. A security agreement and financing statement will be executed by the Employer and the Plan, evidencing the Plan's first security interest in the Receivables. The Employer states that in 1981 the company had sales of $1,500,000 and Receivables of $142,000 at the end of the year. The normal turnover time for Receivables is four to six months.

4. Mr. Larry Scott (Scott), president of University National Bank, Fort Collins, Colorado, will act as an independent fiduciary for the Plan with respect to the proposed Loans. Scott is independent of the Employer and its shareholders and has had extensive experience in the areas of pension plans and investments. Scott represents that he has reviewed the proposed Loan Agreement, the needs of the Plan for liquidity and diversification and the overall investment scheme of the Plan, and has determined that the Loan Agreement is in the best interest of the Plan and its participants and beneficiaries. Prior to the execution of any Loan, Scott will review the terms of the Loan, render a judgment as to its suitability as a Plan investment, and throughout its duration, monitor the terms of the Loan and the Loan Agreement. Scott will ensure that the Plan has, at all times, a perfected first security interest in Receivables having a value of at least 200 percent of the aggregate outstanding loan balances. The applicants represent that in the event of any default on a Loan, Scott will be in a position to step in and effectively take over Receivables collections in an amount adequate to pay off the Loans.

5. In addition, Stout and Wall will commit, through their personal guarantees, their respective interests in all assets and resources of the Employer as well as their own personal resources to repayment of any Loans within thirty days of default by the Employer, in the event that the Loans are not repaid through the collection of Receivables. The combined net worth of Stout and Wall is approximately $1,000,000.

6. The trustee of the Plan has determined that the Loan Agreement is

in the best interests and protective of the Plan and its participants and beneficiaries.

7. In summary, the applicants represent that the proposed transactions meet the statutory criteria of section 408(a) of the Act because: (1) The loans will bear a high rate of interest with a floor of 11% per annum and will at all times be secured by the Receivables with a value of at least 200 percent of the outstanding loan balances; (2) the Plan will have a first security interest in the Receivables; (3) Stout and Wall personally guarantee repayment of the Loans; (4) Scott, acting as independent fiduciary for the Plan, has determined that the proposed Loan Agreement is in the best interests of the Plan's participants and beneficiaries; (5) Scott will approve each Loan made under the Loan Agreement, monitor the compliance with the terms of the Loans, and take any steps necessary to enforce the rights of the Plan with regard to the Loans; and (6) the Bank, as trustee of the Plan, has determined that the proposed Loan Agreement is in the best interests of the Plan and its participants and beneficiaries.

Notice to Interested Persons

All participants and beneficiaries of the Plan will be provided with a copy of the notice of pendency as published in the **Federal Register** and a statement informing them of their right to comment and/or request a hearing regarding the proposed exemption. The notice will be hand delivered to all participants and beneficiaries and a copy of the notice will be posted on the bulletin board of the Employer within 15 days after publication of the notice of pendency in the **Federal Register**.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 25, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply for a seven year period to the Loans of money by the Plan to the Employer as described herein, provided that the outstanding balances of such Loans do not, at any time exceed 25 percent of the assets of the Plan and that the terms of the Loans are at least as favorable to the Plan as those obtainable in an arm's-length transaction with an unrelated party.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C. this 30th day of June 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-18234 Filed 7-2-82; 8:45]

BILLING CODE 4510-29-M

[Application No. D-2277]

Proposed Exemption for Certain Transactions Involving the Racine Neurosurgical Associates, S.C., Restated Pension Plan and Trust Located in Racine, Wis.

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed loan (the Proposed Loan) of $100,000 by the Racine Neurosurgical Associates, S.C. Restated Pension Plan and Trust (the Plan), to Kandem Associates (the Partnership), a party in interest with respect to the Plan. The proposed exemption, if granted, would affect the participants and beneficiaries of the Plan and the Partnership.

DATES: Written comments and requests for a public hearing must be received by the Department on or before August 11, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-2277. The application for exemption and the comments received will be available for public inspection in the

Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Horace C. Green of the Department, telephone (202) 523–8196. (This is not a toll-free numer.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an appliction for exemption from the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by Jose Kanshepolsky, M.D. (Kanshepolsky), the trustee (the Trustee) of the Plan pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. Racine Neurosurgical Associates, S.C. (the Employer), a Wisconsin professional medical service corporation, established the Plan as a defined benefit plan on June 1, 1976. As of October 31, 1981, the Plan had three participants and total assets of 691,292. The investment decisions for the Plan are made by the Trustee.

2. The applicant is requesting an exemption which would permit the Plan to make the Proposed Loan to the partnership. The Partnership is a land partnership of which 100 percent of the capital interest is equally owned by Kanshepolsky and John T. Dembowiak. The proceeds of the Proposed Loan would be used to assist the Partnership in financing the construction of a professional medical office building (the Building), located at 822 Wisconsin Avenue, Racine, Wisconsin. An appraisal performed by E. J. Aronin, (Aronin) Realtors, which is independent of the parties to the transaction, valued the Building at $300,000 as of June 18, 1981. It is represented that: (a) the Building is the only asset of the Partnership; and (b) the Partnership has no outstanding liabilities other than $3,000 of finishing work.

3. The Proposed Loan would be evidenced by a promissory note (the Note) which would have a term of 15 years. The Note will bear interest at a rate of 1% over the First Wisconsin Bank of Milwaukee, Wisconsin prime rate adjusted quarterly, with a floor equal to the lesser of 14% or five percentage points over the Federal Reserve discount rate in the Chicago Federal Reserve District. Repayments will be made in monthly installments to cover principal and interest. The Proposed Loan would represent approximately 14% of the assets of this Plan as of October 31, 1981.

4. The Proposed Loan will be secured by but not limited to the following collateral (the Collateral): (a) a second mortgage (the Second Mortgage) on Kanshepolsky's residence (the Residence) in Racine, Wisconsin which is valued at $162,700 by an appraisal and is subject to a first mortgage of $100,000, and (b) Kanshepolsky's 50% interest in the Partnership, valued at approximately $150,000. The appraisal was performed by Aronin, on June 18, 1981. John T. Dembowiak, the co-partner of the Partnership represents that he will consent to the pledge by Kanshepolsky of the 50% Partnership interest. The applicant represents that under the relevant statutes of the State of Wisconsin, a partner's interest in a partnership is considered personal property and can be assigned and pledged to a third person.

5. A security agreement and UCC financing statement (collectively, the Documents) will be executed by the Plan and the Partnership recording the 50% secured interest in the Partnership assets. The Documents along with the Second Mortgage will be duly filed with the Register of Deeds of Racine, Wisconsin recording the Plan's secured interest in the Partnership and the Residence.

6. The Marine Trust Company, N.A. (the Bank) of Racine, Wisconsin, has been appointed as an independent fiduciary with respect to the transaction. The Bank is independent of the parties to the transaction. It is represented that after reviewing the proposed transaction, the Bank believes that it is in the best interests of the Plan participants and beneficiaries and is protective of their rights. The Bank will monitor all the terms and conditions of the Proposed Loan and will enforce collection of the Proposed Loan in the event of default.

7. The Bank will require the Partnership to provide additional collateral when in its judgment, the market value of the Collateral is less than 150% of the remaining unpaid balance of the Proposed Plan. In such an instance, the Bank will be provided with appraisals of additional collateral, performed by independent appraisers, the cost of which will be borne by the Partnership. It is represented that if the Collateral is less than 150% and additional collateral cannot be provided, the Partnership shall deposit with the Bank the required cash amount so that the value of the Collateral will always represent no less than 150% of the remaining unpaid balance of the Proposed Loan.

8. In summary, the applicant represents that the criteria contained in section 408(a) of the Act have been satisfied as follows: (a) The Bank represents that the Proposed Loan is in the best interests of the Plan participants and beneficiaries and is protective of their rights; (b) the Proposed Loan will at all times be secured by the Collateral with a value of at least 150% of the outstanding balance of the Proposed Loan; (c) the Plan will have a secured interest in the Collateral; and (d) the Bank will monitor all the terms and conditions of the Proposed Loan and will enforce collection of the Proposed Loan in event of default.

Notice to Interested Persons

Notice of the proposed exemption will be provided to all present participants and beneficiaries and to other interested parties. This notice shall be made by posting at the usual places of such notices to employees and by first class mail to other interested parties. Notice shall be given within 5 days of the date the notice of pendency of such exemption is published in the **Federal Register**. Such notice shall include a copy of the notice of pendency and shall inform all interested persons of their right to comment or to request a hearing regarding the requested exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not believe a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and

the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interests of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the Proposed Loan as described herein, provided that the terms and conditions of the Proposed Loan will be and remain at least as favorable to the Plan as an arm's length transaction would be with an unrelated party.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 30th day of June 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-18235 Filed 7-2-82; 8:45 am]

BILLING CODE 4510-29-M

[Application Nos. D-3320 and D-3321]

Proposed Exemption for Certain Transactions Involving the Teamsters Joint Council No. 83 of Virginia Health and Welfare Fund and the Teamsters Joint Council No. 83 of Virginia Pension Fund Located in Richmond, Va.

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the lease of office space by the Teamsters Joint Council No. 83 of Virginia Health and Welfare Fund and the Teamsters Joint Council No. 83 of Virginia Pension Fund (the Funds) to On-Line Computers, Inc. (On-Line), a service provider to the Funds and therefore a party in interest. The proposed exemption, if granted, would affect participants and beneficiaries of the Funds and On-Line.

DATES: Written comments must be received by the Department on or before August 16, 1982.

EFFECTIVE DATE: If granted the exemption will be effective March 25, 1982.

ADDRESS: All written comments (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application Nos. D-3320 and D-3321. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code. The proposed exemption was requested in an application filed by legal counsel for the Funds, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Funds are both multiemployer, jointly-trusted Taft-Hartley plans. The same persons serve on the Boards of Trustees of both Funds. Messrs. Ronald Jenkins and Earl Perkins serve as Union Trustees and Messrs. Don G. Wilson and John W. Pearsall serve as Employer Trustees (collectively, the Trustees). The Trustees have delegated authority to manage the Funds' day-to-day operations to Mr. Joseph E. Gross, the Administrator of the Funds. The Welfare Fund has approximately 6,500 participants, and the Pension Fund has

approximately 5,500, located throughout the Commonwealth of Virginia.

2. The administration of the Funds involves a substantial operational staff and the processing of voluminous records. In June 1978 the Funds hired On-Line to develop a software package to permit all of the Funds' recordkeeping and most of their other administrative functions to be computerized. On-Line is a corporation based in Richmond, Virginia, which develops, markets and maintains computer software packages for a variety of customers in Richmond and elsewhere. In December 1979 the custom-designed software package for the Funds was completed by On-Line and implemented by the Funds. As a result, all of the records of the Funds are maintained on computers. In addition, many of the administrative functions of the Funds, including all of their accounting and check-writing functions, all of their benefit claims, and some of their correspondence, are processed with the aid of the computer.

3. In addition to custom-designing the Funds' soft-ware package, On-Line has entered into a servicing arrangement with the Funds whereby, for a monthly fee of $600, On-Line maintains and enhances the programs. Pursuant to this arrangement, if a software problem occurs which causes the program to malfunction, On-Line will correct it. In most instances, it is necessary for On-Line personnel to come to the offices of the Funds to analyze the malfunction, determine a possible solution and test the solution to see if it corrects the problem. In addition to correcting "bugs" which occur in the programs, under the servicing arrangement On-Line also provides the Funds with enhancement of the software packages. Such enhancement may be necessitated by changes in regulatory requirements or by modifications or additions to the benefits provided by the Funds. Again the development of the necessary modifications to the software package may require several trips by On-Line personnel to the Funds' offices for systems analysis and testing.

4. On-Line's offices, prior to the present lease, were situated in another part of Richmond from the Funds' offices. Therefore, if a software problem developed, there was generally some lag time before On-Line personnel could be contacted and could make the trip to the Funds' offices to observe and analyze the problem, and take corrective action. During this lag time, thirty-four employees of the Funds were idled. Since payroll and related costs for the Funds' operations are approximately $17,000 per week, the Fund Administrator estimated that each hour of computer down time resulted in approximately a $500 productivity loss to the Funds.

5. The Trustees determined that it would be beneficial to the Funds to have On-Line personnel immediately available to the Funds' offices, thereby eliminating the lag time involved in contacting On-Line personnel and requiring them to travel across town to correct the Funds' software problems. Therefore, the Trustees leased to On-Line office space in a new office building constructed by the Funds at 8814 Fargo Road in Richmond, Virginia which serves as the Funds' headquarters for their administrative operations. None of the Trustees had any ownership interest, or any other interest, in On-Line which could have affected their fiduciary judgment on behalf of the Funds.

6. The office building consists of approximately 24,914 sq. ft. of space. The Funds intend initially to occupy approximately 13,385 sq. ft. of the building for their operations, and to rent out the balance of the space. The Trustees leased to On-Line approximately 569 sq. ft. of office space adjacent to the space which the Funds will occupy.

7. The terms and conditions of the lease were the same as those offered to all other tenants in the building. The terms and conditions of rentals in the building have been negotiated by Virginia Realty and Development Co. (Virginia Realty), an independent professional property manager which has been retained by the Funds to manage the building. Virginia Realty, it is represented, has made its determination of appropriate rental rates and terms based upon its own expertise in and knowledge of the commercial rental market in Richmond, and based upon the results of arms-length negotiations with unrelated tenants for the building.

8. The Funds rented the space to On-Line for a term of five years. The initial annual rental rate is $11.50 per sq. ft. The lease provides that the base rent will be increased seven percent annually to reflect an estimated increase in the cost of living. There were no real estate commissions charged in regard to the On-Line lease.

9. As property manager, Virginia Realty is responsible for monitoring the On-Line lease, for collecting rental payments as they become due, including such additional rent as becomes due as a result of the lease's escalation provisions, and for taking any appropriate steps to correct any default on the part of On-Line.

10. In summary, the applicants represent that the transaction meets the statutory criteria for an exemption under section 408(a) of the Act because (a) the terms and conditions of the lease have been developed and are being monitored by Virginia Realty, a professional realty firm which is represented to be fully conversant with the commercial rental market in Richmond and which is independent of On-Line; (b) the terms and conditions were the same as those which were being made available to the unrelated tenants occupying the building; and (c) the Trustees have determined that the transaction is appropriate for the Funds and is in the best interest of the Funds and their participants and beneficiaries.

Notice to Interested Persons

The Trustees will provide notice of the proposed exemption to all participants and beneficiaries of the Funds, to all employers contributing to the Funds, and to each employee organization whose members are participants in the Funds. The notice will include a copy of the Notice of Proposed Exemption published by the Department in the **Federal Register**, together with a statement that interested persons have a right to file written comments regarding the proposed exemption. The notice will be posted in conspicuous locations at the Funds' offices and at all hiring halls where the Funds' participants and potential employees of employers who are obligated to make contributions to the Funds normally congregate. In addition, such information will be mailed, postage prepaid, to each employer who is obligated to make contributions to either of the Funds, and to each employee organization with members who are participants in the Funds, with a request that they post the information in a conspicuous location where employees/members will be likely to see it. Such notification shall take place within ten days after publication of the Notice of Proposed Exemption in the **Federal Register**.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4957(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to

which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b) of the Act and section 4975(c)(1)(E) and (F) of the Code:

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments

All interested persons are invited to submit written comments on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to the lease of office space by the Funds to On-Line, provided that the terms of the transaction are not less favorable to the Funds than those obtainable in an arm's-length transaction with an unrelated party.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction which is the subject of the proposed exemption.

Signed at Washington, D.C., this 30th day of June 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-16236 Filed 7-2-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-112; Exemption Application Nos. D-2763, D-2764 and D-2765]

Exemption From the Prohibitions for Certain Transactions Involving the Retirement and Security Program for Employees of National Rural Electric Cooperative, the Savings Plan for Employees of National Rural Electrical Cooperative and National Rural Electric Association Group Insurance Program Located in Washington, D.C.

AGENCY: Office of Pension and Welfare Benefit Program, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits: (1) The establishment and operation of a partnership (the Partnership) between the Retirement & Security Program for Employees of National Rural Electric Cooperative (the R & S Plan), the Savings Plan for Employees of National Rural Electric Cooperative (the Savings Plan) and the National Rural Electric Cooperative Association Group Insurance Program (the Group Plan, collectively, the Plans), for the purchase of a computer system (the Computer), where the Plans are administered by a common trustee, Wachovia Bank and Trust Company (Wachovia); and (2) the lease of the Computer by the Partnership to the Plans, the National Rural Electric Cooperative Association (NRECA), and the Retirement, Safety and Insurance Committee of NRECA (the RS & I Committee), parties in interest with respect to the Plans.

FOR FURTHER INFORMATION CONTACT: Louis Campagna of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523-8883. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On April 9, 1982, notice was published in the **Federal Register** (47 FR 15447) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for transactions described in an application filed by Wachovia and NRECA. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicants have represented that they have complied with the requirements of notice to interested persons as stated in the notice of pendency. No public comments and no requests for a hearing were received by the Department. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited

transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plans and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plans.

Accordingly the restrictions of section 406(a), 406(b)(1) amd 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to: (1) The establishment and operation of the Partnership for the purchase and use of the Computer where the Plans are administered by Wachovia, a common trustee, provided the terms and conditions of the Partnership are at least as favorable to each Plan as each Plan could obtain in a similar transaction with an unrelated party; and (2) the leases of the Computer by the Partnership to the Plans, the RS & I Committee and NRECA, provided the terms and conditions of the leases are at least as favorable to the Plans as the Plans could obtain in similar transactions with unrelated parties.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 30th day of June 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82–18237 Filed 7–2–82; 8:45 am]

BILLING CODE 4510–29–M

[Prohibited Transaction Exemption 82–113; Exemption Application No. D–2918]

Exemption From the Prohibitions for Certain Transactions Involving Mutual Life Insurance Co. of New York Located in New York, New York

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits: (1) The proposed allocation and offering of certain interests in equity real estate investments (the Investments) between the general account (General Account) of Mutual Life Insurance Company of New York (MONY) and PA–7, an equity real estate separate account established by MONY in which employee benefit plans (the Plans) invest; and (2) the transfer of all or a fractional interest in such Investments by the General Account to PA–7.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Sandler of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523–8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On February 5, 1982, notice was published in the **Federal Register** (47 FR 5520) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b) (1) and (2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the above-described transactions. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice was distributed to interested persons in accordance with the requirements set forth in the proposed exemption. No public comments and no requests for a hearing were received by the Department. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plans and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plans.

Accordingly the restrictions of section 406(a), 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to: (1) The allocation and offering by MONY of the Investments between the General Account and PA–7; and (2) the transfer of all or a fractional interest in an investment by the General Account to PA–7.

The availability of this exemption is subject to the express conditon that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 30th day of June 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82–18238 Filed 7–2–82; 8:45 am]

BILLING CODE 4510–29–M

[Prohibited Transaction Exemption 82–114; Exemption Application No. D–2839]

Exemption From the Prohibitions for Certain Transactions Involving the Lincoln County National Bank Employee Pension Plan Located in Danville, Kentucky

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemption

SUMMARY: This exemption retroactively permits the sale on December 24, 1980 by the Lincoln County National Bank Employee Pension Plan (the Plan) of certain real estate notes and mortgages (the Mortgages) originated by the Plan to Lincoln County National Bank (the Employer), a party in interest with respect to the Plan.

FOR FURTHER INFORMATION CONTACT: Mr. Horace C. Green of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On April 9, 1982, notice was published in the **Federal Register** (47 FR 15411) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for the above described transactions. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it has complied with the requirements of notification to interested persons as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale for cash of $249,338.49 by the Plan of the Mortgages to the Employer on December 24, 1980, provided the

sales price of the Mortgages was not less than the fair market value of the Mortgages at the time of the sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 30th day of June 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-18239 Filed 7-2-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3400]

Proposed Exemption for Certain Transactions Involving the Clint N. Paschal, D.M.D., P.C. Profit Sharing Plan Located in Columbus, Ga.

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the cash sale by the Clint N. Paschal, D.M.D., P.C. Profit Sharing Plan (the Plan) of certain unimproved real property (the Real Property) to Dr. Clint N. Paschal (Dr. Paschal) a disqualified person with respect to the Plan. Since Dr. Paschal is the sole shareholder of Clint N. Paschal D.M.D., P.C. (the Employer) as well as the only participant in the Plan, there is no jurisdiction under Title I of the Employee Retirement Income Security Act of 1974 (the Act) pursuant to 29 CFR 2510.3-3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code. The proposed exemption, if granted, would affect the Plan, Dr. Paschal and others participating in the transaction.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before August 10, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-3400. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department of Labor, telephone (202) 523-8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Plan, pursuant to section 4975(c)(2) of the Code, and in accordance with procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722. Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Employer is a professional corporation, organized under the laws of the State of Georgia and engaged in the business of providing dental services. The Employer maintains its practice at 1300 Wynnton Road, Columbus, Georgia.

2. The Plan is a profit sharing plan having Dr. Paschal as its only participant. The Plan had net assets of $52,357 as of March 31, 1982. Dr. Paschal is also the trustee of the Plan and in this capacity, directs the investments of the Plan.

3. On September 25, 1980, the Plan purchased the Real Property, which is adjacent to the Employer's place of business, from Mr. Jack F. King, an unrelated party. The Real Property is located at 1326 Wynnton Road, Columbus, Georgia. The consideration paid by the Plan was $45,000 in cash at the time of closing. The Plan was also responsible for paying certain closing costs totaling $656.

4. To finance its acquisition of the Real Property, the Plan obtained a loan (the Loan) in the amount of $30,000 from an unrelated party, Trust Company of Columbus, located in Columbus, Georgia. The Loan, which is payable on demand, carries an annual interest rate of 13.2 percent and is secured by the Real Property. To date, the principal balance of the Loan has not been reduced since the time of its making.

5. The Plan's original objective with respect to its investment in the Real Property was to develop a professional office complex on the land and then lease the offices to physicians in the Columbus, Georgia area. Because the Plan has been unable to achieve its purpose, due to a lack of demand for office space and the unavailability of adequate financing, the Real Property has remained undeveloped. Although the Plan has attempted to sell the Real Property to unrelated parties for $50,000, it has received no offers. Therefore, an exemption is requested to sell the Real Property to Dr. Paschal for cash at its current fair market value of $50,000. Neither party will incur any real estate fees or commissions in connection with the sale.

6. The sales price for the Real Property is based on identical appraised valuations prepared in March and May 1982 by three independent appraisers who maintain realty and appraisal business in the Columbus, Georgia area: Messrs. Murray A. Calhoun (of Calhoun Realty Company), Robert H. Rowe (of Rowe Realty Company) and William P. Cliatt (of Cliatt Appraisal Company). Mr. Cliatt notes in his appraisal report that the Real Property is of no unique or special value to either the Employer or Dr. Paschal by virtue of its proximity to the Employer's place of business.

7. In summary, it is represented that the proposed transaction meets the statutory criteria for an exemption under section 4975(c)(2) of the Code because: (a) The Real Property will be sold at its fair market value price as determined by independent appraisals at the time the transaction is consummated; (b) the sale represents a one-time transaction for cash which can be verified easily; (c) the sale will not involve the payment of any real estate commissions or fees by either the Plan or Dr. Paschal; and (d) the only participant affected by the transaction is Dr. Paschal, who approves of the transaction and desires that it be consummated.

Notice to Interested Persons

Because Dr. Paschal is the only participant in the Plan and the sole shareholder of the Employer, it has been determined that there is no need to distribute the notice of pendency to interested persons.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 4975(c)(2) of the Code does not relieve a fiduciary or other disqualified person from certain other provisions of the Code, including any prohibited transaction provisions to which the exemption does not apply; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722. If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the cash sale of the Real Property for $50,000 by the Plan to Dr. Paschal, provided the amount paid is not less than the fair market value on the date the sale is consummated.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 30th day of June 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82–18233 Filed 7–3–82; 8:45 am]

BILLING CODE 4510–29–M

[Prohibited Transaction Exemption 82–107; Exemption Application No. D–3011]

Exemption From the Prohibitions for Certain Transactions Involving the Shearson/American Express, Inc., Keogh Plan Located in Longmeadow, Mass.

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption will permit (1) the sale to the Shearson/American Express, Inc. Keogh Plan for the account of Dr. George Franklin (the Plan) of a one-half interest in a parcel of real property (the Property) by the Bar Realty Trust (the Realty Trust); and (2) the assumption by the Plan of the Realty Trust's obligations pursuant to a mortgage on the Property. Because Dr. Franklin is the only participant in the Plan, there is no jurisdiction under Title I of the Employer Retirement Income Security Act of 1974 (the Act) pursuant to 29 CFR 2510.3–3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Internal Revenue Code of 1954 (the Code).

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On May 14, 1982, notice was published in the **Federal Register** (47 FR 20884) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(A) through (E) of the Code, for the above-described transactions. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 4975(c)(2) of the Code does not relieve a fiduciary or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Code, including any prohibited transaction provisions to which the exemption does not apply: nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or

transitional rule is not dispositive of whether the transactions is, in fact, a prohibited transaction.

Exemption

In accordance with section 4975(c)(2) of the Code and the procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722, and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participant and beneficiaries; and

(c) It is protective of the rights of the participant and beneficiaries of the Plan.

Accordingly the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale to the Plan by the Realty Trust of its one-half interest in the Property and the assumption by the Plan of the Realty Trust's obligations pursuant to the mortgage on the Property, provided that the sales price of the one-half interest in the Property is not in excess of its fair market value at the date of sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 30th day of June 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-18227 Filed 7-3-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-110; Exemption Application No. D-3240]

Exemption From the Prohibitions for Certain Transactions Involving Plastic Surgery Associates, Ltd., Pension Plan Located in St. Paul, Minn.

AGENCY: Office of Pension and Welfare Benefit Programs, Labor

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption will permit the proposed sale of a certain parcel of real property (the Property) from the segregated investment account of Dr. Frank Pilney (the Account) in the Plastic Surgery Associates, Ltd. Pension Plan (the Plan) to Dr. Frank Pilney (Dr. Pilney), a party in interest with respect to the Plan.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On May 14, 1982, notice was published in the **Federal Register** (47 FR 20881) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for the above-described transaction. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale of the Property from Dr. Pilney's Account to Dr. Pilney for $14,000, provided that this amount is not less than the fair market value of the Property on the date of sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 30th day of June 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-18230 Filed 7-2-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-111 Exemption Application No. D-2936]

Exemption From the Prohibitions for Certain Transactions Involving Caldwell and Fisher Keogh Plan Located in Jackson, Tenn.

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the past sale of common stock (the Stock) by the Caldwell and Fisher Keogh Plan (the Plan) to Raleigh Fisher, a disqualified person with respect to the Plan. Mr. Fisher is also an owner-employee with respect to the Plan as defined in section 401(C)(3) of the Intenal Revenue Code of 1954 (the Code) due to his 50% ownership of Caldwell and Fisher, the Plan sponsor. Section 408(d)(3) of Title I of ERISA (the Act) provides that the Department of Labor (the Department) lacks authority to grant an exemption under section 408(a) of the Act for the sale of any property by a plan to an owner-employee. Therefore, the Department cannot grant an exemption under Title I for the sale of the Stock. However, there is jurisdiction under Title II of the Act, pursuant to section 4975 of the Code.

FOR FURTHER INFORMATION CONTACT: Mr.Robert Sandler of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523-8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On April 20, 1982, notice was published in the **Federal Register** (47 FR 16914) of the pendency before the Department of a proposal to grant an exemption from the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code, for the above-described transaction. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington,D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to the exemption. The applicant has represented that a copy of the notice was distributed in accordance with the requirements set forth in the proposed exemption. No public comments and no requests for a hearing were received by the Department. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 4975(c)(2) of the Code does not relieve a fiduciary or other disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the code that a plan must operate for the exclusive benefit of the emloyees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406 of the Act and section 4975 (c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 4957(c)(2) of the Code and the procedure set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply, effective July 31, 1979, to the sale of the Stock by the Plan to Raleigh Fisher, provided that the sales price of the Stock represented at least the market value of the Stock at the time of sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately described all material terms of the transaction that is the subject of this exemption.

Signed at Washington, D.C., this 30th day of June, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-18231 Filed 7-2-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-100; Exemption Application No. D-3194]

Exemption From the Prohibitions for a Certain Transaction Involving the Jim D. Owen, Pension Plan Trust for Self-Employed Individuals, Single-Employer Plan Located in Knoxville, Tenn.

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption exempts the sale of a tract of real property, located in Hancock County, Tennessee (the Property) to the Jim D. Owen, Pension Plan Trust for Self-Employed Individuals, Single-Employer Plan (the Plan) by Mr. and Mrs. Jim D. Owen, disqualified persons with respect to the Plan. Since Mr. Owen is the only participant in the Plan, which is an HR-10 Plan, there is no jurisdiction under Title I of the Employee Retirement Income Security Act of 1974 (the Act) pursuant to 29 CFR 2510.3-3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Internal Revenue Code of 1954 (the Code).

Tax consequences of transaction: The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and

its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Code, including sections 401(a)(4), 404 and 415.

EFFECTIVE DATE: This exemption is effective April 15, 1979

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On May 18, 1982, notice was published in the **Federal Register** (47 FR 21351) of the pendency before the Department of Labor (the Department) or a proposal to grant an exemption from the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code, for a transaction described in an application filed by Mr. Owen. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 4975(c)(2) of the Code does not relieve a fiduciary or other disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 4975(c)(2) of the Code and the procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722, and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participant and beneficiaries; and

(c) It is protective of the rights of the participant and beneficiaries of the Plan.

Accordingly the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the April 15, 1979 sale of the Property to the Plan by Mr. and Mrs. Jim D. Owen for $9,000, provided that this amount was not higher than the fair market value of the Property as of the date of sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction which is the subject of this exemption.

Signed at Washington, D.C., this 30th day of June 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82–18229 Filed 7–2–82; 8:45 am]

BILLING CODE 4510–29–M

[Application Nos. D–3171, D–3233, D–3234 and D–3235]

Proposed Exemption for Certain Transactions Involving the Diamond Shamrock Corporation Retirement Income Plan, Employees' Retirement Plan of Diamond Shamrock Oil and Gas Company, Pension Plan for Employees of Process Chemicals Division and Diamond Shamrock Pension Plan for Hourly-Rated Employees Located in Dallas, Tex.

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt: (1) The contribution (the Contribution) of an oil and gas royalty interest (the Royalty Interest) to a master trust (the Trust) comprised of the Diamond Shamrock Corporation Retirement Income Plan (the DSC Plan), the Employees' Retirement Plan of Diamond Shamrock Oil and Gas Company (the Retirement Plan), the Pension Plan for Employees of Process Chemicals Division (the Pension Plan) and the Diamond Shamrock Pension Plan for Hourly-Rated Employees (the Hourly Plan, collectively the Plans) by Diamond Shamrock Corporation (the Employer), the sponsor of the Plans; and (2) a guarantee (the Guarantee) by the Employer related to the Royalty Interest. The proposed exemption, if granted, would affect the Employer, the Plans and their participants and beneficiaries and other persons participating in the transactions.

EFFECTIVE DATE: The effective date of this exemption is January 1, 1982.

DATES: Written comments and requests for a public hearing must be received by the Department on or before August 23, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216, Attention: Application Nos. D–3171, D–3233, D–3234 and D–3235. The application for exemption and the comments received will be available for public inspection in the Public

Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Louis Campagna of the Department, telephone (202) 523–8883. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Employer is a diversified international corporation with primary interests in energy, technology and chemicals. In 1981, the Employer reported sales and operating revenues of $3,400,000,000 and net income of $121,000,000. The Plans are defined benefit pension plans the assets of which are held in the Trust by the Republic Bank of Dallas, Texas (Republic). The DSC Plan has approximately 9,450 participants and total assets, as of December 31, 1980, of $6,841,00. The Pension Plan has approximately 400 participants and assets, as of December 31, 1980, of $123,231,000. The Retirement Plan has approximately 700 participants and assets, as of December 31, 1980 of $2,982,000. The Hourly Plan has 1,500 participants and assets as of December 31, 1980 of $19,808,000. The Trust is segregated into three component parts, Funds 1, 2 and 3. Fund No. 1 has assets of $101,062,000 and is available to provide benefits to all of the Plans' participants and beneficiaries. Fund No. 2 consists primarily of a venture capital partnership with assets, as of December 31, 1981, of $1,012,000. Fund No. 3 is a fixed income portfolio established to insure the benefit payments under the Hourly Plan to primarily 1,281 former employees of an Employer's plant which was closed in 1976 and had assets, as of December 31, 1981, of $16,454,000. DSC Investment Management Company (DSC) directs the investment of the assets comprising Funds No. 1 and 3. DSC is a registered investment advisor under the Investment Advisors Act of 1940 and is a wholly owned subsdiary of the Employer. None of the assets of the Plans are invested in any type of oil and gas interest. The applicant represents that the minimum funding requirement for the Trust in 1981 was $15,700,000 and that Employer's normal quarterly contribution to the Trust was withheld because of the proposed contribution of the Royalty Interest.

2. The Royalty Interest is owned by the Employer and is an undivided one-half interest in certain oil and gas royalty and overriding royalty interests in the Opelika field in Henderson County, Texas (the Property). Neither the owner of the Property nor the holder of the other one-half royalty interest in the Property is related to the Employer or to the Plan. The Property is a oil and gas producing property with a long history of production.

3. The Employer contributed the Royalty Interest on March 31, 1982 to the Trust and assigned it to Fund No. 1, and thereby satisfied its funding obligation for 1981 and part of 1982. H. J. Gruy and Associates, Inc. (Gruy), an independent petroleum consulting firm located in Irving, Texas, has determined that, as of January 1, 1982, the Royalty Interest had a value of $18,000,000. Gruy represents that its appraisal is based upon the proven reserves of the Property. The percentage of the assets of the DSC Plan, the Retirement Plan, the Pension Plan and the Hourly Plan that the Royalty Interest represents is 11.5%, 12%, 13% and 12.8% respectively. The Contribution of the Royalty Interest was made effective as of Janary 1, 1982. As a result, the Employer, upon actual Contribution on March 31, 1982 paid over to the Trust all the income it had received from the Royalty Interest for production since January 1, 1982 of $379,236 plus interest of $5,143 for the period the Employer had received income for 1982 production on the Royalty Interest. The interest on 1982 production income was calculated on the basis of the prime interest rate charged by Republic.

4. Rotan Mosle, Inc. (Rotan), an investment banking firm located in Houston, Texas, an entity independent of the parties to the transactions, reviewed, prior to the date the Contribution was made, the transaction and all accompanying documentation and determined that the Contribution was in the best interests of the Plans and their participants and beneficiaries. Rotan was selected to represent the Plans because the combination of its oil and gas expertise and investment advisory experience made it uniquely qualified to represent the Plan's interests in the transaction. Rotan also represents that based on the appraisal by Gruy, the Royalty Interest will generate an annual return of 20% to the Plans. This annual rate of return is based on revenues from production, which revenues are based upon the prices of oil and gas, net all expenses and taxes.

5. Through the Guarantee the Employer guarantees that the Trust will receive a rate of return of at least 20% per annum from the Royalty Interest until December 31, 2001. The Guarantee will be monitored by Rotan. Rotan will review the rate of return actually received by the Plans at the end of the fifth, tenth and twentieth years after the Contribution was made. Any deficiency in such rate will be paid to the Plans by the Employer within 60 days of the Employer being notified by Rotan of the deficiency. The Employer guarantees that to the extent on the date Rotan reviews the rate of return received by the Plans, the revenues received from the Royalty Interest plus the residual value of the Royalty Interest do not exceed the future value (calculated at a rate of 20% per annum) of $18,000,000, the Contribution value of the Royalty Interest, the Employer will pay to the Plan any such deficiency. If the Royalty Interest is ever sold before December 31, 2001, the Rotan will calculate the deficiency in the rate of return for the period January 1, 1982 to the date of sale. The authority to decide when and if to sell the Royalty Interest will be delegated to DSC. DSC, will not, however, without first obtaining a prohibited transaction exemption, sell the Royalty Interest to any party in interest or disqualified person as defined in the Act and Code. In any event, the decision by DSC to sell the Royalty Interest will be reviewed by Rotan or another qualified party independent of the parties to the transaction. The applicant represents that the Royalty Interest is a high quality asset with excellent potential for

appreciation which should be readily marketable.

6. In summary, the applicant represents that the Contribution satisfies the statutory criteria of section 408(a) of the Act because:

(1) Rotan, an independent party, determined that it was in the best interests of the Plans and their participants and beneficiaries; (2) the Plans obtained an asset with a proven income production history which Rotan represents will generate a return of 20% per annum; (3) the value of the Royalty Interest was determined by Gruy, an independent appraiser; (4) The Royalty Interest represents a relatively small percentage of the assets of the Plans; (5) if DSC decides to sell the Royalty Interest the sale will be approved by an independent fiduciary; and (6) the Employer guarantees that the Plans will receive a rate of return of at least 20% per annum, such Guarantee will be monitored by Rotan, and the Employer will make up any deficiency in the rate of return within 60 days of being notified by Rotan.

Notice to Interested Persons

Notice of proposed exemption will be given within fifteen days of the publication of the notice in the Federal Register to all participants and beneficiaries of the Plans. All present participants will be notified by posting on employees bulletin boards throughout the offices and plants of the Employer. All employers participating in the Plans and all other beneficiaries will be notified by first class mail. Such notice will contain a copy of the notice of pendency as it appears in the Federal Register as well as a statement informing interested persons of their right to comment or request a hearing on the proposed exemption.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsiblity provisons of section 404 of the Act, which among other things require a fiduciary it discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiairies;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to: (1) the Contribution of the Royalty Interest by the Employer to the Trust provided that (a) the Employer's federal tax deduction for the Contribution of the Royalty Interest was not greater than its fair market value on the date of Contribution and (b) the Contribution of the Royalty Interest was valued at its fair market value by the Trust on the date of Contribution; and (2) the Guarantee by the Employer related to the rate of return the Plans will receive on the Royalty Interest.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 30th day of June, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-18222 Filed 7-2-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-108; Exemption Application No. D-3193]

Exemption From the Prohibitions for Certain Transactions Involving the Earth Consultants, Inc., Profit Sharing Plan Located in Bellevue, Wash.

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption permits the sale of a parcel of real property by the Earth Consultants, Inc. Profit Sharing Plan (the Plan) to Robert and Eloise Levinson (the Levinsons), parties in interest with respect to the Plan.

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523-8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On May 7, 1982, notice was published in the Federal Register (47 FR 19816) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for the transaction decribed in an application filed by legal counsel for the Plan. The

notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any intereted person might submit a written request that a public hearing by held relating to this exemption. The applicant has represented that it has complied with the requirements of the notification to interested persons as set forth in the notice of pendency. No public comments and no request for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act of the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale of a parcel of vacant property located on the east side of 136th Place N.E., in the northeasterly portion of the city of Bellevue, Washington, by the Plan to the Levinsons provided that the terms and conditions of sale are at least as favorable to the Plan as those obtainable in an arms length transaction with an unrelated party at the time of consummation of the transaction, and further provided that the cash payment received by the Plan is no less than the Plan's cash expenditures in connection with the property.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 30th day of June 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82–18228 Filed 7–2–82; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 82–39]

NASA Advisory Council, Aeronautics Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, Informal Advisory Subcommittee on Rotorcraft Technology.

DATE AND TIME: July 27, 1982, 8:30 a.m. to 5 p.m.; July 28, 1982, 8 a.m. to 12 Noon.

ADDRESS: National Aeronautics and Space Administration, 600 Independence Ave., SW, Room 625, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. John F. Ward, National Aeronautics and Space Administration, Code RJL–2, Washington, DC 20546 (202/755–2375).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Rotorcraft Technology was established to assist the NASA in assessing the current adequacy of rotorcraft technology and recommend actions to reduce deficiencies through modification of the planned NASA research and techology program in rotorcraft aerodynamics, acoustics, structures, dynamics, propulsion system components, flight control, and avionics. The Subcommitteee, chaired by Mr. Edward S. Carter, Jr., is comprised of seven members. The meeting will be open to the public up to the seating capacity of the room (approximately 40 persons including the Subcommittee members and participants).

Type of Meeting: Open

Agenda

July 27, 1982

8:30 a.m.—RePort of the Chairman and Executive Secretary.
8:45 a.m.—NASA Aeronautics Long Range Plan.
10 a.m.—Summary of Current Rotorcraft Program—NASA Ames Research Center.
11 a.m.—Summary of Current Rotorcraft Program—NASA Langley Research Center.
1 p.m.—Summary of Current Rotorcraft Program—NASA Lewis Research Center.
2 p.m.—Proposed Rotorcraft FY 1984 New Initiatives.
3 p.m.—Rotorcraft Budget Definition.
4 p.m.—Discussion.
5 p.m.—Adjourn.

July 28, 1982

8 a.m.—Subcommittee Working Session.
11 a.m.—Subcommittee Summary Presentation and Report.
12 Noon—Adjourn.

Dated: June 29, 1982.

Walter B. Olstad,

Associate Administrator for Management.

[FR Doc. 82-18309 Filed 7-2-82; 8:45 am]

BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-358-OL]

Cincinnati Gas & Electric Co., et al. (Zimmer Nuclear Power Station, Unit 1); Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this operating license proceeding: Alan S. Rosenthal, Chairman, Stephen F. Eilperin, Howard A. Wilber.

Dated: June 29, 1982.

[FR Doc. 82-18213 Filed 7-2-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-247]

Consolidated Edison Co. of New York, Inc.; Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 78 to Facility Operating License No. DPR-26 issued to the Consolidated Edison Company of New York, Inc. (the licensee) which revised Technical Specifications for operation of the Indian Point Nuclear Generating Unit No. 2 (the facility) located in Buchanan, Westchester County, New York. The amendment is effective as of the date of issuance.

The amendment revises the Technical Specifications to modify the reactor coolant system heatup, cooldown, and hydrostatic test pressure/temperature limitations applicable through seven (7) effective full power years of reactor operation. The maximum heatup rate will be limited to 60 Deg F/hr while further review is being conducted on the proposed 100 Deg F/hr limitations.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated May 5, 1982, (2) Amendment No. 78 to License No. DPR-26, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the White Plains Public Library, 100 Martine Avenue, White Plains, New York. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 28th day of June 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-18211 Filed 7-2-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-315]

Indiana and Michigan Electric Co.; Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 55 to Facility Operating License No. DPR-58, issued to Indiana and Michigan Electric Company (the licensee), which revised Technical Specification for operation of Donald C. Cook Nuclear Plant, Unit No. 1 (the facility) located in Berrien County, Michigan. The amendment was effective June 7, 1982.

The amendment permits a one-time exclusion of the inoperable status of one ECCS subsystem for 144 hours to expire no later than 1:00 p.m. on June 10, 1982. After June 10, 1982, the inoperable status of one ECCS subsystem is again limited to 72 hours or be in HOT SHUTDOWN within the next 12 hours. The amendment was authorized on an expedited basis to maintain the plant at a steady-state condition and avoid a shutdown transient shown by our evaluation to be unnecessary but required by Technical Specification unless amended.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a signficant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any signficant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the request for amendment dated June 7, 1982, (2) the Commission's letter to the licensee dated June 8, 1982, (3) Amendment No. 55 to License No. DPR-58 and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room 1717 H Street, N.W., Washington, D.C. and at the Maude Reston Palenski Memorial Library, 500 Market Street, St. Joseph, Michigan 49085. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 28th day of June 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-18213 Filed 7-2-82; 8:45 am]

BILLING CODE 7590-01-M

MOTOR CARRIER RATEMAKING STUDY COMMISSION

Announcement of Closing Date of Record

SUMMARY: The purpose of this notice is to inform all interested parties that August 1, 1982 is the last day written testimony will be accepted for the record of the Commission.

ADDRESS: Written comments should be submitted to: Larry F. Darby, Executive Director, Motor Carrier Ratemaking

Study Commission, 214 Massachusetts Avenue, NE., Washington, D.C. 20515.

FOR FURTHER INFORMATION CONTACT: J. Kent Jarrell, General Counsel, (202) 724–9600.

SUPPLEMENTARY INFORMATION: The Motor Carrier Act of 1980, Pub. L. 96–296, directs the Motor Carrier Ratemaking Study Commission to make a full and complete investigation and study of the collective ratemaking process for all rates of motor common carriers and of the need or lack of need for continued antitrust immunity thereof. The Commission is specifically directed to estimate the impact of the elimination of such immunity upon the rate levels and rate structures and to describe the impact of such elimination on the Interstate Commerce Commission and its staff. Also, the Commission has been directed to give special consideration to the impact of the elimination of such immunity upon rural areas and small communities. The Commission shall, not later than January 1, 1983, submit to the President and the Congress its final report including its findings and recommendations.

The Commission has established a record whereby testimony may be submitted by any interested party and would only be excluded upon a finding of the General Counsel that such submission (1) is libelous; (2) contains profanity, other than that contained in a quote; (3) is non-germane; or (4) is unsigned by the submitter. In connection with the Commission's public hearings held on December 10, 1981, and in 1982, January 29, February 12, March 5, 18 and 19, and April 2, notice was placed in the **Federal Register** inviting interested parties to submit such testimony for the record. In addition, letters were sent to various state government officials concerned with transportation, shipper and carrier organizations, and other interested parties, inviting them to submit testimony.

The Commission has received over 300 such submissions to date. In order to provide ample additional opportunity for all parties to submit their views for the record, while affording sufficient time to take account of them in the Commission's findings and recommendations, this notice is given that the record will be closed as of August 1, 1982, with the exception of (1) reports generated within the Commission, (2) reports generated by those under contract to the Commission, and (3) materials requested by the Commission to augment and/or clarify existing testimony in the record.

This action does not preclude anyone from submitting additional information after August 1, 1982. Such submissions will not be made part of the record, but will be brought to the attention of Commission members and staff for their consideration to the extent that time allows.

Submitted this, the 30th day of June 1982.

Gary D. Dunbar,

Deputy Executive Director.

[FR Doc. 82-18155 Filed 7-3-82; 8:45 am]

BILLING CODE 6320-80-M

PENSION BENEFIT GUARANTY CORPORATION

Pendency of Request for Exemption From Bond/Escrow Requirement Relating to Sale of Assets by an Employer That Contributes to a Multiemployer Plan; National Fruit Canning Co.

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of pendency of request.

SUMMARY: This notice advises interested persons that the Pension Benefit Guaranty Corporation has received a request from National Fruit Canning Company for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act of 1980. Section 4204(a)(1) provides that the sale of assets by an employer that contributes to a multiemployer pension plan will not constitute a complete or partial withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser post a bond or make a deposit in escrow for five plan years beginning after the sale. The PBGC is authorized to grant exemptions from this requirement. Prior to granting an exemption, the PBGC is required to give interested persons an opportunity to comment on the exemption request. The effect of this notice is to advise interested persons of this exemption request and to solicit their views on it.

DATE: Comments must be submitted on or before August 20, 1982.

ADDRESSES: All written comments (at least three copies) should be addressed to: Assistant Executive Director for Policy and Planning (140), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006. The request for an exemption and the comments received will be available for public inspection at the PBGC Public Affairs Office, Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FUTHER INFORMATION CONTACT: David Weingarten, Office of the Executive Director, Policy and Planning (140), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006; (202) 254–4862. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION:

The Statute

Section 4204 of the Employee Retirement Income Security Act, as amended by the Multiemployer Pension Plan Amendments Act of 1980 ("ERISA") provides that the sale of assets of an employer contributing to a multiemployer plan, in a bona fide arm's length transaction to an unrelated party, will not be considered a withdrawal from the plan if three conditions are met. These conditions, enumerated in section 4204(a)(1) (A)–(C), are that—

(A) The purchaser has an obligation to contribute to the plan for substantially the same number of contribution base units for which the seller was obligated to contribute;

(B) The purchaser obtains a bond or places an amount in escrow, for a period of five plan years after the sale, in an amount equal to the greater of the seller's average required annual contribution to the plan for the three plan years preceding the year in which the sale occurred or the seller's required annual contribution for the plan year preceding the year in which the sale occurred; and

(C) The contract of sale provides that if the purchaser withdraws from the plan within the first five plan years beginning after the sale and fails to pay any of its liability to the plan, the seller shall be secondarily liable for the liability it (the seller) would have had but for section 4204.

The bond or escrowed amount described above would be paid to the plan if the purchaser withdraws from the plan or fails to timely make any required contributions to the plan within the first five plan years beginning after the sale.

Additionaly, section 4204(b)(1) provides that if a sale of assets is covered by section 4204, the purchaser assumes by operation of law the contribution record of the seller for the plan year in which the sale occurred and the preceding four plan years.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant individual or class variances or exemptions from the purchaser's bond/

escrow requirement of section 4204(a)(1)(B) and the contract-provision requirement of section 4204(a)(1)(C) if the variance would "more effectively or equitably carry out the purposes of [Title IV]." The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions. The granting of an exemption or variance from the requirements of section 4204(a)(1)(B) or (C) does not consititute a finding by PBGC that the transaction satifies the other requirements of section 4204(a)(1).

Under section 2643.3(a) of the PBGC's regulation on procedures for variances for sales of assets (46 FR 46127, September 17, 1981), the PBGC shall approve a request for a variance or exemption if it determines that approval of the request—

(1) Would more effectively or equitably carry out the purposes of Title IV of ERISA; and

(2) Would not significantly increase the risk of financial loss to the Plan.

Section 4204(c) and section 2643.3(b) of the regulation require the PBGC to publish a notice of the pendency of a request for a variance or exemption in the **Federal Register**, and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

The Request

The PBGC has received a request from National Fruit Canning Company ("National") to waive the bond/escrow requirement of section 4204(a)(1)(B) of ERISA. In the request, National represents, among other things, that:

1. On January 26, 1982, National purchased substantially all of the assets of Seabrook Foods, Inc. ("Seabrook") located at its Albany, Oregon plant, effective as of February 1, 1982.

2. Pursuant to a collective bargining agreement with Teamsters Local Union No. 670, Seabrook contributed to the Western Conference of Teamsters Pension Plan (the "Plan") on behalf of covered employees at its Albany, Oregon plant. As a result of the sale, National agreed to assume the obligation of Seabrook to contribute to the Plan.

3. The estimated amount of Seabrook's withdrawal liability, absent section 4204, is approximately $734,000.[1] The amount of the bond or escrow required under section 4204(a)(1)(B) of ERISA, absent an exemption from PBGC, would be $177,745.28, the average of the contributions required to be made by Seabrook for the three plan years preceding the year of the sale. The contract of sale provides that unless PBGC grants a waiver or variance, National will post the bond or escrow required under section 4204(a)(1)(B) of ERISA.

4. According to its audited financial statement for its fiscal year ended April 30, 1981, National had net assets of approximately $11.6 million. National has net income after taxes of $1,714,570 for its fiscal year ended April 30, 1981, $1,511,182 for its fiscal year ended April 30, 1980 and $2,107,985 for its fiscal year ended April 30, 1979 according to its audited financial statements for those years.

5. National has sent a copy of the request to the Plan and to the collective bargaining representative of the former employees of Seabrook participating in the Plan.

Comments

All interested persons are invited to submit written comments on the pending exemption to the above address, on or before August 20, 1982. All comments will be made a part of the record. Comments received, as well the application for exemption, will be available for public inspection at the address set forth above.

Issued at Washington, D.C., on the this 28th day of June 1982.

Edwin M. Jones,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 82-18131 Filed 7-1-82; 8:45 am]

BILLING CODE 7708-02-M

[1] Seabrook has been advised by the Plan that its withdrawal liability is a) $550,833.37, Seabrook's proportional share of the unamortized amount of the Plan's unfunded vested benefits as of December 31, 1979, plus b) a share of the plan's "adjusted unfunded vested benefits" as of December 31, 1981, i.e., the change in the plan's unfunded vested benefits between December 31, 1979 and December 31, 1981. The Plan has indicated that it cannot calculate the employer's withdrawal liability under (b) at this time. However, the Plan has advised PBGC of a procedure that can be used to approximate the employer's total withdrawal liability. Under this procedure, assuming that the de minimis rule in section 4209 of the Act does not apply, an employer's total withdrawal liability is the employer's share of the plan's unfunded vested benefits as if the withdrawal had occurred during 1980, plus an additional 20 percent of that amount for a 1982 withdrawal. Seabrook's estimated withdrawal liability under this procedure would be approximately $734,000 (approximately $612,000 + approximately $122,000). In any event, the Plan believes that Seabrook's total withdrawal liability should be less than $1 million.

Request for Exemption From Bond/Escrow Requirement Relating to Sale of Assets by an Employer; Tribune Co. and Its Wholly Owned Subsidiary, Chicago National League Ball Club, Inc.

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of Pendency of Request.

SUMMARY: This notice advises interested persons that the Pension Benefit Guaranty Corporation has received a request from the Tribune Company and its wholly owned subsidiary, Chicago National League Ball Club, Inc., for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act of 1980. Section 4204(a)(1) provides that the sale of assets by an employer that contributes to a multiemployer pension plan will not constitute a complete or partial withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser post a bond or deposit money in escrow for five plan years beginning after the sale. The PBGC is authorized to grant exemptions from this requirement. Prior to granting an exemption, the PBGC is required to give interested persons an opportunity to comment on the exemption request. The effect of this notice is to advise interested persons of this exemption request and to solicit their views on it.

DATES: Comments must be submitted on or before August 20, 1982.

ADDRESSES: All written comments (at least three copies) should be addressed to: Assistant Executive Director for Policy and Planning (140), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006. The request for an exemption and the comments received will be available for public inspection at the PBGC Public Affairs Office, Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: James M. Graham, Office of the Executive Director, Policy and Planning (140), 2020 K Street, NW., Washington, D.C. 20006; (202) 254-4862. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION:

The Statute

Section 4204 of the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act of 1980,

("ERISA") provides that a bona fide arm's-length sale of assets of an employer contributing to a multiemployer plan to an unrelated party will not be considered a withdrawal if three conditions are met. These conditions, enumerated in section 4204(a)(1)(A)–(C), are that—

(A) the purchaser has an obligation to contribute to the plan for substantially the same number of contribution base units for which the seller was obligated to contribute;

(B) the purchaser obtains a bond or places an amount in escrow, for a period of five plan years after the sale, in an amount equal to the greater of the seller's average required annual contribution to the plan for the three plan years preceding the year in which the sale occurred or the seller's required annual contribution for the plan year preceding the year in which the sale occurred; and

(C) the contract of sale provides that if the purchaser withdraws from the plan within the first five plan years beginning after the sale and fails to pay any of its liability to the plan, the seller shall be secondarily liable for the liability it (the seller) would have had but for section 4204.

The bond or escrow described above would be paid to the plan if the purchaser withdraws from the plan or fails to make any required contributions to the plan within the first five plan years beginning after the sale.

Additionally, section 4204(b)(1) provides that if a sale of assets is covered by section 4204, the purchaser assumes by operation of law the contribution record of the seller for the plan year in which the sale occurred and the preceding four plan years.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant individual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B) and the sale-contract requirement of section 4204(a)(1)(C). The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions. The granting of an exemption or variance from the requirements of section 4204(a)(1)(B) or (C) does not constitute a finding by PBGC that the transaction satisfies the other requirements of section 4204(a)(1). Further, an exemption from the sale-contract requirement of section 4204(a)(1)(C) does not constitute a waiver of the seller's secondary liability under section 4204(a)(2).

Under section 2643.3(a) of the PBGC's regulation on procedures for variances for sales of assets, (46 FR 46127 (1981)), the PBGC shall approve a request for a variance or exemption if it determines that approval of the request is warranted, in that it—

(1) would more effectively or equitably carry out the purposes of Title IV of the Act; and

(2) would not significantly increase the risk of financial loss to the plan.

Section 4204(c) of ERISA and 2643.3(b) of the regulation require the PBGC to publish a notice of the pendency of a request for a variance or exemption in the **Federal Register**, and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

The Request

The PBGC has received a request from the purchaser, Tribune Company, and its wholly owned subsidiary, Chicago National League Ball Club, Inc., ("Tribune") for an exemption from the requirements of section 4204(a)(1) (B) and (C) of ERISA. In the request, the Tribune represents, among other things, that:

1. By a contract dated June 16, 1981, the Chicago National League Ball Club (the "Club") sold its assets to the Tribune. The agreement of sale was effective as of August 28, 1981.

2. The Club was a participating employer in the Major League Baseball Players Benefit Plan (the "Plan"), which is established and maintained pursuant to a collective bargaining agreement between the 26 professional major league baseball teams and the Major League Basebull Players Association.

3. The major league clubs have established the Major League's Central Fund (the "Central Fund") pursuant to the "Major League Agreement in re Major League's Central Fund." Under this Agreement, the revenues to fund the plan for all participating employers are received by the Office of the Commissioner of Baseball and are then remitted on behalf of the clubs in satisfaction of their pension liability arising under the Plan's funding agreement. In addition, other expenditures on behalf of all 26 clubs are made from the Central Fund. The revenue to fund the Plan is currently derived directly from (i) gate receipts from All-Start games, (ii) radio and television revenues from World Series, League Championship intradivision play-off and All-Star games, and (iii) certain other radio and television revenue (including foreign broadcasts) from regular and exhibition games.

4. The major league clubs are currently obligated to contribute the sum of $15,500,000 per year to cover both pension and welfare benefits; approximately $13 million of which is remitted to the pension plan for the current plan year. Each major league club is responsible for 1/26 of that amount. In 1980, the Central Fund paid $500,000 as pension contributions to the Plan on behalf of the Club.

5. The contract of sale provides that unless the PBGC grants a variance, Tribune will post the bond or escrow required under section 4204(a)(1)(B) of ERISA. The amount of the bond/escrow would be $500,000.

6. In support of the variance request, the Tribune states that "[t]he payment of the employer contributions directly to the Plan from the Central Fund deposits, and the traditional adequacy of the Central Fund deposits to meet the Fund requirements of the Plan, provide adequate assurance to the Plan and the PBGC that the employer contributions will be made when due.

7. Tribune had an average net income for calendar years 1978, 1979 and 1980 of approximately $69 million.

8. By certified mail, return receipt requested, a complete copy of this request has been sent to the Plan and the collective bargaining representative of the Club's former employees.

PBGC also notes that it has previously dealth with a request very similar to the pending request, involving the Chisox Corporation, the Chicago White Sox Baseball Club, Inc. and the Artnell Company. On September 1, 1981, PBGC granted that request for a variance from the purchaser's bond and sale-contract requirements of section 4204 (see 46 FR 44948 (Sept. 8, 1981)). Another similar request, involving the Philadelphia National League Club and The Phillies, a limited partnership, is now pending before the PBGC (see 47 FR 8440 (Feb. 26, 1982)).

Comments

All interested persons are invited to submit written comments on the pending exemption to the above address, on or before August 20, 1982. All comments will be made a part of the record. Comments received, as well as the non-confidential portions of the application for exemption, will be available for public inspection at the address set forth above.

Issued at Washington, D.C. on this 28th day of June, 1982.

Edwin M. Jones,

Executive Director, Pension Benefit Guranty Corporation.

[FR Doc. 82-16130 Filed 7-2-82; 8:45 am]

BILLING CODE 7708-01-M

EXECUTIVE OFFICE OF THE PRESIDENT

Office of Science and Technology Policy

White House Science Council (WHSC); Meeting

The White House Science Council, the purpose of which is to advise the Director, Office of Science and Technology Policy (OSTP), will meet on July 16, 1982, in Room 330, Old Executive Office Building, Washington, D.C. The meeting will begin at 9:00 a.m. Following is the proposed agenda for the meeting:

(1) Briefing of the Council, by the Assistant Directors of OSTP, on the current activities of OSTP.

(2) Briefing of the Council by OSTP personnel and personnel of other agencies on proposed, ongoing and completed panel studies.

(3) Discussion of composition of panels to conduct studies.

A portion of the meeting will be closed to the public.

The briefing on some of the current activities of OSTP necessarily will involve discussion of material that is formally classified in the interest of national defense or for foreign policy reasons. This is also true for a portion of the briefing on panel studies. As well, a portion of both of these briefings will require discussion of internal personnel procedures of the Executive Office of the President, and information the premature disclosure of which likely would significantly frustrate implementation of our agency's action. These portions of the meeting will be closed to public pursuant to 5 U.S.C. 552b(c) (1), (2), and 9(B).

A portion of the discussion of panel composition will necessitate the disclosure of information of a personal nature, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Accordingly, this portion of the meeting will also be closed to the public, pursuant to 5 U.S.C. 552b(c)(6).

The portion of the meeting open to the public will begin at 9:00 a.m. Because of security in the Old Executive Office Building, persons wishing to attend the open portion of the meeting should contact Dr. Thomas H. Johnson, Special Assistant to the Director of OSTP at (202) 456-7740, prior to 4:30 p.m. on July 15th. Dr. Johnson is also available to provide further information.

Robert D. Linder,

Executive Director, Office of Science and Technology Policy.

June 30, 1982.

[FR Doc. 16173 Filed 6-30-82; 3:03 pm]

BILLING CODE 3170-01-M

SECURITIES AND EXCHANGE COMMISSION

[SR-NSCC-82-10; Rel. No. 34-18852]

National Securities Clearing Corp.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

June 28, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. § 78s(b)(1), notice is hereby given that on June 18, 1982, the National Securities Clearing Corporation ("NSCC"), 55 Water Street, New York, New York 10041, filed with the Securities and Exchange Commission the proposed rule change described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would amend Section XIV, subsection A of NSCC's Stock Clearing Corporation ("SCC") Division Procedures under NSCC Rule 4 regarding the calculation of certain NSCC participants' minimum clearing fund contributions. NSCC has filed the proposed rule change on a temporary basis, to be effective until January 1, 1983. In substance, the proposed rule change would impose an increased clearing fund requirement on each NSCC member that (1) uses NSCC's Envelope Settlement Systems ("ESS"); and (2) carries in ESS, on the average, a daily net debit balance. In addition, in the case of a broker-dealer member the minimum clearing fund requirement shall be increased if such average daily debit balance is greater than that member's excess net capital as determined under SEC Rule 15c3-1 (17 CFR § 240.15c3-1). The proposed rule change, however, does not affect other aspects of NSCC's clearing fund requirements.

Description of the Proposed Rule Change

To determine a clearing member's clearing fund requirement, NSCC uses a formula set forth in section XIV, subsection A of SCC's procedures. That formula, as amended by the proposed rule change, would provide that:

Each Member * * * is required to contribute to the clearing fund * * * an amount equal to:

(i) 2½% of the Member's average daily settlement debits and credits other than the Member's envelope settlement systems debits and credits, plus

(ii)(a) 2½% of the Member's average daily envelope settlement systems debits and credits, or (b) 5% of the Member's average daily envelope settlement systems debits, whichever is greater, adjusted by a factor (as defined below).

The proposed rule change further provides that the ESS adjustment factor "shall be calculated as follows":

* * * * *

$$\frac{\text{average daily envelope settlement systems debits}}{\text{excess net capital}}$$

The factor calculation shall be adjusted in order to provide a minimum of one with a maximum of twenty.

For all other Members there shall be no factor adjustment until such time as the Corporation determines the appropriateness of developing a factor calculation for such Members.[1] Currently, absent the rule change, average daily ESS debits and credits are not separately treated in the formula. Instead, all average daily debits and credits, including those occurring in ESS, are aggregated and multiplied by two and one-half percent to derive the required clearing fund contribution, subject to specified minimum amounts.[2]

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[1] As an illustration, under the proposed formula, assume that Broker A, with excess net capital of $60,000, has average daily ESS debits of $600,000 and average daily ESS credits of $400,000 totalling $1,000,000. Broker A, pursuant to the current formula, has contributed required collateral to NSCC's clearing fund, including $25,000 allocable to ESS. (The portion of NSCC's clearing fund contribution allocable to ESS activity is currently calculated by aggregating gross average daily ESS debits and credits and multiplying that sum by 2½ percent.) Under the new formula, the greater of (($600,000 + $400,000) × (2½ percent) or ($600,000) × (5 percent)) is multiplied by a factor of $600,000/$60,000 or 10. Because the 5 percent figure ($30,000) is greater than the 2½ percent figure ($25,000) and the applicable factor is 10, Broker A's new clearing fund requirement attributable to ESS activity would be $300,000 ($30,000 × 10). Since the new requirement exceeds Broker A's current ESS portion of its clearing fund deposit, Broker A must contribute the $275,000 difference. Under the proposed rule change, the factor can never be less than one. In instances where broker-dealer NSCC members are thinly capitalized in relation to their average monthly ESS debits, the factor can be as great as, but not greater than, 20.

[2] The minimum cash contribution is either $10,000 or, if the clearing member's open account indebtedness is collateralized with letters of credit, $50,000. Those specified minimum requirements are not affected by the rule change.

Accordingly, under NSCC's current rules, an ESS participant's clearing fund requirement attributable to ESS usage would require two and one-half percent of that participant's ESS debits and ESS credits.

Discussion

In its filing, NSCC states that the purpose of the proposed rule change is to permit NSCC to protect itself more adequately against the risks created by NSCC participants' use of ESS. ESS allows NSCC participants physically to deliver securities in envelopes to each other through NSCC.[3] Each day, NSCC continuously posts to participants' NSCC money settlement accounts debits and credits corresponding to the value of securities that participants are to receive or deliver through ESS. On receipt of an envelope in proper form from a delivering participant, NSCC credits that participant's NSCC settlement account for the dollar value of those securities. At the same time, NSCC debits the receiving participant's NSCC settlement account with the same amount. Customarily, each receiving ESS participant picks up the envelopes from NSCC at least once a day. At the end of the day, the receiving member (if it has not engaged in other settlement activity offsetting the net ESS debits) is obligated to pay NSCC the value of the envelopes received and not reclaimed. Because NSCC's procedures obligate NSCC to pay delivering participants the aggregate net dollar value of securities delivered through NSCC envelopes, NSCC may be financially exposed to the extent a receiving participant fails to pay NSCC.

This potential financial exposure is substantial. NSCC processes in ESS daily about 7000 envelopes from broker-dealer members, containing securities valued at $700,000,000. Some of those NSCC broker-dealer members are engaged in a substantial stock loan business for which ESS is often used as a delivery and settlement vehicle.[4]

[3] NSCC Rule 9 authorizes NSCC to offer, and outlines specific operating procedures of, ESS.

[4] As an alternative to bank financing of securities positions and related costs, a significant portion of NSCC member broker-dealers engage in a member-to-member stock loan business, consistent with Regulation T of the Board of Governors of the Federal Reserve System (12 CFR § 220) and SEC Rules 8c–1 and 15c3–3 (17 CFR § 240.8c–1 and 15c3–3), and use ESS as a delivery and settlement mechanism in that business. Some of those broker-dealers, however, engage almost exclusively in that business and use ESS only for delivering and settling their stock loan transactions. Such broker-dealers typically match borrowing broker-dealers with lending broker-dealers and often, in effect, use their borrowed securities inventory in stock lending activities. These broker-dealers, at times, get caught in a cash squeeze when on any given day the monies generated by their lending activities are not sufficient to cover the fees, including related marks-to-the-market, to be paid because of their stock borrowings.

Moreover, at times, such members' average daily ESS debits can substantially exceed their excess net capital, thus exposing NSCC and its other participants to financial liability beyond that traditionally contemplated by the clearing fund rules.[5]

The proposed rule change is a result of NSCC's reconsideration of the adequacy of its clearing fund requirements in light of NSCC's recent experience. During 1981, NSCC experienced two participant insolvencies. In June 1982, a receiver was appointed for a third participant. A fourth member in May 1982 defaulted in its ESS obligations due to cash flow problems. In focusing on the issues raised by those situations and as part of an overall review of the changing risks to which NSCC is subject, NSCC has considered the adequacy of its clearing fund requirement as it relates to current ESS usage by participants. In that regard, NSCC has found that the ESS clearing fund requirement does not realistically protect NSCC against the risks created by participants' use of that service and by participants that use ESS exclusively. In particular, NSCC has determined that it faces substantial potential for loss in ESS from participants whose average daily ESS debits exceed their average daily ESS credits and whose net debit balances significantly exceed excess net capital. Accordingly, NSCC has determined that the clearing fund requirement should be modified to compensate for these increased risks of loss.

Because NSCC's clearing fund affords basic protection to NSCC and its participants from liabilities incurred in its clearance and settlement operations, NSCC believes that its financial safety could be strained if its clearing fund requirements, in the aggregate, do not meet the financial exposure created by member activities. By increasing the ESS clearing fund requirements in proportion to the specific changes in the nature of NSCC's risks, NSCC further believes that the proposed rule change would enable NSCC to protect itself more adequately and would increase its recovery capabilities in the event of participant defaults. For those reasons, NSCC is of the view that the proposed rule change, consistent with Section 17A of the Act, promotes the prompt and accurate clearance and settlement of securities transactions, assures the safeguarding of securities and funds in the custody or control of NSCC, and protects investors and the public interest.

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change on or before September 7, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR–NSCC–82–10.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

Commission's Determinations

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulation thereunder applicable to clearing agencies and, in particular, the requirements of Section 17A of the Act and the rules and regulations thereunder. The Commission also finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing. In its filing, NSCC requested that the

[5] ESS was designed to serve primarily as a system to accomplish physical delivery and settlement of balance order securities. Recently, however, NSCC has recognized an increased in ESS volume due to increase member-to-member stock loan activity. This shift in ESS usage and the related increased in financial exposure to NSCC requires NSCC to make appropriate adjustment to its financial safeguards, which include clearing fund deposits, a lien against securities and proceeds, and general authority to require further financial assurances. For example, if an ESS participant's clearing fund deposit does not cover NSCC's financial exposure arising from that troubled participant's use of ESS and if the participant does not have liquid assets available to satisfy NSCC's call for further financial assurances, other NSCC participants' clearing fund deposits would be exposed to the excess loss on a pro-rata basis. If NSCC were to draw down clearing fund deposits on a pro-rata basis, however, NSCC could place those participants in non-compliance with the Commission's net capital requirements under SEC Rule 15c3–1 (17 CFR § 240.15c3–1). To remedy this situation, NSCC believes that its clearing fund requirements need to be restructured to accommodate the evolving financial risks.

proposed rule change be approved on an accelerated basis because of clearing fund exposure resulting from the increasing number of member insolvencies, the general condition of the securities markets, the increase of thinly-capitalized member firms using envelope services predominantly. Approval of the proposed rule change at this time will enable NSCC promptly to adjust its clearing fund deposit levels to the current extent of financial exposure that NSCC assumes as a registered clearing corporation. The Commission also believes that it is appropriate to accelerate approval because of the temporary nature of the proposed rule change. In the interim, NSCC will monitor the rule change and will report periodically to the Commission concerning the rule's operation and effect. Thus, the Commission will be able to evaluate those reports, as well as any comments received, before making any decision with regard to permanent approval of the proposed rule change. Accordingly, the Commission approves the proposed rule change effective immediately for a period terminating on January 1, 1983.[6]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved until January 1, 1983.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

June 28, 1982.

[FR Doc. 82-18151 Filed 7-2-82; 8:45 am]

BILLING CODE 8010-01-M

New York Stock Exchange, Inc.; Order Approving Proposed Rule Change

[SR-NYSE-82-7; Rel. No. 18851]

June 28, 1982.

The New York Stock Exchange, Inc. ("NYSE"), Eleven Wall Street, New York New York 10005, submitted on April 12, 1982, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to amend various NYSE rules relating to exchange members and statements of accounts to customers, including a proposal to rescind NYSE Rule 318.13 relating to insurance sales activities by member organizations (NYSE Rule 318.13).[1]

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 18644, April 14, 1982), and by publication in the **Federal Register** (47 FR 17702, April 23, 1982). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.[2]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-18152 Filed 7-2-82; 8:45 am]

BILLING CODE 8010-01-M

Cincinnati Stock Exchange; Application for Unlisted Trading Privileges and of Opportunity for Hearing

June 29, 1982.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of:

Texas American Bancshares, Inc.
Common Stock, $5 Par Value (File No. 7-6256)

This security is listed and registered on one or more other national securities exchanges and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before July 21, 1982 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-18207 Filed 7-2-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 2049]

Rhode Island; Declaration of Disaster Loan Area

Kent County and the adjacent counties of Providence and Washington in the State of Rhode Island constitute a disaster area as a result of damage caused by heavy rain and flooding which occurred on June 4 through 7, 1982. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on August 13, 1982, and for economic injury until the close of business on March 22, 1983, at the address listed below: U.S. Small Business Administraton, 40 Fountain Street, Providence, Rhode Island 02903 or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are as follows:

	Percent
Homeowners with credit available elsewhere	15%
Homeowners without credit available elsewhere	7%
Businesses with credit available elsewhere	10
Businesses without credit available elsewhere	8
Businesses (EIDL) without credit available elsewhere	8
Other (Non-profit organizations including charitable and religious organizations)	11%

It should be noted that assistance for agriculture enterprises is the primary responsibility of the Farmers Home Administration as specified in Pub. L. 96-302.

[6] On or before January 1, 1983, the Commission will revisit this Order in light of comments received and NSCC's and its participants' experience under the new clearing fund formula. At that time, and assuming that NSCC files with the Commission pursuant to Section 19(b) of the Act an appropriate proposed rule change, the Commission may disapprove or may approve conditionally or unconditionally the final proposed rule change.

[1] The Commission has previously approved all portions of the proposed rule change with the exception of that portion relating to rescission of Rule 318.13. Securities Exchange Act Release No. 18778, May 28, 1982, 47 FR 24990, June 8, 1982.

[2] The NYSE has indicated to the Commission that, pursuant to NYSE Rule 342, NYSE member organizations are required to supervise and control all business activities of their members, including insurance sales activities. Furthermore, the NYSE has indicated that the exchange staff has the responsibility for insuring that the requirements of Rule 342 are met.

Information on recent statutory changes (Pub. L. 97–35, approved August 13, 1981) is available at the above-mentioned office.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: June 22, 1982.

Donald R. Templeman,

Deputy Administrator.

[FR Doc. 82–18220 Filed 7–2–82; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area No. 2042]

Texas; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that the County of Wichita, Texas, constitutes a disaster loan area because of damage resulting from severe storms and flooding beginning on or about May 12, 1982. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on July 26, 1982, and for economic injury until February 25, 1983, at: U.S. Small Business Administration, 1100 Commerce Street, Dallas, Texas 75242 or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are as follows:

	Percent
Homeowners with credit available elsewhere	15%
Homeowners without credit available elsewhere	7%
Businesses with credit available elsewhere	16½
Businesses without credit available elsewhere	8
Businesses (EIDL) without credit available elsewhere	8
Other (Non-profit organizations including charitable and religious organizations)	11½

It should be noted that assistance for agricultural enterprises is the primary responsibility of the Farmers Home Administration as specified in Pub. L. 96–302.

Information on recent statutory changes (Pub. L. 97–35, approved August 13, 1981) is available at the above-mentioned office. (Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008.)

Dated: June 1, 1982.

Donald R. Templeman,

Deputy Administrator.

[FR Doc. 82–18218 Filed 7–2–82; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area No. 2051]

Texas; Declaration of Disaster Loan Area

Willacy County in the State of Texas constitutes a disaster area as a result of damage caused by flooding which occurred on May 22–28, 1982. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on August 26, 1982, and for economic injury until March 25, 1983, at the address below: Small Business Administration, 222 E. Van Buren, Suite 500, Harlingen, Texas 78550 or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are as follows:

	Percent
Homeowners with credit available elsewhere	15%
Homeowners without credit available elsewhere	7%
Businesses with credit available elsewhere	16½
Businesses without credit available elsewhere	8
Businesses (EIDL) without credit available elsewhere	8
Other (Non-profit organizations including charitable and religious organizations)	11½

It should be noted that assistance for agricultural enterprises is the primary responsibility of the Farmers Home Administration as specified in Pub. L. 96–302.

Information on recent statutory changes (Pub. L. 97–35, approved August 13, 1981) is available at the above mentioned office.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: June 25, 1982.

James C. Sanders,

Administrator.

[FR Doc. 82–18219 Filed 7–2–82; 8:45 am]

BILLING CODE CODE 8025–01–M

[Licensing No. 05/05–0136]

Super Market Investors, Inc.; Filing of an Application for an Exemption Under the Conflict of Interest Regulation

Notice is hereby given that Super Market Investors, Inc. (SMI), 11300 West Burleigh Street, Wauwautosa, Wisconsin 53201, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act), has filed an application with the Small Business Administration (SBA) pursuant to § 107.1004(b) of the Regulations governing small business investment companies (13 CFR 107.1004(b) (1982)) for an exemption from the provisions of the Regulation.

The exemption, if granted, will permit SMI to provide financing in the amount of $100,000 to Mr. & Mrs. Jerold Ming to purchase and operate Rich's Food Stores, Inc. (Rich's), a food store located at 10135 W. Hampton Avenue, Milwaukee, Wisconsin 53225. Rich's is owned by Dolly Little & Rich Little, close relatives of Mr. Vincent R. Little, director of SMI.

Pursuant to paragraph (e) of the definition of "Associate of a Licensee" in § 107.3 of the SBA Regulations, Dolly & Rich Little are considered to be Associates of SMI. As such, the transaction will require an exemption from the provisions of § 107.1004(b)(5) of the Regulations.

Notice is hereby given that any interested person may, on or before July 21, 1982, submit written comments on the proposed transaction to the Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in Milwaukee, Wisconsin.

Dated: June 29, 1982.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82–18217 Filed 7–2–82; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

Office of the Secretary

Study Groups A and B of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Groups A and B of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on July 20, 1982 at 10:00 a.m. in the Loy Henderson Conference Room of the State Department, 2201 C Street, NW., Washington, D.C. These Study Groups deal with, inter-alia, the issues of developing a U.S. position relating to international inter-active videotex services which would be proposed at upcoming meetings of CCITT Study Groups I and VIII.

The meeting will receive the report of the Videotex Technical Experts Panel and consider in a preliminary fashion the position of the United States for the

November, 1982 meeting of CCITT Study Group VIII.

Members of the general public may attend the meeting and join in the discussion subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is suggested that prior to July 20, members of the general public who plan to attend the meeting so advise Mr. Richard Howarth, Office of International Communications Policy, Department of State, Washington, D.C. 20520, telephone (202) 632–1007. All non-Government employees must use the C Street entrance to the building.

Dated: June 30, 1982.

Richard H. Howarth,

Chairman, CCITT National Committee.

[FR Doc. 82–18200 filed 7–2–82; 8:45 am]

BILLING CODE 4710–07–M

Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group A of the U.S. Organization for the Internal Telegraph and Telephone Consultative Committee (CCITT) will meet on July 28, 1982 at 10:00 a.m. in Room 856 of the Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. This Study Group deals with U.S. Government aspects of international telegram and telephone operations and tariffs.

The Study Group will discuss international telecommunications questions relating to telegraph, telex, new record services, data transmission and leased channel services in order to develop U.S. positions to be taken at upcoming international Study Group I and III meetings.

Members of the general public may attend the meeting and join in the discussion subject to the instruction of the Chairman. Admittance of public members will be limited to the seating available. Requests for further information should be directed to Earl S. Barbely, Conference Staff, Federal Communications Commission, Washington, D.C., telephone (202) 632–3214.

Dated: June 22, 1982.

Richard H. Howarth,

Chairman, U.S. CCITT National Committee.

[FR Doc. 82–18201 Filed 7–3–82; 8:45 am]

BILLING CODE 4710–07–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee; Review of Product for Removal of Eligibility Under the Generalized System of Preferences

Notice is hereby given that the Trade Policy Staff Committee has accepted the petitions by the Industrial Fabrics Association International and the American Textile Manufacturers Institute requesting the removal from duty-free eligibility under the U.S. Generalized System of Preferences (GSP) as provided for in Title V of the Trade Act of 1974 (88 Stat. 2066–2071, 19 U.S.C. 2461–2565) of the following eligible article:

TSUSA [1] Item No.	Article description
386.0943	Articles not specially provided for, of textile materials: Lace or net articles, whether or not ornamented, and other articles ornamented: (Of cotton; of wool). Other: (Shoe uppers). Other: Of man-made fibers.

[1] Tariff Schedule of the United States, Annotated.

While the Trade Policy Staff Committee's review will focus on the removal of the subject category from eligibility, the TPSC reserves the right to address the removal of GSP status for part of the subject category and/or limiting the withdrawal of GSP benefits to one or more countries.

Public hearings have been scheduled for 10:00 a.m. on Monday, August 9, 1982, in Room 2008, the New Executive Office Building (entrance on 17th Street between Pennsylvania and H Street N.W.). All interested parties who wish to appear at the hearings should notify the Chairman, GSP Subcommittee, Office of the United States Trade Representative, 600 17th Street, N.W., Washington, D.C. 20506 by July 26, 1982. Written briefs or statements should be received no later than close of business August 2, 1982. Post hearing briefs or statements should be received no later than close of business August 16, 1982. Rebuttal briefs or statements addressing issues raised in the post-hearing submissions must be received no later than close of business August 23.

Written Briefs—All briefs and statements should conform to the regulations codified at 15 CFR Parts 2001–2003, 2007. They should be submitted in 20 copies in English, and should contain the name and address of the party submitting the brief. Information submitted as business confidential information must contain a nonconfidential summary in twenty copies separate from the information to be handled as confidential. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information."

Public Inspection of Information—Except for business confidential information, all written materials filed in connection with this matter will be open to public inspection by appointment with the Secretary of the GSP Information Center (202/395–6971).

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 82–18125 Filed 7–3–82; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Briefing on Cost-Benefit Analysis of Airport Crash, Fire, and Rescue Policy Alternatives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a public meeting to be held concerning a cost-benefit analysis of airport crash, fire, and rescue policy alternatives.

DATE OF MEETING: August 10, 1982; 9:00 a.m.

ADDRESS: Federal Aviation Administration, Third Floor Auditorium, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Mr. Jose Roman, Jr., Safety and Compliance Division (AAS–300), Office of Airport Standards, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone (202) 426–3087.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is for the contractor, H.H. Aerospace Design Company, Inc., to present a briefing to the public on the recommendations and to obtain additional comments on the report so as to judge its merits more carefully. The analysis by H.H. Aerospace was commissioned by the FAA; however, the conclusions and recommendations have neither been endorsed nor rejected by the FAA. The reports produced in the course of the study will be addressed and are listed below:

DOT/FAA/AS/80-2, Airport Crash/Fire/Rescue (CFR) Service Cost and Benefit Analysis (VOL. I Text, VOL. II Appendices). NTIS #PB 82-220773; Paper—$30.00, Microfiche—$4.00.

DOT/FAA/AS/82-1, Airport Crash, Fire, and Rescue: Policy Alternatives Suitable for Further Analysis. NTIS #PB 82-220781; Paper—$10.50, Microfiche—$4.00.

DOT/FAA/AS/82-2, Airport Crash, Fire, and Rescue: Technical Research Program. NTIS #PB 82-220799; Paper—$7.50, Microfiche—$4.00.

DOT/FAA/AS/82-3, Airport Crash, Fire, and Rescue: Estimating the Effects of Leading Policy Alternatives. NTIS #PB 82-220807; Paper—$36.00, Microfiche—$4.00.

DOT/FAA/AS/82-4, A Cost-Benefit Analysis of Airport Crash, Fire, and Rescue Policy alternatives: Summary and Recommendations. NTIS #PB 82-220815; Paper—$10.50, Microfiche—$4.00.

Any person may purchase a copy of any or all of the reports by submitting a request to the National Technical Information Service, 5288 Port Royal Road, Springfield, VA 22161, or by calling (703) 487-4650. Make check payable to "National Technical Information Service." Prices subject to change.

Interested persons are invited to participate in the meeting by submitting data, views, or discussions as they may desire, either oral at the meeting or in writing addressed to the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Washington, D.C., on June 29, 1982.

Leonard E. Mudd,

Director, Office of Airport Standards.

[FR Doc. 82-18121 Filed 7-1-82; 8:45 am]

BILLING CODE 4910-13-M

General Aviation/Air Carrier District Offices at Anchorage, Alaska; Consolidation

Notice is hereby given that on or about July 1, 1982, the General Aviation District Office at 1515 East 13th Avenue, Anchorage, Alaska, and the Air Carrier District Office, 5001 West International Airport Road, Anchorage, Alaska, will be consolidated. Services to the general aviation public of Anchorage, formerly provided by these offices, will be provided by the Flight Standards District Office located at 6601 South Airpark Place, Suite 216, Anchorage, Alaska 99502. This information will be reflected in the FAA Organization Statement the next time it is reissued.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354)

Issued in Anchorage, Alaska on June 24, 1982.

Robert L. Faith,

Director, Alaskan Region.

[FR Doc. 82-18295 Filed 7-2-82; 8:45 am]

BILLING CODE 4910-13-M

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements; Submittals to OMB, June 10-25, 1982

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements, transmitted by the Department of Transportation, between June 10 and June 25, 1982, to the Office of Management and Budget (OMB) for its approval. This notice is published in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

FOR FURTHER INFORMATION CONTACT:

John Windsor, John Chandler, or Annette Wilson, Information Requirements Division, M-34, Office of the Secretary of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426-1887, or

Donald Arbuckle or Wayne Leiss, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, D.C. 20503, (202) 395-7340.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to the Office of Management and Budget (OMB) for approval under that Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsiblities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements.

On Mondays and Thursdays, as needed, the Department of Transportation will publish in the **Federal Register** a list of those forms, reporting and recordkeeping requirements that it has submitted to OMB for review and approval under the Paperwork Reduction Act. The list will include new items imposing paperwork burdens on the public as well as revisions, renewals and reinstatements of already existing requirements. OMB approval of an information collection requirement must be renewed at least once every three years. The published list also will include the following information for each item submitted to OMB.

(1) A DOT control number.

(2) An OMB approval number if the submittal involves the renewal, reinstatement or revision of a previously approved item.

(3) The name of the DOT Operating Administration or Secretarial Office involved.

(4) The title of the information collection request.

(5) The form numbers used, if any.

(6) The frequency of required responses.

(7) The persons required to respond.

(8) A brief statement of the need for and uses to be made of the information collection.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the "For Further Information Contact" paragraph set forth above.

Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the "For Further Information Contact" paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 5 days from the date of publication is needed to prepafe them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB between June 10 and June 25, 1982:

DOT No. 1945
OMB No. 2120-0045
By: Federal Aviation Administration (FAA)
Title: Bird Strike Incident Report
Forms: FAA Form 5200-7
Frequency: On Occasion
Respondents: Airport and Aircraft Operators

Need/Use: Federal Aviation Act of 1958, Section 311 (49 USC 1352) authorizes the collection of information relative to civil aeronautics. "Bird strike" data are collected to develop standards and monitor hazards to aviation. Data is used to help identify "bird strike" control requirements and provide in-service data on aircraft component failure.

DOT No. 1946

OMB No. 2115–0010
By: U.S. Coast Guard
Title: Recreational Boating Accident Report
Forms: CG-3865
Frequency: On Occasion
Respondents: Individual boat owners

Need/Use: This report provides information that an accident has occurred with basic information about the accident. This information may lead to further investigation by Coast Guard investigating officers, or local or state law enforcement agencies. A statistical data base is created to publish the annual report required by 46 USC 1486.

DOT No. 1947
OMB No. 2115–0003 and 2115–0004 combined
By: U.S. Coast Guard
Title: Report of Marine Accident, Injury or Death with Barge Addendum
Forms: CG-2692 and CG-2692A
Frequency: As Required
Respondents: Commercial vessel owners, agents or persons in charge of vessels or facilities

Need/Use: This information is needed to inform the Coast Guard that a vessel or personnel accident has occurred. This information is then used by the Coast Guard to initiate an investigation as required by 46 USC 239. Submission fulfills the public reporting requirements of 33 USC 361 and 43 USC 1348.

DOT No. 1948
OMB No. 2125–0016
By: Federal Highway Administration
Title: Driver's Log
Forms: None
Frequency: Daily
Respondents: 727,000

Need/Use: Provides a record of a driver's duty status in order to determine if the driver has remaining eligible hours for dispatch. Monitors the driver's activities to prevent fatigued driver's from operating commercial motor vehicles on the Nation's highways. The primary regulatory tool for use by both Federal and State enforcement personnel and motor carriers to determine compliance with the Federal Motor Carrier Safety Regulations.

DOT No. 1949
OMB No. 2115–0025
By: U.S. Coast Guard
Title: Oil Record Book for Non-Tankers
Forms: CG-4602
Frequency: On Occasion
Respondents: Operators of ships (non-tankers) greater than 500 gross tons

Need/Use: The Oil Record Book is permanent notation of specific operations involving transfer, loading, pumping, discharge of oil or cleaning of tanks. Purpose is to monitor volume, location and date of accidental or operational pollution of the sea with oil.

DOT No. 1951
OMB No. (New Item)
Title: Manufacturers Data Report
Forms: None
Frequency: Nonrecurring
Respondents: Manufacturers and owners of portable tanks

Need/Use: This requirement is used by manufacturers to verify for purchasers and the Materials Transportation Bureau that the portable tanks have been constructed in accordance with the safety specifications set forth in the regulations. Owners of portable tanks use this information to verify to shippers that their portable tanks are constructed to DOT specifications for portable tanks.

Issued in Washington, D.C. on June 29, 1982.

Karen S. Lee,
Deputy Assistant Secretary for Administration.

[FR Doc. 82-18223 Filed 7-2-82; 8:45 am]
BILLING CODE 4910-62-M

VETERANS' ADMINISTRATION

Privacy Act of 1974; Amendment of Systems Notices; Revised Systems of Records

Notice is hereby given that the VA (Veterans Administration) is considering changing four systems of records entitled, "Veterans and Beneficiaries Guardianship Records-VA" (37VA27), "Veterans and Armed Forces Personnel U.S. Government In-Force Life Insurance Records-VA" (36VA00), "Veterans, Beneficiaries and Attorneys U.S. Government Insurance Award Records-VA" (46VA00), and "Veterans Mortgage Life Insurance-VA" (53VA00), respectively set forth on pages 49746, 49745, 49752, and 49756 of the **Federal Register** of December 2, 1977. These four systems are being completely revised as part of an overall agency effort to administratively update its Privacy Act systems of records. The notices of the system of records are being rewritten in a clearer, more concise, manner in order to better identify to the public the types of individuals covered by the systems of records, the types of records being maintained by the VA, and the types of routine use disclosures currently being made from the systems. The routine use statements are being separated and/or rewritten in order to be more concise and to conform with the requirements of the VA confidentiality statutes. Also, for the purpose of simplifying usage, the sequence of listing the routine use statements is being changed.

In VA system of records 37VA27, current routine use numbers 8 and 13 are being deleted. In the revised system notice proposed routine use numbers 13, 14, and 15 are being added. Routine use number 13 concerns the release of information relating to the adjudication of incompetency of a VA beneficiary to a lender or prospective lender extending credit or proposing to extend credit on behalf of a veteran in order for the VA to protect incompent veterans from entering into unsound financial transactions which might deplete the resources of the veteran and to protect the interests of the Government giving credit assistance to a veteran. Routine use numbers 14 and 15 concern the release of information pursuant to a subpoena from a Federal, State or municipal grand jury; a Federal, State or minicipal court or a party in litigation; a Federal agency or party to an administrative proceeding being conducted by a Federal agency; or to a State or municipal administrative agency functioning in a quasi-judicial capacity or a party to a proceeding being conducted by such agency, in order for the VA to respond to and comply with the issuance of the subpoena.

In VA systems of records 36VA00 current routine use numbers 7, 15, and 23 are being deleted. In the revised system notice proposed routine use numbers 2, 3, 4, 5, 18, 21, 22, 24 and 25 are being added. Routine use numbers, 2, 3, and 4 concern the release of information to a Federal, State or local agency when the information is required to make a decision on the hiring, transfer or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance or continuance of a license, grant or other benefit. Routine use number 5 concerns the release of information to a Federal agency in order to obtain information relevant to the issuance of a benefit under title 38 U.S.C. Routine use number 18 concerns the release of information to a Federal agency, or its contractor, for the purpose of conducting government research necessary to accomplish a statutory purpose of that agency. Routine use number 21 concerns the release of information to any third party, except consumer reporting agencies, in connection with any proceeding for the collection of an amount owed to the U.S. by virtue of a person's participation in any benefit program administered by the VA. Routine use number 22 concerns the release of identifying information and any information concerning the

veteran's indebtedness to the U.S. by virtue of the person's participation in a benefits program administered by the VA, to a consumer reporting agency for purposes of assisting in the collection of such indebtedness, provided that the provisions of 38 U.S.C. 3301(g)(4) have been met. Routine use numbers 24 and 25 concern the release of information pursuant to a subpoena from a Federal, State or municipal grand jury; a Federal, State or municipal court or a party in litigation; a Federal agency or party to an administrative proceeding being conducted by a Federal agency; or to a State or municipal administrative agency functioning in a quasi-judicial capacity or a party to a proceeding being conducted by such agency, in order for the VA to respond to and comply with the issuance of the subpoena.

In VA system of records 46VA00, current routine use numbers 1 and 6 are being deleted. In the revised system notice proposed routine use numbers 2, 3, 4, 8, 9, 10 and 11 are being added. Routine use numbers 2 and 3 concern the release of information to a Federal, State or local agency when the information is required to make a decision on the hiring, transfer or retention of an employee, the issuance of a security clearance, the letting of a contract or the issuance or continuance of a license, grant or other benefit. Routine use number 4 concerns the release of information to a Federal agency in order to obtain information relevant to the issuance of a benefit under title 38 U.S.C. Routine use number 8 concerns the release of information to any third party, except consumer reporting agencies, in connection with any proceeding for the collection of an amount owed to the U.S. by virtue of a person's participation in any benefit program administered by the VA. Routine use number 9 concerns the release of identifying information and any information concerning the veteran's indebtedness to the U.S. by virtue of the person's participation in a benefits program administered by the VA, to a consumer reporting agency for purposes of assisting in the collection of such indebtedness, provided that the provisions of 38 U.S.C. 3301(g)(4) have been met. Routine use numbers 10 and 11 concern the release of information pursuant to a subpoena from a Federal, State or municipal grand jury; a Federal, State or municipal court or a party in litigation; a Federal agency or party to an administrative proceeding being conducted by a Federal agency; or to a State or municipal administrative agency functioning in a quasi-judicial capacity or a party to a proceeding being conducted by such agency, in order for the VA to respond to and comply with the issuance of the subpoena.

In VA system of records 53VA00, current routine use numbers 3, 4, and 6 are being deleted. In the revised system notice proposed routine use number 6 is being added. Routine use number 6 concerns the release of information to an attorney acting under a declaration of representation, a VA-approved claims agent, an insurance agent, a trust officer, or to employees or members of an accredited service organization, or to the Red Cross so that these individuals or organizations can aid veterans in the preparation, presentation, or prosecution of claims under the laws administered by the VA.

For purposes of these VA systems of records, the subsequent definitional terms or concepts are used as follows:

A. *Veteran.* A person who served in the active military, naval or air service, and who was discharged or released therefrom under conditions other than dishonorable and whose name and address and other information is maintained by the VA by virtue of the administration of veterans benefits under title 38, United States Code. For purposes of these system notices (unless specifically stated otherwise in the "Categories of individuals covered by this system" section of a system of records) the term "veteran" will also include the dependents of a veteran and any other individual who has been granted veteran status by virtue of a specific statutory authority. The name, address and other information regarding a veteran is protected by 38 U.S.C. 3301 and 4132 in addition to the Privacy Act. Accordingly, any disclosures of information concerning a veteran made from these Privacy Act systems of records under a routine use or other Privacy Act authority shall be consistent with the provisions of 38 U.S.C. 3301 and 4132.

B. *Claimant.* Any individual making a claim for a benefit under title 38, United States Code, e.g., veteran, nonveteran life insurance beneficiaries.

C. *Record.* Any item, collection or grouping of information about an individual that is maintained by the agency. The term "record" may be used with regard to as little as one descriptive item about an individual.

D. *Information vs. Data.* "Information" is individually identifiable (e.g., record includes an individual's name or address or other identifying information) whereas "data" is not individually identifiable.

E. *Subsidiary Records.* Subsidiary records contain information which is part of a more comprehensive, published VA system of records. Subsidiary records may be physically located separate and apart from the rest of the system of records. Any subsidiary records are maintained for the same general purposes as a published system of records and, therefore, are considered to be part of that published system of records. (OMB Circular A–108)

F. *Disclosures Made "At the Request of the Veteran".* In a few routine use notices, for purposes of section 3301 of title 38, United States Code, the VA has identified situations when the disclosure of a veteran's name and address by the VA to a third party is being made "at the request of the veteran." In these instances, an express or implied consent to disclosure a veteran's name or address may be inferred by the VA when a veteran has submitted a claim for VA benefits, inquired into benefits provided by the VA or has sought assistance from the VA in obtaining any other benefits (e.g., employment, State or local agency benefits programs) to which the veteran might be entitled and referral of the name and address of the veteran by the VA to a third party will reasonably be required for the VA to act on the request of the veteran for assistance.

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed systems of records to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420. All relevant material received before August 5, 1982 will be considered. All written comments will be available for public inspection only at the above address between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays) until August 16, 1982. Any person visiting the Veterans Administration Central Office for the purpose of inspecting any comments will be received by the Central Office Veterans Services Unit in room 132.

If no public comment is received during the 30-day review period allowed for public comment or unless otherwise published in the Federal Register by the Veterans Administration, the revised systems of records are effective June 28, 1982.

Dated: June 29, 1982.

Robert P. Nimmo,

Administrator.

Notice of System of Records

1. The system identified as 37VA27, "Veterans and Beneficiaries Guardianship Records—VA", appearing at 42 FR 49746 is revised as follows:

37VA27

SYSTEM NAME:

VA Supervised Fiduciary and Beneficiary Records—VA.

SYSTEM LOCATION:

Records are maintained at VA regional offices. These records are generally maintained by the regional office activity having jurisdiction over the area in which the VA beneficiary resides and at the Philadelphia Data Processing Center. Address locations of VA field stations and the Data Processing Center are listed in VA Appendix 1 at the end of this document.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The following categories of individuals are covered by this system: (1) A VA beneficiary (i.e., a veteran or a non-veteran adult who receives VA monetary benefits, lacks the mental capacity to manage his or her own financial affairs regarding disbursement of funds without limitation and is either rated incompetent by the VA or adjudged to be under a legal disability by a court of competent jurisdiction; or a child who has not reached majority under State law who receives VA monetary benefits); (2) a VA-supervised fidicuary (i.e., (a) a VA Federal fiduciary: a person or entity appointed by the VA to serve as payee of VA monetary benefits for an incompetent VA beneficiary (to include legal custodians, spouse payees, superintendents of Indian reservations and custodians-in-fact); and (b) a person or legal entity appointed by a State or foreign court to supervise the person and/or estate of a VA beneficiary adjudged to be under a legal disability (the statutory title of a court-appointed fiduciary may vary from State-to-State)); (3) a chief officer of a hospital treatment, domiciliary, institutional or nursing home care facility wherein a veteran, rated incompetent by the VA, is receiving care and who has contracted to use the veteran's VA funds in a specified manner; and (4) a supervised direct-payee beneficiary (i.e., an incompetent adult who receives VA monetary benefits directly while under the immediate supervision of the VA).

CATEGORIES OF RECORDS IN THE SYSTEM:

The PGF (Principal Guardianship Folder) is the major record in this system. The PGF may include: (1) Field examination reports (i.e., VA Forms 27–4716a or 27–3190, Field Examination Request and Report, which contains a VA beneficiary's name, address, social security number, VA file number and an assessment of the VA beneficiary's ability to handle VA and non-VA funds, ability to function with his or her family, economic and social adjustment data, and information regarding activities, name and address of a VA-supervised fiduciary); (2) correspondence from and to the VA beneficiary, a VA-supervised fiduciary, and other interested third parties; (3) medical records (i.e., medical and social work service reports generated in VA, State, local and private medical treatment facilities and private physicians' offices indicating the medical history of the VA beneficiary including diagnosis, treatment and nature of physical or mental disability); (4) financial records (e.g., accountings of a VA beneficiary's expenses, amount of monthly benefits received, amounts claimed for commissions by the VA-supervised fiduciary, certificates of balance from financial institutions, and withdrawal agreements between the VA, financial institutions and the VA-supervised fiduciary); (5) court documents (e.g., petitions, court orders, and depositions); and (6) contractual agreements to serve as a VA Federal fiduciary. Prior to the formal establishment of a PGF or where there is no local PGF at the field station, the above listed records or information may be maintained in files denominated "veterans' files" and/or "correspondence files."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 38, United States Code, Chapter 3, section 210(c); title 38, United States Code, Chapter 55.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. The record of an individual who is covered by this system may be disclosed to a member of Congress or staff person acting for the member when the member or staff person requests the record on behalf of and at the request of that individual.

2. Any information in this system, except for the name and address of a veteran, which is relevant to a suspected violation or reasonably imminent violation of law, whether civil, criminal or regulatory in nature and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, may be disclosed to a Federal, State, local or foreign agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

3. The name and address of a veteran, which is relevant to a suspected violation or reasonably imminent violation of law, whether civil, criminal or regulatory in nature and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, may be disclosed to a Federal agency charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, regulation, rule or order issued pursuant thereto, in response to its official request.

4. The name and address of a veteran, which is relevant to a suspected violation or reasonably imminent violation of law concerning public health or safety, whether civil, criminal or regulatory in nature and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, may be disclosed to any foreign, State or local governmental agency or instrumentality charged under applicable law with the protection of the public health or safety if a qualified representative of such organization, agency or instrumentality has made a written request that such name and address be provided for a purpose authorized by law.

5. The name and address of a veteran may be disclosed to any nonprofit organization if the release is directly connected with the conduct of programs and the utilization of benefits under title 38 (such disclosures include computerized lists of names and addresses).

6. Any information in this system, including name, address, social security number, VA file number, medical records, financial records and field examination reports of a VA beneficiary, and the name, address and information regarding the activities of a VA-supervised fiduciary or beneficiary may be disclosed at the request of the VA beneficiary or fiduciary to a Federal, State or local agency in order for the VA to obtain information relevant to a VA decision concerning the payment and usage of funds payable by the VA on behalf of a beneficiary, or to enable the VA to assist a beneficiary or VA-supervised fiduciary in obtaining the maximum amount of benefits for the VA

beneficiary from a Federal, State, or local agency.

7. The name and address of a VA beneficiary, VA rating of incompetency, and the field examination report may be disclosed to a Federal agency, upon its official request, in order for that agency, upon its official request, in order for that agency to make decisions on such matters as competency and dependency in connection with eligibility for that agency's benefits. This information may also be disclosed to a State or local agency if the information pertains to a VA beneficiary who is not a veteran, or if the name and address of the veteran is provided beforehand.

8. Any information in this system, including medical records, financial records, field examination reports, correspondence and court documents may be disclosed in the course of presenting evidence to a court, magistrate or administrative tribunal in matters of guardianship, inquests and commitments; and to probation and parole officers in connection with court required duties.

9. Any information in this system may be disclosed to a VA or court-appointed fiduciary in order for that fiduciary to perform his or her duties, provided this information will only be released when the disclosure is for the benefit of the beneficiary. Any information in this system may also be disclosed to a proposed fiduciary in order for the VA to consider a fiduciary for a beneficiary.

10. Any information in this system including medical records, correspondence records, financial records, field examination reports and court documents may be disclosed to an attorney employed by the beneficiary, or to a spouse, relative, next friend or to a guardian ad litem representing the interests of the beneficiary, provided the name and address of the beneficiary is given beforehand and the disclosure is for the benefit of the beneficiary.

11. Any information in this system may be disclosed to the Department of Justice and to U.S. Attorneys in defense or prosecution of litigation involving the United States and to Federal agencies upon their official request in connection with review of administrative tort claims filed under the Federal Tort Claims Act, 28 U.S.C. 2672.

12. Any information in this system including available identifying information regarding the debtor, such as the name of the debtor, last known address of the debtor, name of the debtor's spouse, social security account number, VA insurance number, VA file number, place of birth and date of birth of debtor, name and address of debtor's employer or firm and dates of employment, may be disclosed to other Federal agencies, State probate courts, State drivers license bureaus, State automobile title and license bureaus and the General Accounting Office in order to obtain current address, locator and credit report assistance in the collection of unpaid financial obligations owed the United States. The purpose is consistent with the Federal Claims Collection Act of 1966 and 38 U.S.C. 3301(b)(6).

13. Any information in this system relating to the adjudication of incompetency of a VA beneficiary either by a court of competent jurisdiction or by the VA may be disclosed to a lender or prospective lender participating in the VA Loan Guaranty Program who is extending credit or proposing to extend credit on behalf of a veteran in order for the VA to protect incompetent veterans from entering into unsound financial transactions which might deplete the resources of the veteran and to protect the interests of the Government giving credit assistance to a veteran.

14. Any information in this system may be disclosed to a Federal grand jury, a Federal court or a party in litigation, or a Federal agency or party to an administrative proceeding being conducted by a Federal agency, in order for the VA to respond to and comply with the issuance of a Federal subpoena.

15. Any information in this system may be disclosd to a State or municipal grand jury, a State or municipal court or a party in litigation, or to a State or municipal administrative agency functioning in a quasi-judicial capacity or a party to a proceeding being conducted by such agency, in order for the VA to respond to and comply with the issuance of a State or municipal subpoena; provided, that any disclosure of claimant information made under this routine use must comply with the provisions of 38 CFR 1.511.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The PGF, veterans files and correspondence files are maintained on paper documents in case folders, automated storage media (e.g., magnetic tape, computer lists and punch cards) and on file cards. Information on VA-supervised fiduciaries and beneficiaries is maintained on paper documents in the PGF and on file cards.

RETRIEVABILITY:

Paper documents and automated storage media are indexed by name and file number of the VA beneficiary. File cards containing information on VA-supervised fiduciaries are indexed by name of fiduciary.

SAFEGUARDS:

The individual case folders, computer lists and file cards are generally kept in steel file cabinets when not in use. The cabinets are located in areas which are locked after work hours. Access to these records is restricted to authorized VA personnel on a "need to know" basis. Magnetic tape, when not in use, is maintained under lock and key in areas accessed only by authorized VA personnel on a "need to know" basis.

RETENTION AND DISPOSAL:

Paper documents, computer lists, punch cards and file cards are destroyed anywhere from 60 days after receipt to 2 years after VA supervision has ceased, depending on the type of record or document. The PGF is destroyed 2 years after the case becomes inactive. Information contained on magnetic tape is automatically purged 2 years after the case becomes inactive. A record is determined inactive when it comes under the provisions of the Veterans Services Division General Operations Manual, M27–1, part 3, section 1, chapter 8, paragraphs 8.23–8.42.

SYSTEM MANAGER AND ADDRESS:

Director, Veterans Assistance Service (27), VA Central Office, Washington, DC 20420.

NOTIFICATION PROCEDURE:

Any individual who wishes to determine whether a record is being maintained in this system under his or her name or other personal identifier, or wants to determine the contents of such records should submit a written request or apply in person to the nearest VA regional office or center. Addresses for VA regional offices and centers may be found in VA Appendix 1 at the end of this document. All inquiries must reasonably identify the system of records involved, e.g., guardianship file. Inquiries should include the individual's full name, VA file number and return address. If the VA file number is not available, then as much of the following information as possible should be forwarded: full name, branch of service, dates of service, service numbers, social security number, and date of birth.

RECORD ACCESS PROCEDURES:

Individuals seeking information regarding access to and contesting of VA records in this system may write, call or visit the nearest VA regional office.

CONTESTING RECORD PROCEDURES:

(See Record access procedures above.)

RECORD SOURCE CATEGORIES:

The VA beneficiary, the VA beneficiary's dependents, VA-supervised fiduciaries, field examiners, estate analysts, third parties, other Federal, State and local agencies, and VA records.

2. The system identified as 36VA00, "Veterans and Armed Forces Personnel U.S. Government In-Force Life Insurance Records-VA", appearing at 42FR49745 is revised as follows:

36VA00

SYSTEM NAME:

Veterans and Armed Forces Personnel United States Government Life Insurance Records-VA.

SYSTEM LOCATION:

Records are located at the VA Regional Office and Insurance Centers and the Data Processing Centers (DPC) in Philadelphia, Pennsylvania, and St. Paul, Minnesota. Address locations are listed in VA Appendix I at the end of this document.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Veterans (not including dependents) who have been issued life insurance under one of the following: Title 38, United States Code, Chapter 19, Government Life Insurance programs; U.S. Government Life Insurance and National Service Life Insurance (includes Reopened Insurance under section 725, Service Disabled Veterans Insurance under section 722, and Veterans Special Life Insurance under section 723).

CATEGORIES OF RECORDS IN THE SYSTEM:

Life insurance records (or information contained in records) may include: (1) applications for insurance (applications may contain the name and address of the veteran applicant, date of birth, social security number, military service number and dates of service, VA file number, plan of insurance, disability rating, medical information regarding disability, method of payment, amount of insurance requested); (2) beneficiary and option designation information (e.g., names and addresses of principal and contingent beneficiaries, share to each and option of payment, designated estates and trustee); (3) insurance contract information (e.g., authorization of allotment payment, authorization for deduction from VA benefit payments; authorization for deduction from employee payroll; paid dividend information); (4) cash value and policy loan and lien information; (5) a listing of lapsed actions; (6) records of premium payments; (7) reinstatement information; (8) premium status and retired status of policy; (9) total disability life insurance applications (these applications include medical history of insured); (10) court-martial orders; (11) copies of personal papers of insured (e.g., birth certificate, marriage license, naturalization papers); (12) correspondence to and from the veteran; and (13) employment information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 38, United States Code, Chapter 3, section 210(c), and Chapter 19.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. The record of an individual who is covered by this system may be disclosed to a member of Congress or staff person acting for the member when the member or staff person requests the record on behalf of and at the request of that individual.

2. Any information in this system may be disclosed to a Federal agency, upon its official request, to the extent that it is relevant and necessary to that agency's decision regarding: the hiring, retention or transfer of an employee; the issuance of a security clearance, the letting of a contract, or the issuance or continuance of a license, grant or other benefit given by that agency. However, in accordance with an agreement with the U.S. Postal Service, disclosures to the U.S. Postal Service for decisions concerning the employment of veterans will only be made with the veteran's prior written consent.

3. Any information in this system may be disclosed to a State or local agency, upon its official request, to the extent that it is relevant and necessary to that agency's decision on: the hiring, transfer or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance or continuance of a license, grant or other benefit by that agency; provided, that if the information pertains to a veteran, the name and/or address of the veteran will not be disclosed unless the name and address is provided first by the requesting State or local agency.

4. Any information in this system may be disclosed to a Federal, State or local agency maintaining civil or criminal violation records, or other pertinent information such as prior employment history, prior Federal employment background investigations, and personal or educational background at the request of the veteran in order for the VA to obtain information relevant to the hiring, transfer or retention of an employee, the letting of a contract, the granting of a security clearance, or the issuance of a grant or other benefit.

5. Any information in this system may be disclosed to a Federal agency, except for the name and address of a veteran, in order for the VA to obtain information relevant to the issuance of a benefit under title 38 U.S.C. The name and address of a veteran may be disclosed to a Federal agency under this routine use if they are required by the Federal agency to respond to the VA inquiry.

6. Any information in this system, except for the name and address of a veteran, which is relevant to a suspected violation or reasonably imminent violation of law, whether civil, criminal or regulatory in nature and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, may be disclosed to a Federal, State, local or foreign agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

7. The name and address of a veteran, which is relevant to a suspected violation or reasonably imminent violation of law, whether civil, criminal or regulatory in nature and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, may be disclosed to a Federal agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statue, regulation, rule or order issued pursuant thereto, in response to its official request.

8. The name and address of a veteran, which is relevant to a suspected violation or reasonably imminent violation of law concerning public health or safety, whether civil, criminal or regulatory in nature and whether arising by general or program statute or by regulation, rule or other issued pursuant thereto, may be disclosed to any foreign, State or local governmental agency or instrumentality charged under applicable law with the protection of the public health or safety if a qualified representative of such organization, agency or instrumentality has made a wirtten request that such name and address be provided for a purpose authorized by law.

9. Except for beneficiary and option designations, any information in this

sytem including the name and address of a veteran may be discosed to any nonprofit organization if the release is directly connected with the conduct of programs and the utilization of benefits under title 38 (such disclosures include computerized lists of names and addresses).

10. Except for medical information and beneficiary and option designations, insurance contract information (e.g., name, address, status of the account, dividends paid, cash value, and policy loans) may be disclosed at the request of a veteran to an attorney acting under a declaration of representation, a VA-approved claims agent, an insurance agency, a trust officer, or to employees or members of an accredited service organization, or the to Red Cross so that these individuals or organzations can aid veterans in the preparation, presentation, prosecution of claims under the laws administered by the VA. The name and address of a veteran will not, however, be disclosed to these individuals under this routine use if the veteran has ot requested the assistance of an accredited service organization, claims agent, trust officer, the Red Cross or an attorney.

11. The name and address of an insured veteran and the amount of payment may be disclosed to the Treasury Department, upon its official request, in order for the Treasury Department to make payment of dividends, policy loans, cash surrenders, maturing endowments and insurance refunds.

12. The name and address of an insured veteran, date and amount of payments made to the VA including specific status of each policy (e.g., premiums paid in, dividends paid out, cash and loan values) may be disclosed to the Internal Revenue Service (IRS), upon its official request, in order for the IRS to collect tax liens by withholding insurance payments to satisfy unpaid taxes. This purpose is consistent with title 26, United States Code, section 7602.

13. Any information in this sytem may be disclosed to the Department of Justice, upon its official request, in defense or prosecution of litigation involving the United States Government.

14. The name and address of an insured veteran, the discharge date from the military, and medical information concerning grounds for total disability of an insured veteran may be disclosed to the Office of Serviceman's Group Life Insurance (OSGLI) at the request of the veteran in order to aid OSGLI in the verification of a discharge date, the issuance and maintenance of insurance policies to veterans and retired reservists participating in the Veterans Group Life Insurance and Serviceman's Group Life Insurance Program and to pay death benefits on these claims.

15. The name, address and other identifying information such as a social security number or a military service number may be disclosed to the Department of Defense (Army, Air Force, Navy, Marine Corps); the Department of Transportation (Coast Guard); the U.S. Public Health Service, Commissioned Officers Corps; and the Department of Commerce, NOAA (National Oceanic and Atmospheric Administration); upon their official request, for use in order for these departments to establish and maintain allotments from active and retired service pay for VA insurance premiums and loan repayments.

16. The face amount and cash and/or loan value of an insurance policy, verification of an existing insurance policy, and the name and address of an insured veteran may be disclosed at the request of the veteran to a Federal, State or local agency, in order for these agencies to assist veterans applying for Medicaid, Medicare, nursing home admittance or welfare benefits to the extent that the information is relevant and necessary to the agency's decision regarding these benefits.

17. The name and address of a veteran and military service information (e.g., dates of service, branch of service) may be disclosed to the Armed Forces Institute of Pathology (AFIP), upon its official request, in order for the AFIP to conduct research for specified official purposes.

18. The name(s) and address(es) of a veteran may be disclosed to another Federal agency or to a contractor of that agency, at the written request of the head of that agency or designee of the head of that agency for the purpose of conducting government research necessary to accomplish a statutory purpose of that agency.

19. Any information in this system including the nature and amount of a financial obligation may be disclosed to a debtor's employing agency or commanding officer, upon its official request, in order to assist the Veterans Administration (VA) in the collection of unpaid financial obligations owed the VA so that the debtor-employee may be counseled by his or her Federal employer or commanding officer. This purpose is consistent with 5 U.S.C. 5514, 4 CFR 102.5, and section 206 of Executive Order 11222 of May 8, 1965 (30 CFR 6469).

20. Any information in this system including available identifying data regarding the debtor, such as the name of the debtor, last known address of the debtor, name of the debtor's spouse, social security account number of the debtor, VA insurance number, VA loan number, VA file number, place of birth and date of birth of the debtor, name and address of the debtor's employer or firm and dates of employment, may be disclosed to other Federal agencies, State probate courts, State drivers license bureaus, and State automobile title and license bureaus in order to obtain current address, locator and credit report assistance in the collection of unpaid financial obligations owed the United States. This purpose is consistent with the Federal Claims Collection Act of 1966 (Pub. L. No. 89-508, 31 U.S.C. 951-953) and 4 CFR Parts 101-105 and with 38 U.S.C. 3301(b)(6).

21. Any information concerning the veteran's indebtedness to the United States by virtue of a person's participation in a benefits program administered by the VA, including personal information obtained from other Federal agencies through computer matching programs, may be disclosed to any third party, except consumer reporting agencies, in connection with any proceeding for the collection of an amount owed to the United States by virtue of a person's participation in any benefit program administered by the Veterans Administration. Purposes of these disclosures may be to (a) assist the VA in collection of title 38 benefit overpayments, overdue indebtedness, and/or costs of services provided individuals not entitled to such services, and (b) initiate legal actions for prosecuting individuals who willfully or fraudulently obtain title 38 benefits without entitlement. This disclosure is consistent with 38 U.S.C. 3301(b)(6).

22. The name and address of a veteran, other information as is reasonably necessary to identify such veteran, including personal information obtained from other Federal agencies through computer matching programs, and any information concerning the veteran's indebtedness to the United States by virtue of the person's participation in a benefits program administered by the VA may be disclosed to a consumer reporting agency for purposes of assisting in the collection of such indebtedness, provided that the provisions of 38 U.S.C. 3301(g)(4) have been met.

23. Any information in this system such as notice of renewal, reinstatement, premium due, lapse actions, miscellaneous insurance instructions, disposition of dividends, policy loans and transfer of records may be disclosed to VA Federal fiduciaries

of incompetent veterans in order to advise the fiduciaries of current actions to be taken in connection with ownership of U.S. Government life insurance policies and to enable them to properly perform their duties as fiduciaries.

24. Any information in this system may be disclosed to a Federal grand jury, a Federal court or a party in litigation, or a Federal agency or party to an administrative proceeding being conducted by a Federal agency, in order for the VA to respond to and comply with the issuance of a Federal subpoena.

25. Any information in this system may be disclosed to a State or municipal grand jury, a State or municipal court or a party in litigation, or to a State or municipal administrative agency functioning in a quasi-judicial capacity or a party to a proceeding being conducted by such agency, in order for the VA to respond to and comply with the issuance of a State or municipal subpoena; provided, that any disclosure of claimant information made under this routine use must comply with the provisions of 38 CFR 1.511.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on magnetic tape, paper documents including manual accounting cards, index cards, computer lists, punched cards, and microfilm, microfiche, and disks.

RETRIEVABILITY:

All manual and automated insurance records are retrievable by the insurance file number, using name, social security number, VA file number, and date of birth as additional identifying information. The index cards are filed in alphabetical order.

SAFEGUARDS:

1. Physical Security: (a) All tape records are stored in locked fire protected libraries when not in use. Tape records for the previous three-day operating cycle are sent to storage at the VA Records Depository for use in the event of a major catastrophe. Computer programs are stored at the same location as well as manual operating instructions and various manually prepared records. Insurance folders are stored in open shelf filing. A sprinkler system is located above the files. Microfilm reels are retained in a locked fireproof vault, with humidity controls. Access to the file and microfilm storage areas are restricted to authorized personnel on a "need to know" basis. Instructions have been released on the confidentiality of Beneficiary and Option selections, and this information cannot be released to anyone other than the insured. Other information is released only to individuals who have a right to know.

(b) Employee file records and file records of public figures or otherwise sensitive files are stored in separate locked files. Strict control measures are enforced to ensure that disclosure is limited to a "need to know" basis. Access to data telecommunications terminals is by authorization controlled by the site security officer. The security officer is assigned responsibility for privacy-security measures, especially for review of violations logs, informational logs and control of password and badge distribution.

(c) Access to the VA data processing centers is restricted to center employees, custodial personnel and Federal Protective Service personnel. Access to computer rooms is restricted to authorized operational personnel through electronic locking devices. All other persons gaining access to computer rooms are escorted.

2. System security: (a) At the VA Regional Office and Insurance Centers, the terminal equipment has key locks, magnetic badge readers and audible alarms. Electronic keyboard locks are activated on security errors.

(b) At the Data Processing Centers, identification of magnetic tape and disks containing data is rigidly enforced using labeling techniques. Access to programs is controlled at three levels: programming, auditing, and operations.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with disposition authorization approved by the Archivist of the United States.

SYSTEM MANAGER AND ADDRESS:

Director (00), VA Regional Office and Insurance Center, 5000 Wissahickon Avenue, Philadelphia, Pennsylvania 19101.

NOTIFICATION PROCEDURE:

Any individual who wishes to determine whether a record is being maintained in this system under his or her name or other personal identifier, or wants to determine the contents of such records should submit a written request or apply in person to the VA Regional Office and Insurance Center at Philadelphia, Pennsylvania, or at St. Paul, Minnesota, where the insurance records are maintained. The inquirer should provide full name of veteran, insurance file number and date of birth. If a file number is not available, the social security number, srvice number and/or location of insurance records will aid VA personnel in locating the official insurance records. Address locations are listed in VA Appendix 1 at the end of this document.

RECORDS ACCESS PROCEDURES:

Individuals desiring access to, and contesting of, VA records should write to the VA Regional Office and Insurance Center at Philadelphia, Pennsylvania, or St. Paul, Minnesota.

CONTESTING RECORD PROCEDURES:

(See Records access procedures above.)

RECORD SOURCE CATEGORIES:

The veteran or someone acting on the behalf of the veteran; other Federal agencies, State and local agencies, VA records; VA and private physicians, VA and private medical facilities, accredited service organization representatives, VA-claims agents, and the Red Cross, VA Federal fiduciaries; financial institutions, beneficiaries; the Retail Credit Corporation, commercial insurance companies, undertakers and the general public.

3. The system identified as 46VA00, "Veterans, Beneficiaries and Attorneys U.S. Government Insurance Award Records-VA", appearing at 42FR40752 is revised as follows:

46VA00

SYSTEM NAME:

Veterans, Beneficiaries and Attorneys United States Government Insurance Award Records-VA.

SYSTEM LOCATION:

Records are maintained at the VA Data Processing Centers and VA Regional Office and Insurance Centers, in Philadelphia, Pennsylvania, and St. Paul, Minnesota. Some pre-1968 records pertaining to beneficiaries of deceased veterans may be maintained in regional offices. Address locations are listed in VA Appendix 1 at the end of this document.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The following categories of individuals are covered by this system: (1) Veterans (not including dependents) drawing VA disability insurance payments; (2) beneficiaries of VA insurance drawing insurance proceeds; (3) attorneys drawing fees for aiding settlement of VA insurance cases; and (4) veterans (not including dependents) drawing proceeds on matured VA

insurance contracts (e.g., endowment policies).

CATEGORIES OF RECORDS:

The life insurance records (or information contained in records) may include: (1) the name and address of the veteran and beneficiary; (2) VA file number; (3) social security number; (4) type of VA insurance; (5) payment amounts; (6) payment vouchers; (7) claims records for disability payments; (8) claim records for death claim payment; (9) beneficiary signature cards; (10) returned check information; (11) records of sums held as credit for veterans for disability payment; (12) records of unpaid insurance proceeds; (13) indebtedness to be withheld from insurance proceeds; (14) records of checks withheld from delivery to certain foreign countries; (15) index of payees; (16) correspondence to and from the payee; and (17) employment information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 38, United States Code, Chapter 3, Section 210(c); Title 38, United States Code, Chapter 19.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

1. The record of an individual who is covered by this system may be disclosed to a member of Congress or staff person acting for the member when the member or staff person requests the record on behalf of and at the request of that individual.

2. Any information in this system may be disclosed to a Federal agency, upon its official request, to the extent that it is relevant and necessary to that agency's decision regarding: the hiring, retention or transfer of an employee; the issuance of a security clearance, the letting of a contract, or the issuance or continuance of a license, grant or other benefit given by that agency. However, in accordance with an agreement with the U.S. Postal Service, disclosures to the U.S. Postal Service for decisions concerning the employment of veterans will only be made with the veteran's prior written consent.

3. Any information in this system may be disclosed to a State or local agency, upon its official request, to the extent that it is relevant and necessary to that agency's decision on: the hiring, transfer or retention of an employee, the issuance or continuance of a license, grant or other benefit by that agency: PROVIDED, that if the information pertains to a veteran, the name and address of the veteran will not be disclosed unless the name and address is provided first by the requesting State or local agency.

4. Any information in this system may be disclosed to a Federal agency, except for the name and address of a veteran, in order for the VA to obtain information relevant to the issuance of a benefit under title 38 U.S.C. The name and address of a veteran may be disclosed to a Federal agency under this routine use if they are required by the Federal agency to respond to the VA inquiry.

5. The name and address of a veteran, beneficiary or an attorney and the amount of payment may be disclosed to the Treasury Department, in order for the Treasury Department to issue checks to the veteran, beneficiary or attorneys and estates of deceased veterans and beneficiaries.

6. Any information in this system, including the nature and amount of a financial obligation, may be disclosed as a routine use in order to assist the Veterans Administration in the collection of unpaid financial obligations owed the VA, to a debtor's employing agency or commanding officer so that the debtor-employee may be counseled by his or her Federal employer or commanding officer. This purpose is consistent with 5 U.S.C. 5514, 4 CFR 102.5, and section 206 of Executive Order 11222 of May 8, 1965 (30 CFR 6469) and 38 U.S.C. 3301(b)(6).

7. Any information in this system, including available identifying data regarding the debtor, such as name of debtor, last known address of debtor, name of debtor's spouse, social security account number of debtor, VA insurance number, VA loan number, VA file number, place of birth and date of birth of debtor, name and address of debtor's employer or firm and dates of employment, may be disclosed to other Federal agencies, State probate courts, State drivers license bureaus, and State automobile title and license bureaus as a routine use in order to obtain current address, locator and credit report assistance in the collection of unpaid financial obligations owed the United States. This purpose is consistent with the Federal Claims Collection Act of 1966 (Pub. L. No. 89–508, 31 United States Code, 951–953) and 4 CFR, Parts 101–105 and 38 U.S.C. 3301(b)(6).

8. Any information concerning the veteran's indebtedness to the United States by virtue of a person's participation in a benefits program administered by the VA, including personal information obtained from other Federal agencies through computer matching programs, may be disclosed to any third party, except consumer reporting agencies, in connection with any proceeding for the collection of an amount owed to the United States by virtue of a person's participation in any benefit program administered by the Veterans Administration. Purposes of these disclosures may be to (a) assist the VA in collection of title 38 benefit overpayments, overdue indebtedness, and or costs of services provided individuals not entitled to such services, and (b) initiate legal actions for prosecuting individuals who willfully or fraudulently obtain title 38 benefits without entitlement. This disclosure is consistent with 38 U.S.C. 3301(b)(6).

9. The name and address of a veteran, other information as is reasonably necessary to identify such veteran, including personal information obtained from other Federal agencies through computer matching programs, and any information concerning the veteran's indebtedness to the United States by virtue of the person's participation in a benefits program administered by the VA may be disclosed to a consumer reporting agency for purposes of assisting in the collection of such indebtedness, provided that the provisions of 38 U.S.C. 3301(g)(4) have been met.

10. Any information in this system may be disclosed to a Federal grand jury, a Federal court or a party in litigation, or a Federal agency or party to an administrative proceeding being conducted by a Federal agency, in order for the VA to respond to and comply with the issuance of a Federal subpoena.

11. Any information in this system may be disclosed to a State or municipal grand jury, a State or municipal court or a party in litigation, or to a State or municipal administrative agency functioning in a quasi-judicial capacity or a party to a proceeding being conducted by such agency, in order for the VA to respond to and comply with the issuance of a State or municipal subpoena; provided, that any disclosure of claimant information made under this routine use must comply with the provisions of 38 CFR 1.511.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on magnetic tape, microfilm, disks, index cards, and paper documents in file folders.

RETRIEVABILITY:

All insurance awards records are retrievable by the insurance file number. The index cards are filed in alphabetical order.

SAFEGUARDS:

All magnetic tape records are stored in a locked fireproof vault when not in use. These magnetic tape records are sent to storage at the VA Records Depository for use in the event of a major catastrophe. Computer programs are stored in the same location along with manual operating instructions and microfilms of various manually prepared records. Insurance folders are stored in open shelf filing and five-drawer filing cabinets. Admission to the file area is restricted to authorized personnel only. Microfilm reels are retained in the locked fireproof vault with humidity controls. Access to the microfilm storage is restricted to authorized personnel only. Information from this system is released only to those persons on a "need to know" basis.

RETENTION AND DISPOSAL:

Since insurance programs are in force for many decades, most insurance records are retained for long periods of time. Insurance folders and certain paper documents (such as premium accounting cards) are generally retained indefinitely. Manual folders at the VA Regional Office and Insurance Centers St. Paul and Philadelphia which have been inactive for 36 months or more and retired to the appropriate Federal Archives and Records Center. Automated records are generally retained indefinitely.

SYSTEM MANAGER AND ADDRESS:

Director (00), VA Regional Office and Insurance Center, 5000 Wissahickon Avenue, Philadelphia, Pennsylvania 19101.

NOTIFICATION PROCEDURE:

Any individual who wishes to determine whether a record is being maintained in this system under his or her name or other personal identifier, or wants to determine the contents of such record should submit a written request, visit or apply in person to the VA Regional Office and Insurance Center, Philadelphia, Pennsylvania, or to the VA Regional Office and Insurance Center, St. Paul, Minnesota, where the insurance records are maintained. The inquirer should provide full name of veteran, insurance file number, VA file number, payee name and number, if known. If insurance file number is not available, social security number, service number and location of insurance records will aid VA personnel in locating the official insurance records. Address locations are listed in VA Appendix 1 at the end of this document.

RECORD ACCESS PROCEDURES:

Individuals desiring access to and contesting of VA records should write to the VA Regional Office and Insurance Center at Philadelphia, Pennsylvania or St. Paul, Minnesota.

CONTESTING RECORD PROCEDURES:

(See Record access procedures above.)

RECORD SOURCE CATEGORIES:

Information in the records is obtained from veterans, beneficiaries, attorneys, financial institutions and executors of estates, undertakers, other Federal agencies, VA medical facilities and civilian hospitals, and VA records.

4. The system identified as 53VA00, "Veterans Mortgage Life Insurance-VA", appearing at 43 FR 49756 is revised as follows:

53VA00

SYSTEM NAME:

Veterans Mortgage Life Insurance-VA

SYSTEM LOCATION:

Records (i.e., application, VA special grant cards and correspondence) are maintained at the VA Regional Office and Insurance Center, St. Paul, Minnesota, and the Data Processing Center, Hines, Illinois; records of premium and interest payments and records on death cases are maintained at the Bankers Life Insurance Company of Nebraska, Cotner and O Streets, Lincoln, Nebraska 68501. Address locations of VA facilities are listed at VA Appendix 1 at the end of this document.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Veterans (not including dependents) who have been granted a specially adapted housing grant under title 38, United States Code, Chapter 21.

CATEGORIES OF RECORDS:

Records (or information contained in records) include: (1) Applications for veterans mortgage life insurance (applications contain the following information: veteran's name, address, social security number, VA file number, date of birth, address of mortgaged property, name and address of mortgagor, mortgage account number, rate of interest, original amount of mortgage, and current amount of mortgage, monthly payment amount, mortgage payment period); (2) VA Special Grant Cards (cards contain name, address, dates of military service, branch of service, method of separation, whether veteran has VMLI (Veterans Mortgage Life Insurance), name and address of lender, legal description and property address and improvements to such properties, date applied for disability compensation, date initial application submitted, and grant information, amount of grant approved or whether the grant was canceled); (3) payment premium records; (4) interest payment records; and (5) correspondence to and from the veteran.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 38, United States Code, Chapter 3, section 210(c)(1); Title 38, United States Code, Chapter 21.

ROUTINE USE OF RECORDS INCLUDING CATEGORIES OF USES AND THE PURPOSES OF SUCH USES:

1. The record of an individual who is covered by this system may be disclosed to a member of Congress or staff person acting for the member when the member or staff person requests the record on behalf of and at the request of that individual.

2. Any information in this system, except for the name and address of a veteran, which is relevant to a suspected violation or reasonably imminent violation of law, whether civil, criminal or regulatory in nature and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, may be disclosed to a Federal, State, local or foreign agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, rule,,regulation or order issued pursuant thereto.

3. The name and address of a veteran, which is relevant to a suspected violation or reasonably imminent violation of law, whether civil, criminal or regulatory in nature and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, may be disclosed to a Federal agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, regulation, rule or order issued pursuant thereto, in response to its official request.

4. The name and address of a veteran, which is relevant to a suspected violation or reasonably imminent violation of law concerning public health or safety, whether civil, criminal or regulatory in nature and whether arising by general or program statute or by regulations, rule or order issued pursuant thereto, may be disclosed to any foreign, State or local governmental

agency or instrumentality charged under applicable law with the protection of the public health or safety if a qualified representative of such organization, agency or instrumentality has made a written request that such name and address be provided for a purpose authorized by law.

5. The name and other identifying information and the amount of monthly premium payments to be deducted from VA benefits or to be paid by the veteran for a veteran's mortgage life insurance policy may be disclosed at the request of the veteran to the Bankers Life Insurance Company of Nebraska, Lincoln, Nebraska, in order to assist Bankers Life Insurance Company in ascertaining and crediting the correct monthly payments for an insured veteran.

6. Except for medical information, insurance contract information (e.g., name, address, and status of the account), any information in this system may be disclosed at the request of a veteran to an attorney acting under a declaration of representation, a VA-approved claims agent, an insurance agent, a trust officer, or to employees or members of an accredited service organization, or to the Red Cross so that these individuals or organizations can aid veterans in the preparation, presentation, or prosecution of claims under the laws administered by the VA. The name and address of a veteran will not, however, be disclosed to these individuals under this routine use if the veteran has not requested the assistance of an accredited service organization, claims agent, trust officer, the Red Cross or an attorney.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on paper documents in manual account folders.

RETRIEVABILITY:

All mortgage life insurance records are maintained by VA file number, date of birth and name as additional identifying data.

SAFEGUARDS:

All manual records at the VA Regional Office and Insurance Center are maintained in steel file cabinets and access to the files is limited to authorized personnel only. Information in these records is restricted to those authorized persons on a "need to know" basis.

RETENTION AND DISPOSAL:

Inactive mortgage life insurance records are placed in a closed file and destroyed one year after closing. A record is determined inactive when any one of the following events occur: mortgage paid in full, veteran's 70th birthday, termination of the veteran's ownership of the property securing the loan, payment of premiums discontinued by veteran, entire contract or agreement discontinued, or failure to timely submit required statement.

SYSTEM MANAGER AND ADDRESS:

Director (00), VA Regional Office and Insurance Center, 5000 Wissahickon Avenue, Philadelphia, Pennsylvania 19101.

NOTIFICATION PROCEDURE:

Any individual who wishes to determine whether a record is being maintained in this system under his or her name or other personal identifier, or wants to determine the contents of such record should submit a written request to the VA Regional Office and Insurance Center, St. Paul, Minnesota. The address for the VA Regional Office and Insurance Center may be found at Appendix 1 at the end of this document. The inquirer should provide the veteran's name, VA file number and social security number and reasonably identify the benefit or system of records involved, i.e., Veterans Mortgage Life Insurance Records. If this information is not available, information concerning the lending institution, mortgage number of name and address of veteran involved should be furnished.

RECORD ACCESS PROCEDURE:

Individuals desiring access to, and contesting of VA records should write to the VA Regional Office and Insurance Center, St. Paul, Minnesota.

CONTESTING RECORD PROCEDURES:

(See Record access procedures above.)

RECORD SOURCE CATEGORIES:

Records are obtained from the veteran, lending institutions holding a veteran's mortgage, VA Loan Guaranty records, VA records, contractors remodeling or enlarging or adding construction to existing homes, relatives and other interested persons.

[FR Doc. 82-18166 Filed 7-2-82; 8:45 am]
BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 129
Tuesday, July 6, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 2 p.m., Thursday, July 1, 1982.

PLACE: 2033 K Street, NW., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Judicial Session.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6334.

[S–979–82 Filed 7–1–82; 9:42 am]

BILLING CODE 6351–01–M

2

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 28525, Wednesday, June 30, 1982.

PLACE: Board room, sixth floor, 1700 G Street NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202–377–6679).

CHANGES IN THE MEETING: The following items have been withdrawn from the Bank Board meeting scheduled Thursday, July 1, 1982.

Net Worth Amendment
Liquidity Amendments

[No. 46, July 1, 1982]

[S–979–82 Filed 7–1–82; 10:35 am]

BILLING CODE 6720–01–M

3

NATIONAL TRANSPORTATION SAFETY BOARD

[NM–82–16]

TIME AND DATE: 9 a.m., Tuesday, July, 13, 1982

PLACE: NTBS Board Room, National Transportation Safety Board, 800 Independence Ave., S.W., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Aircraft Accident Report:* Pilgrim Airlines Flight 458, deHavilland DHC–6–100, N137PM, near Providence, Rhode Island, February 21, 1982.
2. *Recommendation* to the Federal Aviation Adminstration regarding safety cards, crew briefings to passengers, accessibility to fire extinguishers stowage of carryon baggage, public address systems, and surveillance of Part 135 operators.
3. *Aircraft Accident Report:* Midair Collision, USAF F–111D; Building Contractors, Inc., Cessna TU–206G, Clovis, Now Mexico, February 6, 1980, and Recommendations to the Federal Aviation Administration.
4. *Aircraft Accident Report:* Lufkin Industries, Inc., Beechcraft King Air BE–200, N456L, near Parker, Colorado, March 27, 1980.
5. *Recommendation* to the Federal Aviation Administration regarding exit conspicuity and operability on airplanes certificated under FAR 23 and Special FAR 23.
6. *Recommendation* to the Federal Aviation Administration regarding light airplane certification requirements and procedures for prolonged climbs in icing conditions.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, (202) 382–6525.

June 30, 1982.

[S–980–82 Filed 7–1–82; 2:06 pm]

BILLING CODE 4910–58–M

federal register

Tuesday
July 6, 1982

Part II

Federal Trade Commission

Semiannual Regulatory Agenda

FEDERAL TRADE COMMISSION

16 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: Federal Trade Commission.

ACTION: Semiannual Regulatory Agenda.

SUMMARY: The following agenda of Commission proceedings is published to comply with the Federal Trade Commission Improvements Act of 1980, Public Law 96–252 and the Regulatory Flexibility Act, Public Law 96–354. Each item reflects the Bureau of Consumer Protection's assessment of events that it expects will occur in the listed proceedings sometime during the coming year. No Commission determination on the need for or the substance of a trade regulation rule or any other procedural option should be inferred from inclusions.

Several of the items concern proceedings that potentially may affect a substantial number of small businesses as that term is used in the Regulatory Flexibility Act. Such proceedings are indicated in this agenda by the term "Regulatory Flexibility" immediately below the title for the proceeding. Whether any such proceeding will result in a rule which is likely to have a significant economic impact on such entities depends upon final Commission determinations on the need for or on the substance of a trade regulation rule.

The views expressed in these entries are those of the FTC staff, based upon information now available. These views should not be regarded as a final staff position, nor should they be attributed to the Commission itself. The Commission will address the issues presented when it considers each staff proposal.

Each agenda item is based on projected timing of future Commission action. Discovery of new information, changes in circumstances or in the law may alter the projected dates.

FOR FURTHER INFORMATION CONTACT: Sylvia J. Miller, Associate Director for Operations, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, (202) 523–3921.

Food Advertising

(39 FR 39842, Nov. 11, 1974; 40 FR 23086, May 28, 1975; 41 FR 8980, March 2, 1976)

The Rule

The rule would promote accuracy in food advertising claims by standardizing certain terms and requiring disclosure of material information in the following areas: natural food claims; energy and weight control claims; and fat, fatty acid, and cholesterol claims. Foods could be advertised as natural, if such foods contain no artificial or synthetic ingredients and are not more than minimally processed. If a food has been more than minimally processed, it could nonetheless be advertised as natural, if either the processed ingredients or the processes themselves are disclosed. Additionally, natural foods could not be advertised as inherently superior simply because they are natural.

Advertisements making energy claims would have to disclose that the claims mean that the food provides calories. Weight control claims would have to disclose the number of calories in a serving of the advertised food (unless the food meets FDA standards for a "low calorie" food).

Finally, the rule would deal with two types of fatty-acid and cholesterol claims; content claims, which simply state the content (*e.g.*, no cholesterol), and health-related claims which refer to heart or artery disease. As to content claims about cholesterol or fatty acids, the rule would require disclosure of either the amounts of the other dietary constituents thought to be related to heart and artery disease or, in broadcast media, a disclosure that the advertised food contains these other components and the label may be consulted for precise information.

As to health related claims, the rule would prohibit certain claims that are unsubstantiated or false. All remaining claims in this area may be made, so long as the advertisement discloses the existence of a scientific controversy concerning the relationship between fat and cholesterol in the diet and the risk of heart or artery disease.

The staff is presently writing a statement of basis and purpose and related documents.

Objectives

The rule is designed to ensure that consumers have accurate and reliable information on nutrition quality by preventing deception in food advertising. The "natural food" section is intended to remedy the deceptive use of the claim that a food is "natural". The energy section would prevent consumers from being misled into believing that something other than the caloric content of the food provides energy. Weight control claims would trigger a disclosure to consumers that would permit them to choose foods based on accurate information. Fatty acid and cholesterol claims would be limited to prevent deceptive claims relating to heart or artery disease. Advertisers would be prevented from deceptively overstating the health benefits of particular foods.

Legal Authority

Federal Trade Commission Act, §§ 5, 12, 15 and 18, 15 U.S.C. §§ 45, 52, 55 and 57(a).

Timing

Final Commission Action—July, 1982.

Responsible Person

Melvin H. Orlans Division of Advertising Practices Bureau of Consumer Protection Federal Trade Commission Washington, D.C. 20580 (202) 724–1529

Amendment To Trade Regulation Rule Concerning Preservation of Consumers' Claims and Defense, ("Holder-in-Due-Course Rule"), 16 CFR Part 433

(40 FR 53506, November 18, 1975)

Regulatory Flexibility

The Amendment

The original rule, which took effect in May of 1976, requires sellers to ensure that credit contracts used in consumer installment sales and purchase money loans (loans made to finance a purchase from a seller with whom the lender has a working relationship directed at consumer sales) contain a provision which makes any holder of the contract subject to all legal claims and defenses related to the sale transaction which the buyer may have against the seller.

The amendment would extend to creditors who make purchase money loans or purchase retail installment contracts the obligation to ensure that credit contracts contain the required provision. The amendment also would make a number of technical revisions in the rule, including:

1. The definition of "purchase money loan" and certain associated terms would be clarified but the underlying meaning would not be changed.

2. The language of the required contract provision would be changed to make it more readable and to make explicit the idea that the provision only preserves claims and defenses related to the sale financed by the creditor contract. The legal meaning of the contract provision would not be changed.

3. Lenders would be permitted to add to the required contract provision a specified clause which frees them from liability for claims and defenses where a consumer tells them that loan proceeds will be spent at a seller with which they are affiliated, but actually spends the proceeds at a different, unaffiliated, seller.

4. The amendment would add a provision indicating that businesses violate the rule only if the violative actions are engaged in with actual or implied knowledge that they are prohibited by the rule.

5. The minimum size of type in which the required contract provision would have to be printed would be reduced, in order to lessen the amount of space the provision would take up on contract forms.

6. In credit contracts required by law to be in Spanish, a Spanish version of the required contract provision would have to be used.

The staff is presently preparing a statement of basis and purpose and related documents for submission to the Commission.

Objectives

The underlying objective of the amendment is the same as that of the original rule—to ensure that a purchaser's duty to pay is not separated from sellers' duty to perform as promised when consumer sales are financed by third party creditors or purchase money lenders.

The extension of compliance obligations to creditors is intended to encompass within the rule all parties to the practices covered by the rule. It should also enhance enforcement of the rule because in many transactions covered by the rule creditors play an important role in determining the content of contracts. The technical changes made in the rule by the amendment should make the rule easier for consumers and businesses to work with and understand.

Legal Authority

Federal Trade Commission Act §§ 5 and 18, 15 U.S.C. §§ 45 and 57(a).

Timing

Final Commission Action—September, 1982

Responsible Person

David Williams, Division of Credit Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, (202) 724–1100

Funeral Industry Practices

(40 FR 39901, August 24, 1975)

Regulatory Flexibility

On January 22, 1981, the Commission republished for public comment a revised version of its proposed trade regulation rule to govern funeral industry practices. The rule had been substantially modified from the rule originally proposed in 1975 and had been further revised from the version tentatively approved in substance by the Commission in 1979. The rule was republished to comply with Section 19 of the FTC Improvements Act of 1980. Section 19 placed certain limits on the Commission's authority to regulate the funeral industry and required that any revised rule complying with these limits be published for public comment before the Commission made a final determination on whether or not to adopt the rule.

On July 17, 1981, after receiving and considering public comments and staff recommendations on the proposal, the Commission voted to approve a version of the proposed rule for purposes of transmittal to the Office of Management and Budget for review of its recordkeeping requirement. The rule so approved has the following major substantive features:

1. Price disclosures—The rule would require that consumers be provided with itemized price information (a general price list, casket price list, and outer burial container price list, or a combination of these lists) in the funeral home upon beginning discussions about particular services or merchandise. It would further require that itemized price information be available to consumers over the telephone upon request and that they be given a written statement listing charges for the services and merchandise they select at completion of their arrangements conference.

2. Misrepresentations—It would be a violation of the rule to misstate legal or cemetery requirements. Specific misrepresentations prohibited would be claims that embalming is required by law in all cases, that a casket is required by law for direct cremations, or that an outer burial container is required by law to surround the casket in the grave when such is not the case. Other representations prohibitions would be claims that funeral goods or services can preserve the body for extended periods of time and claims that cash advance items (items obtained from a third party) are provided at cost when they are not. The rule would also require funeral providers to make certain written disclosures to inform consumers about their options in deciding whether or not to purchase embalming or other funeral goods and services.

3. Other Unfair or Deceptive Practices—The rule would prohibit funeral providers from conditioning the sale of goods or services upon the purchase of other goods or services, would further prohibit them from requiring caskets for direct cremations, and would require that unfinished wood boxes or alternative containers be made available to customers desiring to arrange direct cremation.

The staff is presently writing a statement of basis and purpose and related documents.

Objectives

The proposed funeral rule is intended to stimulate competition in the funeral industry and thereby reduce possible economic injury to funeral purchasers. Injury may result from inadequate access to price and other information needed in shopping for and purchasing those items which best meet a funeral purchaser's individual needs at the best price available. The rule is also intended to reduce the extent to which funeral providers may (1) misrepresent the utility of and need for certain goods and services, (2) provide and then bill for services without asking for or receiving permission to provide them and (3) require consumers to purchase combinations of goods which may include items they do not want.

Legal Authority

Federal Trade Commission Act §§ 5 and 18, 15 U.S.C. 45 and 57(a), as limited by the Federal Trade Commission Improvements Act of 1980, P.L. 96–252, 94 Stat. 374, § 19.

Timing

Final Commission Action—September, 1982.

Responsible Person

Robert A. M. Schick, Division of Service Industry Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, (202) 523–3885

Amendment to Care Labeling of Textile Wearing Apparel Rule, 16 CFR Part 423

(41 FR 3747, January 26, 1976)

Regulatory Flexibility

The Proposed Amendment

An existing rule, effective since July, 1972, requires that all consumers' wearing apparel and piece goods used to make wearing apparel contain a "Care Label" which informs consumers about proper procedures for such things as cleaning, drying, and ironing.

The amendments that were proposed would extend the rule to cover all textile products including carpets and rugs, upholstered furniture, yarns and linens. The amendments would also require a more complete statement of the care procedure, the use of standardized care terminology and the establishment of

basis of accuracy for each care procedure prescribed in a label.

The proposed amendments were approved in substance by the Commission on December 17, 1980. On January 5, 1981, the Commission published in the Federal Register a notice soliciting technical comment on the language of the rule, to determine whether its provisions adequately and clearly convey the Commission's intentions. The staff is presently summarizing the comments received and preparing a statement of basis and purpose and related documents for final Commission review.

Objective

The rule and its amendment seek to inform consumers what care procedures should be used to make certain that the utility and appearance of purchased textile products will not be impaired. In addition, the information thus made available would permit an informed choice among competing products.

Legal Authority

Federal Trade Commission Act §§ 5 and 18, 15 U.S.C. §§ 45 and 57(a).

Timing

Final Commission Action—July, 1982.

Responsible Person

Earl Johnson, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, (202) 724–1362

Proprietary Vocational and Home Study Schools

(39 FR 29385, August 15, 1974); Final Rule published (43 FR 60796, December 28, 1978); set aside and remanded by Court of Appeals in *Katharine Gibbs (School), Inc.* v. *FTC*, 612 F. 2d 658 (2nd Cir. 1979); Staff Recommendation published (46 FR 35666, July 10, 1981)

Regulatory Flexibility

The Rule

The rule as originally issued required Proprietary Vocational and Home Study Schools to provide pro rata refund to students who withdraw from their courses; to provide information to prospective students concerning the schools' graduation and placement records and to provide an initial fourteen day cooling-off period in which students can cancel their enrollment contracts and receive full refunds. The Court of Appeals expressed disagreement with the breadth of the pro rata refunds requirement and the manner in which the rule required disclosure of placement and earnings information. The Court also found the rule to be procedurally deficient for not specifying the unfair or deceptive trade practices the rule seeks to prevent.

On July 10, 1981, the Commission published the staff's recommended revised draft of the rule for sixty days of discussion and comment by interested parties. The staff is presently preparing additional recommendations for the Commission.

Objectives

The rule's objectives are to create economic incentives for schools to avoid deceptive sales practices, to prevent deception by requiring schools to provide material information to prospective students, and to provide students with contractual remedies which they can use to protect themselves when necessary.

Legal Authority

Federal Trade Commission Act Sections 5 and 18, 15 U.S.C. 45 and 57(a).

Timing

Commission consideration of staff recommendations to respond to Court of Appeal order of remand—January, 1983.

Responsible Person

Walter Gross, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, (202) 523–3860

Hearing Aids

(40 FR 28646, June 24, 1975)

Regulatory Flexibility

The Proposed Rule

The proposed regulation currently under consideration would afford hearing aid purchasers a right to cancel the transaction within 30 days of purchase subject only to reasonable service charges. In addition, the proposal would prohibit advertising claims that a hearing aid will halt or retard hearing loss or that it will restore normal hearing.

The staff is analyzing the rulemaking record for further consideration by the Commission.

Objectives

The purpose of this proposal is to prevent deceptive and unfair sales practices in the sale of hearing aids and to give consumers contractual remedies against the risk that the device will provide no significant benefit to the user.

Legal Authority

Federal Trade Commission Act, §§ 5, 12, 15 and 18, 15 U.S.C. §§ 45, 55 and 57(a).

Timing

Commission Consideration of Staff Analysis—December, 1982.

Responsible Person

Marc Winerman, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, (202) 724–1497

Protein Supplements

(40 FR 41144, September 5, 1975)

Regulatory Flexibility

The Proposed Rule

The proposed rule addresses the advertising and labeling of protein supplements in three ways. First, there are provisions designed to inform consumers of certain health hazards. Thus, for example, a labeling disclosure would be a required warning against use for infants. Second, the rule would prohibit certain false or deceptive claims, such as the claim that use of a protein supplement can counteract or delay the signs of aging. Third, the rule as presently proposed would require a general disclosure in the advertising and labeling of these products to the effect that most Americans receive all the protein they need from the food they eat. Public comments on the staff and presiding officer's reports are now being analyzed by the staff.

Objectives

The proposed rule was developed to limit misrepresentations in advertising and labeling and to provide information that some of these products may be inappropriate or hazardous for certain uses (e.g., for infants). The rule was also proposed to remedy misrepresentations about the need for dietary protein supplements to the typical consumer diet.

Legal Authority

Federal Trade Commission Act, §§ 5, 12, and 18, 15 U.S.C. §§ 45, 52 and 57(a).

Timing

Final Staff Recommendations to the Commission—February, 1983.

Oral Presentation before Commission, if appropriate—March, 1983.

Commission Consideration—March, 1983.

Responsible Person

Harrison Sheppard, San Francisco Regional Office, Federal Trade Commission, 450 Golden Gate Avenue, San Francisco, CA 94102, (415) 556–1270

Mobile Home Sales and Service

(40 FR 28334, May 29, 1975)

Regulatory Flexibility

The Proposed Rule

The staff has recommended a trade regulation rule concerning warranty practices in the mobile home industry. This recommended rule contains substantial modifications and deletions from the originally proposed rule. It would set 30 day time limits within which the warrantor must complete warranty repairs and require manufacturers or their service agents to perform pre-occupancy inspection of the home. It would also require that manufacturers who offer written warranties on mobile homes maintain recordkeeping systems and disseminate a consumer questionnaire to monitor the adequacy of factory and dealer repairs. The recommended rule also would require that manufacturers enter into written service agreements with dealers and others who perform warranty repairs which specify who is responsible for making the repairs. Under the rule, written warranties must include specific time deadlines for service; set up and transportation damage cannot be excluded from coverage; and repairs cannot be contingent on return of the home to the factory or return of a registration card.

The recommended rule seeks to set performance standards for warranty service and service systems, but the appropriate degree of flexibility for each rule provision remains to be resolved. A possible alternative to specific time deadlines for warranty repairs would allow individual manufacturers and dealers to set their own deadlines, so long as they were disclosed in their warranties. The recommended rule sets out eight issues that must be addressed in the written service agreement between the manufacturer and dealer. If specific service deadlines and related requirements are retained in any final rule that is promulgated, they may obviate the need for the written agreement to include some of the terms that essentially track obligations the recommended rule would impose on manufacturers.

Consideration will also be given to the need for a preoccupancy inspection by the warrantor or its agent and whether responsibility for set up and transportation damage should rest on the manufacturer.

Finally, the recommended rule requires manufacturers to monitor the effectiveness of factory and dealer warranty repairs by maintaining service records and disseminating consumer questionnaires. An alternative may be to have manufacturers select their own monitoring devices, rather than require the use of a questionnaire.

Objectives

Most mobile home manufacturers offer a one year written warranty to cover defects in the materials and workmanship of the home. This warranty obligates them to repair defects, yet the rulemaking record indicates that many do not do so in an adequate or timely manner. The purpose of the recommended rule is to create incentives for warrantors to fulfill their warranty obligations by providing services or repairs within a reasonable period of time.

Legal Authority

Federal Trade Commission Act, §§ 5 and 18, 15 U.S.C. §§ 45 and 57(a).

Timing

Final Staff recommendations to Commission—September, 1982.

Oral Presentation before Commission—November, 1982.

Commission consideration—December, 1982.

Responsible Person

Eloise Gore or Allen Hile, Division of Marketing Practices, Bureau of Consumer Protection, Washington, D.C. 20580, (202) 523–3500

Credit Practices

(40 FR 16347, April 11, 1975)

Regulatory Flexibility

The Proposed Rule

The rule addresses the use in consumer credit transactions of a variety of contractual and other collection remedies. Remedies addressed by the rule include:

1. Confession of judgement—The debtor signs a form which authorizes the creditor to obtain a court judgement against him or her without notice to the debtor or an opportunity to be heard. The rule would prohibit the use of confessions of judgement.

2. Waivers of state property exemptions—The debtor waives the right, granted by state law, to keep certain minimal property if a court judgement is obtained against him or her. The rule would prohibit the use of such waivers.

3. Wage assignments—The debtor authorizes the creditor to seize a portion of his or her wages without first obtaining a court judgement. The rule would prohibit the use of wage assignments unless they are revocable.

4. Blanket security interest in household goods—These security interests give the creditor the right to take all of the debtor's household goods in the event of default. The rule would prohibit the use of security interests in household goods except to secure credit used to finance the purchase of such goods.

5. Cross-collateral security interests—These security interests allow a merchant to take all goods that a consumer has purchased from that merchant over an extended period of time, in the event of the consumer's failure to pay for a single purchase. The rule would prohibit cross-collateral security interests unless collateral is released from the security agreement as the consumer pays for it, in the order it was purchased.

6. Deficiencies—Following the repossession and sale of collateral, the creditor can sue the debtor for a deficiency, i.e., the difference between the price obtained by the creditor for the product and the amount the consumer owes. Sales of repossessed collateral may result in large deficiencies still owing to the creditor. The rule would prohibit collection of deficiencies unless the debtor is credited with the fair market retail value of the collateral.

7. Attorney's fee clauses—These clauses require the debtor to pay the creditor's attorney's fees in the event that legal action to collect a debt becomes necessary. In some instances, attorney's fees assessed under these clauses may be larger than actual court costs or the cost of actual service provided. The rule would prohibit attorney's fees clauses in consumer credit contracts.

8. Late charges—are penalty fees that the creditor assesses when the debtor fails to pay an installment on time. Sometimes these charges are "pyramided", i.e., a creditor allocates payments in such a way that a single late or missed payment may result in the debtor being assessed a late fee on all subsequent installments. The rule would prohibit pyramiding of late charges.

9. Third party contracts—The record indicates that some creditors make contacts for debt collection purposes with third parties, such as relatives, neighbors, or the debtor's employer. Such contacts may tend to invade privacy and may harm a debtor's employment relationship and lead to job loss. The rule would require creditors to agree in credit contracts not to engage in third party contacts except to locate debtors or to verify debtor assets.

10. Cosigners—Creditors sometimes have the debtor obtain one or more

cosigners who agree to pay the debt if the principal debtor defaults. The evidence shows that cosigners may not understand that the obligation they undertake is substantial. The rule would require creditors to give cosigners a notice informing them of their obligation, along with copies of documents relating to the debt. Creditors would also have to notify cosigners of serious delinquency on the part of the principal before collecting from a cosigner. When a person is solicited to be a cosigner after an account is in default, the potential cosigner would have to be given a 3-day cooling off period to evaluate his or her obligation.

A variety of alternatives to the staff's recommended rule are under consideration. These include: substituting a "loser pays" approach to attorney's fees clauses in place of the proposed ban on such clauses; limiting the proposed prohibition against third party contacts to contacts with employers; eliminating proposed protections for cosigners which go beyond disclosure of the obligations they are undertaking; elimination of the proposed prohibition on blanket security interests in household goods; deletion of the proposed cross-collateralization provision from the rule; and modification of the deficiency balances section of the rule to permit creditors to calculate deficiencies based on either the wholesale or retail value of the collateral, as determined by an actual sale.

The Commission will consider all of these alternatives, as well as others suggested by participants in the proceeding, and will decide what form of rule, if any, it should ultimately promulgate.

Objectives

When debtors default, they become subject to a variety of legal remedies that creditors use to collect money. Many creditor remedies are appropriate collection devices. Certain others, however, may inflict substantial injury on debtors which is disproportionate to the economic value of the remedy. The proposed rule would restrict some of these remedies in cases where their use causes serious harm to debtors which is substantially greater than the resulting economic benefit to creditors from the availability of the collection remedy.

Legal Authority

Federal Trade Commission Act §§ 5 and 18, 15 U.S.C. §§ 45 and 57(a).

Timing

Final staff recommendations to Commission—July, 1982.
Oral presentation before Commission—October, 1982.
Commission Consideration—November, 1982.

Responsible Person

David Williams, Division of Credit Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, D. C. 20580, (202) 724–1100

Antacid Advertising

(41 FR 14534–25, April 6, 1976)

The Proposal

The Commission did not propose a rule at the outset of this proceeding. Rather than making a specific proposal, the Commission focused the proceeding on whether, and in what form, warnings required by the Food and Drug Administration ("FDA") in the labeling of non-prescription antacids should also appear in the advertising for such products. The proceeding has explored and considered various alternatives, including no warnings whatsoever, a general warning (which refers generally to the existence of risk and directs consumers to the label), various specific warnings (which specifically disclose the existence of particular risks), and various combinations of general and specific warnings. A decision by the staff on the final form of a recommended rule has not yet been made.

Objectives

Any rule in this area would be designed to prevent deceptive advertising claims for over-the-counter antacid products. In particular, a rule would be aimed at preventing the deceptive implication that antacid products are safe and can be taken by anyone without any adverse effects.

Legal Authority

Federal Trade Commission Act, §§ 5, 12, 15 and 18, 15 U.S.C. §§ 45, 52, 55 and 57(a).

Timing

Publication of Staff Report—January, 1983.
Public Comment on Presiding Officer and Staff Reports—No less than 60 days following publication of staff report.

Responsible Person

Joel Brewer, Division of Advertising Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580,(202) 724–1530,

Health Spas

(40 FR 34615; August 18, 1975)

Regulatory Flexibility

The Proposed Rule

The proposed rule would require that health spa membership contracts include provisions which would grant consumers the right to cancel and receive a full refund without penalty, during a three-day cooling-off period. If the contract is with a seller whose facilities are not yet fully operational, the proposed rule would provide that the consumer's right of cancellation may be exercised within ten days after receipt of notice that the spa facilities are fully operational and available. Following the expiration of the cooling-off period, the proposed rule would require that the health spa contract afford the consumer an additional right to cancel at any time prior to the contract's expiration. In this instance, however, the seller would be allowed to retain a cancellation fee not in excess of 5% and a pro rata portion of the contract price based on the period of time the facilities were available to, or used by, the consumer. The balance of the contract price would have to be refunded to the consumer within ten business days after cancellation of the contract.

Other provisions of the proposed rule prescribe the manner and form of giving the consumer notice of his cancellation right, prohibit the use of long-term contracts, and prohibit the receipt of more than 5% of the contract price from consumers if a spa is not fully operational and available for use.

The staff is presently completing its analysis of the rulemaking record and its report.

Objectives

The Rule's objectives are to create economic incentives for health spas to avoid unfair or deceptive sales practices and to provide consumers with contractual remedies which they can use to protect themselves when necessary.

Legal Authority

Federal Trade Commission Act, §§ 5 and 18, 15 U.S.C. §§ 45 and 57(a).

Timing

Publication of Staff Report—February, 1983.
Public Comment on Presiding Officer and Staff Reports—No less than 60 days following publication of staff report.

Responsible Person

John Crowley, Federal Trade Commission, New York Regional

Office, 26 Federal Plaza, New York, NY 10278, (212) 264–1213

Standards and Certification

(43 FR 57269, December 7, 1978)

Regulatory Flexibility

The rule that was proposed in 1978 would require standards developers to provide notice of their standards-setting proceedings to representatives of all interests that are likely to be affected and to assure all interested persons fair opportunity to participate in the proceeding. Further, it would require the establishment of challenge and appeal mechanisms to resolve complaints about deceptive or unduly restrictive standards. Certifiers covered by it would be responsible for the truthfulness of their certifications, and would be obligated to take action to stop misuse of their seals of approval by producers.

This rulemaking is affected by the Federal Trade Commission Improvements Act of 1980, Public Law 96–252. More specifically, the Commission's authority to issue the Standards and Certification rule with respect to "unfair or deceptive acts or practices" under § 18 of the FTC Act has been removed. The 1980 Act leaves unaffected whatever authority the FTC might heve under any other provision of the Act to issue a rule with respect to "unfair methods of competition." The Commission has determined that the most efficient way to decide what Commission action, if any, is necessary in this area is to complete the analysis of the rulemaking record gathered to date.

In addition to an FTC rule addressed to unfair methods of competition, there are a variety of possible Commission actions under consideration. Industry guides or statements of enforcement policy could be issued and these could be enforced on a case-by case basis. Also under review are other government activities which affect the area to determine whether their impact on competitive and consumer problems would reduce the need for FTC action. One such activity is implementation of OMB Circular A–119, Federal Participation in the Development and Use of Voluntary Standards.

Objectives

Activity in this area is intended to reduce the incidence and severity of injuries to competition and consumers that may result from private standards development and product certification activities. Some 20,000 product standards have been set by trade associations, technical and professional societies, product testing laboratories, and other private sector groups. They are relied on by consumers, building code officials, Federal and State agencies, and others for regulatory and procurement purposes. Generally, these standards provide significant benefits, such as lowering the cost of communications between buyers and sellers; improving the transfer of technology; encouraging efficiencies in design, production, and inventory; and assuring such things as the safety, fitness, and energy efficiency of products. However, substantial injury to competition and consumers can occur if standards development or certification activities block the use of superior or lower cost technology, prevent businesses from competing in profitable industries, establish inadequate or inappropriate product safety levels, inflate product prices, or deceive consumers about the quality of products.

Legal Authority

Federal Trade Commission Act, §§ 5 and 6(g), 15 U.S.C. §§ 45 and 46(g); Federal Trade Commission Improvements Act, P.L. 96–252, 94 Stat. 374, § 7.

Timing

Publish Staff Report—November, 1982.

Presiding Officer's Report—60 days after Staff Report.

Post-Record Comments—60 days after Presiding Officer's Report.

Responsible Person

Robert J. Schroeder, Division of Service Industry Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, (202) 523–3935

Amendment to Eyeglasses Rule and Eyeglasses II

(16 CFR Part 456)

Regulatory Flexibility

The Proposal

The staff has written a report recommending proposed amendments to the Eyeglasses Rule (16 CFR Part 456) concerning release of eyeglass and contact lens prescriptions following the dispensing of the goods, and new trade regulation rule provisions which would remove state-imposed restrictions on (1) lay or corporate employment of optometrists and opticians, (2) locations of practice, (3) branch offices and (4) use of trade names. The Commission has made no determination on the findings and recommendations of the staff; hence, no formal rulemaking has been initiated.

The Commission has issued an Advance Notice of Proposed Rulemaking (ANPR) (45 FR 79823–831, Dec. 22, 1980) requesting public comment on the staff's analysis and recommendations and on alternative courses of action which the Commission might take. The ANPR comment period closed on February 2, 1981. The Commission staff reviewed and analyzed the comments which were received and forwarded its recommendations to the Director, Bureau of Consumer Protection. Based upon the comments and staff recommendations, the Commission will decide what action is appropriate.

In addition to the staff recommendations, the Commission is considering alternative courses of action. One of the alternatives is the publication of a Commission report along with a model State law for review by the States. Such a model statute might, for example, permit optometrists and opticians to practice in commercial settings but at the same time ensure protection of quality of care by including minimum standards for eye examinations and equipment and the protection of the doctor-patient relationship.

Another alternative would be the issuance of a voluntary guide, including some or all of the provisions recommended by the Commission's staff for a rulemaking. A guide could define, for example, the kinds of private restrictions on commercial practice that the Commission believed unjustifiably inhibited competition among eye care providers or consumer access to alternative, low cost eye care goods and services. Such guides could be followed up by case enforcement.

Objectives

The objective of the Commission's investigation is to reduce public and private restraints which increase consumer prices and limit accessibility to vision care but which do not appear necessary to protect the public health and safety. The principal question the Commission is exploring is the impact of the restrictions noted above on the price, quality and availability of vision care. The investigation has sought, through the development of statistically valid market research, to determine whether higher prices result from these restrictions and, if so, whether off-setting consumer benefits also result from these restrictions.

Legal Authority

Federal Trade Commission Act, §§ 5 and 18, 15 U.S.C. §§ 45 and 57(a).

Timing

Commission decision on appropriate action—November, 1982.

Responsible Person

Christine Latsey, Division of Service Industry Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, (202) 523–3428

Amendment to Labeling and Advertising of Home Insulation Rule, 16 CFR Part 460

(42 FR 59678, 1977)

The Amendment

The Commission's home insulation trade regulation rule became effective on September 29, 1980. The rule requires manufacturers of insulation products sold for residential use to test their products to determine insulating ability ("R-value"), and to disclose R-values and related information on product labels and on fact sheets to be made available to consumers by retailers. It requires disclosure of R-values and related information by insulation installers and new home sellers. It requires advertisers to have a reasonable basis for energy savings claims they make about specific insulation products, and to disclose specific additional information in advertisements or other promotional materials when they make energy savings claims about an insulation product or refer to the product's thickness, R-value or price.

The Commission has announced its intention to reopen the rulemaking proceeding to consider whether it should amend the rule's disclosure requirements insofar as they apply to television advertising. (See ANPR, 46 FR 47237 (Sept. 25, 1981).) The Commission has temporarily delayed the effective date of those disclosure requirements pending completion of these amendment proceedings.

In addition, the Commission may lift the temporary stay of the requirement to test insulation and its representative thickness. The staff is currently preparing final recommendations to the Commission with respect to this issue.

Objectives

The objective of the reopening with respect to television advertisements is to explore less burdensome alternatives to the disclosure requirements promulgated in August, 1979. The objective of the representative thickness requirement is to ensure that the R-values disclosed are as accurate as possible.

Legal Authority

Federal Trade Commission Act, §§ 5 and 18, 15 U.S.C. §§ 45 and 57(a).

Timing

Final Commission Consideration with respect to Lifting Stay on Representative Thickness—June, 1982.

Commission Consideration with respect to Television Advertising—December, 1982.

Responsible Person

Kent Howerton, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, (202) 724–1515

Modifications to Rule Regarding Pre-Sale Availability of Written Warranty Terms, 16 CFR Part 702

Regulatory Flexibility

Modifications Being Considered

The current Pre-Sale Availability Rule requires that retailers of consumer products costing more than $15 make warranty texts available to consumers prior to purchase by placing the warranty text in one or a combination of four specified locations: 1) on the product, 2) in a binder, 3) on the package, or 4) on a sign. Manufacturers are required to provide retailers with materials sufficient to meet their obligations.

The Rule modifications currently under consideration would lessen the requirements for retailers of consumer products. Among the options under consideration is one that would provide two options for making warranties available to consumers prior to purchase: 1) displaying the warranty text(s), and/or 2) displaying a sign indicating the availability of warranties to customers and providing the warranty text(s) upon customer request. In addition, we are considering raising the threshold for coverage by the Rule. Additionally, we have considered creating a mechanism in the Rule to adjust this threshold amount to reflect the inflation rate. Modification to manufacturers' compliance options are also under consideration, including a requirement that manufacturers affix the warranty text to all warranted consumer products or supply retailers with tags or labels containing the warranty text for them to affix to all displayed products.

Objectives

The Magnuson-Moss Warranty Act (15 U.S.C. 2302(b)(1)(A)) requires that the Federal Trade Commission promulgate a rule to require that the terms of written warranties for consumer products be made available to consumers prior to purchase. The Rule modifications currently being considered are intended to achieve this Congressional objective more effectively by making the Rule requirements more flexible and thus lessening the costs and burdens of compliance while still ensuring consumers access to warranties prior to purchase.

The Commission is examining the costs, benefits, and overall effects of the Rule to ascertain which modifications would be most efficient and effective. Two large-scale surveys are being conducted to examine consumer experience with warranties and to measure the effect of the current Rule on manufacturers and retailers. The Commission believes the results of these surveys will provide valuable additional information to assist it in formulating amendments to the Rule. The survey results will not be available until late this year. The Commission will formally consider this issue in January, 1983, after staff has completed its analysis of the survey data.

Legal Authority

Magnuson-Moss Warranty—Federal Trade Commission Improvements Act, 15 U.S.C. 2302(b)(1)(A) and 2309(a).

Timing

Commission consideration of proposed rulemaking to modify the Pre-Sale Availability Rule—January, 1983.

Responsible Person

Eloise Gore, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, (202) 523–3500

Used Motor Vehicles

(41 FR 1089, January 6, 1976)

Regulatory Flexibility

The Rule

The rule would have required dealers to post a window form on used cars sold to consumers which disclosed, in plain language, information concerning warranty coverage offered (if any), the meaning of an "As Is" sale (in which no express warranties are offered and buyers lose the additional protection of implied warranties created by state law), and other important information. The form would have also informed consumers that oral promises are difficult to enforce and would have provided space for the dealer to disclose certain specific mechanical condition defects know to him.

The rule would not have required dealers to offer any warranties on used cars sold, but it would have required that dealers who chose to offer written warranties disclose the basic scope and terms of the warranty coverage provided. Dealers would not have been require to inspect vehicles under the rule, but dealers who were aware of certain specific defects in the car at the time of sale would have been required to disclose their existence.

The rule and accompanying Statement of Basis and Purpose and Regulatory Analysis were published in the **Federal Register** on August 14, 1981. The promulgation date for the rule was August 18, 1981. The Commission submitted the rule to Congress for review under the provisions of the FTC Improvements Act of 1980 on September 9, 1981. Because the required 90 legislative day review period did not expire before Congress adjourned in 1981, the Commission resubmitted the rule on January 28, 1982 for another 90 day review period. The rule was considered by Congress and was vetoed on May 28, 1982. The Commission has taken the rule under consideration in accordance with Section 21(c) of the FTC Improvements Act of 1980, 15 U.S.C. § 57a–1(c) (Supp. IV 1980). Consumers Union has filed a lawsuit challenging the constitutionality of the legislative veto of this rule and is seeking a court order that the Rule become effective. *Consumers Union of U.S., Inc. and Public Citizen, Inc.* v. *FTC et al.*, No. 82–1512 (D. D.C.).

Objectives

The rule was designed to define and prevent deceptive practices in the sale of used cars by dealers that may result in substantial consumer injury. These deceptive practices include oral misrepresentations by dealers about warranty coverage (e.g., misrepresentation that a warranty is offered or of the terms of a warranty, failures to disclose the meaning of warranties and warranty disclaimers prior to sale) and oral misrepresentations about the mechanical condition of used cars (e.g., false claims about condition, failures to disclose known defects, claims about condition made without a reasonable basis).

Legal Authority

Federal Trade Commission Act, §§ 5, and 18, 15 U.S.C. §§ 45 and 57(a).

Magnuson-Moss Warranty Act § 109(b), 15 U.S.C. § 2309(b).

Timing

Under consideration by the Commission following disapproval of the Rule by Congress.

Responsible Person

Susan M. Liss, Division of Marketing Practices, Bureau of Consumer Protection, Washington, D.C. 20580, (202) 523–1670.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82–16177 Filed 7–2–82; 8:45 am]

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Federal Register

Tuesday
July 6, 1982

Part III

Department of Health and Human Services

Office of the Secretary

Block Grant Programs; Final Rules

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Parts 16, 74, and 96

Block Grant Programs

AGENCY: Office of the Secretary, HHS.

ACTION: Final rules.

SUMMARY: These rules implement seven block grant programs established by the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35). The block grants replace a large number of programs now administered by the Federal Government, transfer primary responsibility for their administration to the States, and confer substantial discretion on the States as to use of the block grant funds.

DATES: These rules are effective July 6, 1982.

FOR FURTHER INFORMATION CONTACT:

The following individuals can provide additional information on the block grants indicated:

Community services: Sandra Lichty, Director, Office of State and Project Assistance, Office of Community Services, 1200 19th Street, N.W., Washington, D.C. 20506, (202) 254–5590.

Preventive health and health services: For technical assistance: Tom G. Ortiz, Assistant to the Director for Field Activities, Centers for Disease Control, 1600 Clifton Road, N.E., Atlanta, Georgia 30333, (404) 329–3650.

For fiscal and grants management assistance: Leo A. Sanders, Chief, Grants Management Branch, Centers for Disease Control, 255 E. Paces Ferry Road, N.W., Room 107A, Atlanta, Georgia 30305, (404) 262–6576.

Alcohol and drug abuse and mental health services: Richard A. Millstein, Associate Administrator for Program Planning and Coordination, Alcohol, Drug Abuse and Mental Health Administration, 5600 Fishers Lane, Room 13–C–05, Rockville, Maryland 20857, (301) 443–4564.

Maternal and child health services and primary care: James Corrigan, Associate Director, Bureau of Community Health Services, 5600 Fishers Lane, Room 7–05, Rockville, Maryland 20857, (301) 443–2380.

Social services: Michio Suzuki, Deputy Director, Office of Program Coordination and Review, Office of Human Development Services, 200 Independence Avenue, S.W., Room 306E, Washington, D.C. 20201, (202) 245–7027.

Low-income home energy assistance: Norman Thompson, Director, Office of Energy Assistance, Transpoint Building, 2100 2nd Street, SW., Washington, D.C. 20201, (202) 245–2051.

SUPPLEMENTARY INFORMATION: The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) ("the Act") established seven block grant programs to be administered by the Secretary of Health and Human Services:

(1) The community services block grant was established by sections 671–683 of the Act, 42 U.S.C. 9901–12, and replaced the following programs that were administered by the Community Services Administration under the Economic Opportunity Act of 1964:

Community Action/Local Initiatives
Senior Opportunities and Services
Community Food and Nutrition

(2) Section 901 of the Act amended the Public Health Service Act by adding a new Title XIX, which contains three block grants. The preventive health and health services block grant established by section 901, 42 U.S.C. 300w–300w–8, replaces the following categorical grant programs:

Rodent Control
Fluoridation
High Blood Pressure
Health Incentive
Home Health Services and Training
Emergency Medical Services
Risk Reduction/Health Education
Rape Crisis

(3) The second block grant established by section 901 is the alcohol and drug abuse and mental health services block grant, 42 U.S.C. 300x–300x–9, which replaces the following programs:

Alcoholism State Formula Grants
Alcohol Abuse and Alcoholism Project Grants and Contracts
Special Grants for Uniform Alcoholism Intoxication and Treatment Act
Drug Abuse State Formula Grants
Drug Abuse Project Grants and Contracts
Mental Health Services

(4) The third block grant established by section 901 is the primary care block grant, 42 U.S.C. 300y–300y–10, which replaced the following programs:

Community Health Centers
Primary Care Research and Demonstrations

(5) Section 2192 of the Act amended Title V of the Social Security Act, 42 U.S.C. 701–09, to establish a maternal and child health services block grant. This block grant replaces the following programs:

Maternal and Child Health
Crippled Children's Services
SSI Disabled Children
Hemophilia
Sudden Infant Death Syndrome
Lead-Based Paint Poisoning Prevention
Genetic Diseases
Adolescent Pregnancy

(6) Section 2352 of the Act amended Title XX of the Social Security Act, 42 U.S.C. 1397–1397f, to establish a social services block grant.

(7) A low-income home energy assistance program is authorized by sections 2601–2611 of the Act, 42 U.S.C. 8621–29, to replace the Home Energy Assistance Act of 1980.

The Secretary has determined that the Department should implement the block grant programs in a manner that is fully consistent with the congressional intent to enlarge the States' ability to control use of the funds involved. Accordingly, to the extent possible, we will not burden the States' administration of the programs with definitions of permissible and prohibited activities, procedural rules, paperwork and recordkeeping requirements, or other regulatory provisions. The States will, for the most part, be subject only to the statutory requirements, and the Department will carry out its functions with due regard for the limited nature of the role that Congress has assigned to us.

Interim final regulations to implement the block grants were published in the **Federal Register** on October 1, 1981 (46 FR 48582), and a 60-day comment period was provided. Based on our evaluation of the comments received and on initial implementation of the block grants, the regulations, revised as appropriate, are now being made final. The provisions of the regulations are discussed below, together with the comments that were received.

Transition to State Operation

Timing of Transition

States became eligible to receive funds under six of the seven block grants beginning October 1, 1981. The exception is the primary care block grant, which does not become effective until October 1, 1982.

Of the six block grants that became operative in fiscal year 1982, four are subject to transition provisions that permit a State to initiate operation under the block grants on October 1, 1981, or at the beginning of any subsequent quarter (January 1, April 1, or July 1, 1982). The four block grant programs subject to these transition provisions are community services, preventive health and health services, alcohol and drug abuse and mental health services, and maternal and child

health services. During the period that a State is not obtaining funds under the block grants, the Department will administer the existing programs. The transition period is fiscal year 1982 only; the Department has no authority to award grants under the existing programs replaced by these four block grants after September 30, 1982.

A State must assume operation of a block grant in its entirety. A State may not assume control over only a portion of the block grant while requesting the Department to operate some of the programs that Congress has replaced with that block grant.

The social services and low-income home energy assistance block grants are not subject to the transition provisions in section 1743 of the Act because they do not come within the provisions of section 1741(b) of the Act. That section limits application of the transition provisions to funds that previously went to local governments or other eligible entities and in the future will go directly to the States. Since the social services and low-income home energy assistance funds previously went directly to the States, no transition is provided for. The two programs became effective on October 1, 1981. The regulations have been revised to state explicitly in § 96.110 that these two programs are not subject to the transition provisions.

Section 682(b) of the Act required States to notify the Department prior to October 1, 1981, if they did not intend to seek community services block grant funds for the quarter beginning October 1 but instead desired the Secretary to operate the programs. Similar notice is required 30 days prior to the beginning of each subsequent quarter. If a State does not notify the Department as to whether it desires to obtain block grant funds or to have the Department administer the programs during the quarter, we will consider the State to have requested the Department to operate the programs. There is no indication in the Act or its legislative history that Congress intended the programs to terminate if a State failed to notify the Secretary as to its desires, and the Department will therefore continue to operate the programs until otherwise advised by the State or until the end of fiscal year 1982.

A comment suggested that States should be allowed a one-year transition period for the social services and low-income home energy assistance block grants. Such a transition is, however, not permissible. The Act repealed the Home Energy Assistance Act of 1980 and revised Title XX of the Social Security Act, relating to social services, as of October 1, 1981. As noted above, the social services and low-income home energy assistance block grants are not subject to the transition provision in section 1743 of the Act, which is the only authority under which the Department could continue to operate the repealed programs.

In light of our determination that section 1741 does not apply to the social services and low-income home energy assistance programs, several States asked whether the programs were also exempt from the requirements of sections 1742, 1744, and 1745 in Title XVII of the Act, which relate to reports and public hearings, access to records by the Comptroller General, and State audits. Similar inquiries were received with respect to the primary care block grant. We conclude that sections 1741, 1742, 1743, and 1745 do not apply to the social services and low-income home energy assistance programs since, as explained above, they are not covered by the definition in section 1741. Section 1744 (access to records by the Comptroller General) applies by its terms to all grant programs established or provided for by the Act and thus applies to the social services and low-income home energy assistance programs. None of the provisions in Title XVII applies to the primary care and maternal and child health services block grants because of the exemptions in section 1932 of the Public Health Service Act and section 2194(d) of the Omnibus Budget Reconciliation Act, respectively. A new § 96.16 has been added to the regulations to clarify the applicability of these various provisions.

A consumer group suggested that States that do not apply for block funds should be required to publish a public notice to that effect. We decline, however, to exceed the statutory requirements by regulating the application process unnecessarily. Since public notice is required when a State is developing its block grant applications, the absence of such notice indicates that the State has not yet applied for the block grants.

A comment suggested that, to facilitate planning for expenditure of block grant funds, the Department should identify, by States, all categorical grantees whose programs will be included in a block grant. Upon request, we are providing such information to the States on an informal basis. The individuals listed at the beginning of this preamble, or regional offices of the Department, can identify the categorical grantees in each State and provide information regarding their status for any State that desires such information.

Policies During Continued Federal Operation

With respect to the four block grants subject to the transition provisions, the Department will operate the programs replaced by each block grant generally in accordance with past policies until a State qualifies for the block grant. Renewal grants may be made to current grantees as their grants expire during the course of fiscal year 1982. If such grants are made, they will ordinarily cover the same period of the grantee's operation as has been the practice (but not to exceed one year), although the amount of the grant will normally be reduced because of the reduced funds available. In some cases, awards will be made for less than the ordinary period where we receive State assurances of continued support for grantees funded by the Department under transition provisions after States assume responsibility for administering the program.

A comment suggested that the Department adopt a flexible renewal schedule for categorical grantees during the transition period to allow transfer to the States of the maximum amount of funds possible. Rather than renewing categorical grants for a full year, the comment suggested that a categorical grant be renewed only until the date that the State in which the grantee is located has indicated that it will assume control of the block. We are not adopting this suggestion because a general policy of shortened renewal periods would be inconsistent with congressional intent, as expressed in the Conference Report, that the Department should continue to operate the categorical programs in accordance with previous policies. (H.R. Rep. No. 97-208, 97th Cong., 1st Sess. 923 (1981).) We note, however, that under section 2194(b)(2)(A) of the Act any grant or contract entered into by the Department pursuant to the authority of Title V of the Social Security Act (consolidated health programs for maternal and child health) may be terminated by the State upon three months' notice.

The 60-day consultation and State review process set forth in Office of Management and Budget Circular A-95 (41 FR 2052) will continue to be used for the Department's administration of transition period grants. Also, all awards will be made from fiscal year 1982 funds. Thus, even though a grantee may in the third quarter of fiscal year 1982 be awarded sufficient funds for one year's operation, such funds would not reduce the allotment of fiscal year 1983 funds available to the State. The

Department will remain responsible for monitoring and auditing all awards made by it even after the State has begun receiving funds under the block grant involved.

Current regulations governing the programs replaced by the block grants, including regulations published by the Community Services Administration in the **Federal Register** on August 31, 1981 (46 FR 43690), as corrected on September 3, 1981 (46 FR 44189), will remain in effect for the transition period pursuant to § 96.111 of the regulations. Federal requirements with respect to some of these programs were reduced on October 1, 1981 (46 FR 48593).

Application Process

Required Submissions

The Act requires a State to make an annual submission to the Secretary with respect to each block grant prior to receiving funds. The Secretary is not prescribing any particular format for the submission or elaborating its contents beyond what is specified in the Act. Each State should simply insure that its submission satisfies the statutory requirements.

Comments objected to the fact that the regulations do not require detailed and uniform submissions. The comments suggested that a wide range of information should be required of the States for each block grant, such as a comprehensive State spending plan. Other suggestions for required submissions included an affirmative action plan for filling any jobs generated by the block grant programs, eligibility requirements and fee schedules for clients, descriptions and "linkages" with other block grant and human service programs, and reports of actual services delivered to clients.

We have not prescribed any additional requirements in response to these comments. The block grant statutes themselves establish the contents of the State submissions. For all but one of the block grants, the submission consists of an application containing specified assurances and (for the community services and low-income home energy assistance block grants) a plan describing how the State will carry out the assurances or (for the health-related block grants) a description of the intended uses of the funds. The social services block grant requires only a report on intended uses of the funds. We do not believe that any need for additional material in the applications has been demonstrated.

In submitting their applications, a number of States asked whether the certifications required by the Act to be made by a State's chief executive officer could be made by an official administering the program. We conclude that the chief executive officer of each State must personally make the certifications required by the community services, primary care, preventive health and health services, alcohol and drug abuse and mental health services, and low-income home energy assistance block grant statutes, and the regulations have been revised accordingly. We believe that Congress, in referring expressly to the chief executive officer, intended to require personal assurances, since some of the assurances (such as cooperation with Federal investigations) could involve a number of State agencies. The regulations also allow the certification to be made by an individual authorized to do so by the chief executive officer. Such authorization must include power to make all the required assurances and not simply authority to administer the program. The submissions required by the social services and maternal and child health services block grants may be made by any official authorized under State law to make such submissions on behalf of the State, since the statutes do not refer to any particular official.

A State requested that the Department establish definite application criteria to preclude arbitrary evaluation of the submissions by Federal officials. We do not believe that evaluation criteria are necessary. Since States by statute have wide discretion in their use of the funds, the Department will review the submissions only to determine that they are complete and in accordance with statutory requirements for applications. Funds will be made available to any State filing a complete submission.

Several States asked whether the requirements of OMB Circular A–95 for gubernatorial review of state plans or a project notification and review process by State and areawide clearinghouses would apply to the block grants. OMB has not made the block grant programs subject to Circular A–95 for State administration. If a State wishes to follow the circular, it may do so voluntarily.

Section 1742(a) of the Act requires the States to prepare an annual report on the proposed use of block grant funds containing specified information. We interpret this section as identifying information that a State is to include in the plan required to be submitted with respect to the community services block grant and in the description of the intended uses of funds required with respect to the preventive health and health services and alcohol and drug abuse and mental health services block grants. A service organization noted that the specific application requirements of section 1742 were not carried forward into the regulations. Section 96.10 of the regulations refers to but does not repeat the requirements of section 1742. This approach is consistent with the general format of the regulations, in which we have not set forth statutory provisions verbatim.

Public Participation

The Act requires the States to submit the various plans and descriptions of intended uses of block grant funds for public comment. The manner in which a State obtains public comment is at the State's discretion so long as statutory requirements are met. Opportunity for public comment must be offered before the plan or description will be considered complete.

In addition to these general public participation requirements, the Act also requires the States to conduct public hearings on the proposed use and distribution of funds under the community services, preventive health and health services, alcohol and drug abuse and mental health services, primary care, and low-income home energy assistance block grants. The hearings must be conducted by the State legislature, except that the hearings with respect to the low-income home energy assistance block grant may be conducted by any unit of the State government. The manner in which these hearings are conducted is in the State's discretion. No hearings are required for a State to receive its first year's allotments. Although section 1742(c) of the Act establishes a general requirement for public hearings during the first year for block grants, that provision is superseded by the specific provisions elsewhere in the Act, as is reflected in § 96.16 of the regulations. Thus the first year is exempted from the hearing requirement for the preventive health and health services, alcohol and drug abuse and mental health services, and primary care block grants by sections 1905(b), 1915(b), and 1927(b) of the Public Health Service Act, respectively; and for the community services block grant and low income home energy assistance program by sections 675(b) and 2605(a)(2) of the Omnibus Budget Reconciliation Act, respectively. This interpretation was upheld (with respect to the community services block grant) by the court in *South Eastern Human Development Corporation v. Schweiker*, No. 81–3072 (D.S.D. Jan. 18, 1982).

Comments criticized exemption of the social services, primary care, and

maternal and child health services block grants from the public hearing requirements of section 1742(c) of the Act. These exemptions were created by the Act, however, not by the Department's regulations. Section 2194(d) of the Act expressly exempts the maternal and child health services block grant from the provisions of Title XVII, including section 1742. Section 1932 of the Public Health Service Act exempts the primary care block grant program from Title XVII. Section 1742 does not apply to the social services block grant because, as noted above, section 1741(b) limits its application to funds that previously went to local governments or other eligible entities and in the future will go directly to the States. Both the social services and maternal and child health services programs have requirements for public participation, even though a hearing as such need not be conducted. Contrary to the comments' suggestion, States are required to hold public hearings on the proposed use and distribution of primary care block grant funds after the first year of administering the program.

Consumer groups were concerned that deferral of mandatory hearing requirements until the second year of the program would enable States to establish spending patterns unfavorable to the groups' constituents. It is the Act, however, not the Department's regulations, that exempts the first year from the hearing requirement. Again, however, it should be noted that the broader requirements in the various block grant statutes for public participation apply even during the first year. See section 675(d)(2), Pub. L. 97–35 (community services); section 1905(d), PHS Act (preventive health); section 1915(d), PHS Act (alcohol and drug abuse); section 1927(d)(2), PHS Act (primary care); section 505, Soc. Sec. Act (maternal and child health); section 2004, Soc. Sec. Act (social services); section 2605(c)(2), Pub. L. 97–35 (energy assistance).

There were several requests in comments for additional regulation of the State hearing process, including requiring that the hearings be conducted by a neutral third party, and requiring that representatives of consumer organizations and minority groups participate in the hearings. We have not adopted these suggestions, since we believe that Congress intended to let the States decide the form of the hearings and other types of public participation.

Funding Information

Allotments to States

The Department will determine the amount of funds to be allotted as block grants to each State in accordance with the formulas established in the Act. The Office of Management and Budget (OMB) has authority to apportion to the Department through the course of a year the appropriation for the block grants, as provided by the Anti-Deficiency Act (31 U.S.C. 665). The regulations state that the Department will assign allotments to the States consistent with OMB's apportionment of funds.

Commenters were concerned that the OMB apportionment would not allow for seasonal variations in payment under the programs. They stated that the regulation constituted an illegal expansion of OMB's deferral authority and authorized impoundment of funds by OMB. We note that the information in the interim final regulations regarding the apportionment process was provided to explain how OMB routinely regulates appropriations for grant programs pursuant to its authority under the Anti-Deficiency Act. It does not represent a change from past OMB practice. Moreover, when funding is provided under a short-term continuing resolution as it has been this year, block grants, like other Federal funds, are subject to conservative spending limits so as to preserve options to establish final appropriations amounts. The OMB apportionment process takes varying program needs into account consistent with the time period and funding level of any governing continuing resolution. The seasonally varying demands upon the low-income home energy assistance program will be considered by OMB when funds are apportioned.

If a State did not assume operation of a block grant on October 1, 1981, but instead qualifies for the block grant at the beginning of a subsequent quarter, the amount of its allotment for fiscal year 1982 will be reduced by the amount of funds already committed in the State by the Department. In addition, administrative expenses for operation of the community services block grant will be charged against the allotment pursuant to section 682(d) of the Act.

Several State agencies asked that the Department define transition administrative expenses with respect to the community services block grant, and explain how those expenses would be deducted from their allotments. The regulations provide that the total administrative expenses incurred by the Department in administering the community services categorical programs before the block grant is taken over by a State will be deducted from the States' allotments in proportion to the amount of funds distributed in each State prior to the State's assuming operation of the program. The administrative costs include the expense of personnel and supplies used by the Office of Community Services in making grant awards under the categorical programs administered by the Department. These expenses, up to five percent of the State's allotment, will be charged against the State's allotment only for States which choose not to administer the community services block grant in fiscal year 1982.

With respect to several of the block grants, the Act provides that allotments for which States do not qualify, or portions of allotments that are returned to the Department, are to be redistributed pro rata to the qualifying States. Except for the low-income home energy assistance program, funds subject to reallotment will be reallocated on September 1, of each year. Funds reallocated under the low-income home energy assistance program, are included in the total funds available for allotment to States for the succeeding fiscal year.

A State that has not applied for block grant funds asked what would happen to any unawarded categorical funds upon expiration of the Department's authority to operate programs replaced by the blocks. The Act does not allow the Department discretion as to expenditure of these funds. If a State has not qualified for block grant funds during FY 1982, its allotment will be awarded by the Department to grantees under the limited transition authority and any remaining funds will revert to the Treasury.

The size of the State allotments under several of the block grants is determined by reference to amounts awarded by the Department under replaced programs in specified base years. In ascertaining these amounts under the preventive health and health services, alcohol and drug abuse and mental health services, and maternal and child health services block grants, the Department distinguished funds for nonservice projects that provided assistance on a national basis (for example, information clearinghouses). These amounts were pro-rated among all the States rather than assigned as a windfall to the individual States within which the grantees or contractors happened to have been located. Similarly, funds for projects of a regional nature (for example, technical assistance) were distributed to the States whose

programs benefited from them. Detailed information on allotment amounts has been distributed to the States.

Payments to States

Payments will be made through electronic funds transfer to those States capable of receiving funds in that manner. Letters of credit will be used in other cases. The procedures followed will be the same as with payments under other Departmental grants.

Under Federal law, the question of when a grantee may draw funds from the Treasury is a different matter from the issue of when the grant award is made. Thus, although the Department may award a State its entire annual allotment on the first day of a fiscal year, the State may not immediately withdraw the entire amount from the Treasury. Rather, the timing and amount of payments are governed by the Intergovernmental Cooperation Act, 42 U.S.C. 4213, which provides in essence that the Federal government must schedule the transfer of funds consistent with program purposes and Treasury regulations, and that States must minimize the time elapsing between acquisition of Federal funds and disbursement of those funds by the State.

Use of Allotments

The permissible uses of the allotments to the States are clearly set forth in the Act. The Act establishes differing requirements, however, with respect to the time period in which the funds may be used. Limits upon obligation in the Act refer to the time within which a State must commit the funds to a statutorily acceptable purpose. Limits upon expenditure in the Act require the State to disburse the funds within a prescribed time. Obligation of funds precedes expenditure. Therefore, funds must be obligated and disbursed within the expenditure period.

The maternal and child health services block grant authorizes the States to obligate and to expend the funds under its allotment in a two-year period—the fiscal year in which the funds are awarded and in the following fiscal year. Three of the block grants allow the States two years to obligate funds but are silent as to expenditure (preventive health and health services, alcohol and drug abuse and mental health services, and primary care). In those cases, any applicable State law relating to expenditure of State funds would apply. If there is no State law, no restriction on time of expenditure would apply. Two block grants permit two years to expend funds but do not expressly address the permissible period for obligation of funds (community services and social services). We interpret these provisions as allowing a two-year period for the obligation (as well as disbursement) of funds. The low-income home energy assistance block grant allows up to 25 percent of the funds to be held available for the following fiscal year, which we believe establishes a two-year limit on the permissible period of obligation. In the case of the primary care and low-income home energy assistance block grants, the Act also establishes special conditions for use of funds after the first year.

A State agency objected to imposition of any time limits upon the use of allotments. Several States requested uniform time frames for obligation and expenditure of block grant funds coordinated with the July 1 fiscal year wherever possible. Both of these suggestions are beyond our authority to adopt, as these limits upon expenditure and obligation are established by the Act, not by the regulations. Similarly, appropriations are contingent upon congressional budget action, which is not correlated with the July 1 fiscal year.

Another State noted that section 1925(a)(2) of the Act allows carryover of primary care block grant funds to a second year if the Secretary determines that the State fulfilled the funding requirements for community health centers and that there is "good cause" for funds remaining unobligated. The State requested a definition of "good cause." We have therefore revised the regulations to provide that good cause exists if planned obligations could not be carried out because of a bona fide reason, or if the State determines that program objectives would be better served by deferring obligation of the funds to the following year.

Transferability of Funds

The Act permits States to transfer limited amounts of allotted funds from certain block grants to other specified block grant programs. The programs that include transfer provisions are the low-income home energy assistance, social services, community services, preventive health and health services, and alcohol and drug abuse and mental health services block grants. The statutory provisions governing the social services and low-income home energy assistance programs specify that funds transferred from other blocks shall be treated as if they are granted under the recipient programs. The Act does not contain explicit provisions regarding use of transferred funds under the other block grants. We received numerous requests for information concerning, for example, the permissible uses of funds transferred into blocks, applicability of "earmarking" requirements under the alcohol and drug abuse and mental health services block grant to transferred funds, and the continued relevance of fiscal requirements in the transferor program.

These questions must be resolved by reference to the specific statutory language involved in each case to determine whether spending limitations apply to all money expended under a block grant program or, instead, only to funds in the allotment under the program. Rather than issue regulations regarding transfers, we have decided to leave resolution of these questions to each State in the first instance. We are aware that this policy may result in interpretations of the transfer provisions (among other provisions) that vary from State to State. As with other State decisions concerning the use of block grant funds, however, we will accept a State's interpretation of statutory requirements pertaining to transferred funds unless it is clearly erroneous. The regulations do interpret the unusual language of the transferability provision in the social services block grant (section 2002(d) of the Social Security Act). We believe that this provision allows a State to transfer funds to the preventive health and health services, alcohol and drug abuse and mental health services, primary care, maternal and child health services, and low-income home energy assistance block grants. In addition, social services block grant funds may be transferred to support health services, health promotion and disease prevention activities, and low-income home energy assistance under other Federal block grants, including block grants administered by other Federal Departments.

State and Federal Oversight

Applicable Financial Standards

A basic purpose of the block grant legislation is to simplify State grant administration and minimize Federal involvement by placing far greater reliance on State government. For this reason, we have declined to issue comprehensive, voluntary "guidelines," as requested by several consumer groups since these could easily be misinterpreted as establishing standards against which State conduct would later be judged. Also, the block grants will be exempted from the usual Departmental grant administration requirements found in 45 CFR Part 74. (Part 74 is based on OMB Circulars A–102, "Uniform

Administrative Requirements for Grants to State and Local Governments" and A–87, "Cost Principles".) Because a Federal requirement for use of the Part 74 rules would be inappropriate for block grants, we are establishing a fiscal and administrative standard providing maximum discretion to the States and placing full reliance on State law and procedures. Under this standard, a State need not look to Part 74 for such matters as property or procurement standards, or what is an allowable or unallowable cost. Rather, the State's laws and procedures covering the administration and expenditure of its own funds will govern. (This standard applies to administration of the block grant funds and is not intended to require States to follow the same legislative appropriations process for block grant funds as they do for their own revenues.) Any expenditures in violation of the State's own laws and procedures would be unauthorized and subject to disallowance.

Several service organizations questioned the legality of "waiving" the requirements of Part 74. They noted that the Act does not specifically waive the requirements, and stated that amendment of the OMB Circulars or direct application to OMB for an exemption was required. Our decision not to apply Part 74 to the block grants was, however, explicitly approved by OMB in a letter to the Secretary and therefore is fully authorized.

Several comments objected to the inapplicability of Part 74 on substantive grounds, expressing the view that the exemption would result in widely varying and inequitable treatment of subrecipients by the States. One group claimed that failure to apply the cost principles in OMB Circular A–122 would allow States to restrict reimbursement for administrative costs unreasonably, restrict advance payments to grantee agencies, interfere with grantee title to property acquired under the grant, and lessen the "flow-through" of funds to localities by centralizing disbursement at the State level. We do not believe that these comments have demonstrated that OMB Circular A–122 should be mandatory. The block grant programs were intended by Congress to relieve States of Federal administrative burdens, and that objective would not be accomplished if States must follow special Federal rules in connection with the block grants that differ from the rules that apply to expenditures of their own funds. A State may, of course, adopt the principles of the OMB Circulars for expenditure for all of its funds, if it wishes to do so. Such action, however, is not required. Moreover, we have no evidence supporting the assertion that States may be unfair to subrecipients and every reason to believe that States will be sensitive to and supportive of their concerns. For example, some States have indicated to us that they intend to establish their own dispute resolution mechanisms to deal fairly with complaints by local grantee. Should the States act in a manner that violates the Act, the Department will promptly consider complaints as provided in the regulations.

A number of community health centers expressed the concern that their real property and equipment, acquired according to 45 CFR Part 74, would be appropriated by the States. State assumption of a block grant does not, however, give a State rights to grantee property acquired under a previous Federal grant. The existing rules in Part 74 will continue to goven the use and dispositon of real property and equipment acquired under HHS categorical grants. Title to such property rest with the grantee, subject to certain "pay-back" or reversionary rights of the Federal government.

We received inquiries regarding the use of block grant funds to match other Federal funds, since Part 74, which we have not made applicable to the block grant programs, prohibits the use of Federal funds to meet matching requirements in connection with other Federal grants. The maternal and child health services, preventive health and health services, alcohol and drug abuse and mental health services, and primary care block grant statutes explicitly prohibit the use of those funds to match any other Federal grants. The community services, social services and low-income home energy assistance block grant programs do not contain an express prohibition against use of those funds for matching, and therefore they may be used to satisfy matching requirements if otherwise authorized. However, most programs that require matching funds (e.g., Medicaid or the primary care block grant) require that the matching funds come from non-Federal sources. Block grant funds may not be used in such cases because they are Federal funds. (By contrast, general revenue sharing funds are, by statute, available to match other Federal funds (31 U.S.C. 1221).) The question whether community services, social services, and low-income home energy assistance block grant funds may be used to match other Federal funds must be answered by reference to the conditions imposed by the particular grant to be matched. Should a State wish to use funds from these three programs for matching, it must determine if the grant program requiring matching funds permits the grantee to use Federal funds for that purpose. In the unlikely event that the statute permits the grantee to use Federal funds, block grant funds may be used as matching funds as long as they are used in a manner consistent with the statutory prohibitions and assurances required by the block grant statutes.

Administrative Costs

We received many requests for a detailed definition of "administrative costs." States were concerned that the Act's 10 percent limitations on administrative costs for certain block grants (or 5 percent limitation in the case of the administrative costs at the State level under the community services block grant) would not be sufficient to cover the cost of providing services under the block grant programs. We decline to restrict the States with a definition of this term. In the final analysis, the State must determine which expenses constitute administrative costs chargeable to grant funds on a case-by-case basis, subject to review on the same basis as other State interpretations of the block grant statutes. This decision will be based upon the intrinsic nature of each program and the standard accounting procedures followed by each State. As a general matter, administrative costs are all the costs of program administration, whether they would be considered direct or indirect costs under categorical grants. There is some indication that Congress intended that States use non-Federal funds to administer block grant programs where necessary. For example, section 2605(b)(9)(B) of the Act expressly requires that States use non-Federal funds for planning and administering the low-income home energy assistance program where a State's costs for those activities exceed 10 percent of the State's allotment. The same condition applies to administrative expenditures under the preventive health and health services and the alcohol and drug abuse and mental health services block grants by virtue of sections 1904(d) and 1914(d) of the Public Health Service Act. The consistent imposition of limits upon administrative expenditures under the various block grants is indicative of congressional intent that States devote a very high percentage of their block grant funds to direct payments or services.

Other comments inquired about administrative cost limits under the maternal and child health services block grant, which has no statutory limitation.

We note that the Congressional Conference Committee deleted a 15 percent limitation that had been included in the bill, although the Conference Committee did state that "the conferees do not intend that States spend that amount or more on administrative and other nonservice expenditures." (H.R. Rep. No. 97–208, 87th Cong., 1st Sess. 790 (1981).) We interpret this statement to be advisory but, in view of the change in the bill's provisions, not mandatory.

Audits

Under the Act, States are primarily responsible for conducting audits of the use of block grant funds. The Act also confers certain responsibilities on the Comptroller General with respect to evaluating the propriety of State expenditures and on the Secretary with respect to investigations into the use of funds. In fulfilling its responsibilities under the Act and other Federal statutes, the Department will rely on State audits if the audits have been conducted in accordance with the Comptroller General's standards for audits of governmental organizations, programs, activities, and functions. Any additional auditing by the Department would build upon the State's work.

The specific requirements pertaining to audits are set forth in the provisions of the Act pertaining to the individual block grants. An exception is the audit requirement applicable to the community services block grant. Although section 675(c)(9) indicates that an annual audit is required, that provision is overridden by section 1745(b), which permits audits every two years. Section 96.91 of the regulations provides that a State may modify the certification required by section 675(c)(9) so as to reflect the provisons of section 1745(b).

The Department received numerous comments on audit procedures. Comments from consumer groups requested, for example, that the audit be conducted by an entity totally independent of any State control, and that the public have access to audit results. The comments argued that uniformity was the only way to ensure State accountability, prevent fraud and waste, and conduct effective national planning. Comments also suggested including specific items in the audit reports. For example, a utility company suggested that States submit data concerning the percentage of low-income home energy assistance funds applied to fuel and utility bills.

We are rejecting these suggestions insofar as they exceed statutory requirements, because we are committed to allowing States maximum flexibility in accordance with the statutory provisions establishing the States as the primary auditors of their own expenditures. Substantial checks on the legality of State expenditures are present in the form of the requirement in the regulations for fiscal accountability and the provisions for Federal audits. Contrary to the implication of the comments, the State audit reports are publicly available. Also, the independence of the State audit is assured by the statutory requirement with respect to each of the block grants that the audit be conducted by an agency that is independent of the program being audited. Although data on use of low-income home energy assistance funds need not be part of the audit, as requested by the comments, some information on the use of low-income home energy assistance funds is already required by the Act and the regulations to be reported by the States.

An organization of public administrators suggested that one audit of all block grant monies, rather than individual audits of each block grant program, was sufficient. The group recommended that States have the option of performing a single comprehensive audit. We agree that if the State can provide the information required by each audit, the format of the audit report is not important.

Recordkeeping

Section 96.30 of the regulations requires that States keep records sufficient to permit the preparation of reports required by statute and to permit the tracing of funds to a level of expenditure adequate to insure that funds have not been spent unlawfully. In addition, as explained below, a report is required with respect to use of funds under the low-income home energy assistance program. Except for these provisions, the Secretary is not prescribing any data collection requirements and is not prescribing the format or content of any information that the Act requires the State to collect.

We received many requests to impose standard recordkeeping criteria and formats upon the States. Although we will of course continue to review the operation of the block grant programs to insure that we have enough information to carry out congressional intent, at this time we do not believe that the need for any additional Federal recordkeeping requirements has been demonstrated, and therefore we are not adopting any. If they find it useful to do so, States may work together to develop recordkeeping standards for their own use.

Enforcement

The Act requires States to comply with their assurances and the statutory provisions and provides for repayment of improperly expended funds and for withholding of funds in certain circumstances. The block grant programs are intended to confer great discretion on the States, which by statute are the primary auditors of their own expenditures. The fundamental check on a State's use of block funds is the State's accountability to its citizens, which is implemented by public disclosure within the State of information concerning use of the funds. Accordingly, when an issue arises as to whether a State has complied with its assurances and the statutory provisions, the regulations provide that the Department will ordinarily defer to the State's interpretation of its assurances and the statutory provisions. Unless the interpretation is clearly erroneous, State action based on that interpretation will not be challenged by the Department. The Department's position is not intended to preclude contrary action by the independent State audit agency in fulfillment of its statutory responsibilities. The Department will provide copies of complaints to the State's auditors for their consideration. Since the auditors might review the State's action without deference to the State's interpretation they may subsequently reach a conclusion different from that of the Department.

If a State expends block grant funds contrary to its plan or a description of intended uses of the funds, such action would require the repayment of those funds only if the expenditure violated the State's assurances or the statutory provisions. Expenditures that do not conform to the plan or description prepared by the State but do comply with the State's assurances and the statutory provisions are improper only because they differ from information submitted as part of the plan or description. Where a State complies with the statute and its assurances, repayment is not provided for by the Act. A State's failure to file a revised plan reflecting changed spending could lead to the withholding of funds until the revision is made.

Several comments on the enforcement provisions in the regulations objected to the absence of criteria to determine when the Department will conduct an investigation of a complaint against a State, and to the deference to a State's interpretations of its assurances and of the block grant statutes. Advocates for human service organizations and

minority groups claimed that these policies vest too much discretion in the accused wrongdoer and create a "conflict of interest" by allowing the State to judge whether it has violated its own rules.

We have not included specific criteria in the regulations about investigations, since the nature of complaints is expected to vary widely and preclude any uniform approach to resolving them. The deference to State interpretation opposed by the comments is an appropriate corollary to the respective roles of the Department and the States under the block grant statutes. With respect to all the block grants, the States are the primary auditors of their own expenditures. Several of the block grants expressly prohibit the Secretary from prescribing the manner of a State's compliance with its assurances. Under this statutory regime, we believe it is clear that deference to State interpretations is required.

Comments also suggested that the regulations should provide for an expedited investigation and response. Section 96.50(d) of the regulations allows the Department up to six months, if needed, to respond to a complaint against a State. Unless an expedited procedure is created, the comments contended that a terminated subgrantee or beneficiary group could suffer irreparable harm during the investigation. We note, however, that the six-month period is the maximum amount of time allowed for the Department's initial response to a complaint. If a complaint can be resolved more quickly, we will do so. The six-month period was chosen because six months is a realistic estimate of the time that may be necessary for an adequate investigation. Moreover, filing a complaint with the Department is not a prerequisite to instituting a lawsuit against a State if the State has acted unlawfully. Thus, a grantee suffering irreparable injury as a result of unlawful State action could act directly without awaiting the outcome of a Departmental investigation.

A State found two statements in the preamble to the interim final regulations to be contradictory. The Department stated that it would not challenge a State action based upon the State's interpretation of its assurances and statutory requirements unless the interpretation was clearly erroneous, but the Department reserved the right to "build upon" State audit agency findings when conducting its own investigations. The writer noted that the State audit agency might reach a conclusion different from that of the Department. The State suggested that § 96.30 of the regulations should be clarified as to the consequences of audit agency findings and the process for resolving differences between those findings and the Department's conclusions.

We do not believe that the preamble statements referred to in the comment are inconsistent. The question of the scope of a Federal audit is an entirely separate issue from the deference to be afforded to State interpretations. The statement that Federal audits will build upon properly conducted State audits reflects our intention not to duplicate State work, but rather to limit Federal audits to answering questions that the State audit did not resolve. Section 96.30 of the regulations has been revised to clarify the Department's position. Resolution of differences between State findings and the Department's conclusions will take place through the disallowance or withholding process, if the Department chooses to institute such a proceeding.

Hearings and Sanctions

The Act provides with respect to all of the block grants that a State must repay any funds that are determined to have been spent improperly. Under several of the block grant statutes a hearing before the Department is required before repayment may be ordered. The Department will provide a hearing before ordering repayment even where it is not required by statute, and a hearing procedure is provided in the regulations. Decisions resulting from the hearing may be appealed to the Department's Grant Appeals Board. New regulations governing the Department's grant appeals process (42 CFR Part 16) were published in the **Federal Register** on August 31, 1981 (46 FR 43816).

If a State refuses to repay funds as ordered, the Department may recover them by offsetting the amount against future block grant payments. The Act provides a State with another opportunity for a hearing under several of the block grants before an offset can be made. For those block grants, the repayment hearing procedures will also be used for offset questions. Further appeal, however, which would likely be dilatory, will not be allowed.

We have provided for a comparatively informal hearing procedure rather than a formal hearing before an administrative law judge. There is no evidence that Congress intended the required hearings to be trial-type, on-the-record hearings, and the Secretary has concluded that such a procedure would frequently be less efficient than the procedure adopted. The flexible procedure adopted is designed to resolve questions in a fair and expeditious manner.

In appropriate circumstances the Act requires the Secretary, on his own initiative or after investigation of a complaint, to withhold funds under the block grants until the Secretary has reasonable assurance that a State that has violated statutory provisions or the certifications in its application will not repeat such actions. The hearing procedure established for repayment and offset issues will also be used prior to withholding funds. Any appeals of decisions to withhold funds would be handled by the Secretary or, at his discretion, the Grant Appeals Board. The Board would typically be used to hear appeals when the question underlying the proposed withholding involved disallowed expenditures and the like. The Secretary will retain authority to make the final decision on any withholding.

These provisions regarding penalties against States that expended funds unlawfully were criticized in comments as being too lenient. A comment noted that there was no provision for withholding payments pending resolution of a complaint, and no penalty was imposed upon wrongdoers save repayment of the illegally expended monies. The requirement that States give a reasonable assurance that the violation will not recur was criticized as being vague and unenforceable. We cannot, however, modify the regulations in response to these comments. The allowable sanctions for illegal expenditures by States are set forth in the Act and reflected in the regulations. We do not have the authority to impose more severe penalties against a State.

We received several requests for alteration of the hearing procedure. Denial of status as a party to the complainant in the hearing and appeal was criticized as unfair. The comments asserted that, since the complainant was the injured party, his participation in the hearing was necessary to assure that all of the pertinent facts are brought before the presiding officer. We have concluded that it is unnecessary and inappropriate for complainants to be granted the status of parties at hearings. Under the Act, hearings are held only when the Department has made a preliminary determination that a State has unlawfully expended funds. Under such circumstances, it would be redundant and potentially counterproductive for a complainant to be presenting a case parallel to the Department's. The Department, where appropriate to strengthen its case, will

utilize witnesses and information of the complainant, but the Department will be solely responsible for presentation of the case against the State.

One comment suggested that the prohibition on discovery in § 96.65 of the regulations was unnecessarily inflexible. The comment recommended adding criteria for discovery in appropriate cases. Because of the informal nature of the hearing and the statutory obligation of the State to comply with Federal investigations, we do not believe that it is necessary to permit discovery. The Department will have compiled the evidence supporting its position through investigation, and a State would have no apparent need for discovery against the Department, since the facts relating to the challenged practice would be within the State's knowledge.

Instead of allowing the presiding officer the discretion to decide whether to transcribe the hearing, it was suggested that all hearings should be transcribed at Government expense and copies provided to the State. We have not adopted this suggestion because some hearings may be so limited in scope as not to warrant transcription. We expect, however, that any hearing involving substantial issues will be transcribed at Federal expense.

Another comment suggested that the Secretary specify qualifications for the presiding officer to guarantee that the individual is both qualified and neutral. We do not believe that this change is necessary. The Secretary has the authority to appoint many adjudicative officers, including the head of the Grant Appeals Board, without reference to criteria set forth in regulations. The Secretary is mindful to the need for an impartial, competent presiding officer and will exercise his discretion accordingly.

A professional organization suggested amending § 96.66(a) to allow the presiding officer or the Secretary to close the hearing to the public when there was a risk of disclosing confidential medical information. The reference in the regulations to information the disclosure of which might constitute an unwarranted invasion of privacy was intended to cover confidential medical information, and the regulations have been clarified accordingly.

Special Provisions

Nondiscrimination

The Act contains specific provisions prohibiting discrimination with respect to all of the block grants except the social services block grant. Congress has made clear that States and their grantees have the responsibility to prohibit discrimination on the basis of race, color, national origin, age, and handicap. In addition, several of the block grants require that religious and sex discrimination be prohibited as well. The Secretary interprets existing laws against discrimination in Federally assisted programs as applying to the social services block grant.

Several comments requested a statement in the regulations that 45 CFR Parts 80 (prohibiting discrimination on the basis of race, creed, or national origin), 81 (providing a hearing procedure for claims under Part 80), 84 (prohibiting discrimination based upon handicap), and 90 (prohibiting age discrimination) apply to State administration of the block grant programs. The commenters were particularly concerned that the hearing and enforcement provisions of the block grant regulations might appear to supersede the requirements of 45 CFR Part 81. Several organizations offered specific antidiscrimination provisions for inclusion in the block grant regulations.

The complaint and hearing provisions in the block grant regulations were not intended to apply to discrimination issues and the regulations have been clarified accordingly. The provisions of 45 CFR Part 80, 81, 84, and 90 apply by their terms to all programs receiving Federal financial assistance, however, and it is unnecessary to make them applicable to the block grant programs by specific reference to them in the block grant regulations. No additional regulations are being issued at this time, although regulations implementing novel aspects of the block grant nondiscrimination provisions are being developed and will be published in the future.

Waivers

Several States requested clarification of the scope of the provision in § 96.15 of the regulations explaining where to apply for waiver of the requirements applicable to the block grant programs. Each block grant statute specifies those provisions that may be waived. For example, the Secretary may waive the prohibition against the use of community services, primary care, maternal and child health services, social services and alcohol and drug abuse and mental health services block grant funds for construction if the facts of a particular case justify the exemption. Unless there is express statutory language allowing the Secretary to waive a provision, no waiver of the requirements of the block grant statutes is permitted. The Secretary has delegated his waiver authority to the heads of the Operating Divisions responsible for administering the block grants.

Direct Funding of Indian Tribes and Tribal Organizations

Five of the block grant programs permit the Secretary to provide grant funds directly to Indian tribes and tribal organizations that request such funds. The block grants involved are community services, preventive health and health services, alcohol and drug abuse and mental health services, primary care, and low-income home energy assistance. With respect to each of these block grants, the Act provides that direct funding is available if (1) the Indian tribe or tribal organization requests funds, and (2) the Secretary determines that the tribal members would be better served by direct Federal funding than by funding through the States.

The Act's provisions on direct funding were intended to continue the long-standing government-to-government relationship between the United States and the tribes. The provisions also implement a self-determination policy for Indian tribes and seek to overcome jurisdictional problems between some States and their resident tribes regarding the provision of services.

By regulation, the Secretary has determined that members of Indian tribes and tribal organizations would be better served by direct Federal funding than by funding through the States in every instance that the Indian tribe or tribal organization requests direct funding. The tribes and tribal organizations are closer to their members than the State governments and are better able to ascertain their needs and to implement solutions. Our experience in the last five years has demonstrated that the performance of Indian tribal grantees is comparable to that of other grantees. A tribe or tribal organization may conclude that it is better served through the State government. The Secretary encourages Indian tribes and tribal organizations to work with the States and determine whether they might benefit from arrangements that could be developed. If a tribe concludes that it would be better served by Federal funding, however, and therefore applies for a direct grant, the Secretary will concur with that assessment and will provide funds directly to the tribe or tribal organization.

Eligibility

The minimum conditions that an Indian tribe or tribal organization must meet to qualify for direct funding are defined in the Act and vary among the block grants. A number of issues relating to eligibility are dealt with in the regulations or were raised in comments on the interim final regulations.

One set of questions involved standards of eligibility under the low-income home energy assistance program and the community services block grant, since the Act does not clearly define the class of potentially eligible tribes and tribal organizations for these two block grants. No definition whatever of an eligible Indian tribe or tribal organization is contained in the Act for the low-income home energy assistance program. Definitions similar to those established by statute for the other block grants were therefore included in the interim final regulations for this program. Under section 674(c)(5) of the community services block grant statute, the Secretary has the discretion to award direct funding to an Indian tribe that has been recognized as such by a State, or that is "considered by the Secretary of the Interior to be an Indian tribe or Indian organization for any purpose." During the initial administration of this program, questions were raised about the eligibility of urban Indian organizations and tribes that have limited rights under arrangements with the Interior Department. In response, the Secretary of Health and Human Services has determined that his discretion regarding direct funding should be exercised only with respect to State recognized tribes and those tribes included on the list of Federally recognized tribes published by the Secretary of the Interior in accordance with Department of Interior regulations at 25 CFR Part 54. In addition, the Secretary will provide direct funding to the Alaska Native villages and the regional and village corporations established pursuant to the Alaska Native Claims Settlement Act (45 U.S.C. 1601). We have amended § 96.44 of the regulations to apply the definition of "Indian tribe" and "tribal organization" found in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b) to the community services block grant. This standard is consistent with the Secretary's intention to make direct funding available only where appropriate to continue a government-to-government relationship. It clarifies that direct funding is not available for urban Indian groups and other entities with respect to which a government-to-government relationship does not exist.

One comment asked that we establish special rules for participation by Alaska Native villages in the block grant programs. The commenter was concerned that the unique configuration of the Alaska Native population, which resides in over two hundred widely scattered Native villages, would hinder program administration by the State. The writer predicted problems in coordinating services to Native and non-Native populations and to non-profit regional corporations and Alaska Native villages. We have concluded that the block grant programs can be successfully operated by the State of Alaska without excluding Alaska Native villages from the opportunity to apply for direct funding. The villages and the regional corporations are included in the definition of "Indian tribe" in the Indian Self-Determination and Education Assistance Act used to determine eligibility for the various block grant programs. Their government-to-government relationship with the United States is recognized by the Alaska Native Claims Settlement Act and by their participation in Indian Self-Determination and Education Assistance Act programs. We understand that the regional corporations provide many health and social services for their member villages and we expect that many will continue to do so with respect to the block grant programs. Administration of Alaska Native funds largely by the regional corporations should substantially reduce problems of coordination. However, where a village does not want the regional corporation to administer its allotment of block grant funds, that decision should be left to the village. The comment noted that coordination of services to the Native and non-Native populations would be enhanced if either a tribal organization or the State served all of the residents of designated geographic areas. In our view, the statutes do not preclude contracts or cooperative arrangements between State and Native organizations for area-wide services. We decline, however, to specify the arrangements to be entered into between the State of Alaska and its Native population.

A tribal organization stated that § 96.44(b) of the regulations appears to restrict eligibility for the community service block grant to State recognized tribes. That is not correct. In keeping with our policy of not repeating clear statutory language in the regulations, the regulations only clarify the meaning of State recognition. Federally recognized tribes are also eligible to apply for the block grant, as provided by section 674(c)(5) of the Act.

Some comments related to State recognition of tribes. A few tribal commenters opposed the concept of State recognition, arguing that tribal recognition is exclusively a Federal function under the Constitution. The comments also noted that many States have no formal policy or procedure for recognizing a tribe and argued that the structure of the block grant programs creates an incentive against State recognition, since funds for directly funded tribes would reduce a State's allotment. The provisions for funding State-recognized tribes are, however, created by the Act with respect to two of the block grant programs and they are therefore retained in the final regulations.

The interim final rules included a requirement that an Indian tribe would be considered to be a State recognized tribe only if the State in which the Indians reside had expressly determined that they were an Indian tribe in accordance with State procedures for making such determinations. This provision was intended to make clear, for example, that State actions incidentally referring to a group as a tribe do not constitute State recognition for the purpose of receiving block grant funds. Similarly, incorporation of a tribal organization under the laws of a State would not by itself constitute State recognition of the group as a tribal organization. This requirement raised questions, however, in a few States that do not have formal procedures for State recognition but nevertheless have longstanding relationships with Indian tribes. We have therefore clarified the final regulations to provide that verification by the State's chief executive officer that a tribe is recognized by that State will constitute evidence of State recognition.

The definition of "tribal organization" in the Indian Self-Determination and Education Assistance Act adopted by the Act and by these regulations requires that such an organization must be "controlled, sanctioned, or chartered" by the governing body of an Indian tribe. Tribes and Indian organizations asked that we specify the form of tribal support for a tribal organization. Comments asked for details concerning the duration, terms and format of tribal resolutions. We decline, however, to impose requirements concerning the form of the sanction or resolution. We are not requiring that tribes and tribal organizations follow the same

procedures as those used by the Bureau of Indian Affairs and Indian Health Service to qualify for grants and contracts under the Indian Self-Determination and Education Assistance Act (25 CFR 272.14 and 272.16 and 42 CFR 36.104, respectively). Instead, we will defer to procedures developed by tribes and tribal organizations with respect to tribal representation.

Some tribes objected to their exclusion from eligibility for the maternal and child health services and social services block grants, stating that since they were eligible for five of the block grant programs, they should not be excluded from the other two programs. This restriction is imposed by the statute, however, not by the Department's regulations, and therefore cannot be changed.

The interim final regulations provided that in fiscal year 1982, tribal eligibility for block grant funds is contingent upon qualification for the block by the State in which the tribe or tribal organization is located. Comments from tribes claimed that linkage of their direct funding to State qualification for a block was contrary to the congressional intention that independent funding be provided to tribes. They stated that the unique relationship between the Federal government and the Indian tribes, recognized by numerous treaties and statutes, requires substantial direct funding for Indians regardless of whether their State of residence is participating in the block grant programs. We have reviewed our position in light of these comments and in recognition of the disadvantages to tribes in States that chose not to administer block grant programs this year, and have revised the regulations to allow direct funding of eligible Indian tribes and tribal organizations for the remainder of this fiscal year even if the State is not operating the block grant involved.

Several tribes contended that the eligibility limitations imposed under the preventive health and health services and the alcohol and drug abuse and mental health services block grants by §§ 96.45(b) and 96.46(b) of the regulations make participation practically impossible for most tribes and tribal organizations. The Act limits the amount of the allotment to any particular Indian tribe or tribal organization based upon the amount of funds awarded to that tribe or organization in 1980 (alcohol and drug abuse and mental health services) or 1981 (preventive health and health services) under predecessor programs. The cited regulations interpret those provisions as referring only to direct grants and not to tribal grantees that received funds under formula or Statewide grants, nor to subgrantees that received funds from any program replaced by the block grants or transferred to the Indian Health Service. We believe, however, that the regulations properly interpret the Act and that Congress intended that only a narrow group of Indian tribes and tribal organizations should be eligible for funding under these two block grants.

Funding Level

Many tribes objected to the funding distribution schemes in the low-income home energy assistance and community services block grants, which are based on population data. They asserted that Indians are traditionally underrepresented in United States census data and they suggested, therefore, that tribal health and population statistics, rather than the ratio of Indian to non-Indian individuals or households in a State, should form the basis for a tribe's allotment. In lieu of using tribal census data, several tribes requested imposition of a minimum funding set-aside, equivalent to the proportion of funds they received under the categorical programs replaced by the block grants.

We do not have the authority to alter the fund distribution systems set forth at sections 674(c) and 2604(d) of the Act, which are based on population living at statutorily defined poverty levels. We have used the most reliable population data available, primarily "The Population and Housing Census 1980 Advance Report," "The Tribe List and Extract," prepared by the Census Bureau for the Office of Revenue Sharing, and supplemental data from the Census Bureau. Where census date were not available, we used population estimates from the Bureau of Indian Affairs and in one instance from a State Indian Commission. Finally, where no independent data were available, we used the tribes' own estimates of their population. In computing the poverty levels, we adjusted the 1980 population figures based on data from the 1970 census. We will revise these figures with poverty level data from the 1980 census as soon as they are available. We encourage States and tribes to negotiate different, mutually satisfactory shares of tribal and State funds if they have any more accurate data.

State-Tribal Relationships

The preamble to the interim final regulations stated that "The fact that a tribe or tribal organization is receiving direct Federal funds does not, however, disqualify its members from receiving services from the State." This sentence was confusing to some commenters who raised various questions regarding access to and eligiblity for services, duplicate funding, and responsibility for specific services. For example, some comments took the position that if the Federal government made a grant to a tribe, the State was not required to provide any service to tribal members. Other comments interpreted the statement in the preamble as mandating duplicate payments or services for Indian individuals. Finally, comments asked for clarification of the respective responsibilities of States and tribes for service delivery under these programs.

The preamble statement was intended to reaffirm the Department's policy that an Indian individual may not be excluded from access to Federally funded facilities simply because the Indian's tribe may have access to similar services. This policy ensures that Indian people are not treated differently from other residents of a State based on their status as Indians. At the same time, we do not intend to require duplicate cash payments or other tangible benefits to Indians by making them eligible for services under programs operated both by a State and a tribe. A new § 96.42(f) has been added to the regulations to clarify this issue. States are not required to confer eligibility for tangible benefits on Indian people in the service population of a tribe that has received an allotment of block grant funds. Thus, for example, States are not required to provide cash payments or weatherization assistance to Indians included in the service population of a tribe receiving funds under the low-income home energy assistance program. The regulation does prohibit a State from denying Indians access to intangible benefits. This is intended to cover benefits that are not subject to abuse by individuals seeking duplicate services; examples of intangible benefits include counseling or a course of treatment at health facility.

These questions underscore the importance of State and tribal cooperation and planning in the use of the block grant funds. In this way duplication can be avoided, administrative costs kept to a minimum, and maximum use made of funds.

Both States and tribes raised questions about coordination of funding. A State suggested that it should be notified of each application or award to a tribe or tribal organization so that it can adjust its expenditure plans. A tribal organization requested

notification of State requests for block grant funds, noting that § 96.43(c) of the regulations requires submission of tribal requests for block grant funds within 75 days of a State request. The comment claimed that without direct notification from the Federal government it would be practically impossible for the tribes to know whether to apply for funds.

We will continue to provide information to both the tribes and the States on an informal basis. When the Secretary notified the tribes of the availability of direct funding in September 1981, he included in his letter the names and addresses of contact people for each block grant. In addition, there are officials in each of the ten regional offices of the Department and in the Office of Community Services in Washington, D.C. who are ready to provide information to tribes and the States.

Administration

The regulations provide that Indian tribes and tribal organizations receiving direct funding have the same rights and obligations as States, unless otherwise provided or unless a State's rights and obligations have no relevance to an Indian tribe or tribal organization. Thus, for example, a tribe or tribal organization must submit an application containing the same information as that required from the States, except that the regulations permit the deletion of certain certifications that we have concluded are not appropriate for tribes and tribal organizations.

In this final rule we are permitting further modification of the certifications required under the community services block grant. New § 96.44(d) permits a tribe or tribal organization to certify that it will provide at least one of the services or activities required under the community services block grant. As presently drafted, the regulations appear to require Indian tribes receiving direct funding to expend funds for all of the purposes specified in section 675(c)(1). We believe it is appropriate to give additional flexibility to the tribes and tribal organizations in view of the size of the tribal service population, the scope of the program activities, and the limited size of the tribal allotments.

There were several comments regarding administration of the block grants by Indian tribes. The tribes opposed flat-rate limitations on administrative costs, and suggested negotiation of a satisfactory indirect cost rate based upon the needs of each tribe. Two tribes asked that audit expense be chargeable to the direct services portion of grant funds. We do not believe, however, that Indian tribes and tribal organizations should be permitted to spend less of their block grant funds for direct services than States. The congressional intention that the vast majority of block grant funds be spent for direct services is clear from the strict percentage limitations imposed by statute upon administrative costs. Therefore, we will not establish different rules on administrative cost limitations for tribes and tribal organizations than are established by statute for the States.

We received requests from tribes and tribal organizations to clarify the roles of each with respect to the application process. The block grant programs that permit direct Indian participation permit tribes and tribal organizations to request and to apply for block grant funds. (The exception is the low-income home energy assistance program, which requires that Indian tribes request funds but allows tribal organizations to apply on behalf of requesting tribes.) We expect that tribes and tribal organizations will coordinate their requests and applications in a manner that prevents duplication of effort and takes advantage of the flexibility allowed by the Act. However, the Act does not require that we dictate the details of the request and application procedure, and we will leave these details to the discretion of the Indian people.

Under section 2604(d)(3) of the Act, a tribal government may request direct funding for an "other entity," neither a tribe nor a tribal organization, to provide energy assistance to those tribal members that the tribe cannot serve. Several comments asked for guidance regarding selection of other entities. In making case-by-case determinations of whether an "other entity" should serve an Indian population, the Secretary will consider these factors: The ability of the other entity to provide low-income home energy assistance, existing tribal-State agreements as to the size and location of the population to be served, and the relevant history of State services to this population. The regulations have been revised accordingly by adding § 96.48(e).

Provisions Relating to Particular Block Grants

Community Services Block Grant

Under the community services block grant, 90 percent of the funds allotted to a State for fiscal year 1982 must be used to make grants to "eligible entities," as defined in the statute, or to organizations serving seasonal or migrant farmworkers. Different requirements apply beginning in fiscal year 1983.

The definition of "eligible entity" has been revised by section 17 of the Older Americans Act Amendments of 1981 (Pub. L. 97-115; December 29, 1981). The Amendments added a new sentence to section 673(1) of the Act as follows:

"The term eligible entity includes any limited purpose agency designated under title II of the Economic Opportunity Act of 1964 for fiscal year 1981 which served the general purposes of a community action agency under title II of such Act, and any grantee which received financial assistance under section 221 or 222(a)(4) of the Economic Opportunity Act of 1964 in fiscal year 1981."

Title II of the Economic Opportunity Act (42 U.S.C. 2808) allowed the funding of agencies other than community action agencies for special projects, or in areas where there was no designated community action agency. Section 222(a)(4) of the Economic Opportunity Act (42 U.S.C. 2809(a)(4)) established the Rural Housing Development and Rehabilitation Program.

Even though the definition of eligible entity has been thus expanded, at least two territories eligible for allotments do not have any eligible entities within their jurisdictions. We believe that Congress required that the bulk of 1982 funds be awarded to eligible entities so as to assure an orderly transition to State administration. That rationale is not applicable in those jurisdictions that do not have any eligible entities. Accordingly, we are revising the regulations by adding a new § 96.112(b) to provide that a State or territory that does not have any eligible entity may spend its 1982 funds as if they were 1983 funds.

Primary Care Block Grant

Because the primary care block grant will not be fully operational until fiscal year 1983, some comments suggested deferral of that part of the regulations. States are developing portions of the program in the present fiscal year, however, and guidance is appropriate. In addition, the language of the Act authorizing the primary care block is similar in many areas to that creating the remaining blocks. Simultaneous consideration of all the block grant programs is therefore desirable to allow for uniform regulations wherever possible.

Comments from many of the Federally funded community health centers (CHCs) authorized by section 330 of the Public Health Service Act (42 U.S.C. 254c) requested clarification in the regulations of several of the statutory requirements pertaining to State support for CHCs and the transition from Federal to State funding. The centers

noted that there was no procedure in the interim final regulations for Secretarial review of a State decision to "defund" a CHC in fiscal year 1983 under section 1926(a)(2) of the Public Health Service Act, and offered suggestions on criteria and procedures for the defunding review. For example, they requested that the Secretary allow the CHC to participate as a party in the defunding review.

In response to these comments, a procedure has been established in the regulations to allow for review of State determinations under section 1926(a)(2) that a center does not meet the requirements for continued funding. Under the procedure, a State must advise the Department of any such determination together with the basis for the determination. The Department will allow the center 30 days to respond to the State's explanation, after which the Department will issue its final decision (also within 30 days) as to whether the State will be permitted to defund the center. The regulation requires that funding continue while the State's defunding decision is reviewed. In light of this provision, States should schedule their review so that the Department's review of a defunding decision is completed before a new grant award is required.

Many comments requested a definition of the State matching share required by section 1926(a)(4) of the Public Health Service Act. They urged restricting the match to cash from State revenues and prohibiting use of in-kind payment or other Federal funds. One comment noted that primary care block grant funds may not be used to match other block grants under section 1926(b)(4) of the Act and urged that other block grant money should not be used to match primary care funds. We interpret the statutory reference to "State funds" for matching to include anything that may be considered a bona fide State expenditure. This interpretation would prohibit a State from matching CHC monies with other Federal payments to the State. However, it would allow a State to match Federal grant funds by detailing State personnel to the center or providing similar in-kind benefits.

Comments also requested a definition of the term "significantly less" in section 1927(c)(3) of the statute. That section requires certification that the State will provide for independent review of funding reductions to CHCs when the center receives "significantly less" suport in fiscal year 1984 than it did in fiscal year 1983. The comments suggested that a narrow definition of "significantly less" would allow States to reduce their support substantially. We are not defining "significantly less" because Congress declined to do so. We believe that States should be allowed the flexibility to determine the exact funding levels based upon the individual circumstances of each locality.

One comment addressed the provision of section 1927(c), which requires States to submit assurances, satisfactory to the Secretary, that the State has sufficient administrative capability. The comment argued that the Department may not perfunctorily approve a State's claim that it can administer the program. Since the statute refers to the submission of assurances, rather than a more elaborate form of demonstration, we believe that it is proper for the Department to rely on a State's assurances without more. A State's compliance with its assurance is, of course, subject to review by the Department and any deficiencies in administrative capabilities can be acted upon in this manner.

A comment requested the Department to explain that section 1926(a)(4)(B) is voluntary. That provision allows a State "at the request of a community health center" to reduce the amount of a State's contribution to the center by the value of certain supplies and services furnished in kind. We agree with the comment that the provision by its terms calls for a request by the center before it is invoked.

Maternal and Child Health Services Block Grant

Comments from child welfare organizations requested regulations stating when expenditure of State allotments for inpatient services would be allowed under the maternal and child health services block grant. Under section 504(b)(1) of the Social Security Act, funds may be used for inpatient services only for crippled children, high-risk pregnant women and infants, and such other inpatient services as the Secretary may specifically approve. The comments argued that requesting Secretarial approval on a case-by-case basis was not in the best interest of children.

A State may submit information to the Secretary describing other categories of beneficiaries for which it proposes to provide inpatient services. This information may be submitted at any time, including at the beginning of the fiscal year when the State submits its report of intended expenditures. The Secretary will review each class of proposed exemptions and determine whether the expenditure for that class should be allowed. By securing express prior approval of classes of inpatient care, we expect that the need for individual emergency approvals will be greatly reduced.

Comments asked the Secretary to issue regulations defining a "substantial proportion" and a "reasonable proportion" of the State allotment. Section 505(2)(C)(i) of the Social Security Act requires that States spend a "substantial proportion" of their funds on health services for mothers and children; section 505(2)(C)(ii) requires that States spend a "reasonable proportion" of the funds for prenatal care for mothers and primary, preventive, and rehabilitative care for children. We decline to adopt definitions of these terms since Congress, through adoption of this language, instead of fixed percentages as used elsewhere in the Act, plainly indicated an intent to allow flexibility to the States.

Comments requested that the Secretary issue regulations to define the "special consideration" that States are to afford to continued funding of existing special projects as provided by section 505(2)(C)(i) of the Social Security Act. We do not believe, however, that it is appropriate to define this provision, since this is plainly a subject on which Congress intended for the States to have substantial discretion.

Child welfare groups also suggested that the Secretary should require States to ensure that providers funded under the maternal and child health services block grant participate in the Medicaid Early and Periodic Screening, Diagnosis and Treatment (EPSDT) program for children under twenty-one. Although section 505(2)(E) of the Social Security Act requires that the States coordinate services offered under the EPSDT program with those offered under the maternal and child health services block grant, there is no authority in the Act to require participation in the EPSDT program; therefore we are not imposing this condition.

Social Services Block Grant

Section 2005 of the Social Security Act (42 U.S.C. 1397d) permits States to use social services block grant funds for room and board in only three circumstances: (1) For cost of subsistence during rehabilitation; (2) for temporary emergency shelter as part of a protective service, and (3) for room and board provided for a short term as an integral but subordinate part of a social service. We received many requests to explain the services included in the third category. The comments requested rules as to the eligibility for

block grant funding of room and board costs associated with residential treatment facilities, summer camps for disadvantaged children, and social services provided to hospital inpatients. Section 96.71 of the regulations defines the third class of exceptions. Social services block grant funds may be used for room and board where the short term room and board is a minor but essential adjunct to another service of which it is a part and is necessary to achieve the objective of the other service. The regulation prohibits services whose primary benefit it provision of food and housing from receiving block grant funds for food and housing expenses. For example, the restriction prohibits use of these monies for foster care maintenance payments. Funding for foster care maintenance payments is available under the Title IV–B and IV–E Programs. However, there are services which provide room and board that are eligible for funding. Programs such as residential treatment that provide room and board as part of a plan to provide a distinct social service could be eligible for social services block grant funds for that purpose. Evaluation of particular programs is the responsibility of the State administering the program.

Low-Income Home Energy Assistance Program

The regulations include a number of provisions that apply only to the low-income home energy assistance program. Since that program has a specific procedure for reallotment of unused funds at the end of each fiscal year, the regulations specify a report to be submitted by recipients of the funds. The regulations also require the submission of a report necessary to provide certain information to Congress, as required by the Act. States must annually report the number and income levels of households assisted under the program. This information may be reported in the form collected by the State.

Under section 2604(e) of the Act, a State may request the Secretary to make direct payments to Supplemental Security Income (SSI) recipients out of the State's allotment. The regulations provide that any such request must be submitted at least six months before the State wishes the payment to be made but in any case by September 1 of the preceding fiscal year. Section 96.83 of the regulations was revised to incorporate this requirement.

Under section 2605(b)(2)(B) of the Act, eligibility for assistance under the block grant depends on household income. In making determinations of household income, the States should take note of provisions in certain Federal statutes that may prohibit benefits granted under those statutes from being counted as income under other Federal statutes. Examples of such statutes are listed in regulations governing the Supplemental Security Income program in the appendix to 20 CFR 416.1182 and in 20 CFR 416.1236. We have not ascertained which, if any, of these statutes may prohibit the inclusion of grants as income under section 2605(b)(2)(B). States should refer questions concerning the applicability of such statutes to their own attorneys or to the Federal agencies administering them.

Although certain territories are eligible for funds under this program, the Act does not otherwise define the rights and responsibilities of territories. The regulations therefore establish that eligible territories will be treated the same as States unless otherwise provided. In connection with funding of the territories, it is necessary for the Secretary to determine the appropriate level of funding under section 2604(b)(1) of the Act. That section requires the Secretary to apportion not less than one-tenth of one percent, and not more than one-half of one percent, of the total appropriation to carry out the program to Puerto Rico and the Insular Areas on the basis of need. Preliminary tables of allocations were circulated to the States and territories through the National Governors Association in September and November 1981. These tables reflected a proposal to fund the territories at the same relative levels as they received under the 1981 program. Under this allocation method, the total amount allocated to the territories would be about 0.14 percent, which is within the statutory range. Comments were received from several of the territories urging that higher funding levels should be established. We have concluded, however, that we should retain the funding levels originally proposed since they are based on a congressional determination of need for the 1981 program and the comments did not include any information demonstrating that changed conditions required a higher relative level of funding as compared to the States than existed in 1981.

A municipality asked that we define the term "home energy supplier" in section 2605(b)(7) of the Act to include owners of rental properties. The expanded definition is unnecessary, in our view, because the Act confers sufficient discretion upon the States and subrecipients to make payments to landlords if they wish.

The definition of "household" in section 2603(2)(A) of the Act has been changed by a technical amendment in the Older Americans Act Amendments of 1981, Pub. L. 97–115, (December 29, 1981). The new definition provides:

"the term 'household' means any individual or group of individuals who are living together as one economic unit for whom residential energy is customarily provided in common or who make undesignated payments for energy in the form of rent."

The most recent continuing appropriations act, Pub. L. 97–92, includes additional statutory language regarding the use of funds under the low-income home energy assistance program.

Section 130 of Pub. L. 97–92 provides:

"Notwithstanding any other provision of this joint resolution, each State shall establish such fiscal control procedures as are necessary to assure that funds made available under this resolution for the low-income home energy assistance programs are used for payments in accordance with section 2605(b)(1) and (2) of the Omnibus Budget Reconciliation Act of 1981 and that each eligible household receiving such payments does not use the payment for any other purpose than the purpose described in section 2602(a)."

Notice and Comment Procedures and Waiver of Delayed Effective Date

The block grant programs were enacted on August 13, 1981, and became effective on October 1, 1981. Because the Secretary was required to begin disbursing funds a few weeks after the statute was passed, it was impossible to publish a proposed rule, allow the public a period for submitting comments, revise the rule, and publish a final rule before the States would receive their first allotments. Several comments objected to the decision to publish interim final rules. The comments took issue with our determination under the Administrative Procedure Act that it was impracticable, unnecessary, and contrary to the public interest to use notice and comment procedures. By the time these final rules are published, however, some States will have operated the program for several months. We believe that it was preferable to provide guidance to the States in the early stages of implementation through interim final regulations than to remain silent or give advice on an ad hoc basis. In any event, we reviewed and considered each of the more than two hundred written comments we received on the interim final regulations, and adopted appropriate suggestions.

We have determined that there is good cause to waive the customary 30 day delay in the effective date of the

final rules. The changes made in the interim final regulations are in large part simply clarifications and therefore a delayed effective date is unjustified. Substantive changes in provisions for the transition year, such as the revision allowing funding of Indian tribes in States that have not qualified for a block grant, are properly made effective immediately because of the short time remaining in the current fiscal year.

Impact Analysis

Executive Order 12291

E.O. 12291 requires that a regulatory impact analysis be prepared for major rules—defined in the Order as any rule that has an annual effect on the national economy of $100 million or more, or certain other specified effects. The Department concludes that the regulations implementing the block grant programs are not major rules within the meaning of the Executive Order, because they do not have an effect on the economy of $100 million or more or otherwise meet the threshold criteria.

One comment argued that the rules should be subjected to an impact analysis because the block grants will involve spending large sums, in excess of the $100 million economic effect threshold established in the Executive Order. However, the Executive Order was not intended, and has not been interpreted, to classify as "major" rules that merely set forth the terms and conditions for spending appropriated funds. The essential requirement for a rule to be classified as major is that it "result in"—create or cause—economic effects that otherwise would not exist. In this case, the effect of the block grant rules is not to determine whether or not the money will be spent, but the procedures by which it will be spent, and it is that effect—which is negligible—against which the threshold criterion is applied. Accordingly, a regulatory impact analysis is not required.

Regulatory Flexibility Act of 1980

The Regulatory Flexibility Act (5 U.S.C. Ch. 6) requires the Federal government to anticipate and reduce the impact of rules and paperwork requirements on small businesses. For each rule with a "significant economic impact on a substantial number of small entities" an analysis must be prepared describing the rule's impact on small entities. Small entities are defined by the Act to include small businesses, small non-profit organizations, and small governmental entities.

Several comments argued that a significant impact upon a large number of small entities was likely. However, the comments offered no specific showing of the likelihood of such impact or statement of what the effect might be. The primary impact of these regulations is on the States, which are not "small entities" within the meaning of the Act. Actual delivery of services will be performed in large part by proprietary, public, and not-for-profit organizations including day care centers, medical practitioners, neighborhood service centers, United Way agencies, and units of local government, as well as by State agencies. Because these regulations provide States with great authority to prescribe management, organization, funding, and eligibility practices for service delivery, they do not directly impact small entities, either favorably or adversely. Instead, impacts will depend on future State decisions.

We are not required to perform a regulatory impact analysis where the effect of the proposed regulation is speculative, and will be caused by decisions made independently of the Federal government. Therefore, the Secretary hereby certifies that a regulatory flexibility analysis is not required.

List of Subjects

45 CFR Part 16

Administrative practice and procedure, Grant programs-health, Grant programs-social programs.

45 CFR Part 74

Accounting, Administrative practice and procedures, Grant programs-health, Grant programs-social program, Insurance, Reporting and recordkeeping, Surety bonds.

45 CFR Part 96

Administrative practice and procedure, Aged, Alcoholism, Child welfare, Community action program, Drug abuse, Energy, Grant programs—energy, Grant programs—health, Grant programs—Indians, Grant programs—social programs, Health, Indians, Investigations, Low and moderate income housing, Maternal and child health, Mental health programs, Public health, Reporting and recordkeeping requirements, Social security.

For the reasons set forth in the preamble, Title 45 of the Code of Federal Regulations is amended as follows:

1. Part 96 is added to 45 CFR Subtitle A to read as follows:

PART 96—BLOCK GRANTS

Subpart A—Introduction

Sec.
96.1 Scope.
96.2 Definitions.
96.3 Information collection approval numbers.

Subpart B—General Procedures

96.10 Prerequisites to obtain block grant funds.
96.11 Basis of award to the States.
96.12 Grant payment.
96.13 Reallotments.
96.14 Time period for obligation and expenditure of grant funds.
96.15 Waivers.
96.16 Applicability of Title XVII of the Reconciliation Act (31 U.S.C. 1243 note).

Subpart C—Financial Management

96.30 Fiscal and administrative requirements.

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Subpart G—Social Services Block Grants

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96.80 Scope.
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Subpart I—Community Services Block Grants

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Subpart J—Primary Care Block Grants

96.100 Scope.

96.101 Review of State decision to discontinue funding of a community health center.
96.102 Carryover of unobligated funds.

Subpart K—Transition Provisions

96.110 Scope.
96.111 Continuation of pre-existing regulations.
96.112 Community services block grant.

Authority: Secs. 671–82, 901, 1741–45, 2191–94, 2351–55, 2601–11, Pub. L. 97–35, 95 Stat. 511–19 (42 U.S.C. 9901–11), 95 Stat. 535–59 (42 U.S.C. 300w–300w–8, 42 U.S.C. 300x–300x–9, 42 U.S.C. 300y–300y–10), 95 Stat. 762–64 (31 U.S.C. 1243 note), 95 Stat. 818–30 (42 U.S.C. 701–709), 95 Stat. 867–74 (42 U.S.C. 1397–1397f), 95 Stat. 893–902 (42 U.S.C. 8621–29).

Subpart A—Introduction

§ 96.1 Scope.

This part applies to the following block grant programs:

(a) Community services (Pub. L. 97–35, secs. 671–682) (42 U.S.C. 9901–9912).

(b) Preventive health and health services (Pub. L. 97–35, sec. 901) (42 U.S.C. 300w–300w–8).

(c) Alcohol and drug abuse and mental health services (Pub. L. 97–35, sec. 901) (42 U.S.C. 300x–300x–9).

(d) Primary care (Pub. L. 97–35, sec. 901)(42 U.S.C. 300y–300y–10).

(e) Maternal and child health services (Pub. L. 97–35, secs. 2191–94) (42 U.S.C. 1305).

(f) Social services (Pub. L. 97–35, secs. 2351–55) (42 U.S.C. 1397–1397e).

(g) Low-income home energy assistance (Pub. L. 97–35, secs. 2601–11) (42 U.S.C. 8621–8629).

§ 96.2 Definitions.

(a) "Secretary" means the Secretary of Health and Human Services or his designee.

(b) "Department" means the Department of Health and Human Services.

(c) "Reconciliation Act" means the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35).

§ 96.3 Information collection approval numbers.

Information collection requirements pertaining to the block grant programs have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act, Pub. L. 96511 (44 U.S.C. Chapter 35) and have been assigned OMB numbers:

0930–0080 Alcohol and Drug Abuse and Mental Health Services Block Grant Reporting Requirements
0920–0106 Preventive Health and Health Services Block Grant Reporting Requirements
0915–0023 Primary Care Block Grant Reporting Requirements
0915–0024 Maternal and Child Health Services Block Grant Reporting Requirements
0980–0125 Social Services Block Grant Reporting Requirements
0980–0126 Community Services Block Grant Reporting Requirements
0960–0261 Low-Income Home Energy Assistance Block Grant Reporting Requirements

Subpart B—General Procedures

§ 96.10 Prerequisites to obtain block grant funds.

(a) No particular form is required for a State's application or the related submission required by statute. The provisions in section 1742(a) of the Reconciliation Act (31 U.S.C. 1243 note) relating to the contents of a report on proposed uses of funds must be satisfied; the specified information should be included in the plan required for the community services block grant (section 675(d) of the Reconciliation Act) (42 U.S.C. 9904(d)) and in the description of intended uses of funds required for the preventive health and health services, and alcohol and drug abuse and mental health services block grants (sections 1905(d) and 1915(d) of the Public Health Service Act (as amended by the Reconciliation Act) respectively (42 U.S.C. 300w–4(d) and 42 U.S.C. 300x–4(d)).

(b) The certifications required by the community services, primary care, preventive health and health services, alcohol and drug abuse and mental health services, and low-income home energy assistance block grant statutes to be made by the State's chief executive officer must be made by that individual personally, or by an individual authorized to make such certifications on behalf of the chief executive officer.

§ 96.11 Basis of award to the States.

The Secretary will award the block grant funds allotted to the State in accordance with the apportionment of funds from the Office of Management and Budget. Such awards will reflect amounts reserved for Indian Tribes and Tribal Organizations and, in FY 1982, any amounts awarded by the Department under transition authorities. The grant award constitutes the authority to carry out the program and to draw and expend fund.

§ 96.12 Grant payment.

The Secretary will make payments at such times and in such amounts to each State from its awards in advance or by way of reimbursement in accordance with section 203 of the Intergovernmental Cooperation Act (42 U.S.C. 4213) and Treasury Circular No. 1075 (31 CFR Part 205). When matching funds are involved, the Secretary shall take into account the ratio that such payment bears to such State's total expenditures under its awards.

§ 96.13 Reallotments.

The Secretary will re-allot to eligible States those funds available as of September 1 of each fiscal year under the reallotment provisions pertaining to the alcohol and drug abuse and mental health services, maternal and child health services, and preventive health and health services block grants. The reallotment procedure for the low-income home energy assistance block grant is specified in section 2607 of the Reconciliation Act (42 U.S.C. 8626) and § 96.81 of this part.

§ 96.14 Time period for obligation and expenditure of grant funds.

(a) *Obligations.* Amounts unobligated by the State at the end of a fiscal year shall remain available for obligation during the succeeding fiscal year for all block grants except:

(1) *Primary care.* Amounts are available only if the Secretary determines that the State acted in accordance with section 1926(a)(1) of the Public Health Service Act (42 U.S.C. 300y–5(a)(1)) and there is good cause for funds remaining unobligated.

(2) *Low-income home energy assistance.* Amounts are available only in accordance with section 2607(b)(2) of the Reconciliation Act (42 U.S.C. 8626(b)(2)), which limits the amount to 25 percent of the amount allotted to the State for the prior fiscal year.

(b) *Expenditure.* No limitations exist on the time for expenditure of block grant funds, except those imposed by statute with respect to the community services, maternal and child health services, and social services block grants.

§ 96.15 Waivers.

Applications for waivers that are permitted by statute for the block grants should be submitted to the Assistant Secretary of Health in the case of the preventive health and health services, alcohol and drug abuse and mental health services, primary care, and maternal and child health services block grants; to the director, Office of Community Services in the case of the community services block grant; to the Assistant Secretary for Human Development Services in the case of the social services block grant; and to the Associate Commissioner for Family Assistance in the case of the low-

income home energy assistance program.

§ 96.16 Applicability of Title XVII of the Reconciliation Act (31 U.S.C. 1243 note).

This section interprets the applicability of the general provisions governing block grants set forth in Title XVII of the Reconciliation Act (31 U.S.C. 1243 note):

(a) Except as otherwise provided in this section or unless inconsistent with provisions in the individual block grant statutes, sections 1741–45 apply to the community services, preventive health and health services, and alcohol and drug abuse and mental health services block grants.

(b) The requirement in section 1742(c) of the Reconciliation Act relating to public hearings does not apply to any of the block grants governed by this part. Instead, the requirements concerning hearings (as well as other forms of public participation) in the individual block grant statutes apply.

(c) The primary care and maternal and child health services block grants are not subject to any requirements of Title XVII.

(d) The social services and low-income home energy assistance programs are subject only to section 1744.

(e) The alcohol and drug abuse and mental health services block grant is not subject to the provisions of section 1745 relating to audits.

(f) The applicability of section 1742(a) relating to the contents of a report on proposed uses of funds is specified in § 96.10. The applicability to the community services block grant of the audit requirements in section 1745(b) is specified in § 96.91.

Subpart C—Financial Management

§ 96.30 Fiscal and administrative requirements.

(a) Except where otherwise required by Federal law or regulation, a State shall obligate and expend block grant funds in accordance with the laws and procedures applicable to the obligation and expenditure of its own funds. Fiscal control and accounting procedures must be sufficient to (1) permit preparation of reports required by the statute authorizing the block grant and (2) permit the tracing of funds to a level of expenditure adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of the statute authorizing the block grant.

(b) The Department will accept any State audit conducted in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, activities, and functions. Any Departmental audit will supplement and not duplicate any such State audit.

Subpart D—Direct Funding of Indian Tribes and Tribal Organizations

§ 96.40 Scope.

This subpart applies to the community services, alcohol and drug abuse and mental health services, preventive health and health services, primary care, and low-income home energy assistance block grants.

§ 96.41 General determination.

(a) The Secretary has determined that Indian tribes and tribal organizations would be better served by means of grants provided directly by the Secretary to such tribes and organizations out of the State's allotment of block grant funds than if the State were awarded its entire allotment. Accordingly, where provided for by statute, the Secretary will, upon request of an eligible Indian tribe or tribal organization, reserve a portion of a State's allotment and, upon receipt of the complete application and related submission that meets statutory requirements, grant it directly to the tribe or organization.

(b) An Indian tribe or tribal organization may request direct funding under a block grant program included in this subpart regardless of whether the State in which it is located is receiving funds under the block grant program.

§ 96.42 General procedures and requirements.

(a) An Indian tribe or tribal organization applying for or receiving direct funding from the Secretary under a block grant program shall be subject to all statutory and regulatory requirements applicable to a State applying for or receiving block grant funds to the extent that such requirements are relevant to an Indian tribe or tribal organization except where otherwise provided by statute or in this Part.

(b) A tribal organization representing more than one Indian tribe will be eligible to receive block grant funds on behalf of a particular tribe only if the tribe has by resolution authorized the organization's action.

(c) If an Indian tribe or tribal organization whose service population resides in more than one State applies for block grant funds that, by statute, are apportioned on the basis of population, the allotment awarded to the tribe or organization shall be taken from the allotments of the various States in which the service population resides in proportion to the number of eligible members or households to be served in each State. If block grant funds are required to be apportioned on the basis of grants during a base year, the allotment to the Indian tribe or tribal organization shall be taken from the allotment of the State whose base year grants included the relevant grants to the tribe or organization.

(d) The audit required under the block grant programs shall be conducted by an entity that is independent of the Indian tribe or tribal organization receiving grant funds from the Secretary.

(e) Beginning with fiscal year 1983, any request by an Indian tribe or tribal organization for direct funding by the Secretary must be submitted to the Secretary, together with the required application and related materials, by September 1 preceding the Federal fiscal year for which funds are sought. A separate application is required for each block grant.

(f) A State receiving block grant funds is not required to use those funds to provide tangible benefits (e.g., cash or goods) to Indians who are within the service population of an Indian tribe or tribal organization that received direct funding from the Department under the same block grant program for the same fiscal year. A State, however, may not deny Indians access to intangible services funded by block grant programs (e.g., treatment at a community health center) even if the Indians are members of a tribe receiving direct funding for a similar service.

§ 96.43 Procedures during FY 1982.

(a) This section applies to the fiscal year beginning October, 1, 1981.

(b) A request for direct funding must be received by the Secretary before the Secretary has awarded all of the allotment to the State involved. The application and related submission may be submitted later but must be submitted within 75 days after the beginning of the quarter in which the State qualified for block grant funds, (or by [insert date 45 days after publication] in the case of an Indian tribe located in a State that has not qualified for block grant funds in FY 1982) except that the application and related submission for the low-income home energy assistance program must be submitted by December 15, 1981. A separate request and application are required for each block grant.

§ 96.44 Community Services.

(a) This section applies to direct funding of Indian tribes and tribal

organizations under the community services block grant.

(b) The terms "Indian tribe" and "tribal organization" as used in the Reconciliation Act have the same meaning given such terms in section 4(b) and 4(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b). The terms also include organized groups of Indians that the State in which they reside has determined are Indian tribes. An organized group of Indians is eligible for direct funding based on State recognition if the State has expressly determined that the group is an Indian tribe. In addition, the statement of the State's chief executive officer verifying that a tribe is recognized by that State will also be sufficient to verify State recognition for the purpose of direct funding.

(c) For purposes of section 674(c)(2) of the Act (42 U.S.C. 9903(c)(2)) an "eligible Indian" means a member of an Indian tribe whose income is at or below the poverty line defined in section 673(2) of the Act (42 U.S.C. 9902(2)). An "eligible individual" under section 674(c)(2) of the Reconciliation Act (42 U.S.C. 9903(c)(2)) means a resident of the State whose income is at or below the poverty line.

(d) An Indian tribe or tribal organization will meet the requirements of section 675(c)(1) (42 U.S.C. 9904(c)(1)) if it certifies that it agrees to use the funds to provide at least one of the services or activities listed in that section.

(e) An Indian tribe or tribal organization is not required to comply with section 675(b) (42 U.S.C. 9904(b)) or to provide the certifications required by the following other provisions of the Reconciliation Act.

(1) Section 675(c)(2)(A) (42 U.S.C. 9904(c)(2)(A));
(2) Section 675(c)(3) (42 U.S.C. 9904(c)(3)); and
(3) Section 675(c)(4) (42 U.S.C. 9904(c)(4)).

§ 96.45 Preventive health and health services.

(a) This section applies to direct funding of Indian tribes and tribal organizations under the preventive health and health services block grant.

(b) For the purposes of determining eligible applicants under section 1902(d) of the Public Health Service Act, a grantee that received a grant directly from the Secretary in FY 1981 under any of the programs replaced by the preventive health and health services block grant that was specifically targeted toward serving a particular Indian tribe or tribal organization will be considered eligible if the grantee is an Indian tribe or tribal organization at the time it requests funds under this part. Grantees that received funds under formula or Statewide grants, and subgrantees that received funds from any program replaced by the preventive health and health services block grant, are not eligible.

§ 96.46 Alcohol and drug abuse and mental health services.

(a) This section applies to direct funding of Indian tribes and tribal organizations under the alcohol and drug abuse and mental health services block grant.

(b) For the purpose of determining eligible applicants under section 1912(c) of the Public Health Service Act (42 U.S.C. 300x–1(c)) an entity that received a treatment grant or contract directly from the Secretary in FY 1980 specifically targeted toward serving a particular Indian tribe or tribal organization will be considered eligible if the entity is an Indian tribe or tribal organization at the time it requests funds under this part. Entities that received funds under formula or statewide grants, and those grantees who had the responsibility for their treatment grant support transferred to the Indian Health Service, are not eligible.

(c) An Indian tribe or tribal organization is not required to comply with section 1915(b) (42 U.S.C. 300x–4(b)) or to provide the certifications required by section 1915 (c)(2) through (c)(8) of the Public Health Service Act (42 U.S.C. 300x–4 (c)(2) through (c)(8)). Also, the services identified in section 1914(a)(1) of the Public Health Service Act (42 U.S.C. 300x–3(a)(1)) need not be provided by means of grants to community mental health centers.

§ 96.47 Primary care.

Applications for direct funding of Indian tribes and tribal organizations under the primary care block grant must comply with 42 CFR Part 51c (Grants for Community Health Services).

§ 96.48 Low-income home energy assistance.

(a) This section applies to direct funding of Indian tribes under the low-income home energy assistance program.

(b) The terms "Indian tribe" and "tribal organization" as used in the Reconciliation Act have the same meaning given such terms in section 4(b) and 4(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b) except that the terms shall also include organized groups of Indians that the State in which they reside has expressly determined are Indian tribes or tribal organizations in accordance with State procedures for making such determinations.

(c) For purposes of section 2604(d) of the Act (42 U.S.C. 8623(d)), an organized group of Indians is eligible for direct funding based on State recognition if the State has expressly determined that the group is an Indian tribe. A statement by the State's chief executive officer verifying that a tribe is recognized by that State will also be sufficient to verify State recognition for the purpose of direct funding.

(d) The plan required by section 2604(d)(4) of the Reconciliation Act (42 U.S.C. 8623(d)(4)) shall contain the certification and information required for States under section 2605 (b) and (c) of that Act (42 U.S.C. 8624 (b) and (c)). An Indian tribe or tribal organization is not required to comply with section 2605(a)(2) of the Act (42 U.S.C. 8624(a)(2)).

(e) Where a tribe requests that the Secretary fund another entity to provide energy assistance for tribal members, as provided by section 2604(d)(3) of the Act (42 U.S.C. 8623(d)(3)), the Secretary shall consider the following factors in selecting the grantee: the ability of the other entity to provide low-income home energy assistance, existing tribal-State agreements as to the size and location of the service population, and the history of State services to the Indian people to be served by the other entity.

Subpart E—Enforcement

§ 96.50 Complaints.

(a) This section applies to any complaint (other than a complaint alleging violation of the nondiscrimination provisions) that a State has failed to use its allotment under a block grant in accordance with the terms of the act establishing the block grant or the certifications and assurances made by the State pursuant to that act. The Secretary is not required to consider a complaint unless it is submitted as required by this section.

(b) Complaints with respect to the preventive health and health services, alcohol and drug abuse and mental health services, primary care, and maternal and child health services block grants, must be submitted in writing to the Assistant Secretary of Health. Complaints with respect to the social services block grant must be submitted in writing to the Assistant Secretary for human Development Services. Complaints with respect to the low-income energy program must be submitted in writing to the

Commissioner of Social Security. (The address in each case is 200 Independence Ave. SW., Washington, D.C. 20201.) Complaints with respect to the community services block grant must be submitted in writing to the Director, Office of Community Services, 1200 19th Street, NW., Washington, D.C. 20506. The complaint must identify the provision of the act, assurance, or certification that was allegedly violated; must specify the basis for the violations if charges; and must include all relevant information known to the person submitting it.

(c) The Department shall promptly furnish a copy of any complaint to the affected State. Any comments received from the State within 60 days (or such longer period as may be agreed upon between the State and the Department) shall be considered by the Department in responding to the complaint. The Department will conduct an investigation of complaints where appropriate.

(d) The Department will provide a written response to complaints within 180 days after receipt. If a final resolution cannot be provided at that time, the response will state the reasons why additional time is necessary.

(e) The Department recognizes that under the block grant programs the States are primarily responsible for interpreting the governing statutory provisions. As a result, various States may reach different interpretations of the same statutory provisions. This circumstance is consistent with the intent of and stautory authority for the block grant programs. In resolving any issue raised by a complaint or a Federal audit the Department will defer to a State's interpretation of its assurances and of the provisions of the block grant statutes unless the interpretation is clearly erroneous. In any event, the Department will provide copies of complaints to the independent entity responsible for auditing the State's activities under the block grant program involved. Any determination by the Department that a State's interpretation is not clearly erroneous shall not preclude or otherwise prejudice the State auditors' consideration of the question.

§ 96.51 Hearings.

(a) The Department will order a State to repay amounts found not to have been expended in accordance with law or the certifications provided by the State only after the Department has provided the State an opportunity for a hearing. The hearing will be governed by Subpart F of this part and will be held in the State if required by statute.

(b) If a State refuses to repay amounts after a final decision that is not subject to further review in the Department, the amounts may be offset against payments to the State. If a statute requires an opportunity for a hearing before such an offset may be made, the hearing will be governed by Subpart F of this part and will be held in the State if required by statute.

(c) The Department will withhold funds from a State only if the Department has provided the State an opportunity for a hearing. The hearing will be governed by Subpart F of this part and will be held in the State if required by statute.

§ 96.52 Appeals.

(a) Decisions resulting from repayment hearings held pursuant to § 96.51(a) of this part may be appealed by either the State or the Department to the Grant Appeals Board.

(b) Decisions resulting from offset hearings held pursuant to § 96.51(b) of this part may not be appealed.

(c) Decisions resulting from withholding hearings held pursuant to § 96.51(c) of this part may be appealed to the Secretary by the State or the Department as follows:

(1) An application for appeal must be received by the Secretary no later than 60 days after the appealing party receives a copy of the presiding officer's decision. The application shall clearly identify the questions for which review is sought and shall explain fully the party's position with respect to those questions. A copy shall be furnished to the other party.

(2) The Secretary may permit the filing of opposing briefs, hold informal conferences, or take whatever other steps the Secretary finds appropriate to decide the appeal.

(3) The Secretary may refer an application for appeal to the Grant Appeals Board. Notwithstanding Part 16 of this title, in the event of such a referral, the Board shall issue a recommended decision that will not become final until affirmed, reversed, or modified by the Secretary.

(d) Any appeal to the Grant Appeals Board under this section shall be governed by Part 16 of this title except that the Board shall not hold a hearing. The Board shall accept any findings with respect to credibility of witnesses made by the presiding officer. The Board may otherwise review and supplement the record as provided for in Part 16 of this title and decide the issues raised.

Subpart F—Hearing Procedure

§ 96.60 Scope.

The procedures in this subpart apply when opportunity for a hearing is provided for by § 96.51 of this part.

§ 96.61 Initiation of hearing.

(a) A hearing is initiated by a notice of opportunity for hearing from the Department. The notice will:

(1) Be sent by mail, telegram, telex, personal delivery, or any other mode of written communication;

(2) Specify the facts and the action that are the subject of the opportunity for a hearing;

(3) State that the notice of opportunity for hearing and the hearing are governed by these rules; and

(4) State the time within which a hearing may be requested, and state the name, address, and telephone number of the Department employee to whom any request for hearing is to be addressed.

(b) A State offered an opportunity for a hearing has the amount of time specified in the notice, which may not be less than 10 days after receipt of the notice, within which to request a hearing. The request may be filed by mail, telegram, telex, personal delivery, or any other mode of written communication, addressed to the designated Department employee. If no response is filed within that time, the offer is deemed to have been refused and no hearing will be held.

(c) If a hearing is requested, the Department will designate a presiding officer, and (subject to § 96.51 of this part) the hearing will take place at a time and location agreed upon by the State requesting the hearing, the Department, and the presiding officer or, if agreement cannot be reached, at a reasonable time and location designated by the presiding officer.

§ 96.62 Presiding officer.

(a) A Department employee to whom the Secretary delegates such authority, or any other agency employee designated by an employee to whom such authority is delegated, may serve as the presiding officer and conduct a hearing under this subpart.

(b) The presiding officer is to be free from bias or prejudice and may not have participated in the investigation or action that is the subject of the hearing or be subordinate to a person, other than the Secretary, who has participated in such investigation or action.

(c) The Secretary is not precluded by this section from prior participation in the investigation or action that is the subject of the hearing.

(d) A different presiding officer may be substituted for the one originally

designated under § 96.61 of this part without notice to the parties.

§ 96.63 Communications to presiding officer.

(a) Those persons who are directly involved in the investigation or presentation of the position of the Department or any party at a hearing that is subject to this subpart should avoid any off-the-record communication on the matter to the presiding officer or his advisers if the communication is inconsistent with the requirement of § 96.68 of this part that the administrative record be the exclusive record for decision. If any communication of this type occurs, it is to be reduced to writing and made part of the record, and the other party provided an opportunity to respond.

(b) A copy of any communications between a participant in the hearing and the presiding officer, e.g., a response by the presiding officer to a request for a change in the time of the hearing is to be sent to all parties by the person initiating the communication.

§ 96.64 Intervention.

Participation as parties in the hearing by persons other than the State and the Department is not permitted.

§ 96.65 Discovery.

The use of interrogatories, depositions, and other forms of discovery shall not be allowed.

§ 96.66 Hearing procedure.

(a) A hearing is public, except when the Secretary or the presiding officer determines that all or part of a hearing should be closed to prevent a clearly unwarranted invasion of personal privacy (such as disclosure of information in medical records that would identify patients), to prevent the disclosure of a trade secret or confidential commercial or financial information, or to protect investigatory records compiled for law enforcement purposes that are not available for public disclosure.

(b) A hearing will be conducted by the presiding officer. Employees of the Department will first give a full and complete statement of the action which is the subject of the hearing, together with the information and reasons supporting it, and may present any oral or written information relevant to the hearing. The State may then present any oral or written information relevant to the hearing. Both parties may confront and conduct reasonable cross-examination of any person (except for the presiding officer and counsel for the parties) who makes any statement on the matter at the hearing.

(c) The hearing is informal in nature, and the rules of evidence do not apply. No motions or objections relating to the admissibility of information and views will be made or considered, but either party may comment upon or rebut all such data, information, and views.

(d) The presiding officer may order the hearing to be transcribed. The State may have the hearing transcribed, at the State's expense, in which case a copy of the transcript is to be furnished to the Department at the Department's expense.

(e) The presiding officer may, if appropriate, allow for the submission of post-hearing briefs. The presiding officer shall prepare a written decision, which shall be based on a preponderance of the evidence, shall include a statement of reasons for the decision, and shall be final unless appealed pursuant to § 96.52 of this part. If post-hearing briefs were not permitted, the parties to the hearing will be given the opportunity to review and comment on the presiding officer's decision prior to its being issued.

(f) The presiding officer shall include as part of the decision a finding on the credibility of witnesses (other than expert witnesses) whenever credibility is a material issue.

(g) The presiding officer shall furnish a copy of the decision to the parties.

(h) The presiding officer has the power to take such actions and make such rulings as are necessary or appropriate to maintain order and to conduct a fair, expeditious, and impartial hearing, and to enforce the requirements of this subpart concerning the conduct of hearings. The presiding officer may direct that the hearing be conducted in any suitable manner permitted by law and these regulations.

(i) The Secretary or the presiding officer has the power to suspend, modify, or waive any provision of this subpart.

§ 96.67 Right to counsel.

Any party to a hearing under this part has the right at all times to be advised and accompanied by counsel.

§ 96.68 Administrative record of a hearing.

(a) The exclusive administrative record of the hearing consists of the following:

(1) The notice of opportunity for hearing and the response.

(2) All written information and views submitted to the presiding officer at the hearing or after if specifically permitted by the presiding officer.

(3) Any transcript of the hearing.

(4) The presiding officer's decision and any briefs or comments on the decision under § 96.66(e) of this part.

(5) All letters or communications between participants and the presiding officer or the Secretary referred to in § 96.63 of this part.

(b) The record of the hearing is closed to the submission of information and views at the close of the hearing, unless the presiding officer specifically permits additional time for a further submission.

Subpart G—Social Services Block Grants

§ 96.70 Scope.

This subpart applies to the social services block grant.

§ 96.71 Definitions.

(a) Section 2005 (42 U.S.C. 1397d (a)(2) and (a)(5)) (a)(2) and (a)(5) of the Social Security Act establishes prohibitions against the provision of room and board and medical care unless, among other reasons, they are an "integral but subordinate" part of a State-authorized social service. "Integral but subordinate" means that the room and board provided for a short term or medical care is a minor but essential adjunct to the service of which it is a part and is necessary to achieve the objective of that service. Room and board provided for a short term shall not be considered an integral but subordinate part of a social service when it is provided to an individual in a foster family home or other facility the primary purpose of which is to provide food; shelter, and care or supervision, except for temporary emergency shelter provided as a protective service.

(b) As used in section 2005(a)(5) of the Social Security Act (42 U.S.C. 1397d (a)(5)) with respect to the limitations governing the provision of services by employees of certain institutions, "employees" includes staff, contractors, or other individuals whose activities are under the professional direction or direct supervision of the institution.

§ 96.72 Transferability of funds.

Under section 2002(d) of the Social Security Act (42 U.S.C. 1397a(d)), funds may be transferred in accordance with the provisions of that section to the preventive health and health services, alcohol and drug abuse and mental health services, primary care, maternal and child health services, and low-income home energy assistance block grants. In addition, funds may be transferred to other Federal block grants for support of health services, health promotion and disease prevention activities, or low-income home energy

assistance (or any combination of those activities).

Subpart H—Low-Income Home Energy Assistance Program

§ 96.80 Scope.

This subpart applies to the low-income home energy assistance program.

§ 96.81 Reallotment report.

As part of the reallotment procedure established by section 2607 of the Reconciliation Act (42 U.S.C. 8626) each recipient of funds must submit a report to the Secretary by August 1 of each year containing the following information:

(a) The amount of the State's original allotment that the State desires to remain available for expenditure in the succeeding fiscal year, not to exceed 25 percent of the original allotment; and

(b) The amount of funds, if any, to be subject to reallotment.

§ 96.82 Required report.

In accordance with the authority in section 2610(a) of the Reconciliation Act, (42 U.S.C. 8629) each State receiving funds shall submit to the Department by October 31 of each year a report of the number and income levels of the households assisted by the funds during the preceding fiscal year (OMB clearance No. 0960–0261).

§ 96.83 Request for direct Federal payments to SSI recipients.

A State that wants the Secretary to make direct payments from the State's allotment to recipients of Supplemental Security Income in accordance with section 2604(e) of the Reconciliation Act (42 U.S.C. 8623(e)) must submit such a request at least six months before the State wishes the payment to be made, but, in any case, by September 1 of the preceding fiscal year. Such a request may be withdrawn at any time.

§ 96.84 Territories.

Except as otherwise provided, a territory eligible for funds shall have the same rights and responsibilities as a State.

Subpart I—Community Services Block Grants

§ 96.90 Scope.

This subpart applies to the community services block grant.

§ 96.91 Audit requirement.

Pursuant to section 1745(b) of the Reconciliation Act (31 U.S.C. 1243 note) an audit is required with respect to the 2-year period beginning on October 1, 1981, and with respect to each 2-year period thereafter. In its application for funds, a State may modify the assurance required by section 675(c)(9) of the Reconciliation Act (42 U.S.C. 9904(c)(9)) to conform to the requirements of section 1745(b).

Subpart J—Primary Care Block Grants

§ 96.100 Scope.

This subpart applies to the primary care block grant.

§ 96.101 Review of a State decision to discontinue funding a community health center.

Where a State determines for FY 1983, pursuant to section 1926(a)(2) of Public Health Service Act (42 U.S.C. 300y–5(a)(2)), that a community health center does not meet the criteria for continued funding set forth in section 330 of the Public Health Service Act (42 U.S.C. 254c), the State must advise the Department of the decision and the basis upon which it was made. The Department will permit the center 30 days to respond to the State's determination. After evaluating the reasons advanced by the State and the center, the Department will determine within 30 days after the center's response a grant under the Public Health Service Act. The State may not discontinue funding the center until the Department has completed its review.

§ 96.102 Carryover of unobligated funds.

In implementing section 1925(a)(2) of the Public Health Service Act (42 U.S.C. 300y–4(a)(2)), the Secretary will determine that there is good cause for funds remaining unobligated if planned obligations could not be carried out because of a bona fide reason or if the State has determined that program objectives would be better served by deferring obligation of the funds to the following year.

Subpart K—Transition Provisions

§ 96.110 Scope.

Except as otherwise stated, this subpart applies to the community services, preventive health and health services, alcohol and drug abuse and mental health services, and maternal and child health services block grants for the fiscal year beginning October 1, 1981. The social services block grant and the low-income home energy assistance program are not subject to the provisions of this subpart.

§ 96.111 Continuation of pre-existing regulations.

The regulations previously issued by the Department and the Community Services Administration to govern administration of the programs replaced by the block grants specified in § 96.1 of this part shall continue in effect until revised to govern administration of those programs by the Department in those circumstances in which States have not qualified for block grants.

§ 96.112 Community services block grant.

(a) For the fiscal year beginning October 1, 1981, only, a State may choose to operate programs under the community services block grant or, instead, have the Secretary operate the programs replaced by the block grant. If a State does not notify the Secretary in accordance with the statutory deadlines each quarter, it will be deemed to have requested the Secretary to operate the programs for the following quarter.

(b) A State or territory that does not have any "eligible entity" as that term is defined in section 673(1) of the Reconciliation Act (42 U.S.C. 9902), as amended by section 17 of Pub. L. 97–115 (December 29, 1981), may distribute its allotment for the fiscal year beginning October 1, 1981, according to the requirements applicable to the fiscal year beginning October 1, 1982.

(c) For any quarter in which the Secretary administers the programs, the Department's administration costs will be deducted from the State's allotment. The Department's total administration costs for making grants during fiscal year 1982 and for any monitoring of these grants in fiscal year 1983 will be deducted from each State's allotment in proportion to the total amount of grants awarded from the allotment during the period of administration by the Department (but not to exceed 5 percent of the State's fiscal year 1982 allotment).

PART 16—PROCEDURES OF THE DEPARTMENTAL GRANT APPEALS BOARD

2. Appendix A to Part 16 is amended by revising paragraph B. (a), introductory text, and adding paragraph B(a)(5) to read as follows:

Appendix A—What Disputes the Board Reviews

* * * * *

B. *Mandatory grant programs.*

(a) The Board reviews the following types of final written decisions in disputes arising in HHS programs authorizing the award of mandatory grants:

* * * * *

(5) Decisions relating to repayment and withholding under block grant programs as provided in 45 CFR 96.52.

* * * * *

PART 74—ADMINISTRATION OF GRANTS

3. Section 74.4(a) is amended by revising the first sentence to read as follows:

§ 74.4 Applicability of this part.

(a) *General.* Except where inconsistent with Federal statutes, regulations, or other terms of a grant, this part applies to all HHS grants, other than the block grant programs identified in 45 CFR 96.1. * * *

Dated: June 2, 1982.

Richard S. Schweiker,

Secretary, Department of Health and Human Services.

[FR Doc. 82-18247 Filed 7-6-82; 8:45 am]

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Tuesday
July 6, 1982

Part IV

Office of Personnel Management

Solicitation of Federal Civilian and Uniformed Services Personnel for Contributions to Private Voluntary Organizations; Meeting of the National Eligibility Committee for the Combined Federal Campaign

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 950

Solicitation of Federal Civilian and Uniformed Services Personnel for Contributions to Private Voluntary Organizations

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The U.S. Office of Personnel Management (OPM) is issuing regulations governing solicitation of Federal civilian and uniformed services personnel for contributions to private voluntary organizations under the authority of Executive Order No. 12353, Charitable Fund-Raising, of March 23, 1982. These regulations provide a system for administering the annual solicitation campaigns and establish requirements for organization participation.

EFFECTIVE DATE: July 6, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph S. Patti, Special Assistant for Regional Operations, (202) 632–5544.

SUPPLEMENTARY INFORMATION: On Monday, May 11, 1982, the U.S. Office of Personnel Management (OPM) published proposed regulations to govern the Combined Federal Campaign (CFC) (47 FR 20268–20283, May 11, 1982). The proposed regulations were issued to implement Executive Order 12353, March 23, 1982, and to replace, in its entirety, the *Manual on Fund-Raising Within the Federal Service for Voluntary Health and Welfare Organizations.*

They were developed to provide precise criteria for participation in and the operation of the CFC. Major changes were made in an attempt to meet objections raised in past years by various parties associated with the CFC and to balance judiciously the many considerations which must be taken into account in order to create the most equitable system for all parties concerned: Federal employees and members of the Armed Forces, the charities, the recipients of the charities' services, and the general public.

The proposed regulations provided for:

1. More precise and objective criteria for eligibility of organizations to participate in the CFC.

2. The selection of local community federated fund-raising organizations to serve as Principal Combined Fund Organizations (PCFOs) to manage local CFCs under the direction and control of local Federal Coordinating committees and the Director of OPM.

3. The encouragement of contributors to designate their contributions to specific charities or to be advised, with clear notification, that contributions not specifically designated to a particular charity would be deemed designated to the PCFO.

4. The return to the original, and still valid, form of fund-raising at places of Federal employment by national organizations and federations of local agencies by the elimination after one year of the participation of local unaffiliated agencies coupled with the encouragement for them to join existing federations, or form new ones in order to participate.

Comments on the proposed regulations were invited. More than 6,500 were received—from national and local voluntary agencies and groups, local Federal CFC organizations, Federal Executive Boards, Federal employees, Federal agencies, unions, and private citizens. In addition, the Director of OPM invited representatives from national voluntary agency groups and agencies to meet personally to discuss the proposed regulations. He met with individuals representing all of the national voluntary groups and 15 charitable agencies, in some cases more than once.

Most of the commenters (70%) were supportive of the proposed regulations; another 7% supported them but had specific suggestions. Of the remaining 23% of the commenters, most suggested that the proposed regulations were being considered too late in the year to run effective CFCs in the fall of 1982 or that more time was needed for thorough study of the proposed regulations and that, therefore, the current regulations should remain in effect for the fall 1982 CFC. Others of these comments had general and/or specific suggestions and objections.

In many cases both support and objections came from members or affiliates of the same groups and agencies. Some member agencies of national voluntary groups (United Way, National Health Agencies, National Service Agencies, International Service Agencies and the American Red Cross) commented in favor of proposed regulations; other members of the same groups had objections to various provisions. Affiliates of some national voluntary agencies did the same. Organizations representing minorities and women were also on both sides of many issues.

In response to the timing of the proposed regulations, OPM believes that the changes are important enough to require implementation at this time. While the number of responses is very large, the number of issues raised is not. OPM believes that there has been sufficient time to analyze and consider all comments received, and that it would take just as long to run the fall 1982 CFC under the current procedures at this time as it would under the new regulations.

Most of the general objections centered on contentions that (1) the identification of a local Principal Combined Fund Organization would result in the United Way exerting undue control over the management of the CFC since local United Ways will likely, in most cases, be selected as Principal Combined Fund Organizations; (2) all CFC participants other than United Ways would be precluded from receiving any shares of undesignated contributions since the PCFOs would be responsible for deciding how the undesignated contributions would be distributed within local CFC areas; (3) charitable organizations that serve minorities and women would be prohibited from participation in the CFC because the eligibility criteria require an organizational structure encompassing all or most of the United States and because of the provision that they provide direct and substantial service throughout the country and in specific CFC locations; and (4) local charities, not affiliated with local federated fund-raising organizations, would be eliminated from participation in the CFC after the fall 1982 campaign.

In response to the first general objection concerning the concept of the Principal Combined Fund Organization, OPM believes that this arrangement will strengthen the administration of local CFCs because of the expertise of these already-existing federated fund-raising organizations, and that substantial administrative cost to the government will thereby be reduced. Specific changes to the proposed regulations resulted from comments on this issue, however, and are discussed in more detail below. They involve strengthening the direction and control over PCFOs by the local Federal Coordinating Committees and the Director and insuring that other major CFC participants have a voice in campaign arrangements. Some commenters were under the mistaken impression that PCFOs would take over all aspects of the local campaign operations, including even solicitation of employees. This is definitely not the intent—the CFC remains a fund-raising program in which Federal employees solicit Federal employees for the benefit of worthy

charitable organizations that meet important human needs.

In response to the second general objection, concerning the distribution of undesignated funds, OPM never intended that the distribution of undesignated contributions be restricted to organizations that serve local organizations only. International service and other agencies were intended to be eligible to receive undesignated funds, although the decision on the distribution of these funds remains with the PCFOs. The regulations have been revised, however, to clarify this provision.

The distribution of undesignated contributions has been one of the major sources of controversy with the CFC since its inception. Over the years, various methods and formulas have been used in attempts to insure their equitable distribution. None have stilled the controversy over the methods or forestalled legal action to overturn them. OPM is convinced that, to resolve the controversy, the employee-contributor must distribute all funds; either by being strongly encouraged to make a rational choice of a specific beneficiary or beneficiaries of his or her contribution, or to be clearly warned that a decision not to do so is a rational choice to have the contributions allocated by the PCFO—an organization made up of representatives of his or her local community, experienced in evaluating needs and allocating scarce charitable contributions.

In response to the third general objection regarding eligibility of legal defense, minority, and women's organizations, OPM is persuaded that some of the earlier criteria were overly restrictive and has modified both the general eligibility requirements and the direct and substantial presence criterion to meet most of the germane objections.

In response to the fourth major objection, regarding the elimination of local unaffiliated charities, OPM believes that fund-raising activities must comply with the requirement in section 1 of Executive Order No. 12353 that the CFC be limited to national voluntary agencies. The regulations do permit local unaffiliated organizations one year of grace to participate in the CFC before they must join other national federated fund-raising organizations to be eligible for participation in the future. The regulations, in addition, provide the means for the eventual participation of these local non-federated agencies as part of national federations.

Comments were received on a number of specific areas. In response to those that advanced the clarity of the proposed regulations or that pointed out technical problems, we incorporated the suggestions in the final regulations. Others that we did not believe did so were not incorporated.

Most of the specific comments centered on four areas. A summary of those and OMP's responses follows:

Eligibility Requirements

As mentioned above in the discussion of the general comments, there were many comments on specific national agency eligibility requirements, particularly the requirements in section 950.430 (a) and (c) regarding national scope and in 405(a)(2)(ii) regarding the 50% and 20% support requirements. Some commenters desired more restrictive criteria, most did not. OPM changed the requirement that at least 50% of an organization's revenue be from government sources to a requirement that not more than 50% of an organization's revenue be from Federal government agencies. OPM also more specifically defined "recently founded" organizations and provided for a one-year grace period for other organizations to meet this requirement.

A few commenters suggested that OPM require CFC participants to meet applicable charitable solicitation, nondiscrimination, and other laws of the State and local governments in which CFCs exist. OPM believes that these are concerns that are more appropriately left in the hands of the charitable organizations and the governments concerned. The Federal Government does not generally enforce compliance with laws not of its making.

Principal Combined Fund Organization

In response to the general suggestions described earlier, OPM has made specific changes. The first requires that an organization serving as a PCFO not be identified by its organizational or corporate title in any CFC material other than specific places on the pledge card and the campaign brochure (see §§ 950.101(c), 950.521(e)(2)(iii) and Appendix A to Subpart E). Second, changes were made in § 950.509(j) to provide that all campaign arrangements and material be approved by local Federal Coordinating Committees after other individuals and organizations are permitted to comment on them.

A number of commenters were of the opinion that there may be a conflict of interest in having PCFOs act as central receipt and accounting points for CFCs. OPM believes that there is not sufficient reason to change the regulations in light of the reporting and audit requirements in Subpart E and the fact that in the fall 1981 campaign, the local representatives of the national voluntary groups selected group representatives to serve that function in over 27% of the CFCs.

Distribution of Funds

Many of the commenters who voiced objections had specific objections and suggestions about the identification of agencies in the contributor's leaflet and about the method of distributing undesignated funds.

In the first area, commenters complained that specific agencies would lose their group identities if they were listed in alphabetical order and thus the groups would not receive an appropriate share of designations; and that by not having agencies listing under a group title, contributors would be led to believe that groups include all related charities when, in fact, agencies of the same general type can be found in different groups. Others commented that, by encouraging designations and permitting designation to groups, smaller, less-recognized agencies would be at a disadvantage.

To be as fair as possible, in § 950.521(e)(2)(ii) OPM adopted the suggestion that agencies be listed according to categories of service, each identified by its group affiliation, with federated groups enumerated separately at the end of the listing.

In the second area, commenters complained that § 950.513(a) restricted the distribution of undesignated fund to only organizations in the local CFC community, suggested that there should be a formula or method prescribed for the distribution, and noted that there exists a potential conflict of interest in having the organizations at least at this time most likely to be selected as PCFO's, local United Ways, decide on the distribution.

In response, OPM has removed the restriction in § 950.513(a) that undesignated funds be allocated "to meet the needs of that community" to permit them to be distributed to any participant in the local CFC.

Almost all of the commenters suggesting the use of formulas proposed formulas or variations of formulas or methods that have been used or were proposed for use in the past, none of which have ever been considered to be acceptable to all CFC participants or local Federal officials. OPM believes that the fairest way, after encouraging designations for the first time in the history of CFC, is to have the decisions made, as stated earlier, by local organizations, representative of the communities, experienced in making such decisions. In response to several requests, OPM has eliminated the local Volunteer Evaluation and Allocation

Committee as duplicative of the function of the PCFOs.

OPM appreciates the concern and effort shown by those commenters who, as a result of close analysis of the proposed rules, provided detailed comments and suggestions aimed at helping OPM develop rules which would be as fair as possible to all parties and be able to be efficiently administered by the Federal Government.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule for the purposes of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities. The nominal costs to voluntary agencies, which are primarily associated with developing the initial application, are essentially the same as under current procedures.

List of Subjects in 5 CFR Part 950

Government employees, Charitable contributions.

U.S. Office of Personnel Management.

Donald J. Devine,

Director.

Accordingly, the Office of Personnel Management amends 5 CFR by adding new Part 950 to read as follows:

PART 950—SOLICITATION OF FEDERAL CIVILIAN AND UNIFORMED SERVICE PERSONNEL FOR CONTRIBUTIONS TO PRIVATE VOLUNTARY ORGANIZATION

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950.101 Definitions.
950.103 Summary description of the program.
950.105 Federal policy on civic activity.
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Subpart B—Organization and Functional Responsibilities

950.201 Development of policy and procedures.
950.203 Program administration.
950.205 Program coordination.
950.207 Local voluntary agency representatives.
950.209 Local Federal agency heads.
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Subpart C—Campaign Arrangements for Voluntary Agencies

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950.307 Definition of terms used in Federal arrangements.
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950.403 General requirements for national agencies.
950.405 Specific requirements.
950.407 Application requirements.
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Subpart E—The Local Combined Federal Campaign

950.501 Authorized local voluntary agencies.
950.503 Participation in Federal campaigns by local affiliated agencies.
950.505 Responsibility of local Federal coordinating committees.
950.507 Local CFC plan.
950.509 Organizing the local campaign: The Principal Combined Fund Organization.
950.511 Basic local CFC ground rules.
950.513 Contributions.
950.515 Dollar goals.
950.517 Suggested giving guides and voluntary giving.
950.519 Central receipt and accounting for contributions.
950.521 Campaign and publicity materials.
950.523 Payroll withholding.
950.525 National coordination and reporting.

Authority: E.O. 12353

Subpart A—Administration and General Provisions

§ 950.101 Definitions.

For purposes of this Part:

(a) The term "national voluntary health and welfare agencies and such other national voluntary agencies as may be appropriate" means national entities that:

(1) Meet all eligiblity requirements established in this Part, except as limited hereinafter;

(2) Are not "action" organizations within the meaning of 26 CFR 1.501(c)(3)–1(c)(3) and are eligible to receive tax deductible contributions under 26 U.S.C. 170; and

(3) Provide or substantially support one or more of the following services:

(i) Relief of needy, poor or indigent children and of orphans, including adoption services;

(ii) Relief of needy, poor or indigent adults; and of the elderly;

(iii) Delivery of health care to the needy, poor, indigent, ill or infirm;

(iv) Education and training of personnel for the delivery of health care to the needy, poor and indigent;

(v) Health research;

(vi) Education, training, care and relief of physcially and mentally handicapped persons;

(vii) Delivery of legal services to the poor and indigent, and defense of human and civil rights secured by law;

(viii) Relief of victims of crime, war, casualty, famine, natural disasters, and other catastrophes;

(ix) Treatment, care, rehabilitation, and counseling of juvenile delinquents, criminals, released convicts, persons who abuse drugs or alcohol, persons who are otherwise in need of social adjustment and rehabilitation, and the families of such persons;

(x) Assistance, consistent with the mission of the Department of Defense, to members of the armed forces and their families;

(xi) Protection of families in short or long-term need of family and child care services, child and marriage counseling, foster care, and management and maintenance of the home;

(xii) Neighborhood and community-wide services which assist the needy as part of the whole community, including provision of emergency relief and shelter, recreation, safety, transportation, and the preparation or delivery of meals;

(xiii) Information and counseling with respect to the obtaining of any of the foregoing services; or

(xiv) Lessening the burdens of government with respect to the provisions of any of the foregoing services.

(b) Campaign terms:

"Director" shall mean the Director of the United States Office of Personnel Management, or his delegate;

"Employee" shall mean any person employed by the government of the United States or any branch, unit, or instrumentality thereof, including persons in the civil service and in the uniform services;

"Combined Federal Campaign" or "Campaign" or "CFC" shall mean the fund-raising program established and administered by the Director pursuant to Executive Order 12353, and any subsidiary units of such program;

"Community" shall mean a community that is defined either by generally recognized geographic bounds or by its relationship to an isolated government installation;

"Direct Contributions" shall mean gifts, in cash or in donated in-kind material, given by individuals and/or other non-governmental sources directly to the spending health and welfare organization.

"Indirect Contributions" shall mean gifts, in cash or in donated in-kind

material, given to the spending health and welfare organizations by another health and welfare organization, but not transfers, dues or other funds from affiliated organizations or government, which are not to be considered as public "contributions."

(c) The term "Principal Combined Fund Organization" (or Organization) means the organization in a local Combined Federal Campaign that has been selected and so prescribed in § 950.509 of this Part to manage and administer the local Combined Federal Campaign, subject to the direction and control of the local Federal Coordinating Committee and the Director. All of its Campaign duties shall be conducted under the title "Principal Combined Fund Organization for ———— (local CFC)" and not under the corporate title of the qualifying federation.

§ 950.103 Summary description of the program.

(a) *Eligibility of National Voluntary Agencies.* National voluntary agencies apply to the Director each year for on-the-job solicitation privileges in the Federal Government. Early each calendar year, the Director issues a list of agencies that have met the prescribed standards as to program objective, eligibility, administrative integrity, and financial responsibility.

(b) *Assigned Campaign Periods.* In the United States, Combined Federal Campaigns are held when set by the Director, usually in the fall; the DOD Overseas Combined Federal Campaign is also usually held during the fall. The solicitation period for a Combined Federal Campaign is normally limited to six weeks, but may be extended for good cause by the local Federal Coordinating Committee.

(c) *Combined Federal Campaign.* At locations where there are 200 or more Federal personnel, all campaigns must be consolidated into a single, annual drive, known as the Combined Federal Campaign. The campaign is managed by the organization designated as the Principal Combined Fund Organization, in accord with § 950.509 of this Part, under the supervision of the local Federal Coordinating Committee and the Director. Such campaigns are conducted under administrative arrangements that provide for individual voluntary agency recognition, description of each voluntary agency's services, and allocation of contributions in accordance with specific designations by donors.

(d) *Decentralized Operations.* The federalism principle shall guide Campaign organization. Following designation of a Principal Combined Fund Organization, local representatives of that Organization initiate campaigns in their local community by direct contact with the heads of Federal offices and installations. Each Federal agency conducts its own solicitation among its employees, using campaign materials, supplies, and speakers furnished by or through the Principal Combined Fund Organization, under the direction of the local Federal Coordinating Committee and the Director.

(e) *Solicitation Methods.* Employee solicitations are conducted during duty hours using methods that permit true voluntary giving and reserve to the individual the option of disclosing any gift or keeping it confidential.

(f) *Off-the-Job Solicitation.* Many worthy voluntary agencies do not participate in the on-the-job program because they do not wish to join in its coordinated arrangements or because they cannot meet the requirements for eligibility. Such voluntary agencies may solicit Federal employees at their homes as they do other citizens of the community, or appeal to them through union, veteran, civic, professional, political, legal defense, or other private organizations. In addition, limited arrangements may be made for off-the-job solicitations on military installations and at entrances to Federal buildings.

(g) *Prohibited Discrimination.* The Campaign is a means for promoting true voluntary charity among members of the Federal community. Because of the participation of the Government in organizing and carrying out the Campaign, all kinds of discrimination prohibited by law to the Government must be proscribed in the Campaign. Accordingly, discrimination for or against any individual or group on account of race, color, religion, sex, national origin of citizens, age, handicap, or political affiliation is prohibited in all aspects of management and execution of the Campaign. Nothing herein denies eligibility to any voluntary agency, which is otherwise eligible under this Part to participate in the Campaign, merely because such voluntary agency is organized by, on behalf of, or to serve persons of a particular race, color, religion, sex, national origin, age, or handicap.

§ 950.105 Federal policy on civic activity.

Federal personnel are encouraged to participate actively in the work of voluntary agencies—as members of policy boards or committees, heads of local campaign units, or volunteer workers—to the extent consistent with Federal agency policy and prudent use of official time. They are encouraged also to devote private time to such volunteer work.

§ 950.107 Preventing coercive activity.

True voluntary giving is basic to Federal fund-raising activities. Actions that do not allow free choices or even create the appearance that employees do not have a free choice to give or not to give, or to publicize their gifts or to keep them confidential, are contrary to Federal fund-raising policy. The following activities are not in accord with the intent of Federal fund-raising policy and, in the interest of preventing coercive activities in Federal fund-raising, are not permitted in Federal fund-raising campaigns:

(a) Supervisory solicitation of employees supervised;

(b) Setting 100% participation goals;

(c) Providing and using contributor lists for purposes other than the routine collection and forwarding of contributions and installment pledges;

(d) Establishing personal dollar goals and quotas; and

(e) Developing and using lists of noncontributors.

Subpart B—Organization and Functional Responsibilities

§ 950.201 Development of policy and procedures.

(a) *Director, U.S. Office of Personnel Management.* Under Executive Order 12353, Charitable Fund-Raising, the Director is responsible for establishing fund-raising policies and procedures in the Executive Branch. With the advice of appropriate interested persons and organizations and of the executive departments and agencies concerned, he makes all basic policy, procedural, and eligibility decisions for the program. The Director may authorize the conduct of demonstration projects in one or more CFC locations to test alternative arrangements from those specified in this Part for the conduct of fund raising activities in Federal agencies.

(b) *Eligibility Committees.* A National Eligibility Committee shall consist of a chairman and such other members selected by the Director as he deems necessary, who shall serve at the pleasure of the Director. Local eligibility shall be determined by the local Federal Coordinating Committees. The National Eligibility Committee is responsible for recommending to the Director:

(1) Eligibility determinations on national federations and national voluntary agencies;

(2) Modification of eligibility standards and requirements as needed; and

(3) Any other matters as requested by the Director.

§ 950.203 Program administration.

(a) *Federal Agency Heads.* The head of each Federal executive department and agency is responsible for:

(1) Seeing that voluntary fund-raising within the Federal department or agency is conducted in accordance with the policies and procedures prescribed by this Part;

(2) Designating a top-level representative as Fund-Raising Program Coordinator to work with the Director as necessary in the administration of the fund-raising program within the Federal agency;

(3) Assuring full participation and cooperation in local fund-raising campaigns by all installations of the Federal agency;

(4) Assuring that the policy of voluntary giving and clear employee choice is upheld during the fund-raising campaign; and

(5) Providing a mechanism to look into employee complaints of undue pressure and coercion in Federal fund-raising. Federal agencies shall provide procedures and assign responsibility for the investigation of such complaints. Personnel offices shall be responsible for informing employees of the proper organization channels for pursuing such complaints.

(b) *Fund-Raising Program Coordinators.* The responsibilities of Federal agency Fund-Raising Program Coordinators are to:

(1) Cooperate with the Director, the local Federal Coordinating Committee, and the Principal Combined Fund Organization in the development and operation of the program;

(2) Maintain direct liaison with the Office of the Director in the administration of the program;

(3) Publicize program requirements throughout the Federal department or agency;

(4) Answer inquiries about the program from officials and employees and from external sources; and

(5) Investigate and arrange for any necessary corrective action on complaints that allege violation of fund-raising program requirements within the Federal agency.

§ 950.205 Program coordination.

The Director coordinates the Federal agencies' administration of the fund-raising program and maintains liaison with voluntary agencies.

§ 950.207 Local voluntary agency representatives.

Federated and national voluntary agencies provide their State and local representatives with policy and procedural guidance on the Federal program. The local representatives are responsible for furnishing educational materials, speakers, and campaign supplies as may be required and appropriate to the Federal program.

§ 950.209 Local Federal agency heads.

The head of the Federal department or agency provides the heads of the local Federal offices and installations with copies of the Federal fund-raising regulations. The local Federal agency heads are responsible for:

(a) Cooperating with representatives of the local Federal Coordinating Committee, the Principal Combined Fund Organization, and local Federal officials in organizing local Federal campaigns;

(b) Undertaking official campaigns within their offices or installations and providing active and vigorous support with equal emphasis for each authorized campaign;

(c) Assuring that personal solicitations on the job are organized and conducted in accordance with the procedures set in these regulations;

(d) Assuring that authorized campaigns are kept within reasonable administrative limits of official time and expense.

§ 950.211 Local Federal coordinating committees.

(a) When there are a number of Federal agency offices and installations in the same local area, some interagency coordination is necessary in order to achieve effective community-wide campaigns and to improve general understanding and compliance with the fund-raising program. The Director assigns the responsibility for local coordination to existing organizations of Federal agency heads whenever possible and to special committees where needed. The local Federal Coordinating Committee is authorized to make all decisions within the provisions and policies established in this Part on all aspects of the local campaign, including eligibility and the supervision of the local community campaign and the Principal Combined Fund Organization. Such decisions may be appealed, however, to the Director.

(b) *Authorized Local Federal Coordinating Committee.* Coordinating responsibility is assigned by the Director to one of the following organizations:

(1) Federal Executive Boards. The boards exist in principal cities of the United States for the purpose of improving interagency coordination. They are composed of local Federal agency heads who have been designated as Board members by the heads of their departments and agencies under Presidential authority.

(2) Federal Executive Associations and Federal Business Associations, self-organized associations of local Federal officials, and the Department of Defense National Policy Coordinating Committee.

(3) Fund-Raising Program Coordinating Committee. These committees are established in communities where there is no Federal Coordinating Committee in existence. Leadership in organizing such a committee is the responsibility of the head of the local Federal installation that has the largest number of civilian and uniformed services personnel. Local Federal agency heads or their designated representatives serve on the committee and determine all organizational arrangements.

(c) *Employee union representation.* In order to ensure employee participation in the planning and conduct of the CFC, employee representatives from the principal employee unions of local Federal installations should be invited to serve in whatever organization exercises local coordinating responsibilities.

(d) *Fund-raising responsibilities.* Within the limits of the policies, procedures, and arrangements made nationally, the fund-raising responsibilities of local Federal Coordinating Committees are to:

(1) Facilitate local campaign arrangements. The Federal Coordinating Committee (i) names a high-level chairman for the authorized Federal campaigns, (ii) provides lists of Federal activities and their personnel strength, (iii) cooperates on interagency briefing sessions and kick-off meetings, and (iv) supports appropriate publicity measures needed to assure campaign success.

(2) Administer program requirements. The Coordinating Committee is responsible for organizing the local Combined Federal Campaign, supervising the activities of the Principal Combined Fund Organization, and acting upon any problems relating to a voluntary agency's noncompliance with the policies and procedures of the Federal fund-raising program.

(3) Develop understanding of campaign program policies and procedures and voluntary agency programs. The local Federal Coordinating Committee serves as the central medium for communicating program, policies and procedures of the Campaign and for understanding the organizations employees are being

asked to support and how employees can obtain services they may need from these organizations.

(e) *Principal Combined Fund Organization.* The local Federal Coordinating Committee will supervise a local Principal Combined Fund Organization. The Principal Combined Fund Organization will raise money from Federal employees and administer the local campaign, under the direction of the local Federal Coordinating Committee.

(f) *Communication and Resolution Procedures Through the Director, Office of Personnel Management.* Each local Federal agency head will receive fund-raising directions through his Federal agency channels and will raise questions that pertain to fund-raising activities within his Federal agency by the same means. However, the local Federal Coordinating Committee refers unresolved local fund-raising questions or problems that are common to several Federal agencies directly to the Director. The Director communicates directly with the chairman of the local Federal Coordinating Committee for information about the local fund-raising situation.

§ 950.213 Avoidance of conflicts of interest.

Any Federal employee who serves on the Eligibility Committee, a local Federal Coordinating Committee, or as a Federal agency fund-raising program coordinator must not participate in any decision situations where, because of membership on the board or other affiliation with a voluntary agency, there could be or appear to be a conflict of interest.

Subpart C—Campaign Arrangements for Voluntary Agencies

§ 950.301 Types of voluntary agencies.

Voluntary agencies are private, nonprofit, self-governing organizations financed primarily by contributions from the public. Some are national in scope, with a national organization that provides services at localities through State or local chapters or affiliates. Others are primarily local, both in form of organization and extent of services.

§ 950.303 Types of fund-raising methods.

(a) The methods used by voluntary agencies in public fund-raising will be either federated or independent. A national *federated* group must meet the same eligibility criteria as a national agency, and have at least 10 local voluntary agency presences in at least 200 local combined campaigns. In federated campaigns, local voluntary agency representatives join contractually into a single organization for fund-raising purposes. A local United Way, united fund, community chest, or other local federated group may be considered and supported as a single agency. Local chapters or affiliates of national agencies can form local federations or be admitted as additional participating members of national federated groups.

(b) An *independent* campaign is one conducted by a local unit of a national voluntary agency through its own fund-raising organization. National voluntary agencies may conduct independent campaigns or participate in a federation.

§ 950.305 Considerations in making federal arrangements.

(a) *On-the-Job-Solicitation.* In order to have only *one on-the-job solicitation,* i.e., a Combined Federal Campaign, individual appeals must be combined into a single joint campaign of eligible health and welfare organizations in conformance with the policies and procedures prescribed in this Part.

(b) *Campaign Arrangements Established Nationally.* Basic campaign arrangements are established by the Director. Local Federal agency heads and Coordinating Committees are not authorized to vary from the established arrangements except to the extent that local variations are expressly provided for in this Part.

(c) *Number of Solicitations.* Not more than one on-the-job solicitation will be made in any year at any location on behalf of voluntary agencies, except in the case of an emergency or disaster appeal for which specific prior approval has been granted by the Director.

(d) *Responsible Conduct.* In the event a national voluntary agency fails to adhere to the eligibility requirements or to the policies and procedures of the Federal program, solicitation privileges may be withdrawn by the Director at any time after due notice to the voluntary agency and opportunity for consultation.

§ 950.307 Definition of terms used in Federal arrangements.

(a) *Domestic Area.* The 50 United States, and the Commonwealth of Puerto Rico.

(b) *Overseas Area.* All other points in the world where Federal employees or members of the uniformed services are stationed.

(c) *Recognized National Voluntary Agency.* A voluntary agency that has been declared eligible by the Director for participation in campaigns in the Federal establishment.

(d) *National Voluntary Agency "Supported Primarily through United Ways, United Funds, and Community Chests."* A voluntary agency that generally solicits within the Federal establishment as a participating member of United Ways, united funds, community chests, or other local federated groups that are members in good standing of, or are recognized by, United Way of America.

(e) *Federated Community.* A federated community is a geographical location within the domestic area where a federated fund-raising program exists. In a federated community, recognized national voluntary agencies can join a federated campaign group or participate individually. However, voluntary agencies "supported primarily through United Ways, united funds, and community chests" are authorized to solicit on-the-job in a federated community only as participating members of the local United Way, fund, or chest.

§ 950.309 Federated and overseas campaigns.

(a) *Authorized Federated Groups.* (1) United Way of America and any local United Way, united fund, community chest, or other local federated group that is a member in good standing of, or is recognized by, United Way of America and that meets the eligibility requirements in these regulations is authorized on-the-job solicitation privileges in its local campaign area on behalf of any of its member voluntary agencies that also meet these requirements. Certifications as to the eligibility requirements on behalf of local United Ways, united funds, and community chests and each member voluntary agency will be made by United Way of America to the Director.

(2) The American Red Cross, the National Health Agencies, the International Service Agencies, the National Service Agencies, and such other federated groups which shall meet the eligibility standards under this Part, as determined by the Director, shall be authorized on-the-job solicitation privileges on behalf of their member voluntary agencies that also meet all requirements of this Part. Certification for each subunit that they meet such requirements will be made to the Director.

(3) A member voluntary agency of a federated group need meet only the specific eligibility requirements of Section 950.405. Failure by a member voluntary agency to meet the requirements will disqualify the federated group that certified such voluntary agency from soliciting contributions, unless after notice to the

group of intent to cancel, corrective action is taken to the satisfaction of the Director. If appropriate corrective action is not taken, the Director may disqualify the federated group.

(b) *Local Federated Agencies.* To be eligible for participation in the Federal fund-raising program, the local federated group must be broadly representative in its board and committee membership of the community and must be making bona fide efforts to meet community needs. Requirements for participation in a local federated group must be in writing, available to the public, reasonable, and applied fairly and uniformly to all local voluntary agencies requesting participation. Procedures must be provided by the federated group for at least one review of any decision denying participation requested by a local voluntary agency. The review must be conducted by a committee or other body within the federated group that did not participate in the original decision. A written statement of the reasons for denial must be provided to the applicant voluntary agency. Where a local chapter or affiliate of a national voluntary agency is precluded from independent participation in the Federal fund-raising program because the local voluntary agency is not approved for federated participation, such chapter or affiliate may request the Director, after securing a report by the federated group, to determine whether or not the reasons for its non-approval were "arbitrary and capricious."

(c) *"Causes."* Solicitation for a health or other "cause," e.g., for "Mental Health" or "Heart Disease," without identification of the specific voluntary agency for which the funds are sought, is not authorized. All funds collected from Federal personnel must be allocated only to specific voluntary agencies.

(d) *Designation of Federated Area.* The recognition of a local Federal Coordinating Committee by the Director designates the community served by that Committee as a recognized local campaign site. Two or more authorized local Federal Coordinating Committees are authorized to develop coordinated solicitations best suited to the needs of their localities.

(e) *Overseas Campaign.*—(1) *DoD Overseas Combined Federal Campaign.*

(i) A Combined Federal Campaign is authorized for all Department of Defense activities in the overseas areas during a six-week period in the fall. Voluntary agencies that may participate in the Overseas Combined Federal Campaign will consist of: The American Red Cross; the United Service Organization; those national health agencies recognized for campaigns in the domestic area (the Federal Service Campaign for the National Health Agencies); and those international service agencies recognized for campaigns in the domestic area, and any national or federated voluntary agency recognized for overseas campaigns. Any of these voluntary agencies is eligible to be a Principal Combined Fund Organization.

(ii) Contributors to the DoD Overseas Combined Federal Campaign designate their gifts to one or more of the eligible agencies or the Principal Combined Fund Organization. The Principal Combined Fund Organization for the overseas campaign shall pay the amounts collected directly to the designated voluntary agencies, less "shrinkage" and the processing fee, if any, that is approved in advance of the campaign by the Federal official in the overseas area responsible for the local campaign arrangements.

(2) *Local Voluntary Agency Campaigns.* The heads of overseas offices and installations may, at their discretion, permit the solicitation of their military and civilian personnel for local voluntary agencies. Such campaigns will be conducted in accordance with the basic policies and procedures of the Federal program and at times which do not conflict with the DoD Overseas Combined Federal Campaign period. The eligibility standards in Subpart D will be used as guidelines in determining the eligibility of local voluntary agencies. Federal leadership in organizing such campaigns will be assumed by the head of the overseas Federal establishment that has the largest number of Government personnel in the campaign area.

(3) *Optional Participation by Certain Civilian Agencies.* Federal civilian departments and agencies that have traditionally considered their overseas personnel as members of the National Capital Area for fund-raising purposes may continue this practice.

(4) *On-Base Health and Welfare Activities.* On-base morale, welfare and recreational activities may be supported from CFC funds.

§ 950.311 Off-the-job solicitation at places of employment.

Voluntary agencies that are not recognized for the on-the-job program may be authorized off-the-job solicitation privileges at places of Federal employment under such reasonable conditions as may be specified by the local head of the Federal installation involved, provided that such conditions are not inconsistent with this Part. Dual solicitation is not authorized, so this privilege cannot be made available to any voluntary agency that is included in the on-the-job program.

(a) *Family Quarters on Military Installations.* Voluntary agencies may be permitted to solicit at private residences or at similar on-post family public quarters in unrestricted areas of military installations at the discretion of the local commander. However, such solicitation may not be conducted by military or civilian personnel in their official capacity during duty or non-duty hours, nor may such solicitation be conducted as an official command-sponsored project. This restriction is not intended to prohibit or to discourage military and civilian personnel from participating as private citizens in voluntary agency activities during their off-duty hours.

(b) *Public Entrances of Federal Buildings and Installations.* Voluntary agencies that engage in limited or specialized methods of solicitation—for example, the use of "poppies" or other similar tokens by veterans organizations—may be permitted to solicit at entrances or in concourses or lobbies of Federal buildings or installations normally open to the general public. Solicitation privileges will be governed by the rules issued by the General Services Administration pursuant to the Public Buildings Cooperative Use Act of 1976 or later modification, or other applicable Government legal authority.

Subpart D—Eligibility Requirements for National Voluntary Agencies

§ 950.401 Purpose.

These eligibility requirements are established to ensure that:

(a) Only responsible and worthy voluntary agencies are permitted to solicit on the job in Federal installations;

(b) The funds contributed by Federal personnel will be used effectively and for the announced purposes of the soliciting voluntary agencies; and

(c) All recognized national voluntary agencies meet requirements of Executive Order 12353 of March 23, 1982.

§ 950.403 General requirements for National Agencies.

(a) *Type of Agency.* Only nonprofit, tax-exempt, charitable organizations, supported by voluntary contributions from the general public and providing direct and substantial health and welfare and other appropriate national voluntary services through their national organization, affiliates or

representatives are eligible for approval. All such services must be consistent with the policies of the United States Government.

(b) *Integrity of Operations.* Only voluntary agencies having a high degree of integrity and responsibility in the conduct of their affairs will be approved. Funds contributed to such organizations by Federal personnel must be effectively used for the announced purposes of the voluntary agency.

(c) *National Scope.* A national voluntary agency must demonstrate that:

(1) It is organized on a national scale with a national board of directors that represents its constituent parts, and exercises close supervision over the operations and fund-raising policies of any local chapters or affilitates.

(2) It has earned good will and acceptability throughout the United States, particularly in cities or communities within which or nearby are Federal offices or installations with large numbers of personnel.

(3) It has national scope, that is, scale, goodwill, and acceptability; this may be demonstrated as follows:

(i) By a voluntary agency's provision of a service in many (c. one quarter) States, or in several foreign countries, or in several parts of one large foreign nation;

(ii) By derivation of contributor support from many parts of the Nation;

(iii) By the extent of public support and the number and the geographical spread of contributors; and

(iv) By the national character of any public campaign, which may be shown by a large number (c. 75) of local chapters, affiliates, or representatives which promote such a campaign.

(d) *Type of Campaign.* Approval will be granted only for fund-raising campaigns in support of current operations. Capital fund campaigns are not authorized.

§ 950.405 Specific requirements.

(a) *Eligibility.* To be eligible for approval by the Director for participation in the Combined Federal Campaign, a national voluntary agency must be one:

(1) That is either a health or welfare or other appropriate voluntary agency, as defined in section 950.101 of this Part;

(2) That is voluntary and broadly supported by the public, meaning (i) that it is organized as a not-for-profit corporation or association under the laws of the United States, a State, a territory, or the District of Columbia; (ii) that it is classified as tax-exempt under Section 501(c)(3) of the Internal Revenue Code of 1954, as amended; and (iii) that, with the exception of voluntary agencies whose revenues are affected by unusual or emergency circumstances, as determined by the Director, it has received at least 50 percent of its revenues from sources other than the Federal Government or at least 20 percent of its revenues from direct and/or indirect contributions in the year immediately preceding any year in which it seeks to participate in the Combined Federal Campaign (organizations founded within the past three years participating in the CFC before this Part became effective will have three (3) years, and all other organizations in the CFC will have one (1) year to comply with the 50 percent/20 percent requirement);

(3) That is directed by an active board of directors, a majority of whose members serve without compensation; that adopts and employs the *Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations;* That prepares and makes available to the general public an annual financial report prepared in accordance with the *Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations* and is certified, using the form in Appendix B to this Subpart, by an independent certified public accountant; that provides for an annual external audit by an independent certified public accountant;

(4) That can demonstrate to the Director, if its fund-raising and administrative expense is in excess of 25 percent of total support and revenue, that its actual expense for those purposes is reasonable under all the circumstances in its case;

(5) That ensures that its publicity and promotional activities are based upon its actual program and operations, are truthful and nondeceptive, and include all material facts; and

(6) That has a direct and substantial presence in the local campaign community, meaning that employees in the solicitation area, or their families, should be able to receive services from a particular voluntary agency within a reasonable distance from their employment stations, or receive benefits from national voluntary agencies which can be shown to affect a large number of local employees, with specific demonstrable assistance. Such presence shall be demonstrated to the Director or local Federal Coordinating Committee documenting that the services are known to and accessible to Federal employees in the local community; examples of direct and substantial services are: providing local services; personal counseling in health, welfare or other appropriate services (if by telephone, with a local phone number); local disease prevention program or inoculations; local representatives in a cooperating attorney or referral network; screening for detection of problems or need for services or referrals; treatments (of illnesses, poverty, and handicaps); and local educational or informational services. However, international organizations that provide health and welfare services overseas, which meet the eligibility criteria except for the direct and substantial present criterion, shall be eligible to solicit funds from Federal personnel.

(b) *Fund-Raising Practice.* The voluntary agency's publicity and promotional activities must assure protection against unauthorized use of its contributors lists; must permit no payment of commissions, kickbacks, finders fees, percentages, bonuses, or overrides for fund-raising; and must permit no general telephone solicitation of the public.

(c) *Reports.*—(1) *Annual Report.* The voluntary agency must prepare an annual report to the general public that includes a full description of the voluntary agency's activities and accomplishments and the names of chief administrative personnel.

(2) *Combined Reports.* Voluntary agencies which represent more than one subunit must prepare a combined annual financial report to the general public in accordance with the *Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations.* The combined report shall include all income and expenditures for the national operations and all chapters, committees, affiliates, or satellites.

(3) *Source of Funds and Costs Report.* The voluntary agency must file a special report with the Director that discloses, on a consolidated basis, the agency's (including chapters and affiliates) sources of funds, fund-raising expense, and use of net funds in its most recent fiscal year.

§ 950.407 Application requirements.

(a) *Federated Groups.* The American Red Cross, United Ways and local community chests or united funds that are members in good standing of or are recognized by United Way of America, the National Health Agencies, the International Service Agencies, the National Service Agencies, and such other federated groups shall be recognized under Subpart C, do not need to apply separately as National Agencies. For purposes of this Part, the

American Red Cross and its chapters are recognized as operating an accounting and financial system in substantial compliance with the *Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations* and certification to this effect by local chapters is not required.

(b) *National Agencies.* In order to be considered for solicitation privileges in domestic or overseas campaigns in the Federal service, each national voluntary agency must file an application annually. National voluntary agencies that have already been approved for fund-raising privileges in the Federal service are not required to submit the information requested in paragraphs (f)(1), (2), (3), (4), and (8) of this section, except where there has been a substantial or significant change in these items; for example, a change in purpose of the organization or a decline in chapter coverage or activity. They are required to furnish information in paragraphs (f)(5), (6), (7), (9), (10), (11), and (12).

(c) *Time and Place of Filing.* Applications must be filed with the Office of the Director, United States Office of Personnel Management, Washington, D.C. 20415. Applicants are urged to file as early as possible in each calendar year.

(d) *National Eligibility.* The Director, with the assistance of a National Eligibility Committee of government officials, employee organization leaders, and private citizens, uses the information filed with the agency's application and derived from other responsible sources to make his decision on an agency's eligibility. The National Eligibility Committee shall consider the applications fairly, hold meetings and hearings as appropriate, and make recommendations to the Director. National eligibility shall only give a presumption of local eligibility; voluntary agencies must also meet the requirements of section 950.405(a)(6). Where a local chapter of an eligible national voluntary agency is denied participation in a local campaign, it may appeal to the Director, whose decision shall be final.

(e) *Notice of Decision.* Applicants for national eligibility are to be notified of the decisions as soon as possible after filing. If dissatisfied with the Director's decision, the applicants may request reconsideration of the decision by the Director. The Director's decision upon reconsideration will be final.

(f) *Form and Content of Application.* Applications shall be filed in the following form and will include the information, documents, and data specified:

(1) Corporate name and fiscal year;

(2) Origin, purpose, and structure of organization, including information to show that the voluntary agency meets the general and specific requirements of this Subpart;

(3) A list of chapters, affiliates, or representatives in alphabetical order by State; and under the State, a list of cities with chapter, affiliate, or representative by names and addresses;

(4) Demonstration of the good will and acceptability of the organization throughout the United States;

(5) Outline of the program, particularly the nature of the direct services provided by the voluntary agency and under what subparagraph of section 950.101(a)(3) the application is made, written assurance of compliance with all requirements of section 950.101(a)(2) and sections 950.403 through 950.405;

(6) Description of board of director's administrative activity in past year and list of current board members' names, addresses, and businesses or professions;

(7) Certification by an independent certified public accountant of compliance with an acceptable financial system and adoption of the Uniform Standards;

(8) Statement of compliance with all factors in the section on fundraising practice;

(9) Copy of latest annual report;

(10) Copy of latest financial report prepared in accordance with the *Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations* and certification by an independent certified public accountant that the report was prepared in conformity with the Standards;

(11) Copy of latest external audit by an independent certified public accountant; and

(12) A special report to the Director, consistent with the reporting requirements of the Standards. The report must include the voluntary agency's sources of funds, expenditures by program service, and supporting services with fundraising and other expenditures listed separately. The report must cover the most recent fiscal year and represent a consolidated statement of national and affiliate income and expenditures. The amount of contributions received from United Ways, united funds or community chests, from Federal service campaigns, and the total from all other sources, especially transfers, dues, or other funds from affiliated organizations, must be separately identified and shown. All entries must be reported in dollar and percent of total contribution. The report must be furnished in accordance with the format shown in the appendix to this Subpart.

(g) The Director shall be authorized to investigate facts and circumstances on issues relating to eligibility raised under this Part.

§ 950.409 Public announcement of recognized agencies and assigned periods.

Early in the calendar year the Director will announce the names of all national voluntary agencies eligible for participation in the Federal fundraising program for the ensuing campaign year.

BILLING CODE 6325-01-M

APPENDIX A TO SUBPART D
SOURCE OF FUNDS AND COSTS REPORT
(for the year ending_____)

Organization:_____

Public support

Received Directly:	$
Contributions	
Special Events (net of direct benefit costs of $_____)	
Legacies and bequests	
Subtotal	
Received Indirectly:	
Federated campaigns (e.g., United Way)	
Federal service campaigns	
Other Contributions	
Subtotal	
Total Support from the Public	
Revenue:	
Grants from Federal government agencies (including grants in-kind)	
Grants from state or local government agencies (including Medicaid)	
Memberships	
Program service fees (including Medicare)	
Sales of materials and services to member units (net of direct expenses)	
Sales of materials and services to the public (net of direct expenses	
Transfers, dues, etc. from affiliated organizations, etc.	
Investment Income	
Gains on investment transactions	
Other Income	
Total revenue	
Total public support and revenue	
Expenses	
Program services	
(program)	
(program)	
(program)	
(program)	
Subtotal	
Supporting services	
Management and general	
Fund raising	
Subtotal	
Total expenses	
Excess (deficiency) of public support and revenue over expenses	

BILLING CODE 8325-01-C

APPENDIX B TO SUBPART D

Certificate

Name of Organization _____

I certify that the above-named organization has adopted, and has prepared its financial statements in accordance with the *Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations* (1974 Edition) prepared and published by the National Health Council, Inc., the National Assembly of National Voluntary Health and Welfare Organizations, Inc. and the United Way of America.

Signature: _____

Address: _____

Subpart E—The Local Combined Federal Campaign

§ 950.501 Authorized local voluntary agencies.

A local voluntary agency shall meet the same criteria as a national voluntary agency, except national scope, but shall be evaluated under these criteria by the local Federal Coordinating Committee recognized by the Director for that Community. After one year from the effective date of this Part, only local groups affiliated with a federated or other eligible national voluntary agency, as determined by the local Federal Coordinating Committee or the Director, are eligible to participate in the local campaign.

§ 950.503 Participation in Federal campaigns by local affiliated agencies.

(a) Arrangements will be established by each local Federal Coordinating Committee to evaluate those local affiliates of eligible national agencies that seek to solicit separately from local federated groups. These procedures will require eligible local voluntary agencies to preregister with the local Federal Coordinating Committee to participate in that year's Combined Federal Campaign. Arrangements will be made by the Central Receipt and Accounting Point to distribute contributions to authorized voluntary agencies after appropriate adjustments are made for "shrinkage" and approved administrative costs.

(b) *Application Procedures.* In order to be eligible for participation in the Combined Federal Campaign, each local voluntary agency must submit an application for registration in the CFC to the local Federal Coordinating Committee. Applications may be submitted jointly for member agencies in federated groups. The Federal Coordinating Committee is responsible for reviewing and taking action on the applications based on eligibility requirements in this Part, especially those of Subpart D. The Local Federal Coordinating Committee may request a qualified screening organization to assist in the processing and review of applications against the eligibility requirements and in recommending approval or denial of the application, but the local Federal Coordinating Committee must make the actual decisions. If the Federal Coordinating Committee determines that eligibility requirements are not met, reasons for that determination will be provided to the voluntary agency within 60 days of the receipt of the application.

§ 950.505 Responsibility of local Federal coordinating committees.

Each Federal Coordinating Committee is required to organize a Combined Federal Campaign in the local area for which it has fund-raising responsibility. The heads of Federal departments and agencies will request their local officials to cooperate fully with the decisions of the Federal Coordinating Committee in all aspects of CFC arrangements. The Federal Coordinating Committee makes all final decisions on the local campaign, subject to appeal to the Director.

§ 950.507 Local CFC plan.

(a) *CFC as Uniform Fund-Raising Method.* The Combined Federal Campaign is the only authorized fund-raising method in all areas in the United States in which 200 or more Federal employees are located. All voluntary agencies wishing to participate in fund-raising within the Federal service must do so within the framework of a local Combined Federal Campaign.

(b) *Non-Participation.* In the event that any voluntary agency does not follow these regulations for participation in a local CFC, fund-raising privileges in local Federal establishments are forfeited during that fiscal year. Voluntary withdrawal will not prejudice eligibility for the next year's Campaign.

(c) *Red Cross Participation.* In local communities where the American Red Cross is not a participating member of the local United Way, it will be regarded as a separate campaign organization in the combined campaign. American Red Cross chapters have independent authority with respect to fund-raising policy, so responsibility for deciding on participation in CFC rests with the local chapter board of directors. As with the other national organizations, in the event local American Red Cross chapters choose not to participate in CFC, they are not authorized to have a separate campaign in local Federal offices or installations during the fiscal year involved, except in the case of an emergency or disaster appeal for which specific prior approval has been granted by the Director.

(d) *Exceptions in Areas of Less than 200 Federal Employees.* Where there are fewer than 200 Federal employees in the local campaign area, it may not be practicable to hold a Combined Federal Campaign. Therefore, in such areas local Federal officials are not required to arrange for a Combined Federal Campaign. However, if they believe it would be desirable from the standpoint of the local community or the Federal Government to have such a campaign, they may contact the Director to arrange a Combined Federal Campaign regardless of the number of employees involved. Where a CFC is not conducted because of lack of sufficient Federal employees, the local united fund is authorized to solicit within the Federal establishment during the fall of the year and other Federated groups are authorized to conduct a separate spring campaign. Where the American Red Cross is not a member of the local united fund and the area will not have a CFC, then the Red Cross may conduct an independent campaign during the month of March. However, payroll deductions for charitable contributions are only authorized in conjunction with Combined Federal Campaigns.

§ 950.509 Organizing the local campaign: The principal combined fund organization.

The Local Federal Coordinating Committee shall organize the local community campaign. It will appoint a campaign chairman who will carry out campaign duties in conformance with the policies and procedures prescribed in this Part. From among the federations approved for participation in the local CFC, the local Federal Coordinating Committee shall select a Principal Combined Fund Organization to manage the campaign and to serve as fiscal agent. In doing so the Federal Coordinating Committee shall select whichever applicant organization it finds to be the local federated group in the CFC geographic area that provides through one specific, annual public solicitation for funds the greatest support for charitable agencies that depend on public subscriptions for support; that, in the judgment of the Federal Coordinating Committee, can most effectively provide the necessary campaign services and administrative support for the successful Campaign.

(a) In deciding whether an organization is the Principal Combined Fund Organization in the CFC geographic area, the Federal Coordinating Committee will consider:

(1) The number of local charitable voluntary agencies or affiliates in the CFC geographic area that rely on the applicant organization for financial support and that meet the prescribed eligibility criteria for participation in the CFC;

(2) The number of dollars raised by the applicant organization in the CFC geographic area during its last completed annual public solicitation for funds;

(3) The percentage of such dollars disbursed to the charitable voluntary agencies; and

(4) The local capacity of the applicant organization to provide the necessary campaign services and administrative support (including operation of the Central Receipt and Accounting Point) to the local Federal Coordinating Committee for a successful Federal campaign in conformance with the policies and procedures prescribed in this Part.

(b) An organization seeking to be designated the Principal Combined Fund Organization in a CFC area shall submit its application for such designation to the local Federal Coordinating Committee for approval within thirty days after the Director has determined eligible federations. All such applicants must pledge to manage the campaign fairly and equitably; to conduct organization operations separate from other voluntary agency operations; to consider advice from, be responsible to reasonable requests for information from, and to consult with other agencies; and to be subject to the decisions and supervision of the local Federal Coordinating Committee and the Director. Upon submission of a complaint by a local Federal Coordinating Committee or a federated or national voluntary agency, the Director may revoke the designation as a Principal Combined Fund Organization if in his discretion he finds these pledges are not fulfilled.

(c) Applications shall include the following: (1) The names of the voluntary agencies in the area that rely on the applicant organization for financial support and that meet the eligibility criteria set in this Part;

(2) The boundaries of the area covered by the public donation solicitation of the applicant organization;

(3) The number of dollars raised in the CFC geographic area by the applicant during its last completed annual public solicitation for funds;

(4) The percentage of such dollars disbursed to the charitable agencies;

(5) Agreement to transmit contributions, as designated by Federal employees, to charitable organizations approved for participation and listing in the local CFC (minus only "shrinkage"—that is, uncollectible pledges and gifts—and the approved fee for administrative cost reimbursement);

(6) Certification that it, and its participating member organizations, are in compliance with all applicable eligibility requirements specified in this Part for participation in the CFC;

(7) Fee, if any, proposed to be charged by the applicant organization for reimbursement for administrative costs; and

(8) Statement that the applicant organization is organized to provide the necessary campaign services and support to the local Federal Coordinating Committee for a successful Federal campaign in conformance with the policies and procedures prescribed in this Part.

(d) Member agencies of federations and other voluntary agencies certified for listing and receipt of designations through the approved local or national admission process shall be eligible to receive designations.

(e) The Principal Combined Fund Organization shall provide a form for the employee to indicate any amounts he may wish to designate to affiliated and non-affiliated beneficiaries. The Principal Combined Fund Organization shall pay the amount collected to the employee-designated beneficiary agency less "shrinkages" and the amount necessary to reimburse the Principal Combined Fund Organization for administrative expenses.

(f) The fee, if any, charged for administrative cost reimbursement must be approved in advance by the local Federal Coordinating Committee and published in the campaign literature.

(g) All contributions not designated to specific voluntary agencies or specific federated groups shall be deemed to have been designated to the Principal Combined Fund Organization. A statement of that fact shall be clearly stated on the face of each pledge card in red ink, which shall also state the name of the federated group which is the Principal Combined Fund Organization in that local Campaign.

(h) The Principal Combined Fund Organization shall issue a report to the local Federal Coordinating Committee within a reasonable time following the campaign setting forth the following information:

(1) Amounts contributed and pledged,

(2) Number of contributors,

(3) Amounts designated to each participating federated group and voluntary agency,

(4) Amount designated to the Principal Combined Fund Organization, and

(5) Costs of administering the campaign, including the Central Receipt and Accounting Point.

(i) *CFC Committee.* Where necessary, the local Federal Coordinating Committee may designate a committee from among its principal members, called the CFC Committee, to give top leadership and direction to the planning, conduct and evaluation of the local combined campaign. The Federal Coordinating Committee, however, may not redelegate any final authority for the campaign to the CFC Committee. The Chairman of the Campaign need not be the Chairman of the organization designated as the local Federal Coordinating Committee.

(j) *Action Steps by the Local Federal Coordinating Committee*—(1) The Chairman of the local Federal Coordinating Committee is not authorized to establish a Local Joint Work Group of Federal respresentatives and representatives of the Principal Combined Fund Organization. The Chairman shall direct the Principal Combined Fund Organization to assemble necessary information and data, and to submit a plan detailing materials and a timetable for campaign arrangements. This shall include the dates for preparation, printing and distribution of materials, kick-offs, training sessions, report meetings and award ceremonies. All of these, including the specific materials to be used, shall be submitted to the full local Federal Coordinating Committee for approval on a day to be announced broadly to participating voluntary agencies and federated groups and to the Director. An adequate period shall be provided for participating federated group and voluntary agencies to review and comment on all proposals.

(2) The local Federal Coordinating Committee will set a date or dates each year for local eligibility hearings. Such meeting or meetings shall be reported to the Director, and given wide publicity in the local community and to the voluntary agencies and federated groups which have applied for eligibility.

(k) *Loaned Executive Program.* One or more loaned Federal executives may be used in a Combined Federal Campaign. The Loaned Executive Program was authorized by President Nixon in a memorandum to heads of departments and agencies dated March 3, 1971. A Loaned Executive may be detailed from his agency on a full or part-time basis, for a specific period of time, to conduct or assist in the operation of a Combined Federal Campaign. The employing

agency will decide who will serve as a Loaned Executive, if anyone, and the length of the detail. Executives may not be loaned or assigned to any specific voluntary organization but only to the official Combined Federal Campaign group. When assigned to the CFC, the executive shall be placed on administrative leave.

§ 950.511 Basic local CFC ground rules.

(a) The arrangements outlined in §§ 950.511 through 950.525 constitute basic ground rules for the local Combined Federal Campaign. Certain local variations are permissible if specifically authorized in this Subpart. However, any modification of ground rules in specific instances must be requested by Federal Coordinating Committees from the Director. Modifications will be granted only in the most exceptional circumstances.

(b) The local Federal Coordinating Committee will approve the:

(1) Campaign Name. The name will include the words "Combined Federal Campaign;" the year for which contributions are solicited; and approximate identification of the locality; as for example: "1981 San Antonio Area Combined Federal Campaign."

(2) Campaign Period. The solicitation period may be any period between September 1 and November 30.

(3) Campaign Area. The exact geographical area to be covered by the combined campaign will be determined nationally, taking into account past practice and the feasible scope for a single, coordinated campaign. The jurisdiction of the organization named as the local Federal Coordinating Committee will set the basic area of the Campaign, based upon past practices. Any changes in campaign area must be approved by the Director.

§ 950.513 Contributions.

(a) The contributor's information leaflet will clearly state that the Federal employee is encouraged to direct his gift to specific voluntary agencies. A single form of pledge card and leaflet-brochure will be produced under standards set in this Part, and approved by the Director. The leaflet will explain that when such gifts are earmarked to a specific voluntary agency, the Principal Combined Fund Organization will remit such funds, minus approved administrative costs, directly to that agency (or to its federation if all members of that federated group agree) as those funds are collected. The leaflet will also clearly state that when the Federal employee decides not to designate, the gift will be deemed designated to the Principal Combined Fund Organization for distribution.

(b) Several boxes will be provided on the pledge form so that the donor may indicate his choice, if any, of one or more of the voluntary agencies listed to receive all or part of his gift. A minimum of five boxes for such purposes will be shown on the face of and on all copies of the pledge card itself. Separate designation slips are not authorized under any circumstances. The pledge card must be arranged so that each Federal employee receives the pertinent CFC and voluntary agency information and the pledge card as a single package (as examples, inserted in a slot or pocket in the contributor's information leaflet).

(c) If contributions are designated to organizations not participating in the local CFC, they will not be accepted but will be returned to the contributor.

§ 950.515 Dollar goals.

(a) A dollar goal for the overall combined campaign is recommended. Generally, it provides a focus for group spirit and unity of purpose that contributes materially to success. By apportioning the goal equitably among the Federal offices and installations, each Federal agency shares responsibility in the team effort and has a mark with which to gauge its progress.

(b) In developing the proposed goal, the local Federal Coordinating Committee should take into account past giving experience in local Federal campaigns, the needs and reasonable expectations of the voluntary agencies in the current campaign situation, and the probability of a substantial increase in the level of giving due to the single campaign and payroll payment plan. The objective should be to set a goal that is attainable, which can be exceeded in an enthusiastic and purposeful campaign.

(c) Dollar goals are not required. An alternative approach is to rely on "suggested giving" as the principal incentive. For example, the "goal" could be 75 percent participation at the suggested giving level.

§ 950.517 Suggested giving guides and voluntary giving.

(a) Suggested giving guides for contributions are authorized for local construction. Guides for cash giving or direct-payment pledges may be included in terms of percent of annual income, number of hours pay, or suggested size of gift in relation to various income levels. Guides may be printed in the contributor's leaflet or on the pledge form. They will be accompanied by a statement explaining that the guide is provided because employees often ask for one, but that the decision to give and the amount is up to each employee.

(b) Federal agencies are not authorized to furnish individual employee suggested giving guides based upon the employee's specific pay or grade; a guide of this kind is comparable to an individual quota or assessment, which is prohibited.

(c) The contributor's leaflet or the pledge form must include the express statement that the employee has the right to make his gift confidentially in a sealed envelope which will be delivered unopened to the Combined Federal Campaign headquarters.

§ 950.519 Central receipt and accounting for contributions.

(a) The Principal Combined Fund Organization shall provide and administer the Central Receipt and Accounting Point or it may arrange for an appropriate financial institution to provide such service on its behalf, under the direction of the local Federal Coordinating Committee. Any charges by such institution to provide the necessary services are the responsibility of the Principal Combined Fund Organization and should be included in the latter organization's administrative costs factor.

(b) The central accounting point will tabulate all contributions designated to specified agencies on the pledge cards and then tabulate the contributions designated to the Principal Combined Fund Organization.

The amounts payable to the specified voluntary agencies are subject to deduction "shrinkage" and of the approval percentage, if any, for reimbursement of administrative costs to the Principal Combined Fund organization.

(c) Provision must be made by the Principal Combined Fund Organization for the audit of CFC funds. If the CFC is over $100,000, an independent audit must be performed. Copies of the audits must be submitted to appropriate local Federal officials and made available for inspection by any voluntary agency or federation participating in the CFC.

(d) In addition to the usual method of cash contribution and direct payment of pledges, the use of voluntary payroll withholding is authorized for members of the uniformed services and civilian personnel at CFC locations. Local voluntary agencies may decide whether or not to provide for direct payment of pledges; however, cash contributions must be permitted. Keyworker collection of installment pledges is prohibited.

§ 950.521 Campaign and publicity materials.

(a) Campaign and publicity materials will be developed in the local area under direction of the local Federal Coordinating Committee, and will be printed and supplied by the Principal Combined Fund Organization. All disputes over materials will be resolved by the local Federal Coordinating Committee, except that failure to follow this Part or other directive of the Director may be appealed to the Director. All publicity materials must have the approval of the local Federal Coordinating Committee before being used.

(b) Distribution of any bona fide educational material of the voluntary agencies or provision of other services to employees at Federal establishments must be handled through the Federal agency occupational health units, and not the CFC coordinators. While there is no intent to restrict the normal educational or service activities that voluntary agencies provide in Federal agencies, no special distribution of materials or services should be planned during the campaign, nor should promotional efforts be made that would have the effect of giving undue publicity to a particular voluntary agency or category of voluntary agencies during the campaign period. Violation of this requirement by any voluntary agency may be grounds for the local Federal Coordinating Committee to disqualify the voluntary agency from further participation in the local CFC for that year after due notice to the voluntary agency concerned.

(c) A single Contributor's Information Leaflet, a one-part list of participating voluntary agencies, and a single, joint Pledge Form and Payroll Withholding Authorization (the latter two preferably to be placed in an insert slot or otherwise assembled in the former) are to be distributed by keyworkers to each potential contributor. The Pledge Form and Payroll Withholding Authorization must be one form. All CFC literature, keyworker solicitors, and materials released as a part of the campaign must inform employees of their right to make a choice and will provide full information about the voluntary agencies, federated groups and the Principal Combined Fund Organization. Employees will be informed that while the Federal Government encourages its employees to make a choice, it does not mandate that they choose.

(d) Campaign materials must constitute a simple and attractive package that has fund-raising appeal and essential working information. Treatment should focus on the combined campaign and homogeneous appeal without undue use of voluntary agency symbols or other distractions that compete for the contributor's attention. Extraneous instructions concerning the routing of forms, tallying of contributors, etc., which are primarily for keyworkers, must be avoided.

(e) Specific campaign and publicity materials: (1) Contributor's Leaflet.

(i) This will be the only informational material distributed to individual contributors. It will describe the CFC arrangement, explain the payroll deduction privilege, and will include the information required by section 950.513 of this Part. The leaflet should be constructed to contain a pocket or a slot to hold the CFC pledge card.

(ii) The leaflet will provide instructions about how an employee may obtain more specific information about voluntary agencies participating in the campaign, their programs, and their finances. It will also inform employees of their right to pursue complaints of undue pressure or coercion in Federal fundraising activities. The leaflet will advise civilian employees to consult with their personnel offices and military personnel with their commanding officers to identify the organization handling such complaints in their respective Federal agency.

(iii) A Privacy Act notice must be printed on the leaflet.

(2) Separate list of participating voluntary agencies.

(i) This brochure will list each voluntary agency approved by the appropriate Federal officials for participation in the CFC with a brief statement of about 30 words on its programs. Opposite the name of each voluntary agency a number will be provided beginning with the number 101 so that contributors desiring to indicate a choice of agency or agencies to whom they wish their gift to be directed may insert such number or numbers in the designation boxes provided for that purpose on the pledge card. Each voluntary agency which is a member of a federated group shall be entitled, at its local option, to have that group designation added, in parenthesis, at the end of its statement.

(ii) The listing of voluntary agencies will also include therein the following generic titles reflecting the approved categories of services as a means to assist employees in making rational designations: children and family services, community coordination services, local federal personnel services, provision of basic needs and economic opportunity, health services/services to handicapped, international services, neighborhood services, acquisition of knowledge and skills, youth and recreation services, specialized and miscellaneous services. The order of assignment of these categories, and the order of voluntary agencies under them, will be reassigned by lot each year by the local Federal Coordinating Committee.

(iii) Federated groups will be listed, in an order set by lot each year, at the end of the list of voluntary agencies, under the title "Campaign Groups," with identification numbers keyed to the numbers of their participating federated groups. The federated group which is the Principal Combined Fund Organization will be so identified.

(iv) An illustration of the prescribed format is shown below.

Children & Family Services

101 (name of agency and group affiliation) (description of program)
102 (name of agency and group affiliation) (description of program)
103 (name of agency and group affiliation) (description of program).

Community Coordination

201 (name of agency and group affiliation) (description of program)
202 (name of agency and group affiliation) (description of program)
203 (name of agency and group affiliation) (description of program)

Local Federal Personnel Services

301 (name of agency and group affiliation) (description of program)
302 (name of agency and group affiliation) (description of program)
303 (name of agency and group affiliation) (description of program)

* * * * *

Campaign Groups

701—International Service Agencies
702—National Service Agencies
703—National Health Agencies
704—American Red Cross
705—United Way/Community Chest, etc.
of ————————

(The statement: "This group also has been designated as the Principal Combined Fund Organization for ————————" shall be added after the title of federated organization serving that function.)

(3) Pledge Form and Payroll Withholding Authorization.

(i) When completed, this working form will go to the Central Receipt and Accounting Point for the local area. The format for the pledge card is set by the Director and is available from the Office of Personnel Management.

(ii) One copy of this form will be used as the Payroll Withholding Authorization. When completed, this copy will go to the contributor's payroll office. Since there are some 1,400

separate payroll offices serving Federal personnel, the withholding authorization must be in a standard format and bear adequate identification of the local campaign.

(iii) The name and mailing address of the local CFC Central Receipt and Accounting Point will be printed at the top of the form. The name must be the same as that for the campaign and include the year: for example, "1981 San Antonio Area Combined Federal Campaign."

(iv) The box entitled "Identification No." will be used for the contributor's Social Security Number, except in the case of Federal agencies that have a separate payroll identification numbering system. There is no requirement to use this space and it should only be used when it aids in accounting or campaign managment.

(f) Other campaign materials that are authorized include: (1) Chairman's Guide. For use of campaign chairmen in individual Federal installations;

(2) Keyworker's Guide. Instructions for keyworkers about CFC arrangements, solicitation methods, and forwarding procedures;

(3) Keyworker's Report Envelope. With tally sheets (which may be printed on the envelope) on which the keyworker will list the names of contributors or the number of confidential envelopes enclosed;

(4) Miscellaneous Campaign Items. Contributor's receipts, window stickers, posters, progress charts, awards, etc.;

(5) Publicity Items. News stories and fillers for the local press and house organs, employee letters, speeches of campaign leaders, division chairmen, films, television and radio material supporting the campaign; and

(6) Awards. To recognize campaign achievements by Federal agencies, Federal agency chairmen, etc. Awards should be identified as "Combined Federal Campaign" awards. The presentation of awards and plaques by individual voluntary agencies or categories of voluntary agencies for CFC accomplishments is not permitted.

(g) National materials provided and made available for use by local CFCs will be developed by an organization named by the Director. The Director will provide opportunity for comment on such materials by interested parties prior to approval. He must approve all material prior to use.

§ 950.523 Payroll Withholding.

The following policies and procedures are authorized for payroll withholding operations in accordance with Office of Personnel Management regulations in 5 CFR Part 550, Pay Administration.

(a) *Applicability.* Voluntary payroll allotments will be authorized by all Federal departments and agencies for payment of charitable contributions to local Combined Federal Campaign organizations.

(b) *Allotters.* The allotment privilege will be made available to Federal personnel as follows:

(1) Employees whose net pay regularly is sufficient to cover the allotment are eligible. An employee serving under an appointment limited to 1 year or less may make an allotment to a Combined Federal Campaign when an appropriate official of the employing Federal agency determines the employee will continue his employment for a period sufficient to justify an allotment. (This includes part-time and intermittent employees who are regularly employed.)

(2) Members of the Uniformed Services are eligible, excluding those on only short-term assignment (less than 3 months). (The Department of Defense has modified its military pay allotment regulations to authorize allotments for CFC charitable contributions by uniformed service members.)

(c) *Authorization.* (1) Allotments will be wholly voluntary and will be based upon contributors' individual written authorizations.

(2) Authorization forms in standard format will be printed by the Principal Combined Fund Organization at each location. The forms and other campaign materials will be distributed to employees when charitable contributions are solicited.

(3) Completed authorization forms should be transmitted to the payroll offices as promptly as possible, preferably by December 15. However, if forms are received after that date they should be accepted and processed by payroll offices.

(d) *Duration.* Authorizations will be in the form of a term allotment for one full year—26, 24 or 12 pay periods depending upon the allotter's pay schedule—starting with the first pay period beginning in January and ending with the last pay period that begins in December. (The standardization of beginning and ending dates, except for individual discontinuances, is intended to simplify payroll operations and minimize costs.) However, the fact that an employee or military member will not be on duty for the full year should not preclude acceptance of a payroll allotment if he has sufficient time in service remaining to make the allotment practicable. Three months or more would be considered a reasonable period of time for which to accept an allotment.

(e) *Amount.* (1) Allotters will make a single allotment which is apportioned into equal amounts for deductions each pay period during the year.

(2) The minimum amount for allotment will be determined by the local Federal Coordinating Committee but will be not less than $1.00 bi-weekly, with no restriction on size of increment above the minimum.

(3) No change of amount will be authorized during the term of an allotment.

(4) For the purpose of simplicity and economy in payroll operations, no deduction will be made for any period in which the allotter's net pay, after all legal and previously authorized deductions, is insufficient to cover the allotment. No adjustment will be made in subsequent periods to make up for deductions missed.

(f) *Remittance.* (1) One check will be sent by the payroll office each pay period, in the gross amount of deductions on the basis of current authorizations, to the Central Receipt and Accounting Point at each location for which the payroll office has received allotment authorizations.

(2) The check will be accompanied by a statement identifying the agency and the number of employee deductions. There will be no listing of allotters included or of allotter discontinuances.

(g) *Discontinuance.* (1) Allotments will be discontinued automatically:

(i) On expiration of the one-year withholding period:

(ii) On death, retirement, or separation of allotter from the Federal service.

(2) The allotter may revoke his authorization at any time by requesting it in writing from the payroll office. Discontinuance will be effective the first pay period beginning after receipt of the written revocation in the payroll office.

(3) A discontinued allotment will not be reinstated.

(h) *Transfer.* (1) When an allotter moves to another organizational unit served by a different payroll office in the same CFC location, whether in the same office or a different department or agency, his allotment authorization will be transferred to the new payroll office.

(2) When there is a delay in receiving the transferred authorization in the new payroll office, or when the allotter moves to a location covered by another CFC, the allotter should be permitted to complete a new authorization for the remainder of the one-year withholding period, which will supersede and revoke his previous authorization.

(3) When the allotter moves to a location not covered by a CFC, the allotment will automatically be

terminated unless expressly continued by the individual.

(i) *Accounting.* (1) Federal payroll offices will oversee establishment of individual allotment accounts, deductions each pay period, and reconciliation of employee accounts in accordance with agency and General Accounting Office requirements. The payroll office will accept responsibility for the accuracy of remittances, as supported by current allotment authorizations, and internal accounting and auditing requirements.

(2) The Principal Combined Fund Organization is responsible for the accuracy of transmittal of contributions. It shall transmit at least monthly for campaigns of $100,000 or more or quarterly if less than that amount, minus only the shrinkage factor and approved fee for administrative cost reimbursement. An independent audit will be provided when the CFC receipts exceed $100,000.

(3) Federated and national voluntary agencies, or their designated agents, will accept responsibility for: (i) the accuracy of distribution among the voluntary agencies of remittances from the Principal Combined Fund Organization; and (ii) arrangements for independent audit agreed upon by the participating voluntary agencies.

§ 950.525 National coordination and reporting.

(a) The Office for Regional Operations, U.S. Office of Personnel Management, is responsible under the Director for CFC arrangements.

(b) All local coordinating committees are required to notify the Office for Regional Operations of their campaign areas, their chairman's name and address, and the address of their Central Receipt and Accounting Point.

(c) All chairmen of local Federal Coordinating Committees are required to furnish reports of campaign results to the Office of Regional Operations by January 15 of each year. A reporting format will be furnished to CFC locations prior to that date requesting information on the results of the campaign, including the following:

(1) Basic data (number solicited, number of contributors);

(2) Payroll deductions (number authorizing, total pledged);

(3) Designations;

(4) Amount of undesignated receipts received by Principal Combined Fund Organization;

(5) Campaign costs; and

(6) Narrative summary evaluation of CFC arrangement based upon campaign experience. A copy of the report will be furnished to the local Federal Coordinating Committee, the Principal Combined Fund Organization, and a copy will be made available for inspection by other participating voluntary agencies and federated groups.

(d) All local activities will be coordinated with the national campaign under procedures issued by the Director through the Federal Personnel Manual system and a handbook of instructions (or other appropriate issuance) for use by participating voluntary organizations.

[FR Doc. 18464 Filed 7-2-82; 12:20 pm]
BILLING CODE 6325-01-M

OFFICE OF PERSONNEL MANAGEMENT

National Eligibility Committee for the Combined Federal Campaign; Meeting

In accordance with the Federal Advisory Committee Act, Public Law 92–463, the Director of the Office of Personnel Management announces the following meeting:

Name: National Eligibility Committee for the Combined Federal Campaign.

Date and time: July 21, 1982 at 10 a.m.

Place: The OPM Auditorium (Room GJ–14, on the Ground Floor), U.S. Office of Personnel Management, 1900 E Street, N.W., Washington, D.C.

Type of meeting: Open. Interested persons may submit written statements with the Committee in advance of or at the start of the meeting. Written statements submitted in advance of the meeting may be addressed to the Committee in the care of the Contact Person whose name and address are set forth in this Notice. Written statements submitted at the start of the meeting may be filed with the Committee at the place of the meeting. Oral comments will not be permitted at the meeting, except with the leave of the Chairman or a majority of the Committee.

Contact person: Joseph S. Patti, Special Assistant for Regional Operations, U.S. Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415, telephone 202–632–5544.

Purpose of meeting: The Committee will meet to consider applications of organizations seeking to participate in the Combined Federal Campaign as federated and national voluntary health, welfare, and other appropriate agencies, with fund-raising privileges within the Federal Service, in accordance with Executive Order 12353 (March 23, 1982) and regulations promulgated thereunder, and to determine recommendations on such applications to be made to the Director of the Office of Personnel Management.

Donald J. Devine,

Director, Office of Personnel Management.

[FR Doc. 82–18463 Filed 7–6–82; 12:20 pm]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

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Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
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DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

List of Public Laws

Last Listing July 2, 1982

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

H.R. 3863/Pub. L. 97–206 To amend the Poultry Products Inspection Act to increase the number of turkeys which may be slaughtered and processed without inspection under such Act, and for other purposes. (June 30, 1982; 96 Stat. 136) Price: $1.75

H.R. 4569/Pub. L. 97–207 To designate the United States Post Office Building in Hartford, Connecticut, as the "William R. Cotter Federal Building". (June 30, 1982; 96 Stat. 137) Price: $1.75.

H.R. 5631/Pub. L. 97–208 To authorize humanitarian assistance for the people of Lebanon. (June 30, 1982; 96 Stat. 138) Price: $1.75.

H.J. Res. 230/Pub. L. 97–209 Imploring the Union of Soviet Socialist Republics to allow Doctor Semyon Gluzman and his family to emigrate to Israel. (June 30, 1982; 96 Stat. 139) Price: $1.75.

H.J. Res. 518/Pub. L. 97–210 To designate the week commencing with the fourth Monday in June 1982 as "National NCO/ Petty Officer Week". (June 30, 1982; 96 Stat. 140) Price: $1.75.

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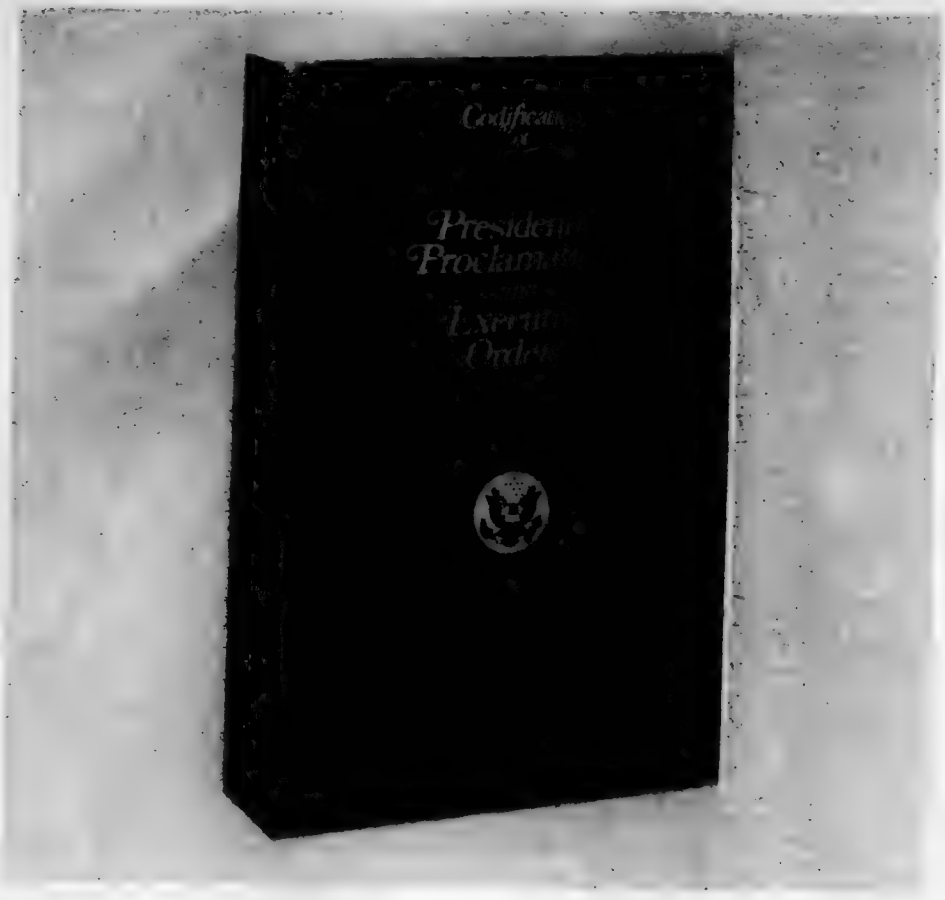

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 317 and 381

[Docket No. 78-736F]

Official Establishment Numbers on Meat and Poultry Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service is amending the Federal meat and poultry products inspection regulations to provide greater consistency and flexibility in the requirements for placement of official establishment numbers on immediate containers of meat food products and poultry products. The current meat and poultry products inspection regulations, which now differ considerably from one another, are being revised to provide identical, simplified requirements for both meat and poultry processors. This will provide processors with greater flexibility in the design and use of labeling materials, while enhancing consumers' ability to determine the source of various products.

EFFECTIVE DATE: August 6, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Hibbert, Director, Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-6042.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Agency has determined in accordance with Executive Order 12291 that this final rule is not a "major rule." It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This docket has been reviewed for cost effectiveness under USDA Secretary's Memorandum 1512-1 implementing Executive Order 12291. The implementation of this regulation will provide manufacturers of meat food products and poultry products with greater flexibility in the design and use of labeling materials. The action is not expected to have any adverse impact on industry because the final rule merely permits greater flexibility in the use of labeling materials. It imposes no new requirements on businesses of any size. There are no adverse economic impacts or social costs identified with this action. Consequently, it will have a net benefit to society. The only alternative to this action considered was to retain the status quo and not to issue these final changes. Retention of the existing regulations for placement of the official establishment number would not provide the benefits of less restrictive regulations.

Effect on Small Entities

The Administrator, Food Safety and Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act, Public Law 96-354 (5 U.S.C. 601) because this will impose no new requirements on industry. This final rule will permit greater flexibility in the use of labeling materials.

Background

In accordance with the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*), the Federal meat and poultry products inspection regulations prescribe the form of the official inspection legend denoting a federally "inspected and passed" product. The Agency assigns an establishment number to each individual establishment processing meat or poultry products under a grant of Federal inspection. This number is placed on a product label and serves as a simple and accurate identification of the source of the product.

Presently, the Federal meat inspection regulations and the poultry products inspection regulations are inconsistent regarding the placement of the official establishment number on product containers. Federal meat inspection regulations, with a few exceptions, require that the official establishment number be part of the official inspection legend which also must be printed on the product label.

However, the poultry products inspection regulations permit the official establishment number to be omitted from the official inspection legend when it is in close proximity to the legend and is clearly visible elsewhere on the exterior of the container. With respect to canned products, the meat inspection regulations require the official establishment number to be placed on both the lid of a canned product and the paper label, while the poultry products inspection regulations allow the number to be placed on either the can lid or the paper label.

The Proposal

On July 28, 1981, the Agency published a proposed rule which would correct the aforementioned inconsistencies (46 FR 38525). The comment period ended on September 28, 1981.

It was proposed that establishments have three options for the placement of the official establishment number: (1) Within the official inspection legend; (2) outside the official inspection legend on the same container panel and in close proximity to the official inspection legend, or (3) elsewhere on the container, its closure clip, or the packaging or labeling material within the container, when a statement of its location is printed contiguous with the offical inspection legend, such as "Est. No. on Lid".

Comments Received

The Agency received 11 comments in response to the proposed rule—4 from meat processors, 2 from poultry processors, 1 from a meat and poultry processor, 3 from meat trade associations, and 1 from a poultry association. Three meat processors and one meat trade association gave full

support to the proposed rule. The issues raised by the other commenters and the Agency's response to each issue are as follows:

1. Seven commenters opposed the proposed condition to option three, that when the official establishment number is placed outside the inspection legend, on a different container panel and not in close proximity to the inspection legend, a statement of its location must be printed contiguous to the inspection legend. Five of these commenters believed the condition is unnecessary except in cases where the placement of the establishment number off the exterior of the container is required to be indicated under current regulations. The other two commenters expressed their desire to eliminate any reference whatsoever to the location of the establishment number. The commenters most often cited the restrictiveness and cost of a location statement as reasons for opposing the implementation of this requirement. They believed that the Agency should consider the following factors when making a final determination concerning the necessity for a statement of location:

a. For many years, the poultry products inspection regulations have permitted the official establishment number to be placed elsewhere on labeling, even on can lids, without a statement of location except in a limited number of conditions. The meat inspection regulations, in some situations, also permit the establishment number to be placed elsewhere on the container without a statement of location. Commenters were unaware of any problems or confusion that this practice has caused consumers, processors, or governmental agencies.

b. Many product labels are so small and some labels are used in such a variety of ways on containers that a statement of location would necessitate a major redesign of the labels and require larger inventories of labels.

c. There are various makes, models, and designs of printing equipment which apply the establishment number at different locations on similarly packaged products. If the proposal were adopted, the statement of location would require new equipment or larger inventories of labels.

d. Anyone who knows enough to look for the establishment number will certainly find it if it is printed anywhere on the exterior of the container.

e. It is an established practice, especially for the poultry industry, to place embossed information on can lids, making a can lid a logical place to find the establishment number.

The Agency has carefully considered the comments on the use of a location statement and finds the arguments against such general requirement persuasive, particularly in view of the longstanding practices of the poultry industry. However, the Agency adheres to the principle that the establishment number must be easily found so that the source of product can be identified. This is of particular importance in situations where the identification and recall of adulterated or misbranded product may be necessary. The Agency believes some indicator of location would facilitate identification and recalls where the establishment number is placed in an unusual or unexpected location on the package. Under these circumstances, it seems appropriate to make a distinction between those situations where a location statement may not be necessary because the establishment number is placed in a prominent location, and those where a less prominent placement indicates a need for a location statement.

Therefore, the Agency has determined that the statement of location will not be required when the official establishment number is placed prominently on the exterior of a container or its labeling. As currently specified in the meat and poultry products inspection regulations, a statement is required with the placement of the official establishment number on bag closures, aluminum pans or trays within containers, and on the back of paper labels of canned products.

A fourth option has been added in the final rule for both meat and poultry products to permit the establishment number to be shown on an insert label placed under a transparent covering. This option is consistent with the existing § 381.123(b) of the poultry products inspection regulations.

Since, in most cases, the statement of location of the official establishment number will not be required, the Agency is retaining the language of the present regulations which requires the official establishment number to be placed in a prominent and legible manner in a size sufficient to insure easy recognition. This approach is consistent with section 1(n)(6) of the Federal Meat Inspection Act and section 4(h)(6) of the Poultry Products Inspection Act which provide that information required to appear on the product label be prominently placed with such conspicuousness and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use. The final rule has been amended to reflect these changes.

2. One meat processor was particularly concerned that the proposal addressed placement of the establishment number only and did not address content. Specifically, the commenter felt that there should be a requirement for "EST" to be prefixed to the number. The commenter stated that a number without "EST" could be interpreted as a closed date or other coded information used by the processor.

The official establishment number, when outside of the official inspection legend, has been interpreted, under existing regulations by the Agency, to include, by definition, the prefix "EST" for establishments under Federal meat inspection and "P" for establishments under Federal poultry products inspection. The Agency agrees that confusion could easily arise if the establishment number were placed outside the official inspection legend on the container or labeling without the appropriate prefix. To preclude such a practice, the Agency has included in the final rule, a provision requiring "EST" or "P" as a prefix to the number in certain cases. In situations where the location statement is required, the "EST" or "P" prefix may be omitted; e.g., on a closure clip. In these circumstances, the Agency does not believe the prefixes are necessary because the location statement identifies the number. The final regulation has not been changed in this regard.

3. A meat trade association expressed the view that the official establishment number should be shown on the label as well as the lid for canned products that are co-packed. The commenter believed that it would not be logical for any company to put the inspection legend on a label when the distributor does not own an official establishment and has never been granted Federal inspection.

The Agency is not aware of any reason to treat co-packed products differently from other labeled products. The co-packer's name on the label has long been required to be qualified by such terms as "distributor," "prepared for," or "packed for". This is an accepted, established practice which clearly indicates the relationship of the co-packer to the holder of the grant of inspection indicated by the official inspection legend on the label. Consequently, the Agency believes no change is needed to existing requirements in this regard.

List of Subjects

7 CFR Part 317

Food labeling, Meat inspection.

7 CFR Part 381

Food labeling, Poultry products inspection.

PART 317—LABELING, MARKING DEVICES, AND CONTAINERS

Accordingly, Part 317 of the Federal meat inspection regulations (9 CFR Part 317) and Part 381 of the poultry products inspection regulations (9 CFR Part 381) are revised as follows:

1. The authority citation for Part 317 reads as follows:

Authority: 34 Stat. 1260, 79 Stat 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*, 601 *et seq.*, 33 U.S.C. 1254.

2. Section 317.2(d)(2)(ii) of the Federal meat inspection regulations (9 CFR 317.2(d)(2)(ii)) is amended by deleting that portion of the present text at the end of the subdivision reading "as provided in paragraphs (f)(3), (g)(2), and (i)(8) and (9)" and inserting a period after the last reference to "panel".

3. Section 317.2(i) of the Federal meat inspection regulations (9 CFR 317.2(i)) is revised to read as follows:

§ 317.2 Labels: definition; required features.

* * * * *

(i) The official establishment number of the official establishment in which the product was processed under inspection shall be placed as follows:

(1) Within the official inspection legend in the form required by Part 312 of this subchapter; or

(2) Outside the official inspection legend elsewhere on the exterior of the container or its labeling, e.g., the lid of a can, if shown in a prominent and legible manner in a size sufficient to insure easy visibility and recognition and accompanied by the prefix "EST"; or

(3) Off the exterior of the container, e.g., on a metal clip used to close casings or bags, or on the back of a paper label of a canned product, or on other packaging or labeling material in the container, e.g., on aluminum pans and trays placed within containers, when a statement of its location is printed contiguous to the official inspection legend, such as "EST. No. on Metal Clip" or "Est. No. on Pan", if shown in a prominent and legible manner in a size sufficient to insure easy visibility and recognition; or

(4) On an insert label placed under a transparent covering if clearly visible and legible and accompanied by the prefix "EST".

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

4. The authority citation for Part 381 reads as follows:

Authority: Section 14 of the Poultry Products Inspection Act, as amended by the Wholesome Poultry Products Act (21 U.S.C. 451 *et seq.*), the Talmadge-Aiken Act of September 28, 1962 (7 U.S.C. 450); and subsection 21(b) of the Federal Water Pollution Control Act, as amended by Public Law 91–224 and by other laws (33 U.S.C. 1254).

5. Section 381.123 of the poultry products inspection regulations (9 CFR Part 381.123) is revised to read as follows:

§ 381.123 Official inspection mark; official establishment number.

The immediate container of every inspected and passed poultry product shall bear:

(a) The official inspection legend; and

(b) The official establishment number of the official establishment in which the product was processed under inspection and placed as follows:

(1) Within the official inspection legend in the form required by Subpart M of this Part; or

(2) Outside the official inspection legend elsewhere on the exterior of the container or its labeling, e.g., the lid of a can, if shown in a prominent and legible manner in a size sufficient to insure easy visibility and recognition and accompanied by the prefix "P"; or

(3) Off the exterior of the container, e.g., on a metal clip used to close casings or bags, or on the back of a paper label of a canned product, or on other packaging or labeling in the container, e.g., on aluminum pans and trays placed within containers, when a statement of its location is printed contiguous to the official inspection legend, such as "Plant No. on Package Closure" or "Plant No. on Pan", if shown in a prominent and legible manner in a size sufficient to ensure easy visibility and recognition; or

(4) On an insert label placed under a transparent covering if clearly visible and legible and accompanied by the prefix "P".

Done at Washington, D.C. on: June 21, 1982.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 82-18359 Filed 7-6-82; 8:45 am]
BILLING CODE 3410-DM-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 5

Dormant and Low Volume Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: These rules will assist the nation's commodity exchanges in discharging their self-regulatory responsibility of monitoring designated contract markets for continued compliance with the Commodity Exchange Act. The rule governing dormant contracts should provide both the exchanges and the Commission with an opportunity before a dormant contract is again listed for trading to ascertain whether the contract's terms and conditions conform to cash market practices and whether the contract is likely to serve an economic purpose, and thereby complies with the requirements of the Act. The reporting requirement for low volume contracts should aid both the Commission and the exchanges in obtaining information concerning the composition and nature of trading volume and open interest in low volume contracts. This information will be useful in determining whether the low volume contract continues to serve an economic purpose and whether additional surveillance procudures are needed to ensue that trading in the contract market remains in compliance with various provisions of the Act and Commission rules.

DATE: These rules shall be effective October 5, 1982.

ADDRESS: Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581.

FOR FURTHER INFORMATION CONTACT: Blake Imel, Deputy Director, or Paul Architzel, Acting Chief Counsel, Division of Economics and Education. Telephone (202) 254–3203; 254–6990, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581.

SUPPLEMENTARY INFORMATION: On November 5, 1980, the Commission published for public comment proposed Rules 5.2 and 5.3 (45 FR 73499 (November 5, 1980)).

The Commodity Futures Trading Commission ("Commission") has adopted two rules to aid it in monitoring continued compliance by designated contract markets with the requirements of the Commodity Exchange Act, 7 U.S.C. 1 et seq. (1976 and Supp. IV 1980) ("Act"). The first of these rules provides

that additional delivery months in dormant contracts, as defined under the rule, only may be listed for trading subject to passage by a contract market of an implementing bylaw, rule, regulation or resolution and Commission approval thereof under Section 5a(12) of the Act, 7 U.S.C. 7a(12) (Supp. IV, 1980) and Commission Rule 1.41(b), 17 CFR 1.41(b). As adopted, the definition of dormant contract provides that a contract market is "dormant" when it has not traded for any of six consecutive months. In addition,the rule provides a period of three years from either initial designation or from the date of Commission approval to resume trading before a contract is considered to be "dormant."

The second rule requires low volume contract markets to provide data concerning trading by floor brokers or floor traders and customers; identification of commercial participants in the low volume contract; and a brief statement of additional surveillance procedures instituted by the contract market to detect potential trade practice violations. As adopted, the reporting requirement is triggered when fewer than 1,000 contracts are traded in four of any six months. Reports are not required during the first three years following the initial designation of a contract market by the Commission or following approval by the Commission of the resumption of trading of a dormant contract. In addition, the final rule provides a procedure whereby a contract market, when reporting for any low volume trading period, may petition the Commission to exempt it from future reporting.

The Commission provided approximately three months for public comment on the proposed rules and later extended the comment period by an additional thirty days. 46 FR 9958 (January 30, 1981). Seven commodity exchanges commented on the proposed rules. Of the seven commentators, one favored proposed Commission Rule 5.3, a reporting requirement on low volume contracts, and expressed concern over only certain technical aspects of the rule. The remaining commentators were opposed to the proposed rules.

Generally, opposing commentators questioned whether proposed Commission Rule 5.2, governing dormant contracts, could be a means of avoiding procedural requirements established in various sections of the Act; whether the Commission had correctly apprehended the meaning of the Section 5(g) (7 U.S.C. 7(g) (1976)) "public interest" requirement for designation; and whether the cost of compliance with the rule as proposed was justified. Commentators generally, however, did not describe the procedures, if any, they now take to assure that the terms and conditions of a dormant contract are in compliance with the Act before trading in such contracts is resumed.

Commentators opposed to proposed Commission Rule 5.3, which requires certain reports on low volume contracts, again suggested that the Commission had misconstrued the Section 5(g) "public interest" requirement for continuing designation; that there was a lack of compelling evidence that certain trade practice abuses have been associated with low volume markets; and that the cost of compliance outweighed the benefits to be derived from the rule. The Commission has carefully considered all of the comments submitted and for the reasons set forth below, believes that the rules, as modified, should be adopted.

I. Dormant Contracts

1. Statutory Authority

Commission Rule 5.2 provides that additional months for trading of a dormant contract only may be listed to trade following approval by the Commission under Section 5a(12) of the Act, 7 U.S.C. 7a(12) (Supp. IV 1980), and Commission Rule 1.41(b), 17 CFR 1.41, of an exchange bylaw, rule, regulation, or implementing resolution. Several commentators suggested that the Commission's rule, in effect, would revoke or suspend contract market designations without according the contract market a revocation proceeding.

The Commission does not view Rule 5.2 as a substitute for any of the procedures provided in the Act for contract market revocation. As the Commission stated in its November 5, 1980, **Federal Register** notice, the purpose of the rule is to provide the Commission an opportunity to review the economic purpose of a dormant contract and the adequacy of its terms and conditions prior to its resumption of trading. If, as a result of that review, however, the Commission believes that the contract would serve no economic purpose or that the contract market is otherwise in violation of the Act's continuing requirements for designation, it would commence an independent revocation proceeding under Sections 5b and 6(a) of the Act, 7 U.S.C. 7b and 8(a) (Supp. IV, 1980).[1]

Some commentators opined that Commission Rule 5.2 would have the effect of amending existing exchange bylaws or regulations, and that such amendments must be made pursuant to the procedures provided by Section 8a(7) of the Act, 7 U.S.C. 12a(7) (1976). That section empowers the Commission to alter or supplement the rules of any contract market under certain conditions. The Commission believes that this view is without merit.

In the first instance, many, if not all of the rules of general applicability promulgated by the Commission under Section 8a(5) of the Act, 7 U.S.C. 12a(5) (1976), may affect particular exchange bylaws, rules, or practices. Indeed, Commission Rule 5.2 is similar to other Commission rules which require exchanges to provide certain information to the Commission (*See e.g.*, Commission Rule 1.50), and is consonant with the existing over-all regulatory scheme.

Moreover, the Commission's Section 8a(7) authority to alter or supplement particular rules of a contract market does not abrogate the Commission's broad authority to promulgate rules of general applicability. As the Commission has previously explained:

> Commission approval of a rule of a particular contract market * * * does not preclude the Commission in the future from adopting a rule applicable to all contract markets which would impose additional or different requirements than those set forth in the exchange rule that the Commission had previously approved. To view the matter differently would subordinate the Commission's general rulemaking authority

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[1] At least one commentator likened the potential delay in trading a contract to a suspension of a contract market designation pursuant to Section 5b of the Act, 7 U.S.C. 7b (1974). A delay in the resumption of trading pending Commission review following a period of dormancy, however, is not synonymous to the suspension of designation of an actively traded contract.

This rule is not intended to effectuate a suspension, but rather is intended to provide the Commission certain types of information so that it may determine whether resumed trading in the contract is in compliance with the requirements of the Act. As the Commission noted in its **Federal Register** notice proposing Rule 5.2, the Commission had considered as an alternative approach, to require dormant contract markets routinely to demonstrate continued compliance with the Act through periodic filings of information pursuant to Commission Rule 1.50. Instead, the Commission determined that the better approach is to require such a showing for dormant contracts only prior to an intended resumption of trading. Despite this difference in approach, Commission Rule 5.2 performs an information-generating function similar to that of Commission Rule 1.50.

In any event, it should be noted that the rule provides that if no Commission action has been taken on an exchange submission to resume trading within thirty days, the Commission shall approve the exchange bylaw, rule, regulation or resolution permitting trading to resume. Moreover, the Commission noted in its November 5, 1980, notice, and hereby reaffirms, that it intends to expedite its review and consideration of contract market submissions concerning dormant contracts.

to that of the governing board of a single exchange whose judgment may differ from that which the Commission may subsequently make in discharging its responsibilities under the Act. 43 FR 39956, 39967 (September 8, 1978)

In this regard, the commentators' suggestion that their procedural rights might have been prejudiced by this informal rulemaking proceeding was based on the erroneours belief that Commission modifications of exchange rules under Section 8a(7) are accomplished through more formal procedures than used here. However, the Commission has interpreted Section 8a(7) as requiring only informal rulemaking proceedings to amend or alter exchange rules.[2]

2. Sections 5 and 5a Considerations

The Commission may designate a board of trade as a contract market for futures trading only when it meets the requirements of Sections 5 and 5a of the Act. The Commission noted in its November 5, 1980, Federal Register release that document contracts raise particular issues relating to the contracts' continuing compliance with particular requirements of those sections. Specifically, under Section 5(g) of the Act, a contract market must demonstrate that transactions for future delivery will not be contrary to the public interest. The test includes an "economic purpose" test which requires a board of trade to demonstrate that more than occasional use of the contract for hedging or price basing exists, or reasonably can be expected to exist. Comm. Fut. L Rep. [CCH] ¶6145 at 6077.

In proposing Rule 5.2, the Commission reasoned that contracts which have ceased to trade may not be fulfilling, and may be unable to fulfill, the economic purpose which is required of them in order to retain designation. As one commentator agreed:

[l]ogically, if the market for the particular contract is non-existent, the very moribundity of the market indicates that the contract may in fact be serving no economic purpose.

One commentator asserted that when Congress enacted the public interest test in place of the House of Representatives' proposed "economic purpose" test, Congress did not intend to require a demonstration of a contract's economic purpose as one of the conditions for designation. However, Congress made clear when it adopted Section 5(g) that the public interest test includes, and is broader than the "economic purpose" test. *See*, S. Rep. No. 1194, 93d Cong., 2d Sess. 36 (1974); Commission Guideline No. 1, Comm. Fut. L. Rep.¶ 6145, at 6077–6078.[3]

Other commentators suggested that market interest in, or volume of, trading alone should determine whether a contract serves an economic purpose. They reasoned that if an exchange wished to resume trading a dormant contract, its interest in resuming trading on a trial basis was sufficient to establish economic purpose and no further justification was required. The market would then determine definitively the economic purpose of the contract by the success of the trading months which were listed as a "trial balloon."

However, once a contract fails to trade, and becomes dormant, the market has, to some extent, passed judgment on that contract. Accordingly, the Commission and the contract markets must consider that prior market failure when assessing whether the dormant contract complies with the requirements of Section 5(g) of the Act.[4] Moreover, the Act places a higher burden on contract markets for continued designation than merely demonstrating that some trading in the contract occurs.[5]

The Commission also noted in its previous Federal Register notice that in addition to a failure to serve an economic purpose, a dormant contract raises concerns over other requirements contained in Sections 5 and 5a of the Act which require the conformity of contract terms and conditions to current cash market conditions. For active contracts the Commission depends to a certain extent upon its surveillance of the trading activity and delivery experience as an early indicator that the terms and conditions of particular contracts may require alteration if they are to remain in compliance with the Act. In the case of dormant contracts, of course, surveillance experience cannot serve as an indicator of possible contract deficiencies to either the Commission or the contract market.

With respect to continuing conformity of contract terms and conditions with current cash market practices, three commentators opined that the Commission should rely solely on the exchange's perceptions of their own costs and benefits in determining whether a dormant contract was suitable for the listing of new delivery months. Another commentator noted that the proposed rule "improperly shifts the burden from the Commission to the Exchange in regard to its continued existence as a contract market."

The Commission is not persuaded by these comments that concerns over continuing compliance of the terms of contracts which have ceased trading are inappropriate. For example, none of the exchanges indicated that they routinely reviewed the terms and conditions of contracts which have ceased to trade to assure their continuing compliance with the Act. To the contrary, one exchange suggested that resumption of trading to test whether there was sufficient interest before the terms and conditions would be reviewed by the contract market was the appropriate, most cost-effective means of reviving a dormant contract.[6] As noted above, however, the Act clearly provides that designation requires continuing compliance with certain provisions of the Act and that the burden of such continuing compliance rests with the board of trade.

3. Associated Costs

Several commentators objected that the costs associated with the rule as

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[2] *See e.g.*, 46 FR 57457, 57458 (Nov. 24, 1981). *Board of Trade of the City of Chicago* v *Commodity Futures Trading Commission*, Case No. 81 C 7175 (N.D. Ill. February 25, 1982) (per McMillen, J.), Transcript, p. 57–68; Order dated April 23, 1982, p. 7, *appeal pending*, No. 82–1682 (7th Cir.).

[3] In adopting the "not contrary to the public interest" test, the Conference Committee reported that:

The broader language of the Senate provision would include the concept of the "economic purpose" test provided in the House bill subject to the final test of the "public interest".

S. Rep. No. 1194, *supra*, at 36.

[4] The Commission notes, however, that the rule does not contemplate that the lack of trading alone indicates that a previously designated contract no longer meets the economic purpose requirements. Instead, as noted in the release accompanying proposed Rule 5.2, the Commission believes that dormant contracts raise particular questions which make it appropriate that the Commission be afforded the opportunity to review the prospective economic purpose of trading in additional delivery months proposed for listing. For instance, the Commission has noted that economic conditions which have changed subsequent to the time which the contract became dormant may make it reasonable to expect that the contract will be used upon more than an occasional basis for hedging or price basing. 46 FR 73499, 73501.

[5] Thus, even where substantial trading activity in a contract occurs:

[I]f a market were being used almost entirely for speculation rather than for legitimate hedging, it would not be in the public interest. 120 Cong. Rec. 30468 (September 9, 1974) (Senator Talmadge)

[6] By enacting Section 5(g) of the Act, however, Congress determined that more than mere trading volume would be required for a contract market to continue to meet the conditions of designation. Moreover, the provisions of Section 5a of the Act, 7 U.S.C. 7a (1976 and Supp. IV 1980), which concern contract terms and conditions, specify additional requirements for continuing designation which are unrelated to trading volume. For example, Section 5a(10), 7 U.S.C. 7a(10) (1976), requires that contract markets specify delivery points, deliverable grades and price differentials which will prevent or diminish manipulation, market congestion and abnormal movements of the commodity, and provides that the Commission may modify such contract terms to accomplish these purposes for contracts which are currently trading, if the contract market fails to do so.

proposed outweighed its benefits and suggested that the additional cost of preparing a submission under Commission Rule 5.2 would discourage exchanges from listing new months for trading in a dormant contract. In addition, some commentators expressed a concern that Commission review of materials submitted under the proposed rules on dormant or low volume contracts would divert Commission resources from other matters, such as the review of applications for the designation of new contract markets. Some commentators also argued that the delay in listing new months once an exchange had decided to seek Commission approval would impose an unacceptable cost on society.[7] The Commission has carefully weighed these arguments, and has determined that the approach being adopted is the least costly, particularly in view of certain modifications to the proposed rule concerning the proposed exemption period and the definition of dormant contracts which are discussed below.

The Commission recognizes that preparation of the justification required by the rule will involve an additional expense to an exchange wishing to resume trading in a dormant contract. However, there is a countervailing cost to society in the event that contracts with inadequate terms and conditions are listed for trading and disruptive trading resulted. Moreover, in order to retain designation and to be in compliance with the requirements of the Act, contract markets must in any event keep their terms and conditions in conformance with cash market practices and must meet the requirements of the economic purpose test. Thus, the contract market necessarily would have to assure itself that resumed trading in a dormant contract would be in compliance with these requirements of the Act. Accordingly, the burden associated with submitting a justification to the Commission is not substantially greater than that which currently is required under the Act of the contract markets as self-regulatory organizations.

The Commission fully anticipates that the review of materials submitted under its new Rules 5.2 and 5.3 may at times draw on Commission resources. For the reasons stated above, the continuing nature of the requirements of Sections 5 and 5a of the Act underscore that this use of the Commission's resources is appropriate. And, as discussed below, alternatives to this rule would require a far greater expenditure of Commission resources in enforcing these provisions of the Act. Moreover, the Commission believes that competing demands for its resources which are caused by its obligations to review the compliance of newly proposed contracts as well as to insure compliance of currently designated contracts may be resolved through other measures.[8]

In proposing Rule 5.2, the Commission noted that one alternative to the proposed rule would require contract markets which have no trading activity to demonstrate periodically continued compliance with the Act through the routine filing of appropriate materials pursuant to § 1.50 of the Commission Rules, 17 CFR 1.50. Thus, the Commission would be assured that whenever a dormant contract was again listed, it would be in compliance with the Act. For the reasons stated in the prior notice, the Commission continues to believe that this alternative approach would impose far greater costs on both the contract markets and on the Commission.

Nor will there be substantial delays in the resumption of trading dormant contracts. The rule provides that the Commission will approve within thirty days of its receipt, the bylaw, rule, regulation or resolution of the contract market to list additional trading months unless it determines within that time that further comment or information is needed. Moreover, the Commission has committed itself to expedite consideration of contract market submissions concerning dormant contracts. Accordingly, with cooperation from the contract markets, any cost to society associated with undue delays can be minimized.

4. Other Considerations

As proposed, Rule 5.2 defined a dormant contract as any futures contract in which no trading occurred in any future listed for trading in any one calendar month which followed the earlier of the twelfth calendar month subsequent to initial trading or the eighteenth calendar month after designation. In connection with this definition, several commentators questioned the appropriateness of the one-month of no trading activity criterion.

Commentators believes that one month was too short a time period on which to base a decision to discontinue the listing of additional trading months. When no trading activity has occurred for one month, however, the likelihood of resumed trading in the contract in the short term is remote. The Commission recognizes, however, that at times there may be exceptions to this. In certain instances it is possible that a lack of trading interest in a particular contract may be due to technical deficiencies. to the extent possible, the Commission desires to give boards of trade sufficient time to correct these deficiencies. In this respect, the Commission believes that a six month time period is more than sufficient for exchanges to determine whether to list additional months for trading. Further, a six-month period to establish a contract's dormancy is consistent with the low volume reporting period adopted in Rule 5.3.[9]

The Commission has also added a provision which enables a contract market to certify to the Commission that a contract is dormant. Without this provision, a contract market which has had any trading during a six month period, no matter how minimal, would not be dormant. The Commission has provided for this voluntary certification procedure in order to relieve contract markets of what might be perceived to

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[7] One such commentator misunderstood the nature of the requirement of Commission Rule 5.2, believing that it required approval "of each additional delivery month listed for trading in contracts which are 'dormant'." This rule as proposed, and as adopted, only requires contract markets to obtain Commission approval at the time trading in a dormant contract is resumed. That is not to say, however, the Rule 5.2 supercedes or limits the obligation of contract markets to submit exchange rules or resolutions pursuant to Section 5a(12) of the Act, and Commission Rule 1.41, 17 CFR 1.41, thereunder.

[8] For example, in response to an increasing number of pending designation applications, the Commission in mid 1980 implemented steps to increase the rate at which applications could be considered with existing staff resources. In the first eighteen months since the new procedures were adopted, the Commission has acted upon a total of thirty applications for the designation of new contracts. In contrast, only twenty-nine such applications were acted upon previously, since the inception of the Commission in April of 1975.

In addition, on September 17, 1981, the Chairman of the Commission sent letters to contract markets and subsequently announced in the **Federal Register** (46 FR 47108 (September 24, 1981)) a new Commission policy concerning voluntary withdrawal of designation applications by contract markets which failed to respond to Commission requests for additional information concerning the submission within ninety-days. Five pending applications have been voluntarily withdrawn by exchanges since that time.

Finally, the Commission has proposed revisions to its current Guideline No. 1, to ameliorate the:

Substantial Commission resources [required] for purposes of soliciting additional information from boards of trade and other sources, * * * [and the] concommitant delays in review.

45 FR 73504 (November 5, 1980). That proposal remains pending.

[9] In this connection, one commentator opined that the proposed one month period might result in hedgers being unable to roll-over their positions, as planned, into delivery months yet to be listed. After a contract has failed to trade for a six month period, however, it is unlikely that any hedger would expect to be able to roll-over positions into newly listed months.

be an additional burden—filing a low volume report even though the exchange has determined during the relevant low volume period not to list additional trading months in that contract.

The proposed rule provided that a contract could be considered dormant only after the first year of trading. Commentators suggested that this grace period was insufficient to determine the potential commercial viability of a contract. These commentators contended that the one year period would place an undue burden on exchanges in terms of rejustifying contracts and could discourage the successful introduction of new contracts. Although one year is generally a sufficient period to determine the success of a new contract, the Commission agrees that a longer period may be necessary in some cases before meaningful evidence of commercial use of the contract for hedging or for price basing is established. More importantly, with respect to the concern over the terms and conditions of dormant contracts, the Commission believes that cash market practices do not normally change significantly over the first several years following a review of a contract. In view of this, the Commission has modified the rule to provide an exemption period of three years following designation by the Commission during which no contract shall be considered to be dormant.

Under Commission Rule 5.2, before a dormant contract resumes trading, the contract market must demonstrate that it likely will serve an economic purpose and that the terms and conditions of the contract conform to the cash market. The Commission therefore has determined that previously dormant contracts which have been approved for resumed trading pursuant to Rule 5.2, should be treated similarly to newly designated contracts. Accordingly, Commission Rule 5.2, as adopted, provides that in no event shall a contract be considered as dormant during the first thirty-six (36) complete calendar months following Commission approval of resumed trading under the rule.[10]

[10] As originally proposed, Rule 5.2 provided for a period of up to approximately six months after designation for an exchange to initiate trading in a newly approved contract and commence the twelve month grace period discussed above. This initial six month period was intended to allow exchanges to take steps necessary to facilitate trading prior to listing. In view of the extended exemption period adopted, this distinction between the time of Commission designation and initial trading has been eliminated and all calculations in Rule 5.2 are based upon the date of Commission approval.

On a related issue, one commentator suggested that upon amendment of terms and conditions of a contract—regardless of whether it is dormant or low volume—contract markets be granted an exemption period under Rules 5.2 and 5.3 similar to that provided for newly designated contract markets, because "* * * a change in contract market rules may alter the character of a contract to such an extent that it may be practically considered a new contract." The Commission has considered this comment and has determined not to amend the rule precisely as suggested because in the case of many exchange submissions pursuant to Section 5a(12) of the Act, the Commission may elect to review only the specific amendments submitted. In such cases, where the Commission has not conducted a general review of the contract, the Commission does not believe that it would be appropriate to renew the exemption period. However, in other cases, such as an extensively revised contract, or in connection with an extensive submission pursuant to Commission Rule 1.50,[11] the level of review concerning all substantive aspects of the contract terms and conditions may, in fact, be equivalent to that afforded a new designation application or to that afforded a dormant contract approved for resumed trading. In those instances, renewal of the exemption period would be appropriate. Accordingly, as adopted, Rule 5.2 provides that, at its discretion, the Commission may renew the exemption period for any contract for thirty-six months following a general review of the contract for compliance with Sections 5 and 5a of the Act.

II. Low Volume Contracts

With respect to Commission Rule 5.3, one commentator approved of the Commission's general concerns and proposed solution, noting that it applaud[ed] the Commission's decision to propose these less burdensome reporting requirements rather than implementing a policy of making routine requests for information as to low volume contracts under Commission rule § 1.50. We also appreciate that while the Commission has stated its doubts as to the economic purpose served by low volume contracts, rule §5.3 would permit the existence (or lack) of economic purpose to be demonstrated by data reflecting the actual experience and usage of the market.

Other comments relating to Commission Rule 5.3, however, generally suggested that the Commission had misconstrued the Section 5(g) "public interest" requirement for designation and questioned whether the Commission had adequately considered the cost to the exchanges of compliance with the rule.

1. Need for Commission Rule 5.3

Several commentators opined that Commission Rule 5.3 was based upon the Commission's misreading of the appropriate Section 5(g) and Commission Guideline 1 criteria. These comments questioned whether a reporting requirement was needed as long as there was any trading in a specified contract. Any trading, no matter how minimal, they contended, demonstrated that the contract served an economic purpose and was therefore in compliance with the Act. Others opined that the potential to serve a hedging or price basing function—even in the absence of such actual usage—was sufficient. Some of the comments suggested that by proposing special requirements on contracts which trade below a specified volume level, the Commission had made a determination that such contracts were deficient with respect to the economic requirements of Sections 5 and 5a of the Act. Finally, some commentators suggested that the Commission had not demonstrated that trade practice abuses are likely to occur in low volume markets, and that if these did exist, Rule 5.3 did not adequately address the problem.

The Commission disagrees. The experience of the Commission has demonstrated that exchanges do not routinely conduct the necessary surveys to determine whether low volume contracts continue to fulfill an economic purpose by serving a hedging or price basing function. Moreover, the fact that there is some trading in a contract does not establish that the contract is being used for more than occasional hedging or for price basing. As the Commission explained in its November 5, 1980, notice, the purpose of Commission Rule 5.3, in part, is to solicit the information necessary to provide some evidence

[11] Commission Rule 1.50 pertains to Commission requests for information demonstrating that a contract market is complying with "the conditions and requirements of Sections 5 and 5a of the Act." However, paragraph (a) of that rule provides that:

[A]t the discretion of the Commission, the information requested may be limited to certain conditions and requirements of Sections 5 and 5a of the Act.

Accordingly, not every review of a contract pursuant to this rule will necessarily involve all aspects of Guideline 1.

Conversely, the Commission may also review all major aspects of a contract when amendments to only a single term are submitted for approval. Major contract terms are often interrelated and Commission Rule 1.41(b) provides that in submitting reviewable rules for Commission approval, contract markets set forth "any other information which may be beneficial to the Commission in analyzing the proposed reviewable rule.

whether the contract is, in fact, being used for hedging purposes.[12]

The Commission believes that while a contract is trading, objective evidence which demonstrates that the contract is being used for hedging is the most reliable means of determining a contract market's continuing compliance with the economic purpose requirement of the Act.[13] As the Commission noted, however, because it does not require small traders to report, evidence is often lacking of the participation in a low volume contract market of commercial users, who tend to be non-reporting, smaller traders. Thus, the reporting requirement of Commission Rule 5.3 concerning commercial participation may be necessary to ascertain whether commercial users are among those trading a particular low volume contract.

Several commentators pointed out that a relatively low level of trading volume in a futures contract may have much to do with factors outside of contract design. They opined that the required reports do not take into account such reasons. As some commentators pointed out, changing economic circumstances in the underlying cash market could greatly influence whether or not a contract realized its potential usefulness for purposes of hedging.

The Commission is aware of this possibility and, as discussed above in relation to Rule 5.2, considered the alternative of routinely requiring those contract markets that trade at a low volume to demonstrate continued compliance with Sections 5 and 5a of the Act under Commission Rule 1.50, which could require a full description of current economic circumstances, rather than the mere documentation of current commercial usage of the market. However, the Commission does not believe that such a burdensome requirement is necessary since in many instances summary data concerning the nature of trading activity and commercial participation may indicate whether the contract is being used on more than an occasional basis for hedging.[14]

In this regard, the Commission does not agree with those commentators who suggested that the reporting requirements of rule 5.3 imply that it has in some manner passed judgment on the commercial utility or the efficacy of contract terms of those contract markets which trade at a relatively low volume. Instead, the Commission has noted the potential for noncompliance by low volume contract markets with certain requirements of Sections 5 and 5a of the Act, and the absence of information which is readily available through existing sources which may address these concerns. Accordingly, adoption of Rule 5.3 simply represents the institution of a reporting requirement to fill this void, and in no way implies that the Commission has prejudged the compliance of those contract markets.

Commentators also objected to Commission Rule 5.3 on the grounds that the Commission has not sufficiently established that a particular problem exists with respect to trade practices in low volume contract markets or that this method of addressing that problem is cost-effective. For example, one commentator stated that requiring reports of volume and open contract positions will not help monitor trade practices. Others maintained that the self-interest of exchanges in promoting a positive image would insure that adequate surveillance is undertaken by the exchange without the necessity of a Commission rule.

Cases brought by the Commission, however, have involved low volume markets where the lack of competition in those markets has enhanced the potential for trade practice abuses to occur. For example, the Commission has entered into an agreement with one exchange, the New York Mercantile Exchange, in settlement of a compplaint by the Commission alleging failure of the exchange to enforce its rules and to conduct adequate surveillance of low volume contract markets in 400 ounce gold and in silver coins.[15]

The reporting requirement of Rule 5.3 is not intended to remedy directly the trade practice abuses which may occur in low volume markets. To the contrary, information required by the rule is intended to aid the Commission in identifying potential trade practice problems, if any, and to inform the Commission of the self-regulatory steps the exchange will take to insure that the enhanced opportunity for trade practice abuses in a low volume market will be addressed. The Commission believes that Rule 5.3 will be an effective means to aid it and the exchanges in improving the surveillance and policing of low volume contract markets.

2. Associated Costs

Several commentators suggested that certain technical amendments to the Commission's rule would alleviate unnecessary burdens associated with it. These commentators suggested that the volume level which triggers the reporting requirement, and its open-ended nature, may impose an unwarranted burden on certain contract markets. As the Commission has noted, some contract markets habitually may trade at low levels yet raise none of the issues associated with other low volume markets. Accordingly, after further consideration, the Commission has determined to modify the rule as proposed by providing a procedure whereby a contract market which has become low volume may petition the

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[12] The Commission noted in its Federal Register Notice of November 5, 1980, that futures prices on low volume contract markets "may not fulfill a significant price basing function because they are not generally disseminated or are disseminated on an infrequent basis." 45 FR 73502. One commentator took exception, noting that it disseminated price information for all of its contracts. However, even when an exchange does disseminate prices for low volume contracts, price dissemination, without more, is not indicative that the contract is used for price basing. To demonstrate that a low volume contract is fulfilling this function, an exchange would have to provide evidence that commercials were using the price information generated by futures trading in pricing their commodities.

This information, however, is not required to be submitted under the rule. The Commission did not require that such information be submitted in light of the intended summary nature of the information generated under the rule. Nevertheless, the Commission believes that such information appropriately could be submitted as evidence which justifies the granting by the Commission of a petition to exempt the contract market from future reporting under Rule 5.3(c).

[13] As adopted, Rule 5.3 permits the contract market to submit statistics compiled by the Commission or by any other reliable source, or to conduct its own survey to identify use of the contract by hedgers.

[14] Where the statistical evidence generated by Commission Rule 5.3 reports fails to establish such hedging use, the Commission may determine that a more complete justification under Commission Rule 1.50 is warranted. One commentator, however, disagreed with the Commission's belief that the approach proposed under Rule 5.3 was preferable to routine calls for information pursuant to Commission Rule 1.50. Among other things, this commentator noted that Rule 1.50 allows the Commission to limit its request to specified information. However, as noted above, another exchange specifically approved of "these less burdensome reporting requirements * * *."

[15] *See e.g., In re New York Mercantile Exchange*, C.F.T.C. Docket No. 81-23. *See also, In the Matter of Stephen M. Sundheimer*, 2 Comm. Fut. L. Rep. ¶21, 245 (September 10, 1981), *appeal pending* No. 81-4166 (2d Cir.); and *In the Matter of Alfred Perlmutter*, Docket No. 79-33, Opinion and Order Accepting Offer of Settlement, (C.F.T.C. Dec. 3, 1979) (prearranged trading in the crude oil futures contract of the Petroleum Associates of the New York Cotton Exchange).

In addition, in connection with cases for criminal tax fraud or other violations, courts have noted the occurrence of trade practice abuses in the crude oil futures contract of the Petroleum Associates of the New York Cotton Exchange and in the Mexican Peso contract traded on the International Monetary Market of the Chicago Mercantile Exchange. *Cf. United States v. Turkish, et al.*, 623 F. 2d 769 (2d Cir. 1980) *cert. denied* —— *U.S.* ——, *101 S. Ct. 856 (1981) (crude oil contract); and United States v. Winograd*, 565 F. 2d 279 (7th Cir. 1981), *cert. denied sub nom, Siegel v. United States*, —— U.S. ——, 103 S. Ct. 1612 (1982) (Mexican Peso contract).

Commission for an exemption from future reporting at the time it files a report pursuant to Rule 5.3. The Commission may grant such a petition, in whole or in part, for such time as it determines, if the petitioner demonstrates that it reasonably can be expected that use of the contract for hedging or price basing will continue for the foreseeable future at then current levels, and that adequate surveillance procedures have been established.

Commentators suggested that the uniform reporting level for all contract markets imposed an unnecessary burden because some commodities may be expected to trade at a lower level than others. In proposing the rule, the Commission had studied data which indicated that a reporting level based upon approximately 4,000 contracts per month would not be unduly burdensome on contract markets in view of the purposes of this rule. Nevertheless, the Commission has reconsidered the issue of what level is most appropriate to trigger the low volume reporting level. Upon further study, and in light of the comments submitted, the Commission believes that a reporting level based upon a volume of 1,000 contracts a month is appropriate at this time.

This determination is based upon an examination of data from the Commission's large trader reporting system for sample periods from the past six years concerning reported hedging positions in contracts which were trading at various minimum volumes. This data indicated that for contracts trading at a reporting level based upon 1,000 contracts a month, the Commission's large trader reporting system is most clearly deficient in terms of ascertaining actual commercial use of the markets. However, the Commission notes that based upon its review of the information received under this rule, it may propose amendments to the level in the future. In light of the lower reporting level which is being adopted, the Commission believes that no differentiation in the levels between commodities is necessary. Of course, individual contract markets which fall below the level as adopted and believe that the level is unreasonably high in that particular instance, may petition the Commission, as discussed above, to waive the reporting requirement.

With respect to the specific evidence which must be reported under Commission Rule 5.3 demonstrating use of the contract by commercials for hedging, the Commission has determined to modify Rule 5.3 as proposed, to provide that the contract market may submit statistical data gathered from a wider number of possible sources. As proposed, Rule 5.3 required contract markets to fully enumerate commercial interests using the contract on selected dates or to submit statistics concerning the positions of reportable traders from the Commission's Commitments of Traders Booklet. However, upon further consideration, the Commission believes that data demonstrating that a contract is used for hedging or pricing on more than an occasional basis may be available from additional sources or by means other than those provided for in the proposed rule. For instance, a contract market may be able to demonstrate substantive commercial hedging by reference to owners of larger positions, rather than to the total population of commercial accounts. Accordingly, the Commission has amended Rule 5.3 to permit contract markets to submit any statistical evidence gathered from a compilation similar to the Commission's Commitments of Large Traders Booklet or other pertinent information which tends to demonstrate the use of the contract by commercial interests for hedging.

One commentator questioned the requirement that reports identifying commercial participants be for three month-end business days. The Commission believed that the statistical information requested would be most readily available from futures commission merchants, or others, at month-end. However, under the rule as adopted, if reporting contract markets would prefer to use some other days on which to base the report they may do so, providing the days selected are at intervals of approximately one month and fall within the last four months of the low volume period for which reports are being filed.

3. Other Considerations

As with the proposed rule on dormant contracts, several commentators suggested that the one year grace period provided by the rule before a contract could be classified as inactive was insufficient to provide conclusive data concerning its ultimate commercial usage. Accordingly, these commentators contended that such data would not be meaningful. The Commission has amended the proposed rule to provide that no low volume contract market shall be required to file reports for a three year period following designation by the Commission. As with dormant contracts, the Commission believes that a longer period may be necessary in some cases before meaningful experience concerning commercial usage can be established.

In addition, as with Rule 5.2 for dormant contracts, the Commission has also modified the exemption period in proposed Rule 5.3 to provide that no contract shall be required to file low volume reports during the first thirty-six months following Commission approval of the listing of additional trading months pursuant to the dormant contract rule, Rule 5.2, or in the Commission's discretion, for thirty-six months following review of the economic purpose and the terms and conditions of the contract. As noted above, resumption of trading under Rule 5.2, requires that a dormant contract will likely serve an economic purpose.[16]

III. Section 15 Considerations

Finally, one commentator objected that Commission Rules 5.2 and 5.3 had an anticompetitive effect and thereby violated Section 15 of the Act because they did not provide for a reduced reporting requirement on the smaller exchanges. This commentator opined that other, smaller exchanges would be unable to foster the development of new contracts or to resume trading in dormant contracts as readily as would larger exchanges.

The Commission recognizes that smaller exchanges may have available to them fewer resources for development of new contracts. Although exchanges may have differing levels of available resources, all must meet certain self-regulatory responsibilities. The Act requires that all contract markets must serve an economic purpose and that their terms remain in conformity with the cash markets. Thus, in adopting these rules, the Commission has considered the public interest to be protected by the antitrust laws and has endeavored to take the least anticompetitive means of achieving the

[16] Under the exemption provision of Commission Rule 5.3(c) newly designated contract markets as well as dormant contracts which have been approved for trading and contracts granted an exemption following Commission review of the contract are not required to file low volume trading reports for a period of thirty-six months. The Commission thereby intends to provide a period during which new contracts have an opportunity to build trading volume free from the low volume reporting requirement. Accordingly, under the exemption, contract markets which are "low volume" at the expiration of the exemption period must file a low volume report for only that low volume trading period which immediately preceded the expiration of the reporting exemption. Similarly, the obligation of a contract market under Commission Rule 5.2 to obtain Commission approval before listing additional trading months begins at the expiration of the exemption period; if, at that time, the contract market is "dormant" as defined in the rule.

objectives of the Act. *See,* Section 15 of the Act, 7 U.S.C. 19 (1976).[17]

List of Subjects in 17 CFR Part 5

Contract markets, Dormant contract markets, Low volume contract markets, Low volume periods, Reporting requirement, Trading month.

Accordingly, pursuant to the authority in Sections 5, 5a, 6 and 8a(5) of the Commodity Exchange Act, as amended, 7 U.S.C. 7, 7a, 8 and 12a(5) (1976 and Supp. IV 1980), the Commission is adopting new §§ 5.2 and 5.3 and is adding Part 5 to its regulations as follows:

PART 5—DESIGNATION OF AND CONTINUING COMPLIANCE BY CONTRACT MARKETS

Sec.
5.2 Dormant contract.
5.3 Low volume contract.

Authority: Secs. 5, 5a, 6 and 8a(5) of the Commodity Exchange Act, as amended, 7 U.S.C. 7, 7a, 8 and 12a(5) (1976 and Supp. IV 1980).

§ 5.2 Dormant Contracts.

(a) *Defintions.* For the purpose of this section the term "dormant contract" means any commodity futures contract; (1) in which no trading has occurred in any future listed for trading for a period of six complete calendar months; or (2) which has been certified by a contract market to the Commission to be a dormant contract.

(b) *Listing of Additional Trading Months.* Once a futures contract becomes a "dormant contract," no contract market may list or permit trading to recommence in such a dormant contract for additional trading months until such time as the Commission approves, pursuant to Section 5a(12) of the Act and § 1.41(b) of these regulations, the bylaw, rule, regulation or resolution of the contract market submitted to the Commission pursuant to paragraph (c) of this section.

(c) *Bylaw, rule, regulation or resolution to list additional trading months:* (1) Any bylaw, rule, regulation or resolution of a contract market to list additional trading months in a dormant contract or to otherwise recommence trading in such a contract shall be submitted to the Commission under Section 5a(12) of the Act and § 1.41(b) of these regulations. The Commission shall approve such bylaw, rule, regulation or resolution, within thirty days of receipt, unless the Commission: (i) advises the contract market that specified information is required to complete its review; or (ii) notifies the contract market that the Commission's review may take longer than thirty days; or (iii) determines that the bylaw, rule, regulation or resolution is one of major economic significance pursuant to Section 5a(12) of the Act and publishes it for comment in the **Federal Register.**

(2) Each submission shall include the information required to be submitted pursuant to § 1.41(b) of these regulations, and also shall:

(i) Clearly designate the submission as filed pursuant to Commission Rule 5.2.

(ii) Contain an economic justification for the listing of additional months in the dormant contract, which shall include an explanation of those economic conditions which have changed subsequent to the time the contract became dormant and an explanation of how any new terms and conditions which are now being proposed by the contract market would make it reasonable to expect that the contract will be used on more than an occasional basis for hedging or price basing.

(d) *Exemptions.* No contract shall be considered dormant until the end of thirty-six (36) complete calendar months: (1) following designation; or (2) following notice to the contract market that the Commission has reviewed the economic purpose and the terms and conditions of the contract and has determined in its discretion to permit this exemption; or (3) following Commision approval of the contract market bylaw, rule, regulation, or resolution submitted pursuant to paragraph (c) of this section.

§ 5.3 Low volume contracts.

(a) *Definitions.* For purposes of this section:

(1) The term "low volume contract" means any commodity futures contract in which the trading volume in all futures listed for trading falls below 1,000 contracts per calendar month during at least four of any six consecutive calendar months.

(2) The term "low volume trading period" means any period of six consecutive calendar months during which time the monthly contract volume in all futures listed for trading falls below 1,000 contracts during at least four of such calendar months. Unless otherwise provided by the Commission, by notice to the contract market, the "low volume trading period" shall not include any of the calendar months within a prior low volume trading period. The initial low volume period for existing contracts will begin to be calculated on [90 days after publication].

(b) *Submission of report on low volume contract to the Commission.* For every low volume contract, a contract market shall file with the Commission within the time specified in subsection (d) of this regulation, a report which includes the following:

(1) For the last three consecutive months during the low volume trading period, the proportion of trading during the low-volume trading period which represents the trading of floor brokers and traders as follows:

(i) Trading for their own account or accounts which they control.

(ii) Trading for their clearing members' house accounts.

(iii) Trading for any other type of account.

(2) For each of the last three month-end business days during the low volume period or any other three days during the last four months of the low volume period which are at intervals of approximately one month: (i) the identification of commercial participants holding open positions, a description of the commodity commitment or other price risk, if any, those participants are hedging, and a listing of each such participant's positions in individual futures on those dates; or (ii) other relevant statistical evidence which demonstrates that the contract is being used by commercial participants for hedging.

(3) A brief statement explaining additional surveillance procedures, if any, which the contract market has instituted to monitor trade practices in the low volume contract. One copy of this report shall be furnished to the Commission at its Washington, D.C. headquarters.

(c) *Exemptions from reporting requirement.* (1) Reports under paragraph (b) of this section shall not be required until the end of thirty-six (36) complete calendar months: (i) following designation; (ii) following notice to the contract market that the Commission

[17] The Commission further finds that because Rules 5.2 and 5.3 were proposed prior to the effective date of the Regulatory Flexibility Act, Pub. L. 96-354, 94S Stat. 1164 *et seq.*, the provisions of that Act are not applicable to this rulemaking proceeding. Nevertheless, it is clear that even if the Regulatory Flexibility Act were applicable, these rules would not have an impact on "small entities" under the Commission's definition of that term. *See,* 47 FR 18618 (April 30, 1982).

has reviewed the economic purpose and the terms and conditions of the contract and has determined in its discretion to permit this exemption; or (iii) following Commission approval of a contract market bylaw, rule, regulation or resolution submitted pursuant to paragraph (c) of § 5.2 of these regulations.

(2) Reports under paragraph (b) of this section shall not be required in whole or in part, for a period and/or level to be determined by the Commission in its discretion, upon a showing that past reports demonstrate that commercial participation is sufficient to establish that the contract market continues to serve an economic purpose, that commercial participation is expected to remain at the levels indicated in the prior reports, and that surveillance methods are in place to adequately monitor the market. Petitions to the Commission for such an exemption must be filed as part of a report required under paragraph (b) of this section.

(3) A report required under paragraph (b) of this section shall not be required if during a low volume period a contract is dormant as defined in § 5.2(a) of these regulations.

(d) *Time for Filing.* Contract markets are required to file reports required under paragraph (b) within 30 days of the end of the relevant low volume trading period. Unless provided otherwise by notice to the contract market, subsequent low volume trading periods will begin immediately following the end of a previous low volume trading period.

Issued in Washington, D.C., on June 30, 1982, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 82-18357 Filed 7-6-82; 8:45 am]

BILLING CODE 6351-01-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 193

[FAP 1H5314/T91; PH-FRL 2148-1]

Tolerances for Pesticides in Food; Metalaxyl

Correction

In FR Doc. 82-16206, appearing at page 25950 in the issue of Wednesday, June 16, 1982, in column one on page 25951, the fifth line from the top should read, "humans is 0.00625 mg/kg/day.

BILLING CODE 1505-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 200

[Docket No. R-82-993]

Minimum Property Standards; Provisions

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule revises 24 CFR Part 200 to delete the Appendix to Part 200, Subpart S, because the references to the Material Standards, Accepted Engineering Practice Standards, Use of Materials Bulletins, and Special Tests and Miscellaneous Standards contained in the Appendix are frequently revised and are difficult to keep up-to-date in regulatory form as part of the CFR.

EFFECTIVE DATE: August 11, 1982.

FOR FURTHER INFORMATION CONTACT: Richard A. Atwell, Construction Standards Division, Office of Manufactured Housing and Construction Standards, Room 6170, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, (202) 755-6590. This is not a toll free number.

SUPPLEMENTARY INFORMATION: Documents on construction materials, products, and methods such as those presently referenced in the Appendix to Part 200, Subpart S are frequently revised and updated. It is difficult to maintain in rule form a current listing of these documents under Part 200, Subpart S. Therefore, HUD is deleting the Appendix. However, the references listed in the Appendix are incorporated by reference as indicated in the section entitled "Material Approved for Incorporation by Reference", which appears at the end of the CFR volume containing 24 CFR, Chapter II. This rule also amends 24 CFR 200.929(a) to delete any reference to the Appendix which is being deleted.

Pursuant to 1 CFR 51.13(c), each agency is required to submit annually to the **Federal Register**, 30 days before the revision date of its CFR title, a list of material to be incorporated by reference in the CFR and the date of its last revision. A list of Material Standards, Accepted Engineering Practice Standards, Use of Materials Bulletins, and Special Tests and Miscellaneous Standards was published in the **Federal Register** on March 31, 1982 and will continue to be published on an annual basis in general notice form. In addition, the list of Material Standards, Accepted Engineering Practice Standards, and Use of Materials Bulletins is available for public inspection, and copies of the list may be obtained from the Construction Standards Division at the above address in person or by mail.

The subject matter of this rulemaking action relates to loans and grants and is therefore exempt from the notice and public comment requirements of section 553 of the Administrative Procedure Act. As a matter of policy, the Department submits many rulemaking actions dealing with such subject matter to public comment, either before or after effectiveness of the action, notwithstanding the statutory exemption.

The Secretary has determined that notice and prior public procedure are unnecessary and contrary to the public interest and that good cause exists for making this rule effective as soon after publication as possible because the list of documents contained in the Appendix being deleted by the rule will be published annually in the **Federal Register** and the public will have easy access to the list during the remainder of the year.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291 on Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicates that it does not: (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement Section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10278, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant

economic impact on a substantial number of small entities.

This rule was listed as item C) 1. (H-11-81) under the Office of Housing in the Department's Semiannual Agenda of Regulations published on August 17, 1981 (46 FR 41708) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Housing standards, Loan programs: housing and community development, Mortgage insurance, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Minimum Property Standards.

Accordingly, Title 24 Part 200 is amended by (1) removing the Appendix to Subpart S and (2) amending paragraph (a) of 24 CFR 200.929 to read as follows:

§ 200.929 Description and identification of minimum property standards.

(a) *Description.* The Minimum Property Standards describe physical standards for housing. They are intended to provide a sound basis for determining the acceptability of housing built under the HUD mortgage insurance and low-rent public housing programs. The Minimum Property Standards refer to material standards developed by industry and accepted by HUD. In addition, under Section 521 of the National Housing Act, HUD adopts its own technical suitability standards for materials and products for which there are no industry standards acceptable to HUD. These standards are contained in Use of Materials Bulletins that apply to products and methods and Materials Releases that apply to specific materials. Use of Materials Bulletins and Materials Releases are addenda to the Minimum Property Standards. Unless otherwise stated, the current edition, issue, or version of each of these documents, as available from its source, is applicable to this Subpart S. A list of the Use of Materials Bulletins, Materials Releases, and MPS Appendix listing the applicable referenced Standards may be obtained from the Construction Standards Division, Office of Manufactured Housing and Construction Standards, Room 6170 Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410.

(Sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Dated: June 29, 1982.

Philip Abrams,

General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 82-18286 Filed 7-6-82; 8:45 am]
BILLING CODE 4210-27-M

24 CFR Parts 203, 204, 213, 220, 221, 234 and 235

[Docket No. R-82-795]

Mortgage Insurance; Elimination of Single Family Application Fee

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This action finalizes the interim rule which eliminated the application fees being charged by the Department on single family applications for mortgage insurance. The elimination of commitment extension fees is also being finalized. In lieu of the Department collecting such application fees, these regulations permit the mortgagee to collect an appraisal fee and inspection fee, if required. The lender pays the fee personnel directly. Such changes enable the Deparatment to eliminate numerous application fee billing with a resultant substantial decrease in costs.

EFFECTIVE DATE: August 12, 1982.

FOR FURTHER INFORMATION CONTACT: John J. Coonts, Director, Single Family Development Division, Department of Housing and Urban Development, Room 9270, 451 Seventh Street SW., Washington, D.C. 20410, (202) 755-6720 (this is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On May 8, 1980, an interim rule was published at 45 FR 30802 which eliminated the collection of application and commitment extension fees and the payment of fee appraisers and inspectors. Previously, the Department charged the mortgagee an application fee to cover the cost of processing. When an application was received and a fee appraiser made the appraisal or a fee inspector made an inspection, if required, the Department paid these individuals directly for their services. By eliminating HUD's collection of an application fee and HUD's payments to the appraisers and inspectors and adopting a procedure whereby mortgagees make direct payment to the fee appraisers and inspectors on individual cases, HUD substantially reduced the number of application fee billings and payments to these fee personnel. Such a reduction in administrative requirements resulted in substantial cost savings to the Department.

To accommodate this procedure, the Department published an interim rule which:

1. Eliminated the payment of application and commitment extension fees by mortgagees for single family properties.

2. Permitted the mortgagee to collect appraisal and inspection fees, if required, from mortgagors.

3. Limited mortgagee collection of appraisal and inspection fees, credit report fees, etc., to the amount actually paid.

At the time the Department published the interim rule, it solicited public comment on the changes. None were received. However, it is necessary to make one editorial change to the Interim Rule as it appeared on May 8, 1980. On May 21, 1980, shortly after publication of the interim rule, the Department adopted a final rule which, among other things, deleted §§ 203.51 through 203.102. Therefore, the changes to § 203.100 effected by the May 8, 1980 Interim Rule no longer apply and reference to § 203.100 has been omitted from the present rule.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of the Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50 which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection and copying during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and

Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities.

This rule was listed as item B) 24. H-41-79 under the Office of Housing in the Department's Semiannual Agenda of Regulations, published on August 17, 1981 (46 FR 41708) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The following numbers identify the programs, as listed in the Catalog of Federal Domestic Assistance, affected by the regulation changes.

Section 203(b)=14.117 Mortgage Insurance—Homes (F); 14.118 Mortgage Insurance—Homes for Certified Veterans (F)
Section 213=14.126 Mortgage Insurance—Management Type Cooperative Projects (F)
Section 220=14.122 Mortgage Insurance—Homes in Urban Renewal Areas (F)
Section 221(d)(2)=14.120 Mortgage Insurance—Homes for Low and Moderate Income Families (F)
Section 222=14.166 Mortgage Insurance—Servicemen (F)
Section 234(c)=14.133 Mortgage Insurance—Purchase of Units in Condominiums (F)
Section 235=14.105 Interest Reduction—Homes for Lower Income Families (C,F)
Section 240=14.130 Mortgage Insurance—Purchase by Homeowners of the Fee Simple Title by Lessors (F)
Section 244=14.161 Single Family Mortgage Coinsurance (F)
Section 245(a) and 245(b)=14.159 Section 245 Graduated Payment Mortgage Program (F)
Section 809=14.167 Mortgage Insurance—Armed Services Housing—Impacted Areas (F)

List of Subjects

24 CFR Part 203

Home improvement, Loan programs—housing and community development, Mortgage insurance, Solar energy.

24 CFR Part 204

Mortgage insurance.

24 CFR Part 213

Mortgage insurance, Cooperatives.

24 CFR Part 220

Home improvement, Mortgage insurance, Urban renewal, Rental housing, Loan programs—housing and community development, Projects.

24 CFR Part 221

Condominiums, Low and moderate income housing, Mortgage insurance, Displaced families, Single family housing, Projects, Cooperatives.

24 CFR Part 234

Condominiums, Mortgage insurance, Homeownership, Projects, Units.

24 CFR Part 235

Condominiums, Cooperatives, Low and moderate income housing, Mortgage insurance, Homeownership, Grant programs: housing and community development.

Accordingly, the interim amendment to 24 CFR Parts 203, 204, 213, 220, 221, 234 and 235 published May 8, 1980 (45 FR 30602), is hereby adopted as final, as amended by removal of § 203.100 on May 21, 1980 (45 FR 33964 at 33967).

(Sec. 211 of the National Housing Act (12 U.S.C. 1709, 1715))

Dated: June 29, 1982.

Philip Abrams,

General Deputy Assistant Secretary—Deputy Federal Housing Commissioner.

[FR Doc. 82-18306 Filed 7-6-82; 8:45 am]

BILLING CODE 4210-27-M

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

29 CFR Part 2200

Simplified Proceedings

AGENCY: Occupational Safety and Health Review Commission.

ACTION: Amendment of rules for simplified proceedings.

SUMMARY: On October 23, 1981, the Occupational Safety and Health Review Commission ("Review Commission") requested public comments on its rules for simplified proceedings. 46 FR 51933-51935 (Oct. 23, 1981). These rules are codified at 29 CFR 2200.200-2200.211. Based upon its experience with the rules for simplified proceedings and comments submitted by interested parties, the Review Commission now amends these rules to provide simplified procedures for resolving contests under the Occupational Safety and Health Act of 1970, so that parties before the Commission may save time and expense while preserving fundamental procedural fairness.

DATE: The amendments to the rules for simplified proceedings shall become effective on August 6, 1982.

FOR FURTHER INFORMATION CONTACT: E. Ross Buckley, General Counsel, 1825 K Street, NW., Washington, D.C. 20006; telephone (202) 634-4015.

SUPPLEMENTARY INFORMATION: The Review Commission requested comments from interested parties on the overall effectiveness of the simplified proceedings rules in terms of time saved, costs avoided and ease in trying cases. Comments were also requested on certain provisions of the rules. Written comments were received from a number of interested persons and organizations including corporations, attorneys in private practice, and the Solicitor of the Department of Labor. Based upon its experience in applying the rules and a largely favorable response from the comments received, the Commission adopted its interim simplified proceedings rules as final rules in order to insure that permanent rules on simplified proceedings were in place before the interim rules expired on December 31, 1981. (46 FR 63041-63042 Dec. 30, 1981). However, the Commission noted at that time that it was considering some amendment to the rules in light of the public comments. The Commission now adopts such amendments. The comments received and the amendments adopted are discussed in the following summary:

Section 2201.201—Application (Amended)

Section 2200.201 is amended by the addition of a new clause, labeled (d). This clause is added to conform with a new provision at § 2200.204, entitled, "Discontinuance of simplified proceedings." Under § 2201.201(d), once simplified proceedings have been instituted, the rules governing such proceedings will be applied when "simplified proceedings are not discontinued pursuant to § 2200.204."

Section 2200.202—Eligibility for Simplified Proceedings

Section 2200.202 is not amended. Section 2200.202 provides that a case is eligible for simplified proceedings unless it concerns an alleged violation of section 5(a)(1) of the Occupational Safety and Health Act of 1970 or an alleged failure to comply with one of the standards listed in table A of § 2200.202. The Review Commission requested comments on whether § 2200.202 should be amended so that cases involving violation of section 5(a)(1) or the standards listed in table A would be eligible for simplified proceedings. The Review Commission also solicited comments on whether table A should be expanded to include standards other than those presently listed.

The comments addressing this issue generally opposed making cases involving § 5(a)(1) or the standards listed in table A eligible for simplified proceedings because of the difficulty inherent in litigating complex cases under the rules for simplified proceedings. One comment stated that

§ 2200.202 in its present form protects *pro se* employers who may not appreciate the significance of a request for simplified proceedings and the rights they relinquish if they do not object. Comments also indicated that, as long as parties retain the right to object to simplified proceedings under § 2200.203, it is not necessary to enlarge table A to increase the number of standards for which simplified proceedings are precluded. These comments comport with the Review Commission's determination that § 2200.202, in its present form, properly limits the eligibility of cases for simplified proceedings. Accordingly, § 2200.202 is not amended.

Section 2200.203—Commencing Simplified Proceedings (Amended)

Section 2200.203(b)(4) provides that the filing of a timely objection shall preclude the institution of simplified proceedings. The Review Commission requested comments on whether § 2200.203(b)(4) should be amended to eliminate parties' rights to object to simplified proceedings once requested by another party. Comments were also requested on whether to allow a party to withdraw from simplified proceedings and litigate under the Review Commission's conventional rules of procedure.

Virtually all of the comments opposed the elimination of a party's right to object to simplified proceedings. According to the comments, such an amendment would allow one party to invoke unilaterally simplified proceedings over the objection of another party to the possible detriment of the objecting party's procedural rights. One comment urged that an objecting party be required to state a reason for its objection. Such a requirement would be likely to lead to litigation over the validity of the reasons given and delay the progress of cases. Having considered these comments the Review Commission has concluded that an amendment of § 2200.203(b)(4) is not warranted.

Comments on whether the rules should be amended to allow a party to discontinue simplified proceedings, once instituted, were almost all favorable. The Review Commission agrees with this view and is amending the rules to allow for the discontinuance of simplified proceedings prior to commencement of the hearing. This amendment, which is discussed below, is set forth at § 2200.204 and is entitled, "Discontinuance of simplified proceedings."

Amendments are being made to two provisions of § 2200.203 for which no comments were solicited. The Review Commission has noted that confusion sometimes arises with respect to service of requests for simplified proceedings and with respect to the time for filing a complaint or answer when simplified proceedings have been requested but the period for filing an objection has not expired. To clarify the provision concerning service, § 2200.203(a)(3) is amended to provide that a request for simplified proceedings should be served on the Secretary of Labor's regional solicitor named in the notice of docketing. Also, § 2200.203(a)(3) as amended expressly sets forth the service requirements for a request for simplified proceedings so that reference to § 2200.7 of the conventional rules is not necessary. Section 2200.203(b)(3) is similarly amended to require the same manner of service for objections to requests for simplified proceedings.

To clarify the time for filing a complaint or answer when simplified proceedings are requested, a new paragraph (d), entitled, "Time for filing a complaint or answer under § 2200.33," is added to § 2200.203. Section 2200.203(d) provides that the time for filing a complaint or answer will not run if a request for simplified proceedings is filed. If the Review Commission denies the request for simplified proceedings, the parties will receive notice that the case is to proceed under the conventional rules. Under § 2200.203(d), the period for filing a complaint or answer shall begin upon receipt of this notice.

Section 2200.204—Discontinuance of Simplified Proceedings (New)

A new provision is inserted in the simplified proceedings rules at § 2200.204, and former § 2200.204 and subsequent sections are renumbered accordingly. New § 2200.204 provides that, upon motion by a party prior to the commencement of the hearing, simplified proceedings will be discontinued if all parties consent or if sufficient reason is shown for applying conventional rules to the case. Although a party is not required to provide a reason for objecting to the initiation of simplified proceedings under § 2200.203(b)(4), the Commission considers it appropriate to require a moving party to provide a sufficient reason for discontinuing simplified proceedings once underway (unless all parties agree to the discontinuance) because discontinuance may be disruptive to the parties and the judge.

Under § 2200.204, the judge will determine whether "sufficient reason" has been established on a case by case basis. The Review Commission would find that "sufficient reason" for discontinuing simplified proceedings is shown, for example, when a party establishes that discovery permitted under the rules for simplified proceedings is inadequate to prepare its case. If it is clear that discontinuance of simplified proceedings is sought only to delay progress of the case, the request for discontinuance should be denied. If a case has progressed beyond the pleading stage when simplified proceedings are discontinued, a complaint and answer may not be necessary. Threrefore, § 2200.204 provides that if a motion to discontinue simplified proceedings is granted, the parties shall not file a complaint or answer unless ordered to do so by the judge.

Section 2200.205—Filing of Pleadings (Amended)

As indicated above, § 2200.204, "Filing of Pleadings," is renumbered as § 2200.205. Paragraph (a) of § 2200.205 is amended to delete the provision that a complaint or answer, if filed, not be included in the record. Although no comments were requested on § 2200.205(a), the Review Commission decided to adopt this amendment in light of its experience in applying this section of the rules.

Section 2200.205(b) is not amended. This section provides that the filing of motions and similar documents in simplified proceedings should be as limited as possible. Under this section, a motion will not be viewed favorably if the subject of the motion has not been discussed among the parties prior to the conference/hearing. The Review Commission solicited comments on whether this section was effective in reducing the number of motions and what modifications would be appropriate to better achieve this purpose. Comments were also requested on whether this section should be amended to include a specific provision concerning amendments to the citation.

Responses to the Review Commission's request for comments on these questions was limited. One party suggested that a rule limiting motions should be adopted in all Review Commission proceedings. The Solicitor of Labor stated that he was unable to determine if the number of motions has been reduced in simplified proceedings. He also stated that he would litigate more cases under the rules for simplified proceedings if the rules were revised to allow amendments to the citation.

The comments did not suggest any revision to § 2200.205(b), and the Review Commission has determined that

amendment of this section is not warranted. The Review Commission also notes that § 2200.205(b) in its current form does not bar amendments to citations.

Section 2200.207—Conference/Hearing (Amended)

Section 2200.207(a), as renumbered, provides that the judge shall schedule and preside over a conference/hearing which shall be divided into two segments: a conference and a hearing. A second sentence is added to § 2200.207(a) providing that the judge may schedule the hearing to occur one or more days after the conference if, in his discretion, he determines that such a schedule would result in more practical or efficient case disposition. Although the Review Commission requested no comment on § 2200.207(a), this amendment is intended simply to clarify that this rule does not require that the hearing begin immediately after, or even on the same day as, the conference. However, the Commission intends that the conference and hearing not be separated without good reason and that in most cases hearings will continue to be held at the conclusion of the conference.

Section 2200.210—Discovery

Section 2200.210, as renumbered, provides that discovery shall not be allowed in simplified proceedings except by order of the judge. The Review Commission invited comments on whether this section should be expanded to allow requests for admissions or production of documents without obtaining leave from the judge. Virtually all of the comments that addressed this issue opposed expansion of discovery and favored retention of the existing rule. One party, however, favored expansion of discovery in simplified proceedings through the adoption of the Federal Rules of Civil Procedure. The Review Commission concurs with the majority of the comments on this issue and therefore has decided not to amend § 2200.210.

Technical changes

The word order of the third sentence of § 2200.200(b) is revised so that the sentence states that pleadings generally are not "required or permitted." Also, the parenthetical at the end of § 2200.209(b), as renumbered, is changed to reference subparts F and G of the conventional rules, because these are the subparts that apply once a judge's decision is issued.

List of subjects in 29 CFR Part 2200

Administrative practice and procedure, Simplified proceedings.

Amendment of Rules

Under the authority of section 12(g) of the Occupational Safety and Health Act of 1970, 29 U.S.C. 661(f), and for the reasons set forth above, the Occupational Safety and Health Review Commission amends the rules for simplified proceedings, contained in Subpart M, 29 CFR Part 2200. The rules for simplified proceedings, as revised, provide as follows:

PART 2200—RULES OF PROCEDURE

* * * * *

Subpart M—Simplified Proceedings

Sec.

2200.200 Purpose.
2200.201 Application.
2200.202 Eligibility for simplified proceedings.
2200.203 Commencing simplified proceedings.
2200.204 Discontinuance of simplified proceedings.
2200.205 Filing of pleadings.
2200.206 Discussion among parties.
2200.207 Conference/Hearing.
2200.208 Reporter present; transcripts.
2200.209 Decision of the Judge.
2200.210 Discovery.
2200.211 Interlocutory appeals not permitted.
2200.212 Applicability of Subparts A through G.

Authority: Sec. 12(g) of the Occupational and Health Act of 1970, 29 U.S.C. 661(f).

Subpart M—Simplified Proceedings

§ 2200.200 Purpose.

(a) The purpose of this subpart is to provide simplified procedures for resolving contests under the Occupational Safety and Health Act of 1970, so that parties before the Commission may save time and expense while preserving fundamental procedural fairness. The rules shall be construed and applied to accomplish these ends.

(b) Procedures under this subpart are simplified in a number of ways. The major differences between these procedures and those provided in Subparts A through G of the Commission's rules of procedure are the following: (1) Pleadings generally are not required or permitted. Early discussions among the parties will inform the parties of the legal and factual matters in dispute and narrow the issues to the extent possible. (2) Discovery is generally not permitted. (3) The Federal Rules of Evidence do not apply. (4) Interlocutory appeals are not permitted.

§ 2200.201 Application.

The rules in this subpart shall govern proceedings before an Administrative Law Judge when (a) the case is eligible for simplified proceedings under § 2200.202, (b) any party requests simplified proceedings, (c) no party files an objection to the request, and (d) simplified proceedings are not discontinued pursuant to § 2200.204.

§ 2200.202 Eligibility for simplified proceedings.

A case is eligible for simplified proceedings unless it concerns an alleged violation of section 5(a)(1) of the Act (29 U.S.C. 654(a)(1)) or an alleged failure to comply with a standard listed in table A.

Table A

All standards listed are found in Title 29 of the Code of Federal Regulations.

§ 1910.94	§ 1910.96
§ 1910.95	§ 1910.97

Sections 1910.1000 to 1910.1045, and any occupational health standard that may be added to Subpart Z of Part 1910.

§ 1926.52	§ 1926.55
§ 1926.53	§ 1926.57
§ 1926.54	§ 1926.600(c)

§ 2200.203 Commencing simplified proceedings.

(a) *Requesting simplified proceedings.* (1) *Who may request.* Any party may request simplified proceedings.

(2) *When to request.* After the Commission receives an employer's or employees' notice of contest or petition for modification of abatement, the Executive Secretary shall issue a notice indicating that the case has been docketed. A request for simplified proceedings, if any, shall be filed within 10 days after the notice of docketing is received, unless the notice of docketing states otherwise.

(3) *How to request.* A simple statement is all that is necessary. For example, "I request simplified proceedings" will suffice. The request shall be filed with the Executive Secretary and served on all of the following: (i) the employer, (ii) the Secretary of Labor, and, (iii) any authorized employee representatives. The request also shall be posted for the benefit of any unrepresented affected employees. (To serve the Secretary of Labor, the request should be mailed to the regional solicitor named in the notice of docketing.)

(4) *Effect of the request.* For those cases eligible under § 2200.202, simplified proceedings are in effect when any party requests simplified

proceedings and no party files a timely objection to the request.

(b) *Objecting to simplified proceedings.* (1) *Who may object.* Any party may object to a request for simplified proceedings.

(2) *When to object.* An objection shall be filed within 15 days after the request for simplified proceedings is served.

(3) *How to object.* A simple statement is all that is necessary. For example, "I object to simplified proceedings" will suffice. An objection shall be filed with the Executive Secretary and served in the manner prescribed for requests for simplified proceedings in paragraph (a)(3) of this section.

(4) *Effect of the objection.* The filing of a timely objection shall preclude the institution of simplified proceedings.

(c) *Notice.* (1) When the period for objecting to simplified proceedings expires and no objection has been filed, the Commission shall notify all parties that simplified proceedings are in effect.

(2) When a party files a timely objection to a request for simplified proceedings, the Commission shall notify all parties that the case shall continue under conventional procedures (Subparts A through G).

(d) *Time for filing complaint or answer under § 2200.33.* The time for filing a complaint or answer shall not run if a request for simplified proceedings is filed. If the Commission later notifies the parties under § 2200.203(c) that the case is to continue under conventional procedures, the period for filing a complaint or answer shall begin upon receipt of the notice.

§ 2200.204 Discontinuance of simplified proceedings.

At any time prior to the commencement of the hearing, a party may move to discontinue application of the simplified proceeding rules to the case. The motion shall be granted if all parties consent or if sufficient reason is shown for application of the conventional rules to the case. If the motion is granted, the parties shall not file a complaint or answer unless ordered to do so by the Judge.

§ 2200.205 Filing of pleadings.

(a) *Complaint and answer.* There shall be no complaint or answer in simplified proceedings. If the Secretary has filed a complaint under § 2200.33, a response to an employee contest under § 2200.35, or a response to a petition under § 2200.34, no response to these documents shall be required.

(b) *Motions.* A primary purpose of simplified proceedings is to eliminate, as much as possible, motions and similar documents. A motion will not be viewed favorably if the subject of the motion has not been first discussed among the parties prior to the conference/hearing.

§ 2200.206 Discussion among parties.

Within a reasonable time before the conference/hearing, the parties shall meet, or confer by telephone, and discuss the following: Settlement of the case; the narrowing of issues; an agreed statement of issues and facts; defenses; witnesses and exhibits; motions; and any other pertinent matter.

§ 2200.207 Conference/Hearing.

(a) The Judge shall schedule and preside over a conference/hearing, which shall be divided into two segments: a conference and a hearing. The Judge may schedule the hearing to occur one or more days after the conference if, in his discretion, he determines that such a schedule would result in more practical or efficient case disposition.

(b) *Conference.* At the beginning of the conference, the Judge shall enter into the record all agreements reached by the parties as well as defenses raised during the discussion set forth in § 2200.205. The parties and the Judge then shall attempt to resolve or narrow the remaining issues. At the conclusion of the conference, the Judge shall enter into the record any further agreements reached by the parties.

(c) *Hearing.* The Judge shall hold a hearing on any issue that remains in dispute at the conclusion of the conference. The hearing shall be in accordance with 5 U.S.C. 554.

(1) *Evidence.* Oral or documentary evidence shall be received, but the Judge may exclude irrelevant or unduly repetitious evidence. Testimony shall be given under oath. The Federal Rules of Evidence shall not apply.

(2) *Oral and written argument.* Each party may present oral argument at the close of the hearing. Parties wishing to present written argument shall notify the Judge at the conference/hearing so that the Judge may set a reasonable period for the prompt filing of written argument.

§ 2200.208 Reporter present; transcripts.

A reporter shall be present at the conference/hearing. An official verbatim transcript of the hearing shall be prepared and filed with the Judge. Parties may purchase copies of the transcript from the reporter.

§ 2200.209 Decision of the Judge.

(a) The Judge shall issue a written decision in accordance with § 2200.90.

(b) After the issuance of the Judge's decision, the case shall proceed in the conventional manner (Subparts F and G).

§ 2200.210 Discovery.

Discovery, including requests for admissions, shall not be allowed except by order of the Judge.

§ 2200.211 Interlocutory appeals not permitted.

Appeals to the Commission of a ruling made by a Judge which is not the Judge's final disposition of the case are not permitted.

§ 2200.212 Applicability of Subparts A through G.

Sections 2200.6, 2200.33, 2200.34(d)(4), 2200.35, 2200.36, 2200.38, and 2200.75 shall not apply to simplified proceedings. All other rules contained in Subparts A through G of the Commission's rules of procedure shall apply when consistent with the rules in this subpart governing simplified proceedings.

Signed this 29th day of June 1982.

Robert A. Rowland,

Chairman.

Timothy F. Cleary,

Commissioner.

Bertram Robert Cottine,

Commissioner.

[FR Doc. 82-18980 Filed 7-6-82; 8:45 am]

BILLING CODE 7600-01-M

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 535

Iranian Assets Control Regulations; Judicial Action Involving Standby Letters of Credit

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control is amending the Iranian Assets Control Regulations, by: (1) Revoking and withdrawing any and all licenses and authorizations for enjoining permanently, terminating or otherwise permanently disposing of any interest of Iran in any standby letter of credit or similar instrument by means of the entry of any final judicial judgment or order; and (2) making clear that section 535.222 is not a licensing provision and that standby letter of credit litigation is governed by § 535.201, as modified by the section 535.504 license for judicial proceedings.

The amendment is needed to facilitate the ongoing implementation of the Iran-U.S. agreements of January 19, 1981.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Raymond W. Konan, Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220, tel. (202) 376–0236.

SUPPLEMENTARY INFORMATION: Iran has filed more than 200 claims with the Iran-United States Claims Tribunal (the "Tribunal") based on standby letters of credit issued for the account of United States parties. United States nationals have filed with the Tribunal a large number of claims related to, or based on, many of the same standby letters of credit at issue in Iran's claims. Other United States nationals have litigation pending in United States courts concerning some of these same letters of credit.

The purpose of the amendment is to preserve the status quo by continuing to allow U.S. account parties to obtain preliminary injunctions or other temporary relief to prevent payment on standby letters of credit, while prohibiting, for the time being, final judicial action permanently enjoining, nullifying or otherwise permanently disposing of such letters of credit.

Preservation of the status quo will provide an opportunity for negotiations with Iran regarding the status and disposition of these various letters of credit claims. Preservation of the status quo for a period of time also permits possible resolution in the context of the Tribunal of the matters pending before it. The amendment will expire by its terms on December 31, 1982.

Since the Regulations involve a foreign affairs function, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, opportunity for public participation and delay in effective date, are inapplicable. Similarly, because the Regulations are issued with respect to a foreign affairs function of the United States, they are not subject to Executive Order 12291 of February 17, 1981, dealing with Federal regulations.

List of subjects in 31 CFR Part 535

Iran, Foreign assets control.

PART 535—IRANIAN ASSETS CONTROL REGULATIONS

31 CFR Part 535 is amended as follows:

Section 535.222 is amended by the revision of paragraph (g) to read as follows:

§ 535.222 Suspension of claims eligible for claims tribunal.

* * * * *

(g) Nothing in this section shall apply to any claim concerning the validity or payment of a standby letter of credit, performance or payment bond or other similar instrument. However, assertion of such a claim through judicial proceedings is governed by the general license in § 535.504.

* * * * *

Section 535.504 is amended by the addition of new paragraph (b)(3) as follows:

§ 535.504 Certain judicial proceedings with respect to property of Iran or Iranian entities.

* * * * *

(b) This section does not authorize:

* * * * *

(3)(i) Any final judicial judgment or order (A) permanently enjoining, (B) terminating or nullifying, or (C) otherwise permanently disposing of any interest of Iran in any standby letter of credit, performance bond or similar obligation. Any license authorizing such action is hereby revoked and withdrawn.

(ii) Nothing in this paragraph (b)(3) shall prohibit the assertion of any defense, set-off or counterclaim in any pending or subsequent judicial proceeding commenced by the Government of Iran, any political subdivision of Iran, or any agency, instrumentality or entity owned or controlled by the Government of Iran or any political subdivision thereof.

(iii) Nothing in this paragraph (b)(3) shall preclude the commencement of an action for the purpose of tolling the period of limitations for commencement of such action.

(iv) Nothing in this paragraph (b)(3) shall require dismissal of any action for want of prosecution.

(v) The provisions of this paragraph (b)(3) shall expire at 11:59 p.m., e.s.t., on December 31, 1982.

(Secs. 201–207, 91 Stat. 1626, 50 U.S.C. 1701–1706; E.O. No. 12170, 44 FR 65729; E.O. No. 12205, 45 FR 24099; E.O. No. 12211, 45 FR 26605; E.O. No. 12276, 46 FR 7913, E.O. No. 12278, 46 FR 7917, 46 FR 10695; E.O. No. 12279, 46 FR 7919; E.O. No. 12280, 46 FR 7921; E.O. No. 12281, 46 FR 7923; E.O. No. 12282, 46 FR 7926; and E.O. No. 12294, 46 FR 14111)

Dated: July 1, 1982.

Dennis M. O'Connell,

Director, Office of Foreign Assets Control.

Approved:

John M. Walker, Jr.,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 82-18405 Filed 7-3-82; 9:08 am]

BILLING CODE 4810-25-M

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket RM 80-2]

Compulsory License for Cable System

AGENCY: Copyright Office, Library of Congress.

ACTION: Extension of comment period.

SUMMARY: This notice is issued to inform the public that the Copyright Office of the Library of Congress is extending until August 2, 1982, the period for public comment on the iterim amendments to its regulations on the compulsory license for cable systems that were published in the **Federal Register** on May 20, 1982 (47 FR 21786). Although the National Cable Television Association, Inc., had requested a three-month extension for filing comments, the Copyright Office has concluded that a one-month extension should provide sufficient time for all of the interested parties to comment on the issues raised in this proceeding.

DATES: The interim regulations entered into effect on May 20, 1982. Comments on these regulations should be received in the Copyright Office on or before August 2, 1982.

ADDRESSES: Ten copies of written comments on the interim regulations should be addressed, if sent by mail, to: Library of Congress, Department D.S., Washington, D.C. 20540.

If delivered by hand, copies should be brought to: Office of the General Counsel, James Madison Memorial Building, Room 407, First and Independence Avenue, S.E., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, U.S. Copyright Office, Library of Congress, Washington, D.C. 20559, (202) 287–8380.

SUPPLEMENTARY INFORMATION: On May 20, 1982, the Copyright Office adopted interim amendments to §§ 201.11 and 201.17, as amended on June 27, 1978 and July 3, 1980 respectively (47 FR 21786). These amendments were made in order

to take into account the decision of the Federal Communications Commission [FCC] to remove its rules and regulations limiting the carriage of distant signals by cable systems and requiring exclusivity protection for syndicated programing in certain cases. These FCC rule changes became effective on June 25, 1981. Since these amendments had an immediate impact on the filing requirements for cable systems under § 111 of the Copyright Act of 1976, the Copyright Office decided to make its amendments effective on an interim basis, pending a full public comment period. It was noted, however, that final regulations would only be issued after the close of the comment period which was set at July 1, 1982.

The Copyright Office received a formal request on June 8, 1982 on behalf of the National Cable Television Association, Inc. [NCTA], to extend the time for filing comments on the interim regulations on the compulsory license for cable systems until October 1, 1982. NCTA advanced two reasons in support of their request for an extension: "First, the delay will not likely cause harm to interested parties since the interim rules are already in place. Secondly, NCTA, and several other interested parties to this proceeding, are already actively engaged in a rate adjustment proceeding before the Copyright Royalty Tribunal (CRT)." *See Motion by the National Cable Television Association to Extend Time for Filing Comments*, RM 80-2, at 2 (June 8, 1982). In light of the current demands on their staff time, NCTA felt that the time was not adequate to participate effectively in the Copyright Office proceeding.

The Motion Picture Association of America, Inc. [MPAA] took issue with NCTA's request for an extension. They were of the opinion that NCTA was not justified in asking for any delay in this proceeding, let alone "the extraordinary three month delay" they were seeking. *See Opposition to Motion to Extend Time for Filing Comments and Further Request for Expedited Action*, RM 80-2 (June 11, 1982). MPAA urged the Copyright Office to expedite its consideration of the interim amendments as well as other matters concerning its regulations on the compulsory license for cable systems, and pointed out that it was also involved in the proceeding before the Copyright Royalty Tribunal. *Id.* at 2.

In the interest of allowing all parties sufficient time to formulate comments on its interim regulations, the Copyright Office decided to extend the deadline for filing comments in this proceeding until August 2, 1982. The Copyright Office is persuaded that a longer period should not be allowed. As noted by MPAA in its opposition to the NCTA request for an extension, since the interim regulations are already in effect, it is desirable to complete the public comment process within a relatively brief time period.

(17 U.S.C. 111, 702)

Dated: June 24, 1982.

Michael R. Pew,

Associate Register of Copyrights.

Approved:

Daniel J. Boorstin,

The Librarian of Congress.

[FR Doc. 82-18363 Filed 7-6-82; 8:45 am]

BILLING CODE 1410-23-M

VETERANS ADMINISTRATION

38 CFR Part 3

Veterans Benefits; Persons Included as Having Served on Active Duty

AGENCY: Veterans Administration.

ACTION: Final regulation amendment.

SUMMARY: We have amended our regulation concerning persons who are included as having served on active duty. The need for this action results from a recent decision of the Secretary of the Air Force that the service of the members of the group known as Wake Island Defenders from Guam constitutes active military service in the Armed Forces of the United States for purposes of all laws administered by the Veterans Administration. The effect of this action is to confer veteran status for Veterans Administration benefit purposes on former members of this group who were discharged under honorable conditions.

EFFECTIVE DATE: This action is effective April 7, 1982, the date that the Secretary of the Air Force held that service in the group constitutes active duty.

FOR FURTHER INFORMATION CONTACT: Robert M. White (202-389-3005).

SUPPLEMENTARY INFORMATION: Pursuant to 38 CFR 1.12(b) the Veterans Administration finds that prior publication of these changes for public notice and comment is unnecessary, contrary to public interest and pointless. The Veterans Administration has no discretion in this matter. The decision of the Secretary of the Air Force concerning active duty status is binding on the Veterans Administration. Consequently, a proposed notice will not be published. For this reason, these changes are also not subject to the Regulatory Flexibility Act, 5 U.S.C. 601-612, since they do not come within the term "rule" as defined in that Act.

In accordance with Executive Order 12291, Federal Regulation, we have determined that these regulation changes, in themselves, are non-major for the following reasons:

(1) They will not have an effect on the economy of $100 million or more.

(2) They will not cause a major increase in costs or prices.

(3) They will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans, Veterans Administration.

There is no affected Catalog of Federal Domestic Assistance Program number.

Approved: June 23, 1982.

Robert P. Nimmo,

Administrator.

PART 3—ADJUDICATION

The Veterans Administration is amending 38 CFR Part 3 as follows:

In § 3.7(x), subparagraph (9) is added as follows:

§ 3.7 Persons included.

(x) *Active military service certified as such under section 401 of Pub. L. 95-202.* Such service if certified by the Secretary of Defense as active military service and if a discharge under honorable conditions is issued by the Secretary. The effective dates for an award based upon such service shall be as provided by § 3.400(z) and 38 U.S.C. 3010, except that in no event shall such an award be made effective earlier than November 23, 1977. Service in the following groups has been certified as active military service.

* * * * *

(9) Wake Island Defenders from Guam.

[FR Doc. 82-18382 Filed 7-6-82; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-3-FRL 2147-7]

Approval and Promulgation of Implementation Plans; Approval of Revisions of the Maryland State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA announces approval of revisions to the Maryland State Implementation Plan (SIP). These actions are based on the State's request to approve the revisions, which meet the requirements of the Clean Air Act. One revision consists of a construction permit for a new incinerator and the other revision consists of a minor change to the State's incinerator regulation.

EFFECTIVE DATE: This action will be effective September 7, 1982, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the revision and accompanying documents are available for inspection during normal business hours at the following offices.

U.S. Environmental Protection Agency, Region III, Air Programs & Energy Branch, Curtis Building, Tenth Floor, Sixth & Walnut Streets, Philadelphia, PA 19106, ATTN: Harold A. Frankford

Maryland Department of Health & Mental Hygiene, Air Management Administration, 201 W. Preston Street, Baltimore, Maryland 21201, ATTN: George P. Ferreri

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460

The Office of the Federal Register, 1100 L Street, N.W., Room 8401, Washington, D.C. 20408

All comments should be directed to: Henry J. Sokolowski, P.E., Chief, MD–DE–DC Metro Section (3AW12), Air Programs & Energy Branch, U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, Sixth & Walnut Streets, Philadelphia, PA 19106, ATTN: AW039/040MD.

FOR FURTHER INFORMATION CONTACT: Mr. Harold A. Frankford (3AW12), U.S. Environmental Protection Agency, Region III, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106, telephone 215/597–8392.

SUPPLEMENTARY INFORMATION:

I. Construction Permit for Southwest Incinerator

On December 22, 1981, the State of Maryland submitted to EPA a Secretarial Order regarding the proposed construction of a municipal incinerator in Baltimore City. The incinerator, as proposed, will have a capacity of 2,010 tons of refuse per day and will consist of three separate water/wall furnaces, each equipped with electrostatic precipitators exhausted into a common stack. The proposed construction site is located in a nonattainment area for total suspended particulates (TSP). Since the particulate matter emissions from all sources to be constructed on the site will exceed fifty (50) tons per year, the State considers this source to be a New Source in a Nonattainment Area (NSINA) subject to Maryland's NSINA requirements.

In order for a new source to be constructed in a nonattainment area for particulate matter, COMAR 10.18.06.11, which is part of the Maryland State Implementation plan, requires the following legally enforceable conditions to be met:

1. The source must meet the lowest achievable emission rate (LAER) for that source or group of sources.

2. All major sources owned or operated by the person who seeks the construction permit must be in compliance with all federal and State emission requirements.

3. Emissions from any existing source or group of sources in the area of the proposed sources must be reduced such that the total emissions from both the new source and existing source are less than the allowable emissions at the time of the permit application so as to represent reasonable further progress toward attainment of the particulate standards.

4. Air quality levels in the affected area improve due to the overall emission reductions from the source's location.

The State Order calls for an offset equal to 110 percent of the emissions from the proposed incinerator. These emissions offsets are to be obtained from the closure of both the Baltimore Pyrolysis Plant and the Pennington Avenue Landfill. According to the State, the constructed sources are expected to emit 121.0 tons per year of particulates, whereas the pyrolosis plant and the landfill had emitted 134.54 tons per year of particulates.

B. Notice of Public Hearing

The State informed EPA that a public hearing was held in Baltimore on October 5, 1981, as required by 40 CFR Section 51.4.

C. EPA Evaluation/Actions

EPA has reviewed the State's submittal and concludes that the terms of the Secretarial Order and the additional assurances provided by the State with regard to their permit to construct meet all of the applicable SIP requirements as discussed below:

(1) According to the terms of the Secretarial Order, the incinerator will be required to meet an outlet grain loading of 0.02 grains per dry standard cubic feet (gr/dscf). EPA considers this emission standard to be LAER for new incinerators. The Secretarial Order and the permit also stipulate that fugitive dust emissions from the incinerator's operation must be minimized.

(2) COMAR 10.18.06.11C(2)(b) requires that all major sources owned or operated by the person seeking the exemption must be in compliance with all applicable State and Federal emission standards. While the Secretarial Order does not discuss whether all other sources operated by the Northeast Maryland Waste Disposal Authority (the owner of this proposed incinerator), the Wheelabrator-Frye Company (builder and operator of this proposed incinerator) or any affiliate that might operate the incinerator is currently in compliance with the State and Federal Regulations, the State has assured EPA by separate letters (March 29, 1982 and May 12, 1982) that neither the Authority nor the Wheelabrator-Frye Company owns or operates any other sources in Maryland.

(3) The State of Maryland estimates that the construction of the incinerator combined with the shutdown of the pyrolysis plant and landfill will reduce TSP emissions by 13.54 tons per year overall from this location. Given this net reduction in TSP emissions, EPA concludes that State's offset represents reasonable further progress towards attainment of the national TSP standards.

(4) While EPA cannot yet determine to what specific degree air quality levels will improve until the incinerator has been constructed and is operating, EPA concludes that the reduction in overall TSP emissions at this site should serve to mitigate current air quality levels of TSP.

Therefore, EPA approves the Secretarial Order and the accompanying March 29, 1982 letter from the State of Maryland as a revision of the Maryland SIP. Accordingly, this notice amends 40 CFR 52.1070 (Identification of Plan), Subpart V (Maryland), to incorporate the submitted material into the approved Maryland SIP.

II. Amendments to Maryland's Incinerator Regulations

On January 11, 1982, the State of Maryland submitted to EPA an amendment to COMAR 10.18.08.05A(1) pertaining to control of incinerators and requested that it be reviewed and processed as a revision of the Maryland SIP. The amendment, applicable to State Regions I, II, V and VI (the Cumberland-Keyser, Central Maryland, Southern Maryland and Eastern Shore AQCR's respectively) would no longer require the burning of auxiliary fuels to be included when calculating TSP emissions from incinerators. This regulatory amendment would bring the testing requirements for incinerators into agreement with the testing requirements for State Regions III and IV (the Metropolitan Baltimore and the National Capital AQCR's respectively). The State claims that the amendment would not adversely impact air quality, but will have a positive economic impact by reducing the cost of compliance testing for incinerators.

D. Public Hearings

The State informed EPA that public hearings were held on October 20, 1981 in both Frederick and Baltimore, in accordance with the requirements of 40 CFR 51.4.

E. Evaluation/Actions

EPA has reviewed this regulatory change and concurs with Maryland's evaluation that the amendment will have no adverse impact on air quality in State regions I, II, V and VI. As the State has indicated, this amendment refers to compliance testing procedures and does not alter the applicable particulate emission standards for outlet grain loading or opacity. Therefore, EPA approves the amendment to State regulation 10.18.08.05A(1) as a revision of the Maryland State Implementation Plan. Accordingly, this notice amends 40 CFR 52.1070 (Identification of Plan) of Subpart V (Maryland) by incorporating this regulatory change into the approved Maryland SIP.

The public is advised that this action will become effective 60 days from the publication date of this notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and other notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), I have certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 7, 1982. This action may not be challenged late in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: June 30, 1982.

Anne M. Gorsuch,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Maryland was approved by the Director of the **Federal Register** on July 1, 1981.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION

Title 40, Part 52, Subpart V of the Code of Federal Regulations is revised to read as follows:

Subpart V—Maryland

Section 52.1070 is amended by adding paragraphs (c)(65) and (c)(66) to read as follows:

§ 52.1070 Identification of Plan.

* * * * *

(c) * * *

(65) A Secretarial Order stating the terms under which a construction permit for a new source in a nonattainment area will be issued by the Northeast Maryland Waste Disposal Authority to Wheelabrator-Frye, Inc. to construct and operate a municipal incinerator; submitted on December 22, 1981 by the Director, Maryland Air Management Administration, Department of Health and Mental Hygiene.

(66) An amendment to Code of Maryland Air Regulation (COMAR) 10.18.08.05A(1) revising the method for calculating particulate emissions from incinerators located in the Cumberland-Keyser, Central Maryland, Southern Maryland and Eastern Shore Air Quality Control Regions (AQCR's), submitted on January 11, 1982 by the Governor.

[FR Doc. 82-18921 Filed 7-6-82; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 52

[A-9-FRL 2141-7]

Pima County, Ariz.; Nonattainment Area Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Final Rulemaking.

SUMMARY: On July 23, 1980, EPA published a notice of proposed rulemaking concerning the Metropolitan Pima County Nonattainment Area Plan (NAP) submitted by the State of Arizona. Today's notice takes final action under the Clean Air Act to approve and conditionally approve portions of the Metropolitan Pima County NAP.

DATE: This action is effective July 7, 1982.

ADDRESS: A copy of today's revision to the Arizona State Implementation Plan (SIP) is located at: The Office of the Federal Register, 1100 "L" Street, NW., Room 8401, Washington, D.C. 20408, Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: David P. Howekamp, Acting Director, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, Attn: Douglas Grano (415) 974-8058.

SUPPLEMENTARY INFORMATION:

Background

On March 20, March 27, and October 9, 1979, and on February 28, 1980, the Arizona Department of Health Services (ADHS) submitted revisions to the Arizona State Implementation Plan (SIP) consisting of a control strategy for Metropolitan Pima County and regulations for Pima County. These revisions, which comprise the Metropolitan Pima NAP, are intended to provide for the attainment of the carbon monoxide (CO) and total suspended particulates (TSP) national ambient air quality standards (NAAQS) in the Tucson Air Planning Area.

On July 23, 1980 (45 FR 49112), EPA published a notice of proposed rulemaking on the Pima County NAP and on certain Arizona State Rules and Regulations concerning New Source Review (NSR). The Arizona State NSR

regulations were acted on in a separate Federal Register notice published on May 5, 1982 (47 FR 19326). The July 23, 1980 and May 5, 1982 notices should be used as references in reviewing today's final rulemaking action.

On August 11, 1980 (45 FR 53145), EPA published a notice of final rulemaking on Arizona's motor vehicle emission control inspection and maintenance (I/M) program. That notice approved revisions to Arizona's I/M program with respect to Part D of the Clean Air Act and incorporated them into the SIP. The Arizona I/M program is part of the Metropolitan Pima County NAP and the August 11, 1980 approval satisfies Part D I/M requirements. Thus, the August 11, 1980 notice should be consulted for necessary background information concerning today's final rulemaking action.

Finally, on October 22, 1980 (45 FR 70004), EPA published a notice of proposed rulemaking concerning, in part, amendments to the Arizona State NSR rules. The October 22, 1980 notice should also be used as a reference in reviewing today's action.

Supplemental Revisions

After EPA's review, which appears in the July 23, 1980 notice, the State submitted revisions to the NAP and rules and regulations as discussed below.

New Sources Review Rules

In response to the revised NSR and Prevention of Significant Deterioration (PSD) criteria published by EPA on August 7, 1980, the ADHS has drafted revisions to their NSR and PSD regulations. On September 4, 1981 ADHS requested that EPA solicit comments on the acceptability of their revised regulations concurrently with their public notice, public hearing, and rule adoption actions. On November 12, 1981 (46 FR 55714) EPA invited public comments on whether these draft regulations should be approved, disapproved or conditionally approved, especially with respect to requirements of Part C and Part D of the Clean Air Act. In that notice EPA proposed to approve the State's draft NSR/PSD regulations contingent upon the official adoption and submittal of regulations by ADHS which are substantively equivalent to the draft regulations.

Transit Improvements

The Pima Association of Governments (PAG) developed and submitted a document, entitled "Improvement Schedules for Transit System and Rideshare Program in Metropolitan Pima County" on March 8, 1982. This document was submitted in response to EPA's proposed conditon that the CO plan specify schedules for implementation of specific improvements with respect to the mass transit and carpooling improvements. EPA's detailed evaluation is available at the address indicated above.

EPA has determined that this revision represents a clarification of the legally adopted measures portrayed in the CO plan and required by section 172(b)(10) of the Act. Since an opportunity to comment on the plan has already been given in the proposal notice, further comment is not considered necessary for this minor revision and thus, EPA finds that "good cause" exists to immediately approve this plan revision. (See Administrative Procedures Act, 5 U.S.C. 553(b).)

Attainment Provision—TSP

In response to EPA's proposed condition that the attainment demonstration be modified to include the entire nonattainment area, particularly the Rillito area, PAG submitted a document, entitled "Microinventory of Total Suspended Particulate Sources in the Vicinity of ADHS High Volume Sampler, Rillito, Arizona." EPA agrees with the principle conclusions of the report and has determined that the proposed condition has been met. EPA's detailed evaluation is available at the addresses indicated above.

Public Comments

During the public comment period EPA received comments from the Arizona Department of Health Services, the Pima County Health Department, the Pima Association of Governments, and the Arizona Public Service Company. A document containing the summarization of substantive comments and the full EPA response to each, entitled "EPA Public Comment Technical Support Document", is available for public inspection as a part of Document File NAP–AZ–2 at the EPA Library in Washington, D.C., at the EPA Region 9 office in San Francisco, CA and at the other Document File locations listed in the July 23, 1980 notice.

EPA Actions

EPA's final actions described below are based on the proposed rulemaking notice, supplemental revisions submitted by the State, and public comments received by EPA.

Approved Portions of the NAP

As proposed in the July 23 notice and discussed in the Public Comment Technical Support Document, and the SUPPLEMENTAL REVISIONS section of this notice, EPA is taking action under Section 172 to approve the following portions of the Metropolitan Pima County Nonattainment Area Plan for CO and TSP: emission inventory, modeling, emission reduction estimates, attainment provision, reasonable further progress, legally adopted measures, emission growth, annual reporting, resources, public and government involvement, and public hearing requirements.

Conditionally Approved Portion of the NAP

EPA is today conditionally approving Pima County's NSR rules. These rules, together with several supplemental Arizona NSR rules (e.g., for sources emitting greater than 75 tons per day, refineries, and other limited classes of sources), comprise the complete NSR permit program for Pima County (see the July 23, 1980 proposal for Pima County). The Arizona rules were conditionally approved by EPA on May 5, 1982.

As discussed in the proposal notice, the Public Comment Technical Support Document, and the SUPPLEMENTAL REVISIONS section of this notice, the permit program of the NAP contains minor deficiencies with respect to EPA's current NSR regulations listed at 40 CFR 51.18(j). EPA is conditionally approving this portion of the NAP because the pollution control agencies for Arizona and Pima County have assured EPA that they will submit the material to correct these deficiencies, and it is not expected that any major new source growth will occur during the brief period of time the rules are being amended. Because of the above reasons, and because these deficiencies will not signficantly affect the critical elements of the Pima County NSR rules during the interim period of conditional approval, EPA finds that the Pima County NSR rules can be conditionally approved.

To satisfy the condition of approval, the State and County must submit the following material by the indicated date:

By November 4, 1982, the ADHS and Pima County NSR rules must be revised to meet the requirements in EPA's amended regulations for NSR under Section 173 of the Clean Air Act (May 13, 1980 (45 FR 31307), August 7, 1980, (45 FR 52676) and October 14, 1981 (46 FR 50766)), and submitted as a SIP revision.

Final Action on the Overall NAP

Since the Metropolitan Pima County NAP for TSP and CO contains only minor deficiencies, and since the State has provided assurances to correct these

deficiencies, EPA is taking final action to conditionally approve the overall NAP with respect to Part D. As a result, the current prohibition on construction of major new or modified sources of TSP and CO is no longer in effect in Metropolitan Pima County.

Regulatory Process

In those areas for which the State of Arizona has submitted approvable or conditionally approvable NAPs in accordance with the requirements of Part D, EPA has responsibility to take a final action as soon as possible in order to lift the construction prohibition. Since the State has submitted a conditionally approvable NAP for Pima County as discussed in this notice, EPA finds that good cause exists for making this action immediately effective.

The following Federal regulations are being rescinded since they have been replaced by a revised CO control strategy:

40 CFR 52.136, "Control strategy: carbon monoxide"
40 CFR 52.137, "Employer carpool incentive program"
40 CFR 52.138, "Bus/carpool matching program"

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Under Executive Order 12291, today's action is not "major." It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA, and any EPA response, are available for public inspection at the addresses listed above.

Under the Clean Air Act, any petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 7, 1982. This action may not be challenged later in proceedings to enforce its requirements.

Incorporation by reference of the State Implementation Plan for the State of Arizona was approved by the Director of the Federal Register on July 1, 1981.

(Secs. 110, 129, 171–178, and 301(a), Clean Air Act, as amended (42 U.S.C. 7410, 7429, 7501 to 7508, and 7601(a)))

List of Subjects in 40 CFR Part 52

Air Pollution Control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: June 30, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart D of Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart D—Arizona

1. Section 52.120(c) is amended by adding Subparagraphs (33), (34), (38)(i)(B), (42) and (53)(ii) as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(33) The *Metropolitan Pima County Nonattainment Area Plan for CO* was submitted by the Governor's designee on March 20, 1979.

* * * * *

(34) The *Metropolitan Pima County Nonattainment Area Plan for TSP* was submitted by the Governor's designee on March 27, 1979.

* * * * *

(38) * * *

(i) * * *

(B) New or amended Regulation 17: Rule 171, paragraphs B.1, B.1.a, B.7, B.8, C.1.a, C.1.b, C.2.a, C.2.c, C.2.d, C.3.a, and E.1.b; Regulation 42: Rules 421, 422, 423, 424, 425, and 426; and Regulation 50: Rule 504.

* * * * *

(42) The *Technical Basis of New Source Review Regulations, Pima County, Arizona, February 6, 1980* (AQ–125–a) was submitted by the Governor's designee on February 28, 1980.

* * * * *

(53) * * *

(ii) The *Improvement Schedules for Transit System and Rideshare Program in Metropolitan Pima County.*

* * * * *

2. Section 52.123 is amended by adding paragraph (c)(2) as follows:

§ 52.123 Approval status.

* * * * *

(c) * * *

(2) Tucson Air Planning Area for CO and TSP.

* * * * *

3. Section 52.124 is amended by adding paragraph (a)(2) as follows:

§ 52.124 Part D conditional approval.

(a) * * *

(2) The Tucson Air Planning Area portion of the Arizona SIP is approved as satisfying Part D requirements for TSP and CO provided the following condition is met:

(i) By November 4, 1982, the NSR regulations must be revised to meet the requirements in EPA's amended regulations for NSR (May 13, 1980 (45 FR 31307), August 7, 1980 (45 FR 52676) and October 14, 1981 (46 FR 50766)).

4. In § 52.131 the entries for Arizona are revised as follows:

§ 52.131 Attainment dates for national standards.

* * * * *

Air quality control region	Pollutants						
	TSP		SO_2		NO_2	CO	O_3
	Primary	Secondary	Primary	Secondary			
*	*	*	*	*	*	*	*
Pima Intrastate:							
Tucson Air Planning Area	d	d	c	c	c	d	c.
Remainder of Intrastate	e [1]	e [1]	b	b	c	([2])	([2]).
*	*	*	*	*	*	*	*

* * * * * * * *

§ 52.136 [Removed and reserved]

5. Section 52.136 is removed and reserved.

§ 52.137 [Removed and reserved]

6. Section 52.137 is removed and reserved.

§ 52.138 [Removed and reserved]

7. Section 52.138 is removed and reserved.

[FR Doc. 82-18816 Filed 7-6-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[A-6-FRL 2154-6]

Approval and Promulgation of Revisions to the Louisiana State Implementation Plan Regarding Permit Fee Systems, Interstate Pollution Abatement, Public Availability of Emission Data, Maintenance of Pay, Permit Public Comment, and Public Notification

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rulemaking.

SUMMARY: The purpose of this notice is to approve six (6) minor revisions to the Louisiana State Implementation Plan (SIP) in fulfillment of the Clean Air Act Amendments of 1977. These final revisions were submitted to EPA by the Governor on April 30, 1979, and relate to: (1) permit fee systems, (2) interstate pollution abatement, (3) public availability of emission data, (4) maintenance of pay, (5) permit public comments, and (6) public notification of exceedances of the primary National Ambient Air Quality Standards (NAAQS). The revision for permit fee systems did not satisfactorily meet the requirements of the Clean Air Act. As a result, the State submitted additional permit fee revisions on July 7, 1980; September 12, 1980; October 23, 1980; and January 12, 1981. The September 12, 1980 revision also included a new section for the implementation of regulations regarding public notification. Finally, on August 7, 1979 the State sent EPA a notification letter of a typographical error in the initial maintenance of pay revision. In reviewing the State's submittals, EPA assessed the ability of the revisions to meet the requirements of the 1977 Clean Air Act amendments.

EFFECTIVE DATE: This action will be effective on September 7, 1982 unless notice is received by August 6, 1982 that someone wishes to submit adverse or critical comments.

ADDRESSES: A copy of the State's submittals is available for review during normal business hours at the following locations:

The Office of the Federal Register, 1100 L Street NE., Room 8401, Washington, D.C. 20460

Environmental Protection Agency, Public Information Reference Unit (PM-213), EPA Library, 401 M Street SW., Washington, D.C. 20460

Environmental Protection Agency, Air Branch, Region 6, 1201 Elm Street, Dallas, Texas 75270.

FOR FURTHER INFORMATION CONTACT: John R. Hepola, State Implementation Plan Section, Air Branch, Air and Waste Management Division, EPA Region 6, 1201 Elm Street, Dallas, Texas 75270. Phone: (214) 767-1518.

SUPPLEMENTARY INFORMATION: On April 30, 1979, the Louisiana Department of Natural Resources (LDNR) submitted revisions to the SIP in fulfillment of the Clean Air Act Amendments of 1977. These revisions were submitted by the Governor and relate to new requirements for permit fee systems, interstate pollution abatement, public availability of emission data, maintenance of pay, permit public comment, and public notification. EPA has reviewed the State's submittals and developed an Evaluation Report [1] which describes the new 1977 requirements and reviews the State's submittals to satisfy those requirements. This evaluation report is available for review during normal business hours at the addresses listed above. The LDNR has revised the Louisiana State Implementation Plan to include the following requirements:

Permit Fee Systems—Section 2204 of the Louisiana Air Control Law provides legal authority for establishing a fee schedule to be based on recovering the reasonable costs of acting on permit applications, implementing, and enforcing permits.

After the initial submittals by the Governor on April 30, 1979, EPA requested and the State agreed to minor changes in Regulations 6.1 (fee schedule), 6.1.7 (requirements for permit fees), and 6.1.1 (permit exempt list). The revised regulations were submitted by the Governor on July 7, 1979 (which also added a new regulation 6.1.6, fee assessments), on September 12, 1980 (which deleted the reference to Table 8 in Regulation 6.1 and in its place referenced Table 4.1 in the Office of Environmental Affairs Fee Schedule Booklet; deleted Regulation 6.1.7), and on October 23, 1980 (which more fully described the permit exempt list in Regulation 6.1.1). Under Regulation 6.1.1, the State and EPA interpret the term insignificant to mean "less than 100 tons/year of any criteria pollutant".

A final permit fee schedule was submitted by the Governor on January 12, 1981. With the changes submitted by the Governor, the Louisiana Permit Fee System (which includes Regulations 6.1, 6.1.1, and 6.1.6) is considered adequate to satisfy Section 110(a)(2)(K) of the Act and is therefore approved.

[1] Evaluation Report for Revisions to the Louisiana State Implementation Plan (SIP) Regarding Permit Fee Systems, Interstate Pollution Abatement, Public Availability of Emission Data, Maintenance of Pay, Permit Public Comment, and Public Notification, May 1982.

Interstate Pollution Abatement—On April 30, 1979, the State submitted Regulations 6.11 which addressed the requirements of Section 126(a)(1) of the Clean Air Act. This section requires new or modified sources subject to Prevention of Significant Deterioration (PSD) or which may cause the NAAQS to be exceeded outside the State where the source is to be located to notify the affected States sixty-five (65) days prior to the approved date of construction. Since the language of the regulation is similar to and consistent with the language in Section 126(a)(1), EPA approves Regulation 6.11. In addition, Section 126 requires that nearby States be notified of existing sources which may affect their air quality. Louisiana has notified the following States of sources in Louisiana which may affect their air quality: (1) Arkansas—November 14, 1977, (2) Mississippi—May 3, 1982, and (3) Texas—April 21, 1982. These notifications are considered adequate to satisfy the requirements of Sections 126(a)(2) of the Clean Air Act.

Public Availability of Emission Data—Section 2210 of the Louisiana Air Control Law was disapproved by EPA on September 26, 1974. EPA ruled that under certain circumstances, Louisiana's State law pertaining to confidential information control prevent the disclosure of emission data to the public. The Governor's April 30, 1979, submittals included a revised section 2210 which specifically identifies emissions data as non-confidential information; therefore it is not subject to the prohibition of disclosure of confidential information as contained in section 2210. As revised, section 2210 adequately satisfies the requirements of 40 CFR 51.11(a)(6), and is approved.

Maintenance of Pay—In the Governor's submittal of April 30, 1979, the State included a new Regulation 17.15 which addressed the maintenance of pay requirements pursuant to section 110(a)(6) of the Clean Air Act. In the original submittal of Regulation 17.15, there was a typographical error in reference to delayed compliance orders under Section 113 of the Act. The State submitted a corrected copy of Regulation 17.15 on August 9, 1979. Regulation 17.15 has language similar to that of section 110(a)(6) and is considered adequate to satisfy the maintenance of pay requirement; therefore, EPA is approving this regulation.

Permit Public Comment—In the Governor's submittal on April 30, 1979, the existing Louisiana Regulation 6.6 was deleted in its entirety and a new section was added that addressed each of the three requirements of 40 CFR 51.18(h) and is therefore approved.

Public Notification—The Governor's September 12, 1980, submittal of sections No. 51.285 (a), (b) and (c) of Louisiana's State Implementation Plan more than adequately meet the requirements of section 127 of the Clean Air Act. This section requires (a) public notification of exceedance of primary standards on a regular basis during any portion of the proceeding year, (b) advising public of health hazards associated with such exceedances and (c) increasing public awareness in prevention of exceedances and participation in regulation of air quality. Therefore, this revision is approved.

The revisions included in this approval notice are considered minor in nature and noncontroversial. EPA is approving them without prior proposal. This action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and the other will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291. Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See CFR 8709.)

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 7, 1982. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2)).

Incorporation by reference of the State Implementation Plan for the State of Louisiana was approved by the Director of the **Federal Register** of July 1, 1981. This notice of final rulemaking is issued under the authority of Section 110 of the Clean Air Act, as amended, 42 U.S.C. 7410.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, and Hydrocarbons.

Dated: June 30, 1982.

Anne M. Gorsuch,
Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart T—Louisiana

1. In § 52.970, paragraph (c) is amended by adding paragraph (27) as follows:

§ 52.970 Identification of Plan.

* * * * *

(c) * * *

(27) Revisions to the plan for permit fee systems, interstate pollution abatement, public availability of emission data, maintenance of pay, permit public comment, and public notification of exceedances of the primary national ambient air quality standards (NAAQS), were submitted by the Governor on April 30, 1979. In addition, revised submittals for permit fee schedules were submitted on July 7, 1979; September 12, 1980; October 23, 1980; and January 12, 1981. The September 12, 1980 letter also included a new section 51.285(a), (b) and (c). Finally, the State sent a notification letter on August 7, 1979, which corrected a typographical error in the maintenance of pay revision.

* * * * *

§ 52.983 [Removed and reserved]

2. Section 52.983 is removed and reserved.

[FR Doc. 82-18817 Filed 7-6-82; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 52

[A-9 FRL 2139-5]

Mountain Counties Air Basin, California Nonattainment Area Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Final Rulemaking.

SUMMARY: In today's notice EPA is finalizing the conditional approval of the Mountain Counties Air Basin (MCAB) nonattainment area plan (NAP) for ozone. The MCAB NAP was submitted by the State of California and was proposed to be conditionally approved with respect to Part D of the Clean Air Act, "Plan Requirements for Nonattainment Areas," on March 22, 1982.

DATE: This action is effective July 7, 1982.

ADDRESS: A copy of the MCAB NAP for ozone is located at:
The Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20408
Public Information Reference Unit, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:
David P. Howekamp, Acting Director, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, Attn: Douglas Grano, (415) 974-8058.

SUPPLEMENTARY INFORMATION:

Background

On October 15, 1979, and January 28, April 3, May 28 and June 22, 1981, the California Air Resources Board (ARB) submitted revisions to the California State Implementation Plan (SIP) consisting of a control strategy and regulations for the Mountain Counties Air Basin. These revisions, which comprise the Mountain Counties Air Basin NAP, are intended to provide for attainment of the ozone National Ambient Air Quality Standard (NAAQS) in the MCAB portion of Placer and El Dorado Counties.

On March 22, 1982 (47 FR 12195), EPA published a notice of proposed rulemaking concerning the MCAB NAP for ozone. The notice provided a description of the NAP, summarized the applicable Clean Air Act requirements, compared the NAP to those criteria, and proposed to approve, or conditionally approve portions of the NAP. The March 22 notice should be used as a reference in reviewing today's actions.

Supplemental Revisions

The March 22, 1982 notice indicated that the only serious deficiency in the MCAB NAP was the lack of definitions for the El Dorado County New Source Review (NSR) rule. Rule 102, "Definitions", previously submitted by the State on April 17, 1980, contains definitions which remedy this major deficiency.

Rule 102 has been reviewed as a supplemental revision. EPA's detailed evaluation is available at the addresses indicated above. While the definitions do contain some minor deficiencies, the rules are being approved as part of today's rulemaking action. The State and the lead planning agencies have committed to amending the regulations to fully satisfy EPA's NSR requirements.

EPA believes that the NSR definitions for El Dorado County represent a clarification of the rules and do not change their substance. Since an opportunity to comment on the rules has already been given in the proposal notice, further comment is not considered necessary for this minor revision and thus, EPA finds that "good cause" exists to immediately approve these rules. (See Administrative Procedures Act, 5 U.S.C. 553(b).)

Public Comments

EPA received public comments from the El Dorado County Air Pollution Control District (APCD) (letter dated April 13, 1982) and the Placer County APCD (letter dated April 22, 1982). The El Dorado County APCD commented that Rules 313 to 320 listed in the March 22 notice were actually numbered as Rules 213 to 220. EPA will approve the rule-numbering change after the change is officially submitted by the State of California for inclusion in the SIP. The rule numbering used in today's notice is the same as in the proposed rulemaking (i.e., Rules 313 to 320).

The El Dorado Placer and County APCD indicated their intent to revise their NSR regulation to conform with EPA's revised requirements. Therefore, EPA will conditionally approve the permitting portion of the MCAB NAP with the condition that acceptable NSR regulations be submitted by January 1, 1983.

EPA Actions

EPA's final actions on the MCAB NAP for ozone are described below. These actions are based on the proposed rulemaking notice, supplemental revisions, and the public comments received by EPA.

Approved Portions of the NAP

EPA is taking final action under section 110 of the Clean Air Act to approve the following rules since they provide emission limits necessary to insure attainment of the NAAQS: El Dorado County Rules 313, 314, 315, 316, 317, 318, 319, and 320; and Placer County Rule 214.

The following portions of the NAP are approved because they satisfy the requirements of Part D: emission inventory, modeling, emission reduction estimates, attainment provision, reasonable further progress, legally adopted measures, emissions growth, annual reporting, resources, public and government involvement, and public hearing requirements.

The State's request for an extension of the ozone attainment date to December 31, 1987 is approved.

Conditionally Approved Portions of the NAP

As discussed in the proposal notice, the Public Comment Technical Support Document, and the Supplemental Revisions section of this notice, the permit program of the NAP contains minor deficiencies with respect to EPA's current NSR regulations listed at 40 CFR 51.18(j). EPA is conditionally approving this portion of the NAP for the reasons described in the Notice of Proposed Rulemaking (March 22, 1982). The pollution control agencies for California and the Counties have assured EPA that they will submit the material to correct these deficienceis. It is not expected that any major new source growth will occur during the brief period of time the rules are being amended.

To satisfy the condition of approval, the State and Counties must submit the following material by the indicated date: By January 1, 1983, the New Source Review rules for the Placer and El Dorado portions of the MCAB must be revised to meet the requirements in EPA's amended regulations under Section 173 (May 13, 1980, (45 FR 31307), August 7, 1980, (45 FR 52676) and October 14, 1981, (46 FR 50766)).

Final Action on the Overall NAP

Since the MCAB NAP for ozone in Placer and El Dorado Counties contains only minor deficiencies, and since the State has provided assurances to correct these deficiencies, EPA is taking final action to conditionally approve the overall NAP with respect to Part D. As a result, the current prohibition on construction of major new or modified sources of volatile organic compounds is no longer in effect in these portions of the MCAB.

Regulatory Process

In those areas for which the State of California has submitted approvable or conditionally approvable NAPs in accordance with the requirements of Part D, EPA has responsibility to take a final action as soon as possible in order to lift the construction prohibition. Since the State has submitted a conditionally approvable NAP for the Counties discussed in this notice, EPA finds that good cause exists for making this action immediately effective.

The following Federal regulations are being partially rescinded since they have been replaced by similar rules in the MCAB:

40 CFR 52.254, "Organic solvent usage"
40 CFR 52.255, "Gasoline transfer vapor control"
40 CFR 52.256, "Control of evaporative losses from the refilling of vehicular tanks"

The Federal Regulation 40 CFR 52.284, "Mass Transit Priority Strategy and Planning," is being rescinded as proposed since it was invalidated by previous legal action.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.) Under Executive Order 12291, today's action is not "major." It has been submitted to the Office of Management and Budget for review.

Under the Clean Air Act, any petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 7, 1982. This action may not be challenged later in proceedings to enforce its requirements.

Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1981.

(Secs. 110, 129, 171–178, and 301(a), Clean Air Act, as amended (42 U.S.C. 7410, 7429, 7501 to 7508, and 7601(a))

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: June 30, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart F of Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. In Section 52.220(c) subparagraphs (52)(xiii)(C), (92)(ii)(C), (93)(vi), (98)(vii)(B), (119)(i)(B) and (120) are added as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(52) * * *

(xiii) * * *

(C) Rule 508 (except paragraph (c)(3)(h)).

* * * * *

(92) * * *

(ii) * * *

(C) Rule 214.

* * * * *

(93) * * *

(vi) El Dorado County APCD (Mountain Counties Air Basin Portion).

(A) Rules 318, 319, and 320.

* * * * *

(98) * * *

(vii) * * *

(B) Rules 313, 314, 315, 316, and 317.

* * * * *

(119) * * *

(i) * * *

(B) Rule 102.

* * * * *

(120) *The Mountain Counties Air Basin Control Strategy* for ozone (Chapter 9 of the "Comprehensive Revisions to the State of California Implementation Plan for the Attainment and Maintenance of the Ambient Air Quality Standards" was submitted by the Governor's designee on April 3, 1981. The submittal also included revised regulations for the following APCD's.

(i) El Dorado County APCD (Mountain Counties Air Basin portion).

(A) Rules 401, 402, 403, 404, 405, 406, 407, 410, 411, 415, 416, 418, 419, 420, 421, 422, 423, 424, and 425.

* * * * *

2. Section 52.222 is amended by adding paragraph (d)(7) as follows:

§ 52.222 Extensions.

* * * * *

(d) * * *

(7) Mountain Counties Air Basin.

(i) El Dorado County (Mountain Counties Air Basin portion) for O_3.

(ii) Placer County (Mid-County portion) for O_3.

* * * * *

3. Section 52.223 is amended by adding paragraph (b)(10) as follows:

§ 52.223 Approved Status.

* * * * *

(b) * * *

(10) Mountain Counties Air Basin.

(i) El Dorado County (Mountain Counties Air Basin portion) for O_3.

(ii) Placer County (Mid-County portion) for O_3.

* * * * *

4. Section 52.232 is amended by adding paragraph (a)(15) as follows:

§ 52.232 Part D conditional approval.

(a) * * *

(15) Mountain Counties Air Basin.

(i) By January 1, 1983 the new source review rules for Placer and El Dorado Counties must be revised to meet the requirements in EPA's amended regulations under Section 173 (May 13, 1980, (45 FR 31307), August 7, 1980, (45 FR 52676), and October 14, 1981, (46 FR 50766)).

* * * * *

5. In Section 52.238, the entries for the Mountain Counties Intrastate are amended to read as follows:

§ 52.238 Attainment dates for the national standards.

* * * * *

Air quality control region	Pollutants: TSP Primary	TSP Secondary	SO_x Primary	SO_x Secondary	NO_x	CO	O_3
*	*	*	*	*	*	*	*
Mountain Counties Intrastate:							
*	*	*	*	*	*	*	*
Placer County portion.	c	c	c	c	c	c	i.
El Dorado County portion.	a	c	c	c	c	c	i.
*	*	*	*	*	*	*	*
*	*	*	*	*	*	*	*

6. Section 52.254 is amended by adding paragraph (a)(3)(vii) as follows:

§ 52.254 Organic solvent usage.

(a) * * *

(3) * * *

(vii) El Dorado County (Mountain Counties Air Basin portion).

* * * * *

7. Section 52.255 is amended by adding paragraph (b)(2)(viii) as follows:

§ 52.255 Gasoline transfer vapor control.

* * * * *

(b) * * *

(2) * * *

(viii) El Dorado County APCD (Mountain Counties Air Basin portion).

* * * * *

8. Section 52.256 is amended by adding paragraph (b)(3)(ii) and (b)(3)(iii) as follows:

§ 52.256 Control of evaporative losses from the filling of vehicular tanks.

* * * * *

(b) * * *

(3) * * *

(ii) El Dorado County APCD (Mountain Counties Air Basin portion).

(iii) Placer County APCD (Mountain Counties Air Basin portion).

* * * * *

§ 52.264 [Removed and reserved]

9. Section 52.264 is removed and reserved.

[FR Doc. 82-18918 Filed 7-6-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-10-FRL 2151-4]

Approval and Promulgation of Implementation Plan Revisions; Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: (OR 614 and OR 873) By this Notice EPA announces its approval of the following revisions to the State of Oregon Implementation Plan: (1) A revision to the Ambient Air Quality Standard for ozone to be consistent with EPA's ozone standard, and (2) three revisions to the Lane Regional Air Pollution Authority Rules. These revisions have been submitted by the State of Oregon Department of Environmental Quality after adequate opportunity for public, private and industry input. This action will be effective on September 7, 1982 unless notice is received before August 6, 1982 that someone wishes to submit adverse or critical comments. If such notice is received, EPA will open a formal 30-day comment period prior to final rulemaking on this action.

EFFECTIVE DATE: This action is effective September 7, 1982.

ADDRESSES: Copies of materials submitted to EPA may be examined during normal business hours at the following locations:

Central Docket Section (10A-82-3), West Tower Lobby, Gallery I, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460

Air Programs Branch, Environmental Protection Agency, Region 10, 1200 Sixth Avenue M/S 532, Seattle, Washington 98101, State of Oregon, Department of Environmental Quality, 522 S.W. Fifth, Yeon Building, Portland, Oregon 97207

The Office of Federal Register, 1101 L Street NW., Room 8401, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Michael J. Schultz, Environmental Protection Agency, 1200 Sixth Avenue M/S 532, Seattle, Washington 98101,

Telephone: (206) 442–1985, FTS: 399–1985.

SUPPLEMENTARY INFORMATION:

I. Introduction

On March 11, 1982, the State of Oregon Department of Environmental Quality (DEQ) submitted as SIP revisions a change to the statewide ambient ozone standard and modifications to the Lane Regional Air Pollution Authority (LRAPA) rules. Pursuant to sections 110 and 172 of the Clean Air Act (hereinafter referred to as the Act), EPA is today approving these revisions in order to make the Federally-approved SIP consistent with the current State and local air pollution control programs.

II. Plan Revisions

A. Revisions to the Ozone Standard (Oregon Administrative Rule 340–21–030)

The amended rule changes the State ozone standard from 160 micrograms per cubic meter (0.08 ppm), one-hour average, to 235 micrograms per cubic meter (0.12 ppm), one-hour average, making it consistent with the Federal standard as published in the February 8, 1979 **Federal Register** (44 FR 8220).

DEQ had viewed the 0.08 ppm standard as a long-term objective, but has been designing its ozone attainment plans to attain the 0.12 Federal standard. EPA is approving the revised OAR 340–21–030 since it is consistent with EPA's ozone standard and has no impact on the Oregon ozone SIP.

B. Revisions to the Lane Regional Air Pollution Authority

Amendments to the Lane Regional Air Pollution Authority (LRAPA) rules add requirements for particulate emissions from air conveying systems and revise the fee schedule for Air Contaminant Discharge Permits. These amendments are as follows:

1. Air Conveying Systems (Section 11–015.013 and 32–800).

These new LRAPA rules add (1) the definition of "Air Conveying System" (11–015.013) and (2) particulate emission regulations for "air conveying systems located within the Eugene/Springfield Air Quality Maintenance Area (AQMA) which use a cyclone or other mechanical separating device and which have a baseline year emission rate of three Metric Tons or more particulate matter (32–800)."

These rules are submitted as partial fulfillment of the Eugene-Springfield secondary standard total suspended particulate (TSP) strategy which EPA approved on April 12, 1982 (47 FR 15587). As one element of that strategy, LRAPA was to develop regulations for the control of industrial air conveying systems. These rules were approved by DEQ and were submitted to EPA as SIP revisions.

EPA is approving LRAPA rules 11–015.013 and 32–800 since they meet one of the commitments in the EPA approved (47 FR 15587) TSP secondary standard attainment plan for the area.

2. Fees for Air Contaminant Sources (Section 22–020).

LRAPA revised its existing rule by raising fees and adding more sources and source categories to its fee schedule. All sources within the agency's jurisdiction (Lane County) are affected by these rule changes.

EPA is approving this revised rule as it is only administrative and has no substantive impact on attainment and maintenance of standards.

III. Summary of Actions

EPA has determined that SIP revisions which are noncontroversial may be published as a final rulemaking without going through a proposed rulemaking. The subjects of today's rulemaking are noncontroversial for the reasons stated in the above "Plan Revisions Section." Therefore, EPA is approving today, without prior proposal, the subject SIP revisions submitted by DEQ on March 11, 1982.

Today's action will be effective on or before September 7, 1982. However, if notice is received within 30-days from publication that someone wishes to submit adverse or critical comments on any or all of the revisions approved herein, the action on those revisions will be withdrawn and EPA will initiate the normal rulemaking process of proposal and consideration of comments prior to final rulemaking.

Under section 307(b)(1) of the Clean Air Act, judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 7, 1982. This action may not be challenged later in proceedings to enforce its requirements (See 307(b)(2)).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

(Secs. 110 and 172, Clean Air Act as amended (42 U.S.C. 7410(a) and 7502))

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: June 30, 1982.

Anne M. Gorsuch,

Administrator.

Note.—Incorporation by reference of the Implementation Plan for the State of Oregon was approved by the Director of the Office of Federal Register in July 1981.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40, Code of Federal Regulations is amended as follows:

Subpart MM—Oregon

In § 52.1970 paragraphs (c)(49) through (50) are added as set forth below:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *

(49) On March 11, 1982, the State of Oregon Department of Environmental Quality submitted three revisions to the Lane Regional Air Pollution Authority rules. They are: (1) Title 11 Definitions (Section 015.013, Air Conveying Systems), (2) Title 22 Permits (Section 020, Fees), (3) Title 32 Emission Standards (Section 800, Air Conveying System).

(50) On March 11, 1982, the State of Oregon Department of Environmental Quality submitted a revision to their State ambient air quality standard for ozone (from 0.08 ppm to 0.12 ppm.

[FR Doc. 82–18319 Filed 7–6–82; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 52

[A–4–FRL 2150–2]

Approval and Promulgation of Implementation Plans; Florida: Ambient Air Quality Standards for Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today approves a revision in Florida's ambient air quality standards for ozone to bring the State standards into conformity with the national standards, revised by EPA on February 8, 1979 (44 FR 8202). On April 26, 1982, the Florida Department of Environmental Regulation (FDER) asked EPA, pursuant to section 110 of the Clean Air Act, to approve a change in the State ozone standard from 0.08 parts per million (ppm) to 0.12 ppm, or 235 micrograms per cubic meter. An accompanying change was also asked for the State's ozone alert level concentration for determination of air

pollution episodes, from 0.1 ppm to 0.2 ppm. This change makes the Florida episode alert level for ozone the same as that in Appendix L of 40 CFR Part 51.

EFFECTIVE DATE: This action will be effective on September 7, 1982, unless notice is received within 30 days that someone wishes to submit critical comments.

ADDRESSES: Copies of the materials submitted by the State may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

Air Management Branch, EPA, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365

Library, Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20005

Florida Department of Environmental Regulation, Bureau of Air Quality Management, Twin Towers Office Building, 2600 Blairstone Road, Tallahassee, Florida 32301

FOR FURTHER INFORMATION CONTACT: Ms. Sally Bethea, Air Management Branch, EPA Region IV, at the above address, telephone 404/881-3286 (FTS 257-3286).

SUPPLEMENTARY INFORMATION: On February 17, 1982, a public hearing was held on the proposed revision of the State's ambient air quality standards for ozone and the ozone episode alert level. The revision was adopted by FDER on March 10, 1982. On April 26, 1982, the SIP revision was submitted to EPA by FDER.

In 1971, EPA promulgated National Ambient Air Quality Standards (NAAQS) for photochemical oxidants. Primary and secondary standards were set at an hourly average level of 0.08 ppm, not to be exceeded more than once a year. Based on revised air quality criteria, EPA revised the NAAQS for photochemical oxidants in 1979 (44 FR 8202). The primary and secondary standards were raised to 0.12 ppm. The definition of the point at which the standard is attained was changed to "when the expected number of days per calendar year with maximum hourly average concentrations above 0.12 ppm is equal to or less than one."

Rule 17-2.300(3)(d)1 of the Florida Administrative Code establishes primary and secondary standards for photochemical oxidants at the original EPA standard of 0.08 ppm. The submitted revision changes this standard to 0.12 ppm, or 235 micrograms per cubic meter, to conform to the revised EPA NAAQS. The revision also corrects the inconsistency between the title of the standard (photochemical oxidants) and the chemical species (ozone) that is measured by the EPA reference method used to determine compliance with the standard. The method for determination of the ozone standard is changed in the revision to the statistical approach recommended by EPA for determining compliance with the ozone NAAQS. The new method accounts for the normal variations in daily maximum ozone concentrations which result from random meterological fluctuations. This approach allows the number of exceedances to be expressed as an average or expected number per year and also makes allowance for missing data.

Florida's Rule 17-2.330(1)(e) establishes the alert level ozone concentration for determination of an air pollution episode at 0.1 ppm. The new NAAQS of 0.12 ppm requires that the alert level be raised for consistency. FDER increased this level to 0.2 ppm, the same level as that set by EPA (see Appendix L of 40 CFR Part 51) to match the new standard. The revised level meets the primary purpose of the episode criteria, which is to prevent substantial threat to the public health.

Action. Based on the foregoing, EPA today approves Florida's changes in its ambient air quality standards and episode alert level for ozone.

This action will be effective 60 days from the date of this **Federal Register** notice. However, if we receive notice within 30 days that someone wishes to submit critical comments, we will withdraw this action and will publish two subsequent notices before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 7, 1982. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

On July 1, 1981, the Director of the Federal Register approved incorporation by reference of the State Implementation Plan for the State of Florida.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Sec. 110, Clean Air Act (42 U.S.C. 7410))

Dated: June 30, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart K—Florida

In § 52.520, paragraph (c) is amended by adding subparagraph (48) as follows:

§ 52.520 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * *

(48) Revised ambient standards and episode alert level for ozone, submitted on April 26, 1982, by the Florida Department of Environmental Regulation.

[FR Doc. 82-18320 Filed 7-6-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 81

[A-7-FRL 2153-1]

Designation of Areas for Air Quality Planning Purposes; Missouri (St. Joseph Area)—MO 445

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: Today EPA is taking final action to redesignate a portion of the City of St. Joseph, Missouri, from nonattainment to attainment with respect to the primary National Ambient Air Quality Standard (NAAQS) for total suspended particulates (TSP). This portion remains designated nonattainment for the secondary TSP standard. The Missouri Department of Natural Resources requested this redesignation and supported their request with recent air monitoring data supplemented by dispersion modeling. This information shows that the primary TSP standard has not been exceeded over the past two years in the area to be redesignated.

EFFECTIVE DATE: This action will be effective September 7, 1982, unless

notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Comments should be sent to Dewayne E. Durst, Environmental Protection Agency, 324 E 11th Street, Kansas City, MO 64106. The state submission is available at the above address, at the Missouri Department of Natural Resources, 1101 Rear Southwest Boulevard, Jefferson City, Missouri 65102, and the Environmental Protection Agency Public Information Reference Unit, Room 2922, 401 M Street S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Dewayne E. Durst at (816) 374–3791 (FTS 758–3791).

SUPPLEMENTARY INFORMATION: On May 17, 1982, the MDNR submitted a request to redesignate the attainment status of a portion of the City of St. Joseph, Missouri. The area was designated primary nonattainment for TSP on March 3, 1978 (43 FR 8962). That original designation included all of the area within the city limits of St. Joseph and was based upon data from a limited number of sampling stations in the central part of the city. Because there were no data available to accurately define the outer boundaries of the primary nonattainment area when first designated, the state chose to designate the entire city as primary nonattainment. Since then, additional monitors have been added in the outskirts of the city and dispersion modeling has been performed. The new boundaries for the primary nonattainment area reflect this new data.

The area for which the primary nonattainment designation is being eliminated will remain secondary nonattainment.

The area of St. Joseph which is to remain designated primary nonattainment includes the central business district and a several block commercial and residential strip which surrounds the downtown area on three sides. A portion of an industrial area to the south of downtown St. Joseph also remains designated primary nonattainment. The Missouri River forms the western boundary of the area. The full detailed description of the new primary nonattainment boundaries is contained in the state submission.

EPA is taking this action without prior proposal because it imposes no new requirements and is noncontroversial. The public is advised that this action will be effective September 7, 1982. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities since it imposes no new requirements.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Clean Air Act, as amended, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today.

(Sections 107 and 301 of the Clean Air Act, as amended (42 U.S.C. 7407 and 7601))

List of Subjects in 40 CFR Part 81

Air pollution, National parks, Wilderness areas.

Dated: June 30, 1982.

Anne M. Gorsuch,

Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart C—Section 107 Attainment Status Designation

§ 81.326 [Amended]

1. In § 81.326 in the table "Missouri-TSP," the line reading "St. Joseph city limits" is amended by removing the words "city limits" and the two X's. A subheading is added directly under to read "St. Joseph Primary Nonattainment Area," with an "X" under the column headed "Does Not Meet Primary Standards." A second subheading is added directly under to read "Remainder of the City of St. Joseph" with an "X" under the column headed "Does Not Meet Secondary Standards."

[FR Doc. 82-18304 Filed 7-6-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 120

[WH-FRL 2163-3]

Water Quality Standards; Ohio; Withdrawal of Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of rule.

SUMMARY: EPA is withdrawing a rule which established certain Federal water quality standards for the State of Ohio. These standards were largely based on a regulation which EPA has determined was not adequately subjected to public notice and comment.

DATE: This withdrawal is effective July 7, 1982.

FOR FURTHER INFORMATION CONTACT: David K. Sabock, Environmental Protection Agency, Criteria and Standards Division, Criteria Branch (WH-585), Room M2818, 401 M Street, SW., Washington, D.C. 20460, (202) 245-3042.

SUPPLEMENTARY INFORMATION:

Background

On February 14, 1978, the Ohio Environmental Protection Agency adopted revisions to the State water quality standards and submitted them to the Regional Administrator, Region V, of the EPA for review. On May 17, 1978, the Regional Administration notified the Governor that the adopted standards did not meet the requirements of the Clean Water Act, and specified changes deemed necessary. On August 9, 1978, after the State submitted clarifications of certain of the provisions, the Regional Administrator approved certain portions of the standards but determined that other major portions of the standards remained inconsistent with the Act. On July 6, 1979 (44 FR 39486), EPA proposed water quality standards for the State to replace those provisions which had not been approved, and on November 28, 1980 (45 FR 79053), promulgated final water quality standards for Ohio.

In the November 28, 1980, promulgation for Ohio waters, EPA stated, as a partial basis for its action, that the State had not submitted sufficient evidence to justify its downgrading of stream use designations. At that time, EPA officials were not aware that 40 CFR 35.1550(c)(3), the underlying regulation governing State downgrades of water quality standards, had not been subjected to public notice and comment at the time of its promulgation in November 1975. Consequently, in the course of the Ohio rulemaking, EPA did

not respond to those comments which dealt with the validity of the downgrade criteria set forth in 40 CFR 35.1550(c)(3). When it realized these facts, EPA concluded that the basis for EPA's denial of the Ohio downgradings has not been adequately subjected to public notice and comment. In addition, a number of basic program policies supporting the national water quality standards program are being reviewed and possibly revised. Therefore, EPA concluded that it was appropriate to withdraw the standards promulgated on November 28, 1980. On February 16, 1982, at 47 FR 6662, EPA proposed for public comment the withdrawal of the November 28, 1980 promulgations.

Public Comments

Fourteen comments were received. Virtually all commenters supported EPA's withdrawal of its November 28, 1980 standard. A summary of the issues raised by the comments relevant to the proposed action and EPA's response follows:

Issue: Several commenters stated that in addition to the withdrawal of the 1980 promulgation, EPA should also rescind its August 9, 1978, disapproval of portions of the State standards.

Response: Mere disapproval of State water quality standards is not a final agency action, and unless and until EPA promulgates water quality standards for a State, the duly adopted State rules are to be relied upon for all purposes under the Clean Water Act. For this reason, there is no practical impact to retention of our disapproval. However, EPA has concluded that it would be appropriate to withdraw the agency's disapproval since it was grounded upon the same procedurally deficient provisions of 40 CFR 35.1550(c) as the Federal promulgation. We will notify the State accordingly.

Issue: One commenter asserted that EPA should not only rescind its disapproval but also approve the State standards adopted by Ohio on February 14, 1978.

Response: EPA does not believe that it is necessary or appropriate to formally approve the water quality standards adopted by Ohio in 1978. First, the current status of those standards under State law is unclear. In an order dated April 27, 1982, the Ohio Environmental Board of Review vacated on procedural grounds the State water quality standards adopted by Ohio. The State of Ohio has appealed this order to State appellate court, and expects to request a stay pending appeal. If the order is stayed or reversed, the 1978 State water quality standards will remain the effective standards for federal purposes, whether or not approved by EPA. On the other hand, as long as the State standards remain vacated, there is nothing for EPA to approve. Of course, if there should be a continued absence of any effective water quality standards for the State of Ohio, EPA will consider appropriate action, consistent with the requirements of section 303 and the goals of the Clean Water Act.

In addition, the Ohio EPA has commenced a review of its 1978 water quality standards in accordance with the periodic review provisions of section 303(c) of the Clean Water Act. The purpose of this review is to develop or revise standards on a stream by stream basis. This review process will consider current stream-specific information to arrive at use designations for each segment. This review by Ohio EPA may lead to standards substantially different from those adopted by the State in 1978. As these revised standards are adopted by Ohio, they will be submitted to EPA for approval pursuant to section 303(c) of the Clean Water Act.

Issue: One commenter disagreed with EPA's statement at 47 FR 6662 that, if the Agency withdraws the federal standards, the standards adopted by Ohio on February 14, 1978, will be effective for all purposes under the Clean Water Act. The commenter states that the State standards were not properly adopted.

Response: As stated above, it is EPA's position that in the absence of federal water quality standards whatever duly adopted State water quality standards are in existence are to be utilized for Clean Water Act purposes. The question of what State standards, if any, are effective under State law is a matter for resolution at the State level. The question of the procedural validity of the 1978 standards is currently the subject of State court judicial review.

Issue: One commenter recommended that only those portions of 40 CFR § 120.45(a)–(g) based upon the procedurally deficient provisions of 40 CFR § 35.1550(c) should be withdrawn.

Response: While the downgrading provisions of 40 CFR § 35.1550(c) constituted only a partial basis for EPA's disapproval of the State standards adopted by Ohio in 1978, that section was the controlling factor in the agency's decision to disapprove. EPA's action therefore rested primarily upon an improperly established regulation. EPA is also reviewing the criteria for dissolved oxygen for the protection of aquatic life, which played a part in the disapproval, and a number of other basic program policies supporting the national water quality standards program. EPA has concluded that in light of the above factors it is appropriate to withdraw all portions of the federal standards promulgated on November 28, 1980.

Effective Date

Because withdrawal of the Federally promulgated water quality standards for Ohio will have the effect of relieving a restriction, EPA has determined that it is appropriate to have the withdrawal effective immediately upon publication in the **Federal Register.**

Regulatory Analysis

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a regulatory impact analysis. This rule withdrawal is not "major" because it would not impose any regulation which might have an economic impact on industry, States or municipalities. For the same reason, the withdrawal of this rule will not have a significant economic impact on a substantial number of small entities.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR 120

Water pollution control.

Dated: June 30, 1982.

Anne M. Gorsuch,

Administrator.

PART 120—WATER QUALITY STANDARDS

§ 120.45 Ohio [Amended]

Section 120.45 paragraphs (a)–(g), of Part 120, Chapter 1, Title 40 of the Code of Federal Regulations are removed and reserved.

[FR Doc. 82-18323 Filed 7-6-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 17

Nondiscrimination on the Basis of Handicap

AGENCY: Office of the Secretary, Interior.

ACTION: Final rule.

SUMMARY: This rule sets forth guidelines for the implementation of section 504 of the Rehabilitation Act of 1973 in programs receiving Federal assistance through the Department of the Interior (DOI). Section 504 of the Act prohibits discrimination against handicapped

persons in federally assisted programs. This rule is intended to interpret and define the requirements of the law as they relate to DOI Federal assistance programs and to establish policy and standards for effecting the requirements in the program.

EFFECTIVE DATE: July 7, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Melvin C. Fowler, Office for Equal Opportunity, U.S. Department of the Interior, Washington, D.C. 20240, (202) 343–4331.

SUPPLEMENTARY INFORMATION: Section 504 of the Rehabilitation Act of 1973 provides that no qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. On April 26, 1976, the President issued Executive Order 11914 under which the former Department of Health, Education and Welfare (HEW), as lead agency, was required to coordinate Government-wide enforcement of section 504. In accordance with Executive Order 11914, HEW issued on January 13, 1978, final standards, procedures, and guidelines to be followed by each Federal agency in issuing section 504 regulations (See 43 FR 2132, January 13, 1978). On November 2, 1980, coordinating responsibility for section 504 was transferred from HEW/HHS to the Department of Justice (DOJ) by Executive Order 12250 (45 FR 72995). Section 1–502 of the Order prescribed that HHS' regulations relating to the coordination of section 504, "shall be deemed to have been issued by the Attorney General pursuant to this Order and shall continue in effect until revoked or modified by the Attorney General." This final rule is intended to be consistent with those standards effectuating Executive Order 12250 at 28 CFR Part 41, (Redesignated and amended at 46 FR 40686, August 11, 1981), which requires DOJ to coordinate the implementation of section 504 with each Federal department and agency that is empowered to extend Federal financial assistance.

This final rule also has been coordinated with the Equal Employment Opportunity Commission (EEOC), pursuant to Executive Order 12067 (43 FR 18967, June 30, 1978). Executive Order 12067 requires that Federal agencies consult and coordinate with the EEOC during the development of rules, regulations, policies, procedues, and orders dealing with equal employment opportunity.

On November 6, 1978, the Congress amended section 504 to include "any program or activity conducted by an executive agency or by the United States Postal Service," and to require these agencies to "promulgate such regulations as may be necessary to carry out the amendments made by the Rehabilitation, Comprehensive Service, and Developmental Disabilities Act of 1978." The amendments made by the Rehabilitation, Comprehensive Service, and Developmental Disabilities Act of 1978 apply the rights, remedies and procedures of Title VI of the Civil Rights Act of 1964, (42 U.S.C. 2000d *et seq.*), to acts of discrimination arising under section 504. Title VI, however, does not apply to programs directly administered by Federal agencies. DOI will therefore develop and issue a separate set of regulations and procedures for the programs that it directly administers at a later date.

On April 13, 1979, DOI published its *Advance Notification of Rulemaking*, erroneously titled *Notice of Intent to Issue Final Rules*, inviting comments from all interested parties (See 44 FR 22372, April 13, 1979).

On April 8, 1980, the proposed rule to implement Section 504 was published by DOI, inviting all interested parties to submit comments within 60 days (See 45 FR 24074, April 8, 1980).

This rule is consistent with DOJ's implementation of Executive Order 12250, and 28 CFR Part 41. The language used in the DOI rule is similar to language adopted by DOJ in its regulations, in order to ensure Government-wide consistency. The Office of Interagency Coordination of the EEOC and the Civil Rights Division of the DOJ have reviewed these regulations prior to final publication. Many of the comments received by DOI concerned language in the proposed rule that could not be altered and remain consistent with DOJ's review standards. All comments received by DOI were reviewed and considered. The DOJ and EEOC are currently reviewing the section 504 coordinating guidelines originally issued by HEW/HHS. Until DOJ issues revised section 504 guidelines, DOI will continue to rely on precedents establishes by HEW/HHS. If the DOJ guidelines are revised, this rule will be amended accordingly and all such revisions made by DOI will conform to the goals of Executive Order 12291 (46 FR 13193).

This rule has been renumbered to facilitate alterations that have been made and inclusion with 43 CFR Part 17.

Many of the comments received concerned administrative details and matters of policy which are not properly subjects of this rule. These administrative details and policy matters will be fully developed after the rule becomes final. Bureaus and offices are currently developing guidelines and technical assistance will be available to recipients.

Section 17.200 through 17.209 define important terms, and state in general that discriminatory practices are prohibited, as well as set forth compliance procedures, assurances required, grievance procedures, and notification procedures.

In response to several comments, some definitions have been added or amended. It should be noted that an alcoholic or drug addict may not be denied services or employment solely because of his/her condition; however, behavioral manifestations of the condition may be taken into account in determining whether a person is a "qualified handicapped individual." This amendment is designed to clarify the definition of a "qualified handicapped individual", and does not affect the substantive approach to determine whether a person qualifies under this definition. Vessels are included within the term "facility", although they are not specifically listed. Due to the nature of vessels, however, special methods may be employed in order to achieve program accessibility, in accordance with HEW's Policy Interpretation #4 (43 FR 36035, Aug. 14, 1978). Cooperative agreements are covered by this subpart and thus must comply with all provisions. The definition of "Historic Properties" has been revised, and definitions for "Integrated settings" and "Ultimate beneficiary" have been added.

The section on "Discrimination prohibited" applies generally; later sections set criteria and applications for specifically prohibited discriminatory practices. There were several comments concerning the retroactive application of this section. In accordance with HEW's Policy Interpretation #1, (43 FR 18631, May 1, 1978), DOI will investigate complaints of alleged discrimination that occurred after September 26, 1973, the date Section 504 became effective, and prior to the date this regulation becomes effective, if the complaints allege violations of the statute which do not need the interpretive language of this regulation for resolution. In compliance with HEW's Policy Interpretation #2 (43 FR 18631, May 2, 1978), the 180 day limitation period for complaints established by 43 CFR 17.3(c) will not be applied to acts of discrimination that occurred before the effective date of this regulation. The

limitation period will begin to run after the effective date.

Several comments expressed concern about possible conflicts between State and local law and the requirements of this regulation. The wording in the appropriate sections has been maintained to ensure consistency with the Government-wide regulations of DOJ. In response to questions concerning "assurances required", the words "similar" and "purpose" are standard and will be retained to maintain interdepartmental consistency. Some comments received expressed concern over the requirement that covenants be included in granting instruments, and possible conflicts with State law. HEW (later HHS) has determined that it will not accept a recipient's contention that it cannot comply with Section 504 because of the requirements of an inconsistent State or local law (See section-by-section analysis, 42 FR 22688, May 4, 1977). In order to maintain interdepartmental consistency, DOI will adhere to this policy.

Several comments expressed concern over the time period allowed for completion of self-evaluations and transition plans by recipients. The time frame has been changed to allow one year for both the self-evaluation and transition plan.

DOI received comments that disagreed with the different requirements for small and large recipients. All recipients must prepare self-evaluations and take remedial measures where necessary; however, only recipients with 15 or more employees must prepare and maintain on file for inspection, lists of interested persons consulted and descriptions of the areas examined and remedial steps taken. This has been done to reduce the burden on small recipients who do not have adequate personnel to maintain extensive files. However, HEW has stated in Policy Interpretation #3, (43 FR 36034, August 14, 1978), that there are no waivers from compliance with section 504, because there is enough flexibility in the section 504 regulations for small recipients to comply without undue expense. DOI emphasizes that if complaints are made that allege a small recipient has violated section 504 and these regulations, DOI will expect the recipient to provide documentation of its programs and activities and may thereafter require the recipient to maintain files in the same manner as is required of large recipients.

Another issue raised was whether a complainant must totally exhaust grievance procedures as they affect employees before recourse is sought through DOI. HEW has stated that, although it is preferred that grievance procedures adopted by the recipient be utilized to the maximum extent possible, it is not required that they be totally exhausted by the complainant before recourse is sought through the rulemaking department. (See section-by-section analysis, 42 FR 22688, May 1, 1977).

In regard to several comments, DOI has amended the section on "Notification" to include persons with any disability that impairs the communication process.

The section on State and local law is consistent with language employed by HEW (later HHS) in 45 CFR Part 84 and 45 CFR Part 85 (45 CFR Part 85—Redesignated as 28 CFR Part 41, 46 FR 40686, August 11, 1981). This section applies to State and local laws that unjustifiably differentiate on the basis of handicap. (42 FR 22688, May 1, 1977).

It has been suggested to DOI that the 1978 amendments to section 504, Pub. L. 95-602, prohibit Federal departments from making their regulations applicable to employment practices unless the primary purpose of the Federal financial assistance is to provide employment programs. The Office of General Counsel of HEW disagrees with this interpretation of the 1978 amendments and has determined that the wording of the 1978 amendments was set to establish proper procedures and was not meant by Congress to prevent application of section 504 and these regulations to employment practices. (OGC memorandum from Albert T. Hamlin, Assistant General Counsel, Civil Rights, to David S. Tatel, entitled "Trageser v. Libbie Rehabilitation Center: Coverage of Employment under Sec. 504," January 25, 1979).

DOI received comments asking for clarification of the term "undue hardship." DOI has retained its original language to maintain consistency between these regulations and the criteria listed in DOJ's Government-wide regulations. Other comments suggested that DOI list specific activities that would constitute reasonable accommodations. While DOI is obligated to do so, it is not intended by DOI that this list be all-inclusive; it is only intended to give examples of reasonable accommodations. The concepts of reasonable accommodation, programmatic accessibility and undue hardship will be covered at length in the guidelines for these regulations.

DOI has amended the section on "Pre-employment inquiries" to require that recipients make clear to applicants the purpose for the inquiries.

Section 17.218 has been revised. This has been done in order to eliminate confusion regarding the appropriate coverage of the Architectural Barriers Act of 1968, Pub. L. 90-480, and section 504 of the Rehabilitation Act of 1973. The Architectural Barriers Act covers a narrow range of recipients: Those recipients whose facilities are designed, constructed, or altered with Federal funds and are subject to a construction statute whereby the Federal granting agency has the authority to set design standards. The coverage of section 504 is broader. It applies to all recipients of Federal financial assistance. Under section 504, the Architectural and Transportation Barriers Compliance Board (ATBCB), created by section 502 of the Act, does not have the legal authority to grant waivers from compliance. Although the granting agency may confer with the ATBCB, the Board will function in an advisory capacity. If the recipient is subject to section 504 and the Architectural Barriers Act, the recipient must follow the accessibility standards and waiver procedures of both Acts.

Referral by recipients to other programs, under the "Existing facilities" section, is intended by DOI and DOJ to be taken as a last resort. Recipients are to give priority to methods of compliance that provide accessibility and usability for the handicapped in the same setting as for the nonhandicapped. If there are no similar programs in the nearby area, referral is not an available method of compliance. This interpretation follows HEW's Policy Interpretation #3, (43 FR 36034, August 14, 1978).

Sections 17.220 and 17.232, regarding federally assisted education programs of the Department, were determined to be more encompassing than necessary for the Department's education programs. To reduce the volume and expense of this publication, DOI has adopted by cross-reference the section 504 rules promulgated by the Department of Education at 34 CFR Part 104, Subparts D and E, for preschool, elementary, secondary, and postsecondary education.

Some comments questioned the exclusion of programs administered by the Bureau of Indian Affairs. As stated before, pursuant to the 1978 Amendments to section 504 of the Rehabilitation Act, regulations for programs administered directly by DOI will be issued at a later date.

DOI has determined that the sections on employment practices are to be determinative of any problems concerning student employment.

DOI recognizes the Register for Interpreters for the Deaf as the national accrediting organization for all sign language interpreters. Therefore, when available, interpreters provided by recipients for beneficiaries with impaired hearing should be certified by the Register. The Register is located at 814 Thayer Avenue, Silver Spring, MD 20910, (301) 588–2406 (Voice and TTY).

A number of comments requested clarification of the term "significant assistance" provided by a recipient postsecondary educational institution to social organizations. "Significant assistance" has been interpreted by the National Association of College and University Business Officers, *Guide to Section 504 Self-Evaluation for Colleges and Universities*, p. 61 (1978) as "assistance without which an organization would no longer exist." DOI, in order to provide Government-wide consistency, will follow this interpretation.

DOI has completely revised the sections pertaining to "Historic preservation programs". The language used is consistent with the National Historic Preservation Act, Pub. L. 89–665, Executive Order 11593, and 36 CFR 800, and generally follows the regulations of the Advisory Council on Historic Preservation. It should be noted that the Advisory Council does not have the legal authority to grant waivers from compliance under section 504. If a recipient is subject to the Architectural Barriers Act, as well as section 504, the recipient must follow the waiver procedures of both Acts.

As revised § 17.260 provides that where a primary purpose of Federal assistance is to preserve historic properties, and alterations that are the only feasible means of providing access would cause a substantial impairment of significant historic features, a modification or waiver of the access standard may be sought. The Department will consult with the Advisory Council and the ATBCB on such waivers, in order to ensure consistency between the enforcement of section 504 and the statutes under which those agencies have responsibilities.

The Department emphasizes that modifications and waivers are applicable only to programs of historic preservation. Recipients of funds under programs that do not have a purpose of historic preservation are not eligible for modification or waivers of the requirements that these programs be accessible. DOI believes the program accessibility standard is flexible enough to make these programs accessible without impairing the integrity of historic buildings. Where, however, the historic features of the building itself are integral to the purpose of the programs, situations may arise in which access can only be achieved at the expense of the objectives of the program. In these instances, modifications or waivers may be necessary.

The section on "Recreation programs" has been reinserted into the final rule. This has been done to clearly establish that this rule applies to recreation programs. Technical aspects of compliance are not the subject of this rule, and will be developed by the individual bureaus when the rule becomes final.

DOI policy requires that all meetings, seminars, and conferences sponsored by recipients of Federal financial assistance be accessible to individuals with disabilities. Accessibility is defined as both physical access to meeting, conference, and seminar sites, and aids and services to enable individuals with sensory disabilities to fully participate in meetings, conferences, and seminars.

If a recipient receives financial assistance from two or more Federal agencies, DOI will cooperate with other agencies to facilitate recipient compliance.

The Office of Management and Budget (OMB) has exempted this rule from the Regulatory Impact Analysis requirement under Executive Order 12291 of February 17, 1981 (Administrator for Information and Regulatory Affairs, OMB Memorandum, July 30, 1981). Executive Order 12291 requires Executive branch agencies to prepare Regulatory Impact Analyses for regulations that may have major economic consequences. The Order defines major economic consequences as (1) an annual effect on the economy of $100 million dollars or more (for example, compliance costs that exceed $100 million dollars) or (2) major increase in costs or prices for consumers, individual industries, levels of government or geographic regions or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign based enterprises in domestic or export markets.

The anticipated costs to recipients of DOI financial assistance appear to be concentrated in two areas: (1) The removal of architectural barriers; (2) reasonable modification of employment practices to accommodate the qualified handicapped as employees of recipients.

There is a present indication that the compliance cost of the proposed rule will not result in major economic consequences within the meaning of Executive Order 12291.

Architectural Barriers: Structural changes for program accessibility are necessary primarily for persons with severe mobility-related handicaps—persons who cannot climb stairs or step over curbs, cannot open heavy doors, cannot travel without wheelchairs, and the like. Almost all these persons use wheelchairs or walkers. With respect to compliance costs associated with structural modifications, it is crucial to keep the following compliance standards in mind. First, under the requirements of this subpart, structural changes in existing facilities are required only where there is no other feasible way to make the recipient's program accessible to handicapped persons. For existing facilities, the key requirement is not a barrier free environment, but program accessibility. Second, not every existing facility or part of a facility in a program receiving Federal financial assistance from DOE must be accessible to the handicapped. The proposed rule requires only that, when viewed in its entirety, the program is readily accessible to handicapped persons. Where physical access to buildings, by the handicapped requires the construction of ramps, HEW found "after consultation with experts in the field, that outside ramps to buildings can be constructed quickly and at relatively low cost" (43 FR 22690, May 4, 1977). Whether the simple installation of ramps and appropriate restroom facilities in buildings will suffice depends upon the design of the facility, the nature and location of the program, and the availability of nonstructural modifications to provide program accessibility.

As to new construction, the available evidence indicates that compliance costs directly attributable to this rule may be modest for the following reasons.

First, all 50 States have architectural barriers statutes covering publicly funded buildings (where most DOI recipients are located), while at least 22 States additionally cover privately funded public buildings. The statutes of all 50 States cover new construction, while 35 States also cover renovations and alterations. Thus, since the issue is whether the proposed DOI regulations will themselves cause a "major" economic impact, it is noteworthy that most of what is required by this rule, in terms of preventing the creation of architectural barriers for the handicapped, already is required by existing State laws. Hence, to this extent the incremental DOI impact on

recipients would appear to be significantly reduced.

Second, the Architectural Barriers Act of 1968, as amended, 42 U.S.C. 4151 *et seq.*, requires that all buildings and facilities "financed in whole or in part by a grant or a loan made by the United States after August 12, 1968, are to be accessible to and usable by the physically handicapped," 42 U.S.C. 4151, "if the building or facility is subject to standards for design, construction or alteration issued under the law authorizing the grant or loan," 41 CFR 101–19.602(e)(3) (General Services Administration regulations).

Finally, applicants for DOI assistance may have previously received Federal financial assistance from other Federal agencies thereby requiring their compliance with section 504 independent of this subpart. Also, a substantial portion of Federal revenue sharing money has been allocated annually by State and local units of government. The revenue sharing funds are provided under the State and Local Fiscal Assistance Act of 1972, as amended, 31 U.S.C. 1221 *et seq.*, which was amended in 1976 to make section 504 of the Rehabilitation Act applicable to programs funded with revenue sharing monies received by State and local units of government after January 1, 1977.

Employment: The rule prohibits discrimination in employment against the handicapped by recipients of DOI financial assistance and, further, requires that recipients make "reasonable accommodation" to the handicaps of otherwise qualified applicants or incumbent employees. A reasonable accommodation in a given employment situation depends upon many variables involving the recipient, the job and the handicapped employee. The concept of reasonable accommodation used in this subpart refers only to job related needs. DOI, like its recipients, will have to deal with this issue on a case-by-case basis. However, HEW's economic impact statement on the compliance costs of section 504 for its recipients concluded that "our analysis strongly suggests that in the large majority of cases enforcement of reasonable accommodation will not result in any significant cost increase for employers." (41 FR 20332, May 17, 1976.) There is nothing to suggest a different result for employers functioning in programs receiving financial assistance from DOI. DOI's offices and bureaus were surveyed four times on the question of cost of implementation of this regulation. The consensus was that this rule would not have a substantial financial impact.

This rule was published as a Proposed Rule before January 1, 1981 and thus is not covered by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). However, this rule does consider the problems of small entities and limits the burden placed on small entities.

The information collection requirements contained in this rule have been submitted to the OMB for approval as required by 44 U.S.C. 3507. The collection of such information will not be required until it has been approved by the OMB.

This rule does not apply to programs directly administered by DOI, however, the Department intends to soon issue such regulations. Meanwhile, these programs should comply with the requirements of section 504, and, use this rule as a guide in doing so.

On June 19, 1981, the Federal District Court in *Paralyzed Veterans of America v. Smith*, (No. CV 79–1979 C.D. Cal.), granted a preliminary injuction ordering several agencies, to publish "on an expedited basis" final regulations implementing section 504.

This final rule is being published pursuant to that order.

List of Subjects in 43 CFR Part 17

Civil Rights, Federal financial assistance, nondiscrimination.

Dated: April 30, 1982.

Donald Paul Hodel,

Under Secretary of the Interior.

PART 17—NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS OF THE DEPARTMENT OF THE INTERIOR

Accordingly, 43 CFR Part 17 is retitled *Nondiscrimination in Federally-Assisted Programs of the Department of the Interior;* 43 CFR 17.100 through 17.199 is redesignated Subpart A and retitled *Nondiscrimination on the Basis of Race, Color, or National Origin;* and a new Subpart B is added.

Subpart A—Nondiscrimination on the Basis of Race, Color, or National Origin

* * * * *

Subpart B—Nondiscrimination on the Basis of Handicap

Sec.

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Authority: Section 504, Rehabilitation Act of 1973, Pub. L. 93–112, as amended by Pub. L. 95–602 (29 U.S.C. 794); sec. 111(a), Rehabilitation Act Amendments of 1974, Pub. L. 93–516, as amended by Pub. L. 95–602 (29 U.S.C. 706); Executive Order 12250, 45 FR 72995. Department of Justice, Implementation of Executive Order 12250, 28 CFR Part 41 (Redesignated and amended at 46 FR 40686); Sec. 606, Education of the Handicapped Act (20 U.S.C. 1405), as amended by Pub. L. 94–142, sec. 321, Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (42 U.S.C. 4581), as amended; sec. 407, Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1174), as amended; National Historic Preservation Act of 1966, 16 U.S.C. 470 *et seq.;* Executive Order 11593, "Protection and Enhancement of the Cultural Environment," 36 FR 8921 (1971); and regulations for the "Protection of Historic and Cultural Properties," 36 FR Part 800.

§ 17.200 Purpose.

The purpose of this subpart is to implement Section 504 of the Rehabilitation Act of 1973 and its subsequent amendments, which are designed to eliminate discrimination on the basis of handicap in any program or activity receiving Federal financial assistance.

§ 17.201 Application.

This subpart applies to each recipient of Federal financial assistance from the Department of the Interior and to each program or activity that receives or benefits from such assistance.

§ 17.202 Definitions.

As used in this subpart, the term:

(a) "The Act" means the Rehabilitation Act of 1973, Pub. L. 93–112, as amended by the Rehabilitation Act Amendments of 1974, Pub. L. 93–516, and the Rehabilitation, Comprehensive Service, and Developmental Disabilities Act of 1978, Pub. L. 95–602, 29 U.S.C. 700 *et seq.*

(b) "Section 504" means Section 504 of the Act.

(c) "Education of the Handicapped Act" means that statute as amended by the Education for All Handicapped Children Act of 1975, Pub. L. 94–142, 20 U.S.C. 1401 *et seq.*

(d) "Department" means the Department of the Interior.

(e) "Director" means the Director of the Office for Equal Opportunity of the Department.

(f) "Recipient" means any State or its political subdivision, any instrumentality of a State or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance.

(g) "Applicant for assistance" means one who submits an application, request, or plan required to be approved by a Department official or by a recipient as a condition to becoming a recipient.

(h) "Federal financial assistance" means any grant, cooperative agreement, loan, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which the Department provides or otherwise makes available assistance in the form of:

(1) Funds;

(2) Services of Federal personnel; or

(3) Real and personal property or any interest in or use of such property, including:

(i) Easements, transfers or leases of such property for less than fair market value or for reduced consideration; and

(ii) Proceeds from a subsequent transfer or lease of such property if the Federal share of its fair market value is not returned to the Federal Government.

(i) "Facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, outdoor recreation and program spaces, park sites, developed sites, or other real or personal property or interest in such property.

(j) *"Handicapped person."* (1) Handicapped person means any person who (i) has a physical, mental or sensory impairment which substantially limits one or more major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment.

(2) As used in paragraph (j)(1)(i) of this section, the phrase:

(i) "Physical, mental or sensory impairment" means (A) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or (B) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical, mental or sensory impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction, and alcoholism.

(ii) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(iii) "Has a record of such an impairment" means has a history of, or has been misclassified as having a mental, physical or sensory impairment that substantially limits one or more major life activities.

(iv) "Is regarded as having an impairment" means (A) has a physical, mental or sensory impairment that does not substantially limit major life activities but that is treated by a recipient as constituting such a limitation; (B) has a physical, mental or sensory impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or (C) has none of the impairments defined in paragraph (j)(2)(i) of this section but is treated by a recipient as having such an impairment.

(k) "Qualified handicapped person" means:

(1) With respect to employment, a handicapped person who, with reasonable accommodation, can perform the essential functions of the job in question. Insofar as this Part relates to employent of handicapped persons, the term "handicapped person" does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others.

(2) With respect to public preschool, elementary, secondary, or adult education services, a handicapped person (i) of an age during which nonhandicapped persons are provided such services, (ii) of any age during which it is mandatory under State law to provide such services to handicapped persons, or (iii) to whom a State is required to provide a free appropriate public education under section 612 of the Education of the Handicapped Act.

(3) With respect to postsecondary and vocational education services, a handicapped person who meets the academic and technical standards requisite to admission or participation in the recipient's education program or activity.

(4) With respect to services, a handicapped person who meets the essential eligibility requirements for the receipt of such services.

(l) "Handicap" means any condition or characteristic that renders a person a handicapped person as defined in paragraph (j)(2)(i) of this section.

(m) "Integrated Setting" means that whenever possible, programs should be available to the handicapped in the same setting and under similar circumstances as are available to the nonhandicapped.

(n) "Ultimate Beneficiary" means one among a class of persons who are entitled to benefit from, or otherwise participate in, programs receiving Federal financial assistance and to whom the protections of this subpart extend. The ultimate beneficiary class may be the general public or some narrower group of persons.

(o) "Advisory Council" means the Advisory Council on Historic Preservation.

(p) "ATBCB" means the Architectual and Transportation Barriers Compliance Board, an agency empowered by the Architectural Barriers Act of 1968 (Pub. L. 90–480) to establish accessibility standards under section 502.

§ 17.203 Discrimination prohibited.

(a) *General.* No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal financial assistance.

(b) *Discriminatory actions prohibited.* (1) A recipient, in providing any aid, benefit, or service, may not, directly or

through contractual, licensing, or other arrangements, on the basis of handicap:

(i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective as that provided to others;

(iv) Provide different or separate aids, benefits or services to handicapped persons or to any class of handicapped persons unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;

(v) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or services to beneficiaries of the recipient's program;

(vi) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or

(vii) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service.

(2) Aids, benefits, and services, to be equally effective, are not required to produce the identical result of level of achievement for handicapped and nonhandicapped persons, but must afford handicapped persons equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement, in the most integrated setting appropriate to the person's needs.

(3) Despite the existence of separate or different programs or activities, a recipient may not deny a qualified handicapped person the opportunity to participate in all programs or activities covered by this subpart that are not separate or different.

(4) A recipient may not, directly or through contractual or other arrangements, utilize criteria or methods of administration (i) that have the effect of subjecting qualified handicapped persons to discrimination on the basis of handicap, (ii) that have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the recipient's program with respect to handicapped persons, or (iii) that perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same State.

(5) In determining the site or location of a facility, an applicant for assistance or a recipient may not make selections (i) that have the effect of excluding handicapped persons from, denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity that receives or benefits from Federal financial assistance or (ii) that have the purpose of effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity with respect to handicapped persons.

(6) As used in this section, the aid, benefit, or services provided under a program or activity receiving or benefiting from Federal financial assistance includes any aid, benefit, or service provided in or through a facility that has been constructed, expanded, altered, leased or rented, or otherwise acquired, in whole or in part, with Federal financial assistance for the period during which the facility is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

(7) Nothing in this section is to be construed as affecting the acquisition of historic sites or wilderness areas.

(c) *Programs limited by Federal law.* The exclusion of nonhandicapped persons from the benefits of a program limited by Federal statute or Executive Order to handicapped persons or the exclusion of a specific class of handicapped persons from a program limited by Federal statute or Executive Order to a different class of handicapped persons is not prohibited by this subpart.

(d) Recipients shall take appropriate steps to insure that communications with their applicants, employees, and beneficiaries are available to persons with impaired vision and hearing.

§ 17.204 Assurances required.

(a) *Assurances.* An applicant for Federal financial assistance for a program or activity to which this subpart applies shall provide assurances, in accordance with OMB Circular A–102, that the program will be operated in compliance with this subpart. An applicant may incorporate these assurances by reference in subsequent applications to the Department.

(b) *Duration of obligation.* (1) In the case of Federal financial assistance extended in the form of real property or to provide real property or structures on the property, the assurance will obligate the recipient or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used for the purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

(2) In the case of Federal financial assistance extended to provide personal property, the assurance will obligate the recipient for the period during which it retains ownership or possession of the property.

(3) In all other cases the assurance will obligate the recipient for the period during which Federal financial assistance is extended.

(c) *Covenants.* (1) Where Federal financial assistance is provided in the form of real property or interest in the property from the Department, the instrument effecting or recording this transfer shall contain a covenant running with the land to assure nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

(2) Where no transfer of property is involved but property is purchased or improved with Federal financial assistance, the recipient shall agree to include the covenant described in paragraph (c)(1) of this section in the instrument effecting or recording any subsequent transfer of the property.

(3) Where Federal financial assistance is provided in the form of real property or interest in the property from the Department, the covenant shall unless prohibited by the conveyance authority, also include a condition coupled with a right to be reserved by the Department to revert title to the property in the event of a breach of the covenant. If a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing, facilities on the property for the purposes for which the property was transferred, the Director may, upon request of the transferee and if necessary to accomplish such financing and upon such conditions as he or she deems appropriate, agree to forbear the exercise of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective.

(4) Every application by a State or any agency or political subdivision of a State to carry out a program involving continuing Federal financial assistance

shall as a condition to its approval and the extension of any Federal financial assistance pursuant to the application (i) contain or be accompanied by a statement that the program is (or, in the case of a new program, will be) conducted in compliance with all requirements imposed by or pursuant to this subpart, or a statement of the extent to which it is not, at the time the statement is made, so conducted, and (ii) provide or be accompanied by provision for such methods of administration for the program as are found by the Secretary or his designee to give reasonable assurance that the applicant and all recipients of Federal financial assistance under such program will comply with all requirements imposed by or pursuant to this regulation, including methods of administration which give reasonable assurance that any noncompliance indicated in the statement under subsection (i) of this subparagraph will be corrected.

§ 17.205 Remedial action, voluntary action, and self-evaluation.

(a) *Remedial action.* (1) If the Director finds that a recipient has discriminated against persons on the basis of handicap in violation of Section 504 or this subpart, the recipient shall take such remedial action as the Director deems necessary to overcome the effects of the discrimination.

(2) Where a recipient is found to have discriminated against persons on the basis of handicap in violation of Section 504 or this subpart and where another recipient exercises control over the recipient that has discriminated, the Director, where appropriate, may require either or both recipients to take remedial action.

(3) The Director may, where necessary to overcome the effects of discrimination in violation of Section 504 or this subpart, require a recipient to take remedial action (i) with respect to handicapped persons who are no longer participants in the recipient's program but who were participants in the program when such discrimination occurred or (ii) with respect to handicapped persons who would have been participants in the program had the discrimination not occurred.

(b) *Voluntary action.* A recipient may take steps, in addition to any action that is required by this subpart, to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity by qualified handicapped persons.

(c) *Self-evaluation.* (1) A recipient shall, within one year of the effective date of this subpart:

(i) Evaluate, with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons, its current policies and practices and the effects thereof that do not or may not meet the requirements of this subpart;

(ii) Modify, after consultation with interested persons, including handicapped persons or organizations representing handicapped persons, any policies and practices that do not meet the requirements of this subpart; and

(iii) Take, after consultation with interested persons, including handicapped persons or organizations representing handicapped persons, appropriate remedial steps to eliminate the effects of any discrimination that resulted from adherence to these policies and practices.

(2) A recipient that employs fifteen or more persons shall, for at least three years following completion of the evaluation required under paragraph (c)(1) of this section, maintain on file, make available for public inspection, and provide to the Director upon request: (i) a list of the interested persons consulted, (ii) a description of areas examined and any problems identified, and (iii) a description of any modifications made and of any remedial steps taken.

(3) A recipient, whose application is approved after the effective date of this regulation, shall within one year of receipt of the Federal financial assistance, be required to comply with the provisions of this section.

§ 17.206 Designation of responsible employee and adoption of grievance procedures.

(a) *Designation of responsible employee.* A recipient that employs fifteen or more people shall designate at least one person to coordinate efforts to comply with this subpart.

(b) *Adoption of grievance procedures.* A recipient that employs fifteen or more people shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by this subpart. Such procedures need not be established with respect to complaints from applicants for employment or from applicants for admission to postsecondary educational institutions.

§ 17.207 Notification.

(a) A recipient that employs fifteen or more people shall take appropriate initial and continuing steps to notify participants, beneficiaries, applicants, and employees, including those with impaired vision or hearing, the mentally retarded, the learning disabled, and any other disability that impairs the communication process, and unions or professional organizations holding collective bargaining or professional agreements with the recipient, that it does not discriminate on the basis of handicap in violation of section 504 and this subpart. The notification shall state, where appropriate, that the recipient does not discriminate in admission or access to, or treatment or employment in, its programs and activities. The notification shall also include an identification of the responsible employee designated pursuant to § 17.206(a). A recipient shall make the initial notification required by this paragraph within 90 days of the effective date of this subpart. Methods of initial and continuing notification may include the posting of notices in recipients' publications, and distribution of memoranda or other written communications.

(b) If a recipient publishes or uses recruitment materials or publications containing general information that it makes available to participants, beneficiaries, applicants, or employees, it shall include in those materials or publications a statement of the policy described in paragraph (a) of this section. A recipient may meet the requirement of this paragraph either by including appropriate inserts in existing materials and publications or by revising and reprinting the materials and publications.

§ 17.208 Administrative requirements for small recipients.

The Director may require any recipient with fewer than fifteen employees, or any class of such recipients, to comply with §§ 17.206 and 17.207, in whole or in part, when the Director finds a violation of this subpart or finds that such compliance will not significantly impair the ability of the recipient or class of recipients to provide benefits or services.

§ 17.209 Effect of State or local law or other requirements and effect of employment opportunities.

(a) The obligation to comply with this subpart is not obviated or alleviated by the existence of any State or local law or other requirement that, on the basis of handicap, imposes prohibitions or limits upon the eligibility of qualified handicapped persons to receive services or to practice any occupation or profession.

(b) The obligation to comply with this subpart is not obviated or alleviated

because employment opportunities in any occupation or profession are or may be more limited for handicapped persons than for nonhandicapped persons.

§ 17.210 Employment practices.

(a) *General.* (1) No qualified handicapped person shall, on the basis of handicap, be subjected to discrimination in employment under any program or activity to which this subpart applies.

(2) A recipient that receives assistance under the Education of the Handicapped Act shall take positive steps to employ and advance in employment qualified handicapped persons in programs assisted under the Act.

(3) A recipient shall make all decisions concerning employment under any program or activity to which this subpart applies in a manner which insures that discrimination on the basis of handicap does not occur, and may not limit, segregate, or classify applicants or employees in any way that adversely affects their opportunities or status because of handicap.

(4) A recipient may not participate in a contractual or other relationship that has the effect of subjecting qualified handicapped applicants or employees to discrimination prohibited by this subpart. The relationships referred to in this subparagraph include relationships with employment and referral agencies, with labor unions, with organizations providing or administering fringe benefits to employees of the recipient, and with organizations providing training and apprenticeship programs.

(b) *Specific activities.* The provisions of this subpart apply to:

(1) Recruitment, advertising, and the processing of applications for employment;

(2) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;

(3) Rates of pay or any other form of compensation and changes in compensation;

(4) Job assignments, job classifications, organizational structures, position descriptions, lines of progressions, and seniority lists;

(5) Leaves of absence, sick leave, or any other leave;

(6) Fringe benefits available by virtue of employment, whether or not administered by the recipient;

(7) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(8) Employer-sponsored activities, including social or recreation programs; and

(9) Any other term, condition, or privilege of employment, such as granting awards, recognition and/or monetary recompense for money-saving suggestions or superior performance.

(c) A recipient's obligation to comply with this subpart is not affected by any inconsistent term of any collective bargaining agreement to which it is a party.

§ 17.211 Reasonable accommodation.

(a) A recipient shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped applicant or employee unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of its program.

(b) Reasonable accommodation may include but is not limited to: (1) making facilities used by employees readily accessible to and usable by handicapped persons, and (2) job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, the provision of readers or interpreters, and other similar actions. This list is neither all inclusive nor meant to suggest that employers must follow all the actions listed.

(c) In determining pursuant to paragraph (a) of this section whether an accommodation would impose an undue hardship on the operation of a recipient's program, factors to be considered include:

(1) The overall size of the recipient's program with respect to number of employees, number and type of facilities, and size of budget;

(2) The type of the recipient's operations, including the composition and structure of the recipient's workforce; and

(3) The nature and cost of the accommodation needed.

(d) A recipient may not deny any employment opportunity to a handicapped employee or applicant if the basis for denial is the need to make reasonable accommodation to the physical or mental limitations of the employee or applicant.

§ 17.212 Employment criteria.

(a) A recipient may not make use of any employment test or other selection criterion that screens out or tends to screen out handicapped persons or any class of handicapped persons unless it can be demonstrated to the Director that (1) the test score or other selection criterion, as used by the recipient, is shown to be job-related for the position in question, and (2) alternative job-related tests or criteria that do not screen out or tend to screen out as many handicapped persons are not shown by the Director to be available.

(b) A recipient shall select and administer tests concerning employment so as best to ensure that, when administered to an applicant or employee who has a handicap that impairs sensory, manual, or speaking skills the test results accurately reflect the applicant's or employee's job skills, aptitude, or whatever other factor the test purports to measure, rather than reflecting the applicant's or employee's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

(c) All job qualifications must be shown to be directly related to the job in question.

§ 17.213 Pre-employment inquiries.

(a) Except as provided in paragraphs (b) and (c) of this section, a recipient may not conduct a pre-employment medical examination or make a pre-employment inquiry as to whether the applicant is a handicapped person or as to the nature or severity of a handicap. A recipient may, however, make a pre-employment inquiry into an applicant's ability to perform job-related functions.

(b) When a recipient is taking remedial action to correct the effects of past discrimination pursuant to § 17.205(a), when a recipient is taking voluntary action to overcome the effects of conditions that resulted in limited participation in its federally assisted program or activity pursuant to § 17.205(b), or when a recipient is taking affirmative action pursuant to section 503 of the Act, the recipient may invite applicants for employment to indicate whether and to what extent they are handicapped, provided that:

(1) The recipient states clearly on any written questionnaire used for this purpose, or makes clear orally if no written questionnaire is used, that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary or affirmative action efforts.

(2) The recipient states clearly that the information is being requested on a voluntary basis, that it will be kept confidential as provided in paragraph (d) of this section, that refusal to provide it will not subject the applicant or employee to any adverse treatment, and that it will be used only in accordance with this subpart.

(3) The recipient must communicate with the applicant in a manner that will ensure that the applicant understands clearly the reasons for the recipient's questions.

(c) Nothing in this section shall prohibit a recipient from conditioning an offer of employment on the results of a medical examination conducted prior to the employee's entrance on duty, provided that: (1) All entering employees are subjected to such an examination regardless of handicap, and (2) the results of such an examination are used only in accordance with the requirements of this subpart.

(d) Information obtained in accordance with this section as to the medical condition or history of the applicant shall be collected and maintained on separate forms that shall be accorded confidentiality as medical records, except that:

(1) Supervisors and managers may be informed regarding restrictions on the work or duties of handicapped persons and regarding necessary accommodations;

(2) First aid and safety personnel may be informed, where appropriate, if the condition might require emergency treatment;

(3) Government officials investigating compliance with the Act shall be provided relevant information upon request.

§§ 17.214–17.215 [Reserved]

§ 17.216 Program accessibility.

No handicapped person shall, because a recipient's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which this subpart applies.

§ 17.217 Existing facilities.

(a) *Program accessibility.* A recipient shall operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by handicapped persons. This paragraph does not require a recipient to make each of its existing facilities or every part of a facility accessible to and usable by handicapped persons.

(b) *Methods.* A recipient may comply with the requirements of paragraph (a) of this section through such means as redesigning of equipment, reassignment of classes or other services to accessible buildings, assignment of aides to beneficiaries, delivery of services at alternate accessible sites, alterations of existing facilities and construction of new facilities in conformance with the requirements of § 17.218, or any other methods that result in making its program or activity accessible to handicapped persons. A recipient is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with paragraph (a) of this section. In choosing among available methods for meeting the requirement of paragraph (a) of this section, a recipient shall give priority to those methods that offer programs and activities to handicapped persons in the most integrated setting appropriate.

(c) *Small recipients.* If a recipient with fewer than fifteeen employees that provides services finds, after consultation with a handicapped person seeking its services, that there is no method of complying with paragraph (a) of this section other than making a significant alteration in its existing facilities, the recipient may, as an alternative, refer the handicapped person to to other providers of those services whose facilities are accessible.

(d) *Time period.* A recipient shall comply with the requirement of paragraph (a) of this section within sixty days of the effective date of this subpart except that where structural changes in facilities are necessary, such changes shall be made as expeditiously as possible, but in no event later than three years after the effective date of this subpart. New recipients receiving Federal financial assistance shall comply with the requirement of paragraph (a) of this section, except that where structural changes in facilities are necessary, such changes shall be made as expeditiously as possible, but in no event later than three years after the date of approval of the application.

(e) *Transition plan.* In the event that structural changes to facilities are necessary to meet the requirement of paragraph (a) of this section a recipient shall develop, within one year of the effective date of this subpart, a transition plan setting forth the steps necessary to complete such changes. New recipients, receiving financial assistance after the effective date of this regulation, shall develop a transition plan within one year of receipt of the financial assistance. The plan shall be developed with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons. A copy of the transition plan shall be made available for public inspection. The plan shall, at a minimum:

(1) Identify physical obstacles in the recipient's facilities that limit the accessibility of its program or activity to handicapped persons;

(2) Describe in detail the methods that will be used to make the facilities accessible and usable;

(3) Specify the schedule for taking the steps necessary to achieve full program accessibility and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period; and

(4) Indicate the person responsible for implementation of the plan.

(f) *Notice.* The recipient shall adopt and implement procedures to insure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of services, activities, and facilities that are accessible to and usable by handicapped persons.

§ 17.218 New construction.

(a) *Design and construction.* Each facility or part of a facility constructed by, on behalf of, or for the use of a recipient shall be designed and constructed in such manner that the facility or part of the facility is readily assessible to and usable by handicapped persons, if the construction was commenced after the effective date of this subpart.

(b) *Alteration.* Each facility or part of a facility which is altered by, on behalf of, or for the use of a recipient after the effective date of this subpart, in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by handicapped persons.

(c) *Accessibility standards.* Each facility or part of a facility designed or constructed after the effective date of this subpart shall be designed and constructed in accordance with 36 CFR 1190.31, *Accessible buildings and facilities: New Construction,* of the "Minimum Guidelines and Requirements for Accessible Design," issued by the ATBCB. Each addition to an existing facility after the effective date of this subpart shall be designed and constructed in accordance with 36 CFR 1190.32, *Accessible buildings and facilities: Additions.* Any alterations to a facility after the effective date of this subpart shall be designed and constructed in accordance with 36 CFR 1190.33, *Accessible buildings and facilities: Alterations.* Departures from the requirements of 36 CFR 1190.31–33 by use of other methods will be permitted when it is evident that the

method will provide access to and use of the facility which is equivalent to or better than that which would be provided by following the "Minimum Guidelines and Requirements for Accessible Design."

§ 17.219 [Reserved]

§ 17.220 Preschool, elementary and secondary education.

This section applies to preschool, elementary, secondary, and adult education programs and activities that receive or benefit from Federal financial assistance, and to recipients that operate, or that receive or benefit from Federal financial assistance for the operation of such programs or activities. For the purposes of this section, recipients shall comply with the Section 504 requirements promulgated by the Department of Education at 34 CFR 104, Subpart D.

§§ 17.221–17.231 [Reserved]

§ 17.232 Postsecondary education.

This section applies to postsecondary education and activities, including postsecondary vocational education programs and activities, that receive or benefit from Federal financial assistance and to recipients that operate, or that receive or benefit from Federal financial assistance for the operation of such programs or activities. For the purposes of this section, all recipients shall comply with the Section 504 requirements promulgated by the Department of Education at 34 CFR 104, subpart E.

§§ 17.239–17.249 [Reserved]

§ 17.250 Health, welfare, and social services.

This subpart applies to health, welfare, and other social service programs and activities that receive or benefit from Federal financial assistance and to recipients that operate, or that receive or benefit from Federal financial assistance for the operation of such programs or activities.

(a) *General.* In providing health, welfare, or other social services or benefits, a recipient may not, on the basis of handicap:

(1) Deny a qualified handicapped person these benefits or services;

(2) Afford a qualified handicapped person an opportunity to receive benefits or services that is not equal to that offered nonhandicapped persons;

(3) Provide a qualified handicapped person with benefits or services that are not as effective, as defined in § 17.203(b), as the benefits or services provided to others;

(4) Provide benefits or services in a manner that limits or has the effect of limiting the participation of qualified handicapped persons; or

(5) Provide different or separate benefits or services to handicapped persons except where necessary to provide qualified handicapped persons with benefits and services that are as effective as those provided to others.

(b) *Notice.* A recipient that provides notice concerning beneficiaries or services, or written material concerning waivers of rights or consent to treatment, shall take such steps as are necessary to insure that qualified handicapped persons, including those with impaired sensory or speaking skills, are not denied effective notice because of their handicap.

(c) *Emergency treatment for the hearing impaired.* A recipient hospital that provides health services or benefits shall establish a procedure for effective communication with persons with impaired hearing for the purpose of providing emergency health care.

(d) *Auxiliary aids.* (1) A recipient that employs fifteen or more persons shall provide appropriate auxiliary aids to persons with impaired sensory, manual, or speaking skills, where necessary to afford such persons an equal opportunity to benefit from the service in question.

(2) The Director may require recipients with fewer than fifteen employees to provide auxiliary aids where the provision of aids would not significantly impair the ability of the recipient to provide its benefits or services.

(3) For the purpose of this paragraph, auxiliary aids may include brailled and taped material, interpreters, visual aids, and other aids for persons with impaired hearing or vision.

§ 17.251 Drug and alcohol addicts.

A recipient that operates a general hospital or outpatient facility may not discriminate in admission or treatment against a drug or alcohol abuser or addict who is suffering from a medical condition, because of the person's drug or alcohol abuse or addiction.

§ 17.252 Education of institutionalized persons.

A recipient that operates or supervises a program or activity for persons who are institutionalized because of handicap shall ensure that each qualified handicapped person, as defined in § 17.202(d)(2), in its program or activity is provided an appropriate education, as defined in the regulation set forth by the Department of Education at 34 CFR 104.33(b). Nothing in this section shall be interpreted as altering in any way the obligations of recipients under § 17.216.

§§ 17.253–17.259 [Reserved]

§ 17.260 Historic preservation programs.

(a) *Definitions.* For the purposes of this section, the term "Historic preservation programs" means programs receiving Federal financial assistance that has preservation of historic properties as a primary purpose.

"Historic properties" means those properties that are listed or eligible for listing in the *National Register of Historic Places.* "Substantial impairment" means a permanent alteration that results in a significant loss of the integrity of finished materials, design quality or special character.

(b) *Obligations.* (1) In the case of historic preservation programs, program accessibility means that, when viewed in its entirety, a program is readily accessible to and usable by qualified handicapped persons. This paragraph does not necessarily require a recipient to make each of its existing historic properties or every part of an historic property accessible to and usable by qualified handicapped persons. Methods of achieving program accessibility include:

(i) Making physical alterations which enable qualified handicapped persons to have access to otherwise inaccessible areas or features of historic properties;

(ii) Using audio-visual materials and devices to depict otherwise inaccessible areas or features of historic properties;

(iii) Assigning persons to guide qualified handicapped persons into or through otherwise inaccessible portions of historic properties;

(iv) Adopting other innovative methods to achieve program accessibility.

Because the primary benefit of an historic preservation program is the experience of the historic property itself, in taking steps to achieve program accessibility, recipients shall give priority to those means which make the historic property, or portions thereof, physically accessible to handicapped individuals.

(2) Where program accessibility cannot be achieved without causing a substantial impairment of significant historic features, the Secretary may grant a waiver of the program accessibility requirement. In determining whether program accessibility can be achieved without causing a substantial impairment, the

Secretary shall consider the following factors:

(i) Scale of property, reflecting its ability to absorb alterations;

(ii) Use of the property, whether primarily for public or private purpose;

(iii) Importance of the historic features of the property to the conduct of the program; and,

(iv) Cost of alterations in comparison to the increase in accessibility.

The Secretary shall periodically review any waiver granted under this section and may withdraw it if technological advances or other changes so warrant.

(c) *Advisory Council Comments.* Where the property is federally owned or where Federal funds may be used for alterations, the comments of the Advisory Council on Historic Preservation shall be obtained when required by section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), and 36 CFR Part 800, prior to effectuation of structural alterations.

§ 17.270 Recreation programs.

This section applies to recreation programs that receive or benefit from Federal financial assistance and to recipients that operate, or that receive or benefit from Federal financial assistance for the operation of such programs or activities.

(a) *Accessibility in existing recreation facilities.*

In the case of existing recreation facilities, accessibility of programs or activities shall mean accessibility of programs or activities when viewed in their entirety as provided at § 17.217. When it is not reasonable to alter natural and physical features, the following other methods of achieving accessibility may include, but are not limited to:

(1) Reassigning programs to accessible locations.

(2) Delivering programs or activities at alternate accessible sites operated by or available for such use by the recipient.

(3) Assignments of aides to beneficiaries.

(4) Construction of new facilities in conformance with the requirements of 17.218.

(5) Other methods that result in making the program or activity accessible to handicapped persons.

§§ 17.271–17.279 [Reserved]

§ 17.280 Enforcement procedures.

The compliance and enforcement provisions applicable to Title VI of the Civil Rights Act of 1964 apply to this subpart. These procedures are found in 43 CFR Part 17, Subpart A, 17.5–17.11 and 43 CFR Part 4, Subpart I.

§§ 17.281–17.299 [Reserved]

[FR Doc. 82-18356 Filed 7-6-82; 8:45 am]
BILLING CODE 4310-10-M

Bureau of Land Management

43 CFR Public Land Order 6292

[LA 0155887]

California; Partial Revocation of Reclamation Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order will revoke the reclamation withdrawals from approximately 31,245 acres of land and will simultaneously restore and open the land to operation of the public land laws, including the mining laws.

EFFECTIVE DATE: August 4, 1982.

FOR FURTHER INFORMATION CONTACT: Marie M. Getsman, California State Office, 916–484–4431.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Orders of April 9, 1909, February 28, 1918, and June 4, 1930, withdrawing lands for the Yuma Project and Colorado River Storage Project are hereby revoked insofar as they affect the following described lands:

San Bernardino Meridian

T. 14 S., R. 18 E., partially surveyed,
  Secs. 4 to 6, inclusive;
  Secs. 8 to 10, inclusive;
  Secs. 14 and 15;
  Secs. 21 to 23, inclusive;
  Secs. 25 to 27, inclusive;
  Sec. 35, All;
  Sec. 36, Lots 1, 2, 3, and 4, S½NW¼, and N½SW¼;
  Secs. 37 to 58, inclusive (protracted).
T. 15 S., R. 18 E., partially surveyed,
  Secs. 1 and 2;
  Sec. 12, All.
T. 15 S., R. 19 E., partially surveyed,
  Secs. 3 to 11, inclusive.

The area described contains approximately 31,245 acres in Imperial County.

2. At 10 a.m. on August 4, 1982, the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All vaild applications received at or prior to 10 a.m. on August 4, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10 a.m. on August 4, 1982, the lands will be open to location under the United States mining laws. The lands have been and continue to be open to applications and offers under the mineral and geothermal leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, Room E-2811, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 29, 1982.

[FR Doc. 82-18355 Filed 7-6-82; 8:45 am]
BILLING CODE 4310-84-M

Proposed Rules

Federal Register
Vol. 47, No. 130
Wednesday, July 7, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 303, 304, and 347

Applications, Requests, Submittals, and Notices of Acquisition of Control Forms, Instructions, and Reports; Foreign Activities of Insured State Nonmember Banks

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: The Board of Directors of the Federal Deposit Insurance Corporation (FDIC) is proposing to amend the application procedures for branches (including remote service facilities) and relocations of insured State nonmember banks to require that, in most cases, applicants would file only a letter containing certain specified information. No public notice of the bank's proposed action would be required. Authority to approve these applications would continue to be delegated to the Directors of DBS with a redelegation to regional directors, although criteria for delegation would be revised. Processing time should be shortened, and the burden on the applicants should be lessened. The procedures which apply to consent to establish and operate and to relocate foreign branches would also be changed by virtue of these amendments. Both delegations and public notice requirements for all deposit insurance applications would also be affected. In addition, the requirement that the applicant provide the FDIC with a certificate from the publisher where notice to the public is required for merger applications would be deleted.

DATE: Comments must be submitted on or before September 7, 1982.

ADDRESS: Comments may be mailed to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429.

FOR FURTHER INFORMATION CONTACT:

Robert F. Miailovich, Assistant Director, Division of Bank Supervision, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429 (202) 389–4677.

SUPPLEMENTARY INFORMATION: As part of a general thrust to reduce the burden on banks and to lessen the time for processing applications while still conforming to its statutory mandates, the FDIC is proposing to amend its regulations. The changes deal primarily with applications to establish branches (including remote service facilities) and with applications to relocate. The changes in procedures would apply not only to domestic facilities of U.S. banks, but also to foreign facilities of U.S. banks. (Applications to establish insured branches of foreign banks are ordinarily treated as deposit insurance applications.)

Pursuant to section 18(d)(1) of the Federal Deposit Insurance Act ("FDI Act") (12 U.S.C. 1828(d)(1)), the FDIC must base its prior written consent to establish a domestic branch or to effect a relocation on consideration of the six factors as stated in section 6 of the FDI Act (12 U.S.C. 1816). Those factors are: "the financial history and condition of the bank, the adequacy of its capital structure, its future earnings prospects, the general character of its management, the convenience and needs of the community to be served by the bank and whether or not its corporate powers are consistent with the purposes of [the FDI] Act." In addition, these "statutory factors" must be supplemented in the case of domestic facilities by consideration of the requirements of the Community Reinvestment Act ("CRA," 12 U.S.C. 2901 *et seq.*), the National Historic Preservation Act of 1966 ("NHPA," 16 U.S.C. 470 *et seq.*), and the National Environmental Policy Act of 1969 ("NEPA," 42 U.S.C. 432 *et seq.*) It is contemplated that these considerations for branches and relocations may ordinarily be adequately evaluated by the FDIC based on information already available to it. The new procedures contemplate that in most cases an applicant would submit only a letter containing information on the exact location of the proposed facility and on any involvement of an insider in the proposal, and, in the case of domestic facilities on conformity with NEPA and NHPA. Additional information may be requested when needed for adequate consideration of the application. Existing forms will continue to be available for use in whole or in part when the information requested in the forms is needed for evaluation of the application by the FDIC. The forms will also continue to be available for use by State authorities. Changes to conform to these proposals would occur at § 303.2, 303.3, 303.9(b), 304.3 (f), (g), and (h), and 303.14 (*l*).

Substantial changes would be made in regard to two other procedural aspects: delegations of authority to act on applications and publication of notice to the public by the applicant. A number of changes from present delegation format are proposed. The existing general delegation to the Director of the Division of Bank Supervision and from him or her to the regional director for branches and relocations would continue to exist. There would, however, be amendments to the limitations on these and other delegations. At § 303.12(a)(1), it is contemplated that certain standard conditions may be imposed in the case of approvals of branch and relocation applications under delegated authority, as well as in the case of approvals of deposit insurance applications. In applications for branches, relocations, and deposit insurance, if conditions other than these standard conditions are to be imposed, then authority would not be delegated by the Board of Directors. The delegation will no longer allow the imposition of a condition agreed to in writing by the bank. An amendment to § 303.12(a)(2) would reflect the fact that only in the case of merger applications would prior approval of the State, if such approval is required, be a prerequisite. In regard to delegations to approve branches, the list of factors at § 303.12(c) (in addition to the six statutory factors) will limit the delegated authority to act on branches (including remote service facilities) which is stated generally at § 303.11(a)(7). The list of factors is itself also being amended.

Changes, both substantive and technical, are proposed throughout § 303.14 (b) and (d) to accommodate the proposal that no public notice will be required by any applicant, except in the case of applications subject to the Bank Merger Act. The requirement of public notice of an applicant's intent is not mandated by statute, except for applications made pursuant to the Bank

Merger Act, section 18(c) of the FDI Act (12 U.S.C. 1828(c)). It is therefore proposed that the requirement be eliminated for all other applications and that for merger applications a certificate from the publisher attesting to publication no longer be required. A copy of the publication is sufficient evidence of publication. Notice to the public has not been found to enhance meaningful evaluation of applications and serves to slow down processing of applications. In addition, State procedures serve to provide additional safeguards in the application process. Correspondingly, § 303.14 (b) and (d) and § 303.10(b) would be amended to reflect the fact that a protestor would have up until the time the application is approved to protest and/or request a hearing. The FDIC strongly feels that comments or protests should be made and evaluated when the circumstances which prompt them occur, and that comments or protests should not be postponed until an application is pending.

Special Note

The FDIC Board of Directors wishes to clearly identify the subject of publication as an issue on which it specifically solicits public comment. As presented in the proposal, applicants no longer would be required to publish public notice of applications for deposit insurance and requests for consent to establish a branch office (including remote service facilities and foreign offices) or to relocate an office. Publication of intent to engage in a merger-type transaction would continue to be required. As an alternative to eliminating publication requirements, the Board is considering a one-time publication of notice regarding deposit insurance, branch and relocation applications within a specified time prior to filing of an application. Thus, once an application was filed, there would be no delay in processing it because of any publication requirement. Comments are requested on whether or not there should be a publication requirement, and if so, to what category of applications it should apply.

Sections 303.14(*l*) and 347.3(a) would be amended to reflect the new procedures for remote service facility branches and foreign branches of insured State nonmenber banks, respectively. As with conventional branches, the initial remote service facility and any additional remote service facility would require only the letter application previously mentioned and no notice to the public. Similarly, to establish additional foreign branches or to relocate foreign branches, a domestic bank would provide the same information as it would if the branches were a domestic branch (except for information on NEPA and NHPA). At present, both additional remote service facilities and additional foreign branches may be established unless the applicant bank hears otherwise within 30 days after notice to the FDIC. Under the proposal, this provision would be deleted. For all types of branches, the FDIC would send a written approval in order to authorize the establishment of the branch. The FDIC believes that this uniformity of procedural treatment of all branches is desirable, and contemplated expedited processing should mean that branches will ordinarily be approved before 30 days have elapsed.

As the application form described in § 303.6 does not exist, the last two sentences of the section should be deleted. Section 303.11(a)(15) concerns delegated authority which has, by its own terms, terminated. It is to be deleted, and § 303.11(a)(16) is redesignated § 303.11(a)(15).

Minor technical changes are proposed throughout Parts 303 and 304 as needed to conform the parts to the substantive changes described above.

Initial Regulatory Flexibility Analysis

The proposed rule has been developed in order to further two basic objectives. The first is to decrease the regulatory burden upon banks that undertake to apply for FDIC permission to establish or relocate offices and other facilities. The second is to streamline the approval process to permit such establishment or relocation of facilities to take place as expeditiously as possible. Both of these objectives comport with the ongoing program of the FDIC to make its procedures more responsive to the needs of insured banks and the public they serve. Action is proposed to be taken under the authority of the FDI Act (12 U.S.C. 1811–1831d), particularly section 9 "Seventh" and "Tenth" thereof (12 U.S.C. 1819 "Seventh" and "Tenth"), and is further based on the principles of the Regulatory Flexibility Act (5 U.S.C. 601–612), the Paperwork Reduction Act (44 U.S.C. 3501–3520), and the internal policy of the FDIC regarding reduction of regulatory burden on entities subject to FDIC supervision.

Insured State nonmember banks would benefit from the proposed rule by being afforded greater flexibility during the application process when they seek to establish or relocate facilities. Compliance costs, including the unnecessary expenditure of time and effort while completing application forms, are expected to be reduced significantly for most banks since the forms or other additional information will only be required in those unusual cases in which the added information is needed for an adequate evaluation of the application. In addition, the FDIC expects the proposal, if adopted, to lead to faster approval of requests to establish or relocate facilities. Reduced costs and increased efficiency in rendering regulatory approvals may even encourage banks to base their decisions regarding branches and other facilities to a greater extent on market factors and the needs of the communities these banks serve. Greater responsiveness to these latter factors would thus benefit the public.

By eliminating mandatory use of preprinted forms in connection with branch and relocation applications, the FDIC does not believe that its ability to evaluate the application satisfactorily will be reduced in any significant fashion. The FDIC, along with State authorities, conducts regular examinations of insured banks and has in its control a significant volume of recent information on each applicant bank. Under relevant statutes, for domestic branches and relocations, the FDIC must consider the six factors enumerated in section 6 of the FDI Act as well as the requirements of the CRA, NHPA, and NEPA. The FDIC believes that in most cases all of these considerations may be accorded proper weight without the use of preprinted forms. Between the information to be received in the letter application (the exact location of the subject facility, and details regarding insider transactions, and, where applicable, NEPA, and NHPA) and the information in the possession of or readily available, to the FDIC, the FDIC will ordinarily possess adequate resources with which to determine whether statutory criteria have been satisfied.

The proposed elimination of the publication requirement for applications, except merger-related applications, will lead to more expeditious disposition of applications at lower cost to banks. This proposal reflects the facts that Congress has not seen fit to require publication in such cases (except in connection with mergers), and that FDIC experience has tended to show that the delay occasioned by the publication requirement has not been offset by measurable corresponding advantages. The FDIC believes that the quality of its decision making has not been improved by virtue of its use of the publication mechanism, which rarely leads to the entry of unrepresented viewpoints or the introduction of material data otherwise unavailable. Believing that costly

experiments ought to be terminated when shown to have failed to live up to hopes, the FDIC would eliminate the publication process except when its use is mandated by statute.

It would thus appear that the costs of the present proposal are less than the benefits sought to be achieved thereby. Adoption of the proposal would have a favorable impact on banks and would likely have a favorable impact on the public they serve as well.

The impact of the proposal on small banks, both in terms of benefits and costs, may be expected to be equivalent to its impact on banks in general. This impact has been described above and constitutes a favorable impact.

Alternatives to the present proposal which were considered and provisionally rejected include continuing the present procedures unchanged and adopting either a less far-reaching or a more far-reaching approach. Rejection of these alternatives has been based on consideration of the relative costs and benefits of the present proposal and the absence of compelling reasons to favor a more cautious approach. Another alternative, that of seeking new legislation or amendments to existing legislation, was rejected as unnecessary and unwarranted at the present time.

No additional recordkeeping requirements would result from the adoption of this proposal. Reporting requirements would be reduced measurably, as has been described above. Compliance requirements would otherwise be unchanged. There would be no significant adverse effect on competition. Should the proposed procedures increase branching and relocation flexibility to a significant extent, competition may increase to the benefit of the banking public.

List of Subjects

12 CFR Part 303

Administrative practice and procedure, Applications and forms, Authority delegations, Banks, banking, Branches, branching, Federal Deposit Insurance Corporation, Insurance, State nonmember banks.

12 CFR Part 304

Administrative practice and procedure, Applications and forms, Banks, banking, Branches, branching, Federal Deposit Insurance Corporation, Insurance, Reporting requirements.

12 CFR Part 327

Banks, banking, Credit, Federal Deposit Insurance Corporation, Foreign activities of U.S. banks, Foreign banking.

For the reasons set out in the preamble, Parts 303, 304, and 347 of chapter III of title 12 of the Code of Federal Regulations are proposed to be amended as follows:

PART 303—APPLICATIONS, REQUESTS, SUBMITTALS, AND NOTICES OF ACQUISITION OF CONTROL

1. The authority citation for Part 303 reads as follows:

Authority: Secs. 2(5), 2(6), 2(7)(j), 2(8), 2(9) ("Seventh" and "Tenth"), 2(18), 2(19), Pub. L. No. 797, 64 Stat. 876, 881, 891, 893 as amended by Pub. L. No. 86–463, 74 Stat. 129; sec. 2, Pub. L. No. 87–827, 76 Stat. 953; Pub. L. No. 88–593, 78 Stat. 940; Pub. L. No. 89–79, 79 Stat. 244; sec. 1, Pub. L. No. 89–356, 80 Stat. 7; sec. 12(c), Pub. L. No. 89–485, 80 Stat. 242; sec. 3, Pub. L. No. 89–597, 80 Stat. 824; title II, secs. 201, 205, Pub. L. No. 89–695, 80 Stat. 1055; sec. 2(b), Pub. L. 90–505, 82 Stat. 856; secs. 6(c)(7), (12), (13), Pub. L. No. 95–369, 92 Stat. 616–620; title III, secs. 306, 309 and title VI, sec. 602, Pub. L. No. 95–630, 92 Stat. 3677, 3683 (12 U.S.C. 1815, 1816, 1817(j), 1818, 1919 "Seventh" and "Tenth", 1828, 1829); title I, sec. 108, Pub. L. No. 90–321, 82 Stat. 150 as amended by title IV, sec. 403, Pub. L. No. 93–495, 88 Stat. 1517 and title VI, sec. 608, Pub. L. No. 96–221, 94 Stat. 171 (15 U.S.C. 1607).

2. By revising the section headings of 12 CFR 303.2 and 3.3.3 in the table of section headings to 12 CFR part 303 to read as follows:

Sec.
303.2 Application by insured State nonmember bank to establish a branch or move its main office or branch.
303.3 [Reserved]

3. By revising 12 CFR 303.2 to read as follows:

§ 303.2 Application by insured State nonmember bank to establish a branch [1] or move its main office or branch.

Application by an insured State nonmember bank (except a District bank) to establish and operate a new branch (including a remote service facility) or to move its main office or branch should be filed with the regional director of the Federal Deposit Insurance Corporation region in which the bank is located. The application shall be in letter form and contain information on the exact location of the proposed site, including street address (unless one has not been assigned to the location); details concerning any involvement in the proposal by an insider of the bank, including any financial arrangements relating to fees, the acquisition of property, rentals, and construction contracts; the bank's opinion on the impact of the facility on the human environment, including information on compliance with local zoning laws and regulations and the effect on traffic patterns; and a statment as to whether or not the site is included in or eligible for inclusion in the National Register of Historic Places, including evidence that clearance has been obtained from the State Historic Preservation Officer. As used in this paragraph, the term "insider" means a director, an officer, or a shareholder who directly or indirectly controls 5 or more precent of any class of the applicant's outstanding voting stock, or the associates and interests of any such person. In cases in which additional information is necessary for evaluation of the application, the applicant may be required to furnish specific information on an individual basis or to complete detailed, preprinted forms. These forms are also available for use by State bank supervisory authorities. (See Part 304 of this title for list of forms and instructions.)

§ 303.3 [Reserved]

4. By removing and reserving 12 CFR 303.3.

5. By removing the second and third sentences of 12 CFR 303.6.

§ 303.9 [Amended]

6. By amending 12 CFR 303.9(b) by adding in the last sentence thereof, following the words "the forms specified in Part 304 of this title should be used" the following parenthetical: "(unless Part 304 states that the use of a particular form is not required)".

§ 303.10 [Amended]

7. By amending 12 CFR 303.10(b) by adding, following the words "With respect to any application, the Board of Directors will" the words "upon timely request made in accordance with § 303.14(b)(2)".

§ 303.11 [Amended]

8. By removing 12 CFR 303.11(a)(15) and by redesignating 12 CFR 303.11(a)(16) as 12 CFR 303.11(a)(15).

9. By revising 12 CFR 303.12 (a) and (c) to read as follows:

§ 303.12 Applications where authority is not delegated.

(a) *Circumstances precluding delegation.* Authority to act on applictions listed in § 303.11 is not delegated by the Board of Directors in the following circumstances:

(1) Where, except for certain standard conditions which may be imposed in approving applications for branches, remote service facilities, and relocations, and applications for deposit insurance by proposed or newly organized banks, a condition other than

a time limitation is to be prescribed in approving the application;

(2) Where, in the case of applications filed pursuant to the Bank Merger Act (12 U.S.C. 1828(c)), all necessary and final approvals have not been obtained from the appropriate State authority. In this connection, if the State authority has given its approval subject only to the approval of the Federal Deposit Insurance Corporation, such State approval is to be considered as final.

As used in paragraph (a)(1) above, the term "standard conditions" includes, with respect to an application for deposit insurance, the following conditions: that a specific amount and a specific allocation of beginning paid-in capital be provided; that any changes is proposed management or proposed ownership to the extent of 5 or more percent of stock, including new acquisitions of or subscriptions to 5 or more percent of stock, be approved by the Corporation prior to the opening of the bank; that an accrual accounting system be adopted for maintaining the books of the bank; that Federal deposit insurance not become effective until the applicant has been established as a State bank (not a member of the Federal Reserve System), until it has authority to conduct a banking business, and until its establishment and operation as a bank have been fully approved by the State banking authority; that, where applicable, a registered or proposed bank holding company obtain approval of the Board of Governors of the Federal Reserve System to acquire voting stock control of the proposed bank prior to its opening; and that, where applicable, full disclosure be made to all proposed directors and stockholders of the facts concerning interests of insiders in any bank transaction being effected or then contemplated, including the indentity of the parties to the transaction and the terms and costs involved. As used in the previous sentence the term "insider" means one who is or stands to be be a director, an officer, or an incorporator of the applicant or a shareholder who directly or indirectly controls 5 or more percent of any class of the applicant's outstanding voting stock, or the associates and interests of any such person. With respect to applications for branches (including remote service facilities), relocations, and deposit insurance, the term "standard conditions" includes: the condition that all necessary and final approvals have been obtained from the appropriate State authority; and that unitl the conditional commitment of the Corporation becomes effective, the Corporation has the right to alter, suspend, or withdraw its commitment should any interim development be deemed to warrant such action.

* * * * *

(c) *Conditions precedent to delegation to approve branch applications.* (Important: the requirements set forth in this paragraph (c) are procedural in nature only and should not be construed as standards or criteria which will be used in determining whether a specific application will be approved or denied.) Authority to approve branch applications (including initial or additional remote service facilities and foreign branches of insured State nonmember banks) pursuant to § 303.11(a)(7) is delegated only where each of the six factors set forth in section 6 of the Federal Deposit Insurance Act has been considered and favorably resolved,[4] and, in addition, , where all the following requisites have been satisfied:

(1) The applicant is in substantial compliance with applicable laws and with the rules and regulations of the Corporation.

(2) The applicant's adjusted [7] equity capital and reserves (adjusted surplus and reserves in the case of mutual savings banks) are determined to be adequate relative to its adjusted [7] gross assets and, where applicable, the applicant is in compliance with the FDIC Statement of Policy on Capital Adequacy.

(3) The applicant's income before securities gains or losses and net income minus cash dividiends have been positive during the most recent calendar year for which information is available and for the year-to-date through the most recent quarter for which information is available.

(4) The applicant's management is rated 3 or better.

(5) Any financial arrangements which have been made in connection with the proposed branch [10] and which involves the applicant's directors, officers, major shareholders,[11] or their interests, are fair and reasonable in comparison to similar arrangements that could have been made with independent third parties.

(6) The requirements of the National Historical Preservation Act, the National Environmental Policy Act and the Community Reinvestment Act have been considered and favorably resolved, except that this requisite does not apply to applications to establish foreign branches.

10. By further revising 12 CFR 303.12(c) by removing and reserving footnotes [5], [6], and [8].

[5] [Reserved]
[6] [Reserved]
[8] [Reserved]

11. By amending 12 CFR 303.12(d) by removing the reference to § 303.11(a)(16) and inserting, in its place, "§ 303.11(a)(15)".

§ 303.14 [Amended]

12. By amending 12 CFR 303.14(b)(1) by removing the parenthetical "(i)" following the paragraph heading *"Notice by publication."*

13. By further amending 12 CFR 303.14(b)(1) by adding at the end of the first paragraph and as part of that paragraph the following sentence, to appear as unindented text following the indented quotation contained in that paragraph: "In all instances, immediately after final publication, the applicant shall furnish the regional director with a tear sheet or clipping evidencing the publication."

14. By removing 12 CFR 303.14(b)(1)(ii) and (iii).

15. By removing 12 CFR 303.14(b)(1–a).

16. By revising 12 CFR 303.14(b)(2) to read as follows:

(b) * * *

(2) *Comments and protests.* Anyone who wishes to comment on an application may do so by filing comments in writing with the regional director. Anyone who wishes to protest the granting of an application filed pursuant to the Bank Merger Act (12 U.S.C. 1828(c)) has a right to do so if he or she files a written notice of his or her intent with the regional director within 15 days of the last publication of the notice required by paragraph (b)(1) of this section. A person who wishes to protest the granting of any other application may file a formal protest with the regional director up to the time the Corporation acts upon the application.

17. By amending 12 CFR 303.14(b)(3) by inserting after the words "In order to fully apprise the public of its rights under" the words "the second sentence of"; by removing, in the second sentence thereof, the phrase ", except in the case of additional sites or relocations of remote service facilities,"; and by removing the last sentence thereof, which reads, "In the case of additional sites or relocations of remote service facilities, this notice shall consist of the notice required by paragraph (d)(2) of this section."

18. By revising 12 CFR 303.14(d)(1) to read as follows:

(d) * * *

(1) *Requests for hearing on other proceeding.* In the case of applications filed pursuant to the Bank Merger Act (12 U.S.C. 1828(c)), once the Corporation's field examiner has

completed the investigation of the application or, where no field investigation has been conducted, upon completion of the regional office report, anyone who, within 15 days of the last publication of the notice required by paragraph (b)(1) of this section, has filed a written notice of intent to protest the granting of the application shall be entitled to file a formal protest and request an opportunity to be heard, so long as that person does so within 15 days after his or here receipt of the notice set forth in paragraph (d)(2) of this section. In the case of other applications, anyone who files a formal protest in a timely manner as provided by paragraph (b)(2) of this section may request a hearing at the time of the making of the formal protest. A person filing an intent to protest or a formal protest may also request that a hearing be held on the application pursuant to paragraph (e) of this section.

19. By further revising 12 CFR 303.14(d)(1) by removing and reserving footnote [13]:

[13] [Reserved]

20. By amending 12 CFR 303.14(d)(2) by revising the first paragraph thereof to read as follows:

* * * * *

(d) * * *

(2) *Notice.* In the case of applications filed pursuant to the Bank Merger Act (12 U.S.C. 1828(c)), upon completion of the investigation by the field examiner or the regional office, the regional director shall give notice to all persons who, within 15 days of the last publication of the notice required by paragraph (b)(1) of this section, filed a written notice of intent to protest the granting of the application. This notice shall be sent by registered or certified mail and a copy of the notice shall be sent to the applicant. The notice shall take substantially the following form:

* * * * *

21. By further amending 12 U.S.C. 303.14(d)(2) by removing the last four paragraphs thereof, beginning with the words, "Where notice has been sent."

22. By amending 12 CFR 303.14(d)(3) by removing the reference to paragraph (d)(2) the first time it appears therein and inserting, in its place, "paragraph (d)(1)"; and by revising the latter sentence of 12 CFR 303.14 (d)(3) to read as follows: "In cases in which notice under paragraph (d)(2) of this section is required to be given, a decision as to the form of proceeding to be held will be made not more than 30 days after notice has been given pursuant to paragraph (d)(2)."

23. By amending 12 CFR 303.14(d)(4) by removing the reference to paragraph (d)(2) therein and inserting, in its place, "paragraph (b)(2)".

24. By amending 12 CFR 303.14(e)(1)(ii) by removing the reference to paragraph (d)(2) therein and inserting, in its place, "paragraph (b)(2)".

25. By revising § 303.14(l)(2) to read as follows:

* * * * *

(l) * * *

(2) *Establishing a remote service facility or system of facilities.* For purposes of this section "establishing" means owning or leasing a remote service facility either individually or jointly. An establishing bank will file a letter giving full particulars of the proposal to establish either initial or additional remote service facilities, including the matters listed in section 303.2, with the appropriate regional office. The applicant will be advised whether additional information must be submitted before the application may be approved.

26. By amending 12 CFR 303.14(l)(3) by removing the words "Form 6210/09" each of the three times they appear therein, and by inserting, in their place, the words, "by letter," the first time they appear, the words "This letter" the second time they appear, and the words "this letter" the third time they appear.

PART 304—FORMS, INSTRUCTIONS, AND REPORTS

1. The authority citation for Part 304 reads as follows:

Authority: 12 U.S.C. 1819.

2. By amending 12 CFR 304.3(f) by inserting an asterisk following "Form 6210/06", "Form 6210/05", "Form 6210/02", and "Form 6210/10" as each of them appears in the italicized paragraph heading thereof and the first time each of them appears in the text of the paragraph, and by adding a footnote as follows:

*These forms are ordinarily not required by the FDIC as noted in § 303.2. The forms may be used by State authorities at their own discretion.

§ 304.3 [Amended]

3. By amending 12 CFR 304.3(g) by inserting an asterisk following "6210/04", "6210/03", and "6210/07" as each of them appears both in the italicized paragraph heading thereof and in the text of the paragraph.

4. By amending 12 CFR 304.3(h) by inserting an asterisk following "form 6210/09" as it appears in the italicized paragraph heading therof and the first time it appears in the text of the paragraph.

5. By removing and reserving 12 CFR 304.3(j).

PART 347—FOREIGN ACTIVITIES OF INSURED STATE NONMEMBER BANKS

1. The authority citation for Part 347 reads as follows:

Authority: Secs. 3(o), 18(d), and 18(*l*) of the Federal Deposit Insurance Act, as amended by sec. 301, Pub. L. No. 95–630, 92 Stat. 3641 (12 U.S.C. 1813(o), 1828(d), 1828(l)).

§ 347.3 [Amended]

2. By revising 12 CFR 347.3(a) to read as follows:

(a) *Establishing, moving, or closing foreign branches.* (1) A foreign branch may not be established, operated, or relocated by an insured State nonmember bank without the prior written consent of the Corporation. This consent may be obtained through the application procedures set forth under Part 303. For all foreign branches and relocations thereof, this information shall include information on the exact location of the facility and on the involvement of insiders as specified in § 303.2.

(2) At the time of the closing of a foreign branch, the insured State nonmember bank shall by letter advise the Regional Director of the name, the location, and the date of the closing of the branch.

* * * * *

By order of the Board of Directors, June 28, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 82–18362 Filed 7–6–82; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 561 and 563

[No. 82–434]

Amendments Relating to the Issuance and Use of Subordinated Debt Securities, Mutual Capital Certificates, and Preferred Stock

Dated: June 24, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Board proposes to amend its regulations governing the issuance and use of subordinated debt securities, mutual capital certificates, and preferred stock by savings and loan institutions ("insured institutions") the accounts of which are insured by the Federal Savings and Loan Insurance Corporation ("FSLIC" or the "Corporation"). Proposed changes

include: (1) Allowing subordinated debt securities and redeemable mutual capital certificates to be used in fulfilling an insured institution's net-worth requirement; (2) allowing nonpermanent preferred stock to be used to fulfill an insured institution's net-worth requirement; (3) allowing the full amount of subordinated debt securities, mutual capital certificates, and preferred stock to fulfill the statutory reserve requirement; (4) revising the current eligibility requirements for the issuance of subordinated debt securities; and (5) expanding the authority of the board to waive the form, term and offering requirements for subordinated debt securities. The proposed action would provide added flexibility for insured institutions to issue subordinated debt securities, mutual capital certificates and preferred stock by increasing such securities' utility. The proposal also would increase the ability of insured institutions to issue subordinated debt securities by revising eligibility and structural requirements.

The Board believes that the changes proposed herein will give insured institutions added flexibility to build up their capital and reserves through the sale of subordinated debt securities, mutual capital certificates, and nonpermanent preferred stock.

DATE: Comments must be received by: August 5, 1982.

ADDRESS: Send comments to Director, Information Services, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: John P. Soukenik, Deputy Director, Division of Corporate and Regulatory Structure, Office of General Counsel (202–377–6411), at the above address.

SUPPLEMENTARY INFORMATION:

Background

In the past two years, the Board as operating head of the FSLIC has substantially amended its borrowing regulations in an effort to provide greater authority for borrowing outside the Federal Home Loan Bank System and state-chartered central reserve institutions ("outside borrowing") and to increase insured institutions' flexibility to manage liabilities while continuing to ensure that outside borrowings do not adversely affect the safety and soundness of insured institutions. In an effort to continue this regulatory policy, the Board by Resolution No. 82–104, dated February 18, 1982 (47 FR 8026 (1982)), proposed amendments to its regulations concerning the issuance of subordinated debt securities which would have liberalized the eligibility criteria for subordinated debt securities issues and given the Board the flexibility to waive requirements as to form, term and method of offering for the secutities. The proposal also would have permitted the increased use of subordinated debt securities in the net-worth calculation and authorized limited use of subordinated debt securities in meeting an insured institution's statutory-reserve requirement.

After a review of the public comments submitted in response to the February 18 proposal and after further staff consideration and analysis, the Board believes that additional amendments to the Board's regulations concerning subordinated debt securities, mutual capital certificates and preferred stock may be appropriate at this time. Therefore, in addition to and in expansion of those previously proposed amendments, the Board proposes that the full amount of all subordinated debt securities, mutual capital certificates and nonpermanent preferred stock sold be eligible to fulfill insured institutions' net-worth and stautory-reserve requirements. The Board believes that the changes proposed herein will give insured instititions added flexibility to build up their capital and reserve through the sale of subordinated debt securities, mutual capital certificates, and nonpermanent preferred stock.

Increase in Amount of Subordinated Debt and Other Securities Permitted To Be Included for the Net-Worth Requirement

Section 561.13 of the Insurance Regulations (12 CFR 561.13) allows an insured institution to satisfy up to 20 percent of its total net-worth requirement with subordinated debt securities upon written approval by the Corporation of an application submitted pursuant to § 563.8–1 (12 CFR 563.8–1). Subordinated debt securities qualifying under this standard may be included as part of the issuing institution's net worth until the securities' remaining period to maturity is less than one year. The amendment proposed by Board Resolution No. 82–104 would have increased the total amount of subordinated debt securities permitted to be included in satisfying the issuing institution's net worth from 20 percent to 40 percent of the total net-worth requirement.

After further consideration, the Board is proposing to expand further the group of components eligible for use in fulfilling the net-worth requirement. The proposal permits an insured institution to include as part of the net-worth requirement the full amount of any subordinated debt securities and redeemable mutual capital certificates, so long as the remaining period to maturity or required redemption is not less than one-year. Nonpermanent preferred stock meeting this term limitation also would be accorded the same treatment for net-worth purposes. In addition, the proposal would also allow redemptions or prepayments of nonpermanent components of the net-worth requirement, if only the issuing institution has the option to redeem or prepay and the exercising of such right would not result in the failure of the institution to meet its net-worth requirement.

The net-worth requirement is not specifically mandated by statute but rather is a regulatory provision designed to provide a gauge for the Board and other interested parties by which to judge the financial condition of insured instutitions. Since it is a regulatory creation of the Board, it is within the Board's descretion to dictate the components of the net-worth account. From time to time, the Board, operating within this discretionary framework, has altered the actual percentage of net worth required to be maintained by insured institutions and the amount upon which that percentage is based, as well as the various components eligible for inclusion in the net-worth account. The Board by this action is proposing to exercise again its prerogative to redefine various aspects of the net-worth requirements by allowing the full amount of any subordinated debt securities and redeemable mutual capital certificates sold to be included in the net-worth account and by adding nonpermanent preferred stock to the list of types of eligible securities for that same purpose.

Inclusion of Subordinated Debt Securities for Statutory Reserve Requirements

Section 403(b) of the National Housing Act (12 U.S.C. 1726(b)) ("NHA") requires an insured institution to provide adequate reserves satisfactory to the Corporation. Section 403(b) authorizes the Board to implement the statutory-reserve requirement by regulations within certain limitations set forth in the statute. Pursuant to the statute, the Board must establish a specific reserve requirement to be met by insured institutions and to be composed of an amount no greater than 6 percent nor less than 3 percent of each institution's insured accounts. Currently, the reserve requirement established by the Board is

3 percent of insured account balances as calculated through application of the formula set forth in § 563.13(a)(2) (12 CFR 563.13(a)(2)). The reserve may consist of any item eligible for inclusion in the institution's net worth except for those items specifically excluded in paragraphs (a)(3)(i) through (iii) of the § 563.13. Subordinated debt securities and redeemable mutual capital certificates currently are among the exclusions.

The previously proposed amendment to § 563.13 would have allowed subordinated debt securities to be included in an institution's statutory-reserve requirement to the extent necessary to meet any reserve requirement in excess of 3 percent of insured accounts. An insured institution still would have been required to meet the minimum 3-percent reserve requirement without the use of any subordinated debt securities. Because the Board recently lowered the statutory-reserve requirement to 3 percent of insured accounts (See, Board Resolution No. 82–19 (January 14, 1982), 47 FR 3543 (1982)), the proposed liberalization would have had no immediate effect but would have operated prospectively in the event that the statutory-reserve requirement was increased above the current 3-percent level.

Commenters who addressed the February 18 proposal generally agreed that the amendment was an improvement over the current regulation, but the consensus was that the savings and loan industry needs regulatory changes which would have an immediate positive effect rather than merely future potential. With these comments in mind, the Board considered other legally available options which would aid insured institutions in maintaining and bolstering their statutory reserve, and at the same time preserve the integrity of the FSLIC insurance fund.

The Board believes that the inclusion of certain debt and equity securities could have a beneficial effect on both insured institutions and the Corporation. Currently, neither subordinated debt securities, redeemable mutual capital certificates, nor nonpermanent preferred stock is available for inclusion in the statutory reserve. Yet, structurally all of these securities have two characteristics important for any component of the statutory reserve: they are subordinate to other obligations of the insured institution, and their medium- to long-term nature makes them a stable source of capital. When claims are filed against an institution in a liquidation proceeding, holders of subordinated debt securities are ahead of only holders of equity securities in the order of claim priorities. Although this feature is a significant potential risk to holders of these instruments, it also makes them attractive for reserve purposes. Moreover, since the subordinated-debt-securities regulation requires all debentures to have a term of at least 7 years and the mutual-capital-certificate regulation requires all redeemable mutual capital certificates to have a dollar weighted average term of 10 years, the funds received by an insured institution from the sale of these instruments would be available to the institution for a relatively long period of time. The proposed change would create little risk for a well managed institution because the institution could structure the nonpermanent portion of its statutory reserve to ensure that other sources of eligible reserve capital would be available as current nonpermanent components approach maturity.

Authorized Components of the Statutory Reserve

As a condition for approval of any application for insurance of accounts, section 403(b) of the NHA requires the applicant to agree to build up reserves gradually to an amount satisfactory to the Corporation. The actual percentage of reserve and the amount upon which that percentage is based have from time to time been altered by various amendments to the NHA. Moreover, as the capital structure of insured savings and loan institutions changed from relatively simple to rather complex in nature, the Board permitted various newly authorized capital instruments also to be included in the required reserve. Congress provided this broad discretion to the Board to define the components of the reserve requirement when, in 1974, it added to section 403(b) of the NHA a definition which states that "the term 'reserves' shall, to such extent as the Corporation may provide, include capital stock and other items, as defined by the Corporation."

To date, however, the Board has chosen not to authorize the use of some instruments for reserve purposes, even though such authorization was fully within its discretion. For example, until today neither preferred stock nor mutual capital certificates were proposed to be utilized to their full legal potential, although the statute specifically mentions mutual capital certificates as an authorized component of the reserve and preferred stock is a variety of "capital stock." The Board believes that other capital intruments, including subordinated debt securities, can also be designated by the Board as proper components of the reserve pursuant to the statutory definition.

State-Chartered Insured Institutions' Utilization of Proposed New Authority

The proposed inclusion of subordinated debt securities, redeemable mutual capial certificates and nonpermanent preferred stock for federal net-worth and statutory-reserve requirement purposes would apply to state-chartered, FSLIC-insured institutions as well as federally chartered institutions. However, state-chartered institutions may not be permitted under applicable state law to issue some, or all, of these types of instruments. The Board understands that, if these types of restrictions exist, they could place insured institutions operating in such environments at a considerable disadvantage with federally chartered institutions and state-chartered institutions located in jurisdictions where all of these instruments are authorized to be issued by savings and loan institutions. The Board is also aware that the net-worth regulations in some jurisdictions may vary from the Board's definition of net worth. This difference may cause an institution to meet one standard but at the same time fail to satisfy the other. With these factors in mind, the Board specifically requests comment from state-chartered institutions and other interested parties as to the types of instruments authorized by law or regulation in their particular jurisdictions and the eligibility of such instruments for inclusion as part of any applicable net-worth requirement.

Eligibility Requirements for Subordinated Debt

In order for the subordinated debt securities of an insured institution to be included as part of its net worth, the issuing institution must comply with § 563.8–1. Paragraph (b) of that section lists six specific eligibility requirements an institution must meet at the time its application is approved by the Board. The February 18 proposal would have replaced the specific financial qualifications with a supervisory standard which would have allowed the Corporation to judge applications on a case-by-case basis. Applications authorized by applicable law would have been approved if, in the opinion of the Corporation, the overall policies, condition and operation of the applicant did not afford a basis for supervisory objection to the application. In considering the issuing institution's overall condition and operation (e.g. net

worth, scheduled items, appraised losses, income and cash flow) the inability of an appliant to meet a particular standard(s), as set forth in the regulation, would not necessarily cause the application to be denied. The Board continues to propose the described amendments to the eligibility requirements for subordinated-debt-securities issues.

Waiver of Form, Term, and Offering Requirements

The introductory language of paragraph (d) of § 563.8–1 currently provides for the waiver of any of the requirements as to form, term and offering of subordinated debt securities in connection with a sale of such securities to the Corporation. In order to provide the Board with greater flexibility in considering applications which do not comply with all of the requirements of paragraph (d), the Board had also proposed to remove the restriction on granting waivers of the requirements of paragraph (d), thereby permitting the Board upon request to waive any of the designated requirements of paragraph (d) which it deemed appropriate. The proposal excepted from the scope of the waiver the provisions which require the disclosure that the security is not a deposit or account insured by FSLIC and the requirement that the security be subordinated, unsecured and not eligible for use as collateral.

This proposed portion of § 563.8–1 also remains unchanged from the previously proposed amendments, which one exception. It is proposed to add the phrase "by the assets of the insured institution, or any of its affiliates" to the requirement that the subordinated debt securities be "unsecured." The Board views this amendment as a technical change that would have no substantial substantive effect on the regulatory requirement.

Regulatory Flexibility Act Certification

Pursuant to section 3 of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164 (September 19, 1980), the Board certifies that the proposed amendments, if promulgated, would not have a significant economic impact on a substantial number of small entities. The proposed regulations would reduce a number of existing restrictions on the issuance and utility of subordinated debt securities and would also expand uses of mutual capital certificates and preferred stock. The Board believes that the proposed amendments will benefit institutions but does not believe that the amendments will have a significant economic impact on institutions.

Because there is a present need to allow institutions greater flexibility in the composition of their net worth and statutory reserve, and because closely related regulatory proposals have already been published for comment, the Board has limited the comment period to 30 days.

List of Subjects in 12 CFR Parts 561 and 563

Savings and loan associations.

Accordingly, the Federal Home Loan Bank Board hereby proposes to amend Parts 561 and 563 of Subchapter D, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 561—DEFINITIONS

1. Revise § 561.13 to read as follows:

§ 561.13 Net worth.

The term "net worth" means the sum of all reserve accounts (except specific or valuation reserves), retained earnings, common stock, preferred stock, mutual capital certificates (issued pursuant to § 563.7–4 of this Subchapter), subordinated debt securities (issued pursuant to § 563.8–1 of this Subchapter), securities which constitute permanent equity capital in accordance with generally accepted accounting principles (if approved by the Corporation), and any nonwithdrawable accounts of an insured institution: *Provided,* that for any nonpermanent instrument qualifying as net worth under this definition, either (1) the remaining period to maturity or required redemption (or time of any required sinking fund or other prepayment or reserve allocation, with respect to the amount of such prepayment or reserve) is not less than one year, or (2) the redemption or prepayment is only at the option of the issuer and such payments would not cause the institution to fail to meet its statutory-reserve requirement or its net-worth requirement under § 563.13 of this Subchapter; and *provided further,* that capital stock may be included as net worth without limitation if it would otherwise qualify but for either (1) a provision permitting redemption in the event of a merger, consolidation, or reorganization approved by the Corporation where the issuing institution is not the survivor, or (2) a provision permitting a redemption where the funds for redemption are raised by the issuance of permanent stock. For purposes of satisfying any net-worth requirement of the Corporation other than the annual net-worth requirement of § 563.13(b), there may be included as net worth, to the extent explicitly authorized in writing by the Corporation, the principal amount of any instruments qualifying for the net-worth requirement of § 563.13(b) or otherwise issued with the specific prior written approval of the Corporation.

PART 563—OPERATIONS

2. Revise § 563.8–1 by amending paragraph (b), the introductory text to paragraph (d), and paragraph (d)(1)(ii)(*b*), removing paragraph (f), and redesignating paragraphs (g), (h), and (i) as (f), (g), and (h) respectively; to read as follows:

§ 563.8–1 Issuance of subordinated debt securities.

* * * * *

(b) *Eligibility requirements.* In determining whether the Corporation will process an application by an insured institution for approval of the issuance of subordinated debt securities pursuant to this section, the Corporation will consider the following factors:

(1) Whether the issuance of such securities by the applicant is authorized by applicable law and regulation and is not inconsistent with any provision of the applicant's charter, constitution or bylaws; and

(2) Whether in the opinion of the Corporation, the overall policies, condition and operation of the applicant do not afford a basis for supervisory objection to the application. Bases for supervisory objection may include the following:

(i) Net worth, without regard to the amount of any subordinated debt securities to be included in net worth, does not meet the requirements of § 563.13;

(ii) Scheduled items exceed 2.5 percent of specified assets;

(iii) Appraised losses have not been offset by specific reserves to the extent required pursuant to § 563.17–2 of this Part;

(iv) Actual and anticipated income from operations after distribution of earnings to the holders of savings accounts and payments of dividends on equity securities and interest on borrowings, but before income taxes, is not demonstrably sufficient for interest and amortization of debt, discount and related expenses of the proposed issue.

* * * * *

(d) *Requirements as to securities.* Subordinated debt securities issued pursuant to this section shall meet all of the following requirements unless one or more of such requirements, not including

paragraphs (1) (i) and (ii), are waived by the Corporation:

(1) *Form of certificate.* * * *

(ii) * * *

(*b*) Is unsecured by the assets of the issuing institution, or any of its affiliates; and

* * * * * *

(f) *Additional requirements.* * * *

(g) *Limitation as to offering period.* * * *

(h) *Reports.* * * *

3. Amend § 563.13 by revising paragraph (a)(3) to read as follows:

§ 563.13 Reserve accounts.

(a) * * *

(3) Institutions may count as reserves meeting the reserve requirement those items eligible to be included in the definition of net worth set forth in § 561.13 of this Subchapter.

* * * * * *

(Sec. 409, 94 Stat. 160. Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730). Sec. 5A, 47 Stat. 727, as amended by sec. 1, 64 Stat. 256, as amended; sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1464) Reorg. Plan No. 3 of 1947, 12 F.R. 4891, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82-18637 Filed 7-6-82; 8:45 am]

BILLING CODE 6720-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1017

Security Regulation for Selected Confidential Information

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed regulation.

SUMMARY: In this document, the Commission proposes to revise its security procedures for safeguarding certain confidential business information, reported to or obtained by the Commission from businesses or from government agencies, which, because of the nature of the information, requires extraordinary security procedures to prevent its unauthorized disclosure. The Commission intends that at this time the procedures will apply only to confidential chemical product formula data submitted in response to its Special Order of August 21, 1975, and to Confidential Business Information obtained by EPA under the Toxic Substances Control Act (TSCA) which the EPA shares with the Commission. The Commission is proposing this regulation because it recognizes that business whose documents are subject to this regulation have an interest in the way in which the Commission safeguards those documents.

DATE: Written comments on the proposed regulation must be received no later than September 7, 1982.

ADDRESS: Send written comments to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT: Dorothy Drago, Directorate for Epidemiology (301–492–6470), Consumer Product Safety Commission, Washington, D.C. 20207.

SUPPLEMENTARY INFORMATION: The Consumer Product Safety Commission (CPSC) is responsible under the Consumer Product Safety Act (CPSA) (15 U.S.C. 2051 *et seq.*) for, among other things, protecting the public against unreasonable risks of injury associated with consumer products, and promoting research and investigation into the causes and prevention of product-related deaths, illness and injuries, 15 U.S.C. 2051(b)(4). In carrying out these responsibilities, the Commission is required to conduct such continuing studies and investigations of deaths, injuries, diseases, other health impairments, and economic losses resulting from accidents involving consumer products as it deems necessary, 15 U.S.C. 2054(a)(2). It may conduct research, studies, and investigations on the safety of consumer products and on improving the safety of such products, 15 U.S.C. 2054(b)(1).

In some instances, the Commission, in carrying out its responsibilities, receives reports or obtains from businesses and/or government agencies information that contains trade secrets or other proprietary data. Section 6(a)(2) of the CPSA, 15 U.S.C. 2055(a)(2), as amended by the Consumer Product Safety Amendments of 1981 (Pub. L. 97–35, 95 Stat. 703–752), requires the Commission to keep such information confidential. In some instances, the nature of confidential information reported to or obtained by the Commission requires the Commission to take extraordinary security procedures to prevent unauthorized disclosure of the information. For example, the Commission determined that extraordinary procedures were necessary to safeguard chemical product formula information submitted to it by chemical manufacturers in response to its special order of August 21, 1975 (40 FR 38617). The Commission published security procedures for safeguarding that information, and other similar information, at 16 CFR Part 1017, Subpart B.

The Commission, as part of its investigative and/or regulatory activities, anticipates requesting the Environmental Protective Agency (EPA) to provide it with "Confidential Business Information" that EPA has received under (TSCA).[1] The EPA will furnish this information to the Commission only if the Commission meets EPA's standards for maintaining the security of the information and promises to treat the information as confidential in accordance with EPA's regulations at 40 CFR Part 2.

The security procedures proposed below as a revision to 16 CFR Part 1017, are modeled after the procedures contained in the EPA's TSCA Confidential Business Information Security Manual (Security Manual) of July 1978. The procedures have been reviewed and approved by the Information Control Branch, Management Support Division, EPA, as meeting EPA requirements for sharing TSCA confidential business information with other agencies (See TSCA Security Manual, Chapter VI).

Although the Commission believes the proposed security procedures are helpful to insure that the Commission is able to adequately safeguard certain confidential information that it receives, the Commission anticipates that the procedures will nevertheless impose an administrative burden on the Commission's staff. Therefore, the Commission intends that at this time the procedures apply only to confidential chemical product formula data submitted to the Commission in response to its special order of August 21, 1975 (40 FR 38617) and to "Confidential Business Information" obtained by EPA under TSCA which the EPA shares with the Commission.

The Commission in accordance with the Administrative Procedure Act, 5 U.S.C. 553(d), proposes that the regulation become effective upon publication in the **Federal Register** in final form. This will allow the

[1] The term "Confidential Business Information" is defined in EPA's TSCA Confidential Business Information Security Manual July 1978, as meaning, ". . . any information in any form received by EPA from any person, firm, partnership, corporation, association, or local, state, or Federal agency, or foreign government, which contains trade secrets or commercial or financial information, and which has been claimed as confidential by the person submitting it and which has not been determined to be nonconfidential under the procedures in 40 C.F.R. Part 2." A copy of the manual is available from the EPA's Office of Industry Assistance, Room 511, East Tower, 401 M Street, S.W., Washington, D.C. 20460, or from the Commission's Office of the Secretary, Washington, D.C. 20207.

Commission to acquire data from EPA without undue delay.

List of Subjects in 16 CFR Part 1017

Business and industry, Chemicals, Confidential business information, Security measures.

Accordingly, under section 6(a) of the Consumer Product Safety Act (Pub. L. 92–573; 86 Stat. 1212–1215, as amended, Pub. L. 95–631, 92 Stat. 3742–45, Pub. L. 97–35, 95 Stat. 703, 752, 15 U.S.C. 2055(a)(2)), the Commission proposes that 16 CFR Part 1017 be revised by: adding Subpart A; revoking and revising Subpart B; and adding Subparts C, D, E, F and G.

PART 1017—PROCEDURES FOR SAFEGUARDING SELECTED CONFIDENTIAL INFORMATION

Subpart A—Purpose and Description of Information

Sec.
1017.1 Purpose and scope.
1017.2 Description of information.
1017.3 [Reserved]
1017.4 [Reserved]

Subpart B—Responsibilities

1017.5 Safeguarding selected confidential information; Associate executive director for health sciences responsibilities.
1017.6 Document control officer and assistant(s) responsibilities.
1017.7 Employee responsibilities.
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1017.11 [Reserved]
1017.12 [Reserved]
1017.13 [Reserved]
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Subpart C—Procedures for Handling Selected Confidential Information

1017.15 Document control officer procedures upon receiving information.
1017.16 Storage of selected confidential information.
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1017.21 Newly created documents containing selected confidential information.
1017.22 Transfer of selected confidential information.
1017.23 Lost or misplaced documents.
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1017.26 [Reserved]

Subpart D—Procedures for Authorizing Access for Employees and for Employees to Obtain Access

1017.27 Request and approval for access to selected confidential information.
1017.28 Investigations.
1017.29 Employee access to information.
1017.30 [Reserved]
1017.31 [Reserved]

Subpart E—Computer Security Requirements for Confidential Chemical Product Formula Data

1017.32 Computer processing.
1017.33 [Reserved]

Subpart F—Authorization for the Commission to Provide Access to Selected Confidential Information to Members of the Chronic Hazard Advisory Panels

1017.34 Chronic Hazard Advisory Panels access to selected confidential information.

Subpart G—Security Requirements for Contractors and Subcontractors

1017.35 Contractor and subcontractor access to selected confidential information.
1017.36 Contracts and subcontracts involving access to selected confidential information.
1017.37 Award of contracts and subcontracts involving selected confidential information.
1017.38 Modifying existing contracts and subcontracts involving selected confidential information.
1017.39 Contractor computer use of confidential chemical product formula data.
1017.40 Transfer of selected confidential information to contractors and subcontractors.
1017.41 Inspection of contractor and subcontractor facilities.
1017.42 Return of information.
1017.43 Violations of security by contractors and subcontractors.

Appendices

I. Confidentiality Agreement for CPSC Employees
II. Confidentiality Agreement for CPSC Employees Upon Termination or Transfer
III. Request for Access to CPSC Selected Confidential Business Information
IV. CPSC Selected Confidential Information User Sign-Out Log
V. Document Control No. Form for CPSC Selected Confidential Information
VI. CPSC Selected Confidential Information Inventory Log
VII. CPSC Selected Confidential Information Record Disposition Log
VIII. Security Procedures for Handling Selected Confidential Information Provided to Contractors and Subcontractors

Authority: Section 6(a)(2), Pub. L. 92–573, 86 Stat. 1212–1215, as amended, Pub. L. 95–631, 92 Stat. 3742–45, Pub. L. 97–35, 95 Stat. 703, 752, 15 U.S.C. 2055(a)(2).

Subpart A—Purpose and Description of Information

§ 1017.1 Purpose and scope.

This part sets forth the security measures that Consumer Product Safety Commission employees must follow to safeguard selected confidential information which the Commission obtains from business entities or government agencies. This part also establishes security measures for Commission contractors and subcontractors obtaining access to this information.

§ 1017.2 Description of information.

The business information covered by this Part is confidential chemical product formula data submitted to the Commission in response to its special order of August 21, 1975 (40 FR 36617) and "Confidential Business Information" obtained by the EPA under the Toxic Substances Control Act (TSCA) which EPA provides to the Commission. This information and any other data to which the Commission makes this rule applicable is referred to as "selected confidential information" in this regulation.

§ 1017.3 [Reserved]

§ 1017.4 [Reserved]

Subpart B—Responsibilities

§ 1017.5 Safeguarding selected confidential information; Associate Executive Director for Health Sciences responsibilities.

(a) The Commission's Associate Executive Director for Health Sciences (AEDHS) has the primary responsibility for safeguarding selected confidential information.

(b) The AEDHS shall:

(1) Ensure that all selected confidential information is handled under these procedures;

(2) Authorize the use of storage room(s) for selected confidential information, approve the destruction of selected documents, approve the computer processing of confidential chemical product formula data by employees, and review a contractor's/subcontractor's computer security plan;

(3) Designate a Document Control Officer (and one or more assistants, if necessary) to serve under the direct supervision of the AEDHS to implement the procedures in this part;

(4) Provide authorization for Commission employees and contractors or subcontractors to have access to selected confidential information in accordance with §§ 1017.15 and 1017.35;

(5) Initiate appropriate action when any employee, contractor or subcontractor fails to comply with these procedures, e.g., disciplinary action against an employee or termination of a contract or subcontract;

(6) The AEDHS shall immediately notify the Executive Director and the General Counsel of any investigation by the Security Officer that covers the unauthorized disclosure of selected confidential information.

§ 1017.6 Document Control Officer and assistant(s) responsibilities.

(a) The Document Control Officer (DCO) is responsible for the following:

(1) Maintaining a current list of Commission personnel and contractors and subcontractors who are authorized to have access to selected confidential information, including any limitations on access;

(2) Maintaining document control records for all selected confidential information, both incoming and outgoing;

(3) Assigning document control numbers to all documents containing selected confidential information;

(4) Releasing selected confidential information only to authorized employees;

(5) Ensuring that selected confidential information is stored in accordance with these procedures when not in use;

(6) Maintaining a system for retrieval of documents;

(7) Authorizing and supervising the reproduction and destruction of selected confidential information;

(8) Conducting with the security officer periodic, but not less than annual, inventory checks of all selected confidential documents and furnishing the results to the AEDHS; such inventory checks also will occur whenever there is a change of the AEDHS, DCO, DCOA(s) or security officer;

(9) Immediately reporting any violation of these procedures to the AEDHS.

(b) The Document Control Officer's Assistant (DCOA), designated by the AEDHS is responsible for performing the duties assigned by the DCO and acting for the DCO in routine matters in the absence of the DCO.

§ 1017.7 Employee responsibilities.

(a) Commission employees who are authorized access to selected confidential information are responsible for the following:

(1) Controlling and safeguarding all selected confidential information they receive in accordance with these procedures. Employees must execute a Confidentiality Agreement (Appendix I) before they are granted access to selected confidential information;

(2) Discussing selected confidential information only with authorized persons;

(3) Safeguarding selected confidential information when it is in actual use;

(4) Safeguarding combinations to storage containers that contain selected confidential information when the information is not being used;

(5) Immediately reporting possible violations of these procedures to the DCO;

(6) Not reproducing selected confidential information except with the approval and under the supervision of the DCO;

(7) Not discussing selected confidential information over the telephone except with permission of the DCO;

(8) Returning selected confidential information to the DCO at the close of business each day for safeguarding in accordance with these procedures.

§ 1017.8 Security officer responsibilities.

(a) The Executive Director shall appoint a security officer.

(b) The Security Officer shall be responsible for the following:

(1) Ensuring that appropriate investigations required in § 1017.28 are conducted regarding the AEDHS and for the DCO and any assistant(s), and also, regarding employees to whom access to selected confidential information is provided in accordance with these procedures;

(2) Maintaining a file of signed Confidentiality Agreements (Appendix I) which must be executed by all employees who are granted access to selected confidential information;

(3) Conducting periodic physical security surveys to ensure compliance with these procedures;

(4) Investigating any alleged or suspected wrongful disclosure of selected confidential information and furnishing the results of the investigation to the AEDHS, for any appropriate action;

(5) Investigating any alleged or suspected violation of these procedures by an employee and furnishing the results to the AEDHS for any appropriate action;

(6) Investigating any alleged or suspected violations of contract or subcontract security procedures and reporting the results to the AEDHS for any appropriate action;

(7) Notifying the Chief, Information Control Branch, Management Support Division, EPA, when there is to be an investigation of a suspected breach of security regarding disclosure of confidential business information received from EPA and/or documents generated therefrom by CPSC staff, or procedures relating thereto, involving an employee, contractor, subcontractor, as referred to in paragraphs (b) (4), (5) and (6) of this section;

(8) Immediately reporting to the Chief, Information Control Branch, Management Support Division, EPA, the results of any investigation regarding a suspected breach of security involving EPA confidential business information;

(9) Administering, witnessing, and maintaining the Confidentiality Agreement For CPSC Employees Upon Termination or Transfer (Appendix II) for each employee who has had access to selected confidentail information and is transferring from or terminating his/her employment with the Commission;

(10) Conducting periodic inspectins of contractor or subcontractor facilities to determine compliance with required security procedures.

§ 1017.9 Other individuals' responsibilities; Chief, Contracts Branch; Project Officer; Chief, Data Processing.

(a) The Chief of the Contracts Branch of the Directorate for Administration is responsible for the following:

(1) Ensuring that the clause entitled "Security Procedures for Handling Confidential Information, Provided to Contractors and Subcontractors" Appendix VIII, is included in any Request for Proposals, contract, or subcontract where the contractor subcontractor will have access to selected confidential information;

(2) Reporting any alleged violations of the contract or subcontract security provisions to the Security Officer.

(b) The Project Officer for a contract is responsible for transferring selected confidential information to a contractor/subcontractor and ensuring that all the information is returned at the completion of the contract work.

(c) The Chief of the Automatic Data Processing Division of the Directorate for Administration is responsible for ensuring:

(1) That no confidential business information obtained from EPA is computerized;

(2) That no confidential chemical product formula data submitted in response to the Commission's special order of August 21, 1975 is stored on-line on a computer; and

(3) That all data processing of other proprietary data that may be subject to this rule by employees or by contractor or subcontractor employees is performed on a computer that has adequate security safeguards.

§ 1017.10 [Reserved]

§ 1017.11 [Reserved]

§ 1017.12 [Reserved]

§ 1017.13 [Reserved]

§ 1017.14 [Reserved]

Subpart C—Procedures for Handling Selected Confidential Information

§ 1017.15 Document control officer procedures upon receiving information.

(a) Upon receipt of documents containing selected confidential information, the DCO shall:

(1) Assign a document control number to each document;

(2) Attach a Selected Confidential Business Information cover sheet to the information (Appendix V); and

(3) Enter the required information into the Inventory Log (Appendix VI) including a description of the document, date received, and name of submitter.

§ 1017.16 Storage of selected confidential information.

(a) When selected confidential information is not in use and at the close of business each day, the DCO must store the selected confidential information, at a minimum, within a metal cabinet with a bar and a three-way changeable combination padlock approved by the Security Officer.

(b) The metal cabinet or other approved security container must be located in a room(s) that the AEDHS has authorized and which is approved, before use, by the Security Officer.

(c) The room(s) must have doors which are simplex locked and one or more of the following, depending upon the location, construction, and configuration of the room:

(1) Contact alarmed doors/windows;

(2) Ultrasonic alarm;

(3) Vibration alarms; or

(4) Other remote intrusion alarms.

(d) Only the AEDHS, the DCO and any assistant(s), and the Security Officer are authorized to be given the combinations to the room(s) and to the storage container(s).

(e) The room lock and the storage container combinations must be changed by the Security Officer at least once each year and every time an employee having access to the storage containers terminates employment or transfers to responsibilities that do not allow access.

§ 1017.17 Protection of selected confidential information during use.

(a) Except as provided in paragraph (b) selected confidential information, when in actual use by an authorized person, shall be protected as follows:

(1) Kept under the constant surveillance of an authorized person who is in a physical position to exercise direct security control over the material;

(2) Covered, turned face down, placed in storage containers, or otherwise protected when unauthorized persons are present or when the material is not in use during the day;

(3) Discussed only with other authorized persons; and

(4) Returned to the DCO at the close of business each day.

(b) In instances where selected confidential information is to be given to a contractor or subcontractor, the information shall be handled in the same manner as described in paragraph (a) except that it shall be returned at the close of business each day to the person designated by the contractor or subcontractor to safeguard selected confidential information.

§ 1017.18 Reproduction of selected confidential information.

The reproduction of selected confidential information should be kept to an absolute minimum. Reproduction of selected confidential information may be done only with the approval and under the supervision of the DCO or his/her assistant(s). The DCO or his/her assistant shall enter all copies into the document control system (Inventory Log, Appendix VI), notify the AEDHS, and apply the same control requirements as for the original.

§ 1017.19 Destruction of selected confidential information.

(a) Documents containing selected confidential information may be destroyed only with the written approval of the AEDHS and the General Counsel;

(b) Documents shall be destroyed by shredding or burning under the supervision of the DCO and in the presence of a witness.

(c) The DCO shall record the destruction on the Inventory Log (Appendix VI) and the Record Disposition Log (Appendix VII) and shall maintain the Inventory Log and a copy of the User Sign-Out Log (Appendix IV) for all records destroyed for a period of at least five years.

§ 1017.20 Discussion of selected confidential information in meetings.

(a) In any meeting, symposium, panel discussion, or seminar in which selected confidential information will be discussed by Commission employees, the meeting chairperson shall:

(1) Be a person authorized to have access to selected confidential information;

(2) Ensure that only persons authorized to have access to selected confidential information are present when such information is to be discussed;

(3) Provide a sign-in sheet, including the date, time, place, and subject of the meeting and require all attendees to sign it. The chairperson shall give the sign-in sheet to the DCO who will retain it for one year.

(4) Review with the attendees their responsibility for safeguarding selected confidential information.

(5) Ensure that no electronic recording is made of the meeting unless the chairperson has authorized it. If authorized the recording must be treated as all other selected confidential information and the DCO must enter it into the document control system;

(6) Ensure that the meeting room is secured after the meeting. This shall include erasing all blackboards, destroying all tear sheets and other notes, and ensuring that nothing is left in the room which could lead to an unauthorized disclosure of selected confidential information.

§ 1017.21 Newly created documents containing selected confidential information.

When a new document is created by extracting information from selected confidential documents, the newly created document shall be brought to the attention of the DCO by the close of business on the day it is created. The DCO shall follow the procedures in this subpart for numbering and logging the new document. Notes containing selected confidential information taken from a document or at a meeting shall likewise be brought to the attention of the DCO for numbering and logging on the day they are created.

§ 1017.22 Transfer of selected confidential information.

(a) Selected confidential information shall be transferred between geographic locations by personal delivery or by registered mail. Personal delivery by a person authorized to have access to selected confidential information shall be the preferred method. In no case will the original or the single copy of selected confidential information be transferred by regular mail.

(b) If the information is to be transmitted by mail, the DCO must send it by registered mail, return receipt requested, in a double envelope. The inner envelope must reflect the name and address of the recipient with the following wording on the front side of the inner envelope: "Confidential

Business Information—To be opened by addressee only." The outer envelope must reflect the normal address without the additional wording.

§ 1017.23 Lost or misplaced documents.

If any employee becomes aware that a document containing selected confidential information is lost or otherwise unaccounted for, he/she shall immediately notify the DCO. If the document is not located within eight working hours, the DCO shall refer the matter to the Security Officer. If the document contains confidential business information received from EPA, the Chief Information Control Branch, Management Support Division, EPA, must be notified at the same time the CPSC Security Officer is notified.

§ 1017.24 Violations of security by Commission employees.

(a) If an employee violates or apparently violates the security provisions of this Part the Security Officer shall investigate the violations or apparent violations, and report the matter to the AEDHS and the General Counsel.

(b) If the investigation by the Security Officer uncovers a violation of the security requirements of this Part and there is no evidence of any unauthorized disclosure, the Security Officer shall inform the AEDHS and the General Counsel.

(c) If the investigation by the Security Officer uncovers the unauthorized disclosure of selected confidential information, the Security Officer shall inform the AEDHS who shall immediately notify the Executive Director and the General Counsel.

(d) If there is a violation or an apparent violation of the security regulations of this Part and/or an investigation thereof, as referred to in paragraphs (a), (b) and (c) above, involving confidential business information received from EPA, the Chief, Information Control Branch, Management Support Division, EPA, must be immediately notified.

(e) The results of any such investigation regarding a violation or apparent violation of security involving confidential business information received from EPA must be immediately reported to the Chief, Information Control Branch, Management Support Division, EPA.

(f) If the investigation by the Security Officer uncovers information reflecting a possible criminal violation, the Security Officer will immediately inform the AEDHS who shall immediately inform the Executive Director and the General Counsel. If there is evidence of a criminal violation, the General Counsel shall refer the matter to the Department of Justice pursuant to 28 U.S.C. 535.

§ 1017.25 [Reserved]

§ 1017.26 [Reserved]

Subpart D—Procedures for Authorizing Access for Employees and for Employees To Obtain Access

§ 1017.27 Request and approval for access to selected confidential information.

(a) A Commissioner, the Executive Director, Deputy Executive Director, Associate Executive Directors, the General Counsel, and Office Directors have authority to request access to selected confidential information for themselves or employees under their supervision. A request must be made to the AEDHS by completing Part 1 of the document "Request for Access to Selected Confidential Information." (Appendix III) The request must be accompanied by a Confidentiality Agreement (Appendix I) signed by the employee for whom access is requested.

(b) The AEDHS shall approve the request for access by completing Part 2 of the request form (Appendix III) unless he/she can demonstrate that the employee does not have a legitimate need to have access to the selected confidential information. If the AEDHS approves the request for access, he/she shall send the completed form to the Security Officer who will be responsible for ensuring that an appropriate security investigation is conducted, as described in § 1017.28.

(c) If the AEDHS determines that an employee does not have a legitimate need to have access to selected confidential information, this decision may be appealed to the Executive Director. If the Executive Director upholds the decision of the AEDHS, the denial of access may be appealed to the Chairman.

§ 1017.28 Investigations.

(a) At a minimum, all employees must have a National Agency Check and Inquiries (NACI) completed before being given access to selected confidential information unless a waiver is obtained in accordance with paragraph (b). The Security Officer, upon receipt of completed Parts 1 and 2 of a request form for employee access to selected confidential information (Appendix III), will notify the Personnel Office and request that a NACI investigation be conducted for the employee if one has not been done previously. Upon completion of the NACI indicating that there is nothing of record to preclude the employee's being given access to selected confidential information, the Security Officer will complete Part 3 of the request form (Appendix III) to authorize the employee to have access to selected confidential information. The Security Officer shall then notify the employee and the DCO who will place the employee's name on the authorized access list.

(b) If a NACI investigation has not been completed for an employee and there is an urgent need for the employee to have access to selected confidential information, the AEDHS may temporarily waive the requirement for a NACI. If the AEDHS waives the report, he/she shall notify the DCO of the waiver in writing and authorize the DCO to place the employee's name on the authorized access list provided that the Security Officer immediately initiates a NACI investigation.

(c) The DCO and any assistant(s), the Security Officer, the AEDHS and employees, who because of their position require full and continuous access to selected confidential information, must have a full background investigation completed before assuming their responsibilities under this Part except as provided in paragraph (d). The Personnel Office will verify to the Security Officer that a full background investigation of the responsible officials has been conducted and that there is nothing of record to preclude them from having access to selected confidential information or from assuming their responsibilities under this Part. The Security Officer will then inform the Executive Director who will authorize the responsible officials in writing that they may have access or assume their responsibilities under this Part.

(d) The Security Officer may recommend to the AEDHS that the requirement for a full background investigation for the DCO and any assistants be waived when there is an urgent need for the official to assume his/her duties. If the AEDHS approves the waiver, he/she will notify the appropriate official in writing that the official may assume his/her responsibilities immediately, provided that an NACI investigation has been completed, there is nothing of record to preclude the official from assuming his/her responsibilities, and the Security Officer immediately initiates a full background investigation. No waiver of a full background investigation for the Security Officer is permitted.

§ 1017.29 Employee access to information.

(a) To obtain access to selected confidential information, an employee who is authorized to have access to selected confidential information in accordance with § 1017.15 of this regulation, (authorized employee) must request the information from the DCO.

(1) The DCO must verify that the requester is on the authorized access list;

(2) The DCO will retrieve the document from storage and give it to the authorized employee;

(3) The authorized employee must return the document to the DCO by close of business the same day;

(4) The DCO will enter the appropriate information in the User Sign-out Log (Appendix IV) including the name of the authorized employee who received the document and the date and time checked out;

(5) The DCO will assure that each document has a control number and CPSC Selected Confidential Information cover sheet (Appendix V) before releasing the document, as required by Subpart E below.

(b) If a document is not returned to the DCO by the time it was scheduled to be returned, the DCO will immediately notify the Security Officer who will investigate the matter.

§ 1017.30 [Reserved]

§ 1017.31 [Reserved]

Subpart E—Computer Security Requirements

§ 1017.32 Computer processing.

(a) No confidential business information obtained from EPA shall be stored or processed on a computer.

(b) The chemical formula data obtained by Special Order of 1975 and any other proprietary data made subject to this rule shall not be stored on a computer. When it is necessary to process such data on a computer, the prior written approval of the AEDHS or the Executive Director must be obtained. A request for processing addressed to the AEDHS or the Executive Director must identify the requester, and contain a description of the need for processing and the document(s) which will result from the processing.

(c) Magnetic tapes, punch cards and other input media containing confidential chemical formula data obtained by Special Order of 1975 or other proprietary data made subject to this rule shall be hand-carried by a Commission employee who is authorized to have access to the information to the appropriate computer facility. All processing shall be done under that employee's supervision and in that employee's presence on a computer which is at that time exclusively dedicated to the processing of confidential chemical formula data obtained by Special Order of 1975 or other proprietary data made subject to this rule. After completion of the processing, no confidential data covered by this rule shall remain in the computer. The authorized employee shall hand-carry the material, both original and newly generated, back to the Commission for protective custody.

(d) The DCO shall maintain complete records on instances of computer processing of the material, citing the location of the facility, the employee witnessing the computer processing of the material, and the date and time of the processing. Any computer-generated material shall be logged and safeguarded in accordance with the procedures to Subpart C.

(e) All processing must be done at a computer facility which has security procedures that meet or exceed the standards set forth in the HEW Manual on ADP Systems Security Required by the Privacy Act of 1974, IPS Publication 3 (July 24, 1975). If a contractor's or subcontractor's computer facilities are used for the processing of confidential chemical data, those facilities must meet or exceed the standards of the HEW Manual. The procedures in § 1017.39 of these regulations must also be followed for contractors or subcontractors.

§ 1017.33 [Reserved]

Subpart F—Authorization for the Commission To Provide Access to Selected Confidential Information to Members of the Chronic Hazard Advisory Panels

§ 1017.34 Chronic Hazard Advisory Panels access to selected confidential information.

(a) The Commission is authorized to provide access to selected confidential information to members of the Chronic Hazard Advisory Panels (CHAP), established pursuant to Section 28 of the CPSA, as amended in 1981, 15 U.S.C. 2077.

(b) The selected confidential information will be furnished to CHAP under all of the safeguards relating to Commission employees provided in Subparts B through E herein.

(c) Members of CHAP who obtain access to selected confidential information are subject to all of the provisions of Subparts B through E herein relating to Commission employees.

Subpart G—Security Requirements for Contractors and Subcontractors

§ 1017.35 Contractor and subcontractor access to selected confidential information.

(a) Contractors and subcontractors are responsible for maintaining the confidentiality of selected confidential information to which they are given access under the terms of a contract.

(b) Selected confidential information may be furnished to Commission contractors and subcontractors only when it is necessary for the performance of work specified in the contract or subcontract, when the contract or subcontract contains the required clauses, when the contractor or subcontractor and their employees sign confidentiality agreements, and when the procedures in this subpart have been followed.

§ 1017.36 Contracts and subcontracts involving access to selected confidential information.

(a) When a Commission office initiates a Request for Proposals for a contract and the contractor or subcontractor will need access to selected confidential information to perform the work, the Project Officer responsible for the contract must request approval for such access from the AEDHS prior to initiating a request for proposals. The AEDHS shall approve or disapprove the request in writing based upon a determination of whether the contractor/subcontractor would require access to perform the contract and shall notify the person making the request of the decision.

(b) If the AEDHS determines that a contractor or subcontractor does not have a legitimate need to have access to data, this decision may be appealed to the Executive Director. If the Executive Director upholds the decision of the AEDHS, the denial of access may be appealed to the Chairman.

(c) After the AEDHS has approved a request for contractor or subcontractor access, the office requesting the access shall notify the Contracts Branch that the Request for Proposals and resulting contract must include the contract provision set forth and Appendix VIII, "Security Procedures for Handling Selected Confidential Information Provided to Contractors and Subcontractors."

§ 1017.37 Award of contracts and subcontracts involving selected confidential information.

In evaluating the proposals submitted by offerors responding to the Request for Proposals, the Contracts Branch and the requesting office shall consider any

potential organizational conflicts of interest that might preclude the handling of selected confidential information by the successful offeror. They shall also consider the offeror's past performance on similar contracts or subcontracts involving the handling of confidential business information or other information of a sensitive nature, such as national defense information or privacy information.

§ 1017.38 Modifying existing contracts and subcontracts involving selected confidential information.

When a contract or subcontract is already in effect and a Commission office determines that it will be necessary to furnish selected confidential information to a contractor or subcontractor to perform the work required, the procedures set forth in §§ 1017.32, 1017.35 and 1017.36 will be followed. The contract or subcontract shall be modified to include the provisions set forth in Appendix VIII.

§ 1017.39 Contractor computer use of selected confidential information.

(a) Confidential business information furnished by EPA may not be computerized by a contractor or subcontractor.

(b) If under a proposed contract or subcontract or a proposed modification of an existing contract or subcontract, the chemical formula data obtained by Special Order in August 1975 or any other data made subject to this rule, except the data in § 1017.39(a), is required to be processed on the contractor's or subcontractor's computer, the requriements of § 1017.32 shall apply. In addition the following procedures shall apply:

(1) The request for contractor or subcontractor access initiated under this subpart must specify the need for computer use;

(2) The offerer, contractor, or subcontractor must develop and submit with its proposal a computer security plan. The AEDHS, with the assistance of the Security Officer and the Automatic Data Processing Systems Division, will review the computer security plan to determine its adequacy. If the plan is adequate, the offeror may be considered for award of a contract or subcontract, or the contract or subcontract may be modified.

(b) In the event a contractor's or subcontractor's facility is required to be inspected under this part, representatives of the Automatic Data Processing Division will assist the Security Officer in conducting the inspection.

§ 1017.40 Transfer of selected confidential information to contractors and subcontractors.

(a) The project officer responsible for the contract or subcontract shall request the required selected confidential information from the DCO. The request shall include the identity of the contractor or subcontractor, the number of the contract or subcontract, a statement that the appropriate clauses are included in the contract or subcontract and that the contractor and subcontractor employees having access to the information have signed a nondisclosure statement. A copy of the approval given by the AEDHS should also be attached.

(b) Upon receipt of a request, the DCO shall provide the requested information to the project officer who shall deliver the information to the contractor or subcontractor in person, if feasible. The project officer shall obtain a written receipt for the information from the contractor or subcontractor and send it to the DCO.

(c) If the information is to be transmitted to the contractor or subcontractor by mail, the DCO must send it by registered mail, return receipt requested, in a double envelope. The inner envelope must reflect the name and address of the recipient with the following additional wording on the front side of the inner envelope: "Confidential Business Information—To be Opened by Addressee Only." The outer envelope must reflect the normal address without the additional wording.

§ 1017.41 Inspection of contractor and subcontractor facilities.

(a) After the award or modification of a contract, the Contracts Office shall immediately request the Security Officer to verify and certify in writing that a contractor or subcontractor has in place adequate facilities and procedures to ensure the security of selected confidential information.

(b) A copy of the Security Officer's report must immediately be sent to the Chief, Information Control Branch, Management Support Division, EPA, for approval. Until CPSC receives such approval it must not furnish to any contractor or subcontractor any confidential business information it has received from EPA.

(c) The Contracts Office may request the Security Officer to assure himself/herself that the contractor has taken necessary steps to protect the selected confidential information. A copy of the Security Officer's report shall immediately be sent to the Chief, Information Control Branch, Management Support Division, EPA.

§ 1017.42 Return of information.

Upon completion of the contractor and subcontract, the project officer responsible for the contractor or subcontract shall obtain all copies of the information from the contractor or subcontractor and send them to the DCO.

§ 1017.43 Violations of security by contractors and subcontractors.

(a) If a contractor or subcontractor violates or apparently violates the security terms of a contractor or subcontract obligating it to protect selected confidential information, the Security Officer shall investigate the violations or apparent violations, and report the matter to the AEDHS and the General Counsel.

(b) If the investigation by the Security Officer uncovers a violation of the security requirements of the contract and there is no evidence of any unauthorized disclosure, the Security Officer shall inform the AEDHS, the General Counsel and the Contracting Officer who shall take appropriate action under the terms of the contract or subcontract.

(c) If the investigation by the Security Officer uncovers the unauthorized disclosure of selected confidential information, the Security Officer shall immediately inform the AEDHS who shall immediately notify the Executive Director and the General Counsel. Appropriate action under the terms of the contract or subcontract shall be taken. This action may include terminating the contract or subcontract and/or notifying any affected business so that it may pursue remedies as set forth in the contract or subcontract.

(d) If the investigation by the Security Officer uncovers information reflecting a possible criminal violation, the Security Officer will immediately inform the AEDHS who shall immediately notify the General Counsel. If there is evidence of a criminal violation, the General Counsel shall refer the case to the Department of Justice pursuant to 15 U.S.C. 2613(d)(2).

Request for Comments

Interested persons are invited to submit written comments by September 7, 1982. Comments may be accompanied by written data, views and arguments, and should be addressed to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

Received comments may be seen in the Office of the Secretary, Eighth Floor, 1111 18th Street, N.W., Washington, D.C. between 8:30 a.m. and 5:00 p.m., Monday through Friday. (Sec. 6(a)(2), Pub. L. 92–

573, 86 Stat. 1207; 15 U.S.C. 2055(a)(2), as amended by the Consumer Product Safety Act Amendments of 1981 (Pub. L. 97–35, 95 Stat. 703–752)).

Dated: June 30, 1982.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 82-18364 Filed 7-6-82; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79–76–098 (Montana—1)]

High-Cost Gas Produced from Tight Formations; Public Hearing

July 1, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of public hearing.

SUMMARY: On June 1, 1982, the Director of the Office of Pipeline and Producer Regulation of the Federal Energy Regulatory Commission issued a Notice of Proposed Rulemaking (47 FR 24342, June 4, 1982) proposing to adopt the recommendation of the Montana Oil and Gas Conservation Board and the United States Minerals Management Service that the Bowdoin, Greenhorn and Phillips Formations in Montana be designated as tight formations under § 271.703 of the Commission's regulations (18 CFR 271.703). Pursuant to a request from an interested party received in response to the Notice of Proposed Rulemaking, a public hearing will be held in this docket.

DATES: The public hearing will be held on Monday, July 27, 1982, at 10:00 a.m. Requests to participate and amount of time requested should be directed to the Secretary of the Commission no later than July 19, 1982.

ADDRESS: The hearing will be held in a hearing room at the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Requests to participate and questions regarding participation should be directed to the Office of the Secretary, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511.

SUPPLEMENTARY INFORMATION: The public hearing will not be of a judicial or evidentiary type. There will be no cross examination of persons presenting statements. However, the panel may question such persons and any interested persons may submit to the presiding officer questions to be asked of persons making statements. The presiding officer will determine whether the question is relevant and whether the time limitations permit it to be presented. Any further procedural rules will be announced by the presiding officer at the hearing. Transcripts of the hearing will be available in the public file for this proceeding, Docket No. RM79–76–098 (Montana—1), in the Commission's Office of Public Information, and may be ordered from that office.

Requests to participate in the hearing should be submitted by July 19, 1982, to the Office of the Secretary, and should request the amount of time required for the oral presentation. Persons participating at the hearing should, if possible, bring 50 copies of their testimony to the hearing. A list of the participants in the hearing will be available in the Commission's Office of Public Information and at the hearing room on the morning the hearing is convened.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18365 Filed 7-6-82; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL MEDIATION AND CONCILIATION SERVICE

29 CFR Part 1404

Arbitration Services; Procedures and Fees

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Mediation and Conciliation Service is proposing to amend 29 CFR Part 1404 by (1) deleting the first sentence of § 1404.16(a) which states "No administrative or filing fee is charged by the Service", and (2) adding a new Subpart D—Fees for Arbitration Services. The Purpose of the deletion and the new Subpart is to establish a system of fees which will equal the cost of the services provided by this agency's Division of Arbitration Services. The appropriation provisions for FMCS currently before the Congress provide that no part of the appropriation shall be available for arbitration services except to the extent that fees are collected from the users of such services, and that the Director of FMCS shall prescribe fees to recover the total expense of the services furnished. If these provisions are enacted, compliance by FMCS will be initiated by the issuance of final fee regulations.

DATE: Written comments must be received by September 7, 1982.

FOR FURTHER INFORMATION CONTACT: Nancy B. Broff, General Counsel, Federal Mediation and Conciliation Service, 2100 K Street, N.W., Washington, D.C. 20427, phone number (202) 653–5305.

SUPPLEMENTARY INFORMATION: Interested persons and parties are invited to participate in the development of the proposed regulations by submitting such written comments, arguments or views as they may desire. All written communications received on or before the date required for submission will be considered by the Director before action is taken on the proposed regulations. All written submissions will be available for public inspection during business hours in the Office of the General Counsel, Room 908, 2100 K Street, N.W., Washington, D.C.

The considerations underlying the proposed changes are: (1) Since the benefits of arbitration services accrue primarily and directly to the users, it is appropriate that they incur the cost; (2) users of these services currently pay the arbitrator's charges themselves, and (3) the free provision of these arbitration services unnecessarily affects private agencies which must charge a fee for similar services.

The anticipated effects of the proposed changes are: (1) Only a minor impact on the conduct of labor-management relations, and (2) some reduction in FMCS arbitration caseload.

The proposed regulation has been reviewed under the provisions of Executive Order 12291 and has been determined not to be a major rule. It is also certified, in accordance with the Regulatory Flexibility Act (5 U.S.C. 601, et. seq.) that this rule if promulgated will not have a significant impact on a substantial number of small entities.

List of Subjects in 29 CFR Part 1404

Administrative practice and procedure, Labor management relations, Arbitration.

PART 1404—ARBITRATION SERVICES

§ 1404.16 [Amended]

1. It is proposed that Part 1404 of Title 29 of the Code of Federal Regulations be amended by removing the first sentence of § 1404.16(a) which reads: "No administrative or filing fee is charged by the Service".

2. Part 1404 is further amended by adding the following new Subpart:

Subpart D—Fees for Arbitration Services

Sec.
1404.18 Fee schedule.
1404.19 Payment of fees.

Subpart D—Fees for Arbitration Services

§ 1404.18 Fee schedule.

The schedule of fees for arbitration services is as follows:

(a) For furnishing a panel of arbitrators in conformance with § 1404.12—twenty five dollars ($25.00).

(b) For the direct appointment of an arbitrator, without the furnishing of a panel—thirty dollars ($30.00).

(c) For the appointment of permanent umpires, boards or panels—cost will be determined based on the particular request.

§ 1404.19 Payment of fees.

Payment shall be made at the time that a request for arbitration services is made. Requests for services which are not accompanied by payment will not be honored. Payments shall be made by certified check or money order, made payable to "Federal Mediation and Conciliation Service", and should be sent to FMCS, Division of Arbitration Services, 2100 K Street, N.W., Washington, D.C. 20427.

Dated: July 1, 1982.

Kenneth E. Moffett,

Director.

[FR Doc. 82-18981 Filed 7-6-82; 8:45 am]
BILLING CODE 6732-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 915

Public Comment and Opportunity for Public Hearing on Modified Portions of the Iowa Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule: Notice of receipt of permanent program modifications; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing procedures for the public comment period and for a public hearing on the substantive adequacy of two program amendments, one of which is intended to satisfy a condition imposed by the Secretary of the Interior on the approval of the Iowa Permanent Regulatory Program (hereinafter referred to as the Iowa program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

This notice sets forth the times and locations that the Iowa program and the proposed amendments are available for public inspection, the comment period during which interested persons may submit written comments on the proposed program elements, and the procedures that will be followed at the public hearing.

DATE: Written comments must be received on or before 4:00 p.m. on August 13, 1982, to be considered in the Secretary's decision on whether the one proposed amendment satisfies the Secretary's condition of approval of the Iowa program, and on whether the other proposed amendment satisfies the criteria for approval for State program amendments at 30 CFR 732.15.

A public hearing on the proposed modifications has been scheduled for 7:00 p.m. on August 10, 1982, at the address listed below under **"ADDRESSES"**.

Any person interested in making an oral or written presentation at the hearing should contact Richard Rieke at the address and phone number listed below by July 29, 1982. If no person has contacted Mr. Rieke to express an interest in participating in the hearing by the above date, the hearing will be cancelled. A notice announcing any cancellation will be published in the **Federal Register.**

ADDRESSES: The public hearing will be held at the Holiday Inn, Capital Plaza, 1050 6th Ave., Des Moines, Iowa 50314. Written comments should be mailed or hand delivered to: Richard Rieke, State Office Director, Office of Surface Mining Reclamation and Enforcement, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106; Telephone (816) 374–3920.

Copies of the Iowa program, the proposed modifications to the program, a listing of any scheduled public meetings and all written comments received in response to this notice will be available for review at the OSM State Office and the Office of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, State Office, Scarritt Building, Fifth Floor, 818 Grand Avenue, Kansas City, Missouri 64106.

Iowa Department of Soil Conservation, Mines and Minerals Division, Wallace State Office Building, Des Moines, Iowa 50319.

FOR FURTHER INFORMATION CONTACT: Richard Rieke, State Office Director, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106; Telephone: (816) 374–3920.

SUPPLEMENTARY INFORMATION: On February 28, 1980, OSM received a proposed regulatory program from the State of Iowa. On October 16, 1980, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved in part and disapproved in part the proposed program (45 FR 68673–68675). The State of Iowa resubmitted its proposed regulatory program and after a subsequent review, the Secretary approved the program subject to the correction of three minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the January 21, 1981, **Federal Register** (46 FR 5885–5892).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Iowa Program can be found in the January 21, 1981, **Federal Register** (46 FR 5885–5892).

The three deficiencies in the Iowa program that the Secretary required Iowa to correct as conditions of approval were as follows:

1. Iowa did not have fully enacted regulations to provide for civil and criminal sanctions for violations of the Iowa law, regulations and conditions of permits and exploration approvals, including penalties consistent with section 518 of SMCRA (30 U.S.C. 268) and 30 CFR Part 845.

2. The Iowa Administrative Procedures Act requires that an administrative hearing be held prior to the issuance of a cessation order for failure to abate a violation. This requirement conflicts with section 14(2) of the Iowa Surface Coal Mining Act and with section 521(a)(3) of SMCRA, which provide that a cessation order shall be issued immediately upon the expiration of the time for abatement if abatement has not been accomplished.

3. The Iowa program did not establish penalties as stringent as those provided in section 704 of SMCRA relating to protection of employees during performance of their duties.

In accepting the Secretary's conditional approval, Iowa agreed to correct the regulatory deficiencies

concerning provisions for proposal and assessment of civil penalties and protection of State employees by July 1, 1981, and the statutory deficiency concerning the issuance of cessation orders for failure to abate notices of violations by January 1, 1982. In a **Federal Register** notice dated February 23, 1982, (47 FR 7829–7830), the Secretary extended the date to correct the statutory deficiency to September 1, 1982.

Submission of Revisions

On October 1, 1981, OSM received from the Iowa Department of Soil Conservation, revisions to its permanent program intended to correct deficiencies numbers 1 and 3 above.

Following a review of the amendments submitted by Iowa as outlined in 30 CFR 732, the Secretary determined that the amendments submitted by the State satisfied conditions 1 and 3. Notice of the Secretary's decision to approve the amendments and to remove conditions "a" and "c" was published in the **Federal Register** on May 26, 1982 (47 FR 22950–22954).

On June 7, 1982, OSM received from the Iowa Department of Soil Conservation an adopted statutory amendment (Iowa Senate Bill 2660) which revises the Iowa Surface Coal Mining Act at section 83.14, subsection 2, unnumbered paragraph 2, Code 1981 and at section 83.14, subsection 7, paragraph a, Code 1981. The full text of Iowa Senate Bill 2660 is contained in the Iowa Administrative Record, under number IA–203.

Section 1 of the bill amends section 83.14.2, Iowa Code (1981) to allow the director of the Iowa Department of Soil Conservation to issue a cessation order for a coal operator's failure to abate a violation within the time allowed, without having to comply with the normal prior hearing requirements of the Iowa Administrative Procedures Act, section 17A.18.3, I.C. (1981). This change is intended to correct deficiency 2 as listed above and thereby satisfy condition "b" of the Secretary's approval as stipulated at 30 CFR 915.11(b).

Section 2 of the bill is not related to one of the conditions. It is a State-generated amendment to section 83.14.7(a), I.C. (1981) which does two things. First, it strikes the redundant phrase "on the request for temporary relief." Second, it adds a sentence that says the temporary relief hearing need not be held as a contested case under chapter 17A. The rule allows a hearing officer to hold a temporary relief hearing within the mandatory five day period without having to comply with all the formal notice requirements that normally precede an evidentiary administrative hearing pursuant to section 17A.12, I.C. (1981). Instead, the minimum notice requirements of section 83.14.7, which are consistent with 30 U.S.C. 1275(c), govern temporary relief proceedings. The losing party still has full rights to a contested case hearing, prior to which the notice requirements of section 17A.12 will apply.

The Secretary seeks public comment on whether the statutory amendment which amends section 83.14.2 of the Iowa Code corrects deficiency 2 and thereby satisfies condition "b" of the Secretary's approval. If the program amendment is approved, the condition specified in 30 CFR 915.11(b) will be removed. In addition, the Secretary seeks comment on whether the statutory amendment to section 83.14.7(a) of the Iowa Code satisfies the criteria for approval of State program amendments at 30 CFR 732.15.

Additional Determinations

1. *Compliance with the National Environmental Policy Act.* The Secretary has determined that pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Compliance with the Regulatory Flexibility Act.* The Secretary hereby determines that this proposed rule will not have a significant economic impact on small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq.

3. *Compliance with Executive Order No. 12291.* Regulations concerning satisfaction of conditions of approval of State regulatory programs under SMCRA have been granted a categorical exemption from the requirement to prepare a Regulatory Impact Analysis.

Dated: July 1, 1982.

William Schmitt,

Assistant Director, Program Operations and Inspection.

[FR Doc. 82-18360 Filed 7-6-82; 8:45 am]

BILLING CODE 4310-05-M

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30 CFR Part 946

Public Disclosure of Comments Received From Federal Agencies on the Virginia Proposed Program Amendment

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Disclosure of comments on the Virginia proposed program amendment from Federal agencies.

SUMMARY: Before the Secretary of the Interior may approve State regulatory program amendments submitted under section 503(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the views of certain Federal agencies must be solicited and disclosed. The Secretary has solicited comments from these agencies, and is today announcing their public disclosure.

ADDRESSES: Copies of the comments received are available for public review during business hours at:

Office of Surface Mining Reclamation and Enforcement, Room 5315, 1100 L Street NW., Washington, D.C.

Office of Surface Mining Reclamation and Enforcement, Highway 23, South, Big Stone Gap, Virginia 24219

Office of Surface Mining Reclamation and Enforcement, Flannagan and Carroll Streets, Lebanon, Virginia 24266

Virginia Division of Mined Land Reclamation, 630 Powell Avenue, Big Stone Gap, Virginia 24219.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur Abbs, Chief, Division of State Program Assistance, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, South Building, 1951 Constitution Avenue NW., Washington, D.C. 20240, Telephone: (202) 343–5361.

SUPPLEMENTARY INFORMATION: The Secretary is evaluating the proposed amendment submitted by Virginia for his review on January 28, 1982. See the April 26, 1982 **Federal Register** (47 FR 17827–17829). In accordance with section 503(b)(1) of SMCRA and 30 CFR 732.17(h)(10)(i), this amendment to Virginia's program may not be approved until the Secretary has solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise relevant to the program amendment as proposed. In this regard, the following Federal agencies were invited to comment on the Virginia program amendment:

Department of Agriculture:
- Soil Conservation Service
- Forest Service

Advisory Council on Historic Preservation

Department of Labor:
- Mine Safety and Health Administration

Environmental Protection Agency
Department of the Interior:
Bureau of Land Management
Bureau of Mines
Fish and Wildlife Service
National Park Service
Geological Survey
U.S. Army Corps of Engineers

Of those agencies invited to comment, OSM received comments from the following offices:

Department of the Interior:
Fish and Wildlife Service
Bureau of Land Management
Minerals Management Service
National Park Service
Department of Agriculture:
Soil Conservation Service
Department of Labor:
Mine Safety and Health Administration.

These comments are available for review and copying during business hours at the locations listed above under "Addresses".

Dated: July 1, 1982.

William Schmitt,

Assistant Director, Program Operations and Inspection, Office of Surface Mining.

[FR Doc. 82-18997 Filed 7-6-82; 8:45 am]
BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-6-FRL 2078-8]

Revision to New Mexico Amended Regulation No. 801, "Excess Emissions During Malfunction, Startup, Shutdown, or Scheduled Maintenance"

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Approval.

SUMMARY: This action proposes approval of a revision to the New Mexico State Implementation Plan (SIP) which was submitted by the Governor on May 16, 1981. Specifically, the State revised Regulation No. 801 "Excess Emissions During Malfunction, Startup, Shutdown, or Scheduled Maintenance," upon EPA's request to conform with the minimum criteria established in the malfunction regulations promulgated for Kennecott Copper on April 27, 1977 (42 FR 21472).

DATES: Interested persons are invited to submit comments on this proposed action on or before August 6, 1982.

ADDRESSES: Written comments should be submitted to the address below: Environmental Protection Agency, Region 6, Air and Waste Management Division, Air Programs Branch, Implementation Plan Section, 1201 Elm Street, Dallas, Texas 75270.

Copies of the State's submittal are available for inspection during normal business hours at the address above and at the following location: New Mexico Enviornmental Improvement Division, Health and Environmental Department, Air Quality Bureau, P.O. Box 968 Crown Building, Santa Fe, New Mexico 87503.

FOR FURTHER INFORMATION CONTACT: Katie Griffith, Implementation Plan Section, Region 6, Air and Waste Management Division, Air Programs Branch, 1201 Elm Street, Dallas, Texas 75270 (214) 767-2742.

SUPPLEMENTARY INFORMATION: On May 16, 1981, the Governor of New Mexico submitted the amended Regulation No. 801 "Excess Emissions During Malfunction, Startup, Shutdown or Scheduled Maintenance" as a revision to the New Mexico SIP. EPA reviewed the State's submittal in comparison with the State's previously approved malfunction regulation and developed an evaluation report,[1] which is based on the minimum criteria for an approvable malfunction regulation. This evaluation report is available for inspection by interested parties during normal business hours at the EPA Region 6 office and the other address listed above.

New Mexico's previously approved regulation does not meet any of the minimum criteria established in the malfunction regulations for Kennecott. The amended regulation meets all of the minimum criteria for an approvable malfunction regulation except that it exempts excess emissions during scheduled maintenance. However, with regard to such emissions, the source must demonstrate to the Department's satisfaction that the excess emissions could not have been avoided through better scheduling for maintenance or through better operation and maintenance practices. In a subsequent letter, the State clarified the Bureau's approach as it applies to scheduled maintenance by referencing an internal New Mexico memo. This memo provides examples of situations when excess emissions during scheduled maintenance would not be considered a violation of Regulation 801 if properly reported by a source. EPA agrees with this interpretation and the procedure in which the Bureau implements the amended regulation. EPA is proposing approval of the Bureau's procedure only, and would consider appropriate enforcement actions in situtations which differ significantly from the examples (e.g., where better scheduling for maintenance could have occurred).

The amended regulation also contains several definitions comparable to those which were established in the Kennecott malfunction rulemaking. The most significant one is "malfunction" which is defined as any sudden and unavoidable failure of air pollution control equipment, process equipment or process to operate in an expected manner. Failures that are caused entirely or in part by poor maintenance, careless operation or any other preventable equipment breakdown shall not be considered a malfunction. In adopting this definition, the State has established that it does not consider preventable upsets to be malfunctions.

The amended regulation is much more stringent than the previously approved regulation since it meets the minimum criteria; requires more documentation by the source; requires the State to evaluate the submitted documentation; and contains several definitions comparable to those which were established in the Kennecott malfunction rulemaking.

Based on these factors, EPA is proposing approval of the amended Regulation No. 801.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

This notice of proposed approval is issued under the authority of section 110 of the Clean Air Act, as amended, 42 U.S.C. 7410.

Dated: March 10, 1982.

Dick Whittington,

Regional Administrator.

[FR Doc. 82-18824 Filed 7-6-82; 8:45 am]
BILLING CODE 6560-50-M

[1] EPA Review of New Mexico's State Implementation Plan Revision for Regulation No. 801 "Excess Emissions During Malfunction, Startup, Shutdown, or Scheduled Maintenance."

40 CFR Parts 52 and 81

[A-5-FRL 2154-3]

Ohio State Implementation Plan; Sulfur Dioxide Standards

AGENCY: Environmental Protection Agency.

ACTION: Response to Petition for Reconsideration.

SUMMARY: On July 25, 1980 (45 FR 49550), EPA revised the Federally promulgated Ohio State Implementation Plan for sulfur dioxide (SO_2) for PPG Industries, Inc., (PPG) Barberton plant in Summit County, Ohio. On December 30, 1981, both a petition for reconsideration of this action and a request to redesignate portions of Summit County to attainment for SO_2 were submitted to EPA on behalf of PPG. This notice announces EPA's action on this petition.

EFFECTIVE DATE: July 7, 1982.

FOR FURTHER INFORMATION CONTACT: Debra Marcantonio, Air Programs Branch, Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886-6088.

SUPPLEMENTARY INFORMATION: On August 27, 1976, EPA promulgated regulations establishing a SIP for the control of SO_2 in the State of Ohio (41 FR 36324). Enforcement of the regulations for Summit County was stayed pending data corrections on EPA's modeling. Revisions to the Summit County regulations for most sources were published on December 5, 1979 (44 FR 69928) with the regulations for PPG published on July 25, 1980 (45 FR 49550).

PPG's Petition for reconsideration of the federally promulgated Ohio State Implementation Plan for sulfur dioxide for its Barberton Plant was submitted to EPA pursuant to section 307(d)(7)(B) of the Clean Air Act. The standard for review of such a petition is whether the petition presents new information which is of central relevance to the outcome of the rulemaking. Under this standard, PPG has presented a basis for reconsidering the Federal SO_2 plan for its Barberton plant.

Although PPG's petition requests that EPA promulgate an emission limitation for the Barberton plant of 7.8 pounds of sulfur dioxide per million BTU actual heat input, an adequate attainment demonstration was not included. The State of Ohio has notified EPA, however, that it intends to submit an amended SO_2 plan for PPG which will provide for attainment and maintenance of the NAAQS. EPA expects work on the revised plan to be completed expeditiously. Therefore, EPA is granting PPG's petition for reconsideration of the emission limitation and will take action on the State's revised plan in response to the petition.

PPG's request for redesignation was submitted to EPA pursuant to both section 307(d)(7)(B) of the Clean Air Act and the Administrative Procedure Act. Since section 307(d) applies only to certain enumerated actions, not including redesignations under section 107(d) of the Clean Air Act, EPA has decided to treat the request for redesignation as a petition for revision of a rule under section 3(e) of the Administrative Procedure Act. This section establishes a general right to petition for "issuance, amendment, or repeal" of an administrative rule (5 U.S.C 553(e)). The standard for review of such a petition is whether the petition presents new information that warrants reconsideration of the rule. See generally, *Oljato Chapter of the Navajo Tribe v. Train,* 5151 F.2d 654 (D.C. Cir. 1975). Under this standard, PPG has presented a basis for reconsidering the designation of portions of Summit County.

The State of Ohio has recently submitted a request to EPA to redesignate portions of Summit County to attainment. EPA is therefore withholding action on PPG's request until it has completed its review of the State's request. EPA will then designate Summit County as appropriate in response to both requests. This action is anticipated to appear in the **Federal Register** in the near future.

List of Subjects

40 CFR Part 52

Environmental Protection Agency, Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

40 CFR Part 81

Environmental Protection Agency, Air pollution control, National parks, Wilderness areas.

Dated: June 30, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-18382 Filed 7-6-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 2F2604/P243; PH-FRL 2180-3]

Proposed Tolerances; Chlorsulfuron

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes to establish tolerances for the combined residues of chlorsulfuron and its metabolite in or on certain raw agricultural commodities. This proposed regulation to establish maximum permissible level for residues of the herbicide in or on the commodities was requested by E. I. du Pont de Nemours and Co.

DATE: Comments must be received on or before July 22, 1982.

ADDRESS: Written comments to: Robert J. Taylor, Product Manager (PM-25), Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460 (703-557-1800).

FOR FURTHER INFORMATION CONTACT: Robert J. Taylor, PM-25, (703-557-1800).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of January 13, 1982 (47 FR 1408) which announced that E. I. du Pont de Nemours and Co., Wilmington, DE 19898, had submitted pesticide petition 2F2604 to the EPA. The petition proposed that 40 CFR Part 180 be amended by establishing tolerances for residues of the herbicide chlorsulfuron (2-chloro-*N*-[(4-methoxy-6-methyl-1,3,5-triazin-2-yl) aminocarbonyl]benzenesulfonamide) in or on the raw agricultural commodities barley, grain at 0.02 ppm; barley straw at 0.1 ppm; kidney and liver of cattle, goats, hogs, horses, and sheep at 0.03 ppm; meat, fat, and meat byproducts (except kidney and liver) of cattle, goats, hogs, horses, and sheep at 0.02 ppm; milk at 0.02 ppm; oat, grain at 0.05 ppm; oat, straw at 0.1 ppm; wheat, grain at 0.02 ppm; wheat, green forage at 6 ppm; and wheat straw at 0.1 ppm.

No comments were received in response to this notice of filing.

The petitioner subsequently amended the petition by proposing tolerances at different levels and to include its metabolite. Tolerances are now proposed for residues of the herbicide chlorsulfuron in or on the raw agricultural commodities milk at 0.1 ppm; meat, fat, and meat byproducts of cattle, goats, hogs, horses and sheep at 0.3 ppm. Tolerances are also proposed for the combined residues of chlorsulfuron and its metabolite, 2-chloro-5-hydroxy-*N*-[(4-methoxy-6-methyl-1,3,5-triazin-2-yl) aminocarbonyl]benzenesulfonamide in or on wheat, oats, and barley grain at 0.1 ppm; wheat, oats, and barley straw at 0.5 ppm; and wheat, oats, and barley forage at 20 ppm.

The data submitted in the petition and other relevant material have been

evaluated. The toxicology data considered in support of the proposed tolerances include a rat oral median lethal dose (LD_{50}) of 4,113 milligrams (mg) per kilogram (kg) of body weight (bw); a 90-day rat feeding study with a no-observed-effect-level (NOEL) of 100 ppm; a 6-month dog feeding study with a NOEL of 2,500 ppm (highest level tested); a 2-year rat oncogenic feeding study with a 3-generation reproduction sub-study that demonstrated no oncogenic potential for chlorsulfuron with a NOEL of 100 ppm and a reproduction NOEL of 500 ppm; a rat teratology study that showed a teratogenic NOEL of 2,500 ppm (highest level tested); a maternal NOEL of 2,500 ppm and a fetotoxic NOEL of 2,500 ppm; a rabbit teratology study for which a teratogenic NOEL of 75 mg/kg and a fetotoxic NOEL of 25 mg/kg was observed; a 2-year mouse oncogenic study for which no oncogenic potential was demonstrated at dosages of up to 5,000 ppm (highest level tested); a negative chinese hamster ovary cell mutation assay; a negative chinese hamster ovary cell cytogenetics assay; and a negative *salmonella*/microsome assay for mutagenic activity.

No permanent tolerances presently exist for chlorsulfuron. The 2-year rat feeding study with a NOEL of 100 ppm and a safety factor of 100 was used to calculate the acceptable daily intake (ADI). The proposed tolerances will occupy 3.6 percent of the ADI and the theoretical maximal residue contribution (TMRC) is estimated at 0.108 mg/day/1.5 kg.

The metabolism of chlorsulfuron is adequately understood for the purposes of these tolerances and an adequate analytical method is currently being tested. No tolerances are needed in poultry and eggs at this time. This chemical is classed in category 2 of 40 CFR 180.6(a) with respect to meat and milk.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request on or before August 6, 1982 that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, "[PP 2F2804/P243]". All written comments filed in response to this petition will be available in the Product Manager's Office, Registration Division, at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346A(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Agricultural commodities, Pesticides and pests.

Dated: June 24, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

It is proposed, therefore, that 40 CFR Part 180 be amended by establishing a new § 180.405 to read as follows:

§ 180.405 Chlorsulfuron; tolerances for residues.

(a) Tolerances are established for the combined residues of chlorsulfuron (2-chloro-*N*-[(4-methoxy-6-methyl-1,3,5-triazin-2-yl) aminocarbonyl] benzenesulfonamide) and its metabolite, 2-chloro-5-hydroxy-*N*-[(4-methoxy-6-methyl-1,3,5-triazin-2-yl)aminocarnonyl] benzenesulfonamide in or on the following raw agricultural commodities:

Commodities	Parts per million
Barley, forage	20.0
Barley, grain	0.1
Barley, straw	0.5
Oat, forage	20.0
Oat, grain	0.1
Oat, straw	0.5
Wheat, forage	20.0
Wheat, grain	0.1
Wheat, straw	0.5

(b) Tolerances are established for residues of chlorsulfuron (2-chloro-*N*-[(4-methoxy-6-methyl-methyl-1,3,5-triazin-2-yl) aminocarbonyl]benzenesulfonamide) in or on the following raw agricultural commodities.

Commodities	Parts per million
Cattle, fat	0.3
Cattle, meat	0.3
Cattle, meat byproducts	0.3
Goats, fat	0.3
Goats, meat	0.3
Goats, meat byproducts	0.3
Hogs, fat	0.3
Hogs, meat	0.3
Hogs, meat byproducts	0.3
Horses, fat	0.3
Horses, meat	0.3
Horses, meat byproducts	0.3
Milk	0.1
Sheep, fat	0.3
Sheep, meat	0.3
Sheep, meat byproducts	0.3

[FR Doc. 82-18032 Filed 7-6-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[OPP-300063; PH-FRL 2160-5]

Tertiary Butylhydroquinone; Proposed Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This notice proposes that tertiary butylhydroquinone be exempted from the requirement of a tolerance when used as an inert ingredient in pesticide formulations. This action was requested by the Arizona Agrochemical Company.

DATE: Written comments must be received on or before August 6, 1982.

ADDRESS: Written comments to: Process Coordination Branch (TS-767C), Rm. 716D, CM#2, Registration Division, Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Peter Gray (703-557-7700) at the above address.

SUPPLEMENTARY INFORMATION: At the request of the Arizona Agrochemical Company, the Administrator proposes to amend 40 CFR 180.1001(d) by establishing an exemption from the requirement of a tolerance for tertiary butylhydroquinone. Inert ingredients are all ingredients which are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as water; baits such as sugar, starches, and meat scraps; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term inert is not intended to imply

nontoxicity; the ingredient may or may not be chemically active.

Preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and toxicological and other scientific basis used in arriving at a conclusion of safety in support of the exemption.

Name of inert ingredient: Tertiary butylhydroquinone.

Name and address of requestor: Arizona Agrochemical Company, P.O. Box 21537, Phoenix, Arizona 85036.

Basis for Approval

1. Tertiary butylhydroquinone is regulated under 21 CFR 172.185 as a direct human food additive when used as an antioxidant in edible fats and oils at no more than 0.02 percent (200 ppm) of such fats and oils in foodstuffs.

2. Tertiary butylhydroquinone is structurally similar to another widely used antioxidant, butylated hydroxyanisole, which is used in many fatty foods and has unrestricted use in pesticide formulations under § 180.1001(c). The toxicity of tertiary butylhydroquinone is not expected to be significantly different from that of butylated hydroxyanisole.

Based on the above information, and review of its use, it has been found that, when used in accordance with good agricultural practices, this ingredient is useful and does not pose a hazard to humans or to the environment. It is concluded, therefore, that the proposed amendment to 40 CFR Part 180 will protect the public health, and it is proposed that the regulation be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act which contains this inert ingredient may request, on or before August 6, 1982, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(d) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. These comments must bear a notation indicating both the subject and the petition and document control number "[OPP–300063]". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Process Coordination Branch (TS–767C), at the address given above, from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act, (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register on May 4, 1981 (46 CFR 24950).

(Sec. 408(e), 68 Stat. 514; (21 U.S.C. 346(a)(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: June 24, 1982.

Douglas D. Campt,

Director, Registration Division.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, it is proposed that 40 CFR 180.1001(d) be amended by adding and alphabetically inserting tertiary butylhydroquinone to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
* * * * *		
Tertiary butylhydroquinone		Antioxidant.
* * * * *		

[FR Doc. 82–18031 Filed 7–6–82; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[PP 6E1692/P240; PH–FRL 2162–8]

Bacillus Popilliae; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that an exemption from the requirement of a tolerance be established for residues of the insecticide *Bacillus popilliae* in or on the raw agricultural commodity pasture and rangeland forage. This proposal, which eliminates the need to establish a maximum permissible level for residues of *B. popilliae* on pasture and rangeland forage, was submitted by the Interregional Research Project No. 4 (IR–4).

DATE: Comments must be received on or before July 22, 1982.

ADDRESS: Written comments to: Emergency Response Section, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 716B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703–557–1192) at the above address.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition number 6E1692 to EPA on behalf of the IR–4 Technical Committee.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of an exemption from the requirement of a tolerance for *B. popilliae* when used as an insecticide on pasture and rangeland forage.

The data submitted in the petition and all other relevant material have been evaluated. The toxicological data considered in support of the proposed exemption from the requirement of a tolerance included: Two 21-day feeding studies (rat and monkey); an eye irritation study (rabbit); a dermal effects study (guinea pigs); and mouse pathogenicity tests using three production batches of *B. popilliae*. Spore preparations fed to rats and monkeys, instilled in rabbit eyes, or applied to intact and abraded skin of guinea pigs did not demonstrate any treatment-related effects. Sera from monkeys fed daily with spore preparations, or from guinea pigs treated by the dermal route were negative for *B. popilliae*-induced antibody. The mouse pathogenicity tests showed no evidence of infection or injury when the mice were observed seven days following injection with production batches of *B. popilliae*.

These findings and the fact that *B. popilliae* is unable to survive and proliferate at normal body temperature for man and farm animals (above 35° C), indicate that these organisms do not present a hazard to man and animals. In addition, no human or animal pathogenic organisms were detected during microbiological examination of *B. popilliae* commercial product.

Based on the above information considered by the Agency, the exemption from the requirement of a tolerance established by amended 40 CFR Part 180 would protect the public health. It is proposed, therefore, that the exemption from the requirement of a tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may requet within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. As provided for in the Administrative Procedure Act (5 U.S.C. 553(d)(3)), the comment period is shortened to less than 30 days because of the necessity to expeditiously provide a means for control of Japanese beetle larvae. Comments must bear a notation indicating the document control number, "[PP 6E1692/P240]". All written comments filed in response to this petition will be available in the Emergency Response Section, Registration Division, at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: June 28, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, it is proposed that 40 CFR Part 180 be amended by adding a new § 180.1076 to read as follows:

§ 180.1076 Viable spores of the microorganism Bacillus popilliae; exemption from the requirement of a tolerance.

(a) For the purposes of this section the microbial insecticide for which exemption from the requirement of a tolerance is being established shall have the following specifications:

(1) The microorganism shall be an authentic strain of *Bacillus popilliae* conforming to the morphological and biochemical characteristics of *Bacillus popilliae* as described in Bergey's Manual of Determinative Bacteriology, Eighth Edition.

(2) Spore preparations of *Bacillus popilliae* shall be produced by pure culture fermentation procedures with adequate control measures during production to detect any changes from the characteristics of the parenf strain or contamination by other microorganisms.

(3) Each lot of spore preparation, prior to the addition of other materials, shall be tested by subcutaneous injection of at least 1 million spores into each of five laboratory test mice weighing 17 grams to 23 grams. Such test shall show no evidence of infection or injury in the test animals when observed for 7 days following injection.

(b) Exemption from the requirement of a tolerance is established for residues of the microbial insecticide *Bacillus popilliae*, as specified in paragraph (a) of this section in or on pasture and rangeland forage when it is applied to growing crops in accordance with good agricultural practices.

[FR Doc. 82-18326 Filed 7-6-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 180

[PP 1E2526/P238; PH-FRL 2163-2]

Carbofuran; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a tolerance be established for the combined residues of the insecticide carbofuran and its metabolites in or on the raw agricultural commodity cranberries. The proposed amendment to establish a maximum permissible level for residues of carbofuran and its metabolites in or on the commodity was submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments must be received on or before August 6, 1982.

ADDRESS: Written comments to: Emergency Response Section, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 716B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703-557-1192), at the above address.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition number 1E2526 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of Washington.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the combined residues of the insecticide carbofuran (2,3-dihydro-2,2-dimethyl benzofuranyl-*N*-methylcarbamate), its carbamate metabolite 2,3-dihydro-2,2-dimethyl-3-hydroxy-7-benzofuranyl-*N*-methyl-carbamate, and its phenolic metabolites, 2,3-dihydro-2,2-dimethyl-7-benzofuranol, 2,3-dihydro-2,2-dimethyl-3-oxo-7-benzofuranol, and 2,3-dihydro-2,2-dimethyl-3,7-benzofurandiol in or on the raw agricultural commodity cranberries at 0.5 part per million (ppm) (of which no more than 0.3 ppm is carbamates).

The data submitted in the petition and all other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance included a 2-year chronic feeding/oncogenicity study in the rat and mouse with a no-observed-effect level (NOEL) of 20 ppm for cholinesterase-inhibition and a systemic NOEL of 20 ppm and 125 ppm, respectively; a 3-generation rat reproduction study with a NOEL of 20 ppm; two-rat teratology studies which were negative for teratogenic effects up to 160 ppm and 1.2 milligrams (mg)/kilogram (kg) of body weight (bw)/day

respectively; and mutagenicity testing which showed carbofuran not to be mutagenic.

The acceptable daily intake (ADI), based on the 2-year rat chronic feeding/oncogenicity study (NOEL of 20 ppm for systemic effects and cholinesterase-inhibition) and using a 200-fold safety factor, is calculated to be 0.005 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 0.3 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5 kg daily diet is calculated to be 0.34237 mg/day; the current action will increase the TMRC by 0.00023 mg/day (0.67 percent) and will utilize an additional 0.077 percent of the ADI.

The nature of the residues is adequately understood and an adequate analytical method, gas chromatography using a nitrogen specific microcoulometric detector, is available for enforcement purposes. All residue data are from tests conducted in Washington. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency the tolerance established by amending 40 CFR Part 180 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the Federal Register that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, "[PP 1E2526/P238]". All written comments filed in response to this petition will be available in the Emergency Response Section, Registration Division, at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: June 28, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, it is proposed that 40 CFR 180.254 be amended by adding and alphabetically inserting the raw agricultural commodity cranberries to read as follows:

§ 180.254 Carbofuran; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Cranberries (of which no more than 0.3 ppm is carbamates)	0.5
* * * * *	

[FR Doc. 82–18327 Filed 7–6–82; 8:45 am]
BILLING CODE 6560–50–M

Notices

Federal Register
Vol. 47, No. 130
Wednesday, July 7, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Memphis, Tenn.; Availability of Comments

Pursuant to Section 106 of the National Historic Preservation Act and § 800.6(d) of the regulations of the Advisory Council on Historic Preservation (Council), "Protection of Historic and Cultural Properties," a Panel of the Council met on June 21 and 22, 1982, to consider the proposal by the city of Memphis to demolish the Memphis Street Railway Company Office and Streetcar Complex, a property eligible for the National Register of Historic Places. The city of Memphis proposes to use Community Development Block Grant funds administered by the Department of Housing and Urban Development to carry out the demolition activity. At the meeting, the Council Panel adopted comments which have been transmitted to the city of Memphis.

This notice, pursuant to 36 CFR 800.6(d)(5), is to advise interested parties that copies of these comments are available upon request from the Executive Director, Advisory Council on Historic Preservation, 1522 K Street NW., Washington, D.C. 20005, 202–254–3495, Attention: Don L. Klima.

Dated: June 30, 1982.

Robert R. Gravey, Jr.,

Executive Director.

[FR Doc. 82–18322 Filed 7–6–82; 8:45 am]

BILLING CODE 4310–10–M

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Federal Grain Inspection Service Advisory Committee; Meeting

Pursuant to the provisions of section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of the following committee meeting:

Name: Federal Grain Inspection Service Advisory Committee.

Date: July 28 and 29, 1982.

Place: U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 2096, South Building, Washington, D.C. 20250.

Time: 8:30 a.m.

Purpose: To enable the members to discuss and provide advice to the Administrator of the Federal Grain Inspection Service with respect to the efficient and economical implementation of the U.S. Grain Standards Act of 1976, in order to assure the normal movement of grain in an orderly and timely manner.

The agenda is scheduled to include (1) user fees and retained earnings, (2) official versus unofficial services, (3) several grain standardization activities, (4) weighing programs, and (5) subcommittee presentations on diverter-type mechanical samplers and supervision.

The meeting will be open to the public, but space and facilities are limited. Public participation will be limited to written statements submitted before or at the meeting unless their participation is otherwise requested by the Committee Chairman. Persons, other than members, who wish to address the Committee at the meeting, should contact Dr. Kenneth A. Gilles, Administrator, FGIS, U.S. Department of Agriculture, Washington, D.C. 20250; telephone (202) 382–0219.

Dated: June 30, 1982.

D. R. Galliart,

Acting Administrator.

[FR Doc. 82–18360 Filed 7–6–82; 8:45 am]

BILLING CODE 3410–EN–M

DEPARTMENT OF COMMERCE

International Trade Administration

Monell Chemical Senses Center; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washinton, D.C. 20230.

Docket No.: 82–00027. Applicant: Monell Chemical Senses Center, 3500 Market Street, Philadelphia, PA 19104. Article: QMC BAT Detector, Model s100 with SMI Microprobe. Manufacturer: QMC Instruments Ltd., United Kingdom. Intended use of article: See Notice on page 60044 in the **Federal Register** of December 8, 1981.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article is portable and operates in the range of 10 to 180 kilohertz in both the tuned and broadband modes. The Department of Health and Human Services advises in its memorandum dated March 17, 1982 that (1) the capabilities of the foreign article described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82–18372 Filed 7–6–82; 8:45 am]

BILLING CODE 3510–25–M

National Radio Astronomy Observatory; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the

regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No.: 82-00080. Applicant: National Radio Astronomy Observatory, Associated Universities, Inc., 2010 N. Forbes Blvd., Suite 100, Tucson, AZ 85705. Article: Repair of Klystron, BRB2113A30 SNO552D8. Manufacturer: Varian Canada, Inc., Canada. Intended use of article: See Notice on page 6680 in the **Federal Register** of February 16, 1982.

Comments: Comments dated February 22, 1982 have been received from the Micro-Now Instrument Co. Inc. which states "The supplier listed is the only organization qualified to do this repair." Decision: Application approved. Reasons: No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. The foreign article is to be repaired by its manufacturer, Varian Canada, Inc., which is the supplier listed on the purchase order. This article provides an operating frequency range of 80–110 gigahertz. The National Bureau of Standards advises in its memorandum dated May 25, 1982 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purposes and (2) it knows of no domestic instruments or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-18373 Filed 7-6-82; 8:45 am]

BILLING CODE 3510-25-M

NIEHS, et al.; Consolidated Decision on Applications for Duty-Free Entry of Accessories for Foreign Instruments

The following is a consolidated decision on applications for duty-free entry of accessories for foreign instruments pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301). (See especially § 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00069. Applicant: NIEHS, P.O. Box 12233, Research Triangle Park, NC 27709. Article: Fast Atom Bombardment Upgrade. Manufacturer: VG Analytical, Ltd., United Kingdom. Intended use of article: See notice on page 4720 in the **Federal Register** of February 2, 1982.

Docket No.: 82-00094. Applicant: Chemical Industry Institute of Toxicology, 6 Davis Drive, P.O. Box 12137, Research Triangle Park, NC 27709. Article: Cryokit, Model LKB 14800. Manufacturer: LKB Instruments, Inc., Sweden. Intended use of article: See Notice on page 13394 in the **Federal Register** of March 30, 1982.

Comments: No comments have been received with respect to either of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which the articles are intended to be used, is being manufactured in the United States. Reasons: The applications relate to compatible accessories for instruments that have been previously imported for the use of the applicant institutions. The articles are being manufactured by the manufacturers which produced the instruments with which they are intended to be used. We are advised by the National Bureau of Standards and the Department of Health and Human Services in their respectively cited memoranda that the accessories are pertinent to the applicant's intended uses and that it knows of no comparable domestic articles.

The Department of Commerce knows of no similar accessories manufactured in the United States which are interchangeable with or can be readily adapted to the instruments with which the foreign article are intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-18378 Filed 7-6-82; 8:45 am]

BILLING CODE 3510-25-M

Pacific Dental Research Foundation; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00052. Applicant: Pacific Dental Research Foundation, University of the Pacific, School of Dentistry, 2155 Webster Street, San Francisco, CA 94115. Article: Titanium Product System for Osseointegration. Manufacturer: Bofors Nobelpharma, Sweden. Intended use of article: See Notice on page 62307 in the **Federal Register** of December 23, 1981.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the U.S. Customs Service received this application (November 17, 1981). Reasons: The foreign article is a complete system with methods, instruments and bone compatible titanium fixtures for osseointegration. The Department of Health and Human Services advises in its memorandum dated April 1, 1982 that (1) the capabilities of the foreign article described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the

time the U.S. Customs Service received this application.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Program Staff.

[FR Doc. 82-18374 Filed 7-6-82; 8:45 am]

BILLING CODE 3510-25-M

Polytechnic Institute of New York; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No.: 81-00378. Applicant: Polytechnic Institute of New York, 333 Jay Street, Brooklyn, NY 11201. Article: Nuclear Magnetic Resonance Spectrometer, JNM/FX-90Q and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: See Notice on page 51626 in the **Federal Register** of October 21, 1981.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: This application is a resubmission of Docket No. 80-00343 which was denied without prejudice to resubmission on April 13, 1981 for informational deficiencies. The foreign article provides a field strength of 1.9-2.1 Tesla and T_1rho measurements (spin-lattice relaxation time in the rotating frame). The National Bureau of Standards advises in its memorandum dated April 26, 1982 that (1) the capabilities of the foreign article described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-18375 Filed 7-6-82; 8:45 am]

BILLING CODE 3510-25-M

University of California; Decision on Application for Duty-Free Entry of Scientific Articles

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No.: 82-00066. Applicant: University of California, Los Alamos National Laboratory, P.O.Box 990, Los Alamos, NM 87545. Article: Excimer Laser, EMG-200. Manufacturer: Lambda Physics Gmbh & Co., West Germany. Intended use of article: See Notice on page 4720 in the **Federal Register** of February 2, 1982.

Comments: No comments have been received with respect to this applicationa. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (December 11, 1980). Reasons: The foreign article provides a pulse energy output in the vicinity of 800 millijoules at 248 nanometers with a jitter less than ±2 nanoseconds. The National Bureau of Standards advises in its memorandum dated April 2, 1982 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use available at the time the foreign article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the foreign article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-18376 Filed 7-6-82; 8:45 am]

BILLING CODE 3510-25-M

Washington University, et al.; Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the **Federal Register.**

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5:00 p.m., Monday through Friday, in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No.: 82-00214. Applicant: Washington University, Lindell and Skinker, St. Louis, MO 63130. Article: Servo-control Electronics. Manufacturer: Queensgate Instruments Ltd., United Kingdom. Intended use of article: This article is intended to be used in observational ground-based astronomy and remote sensing of the upper atmosphere of the Earth. The programs include the study of the atmospheres of outer planets of the solar system, comets, the winds of Venus, study of interstellar matter, plantary nebulae, and extragalatic astronomy. The upper atmospheric studies include the determination of the diurnal variations of the OH and C10 radicals which are believed to play key roles in the depletion of the ozone layer in the stratosphere. Application received by Commissioner of Customs: May 14, 1982.

Docket No.: 82–00217. Applicant: National Aeronautics and Space Administration, Mail Code HWD–2/ Atkinson, Washington, D.C. 20546. Article: Low Temperature Droplet Sizing Instrument (Light Scattering Probe). Manufacturer: Institute for Steam and Gas Turbines, West Germany. Intended use of article: This article is intended to be used to detect, size, and count liquid nitrogen droplets in a cryogenic wind tunnel that can operate at pressures up to 6 atmospheres and temperatures down to 80 K. The experiments will involve mounting the probe through single flange accesses (as small as 3 inches in diameter) into the Langley 0.3–m Transonic Cryogenic Tunnel and varying the probe detection point from 6" to 24" into the tunnel. The objective of the investigation is to determine the minimum operating temperatures (MOT) of the transonic, cryogenic tunnels at which liquid nitrogen injected for cooling purposes is evaporated before disturbing aerodynamic testing. Application received by Commissioner of Customs: May 14, 1982.

Docket No.: 82–00218. Applicant: U.S. Geological Survey, Western Region, 345 Middlefield Road, MS 85, Menlo Park, CA 94025. Article: Mass Spectrometer, System, MAT 260. Manufacturer: Finnigan-MAT, West Germany. Intended use of article: The article is intended to be used for experiments conducted in geochronology using the Rb-Sr, Sm-Nd, and U-Th-Pb dating methods to determine the ages of rock and minerals and in isotope tracer studies using variations in $^{87}Sr/^{86}Sr$ and $^{143}Nd/^{144}Nd$ ratios to study geochemical processes. The objectives of various research projects are to support programs of the U.S. Geological Survey in Mineral Resource Appraisal, Geothermal Energy, Volcano Hazards studies, Wilderness studies, and Geologic Framework and Synthesis of the United States. Educational uses will involve training of visiting graduate and post-graduate students and scientists from foreign countries in geologic research using isotopic techniques. Application received by Commissioner of Customs: June 2, 1982.

Docket No.: 82–00220.: Applicant: St. Jude Children's Research Hospital, 332 North Lauderdale, Memphis, TN 38101. Article: Nanosecond Fluorometer System. Manufacturer: Photochemical Research Associates, Inc., Canada. Intended use of article: The article is intended to be used to determine the topographical localizations of heme prosthetic groups in hemoproteins such as cytochrome c, cytochrome c oxidase and hemoglobin. This will be accomplished by fluorescence resonance energy transfer techniques in the rapid and static limits. Application received by Commissioner of Customs: May 24, 1982.

Docket No.: 82–00221. Applicant: Bryn Mawr College, Department of Biology, Bryn Mawr, PA 19010. Article: Electron Microscope, Model JEM 100S. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article will be used for standard transmission microscopy, mainly of ultra-thin sections. Immunocytochemical and radioautographic techniques will be applied to studies of polypeptide neurotransmitters in pulmonary arteries, to the appearance and function of cell surface molecules during synaptogenesis, and to cellular correlates of tumorigenesis. Students majoring in Biology, as well as predoctoral students, will be taught electron-Microscopy as part of their training in developmental, cell and molecular biology. Application received by Commissioner of Customs: May 24, 1982.

Docket No.: 82–00222. Applicant: Stanford University, 851 Welch Road, Palo Alto, CA 94304. Article: Model WTM 5000 Transit case containing Whitlock Tritium Meter, charging unit, lens cap, seals, aerosol. Manufacturer: Hughes Whitlock, Ltd., United Kingdom. Intended use of article: The article will be used to conduct assays for radioactive contamination resulting from the use of radioactive biochemicals in research and teaching laboratories throughout the University. The radioactivity will be primarily H–3, C–14, P–32, S–35, I–125 used in biological and medical research. The presence of such contamination may result in erroneous assays and therefore in experimental error, as well as pose a risk to the health of the researcher and student. Application received by Commissioner of Customs: May 24, 1982.

Docket No.: 82–00223. Applicant: Los Alamos National Laboratory, P.O. Box 1663, Los Alamos, NM 87545. Article: Excimer Laser-Pumped Dye Laser. Manufacturer: Lambda Physik GmbH & Co., KG, West Germany. Intended use of article: The article is intended to be used to study the spectroscopic and photochemical properties of plutonium compounds at the Plutonium Facility of the Los Alamos National Laboratory. Application received by Commissioner of Customs: May 24, 1982.

Docket No.: 82–00224. Applicant: University of Arizona, Department of Pharmacology, Health Sciences Center, Tucson, AZ 85724. Article: PE–2 Glass Microelectrode Puller. Manufacturer: Narashige, Japan. Intended use of article: The article is intended to be used to heat and pull out fine glass tubes into a narrow tip (0.2μm). The tube is filled with an electrolyte which then allows the measurement of electrical events through the microelectrode. The electrical activity from single nerve cells in brain can be recorded with such microelectrodes. When several tubes are fused together and then pulled out using the puller, a multibarreled microelectrode results. This allows the administration of drugs from ionized solutions contained in the individual barrels to be made by microelectrophoresis. This provides a means of giving drugs only into the immediate environment of a single nerve cell while recording its electrical activity. This technique is used to study communication between nerve cells in mammalian brain and to elucidate the mechanism of action of drugs that affect the central nervous system. Application received by Commissioner of Customs: May 24, 1982.

Docket No.: 82–00225. Applicant: University of Maryland Hospital, Division of Gastroenterology, Room N3W148 22 S. Greene Street, Baltimore, MD 21201. Article: MBB–AT Medilas 2 YAG Coagulation Laser. Manufacturer: M.B.–A.T. G.M.B.H., West Germany. Intended use of article: The article is intended to be used to control upper gastrointestinal hemorrhage, one of the most common gastrointestinal emergencies. The use of the article will be incorporated in the training of the two year Gastrointestinal Fellowship Program with the Division of Gastroenterology. The objectives in teaching the use of the YAG laser for upper GI bleeding will be to determine when it should be used, to develop safe and proper techniques and to determine the effectiveness of its use. Application received by Commissioner of Customs: May 24, 1982.

Docket No.: 82–00226. Applicant: Cuyahoga County Hospitals, Cleveland Metropolitan General Hospital, 3395 Scranton Rd., Cleveland, Ohio 44109. Article: Electron Microscope, Model EM 10–CR. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used to provide diagnostic services to several area hospitals. Application received by Commissioner of Customs: May 24, 1982.

Docket No.: 82–00227. Applicant: The

City College of the City University of New York, Department of Physics, Convent Avenue & 138th Street, New York, N.Y. 10031. Article: RF Hydrogen Source and Electronics. Manufacturer: University of Stirling, United Kingdom. Intended use of article: The article is intended to be used in the investigation of spin-dependent effects in low-energy collisions of electrons with atomic hydrogen. The rf hydrogen source and associated electronics are crucial to the production of the target beam and to the observation of th scattered particles. This experiment will serve as the Ph.D. thesis project of Mr. F.C. Tang, a graduate student and as future thesis projects of additional graduate students. Application received by Commissioner of Customs: May 24, 1982.

Docket No.: 82-00228. Applicant: University of California at Los Angeles, Electrical Engineering Department, 7702 Boelter Hall, Los Angeles, CA 90024. Article: Carcinotron Electronic Tube. Manufacturer: Thomson-CSF, Groupement Tube Electroniques, France. Intended use of article: The article is intended to be used in the construction of a six-channel, multi-channel far-infrared Thomsom scattering system that will be used to study low frequency microturbulence in the TEXT Device. Application received by Commissioner of Customs: May 24, 1982.

Docket No.: 82-00231. Applicant: The Johns Hopkins University, School of Hygiene and Public Health, Room 2001, Charles and 34th Streets, Baltimore, MD 21218. Article: Self Shielded Cyclotron. Manufacturer: Instrument AB Scanditronix, Sweden. Intended use of article: The article is intended to be used in conducting the research project "Program for Study of Neuroreceptor Binding in Man" which is directed toward the *in vivo* localization and quantification of dopamine and opiate receptors in animals, normal humans and patients with selected neurological and psychiatric diseases. The studies make use of ^{11}C-and ^{18}F-labeled receptor binding radiotracers and position emission tomography (PET). The ultimate goal is to demonstrate correlations between regional distribution of neuroreceptors in the brain and selected disease states (e.g., Huntington's disease, Parkinson's disease, schizophrenia). Such information will provide fundamental new knowledge about the disease and may eventually provide a basis for their early diagnosis. Application received by Commissioner of Customs: June 2, 1982.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-18877 Filed 7-6-82; 8:45 am]

BILLING CODE 3510-25-M

[Order No. 41-4; D.O.O. Reference 10-3, 40-1]

Organization and Function Order; Assistant Secretary for Trade Administration

Effective date: May 18, 1982.

Part I. Effect On Other Orders

This order supersedes ITA Organization and Function Order 41-4 of August 26, 1980, as amended (45 FR 65003, 46 FR 31911, 46 FR 48736, 46 FR 51003, 46 FR 62129).

Part II. Purpose, Scope, and Principal Organization

Section 1. Purpose

This order delegates authorities from the Assistant Secretary for Trade Administration ("the Assistant Secretary") to the Deputy Assistant Secretaries for Import Administration, Export Administration, and Export Enforcement and prescribes the internal organization and assignment of functions for entities under the direction of the Assistant Secretary.

Section 2. Organization and Line of Authority

The internal orginization structure and line of authority for functions prescribed in this order is depicted in the attached chart.[1] The Assistant Secretary for Trade Administration reports and is responsible to the Under Secretary for International Trade.

Section 3. Principal Functions

.01 The *Assistant Secretary for Trade Administration* assists and advises the Secretary and the Under Secretary on the development of policies pertaining to, and in the implementation of, Departmental programs dealing with import and export administration issues, including industrial mobilization and resource administration and foreign boycotts: exercises the functions of the "Secretary" and the "administering authority" of U.S. antidumping and countervailing duty laws within the meaning of Section 303 and Title VII of the Tariff Act of 1930, as amended; serves as alternate to the Secretary and Under Secretary in representing the Department on the Trade Policy Committee and other interagency committees which deal with matters pertaining to import and export administration issues; represents the Department in all domestic and international forums which address such issues; chairs the Committee of Alternates of the Foreign-Trade Zones Board; chairs the Advisory Committee on Export Policy; and decides appeals arising under the Export Administration Act of 1979, as amended, the Defense Production Act of 1950, as amended, Section 402 of the Federal Property and Administrative Services Act of 1949, as amended, and Headnote 6(d) of Schedule 7, part 2, subpart E of the Tariff Schedules of the United States.

.02 The Office of the Assistant Secretary includes a *Hearing Commissioner* who conducts hearings, issues initial decisions, and performs other duties with respect to proceedings concerning the imposition of administrative sanctions for violations of those Export Administration Regulations concerning national security, foreign policy, and short supply; as requested by the Department of State, serves as presiding official in administrative proceedings related to the International Traffic in Arms Regulations issued under the Arms Export Control Act; and, as requested, provides administrative support to the Assistant Secretary concerning appeals, except those appeals from initial decisions made by the Hearing Commissioner.

.03 The Assistant Secretary directs the activities of:

a. The Deputy Assistant Secretary for Import Administration;

b. The Deputy Assistant Secretary for Export Administration; and

c. The Deputy Assistant Secretary for Export Enforcement.

Part III. Authorities of the Assistant Secretary

Section 1. Delegation of Authority

Pursuant to the authority delegated to the Assistant Secretary for Trade Administration by the Under Secretary for International Trade, and subject to such policies and directives as the Assistant Secretary may prescribe, the following authorities are hereby delegated to the Deputy Assistant Secretaries for Import Administration, Export Administration, and Export Enforcement as set forth below. Each Deputy Assistant Secretary may redelegate his or her authorities to any

[1] Filed as part of the original document.

employee of the International Trade Administration or to any other appropriate officer or agency of the Government, subject to such conditions in the exercise of such authorities as he or she may prescribe. Notwithstanding any provision of this delegation of authority, the Assistant Secretary may at any time exercise any authority delegated in this part.

.01 To the Deputy Assistant Secretaries for Import Administration, Export Administration, and Export Enforcement the authorities of the Assistant Secretary with respect to the Act of February 14, 1903, as amended (15 U.S.C. 1512 *et seq.*; 15 U.S.C. 171 *et seq.*) to foster, promote, and develop the foreign and domestic commerce of the United States, as are necessary to the performance of each Deputy Assistant Secretary's functions.

.02 To the Deputy Assistant Secretary for Import Administration the authorities of the Assistant Secretary with respect to antidumping and countervailing duties, as follows:

a. Section 303 and Title VII (including Section 771(1)) of the Tariff Act of 1930 (19 U.S.C. 1303, *1671 et seq.*) in accordance with section 5(a)(1)(C) of Reorganization Plan No. 3 of 1979 (44 FR 69273, December 3, 1979), relating to antidumping and countervailing duties, except the authority to make final determination as "Secretary" or "administering authority;"

b. Sections 514, 515, and 516 of the Tariff Act of 1930 (19 U.S.C. 1514, 1515, and 1516) and section 5(a)(1)(D) of Reorganization Plan No. 3 of 1979, insofar as they relate to any protest, petition, or notice of desire to contest described in section 1002(b)(1) of the Trade Agreements Act of 1979;

c. Sections 318, 502 (a) and (b), and 617 of the Tariff Act of 1930 (19 U.S.C. 1318, 1502 (a) and (b), and 1617) and sections 5(a)(1)(E), 5(a)(1)(F), and 5(a)(1)(G), respectively, of Reorganization Plan No. 3 of 1979, insofar as they relate to antidumping and countervailing duty investigations and the assessment of duties; and

d. Section 2632(e) of Title 28 of the United States Code and section 5(a)(1)(H) of Reorganization Plan No. 3 of 1979, insofar as they relate to actions taken by the Secretary reviewable under section 516A of the Tariff Act of 1930 (19 U.S.C. 1516a).

.03 To the Deputy Assistant Secretary for Import Administration the authorities of the Assistant Secretary with respect to statutory import programs as follows, except that authority to decide appeals shall be reserved to the Assistant Secretary:

a. Section 402 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 512), relating to the importation of foreign excess property;

b. The Educational, Scientific and Cultural Materials Importation Act of 1966 (19 U.S.C. 1202); and

c. Headnote 6(d) of Schedule 7, part 2, subpart E of the Tariff Schedules of the United States (19 U.S.C. 1202), added by Pub. L. 89–805, pertaining to the allocation of quotas for duty-free importation into the customs territory of the United States of watches and watch movements.

.04 To the Deputy Assistant Secretary for Import Administration the authorities of the Assistant Secretary under the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81a *et seq.*), as it relates to the Secretary's authority to appoint an Executive Secretary of the Foreign-Trade Zones Board (see 15 CFR Part 400).

.05 To the Deputy Assistant Secretary for Export Administration the authorities of the Assistant Secretary with respect to industrial mobilization and resource administration, as follows, except that authority to decide appeals shall be reserved to the Assistant Secretary:

a. The Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 *et seq.*) conferred on the Secretary under: (1) Executive Order 10480 of August 14, 1953, as amended, except authority with respect to transportation facilities and the creation of new agencies within the Department of Commerce; and (2) Executive Order 11912 of April 13, 1976;

b. Executive Order 11490 of October 28, 1969, as amended, as it relates to the development, as required for the programs of the Director, Federal Emergency Management Agency, of national emergency plans and preparedness programs covering production and distribution of materials, use of production facilities, control of construction materials, and the furnishing of basic industrial services;

c. The National Security Act of 1947, as amended (50 U.S.C. 401 *et seq.*) and Executive Order 11490 of October 28, 1969, as amended, relating to mobilization preparedness;

d. Executive Order 11179 of September 22, 1964, as amended, with respect to the establishment and training of the industrial production component of the National Defense Executive Reserve;

e. Executive Order 10421 of December 31, 1952, providing for the physical security of facilities important to the national defense;

f. Section 1441 of the Public Health Service Act, as amended by the Safe Drinking Water Act (42 U.S.C. 300j) conferred on the Secretary under Executive order 11879 of September 17, 1975, involving materials allocation of chemicals or substances necessary for treatment of water.

g. Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862) and section 5(a)(1)(B) of Reorganization Plan No. 3 of 1979, relating to the conduct of national security investigations on imports;

h. The Export Administration Act of 1979, as amended (50 U.S.C. App. 2401 *et seq.*) and the authority under that Act conferred on the Secretary under Executive Order 12214 of May 2, 1980, as it relates to short supply commodity controls, except that the following power, authority, and discretion shall be reserved to the Secretary:

1. The determination required by Section 12(c) with respect to the publication or disclosure of confidential information obtained under the Act, and

2. The submission of reports to the Congress required by Section 14 of the Act;

i. Executive Order 12002 of July 7, 1977, relating to short supply commodity control matters before the Export Administration Review Board and;

j. Sections 103 and 251 of the Energy Policy and Conservation Act (42 U.S.C. 6201 *et seq.*) conferred on the Secretary under Executive Order 11912 of April 13, 1976, relating to: (1) Export restrictions of coal, petroleum products, natural gas, or petrochemical feedstocks and supplies of material or equipment necessary to maintain or further exploration, production, refining, or transportation of energy supplies or for the construction or maintenance of energy facilities within the United States; and (2) rules to authorize the export of petroleum and petroleum products as may be necessary for implementation of the obligations of the United States under the International Energy Program.

.06 To the Deputy Assistant Secretaries for Export Administration and Export Enforcement the authorities of the Assistant Secretary with respect to regulating exports as follows, except that authority to decide appeals shall be reserved to the Assistant Secretary:

a. The Export Administration Act of 1979, as amended (50 U.S.C. App. 2401 *et seq.*) and the authority under that Act conferred on the Secretary under Executive Order 12214 of May 2, 1980, except as it relates to foreign boycotts and short supply commodity controls and except that the following power,

authority, and discretion shall be reserved to the Secretary:

1. The determination required by Section 12(c) with respect to the publication or disclosure of confidential information obtained under the Act, and

2. The submission of reports to the Congress required by Section 14 of the Act;

b. Executive Order 12002 of July 7, 1977, except as it relates to short supply commodity control matters before the Export Administration Review Board;

c. Executive Order 11958 of January 18, 1977, as it relates to the carrying out, on behalf of the Department of State, of functions under Section 38(e) of the Arms Export Control Act (22 U.S.C. 2751 *et seq.*), as agreed to by the Departments of Commerce and State;

d. Executive Order 11322 of January 5, 1967, and Executive Order 11419 of July 29, 1968, relating to the Rhodesian sanctions with respect to transactions occurring prior to December 16, 1979 (Executive Order 12183 of December 16, 1979, revoked the provisions of Executive Orders 11322 and 11419 with respect to transactions occurring after December 16, 1979);

e. The Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3201 *et seq.*) and the authority under that Act conferred on the Secretary under Executive Order 12058 of May 11, 1978, pertaining to nuclear exports and related matters;

f. Executive Order 11490 of October 28, 1969, as amended, as it relates to the development, as required for the programs of the Director, Federal Emergency Management Agency, of national emergency plans and preparedness programs covering regulation and control of exports and imports;

g. Executive Order 11179 of September 22, 1964, as amended, with respect to the establishment and training of the exports and imports component of the National Defense Executive Reserve; and

h. The Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 *et seq.*) conferred on the Secretary under Executive Order 10480 of August 14, 1953, as amended, as it relates to restricting surface transportation and discharge of commodities or prohibiting movement of American carriers to designated destinations.

.07 To the Deputy Assistant Secretary for Export Enforcement the authorities of the Assistant Secretary with respect to foreign boycotts, as follows, except that authority to decide appeals shall be reserved to the Assistant Secretary:

a. The Export Administration Act of 1979, as amended (50 U.S.C. App. 2401 *et seq.*) and the authority under that Act conferred on the Secretary under Executive Order 12214 of May 2, 1980, as it relates to foreign boycotts, except that the following power, authority, and discretion shall be reserved to the Secretary:

1. The determination required by Section 12(c) with respect to the publication or disclosure of confidential information obtained under the Act, and

2. The submission of reports to the Congress required by Section 14 of the Act.

Section 2. Investigative and Subpoena Powers

.01 The above delegations and subsequent redelegations of these authorities in Parts V and VI to the Director, Office of Export Compliance, the Director, Office of Antiboycott Compliance, and the Director, Office of Industrial Resource Administration, specifically include the authority:

a. To sign and issue subpoenas requiring any person to appear and testify or to appear and produce books, records and other writings, or both, to any designated place, in connection with any investigation or proceeding necessary or appropriate to the enforcement of the delegated authority;

b. To require reports and the keeping of records by any person to the extent necessary or appropriate to the enforcement of the delegated authority, and to require any person to permit the inspection of books, records, and other writings or property; and

c. To take any other action necessary or appropriate to achieve effective enforcement of the delegated authority in connection with actual or potential violations.

.02 In addition to the above delegations, the following Department of Commerce employees, in connection with any investigation or proceeding necessary or appropriate to the enforcement of the delegated authority, are each authorized to make investigations; to require any person to permit the inspection of books, records, and other writings, premises, or property; to sign and issue subpoenas requiring any person to appear and testify or appear and produce books, records and other writings, or both, to any designated place; to administer oaths and affirmations for the purpose of procuring or receiving from any person sworn statements or other sworn testimony; and to take the sworn testimony of any person.

a. Any compliance officer or special agent employed in the Office of Export Compliance;

b. Director, Enforcement Division, Office of Antiboycott Compliance;

c. Any compliance officer or special agent employed in the Office of Antiboycott Compliance;

d. Director, Priorities and Allocations Division, Office of Industrial Resource Administration; and

e. Any compliance officer or special agent employed in the Priorities and Allocations Division, Office of Industrial Resource Administration.

.03 In addition to the above delegations, any Director of a District Office of the U.S. Commercial Service, upon request by the Office of Export Compliance and in connection with any proceeding necessary or appropriate to the enforcement of the delegated authority, is authorized, with the power of successive redelegation, to require any person to permit the inspection of books, records, and other writings, premises, or property; to serve subpoenas requiring any person to appear and testify or appear and produce books, records and other writings, or both, to any designated place; to administer oaths and affirmations for the purpose of procuring or receiving from any person sworn statements or other sworn testimony; and to take the sworn testimony of any person.

.04 In any proceeding relating to the denial of export privileges or the imposition of civil penalties under the Export Administration Act of 1979, as amended, the Administrative Law Judge or Hearing Commissioner is authorized to administer oaths and affirmations, and to sign and issue subpoenas requiring any person to appear and testify or to appear and produce books, records and other writings, or both.

Part IV. Deputy Assistant Secretary for Import Administration

Section 1. Redelegation of Authority

Pursuant to the authority delegated to the Deputy Assistant Secretary for Import Administration (DAS) under Part III, the following authorities are redelegated as set forth below. Notwithstanding any provision of this redelegation of authority, the Deputy Assistant Secretary may at any time exercise any authority redelegated in this part.

.01 The authorities of the DAS with respect to antidumping and countervailing duties, as delegated in Section 1.02 of Part III, are hereby redelegated as follows:

a. Any employee of the International Trade Administration stationed overseas, who is specifically designated

as a Commerce Representative, is authorized to collect and verify data required for the investigation and enforcement of antidumping and countervailing duties;

b. The Director, Office of Investigations, and the Director, Office of Compliance, are each authorized to collect and verify data required for the investigation and enforcement of antidumping and countervailing duties, and may redelegate any power or function conferred by this delegation.

.02 The authorities of the DAS with respect to statutory import programs, as delegated in Section 1.03 of Part III, are hereby redelegated to the Deputy to the Deputy Assistant Secretary for Management and to the Director, Statutory Import Programs Staff, with the power of successive redelegation, except that rulemaking authority shall be preserved to the Deputy to the DAS for Management.

.03 The authority of the DAS with repect to appointing an Executive Secretary of the Foreign-Trade Zones Board, as delegated in Section 1.04 of Part III, is hereby redelegated to the Deputy to the Deputy Assistant Secretary for Management.

Section 2. Office of the Deputy Assistant Secretary

.01 The *Deputy Assistant Secretary for Import Administration* coordinates the formulation and implementation of U.S. antidumping and countervailing duty (AD/CVD) policies and programs, ensuring that actions taken are consistent with overall U.S. trade policy; coordinates the development of Departmental positions with regard to specific AD/CVD cases and general AD/CVD issues which are to be discussed in domestic and international forums, such as meetings of the interagency Trade Policy Committee and the GATT Antidumping and Countervailing Duty Code Committees; ensures the proper administration of antidumping and countervailing duty laws including the expeditious conduct of investigations, the administration of AD/CVD orders, the collection of duties under those orders, and the administration of AD/CVD suspension agreements; assists the Office of General Counsel in its responsibilities for the defense of litigation challenging actions under the AD/CVD laws; in consultation with the U.S. Trade Representative, conducts negotiations with foreign manufacturers or governments to suspend antidumping or countervailing duty investigations; and administers Departmental programs relating to foreign-trade zones, allocation of watch quotas, duty-free entry of scientific instruments, and importation of foreign excess property.

.02 The *Deputy to the Deputy Assistant Secretary for Management* assists the Deputy Assistant Secretary in planning and directing the execution of policies and programs for all management functions under the direction of the DAS and assumes the duties of the DAS with respect to management functions during the latter's absence; directs the activities of the Foreign-Trade Zones Staff, the Statutory Import Programs Staff, and the overseas *Commerce Representatives*, who participate in the collection and on-site verification of data required for the investigation and enforcement of antidumping and countervailing duties; and serves as the support arm for entities under the direction of the DAS and as such, is responsible for allocation of space, equipment, and budgetary resources, utilization of automated data processing capabilities, and operation of the library, central files, and public reading room.

.03 The *Deputy to the Deputy Assistant Secretary for Policy* assists the Deputy Assistant Secretary in planning and directing the policy functions under the direction of the DAS and assumes the duties of the DAS with respect to policy functions during the latter's absence; represents the DAS in interagency, other domestic, and international forums in which specific AD/CVD cases or general AD/CVD policies are discussed; coordinates the preparation of testimony and other information required by the DAS or the Assistant Secretary in presentations on AD/CVD matters before Congressional committees or other bodies; and provides policy guidance and direction to program entities under direction of the DAS.

.04 The office of the DAS includes the *Foreign-Trade Zones Staff* which provides administrative support to the Secretary of Commerce as Chair of the Foreign-Trade Zones Board. The Director, Foreign-Trade Zones Staff, serves as Executive Secretary of the Board. Support includes processing applications for new and expanded zones, giving administrative clearances pursuant to the Board's regulations, reporting on the economic impact of zone activities, maintaining Board records and files, providing technical advice and assistance on zone matters, conducting public hearings on zone proposals, working with State and community development officials on zone projects, providing liaison with the U.S. Customs Service, and publishing the Board's annual report to the Congress.

.05 The office of the DAS includes the *Statutory Import Programs Staff* which administers the program governing duty-free importation of scientific instruments or apparatus for educational or research institutions under UNESCO's Florence Agreement; provides liaison with U.S. industry on matters relating to U.S. and foreign government implementation of the Florence Agreement; represents the Department at meetings and conferences on the Florence Agreement; administers the program governing importation of foreign excess property into the customs territory of the United States; administers the Commerce responsibilities pertaining to the allocation of quotas for duty-free importation into the customs territory of the United States of watches and watch movements by producers located in the Virgin Islands, Guam, and American Samoa; provides liaison with territorial governments on matters affecting watch assembly industries; makes quota allocations and issues licenses to territorial watch assembly firms; develops measures with the U.S. Customs Service for monitoring imports of watches and watch movements under quota; and maintains official watch quota records for Commerce and Interior. The Director, Statutory Import Programs Staff, serves as Foreign Excess Property Officer.

.06 The DAS directs the following offices:

a. Office of Investigations;

b. Office of Compliance; and

c. Office of Policy.

Section 3. Office of Investigations

.01 The *Office of Investigations* includes the *Director* who plans and directs the execution of policies and programs of the Office; serves as the primary contact with the U.S International Trade Commission on matters pertaining to the investigation of antidumping and countervailing duty cases; and directs the following organizational components:

a. Far East Division;

b. Americas, Africa and Oceania Division; and

c. Europe, Mid-East and Controlled Economies Division.

.02 Each geographic division, for the area under its jurisdiction, analyzes petitions submitted by manufacturers, producers, trade associations, and unions under the antidumping and countervailing duty laws; initiates investigations, including the determination of product definitions and the drafting and presentation of questionnaires; analyzes responses to

questionnaires and participate in on-site verification of the accuracy and completeness of responses; arranges public hearings involving interested parties when requested in the course of investigations; prepares recommendations regarding the disposition of individual AD/CVD cases; calculates initial deposits of estimated dumping duty amounts; and prepares notices for publication in the **Federal Register** explaining determinations reached.

Section 4. Office of Compliance

.01 The *Office of Compliance* includes the *Director* who plans and directs the execution of policies and programs of the Office; serves as the primary contact with the U.S. Customs Service on matters pertaining to compliance with antidumping and countervailing duty laws; and directs the following organizational components:

a. Countervailing Order Compliance Division;

b. Antidumping Order Compliance Division; and

c. Agreements Compliance Division.

.02 Each division, for the orders or agreements under its jurisdiction, conducts the annual review required under the antidumping and countervailing duty laws; drafts and submits questionnaires to companies and foreign governments as necessary; analyzes responses to questionnaries and participates in on-site verification of the accuracy and completeness of responses; arranges public hearings upon request for parties interested in the proposed results of annual reviews; prepares recommendations concerning the disposition of each review including, where warranted, recommendations for termination of orders or agreements; prepares instructions to the U.S. Customs Service regarding the collection of duties on outstanding orders; and prepares notices for publication in the **Federal Register** explaining results of reviews.

Section 5. Office of Policy

The *Office of Policy* includes the *Director* who plans and directs the execution of policies and programs of the Office; serves as the principal staff to the DAS in the formulation and implementation of policies governing the Department's administration of the antidumping and countervailing duty statutes, ensuring that actions taken are consistent with overall U.S. trade policy; in consultation with the Office of General Counsel, ensures the uniform application of statutory and regulatory provisions of AD/CVD laws on a case-by-case basis; provides policy guidance concerning the interpretation and application of AD/CVD laws and regulations; provides policy guidance and oversight on cost accounting issues related to cost of production analyses, allocation of domestic subsidies, and accounting verification procedures; assists the Deputy to the DAS for Policy to conduct negotiations regarding possible suspension of AD/CVD investigations; prepares position papers and case decision summaries for meetings of the GATT Antidumping and Countervailing Duty Code Committees; and acts for the DAS and, as appropriate, the Assistant Secretary for Trade Administration, in representing the views of the Department in domestic, interagency, and international forums.

Part V. Deputy Assistant Secretary for Export Administration

Section 1. Redelegation of Authority

Pursuant to the authority delegated to the Deputy Assistant Secretary for Export Administration (DAS) under Part III, the following authorities are redelegated as set forth below. Notwithstanding any provision of this redelegation of authority, the Deputy Assistant Secretary may at any time exercise any authority redelegated in this part.

.01 The authorities of the DAS with respect to industrial mobilization and resource administration, as delegated in Section 1.05 of Part III, are hereby redelegated to the Director, Office of Industrial Resource Administration, with the power of successive redelegation.

.02 The authorities of the DAS in Section 1.06 of Part III, as they relate to administering exports for purposes of national security and foreign policy, are hereby redelegated to the Director, Office of Export Administration, with the power of successive redelegation.

Section 2. Office of the Deputy Assistant Secretary

.01 The *Deputy Assistant Secretary for Export Administration* carries out the Department's responsibilities for regulating exports of U.S. goods and technology for purposes of national security, foreign policy, and short supply; enforces, in consultation with the Office of General Counsel and the Deputy Assistant Secretary for Export Enforcement, those Export Administration Regulations relating to short supply commodity controls; chairs the Subcommittee of the Advisory Committee on Export Policy (Sub-ACEP); coordinates and conduct the Department's activities regarding industrial mobilization for national defense, including priorities and allocations, strategic industrial resources, and emergency preparedness programs; and investigates the effects on national security of imports, consults with other Federal agencies, and recommends remedial action where imports threaten to impair the national security.

.02 The *Deputy to the Deputy Assistant Secretary for Export Administration* assists the Deputy Assistant Secretary in planning and directing the execution of policies and programs for functions under the direction of the DAS and assumes the duties of the DAS during the latter's absence.

.03 The DAS directs the following offices:

a. Office of Export Administration; and

b. Office of Industrial Resource Administration.

Section 3 Office of Export Administration

.01 The *Office of Export Administration* includes the *Director* who plans and directs the execution of policies and programs of the Office and administers the programs required to carry out the Department's responsibilities to license goods and technology for export under the national security and foreign policy controls established in the Export Administration Act of 1979, as amended. The Office of the Director also includes: the *Operating Committee Chair* who chairs the Operating Committee and serves as Executive Secretary of the Export Administration Review Board, the Advisory Committee on Export Policy and the Subcommittee of the Advisory Committee on Export Policy (Sub-ACEP); and the *Exporters' Service Staff* which conducts public contact activities including responding to inquiries from exporters. The Office of the Director provides secretariat and administrative support services to the Export Administration Technical Advisory Committees and the Subcommittee on Export Administration of the President's Export Council. The Director directs the following organizational components:

.02 *The Policy Planning Division* develops overall policies for the licensing of exports. The division performs its assigned functions through the following subordinate elements:

a. The *East-West Trade Branch* analyzes license applications for exports destined to the Communist nations; furnishes policy and procedural guidance to the licensing divisions in

processing these cases; reviews documentation prepared by licensing divisions for presentation to the Operating Committee; and coordinates disposition of the applications within established policy guidelines;

b. The *Strategic Rating Branch* serves as the Department's staff level liasion on matters relating to international cooperation on export controls for strategic purposes (COCOM); represents the Department on certain committees and working groups of the Department of State's Economic Defense Advisory Committee; and assures that commodities retained under U.S. unilateral control are commensurate with national security interest;

c. The *Nuclear Policy Branch* administers export controls related to nuclear nonproliferation in coordination with other agencies; represents the Department on the interagency Subgroup on Nuclear Export Controls; and formulates the Department's position on exports regulated by the Nuclear Regulatory Commission and the Department of Energy; and

d. The *Foreign Policy Branch* formulates policies for licensing exports controlled for foreign policy purposes; performs and coordinates the analysis of statutory criteria for foreign policy controls; and consults with other agencies on special foreign policy programs and embargoes.

.03 The *Operations Division* serves as the support arm for the Office of Export Administration. The division performs its assigned functions through the following subordinate elements:

a. The *Processing Branch* processes license applications; issues U.S. import certificates; carries out emergency readiness and planning functions for the Office of Export Administration; and operates the automated license accounting and review system to track applications and produce statistical reports; and

b. The *Management Services Branch* develops internal operating procedures; prepares analytical and statistical reports on export control activities; develops and publishes Export Administration Regulations, supplemental bulletins, and information brochures for the exporting community; and prepares the Secretary's annual report on export administration to the Congress.

.04 The *Scientific and Electronic Equipment Division* and the *Capital Goods and Production Materials Division*, for the products and related technical data under their jurisdiction, administer controls over exports in accordance with the Export Administration Regulations and the policies and procedures established by the Office of Export Administration; determine and take appropriate action on export license applications; conduct technical analyses of products and technical data, including potential end-use applications, to determine the type and extent of controls to be applied; and render assistance to industry and other Government agencies on export administration problems within their jurisdiction. The Scientific and Electronic Equipment Division performs its assigned functions through the following subordinate elements:

a. Microprocessor and Telecommunications Branch;

b. Computer Systems Branch; and

c. Electronic Equipment and Instrumentation Branch.

Section 4. Office of Industrial Resource Administration

.01 The *Office of Industrial Resource Administration* includes the *Director* who plans and directs the execution of policies and programs of the Office; serves as U.S. Representative to the NATO Industrial Planning Committee and co-chairs the U.S./Canadian Emergency Planning Committee for Industrial Production and Materials; and directs the following organizational components:

.02 The *Priorities and Allocations Division* supports current national defense requirements, the program to maximize domestic energy supplies, and other high national priority programs as may be authorized, by administering the Defense Materials System, including management of the set-aside program of controlled materials, and the Defense Priorities System under Title I of the Defense Production Act of 1950, as amended, including the findings of scarcity and necessity for exercising these authorities required by Section 101(c)(3) of the Act; administers materials allocation of chemicals or substances necessary for the treatment of water; conducts training seminars for Government and industry executives, contractors, and other company officials in the administrative procedures of DMS and DPS and the special priorities system as they relate both to defense and energy requirements; provides for assisting defense contractors adversely affected by natural disasters; in consultation with the Office of General Counsel, enforces delegated authority under the Defense Production Act of 1950, as amended; and, in consultation with the Office of General Counsel and the Office of Export Compliance, enforces the Export Administration Regulations relating to short supply commodity controls.

.03 The *Resource Assessment Division* administers short supply commodity controls; monitors exports and contracts for exports when commodities are in present or potential short supply or likely to have an inflationary impact; coordinates the preparation of periodic reports of monitoring results; coordinates within the Department short supply activities provided for under the Export Administration Act of 1979, as amended; Provides advice to the Federal Emergency Management Agency (FEMA) in the management of the National Defense Stockpile Program; represents the Department on interdepartmental stockpile committees; identifies industrial facilities of exceptional importance to the national security, mobilization readiness, and postattack survival and recovery; supervises the preparation of analyses of critically important industrial products and services; conducts feasibility studies to determine industrial capabilities to meet national emergencies; prepares studies and analyses on critical materials and industries as required to support NATO and U.S./Canadian emergency planning committees; investigates and prepares reports on the impact of imports on national security; and supports the Industry Evaluation Board. The Director of the division chairs the Industry Evaluation Board.

.04 The *Emergency Preparedness Division* develops and tests plans and procedures for response to a nuclear attack or other national emergency, so that the Office of Industrial Resource Administration, with support from the Department's field installations, can ensure continuity of its essential functions, including provisions for an Emergency Production Agency capability at selected alternate sites throughout the U.S.; prepares and maintains emergency measures for regulating industrial production and distribution during emergency situations, including developing emergency set-aside criteria and procedures and related emergency regulations and delegations for steel, copper, aluminum, and nickel alloys; recruits, assigns, and provides annual training programs based on current national emergency response concepts and international conditions for cadres of National Defense Executive Reservists from U.S. industry to assume major responsibilities in a national emergency; maintains Industrial Mobilization Data Centers at selected national and regional relocation sites; plans and coordinates the International

Trade Administration's emergency readiness functions; provides for the physical security of facilities important to the national defense and the essential civilian economy; identifies industrial mobilization machine tool requirements and machine tool manufacturers for expediting procurement in an emergency under the Machine Tool Trigger Order Program; provides such other assistance as necessary to support Federal, State, and local emergency response plans and interagency coordination for such plans; and provides emergency planning support to the Director, Office of Industrial Resource Administration for participation in the NATO Industrial Planning Committee and the U.S./Canadian Emergency Planning Committee for Industrial Production and Materials.

Part VI. Deputy Assistant Secretary for Export Enforcement

Section 1. Redelegation of Authority

Pursuant to the authority delegated to the Deputy Assistant Secretary for Export Enforcement (DAS) under Part III, the following authorities are redelegated as set forth below. Notwithstanding any provision of this redelegation of authority, the Deputy Assistant Secretary may at any time exercise any authority redelegated in this part.

.01 The authorities of the DAS in Section 1.06 of Part III, as they relate to enforcement of the Export Administration Regulations for purposes of national security and foreign policy, are hereby redelegated to the Director, Office of Export Compliance, with the power of successive redelegation.

.02 The authorities of the DAS with respect to foreign boycotts, as delegated in Section 1.07 of Part III, are hereby redelegated to the Director, Office of Antiboycott Compliance, with the power of successive redelegation.

Section 2. Office of the Deputy Assistant Secretary

.01 The *Deputy Assistant Secretary for Export Enforcement* carries out, in consultation with the Office of General Counsel, a compliance program to enforce the export Administration Regulations relating to foreign boycotts against countries friendly to the United States and to exports of U.S. goods and technology for purposes of national security and foreign policy; administers programs concerning foreign boycotts against countries friendly to the United States; and develops and coordinates measures for opposing such boycotts.

.02 The DAS directs the following offices:

a. Office of Export Compliance; and
b. Office of Antiboycott Compliance.

Section 3. Office of Export Compliance

.01 The *Office of Export Compliance* includes the *Director* who plans and directs the execution of policies and programs of the Office; in consultation with the Office of General Counsel, enforces the Export Administration Regulations, except those relating to short supply commodity controls and foreign boycotts against countries friendly to the United States; serves as the primary contact point in matters relating to export enforcement, interpretation, investigation, policy formulation, and administrative and adjudicative proceedings in areas for which the Office is responsible; and directs the following organizational components:

.02 The *Intelligence Division* develops intelligence information regarding areas of possible export administration violations; collects intelligence data on overseas firms and individuals; and maintains liaison with the intelligence community.

.03 The *Investigations Division* investigates suspected export administration violations; and, in consultation with the Office of General Counsel, prepares cases on violations for referral for administrative proceedings by the Department and criminal prosecution by the Department of Justice.

.04 The *Facilitation Division* conducts on-site physical inspections of cargo for evidence of export administration violations; promotes compliance with export clearance regulations; and maintains liaison with the U.S. Customs Service, Census Bureau, and postal authorities.

.05 The *Field Offices* in New York, Los Angeles, and San Francisco perform as appropriate the functions of the three Divisions.

Section 4. Office of Antiboycott Compliance

.01 The *Office of Antiboycott Compliance* includes the *Director* who plans and directs the execution of policies and programs of the Office; serves as the primary contact relating to administration of Departmental responsibilities under the Export Administration Act of 1979, as amended, regarding foreign boycotts against countries friendly to the United States; and directs the following organizational components:

.02 The *Enforcement Division* investigates suspected violations of the antiboycott regulations and, in consultation with the Office of General Counsel, prepares cases on violations for referral to the Administrative Law Judge or for other legal action; provides support, as requested, to the Office of General Counsel in connection with litigated cases; ensures respondent compliance with terms and conditions of orders entered as a result of enforcement actions; develops intelligence; and maintains liaison with other agencies and groups having mutual enforcement concerns.

.03 The *Compliance Policy Division* develops and coordinates policies and measures for opposing restrictive trade practices or boycotts under the Export Administration Act of 1979, as amended; reviews proposed compliance actions for policy consistency; provides advice to the business community on the application of antiboycott regulations; maintains a program for educating the affected public on the Department's antiboycott policies and regulations; maintains liaison with interest groups, other Government agencies, and embassies of foreign governments on antiboycott matters; in consultation with the Office of General Counsel, prepares amendments, interpretations, and clarifications to the antiboycott regulations; and operates the automated boycott reporting system to provide statistical summaries and enforcement data.

Part VII. Administration, Public Affairs, and Program Support

Management analysis, automated data processing, budget, personnel, public affairs, and administrative support services will be provided by offices reporting to the Director of Administration. Field support will be provided by the U.S. Commercial Service or Foreign Commercial Service, as appropriate. Program support relating to industry information and analysis will be provided by the Department's Bureau of Industrial Economics.

Lionel H. Olmer,

Under Secretary for International Trade.

Lawrence Brady,

Assistant Secretary for Trade Administration.

Bohdan Denysyk,

Deputy Assistant Secretary for Export Administration.

Lawrence Brady,

Acting Deputy Assistant Secretary for Export Enforcement.

Gary Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-18334 Filed 7-6-82; 8:45 am]
BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Marine Mammals; Issuance of Permit; Dinnes Memorial Veterinary Hospital

On April 23, 1982, Notice was published in the **Federal Register** (47 FR 17605), that an application had been filed with the National Marine Fisheries Service by Dinnes Memorial Veterinary Hospital, 16133 Ventura Boulevard, Encino, California 91436 for a permit to take ten (10) Atlantic bottlenose dolphins (*Tursiops truncatus*) for the purpose of public display.

Notice is hereby given that on June 30, 1982, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Public Display Permit for the above taking to Dinnes Memorial Veterinary Hospital, subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731;

Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702; and

Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: June 30, 1982.

Richard B. Rowe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-18369 Filed 7-6-82; 8:45 am]

BILLING CODE 3510-22-M

Salmon and Steelhead Conservation and Enchancement Act; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: Notice of continuation of a public meeting recessed from June 14, so that discussions of the implementation of the Salmon and Steelhead Conservation and Enhancement Act of 1980 (Pub. L. 96–561) can be continued.

DATE: July 13, 1982. The meeting will reconvene at 1:00 p.m. and is scheduled to continue until not later than 5:00 p.m. The meeting will be open to interested members of the public; however, space is limited.

ADDRESS: Seattle Airport Hilton, 17620 Pacific Highway South, Seattle, Washington 98188, (206) 244–4800.

MEETING AGENDA: *Organizational Matters*—Those present will continue discussions of organizational procedures in accord with the requirements of Pub. L. 96–561 and the Federal Advisory Committee Act, including staffing needs, office and meeting location, and schedules.

Establishment of Operational Procedures—In accord with the provisions of Pub. L. 96–561, guidelines will be developed and objectives established to achieve the goals established by Pub. L. 96–561. Involved will be overall objectives and budget requirements. Other matters may be brought up during the meeting.

FOR FURTHER INFORMATION CONTACT: H. A. Larkins, Regional Director, National Marine Fisheries Service, 7600 Sand Point Way N.E., BIN C15700, Seattle, Washington, 98115; Telephone: (206) 527–6150.

Dated: July 1, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 82-18370 Filed 7-6-82; 8:45 am]

BILLING CODE 3510-22-M

Western Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Western Pacific Fishery Management Council was established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265). The Council conducted a public meeting on June 24–25, 1982, at the State Capitol, Senate Conference Room 6, Honolulu, Hawaii, inadvertently not published in the **Federal Register** due to a breakdown in communication, even though the meeting was publicized in advance in local media by the Council.

In an effort to allow the public to become aware of the topics discussed at the meeting, the Council will make detailed minutes of the public meeting available free of charge. Any item on the meeting agenda may be rescheduled at a subsequent Council meeting upon written request to the Council.

The National Marine Fisheries Service regrets that timely publication of the meeting was not provided.

FOR FURTHER INFORMATION OR A COPY OF THE MINUTES OF THE MEETING CONTACT: Western Pacific Fisheries Management Council, Room 1608, 1164 Bishop Street, Honolulu, Hawaii 96813; Telephone: (808) 523–1368.

Dated: July 1, 1982.

E. Craig Felber,

Chief, Management Services Staff, National Marine Fisheries Service.

[FR Doc. 82-18371 Filed 7-6-82; 8:45 am]

BILLING CODE 3510-22-M

Evaluation of Coastal Zone Management Programs

AGENCY: Office of Coastal Zone Management.

ACTION: Notice of availability of evaluation findings.

SUMMARY: Notice is hereby given of the availability of the evaluation findings for the Louisiana, Alabama, Rhode Island, North Carolina, and South Carolina Coastal Zone Management Programs.

Section 312 of the Coastal Zone Management Act of 1972, as amended, requires a continuing review of the performance of each coastal state with respect to the implementation of its federally approved coastal management program. The states evaluated were found to be adhering both to the programmatic items of their financial assistance awards and to their approved coastal management programs; and to be making satisfactory progress on grant tasks, special award conditions, and significant improvement tasks. Accomplishments were occurring with respect to the national coastal management objectives identified in section 303(2)(A)–(I) of the Coastal Zone Management Act.

A copy of the findings made by the Acting Assistant Administrator for Coastal Zone Management for each of these states may be obtained on request from: Harriet Knight, Chief of Program Evaluation, Office of Coastal Zone Management, Page Building 1, 3300 Whitehaven Street, NW., Washington, D.C. 20235 (telephone: 202/634–4245).

Dated: June 28, 1982.

William Matuszeski,

Acting Assistant Administrator for Coastal Zone Management.

[FR Doc. 82-18360 Filed 7-6-82; 8:45 am]

BILLING CODE 3510-08-M

DEPARTMENT OF DEFENSE

Department of the Army

Department of the Army Performance Review Boards

ACTION: Notice.

SUMMARY: Notice is hereby given of the name of additional members of the DARCOM and Office of the Chief of Staff Performance Review Boards for the Department of Army for 1982.

EFFECTIVE DATE: June 29, 1982.

FOR FURTHER INFORMATION CONTACT:
Carol D. Smith, Senior Executive Service Office, Directorate of Civilian Personnel, Headquarters, Department of the Army, the Pentagon, Washington, DC 20310, (202) 697-2204.

SUPPLEMENTARY INFORMATION: Section 4314(c) (1) through (5) of Title 5 U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards. The boards shall review and evalute the initial appraisal of senior executive's performance by the supervisor and make recommendations to the appointing authority or rating official relative to the performance of the senior executives. Each board's review and recommendation will include only those senior executive's appraisals from their respective commands or activities. A consolidated board has been established for those commands who do not have enough senior executives to warrant the establishment of separate boards. Publication of this notice corrects the notice published in 47 CFR Part 120, dated June 22, 1982, page 26884, to account for additions and deletions to the membership of those boards previously published.

The additional member of the Performance Review Board for the U.S. Army Materiel Development and Readiness Command is:

Ms. Marie B. Acton, HQ U.S. Army Materiel Development and Readiness Command.

The additional members of the Performance Review Board for the Office of the Chief of Staff, Army are:

1. Mr. Cecil D. Richardson, Director, Systems Technology Project Office, Ballistic Missile Defense Advance Technology Center.

2. Dr. James R. Fisher, Director, Technical Analysis Directorate, Ballistic Missile Defense Advance Technology Center.

John O. Roach, II,
Army Liaison Officer with the Federal Register.

[FR Doc. 82-18329 Filed 7-6-82; 8:45 am]
BILLING CODE 3710-08-M

Corps of Engineers; Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Local Flood Protection Project Located at Reno Beach-Howard Farms, Lucas County, Ohio

AGENCY: U.S. Army Engineer District, Buffalo, DOD.

ACTION: Notice of intent to prepare a draft environmental impact statement (DEIS).

Proposed Action: The proposed action would involve measures ot provide flood protection and/or alleviate flood damages at Reno Beach-Howard Farms.

Alternatives Considered: Four reasonable alternatives have been developed for evaluation. These four are:

1. Plan A—The Authorized Project—This plan consists primarly of construction of two lakefront dikes faced with quarry-run stone fill aggregative 8,200 feet in lenght and a 230-foot long steel sheet pile floodwall at Wards Canal.

2. Plan B—Rebuilding the Present Dike—This plan involves rebuilding of the existing lakesshore dike to provide a permanent project. Different states of deterioration would require different levels of work to provide a permanent level of protection. These five levels of work are:

a. No work required (2,240 feet);

b. Construct berm at the base of the structure to provide toe protection (950 feet).

c. Construct a berm at the toe and rework the oversteep upper face of the structure to provide the design slope (4,100 feet);

d. Drive steel sheet pile toe protection and rework the oversteep face of the structure (200 feet); and

e. Reconstruct the structure. This work would involve removing all the stone to the core, using largest stones for toe protection, regrading core, placing new filter cloth, importing and placing underlayer, and replacing armor stone (7,910 feet).

3. Plan C—Permanent Evacuation and Relocation—Under this plan, approximately 511 homes would be purchased at fair market value and their residents relocated from the area. Residents would be compensated for their moving and relocation expenses. After the area is evacuated, the homes and other structures would be removed either by demolition or physical relocation.

4. Plan D—No Action—This plan would mean no Federal involvement in flood protection of Reno Beach-Howard Farms. Basically, this would involve continued maintenance of the existing structure by local interests.

Scoping Process: Prior to the completion of the DEIS, a public meeting will be held to identify the views of all public concerns regarding the alternatives presented and suggestions for others. Other meetings and/or workshops may be held throughout the final planning process as the need arises. Participation of affected Federal, state and local agencies and other interested private organizations and parties are invited.

Significant issues to be analyzed in the DEIS will include a determination of the extent, in degree and kind, to which the alternatives might positively or negatively impact upon the human and natural environments. Specifically these issues include possible wetland reestablishment, benthic habitat enhancement, water quality improvement, prime farmland protection, health and safety and community cohesion protection, and possible floodplain development inducement. The financial capabilities of the local cooperator(s) will also be analyzed.

Scoping Meeting: No scoping meeting is currently scheduled.

Availability: This Draft Environmental Impact Statement will be made available to the public on or about 30 April 1983.

Address: Questions about the proposed action and DEIS can be answered by William E. Bulter, U.S. Army Engineer District, Buffalo, 1776 Niagara Street, Buffalo, NY 14207; Phone 716/876-5454.

Dated: June 29, 1982.

George P. Johnson,
Colonel, Corps of Engineers, District Engineer.

[FR Doc. 82-18342 Filed 7-6-82; 8:45 am]
BILLING CODE 3710-GP-M

DEPARTMENT OF EDUCATION

National Advisory Council on Indian Education; Cancellation of Meeting

AGENCY: National Advisory Council on Indian Education, Education.

ACTION: Cancellation of meeting.

SUMMARY: Notice is hereby given of the cancellation of the Legislative, Rules and Regulations Committee and Executive Committee meeting of the National Advisory Council on Indian

Education, July 6–8, 1982, in Tempe, Arizona, as published in the Federal Register on June 15, 1982, Volume 47, No. 115, Page 25761.

Signed at Washington, D.C., this 30th day of June 1982.

Michael P. Doss,

Executive Director, National Advisory Council on Indian Education.

[FR Doc. 82-16361 Filed 7-6-82; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 4800-000]

City of Bountiful, Utah; Application for Major License Under 5 MW

June 24, 1982.

Take notice that City of Bountiful, Utah (Applicant) filed on February 8, 1982, an application for license (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for construction and operation of a water power project to be known as the Moon Lake hydro project No. 4800. The project would be located on the Lake Fork River in Duchesne County, Utah. Correspondence with the Applicant should be directed to: W. Berry Hutchings, Manager, City of Bountiful Light and Power, 198 South 200 West, Bountiful, Utah 84010.

Project Description—The proposed project would utilize the existing Bureau of Reclamation's Moon Lake Dam and Reservoir, operated and maintained by the Moon Lake Water Users Association, and would consist of: (1) Two steel penstocks, one 48-inch in diameter and 7,500 feet long (no. 1), and the other 24-inch in diameter and 300 feet long (no. 2)—both utilizing the existing outlet works near the left dam abutment, with no. 1 leading to (2) a lower powerhouse containing a turbine-generator unit having a rated capacity of 4,250 kW, and with no. 2 leading to (3) an upper powerhouse containing a turbine-generator unit having a rated capacity of 475 kW; (4) two tailraces; (5) 12.5 kV transmission lines and interconnection to an existing 69 kV transmission system; and (6) appurtenant facilities. The total capacity of the two powerplants would be 4,725 kW. A new Bureau of Reclamation project, Taskeech Dam and Reservoir located four miles downstream, is expected to be completed in 1988. The lower powerplant would be constructed before Taskeech is completed and the upper powerplant afterwards. The Applicant estimates that the average annual energy output before Taskeech would be 12,293,000 kWh and that an additional output of 2,479,000 kWh would make the total 14,722,000 kWh after Taskeech is completed. Project energy would be utilized by the City of Bountiful through transmission agreements with the Moon Lake Electric Association.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Evironmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to Western Hydro Electric Incorporated's application for Project No. 5245 filed on August 18, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notice of intent. In accordance with the Commission's regulations, no competing applications for licenses or exemptions, or notices of intent to file competing applications, will be accepted for filing in response to this notice. (See: 18 CFR 4.30 et. seq. or 4.101 et seq (1981), as appropriate.)

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules and Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 30, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any petition to entervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18380 Filed 7-6-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-374-000]

Cities Service Gas Co.; Application

July 1, 1982.

Take notice that on June 14, 1982, Cities Service Gas Company (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP82-374-000 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities and for permission and approval to abandon certain facilities on its transmission system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to tap its 16-inch pipeline located on the Fort Leavenworth Military Reservation in Leavenworth County, Kansas, and construct 0.05 mile of 6-inch pipeline and install new measuring, regulating and appurtenant facilities to deliver natural gas to the Federal Penitentiary at Forth Leavenworth and to abandon approximately 0.55 mile of 6-inch pipeline and reclaim the existing measuring, regulating and appurtenant facilities. Applicant also proposes to abandon by sale to the U.S. Department of Justice approximately 0.19 mile of 6-inch pipeline and appurtenant facilities on the penitentiary grounds.

It is asserted that the total cost of the facilities to be installed would be $41,990 which would be financed from treasury cash.

It is asserted that the proposed abandonment of the facilities would not result in any abandonment of gas service to any existing customers.

Applicant asserts that the facilities it proposes to replace were originally

installed in 1939 and are badly deteriorated or are more appropriately a part of the prior distribution system.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 23, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18301 Filed 7-6-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-435-000]

Central Louisiana Electric Co.; Order Accepting for Filing and Suspending Proposed and Alternative Rates, Granting Interventions, and Initiating Hearing Procedures

Issued: June 30, 1982.

On April 2, 1982, as modified by letter of May 25, 1982, Central Louisiana Electric Company, Inc. (CLECO) tendered, under section 35.12 of the regulations, an executed agreement for transmission service from a new coal-fired generating unit; Rodemacher Unit No. 2, to Lafayette Public Power Authority (LPPA).[1] In the alternative, CLECO has submitted for filing three separate, unexecuted agreements, all of which are currently under negotiation, for transmission service from Rodemacher Unit No. 2 to LPPA, the City of Lafayette, Louisiana (Lafayette), and the Louisiana Electric and Power Authority (LEPA).[2] The proposed filing provides for a monthly charge of $0.987/kW and the alternative proposed monthly rate for transmission service to Lafayette and LEPA would be $0.814/kW of contract demand and 2 mills/kWh for wheeling energy in excess of contract demand. The effective date for service under either the proposed filing or the alternative filings is July 1, 1982, to coincide with the scheduled commercial operation date of Rodemacher Unit No. 2.[3]

Notice of the filing was issued on April 12, 1982, with responses due on or before April 27, 1982. On April 27, 1982, LEPA filed a protest and petition to intervene. LEPA argues that the filed rates constitute a change in rates under the Commission's regulations. LEPA objects to the proposed rates, terms, and conditions for transmission service to LEPA, alleging that they are unjust and unreasonable. In particular, LEPA challenges the interruptible, non-firm nature of the transmission service, contending that it plans to use its Rodemacher entitlement for baseload purposes and that the terms of service will restrict its ability to market power. In addition, LEPA objects to the proposed transmission rates noting that the same rates are being offered to Lafayette although service to Lafayette would be accorded priority over service to LEPA. LEPA asks that the proposed rates, terms, and conditions for transmission service to LEPA be suspended for a nominal period.

On April 27, 1982, Lafayette filed a request, which CLECO indicated it would not oppose, for a one day extension of time in which to respond so as to more adequately reflect the status of ongoing negotiations. On April 28, 1982, Lafayette filed a protest and petition to intervene. Lafayette likewise argues that the filed rates represent a change in rates under the Commission's regulations, seeks a deficiency letter requiring additional cost support information, and notes that the proposed rates, terms, and conditions for transmission service to Lafayette may be unjust and unreasonable. In order to make the proposed services available by the commercial operation date, Lafayette also seeks a nominal suspension.

On May 13, 1982, CLECO filed a response denying the various allegations made by LEPA and Lafayette and contending that the instant submittals constitute an initial rate. On June 18, 1982, Lafayette filed a response to CLECO's last submittal. Lafayette argues that the filed rates constitute a change in rates and that the proposed filing is deficient. Lafayette further argues that only the alternative filings may be made effective and that the secondary energy charge found in the alternative filings should be rejected.

Discussion

In view of Lafayette's direct interest in this proceeding as well as the facts that a timely request for extension was submitted, that Lafayette's pleading was only one day out of time and will not delay the proceeding, and that no objection to intervention has been expressed, the Commission finds that good cause exists for late intervention by Lafayette. We further find that participation in this proceeding by both intervenors is in the public interest. Therefore, the Commission will grant Lafayette's request for a one day extension of time and will grant the petitions to intervene.

Given the nature of the service proposed in CLECO's submittals, we find that the filing substantially complies with the appropriate Commission filing requirements. Thus, the request that the filing be found deficient will be denied.[4]

Although CLECO's submittals were filed pursuant to § 35.12 of our regulations, we believe that they constitute a change in rates pursuant to § 35.13 of the regulations. *See* 18 CFR 35.1 (1981). CLECO currently provides interchange service, including wheeling service, emergency energy, and

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[1] Rodemacher Unit No. 2 was jointly constructed and is jointly owned by CLECO and LPPA. LPPA's share of the power and energy generated will be transmitted by CLECO to LPPA pursuant to the rates set out in this filing (hereinafter referred to as the "proposed filing").

[2] The unexecuted agreement with LPPA is an amendment to the proposed filing and covers that portion of the entitlement to Rodemacher Unit No. 2 intended for local use. The unexecuted agreement with Lafayette covers that portion of the entitlement to be marketed to others. The unexecuted agreements with both Lafayette and LEPA, contemplate the sale of part of CLECO's interest in Rodemacher Unit No. 2.

[3] *See* Attachment A for rate schedule designations.

[4] *See Municipal Light Boards of Reading and Wakefield, Massachusetts* v. *FPC*, 450 F.2d 1341 (D.C. Cir. 1971).

economy energy, to Lafayette. CLECO also currently provides interchange service, including emergency energy, reserve capacity, and accommodation energy, to certain of the municipalities which comprise LEPA. While transmission will be provided nominally on behalf of LEPA as a municipal bulk power supply agency, the ultimate beneficiaries will remain the same and CLECO's current filing therefore represents a change in rate and service.[5]

We believe that the remaining matters raised by the intervenors present questions most appropriately resolved on the basis of an evidentiary hearing. In view of these matters, we find that both CLECO's proposed filing and its alternative filings have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept them for filing and suspend them as ordered below.

We recently addressed the considerations underlying the Commission's policy regarding rate suspensions in *West Texas Utilities Company*, Docket No. ER82-23-000 (February 26, 1982). As explained there, where our preliminary examination indicates that proposed rates may be unjust and unreasonable, but may not be substantially excessive, as described in *West Texas*, we shall impose a nominal suspension. Here, our preliminary review suggests that the rates proposed by CLECO may not produce excessive revenues. Moreover, both LEPA and Lafayette seek only a nominal suspension. Accordingly, we shall suspend the proposed agreements to become effective, subject to refund, on July 1, 1982, or such later date as service is commenced under the specific agreements.

The Commission orders:

(A) Lafayette's request for the issuance of a deficiency letter is hereby denied.

(B) CLECO's submittal is hereby accepted for filing, and is suspended to become effective, subject to refund, on July 1, 1982, or such later date as service is commenced under the specific proposed agreements.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of CLECO's rates, terms, and conditions of service.

(D) Lafayette's request for a one-day extension of time in which to intervene is hereby granted.

(E) The petitions to intervene in this proceeding are hereby granted subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act; *Provided, however,* that participation by such intervenors shall be limited to the matters set forth in their petitions to intervene; and *provided, further,* that the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order of the Commission in this proceeding.

(F) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conferene in this proceeding to be held within approximately fifteen (15) days of the issuance of this order, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Such conference shall be held for purposes of establishing a procedural schedule. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(G) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment A

Central Louisiana Electric Co., Inc., Rate Schedule Designations

Docket No. ER82-435-000

Designation and Description

(1) Rate Schedule FERC No. 45
Rodemacher Unit No. 2—Transmission Service Agreement (Exhibit V)
(2) Supplement No. 1 to Rate Schedule FERC No. 45
Rate Schedule LPPA-CLECO
(3) Rate Schedule FERC No. 46 (Supersedes Rate Schedule FERC No. 45, as supplemented)
Rodemacher Unit No. 2—Amended Transmission Service Agreement (Exhibit V-A)
(4) Supplement No. 1 to Rate Schedule FERC No. 46
Rate Schedule LPPA—CLECO
(5) Rate Schedule FERC No. 47
Rodemacher Unit No. 2—Lafayette Transmission Service Agreement (Attachment E)
(6) Supplement No. 1 to Rate Schedule FERC No. 47
Rate Schedule Lafayette—CLECO
(7) Rate Schedule FERC No. 48
Rodemacher Unit No. 2—LEPA Transmission Service Agreement (Exhibit V-B)
(8) Supplement No. 1 to Rate Schedule FERC No. 48
Rate Schedule LEPA—CLECO

[FR Doc. 82-18302 Filed 7-6-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ES82-61-000]

El Paso Electric Co.; Application

July 1, 1982.

Take notice that on June 28, 1982, El Paso Electric Company (Applicant) filed an application with the Federal Energy Regulatory Commission (Commission) seeking authority pursuant to Section 204 of the Federal Power Act to issue and sell in a private placement to institutional lenders up to $75 million principal amount of five-year floating rate notes and to issue up to a like principal amount of second mortgage bonds to secure the notes.

Any persons desiring to be heard or to make any protest with reference to said application should, on or before July 13, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18303 Filed 7-6-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 6115-000]

Hydro Development Group, Inc.; Application for License (Over 5 MW)

June 24, 1982.

Take notice that the Hydro Development Group, Incorporated (Applicant) filed on March 22, 1982, and application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for construction and operation of a water power project to be known as the Pyrites Project No. 6115. The project would be located on the Grass River in St. Lawrence County, New York. Correspondence with the Applicant should be directed to: Mark E. Quallen,

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[5] *See Florida Power & Light Co. v. FERC*, 617 F.2d 309 (D.C. Cir. 1980); *Central Illinois Public Service Co.*, Docket No. ER81-736-000 (December 28, 1981); *Puget Sound Power & Light Co.*, Docket Nos. ER81-778-000, *et al.* (November 24, 1981).

Vice President, Box 58, Dexter, New York 13634.

Project Description—The proposed project would consist of: (1) Two slab and buttress dams connected by an island, one an overflow dam 150 feet long and 12 feet high with 1.5-foot-flashboards, and the other a non-overflow dam 208 feet long which includes a 50-foot intake structure; (2) an existing 700-foot-long, 12-foot-wide oval penstock and a new 10-foot-diameter, 2, 160-foot-long penstock; (3) an existing powerhouse measuring 21 by 31 feet located 700 feet downstream of the intake dam containing one 1,200-kW turbine/generator unit operating under a head of 76 feet and a new 38- by 67-foot powerhouse located 1,200 feet downstream of the existing tailrace containing two 3,000-kW turbine/generator units operating under a head of 115 feet; (4) a surge tank 36 feet in diameter and 85 feet high for the new penstock; (5) a new 54- by 146-foot 115/23-kV switchyard; (6) a new substation for use by both powerhouses; (7) a new 23-kV, 700-foot-long transmission line between the new powerhouse and the new switchyard and an existing 23-kV line approximately 1,500 feet long; and (8) appurtenant facilities.

Purpose of Project—The entire average annual generation of 30,487,000 kWh would be sold to the Niagara Mohawk Power Company.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before September 3, 1982, either the competing application itself (see 18 CFR 4.33 (a) and (d)) or a notice of intent (See 18 CFR 4.33 (b) and (c)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in 4.33(c) or 4.101 et. seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules and Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 3, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18304 Filed 7-6-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RO82-65-000]

NFC Petroleum Corp.; Requiring Supplemental Filing and Granting Extension of Time

June 30, 1982.

On May 12, 1982, the Department of Energy (DOE) filed a notice of NFC Petroleum Corporation's (NFC) intent to appeal a remedial order. On June 1, 1982, NFC filed an answer and request for stay of proceedings. Subsequently DOE filed a motion seeking clarification of NFC's answer and an extension of time for filing its brief in support of the remedial order.

As noted by DOE, NFC is unclear in its answer as to which findings and conclusions of the remedial order NFC intends to appeal to the Commission. The remedial order rules on two issues on the merits: Whether injection wells are included in well count and what constitutes the property for purposes of calculating maximum lawful prices for crude oil produced by NFC. Based on its rulings on these issues, the order concludes NFC overcharged for crude oil and should refund $153,390.95 plus interest. The order also increased the interest rates on the alleged overcharges and changed the disposition of refunds. In the first paragraph of its answer NFC generally denies each and every allegation contained in the remedial order. But then in the second paragraph NFC contends that the other injection well issue is "the only substantial issue remaining in this case (other than the modification of interest rate issue* * *)."[1] NFC notes that the stripper well issue is now before the Temporary Emergency Court of Appeals.[2] NFC requests that the Commission proceeding be stayed pending a decision by the court.[3]

However, the Commission cannot rule on NFC's request for a stay until NFC clarifies its position. Is NFC appealing only that portion of the alleged overcharges attributable to DOE's holding on the stripper well issue now being litigated before the Temporary Emergency Court of Appeals? If so, what portion of the alleged overcharges is uncontested and why should the Commission stay the uncontested portion? Or is NFC also appealing the DOE holdings on the property issue, increased interest rates and the disposition of refunds? If NFC is appealing the increased interest rates and disposition of refunds, were these issues raised in the prior DOE proceedings? Or is NFC seeking to raise new issues and does it meet the requirements of § 1.38(g)(1) of the Commission's rules?[4] In short, NFC must state clearly which findings of the remedial order it admits and which it denies and whether and on what basis it seeks to raise any new issues.

By July 12, 1982, NFC's attorney shall file a statement responding in detail to the inquiries in this notice, describing exactly which DOE findings and what portion of the $153,390.95 in alleged overcharges NFC is appealing, and explaining what part of the appeal it wishes to stay and the grounds for a stay. For purposes of making filings which under § 1.38(f)(1) are scheduled based on the filing of NFC's answer, DOE shall treat the filing date of the above required statement as the filing date of the answer.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18305 Filed 7-6-82; 8:45 am]
BILLING CODE 6717-01-M

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[1] Answer of NFC Corporation and Request for Stay of Proceedings at 1 (filed June 1, 1982).

[2] See *In Re The Department of Energy Stripper Well Exemption Litigation*, 520 F. Supp. 1232 (D. Kan. 1981).

[3] NFC also notes that the interest issue in other Commission cases has been stayed pending issuance by DOE of an order on remand in *Twin Montana, Inc.*, Docket No. RO80-7-000. On June 4, 1982 DOE issued the order on remand. *Twin Montana, Inc.*, Case No. HCX-0004 (June 4, 1982).

[4] 18 CFR 1.38(g)(1).

[Docket No. CP81-302-002]

Natural Gas Pipeline Co. of America; Amendment

June 30, 1982.

Take notice that on June 16, 1982,[1] Natural Gas Pipeline Company of America, 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP81-302-002 an amendment to its petition to amend filed May 28, 1982, pursuant to Section 7(c) of the Natural Gas Act so as to authorize the construction and operation of a tap, meter station, and appurtenant facilities in Vermilion Parish, Louisiana, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

It is stated that by order issued August 12, 1981, Petitioner was authorized to transport natural gas for a direct sale thereof to Dow Chemical Company (Dow). It is further asserted that in its petition to amend filed May 28, 1982, Petitioner proposed a second route of deliveries of the gas to DOW involving only Dow Interstate Gas Company (DIG).

Petitioner states that the purpose of this amendment is to request authorization for the facilities needed to effect the proposed interconnection with DIG. Petitioner, therefore, proposes to construct and operate a tap, a meter station, and appurtenant facilities in Vermilion Parish, Louisiana.

It is stated that the total cost of the proposed facilities would be approximately $472,000 for which Dow would reimburse Petitioner.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before July 8, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-18606 Filed 7-6-82; 8:45 am]
BILLING CODE 6717-01-M

[1] The amendment was initially tendered for filing on June 16, 1982; however, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until June 17, 1982; thus, filing was not completed until the latter date.

[Project No. 3173-001]

Public Utility District No. 1 of Grays Harbor County; Surrender of Preliminary Permit

July 1, 1982.

Take notice that Public Utility District No. 1 of Grays Harbor County, Washington, Permittee for the proposed Wynoochee Dam Hydroelectric Project No. 3173, has requested that its preliminary permit be terminated. The preliminary permit was issued on April 20, 1981, and would have expired March 31, 1983. The project would have been located at the U.S. Army Corps of Engineers' Wynoochee Dam on the Wynoochee River in Grays Harbor County, Washington. The Permittee expressed its inability to proceed with the feasibility studies required under the preliminary permit.

The Permittee filed its request on June 14, 1982, and the surrender of the preliminary permit for Project No. 3173 is deemed effective as the date of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-18597 Filed 7-6-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 6151-000]

Rainsong Co.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

June 24, 1982.

Take notice that on April 1, 1982, Rainsong Company (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 6151) would be located on Cabin Creek, tributary of the Hamma Hamma River, in Mason and Jefferson Counties, Washington. Correspondence with the Applicant should be directed to: Mr. Jerry L. Johnson, Agent, Post Office Box 485, Lynden, Washington 98264.

Project Description—The proposed project would consist of: (1) A 60-foot-long, 6-foot-high diversion structure; (2) a 7,000-foot-long, 30-inch-diameter pipeline/penstock; (3) a powerhouse containing one pelton-type generating unit with a rated capacity of 2.8 MW; and (4) a 20,000-foot-long, 55-kV transmission line from the powerhouse to an existing 230-kV Bonneville Power Administration transmission line, or a 5.5-mile-long, 12-kV transmission line to intertie into the existing Mason County Public Utility District No. 1 transmission line. The Applicant estimates that the average annual energy production would be approximately 17 GWh. The project is located entirely within the Olympic National Forest.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, the State of Washington Department of Fisheries and State of Washington Department of Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none.

Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before August 16, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested

person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 16, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18398 Filed 7-6-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5991-001]

Serena Falls School and Gordon Foster; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

July 1, 1982.

Take notice that on May 13, 1982, Serena Falls School and Gordon Foster (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 as amended), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 5991-001) would be located on Deep Creek, near Northport in Stevens County, Washington. Correspondence with the Applicant should be directed to: Mr. Gordon Foster, Box 92, Northport, Washington 99157.

Project Description—The proposed project would consist of: (1) a 4-foot-high, 45 foot-long diversion structure; (2) a 95-foot-long, 42-inch-diameter penstock; (3) a powerhouse containing two generating units with total installed capacity of 270 kW and (4) a 1000-foot-long, 52-kV transmission line from the powerhouse to an existing Washington Water Power Company transmission line. The Applicant estimates that the average annual energy production would be 0.54 million kWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the Washington Department of Fisheries and Department of Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before August 30, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules and Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 30, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18399 Filed 7-6-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6359-000]

Southern California Edison Co.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

June 24, 1982.

Take notice that on May 21, 1982, Southern California Edison Company (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 as amended), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric Project No. 6359 would be located on Jose and Mill Creeks, near Shaver Lake, in Fresno County, California, and would occupy U.S. lands in Sierra National Forest. Correspondence with the Applicant should be directed to: John R. Bury, Vice President and General Counsel, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770.

Project Description—The proposed project would consist of: (1) A 6-foot-high diversion structure on Jose Creek; (2) a reinforced concrete flume to; (3) the 6-foot-high Mill Creek diversion structure; (4) an 8,800-foot-long, trapezoidal cross-section concrete flume; (5) a sandbox and forebay; (6) a 3,400-foot-long, 32-inch-diameter steel penstock; (7) a concrete powerhouse containing two generating units, one rated at 1,250 kW and one rated at 3,750 kW; and appurtenant facilities. The average annual energy generation is estimated to be 12.8 million kWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the California Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—This application was filed as a competing application to West Slope Power Company's application for Project No. 5864 filed on January 8, 1982. Public notice of the filing of the initial exemption application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no further competing applications for preliminary permit, exemption, or license, or notices of intent to file an application for preliminary permit, exemption, or license will be accepted for filing in response to this notice.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules and Practice of Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 16, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18400 Filed 7-6-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6208-000]

Trout-Co, Inc.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

July 1, 1982.

Take notice that on April 19, 1982, Trout-Co., Inc. (Applicant filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 as amended), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 6208) would be located on Billingsley Creek, near Hagerman, in Gooding County, Idaho. Correspondence with the Applicant should be directed to: Mrs. Helen Chenoweth, Vice President, Consulting Associates, Inc., P.O. Box 893, Boise, Idaho 83701.

Project Description—The proposed project would consist of: (1) An existing 6-foot-high diversion structure; (2) a 48-inch-diameter, 35-foot-long steel penstock; (3) a powerhouse with a total installed capacity of 140 kW; and (4) a 1,000-foot-long, 34.5-kV transmission line. The Applicant estimates that the average annual energy output would be 1.15 million kWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects and the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Idaho Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly indentified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none.

Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before August 30, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protest, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protest, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 30, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent,competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18401 Filed 7-6-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES82-63-000]

Upper Peninsula Generating Co.; Application

July 1, 1982.

Take notice that on June 22, 1982, Upper Peninsula Generating Company (Applicant) filed an application with the Federal Energy Regulatory Commission seeking authority, pursuant to Section 204(a) of the Federal Power Act, to issue not more than $55,000,000 of short-term notes, with a final maturity date not later than July 1, 1985.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 21, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18402 Filed 7-6-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5341-001]

Western Power Inc.; Application for Exemption for Small Hydroelectric Power Project Under 5 Mw Capacity

July 1, 1982.

Take notice that on April 15, 1982, Western Power Incorporated (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 5341) would be located on Silver Creek, within the Mt. Baker/Snoqualmie National Forest, near the City of Index, in Snohomish County, Washington. Correspondence with the Applicant should be directed to: Mr. Thomas R. Childs, Western Power Incorporated, P.O. Box 2217, Bellingham, Washington 98227.

Project Description—The project would consist of: (1) A 6-foot-high, 30-foot-long diversion structure; (2) a 8,700-foot-long, 60-inch-diameter low pressure conduit; (3) a 700-foot-long, 54-inch-diameter penstock; (4) a powerhouse containing two generating units with a total installed capacity of 5.0 Mw; (5) a 50-foot-long tailrace from the powerhouse into Silver Creek; and (6) a 3,960-foot-long, 69-kV transmission line from the powerhouse to the proposed Storm Ridge Project transmission line. The Applicant estimates that the average annual energy production would be 19.58 million kWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Washington Department of Fisheries and Department of Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before August 23, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license

application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 23, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18408 Filed 7-6-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6271-000]

White Water Ranch; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

June 24, 1982.

Take notice that on April 29, 1982, White Water Ranch (Applicant) filed an application under section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 as amended), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 6271) would be located on Stoddard Creek and an unnamed spring in Gooding County, Idaho. Correspondence with the Applicant should be directed to: Mr. Dale Hatch, P.O. Box 1071, Twin Falls, Idaho 83301.

Project Description—The proposed project would be located on the Applicant's trout hatchery and would consist of three developments. Development A consisting of: (1) An existing 5-foot-high diversion structure on Stoddard Creek; a 250-foot-long, 20-inch diameter penstock; (3) a powerhouse containing a single generating unit with a rated capacity of 55 kW. Development B comprising: (1) A 280-foot-long, 22-inch-diameter penstock connecting settling pond #2 with; (2) a powerhouse containing a single generating unit with a rated capacity of 30 kW. Development C comprising: (1) A 22-inch-diameter, 440-foot-long penstock connecting settling pond #4 with; (2) a powerhouse, containing a single generating unit with a rated capacity of 100 kW that would be located above the A. J. Wiley Project No. 2845 reservoir boundary on the Snake River.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Idaho Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none.

Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before August 16, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 16, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must

also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18404 Filed 7-6-82; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PP 1G2485/T375; PH-FRL 2159-6]

Extension of Exemptions From Requirement of Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has extended the exemptions from the requirement of tolerances for residues of the virus codling moth granulosis when used as a virus on apples, pears and walnuts.

DATE: These temporary exemptions from the requirement of tolerances expire May 5, 1984.

FOR FURTHER INFORMATION CONTACT: Franklin Gee, Product Manager (PM) 17, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 207, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2690).

SUPPLEMENTARY INFORMATION: EPA issued a notice that was published in the **Federal Register** of July 21, 1981 (46 FR 37560) that temporary exemption from the requirement of tolerances were established for residues of the virus codling moth granulosis when used as a virus on applies, pears and walnuts. These exemptions from the requirement of tolerances were extended in response to pesticide petition PP 1G2485, submitted by Sandoz, Inc., Crop Protection, 480 Camino Del Rio South, Suite 204, San Diego, CA 92108.

The company requested an extension of the temporary tolerances to permit the continued marketing of the above raw agricultural commodities when treated in accordance with the provisions of experimental use permit 11273-EUP-23 which is being extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other relevant material were evaluated, and it was determined that the exemptions from the requirement of tolerances will protect the public health. Therefore, the temporary exemptions from the requirement of tolerances have been extended on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Sandoz, Inc. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary exemptions from the requirement of tolerances expire May 15, 1984. Residues remaining in or on the above raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary exemptions from the requirement of tolerances. These temporary exemptions from the requirement of tolerances may be revoked if the experimental use permit is revoked or if any experience or scientific date with this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516 (21 U.S.C. 346a(j)))

Dated: June 22, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-17756 Filed 7-6-82; 8:45 am]

BILLING CODE 6560-50-M

[PF-275; PH-FRL 2159-4]

Shell Oil Co.; Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Shell Oil Co. proposes amending three pesticide petitions by revising tolerances levels and establishing tolerances for certain commodities for residues of the insecticide cyano (3-phenoxyphenyl) methyl-4-chloro-alpha-(1-methylethyl) benzeneacetate.

ADDRESS: Written comments to: Franklin D. R. Gee, Product Manager (PM) 17, Registration Division, Office of Pesticide Programs (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20464.

Written comments may be submitted while the petitions are pending before the Agency. The comments are to be identified by the document control number "[PF-275]" and the specific petition number. All written comments filed in response to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: PM 17, Franklin D. R. Gee, (703-557-2690).

SUPPLEMENTARY INFORMATION: Shell Oil Co., Suite 200, 1025 Connecticut Avenue, NW., Washington, D.C. 20036, submitted the following pesticide petitions (PP) proposing to amend 40 CFR 180.379 by establishing tolerances for residues of the insecticide cyano (3-phenoxyphenyl) methyl-4-chloroalpha-(1methylethyl) benenecetate in or on certain raw commodities.

PP 1F2430. In the **Federal Register** of December 23, 1980 (45 FR 84849), EPA announced that Shell Oil Co., had submitted PP 1F2430 proposing to amend 40 CFR 180.379 by establishing tolerances for residues of the insecticide cyano (3-phenoxyphenyl) methyl-4-chloro-alpha-(1-methylethyl) benzeneacetate in or on the raw commodities sweet corn kernels and cobs at 0.1 part per million (ppm). Shell Oil Co. has amended this petition by establishing tolerances in or on corn fodder and forage at 50.0 ppm; milk fat at 7.0 ppm; milk at 0.3 ppm; fat, meat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 1.5 ppm. The proposed analytical method for determining residues in gas chromatography.

PP 2F2599. In the **Federal Register** January 13, 1982, (47 FR 1406), EPA announced that Shell Oil Co. had submitted PP 2F2599 proposing to amend 40 CFR 180.379 by establishing a tolerance for the above insecticide in or on the commodity head lettuce at 10.0 ppm. Shell has amended the petition by increasing the tolerance level to 15 ppm. The analytical method for determining residues is gas chromatography.

PP 2F2587. In the **Federal Register** of December 16, 1981 (46 FR 61330), EPA announced that Shell Oil Co. had submitted PP 2F2587 proposing to amend 40 CFR 180.379 by establishing tolerances for residues of the above insecticide in or on the raw agricultural commodity peaches at 4.0 ppm. Shell has amended the petition by increasing the tolerance level to 10.0 ppm. The analytical method for determining residues is gas chromatography.

(Sec. 408(d)(1), 68 Stat. 512, (7 U.S.C. 136))

Dated: June 22, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-17620 Filed 7-6-82; 8:45 am]

BILLING CODE 6560-50-M

[OPP-C30206A; PH-FRL 2159-5]

Tuco Products Co.; Approval of Application To Conditionally Register a Pesticide Product Containing a New Active Ingredient

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has conditionally approved the application by Tuco Products Co. to register the herbicide Collego containing an active ingredient not included in any previously registered pesticide product pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: Richard Mountfort, Product Manager (PM) 23, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, CM#2, Rm. 237, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1830).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of November 4, 1981 (46 FR 54795) that Tuco Products Co., Div. of Upjohn Co., 7171 Portage Rd., Kalamazoo, MI 49001, had submitted an application to register the herbicide Collego containing 15 percent of the active ingredient *colletotrichum gloesporioides* f. sp. *aeschynomene* an ingredient not included in any previously registered product.

The application was approved on June 3, 1982 for general use in pesticide formulation. The product was assigned EPA registration No. 1023-63.

A copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the product manager. The data and other scientific information used to support registration, except for the material specifically protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (92 Stat. 819; 7 U.S.C. 136), will be available for public inspection in accordance with section 3(c)(2) of FIFRA within 30 days after registration date. Requests for data must be made in accordance with the provisions of the Freedom of information Act, and must be addressed to the Freedom of Information Office (A-101), EPA, 401 M St., SW., Washington, DC 20460. Such requests should: (1) identify the product name and registration number and (2) specify the data or information desired.

(Sec. 3(c)(2) FIFRA, as amended).

Dated: June 22, 1982.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

[FR Doc. 82-17622 Filed 7-6-82; 8:45 am]

BILLING CODE 6560-50-M

[PP 1G2532/T382; PH-FRL 2163-1]

Metalaxyl; Establishment of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established temporary tolerances for residues of the fungicide metalaxyl and its metabolites in or on certain raw agricultural commodities. These temporary tolerances were requested by Ciba-Geigy Corporation.

DATE: These temporary tolerances expire January 1, 1984.

FOR FURTHER INFORMATION CONTACT: Henry Jacoby, Product Manager (PM) 21, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 227, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1900).

SUPPLEMENTARY INFORMATION: Ciba-Geigy Corporation, P.O. Box 11422, Greensboro, NC 27409, has requested, in pesticide petition PP 1G2532, the establishment of temporary tolerances for residues of the fungicide metalaxyl [N-(2,6-dimethylphenyl)-*N*-(methoxyacetyl) alanine methylester] and its metabolites containing the 2,6-dimethylaniline moiety, each expressed as metalaxyl, in or on the raw agricultural commodities milk at 0.02 part per million (ppm); eggs, meat, fat and meat byproducts (excluding liver and kidney) of cattle, goats, hogs, horses, poultry and sheep at 0.05 ppm; liver of cattle, goats, hogs, horses, poultry and sheep at 0.3 ppm; cucumbers, melons, soybean grain at 0.5 ppm; broccoli, cabbage, cauliflower, dry bulb onions, tomatoes, kidney of cattle, goats, hogs, horses, poultry and sheep at 1.0 ppm; green onions and lettuce (head) at 5.0 ppm; soybean forage and fodder at 7.0 ppm, and spinach at 10.0 ppm. A related document establishing a feed additive regulation permitting residues of metalaxyl and its metabolites containing the 2,6-dimethylaniline moiety in tomato pomace (dry) at 20.0 ppm; in tomato pomace (wet) at 5.0 ppm, and in soybean hulls, meal and soap stock at 1.0 ppm has been published (47 FR 25952). Also, a food additive regulation for metalaxyl and its metabolites in tomato processed products at 3.0 ppm, has been published (47 FR 25950).

These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of experimental use permit 100-EUP-71 which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other relevant material were evaluated, and it was determined that establishment of the temporary tolerances will protect the public health. Therefore, the temporary tolerances have been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Ciba-Geigy Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire January 1, 1984. Residues not in excess of these amounts remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience or scientific data with this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 610–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950)

(Sec. 408(j), 68 Stat. 516 (21 U.S.C. 346a(j)))

Dated: June 28, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-18305 Filed 7-6-82; 8:45 am]

BILLING CODE 6560-50-M

[OPP-66093; PH-FRL 2162-7]

Certain Pesticide Products; Intent To Cancel Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice lists the name of firms requesting voluntary cancellation of registration of their pesticide products in compliance with section 6(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended. Production of these products after the effective date of cancellation will be considered a violation of the Act unless continued registration is requested.

EFFECTIVE DATE: August 6, 1982.

ADDRESS: Written comments to: Document Control Officer (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–401, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Lela Sykes, Process Coordination Branch (TS–767C), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. 706, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–7406).

SUPPLEMENTARY INFORMATION: EPA has been advised by the following firms of their intent to voluntarily cancel registration of their pesticide products.

Registration No.	Product name	Registrant	Date registered
55-96	Kleenodyne	West Chemical Products, Inc., 9 West 40th St., New York, NY 10018	Dec. 15, 1955.
82-13	Tri-Fene Extra	Tenneco Chemicals, Inc., Turner Place, P.O. Box 365, Piscataway, NJ 08854	Jan. 13, 1969.
148-1005	Ferbam Dust	Thompson Hayward Chemical Co., P.O. Box 2383, Kansas City, KS 66110	Apr. 21, 1972.
225-189	Tobacco Stems Brand 95% Ferbam Wettable Powder	Tobacco States Chemical Co., Inc., P.O. Box 12046, Lexington, KY 40580	May 8, 1970.
239-1536	Chevron Phosphamidon Technical	Chevron Chemical Co., Ortho Division, 940 Hensley St., Richmond, CA 94801	July 27, 1960.
239-2216	Ortho-Gro Chinch Bug Control Plus Fertilizer	do	June 18, 1968.
264-74	Weed Killer 646	Union Carbide Agricultural Products Co., Inc., P.O. Box 12014, Research Triangle Park, NC 27709.	May 2, 1956.
264-108	Weedone Acre Concentrate 96	do	Feb. 24, 1959.
476-896	Stauffer Ferbam 76-WP	Stauffer Chemical Co., 1200 South 47th St., Richmond, CA 94804	Mar. 16, 1956.
567-1935	Gro-Tne Cygon 2E	Estech General Chemicals Corp., 30 North La Salle St., Chicago, IL 60602	Dec. 1, 1972.
802-197	Purina Rub-A-Duster	Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188	Aug. 11, 1971.
1022-418	Weed-Free S 8P	Chapman Chemical Company, Box 9158, Memphis, TN 38109	Mar. 18, 1968.
1022-422	Chapman Weed-Free SCB 8P	do	Apr. 4, 1968.
1022-431	Chapman Weed-Free S 4P	do	June 13, 1968.
1022-430	Chapman Weed-Free SCB 4P	do	Do.
1348-182	Selcon 0.5% Animal Insecticide Dust	Selco Supply Co., 650 O St., Greely, CO 80631	Mar. 8, 1963.
1839-37	Sodium Salt Alpha-Napthaleneacetic Acid	Onyx Chemical Company, 190 Warren St., Jersey City, NJ 07302	Aug. 31, 1961.
1839-38	Alpha-Naphthaleneacetamide	do	June 28, 1967.
1839-40	Alpha-Naphthaleneacetic Acid	do	Do.
1990-402	Jack Frost Wood Preservative	Farmland Industries, Inc., P.O. Box 7305, Kansas City, MO 64116	Oct. 21, 1955.
1990-427	Woodbury Penta 10-1 Wood Preservative	do	June 25, 1961.
2568-16	993 Tropical Anti-Fouling	Jotun-Baltimore Copper Paint Co., 840 Key Highway, Baltimore MD 21230	June 19, 1964.
2568-24	Regatta 9012 Fresh Water Bronze	do	June 21, 1965.
2935-315	N.A.A. 200	Wilbur-Ellis Company, 191 W. Shaw Ave., Fresno, CA 93704	Feb. 27, 1967.
2935-315	N.A.A. 800	do	Mar. 1, 1967.
4931-34	Penta Concentrate Wood Preservative	Good-Life Chemicals, Inc., Box 667, Effingham, IL 62401	Nov. 26, 1956.
4931-112	Good-Life Chlordane 8E	do	June 11, 1968.
7364-11	Algimycin ABA	Great Lakes Biochemical Co., Inc., 6120 W. Douglas Ave., Milwaukee, WI 53218	Nov. 18, 1971.
7364-14	Algae Shock Granular Algicide	do	Apr. 18, 1972.
7364-15	Algimycin Tabs	do	May 17, 1972.
7364-27	Algimycin "G" Granular Algicide	do	Dec. 18, 1974.
8969-29	Winterbine	Applied Biochemists, Inc., 5300 W. County Line Road, Nequon, WI 53092	May 5, 1961.
9463-3	Joher Power Chlor	Bonewitz Chemical Services, Inc., P.O. Box 927, Burlington, IA 52601	June 9, 1972.
10656	No-Gro Grounds Control Chemicals	Mid Continent Lab. Inc., 10900 Lackmen Rd., Lenexa, KS 66219	May 24, 1971.
11524	Polaris	Halbro Control Inc., 2090 Route 10, Farmingdale, NY 11735	May 10, 1973.
41942	Bumper Bag Cattle Duster	AG-Mark, Inc., P.O. Box 127, Teachey, NC 28464	Aug. 21, 1969.

The Agency has agreed that such cancellation shall be effective August 6, 1982, unless within this time the registrant, or other interested person with the concurrence of the registrant, requests that the registration be continued in effect. The registrants were notified by certified mail of this action.

The Agency has determined that the sale and distribution of these products produced on or before the effective date of cancellation may legally continue in commerce until the supply is exhausted, or for 1 year after the effective date of cancellation, whichever is earlier; provided that the use of these products is consistent with the label and labeling registered with EPA. Furthermore, the sale and use of existing stocks have been determined to be consistent with the purposes of FIFRA as amended. Production of these products as pesticide formulations after the effective date of cancellation will be considered to be a violation of the Act.

Requests that the registration of these products be continued, may be submitted in triplicate to the Process Coordination Branch, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Comments may be filed regarding this notice. Written comments should bear a

notation indicating the document control number "[OPP–66093]" and the specific registration number. Any comments filed regarding this notice will be available for public inspection in the Document Control Office, Room E–107, at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 6(a)(1) of FIFRA as amended 86 Stat. 973 89 Stat. (751, 7 U.S.C. 136))

Dated: June 24, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 82-18006 Filed 7-6-82; 8:45 am]

BILLING CODE 6560-50-M

[PP 1G2441/T379; PH–FRL 2145–1]

American Hoechst Corp.; Extension of Temporary Tolerance

Correction

In FR Doc. 82–15947, appearing on page 26020 in the issue of Wednesday, June 16, 1982, the authority cite at the bottom of column three should have read, "(Sec. 408(j), 68 Stat. 516 (21 U.S.C. 346a(j))".

BILLING CODE 1505-01-M

FEDERAL MARITIME COMMISSION

Certificate of Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages No. C–1,229.

Schiffahrtsgesellschaft MS FRANKFURT GmbH & Co. and Peter Dielmann-Reederei
c/o Peter Deilmann-Reederei
AM Hafensteig 19
2430 Neustadt in Holstein
West Germany

Order of Revocation

Schiffahrtsgesellschaft MS FRANKFURT GmbH & Co. and Peter Dielmann-Reederei have ceased to operate the passenger vessel REGINA MARIS to and from United States ports.

By virture of authority vested in me by the Federal Maritime Commission as set forth in Manual of Order, Commission Order No. 1 (Revised) § 10.06 dated November 12, 1981;

It is ordered, that Certificate (Casualty) No. C–1,229 issued to Schiffahrtsgesellschaft MS FRANKFURT GmbH & Co. and Peter Deilmann-Reederei covering the REGINA MARIS, be and is hereby revoked effective June 30, 1982.

It is further ordered, that a copy of this Order be published in the Federal Register and served on the Certificants.

Albert J. Klingel, Jr.,

Director, Bureau of Certification & Licensing.

[FR Doc. 82-18014 Filed 7-6-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL TRADE COMMISSION

Early Termination of the Waiting Period of the Premerger Notification Rules; Mesa Petroleum Co.

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Mesa Petroleum Company is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all voting securities of Cities Service Company. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Mesa Petroleum Company. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: June 16, 1982.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202) 523–3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-18015 Filed 7-6-82; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules; ClevePak Corp.

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: ClevePak Corporation is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain voting securities of Torin Corporation. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by the ClevePak Corporation. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: June 21, 1982.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202) 523–3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-18016 Filed 7-6-82; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules; Cities Service Co.

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Cities Service Company is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all voting securities of Mesa Petroleum Company.

The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: June 16, 1982.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202) 523–3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82–18413 Filed 7–6–82; 8:45 am]

BILLING CODE 6750–01–M

Early Termination of the Waiting Period of the Premerger Notification Rules; Alan Guerrieri

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Alan Guerrieri is granted early termination of the waiting period provided by law and the premerger notification rule with respect to the proposed acquisition of all voting securities of Mid-State Farms Cooperative Company. The grant as made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Alan Guerrieri. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: June 11, 1982.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580, (202) 523–3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82–18412 Filed 7–6–82; 8:45 am]

BILLING CODE 6750–01–M

GENERAL SERVICES ADMINISTRATION

Architect-Engineer and Related Services Questionaire (GSA Form 254) and Architect-Engineer and Related Services Questionaire for Specific Project (GSA Form 255)

AGENCY: General Services Administration.

ACTION: Notice of information collections; extensions.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the General Services Administration plans to request the Office of Management and Budget to review and approve requests for clearance extension of two information collection requirements.

DATES: Comments on these information collections must be submitted on or before July 15, 1982.

ADDRESSES: Send comments to Franklin S. Reeder, OMB Desk Officer, Room 3208, NEOB, Washington, DC 20503, and to Anthony Artigliere, GSA Clearance Officer, General Services Administration (ORAI), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Anthony Artigliere, Acting Chief, Directives, Reports, and Publications Branch (202–566–0666).

SUPPLEMENTARY INFORMATION: The data from these information collections is used by Federal agencies in selecting architectural/engineering firms to do work for the Government. Copies of the information collection proposals may be obtained from the Directives, Reports, and Publications Branch (ORAI), Room 3011, GS Building, Washington, DC 20405, telephone 566–1164.

Dated: June 28, 1982.

Clarence A. Lee, Jr.,

Director of Administrative Services.

[FR Doc. 82–18351 Filed 7–6–82; 8:45 am]

BILLING CODE 6820–34–M

Contractor's Request for Progress Payment (Standard Form 1443)

AGENCY: General Services Administration.

ACTION: Notice of information collection.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the General Services Administration plans to request the Office of Management and Budget to review and approve a new information collection requirement.

DATES: Comments on this information collection must be submitted on or before July 15, 1982.

ADDRESSES: Send comments to Franklin S. Reeder, OMB Desk Officer, Room 3208, NEOB, Washington, DC 20503, and to Anthony Artigliere, GSA Clearance Officer, General Services Administration (ORAI), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Anthony Artigliere, Acting Chief, Directives, Reports, and Publications Branch (202–566–0666).

SUPPLEMENTARY INFORMATION:

a. Standard Form 1443 is being developed for use by civilian agencies in obtaining the necessary information from contractors requesting progress payments to determine contractors' entitlement to payment. This form replaces the obsolete format currently illustrated in FPR 1–30.529.

b. A copy of the information collection proposal may be obtained from the Directives, Reports, and Publications Branch (ORAI), Room 3011, GS Building, Washington, DC 20405, telephone 566–1164.

Dated: June 28, 1982.

Clarence A. Lee, Jr.,

Director of Administrative Services.

[FR Doc. 82–18340 Filed 7–6–82; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources Administration

National Advisory Council on Health Professions Education; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act

(Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of August 1982:

Name: National Advisory Council on Health Professions Education
Date and Time: August 2–3, 1982, 9:00 a.m.–5:30 p.m.
Place: Conference Room 6, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205
Open on August 2, 1982, 9:00 a.m. to 5:30 p.m.
Closed for remainder of meeting
Purpose: The Council advises the Secretary with respect to the administration of programs of financial assistance for the health professions and makes recommendations based on its reveiw of applications requesting such assistance. This also involves advice in the preparation of regulations with respect to policy matters.
Agenda: The open portion of the meeting will cover: welcome and opening remarks; report of the Acting Administrator; budget update; report on Basic Educational Opportunity Grants, and future agenda items. The meeting will be closed to the public August 3, 1982, from 9:00 a.m. to 5:30 p.m., for the review of grant applications for the Area Health Education Centers and Construction Program. The closing is in accordance with the provision set forth in section 552b(c)(6), Title 5 U.S. Code, and the Determination to close a portion of this meeting of the Council signed by the Acting Administrator, Health Resources Administration, pursuant to section 10(d) of Pub. L. 92–463, and Departmental regulation 45 CFR 11.5(a)(6).

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should write to or contact MR. ROBERT L. BELSLEY, Executive Secretary, National Advisory Council on Health Professions Education, Bureau of Health Professions, Health Resources Administration, Room 4–27, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone (301) 436–6564.

Agenda items are subject to change as priorities dictate.

Dated: June 29, 1982.

Jackie E. Nylen,

Advisory Committee Management Officer, Health Resources Administration.

[FR Doc. 82-18341 Filed 7-6-82; 8:45 am]

BILLING CODE 4160-15-M

Office of Human Development Services

Federal Council on the Aging; Meeting

AGENCY: Federal Council on the Aging, Office of Human Development Services, HHS.

TIME AND DATE: Meeting begins at 9:00 a.m. on Wednesday, July 21, 1982 and ends at 3:00 p.m. on Thursday, July 22, 1982.

PLACE: Rooms 403–425A, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201.

STATUS: Meeting is open to the public.

CONTACT PERSON: Rita Lowry, Rm 305F, HHH Bldg, 245–7458.

The Federal Council on the Aging was established by the 1973 Amendments to the Older Americans Act of 1965 (Pub. L. 93–29, 42 U.S.C. 3015) for the purpose of advising the President, the Secretary of Health and Human Services, the Commissioner on Aging and the Congress on matters relating to the special needs of older Americans.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Pub. L. 92–453, 5 U.S.C. App. 1, Sec. 10, 1976) that the Council will hold a meeting July 21–22, 1982 from 9:00 a.m. to 5:00 p.m. and from 9:00 a.m. to 3:00 p.m. respectively in Rooms 403–425A, HHS Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201.

The agenda will consist of discussions on: the older worker and employment; neighborhoods as a planning and delivery base for services to the elderly; and current Congressional activities concerning the elderly. A substantial amount of time will be devoted to the development of various committees.

Dated: June 29, 1982.

Adelaide Attard,

Chairperson, Federal Council on the Aging.

[FR Doc. 82-18368 Filed 7-6-82; 8:45 am]

BILLING CODE 4130-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing, Federal Housing Commissioner

[Docket No. N–82–1137]

Manufactured Home Construction and Safety Standards

AGENCY: Office of Assistant Secretary for Housing, Federal Housing Commissioner, HUD.

ACTION: Request for responses to develop and maintain voluntary consensus standards for residential manufactured buildings.

SUMMARY: The Department, in keeping with Federal Government policy to rely on voluntary standards whenever feasible, is interested in working with voluntary standards bodies in developing and adopting voluntary standards for use as the Federal Manufactured Home Construction and Safety Standards. The Department has already received inquiries and proposals from some voluntary standards bodies who wish to participate in the development and maintenance of a manufactured home standard. It is the Department's intent to select a voluntary standards body to assist the Department in this effort. Organizations which are interested in participating in the development and maintenance of the standards are urged to advise the Department of their qualifications and experience in developing or establishing voluntary standards.

DATE: Organizations wishing to submit responses must do so on or before July 31, 1982.

ADDRESS: Comments may be sent to the Rules Docket Clerk, Office of the General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Communications should refer to the above docket number and title.

FOR FURTHER INFORMATION CONTACT: Mr. James C. McCollom, Acting Director, Manufactured Housing Standards Division, Room 3236, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, telephone (202) 755–5210. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

Background

OMB Circular A–119, "Federal Participation in the Development and Use of Voluntary Standards," encourages Federal agencies involved in regulatory activities to rely on voluntary standards and to participate in voluntary standards bodies when such activities are in the public interest and are compatible with the agencies' mission and authority. The U.S. Department of Housing and Urban Development (HUD) is re-examining all of its building regulatory activities, including manufactured housing, applicable conventional site-built housing, and industrialized housing. Regarding the last two categories, the Department has already initiated plans to adopt the voluntary one- and two-family building code sponsored by the Council of American Building Officials rather than relying upon HUD's "Minimum Property Standards" (MPS), as has been the requirement.

The Secretary of HUD is required by law to establish mandatory and pre-emptive Federal standards regulating the construction and safety of all residential manufactured homes. In response to the National Manufactured Housing Construction and Safety

Standards Act of 1974, as amended, 42 U.S.C. 5401, *et seq.* (hereinafter the "Act"), the present Standards were developed and promulgated in 1976 by HUD's professional staff.

In response to the OMB Circular noted earlier, the Department now wishes to utilize voluntary standards bodies in developing, revising, and maintaining manufactured housing construction and safety standards. This approach should not be difficult since a large part of the present Federal Manufactured Housing Construction and Safety Standards (FMHCSS) were adopted from voluntary standards developed through the voluntary consensus process.

During the period 1976 to 1981 the HUD staff has conducted an extensive research program to provide answers to questions relating to the safety, durability, and thermal energy performance of manufactured housing. In addition, statistics and information were collected from consumers and technical organizations relating to the adequacy of these Standards. As a result of this effort, the present Standards are being revised. The Department plans to publish the proposed revision in mid-1982 in order to obtain public comment and to conduct an economic cost-benefit analysis. After proceeding to rulemaking, the Department intends to consider undertaking an orderly shift to the development and maintenance of manufactured home construction and safety standards by a suitable voluntary standards making organization. It should be emphasized that HUD will not relinquish its responsibility and authority under the Act to establish and enforce reasonable standards relating to safety, quality and durability and will adopt only those standards that are appropriate. Moreover, the Department will retain the responsibility and authority for reviewing, adopting and promulgating any standards developed by voluntary standards organizations.

Objectives: (1) To assure that there is a private organization which is qualified, interested and capable of developing and maintaining such standards on a continuous basis.

(2) To rely on voluntary standards which can meet the intent of the Act.

(3) To adopt such standards, by reference, as the National Manufactured Home Construction and Safety Standards, either in whole or in part, and to enforce them in accordance with the requirements of the Act.

Responses: The respondents are requested to fully describe how they would accomplish the development and maintenance of voluntary standards pertaining to the construction and safety of manufactured housing, covering the following areas:

1. Capabilities of the proposed technical committees to deal with each of the following disciplines: structural, fire safety, thermal envelope, plumbing, heating-ventilating-cooling, electrical, indoor air quality, and transportation.

2. Define how the issues of safety, durability and quality would be treated in response to the requirements of the Act. Define how the issue of thermal energy performance would be treated.

3. Identify the methodology to be used in developing new standards, updating current ones, cancelling or withdrawing existing standards. Include is your statement the frequency that such committee actions would occur.

4. State your proposed procedures to be used to balance the views of divergent interest groups (manufacturers and suppliers, consumers, and state and local regulatory officials).

5. Identify the administrative, procedural and policy processes to be used for managing and coordinating the organization, selection of staff members, selection of committee members, voting, processing of the proposed changes to the Standards.

In reviewing the responses, the Department will consider the demonstrated knowledge, experience, and qualifications of the respondent in the following areas:

(1) Building regulations and standards, their function, development and scope;

(2) Responsibility for the development, review, approval and publication of voluntary standards relating to building codes and standards;

(3) Responsibility for organizing and coordinating the efforts of technical committee that develop structural, fire safety, energy, mechanical and electrical standards pertaining to residential buildings;

(4) Qualifications, time-commitments and assignments of managerial and technical personnel (including committee and sub-committee chairpersons).

Organizations which are interested in participating in the development and maintenance of the standards are requested to advise the Department, by July 31, 1982, of their qualifications and experience in developing voluntary standards.

(Sec. 604 of the National Manufacturered Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5424)

Dated: June 29, 1982.

Philip Abrams,

General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 82-18315 Filed 7-6-82; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Serial No. 1-04218]

Idaho; Partial Termination of Proposal Withdrawal and Reservation of Lands

Correction

In FR Doc. 82-14102, published at page 22418, on Monday, May 24, 1982, on page 22419, in the first column, in the eleventh line from the top "T.36N., R.6E.," should be corrected to read "T.36N., R.7E.,"

BILLING CODE 1505-01-M

[A-17797]

Arizona; Airport Lease Application

June 29, 1982.

Notice is hereby given that pursuant to the Act of May 24, 1928 (49 U.S.C. 211-214), the Town of Duncan, Arizona, has applied for an airport lease for the following land:

Gila and Salt River Meridian, Arizona

T. 8 S., R. 31 E.,
Sec. 35E½E½.
Containing 160.00 acres.

The purpose of this notice is to inform the public that the filing of this application segregates the described land from all other forms of use or disposal under the public land laws.

Interested persons desiring to express their views should promptly send their name and address to the District Manageer, Safford District Office, Bureau of Land Management, 425 East Fourth Street, Safford, Arizona 85546.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-18346 Filed 7-6-82; 8:45 am]

BILLING CODE 4310-84-M

Colorado; Oil Shale Industry To Participate in Environmental Impact Statement Process

AGENCY: Bureau of Land Management, Interior.

ACTION: This serves as public notice of the intent to initiate an environmental impact statement (EIS), based upon a

request for the purchases of public lands and a right-of-way for ancillary facilities for oil shale development on private lands in Garfield County, Colorado. Concurrently, the Bureau is requesting that other interested parties with similar and timely requirements within the same area, submit information on potential Federal land authorizations associated with private oil shale development. Depending on the responses, a combined EIS effort may be justified to more efficiently process these requests.

SUMMARY: The Bureau of Land Management (BLM) has received a request for an exchange or purchase of public lands for spent shale disposal, and for right-of-way over public lands to facilitate oil shale development on private land in Garfield County, Colorado. This initial request will result in the preparation of an EIS.

In order to comply with the National Environmental Policy Act (NEPA) in an effective manner, the BLM proposes to combine this EIS if sufficient interest is shown, jointly wtih other potentially interested parties who may need Federal land authorizations associated with private oil shale development.

Examples of these types of requirements are rights-of-way for pipelines, transmission lines, water developments, etc. This approach, if deemed appropriate, will expedite the processing of applications for all projects included in the EIS, provide an early assessment of projects which are still in planning and design phases and provide a cumulative analysis of potential impacts. Such a procedure will limit the need for many concurrent or consecutive EISs and reduce costs in time and money. The BLM's goal is to complete the EIS process by mid–1984.

This notice is to provide interested parties the opportunity to participate in this program. We are interested in two types of responses. First, site specific proposals with sufficient detailed information available to meet NEPA and right-of-way processing requirements. Second, projects which are planned but for which no detailed information is presently available. For this latter group, supplemental environmental analysis may be required when detailed project plans are finalized.

Those interested in participating in the EIS should send a letter of intent by July 26, 1982, to: David A. Jones, Grand Junction District Manager, Bureau of Land Management, 764 Horizon Drive, Grand Junction, Colorado 81501.

Those responding to this notice are asked to provide a project description and status report. The BLM will require interested parties to submit design and environmental data, project plans and/or preliminary applications, and a commitment of funds by August 23, 1982, for those projects at the detailed site specific level.

Dated: June 30, 1982.

Robert E. Leopold,

State Director.

[FR Doc. 82–18328 Filed 7–6–82; 8:45 am]

BILLING CODE 4310–84–M

[C–35774]

Colorado; Proposed Classification of Public Lands for State Indemnity Selection

1. The Colorado State Board of Land Commissioners has filed a petition for classification and application to acquire the public lands described in paragraph 5 below, under the provisions of sections 2275 and 2276 of the Revised Statutes, as amended (43 U.S.C. 851, 852), in lieu of certain school lands granted to the State under section 7 of the Act of March 3, 1875 (18 Stat. 475) that were encumbered by other rights or reservations before the State's title could attach. This application has been assigned Serial Number Colorado 35774.

2. The Bureau of Land Management will examine these lands for evidence of prior valid rights or other statutory constraints that would bar transfer. The lands found suitable for transfer will be held to be classified 60 days from date of publication of this notice in the **Federal Register**. Classification is pursuant to Title 43 Code of Federal Regulations, Subpart 2400 and section 7 of the act of June 8, 1934 (48 Stat. 1272), as amended (43 U.S.C. 315f).

3. Information concerning these lands and the proposed transfer to the State of Colorado may be obtained from the Bureau of Land Management District Managers for the respective parcels, as follows:

Parcels 1, 2, 3, 4, 5, 6, and 7: District Manager, Craig District, 455 Emerson Street, P.O. Box 248, Craig, Colorado 81626, Phone 824–8261

Parcels 8, 9, 12, 13, 14, and 15: District Manager, Grand Junction District, 764 Horizon Drive, Grand Junction, Colorado 81501, Phone 243–6552

Parcels 10 and 11: District Manager, Montrose District, 2465 South Townsend, P.O. Box 1269, Montrose, Colorado 81402, Phone 249–7791.

4. For a period of 60 days from the date of publication of this notice in the **Federal Register**, all persons who wish to submit comments, suggestions, or objections in connection with the proposed classification may present their views in writing to the District Managers listed above for the respective parcels.

Any adverse comments will be evaluated by the BLM Colorado State Director who will issue a notice of determination to proceed with, modify, or cancel the action. In the absence of any action by the State Director, this classification will become the final determination of the Secretary. As provided by Title 43 Code of Federal Regulations, Subpart 2462.1, a public hearing will be scheduled by the District Manager if he determines that sufficient public interest exists to warrant the time and expense of a hearing.

5. The lands included in this proposed classification are in Grand, Rio Blanco, Garfield, Hinsdale, LaPlata and Mesa Counties and are described below. Following each parcel are names of holders of leases, permits, and/or rights-of-way, followed by the identifying number of each use authorization. Other known encumbrances on the land are also listed.

Sixth Principal Meridian

Parcel 1: T. 1 N., R. 76 W.,
Sec. 7, NW¼NE¼.
Right-of-way
Mountain Parks Electric, Inc., Box 66, Granby, CO 80466—C–33748
Oil and Gas Lease
Michigan-Wisconsin Pipeline Co., 5075 Westheimer S. 1100, Houston, Texas 77056—C–17234
Great Eastern Energy and Development Corp., 701 East Byrd Street, Richmond, Virginia 23219—C–17234
Mining claim locations
Rampart Exploration Co., 40 Inverness Drive East, Englewood, CO 80110—CMC–14635, et seq.
Range Improvement
Fence No. 1304
Parcel 2: T. 1 N., R. 76 W.,
Sec. 7, SE¼NE¼;
Sec. 8, W½NW¼.
Rights-of-Way
Mountain Parks Electric, Inc., Box 66, Granby, CO 80446 C–978, C–16065, D–052472
Colorado Department of Highways, 4201 East Arkansas Ave., Denver, CO 80222—C–0107396
Recreation and Public Purposes Lease
Board of County Commissioners, Grand County, Hot Sulphur Springs, CO 80451—C–0453
Mining Claim locations
Rampart Exploration Co., 40 Inverness Drive East,
Englewood, CO 80110—CMC–142635, et. seq.
Grazing Permit
William Linke, Box 33, Granby, CO 80446
William Gettle, Jr., and Associates, Box 1, Val Moritz, CO 80446
Range Improvement
Fence No. 1304

Parcel 3: T. 1 N., R. 76 W.,
Sec. 7, Lot, SE¼SW¼, and SW¼SE¼;
Sec. 18, Lots 1 and 2, NW¼NE¼, and NE¼NW¼.
Rights-of-Way
Mountain Parks Electric, Inc., Box 66, Granby, CO 80446 C-878.
Colorado Department of Highways, 4201 East Arkansas Ave., Denver, CO 80222—C-0107366
Oil and Gas Leases
Michigan-Wisconsin Pipeline Co., 5075 Westheimer S. 1100, Houston, TX 77001—C-23159, C-17234
Great Eastern Energy and Development Corporation, 701 East Byrd Street, Richmond, Virginia 23219—C-17234
Mining Claim locations
Rampart Exploration Co., 40 Inverness Drive East, Englewood, CO 80110—CMC 142635, et. seq.
Grazing Permit
William Linke, Box 33, Granby, CO 80446
Parcel 4: T. 1 N., R. 80 W.,
Sec. 9, N½, N½S½, SE¼SW¼, and S½SE¼.
Rights-of-Way
Mountain Parks Electric, Inc., Box 66, Granby, CO 80446—C-22250, C-29658
Town of Kremmling, Kremmling, CO 80459—C-20515
Western Area Power Administration, P.O. Box 11606, Salt Lake City, UT 84147—D-051744
Mountain Bell, Inc., Room 1130-2, 1005, 17th Street, Denver, CO 80202—C-22642, C-22642A, C-29422
Western Slope Gas Co., P.O. Box 840, Denver, CO 80201—C-23293
Recreation and Public Purpose Lease
Board of County Commissioners, Granby, CO 80446—C-14445
Oil and Gas Lease
Paul R. Polak, 5987 Miller Street, Arvada, CO 8004—C-30517
Grazing Permit
Lucille Wall, Kremmling, CO 80459
Range Improvement
Roads, No's. 3676 and 3677
Fence No. 3854
Reservoir No. 3812
Sagebrush Spraying No. 3717
Stockwater tap and pipeline No. 4613
Withdrawals
Bureau of Land Management—Public Water Reserve—C-17322
Parcel 5: T. 1 N., R. 80 W.,
Sec. 15, Lots 1, 2, 3, N½NE¼, and SE¼NW¼.
Rights-of-Way
Colorado Department of Highways, 4201 East Arkansas Ave., Denver, CO 80222—C-019224
Mountain Parks Electric, Inc., Box 66, Granby CO 80446—C-13113, C-12512, C-22250
Denver and Rio Grande Western Railroad, P.O. Box 5482, Denver, CO 80201—C-091741
Oil and Gas Lease
Paul R. Polak, 5987 Miller Street, Arvada, CO 8004 C-30517
Connie Mull, Box 983, Denver, CO 80201—C-30861
Grazing Permit
Grady Culbreth, Blue River Route, Kremmling, CO 80459
Range Improvement
Road No. 3677
Sagebrush Spraying No. 1471
Other 434
Parcel 6: T. 1 N., R. 101 W.,
Sec. 4, NE¼, and S½NW¼;
Sec. 5, Lot 5, SE¼NE¼, S½SW¼NE¼, W½SW¼NW¼, SE¼SW¼NW¼, SW¼SE¼NW¼, and S½SE¼SE¼NW¼.
T. 2 N., R., 101 W.,
Sec. 33, Lots 14 and 15.
Rights-of-Way
Colorado Department of Highways, 4201 East Arkansas Ave., Denver, CO 80222—D-056626
Board of County Commissioners, Rio Blanco County, Box 1047 Meeker, CO 81641—C-19630, C-23560
Northwest Pipeline Cor., P.O. Box 1526, Salt Lake City, UT 84110—C-053774, C-011243, C-011409
Moon Lake Electric Association, Inc., 495 East Main, Vernal, Utah 84708—C-059394, C-090815, C-0128430
Oil and Gas Leases
Delaney Petroleum Corp., Sadie Delaney, Cecille M. Colvin, and W. D. Voit, Box 68, Wildomar, CA 92395-C-4078
Terra Resources, Inc., 1410 4th National Bank Building, Tulsa, OK 74119—C-0365
Husky Oil Co., 600 South Cherry Street, Suite 600F, Denver, CO 80222—C-06412
Withdrawals
Federal Aviation Administration, Air Navigation Site, Public Land Order 3822
Grazing Permits
William Barnard, Box 1175, Rangely, CO 81648
George Hefley, 7HI Ranch, Hwy. 64, Rangely, CO 81648
Gus Halandras, Box 225, Meeker, CO 81641
Range Improvements
Fence No. 4225
Parcel 7: T. 1 N., R. 102 W.,
Sec. 2, Lots 10, 17, 18, 19, 20, 21, and 23;
Sec. 3, Lots 10, 11, 12, 13, and 14;
Sec. 4, Lots 13 and 14;
Sec. 9, Lots 1, 2, 5, 6, NE¼NE¼, and S½NE¼;
Sec. 10, Lots 1, 2, NW¼NE¼, S½NE¼, and NW¼;
Sec. 11, Lots 1, 2, 3, 4, and S½N½.
Rights-of-Way
Western Slope Gas Co., P.O. Box 840, Denver, CO 80201—C-2446
Town of Rangely, Rangely, CO 81648—C-26770
Colorado Ute Electric Association, Inc., P.O. Box 1149, Montrose, CO 81401—C-1972, C-18882
Northwest Pipeline Corp., P.O. Box 1526, Salt Lake City, Utah 84110—C-011243, C-011409
Moon Lake Electric Association, Inc., 495 East Main, Vernal, Utah 84708—C-059394, C-090815, C-0128430, C-084045, C-089547, C-9056
Board of County Commissioners, Rio Blanco County, Box 1047, Meeker, CO 81641—C-19630
Mountain Bell, Inc., Room 1130-2, 1005 17th Street, Denver, CO 80201—C-28235, C-21828, C-21315, C-27739
Rio Blanco Oil Shale Project, 9725 East Hampden Avenue, Denver, CO 80231—C-34424
Grazing Permit
Theos and Sand Ranches, c/o Tom Theos, Box 477, Meeker, CO 81641
Oil and Gas Leases
Newton Oil Company, et al., 1410 North Central Avenue, Phoenix Arizona—C-034894, D-033804
Phillips Petroleum Company, et al., Bartlesville, OK 74004—C-034894, D-033804
Margaret Smith Troppmann, et al., c/o Charles S. Hill, 316 Patterson Building, Denver, CO 80202—D-052318
Coseka Resources, Ltd., 718 17th Street, Suite 630, Denver, CO 80202—C-30050
Twin Arrow, Inc., P.O. Box 948, Rangely, CO 81648—C028499B
Three States Oilc Co., Suite 218, 10465 Melody Building Northglenn, CO 80234—D-032682A
AMOCO Production Company, Security Life Building, Denver, CO 80202—C-022491
Known Geologic Structure
Rangely Oil Field
Parcel 8: T. 6 S., R. 94 W.,
Sec. 29, SW¼NW¼.
Rights-of-Way
Public Service Company of Colorado, Box 840, Denver, CO 80201—C-0123828
Colorado Department of Highways, 4201 East Arkansas Ave., Denver, CO 80222—C-05288 and C-26405
Denver and Rio Grande Western Railroad, P.O. Box 5482, Denver, CO 80201—C-093824, D-038231
Mountain Bell, Inc., Room 11320-2, 1005 17th Street, Denver, CO 80201—C-21828
Withdrawals
Federal Energy Regulatory Commission—Power Project 1863
Parcel 9: T. 7 S., R. 95 W.,
Sec. 9, SE¼SE¼;
Sec. 10, SW¼SW¼;
Sec. 15, W½NW¼; NW¼SW¼;
Sec. 16, E½NE¼, and NE¼SE¼.
Oil and Gas Lease
Oil Participations, Inc., P.O. Box 1521, Houston, TX 77001—C-01524
Grazing Permits
E. S. Kennon, 3200 306 Road, Parachute, CO 81635
George Gardner, 1236 302 Road, Parachute, CO 81635
Range Improvement
Road No. 7670

New Mexico Principal Meridian

Parcel 10: T. 43 N., R. 4 W.,
Sec. 9, Lots 22 and 25;
Sec. 10, Lots 34 and 39.
Rights-of-Way
Gunnison County Electric Association, Inc., P.O. Box 180, Gunnison, CO 81230—C-021766
Harley and Caryl Rudofsky, c/o Kasle and Landwehr, P.C., 121 South Taylor, P.O. Box 628, Gunnison, CO 81230—C-31163
Mining Claims Locations
Rebecca Jane Kelley, 1801 N. 8th Street, Grand Junction, CO 81501—CMC 47747 et seq.
Parcel 11: T. 34 N., R. 9 W.,
Sec. 10, SW¼NW¼NE¼NE¼, N½NW¼NE¼NE¼, and S½NE¼NE¼;
Sec. 11, W½SW¼NW¼NW¼.
Rights-of-Way

Colorado Department of Highways, 4201 East Arkansas Ave., Denver, CO 80222—C–02801
Mountain Bell, Inc., Room 1130–2, 1005 17th Street, Denver, CO 80201—C–21315

Ute Principal Meridian

Parcel 12: T. 1 N., R. 1 E.,
Sec. 32, E½NE¼, and NE¼SE¼;
Sec. 33, W½NE¼, N½NW¼, and SE¼.
Rights-of-Way
Ute Water Conservancy District, P.O. Box 460, Grand Junction, CO 80203—C–30010
Grand Valley Rural Power Lines, Inc., 2727 Grand Avenue, Grand Junction, CO 81502—C–061164
Oil and Gas Leases
TXO Production Corporation, Fidelity Union Tower, Dallas, TX 75201—C–15937
M. Peyton Bucy, 1776 Lincoln Street, #611, Denver, CO 80203—C–17349
Grazing Permit
Bruce Currier, 2760 H Road, Grand Junction, CO 81501
Carleton Currier, 723 Wedge Drive, Grand Junction, CO 81501
Range Improvements
Road No. 7419
Parcel 13: T. 2 N., R. 3 W.,
Sec. 30, SW¼, and S½SE¼;
Sec. 31, NE¼, N½NW¼, SE¼NW¼, N½SE¼, and SE¼SE¼;
Sec. 32, W½.
Rights-of-Way
Colorado Department of Highways, 4201 East Arkansas Ave., Denver, CO 80222—C–02349
Oil and Gas Lease
Gary Western Co., Four Inverness Court East, Englewood, CO 80110—C–23713
Charles A. Shear, Box 2665, Grand Junction, CO 81501—C–33744
Grazing Permits
Art Shires, 1854 J2/10 Road, Fruita, CO 81521
A.M. Crews, 2048, J Road, Fruita, CO 81521
Range Improvement
Cattleguard No. 505A
Fences No's. 0767 and 0768
Road No. 7412A
Parcel 14: T. 1 S., R. 1 E.,
Sec. 2, SW¼NW¼.
Rights-of-Way
Colarado Department of Highways, 4201 East Arkansas Ave., Denver, CO 80222—C–051671
Oil and Gas Lease
TXO Production Coporation, Fidelity Union Tower, Dallas, Texas 75201—C–15937
Withdrawals
Bureau of Reclamation, Grand Valley Project
Parcel 15: T. 1 S., R. 1 E.,
Sec. 25, SE¼;
Sec. 35, E½;
T. 2 S., R. 1 E.,
Sec. 1, Lots 1, 2, 3, 4, and S½N½;
Sec. 2, Lots 1, 2, and S½NE¼;
T. 1 S., R. 2 E.,
Sec. 19, SE¼;
Sec. 30, Lots 4, E½, SE¼NW¼, and E½SW¼;
Sec. 31, Lots 1, 2, 3, 4, and E½W½;
T. 2 S., R. 2 E.,
Sec. 6, Lots 3, 4, 5, and SE¼NW¼.
Rights-of-Way
Ute Water Conservancy District, P.O. Box 460, Grand Junction, CO 80203—C–0102696, C–30010
Colorado Ute Electric Association, Inc., P.O. Box 1149 Montrose, CO 81401—C–055993, C–061163
Grand Valley Rural Power Lines, Inc., 2727 Grand Avenue, Grand Junction, CO 81502—C–061164
Recreation and Public Purpose Application
Mesa County Board of County Commissioners, Mesa County Courthouse, Grand Junction, CO 81501—C–28060
Oil and Gas Leases or Applications
Jay Coates, P.O. Box 744, Moab, Utah 84532—C–31199
R.E. Puckett, 215 Security Life Building, Denver, CO 80202—C–15934
R.C. Atrogge, 608 Midland Savings Building, Denver, CO 80202—C–15934
Voyager Petroleum, Inc., 8301 East Prentice Avenue, Englewood, CO 80110—C–17402
Grazing Permits
Joseph and Mozelle Lumbardy, P.O. Box 86, Whitewater, CO 81527
H. Crafts Black, Whitewater, CO 81527
Midwest Resources, Inc., c/o Lillian Somerville P.O. Box 36, Whitewater, CO 81527
Range Improvement
Road No. 7364
Withdrawals
Bureau of Reclamation, Whitewater and Grand Valley Projects
Federal Energy Regulatory Commission—Power Site Classification No. 392.

6. Rights-of-way granted by the Bureau of Land Management on the above lands will transfer with the land. Oil and gas leases will remain in effect under the terms and conditions of the lease. State law and Board of Land Commissioners procedures provide for the offering to holders of Bureau of Land Management grazing permits, licenses or leases the first right to lease lands that are transferred to the State. This classification notice constitutes official notice to holders of grazing use authorizations from the Bureau of Land Management that such authorizations will be terminated in part upon transfer of the land described above to the State of Colorado.

Harold R. Martin,
Acting State Director.

[FR Doc. 82-18836 Filed 7-6-82; 8:45 am]
BILLING CODE 4310-84-M

Intent To Hold Public Meeting on One Emergency Coal Lease; Application in McKinley County, New Mexico and Request for Information on Fair Market Value

June 28, 1982.

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Meeting and Request for Fair Market Value Information.

SUMMARY: This notice advises the public that the Bureau of Land Management intends to hold a public meeting concerning an application for coal leasing under the "Emergency Leasing" provisions for Carbon Coal Company. The meeting is to provide the opportunity for the public to comment on and discuss the potential effects of mining the proposed lease, including impacts on the environment, other lands uses, other economic activities and community or regional services. This notice also requests comment on the Fair Market Value of the tracts under application.

DATES: The public meeting will be held July 15, 1982. Written comments on Fair Market Value will be received on or before August 6, 1982.

ADDRESS: The public meeting will be at 1:00 p.m. in the Federal Building in Gallup, New Mexico in conference room 2.

SUPPLEMENTARY INFORMATION: The coal application being considered for leasing is as follows: NM–52786 (formerly application NM–36466)

Location: Adjacent to the Mentmore Mine seven miles northwest of Gallup, New Mexico.
Description: T. 15 N., R. 19 W., NMPM. Section 4, Lots 1 and 2: S1/2NE1/4.
Acres: 160.29.
Estimated Underground Recoverable Reserve: 483,000 tons.
Coal Quality: BTU—10,252 per lb., Sulfur—.58%, Ash—12.55%. Seam Thickness—10 seams ranging from 1.3 to 3.3 feet thick. The maximum area underlain by coal is 24.19 acres.

The purpose of the meeting is to obtain public comments on the potential impacts from leasing and subsequent mining of the lands under application. An Environmental Assessment has been prepared by the Bureau of Land Management, Albuquerque District Office. Comments on the EA are due by 30 days from the date of this notice and should be submitted to the Albuquerque District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

The public is also invited to submit written comments concerning the fair market value of the coal resource to the Bureau of Land Management and the Minerals Management Service. Public comments will be utilized in establishing fair market value for the coal resources in the described lands.

Comments should address specific factors related to fair market value including, but not limited to: The quantity and quality of the coal resource, the price that the mined coal

would bring in the marketplace, the cost of producing the coal, the probable timing and rate of production, the interest rate at which anticipated income streams would be discounted, depreciation and other accounting factors, the expected rate of industry return, and the mining method or methods which would achieve maximum economic recovery of the coal. Documentation of similar market transactions, including location, terms, and conditions, may also be submitted at this time.

These comments will be considered in the final determination of fair market value as determined in accordance with 30 CFR 211.63 and 43 CFR 3422.1–2. Should any information submitted as comments be considered to be proprietary by the commentor, the information should be labeled as such and stated in the first page of the submission. Information so marked will not be available to the public if it meets exemptions in the Freedom of Information Act. Comments should be sent to both the New Mexico State Director, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501, and to the Deputy Minerals Manager—Resources Evaluation, Minerals Management Service, 505 Marquette Avenue NW., Suite 815, Mail Stop 500, Albuquerque, New Mexico 87102, to arrive no later than August 6, 1982.

L. Paul Applegate,

District Manager.

[FR Doc. 82-18345 Filed 7-6-82; 8:45 am]

BILLING CODE 4310-84-M

[A-16569; AZ-020-1-135]

Public Lands Exchange; Mohave County, Ariz.

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Realty Action—Exchange, Public Lands in Mohave County, Arizona.

SUMMARY: The following described lands have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Gila and Salt River Meridian, Arizona

T. 26 N., R. 16 W.,
- Sec. 18: Lots 1 thru 4, E½, E½W½;
- Sec. 20: All;
- Sec. 28: All;
- Sec. 30: Lots 1 thru 4, E½, E½W½.

T. 26 N., R. 17 W.,
- Sec. 14: All;
- Sec. 16: All;
- Sec. 24: All;
- Sec. 28: All.

Comprising 5,105.72 acres, more or less.

In exchange for these lands, the Federal government will acquire non-Federal land from Carson Water Company described as follows:

Gila and Salt River Meridian, Arizona

T. 25N., R. 18 W.,
- Sec. 1: Lots 1 thru 4, S½N½, S½;
- Sec. 3: Lots 1 thru 4, S½N½, S½;
- Sec. 11: All;
- Sec. 13: All;
- Sec. 15: All;
- Sec. 23: All;
- Sec. 25: All;
- Sec. 27: All;
- Sec. 35: All.

Comprising 5,761.6 acres, more or less.

The exchange proposal involves only the surface estate of the non-Federal lands to be acquired. The Federal mineral estate, with the exception of oil and gas, will be transferred with the Federal surface. The mineral estate in the Federal land in section 16, T. 26 N., R. 17 W., G&SRM, is owned by the State of Arizona.

The purpose of the exchange is to acquire the non-Federal lands which contain crucial mule deer habitat, important habitat for feral horses, and exhibit outstanding recreation potential within the Mount Tipton area of the Cerbat Mountains. The exchange is consistent with the Bureau's planning system. The public interest will be well served by making the exchange.

The value of the lands and interests to be exchanged is approximately equal. Upon the completion of a final appraisal, acreages may be adjusted or a cash payment made to equalize the value difference. Where a money payment is required to equalize values, the payment shall not exceed 25 percent of the value of the public interests being conveyed.

Lands to be tranferred from the United States will be subject to the following reservations, terms and conditions:

1. A right-of-way for ditches and canals constructed by the authority of the United States, pursuant to the Act of August 30, 1980 (26 Stat. 391; 43 U.S.C. 945).

2. A reservation of all oil and gas to the United States, where said lands are encumbered with oil and gas leases, with the right to prospect for, mine and remove such deposits.

3. A road easement 50 feet in width for the Stockton Hill Road constructed under the authority of R.S. 2477 as recorded in Mohave County Book 380, Page 874 of Official Records.

Private lands to be acquired by the United States will be subject to the following reservations, terms and conditions:

1. All minerals in the subject are reserved to the Santa Fe Pacific Railroad Company.

The publication of this notice in the **Federal Register** will segregate the public lands described herein to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. As set forth in 43 CFR 2901.1(b), any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed and shall be returned to the applicant. This segregative effect shall terminate upon issuance of patent to such lands, upon publication in the **Federal Register** of a termination of the segregation, or 2 years from date of this publication, whichever occurs first.

SUPPLEMENTARY INFORMATION: Detailed information concerning the exchange, including the environmental analysis and the record of public discussions, is available for review at the Kingman Resource Area Office, 2475 Beverly Avenue, Kingman, Arizona 86401.

On or before August 23, 1982 to the District Manager, Phoenix District Office, 2929 West Clarendon Avenue, Phoenix, Arizona 85017. Any adverse comments may be evaluated by the Arizona State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Dated: June 29, 1982.

W. K. Barker,

District Manager.

[FR Doc. 82-18856 Filed 7-6-82; 8:45 am]

BILLING CODE 4310-84-M

Rock Springs District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting of the Rock Springs District Grazing Advisory Board.

SUMMARY: This notice sets forth the schedule and proposed agenda of a meeting of the Rock Springs District Grazing Advisory Board. Notice of this meeting is required under Pub. L. 92–463.

DATE: August 12, 1982, 9:30 a.m. until 3:30 p.m.

ADDRESS: Hilton Inn, Jim Bridger Room, 2518 Foothill Boulevard, Rock Springs, Wyoming.

FOR FURTHER INFORMATION CONTACT: Donald H. Sweep, District Manager, Rock Springs District, Bureau of Land Management, P.O. Box 1869, Rock Springs, Wyoming 82901, (307) 382–5350.

SUPPLEMENTARY INFORMATION:

The agenda for the meeting will include:

1. Review and approval of the minutes from the April 29, 1982 meeting.
2. Presentation of the review of Stock Driveway Withdrawals in the District and a recommendation from the Board on their future status.
3. Review and recommendation of the proposed projects to be constructed in Fiscal Year 1983 with Range Betterment (8100) funds.
4. Briefing on a request from the Lincoln County Weed and Pest Control Supervisor to use Range Betterment Funds for these activities.
5. Review of progress of Rangeland Improvement Maintenance Policy.
6. Public comment period.
7. Arrangements for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the Board between 3:00–3:30 p.m., or file written statements for the Board's consideration. Anyone wishing to make an oral statement should notify the District Manager, Bureau of Land Management, Highway 191 North, P.O. Box 1869, Rock Springs, Wyoming 82901, by August 11, 1982. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

A transcript of the meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Jerry K. Ostrom,

Assistant District Manager.

[FR Doc. 82–18347 Filed 7–6–82; 8:45 am]

BILLING CODE 4310–84–M

Minerals Management Service

[Utah No. 7]

Oil Shale Land Classification Order

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of classification of oil shale land in Utah.

SUMMARY: By Executive Order 5327, April 15, 1930, lands containing oil shade deposits owned by the United States were withdrawn from lease or other disposal and reserved for investigation, examination, and classification. Accordingly, this order classified lands described in Utah prospectively valuable oil shale lands.

FOR FURTHER INFORMATION CONTACT: Mr. Larry H. Godwin, Deputy Minerals Manager, Resource Evaluation—Central Region, Minerals Management Service, Mail Stop 602, Box 25046, Denver, Colorado 80225, telephone (303) 234–4435, FTS 234–4435.

SUPPLEMENTARY INFORMATION: This order is issued under the authority of the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and as delegated to me by Departmental Order 2563, May 2, 1950, under authority of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), the following described lands, insofar as title remains in the United States, are classified as follows:

Oil Shale Land Classification Order Utah No. 7

Uinta Special Meridian

Prospectively Valuable Oil Shale Lands

T. 1 N., R. 1 E.,
Secs. 1 to 36, inclusive.
T. 2 N., R. 1 E.,
Secs. 31 to 35, inclusive.
T. 1 N., R. 2 E.,
Secs. 6 to 9, inclusive, 14 to 23, inclusive and 27 to 34, inclusive.
T. 1 N., R. 1 W.,
Secs. 1 to 36, inclusive.
T. 2 N., R. 1 W.,
Secs. 19 and 25 to 36, inclusive.
T. 1 N., R. 2 W.,
Secs. 1 to 36, inclusive.
T. 2 N., R. 2 W.,
Secs. 41 to 36, inclusive.
T. 1 N., R. 3 W.,
Secs. 1 to 36, inclusive.
T. 2 N., R. 3 W.,
Secs. 13, 14, 15, and 20 to 36, inclusive.
T. 1 N., R. 4 W.,
Secs. 1, 2, 3, and 8 to 36, inclusive.
T. 2 N., R. 4 W.,
Secs. 35 and 36.
T. 1 N., R. 5 W.,
Secs. 13, 14, and 20 to 36, inclusive.
T. 1 S., R. 1 E.,
Secs. 1 to 36, inclusive.
T. 2 S., R. 1 E.,
Secs. 1 to 36, inclusive.
T. 3 S., R. 1 E.,
Secs. 1 to 36, inclusive.
T. 4 S., R. 1 E.,
Secs. 1 to 30, inclusive, and 32 to 36, inclusive.
T. 5 S., R. 1 E.,
Secs. 1 and 2.
T. 1 S., R. 2 E.,
Secs. 3 to 9, inclusive, 16 to 20, inclusive, 30, and 31.
T. 2 S., R. 2 E.,
Secs. 5 to 8, inclusive, 16 to 21, inclusive, and 28 to 34, inclusive.
T. 3 S., R. 2 E.,
Secs. 3 to 11, inclusive, and 14 to 36, inclusive.
T. 4 S., R. 2 E.,
Secs. 1 to 36, inclusive.
T. 5 S., R. 2 E.,
Secs. 1 to 12, inclusive, 14 to 17, inclusive, 22, and 23.
T. 4 S., R. 3 E.,
Secs. 6, 7, 17 to 20, inclusive, and 28 to 33, inclusive.
T. 5 S., R. 3 E.,
Secs. 5 to 8, inclusive.
T. 1 S., R. 1 W.,
Secs. 1 to 36, inclusive.
T. 2 S., R. 1 W.,
Secs. 1 to 36, inclusive.
T. 3 S., R. 1 W.,
Secs. 1 to 36, inclusive.
T. 4 S., R. 1 W.,
Secs. 1 to 30, inclusive.
T. 1 S., R. 2 W.,
Secs. 1 to 36, inclusive.
T. 2 S., R. 2 W.,
Secs. 1 to 36, inclusive.
T. 3 S., R. 2 W.,
Secs. 1 to 36, inclusive.
T. 4 S., R. 2 W.,
Secs. 1 to 30, inclusive.
T. 1 S., R. 3 W.,
Secs. 1 to 36, inclusive.
T. 2 S., R. 3 W.,
Secs. 1 to 36, inclusive.
T. 3 S., R. 3 W.,
Secs. 1 to 36, inclusive.
T. 4 S., R. 3 W.,
Secs. 1 to 36, inclusive.
T. 5 S., R. 3 W.,
Secs. 2 to 10, inclusive, 15 to 22, inclusive, and 28 to 33, inclusive.
T. 6 S., R. 3 W.,
Secs. 4 to 9, inclusive, 16 to 21, inclusive, 29, and 30.
T. 1 S., R. 4 W.,
Secs. 1 to 36, inclusive.
T. 2 S., R. 4 W.,
Secs. 1 to 36, inclusive.
T. 3 S., R. 4 W.,
Secs, 1 to 36, inclusive.
T. 4 S., R. 4 W.,
Secs. 1 to 36, inclusive.
T. 5 S., R. 4 W.,
Secs. 1 to 36, inclusive.
T. 6 S., R. 4 W.,
Secs. 1 to 36, inclusive.
T. 7 S., R. 4 W.,
Secs. 3 to 10, inclusive, and 15 to 18, inclusive.
T. 1 S., R. 5 W.,
Secs. 1 to 36, inclusive.
T. 2 S., R. 5 W.,
Secs. 1 to 36, inclusive.
T. 3 S., R. 5 W.,
Secs. 1 to 36, inclusive.
T. 4 S., R. 5 W.,
Secs. 1 to 36, inclusive.
T. 5 S., R. 5 W.,
Secs. 1 to 36, inclusive.
T. 6 S., R. 5 W.,
Secs. 1 to 36, inclusive.
T. 7 S., R. 5 W.,
Secs. 1 to 7, inclusive, and 9 to 14, inclusive.
T. 1 S., R. 6 W.,
Secs. 1 to 5, inclusive, and 7 to 36, inclusive.
T. 2 S., R. 6 W.,
Secs. 1 to 36, inclusive.

T. 3 S., R. 6 W.,
Secs. 1 to 36, inclusive.
T. 4 S., R. 6 W.,
Secs. 1 to 36, inclusive.
T. 5 S., R. 6 W.,
Secs. 1 to 36, inclusive.
T. 6 S., R. 6 W.,
Secs. 1 to 36, inclusive.
T. 7 S., R. 6 W.,
Secs. 1 to 6, inclusive, and 8 to 12, inclusive.
T. 1 S., R. 7 W.,
Secs. 12, 13, 14, and 20 to 36, inclusive.
T. 2 S., R. 7 W.,
Secs. 1 to 36, inclusive.
T. 3 S., R. 7 W.,
Secs. 1 to 36, inclusive.
T. 4 S., R. 7 W.,
Secs. 1 to 36, inclusive.
T. 5 S., R. 7 W.,
Secs. 1 to 36, inclusive.
T. 6 S., R. 7 W.,
Secs. 1 to 36, inclusive.
T. 7 S., R. 7 W.,
Secs 1 to 8, inclusive.
T. 1 S., R. 8 W.,
Secs. 25, 26, 27, 34, 35, and 36.
T. 2 S., R. 8 W.,
Secs. 1 to 36, inclusive.
T. 3 S., R. 8 W.,
Secs. 1 to 36, inclusive.
T. 4 S., R. 8 W.,
Secs. 1 to 36, inclusive.
T. 5 S., R. 8 W.,
Secs. 1 to 36, inclusive.
T. 6 S., R. 8 W.,
Secs. 1 to 36, inclusive.
T. 7 S., R. 8 W.,
Secs 1 to 12, inclusive, and 15 to 18, inclusive.
T. 2 S., R. 9 W.,
Secs. 1, 9 to 16, inclusive, and 19 to 36, inclusive.
T. 3 S., R. 9 W.,
Secs. 1 to 36, inclusive.
T. 4 S., R. 9 W.,
Secs. 1 to 36, inclusive.
T. 5 S., R. 9 W.,
Secs. 1 to 36, inclusive.
T. 6 S., R. 9 W.,
Secs. 1 to 36, inclusive.
T. 7 S., R. 9 W.,
Secs. 1 to 16, inclusive.
T. 2 S., R. 10 W.,
Secs. 25, 26, 27, and 33 to 36, inclusive.
T. 3 S., R. 10 W.,
Secs. 1 to 26, inclusive.
T. 4 S., R. 10 W.,
Secs. 1 to 36, inclusive.
T. 5 S., R. 10 W.,
Secs. 1 to 19, inclusive, 21 to 27, inclusive, 30, 34, 35, and 26.
T. 6 S., R. 10 W.,
Secs. 1, 2, 3, 11 to 14, inclusive, 23 to 26, inclusive, and 36.
T. 7 S., R. 10 W.,
Sec. 1.
T. 3 S., R. 11 W.,
Secs. 1 to 36, inclusive.
T. 4 S., R. 11 W.,
Sec. 1 to 36, inclusive.
T. 5 S., R. 11 W,
Secs. 1 to 35, inclusive.
T. 6 S., R. 11 W.,
Secs. 4, 5, and 6.
T. 3 S., R. 12 W.,
Secs. 1 to 6, inclusive, 8 to 17, inclusive, 20 to 29, inclusive, and 33 to 36, inclusive.
T. 4 S., R. 12 W.,
Secs. 1, 2, 3, 10 to 15, inclusive, 22 to 28, inclusive, and 33 to 36, inclusive.
T. 5 S., R. 12 W.,
Secs. 1 to 4, inclusive, 9 to 16, inclusive, and 21 to 25, inclusive.

Salt Lake Meridian

T. 14 S., R. 1 W.,
Secs. 20, 21, 27, 28, 29, and 31 to 34, inclusive.
T. 15 S., R. 1 W.,
Secs. 1 to 36, inclusive.
T. 16 S., R 1 W.,
Secs. 1 to 36, inclusive.
T. 17 S., R. 1 W.,
Secs. 1 to 18, inclusive, 20 to 29, inclusive, and 32 to 36, inclusive.
T. 18 S., R. 1 W.,
Secs. 1 to 5, inclusive, 8 to 17, inclusive, 20 to 29, inclusive, and 32 to 36, inclusive.
T. 19 S., R. 1 W.,
Secs. 1 to 5, inclusive, 8 to 17, inclusive, 20 to 29, inclusive, and 31 to 36, inclusive.
T. 20 S., R. 1 W.,
Secs. 1 to 5, inclusive, and 7 to 36, inclusive.
T. 21 S., R. 1 W.,
Secs. 1 to 24, inclusive, and 26 to 33, inclusive.
T. 22 S., R. 1 W.,
Secs. 6 and 36.
T. 15 S., R. 1 W.,
Secs. 11 to 14, inclusive, 25, 26, 35, and 36.
T. 20 S., R. 1 W.,
Secs. 25 and 36.
T. 20 S., R. 2 W.,
Secs. 35 and 36.
T. 21 S., R. 2 W.,
Secs. 1 to 5, inclusive, 8 to 17, inclusive, 20 to 29, inclusive, and 32 to 36, inclusive.
T. 22 S., R. 2 W.,
Secs. 1 to 5, inclusive, 9, 10, 11, 14, 15, 16, 22, and 27 to 33, inclusive.
T. 23 S., R. 2 W.,
Secs. 4 to 8, inclusive, 18, and 19.
T. 23 S., R. 3 W.,
Secs. 2, 10, 13, 14, 15, 21 to 29, inclusive, and 32 to 35, inclusive.
T. 15 S., R. 1 E.,
Secs. 7, 18, 24, 25, 31, 32, 33, and 36.
T. 16 S., R. 1 E.,
Secs. 1, and 3 to 36, inclusive.
T. 17 S., R. 1 E.,
Secs. 1 to 11, inclusive, and 14 to 36, inclusive.
T. 18 S., R. 1 E.,
Secs. 1 to 23, inclusive, and 26 to 35, inclusive.
T. 19 S., R. 1 E.,
Secs. 2 to 11, inclusive, 14 to 23, inclusive, and 26 to 35, inclusive.
T. 20 S., R. 1 E.,
Secs. 2 to 11, inclusive, 14 to 23, inclusive, 26 to 34, inclusive, and 36.
T. 21 S., R. 1 W.,
Secs. 1, 4 to 9, inclusive, 11 to 14, inclusive, 17, 18, 19, 22 to 28, inclusive, and 32 to 35, inclusive.
T. 22 S., R. 1 E.,
Secs. 2 to 5, inclusive, 8 to 11, inclusive, 14 to 17, inclusive, and 19 to 36, inclusive.
T. 23 S., R. 1 E.,
Secs. 1 to 18, inclusive, 20 to 29, inclusive, and 32 to 36, inclusive.
T. 24 S., R. 1 E.,
Secs. 1 to 4, inclusive, 9 to 16, inclusive, and 21 to 24, inclusive.
T. 15 S., R. 2 E.,
Secs. 29 to 33, inclusive.
T. 16 S., R. 2 E.,
Secs. 5 to 8, inclusive, 17 to 20, inclusive, 24, 25, 29 to 32, inclusive, 35, and 36.
T. 17 S., R. 2 E.,
Secs. 1, 2, 3, 5, 6, 10 to 15, inclusive, 19, 22, to 27, inclusive, 30, 31, 34, 35, and 36.
T. 18 S., R. 2 E.,
Secs. 1, 2, 3, 5, 6, 7, 10, 11, 12, 15, 21, 22, 27, 28, 33 and 34.
T. 19 S., R. 2 E.,
Secs. 4, 5, 8, to 11, inclusive, 14 to 17, inclusive, 20 to 23, inclusive, 26 to 29, inclusive, 32, 33, and 34.
T. 20 S., R. 2 E.,
Secs. 3, 4, 5, 8, 9, 16 to 21, inclusive, and 28 to 33, inclusive.
T. 21 S., R. 2 E.,
Secs. 5 to 8, inclusive, 17, 18, and 19.
T. 23 S., R. 2 E.,
Secs. 6, 7, 18, 19, 30, and 31.
T. 24 S., R. 2 E.,
Secs. 6, 7, and 17 to 20, inclusive.
T. 12 S., R. 3 E.,
Secs. 24, 25, and 36.
T. 13 S., R. 3 E.,
Secs. 1 to 5, inclusive, 8 to 17, inclusive, 22 to 27, inclusive, 34, 35, and 36.
T. 14 S., R. 3 E.,
Secs. 1, 2, 3, 9 to 16, inclusive, 21 to 28, inclusive, and 33 to 36, inclusive.
T. 15 S., R. 3 E.,
Secs. 1 to 4, inclusive, 9 to 16, inclusive, 21 to 29, inclusive, and 32 to 36, inclusive.
T. 16 S., R. 3 E.,
Secs. 1 to 5, inclusive, and 7 to 36, inclusive.
T. 17 S., R. 3 E.,
Secs. 2 to 10, inclusive, 15 to 22, inclusive, and 28 to 33, inclusive.
T. 18 S., R. 3 E.,
Secs. 5 to 8, inclusive.
T. 8 S., R. 4 E.,
Secs. 25 and 36.
T. 9 S., R. 4 E.,
Secs. 1 to 4, inclusive, 9 to 13, inclusive, and 21 to 28, inclusive.
T. 10 S., R. 4 E.,
Secs. 15, 16, 17, 20, 21, 22, 27, 28, 29, and 36.
T. 11 S., R. 4 E.,
Secs. 1, 12, and 13.
T. 12 S., R. 4 E.,
Secs. 9, 12, 13, 14, and 16 to 35, inclusive.
T. 13 S., R. 4 E.,
Secs. 2 to 11, inclusive, 14 to 23, inclusive, and 25 to 36, inclusive.
T. 14 S., R. 4 E.,
Secs. 1 to 35, inclusive.
T. 15 S., R. 4 E.,
Secs. 2 to 11, inclusive, 15 to 22, inclusive, and 28 to 32, inclusive.
T. 16 S., R. 4 E.,
Secs. 6, 7, and 18.
T. 7 S., R. 5 E.,
Secs. 1, 2, 10 to 16, inclusive, 20 to 31, inclusive, and 33 to 36, inclusive.
T. 8 S., R. 5 E.,
Secs. 1, 2, 4, 8, 9, 12, 13, 16 to 20, inclusive, 30, and 31.
T. 9 S., R. 5 E.,

Secs. 11 to 15, inclusive, 21 to 29, inclusive, and 32 to 36, inclusive.
T. 10 S., R. 5 E.,
Secs. 1 to 24, inclusive, and 28 to 32, inclusive.
T. 11 S., R. 5 E.,
Secs. 6 and 7.
T. 14 S., R. 5 E.,
Secs. 18 and 19.
T. 7 S., R. 6 E.,
Secs. 4 to 9, inclusive, 16 to 22, inclusive, and 28 to 35, inclusive.
T. 8 S., R. 6 E.,
Secs. 2 to 11, inclusive, 14 to 23, inclusive, and 28 to 35, inclusive.
T. 9 S., R. 6 E.,
Secs. 3 to 9, inclusive, and 11 to 36, inclusive.
T. 10 S., R. 6 E.,
Secs. 1 to 27, inclusive, and 30.
T. 9 S., R. 7 E.,
Secs. 19, 24, 25, 26, and 30 to 36, inclusive.
T. 10 S., R. 7 E.,
Secs. 1 to 11, inclusive, 13 to 22, inclusive, and 24.
T. 9 S., R. 8 E.,
Secs. 15, 16, 17, 19 to 23, inclusive, and 26 to 35, inclusive.
T. 10 S., R. 8 E.,
Secs. 2 to 29, inclusive, and 32 to 36, inclusive.
T. 11 S., R. 8 E.,
Secs. 1 to 4, inclusive, and 9 to 14, inclusive.
T. 10 S., R. 9 E.,
Sec. 31.
T. 11 S., R. 9 E.,
Secs. 3 to 28, inclusive.
T. 11 S., R. 10 E.,
Secs. 1, and 7 to 36, inclusive.
T. 10 S., R. 11 E.,
Secs. 34, 35, and 36.
T. 11 S., R. 11 E.,
Secs. 1 to 36, inclusive.
T. 12 S., R. 11 E.,
Secs. 1 to 4, inclusive, 11, 12, and 13.
T. 10 S., R. 12 E.,
Secs. 31 and 32.
T. 11 S., R. 12 E.,
Secs. 1 to 36, inclusive.
T. 12 S., R. 12 E.,
Secs. 1 to 24, inclusive.
T. 10 S., R. 13 E.,
Secs. 31 and 34.
T. 11 S., R. 13 E.,
Secs. 1 to 36, inclusive.
T. 12 S., R. 13 E.,
Secs. 1 to 30, inclusive, and 32 to 36, inclusive.
T. 13 S., R. 13 E.,
Secs. 1 to 4, inclusive, 9 to 16, inclusive, 21 to 28, inclusive, and 33 to 36, inclusive.
T. 14 S., R. 13 E.,
Secs. 1, 2, 3, 10 to 14, inclusive, and 24.
T. 10 S., R. 14 E.,
Secs. 24, 25, 26, 35, and 36.
T. 11 S., R. 14 E.,
Secs. 1, 2, 3, and 7 to 36, inclusive.
T. 12 S., R. 14 E.,
Secs. 1 to 36, inclusive.
T. 13 S., R. 14 E.,
Secs. 1 to 36, inclusive.
T. 14 S., R. 14 E.,
Secs. 1 to 30, inclusive, and 33 to 36, inclusive.
T. 15 S., R. 14 E.,
Secs. 1 to 4, inclusive, 9 to 16, inclusive, 21 to 28, inclusive, and 33 to 36, inclusive.
T. 16 S., R. 14 E.,
Sec. 1
T. 8 S., R. 15 E.,
Secs. 24, 25, 26, 35, and 36.
T. 9 S., R. 15 E.,
Secs. 1, 2, 3, 10 to 15, inclusive, 22 to 27, inclusive, and 33 to 36, inclusive.
T. 10 S., R. 15 E.,
Secs. 1 to 4, inclusive, 9 to 17, inclusive, and 19 to 36, inclusive.
T. 11 S., R. 15 E.,
Secs. 1 to 36, inclusive.
T. 12 S., R 15 E.,
Secs. 1 to 36, inclusive.
T. 13 S., R. 15 E.,
Secs. 1 to 36, inclusive.
T. 14 S., R. 15 E.,
Secs. 1 to 36, inclusive.
T. 15 S., R. 15 E.,
Secs. 1 to 36, inclusive.
T. 16 S., R. 15 E.,
Secs. 1, 2, 3, 5 to 8, inclusive, 11, 12, 13, 17, and 18.
T. 8 S., R. 16 E.,
Secs. 13, 14, 15, and 19 to 36, inclusive.
T. 9 S., R. 16 E.,
Secs. 1 to 36, inclusive.
T. 10 S., R. 16 E.,
Secs. 1 to 36, inclusive.
T. 11 S., R. 16 E.,
Secs. 1 to 36, inclusive.
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Secs. 1 to 36, inclusive.
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Secs. 1 to 36, inclusive.
T. 14 S., R. 16 E.,
Secs. 1 to 36, inclusive.
T. 15 S., R. 16 E.,
Secs. 1 to 36, inclusive.
T. 16 S., R. 16 E.,
Secs. 1 to 29, inclusive, and 32 to 36, inclusive.
T. 17 S., R. 16 E.,
Secs. 1, 2, 11, 12, and 13.
T. 8 S., R. 17 E.,
Secs. 14 to 36, inclusive.
T. 9 S., R. 17 E.,
Secs. 1 to 36, inclusive.
T. 10 S., R. 17 E.,
Secs. 1 to 36, inclusive.
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Secs. 1 to 36, inclusive.
T. 12 S., R. 17 E.,
Secs. 1 to 24, inclusive, and 27 to 34, inclusive.
T. 13 S., R. 17 E.,
Secs. 1, 3 to 9, inclusive, 12, 13, 16 to 22, inclusive, 24, 25, and 27 to 36, inclusive.
T. 14 S., R. 17 E.,
Secs. 1, 2, 4 to 8, inclusive, 10 to 15 inclusive, 17 to 20, inclusive, 22 to 31, inclusive, and 33 to 36, inclusive.
T. 15 S., R. 17 E.,
Secs. 1 to 4, inclusive, 6, 7, 10 to 15, inclusive, 17 to 20, inclusive, 22 to 27, inclusive, 29 to 32, inclusive, 34, 35, and 36.
T. 16 S., R. 17 E.,
Secs. 1, 4 to 9, inclusive, 12, 13, 16 to 21, inclusive, 24, 25, and 28 to 33, inclusive.
T. 17 S., R. 17 E.,
Secs. 4 to 7, inclusive.
T. 8 S., R. 18 E.,
Secs. 19, 20, 21, and 25 to 36, inclusive.
T. 9 S., R. 18 E.,
Secs. 1 to 36, inclusive.
T. 10 S., R. 18 E.,
Secs. 1 to 36, inclusive.
T. 11 S., R. 18 E.,
Secs. 1 to 36, inclusive.
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Secs. 1 to 36, inclusive.
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Secs. 1 to 36, inclusive.
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Secs. 1 to 36, inclusive.
T. 15 S., R. 18 E.,
Secs. 1 to 36, inclusive.
T. 16 S., R. 18 E.,
Secs. 1 to 5, inclusive, 8 to 17, inclusive, 20 to 29, inclusive, 35, and 36.
T. 17 S., R. 18 E.,
Secs. 1, 2, 3, 10 to 14, inclusive, 23 to 26, inclusive, 35, and 36.
T. 4 S., R. 19 E.,
Secs. 12, 13, 14, 23 to 26, inclusive, 34, 35, and 36.
T. 5 S., R. 19 E.,
Secs. 1, 2, 3, 9 to 17, inclusive, 20 to 29, inclusive, and 32 to 36, inclusive.
T. 6 S., R. 19 E.,
Secs. 1 to 5, inclusive, 9 to 16, inclusive, 22 to 27, inclusive, 34, 35, and 36.
T. 7 S., R. 19 E.,
Secs. 1, 2, 11, 12, 13, and 24.
T. 8 S., R. 19 E.,
Secs. 31 and 32.
T. 9 S., R. 19 E.,
Secs. 1, and 4 to 36, inclusive.
T. 10 S., R. 19 E.,
Secs. 1 to 36, inclusive.
T. 11 S., R. 19 E.,
Secs. 1 to 36, inclusive.
T. 12 S., R. 19 E.,
Secs. 1 to 36, inclusive.
T. 13 S., R. 19 E.,
Secs. 1 to 36, inclusive.
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Secs. 1 to 36, inclusive.
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Secs. 1 to 36, inclusive.
T. 16 S., R. 19 E.,
Secs. 1 to 36, inclusive.
T. 17 S., R. 19 E.,
Secs. 1 to 36, inclusive.
T. 18 S., R. 19 E.,
Secs. 1 to 6, inclusive, 8 to 17, inclusive, 21 to 28, inclusive, 35, and 36.
T. 19 S., R. 19 E.,
Secs. 1 and 2.
T. 4 S., R. 20 E.,
Secs. 17 to 22, inclusive, and 25 to 36, inclusive.
T. 5 S., R. 20 E.,
Secs. 1 to 36, inclusive.
T. 6 S., R. 20 E.,
Secs. 1 to 36, inclusive.
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Secs. 1 to 6, inclusive, 8 to 17, inclusive, 21 to 28, inclusive, and 32 to 36, inclusive.
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Secs. 1 to 36, inclusive.
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Secs. 1 to 36, inclusive.
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Secs. 1 to 36, inclusive.
T. 18 S., R. 20 E.,
Secs. 1 to 15, inclusive, 17 to 20, inclusive, 22 to 27, inclusive, 30, 31, 32, 34, and 35.
T. 19 S., R. 20 E.,
Sec. 6.
T. 4 S., R. 21 E.,
Sec. 31.
T. 5 S., R. 21 E.,
Secs. 5 to 9, inclusive, 15 to 23, inclusive, and 25 to 36, inclusive.
T. 6 S., R. 21 E.,
Secs. 1 to 36, inclusive.
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Secs. 1 to 36, inclusive.
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Secs. 1 to 36, inclusive.
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Secs. 1 to 36, inclusive.
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Secs. 1 to 36, inclusive.
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Secs. 1 to 36, inclusive.
T. 12 S., R. 21 E.,
Secs. 1 to 36, inclusive.
T. 13 S., R. 21 E.,
Secs. 1 to 14, inclusive, 16 to 21, inclusive, 23, 24, 25, 28 to 32, inclusive, and 36.
T. 14 S., R. 21 E.,
Secs. 5 to 8, inclusive, 17, 18, 19, and 22 to 36, inclusive.
T. 15 S., R. 21 E.,
Secs. 1 to 36, inclusive.
T. 15 S., R. 21 E.,
Secs. 1 to 36, inclusive.
T. 16 S., R. 21 E.,
Secs. 1 to 36, inclusive.
T. 17 S., R. 21 E.,
Secs. 1 to 36, inclusive.
T. 18 S., R. 21 E.,
Secs. 1 to 24, inclusive, and 26 to 32, inclusive.
T. 5 S., R. 22 E.,
Sec. 31.
T. 6 S., R. 22 E.,
Secs. 4 to 36, inclusive.
T. 7 S., R. 22 E.,
Secs. 1 to 36, inclusive.
T. 8 S., R. 22 E.,
Secs. 1 to 36, inclusive.
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Secs. 1 to 36, inclusive.
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Secs. 1 to 36, inclusive.
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Secs. 1 to 36, inclusive.
T. 12 S., R. 22 E.,
Secs. 1 to 36, inclusive.
T. 13 S., R. 22 E.,
Secs. 1 to 36, inclusive.
T. 14 S., R. 22 E.,
Secs. 1 to 5, inclusive, 9 to 15, inclusive, and 22 to 27, inclusive.
T. 15 S., R. 22 E.,
Secs. 16 to 23, inclusive, and 26 to 35, inclusive.
T. 15 S., R. 22 E.,
Secs. 31 to 36, inclusive.
T. 16 S., R. 22 E.,
Secs. 1 to 36, inclusive.
T. 17 S., R. 22 E.,
Secs. 2 to 11, inclusive, 16 to 20, inclusive, 28, 29, 30, 32, and 33.
T. 6 S., R. 23 E.,
Secs. 13 to 36, inclusive.
T. 7 S., R. 23 E.,
Secs. 1 to 36, inclusive.
T. 8 S., R. 23 E.,
Secs. 1 to 36, inclusive.
T. 9 S., R. 23 E.,
Secs. 1 to 36, inclusive.
T. 10 S., R. 23 E.,
Secs. 1 to 36, inclusive.
T. 11 S., R. 23 E.,
Secs. 1 to 36, inclusive.
T. 12 S., R. 23 E.,
Secs. 1 to 36, inclusive.
T. 13 S., R. 23 E.,
Secs. 1 to 30, inclusive, 34, 35, and 36.
T. 14 S., R. 23 E.,
Secs. 1, 2, 3, 9 to 16, inclusive, 18, 19, and 24.
T. 15 S., R. 23 E.,
Secs. 31 and 32.
T. 16 S., R. 23 E.,
Secs. 4 to 9, inclusive, 16 to 21, inclusive, 30, and 31.
T. 6 S., R. 24 E.,
Secs. 19 to 23, inclusive, and 25 to 36, inclusive.
T. 7 S., R. 24 E.,
Secs. 1 to 36, inclusive.
T. 8 S., R. 24 E.,
Secs. 1 to 36, inclusive.
T. 9 S., R. 24 E.,
Secs. 1 to 36, inclusive.
T. 10 S., R. 24 E.,
Secs. 1 to 36, inclusive.
T. 11 S., R. 24 E.,
Secs. 1 to 36, inclusive.
T. 12 S., R. 24 E.,
Secs. 1 to 36, inclusive.
T. 13 S., R. 24 E.,
Secs. 1 to 24, inclusive, and 26 to 31, inclusive.
T. 14 S., R. 24 E.,
Secs. 7, 18, and 19.
T. 6 S., R. 25 E.,
Secs. 29 to 33, inclusive.
T. 7 S., R. 25 E.,
Secs. 5 to 9, inclusive, 15 to 22, inclusive, and 26 to 35, inclusive.
T. 8 S., R. 25 E.,
Secs. 1 to 36, inclusive.
T. 9 S., R. 25 E.,
Secs. 1 to 36, inclusive.
T. 10 S., R. 25 E.,
Secs. 1 to 36, inclusive.
T. 11 S., R. 25 E.,
Secs. 1 to 36, inclusive.
T. 12 S., R. 25 E.,
Secs. 4 to 8, inclusive, 16 to 20, inclusive, and 29, 30, and 31.
T. 13 S., R. 25 E.,
Secs. 4 to 9, inclusive, 16 and 17.

The area described aggregates 5,010,342 acres (2,027,685 hectares), more or less, all of which are classified as prospectively valuable oil shale lands.

Dated: June 24, 1982.
Harold E. Doley, Jr.,
Director.
[FR Doc. 82-18333 Filed 7-6-82; 8:45 am]
BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Shell Offshore Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Shell Offshore Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 4892, Block 299, South Timbalier Area, Offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT:
Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002. Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised §250.34 of Title 30 of the Code of Federal Regulations.

Dated: June 25, 1982.
John L. Rankin,
Acting Minerals Manager, Gulf of Mexico OCS Region.
[FR Doc. 82-18344 Filed 7-6-82; 8:45 am]
BILLING CODE 4310-31-M

Oil Shale Leasing Area, East Tavaputs Plateau, Utah

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of Classification of an Oil Shale Leasing Area in Utah.

SUMMARY: The East Tavaputs Plateau Oil Shale Leasing Area, comprising approximately 57,624 acres in Uintah County, Utah, is established by Utah Oil Shale Leasing Minutes No. 2, November 2, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Godwin, Deputy Minerals Manager, Resource Evaluation—Central Region, Minerals Management Service, Mail Stop 602, Box 25046, Denver Federal Center, Denver, Colorado 80225, telephone (303) 234–4435, FTS 234–4435.

SUPPLEMENTARY INFORMATION: Under the authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), 220 Departmental Manual 2, Secretary's Orders No. 2948 and No. 3071, Federal lands within the State of Utah have been classified as subject to the oil shale leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 241). The name of the area, effective date and total acreage are as follows:

(44) Utah

East Tavaputs Plateau Oil Shale Leasing Area; November 2, 1981; 57,624 acres.

A diagram showing the boundaries of the area classified for leasing has been filed with the appropriate land office of the Bureau of Land Management. Copies of the diagram and the land descriptions can be obtained from the Minerals Manager, Central Region, Minerals Management Service, Stop 609, Box 25046, Denver Federal Center, Denver, Colorado 80225, telephone (303) 234–4435, FTS 234–4435.

Dated: June 24, 1982.

Harold E. Doley, Jr.,

Director.

[FR Doc. 82-18332 Filed 7-6-82; 8:45 am]

BILLING CODE 4310-MR-M

Oil Shale Leasing Area, Gray Knolls, Utah

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of Classification of an Oil Shale Leasing Area in Utah.

SUMMARY: The Gray Knolls Shale Leasing Area, comprising approximately 47,866 acres in Uintah County, Utah, is established by Utah Oil Shale Leasing Minutes No. 3, November 2, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Godwin, Deputy Minerals Manager, Resource Evaluation—Central Region, Minerals Management Service, Mail Stop 602, Box 25046, Denver Federal Center, Denver, Colorado 80225, telephone (303) 234–4435, FTS 234–4435.

SUPPLEMENTARY INFORMATION: Under the authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), 220 Departmental Manual 2, Secretary's Orders No. 2948 and No. 3071, Federal lands within the State of Utah have been classified as subject to the oil shale leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 241). The name of the area, effective date and total acreage are as follows:

(44) Utah

Gray Knolls Oil Shale Leasing Area; November 2, 1981; 47,866 acres.

A diagram showing the boundaries of the area classified for leasing has been filed with the appropriate land office of the Bureau of Land Management. Copies of the diagram and the land descriptions can be obtained from the Minerals Manager, Central Region, Minerals Management Service, Stop 609, Box 25046, Denver Federal Center, Denver, Colorado 80225, telephone (303) 234–4435, FTS 234–4435.

Dated: June 24, 1982.

Harold E. Doley, Jr.,

Director.

[FR Doc. 82-18331 Filed 7-6-82; 8:45 am]

BILLING CODE 4310-MR-M

Oil Shale Leasing Area, Southeastern Uinta Basin, Utah

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of Classification of an Oil Shale Leasing Area in Utah.

SUMMARY: The Southeastern Uinta Basin Oil Shale Leasing Area, comprising approximately 446,470 acres in Uintah County, Utah, is established by Utah Oil Shale Leasing Minutes No. 1, November 2, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Godwin, Deputy Minerals Manager, Resource Evaluation—Central Region, Minerals Management Service, Mail Stop 602, Box 25046, Denver Federal Center, Denver, Colorado 80225, telephone (303) 234–4435, FTS 234–4435.

SUPPLEMENTARY INFORMATION: Under the authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), 220 Departmental Manual 2, Secretary's Orders No 2948 and No. 3071, Federal lands within the State of Utah have been classified as subject to the oil shale leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 241). The name of the area, effective date and total acreage are as follows:

(44) Utah

Southeastern Uinta Basin Oil Shale Leasing Area; November 3, 1981; 446,470 acres.

A diagram showing the boundaries of the area classified for leasing has been filed with the appropriate land office of the Bureau of Land Management. Copies of the diagram and the land descriptions can be obtained from the Minerals Manager, Central Region, Minerals Management Service, Stop 609, Box 25046, Denver Federal Center, Denver, Colorado 80225, telephone (303) 234–4435, FTS 234–4435.

Dated: June 24, 1982.

Harold E. Doley, Jr.,

Director.

[FR Doc. 82-18330 Filed 7-6-82; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Exxon Co., U.S.A.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Exxon Company, U.S.A. has submitted a Development and Production Plan describing the activities it proposes to conduct on Leases OCS–G 1082 and OCS–G 1092, Blocks 72 and 93, West Delta Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information

contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: June 25, 1982.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-18336 Filed 7-6-82; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; McMoRan Offshore Exploration Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that McMoRan Offshore Exploration Co. has submitted a Development and Production Plan describing the activities it proposes to conduct on Leases OCS–G 3932, 4540, and 3079, Blocks 527, 528, and 555, Matagorda Island Area, offshore Texas.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: June 24, 1982.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-18337 Filed 7-6-82; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Gulf Oil Exploration and Production Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Gulf Oil Exploration and Production Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 4486, Block 301, Main Pass Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: June 28, 1982.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-18339 Filed 7-6-82; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; ODECO Oil and Gas Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that ODECO Oil and Gas Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 0228, Block 93, Eugene Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: June 29, 1982.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-18340 Filed 7-6-82; 8:45 am]

BILLING CODE 4310-31-M

DEPARTMENT OF JUSTICE

Consent Decree To Require Compliance With the Clean Water Act

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on June 8, 1982, a proposed consent decree in *United States* v. *Pima County, and the State of Arizona* was lodged in the United States District Court for the District of Arizona. The decree imposes on defendant certain requirements and compliance dates with respect to the operation of the Mount Lemmon Wastewater Treatment Plant in Pima County, Arizona.

The Department of Justice will receive for a period of thirty (30) days from the date of this notice (August 6, 1982), written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should refer to *United States* v. *Pima County, and the State of Arizona,* D.J. Ref. 90–5–1–1–1550.

The proposed order may be examined at the office of the United States Attorney, District of Arizona, 4000 U.S. Courthouse, 230 N. First Avenue, Phoenix, Arizona 85025, at the Region IX Office of the Environmental Protection Agency, Enforcement Division, 215 Fremont Street, San Francisco, California 94105, and at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Jutice, Room 1515, Ninth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $2.20 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

Anthony C. Liotta,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 82–18348 Filed 7–6–82; 8:45 am]

BILLING CODE 4410–01–M

NUCLEAR REGULATORY COMMISSION

Draft Regulatory Guide: Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a proposed revision to a guide in its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techiques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft, temporarily identified by its task number, SG 046–4 (which should be mentioned in all correspondence concerning this draft guide), is proposed Revision 1 to Regulatory Guide 5.34 and is entitled "Nondestructive Assay for Plutonium in Scrap Material by Spontaneous Fission Detection." The guide is being developed to describe procedures acceptable to the NRC staff for applying the nondestructive technique of spontaneous fission detection to the assay of plutonium in scrap for material accountability.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by August 30, 1982.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Silver Spring, Maryland this 29th day of June 1982.

For the Nuclear Regulatory Commission.

Karl R. Goller,

Director, Division of Facility Operations, Office of Nuclear Regulatory Research.

[FR Doc. 82–18369 Filed 7–6–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–413 OL and 50–414 OL]

Duke Power Co., et al. (Catawba Nuclear Station, Units 1 and 2); Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this operating license proceeding:

Alan S. Rosenthal, Chairman
Thomas S. Moore
Howard A. Wilber

Dated: June 30, 1982.

Barbara A. Tompkins,

Secretary to the Appeal Board.

[FR Doc. 82–18363 Filed 7–6–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–298]

Nebraska Public Power District; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 80 to Facility Operating License No. DPR–46 issued to Nebraska Public Power District (the licensee), which revised the Technical Specifications for operation of the Cooper Nuclear Station located in Nemaha County, Nebraska. The amendment is effective as of its date of issuance.

The amendment modifies the Technical Specifications to permit changes to the maximum critical power ratio values and rod block monitor upscale trip level setting, eliminate historical and extraneous material, correct typographical and grammatical errors, relfect organizational title changes, eliminate temporary restrictions no longer applicable, include equipment required by Technical Specifications, clarify definitions and bases sections and update references.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated April 30, 1982, (2) Amendment No. 80 to License No. DRP–46, and (3) the Commission's letter to the licensee dated June 24, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 24th day of June 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-18364 Filed 7-6-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-213, 50-245 and 50-336]

Northeast Nuclear Energy Co., et al.; Issuance of Amendments To Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 85 to Provisional Operating License No. DPR–21 and Amendment Nos. 50 and 78 to Facility Operating License Nos. DPR–61 and DPR–65, issued to Connecticut Yankee Atomic Power Company, The Connecticut Light and Power Company, The Hartford Electric Light Company, Western Massachusetts Electric Company and Northeast Nuclear Energy Company (the licensees), which revised the Technical Specifications (TS) for operation for the Haddam Neck Plant and the Millstone Nuclear Power Station, Units 1 and 2 (the facilities). Haddam Neck is located in Middlesex County, Connecticut and Millstone Station is located in the Town of Waterford, Connecticut. The amendments are effective as of their date of issuance.

The amendments approve changes to the Appendix A TS which are administrative in nature and primarily reflect recent organizational title changes in the licensees' organization. In addition, the changes for Millstone Units No. 1 and 2 increase the number of Fire Brigade members from three to five. This additional change meets the Commission's requirements for a dual-unit facility.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and the pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to these actions, see (1) the application for amendments dated February 24, 1982, (2) Amendment No 85 to License No. DPR–21 and Amendment Nos. 50 and 78 to License Nos. DPR–61 and DPR–65, and (3) the Commission's related letter of transmittal dated June 25, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street N.W., Washington, D.C. 20555, the Russell Library, 119 Broad Street, Middletown, Connecticut 16457 and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 25th day of June, 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82-18366 Filed 7-6-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-206]

Southern California Edison Co. and San Diego Gas and Electric Co.; Issuance of Amendemnt to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 60 to Provisional Operating License No. DPR–13, issued to Southern California Edison Company and San Diego Gas and Electric Company (the licensees), which revised License No. DPR–13 for the San Onofre Nuclear Generating Station Unit 1 (the facility) located in San Diego County, California. The amendment is effective as of its date of issuance.

The amendment adds a new License condition (Paragraph 3.I) which relates to the implementation of a secondary water chemistry monitoring program to inhibit steam generator tube degradation.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public nótice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmented impact appriasal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated September 18, 1979, and its supplement dated February 24, 1982, (2) Amendment No. 60 to License No. DPR–13, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the San Clemente Branch Library, 242 Avenida Del Mar, San Clemente, California 92676. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 30th day of June, 1982.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 82-18369 Filed 7-6-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-266 and 50-301]

Wisconsin Electric Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 61 to Facility Operating License No. DPR-24, and Amendment No. 66 to Facility Operating License No. DPR-27 issued to Wisconsin Electric Power Company (the licensee), which revised Technical Specifications for operation of Point Beach Nuclear Plant, Unit Nos. 1 and 2 (the facilities) located in the Town of Two Creeks, Manitowoc County, Wisconsin. The amendments are effective as of the date of issuance.

The amendments provide primary containment integrated leak rate test requirements and schedules consistent in part to the requirements of Appendix J to 10 CFR Part 50.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated December 12, 1975 as modified by letters dated July 18, 1977, February 6, 1978 and February 25, 1981, (2) Amendment Nos. 61 and 66 to License Nos. DPR-24 and DPR-27, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Joseph Mann Library, 1516 16th Street, Two Rivers, Wisconsin 54241. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 25th day of June, 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82-18307 Filed 7-6-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-266 and 50-301]

Wisconsin Electric Power Co.; Point Beach Nuclear Plant Units 1 and 2; Exemption

I

Wisconsin Electric Power Company (the licensee) is the holder of Facility Operating License Nos. DPR-24 and DPR-27 (the licenses) which authorize operation of the Point Beach Nuclear Plant, Units 1 and 2, respectively, located in Manitowoc County, Wisconsin, at steady state reactor power levels not in excess of 1519 megawatts thermal (rated power). These licenses provide, among other things, that they are subject to all rules, regulations and Orders of the Commission.

II

Section 50.54(o) of 10 CFR Part 50 requires that primary reactor containments for water cooled power reactors be subject to the requirements of Appendix J to 10 CFR Part 50. Appendix J contains the leakage test requirements, schedules, and acceptance criteria for tests of the leak-tight integrity of the primary reactor containment and systems and components which penetrate the containment. Appendix J was published on February 14, 1973 and in August 1975 each licensee was requested to review the extent to which its facilities met the requirements.

On December 12, 1975, Wisconsin Electric Power Company submitted its evaluation of the Point Beach Nuclear Plant Units 1 and 2 with regard to compliance with the requirements of Appendix J to 10 CFR Part 50. The licensee proposed Technical Specification changes to achieve compliance with some portions of the rule and requested exemptions from certain other of the rule's requirements. The licensee's submittal for Point Beach Units 1 and 2 was supplemented by letters dated July 18, 1977, February 6, 1978 and February 25, 1981. In these submittals the licensee requested that certain test sequences and methodology, components and penetrations be exempted from the Appendix J requirements and also submitted proposed Technical Specification changes to upgrade portions of their testing procedures to meet the Appendix J requirements. The Technical Specification changes are being addressed in a separate evaluation.

The Franklin Research Center (FRC), as a consultant to the Nuclear Regulatory Commission, (NRC), has reviewed the licensee's submittals and prepared a Technical Evaluation Report (TER) of its findings. The NRC staff has reviewed this TER and in its Safety Evaluation Report dated June 25, 1982, the staff has concurred in the TER's base and findings. The exemption requests found to be acceptable are as follows:

1. Wisconsin Electric Power Company (WEPCO) requested an exemption from the Appendix J Type A testing requirements for the air supply line used in performing the Type A containment integrated leak rate test. WEPCO proposed to perform Type C local leakage tests on the isolation valves for this system and add the leakage results to the overall Type A test results. WEPCO stated that the containment service air supply line is used to pressurize and depressurize the containment during the Type A test. WEPCO further stated that the isolation requirements for the test and the temporary piping installed for the test prevent the containment service air supply line from being tested in accordance with Appendix J. Section III.A.1.(d) of Appendix J states in part that systems required to maintain the plant in a safe condition during the test shall be operable in their normal mode and need not be vented. However the containment isolation valves shall be tested in accordance with III.C (Type C testing). FRC and the NRC staff agree that, since this line is used during the Type A test, its testing requirements should be comparable to the systems specified in Section III.A.1.(d). Therefore, the licensee's exemption request is acceptable.

2. WEPCO requested an exemption to periodically hydrostatically test the residual heat removal system containment isolation valves in lieu of the pneumatic (Type C) testing requirements of Appendix J since this system cannot be drained and vented with fuel in the core. FRC and the NRC staff agree that periodic hydrostatic testing of the residual heat removal system ensures that the containment isolation valves of this system are not relied upon to prevent the post-accident escape of containment air. Appendix J does not require further Type C testing of these valves; therefore, an exemption

from the requirements of Appendix J is acceptable.

3. WEPCO requested an exemption from the requirements of Appendix J for conduct of the Type A test such that if repairs were necessary to meet the acceptance criteria, the integrated leakage rate test (Type A test) need not be repeated provided local measured reductions in leakages achieved by repairs reduces the overall measured leakage rate to a value not in excess of 0.75 L_a. It is not acceptable to terminate the Type A test without achieving a leakage rate which meets the acceptance criteria and then to subtract the differential leakage from repaired valves in order to meet the acceptance criteria because subtraction of certain internal containment leakage may erroneously reduce the apparent overall containment leakage rate. From a complete reading of WEPCO's proposed procedures for conduct of the Type A test, FRC and the NRC staff do not believe this to be the intent of the licensee and conclude that WEPCO's proposed procedures for conduct of the Type A test are acceptable as an exemption to the requirements of Section III.A.1.(a) of Appendix J because the objective of Appendix J is achieved.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. Therefore, the Commission hereby approves the exemption request identified above.

The NRC staff has determined that the granting of this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

Dated at Bethesda, Maryland, this 25th day of June 1982.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 82-18366 Filed 7-6-82; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Timely Payments Circular; Opportunity for Comment

AGENCY: Office of Management and Budget.

ACTION: Comment—Proposed OMB circular.

SUMMARY: This notice offers interested parties an opportunity to comment on a proposed OMB Circular, "Timely Payments." The proposed Circular is intended to provide policy guidance to Federal agencies on the implementation of the Prompt Payment Act (Pub. L. 97-177).

The proposed Circular is the product of an interagency task force composed of representatives of major Federal agencies, under the leadership of the Office of Management and Budget.

The Office of Management and Budget has, as yet, made no final decisions with respect to the provisions of the proposed Circular. All interested parties are invited to make their views known.

Comments should be submitted in duplicate to the Financial Management Division, Office of Management and Budget, Washington, D.C. 20503. All comments should be received by August 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. David J. Gribble, Financial Management Division, Office of Management and Budget, Washington, D.C. 20503 (202) 395-4773.

Candice C. Bryant,

Acting Deputy Assistant Director for Administration.

Circular No. A———

To the Heads of Executive Departments and Establishments

Subject: Timely Payments.

1. *Purpose.* This Circular prescribes policies and procedures to be followed by executive departments and agencies in paying for property and services acquired from business concerns.

2. *Background.* The Prompt Payment Act (Pub. L. 97-177) requires Federal agencies to pay their bills on time, to pay interest penalties when payments are made late, and to take discounts only when payments are made within the discount period. Section 2(a)(1) of the Act requires the Director of the Office of Management and Budget to issue implementing regulations. Implementation will result in timely payment, better business relationships with suppliers, improved competition for Government business, and reduced costs to the Government for goods and services. Implementation must be consistent with sound cash management practices and related Treasury regulations.

3. *Policy.* Agencies will make payments as close as possible to, but not later than, the due date. Payment will be based on receipt of proper invoices and satisfactory performance of contract terms. Agencies will take discounts only when payments are made within the discount period. When agencies fail to make timely payment or take discounts after expiration of the discount period, interest penalties will be paid. Agencies will pay interest penalties without the need for business concerns requesting them, except as provided in Section 8.d. of this Circular. Federal agencies will absorb interest penalty payments within funds available for the administration or operation of the program for which the penalty was incurred.

4. *Definitions.* For the purposes of this Circular, the following definitions apply:

a. *Agency*—has the same meaning as the term "agency" in Section 551(1) of Title 5, United States Code, and also includes exchanges, commissaries, and any entity (1) that is operated exclusively as an instrumentality of such an agency for the purpose of administering one or more programs of that agency, and (2) that is so identified for this purpose by the head of such agency. The term does not include the Tennessee Valley Authority, which is exempted from coverage by this Circular under the provisions of the Prompt Payment Act.

b. *Applicable interest rate*—the interest rate established by the Secretary of the Treasury under Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) and published in the **Federal Register.**

c. *Business concern*—any person or organization engaged in a profession, trade, or business; and not-for-profit entities (including State and local governments, but excluding Federal entities) operating as contractors.

d. *Contract*—any enforceable agreement, including rental and lease agreements and purchase orders, between an agency and a business concern for the acquisition of property or services.

e. *Designated payment office*—the place named in the contract for forwarding of invoices.

f. *Due date*—the date on which Federal payment should be made. Determination of such dates is discussed in Section 7 of this Circular.

g. *Payment date*—the date of a check for payment.

h. *Proper invoice*—a bill or written request for payment provided by a business concern for property or services rendered. A proper invoice must meet the requirements of Section 6.b. of this Circular.

i. *Receipt of invoice*—an invoice will be deemed to have been received by an agency on the later of:

—The date a proper invoice is actually received in the designated payment office, or

—The date on which the agency accepts the property or service.

j. *Receiving report*—written evidence of acceptance of property or services by a Government official. Receiving reports must meet the requirements of Section 6.c. of this Circular.

5. *Responsibilities.* Each agency head is responsible for assuring timely payments and the payment of interest penalties where required. Each agency head will issue internal instructions, as necessary, to implement this Circular by October 1, 1982. Such instructions will include provisions for determining the causes of any interest penalties incurred, and for taking necessary corrective or disciplinary action. Inspectors

General and internal auditors will provide such advice, and make such reviews of implementation, as they and the agency head deem appropriate.

6. *Payment Standards.* Invoices will be paid as close as possible to, but not later than, the due date, consistent with Treasury regulations (I *Treasury Fiscal Requirements Manual* 6-8040.20). To establish adequate documentation to support payments of interest penalties, the following information must be included in contracts, receiving reports, and invoices.

a. A contract must include the following payment provisions:

—Payment due date(s) (usually 30 days).
—Separate due dates if partial payment is provided for partial executions or deliveries.
—A stated inspection period following delivery, where necessary, for Federal acceptance of property or services.
—Name where practicable, title, phone number, and complete mailing address of officials of the businesss concern, and of the designated payment office.

b. A proper invoice must include:

—Name of the business concern and invoice date.
—Contract number, or other authorization for delivery of property or services.
—Description, price, and quantity of property and services actually delivered or rendered.
—Shipping and payment terms, and such other substantiating documentation or information as required by the contract.
—Name where practicable, title, phone number, and complete mailing address of responsible official to whom payment is to be sent.

Notice of an apparent error, defect, or impropriety in an invoice will be given to a business concern within 15 days of receipt of an invoice (3 days for meat or meat food poducts and 5 days for perishable agricultural commodities.)

c. A receiving report must include:

—Contract or other authorization number.
—Product or service description.
—Quantities received, if applicable.
—Date(s) property or services accepted.
—Signature, printed name, title, phone number, and mailing address of the receiveing official.

Receiving reports must be forwarded in time to be received by the designated payment office by the third business day after receipt or acceptance, unless separate arrangements are made. Designated payment offices must stamp receiving reports and invoices with the date received in that office.

7. *Determining Due Dates.* Payment will be made as close as possible to, but not later than, the 30th day after a receipt of a proper invoice as defined in Section 4.i. of this Circular, except as follows:

—When a different date is specified in the contract, payment will be made as close as possible to, but not later than, that date.
—When a discount is offered, the discount will be taken within the discount period whenever economically justified. (See I *Treasury Fiscal Requirements Manual* 6-8040.30.)
—Payment for meat or meat food products, as defined in Section 2(a)(3) of the Packers and Stockyard Act of 1921 (7 U.S.C. 182(3)) will be made as close as possible to, but not later than, the seventh day after the date of delivery.
—Payment for perishable agriculture commodities, as defined in Section 1(4) of the Perishable Agriculture Commodities Act of 1930 (7 U.S.C. 499a(4)], will be made as close as possible to, but not later than, the tenth day after the date of delivery, unless another date is specified in the contract.

8. *Interest Penalty Requirement.*

a. An interest penalty will be paid when all of the following conditions are met:

—There is a contract or purchase order with a business concern.
—Federal acceptance of property or services has occurred and there are no disputes over quantity, quality, or other contract provisions.
—A proper invoice has been received or the agency fails to give notice that the invoice is not proper within 15 days of receipt of an invoice (3 days for meat or meat food products, and 5 days for perishable agricultural commodities).
—Payment is made to the business concern more than 15 days after the due date (3 days for meat or meat food products, and 5 days for perishable agricultural commodities.)

b. Payment of an interest penalty is also required when an agency takes a discount after the discount period has expired.

c. Interest penalties are not required when payment is delayed because of a dispute between a Federal agency and a business concern over the amount of the payment or other allegations concerning compliance with a contract. Claims concerning any such dispute, and any interest that may be payable with respect to the period while the dispute is being resolved, will be resolved in accordance with the provisions of the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.).

d. Interest penalties need not be paid in the following circumstances:

—Payments are made outside the United States or its territories.
—The interest penalty amounts to less than $10.00, unless the business concern submits a written request for the lesser amount due.
—Progress payments are made solely for financing purposes.
—Payments are made in advance.
—Cost or fees are temporarily withheld in accordance with the contract.

9. *Calculation of Interest Penalties.* Whenever a proper invoice is paid after the due date plus 15 days (except 3 days for meat and meat food products, and 5 days for perishable agricultural commodities), interest will be included with the payment at the rate applicable on the payment date. Interest will be computed from the day after the due date through the payment date. Adjustments will be made for errors in calculating interest, if requested. Interest penalties remaining unpaid for any 30-day period will be added to the principal, and interest penalties, thereafter, will accrue on the total amount.

—When an agency takes a discount after the discount period has expired, the interest payment will be calculated on the amount of the discount taken, for the period beginning the day after the end of the specified discount period through the payment date.
—When an agency fails to make notification of an improper invoice within 15 days (3 days for meat or meat food products, and 5 days for perishable agricultural commodities), the number of days allowed for payment of the corrected, proper invoice will be reduced by the number of days between the 15th day and the day the business concern was notified. Calculation of interest penalties, if any, will be based on an adjusted due date reflecting the reduced number of days allowable for payment.

Interest penalties under the Prompt Payment Act will not continue to accrue (1) after the filing of a claim for such penalties under the Contract Disputes Act of 1978, or (2) for more than one year.

10. *Grant Recipients.* Recipients of Federal assistance may pay interest penalties if so specified in their contracts with business concerns. However, obligations to pay such interest penalties will not be obligations of the United States. Federal funds may not be used for this purpose, nor may interest penalties be used to meet matching requirements of federally-assisted programs.

11. *Reporting.* Each Federal agency will report to the Director of OMB within 60 days after the end of each fiscal year, beginning with Fiscal Year 1983, the following information.

—Number of interest penalties paid.
—Amount of interest penalties paid.
—Relative frequencies, on a percentage basis, of interest penalty payments to the total number of payments.
—Number, total amount, and relative frequency on a percentage basis of payments made 5 days or more before the due date, except where cash discounts were taken.
—Reasons that interest penalties were incurred.
—An analysis of the progress made from previous years in improving the timeliness of payments.

In order to minimize the cost of reporting, statistical sampling may be used to derive the information above.

12. *Additional Provision.* Additional procurement guidelines and requirements are set forth in applicable acquisition regulations.

13. *Effective Date.* This Circular is effective on publication. Interest penalties will apply to payments made under contracts issued on or after October 1, 1982.

14. *Inquiries.* Questions or inquiries may be direct to the Financial Management Division, Office of Management and Budget, telephone number 202/395-4773.

15. *Sunset Review Date.* This Circular will have an independent policy review to

ascertain its effectiveness three years from the date of issue.

[FR Doc. 82-18607 Filed 7-3-82; 3:33 pm]

BILLING CODE 3110-01-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Northwest Power Planning Council; Scientific and Statistical Advisory Committee; Conservation Subcommittee, Meeting

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting.

STATUS: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of the Conservation Subcommittee of its Scientific and Statistical Advisory Committee.

DATE: Tuesday, July 13, 1982, 9:30 a.m.

ADDRESS: The meeting will be held at the Council's Central Office located at 700 S.W. Taylor Street, Suite 200, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Eckman, (503) 222-5161.

Edward Sheets,

Executive Director.

[FR Doc. 82-18610 Filed 7-6-82; 8:45 am]

BILLING CODE 0000-00-M

Northwest Power Planning Council; Scientific and Statistical Advisory Committee; Fish and Wildlife Subcommittee; Meeting

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting.

STATUS: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of the Fish and Wildlife Subcommittee of its Scientific and Statistical Advisory Committee.

DATE: Friday, July 16, 1982, 8:30 a.m.

ADDRESS: The meeting will be held at the Council's Central Office located at 700 S.W. Taylor Street, Suite 200, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Ms. Torian Donohoe, (503) 222-5161.

Edward Sheets,

Executive Director.

[FR Doc. 82-18611 Filed 7-6-82; 8:45 am]

BILLING CODE 0000-00-M

Northwest Power Planning Council; Scientific and Statistical Advisory Committee; Conservation Subcommittee; Meeting

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting.

STATUS: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of the Conservation Subcommittee of its Scientific and Statistical Advisory Committee.

DATE: Tuesday, July 20, 1982, 2:00 p.m.

ADDRESS: The meeting will be held at the Council's Central Office located at 700 S.W. Taylor Street, Suite 200, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Eckman, (503) 222-5161.

SUPPLEMENTARY INFORMATION: Optional meeting. Attend Module VI contractor presentation on quantification of environmental cost and benefits methodology.

Edward Sheets,

Executive Director.

[FR Doc. 82-18407 Filed 7-6-82; 8:45 am]

BILLING CODE 0000-00-M

Northwest Power Planning Council; Scientific and Statistical Advisory Committee; Forecasting Subcommittee; Meeting

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting.

STATUS: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of the Forecasting Subcommittee of its Scientific and Statistical Advisory Committee.

DATE: Wednesday, July 21, 1982, 9:00 a.m.

ADDRESS: The meeting will be held at the Council's Central Office located at 700 S.W. Taylor Street, Suite 200, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Ms. Annette Frahm, (503) 222-5161.

Edward Sheets,

Executive Director.

[FR Doc. 82-18408 Filed 7-6-82; 8:45 am]

BILLING CODE 0000-00-M

Northwest Power Planning Council; Scientific and Statistical Advisory Committee; Resource Assessment Subcommittee; Meeting

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting.

STATUS: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of the Resource Assessment Subcommittee of its Scientific and Statistical Advisory Committee.

DATE: Thursday, July 15, 1982, 10:00 a.m.

ADDRESS: The meeting will be held at the Council's Central Office located at 700 S.W. Taylor Street. Suite 200, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Ms. Annette Frahm, (503) 222-5161.

Edward Sheets,

Executive Director.

[FR Doc. 82-18409 Filed 7-6-82; 8:45 am]

BILLING CODE 0000-00-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement To Department Circular, Public Debt Series—No. 16-82]

Treasury Notes; Series H-1986

The Secretary announced on June 29, 1982, that the interest rate on the notes designated Series H-1986, described in Department Circular—Public Debt Series—No. 16-82 dated June 10, 1982, as amended, will be 14⅞ percent. Interest on the notes will be payable at the rate of 14⅞ percent per annum.

Paul H. Taylor,

Fiscal Assistant Secretary.

June 30, 1982.

[FR Doc. 82-18406 Filed 7-6-82; 8:45 am]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 130
Wednesday, July 7, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

CONSUMER PRODUCT SAFETY COMMISSION

Commission Meeting

TIME: 10 a.m., Friday, July 9, 1982.

LOCATION: Third floor hearing room, 1111 18th Street, NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

Long Range Planning, Priorities for FY 83–84
The Commission will consider issues related to long range planning and priority setting for fiscal years 1983 and 1984.

For a recorded message with the latest agenda information call 492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, Room 342, 5401 Westbard Ave., Bethesda, Md. 20207; Telephone (301) 492–6800.

[S–084–82 Filed 7–2–82; 3:21 pm]

BILLING CODE 6355–01–M

2

CONSUMER PRODUCT SAFETY COMMISSION

Commission Meeting

TIME: 10 a.m., Wednesday, July 7, 1982.

LOCATION: Third floor hearing room, 1111–18th Street, NW., Washington, D.C.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

1. *OMB Circular A–119: Voluntary Standards*
The Commission will consider draft comments on proposed revisions to OMB Circular A–119 concerning Federal Participation in the Development and Use of Voluntary Standards.
2. *Long Range Planning, Priorities for FY 83–84*
The staff will brief the Commission on issues related to long range planning and priority setting for fiscal years 1983 and 1984.

For a recorded message with the latest agenda information call 492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, Room 342, 5401 Westbard Avenue, Bethesda, MD 20207; Telephone (301) 492–6800.

[S–083–82 Filed 7–2–82; 3:21 pm]

BILLING CODE 6355–01–M

3

FEDERAL RESERVE SYSTEM

Board of Governors

TIME AND DATE: 10 a.m., Monday, July 12, 1982.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposals with respect to the employee benefits program.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: July 2, 1982.

James McAfee,

Associate Secretary of the Board

[S–082–82 Filed 7–2–82; 3:20 pm]

BILLING CODE 6210–01–M

4

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the Week of July 6, 1982, in Room 825, 500 North Capitol Street, Washington, D.C.

Open meetings will be held on Wednesday, July 7, 1982, at 9:00 a.m. to 5:30 p.m. and on Thursday, July 8, 1982, at 10:00 a.m. Closed meetings will be held on Thursday, July 8, 1982, at 9:00 a.m. and following the 10:00 a.m. open meeting.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Commissioners Evans, Thomas and Longstreth voted to consider the items listed for the closed meeting in closed session.

The subject matter of the open meeting scheduled for Wednesday, July 7, 1982, at 9:00 a.m. to 5:30 p.m., will be:

1. A discussion of the issues facing the Commission as a result of the erosion of the traditional demarcation between the banking and securities fields, mergers between firms in different segments of the finalcial and securities industries, and the development of new financial products and services. In addition the following specific items will be considered:

(a) A request for a "no-action" letter from savings and loan associations that propose to permit a registered broker-dealer, Savings Association Investment Securities, Inc., to offer brokerage services on their premises without registering as broker-dealers under Section 15 of the Securities Exchange Act of 1934. For further information, please contact Colleen Curran Harvey at (202) 272–2826.

(b) Whether to authorize the acceleration of the effective date of the registration statement under the Securities Act of 1933 of The School Street Mutual Fund, a money market fund, the investment adviser and distributor for which are wholly-owned subsidiaries of a state-chartered savings bank. For further information, please contact Susan P. Hart at (202) 272–2096.

(c) A request by Visa Money Fund, Inc. ("Visa Fund"), that the Commission accelerate the effective date of its registration under the Securities Act of 1933. The Commission will also consider (1) whether, in light of Visa Fund's proposal to implement a policy of relating its purchases of certificates of deposit issued by financial institutions to the sales of fund shares to customers of such institutions, the Commission should hold public hearings before determining whether to accelerate Visa Fund's registration statement (or any similar registration statement); (2) whether the Commission should grant the request of a registrant for an oral hearing before the Commission to present its request for acceleration of the effective date of its registration statement. For further information, please contact Sandra M. Molley at (202) 272–2033.

The subject matter of the open meeting scheduled for Thursday, July 8, 1982, at 10:00 a.m., will be:

1. Consideration of whether to publish for comment proposed Item 404 of Regulation S–K, "Certain relationships and related transactions", and certain related rule, form and schedule amendments. These amendments are intended to make uniform and streamline the disclosure requirements regarding relationships and transactions involving management while reducing compliance costs in a manner consistent with investor protection. For further information, please contact Susan P. Davis at (202) 272–2004.

2. Consideration of whether to issue a release on proposed amendments to Article 9 of Regulation S–X and the Industry Guide disclosures for bank holding companies. The proposed revisions are a continuation of the Commission's project to integrate disclosures under the Securities Act of 1933 and the Securities Exchange Act of 1934. For further information, please contact Marc Oken at (202) 272–2130.

3. Consideration of whether to grant the application of Samuel A. Alexander, Jr. to terminate one of the sanctions imposed upon him by Commission Order, dated March 8, 1974. For further information, please contact Philip L. Sbarbaro at (202) 272–2356.

4. Consideration of whether to amend the Commission rules governing delegation of authority in order to allow Regional Administrators to delay for up to six months inspections of newly registered broker-dealers that have not initiated operations during their first six months of registration. The delegation also would give Regioinal Administrators the option of conducting a complete examination of a broker-dealer during the first six months of its registration, or conducting only a financial and operational examination at that time, deferring the remainder of the inspection for up to six months. For further information, please contact Robert A. Love, at (202) 272–2781.

5. Consideration of whether to send a letter to the Federal Reserve Board ("FRB") commenting on the FRB's proposal to establish a regulatory framework for setting margin requirements on futures contracts on stock indices. For further information, contact Sharon Zackula at (202) 272–2839.

The subject matter of the closed meeting scheduled for Thursday, July 8, 1982, at 9:00 a.m., will be:

Litigation matter.

The subject matter of the closed meeting scheduled for Thrusday, July 8, 1982, following the 10:00 a.m. open meeting, will be:

Access to investigative files by Federal, State, or Self-Regulatory authorities.
Settlement of administrative proceedings of an enforcement nature.
Institution of administrative proceedings of an enforcement nature.
Litigation matter.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Richard Starr at (202) 272 –2467.

July 1, 1982.

[S–861–82 Filed 7–1–82; 4:55 pm]
BILLING CODE 8010–01–M

federal register

Wednesday
July 7, 1982

Part II

Environmental Protection Agency

State Registration of Pesticides

ENVIRONMENTAL PROTECTION AGENCY

[OPP—240021; PH FRL 2161–3]

State Registration of Pesticides

AGENCY: Environmental Protection Agency (EPD).
ACTION: Notice.

SUMMARY: EPA has received notices of registration of pesticides to meet special local needs under section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) from 47 States. A registration issued under this section of FIFRA shall not be effective for more than 90 days if the Administrator disapproves the registration or finds it to be invalid within that period. If the Administration disapproves a registration or finds it to be invalid after 90 days, a notice giving that information will be published in the Federal Register.

DATE: The last entry for each item is the date the State registration of that product became effective.

FOR FURTHER INFORMATION CONTACT: Mary Waller, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 716E, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–7700).

SUPPLEMENTARY INFORMATION: The registrations listed below were issued by the states between May 19 and December 31, 1981. Receipts by EPA of state registrations will be published periodically. There is no changed use pattern involved in any of these registrations.

Alabama

EPA SLN No. AL 81 0025. Mobay Chemical Corp. Registration is for Sencor Sprayule 75 Percent Water Dispersible GR, to be used on soybeans to control weeds. June 12, 1981.

EPA SLN No. AL 81 0026. Mobay Chemical Corp. Registration is for Sencor 4 FL, to be used on soybeans to control weeds. June 12, 1981.

EPA SLN No. AL 81 0027. Mobay Chemical Corp. Registration is for Sencor 50 Percent WP, to be used on soybeans to control weeds. June 12, 1981.

EPA SLN No. AL 0028. Uniroyal Chemical. Registration is for Uniroyal Dinoseb–3, to be used on cotton and soybeans to control broadleaf weeds and grasses. June 19, 1981.

EPA SLN No. AL 81 0029. Mobay Chemical Corp. Registration is for Sencor Sprayule 75 Percent Water Dispersible GR, to be used on golf course fairways and commercial sod farms only, to control weeds. August 24, 1981.

EPA SLN No. AL 81 0030. Mobay Chemical Corp. Registration is for Furadan 4 FL, to be used on field corn to control the southwestern corn borer and European corn borer. November 2, 1981.

EPA SLN No. AL 81 0031. E. I. du Pont de Nemours and Co. Registration is for Du Pont Lannate Insecticide (greenhouse ornamentals), to be used on green house ornamentals to control insects. November 2, 1981.

EPA SLN No. AL 81 0032. E. I. du Pont de Nemours and Co. Registration is for Du Pont Lannate L Insecticide (greenhouse ornamentals), to be used on greenhouse ornamentals to control insects. November 2, 1981.

EPA SLN No. AL 81 0033. Thompson-Hayward Chemcial Co. Registration is for De-Fend E–267 Insecticide, to be used on pecans to control aphids, mites, and leafhoppers. November 9, 1981.

EPA SLN No. AL 81 0034. FMC Corporation-Agricultural Chemical Group. Registration is for Pounce 3.2 EC Insectide, to be used on cotton to control the bollworm and tobacco budworm. December 28, 1981.

Arizona

EPA SLN No. AZ 81 0009. Ralston Purina Co. Registration is for Purina Hard Hitter WP, to be used on livestock and poultry premises to control house, stable, and other manure breeding flies. July 27, 1981.

EPA SLN No. AZ 81 0011. Hess and Clark, Inc. Registration is for Insectrin WP, to be used on livestock and poultry premises to control house, stable, and other manure breeding flies. May 26, 1981.

EPA SLN No. AZ 81 0012. Hess and Clark, Inc. Registration is for Insectrin EC, to be used on livestock and poultry premises to control house, stable, and other manure breeding flies. May 26, 1981.

EPA SLN No. AZ 81 0013. Chevron Chemical Co. Registration is for Monitor 4, to be used on cotton to control cabbage loopers, beet armyworms, Lygus bugs, aphids, thrips, and mites. June 26, 1981.

EPA SLN No. AZ 81 0014. Burroughs Wellcome Co. Registration is for Atroban Cattle Ear Tags, to be used on beef and dairy cattle to control horn flies, face flies, and ticks. May 21, 1981.

EPA SLN No. AZ 81 0015. Y-Tex Corp. Registration is for GardStar, to be used on beef and dairy cattle to control horn flies, face flies, and ticks. May 21, 1981.

EPA SLN No. AZ 81 0016. U.S. Department of the Interior. Registration is for 5 Percent Strychnine Bait Suspension, to be used on range trails leading to cotton and garden crop areas to control black-tailed Jackrabbits. May 18, 1981.

EPA SLN No. AZ 81 0017. Chevron Chemical Co. Registration is for Monitor 4 Spray, to be used on head lettuce to control the tobacco budworm. June 4, 1981.

EPA SLN No. AZ 81 0019. FMC Corp. Registration is for Furadan 4 FL, to be used on field corn to control the southwestern corn borer. June 29, 1981.

EPA SLN No. AZ 81 0021. Mobay Chemical Corp. Registration is for Guthion 50 Percent WP in Water Soluble Packets, to be used on cotton to control the boll weevil and pink bollworm. July 21, 1981.

EPA SLN No. AZ 81 0022. Uniroyal Chemical Co. Registration is for Comite, to be used on grain sorghum, to control the spider mite complex. August 10, 1981.

EPA SLN No. AZ 81 0023. Mobay Chemical Corp. Registration is for Sencor Sprayule 75 Percent Water Dispersible GR, to be used on alfalfa, non-dormant (non-winter hardy) varieties, to control weeds. August 18, 1981.

EPA SLN No. AZ 81 0024. Mobay Chemical Corp. Registration is for Furadan 4 FL, to be used on field corn to control the southwestern corn borer. August 28, 1981.

EPA SLN No. AZ 81 0025. E. I. du Pont de Nemours and Co. Registration is for DuPont Vydate L Insecticide/Nematicide, to be used on cucumber, cantaloupe, honeydew melon, watermelon, and squash to control leaf miners. September 17, 1981.

EPA SLN No. AZ 81 0026. Chemical Distributors dba Arizona Agrochemical Co. Registration is for Sim-Tro 4L Simazine, to be used on apples, pears, and peaches to control weeds. November 4, 1981.

EPA SLN No. AZ 81 0027. Mobay Chemical Corp. Registration is for Sencor DF, to be used on alfalfa, non-dormant (non-winter hardy) varieties to control weeds. November 6, 1981.

Arkansas

EPA SLN No. AR 81 0037. E. I. du Pont de Nemours and Co. Registration is for Karmex, to be used on blueberries to control annual bluegrass, chickweed, corn spurry, crabgrass, and fall panicum. June 15, 1981.

EPA SLN No. AR 81 0038. Dow Chemical USA. Registration is for Dowpon M, to be used on cotton to control Bermuda grass. June 15, 1981.

EPA SLN No. AR 81 0039. Shell Chemical Co. Registration is for Pydrin, to be used on cotton to control cotton bollworms, tobacco budworms, Lygus bugs, cabbage loopers, beet armyworms, boll weevils, and whiteflies. June 15, 1981.

EPA SLN No. AR 81 0040. Mobay Chemical Corp. Registration is for Guthion 2 FL, to be used on cotton to control cotton insects. June 15, 1981.

EPA SLN No. AR 81 0041. Mobay Chemical Corp. Registration is for Guthion 50 Percent WP, to be used on cotton to control cotton insects. June 15, 1981.

EPA SLN No. AR 81 0042. FBC Chemicals, Inc. Registration is for Attac 6 and Attac 8, to be used on soybeans to control sicklepod. June 15, 1981.

EPA SLN No. AR 81 0043. Elanco Products Co. Registration is for Treflan EC, to be used on soybeans to control annual grasses and broadleaf weeds. June 15, 1981.

EPA SLN No. AR 81 0044. Mobay Chemical Corp. Registration is for Monitor, to be used on cotton to control fleahoppers, whiteflies, beet armyworms, cabbage loopers, mites, aphids, and thrips. July 8, 1981.

EPA SLN No. AR 81 0045. Mobay Chemical Corp. Registration is for Furadan 3 GR, to be used on rice to control rice water weevils and mosquitoes. July 30, 1981.

EPA SLN No. AR 81 0046. Rohm and Haas, Registration is for Blazer 2S Herbicide, to be used on soybeans to control sicklepods. September 4, 1981.

EPA SLN No. AR 81 0047. Chevron Chemical Co. Registration is for Orthene 75S Soluble Powder, to be used on soybeans to control thrips. September 4, 1981.

EPA SLN No. AR 81 0048. Philips Roxane, Inc. Registration is for Anchor Permectrin 10 Percent EC II Long Lasting Livestock and Premise Spray, to be used on farm premises, large animals, small animals, poultry, and pets to control flies, lice, ticks, mites, and mosquitoes. September 4, 1981.

EPA SLN No. AR 81 0049, Philips Roxane, Inc. Registration is for Bioceutic Overtime L/P Long Acting Livestock and Premise Insecticide, to be used on farm premises, large animals, small animals, pets, and poultry, to control flies, lice, ticks, and mosquitoes, September 4, 1981.

EPA SLN No. AR 81 0050. Chevron Chemical Co. Registration is for Orthene 75S Soluble Powder, to be used on cotton to control fleahoppers, plantbugs, and thrips. September 14, 1981.

EPA SLN No. AR 81 0051. FMC Corp. Registration is for Furadan 4 FL, to be used on grain sorghum to control chinch bugs, greenbugs, and corn leaf aphids. October 2, 1981.

EPA SLN No. AR 81 0052. FMC Corp. Registration is for Furadan 4 FL, to be used on sorghum grown for grain and forage to control the greenbug, chinch bug, and corn leaf aphid. October 2, 1981.

EPA SLN No. AR 81 0053. Mobay Chemical Corp. Registration is for Sencor Sprayule 75 Percent Water Dispersible GR, to be used on soybeans to control sicklepod. November 12, 1981.

EPA SLN No. AR 81 0054. Mobay Chemical Corp. Registration is for Sencor 4 FL, to be used on soybeans to control sicklepod. November 12, 1981.

EPA SLN No. AR 81 0055. Mobay Chemical Corp. Registration is for Sencor 50 Percent WP, to be used on soybeans to control sicklepod. November 12, 1981.

EPA SLN No. AR 81 0056. Thompson-Hayward Chemical Co. Registration is for Freestyle Calcium Hypochlorite GR, to be used on fish hatchery ponds to control scavenger fish. November 12, 1981.

EPA SLN No. AR 81 0057. American Hoechst Corp. Registration is for Hoelon 3EC Herbicide to be used on annual ryegrass to control lolium multiflorum in wheat. November 12, 1981.

EPA SLN No. AR 81 0058. Fairfield American Corp. Registration is for Permanone Tick Repellent, to be used on outer clothing to control ticks, chiggers, and mosquitoes. December 7, 1981.

California

EPA SLN No. CA 81 0028. ICI Americas Inc. Registration is for Purina Hard Hitter WP, to be used in dairies, poultry houses, and horse stables to control house flies, stable flies, and other manure breeding flies. August 11, 1981.

EPA SLN No. CA 81 0030. FMC Corp. Registration is for Furadan 5 GR, to be used on rice to control the rice water weevil. April 20, 1981.

EPA SLN No. CA 81 0039. EM Industries, Inc. Registration is for Funginex EC, to be used on peaches, nectarines, apricots, cherries, plums, and prunes to control monilinia brown rot blossom blight. May 19, 1981.

EPA SLN No. CA 81 0040. U.S. Department of Agriculture. Registration is for SWASS Pellets, to be used in California to control the screwworm fly. May 29, 1981.

EPA SLN No. CA 81 0041. Stanislaus County. Registration is for Erthrel Plant Regulator and Cepha Plant Regulator, to be used in a tank mix on boysenberries for uniform maturity of berries. June 5, 1981.

EPA SLN No. CA 81 0042. Modoc County Department of Agriculture. Registration is for Roundup, to be used on onions to control wild oats, lambsquarter, pigweed, mustard, purslane, bassia, and kochia. June 5, 1981.

EPA SLN No. CA 81 0043. California Department of Food and Agriculture. Registration is for DZN Diazinon 50W, to be used on crops on the registration label to control *Tephritidae*. June 10, 1981.

EPA SLN No. CA 81 0044. Mobay Chemical Corp. Registration is for Di-Syston 8, to be used on lettuce to control the lettuce root aphid. June 11, 1981.

EPA SLN No. CA 81 0046. California Department of Food and Agriculture. Registration is for Diazinon AG–4, to be used on crops on the registration label to control the fruit fly (*Tephritidae*). August 17, 1981.

EPA SLN No. CA 81 0047. California Department of Food and Agriculture. Registration is for Diazinon 40 WP, and Diazinon 4EC, to be used on crops listed on the registration label to control *Tephritidae*. August 17, 1981.

EPA SLN No. CA 81 0048. California Department of Food and Agriculture. Registration is for Diphos 4 EC, to be used on crops on the registration label to control *Tephritidae*. August 14, 1981.

EPA SLN No. CA 81 0049. California Department of Food and Agriculture. Registration is for Diazinon AG–500, to be used on crops on the registration label to control *Tephritidae*. August 29, 1981.

EPA SLN No. CA 81 0051. California Department of Food and Agriculture. Registration is for Aqua Malathion 8 and Malathion 25 Spray, to be used on commercial orchards, vines, and vegetable crops on the registration label to control *Tephritidae*. August 29, 1981.

EPA SLN No. CA 81 0052. California Department of Food and Agriculture. Registration is for Malawet 25W and Malathion 8 Aquamul, to be used on commercial orchards, vegetable crops and vines on the registration label to control *Tephritidae*. August 29, 1981.

EPA SLN No. CA 81 0053. California Department of Food and Agriculture. Registration is for Helena Brand Cythion 8 Lb. EC, to be used on commercial orchard, vegetable crops and vines to control the fruit fly. August 29, 1981.

EPA SLN No. CA 81 0054. California Department of Food and Agriculture. Registration is for Malathion 5 Emulsive and Malathion 8 Emulsive Insecticide, to be used on commercial orchard, vince, and vegetable crops listed on the registration label to control *Tephritidae*. August 29, 1981.

EPA SLN No. CA 81 0055. California Department of Food and Agriculture. Registration is for Hopkins Malathion 25 WP and Hopkins Malathion 57 Emulsifiable Liquid Insecticide, to be used on commercial orchard, vine, and vegetable crops listed on the registration label to control *Tephritidae*. August 29, 1981.

EPA SLN No. CA 81 0056. Chevron Chemical Co. Registration is for Ortho Fruit and Vegetable Insect Control, to be used on soil beneath host plants listed on the EPA label to control the Mediterranean fruit fly (larvae). July 28, 1981.

EPA SLN No. CA 81 0057. Chevron Chemical Co. Registration is for Ortho Diazinon Insect Spray, to be used on soil beneath host plants listed on the registration label to control the Mediterranean fruit fly (larvae). July 28, 1981.

EPA SLN No. CA 81 0058. Beacon Oil Co. Registration is for Beacon Selective Weed Killer No. 5, to be used on parsley, sweet anise to control weeds, and on peppers, tomatoes, and garlic to control preemergent weeds. July 31, 1981.

EPA SLN No. CA 81 0059. Madera County Agriculture Commissioner. Registration is for Sevin Sprayable, to be used on nonbearing pistachios to control armyworms. August 18, 1981.

EPA SLN No. CA 81 0060. Ciba-Geigy. Registration is for Spectracide Lawn and Garden Insect Control to be used on fruit and nut crops to control the Mediterranean fruit fly. August 19, 1981.

EPA SLN No. CA 81 0061. Stanislaus County. Registration is for Phostoxin Coated Pellets, Phostoxin New Coated Tablets, Degesch Phostoxin Coated Pellets, Degesch Phostoxin Coated Pellets—Prepac, and Degesch Phostoxin New Coated Tablets, to be used on almond hulls to control Mediterranean fruit fly. August 20, 1981.

EPA SLN No. CA 81 0062. Santa Barbara County. Registration is for Methyl Bromide Rodent Fumigant, to be used in California to control ground squirrels. September 16, 1981.

EPA SLN No. CA 81 0064. PPG Industries, Inc. Registration is for Furlbe Chloro IPC 20G, to be used on alfalfa seed and forage crops to control dodder. October 13, 1981.

EPA SLN No. CA 81 0065. California Department of Forestry. Registration is for Dursban 4E, to be used on felled, infected conifers to control bark beetles and borers. September 21, 1981.

EPA SLN No. CA 81 0066. Ciba-Geigy. Registration is for DZN Diazinon 14G, to be used on citrus to control ants. October 13, 1981.

EPA SLN No. CA 81 0067. Chevron Chemical Co. Registration is for Ortho Diazinon Insect Spray, to be used on fruits (strawberries, grapes, oranges, apples, peaches, cherries, and plums) to control the Mediterranean fruit fly. October 13, 1981.

EPA SLN No. CA 81 0068. Chevron Chemical Co. Registration is for Ortho Fruit and Vegetable Insect Control, to be used on fruit and nut crops to control the Mediterranean fruit fly. October 13, 1981.

EPA SLN No. CA 81 0074. Mobay Chemical Corp. Registration is for Guthion 50 Percent WP in Water Soluble Packets, to be used on cotton to control the pink bollworm. October 9, 1981.

EPA SLN No. CA 81 0075. Union Carbide Agricultural Products, Co., Inc. Registration is for Sevimol 4 Carbaryl Insecticide, to be used on walnuts to control the navel orangeworm. October 21, 1981.

EPA SLN No. CA 81 0076. Union Carbide Agricultural Products, Co., Inc. Registration is for Sevin XLR Carbaryl Insecticide, to be used on walnuts to control the navel orangeworm. October 21, 1981.

EPA SLN No. CA 81 0077. Union Carbide Agricultural Products, Co., Inc. Registration is for Sevin Sprayable Carbaryl Insecticide, to be used on walnuts to control the navel orangeworm. October 21, 1981.

EPA SLN No. CA 81 0078. Union Carbide Agricultural Products Co., Inc. Registration is for Sevin 50W Carbaryl Insecticide, to be used on walnuts to control navel orangeworm. October 21, 1981.

EPA SLN No. CA 81 0080. Fairfield American Corp. Registration is for Pyrenone Crop Spray, to be used on large areas to control the fruit fly (*Taphritidae*). November 16, 1981.

EPA SLN No. CA 81 0081. Custom Chemicides, Inc. Registration is for Cryolite-Sulfur 45/35 Dust, to be used on raisin or wine grapes and table grapes to control cutworms, the grape leafroller, orange tortrix, and western grape skeletonizer. December 29, 1981.

EPA SLN No. CA 81 0082. Del Norte County Department of Agriculture. Registration is for Asulox, to be used on non-crop land to control the Tansy ragwort. Novermber 16, 1981.

EPA SLN No. CA 81 0083. E. I. du Pont de Nemours and Co. Registration is for Du Pont Velpar Weed Killer, to be used on established alfalfa to control weeds. November 17, 1981.

EPA SLN No. CA 81 0084. E. I. du Pont de Nemours and Co. Registration is for Du Pont Velpar L Weed Killer, to be used on established alfalfa to control weeds. November 17, 1981.

EPA SLN No. CA 81 0086. County of San Luis Obispo-Department of Agriculture. Registration is for Omite 30W, to be used on non-bearing avocados to control the six-spotted mite. November 30, 1981.

EPA SLN No. CA 81 0089. San Diego County Department of Agriculture. Registration is for Du Pont Lorox, to be used on celery to control weeds. November 30, 1981.

EPA SLN No. CA 81 0090. Pennwalt Corp. Registration if for Kryocide Insecticide, to be used on lettuce to control the cabbage looper, corn earworm, and tobacco budworm. December 9, 1981.

Colorado

EPA SLN No. CO 81 0011. Velsicol Chemical Corp. Registration is for Banvel, to be used between cropping system uses to control broadleaf weeds. May 20, 1981.

EPA SLN No. CO 81 0012. Shell Chemical Co. Registration is for Vendex 4L Miticide, to be used on apples, pears, greenhouse and outdoor ornamentals (including nursery stock, flowers, and plants grown for propagation purposes) to control mites. June 2, 1981.

EPA SLN No. CO 81 0013. Mobay Chemical Corp. Registration is for Sencor Sprayule, to be used after wheat harvest or before wheat planting to control weeds. June 2, 1981.

EPA SLN No. CO 81 0014. Mobay Chemical Corp. Registration is for Sencor 4 FL, to be used after wheat harvest or before wheat planting to control weeds. June 2, 1981.

EPA SLN No. CO 81 0015. Mobay Chemical Corp. Registration is for Sencor 50 Percent WP, to be used after wheat harvest or before wheat planting to control weeds. June 2, 1981.

EPA SLN No. CO 81 0016. FMC Corp. Registration is for Pounce 3.2 EC, to be used on cotton to control the bollworm, cotton leaf perforator, Lygus bug, pink bollworm, tobacco budworm, and boll weevil. June 2, 1981.

EPA SLN No. CO 81 0017. Dow Chemical USA. Registration is for Lorsban 4E, to be used on sweet corn to control armyworms and corn earworms. June 2, 1981.

EPA SLN No. CO 81 0018. Chevron Chemical Co. Registration is for Orthene 75 S, to be used on field borders, fence rows, roadsides, borrow pits, and ditchbanks to control grasshoppers. June 2, 1981.

EPA SLN No. CO 81 0019. Stoller Chemical Co. Registration is for That Big Flowable Sulfur, to be used on corn, sorghum, and small grains to control mites. June 16, 1981.

EPA SLN No. CO 81 0020. Griffin Corp. Registration is for Nu-Bait II, to be used on malting barley to control cutworm and armyworm. June 17, 1981.

EPA SLN No. CO 81 0021. Stoller Chemical Co., Inc. Registration is for That Big 8 Flowable Sulfur, to be used on sugar beets to control powdery mildew. June 16, 1981.

EPA SLN No. CO 81 0022. American Cyanamid. Registration is for Cythion Insecticide and Malathion, to be used on clover, pasture, range grass, grass, grass hay, and non-agricultural land to control grasshoppers. August 27, 1981.

EPA SLN No. CO 81 0023. American Cyanamid. Registration is for Malathion ULV Concentrate, to be used on clover, pasture, range grass, grass, grass hay, and non-agricultural land to control grasshoppers. August 27, 1981.

EPA SLN No. CO 81 0024. Mobay Chemical Corp. Registration is for Sencor DF, to be used in wheat/fallow/wheat rotation to control pigweed, mustards, downy brome, Russian thistle, kochia, lambsquarter, volunteer wheat, and wild sunflower. September 2, 1981.

EPA SLN No. CO 81 0025. PPG Industries. Registration is for Chem Hoe 135 FL 3, to be used in wheat/fallow/wheat rotation to control weeds. September 2, 1981.

Connecticut

EPA SLN No. CT 81 0006. Chevron Chemical Co. Registration is for Ortho Paraguat CL, to be used on alfalfa to control annual grasses and broadleaf weeds. May 22, 1981.

EPA SLN No. CT 81 0007. Mobay Chemical Corp. Registration is for Furadan 4 F1 to be used on pure seeded alfalfa to control volover root curculio, nematodes, potato leafhopper, and alfalfa blotch leafminer. July 8, 1981.

EPA SLN No. CT 81 0008. Mobay Chemical Corp. Registration is for Furadan 10 G, to be used on pure seeded alfalfa to control clover root curculio, nematodes, potato leafhopper, and alfalfa blotch leafminer. July 8, 1981.

EPA SLN No. CT 81 0009. O. M. Scott and Sons. Registration is for Proturf Insecticide, to be used on turfgrass to control insects. December 14, 1981.

Delaware

EPA SLN No. DE 81 0012. Chevron Chemical Co. Registration is for Ortho Paraquat CL, to be used on alfalfa to control weeds. June 30, 1981.

EPA SLN No. DE 81 0013. Penick Corp. Registration is for SBP–1382 4.22 MF Mineral Oil Spray, to be used on recreational, residential, and municipal areas to control mosquitoes. August 3, 1981.

Florida

EPA SLN No. FL 81 0016. Philips Roxane, Inc. Registration is for Anchor Permectrin 10 Percent EC, to be used on livestock and poultry premises to control house, face, stable, and false stable flies. June 2, 1981.

EPA SLN No. FL 81 0020. Ralston Purina Co. registration is for Purina Hard Hitter WP, to be used on livestock and poultry premises to control house and stable flies. June 3, 1981.

EPA SLN No. FL 81 0021. Diamond Shamrock Corp. Registration is for Amine 6D, to be used on quiescent or slow moving waters to control water hyacinth. June 26, 1981.

EPA SLN No. FL 81 0022. Diamond Shamrock Corp. Registration is for Amine 4D, to be used on slow moving waters to control water hyacinth. June 26, 1981.

EPA SLN No. FL 81 0023. Reese Citrus Insulators, Inc. Registration is for Citrus Insulator Containing Diazinon, to be used on young citrus trees to control ants, crickets, roaches, wasps, hornets, and to prevent freezing. June 29, 1981.

EPA SLN No. FL 81 0024. E. I. du Pont de Nemours and Co. Registration is for Du Pont Lexone 4L Weed Killer to be used on soybeans to control sicklepod. July 7, 1981.

EPA SLN No. FL 81 0025. E. I. du Pont de Nemours and Co. Registration is for Du Pont Lexone DF Weed Killer to be used on soybeans to control sicklepod. July 7, 1981.

EPA SLN No. FL 81 0026. E. I. du Pont de Nemours and Co. Registration is for Du Pont Lexone Weed Killer to be used on soybeans to control sicklepod. July 7, 1981.

EPA SLN No. FL 81 0027. Florida Citrus Groves Corp. Registration is for FCGC—Oil, to be used on citrus to control Florida red scale, purple scale, soft brown scale, and whiteflies. June 17, 1981.

EPA SLN No. FL 81 0028. Mobay Chemical Corp. Registration is for Furadan 10 GR, to be used on field corn to control the lesser corn stalk borer. July 24, 1981.

EPA SLN No. FL 81 0029.Mobay Chemical Corp. Registration is for Furadan 10 GR, to be used on flue-cured tobacco to control the green peach aphod. July 24, 1981.

EPA SLN No. FL 81 0030. Mobay Chemical Corp. Registration is for Furadan 10 GR, to be used on peppers to control sting nematodes. July 24, 1981.

EPA SLN No. FL 81 0031. Mobay Chemical Corp. Registration is for Furadan 10 GR, to be used on potatoes to control nematodes and corky ring spot. July 24, 1981.

EPA SLN No. FL 81 0032. Asgrow Florida Co. Registration is for Asgrow MBC 2–1, to be used as a preplant soil fumigation of seeded and transplanted peppers to control diseases and nematodes. July 29, 1981.

EPA SLN No. FL 81 0033. Mobay Chemical Corp. Registration is for Monitor 4, to be used on eggplants to control spider mites, aphids, leaf miners, and lepidopterous larvae. August 17, 1981.

EPA SLN No. FL 81 0034. Mobay Chemical Corp. Registration is for Monitor 4, to be used on melons to control leaf miners, pickleworms, melonworms, rindworms, and complex (cabbage looper, tobacco budworm, and granulate cutworm). August 17, 1981.

EPA SLN No. FL 81 0035. American Cyanamid. Registration is for Cythion Insecticide and Malathion ULV Concentrate, to be used in Florida to control mosquitoes. September 18, 1981.

EPA SLN No. FL 81 0036. Chempar Products. Registration is for Rozol Laq Berry Field Rat and Mouse Bait, to be used on non-crop areas around non-food producing fields, to control field Norway rats, roof rats, cotton rats, and mice. September 18, 1981.

EPA SLN No. FL 81 0037. Dow Chemical USA. Registration is for DMA 4 Herbicide, to be used on ponds, lakes, reservoirs, marshes, bayous, drainage ditches, canals, rivers, and streams that are quiescent to control water hyacinth. October 12, 1981.

EPA SLN No. FL 81 0038. FFF Lawn Care Products. Registration is for St. Augustine Weed and Feed, to be used on turf to control weeds. October 14, 1981.

EPA SLN No. FL 81 0039. Chevron Chemical Co. Registration is for Difolatan 4 FL, to be used on oranges, grapefruit, tangerines, lemons, and limes to control scab, melanose, and rust mites. October 22, 1981.

EPA SLN No. FL 81 0040. Penick Corp. Registration is for SBP–1382–40 MF "Z", to be used in Florida to control mosquitoes. October 22, 1981.

EPA SLN No. FL 81 0041. Penick Corp. Registration is for SBP–1382—40 MF "Z", to be used in Florida to control mosquitoes. October 22, 1981.

EPA SLN No. FL 81 0042. E. I. du Pont de Nemours and Co. Registration is for Du Pont Vydate L Insecticide/Nematicide, to be used on cucurbits to control leaf miners and aphids. October 22, 1981.

EPA SLN No. FL 81 0043. Chevron Chemical Co. Registration is for Ortho Monitor 4 Spray, to be used on cucumbers to control pickleworms, aphids, melonworms, and leaf miners. November 13, 1981.

EPA SLN No. FL 81 0044. Chevron Chemical Co. Registration is for Orthene 75 S Soluble Powder, to be used on commercial turf and golf courses to control the sod webworm and leafhopper. November 13, 1981.

EPA SLN No. FL 81 0045. ICI Americas Inc. Registration is for Ectiban EC, to be used in poultry houses to control livestock and poultry flies. November 13, 1981.

EPA SLN No. FL 81 0046. Rohm and Haas Co. Registration is for Dithane M–45, to be used on wheat to control wheat rust. November 13, 1981.

EPA SLN No. FL 81 0047. Chemspray Inc. Registration is for Chemspray Brand Citrus Oil Spray, to be used on citrus to control Florida red scale, purple scale, whiteflies, and spider mites. November 20, 1981.

EPA SLN No. FL 81 0048. Chevron Chemical Co. Registration is for Ortho Monitor 4 Spray, to be used on cabbage to control cabbage loopers, imported cabbageworms, diamondback moth larvae, and aphids. December 7, 1981.

Georgia

EPA SLN No. GA 81 0029. Dow Chemical USA. Registration is for Dowfume–100, Dowfume W–90, and Dowfume W–85, to be used on soybeans to control nematodes (lance, root-knot, spiral, and sting). May 28, 1981.

EPA SLN No. GA 81 0030. Dow Chemical USA. Registration is for Lorsban 4E, to be used on sorghum to control the lesser cornstalk borer. June 18, 1981.

EPA SLN No. GA 81 0031. Mobay Chemical Corp. Registration is for Guthion 2 FL, to be used on cotton to control cotton insects. July 6, 1981.

EPA SLN No. GA 81 0032. FMC Corp. Registration is for Pounce 3.2 EC, to be used on cotton to control the bollworm and tobacco budworm. August 6, 1981.

EPA SLN No. GA 81 0033. ICI Americas, Inc. Registration is for Ambush EC, to be used on cotton to control the bollworm and tobacco budworm. August 10, 1981.

EPA SLN No. GA 81 0034. Shell Chemical Co. Registration is for Pydrin 2.4 EC, to be used on cotton to control the bollworm and tobacco budworm. August 11, 1981.

EPA SLN No. GA 81 0035. Richmond County Health Department. Registration is for Rat and Mouse Bait, to be used as bait for rats and mice. December 22, 1981.

EPA SLN No. HI 81 0002. Mobay Chemical Corp. Registration is for Sencor 50 Percent WP, to be used on Bermuda grass turf to control goosegrass. May 21, 1981.

EPA SLN No. HI 81 0005. GAF Corp. Registration is for CEPHA, to be used on pineapple for flower bud initiation. August 25, 1981.

EPA SLN No. HI 81 0006. GAF Corp. Registration is for CEPHA, to be used on pineapple for fruit ripening. August 25, 1981.

EPA SLN No. HI 81 0007. Velsicol Chemical Corp. Registration is for Gold Crest C–100, to be used on underground electric cables and ductwork to control termites. September 29, 1981.

EPA SLN No. HI 81 0008. Pennwalt Corp. Registration is for Knox Out 2FM Insecticide, to be used on any area to be protected to control scavenger yellowjackets. July 21, 1981.

EPA SLN No. HI 81 0009. E. I. du Pont de Nemours and Co. Registration is for Du Pont Vydate L Insecticide/Nematicide, to be used on pineapple to control reniform and root-knot nematodes. August 7, 1981.

EPA SLN No. HI 81 0010. Rohm and Haas Co. Registration is for Dithane Z–78, to be used on guava to control leaf spot and dry rot. August 24, 1981.

EPA SLN No. HI 81 0011. Pineapple Growers Association of Hawaii. Registration is for Roundup, to be used on pineapples to control weeds. September 30, 1981.

EPA SLN No. HI 81 0012. Pennwalt Corp. Registration is for Penncap-M, to be used on chrysanthemums to control leaf miners. September 28, 1981.

EPA SLN No. HI 81 0013. E. I. du Pont de Nemours and Co. Registration is for Du Pont Vydate L Insecticide/Nematicide, to be used on cucurbits to control leaf miners, nematodes (root-knot, lesion, ring, sting, and stunt) in Hawaii. November 6, 1981.

Idaho

EPA SLN No. ID 81 0030. E. I. du Pont de Nemours and Co. Registration is for Du Pont Lexone, to be used on winter and spring barley to control annual weeds. May 20, 1981.

EPA SLN No. ID 81 0031. E. I. du Pont de Nemours and Co. Registration is for Du Pont Lexone 4L, to be used on winter and spring barley to control annual weeds. May 20, 1981.

EPA SLN No. ID 81 0032. E. I. du Pont de Nemours and Co. Registration is for Du Pont Lexone DF, to be used on winter and spring barley to control annual weeds. May 20, 1981.

EPA SLN No. ID 81 0033. Burroughs Wellcome Co. Registration is for Atroban Cattle Ear Tags, to be used on dairy and beef cattle and calves to control horn flies, face flies, ticks, spinose ear ticks, stable flies, and house flies. May 27, 1981.

EPA SLN No. ID 81 0034. Burroughs Wellcome Co. Registration is for Atroban WP, to be used on livestock and poultry premises to control house flies, stable flies, and *Fannia* spp. June 8, 1981.

EPA SLN No. ID 81 0035. Y-Tex Corp. Registration is for GardStar, to be used on beef and dairy cattle, including dairy cattle and calves to control horn flies, face flies, spinose ear ticks, stables flies, and house flies. June 9, 1981.

EPA SLN No. ID 81 0036. The Chas. H. Lilly Co. Registration is for Miller's Lindane 75W, to be usd on lentil (seed treatment only) to control wireworms and seed corn maggots. June 11, 1981.

EPA SLN No. ID 81 0037. Penick Corp. Registration is for Pramex 13.3 Percent EC, to be used on chrysanthemums grown in greenhouses and slathouses to control leaf miners. June 11, 1981.

EPA SLN No. ID 81 0038. Dow Chemical USA. Registration is for Lorsban 4E Insecticide, to be used on sugar beets to control cutworms. June 11, 1981.

EPA SLN No. ID 81 0039. E. I. du Pont de Nemours and Co. Registration is for Benlate, to be used on beans to control sclerotinia white mold. June 19, 1981.

EPA SLN No. ID 81 0040. Diamond Shamrock Corp. Registration is for Rabon Oral Larvicide 7.76 Percent Pre-Mix, to be used on mink feed to control fecal fly larvae. June 24, 1981.

EPA SLN No. ID 81 0041. Velsicol Chemical Corp. Registration is for Banvel Herbicide, to be used between cropping systems to control weeds. August 28, 1981.

EPA SLN No. ID 81 0042. Mobay Chemical Corp. Registration is for Furadan 4 FL, to be used on potatoes to control the Colorado potatoe beetle. July 21, 1981.

EPA SLN No. ID 81 0043. Chevron Chemical Co. Registration is for Ortho Paraquat CL, to be used on potatoes to control preemergent weeds and grasses. August 4, 1981.

EPA SLN No. ID 81 0044. Wilbur-Ellis Co. Registration is for Red-Top Ben-Sul 60 Dust, to be used on tomatoes to control powdery mildew. August 5, 1981.

EPA SLN No. ID 81 0047. U.S. Department of the Interior. Registration is for Strychnine Paste 1.6 Percent, to be used on field edges to control black-tailed jackrabbits. October 13, 1981.

EPA SLN No. ID 81 0048. Stauffer Chemical Co. Registration is for Prefar 4–E, to be used on spring-planted onions to control lambsquarters, redroot pigweed, and watergrass. October 19, 1981.

Illinois

EPA SLN No. IL 81 0011. Diamond Shamrock Corp. Registration is for Oftanol 5 Percent GR, to be used on turf grasses to control insects. June 24, 1981.

EPA SLN No. IL 81 0012. Ciba-Geigy Corp. Registration is for Princep 4G, to be used to be used transplanted tree seedlings to control weeds. June 24, 1981.

EPA SLN No. IL 81 0015. Burroughs Wellcome Co. Registration is for Atroban Cattle Ear Tags, to be used as ear tags for livestock fly control. September 30, 1981.

EPA SLN No. IL 81 0016. Burroughs Wellcome Co. Registration is for Atroban WP, to be used on livestock and poultry premises to control the house fly, stable fly, and *Fannia* spp. September 30, 1981.

EPA SLN No. IL 81 0017. Y-Tex Corp. Registration is for Gardstar, to be used as ear tags to control horn flies, face flies, and ticks on beef and dairy cattle. September 30, 1981.

Indiana

EPA SLN No. IN 81 0019. Mobay Chemical Corp. Registration is for Mesurol 50 Percent Hopper-Box Treater, to be used on newly planted corn to control small rodents and birds. May 22, 1981.

EPA SLN No. IN 81 0020. Mobay Chemical Corp. Registration is for Mesurol 75 Percent WP, to be used on blueberries to control the blueberry maggot and pest birds. May 28, 1981.

EPA SLN No. IN 81 0021. Velsicol Chemical Corp. Registration is for Banvel, to be used between cropping systems to control weeds. May 28, 1981.

EPA SLN No. IN 81 0022. Stauffer Chemical Co. Registration is for Dyfonate 4 EC, to be used on field corn, sweet corn, and popcorn to control northern, western, and southern corn rootworm. June 15, 1981.

EPA SLN No. IN 81 0023. Mobay Chemical Corp. Registration is for Furadan 4 FL, to be used on field corn to control corn rootworm larvae. July 13, 1981.

EPA SLN No. IN 81 0024. Cargill, Inc. Registration is for RTU–1010 Small Grains Seed Protectant, to be used on wheat, oat, and barley to control seed and seedling diseases/smut and bunt. August 27, 1981.

EPA SLN No. IN 81 0025. FMC Corp. Registration is for Pounce 3.2 EC, to be used on chrysanthemums to control the leaf miner. Registration became effective on October 9, 1981.

EPA SLN No. IN 81 0026. Philips Roxane, Inc. Registration is for Anchor Premectrin 10 Percent EC II Long Lasting Livestock and Premise Spray, to be used on livestock and poultry and their premises to control northern fowl mites on poultry. November 18, 1981.

EPA SLN No. IN 81 0027. Philips Roxane, Inc. Registration is for Biocautic Overtime L/P Long Acting Livestock and Premise Insecticide, to be used on livestock and poultry and their premises to control northern fowl mites on poultry. November 18, 1981.

EPA SLN No. 81 0028. FMC Corp. Registration is for Furadan 4 FL, to be used on non-bearing apple, peach, and cherry trees to control nematodes. November 20, 1981.

EPA SLN No. IN 81 0029. FMC Corp. Registration of for Furadan 10 GR, to be used on non-bearing peach, apple, and cherry trees to control nematodes. November 20, 1981.

Iowa

EPA SLN No. IA 81 0012. Dow Chemical USA. Registration is for Lorsban 15G, to be used on field corn to control European corn borers. June 2, 1981.

EPA SLN No. IA 81 0013. The Freers Co. Registration is for Frees Oak Wilt, to be used on elm trees to control oak wilt. June 2, 1981.

EPA SLN No. IA 81 0014. Burroughs Wellcome Co. Registration is for Atroban Cattle Ear Tags, to be used on dairy and beef cattle and calves to control horn flies, face flies, gulf coast ticks, spinose ear ticks and as an aid to control stable flies and house flies. October 1, 1981.

Kansas

EPA SLN No. KS 81 0029. Dow Chemical USA. Registration is for Lorsban 15G GR Insecticide, to be used on field corn to control first generation European corn borers. July 14, 1981.

EPA SLN No. KS 81 0030. Stroller Chemical Co. Registration is for That Big 8 Flowable Sulfur, to be used on sugar beets control powdery mildew. August 12, 1981.

EPA SLN No. KS 81 0031. Uniroyal Chemical. Registration is for Comite to be used on corn to control Banks grass mites. August 24, 1981.

EPA SLN No. KS 81 0032. Mobay Chemical Corp. Registration is for Oftanol 5 Percent GR, to be used on turf grasses to control insects. November 2, 1981.

EPA SLN No. KS 81 0033. Helena Chemical Co. Registration is for Aatram 20G, to be used on corn and sorghum to control weeds. November 10, 1981.

EPA SLN No. KS 81 0034. Shell Chemical Co. Registration is for Bladex 4L, to be used on field corn to control annual grasses and broadleaf weeds. December 18, 1981.

EPA SLN No. KS 81 0035. Shell Chemical Co. Registration is for Bladex 80W, to be used on field corn to control annual grasses and broadleaf weeds. December 18, 1981.

Louisiana

EPA SLN No. LA 81 0022. Sandoz, Inc. Registration is for Solicam 80 WP, to be used on peaches (orchard floor) to control grass and broadleaf weeds. May 19, 1981.

EPA SLN No. LA 81 0023. Louisiana Forestry Commission. Registration is for Caparol, to be used on loblolly pine and slash pine to control annual grasses and annual broadleaf weeds. May 19, 1981.

EPA SLN No. LA 81 0024. Mobay Chemical Corp. Registration is for Guthion 2 FL, to be used on sugarcane to control the sugarcane borer. May 29, 1981.

EPA SLN No. LA 81 0025. Micro Chemical Co., Inc. Registration is for Triple Kill 5 "L", to be used on cotton to control cotton insects. June 23, 1981.

EPA SLN No. LA 81 0026. Micro Chemical Co., Inc. Registration is for Triple Kill B6, to be used on cotton to control thrips, certain spider mites, cotton fleahoppers, boll weevils, bollworm, yellow striped armyworms, garden webworm, and Mexican bean beetle. June 23, 1981.

EPA SLN No. LA 81 0027. Shell Chemical Co. Registration is Pydrin Insecticide 2.4 EC, to be used on cotton to control the cotton bollworm, tobacco budworm, Lygus bug, cabbage looper, beet armyworm, boll weevil, and whitefly. June 30, 1981.

EPA SLN No. LA 81 0028. FMC Corp. Registration is for Pounce 3.2 EC, to be used on cotton to control the bollworm, tobacco budworm, cabbage looper, cotton leaf perforator, boll weevil, cotton fleahopper, Lygus bug, and tarnished plant bug. June 30, 1981.

EPA SLN No. LA 81 0029. ICI Americas Inc. Registration is for Ambush EC, to be used on cotton to control the boll weevil, tobacco budworm, cabbage looper, bollworm, Lygus bug, cotton aphid, whitefly. June 30, 1981.

EPA SLN No. LA 81 0030. E. I. du Pont de Nemours and Co. Registration is for Du Pont Lexone Weed Killer, to be used on soybeans to control postemergent weeds. July 6, 1981.

EPA SLN No. LA 81 0031. E. I. du Pont de Nemours and Co. Registration is for Du Pont Lexone Weed Killer, to be used on soybeans to control postemergent weeds. July 6, 1981.

EPA SLN No. LA 81 0032. E. I. du Pont de Nemours and Co. Registration is for Du Pont Lexone DF Weed Killer, to be used on soybeans to control postemergent weeds. July 6, 1981.

EPA SLN No. LA 81 0033. E. I. du Pont de Nemours and Co. Registration is for Du Pont Lannate L Insecticide, to be used on oranges and tangerines to control whiteflies. July 10, 1981.

EPA SLN No. LA 81 0034. Dow Chemical USA. Registration is for Lorsban 4E Insecticide, to be used on cotton to control spider mites. July 10, 1981.

EPA SLN No. LA 81 0035. Velsicol Chemical Corp. Registration is for Banvel 720, to be used on open bodies of water in non-cropland transient ditches, irrigation, drainage ditches, and canals to control aquatic weeds. July 14, 1981.

EPA SLN No. LA 81 0036. Red Panther Chemical Co. Registration is for Red Panther Imidan 5 Dust, to be used on sweet potatoes to control the sweet potato weevil. July 16, 1981.

EPA SLN No. LA 81 0037. E. I. du Pont de Nemours and Co. Registration is for Du Pont Lannate Insecticide, to be used on oranges and tangerines to control whiteflies. July 31, 1981.

EPA SLN No. LA 81 0038. Blackhawk Chemical Corp. Registration is for Naled 85 Concentrate, to be used on residential and municipal areas, tidal marshes, swamps, woodlands, and livestock pastures to control mosquitoes. August 14, 1981.

EPA SLN No. LA 81 0039. Panick Corp. Registration is for SBP–1382 4.22 MF Mineral

Oil Spray, to be used on parks, campsites, woodlands, athletic fields, golf courses, swamps, tidal marshes, and residential and municipal areas to control mosquitoes. August 25, 1981.

EPA SLN No. LA 81 0040. Union Carbide Agricultural Products Co., Inc. Registration is for Weedone 2,4–DP Woody Plant Herbicide, to be used on loblolly pine plantations to control hardwood brush and broadleaf weeds. September 10, 1981.

EPA SLN No. LA 81 0041. Elanco Products Co. Registration is for Treflan EC, to be used on soybeans to control weeds and red rice. September 10, 1981.

EPA SLN No. LA 81 0042. Mobay Chemical Corp. Registration is for Bolstar 6, to be used on cotton to control the tobacco budworm, cotton bollworm, Lygus bug, fall and beet armyworm, pink bollworm, fleahopper, whitefly, spider mite, and plant bug. September 10, 1981.

EPA SLN No. LA 81 0043. Red Panther Chemical Co. Registration is for Red Panther Sodium Chlorate, to be used on soybeans as a weed desiccant. September 28, 1981.

EPA SLN No. LA 81 0044. Dow Chemical USA. Registration is for Dowpon M Grass Killer, to be used on cotton to control Bermuda grass. October 6, 1981.

EPA SLN No. LA 81 0045. Mobay Chemical Corp. Registration is for Sencor 4 FL, to be used on soybeans to control sicklepod. December 1, 1981.

EPA SLN No. LA 81 0046. Mobay Chemical Corp. Registration is for Sencor 50 Percent WP, to be used on soybeans to control sicklepod. December 1, 1981.

EPA SLN No. LA 81 0047. Mobay Chemical Corp. Registration is for Sencor Sprayulè 75 Percent Water Dispersible GR, to be used on soybeans to control sicklepod. December 1, 1981.

Maine

EPA SLN No. ME 81 0006. Chevron Chemical Co. Registration is for Ortho Paraquat CL, to be used on alfalfa to control annual grasses, broadleaf weeds, plants. on July 7, 1982. September 14, 1981.

Maryland

EPA SLN No. MD 81 0002. Shell Chemical Co. Registration is for Shells Bladex 80 W, to be used on field corn to control annual grasses and broadleaf weeds.

EPA SLN No. MD 81 0019. Chevron Chemical Corp. Registration is for Ortho Paraquat CL, to be used on alfalfa to control weeds between cuttings. June 8, 1981.

EPA SLN No. MD 81 0020. Mobay Chemical Corp. Registration is for Furadan 4E FL, to be used on Maryland-type tobacco to control flea beetles, hornworms, wireworms, nematodes, and early season aphids. June 8, 1981.

EPA SLN No. MD 81 0021. Mobay Chemical Corp. Registration is for Furadan 10 GR, to be used on Maryland-type tobacco to control flea beetles, hornworms, wireworms, nematodes, and early season aphids. June 8, 1981.

EPA SLN No. MD 81 0022. Penick Corp. Registration is for SBP–1382 4.22 MF Mineral Oil Spray, to be used on recreational, residential, and municipal areas to control mosquitoes. September 2, 1981.

EPA SLN No. MD 81 0023. Chevron Chemical Co. Registration is for Dibrom 14 Concentrate, to be used in Maryland to control mosquitoes. September 14, 1981.

Massachusetts

EPA SLN No. MA 81 0001. Penick Corp. Registration is for SBP–1382–40MF "Z", to be used on recreational and residential areas, municipalities, and overgrown waste areas to control mosquitoes. June 10, 1981.

Michigan

EPA SLN No. MI 81 0019. International Chemetals Group, Inc. Registration is for Solvit Brand Nitrofir 25E, to be used on broccoli, brussels sprouts, cabbage, cauliflower, horseradish, onion (dry bulk only), parsley, sugar beets, carnations, chrysanthemums, stocks, and non-crop areas to control weeds. May 20, 1981.

EPA SLN No. MI 81 0020. EM Industries, Inc. Registration is for Funginex EC 18.2 Percent, to be used on cherries to control cherry brown rot and cherry leaf spot. June 12, 1981.

EPA SLN No. MI 81 0022. Rohm and Haas. Registration is for Goal 2E Herbicide, to be used as a dormant application on peaches, plums, prunes, and grapes to control weeds. July 31, 1981.

EPA SLN No. MI 81 0023. Velsicol Chemical Co. Registration is for Banvel Herbicide, to be used between cropping systems to control broadleaf weeds. July 31, 1981.

EPA SLN No. MI 81 0024. Hopkins Agricultural Chemical Co. Registration is for Hopkins Quintar 5F, to be usd on tomatoes to control late blight, early blight, greymold, anthracnose, and grey leaf spot. September 9, 1981.

EPA SLN No. MI 81 0025. FMC Corp. Registration is for Furadan 4 FL, to be used on non-bearing peach, nectarine, apple, apricot, cherry, and plum trees to control nematodes. October 29, 1981.

EPA SLN No. MI 81 0026. FMC Corp. Registration is for Furadan 10 GR, to be used on non-bearing peach, nectarine, apple, apricot, cherry, and plum trees to control nematodes. October 29, 1981.

EPA SLN No. MI 81 0027. Stauffer Chemical Co. Registration is for Dyfonate 10–G Insecticide, to be used on asparagus to control the white cutworm. December 10, 1981.

EPA SLN No. MI 81 0028. Monsanto Co. Registration is for Roundup, to be used on apples, cherries, and grapes to control annual and perennial weeds. December 15, 1981.

Minnesota

EPA SLN No. MN 81 0017. Hopkins Agricultural Chemical Co. Registration is for Hopkins Sevin Carbaryl Bait, to be used on sunflowers to control cutworms and grasshoppers. June 12, 1981.

EPA SLN No. MN 81 0018. Platte Chemical Co. Registration is for Clean Crop Sevin 5 Bait, to be used on sunflowers to control cutworms and grasshoppers. June 12, 1981.

EPA SLN No. MN 81 0019. Dow Chemical U.S.A. Registration is for Dursban 2E, to be used on cut elm logs to control the native elm bark beetle and smaller European elm bark beetle. July 17, 1981.

EPA SLN No. MN 81 0020. Monsanto Co. Registration is for GR Far-Go, to be used on spring barley and spring or durum wheat to control wild oats. December 9, 1981.

EPA SLN No. MN 81 0021. Ralston Purina Co. Registration is for Purina Hard Hitter EC, to be used on livestock and poultry premises to control house flies, stable flies, and other manure breeding flies. December 15, 1981.

EPA SLN No. MN 81 0022. Ralston Purina Co. Registration is for Purina Hard Hitter WP, to be used on livestock and poultry premises to control house flies, stable flies, and other manure breeding flies. December 15, 1981.

Mississippi

EPA SLN No. MS 81 0037. Valley Chemical Co. Registration is for DSMA 4, to be used on cotton to control the boll weevil, bollworm, tobacco budworm, Lygus bug, cabbage looper, cotton aphid, and whitefly. May 1, 1981.

EPA SLN No. MS 81 0038. Dow Chemical USA. Registration is for Lorsban 4E, to be used on cotton to control wireworms. May 20, 1981.

EPA SLN No. MS 81 0039. Valley Chemical Co. Registration is for Toxaphene EC No. 6, to be used on soybeans to control sicklepod (*Cassia obtusfolia*). May 28, 1981.

EPA SLN No. MS 81 0040. Shell Chemical Co. Registration is for Pydrin 2.4 EC, to be used on cotton to control the cotton bollworm, tobacco budworm, and boll weevil. May 28, 1981.

EPA SLN No. MS 81 0041. Mobay Chemical Corp. Registration is for Furadan 10 G, to be used on young southern pine plantations and pines planted for Christmas trees to control the Nantucket pine tip moth. May 29, 1981.

EPA SLN No. MS 81 0042. Red Panther Chemical Co. Registration is for Red Panther DSMA Special, to be used as a preemergent treatment of cotton to control weeds. June 4, 1981.

EPA SLN No. MS 81 0043. Mobay Chemical Corp. Registration is for Furadan 10 G, to be used on sugarcane to control the sugarcane beetle. June 2, 1981.

EPA SLN No. MS 81 0044. Dow Chemical USA. Registration is for Dowpon M, to be used on cotton to control Bermuda grass. June 5, 1981.

EPA SLN No. MS 81 0045. FBC Chemicals, Inc. Registration is for Attac 6 and Attac 8, to be used in a ground or aerial application on cotton to control *Heliothis* spp. and other cotton insects listed on the registration labels. June 5, 1981.

EPA SLN No. MS 81 0046. FBC Chemicals. Registration is for Attac 6 and Attac 8, to be used on soybeans to control sicklepod (*Cassia obtusidfolia*). June 11, 1981.

EPA SLN No. MN 81 0047. Rohm and Haas Co. Registration is for Blazer 2S, to be used on soybeans to control sicklepod. June 11, 1981.

EPA SLN No. MS 81 0048. Gustafson, Inc. Registration is for Lorsban 50–SL, to be used on stored cotton planting seed to control red flour beetle, rice weevil, sawtoothed grain beetles, Indian meal moth, Angoumois grain moth, and cigarette beetles. July 11, 1981.

EPA SLN No. MS 81 0049. Red Panther Chemical Co. Registration is for Red Panther

Imidan 5 Dust, to be used on sweet potatoes to control sweet potato weevils. July 31, 1981.

EPA SLN No. MS 81 0050. Velsicol Chemical Corp. Registration is for Tiovel 3 EC, to be used on sweet potatoes to control sweet potato weevils. July 13, 1981.

EPA SLN No. MS 81 0053. Dow Chemical USA. Registration is for Dowfume–100, Dowfume–90, and Dowfume–85, to be used on soybeans to control lance root-knot, spiral, sting, and cyst nematodes. July 22, 1981.

EPA SLN No. MS 81 0054. Chevron Chemical Co. Registration is for Orthocide 50 WP and Orthocide 80 WP, to be used on soybeans to control Cercosopra frogeye leafspot, Septoria brown spot, diporthe pod and stem blight, anthracnose and purple seed stain. July 23, 1981.

EPA SLN No. MS 81 0055. Mobay Chemical Corp. Registration is for Monitor, to be used on cotton to control aphids, fleahoppers, whiteflies, beet armyworms, cabbage loopers, mites, and thrips. July 28, 1981.

EPA SLN No. MS 81 0056. Chevron Chemical Co. Registration is for Orthene 75S Soluble Powder, to be used on cotton to control fleahoppers, plantbugs, and thrips. July 22, 1981.

EPA SLN No. MS 81 0057. Mobay Chemical Corp. Registration is for Sencor Sprayule 75 Percent Water Dispersible G, to be used on soybeans to control sicklepod. September 1, 1981.

EPA SLN No. MS 81 0058. Mobay Chemical Corp. Registration is for Sencor 50 Percent WP, to be used on soybeans to control sicklepod. September 1, 1981.

EPA SLN No. MT 81 0059. Mobay Chemical Corp. Registration is for Sencor 4 FL, to be used on soybeans to control sicklepod. September 1, 1981.

EPA SLN No. MT 81 0060. Valley Chemical Co. Registration is for Val-Drop No. 3, to be used on a cotton defoliant; for dessication of sunflowers, grain sorghum and milo; and in corn, rice, and soybeans for weed desiccation. September 3, 1981.

EPA SLN No. MT 81 0061. Stauffer Chemical Co. Registration is for Ordram 10–G, to be used on rice for reduction of red rice competition in rice. December 16, 1981.

EPA SLN No. MT 81 0062. Stauffer Chemical Co. Registration is for Ordam 8–E, to be used on rice for reduction of red rice in domestic rice plantings. December 16, 1981.

Missouri

EPA SLN No. MO 81 0024. FMC Corp. Registration is for Furadan 4 FL, to be used on grain sorghum and sorghum grown for forage and silage to control chinch bugs and greenbugs. May 1, 1981.

EPA SLN No. MO 81 0025. E. I. du Pont de Nemours and Co. Registration is for Du Pont Velpar Gridball 1cc Brush Killer, to be used on land renovation areas to control undesirable woody plants. June 22, 1981.

EPA SLN No. MO 81 0026. Philips Roxane Inc. Registration is for Insectaban 10 Insecticide EC Residual Spray, to be used on livestock and poultry premises to control house flies, stable flies, and false stable flies. July 15, 1981.

EPA SLN No. MO 81 0027. Mobay Chemical Corp. Registration is for Sencor 4 FL, to be used on soybeans to control sicklepod. July 29, 1981.

EPA SLN No. MO 81 0028. Mobay Chemical Corp. Registration is for Sencor 50 percent WP, to be used on soybeans to control sicklepod. July 29, 1981.

EPA SLN No. MO 81 0029. Mobay Chemical Corp. Registration is for Sencor Sprayule 75 Percent Water Dispersible G, to be used on soybeans to control sicklepod. July 29, 1981.

EPA SLN No. MO 81 0030. Mobay Chemical Corp. Registration is for Furadan 4 FL, to be used on grain sorghum and sorghum grown for forage and silage to control chinch bugs and greenbugs. July 29, 1981.

EPA SLN No. MO 81 0031. FMC Corp. Registration is for Furadan 3 GR, to be used on rice to control rice water weevil and mosquitoes. August 6, 1981.

EPA SLN No. MO 81 0032. Mobay Chemical Corp. Registration is for Oftanol 5 Percent GR, to be used on turf grass to control insects. August 18, 1981. 1981.

Montana

EPA SLN No. MT 81 0012. Mobay Chemical Corp. Registration is for Sencor Sprayule, to be used on winter wheat to control grass and broadleaf weeds. May 21, 1981.

EPA SLN No. MT 81 0013. Union Carbide Agricultural Products Co., Inc. Registration is for Brominal Broadleaf Herbicide, to be used on winter wheat to control chickweed, filaree, henbit, and dogfennel. May 19, 1981.

EPA SLN No. MT 81 0014. Shell Chemical Co. Registration is for Shell Atrazine 4L, to be used on fields to be planted to winter wheat, spring wheat, or durum wheat to control weeds. May 19, 1981.

EPA SLN No. MT 81 0015. Shell Chemical Co. Registration is for Shell Atrazine 80W, to be used on fields to be planted to winter wheat, spring wheat, or durum wheat to control weeds. May 19, 1981.

EPA SLN No. MT 81 0016. Penick Corp. Registration is for Pramex 13.3 Percent EC, to be used on chrysanthemums grown in greenhouses and slathouses to control leaf miners. May 19, 1981.

EPA SLN No. MT 81 0017. Dow Chemical USA. Registration is for Lorsban 4E, to be used on sugar beets to control cutworms. May 19, 1981.

EPA SLN No. MT 81 0018. Rhone-Poulenc Chemical Co. Registration is for Buctril and Hoelon 3 EC, to be used on wheat and spring seeded barley to control weeds listed on the registration label. May 29, 1981.

EPA SLN No. MT 81 0019. Mobay Chemical Corp. Registration is for Furadan 10 G, to be used on sugar beets to control sugar beet root maggots. May 29, 1981.

EPA SLN No. MT 81 0020. Stoller Chemical Co., Inc. Registration is for That Big 8 Flowable Sulfur, to be used on sugar beets to control powdery mildew. July 22, 1981.

EPA SLN No. MT 81 0021. Wilbur-Ellis Co. Registration is for Red-Top Contact Weedkiller, to be used on conifer plantations as a brush desiccant. September 29, 1981.

EPA SLN No. MT 81 0022. EM Industries, Inc. Registration is for Funginex EC 18.2 Percent, to be used on cherries to control fruit brown rot and cherry leafspot. September 4, 1981.

EPA SLN No. MT 81 0023. Velsicol Chemical Corp. Registration is for Banvel Herbicide, to be used on cropping systems to control weeds. August 14, 1981.

EPA SLN No. MT 81 0024. Mobay Chemical Corp. Registration is for Sencor 4, to be used on wheat and barley to control weeds. October 14, 1981.

EPA SLN No. MT 81 0025. Mobay Chemical Corp. Registration is for Sencor 50 Percent WP, to be used on wheat and barley to control weeds. October 14, 1981.

EPA SLN No. MT 81 0026. Mobay Chemical Corp. Registration is for Sencor Sprayule, to be used on wheat and barley to control weeds. October 14, 1981.

EPA SLN No. MT 81 0027. Monsanto Co. Registration is for GR Far-Go, to be used on spring planted barley, spring or durum wheat to control wild oats. November 12, 1981.

Nebraska

EPA SLN No. NE 81 0013. FMC Corp. Registration is for Furadan 4 FL, to be used on grain sorghum and sorghum grown for forage silage to control chinch bugs and greenbugs. May 1, 1981.

EPA SLN No. NE 81 0014. Platte Chemical Co. Registration is for Clean Crop LV–6 Ester, to be used on wheat, barley, rye, or corn to control weeds. June 2, 1981.

EPA SLN No. NE 81 0015. Platte Chemical Co. Registration is for Clean Crop Amine 4, 2,4-D, to be used on small grains, corn, rice, pastures, turf, and other non-crop areas to control certain broadleaf annual weeds and perennial weeds. June 2, 1981.

EPA SLN No. NE 81 0016. Monsanto Co. Registration is for Lasso, to be used on field corn, hybrid seed corn, popcorn, silage corn, and sweet corn to control annual grasses and broadleaf weeds. May 6, 1981.

EPA SLN No. NE 81 0017. Rohm and Haas Co. Registration is for Goal 2E, to be used on soybeans to control weeds. June 3, 1981.

EPA SLN No. NE 81 0018. Shell Chemical Co. Registration is for Bladex 80W Herbicide, to be used on winter wheat to control weeds. June 16, 1981.

EPA SLN No. NE 81 0019. Dow Chemical USA. Registration is for Lorsban 4E Insecticide, to be used on field corn and sorghum to control the chinch bug. June 24, 1981.

EPA SLN No. NE 81 0020. Velsicol Chemical Corp. Registration is for Banvel, to be used between cropping systems to control broadleaf weeds. June 30, 1981.

EPA SLN No. NE 81 0021. Ralston Purina Co. Registration is for Purina Hard Hitter EC, to be used on livestock and poultry premises to control house, stable, and other manure breeding flies. June 30, 1981.

EPA SLN No. NE 81 0022. Ralston Purina Co. Registration is for Purina Hard Hitter WP, to be used on livestock and poultry premises to control house, stable, and other manure breeding flies. June 30, 1981.

EPA SLN No. NE 81 0023. Mobay Chemical Corp. Registration is for Sencor Sprayule, to be used on wheat/fallow/wheat rotation to control weeds. July 15, 1981.

EPA SLN No. NE 81 0024. Mobay Chemical Corp. Registration is for Sencor 50 Percent WP, to be used on wheat/fallow/wheat rotation to control weeds. July 15, 1981.

EPA SLN No. NE 81 0025. Mobay Chemical Corp. Registration is for Sencor 4 FL, to be

used on wheat/fallow/wheat rotation to control weeds. July 15, 1981.

Nevada

EPA SLN No. NV 81 0004. Witco Chemical Corp. Registration is for GB 1356, to be used on swamps, flood water areas, and other areas where mosquitoes develop to control mosquito larvae. June 3, 1981.

EPA SLN No. NV 81 0005. Baird and McGuire, Inc. Registration is for Baird's Contact Weed Killer, to be used on non-crop areas, orchard floors, grapes and bush fruits, alfalfa, clover, and potato vines to control weeds. July 9, 1981.

EPA SLN No. NV 81 0006. Nevada Department of Agriculture. Registration is for Dacthal W-75 for Turf, to be used on garlic and onions to control annual grasses and broadleaf weeds. August 21, 1981.

EPA SLN No. NV 81 0007. PureGro Co. Registration is for PureGro Dibrom 8E, to be used on alfalfa to control grasshoppers, aphids, loopers, leafhoppers, lygus bugs, armyworms, and thrips. August 31, 1981.

EPA SLN No. NV 81 0009. FMC Corp. Registration is for Furadan 10 GR, to be used on garlic to control onion maggots. December 1, 1981.

New Hampshire

EPA SLN No. NH 81 0003. Mobay Chemical Corp. Registration is for Mesurol 75 Percent WP, to be used on blueberries to control blueberry maggot flies and pest birds. June 12, 1981.

EPA SLN No. NH 81 0004. Chevron Chemical Co. Registration is for Ortho Paraquat CL, to be used on alfalfa to control weeds. August 11, 1981.

New Jersey

EPA SLN No. NJ 81 0017. Chevron Chemical Co. Registration is for Ortho Paraquat CL, to be used on alfalfa to control weeds between cuttings. May 20, 1981.

EPA SLN No. NJ 81 0018. Pennwalt Corp. Registration is for Peach, Nectarine, and Plum Lustr 274, to be used on peaches, nectarines, and plums to control brown rot and rhizopus spoilage. June 4, 1981.

EPA SLN No. NJ 81 0019. Stephenson Chemical Co. Registration is for 20 Percent Lindane EC, to be used on existing structures to control wood-infesting beetles. July 1, 1981.

EPA SLN No. NJ 81 0020. Ciba-Geigy Corp. Registration is for DZN Diazinon AG500, to be used on fern portion of asparagus to control the asparagus miner. August 5, 1981.

EPA SLN No. NJ 81 0021. Ciba-Geigy Corp. Registration is for Diazinon 50W, to be used on fern portion of asparagus to control the asparagus miner. August 5, 1981.

EPA SLN No. NJ 81 0022. Penick Corp. Registration is for SBP.1382 4.22 MF Mineral Oil Spray, to be used on recreational, residential, and municipal areas to control mosquitoes. September 2, 1981.

New Mexico

EPA SLN No. NM 81 0013. Pennwalt Corp. Registration is for Hydrothol 191, to be used on irrigation canals and laterals delivering water to or from crops and/or water treatment plants to control aquatic weeds. May 22, 1981.

EPA SLN No. NM 81 0014. Department of the Interior. Registration is for Zinc Phosphide on Steam-rolled Oats, to be used on non-croplands and pastures to control prairie dogs. June 5, 1981.

EPA SLN No. NM 81 0015. Shell Chemical Co. Registration is for Pydrin 2.4 EC, to be used on cotton to control the cotton bollworm, boll weevil, whitefly, cabbage looper, tabacco budworm, beet armyworm, and Lygus bug. May 27, 1981.

EPA SLN No. NM 81 0016. Velsicol Chemical Corp. Registration is fo Banvel 10G, to be used between cropping systems to control perennial broadleaf weeds. June 23, 1981.

EPA SLN No. NM 81 0017. Uniroyal Chemical. Registration is for Comite Agricultural Miticide, to be used on corn to control mites. July 2, 1981.

EPA SLN No. NM 81 0018. Uniroyal Chemical. Registration is for Vitavax—4G, to be used on peanuts to control *Scerotium rolfsil* (southern blight). July 28, 1981.

EPA SLN No. NM 81 0019. E. I. du Pont de Nemours and Co. Registration is for Du Pont Benlate Fungicide (Peanuts), to be used on peanuts to control blackhull disease. July 28, 1981.

EPA SLN No. NM 81 0020. Uniroyal Chemical. Registration is for Vitavax 3F, to be used on peanuts to control *Sclerotium rolfsil*. October 9, 1981.

EPA SLN No. NM 81 0021. E. I. du Pont de Nemours and Co. Registration is for Du Pont Vydate L, to be used on onions to control onion and western flower thrips. September 1, 1981.

EPA SLN No. NM 81 0022. FMC Corp. Registration is for Furadan 10G, to be used on sugar beets to control beet leafhoppers and curly top virus. September 22, 1981.

EPA SLN No. NM 81 0023. Bell Laboratories. Registration is for ZP Rodent Bait AG, to be used on rangeland vegetation and non-crop areas to control Ord's kangaroo rat, banner-tailed kangaroo rat, and Merriam's kangaroo rat. October 5, 1981.

EPA SLN No. NM 81 0024. Mobay Chemical Corp. Registration is for Oftanol 5 Percent GR, to be used on turf grasses to control insects. January 11, 1982.

EPA SLN No. NM 81 0025. Lipha Chemicals, Inc. Registration is for Rozol Tracking Powder for the Control of Nuisance Bats, to be used on nuisance bats to control little brown myotis bats and big brown bats. December 18, 1981.

New York

EPA SLN No. NY 81 0013. Mobay Chemical Corp. Registration is for Oftanol 5 Percent GR, to be used on turf grass to control insects. June 12, 1981.

EPA SLN No. NY 81 0014. Elanco Products Co. Registration is for Treflan EC, to be used on snap beans to control weeds. July 13, 1981.

EPA SLN No. NY 81 0015. E. I. du Pont de Nemours and Co. Registration is for Benlate Tank Mix with Orthocide 50 WP or Captan 50 WP, to be used on stone fruits to control brown rot and scab. July 13, 1981.

EPA SLN No. NY 81 0016. Prentiss Drug and Chemical Co., Inc. Registration is for Prentox Malathion, to be used on mushrooms to control larval sciarid flies. July 20, 1981.

EPA SLN No. NY 81 0017. Mobay Chemical Corp. Registration is for Furadan 4 FL, to be used on pure seeded alfalfa to control clover root curculio, nematodes, potato leafhopper, and alfalfa blotch leaf miner. August 6, 1981.

EPA SLN No. NY 81 0018. Mobay Chemical Corp. Registration is for Furadan 10 GR, to be used on pure seeded alfalfa to control clover root curculio, nematodes, potato leafhooper, and alfalfa blotch leafminer. August 6, 1981.

EPA SLN No. NY 81 0019. ICI Americas, Inc. Registration is for Ectiban EC, to be used on building structures, attics, and eaves to control the cluster fly. August 14, 1981.

EPA SLN No. NY 81 0020. Mobay Chemical Corp. Registration is for Dylox 80 Percent Soluble Powder, to be used on birdsfoot trefoil to control armyworms, Lygus bugs, stinkbugs, and variegated cutworms. August 20, 1981.

EPA SLN No. NY 81 0021. Mobay Chemical Corp. Registration is for Mesurol 75 Percent WP, to be used on blueberries to control blueberry maggots and pest birds. August 20, 1981.

EPA SLN No. NY 81 0022. E. I. du Pont de Nemours and Co. Registration is for Du Pont Lannate, to be used on onions to control cutworms and thrips. August 20, 1981.

EPA SLN No. NY 81 0023. E. I. du Pont de Nemours and Co. Registration is for Du Pont Lannate L, to be used on onions to control thrips and cutworms. August 20, 1981.

EPA SLN No. NY 81 0025. E. I. du Pont de Nemours and Co. Registration is for Du Pont Benlate, to be used on grapes to control eutypa dieback. August 27, 1981.

EPA SLN No. NY 81 0026. Rohm and Haas Co. Registration is for Kerb 50W Herbicide, to be used on alfalfa to control weeds. September 17, 1981.

EPA SLN No. NY 81 0027. Hopkins Agricultural Chemical Co. Registration is for Hopkins Quintar 5F, to be used on apples to control scab. October 17, 1981.

EPA SLN No. NY 81 0028. E. I. du Pont de Nemours and Co. Registration is for Du Pont Benlate Fungicide, to be used on peaches to control cytospora (valsa) canker of peaches. October 17, 1981.

EPA SLN No. NY 81 0029. Monsanto Co. Registration is for Roundup, to be used on alfalfa to control forage grass. October 17, 1981.

EPA SLN No. NY 81 0030. Agway, Inc. Registration is for Orchard Mouse Bait-Coated, to be used on maple sugar orchards to control red squirrel, grey squirrel, chipmunks, and mice. October 8, 1981.

North Carolina

EPA SLN No. NC 81 0021. Rohm and Haas Co. Registration is for Goal 2E/Paraquat Tank Mix, to be used on field corn to control witch.. ed. May 19, 1981.

EPA SLN No. NC 81 0022. Helena Chemical Co. Registration is for Helena MSMA, to be used on cotton to control weeds. May 26, 1981.

EPA SLN No. NC 81 0023. BASF Wyandotte Corp. Registration is for Basaagran, to be used on Bohemian chili peppers to control certain broadleaf weeds and grasses. June 26, 1981.

EPA SLN No. NC 81 0024. Mobay Chemical Corp. Registration is for Sencor 50 Percent WP, to be used on soybeans to control postmergent weeds. June 26, 1981.

EPA SLN No. NC 81 0025. Mobay Chemical Corp. Registration is for Sencor 4, to be used on soybeans to control postemergent weeds. June 26, 1981.

EPA SLN No. NC 81 0026. Mobay Chemical Corp. Registration is for Sencor Sprayule, to be used on soybeans to control postmergent weeds. June 26, 1981.

EPA SLN No. NC 81 0027. Stauffer Chemical Co. Registration is for Devrinol 50 WP Selective Herbicide, to be used on tobacco to control weeds. July 9, 1981.

EPA SLN No. NC 81 0028. Monsanto Co. Registration is for Roundup, to be used on areas containing loblolly and white pine to reduce competition from red oak, red maple, yellow poplar, sweet gum, and black locust. August 17, 1981.

EPA SLN No. NC 81 0029. Union Carbide Agricultural Products Co., Inc. Registration is for Weedone 2,4-DP Woody Plant Herbicide, to be used on loblolly pine plantations to control hardwood brush and broadleaf weeds. August 26, 1981.

EPA SLN No. NC 81 0030. Diamond Shamrock Corp. Registration is for Dacthol W-75 Herbicide, to be used on upland cress to control crabgrass, annual grasses, and broadleaf weeds. August 26, 1981.

EPA SLN No. NC 81 0031. E. I. du Pont de Nemours and Co. Registration is for Du Pont Benlate Fungicide, to be used on peanuts to control Cercospora leafspot. August 26, 1981.

EPA SLN No. NC 81 0032. Mobay Chemical Corp. Registration is for Oftanol 5 Percent GR, to be used on turf grasses to control insects. August 31, 1981.

EPA SLN No. NC 81 0033. Union Carbide Agricultural Products Co., Inc. Registration is for Temik 15 Percent GR Aldicarb Pesticide, to be used on peanuts to control leafhoppers, nematodes, and mites. October 20, 1981.

EPA SLN No. NC 81 0034. Fairfield American Corp. Registration is for Pyrenone Space Spray, to be used on stored sweet potatoes to control Drosophila. October 22, 1981.

EPA SLN No. NC 81 0035. Mobay Chemical Corp. Registration is for Dasanit + Di-Syston 4-2 Spray Concentrate, to be used on tobacco to control aphids, flea beetles, wireworms, and nematodes. November 23, 1981.

EPA SLN No. NC 81 0036. The AR Chem Corp. Registration is for Parapel, to be used on orchards to control pine voles and meadow voles. December 3, 1981.

EPA SLN No. NC 81 0037. Helena Chemical Co. Registration is for Helena Parathion 8E Emulsifiable Liquid, to be used on clary sage to control the vegetable weevil. December 14, 1981.

North Dakota

EPA SLN No. ND 0014. Philips Roxane, Inc. Registration is for Anchor Permectrin 10 Percent EC, to be used on livestock and poultry premises to control house flies, face flies, stable flies, and false stable flies. June 3, 1981.

EPA SLN No. ND 81 0015. Philips Roxane, Inc. Registration is for Biocautic Overtime, to be used on livestock and poultry premises to control house flies, face flies, stable flies, and false stable flies. June 3, 1981.

EPA SLN No. ND 81 0016. Hopkins Agricultural Chemical Co. Registration is for Hopkins Sevin Carbaryl Bait, to be used on sunflowers to control cutworms and grasshoppers. June 9, 1981.

EPA SLN No. ND 81 0017. Platte Chemical Co. Registration is for Clean Crop Sevin 5 Bait, to be used on sunflowers to control cutworms and grasshopers. June 10, 1981.

EPA SLN No. ND 81 0018. Stoller Chemical Co., Inc. Registration is for That-Big 8 FL Sulfur, to be used on sugar beets to control powdery mildew. June 12, 1981.

EPA SLN No. ND 81 0019. SOWECO, Inc. Registration is for Larvicide 100, to be used on stored, clean, dry sunflower seeds to control the granary weevil, confused flour beetle, saw-toothed grain beetle, and Indian meal moth. June 23, 1981.

EPA SLN No. ND 81 0020. Chevron Chemcial Co. Registration is for Orthene 75 S Soluble Powder, to be used on field borders, fencerows, roadsides, ditchbanks, and borrow pits to control grasshoppers. July 1, 1981.

EPA SLN No. ND 81 0021. Agsco, Inc. Registration is for Agsco Blitex 80 MN, to be used on dry edible beans to control rust. July 2, 1981.

EPA SLN No. ND 81 0022. Monsanto Co. Registration is for GR Far-Go, to be used on spring planted barley and spring or durum wheat to control wild oats. October 19, 1981.

EPA SLN No. ND 81 0023. PPG Industries, Inc. Registration is for Sprout Nip-Aerosol Grade, to be used for potato sprout inhibition in forced air or refrigerated storage. December 1, 1981.

EPA SLN No. ND 81 0024. Shell Chemical Co. Registration is for Shell Bladex 4L Herbicide, to be used on corn to control weeds. December 28, 1981.

Ohio

EPA SLN No. OH 81 0026. E. I. du Pont de Nemours and Co. Registration is for Du Pont Lorox L, to be used on carrots to control barnyard grass, carpet weed, chickweed, crabgrass, foxtail, goosegrass, lambsquarter, mustard, pigweed, purslane, and smartweed. June 1, 1981.

EPA SLN No. OH 81 0027. E. I. du Pont de Nemours and Co. Registration is for Du Pont Lorox, to be used on carrots to control barnyard grass, carpet weed, chickweed, crabgrass, foxtail, goosegrass, lambsquarter, mustard, pigweed, purslane, and smartweed. June 1, 1981.

EPA SLN No. OH 81 0028. Mobay Chemical Corp. Registration is for Sencor 4, to be used on soybeans to control weeds. June 10, 1981.

EPA SLN No. OH 81 0029. Mobay Chemical Corp. Registration is for Sencor Sprayule, to be used on soybeans to control weeds. June 10, 1981.

EPA SLN No. OH 81 0030. Mobay Chemical Corp. Registration is for Sencor 50 Percent WP, to be used on soybeans t control weeds. June 10, 1981.

EPA SLN No. OH 81 0031. FMC Corp. Registration is for Furadan 4 FL Insecticide, to be used on potatoes to control the Colorado potato beetle, potato leafhopper, potato flea beetle, and European corn borer. July 6, 1981.

EPA SLN No. OH 81 0032. Velsicol Chemical Corp. Registration is for Banvel Herbicide, to be used between cropping systems to control broadleaf weeds. July 8, 1981.

EPA SLN No. OH 81 0033. Mobay Chemical Corp. Registration is for Furadan 4 FL, to be used on non-bearing peach, nectarine, apple, apricot, cherry, and plum trees to control nematodes. July 14, 1981.

EPA SLN No. OH 81 0034. Mobay Chemical Corp. Registration is for Furadan 10 G, to be used on non-bearing peach, nectarine, apple, apricot, cherry, and plum trees to control nematodes. July 14, 1981.

EPA SLN No. OH 81 0035. Chevron Chemical Co. Registration is for Ortho Paraquat CL, to be use don alfalfa to control weeds. July 24, 1981.

EPA SLN No. OH 81 0036. Cargill, Inc. Registration is for RTU-1010 Small Grains Seed Protectant, to be used on wheat, oats, and barley to control seed and seedling diseases, smut, and bunt. August 28, 1981.

EPA SLN No. OH 81 0037. Mobay Chemical Corp. Registration is for Furadan 4 FL, to be used on potatoes to control the Colorado potato bettle, potato leafhopper, potato flea beetle, and European corn borer. September 11, 1981.

EPA SLN No. OH 81 0038. Mobay Chemical Corp. Registration is for Sencor DF, to be used on soybeans to control weeds. September 14, 1981.

Oklahoma

EPA SLN No. OK 81 0020. Chevron Chemical Co. Registration is for Orthene 75S Soluble Powder, to be used on range and pasture grass and winter wheat to control grasshoppers. July 1, 1981.

EPA SLN No. OK 81 0021. American Cyanamid Co. Registration is for Cythion and Malathion ULV* Concentrate Insecticide, to be used on clover, pasture and range grass, grass, grass hay, and non-agricultural land to control grasshoppers. July 2, 1981.

EPA SLN No. OK 81 0022. Dow Chemical USA. Registration is for Lorsban 4E Insecticide, to be used on grain sorghum to control chinch bug. July 24, 1981.

EPA SLN No. OK 81 0023. Pennwalt Corp. Registration is for Accelerate A Harvest Aid for Cotton, to be used on cotton for desiccation. August 31, 1981.

EPA SLN No. OK 81 0024. Dow Chemical USA. Registration is for Lorsban 4E Insecticide, to be used on sorghum to control green bugs. September 22, 1981.

EPA SLN No. OK 81 0025. FMC Corp. Registration is for Furadan 4 FL, to be used on alfalfa to control the alfalfa weevil and blue alfalfa aphid. November 13, 1981.

EPA SLN No. OK 81 0026. Union Carbide Agricultural Products Co., Inc. Registration is for Weedone MCPA Ester, to be used on small grains to control broadleaf weeds. December 3, 1981.

Oregon

EPA SLN No. OR 81 0051. FMC Corp. Registration is for Kolospray, to be used on sugar beets to control powdery mildew. May 19, 1981.

EPA SLN No. OR 81 0052. FMC Corp. Registration is for Kolodust, to be used on

sugar beets to control powdery mildew. May 19, 1981.

EPA SLN No. OR 81 0053. FEC Corp. Registration is for Kolodust Seven No. 50–5 Dust, to be used on blackberries, boysenberries, dewberries, loganberries, and raspberries to control leafrollers, including omnivorous leafrollers, sawflies, climbing cutworms, snowy tree crickets, orange tortrix, leafhoppers, raspberry aphids, and powdery mildew. June 1, 1981.

EPA SLN No. OR 81 0054. FMC Corp. Registration is for Toxakil 40 WP, to be used on broccoli, Brussels sprouts, cabbage, cauliflower, and kohlrabi to control imported cabbageworms, diamondback moth larvae, fall armyworms, serpentine leafminers, thrips, climbing cutworms, and flea beetles. June 19, 1981.

EPA SLN No. OR 81 0055. Rhone-Poulenc Chemical Co. Registration is for Chipco 26019, to be used on crucifer crops (grown for seed only) to control *Alternaria* leaf and pod blight and *Sclerotina* white rot. June 15, 1981.

EPA SLN No. OR 81 0056. Chevron Chemical Co. Registration is for Ortho Paraquat CL, to be used in wheat/fallow/wheat rotation to control weeds. June 15, 1981.

EPA SLN No. OR 81 0057. Chevron Chemical Co. Registration is for Ortho Paraquat CL, to be used in wheat/fallow/wheat rotation to control weeds. June 15, 1981.

EPA SLN No. OR 81 0058. Chevron Chemical Co. Registration is for Ortho Paraquat CL, to be used in wheat/fallow/wheat rotation to control weeds. June 15, 1981.

EPA SLN No. OR 81 0059. Chevron Chemical Co. Registration is for Ortho Paraquat CL, to be used on alfalfa to contorl grass and broadleaf weeds. June 16, 1981.

EPA SLN No. OR 81 0060. Chevron Chemical Co. Registration is for Ortho Paraquat CL, to be used on alfalfa to control grass and broadleaf weeds. June 16, 1981.

EPA SLN No. OR 81 0061. Chevron Chemical Co. Registration is for Ortho Paraquat CL, to be used on alfalfa to control grass and broadleaf weeds. June 16, 1981.

EPA SLN No. OR 81 0062. Mobay Chemical Corp. Registration is for Furadan 10 G, to be used on potatoes to control tuber fleabeetles. June 16, 1981.

EPA SLN No. OR 81 0063. U.S. Department of Agriculture (USDA). Registration is for Orthene Tree and Ornament Spray, to be used on conifer seed orchards to control the fir coneworm. June 19, 1981.

EPA SLN No. OR 81 0064. Stauffer Chemical Co. Registration is for Imidan 50 WP, to be used on potatoes, to control the Colorado potato beetle. June 17, 1981.

EPA SLN No. OR 81 0065. Wilbur-Ellis Co. Registration is for Red-Top Contact Weedkiller, to be used on dry peas for desiccation. June 24, 1981.

EPA SLN No. OR 81 0066. Dow Chemical USA. Registration is for Lorsban 4E Insecticide, to be used on peppermint to control cutworms and the mint root borer. June 30, 1981.

EPA SLN No. OR 81 0067. PPG Industries, Inc. Registration is for Chem-Hoe-135 FL–3, to be used in wheat/fallow/wheat rotation to control weeds. June 30, 1981.

EPA SLN No. OR 81 0068. Platte Chemical Co. Registration is for Clean Crop Dimethoate 267 EC, to be used on wheat to control aphid and brown wheat mite, and also used on grass grown for seed to control aphids and thrips. June 30, 1981.

EPA SLN No. OR 81 0069. Mobay Chemical Corp. Registration is for Monitor 4, to be used on sugar or table beets to control green peach aphids. July 1, 1981.

EPA SLN No. OR 81 0070. American Cyanamid Co. Registration is for Cythion and Malathion, to be used on clover, pasture range grass, grass hay, and non-agricultural land to control grasshoppers. July 9, 1981.

EPA SLN No. OR 81 0071. The Chas. H. Lilly Co. Registration is for Lilly/Miller Malathion, to be used on asparagus to control the asparagus aphid. July 9, 1981.

EPA SLN No. OR 81 0072. Occidental Chemical Co. Registration is for Contact Weedkiller, to be used on grass (for seed only) for pre-harvest desiccation. July 13, 1981.

EPA SLN No. OR 81 0073. Wilbur-Ellis Co. Registration is for Wilbur-Ellis Malathion 8 Spary, to be used on standing water, drainage ditches, lagoons, ponds, and pastures to control mosquito larvae. July 15, 1981.

EPA SLN No. OR 81 0074. Chevron Chemical Co. Registration is for Ortho Paraquat CL, to be used on potatoes to control weeds and grasses. July 15, 1981.

EPA SLN No. OR 81 0075. Mobay Chemical Corp. Registration is for Sencor 4, to be used on established alfalfa to control certain grass and broadleaf weeds, and to be used on mixed stands of alfalfa and grasses to control forage grass stands. August 3, 1981.

EPA SLN No. OR 81 0076. Mobay Chemical Corp. Registration is for Sencor 50 Percent WP, to be used on established alfalfa to control certain grass and broadleaf weeds, and to be used on mixed stands of alfalfa and grasses to control forage grass stands. August 3, 1981.

EPA SLN No. OR 81 0077. Mobay Chemical Corp. Registration is for Sencor Sprayule™, to be used on established alfalfa to control certain grass and broadleaf weeds, and to be used on mixed stands of alfalfa and grasses to control forage grass stands. August 3, 1981.

EPA SLN No. OR 81 0079. Ciba-Geigy Corp. Registration is for Princep 80W Herbicide, to be used on sweet cherries to control weeds. August 20, 1981.

EPA SLN No. OR 81 0080. Ciba-Geigy Corp. Registration is for Princep 90 Herbicide, to be used on sweet cherries to control weeds. August 20, 1981.

EPA SLN No. OR 81 0081. Wilbur-Ellis Co. Registration is for Soil-Prep, to be used on potatoes to control nematodes. August 21, 1981.

EPA SLN No. OR 81 0082. The Chas. H. Lilly Co. Registration is for Lilly/Miller Fruit and Berry Insect Spray, to be used on apples to control apple maggots. August 26, 1981.

EPA SLN No. OR 81 0083. Chevron Chemical Co. Registration is for Difolaton 4 FL, to be used on potatoes to control early blight. August 20, 1981.

EPA SLN No. OR 81 0084. Mobay Chemical Corp. Registration is for Dasanit 15 Percent GR, to be used on potatoes to control tobacco wireworms, southern potato wireworms, tuber fleas, beetle larvae, wireworms, and Colorado potato beetles. September 2, 1981.

EPA SLN No. OR 81 0085. Stauffer Chemical Co. Registration is for Prefar 4E, to be used on onions to control grass and broadleaf weeds. September 8, 1981.

EPA SLN No. OR 81 0086. Wolfkill Feed and Fertilizer Corp. Registration is for Wolfkill's Pelleted Slug Bait, to be used on flowers, ornamental plants and lawn areas, fruit, vegetables, and seed crops to control slugs. November 3, 1981.

EPA SLN No. OR 81 0087. Dow Chemical USA. Registration is for Garlon 4 Herbicide, to be used on forests to control resprouting hardwoods. October 1, 1981.

EPA SLN No. OR 81 0088. Dow Chemical USA. Registration is for Garlon 4 Herbicide, to be used on conifer plantations to control brush. October 1, 1981.

EPA SLN No. OR 81 0089. Rohm and Haas. Registration is for Dithane M–45, to be used on Douglas fir to control Swiss needle cast. October 5, 1981.

EPA SLN No. OR 81 0090. E. I. du Pont de Nemours and Co. Registration is for Du Pont Lorox Weed Killer, to be used on asparagus to control weeds. October 14, 1981.

EPA SLN No. OR 81 0091. E. I. Du Pont de Nemours and Co. Registration is for Du Pont Lexone Weed Killer, to be used on winter wheat, winter barely, and spring barley to control weeds. October 14, 1981.

EPA SLN No. OR 81 0092. E. I. du Pont de Nemours and Co. Registration is for Du Pont Lexone DF Weed Killer, to be used on winter wheat, winter barley, and spring barley to control weeds. October 14, 1981.

EPA SLN No. OR 81 0093. E. I. du Pont de Nemours and Co. Registration is for Du Pont Lexone 4L Weed Killer, to be used on winter wheat, winter barley, and spring barley to control weeds. October 14, 1981.

EPA SLN No. OR 81 0094. Stauffer Chemical Co. Registration is for Vapam Soil Fumigant, to be used on Irish potatoes to control *Verticillium dahliae*. October 19, 1981.

EPA SLN No. OR 81 0095. E. I. du Pont de Nemours and Co. Registration is for Du Pont Lorox L Weed Killer, to be used on asparagus to control weeds. October 14, 1981.

EPA SLN No. OR 81 0096. Stauffer Chemical Co. Registration is for Imidan 50–WP, to be used on shade trees, ornamental trees, and woody evergreens to control elm leaf beetle, birch leafminer, and oblique banded leaf roller. November 5, 1981.

EPA SLN No. OR 81 0097. FMC Corp. Registration is for Dimethoate 267, to be used on wheat to control greenbugs and other aphids. November 9, 1981.

EPA SLN No. OR 81 0098. E. I. du Pont de Nemours and Co. Registration is for Du Pont Velpar Weed Killer, to be used on established alfalfa to control certain weeds. November 9, 1981.

EPA SLN No. OR 81 099. E. I. du Pont de Nemours and Co. Registration is for Du Pont Velpar L Weed Killer, to be used on established alfalfa to control certain weeds. November 9, 1981.

EPA SLN No. OR 81 0100. E. I. du Pont de Nemours and Co. Registration is for Du Pont

Lannate, to be used on grapes to control climbing cutworms. November 9, 1981.

EPA SLN No. OR 81 0101. E. I. du Pont de Nemours and Co. Registration is for Du Pont Lannate L, to be used on grapes to control climbing cutworms. November 9, 1981.

EPA SLN No. OR 81 0102. Stauffer Chemical Co. Registration is for Devrinol 50-WP, to be used on bulb iris, daffodils, narcissus, and tulips to control annual grasses and broadleaf weeds. November 23, 1981.

EPA SLN No. OR 81 0103. E. I. du Pont de Nemours and Co. Registration is for Du Pont Sinbar Weed Killer, to be used on strawberries to control weeds. November 23, 1981.

EPA SLN No. OR 81 0104. Wilbur-Ellis Co. Registration is for Red-Top Dimethoate 267–E, to be used on shade and nursery trees by soil injection to control aphids. November 24, 1981.

EPA SLN No. OR 81 0105. Wilbur-Ellis Co. Registration is for Red-Top Dimethoate 267–E, to be used on elm trees to control elm leaf beetles. November 24, 1981.

EPA SLN No. OR 81 0106. Stauffer Chemical Co. Registration is for Devrinol 10 G Ornamental, to be used on certain tree fruit and nut crops to control weeds. December 28, 1981.

EPA SLN No. OR 81 0107. Mobay Chemical Corp. Registration is for Sencor 50 Percent WP, to be used on asparagus (established) to control weeds. December 28, 1981.

EPA SLN No. OR 81 0108. Mobay Chemical Corp. Registration is for Sencor DF, to be used on asparagus (established) to control weeds. December 28, 1981.

EPA SLN No. OR 81 0109. Mobay Chemical Corp. Registration is for Sencor 4, to be used on asparagus (established) to control weeds. December 28, 1981.

Pennsylvania

EPA SLN No. PA 81 0020. Shell Chemical Co. Registration is for Bladex 80W, to be used on field corn to control annual grasses and broadleaf weeds. May 21, 1981.

EPA SLN No. PA 81 0021. Shell Chemical Co. Registration is for Bladex 4L, to be used on field corn to control annual grasses and broadleaf weeds. May 21, 1981.

EPA SLN No. PA 81 0022. Chevron Chemical Co. Registration is for Ortho Paraquat CL, to be used on alfalfa to control annual grasses, broadleaf weeds, and for suppression of perennial plants. May 27, 1981.

EPA SLN No. PA 81 0023. Chevron Chemical Co. Registration is for Ortho Paraquat CL, to be used on oats (preplant and pre-emergence) to control weeds and grasses. June 17, 1981.

EPA SLN No. PA 81 0024. Steuber Co., Inc. Registration is for Steuber DDVP-Technical, to be used in mushroom houses to control phorid flies. July 31, 1981.

EPA SLN No. PA 81 0025. B and W Quality Growers, Inc. Registration is for D.Z.N. Diazinon 50W, to be used on nuts, fruits, vegetables, field crops, and ornamentals to control insects. September 24, 1981.

Rhode Island

EPA SLN No. RI 81 0002. Chevron Chemical Co. Registration is for Ortho Paraquat CL, to be used on alfalfa to control weeds. August 18, 1981.

EPA SLN No. RI 81 0003. Lipha Chemicals, Inc. Registration is for Rozol Paraffinized Pellets for the Control of Orchard Mice, to be used on orchards to control pine voles and meadow voles. November 9, 1981.

EPA SLN No. RI 81 0004. Lipha Chemicals, Inc. Registration is for Rozol Rodenticide Ground Spray Concentrate, to be used on orchards to control orchard mice. November 9, 1981.

South Carolina

EPA SLN No. SC 81 0019. Shell Chemical Co. Registration is for Pydrin 2.4 EC, to be used on cotton to control bollworm and tobacco budworms. June 5, 1981.

EPA SLN No. SC 81 0021. Philips Roxane, Inc. Registration is for Bioceutic Overtime Long Acting Livestock Premise Insecticide, to be used on livestock and poultry premises to control house flies, face flies, stable flies, and false stable flies. June 8, 1981.

EPA SLN No. SC 81 0022. Philips Roxane, Inc. Registration is for Anchor Permetrin 10 Percent EC Long Lasting Barn and Premise Fly Spray, to be used on livestock and poultry premises to control house flies, stable flies, face flies, and false stable flies. June 8, 1981.

EPA SLN No. SC 81 0024. Velsicol Chemical Corp. Registration is for Banvel Herbicide, to be used between cropping systems to control broadleaf weeds. June 10, 1981.

EPA SLN No. SC 81 0025. Dow Chemical USA. Registration is for Dowfume W–100, to be used on soybeans to control nematodes. October 13, 1981.

EPA SLN No. SC 81 0026. Dow Chemical USA. Registration is for Dowfume W–90, to be used on soybeans to control nematodes. October 13, 1981.

EPA SLN No. SC 81 0027. Dow Chemical USA. Registration is for Dowfume W–85, to be used on soybeans to control nematodes. October 13, 1981.

EPA SLN No. SC 81 0028. Dow Chemical USA. Registration is for Lorsban 15G GR, to be used on corn and peanuts to control the lesser cornstalk borer. October 15, 1981.

South Dakota

EPA SLN No. SD 81 0021. Philips Roxane, Inc. Registration is for Bioceutic Overtime Long Acting Livestock Premise Insecticide, to be used on livestock and poultry premises to control house flies, face flies, stable flies, and false stable flies. June 8, 1981.

EPA SLN No. SD 81 0022. Philips Roxane, Inc. Registration is for Anchor Permectrin 10 Percent EC Long Lasting Barn and Premise Fly Spray, to be used on livestock and poultry premises to control house flies, stable flies, face flies, and false stable flies. June 8, 1981.

EPA SLN No, SD 81 0024. Velsicol Chemical Corp. Registration is for Banvel Herbicide, to be used between cropping systems to control broadleaf weeds. June 10, 1981.

Tennessee

EPA SLN No. TN 81 0021. Rohm and Haas Co. Registration is for Blazer 2S, to be used on soybeans to contro weeds. June 1, 1981.

EPA SLN No. TN 81 0022. Diamond Shamrock Corp. Registration is for Dacthal W–75, to be used on upland cress to control crabgrass, other annual grasses, and certain broadleaf weeds. June 10, 1981.

EPA SLN No. TN 81 0023. Penick Corp. Registration is for SBP–1382–40 MF "Z", to be used in Tennessee to control mosquitoes. June 19, 1981.

EPA SLN No. TN 81 0024. Penick Corp. Registration is for SBP–1382 4.33 MF Mineral Oil Spray, to be used in Tennessee to control mosquitoes. June 19, 1981.

EPA SLN No. TN 81 0025. Union Carbide Agricultural Product Co., Inc. Registration is for Weedone 2,4–DP, to be used on loblolly pine plantations to control hardwood brush and broadleaf weeds. June 23, 1981.

EPA SLN No. TN 81 0026. Mobay Chemical Corp. Registration is for Furadan 4 FL, to be used on dark fired tobacco to control flea beetles. June 30, 1981.

EPA SLN No. TN 81 0027. Monsanto Co. Registration is for Roundup, to be used on areas containing loblolly and white pine to reduce competition from red oak, white oak, red maple, yellow poplar, sweet gum, and black locust. July 30, 1981.

EPA SLN No. TN 81 0028. Mobay Chemical Corp. Registration is for Monitor 4, to be used on cotton to control aphids, thrips, fleahoppers, whiteflies, beet armyworms, cabbage loopers, and mites. July 30, 1981.

EPA SLN No. TN 81 0029. Chevron Chemical Co. Registration is for Ortho Paraquat CL, to be used on alfalfa (between cuttings) to control weeds. September 4, 1981.

Texas

EPA SLN No. TX 81 0031. Stauffer Chemical Co. Registration is for Captan 80–WP and Benlate 50 WP, to be used on soybeans to control foliar diseases. May 19, 1981.

EPA SLN No. TX 81 0032. Pennwalt Corp. Registration is for Accelerate and Ortho Paraquat CL, to be used on cotton for cotton dessication. June 2, 1981.

EPA SLN No. TX 81 0033. Dow Chemical USA. Registration is for Lorsban 4E, to be used on sugar beets to control the beet armyworm. June 4, 1981.

EPA SLN No. TX 81 0034. Hopkins Agricultural Chemical Co. Registration is for Hopkins Arbotect S, to be used on elm trees to control Dutch elm disease. June 4, 1981.

EPA SLN No. TX 81 0035. Chevron Chemical Co. Registration is for Orthene 75 S, to be used on range and pasture grass and winter wheat to control grasshoppers. June 24, 1981.

EPA SLN No. TX 81 0036. E. I. du Pont de Nemours and Co. Registration is for Velpar and Karmex, to be used on sugarcane to control weeds. June 24, 1981.

EPA SLN No. TX 81 0037. Merck and Co. Registration is for Arbotect 20–S, to be used on oak trees to control oak decline. June 25, 1981.

EPA SLN No. TX 81 0038. Hopkins Agricultural Chemical Co. Registration is for Hopkins Arbotect 20S, to be used on oak trees to control oak decline. June 25, 1981.

EPA SLN No. TX 81 0039. Mobay Chemical Corp. Registration is for Bayleton 50 Percent WP, to be used on pine (seedlings) to control pine rust (Fusiform rust). June 25, 1981.

EPA SLN No. TX 81 0040. Degesch America, Inc. Registration is for Degesch Phostoxin Tablets-R, to be used on prairie dog burrows to control black-tailed prairie dogs. June 25, 1981.

EPA SLN No. TX 81 0041. Uniroyal Chemical. Registration is for Comite, to be used on corn to control mites. June 29, 1981.

EPA SLN No. TX 81 0042. Pennwalt Corp. Registration is for Topsin M, to be used on peanuts to control Cercospora leafspot, rust, and Ascochyta web blotch. July 7, 1981.

EPA SLN No. TX 81 0043. American Cyanamid Co. Registration is for Cythion and Malathion ULV* Concentrate Insecticide, to be used on clover, pasture, range grass, grass, grass hay, and nonagricultural lands to control grasshoppers. July 7, 1981.

EPA SLN No. TX 81 0044. Velsicol Chemical Corp. Registration is for Banvel 10G GR, to be used between cropping systems to control perennial broadleaf weeds (in areas to be rotated to corn, sorghum, or wheat). July 8, 1981.

EPA SLN No. TX 81 0045. Mobay Chemical Corp. Registration is for DEF 6, to be used on cotton and rank cotton as a defoliant. July 20, 1981.

EPA SLN No. TX 81 0046. E. I. du Pont de Nemours and Co. Registration is for Du Pont Vydate L, to be used on onions to control onion and western flower thrips. August 25, 1981.

EPA SLN No. TX 81 0047. Pennwalt Corp. Registration is for Accelerate Cotton Harvest Aid, to be used on cotton as a dessicant. August 25, 1981.

EPA SLN No. TX 81 0048. Mobay Chemical Corp. Registration is for Sencor Sprayule, to be used on wheat to control grasses and broadleaf weeds. September 9, 1981.

EPA SLN No. TX 81 0049. Soweco, Inc. Registration is for Larvacide Chloropicrin 100, to be used in grain or grain bins to control granary weevils, confused flour beetles, sawtoothed grain beetles, Indian meal moths, rodents, and fungi. September 23, 1981.

EPA SLN No. TX 81 0050. Shell Chemical Co. Registration is for Shell Bladex 4L Herbicide, to be used on idle farmland to control herbit (purpletop). October 13, 1981.

EPA SLN No. TX 81 0051. Shell Chemical Co. Registration is for Shell Bladex 80W Herbicide, to be used on idle farmland to control herbit. October 13, 1981.

EPA SLN No. TX 81 0052. American Cyanamid Co. Registration is for Cythion and Malathion ULV* Concentrate Insecticide, to be used on populated and rural areas to control mosquitoes. November 13, 1981.

EPA SLN No. TX 81 0053. Mobay Chemical Corp. Registration is for Baygon 1.67, to be used on outdoor areas to control mosquitoes. November 13, 1981.

EPA SLN No. TX 81 0054. Abbott Laboratories. Registration is for Pro-Gibb 3.91 Percent Liquid Concentrate, to be used on grapefruit to control puffiness, softening, and orange coloration, and to prevent drop of mature fruit. December 29, 1981.

Utah

EPA SLN No. UT 81 0014. Stoller Chemical Co., Inc. Registration is for That Big 8 FL Sulfur, to be used on sugar beets to control powdery mildew. June 2, 1981.

EPA SLN No. UT 81 0015. PPG Industries, Inc. Registration is for Chem Hoe-135 FL-3, to be used on wheat/fallow/wheat rotation to control weeds. June 22, 1981.

EPA SLN No. UT 81 0016. Mobay Chemical Corp. Registration is for Sencor 50 Percent WP, to be used on established alfalfa to control certain grass and broadleaf weeds. July 8, 1981.

EPA SLN No. UT 81 0017. Mobay Chemical Corp. Registration is for Sencor 4, to be used on established alfalfa to control certain grass and broadleaf weeds. July 8, 1981.

EPA SLN No. UT 81 0018. Mobay Chemical Corp. Registration is for Sencor Sprayule, to be used on established alfalfa to control certain boardleaf weeds and grasses. July 8, 1981.

EPA SLN No. UT 81 0019. Mobay Chemical Corp. Registration is for Sencor 50 Percent WP, to be used in wheat/fallow/wheat rotation to control weeds. August 12, 1981.

EPA SLN No. UT 81 0020. Mobay Chemical Corp. Registration is for Sencor Sprayule, to be used in wheat/fallow/wheat rotation to control weeds. August 12, 1981.

EPA SLN No. UT 81 0021. Mobay Chemical Corp. Registration is for Sencor 4 FL, to be used in wheat/fallow/wheat rotation to control weeds. August 12, 1981.

EPA SLN No. UT 81 0022. E.I. du Pont de Nemours and Co. Registration is for Du Pont Lexone Weed Killer, to be used on winter wheat, barley, and spring barley to control annual weeds. September 25, 1981.

EPA SLN No. UT 81 0023. E. I. du Pont de Nemours and Co. Registration is for Du Pont Lexone 4L Weed Killer, to be used on winter wheat, barley, and spring barley to control annual weeds. September 25, 1981.

EPA SLN No. UT 81 0024. E. I. du Pont de Nemours and Co. Registration is for Du Pont Lexone DF Weed Killer, to be used on winter wheat, barley, and spring barley to control annual weeds. September 25, 1981.

EPA SLN No. UT 81 0025. E. I. du Pont de Nemours and Co. Registration is for Du Pont Velpar L Weed Killer, to be used on established alfalfa to control certain weeds. October 23, 1981.

EPA SLN No. UT 81 0026. E. I. du Pont de Nemours and Co. Registation is for Du Pont Velpar Weed Killer, to be used on established alfalfa to control certain weeds October 23, 1981.

EPA SLN No. UT 81 0027. Union Carbide Agricultural Products Co., Inc. Registration is for Brominal Broadleaf Herbicide, to be used on winter and spring wheat and spring barley to control grasses and broadleaf weeds. October 29, 1981.

EPA SLN No. UT 81 0028. Philips Roxane, Inc. Registration is for Bioceutic Overtime L/P Long Acting Livestock and Premise Insecticide, to be used on livestock and livestock premises to control flies, lice, mites, and ticks. November 23, 1981.

EPA SLN No. UT 81 0029. Philips Roxane, Inc. Registration is for Anchor Permectrin 10 Percent EC II Long Lasting Livestock and Premise Spray, to be used on livestock and poultry and their premises to control flies, lice, mites, and ticks. November 23, 1981.

EPA SLN No. UT 81 0030. PPG Industries, Inc. Registration is for Furloe Chloro IPC 20G, to be used on alfalfa seeds and forage crops to control dodder. December 1, 1981.

Vermont

EPA SLN No. VT 81 0005. Agway, Inc. Registration is for Orchard Mouse Bait-Coated, to be used on sugar maple orchards to control red squirrels, chipmunks, and mice. December 1, 1981.

EPA SLN No. VT 81 0006. FMC Corp. Registration is for Furadan 4 FL, to be used on pure seeded alfalfa to control alfalfa blotch leafminer and potato leafhopper. December 3, 1981.

EPA SLN No. VT 81 0007. FMC Corp. Registration is for Furadan 10 GR, to be used on pure seeded alfalfa to control potato leafhopper, alfalfa blotch leafminer, and clover root curculio. December 3, 1981.

Virginia

EPA SLN No. VA 81 0020. Mobay Chemical Corp. Registration is for Sencor 50 Percent WP, to be used on golf course fairways and commercial sod farms to control weeds. May 22, 1981.

EPA SLN No. VA 81 0021. Mobay Chemcial Corp. Registration is for Furadan 4 FL, to be used on flue-cured and fire-cured tobacco to control hornworms, flea beetles and blue mold. June 1, 1981.

EPA SLN No. VA 81 0022. FMC Corp. Registration is for Kolodust Xtra Dust or Spray, to be used on peaches and nectarines to control brown rot, rhizopus rot, and scab. June 29, 1981.

EPA SLN No. VA 81 0023. Monsanto Co. Registration is for Roundup, to be used in areas containing loblolly and white pine to reduce competition from oak, read maple, yellow poplar, sweet gum, and black locust. July 27, 1981.

EPA SLN No. VA 81 0024. Mobay Chemical Corp. Registration is for Oftanol 5 Percent GR, to be used on turf grasses to control insects. August 14, 1981.

EPA SLN No. VA 81 0025. Elanco Products Co. Registration is for Surflan 75W, to be used on noncropland to control weeds. October 12, 1981.

Washington

EPA SLN No. WA 81 0003. Mobay Chemical Corp. Registration is for Sencor 50 Percent WP, to be used on spring and winter barley to control certain grass and broadleaf weeds. June 18, 1981.

EPA SLN No. WA 81 0004. Mobay Chemical Corp. Registration is for Sencor 50 Percent WP, to be used on dryland wheat to control certain grass and broadleaf weeds. June 18, 1981.

EPA SLN No. WA 81 0005. Mobay Chemical Corp. Registration is for Sencor 4 FL, to be used on spring and winter barley to control certain grass and broadleaf weeds. June 18, 1981.

EPA SLN No. WA 81 0006. Mobay Chemical Corp. Registration is for Sencor 4 FL, to be used on dryland wheat to control certain grass and broadleaf weeds. June 18, 1981.

EPA SLN No. WA 81 0007. Mobay Chemical Corp. Registration is for Sencor Sprayule, to be used on barley (spring and winter) to control certain grass and broadleaf weeds. June 18, 1981.

EPA SLN No. WA 81 0008. Mobay Chemical Corp. Registration is for Sencor Sprayule, to be used on dryland wheat to control certain grass and broadleaf weeds. June 18, 1981.

EPA SLN No. WA 81 0009. J. R. Simplot Company. Registration is for Simplot Soilbuilders Superior Spray Oil, to be used on tree fruit, grapes, ornamentals, and corn to control specific mites, scale and other insect pests. March 6, 1981.

EPA SLN No. WA 81 0022. Burroughs Wellcome Co. Registration is for Atroban WP, to be used on livestock and poultry premises to control house flies, stable files, and *Fannia* spp. July 30, 1981.

EPA SLN No. WA 81 0023. Burroughs Wellcome Co. Registration is for Atroban Cattle Ear, to be used on beef cattle and calves to control horn flies, face flies, spinose ear, ticks, stable flies, and house flies. August 10, 1981.

EPA SLN No. WA 81 0034. The Chas. H. Lilly Co. Registration is for Lilly/Miller Lawn Insect Spray, to be used on turf grass to control European crane fly. May 4, 1981.

EPA SLN No. WA 81 0036. Dow Chemical USA. Registration is of Lorsban 4E, to be used on nonbearing grapes to control cutworms. May 21, 1981.

EPA SLN No. WA 81 0037. Dow Chemical USA. Registration is for Plictran 50W, to be used on cranberries to control mites. May 21, 1981.

EPA SLN No. WA 81 0038. Union Carbide Agricultural Products Co., Inc. Registration is for Fruitone T, to be used on Italian prunes to control preharvest drop. May 22, 1981.

EPA SLN No. WA 81 0039. Wilbur-Ellis Co. Registration is for Red-Top Parathion 4 Spray, to be used on cranberries to control cranberry tipworms, leafhoppers, and fireworms (blackheaded, cranberry, and sparganotus). May 29, 1981.

EPA SLN No. WA 81 0040. Mobay Chemical Corp. Registration is for Sencor 50 Percent WP, to be used on potatoes to control weeds listed on the federally registered label. June 2, 1981.

EPA SLN No. WA 81 0041. Mobay Chemical Corp. Registration is for Sencor Sprayule or Sencor 4, to be used on potatoes to control weeds listed on the federally registered label. June 2, 1981.

EPA SLN No. WA 81 0043. Chacon Chemical Corp. Registration is for Chacon Diazinon Spray, to be used on turf to control the European crane fly. June 1, 1981.

EPA SLN No. WA 81 0044. The Chas. H. Lilly Co. Registration is for Lilly/Miller Chorban Insect GR, to be used on turf grass to control European crane fly. June 12, 1981.

EPA SLN No. WA 81 0045. Mobay Chemical Corp. Registration is for Sencor 50 Percent WP, to be used in wheat/fallow/wheat rotation (during fallow period) to control weeds. June 8, 1981.

EPA SLN No. WA 81 0046. Mobay Chemical Corp. Registration is for Sencor 4 FL, to be used in wheat/fallow/wheat rotation (during fallow period) to control weeds. June 8, 1981.

EPA SLN No. WA 81 0047. Mobay Chemical Corp. Registration is for Sencor Sprayule, to be used in wheat/fallow/wheat rotation (during fallow period) to control weeds. June 8, 1981.

EPA SLN No. WA 81 0048. Chevron Chemical Co. Registration is for Ortho Paraquat CL, to be used in wheat/fallow/wheat rotation to control emerged weeds. June 17, 1981.

EPA SLN No. WA 81 0049. Chevron Chemical Co. Registration is for Ortho Paraquat CL, to be used in wheat/fallow/wheat rotation to control emerged weeds. June 17, 1981.

EPA SLN No. WA 81 0050. Chevron Chemical Co. Registration is for Ortho Paraquat CL, to be used in wheat/fallow/wheat rotation to control emerged weeds. June 17, 1981.

EPA SLN No. WA 81 0051. The Chas. H. Lilly Co. Registration is for Lilly/Miller Malathion, to be used on asparagus to control the asparagus aphid. June 12, 1981.

EPA SLN No. WA 81 0052. Rhone Poulenc Chemical Co. Registration is for Chipco 26019, to be used on crucifer crops (grown for seed) to control leaf and pod blight and white rot. June 12, 1981.

EPA SLN No. WA 81 0053. Charles W. Edwards, Agricultural Products Research Laboratory. Registrtion is for RTU 1010 Small Grains Seeds Protectant, to be used on wheat, oats, and barley to control seed and seedling diseases, smut, and seed borne bunt. June 15, 1981.

EPA SLN No. WA 81 0054. Stoller Chemical Co., Inc. Registration is for That Big 8 FL Sulfur, to be used on pears to control rust mite. June 24, 1981.

EPA SLN No. WA 81 0055. Stoller Chemical Co., Inc. Registration is for That Big 8 FL Sulfur, to be used on spearmint to control powdery mildew. June 24, 1981.

EPA SLN No. WA 81 0056. Stoller Chemical Co., Inc. Registration is for That Big 8 FL Sulfur, to be used on sugar beets to control powdery mildew. June 15, 1981.

EPA SLN No. WA 81 0057. FMC Corp. Registration is for BX-2 Coated GR, to be used on alfalfa and pasture grass to control mosquito larvae. June 16, 1981.

EPA SLN No. WA 81 0058. Stauffer Chemical Co. Registration is for Imidan 50 WP, to be used on potatoes to control the Colorado potato beetle. June 19, 1981.

EPA SLN No. WA 81 0059. Dow Chemical USA. Registration is for Plictran 50W, to be used on carrots (grown for seed only) to control mites (two-spotted spiders). July 2, 1981.

EPA SLN No. WA 81 0060. Chevron Chemical Co. Registration is for Ortho Diquat Water Weed Killer, to be used on carrots, radishes, and turnips (seed crops only) for preharvest desiccation of foliage. July 10, 1981.

EPA SLN No. WA 81 0061. Dow Chemical USA. Registration is for Lorsban 4E Insecticide, to be used on peppermint to control cutworms and mint root borers. July 14, 1981.

EPA SLN No. WA 81 0062. Merck and Co., Inc. Registration is for Agri-Strep, Type D and Agri-Strep 500, to be used on pears and pear/apple interplants to control fire blight. July 20, 1981.

EPA SLN No. WA 81 0063. Prentiss Drug and Chemical Co. Registration is for Prentox Cube Powder, to be used on water to control undesirable fish species. July 23, 1981.

EPA SLN No. WA 81 0064. Chevron Chemical Co. Registration is for Orthene 75S Soluble Powder, to be used on radishes to control the cabbage aphid, green peach aphid, diamondback moth, cabbage looper, and imported cabbage worm. August 24, 1981.

EPA SLN No. WA 81 0065. Velsicol Chemical Corp. Registration is for Banvel Herbicide, to be used between cropping systems to control broadleaf weeds. July 31, 1981.

EPA SLN No. WA 81 0066. PPG Industries, Inc. Registration is for Chem Hoe-135 F1-3, to be used in wheat/fallow/wheat rotation to control weeds. August 6, 1981.

EPA SLN No. WA 81 0067. Chevron Chemical Co. Registration is for Ortho Paraquat C1, to be used in wheat/fallow/wheat rotation to control weeds. August 10, 1981.

EPA SLN No. WA 81 0068. Van Waters and Rogers. Registration is for Guardsman 12½ Percent Sodium Hypochlorite, to be used on pears, apples, cherries, peaches, plums, prunes, quinces, and nectarines in dip tanks to reduce fungus, spores, and bacteria. August 17, 1981.

EPA SLN No. WA 81 0069. Wilbur-Ellis Co. Registration is for Soil Prep, to be used on potatoes to control nematodes. August 11, 1981.

EPA SLN No. WA 81 0070. Van Waters and Rogers. Registration is for Namco Chloropicrin, to be used on treated wood items—telephone poles, power poles, and structural members of bridges to prevent fungi growth in the interior of wood items. August 28, 1981.

EPA SLN No. WA 81 0071. Chevron Chemical Co. Registration is for Ortho Paraquat CL, to be used on potatoes to control weeds. August 24, 1981.

EPA SLN No. WA 81 0072. E. I. du Pont de Nemours and Co. Registration is for Du Pont Vydate L Nematicide, to be used on pears to control the European red mite, pear rust mite, McDaniel mite, and two-spotted spider mite. August 27, 1982.

EPA SLN No. WA 81 0073. Dow Chemical Co. Registration is for Garlon 4 Herbicide, to be used on forests to control clumps of resprouting hardwoods. September 25, 1981.

EPA SLN No. WA 81 0074. Dow Chemical USA. Registration is for Garlon 4 Herbicide, to be used on conifer plantations to control brush. On September 25, 1981.

EPA SLN No. WA 81 0075. Vertac Chemical Corp. Registration is for Vertac Dinitro Weed Killer 5, to be used on seed alfalfa, seed trefoil, and seed clover for preharvest desiccation. September 15, 1981.

EPA SLN No. WA 81 0076. Van Waters and Rogers. Registration is for Namco Diazinon 4E, to be used on turf to control the European crane fly. September 28, 1981.

EPA SLN No. WA 81 0077. Wilbur-Ellis Co. Registration is for Nusan 30 EC, to be used on Gladiola corms, iris, tulip, and narcissus bulbs to control fusarium rot. October 5, 1981.

EPA SLN No. WA 81 0078. Chevron Chemical Co. Registration is for Ortho Paraquat CL, to be used on alfalfa to control weeds. September 30, 1981.

EPA SLN No. WA 81 0079. Chevron Chemical Co. Registration is for Ortho

Paraquat CL, to be used on alfalfa to control weeds. September 30, 1981.

EPA SLN No. WA 81 0080. Chevron Chemical Co. Registration is for Ortho Paraquat CL, to be used on alfalfa to control weeds. September 30, 1981.

EPA SLN No. WA 81 0081. Mobay Chemical Co. Registration is for Sencor Sprayule, to be used on alfalfa to control weeds. September 30, 1981.

EPA SLN No. WA 81 0082. Mobay Chemical Co. Registration is for Sencor 50 Percent WP, to be used on alfalfa to control weeds. September 30, 1981.

EPA SLN No. WA 81 0083. Mobay Chemical Corp. Registration is for Sencor 4, to be used on alfalfa to control weeds. September 30, 1981.

EPA SLN No. WA 81 0084. FMC Corp. Registration is for Dursban 2 Coated GR, to be used on home lawns and ornamental turf areas to control European crane fly. October 5, 1981

EPA SLN No. WA 81 0085. Rohm and Haas. Registration is for Dithane M–45, to be used on Douglas fir to control Swiss needle cast. October 5, 1981.

EPA SLN No. WA 81 0086. Velsicol Chemical Corp. Registration is for Ramik Brown, to be used on bearing and non-bearing orchards of tree fruits (stone and pome) and nuts to control meadow voles. October 9, 1981.

EPA SLN No. WA 81 0087. Mobay Chemical Corp. Registration is for Di-Syston 15 Percent GR, to be used on wheat (fall and spring) and barley to control hessian fly aphids (green buds) (Oat bird-cherry), and grasshoppers. October 16, 1981.

EPA SLN No. WA 81 0088. Wolfkill Feed and Fertilizer Corp. Registration is for Wolfkill's Pelleted Slug Bait, to be used on flowers, ornamental plants, lawn areas, fruits, vegetables, and seed crops, and green and lath houses to control slugs. October 19, 1981.

EPA SLN No. WA 81 0089. Stauffer Chemical Co. Registration is for Vapam Soil Fumigant, to be used on potatoes to control *Verticillium dahliae* (early maturity disease) in Irish potatoes. October 20, 1981.

EPA SLN No. WA 81 0090. E. I. du Pont de Nemours and Co. Registration is for Du Pont Velpar Weed Killer, to be used on alfalfa to control weeds. October 21, 1981.

EPA SLN No. WA 81 0091. E. I. du Pont de Nemours and Co. Registration is for Du Pont Velpar L Weed Killer, to be used on alfalfa to control weeds. October 21, 1981.

EPA SLN No. WA 81 0092. International Two Thousand, Inc. Registration is for Mr. Rat Guard II Pellets, to be used in eastern Washington on orchards of pome fruits (apples, pears), and stone fruits (peaches, apricots, cherries, prunes, and plums) to control orchard mice (*Microtus* spp.). October 22, 1981.

EPA SLN No. WA 81 0093. The Chas. H. Lilly Co. Registration is for Lilly/Miller Fruit and Berry Insect Spray, to be used on apples, pears, plums, sour cherries, and hawthorne, to control the apple maggot. October 23, 1981.

EPA SLN No. WA 81 0094. Dow Chemical USA. Registration is for Tordon 2K Pellets Herbicide, to be used on rangeland, forests, and permanent grass pastures to control susceptible broadleaf weeds and woody plants. October 27, 1981.

EPA SLN No. WA 81 0095. Wilbur-Ellis Co. Registration is for Red-Top Malathion 5 Pyrethrum 0.1 Dust, to be used on mushroom houses to control mites, phorid and sciarid flies. October 23, 1981.

EPA SLN No. WA 81 0096. E. I. du Pont de Nemours and Co. Registration is for Du Pont Lexone Weed Killer, to be used on winter wheat, winter barley, and spring barley to control weeds. October 27, 1981.

EPA SLN No. WA 81 0097. E. I. du Pont de Nemours and Co. Registration is for Du Pont Lexone DF Weed Killer, to be used on winter wheat, winter barley, and spring barley to control weeds. October 27, 1981.

EPA SLN No. WA 81 0098. E. I. du Pont de Nemours and Co. Registration is for Du Pont Lexone 4L Weed Killer, to be used on winter wheat, winter barley, and spring barley to control weeds. October 27, 1981.

EPA SLN No. WA 81 0099. Witco Chemical Corp. Registration is for GB 1356, to be used on swamps, floodwater areas, and other areas where mosquitoes develop, to control mosquitoes. November 6, 1981.

EPA SLN No. WA 81 0100. Stauffer Chemical Co. Registration is for Devrinol 50–WP Selective Herbicide, to be used on bulb iris, daffodils, narcissus, and tulips to control annual grasses and broadleaf weeds. November 17, 1981.

EPA SLN No. WA 81 0101. Dow Chemical USA. Registration is for Dowpon M Grass Killer, to be used on summer fallow land to be planted to cereal crops to control downy brome, volunteer grain, and other weeds. December 15, 1981.

EPA SLN No. WA 81 0102. Uniroyal Chemical. Registration is for Uniroyal Dinoseb-5, to be used on alfalfa, trefoil, and clover grown for seed only, for preharvest desiccation. December 10, 1981.

EPA SLN No. WA 81 0103. Stauffer Chemical Co. Registration is for Devrinol 10 G Ornamental, to be used on tree fruit and nut crops to control weeds. December 18, 1981.

EPA SLN No. WA 81 0104. J. R. Simplot Co. Registration is for Sim-Tec 0.50 Potato Seed Treater, to be used on potatoes for control of fusarium seed decay on potato seed pieces. December 24, 1981.

EPA SLN No. WAa 81 0105. Mobay Chemical Corp. Registration is for Sencor DF, to be used on asparagus (established) to control weeds. December 30, 1981.

EPA SLN No. WA 81 0106. Mobay Chemical Corp. Registration is for Sencor 50 Percent WP, to be used on asparagus (established) to control weeds. December 20, 1981.

EPA SLN No. WA 81 0107. Mobay Chemical Corp. Registration is for Sencor 4FL, to be used on asparagus (established) to control weeds. December 30, 1981.

West Virginia

EPA SLN No. WV 81 0009. International Two Thousand, Inc. Registration is for Mr. Rat Guard II Pellets, to be used on orchards to be used as paraffinized orchard mouse bait. November 5, 1981.

EPA SLN No. WV 81 0010. B and W Quality Growers, Inc. Registration is for DZN Diazinon 50W, to be used on watercress to control the cyclamen mite. November 25, 1981.

Wyoming

EPA SLN No. WY 81 0004. Penwalt Corp. Registration is for Hydrothol 191, to be used on moving water in irrigation canals and laterals delivering water to or from crops and/or water treatment plants to control submersed aquatic weeds. May 27, 1981.

EPA SLN No. WY 81 0005. Stoller Chemical Co. Inc. Registration is for That Big 8 FL Sulfur, to be used on sugar beets to control powdery mildew. June 11, 1981.

EPA SLN No. WY 81 0006. Mobay Chemical Corp. Registration is for Sencor 4 FL, to be used in wheat/fallow/wheat rotation to control weeds. July 14, 1981.

EPA SLN No. WY 81 0007. Mobay Chemical Co. Registration is for Sencor 50 Percent WP, to be used in wheat/fallow/wheat rotation to control weeds. July 14, 1981.

EPA SLN No. WY 81 0008. Mobay Chemical Co. Registration is for Sencor Sprayule, to be used in wheat/fallow/wheat rotation to control weeds. July 14, 1981.

EPA SLN No. WY 81 0009. Wyoming Department of Agriculture. Registration is for Compound 1080, to be used in single dose drop bait stations for control of vertebrate pests. July 28, 1981.

EPA SLN No. WY 81 0010. Degesch America, Inc. Registration is for Degesch Phostoxin Tablets-R, to be used in prairie dog burrows in rangeland, non-cropland, and pastures to control black-tailed prairie dogs. October 13, 1981.

EPA SLN No. WY 81 0011. Phillips Roxane, Inc. Registration is for is for Anchor Permectrin 10 Percent EC II Long Lasting Livestock and Premise Spray, to be used on livestock and poultry to control house flies, lice, mites, and ticks. October 16, 1981.

EPA SLN No. WY 81 0012, Phillips Roxane, Inc. Registration is for Biocoutic Overtime L/P Long Acting Livestock and Premise Insecticide, to be used on livestock and poultry to control flies, lice, mites, and ticks. October 16, 1981.

EPA SLN No. WY 81 0013. Burroughs Wellcome Co. Registration is for Atroban Cattle Ear Tags, to be used on dairy and beef cattle and calves to control horn flies, face flies, Gulf Coast ticks, spinose ear ticks, stable flies, and house flies. October 22, 1981.

EPA SLN No. WY 81 0014. Y-Tex Corp. Registration is for Gardstar, to be used on dairy and beef cattle as insecticide tags. November 6, 1981.

(Sec. 24, as amended 92 Stat. 835; (7 U.S.C. 136))

Dated: June 22, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82–18170 Filed 7–6–82; 8:45 am]

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S. 1519/Pub. L. 97–211 To designate certain national wildlife refuge lands. (June 30, 1982; 96 Stat. 141) Price: $1.75.

H.R. 3816/Pub. L. 97–212 To improve the operation of the Fishermen's Contingency Fund established to compensate commercial fishermen for damages resulting from oil and gas exploration, development, and production in areas of the Outer Continental Shelf. (June 30, 1982; 96 Stat. 143) Price: $2.00.

H.R. 4903/Pub. L. 97–213 Granting the consent of the Congress to an interstate compact between the States of Mississippi and Louisiana establishing a commission to study the feasibility of rapid rail transit service between the two States. (June 30, 1982; 96 Stat. 150) Price: $1.75.

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There are no restrictions on the republication of material appearing in the **Federal Register**.

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Animal and Plant Health Inspection Service

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Presidential Documents

Title 3—

The President

Proclamation 4952 of July 6, 1982

P.O.W.–M.I.A. Flag

By the President of the United States of America

A Proclamation

Friday, July 9, 1982 has been designated as "National P.O.W.–M.I.A. Recognition Day, 1982." It is a fitting mark of recognition of the uncommon sacrifices of all former American prisoners of war, those still missing, and their families, that a P.O.W.–M.I.A. flag fly over the White House and the Pentagon.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, by the authority vested in me by the Constitution as President and Commander in Chief of the armed forces, do hereby proclaim that a P.O.W.–M.I.A. flag shall be flown, subordinate to the National Colors, over the White House and the Pentagon on National P.O.W.–M.I.A. Recognition Day, Friday, July 9, 1982.

I invite other government officials and individuals to join in this special mark of recognition and to participate in appropriate observances.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of July, in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 82–18679
Filed 7–7–82; 10:43 am]
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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 950

Solicitation of Federal Civilian and Uniformed Services Personnel for Contributions to Private Voluntary Organizations; Correction

AGENCY: Office of Personnel Management.

ACTION: Final rule; correction.

SUMMARY: In publishing final regulations on the solicitation of Federal civilian and uniformed services personnel for contributions to private voluntary organizations in the **Federal Register** on Tuesday, July 6, 1982 (47 FR 29496), the Office of Personnel Management (OPM) inadvertently omitted from the Supplementary Information section a statement explaining why good cause was found not to delay the effectiveness of the regulations. Publication of the statement is required by 5 U.S.C. 553(d)(3). Accordingly, OPM is correcting this omission by publishing the statement below. The effective date of the regulations is also changed to correspond with publication of this document.

EFFECTIVE DATE: The regulations published on July 6, 1982 (47 FR 29496) become effective July 8, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph S. Patti, Special Assistant for Regional Operations, (202) 632–5544.

SUPPLEMENTARY INFORMATION: The following statement was unintentionally omitted from the Supplementary Information section of final regulations adding Part 950 to Title 5 of the Code of Federal Regulations, published July 6, 1982:

"Pursuant to 5 U.S.C. section 553 and section 1103, the Director of OPM finds that, because of the needs of government managers, military commanders, employee representatives, federated groups, and voluntary agencies to commence preparations immediately for an effective and timely 1982 CFC; because delay in the effectiveness of these regulations would work undue hardships upon all applicants, participants, and Federal employees in the CFC and jeopardize their abilities to raise funds in the Federal work place in 1982; and because considerations of practicality, necessity, and the public interest require the immediate effectiveness of these regulations; good cause exists for making these regulations effective immediately upon this publication."

"The Director of OPM has further determined, consistent with both the former Manual and these regulations, that the deadline for submission by Federated groups and voluntary agencies of applications for admittance to the 1982 campaign is extended until ten (10) days after this publication."

U.S. Office of Personnel Management.

Donald J. Devine,

Director.

[FR Doc. 82-18500 Filed 7-7-82; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 60

Market News Reports

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule.

SUMMARY: The Agricultural Marketing Act of 1946 authorizes the Secretary to collect and disseminate marketing information. Pursuant to Section 1121 of the Agriculture and Food Act of 1981 which authorizes the Department to collect reasonable fees for the distribution, upon request, of copies of market news reports, the Department promulgates these regulations as this interim final rule establishing fees and charges to cover the cost of postage, printing and handling of market news reports distributed to the general public, except that no fees will be charged to other government agencies which cooperate in the collection of market data for the requested reports and the news media.

EFFECTIVE DATES: August 1, 1982. Comments due on or before August 9, 1982.

ADDRESS: Send comments to W. T. Manley, Deputy Administrator, Marketing Program Operations, Agricultural Marketing Service, Room 3071, South Building, United States Department of Agriculture, Washington, D.C. 20250. Comments will be available for public inspection at this location during the hours of 8:00 a.m. to 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Dairy reports: Silvio Capponi, Chief, Market Information Branch, Dairy Division, AMS, USDA, Washington, D.C. 20250, (202) 447–7461. Fruit and vegetable reports: Clay J. Ritter, Chief, Market News Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, (202) 447–2745. Livestock and grain reports: James A. Ray, Chief, Market News Branch, Livestock, Meat, Grain and Seed Division, AMS, USDA, Washington, D.C. 20250, (202) 447–6231. Poultry reports: Raymond S. Wruk, Chief, Market News Branch, Poultry Division, AMS, USDA, Washington, D.C. 20250, (202) 447–6911.

SUPPLEMENTARY INFORMATION: The Department promulgates these regulations as an interim final rule to establish and collect fees to cover the cost of printing and mailing Agricultural Marketing Service (AMS) market news reports. These fees shall, as nearly as practicable, cover the Department's costs of the service, including administrative and supervisory costs of the published report. The authority for these regulations is contained in the Agriculture and Food Act of 1981 (7 U.S.C. 2242a) which authorizes the collection of fees for the reporting of economic research and statistical data. Since 1915, first under the Organic Act of the Department, and then under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627), the Department has distributed market news reports through the mail, without cost, to any person or firm requesting them. However, the costs of postage, printing, and handling have risen to such a degree that the Secretary has chosen to exercise the discretion provided in the Agriculture and Food Act of 1981, and establish fees for mailing market news reports to all

persons or firms, except that no fee will be charged to other government agencies which cooperate in the collection of market data for the requested report, and the news media. A limited free distribution list will be established with other bureaus within USDA for copies of various market news reports under the principle of data exchange to complement the various responsibilities of those organizations. Fees for individual reports will vary according to the number of pages, frequency of issue, length of marketing season for the respective commodity, number of subscribers, cost of equipment, personnel, and other factors affecting the printing and distribution. The Department has determined that because of expected annual fluctuations in these costs, it would be inappropriate for the fees to be specified in the regulations where any change would require time-consuming and expensive rulemaking procedures. Any modification in the subscription fees will simply reflect changing costs incurred by USDA for the duplication, handling, and distribution of the reports. Therefore, the subscription fees will be computed and revised when necessary to assure recovery of the Department's costs. Subscription renewal notices will specify the cost for the reports. Separate reports are issued for each commodity by marketing areas during the marketing season. Based on estimates of current costs and activity levels, fees during the initial subscription period will be charged according to the following schedules:

Frequency	Mailed			Picked up in office[1]	
	United States, Canada, Mexico	Other countries			
	Annual	Surface	Air	Annual rate	Each
Reports issued by the Dairy Division					
Weekly	$30	$30	$85	$20	$0.40
Annual	4	4	8	3	3.00
Reports issued by the Poultry Division					
Weekly	$110	$110	$220	$90	$0.00
Semiweekly	75	75	150	52	.50
Monthly	84	84	168	75	0.00
Annual	4	4	8	4	4.00

[1] A single copy of daily, semiweekly, and weekly reports are free of charge when picked up in office.

A large portion of the marketing data in many reports is collected through personal contacts at local market news offices between market contacts and market news reporters. This exchange is vital to the effective collection of data. These local offices do not now charge for reports published and disseminated on their premises and any revenue from single copies of reports is not expected to offset the expense of maintaining cash accounting systems in these offices and the possible loss of data from market contacts. For these reasons, it has been determined appropriate that single copies of daily, semi-weekly, and weekly reports will be available to be picked up free of charge at the local office which prepared the report.

The Department recognizes the importance of the function served by the news media, such as wire services, newspapers, news magazines, and broadcast news outlets, in the dissemination of information to the general public, and the Department will not charge a fee for the distribution of market reports to these organizations. However, there is a large number of trade journals and trade association publications aimed at organizational memberships, and the Department has determined that it would not be appropriate to provide market news reports free of charge to these numerous organizations which service limited audiences. In anticipation of the collection of fees for market news, the budget submitted to Congress for the 1983 fiscal year for the AMS market news program effective October 1, 1982, has been correspondingly reduced. The Department has determined that the expected start up costs associated with the implementation of the fee system and the necessity of having the system in full operation prior to October 1, 1982, including any possible adjustments in the market news systems brought about by implementation of subscription fees, necessitates proceeding now with an interim final rule.

Accordingly, it is found upon good cause shown that notice and other public procedures with respect to this action are impracticable, unnecessary, and contrary to the public interest, and good cause is found for publishing this interim final rule at this time with opportunity for public comments after publication.

The Department has also determined that the comment period on this interim final rule will end 30 days after publication hereof, and such comment period is adequate to provide all interested parties an opportunity to file views and comments.

The interim final rule has been reviewed under USDA procedures established to implement Executive Order 12291 and the Secretary's Memorandum 1512–1 and has been determined to be a "non-major" rule because it does not meet any of the criteria established for major rules under the executive order. In conformance with the provision of the Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 601), full consideration has been given to the potential economic impact upon small business. Most producers and dealers fall within the confines of "small business", as defined in the Regulatory Flexibility Act. A number of firms who are expected to use the market news reports do not meet the definition of small business either because of their individual size or because of their dominant position in one or more marketing areas. It has been determined that the economic impact upon all entities, small and large, will not be adverse and will in no way affect normal competition in the marketplace.

Frequency	Mailed			Picked up in office[1]	
	United States, Canada, Mexico	Other countries			
	Annual	Surface	Air	Annual rate	Each
Reports issued by the Fruit and Vegetable Division					
Daily	$120	$160	$240	$60	$0.25
Semiweekly	84	126	168	24	.25
Weekly	48	72	96	12	.25
Monthly	12	18	24	4	.25
Annual	4	6	8	2	2.00
Reports issued by the Livestock, Meat, Grain and Seed Division					
Daily	$125	$125	$250	$75	$0.40
Weekly:					
Single page	30	30	75	20	.40
Dual page	45	45	85	35	.75
Monthly	12	12	25	10	.75
Quarterly	5	5	8	5	1.25
Annual	4	4	8	4	4.00

List of Subjects in 7 CFR Part 60

Market News Reports, Subscription fees.

Accordingly, a new Part 60, Subpart C, Title 7, Code of Federal Regulations, is added to read as follows:

PART 60—MARKET NEWS REPORTS

Sec.
60.1 Definitions.
60.3 General.
60.5 Market News Reports published by the Dairy Division; Fruit and Vegetable Division; Livestock, Meat, Grain and Seed Division; and Poultry Division.

Authority: 7 U.S.C. 1622(g), 7 U.S.C. 2242a.

§ 60.1 Definitions.

As used in this part:

(a) Market News means marketing information providing historical, current and outlook information on a wide range of production, supply, demand, price and other market data to assist in the orderly operation of the United States agricultural economy.

(b) Market News Reports means publications which report statistical data and economic research on agricultural marketing.

(c) Department means the United States Department of Agriculture.

(d) Fees refers to charges to recover costs incurred by the Department consisting of printing (including machinery, paper, ink and miscellaneous supplies), postage and handling (including the accounting supervision) for published reports.

(e) Administrator means the Administrator of the Agricultural Marketing Service, or any officer or employee of the Department to whom authority has been delegated or may hereafter be delegated to act for the Administrator.

(f) News Media refers to individuals or organizations engaged in the business of collecting and disseminating news and information for use by the general public, including wire services, newspapers, news magazines, and broadcast news outlets. The definition for news media does not include media publications aimed at particular economic sectors such as agricultural periodicals, trade journals, or association publications aimed at organizational memberships, which serve primarily limited audiences.

§ 60.3 General.

The regulations in this part are issued to implement a subscription fees system for market news reports issued by the Agricultural Marketing Service. All other means of disseminating market news currently in use, such as commercial and public wire services, telephone answering devices, radio, and television will continue without charge to the recipients.

§ 60.5 Market News Reports published by the Dairy Division; Fruit and Vegetable Division; Livestock, Meat, Grain and Seed Division; and Poultry Division.

Market news reports under the Act and this part shall be distributed in whatever manner and form and for whatever purpose the Administrator may choose and will be available for distribution as follows:

(a) Market news reports shall be available on an annual (or seasonal for reports issued by the Fruit and Vegetable Division) subscription to firms, institutions, government agencies and individuals, upon written request and payment of a subscription fee, except that no fees will be charged to other government agencies which assist in the collection of market news data for the requested report, and the news media. Establishment of mailing lists, based on the payment of subscription fees, will begin upon publication of this rule and will be updated on a continuing basis.

(b) Subscription fees shall be reviewed by the Administrator and revised, when necessary, to assure recovery of the Department's costs. Subscription renewal notices will specify the subscription rates. Subscription requests for less than a 12 month period will be prorated but may be subject to an additional handling charge.

(c) Requests involving research of records or reports, file copies, large volumes of reports or requests which require additional handling, will be assessed fees sufficient to cover the actual cost for the requested service.

(d) Information concerning market news reports and fees may be obtained from the Administrator, Agricultural Marketing Service, USDA, Washington, D.C. 20250.

(e) A single copy of daily, semi-weekly, and weekly reports prepared by the local market news office may be picked up free of charge at that office.

Done in Washington, D.C., on July 1, 1982.

C. W. McMillan,

Assistant Secretary Marketing and Inspection Services.

[FR Doc. 82-18817 Filed 7-7-82; 8:45 am]
BILLING CODE 3410-02-M

7 CFR Part 911

[Lime Reg. 43, Amdt. 1]

Limes Grown in Florida

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This action lowers the minimum diameter requirements for shipments of fresh limes grown in Florida, and for limes imported into the United States from 1⅞ inches to 1¾ inches during a specified period during July–September of each year. The change in minimum size recognizes the fact that due to climatic conditions in the production area during this period, smaller size limes have higher juice content and are acceptable to consumers. Such action is necessary to assure the shipment of adequate supplies of limes of acceptable size and quality in the interest of producers and consumers.

DATES: Effective on and after July 5, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone (202) 447–5975.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably affect costs for the directly regulated handlers.

The Florida lime regulation is issued under the marketing agreement, as amended, and Order No. 911, as amended (7 CFR Part 911), regulating the handling of limes grown in Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The regulation applicable to limes grown in Florida is based upon recommendations and information submitted by the Florida Lime Administrative Committee, established under the marketing agreement and order, and upon other information. Shipments of Florida limes are regulated by grade and size under Florida Lime Regulation 43 (47 FR 35911). This regulation, which is effective on a continuing basis, requires seedless limes for fresh shipment to: (1) Grade at least U.S. Combination, mixed color; (2) meet a minimum juice content of 42% by volume, and (3) have a minimum diameter of 1⅞ inches. The committee reviewed these requirements at a public meeting on June 9, 1982 and recommended a relaxation in the minimum size requirement for seedless limes from 1⅞ inches in diameter to 1¾ inches in diameter each year during the period beginning on the first Monday after July 4 and continuing through the Sunday before the third Monday in September of the same year. At all other times limes would have to meet the minimum diameter requirement of 1⅞ inches. Due to climatic conditions, limes marketed during the July to September period have a higher juice content than during the rest of the marketing season and will meet the requirement of a minimum juice content of 42%, by volume. Therefore, during this period, limes of the smaller 1¾ inch minimum diameter will have an acceptable juice content for consumers.

Under section 8e of the Act, whenever specified commodities, including limes, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodity. Thus, size requirements for imported limes will also change to conform to the size requirements for domestic shipments of Florida limes. It is hereby found that this regulation will tend to effectuate the declared policy of the Act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date of these regulations until 30 days after publication in the **Federal Register** (5 U.S.C. 553), and good cause exists for making these regulatory provisions effective as specified in that: (1) Shipment of the current crop of limes grown in Florida is now underway; (2) the amendment to the Florida lime regulation was recommended by the committee following discussion at a public meeting on June 9, 1982; (3) Florida lime handlers have been apprised of these requirements for Florida limes and the effective date; (4) the lime import requirements are mandatory under section 8e of the Act, and they should become effective on the date specified; (5) the size requirements for imported limes are the same as those for Florida limes; and (6) at least three days notice of this import regulation is provided, the minimum prescribed by section 8e of the Act.

List of Subjects in 7 CFR Part 911

Marketing Agreements and Orders, Florida, Limes.

PART 911—LIMES GROWN IN FLORIDA

Accordingly, it is found that the provisions of § 911.344 Lime Regulation 43 (47 FR 35911) should be and are amended by revising paragraph (a)(3), to read as follows:

§ 911.344 Florida lime regulation 43.

(a) * * *

(3) During the period beginning on the third Monday in September of each year and continuing through the Sunday before the first Monday after July 4 of the following year, such limes of the group known as seedless, large-fruited, or Persian limes (including Tahiti, Bearss, and similar varieties) shall be at least 1⅞ inches in diameter and, during the period beginning on the first Monday after July 4 of each year and continuing through the Sunday before the third Monday in September of the same year, such limes shall be at least 1¾ inches in diameter; *Provided,* That not more than 10 percent, by count, of the limes in any lot of containers may fail to meet these minimum size requirements; *Provided further,* That not more than 15 percent, by count, in any individual container containing more than four pounds of limes may fail to meet these minimum size requirements.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: July 2, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-18521 Filed 7-7-82; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Parts 911 and 915

Limes Grown in Florida, and Avocados Grown in South Florida; Amendment of Container Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment of the Florida lime and avocado regulations permits the use of additional containers for shipments of fresh limes and avocados. This action is designed to promote orderly marketing and to standardize packing practices.

DATES: Effective on and after July 2, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone (202) 447–5975.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably affect costs for the directly regulated handlers.

This final rule is issued under the marketing agreements, as amended, and Orders No. 911 and 915, as amended (7 CFR Parts 911 and 915), regulating the handling of limes grown in Florida and avocados grown in South Florida. The agreements and orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Florida lime and avocado administrative committees and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This rule amends § 911.329, effective under 7 CFR Part 911—Subpart-Container Regulation, and § 915.305, effective under 7 CFR Part 915—Subpart-Container and Pack Regulations, by authorizing the use of additional containers to be used for shipments of fresh limes and avocados. The additional containers being authorized for limes have inside dimensions of: (1) 7⅞ inches x 11¼ inches x 5⅞ inches; and (2) 11¼ inches x 16¾ inches, with depth varying from 7 to 7½ inches. The rule specifies that such containers have not less than 10 pounds nor more than 12 pounds, and not less than 20 pounds nor more than 22 pounds net weight of limes, respectively. Two additional containers are being authorized for avocados. These containers have inside dimensions of: (1) 11¼ inches x 16¾ inches x 3⅞ inches; and (2) 11¼ inches x 16¾ inches, with depth varying from 7 to 7½ inches. The rule specifies minimum net weight requirements for particular varieties handled in such containers. This amendment permits the use of containers specially designed for use in packinghouses with fully mechanized palletizers, which automatically hold and stack containers on pallets. Palletization of containers of limes and avocados facilitates efficient handling and aids in the distribution of the fruits to market. This action is necessary to promote the efficient handling of limes and avocados and to maintain orderly marketing conditions.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date of this amendment until 30 days after publication in the **Federal Register** (5 U.S.C. 553), in that (1) the handling of Florida limes and avocados is now in progress subject to container and pack regulations effective under the order, (2) the committee recommended the amendment at a public meeting at which all interested parties were afforded an opportunity to express their views, and (3) the amendment relieves restrictions on the handling of Florida limes and avocados.

List of Subjects in 7 CFR Parts 911 and 915

Marketing Agreements and Orders, Limes, Avocados, Florida.

PART 911—LIMES GROWN IN FLORIDA

1. Accordingly, § 911.329 (47 FR 22073) is amended by revising paragraphs (a)(1), and (a)(2), adding paragraphs (a)(2)(X) and (a)(2)(XI), redesignating paragraph (a)(2)(X) as (a)(2)(XII), revising paragraph (a)(3) and omitting paragraphs (a)(4) and (a)(5) as follows:

Subpart—Container Regulation

§ 911.329 Lime regulation 27.

(a) Order.

(1) On and after July 2, 1982, no handler shall handle between the production area and any point outside thereof any variety of limes, grown in the production area, in individual bags having a capacity of more than 4 pounds net weight of limes.

(2) On and after the effective date hereof no handler shall handle between the production area and any point outside thereof any variety of limes, grown in the production area, in containers having a capacity of more than 4 pounds of limes unless such limes are handled in containers meeting the following specifications and conform to all other applicable requirements of this section:

* * * * *

(X) Containers with inside dimensions of 11¼ x 16¾, with depth varying from 7 to 7½ inches: *Provided,* That any such container shall contain not less than 20 pounds nor more than 22 pounds net weight of limes.

(XI) Containers with inside dimensions of 7⅞ x 11¼ x 5⅞ inches: *Provided,* That any such container shall contain not less than 10 pounds nor more than 12 pounds net weight of limes.

(3) The limitations set forth in paragraph (a)(2) of this section shall not apply to master containers of individual packages, including individual bags of limes: *Provided,* That the individual packages within such master container are of a capacity not exceeding 4 pounds net weight of limes and the markings or labels, if any, on such packages do not conflict with the markings or labels on the master container.

* * * * *

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

2. Section 915.305 (47 FR 22073) is amended by revising paragraph (a), adding new paragraphs (a)(9) and (a)(12), redesignating paragraph (a)(9) and (a)(10) as (a)(10) and (a)(11), respectively, redesignating paragraphs (a)(11) and (a)(12) as (a)(13) and (a)(14), respectively, and revising and redesingating paragraphs (a)(13) and (a)(14) as (a)(15) and (a)(16), respectively as follows:

Subpart—Container and Pack Regulation

§ 915.305 Florida avocado container regulation 5.

(a) On and after July 2, 1982, no handler shall handle any avocados for the fresh market from the production area to any point outside thereof in containers having a capacity of more than 4 pounds of avocados unless such containers meet the requirements specified in this section: *Provided,* That the containers authorized in this section shall not be used for handling avocados for commercial processing into products pursuant to § 915.55(c).

* * * * *

(9) Containers with inside dimensions of 11¼ x 16¾ x 3⅞ inches.

* * * * *

(12) Containers with inside demensions of 11¼ x 13⅜ with depth varying from 7 to 7½ inches:

* * * * *

(15) With respect to the containers prescribed in paragraphs (a)(3) through (a)(9) of this section, all avocados packed in such containers shall be placed in one layer only and the net weight of all avocados in any such container shall be not less than 12½ pounds: *Provided,* That not to exceed 5 percent, by count, of such containers in any lot may fail to meet such weight requirement.

(16) With respect to the containers prescribed in paragraphs (a)(10), (a)(11), and (a)(12) of this section, all avocados in such containers shall be placed in two layers and the net weight of the avocados in any such container shall be not less than 25 pounds: *Provided,* That not to exceed 5 percent, by count, of such containers in any lot may fail to meet the applicable net weight requirement: *Provided further,* That the requirement as to placing avocados in two layers only shall not apply to such container if each of the avocados therein weighs 14 ounces or less.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended: 7 U.S.C. 601–674)

Dated: July 2, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-18520 Filed 7-7-82; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 82

[Docket 82-067]

Exotic Newcastle Disease; and Psittacosis or Ornithosis in Poultry Area Released From Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to release a portion of Los Angeles County in California from areas quarantined because of exotic Newcastle disease. Surveillance activity indicates that exotic Newcastle disease no longer exists in the area quarantined.

EFFECTIVE DATE: July 2, 1982.

FOR FURTHER INFORMATION CONTACT: W. F. Buisch, Chief, National Emergency Field Operations, Emergency Programs, Veterinary Services, USDA, Federal Building, Room 748, Hyattsville, MD 20782, 301–436–8073.

SUPPLEMENTARY INFORMATION:

Executive Order 12291 and Emergency Action

This final action has been reviewed in conformance with Executive Order 12291, and has been determined to be not a "major rule." The Department has determined that this rule will have an annual effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have any significant adverse effects on competition, employment, investment, productivity, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. For this rulemaking action, the Office of Management and Budget has waived their review process required by Executive Order 12291.

Dr. E. C. Sharman, Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, has determined that the emergency nature of this final rule warrants publication without opportunity for public comment. This amendment relieves certain restrictions no longer deemed necessary to prevent the spread of exotic Newcastle disease, and must be made effective immediately to be of maximum benefit to affected persons.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Certification Under the Regulatory Flexibility Act

Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it removes the quarantine imposed due to exotic Newscastle disease concerning only one premises, and that premises is not owned by a small entity.

This amendment releases a portion of Los Angeles County in California from the areas quarantined because of exotic Newcastle disease. The restrictions pertaining to the interstate movement of poultry, mynah, and psittacine birds, and birds of all other species under any form of confinement, and their carcasses, and parts thereof, and certain other articles, from quarantined areas, as contained in 9 CFR Part 82, as amended, will no longer apply to the released area.

List of Subjects in 9 CFR Part 82

Animal diseases, Poultry and poultry products, Quarantine, Transportation, Exotic Newcastle Disease, Ornithosis, Psittacosis.

PART 82—EXOTIC NEWCASTLE DISEASE IN ALL BIRDS AND POULTRY; PSITTACOSIS AND ORNITHOSIS IN POULTRY

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respect:

§ 82.3 [Amended]

1. In § 82.3(c)(1), relating to the State of California, the following premises is removed: Fancy Feather Pet Shop, 9355 Telegraph Road, Pico Rivera, Los Angeles County.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111–113, 115, 117, 120, 123–126, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141).

Done at Washington, D.C., this 2nd day of July 1982.

G. J. Fichtner,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 82-18518 Filed 7-8-82; 10:53 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 81-NW-78-AD; Amdt. 39-4402]

Airworthiness Directives; Hughes Model 369 Helicopters With Chadwick, Inc., Model C-20 Fuel System Installed Per STC SH129WE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires installation of C-20-FM Flow Monitoring Kits on the Chadwick Auxiliary Fuel System installed on Hughes 369 helicopters per STC SH129WE. This modification is required to provide early warning of auxiliary fuel transfer pump failure and the associated decrease in usable auxiliary fuel.

DATES: Effective July 30, 1982. Compliance schedule as prescribed in the body of the AD unless already accomplished.

ADDRESSES: The applicable service information may be obtained from Chadwick, Inc., 11969 SW. Herman Road, Sherwood, Oregon 97140. This information also may be examined at the FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108, or in the Rules Docket in Room 916, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Paul F. Hawkins, Aerospace Engineer, Propulsion Branch, ANM-140S, FAA Northwest Mountain Region, Seattle Area Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2520.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to adopt an Airworthiness Directive which requires installation of an auxiliary fuel flow warning light was published in the Federal Register on November 27, 1981 (46 FR 57910).

The Chadwick Model C-20 Auxiliary Fuel System consists of two skid mounted tanks, a fuel pump in each tank, and a cross-feed line between tanks to allow operation with only one pump. In preparation for an extended overwater flight, one operator discovered that the loss of a single auxiliary boost pump decreased the usable auxiliary fuel by 12 to 18 gallons. These results were confirmed by tests at the manufacturer's facility and identified the cross-feed system as limiting. The Auxiliary Fuel System provides no warning of an auxiliary fuel pump failure and the associated decrease in usable auxiliary fuel.

To alleviate this unsafe condition, the C-20-FM Flow Monitoring Kit was developed. This kit installs a pressure switch on the output side of each auxiliary fuel pump which will activate warning lights when either pump stops pumping. Thus, the lights provide the pilot with an early warning of a pump failure and the associated decrease in usable auxiliary fuel.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received in response to the notice of proposed rulemaking (NPRM).

After careful review of all available data, the FAA has determined that air safety and the public interest require that the rule be adopted as proposed.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, and Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Hughes: Applies to the Hughes Model 369 Helicopters with Chadwick C-20 Auxiliary Fuel System installed per Supplemental Type Certification SH129WE. Compliance is required as indicated, to provide early warning of auxiliary fuel transfer pump malfunction and the associated decrease in usable auxiliary fuel. Accomplish the following, unless already accomplished:

1. Within 30 days after the effective date of this AD, install a placard, in accordance with Chadwick Service Bulletin 20-81-01 dated October 6, 1981, or FAA approved equivalent limiting usable auxiliary fuel to half the amount in the auxiliary tanks at takeoff.

2. Within 300 hours' time-in-service or 6 months from the effective date of this AD, whichever occure first, install the C-20-FM Flow Monitoring Kit in accordance with Chadwick Service Bulletin 20-81-01 dated October 6, 1981, or FAA approved equivalent. The placard installed per Item 1 above may be removed, provided the revised Flight Manual Supplement, Chadwick Auxiliary Fuel System C-20, dated October 21, 1981, is incorporated into the Rotorcraft Flight Manual.

3. Alternate modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region.

4. Special flight permits may be issued in accordance with Federal Aviation Regulation Part 21, Sections 21.197 and 21.199, to operate each helicopter to a base for the accomplishment of the modification required by this AD.

This amendment becomes effective July 30, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is further certified, that this rule will not have a significant economic effect on a substantial number of small entities under the criteria of the Regulatory Flexibility Act since it involves few, if any, such entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT".

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the various courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Fort Worth, Tex., on June 11, 1982.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 82-18428 Filed 7-7-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ASO-31]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Control Zone, Hollywood, Fla.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment corrects a deficiency in the description of the Hollywood, Florida, Control Zone. This is an editorial correction and no change in airspace is intended.

DATES: Effective date: 0901 G.m.t., September 2, 1982. Comments must be received on or before August 2, 1982.

ADDRESSES: Send comments on the rule in triplicate to: Federal Aviation Administration, Chief, Airspace and Procedures Branch, ASO-530, Air

Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763–7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763–7646.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves editorial change to correct a deficiency in the description of the Hollywood, Florida, Control Zone and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the description of the Hollywood, Florida, Control Zone to correct an error. The present description of the Control Zone excludes a portion of the "* * * Miami, Fla., control zone * * *". This exclusion is misleading as there are four control zones listed under Miami, Florida, and the description is not specific as to which Miami control zone is being excluded. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3 dated January 29, 1982. Under the circumstances presented, the FAA concludes that there is a need for a regulation to redescribe the Hollywood, Florida, Control Zone. Therefore, I find that notice or public procedure under 5 U.S.C. 553(b) is impracticable and that good cause exists for making this amendment effective in less than 45 days after its publication in the **Federal Register.**

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Control zone.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, §71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 G.m.t., September 2, 1982, as follows:

Hollywood, FL [Revised]

By deleting the words "* * * Miami, Fla., * * *" and substituting for them the words "* * * Miami, FL (Opa Locka Airport) * * *"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Ga., on June 25, 1982.

Thomas H. Protiva,

Acting Director, Southern Region.

[FR Doc. 82–18426 Filed 7–7–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 82-AGL-6]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to designate controlled airspace near Greensburg, Indiana, to accommodate a new instrument approach into Greensburg Airport, Greensburg, Indiana, established on the basis of a request from the Greensburg Airport officials to provide that facility with instrument approach capability based on the Shelbyville, Indiana VORTAC.

The intended effect of this action is to insure segregation of the aircraft using approach procedures in instrument weather conditions from other aircraft operating under visual weather conditions.

EFFECTIVE DATE: September 2, 1982.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL–530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694–7360.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace in this area will be lowered from 1,200′ above ground to 700′ above ground. The development of the proposed instrument procedures requires that the FAA lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700 foot controlled airspace.

Aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

History

On page 19553 of the **Federal Register** dated May 6, 1982, the FAA proposed to amend § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) so as to establish a 700 foot controlled airspace transition area near Greensburg, Indiana. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was published in Advisory Circular AC 70–3 dated January 29, 1982.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Section 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT, September 2, 1982, as follows:

Greensburg, Indiana

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Greensburg Airport (latitude 39°19'35" N., longitude 85°31'21" W.), and within 2.5 miles each side of the Shelbyville, Indiana, VORTAC 142 radial extending from the 5-mile radius to 7.5 miles northwest of the Greensburg Airport.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)) and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It is certified that this—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Ill., on June 23, 1982.

Paul K. Bohr,

Director, Great Lakes Region.

[FR Doc. 82-18422 Filed 7-7-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ASO-18]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Control Zone and Transition Area, Asheville, N.C.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Asheville, North Carolina, Control Zone and Transition Area. In order to satisfy operational needs, changes have been made in instrument flight procedures at Asheville Regional Airport. In addition, a new ILS instrument approach procedure has been established to serve the airport. It is necessary to alter the Control Zone and Transition Area to provide required controlled airspace for containment of Instrument Flight Rule (IFR) aircraft operations.

EFFECTIVE DATE: 0901 G.m.t., September 2, 1982.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

History

On Monday May 17, 1982, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by altering the description of the Asheville, North Carolina, Control Zone and Transition Area as follows: (1) Increase the width and lengths of the control zone extensions to provide controlled airspace for IFR aircraft operating at an altitude of less than 1000 feet above the surface, (2) increase the size of the transition area to provide controlled airspace for IFR aircraft executing procedure turn maneuvers associated with various instrument approach procedures when such aircraft are operating at less than 1500 feet above the surface and (3) provide additional controlled airspace for aircraft flying diverse radar vectors while operating at low altitudes within the Asheville Terminal Radar Service Area (TRSA) (47 FR 21079). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Subsequent to publication of the Notice of Proposal Rulemaking, it was determined that inclusion of the Hendersonville-Kilpatrick Airport in the Asheville Control Zone was not necessary. Therefore, the description of the control zone is revised in this Final Rule to exclude that airspace within a one-mile radius of the Hendersonville-Kilpatrick Airport. All other comments received in response to publication were favorable. Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations were republished in Advisory Circular AC 70-3 dated January 29, 1982.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the Asheville, North Carolina, Control Zone and Transition Area by providing additional controlled airspace for containment of Instrument Flight Rule (IFR) operations in the vicinity of the Asheville Regional Airport.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Control zone, Transition area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.171 and § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) are further amended, effective 0901 G.m.t., September 2, 1982, by deleting the present descriptions of the Asheville, North Carolina, Control Zone and Transition Area and substituting the following therefor:

Asheville, North Carolina, Control Zone [Revised]

Within a 5-mile radius of Asheville Regional Airport (Lat. 35°26'04" N., Long. 82°32'25" W.); within 3 miles each side of Runway 16/34 extended centerlines, extending from the runway thresholds to 11.5 miles north and south of the airport; excluding that portion within a one-mile radius of Hendersonville-Kilpatrick Airport (Lat. 35°18'27" N., Long. 82°26'00" W.).

Asheville, North Carolina, Transition Area [Revised]

That airspace extending upward from 700 feet above the surface within a 20-mile radius of Asheville Regional Airport (Lat. 35°26'04" N., Long. 82°32'25" W.); within 7 miles west and 9.5 miles east of the 340° bearing from Keans LOM and the 160° bearing from Broad River RBN, extending from the 20-mile radius area to 18.5 miles north of the LOM and south of the RBN; excluding that portion that coincides with the Cullowhee, North Carolina, Transition Area.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Ga., on June 24, 1982.

Thomas H. Protiva,

Acting Director, Southern Region.

[FR Doc. 82-18424 Filed 7-7-82; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230 and 240

[Release Nos. 33-6414, 34-18853]

Changes to Rules Containing Dollar Exemptive Limits; Repeal of Certain Rules

AGENCY: Securities and Exchange Commission.

ACTION: Adoption of amendments to rules; rescission of certain rules.

SUMMARY: The Commission is adopting amendments to certain exemptive rules under the Securities Act of 1933 and the Securities Exchange Act of 1934 that would increase the dollar limits on exemptions from statutory provisions to reflect the effects of inflation. The Commission also is rescinding certain rules that have become obsolete because of Congressional or judicial action or the passage of time. The amendments and rescissions are part of an ongoing effort to update regulations and to eliminate obsolete or outmoded requirements wherever possible, consistent with investor protection.

EFFECTIVE DATE: August 9, 1982. Persons wishing to rely on the amendments may, however, do so immediately upon such publication.

FOR FURTHER INFORMATION CONTACT: Ann M. Glickman at (202) 272–2573, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: On April 1, 1982, the Commission published for public comment proposals to amend or to rescind certain exemptive rules under the Securities Act of 1933 (15 U.S.C. 77) (the "Securities Act") and the Securities Exchange Act of 1934 (15 U.S.C. 78) (the "Exchange Act") which either contain dollar limitations or provide temporary exemptions (Release No. 33–6393 (47 FR 16043) ("April Release")). Specifically, the Commission proposed to increase the dollar limits in paragraphs (a)(2) and (b) of Rule 16a–9 (17 CFR 240.16a–9) from $3,000 to $10,000; in Rule 236 (17 CFR 230.236) from $100,000 to $300,000; and in Rule 237 (17 CFR 230.237) from $50,000 to $100,000 to reflect the effect of inflation since the adoption of such rules. The Commission also proposed to rescind five rules because they are either obsolete or outdated. Rule 234 (17 CFR 230.234) and Rule 235 (17 CFR 230.235) have been superseded by Congressional and judicial action, respectively, as discussed in the April Release. Rules 12a–1 (17 CFR 240.12a–1), 12a–2 (17 CFR 240.12a–2) and 12a–3 (17 CFR 240.12a–3), which provide temporary exemptions from the provisions of the Exchange Act, have become outdated through the passage of time. In addition, the Commission, while proposing to retain Regulation F under the Securities Act (17 CFR 230.651 through 656), requested specific comment concerning the continued usefulness of the regulation and the need for any changes thereto.

The Commission received two comment letters, both supporting its proposals. There was no public comment concerning Regulation F. Under the circumstances, the Commission has determined to implement, without any changes, the proposals to amend certain rules and to rescind others as described in the proposing release and to retain Regulation F without change.

List of Subjects in 17 CFR Parts 230 and 240

Reporting requirements, Securities.

Text of Amendments

The Commission hereby amends 17 CFR Chapter II as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

§ 230.234 [Removed]

1. Section 230.234 is removed.

§ 230.235 [Removed]

2. Section 230.235 is removed.

3. Section 230.236 is amended by revising paragraph (b) to read as follows:

§ 230.236 Exemption of shares offered in connection with certain transactions.

* * * * *

(b) The aggregate gross proceeds from the sale of all shares offered in connection with the transaction for the purpose of providing such funds does not exceed $300,000.

4. Section 230.237 is amended by revising paragraph (b) to read as follows:

§ 230.237 Exemption of certain securities owned for five years.

* * * * *.

(b) *Amount of securities exempted.* The gross proceeds from all securities of the issuer, its predecessors, and all of its affiliates, sold under this section by any person during any period of one year shall not exceed the lesser of the gross proceeds from the sale of one percent of the securities of the class outstanding or $100,000 in aggregate gross proceeds. Such amounts shall be reduced by the amount of the gross proceeds from any securities sold during such year pursuant to any other exemption under section 3(b) of the Act and the amount of gross proceeds from securities of the same class sold in reliance upon § 230.144 of this chapter.

* * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

§ 240.12a–1 [Removed]

5. Section 240.12a–1 is removed.

§ 240.12a–2 [Removed]

6. Section 240.12a–2 is removed.

§ 240.12a–3 [Removed]

7. Section 240.12a–3 is removed.

8. Section 240.16a–9 is amended by revising paragraphs (a)(2) and (b) to read as follows:

§ 240.16a–9 Exemption for small transactions.

(a) * * *

(1) * * *

(2) The person effecting such acquisition does not participate in acquisitions or dispositions of securities of the same class having a total market value in excess of $10,000 for any six months period during which the acquisition occurs.

(b) Any acquisition or disposition of securities by way of gift, where the total amount of such gifts does not exceed $10,000 in market value for any six months period, shall be exempt from Section 16(a) and may be excluded from the computations prescribed in paragraph (a)(2) of this section.

(Secs. 3(b), 4(l), 19(a), 48 Stat. 75, 77, 85; secs. 209, 48 Stat. 908; 59 Stat. 167; sec. 12, 78 Stat. 580; 84 Stat. 1480; Sec. 308(a)(2), 90 Stat. 57; sec. 18, 92 Stat. 275; sec. 2, 92 Stat. 962; sec. 301, 94 Stat. 2291, 2294; secs. 12(a), 12(h), 12(i), 16(a), 23(a), 48 Stat. 892, 896, 901; sec. 203a, 49 Stat. 704; sec. 8, 49 Stat. 1379, secs. 3, 8, 78 Stat. 565–568, 579; sec. 1, 82 Stat. 454; sec. 105(b), 88 Stat. 1503; sec. 18, 89 Stat. 155; 15 U.S.C. 77c(b), 77d(l), 77s(a), 78*l*(a), 78*l*(h), 78*l*(i), 78p(a), 78w(a))

By the Commission.

George A. Fitzsimmons,

Secretary.

June 29, 1982.

[FR Doc. 82–18699 Filed 7–7–82; 8:45 am]

BILLING CODE 8010–01–M

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17 CFR Parts 275 and 279

[Release No. IA–905]

Amendments to Investment Adviser Requirements Concerning Disclosure, Application for Registration and Annual Report

Correction

In FR Doc. 82–14183, appearing at page 22505 in the issue of Tuesday, May 25, 1982, the following changes should be made:

1. On page 22507, column one, the fourth line of § 275.204–1(b)(2) should

read, "question 13), of any application for".

2. On page 22507, column two, the next to last paragraph should be reduced in type-size to conform with the fourth from last paragraph in the column.

3. On page 22507, column three, the sixth line of the second paragraph should read, ", terminated (either voluntarily or".

4. On page 22508, column one, the thirteenth line should read, "shown parenthetically. The" and the fourteenth line should be removed.

BILLING CODE 6010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 772

[FHWA Docket No. 78-33, Notice 3]

Procedures for Abatement of Highway Traffic Noise and Construction Noise

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: This notice revises the existing noise abatement regulation. The revision is intended to simplify noise abatement procedures and eliminate unnecessary requirements.

EFFECTIVE DATE: August 9, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Roy Turner, Noise and Air Analysis Division, Office of Environmental Policy (202-426-4836), or Mr. Thomas Holian, Office of the Chief Counsel (202-426-0761), Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The FHWA has reviewed its current procedures for the abatement of highway traffic noise and construction noise, published on April 23, 1976 (41 FR 16936), and appearing as Part 772 of Title 23 of the Code of Federal Regulations and Volume 7, Chapter 7, Section 3, of the Federal-Aid Highway Program Manual (FHPM 7-7-3). Based on this review, it was determined that these procedures should be simplified in order to achieve the Administration's stated goals of reducing unnecessary burdens upon the States and the public and reducing redtape whenever possible.

Consequently, on December 6, 1978, the FHWA published an advance notice of proposed rulemaking (ANTPRM) (43 FR 57161) raising nine issues concerning these procedures for consideration by affected persons and the general public and soliciting their comments. Those nine issues were discussed in the FHWA's December 7, 1981, notice of proposed rulemaking (NPRM) (46 FR 59550). That NPRM also proposed revisions to the existing 23 CFR 772 based on responses to the ANPRM.

The NPRM requested comments on the proposed revision and to three additional issues raised by the Environmental Protection Agency (EPA) and other commentors. These three issues are restated below followed by a summary and discussion of the responses. Also discussed below are several miscellaneous comments and discussions of the final regulation. Most commentors replied that the proposed revised regulation would simplify the procedures and eliminate unnecessary requirements while retaining adequate noise standards. In accordance with the Noise Control Act of 1972, coordination of this regulation with EPA has been completed.

Discussion of Comments

Forty-three comments were received in response to the NPRM, 30 of which were from State highway agencies. The remaining thirteen commentors included five local governments, four private consulting firms, three State environmental agencies, and the National League of Cities.

The first issue raised in the NPRM was the use of dual descriptors, L_{10} and Leq in the regulation. Both terms are defined in § 772.5 of the regulation. The Leq descriptor was added to Part 772 in 1976 for several reasons. The Leq descriptor is more statistically reliable than L_{10} for low-volume roadways, is simpler in most instances for highway designers to work with, and is more flexible in terms of permitting noise levels from different sources to be combined in the analysis of noise impact. However, it has been suggested that Leq is difficult for the public to understand. Since its addition to Part 772, most highway agencies have adopted the Leq descriptor as their sole descriptor of highway noise. Pursuant to a suggestion by EPA and several State highway agencies, the FHWA solicited comments on whether the L_{10} descriptor should be deleted from this regulation. Nineteen commentors recommended deleting L_{10} as a noise descriptor, and 16 recommended keeping L_{10}. Because large numbers of States are using each descriptor (L_{10} or Leq), both descriptors are retained in the regulation.

The second issue concerned the suggestion that the procedures for coordination with local officials be changed by adding the following sentence:

> The FHWA encourages highway agencies to obtain an agreement from the local officials to control future development next to highways so that noise impacts are minimized.

Twenty-five commentors were against this addition and nine supported it. Although most commentors favored the intent of the agreement, the commentors felt that an agreement between the State and local governments would be impossible to implement or enforce. An unenforceable agreement would serve no useful purpose. Some States expressed concern over the legality of State control over local land use. Most believe that development near highways should be controlled by the local governments because many other factors besides noise enter into the land use and development process. Because of these concerns, this sentence has not been added to the regulation.

The third issue concerned proposed projects for noise abatement on existing highways (Type II projects) which are eligible for Federal-aid funding under 23 U.S.C. 109(i). It has been suggested that each State highway agency requesting funds for Type II projects be required to prepare a plan that would identify highway noise impact areas and assign priorities for action. Further, it has been suggested that review and approval of such plans by the FHWA be required as a condition of funding and that progress in implementing the plans be published yearly.

Twenty-three of 28 commentors recommended that there be no requirement for a Type II plan or an FHWA approval of the plan. The primary reason that commentors did not want the Type II plan was because Type II projects are optional and adding further requirements may discourage State highway agencies from initiating such projects. Commentors preferred the approval of Type II projects on a case-by-case basis. Commentors also identified this requirement as contradictory to the goal of reduced "redtape" and greater flexibility. Therefore, the regulation does not contain this suggested requirement.

Other Comments

A major comment from several States was that there is a need for noise assessment procedure guidelines. It is FHWA's decision that guidance is currently available in the American Association of State Highway and Transportation Officials' publication, "Guide on Evaluation and Attenuation

of Traffic Noise." This is preferable to a CFR appendix. The FHWA also publishes, from time to time, technical information, i.e., noise analysis model information.

Some State highway agencies wanted an exemption from noise analysis for low-volume roads. Nothing in the regulation prevents this. States should develop policies which will provide simplified procedures based on the magnitude and complexity of the highway project.

Several States commented that forcing a noise abatement decision at the EIS stage will create problems because of highway design details that may be needed to make this decision. A final noise mitigation decision is not required at the EIS stage; only a responsible indication of those measures that are likely to be incorporated in the project is required. The final decision is made by the Division Administrator when the plans and specifications are approved for a highway project.

Several States submitted numerous comments on all aspects of the regulation. A majority of these comments had been previously considered and discussed in the NPRM (46 FR 59550, December 7, 1981). Therefore, these comments will not be readdressed here.

Discussion of Regulation

The FHWA is making several technical changes to the proposed rule published in the **Federal Register** on December 7, 1981. Two of the technical changes being made to the rule, as proposed, are intended to conform this regulation to the requirement of the Federal-Aid Highway Act of 1981. This Act prohibits the use of Federal-aid Interstate construction funds on Type II noise abatement and landscaping projects (see § 772.13). Further, § 772.13(c)(5) is amended to make clear that the acquisition of real property to serve as a buffer zone is reimbursable for Type I projects only. This does not represent a change in policy, nor was any change intended by the omission of this language in the NPRM. Similarly, clarifying language on undeveloped lands has been added to § 772.15. Section 772.17(a)(2) has been amended to indicate where the technical publications discussed in the regulation are available. Finally, a nonregulatory appendix has been added here for ease of reference. The regulation eliminates 65 percent of the previous mandates. The deleted requirements are: 17 factors to be considered by States for prioritizing noise abatement projects on existing highways; a formal documentation and approval in those instances where noise abatement is not warranted; a five-part noise study report; and, prescriptive details for conducting analysis of noise impact and abatement measures. The FHWA will continue, however, to provide assistance to State highway agencies in these topic areas through technical advisories.

The FHWA had determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under the Department of Transportation's regulatory procedures. It is anticipated that the revised regulation will reduce the administrative burden on State highway agencies; however, because of variances in State programs, FHWA is unable to quantify these reductions at this time. In accordance with the above, it has been determined that a full regulatory evaluation is not required. For the same reason, and because the impacts of these amendments will accrue to State highway agencies, under the criteria of the Regulatory Flexibility Act, it is certified that this action will not have a significant economic impact on a substantial number of small entities.

(Catalog of Federal Domestic Assistance Program Numbers 20.205, Highway Research, Planning, and Construction; 20.509, Public Transportation for Nonurbanized Areas; 23.003, Appalachian Development Highway System; 23.008, Appalachian Local Access Roads. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

List of Subjects in 23 CFR Part 772

Grant Programs—transportation, Highways and roads, Noise control.

Issued on: July 2, 1982.

R. A. Barnhart,

Federal Highway Administrator.

In consideration of the foregoing, Chapter I of title 23, Code of Federal Regulations, is amended by revising Part 772 to read as follows:

PART 772—PROCEDURES FOR ABATEMENT OF HIGHWAY TRAFFIC NOISE AND CONSTRUCTION NOISE

Sec.

772.1 Purpose.
772.3 Noise standards.
772.5 Definitions.
772.7 Applicability.
772.9 Analysis of traffic noise impacts and abatement measures.
772.11 Noise abatement.
772.13 Federal participation.
772.15 Information for local officials.
772.17 Traffic noise prediction.
772.19 Construction noise.
Table 1—Noise abatement criteria.
Appendix A—National Reference Energy Mean Emission Levels as a Function of Speed

Authority: 23 U.S.C. 109(h), 109(i); 42 U.S.C. 4331, 4332; 49 CFR 1.48(b).

§ 772.1 Purpose.

To provide procedures for noise studies and noise abatement measures to help protect the public health and welfare, to supply noise abatement criteria, and to establish requirements for information to be given to local officials for use in the planning and design of highways approved pursuant to title 23, United States Code (U.S.C.).

§ 772.3 Noise standards.

The highway traffic noise prediction requirements, noise analyses, noise abatement criteria, and requirements for informing local officials in this regulation constitute the noise standards mandated by 23 U.S.C. 109(i). All highway projects which are developed in conformance with this regulation shall be deemed to be in conformance with the Federal Highway Administration (FHWA) noise standards.

§ 772.5 Definitions.

(a) *Design year*—the future year used to estimate the probable traffic volume for which a highway is designed. A time, 10 to 20 years, from the start of construction is usually used.

(b) *Existing noise levels*—the noise, resulting from the natural and mechanical sources and human activity, considered to be usually present in a particular area.

(c) L_{10}—the sound level that is exceeded 10 percent of the time (the 90th percentile) for the period under consideration.

(d) $L_{10}(h)$—the hourly value of L_{10}.

(e) *Leq*—the equivalent steady-state sound level which in a stated period of time contains the same acoustic energy as the time-varying sound level during the same time period.

(f) *Leq*(h)—the hourly value of Leq.

(g) *Traffic noise impacts*—impacts which occur when the predicted traffic noise levels approach or exceed the noise abatement criteria (Table 1), or when the predicted traffic noise levels substantially exceed the existing noise levels.

(h) *Type I projects*—a proposed Federal or Federal-aid highway project for the construction of a highway on new location or the physical alteration of an existing highway which significantly changes either the horizonal or vertical alignment or increases the number of through-traffic lanes.

(i) *Type II projects*—a proposed Federal or Federal-aid highway project for noise abatement on an existing highway.

§ 772.7 Applicability.

(a) *Type I projects.* This regulation applies to all Type I projects unless it is specifically indicated that a section applies only to Type II projects.

(b) *Type II projects.* The development and implementation of Type II projects are not mandatory requirements of 23 U.S.C. 109(i) and are, therefore, not required by this regulation. When Type II projects are proposed for Federal-aid highway participation at the option of the highway agency, the provisions of §§ 772.9(c), 772.13, and 772.19 of this regulation shall apply.

§ 772.9 Analysis of traffic noise impacts and abatement measures.

(a) The highway agency shall determine and analyze expected traffic noise impacts and alternative noise abatement measures to mitigate these impacts, giving weight to the benefits and cost of abatement, and to the overall social, economic and environmental effects.

(b) The traffic noise analysis shall include the following for each alternative under detailed study:

(1) Identification of existing activities, developed lands, and undeveloped lands for which development is planned, designed and programmed, which may be affected by noise from the highway;

(2) Prediction of traffic noise levels;

(3) Determination of existing noise levels;

(4) Determination of traffic noise impacts; and

(5) Examination and evaluation of alternative noise abatement measures for reducing or eliminating the noise impacts.

(c) Highway agencies proposing to use Federal-aid highway funds for Type II projects shall perform a noise analysis of sufficient scope to provide information needed to make the determination required by § 772.13(a) of this chapter.

§ 772.11 Noise abatement.

(a) In determining and abating traffic noise impacts, primary consideration is to be given to exterior areas. Abatement will usually be necessary only where frequent human use occurs and a lowered noise level would be of benefit.

(b) In those situations where there are no exterior activities to be affected by the traffic noise, or where the exterior activities are far from or physically shielded from the roadway in a manner that prevents an impact on exterior activities, the interior criterion shall be used as the basis of determining noise impacts.

(c) If a noise impact is identified, the abatement measures listed in § 772.13(c) of this chapter must be considered.

(d) When noise abatement measures are being considered, every reasonable effort shall be made to obtain substantial noise reductions.

(e) Before adoption of a final environmental impact statement or finding of no significant impact, the highway agency shall identify:

(1) noise abatement measures which are reasonable and feasible and which are likely to be incorporated in the project, and

(2) noise impacts for which no apparent solution is available.

(f) The views of the impacted residents will be a major consideration in reaching a decision on the reasonableness of abatement measures to be provided.

(g) The plans and specifications will not be approved by FHWA unless those noise abatement measures which are reasonable and feasible are incorporated into the plans and specifications to reduce or eliminate the noise impact on existing activities, developed lands, or undeveloped lands for which development is planned, designed, and programmed.

§ 772.13 Federal participation.

(a) Federal funds may be used for noise abatement measures where:

(1) A traffic noise impact has been identified,

(2) The noise abatement measures will reduce the traffic noise impact, and

(3) The overall noise abatement benefits are determined to outweigh the overall adverse social, economic, and environmental effects and the costs of the noise abatement measures.

(b) For Type II projects, noise abatement measures will not normally be approved for those activities and land uses which come into existence after May 14, 1976. However, noise abatement measures may be approved for activities and land uses which come into existence after May 14, 1976, provided local authorities have taken measures to exercise land use control over the remaining undeveloped lands adjacent to highways in the local jurisdiction to prevent further development of incompatible activities.

(c) The noise abatement measures listed below may be incorporated in Type I and Type II projects to reduce traffic noise impacts. The costs of such measures may be included in Federal-aid participating project costs with the Federal share being the same as that for the system on which the project is located, except that Interstate construction funds may only participate in Type I projects.

(1) Traffic management measures (e.g., traffic control devices and signing for prohibition of certain vehicle types, time-use restrictions for certain vehicle types, modified speed limits, and exclusive land designations).

(2) Alteration of horizontal and vertical alignments.

(3) Acquisition of property rights (either in fee or lesser interest) for construction of noise barriers.

(4) Construction of noise barriers (including landscaping for esthetic purposes) whether within or outside the highway right-of-way. Interstate construction funds may not participate in landscaping.

(5) Acquisition of real property or interests therein (predominantly unimproved property) to serve as a buffer zone to preempt development which would be adversely impacted by traffic noise. This measure may be included in Type I projects only.

(6) Noise insulation of public use or nonprofit institutional structures.

(d) There may be situations where (1) severe traffic noise impacts exist or are expected, and (2) the abatement measures listed above are physically infeasible or economically unreasonable. In these instances, noise abatement measures other than those listed in § 772.13(c) of this chapter may be proposed for Types I and II projects by the highway agency and approved by the Regional Federal Highway Administrator on a case-by-case basis when the conditions of § 772.13(a) of this chapter have been met.

§ 772.15 Information for local officials.

In an effort to prevent future traffic noise impacts on currently undeveloped lands, highway agencies shall inform local officials within whose jurisdiction the highway project is located of the following:

(a) The best estimation of future noise levels (for various distances from the highway improvement) for both developed and undeveloped lands or properties in the immediate vicinity of the project,

(b) Information that may be useful to local communities to protect future land development from becoming incompatible with anticipated highway noise levels, and

(c) Eligibility for Federal-aid participation for Type II projects as described in § 772.13(b) of this chapter.

§ 772.17 Traffic noise prediction.

(a) Any traffic noise prediction method is approved for use in any noise analysis required by this regulation if it generally meets the following two conditions:

(1) The methodology is consistent with the methodology in the FHWA Highway Traffic Noise Prediction Model (Report No. FHWA–RD–77–108).*

(2) The prediction method uses noise emission levels obtained from one of the following:

(i) National Reference Energy Mean Emission Levels as a Function of Speed (Appendix A).

(ii) Determination of reference energy mean emission levels in Sound Procedures for Measuring Highway Noise: Final Report, DP–45–1R.*

(b) In predicting noise levels and assessing noise impacts, traffic characteristics which will yield the worst hourly traffic noise impact on a regular basis for the design year shall be used.

§ 772.19 Construction noise.

The following general steps are to be performed for all Types I and II projects:

(a) Identify land uses or activities which may be affected by noise from construction of the project. The identification is to be performed during the project development studies.

(b) Determine the measures which are needed in the plans and specifications to minimize or eliminate adverse construction noise impacts to the community. This determination shall include a weighing of the benefits achieved and the overall adverse social, economic and environmental effects and the costs of the abatement measures.

(c) Incorporate the needed abatement measures in the plans and specifications.

* These documents are available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D.

TABLE 1.—Noise Abatement Criteria

[Hourly A-Weighted Sound Level—decibels (dBA)[1]]

Activity Category	Leq(h)	L_{10}(h)	Description of activity category
A	57 (Exterior)	60 (Exterior)	Lands on which serenity and quiet are of extraordinary significance and serve an important public need and where the preservation of those qualities is essential if the area is to continue to serve its intended purpose.
B	67 (Exterior)	70 (Exterior)	Picnic areas, recreation areas, playgrounds, active sports areas, parks, residences, motels, hotels, schools, churches, libraries, and hospitals.
C	72 (Exterior)	75 (Exterior)	Developed lands, properties, or activities not included in Categories A or B above.
D			Undeveloped lands.
E	52 (Interior)	55 (Interior)	Residences, motels, hotels, public meeting rooms, schools, churches, libraries, hospitals, and auditoriums.

[1] Either L_{10}(h) or Leq(h) (but not both) may be used on a project.

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(L₀)E, REFERENCE ENERGY MEAN EMISSION LEVELS (dBA)

[FR Do
BILLIN

Appendix: A

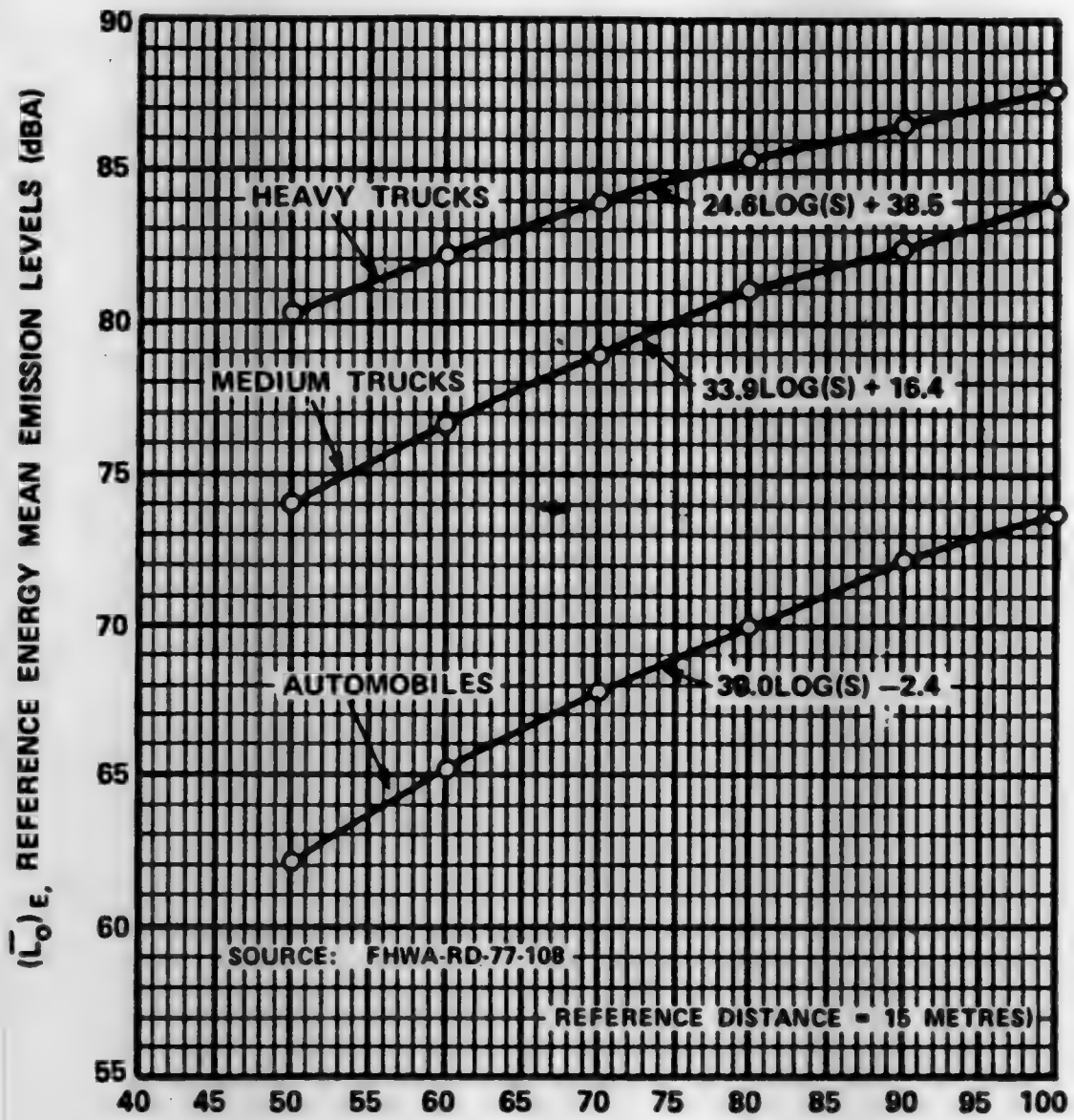

LEGEND:

1. AUTOMOBILES: ALL VEHICLES WITH TWO AXLES AND FOUR WHEELS.
2. MEDIUM TRUCKS: ALL VEHICLES WITH TWO AXLES AND SIX WHEELS.
3. HEAVY TRUCKS: ALL VEHICLES WITH THREE OR MORE AXLES.

National Reference Energy Mean Emission Levels as a Function of Speed

[FR Doc. 82-18495 Filed 7-7-82; 8:45 am]
BILLING CODE 4910-22-C

Coast Guard

33 CFR Part 110

[CGD05-81-15R]

Annapolis Harbor, Annapolis, Md; Anchorage Regulations

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Upon petition of the Office of the Mayor, City of Annapolis, Maryland, the Coast Guard has clarified the anchorage regulations by notifying the public that the City of Annapolis will enforce local anchorage ordinances in the following anchorage grounds located within Annapolis Harbor:

a. Middle Ground Anchorage
b. South Anchorage
c. Anchorage "A"
d. Anchorage "B"

This change will enhance navigation safety by providing for an active enforcement agency to oversee the operation of these anchorage grounds and makes several editorial changes to anchorage ground boundaries.

EFFECTIVE DATE: This amendment becomes effective on August 9, 1982.

FOR FURTHER INFORMATION CONTACT: Captain E. E. Moran, Chief, Port Safety Branch, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23705, (804) 398-6389.

SUPPLEMENTARY INFORMATION: This rule is issued without publication of a Notice of Proposed Rulemaking. This rule involves no major rulemaking change which would require public comment. It serves to (1) notify the general public that there are local ordinances promulgated by the city of Annapolis that might have an effect on the boating public and (2) make minor editorial changes to clarify anchorage ground boundaries and enforcement authorities.

Drafting Information

The principal persons involved in drafting this notice are Lieutenant Junior Grade M. S. Kushla, Project Manager, Port Safety Branch, Fifth Coast Guard District, and Lieutenant D. M. Wrye of the office of the District Legal Officer, Fifth Coast Guard District.

Discussion of the Regulation

The anchorage grounds affected by this rule lie in Annapolis Harbor, Annapolis, Maryland along the western bank of the Severn River (Middle Ground Anchorage and South Anchorage) and the northern bank of Spa Creek (Anchorage "A" and Anchorage "B"). There has been a marked increase in boating activity in this area resulting in overcrowding in the anchorage grounds and a lowered degree of safety for vessels transiting these areas. The City of Annapolis, pursuant to authority granted by the State of Maryland, has promulgated ordinances and regulations to control the building of structures and mooring of vessels in all waterways within the city limits, including the above-listed anchorage grounds. In their attempt to enforce these local regulations, the City of Annapolis discovered that the anchorage regulations, as presently written, appeared to give enforcement authority over these anchorage grounds to the Superintendent, U.S. Naval Academy. The City of Annapolis and the Superintendent, U.S. Naval Academy questioned the validity of this interpretation. It was never intended that the Superintendent, U.S. Naval Academy, enforce all of the regulations in this section. The Superintendent is responsible for enforcing the regulations in paragraph (a)(1), (a)(4) and (b) of this section. All other anchorages in this section remain the responsibility of the U.S. Coast Guard. In the absence of any express provision to the contrary, establishment of an anchorage does not prevent the exercise of jurisdiction by State or local authorities. Thus, except where they may conflict with the regulations in this section, the City of Annapolis may enforce its local ordinance. To clarify which enforcement authorities are exercising jurisdiction over these anchorages, an editorial change is being made to paragraph (b)(6) and a "Note" is being inserted at the end of paragraph (a) to call attention to the existence of local ordinances. In addition, minor editorial changes are being made in paragraphs (a)(12), (a)(4), and (b)(5). An environmental assessment has been undertaken which determined that this amendment would result in no impact on the quality of the human environment. The economic impact of this rule on small businesses, non-profit organizations, and government entities is considered to be minimal, because the rule makes only minor editorial changes and serves to notify the boating public that the City of Annapolis will be enforcing local ordinances in these anchorage grounds. Thus, this regulation does not appear to be a matter on which there would be substantial public interest or controversy, nor does it involve impacts on competition, business, state or local government, or the regulations of other programs and agencies. This regulation has been reviewed under the provisions of Executive Order 12291 and has been determined not to be a major rule. In addition, this regulation is considered to be non-significant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of May 22, 1980). In accordance with Section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that this rule will not have a significant economic impact upon a substantial number of small entities.

List of Subject in 33 CFR Part 110

Anchorage grounds.

PART 110—ANCHORAGE REGULATIONS

In consideration of the foregoing, Part 110 of Title 33, Code of Federal Regulations, is amended as shown:

1. By revising § 110.159(a)(2) and § 110.159(a)(4) to read as follows:

§ 110.159 Annapolis Harbor, MD.

(a) * * *

(1) * * *

(2) Middle Ground Anchorage. Beginning at a point in the Severn River 139°, 620 yards from Triton Light (located at the intersection of the northeast and southeast seawall of the Naval Academy grounds); thence easterly to a point 112°30', 970 yards from Triton Light; thence southeasterly to a point 274°, 1,045 yards from the radio tower at the tip of Greenbury Point; thence south-southeasterly to a point 233°30', 925 yards from the radio tower at the tip of Greenbury Point; thence west to a point 295°, 1,015 yards from Greenbury Point Shoal Light: thence northwesterly to the point of beginning.

(3) * * *

(4) Naval Anchorage for Small Craft. In the Severn River, beginning at a point 80 feet off the southeast seawall of the Naval Academy bearing 132° from Triton Light; thence easterly to a point 072°30', 285 yards from Triton Light; thence southeasterly to a point 109°, 785 yards from Triton Light; thence westerly to a point 211°, 537 yards from Triton Light; thence northwesterly to a point 45 yards off the southeast seawall of the Naval Academy bearing 214°, 535 yards from Triton Light; thence northeasterly to the point of beginning. Except in the case of emergency, no vessel shall be anchored in this area without the permission of the Superintendent, U.S. Naval Academy. Anchorages will be assigned upon request to the Superintendent, U.S. Naval Academy.

* * * * *

2. By adding the following note immediately after § 110.159(a)(6) to read as follows:

Note.—The City Council of Annapolis has promulgated local ordinances to the control building of structures, and mooring and anchorage of vessels in anchorages (a)(2), (a)(3), (a)(5), and (a)(6). These local ordinances will be enforced by the local Harbor Master.

3. By revising § 110.159(b)(5) and § 110.159(b)(6) to read as follows:

* * * * *

(b)(5) The restrictions in this section do not apply to the anchoring or marking by buoys of apparatus used for the purpose of taking seafood, except within the cable or pipeline area described in paragraph (b)(3) of this subsection.

(6) The regulations in this paragraph (b) shall be enforced by the Superintendent, U.S. Naval Academy, and such agencies as he may designate.

(Sec. 7, 38 Stat. 1053, (33 U.S.C. 471); sec. 6(g)(1), 80 Stat. 940; (49 U.S.C. 1655(g)(1), 49 CFR 1.46(c) and 1.45(b)))

Dated: June 14, 1982.

John D. Costello,

Commander, Fifth Coast Guard District.

[FR Doc. 82-18498 Filed 7-7-82; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Parts 127, 128 and 165

[CGD 79-034]

Regulated Navigation Areas and Limited Access Areas

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment relocates the regulations governing security zones, regulated navigation areas, safety zones and limited access areas into a single location, PART 165. Parts that would have been redundant, such as definitions, have been combined, and parts that were verbose have been clarified. This amendment reorganizes without changing the substantive content. It is part of a continuing effort by the Coast Guard to reorganize and clarify its regulations.

EFFECTIVE DATE: This amendment becomes effective on June 30, 1982.

FOR FURTHER INFORMATION CONTACT: Lieutenant (junior grade) Michael J. Powers, Office of Marine Environment and Systems, Room 1100, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, DC 20593, (202) 755-1354. Normal working hours are 7 a.m. to 3:30 p.m. Monday through Friday.

SUPPLEMENTARY INFORMATION: No notice of proposed rulemaking is being published because this rule contains only editorial changes to current regulations and does not change the substantive content of these regulations. Publishing this simple reorganization as a notice of proposed rulemaking would increase costs, and delay implementation. Therefore, pursuant to 5 U.S.C. 553(b)(3)(B), public comment has been found to be impracticable and unnecessary.

Paperwork Reduction Act

Information collection requirements contained in this regulation (Part 165) have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB control numbers 2115—(0076—Safety Zones), (0129—Security Zones), and (0087—Regulated Navigation Areas).

Drafting Information

The principal persons involved in drafting this rule are Lieutenant (junior grade) Michael J. Powers, Project Manager, Office of Marine Environment and Systems, and Lieutenant Walter J. Brudzinski, Project Attorney, Office of the Chief Counsel.

Discussion

In a separate rulemaking proceeding, the Coast Guard is currently involved in revising waterfront facilities regulations to reflect new initiatives under the Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.) As a part of this revision project all existing regulations concerned with limited access areas, safety zones, regulated navigation areas and security zones are being placed in one part entitled Regulated Navigation Areas and Limited Access Areas. These regulations will be located in 33 CFR Part 165. Parts 127 and 128 of 33 CFR will be removed and reserved. These changes are editorial or procedural only and make no changes to the substantive content of the current regulations.

Subpart A contains regulations that are general to all areas such as definitions and the procedures for appeals. This Subpart also contains the application procedures for safety zones, security zones, and regulated navigation areas. Subparts B, C, and D contain the regulations concerning regulated navigation areas, safety zones and security zones respectively. There are no substantive changes to these regulations.

Subpart E refers to regulations concerning restricted waterfront areas. These regulations limit access to certain waterfront facilities. Because of their similarity to security zones, they are designated as Restricted Waterfront Areas. There are no other changes. In Subpart F of the new rules, the regulated areas currently in effect are listed by Coast Guard District.

The numbering system is structured to aid in location of the limited access areas within the Coast Guard Districts. The number following the decimal point is keyed so that the first numbers correspond to the Coast Guard District in which the area is located The areas within each district are sequentially numbered, as indicated by the last numbers.

For example: 165.101—165 is the regulation part, the first digit (or two digits) after the decimal, 1, refers to the First Coast Guard District and the 01 refers to the first limited access area established in that district.

Several other nonsubstantive changes have been made for clarity and ease of reading. For example, paragraph (b) of former § 127.701 which covers a security zone in the vicinity of Kennedy Space Center, has been rewritten to clarify that the zone is in effect only when space vehicles are being launched. These regulations are now located at § 165.701.

The authority to issue these regulations is delegated to the Commandant under two pieces of legislation. Safety zones and regulated navigation areas are established under the Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.). Security zones and restricted waterfront areas are established under the Magnuson Act (50 U.S.C. 191). To facilitate reference to these sources the citations for the various subparts have been listed in the Table of Contents.

The following tables list the old section and new section numbers:

DERIVATION TABLE

New section No.	Old section No.
165.1	127.10, 128.01, 165.01, 127.01.
165.2	127.05(a), 128.05 (a) and (c), 165.05.
165.3	165.10.
165.5	127.20, 128.10, 165.15.
165.7	165.15.
165.10	128.05(b).
165.13	128.07.
165.20	165.05.
165.23	165.20.
165.25	165.25.
165.30(a)	127.05(b).
165.30(b)	127.01.
165.33	127.15.
165.40	125.15(a).
165.101	128.101.
165.301	127.301.
165.302	127.305.
165.303	128.301.
165.304	128.303 46 FR 56161.
165.305	165.319 46 FR 20561.
165.501	126.501.
165.502	165.510.
165.701	127.701.
165.802	165.800.
165.803	128.801.

DERIVATION TABLE—Continued

New section No.	Old section No.
165.804	165.760.
165.901	126.901.
165.902	165.902.
165.1107	165.1101.
165.1108	165.1108 45 FR 85449.
165.1401	127.1401.
165.1402	126.1401.
165.1701	165.1701.
165.1702	165.1702 47 FR 7658.

DISPOSITION TABLE

Old section No.	New section No.
125.15(a)	165.40.
127.01	165.1, 165.30(b).
127.05(a)	165.2.
127.05(b)	165.30(a).
127.10	165.1.
127.15	165.33.
127.20	165.5.
127.301	165.301.
127.305	165.302.
127.701	165.701.
127.1401	165.1401.
128.01	165.1.
128.05(a) and (c)	165.2.
128.05(b)	165.10.
128.07	165.13.
128.10	165.5.
128.101	165.101.
128.301	165.303.
128.303 46 FR 56181	165.304.
165.327 46 FR 41494	165.305.
128.501	165.501.
128.801	165.803.
128.901	165.901.
128.1401	165.1402.
165.01	165.1.
165.05	165.2, 165.20.
165.10	165.3.
165.15	165.5, 165.7.
165.20	165.23.
165.25	165.25.
165.510	165.502.
165.760	165.804.
165.800	165.802.
165.902	165.902.
165.1101	165.1107.
165.1108 45 FR 85449	165.1108.
165.1701	165.1701.
165.1702 47 FR 7658	165.1702.

Evaluation

These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be major. In addition, these regulations are considered to be nonsignificant in accordance with the guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). An economic evaluation has not been conducted since, for the reasons discussed above, its impact is expected to be minimal. In accordance with § 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that these regulations will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 165

Coast Guard, Harbors, Marine safety, Navigation, Security measures, Vessels, and Waterways.

In consideration of the foregoing, Chapter I of Title 33, Code of Federal Regulations, is amended as follows:

1. By revising the heading of Subchapter L to read as follows:

SUBCHAPTER L—WATERFRONT FACILITIES

PART 127—SECURITY ZONES [REMOVED]

2. By removing Part 127.

PART 128—REGULATED NAVIGATION AREAS [REMOVED]

3. By removing Part 128.

4. By revising Part 165 to read as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

Subpart A—General

Sec.
165.1 Purpose.
165.2 Definitions.
165.3 Delegations.
165.5 Establishment procedures.
165.7 Notifications.

Subpart B—Regulated Navigation Areas

165.10 Regulated navigation areas.
165.13 General regulations.

Subpart C—Safety Zones

165.20 Safety zones.
165.23 General regulations.
165.25 Appeals.

Subpart D—Security Zones

165.30 Security zones.
165.33 General regulations.

Subpart E—Restricted Waterfront Areas

165.40 Restricted waterfront areas.

Subpart F—Specific Regulated Navigation Areas and Limited Access Areas

First Coast Guard District

165.101 Kittery, Maine—regulated navigation area.

Second Coast Guard District

165.201 [Reserved]

Third Coast Guard District

165.301 Sandy Hook Bay, New Jersey—security zone.
165.302 New London Harbor, Connecticut—security zone.
165.303 Delaware Bay and River—regulated navigation area.
165.304 New Haven Harbor, Quinnipiac River, Mill River—regulated navigation area.
165.305 Arthur Kill, New York—safety zone.

Fifth Coast Guard District

165.501 Chesapeake Bay Entrance—regulated navigation area.
165.502 Cove Point, Chesapeake Bay, Maryland—safety zone.

Seventh Coast Guard District

Sec.
165.701 Vicinity, Kennedy Space Center, Merritt Island, Florida—security zone.

Eighth Coast Guard District

165.802 Lower Mississippi River vicinity of Old River Control Structure—safety zone.
165.803 Mississippi River between miles 88 and 127 AHP—regulated navigation area.
165.804 Snake Island, Texas City, Texas; mooring and fleeting of vessels—safety zone.

Ninth Coast Guard District

165.901 Great Lakes—regulated navigation area.
165.902 Niagara River at Niagara Falls, New York—safety zone.

Eleventh Coast Guard District

165.1107 San Diego Bay, California—safety zone.
165.1108 Queensway Bay, Long Beach, California—safety zone.
165.1109 San Pedro Bay, Los Angeles, California—safety zone.

Twelfth Coast Guard District

165.1201 [Reserved]

Thirteenth Coast Guard District

165.1301 [Reserved]

Fourteenth Coast Guard District

165.1401 Apra Harbor, Guam—security zone.
165.1402 Apra Outer Harbor, Guam—regulated navigation area.

Seventeenth Coast Guard District

165.1701 Valdez, Alaska—safety zone.
165.1702 Gastineau Channel, Juneau, AK—safety zone.

Authority: Subpart A issued under sec. 2, Pub. L. 95–474, 92 Stat. 1475, 1477 (33 U.S.C. 1225, 1231); C. 30, sec. 1, 40 Stat. 220, as amended (50 U.S.C. 191); sec. 6(b)(1), 80 Stat. 938 (49 U.S.C. 1655(b)(1)); E.O. 10173, 3 CFR 1949–1953 Comp. 356; E.O. 11249, 3 CFR 1964–1965 Comp. 349; 33 CFR Part 6; 49 CFR 1.46 (b) and (n)(4).

Subparts B and C issued under sec. 2, Pub. L. 95–474, 92 Stat. 1475, 1477 (33 U.S.C. 1225, 1231); 49 CFR 1.46(n)(4).

Subparts D and E issued under c. 30, sec. 1, 40 Stat. 220, as amended (50 U.S.C. 191); sec. 6(b)(1), 80 Stat. 938 (49 U.S.C. 1655(b)(1)); E.O. 10173, 3 CFR 1949–1953 Comp. 356; E.O. 11249, 3 CFR 1964–1965 Comp. 349; 33 CFR Part 6; 49 CFR 1.46(b).

Subpart A—General

§ 165.1 Purpose of part.

The purpose of this part is to—

(a) Prescribe procedures for establishing different types of limited or controlled access areas and regulated navigation areas;

(b) Prescribe general regulations for different types of limited or controlled access areas and regulated navigation areas;

(c) Prescribe specific requirements for established areas; and

(d) List specific areas and their boundaries.

§ 165.2 Definitions.

"Captain of the Port" (COTP) means the Coast Guard officer commanding a Captain of the Port zone described in Part 3 of this chapter.

"Commandant" means the Commandant of the United States Coast Guard.

"District Commander" means the officer of the Coast Guard designated by the Commandant to command a Coast Guard District, or the District Commander's designated representative.

"Person" includes an individual, firm, corporation, association, partnership, or governmental entity.

"Vehicle" means every type of conveyance capable of being used as a means of transportation on land.

§ 165.3 Delegations.

(a) District Commanders and Captains of the Ports are delegated the authority to establish safety zones.

(b) Under the provisions of §§ 6.04–1 and 6.04–6 of this chapter, District Commanders and Captains of the Ports have been delegated authority to establish security zones.

§ 165.5 Establishment procedures.

(a) A safety zone, security zone, or regulated navigation area may be established on the initiative of any authorized Coast Guard official.

(b) Any person may request that the Captain of the Port or District Commander having jurisdiction over a location outlined in Part 3 of this chapter, establish a safety zone, security zone, or regulated navigation area. Except as provided in paragraph (c) of this section, each request must be in writing and include the following:

(1) The name of the person submitting the request;

(2) The location and boundaries of the safety zone, security zone, or regulated navigation area;

(3) The date, time, and duration that the safety zone, security zone, or regulated navigation area should be established;

(4) A description of the activities planned for the safety zone, security zone, or regulated navigation area;

(5) The nature of the restrictions or conditions desired; and

(6) The reason why the safety zone, security zone, or regulated navigation area is necessary.

(Requests for safety zones, security zones, and regulated navigation areas are approved by the Office of Management and Budget under control numbers 2115–0076, 2115–0219, and 2115–0087).

(c) Safety Zones and Security Zones. If, for good cause, the request for a safety zone or security zone is made less than 5 working days before the zone is to be established, the request may be made orally, but it must be followed by a written request within 24 hours.

§ 165.7 Notification.

(a) The establishment of these limited access areas and regulated navigation areas is considered rulemaking. The procedures used to notify persons of the establishment of these areas vary depending upon the circumstances and emergency conditions. Notification may be made by marine broadcasts, local notice to mariners, local news media, distribution in leaflet form, and on-scene oral notice, as well as publication in the **Federal Register**.

(b) Notification normally contains the physical boundaries of the area, the reasons for the rule, its estimated duration, and the method of obtaining authorization to enter the area, if applicable, and special navigational rules, if applicable.

(c) Notification of the termination of the rule is usually made in the same form as the notification of its establishment.

Subpart B—Regulated Navigation Areas

§ 165.10 Regulated navigation area.

A regulated navigation area is a water area within a defined boundary for which regulations for vessels navigating within the area have been established under this part.

§ 165.13 General regulations.

(a) The master of a vessel in a regulated navigation area shall operate the vessel in accordance with the regulations contained in Subpart F.

(b) No person may cause or authorize the operation of a vessel in a regulated navigation area contrary to the regulations in this Part.

Subpart C—Safety Zones

§ 165.20 Safety zones.

A Safety Zone is a water area, shore area, or water and shore area to which, for safety or environmental purposes, access is limited to authorized persons, vehicles, or vessels. It may be stationary and described by fixed limits or it may be described as a zone around a vessel in motion.

§ 165.23 General regulations.

Unless otherwise provided in this part—

(a) No person may enter a safety zone unless authorized by the COTP or the District Commander;

(b) No person may bring or cause to be brought into a safety zone any vehicle, vessel, or object unless authorized by the COTP or the District Commander;

(c) No person may remain in a safety zone or allow any vehicle, vessel, or object to remain in a safety zone unless authorized by the COTP or the District Commander; and

(d) Each person in a safety zone who has notice of a lawful order or direction shall obey the order or direction of the COTP or District Commander issued to carry out the purposes of this subpart.

§ 165.25 Appeals.

(a) Any person directly affected by a safety zone order or direction may request reconsideration by the official who issued it or in whose name it was issued. This request may be made orally or in writing, and the decision of the official receiving the request may be rendered orally or in writing.

(b) Any person directly affected by the establishment of a safety zone or by an order or direction issued by, or on behalf of, a Captain of the Port may appeal to the District Commander. The appeal must be in writing and shall contain complete supporting documentation and evidence which the appellant wishes to have considered. Upon receipt of the appeal, the District Commander may direct a representative to gather and submit documentation or other evidence which would be necessary or helpful to a resolution of the appeal. A copy of this documentation and evidence is made available to the appellant. The appellant is afforded five working days from the date of receipt to submit rebuttal materials. Following submission of all materials, the District Commander issues a ruling, in writing, on the appeal. Prior to issuing the ruling, the District Commander may, as a matter of discretion, allow oral presentations on the issues.

(c) Any person directly affected by the establishment of a safety zone or by an order or direction issued by a District Commander, or who receives an unfavorable ruling on an appeal taken under paragraph (b), of this section, may appeal to the Commandant. The District Commander forwards the appeal, all the documents and evidence which formed the record upon which the order or direction was issued or the ruling under

paragraph (b) of this section was made, and any comments which might be relevant, to the Commandant. A copy of this documentation and evidence is made available to the appellant. The appellant is afforded five working days from the date of receipt to submit rebuttal materials to the Commandant. The decision of the Commandant is based upon the materials submitted, without oral argument or presentation. The decision of the Commandant is issued in writing and constitutes final agency action.

(d) While any request or appeal is pending, the safety zone, order, or direction, remains in effect.

Subpart D—Security Zones

§ 165.30 Security zones.

(a) A security zone is an area of land, water, or land and water which is so designated by the Captain of the Port or District Commander for such time as is necessary to prevent damage or injury to any vessel or waterfront facility, to safeguard ports, harbors, territories, or waters of the United States or to secure the observance of the rights and obligations of the United States.

(b) The purpose of a security zone is to safeguard from destruction, loss, or injury from sabotage or other subversive acts, accidents, or other causes of a similar nature—

(1) Vessels,

(2) Harbors,

(3) Ports and

(4) Waterfront facilities—

in the United States and all territory and water, continental or insular, that is subject to the jurisdiction of the United States.

§ 165.33 General regulations.

Unless otherwise provided in the special regulations in Subpart F of this part—

(a) No person or vessel may enter or remain in a security zone without the permission of the Captain of the Port;

(b) Each person and vessel in a security zone shall obey any direction or order of the Captain of the Port;

(c) The Captain of the Port may take possession and control of any vessel in the security zone;

(d) The Captain of the Port may remove any person, vessel, article, or thing from a security zone;

(e) No person may board, or take or place any article or thing on board, any vessel in a security zone without the permission of the Captain of the Port; and

(f) No person may take or place any article or thing upon any waterfront facility in a security zone without the permission of the Captain of the Port.

Subpart E—Restricted Waterfront Areas

§ 165.40 Restricted Waterfront Areas.

The Commandant, may direct the COTP to prevent access to waterfront facilities, and port and harbor areas, including vessels and harbor craft therein. This section may apply to persons who do not possess the credentials outlined in § 125.09 of this chapter when certain shipping activities are conducted that are outlined in § 125.15 of this chapter.

Subpart F—List of Limited Access Areas

§ 165.101 Kittery, Maine—regulated navigation area.

(a) The following is a regulated navigation area—Waters within the boundaries of a line beginning at 43°04'50"N, 70°44'52"W; then to 43°04'52"N, 70°44'53"W; then to 43°04'59"N, 70°44'46"W; then to 43°05'05"N, 70°44'32"W; then to 43°05'03"N, 70°44'30"W; then to the beginning point.

(b) Regulations—No vessel may operate in this area at a speed in excess of five miles per hour.

§ 165.301 Sandy Hook Bay, New Jersey—security zone.

(a) Naval Ammunition Depot Piers.—The waters within the following boundaries are a security zone—A line beginning on the shore at 40°25'57"N, 74°04'32"W; then to 40°27'52.5"N, 74°03'14.5"W; then to 40°27'28.3"N, 74°02'12.4"W; then to 40°26'29.2"N, 74°02'53"W; then to 40°26'31.1"N, 74°02'57.2"W; then to 40°25'27.3"N, 74°03'41"W; then along the shoreline to the beginning point.

(b) Terminal Channel. The waters within the following boundaries are a security zone—A line beginning at 40°27'41.2"N, 74°02'46"W; then to 40°28'27"N, 74°02'17.2"W; then to 40°28'21.1"N, 74°02'00"W; then to 40°28'07.8"N, 74°02'22"W; then to 40°27'39.8"N, 74°02'41.4"W; then to to the beginning.

(c) The following rules apply to the security zone established in paragraph (b) of this section (Terminal Channel) instead of the rule in § 165.33(a)—

(1) No vessel shall anchor, stop, remain or drift without power at anytime in the security zone.

(2) No vessel shall enter, cross, or otherwise navigate in the security zone when a public vessel, or any other vessel, that cannot safely navigate outside the Terminal Channel, is approaching or leaving the Naval Ammunition Depot Piers at Leonardo, New Jersey.

(3) Vessels may enter or cross the security zone, except as provided in paragraph (c)(2) of this section.

(4) No person may swim in the security zone.

§ 165.302 New London Harbor, Connecticut—security zone.

(a) Security zones—

(1) Security Zone A. The waters of the Thames River off State Pier enclosed by a line beginning at the midpoint of the southeast face of State Pier; then to 41°21'24"N, 72°05'21.2"W; then to 41°21'26.2"N, 72°05'19.3"W; then to 41°21'34"N, 72°05'18.1"W; then to 41°21'37.4"N, 72°05'21"W; (buoy C 15); then to 41°21'37"N, 72°05'25.1"W; (Winthrop Point Anchorage buoy A); then west to the shoreline at 41°21'37"N, 72°05'28"W; then along the shoreline and pier to the point of beginning.

(2) Security Zone B. The waters of the Thames River west of the Electric Boat Division Shipyard enclosed by a line beginning at a point on the shoreline at 41°20'27"N, 72°04'53.3"W; then due west to 41°20'27"N, 72°05'02"W; then to 41°21'03"N, 72°05'06.7"W; then east to a point on the shoreline at 41°21'03"N, 72°05'00"W; then along the shoreline to the point of beginning.

(3) Security Zone C. The waters of the Thames River, west of the Naval Submarine Base, New London, enclosed by a line beginning at a point on the shoreline at 41°23'15.8"N, 72°05'17.9"W; then to 41°23'15.8"N, 72°05'22"W; then to 41°23'25.9"N, 72°05'29.9"W; then to 41°23'47.2"N, 72°05'42.2"W; then to 41°23'53.8"N, 72°05'43.7"W; then to 41°24'04.2"N, 72°05'42.9"W; then to a point on the shoreline at 41°24'04.2"N, 72°05'38"W; then along the shoreline to the point of beginning.

(b) Special regulation. Section 165.33 does not apply to public vessels when operating in Security Zones A or B, or to vessels owned by, under hire to, or performing work for the Electric Boat Division when operating in Security Zone B.

§ 165.303 Delaware Bay and River—regulated navigation area.

(a) The following is a regulated navigation area—The waters of Delaware Bay and River, south and southwest of the southern span of the Delaware Memorial Bridge, and inside the boundary line of inland waters described in § 80.325 of this chapter.

(b) *Regulation.* (1) Draft Limitation. Unless otherwise authorized by the Captain of the Port, no vessel with a

draft greater than 55 feet may enter this regulated navigation area.

(2) Oil transfer operations. Unless otherwise authorized by the Captain of the Port, no vessel may conduct oil transfer operations in this regulated navigation area except in the anchorage ground designated in § 110.157(a)(1) of this chapter.

§ 165.304 New Haven Harbor, Quinnipiac River, Mill River.

(a) The following is a regulated navigation area: The waters surrounding the Tomlinson Bridge located within a line extending from a point A at the southeast corner of the Wyatt terminal dock at 41°17'50"N, 72°54'36"W thence along a line 126°T to point B at the southwest corner of the Gulf facility at 41°17'42"N, 72°54'21"W thence north along the shoreline to point C at the northwest corner of the Texaco terminal dock 41°17'57"N, 72°54'06"W thence along a line 303°T to point D at the west bank of the mouth of the Mill River 41°18'05"N, 72°54'23"W thence south along the shoreline to point A.

(b) *Regulations.* (1) No person may operate a vessel or tow a barge in this Regulated Navigation Area in violation of these regulations.

(2) Applicability. The regulations apply to barges with a freeboard greater than ten feet and to any vessel towing or pushing these barges on outbound transits of the Tomlinson Bridge.

(3) Regulated barges may not transit the bridge—

(i) Except during the period of three hours before and after high water slack,

(ii) When the wind speed at the bridge is greater than twenty knots, and

(iii) With the barge being towed on a hawser, stern first.

(4) Regulated barges with a beam greater than fifty feet must be pushed ahead through the bridge.

(5) If the tug operator does not have a clear view over the barge when pushing ahead, the operator shall post a lookout on the barge with a means of communication with the operator.

(6) Regulated barges departing the Mill River may transit the bridge only between sunrise and sunset. Barges must be pushed ahead of the tug, bow first, with a second tug standing by to assist at the bow.

(7) Nothing in this section is intended to relieve any person from complying with—

(i) Applicable Navigation and Pilot Rules for Inland Waters;

(ii) Any other laws or regulations;

(iii) Any order or direction of the Captain of the Port.

(8) The Captain of the Port, New Haven, may issue an authorization to deviate from any rule in this Section if the COTP finds that an alternate operation can be done safely.

§ 165.305 Arthur Kill, New York—safety zone.

The waters of the Arthur Kill, New York, extending south of Port Reading Reach to the Staten Island shoreline, then to Buoy 12 (LLN 1758), then to Buoy 18 (LLN 1763) are a Safety Zone.

§ 165.501 Chesapeake Bay entrance—regulated navigation area.

(a) The following is a regulated navigation area—The waters of the Atlantic Ocean and Chesapeake Bay enclosed by a line beginning at Fort Wool Light at 36°59'12"N, 76°18'09"W; then to Cape Charles City Range Rear Light at 37°14'54"N, 76°01'16"W; then south along the shoreline to Wise Point at 37°06'58"N, 75°58'18"W; then to Cape Charles Light at 37°07'22"N, 75°54'24"W; then to Cape Henry Light at 36°55'35"N, 76°00'27"W; then west along the shoreline to the east side of the entrance to Little Creek at 36°55'49"N, 76°10'33"W; then to the west side of the entrance to Little Creek at Latitude 36°55'35"N, 76°10'46"W, then west along the shoreline to the southernmost end of the Hampton Roads Tunnel south approach span at 36°58'02"N, 76°17'51"W; then north along that approach span to the beginning point.

(b) For the purposes of this section—

(1) "CBBT" means Chesapeake Bay Bridge-Tunnel.

(2) Chesapeake Channel consists of the waters enclosed by a line beginning at Chesapeake Channel Lighted Buoy 7 at 37°01'13"N, 76°03'08"W; then to Lighted Bell Buoy 11 at 37°03'28"N, 76°05'36"W; then to Lighted Buoy 12 at 37°03'42"N, 76°05'13"W; then to Lighted Bell Buoy 8 at 37°01'29"N, 76°02'47"W; then to the beginning point.

(3) Thimble Shoal Channel consists of the waters enclosed by a line beginning at Thimble Shoal Channel Lighted Bell Buoy 1 at 36°57'20"N, 76°02'47"W; then to Lighted Buoy 19 at 37°00'10"N, 76°13'43"W; then to Lighted Gong Buoy 20 at 37°00'19"N, 76°13'39"W; then to Lighted Buoy 2 at 36°57'30"N, 76°02'45"W; then to the beginning point.

(4) Thimble Shoal North Auxiliary Channel consists of the waters in a rectangular area 450 feet wide adjacent to the north side of Thimble Shoal Channel, the southern boundary of which extends from Lighted Buoy 2 at 36°57'30"N, 76°02'45"W; to Lighted Gong Buoy 20 at 37°00'19"N, 76°13'39"W.

(5) Thimble Shoal South Auxiliary Channel consists of the waters in a rectangular area 450 feet wide adjacent to the south side of Thimble Shoal Channel, the northern boundary of which extends from Lighted Bell Buoy 1 at 36°57'20"N, 76°02'47"W; to Lighted Buoy 19 at 37°00'10"N, 76°13'43"W.

(c) Regulations:

(1) Anchoring Prohibition. No vessel over 100 gross tons may anchor or moor in this regulated navigation area, except that a self-propelled vessel may anchor or moor in an anchorage ground designated under § 110.168(g) of this chapter if it—

(i) Can get underway within 30 minutes with sufficient power to maneuver to keep clear of the CBBT and other vessels; and

(ii) Has no impairment to its maneuverability such as defective steering equipment or defective main propulsion machinery.

(2) Secondary Towing Rig.

(i) No vessel over 100 gross tons may be towed in this regulated navigation area unless it is equipped with a secondary towing rig in addition to its primary towing rig that—

(A) Is of sufficient strength for towing the vessel;

(B) Has a connecting device that can receive a shackle pin of at least two inches in diameter; and

(C) Is fitted with a recovery pickup line led outboard of the vessel's hull.

(ii) For the purpose of this subparagraph, a tow consisting of two or more vessels, each of which is less than 100 gross tons, and the total gross tonnage of which is greater than 100 gross tons, shall be treated as if it were one vessel under tow that is over 100 gross tons.

(3) Anchoring Detail. Whenever a self-propelled vessel over 100 gross tons, equipped with an anchor or anchors, except a tugboat equipped with bow fenderwork of a type of construction that the anchor cannot be rigged for quick release, is underway within two nautical miles of the CBBT, its personnel must be stationed at locations where the vessel can be anchored in an emergency without delay.

(4) Draft Limitation. No vessel drawing less than 25 feet may enter Thimble Shoal Channel except to cross that channel.

(5) Direction of Traffic. No vessel may proceed in—

(i) Thimble Shoal North Auxiliary Channel except in a westbound direction or to cross that channel; or

(ii) Thimble Shoal South Auxiliary Channel except in an eastbound direction or to cross that channel.

(6) Impaired Vessel Maneuverability.

(i) Before entry. No vessel over 100 gross tons, if its maneuverability is impaired because of any condition such

as hazardous weather, defective steering equipment, defective main propulsion machinery, or damage to the vessel, may enter the regulated navigation area unless—

(A) It is attended by one or more tugboats with total sufficient power to ensure its safe passage through the regulated navigation area; or

(B) Its entry as otherwise authorized by the Captain of the Port.

(ii) After entry. If the maneuverability of a vessel over 100 gross tons underway in the regulated navigation area becomes impaired because of any condition, the master of the vessel shall, as soon as possible thereafter—

(A) Report the impairment to the Captain of the Port; and

(B) Have the vessel attended by one or more tugboats described in paragraph (c)(6)(i)(A) of this section, except when otherwise authorized by the Captain of the Port.

(7) Navigation Charts; Radar and Pilots. No vessel over 100 gross tons may enter the regulated navigation area unless—

(i) The vessel has on board navigation charts of the regulated navigation area and, during reduced visibility, operative radar; or

(ii) The vessel has a pilot or other person on board with previous experience in navigating the waters of the regulated navigation area; or

(iii) The Captain of the Port has been given notice of the time and place of entry of the vessel.

(8) Emergencies. In an emergency, any person may deviate from any regulation in this section to the extent necessary to avoid endangering persons, property, or the environment. However, each vessel over 100 gross tons, except for a self-propelled vessel that can get underway within 30 minutes with sufficient power to maneuver to keep clear of the CBBT and other vessels, and that has no impairment to its maneuverability such as defective steering equipment or defective main propulsion machinery, that anchors or moors in the regulated navigation area because of an emergency, must as soon as possible—

(i) Notify the Captain of the Port of the place of anchoring or mooring; and

(ii) Be attended by one or more vessels of sufficient power to keep the vessel in the position where it is anchored or moored.

(9) Waiver.

(i) The Captain of the Port may, upon request, waive any regulation in this paragraph if it is found that the proposed operations under the waiver can be done safely. An application for a waiver must state the need for the waiver and describe the proposed operations.

(ii) Compliance with this paragraph is not required to the extent necessary to carry out the following operations:

(A) Law enforcement.

(B) The servicing of aids to navigation or the surveying, maintenance or improvement of waters in the regulated navigation area.

(d) Control of vessel anchoring, mooring and movement:

(1) When necessary to prevent damage to, or destruction or loss of, any vessel or the CBBT, the Captain of the Port may issue directions requiring the further anchoring, mooring or movement of a vessel that has anchored or moored in this regulated navigation area because of an emergency.

(2) The master of a vessel in the regulated navigation area shall comply with each direction issued to that master under this section.

§ 165.502 Cove Point, Chesapeake Bay, Maryland—safety zone.

(a) The waters and waterfront facilities located within the following boundaries constitute a safety zone effective when an LNG (Liquefield Natural Gas) carrier is maneuvering in the vicinity of the Cove Point terminal and when a moored LNG carrier indicates its intention to get underway: A line beginning at a point one-half mile NW of the end of the north pier of the Columbia LNG facility at Cove Point, Maryland, located at 38°24'43"N latitude, 76°23'32"W longitude; thence 056°T to a point 2800 yards offshore at 38°24'59"N latitude, 76°23'01"W longitude; thence 146°T to a point located 2300 yards offshore at 38°23'52"N latitude, 76°22'03"W longitude; thence 236°T to a point one-half mile SE of the end of the south pier of the Columbia LNG facility at Cove Point, Maryland, located 38°23'39"N latitude, 76°22'35"W longitude; thence northwesterly to the point of origin and the area within 50 yards on the shore side of the Columbia LNG Corporation offshore terminal.

(b) The waters and waterfront facilities located within the following boundary constitute a safety zone when an LNG carrier is moored at the Columbia LNG offshore terminal; an area extending 50 yards shoreward of the offshore terminal and 200 yards offshore of all parts of the offshore terminal and the LNG carrier.

(c) The waters and waterfront facilities located within the following boundary constitute a safety zone when no LNG carrier is moored at the receiving terminal: the area within 50 yards of the Columbia LNG offshore terminal, at Cove Point, Maryland.

§ 165.701 Vicinity, Kennedy Space Center, Merritt Island, Florida—security zone.

(a) The water, land, and land and water within the following boundaries are a security zone—The perimeter of the Cape Canaveral Barge Canal and the Banana River at 28°24'33"N, 80°39'48"W; then due west along the northern shoreline of the barge canal for 1,300 yards; then due north to 28°28'42"N, 80°40'30"W, on Merritt Island. From this position, the line proceeds irregularly to the eastern shoreline of the Indian River to a position 1,300 yards south of the NASA Causeway at 28°30'54"N, 80°43'42"W (the line from the barge canal to the eastern shoreline of the Indian River is marked by a three-strand barbed-wire fence), then north along the shoreline of the Indian River to the NASA Causeway at 28°31'30"N, 80°43'48"W. The line continues west on the southern shoreline of the NASA Causeway to NASA Gate 3 (permanent), then north to the northern shoreline of the NASA Causeway and east on the northern shoreline of the causeway back to the shoreline on Merritt Island at position 28°31'36"N, 80°43'42"W, then northwest along the shoreline to 28°41'01.2"N, 80°47'10.2"W. (Blackpoint); then due north to channel marker #6 on the Intracoastal Waterway (ICW), then northeast along the southern edge of the ICW to the western entrance to the Haulover Canal. From this point, the line continues northeast along the southern edge of the Haulover Canal to the eastern entrance to the canal; then due east to a point in the Atlantic Ocean 3 miles offshore at 28°44'42"N, 80°37'51"W; then south along a line 3 miles from the coast to Wreck Buoy "WR6", then to Port Canaveral Channel Lighted Buoy 10, then west along the northern edge of the Port Canaveral Channel to the northeast corner of the intersection of the Cape Canaveral Barge Canal and the ICW in the Banana River at 28°24'36"N, 80°36'42"W. The line continues north along the east side of the ICW to NASA Causeway east (Orsino Causeway), then west along the southern shoreline of the NASA Causeway east to the shoreline on Merritt Island at 28°31'12"N, 80°37'24"W, then south along the shoreline to the starting point.

(b) The area described in paragraph (a) of this section is closed to all vessels and persons, except those vessels and persons authorized by the Commander, Seventh Coast Guard District, or the COTP Jacksonville, Florida, whenever space vehicles are to be launched by the

United States Government from Cape Canaveral.

(c) COTP Jacksonville, Florida, closes the security zone, or specific portions of it, by means of locally promulgated notices. The closing of the area is signified by the display of a red ball from a 90-foot pole near the shoreline at approximately 28°35'00"N, 80°34'36"W, and from a 90-foot pole near the shoreline at approximately 28°25'18'N, 80°35'00"W. Appropriate Local Notices to Mariners will also be broadcast on 2670 KHZ.

§ 165.802 Lower Mississippi River vicinity of Old River Control Structure—safety zone.

(a) The area enclosed by the following boundary is a safety zone—A line beginning at Black Hawk Light at Mile 316.1 AHOP LMR; thence to the Northwest end of the Overbank Structure; thence South along the Old River Control Structure to the Southeast end of the Low Sill Structure; thence Northeast to the Old River Control Structure Light at Mile 314.5 AHOP LMR; thence along a line to Black Hawk Point Light.

(b) Any vessel desiring to enter this safety zone must first obtain permission from the Captain of the Port, New Orleans, Louisiana. The operator of the Corps of Engineers' picket boat on scene is delegated the authority to permit entry into this Safety Zone.

§ 165.803 Mississippi River—regulated navigation area.

The following is a regulated navigation area—The waters of the Mississippi River between miles 88 and 127 above Head of Passes.

(a) Definitions. As used in this section:

(1) "Breakaway" means a barge that is adrift and is not under the control of a towing vessel.

(2) "COTP" means the Captain of the Port, New Orleans.

(3) "Fleet" includes one or more tiers.

(4) "Fleeting facility" means the geographic area along or near a river bank at which a barge mooring service, either for hire or not for hire, is established.

(5) "Mooring barge" or "spar barge" means a barge moored to mooring devices and to which other barges may be moored.

(6) "Mooring device" includes a deadman, anchor, pile or other reliable holding apparatus.

(7) "Person in charge" includes any owner, agent, pilot, master, officer, operator, crewmember, supervisor, dispatcher or other person navigating, controlling, directing or otherwise responsible for the movement, action, securing, or security of any vessel, barge, tier, fleet or fleeting facility subject to the regulations in this section.

(8) "Tier" means barges moored interdependently in rows or groups.

(b) Waivers:

(1) The COTP may, upon written request, except as allowed in paragraph (3) of this subsection, waive any regulation in this section if it is found that the proposed operation can be conducted safely under the terms of that waiver.

(2) Each written request for a waiver must state the need for the waiver and describe the proposed operation.

(3) Under unusual circumstances due to time constraints, the person in charge may orally request an immediate waiver from the COTP. The written request for a waiver must be submitted within five working days after the oral request.

(4) The COTP may, at any time, terminate any waiver issued under this subsection.

(c) Emergencies. In an emergency, a person may depart from any regulation in this section to the extent necessary to avoid immediate danger to persons, property or the environment.

(d) Mooring: general.

(1) No person may secure a barge to trees or to other vegetation.

(2) No person may allow a barge to be moored with unraveled or frayed lines or other defective or worn mooring.

(3) No person may moor barges side to side unless they are secured to each other from fittings as close to each corner of abutting sides as practicable.

(4) No person may moor barges end to end unless they are secured to each other from fittings as close to each corner of abutting ends as practicable.

(e) Mooring to a mooring device.

(1) A barge may be moored to mooring devices if the upstream end of that barge is secured to at least one mooring device and the downstream end is secured to at least one other mooring device.

(2) Barges moored in tiers may be shifted to mooring devices if the shoreward barge at the upstream end of the tier is secured to at least one mooring device, and the shoreward barge at the downstream end of the tier is secured to at least one other mooring device.

(3) Each wire rope used between the upstream end of a barge and a mooring device must have at least a diameter of 1¼ inch. Chain or line used between the upstream end of a barge and a mooring device must be at least equivalent in strength to 1¼ inch diameter wire rope.

(4) Each wire rope used between the downstream end of a barge and a mooring device must have at least a diameter of ⅞ inch. Chain or line used between the downstream end of a barge and a mooring device must be of at least equivalent strength of ⅞ inch diameter wire rope.

(f) Moorings: barge-to-barge; barge-to-vessel; barge-to-wharf or pier. The person in charge shall ensure that a barge moored to another barge, a mooring or spar barge, a vessel, a wharf, or a pier, is secured as near as practicable to each abutting corner of the barge being moored by—

(1) Three parts of wire rope of at least ⅞ inch diameter with an eye at each end of the rope passed around the timberhead, caval, or button;

(2) A mooring of natural or synthetic fiber rope that has at least 75 percent of the breaking strength of three parts of ⅞ inch diameter wire rope; or

(3) Fixed rigging that is at least equivalent to three parts of ⅞-inch diameter wire rope.

(g) Mooring: person in charge.

(1) The person in charge of a barge, tier, fleet or fleeting facility shall ensure that the barge, tier, fleet or fleeting facility meets the requirements in paragraphs (d) and (e) of this section.

(2) The person in charge shall ensure that all mooring devices, wires, chains, lines and connecting gear are of sufficient strength and in sufficient number to withstand forces that may be exerted on them by moored barges.

(h) Fleeting facility: inspection of moorings.

(1) The person in charge of a fleeting facility shall assign a person to inspect moorings in accordance with the requirements in paragraph (h)(2) of this section.

(2) The person assigned to inspect moorings shall inspect:

(i) At least twice each day during periods that are six hours or more apart, each mooring wire, chain, line and connecting gear between mooring devices and each wire, line and connecting equipment used to moor each barge; and

(ii) After a towboat adds barges to, withdraws barges from, or moves barges at a fleeting facility, each mooring wire, line, and connecting equipment of each barge within each tier affected by that operation.

(3) The person who inspects moorings shall take immediate action to correct each deficiency.

(i) Fleeting facility: records. The person in charge of a fleeting facility shall maintain, and make available to the Coast Guard, records containing the following information:

(1) The time of commencement and termination of each inspection required in paragraph (h)(2) of this section.

(2) The name of each person who makes the inspection required in paragraph (h)(2) of this section.

(3) The identification of each barge entering and departing the fleeting facility, along with the following information:

(i) Date and time of entry and departure; and

(ii) The names of any hazardous cargo which the barge is carrying.

(4) The identification of each towboat that moves a barge into, within or out of the fleeting facility.

Note.—The requirements in paragraph (i)(3) of this section for the listing of hazardous cargo refers to cargoes regulated by Subchapters D and O of Chapter I, Title 46, Code of Federal Regulations. The recordkeeping requirement for barge/fleeting facilities (Regulated Navigation Area) is approved under Office of Management and Budget control number 2115-0087.

(j) Fleeting facility: surveillance.

(1) The person in charge of a fleeting facility shall assign a person to be in continuous surveillance and to observe the barges in the fleeting facility. Joint use of this person by adjacent facilities may be considered upon submisssion of a detailed proposal for a waiver to the COTP.

(2) The person who observes the barges shall:

(i) Inspect for movements that are unusual for properly secured barges; and

(ii) Take immediate action to correct each deficiency.

(k) Fleeting facility: person in charge. The person in charge of a fleeting facility shall ensure that each deficiency found under the requirements of paragraphs (h) or (j) of this section is corrected.

(l) Securing breakaways. The person in charge shall take immediate action to:

(1) Secure each breakaway; and

(2) Report each breakaway as soon as possible to the COTP by telephone, radio or other means of rapid communication.

(m) High water.

(1) This subsection applies to barges on the Mississippi River between mile 88 and 127 above Head of Passes when:

(i) The Carrollton gage stands 12 feet or more; or

(ii) The Carrollton gage stands 10 feet, the U.S. Army Corps of Engineers forecasts the Mississippi River is rising to 12 feet, and the District Commander determines these circumstances to be especially hazardous and issues orders directing that paragraph (m)(2) and (3) of this section are in effect.

(2) During high water, the person in charge of a fleeting facility shall ensure compliance with the following requirements:

(i) Each fleet consisting of eight or more barges must be attended by at last one radar-equipped towboat for each 100 barges or less. Joint use of this towboat by adjacent facilities may be considered upon submission of a detailed proposal for a waiver.

(ii) Each fleet must have two or more towboats in attendance when:

(A) Barges are withdrawn from or moved within the fleet and the fleet at the start of the operation contains eight or more barges; or

(B) Barges are added to the fleet and the number of barges being added plus the fleet at the start of the operation total eight or more.

(iii) Each towboat required in paragraphs (m)(2)(i) and (2)(ii) of this section must be:

(A) Capable of safely withdrawing, moving or adding each barge in the fleet;

(B) Immediately operational;

(C) Radio-equipped; and

(iv) The person in charge of each towboat required in paragraphs (m)(2)(i) and (2)(ii) of this section shall maintain:

(A) A continuous guard on Channel 13 (156.65 MHZ) VHF-FM; and

(B) When moored, a continuous watch on the barges in the fleeting facility.

(v) During periods when visibility is less than 200 yards, the person in charge of each towboat required in paragraph (m)(2)(i) of this subsection shall maintain, when moored, a continuous radar surveillance of the barges moored in the fleeting facility.

(3) During high water when visibility is reduced to less than 200 yards:

(i) Tows may not be assembled or disassembled;

(ii) No barge may be added to, withdrawn from or moved within a fleet except:

(A) A single barge may be added to or withdrawn from the channelward or downstrean end of the fleet; and

(B) Barges made up in a tow may depart a fleet from the channelward or downstream end of the fleet; and

(iii) No person in charge of a tow arriving in this regulated navigation area may moor unless the COTP is notified prior to arrival in the regulated navigation area.

§ 165.804 Snake Island, Texas City, Texas; mooring and fleeting of vessels—safety zone.

(a) The following is a safety zone:

(1) The west and northwest shores of Snake Island;

(2) The Turning Basin west of Snake Island;

(3) The area of Texas City Channel from the north end of the Turning Basin to a line drawn 000° true from the northwesternmost point of Snake Island.

(b) Special Regulations. All vessels are prohibited from mooring, anchoring, or otherwise stopping in the safety zone, except in case of an emergency.

(c) Barges are prohibited from fleeting or grounding in the zone.

(d) In an emergency, vessels shall advise the Captain of the Port, Galveston, of the nature of the emergency via the most rapid means available.

§ 165.901 Great Lakes—regulated navigation areas.

(a) Lake Huron. The following are regulated navigation areas—

(1) The waters of Lake Huron known as South Channel between Bois Blanc Island and Cheboygan, Michigan; bounded by a line north from Cheyboygan Crib Light (LL-1340) at 45°39'48"N, 84°27'36"W; to Bois Blanc Island at 45°43'42"N, 84°27'36"W; and a line north from the mainland at 45°43'00"N, 84°35'30"W; to the western tangent of Bois Blanc Island at 45°48'42"N, 84°35'30"W.

(2) The waters of Lake Huron between Mackinac Island and St. Ignace, Michigan, bounded by a line east from St. Ignace Ferry Light (LL-1387) at 45°52'12"N, 84°43'00"W; to Mackinac Island at 45°52'12"N, 84°39'00"W; and a line east from the mainland at 45°53'12"N, 84°43'30"W; to the northern tangent of Mackinac Island at 45°53'12"N, 84°38'48"W.

(b) Lake Michigan. The following is a regulated navigation area—The waters of Lake Michigan known as Gray's Reef Passage bounded by a line from Gray's Reef Light (LL-2006) at 45°46'00"N, 85°09'12"W; to White Shoals Light (LL-2003) at 45°50'30"N, 85°08'06"W; to a point at 45°49'12"N, 85°04'48"W; then to a point at 45°45'42" N, 85°08'42" W; then to the point of beginning.

(c) Regulations. The COTP, Sault Ste. Marie, will close and open these regulated navigation areas as ice conditions dictate. Under normal seasonal conditions, only one closing each winter and one opening each spring are anticipated. Prior to the closing or opening of the regulated navigation areas, the COTP will give interested parties, including both shipping interests and island residents, not less than 72 hours notice of the action. No vessel may navigate in a regulated navigation area which has been closed by the COTP. Under emergency conditions, the COTP may authorize specific vessels to navigate in a closed regulated navigation area.

§ 165.902 Niagara River at Niagara Falls, New York—safety zone.

(a) The following is a Safety Zone—The United States waters of the Niagara River from the crest of the American and Horseshoe Falls, Niagara Falls, New York to a line drawn across the Niagara River from the downstream side of the mouth of Gill Creek to the upstream end of the breakwater at the mouth of the Welland River.

§ 165.1107 San Diego Bay, Calif.—safety zone.

(a) The waters of San Diego Bay enclosed by the following boundaries are a safety zone: A line beginning at latitude 32°43′37.2″N, longitude 117°10′45.0″W; thence to latitude 32°43′36.2″N, longitude 117°10′41.5″W, thence to latitude 32°43′27.8″N, longitude 117°10′45.8″ W; thence to latitude 32°43′30.0″N, longitude 117°10′53.0″W; thence to latitude 32°43′33.0″N, longitude 117°10′51.5″W; thence along the boundary of Coast Guard Air Station, San Diego, to the point of beginning.

Note.—The northeast, southeast, and southwest corners of the safety zone are marked by white buoys with horizontal orange bands.

§ 165.1108 San Pedro Bay, Los Angeles, California—safety zone.

(a) The area enclosed by the following boundary is a safety zone—the waters of San Pedro Bay enclosed by a line beginning at Fish Harbor Channel Light 4 (latitude 33°43′51.0″N, longitude 118°15′50.0″W); thence southeasterly to latitude 33°43′43.5″N, longitude 118°15′45.8″W; thence northeasterly to latitude 33°44′03.6″N, longitude 118°14′36.4″W; thence northwesterly to latitude 33°44′43.8″N, longitude 118°14′56.0″W; thence southeasterly along the Terminal Island shoreline to the beginning point.

(b) No vessel may enter or remain in the safety zone except:

(1) Vessels engaged in the construction of the landfill site for the Los Angeles Harbor dredging project;

(2) Vessels operated by or under contract to the U.S. Army Corps of Engineers or the City of Los Angeles; and

(3) Any other vessels specifically authorized to be in the zone by the Captain of the Port, Los Angeles-Long Beach.

Note.—The southerly and easterly sides of the safety zone will be clearly marked by white buoys displaying the orange diamond cross daymark.

§ 165.1401 Apra Harbor, Guam—security zone.

(a) The following is designated as Security Zone A—The waters of the Pacific Ocean and Apra Outer Harbor within an elliptical area of 650 yards radius centered at the southwest and north corners of Navy Wharf H. (Southwest corner is at 13°27′43.6″N, 144°38′55″E; the north corner is at 13°27′44.6″N, 144°39′00″E).

(b) The following is designated as Security Zone B—A 600-yard-wide area in Apra Outer Harbor contiguous to and bordering Security Zone A.

(c) Special regulations.

(1) Section 165.33 does not apply to Security Zones A and B, except when Navy Wharf H, or a vessel berthed at Navy Wharf H, is displaying a red (BRAVO) flag by day or a red light by night.

(2) Vessels may enter Security Zone B when transiting the harbor without the permission of the COTP.

(3) Unless the COTP orders the vessel to leave, any vessel berthed at a waterfront facility may remain in Security Zone B without the permission of the COTP.

(4) Vessels under 65 feet in length may anchor in the Special Anchorage Area as described in § 110.129(a) of this chapter without the permission of the COTP.

§ 165.1402 Apra Outer Harbor, Guam—regulated navigation area.

(a) The following is a regulated navigation area—The waters of the Pacific Ocean and Apra Outer Harbor enclosed by a line beginning at latitude 13°26′47″N, longitude 144°35′07″E; thence to Spanish Rocks at latitude 13°27′09.5″N, longitude 144°37′20.6″E; thence along the shoreline of Apra Outer Harbor to latitude 13°26′28.1″N, longitude 144°39′52.5″E (the northwest corner of Polaris Point); thence to latitude 13°26′40.2″N, longitude 144.39′28.1″E; thence to latitude 13°26′32.1″N, longitude 144°39′02.8″E; thence along the shoreline of Apra Outer Harbor to Orote Point at latitude 13°26′42″N, longitude 144°36′58.5″E; thence to the beginning.

(b) Regulations:

(1) Except for public vessels of the United States, vessels may not enter Apra Outer Harbor without permission of the Captain of the Port if they have on board more than 25 tons of high explosives.

(2) Except for vessels not more than 65 feet in length, towboats or tugs without tows, no vessel may pass another vessel in the vicinity of the Outer Harbor entrance.

(3) Vessels over 100 gross tons shall:

(i) Steady on the entrance range at least 2 miles west of the entrance when approaching Apra Outer Harbor and;

(ii) [Reserved]

(iii) Steady on the range when departing Apra Outer Harbor.

(4) Vessels may not anchor in the fairway. The fairway is the area within 375 feet on either side of a line beginning at latitude 13°26′47″N, longitude 144°35′07″E; thence to latitude 13°27′14.1″N, longitude 144°39′14.4″E; thence to latitude 13°26′35.2″N, longitude 144°39′46.4″E; thence to latitude 13°26′30.8″N, longitude 144°39′44.4″E.

(5) Vessels over 100 gross tons may not proceed at a speed exceeding 12 knots within the harbor.

(6) No vessel may leave Apra Outer Harbor until any inbound vessel over 65 feet in length has cleared the Outer Harbor Entrance.

§ 165.1701 Port Valdez, Valdez, Alaska—safety zone.

The waters within the following boundaries are a safety zone—The area within 200 yards of any waterfront facility at the Trans-Alaska Pipeline Valdez Terminal complex or vessels moored or anchored at the Trans-Alaska Pipeline Valdez Terminal complex and the area within 200 yards of any tank vessel maneuvering to approach, moor, unmoor, or depart the Trans-Alaska Pipeline Valdez Terminal complex.

§ 165.1702 Gastineau Channel, Juneau, Alaska.

(a) The waters within the following boundaries are a safety zone: A line beginning at the Standard Oil Company Pier West Light (LLNR 3217) located at position 58°17.9′N latitude, 134°24.8′W longitude; thence 228° True to the south shore of Gastineau Channel; thence southeast along the south shore of Gastineau Channel to a point at position 58°17′N latitude, 134°24.1′W longitude; thence 048° True to Rock Dump Lighted Buoy 2A (LLNR 3213) 23.8′W longitude; thence northwest along the north shore of Gastineau Channel to the point of origin. This zone is effective 24 hours per day from 1 June through 30 September, annually.

(b) Special Regulations:

(1) All vessels may transit or navigate within the safety zone.

(2) No vessels, other than a large passenger vessel (including cruise ships and ferries) may anchor within the Safety zone without the express consent from the Captain of the Port, Southeast Alaska.

Dated: July 1, 1982.

B. F. Hollingsworth,

Rear Admiral, Coast Guard Chief, Office of Marine Environment and Systems.

[FR Doc. 82-18489 Filed 7-7-82; 8:45 am]

BILLING CODE 4910-14-M

VETERANS ADMINISTRATION

38 CFR Part 17

Grants to States for Construction of State Home Facilities

Correction

In FR Doc. 82-17363 appearing on page 27858 in the issue of Monday, June 28, 1982, make the following correction:

On page 27859, column one, the caption for Part 17 now reading **"Part 17—United States Coast Guard General Gift Fund"** should have read **"Part 17—Medical".**

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 33

[AAA-FRL-2165-3]

Procurement Under Assistance Agreements

AGENCY: Environmental Protection Agency.

ACTION: Reopening of comment period.

SUMMARY: This document requests comments on § 33.240 "Small, minority, women's and labor surplus area businesses" of EPA's May 12, 1982, interim-final 40 CFR Part 33 "Procurement Under Assistance Agreements" rule. We are extending the comment period on § 33.240 because of the significant changes this section has on EPA's existing minority business and women's business policies. Comments received during this extended comment period will be considered when we prepare the final 40 CFR Part 33 rule.

DATE: The Environmental Protection Agency will accept comments on § 33.240 until August 9, 1982.

ADDRESSES: Comments should be addressed to: Central Docket Section, G-81-4, Gallery 1, West Tower, Lower Lobby, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

The public may inspect the comments received on the proposed rules at: Central Docket Section, G-81-4, Gallery 1, West Tower, Lower Lobby, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, between 8 a.m. and 4:30 p.m., business days.

FOR FURTHER INFORMATION CONTACT: Robert Knox, Acting Director, Office of Small and Disadvantaged Business Utilization, Environmental Protection Agency, Washington, D.C. 20460 (202-382-4575).

SUPPLEMENTARY INFORMATION: On May 12, 1982, EPA published an interim-final 40 CFR Part 33 procurement regulation (47 FR 20474) governing assistance agreements under EPA's program for the "Grants for Construction of Treatment Works" program (40 CFR Part 35 Subpart I, CFDA 66.418). The interim-final Part 33 regulation contains EPA's rules for small, minority, women's, and labor surplus area businesses. Various commenters on the March 2, 1982, proposed Part 33 regulation (47 FR 8460) indicated that EPA should hold an additional comment period on the minority business and women's business portion of the regulation before the publication of the final regulation, because of the changes to EPA's existing policy on minority and women's businesses. Therefore, EPA is accepting additional comments until August 2 on the following section of the Part 33 interim-final regulation:

§ 33.240 Small, minority, women's and labor surplus area businesses.

(a) It is EPA policy to award a fair share of subagreements to small, minority, and women's businesses. The recipient must take affirmative steps to assure that small, minority, and women's businesses are used when possible as sources of supplies, equipment, construction, and services. Affirmative steps shall include the following:

(1) Including qualified small, minority, and women's businesses on solicitation list.

(2) Assuring that small, minority, and women's businesses are solicited whenever they are potential sources.

(3) Dividing total requirements, when economically feasible, into small tasks or quantities to perform maximum participation of small, minority, and women's businesses.

(4) Establishing delivery schedules, where the requirements of the work permit, which will encourage participation by small, minority, and women's businesses.

(5) Using the services and assistance of the Small Business Administration and the Office of the Minority Business Enterprise of the U.S. Department of Commerce.

(6) Requiring each party to a subagreement to take the affirmation steps in paragraphs (a)(1) through (a)(5) of this section.

(b) [Reserved]

(c) Recipients are encouraged to procure goods and services from labor surplus area firms.

John P. Horton,

Assistant Administrator for Administration.

[FR Doc. 82-18482 Filed 7-7-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[A-9-FRL 2139-6]

Approval and Promulgation of Implementation Plans; State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: On July 29, 1981, EPA published a notice of proposed rulemaking concerning volatile organic compounds (VOC) rules submitted by the State of California. That notice proposed to approve with conditions the VOC rules. Today's notice takes final action under Part D of the Clean Air Act to approve with conditions these rules.

DATE: This action is effective August 9, 1982.

FOR FURTHER INFORMATION CONTACT: David P. Howekamp, Acting Director, Air Management Division, Region 9, Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105, Attn: Douglas Grano (415) 974-8058.

ADDRESSES: A copy of today's revision to the California State Implementation Plan is located at:

The Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20408

Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, D.C. 20460.

SUPPLEMENTARY INFORMATION:

Background

On July 29, 1981 (46 FR 38725), EPA published a notice of proposed rulemaking for certain VOC rules submitted by the State through March 1981. That notice should be used as a reference in reviewing today's notice. The July 29 notice provides a description of the proposed rules, compares them to the Group II Control Techniques Guidelines (CTG), identifies deficiencies and issues, and suggests corrections. The July 29 notice proposed to approve

certain rules while approving the remaining rules with conditions.

Supplemental Revisions

After EPA's review, which appears in the July 29, 1981 proposal notice, the State submitted revisions which corrected some of the deficiencies noticed by EPA. These revisions are as follows:

On June 22, 1981, the State submitted amended Bay Area Air Quality Management District (AQMD) Rule 28, Section 401, "Pressure Relief Valves at Petroleum Refineries—Reporting," as a rule revision. Section 401 of Rule 28 has been amended by addition of the words, "subject to the requirements of Section 8–28–301." This amendment satisfies one of the conditions of approval recommended in EPA's notice of proposed rulemaking.

On July 30, 1981, the State submitted amended Bay Area AQMD Rule 24, "Pharmaceutical and Cosmetic Manufacturing Operations." EPA will address the rule in a separate **Federal Register** notice.

EPA has determined that "good cause" (see Administrative Procedure Act, 5 U.S.C. 5536(b)) exists to approve the revision to Rule 28 without providing further notice and opportunity to comment, since the revision is merely procedural and additional comment would serve no practical purpose.

Public Comments

During the public comment period, EPA received comments from Chevron U.S.A. Inc., Exxon Company U.S.A., Tosco Corporation, the Western Oil and Gas Association, the Bay Area AQMD, the South Coast AQMD, the San Diego County Air Pollution Control District (APCD), the Kern County APCD, the Kings County APCD, and the California Air Resources Board. A document, entitled "EPA Public Comment Technical Support Document," containing the response to each comment, is available for public inspection as a part of Document File NAP–CA–33 at the EPA Library in Washington, D.C., at EPA Region 9 office in San Francisco, CA and at the other Document File locations. EPA's final actions are based on the proposed rulemaking notice, and public comments received by EPA.

EPA Actions

EPA is taking final action under section 172 of the Clean Air Act to approve the following rules since they are consistent with the Group II CTG and represent reasonably available control technology (RACT):

Bay Area

Rule 6 Terminals and Bulk Plants
Rule 18 Valves and Flanges at Petroleum Refineries
Rule 20 Graphic Arts Coating Operations
Rule 23 Coating of Flat Wood Paneling
Rule 27 Perchloroethylene Dry Cleaning
Rule 28 Pressure Relief Valves at Petroleum Refineries

El Dorado County

Rule 313 Storage of Petroleum Products at Terminals and Large Bulk Loading Facilities

Fresno County

Rule 410 Storage of Organic Liquids

Imperial County

Rule 414 Storage of Organic Liquids at Terminals and Bulk Loading Facilities

Kern County

Rule 411.1 Steam Drive Wells-Crude Oil Production
Rule 414.1 Valves and Flanges at Petroleum Refineries and Chemical Plants

South Coast

Rule 462 Organic Liquid Loading
Rule 466.1 Valves and Flanges
Rule 467 Safety Pressure Relief Valves
Rule 1102.1 Perchloroethylene Dry Cleaning Systems
Rule 1103 Pharmaceuticals and Cosmetics Manufacturing Operations
Rule 1130 Graphic Arts

Stanislaus County

Rule 409.7 Graphic Arts

Ventura County

Rule 71.2 Storage of Organic Liquids

EPA is taking final action under Section 110 of the Clean Air Act to approve the following rules since they will strengthen the State Implementation Plan, and are consistent with section 110 of the Clean Air Act.

South Coast

Rule 461 Gasoline Transfer and Dispensing

Bay Area

Rule 17 Petroleum Solvent Dry Cleaners
Rule 22 Valves and Flanges at Chemical Plant Complexes
Rule 26 Magnet Wire Coating Operations

Kern County

Rule 412.1 Transfer of Gasoline into Vehicle Fuel Tanks

EPA approves the Group II CTG rules listed below with the following condition: The State must provide either (1) an adequate demonstration that the rule represents RACT, (2) amend the rule so that it is consistent with the CTG, or (3) demonstrate that the regulation will result in VOC emission reductions which are within five percent of the reduction which would be achieved through the implementation of the CTG recommendations:

Bay Area/Rule 25, "Pumps and Compressor Seals at Petroleum Refineries;" Kings/Rule 414.1, "Valves and Flanges at Petroleum Refineries and Chemical Plants;" Santa Barbara/Rule 331, "Refinery Valves and Flanges;" South Coast/Rule 466, "Pumps and Compressors;" State-wide Stage I Vapor Recovery Regulations;" and Ventura/Rule 74.7, "Valves and Flanges at Petroleum Refineries and Chemical Plants."

Rules listed below are being approved with the understanding that revisions will be submitted in the future consistent with the Group II CTG recommendations:

Kern/Rule 411.1, "Steam Drive Wells—Crude Oil Production;" and South Coast/Rule 467, "Safety Pressure Relief Valves."

In addition, since the District rules listed above provide adequate control on VOC emissions EPA is rescinding 40 CFR 52.246, "Control of dry cleaning solvent vapor losses," for the Bay Area AQMD.

Regulatory Process

Under Executive Order 12291, today's action is not "Major." It has been submitted to the Office of Management and Budget (OMB) for review.

Under the Clean Air Act, any petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements.

Note.—Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1981.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Sec. 110, 129, 171–178, and 301(a), Clean Air Act, as amended (42 U.S.C. 7410, 7429, 7501 to 7508, and 7601(a))

Dated: June 30, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart F of Part 52 Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220 is amended by adding paragraphs (c)(66) (i)(B),

(67)(iii)(B), (69)(iii)(iv), (79)(iv)(B), (83)(i)(B), (85)(viii), (86)(i)(B), (87)(i)(B), (88)(iii)(B), (89)(vii), (93)(ii)(B), (95)(i)(B), (iv) and (v), (96)(v), (98)(vii) and (viii) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(66) * * *

(i) * * *

(B) Amended Rule 466.

* * * * *

(67) * * *

(iii) * * *

(B) New Rule 411.1.

* * * * *

(69) * * *

(iii) New Rule 1103.

(iv) California Health and Safety Code, Sections 41950 to 41962, 94000 to 94004; and Stationary Source Test Methods—Volume 2: Certification and Test Procedures for Gasoline Vapor Recovery Systems submitted on April 23, 1980.

* * * * *

(79) * * *

(iv) * * *

(B) New Rule 466.1.

* * * * *

(83) * * *

(i) * * *

(B) New Rules 22, 23, and 27.

(ii) * * *

(iii) * * *

(A) Rule 410.

* * * * *

(85) * * *

(viii) South Coast AQMD.

(A) New Rule 1130.

* * * * *

(86) * * *

(i) * * *

(B) New Rules 17 (paragraphs 112, 302, 400, and 401) and 28.

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(87) * * *

(i) * * *

(B) New Rules 25 and 28 (except Section 401).

* * * * *

(88) * * *

(iii) * * *

(B) Amended Rule 462.

* * * * *

(89) * * *

(vii) South Coast AQMD.

(A) Amended Rule 1102.1.

(93) * * *

(ii) * * *

(B) New Rule 28, Section 401.

* * * * *

(95) * * *

(i) * * *

(B) Amended Rule 412.1.

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(iv) South Coast AQMD.

(A) Amended Rule 461.

(v) Stanislaus County APCD.

(A) New Rule 409.7.

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(96) * * *

(v) Bay Area AQMD.

(A) New Rule 20.

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(98) * * *

(vii) El Dorado County APCD.

(A) New Rule 313.

(viii) Ventura County APCD.

(A) New Rule 71.2.

* * * * *

2. Section 52.232 is amended by adding paragraphs (a)(7)(ii), (9)(iii), (10)(ii), (11)(ii), and (14)(i) to read as follows:

§ 52.232 Part D conditional approval.

(a) * * *

(3) * * *

(v) For Ozone:

(A) By November 5, 1982, the State must provide either (*1*) an adequate demonstration that Rule 466 represents RACT, or (*2*) Amend the rule so it is consistent with the CTG, or (*3*) Demonstrate that the rule will result in VOC emission reductions which are within five percent of the reductions which could be achieved through the implementation of the CTG recommendations.

* * * * *

(7) * * *

(ii) For Ozone:

(A) By November 5, 1982, the State must provide either (*1*) an adequate demonstration that Rule 25 represents RACT, or

(*2*) Amend the rule so it is consistent with the CTG, or

(*3*) Demonstrate that the rule will result in VOC emission reductions which are within five percent of the reductions which could be achieved through the implementation of the CTG recommendations.

* * * * *

(9) * * *

(iii) For Ozone:

(A) By November 5, 1982, the State must provide either (*1*) an adequate demonstration that Rule 331 represents RACT, or

(*2*) Amend the rule so it is consistent with the CTG, or

(*3*) Demonstrate that the rule will result in VOC emission reductions which are within five percent of the reductions which would be achieved through the implementation of the CTG recommendations.

* * * * *

(10) * * *

(ii) * * *

(A) * * *

Kings County APCD:

Rule 414.1 Valves and Flanges at Petroleum Refineries and Chemical Plants

* * * * *

(11) * * *

(ii) * * *

Ventura County APCD:

Rule 74.7 Valves and Flanges at Petroleum Refineries and Chemical Plants

* * * * *

(14) California State Rules.

(i) For Ozone:

(A) By November 5, 1982, the State must provide either (*1*) an adequate demonstration that California Health and Safety Code, Sections 41950 to 41962, 94000 to 94004; and Stationary Source Test Methods—Volume 2 represent RACT, or (*2*) Amend the rules so they are consistent with the CTG, or (*3*) Demonstrate that the rules will result in VOC emission reductions which are within five percent of the reductions which would be achieved through the implementation of the CTG recommendations.

* * * * *

3. In § 52.246 paragraph (b) introductory text is revised as follows:

§ 52.246 Control of dry cleaning solvent vapor losses.

* * * * *

(b) This section is applicable in the Metropolitan Los Angeles, Sacramento Valley, and San Joaquin Valley Intrastate Air Quality Control Regions (the "Regions"), as described in 40 CFR Part 81, dated July 1, 1979, except as follows:

* * * * *

[FR Doc. 82-18481 Filed 7-7-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

46 CFR Part 536

[General Order 13, Amdt. 12; Docket No. 80-54]

Time/Volume Rate Contracts—Tariff Filing Regulations Applicable to Carriers and Conferences in the Foreign Commerce of the United States

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: This prescribes uniform rules and regulations governing the filing of time/volume rates. It will eliminate the present confusion and imprecision surrounding existing time/volume rates and their related tariff provisions. It will

also enable the Commission to monitor the use of time/volume rates to ensure that they comply with the terms of their related contracts and the Shipping Act, 1916.

DATE: Effective August 9, 1982.

FOR FURTHER INFORMATION CONTACT: James A. Warner, Chief, Office of Foreign Tariffs, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573, (202) 523–5827.

SUPPLEMENTARY INFORMATION: On November 2, 1981, the Commission issued a notice of proposed rulemaking (46 FR 54390) requesting comments on a rule which would govern the filing of time/volume rates. Forty-four comments have been received by or on behalf of shippers, carriers, conferences of carriers, ocean freight forwarders, and other interested parties (*See* Attachment A). In light of these comments, a number of changes have been made to the rule as proposed. However, before discussing these changes, certain threshold issues must be addressed.

Some commentators challenge the Commission's previous finding that this rulemaking is exempt from the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*). They believe that this finding is incorrect and that the Commission is required to conduct an initial regulatory flexibility analysis before continuing this rulemaking. The Commission has considered these arguments but continues of the view that the requirements of the RFA do not apply. This proceeding clearly relates to the particular applicability of rates and practices exempt under section 601(2) of the Act (5 U.S.C. 601(2)).

Several commentators question whether a non-vessel operating common carrier by water (NVOCC) is entitled to use time/volume rates. They contend that an NVOCC is not a true shipper in that it has neither title nor beneficial interest in the shipments it handles. They further submit that conferring shipper status on NVOCCs and permitting them to gain the benefits of the underlying carriers' time/volume rates will disrupt the United States oceanborne foreign commerce. They fear that the use of time/volume rates by NVOCCs will enable them to consolidate small shipments which would otherwise not qualify for a volume rate and thereby erode the underlying carriers' revenues. Commentators are also concerned that an NVOCC will be able to secure for its customers an undue advantage over other shippers who prefer to deal directly with a carrier. Some commenting parties believe that because of the NVOCCs ability to consolidate small shipments and qualify for lower volume rates, they will eventually use their increased market power to obtain unlawful rebates, unjustly discriminatory arrangements, and other illegal favors.

The Commission has historically considered an NVOCC as a shipper in relation to the underlying vessel operating carrier. Nothing presented herein convinces the Commission otherwise. Moreover, the time/volume tariff rules contain sufficient safeguards to prevent the alleged potential abuses, as does the Shipping Act itself. It should also be noted that freight consolidators have been using time/volume rates for many years without adverse consequences. Therefore, there appears to be no valid regulatory reason to deny to the NVOCC class of shippers the benefits which may accrue from time/volume rates.

Finally, there is the question of whether conferences, and dual rate conferences in particular, should be authorized to participate in time/volume ratemaking. Certain commentators argue that time/volume rates are not conventional or routine ratemaking and that contracts for such rates contravene section 14b of the Act (46 U.S.C. 813a). The Commission disagrees. Time/volume rates are a routine form of ratemaking, interstitial to agreements approved pursuant to the Shipping Act, 1916. Contracts providing for such rates are not exclusive patronage contracts subject to section 14b, but rather are contracts based on the volume of freight offered.

The Commission will now address individual sections of the proposed rule and the comments addressed thereto.

Section 536.2, as proposed, included separate definitions for time/volume rate and time/volume contract. One commentator suggested that two separate definitions are unnecessary. The Commission agrees. These two interrelated definitions can be combined to form a more concise and exact definition and the final rule has been amended accordingly.

Several commentators opposed proposed § 536.—(a), which requires the publication of time/volume rates and contracts 30 days *prior* to their taking effect and their being made available to all shippers during that period. They noted that, if a contract rate accomplishes a reduction, it should be permitted to take effect upon filing, consistent with existing requirements for rate reductions.

The Commission understands the need to accommodate those instances when market conditions necessitate fast transactions while preserving the need to make all contracts available to all shippers. Moreover, the Commission does not wish to preclude the use of renewable contracts. Therefore, the final rule has been amended to permit new time/volume rates to become effective upon filing. They must, however, be made available to all shippers or consignees under the same terms and conditions for a period of at least thirty (30) days subsequent to the commencement of a new or renewal contract period.

At the suggestion of some commentators, proposed § 536.—(b)(1) is being amended to make clear that time/volume contracts may cover more than one commodity. This change will permit a single time/volume rate and/or contract to apply to several commodities, thereby eliminating the additional time and expense of maintaining several different contracts.

Several commentators suggested that the recordkeeping requirements of proposed § 536.—(b)(5), (b)(8), and (f) be combined or eliminated. Other commentators more particularly objected to § 536.—(b)(8), which required that a shipper/consignee furnish written notice to the designated record-keeper of any shipment under a contract. The contention is that the carrier's bill of lading is a sufficient written record of time/volume shipments, because both carrier and shipper receive copies for each shipment, and no useful purpose would be served by requiring additional written notification. The Commission concurs. Proposed § 536.—(b)(8) has been deleted from the final rule. However, it is the Commission's opinion that § 536.—(f) more closely relates to § 536.—(g) and therefore they have been combined in § 536.7(e) of the final rule.

Also, with respect to written notifications, several shippers have expressed a desire that our regulations provide that carriers be required to inform shippers as to the number of tons shipped under a particular time/volume contract at various times during the contract period. While there are advantages to such a procedure, the Commission views this as a commercial problem, the details of which should be worked out between the parties. Therefore, it is unnecessary to address this matter in the final rule.

Some reservations were expressed concerning proposed § 536.—(b)(6), because of its use of the words "precise" and "disabling circumstances." Commentators contend it would be difficult, if not impossible, to precisely describe some "disabling

circumstances" and that, moreover, the term "disabling circumstances" is not specific enough to prevent its use as an easy escape from the contract. This point is well taken. This section has therefore been amended to clarify its terms and to prevent "commercial" contingencies (*e.g.*, changing markets, poor management decisions, business declines, etc.) from being labeled "disabling circumstances" to contravene otherwise binding time/volume contracts.

This final rule has also been revised to address the concern of many commentators that the Commission was precluding all but one time/volume rate scheme. Accordingly, proposed § 536.—(b)(9) and (c) have been revised and combined to reflect the fact that contracting parties are free to develop their own time/volume schemes within the strictures of the rule.

Proposed § 536.—(d), which prohibits the filing of time/volume rates in terms of a percentage, fraction, decimal, or multiple of any other rate, was challenged by one commentator. It will nonetheless remain unchanged. Numerous problems could arise if a change in a non-time/volume rate automatically triggers a like percentage, fraction, decimal, or multiple change in a time/volume rate. For instance, if a time/volume rate were stated as a percentage of a non-time/volume rate, and the non-time/volume rate had numerous changes, the time/volume rate would never be clearly and explicitly stated, since it could require numerous comparisons and calculations involving several tariff pages.

Finally, some commentators urge that the record retention period be limited to two years rather than the proposed five-year requirement. The five-year requirement was established to conform with the statute of limitations applicable to rebating violations and it will be retained.

The Commission requested estimates of the financial and man-hour burdens anticipated in complying with the proposed time/volume rule. Only two commentators replied, expressing financial and man-hour burdens of $1,000/40 hours and $30,000/600 hours, respectively. The Commission believes that even these two estimates are no longer relevant in light of the elimination of the reporting requirement for each shipment, as originally proposed. The remaining record-keeping requirement is to simply maintain copies of bills of lading and related documents, accessible within the United States, to substantiate the proper application of time/volume rates as required by section 18(b) of the Shipping Act, 1916. Additionally, there is the potential that some reports will be prepared pursuant to § 536.7(d), concerning disabling circumstances. However, the Commission believes that they will be of a *de minimus* nature.

Information collection requirements contained in this regulation (§ 536.7 (a), (b), (d), and (e)) have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504) and have been assigned OMB control number 3072-0042.

As a result of the above changes, the Commission has renumbered and rearranged certain sections of the rule.

List of Subjects in 46 CFR Part 536

Rates, Maritime carriers.

Therefore, it is ordered, That pursuant to 5 U.S.C. 553 and sections 18(b) and 43 of the Shipping Act, 1916 (46 U.S.C. 817(b) and 841(a)), Part 536 of 46 CFR is amended as follows:

§ 536.2 [Amended]

I. Section 536.2 is amended by the addition of paragraph (p) as follows:

* * * * *

(p) *Time/Volume Rate*—A rate conditioned upon the shipment of a specific or minimum quantity of cargo over a set period of time, implementation of which is accomplished pursuant to the terms of a time/volume contract set forth in the appropriate tariff and complying with the terms and conditions of § 536.7.

II. A new § 536.7 is added to 46 CFR Part 536, as follows:

§ 536.7 Time/Volume rates.

Time/volume rates may be offered by common carriers by water in the United States foreign commerce or conferences of such carriers, subject to the following terms and conditions:

(a) Time/volume rates and related contracts shall be published in tariffs on file with the Commission and made available to all shippers or consignees under the same terms and conditions upon filing and for a period of at least thirty (30) days subsequent to the commencement of a new or renewal contract period;

(b) A time/volume contract shall clearly state:

(1) The commodity or commodities to which it applies;

(2) The minimum quantity of cargo necessary to obtain the time/volume rate;

(3) The effective time period of the contract;

(4) The origin and destination ports/points involved;

(5) The manner in which shipment records supporting the time/volume rate are to be maintained;

(6) A clear description of any disabling circumstances, not commercial contingencies (*e.g.*, changing markets, poor management decisions, business declines, etc.), which will permit (i) A reduction in the quantity of cargo required for the contract period, (ii) An extension of the contract period without any change in the contract rate, (iii) A discontinuance of the contract, or (iv) Other options not contemplated above;

(7) Whether reductions in quantity will be permitted for Saturdays, Sundays, or legal holidays occurring during a disability period;

(8) In situations, other than those described in § 536.7(b)(6), where the volume requirement will not be met during the contract period, (and due to carriers' rate structure undercharges result therefrom) whether a shipper/consignee will be permitted to pay the deficit between the actual quantity shipped and the minimum volume requirement or whether the entire amount shipped during the contract period will be rerated at the applicable non-time/volume rates in effect for the commodity on the date that each particular shipment sailed;

(9) Whether or not any surcharges shall apply to the time/volume contract rate;

(c) No time/volume rate may be stated in terms of a percentage, fraction, decimal, or multiple of any other rate;

(d) If a specific reduction in the quantity required for the contract period is stated in the contract for situations when a shipment cannot be made due to specified disabling occurrences, the party encountering disability days shall, within five days of the date of disability, provide written notice to the person designated to maintain records of the nature of disability, and, of its termination, when that event occurs;

(e) Every carrier and conference shall designate a resident representative in the United States for the maintenance of time/volume shipment records. Shipment records concerning each time/volume contract shall be maintained by the designated recordkeeper for a period of five years from the completion of each contract.

It is further ordered, That any existing contracts which would otherwise fall under the provisions of this Order shall be permitted to remain in effect but may not be extended or renewed without compliance with this Order or upon Commission approval. In no case shall any existing contract remain in effect

more than 12 months from the effective date of this Order.

By the Commission.

Francis C. Hurney,

Secretary.

Attachment A

Shippers

1. Boise Cascade Corporation
2. E.I. duPont de Nemours and Company
3. FMC Corporation
4. Kero-Sun, Inc.

Carriers and Conferences

1. American West African Freight Conference
2. Atlantic & Gulf/West Coast of South America Conference
3. Continental North Atlantic Westbound Freight Conference
4. Continental-U.S. Gulf Freight Association
5. East Coast Colombia Conference
6. Greece/U.S. Atlantic Agreement
7. Gulf-European Freight Association
8. Gulf/Mediterranean Conference
9. Gulf-United Kingdom Conference
10. Hapag-Lloyd (America) Inc.
11. Iberian/U.S. North Atlantic Westbound Freight Conference
12. Japan/Korea Atlantic & Gulf Freight Conference
13. Japan-Puerto Rico & Virgin Islands Freight Conference
14. Marseilles/North Atlantic U.S.A. Freight Conference
15. Med-Gulf Conference
16. Mediterranean-North Pacific Coast Freight Conference
17. North Atlantic Baltic Freight Conference
18. North Atlantic Continental Freight Conference
19. North Atlantic French Atlantic Freight Conference
20. North Atlantic Mediterranean Freight Conference
21. North Atlantic United Kingdom Freight Conference
22. North Atlantic Westbound Freight Association
23. Open Bulk Carriers, Ltd.
24. Pacific Coast European Conference
25. Scandinavia Baltic/U.S. North Atlantic Westbound Freight Conference
26. Sea-Land Service, Inc.
27. The West Coast of Italy, Sicilian and Adriatic Ports/North Atlantic Range Conference
28. Trans Freight Lines, Inc.
29. Trans-Pacific Freight Conference of Japan/Korea
30. United Kingdom & U.S.A. Gulf Westbound Rate Agreement
31. United States Atlantic & Gulf-Venezuela Conference
32. U.S. North Atlantic Spain Rate Agreement
33. U.S. South Atlantic/Spanish, Portuguese, Moroccan and Mediterranean Rate Agreeement
34. Westwood Shipping Lines
35. 8900 Lines

Other

1. Holland & Knight
2. Military Sealift Command
3. National Customs Brokers & Forwarders Association of America, Inc.
4. New York Foreign Freight Forwarders and Brokers Ass'n., Inc.
5. United States Department of Agriculture

[FR Doc. 82-18471 Filed 7-7-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 97

Amateur Radio Service; Editorial Amendment of the Commission's Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document corrects editorial errors which were made in the October, 1981, edition of 47 CFR Part 97. The errors were of a typographical and printing nature.

DATE: Effective August 16, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Private Radio Bureau, Washington, D.C. 20554, (202) 632-7197.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 97

Radio.

Adopted: June 28, 1982.

Released: June 29, 1982.

In the matter of Editorial Amendment of 47 CFR Part 97, Amateur Radio Service.

1. Part 97, Amateur Radio Service Rules, appears in the Code of Federal Regulations at 47 CFR Part 97. This Order corrects typographical and printing errors which are contained in the October, 1981, edition of 47 CFR Part 97. In addition, it editorially amends 47 CFR Part 97 to include changes that have been made thereto.

2. Since these amendments are editorial in nature, the notice and public procedure provisions of section 553(b) of the Administrative Procedure Act are not applicable.

3. Authority for this action is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and § 0.231(d) of the Commission's rules.

4. Accordingly, it is ordered, that 47 CFR Part 97 is amended as set forth in the attached Appendix.

5. The effective date of these rule amendments is August 16, 1982.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Edward J. Minkel,

Managing Director.

Appendix

Title 47 of the Code of Federal Regulations, Part 97, Amateur Radio Service, 47 CFR Part 97, is amended, as follows:

PART 97—AMATEUR RADIO SERVICE [AMENDED]

1. In the Table of Contents, remove the following entries:

Sec.
97.71 Transmitter power supply.
97.74 Frequency measurement and regular check.
97.87 [Reserved]

2. In the Table of Contents, in the entry for § 97.77, the word "kit" should be changed to "kits".

3. In the Table of Contents, in Appendix 2, change the word "Telecommunications" to "Telecommunication".

4. Section 97.7(a) is revised to read, as follows:

§ 97.7 Privileges of operator licenses.

(a) *Amateur Extra Class and Advanced Class.* All authorized amateur privileges including exclusive frequency operating authority in accordance with the following table:

Frequencies	Class of license authorized
3500-3525 kHz	Amateur Extra Only.
3775-3800 kHz	Do.
7000-7025 kHz	Do.
14,000-14,025 kHz	Do.
21,000-21,025 kHz	Do.
21,250-21,270 kHz	Do.
3800-3890 kHz	Amateur Extra and Advanced.
7150-7225 kHz	Do.
14,200-14,275 kHz	Do.
21,270-21,350 kHz	Do.

* * * * *

5. Section 97.9 is revised to read, as follows:

§ 97.9 Eligibility for new operator license.

Anyone except a representative of a foreign government is eligible for an amateur operator license.

6. The first sentence of paragraph (c) of § 97.13 is revised to read, as follows. The remainder of the text in paragraph (c) remains the same.

§ 97.13 Renewal or modification of operator license.

* * * * *

(c) Application for renewal and/or modification of an amateur operator license shall be submitted on FCC Form 610 and shall be accompanied by the applicant's license. * * *

* * * * *

7. The first sentence of paragraph (b) of § 97.25 is revised to read, as follows. The remainder of the text in paragraph (b) remains the same.

§ 97.25 Examination credit.

* * * * *

(b) Amateur Code Credit Certificates (FCC Form 845) will be issued by the Engineers in Charge of FCC offices to applicants for amateur operator licenses who successfully complete telegraphy examination elements 1(A), 1(B) or 1(C), but who fail the associated written examination element(s). * * *

* * * * *

8. Section 97.27 is revised to read, as follows:

§ 97.27 Mail examinations for applicants unable to travel.

The Commission may permit the examinations for an Amateur Extra, Advanced, General, or Technician Class license to be administered at a location other than a Commission examination point by an examiner chosen by the Commission, when it is shown by physician's certification that the applicant is unable to appear at a regular Commission examination point because of a protracted disability preventing travel.

9. The introductory text of paragraph (b) of § 97.28 is revised to read, as follows:

§ 97.28 Manner of conducting examinations.

* * * * *

(b) The examination for a Novice Class operator license shall be conducted and supervised by a volunteer examiner selected by the applicant, unless otherwise prescribed by the Commission. The volunteer examiner shall be at least 18 years of age, shall be unrelated to the applicant, and shall be the holder of an Amateur Extra, Advanced or General Class operator license. The written portion of the Novice Class operator examination shall be obtained, administered, and submitted in accordance with the following procedure:

* * * * *

10. In § 97.32, revise paragraphs (b) and (c) to read, as follows:

§ 97.32 Interim amateur permits.

* * * * *

(b) An Interim Amateur Permit conveys all operating privileges of the applicant's new operator license classification.

(c) The transmissions of amateur radio stations operated under the authority of Interim Amateur Permits shall be identified in the manner specified in § 97.84.

* * * * *

11. Paragraphs (a) and (c) of § 97.42 are revised to read, as follows:

§ 97.42 Application for station license.

(a) Each application for a club or military recreation station license in the Amateur Radio Service shall be made on FCC Form 610–B. Each application for any other amateur radio license shall be made on FCC Form 610.

* * * * *

(c) Each applicant in the Private Radio Services (1) for modification of a station license involving a site change or a substantial increase in tower height or (2) for a license for a new station must, before commencing construction, supply the environmental information, where required, and must follow the procedure prescribed by Subpart I of Part 1 of this chapter (§§ 1.1301 through 1.1319) unless Commission action authorizing such construction would be a minor action within the meaning of Subpart I of Part 1.

12. Section 97.44 is revised to read, as follows:

§ 97.44 Location of station.

Every amateur radio station shall have one land location, the address of which appears in the station license, and at least one control point.

§ 97.47 [Amended]

13. Remove the Note which follows paragraph (b) of § 97.47.

14. Paragraph (a), the introductory text of (b), and subparagraphs (1) and (2) of paragraph (b), of § 97.61 are amended to read, as follows:

§ 97.61 Authorized frequencies and emissions.

(a) The following frequency bands and associated emissions are available to amateur radio stations for amateur radio operation, other than repeater and auxiliary operation, subject to the limitations of § 97.65 and paragraph (b) of this section:

Frequency band	Emissions	Limitations (see paragraph (b))
kHz:		
1800 to 1900	A1, A3	
1900 to 2000	A1, A3	1, 2
3500 to 4000	A1	
3500 to 3775	F1	
3775 to 4000	A3, F3, A4, A5, F4, F5	4
4363.8	A3A, A3J	13
7000 to 7300	A1	3, 4
7000 to 7150	F1	3, 4
7075 to 7100	A3, F3	11
7150 to 7300	A3, F3, A4, F4, A5, F5	3, 4
14,000 to 14,350	A1	
14,000 to 14,200	F1	
14,200 to 14,350	A3, F3, A4, F4, A5, F5	
21,000 to 21,450	A1	
21,000 to 21,250	F1	
21,250 to 21,450	A3, F3, A4, F4, A5, F5	
28,000 to 29,700	A1	
28,000 to 28,500	F1	
28,500 to 29,700	A3, F3, A4, F4, A5, F5	
MHz:		
50.0 to 54.0	A1	
50.1 to 54.0	A2, A3, A4, A5, F1, F2, F3, F4, F5.	
51.0 to 54.0	A0	
144.0 to 148.0	A1	
144.1 to 148.0	A0, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5.	
220 to 225	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5.	5
420–450	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5.	5, 7
1215 to 1300	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5.	5
2300 to 2450	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5, P.	5, 8
GHz:		
3.300 to 3.500	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5, P.	5, 12
5.650 to 5.925	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5, P.	5, 9
GHz:		
10.000 to 10.500	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5.	5
24.000 to 24.250	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5, P.	5, 10
48.000 to 50.000	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5, P.	
71.000 to 76.000	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5, P.	
165.000 to 170.000	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5, P.	
240.000 to 250.000	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5, P.	
Above 300.000	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5, P.	

(b) Limitations: (1) The use of frequencies in this band is on a shared basis with the LORAN A radionavigation system and is subject to cancellation or revision, in whole or in part, by order of the Commission, without hearing, whenever the Commission shall determine such action is necessary in view of the priority of the LORAN A radionavigation system. The use of these frequencies by amateur stations shall not cause harmful interference to the LORAN A system. If an amateur station causes such interference, operation on the frequencies involved must cease if so directed by the Commission.

(2) Operation shall be limited to:

Areas	Maximum DC plate input power in watts			
	1900 to 1925 kHz, day/night	1925 to 1950 kHz, day/night	1950 to 1975 kHz, day/night	1975 to 2000 kHz, day/night
Maine, Massachusetts, New Hampshire, Rhode Island	100/25	0	0	100/25
Connecticut, Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania, Vermont	200/50	0	0	200/50
Kentucky, North Carolina, Ohio, South Carolina, Tennessee, Virginia, West Virginia	500/100	0	0	500/100
Florida, Georgia, Illinois, Indiana, Michigan, Wisconsin	500/100	100/25	100/25	500/100
Alabama, Arkansas, Iowa, Minnesota, Mississippi, Missouri	1000/200	200/50	200/50	1000/200
The remainder of the States and Territories	1000/200	1000/200	1000/200	1000/200

* * * * *

15. In § 97.65, paragraphs (d), (e) and (f) are revised to read, as follows:

§ 97.65 Emission limitations.

* * * * *

(d) On frequencies below 50 MHz, the bandwidth of A4, A5, F4 and F5 emissions shall not exceed that of an A3 single sideband emission.

(e) On frequencies between 50 MHz and 225 MHz:

(1) The bandwidth of A4 and A5 single sideband emissions shall not exceed the bandwidth of an A3 single sideband emission.

(2) The bandwidth of A4 and A5 double sideband emissions shall not exceed the bandwidth of an A3 double sideband emission.

(3) F4 and F5 emissions shall utilize a peak carrier deviation no greater than 5 kHz and a maximum modulating frequency no greater than 3 kHz or, alternatively, shall occupy a bandwidth no greater than 20 kHz. (For this purpose, the bandwidth is defined as the width of the frequency band, outside of which the mean power of any emission is attenuated by at least 26 decibels below the mean power level of the total emission. A 3 kHz sampling bandwidth is used by the FCC in making this determination.)

(f) Below 225 MHz, an A3 emission may be used simultaneously with an A4 or A5 emission on the same carrier frequency, provided that the total bandwidth does not exceed that of an A3 double sideband emission.

§ 97.71 [Removed]

16. Section 97.71 is amended by removing the section heading and the entire text thereof.

17. Section 97.73(b) is revised to read, as follows:

§ 97.73 Purity of emissions.

* * * * *

(b) Except for a transmitter or transceiver built before April 15, 1977 or first marketed before January 1, 1978, the mean power of any spurious emission or radiation from an amateur transmitter, transceiver, or external radio frequency power amplifier being operated with a carrier frequency above 30 MHz but below 235 MHz shall be at least 60 decibels below the mean power of the fundamental. For a transmitter having a mean power of 25 watts or less, the mean power of any spurious radiation supplied to the antenna transmission line shall be at least 40 decibels below the mean power of the fundamental without exceeding the power of 25 microwatts, but need not be reduced below the power of 10 microwatts.

§ 97.74 [Removed]

18. Section 97.74 is amended by removing the section heading and the entire text thereof.

19. Section 97.75(a)(3)(ii) is revised to read, as follows:

§ 97.75 Use of external radio frequency (RF) power amplifiers.

* * * * *

(a) * * *

(3) * * *

(ii) Purchased by the licensee as an external RF power amplifier kit before April 28, 1978, for use at his amateur radio station; or

* * * * *

20. The introductory text of § 97.75(a)(5) is revised to read, as follows:

§ 97.75 Use of external radio frequency (RF) power amplifiers.

* * * * *

(a) * * *

(5) The external RF power amplifier was purchased from a dealer who obtained it from an amateur radio operator who:

* * * * *

21. Section 97.75 is amended by adding paragraph (b) thereto, and by adding a "Note" following paragraph (b).

§ 97.75 Use of external radio frequency (RF) power amplifiers.

* * * * *

(b) A list of type accepted equipment may be inspected at FCC headquarters in Washington, D.C., or at any FCC field office. Any external RF power amplifier appearing on this list as type accepted for use in the Amateur Radio Service may be used in the Amateur Radio Service.

Note.—No more than one unit of one model of an external RF power amplifier shall be constructed or modified during any calendar year by an amateur radio operator for use in the Amateur Radio Service without a grant of type acceptance.

22. Section 97.76(a)(6) is revised to read, as follows:

§ 97.76 Requirements for type acceptance of external radio frequency (RF) power amplifiers and external radio frequency power amplifier kits.

* * * * *

(a) * * *

(6) The amplifier was manufactured before April 28, 1978, and has been issued a marketing waiver by the FCC.

* * * * *

§ 97.87 [Removed]

23. After § 97.86(c), remove the entry "§ 97.87 [Reserved]".

24. Revise the first sentence in § 97.95(b)(1) to read, as follows. The remainder of the text in subparagraph (1) of paragraph (b) remains the same.

§ 97.95 Operation away from the authorized fixed station location.

* * * * *

(b) * * *

(1) Operation may not be conducted within the jurisdiction of a foreign government except pursuant to, and in accordance with, express authority granted to the licensee by such foreign government. * * *

* * * * *

25. Section 97.95(b)(3)(i) is revised to read, as follows:

§ 97.95 Operation away from the authorized fixed station location.

* * * * *

(b) * * *

(3) * * *

(i) Region 1: 3.5–3.8 MHz, 7.0–7.1 MHz, 14.0–14.35 MHz, 21.0–21.45 MHz, 28.0–29.7 MHz, 144–146 MHz, 430–440 MHz, 1215–1300 MHz, 2300–2450 MHz.

Region 3: 1.8–2.0 MHz, 3.5–3.9 MHz, 7.0–7.1 MHz, 14.0–14.35 MHz, 21.0–21.45 MHz, 28.0–29.7 MHz, 50.0–54.0 MHz, 144–148 MHz, 420–450 MHz, 1215–1300 MHz, 2300–2450 MHz.

* * * * *

26. Section 97.103(c)(2) is revised to read, as follows:

§ 97.103 Station log requirements.

* * * * *

(c) * * *

(2) A description of the measures taken for protection against

unauthorized station operation, either through activation of the control link, or otherwise;

* * * * *

27. Footnote 1 to § 97.103(e)(1) is revised to read, as follows:

[1] Indexes and ordering information for suitable maps are available from the U.S. Geological Survey, Washington, D.C. 20242, or from the Federal Center, Denver, Colo. 80255.

28. The first sentence of § 97.107(b) is revised to read, as follows. The remainder of the text of paragraph (b) remains the same.

§ 97.107 Operation in emergencies.

* * * * *

(b) The Commission may designate certain amateur stations to assist in the promulgation of information relating to the declaration of a general state of communications emergency, to monitor the designated amateur emergency communications bands, and to warn noncomplying stations observed to be operating in those bands. * * *

* * * * *

29. Section 97.107(c) is revised to read, as follows:

§ 97.107 Operation in emergencies.

* * * * *

(c) The special conditions imposed under the provisions of this section shall cease to apply only after the Commission, or its authorized representative, shall have declared such general state of communications emergency to be terminated; however, nothing in this paragraph shall be deemed to prevent the Commission from modifying the terms of its declaration from time to time as may be necessary during the period of a communications emergency, or from removing those conditions with respect to any amateur frequency band or segment of such band which no longer appears essential to the conduct of the emergency communications.

30. The introductory text of § 97.112(b) is revised to read, as follows:

§ 97.112 [Amended]

* * * * *

(b) Control operators of a club station may be compensated when the club station is operated primarily for the purpose of conducting amateur radiocommunication to provide telegraphy practice transmissions intended for persons learning or improving proficiency in the international Morse Code, or to disseminate information bulletins consisting solely of subject matter having direct interest to the Amateur Radio Service provided:

* * * * *

31. Section 97.113 is revised to read, as follows:

§ 97.113 Broadcasting prohibited.

Subject to the provisions of § 97.91, an amateur station shall not be used to engage in any form of broadcasting, that is, the dissemination of radio communications intended to be received by the public directly or by the intermediary of relay stations, nor for the retransmission by automatic means of programs or signals emanating from any class of station other than amateur. The foregoing provisions shall not be construed to prohibit amateur operators from giving their consent to the rebroadcast by broadcast stations of the transmissions of their amateur stations: *Provided:* That the transmissions of the amateur stations shall not contain any direct or indirect reference to the rebroadcast.

32. Section 97.126(b) is revised to read, as follows:

§ 97.126 Retransmitting radio signals.

* * * * *

(b) A remotely controlled station, other than a remotely controlled station in repeater operation or auxiliary operation, shall automatically retransmit only the radio signals of stations in auxiliary operation shown on the remotely controlled station's system network diagram.

33. Section 97.133 is revised to read, as follows:

§ 97.133 Second notice of same violation.

In every case where an amateur station licensee is cited within a period of 12 consecutive months for the second violation of the provisions of § 97.61, 97.63, 97.65, or 97.73, the station licensee, if directed to do so by the Commission, shall not operate the station and shall not permit it to be operated from 6 p.m. to 10:30 p.m., local time, until written notice has been received authorizing the resumption of full-time operation. This notice will not be issued until the licensee has reported on the results of tests which he/she has conducted with at least two other amateur stations at hours other than 6 p.m. to 10:30 p.m., local time. Such tests are to be made for the specific purpose of aiding the licensee in determining whether the emissions of the station are in accordance with the Commission's rules. The licensee shall report to the Commission the observations made by the cooperating amateur licensees in relation to the reported violations. This report shall include a statement as the corrective measures taken to insure compliance with the rules.

34. The first sentence of § 97.135 is revised to read, as follows. The remainder of the text of § 97.135 remains the same.

§ 97.135 Third notice of same violation.

In every case where an amateur station licensee is cited within a period of 12 consecutive months for the third violation of § 97.61, 97.63, 97.65, or 97.73, the station licensee, if directed by the Commission, shall not operate the station and shall not permit it to be operated from 8 a.m. to 12 midnight, local time, except for the purpose of transmitting prearranged test to be observed by a monitoring station of the Commission to be designated in each particular case. * * *

* * * * *

35. Paragraphs (a) and (b) of § 97.171 are revised to read, as follows:

§ 97.171 Eligibility for RACES station license.

(a) A RACES station will only be licensed to a local, regional, or state civil defense organization.

(b) Only modification and/or renewal station licenses will be issued for RACES station. No new licenses will be issued for RACES stations.

36. Revise the frequency table in § 97.185 (b) to read, as follows. The text in paragraph (b), preceding the table, remains the same.

§ 97.185 Frequencies available.

* * * * *

(b) * * *

* * * * *

FREQUENCY OR FREQUENCY BANDS

	Limitations
kHz:	
1800–1825	1
1975–2000	1
3500–3510	1
3510–3516	1
3516–3550	2, 4
3984–4000	1
3997	1
7097–7103	1
7103–7125	2, 4
7245–7255	2, 4
14,047–14,053	1
14,220–14,230	2, 4
21,047–21,053	1
MHz:	
28.55–28.75	
29.45–29.65	
50.25–50.75	
53.30	3
53.35–53.75	
145.17–145.71	
146.79–147.33	
220–225	5

* * * * *

37. Section 97.185(c)(3) is revised to read, as follows:

§ 97.185 Frequencies available.

* * * * *

(c) * * *

(3) For use in emergency areas when required to make initial contact with a military unit; also, for communications with military stations on matters requiring coordination.

* * * * *

38. Section 97.301(b) is revised to read, as follows:

§ 97.301 Basis, purpose, and scope.

* * * * *

(b) The purpose of this subpart is to implement Public Law 88–313 by prescribing the rules under which an alien, who holds an amateur operator and station license issued by his government (referred to in this subpart as an alien amateur), may operate an amateur radio station in the United States, in its possessions, and in the Commonwealth of Puerto Rico (referred to in this subpart only as the United States).

39. Section 97.303 is revised to read, as follows:

§ 97.303 Permit required.

Before he may operate an amateur radio station in the United States, under the provisions of Sections 303(1)(3) and 310(c) of the Communications Act of 1934, as amended, an alien amateur licensee must obtain a permit for such operation from the Federal Communications Commission. A permit for such operation shall be issued only to an alien holding a valid amateur operator and station authorization from his government, and only when there is in effect a bilateral agreement between the United States and that government for such operation on a reciprocal basis by United States amateur radio operators.

40. Section 97.313(b) is revised to read, as follows:

§ 97.313 Station identification.

* * * * *

(b) At least once during each contact with another amateur station the alien amateur shall indicate, in English, the geographical location of his station as nearly as possible by city and state, commonwealth or possession.

41. Section 97.405 is revised to read, as follows:

§ 97.405 Applicability of rules.

The rules contained in this subpart apply to radio stations in the Amateur-Satellite Service. All cases not specifically covered by the provisions of this Subpart shall be governed by the provisions of the rules governing amateur radio stations and operators (Subparts A through E of this part).

42. Section 97.415 is revised to read, as follows:

§ 97.415 Frequencies available.

The following frequency bands are available for space operation, earth operation, and telecommand operation:

Frequency Bands

kHz

7000–7100 14000–14250

MHz

21.00–21.45 144–146
28.00–29.70 435–438 [1]

GHz

24–24.05

43. Section 97.421(b) is revised to read, as follows:

§ 97.421 Telecommand operation.

* * * * *

(b) Stations in telecommand operation are exempt from the station identification requirements of § 97.84.

* * * * *

PART 97, APPENDIX 2 [AMENDED]

44. In Appendix 2 to Part 97, revise the first heading of that Appendix to read:

Extracts From Radio Regulations Annexed to the International Telecommunication Convention (Geneva, 1959), as revised by the World Administrative Radio Conference for Space Telecommunications, Geneva, 1971.

45. In Appendix 2 to Part 97, under the heading ARTICLE 41—AMATEUR STATIONS, revise Section 1 to read, as follows:

Appendix 2

* * * * *

Article 41—Amateur Stations

Section 1. Radiocommunications between amateur stations of different countries [2] shall be forbidden if the administration of one of the countries concerned has notified that it objects to such radiocommunications.

46. Appendix 3 is revised to read, as follows:

Appendix 3.—Classification of Emissions

For convenient reference, the tabulation below is extracted from the classification of typical emissions in Part 2 of the Commission's Rules and Regulations. It includes only those general classifications which appear most applicable to the Amateur Radio Service.

Type of modulation	Type of transmission	Symbol
Amplitude	With no modulation	A0.
	Telegraphy without the use of a modulating audio frequency (by on-off keying).	A1.
	Telegraphy by the on-off keying of an amplitude modulating audio frequency or audio frequencies or by the on-off keying of the modulated emission (special case: and unkeyed emission amplitude modulated).	A2.
	Telephony	A3. [1]
	Facsimile	A4.
	Television	A5.
Frequency (or phase).	Telegraphy by frequency shift keying without the use of a modulating audio frequency.	F1.
	Telegraphy by the on-off keying of a frequency modulating audio frequency or by the on-off keying of frequency modulated emission (special case: an unkeyed emission frequency modulated).	F2.
	Telephony	F3.
	Facsimile	F4.
	Television	F5.
Pulse		P.

[1] In Part 97, unless specified otherwise, A3 includes single and double sideband with full, reduced, or suppressed carrier.

47. Paragraph (b)(1) of Article III in Appendix 4 of Part 97 is revised to read, as follows:

Appendix 4

* * * * *

Article III

* * * * *

(b) * * *

(1) *Radiotelegraph operation.* The amateur call sign issued to him/her by the licensing country followed by a slant (/) sign and the amateur call sign prefix and call area number of the country he is visiting.

* * * * *

48. Subparagraph (a) of Appendix 5 of Part 97 is revised to read, as follows:

* * * * *

(a) On a U.S. Geological Survey Map, having a scale of 1:250,000, lay out eight evenly spaced radials, extending from the transmitter site to a distance of 10 miles and beginning at (0°, 45°, 90°, 135°, 180°, 225°, 270°, 315°T.). If preferred, maps of greater scale may be used.

* * * * *

[FR Doc. 82–18174 Filed 7–7–82; 8:45 am]

BILLING CODE 6712–01–M

[1] Stations operating in the Amateur-Satellite Service shall not cause harmful interference to other stations between 435 and 438 MHz (See International Radio Regulations, RR MOD 3644/320A).

[2] As may appear in public notices issued by the Commission.

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 5

[OST Docket No. 48; Amdt. 5-2]

Rulemaking Procedures; Financial Assistance to Participants in Certain Rulemaking Proceedings of the Department of Transportation

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: The Department of Transportation (DOT) is publishing this final rule to rescind the regulations that established a demonstration program of financial assistance to participants in certain rulemaking proceedings of the Department's National Highway Traffic Safety Administration (NHTSA). This document also terminates a rulemaking proceeding that would have established a permanent Department-wide program of financial assistance for participants in DOT rulemaking.

The Department's demonstration program was based on a theory of implied authority under which an agency possessing authority to hold an administrative proceeding, and having received an appropriation for "necessary expenses", could validly extend financial assistance to interested parties who required it and whose participation was essential. However, the DOT Appropriations Act (Pub. L. 97-102) specifically provides that none of the Department's funds can be used to pay expenses of or otherwise compensate non-Federal parties intervening in DOT regulatory proceedings. In addition, a recent court decision has held that agencies are prohibited from disbursing funds to voluntary participants in administrative proceedings unless specifically authorized by Congress.

EFFECTIVE DATE: This rule is effective August 9, 1982.

FOR FURTHER INFORMATION CONTACT: Samuel Podberesky, Deputy Assistant General Counsel for Regulation and Enforcement, C-50, Department of Transportation, Washington, D.C. 20590, (202) 426-4723.

SUPPLEMENTARY INFORMATION: On January 13, 1977, the Department published regulations (42 FR 2863) establishing a one-year demonstration program to provide financial assistance to certain participants in selected rulemaking proceedings of NHTSA (49 CFR Part 5, Subpart D). These regulations were issued for the purpose of increasing the representation of interests and points of view of parties outside the Federal Government who would not have otherwise been able to adequately participate in NHTSA rulemaking proceedings because of the costs involved. At the same time these regulations were issued, the Department issued an Advance Notice of Proposed Rulemaking (ANPRM), proposing a permanent Department-wide program of financial assistance to participants in DOT rulemaking proceedings. On March 16, 1978, the NHTSA demonstration program was extended until the Secretary decided whether to issue final, permanent Department-wide regulations (43 FR 10918). On January 23, 1979, the regulations governing the NHTSA demonstration program were revised to improve its administration.

The Department has now decided to rescind the demonstration program regulations and terminate rulemaking for a Department-wide program. The rescission is based, in part, on the Department's Fiscal Year 1982 Appropriations Act (Pub. L. 97-102), which states, in section 315, that Department funds cannot be used to pay expenses of or otherwise compensate non-Federal parties intervening in DOT regulatory proceedings. A similar provision appeared in the Department's FY 1981 Appropriations Act (Pub. L. 96-400).

A second reason for this rescission is a recent decision of the United States Court of Appeals for the Fourth Circuit, which held that, absent specific legislation, an agency has no authority to establish a reimbursement program for public participants in rulemaking proceedings. *Pacific Legal Foundation v. Goyan*, No. 84-1854 (decided November 27, 1981). This case placed in doubt the Department's past reliance, in establishing the demonstration program, on a series of opinions of the Comptroller General which held that agencies could use appropriated funds to reimburse participants appearing before them based on the implied authority of Federal agencies to do all that is reasonably necessary to effectuate their explicit powers.

For the same reasons that necessitate a rescission of the NHTSA demonstration program regulations, the Department is terminating consideration of rulemaking to extend the NHTSA demonstration program Department-wide. This action also disposes of a petition from Ms. Stacy Murchison, which requested the promulgation of such Department-wide regulations.

The Department finds that notice and public comment is unnecessary for this rescission because the Department is acting under case law and in response to a specific provision in its Appropriations Act prohibiting expenditures under the regulations being rescinded. The Department also finds that this rule is not a major rule as defined in Executive Order 12291. The rule is considered to be significant under the Department's Regulatory Policies and Procedures. However, a full regulatory evaluation is not needed for this rule since there will be minimal economic impact.

(49 U.S.C. 1651 *et seq.*)

PART 5—RULEMAKING PROCEDURES

List of Subjects in 49 CFR Part 5

Administrative practice and procedure.

Supbart D—[Removed]

Accordingly, Subpart D of 49 CFR Part 5 is removed.

Issued in Washington, D.C. on June 8, 1982.

Andrew L. Lewis, Jr.,

Secretary of Transportation.

[FR Doc. 82-18222 Filed 7-7-82; 8:45 am]

BILLING CODE 4910-62-M

Research and Special Programs Administration

49 CFR Parts 173 and 178

[Docket HM-172; Amdt. No. 178-70]

Marking and Record Retention Requirements for Cylinders; Partial Delay of Effective Date

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Partial delay of effective date.

SUMMARY: MTB published a final rule in the **Federal Register** on April 15, 1982 (Docket HM-172, amendment numbers 173-156 and 178-70) with amendments affecting DOT's requirements for marking of compressed gas cylinders and submission and retention of inspection reports. The amendment had an effective date of July 1, 1982. A number of requests have been received from cylinder manufacturers stating that the effective date of July 1, 1982, as it pertains to items numbers 2 and 3 of the amendment (serial numbers and identifying symbols to be placed on cylinders) would cause them a severe hardship in handling customer orders, some of which were received prior to April 15, 1982. They requested that the effective date be delayed. The MTB believes that the requests have merit and is delaying the effective date of the

revisions included in items 2 and 3 of the amendment.

DATES: The effective date of the amendments in items 2 and 3 to 178.51–19(a)(2), 178.56–19(a)(2), 178.61–20(a)(2), 178.36–20(a)(3), 178.37–20(a)(3), 178.38–20(a)(2), 178.39–19(a)(2), 178.42–14(a)(2), 178.44–23(a)(2), 178.47–21(a)(2), 178.50–19(a)(2), 178.53–18(a)(2), 178.54–20(a)(2), 178.55–20(a)(2), 178.57–20(a)(3), 178.58–21(a)(2), 178.59–18(a)(2), 178.60–22(a)(2) and 178.68–19(a)(2), which were published at 47 FR 16185, April 15, 1982 is changed from July 1, 1982 to January 1, 1983. The amendments contained in item 1 and items 4 through 10 of the April 15, 1982 rulemaking remain effective on July 1, 1982.

FOR FURTHER INFORMATION CONTACT: David E. Henry or James E. Jones, Approvals Branch, Office of Hazardous Materials Regulations, Materials Transportation Bureau, Research and Special Programs Administration, Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590, telephone (202) 472–5982.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53 and App. A to Part 1)

Issued in Washington, D.C. on June 29, 1982.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 82–18354 Filed 7–7–82; 8:45 am]

BILLING CODE 4910–60–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[S.O. 1493; Amdt. 15]

Escanaba and Lake Superior Railroad Co. Authorized To Use Tracks and/or Facilities of Chicago, Milwaukee, St. Paul and Pacific Railroad Co., Debtor (Richard B. Ogilvie, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 15 to Service Order No. 1493.

SUMMARY: Amendment No. 15 extends the expiration date of Service Order No. 1493, which authorizes Escanaba and Lake Superior Railroad Company (ELS) to use tracks and/or facilities of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor (Richard B. Ogilvie, Trustee) (MILW). This extension permits ELS to continue its operation while finalizing its purchase agreement with the Milwaukee.

DATES: Effective: 12:01 a.m., July 1, 1982, and continuing in effect until 11:59 p.m., July 30, 1982, unless modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275–7840 or 275–1559.

SUPPLEMENTARY INFORMATION:

Decided: July 1, 1982.

Upon further consideration of Service Order No. 1493 (46 FR 10742, 14896, 19822, 25311, 34593, 39148, 44190, 49127, 54562, 58491; 47 FR 624, 4690, 13530, and 19150), and good cause appearing therefor:

It is ordered, that § 1033.1493 Service Order No. 1493, *Escanaba and Lake Superior Railroad Company authorized to use tracks and/or facilities of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor (Richard B. Ogilvie, Trustee),* is amended by substituting the following paragraph (n) for paragraph (n) thereof:

(n) *Expiration date.* The provisions of this order are extended to permit an additional (30) thirty days for the Escanaba and Lake Superior Railroad Company's operations, and to allow the Commission sufficient time to respond to its purchase application with the Milwaukee. This order shall expire at 11:59 p.m., July 30, 1982, unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 12:01 a.m., July 1, 1982.

This action is taken under the authority of 49 U.S.C. 10304–10305 and Section 122, Public Law 96–254.

This amendment shall be served upon the Association of American Railroads, Transportation Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

List of Subjects in 49 CFR Part 1033

Railroads.

By the Commission, Railroad Service Board, members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–18457 Filed 7–7–82; 8:45 am]

BILLING CODE 7035–01–M

49 CFR Part 1033

[40th Rev. S.O. 1473]

Various Railroads Authorized To Use Tracks and/or Facilities of the Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Fortieth Revised Service Order No. 1473.

SUMMARY: Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Public Law 96–254, this order authorizes various railroads to provide interim service over the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

EFFECTIVE DATES: 12:01 a.m., July 6, 1982, and continuing in effect until 11:59 p.m., September 30, 1982, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275–7840 or 275–1559.

SUPPLEMENTARY INFORMATION:

Decided July 1, 1982.

Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Public Law 96–254 (RITEA), the Commission is authorizing various railroads to provide interim service over Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), (RI) and to use such tracks and facilities as are necessary for those operations.

In view of the urgent need for continued rail service over RI's lines pending the implementation of long-range solutions, this order permits carriers to provide service to shippers which may otherwise be deprived of essential rail transportation.

Appendix A, to the previous order, is revised by deleting at Item 5. (P.) the authority for the Chicago and North Western Transportation Company (CMW) to operate at Worthington, Minnesota. At the same time CNW requested authority to operate at Hartley, Iowa, and that authority is added at Item 5. (P.). All other provisions of the order remain unchanged.

Appendix B of Thirteenth Revised Service Order No. 1473 is unchanged, and becomes Appendix B to this Order.

It is the opinion of the Commission that an emergency exists requiring that the railroads listed in the named appendices be authorized to conduct operations using RI tracks and/or facilities; that notice and public procedure are impracticable and contrary to the public interest; and good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1473 Service Order No. 1473.

(a) *Various railroads authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Traustee).* Various railroads are authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company (RI), as listed in Appendix A to this order, in order to provide interim service over the RI; and as listed in Appendix B to this order, to provide for continuation of joint or common use facility agreements essential to the operations of these carriers as previously authorized in Service Order No. 1435.

(b) The Trustee shall permit the affected carriers to enter upon the property of the RI to conduct service as authorized in paragraph (a).

(c) The Trustee will be compensated on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 122(a) Public Law 96–254.

(d) Interim operators, authorized in Appendix A to this order, shall, within fifteen (15) days of its effective date, notify the Railroad Service Board of the date on which interim operations were commenced or the expected commencement date of those operations. Termination of interim operations will require at least (30) thirty days notice to the Railroad Service Board and affected shippers.

(e) Interim operators, authorized in Appendix A to this order, shall, within thirty days of commencing operations under authority of this order, notify the RI Trustee of those facilities they believe are necessary or reasonably related to the authorized operations.

(f) During the period of the operations over the RI lines authorized in paragraph (a), operators shall be responsible for preserving the value of the lines, associated with each operation, to the RI estate, and for performing necessary maintenance to avoid undue deterioration of lines and associated facilities.

1. In those instances where more than one railroad is involved in the joint use of RI tracks and/or facilities described in Appendix B, one of the affected carriers will perform the maintenance and have supervision over the operations in behalf of all the carriers as may be agreed to among themselves, or in the absence of such agreement, as may be decided by the Commission.

(g) Any operational or other difficulty associated with the authorized operations shall be resolved through agreement between the affected parties or, failing agreement, by the Commission's Railroad Service Board.

(h) Any rehabilitation, operational, or other costs related to authorized operations shall be the sole responsibility of the interim operator incurring the costs, and shall not in any way be deemed a liability of the United States Government.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(j) *Rate applicable.* Inasmuch as the operations described in Appendix A by interim operators over tracks previously operated by the RI are deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable become effective.

(k) In transporting traffic over these lines, all interim operators described in Appendix A shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(l) To the maximum extent practicable, carriers providing service under this order shall use the employees who normally would have performed the work in connection with traffic moving over the lines subject to this Order.

(m) *Effective date.* This order shall become effective at 12:01 a.m., July 6, 1982.

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., September 30, 1982, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304, 10305, and Section 122, Public Law 96–254.

This order shall be served upon the Association of American Railroads, Transportation Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

List of Subjects in 49 CFR Part 1033

Railroads.

By the Commission, Railroad Service Board, members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

Appendix A—RI Lines Authorized To Be Operated by Interim Operators

1. *Louisiana and Arkansas Railway Company (LA):*

A. Tracks one through six of the Chicago, Rock Island and Pacific Railroad Company's (RI) Cadiz yard in Dallas, Texas, commencing at the point of connection of RI track six with the tracks of The Atchison, Topeka and Santa Fe Railway Company (ATSF) in the southwest quadrant of the crossing of the ATSF and the Missouri-Kansas-Texas Railroad Company (MKT) at interlocking station No. 19.

2. *Peoria and Pekin Union Railway Company (PPU):*

A. All Peoria Terminal Railroad property on the east side of the Illinois River, located within the city limits of Pekin, Illinois.

B. Mossville, Illinois (milepost 148.23) to Peoria, Illinois (milepost 161.0) including the Keller Branch (milepost 1.55 to 6.15).

3. *Union Pacific Railroad Company (UP):*

A. Beatrice, Nebraska.

B. Approximately 36.5 miles of trackage extending from Fairbury, Nebraska, to RI Milepost 581.5 north of Hallam, Nebraska.

4. *Toledo, Peoria and Western Railroad Company (TPW):*

A. Peoria Terminal Company trackage from Hollis to Iowa Junction, Illinois.

5. *Chicago and North Western Transportation Company (CNW):*

A. from Minneapolis-St. Paul, Minnesota, to Kansas City, Missouri.

B. from Rock Junction (milepost 5.2) to Inver Grove, Minnesota (milepost 0).

C. from Inver Grove (milepost 344.7) to Northwood, Minnesota.

D. from Clear Lake Junction (milepost 191.1) to Short Line Junction, Iowa (milepost 73.6).

E. from East Des Moines, Iowa (milepost 350.8) to West Des Moines, Iowa (milepost 364.34).

F. from Short Line Junction (milepost 73.8) to Carlisle, Iowa (milepost 64.7).

G. from Carlisle (milepost 64.7) to Allerton, Iowa (milepost 0).

H. from Allerton, Iowa (milepost 383) to Trenton, Missouri (milepost 415.9).

I. from Trenton (milepost 415.9) to Air Line Junction, Missouri (milepost 502.2).

J. from Iowa Falls (milepost 97.4) to Estherville, Iowa (milepost 206.9).

K. from Bricelyn, Minnesota (milepost 57.7) to Ocheyedan, Iowa (milepost 246.7).

L. from Palmer (milepost 454.5) to Royal, Iowa (milepost 502).

M. from Dows (milepost 113.4) to Forest City, Iowa (milepost 158.2).

N. from Cedar Rapids (milepost 100.5) to Cedar River Bridge, Iowa (milepost 96.2) and to serve all industry formerly served by the RI at Cedar Rapids.

O. at Sibley, Iowa.

*P. at Hartley, Iowa.

Q. from Carlisle to Indianola, Iowa.

R. at Omaha, Nebraska, (between milepost 502 to milepost 504).

S. Peoria Terminal Company trackage from Iowa Junction (RI milepost 164.32/PTC milepost .91) through Hollis, Illinois to the Illinois River bridge (milepost 7.40).

6. *Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW):*

A. from West Davenport, through and including Muscatine, to Fruitland, Iowa, including the Iowa-Illinois Gas and Electric Company near Fruitland.

B. at Washington, Iowa.

C. from Newport, Minnesota to a point near the east bank of the Mississippi River, sufficient to serve Northwest Oil Refinery, at St. Paul Park, Minnesota.

D. from Davenport (milepost 182.35) to Iowa City, Iowa (milepost 237.01).

E. at Davenport, Iowa.

7. *St. Louis Southwestern Railway Company (SSW):*

A. from Brinkley to Briark, Arkansas, and at Stuttgart, Arkansas.

B. at North Topeka and Topeka, Kansas.

8. *Little Rock & Western Railway Company (LRWN):*

A. from Little Rock, Arkansas (milepost 135.2) to Perry, Arkansas (milepost 184.2).

B. from Little Rock (milepost 136.4) to the Missouri Pacific/RI Interchange (milepost 130.6).

9. *Missouri Pacific Railroad Company (MP):*

A. from Little Rock, Arkansas (milepost 135.2) to Hazen, Arkansas (milepost 91.5).

B. from Little Rock, Arkansas (milepost 135.2) to Pulaski, Arkansas (milepost 141.0).

C. from Hot Springs Junction (milepost 0.0) to and including Rock Island (milepost 4.7).

D. from Wichita, Kansas (milepost 243.7) to Kechi, Kansas (milepost 235.9).

10. *Norfolk and Western Railway Company (NW):* is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company running southerly from Pullman Junction, Chicago, Illinois, along the western shore of Lake Calumet approximately four plus miles to the point, approximately 2,500 feet beyond the railroad bridge over the Calumet Expressway, at which point the RI track connects to Chicago Regional Port District track, for the purpose of serving industries located adjacent to such tracks. Any trackage rights arrangements which existed between the Chicago, Rock Island and Pacific Railroad Company and other carriers, and which extend to the Chicago Regional Port District Lake Calumet Harbor, West Side, will be continued so that shippers at the port can have NW rates and routes regardless of which carrier performs switching services.

11. *Cadillac and Lake City Railway Company (CLK):*

A. from Sandown Junction (milepost 0.1) to and including junction with DRGW Belt Line (milepost 2.7) all in the vicinity of Denver, Colorado, a distance of approximately 6.6 miles.

B. from Colorado Springs (milepost 609.1) to and including all rail facilities at Colorado Springs and Roswell, Colorado (milepost 602.8), all in the vicinity of Colorado Springs, Colorado, and Eastward from Colorado Springs to Falcon, Colorado (milepost 590.3), a total distance of approximately 25.1 miles.

C. from Simla, Colorado (milepost 558.3) to Colby, Kansas (milepost 387.0), a distance of approximately 171.3 miles.

D. Rock Island trackage rights over Union Pacific Railroad Company between Limon and Denver, Colorado, a distance of approximately 83.8 miles.

12. *Baltimore and Ohio Railroad Company (BO):*

A. from Blue Island, Illinois (milepost 15.7) to Bureau, Illinois (milepost 114.2), a distance of 98.5 miles.

B. from Bureau, Illinois (milepost 114.12) to Henry, Illinois (milepost 126.94) a distance of approximately 12.8 miles.

13. *Keota Washington Transportation Company (KWTR):*

A. from Keota to Washington, Iowa; to effect interchange with the Chicago, Milwaukee, St. Paul and Pacific Railroad Company at Washington, Iowa, and to serve any industries on the former RI which are not being served presently.

B. at Vinton, Iowa (milepost 120.0 to 123.0).

C. from Vinton Junction, Iowa (milepost 23.4) to Iowa Falls, Iowa (milepost 97.4).

14. *The La Salle and Bureau County Railroad Company (LSBC):*

A. from Chicago (milepost 0.60) to Blue Island, Illinois (milepost 16.61), and yard tracks 6, 9 and 10; and crossover 115 to effect interchange at Blue Island, Illinois.

B. from Western Avenue (Subdivision 1A, milepost 16.6) to 119th Street (Subdivision 1A, milepost 14.8), at Blue Island, Illinois.

C. from Gresham (Subdivision 1, milepost 10.0) to South Chicago (Subdivision 1B, milepost 14.5) at Chicago, Illinois.

D. from Pullman Junction, Chicago, Illinois, (milepost 13.2) running southerly to the entrance of the Chicago International Port, a distance of approximately five miles, for the purpose of bridge rights only.

15. *The Atchison, Topeka and Santa Fe Railway Company (ATSF):*

A. at Alva, Oklahoma.

B. at St. Joseph, Missouri.

16. *The Brandon Corporation (BRAN):*

A. from Clay Center, Kansas (milepost 178.37), to Manhattan, Kansas (milepost 143.0), a distance of approximately 35 miles.

17. *Iowa Northern Railroad Company (IANR):*

A. from Cedar Rapids, Iowa (milepost 100.5), to Manly, Iowa, (milepost 225.1).

B. at Vinton, Iowa, and west on the Iowa Falls Line to milepost 24.3.

18. *Iowa Railroad Company (IRRC):*

A. from Council Bluffs (milepost 490.15) to West Des Moines, Iowa (milepost 364.34) a distance of approximately 126.81 miles.

B. from Audubon Junction (milepost 440.7) to Audubon, Iowa (milepost 465.1) a distance of approximately 24.4 miles.

C. from Hancock, Iowa (milepost 8.4) to Oakland, Iowa (milepost 12.3) a distance of approximately 5.9 miles.

D. Overhead rights from West Des Moines, Iowa (milepost 364.34) to East Des Moines, Iowa (milepost 350.8). (This trackage is currently leased to the CNW, see Item. 5.E.)

E. from East Des Moines, Iowa (milepost 350.8) to Iowa City, Iowa (milepost 237.01) a distance of 113.79 miles.

F. Overhead rights from Iowa City, Iowa (milepost 237.01) to Davenport, Iowa (milepost 182.35), including interchange with the Cedar Rapids and Iowa City Railway. (This trackage is currently leased to the MILW, see Item 6.D.)

G. from Bureau, Illinois (milepost 114.2) to Davenport, Iowa (milepost 182.35).

H. from Rock Island, Illinois through Milan, Illinois, to a point west of Milan sufficient to serve the Rock Island Industrial Complex.

I. at Rock Island, Illinois including 26th Street Yard.

J. from Altoona to Pella, Iowa.

19. *Missouri-Kansas-Texas Railroad Company (MKT):*

A. from Oklahoma City, Oklahoma (milepost 496.4) to McAlester, Oklahoma (milepost 365.0), a distance of approximately 131.4 miles.

20. *Chicago Short Line Railway Company (CSL):*

A. from Pullman Junction easterly for approximately 1000 feet to serve Clear-View Plastics, Inc., all in the vicinity of the Calumet switching district.

B. from Rock Island Junction westerly for approximately 3000 feet to Irondale Wye.

21. *Kyle Railroad Company (Kyle):*

A. from Belleville (milepost 187.0) to Caruso, Kansas (milepost 430.0), a distance of approximately 243 miles. Kyle will be responsible for the maintenance of the jointly used track between Colby and Caruso as mutually agreed upon with CLK, and for coordinating operations.

B. from Belleville (milepost 187.0) to Mahaska, Kansas (milepost 170.0) a distance of approximately 17 miles.

C. from Belleville (milepost 225.34) to Clay Center, Kansas (milepost 178.37) a distance of approximately 47 miles.

22. *North Central Texas Railway, Inc (NCTR):*

A. from Chico, Texas (milepost 582) to Dallas (North Junction), Texas (milepost 643.8).

B. Joint right-of-way district between Dallas (North Junction) and Endot, Texas (milepost 646.4).

23. *Enid Central Railway, Inc. (ENIC):*

A. from Enid, Oklahoma (milepost 345.27) to Kremlin, Oklahoma (milepost 330.03), including operations on the Ponca City

Branch line from milepost 0.02 to milepost 0.30.

B. from North Enid, Oklahoma (milepost 0.30) to Ponca City, Oklahoma (milepost 54.8).

24. *North Central Oklahoma Railway, Inc. (NCOR):*

A. from Mangum, Oklahoma (milepost 97.2) to Chickasha, Oklahoma (milepost 0.0).

B. from Richards Spur, Oklahoma (milepost 486.45) to Anadarko, Oklahoma (milepost 463.39).

C. from Chickasha, Oklahoma (milepost 434.69) to El Reno, Oklahoma (milepost 400.31).

D. from El Reno, Oklahoma (milepost 513.31) to Council, Oklahoma (milepost 494.5).

25. *South Central Arkansas Railway, Inc. (SCAR):*

A. from El Dorado, Arkansas (milepost 99) to Ruston, Louisiana (milepost 154.77).

26. *Burlington Northern Railroad Company (BN):*

A. at Burlington, Iowa (milepost 0 to milepost 2.06).

B. at Okeene, Oklahoma.

C. at Lawton, Oklahoma.

27. *Fort Worth and Denver Railway Company (FWD):*

A. from Amarillo to Bushland, Texas, including terminal trackage at Amarillo, and approximately three (3) miles northerly along the old Liberal Line.

B. at North Fort Worth, Texas (milesposts 603.0 to 611.4).

C. from Amarillo, Texas (milepost 760.6) to Groom, Texas (milepost 718.9).

28. *Okrache Central Railway, Inc. (OCRI):*

A. from Enid, Oklahoma (milepost 345.27) to El Reno Junction, Oklahoma (milepost 405.21).

B. from El Reno, Oklahoma (milepost 514.32) to Council, Oklahoma (milepost 496.40).

C. at El Reno, Oklahoma (milepost 402.73) to (milepost 404.19).

Note.—Certain segments of the above operation are overlapping with the NCOR (see Item 24). In the interest of operational clarity and efficiency, OCRI will be the supervising carrier for operations and maintenance.

*Changed.

[FR Doc. 82-18458 Filed 7-7-82; 8:45 am]
BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 47, No. 131
Thursday, July 8, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 945

Irish Potatoes Grown in Certain Designated Counties in Idaho and Malheur County, Oregon; Proposed Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed continuing regulation would require fresh market shipments of potatoes grown in certain counties in Idaho and Malheur County, Oregon, to be inspected and meet minimum grade, size, cleanness, maturity and pack requirements. The regulation would promote orderly marketing of such potatoes and keep less desirable sizes and qualities from being shipped to consumers.

DATE: Comments due July 23, 1982.

ADDRESS: Comments should be sent to: Hearing Clerk, Room 1077–S, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments shall be submitted, and they will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250 (202) 447–2615. The Draft Impact Analysis relating to this proposed rule is available on request from Mr. Porter.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

Information collection requirements contained in this regulation (7 CFR Part 945) have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB #0581–0069.

This proposed rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "nonmajor" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably affect costs for the directly regulated handlers.

Marketing Agreement No. 98 and Order No. 945, both as amended (7 CFR 945), regulate the handling of potatoes grown in designated counties in Idaho and Malheur County, Oregon. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Idaho-Eastern Oregon Potato Committee, established under the order, is responsible for its local administration.

This proposed regulation is based upon recommendations made by the committee at its public meeting in Idaho Falls, Idaho, on June 2, 1982.

The proposed regulation is similar to those issued during past seasons. The grade, size, cleanness, maturity, pack and inspection requirements recommended herein are necessary to prevent potatoes of low quality or undesirable sizes from being distributed to fresh market outlets. The specific proposed requirements would benefit consumers and producers by standardizing and improving the quality of the potatoes shipped from the production area, thereby promoting orderly marketing, and would tend to effectuate the declared policy of the act.

Exceptions would be provided to certain of these requirements to recognize special situations in which such requirements would be inappropriate or unreasonable.

A specified quantity of potatoes would be exempt from maturity requirements in order to (1) permit growers to make test diggings without loss of the potatoes so harvested or (2) to allow a lot to be shipped which, after regrading, meets the grade and size requirements but then fails to meet the maturity requirements, possibly due to further "skinning" as a result of running the potatoes over the grader again.

Shipments would be permitted to certain special purpose outlets without regard to minimum grade, size, cleanness, maturity and pack requirements, provided that safeguards were met to prevent such potatoes from reaching unauthorized outlets. Since no purpose would be served by regulating potatoes used for charity purposes, such shipments would be exempt. Certified need would be exempt, because requirements for this outlet differ greatly from those for fresh market.

Potatoes used for experimentation have special requirements and do not normally enter commercial channels of trade. Potatoes for most processing uses are exempt under the legislative authority for this part.

Requirements for export shipment differ from those for domestic markets. While the standard quality requirements are desired in foreign markets, smaller sizes are more acceptable. In commercial prepeeling, operators can use potatoes with surface defects which would be undesirable for the tablestock market, and smaller sizes are acceptable. Therefore, different requirements are proposed for export and prepeeling shipments.

These standardization and marketing efficiency types of regulation would have no measurable effect on the quantity of potatoes shipped from the production area, nor will there be discernible effect on U.S. retail potato prices. This regulation should enable the Idaho-Eastern Oregon potato industry to better compete with other major fall crop potato producing areas by insuring the use of grades, sizes and maturities acceptable to buyers.

It is proposed that requirements contained in this proposed handling regulation, effective August 16, 1982, would continue in effect from marketing season to marketing season indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the committee or other information available to the Secretary. Interested persons are invited to comment through July 23, 1982 with regard to the proposed handling regulation. Heretofore, regulations issued under the marketing order were made effective for a single marketing season. However, virtually the same requirements have been imposed each season since 1970. The proposed change to issue regulations which would continue in effect from marketing season to marketing season reflects the fact that regulations would probably continue to change infrequency from season to season and it is believed unnecessary to issue them for only a single season. In addition, the proposed change could

result in a reduction in operational costs to the committee and the government. Although the final regulation would be effective for an indefinite period, the committee would continue to meet prior to or during each season to consider recommendations for modification, suspension, or termination of the regulation. Prior to making any such recommendations, the committee would submit to the Secretary a marketing policy for the season in accordance with § 945.50 of the order, including an analysis of supply and demand factors having a bearing on the marketing of the crop. Committee meetings are open to the public and interested persons may express their views at these meetings or may file comments with the Fruit and Vegetable Division before July 1 each year. The Department will evaluate committee recommendations and information submitted by the committee, comments filed, and other available information, and determine whether modification, suspension, or termination of the regulation on shipments of potatoes from the production area would tend to effectuate the declared policy of the act.

List of Subjects in 7 CFR Part 945

Marketing agreements and orders, potatoes, Idaho, Oregon.

PART 945—IRISH POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO, AND MALHEUR COUNTY, OREGON.

§ 945.340 [Removed]

It is proposed that § 945.340 (46 FR 32010) be hereby removed and

Section 945.341 be added to read as follows:

§ 945.341 Handling regulations.

On and after August 16, 1982, no person shall handle any lot of potatoes unless such potatoes meet the requirements of paragraphs (a) through (d) of this section, or unless such potatoes are handled in accordance with paragraphs (e) and (f), or (g) of this section.

(a) *Minimum quality requirements.* (1) *Grade. All varieties*—U.S. No. 2 or better grade.

(2) *Size.* (i) *Round red varieties*—1⅞ inches minimum diameter.

(ii) *All other varieties*—2 inches minimum diameter, or 4 ounces minimum weight.

(iii) *All varieties*—Size B if U.S. No. 1 grade.

(3) *Cleanness. All varieties*—"fairly clean."

(b) *Minimum maturity requirements.* *(1) White Rose and red skin varieties:* Each year from August 1 through December 31, "moderately skinned"; during other periods no maturity requirements.

(2) *Norgold varieties:* Each year from August 1 through August 15, "moderately skinned"; during other periods "slightly skinned."

(3) *All other varieties:* "Slightly skinned."

(4) *Exceptions:* (i) Subject to compliance with paragraph (b)(4)(iii) of this section, any lot of potatoes not exceeding a total of 50 hundredweight of each variety may be handled for any producer without regard to the foregoing maturity requirements.

(ii) If an officially inspected lot of potatoes meets the foreoing maturity requirements, but fails to meet the grade and size requirements, the lot may be regraded. If, after regrading, such lot then meets the grade and size requirements but fails to meet the maturity requirements, as indicated by the applicable Federal-State inspection certificate, such lot if not exceeding 100 hundredweight shall be exempt from the foregoing maturity requirements if the handler complies with paragraph (b)(4)(iii) of this section.

(iii) Prior to each shipment of potatoes exempt from the foregoing maturity requirements, the handler thereof shall report to the committee the name and address of the producer of such potatoes, and each such shipment shall be handled as an identifiable entity.

(c) *Pack.* (1) When 50-pound containers (except master containers) of long varieties of potatoes are marked with a count, size or similar designation they must meet the count, average count and weight ranges for the count designation listed below.

	Range		
	Count	Average count[1]	Weight
	10 pct over or under	5 pct over or under	15 oz or larger
Larger than 50 size:			
50	45-55	48-53	12-19
60	54-66	57-63	10-16
70	63-77	67-74	9-15
80	72-88	76-84	8-13
90	81-99	86-95	7-12
100	90-110	95-105	6-10
110	99-121	105-116	5-9
120	108-132	114-126	4-8
130	117-143	124-137	4-8
140	126-154	133-147	4-8
Smaller than 140	(2)	(3)	4-8

[1] Applicable to lots.
[2] 10 pct over or under.
[3] 5 pct. over or under.

The following tolerances by weight, are provided for potatoes in any lot which fail to meet the weight range for the designated count:

(i) not to exceed 5 percent for undersize; and

(ii) not to exceed 10 percent for oversize.

(2) Potatoes packed in 50-pound cartons (except when used as a master container) shall be U.S. No. 1 or better grade. However, potatoes of U.S. Extra No. 1 grade shall be no smaller than 110 size nor larger than 60 size.

(d) *Inspection.* Except when relieved of such requirement pursuant to paragraphs (e) and (f), or (g) of this section,

(1) No handler shall handle potatoes unless such potatoes are inspected by either the Idaho Federal-State Inspection Service or Oregon Federal-State Inspection Service and are covered by a valid inspection certificate, and

(2) Each lot moving by truck shall be accompanied by a copy of a valid inspection certificate.

(e) *Special purpose shipments.* (1) The minimum grade, size, cleanness, maturity and pack requirements set forth in paragraphs (a), (b) and (c) of this section shall not be applicable to shipments of potatoes for any of the following purposes:

(i) Charity;

(ii) Certified seed;

(iii) Experimentation; and

(iv) Canning, freezing and "other processing" as hereinafter defined. Also, shipments of potatoes for the purpose specified in this subdivision (iv) shall be exempt from inspection requirements specified in § 945.65 and paragraph (d) of this section and from assessment requirements specified in § 945.42.

(2) The minimum grade, size, cleanness, maturity and pack requirements set forth in paragraphs (a), (b), (c) and (d) of this section shall be applicable to shipments of potatoes for each of the following purposes:

(i) *Export:* Except potatoes of a size not smaller than 1⅛ inches in diameter may be shipped if the potatoes grade not less than U.S. No. 2; and

(ii) *Prepeeling:* Except potatoes of a size not smaller than 1⅛ inches in diameter may be shipped if the potatoes grade not less than Idaho Utility or Oregon Utility grade.

(f) *Safeguards.* (1) Each handler making shipments of potatoes for charity, experimentation, export, or for prepeeling pursuant to paragraph (e) of this section shall:

(i) First, apply to the committee for and obtain a Certificate of Privilege to make shipments for each purpose;

(ii) Upon request by the committee, furnish reports of each shipment pursuant to the applicable Certificate of Privilege;

(iii) At the time of applying to the committee for a Certificate of Privilege, or promptly thereafter, furnish the committee with a receiver's or buyer's certification that the potatoes so handled are to be used only for the purpose stated in the application and that such receiver will complete and return to the committee such periodic receiver's reports that the committee may require.

(iv) Mail to the office of the committee a copy of the bill of lading for each Certificate of Privilege shipment promptly after the date of shipment, unless other arrangements are made with the committee office;

(v) Bill each shipment directly to the applicable receiver.

(2) Each handler making shipments of potatoes for canning, freezing, or "other processing" pursuant to paragraph (e) of this section shall:

(i) First apply to the committee for and obtain a Certificate of Privilege to make shipments for processing;

(ii) Make shipments only to those firms whose names appear on the committee's current list of manufacturers of potato products;

(iii) Upon request by the committee, furnish reports of each shipment pursuant to the applicable Certificate of Privilege;

(iv) Mail to the committee's office a copy of the bill of lading for each Certificate of Privilege shipment promptly after the date of shipment, unless other arrangements are made with the committee office;

(v) Bill each shipment directly to the applicable processor.

(3) Each receiver of potatoes for processing pursuant to paragraph (e) of this section shall:

(i) Complete and return an application form for listing as a manufacturer of potato products;

(ii) Certify to the committee and to the Secretary that potatoes received from the production area for processing will be used for such purposes and will not be placed in fresh market channels;

(iii) Report on shipments received as the committee may require and the Secretary approve.

(4) Each handler making shipments of certified seed potatoes pursuant to paragraph (e) of this section shall furnish, at the request of the committee, reports on the total volume of seed potatoes handled.

(g) *Minimum quantity exemption.* Each handler may ship up to, but not to exceed, five hundredweight of potatoes any day without regard to the inspection and assessment requirements of this part, but this exception shall not apply to any shipment that exceeds five hundredweight of potatoes.

(h) *Definitions.* The terms "U.S. Extra No. 1," "U.S. No. 1," "U.S. No. 2," "Size B," "fairly clean," "moderately skinned," and "slightly skinned," shall have the same meaning as when used in the United States Standards for Potatoes (7 CFR 51.1540–51.1566), including the tolerances set forth therein. The term "prepeeling" means the commercial preparation in a prepeeling plant of clean, sound, fresh potatoes by washing, peeling or otherwise removing the outer skin, rimming, sorting, and properly treating to prevent discoloration preparatory to sale in one or more of the styles of peeled potatoes described in § 52.2422 of the United States Standards for Peeled Potatoes (7 CFR 52.2421–52.2433). The term "other processing" has the same meaning as the term appearing in the act and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, starch, and flour. It includes only that preparation of potatoes for market which involves the application of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, dicing, or applying material to prevent oxidation does not constitute "other processing." The terms "Idaho Utility" grade and "Oregon Utility" grade shall have the same meaning as when used in the standards for potatoes for the respective State. Other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 98 and Order No. 945, both as amended.

(i) *Applicability to imports.* Pursuant to section 8e of the act and § 980.1 "Import regulations" (7 CFR 980.1), Irish potatoes of the long varieties imported during the effective period of this section shall meet the grade, size, quality and maturity requirements specified in paragraphs (a) and (b) of this section.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: July 2, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service

[FR Doc. 82-18472 Filed 7-7-82; 8:45 am]

BILLING CODE 3410-02-M

Food Safety and Inspection Service

9 CFR Part 327

[Docket No. 82-005P]

Requirements for Imported Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would implement the provisions of the Agriculture and Food Act of 1981 that amend the Federal Meat Inspection Act. The proposed rule would amend the Federal meat inspection regulations to clarify that the inspection, sanitation, quality, species verification and residue standards applied to products (*i.e.*, carcasses, parts of carcasses, and meat and meat food products of cattle, sheep, swine, goats, horses, mules and other species capable of use as human food) offered for importation into the United States must be at least "equal to" the standards applied to such domestic products produced in the United States. The proposal would also require that each exporting country desiring to establish or maintain eligibility for the exportation of product to the United States implement a residue testing program on the internal organs and fat, as appropriate, for detecting residues in the carcasses from meat and meat food products offered for importation into the United States are produced.

DATE: Comments must be received on or before September 7, 1982.

ADDRESS: Written comments to: Regulations Office, ATTN: Annie Johnson, FSIS Hearing Clerk, Room 2637, South Argiculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250. (See also "Comments" under Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: Dr. Grace Clark, Foreign Programs, International Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–6971.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Administrator has determined in accordance with Executive Order 12291 that this proposed rule is not a "major rule". It will not result in an annual effect on the economy of $100 million or more. There will be no major increase on costs or prices for consumers, individual industries; Federal, State or local government agencies, or geographic regions, and will not have a

significant adverse effect on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The purpose of the regulation is to clarify and conform existing regulations to the intent of the amendment to section 20 of the Federal Meat Inspection Act (Pub. L. 97–98). The principal impact of this action would be on foreign countries exporting meat products to the United States and is not expected to be substantial. Any portion of the increased cost not absorbed by the exporting countries and passed along to this country should be quite small and will not have a substantial impact on the domestic economy.

Effect on Small Entities

The Administrator has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act, Pub. L. 96–354 because to the extent it involves any costs, those costs would be borne primarily by the exporting country. The foreign countries exporting meat products to the United States must have a national inspection system at least "equal to" that of the United States, and must already have in place the programs necessary to comply with this proposed regulation. Those countries requiring certain modifications to their system should be able to develop the necessary programs at a minimal cost to them. Domestic businesses should incur little or no additional costs, either directly or indirectly.

Comments

Interested persons are invited to submit written comments concerning this proposal. Written comments should be sent in duplicate to the Regulations Office. Comments should reference the docket number which appears in the heading. All comments submitted pursuant to this notice will be made available for public inspection in the Regulations Office between 9:00 a.m. and 4:00 p.m., Monday through Friday.

Background

Pursuant to the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*), the Secretary of Agriculture is responsible for administering the FMIA which is designed to assure that products distributed to consumers are wholesome, not adulterated, properly marked, labeled, and packaged. In order to fulfill this obligation, the Secretary has delegated to the Administrator of the Food Safety and Inspection Service (FSIS), the authority to issue regulations and implement appropriate procedures to insure compliance with the requirements of the FMIA. The regulations addressing imported products are codified in 9 CFR Part 327. In these regulations the Administrator has established procedures by which foreign countries desiring to export meat or meat food products to the United States may become eligible to do so. These regulations also provide for certain supervisory and recordkeeping requirements as a means for FSIS to assure that eligible foreign countries are complying with on-going conditions of eligibility. FSIS has also implemented internal Agency programs to assure that products being offered for importation meet the same standards as products produced and marketed domestically.

The rules being proposed by FSIS are in response to a need to define and strengthen this existing system. The proposed rules, if adopted, would make clear that the inspection, sanitary, quality, species verification and residue standards applied to foreign products offered for importation into the United States must be at least "equal to" those standards applied to domestic products. The regulations would also be revised to include a requirement that each foreign country desiring to establish or maintain eligibility for the importation of such product into the United States implement a program to randomly sample, at the point of slaughter, the internal organs and fat of carcasses from which meat and meat food product intended to be offered for importation into the United States are produced, and to test such internal organs and fat for the presence of residues. The methods used to measure residue levels would be subject to the approval of the Administrator, or the Administrator's delegate.

Foreign Programs

The Foreign Program Division of FSIS has primary responsibility for determining that countries producing products for export to the United States have inspection programs that are designed to assure that all such exports are safe, wholesome, unadulterated and not misbranded and comply with all other provisions of the FMIA and regulations thereunder (9 CFR 301.1 *et seq.*). With the cooperation of the exporting countries this division reviews, evaluates and inspects the foreign meat inspection systems, as needed, to assure that the imported products comply with the FMIA and applicable regulations.

Any countries wishing to export meat and meat food products to the U.S. must first apply for eligibility. This process begins with a formal request being submitted to the U.S. through diplomatic channels. FSIS will then review and evaluate the meat inspection laws and regulations of the requesting country. Supplementary information is obtained during "on site" reviews of the foreign plants by the FSIS Foreign Program officers. The Agency uses these methods to determine whether the country's exporting plants are subject to requirements at least "equal to" those imposed upon plants in the United States.

Once the meat inspection system of a foreign country has been certified by the Agency as eligible to export products to the United States, the individual plants operating within that country desiring to export product to the United States must apply to their national inspection authorities for certification. The chief meat inspection official of the foreign country must in turn certify to FSIS that each establishment authorized to export to the United States meets all standards applicable to U.S. plants. This certification is valid only for a period of 1 year. At the beginning of each year a responsible official of the foreign country must recertify each plant.

The daily operation of a certified foreign plant is similar to the operation of a domestic plant. There is routine daily inspection conducted by inspectors authorized by the foreign meat inspection program. These officials monitor inspection, slaughter, sanitation, processing, labeling and the disposition of inedible and condemned products.

FSIS Foreign Program officers conduct periodic "on site" reviews of certified plants. A deficiency revealed during an "on site" review is dealt with according to the severity of the problem. A minor deficiency would normally not result in any disruption of a plant's export operations, provided the deficiency was expeditiously corrected. Serious or uncorrected deficiencies could result in loss of the plant's certification, or if indicative of problems with the inspection system, could result in the delisting of all plants in the country, and a refusal to accept any product from the exporting country.

All products being exported to the United States are certified as safe, wholesome, unadulterated and properly labeled by a responsible official of the exporting country. The certification is an additional assurance that the products have been prepared under a system that is at least "equal to" the domestic system.

FSIS inspectors randomly sample a portion of each shipment for inspection as it enters the U.S. to assure that the product meets the same standards applied to domestic products. The inspection assignment is determined by the computer-based Automated Import Information System (AIIS). The AIIS records, collates and stores daily inspection results from all ports-of-entry, laboratory sampling histories for each exporting country, and the product compliance history of each exporting plant. The information is used to determine the amount of product to be examined and the specific type of testing that will be conducted on a particular shipment. Port-of-entry inspection could include testing or examination for any of the following: species verification; residue levels; mishandling of the product; condition of product; appropriate labeling; or compliance with USDA standards of composition.

The entry inspection is used to verify the safety, wholesomeness, and proper labeling of imported products and is an additional means to assure that the inspection system of foreign countries exporting to the United States is functioning properly. Any shipment of product found unacceptable is refused entry and the product must be reexported within a prescribed time period or destroyed for human food purposes.

Agriculture and Food Act of 1981

On December 22, 1981, Congress enacted Public Law 97-98, the Agriculture and Food Act of 1981, (7 U.S.C. 1281) (hereinafter referred to as the Farm Bill). Section 1122 of the Farm Bill (21 U.S.C. 620(f)) addressed a recent incident involving product imported into the United States labeled beef that was discovered to contain kangaroo and horsemeat, and the continuing concern of the domestic meat industry that imported products are not as closely inspected as domestic meat products. Congress expressed concern that the United States placed too much reliance on assurances from the exporting country that the products were safe, wholesome and properly labeled. Congress believed that additional safeguards were required to assure compliance with the FMIA by imported products.

Section 1122 of the Farm Bill (21 U.S.C. 620(f)) amends section 620 of the FMIA (21 U.S.C. 620) by adding a new subparagraph (f) which requires that all imported products be subject to the same standards as domestic products with regard to inspection, sanitation, quality, species verification and residue. The new amendment to section 20 of the FMIA further requires that imported products not meeting such standards shall not be permitted entry into the United States. The Secretary is directed to enforce the provisions of the new section though the imposition of random inspection for species verification and residues. Additionally, the exporting country must provide for the random sampling and testing of internal organs and fat as appropriate for testing for residues in the carcasses at the point of slaughter. The residue testing methods must be approved by the Secretary.

Proposal

The Agency is proposing to amend section 327 of the Federal meat inspection regulations (9 CFR Part 327) to make clear that the inspection, sanitary, quality, species verification and residue standards applied to meat and meat food products being offered for importation into the United States must be at least "equal to" such standards applied to domestic meat and meat food products. Section 327 would be further amended so as to require foreign countries desiring to establish and or maintain eligibility for importation of products into the United States to have and maintain a program to test for residues in the internal organs and fat of carcasses from which meat and meat food products intended to be offered for importation into the United States are produced. Such a program would be required to provide for the sampling of internal organs and/or fat at the point of slaughter on a random basis, and the testing of such internal organs and fat for detection of residues likely to occur in meat and meat food product from the particular exporting country.

Analysis would be performed on the internal organs and/or fat, as appropriate for the detection of the specific residue. In addition, testing would be required only for those substances known to be in use in the production of meat and meat food products in the particular exporting country or otherwise known to be present in the environment of such country. The identification of such substances would be the responsibility primarily of the authorities of the exporting country. However, FSIS, as part of its obligation to assure that imported products meet the same standards applied to such domestic products, may request testing for residues of additional specific substances. Residue testing would have to be conducted in accordance with methods approved by the Administrator or the Administrator's delegatee.

FSIS currently has regulations which prohibit the importation of product that is adulterated, misbranded or does not comply with requirements appliable to domestically produced products (9 CFR 327.3(a)). Further, as stated earlier, FSIS has established programs to assure that products being offered for importation meet the same standards as such products produced and marketed domestically. These programs now include the random sampling for species verification and residues tolerance levels of the imported product at the point of entry. Authority to take samples for laboratory examinations from products offered for importation is provided in 9 CFR 327.10(a). FSIS is not proposing additional regulations under the Farm Bill (21 U.S.C. 620(f)) concerning the provisions of the Act that would: prohibit imported products not meeting U.S. standards entry into the United States; and impose mandatory random inspection for species verification on products offered for importation, as any such additional regulations would be a duplication of existing provisions.

Indexing Terms. As required by 1 CFR 18.20 (46 FR 1762, January 22, 1981), the following are the indexing terms for this regulation:

List of Subjects in 9 CFR Part 327

Imported products, Meat inspection.

PART 327—IMPORTED PRODUCTS

Accordingly, FSIS is proposing to revise the Federal meat inspection regulations as follows:

1. The authority citation for Part 327 reads as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*, 601 *et seq.*, 33 U.S.C. 1254.

2. Section 327.2(a)(2)(i) would be amended by redesignating the present paragraph (*f*) as paragraph (*g*) and by adding a new paragraph (*f*) to read as follows:

§ 327.2 Eligibility of foreign countries for importation of products into the United States.

(a)(1) * * *
(2) * * *
(i) * * *

(*f*) The inspection, sanitation, quality, species verification and residue standards applied to products produced in the United States.

* * * * *.

3. Section 327.2(a)(2)(iv) would be amended, for the sake of clarity, by designating the present requirements contained in this paragraph as

paragraphs (a)(2)(iv) (*a*) and (*b*); and adding a new paragraph (a)(2)(iv)(*c*), to read as follows:

§ 327.2 Eligibility of foreign countries for importation of products into the United States.

(a) * * *

(2) * * *

(iv) The foreign inspection system must maintain a program to assure that the requirements referred to in this section, at least "equal to" those of the Federal system of meat inspection in the United States, are being met. The program as implemented must provide for the following:

(*a*) Periodic supervisory visits by a representative of the foreign inspection system not less frequent than one such visit per month to each establishment certified in accordance with paragraph (a)(3) of this section to assure that requirements referred to in (*a*) through (*h*) of paragraph (a)(2)(ii) of this section are being met: *Provided,* That such visits are not required with respect to any establishment during a period when the establishment is not operating or is not engaged in producing products for exportation to the United States;

(*b*) Written reports prepared by the representative of the foreign inspection system who has conducted a supervisory visit, documenting his or her findings with respect to the requirements referred to in (*a*) through (*h*) of paragraph (a)(2)(ii) of this section, copies of which shall be made available to the representative of the Department at the time of that representative's review upon request by that representative to a responsible foreign meat inspection official: *Provided,* that such reports are not required with respect to any establishment during a period when the establishment is not operating or is not engaged in producing products for exportation to the United States; and

(*c*) Random sampling of internal organs and fat of carcasses at the point of slaughter and the testing of such organs and fat, for such residues having been identified by the exporting country's meat inspection authorities or by this Agency as potential contaminants, in accordance with sampling and analytical techniques approved by the Administrator: *Provided,* That such testing is required only on samples taken of carcasses from which meat or meat food products intended for importation into the United States are produced.

* * * * *

Done at Washington, D.C., on June 21, 1982.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 82-18519 Filed 7-7-82; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Summary Notice No. PR-82-7]

Petitions for Rulemaking; Summary of Petitions Received and Dispositions of Petitions Denied or Withdrawn

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking and of dispositions of petitions denied or withdrawn.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and be received on or before: September 8, 1982.

ADDRESSES: Send comments on the petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ———————, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C. on July 2, 1982.

John H. Cassady,

Deputy Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR RULEMAKING

Docket No.	Petitioner	Description of the rule requested
22695	Southwest Airlines	To delete § 121.652, landing weather minimums. The petitioner contends that the airline industry considers that the regulation is unjustified, compromises safety, is costly for the passenger and airlines, is not consistent with fuel conservation policies, and with the quality of training available today, serves no positive purpose.

PETITIONS FOR RULEMAKING: WITHDRAWN OR DENIED

Docket No.	Petitioner	Description and disposition of the rule requested
21389	Public Citizen Health Research Group, Aviation Consumer Action Project, Sidney Wolfe, MD, and Eve Bergmann, MD.	Amend 14 CFR 121.309 and Part 121 Appendix A to require air carriers to provide emergency medical equipment (both medications and diagnostic and lifesaving equipment) in addition to the rudimentary first aid kits now required. *Petitioner's Reasons for Amendment:* Each day, unknown numbers of Americans develop serious medical problems while aboard an airplane. Many of these problems may be life-threatening if not promptly treated. Yet any doctor on board who is called to help will find that the plane carries no lifesaving medical equipment, no medications (other than burn compound)—not even a stethoscope. As a result, a person with severe asthma or diabetic coma, for example, could die for want of treatment while the doctor stands helplessly by. According to figures from the Air Transport Association, it receives reports of approximately 100 passenger deaths per year. Many of these might be prevented if lifesaving equipment were available.

PETITIONS FOR RULEMAKING: WITHDRAWN OR DENIED—Continued

Docket No.	Petitioner	Description and disposition of the rule requested
		Many doctors have expressed their grave concern at this problem. In a survey of over 300 physicians, 88.9% thought that airlines should be required to carry basic medical equipment and medications aboard aircraft. 20% of the 300 doctors had answered calls for help on flights. "Working on passengers without benefit of medications or the bare essentials posed a real problem for many responding physicians," the survey found. (*American Medical News*, p. 9, July 25, 1980). Other doctors have reported in medical journals being called to assist passengers with heart problems, strokes, severe gastrointestinal problems, and diabetic coma. Almost all found the available medical equipment inadequate. As the airlines carry more people, and more older persons fly, such problems become ever more likely. Especially on longer, overseas flights, medical assistance on the ground may be hours away. Solving this problem should be feasible and fairly inexpensive. Both the American College of Surgeons and the Air Transport Medicine Committee of the Aerospace Medical Association have published lists of emergency medical equipment that airlines should provide. Several foreign air carriers (including SAS, Air France, and El Al) already carry in-flight emergency medical equipment, such as drugs to treat asthma, heart problems, and diabetic insulin shock. Requiring U.S. carriers to do the same should be no great burden, and it may make the difference between a passenger's life and death. *DENIED 5/19/82.*

[FR Doc. 82-18501 Filed 7-7-82; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 82-AGL-8]

Proposed Alteration of Transition Area and Control Zone; Marquette, Michigan

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The nature of this Federal action is to redescribe both the Marquette, Michigan, control zone and the Marquette, Michigan, transition area. The intended effect of this action is to redefine the geographical center of the Marquette County Airport at a point approximately 700 feet north of the current center; to make reference to true, rather than magnetic, bearings; and to eliminate all reference to the K.I. Sawyer, Michigan, Air Force Base from the Marquette transition area description.

DATE: Comments must be received on or before August 8, 1982.

ADDRESS: Send comments on the proposal to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 82-AGL-8, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

An informal docket will also be available for examination during normal business hours in the Airspace, Procedures, and Automation Branch, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures and Automation Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: The circumstance which initiated this action was the inadvertent omission from the **Federal Register** of the designated Marquette, Michigan, transition area as identified in Docket 72-GL-62. Prior to resubmitting the Marquette transition area for inclusion in the **Federal Register**, a review for currency suggested that both the Marquette, Michigan, control zone (Docket 79-GL-14) and transition are a (Docket 72-GL-62) and the nearby K.I. Sawyer, Michigan, control zone (Docket 77-GL-20) and transition area (Docket 77-GL-20) could be rewritten to better define and match airspace requirements with the appropriate airport. This action will make minor alterations to the Marquette Control zone alignment; will return small portions of airspace adjacent to the east and west arrival extensions to a non-controlled status; will eliminate portions of the designated 700-foot transition area west and southwest of Marquette County Airport; and will eliminate reference to K.I. Sawyer in the Marquette, Michigan, transition area description. Separate simultaneous docket action (Docket 82-AGL-9) is being taken to alter designations and descriptions involving the K.I. Sawyer, Michigan, control zone. Aeronautical maps and charts will reflect the defined areas, which will enable aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82-AGL-8." The postcard will be date-time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Sections 71.171 and

71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area airspace near Marquette, Michigan, and alter the control zone near Marquette, Michigan. Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations were published in Advisory Circular AC 70–3 dated January 29, 1982.

List of Subjects in 14 CFR Part 71

Control zones, Transition areas, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend §§ 71.181 and 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

In § 71.181 (46 FR 540, the following transition area is amended to read:

Marquette, Michigan

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Marquette County Airport (Latitude 46°32'02.7"N., Longitude 87°33'41.6"W.); and within 3.75 miles each side of the 077° true bearing from the geographical center of the airport extending from the 6.5-mile radius area to 15 miles east of the airport; and within 3.75 miles each side of the 257° true bearing from the geographic center of the airport extending from the 6.5-mile radius area to 10 miles west of the airport.

In § 71.171 (46 FR 455) the following control zone is amended to read:

Marquette, Michigan

Within a 5-mile radius of the Marquette County Airport (Latitude 46°32'02.7"N., Longitude 87°33'41.6"W.); and within 3.5 miles each side of the 077° true bearing from the geographical center of the airport extending from the 5-mile radius zone to 7 miles east of the airport; and within 3.5 miles each side of the 257° true bearing from the geographic center of the airport extending from the 5-mile radius zone to 9.5 miles west of the airport.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It is certified that this—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Illinois, on June 23, 1982.

Paul K. Bohr,

Director, Great Lakes Region.

[FR Doc. 82-18420 Filed 7-7-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-AGL-15]

Proposed Revocation of Control Zone; Winona, Minnesota

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revoke the existing designated control zone serving Winona Muni-Max Conrad Field Airport, Winona, Minnesota, due to nonavailability of required weather observations. The intended effect of this action is to return designated airspace to a noncontrolled status.

The most recent action involving this control zone, excluding Notices to Airmen, was accomplished in Airspace Docket No. 80-GL-18, issued July 21, 1980.

DATE: Comments must be received on or before August 6, 1982.

ADDRESS: Send comments on the proposal in triplicate to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 82-AGL-15, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

An informal docket will also be available for examination during normal business hours in the Airspace, Procedures, and Automation Branch, Air Traffic Division, Federal Aviation Administration, 2300 Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace within the perimeter of the area currently described as the Winona control zone will be raised from the surface to 700 feet above the surface. No changes will be required to any existing instrument approach procedures, but the minimum descent altitudes associated with those procedures may no longer be contained within controlled airspace. The control zone information will be removed from aeronautical charts and maps.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82-AGL-15." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2, which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR

Part 71) to alter the control zone near Winona, Minnesota.

Section 71.171 of Part 71 of the Federal Aviation Regulations was published in Advisory Circular AC 70–3 dated January 29, 1982.

List of Subjects in 14 CFR Part 71

Control zone, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Section 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Winona, Minnesota [Revoked]

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It is certified that this—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Illinois, on June 22, 1982.

Paul K. Bohr,

Director, Great Lakes Region.

[FR Doc. 82–18419 Filed 7–7–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 82–AGL–2]

Proposed Designation of Transition Area; Amery, Wisconsin

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The nature of this Federal action is to designate controlled airspace near Amery, Wisconsin, to accommodate a new NDB Runway 18 instrument approach into Amery Municipal Airport, established on the basis of a request from the Amery Municipal Airport officials to provide that facility with instrument approach capability.

The intended effect of this action is to insure segregation of the aircraft using approach procedures in instrument weather conditions from other aircraft operating under visual weather conditions.

DATE: Comments must be received on or before August 5, 1982.

ADDRESS: Send comments on the proposal to FAA Office of Regional Counsel, AGL–7, Attention: Rules Docket Clerk, Docket No. 82–AGL–2, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

An informal docket will also be available for examination during normal business hours in the Airspace, Procedures, and Automation Branch, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures and Automation Branch, Air Traffic Division, AGL–530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694–7360.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace in this area will be lowered from 1200′ above ground to 700′ above ground. The development of the proposed instrument procedures requires that the FAA lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts will reflect the defined areas, which will enable other aircraft to circumnavigate the area in order to comply with applicable viaual flight rule requirements.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82–AGL–2." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2, which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area airspace near Amery, Wisconsin. Section 71.181 of Part 71 of the Federal Aviation Regulations was published in Advisory Circular AC 70–3 dated January 29, 1982.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Amery, Wisconsin

That airspace extending upward from 700 feet above the surface within a 6½ mile radius of the Amery Municipal Airport (Latitude 45°16′45N"., Longitude 92°22′20W".) and extending 3 miles either side of the 352° bearing from the Amery, Wisconsin, NDB extending from 6½ to 8½ miles.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It is certified that this—(1) Is not a "major rule" under Executive Order 12291: (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will note have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Illinois, on June 21, 1982.

Paul K. Bohr,

Director, Great Lakes Region.

[FR Doc. 82-18421 Filed 7-7-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-AGL-11]

Proposed Alteration of Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This action withdraws a proposal published in the **Federal Register** on September 17, 1981 (46 FR 46141), to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71). The proposed amendment would have cancelled the existing Mt. Vernon, Illinois, Control Zone due to the non-availability of required weather observations. Subsequent to the publication of the Notice of Proposed Rulemaking, Air Kentucky Air Lines assumed the responsibility for recording and providing the required weather observations. From October 15, 1981, until present the observations have been in accordance with established procedures; and all indications are that they will continue to be in the future. As a result, the FAA has determined that the proposed amendment is no longer required.

EFFECTIVE DATE: July 8, 1982.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-7360.

List of Subjects in 14 CFR Part 71

Control zone, Aviation safety.

Withdrawal of the Proposal

Pursuant to the authority delegated to me, effective April 1, 1982, the proposal to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as described in Airspace Docket No. 81-GL-11 and published in the **Federal Register** on September 17, 1981 (46 FR 46141), is hereby withdrawn.

The FAA certifies that this withdrawal of proposed rulemaking only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It is certified that this—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal.

Issued in Des Plaines, Illinois on June 21, 1982.

Paul K. Bohr,

Great Lakes Region.

[FR Doc. 82-18423 Filed 7-7-82; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-276-81]

Certain Amounts Refunded In Reinsurance Transactions; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the treatment of certain amounts refunded in reinsurance transactions and the allocation of certain items in modified coinsurance transactions.

DATES: The public hearing will be held on August 19, 1982, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by August 5, 1982.

ADDRESSES: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-276-81), Washington, D.C. 20224

FOR FURTHER INFORMATION CONTACT: Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under sections 809, 811 and 820 of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Friday, March 19, 1982 (47 FR 11882).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and also desire to present oral comments at the hearing on the proposed regulations should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by August 5, 1982. Each speaker will be limited to 10 minutes for oral presentation exclusive of time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive for improving government regulations appearing in the **Federal Register** for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue:

Jason R. Felton,

Assistant Director, Legislation and Regulations Division.

[FR Doc. 82-18516 Filed 7-7-82; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Ch. VII

Availability of Finding of No Significant Impact for Certain Proposed Revisions of Permanent Program Rules

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Notice of availability of finding of no signficant impact (FONSI) for proposed rules.

SUMMARY: OSM is making available a FONSI based on the environmental assessment (EA) prepared on May 3, 1982 (47 FR 18920), covering the cumulative impacts of certain proposed revisions of its permanent program rules (30 CFR Chapter VII) implementing title V of the Surface Mining Control and Reclamation Act of 1977 (the Act), 30 U.S.C. 1201 *et seq.* These revisions are for subchapters A (general), C (non-Federal, non-Indian lands), F (areas unsuitable for mining), G (permits), J (bonding), K (performance standards), L (inspection and enforcement), and M (training and certification of blasters).

ADDRESSES (Where copies of FONSI may be obtained): Office of Surface Mining, U.S. Department of the Interior, Interior South Building, Room 134, 1951 Constitution Avenue, NW., Washington, DC 20240 (phone: 202–343–5854).

Office of Surface Mining, U.S. Department of the Interior, Administrative Record, Room 5315, 1100 L Street, NW., Washington, DC 20240 (phone: 202–343–7896).

Office of Surface Mining, U.S. Department of the Interior, Eastern Technical Service Center, Deputy Administrator's Office, Ten Parkway Center, Pittsburgh, PA 15220 (phone: 414–644–4462).

Office of Surface Mining, U.S. Department of the Interior, Western Technical Service Center, Administrator's Office, Brooks Tower, 1020 15th Street, Denver, CO 80202 (phone: 303–837–5421).

FOR FURTHER INFORMATION CONTACT: Dr. Mark Boster, Acting Chief, Branch of Environmental and Economic Analysis, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240 (phone: 202–343–2156).

Dated: July 2, 1982.

James R. Harris,

Director, Office of Surface Mining.

[FR Doc. 82–18529 Filed 7–7–82; 8:45 am]

BILLING CODE 4310–05–M

Notices

Federal Register
Vol. 47, No. 131
Thursday, July 8, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

Board of Certification, United States Courts of Appeals, Circuit Executive; Meeting

AGENCY: Board of Certification, United States Courts of Appeals, Circuit Executive.

ACTION: Notice of meeting of Board of Certification in San Francisco, California on August 16–17, 1982, to interview applicants who are interested in being certified for the positions of circuit executive.

Individuals who wish to serve as circuit executives in the United States judicial system must be certified as qualified by the statutorily created Board of Certification (28 U.S.C. Section 332(f)). While certification is a prerequisite for appointment as circuit executive, it does not ensure employment.

A personal interview with the Board is necessary for certification, and the Board cannot reimburse candidates for attendant travel expenses.

Details on how to apply may be had by writing to: Board of Certification, Administrative Office of the U.S. Courts, Washington, D.C. 20544.

The next meeting of the Board will be held in San Francisco, California on August 16–17, 1982. Applications must be received well in advance in order to be considered for a possible appointment on this date.

William E. Foley,

Secretary of the Board of Certification and Director, Administrative Office of the U.S. Courts.

[FR Doc. 82-18494 Filed 7-7-82; 8:45 am]
BILLING CODE 2210-01-M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Forms Under Review by Office of Management and Budget

July, 2, 1982.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information.

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provided the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Comments and questions about the items in the listing should be directed to the agency person named at the end of each entry. If you anticipate commenting on a form but find that preparation time will prevent you from submitting comments promptly, you should advise the agency person of your intent as early as possible.

Copies of the proposed forms and supporting documents may be obtained from: Richard J. Schrimper, Statistical Clearance Officer (202) 447–6201.

New

- Food Safety and Inspection Service
  Economic Information Protocol
  Non-recurring
  Individuals, State or local governments, businesses: 250 responses; 750 hours; not applicable under 3504(h)
  John W. McCutcheon (202) 447–8525
- Rural Electrification Administration
  Supplemental Loan Proposal Summary
  REA Form 494
  On occasion
  Businesses or other institutions: 200 responses; 400 hours; not applicable under 3504(h)
  John D. Soma (202) 382–8529
- Rural Electrification Administration
  Construction Cost Estimates
  REA Form 495
  On occasion
  Businesses or other institutions: 200 responses; 2,800 hours; not applicable under 3504(h)
  John D. Soma (202) 382–8529
- Rural Electrification Administration
  Checklist for Review of Plants and Specifications, Telephone System Construction
  Contract
  REA–553
  Annually
  Businesses or other institutions: 175 responses; 175 hours; not applicable under 3504(h)
  John D. Soma (202) 382–8529

Revised

- Statistical Reporting Service
  Fruit Inquiry
  On occasion—in season
  Farms, businesses or other institutions: 46,390 responses; 14,982 hours; not applicable under 3504(h)
  Lee Sandberg (202) 447–6820

Extension

- Food and Nutrition Service
  Administrative Review Report (Sponsor) and Administrative Review Report (Site)
  FNS 19–1 and 19–2
  Nonrecurring
  State or local government, businesses other institutions: 3,425 responses; 24,692 hours; not applicable under 3504(h)
  Norma Ball (703) 756–3888
- Rural Electrification Administration
  Report of Compliance and Participation (Title VI, Civil Rights Act of 1964)
  REA Form 268
  Annually
  Businesses or other institutions: 1,850 responses; 1,233 hours; not applicable under 3540(h)
  Henry L. Taylor (202) 382–9500
- Soil Conservation Service
  Information Storage and Retrieval—Recreational Developments
  SCS–ECS–2
  On occasion
  State or local governments: 20 responses; 20 hours; not applicable under 3504(h)

Ralph C. Wilson (202) 447–4121
Richard J. Schrimper,
Statistical Clearance Officer.
[FR Doc. 82-19091 Filed 7-7-82; 8:45 am]
BILLING CODE 3410-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Certain Fasteners From India; Review of Countervailing Duty Order in Part

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Intent to review countervailing duty order in part

SUMMARY: The Department of Commerce has received information which shows changed circumstances sufficient to warrant an administrative review under section 751(b)(1) of the Tariff Act, regarding the countervailing duty order on certain fasteners from India. This review will cover only those fasteners from India which are now duty-free. Importations of dutiable feasteners will not be affected by this review.

EFFECTIVE DATE: July 8, 1982.

FOR FURTHER INFORMATION CONTACT: Richard W. Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202,337–2786).

SUPPLEMENTARY INFORMATION: On July 21, 1980, the Department of Commerce ("the Department") published in the **Federal Register** (45 FR 48807) an affirmative final countervailing duty determination regarding certain fasteners from India. Since India was not a "country under the Agreement" within the meaning of section 701(b) of the Tariff Act of 1930 ("the Tariff Act") at that time, and all of the fasteners subject to the order were at that time dutiable, the investigation was conducted under section 303 of the Tariff Act and was not referred to the United States International Trade Commission ("the ITC") for an injury determination.

Effective January 5, 1982, fasteners from India entering under items 646.5400 and 646.5600 of the Tariff Schedules of the United States Annotated (TSUSA) acquired duty-free status under the Generalized System of Preferences. On January 27, 1982, India requested the ITC to institute an investigation to determine whether an industry in the U.S. would be materially injured, or would be threatened with material injury, by reason of imports of Indian fasteners if the countervailing duty order on such merchandise was revoked. In a letter dated March 16, 1982, the ITC advised the Indian government that it had no authority under the applicable statutes (section 104(b) of the Trade Agreement Act of 1979 and section 751(b) of the Tariff Act) to conduct an injury investigation on fasteners.

The Government of India has stated to the Department that, where international obligations of the United States require an injury determination (as is the case the products from India), the Department lacks authority under the Tariff Act to impose countervailing duties on duty-free goods unless an affirmative injury determination is made. Section 303(a)(2) of the Tariff Act provides in relevant part that:

> In the case of any imported article or merchandise which is free of duty, duties may be imposed under this section only if there are affirmative determinations by the Commission under subtitle IV of this chapter. * * *

For the foregoing reasons we believe there is good cause shown and that circumstances have changed sufficiently to warrant our conducting an administrative review under section 751(b)(1) of the Tariff Act of the countervailing duty order ragarding these duty-free fasteners from India.

Imports covered by this review are those fasteners which receive duty-free treatment under the Generalized System of Preferences. Such fasteners are currently classifiable under items 646.5400 and 646.5600 of the Tariff Schedules of the United States Annotated. Importations of dutiable fasteners will not be covered by this review.

The Department is therefore initiating a review, under section 751(b)(1) of the Tariff Act, of the countervailing duty order on certain fasteners from India with regard to covered duty-free fasteners. We intend to publish preliminary results of this review as quickly as possible, and in no event later than 30 days from the publication of this notice.

This notice of intent to conduct an administrative review of countervailing duty order is published in accordance with section 751(b)(1) of the Tariff Act (19 U.S.C. 16754(b)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Gary N. Horlick,
Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-19429 Filed 7-7-82; 8:45 am]
BILLING CODE 3510-25-M

Advisory Committee on East-West Trade; Notice of Closed Meeting

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The Advisory Committee on East-West Trade was initially established on February 11, 1974, and rechartered on December 5, 1980 in accordance with the Federal Advisory Committee Act, 5 U.S.C. App. (1976). The Committee advises the Department of Commerce on ways to promote and encourage the orderly expansion of commercial and economic relations between the United States and the communist countries.

TIME AND PLACE: July 28, 1982, 9:30 A.M.–3:30 P.M., U.S. Department of Commerce, Washington, D.C..

AGENDA: (Meeting in Executive Session):

(1) Review of current export control policy issues.

(2) Review of Economic/Political Reforms in China.

(3) Update on Polish situation.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the July 28, 1982 meeting should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the agenda items to be discussed will be concerned with matters in 5 U.S.C. 552b (c) (1) and (9) (B); i.e., material specifically authorized under criteria established by Executive Order 12065 (3 CFR 190 (1979)) to be kept secret in the interest of national defense or foreign policy and properly classified pursuant to such Executive Order; and whose premature public disclosure would be likely to significantly frustrate implementation of a proposed agency action. A copy of the Notice of Determination to close the aforementioned portion of the July 28, 1982 meeting is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, Washington, D.C. 20230. Telephone: (202) 377–4217.

FOR FURTHER INFORMATION CONTACT: Jeffrey L. Lee, Committee Control Officer, Office of PRC and Hong Kong, International Trade Administration, Room 4317, U.S. Department of

Commerce, Washington, D.C. 20230, Telephone: (202) 377–3583.

Dated: June 30, 1982.

Eugene K. Lawson,

Deputy Assistant Secretary for East Asia and the Pacific.

[FR Doc. 82-18680 Filed 7-7-82; 8:45 am]
BILLING CODE 3510-25-M

Michelin X-Radial Steel Belted Tires from Canada; Final Results of Administrative Review and Revocation of Countervailing Duty order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review and revocation of countervailing duty order.

SUMMARY: On April 12, 1982, the Department of Commerce published in the **Federal Register** the preliminary results of its administrative review of the countervailing duty order on Michelin X-radial steel belted tires from Canada. The review covered the period January 1, 1980 through December 31, 1980.

Interested parties were invited to comment on the preliminary results. Upon review of all comments received, the Department has determined that countervailing duties equal to the calculated value of the aggregate net subsidy, 1.18 percent of the f.o.b. invoice price of the merchandise, shall be assessed on all shipments entered on or after January 1, 1980, and before January 9, 1980.

Further, the Department is revoking the countervailing duty order on Michelin X-radial steel belted tires from Canada because of the termination of an injury investigation by the International Trade Commission. All entries of this merchandise made on or after January 9, 1980, shall be liquidated without regard to countervailing duties.

EFFECTIVE DATE: July 8, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph Russo or Richard Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202, 377–1168/2786).

SUPPLEMENTARY INFORMATION:

Background

On January 8, 1973, a final countervailing duty determination on Michelin X-radial steel belted tires from Canada, T.D. 73–10, was published in the **Federal Register** 38 FR 1018).

On January 9, 1980, the International Trade Commission ("The ITC") notified the Department of Commerce ("the Department") that the Canadian government had requested an injury determination for this order under section 104(b) of the Trade Agreements of 1979 ("the TAA"). Therefore, following the requirements of that section, liquidation was suspended on January 9, 1980 on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after that date.

On October 26, 1981, the Court of International Trade ("the CIT") issued a partial decision and remand in *Michelin Tire Corporation v. United States*, Slip. Op. 81–94. On February 23, 1982, the Department forwarded its final results concerning the remanded issues to the court. The effects on the subsidy rates for 1980 of the Department's recalculation in response to the remand are discussed below under *Analysis of Comments Received.*

On April 12, 1982, the Department published in the **Federal Register** (47 FR 15616) the preliminary results of its administrative review of the order. A correction to that notice was published on April 19, 1982 (47 FR 16666). The Department has now completed the administrative review.

On June 16, 1982, the ITC published in the **Federal Register** (47 FR 26049) a notice of termination of its investigation under section 104(b) of the TAA due to the original petitioner's withdrawal of its petition.

Scope of the Review

Imports covered by the review are X-radial steel belted tires manufactured by Michelin Tires Canada, Limited. Such tires are currently classifiable under items 772.5109, 772.5127, 772.5136, and 772.5144 through 772.5155 of the Tariff Schedules of the United States Annotated. The review covers the period January 1, 1980 through December 31, 1980. The Department reviewed the three programs found countervailable in the original determination: (1) A Can. $50 million preferential long-term loan from the Industrial Estates Limited ("IEL"); (2) grants from the Department of Regional Economic Expansion ("DREE") and IEL; and (3) preferential property tax agreements.

Analysis of Comments Received

Interested parties were given an opportunity to submit oral or written comments on the preliminary results. Only Michelin Tires Corporation ("MTC") submitted comments.

Comment 1: Michelin stated that the Department erred in calculating the interest subsidy on the IEL loan by (a) failing to take into account the decline beginning in 1973 in the loan principal as payments were deferred under the terms of the 1972 agreement, and (b) not calculating the interest differential based on the 7.15 percent *combined* net rate for the 1970 and 1972 agreements.

Position: As stated in our preliminary results, we have calculated the interest subsidy on the 1970 loan agreement in a manner consistent with the October 26, 1982 CIT opinion. In that decision, the court concluded that the preferential rate of 6 percent interest did not apply to less then the entire Can. $50 million of the original loan agreement and that the 1972 agreement constituted a second loan. Although the repayment schedule in the 1970 agreement specified that principal payments were to commence in 1973, no such payments were actually made until 1976. The Department, therefore, did not reduce the original Can. $50 million by the planned, but unexecuted, principal payments for the years 1973 through 1975.

Regarding MTC's second point, because the court opinion determined that the 1970 and 1972 agreements constituted separate loans, combining the applicable interest rates for these loans would be improper.

Comment 2: MTC argued that allocating the grants over half the accounting useful lives of the acquired assets is unlawful because the Department has failed to justify: a) The use of any accelerated method of recapture; b) the use of "half" the useful lives as a basis of allocation; and c) the use of accounting useful lives rather than physical useful lives.

Position: The Department has applied an accelerated method of recapture in order to comply with the congressional intent for front loading such benefits. The Department has determined that allocating the capital grants over half the useful lives of the acquired assets is a reasonable approach to meeting that directive. We have used the average accounting useful lives because they reflect the assets' economic lifespan. Such measurement more accurately incorporates considerations such as technological obsolescence than estimates of physical useful lives. In the case of Michelin-Canada, the accounting useful lives of the acquired assets are comparable to the average lives recorded in the depreciation guidelines of the U.S. Internal Revenue Service.

Comment 3: MTC argued that the Department should reduce one of the grants received in 1980 by the amount repaid in 1981. It further stated that such a retroactive adjustment is the preferred course of conduct under Generally Accepted Accounting Principles ("GAAP").

Position: The Department has determined that, since Michelin-Canada had full use of this money through the end of this review period, its inclusion in the calculation of the subsidy rate for 1980 correctly reflects the benefit conferred on production in that year.

Comment 4: MTC claimed that the Department is bound by GAAP to include the value of its labor costs for modification and installation of fixed assets in the total value of production.

Position: The value of production was calculated using the average f.o.b. prices of Michelin-Canada's exports to the United States multiplied by the number of each tire series produced in 1980. As such, all costs should already be incorporated in the prices charged for its products. The Department therefore has denied this adjustment.

Comment 5: MTC stated that, in light of the ITC negative injury determination, countervailing duties should not be collected beyond the date the ITC received the section 104(b) request from the Government of Canada.

Position: Under the transition provisions of the TAA, section 104(b) provides that revocations resulting from negative injury determinations apply retroactively to the date of the ITC's notification to the Administering Authority. The law is explicit in its instruction concerning this issue and this practice has been followed in all revocations previously issued under section 104(b) by the Department.

Final Results of the Review

Upon review of all comments received, we determine that the aggregate net subsidy conferred by the three programs cited above during the period of review is 1.18 percent *ad valorem*. Accordingly, the Department will instruct the Customs Service to assess countervailing duties of 1.18 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after January 1, 1980 and before January 9, 1980, the date of the ITC's notification to the Department.

The ITC's termination of the section 104(b) investigation has the same effect as a determination that an industry in the United States would not be materially injured, or threatened with material injury, by reason of imports of the merchandise covered by the order if the order were revoked. As a result, the Department is revoking the countervailing duty order concerning Michelin X-radial steel belted tires from Canada with respect to all merchandise entered, or withdrawn from warehouse, for consumption on or after January 9, 1980.

The Department will instruct Customs officers to proceed with liquidation of all unliquidated entries of this merchandise made on or after January 9, 1980 without regard to countervailing duties and to refund any estimated countervailing duties collected with respect to these entries.

This administrative review, revocation and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)), section 104(b)(4)(B) of the TAA (19 U.S.C. 1671 note), and § 355.41 of the Commerce regulations (19 CFR 355.41).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

July 2, 1982.

[FR Doc. 82-18806 Filed 7-7-82; 8:45 am]

BILLING CODE 3510-25-M

Molasses From France; Revocation of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of revocation of countervailing duty order.

SUMMARY: As a result of a request by the Delegation of the Commission of the European Communities, the International Trade Commission conducted an investigation and determined that revocation of the countervailing duty order on Molasses from France would not cause injury to an industry in the United States. The Department of Commerce consequently is revoking the countervailing duty order. All entries of this merchandise made on or after April 3, 1980, shall be liquidated without regard to countervailing duties.

EFFECTIVE DATE: July 8, 1982.

FOR FURTHER INFORMATION CONTACT: Josephine A. Russo or Richard Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202, 377-1168/2786).

SUPPLEMENTARY INFORMATION: On May 5, 1971, a final countervailing duty determination on molasses from France was published in the **Federal Register** (T.D. 71-118, 36 FR 8365). On April 3, 1980, the International Trade Commission ("the ITC") notified the Department of Commerce ("the Department") that an injury determination for this order had been requested under section 104(b) of the Trade Agreements Act of 1979 ("the TAA"). Therefore, following the requirements of that section, liquidation was suspended on April 3, 1980 on all shipments of molasses from France entered, or withdrawn from warehouse, for consumption on or after that date.

On October 28, 1981, the Department published the final results of its administrative review of the order, as required by section 751 of the Tariff Act of 1930 (46 FR 53200). The Department determined that no net subsidy was conferred on molasses from France during the period of review and reported that information to the ITC.

On May 28, 1982, the ITC published its determination that an industry in the United States would not be materially injured, or threatened with material injury, by reason of imports covered by the order if the order were revoked (47 FR 23055). As a result, the Department is revoking the countervailing duty order concerning molasses from France with respect to all merchandise entered, or withdrawn from warehouse, for consumption on or after April 3, 1980, the date the Department received notification of the request for an injury determination.

The Department will instruct Customs officers to proceed with liquidation of all unliquidated entries of this merchandise made on or after April 3, 1980 without regard to countervailing duties and to refund any estimated countervailing duties collected with respect to these entries.

This revocation is in accordance with section 104(b)(4)(B) of the TAA (19 U.S.C. 1671 note).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

July 2, 1982.

[FR Doc. 82-18805 Filed 7-7-82; 8:45 am]

BILLING CODE 3510-25-M

National Radio Astronomy Observatory; Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00128. Applicant: National Radio Astronomy Observatory, Associated Universities Inc., 2010 N.

Forbes Blvd., Suite 100, Tucson, AZ 85745. Article: Klystron VRT2123A and Heat Sink VAT2002F9. Manufacturer: Varian Canada, Canada. Intended use of article: See Notice on page 15819 in the Federal Register of April 13, 1982.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides operation in the frequency range of 109.5—117.5 gigahertz. The National Bureau of Standards advises in its memorandum dated May 18, 1982 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-18600 Filed 7-7-82; 8:45 am]

BILLING CODE 3510-25-M

University of Chicago; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2087 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82–00105. Applicant: University of Chicago, Operator of Argonne National Laboratory, 9700 South Cass Avenue, Argonne, IL 60439. Article: Telemetry Equipment. Manufacturer: Ruedin Biotelemetry Systems, Switzerland. Intended use of article: See Notice on page 13395 in the Federal Register of March 30, 1982.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article is a lightweight (2.8 grams) transmitter for small mammals (rats) with two-channel simultaneous recording of brainwave (EEG) and sleep state (EMG). The Department of Health and Human Services advises in its memorandum dated May 26, 1982 that (1) the capabilities of the foreign article described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivelent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

[FR Doc. 82-18602 Filed 7-7-82; 8:45 am]

BILLING CODE 3510-25-M

University of Texas at Austin; Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:00 A.M. and 5:00 P.M. in Room 2087 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82–00108. Applicant: University of Texas at Austin, Fusion Research Center, Robert L. Moore Hall, Room 12.206, 26th & Speedway Streets, Austin, TX 78712. Article: Carcinotron Electronic Tube, TH4218C. Manufacturer: Thomson-CSF, Groupement Tubes Electroniques, France. Intended Use of Article: See Notice on page 13395 in the Federal Register of March 30, 1982.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article operates in a frequency range of 370–404 gigahertz. The National Bureau of Standards advises in its memorandum dated May 25, 1982 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intented use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 18512 Filed 7-7-82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Mid-Atlantic Fishery Management Council and its Surf Clam and Ocean Quahog Subpanel; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice

SUMMARY: The Mid-Atlantic Fishery Management Council was established by section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265. The Council has also established a Surf Clam and Ocean Quahog Subpanel. The Council and its Subpanel will hold separate public meetings.

SUPPLEMENTARY INFORMATION:

Agendas

Council—will meet to discuss the Tilefish, Summer Flounder, Bluefish, Surf Clam and Ocean Quahog and Lobster Fishery Management Plans (FMP's); discuss the status of other FMP's, foreign fishing applications and other fishery management and administrative matters. The public meeting will convene on Wednesday, August 4, 1982, at approximately noon and will adjourn on Friday, August 6, 1982, at approximately noon, at the

Sheraton Inn-Coliseum, 1215 West Mercury Boulevard, Hampton, Virginia.

Subpanel—will meet to discuss limited entry. The public meeting will convene on Friday, July 30, 1982, at approximately 10 a.m., and will adjourn at approximately 4 p.m., at the Sheraton, Route 13, Dover, Delaware. These public meetings may be lengthened or shortened depending upon progress on the agendas.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, Federal Building—Room 2115, 300 South New Street, Dover, Delaware 19901, Telephone: (302) 674–2331.

Dated: July 1, 1982.

E. Craig Felber,

Chief, Management Services Staff, National Marine Fisheries Service.

[FR Doc. 82–18523 Filed 7–7–82; 8:45 am]

BILLING CODE 3510–22–M

DEPARTMENT OF EDUCATION

National Commission on Excellence in Education; Meetings

AGENCY: National Commission on Excellence in Education, Education

ACTION: Notice of meetings.

SUMMARY: This notice sets forth the schedule of panel meetings of the National Commission on Excellence in Education. Notice of these panel meetings is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATES: July 30, 1982 (8:30 a.m. until 5:00 p.m.), August 27 and 28, 1982 (8:30 a.m. until 5:00 p.m.).

LOCATIONS: July 30, 1982, The Aztec Center, San Diego State University, San Diego, California.

August 27 and 28, 1982, The University of Rhode Island, Kingston, Rhode Island.

FOR FURTHER INFORMATION CONTACT: Milton Goldberg, Executive Director, 1200 19th Street, N.W., Washington, D.C. 20208 (202) 254–7920, or (for the July 30 panel) Bill Oliveri, Staff Associate, (202) 653–5839), (for the August 27–28 panel) Clifford Adelman, Senior Staff (202) 254–5555.

The National Commission on Excellence in Education is governed by the provisions of Part D of the General Education Provisions Act (Pub. L. 90–247 as amended; 20 U.S.C. 1233 *et seq.*) and the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. Appendix I) which sets forth standards for the formation and use of advisory committees. The Commission is established to advise and make recommendations to the nation and to the Secretary of Education.

The meetings of the Commission are open to the public. The agendas will include:

July 30: Presentations of current research data, and a panel discussion on the role of intelligence, motivation and work in student achievement;

August 27–28: Presentations of current and historical research, and a panel discussion of the changing nature and grounds of college curriculum, the role of college faculty in interpreting curriculum, and the impact of college curriculum on high schools.

Records are kept of all Commission proceedings, and are available for public inspection at the office of the National Commission on Excellence in Education. 1200 19th Street, N.W. Room 639, from the hours of 8:00 a.m. to 5:00 p.m.

Dated: July 2, 1982.

Donald J. Senese,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 82–18479 Filed 7–7–82; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA–FC–82–013; FC Case Number 50552–6292–34–22]

Chugach, Electric Association, Inc.; Order Granting Exemption From Prohibitions of Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration DOE

ACTION: Order Granting Chugach Electric Association, Inc. an Exemption from the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: On April 5, 1982, Chugach Electric Association, Inc. (Chugach) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) seeking a permanent reliability of service exemption for a powerplant from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or the Act). Title II of FUA prohibits the use of petroleum and natural gas as a primary energy source in any new powerplant and the construction of any new powerplant without the capability to use coal or any other alternate fuel as a primary energy source. Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA were published in the **Federal Register** at 46 FR 59872 (December 7, 1981). The eligibility and evidentiary requirements for the reliability of service exemption are contained in 10 CFR 503.40 of the final rules.

Chugach requested a permanent reliability of service exemption in order to burn natural gas or petroleum in a new 26.6 MW package gas turbine unit, identified as Unit No. 4, to be operated at Chugach's Bernice Lake powerplant located near Kenai, Alaska.

Pursuant to section 212(f) of the Act and 10 CFR 503.40, ERA hereby grants a permanent reliability of service exemption from the prohibitions of FUA to Chugach for its new powerplant, Unit No. 4.

DATES: In accordance with section 702(a) of FUA, this Order shall take effect on September 6, 1982.

The public file containing a copy of this Order and other documents and supporting materials on this proceeding is available at the Department of Energy Freedom of Information Reading Room, 1000 Independence Avenue, SW, Room 1E–190, Washington, D.C. 20585, Telephone (202) 253–6020, Monday through Friday, 8:00 a.m.—4:00 p.m.

FOR FURTHER INFORMATION CONTACT:

Edward J. Peters, Jr., Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA–073G, 1000 Independence Avenue, SW., Washington, D.C. 20585, Phone (202) 252–8162.

Allan Stein, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6B–178, 1000 Independence Avenue, SW., Washington, D.C. 20585, Phone (202) 252–2967.

Jack Vandenberg, Office of Public Information, Economic Regulatory Administration, Department of Energy, Federal Building, Room 7120, 12th & Pennsylvania Avenue, NW., Washington, D.C. 20461, Phone (202) 633–8108.

SUPPLEMENTARY INFORMATION: The powerplant for which the petition for exemption has been filed is a new 26.6 MW natural gas/No. 2 fuel oil fired package combustion turbine unit to be operated at Chugach's Bernice Lake powerplant, located in the vicinity of Kenai, Alaska. The new powerplant, identified as Unit No. 4 by Chugach, has a design heat input rate of approximately 12,200 Btu's per KWH (full load heat rate). The boiler will burn natural gas, with No. 2 fuel oil used during gas curtailment.

Pursuant to 10 CFR 503.40, Chugach filed the following certifications, together with exhibits containing the basis therefor:

1. Despite a diligent effort to purchase a firm alternative power supply to cover all or a part of the projected power shortfall, the reserve margin in the petitioner's service area in the absence of Unit No. 4 would fall below twenty (20) percent during the first year of proposed operation.

2. The use of a mixture of natural gas or petroleum and an alternate fuel for which a fuels mixture exemption would be available under 10 CFR 503.38 would not be economically or technically feasible for the proposed unit.

3. The petitioner is not able to construct an alternate fuel burning unit in time to prevent impairment of reliability of service; despite diligent, good faith efforts the petitioner is not able to make the demonstration necessary to obtain a permanent exemption for lack of alternate fuel supply, site limitations, environmental requirements, inadequate capital, or State and local requirements in time to prevent an impairment of reliability of service.

In accordance with the procedural requirements of FUA and 10 CFR 501.3(b), ERA published its Notice of Acceptance of Petition on May 6, 1982 (47 FR 19578), commencing a 45 day public comment period pursuant to section 701 of FUA. As required by section 701(f) of the Act, ERA provided a copy of Chugach's petition to the Environmental Protection Agency for comment. Copies were also sent to the Alaska State Clearinghouse and Federal Energy Regulatory Commission for their comments. During the public comment period, interested persons were also afforded an opportunity to request a public hearing. The period for submitting comments and for requesting a public hearing closed on June 21, 1982. No comments were received. No hearing was requested.

Decision and Order:

Based upon the entire record of this proceeding, ERA has determined that Chugach has satisfied all of the eligibility requirements for the requested exemption as set forth in 10 CFR 503.40.

Accordingly, pursuant to section 212(f) of FUA, ERA hereby grants Chugach a permanent reliability of service exemption for Unit No. 4 located at its Bernic Lake powerplant near Kenai, Alaska.

The Rural Electrification Administration (REA) of the U.S. Department of Agriculture prepared an Environmental Assessment (EA) of the proposed operation of Unit No. 4 and on December 21, 1981, issued a Finding of No Significant Impact (FONSI). The FONSI was published in the **Federal Register** on January 4, 1982 (47 FR 86). ERA concurs in the FONSI issued by REA and concludes that it meets the requirements of the National Environmental Policy Act of 1969, as applied to ERA's present action granting Chugach its requested permanent exemption.

Pursuant to section 702(c) of the Act and 10 CFR 501.69 any person aggrieved by this order may petition for judicial review at any time before the 60th day following the publication of this order in the **Federal Register.**

Issued in Washington, D.C. on June 28, 1982.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-18449 Filed 7-7-82; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ERA-FC-82-008; OFC Case No. 55610-8112-01-12]

Order Granting Westvaco Corp. an Exemption From the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Order granting Westvaco Corporation an exemption from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: On March 25, 1982, Westvaco Corporation, hereinafter referred to as petitioner, filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent fuels mixtures exemption for a new major fuel burning installation (MFBI) from the provisions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or the Act), that prohibit the use of petroleum and natural gas as a primary energy source in certain new MFBI's. The final rule containing the criteria and procedures for petitioning for exemptions from the prohibitions of FUA was published in the **Federal Register** at 46 FR 59672 (December 7, 1981). The criteria governing fuels mixture exemption criteria are contained in 10 CFR 503.38 of the final rules.

The petitioner requested a permanent fuels mixture exemption in order to burn black liquor solids in combination with petroleum or natural gas as a primary energy source in a boiler identified as Unit #10 to be operated at the petitioner's papermill located in Charleston, South Carolina. Unit #10 will have a design heat input rate of 1,250 million Btu per hour.

Pursuant to section 212(d) of the Act and 10 CFR 503.38(d), ERA hereby grants the petitioner a permanent fuels mixture exemption for the new MFBI identified as Unit #10. The basis for ERA's Order is provided in the **SUPPLEMENTARY INFORMATION** section below.

DATE: In accordance with section 702(a) of FUA, this Order and its provisions shall take effect on September 6, 1982.

The public file containing a copy of this Order and other documents and supporting materials on this proceeding is available for inspection upon request at: DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, D.C. 20585, Monday through Friday, 8:00 a.m.-4:00 p.m.

FOR FURTHER INFORMATION CONTACT:

William H. Freeman, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA-073, 1000 Independence Avenue, SW., Washington, D.C. 20585, Telephone (202) 252-2993

Allan J. Stein, Esq., Office of the General Counsel, Department of Energy, Forrestal Building, Room 6B-178, 1000 Independence Avenue, SW., Washington, D.C. 20585, Telephone (202) 252-2967

Jack Vandenberg, Office of Public Information, Economic Regulatory Administration, 12th and Pennsylvania Avenue, Room 7120, Washington, D.C. 20461, Telephone (202) 633-8755

SUPPLEMENTARY INFORMATION: The petitioner proposes to install Unit #10 at its papermill in Charleston, South Carolina. The primary purpose of the boiler is to recover the cooking chemicals for producing pulp in as pure a form as possible. Unit #10 will burn 95-100% black liquor in a mixture with petroleum or natural gas. Since additional petroleum or natural gas may have to be burned to maintain mill operations in the event of a breakdown in black liquor supply, or in existing bark or coal-fired boilers at the facility, the petitioner requests an exemption, under 10 CFR 503.38(d), to burn up to 25 percent petroleum or natural gas in a mixture with black liquor solids.

In accordance with 10 CFR 503.38(d), the petitioner certified in its petition for exemption that the amount of petroleum or natural gas proposed to be used as a primary energy source in the mixture will not exceed twenty-five percent (25%) of the total annual Btu heat input of the installation. The petitioner also

submitted environmental certifications, pursuant to 10 CFR 503.13(b), indicating that it will secure all applicable permits and approvals prior to commencement of operation of the new unit under exemption.

In accordance with the procedural requirements of FUA and 10 CFR 501.3(b), ERA published its Notice of its Acceptence of Petition for Exemption and Availability of Certification relating to Unit #10 in the **Federal Register** on April 29, 1982 (47 FR 18409), commencing a 45-day public comment period pursuant to section 701(c) of FUA. As required by sections 701(f) and 701((g) of the Act, ERA provided a copy of the petition to the Environmental Protection Agency and the Federal Trade Commission for their respective comments. During that period, interested persons were also afforded an opportunity to request a public hearing. The period for submitting comments and for requesting a public hearing closed on June 14, 1982. No hearing was requested and no comments were received.

After a review by DOE's Office of Environment of the petitioner's completed environmental checklist submitted pursuant to 10 CFR 503.13, together with other relevant information, ERA has determined that the granting of the requested exemption does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act.

Decision and Order

Based upon the entire record of this proceeding, ERA has determined that the petitioner has satisfied all the eligibility requirements for the requested exemption as set forth in 10 CFR 503.38(d) and section 212(d) of FUA, and ERA hereby grants the petitioner a permanent exemption to use a fuel mixture containing up to 25 percent natural gas or petroleum in its proposed Unit #10 to be located at its papermill in Charleston, South Carolina.

Pursuant to section 702(c) of the Act and 10 CFR 501.69, any person aggrieved by this order may petition for judicial review thereof at any time before September 6, 1982.

Issued in Washington, D.C. on June 28, 1982.

James W. Workman,

Directory, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-19448 Filed 7-7-82; 8:45 am]

BILLING CODE 6450-01-M

Vanderbilt Energy Corp.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Vanderbilt Energy Corporation (Vanderbilt) of Denver, Colorado. This Proposed Remedial Order charges Vanderbilt with pricing violations in the amount of $509,404.05 connected with the sale of crude oil at prices in excees of those permitted by 10 CFR Part 212, Subpart D during the time period August 1, 1976 through December 31, 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from James A. Martin, Deputy Director, Crude and NGL & Litigation Support Group, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, or by calling (214) 767-7401. On or before July 23, 1982 any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 12th and Pennsylvania Ave., NW., Room 3426, Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas, on the 28th day of June, 1982.

James A. Martin,

Deputy Director, Crude and NGL Audit & Litigation Support Group, Economic Regulatory Administration.

[FR Doc. 82-18511 Filed 7-7-82; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Presurvey Consultation Program; Request for Comments on Proposed Revision to the Annual Survey of Domestic Oil and Gas Reserves, Form EIA-23.

AGENCY: Energy Information Administration, DOE.

ACTION: Request for comments on proposed revision to the Annual Survey of Domestic Oil and Gas Reserves, Form EIA-23.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, the Department of Energy (DOE), through its Energy Information Administration (EIA), conducts a consultation program to provide the general public with an opportunity to comment during the early development stages of new or revised reporting forms. This program helps ensure that requested data can be provided in the desired format, reporting burden is minimized, reporting forms are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

At this time, the EIA requests comments on the revised Annual Survey of Domestic Oil and Gas Reserves, Form EIA-23. It is described in the Supplementary Information section of this Notice. Interested parties are asked to review the Form and its instructions and provide comments to the information contact described below.

EFFECTIVE DATE: August 9, 1982.

FOR FURTHER INFORMATION CONTACT: Ted L. Madison, Reserves and Production Branch, Energy Information Administration, Federal Building, Mail Stop 4430, 12th Street and Pennsylvania Avenue, NW., Washington, D.C. 20461, (202) 633-9696.

SUPPLEMENTARY INFORMATION: The EIA has the responsibility to develop credible and verifiable estimates of crude oil, natural gas, and natural gas liquids reserves and production. For survey years 1977 through 1981 these data were obtained from selected oil and gas well operators by utilizing the Form EIA-23.

Revisions are now proposed for the Form EIA-23 prior to collection of data for survey year 1982. These revisions reflect an effort to reduce the reporting burden of EIA-23 respondents through the elimination of redundant schedules and the utilization of a more space-efficient form format. The proposed changes would affect only Category I and Category II (large and intermediate sized) oil and gas well operators who file EIA-23. The version of the Form utilized by Category III (small) operators is already designed for minimum reporting burden and is not proposed to be revised. Therefore, Category III operators would be unaffected by these changes. No new data elements are proposed in this revision, although the relocation of some data elements may make them appear to be new. The gas commitment status data remains as collected in past surveys and would be reported on the proposed Schedule B.

Notable proposed changes are as follows:

- The Part 1 (Summary) schedules would be eliminated for Category I and II operators.
- Schedule 1 would be eliminated. However, natural gas commitment status data would still be collected on a separate schedule.
- Rather than using two different schedules, Category I and II operators would utilize a common schedule to report reserves and production on a field-level basis. Schedule 2 would be

eliminated, with Schedule 3 modified for use by Category I *and* Category II operators.

• Reserves data for four fields would be entered on one revised Schedule 3, rather than a single field per schedule as is now the case.

Printed below is a draft revised Form EIA–23 with instructions, along with a suggested format for providing comments. This format specifies areas of particular interest to the DOE and also provides opportunity for reviewers to comment on issues of concern to them. The use of this format is not required, but it will facilitate DOE's ability to address comments in a timely manner. Please review the revised Form and send your comments within 30 days of this notice to the above address.

Issued in Washington, D.C.

Dr. Yvonne M. Bishop,

Director, Office of Statistical Standards, Energy Information Administration.

July 2, 1982.

Comment Format

The following is the suggested format for providing comments on the revised Form EIA–23, "Annual Survey of Domestic Oil and Gas Reserves."

1. What is the basis of your interest in this annual survey of oil and gas reserves (e.g., are you a potential respondent, consultant, oil and gas analyst, corporate planner, etc.)?

2. Do the instructions provide enough information to enable you to complete the Form and are the instructions sufficiently clear? If not, which instructions require further clarification?

3. Should additional items be defined? Please list, if any.

4. Is the Form layout easy to follow and understand? What changes would you suggest to improve the clarity of the Form while retaining identical information content?

5. Given a choice, would you or your organization prefer to retain the current Form or adopt the proposed revision?

6. If you or your firm were a respondent to past Form EIA–23 surveys: (a) What is your estimate of the one-time cost and personnel hours necessary to accommodate the revised Form in your response procedures? (b) What is your estimate of the on-going cost and personnel hours necessary to respond to the entire Form on a continuing annual basis? (c) What is your estimate of the on-going cost and personnel hours required in providing *only* the gas commitment data collected on Schedule B?

[FR Doc. 82–18510 Filed 7–7–82; 8:45 am]

BILLING CODE 6450–01–M

Agency Forms Submitted to the Office of Management and Budget for Review

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of submission of request for clearance to the Office of Management and Budget.

SUMMARY: Under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), Department of Energy (DOE) notices of proposed collections under review will be published in the **Federal Register** on the Thursday of the week following their submission to the Office of Management and Budget (OMB). Following this notice is a DOE proposal sent to OMB for approval on June 30, 1982.

The entry, listed by the DOE sponsoring office, contains the following information: (1) The form number; (2) Form title; (3) Type of request, e.g., new, revision, or extension; (4) Frequency of collection; (5) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (6) Type of respondent; (7) An estimate of the number of respondents; (8) Annual respondent burden, i.e., an estimate of the total number of hours needed to fill out the form; and (9) A brief abstract describing the proposed collection.

DATE: Last notice published Thursday, July 1, 1982.

FOR FURTHER INFORMATION CONTACT:

John Gross, Director, Forms Clearance and Burden Control Division, Energy Information Administration, M.S. 7413, Federal Building, 12th & Pennsylvania Avenue, NW., Washington, D.C. 20461, (202) 633–9464

Jefferson B. Hill, Department of Energy Desk Officer, Office of Management and Budget, 726 Jackson Place, NW., Washington, D.C. 20503, (202) 395–7340

SUPPLEMENTARY INFORMATION: Copies of proposed collections and supporting documents may be obtained from Mr. Gross. Comments and questions about the items on this list should be directed to the OMB reviewer; comments should also be provided Mr. Gross. If you anticipate commenting on a form, but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer of your intent as early as possible.

Issued in Washington, D.C., July 2, 1982.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

DOE FORMS UNDER REVIEW BY OMB

Form number	Form title	Type of request	Response frequency	Response obligation	Respondent description	Estimated number of respondents	Annual respondent burden	Abstract
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
DP–407	Survey of Lifestyles, Food Habits, and Agricultural Practices.	Reinstatement	One-time	Voluntary	Households in Mohave County and Coconino Counties, AZ; Clark, White, Pine, Nye, and Esmeralda Counties, NV; and Kane County, UT.	3,400	357	This single-time form will be used to collect information on the estimation of radiation dose due to nuclear weapons testing at Nevada Test Site during the period 1951–1962. The data will assist DOE in its model estimating the health hazards to the population from external and internal doses of radiation.

[FR Doc. 82–18606 Filed 7–7–82; 8:45 am]

BILLING CODE 6450–01–M

Office of Hearings and Appeals

Implementation of Special Refund Procedures and Solicitation of Comments

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of Implementation of Special Refund Procedures and Solicitation of Comments.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding to eligible claimants $1,100,000 obtained by the DOE under the terms of a consent order entered into with Sid Richardson Carbon and Gasoline Co. and Richardson Products Co. The funds were provided by the firm in order to

settle enforcement proceedings brought by the Office of Enforcement.

DATE AND ADDRESS: Comments must be filed on or before Ausust 9, 1982, and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1200 Pennsylvania Avenue, NW. Washington, D.C. 20461. All comments should display conspicuously a reference to case number BEF–0022.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Office of Hearings and Appeals, Department of Energy, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20461, (202) 633–8377.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision and Order tentatively establishes procedures to distribute to eligible claimants $1,100,000 obtained by the DOE under the terms of a consent order entered into with Sid Richardson Carbon and Gasoline Co. and Richardson Products Co. (hereinafter jointly referred to as "the Richardson companies") on November 15, 1979. The funds were provided to the DOE by the firms in order to settle all claims which the Office of Enforcement (OE) could have pursued under the DOE price regulations relating to transactions by the Richardson companies involving natural gas liquids and products (NGLs) for the period from September 1973 through June 1979. In the consent order, the parties stipulated that the OE would file with the OHA a petition for the implementation of special procedures for the distribution of refunds from the settlement fund, pursuant to 10 CFR Part 205, Subpart V.

The Proposed Decision and Order sets forth the procedures and standards that the DOE has tentatively formulated to distribute the contents of the escrow account funded by the Richardson companies. The DOE has tentatively decided that Applications for Refund should be accepted from the initial purchasers of covered products from the two firms during the audit period. In addition, the DOE determined that Applications for Refund also should be accepted from all persons who bought products which were produced with or from the NGLs sold by the Richardson companies during the relevant time period. The Proposed Decision and Order provides that in order to be entitled to receive any portion of the settlement funds, a purchaser must furnish the DOE with evidence which demonstrates that the claimant was injured by the alleged unlawful prices for covered products charged by the Richardson companies, including specific documentation concerning the date, place, price, and volume of product purchases, whether the increased costs were absorbed by the claimant or passed through to other purchasers, and the extent of any injury alleged to have been suffered.

The Proposed Decision and Order also discusses possible procedures for the distribution of any funds remaining after all valid claims are paid. In the Proposed Decision, the DOE identifies a number of alternatives that it will consider for the disbursal of any residual funds. The DOE solicits comments on those alternatives and other proposals for the distribution of any funds remaining after claims have been paid.

It should be pointed out that until final procedures are adopted, no claims for refunds will be accepted. Applications for Refund therefore should *not* be filed at this time. Appropriate public notice, including notice published in the **Federal Register**, will be provided prior to the acceptance of claims.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted on or before August 9, 1982, and should be sent to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, 1200 Pennsylvania Avenue, NW., Washington, D.C. between the hours of 1:00 to 5:00 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C. on June 29, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

June 29, 1982.

Proposed Decision and Order of the Department of Energy

Special Refund Procedures

Name of Petitioner: Office of Enforcement, Economic Regulatory Administration: In the Matter of Sid Richardson Carbon and Gasoline Co., and Richardson Products Co.

Date of Filing: December 15, 1980
Case Number: BEF–0022

Under the regulations of the Department of Energy, the Economic Regulatory Administration's Office of Enforcement (OE) (now the Office of Special Counsel) may request the Office of Hearings and Appeals (OHA) to formulate and implement procedures for distributing funds received as a result of an enforcement proceeding in order to remedy the effects of alleged violations of the DOE regulations. *See* 10 CFR, Part 205, Subpart V. In accordance with these regulatory provisions, the OE filed a Petition for the Implementation of Special Refund Procedures in connection with a Consent Order entered into with Sid Richardson Carbon and Gasoline Company and Richardson Products Company (hereinafter jointly referred to as "the Richardson companies"). Pursuant to the Consent Order, the Richardson companies agreed to make refunds for alleged violations of the DOE price regulations in the amount of $1,100,000. The funds have been paid to the Department of Energy and are now being held in an escrow account under the jurisdiction of the DOE pending receipt of instructions from the OHA regarding their distribution.

I. Background

The Richardson companies are "gas plant operators" as that term is defined in 10 CFR 212.152. They are also "refiners" within the meaning of 10 CFR 212.31. During the relevant time period, they were therefore subject to the Mandatory Petroleum Price Regulations set forth in 6 CFR, Part 150, Subpart L and 10 CFR, Part 212, Subparts E and K. Those regulations governed the maximum prices that could lawfully be charged in the first sales of natural gas liquids and products (NGLs). The regulations also governed the purchase and resale of NGLs by gas plant operators and refiners.

The funds involved in this proceeding were obtained as a result of a consent order that the Richardson companies entered into with the DOE in settlement of alleged violations of the DOE regulations identified above. In an audit of the Richardson Companies' Keystone and Halley Gas Processing Plants, the OE found possible overcharges with respect to first sales of NGLs during the period from September 1973 through June 1979. The OE further found possible violations involving the firms' purchases and resales of NGLs during the same period. In order to settle all claims and disputes between the parties, the Richardson companies agreed to pay $1,100,000 to the DOE. (*1*) The parties further agreed that this amount would be distributed by the agency pursuant to 10 C.F.R. Part 205, Subpart V. On October 4, 1979, notice of the Proposed Consent Order was published in the **Federal Register** *See* 44 FR 57148 (1979). Interested persons were provided an opportunity to comment on the terms of the Proposed Consent Order and to submit written notice to the OE of potential claims against the settlement funds. In response, Diamond Shamrock Corporation and

McCulloch Gas Processing Corporation submitted comments identifying themselves as potential claimants for a portion of the refund account. (2) No other comments were received. The Proposed Consent Order was finalized without modification. *See* 44 Fed. Reg. 66656 (1979).

II. Jurisdiction

The procedural regulations of the Department of Energy set forth guidelines by which the Office of Hearings and Appeals may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 C.F.R., Part 205, Subpart V. The Subpart V process is intended to be used in situations where the Department of Energy is unable to readily identify persons who are entitled to refunds or to readily ascertain the amounts that such persons are entitled to receive as a result of enforcement proceedings. 10 C.F.R. § 205.280. For a more detailed discussion of Subpart V, *see Office of Special Counsel for Compliance,* No. DFF–0003 (March 13, 1981) (proposed decision), 46 Fed. Reg. 17643 (1981); *Office of Enforcement,* No. BEF–0021 (March 13, 1981) (proposed decision), 46 Fed. Reg. 17639 (1981) (hereinafter referred to as *Alcoa*).

After reviewing the record developed in the case involved in this proceeding, we have concluded that the implementation of Subpart V proceedings is appropriate. There is a significant degree of difficulty in identifying the persons who were injured by the alleged overcharges in the case of the Richardson companies. Moreover, even where an injured person can be identified, it is difficult to ascertain the level of refunds that such persons should receive. During the period covered by the consent order, NGLs were subject to a comprehensive price regulation scheme which could be utilized to facilitate the channeling of refunds to persons who were injured. However, on January 28, 1981, the President exempted crude oil and all refind petroleum products from the DOE regulatory program. Exec. Order No. 12287, 46 Fed. Reg. 9909 (1981). To direct refund moneys to the parties actually affected by the alleged overcharges in the absence of a comprehensive price regulations system, a determination must be made regarding the extent to which the higher costs were passed through to downstream customers. In short, the persons eligible to share in the consent order funds are not readily identifiable, and the amounts of the refunds that persons should receive are not readily ascertainable. Under these circumstances, we believe that Subpart V provides the most useful mechanism for devising a procedure to compensate persons who were actually injured by alleged pricing violations. The Office of Hearings and Appeals therefore proposes to exercise jurisdiction over the funds received from the Richardson companies in settlement of the proceeding underlying the Petition for Implementation of Special Refund Proceedings filed by the OE in this matter.

III. Authority to Fashion Refund Procedures

In several prior decisions involving Petitions for the Implementation of Special Refund Procedures we have discussed the OHA's authority to establish procedures to distribute funds obtained as a result of settlement agreements. *See, e.g., Office of Enforcement,* 9 DOE ¶ 82,508 at 85,046–49 (1981) (hereinafter cited as *Coline*); *Office of Enforcement,* No. DEF–0006 (March 5, 1981) (proposed decision), 46 Fed. Reg. 15320, 15322–23 (1981) (hereinafter cited as *Vickers*) Subpart V of the DOE procedural regulations, 10 CFR Part 205, authorizes the Office of Hearings and Appeals, upon request by the appropriate enforcement official, to fashion special procedures to distribute refunds obtained as part of settlement agreements. 10 CFR §§ 205.81, 205.282. The special refund procedures are part of an overall regulatory program and are intended to implement several different statutes. Congress provided for mandatory price controls on crude oil, residual fuel oil, and refined petroleum products in the Emergency Petroleum Allocation Act of 1973 (EPAA), 15 U.S.C. § 751 (1976). NGLs are included within the definition of petroleum products and were therefore subject to the provisions of the DOE price regulations during the periods covered by the consent orders. *See Mobil Oil Corp.* v. *FEA,* 566 F.2d 87 (Temp. Emer. Ct. App. 1977).

The authority to enforce the regulations governing the pricing of petroleum products such as NGLs was first exercised by the Cost of Living Council under the Economic Stabilization Act (ESA), 12 U.S.C. § 1904 note (1970), then delegated in turn to the Federal Energy Office, the Administrator of the Federal Energy Administration, and finally, in 1977, to the Secretary of Energy. Federal Energy Administration Act (FEAA) § 5, 15 U.S.C. § 765 (1974); Department of Energy Organization Act (DOE Act), § 301(a), 42 U.S.C. § 7151(a) (1979). To carry out these statutory mandates, the regulations of the Cost of Living Council, the Federal Energy Office, the Federal Energy Administration, and the Department of Energy have provided throughout the existence of the price control program for the issuance of remedial orders "requiring a person to cease a violation or to eliminate or compensate for the effects of a violation, or both." 6 CFR § 155.81(b) (1973); 10 CFR § 205.2 (1974) (defining "remedial order").

As we have noted in previous Subpart V decisions, the DOE's equitable power to order restitution is design to accomplish two independent purposes: disgorgement of the fruits of a regulatory violation from the wrongdoers, and providing refunds to persons injured by the regulatory violation. *Vickers; see also Sauder* v. *DOE,* 648 F. 2d 1341 at 1348 (Temp. Emer. Ct. App. 1981). The latter objective—compensating overcharged persons—furthers the specific goal in Section 4(b)(1)(F) of the EPAA of providing for the "equitable distribution of * * * refined petroleum products at equitable prices * * * among all users." 15 U.S.C. 753(b)(1)(F).

IV. Proposed Refund Procedures

To fulfill the objectives expressed in the statutes and regulations discussed above, and the Consent Order itself, the procedures to be implemented in this case should, to the maximum extent practicable, provide for the distribution of the refund amounts to the parties who bore the effects of the alleged overcharges. As we have stated before, providing compensation to the overcharged persons is the primary focus of Subpart V. *See Alcoa,* 46 Fed. Reg. at 17641; *Vickers,* 46 Fed. Reg. at 15322. Subpart V proceedings offer a means of compensating many individuals who, because they either lack the resources or do not have a substantial enough financial stake in the outcome to institute their own private lawsuits under Section 210 of the ESA, have suffered injuries which would otherwise go unredressed. The Subpart V process is also an efficient administrative mechanism for returning overcharges to injured parties because it eliminates the need for long and costly court actions.

Based on our experience with Subpart V cases, we believe that the distribution of funds to overcharged persons should generally take place in two stages. In the first stage of the process, payment should be made to persons and firms who file applications for refund and demonstrate they are entitled to a portion of the funds received by the DOE. After meritorious claims are paid to firms and individuals in the first stage, a second stage may be necessary if there are funds remaining in the consent order account. The procedures by which we propose to distribute the funds obtained from the Richardson companies are discussed below at greater length.

A. Refunds to Identifiable Purchasers

As a first stage in the refund process, the consent order funds should be distributed to claimants who satisfactorily demonstrate that they have been adversely affected by the alleged overcharges in sales of NGLs by the Richardson companies. To the extent that the first purchasers of NGLs from the two firms can establish that they absorbed the overcharges rather than passed them on to their customers, they will be entitled to a portion of the consent order funds. In order to qualify for a refund a first purchaser should logically be required to demonstrate that during the period covered by the Consent Order, it would have kept its prices at the same level had the alleged overcharges not occurred. By making such a showing, a firm will establish that it absorved the cost increases itself. While there are a variety of means by which a claimant could make this showing, geneally a reseller must demonstrate that at the time it purchased covered products from its supplier it had unrecovered product costs which were at least equal to the amount of the refund claimed, and that market conditions would not permit it to increase its prices to pass through additional costs. In addition, the firm must have maintained a "bank" of unrecovered costs in order to demonstrate that it did not subsequently recover these costs by increasing its prices. The amount of the refund will be limited to the amount of unrecovered costs available to the claimant for recovery through price increases. If the initial purchasers are able to make these showings, it is possible that the entire amount of the funds at issue in this proceeding might be disbursed to them. In the event they are

unable to make a satisfactory showing, the next group of persons who will be entitled to receive a portion of these funds are those firms and individuals who purchased NGLs from the first purchasers. Applications for refund from subsequent downstream purchasers will be considered on the same basis during the first stage of the refund proceeding.

In order to establish entitlement to a refund, any person claiming to be an injured party must satisfactorily demonstrate that it purchased, during the relevant time period, a specific quantity of products which were produced with or from the NGLs sold by the Richardson companies. Privity with either the natural gas plant operator or one of its first purchasers need not be established; evidence need only be presented that the products purchased by the claimants flowed through a chain of distribution leading back to one of the natural gas processing plants. In addition, unless the purchaser is an ultimate consumer, it should generally be able to demonstrate that it did not pass through any cost increases resulting from the alleged overcharges to its own customers. For example, purchasers who resold the identified product should be in a position to show that market conditions did not permit them to raise prices charged to downstream customers, and that consequently they were forced to absorb the cost increases that are represented by the alleged overcharges. In the absence of that showing, we could conclude that the claimant was not injured in a monetary sense by the alleged overcharge. However, in several previous Subpart V decisions, we have noted that the nature of the showing required may be too complicated for smaller individuals and firms who might otherwise be entitled to apply for refunds. *See, e.g., Office of Special Counsel*, 9 DOE ¶ 82,545 at 85,245 (1982); (hereinafter cited as *Tenneco*); *Office of Enforcement*, 8 DOE ¶ 82,597 at 85,398. We have also observed that requiring smaller purchasers to fully document their injuries might discourage them from applying for a refund since the expense of preparing such an application could well exceed the refund to be gained. *Tenneco* at 85,245. In certain cases we have therefore established a threshold level of purchases (50,000 gallons per month or 600,000 gallons per year) under which applicants—primarily smaller firms and individuals—were not required to make a detailed showing of actual injury. For those applicants who were claiming less than that level of purchases, we required only proof of the amount of products purchased by the applicant during the consent order period. We will consider using the same type of treatment for smaller claimants in this proceeding, and we specifically request comments from interested parties and the public on this issue.

Any purchaser claiming a portion of the refund amount will be entitled to file an Application for Refund pursuant to 10 CFR 205.283. However, we note that according to the DOE Regional Office which conducted the audit of the Richardson companies, many of the NGLs that originated from the firms' Halley and Keystone processing plants during the consent order period were exported. Any export sales would not have been a basis for any of the alleged overcharges involved in this proceeding because export sales (including sales to domestic firms that certified that the product was to be exported) were exempt from price controls throughout the consent order period. *See* 10 CFR 212.53(a); 6 CFR 150.54(d)(1). Sirfce export sales were not subject to DOE regulations governing maximum selling prices, they would not have been covered by the consent order. Consequently, applications based on export purchases of NGLs originating from the Richardson companies during the consent order period will be presumptively ineligible for any portion of the refund monies being distributed in this proceeding.

Applications should provide all relevant information necessary to establish a claim, including specific documentation concerning the date, place, price, and volume of product purchased, the retention of increased costs (unless the claim falls below any threshold that is subsequently established), and the extent of any injury alleged. Detailed procedures for filing applications will be provided in a final Decision and Order. Before disposing of any of the funds received as a result of the consent orders involved in this proceeding, we intend to widely publicize the distribution process and to provide an opportunity for any affected party to file a claim. As a final matter, we note that refund applications filed on behalf of groups of claimants identifying themselves as adversely affected purchasers also will be considered. Such applications will be evaluated on a case-by-case basis.

B. Distribution of the Remainder of the Refund Amount

After all of the claims of parties identifying themselves as adversely affected purchasers of the NGLs sold by the Richardson companies have been filed and the share of the settlement fund to which applicants are entitled has been determined, the refund account provided by the Richardson companies pursuant to the Consent Order, while diminished, may not be exhausted. A second-stage proceeding may then be necessary to complete the disbursement of the consent order funds.

In this Decision, we are not proposing specific second-stage refund procedures. Such a step would be of little value at this stage of the proceeding, since the amount of funds remaining after all meritorious claims have been paid during the first-stage directly affects the appropriateness of the second-stage distribution scheme. However, in order for members of the public to be made aware of the second-stage procedures that we might adopt, we note that a number of alternatives have been set forth in prior proposed decisions involving the distribution of funds received in settlement of enforcement proceedings in which the OE alleged that overcharges had occurred in sales of NGLs. *See Office of Enforcement*, Nos. BEF–0030 *et al.* (May 1, 1981) (proposed decision), 46 Fed. Reg. 25535 (1981); *Office of Enforcement*, Nos. BEF–0014 *et al.* (May 22, 1981) (proposed decision), 46 Fed. Reg. 28929 (1981); *Office of Enforcement*, Nos. BEF–0049 *et al.* (August 18, 1981) (proposed decision), 46 Fed. Reg. 42743 (1981). Very similar second-stage alternatives were proposd in *Vickers*, 46 Fed. Reg. at 15323–24 (proposed decision).

The comments that the OHA has received regarding possible second-stage procedures in prior cases are summarized and briefly addressed in the final decision and order issued in the Vickers case. *See Office of Enforcement*, 8 DOE at 85,398–99. We will not reiterate our discussion of the issues raised by these comments here. We will, however, accept and consider comments received within 30 days after publication of this decision in the **Federal Register**, and then issue a final decision establishing procedures for the first-stage distribution of the Richardson companies' consent order funds. In the final decision, we will discuss summarily the comments received concerning the proposed second-stage procedure, and solicit another round of comments on the distribution of the residual funds. In this way, we will have several opportunities to resolve the outstanding issues before reaching a final decision on the second stage, if any, of this proceeding.

It is Therefore Ordered That:

The $1,100,000 refund amount supplied by Sid Richardson Carbon and Gasoline Company and Richardson Products Company will be distributed in accordance with the foregoing Decision.

Footnotes

(*1*) As of May 31, 1982, the $1,100,000 principal had accrued $375,014.67 in interest, bringing the total in the Richardson companies consent order refund account to $1,475,014.67.

(*2*) McCulloch's (now MGPC, Inc.) intended claim arose out of partial nonpayment for purchases from MGPC by a firm that was a first purchaser of NGLs from the Richardson companies. On June 16, 1982, MGPC notified the OHA that it had recovered on the debt and would therefore not assert a claim against the consent order funds.

[FR Doc. 82–18447 Filed 7–7–82; 8:45 am]
BILLING CODE 6450–01–M

Issuance of Decisions and Orders; Week of May 3 Through May 7, 1982

During the week of May 3 through May 7, 1982, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

TEXACO, INC., May 7, 1982; BEA–0300

On April 1, 1980, Texaco, Inc., filed an Appeal from an Emergency Allocation Order that was issued to the firm by the Economic Regulatory Administration on March 4, 1980. In that Order, the ERA directed Texaco to sell 3,080,090 barrels of suitable crude oil to

the Clark Oil and Refining Company. After reviewing the Texaco Appeal and the record in the proceeding, the Office of Hearings and Appeals determined that the ERA had issued the Order properly, and that the Texaco submission be denied.

Remedial Orders

Allen Union, Bob's Texaco, Gary Pfister's Mobil Service, Peter Aljian Chevron, Shaw & 99 Chevron, May 3, 1982; BRO-1492, BRO-1500, BRO-1547, BRO-1495, BRO-1545

Allen Union, et al. objected to Proposed Remedial Orders that were issued to the firms by the DOE Office of Enforcement. In the Proposed Remedical Orders, the Office of Enforcement found that the objecting firms had charged prices higher than those permitted by 10 C.F.R. § 212.93(a)(2). After considering the firms' objections, the DOE determined that the Proposed Remedial Orders should be issued as final Remedial Orders. The DOE also determined that the Proposed Remedial Orders should be modified to require that payment of the overcharges be deposited into the U.S. Treasury. The important issues discussed in the Decision include: (i) whether charging a combined cents-per-gallon price for gasoline and service in excess of the maximum lawful price permitted by DOE regulations violates 10 C.F.R. § 212.93(a)(2), and (ii) the procedural and substantive validity of 10 C.F.R. § 210.62(d)(1).

Bridewell, Cobb, Cobb, Jeffers and Whyte, May 7, 1982; DRO-0019

Messrs. Bridewell, Cobb, Cobb, Jeffers and Whyte (the Bridewell Group) objected to a Proposed Remedial Order which the Southwest District of the Department of Energy's Economic Regulatory Administration (ERA) issued to the firm on July 17, 1979. In the Proposed Remedial Order, the ERA found that crude oil produced from the Dan Graham lease during the period November 10, 1973 through August 31, 1976, was improperly sold at exempt stripper well prices. In the present proceeding, the DOE concluded that the Bridewell Group's Statement of Objections should be denied. The important issues discussed in the Decision and Order include (i) the exclusion of an injection well from the calculation of a crude oil producing property's average daily production; (ii) the procedural and substantive validity of Ruling 1974-22; and (iii) the DOE's authority to order refunds administratively.

Paul Lovelady, d.b.a. George W. Hiatt, Mobil Service, May 6, 1982; HRW-0018, HRR-0017

The Economic Regulatory Administration filed a Motion for Modification of a Proposed Remedial Order issued to Paul Lovelady d/b/a George W. Hiatt Mobil Service, a motor gasoline retailer. Although the record reflects that the ERA served the firm with both the PRO and the Motion for Modification, no aggrieved party filed a Notice of Objection or a Statement of Objections with the Office of Hearings and Appeals. In considering the Motion for Modification, the DOE determined that the interest rates in the PRO should be modified so that interest is assessed on the overcharges at the rate of one percent per month, instead of the prime rate. The DOE noted that the modification reduced Lovelady's interest obligation and that it made the PRO conform with current DOE policy. Accordingly, the Motion for Modification was granted and the PRO, as modified, was issued as a final Remedial Order.

Stephen Savignano, d.b.a. Mike's Texaco, May 5, 1982; HRW-0004, HRR-0016

The Economic Regulatory Administration filed a Motion for Modification of a Proposed Remedial Order issued to Stephen Savignano d/b/a Mike's Texaco, a motor gasoline retailer. Although the record reflects that the ERA served the firm with both the PRO and the Motion for Modification, no aggrieved party filed a Notice of Objection or a Statement of Objections with the Office of Hearings and Appeals. In considering the Motion for Modification, the DOE determined that it was not feasible to locate overcharged customers and therefore that Stephen Savignano d/b/a Mike's Texaco should be required to pay to the Treasury of the United States the full amount of the overcharges plus interest. In addition, the DOE found that the interest provisions should be modified to call for interest to be assessed on the overcharges at the rate of one percent per month. Accordingly, the Motion for Modification was granted and the PRO, as modified, was issued as a final Remedial Order.

Requests for Exception

Getty Refining and Marketing Company, May 7, 1982; DEE-2098

Getty Refining and Marketing Company filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Getty to increase the base period allocation of motor gasoline at the firm's company operated stations and certain other service stations supplied by Getty. With respect to the Getty stations that were operated by independent marketers, the DOE determined that exception relief was warranted and increased the base period allocation of motor gasoline at each of the affected stations to a level that would permit each station to remain viable. With regard to Getty's company-operated stations, the DOE determined that a different form of exception relief would be more appropriate. In this connection, the DOE noted that it was especially concerned that the approval of substantial amounts of exception relief to Getty might have a significant adverse impact on the independent marketers also supplied by the firm. Consequently, the DOE concluded that if any of the retail service stations owned and operated by Getty would not achieve a break-even level of operations unless the motor gasoline volumes to be supplied to it exceeded the levels permitted to be transferred among a company's outlets under the provisions of 10 CFR § 211.106(b)(3)(ii), then exception relief was appropriate to permit Getty to transfer sufficient volumes of motor gasoline to the affected station to achieve a break-even level of operations.

Rogers Fuels, Inc., May 4, 1982; HEE-0015

On February 10, 1982, Rogers Fuels, Inc. (Rogers) filed an Application for Exception with the Office of Hearings and Appeals of the Department of Energy. In its submission, Rogers requested that it be relieved of the requirement to file Form EIA-9A, No. 2 Distillate Price Monitoring Report. In considering Rogers' request, the DOE determined that the hospitalization of the firm's owner, the person responsible for filing the EIA form, warranted the approval of exception relief for a limited period of time. Accordingly, Rogers was relieved of the obligation to file Form EIA-9A for the six months following the owner's release from the hospital.

Motion for Discovery

Meeker and Company, May 3, 1982; BED-0124

Meeker and Company filed a Motion of Discovery in connection with an Application for Exception the firm filed with the Office of Hearings and Appeals on August 21, 1978 (Case No. DEE-0669). The firm' discovery request sought to diect certain interrogatories and document production reguests to the Department of Energy. In considering the request, the Department of Energy found that the discovery was not relevant to the underlying Application for Exception. In particular, Meeker and Co. failed to demonstrate how discovery with respect to the promulgation and interpretation of the crude oil pricing regulations would provide factual information material to the determination of the existence of a gross inequity, serious hardship or unfair distribution of burdens. Accordingly, the Motion for Discovery was denied.

Interlocutory Orders

Gulf Oil Corporation, May 2, 1982; HRZ-0015.

Gulf Oil Corporation sought an order deeming as admitted by the Office of Special Counsel for Compliance (OSC) certain matters in an enforcement proceeding pending before the Office of Hearings and Appeals. The DOE entered an order deeming as admitted those factual assertions made by Gulf in its Statement of Factual Objections, Part II (SFO II) to a Proposed Remedial Order issued to the firm on May 1, 1979, by OSC not controverted by OSC in its Response to SFO II.

Marathon Oil Company; Office of Special Counsel, May 6, 1982; HRZ-0055 Through HRZ-0058

The DOE considered several procedural motions filed in connection with Proposed

Remedial Order proceedings involving Marathon Oil Company. The DOE determined that Marathon's motion to consolidate Statements of Objections filed by aggrieved parties in the Marathon PRO proceedings should be denied. The DOE also denied Marathon's motion to limit participation of Landmark, Inc. In the Marathon PRO proceedings. The DOE granted a motion filed by OSC to limit the filing of further Motions for Evidentiary Hearing by Marathon in connection with Case Nos. HRO–0024 and 0025. Specifically, the DOE held that Marathon would be permitted to file further Motions for Evidentiary Hearing in those cases only if the facts in dispute were made known to Marathon through discovery ordered by the DOE. The DOE also determined that Marathon would not be permitted to file alternative computations in Case Nos. HRO–0024 and 0025 because the firm had not shown that those computations were relevant to the DOE's consideration of its objections to the PROs.

Supplemental Orders

Redman Service, Inc., May 7, 1982; HEX–0028

On September 26, 1980, the Department of Energy issued a Remedial Order to Leon Anton d/b/a Redman Service, Inc. By the end of August 1980, however, the firm had already made the required restitution of overcharges. Therefore, the Department of Energy found that the Remedial Order should be rescinded.

State of New York, May 5, 1982; HRX–0024

The State of New York filed a motion for the issuance of a supplemental order pursuant to 10 CFR § 205.199G in which the state requested that the OHA reconsider its previous decision and allow the state to participate as a full party in remedial order proceedings against Shell Oil Co., rather than restricting the state to the remedy issue. In considering the New York motion the OHA determined that as a direct purchaser from Shell, the State of New York has a substantial financial interest in the remedial proceedings and should therefore be allowed to participate fully in the proceedings.

Refund Applications

Vickers Energy Corporation/State of Kansas; Vickers Energy Corporation/State of Wisconsin, May 10, 1982; HFX–0022

On July 17, 1981, the Office of Hearings and Appeals issued a Decision and Order implementing special refund procedures with respect to a $2,850,000 fund obtained by the DOE through a consent order with Vickers Energy Corporation. *See Office of Enforcement (Vickers)*, 8 DOE ¶ 82,597 (1,981). The July 17 Decision stated that the DOE would accept applications for refund filed by purchasers of Vickers motor gasoline from other than company-operated outlets. The May Decision addresses applications for refund filed by the Treasurers of the State of Kansas and of the State of Wisconsin. Each Treasurer claimed a refund under the state statute requiring persons holding unclaimed property belonging to a citizen of the state to turn that property over to the state for disposition. In denying those claims, the DOE held that the states' unclaimed property statutes do not apply to escrow funds held by the DOE for distribution pursuant to special refund proceedings. In addition, the DOE rejected a number of additional claims by the Wisconsin Treasurer. Accordingly, the states' applications for refund were denied.

Protective Orders

The following firms filed Applications for Protective Orders. The applications, if granted, would result in the issuance by the DOE of the proposed Protective Order submitted by the firm. The DOE granted the following applications and issued the requested Protective Order as an Order of the Department of Energy:

Company name and Case No.

Ashland Oil, Inc., Tosco Corporation, HEJ–0019

Dismissals

The following submissions were dismissed without prejudice:

Company name and Case No.

Cracker Barrel Stores, Inc., HRO–0002; HRH–0004

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management; Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B Breznay,

Director, Office of Hearings and Appeals.

June 29, 1982.

[FR Doc. 82–18512 Filed 7–7–82; 8:45 am]

BILLING CODE 6450–01–M

Issuance of Decisions and Orders Filed the Week of May 24 Through May 28, 1982

During the week of May 24 through May 28, 1982, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

June 29, 1982.

Appeals

Hughes, Hubbard & Reed, 5/25/82, HFA–0054

Hughes, Hubbard & Reed filed an Appeal from a partial denial by the Deputy General Counsel for Enforcement and Litigation of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the documents which were initially withheld under exemption 4 should be remanded for further determination and that the documents withheld under exemption 5 should not be released. Important issues that were considered in the Decision and Order were (i) the applicability of *Exxon Co., U.S.A.*, 8 DOE ¶ 80,108 (1981) to documents withheld under exemption 5, (ii) public interest considerations and (iii) the adequacy of the justification for withholding documents under exemption 4.

Professional Analysts, 5/25/82, HFA–0051

Professional Analysts filed an Appeal from a denial by the Bonneville Power Administration of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that certain portions of the documents which were initially withheld under exemption 4 should be released to the public. Important issues that were considered in the Decision and Order were (i) the likelihood that release of confidential portions of a proposal for a government contract would cause substantial competitive harm to the submitter, (ii) the release of segregable factual material in the contract proposal, (iii) public interest considerations; and (iv) the fact that the FOIA request was filed after the government contract had been awarded to the company submitting the proposal.

Requests for Exception

Clark Oil and Refining Corporation, 5/26/82; BEE–1562

On January 6, 1981, Clark Oil and Refining Corporation filed an Application for Exception from the provisions of 10 CFR 212.83(c) in which the firm sought to be allowed to pass through retroactively on a dollar-for-dollar basis its increased non-product marketing costs incurred since February 1, 1978. In considering the request, the DOE found that the firm failed to meet the threshold standard for prospective exception relief, and that in addition the firm presented no compelling reasons why retroactive relief should be granted. Accordingly, exception relief was denied. An important issue discussed in the Decision and Order is the fact that a firm fails to realize projected levels of profitability does not constitute a compelling reason for granting exception relief.

West Coast Oil Company, 5/26/82, BEE-1587

West Coast Oil Company filed an Application for Exception from the provisions of the DOE Entitlements Program, 10 CFR 211.67 for the period February through March 1981. The firm claimed that as a result of the Strategic Petroleum Reserve Program, its entitlement sales revenues were reduced, causing a cash flow problem to the firm. West Coast therefore requested an increase in the number of entitlements to be accorded to the firm for the two months February and March 1981. The DOE found that the firm's financial problem was mainly caused by the firm's business agreements with Getty Oil Company by which West Coast relinquished its ability to independently adjust prices for its refined products. The DOE therefore denied West Coast's exception request.

Motions for Discovery

Emond Oil Company; 5/24/82, BED-0021, BEH-0021

Emond Oil Company filed a Motion for Discovery and a Motion for Evidentiary Hearing in connection with its Appeal of a Remedial Order issued to Emond on September 27, 1976, by the Federal Energy Administration. In considering Emond's Motion for Discovery, the DOE determined that some of the firm's requests had already been satisfied and that the remainder of the information which the firm sought was not relevant to any disputed issue of fact Nevertheless, the DOE released a single FEA Region I decision granting retroactive exception relief that was found in the OHA files that was responsive to one aspect of Emond's discovery request. With regard to Emond's Motion for Evidentiary Hearing, the DOE found that the firm did not specify any factual disputes that exist with respect to the findings in the Remedial Order. The DOE therefore granted Emond's Motions for Discovery in part and denied the Motion for Evidentiary Hearing.

Office of Special Counsel for Compliance, 5/28/82, HRD-0024

The Office of Special Counsel for Compliance (OSC) filed a Motion for discovery in connection with a Proposed Remedial Order (PRO) which it issued to Texaco Inc. In the PRO the tentative determination is reached that Texaco overcharged the Office of General Services (GS) in the sale of motor gasoline as a result of Texaco's assignment of GS to an improper class of purchaser. In considering the OCS Motion, the DOE noted that in its Statement of Objections to the PRO, Texaco made factual allegations which contradicted statements it made prior to the issuance of the PRO. The DOE ruled that discovery is necessary in order to establish Texaco's historic pricing policy regarding customers such as GS and to determine the class of purchaser to which GS should have been assigned. The DOE also ruled that deposition discovery is warranted in this instance because relevant documentary evidence cannot currently be produced by Texaco on an expeditious basis as a result of a marketing department reorganization within the firm. The DOE therefore granted OCS's request for deposition discovery and deferred ruling on OCS's requests for document production and the use of written interrogatories

Interlocutory Order

McCulloch Gas Processing Corp., 5/28/82, HEZ-0067

On April 10, 1980, the United States District Court for the District of Wyoming remanded two exception proceedings involving McCulloch Gas Processing Corp. for reconsideration by the Office of Hearings and Appeals. In those proceedings, McCulloch had sought exception relief that would permit it to increase its selling prices of natural gas liquids produced at eight of its plants above the levels permitted by the regulations.

Upon reconsideration, the DOE rejected McCulloch's argument that it should be permitted to pass through as increased non-product costs, increases in per unit depreciation recorded by the firm. The DOE found that the alleged increases in depreciation did not represent actual increased costs, but were only paper increases resulting from the firm's use of a straight-line accounting method which allocated equal annual levels of depreciation over declining annual levels of production. The DOE concluded that when calculating a gas plant's increased costs, depreciation must be calculated on a units-of-production basis.

McCulloch also argued that early FEA regulations had interfered with its ability to compete for new sources of natural gas for processing because some of its competitors were permitted under the regulations to charge higher selling prices than McCulloch and could pay higher producer royalties than could McCulloch. The DOE found that this competitive disadvantage, if substantiated, could form a basis for additional exception relief. However, the present record did not indicate the degree to which McCulloch had been competitively disadvantaged by the regulations in obtaining new natural gas supplies, or the resulting financial impact on the firm. Accordingly, the DOE issued a Interlocutory Order indicating the additional information that McCulloch must supply in order to establish its claim that additional exception relief is warranted.

Supplemental Orders

Energy Corporation of America; 5/24/82, HRX-0029

A final decision and Order was issued to Energy Corporation of America in Case No. DRO-0238 on May 10, 1982. In that Order the DOE incorrectly stated that the firm could seek administrative review of the Order. In the supplemental Order the DOE deleted the paragraph stating that Energy could seek administrative review and substituted a paragraph properly stating that Energy could seek judicial review of the Order.

Vinson and Elkins; 5/24/82, HEX-0025

On May 24, 1982, the DOE issued a Supplemental Decision and Order to Vinson and Elkins in which it reconsidered the determination reached in *Vinson and Elkins*, 9 DOE ¶ 80,150 (1982). In the Supplemental Order, the DOE determined that the holding in the previous Decision and Order be affirmed. The DOE found that the fact that the Energy Information Administration continues to collect Form EIA-460 does not alter the determination reached in the previous Decision.

Dismissals

The following submissions were dismissed without prejudice:

Name and Case No.

Commonwealth of Pennsylvania—HEG-0014, HES-0014
Golden Eagle Refining Co., Inc.—BRO-1428
OAHU Gas Service, Inc.—BEX-0072; BED-0083
Spruce Oil Corp.—HRO-0006, HRD-0028, HRH-0028
The Denver Post—HFA-0053

[FR Doc. 82-18509 Filed 7-7-82; 8:45 am]

BILLING CODE 6450-01-M

Objection to Proposed Remedial Order Filed the Week of June 7 Through June 11, 1982

During the week of June 7 through June 11, 1982, the notice of objection to a proposed remedial order listed in the Appendix to this Notice was filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial order described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in this proceeding should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Acting Director, Office of Hearings and Appeals.

June 29, 1982.

Timco Oil Company, Long Beach, California; HRO-0061, crude oil

On June 7, 1982, Timco Oil Company, 845 E. Willow St., Long Beach, California 90806, filed a Notice of Objection to a Proposed Remedial Order which the DOE Los Angeles District Office of Enforcement issued to the firm on May 10, 1982. In the PRO the Los Angeles Office found that from January 1, 1974 to December 31, 1977, the firm overcharged purchasers of crude oil. According to the PRO the Timco Oil

Company violation resulted in $132,994.24 of overcharges.

[FR Doc. 82-18507 Filed 7-7-82; 8:45 am]
BILLING CODE 6450-01-M

Objection to Proposed Remedial Order Filed the Week of June 14 Through June 18, 1982

During the week of June 14 through June 18, 1982, the notice of objection to the proposed remedial order listed in the Appendix to this Notice was filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial order described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 on or before July 28, 1982. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons who may also be placed on the official service list as nonparticipants for good cause shown.

All requests to participate in this proceeding should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

June 29, 1982.

Robert J. Heald Shell, Fairfax, California; HRO-0063

On June 18, 1982, Robert Gregory d/b/a Robert J. Heald Shell, 1942 Sir Francis Drake Blvd., Fairfax, CA 94930 filed a Notice of Objection to a Proposed Remedial Order which the DOE Economic Regulatory Administration (ERA) issued to the firm.

In the PRO the ERA found that during July 1, 1980 to November 30, 1980, Robert J. Heald Shell sold motor gasoline at prices which exceeded its maximum lawful selling prices.

[FR Doc. 82-18508 Filed 7-7-82; 8:45 am]
BILLING CODE 6450-01-M

Issuance of Proposed Decision and Order; Week of June 14 Through June 18, 1982

During the week of June 14 through June 18, 1982, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a notice of objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of this proposed decision and order are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th & Pennsylvania Avenue, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays.

George B. Breznay,

Director, Office of Hearings and Appeals.

June 29, 1982.

Memphis Aero Corporation, Memphis, Tennessee; DEE-2810, aviation rules

On March 20, 1979, Memphis Aero Corp. filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart F. The exception request, if granted, would permit the firm to increase retroactively its prices for aviation fuels above the maximum allowable selling prices for the period November 1, 1973 through August 31, 1976. On June 14, 1982, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

[FR Doc. 82-18618 Filed 7-7-82; 8:45 am]
BILLING CODE 6450-01-M

FEDERAL MARITIME COMMISSION

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement and the justification offered therefor at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10327; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, Chicago, Illinois, and San Juan, Puerto Rico. Interested parties may submit comments on the agreement, including request for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before July 19, 1982. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreement and the statement should indicate that this has been done.

AGREEMENT No.: T-4053.

Filing party: Mr. Robert W. Goethe, Assistant Executive Director, Georgia Ports Authority, P.O. Box 2406, Savannah, Georgia 31402.

SUMMARY: Agreement No. T-4053, between Georgia Ports Authority (Port) and Sea-Land Service, Inc. (Sea-Land), provides for the one-year lease by Port to Sea-Land of certain premises at Port's Garden City Terminal, Chatham County, Georgia, for the storage and handling of containers, trailers and chassis. As compensation, Sea-Land will pay Port $5,381.25 per month base rental for 311 container slots plus $18.75 per month for each additiona slot.

By Order of the Federal Maritime Commission.

Dated: July 2, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82-18534 Filed 7-7-82; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842(a)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in Section 3 of the Act (12 U.S.C. 1842).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Secretary, Board of Governors of the Federal Reserve System,** Washington, D.C. 20551:

1. *The Central Bancorporation, Inc.* Cincinnati, Ohio; to acquire 51 percent or more of the voting shares or assets of The Union Commerce Corporation, Cleveland, Ohio, and thus indirectly acquire The Union Commerce Bank, Cleveland, Ohio, The Southern Ohio Bank, Cincinnati, Ohio; The Port Clinton National Bank, Port Clinton, Ohio; and the First National Bank of Nelsonville, Nelsonville, Ohio. This application may be inspected at the Federal Reserve Bank of Cleveland. Comments on this application must be received not later than July 31, 1982.

Board of Governors of the Federal Reserve System, July 1, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-18430 Filed 7-6-82; 8:45 am]

BILLING CODE 6210-01-M

The Central Bancorporation, Inc.; Acquisition of The Union Commerce Leasing Corp. and The Union Capital Management Corp.

The Central Bancorporation, Inc., Cincinnati, Ohio, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of The Union Commerce Leasing Corporation, Cleveland, Ohio and the Union Capital Management Corporation, Cleveland, Ohio.

Applicant states that the proposed subsidiary would engage in the activities of leasing personal property and act as a financial or investment advisor, respectively. These activities would be performed from offices of Applicant's subsidiary in Cleveland, Ohio, and the geographic area to be served is the State of Ohio. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than July 31, 1982.

Board of Governors of the Federal Reserve System, July 1, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-18435 Filed 7-7-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Hubco, Inc.*, Union City, New Jersey; to become a bank holding company by acquiring 100 percent of the voting shares of Hudson United Bank, Union City, New Jersey. Comments on this application must be received not later than July 31, 1982.

B. **Federal Reserve Bank of Cleveland** (Harry W. Huning, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *New Bancshares, Inc.*, Newport, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of Newport National Bank, Newport, Kentucky. Comments on this application must be received not later than July 31, 1982.

C. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Northern of Tennessee Corp.*, Clarksville, Tennessee; to become a bank holding company by acquiring 80 percent of the voting shares of Northern Bank of Tennessee, Clarksville, Tennessee. Comments on this application must be received not later than July 31, 1982.

2. *West Alabama Bancshares, Inc.*, Millport, Alabama; to become a bank holding company by acquiring 80 percent of the voting shares of Merchants & Farmers Bank, Millport, Alabama. Comments on this application must be received not later than July 31, 1982.

D. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First National Hoffman Bancorp, Inc.*, Hoffman Estates, Illinois; to become a bank holding company by acquiring 80 percent of the voting shares of First National Bank of Hoffman Estates, Hoffman Estates, Illinois. Comments on this application must be received not later than July 29, 1982.

2. *Somonauk FSB Bancorp., Inc.*, Somonauk, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Farmers State Bank of Somonauk, Somonauk, Illinois. Comments on this application must be received not later than July 31, 1982.

E. **Federal Reserve Bank of Kansas City** (Thomas M. Hoening, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Bridgeport Bankshares, Inc.*, Bridgeport, Nebraska; to become a bank holding company by acquiring 100

percent of the voting shares of The Bridgeport State Bank, Bridgeport, Nebraska. Comments on this application must be received not later than July 29, 1982.

F. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *P.V. Financial,* Modesto, California; to become a bank holding company by acquiring 100 percent of the voting shares of Pacific Valley National Bank (In Organization). This application may be inspected at the Federal Reserve Bank of San Francisco. Comments on this application must be received not later than July 31, 1982.

Board of Governors of the Federal Reserve System, July 1, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-18431 Filed 7-7-82; 8:45 am]

BILLING CODE 6210-01-M

Moore Financial Group Inc.; Proposed Acquisition of FMA Thrift and Loan Company and FMA Leasing Company

Moore Financial Group Incorporated, Boise, Idaho, has applied pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(c)), for permission to acquire voting shares of FMA Trust Company, Salt Lake City, Utah ("FMA Trust"), FMA Thrift and Loan Company, Salt Lake City, Utah ("FMA Thrift"), and thereby indirectly acquire FMA Thrift's subsidiary, FMA Leasing Company ("FMA Leasing").

Applicant states that FMA Thrift and FMA Leasing would engage in the following activities: obtaining thrift passbook accounts; issuing thrift certificates; making loans to individuals, partnerships and corporations; leasing real and personal property; acting as agent for sale of credit life insurance directly related to extending credit; lease and loan servicing; and extending credit by credit cards. These activities would be performed from offices of FMA Thrift in Sandy, Salt Lake City, Ogden, and Provo, Utah, and FMA Leasing in San Rafael, California, and Tempe, Arizona, and the geographic area to be served is the State of Utah. FMA Trust would engage in trust services from offices in Salt Lake City, Utah, serving the State of Utah. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received no later than July 31, 1982.

Board of Governors of the Federal Reserve System, July 1, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-18432 Filed 7-7-82; 8:45 am]

BILLING CODE 6210-01-M

NCNB Corp.; Proposed Acquisition of Gulfstream Banks, Inc.

NCNB Corporation, Charlotte, North Carolina, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Gulfstream Banks, Inc., Boca Raton, Florida, and thereby indirectly acquire Gulfstream Insurance Agency, Inc., Boca Raton, Florida; Gulfstream Mortgage Co., Boca Raton, Florida; Gulfstream Leasing Corporation, Boca Raton, Florida; and Gulfstream Real Estate Properties, Inc., Fort Lauderdale, Florida.

Applicant states that the proposed subsidiary would engage in the activities of acting as an insurance agent relating to extensions of credit made by a bank; leasing activities; fiduciary services and making and acquiring for its account or the account of others loans and other extensions of credit such as would be made by a mortgage or finance company. These activities would be performed from offices of Applicant's subsidiary in Boca Raton, and Fort Lauderdale, Florida, and the geographic areas to be served are Palm Beach and Broward Counties in Florida. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The Application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received no later than July 31, 1982.

Board of Governors of the Federal Reserve System, July 1, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-18433 Filed 7-7-82; 8:45 am]

BILLING CODE 6210-01-M

Pine River Holding Co.; Formation of Bank Holding Company

Pine River Holding Company, Pine River, Minnesota, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 94.8 per cent or more of the voting shares of Pine River State Bank, Pine River, Minnesota. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

Pine River Holding Company, Pine River, Minnesota, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Pine River Agency, Inc., Pine River, Minnesota.

Applicant states that the proposed subsidiary would engage in the sale of general insurance in a town not exceeding 5,000 in population. These activities would be performed from offices of Applicant's subsidiary in Pine River, Minnesota, and the geographic areas to be served are Pine River, Minnesota and the surrounding area. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than July 31, 1982.

Board of Governors of the Federal Reserve System, July 1, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-18434 Filed 7-7-82; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Form R-2, Quarterly Report on Working Capital and Long Term Debt; Information Collection Requirement

AGENCY: Federal Trade Commission.

ACTION: Application to OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) for clearance of Form R-2, Quarterly Report on Working Capital and Long Term Debt.

SUMMARY: Form R-2 requests quarterly corporate data on current assets and liabilities from a sample of 220 electric, gas and telephone utility corporations. These data are combined with similar data collected through other series to provide users with the most timely and accurate working capital statistics of non-financial corporations. Principal users are the Federal Reserve Board for calculation of the flow of funds accounts, and the Department of Commerce for GNP estimation. The data series is published through the Federal Reserve Board's quarterly *Bulletin.*

DATE: Comments on the request for approval must be submitted on or before August 9, 1982.

ADDRESS: Send comments to Ms. Nell Minow, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, D.C. 20503. Copies of this application may be obtained from: Public Reference Branch, Room 130, Federal Trade Commission, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Carl D. Hevener, OMB Clearance Officer, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3373.

SUPPLEMENTARY INFORMATION: This application concerns reinstatement of an information collection requirement that expired on December 31, 1981. Form R-2, as modified in this request, contains 12 items of information, 2 less than in the form used in 1981.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-18416 Filed 7-7-82; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Large Bowel and Pancreatic Cancer Review Committee (Large Bowel Cancer Review Subcommittee); Amended Notice of Meeting

Notice is hereby given of the cancellation of the scientific presentation of biology, biochemistry and immunology of colon cancer at the meeting of the Large Bowel and Pancreatic Cancer Review Committee (Large Bowel Cancer Review Subcommittee), National Cancer Institute, National Institutes of Health, July 7-9, 1982; which was published in the **Federal Register** on June 22, 1982, (47 FR 26912). Notification has just been received that the speakers for the scientific presentation have had a last minute change in schedule and will be unable to fulfill this commitment. Therefore, the open portions of the meeting which are on July 7 from 7:30 p.m. to adjournment; July 8 from 8:00 a.m. to 9:00 a.m., and 7:30 p.m. to adjournment; and on July 9 from 8:30 a.m. to adjournment, will now be reserved for the review of workshop planning, administrative details, a and discussion of the future of the organ site program. This change in the program will be advertised in the July 6 edition of the *Houston Post.* Attendance by the public will be limited to space available. The meeting will remain closed to the public on July 8, from 9:00 a.m. to approximately 5:00 p.m., for the review, discussion and evaluation of individual grant applications.

For further information, please contact Dr. Vincent J. Cairoli, Executive Secretary, Large Bowel Cancer Review Subcommittee, National Cancer Institute, Blair Building, Room 7A05, National Institutes of Health, Bethesda, Maryland 20205 (301/427-8800).

Dated: July 2, 1982.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 82-18000 Filed 7-7-82; 8:45 am]

BILLING CODE 4140-01-M

Office of Community Services

Statement of Organization, Functions, and Delegations of Authority

Part C (Office of Community Services) (46 FR 49211, October 6, 1981) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services is amended to reflect the transfer of the Office of Community Services' audit and investigative work related to funds expended by the former Community Services Administration of the Department of Health and Human Services' Office of the Inspector General.

On September 30, 1981, pursuant to Subtitle B of Title VI of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35), the Community Services Administration and all its functions were terminated. Pub. L. 97-35 also vested authority in the Director of the Office of Management and Budget to provide for the termination of the affairs of the Community Services Administration. Accordingly, through directives issued on September 4, 1981, the Director of the Office of Management and Budget assigned to the then-Inspector General of the Community Services Administration, the new and specific task of supervising,

during Fiscal Year 1982, the conduct of audits of funds expended under financial awards made prior to October 1, 1981, by the Community Services Administration.

The Director of the Office of Management and Budget also directed that the then-Inspector General of the Community Services Administration, when carrying out his new assignment in Fiscal Year 1982, should report directly to, and receive administrative support from, the Secretary of Health and Human Services. The Director of the Office of Management and Budget requested, and the Congress subsequently approved, specific funding authority during Fiscal Year 1982 to carry out audit administrative activities related to funds expended by the former Community Services Administration. This funding authority expires on September 30, 1982.

There will be a continuing need during Fiscal Year 1983 for audit work related to funds expended by the former Community Services Administration. To insure that there is no discontinuity of effort in this important area, the responsibility for overseeing audits of former programs of the Community Services Administration will be integrated, effective October 1, 1982, with the ongoing audit and investigative responsibilities of the Inspector General of the Department of Health and Human Services. This change is also made to accord with 42 USC 3523, which requires that the Inspector General supervise audit and investigative activities related to all programs and operations of the Department of Health and Human Services. The changes are as follows:

1. Part C, Office of Community Services, *Section C.10 ORGANIZATION* is amended by eliminating the term "Office of the Inspector General."

2. Part C, *Section C.20 FUNCTIONS* is amended by removing the subsection titled "Office of the Inspector General for the Office of Community Services."

The Statement of Organization, Functions, and Delegations of Authority for the Office of the Inspector General of the Department of Health and Human Services is not changed because the current Statement contains a comprehensive description of the Office of Inspector General's functions which includes the responsibility to supervise an audit and investigation program for all programs in the Department, including programs operated by the Office of Community Services.

This action is effective October 1, 1982.

Dated: June 17, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-18524 Filed 7-7-82; 8:45 am]

BILLING CODE 4150-04-M

Office of Human Development Services

[Program Announcement No. 13623-831]

Runaway and Homeless Youth Program; Availability of Funds

AGENCY: Office of Human Development Services, HHS.

SUBJECT: Announcement of availability of Financial assistance for the Runaway and Homeless Youth Program—National Communications System.

SUMMARY: The Administration for Children, Youth and Families (ACYF), Youth Development Bureau (YDB), announces the availability of Fiscal Year 1983 funds for a National Communications System. This grant is authorized by the Runaway and Homeless Youth Act, 42 U.S.C. 5101 et. seq., enacted by Title III of the Juvenile Justice and Delinquency Prevention Act of 1974 (Pub. L. 93-415), as amended by the Juvenile Justice Amendments of 1977 (Pub. L. 95-115) and the Juvenile Justice Amendments of 1980 (Pub. L. 96-509). Regulations governing this program are published in 45 CFR Part 1351. Competition for grant awards in other ACYF program areas will be announced at a later date in the **Federal Register.**

DATE: The closing date for receipt of applications is September 7, 1982.

A. Program Scope

This Program Announcement describes the application process for a National Communications System grant to be awarded during Fiscal Year 1983.

B. Program Purpose

The National Communications System is a component of the program funded under the Runaway and Homeless Youth Act (RHYA) as administered by the administration for Children, Youth and Families of the Office of Human Development Services, Department of Health and Human Services. The Runaway and Homeless Youth Act provides financial assistance to establish or strengthen community based centers designed to address the immediate needs of runaway and homeless youth and their families. As a part of this national effort, the National Communications System is designed to provide a neutral and available channel of communication in the contiguous United States between runaway and homeless youth and their families and to refer runaway or otherwise homeless youth to agencies within their communities (or immediate vicinity) for needed services or assistance.

This communications system is a confidential telephone information, referral and crisis intervention service to runaway and otherwise homeless youth and their families. The system must operate 24-hours a day and 365 days a year and be staffed by trained individuals. The National Communications System must also have the capability to be a technical resource to assist youth-serving agencies in delivering more effective services by allowing communication among service providers about specific cases which would ensure continuity in service provision, aid in processing requests for parental consent and facilitate discussions around mutual program and client concerns.

The overall function of a communications system is to link youth with a resource that provides the services needed by the caller. An effective communications system must be able to fulfill this function in three ways. They include:

(1) Providing a neutral and available channel of communication through which runaway and homeless youth may re-establish contact with their parents or guardians;

(2) Identifying agency resources to runaway and other homeless youth in the area where the runaway is located; and

(3) Identifying home-community resources for those young people who are contemplating running away, but contact the communications system before they run.

The significant reasons for the development of the communications system are: (a) the interstate nature of the runaway and homeless youth problem and (b) the increased vulnerability of youth to various forms of exploitation when they are away from home and/or in unfamiliar environments.

C. Program Goals and Objectives

The goals of this program are: (a) to alleviate the problems of runaway and homeless youth, (b) to reunite youth with their families and to encourage the resolution of intrafamily problems through counseling and other services, (c) to strengthen family relationships and to encourage stable living conditions for youth, and (d) to help youth decide upon a future course of action. The National Communications System funded under this program is

required to address these goals on a Nation-wide basis by:

(1) Providing, on a 24-hour basis, a neutral channel of communications for runaway and homeless youth to establish contact with their families and/or to arrange for the provision of needed services.

(2) Providing access to agencies to facilitate case referrals and program and resource linkages between youth-serving agencies relating to the provision of services to runaway and homeless youth and their families.

(3) Serving as a national clearinghouse for resource and referral information regarding the location of services for runaway and homeless youth and their families during the crisis period.

(4) Providing the equipment and technical expertise for the arrangement of conference calls and counseling services among runaway programs, youth and parents or legal guardians.

(5) Publicizing the existence and availability of services to runaway and homeless youth throughout the contigious United States.

(6) Providing descriptive information on the effect of a communications system on the overall availability of services to runaway and homeless youth.

(7) Establishing formal linkages with existing centers for runaway and homeless youth and other appropriate agencies (e.g., social services, juvenile justice agencies, schools, drug and alcohol agencies, and emergency care shelters) for the delivery and further development of referral sources.

(8) Collecting and maintaining statistical data detailing the socio-economic characteristics of the youth served, the types of problems, the services provided, and the referrals made.

(9) Submitting quarterly reports providing a programmatic and statistical account of the National Communications System's activities and achievements in meeting its stated goals and objectives.

D. Eligible Applicants

States, localities, private nonprofit agencies, and coordinated networks of such agencies are eligible to apply for a grant to establish or strengthen a National Communications System unless they are a part of the law enforcement structure or the juvenile justice system. States are defined to include any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territories of the Pacific Islands, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands. (See 42 U.S.C. 5603(7) as amended by Sec. 5(c) of P.L. 96-509.) Indian tribes and Indian organizations which are not Federally recognized are eligible to apply for grants as private nonprofit agencies. Federally recognized Indian tribes are eligible to apply for grants as local units of government. A coordinated network of agencies is an association of two or more private nonprofit, public or any combination of such agencies providing services to runaway or homeless youth and their families.

E. Priorities for Funding

The Administration for Children, Youth and Families will give priority in considering grant applications to organizations which have a demonstrated experience in the provision of information and referral services to runaway and homeless youth and their families, in working with such youth on a national basis, and whose grant request demonstrates the administrative and programmatic capacity to handle a minimum of 150,000 calls annually.

Demonstrated experience means that the major activity of such an organization or institution has been the provision of information, referral and counseling services to runaway and homeless youth and their families and to other community based organizations either directly or through linkages established with other community agencies. These linkages should be established and periodically updated with appropriate agencies on a local and national basis.

F. Available Funds

The Administration for Children, Youth and Families expects to award one new grant in the amount of $300,000 to support the operation of a National Communications System in Fiscal Year 1983. A new grant is the award made in support of an appoved application for Federal financial assistance. The grant will be awarded on an open competitive basis. Organizations previously funded must compete with all other applicants for funding.

The National Communications System will be funded for a project period of two years at $300,000 for each year, with renewal on an annual basis. However, continued support for the grant will depend upon the availability of funds, the grantee's satisfactory performance and the decision that continued funding is in the best interest of the government.

G. Grantee Share of the Project

The Administration for Children, Youth and Families will pay up to 90 percent of the costs of operating a National Communications System for a fiscal year. The non-Federal portion may be for grantee incurred costs or third party in-kind contributions which must be project-related and allowable under the Department's applicable cost principles, published in 45 CFR Part 74 (Sec. 46 FR 30500, June 9, 1981, as amended).

H. The Application Process

1. Availability of Application Forms

Application kits which contain the prescribed forms and information for the applicant may be obtained by writing to the Acting Director of the Youth Development Bureau, Room 3853, Donohoe Building, 400 Sixth Street, S.W., Washington, D.C. 20201, Attention: Ms. Pamela Johnson. The telephone number is (202) 755-0587.

2. A-95 Notification Process

All applications are subject to the Project Notification and Review Procedures required by OMB Circular A-95, Part I. This circular requires applicants to notify State and area-wide A-95 Clearinghouses of their intention to apply for a grant and, if requested by a Clearinghouse, to submit a copy of the application. Some State and area Clearinghouses provide their own forms on which such information is to be submitted.

Applicants should immediately contact the appropriate State Clearinghouse for information on the A-95 requirements. Applicants which are Federally recognized Indian tribes are not subject to the requirements of the Project Notification and Review Procedures. Such applicants may voluntarily participate in this system and are encouraged to do so.

Instructions for meeting these requirements and the names and addresses of State and area Clearinghouses will be provided in the application kit or applicants should contact the appropriate State Clearinghouse (listed at 42 FR 2210, January 10, 1977) for information on how they can meet the A-95 requirements.

3. Application Submission

In order to be considered for a grant, all applicants must adhere to the following:

- Applications must be executed by an individual authorized to act on behalf of the applicant agency and to assume responsibility for the agency

obligations imposed by the terms and conditions of the grant award;
- Applicants must complete the standard forms provided in the application kit; and
- Applicants must submit one original and two copies of the application. To facilitate the review process, the government encourages the submission of one original and five copies of the application.

Completed applications must be submitted to: Receiving Office, Division of Grants and Contracts Management, Office of Human Development Services—DHHS, 330 Independence Avenue, S.W., Room 1740, Washington, D.C. 20201, ATTN: 13623–831.

The closing date for receipt of applications under this program announcement is September 7, 1982. An application will be considered to have arrived by the closing date if:

- The application is received or sent by registered or certified mail not later than September 7, 1982, as evidenced by a U.S. Postal Service postmark or an original receipt from the U.S. Postal Service;
- The application is hand delivered to the office designated to receive the application no later than the close of business on the established closing date. Hand delivered applications will be accepted daily 9:00 a.m. to 5:00 p.m., except Saturdays, Sundays and Federal holidays. Evidence of the date and time of receipt will be maintained by the Department of Health and Human Services.

I. Application Consideration

All applications which are complete and conform to the requirements of this program announcement will be subject to a competitive review and evaluation process. This review will be conducted at the HHS/HDS Central Office by persons knowledgeable in the areas of youth development and/or human services programs who are outside and independent of the Administration for Children, Youth and Families. The consideration of applications by the competitive review panel may also take into account the comments of appropriate specialists inside and outside the Federal Government. The results of the competitive review will be reported to the Commissioner of the Administration for Children, Youth and Families, who will make the final selection of the successful applicant. Organizations whose applications have been disapproved will be notified in writing of that decision.

The successful applicant will be notified through the issuance of a Notice of Financial Assistance Awarded (NFAA) which sets forth the amount of funds granted, the terms and conditions of the grant, the effective date of the grant, the budget period for which support is given, and the total project period for which support is provided.

J. Criteria for Review and Evaluation of Financial Assistance Applications

Competing applications for financial assistance will be reviewed and evaluated against the following criteria:

1. The extent to which the applicant has documented the need for information, referral and counseling services to runaway and homeless youth and their families on the basis of a comprehensive service assessment and knowledge of the resources available to serve runaway and homeless youth and of the problems inherent in serving this population; and the capability of the applicant to develop appropriate working relationships with existing runaway and homeless youth programs and other youth-serving agencies for the purpose of making referrals to these programs and agencies on a national basis. (20 points)

2. The ability of the applicant to maintain and/or expand the equipment and technology necessary to achieve the program objectives as detailed in Part B of this announcement; and the extent to which the applicant organization has demonstrated an established relationship with the company that will provide the telephone (hardware) services. (20 points)

3. The reasonableness of the proposed budget and the extent to which the applicant has access to other resources, including supplemental funding from private sources which broaden the base of support for the existing system or its proposed activities. (20 points)

4. The extent to which the applicant organization has demonstrated prior experience in planning, organizing and providing information and referral services to runaway and homeless youth and their families. (15 points)

5. The capacity of the applicant to provide adequate facilities and a level of staffing appropriate for the implementation of a National Communications System. (15 points)

6. The capability of the applicant to provide the granting agency with quarterly progress reports detailing information on the types of significant telephone contacts and the characteristics of the clients served. (10 points)

(Catalog of Federal Domestic Assistance Program Number 13.623 Runaway Youth)

Dated: June 15, 1982.

Warren Master,

Acting Commissioner, Administration for Children, Youth and Families.

Approved: June 30, 1982.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

[FR Doc. 82-18312 Filed 7-7-82; 8:45 am]
BILLING CODE 4130-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

New Community Development Corporation

[Docket No. D–82–675]

Delegation of Authority

AGENCY: New Community Development Corporation, HUD.

ACTION: Notice of delegation of authority.

SUMMARY: The Secretary is granting concurrent authority, with the General Manager, New Community Development Corporation, to the Deputy General Manager, New Community Development Corporation.

EFFECTIVE DATE: June 30, 1982.

FOR FURTHER INFORMATION CONTACT: Grant E. Mitchell, Assistant General Counsel, New Communities Division, 451 Seventh Street, S.W., Washington, D.C. 20410, 202–755–6550. This is not a toll free number.

SUPPLEMENTARY INFORMATION: The New Community Development Corporation performs the functions of the Secretary with respect to Part B of the National Urban Policy and New Community Development Act of 1970, Title VII of the Housing and Urban Development Act of 1970, Pub. L. 91–609, and performs such additional functions, powers, and duties as the Secretary may prescribe from time to time. Accordingly, the Secretary is now delegating, in the following Sections, his authority and power under section 728 of the Housing and Urban Development Act of 1970.

Section A. Authority Delegated. The General Manager, New Community Development Corporation and the Deputy General Manager, New Community Development Corporation each is authorized to exercise the power and authority of the Secretary of Housing and Urban Development under Part B of the National Urban Policy and New Community Development Act of 1970, Title VII of the Housing and Urban Development Act of 1970, Pub. L. 91–609 (42 U.S.C. 4511), and section 1.02 and

4.03 of the Bylaws of the New Community Development Corporation, duly adopted March 3, 1971, and amended on May 7, 1971, February 6, 1975, October 19, 1977, and March 17, 1980.

Section B. Authority to issue rules and regulations. The General Manager of the New Community Development Corporation is further authorized to issue such rules and regulations as may be necessary to carry out the power and authority delegated herein.

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d))

Dated: June 30, 1982.

Samuel R. Pierce, Jr.,

Secretary, Department of Housing and Urban Development.

[FR Doc. 82-18470 Filed 7-7-82; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. D-82-676]

Order of Succession, Acting General Manager, New Community Development Corporation

AGENCY: New Community Development Corporation, HUD.

ACTION: Order of succession.

SUMMARY: The General Management, New Community Development Corporation is revising the designation of officials authorized to serve as Acting General Manager, New Community Development Corporation when, by reason of absence, disability, or vacancy in office, neither the General Manager, New Community Development Corporation nor the Deputy General Manager, New Community Development Corporation is available to exercise the power or perform the duties of the Office.

EFFECTIVE DATE: June 30, 1982.

FOR FURTHER INFORMATION CONTACT: Ed Winkler, Office of Administration, New Community Development Corporation, HUD, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755-5385. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: On January 29, 1981 the previous designation of Acting General Manager, New Community Development Corporation was revoked, 46 FR 9783. This Order of Succession establishes a new designation of authority. This Order is being executed by the General Manager of the New Community Development Corporation. The authorization to act under this Order is subject to the thirty-day limitation of the vacancies Act, 5 U.S.C. 3348, whereby a vacancy caused by death or resignation of an appointee, whose appointment is vested in the President by and with the advice and consent of the Senate, may be filled temporarily for not more than thirty days.

Accordingly, the General Manager designates as follows:

(a) During any period when, by reason of absence, disability, or vacancy in office, neither the General Manager, New Community Development Corporation nor the Deputy General Manager, New Community Development Corporation is available to exercise the powers or perform the duties of the Office of General Manager, New Community Development Corporation, the following officials (and those designated to act in their absence, disability, or vacancy) are hereby designated to serve as Acting General Manager, New Community Development Corporation with all the powers, functions, and duties delegated or assigned to the General Manager, New Community Development Corporation, provided that (1) no official is authorized to serve as Acting General Manager, New Community Development Corporation unless all other officials (or those designated to act for them) whose position titles preceding his/hers in this designation are unable to act by reason of absence, disability, or vacancy in office, and (2) such authorization to serve as Acting General Manager, New Community Development Corporation does not exceed thirty days pursuant to the Vacancies Act, 5 U.S.C. 3348:

(1) Executive Assistant to the General Manager.

(2) Director, Office of Operations.

(3) Director, Office of Planning.

(4) Controller.

(5) Director, Office of Administration.

(6) Director, Office of Surplus Land.

(b) Each head of an organizational unit of New Community Development Corporation is authorized to designate an employee under his/her supervision to act for him/her by reason of absence, disability, or vacancy in the position of head of the unit.

(c) This Order of Succession establishes a new designation of authority. The former designation of officials authorized to act as General Manager of the New Community Development Corporation, 44 FR 15774 was revoked on January 29, 1981 by 46 FR 9783.

[Sec. 7(d) of the Department of HUD Act, 42 U.S.C. 3535(d)]

Dated: June 30, 1982.

Warren T. Lindquist,

General Manager, New Community Development Corporation.

[FR Doc. 82-18469 Filed 7-7-82; 8:45 am]

BILLING CODE 4210-01-M

Office of Assistant Secretary of Housing—Federal Housing Commissioner

[Docket No. D-82-677]

Order of Succession; Acting Assistant Secretary for Housing—Acting Federal Housing Commissioner

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Order of succession.

SUMMARY: This Order of Succession revises the designation of officials authorized to serve as Acting Assistant Secretary for Housing—Acting Federal Housing Commissioner when, by reason of absence, disability, or vacancy in office, neither the Assistant Secretary nor the General Deputy Assistant Secretary is available to exercise the power or perform the duties of the Office.

EFFECTIVE DATE: June 30, 1982.

FOR FURTHER INFORMATION CONTACT: Mildred E. Moore, Management Analysis and Services Division, Office of Management, HUD, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755-8694. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: This Order of Succession supersedes the Order of Succession of designees to act as Acting Assistant Secretary for Housing—Acting Federal Housing Commissioner published on May 2, 1980 at 45 FR 29417. The Order is being executed by the General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner pursuant to a concurrent delegation of authority published in the Federal Register on August 4, 1978, at 41 FR 32635. The authorization to act under this Order is subject to the 30-day limitation of the Vacancies Act, 5 U.S.C. 3348, whereby a vacancy caused by death or resignation of an appointee, whose appointment is vested in the President by and with the advice and consent of the Senate, may be filled temporarily for not more than 30 days.

Accordingly, the General Deputy Assistant Secretary designates as follows:

(a) During any period when, by reason of absence, disability, or vacancy in office, neither the Assistant Secretary

for Housing—Federal Housing Commissioner nor the General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner is available to exercise the powers or perform the duties of the Office of Assistant Secretary for Housing—Federal Housing Commissioner, the following officials (and those designated to act in their absence, disability, or vacancy) are hereby designated to serve as Acting Assistant Secretary for Housing—Acting Federal Housing Commissioner with all the powers, functions, and duties delegated or assigned to the Assistant Secretary for Housing—Federal Housing Commissioner, provided that (1) no official is authorized to serve as Acting Assistant Secretary for Housing—Acting Federal Housing Commissioner unless all other officials (or those designated to act for them) whose position titles preceding his/hers in this designation are unable to act by reason of absence, disability, or vacancy in office, and (2) such authorization to serve as Acting Assistant Secretary for Housing—Acting Federal Housing Commissioner does not exceed 30 days pursuant to the Vacancies Act, 5 U.S.C. 3348:

(1) Associate General Deputy Assistant Secretary for Field Operations.

(2) Associate General Deputy Assistant Secretary for Housing.

(3) Deputy Assistant Secretary for Policy and Budget.

(4) Deputy Assistant Secretary for Multifamily Housing Programs.

(5) Deputy Assistant Secretary for Public and Indian Housing.

(6) Deputy Assistant Secretary for Single Family Housing and Mortgagee Activities.

(7) Director, Office of Management.

(b) Each head of an organizational unit of the Office of Housing is authorized to designate an employee under his/her supervision to act for him/her by reason of absence, disability, or vacancy in the position of head of the unit.

(c) Supersedure. This Order of Succession supersedes the Order published on May 2, 1980, at 45 FR 29417.

(Sec. 7(d) of the Department of HUD Act, 42 U.S.C. 3535(d); Delegation of Authority published on March 16, 1971, at 36 FR 5004)

Dated: June 30, 1982.

Philip Abrams,

General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 82-18466 Filed 7-7-82; 8:45 am]

BILLING CODE 4210-27-M

Office of the Secretary

[Docket No. N-82-1136]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, Office of the Secretary, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Robert G. Masarsky, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, telephone (202) 755-5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension of reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from Robert G. Masarsky, Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Submission of Proposed Information—Collection to OMB

Proposal: Determination of Minimum Development Cost
Officer: Housing
Form No. HUD-52397
Frequency of submission: On Occasion
Affected Public: State or Local Governments
Estimated Burden Hours: 1,000
Status: Reinstatement
Contact: Raymond W. Hamilton, HUD, (202) 755-6860 Robert Neal, OMB, (202) 395-6880

Submission of Proposed Information—Collection to OMB

Proposal: Notice of Property Transfer and Application for Insurance Benefits
Office: Administration
Form No. HUD-1025
Frequency of Submission: On Occasion
Affected Public: Businesses or Other Institutions (except farms)
Estimated Burden Hours: 6,250
Status: Extension
Contact: Betty Belin, HUD, (202) 755-5747;
Robert Neal, OMB, (202) 395-6880

Submission of Proposed Information—Collection to OMB

Proposal: Reporting Requirements Associated with 24 CFR 203.508 and 235.1001
Office: Housing
Form No. None
Frequency of Submission: Annually
Affected Public: Businesses or Other Institutions (except farms)
Estimated Burden Hours: 3,000
Status: New
Contact: Richard B. Buchheit, HUD, (202) 755-6680; Robert Neal, OMB, (202) 395-6880

Submission of Proposed Information—Collection to OMB

Proposal: Fiscal Data to Support Claim for Insurance Benefits
Office: Administration
Form No. HUD-2767
Frequency of Submission: On Occasion
Affected Public: Businesses or Other Institutions (except farms)
Estimated Burden Hours: 12,500
Status: Extension
Contact: Betty Belin, HUD, (202) 755-5747; Robert Neal, OMB, (202) 395-6880

Submission of Proposed Information—Collection to OMB

Proposal: Multifamily Insurance Benefits Claims Forms
Office: Administration
Form No. HUD-2744A Thru 2744E

Frequency of Submission: On Occasion
Affected Public: Businesses or Other Institutions (except farms)
Estimated Burden Hours: 900
Status: Extension
Contact: Betty Belin, HUD, (202) 755–5747; Robert Neal, OMB, (202) 395–6880

Submission of Proposed Information—Collection to OMB

Proposal: Request for Financial Information
Office: Housing
Form No. HUD–92068F
Frequency of Submission: On Occasion
Affected Public: Individuals or Households; Businesses or Other Institutions (except farms)
Estimated Burden Hours: 9,660
Status: Revision
Contact: Richard B. Buchheit, HUD, (202) 755–6680; Robert Neal, OMB, (202) 395–6880

Submission of Proposed Information—Collection to OMB

Proposal: Background Data on Request for Temporary Mortgage Assistance Payments Assignment of Mortgage to HUD
Office: Housing
Form No. HUD–92206
Frequency of Submission: On Occasion
Affected Public: Individuals or Households; Businesses or Other Institutions (except farms)
Estimated Burden Hours: 9,600
Status: Revision
Contact: Richard B. Buchheit, HUD, (202) 755–6680; Robert Neal, OMB, (202) 395–6880

(Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).)

Dated: June 23, 1982.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 82-18407 Filed 7-7-82; 8:45 am]
BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Availability of Draft Environmental Impact Statement; Rawlins District, Wyoming

June 18, 1982.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of Draft Environmental Impact Statement.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, notice is hereby given that the Bureau of Land management, U.S. Department of the Interior, has prepared the Green Mountain Draft Environmental Impact Statement on grazing management in the Lander Resource Area of Wyoming, and has made copies of the document available for public review and comment.

In addition, notice is also given that a public hearing will be held at Lander, Wyoming, on August 12, 1982, in the Carnegie Room of the Fremont County Library from 7 to 9 p.m. Written and oral comments on the Green Mountain Grazing Environmental Impact Statement will be received at that time.

DATES: Written comments on the proposed action and alternatives contained in the draft environmental impact statement will be accepted up to and including September 3, 1982, at Bureau of Land Management, Rawlins District Office, Box 670, Rawlins, Wyoming 82301.

ADDRESSES: Written comments on the proposal in the document are to be addressed to Bob Tigner, Bureau of Land Management, Rawlins District Office, Box 670, Rawlins, Wyoming 82301.

The draft environmental impact statement is available for inspection at the following locations: Rawlins District Office, 1300 Third Street, Rawlins, Wyoming 82301, and Lander Resource Area, Jett Building, Highway 287 South, Lander, Wyoming 82520.

The draft environmental impact statement can be obtained from Bob Tigner, Rawlins District Office, Box 670, Rawlins, Wyoming 82301 and Dale Brubaker, Lander Resource Area, Box 589, Lander, Wyoming 82520.

SUPPLEMENTARY INFORMATION: The draft statement analyzes environmental impacts that would result from grazing management. The statement further analyzes the environmental impacts that would result from the implementation of each of four alternatives to that proposal. The alternatives are elimination of livestock grazing, enhanced livestock grazing, no action, and management based on available forage data.

All comments will be considered. Those which raise questions or issues concerning the effects of the proposed action, present new data, or question facts or analyses will be responded to in the final EIS.

Elbert W. Spencer,

Acting District Manager.

[FR Doc. 82-18401 Filed 7-7-82; 8:45 am]
BILLING CODE 4310-84-M

[W-74546]

Wyoming; Realty Action Exchange of Public Lands for Private Lands in Johnson County

June 25, 1982

The surface estate of the following described public lands has been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716):

Sixth Principal Meridian, Wyoming

T. 42 N., R. 85 W.,
Sec. 19, S½NE¼ and SE¼NW¼;
Sec. 20, SW¼NW¼.
Containing 160.00 acres.

In exchange for the above lands, the United States will acquire the surface estate of the following lands from the Ellis Sheep Company, Casper, Wyoming:

Sixth Principal Meridian, Wyoming

T. 42 N., R. 85 W.,
Sec. 20, E½SW¼ and W½SE¼.
Containing 160.00 acres.

The Bureau's purposes for the exchange are to acquire stream frontage on the Middle Fork Power River and on Sullivan Creek, valuable habitat for big game and other wildlife species, and legal access along a segment of Middle Fork Power River. The lands proposed for acquisition will be added to the Bureau's Middle Fork Recreation Area and managed primarily for outdoor recreation and wildlife habitat.

Grazing preference now held by Ellis Sheep Company on the lands being transferred out of Federal ownership will be cancelled. Grazing preference on the lands being acquired by the United States will be offered to Ellis Sheep Company.

The public lands proposed for disposal are not essential for any Bureau resource management program. The public lands and the private lands described above are equal in value.

The proposed exchange is consistent with the requirements of Section 206 of the Federal Land Policy and Management Act of 1976 and consistent with land use planning requirements of Section 202 of that Act. The authorized officer has determined that the public interest will be well served by making the exchange.

The exchange will be made subject to:

1. A reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States in accordance with 43 U.S.C. 945, for the lands being transferred out of Federal ownership;

2. Reservation to the United States of all minerals in the lands being transferred out of Federal ownership;

3. All valid existing rights (e.g. rights-of-way, easements, and leases of record);

4. The requirements of 43 CFR 4110.4–2(b) regarding authorized grazing use;

5. Reservation of a right-of-way to the United States pursuant to Section 507 of the Federal Land Policy and Management Act of 1976 for the existing unimproved road crossing the above-described public lands as shown on The United States Geological Survey 7.5 minute series topographic map *Gordon Creek Quadrangle, Wyoming.*

6. Grant of a road easement for administrative access to the United States by Ellis Sheep Company on the existing unimproved road crossing Lot 2 of Section 19, T. 42 N., R. 85 W., 6th P.M., as shown on The United States Geological Survey 7.5 minute series topographic map *Gordon Creek Quadrangle, Wyoming.*

The above described public lands are withdrawn from appropriation under the public land laws, including the mining laws, by Public Land Order 5345 dated May 31, 1973. Public Land Order 5345 was modified by Public Land Order 6253 dated May 25, 1982 to allow the exchange of lands proposed in this Notice.

Detailed information concerning the exchange including the planning documents and environmental assessment, is available for review at the Buffalo Resource Area Office, Bureau of Land Management, P.O. Box 670, Buffalo, Wyoming 82834.

Until August 10, 1982, interested parties may submit comments to the State Director, Bureau of Land Management (910), P.O. Box 1828, Cheyenne, Wyoming 82001. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this Notice of Realty Action will become the final determination of the Department of the Interior.

Marla B. Bohl,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-18474 Filed 7-7-82; 8:45 am]

BILLING CODE 4310-84-M

[Int DEIS 82–43]

Availability of the Draft Environmental Impact Statement (DEIS) on Grazing in the Reno EIS Area

Pursuant to section 102(2) of the National Environmental Policy Act of 1969, the BLM Carson City District has prepared a DEIS on a proposed livestock grazing management program for the Reno EIS Area.

The Reno Grazing EIS analyzes the effects of grazing available vegetation by livestock, wildlife, and wild horese on public lands in Carson City, Washoe, Sotrey, and Douglas Counties in Nevada, and Alpine, Plumas, and Lassen Counties in California. The alternatives considered along with the Proposed Action are No Action, Maximization of Livestock, and Resource Protection.

Two public hearings have been scheduled to solicit public comments concerning the DEIS. They are:

August 17, 1982

7:30 p.m.
The Cortez Room, Eldorado Hotel, 345 N. Virginia Street, Reno, Nevada 89503

August 18, 1982

9:30 p.m.
Carson City District Office, Bureau of Land Management, 1050 E. William Street, Suite 344, Carson City, Nevada 89701

FOR FURTHER INFORMATION CONTACT:

Thomas J. Owen, District Manager, Attention: EIS Team Leader, Carson City District Office, 1050 E. William Street, Suite 335, Carson City, Nevada 89701, (702) 882–1631.

Written comments on the draft statement should be submitted to the District Manager at the address shown above by August 30, 1982.

Copies of the DEIS are available for review at the following locations:

Bureau of Land Management, Nevada State Office, 300 Booth Street, Reno 89520, (702) 784–5602
Bureau of Land Management, Elko District Office, 2002 Idaho Street, Elko, NV 89801, (702) 738–4071
Bureau of Land Management, Winnemucca District Office, 705 E. 4th Street, Winnemucca, NV 89445, (702) 623–3676
Bureau of Land Management, Carson City District Office, 1050 E. Williams Street, Carson City, NV 89701, (702) 882–1631
Bureau of Land Management, Ely District Office, Star Route 5, Box 1, Ely, NV 89301, (702) 289–4865
Bureau of Land Management, Las Vegas District Office, 4765 W. Vegas Drive, Las Vegas, NV 89102, (702) 385–6403
Bureau of Land Management, Battle Mountain District Office, North 2nd & Scott Streets, Battle Mountain, NV 89820, (702) 635–5181
Bureau of Land Management, Susanville District Office 705, Hall Street, Susanville, CA 96130, (916) 257–5385

Copies are also available for review at the following public libraries:

Churchill Public Library, 553 S. Main St., Fallon, NV 89406
Government Publications Dept., University of Nevada Library, Reno, NV 89557
James Dickinson Library, University of Nevada, 4505 Maryland Parkway, Las Vegas, NV 89514
Alpine County Library, Markleeville, CA
Washoe County Library, 301 South Center Street, Reno, NV
Washoe County Library, 1125 12th Street, Sparks, NV
Nevada State Library, Library Building, Carson City, NV 89710
Lyon County Library, 20 Nevin Way, Yerington, NV
Douglas County Public Library, Minden, NV 89423
Washoe County Library, Mt. Charleston and Avenues, Stead, NV
Lassen County Public Library, Susanville, CA 96130

Dated: July 1, 1982.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 82-18533 Filed 7-7-82; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Reclamation

Intent To Prepare an Environmental Statement; Muddy Ridge Area, Riverton Unit, Wyoming; Withdrawal

The Bureau of Reclamation (formerly the Water and Power Resources Service) published a Notice of Intent to Prepare an Environmental Statement on the Muddy Ridge Area, Riverton Unit, Wyoming, on December 4, 1979. Because of the lack of local support for any plan that does not include reservoir storage, which is economically infeasible, the investigation was terminated and a concluding report was released to the public on May 25, 1982. Since the investigation has been terminated we are withdrawing the notice of intent and do not plan to prepare an environmental statement.

Dated: July 1, 1982.

Eugene Hinds,

Assistant Commissioner.

[FR Doc. 82-18450 Filed 7-7-82; 8:45 am]

BILLING CODE 4310-09-M

Office of the Secretary

Request for Comments on the Status of Kuwait, Sweden and Cyprus Under the Mineral Lands Leasing Act

AGENCY: Office of the Secretary, Interior.

ACTION: Request for comments on the status of Kuwait, Sweden and Cyprus under the Mineral Lands Leasing Act

SUMMARY: The Mineral Lands Leasing Act of 1920 provides, in pertinent part, that "[c]itizens of another country, the laws, customs or regulations of which deny similar or like privileges to citizens or corporations of this country, shall not buy stock ownership, stock holding or stock control, own any interest in any lease acquired under the provisions of this Act." (30 U.S.C. 181). In light of the Secretary's responsibilities under the Mineral Lands Leasing Act, the Department of the Interior will accept written comments to gather additional information which may be used in determining whether Kuwait, Sweden or Cyprus deny similar or like privileges. Following the public comment period, the Secretary of the Interior will be in a better position to determine whether these nations deny similar or like privileges within the meaning of the Mineral Lands Leasing Act.

DATE: All comments should be submitted by August 9, 1982. Comments received after that date may be considered depending upon the stage of review when received.

ADDRESS: Comments should be sent to: Director (503), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

Comments will be available for public review in Room 3413 of the above address Monday through Friday from 7:15 a.m. to 4:15 p.m.

FOR FURTHER INFORMATION CONTACT: Mark A. Alexander, (202) 343–3352.

SUPPLEMENTARY INFORMATION: The Department of the Interior invites all persons interested in the status of Kuwait, Sweden and Cyprus under the Mineral Lands Leasing Act as amended and supplemented (30 U.S.C. 181 *et seq.*) to submit written comments. Interested persons may include national and local government officials from the United States, Kuwait, Sweden and Cyprus, repesentatives of interested corporations, and interested U.S. citizens as well as nationals from the other three countries mentioned above. Although submission of all relevant data is encouraged, the Department is especially interested in receiving information on the following particulars:

1. Whether, and under which conditions, U.S. citizens or corporations may own stock in the subject country's companies and the effect of such ownership on a company's ability to participate in the country's mineral development of its public lands.

2. Whether the laws, customs or regulations of the subject country provide for methods of investment in that nation's minerals by means other than stock ownership.

3. Whether the laws, customs or regulations of the subject country concerning investment in that nation's minerals treat citizens or companies of the country differently than U.S. citizens or corporations.

4. The specific minerals governed by particular laws, customs or regulations of the subject country.

5. The effect of the laws, customs or regulations of the subject country on the investment behavior of U.S. citizens or corporations in the country's minerals.

Frank A. DuBois,

Deputy Secretary of the Interior.

June 30, 1982.

[FR Doc. 82-18493 Filed 7-7-82; 8:45 am]

BILLING CODE 4310-10-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier Decision-Notice; Finance Applications

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44, *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does its appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: June 28, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce and Dowell.

Agatha L. Mergenovich,

Secretary.

MC–F–14874, filed June 8, 1982. CONDOR CARRIER, INC. (Condor) (656 Wooster Street, Lodi, OH 44254)—

PURCHASE—ADAMS CARTAGE COMPANY, INC. (Adams) (Route 1, Lorraine Wood Drive, Macon, GA 31210). Representative: Bradford E. Kistler, P.O. Box 82028 Lincoln, ME 68501. Condor seeks to purchase the interstate operating rights of Adams. Hamilton W. Lord, Jr. and Betty Jean Lord who jointly control Condor, seek authority to acquire control of said rights through the transaction. The operating rights to be purchased are contained in Adams' Permit No. MC–126244 and sub-numbers thereunder, and certificate No. MC–149575 and sub-numbers thereunder. The permits generally authorize the transportation of *new furniture trailers, campers, building board,* and *materials and supplies used in the manufacture of buildings clay, latex, lighting fixtures,* and *general commodities,* between points in the United States under continuing contract(s) with Armstrong World Industries, Inc., of Lancaster, PA. The certificates generally authorize the transportation of *ground limestone and barytes, lumber and forest products, roofing and roofing products, polyvinyl chloride pipe, plastic pipe and fittings,* between those points in the United States in and east MN, IA, NE, CO, OK, and TX. Condor is a motor carrier pursuant to permits issued in MC–138054 and sub-numbers thereunder and certificates and permits issued in MC–144513.

MC–F–14876, filed June 14, 1982. RED LINE, INC. (Red Line) (2805 Belair Drive, Emporia, KS 66801)—purchase (portion)—GRAVES TRUCK LINE, INC. (Graves) (8717 West 110th Street, Suite 700, Overland Park, KS 66210). Representative: Larry E. Gregg, P.O. Box 1979, Topeka, KS 66601. Red Line seeks authority to purchase a portion of the interstate operating rights of Graves. Red Line is a motor carrier operating under MC–118178 and sub-numbers thereunder. Thomas E. Wilson, an officer and director of Red Line, is the sole stockholder of Tom Wilson, Inc., a motor carrier in MC–153839. Red Line is seeking to purchase that authority held by Graves in Permit No. MC–53965 (Sub-No. 186), which authorizes the transportation of *food and related products,* between points in the U.S., under continuing contract(s) with Swift Independent Packing Company, of Chicago, IL; and Certificate No. MC–53965 (Sub-Nos. 35, 37, 38, 39, 40, 46, 49, 50, 51, 53, 63, 71, 74, 76, 77, 79, 82, 85, 98, 99, 106, 121, 122, 125, 129, 137, 139, 149, 151, 154, 157, 158, 159, 166, 177, 184X, 191X, 193, and E–1), which authorize the transportation of *meat and meat products and food and related products* between specified points throughout the U.S. Impediment: Certain duplications exist between the authority to be sold and the authority to be retained. For example, Graves would retain Certificate No. MC–53965 (Sub-No. 197) which authorizes the transportation of general commodities (except class A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in the U.S. (except AK and HI). This authority completely encompasses the authority to be sold. Generally, and absent a showing of public need, the Commission disapproves the sale and retention of duplicate operating rights because the resulting split of authority creates new competitive services without a showing of public need. Therefore, final approval and authorization of this transaction will be withheld until applicants submits (1) a plan for the elimination of the split of authority or (2) justification for the grant of duplicating operating rights. Condition: Although Don L. Nelson, the majority stockholder of Red Line has signed the application on behalf of applicant, as President, he has failed to join in the application as person (individual) in control of the applicant. He must submit an affidivit stating that as person in control of aplicant he joins in this application.

MC–F–14879, filed June 16, 1982 HUSS, INCORPORATED (Huss) (Hwy 47 West, P.O. Box 666, Chase City, VA 23924—Merger—R. S. POWELL, INCORPORATED (Powell) (P.O. Box 338, Madison Heights, VA 24572). Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. Huss seeks authority to merge the interstate operating rights and property of Powell into Huss for ownership, management and operation. W. Paul Huss and Baxter Huss seek authority to continue in control of said rights and property through the transaction. Common control of Huss and Powell was approved in MC–F–11646. The rights to be merged are contained in Powell's Permit Nos. MC–52614 (Sub-Nos. 13, 14, 15X and 16), which authorize the transportation of *metal products, food and related products, lumber and wood products, building materials, clay, concrete, glass or stone products, rubber products, ores and minerals, gypsum and gypsum products, paper and paper products, chemicals and plastic products,* between points in the U.S., under continuing contract(s) with Griffin Pipe Products Co. and Georgia-Pacific Corporation. Huss holds authority to operate as a contact carrier under MC–114015 and sub-numbers thereunder.

[FR Doc. 82–18459 Filed 7–7–82; 8:45 am]
BILLING CODE 7035–01–M

Motor Carrier Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the

compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP2–144

Decided: June 23, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

FF–603, filed June 2, 1982, published in the **Federal Register** issue of June 30, 1982, and republished, as corrected, this issue. Applicant: AJAX INTERNATIONAL, INC., 112 E. Woodbridge Lane, Kansas City, MO 64165. Representative: Alan F. Wohlstetter, 1700 K St., N.W., Washington, D.C. 20006, 202–833–8884. As a *freight forwarder* in connection with the transportation of *used household goods, unaccompanied baggage and used automobiles,* between points in the U.S. (including AK and HI). The purpose of this republication is to include AK and HI in the territory description.

Volume No. OP1–113

Decided: June 29, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 1630 (Sub-14), filed June 24, 1982. Applicant: D. D. JONES TRANSFER & WAREHOUSE COMPANY, INCORPORATED, 630 22nd St., Chesapeake, VA 23324. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048–0640, (212) 466–0220. Transporting *general commodities* (except classes A and B explosives), between points in VA, MD, NC, SC, GA and DC, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 2890 (Sub-59), filed June 21, 1982. Applicant: AMERICAN BUSLINES, INC., 1500 Jackson Street, Dallas, TX 75201. Representative: George W. Hanthorn (same address as applicant), (214) 655–7937. Over regular routes, transporting *passengers and their baggage and express and newspapers* in the same vehicle with passengers, between Dayton, OH, and junction Interstate Hwys. 75 and 70, at or near Mulin Heights, OH, over Interstate Hwy. 75, serving all intermediate points.

MC 8771 (Sub-83), filed June 23, 1982. Applicant: S M TRANSPORT, INC., P.O. Box 41, Camp Hill, PA 17011. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004, (202) 737–1030. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 113271 (Sub-89), filed June 24, 1982. Applicant: TRANSYSTEMS, INC., 1627 Third St., N.W., Great Falls, MT 69404. Representative: Kenneth G. Thomas (same address as applicant), (406) 727–7500. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except HI).

MC 119631 (Sub-49), filed June 24, 1982. Applicant: DEIOMA TRUCKING COMPANY, P.O. Box 335, East Sparta, OH 44626. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (705) 731–2441. Transporting *general commodities* (except classes A and B explosives, and commodities in bulk), between points in the U.S., under continuing contract(s) with Invacare, Inc., of Bensonville, IL.

MC 119791 (Sub-5), filed June 24, 1982. Applicant: R. J. TRUCKING, INC., 1220 Roosevelt Ave., York, PA 17404. Representative: Maxwell A. Howell, 1100 Investment Bldg., 1511 K St., NW., Washington, DC 20005, (202) 783–7900. Transporting (1) *pulp, paper and related products;* (2) *plastic products;* and (3) *reels,* between those points in the U.S. in and east of ND, SD, NE, KS, OK and TX.

MC 139410 (Sub-8), filed June 21, 1982. Applicant: MIKE PHILLIPS ENTERPRISES, INC., 301 S. Third St., Phoenix, AZ 85004. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014, (602) 264–4891. Transporting *building materials,* between points in WA, OR, CA, ID, NV, AZ, UT, CO, NM, TX and WY.

MC 144331 (sub-10), filed June 23, 1982. Applicant: EDWARD F. MADEIRA, INC., 514 Island Street, Hamburg, PA 19526. Representative: William F. King, Suite 304, Overlook Building, 6121 Lincolnia Road, Alexandria, VA 22312, (703) 750–1112. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Koppers Company, Inc., of Pittsburgh, PA.

MC 145321 (Sub-3), filed June 24, 1982. Applicant: RAY L. and CHERYLE RICHTER, d.b.a. WOOD-PLY MATERIALS TRADING AND TRANSPORT CO., P.O. Box 23127, Portland, OR 97223. Representative: Ray L. Richter (same address as applicant), (503) 636–3654. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except HI), under continuing contract(s) with West Materials, Inc., of Lake Oswego, OR.

MC 145970 (Sub-9), filed June 25, 1982. Applicant: SKILLETT & SONS, INC., P.O. Box 196, Rush Center, KS 67575. Representative: William B. Barker, P.O. Box 1979, Topeka, KS 66601, (913) 234–0565. Transporting (1) *metal products;* and (2) *machinery,* between points in KS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 146630 (Sub-4), filed June 21, 1982. Applicant: SAWDUST SIERRA, INC., 2996 Timber Lane, Verona, WI 53593. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, P.O. Box 5086, Madison, WI 53705–0086, (608) 238–3119. Transporting *such commodities* as are dealt in or used by a manufacturer and distributor of brick and masonary products, and fireplace supplies, between points in the U.S. (except AK and HI), under continuing contract(s) with Wisconsin Brick and Block Corp., of Madison, WI.

MC 147771 (Sub-8), filed June 21, 1982. Applicant: RALPH J. MARQUARDT & SONS, INC., P.O. Box 1040, Yankton, SD 57078. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761. Transporting (1) *lumber and wood products,* between Oklahoma City, OK and points in Tulsa County, OK, on the one hand, and, on the other, points in TX; (2) *chemicals and related products,* between Oklahoma City, OK, points in UT, and points in Tulsa County, OK, on the one hand, and, on the other, points in the U.S. (except AK and HI); and (3) *machinery, metal products, and transportation equipment,* between points in the U.S. (except AK and HI).

MC 150631 (Sub-2), filed June 24, 1982. Applicant: HENRY W. FREDENBERG, LTD., Route 1, 2360 Uphoff Rd., Cottage Grove, WI 53527. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719, (608) 273–1003. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in

the U.S. (except AK and HI), under continuing contract(s) with Neil's Fixtures, Inc. and Wohl Shoe Co., d.b.a. Famous Footwear, each of Madison, WI.

MC 152031 (Sub-2), filed June 24, 1982. Applicant: LEE RICHARD OHRMAN, d.b.a. LEE OHRMAN TRUCKING, 511 Southwest St., Benkelman, NE 69021. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104, (308) 423–2882. Transporting *food and related products and chemicals and related products,* between points in CO, MT, NE, NM, and WY.

MC 152281 (Sub-3), filed June 21, 1982. Applicant: MODERN TRANSPORTATION, INC., One Woodsweather Rd., Kansas City, KS 66116. Representative: Arthur J. Cerra, 2100 CharterBank Center, P.O. Box 19251, Kansas City, KS 64141, (816) 842–8600. Transporting *household applicances, cookbooks and fire escape ladders,* between points in MO and MS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 152730 (Sub-19), filed June 21, 1982. Applicant: DEPENDABLE TRANSIT, INC., P.O. Box 349, County Rd. 300 South, Hartford City, IN 47348–0349. Representative: Larry Garrett, (same address as applicant), (317) 348–0051. Transporting *paper and related products,* between points in IL and IN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 154190 (Sub-2), filed June 24, 1982. Applicant: N. J. BART CORP., 561 Bay Ave., Elizabeth, NJ 07201. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, (201) 572–5551. Transporting *chemicals and related products,* between points in the U.S. (except AK and HI).

MC 158410 (Sub-1), filed June 25, 1982. Applicant: KARE–TRANS SYSTEMS, P.O. Box 2515, Chattanooga, TN 37407. Representative: Jon Soderlund (same address as applicant), (615) 624–1300. Transporting (1) *paper and paper products, and rubber and plastic products,* between points in AL, GA, TN, SC, and TX, on the one hand, and, on the other, points in AL, GA, TN, OH, LA, MS, TX, AR, IN, IL, PA, VA, WV, KY, MD, DE, NJ, MA, NC, SC, and MO; (2) *foundry products, chemicals and related products, and clay, concrete, glass, and stone products,* between points in OH, MD, PA, AL, MS, and TX, on the one hand, and, on the other, points in TN, GA, AL, and SC; (3) *ores and minerals,* between points in GA, on the one hand, and, on the other, points in TN, FL, AR, AL, KY, IL, IN, OH, PA, NC, SC, VA, MN, MI, WI, TX, OK, SD, ND, KS, and NE; and (4) *metal and metal products,* between points in TN, and AL, on the one hand, and, on the other, points in AL, MS, LA, FL, TN, and MI.

MC 158680, filed June 25, 1982. Applicant: CLOUD TRADING COMPANY, INC., 709 S. Lane St., Seattle, WA 98104. Representative: R. Patrick McGreevy, 2208 N.W. Market, Seattle, WA 98107, (206) 784–5344. Transporting *alcoholic beverages,* between Seattle, WA, on the one hand, and, on the other, points in WA and OR, under continuing contract(s) with Fairn and Swanson, Inc., of Oakland, CA.

MC 159590, filed June 21, 1982. Applicant: SPECIALIZED TRANSPORTATION SYSTEMS, INC., 5080 Amelia Earhart Drive, Salt Lake City, UT 84116. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84110. (801) 531–1777. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk) between points in UT, WY and CO.

MC 159680 (Sub-1), filed June 25, 1982. Applicant: CAMP TRUCKING, INCORPORATED, 1408 West Main St., Forest City, NC 28043. Representative: Lee Camp (same address as applicant), (704) 248–1921. Transporting *general commodities* (except classes A and B explosives explosives and household goods) between points in the U.S. (except AK and HI) under continuing contract(s) with (1) Albany International Corp.; (2) AG Industries; (3) Duall Industries, Inc.; and (4) The Furniture Barn of Forest City, Inc., each of Forest City, NC; (5) Genpak Corporation, of Glens Falls, NY; and (6) Mastercraft Corporation; and (7) Spindale Mills, Inc., each of Spindale, NC.

MC 160411, filed June 21, 1982. Applicant: VIRGIL JAEGER d.b.a. B–J'S TRUCKING, Box 3, Washburn, ND 58577. Representative: Charles E. Johnson, P.O. Box 2056, Bismarck, ND 58502–2056. Transporting (1) *such commodities* as are dealt in or used by agricultural equipment dealers, between points in IL, OH, IA, WI and MN, on the one hand, and, on the other, those points in ND on and west of U.S. Hwy 281, and (2) *chemicals and janitorial supplies,* between points in MN and IL, on the one hand, and, on the other, points in ND, and (3) *soda ash,* between points in Sweetwater County, WY, on the one hand, and, on the other, points in ND.

MC 160680, filed June 21, 1982. Applicant: DALBERT RALEY AND WILLIS REASONER d.b.a. R & R TRUCKING COMPANY, P.O. Box 224, Stigler, OK 74462. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062, (214) 225–6279. Transporting (1) *coal;* and (2) *clay, concrete, glass or stone products,* between points in OK, on the one hand, and, on the other, point in AR, KS, LA, MO and TX.

MC 161481, filed June 25, 1982. Applicant: SAMMY MOORE d.b.a. MOORE & SONS TRUCKING, Route 1, Udell, IA 52593. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 224–2329. Transporting *aggregates,* between points in Appanoose County, IA, on the one hand, and, on the other, point in MO, IL, MN, and WI.

MC 162260, filed June 21, 1982. Applicant: MATERIAL CONTRACTING, INC., 7th & Olive, St. Joseph, MO 64501. Representative: Tom B. Dretsinger, 20 East Franklin, P.O. Box 256, Liberty, MO 64068, (816) 781–6000. Transporting *commodities in bulk,* between points in MO, KS, NE, IA, and OK.

MC 162461, filed June 21, 1982. Applicant: KENNETH D. LYON AND CAROLYN D. LYON d.b.a. LYON & LYON ENTERPRISES, 430 Washington, Chillicothe, MO 64601. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309, (515) 244–2329. Transporting *construction machinery or equipment,* between Joplin and Kansas City, MO; Wichita, KS; and points in Starr and Cameron Counties, TX, on the one hand, and, on the other, points in IA, IL, KS, MO, NE, OK, and TX.

MC 162570, filed June 21, 1982. Applicant: EAGLE TOURS, INC., 25 Tufts Rd., P.O. Box 633, Clifton, NJ 07012. Representative: Edward F. Bowes, 7 Becker Farm Rd., Roseland, NJ 07068, (201) 992–2200. As a *broker* at New York, NY, in arranging for the transportation of *passengers and their baggage in the same vehicle as passengers,* in special and charter operations, between points in the U.S.

MC 162590, filed June 21, 1982. Applicant: J. BAR L COMPANY, INC., 1000 First Avenue North, Billings, MT 59101, Representative: Joel E. Guthals, P.O. Box 1977, Billings, MT 59103, (406) 245–3071. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in MT, under continuing contract(s) with Billings Shipping Corportation, Billings Furniture Pool Association, Billings Retail Shippers Association and Montana Shippers and Receivers Association, Inc., all four of Billings, MT, Great Falls Shipping Association, of Great Falls, MT, and Missoula Shippers Association, of Missoula, MT.

MC 162630, filed June 23, 1982. Applicant: TRIPLE L TRANSPORATION, INC., 1047 Lowell

Dr., Apple Valley, MN 55124. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542–1121. Transporting *clay, concrete, glass or stone products,* between points in MN, ND, SD, IA and WI.

MC 162631, filed June 23, 1982. Applicant: M. FEMAN ENTERPRISES, INC., 198 South St., Middeletown, NY 10940. Representative: Charles J. Williams, P.O. Box 186, Scotch Plains, NJ 07076, (201) 322–5030. As a *broker,* at Middletown, NY, in arranging for the transporation of passengers and their baggage in the same vehicle with passengers, between points in the U.S.

162650, filed June 25, 1982. Applicant: TAYLOR MADE HORSE COMPANY, INC., Box 599, Chouteaux, OK 74337. Representative: J. G. Dail, Jr., PO Box LL, McLean, VA 22101, (703) 893–3050. Transporting *race horses,* between points in the U.S. (except AK and HI).

Volume NO. OP3–100

Decided: June 29, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Williams not participating.)

MC 1515 (Sub-311), filed June 22, 1982. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: M. G. Gragg (same address as applicant), (602) 248–6586. Over regular routes, transporting *passengers and their baggage,* and *express and newspapers,* in the same vehicle with passengers, Between Ephrata, WA and the junction of Interstate Hwy 90 and WA Hwy 171, from Ephrata, over WA Hwy 282 to junction WA Hwy 17, then over WA Hwy 17 to junction WA Hwy 171, then over WA Hwy 171 to Moses Lake, and then over WA Hwy 171 to junction Interstate Hwy 90, and return over the same route, serving all intermediate points.

Note.—Applicant intends to tack this authority with its existing authority.

MC 6805 (Sub-4), filed June 24, 1982. Applicant: SIEBERT TRUCKING CO., 122 W. Sheffield Ave., Englewood, NJ 07631. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 234–0301. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in NJ, NY, CT, MA, RI, PA, DE, MD and DC.

MC 30845 (Sub-10), filed June 17, 1982. Applicant: ROBERT M. JOHNSON, NANNIE L. JOHNSON AND MARY PITTMAN d.b.a. ELLIS MOVING & STORAGE, P.O. Box 23295, Nashville, TN 37202. Representative: Alan F. Wohlstetter, 1700 K Street, NW., Washington, DC 20006, (202) 833–8884. Transporting *household goods,* between points in the U.S. (except AK and HI), under continuing contract(s) with The General Electric Company, Small A/C Motor Department of Hendersonville, TN.

MC 110325 (Sub-186), filed June 21, 1982. Applicant: TRANSCON LINES, P.O. Box 92220, Los Angeles, CA 90009. Representative: Jerome Biniasz (same address as applicant), (213) 640–1800, ext. 693. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with E. I. duPont de Nemours and Company, Inc. and its subsidiaries of Wilmington, DE.

MC 117954 (sub-35), filed June 21, 1982. Applicant: H. L. HERRIN, JR., P.O. Box 1106, Metairie, LA 70004. Representative: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, KS 67202, (316) 265–2634. Transporting *foodstuffs and related products,* between New Orleans, LA, on the one hand, and, on the other, points in U.S. (except AK and HI).

MC 123075 (sub-34), filed June 21, 1982. Applicant: SHUPE & YOST, INC., P.O. Box 1123, Greeley, CO 80631. Representative: Stuart L. Poelman, P.O. Box 3000, Salt Lake City, UT 84110, (801) 521–9000. Transporting *salt and salt products,* between points in the U.S., under continuing contract(s) with Domtar Industries, Inc., (Sifto Salt Division), of Schiller Park, IL.

MC 135185 (sub-70), filed June 21, 1982. Applicant: COLUMBINE CARRIERS, INC., P.O. Box 66, South Bend, IN 46624. Representative: Charles J. Kimball, 1600 Sherman St., No. 665, Denver, CO 80203, (303) 839–5856. Transporting *food and related products,* between points in the U.S., under continuing contract(s) with MBPXL Corp. of Wichita, KS.

MC 135444 (sub-9), filed June 18, 1982. Applicant: SOUTHERN OHIO TRUCK LINES, INC., 3585 Hamilton-Trenton Rd., Hamilton, OH 45011. Representative: Earl N. Merwin, 85 E. Gay St., Columbus, OH 43215, (614) 224–3161. Transporting *lumber and wood products, forest products, pulp, paper and related products, rubber and plastic products, janitorial equipment and supplies, housewares and kitchen utensils, packaging materials and equipment, and printing equipment and supplies,* between points in the U.S. on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the International Boundary line between the United States and Canada.

MC 135924 (sub-37), filed June 22, 1982. Applicant: SIMONS TRUCKING CO., INC., 3851 River Rd., Grand Rapids, MN 55744. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542–1121. Transporting *general commodities* (except household goods, classes A and B explosives, and commodities in bulk), between points in St. Louis and Itasca Counties, MN, on the one hand, and, on the other, points in U.S. (except AK and HI).

MC 136275 (Sub-33), filed June 21, 1982. Applicant: WHITFIELD ASSOCIATED TRANSPORT, INC., 777 Executive Blvd., El Paso, TX 79922. Representative: Dann L. Drewry (same address as applicant), (915) 532–2691. Transporting *fly ash,* in bulk, between points in Potter, Lamb and Grey Counties, TX, on the one hand, and, on the other, points in AZ, CO, NM, OK, KS and WY.

MC 140645 (Sub-23), filed June 23, 1982. Applicant: UNITED TRUCKING, INC., P.O. Box 398, Tallapoose, GA 30176. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328, (404) 256–4320. Transporting *such merchandise* as is dealt in by wholesale and retail paint stores, between Charlotte, NC, Chicago, IL, Indianapolis, IN, and Memphis, TN, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR and LA.

MC 142214, filed June 23, 1982. Applicant: LANE MOTOR SERVICE, INC., 45 South Summit, Villa Park, IL 60181. Representative: Michael W. O'Hara, 300 Reisch Bldg. Springfield, IL 62701, (217) 544–5468. Transporting *iron and steel articles,* between points in Chicago, IL, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK and TX.

MC 144724 (Sub-2), filed June 24, 1982. Applicant: WALTER J. SHEETS & SON, INC., 100 Bittles St., Lewisburg, WV 24901. Representative: Walter J. Sheets (same address as applicant), (304) 645–2101. Transporting *plastic articles,* between Ronceverte, WV, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Jiffy Foam, Inc., of Ronceverte, WV.

MC 146404 (Sub-5), filed June 23, 1982. Applicant: C & J TRUCKING, INC., 2200 McKinley Ave., Columbus, OH 43204. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215, (614)

228–1541. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in OH, on the one hand, and, on the other, points in MI, IL, IN, KY, TN, WV, PA, NY and NJ.

MC 147784 (Sub-6), filed June 21, 1982. Applicant: TRANS-WAY, INC., Rt. 1 and Inman Ave., Avenel, NJ 07001. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 234–0301. Transporting *general commodities* (except classes A and B exlosives, household goods and commodities in bulk), between points in NJ, NY, CT, MA, RI, PA, DE, MD and DC.

MC 148635, filed June 18, 1982. Applicant: FALCON TRUCKING, INC., P.O. Box 43, Branchton, PA 16021. Representative: Arthur J. Diskin, 402 Law & Finance Bldg., Pittsburgh, PA 15219, (412) 281–9494. Transporting *coke and foundry facings*, between points in Butler County, PA, on the one hand, and, on the other, points in OH, PA, IN, IL, MI, KY, and WV, under continuing contract(s) with Limewood Corporation, a subsidiary of U.S. McCormick Co., of Boyers, PA.

MC 150534 (Sub-1), filed June 18, 1982. Applicant: ENGERY SALES, INC., P.O. Box 128, Cabook, MO 65689. Representative: David Montgomery (same address as applicant), (417) 962–4263. Transporting *petroleum and petroleum products*, (1) between points in IL, on the one hand, and, on the other, points in KS, MO, and OK; and (2) between points in TN, on the one hand, and, on the other, points in MO.

MC 151814 (Sub-2), filed June 21, 1982. Applicant: DON H. PHIPPS d.b.a. REFERGERATED TRANSPORT, 3707 Calhoun Ave., Ames, IA 50010. Representative: Don H. Phipps, 3707 Calhoun Ave., Ames, IA 50010 (515), 232–0895. Transporting *printed matter, paper, and related products*, between those points in the U.S. in and east of WI, IA, IL, KY, TN, and AL.

MC 152685 (Sub-2), filed June 21, 1982. Applicant: RON NOBACH TRUCKING, INC., 7404–44th Ave. NE., P.O. Box 284, Marysville, WA 98270. Representative: James T. Johnson, 1610 IBM Bldg., Seattle, WA 98101, (206) 624–2832. Transporting (1) *fertilizer, fertilizer ingredients, chemicals, animal and poutry feed, feed ingredients, feed additives, feed supplements, seed and salt*, between points in WA, OR, CA, ID, NV, AZ, and UT; (2) *lumber and wood products*, between points in WA, OR, ID, and CA; (3) *limestone and limestone products*, between points in WA and OR; and (4) *paper products, lignen pitch, wood pulp, and pulp board*, between points in Whatcom and Skagit Counties, WA, on the one hand, and, on the other, points in AZ and CA.

MC 154945 (Sub-1), filed June 21, 1982. Applicant: JOSEPH J. MEIGHAN d/b/a JOSEPH J. MEIGHAN MOVING, 307 Columbia St., Cohoes, NY 12047. Representative: Neil D. Breslin, 11 N. Pearl St., Albany, NY 12207, (518) 434–1136. Transporting *household goods*, between points in CT, ME, MA, NH, NJ, NY, PA, RI, VT, and VA.

MC 155364 (Sub-1), filed June 21, 1982. Applicant: SINCLAIR CARTAGE, INC., 9700 South Madison St., Hinsdale, IL 60521. Representative: Edward G. Finnegan, 134 N. LaSalle St., Suite 1016, Chicago, IL 60602, (312) 782–9500. Transporting *petroleum, petroleum products, chemicals, and tar products*, between points in IA, IL, KY, MI, MN, OH, IN, and WI.

MC 156405 (Sub-1), filed June 21, 1982. Applicant: BRUCE SNAPP, Rt. 4 Box 314B, The Dalles, OR 97058. Representative: (same as applicant), (503) 478–3759. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Diamond Fruit Growers, Inc., of Hood River, OR.

MC 158785 (Sub-1), filed June 21, 1982. Applicant: CORNPATCH EXPRESS, INC., Box 387, Ayshire, IA 50515. Representative: Larry Rustan, Box 387, Ayshire, IA 50515, (712) 426–4100. Transporting *meat* and *packinghouse products*, between points in the U.S., under continuing contract(s) with Beef Specialists of Iowa, Inc., of Hartely, IA.

MC 159115, filed June 17, 1982. Applicant: MMS TERMINALS, INC., 525 W. 47th Street, Chicago, IL 60609. Representative: James R. Madler, 120 W. Madison Street, Chicago, IL 60602, (312) 726–6525. Transporting *general commodities* (except commodities in bulk, classes A and B explosives and household goods), between points in AR, IL, IA, IN, KS, WI, MI, MN, and MO.

MC 159684, filed June 21, 1982. Applicant: HARRY L. MYERS, d.b.a. MYERS TRANSFER, 1543 Mariner Dr., Reynoldsburg, OH 43068. Representative: E. H. Van Deusen, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017, (614) 889–2531. Transporting *metal products*, between points in Franklin County, OH, on the one hand, and, on the other, points in U.S.

MC 160685, filed June 21, 1982. Applicant: MICHAEL NOVELLO d.b.a. K.J.S. TRUCKING, 75 Warner Road, Hubbard, OH 44425. Representative: Eugene A. Waszkiewicz, P.O. Box 8315, Pittsburgh, PA 15218, (412) 469–0333. Transporting *metal products*, between points in the U.S., under continuing contract(s) with Fab Art Inc. of Youngstown, OH.

MC 161224, filed June 21, 1982. Applicant: DOUG JILEK AND MAYNARD JILEK d.b.a. D & M TRUCKING, Route 4, Dickinson, ND 58601. Representative: Charles E. Johnson, Box 2056, Bismarck, ND 58502, (701) 223–5300. Transporting *salt, chemicals, and fertilizers*, between points in UT, on the one hand, and, on the other, points in the U.S. in and west of MI, WI, IL, MO, AR, and LA (except AK and HI).

MC 162245, filed June 23, 1982. Applicant: GROFF TRUCKING, INC., RD #1, Box 112A, Troy, NY 12180. Representative: Earl F. Groff (same address as applicant), (518) 279–0555. Transporting *food and related products*, between points in the U.S. under continuing contract(s) with Bev Pak Incorporated of Scotia, NY.

MC 162545, filed June 21, 1982. Applicant: FRANCRETE CORPORATION, One Van St., P.O. Box 137, Staten Island, NY 10310. Representative: Edward F. Bowes, 7 Becker Farm Rd., P.O. Box Y, Roseland, NJ 07068. Transporting *food and related products*, between points in the U.S., (under continuing contract(s) with Refined Sugars, Inc., of Yonkers, NY.

MC 162584, filed June 21, 1982. Applicant: SOUTHERN STATES TRANSPORTATION, INC., 1720 Magoffin Avenue, El Paso, TX 79902. Representative: James R. Boyd, 1000 Perry Brooks Building, Austin, TX 78701, (512) 476–8066. Transporting *metal products, lumber and wood products*, and *building materials*, between points in AR, AZ, CA, CO, KS, NM, NV, OK, TX and UT.

MC 162585, filed June 21, 1982. Applicant: J.M.G. TRUCKING CORP., 106 Hart Rd., Cherry Hill, NJ 08034. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123, (212) 239–4610. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in NJ, NY, PA, DE, MD, VA, CT, MA, RI, and DC.

MC 162594, filed June 21, 1982. Applicant: JOSEPHINE JOHNSON, d.b.a. J. JOHNSON TRUCKING, P.O. Box 493, Bayonne, NJ 07002. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, (201) 572–5551. Transporting *paper products, plastic products, and petroleum products*, between points in the U.S. (except AK and HI), under

continuing contract(s) with Exxon Company, U.S.A., of Houston, TX.

MC 162604, filed June 23, 1982. Applicant: R & J BULTEMEIER TRUCKING, INC., 18607 East 6th Street, N., Independence, MO 64056. Representative: Tom B. Kretsinger, 20 East Franklin, P.O. Box 258, Liberty, MO 64068, (816) 781–6000. Transporting *food and related products,* between points in CO on the one hand, and, on the other, points in Leavenworth, Wyandotte and Johnson Counties, KS and Platte, Clay and Jackson Counties, MO.

MC 162605, filed June 21, 1982. Applicant: TAMAKI INTERNATIONAL, INC. d.b.a. HIKKOSHI NO TAMAKI DESU, 1330 W. Walnut Parkway, Compton, CA 90220. Representative: John S. Torii, 833 Wilshire Blvd., Fifth Fl., Los Angeles, CA 90017, (213) 624–4888. Transporting *household goods,* between points in CA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 145625 (Sub-8), filed May 20, 1982, and previously published on June 8, 1982. Applicant: DUTCHLAND TRUCKING, INC., 1051 Center Ave., Oostburg, WI 53070. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705–0086, (608) 238–3119. Transporting *food and related products* (1) between points in WI, on the one hand, and, on the other, points in IL, IA, and MN, and (2) between points in IL, IA, MN, and WI, on the one hand, and, on the other, points in AR, KS, LA, MO, NE, OK, and TX.

Note.—This republication includes the State of NE, and deletes the State of ME.

Volume No. OP4–239

Decided: June 28, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Williams not participating.)

MC 128497 (Sub-20), filed June 21, 1982. Applicant: JACK LINK TRUCK LINE, INC., P.O. Box 127, Dyersville, IA 52040. Representative: Jack H. Blanshan, 205 W. Touhy Ave., Suite 200–A, Park Ridge, IL 60068, (312) 696–2235. Transporting *meats, meat products, meat by products and articles distributed by meat packinghouses* between points in Tama County, IA, on the one hand, and, on the other, points in MA, NJ, NY, and PA.

MC 128837 (Sub-54), filed June 21, 1982. Applicant: TRUCKING SERVICE, INC., P.O. Box 229, Carlinville, IL 62626. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, (271) 544–5468. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 150267 (Sub-13), filed June 21, 1982. Applicant: MCARDLE TRANSPORTATION, INC., Rt. 1, Hazel Green, WI 53811. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705–0086, (608) 238–3119. Transporting *such commodities* as are dealt in by grocery and food business houses, department stores, and variety stores, between points in the U.S. (except AK and HI), under continuing contract(s) with Safeway Stores, Incorporated, of Oakland, CA.

MC 150917 (Sub-1), filed June 21, 1982. Applicant: FOOD EXPRESS, INC., 4325 Fruitland Ave., Los Angeles, CA 90058. Representative: Michael L. Springer (same address as applicant), (213) 589–2194. Transporting *food products,* between points in AZ, CA, ID, NV and UT, under continuing contract(s) with Yoplait USA, of Minneapolis, MN.

MC 157057 (Sub-2), filed June 21, 1982. Applicant: PHIL–DAN TRUCKING, INC., Rt. 2, Box 355, Commerce, GA 30529. Representative: David L. Capps, P.O. Box 924, Douglasville, GA 30133, (404) 949–7756. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 162567, filed June 21, 1982. Applicant: ADAMS TRUCKING, INC., 1470 East Kentucky Ave., Woodland, CA 95695. Representative: Ronald C. Chauvel, 100 Pine St., Suite 2550, San Francisco, CA 94111, (415) 986–1414. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 162597, filed June 21, 1982. Applicant: MASTER CONTRACT MOVERS, 1554 Trimble Rd., San Jose, CA 95131. Representative: Andrew J. Skaff, 256 Montgomery St., Fifth Fl., San Francisco, CA 94104, (415) 421–6743. Transporting *such commodities* as are dealt in by manufacturers and distributors of telephone and telecommunications equipment, between points in the U.S., under continuing contract(s) with ROLM Corporation, of Santa Clara, CA.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-18460 Filed 7-7-82; 8:45 am]

BILLING CODE 7035-01-M

[S.O. 1344; Fifth Revised I.C.C. Order No. 80]

Rail Carrier; Rerouting of Traffic

To: St. Louis Southwest Railway Company; Cadillac & Lake City Railway Company; Chicago and North Western Transportation Company; Iowa Railway Company; North Central Texas Railway; Enid Central Railway; South Central Arkansas Railway, and Okarche Central Railway.

In the opinion of Bernard Gaillard, Agent, the Chicago, Rock Island and Pacific Railroad Company is unable to transport promptly traffic offered for movement via its lines, because of an embargo of its lines.

Rerouting authority previously granted in Reroute Order No. 63, was continued in Reroute Order No. 80, and should be extended for those carriers which have indicated that tariff modifications in progress could not be completed by the expiration of that order. This matter is considered to be outside the scope of a single railroad as provided by Ex Parte No. 376, and therefore requires this action by the Commission.

It is ordered,

(a) *Rerouting traffic.* The Chicago, Rock Island and Pacific Railroad Company (RI), being unable to transport promptly traffic offered for movement via its lines because of an embargo of its lines, that lines interim operators named below are authorized to reroute such traffic via any available route. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to the order as authority for the rerouting.

St. Louis Southwestern Railway Company
Cadillac & Lake City Railway Company
Chicago and North Western Transportation Company
Iowa Railroad Company
+North Central Texas Railway Inc.
+Enid Central Railway Inc.
+South Central Arkansas Railway Inc.
+Okarche Central Railway Inc.

(b) Concurrence of receiving roads to be obtained. The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be rerouted, before rerouting.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted and

shall furnish to such shipper the new routing provided for under this order, except when the disability requiring the rerouting occurs after the movement has begun.

(d) Inasmuch as the rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic rerouted by said Agent shall be rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agency provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 11:59 p.m., June 30, 1982.

(g) *Effective date.* This order shall expire at 11:59 p.m., August 31, 1982, unless otherwise modified, amended or vacated.

This order shall be served upon the Association of American Railroads, Transportation Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., June 30, 1982.

Interstate Commerce Commission.

Bernard Gaillard,

Agent.

[FR Doc. 82-18452 Filed 7-7-82; 8:45 am]

BILLING CODE 7035-01-M

[S.O. 1344; Amdt. 2 to Fourth Revised I.C.C. Order No. 80]

Rail Carriers; Rerouting of Traffic

TO: St. Louis Southwestern Railway Company; Cadillac & Lake City Railway Company; Chicago and North Western Transportation Company, and Iowa Railroad Company.

Upon further consideration of Fourth Revised I.C.C. Order No. 80 and good cause appearing therefor:

It is ordered,

I.C.C. Order No. 80 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* The order shall expire at 11:59 p.m., August 31, 1982, unless otherwise modified, amended or vacated.

Effective date. This order shall become effective at 11:59 p.m., June 30, 1982.

This amendment shall be served upon the Association of American Railroads, Transportation Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., June 25, 1982.

Interstate Commerce Commission.

Bernard Gaillard,

Agent.

[FR Doc. 82-18450 Filed 7-7-82; 8:45 am]

BILLING CODE 7035-01-M

[S.O. 1344; Amdt. No. 2 to I.C.C. Order No. 82]

Rail Carriers; Rerouting of Traffic

To: Consolidated Rail Corporation; Michigan Interstate Railway Company; Chesapeake and Ohio Railway; Grand Trunk Western Railroad Company; Michigan Northern Railway Company; Green Bay and Western Railroad Company; Chicago and North Western Transportation Company; Soo Line Railroad Company; Norfolk and Western Railway Company; and Detroit, Toledo and Ironton Railroad Company.

Upon further consideration of I.C.C. Order No. 82 and good cause appearing therefor:

It is ordered,

I.C.C. Order No. 82 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* The order shall expire at 11:59 p.m., August 31, 1982, unless otherwise modified, amended or vacated.

Effective date. This order shall become effective 11:59 p.m., June 30, 1982.

This amendment shall be served upon the Association of American Railroads, Transportation Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., June 25, 1982.

Interstate Commerce Commission.

Bernard Gaillard,

Agent.

[FR Doc. 82-18455 Filed 7-7-82; 8:45 am]

BILLING CODE 7035-01-M

[S.O. 1344; Amdt. No. 1 to I.C.C. Order No. 83]

Rail Carriers; Rerouting of Traffic

To: Consolidated Rail Corporation; Chesapeake and Ohio Railway; Grand Trunk Western Railroad Company; Michigan Northern Railway Company; and Soo Line Railroad Company.

Upon further consideration of I.C.C. Order No. 83 and good cause appearing therefor:

It is ordered,

I.C.C. Order No. 83 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* The order shall expire at 11:59 p.m., August 31, 1982, unless otherwise modified, amended or vacated.

Effective date. The order shall become effective at 11:59 p.m., June 30, 1982.

This amendment shall be served upon the Association of American Railroads, Transportation Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., June 25, 1982.

Interstate Commerce Commission.

Bernard Gaillard,

Agent.

[FR Doc. 82-18453 Filed 7-7-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29958]

Rail Carriers; Oregon-Washington Railroad & Navigation Co., and Union Pacific Railroad Co.; Exemption of Abandonment and Discontinuance in Tacoma, WA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts the abandonment by the Oregon-Washington Railroad & Navigation Company and discontinuance of service by the Union Pacific Railroad Company over approximately 2.022 miles of railroad in Tacoma, WA, subject to conditions for protection of employees.

DATES: The exemption is effective on August 9, 1982. Petitions for reconsideration must be filed by July 28, 1982 and petitions for stay must be filed by July 19, 1982.

ADDRESSES: Send pleadings to:

(1) Section of Finance, Room 5414, Interstate Commerce Commission, Washington, DC 20423, and

(2) Petitioners' representative: Joseph A. Anthofer, Union Pacific Railroad Company, 1416 Dodge Street, Omaha, NE 68179.

Pleadings should refer to Finance Docket No. 29958

FOR FURTHER INFORMATION CONTACT:
Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION:
Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., NW., Washington, D.C. 20423, (202) 289–4357—DC metropolitan area, (800) 424–5403—Toll-free for outside the D.C. area.

Decided: June 30, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham, Sterrett, Andre, and Simmons. Commissioner Gresham did not participate.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82–18454 Filed 7–7–82; 8:45 am]
BILLING CODE 7035–01–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–48 (Final)]

Certain Amplifier Assemblies and Parts Thereof From Japan

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines,[2] pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)), that an industry in the United States is materially injured by reason of imports from Japan of certain amplifier assemblies and parts thereof,[3] provided for in item 685.29 of the Tariff Schedules of the United States, which are being, or are likely to be, sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective December 30, 1981, following a preliminary determination by the Department of Commerce that certain amplifier assemblies and parts thereof from Japan are being sold, or are likely to be sold, in the United States at LTFV. Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** on January 20, 1982, (47 FR 2946). The hearing was held in Washington, D.C., on May 20, 1982, and all persons who requested the opportunity were permitted to appear in person or by counsel.

Views of Chairman Alfred E. Eckes, and Commissioners Michael J. Calhoun, Eugene J. Frank, and Veronica A. Haggart

Introduction

We have determined that an industry in the United States is materially injured by reason of imports of certain amplifier assemblies and parts thereof from Japan, which are being sold at less than fair value. In our consideration of the conditions of trade, competition, and development regarding the domestic industry, we have focused particularly on those factors which determine the economic viability of a telecommunications-related industry. In such an industry, the ability to generate capital for continued research and development and the opportunity to gain developmental experience as the outgrowth of sales determine the producer's ability to compete in the marketplace. It is critically important that producers remain in the forefront regarding technological advances within the field. Our assessment of the impact of the less-than-fair-value (LTFV) imports on the domestic industry is that it has been materially injured because of the loss of contracts to such imports on the basis of significantly lower prices. The loss of these sales to LTFV imports has denied the domestic industry needed capital for research and development and foreclosed the opportunity to gain practical and developmental experience which accompanies such sales.

The Domestic Industry

Section 771(4)(A) of the Tariff Act of 1930 defines the term "industry" as the "domestic producers as a whole of a like product or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product." [4] "Like product" is defined as a product that is like, or in the absence of like, most similar in characteristics and uses with, the articles under investigation.[5]

The articles subject to this investigation are radio-frequency power amplifiers with a power rating of 1-kilowatt (kW) or more specially designed for transmission in the C, X, and Ku bands [6] from fixed earth stations to communications satellites. The articles imported from Japan were made according to specifications in Communications Satellite Corporation (COMSAT) contracts ESOC 1263 and ESOC 1264. ESOC 1263 is a contract for nine klystron 3 kW amplifiers designed for use in the C band. ESOC 1264 is a contract for 20 traveling-wave-tube (TWT) [7] 3-kW amplifiers designed for use in the C band.[8] Both of these contracts were for amplifiers for sending signals to communications satellites and both were won by Nippon Electric Co. of America (NECAM), a subsidiary of Nippon Electric Co. of Japan (NEC).

We find that the "like product" in this investigation includes klystron and TWT amplifiers of over 1 kW for use in

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[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Commissioner Stern dissenting.

[3] For purposes of this investigation, these articles are radio-frequency power amplifier assemblies and components thereof, specifically designed for uplink transmission in the C, X, and Ku bands from fixed earth stations to communication satellites and having a power output of 1 kilowatt or more.

[4] 19 U.S.C. 1677(4)(A).

[5] 19 U.S.C. 1677(10).

[6] Operating frequencies for radio transmitters are assigned by the Federal Communications Commission. Commercial satellite communications systems are assigned the C band (5.9–6.4 gigahertz (GHz)) and Ku band (12–14 GHz) frequencies, and military systems are assigned the X band (7.9–8.4 GHz).

[7] Both klystron and traveling-wave tubes provide the power amplification needed to transmit the signals to a satellite. The klystron and TWT amplifiers are somewhat different in terms of the manner in which they perform. The TWT amplifier is capable of sending signals over a much wider bandwidth than a klystron amplifier. As a result, the TWT amplifier does not need to be retuned and one amplifier can be used to send signals to several transponders on a satellite. Nevertheless, klystron and TWT amplifiers are essentially performing the same function, in that they amplify the signals for uplink transmission to a communications satellite. We therefore believe that klystron and TWT amplifiers are like in terms of the statute.

[8] The COMSAT contracts call for amplifiers designed to broadcast in the C bank, which is the principal bank in the United States for civilian satellite broadcasting. Amplifiers that broadcast to satellites on the X or Ku bands are essentially the same as C-band amplifiers except that radio-frequency components and the tubes are designed to broadcast on the appropriate wavelengths. Because this is only a minor variation, we are of the view that the C, X, and Ku band amplifiers are like in terms of the statute.

the C, X, and Ku band specially designed for transmission from fixed earth stations to communications satellites. Amplifiers that have power ratings above 1 kW can be used to send all types of signals to communications satellites, including video signals.[9] On this basis, we have concluded that only amplifiers above 1 kW should be considered like the 3–kW amplifiers involved in the two COMSAT contracts.[10]

Thus, for the purpose of assessing material injury, the relevant domestic industry consists of all firms that have produced the subject amplifiers within the period of investigation. The domestic producers of the like product are those portions of Aydin Corp., Varian Associates, Inc., MCL, Inc., LogiMetrics, Inc., and Comtech Telecommunications devoted to the production of the subject HPAs.[11]

Counsel for respondent NEC argued that the domestic industry should be broadened to include producers of amplifiers for use in a tropospheric scatter (troposcatter) system. Troposcatter systems utilize radio signals bounced off the troposphere, rather than being sent to a satellite and beamed back to earth. Transmission ranges extending from 400 to 600 miles are usual for the troposcatter systems whereas amplifiers for satellite transmission have a range of up to 36,000 miles. The troposcatter amplifiers generally use a different frequency and a narrower bandwidth than satellite amplifiers.[12] A consultant for NEC testified that, if the difinition of the industry is based upon use in the market, troposcatters would probably not be included in the domestic industry.[13] He also indicated that troposcatter and satellite amplifiers are not interchangeable, and thus one could not plug a 10 kW troposcatter amplifier into a satellite system and have it work.[14] In addition, there is uncontroverted testimony that a troposcatter amplifier could not have been substituted for the amplifiers purchased by COMSAT.[15] Based on the record, we therefore find that troposcatter amplifiers are not like amplifiers for use with earth satellites.

Material Injury

Section 771(7) of the Tariff Act of 1930 directs the Commission to consider in making its determination, among other factors, (1) the volume of imports of the merchandise under investigation, (2) their impact on price, and (3) the consequent impact of the imports on the domestic industry.[16] In assessing the impact on the domestic industry, we are further directed by section 771(4)(C)(iii) to evaluate all relevant economic factors which have a bearing on the state of the industry, including, but not limited to: production, sales, market share, profits, productivity, return on investments, capacity utilization, cash flow, inventories, employment, wages, growth, ability to raise capital, and investment.

According to the Senate Finance Committee Report on the Trade Agreements Act of 1979:

> Neither the presence nor the absence of any factor listed in the bill can necessarily give decisive guidance with respect to whether an industry is materially injured, and the significance to be assigned to a particular factor is for the ITC [Commission] to decide. It is expected that in its investigation the Commission will continue to focus on the conditions of trade, competition, and development regarding the industry concerned.[17]

The consideration of the conditions of trade, competition, and development of the domestic industry in this investigation focuses our assessment on an industry that is highly competitive in terms of technological developments. Producers in this industry must maintain the ability to keep abreast of and contribute to technological advances. In order to do so, it is important that domestic producers be able to internally fund research and development and work closely with end users such as COMSAT.

In this investigation, we have found the pricing information, the profitability information, and the research and development figures to be particularly revealing as to the competitive condition of this industry. The loss of two contracts to LTFV imports has caused material injury to the domestic industry by its adverse effect on profitability, and ability to raise capital and to internally fund research and development. Further, the loss of the TWT contract (ESOC 1264) has had a particularly deleterious effect on the domestic industry's competitive position. The loss of the contract for these amplifiers, which represent the latest in technology for such amplifiers means that the domestic industry has been precluded from obtaining vital practical and developmental experience.

The High-Power Amplifier (HPA) Industry and Market

As we mentioned above in our discussion of the products subject to this investigation, the domestic industry produces both klystron HPAs and TWT HPAs. HPAs are typically custom-made to specifications provided by the purchaser. Klystron HPAs, which have constituted the largest segment of the HPA market for many years, increasingly are being replaced by TWT amplifiers in higher-powered satellite systems. The TWT amplifier has the advantage of being "frequency-agile," i.e., it can address any of the satellite's transponders without having to be retuned. The TWT amplifier called for in ESOC 1264 represents an advancement in TWT technology use.

The HPA market has been characterized by very high growth rates, and that growth rate is expected to continue. In a study done for NEC by Arthur D. Little, Inc., the annual growth rate of satellite transponders to which satellite amplifiers broadcast will be 22 percent for C-band and 73 percent for Ku-band over the period 1982–85. The Arthur D. Little study states that these impressive growth rates do not seem unreasonable in the context of the 86 percent growth of satellite earth stations in 1981 alone.[18] As satellite technology has become more developed in the United States and worldwide, the worldwide production and use of HPAs have soared. Producers must be able to meet the demands of this dynamic market which requires the latest and most efficient technology. Therefore, it is imperative that domestic producers have the ability to fund research and development.

In the United States, the purchaser employing the latest technology in TWT HPAs is COMSAT, the acknowledged worldwide leader in the common carrier field. The particular technical features that distinguish the subject TWT HPAs as the forefront of technology are the high level of power involved, the wide bandwidth (500 MHz at C band), and the clarity of the final transmission. Thus, the awarding of a contract for TWT amplifiers by COMSAT has the effect of affording NEC, the winner of the bid, the

[9] Report p. A–3.

[10] It is our view that an amplifier with a linearizer, which is included in ESOC 1264, but not in ESOC 1263, is not significantly different in characteristics or uses from an amplifier without a linearizer. The purpose of a linearizer is to adjust for distortions in a signal as it passes through the amplifier. ESOC 1264 is the first COMSAT contract that has called for the use of this device. Although the linearizer may have a beneficial effect, the essential characteristics of the amplifier remain the same.

[11] Report, pp. A–7–9.

[12] *Id.*, p. A–3.

[13] Hearing Transcript (Transcript), p. 122.

[14] *Id.*, p. 123.

[15] *Id.*, p. 41.

[16] 19 U.S.C. 1677(7).

[17] S. Rept. 96–249 (96th Cong., 1st Sess.) at 88.

[18] Study of Supply Record and Markets (1979–1985) for Satellite Earth Station High Power Amplifiers, p. 19.

opportunity to gain developmental and practical experience in the use of this technology and design improvements in the product for the future. At the same time, the loss of this opportunity places the domestic industry at a distinct competitive disadvantage with respect to growth opportunities that may arise out of utilization of these TWT amplifiers. When similar contracts are let in the future, NEC will hold a competitive advantage since that company will have the best and most recent experience with the technology.

Volume of Imports

In 1981, the year in which the deliveries for ESOC 1263 and ESOC 1264 were made, market penetration (by quantity) of imports from Japan of klystron and TWT HPAs under investigation was a significant share of apparent consumption for klystron HPAs and almost all of apparent consumption for TWT HPAs.[19] ESOC 1264 constituted 100 percent of apparent consumption of commercial TWT HPAs subject to this investigation in 1981. Because the commercial market has only one buyer, COMSAT, and the military market is effectively closed to foreign bidders, the capturing of the newest HPA market, namely the higher-power TWTs, is particularly significant, as we discuss below.

Impact on Pricing

It is difficult to compare HPAs on a one-to-one basis since there are no "off-the-shelf" units. HPAs are purchased for diverse needs requiring special features, which often result in variations in cost. Reliable price comparisons do exist for those HPAs meeting the specifications set forth in ESOC 1263 and ESOC 1264.

COMSAT's procurement activities are governed by the Communications Satellite Procurement regulations (47 CFR 25.151 et seq.). Those regulations state that COMSAT will evaluate a supplier's proposal for technical sufficiency as a first step, and then consider other factors in a second step. In following those regulations with regard to the contracts at issue here, COMSAT rated two domestic bids in response to both ESOC 1263 and ESOC 1264 as technically responsive. After evaluating the technical aspects of the bids submitted, COMSAT considered other factors, among which price was an important consideration.[20] The final bids of NEC on both ESOC 1263 and ESOC 1264 were significantly below the bids of the domestic producers.[21]

No domestic contracts for commercial TWT HPAs have been let since 1980, and thus there is no information on price suppression with regard to that segment of the industry. An adverse impact on prices has been felt in the klystron segment of the industry, however. The unit value of domestic bids showed a general downward trend from the amounts bid prior to the awarding of the COMSAT contracts.[22] This price suppression has been evident in the klystron segment of the industry as domestic companies have been forced to lower their prices as a result of the loss of the TWT segment of the market to NEC.[23]

The Effect on the Domestic Industry

Domestic shipments of the klystron HPAs subject to this investigation showed an upward trend from 1978 to 1981. The domestic shipments of TWT HPAs have fallen dramatically since 1979, the last year before the award of the COMSAT contracts.[24] The fact that employment has not increased at a time when the market for HPAs was expanding shows one aspect of the injury that the domestic industry has suffered. This industry depends upon highly educated and skilled scientists, engineers, and technicians for its labor. It is critically important that the industry maintain this labor force in order to remain in the forefront of technological advances within the field. There is information on the record that indicates the domestic industry's ability to retain the vital skilled labor force has been jeopardized by the loss of the two COMSAT contracts.[25]

Net sales of the domestic industry were up in 1981 from the 1979 and 1980 levels. However, much of the increase is a result of a substantial initial shipment pursuant to a 5-year contract entered into in 1978 between one company and the U.S. Army.[26] Sales during the first quarter of 1982 were down from the same period in 1981.[27]

The ratio of net operating profit *before* taxes to net sales for the domestic industry fell from 6.1 percent in 1980 to 5.5 percent in 1981.[28] We note, however, that these profit levels are well below those for comparable industries that also require returns adequate to continue the research and development which keeps the industry competitive. For example, the median return on net sales *after* taxes for the electronic components and accessories industry was 7.6 percent in 1981. For the telephone communications industry, the median return *after* taxes was 13.4 percent in 1981.[29]

The inability to achieve an adequate profit has had a particularly detrimental effect on research and development expenditures. Research and development in the domestic industry must be internally generated, unlike in earlier years when the National Aeronautics and Space Administration (NASA) developed much of that technology used by the industry. According to Arthur D. Little, a consultant for NEC, the minimum level of research and development that is necessary to be a leader in technology is 5 percent of net sales.[30] Although research and development expenditures increased during the period of 1979–81, they have remained below the 5 percent figure during this period.[31]

The adverse impact of LTFV imports on the domestic industry's ability to generate funds for research and development is injury of the most serious sort. The performance of this industry is determined in substantial part by its ability to fund research and development and to acquire experience in TWT technology through its sales. The loss of ESOC 1263 and 1264 and the concomitant loss of sales revenues have resulted in diminished funds for research and development.

Therefore, based upon information on the record, we determine that an industry in the United States is materially injured by reason of imports of certain amplifier assemblies and parts thereof from Japan, which are being sold at less than fair value.

Views of Commissioner Paula Stern

Based on the record in this final investigation I determine that there is no material injury or threat of material injury by reason of imports of certain amplifier assemblies and parts thereof from Japan at less than fair value (LTFV). Maintaining the U.S. competitive position in

[19] Report, pp. A–22 and A–23. Specific data on market penetration are confidential.

[20] Letter of General Counsel of COMSAT to the Commission of August 27, 1981.

[21] Report, p. A–27. The exact amount of the domestic bids is confidential.

[22] *Id.*, p. A–28.

[23] Transcript, p. 21.

[24] Report, p. A–11. We note that shipments in this industry are responsive to the availability and timing of contracts.

[25] Post-hearing submissions for 1st quarter data of 1982. See also, Transcript, pp. 43–44.

[26] *Id.*, p. A–17.

[27] Post-hearing submissions of the domestic industry.

[28] The profit figures for 1979 and 1980 were affected by the start-up costs for two companies.

[29] *Selected Key Business Ratios of 125 Lines of Business*, Dun & Bradstreet (1981), p. 7.

[30] Transcript, p. 139.

[31] Report, p. A–18.

telecommunications technology is a subject of considerable importance. While I agree with the majority that in these investigations the Commission should focus carefully on the conditions of trade, competition and development regarding the industry concerned, my analysis of the particular facts before us regarding the domestic high powered amplifier (HPA) industry differs in significant respects. I find the U.S. HPA industry to be healthy and within the meaning of the statute not threatened with material injury due to LTFV imports from Japan.

The Domestic Industry

I concur with the majority's definition of the scope of the industry, but emphasize that this definition restricts the Commission's assessment to high powered amplifiers (HPAs) alone and not to the tubes for HPAs. Producers of tubes are not a part of the industry subject to the investigation.[32]

No Present Material Injury by LTFV Imports

Information provided to the Commission indicates that the domestic HPA industry enjoyed its best year for the period under investigation in 1981, the year in which all the HPAs from Japan were imported. Between 1980 and 1981 production, shipments, employment, sales, profits, capital expenditures and research and development all increased.[33]

I agree with the majority that our analysis of the effects of imports on telecommunications-related industries centers on information which is most likely to reveal the impact of imports on the domestic industry's ability to keep abreast of technological advances. My assessment, however, differs from that of the majority.

It has been argued that the imports from Japan in 1981 have restricted the domestic industry's efforts to continue research and development (R&D) and to gain experience in traveling wave tube (TWT) technology. The available data do not support this view. In quantity terms the domestic HPA industry increased its research and development expenditures in 1981 by over 100 percent over 1980 levels. As a percent of net sales, the industry's 1981 R&D expenditures were at their highest level for the period of the investigation.[34]

Furthermore, domestic shipments of HPAs in 1981 increased from the high level achieved in 1980. In spite of the Nippon Electric Co. (NEC) success on the two COMSAT contracts, the domestic industry made sizeable sales of TWT amplifiers in 1981,[35] and its 1981 sales of klystron HPAs were more than twice as high as sales in every other year covered by this investigation.[36] As shipments increased, employment also showed an increase from 1980 to 1981 in spite of a concern expressed during this investigation that the domestic industry might not be able to maintain employees attracted to high technology assignments. The industry has continued to gain experience in both TWT and klystron technology.

The petitioner alleges that this industry has been hampered in its ability to attract capital. There is no data available to the Commission on the ability to attract capital. Information on capital expenditures shows that such expenditures were at their highest level in 1981 for the period of this investigation—roughly 54 percent above the 1979 level.

Between 1979 and 1981 the industry's gross profit increased from $1.1 million to $2.6 million or nearly 150 percent. The increase in net operating profit from 1978 to 1981 was even more impressive. In 1978 net operating profit amounted to $130,000; in 1981 it was $716,000. This is a 450 percent increase. The record also shows that the ratio of net operating profit to net sales rose from 1.7 percent in 1979 [37] to 5.5 percent in 1981. The ratio of net operating profits before taxes to net sales in 1981 is down somewhat from the 1980 level of 6.1 percent. The Commission report points out, however, that the 1981 ratio includes profitability data on a large military contract at an unusually low profit. Excluding this military contract, for which imports did not compete, the industry's ratio of net operating profits before taxes to net sales in 1981 was 8.1 percent, a level which is roughly comparable to the median level for other electronic components and accessories industries.[38]

Arguments on price suppression are not compelling. Information reported in response to the Commission's inquires concerning price suppression elicited examples of suppressed price only in instances of competition among domestic competitors where NEC was not bidding. Further, the allegations only apply to the commercial market for 1 to 3 kw klystron HPAs (which represents only about a fifth of the market of HPAs 1 kw and above). As I will discuss in greater detail below, NEC has not bid on any U.S. HPA contracts in 18 months. Since NEC has not participated in competition for contracts since the 1980 awards, any price suppression that may exist cannot be attributed to it. Rather it must stem from domestic competition.

In sum, the 1981 data do not reveal a deterioration in the performance of the U.S. HPA industry or declines in R&D and investment. Benefiting from a growing market, the industry is performing well and has attracted a new entrant, Raytheon Corporation. The industry has been able to make the sales necessary to generate or attract new capital and to fund the necessary R&D to fuel its continued growth. The record of this investigation does not demonstrate material injury to the domestic HPA industry by reason of the LTFV imports from Japan.

No Threat of Material Injury by LTFV Imports

Standards

The majority has found present material injury by reason of imports of high powered amplifiers from Japan.[39] In so doing, it rests its conclusion on the impact on the domestic industry of the loss of two contracts to Japan. Its analysis seems to imply a concern that because this is an advanced technology industry these sales will affect the *future* of the domestic industry.[40] In effect then, the majority's present material injury finding appears in part to address the question of threat, at least

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[32] One domestic producer, Varian Associates, Inc. also produces tubes for HPAs. For the purposes of this investigation, however, only data regarding the company's performance on the HPA line is under consideration.

[33] Report, pp. A–11, 14, 17, 18 and 24.

[34] It is important to keep in mind that the industry subject to this investigation does not fund the R&D efforts on the tubes used in HPAs. The tubes, particularly TWT tubes, are the most technologically sophisticated component of HPAs. The klystron HPA tube was invented in the 1930s, and has been in commercial use since the early 1960s in satellite communications. The TWT HPA tube was developed in the 1950s and is currently coming into widespread commercial use.

[35] The industry's domestic TWT HPA sales were made in the military market. TWT HPAs used by the military require the most sophisticated TWT technology.

[36] Report, p. A–24.

[37] This depressed level is partially attributable to costs incurred by a domestic producer in establishing its microwave equipment operations.

[38] I hesitate to make such a contract across industries but since this comparison is made by the majority, I feel compelled to discuss and contrast these figures. The industry's ratio of net operating profits to net sales is on a before-taxes basis. Available information on the median ratio of net operating profits to net sales for the electronic components and accessories industries is only available on an after-taxes basis. For 1981 this figure was 7.6 percent.

[39] In the preliminary investigation the Commission unanimously found only a reasonable indication that an industry in the United States is threatened with material injury.

[40] Majority Opinion, pp. 9 and 11.

insofar as it is concerned with predicting the future of the domestic industry.

In my view, the Commission task in assessing the future of the domestic industry must rest fully on the standards and guidelines established by the statute, legislative history, and legal precedent. This legal framework applies to all industries—whether advanced technology in nature or not. In the U.S. there is a general concern that U.S. advanced technology industries are vulnerable to competition from Japan. The legal standards and guidelines for a finding of "threat" from the analytical framework which enables the Commission to identify objectively situations in which the future of a particular U.S. advanced technology industry is actually threatened by LTFV imports from Japan. When examined within this legal framework—the only one at the Commission's disposal—the case for future injury to the domestic HPA industry is negative.

The leading precedent on the threat standard is *Alberta Gas Chemical v. United States* [41]. In that case the Court of International Trade reiterated that a Commision affirmative determination of likelihood of injury must be supported by substantial evidence. In *Alberta Gas* Judge Newman cited the language in the House Ways and Means Committee Report [42] on the Trade Agreements Act of 1979 that there must be "information showing that the threat is real and injury is imminent, not a mere supposition or conjecture," [43] for the Commission to find threat of material injury. The Judge overturned the Commission's vote in *Alberta Gas* [44] because he found that "the record before the Commission shows simply a mere *possibility* that injury might occur at some remote future time."

Findings

In the preliminary investigation I joined the majority in finding a reasonable indication of threat of material injury of the domestic HPA industry based on the increase in imports from Japan in 1981 and a belief that if the increase became a trend then it might result in price suppression, poor financial performance and negative effects on investment, the ability to retain highly skilled personnel, and research and development plans.

The more complete information available in this final investigation indicates that the increase in imports in 1981 has not continued. NEC has not bid on any HPA contracts since late-1980 and has not delivered and is not scheduled to deliver a single HPA 1kW or above during 1982.

The most tangible threat argument made by the majority in the preliminary case rested on the issue of the options portions of COMSAT contracts ESOC 1263 and ESOC 1264. Under these provisions petitioners argued that COMSAT may purchase up to sixty additional HPAs and spares, totalling some $7 million. However, the Commission has learned from COMSAT officials that the possibility that these options will be exercised is remote at best. [45]

The petitioners' claims that NEC's entrance into the U.S. HPA market is a valuable beachhead from which NEC could capture the domestic market. However, NEC has been exporting smaller HPAs and satellite communications equipment to the U.S. since the mid-1960s, and there is no evidence that it dominates that market. COMSAT has been the only U.S. purchaser of the subject HPAs from NEC. As indicated above, NEC has neither won nor bid on any domestic contracts for the subject HPAs since the award of the COMSAT contracts in question. A well-founded case for future injury to the domestic industry would require knowledge of the number and value of future contracts that may be won by NEC beyond the end of this year. Absent such data, the Commission can only speculate on the future.

Furthermore, future Japanese participation in the U.S. market is limited by the fact that sales to the military effectively are closed to imports. [46] Currently, this sheltered market accounts for nearly a quarter of all HPAs sold. And the military market for HPAs shows every indication of expanding substantially in coming years. Data provided by Arthur D. Little, Inc. for the respondents indicate that various branches of the military will require hundreds of units of the subject HPAs in the coming years. [47]

Therefore, I have determined that there is no real and imminent threat of material injury to the domestic HPA industry by reason of LTFV imports from Japan.

Issued: July 1, 1982.

By Order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-18590 Filed 7-7-82; 8:45 am]

BILLING CODE 7020-02-M

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[41] 515 F. Supp. 780 (CIT 1981).

[42] There is comparable language as well in the Senate Report on the Trade Agreements Act of 1979, at 88–89. (S. Rep. No. 249, 96th Cong., 1st Sess.).

[43] H.R. Rep. No. 317, 96th Cong., 1st Sess. 47 (1979).

[44] The Commission voted in the affirmative by a vote of 3 to 2, Commissioners Stern and Alberger dissenting. *(Methol Alcohol from Canada,* Investigation AA1921–202 (1979).

[45] Telephone conversation of June 22, 1982 between Stephen Miller, Commission investigator and Francois Giorgio, Senior Engineer, COMSAT.

[46] Field notes of Stephen Miller, Staff Investigator, March 17, 1982.

[47] "Study of Supply Record and Markets (1979–1985) for Satellite Earth Station High Power Amplifiers," Arthur D. Little, Inc., pp. 46 and 81.

[Investigation No. 337-TA-105]

Certain Coin-Operated Audiovisual Games and Components Thereof (Viz, PAC-MAN and Rally-X); Issuance of Exclusion Order

AGENCY: International Trade Commission.

ACTION: Issuance of general exclusion order.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation to determine whether there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in connection with the importation or sale of certain coin-operated audiovisual games and components thereof, and published notice of its investigation in the **Federal Register** of July 1, 1981 (46 FR 34436).

On June 22, 1982, the Commission unanimously determined that there is a violation of section 337 in the unauthorized importation and sale of certain coin-operated audiovisual games which infringe complainant Midway Manufacturing Co.'s PAC-MAN copyright and trademark. The Commission further determined that the appropriate remedy is an order excluding from entry into the United States coin-operated audiovisual games which infringe complainant's PAC–MAN copyright and/or trademark, except where such importation is licensed by the owner of the property right in question.

Copies of the Commission's Action and Order, the Opinion of the Commission, and all other non-confidential documents on the record of this investigation are available for inspection by the public during official working hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: N. Tim Yaworski, Esq., Office of the General Counsel, U.S. International Trade Commision, telephone 202–523–0311.

Issued: July 1, 1982.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 82-18631 Filed 7-7-82; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337-TA-122]

Certain Miniature, Battery-Operated, All-Terrain, Wheeled Vehicles; Termination of Respondent

AGENCY: International Trade Commission.

ACTION: Termination of investigation as to respondent Larco, Inc.

SUMMARY: The Commission has terminated the above-captioned investigation as to respondent Larco, Inc., on the basis of an oral motion made by complainants at the preliminary conference. Respondents and the Commission investigative attorney do not oppose the motion.

SUPPLEMENTARY INFORMATION: This investigation is being conducted under section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and concerns alleged unfair trade practices in the importation into and sale in the United States of certain miniature, battery-operated, all-terrain, wheeled vehicles allegedly infringing U.S. Letters Patent 4,306,375 and copying of complainant's vehicles resulting in false designation of source. The motion to terminate the investigation with respect to Larco, Inc., included information that Larco is a trade name used to identify certain products of respondent Pensick & Gordon Company. In addition, the Larco, Inc., named by complainants, identified Pensick & Gordon Co. as users of the trade name Larco.

Copies of the Commission's action and order and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

FOR FURTHER INFORMATION CONTACT: Catherine Field, Esq., Office of the General Counsel, telephone (202) 523-0143.

Issued: July 2, 1982.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 82-18630 Filed 7-7-82; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 701-TA-145 (Final)]

Certain Steel Wire Nails From Korea

AGENCY: International Trade Commission.

ACTION: Institution of a final countervailing duty investigation.

SUMMARY: As a result of the affirmative preliminary determination, by the International Trade Administration, United States Department of Commerce, which is the Commission received on June 22, 1982, that there is a reasonable basis to believe or suspect that benefits are granted by the Government of Korea with respect to the manufacture, production, or exportation of certain steel wire nails which constitute a subsidy within the meaning of the countervailing duty law, the United States International Trade Commission (hereafter "the Commission") hereby gives notice of the institution of investigation No. 701-TA-145 (Final) to determine whether an industry in the United States is materially injured, or is threatened with material injury or the establishment of an industry is materially retarded by reason of imports of such merchandise. For purposes of this investigation, the term "steel wire nails" refers to nails of one-piece construction which are made of round steel wire and which enter the United States under item numbers 646.25 and 646.26 of the TSUS.[1]

EFFECTIVE DATE: June 30, 1982.

FOR FURTHER INFORMATION CONTACT: Judith C. Zeck, Office of Investigations, U.S. International Trade Commission, (202-523-0339).

SUPPLEMENTARY INFORMATION: On February 23, 1982, the Commission unanimously determined, on the basis of the information developed during the course of investigation No. 701-TA-145 (Preliminary), that there was a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports from Korea of steel wire nails upon which bounties or grants are allegedly being paid. As a result of the Commission's affirmative preliminary determination, the Department of Commerce continued its investigation into the question of subsidized imports. The final subsidy determination will be made by the Department of Commerce on or before September 1, 1982.

Written Submissions

Any person may submit to the Commission a written statement of information pertinent to the subject of the investigation. A signed original and fourteen (14) true copies of each submission must be filed at the Office of the Secretary, U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436, on or before September 7, 1982. All written submissions except for confidential business data will be available for public inspection.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information". Confidential submissions and requests for confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6).

A staff report containing preliminary findings of facts will be available to all interested parties on August 26, 1982.

Service of documents.—Any interested person may appear in these investigations as a party, either in person or by representative, by filing an entry of appearance with the Secretary in accordance with section 201.11 of the Commission's rules (19 CFR 201.11). Each entry of appearance must be filed with the Secretary no later than July 29, 1982.

The Secretary will compile a service list from the entries of appearance filed in these final investigations and from the Commission's record in the preliminary investigations. Any party submitting a document in connection with these investigations shall, in addition to complying with section 201.8 of the Commission's rules (19 CFR 201.8), serve a copy of each such document on all other parties to the investigations. Such service shall conform with the requirements set forth in § 201.16(b) of the rules (19 CFR 201.16(b)).

In addition to the foregoing, each document filed with the Commission in the course of these investigations must include a certificate of service setting forth the manner and data of such service. The certificate will be deemed proof of service of the document. Documents not accompanied by a certificate of service will not be accepted by the Secretary.

Public Hearing

The Commission will hold a public hearing in connection with this investigation at 10:00 a.m. on September 14, 1982, in the Hearing Room of the U.S. International Trade Commission Building. Requests to appear at the

[1] For purpose of this investigation, brads, spikes, staples and tacks are not included.

hearings should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on August 24, 1982. All persons desiring to appear at the hearing and make oral presentations must file prehearing statements and should attend a prehearing conference to be held at 9:30 a.m., on August 26, 1982.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules of practice and procedure (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing statements and to new information. All legal arguments, economic analysis, and factual materials relevant to the public hearing should be included in prehearing statements in accordance with § 207.22. Post hearing briefs will also be accepted within a time specified at the hearing.

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's rules of practice and procedure, part 207, subparts A and C (19 CFR 207, 44 FR 76457 as amended in 47 FR 6190 and 47 FR 12792) and part 201, subparts A through E (19 CFR 201).

This notice is published pursuant to §207.20 of the Commission's rules of practice and procedure (19 CFR 207.20).

Issued: June 30, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-18528 Filed 7-7-82; 8:45 am]

BILLING CODE 7020-02-M

[332-73]

Release for Public Comment of Explanatory Notes to Provisionally Adopted Chapters of the Harmonized Commodity Description and Coding System

AGENCY: International Trade Commission.

ACTION: Release for public comment, pursuant to Commission investigation No. 332-73, under the authority of section 332(g) of the Tariff Act of 1930, as amended, of drafts of Explanatory Notes to the following chapters of the Harmonized Commodity Description and Coding System (Harmonized System) being prepared by the Harmonized System Committee and the Nomenclature Committee of the Customs Cooperation Council.

Volume 6

Chapter 28: Inorganic chemicals; organic and inorganic compounds of precious metals, or rare-earth metals, of radio-active elements and of isotopes
Chapter 29: Organic chemicals
Chapter 32: Tanning or dyeing extracts; tannings and their derivatives; dyes, pigments and other coloring matter; paints and varnishes; putty and other mastics; inks
Chapter 33: Essential oils and resinoids; perfumery, cosmetics and toilet preparations
Chapter 38: Miscellaneous chemical products
Chapter 44: Wood and articles of wood; wood charcoal
Chapter 48: Paper and paperboard; articles of paper pulp, of paper or of paperboard

Volume 7

Chapter 55: Man-made staple fibers
Chapter 56: Wadding, felt and nonwovens; special yarns; twine, cordage, ropes and cables and articles thereof
Chapter 57: Carpets and other textile floor coverings
Chapter 58: Special woven fabrics; tufted textile fabrics; lace; tapestries; trimmings; embroidery
Chapter 59: Impregnated, coated, covered or laminated textile fabrics; elastic textile fabrics; textile articles of a kind suitable for industrial use
Chapter 60: Knitted or crocheted fabrics
Chapter 61: Articles of apparel and clothing accessories, knitted or crocheted
Chapter 62: Articles of apparel and clothing accessories, not knitted or crocheted
Chapter 63: Other made up textile articles; sets; worn clothing and worn textile articles; rags

Volume 8

Chapter 64: Footwear, gaiters and the like; parts of such articles
Chapter 65: Headgear and parts thereof
Chapter 66: Umbrellas, sun umbrellas, walking-sticks, seat-sticks, whips, riding-crops and parts thereof
Chapter 67: Prepared feathers and down and articles made of feathers or of down; artificial flowers; articles of human hair
Chapter 68: Articles of stone, of plaster, of cement, of asbestos, of mica, and of similar materials
Chapter 69: Ceramic products
Chapter 71: Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metals, and articles thereof; imitation jewelry; coin

WRITTEN SUBMISSIONS: Parties wishing to submit written comments should do so by filing them with the Secretary of the Commission, 701 E Street NW., Washington, D.C. 20436, no later than the close of business on August 20, 1982.

COPIES OF DOCUMENTS: Copies of Explanatory Notes which are the subject of this notice are available for public inspection at the office of the Secretary. The Secretary will also send copies to interested parties upon request; telephone (202) 523-5178.

FOR FURTHER INFORMATION CONTACT: Eugene A. Rosengarden, Director, or Holm Kappler, Deputy Director, Office of Tariff Affairs, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, Telephone: (202) 523-0370 or 0362.

This notice is being issued pursuant to Commission investigation No. 332-73, instituted on January 31, 1975 (40 FR 6329), under section 332(g) of the Tariff Act of 1930. The public notice of July 17, 1981 (46 FR 37824) set forth the basis for the Commission's investigation in order to participate in technical work on, and described the structure and development of, the Harmonized System.

Texts of Explanatory Notes for the above chapters have been provisionally adopted by the Nomenclature Committee of the Customs Cooperation Council. The Explanatory Notes, which do not form a part of the Harmonized System nomenclature, contain the official interpretation of the Harmonized System nomenclature ultimately to be adopted by the Customs Cooperation Council. The notes are arranged in the systematic order of the Harmonized System nomenclature and set forth information concerning the scope of each heading, including the products included and excluded, technical product descriptions, a guide for product identification, and the appearance, properties, uses, and methods of production of the products concerned. The public notices of February 16, 1982 (47 FR 8106) and April 30, 1982 (47 FR 18846) identified chapters for which Explanatory Notes were available and requested public comments. The notices sought views on Explanatory Notes for Chapters 1 through 27, 30, 31, 34 through 37, 41 through 43, 45 through 47, 49, and 50 through 54. Views and comments of interested parties are now being sought as to Explanatory Notes for nineteen additional Chapters of the Harmonized System.

Drafts of the above Explanatory Notes are being finally reviewed by both the Harmonized System Committee and the Nomenclature Committee. As texts of further Explanatory Notes are adopted, the Commission will issue future notices requesting public comment.

Issued: June 30, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-18525 Filed 7-7-82; 8:45 am]

BILLING CODE 7029-02-M

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

Coordinating Council on Juvenile Justice and Delinquency Prevention

Notice is hereby given that the Coordinating Council on Juvenile Justice and Deliquency will meet on July 15, 1982 in the Office of ACTION at 806 Connecticut Avenue, NW., Washington, D.C. The meeting will be open to the public and held in Room 522 at 10:00 am.

This meeting will address the further development and publication of the Coordinating Council's Program Plan. This effort will lead to the creation and implementation of the Coordinating Council's Work Plan for the next three years. Five Program areas identified following Public Hearings and input from all sources include:

1. School Related approaches to Delinquency Prevention
2. Treatment Related Alcohol and Drug Abuse Prevention
3. Treatment Alternative for Alcohol and Drug Abusing Juveniles
4. Community Youth Involvement
5. De-Institutionalization (Federal)

Other agenda items include a discussion of the Advisory Commission on Intergovernmental Relations (ACIR) roundtables, delinquency related program and budget changes and updates on other Coordinating Council activities.

For further information contact, Mr. William Modzeleski, Office of Juvenile Justice and Delinquency Prevention, Department of Justice, 633 Indiana Avenue, NW., Washington, D.C., 20531.

Charles A. Lauer,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 82-18514 Filed 7-7-82; 8:45 am]

BILLING CODE 4410-18-M

Drug Enforcement Administration

Importation of Controlled Substances; Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(h)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II, and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacturer of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on March 16, 1982, Sigma Chemical Company, 3500 Dekalb Street, St. Louis, Missouri 63118, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Marihuana (7360)	I.
Tetrahydrocannabinols (7370)	I.
Mescaline (7381)	I.
Morphine-3-Gluronide (9329)	II.

As to the basic classes of controlled substances listed above for which application for registration has been made, any other applicant therefore, and any exisitng bulk manufacturer registered therefor may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Acting Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than August 9, 1982.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745-46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Acting Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e) and (f) are satisfied.

Dated: June 25, 1982.

Francis M. Nullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82-18527 Filed 7-7-82; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Meeting Addendum

July 2, 1982.

Additional changes have been made to the agenda for the July 18-21, 1982 meeting of the National Advisory Committee on Oceans and Atmosphere (NACOA) published in the **Federal Register** of July 1, 1982 (47 FR 28848). The revised tentative agenda is as follows:

Agenda

Sunday, July 18, 1982

Cosmos Club (387-7783), Room A (Third Floor), 2121 Massachussetts Ave., NW.
9:00 a.m.—3:00 p.m., Panel meeting
Coast Guard
Chairman: Michael Naess
Topic: Work Session

Monday, July 19, 1982

Page Building #1, Room 416, 2001 Wisconsin Avenue, NW., Washington, D.C.
9:00 a.m.—12:00 p.m., Plenary
9:00 a.m.—9:30 a.m., Announcements
9:30 a.m.—12:00 p.m., Review and Approval of Weather Services Report
12:00 p.m.—1:00 p.m., Lunch
1:00 p.m.—5:00 p.m., Panel meetings
1:00 p.m.—3:00 p.m., Ad Hoc Panel
For consideration, if available, of new legislative proposals for ocean dumping and OCS Revenue Sharing
2:00 p.m.—5:00 p.m., Ocean Satellites
Chairman: FitzGerald Bemiss
Room 416
Topic: Ocean Research & Satellites
Speakers:
D. James Baker, University of Washington, Satellites and Oceanography
James O'Brien, Florida State University, Satellites and Oceanography
W. Stanley Wilson, National Aeronautics and Space Administration, Federal Plans and Prospects for Ocean Sensing Satellites
Sylvia Earle, NACOA Member
Submersibles and Oceanography
5:00 p.m., Recess

Tuesday, July 20, 1982

Page Building #1, Room 416, 2001 Wisconsin Avenue NW., Washington, D.C.
8:30 a.m.—11:30 a.m., Plenary
Review and Approval of Fisheries Report
11:30 a.m.—12:30 p.m., Law of the Sea Status
Speaker: Ted Kronmiller, Department of State, Deputy Assistant Secretary for Oceans and Fisheries Affairs
12:30 p.m.—1:30 p.m., Lunch
1:30 p.m.—3:30 p.m., Plenary

Marine Transportation Report Status
Action Items and Panel Reports
3:30 p.m., Adjourn regular meeting
3:30 p.m.—6:30 p.m., Panel meeting
Marine Minerals, Chairman: Burt Keenan
Topic: Work Session—Draft Report
6:30 p.m., Recess

Wednesday, July 21, 1982

Page Building #1, Room B–100, 2001 Wisconsin Avenue NW., Washington, D.C.
9:00 a.m.—3:00 p.m., Panel meeting continued
Marine Minerals, Chairman: Burt Keenan
Topic: Work Session—Draft Report
3:00 p.m., Adjourn.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Steven N. Anastasion whose mailing address is: National Advisory Committee on Oceans and Atmosphere, 3300 Whitehaven Street, NW., Washington, DC 20235. The telephone number is 202/653–7818.

Dated: July 2, 1982.

Steven N. Anastasion,

Executive Director.

[FR Doc. 82–18522 Filed 7–7–82; 8:45 am]

BILLING CODE 3510–12–M

OFFICE OF PERSONNEL MANAGEMENT

National Eligibility Committee for the Combined Federal Campaign; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the Director of the Office of Personnel Management announces the following meeting:

NAME: National Eligibility Committee for the Combined Federal Campaign.

DATE AND TIME: July 23, 1982, at 10 a.m.

PLACE: The OPM Auditorium (Room GJ–14, on the Ground Floor), U.S. Office of Personnel Management, 1900 E Street, NW., Washington, D.C.

Type of Meeting

Open

Interested persons may submit written statements with the committee in advance of or at the start of the meeting. Written statements submitted in advance of the meeting may be addressed to the Committee in the care of the Secretary of the committee, whose name and address are set forth in this Notice under the heading, "Contact Person." Written statements submitted at the start of the meeting may be filed with the Committee at the place of the meeting. Oral comments will not be permitted at the meeting, except with the leave of the Chairman or a majority of the Committee. In the event that leave is given for oral comment, no person will be permitted to make an oral statement at the meeting unless such person (1) has advised the Secretary of the Committee in writing at least 48 hours in advance of the meeting that the person wishes to be heard at the meeting (clearly specifying the matter on which the person wishes to be heard); (2) has submitted a written statement relating to the matter on which such person wishes to be heard; and (3) wishes to be heard on a matter that is contested by or before the Committee. Persons, if any, given leave to make oral comments shall each be confined in their oral comments to five (5) minutes.

CONTACT PERSON: Joseph S. Patti, Secretary of the National Eligibility Committee for the Combined Federal Campaign, Office of the Special Assistant for Regional Operations, U.S. Office of Personnel Management, 1900 E Street NW., Washington, D.C., 20415, telephone 202–632–5544.

Purpose of Meeting

The Committee will meet to consider applications of organizations seeking to participate in the Combined Federal Campaign as federated and national voluntary health, welfare, and other appropriate agencies, with fund-raising privileges within the Federal service, in accordance with Executive Order 12353 (March 23, 1982) and regulations promulgated thereunder, and to determine recommendations on such applications to be made to the Director of the Office of Personnel Management.

SUPPLEMENTARY INFORMATION: This Notice amends and supersedes the Notice of Meeting which was published on July 6, 1982, 47 **Federal Register** 29512.

Donald J. Devine,

Director, Office of Personnel Management.

[FR Doc. 82–18559 Filed 7–7–82; 8:45 am]

BILLING CODE 6325–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee; Generalized System of Preferences (GSP) Subcommittee; Results of Reviews of Petitions Requesting Changes in the List of Articles Eligible for Duty-Free Treatment Under the GSP

This publication describes results of the 1981 annual review of petitions requesting changes in the list of imported articles eligible for duty-free treatment under the U.S. Generalized System of Preferences (GSP). The GSP is provided for in the Trade Act of 1974 (88 Stat. 2066–2071, 19 U.S.C. 2461–2465). The review was conducted pursuant to regulations codified at 15 CFR Part 2007. Results of the review were implemented as of March 31, 1982, by Executive Order No. 12354 of March 30, 1982 (47 FR 20235). The disposition of the petitions accepted for review by the GSP Subcommittee of the Trade Policy Staff Committee (TPSC) and matters considered by the TPSC on its own motion are set forth in Annex I of this notice. Petitions that remain pending are listed in Annex II.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

ANNEX I.—PETITIONS ACCEPTED FOR REVIEW

Case No.	TSUS or TSUSA[1] Item No.	Article	Petitioner	Action taken
A. PETITIONS TO ADD PRODUCTS TO THE LIST OF ELIGIBLE ARTICLES FOR THE GENERALIZED SYSTEM OF PREFERENCES				
79–17	170.10	Cigar wrapper tobacco, not stemmed	Government of Nicaragua, Cigar Association of America, Inc., Washington D.C.	Petition accepted.
79–18	170.15	Cigar wrapper tobacco, stemmed	Cigar Association of America, Inc., Washington, D.C.	Petition accepted.
79–20	170.60	Cigars and cheroots, each valued 15 cents and over.	Government of Mexico, Government of Nicaragua	Petition accepted.
79–31	360.15	Floor coverings, hand-inserted pile, valued over 66⅔ cents per square foot.	Pande Cameron & Company, New York, New York, Government of Bangladesh, Government of India, Government of Turkey, Mande del Uruguay, Montevideo, Uruguay.	Petition denied.
80–41	412.66 or 412.68 pt	Other products provided for in the Chemical Appendix to the Tariff Schedules or Catheter lubrication jelly.	H. G. Pollak (International) Ltd., Israel	Already eligible in TSUS 413.51.
81–1	114.20	Crabmeat in airtight containers	Andean Group	Petition denied.
81–2	121.40	Calf and kip leather	Andean Group	Petition denied (Argentina not designated for GSP on this product).

ANNEX I.—PETITIONS ACCEPTED FOR REVIEW—Continued

Case No.	TSUS or TSUSA[1] item No.	Article	Petitioner	Action taken
81-3	121.61	Bovine leather	Government of Brazil	Petition accepted.
81-4	121.63	Other leather	Government of Brazil	Petition denied.
81-5	135.12	Lima beans	Government of Jamaica	Petition accepted.
81-6	135.14	Lima beans	Government of Jamaica	Petition accepted.
81-7	135.16	Other than lima beans	Government of Jamaica	Petition denied.
81-8	135.92 pt	Cucumbers, entered Mar. 1 to June 30	Government of Honduras	Petition accepted (Mexico not designated for GSP on this product).
81-9	136.20	Eggplant, entered Apr. 1 to Nov. 30	Government of Jamaica	Petition accepted (Mexico not designated for GSP on this product).
81-10	136.22	Eggplant, entered Dec. 1 to Mar. 31	Government of Jamaica	Petition accepted (Mexico not designated for GSP on this product).
81-11	136.60	Lettuce, entered June 1 to Oct. 31	Government of Jamaica	Petition accepted.
81-12	136.61	Lettuce, entered Nov. 1 to May 31	Government of Jamaica	Petition accepted.
81-13	137.10	Peppers	Government of Jamaica	Petition accepted (Mexico not designated for GSP on this product).
81-14	137.50	Squash	Government of Jamaica	Petition accepted (Mexico not designated for GSP on this product).
81-15	137.83	Tomatoes, entered Nov. 15 to last day of February.	Government of Jamaica, Egyptian Export Promotion Center, Egypt	Petition accepted (Mexico not designate for GSP on this product).
81-16	137.80	Yams and sweet potatoes	Government of Jamaica	Petition accepted.
81-17	138.4250 pt	Mixtures of pea pods and sliced water chestnuts.	D. B. Bereleon & Co., San Francisco, CA	Petition accepted.
81-18	140.40	Dried onions	Government of Chile, Egyptian Export Promotion Center, Egypt	Petition denied.
81-19	140.65	Onion flour	Government of Chile	Petition denied.
81-20	140.75 pt	Vegetables reduced to flour	Andean Group	Petition accepted.
81-21	141.82	Carrots in airtight containers	Government of Jamaica	Petition accepted.
81-22	141.87	Sweet ginger	Government of Jamaica	Petition accepted.
81-23	144.12	Air-dried mushrooms	Government of Korea	Petition accepted.
81-24	146.76	Frozen strawberries	Government of Chile	Petition accepted (Mexico not designated for GSP on this product).
81-25	148.00	Mangoes, entered anytime except Nov. 1 to Apr. 30.	Government of Jamaica, Lincoln Diversified Systems, Inc., Fort Lauderdale FL.	Petition accepted (Mexico not designated for GSP on this product).
81-26	148.17	Cantaloupes entered Apr. 1 to July 31 and Sept. 16 to Nov. 30.	Andean Group, Government of Thailand	Petition accepted (Mexico not designated for GSP on this product).
81-27	148.60	Fresh papayas	Government of Jamaica	Petition denied.
81-28	148.93	Fresh pineapples	Government of Jamaica	Petition denied.
81-29	148.96 or 148.9620	Pineapples, prepared or preserved	Andean Group, Government of Thailand, Government of Mexico	Petition denied.
81-30	150.02	Tropical fruit mixtures	Government of Jamaica, Government of the Philippines	Petition accepted.
81-31	152.30	Orange fruit peel	Government of Jamaica	Petition accepted.
81-32	152.7640	Pear paste	Andean Group	Petition accepted.
81-33	153.0420	Strawberry jellies and jams	Andean Group	Petition denied.
81-34	154.90	Candied fruits	Government of Jamaica	Petition accepted.
81-35	161.57	Mint leaves, manufactured	Government of Jamaica	Petition accepted.
81-36	161.84	Pepper, capsicum or cayenne, ground	Government of Jamaica	Petition accepted.
81-37	161.88	Pimento ground	Government of Jamaica	Petition denied.
81-38	168.78	Brandy, valued over $13 per gallon	Egyptian Vineyards Company, Egypt	Petition accepted.
81-39	169.04	Ethyl alcohol for beverage purposes	Andean Group, Government of Jamaica	Petition accepted.
81-40	183.01	Pancake flour	Andean Group	Petition accepted.
81-41	190.85	Marine sponges	Egyptian Export Promotion Center, Egypt	Petition accepted.
81-42	222.50	Blinds and shutters of unspun vegetable fibers.	Government of Jamaica	Petition accepted (Taiwan not designated for GSP on this product).
81-43	355.65 or 355.6510	Plastic coated fabric	Government of Brazil	Petition denied.
81-44	360.4640	Wilton and velvet floor coverings, imitation oriental.	Caesarea-Glenolt Industries, Ltd., Israel	Petition accepted.
81-45	360.4645	Wilton and velvet floor coverings, other	Caesarea-Glenolt Industries, Ltd., Israel	Petition accepted.
81-46	363.90	Other bedding, not ornamented	Andean Group	Petition denied.
81-47	364.07 pt	Certified and hand-loomed folklore products.	Andean Group	Petition denied.
81-48	367.35 pt	Sisal baskets	Government of Kenya	Petition accepted.
81-49	402.56	Benzyl chloride	Aromaticos Petroquimicos, S. de R.L., Mexico	Petition denied.
81-50	402.60 or 402.60 pt	Benzyl dichloride	Aromaticos Petroquimicos, S. de R.L., Mexico	Petition denied.
81-51	403.45 or 403.45 pt	Benzyl alcohol	Aromaticos Petroquimicos, S. de R.L., Mexico	Petition denied.
81-52	403.56 pt	Tetrabromobisphenol A	Amerbrom Inc., Israel	Petition denied.
81-53	405.06 pt	D(−)-para-hydroxyphenylglycin	Kaneka America Corporation, New York NY	Petition accepted.
81-54	405.60 pt	Benzene acetonitrile	Aromaticos Petroquimicos, S. de R.L., Mexico	Petition denied.
81-55	406.26	2-Mercaptobenzothiazole, sodium salt	Government of Mexico	Petition denied.
81-56	406.36	Heterocyclic compounds and their derivatives.	Government of Mexico	Petition denied.
81-57	406.64	Acetone	Government of Mexico	Petition denied.
81-58	406.84	Fumaric acid	"GADOT" Aromatics Development (GADIV) Ltd., Israel	Petition denied.
81-59	411.64	Penicillin G salts	Andean Group	Petition accepted.
81-60	412.34 or 412.34 pt	Amitriptyline-hydrochloride	Plantex, Ltd., New York, NY	Petition accepted.
81-61	432.25	Chemical mixtures	Andean Group	Petition accepted.
81-62	436.00	Natural drugs	Andean Group	Petition accepted.
81-63	437.47	Yeast	Government of Mexico, Government of Panama	Petition accepted.
81-64	452.26	Grapefruit oil	Government of Jamaica	Petition accepted.
81-65	452.34	Lemon oil	Andean Group	Petition denied.
81-66	452.44	Orange oil	Government of Jamaica	Petition accepted (Brazil not designated for GSP on this product).
81-67	455.04	Pectin	Government of Mexico	Petition denied.
81-68	522.61	Crude magnesite	Government of Turkey	Petition accepted (Brazil not designated for GSP on this product).
81-69	606.22	Ferrochromium	Government of Turkey, Government of Zimbabwe	Petition denied.
81-70	606.42	Ferrosilicon chromium	Government of Zimbabwe	Petition denied.
81-71	642.1110	Brass plated wire	Republic of Korea, TrefilARBED, Inc., New York, NY	Petition denied.
81-72	652.94	Metal columns, pillars, girders	Government of Brazil	Petition denied.
81-73	652.96	Stainless steel columns, pillars, girders	Government of Brazil	Petition denied.
81-74	652.98	Steel columns, pillars, girders	Government of Brazil	Petition denied.
81-75	685.27	Citizens Band radio tranceivers	General Electric Company, Syracuse, NY, Radio Shack and A & A International, Inc., Fort Worth, TX.	Petition denied.
81-76	685.36	Record players	Government of Korea	Petition accepted.

ANNEX I.—PETITIONS ACCEPTED FOR REVIEW—Continued

Case No.	TSUS or TSUSA[1] Item No.	Article	Petitioner	Action taken
81-77	706.13	Leather luggage and handbags	Government of Argentina, Government of Brazil, Government of Romania.	Petition denied.
81-78	706.17	Flat goods, of rattan or of palm leaf	Andean Group, Government of Jamaica, Government of the Philippines.	Petition accepted.
81-79	706.2045	Flat goods and handbags of abaca	Government of the Philippines	Petition accepted.
81-80	706.6235	Luggage	Cyprus Embassy-Trade Centre, New York, NY	Petition denied.
81-81	737.2205	Stuffed dolls	Ad Hoc Group of Domestic Producers and Importers of stuffed dolls and stuffed doll parts, New York, NY, Guatemala Export Promotion Center, Government of the Philippines.	Petition accepted (Taiwan not designated for GSP on this product).
81-82	737.2240	Parts of dolls	Ad Hoc Group of Domestic Producers and Importers of stuffed dolls and stuffed doll parts, New York, NY, Guatemala Export Promotion Center, Government of the Philippines.	Petition accepted.
81-83	760.0520	Ball-point pens and ball-point pencils	Draton Ltd., Israel	Petition denied.
81-84	772.48	Bicycle tires	Government of India	Petition denied.
81-85	772.57	Bicycle tubes	Government of India	Petition denied.

B. PETITIONS TO REMOVE DUTY-FREE STATUS FROM A BENEFICIARY DEVELOPING COUNTRY FOR A PRODUCT ON THE LIST OF ELIGIBLE ARTICLES FOR THE GENERALIZED SYSTEM OF PREFERENCES

81-105	706.27	Flat goods	TPSC own motion	Republic of Korea was graduated on this product.

C. PETITIONS TO REMOVE (GRADUATE) A BENEFICIARY DEVELOPING COUNTRY FROM DUTY-FREE STATUS FOR A PRODUCT ON THE LIST OF ELIGIBLE ARTICLES FOR THE GENERALIZED SYSTEM OF PREFERENCES

81-89	406.20	Ethoxyquin	Monsanto Company, Washington, DC	Petition accepted, Israel graduated.
81-90	413.24	Saccharin	The Sherwin-Williams Company, Cleveland, OH	Petition denied.
81-91	445.42	Polyvinyl alcohol resins	Air Products and Chemical Inc., Allentown, PA	Petition accepted, Taiwan graduated.
81-92	651.476 pt	Caulking guns	Collier Industries, Inc., Colliers, WV	Petition accepted, Republic of Korea, Taiwan graduated.
81-93	657.25 pt	Ring binder elements	United States Ring Binder, Inc., New Bedford, MA	Petition denied.
81-94	661.1205	Refrigeration and air conditioning compressors: ¾ HP and under.	Tecumseh Products Company, Tecumseh, MI	Petition accepted, Singapore graduated.
81-95	683.10 pt	12-volt lead-acid type storage batteries	Yuasa-General Battery Corporation, Reading, PA, Exide Corporation, Philadelphia, PA.	Petition accepted, Taiwan graduated.
81-96	683.70	Flashlights and parts	Union Carbide Corporation, New York, NY	Petition accepted, Taiwan graduated.
81-97	684.5050 pt	Tubular electrical heating elements	Precision Tubular Heater Corporation, Franklin, TN	Petition accepted, Taiwan graduated.
81-98	727.29	Wood chairs	Keller Manufacturing Company, Inc., Corydon, IN	Petition denied.
81-99	727.40	Parts of furniture	Keller Manufacturing Company, Inc., Corydon, IN	Petition denied.
81-100	734.05	Billiard balls	Orange Products, Chatham, NJ	Petition denied.
81-101	755.30	Chemically treated mantles	The Coleman Company, Wichita, KA	Petition denied.
81-102	770.30 pt	Not flexible fish floats	The Housatonic Ever-Float Company, Inc., Shelton, CT	Petition denied.
11-103	770.80 pt	Flexible fish floats	The Housatonic Ever-Float Company, Inc., Shelton, CT	Petition denied.

D. PETITION TO DETERMINE AN ELIGIBLE ARTICLE AS NOT LIKE OR DIRECTLY COMPETITIVE WITH ANY ARTICLE PRODUCED IN THE UNITED STATES ON JAN. 3, 1975, IN ORDER TO AVOID LOSS OF GSP DUTY-FREE TREATMENT UNDER THE PROVISIONS OF THE TRADE ACT OF 1974

81-104	791.28	Leather footwear uppers	Florsheim Shoe Company, Chicago, IL	Petition denied.

[1]Tariff schedules of the United States annotated (19 U.S.C. 1202).

ANNEX II.—CASE REVIEWS PENDING

Case No.	TSUS or TSUSA[1] Item No.	Article	Petitioner

E. CASE REVIEWS PENDING

81-86	702.25	Straw headwear, not blocked or trimmed	The United Hatters, Cap and Millinery Workers International Union, AFL-CIO, The U.S. Hat and Cap Industry Trust Fund.
81-87	702.28	Straw headwear, blocked or trimmed	The United Hatters, Cap and Millinery Workers International Union, AFL-CIO, The U.S. Hat and Cap Industry Trust Fund.
81-88	702.30	Straw headwear, blocked or trimmed	The United Hatters, Cap and Millinery Workers International Union, AFL-CIO, The U.S. Hat and Cap Industry Trust Fund.

[1]Tariff schedules of the United States annotated (19 U.S.C. 1202).

[FR Doc. 82-18202 Filed 7-7-82; 8:45 am]
BILLING CODE 3120-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 22-11693]

American Medical International; Notice of Application and Opportunity for Hearing

June 30, 1982

Notice is hereby given that American Medical International, Inc. (the "Applicant") has filed an application under clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding that the trusteeship of The Chase Manhattan Bank (National Association) under two indentures qualified under the Act (the "Qualified Indentures") and the trusteeship of the Chase Manhattan Bank (National Association) under an indenture not so qualified (the "New Indenture") is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify The Chase Manhattan Bank (National Association) from acting as trustee under any of those indentures.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest it shall within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such Section provides, in effect, with certain

exceptions, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee under either of such indentures.

The Applicant alleges that:

(1) The Chase Manhattan Bank (National Association) currently is acting as trustee under two separate indentures in which the Applicant is the obligor. The first indenture, dated June 1, 1980, involved the issuance of $60,000,000 principal amount 8% Convertible Subordinated Debentures due 2000; and the second indenture dated November 15, 1981, involved the issuance of $125,000,000 principal amount 9½% Convertible Subordinated Debentures due 2001. These two indentures have been qualified under the Act.

(2) The Applicant is not in default in any respect under the indentures described above.

(3) The Chase Manhattan Bank (National Association) has entered into an indenture with American Medical International N.V. as issuer, and the Applicant as guarantor, dated May 15, 1982, involving $25,000,000 principal amount of 9¼% Guaranteed Convertible Bonds (the "Bonds") due 1997. the New Indenture is not and will not be qualified under the Act because the Bonds are being offered and sold under circumstances reasonably designed to preclude distribution or redistribution within the United States.

(4) The New Indenture and the Qualified Indentures are wholly unsecured and rank *pari passu inter se.* Aside from differences among these three indentures as to aggregate principal amounts, dates of issue, interest rates, maturity dates, redemption prices and sinking fund provisions, the terms of said indentures are substantially similar.

(5) Such differences as exist among the three indentures under the trusteeshp of The Chase Manhattan Bank (National Association) are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify The Chase Manhattan Bank (National Association) from acting as trustee under either of said indentures.

(6) Applicant has waived notice of hearing, and any and all rights to specify procedures under the Rules of Practice of the Commission in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the office of the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C.

Notice is further given that any interested person may, not later than July 26, 1982, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon.

Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-18484 Filed 7-7-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12511; (811-1376) (812-5220)]

Founders of American Investment Corp.; Filing of Application Pursuant to Section 3(b)(2) of the Act for an Order Declaring That Company Is Not an Investment Company and Pursuant to Section 8(f) for an Order Terminating Its Registration

June 29, 1982.

Notice is hereby given that Founders of American Investment Corporation ("Applicant"), 1031 E. Battlefield, Suite 124A, Springfield, Missouri 65807, a closed-end, non-diversified, investment company registered under the Investment Company Act of 1940 (the "Act"), filed an application on February 12, 1982, and an amendment thereto on May 3, 1982, requesting an order of the Commission, pursuant to Section 3(b)(2) of the Act, declaring Applicant to be primarily engaged in a business other than that of an investment company under the Act and, pursuant to Section 8(f) of the Act, declaring that Applicant has ceased to be an investment company as defined by the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, a summary of which appears below.

Applicant states that it was incorporated under the laws of the State of Missouri on June 9, 1954, and that it was formed for the purposes of organizing new life insurance companies which it was to wholly own or control. Applicant represents that it subsequently sold two wholly-owned companies and a portion of its holdings in a controlled company and thereafter, on March 17, 1976, registered under the Act.

Applicant represents further that on November 10, 1976, its shareholders voted to change the nature of Applicant's operations so as to cease to be an investment company. Applicant submits that at the time Applicant's investment policy required the concentration of its assets in real estate or in securities of life insurance or bank or loan companies. Applicant asserts that its shareholders, at a special meeting on June 5, 1978, adopted a proposal to change Applicant's investment policy to permit it to acquire and operate industrial and manufacturing businesses. Applicant maintains that its management actively began seeking a suitable acquisition of an industrial or manufacturing business and that during this period, on December 9, 1980, Applicant's investment policy was further modified by its shareholders to permit a majority of its assets (approximately 88% at that time) to be kept in bank and savings and loan certificates of deposit so they would be available for use when an acquisition was located. Applicant states that it has received a substantial majority of its income for the last five years from interest earned on its certificates of deposit, *e.g.*, $907,024 in its last fiscal year ended June 30, 1981. However, Applicant states further that 70% ($501,394) of its income since its purchase of GI Export Corporation ("GI Export") shares beginning on July 28, 1981, would be directly attributable to its interest in that company and that its remaining certificates of deposit earned $188,348 in interest during the last six month period of 1981.

The application states that on July 31, 1981, Applicant completed the purchase of three hundred thousand shares of GI Export, approximately 16% of the outstanding shares. Applicant made additional purchases of the shares of GI Export so that on March 31, 1982, Applicant beneficially owned 867,300 shares (approximately 45.13% of the outstanding shares) of GI Export. Applicant expresses its view that, as the owner of 45.13% of the outstanding stock of GI Export, it may be presumed, by virtue of Section 2(a)(9) of the Act, to control that company. Applicant states that no other natural person or company is known to own beneficially, either directly or indirectly, as much as 2% of the outstanding stock of GI Export.

Applicant states that it acquired its shares of GI Export for $4,856,509 in cash, and that GI Export is engaged in the export of automotive and truck parts and parts for tractor, industrial and marine use. On July 31, 1981, three representatives of Applicant were selected to fill vacancies which existed on GI Export's seven person board of directors according to Applicant.

Section 3(b)(2) of the Act excludes from the definition of an investment company, notwithstanding paragraph (3) of subsection (a): any issuer which the Commission, upon application by such issuer, finds and by order declares to be primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding or trading in securities either directly or (A) through majority-owned subsidiaries or (B) through controlled companies conducting similar types of businesses. Section 8(f) of the Act provides, in pertinent part, than when the Commission upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and that, upon the effectiveness of such order, the registration of such company will cease to be in effect.

In support of the relief requested, Applicant states that its business policies and operations have changed significantly since its registration as an investment company in 1966, so that it now no longer carries on the business of an investment company. Applicant notes that during the past five years, its shareholders have consistently directed its management to change the nature of Applicant's business policies and operations from those of an investment company and provide management with the requisite changes in investment policy to accomplish its shareholders' objectives. Applicant also states that its management has taken action to meet the shareholders' objectives by prudently disposing of Applicant's previous "investment securities" and using a large portion of its assets to acquire a controlling interest in an operating industrial company. In this regard, Applicant points out that since 1976 its public representations have consistently indicated its intention to become principally engaged in activities other than those of an investment company. Applicant states further that for several years prior to Applicant's acquisition of a controlling interest in GI Export, its officers and directors spent a majority of their time looking for suitable investments and the remainder of their time managing its assets, those being two pieces of real estate and numerous certificates of deposit which by their nature, required minimal attention. The application states that since the acquisition by Applicant of a controlling interest in GI Export its officers and directors have been substantially involved in the operations of that company, which has and will continue to require significantly more of their time than the review and management of Applicant's remaining "investment securities". Applicant notes that its Chairman and Vice Chairman of the Board also serve as Chairman and a member of the board of directors of GI Export, and as members of the Executive Committee of that corporation.

Applicant states that at the time of its registration as an investment company a large majority of its assets were invested in minority positions in stock of life insurance companies and a bank. Subsequent to November 10, 1976, the date its shareholders decided that Applicant should cease being an investment company, Applicant's shares in the life insurance companies were sold and the proceeds thereof held in short and long term certificates of deposit. On June 30, 1981, immediately prior to the acquisition by Applicant of a controlling interest in GI Export, approximately 88% of its assets were held in short and long term certificates of deposit and had been so invested for approximately three (3) years. Between July 1981 and March 1982, Applicant redeemed most of its certificates of deposit and used approximately 69% of its total assets to acquire 45.13% of the outstanding shares of GI Export. Of the remainder of Applicant's total assets of approximately $6,294,423.00, approximately 6.2% or $392,000.00 is represented by real estate, 19% or $1,197,161 in deferred taxes, office equipment and prepaid expenses and the balance, 19.4% being $2,220,975.00 in cash, certificates of deposit and interest receivable.

Notice is further given that any interest person may, no later than July 21, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompained by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or l aw proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–18489 Filed 7–7–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 12515; (812–3992)]

HCA, Inc.; Filing of Application for an Order Pursuant to Section 6(c) of the Act Retroactively Exempting Applicant From All Provisions of the Act

June 30, 1982.

Notice is hereby given that HCA, Inc. ("Applicant"), 7730 East Belleview Avenue, Englewood, Colorado 80111, a Delaware corporation, filed an application on July 20, 1976, and amendments thereto on October 10, 1980, January 22, 1981, and March 3, 1982, for an order of the Commission, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicant from all provisions of the Act retroactively to December 14, 1970, or, alternatively, to March 15, 1974. All interested persons

are referred to the amended application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant's predecessor, Holding Corporation of America (also referred to herein as "Applicant"), was incorporated in the State of Illinois in December, 1964, for the purpose of operating as an insurance holding company to hold a controlling interest in the stock of Thomas Jefferson Life Insurance Company ("Jefferson"), an Illinois legal reserve life insurance company. Since its organization, according to the application, Applicant has always been engaged in the insurance business through controlled and/or majority owned insurance company subsidiaries.

The application states that until November 27, 1974, Quentin L. Snook was the controlling person of Jefferson through his controlling person status in the Applicant. On that date, the Applicant purchased 36,609 shares of Jefferson for $234,297.60 in a private transaction from Mr. Snook and members of his family. As part of the same transaction, Applicant purchased 58,514 shares of its Class "A" common stock from Mr. Snook for $765,948.26. Thereafter, Mr. Snook resigned his position with both Applicant and Jefferson. At the time the application was initially filed, approximately 60% of Applicant's outstanding stock was owned by Victor L. Sayyah. Mr. Sayyah had acquired 59.64% of all of Applicant' voting securities in a transaction, described below, effective July 10, 1975. On October 15, 1981, a wholly-owned subsidiary of American Commonwealth Financial Corporation, an insurance holding company based in Louisville, Kentucky ("ACFC"), purchased approximately 70% of Applicant's outstanding shares entitled to vote (1,892,325 shares of common stock) for $15,000,000 in cash and a subordinated debenture in the principal amount of $30,000,000 due October 15, 2001 from Sayyah Corporation, a Delaware corporation wholly-owned by Mr. Sayyah. Approximately 66% of the capital stock of ACFC is owned by I.C.H. Corporation, which is also an insurance holding company.

From the time of its organization until March 15, 1974, over 90% of Applicant's assets were invested in from 46.67% to 49.99% of the common stock of Jefferson. From March 15, 1974, to July 21, 1975, after purchases of its shares by Jefferson from unrelated third persons during the first two months of 1974, substantially all of Applicant's assets continued to be invested in Jefferson's common stock, but as a majority interest. On July 21, 1975, according to the application, Applicant acquired 98.8% of the outstanding capital stock of Inter-Region Associates Corporation ("Inter-Region"), a Delaware corporation engaged in business as a general agency in the sale of life, accident and health insurance, in a stock for stock exchange with Victor Sayyah and Inter-Region's other shareholders. As a result, Mr. Sayyah acquired common stock of Applicant equivalent to 59.64% of all its voting securities. The application states that Inter-Region, in turn, as of December 31, 1975, owned a majority of the outstanding capital stock of National Heritage Management Corporation ("National"), a Delaware corporation. National became active in 1972 as a publicly held holding company to own 100% of the stock of National Heritage Life Insurance Company, another Illinois legal reserve life insurance company. From July 22, 1974, until December 4, 1975, substantially all of Applicant's assets were invested in a majority interest in the common stock of Jefferson and Inter-Region.

On December 4, 1975, Applicant loaned Western Empire Financial, Inc. ("Western"), a Delaware corporation, the sum of $3,578,150. The loan was evidenced by Western's promissory note due December 1, 1976, and secured by a security interest in 74,329 shares (then in excess of two-thirds) of the outstanding capital stock of Bankers Union Life Insurance Company ("Bankers"), a Colorado legal reserve life insurance company. The Western note was convertible into Western common stock based upon the actuarially adjusted book value of Western's common stock at December 31, 1975. The purpose of this loan is stated to have been to provide Western with the funds to repay certain of its debts then in default. As part of the same transaction, Jefferson purchased 20,750 shares of the authorized but theretofore unissued common stock of Bankers at a price of $40 per share for a total cost of $830,000. The application states that Bankers was in financial difficulties and needed a capital infusion and other corrective action regarding its surplus position. This was supplied in part by Jefferson's purchase of Bankers stock for $830,000 and Jefferson's purchase of a $138,000 participation (14%) in a mortgage loan owned by Bankers. Applicant assumed board of director control of both Western and Bankers and also subsequently foreclosed on its loan to Western and obtained the 74,329 shares of Bankers common stock securing the loan in December, 1976.

The application further states that since December 4, 1975, substantially all of Applicant's assets, except for the Western note (through December 15, 1978), have been invested in majority interests in the common stock of insurance companies and/or insurance holding companies. Applicant asserts that the Western loan constituted less than 40% of its total assets on an unconsolidated basis at all times that it was outstanding.

The application represents that it was not until January, 1975, in connection with the 1974 annual meeting of Applicant, that a question was raised by an examiner on the staff of the Commission as to whether or not Applicant was or might have been an investment company. Applicant consulted with its counsel, and was advised informally that in their opinion it was not then an investment company. The application further represents that management has since been advised by such counsel that, as of June 29, 1976, it was not an investment company and had not been such since March 15, 1974. Relying on the opinion of counsel, no application for exemption was filed with the Commission.

In January, 1976, the Commission's staff questioned certain affiliates of Applicant regarding their involvement with Applicant and those affiliates' investments in Pennsylvania Life Company and Applicant's status under the Act. Applicant's management determined to file an application for a retroactive exemption under the Act in order to eliminate any questions as to the validity of prior transactions of Applicant and its affiliates. The filing of the application was delayed, it is asserted, until July 20, 1976, pending completion of the audit of Applicant's 1975 financial statements by independent accountants.

Section 3(a)(3) of the Act defines an investment company as any issuer which "* * * is engaged or proposes to engage in the business of investing, reinvesting, owning, holding or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis." Section 3(a) defines investment securities to include "* * * all securities except * * * (C) securities issued by majority-owned subsidiaries of the owner which are not investment companies."

Prior to December 14, 1970, it is asserted, Section 3(c)(8) of the Act excepted from the definition of the term "investment company" a corporation 90% or more of the assets of which were invested in a single life insurance company. That exception was repealed on December 14, 1970, by the Investment Company Amendments Act of 1970. At that time and at all times prior thereto, Applicant, under the control of previous management, allegedly owned between 46.67% and 49.99% of the issued and outstanding common stock of Jefferson, which comprised in excess of 90% of Applicant's assets. Therefore, Applicant claims it was not an investment company during this period.

With the repeal of the mentioned exclusion in December, 1970, Applicant concedes that it may have become an investment company, but claims that its prior management was not aware of the repeal of the exemption and did not register under the Act or seek an exemption from registration. Applicant contends that the legislative history of the repeal of the exclusion provided in Section 3(c)(8) makes clear that Congress did not intend to change its status under the Act. In this regard, it is noted that Senate Report No. 91–184, 1970 U.S. Code Cong. & Adm. News, p. 4932 contains the following statement concerning the repeal of Section 3(c)(8): "Its deletion from the act will not affect existing exclusions for companies which control or manage the enterprises whose securities they hold." The application states that because Applicant clearly "controlled or managed" Jefferson, the deletion of Section 3(c)(8) did not affect Applicant's exclusion under the Act. Furthermore, the Section 3(c)(8) exclusion is alleged to have been unnecessary after March 15, 1974, when Applicant acquired a majority interest in Jefferson.

The application further states that from 1965 to the present, Applicant has been primarily engaged in the insurance business through controlled and/or majority-owned subsidiaries. Therefore, it is contended tha Applicant would have been entitled to an order pursuant to Section 3(b)(2) of the Act, exempting it from all the provisions of the act during the period from December 14, 1970 through March 15, 1974. As here pertinent, Section 3(b)(2) of the Act excludes from the definition of an investment company any issuer which the Commission, upon application by such issuer, finds and declares to be primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding or trading in securities either directly or (A) through majority-owned subsidiaries or (B) through controlled companies conducting similar types of business.

From March 15, 1974, to July 21, 1975, Applicant always owned in excess of 50% of Jefferson's stock. On July 21, 1975, Applicant acquired 98.8% of the stock of Inter-Region. Because Applicant then had a majority interest in both Jefferson and Inter-Region, these holdings were not "investment securities" as defined in Section 3(a) of the Act, and, it is asserted, Applicant was not an investment company pursuant to Section 3(a)(3).

Applicant contends that the December 4, 1975, loan of $3,578,150 by Applicant to Western also did not affect Applicant's status under Section 3(a)(3) of the Act. In the first place, it is argued, the loan constituted less than 40% of Applicant's total assets on an unconsolidated basis at all times that it was outstanding. Applicant's total assets as of December 31, 1975, for example, were $14,178,032; 40% of this figure is $5,671,213. Secondly, even if the Western loan had exceeded 40% of Applicant's total assets, it is further argued that this obligation was effectively a loan to an insolvent company secured by a majority interest (55.7% at December 31, 1975) of Bankers stock. In effect it was allegedly an investment either in a majority of the outstanding capital stock of Western or of Bankers. As a result, Applicant asserts that the loan would not constitute "investment securities" within the meaning of Section 3(a)(3). Finally, it is contended that none of the other events described above or in the application which have occurred since July 21, 1975, affect Applicant's status as an investment company under the Act.

Section 6(c) of the Act provides, in pertinent part, that the Commission upon application may conditionally or unconditionally exempt any person from any provision or provisions of the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and with the purposes fairly intended by the policy and provisions of the Act.

The application argues that the broad exemptive power provided in Section 6(c) was designed to permit the Commission to exempt persons "who are not within the intent of the proposed legislation," even though such persons technically come within specific provisions of the Act, thereby enabling the Commission to deal equitably with situations which were overlooked or unforeseeable in 1940. Because Applicant would allegedly have been entitled at all times to an order exempting it from the provisions of the Act, and because of the following reasons, an order retroactively granting such exemption is, it is asserted, necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy of the Act.

The application states that the operations of Applicant and its affiliates have at all times been subject to effective government supervision. Its insurance company affiliates were and are subject to regulation and supervision in the jurisdictions in which they did and do business. It is claimed further that Applicant's holdings are limited and it is relatively inactive except for its activities as an insurance holding company.

Investors in Applicant have, it is claimed, been protected by this mode of operation and by the policy of the Board of Directors of Applicant which is to invest in and acquire only controlling interests in life insurance companies, life insurance agencies or other companies involved in the life insurance industry. The only exception to this policy has been Applicant's involvement in the development of certain Colorado real estate.

As previously noted, Applicant allegedly had good reason to believe that it would have been entitled to an exemption from the provisions of the Act at any time during its existence. The validity of its exemption from the Act was first raised in January, 1975. Applicant's counsel investigated and advised that it was not then an investment company. Applicant in good faith relied on the verbal assurance of counsel that it was exempt from the Act. The question was not raised again until January, 1976, when the staff of the Commission questioned certain affiliates of Applicant. The application states that the Applicant then proceeded as expeditiously as possible to secure a retroactive exemption.

Applicant asserts, on the basis of all facts and circumstances, that it is not and has never been an investment company within the meaning and/or

intent of the Act; that it has been entitled to an order exempting it from all provisions of the Act at all times during its existence; that it has never been engaged in the business of investing, reinvesting, owning, holding or trading in securities, and does not own investment securities having a value exceeding 40 per centum of the value of its total assets on an unconsolidated basis; that it did not previously apply for an order exempting it from the Act because it in good faith believed that it was not subject to the Act; and that it is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the Act that Applicant be retroactively exempted from the provisions of the Act. Applicant has agreed that any order issued on the application shall be in effect only so long as it does not meet the definition of an investment company in Section 3(a) of the Act.

Notice is further given that any interested person may, not later than July 26, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–18488 Filed 7–7–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 12510; (812–5146)]

IDS Life Insurance Co. et. al.; Application for an Order Pursuant to Section 6(c) of the Act Exempting Applicants From Sections 2(a)(32), 2(a)(35), 22(c), 26(a), 26(a)(2)(C), 27(c)(1), 27(c)(2) and 27(d) of the Act and Rule 22c–1 Thereunder and for an Order Pursuant to Section 11 of the Act Approving Certain Offers of Exchange

June 29, 1982.

Notice is hereby given that IDS Life Insurance Company ("IDS Life"), IDS Life Separate Account C ("Account C"), IDS Life Separate Account D ("Account D") and IDS Separate Account E ("Account E") IDS Tower, Minneapolis, MN 55402 (together "Applicants"), filed an application on March 29, 1982, and amendments thereto on May 27, 1982 and June 23, 1982, for an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicants, to the extent requested, from Sections 2(a)(32), 2(a)(35), 22(c), 26(a), 26(a)(2)(C), 27(c)(1), 27(c)(2) and 27(d) of the Act and Rule 22c–1 thereunder and for an order pursuant to Section 11 of the Act approving certain offers of exchange. All interested persons are referred to the application as amended on file with the Commission for a statement of the representations made therein, which are summarized below.

Background

IDS Life is stock life insurance company organized under the laws of Minnesota. Accounts C, D, and E (together, "Accounts") are separate accounts of IDS Life and have been registered collectively under the Act as a unit investment trust. This unit investment trust offers certain variable annuity contracts under the name INNOVEST I. IDS Life is the depositor of the Accounts and the principal underwriter and distributor of the contracts.

Applicants previously received exemptive relief from cetain provisions of the Act to offer single payment deferred variable annuity contracts (the "Old Contracts") (Investment Company Act Release No. 12029 (November 10, 1981)). Applicants now propose to modify the Old Contracts and, in addition, to offer flexible payment deferred variable annuity contracts (the "New Contracts") (together with the Old Contracts, the "Contracts").

The Contracts are not intended for purchase by tax qualified plans. The Contracts have certain minimum purchase payment requirements. Furthermore, IDS Life may reject any payment made within twelve months after a partial surrender under a New Contract. During the accumulation period under the Contracts, a contractowner may transfer all or part of his contract value held in one or more of the Accounts to another one or more of the Accounts, provided that the minimum amount to be transferred is $250 (or the entire balance in the Account, if less). Each such transfer will be made, without the imposition of any fee or charge, as of the end of the valuation period during which IDS Life receives a valid, complete transfer request. This transfer privilege may be suspended or modified by IDS Life at any time; however, IDS Life will not modify the transfer privilege to provide for transfers on any basis other than the relative net asset values of the securities involved without seeking and obtaining any necessary order or consent from the Commission. Once each contract year during the annuity period, the contract owner also may elect to have the annuity units of one or more of the Accounts from which annuity payments derive exchanged for, or converted into, annuity units of another Account or Accounts.

No sales charge is deducted from purchase payments at the time they are made under the Contracts. However, IDS Life will impose a contingent deferred sales charges ("Surrender Charge") to help it recover certain expenses relating to the sale of the Contract, including commissions paid to sales personnel and other promotional and selling expenses. The New Contract provides that the Surrender Charge is imposed when all or part of the contract value is surrendered within the first ten contract years, or is, within the first five contract years, applied under an optional annuity payment plan. The amount of the Surrender Charge under a New Contract is the lesser of (i) 8.5% of the purchase payments received by IDS Life, or (ii) a specified percentage of the contract value surrendered or applied under an optional annuity payment plan. The specified percentage is 7% during the first five contract years, then it declines by 1% yearly from 6% in the sixth contract year to 2% in the tenth year. There is no Surrender Charge after the tenth year. Further, there is no Surrender Charge on contract value applied under an annuity payment plan during the sixth and later contract years, nor is there a Surrender Charge if the annuitant dies during the accumulation period.

The Old Contracts provide that the Surrender Charge will be applied upon redemption, upon certain partial withdrawals during the first seven years

of a Contract or upon the application during the first five contract years of any amount under an optional annuity payment plan. However, the owner of an Old Contract may surrender up to 10% of the amount of the purchase payment in any contract year after the first, without the imposition of any Surrender Charge. Any surrender during the first contract year, and any surrender of any amount in excess of 10% of the purchase payment during any of contract years two through seven, will result in the imposition of a Surrender Charge under an Old Contract. This Surrender Charge will be an amount equal to the lesser of (i) 8.5% of the purchase payment or (ii) if the surrender is during the first contract year, 7% of the amount surrendered, or if the surrender is during the second through seventh contract year, a percentage of the amount by which the amount surrendered during such contract year exceeds 10% of the purchase payment, such percentage being 6% in the second contract year and decreasing by 1% per year to 1% in the seventh contract year. After the seventh contract year there is no Surrender Charge, nor is there a Surrender Charge if the annuitant dies during the accumulation period. Formerly, the Old Contracts had a Surrender Charge which was equal to the lesser of 9% of the purchase payment or, if the surrender is during the second through seventh contract year a percentage of the amount by which the amount surrendered during such contract year exceeds 10% of the purchase payment, such percentage being 6% in the second contract year and decreasing by 1% per year.

The Contracts provide for an annual administrative charge ("Administrative Charge") of $30 for the the New Contracts or $20 for the Old Contracts during the accumulation period. This charge is made to reimburse IDS Life for expenses incurred in processing premium payments and establishing and maintaining the records relating to the contractowner and his participation in the Accounts for the duration of his contract. The amount of this charge may not be increased by IDS Life. The Administrative Charge is deducted from the contract value on the last day of each contract year during the accumulation period; and if a contract is surrendered on other than the last day of a contract year, the charge will be deducted from the contract value before determining the surrender value.

IDS Life also makes a daily deduction from the Accounts of a fee which is equivalent to 1% of the average net assets on a annual basis. This fee is intended to compensate IDS Life for the risks it assumes under the Contracts, an annuity mortality risk and an expense risk ("Mortality and Expense Risk Charge"). IDS Life estimates that approximately two-thirds of the Mortality and Expense Risk Charge is attributable to the mortality risk and one-third is attributable to the expense risk.

The application states that IDS Life does not plan to profit from the Annual Administrative Charge. Furthermore, based on its actuarial determinations, IDS Life does not expect that its Surrender Charge will cover sales and distribution expenses incurred by IDS Life in connection with the Contracts. However, IDS Life does hope to profit from the Mortality and Expense Risk Charge. Applicants state that any profits realized by IDS Life from the Contracts would be available to it for any proper corporate purpose, including among other things, payment of distribution (selling) expenses.

Approval Under Section 11

Section 11(a) of the Act makes it unlawful for any registered open-end investment company or any principal underwriter for such a company to make or cause to be made an offer to the holder of a security of such company or of any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission. Section 11(c) provides in part that, irrespective of the basis of exchange, the provisions of subsection (a) shall be applicable to any offer of exchange of any security of a registered open-end company for a security of a registered unit investment trust and to any type of offer of exchange of the securities of a registered unit investment trust for the securities of any other investment company. Under the Contracts, an owner may split the allocation of the purchase payments among the Accounts. Each of the Accounts is invested exclusively in the share of an open-end managemeent investment company. Applicants propose to permit transfers of contract value among the Accounts as described above. The application states that such transfers will be effected at net asset value, with no assessment of any kind of transaction or sales charge. Applicants submit that the transfer rights will afford the owner flexibility of a choice among the shares of investment companies having different investment objectives. Applicants contend that the transfer rights are not in any way violative of any of the provisions of Section 11 of the Act, and request an order pursuant to Section 11 to the extent necessary to permit Applicants to offer contractowners the transfer privileges described.

Exemptive Relief Requested

Section 27(c)(2) prohibits a registered investment company or a depositor or underwriter for such company from selling periodic payment plan certificates unless the proceeds of all payments, other than the sales load, are deposited with a bank as trustee or custodian having the qualifications prescribed in Section 26(a)(1) and held under an indenture or agreement containing, in substance, the provisions required by Section 26(a) (2) and (3) for a unit investment trust. Section 26(a)(2) requires that the trustee or custodian segregate and hold in trust all securities and cash of the unit investment trust and places certain restrictions on charges which may be made against the trust income and corpus. Section 26(a)(3) governs the circumstances under which the trustee or custodian may resign. Applicants request an exemption from Section 26(a) and 27(c)(2) so that IDS Life may administer the Accounts without appointing a bank trustee or custodian and without having physical possession of the assets of the trust. Applicants indicate that the Accounts will invest their assets in shares of registered investment companies which use open account systems for their shares. Therefore, Applicants state, there will be no certificates to keep in custody. Applicants further state that obligations of the Accounts are policy obligations of IDS Life under Minnesota law and consequently are backed by IDS Life's total resources (except those of its other separate accounts) and that the activities of the Accounts will be closely supervised by Minnesota insurance authorities.

As noted above, Section 27(c)(2) of the Act provides that the proceeds of all payments made on periodic payment plan certificates issued by a registered investment company (except amounts deducted for sales load) must be deposited with a trustee or custodian with the qualifications prescribed by Section 26(a) and held by such trustee or custodian under an agreement described therein. Section 26(a)(2)(C) provides that no payment to the depositor or principal underwriter of a unit investment trust shall be allowed the custodian as an expense, except a fee, not exceeding

such reasonable amounts as the Commission may prescribe, as compensation for performing bookkeeping and other administrative services of a character normally performed by the custodian. Applicants request an exemption from the operation of the provisions of Sections 26(a)(2)(C) and 27(c)(2) of the Act to the extent necessary to permit payment of the Surrender Charge in the manner described.

Section 2(a)(35) defines "sales load" as the difference between the price of a security to the public and that portion of the proceeds from its sale which is received and invested, less any portion of such difference deducted for trustee's or custodian's fees, insurance premiums, issue taxes, or administrative expenses or fees which are not properly chargeable to sales or promotional activities. Applicants request an exemption from that section to the extent necessary to permit the imposition of the Surrender Charge.

Rule 22c–1, promulgated under Section 22(c) of the Act, in pertinent part, prohibits a registered investment company issuing a redeemable security from selling, redeeming, or repurchasing any such security except at a price based on the current net asset value of such security. Applicants request an exemption from Rule 22c–1 and Section 22(c) of the Act to the extent necessary to permit imposition of the Surrender Charge.

Section 27(c)(1) of the Act, in pertinent part, prohibits any registered investment company issuing periodic payment plan certificates, or depositor or underwriter therefor, from selling any such certificate unless it is a redeemable security. Applicants request an exemption from its provisions to the extent necessary to permit imposition of the Surrender Charge.

Section 2(a)(32) of the Act, in pertinent part, defines "redeemable security" as any security under the terms of which the holder is entitled to receive approximately his proportionate share of the issuer's current net assets or the cash equivalent thereof. Section 27(d) of the Act, in pertinent part, requires that the holder of a periodic payment plan certificate be able to surrender the certificate under certain circumstances with the recovery of certain front-end sales charges. Applicants request an exemption from the provisions of Section 2(a)(32) and 27(d) of the Act to the extent necessary to permit the imposition of the Surrender Charge.

As noted above, the Contracts are subject to an annual administrative charge of $30 for the New Contracts or $20 for the Old Contracts. If the value of the Contracts is surrendered in full on other than the last day of the contract year, the Administrative Charge will be deducted before determining the redemption value. Applicants believe that certain of the provisions of the Act discussed above relating to the Surrender Charge may be equally applicable to the Administrative Charge. Thus, Applicants request exemptions from the provisions of Sections 2(a)(32), 22(c), 27(c)(1), and 27(d) of the Act and Rule 22c–1 thereunder, to the extent necesary, to permit deduction of the Administrative Charge as described.

As noted above, Section 27(c)(2) of the Act provides that the proceeds of all payments made on periodic payment plan certificates issued by a registered investment company (except amounts deducted for sales load) must be deposited with a trustee or custodian with the qualifications prescribed in Section 26(a) and held by such trustee or custodian under an agreement described therein. Section 26(a)(2)(C), as here pertinent, provides that no payment to the depositor or principal underwriter of a unit investment trust shall be allowed the custodian as an expense, except a fee, not exceeding such reasonable amounts as the Commission may prescribe, as compensation for performing bookkeeping and other administrative services of a character normally performed by the custodian. Section 26(a)(2)(D) further provides that the custodian have possession of all securities and other property in which the funds of the trust are invested subject only to charges and collections allowed under subsections (A), (B) and (C) of Section 26(a) until distribution thereof to the security holders of the trust. Applicants request an exemption from the provisions of Sections 26(a)(2)(C) and 27(c)(2) to the extent necessary to permit deduction by IDS Life and payment to IDS Life of the Administrative Charge, the Mortality and Expense Risk Charge and any applicable state premium tax.

Section 6(c)

Section 6(c) authorizes the Commission to exempt any person, security or transaction or any class or classes of persons, securities or transactions, from the provisions of the Act and rules progmulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants contend that the requested exemptions are necessary and appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later that July 21, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued, as of course, following July 21, 1982, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a heaing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–18488 Filed 7–7–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 18863; (SR–NYSE–82–10)]

New York Stock Exchange, Inc.; Notice of Filing and order Granting Accelerated Approval of Proposed Rule Change

July 1, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on June 28, 1982, the New York Stock Exchange, Inc. ("NYSE") 11 Wall Street, New York, NY. 10005, filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would amend the "Agreements" filed with the NYSE by transfer agents and registers. At present, transfer agents of listed companies are required to notify the exchange of each issuance of additional shares and registrars are required to await a release from the exchange before registering the shares. This policy was originally adopted in an effort to prevent an over-issuance of shares. However, in view of the current practices and control procedures of transfer agents and registrars, including the oversight of Federal and/or State bank examiners and independent public accountants, the exchange believes the present procedures are no longer necessary. Therefore, the exchange is proposing to delete the unnecessary reporting requirements from its transfer agent and registrar agreements. Under the proposal, listed companies would be required, for billing purposes, to make quarterly reports to the exchange of the number of shares outstanding.

The NYSE stated in its submission that the proposed rule change is designed to promote efficiency in the issuance by transfer agents of additional shares and to eliminate delays in the registration of additional shares. In this regard, the exchange solicited comments from the Stock Transfer Association, Inc. and the Corporate Transfer Agents Association, Inc. (trade associations representing transfer agents and registrars), both of which affirmatively indorsed the proposed rule change.

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change on before July 29, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of one Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-NYSE-82-10.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all writen communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and, in particular, the requirements of Section 6 and the rules and regulations thereunder. Furthermore, as stated in the exchange filing, the proposed rule change is based on Section 6(b)(5) of the Act, which among other changes requires, exchange rules to be designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling processing information with respect to, and facilitating transactions in securities, and, in general, to protect investors and the public interest.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that is designed to eliminate a paperwork burden on transfer agents that no longer serves a regulatory purpose and does not provide a public benefit. In addition, the NYSE has requested that the proposed rule be approved by the beginning of the next quarter (*i.e.*, July 1, 1982) in order to facilitate the initiation of the new reporting system in which issuers advise the exchange quarterly of the number of shares outstanding. Accordingly, the Commission finds that notice for 30 days prior to approval is unnecessary and that accelerated approval is in the public interest.

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-18485 Filed 7-7-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18658; (SR-PSE-82-6)]

Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change

June 29, 1982.

The Pacific Stock Exchange, Inc. ("PSE"), 301 Pine Street, San Francisco, CA 94104, submitted on April 12, 1982, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to amend PSE Rule 10(f) to provide that the PSE has elected, pursuant to Rule 11Ac1-1(b)(5)(i) under the Act, to collect, process and make available bids, offers and quotation sizes with respect to any PSE-traded security which is listed on the New York Stock Exchange, the American Stock Exchange ("Amex"), or on any regional exchange which substantially meets Amex listing criteria.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 18657, April 15, 1982) and by publication in the **Federal Register** [47 FR 17152, April 21, 1982). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-18490 Filed 7-7-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12514; (812-5051)]

Frank Russell Investment Co.; Filing of Application for an Order Pursuant to Sections 6(c) and 17(b) of the Act Exempting the Applicants From Sections 12(d)(1), 17(a) (1) and (2), and 17(d) of the Act, and Rule 17d-1 Thereunder

June 30, 1982.

Notice is hereby given that Frank Russell Investment Company ("FRIC"), 1100 First Interstate Plaza, P.O. Box 1616, Tacoma, Washington 98401, an open-end diversified management investment company incorporated under Maryland law, Frank Russell Co., Inc., ("Russell Co."), a broker-dealer and investment adviser registered respectively under the Securities Exchange Act of 1934 and the Investment Advisers Act of 1940, and Frank Russell Investment Management Company, a newly organized Washington corporation which, pursuant to a proposed reorganization of Russell Co., will take over from Russell

Co. as "Corporate Manager", and therefore as investment adviser, of FRIC, (collectively "Applicants") filed an application on December 21, 1981, and an amendment thereto on May 13, 1982, for an order pursuant to Sections 6(c) and 17(b) of the Investment Company Act of 1940 ("Act") exempting Applicants from Sections 12(d)(1), 17(a)(1) and (2), and 17(d) of the Act, and Rule 17d–1 thereunder, to the extent necessary to permit certain of the investment portfolios of FRIC to purchase shares of that investment portfolio of FRIC that invests solely in short-term money market instruments ("Money Market Fund"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that FRIC is organized as a "series" investment company with assets segregated into seven different investment portfolios ("Funds"), each with different investment objectives, policies and restrictions. Applicants further state that Russell Co. serves as Corporate Manager of FRIC, making it an investment adviser of FRIC, and also as the entity which has the right to determine who may purchase shares of FRIC, which may cause Russell Co. to be deemed the principal underwriter for FRIC.

Applicants submit that FRIC's method of operation is distinctly different from that of a conventional investment company. According to Applicants, each of the Funds other than Money Market Fund (collectively, "Other Funds") employs from two to eight "Money Managers", who have complete discretion to purchase and sell portfolio securities for the segment (i.e. the portion of an Other Fund's assets) of an Other Fund's investment portfolio assigned by Russell Co. to the Money Manager. Applicants assert that this arrangement is unlike the typical investment company whose portfolio investments are typically implemented by a single investment advisory organization.

Applicants state that under these investment management arrangements, none of the Funds pays an investment advisory fee to Russell Co., or to the Money Managers. Instead, Applicants state, shareholders of the Funds, as clients of Russell Co., pay a fee directly to Russell Co. for asset management services, which includes use of the Funds as investment vehicles; Russell Co. pays the fees charged by the Money Managers. Applicants further state that, unlike conventional investment companies offering their shares to the general public, where there is no significant contact or ongoing relationship between the investment company's shareholders and the investment adviser, FRIC offers shares only to institutions and, in certain limited situations, to individuals that have entered into Asset Management Services Agreements with Russell Co., establishing an ongoing and anticipated long-term relationship. Applicants state that although an institutional or individual shareholder can be a shareholder of Money Market Fund without being a shareholder of any of the Other Funds, and *vice versa*, over time it can be expected that there will be a significant similarity between shareholders of Money Market Fund and the Other Funds.

According to the application, Money Market Fund was designed as a repository and very short-term investment vehicle for investors' monies destined for one of the Other Funds, and as a means for investing the "cash reserves" of the Other Funds. Applicants state that shares of Money Market Fund are not retailed to the general public.

Applicants state that at all times it can be expected that each of the Other Funds will hold "cash reserves", that are allocated among the Money Managers of each Other Fund. Applicants state that the cash reserves arise from five different sources: (1) New monies received from investors; (2) dividends and/or interest received by an Other Fund on its portfolio transactions, which are held until additional portfolio securities are selected by each Money Manager; (3) unsettled or "failed" securities transactions; (4) reserves held for investment strategy purposes; and (5) cash arising from the liquidation of investment securities to meet anticipated redemptions and cash dividend payments.

Applicants submit that in the conventional mutual fund structure, the fund adviser, with relative administrative ease and high investment effectiveness, can work with the mutual fund's custodian bank and transfer agent to determine the daily cash balances from the above sources, and can invest on a timely, daily basis virtually all of the mutual fund's cash reserves because only one advisory management organization is responsible for decision-making and future timing and disposition of these cash reserves. Applicants state that, in contrast, because of FRIC's use of multiple Money Managers who are allocated segments of each of the Other Fund's investment portfolios to manage, each Money Manager has, at all times, a cash reserve position within its portfolio segment which, because each Other Fund has several Money Managers, is small. Applicants state that each Money Manager's cash reserves must be kept separate for record-keeping purposes in order to compute, among other things, the Money Manager's fees and investment results, and to enable each Money Manager to know precisely the assets allocated to it.

Applicants state that they believe State Street Bank and Trust Company ("State Street"), which serves as custodian for all assets, and as the transfer agent for each of FRIC's Funds, as well as the sole discretionary Money Manager for Money Market Fund, is in the best position (i) to know as of a given moment the cash reserves held by each of the Other Funds, and each of their Money Managers, (ii) to know the purpose and need for these reserves, and (iii) to make and implement decisions with respect to investment of these reserves. Applicants assert that this is so since State Street is (1) the initial recipient of cash reserves derived from new monies and dividends or interest and of Money Managers' instructions that orders to purchase (and settle) portfolio securities have been executed, (2) the only entity immediately aware of and in a position to act timely upon information with respect to the current deliveries and/or fails to deliver position of Other Funds' securities settlements, (3) the central communications point for daily contact with each of the Money Managers concerning their portfolio securities investment commitments and strategies, and (4) the company that actually issues redemption and dividend checks, and that will receive the checks as they are presented for payment by shareholders.

Accordingly, and in view of FRIC's multi-manager operational structure, Applicants state that a principal method for the Other Funds to invest cash reserves would be for each of the Other Funds to use its cash reserves to purchase shares of Money Market Fund. Applicants state that as an operational matter, State Street would simply "sweep" the cash reserves held for each of the Money Managers for its segment of an Other Fund's portfolio, invest those cash reserves in shares of Money Market Fund, and have Money Market Fund invest all of its cash assets in short-term money market instruments.

Section 12(d)(1)(A) of the Act provides, in pertinent part, that a registered investment company may not

invest, beyond certain prescribed percentage limitations, in the shares of another investment company. Section 12(d)(1)(B) prohibits a registered investment company, principal underwriter or broker-dealer from selling securities of one investment company to another investment company if the percentage limitations set forth in subsection (A) are exceeded.

Section 17(a) of the Act provides, in pertinent part, that it shall be unlawful for any affiliated person of a registered investment company or any affiliated person of such person, acting as principal to knowingly sell or purchase any security to or from such registered company. Section 17(d) of the Act and Rule 17d–1 thereunder generally provide that it shall be unlawful for any affiliated person of a registered investment company or any affiliated person of such a person, acting as principal, to effect any transaction in which such registered company is a joint or a joint and several participant with such person, or affiliated person, on a basis different from or less advantageous than that of such other participant.

Applicants note that each of the Funds may be deemed a separate investment company for purposes of Section 12(d)(1), and, therefore, that an exemption may be required to permit one of the Other Funds to invest in Money Market Fund and to permit Money Market Fund and Russell Co. to sell shares of Money Market Fund to each of the Other Funds. Applicants further note that each of the Other Funds may be deemed an affiliated person of Money Market fund and the issuance by Money Market Fund of its shares to an Other Fund may be deemed a sale to a registered investment company by an affiliated person of such company in violation of Section 17(a)(1) of the Act and that the redemption by Money Market Fund of its shares from an Other Fund may be deemed a purchase by Money Market Fund (as an affiliated person) from an Other Fund (as a registered investment company) in violation of Section 17(a)(2). Applicants further note that the purchase of shares of Money Market Fund by an Other Fund may be deemed a joint transaction under Section 17(d) of the Act.

Applicants assert several arguments to support permitting the proposed transactions. Applicants state that each Other Fund incurs a custodian transaction charge of $14 for each purchase or sale (i.e., $28 per round trip) of a money market instrument. Although State Street as Money Manager for Money Market Fund may make more than one additional investment for Money Market Fund if the proposed procedure is effected, each Other Fund's transaction costs will be substantially reduced. If, for example, Money Market Fund makes five, rather than a single, investment of each day's aggregate cash reserves and if each Money Manager (there are 24) would make only a single investment of its cash reserves, investments by the Other Funds in shares of the Money Market Fund, rather than in money market instruments, will reduce the aggregate custodian transaction charges to the Other Funds by approximately 80%. In addition, Applicants state that the fragmentation of FRIC's cash reserves rather than the pooling of assets for cash investment through the mechanism proposed by FRIC lowers the potential return to each Other Fund because, in general, the larger the amount invested, the higher the return that can be obtained. Applicants further state that since the most desirable and highest quality cash reserve investments are available only in large denominations, this fragmentation reduces the investment opportunities available to the Other Funds. Applicants further state that if each Money Manager for each of the Other Funds continues to invest cash reserves directly in money market instruments, Money Market Fund and its shareholders are also adversely affected through lower returns and reduced investment opportunities, and that this effect is exacerbated for FRIC's Money Market Fund, as compared to a conventional money market fund (whether it stands alone or is a member of a complex) because of Money Market Fund's limited purposes and the absence of any marketing program designed to increase its assets by making Money Market Fund an independent investment vehicle.

Applicants assert that none of the abuses that Section 12(d)(1) was designed to guard against are present in FRIC's proposal. Applicants state that Section 12(d)(1)(A) was enacted to protect an investment company's shareholders from, among other things, undue influence over portfolio management through the threat of large scale redemptions, the acquisition of voting control of the investment company, the layering of sales charges, advisory fees, and administrative costs, and the complexity of the structure with the resultant difficulty on the part of the uninitiated stockholder in appraising the true value of his security.

Applicants state that Money Market Fund, unlike the equity funds which gave rise to the Commission's concerns, is run specifically to maintain a highly liquid portfolio; indeed, a principal reason for having the Money Market Fund and permitting the Other Funds to use the Money Market Fund is to enhance the ability to schedule and control the cash reserves available for investment. Applicants submit that where the purpose of the Money Market Fund is communicated to State Street and the Fund is operated to satisfy that purpose, there is no "threat" of redemption to gain undue influence over portfolio policies. Similarly, Applicants state, Russell Co. derives its compensation as corporate manager for FRIC whether assets are in Money Market Fund or one or more of the Other Funds, and thus is not susceptible to undue influence in its management of Money Market Fund because of threatened redemptions from Money Market Fund or the loss of advisory fees. Applicants further state that State Street, as Money Manager for Money Market Fund, also is not subject to undue influence; it is aware of the short-term (frequently over-night) nature of the cash reserves and has no reason or incentive to manage the Money Market Fund other than in accordance with its purpose and demands.

Applicants state that under Maryland Corporation Law, shares of FRIC held by the Other Funds may not be voted or counted in determining shares entitled to vote. Thus, Applicants state, the Other Funds cannot exercise voting control over Money Market Fund.

Applicants represent that there is no layering of sales charges, advisory fees or administrative expenses. Applicants state that all FRIC Funds are offered without a sales charge. Applicants further state that each investor pays a single Asset Management Services Fee to Russell Co. based upon the aggregate assets of the investor in the FRIC Funds irrespective of whether its assets are in Money Market Fund or in one or more of the Other Funds; the Funds themselves pay no direct fees to Russell Co. In addition, Applicants state, Russell Co. has no incentive to cause any Other Fund to invest in Money Market Fund and, moreover, would suffer a financial detriment by doing so because it would be obligated to pay fees both to State Street as the Money Manager for Money Market Fund, as well as to the Money Manager for the Other Fund on cash reserves. In this respect, Applicants assert, the duplication which would arise if a conventional mutual fund complex were to follow this procedure—because management fees are charged directly to each fund—is avoided. Applicants state that they believe that

to the extent investments by the Other Funds in Money Market Fund may tend to increase somewhat the custodial transaction charges of Money Market Fund, these charges should be completely or substantially offset by the higher returns available to Money Market Fund through the pooling of assets, by spreading the transaction charges across a substantially larger asset base, and by spreading other fixed costs of the Money Market Fund across a larger average asset base.

Applicants state that Money Market Fund's financial statements and schedule of portfolio securities will appear in the same annual and periodic reports as the Other Funds' statements, and the investment objectives, policies and restrictions of all Funds appear in the same prospectus. Therefore, Applicants submit that an investor will have no difficulty assessing the true value of each Other Fund's holdings in Money Market Fund.

Applicants state that the Other Funds and Money Market Fund have considered whether it is necessary or appropriate to impose some percentage limitations (in lieu of the limits set forth in Section 12 of the Act) upon (i) either the percentage of the Other Fund's assets that can be invested in Money Market Fund, or (ii) the percentage amount of Money Market Fund that can be held by one Other Fund or by all of the Other Funds in the aggregate. For several reasons, no such restrictions have been adopted: (1) the nature of the transactions is non-abusive in the context of Section 12(d), (2) the portfolio securities in which Money Market Fund invests are highly liquid, and Money Market Fund (and its Money Manager, State Street) can and will purchase money market instruments based upon the liquidity needs of the Other Funds, (3) if percentage limitations—even very generous ones—were imposed upon the percentage of its assets which any Other Fund could invest in Money Market Fund, the limitations would undercut, if not eliminate, the utility of the approach, the nature of the probably institutional-size cash flows, while providing no meaningful protection for investors in either the Other Fund or the Money Market Fund.

Applicants submit that the Section 6(c) exemptive standards are satisfied by the proposed transactions. Applicants state that the "public interest" and the "purposes fairly intended by the policy and provisions" of the Act favor eliminating the potential abuses discussed above, and reducing costs and increasing returns to investors. Applicants further submit that the potential abuses which Section 12(d)(1) was intended to remedy do not exist in FRIC's proposal.

Moreover, Applicants assert, (i) the full disclosure of the proposed practice, (ii) the nature, purposes and conservative, liquid investment practices of Money Market Fund, and (iii) the intended use by the Other Funds of Money Market Fund provide all necessary protection for investors.

Applicants also submit that the Section 17(b) standards for exemption from Section 17(a) are met by the terms of the proposed transactions. Section 17(b) generally provides for exemption from Section 17(a) where (1) the terms of the proposed transaction are reasonable and fair and do not involve overreaching, (2) the proposed transaction is consistent with the stated policy of each registered investment company concerned, and (3) the proposed transaction is consistent with the general purposes of the Act.

Applicants state that the price at which shares of Money Market Fund are sold and redeemed is controlled by the terms of its "amortized cost pricing" exemption (Investment Company Act Release No. 11966 (October 1, 1981)). Applicants therefore assert that the consideration paid for the sale and redemption of Money Market Fund shares is reasonable and does not involve overreaching on the part of any Other Fund or the Money Market Fund.

In addition, Applicants submit that since the Money Managers retain the freedom to invest their cash reserves directly in money market instruments, and since they will do so to enhance their own investment results and to thereby receive a favorable evaluation, there is an independent check upon the investment of an Other Fund's assets in an investment which does not produce a competitive rate of return. Conversely, Applicants state that Money Market Fund reserves the right to discontinue selling shares to the Other Fund if such sales would adversely affect the portfolio management and operations of Money Market Fund. Applicants also submit that the proposed transactions are consistent with the policies of FRIC and the purposes of the Act.

Finally, Applicants state that they believe the proposed transactions come within the standard for exemption from Section 17(d) of the Act and Rule 17d–1 thereunder which is that the proposed transaction be consistent with the provisions, policies, and purposes of the Act and the participation in the joint transaction by the investment company is not on a basis different from or less advantageous than that of other participants.

Applicants state that FRIC has considered the relative benefits to each of the Other Funds and to the Money Market Fund to be derived from the proposed arrangement and determined that operating in this proposed manner would be beneficial to each Fund, and that there is no basis on which to predict greater benefit to any one Fund than to another. Applicants further state that relative to the Funds and the benefits they derive, neither Russell Co. nor any Money Manager for an Other Fund derives an unfair or unreasonable benefit. Russell Co. may derive very modest reduced clerical costs and administrative convenience, but these benefits are more than offset by its paying State Street added fees as Money Manager for the Money Market Fund. Applicants state that while Other Funds' Money Managers may derive nominal cost savings, their biggest benefit is the elimination of the intangible "hassle factor" of having to invest relatively small sums of money in cash instruments. Applicants state that as Money Manager for Money Market Fund, State Street—which is not in a position to exercise control or to dominate FRIC—will derive increased Money Manager fees, but reduced custodial transaction charges. Applicants assert there are no "conflicts of interest" between or among the Funds, and there is no inherent bias favoring one Fund over another.

Applicants submit that the Section 17(d) exemptive standards are satisfdied because (1) increasing returns and reducing costs to investors is consistent with the provisions, policies, and purposes of the Act, (2) the Other Funds participate in the arrangement on the same basis with one another, and do not participate on a basis which is different from or less advantageous than one another, and (3) to the extent that Money Market Fund participates on a basis which is different from or less advantageous than (or more advantageous than) the Other Funds, the relative advantages and/or disadvantages vary randomly over time and are within a range of fairness.

Notice is hereby given that any interested person may, not later than July 23, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his/her interest, the reasons for such request, and the issues, if any, of fact or law proposed to controverted, or he/she may request that he/she be notified if the Commission shall order a hearing

thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-18497 Filed 7-7-82; 8:45 am]

BILLING CODE 8010-01-M

[812-5050; Rel. No. 12512]

IDS Life Insurance Co. et al.; Application for an Order of Exemption

June 29, 1982.

In the matter of IDS Life Insurance Company, IDS Life Separate Account F, IDS Life Separate Account G, and IDS Life Separate Account H, IDS Tower, Minneapolis, MN 55402.

Notice is hereby given the IDS Life Insurance Company ("IDS Life"), IDS Life Separate Account F ("Account F"), IDS Life Separate Account G ("Account G"), and IDS Life Separate Account H ("Account H") (together, "Applicants") filed an application on December 21, 1981, and amendments thereto on March 26, 1982, May 27, 1982, and June 23, 1982, for an order of the Commission, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") granting exemptions to the extent requested from Sections 2(a)(32), 2(a)(35), 22(c), 22(e), 26(a), 26(a)(2)(C), 27(c)(1), 27(c)(2), and 27(d) of the Act and Rule 22c–1 thereunder and, pursuant to Section 11 of the Act, approving certain offers of exchange. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Background

IDS Life is a stock life insurance company organized under the laws of Minnesota. Accounts F, G, and H (together, "Accounts"), separate accounts of IDS Life, are registered collectively under the Act as a single unit investment trust. This unit investment trust offers and sells flexible payment deferred variable annuity contracts (the "old Contracts") pursuant to an exemptive order of the Commission (Investment Company Act Release No. 12009 (October 28, 1981)). The trust intends to modify the Old Contracts and to offer single payment deferred variable annuity contracts (the "New Contracts") (together with the Old Contracts, the "Contracts"). IDS Life is depositor of the Accounts and principal underwriter and distributor of the Contracts.

The Contracts are for purchase by plans which qualify for special Federal income tax treatment afforded certain retirement plans under Sections 401, 403, 408 and 457 of the Internal Revenue Code. The Contracts have certain minimum purchase payment requirements. IDS Life may reject any purchase payment under the Old Contracts as modified made within twelve months after a partial surrender.

During the accumulation period under the Contracts, a contractowner may transfer all or a part of the contract value held in one or more of the Accounts to another one or more of the Accounts, provided that the minimum amount which may be transferred is $250 (or the entire balance in the Account, if less). Each such transfer will be made, without the imposition of any fee or charge, as of the end of the valuation period during which IDS Life receives a valid, complete transfer request. This transfer provilege may be suspended or modified by IDS Life at any time; however, IDS Life will not modify the transfer privilege to provide for transfers on any basis other than the relative net asset values of the securities involved without seeking and obtaining any necessary order or consent from the Commission. Once each contract year during the annuity period, the contractowner also may select to have the annuity units of one or more of the Accounts from which annuity payments derive exchanged for, or converted into, annuity units of another Account or Accounts.

No sales charge is deducted from the purchase payments at the time they are made under the Contracts. However, IDS Life will impose a contingent deferred sales charge ("Surrender Charge") to help it recover certain expenses relating to the sales of the Contracts, including commissions paid to sales personnel and other promotional and selling expenses. The Old Contracts as modified provide that the Surrender Charge is imposed when all or part of the contract value is surrendered within the first ten contract years, or is, within the first five contract years, applied under an optional annuity payment plan. The amount of the Surrender Charge under a modified Old Contract is the lesser of (i) 8.5% of the purchase payments received by IDS Life, or (ii) a specified percentage of the contract value surrendered or applied under an optional annuity payment plan. The specified percentage is 7% during the first five contract years, then declines by 1% yearly from 6% in the sixth contract year to 2% in the tenth year. There is no surrender charge after the tenth year. Further, there is no Surrender Charge on contract value applied under an annuity payment plan during the sixth and later contract years, nor is there a Surrender Charge if the annuitant dies during the accumulation period. Previously, the Old Contracts had a surrender charge imposed when all or part of the contract value is surrendered or, within the first five contract years, applied under an optional annuity payment plan. That charge was the lesser of 9% of purchase payments received or 9% for the first $3,000 of contract value surrendered or applied and 4% of any excess.

The New Contract provides that the Surrender Charge will be applied upon redemption or certain partial withdrawals during the first seven years of a contract. A surrender charge will also be imposed if optional annuity payments begin during the first five contract years. However, the owner of a New Contract may surrender up to 10% of the amount of the purchase payment in any contract year after the first, without the imposition of any Surrender Charge. Any surrender during the first contract year, and any surrender of an amount in excess of 10% of the purchase payment during any of the contract years two through seven, will result in the imposition of a Surrender Charge under a New Contract. This Surrender Charge will be an amount equal to the lesser of (i) 8.5% of the purchase payment or (ii) if the surrender is during the first contract year, 7% of the amount surrendered, or if the surrender is during the second through seventh contract year, a percentage of the amount by which the amount surrendered during such contract year exceeds 10% of the purchase payment, such percentage being 6% in the second contract year

and decreasing by 1% per year to 1% in the seventh contract year. After the seventh contract year there is no Surrender Charge, nor is there a Surrender Charge if the annuitant dies during the Accumulation Period.

The Contracts provide for an annual administrative charge ("Administrative Charge") of $30 for modified Old Contracts or $20 for New Contracts during the accumulation period. This charge is to reimburse IDS Life for expenses incurred in processing premium payments and establishing and maintaining the records relating to the contract owner and his participation in the Accounts for the duration of his contract. The amount of this charge may not be increased by IDS Life. The Administrative Charge is deducted from the contract value on the last day of each contract year during the accumulation period; and if a Contract is surrendered on other than the last day of a contract year, the charge will be deducted from the contract value before determining the Surrender Value. Previously the Old Contracts had a $25 administrative charge.

IDS Life makes a daily deduction from the Accounts of a fee which is equivalent to 1% of the average net assets on an annual basis. This fee is intended to compensate IDS Life for the risks it assumes under the Contracts, an annuity mortality risk and an expense risk ("Mortality and Expense Risk Charge"). IDS Life estimates that approximately two-thirds of the Mortality and Expense Risk Charge is attributable to the mortality risk and one-third is attributable to the expense risk.

The application states that IDS Life does not plan to profit from the annual Administrative Charge. Applicants also state that based on its actuarial determinations IDS Life does not expect that the Surrender Charges will cover sales and distribution expenses incurred by IDS Life in connection with the Contracts. However, Applicants state that IDS Life does hope to profit from the Mortality and Expense Risk Charge. Applicants state that any profits realized by IDS Life from the Contracts would be available to it for any proper corporate purpose, including among other things, payment of distribution (selling) expenses.

Approval Under Section 11

Section 11(a) of the Act makes it unlawful for any registered open-end investment company or any principal underwriter for such a company to make or cause to be made an offer to the holder of a security of such company or of any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission. Section 11(c) provides that, irrespective of the basis of exchange, the provisions of subsection (a) shall be applicable to any offer of exchange of any security of a registered open-end company for a security of a registered unit investment trust and to any type of offer of exchange of the securities of a registered unit investment trust for the securities of any other investment company.

Under the Contracts, an owner may split the allocation of the purchase payments among the Accounts. Each of the Accounts is invested exclusively in the shares of an open-end management investment company. Applicants propose to permit transfers of contract value among the Accounts as described in the application. The application states that such transfers will be effected at net asset value, with no assessment of any kind of transaction or sales charge. Applicants submit that the transfer rights will afford the owner flexibility of a choice among the shares of mutual funds having different investment objectives. Applicants contend that the transfer rights are not in any way violative of any of the provisions of Section 11 of the Act, and request an order pursuant to Section 11 to the extent necessary to permit Applicants to offer contractowners the transfer privileges described.

Exemptive Relief Requested

In 1967, the State of Texas directed the governing boards of all Texas institutions of higher education to make available to certain employees an Optional Retirement Program (the "Program"), originally codified as Subchapter G of Chapter 51 of the Texas Education Code. The statute provides as the funding media for the Program fixed or variable annuity contracts purchased from any insurance or annuity company qualified to do business in Texas. In 1973, the Texas legislature made two amendments in the Program legislation, which amendments became effective on June 14, 1973. The amendments provided that the benefits of such annuities were to be available only upon termination of employment in Texas public institutions of higher education, retirement, death or total disability of the participant.

In 1981, the Texas legislature re-codified the previous relating to the Program, at Section 36.105, Title 110B, *Vernon's Texas Civil Statutes*, including the provision that:

(a) A person terminates participation in the optional retirement program, without losing any accrued benefits, by

1. Death;
2. Retirement; or
3. Termination of employment in all institutes of higher education;

and the further provision that:

(c) The benefits of an annuity purchased under the optional retirement program are available *only* if the participant terminates participation in the program as provided by Subsection (a) of this section.

The application states that all companies which seek to have their annuities offered in connection with the Program must certify to the University of Texas System that withdrawal of benefits is limited by the foregoing provisions.

Section 27(c)(1) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any certificate unless is a redeemable security. Section 2(a)(32) of the Act defines "redeemable security" to mean any security under the terms of which the holder upon its presentation to the issuer or to a person designated by the issuer is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof. Section 22(e) of the Act provides that no registered investment company shall suspend the right of redemption or postpone the date of payment or satisfaction upon redemption of any redeemable security in accordance with its terms for more than seven days after the tender of such security to the company or its agent designated to receive such tender except in certain prescribed circumstances. Section 27(d) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or any depositor or underwriter for such company, to sell any such certificate unless the certificate provides that the holder thereof may surrender the certificate at any time within the first 18 months after the issuance and received in payment thereof, in cash, the sum of (1) the value of his account, and (2) an amount, from such underwriter or depositor, equal to that part of the excess paid for sales load which is over 15 per centum of the gross payments made by the certificate holder.

Applicants request exemptions from the provisions of Sections 22(e), 27(c)(1) and 27(d) of the Act to the extent

necessary to permit compliance with Section 36.105, Title 110B, *Vernon's Texas Civil States* as it pertains to redemption values under Contracts issued to participants in the Program subsequent to the date of such exemptive order. Applicants consent to the following conditions in connection with any such exemptive order: Applicants will ensure that appropriate disclosure is made to persons who consider participation in the Program, informing them of the restriction on the availability of redemption values under Contracts to be issued to them. This disclosure will take the form of an appropriate reference in each prospectus to the restrictions on redemption of these contracts, as well as requiring each participant, as part of the determination that the sale of these Contracts is suitable for that participant, to sign a statement indicating that he/she is aware that these restrictions will be placed on his/her Contract when it is issued. In addition, all sales literature that is to be used in conjunction with the sale of these Contracts will be reviewed for the existence of material representations that are inconsistent with the restrictions to be placed on these Contracts, and the sales people involved in soliciting in this market will be instructed to bring this restriction specifically to the attention of potential participants.

Section 27(c)(2) prohibits a registered investment company or a depositor or underwriter for such company from selling periodic payment plan certificates unless the proceeds of all payments, other than the sales load, are deposited with a bank as trustee or custodian having the qualifications prescribed in Section 26(a)(1) and held under an indenture or agreement containing, in substance, the provisions required by Section 26(a) (2) and (3) for a unit investment trust. Section 26(a)(2) requires that the trustee or custodian segregate and hold in trust all securities and cash of the unit investment trust and places certain restrictions on charges which may be made against the trust income and corpus. Section 26(a)(3) governs the circumstances under which the trustee or custodian may resign. Applicants request an exemption from the provisions of Sections 26(a) and 27(c)(2) so that IDS Life may administer the Accounts without appointing a bank custodian or trustee and without having physical possession of the assets of the trust. Applicants indicate that the accounts will invest their assets in shares of registered investment companies which use open account systems for their shares. Therefore, Applicants state, there will be no certificates to keep in custody. Applicants further state that obligations of the accounts are policy obligations of IDS Life under Minnesota law and consequently backed by IDS Life's total resources (except those of its other separate Accounts) and that the activities of the Accounts will be closely supervised by Minnesota insurance authorities.

As noted above, Section 27(c)(2) of the Act provides that the proceeds of all payments on periodic payment plan certificates issued by a registered investment company (except amounts deducted for sales load) must be deposited with a trustee or custodian with the qualifications prescribed by Section 26(a) and held by such trustee or custodian under an agreement described therein. Section 26(a)(2)(C) provides that no payment to the depositor or principal underwriter of a unit investment trust shall be allowed the custodian as an expense, except a fee, not exceeding such reasonable amounts as the Commission may prescribe, as compensation for performing bookkeeping and other administrative services of a character normally performed by the custodian. Applicants request an exemption from the operation of the provisions of Sections 26(a)(2)(C) and 27(c)(2) of the Act to the extent necessary to permit assessment of the Surrender Charge in the manner described in the application.

Section 2(a)(35) of the Act defines "sales load" as the difference between the price of a security to the public and that portion of the proceeds from its sale which is received and invested, less any portion of such difference deducted for trustee's or custodian's fees, insurance premiums, issue taxes, or administrative expenses or fees which are not properly chargeable to sales or promotional activities. On the grounds stated in the application, Applicants request an exemption from Section 2(a)(35) to permit the imposition of the Surrender Charge.

Rule 22c-1, promulgated under Section 22(c) of the Act, in pertinent part, prohibits a registered investment company issuing a redeemable security from selling, redeeming or repurchasing any such security except at a price based on the current net asset value of such security. In order to avoid any question regarding complete compliance with the Act, Applicants request an exemption from Section 22(c) and Rule 22-1, to the extent deemed necessary, to permit the deduction of the Surrender Charge.

Section 27(c)(1) of the Act, in pertinent part, prohibits any registered investment company issuing periodic payment plan certificates, or depositor or underwriter therefor, from selling any such certificate unless it is a redeemable security. Applicants request an exemption from its provisions to the extent necessary to permit imposition of the Surrender Charge.

Section 2(a)(32) of the Act, in pertinent part, defines "redeemable security" as any security under the terms of which the holder is entitled to receive approximately his proportionate share of the issuer's current net assets or the cash equivalent thereof. Section 27(d) of the Act, in pertinent part, requires that the holder of a periodic payment plan certificate be able to surrender the certificate under certain circumstances with the recovery of certain front-end sales charges. Applicants request an exemption from the provisions of Sections 2(a)(32) and 27(d) of the Act to the extent necessary to permit imposition of the Surrender Charge.

As noted above, the Contracts are subject to an annual Administrative Charge of $30 for the Old Contracts or $20 for the New Contracts. If the value of the Contract is surrendered in full on other than the last day of the contract year, the Administrative Charge will be deducted before determining the redemption value. Applicants believe that certain provisions of the Act discussed above relating to the Surrender Charge may be equally applicable to the Administrative Charge. Thus, Applicants request exemptions from the provisions of Sections 2(a)(32), 22(c), 27(c)(1), and 27(d) of the Act and Rule 22c-1 thereunder, to the extent necessary, to permit deduction of the Administrative Charge as described in the application.

As noted above, Section 27(c)(2) of the Act provides that the proceeds of all payments on periodic payment plan certificates issued by a registered investment company (except amounts deducted for sales load) must be deposited with a trustee or custodian with the qualifications prescribed in Section 26(a) and held by such trustee or custodian under an agreement described therein. Section 26(a)(2)(C), as here pertinent, provides that no payment to the depositor or principal underwriter of a unit investment trust shall be allowed the custodian as an expense, except a fee, not exceeding such reasonable amounts as the Commission may prescribe, as compensation for performing bookkeeping and other administrative services of a character

normally performed by the custodian. Section 26(a)(2)(D) further provides that the custodian have possession of all securities and other property in which the funds of the trust are invested subject only to charges and collections allowed under subsections (A), (B) and (C) of Section 26(a)(2) until distribution thereof to the security holders of the trust. Applicants request an exemption from the provisions of Section 26(a) and 27(c)(2) to the extent necessary to permit deduction by IDS Life and payment to IDS Life of the Administrative Charge, the Mortality and Expense Risk Charge and any applicable state premium tax.

Section 6(c)

Section 6(c) authorizes the Commission to exempt any person, security or transaction or any class or classes of persons, securities or transactions, from the provisions of the Act and rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants contend that the requested exemptions are necessary and appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than July 21, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued, as of course, following July 21, 1982, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–18402 Filed 7–7–82; 8:45 am]

BILLING CODE 8010-M

SMALL BUSINESS ADMINISTRATION

[Proposal No. 02/02-0449]

First Princeton Capital Corp; Application for a License as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to §107.102 of the SBA Regulations (13 CFR 107.102 (1982)) by First Princeton Capital Corporation, 227 Hamburg Turnpike, Pompton Lakes, New Jersey 07442 for a license to operate a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. 661 et seq.).

The proposed officers, directors and shareholders are:

Name and address	Title and relationship	Percent of ownership
S. Lawrence Goldstein, 541 East 20th Street, New York, New York 10010.	President, Treasurer, and Director.	16
Adele M. Dobson, 245 Dogwood Lane, Mahwah, New Jersey 07430.	Secretary	
Michael Lytell, 65 Circle Avenue, Wayne, New Jersey 07470.	Director	16
Adolf L. Herst, River Road, Washington Crossing, Pa 18977.	Director	

The sale of common and preferred stock will be to a maximum of 35 investors. There will be no more than 35 beneficial owners of common stock at the completion of initial financing. No corporation or individual, except Messrs. Goldstein and Lytell, will beneficially own 10 percent or more of the voting securities.

The Applicant will begin operations with a capitalization of $1.2 million and will be a source of equity capital and long term loan funds for qaulified small business concerns whose needs might not be met by traditional funding sources.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 L. Street, NW., Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in Pompton Lakes, New Jersey.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: June 29, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82–18430 Filed 7–7–82; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2050]

Iowa; Declaration of Disaster Loan Area

Mills County and the adjacent county of Fremont in the State of Iowa constitute a disaster area as a result of damage caused by flooding which occurred on June 14 through 15, 1982. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on August 23, 1982, and for economic injury until the close of business on March 24, 1983, at the address listed below: U.S. Small Business Administration, 210 Walnut Street, Des Moines, Iowa 50309 or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are as follows:

	(Percent)
Homeowners with credit available elsewhere	15%
Homeowners without credit available elsewhere	7%
Businesses with credit available elsewhere	15%
Businesses without credit available elsewhere	8
Businesses (EIDL) without credit available elsewhere	8
Other (non-profit organizations including charitable and religious organizations)	11%

It should be noted that assistance for agriculture enterprises is the primary responsibility of the Farmers Home Administration as specified in Pub. L. 96–302.

Information on recent statutory changes (Pub. L. 97–351), approved

August 13, 1981) is available at the above-mentioned office. (Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008).

Date: June 24, 1982.

James C. Sanders,

Administrator.

[FR Doc. 82-18428 Filed 7-7-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Updated Report of the Fleet Status and Compliance Plans of U.S. Domestic Aircraft Operators as They Move Toward Compliance With the FAA's Aircraft Noise Regulation

AGENCY: Federal Aviation Administration (FAA), DOT.

SUMMARY: The table below summarizes the fleet compliance status as of January 1, 1977 (approximately the date the regulation was issued), the status as of April 1, 1980, January 1, 1981, January 1, 1982, and fleet projections for the phased compliance deadlines of January 1, 1983, and January 1, 1985. When the regulation was issued, slightly over 20 percent of the U.S. fleet met the FAA noise standards. As of January 1, 1982, almost 55 percent of the fleet complied and that percentage will reach 73 percent by January 1, 1983.

DISCUSSION: In December 1976, the FAA issued Subpart E of Part 91 of the Federal Aviation Regulations [14 CFR 91] which prescribes noise limits for U.S. registered, civil subsonic turbojet airplanes with maximum weights over 75,000 pounds and having standard airworthiness certificates. These requirements prohibit domestic operation in the United States of affected airplanes after specified dates, with full compliance required by January 1, 1985.

In November 1980, the FAA issued a final rule (adopting Title III of the Aviation Safety and Noise Abatement Act of 1979) to extend these same noise compliance requirements to all operators of affected aircraft in the United States, whether U.S. or foreign registered. This rule also provided for exemptions to extend the compliance deadline for two-engine airplanes (DC-9, Boeing 737, BAC 1-11, and SE-210) to January 1, 1985 (for over 100 seats) or to January 1, 1988 (for 100 or fewer seats) as protection for small community service.

To ensure that all domestic operators are taking appropriate steps to meet the noise compliance requirements, the FAA amended 14 CFR Part 91 in December 1979, to require the operators of affected turbojet airplanes to provide the current status of their fleets and their plans for achieving timely and continuing compliance. The first summary report on Fleet Noise Compliance was published on July 17, 1980 (45 FR 48011) and the second was published on August 6, 1981, (46 FR 40126). This report is an update to that publication.

As originally issued, the FAA noise compliance regulation required full compliance by January 1, 1985. To date, the FAA has issued exemptions for 477 two-engine airplanes as protection for small community service. These exemptions were issued to 28 operators and extend the compliance dates to January 1, 1985, for 130 airplanes and to January 1, 1988, for 347 airplanes.

The table also indicates the pace at which U.S. operators are moving the four-engine narrowbody models (Boeing 707 and 720, DC-8) from domestic service. All of these will be gone by January 1, 1985, except for 78 stretch DC-8's, which are currently planned for reengining.

Information in the compliance plans submitted by many of the operators included future additions to their fleets. Where available, these data have been incorporated in the table. However, operators are not required to provide this type of information to the FAA under this program and, as a consequence, this table is not indicative of total future airplane purchases or the total future U.S. fleet.

FOR FURTHER INFORMATION CONTACT: Mr. Richard N. Tedrick, Chief, Noise Policy and Regulatory Branch, AEE-110, Noise Abatement Division, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591, Telephone: (202) 755-9027.

Issued in Washington, D.C., on July 24, 1981.

James E. Densmore,

Chief, Noise Abatement Division.

NOISE COMPLIANCE FLEET PROJECTIONS

Airplane type	Jan. 1, 1977			Apr. 1, 1980			Jan. 1, 1981			Jan. 1, 1982			Jan. 1, 1983			Jan. 1, 1985		
	Total airplanes		Number complying	Total airplanes		Number complying	Total airplanes		Number complying	Total airplanes		Number complying	Total airplanes		Number complying	Total airplanes		Number complying
A300	5		0	14		14	19		19	25		25	30		30	30		30
BAC 1-11	33		9	44		0	44		0	57		0	68		0	45		11
B707	277		0	190		0	147		0	84		0	74		0	0		0
B720	21		0	12		0	11		0	9		0	0		0	0		0
B727	842		189	1,082		540	1,078		548	1,138		764	1,142		1,108	1,105		1,105
B737	150		7	224		71	232		82	247		109	250		136	249		209
B747	112		35	141		121	146		132	151		150	150		150	153		153
CONVAIR	25		0	8		0	8		0	8		0	8		0	8		0
DC-8	224		0	164		0	161		0	143		2	137		27	78		78
DC-9	367		32	400		74	405		89	476		111	472		169	467		191
DC-10	124		124	148		148	152		152	152		152	163		163	162		162
L1011	61		61	91		91	93		93	110		110	116		116	120		120
SE210	0		0	6		0	5		0	4		0	3		0	0		0
B757	0		0	0		0	0		0	0		0	0		0	27		27
B767	0		0	0		0	0		0	0		0	19		19	92		92
BA 146	0		0	0		0	0		0	0		0	0		0	6		6
Total	2,298		465	2,522		1,057	2,497		1,209	2,614		1,433	2,631		1,914	2,506		2,184
Percent		20.6			41.9			48.4			54.8			72.7			86.1	

[FR Doc. 82-18618 Filed 7-7-82; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

[Summary Notice No. PE-82-11]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of petitions for exemption received.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I). The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: July 19, 1982.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. 6, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on July 2, 1982.

John H. Cassady,

Deputy Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
23151	Boeing Commercial Airplane Co.	14 CFR 91.51	To allow petitioner the use of landing gear down logic to inhibit part of the altitude alerting function during approach procedures on its B 767-200 airplane.

[FR Doc. 82-18503 Filed 7-7-82; 8:45 am]

BILLING CODE 4910-13-M

[Summary Notice No. PE-82-11]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before July 28, 1982.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on July 2, 1982.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
23127	Indiansero, Inc.	14 CFR 135.243(a)	To permit Mr. James W. Doyle, an employee of petitioner, to act as pilot in command of a multiengine aircraft without holding an airline transport pilot certificate.
23134	Skywest Aviation, Inc	14 CFR 135.181	To permit petitioner to utilize a drift down procedures, as an alternative compliance means, when operating on routes where the minimum en-route altitude exceeds the Single Engine Service Ceiling.
23043	Mr. Dean E. May	14 CFR 61.187(b)	To permit petitioner to give flight instruction even though he has not held a flight instruction certificate during the 24 months immediately preceding the date the instruction would be given.
23126	Albuquerque Int'l Balloon Fiesta, Inc	14 CFR 61.3 and 91.27	To permit certain pilots and foreign balloons to participate in the 11th Angual Fiesta during the period of October 2-10, 1982, without complying with the pilot certification and airworthiness requirements.
23125	Devoe Airlines, Inc	14 CFR 135.39(b)(1)(ii)	To permit Ms. Lynn O'Donnell to serve as chief pilot for Devoe Airlines, Inc., even though she does not meet the 3-year experience requirement.

PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought
22588	Chesapeake and Potomac Airways, Inc	14 CFR 135.261	To allow petitioner to operate a helicopter in hospital emergency service from the University of Massachusetts Medical Center without complying with the duty-time limitations.
18856	Helicopter Assoc., Int'l	14 CFR Portions of Part 135	To permit operations without performing certain aircraft modifications, hiring additional required pilots, and without complying with certain performance, operational, and maintenance requirements.
22701	Omniflight Helicopters Inc	14 CFR 135.261(b)	To permit petitioner to operate helicopters from Grant Hospital, Columbus, Ohio, without complying with the duty-time limitations.
23135	Arizona Jet Charter Services, Inc	14 CFR 91.32(b) and 135.89(b)	To permit petitioner to operate its Gates Learjet 25 aircraft up to flight level 410 and its Gates Learjet 35A aircraft up to flight level 450 without either pilot being required to wear their oxygen mask, as long as there are two pilots at the controls and each pilot has a quick-donning type of oxygen mask.
23003	Steve Ballew	14 CFR 135.243(b)(2)	To permit petitioner to serve as pilot in command of an aircraft under day visual flight rules without meeting the 500 hours time as pilot requirement.
23139	Wylie Aircraft Corp	14 CFR 91.31(e)	To permit petitioner to operate its DC-6B cargo aircraft at a 5 percent increase in zero fuel and landing weight.
15227	Nat'l Business Aircraft Assoc., Inc	14 CFR Portions of Parts 91, 121, 123, 129, 135 and 137.	To amend and extend Exemption No. 1637[to permit petitioner's members to operate small civil aircraft of U.S. registry under the operating rules of secs. 91.183 through 91.215 and the inspection provisions. In secs. 91.217 and 91.219. It would also permit petitioner's members to operate and maintain helicopters of U.S. registry under the provisions of Subpart D of Part 91.

DISPOSITIONS OF PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
22822	T.B.M., Inc	14 CFR 21.197	To permit petitioner to take off with one engine inoperative and fly certain aircraft to a maintenance base for repairs without obtaining a special flight permit. *GRANTED 6/30/82.*
22829	Ryson Aviation Corp	14 CFR 23.1323(b)(1) and (b)(2)	To permit the type certification of Model ST-100 airplanes with an airspeed indicating system whose system accuracy does not meet the requirements of the FAR. *GRANTED 6/28/82.*
22835	Sierra Academy of Aeronautics	14 CFR Part 63	To permit petitioner's nonpilot flight engineer students to receive all practical flight engineer training in a simulator provided those pilots receive an additional 5 hours training in a Phase II approved simulator. *GRANTED 7/1/82.*
22769	S & J Balloons	14 CFR 141.5(b)	To allow petitioner to issue a pilot school certificate without having trained and recommended for pilot certification and rating tests at least 10 applicants for pilot certificates and ratings within the past 24 months. *GRANTED 6/30/82.*
17397	Delta Air Lines, Inc	14 CFR 121.291(a)(2)	Reconsideration of a Denial of Petition to permit petitioner to reconfigure its DC-8-61 airplanes with 212 seats and use 5 required flight attendants without conducting a demonstration in which line flight attendants open 50 percent of the exits and deploy 50 percent of the evacuation slides within 15 seconds. *WITHDRAWN.*
22785	Southern Gulf Helicopters, Inc	14 CFR 43.3(h)	To permit petitioner's pilots to remove, check, and reinstall magnetic chip detector plugs on BH 206 series helicopters. *GRANTED 6/30/82.*
22587	Bar Harbor Airlines	14 CFR 121.311(f)	To permit petitioner to operate its six Convair 600 (CV-600) transport category airplanes until August 5, 1982, without each flight attendant having a seat for takeoff and landing in the passenger compartment that meets the seat requirements. *GRANTED 6/29/82.*
21525	Venezolana Internacional de Aviacion, S.A	14 CFR Parts 21, 43, 91, and 121	To extend Exemption 3274 which permits petitioner to operate a B-747-273C airplane using an FAA-approved master minimum equipment list and an approved continuous airworthiness maintenance and inspection program. *GRANTED 6/21/82.*
20371	W. F. Probst Company	14 CFR 61.58(c)	Extension of Exemption 3023 which allows petitioner's trainees to complete a 24-month pilot-in-command check in an FAA approved flight simulator. *GRANTED 6/21/82.*
21508	Peninsula Airways, Inc	14 CFR 135.243(d)(2)	To permit petitioner to utilize Mr. Norman Tibbetts as pilot in command for on demand air taxi operations even though he does not hold an instrument rating. *GRANTED 6/23/82.*
22514	U.S. Parachute Assoc	14 CFR 91.14(a)(3); 14 CFR Part 125	To permit aircraft hired by petitioner to carry persons and property from the airport of takeoff to the site of the National Parachuting Championships and the National Collegiate Parachuting Championships and return; also to permit parachutists to sit on the floor or on military hoop-type seats along the fuselage shell. DENIED *6/23/82.*
22533	Compania Mexicana de Aviacion, S.A. de C.V	14 CFR 61.77(e)(4) and 63.23(e)(3)	To permit petitioner's present and future Mexican-licensed airmen who also hold U.S. special-purpose airmen certificates, to continue to operate U.S.-registered leased aircraft, listed in the petition, beyond the 24-month expiration period which would otherwise apply. *DENIED 6/23/82.*
22693	Pennsylvania Airlines, Inc	14 CFR 135.107	To permit petitioner to operate its DeHavill and DHC-6 Twin Otter Aircraft carrying 20 passengers without a flight attendant. DENIED 6/23/82.
22454	Empire Airlines, Inc	14 CFR135.261(b)	To permit petitioner to reduce the crew rest requirement from 10 hours of consecutive rest to 8 hours of consecutive rest during the 24 hours preceding the planned completion of the assignment. *CANCELLED-NO LONGER REQUIRED.*
22983	Ryan Aviation Corp	14 CFR 91.305(b)(1)(ii)	To allow operation of six noncomplying Boeing 727-100's without meeting the phased compliance requirements. *GRANTED 6/10/82.*
21615	Airborne Express, Inc	14 CFR 91.307	To allow operation in the United States under a service to small communities exemption specified two-engine airplanes identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than Jan. 1, 1986, 8 DC9 and 2 SE-210 aircraft. *GRANTED 5/20/82.*

DISPOSITIONS OF PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
22704	Best Airlines Inc	14 CFR 91.307	To allow operation in the United States under a service to small communities exemption specified two-engine airplanes identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than Jan. 1, 1985, 1 DC9–32 aircraft and until Jan. 1, 1988, 25 DC9–15 or 14 aircraft. *GRANTED 4/2/82*
20501	Geosource Aviation	14 CFR 91.307	To allow operation in the United States under a service to small communities exemption specified two-engine airplanes identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than Jan. 1, 1988, 1 BAC 1–11 aircraft. *GRANTED 5/17/82.*
23038	Lockheed-California Co	14 CFR 25.1309(c)(1), 25.1581, and 25.703(a).	To permit the amended type certification of a Model L–1011–385–3 airplane, Serial No. 1233 with: (1) an overspeed warning tolerance 6 knots greater than allowed, (2) a flight manual whose performance section is computed from British Civil Air Regulation criteria, and (3) a takeoff warning system that does not automatically actuate if the aircraft wing flaps or leading edge devices are not within the approved range of takeoff position. *Granted 6/15/82.*
21669	Air Polynesia, Inc. t/a DHL Cargo	14 CFR 145.71 and 145.73(a)	To permit certification of foreign repair stations by the FAA without a determination that such stations are "necessary" for maintenance of U.S. registered aircraft outside of the United States. *Denied 5/28/82.*
21256	Midway Airlines	14 CFR 91.307	To allow operation in the United States under a service to small communities exemption specified two-engine airplanes identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than Jan. 1, 1985, 5 DC9–31 aircraft; and until Jan. 1, 1988, 9 DC9–15 aircraft. *Granted 5/21/82.*
23073	Altair Airlines	14 CFR 91.307	To allow operation in the United States under a service to small communities exemption specified two-engine airplanes identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than Jan. 1, 1988, 6 DC9–32 aircraft. *Granted 6/3/82.*
21174	Texas International	14 CFR 91.307	To allow operation in the United States under a service to small communities exemption specified two-engine airplanes identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than Jan. 1, 1985, 1 DC9–32 aircraft; and until Jan. 1, 1988, 25 DC9–15 or 14 aircraft. *Granted 4/19/82*
21174	Texas International	14 CFR 91.307	Amendment to existing exemption to allow operation in the United States under a service to small communities exemption specified two-engine airplanes identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than Jan. 1, 1988, 1 DC9–32 aircraft and 25 DC9–15 or 14 aircraft. *Granted 6/7/82*
21095	Heli-Trade, Corp	14 CFR Part 47.9(b)	To allow petitioner to operate its aircraft when the 60 percent test is met on a yearly basis but not every other 6-month period. *Denied 6/7/82.*
20496	Gulfstream American	14 CFR 25.1321(b)(3)	To extend Exemption 3173 which permits petitioner to operate four Gulfstream III airplanes with the placement of the IDC Vertical Scale, Vertical Speed Indicator between the pilot's altimeter and altitude indicator. *Granted 5/28/82.*

[FR Doc. 82–18504 Filed 7–7–82; 8:45 am]
BILLING CODE 4910–13–M

VETERANS ADMINISTRATION

Agency Forms Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). The list is broken into two categories listing revisions and extensions. Each entry contains the following information: (1) The department or staff office issuing the form; (2) The title of the form; (3) The agency form number, if applicable; (4) How often the form must be filled out; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to fill out the form; and (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies.

ADDRESSES: Copies of the proposed forms and supporting documents may be obtained from Patricia Viers, Agency Clearance Officer (004A2), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 389–2146. Comments and questions about the items on this list should be directed to the VA's OMB Desk Officer, Karen Sagett, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395–6880.

DATE: Comments on forms should be directed to the OMB Desk Officer on or before September 7, 1982.

Dated: June 30, 1982.

Robert P. Nimmo,
Administrator.

Revisions

- Department of Veterans Benefits
  VA Request for Determination of Reasonable Value/HUD Application for Property Appraisal and Commitment
  26–1805/HUD 92800–1
  On occasion
  Individuals and Businesses
  430,000 responses
  179,167 hours
  Not applicable under 3504(h)
- Department of Veterans Benefits
  Report of Home Loan Processed on Automatic Basis
  26–1820
  On occasion
  Lenders Making VA Guaranteed Loans
  70,000 responses
  35,000 hours
  Not applicable under 3504(h)
- Department of Veterans Benefits
  Financial Statement
  26–6807
  On occasion

Veterans Borrowers/Purchasers
40,000 responses
30,000 hours
Not applicable under 3504(h)

• Department of Veterans Benefits
Designation of Beneficiary and Optional Settlement
29–336
On occasion
Insured Veterans
175,000 responses
29,167 hours
Not applicable under 3504(h)

• Department of Veterans Benefits
Mobile Home On-Site Inspection Report
26–8519
On occasion
VA Guaranteed Mobile Home Purchasers
1,850 Responses
925 hours
Not applicable under 3504(h)

• Department of Veterans Benefits
Notice of Lapse
29–389 and 29–389–1
On occasion
Insured Veterans
25,000 responses
4,166 hours
Not applicable under 3504(h)

Extensions

• Department of Veterans Benefits
Statement of Person Claiming to Have Stood In Relation of Parent
21–524
On occasion
Person(s) claiming to have stood in relation of parent to deceased veteran
2,000 responses
4,000 hours
Not applicable under 3504(h)

• Department of Veterans Benefits
Home Energy Checklist
6–1803a
On occasion
Mortgage Lenders, Appraisers, Veterans
140,000 responses
No reporting burden
Not applicable under 3504(h)

• Department of Veterans Benefits
Retirement Benefit Report Letter
21–8858–2 & 21–8858–4
Annually
VA beneficiaries receiving income dependent benefits who have federally-funded retirement income (except social security)
30,000 responses
5,000 hours
Not applicable under 3504(h)

• Department of Veterans Benefits
Notice of Action Taken on Payroll Deduction for Government Life Insurance
29–800
On occasion
Employer of Insured Veteran
9,500 responses
972 hours
Not applicable under 3504(h)

[FR Doc. 82–18427 Filed 7–7–82; 8:45 am]
BILLING CODE 8320–01–M

Station Committee on Educational Allowances; Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee On Educational Allowances that on July 29, 1982, at 1:00 p.m., the Louisville, Kentucky Regional Office's Station Committee on Educational Allowances shall at Room 454, 600 Federal Place, Louisville, Kentucky, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Somerset Flying School, Somerset, Kentucky, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

Dated: June 30, 1982.

E. L. Caudill,

Director, Veterans Administration Regional Office, 600 Federal Place, Louisville, Kentucky.

[FR Doc. 82–18473 Filed 7–7–82; 8:45 am]
BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 131
Thursday, July 8, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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National Transportation Safety Board	13
Parole Commission	14

1

CIVIL AERONAUTICS BOARD

[M–357, 7/1/82]

TIME AND DATE: 10: a.m. July 8, 1982.

PLACE: Room 1027 (open) Room 1012 (closed) 1825 Connecticut Avenue, NW, Washington, D.C. 20428.

SUBJECT:

1. Ratification of Items Adopted by Notation.
2. Proposed cancellation of tariff rules absolving carriers from any responsibility to transport a passenger to the destination airport named on his or her ticket, or to reimburse a passenger for expenses incurred in reaching that airport, where a flight is diverted to another airport in the same general metropolitan area. (Memo 1381, OCCCA, BIA)
3. Docket 39077, Final rule to reduce reporting requirements for certificated air carriers. (Memo 152–A, OC)
4. Docket 40207, Elimination of the requirement that the Board prepare and environmental assessment before issuing a permit to a Mexican air taxi operator. (Memo 881 A, OGC, BIA, OEA)
5. Amendment to clarify that transportation rights received in return for goods or services may be used by third persons. (Memo 1385, OGC, BIA)
6. Docket 40502, Reporting requirements implementing the Federal Election Campaign Act of 1971. (OGC, OC)
7. Duration of experimental certificates in limited-designation international markets. (OGC, BIA)
8. Clarifying amendment of energy and environmental regulations with respect to issuance of domestic passenger certificates. (Memo 1373, OGC, OEA)
9. Docket 36595, *Investigation Into the Competitive Marketing of Air Transportation—Agreements Phases.* Petition for Reconsideration. (Memo 149–Y, OGC)
10. Docket 30938, *Pacific Common Fares Investigation,* final decision by the Board. (Memo 967–A, OGC, BIA)
11. Dockets 39833, 39834, 33362, *Applications of Eagle Aviation, Inc., Former Large Irregular Air Service Investigation.* (Memo 1366, OGC)
12. Docket 34141, *Application of Trans-Panama, S.A.*—Opinion and Order on Review. (Memo 544-A, OGC)
13. Docket 37719. Frontier Airlines Application for subsidy under section 419 for providing back-up essential air service at Alamogordo and Silver City. (BDA, OCCCA, OC)
14. Docket 40645, Petition of Golden West Airlines, Co. for a declaratory ruling as to its citizenship. (Memo 1380. BDA)
15. Docket EAS–647, Essential Air Transportation Determination for Ponce, Puerto Rico. (Memo 1379, BDA, OCCCA)
16. Commuter carrier fitness determination of Gull Air, Inc. (Memo 1383, BDA)
17. Commuter carrier fitness determination of Colorado Air Freight Express. (BDA)
18. Replacement service at Chico, Crescent City and Santa Rosa, California. (BDA, OCCCA)
19. Docket 38623, Agreement C.A.B. 28780, IATA agreement proposing Japan-Guam/Saipan fare revisions. (BIA)
20. Docket 40206, Application of Blue Bell, Inc. for authority pursuant to section 401 to engage in overseas and foreign charter air transportation of cargo. (Memo 1384, BIA)
21. Dockets 40515 *et al.*, Applications for Dallas/Ft. Worth-London certificate authority. (BIA, OGC, BALJ)
22. Dockets 40557, *et al.*, Applications for Central Zone-Caracas/Maracaibo, Venezuela certificate authority. (BIA, OGC, BALJ)
23. Docket 40190, Application of Aer Turas Teoranta for an initial foreign air carrie permit to perform cargo charters between the United States and Ireland. (BIA, OGC, BALJ)
24. Report on Canada. (BIA)
25. Report on Scandinavia. (BIA)
26. Report on France. (BIA)
27. Progress Report on Braniff Replacement Services. (BIA)

STATUS: 1–23 Open 24–27 Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary (202) 673–5068.

[S–998–82 Filed 7–6–82; 4:02 pm]

BILLING CODE 6320–01–M

2

FEDERAL COMMUNICATIONS COMMISSION

Due to Administrative Error the item listed below did not appear on the Notice dated June 24, 1982, listing the items to be considered at the Open Meeting of July 1, 1982. This item should be added to the Private Radio portion of the Notice.

Agenda, Item No., and Subject

Private Radio—3—Title: No-code amateur radio operator license class. Summary: The Commission will consider various alternatives in connection with whether or not to propose a no-code amateur radio operator license class.

Issued: June 28, 1982.

William J. Tricarico,
Secretary, Federal Communications Commission.

[S–990–82 Filed 7–6–82; 10:15 am]

BILLING CODE 6712–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, July 12, 1982, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Application for consent to exercise limited trust powers:

The Bowery Savings Bank, New York, New York.

Request pursuant to section 19 of the Federal Deposit Insurance Act for consent to service of a person convicted of an offense involving dishonesty or a breach of trust as a director, officer, or employee of an insured bank:

Names of person and of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to provisions of subsections (c)(2) and (c)(6) of the "Goverment in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: July 2, 1982.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Deputy Executive Secretary.

[S-980-82 Filed 7-6-82; 9:50 am]

BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, July 12, 1982, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for Federal deposit insurance:

Belmont Savings Bank, Belmont, Massachusetts, an operating noninsured mutual savings bank, for Federal deposit insurance.

Application for consent to establish a branch:

Buffalo Savings Bank, Buffalo, New York, for consent to establish a branch at 2012 Kensington Avenue, Town of Amherst, New York.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Memorandum and Resolution re: Banco de Ahorro de Puerto Rico, Hato Rey, Puerto Rico.

Memorandum and Resolution re: South Texas Bank, Houston, Texas.

Memorandum and resolution re: Final amendments to Part 329 of the Corporation's rules and regulations, entitled "Interest on Deposits," which would (1) conform Part 329 to the requirements of the International Banking Facility Deposit Insurance Act; (2) conform Part 329 to the provisions of the Corporation's Policy Statement on Capital Adequacy which provides that nondeposit obligations of an insured nonmember bank, such as subordinated notes and debentures, are not considered part of the bank's capital account; and (3) make certain other technical amendments.

Reports of committees and officers:

Minutes of the actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications or requests approved by the Director or Associate Director of the Division and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Report of the Director, Division of Liquidation:

Memorandum re: Fidelity Bank, Utica, Mississippi, Sale of Residential Mortgage Loans to the Federal National Mortgage Association (FNMA).

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: July 2, 1982.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Deputy Executive Secretary.

[S-985-82 Filed 7-6-82; 9:50 am]

BILLING CODE 6714-01-M

5

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, July 13, 1982 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Compliance. Litigation. Audits. Personnel.

* * * * *

DATE AND TIME: Thursday, July 15, 1982 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C. (Fifth Floor)

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings, correction and approval of minutes, and advisory opinions:

Draft AO 1982–43.—Robert E. Shank, Ohio Farm Bureau Federation, Inc.

Draft AO 1982–42.—William F. White, Assoc. General Counsil, National Treasury Employees Union (Treasury Employees PAC)

Draft AO 1982–40.—Judah C. Sommer, on behalf of Warner Communications, Inc. (and Warner-Amex Cable Communications, Inc.)

Draft notice of proposed rulemaking: Candidates use of property in which spouse has an interest

Addendum to the final audit report—Kennedy for President Committee

Special advisory opinion procedure for expedited opinion

Routine administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer, Telephone: 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission.

[S-990-82 Filed 7-6-82; 3:11 pm]

BILLING CODE 6715-01-M

6

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., July 14, 1982.

PLACE: Hearing Room One, 1100 L Street, NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Agreement No. 10422: Space Charter Agreement Among Korea Shipping Corporation, Neptune Orient Lines Ltd., and Orient Overseas Container Lines.
2. Agreement No. 10425: An Equal Access and Discussion Agreement Between Compania Sud Americana De Vapores and Lykes Bros. Steamship Co.
3. Agreement No. 10434: A Joint Venture Between Georgia-Pacific Corporation and Clipper Maritime Limited.
4. Agreements Nos. 10392–2 and 10410–1: U.S. Atlantic-Amazon and U.S. Gulf-Amazon Discussion Agreements—Possible Action under Section 19 of the Merchant Marine Act, 1920.

Ports closed to the public:

1. Docket No. 81–28: Transportation Maritima Mexicana, S.A. V. Board of Commissioners of the Port of New Orleans—Consideration of the record.
2. Docket No. 81–43: Independent Freight Forwarder License No. 1483—Tokyo Express Co., Inc. and Kozo and Kathleen Kimura d/b/a Cosmos Trading Company—Consideration of the record.
3. Docket No. 77–7: Modifications to the Combi Line Joint Service and Related Agreements (Agreements Nos. 9929–2, 9929–3, 9929–4, 10266, 10266–1 and 10374); Docket No. 82–20—Agreement No. 9929–7—Consideration of the records.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523–5725.

[S–966–82 Filed 7–6–82; 10:12 am]

BILLING CODE 6730–01–M

7

FEDERAL RESERVE SYSTEM (Board of Governors)

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 28203, Tuesday, June 29, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Tuesday, July 6, 1982.

CHANGES IN THE MEETING:

One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item(s) was added:

Proposed new building program and target budget for the Los Angeles Branch of the Federal Reserve Bank of San Francisco. (This item was previously announced for a meeting on June 21, 1982.)

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: July 6, 1982.

James McAfee,

Associate Secretary of the Board.

[S–965–82 Filed 7–6–82; 3:04 pm]

BILLING CODE 6210–01–M

8

FEDERAL RESERVE SYSTEM: (BOARD OF GOVERNORS)

TIME AND DATE: 10 a.m., Wednesday, July 14, 1982.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: July 6, 1982.

James McAfee,

Associate Secretary of the Board.

[S–967–82 Filed 7–6–82; 3:37 pm]

BILLING CODE 6210–01–M

9

FEDERAL TRADE COMMISSION

TIME AND DATE: 2 p.m., Monday, July 12, 1982.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTER TO BE CONSIDERED:

Review of Equal Credit Opportunity Act enforcement including discussion of history of and general policy issues affecting the Commission's enforcement of the Act.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Information: (202) 523–1892; Recorded Message: (202) 523–3806.

[S–987–82 Filed 7–6–82; 10:12 am]

BILLING CODE 6750–01–M

10

INTERNATIONAL TRADE COMMISSION

[USITC SE–82–25]

TIME AND DATE: 2:30 p.m., Tuesday, July 13, 1982.

PLACE: Room 117, 701 E Street, N.W., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary.
5. Investigation 751–TA–6 (Birch Three-Ply Doorskins from Japan)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523–0161.

[S–994–82 Filed 7–6–82; 12:31 pm]

BILLING CODE 7020–02–M

11

LEGAL SERVICES CORPORATION

Board of Directors; Meeting

TIME AND DATE: 1:30 p.m.–5:30 p.m., Saturday, July 17, 1982, and 9 a.m.–12 Noon, Sunday, July 18, 1982.

PLACE: Indiana University Law School at Indianapolis, Moot Court Room (Room 101), 735 West New York Street, Indianapolis, Indiana.

STATUS OF MEETING: Open (Portion of the meeting will be closed to discuss matters relating to litigation and to internal corporate personnel practice under 45 CFR 1622.5 (a) and (h))

MATTERS TO BE CONSIDERED:

1. Adoption of Agenda
2. Approval of Minutes of March 26, 1982 Meeting
3. President's Report
4. Report on Field Operations
5. Committee Reports:

A. Appropriations and Audit Committee (Harold R. DeMoss, Chairman): (1) Selection of Auditor; (2) Second Quarter Budget Modifications

B. Operations and Regulations Committee (Robert S. Stubbs, Chairman): (1) Vice-Chairman of Board; (2) Change in Meeting Date; (3) Office of General Counsel Status Report

C. Provision of Legal Services Committee (Willam F. Harvey, Acting Chairman)

D. Special Committee on Grant and Contract Procedures (Clarance V. McKee, Chairman)

E. Special Committee on Presidential Search (Howard H. Dana, Chairman)

6. Legislative Report/Update
   A. S2393
   B. H3480
5. Other Business
6. Future Meeting Dates
7. Adjournment

CONTACT PERSON FOR MORE INFORMATION: LeaAnne Bernstein, Office of the President, (202) 272–4040.

Date issued: July 2, 1982.

Gerald M. Caplan,

Acting President.

[S–991–82 Filed 7–6–82; 11:52 a.m.]

BILLING CODE 6820–35–M

12

LEGAL SERVICES CORPORATION

Provisions of Legal Services Committee; Meeting

TIME AND DATE: 9:30 a.m.—12 Noon, Saturday, July 17, 1982.

PLACE: Indiana University Law School at Indianapolis, Moot Court Room (Room 101), 735 West New York Street, Indianapolis, Indiana.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Structure of the National Program from a Delivery Perspective
2. Delivery Perspectives/Private Bar
3. Alternative Funding

CONTACT PERSON FOR MORE INFORMATION: LeaAnne Bernstein, Office of the President, (202) 272–4040.

Date issued: July 2, 1982.

Gerald M. Caplan,

Acting President.

[S-992-82 Filed 7-6-82; 11:52 am]

BILLING CODE 6820-35-M

13

NATIONAL TRANSPORTATION SAFETY BOARD

[NM–82–17]

TIME AND DATE: 9 a.m., Thursday, July 15, 1982.

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Ave., S.W., Washington, D.C. 20594.

STATUS: The first three items will be open to the public; the fourth will be closed under exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Special Investigation Report:* Derailments of New York City Transit Authority Trains Involving Traction Motor Mount Failures, and Recommendations to the New York City Transit Authority.
2. *Highway Accident Report:* Truck Engine Fuel Tank Puncture by Bridge Repair Plate, Diesel Spill, and Multiple-Vehicle Skidding Collisions, Interstate 10, Lake Charles, Louisiana, August 27, 1981, and Recommendations to the Federal Highway Administration and the Louisiana Department of Transportation and Development.
3. *Errata Sheet* for Marine Accident Report: Disappearance of U.S. Freighter SS POET in the North Atlantic Ocean about October 25, 1980.
4. *Opinion and Order:* Administrator v. Clark, Dkt. SE–5340; disposition of respondent's appeal.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, (202) 382–6525.

June 30, 1982.

[S-989-82 Filed 7-6-82; 10:12 am]

BILLING CODE 4910-58-M

14

PAROLE COMMISSION

[2P0401]

Pursuant to the Government in the Sunshine Act—Pub. L. 94–409 (5 U.S.C. 552b).

AGENCY HOLDING MEETING: Parole Commission, National Commissioners (the Commissioners presently maintaining offices at Chevy Chase, Maryland, Headquarters).

TIME AND DATE: 2 p.m., Tuesday, July 13, 1982.

PLACE: Room 420–F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20518.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 5 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, National Appeals Board, United States Parole Commmission, (301) 492–5987.

[S-993-82 Filed 7-6-82; 11:45 am]

BILLING CODE 4410-01-M

federal register

Thursday
July 8, 1982

Part II

Department of Transportation

Federal Aviation Administration

Flight Crewmembers; Limitations on Use of Services

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

[Docket No. 23174; Notice No. 82-10]

Flight Crewmembers; Limitations on Use of Services

AGENCY: Federal Aviation Administration, DOT.

ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: The Federal Aviation Administration is considering developing and implementing a program to gather data that might support a determination as to whether persons age 60 or older can safely serve as pilots of airplanes operated under Part 121 of the Federal Aviation Regulations (FAR). This action is partly in response to the concerns of many pilots who state the "age 60 rule" is discriminatory because it does not allow persons who fully meet the current medical standards for an appropriate medical certificate to serve as pilots in air carrier operations. It is also in response, in part, to the recomendations contained in the August 1981 report of the National Institute on Aging Panel on the Experienced Pilots Study. Also being considered is the possibility of establishing age limitations for required flight engineers. Specific comments and suggestions from the public are needed to assist the FAA in determining what action, if any, should be taken regarding age limitations for flight crewmembers.

DATE: Comments must be received on or before November 5, 1982.

ADDRESS: Comments on this notice may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-204), Docket No. 23174, 800 Independence Avenue, SW., Washington, D.C. 20591, or delivered in duplicate to: Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591. Comments delivered must be marked: Docket No. 23174. Comments may be inspected in Room 916 on weekdays between 8:30 a.m. and 5:00 p.m. except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Susan M. Yagoda, Regulatory Review Branch, (ASF-410), Safety Regulations Division, Office of Aviation Safety, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, Telephone (202) 755-8714.

SUPPLEMENTARY INFORMATION:

Comments Invited

This ANPRM is being issued under the FAA's policy for the early public participation in rulemaking proceedings. An ANPRM is issued when it is found that the resources of the FAA and reasonable outside inquiry do not yield a sufficient basis to identify and select a tentative or alternative course of action, or where it would be helpful to invite public participation in identifying and selecting a course of action.

Interested persons are invited to participate in these preliminary rulemaking procedures by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address above. All communications received on or before the closing date for comments will be considered by the Administrator before taking further rulemaking action. Persons wishing the FAA to acknowlege receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 23174." The postcard will be date/time stamped and returned to the commenter. The proposals contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket. If it is determined to be in the public interest to proceed with further rulemaking after considering the available data and comments received in response to this Advance Notice, a Notice of Proposed Rulemaking will be issued.

Availability of AMPRM

Any person may obtain a copy of this ANPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center (APA-430), 800 Independence Avenue, SW., Washington, D.C. 20591 or by calling (202) 426-8058. Communications must identify the notice number of this ANPRM. Persons interested in being placed on the mailing list for future ANPRM's and NPRM's should also request a copy of Advisory Circular No. 11-2, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

Section 121.383(c) ("age 60 rule") prohibits a certificate holder from using the services of any person, and prohibits any person from serving, as a pilot on any airplane engaged in operations under Part 121, Certification and Operations: Domestic, Flag, and Supplemental Air Carriers and Commercial Operators of Large Aircraft, if that person has reached his or her 60th birthday.

The "age 60 rule" was adopted on December 1, 1959. It was prompted by the recognition that certain physiological and psychological functions deteriorate with age and that is it impossible to predict accurately when an incapacitating event might occur with respect to any given individual. In applying that rule to air carrier pilots, it was noted at the time the rule was issued that the number of active air carrier pilots age 60 or over had been increasing and that pilots in this age group were being employed in carrying a substantial number of passengers. It was concluded that the hazards of an incapacitating event inherent in the older pilot's medical condition present too serious a question of safety to allow a pilot to carry a large number of passengers in Part 121 operations. At that time the rule was not applied to other flight crewmembers.

Discussion

As an outgrowth of Congressional hearings by the House Select Committee on Aging and the House Subcommittee on Aviation, Committee on Public Works and Transportation, Public Law 96-171 was passed on December 29, 1979. This legislation directed the National Institutes of Health (NIH) to conduct a study to determine whether the "age 60 rule" is warranted.

The NIH assigned the National Institute on Aging (NIA) primary responsibility for carrying out the study, and the panel established for this purpose issued its report in August 1981. (A copy of that report is contained in the rulemaking docket for this ANPRM.) Among other things, the panel concluded that no medical significance can be attached to age 60 as a mandatory retirement age, but that age-related health changes endanger aviation safety and no medical or performance appraisal system can be identified that would single out pilots who would pose a hazard to safety.

Although the conclusions reached by the NIA panel, and the supportive statements contained in the report, point to a present inability to distinguish those

persons who, as a consequence of aging, present a threat to air safety from those who do not, the following three recommendations were made:

1. The present age limit for air carrier pilots in command and first officers should be retained.

2. The FAA or some other appropriate Federal agency should be requested to engage in a systematic program to collect the medical and performance data necessary to consider relaxing the current "age 60 rule."

3. In view of the growing importance of commuter air carriers, the present age age limit should be extended to cover all pilots engaged in carrying passengers for hire, specifically including operations under Part 135 to provide a level of safety equivalent to that provided in Part 121 operations.

This ANPRM responds to the first and second recommendations of the NIA panel. At this time, the FAA is not considering the panel's third recommendation and it is not a part of this rulemaking action.

Although the report of the NIA panel does not suggest extending the age 60 rule to flight engineers or other flight crewmembers, such a suggestion has been received from United Air Lines, Inc. In making this suggestion, United expresses the belief that "* * * the flight safety rationale for the Age 60 rule requires the conclusion that it is safer for United's Second Officer to retire at age 60 and justifies the FAA's specifically requirtng that United's third seat occupants, and those of other carriers performing comparable functions in Part 121 operations, cease service at age 60."

United argues that at the time the "age 60 rule" became effective, most air carrier flights were on piston aircraft which were not designed with a separate flight engineer panel and its accompanying responsibilities. It contends piston aircraft had, in fact, been largely designed to have the inflight duties performed by pilots, and that today all air carrier flights on jet aircraft required to carry an airman certificated as a flight engineer are equipped with flight engineer panels containing electrical, fuel, pneumatic, and hydraulic system controls not contained elsewhere in the cockpit. The third seat occupant is responsible for operating these controls. Moreover, United asserts that following resolution of the crew complement controversy in the late 1950's and early 1960's which led many airlines to assign pilot-qualified personnel to the third seat, the third crewmember has been given additional responsibilities. United States that these responsibilities make the medical considerations of flight engineers equivalent to that of pilots in air carrier operations.

In a letter to the FAA responding to this suggestion by United, the Flight Engineers International Association (FEIA) points out that the present "age 60 rule" does not apply to flight engineers, and urges the FAA to consider the consequences to employee relations and current litigation of such a suggestion. It asks the FAA to ensure that a substantial showing of need has been made before proposing an extension of the rule to flight engineers.

Copies of United's and the FEIS submission, as well as other material submitted to the agency in this regard, are contained in the rulemaking docket for this ANPRM.

While the NIH report did not specifically consider retirement ages for flight crewmembers other than pilots, the study states the functional similarities among all three cockpit positions as follows:

> The airline cockpit crew usually consists of three pilots: the pilot-in-command (captain), the co-pilot (first officer), and the flight engineer (second officer). Their responsibilities are specific but overlap considerably, and all involve tasks of information gathering, problem solving, decision making, psycho-motor coordination, and transmission of information to the other components of a complex man-machine system.

The NIH report shows that, for one air carrier, the rate of approval for medical disability payments increased dramatically for flight engineers in the 60–64 age range (from 22.8 per 1,000/year for ages 55–59 to 114.5 per 1,000/year for ages 60–64).

It is clear from the disability rate shown in the NIH report that flight engineers are subject to the same age-related increase in incidence of disease that, in part, provides the justification for an "age 60 rule" for pilots. Because of their responsibilities, it may be appropriate to impose the "age 60 rule" on flight engineers.

The FAA recognizes that most carriers have adopted general crewmember career progression policies under which the flight engineer is an entry level position to be followed by promotion to first officer and then captain. These policies are designed to further crew coordination and provide future captains with experience in all required flight crewmember positions. It can be argued that by allowing flight engineer duties to be performed by a person age 60 or older, a pilot could "bid down" to this position. Thus, the flight engineer position could serve less as a training ground for future captains and more as a position for senior crewmembers unable to serve as pilot because of the age 60 rule. Although many airlines do use pilot-qualified flight engineers, there are carriers that operate the complete spectrum of today's high-performance aircraft with nonpilot-qualified flight engineers serving as the third crewmember. Accident and enforcement histories of these companies compare favorably with companies whose pilots have had flight engineer experience.

Need for Additional Data on the Effects of Aging on Pilot Performance

The NIA Panel on the Experienced Pilots Study points out that there is a lack of precise, reliable, longitudinal medical and performance data on older pilots concerning the validity, with respect to piloting, of currently available tests of perceptual and congnitive function. It recommends the FAA or some other appropriate Federal agency undertake a study to gather these data as an "approach" to changing the "age 60 rule".

In addition to comprehensive medical testing at annual intervals before age 60, the "approach" recommended by the panel would include extensive medical testing at quarterly intervals after age 60. A key element to the "approach" would involve a comprehensive flight proficiency test, at least on an annual basis, instead of the standard proficiency test now used. This would include collecting quantitative objective performance data under conditions of stress and fatigue in a LOFT-type (Line-Oriented Flight Training) simulation under conditions of fatigue; assessing vigilance, handling of workload, and complex decisionmaking situations; and evaluating ability to coordinate crew performance effectively and manage cockpit and ground support resources.

After reviewing the "approach" recommended by the NIA Panel, the FAA agrees with the intent of the recommendation but not with the specific method suggested. Therefore, to obtain medical and performance data on older pilots necessary to consider relaxing the "age 60 rule," the FAA seeks specific comments on a program such as the following:

1. After reaching age 57 and before reaching his or her 58th birthday, an air carrier pilot could volunteer to enter a program that could allow him or her to continue serving as a pilot in Part 121 operations until he or she reaches the age of 62.

2. At the age of 58, the pilot would enter the program and undergo comprehensive medical and performance testing on a quarterly

basis. This testing would be instead of the current semiannual and annual medical examinations now required for a pilot in command and a second in command in Part 121 operations, respectively.

3. At the age of 60, a determination would be made whether to allow that person to serve as a pilot in Part 121 operations until he or she reaches his or her 62nd birthday provided that person remains in the program and the Administrator determines that safety will not be compromised. Pilots in the program will not be allowed to serve after reaching age 62.

4. This experimental program would expire 8 years after implementation. No applicants for this program would be accepted after 3 years from the program starting date.

5. This would be a voluntary program and a pilot could elect not to participate in the program and to retire at age 60. A person participating in the program could withdraw at any time. However, if at any time the test results reveal any condition or information that indicate the person does not meet the medical standards of Part 67, that person could not continue to fly.

Discussion

a. The NIA report clearly points out that serious medical and functional problems increase as age progresses, and that current available assessment techniques do not exist that can reliably predict incapacitation or degradation of performance. Although airman participants in the study would be evaluated more frequently and with the most sophisticated techniques, the risk of incapacitation from an undetected medical condition would nevertheless continue to increase with age. The risk for a participant over 60 would be greater than that for a younger participant.

b. No protocol presently exists that could be used to determine effects of aging on performance. There is no assurance that such a protocol can be developed. An attempt to develop such a protocol would require time and expenditure of significant funds.

c. Currently used simulators could require modification to facilitate collecting the required quantitative objective data. It is uncertain who would be expected to bear the cost of the modifications, although it is likely that this would fall to the air carriers. Without knowing what the protocol for testing would involve, it is impossible to estimate the cost of modification.

d. Additional staff and funding for consultants in both the medical and operational areas would be required because the FAA is not presently staffed to assess adequately the results of such a special study program.

e. A pilot under the age of 60 could run the risk of forced retirement before reaching age 60 if, while participating in the program, that person exhibits a present risk of incapacitation as determined by the additional testing required as part of the program.

It should be noted that there are contradictions in the NIH recommendations. The panel states that comprehensive examinations cannot provide data to predict reliably cardiovascular disease in individuals or to analyze other functions that may deteriorate with age and therefore recommends retaining the present "age 60 rule." On the other hand, the report recommends that the FAA or some other appropriate Federal agency gather data needed to relax the rule by allowing individuals age 60 and older to fly.

Economic Impact and Regulatory Evaluation

This ANPRM is designed to solicit public comments relating to the "age 60 rule," including comments of an economic nature. The potential economic benefits of having air carrier pilots serve past age 60 may justify a test program to collect data to ensure that amending the rule would not compromise safety. At present it appears that the economic impact should be minimal. It is premature at this time, however, to accurately evaluate the costs and benefits of such a test program until comments are reviewed and a suitable program is defined, including expected outputs. This ANPRM will aid in deciding whether to go forward with such a program. Questions relating to economic matters are included for comment. If it is determined that further rulemaking is appropriate, an NPRM and full regulatory evaluation will be issued containing an economic evaluation relating to its cost and benefits.

Request for Information

Persons responding to this notice are invited to specifically address the following quetions and supply any other information they consider pertinent to the FAA's decision on further rulemaking on this subject:

1. *What is the appropriate Federal agency to engage in a systematic program to collect the health and performance data necessary to determine whether persons age 60 or older can safely serve as pilots of airplanes under Part 121?*

2. *Should the "age 60 rule" be extended to flight engineers?* If such a rule change were adopted, approximately how many flight engineers would be affected annually?

3. *If you serve as a flight crewmember (pilot or flight engineer) engaged in Part 121 operations—*

a. What other employment opportunities are available for a person with your skills?

b. Are there any noneconomic benefits or impacts for a person who continues working past age 60, such as maintaining skills, avoiding boredom, doing useful work, etc?

c. Would you be willing to participate in a program to gather data on the effects of aging on flight crewmember performance?

d. What do you estimate the net financial benefits to be to society of working past age 60? Consider the difference in the productive value of your present occupation versus an alternative occupation or retirement and the value of your time.

4. *If the FAA were to implement a program to gather data on the effects of aging on flight crewmember performance such as the one already discussed in this notice—*

a. At what age should individuals enter such a program?

b. How often should they undergo comprehensive medical and performance testing?

c. How long past their 60th birthday should they be allowed to fly while in the program?

d. What is the minimum period of time the program should be conducted to ensure the validity of its results?

e. What tests to quantify and measure individual performance should be developed before initiating the study?

f. If you are suggesting a specific test program, please estimate its cost and suggest who should bear this cost.

g. Can flight simulators be used or modified in a way to give quantitative information in respect to effects of aging on performance?

h. What costs would be involved in modifying these simulators?

i. Who should bear the cost of simulator modifications if required for conducting performance testing and the cost of the testing itself?

j. If a Line-Oriented Flight Training (LOFT) simulation method is used to measure flightcrew performance under conditions of stress and fatigue, how should those conditions be established and how can the level of stress and fatigue, and their effects on performance, be quantified on individuals?

k. A LOFT simulation method to measure flightcrew performance could

result in certain subjective evaluations being made. What methods can be used to ensure the consistency of such evaluations?

l. Can tests be devised to evaluate such flight crewmember tasks as visual-motor control, visual information processing, auditory signal detection, and decisionmaking?

m. Should medical testing be conducted in large diagnostic centers only and, if so, what criteria should be used in designating these centers?

n. What medical tests are appropriate and what is a reasonable frequency for conducting these tests?

o. Is there any reason why the information gathered through the special study of those individuals under age 60 should not be used in determining their continued eligibility to exercise pilot privileges?

p. What should the size group be to ensure statistical validity of the study?

q. To what extent would allowing participants age 60 or older to fly in Part 121 operations while data are being collected compromise "the duty resting upon air carriers to perform their services with the highest possible degree of safety in the public interest" (Section 601(b) of the the Federal Aviation Act of 1958, as amended; 49 U.S.C. 1421(b))?

r. Should flight engineers be included in the study?

5. *If you are a Part 121 certificate holder—*

a. What do you estimate the annual financial impact to be over the next 10 years if the "age 60 rule" is changed to some other specific age or if flight engineers are included in § 121.383(c)? What effect, if any, would such changes have on labor relations and employment contracts? We understand that this is a complicated question, involving such factors as retirement pay and terms, flightcrew pay structure and other employment benefits, age structure, longevity of junior active crewmembers, attrition rates, the number of captains who "bid down" to flight engineer positions, training cycles and costs, and growth or shrinkage in the size of the flightcrew cadres. Such details would be appreciated in your estimate of financial impact.

b. What effects would a study program have on existing air carrier medical programs?

c. What do you estimate the change to be for persons affected should any of these regulatory changes be made? Consider the changes in wages, pensions, and health benefits.

List of Subjects in 14 CFR Part 121

Aviation safety, Air carriers, Air transportation, Aircraft, Aircraft pilots, Airmen, Airplanes, Pilots, Transportation, Common carriers.

(Secs. 313, 601, 602, 604, and 609 of the Federal Aviation Act of 1958, as amend (49 U.S.C. 1354, 1421, 1422, 1424, and 1429), and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this rulemaking action is considered significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A full regulatory evaluation will be prepared, with the assistance of comments received as a result of this advance notice, if necessary, in conjunction with any notice of proposed rulemaking that may be issued on this subject.

Issued in Washington, D.C., on June 23, 1982.

Kenneth S. Hunt,

Director of Flight Operations, AFO–1.

[FR Doc. 18244 Filed 7–7–82; 8:45 am]

BILLING CODE 4910–13–M

Federal Register

Thursday
July 8, 1982

Part III

Department of the Interior

Bureau of Land Management

List of Wilderness Study Areas

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

List of Wilderness Study Areas

AGENCY: Bureau of Land Management, Interior.

ACTION: List of Wilderness Study Areas and Study Schedule.

SUMMARY: This notice updates the November 18, 1981 **Federal Register** publication (46 FR 56736) containing a listing of wilderness study areas administered by the Bureau of Land Management (BLM) in the contiguous Western States as well as three eastern lake States. This list and study schedule is being published to assist the public in tracking wilderness study areas (WSA's) and to update the schedule resulting from streamlining and aggregating various land use planning efforts since the November 18, 1981, publication.

Based upon budgetary, workload and scheduling priorities this list reflects all revisions to provide for the acceleration of wilderness studies. The BLM's goal is to complete all wilderness studies (exclusive of mineral surveys) prior to September 30, 1986, by incorporating the studies into the BLM land use planning process accompanied by Environmental Impact Statements.

FOR FURTHER INFORMATION CONTACT:

Questions about particular wilderness study areas should be directed to the appropriate BLM State Directors, whose addresses appear at the end of this notice (Appendix A). Questions about the nationwide aspects of the program should be directed to the Division of Recreation, Cultural, and Wilderness Resources (342), Bureau of Land Management, 18th and C Streets, NW., Washington, D.C. 20240. Telephone (202) 343-6064.

SUPPLEMENTARY INFORMATION: A column headed "DEIS Completion" has been added to Table II to identify in which fiscal year State Directors are scheduled to publish the draft environmental impact statement (DEIS) containing their preliminary recommendations on wilderness suitability or nonsuitability. At that time, a public comment period will be provided on the DEIS and preliminary wilderness recommendations.

The "Plan/EIS Completion" column indicates the fiscal year in which the State Director will make his final recommendations to the Director.

Three States (New Mexico, Oregon and Utah) are conducting wilderness studies on a statewide basis. In these cases the dates are given at the head of the table.

Some inventory units and WSA's are still under appeal to the Interior Board of Land Appeals (IBLA), or are pending reconsideration by the BLM as a result of the IBLA's decisions reversing, remanding or setting aside certain State Directors' decisions. In cases where the IBLA has issued a decision but the status of a WSA is not final, Table II identifies these WSA's by denoting the acronymn "IBLA" after each affected WSA. Table II does not include areas not recommened for study and pending decisions by the IBLA. State Directors will announce their decisions concerning these units in subsequent **Federal Register** notices consistent with the IBLA ruling. These changes will be integrated into an updated list at a later date.

For further information on policies, criteria and guidelines for conducting wilderness studies on the public lands refer to the BLM's final wilderness study policy published in the **Federal Register** on February 3, 1982 (47 FR 5098).

The results of the inventory and their study status are presented in the three tables below:

Table I. Statistical Summary Table.
Table II. List of Wilderness Study Areas.
Table III. List of Instant Study Areas.

Dated: July 1, 1982.

Robert F. Burford,

Director.

BILLING CODE 4310-84-M

TABLE I
STATISTICAL SUMMARY

BLM Wilderness Inventory Status 1/ as of July 1, 1982

Contiguous Western States	Public Lands Subject to Wilderness Inventory (Acres)	Identified as Wilderness Study Areas 2/			Determined to lack Wilderness Characteristics (Acres)	
		Number of Areas	Acres	%		%
Arizona	12,663,000	132	3,038,000	(24)	9,625,000	(76)
California	16,585,000	243	6,777,000	(41)	9,808,000	(59)
Colorado	7,996,000	64	808,000	(10)	7,188,000	(90)
Idaho	11,949,000	69	1,732,000	(14)	10,217,000	(86)
Montana	8,140,000	46	468,000	(6)	7,672,000	(94)
Nevada	49,118,000	100	4,593,000	(9)	44,525,000	(91)
New Mexico	12,847,000	52	999,000	(8)	11,848,000	(92)
North Dakota	68,000	0	0		68,000	(100)
Oklahoma	7,000	0	0		7,000	(100)
Oregon	13,965,000	94	2,652,000	(19)	11,313,000	(91)
South Dakota	277,000	0	0		277,000	(100)
Utah	22,076,000	87	2,705,000	(12)	19,371,000	(88)
Washington	310,000	2	5,000	(2)	305,000	(98)
Wyoming	17,793,000	46	582,000	(3)	17,211,000	(97)
Subtotal	173,794,000	935	24,359,000	(14)	149,435,000	(86)
Eastern States						
Michigan	1,250				1,250	(100)
Minnesota	45,000				45,000	(100)
Wisconsin	3,548				3,548	(100)
Subtotal	49,798				49,798	(100)

1/ Certain inventory decisions have been appealed to the Interior Board of Land Appeals; there may be changes as a result of this Board's decisions.

2/ Includes all 55 Instant Study Areas (ISA's) and acreage for each State. See Tables II(WSA's) and III(ISA's) for a listing of each area and their respective acreage and status.

TABLE II

BLM WILDERNESS STUDY AREAS (WSA's)
(Excludes Instant Study Areas)

*District Prefix Code:
010-Arizona Strip; 020-Phoenix; 040-Safford; 050-Yuma;
1/ Crosses State political boundaries.
2/ Crosses BLM resource administra'..c boundaries.
3/ Contiguous wilderness area or study area on lands administered by Federal agency other than BLM.

**MFP-Management Framework Plan, A-Amendment; T-Transition; RMP-Resource Management Plan

TABLE II A

ARIZONA

WSA Name		* Number	Acreage	County	Resource Area	Plan Name	** Type	Plan Start	DEIS Completion	Plan/EIS Completion
Starvation Point		AZ-010-005/ UT-040-057 1/2	27,212	Coconino/ Washington	Vermillion	Arizona Strip	MFP-A	1982	1983	1983
Ferry Swale		AZ-010-004A	10,170	Coconino						
Judd Hollow	(IBLA)	AZ-010-004B	1,226	Coconino						
Paria Rim	(IBLA)	AZ-010-004C	106	Coconino						
Cedar Mountain	(IBLA)	AZ-010-004D	12	Coconino						
Paria Plateau		AZ-010-004A/1Y	124,428	Coconino						
Overlook		AZ-010-004B	7,348	Coconino						
Nassett Wash		AZ-010-009 3/	12,913	Coconino						
Kanab Creek		AZ-010-011 1/ 3/	39,242	Coconino/ Mohave						

WSA Name		Number *	Acreage	County	Resource Area	Plan Name	Type **	Plan Start	DEIS Completion	Plan/EIS Completion
Nack Canyon (A)		AZ-010-033A 3/	63,682	Mohave						
Eldorado		AZ-010-034	9,441	Mohave						
Toroweap		AZ-010-050	5,312	Mohave						
Mount Logan		AZ-010-051 2/	8,803	Mohave						
Mount Trumbull		AZ-010-052	7,285	Mohave						
Starvation Point		AZ-010-005 1/	18,637	Mohave	Shivwits					
Poverty Mountain		AZ-010-091	7,872	Mohave						
Parashaunt		AZ-010-093 3/	38,938	Mohave						
Darnall Canyon	(IBLA)	AZ-010-096A 3/	894	Mohave						
Grassy Mountain	(IBLA)	AZ-010-096C 3/	5,503	Mohave						
Andrus Canyon		AZ-010-96D 3/	48,248	Mohave						
North Dellenbaugh	(IBLA)	AZ-010-097	10,678	Mohave						
C & F	(IBLA)	AZ-010-099 3/	640	Mohave						
Salt House	(IBLA)	AZ-010-104A	13,465	Mohave						
Mustang Point	(IBLA)	AZ-010-104B	25,912	Mohave						
Nevershine Mesa		AZ-010-105A 3/	19,457	Mohave						
Soap Point		AZ-010-105B 3/	9,500	Mohave						
Tlacanebitte		AZ-010-105C 3/	2,715	Mohave						
Grand Gulch		AZ-010-107 3/1	8,141	Mohave						
Pigeon Canyon		AZ-010-109 3/	33,348	Mohave						
Last Chance		AZ-010-111	33,985	Mohave						
Grand Wash Cliffs		AZ-010-112	31,503	Mohave						
Pakoon Springs		AZ-010-114 1/	24,832	Mohave						
Hidden Rim		AZ-010-119	16,563	Mohave						
Nobbie Canyon		AZ-010-124	11,825	Mohave						
Ide Valley		AZ-010-127	7,970	Mohave						
Sand Cove		AZ-010-128	40,061	Mohave						
Virgin Mountains		AZ-010-129	37,681	Mohave						
Virgin River		AZ-010-130 3/	1,440	Mohave						
Purgatory		AZ-010-132	7,557	Mohave						
Lime Hills		AZ-010-134 3/	12,850	Mohave						
Narrows		AZ-010-135	7,725	Mohave						
Mount Tipas		AZ-010-136 3/	6,480	Mohave						
		Subtotal (42)	801,000							
Mount Wilson		AZ-020-001A 3/	24,821	Mohave	Kingman	Cerbat Block	MFP-A	1983	1984	1986
Van Deenan	(IBLA)	AZ-020-007 3/	1,550	Mohave						
Mockingbird	(IBLA)	AZ-020-008 3/	5,700	Mohave						
Black Mountains N.	(IBLA)	AZ-020-009 3/	20,398	Mohave						
Burns Spring	(IBLA)	AZ-020-010 3/	29,961	Mohave						
Mount Tipton	(IBLA)	AZ-020-012/042	19,550	Mohave						
Grapevine Wash	(IBLA)	AZ-020-014 3/	2,200	Mohave						
Grand Wash Cliffs	(IBLA)	AZ-020-015	12,176	Mohave						
Mount Davis & Pole	(IBLA)	AZ-020-021 3/	2,560	Mohave						
Mount Nutt	(IBLA)	AZ-020-024	29,200	Mohave						
Warm Springs	(IBLA)	AZ-020-028/029	118,455	Mohave						
		Subtotal (11)	266,571							
Wabayuma Peak		AZ-020-037/063	36,730	Mohave	Kingman	Upper Sonoran	MFP-T	1982	1982	1983
Planet		AZ-020-053 2/	12,765	Mohave						
Aubrey Peak		AZ-020-054	15,240	Mohave						
Black Mesa		AZ-020-056	17,010	Mohave						
Hualpai Mountains		AZ-020-058A 2/	62,300	Yuma						
Arrastra Mountain		AZ-020-059 2/	113,650	Mohave/ Yavapai						
Lower Burro Creek		AZ-020-060	22,300	Mohave						
Upper Burro Creek		AZ-020-062	27,390	Mohave/ Yavapai						
Peoples Canyon	(IBLA)	AZ-020-068	3,680	Yavapai	Lower Gila					
Buckskin Mountains		AZ-020-071 2/	47,582	Yuma						
Harcuvar Mountains		AZ-020-075	74,778	Yuma/ Yavapai						
Hassayampa River Canyon		AZ-020-083 2/	21,900	Yavapai						
Harquahala		AZ-020-095	73,875	Yuma/ Maricopa						
Big Horn Mountains		AZ-020-099	22,337	Maricopa						
Hummingbird Springs		AZ-020-100	67,680	Maricopa						
Saddle Mountain		AZ-020-135	5,500	Maricopa						
Iron Peak		AZ-020-204	9,665	Yavapai						
Trigo Alamos		AZ-020-205	8,910	Yavapai						
		Subtotal (18)	643,092							

WSA Name	Number	Acreage	County	Resource Area	Plan Name	Type **	Plan Start	DEIS Completion	Plan/EIS Completion
South Bradshaws (IBLA)	AZ-020-084A 3/	640	Yavapai	Phoenix	Phoenix	MFP-A	1983	1984	1984
Hells Canyon	AZ-020-119	9,379	Yavapai/ Maricopa						
White Canyon	AZ-020-187	6,968	Pinal						
Picacho Mountains	AZ-020-194	6,400	Pinal						
Ragged Top (IBLA)	AZ-020-197	4,460	Pima						
Coyote Mountains	AZ-020-202	5,080	Pima						
Baboquivari Peak S.(IBLA)	AZ-020-203B	2,065	Pima						
	Subtotal (7)	34,992							
New Water Mountains	AZ-020-125 3/	40,600	Yuma	Lower Gila	Lower Gila South	RMP	1981	1984	1986
Little Horn Mtns. West	AZ-020-126A 3/	13,800	Yuma						
Little Horn Mountains	AZ-020-127	91,930	Yuma						
Eagletail Mountains	AZ-020-128	120,925	Yuma/ Maricopa						
East Clanton Hills	AZ-020-129	36,600	Yuma/ Maricopa						
Face Mountain	AZ-020-136	27,575	Maricopa						
Signal Mountain	AZ-020-138	20,920	Maricopa						
Woolsey Peak	AZ-020-142/144	73,930	Maricopa						
North Maricopa Mountains	AZ-020-157	75,483	Maricopa						
Sierra Estrella	AZ-020-160	14,190	Maricopa						
South Maricopa Mountains	AZ-020-163	72,004	Maricopa						
Butterfield Stage Memorial	AZ-020-164	9,566	Maricopa						
Table Top Mountain	AZ-020-172	39,823	Maricopa/ Pinal						
Subtotal (13)	637,346								
Needle's Eye	AZ-040-001A	9,485	Gila	Gila	Safford	MFP-A	1982	1983	1983
Black Rock	AZ-040-008 3/	8,492	Graham						
Fishhooks	AZ-040-014	15,013	Graham						
Daymine	AZ-040-016	16,629	Graham						
Turtle Mountain	AZ-040-023/024 (B)	17,422	Greenlee/ Graham						
Gila Box	AZ-040-022/ 023/024(A)2/	13,470	Graham/ Greenlee						
Peloncillo Mountains	AZ-040-060 1/	13,032	Cochise/ Graham/ Greenlee/ Hidalgo,NM	Gila/San Simon					
Javelina Peak	AZ-040-048	17,870	Graham						
Happy Camp Canyon	AZ-040-065	16,769	Cochise						
	Subtotal (9)	128,182							
Bowie Mountain	AZ-040-066 3/	6,156	Cochise	San Simon	Coronado (USFS)	Forest	1978	1982	1983
Baker Canyon	AZ-040-070	4,812	Cochise						
Galiuro Addition #3	AZ-040-081 3/ 3/	640	Graham	Gila					
	Subtotal (3)	11,608							
Apache Box (IBLA)	AZ-040-076	932	Grant,NM	San Simon	Apache-Sitgreaves (USFS)	Forest	1980	1983	1983
Hoverrocker (IBLA)	AZ-040-077 3/ 3/	2,791	Greenlee/ Grant,NM						
	Subtotal (2)	3,723							
Dead Mtn.,North Addition	AZ-050-001 1/	1,815	San Bernardino	Havasu	Havasu	MFP-A	1983	1983	1984
Dead Mtn.,South Addition	AZ-050-002 1/	630	San Bernardino						
Chemehuevi Mountains	AZ-050-003 1/	195	San Bernardino						
Chemehuevi/Needles	AZ-050-004 1/	960	San Bernardino						
Whipple Mountain Addition	AZ-050-010 1/	1,380	San Bernardino						
Needles East. Add. (IBLA)	AZ-050-0058 3/	445	Mohave						
Crossman Peak	AZ-050-007B	37,760	Mohave						
Mohave Wash (IBLA)	AZ-050-007C/5 48/2-52 2/	104,605	Mohave						
Gibralter Mountain (IBLA)	AZ-050-012	25,260	Yuma						
Planet Peak (IBLA)	AZ-050-013	17,645	Yuma						
Cactus Plain	AZ-050-014 A/B 2/	70,360	Yuma						
Swansea (IBLA)	AZ-050-015A	41,690	Yuma/Mohave						
East Cactus Plain	AZ-050-017	13,735	Yuma						
	Subtotal (13)	316,500							
Big Maria Mtns. North	AZ-050-018 1/	415	Riverside	Yuma	Yuma	MFP-A	1984	1983	1983
Big Maria Mtns. South	AZ-050-019 1/	1,420	Riverside						
Little Picacho Peak South	AZ-050-035 1/	2,915	Imperial						
Trigo Mountains (IBLA)	AZ-050-023A 7/ 023B 3/	41,370	Yuma						
Kofa Unit 3 South (IBLA)	AZ-050-031 3/	3,400	Yuma						
Kofa Unit 4 North (IBLA)	AZ-050-033 3/	1,900	Yuma						
Kofa Unit 4 South	AZ-050-034 3/	11,220	Yuma						
Muggins Mountain	AZ-050-053A	21,300	Yuma						
	Subtotal (8)	83,940							
STATE TOTAL	Areas (126)	2,926,954							

TABLE II

BLM WILDERNESS STUDY AREAS (WSA's)
(Excludes Instant Study Areas)

*District Prefix Code:
010-Bakersfield; 020-Susanville; 030-Redding; 040-Ukiah; 060-Riverside; CDCA-California Desert Conservation Area
1/ Crosses State political boundaries.
2/ Crosses BLM resource administrative boundaries.
3/ Contiguous wilderness area or study area on lands administered by Federal agency other than BLM.

**MFP-Management Framework Plan, A-Amendment, T-Transition; RMP-Resource Management Plan

TABLE II B

CALIFORNIA

WSA Name	Number*	Acreage	County	Resource Area	Plan Name	Type**	Plan Start	DEIS Completion	Plan/EIS Completion
Tepusquet Peak	CA-010-007 3/	1,024	Santa Barbara	Caliente	Los Padres (USFS)	Forest	1981	1983	1983
Garcia Mountain	CA-010-012 3/	454	San Luis/ Obispo						
Black Mountain	CA-010-020 3/	110	San Luis/ Obispo						
Spoor Canyon	CA-010-036 3/	240	Santa Barbara						
Cuyama	CA-010-037 3/	1,014	Santa Barbara						
Machesna	CA-010-108 3/	710	San Luis/ Obispo						
Black Butte	CA-040-305A 3/	40	Monterey	Hollister					
Bear Mountain	CA-040-305B 3/	3,198	Monterey	Hollister					
Bear Canyon	CA-040-305C 3/	318	Monterey	Hollister					
	Subtotal (9)	7,198							
Sheep Ridge	CA-010-022 3/	4,905	Tulare	Caliente	Central California	MFP-A	1981	1982	1982
Milk Ranch/Case Mountain	CA-010-023 3/	5,742	Tulare	Caliente					
Owens Peak	CA-010-026 2/	22,560	Tulare/Kern	Caliente					
Caliente Mountain	CA-010-042	19,018	San Luis/ Obispo	Caliente					
Panoche Hills North	CA-040-301A	6,677	Fresno	Diablo					
Panoche Hills South	CA-040-301B	11,267	Fresno	Diablo					
Pinnacles Wilderness Contiguous	CA-040-301	5,838	Monterey/ San Benito	Diablo					
Ventana Wilderness Contiguous	CA-040-308 3/	680	Monterey	Hollister					
Merced River	CA-040-203	12,835	Mariposa	Folsom					
	Subtotal (9)	89,522							
Moses	CA-010-025 3/	558	Tulare	Caliente	Sequoia (USFS)	Forest	1981	1983	1983
Milk Ranch/Case Mountain	CA-010-023 3/	840	Tulare						
Rockhouse	CA-010-029 3/	34,795	Tulare						
Scodie	CA-010-030 3/	5,847	Tulare/Kern						
Dumeland	CA-010-032 3/	2,209	Kern						
Kelso Creek Valley	CA-010-065 3/	2,244	Kern						
	Subtotal (6)	46,293	Kern						
Paiute (IBLA)	CA-010-060 3/	7,600	Inyo	Bishop	Inyo (USFS)	Forest	1981	1983	1983
Coyote Southeast (IBLA)	CA-010-063 3/	3,211	Inyo						
Log Cabin - Saddlebag	CA-010-091A 3/	520	Mono						
Black Canyon (IBLA)	CA-010-065 3/	6,518	Inyo						
Wheeler Ridge (IBLA)	CA-010-068 3/	3,197	Inyo/Mono						
Laural-McGee	CA-010-072 3/	110	Mono						
White Mountain	CA-010-075 3/	1,260	Inyo/Mono						
Benton Range	CA-010-077 3/	4,052	Mono						
	Subtotal (8)	26,468							

WSA Name	Number	Acreage	County	Resource Area	Plan Name	Type**	Plan Start	DEIS Completion	Plan/EIS Completion
Sacator Meadow	CA-010-027 2/3	18,175	Tulare/Inyo	Caliente	Benton-Owens Valley /Bodie-Coleville	MFP-A	1983	1984	1985
Southern Inyo	CA-010-056 2/3	36,600	Inyo	Bishop					
Independence Creek	CA-010-057 3/	9,760	Inyo						
Wonoga Peak	CA-010-058 3/	3,530	Riverside						
Tinemaha	CA-010-059 3/	3,280	Riverside						
Crater Mountain	CA-010-062	6,760	Inyo						
Symmes Creek	CA-010-064	7,700	Inyo						
Casa Diablo	CA-010-082	5,547	Inyo						
Granite Mountains	CA-010-090	52,781	[illegible]						
Cerro Gordo	CA-010-055	16,102	Inyo						
Rock Creek West	CA-010-075 3/	414	[illegible]						
Chidago Canyon	CA-010-079	20,246	[illegible]						
Fish Slough	CA-010-080	19,730	Inyo/Mono						
Volcanic Tableland	CA-010-081	11,840	Inyo/Mono						
Excelsior (South 1/2)	CA-010-088	3,300	[illegible]						
Walford Springs	CA-010-092	13,200	Mono						
Mormon Meadow	CA-010-094	7,280	Mono						
Mount Biedemen	CA-010-095	12,420	Mono						
Bodie Mountains	CA-010-099	23,360	Mono						
Bodie	CA-010-100	15,455	Mono						
Masonic Mountains	CA-010-102	6,600	Mono						
Excelsior (North 1/2)	CA-010-088 3/	9,100	Mono						
Blinkard	CA-010-105 2/	6,760	Alpine/Mono						
	NV-030-531 3/								
Carson - Iceberg	CA-010-105 3/	1,590	Mono						
	NV-030-532								
	Subtotal (24)	311,530							
Sweetwater	CA-010-103 3/	960	Mono	Bishop	Toiyabe(USFS)	Forest	1981	1983	1983
	Subtotal (1)								
North Fork American	CA-040-102 3/	50	Placer	Folsom	Tahoe (USFS)	Forest	1981	1983	1983
	Subtotal (1)								
Tuolumne River	CA-040-201 3/	3,005	Tuolumne	Folsom	Stanislaus (USFS)	Forest	1981	1983	1983
	Subtotal (1)								
Pit River Canyon	CA-020-103	11,575	Lassen	Pit River	Alturas	RMP	1980	1983	1983
Tule Mountain	CA-020-211	16,950	Lassen/ Modoc						
South Warner Contiguous	CA-020-708 3/	4,330	Modoc						
	Subtotal (3)	32,855							
Tunnison Mountain	CA-020-311	20,650	Lassen	Eagle Lake	Eagle Lake/Surprise	MFP-A	1984	1985	1985
Five Springs	CA-020-609 1/	45,800	Lassen/ Washoe	Eagle Lake					
Skedaddle	CA-020-612 1/	60,800	Lassen/ Washoe	Eagle Lake					
Dry Valley Rim	CA-020-615 1/	17,140	Lassen/ Washoe	Pit River					
Buffalo Hills	CA-020-619 1/	880	Lassen/ Washoe	Eagle Lake					
Twin Peaks	CA-020-619A 1/	23,060	Lassen	Eagle Lake					
Wall Canyon	CA-020-805 1/	45,790	Washoe	Surprise					
Little High Rock Canyon	CA-020-913 1/	44,870	Washoe/ Humboldt	Surprise					
Yellow Rock Canyon	CA-020-913A 1/	13,050	Washoe	Surprise					
High Rock Canyon	CA-020-913B 1/	33,985	Washoe	Surprise					
East Fork High Rock Canyon	CA-020-914 1/	46,450	Washoe/ Humboldt	Surprise					
Sheldon Contiguous	CA-020-1012 1/3/	24,130	Washoe	Surprise					
Massacre Rim	CA-020-1013 1/	110,000	Washoe	Surprise					
	Subtotal (13)	486,605							
Timbered Crater	CA-030-201 1/	17,542	Shasta/ Modoc/ Siskiyou	Ishi	Redding	MFP-C	1981	1983	1984
Lava	CA-030-203	11,632	Shasta	Ishi					
Yolla Bolly	CA-030-501 1/	[illegible]	Tehama	Ishi					
	Subtotal (3)	29,778							
Tunnel Ridge	CA-030-402 1/	4,623	Trinity	Ishi	Shasta/Trinity (USFS)	Forest	1981	1983	1983
	Subtotal (1)								
Ishi	CA-030-503 1/	200	Tehama	Ishi	Lassen (USFS)	Forest	1981	1983	1983
	Subtotal (1)								
Oroville Lake (ISLA)	CA-030-504 1/	48	Butte	Ishi	Plumas (USFS)	Forest	1981	1983	1983
	Subtotal (1)								
King Range (Chemise ISA)	CA-050-112	32,342	Humbolt	Eureka	King Range/North Coast	MFP-A	1984	1985	1985
	Subtotal (1)								
Red Mountain	CA-050-132	6,173	Mendocino	Eureka					
	Subtotal (1)								
Big Butte	CA-050-211 1/	9,536	Trinity/ Mendocino	Eureka	Mendocino (USFS)	Forest	1982	1984	1984
Thatcher Ridge	CA-050-212 1/	17,187	Mendocino	Mendocino					
Eden Valley/Middle Fork Eel River	CA-050-214 1/	6,674	Mendocino	Mendocino					
	Subtotal (3)	33,397							

WSA Name	Number *	Acreage	County	Resource Area	Plan Name	Type **	Plan Start	DEIS Completion	Plan/EIS Completion
Rocky Creek/Cache Creek	CA-050-317	33,582	Lake/Yolo	Clear Lake	Clear Lake	MFP-T	1982	1983	1983
Cedar Roughs	CA-050-331	7,183	Napa						
	Subtotal (2)	40,765							
Agua Tibia	CA-060-020B 3/	160	Riverside	Escondido	Western Counties	MFP-A	1981	1982	1982
Beauty Mountain C	CA-060-020C	11,342	San Diego/ Riverside	Escondido	(West San Diego)				
Combe Peak A	CA-060-021A	71	San Diego	El Centro					
Hauser Mountain C	CA-060-021C	5,489	San Diego	Escondido					
Western Otay Mountain	CA-060-028	5,751	San Diego	Escondido					
Southern Otay Mountain	CA-060-029	7,941	San Diego	Escondido					
	Subtotal (6)	30,954							
San Ysidro Mountain	CA-060-022	2,131	San Diego	El Centro	East San Diego County	MFP-T	1978	1981	1981
San Felipe Hills	CA-060-023	5,265							
Sawtooth Mountains A	CA-060-024A 3/	3,892							
Sawtooth Mountains B	CA-060-024B 3/	24,696							
Sawtooth Mountains C	CA-060-024C	2,509							
Carrizo Gorge	CA-060-025	14,571							
Table Mountain	CA-060-026	958							
	Subtotal (7)	54,022							

California Desert Conservation Area (CDCA) Special Plan- 1976-1980 Tentative Recommendations are pending administrative review.

WSA Name	Number *	Acreage	County	Resource Area
Hilfer Creek	CDCA-100 2/3/	456	Mono	Bishop
North Tip	CDCA-100A 2/3/	407	Mono	Bishop
Toler Creek	CDCA-101 2/3/	897	Mono	Bishop
N.W. Fishlake Valley	CDCA-102 2/3/	12,585	Mono	Ridgecrest
White Mountains	CDCA-103 2/3/	7,784	Mono/Inyo	Ridgecrest
Cottonwood Creek	CDCA-104 2/3/	3,729	Inyo	Ridgecrest
Wyman Creek	CDCA-105 2/3/	5,729	Inyo	Ridgecrest
Antelope Spring	CDCA-107A 2/3/	851	Inyo	Ridgecrest
Sylvania Mountains	CDCA-111	14,983	Inyo	Ridgecrest
Last Chance Mountain	CDCA-112	36,287	Inyo	Ridgecrest
Piper Mountain	CDCA-115	60,282	Inyo	Ridgecrest
Saline Valley	CDCA-117 1/2/	405,215	Inyo	Ridgecrest
Lower Saline Valley	CDCA-117A 2/	6,560	Inyo	Ridgecrest
North Death Valley	CDCA-118	7,951	Inyo	Ridgecrest
Little Sand Spring	CDCA-119 2/	32,876	Inyo	Ridgecrest
Nanchbo Wash	CDCA-120 2/3/	11,465	Inyo	Ridgecrest
Saline Dunes	CDCA-121	5,760	Inyo	Ridgecrest
Inyo Mts.	CDCA-122 1/3/	87,145	Inyo	Ridgecrest
Hunter Mtn	CDCA-123 2/	23,604	Inyo	Ridgecrest
Cerro Gordo Peak	CDCA-124 2/	56,690	Inyo	Ridgecrest
Panamint Dunes	CDCA-127 2/	90,427	Inyo	Ridgecrest
North Coso Range	CDCA-130	8,102	Inyo	Ridgecrest
Coso Range	CDCA-131	24,873	Inyo	Ridgecrest
Great Falls Basin	CDCA-132	5,972	Inyo	Ridgecrest
Darwin Falls	CDCA-132A	8,319	Inyo	Ridgecrest
No. Argus Range	CDCA-132B	21,099	Inyo	Ridgecrest
Wildrose Canyon	CDCA-134 2/	36,949	Inyo	Ridgecrest
Surprise Canyon	CDCA-136 2/	52,696	Inyo	Ridgecrest
Manly Peak	CDCA-137	33,390	Inyo	Ridgecrest
Middle Park Canyon	CDCA-137A 2/	8,532	Inyo	Ridgecrest
Slate Range	CDCA-142 2/	89,528	Inyo	Ridgecrest
Funeral Mountains	CDCA-143 2/	46,529	Inyo	Ridgecrest
Nesting Springs Range	CDCA-145	89,772	Inyo	Ridgecrest
Greenwater Range	CDCA-147 2/	123,131	Inyo	Ridgecrest
Greenwater Valley	CDCA-148 2/	54,022	Inyo	Ridgecrest
Ibex Hills	CDCA-149 2/	33,929	Inyo	Ridgecrest
Ibex Spring	CDCA-149A 2/	2,346	Inyo	Ridgecrest
Kopah Range	CDCA-150	109,701	Inyo	Ridgecrest
South Kopah Range	CDCA-150A	13,779	Inyo	Ridgecrest
Pahrump Valley	CDCA-154	33,914	Inyo	Ridgecrest
Quicksand Mountain	CDCA-156 1/	113,901	San Bernardino	Ridgecrest
Little Lake Canyon	CDCA-157 3/	25,287	Inyo	Ridgecrest
Owens Peak	CDCA-158	36,023	Inyo/San Bernardino	Ridgecrest
Cow Heaven	CDCA-159 3/	5,564	Kern	Ridgecrest
Horse Canyon	CDCA-160	4,067	Kern	Ridgecrest
Kelso Peak	CDCA-160B	6,826	Kern	Ridgecrest
Skinner Peak	CDCA-160C 3/	1,036	Kern	Ridgecrest
Frog Creek	CDCA-163	9,225	Kern	Ridgecrest
El Paso Mountain	CDCA-164	17,064	Kern	Ridgecrest
Golden Valley	CDCA-170	32,208	San Bernardino	Barstow
Red Mountain	CDCA-172	7,040	San Bernardino	Barstow
Blackwater Well	CDCA-173	7,260	San Bernardino	Barstow

WSA Name	Number		Acreage	County	Resource Area
Grass Valley	CDCA-173A		13,875	San Bernardino	Barstow
Black Mountain	CDCA-185		7,602	San Bernardino	Barstow
Newberry Mountains	CDCA-206		21,968	San Bernardino	Barstow
Rodman Mountains	CDCA-207		25,037	San Bernardino	Barstow
Bighorn Mountains	CDCA-217	3/	53,219	San Bernardino	Barstow
Mariaga	CDCA-218		6,400	San Bernardino	Barstow
Whitewater	CDCA-218A		9,610	Riverside/ San Bernardino	Indio
Saddle Peak Mountains	CDCA-219		8,611	San Bernardino	Barstow
South Saddle Peak Mtns.	CDCA-220		5,320	San Bernardino	Barstow
Avawatz	CDCA-221		87,831	San Bernardino	Barstow
South Avawatz Mountains	CDCA-221A		29,435	San Bernardino	Barstow
Kingston Range	CDCA-222		255,058	Inyo/San Bernardino	Barstow/Needles
Silurian Valley	CDCA-222A		17,064	San Bernardino	Barstow
North Mesquite Mountains	CDCA-223		23,125	San Bernardino	Needles
Mesquite Mountains	CDCA-225		44,317	San Bernardino	Needles
Stateline	CDCA-225A		8,105	San Bernardino	Needles
Clark Mountain	CDCA-227		14,107	San Bernardino	Needles
Hallow Hills	CDCA-228		26,422	San Bernardino	Barstow
Shadow Valley	CDCA-233A		10,452	San Bernardino	Needles
Magee/Atkins	CDCA-237		11,092	San Bernardino	Needles
Dead Spring	CDCA-237A		2,560	San Bernardino	Needles
Valley View	CDCA-237B		3,200	San Bernardino	Needles
Teutonia Peak	CDCA-238A		2,976	San Bernardino	Needles
Cima Dome	CDCA-238B		15,333	San Bernardino	Needles
Cinder Cones	CDCA-239		44,992	San Bernardino	Needles
Soda Mountains	CDCA-242		106,641	San Bernardino	Barstow
Old Dad Mountains	CDCA-243		49,301	San Bernardino	Needles
Rainbow Wells	CDCA-244		16,019	San Bernardino	Needles
Eight-Mile Tank	CDCA-245		18,714	San Bernardino	Needles
Kelso Mountains	CDCA-249		64,273	San Bernardino	Needles
Kelso Dunes	CDCA-250		124,518	San Bernardino	Needles
Cady Mountains	CDCA-251		65,177	San Bernardino	Barstow
Mesquite Spring	CDCA-251A		14,447	San Bernardino	Barstow
Sleeping Beauty Mountain	CDCA-252		18,333	San Bernardino	Barstow
Bristol/Granite Mountains	CDCA-256		72,206	San Bernardino	Needles
Lava Hills	CDCA-258		18,423	San Bernardino	Needles

WSA Name	Number		Acreage	County	Resource Area
So. Bristol Mountains	CDCA-238A		23,238	San Bernardino	Needles
Marble Mountains	CDCA-239		29,178	San Bernardino	Needles
Clipper Mountains	CDCA-260		37,787	San Bernardino	Needles
So. Providence Mountain	CDCA-262		23,938	San Bernardian	Needles
Providence Mountains	CDCA-263		54,257	San Bernardino	Needles
Mid Hills	CDCA-264		13,300	San Bernardino	Needles
New York Mountains	CDCA-265		35,583	San Bernardino	Needles
Castle Peaks	CDCA-266		36,239	San Bernardino	Needles
Fort Piute	CDCA-267		37,561	San Bernardino	Needles
Table Mountain	CDCA-270		7,556	San Bernardino	Needles
Woods Mountain	CDCA-271		37,758	San Bernardino	Needles
Signal Hill	CDCA-272		32,477	San Bernardino	Needles
Dead Mountains	CDCA-276		29,411	San Bernardino	Needles
Piute Mountains	CDCA-288		17,063	San Bernardino	Needles
Essex	CDCA-288A		10,984	San Bernardino	Needles
Bigelow Cholla Garden	CDCA-290		9,136	San Bernardino	Needles
Sacramento Mountains	CDCA-292		36,450	San Bernardino	Needles
Stepladder Mountains	CDCA-294		111,685	San Bernardino	Needles
Pilot Peak	CDCA-295		29,434	San Bernardino	Needles
Old Woman Mountains	CDCA-299		100,826	San Bernardino	Needles
Ship Mountains	CDCA-309		17,889	San Bernardino	Needles
Cleghorn Lakes	CDCA-306		26,912	San Bernardino	Barstow
Amboy Crater	CDCA-304A		13,414	San Bernardino	Needles
Sheephole/Cadiz	CDCA-305		135,827	San Bernardino	Needles
Turtle Mountains	CDCA-307		229,241	San Bernardino	Needles
Chemehuevi Mountains	CDCA-310		57,229	San Bernardino	Needles
Whipple Mountains	CDCA-312		81,548	San Bernardino	Needles
Big Maria Mountain	CDCA-321		50,538	Riverside	Indio
Rice Valley	CDCA-322		48,845	Riverside	Indio
Palen/McCoy	CDCA-325		239,878	Riverside	Indio
Coxcomb Mountains	CDCA-328	1/2/	61,524	Riverside/ San Bernardino	Indio
Eagle Mountains	CDCA-334	2/	49,723	Riverside	Indio
Pinto Basin	CDCA-334A	2/	4,480	Riverside	Indio
Pinto Mountains	CDCA-353	1/2/	24,710	San Bernardino/ Riverside	Barstow
Santa Rosa Mountains	CDCA-341	3/	68,031	Riverside/ San Diego	Indio
Mecca Hills	CDCA-343		15,665	Riverside	Indio
Orocopia Mountains	CDCA-344		44,195	Riverside	Indio
Chuckwalla Mountain	CDCA-348	1/	126,057	Riverside/ Imperial	Indio
Little Chuckwalla Mountain	CDCA-350	1/	44,422	Riverside/ Imperial	Indio/El Centro
Palo Verde Mountains	CDCA-352		25,428	Imperial	El Centro
Indian Pass	CDCA-355		25,971	Imperial	El Centro
Picacho Peak	CDCA-355A		6,982	Imperial	El Centro
Little Picacho Peak	CDCA-356		37,196	Imperial	El Centro
North Algodones Dunes	CDCA-360		20,778	Imperial	El Centro
South Algodones Dunes	CDCA-362		54,121	Imperial	El Centro
Jacumba(In-Ko-Pah Mtns.)	CDCA-368		26,868	Imperial	El Centro
Fish Creek Mountains	CDCA-372		10,958	Imperial	El Centro
Coyote Mountains	CDCA-373		8,766	Imperial	El Centro
	Subtotal CDCA (136)		5,529,517		
	Non-CDCA(101)		1,236,808		
STATE TOTAL	Areas (237)		6,766,325		

TABLE II

BLM WILDERNESS STUDY AREAS (WSA's)
(Excludes Instant Study Areas)

*District Prefix Code:
010-Craig; 030-Montrose; 050-Canon City; 070-Grand Junction
1/ Crosses State political boundaries.
2/ Crosses BLM resource administrative boundaries.
3/ Contiguous wilderness area or study area on lands administered by Federal agency other than BLM.

**MFP-Management Framework Plan, A-Amendment, T-Transition; RMP-Resource Management Plan

TABLE II C

WILDERNESS

WSA Name	Number	Acreage	County	Resource Area	Plan Name	Type**	Plan Start	EIS Completion	Plan/EIS Completion
Bull Canyon	CO-010-001 1/	11,777	Moffat	White River	White River	MFP-A	1981	1982	1983
Willow Creek	CO-010-002	13,368	Moffat	White River					
Skull Creek	CO-010-003	13,740	Moffat	White River					
Black Mountain	CO-010-007A	9,932	Rio Blanco	White River					
Windy Gulch	CO-010-007C	12,274	Rio Blanco	White River					
Oil Spring Mountain	CO-010-044	17,740	Rio Blanco	White River					
	Subtotal (6)	78,831							
Troublesome	CO-010-155	8,250	Grand	Kremmling	Kremmling	RMP	1980	1983	1983
	Subtotal (1)								
Cross Mountain	CO-010-230	14,081	Moffat	Little Snake	Cross Mountain	MFP-A	1981	1983	1983
	Subtotal (1)								
Cold Springs West	CO-010-208 1/	14,352	Moffat	Little Snake	Little Snake	RMP	1983	1985	1985
Diamond Breaks	CO-010-214 1/	31,480	Moffat	Little Snake					
Adjacent to Dinosaur National Monument	CO-010-224 3/	4,340	Moffat	Little Snake					
Adjacent to Dinosaur National Monument	CO-010-224A 3/	1,320	Moffat	Little Snake					
Adjacent to Dinosaur National Monument	CO-010-226 3/	4,880	Moffat	Little Snake					
Adjacent to Dinosaur National Monument	CO-010-228 3/	5,200	Moffat	Little Snake					
Adjacent to Dinosaur National Monument	CO-010-229D 3/	6,900	Moffat	Little Snake					
	Subtotal (7)	68,472							
Bill Hare Gulch	CO-030-085 3/	370	Hinsdale	Gunnison Basin	American Flats	MFP-A	1981	1982	1982
Larson Creek	CO-030-086 3/	900	Hinsdale	Gunnison Basin					
Red Cloud Peak	CO-030-208	40,575	Hinsdale	Gunnison Basin					
American Flats	CO-030-217 3/	4,710	Hinsdale/ San Juan/ Ouray	Gunnison Basin					
Needle Creek	CO-030-229B 3/	4,540	San Juan/ La Plata	San Juan					
Whitehead Gulch	CO-030-230B 3/	6,200	San Juan	San Juan					
Wominuche Contiguous	CO-030-238B 3/	1,980	San Juan	San Juan					
Handies Peak	CO-030-241	18,860	Hinsdale/ San Juan	Gunnison Basin					
	Subtotal(8)	78,135							
Sparling Gulch/Friends Creek	CO-030-088/213 3/	1,840	Hinsdale	Gunnison Basin	Cannibal Plateau	Forest	1980	1982	1982
Slumgullion Slide	CO-030-211 3/	1,640	Hinsdale	Gunnison Basin					
	Subtotal (2)	3,480							
West Needles Contiguous	CO-030-229A 3/	5,780	San Juan	San Juan	West Needles	Forest	1980	1982	1982
	Subtotal (1)								
Monefee Mountain	CO-030-251	7,400	Montezuma	San Juan	San Juan	RMP	1981	1984	1984
Weber Mountain	CO-030-252	6,200	Montezuma	San Juan					
Cross Canyon	CO-030-265/ UT-060-119 1/2/	9,440	Montezuma/ Dolores/San Juan,UT	San Juan(CO)/San Juan(UT)					
Squaw/Papoose Canyons	CO-030-263A/ UT-060-227 1/2	11,260	Dolores/ San Juan,UT						

WSA Name	Number *	Acreage	County	Resource Area	Plan Name	Type **	Plan Start	DEIS Completion	Plan/EIS Completion
Cohone Canyon	CO-030-2650	8,385	Dolores	San Juan	San Juan	RMP	1981	1984	1984
McKenzie Peak	CO-030-284	21,900	Montezuma	San Juan					
Dolores River Canyon	CO-030-298	25,550	Dolores/ San Miguel	San Juan					
	Subtotal (7)	90,135							
Tabeguache Creek	CO-030-300	7,270	Montrose	Uncompahgre	Uncompahgre	RMP	1984	1986	1988
Camel Back	CO-030-351	10,900	Montrose	Uncompahgre					
Adobe Badlands	CO-030-3708	10,560	Delta	Uncompahgre					
Gunnison Gorge	CO-030-388 3/	20,240	Montrose/ Delta	Uncompahgre					
	Subtotal (4)	48,970							
Browns Canyon	CO-050-002	6,616	Chaffee/ Fremont	Royal Gorge	Royal Gorge	HFP-A	1981	1982	1983
McIntyre Hills	CO-050-013	16,800	Fremont	Royal Gorge					
Lower Grape Creek	CO-050-014	11,220	Fremont	Royal Gorge					
Beaver Creek	CO-050-016	26,150	Fremont/ Teller/ El Paso	Royal Gorge					
Upper Grape Creek	CO-050-017	10,200	Fremont/ Custer	Royal Gorge					
Sand Castle	CO-050-135 3/	1,644	Alamosa	San Luis					
San Luis Hills	CO-050-141	10,240	Conejos	San Luis					
	Subtotal (7)	82,868							
Black Canyon	CO-050-131 3/	2,300	Saguache	San Luis	Sangre de Cristo	Forest	1981	1983	1983
South Piney Creek	CO-050-132A 3/	N/A	Saguache	San Luis					
Papa Keal	CO-050-137 3/	1,020	Alamosa	San Luis					
Zapata Creek	CO-050-139A 3/	990	Alamosa	San Luis					
	Subtotal (4)	4,910							
Demaree Canyon	CO-070-009	21,050	Garfield	Grand Junction	Grand Junction	RMP	1984	1986	1986
Little Bookcliffs Wilderness Area	CO-070-066	26,525	Mesa	Grand Junction					
Black Ridge Canyons	CO-070-113	18,150	Mesa	Grand Junction					
Black Ridge Canyons West	CO-070-113A/ UT-060-116/117 1/2/	54,290	Mesa/ Grand,UT	Grand Junction/ Grand(UT)					
The Palisade	CO-070-132	26,050	Mesa	Grand Junction					
Dominguez Canyon	CO-070-150 2/	75,800	Mesa/Delta	Uncompahgre					
Sevenmile Mesa	CO-070-176 2/	19,140	Mesa/ Montrose	Grand Junction/ Uncompahgre					
	Subtotal (7)	241,005							
Eagle Mountain	CO-070-392 3/	NA	Pitkin	Glenwood Springs	Glenwood Springs	RMP	1980	1983	1983
Hack Lake	CO-070-425 3/	3,360	Garfield/ Eagle	Glenwood Springs					
Bull Gulch	CO-070-430	15,000	Eagle	Glenwood Springs					
Castle Peak	CO-070-433	11,940	Eagle	Glenwood Springs					
	Subtotal (4)	30,630							
STATE TOTAL	Areas (59)	755,567							

TABLE II

BLM WILDERNESS STUDY AREAS (WSA's)
(Excludes Instant Study Areas)

*District Prefix Code:
16,17,19,110,111-Boise; 28-Burley; 31,32-35,37-Idaho Falls; 43,45-47-Salmon; 53,54,56,57,59-Shoshone; 61,62-Coeur d'Alene
1/ Crosses State political boundaries.
2/ Crosses BLM resource administrative boundaries.
3/ Contiguous wilderness area or study area on lands administered by Federal agency other than BLM.

**MFP-Management Framework Plan, A-Amendment, T-Transition; RMP-Resource Management Plan

TABLE II D

IDAHO

WSA Name	Number*	Acreage	County	Resource Area	Plan Name	Type**	Plan Start	Plan Completion	Plan/EIS Completion
North Fork Owyhee River	ID-16-40	49,470	Owyhee	Owyhee	Owhyee	MFP-A	1981	1982	1982
Horsehead Spring	ID-16-41	6,210	Owyhee						
Squaw Creek Canyon	ID-16-42	10,780	Owyhee						
Middle Fork Owyhee River	ID-16-45	14,180	Owyhee						
West Fork Red Canyon	ID-16-47	12,970	Owhyee						
	Subtotal (5)	93,610							
Owyhee River Canyon	ID-16-48B 1/	33,700	Owyhee	Owyhee	Owyhee Canyonlands	MFP-T	1981	1984	1984
Little Owyhee River	ID-16-48C	24,677	Owyhee	Owyhee					
Deep Creek - Owyhee River	ID-16-49A 2/	72,083	Owyhee	Owyhee/Bruneau					
Yatahoney Creek	ID-16-49D 2/	9,331	Owyhee	Owyhee/Bruneau					
Battle Creek	ID-16-49E	31,540	Owyhee	Bruneau					
Upper Owyhee River	ID-16-52 2/	12,682	Owyhee	Owyhee/Bruneau					
South Fork Owyhee River	ID-16-53 1/	42,510	Owyhee	Owyhee					
	Subtotal (7)	226,523							
Deep Creek-Nickel Creek	ID-16-44 2/	11,510	Owyhee	Owyhee/Bruneau	Jack's Creek	MFP-T	1981	1984	1984
Little Jack's Creek	ID-111-6	58,040	Owyhee	Bruneau					
Duncan Creek	ID-111-7B	10,005	Owyhee	Bruneau					
Big Jack's Creek	ID-111-7C	54,833	Owyhee	Bruneau					
Pole Creek	ID-111-18	24,509	Owyhee	Bruneau					
Sheep Creek West	ID-111-36A	11,680	Owyhee	Bruneau					
Sheep Creek East	ID-111-36B	5,060	Owyhee	Bruneau					
	Subtotal (7)	175,637							
Lower Salmon Falls Creek	ID-17-10 2/	3,500	Twin Falls	Jarbidge/Magic	Jarbidge	RMP	1982	1985	1985
Jarbidge River	ID-17-11 2/	75,340	Owyhee	Jarbidge/Bruneau					
King Hill Creek	ID-19-2 2/	30,420	Elmore	Jarbidge/ Bennett Hills					
Box Creek	ID-110-91A 3/	4,728	Valley	Cascade					
Bruneau River	ID-111-17 2/	107,020	Owyhee	Bruneau/Jarbidge					
	Subtotal (5)	216,708							
Appendicitis Hill	ID-31-14	24,870	Butte	Big Butte	Big Lost/MacKay	MFP-T	1981	1983	1983
White Knob Mountains	ID-31-17	9,950	Custer	Big Butte					
Goldburg	ID-45-1 3/	3,290	Custer	Pahsimeroi					
Burnt Creek	ID-45-12 2/3/	24,980	Custer	Pahsimeroi/Big Butte					
Borah Peak	ID-47-4 3/	3,100	Custer	Challis					
	Subtotal (5)	66,190							
Petticoat Peak	ID-28-1	11,298	Bannock/ Caribou	Bannock-Oneida	Eastern Idaho	MFP-A	1981	1983	1983
Hawley Mountain	ID-32-3	15,510	Butte	Big Butte					
Black Canyon	ID-32-9	5,400	Butte	Big Butte					
Cedar Butte	ID-33-4	35,700	Bingham	Big Butte					
Hell's Half Acre	ID-33-15	66,200	Bonneville/ Bingham	Big Butte					
Worm Creek	ID-37-77 3/	40	Bear Lake	Soda Springs					
	Subtotal (6)	134,148							
Table Rock Islands	ID-34-2	1,161	Bonneville	Medicine Lodge	Medicine Lodge	RMP	1982	1985	1985
Pine Creek Islands	ID-34-3	155	Bonneville						
Conant Valley Islands	ID-34-4	235	Bonneville						
Sand Mountain	ID-35-3	21,100	Fremont/ Jefferson						
Henry's Lake	ID-35-77 3/	350	Fremont						
	Subtotal (5)	22,220							

WSA Name	Number *	Acreage	County	Resource Area	Plan Name	Type **	Plan Start	EIS Completion	Plan/EIS Completion
Eighteen Mile	ID-43-3 3/	24,922	Lemhi	Lemhi	Lemhi	RMP	1982	1985	1985
	Subtotal(1)								
Corral-Horse Basin	ID-46-11	48,500	Custer	Challis	Challis	MFP-A	1981	1982	1982
Boulder Creek	ID-46-13 3/	1,930	Custer	Challis					
Jerry Peak	ID-46-14	46,150	Custer	Challis					
Jerry Peak West	ID-46-14A	13,530	Custer	Challis					
	Subtotal (4)	110,110							
Little Wood River	ID-53-4 3/	4,385	Blaine	[illegible]	Shoshone/Sun Valley	MFP-A	1981	1983	1983
Friedman Creek	ID-53-5	9,773	Blaine/ Custer/ Butte	[illegible]					
Black Butte	ID-54-2	4,002	Lincoln/ Blaine	Bennett Hills					
Little City of Rocks	ID-54-5	5,875	Gooding	Bennett Hills					
Black Canyon	ID-54-6	10,371	Gooding	Bennett Hills					
Gooding City of Rocks	ID-54-[illegible]	14,743	Gooding	Bennett Hills					
Gooding City of Rocks	ID-54-[illegible]	6,287	Gooding	Bennett Hills					
Deer Creek	ID-54-10	7,487	Camas/ Gooding	Bennett Hills					
Lava	ID-56-2	23,680	Lincoln	[illegible]					
	Subtotal (9)	86,603							
Shale Butte	ID-57-2	15,968	Lincoln	[illegible]	Monument	RMP	1982	1985	1985
Hand Butte	ID-57-8	20,792	Lincoln	[illegible]					
Raven's Eye	ID-57-10	67,110	Blaine/ Lincoln	[illegible]					
Little Deer	ID-57-11	33,531	Blaine/ Lincoln/ Minidoka	[illegible]					
Bear Den Butte	ID-57-14	9,700	Blaine/ Minidoka	Monument					
Shoshone	ID-59-7	6,916	Lincoln	Bennett Hills					
	Subtotal (6)	154,015							
Selkirk Crest	ID-61-1 3/	720	Boundary	Emerald Empire	North Idaho	MFP-A	1981	1982	1982
Crystal Lake	ID-61-10	9,027	Kootenai/ Benewah	Emerald Empire					
Grandmother Mountain	ID-61-15A	10,339	Shoshone	Emerald Empire					
Grandmother Mountain	ID-61-15B	6,790	Shoshone	Emerald Empire					
Snowhole Rapids	ID-62-1	5,068	Lewis/Idaho	Cottonwood					
Marshall Mountain	ID-62-10 3/	6,524	Idaho	Cottonwood					
	Subtotal (6)	38,468							
STATE TOTAL	Areas (66)	1,349,154							

TABLE II

BLM WILDERNESS STUDY AREAS (WSA's)
(Excludes Instant Study Areas)

District Prefix Code:
024-Miles City; 064-68-Lewistown; 074-76-Butte
1/ Crosses State political boundaries.
2/ Crosses BLM resource administrative boundaries.
3/ Contiguous wilderness area or study area on lands administered by Federal agency other than BLM.

**MFP-Management Framework Plan, A-Amendment, T-Transition; RMP-Resource Management Plan

TABLE II E

MONTANA

WSA Name	Number	Acreage	County	Resource Area	Plan Name	Type**	Plan Start	DEIS Completion	Plan/EIS Completion
Bridge Coulee	MT-024-675	5,900	Garfield	Big Dry	Missouri Breaks	MFP-A	1981	1982	1982
Musselshell Breaks	MT-024-677	8,600	Garfield						
Terry Badlands	MT-024-684	43,450	Prairie						
Billy Creek	MT-024-633 3/	3,450	Garfield						
Seven Blackfoot	MT-024-657	20,250	Garfield						
Antelope Creek	MT-065-266 3/	12,350	Phillips	Phillips					
Burnt Lodge	MT-065-278 3/	13,850	Phillips/ Valley	Phillips					
Cow Creek	MT-068-256	34,050	Blaine/ Phillips	Havre					
Dog Creek South	MT-068-244	5,150	Fergus	Judith					
Woodhawk	MT-068-246	8,100	Fergus	Judith					
Stafford	MT-068-250	4,600	Blaine	Havre					
Ervin Ridge	MT-068-253	10,200	Blaine	Havre					
	Subtotal(12)	170,200							
Zook Creek	MT-027-701	8,640	Rosebud	Powder River	Powder River	RMP	1981	1984	1984
Buffalo Creek	MT-027-702	5,650	Powder River						
Tongue River Breaks Contiguity	MT-027-736 3/	1,484	Rosebud						
	Subtotal (3)	15,574							
Ritter Creek	MT-064-356	59,112	Valley	Valley	Valley	MFP-A	1983	1984	1984
	Subtotal (1)								
Burnt Timber Canyon	MT-067-205	3,955	Carbon	Billings/Cody(WY)	Billings	RMP	1981	1983	1983
Pryor Mtn.	MT-067-206	16,972	Carbon/ Bighorn,WY						
Big Horn Tack-on	MT-067-207 1/3/	4,550	Carbon/ Bighorn,WY						
Twin Coulee	MT-067-212 3/	6,870	Golden Valley						
	Subtotal (4)	32,347							
Wales Creek	MT-074-150	11,580	Powell	Garnet	Garnet	RMP	1982	1985	1985
Hoodoo Mountain	MT-074-151A	11,380	Powell						
Gallagher Creek	MT-074-151B	4,257	Powell						
Quigg West	MT-074-155 3/	520	Granite						
	Subtotal (4)	27,737							
Blind Horse Creek	MT-075-102 3/	4,927	Teton	Headwaters	Headwaters	RMP	1980	1983	1983
Chute Mountain	MT-075-105 3/	3,085	Teton						
Deep Creek/Battle Creek	MT-075-106 3/	3,086	Teton						
North Fork, Sun River	MT-075-107 3/	196	Teton						
Beaver Meadows	MT-075-110 3/	.595	Lewis & Clark						
Sleeping Giant	MT-075-111	6,112	Lewis & Clark						
Elkhorn	MT-075-114 3/	3,585	Jefferson						
Black Sage	MT-075-115 3/	5,976	Jefferson						
	Subtotal (8)	27,615							
Ruby Mountains	MT-076-001	26,611	Madison	Dillon	Dillon	MFP-A	1981	1982	1982
Blacktail Mountains	MT-076-002	17,479	Beaverhead						
East Fork Blacktail Deer Creek	MT-076-007	6,230	Beaverhead						
Hidden Pasture Creek	MT-076-022 3/	15,509	Beaverhead						
Bell/Lioskila Canyons	MT-076-026 3/	9,650	Beaverhead						
Hennebery Ridge	MT-076-028	9,806	Beaverhead						
Perlin Creek	MT-076-034 3/	1,139	Beaverhead						
Axolotl Lakes	MT-076-069 3/	7,804	Beaverhead						
	Subtotal (8)	94,409							
Tobacco Root Tack One	MT-076-063 3/	840	Madison	Dillon	Deerlodge (USFS)	Forest	1980	1982	1982
	Subtotal (1)								
Madison Tack One	MT-076-079 3/	1,469	Madison	Dillon	Taylor-Hilgard (USFS)	Forest	1979	1981	1981
	Subtotal (1)								
STATE TOTAL	Areas (42)	419,323							

TABLE II

BLM WILDERNESS STUDY AREAS (WSA's)
(Excludes Instant Study Areas)

District Prefix Code:
010-Elko; 020-Winnemucca; 030-Carson City; 040-Ely; 050-Las Vegas; 060-Battle Mountain
1/ Crosses State political boundaries.
2/ Crosses BLM resource administrative boundaries.
3/ Contiguous wilderness area or study area on lands administered by Federal agency other than BLM.

**MFP-Management Framework Plan, A-Amendment, T-Transition; RMP-Resource Management Plan

TABLE II F

NEVADA

WSA Name	Number*	Acreage	County	Resource Area	Plan Name	Type**	Plan Start	DEIS Completion	Plan/EIS Completion
Bluebell	NV-010-027	55,665	Elko	Wells	Wells	RMP	1980	1983	1983
Goshute Peak	NV-010-033	69,770	Elko	Wells					
South Pequop	NV-010-035	41,090	Elko	Wells					
Badlands	NV-010-164	9,100	Elko	Elko					
	Subtotal (4)	175,625							
Cedar Ridge	NV-010-048	10,009	Elko	Elko	Elko	RMP	1983	1986	1986
Red Spring	NV-010-091	7,847	Elko	Elko					
South Fork Owyhee River	NV-010-103A 1/	7,842	Elko	Elko					
Owyhee Canyon	NV-010-106	21,875	Elko	Elko					
Little Humboldt River	NV-010-132	42,213	Elko	Elko					
Rough Hills	NV-010-131	6,685	Elko	Elko					
	Subtotal (6)	96,471							
High Rock Lake	NV-020-007	62,396	Humboldt	Sonoma-Gerlach	Sonoma-Gerlach	MFP-T	1981	1983	1983
Poodle Mountain	NV-020-012 3/ CA-020-618	140,050	Washoe	Sonoma-Gerlach					
Fox Mountain Range	NV-020-014	75,404	Washoe	Sonoma-Gerlach					
Pole Creek	NV-020-014A	12,969	Washoe	Sonoma-Gerlach					
Calico Mountains	NV-020-019	67,647	Humboldt/ Pershing	Sonoma-Gerlach					
Selenite Mountains	NV-020-200	32,041	Pershing	Sonoma-Gerlach					
Mount Limbo	NV-020-201	33,702	Pershing	Sonoma-Gerlach					
China Mountain	NV-020-436P	10,298	Pershing	Sonoma-Gerlach					
Tobin Range	NV-020-436Q	13,107	Pershing	Sonoma-Gerlach					
North Black Rock Range	NV-020-622 2/	30,191	Humboldt	Sonoma-Gerlach					
Augusta Mountain	NV-050-108 2/	89,372	Churchill/ Pershing/ Lander	Sonoma-Gerlach					
	Subtotal (11)	557,237							
Blue Lakes	NV-020-600	20,508	Humboldt	Paradise-Denio	Paradise-Denio	MFP-T	1984	1983	1983
Alder Creek	NV-020-600B	5,142	Humboldt	Paradise-Denio					
South Jackson Mountains	NV-020-603	60,211	Humboldt	Paradise-Denio					
North Jackson Mountains	NV-020-634	26,457	Humboldt	Paradise-Denio					
Black Rock Desert	NV-020-620	319,594	Humboldt/ Pershing	Paradise-Denio					
Pahute Peak	NV-020-631 1/	57,529	Humboldt	Paradise-Denio					
North Fork Little Humboldt	NV-020-827	69,683	Humboldt	Paradise-Denio					
	Subtotal (7)	559,124							
Clan Alpine Mountains	NV-030-102	193,120	Churchill	Lahontan	Lahontan	RMP	1981	1983	1984
Stillwater Range	NV-030-104	92,053	Churchill	Lahontan					
Desatoya Mountains	NV-030-110 1/	48,150	Churchill	Lahontan					
Job Peak	NV-030-127	91,022	Churchill	Lahontan					
	Subtotal (4)	424,345							

WSA Name	Number *	Acreage	County	Resource Area	Plan Name	Type **	Plan Start	DEIS Completion	Plan/EIS Completion
Gabbs Valley Range	NV-030-407	75,640	Mineral	Walker	Walker	RMP	1983	1986	1986
Burbank Canyons	NV-030-525A	13,395	Douglas	Walker					
	Subtotal (2)	88,835							
Goshute Canyon	NV-040-015	31,343	White Pine	Egan	Egan	RMP	1981	1983	1984
Park Range	NV-040-154	47,268	Nye	Egan					
Riordan's Well	NV-040-166	57,002	Nye	Egan					
South Egan Range	NV-040-168 2/3/	96,996	White Pine/ Lincoln/ Nye	Egan					
Mount Grafton	NV-040-169 2/	73,216	White Pine/ Lincoln	Egan					
	Subtotal (5)	305,825							
Granite Springs	NV-040-086 3/	23,327	White Pine	Schell	Schell	MFP-T	1981	1983	1983
Far South Egan	NV-040-172 2/	53,224	Nye/Lincoln	Schell					
Fortification Range	NV-040-177	41,615	Lincoln	Schell					
Table Mountain	NV-040-197 1/	35,958	Lincoln	Schell					
White Rock Range	NV-040-202	23,625	Lincoln	Schell					
Parsnip Peak	NV-040-206 2/	88,175	Lincoln	Schell					
Worthington Mountains	NV-040-242 2/	47,632	Lincoln	Schell					
Weepah Spring	NV-040-246	61,137	Lincoln/Nye	Schell					
	Subtotal (8)	374,693							
South Pahroc/Hiko	NV-050-0152	28,600	Lincoln	Caliente	Caliente	MFP-A	1981	1984	1984
Grapevine Spring	NV-050-0119	84,935	Lincoln	Caliente					
Meadow Valley Mountains	NV-050-0156	185,744	Lincoln/ Clark	Caliente					
Hermes Mountains	NV-050-0161	162,887	Lincoln/ Clark	Caliente					
Tunnel Spring	NV-050-0166 1/	5,400	Lincoln	Caliente					
Delmar Mountains	NV-050-0177	126,700	Lincoln	Caliente					
Evergreen	NV-050-018-16A,B,C 3/	2,834	Lincoln	Caliente					
Fish & Wildlife #1	NV-050-0201 3/	8,891	Lincoln/ Clark	Caliente					
	Subtotal (8)	605,991							
Arrow Canyon Range	NV-050-0215	32,853	Clark	Caliente	Clark	MFP-T	1981	1984	1984
Fish & Wildlife #2	NV-050-0216 3/	16,518	Clark	Caliente					
Fish & Wildlife #3	NV-050-0217 3/	22,002	Clark	Caliente					
Muddy Mountains	NV-050-0229	96,170	Clark	Caliente					
Lime Canyon	NV-050-0231 3/	30,747	Clark	Caliente					
Million Hills	NV-050-0233	11,523	Clark	Caliente					
Garrett Buttes	NV-050-0235 1/3/	7,360	Clark	Caliente					
Jumbo Springs	NV-050-0236 3/	3,811	Clark	Caliente					
Bonelli Peak	NV-050-0238 3/	6,581	Clark	Caliente					
Quail Springs	NV-050-0411	12,225	Clark	Stateline/ Esmeralda					
Mount Stirling	NV-050-0401	69,630	Nye/Clark	Stateline/ Esmeralda					
LaMadre Mountains	NV-050-0412	56,243	Clark	Stateline/ Esmeralda					
Pine Creek	NV-050-0414	23,850	Clark	Stateline/ Esmeralda					
El Dorado	NV-050-0423 3/	12,396	Clark	Stateline/ Esmeralda					
North McCullough Mountains	NV-050-0425	52,238	Clark	Stateline/ Esmeralda					
McCullough Mountains	NV-050-0435	82,058	Clark	Stateline/ Esmeralda					
Ireteba Peaks	NV-050-0438 3/	17,000	Clark	Stateline/ Esmeralda					
Nellis	NV-050-048-15 3/	5,718	Clark	Stateline/ Esmeralda					
	Subtotal (18)	534,105							
Silver Peak Range North	NV-030-0338	33,900	Esmeralda	Stateline/ Esmeralda	Esmeralda	RMP	1983	1986	1986
Pigeon Spring	NV-050-0350 1/	3,575	Esmeralda	Stateline/ Esmeralda					
Queer Mountain	NV-050-0354 1/3/	81,550	Esmeralda	Stateline/ Esmeralda					
Bonnie Claire Flat	NV-050-0355 1/3/	69,000	Esmeralda/ Nye	Stateline/ Esmeralda					
Resting Springs Range	NV-050-0460	3,850	Nye	Stateline/ Esmeralda					
	Subtotal (5)	191,875							
Kawich	NV-060-019	54,320	Nye	Tonopah	Tonopah	MFP-A	1981	1982	1982
Rawhide Mountain	NV-060-059	64,360	Nye	Tonopah					
South Reveille	NV-060-112	106,200	Nye	Tonopah					
Palisade Mesa	NV-060-162/162	99,550	Nye	Tonopah					
Blue Eagle	NV-060-158/199 2/	60,310	Nye	Tonopah					
The Wall	NV-060-163	38,000	Nye	Tonopah					
Pandenga	NV-060-190	40,940	Nye	Tonopah					
Morey	NV-060-191	20,120	Nye	Tonopah					
	Subtotal (8)	483,800							
Antelope	NV-060-231/241 2/	87,400	Nye	Shoshone/Eureka	Shoshone/Eureka	RMP	1981	1983	1983
Simpson Park	NV-060-428	49,670	Lander	Shoshone/Eureka					
Roberts	NV-060-541	15,090	Eureka	Shoshone/Eureka					
	Subtotal (3)	152,160							
STATE TOTAL	Areas (89)	4,550,086							

TABLE II

BLM WILDERNESS STUDY AREAS (WSA's)
(Excludes Instant Study Areas)

District Prefix Code:
010-Albuquerque; 020-Socorro; 030-Las Cruces; 060-Roswell
1/ Crosses State political boundaries.
2/ Crosses BLM resource administrative boundaries.
3/ Contiguous wilderness area or study area on lands administered by Federal agency other than BLM.

Statewide Consolidated Wilderness Study and EIS; Draft EIS (1983) and Plan/EIS Completion (1984)

TABLE II G

NEW MEXICO

WSA Name		Number		Acreage	County	Resource Area
Benzin		NM-010-004		19,000	San Juan	Farmington
Ah-She-Sle-Pah		NM-010-009		6,000	San Juan	Farmington
Bisti		NM-010-057		3,520	San Juan	Farmington
		Subtotal (3)		28,520		
Ignacio Chavez		NM-010-020	2/	32,248	McKinley/ Sandoval	Rio Puerco
Chamisa		NM-010-021		11,091	Sandoval	Rio Puerco
Cabezon		NM-010-022		8,118	Sandoval	Rio Puerco
Ojito		NM-010-024		11,200	Sandoval	Rio Puerco
Empedrado		NM-010-063		8,419	Sandoval	Rio Puerco
La Lena		NM-010-063A		9,359	Sandoval	Rio Puerco
Manzano		NM-010-092	3/	841	Torrance	Rio Puerco
		Subtotal (7)		81,280		
San Antonio		NM-010-035		7,050	Rio Arriba	Taos
Sabinosa		NM-010-055		15,760	San Miguel	Taos
Navajo Peak		NM-010-019	3/	7,750	Rio Arriba	Taos
		Subtotal (3)		30,560		
Rinrock	(IBLA)	NM-020-007		29,273	Valencia	San Augustine
Sand Canyon	(IBLA)	NM-020-008		8,320	Valencia	San Augustine
Little Rio Rock	(IBLA)	NM-020-009		9,785	Valencia	San Augustine
Pinon	(IBLA)	NM-020-010		12,788	Valencia	San Augustine
		Subtotal (4)		60,166		
Peteca Plata		NM-020-014		11,625	Valencia	Jornada
Sierra Ladrones		NM-020-016		38,368	Socorro	Jornada
		Subtotal (2)		49,993		
Mesita Blanca		NM-020-018		19,414	Catron	Jornada
Eagle Peak		NM-020-019		43,960	Catron	Jornada
Veranito		NM-020-035		7,267	Socorro	Jornada
Sierra Las Canas		NM-020-036		13,404	Socorro	Jornada
Stallion		NM-020-040		24,557	Socorro	Jornada
Horse Mountain		NM-020-043		5,032	Catron	Jornada
Continental Divide		NM-020-044	3/	70,000	Catron	Jornada
Devil's Backbone		NM-020-047A	3/	9,689	Socorro	Jornada
Devil's Reach		NM-020-047B	3/	868	Socorro	Jornada
Jornada De Muerto		NM-020-055/ 030-041	2/	28,919	Socorro/ Sierra	Jornada/White Sands
		Subtotal (10)		223,102		
Cowboy Spring		NM-030-007		6,710	Hidalgo	Las Cruces Lordsburg
Gila Box		NM-030-023		7,980	Grant/	Las Cruces Lordsburg
Blue Creek		NM-030-026		13,584	Grant/ Hidalgo	Las Cruces Lordsburg
Cooke Range		NM-030-031		19,870	Luna	Las Cruces Lordsburg
Big Hatchet Mountains		NM-030-035		65,950	Hidalgo	Las Cruces Lordsburg
Alamo Hueco Mountains		NM-030-038		20,840	Hidalgo	Las Cruces Lordsburg
Cedar Mountains		NM-030-042		14,780	Luna	Las Cruces Lordsburg
West Potrillo Mountains/ Mt. Riley		NM-030-052 A&C		150,545	Luna/ Dona Ana	Las Cruces Lordsburg
Aden Lava Flow		NM-030-053		24,725	Dona Ana	Las Cruces Lordsburg
Robledo Mountains		NM-030-063		11,640	Dona Ana	Las Cruces Lordsburg
Las Uvas Mountains		NM-030-065		10,680	Dona Ana	Las Cruces Lordsburg
Organ Mountains		NM-030-074		7,200	Dona Ana	Las Cruces Lordsburg
		Subtotal (12)		354,504		
Brokeoff Mountains		NM-030-112	3/	28,600	Otero	White Sands/Jornada
Culp Canyon		NM-030-132		10,937	Otero	White Sands/Jornada
		Subtotal (2)		39,537		

WSA Name	Number	Acreage	County	Resource Area
Little Black Peak	NM-040-109	15,298	Lincoln	Roswell
Carrizozo Lava Flow	NM-040-110A	10,587	Lincoln	Roswell
	Subtotal (2)	25,885		
Devil's Den Canyon	NM-060-145 3/	320	Otero	Carlsbad (Lincoln
McKittrick Canyon	NM-060-146 3/	200	Eddy	Carlsbad National
Lonesome Ridge	NM-060-801 3/	2,443	Eddy	Carlsbad Forest)
	Subtotal (3)	2,963		
Hudgette	NM-060-819/819A 3/ (1)	2,941	Eddy	Carlsbad
STATE TOTAL	Areas (49)	896,451		

TABLE II

BLM WILDERNESS STUDY AREAS (WSA's)
(Excludes Instant Study Areas)

District Prefix Code:
001-Lakeview; 002-Burns; 003-Vale; 005-Prineville; 006-Baker; 011-Medford; 012-Coos Bay; 013-Spokane
1/ Crosses State political boundaries.
2/ Crosses BLM resource administrative boundaries.
3/ Contiguous wilderness area or study area on lands administered by Federal agency other than BLM.

Statewide Consolidated Wilderness Study and EIS; Draft EIS (1983)and Plan Completion/EIS (1984)

TABLE II H

OREGON

WSA Name	Number	Acreage	County	Resource Area
Devil's Garden Lava Bed	OR-001-02	29,640	Lake	High Desert
Squaw Ridge Lava Bed	OR-001-03	28,320	Lake	High Desert
Four Craters Lava Bed	OR-001-22	12,120	Lake	High Desert
Sand Dunes	OR-001-24	14,520	Lake	High Desert
Diablo Mountain	OR-001-56	113,120	Lake	High Desert
	Subtotal (5)	197,720		
Orejana Rim	OR-001-78	22,800	Harney	Warner Lakes
Abert Rim	OR-001-101	22,240	Lake	Warner Lakes
Fish Creek Rim	OR-001-117	18,520	Lake	Warner Lakes
Guano Creek	OR-001-132	10,560	Lake	Warner Lakes
Spaulding Reservoir	OR-001-139	65,720	Lake/Harney	Warner Lakes
	Subtotal (5) 2/3/	139,840		
Malheur River-Bluebucket Creek	OR-002-14	5,560	Harney	Riley
	Subtotal (1)			
Hawkie Walkie	OR-001-146A	68,360	Harney	Warner Lakes/ Andrews
Hawkie Walkie	OR-001-146B 2/3/	8,520	Harney	Warner Lakes
Lower Stonehouse	OR-002-23L 2/3/ 2/	21,000	Harney	Riley/Andrews
Stonehouse	OR-002-23M	8,090	Harney	Andrews
Mahogany Ridge	OR-022-77	27,370	Harney	Andrews
Red Mountain	OR-002-78	14,730	Harney	Andrews
Pueblo Mountains	OR-002-81 1/	68,030	Harney	Andrews
Kiamos	OR-002-82 2/	97,550	Harney	Andrews/ Warner Lakes
Alvord Peak	OR-002-83	14,655	Harney	Andrews
Basque Hills	OR-002-84 2/	137,220	Harney	Andrews/ Warner Lakes
High Steens	OR-002-85F	65,940	Harney	Andrews
South Fork of the Donner and Blitzen River	OR-002-85G	35,850	Harney	Andrews
Home Creek	OR-002-85H	25,120	Harney	Andrews
Blitzen River	OR-002-86E	52,060	Harney	Andrews
Little Blitzen Gorge	OR-002-86F	9,380	Harney	Andrews
Bridge Creek	OR-002-87	14,060	Harney	Andrews
	Subtotal (16)	667,935		

WSA Name	Number		Acreage	County	Resource Area
Sheepshead Mountains	OR-002-72C	2/	53,200	Harney/ Malheur	Andrews/Southern Malheur
Wildcat Canyon	OR-002-72D	2/	34,600	Malheur	Andrews/Southern Malheur
Heath Lake	OR-002-72F		20,100	Harney	Andrews
Table Mountain	OR-002-721		38,600	Harney/ Malheur	Andrews
West Peak	OR-002-72J		7,900	Harney	Andrews
East Alvord	OR-002-73A		21,600	Harney	Andrews
Winter Range	OR-002-73B		14,800	Harney/ Malheur	Andrews
Alvord Desert	OR-002-74		212,500	Harney/ Malheur	Andrews/Southern Malheur
Owyhee Breaks	OR-003-59	2/	13,100	Malheur	Northern Malheur/ Southern Malheur
Lower Owyhee Canyon	OR-003-110	2/	75,300	Malheur	Northern Malheur/ Southern Malheur
Saddle Butte	OR-003-111		46,300	Malheur	Southern Malheur
Palomino Hills	OR-003-114		54,600	Malheur	Southern Malheur
Bowden Hills	OR-003-118		59,900	Malheur	Southern Malheur
Clarks Butte	OR-003-120		31,500	Malheur	Southern Malheur
Jordan Craters	OR-003-128		27,900	Malheur	Southern Malheur
Willow Creek	OR-003-152	2/	30,000	Harney/ Malheur	Southern Malheur/ Andrews
Bisaster Peak (Includes OR-002-78D)	OR-003-153	1/2/	18,300	Harney/ Malheur	Southern Malheur/ Andrews
Fifteen Mile Creek	OR-003-156		51,300	Malheur	Southern Malheur
Oregon Canyon	OR-003-157		42,900	Malheur	Southern Malheur
Twelve Mile Canyon	OR-003-162		28,600	Malheur	Southern Malheur
Upper West Little Owyhee	OR-003-173		62,560	Malheur	Southern Malheur
Owyhee Canyon	OR-003-195	1/	190,700	Malheur	Southern Malheur
	Subtotal (22)		1,176,200		
Strawberry Mountain	OR-002-98A	3/	180	Grant	John Day
Strawberry Mountain	OR-002-98C	3/	720	Grant	John Day
Strawberry Mountain	OR-002-98D	3/	208	Grant	John Day
Aldrich Mountain	OR-002-103		9,395	Grant	John Day
	Subtotal (4)		10,503		
Castle Rock	OR-003-18		6,200	Harney/ Malheur	Northern Malheur
Beaver Dam Creek	OR-003-27		19,500	Malheur	Northern Malheur
Camp Creek	OR-003-31		19,200	Malheur	Northern Malheur
Cottonwood Creek	OR-003-32		8,700	Malheur	Northern Malheur
Cold Creek	OR-003-33		13,600	Malheur	Northern Malheur
Sperry Creek	OR-003-35		5,600	Malheur	Northern Malheur
Cedar Mountain	OR-003-47		33,600	Malheur	Northern Malheur
Dry Creek	OR-003-53		23,500	Malheur	Northern Malheur
Dry Creek Buttes	OR-003-56		51,800	Malheur	Northern Malheur
Blue Canyon	OR-003-73		12,700	Malheur	Northern Malheur
Upper Leslie Gulch	OR-003-74		3,000	Malheur	Northern Malheur
Solrum Creek	OR-003-75		7,600	Malheur	Northern Malheur
Honeycombs	OR-003-77A		39,000	Malheur	Northern Malheur
Wild Horse Basin	OR-003-77B		12,100	Malheur	Northern Malheur
	Subtotal (14)		256,100		
Thirtymile	OR-005-01		7,560	Sherman/ Gilliam	Central Oregon
Lower John Day	OR-005-04		19,370	Sherman/ Gilliam	Central Oregon
North Pole Ridge	OR-005-08		6,062	Sherman/ Gilliam	Central Oregon
Spring Basin	OR-005-09		5,982	Wheeler	Central Oregon
	Subtotal (4)		38,974		

WSA Name	Number	Acreage	County	Resource Area
Steelhead Falls	OR-005-14 3/	3,114	Deschutes/ Jefferson	Deschutes/Ochoco National Forest
	Subtotal (1)			
Badlands	OR-005-21	32,053	Deschutes/ Crook	Deschutes
North Fork	OR-005-31	10,765	Crook	Central Oregon
South Fork	OR-005-33	19,631	Crook	Central Oregon
Sand Hollow	OR-005-34	8,791	Crook	Central Oregon
Gerry Mountain	OR-005-35	20,700	Crook	Central Oregon
Bompton Butte	OR-005-42	10,609	Crook/ Deschutes	Central Oregon
Cougar Well	OR-005-43	17,315	Crook/ Deschutes	Central Oregon
	Subtotal (7)	119,835		
McGraw Creek	OR-006-01 3/	1,465	Wallowa	Baker
Homestead	OR-006-02 3/	8,075	Baker	Baker
Sheep Mountain	OR-006-03	7,040	Baker	Baker
	Subtotal (3)	16,580		
Cache Creek Ranch (975 (acres in Washington)	OR-006-10 1/3/	2,935	Wallowa/ Asotin	Grande Ronde
	Subtotal (1)			
Mountain Lakes	OR-011-01 3/	320	Klamath	Klamath
Soda Mountain	OR-011-17	5,640	Jackson	Klamath
	Subtotal (2)	5,960		
North Sisters Rocks	OR-012-08 3/	3	Curry	Myrtlewood
Twagg Island	OR-012-14 3/	5	Curry	Myrtlewood
	Subtotal (2)	8		
	Oregon Subtotal (87)	2,641,264		
In Washington State, Administered by Oregon				
Chopaka Mountain	OR-013-02	5,520	Okanogan	Border
Little Patos Island	OR-013-24	15	San Juan	Border
	Subtotal (2)	5,535		
TOTAL FOR ADMINISTERED AREA	Areas (89)	2,646,799		

TABLE II

BLM WILDERNESS STUDY AREAS (WSA's)
(Excludes Instant Study Areas)

District Prefix Code:
020-Salt Lake; 040-Cedar City; 050-Richfield; 060-Moab; 080-Vernal
1/ Crosses State political boundaries.
2/ Crosses BLM resource administrative boundaries.
3/ Contiguous wilderness area or study area on lands administered by Federal agency other than BLM.
Statewide Consolidated Wilderness Study and EIS; Draft EIS (1983) and Plan Completion/EIS (1984).

TABLE II I

UTAH

WSA Name	Number	Acreage	County	Resource Area
Deep Creek Mountains	UT-020-060/ 050-020 2/	68,910	Tooele/Juab	Pony Express/ House Range
North Stansbury Mtns.	UT-020-089 3/	10,480	Tooele	Pony Express
Cedar Mountains	UT-020-094	50,500	Tooele	Pony Express
Big Hollow	UT-020-105 3/	3,593	Tooele	Pony Express
	Subtotal (4)	133,483		
Cottonwood Canyon	UT-040-046	11,330	Washington	Dixie

WSA Name	Number		Acreage	County	Resource Area
Cougar Canyon	UT-040-123	1/	10,568	Washington	Dixie
Red Mountain	UT-040-132		18,250	Washington	Dixie
Canaan Mountain/ Cottonwood Point	UT-040-143/ AZ-001-041	1/2	53,619	Washington/ Mohave	Dixie
Deep Creek	UT-040-146	3/	3,320	Washington	Dixie
Red Butte	UT-040-147	3/	804	Washington	Dixie
The Watchman	UT-040-149	3/	640	Washington	Dixie
LeVerkin Creek Canyon	UT-040-151	3/	5h7	Washington	Dixie
Taylor Creek Canyon	UT-040-154	3/	35	Washington	Dixie
Goose Creek Canyon	UT-040-176	3/	89	Washington	Dixie
Beartrap Canyon	UT-040-177	3/	40	Washington	Dixie
	Subtotal	(11)	99,222		
Steep Creek	UT-040-041		22,034	Garfield	Kanab/Escalante
Carcass Canyon	UT-040-076	2/	46,711	Garfield/ Kane	Kanab/Escalante
Mud Spring Canyon	UT-040-077	2/	38,075	Kane/ Garfield	Kanab/Escalante
Fifty Mile Mountain	UT-040-080	2/3/	146,143	Kane/ Garfield	Kanab/Escalante
Scorpion	UT-040-082	3/	35,884	Kane/ Garfield	Escalante
Orderville Canyon	UT-040-141	3/	1,750	Kane	Kanab
North Fork Virgin River	UT-040-150	3/	1,040	Kane	Kanab
Moquith Mountain	UT-040-217		14,830	Kane	Kanab
Paruswoap Canyon	UT-040-230	3/	30,800	Kane	Kanab
Paria-Hackberry	UT-040-247		135,822	Kane	Kanab
The Blues	UT-040-258	3/	19,030	Garfield	Kanab
	Subtotal	(11)	491,119		
Canaan Mountain	UT-040-143	1/2/3/	47,170	Washington/ Kane	Dixie/Kanab
Spring Canyon	UT-040-148	3/	4,433	Iron	Beaver River
White Rock Range	UT-040-216	1/	2,600	Beaver	Beaver River
	Subtotal	(3)	54,203		
Conger Mountains	UT-050-011		22,863	Millard	Warm Springs
King Top	UT-050-070		84,770	Millard	Warm Springs
Wah Wah Mountains	UT-050-073/ 040-205	2/	35,000	Millard/ Beaver	Warm Springs/ Beaver River
Howell Peak	UT-050-077		23,825	Millard	Warm Springs
Notch Peak	UT-050-078		51,130	Millard	Warm Springs
	Subtotal	(5)	217,588		
Sunset Mountain	UT-050-041		49,500	Millard/ Juab	House Range
Fish Springs Range	UT-050-127		52,500	Juab	House Range
Rockwell	UT-050-186		9,150	Juab	House Range
	Subtotal	(3)	111,150		
Fremont Gorge	UT-050-111	3/	2,540	Wayne	Henry Mountains
Dirty Devil	UT-050-136A	3/	61,000	Wayne/ Garfield	Henry Mountains
French Spring/Happy Canyon	UT-050-136B		25,000	Wayne	Henry Mountains
Horseshoe Canyon	UT-050-237	3/	38,800	Wayne	Henry Mountains
Blue Hills/Mount Ellen	UT-050-138		54,480	Wayne/ Garfield	Henry Mountains
Fiddler Butte	UT-050-241	3/	27,000	Garfield	Henry Mountains
Bull Mountain	UT-050-242		11,800	Wayne/ Garfield	Henry Mountains
Little Rockies	UT-050-247	3/	38,700	Garfield	Henry Mountains
Mount Pennell	UT-050-248		27,300	Garfield	Henry Mountains
Mount Hillers	UT-050-249		20,000	Garfield	Henry Mountains
	Subtotal	(10)	306,620		
Muddy Creek	UT-060-017		31,360	Emery	San Rafael
Side Mountain	UT-060-021		80,530	Emery	San Rafael
Devil Canyon	UT-060-025		9,610	Emery	San Rafael
Crack Canyon	UT-060-025A		25,315	Emery	San Rafael
San Rafael Reef	UT-060-029A		55,540	Emery	San Rafael
Horseshoe Canyon	UT-060-045/2/3/ 050-237A		20,550	Emery/ Wayne	San Rafael Henry Mountain
	Subtotal	(6)	222,905		
Mexican Mountain	UT-060-054	2/	60,360	Emery	Price River/ San Rafael
Turtle Canyon	UT-060-067		33,970	Emery	Price River
Desolation Canyon	UT-060-068A	2/	257,975	Carbon/ Emery/ Grand	Price River/Grand
	Subtotal	(3)	352,305		
Plume Canyon	UT-060-100B		48,640	Grand	Grand
Coal Canyon	UT-060-100C		64,670	Grand	Grand
Spruce Canyon	UT-060-100D		20,650	Grand	Grand
Black Ridge Canyon West	UT-060-116/117		5,100	Grand	Grand
Westwater Canyon	UT-060-118		30,800	Grand	Grand
Lost Spring Canyon	UT-060-131B	3/	3,880	Grand	Grand
Negro Bill Canyon (ISLA)	UT-060-136		7,620	Grand	Grand
Behind the Rocks	UT-060-140A		12,930	Grand/ San Juan	Grand
	Subtotal	(8)	194,090		
Indian Creek	UT-060-154	3/	7,300	San Juan	San Juan
Bridger Jack Mesa	UT-060-167		5,300	San Juan	San Juan
Butler Wash	UT-060-169	3/	22,120	San Juan	San Juan
Pine Canyon	UT-060-188		11,300	San Juan	San Juan
Cheese Box Canyon	UT-060-191		15,410	San Juan	San Juan
Bullet Canyon	UT-060-196		8,730	San Juan	San Juan

WSA Name	Number	Acreage	County	Resource Area
Slickhorn Canyon	UT-060-197/198 3/	46,800	San Juan	San Juan
Road Canyon	UT-060-201	65,000	San Juan	San Juan
Fish Creek Canyon	UT-060-204	48,530	San Juan	San Juan
Mule Canyon	UT-060-205B	5,600	San Juan	San Juan
Sheiks Canyon	UT-060-224	3,070	San Juan	San Juan
	Subtotal (11)	239,160		
West Cold Springs	UT-080-103/ CO-010-208 1/	3,330	Daggett	Diamond Mountain
Diamond Breaks	UT-080-113 1/	3,900	Daggett	Diamond Mountain
	Subtotal (2)	7,230		
Daniel's Canyon	UT-080-414 3/	2,475	Uintah	Book Cliffs
Bull Canyon	UT-080-419 1/	520	Uintah	Book Cliffs
	Subtotal (2)	2,995		
STATE TOTAL	Areas (79)	2,432,070		

TABLE II

BLM WILDERNESS STUDY AREAS (WSA's)
(Excludes Instant Study Areas)

District Prefix Code:
010-Worland; 030-Rawlins; 040-Rock Springs; 060-Casper
1/ Crosses State political boundaries.
2/ Crosses BLM resource administrative boundaries.
3/ Contiguous wilderness area or study area on lands administered by Federal agency other than BLM.
*MFP-Management Framework Plan, A-Amendment, T-Transition; RMP-Resource Management Plan

TABLE II J
WYOMING

WSA Name	Number	Acreage	County	Resource Area	Plan Name	Type*	Plan Start	DEIS Completion	Plan/EIS Completion
Owl Creek	WY-010-104A/B/C 3/	710	Hot Springs	Grass Creek	Grass Creek	MFP-T	1981	1984	1984
Bobcat Draw Badlands	WY-010-126	17,150	Washakie	Grass Creek					
Sheep Mountain	WY-010-130	23,250	Big Horn	Grass Creek					
Red Butte	WY-010-131	11,350	Big Horn	Grass Creek					
	Subtotal (4)	52,460							
Honeycombs	WY-010-221	21,000	Big Horn	Washakie	Washakie	RMP	1982	1986	1986
Cedar Mountain	WY-010-222	21,570	Washakie	Washakie					
South Paint Rock	WY-010-236 3/	668	Washakie	Washakie					
Paint Rock	WY-010-239 3/	2,770	Big Horn	Washakie					
Medicine Lodge	WY-010-240 3/	7,740	Big Horn	Washakie					
Alkali Creek	WY-010-241	10,100	Big Horn	Washakie					
Trapper Creek	WY-010-242	7,200	Big Horn	Washakie					
	Subtotal (7)	71,040							
McCullough Peaks	WY-010-335	25,210	Park	Cody	Cody	MFP-A	1985	1986	1986
	Subtotal (1)								
Sweetwater Canyon	WY-030-101	9,056	Fremont	Lander	Lander	RMP	1982	1985	1985
Dubois Badlands	WY-030-109	4,520	Fremont	Lander					
Whiskey Mountain	WY-030-110 3/	887	Fremont	Lander					
Copper Mountain	WY-030-111	6,858	Fremont	Lander					
Sweetwater Rocks	WY-030-120	6,316	Fremont	Lander					
Sweetwater Rocks	WY-030-122	12,789	Fremont	Lander					
Sweetwater Rocks	WY-030-123A	7,041	Fremont	Lander					
Sweetwater Rocks	WY-030-123B	6,429	Fremont	Lander					
	Subtotal (8)	53,496							
Encampment River Canyon	WY-030-031 3/	3,380	Carbon	Medicine Bow	Medicine Bow	RMP	1983	1986	1986
Prospect Mountain	WY-030-303 3/	1,099	Carbon	Medicine Bow					
Bennett Mountains	WY-030-304	5,722	Carbon	Medicine Bow					
Pedro Mountains	WY-030-305	5,990	Carbon	Medicine Bow					
	Subtotal (4)	16,191							

WSA Name	Number *	Acreage	County	Resource Area	Plan Name	Type **	Plan Start	EIS Completion	Plan/EIS Completion
Adobe Town	WY-030-401/408	85,710	Sweetwater	Overland	Overland/Divide	MFP-T	1981	1983	1983
Ferris Mountains	WY-035-407	20,495	Carbon	Divide					
	Subtotal (2)	106,205							
Lake Mountain	WY-040-110	13,970	Sublette	Pinedale (81MFP-A)	Rock Springs	MFP-T	1980	1982	1983
Raymond Mountains	WY-040-111	32,936	Lincoln	Kemmerer (81MFP-A)					
Buffalo Hump	WY-040-306	10,300	Sweetwater	Big Sandy/ Pilot Butte					
Sand Dunes	WY-040-307	27,200	Sweetwater	Big Sandy/ Pilot Butte					
Alkali Draw	WY-040-311	16,990	Sweetwater	Big Sandy/ Pilot Butte					
South Pinnacles	WY-040-313	10,826	Sweetwater	Big Sandy/ Pilot Butte					
Alkali Basin/East Sand Dunes	WY-040-316/317	12,800	Sweetwater	Big Sandy/ Pilot Butte					
Red Lake	WY-040-318	9,515	Sweetwater	Big Sandy/ Pilot Butte					
Honeycomb Buttes	WY-040-323	41,620	Sweetwater	Big Sandy/ Pilot Butte					
Oregon Buttes	WY-040-324	5,700	Sweetwater	Big Sandy/ Pilot Butte					
Whitehorse Creek	WY-040-325	4,028	Fremont	Big Sandy/ Pilot Butte					
Devils Playground	WY-040-401	15,646	Sweetwater	Salt Wells					
Twin Buttes	WY-040-402	8,630	Sweetwater	Salt Wells					
Red Creek Badlands	WY-040-406	8,020	Sweetwater	Salt Wells					
	Subtotal (14)	218,181							
Knot Park	WY-040-106 3/	1,415	Sublette	Pinedale	Pinedale	MFP-A	1985	1986	1986
	Subtotal (1)								
Mill Creek	WY-040-335 3/	1,300	Sublette	Big Sandy/ Pilot Butte	Big Sandy	MFP-A	1985	1986	1986
	Subtotal (1)								
Gardner Mountain	WY-060-201	6,423	Johnson	Buffalo	Buffalo	RMP	1982	1983	1983
North Fork Powder River	WY-060-202	10,089	Johnson	Buffalo					
Fortification Creek	WY-060-204	12,419	Johnson/	Buffalo					
	Subtotal (3)	28,931							
STATE TOTAL	Areas (45)	524,429							

TABLE I:I

INSTANT STUDY AREAS (ISA's)

1/ Study complete; ISA lacks wilderness characteristics; State Director has tentatively recommended it nonsuitable for preservation as wilderness (28 areas).
2/ Study complete; ISA with or without contiguous public land and has wilderness characteristics; State Director has tentatively recommended it suitable for preservation as wilderness (9 areas).
3/ Study deferred; ISA and contiguous public lands have wilderness characteristics; study to be completed within indicated plan/EIS (16 areas).
4/ Study no longer required as a result of Alaska National Interest Lands Conservation Act of December 1980 (1 area).
5/ Director concurrence; Secretary recommended suitable; forwarded to the President on 1/19/82 (1 area).

* The "ISA" acreage represents the previously designated natural or primitive area. The "contiguous" acreage listed in this table excludes any lands included in Table II. The BLM total acreage consists of the ISA acreage plus contiguous lands containing wilderness characteristics.

** MFP-Management Framework Plan, A = Amendment, T-Transition; RMP-Resource Management Plan; STWIDE-Statewide Consolidated Wilderness Study and EIS

ISA NAME		STATE	DISTRICT	Acreage * ISA	Contiguous	BLM Total	Resource Area	County	Plan Name	Plan Type**	Plan Start	Plan/EIS Complete
Halibut Cove	4/	Alaska	Anchorage	120	0	120	Cook Inlet	Kenai (Borough)	N/A	N/A	N/A	N/A
Aravaipa Canyon	5/	Arizona	Safford	4,044	2,626	6,670	Gila	Pinal/Graham	N/A	N/A	N/A	N/A
Big Sage	3/	Arizona	Arizona Strip	160	0	160	Vermillion	Coconino	Arizona Strip	MFP-A	1982	1983
Paiute	2/	Arizona	Arizona Strip	34,682	240	34,922	Shivwits	Coconino	N/A	N/A	N/A	N/A
Paria (Administered by AZ/UT)	2/	Arizona	Arizona Strip/ Cedar City	18,855	0	18,855	Vermillion	Coconino	N/A	N/A	N/A	N/A
Turbinella-Gambel Oak	1/	Arizona	Arizona Strip	154	0	154	Shivwits	Mohave	Arizona Strip	MFP-A	1982	1983
Vermillion Cliffs	2/	Arizona	Arizona Strip	50,135	360	50,495	Vermillion	Coconino	N/A	N/A	N/A	N/A
Subtotal		(6)		108,030	1,226	111,256						
Baker Cypress/ Lava Rock	3/	California	Redding	1,148	0	1,148	Taht	Shasta	Redding	MFP-T	1981	1984
Bitterbrush	1/	California	Susanville	640	0	640	Eagle Lake	Lassen	N/A	N/A	N/A	N/A
Chemise Mountain	3/	California	Ukiah	3,941	0	3,941	Mendocino	Mendocino	King Rge/N. Coast	MFP-A	1984	1985
Negit Island	1/	California	Bakersfield	197	0	197	Bishop	Mono	N/A	N/A	N/A	N/A
Paiute Cypress	3/	California	Bakersfield	760	2,818	3,578	Caliente	Kern	Central CA	MFP-A	1981	1982
San Benito	1/	California	Folsom	1,500	0	1,500	Hollister	San	N/A	N/A	N/A	N/A
Subtotal		(6)		8,186	2,818	10,998						

ISA NAME		STATE	DISTRICT	Acreage * ISA	Contiguous	BLM Total	Resource Area	County	Plan Name	Plan Type**	Plan Start	Plan/EIS Comp. *
High Mesa	1/	Colorado	Canon City	680	0	680	Royal Gorge	Fremont	N/A	N/A	N/A	N/A
North Sand Dunes	1/	Colorado	Craig	791	0	791	Kremmling	Jackson	N/A	N/A	N/A	N/A
Needle Rock	1/	Colorado	Montrose	80	0	80	San Juan	Delta	N/A	N/A	N/A	N/A
Powderhorn	2/	Colorado	Montrose	40,480	9,660	50,140	Gunnison Basin	Gunnison	American Flats	MFP-A	1976	1979
Rare Lizard and Snake	1/	Colorado	Montrose	443	0	443	San Juan	Montezuma	N/A	N/A	N/A	N/A
Subtotal		(5)		42,474	9,660	52,134						
Birds of Prey	1/	Idaho	Boise	26,713	0	26,713	Owyhee/Bruneau	Ada/Owyhee/ Elmore	N/A	N/A	N/A	N/A
China Cup Butte	1/	Idaho	Idaho Falls	160	0	160	Big Butte	Blaine	N/A	N/A	N/A	N/A
Great Rift	2/	Idaho	Idaho Falls/ Shoshone	160	355,690	355,850	Big Butte/ Monument	Blaine/ Minidoka	N/A	N/A	N/A	N/A
Subtotal		(3)		27,033	355,690	382,723						
Bear Trap Canyon	2/	Montana	Butte	2,861	1,154	4,015	Dillon	Madison	N/A	N/A	N/A	N/A
Centennial Mt.	1/	Montana	Butte	21,774	0	21,774	Dillon	Madison	N/A	N/A	1982	1983
Humbug Spires	2/	Montana	Butte	7,061	4,261	11,302	Dillon	Madison	N/A	N/A	N/A	N/A
Square Butte	1/	Montana	Lewistown	1,947	0	1,947	Judith	Fergus	N/A	N/A	N/A	N/A
Subtotal		(4)		33,623	5,415	39,038						
Bristlecone	1/	Nevada	Ely	480	0	480	Egan	White Pine	N/A	N/A	N/A	N/A
Goshute Canyon	3/	Nevada	Ely	7,650	0	7,650	Egan	White Pine	Egan	EMP	1981	1984
Pygmy Sage	1/	Nevada	Ely	160	0	160	Schell	White Pine	N/A	N/A	N/A	N/A
Swamp Cedar	1/	Nevada	Ely	3,200	0	3,200	Schell	White Pine	N/A	N/A	N/A	N/A
Shoshone Ponds	1/	Nevada	Ely	1,240	0	1,240	Schell	White Pine	N/A	N/A	N/A	N/A
Lahontan-Cutthroat Trout	3/	Nevada	Winnemucca	12,316	0	12,316	Sonoma-Gerlach	Humboldt	Sonoma-Gerlach	MFP-I	1981	1983
Mount Meadow	1/	Nevada	Battle Mountain	22	0	22	Shoshone/Eureka	Nye	N/A	N/A	N/A	N/A
Pine Creek	3/	Nevada	Las Vegas	150	0	150	Stateline/ Esmeralda	Clark	Clark	MFP-I	1981	1984
Pinyon-Joshua	1/	Nevada	Las Vegas	560	0	560	Stateline/ Esmeralda	Esmeralda	N/A	N/A	N/A	N/A
Sunrise Mountain	1/	Nevada	Las Vegas	10,240	0	10,240	Caliente	Clark	N/A	N/A	N/A	N/A
Virgin Mountain	1/	Nevada	Las Vegas	6,560	0	6,560	Caliente	Lincoln	N/A	N/A	N/A	N/A
Subtotal		(11)		42,578	0	42,578						
El Malpais	2/	New Mexico	Socorro	84,000	14,369	98,369	Jornada	Valencia	N/A	N/A	N/A	N/A
Guadalupe Canyon	3/	New Mexico	Las Cruces	3,692	454	4,146	Las Cruces/ Lordsburg	Hidalgo	Coronado FS	Forest	1978	1982
Matthers	1/	New Mexico	Roswell	360	0	360	Carlsbad	Chaves	N/A	N/A	N/A	N/A
Subtotal		(3)		88,052	14,823	102,875						
Brewer Spruce	1/	Oregon	Medford	210	0	210	Grants Pass	Josephine	N/A	N/A	N/A	N/A
Douglas Fir	1/	Oregon	Coos Bay	598	0	598	Burnt Mountain	Coos	N/A	N/A	N/A	N/A
Little Sink	1/	Oregon	Salem	80	0	80	Yamhill	Polk	N/A	N/A	N/A	N/A
Lost Forest	3/	Oregon	Lakeview	8,960	0	8,960	High Desert	Lake	Oregon	STWIDE	1982	1984
Western Juniper	1/	Oregon	Prineville	600	0	600	Deschutes	Deschutes	N/A	N/A	N/A	N/A
Subtotal		(5)		10,440	0	10,440						
Book Cliffs	1/	Utah	Moab	600	0	600	Book Cliffs	Uintah	N/A	N/A	N/A	N/A
Dark Canyon	3/	Utah	Moab	49,904	0	49,904	San Juan	San Juan	Utah	STWIDE	1982	1984
Grand Gulch	3/	Utah	Moab	34,928	0	34,928	San Juan	San Juan	Utah	STWIDE	1982	1984
Link Flats	1/	Utah	Moab	912	0	912	San Rafael	Emery/Wayne	N/A	N/A	N/A	N/A
Devils Garden	1/	Utah	Cedar City	640	0	640	Escalante	Garfield	N/A	N/A	N/A	N/A
Joshua Tree	1/	Utah	Cedar City	1,040	0	1,040	Dixie	Washington	N/A	N/A	N/A	N/A
Escalante Canyons	3/	Utah	Cedar City	1,160	440	1,600	Escalante	Kane/ Garfield	Utah	STWIDE	1982	1983
North Escalante Canyon	3/	Utah	Cedar City	5,800	0	5,800	Escalante	Kane/ Garfield	Utah	STWIDE	1982	1984
The Gulch	3/	Utah	Cedar City	3,427	110,016	113,443	Escalante	Kane/ Garfield	Utah	STWIDE	1982	1984
Phippe Death Hollow	3/	Utah	Cedar City	34,288	8,443	42,731	Escalante	Kane/ Garfield	Utah	STWIDE	1982	1984
Paria (Administered by UT/AZ)	2/	Utah	Cedar City	8,660	12,810	21,470	Kanab	Kane	N/A	N/A	N/A	N/A
Subtotal		(10) (Paria not double-counted as an area)		141,159	131,709	272,868						
Scab Creek	2/	Wyoming	Rock Springs	6,680	956	7,636	Pinedale	Sublette	N/A	N/A	N/A	N/A
TOTAL		(55)		508,375	524,297	1,032,666						

BILLING CODE 4310-84-C

APPENDIX A

State Offices

U.S. Department of the Interior Bureau of Land Management

Alaska: (907) 271–5069, 701 C Street, P.O. Box 13, Anchorage, AK 99513
Arizona: (602) 241–3141, 2400 Valley Bank Center, Phoenix, AZ 85073
California: (916) 484–4636, Federal Building, 2800 Cottage Way, Sacramento, CA 95825
Colorado: (303) 837–3393, 1037 20th Street, Denver, CO 80202
Eastern States Office: (703) 235–2866, South Pickett Street, Alexandria, VA 22304
Idaho: (208) 334–1748, Federal Building, 550 West Fort Street, P.O. Box 042, Boise, ID 83724
Montana: (406) 657–6475, 222 North 32nd Street, P.O. Box 30157, Billings, MT 59107
Nevada: (702) 784–5748, Federal Building 300 Booth Street, Reno, NV 89509
New Mexico: (505) 988–6227, U.S. Post Office & Federal Building, P.O. Box 1449, Santa Fe, NM 87501
Oregon & Washington: (503) 231–6981, 729 N.E. Oregon Street, P.O. Box 2965, Portland, OR 97208
Utah: (801) 524–4257, University Club Bldg., 136 East South Temple Salt Lake City, UT, 84111
Wyoming: (307) 778–2073, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, WY 82001

[FR Doc. 82–18475 Filed 7–7–82; 8:45 am]
BILLING CODE 4310–84–M

federal register

Thursday
July 8, 1982

Part IV

Department of Transportation

Federal Aviation Administration

Air Traffic Control System; Interim Operations Plan; Transfers and Exchanges of Slots

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 22050; Reference SFAR No. 44–3]

Air Traffic Control System; Interim Operations Plan; Transfers and Exchanges of Slots

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of suspension of policy.

SUMMARY: Because of the limited capacity of the Air Traffic Control System resulting from the illegal air traffic controllers' strike, authority to land ("slots") at 22 of the Nation's busiest airports has been allocated to air carriers by the Federal Aviation Administration (FAA) under the Interim Operations Plan, Special Federal Aviation Regulation (SFAR) Nos. 44 through 44–3. Once allocated and used, the slots, which are assigned by hour, become part of a carrier's "operating base". Initially, allocation procedures did not provide for changes in a carrier's slot allocation.

In order to provide the airlines with more flexibility in scheduling, particularly for the upcoming summer scheduling season, a Notice of Policy issued May 6 (47 FR 19989; May 10, 1982) announced that the FAA would recognize transfers of slots between air carriers. That policy was to be in effect until June 10, but was extended until June 24 by a Notice issued June 10 (47 FR 22508; June 14, 1982). That Notice requested comments on the transfer policy, and proposed its termination.

This Notice announces the suspension of the transfer policy, to the extent it permitted carriers to buy and sell slots, until July 1, 1983. Since the needed flexibility has been provided and most air carriers no longer believe that sales flexibility is necessary, the FAA has no reason to continue the policy at this time. The FAA will, however, continue to accept transactions resulting from the exchange or trade of slots, irrespective of whether they are on a one-for-one basis.

FOR FURTHER INFORMATION CONTACT: Donald R. Segner, Associate Administrator for Policy and International Aviation, Federal Aviation Administration, Washington, D.C. 20591, 202–426–3030, or Franklin K. Willis, Deputy Assistant Secretary for Policy and International Affairs, Office of the Secretary of Transportation, Washington, D.C. 20590, 202–426–4540.

SUPPLEMENTAL INFORMATION:

Availability of Notice

Any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the docket number of this notice. Persons interested in being placed on a mailing list for future notices should also request a copy of Advisory Circular 11–2, which describes the application procedures.

Background and Discussion

The actions of certain air traffic controllers in August of 1981 reduced the number of controllers available to operate the Air Traffic Control (ATC) system. In order to assure the safe and efficient use of the navigable airspace, the FAA has been obliged to ration the limited ATC system capacity among users. It has done so by assigning "slots" (authority to land) under a series of emergency regulations [SFAR No. 44 (46 FR 30606; August 4, 1981); SFAR No. 44–1 (46 FR 44424; September 4, 1981); SFAR No. 44–2 (46 FR 48906, October 5, 1981); and SFAR No. 44–3 (47 FR 7816, February 22, 1982)].

Airlines began the period of restricted operations with a "base" number of slots at the Nation's 22 busiest airports (controlled airports) derived from their pre-strike planned operations. As the capacity of the ATC system has increased, additional slots have been awarded in response to requests by the carriers under procedures prescribed in SFARs 44–1, 44–2, and 44–3. These regulations also provide that air carriers must use slots awarded to them or lose them from their operating bases.

Because SFAR No. 44–3 does not provide for adjustments in slot assignments that may be occasioned by seasonal variations in demand, competitive pressures, or economic decisions of the carriers, the FAA has been receptive to efforts to add flexibility to the slot allocation system. To this end, the FAA withdrew its opposition to an air carrier request for antitrust immunity from the Civil Aeronautics Board (CAB) to permit trades of slots between carriers under a procedure administered by the Air Transport Association (ATA). While that procedure was successful in increasing scheduling flexibility among the carriers, the CAB-imposed anonymity requirement made it difficult for the carriers to consummate trades. Thus, a Notice of Policy was issued in May 6 (47 FR 19989; May 10, 1982) to test a procedure that might provide still greater flexibility to the allocation procedures.

Under that Policy, the FAA accepted transfers of slots between carriers in any number, without requiring an exchange or trade, and regardless of any consideration other than slots involved in the transfer. To register a transfer, a carrier was obliged to provide evidence that the transferor of a slot agreed to the transfer. When the FAA verified that the slot or slots transferred were actually in the transferor's base and that they were not necessary for the provision of essential air service, it approved the transaction and added the transferred slot to the transferee's base.

The purpose of the experimental policy was to provide additional flexibility for carriers to adjust their schedules. The timing was a result of the need to provide this flexibility in time for summer scheduling.

By Notice issued on June 10 (47 FR 22508; June 14, 1982), interested parties were provided an opportunity to submit comments on the discontinuance of the experimental policy, and a number of comments were received.

The Department of Justice, the Office of Management and Budget, New York Air, Continental/Texas International Airlines, People Express, Southwest Airlines, Braniff Airways, and a number of individual commentors favored continuation of the buy/sell policy. The Regional Airline Association, the ATA, the Airport Operators Council International, Delta Airlines, American Airlines, Trans World Airlines, Midway Airlines, Eastern Airlines, the National Air Carriers Association, the City of Des Moines, and the State of Wisconsin were among those who urged that the program be terminated.

Opponents of the program argued that slot sales work principally to the benefit of the larger carriers, which can afford to buy slots, and to the larger communities, where heavier passenger traffic means that each slot can provide more revenue than a slot at a smaller community. They also commented that slot sales result in windfall profits and unjust enrichment for some airlines. Slots, they noted, are so valuable that carriers are encouraged to obtain them for speculation purposes unrelated to any improved service pattern.

Proponents of the buy/sell program argued that reliance on market forces for the secondary distribution of slots is consistent with the Airline Deregulation Act and fosters competition. Sales, they alleged, provide for the most efficient distribution of air carrier capacity at the 22 controlled airports. They also

alleviate the rigidities built into the present allocation system, which limits management flexibility of the carriers and presents an almost insuperable barrier to new entrant carriers, who have too few slots to trade effectively. The proponents also noted, in response to arguments against buy/sell, that current prices for slots were artificially inflated by the extreme shortage of slots and the short period of their availability through sales under the experimental policy.

The FAA has reviewed the results of the experimental policy in light of the comments received. One hundred five applications for transfer, excluding resubmissions, were received by June 30; the applications requested approval of the transfer of 314 slots, 194 by sale and 120 by trade. The FAA has reviewed the impact of the transfers which have been approved to date.

As discussed above, the purpose of the experimental slot transfer policy was to provide a mechanism to add additional flexibility to the slot allocation system by permitting the carriers to adjust their schedules for the summer season. The air carriers had sought added flexibility, though not necessarily through sales. As reflected by the comments, at the conclusion of the experiment, the carriers were overwhelmingly opposed to the sales policy. Since the needed flexibility has been provided and most air carriers no longer believe that sales flexibility is necessary, the FAA has no reason to continue the policy at this time.

The FAA presently estimates that the air traffic control system will be restored to a sufficient degree by July 1, 1983, to reduce or entirely eliminate the aspects of the slot transfer policy that have been objected to by commenters opposed to transfer by sales. By then, in many parts of the country, slots will no longer be required. In others, the supply of slots will be short only at peak hours, and shortages will be significantly reduced. The slot transfer policy announced May 10 is therefore suspended until July 1, 1983, or until further notice.

The FAA will, however, continue to allow a high degree of flexibility with respect to the trading or exchange of slots. Carriers may exchange slots in any numbers, not necessarily on a slot-for-slot basis. Such transactions must be submitted in accordance with the following terms, which are basically the same as those that have been in effect under the May 10 Policy:

1. Any slot or slots to be exchanged after June 24 must come from the carriers' FAA-approved June 1–July 31 operating base, as determined under SFAR 44–3. (Only slots that have been operated by a carrier may be exchanged.) Later FAA-approved bases will be used for exchanges in the future.

2. All requests for approval must be submitted in writing to the Associate Administrator for Policy and International Aviation, API–1, Federal Aviation Administration, Washington, D.C. 20591, in the same format as slot requests submitted under SFAR No. 44–3. Exchange requests combined with other requests under the SFAR (such as slides) will not be accepted.

3. Written evidence of both carriers' consent to the exchange must be provided.

4. A record of the exchange will be made available to the public.

5. Exchanges that would reduce the number of slots allocated to an air carrier that has been afforded priority treatment in the distribution of new slots under paragraph 3(c) of the Appendix to SFAR No. 44–3 (certain new entrant airlines) will not be approved unless the carrier waives its right to be considered a "new entrant" in future distributions under the Interim Operations Plan.

6. Exchanges of slots necessary for the provision of essential air service within the meaning of section 419 of the Federal Aviation Act of 1958, as amended, 49 U.S.C. 1389, will not be approved.

The provisions of SFAR No. 44–3 or any amendments to it continue to apply. In particular, it should be noted that only carriers may hold slots, and that a single slot covers only an arrival in a given hour at a single airport. In addition, for the present, the exchange of "tower en route" and ARTCC slots will not be approved.

Affirmative approval must be obtained from the FAA before slots may be used. The FAA anticipates that properly documented exchange requests will be approved within two weeks of the receipt of a request.

The FAA will continue to evaluate the slot transfer policy to determine whether changes are warranted before July 1, 1983. Any further comments on the matter should be directed to Docket No. 22050.

Finally, all interested parties are again reminded that a slot is a temporary creation of FAA emergency regulations, and does not confer on any carrier a long-term right. Slots can be taken from any carrier in accordance with the terms of the existing SFAR or any amendments to it. Moreover, the FAA does not guarantee that slots will be required at any airport for any particular period of time. As soon as possible, the FAA intends to relieve the carriers from the requirement of obtaining slots.

(49 U.S.C. 1301 *et seq.* and 49 U.S.C. 1651 *et seq.*)

Issued at Washington, D.C., on July 6, 1982.

Michael J. Fenello,

Acting Administrator.

[FR Doc. 82–18670 Filed 7–7–82; 11:45 am]

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Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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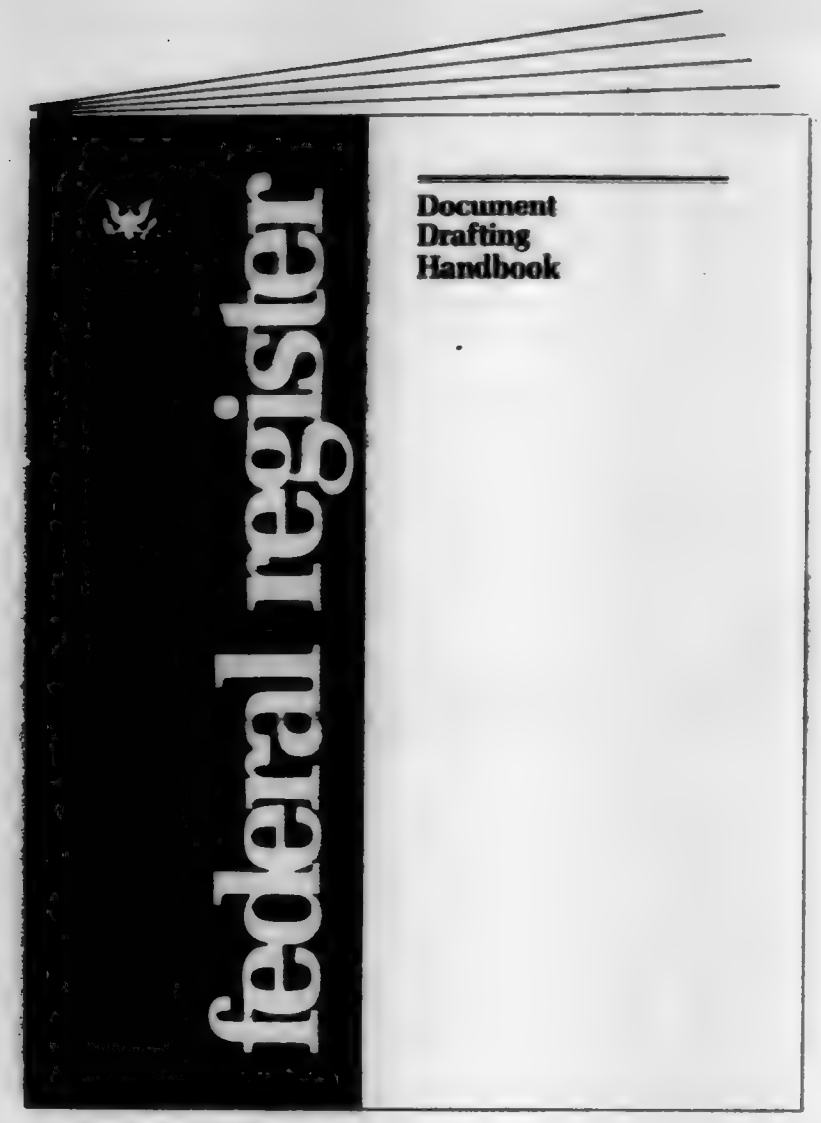

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Rules and Regulations

Federal Register
Vol. 47, No. 132
Friday, July 9, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 950

Solicitation of Federal Civilian and Uniformed Services Personnel for Contributions to Private Voluntary Organizations; Correction

Note.—This document originally appeared in the **Federal Register** of Thursday, July 8, 1982. It is reprinted in this issue to meet requirements for publication on the Tuesday/Friday schedule assigned to the Office of Personnel Management.

AGENCY: Office of Personnel Management.

ACTION: Final rule; correction.

SUMMARY: In publishing final regulations on the solicitation of Federal civilian and uniformed services personnel for contributions to private voluntary organizations in the **Federal Register** on Tuesday, July 6, 1982 (47 FR 29496), the Office of Personnel Management (OPM) inadvertently omitted from the Supplementary Information section a statement explaining why good cause was found not to delay the effectiveness of the regulations. Publication of the statement is required by 5 U.S.C. 553(d)(3). Accordingly, OPM is correcting this omission by publishing the statement below. The effective date of the regulations is also changed to correspond with publication of this document.

EFFECTIVE DATE: The regulations published on July 6, 1982 (47 FR 29496) become effective July 8, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph S. Patti, Special Assistant for Regional Operations, (202) 632–5544.

SUPPLEMENTARY INFORMATION: The following statement was unintentionally omitted from the Supplementary Information section of final regulations adding Part 950 to Title ... of the Code of Federal Regulations, pu...lished July 6, 1982:

"Pursuant to 5 U.S.C. ...ection 553 and section 1103, the Direct... of OPM finds that, because of the ne... of government managers, ...ilitary commanders, employee... epresentatives, federated groups, and v...untary agencies to commence ...eparations immediately for an effe...ive and timely 1982 CFC; because dela...in the effectiveness of these r...ulations would work undue hardships ...on all applicants, participant... nd Federal employees in the CFC ... jeopardize their abilities to raise ...s in the Federal work place in... and because considerations of practicality, necessity, and the public interest require the immediate effectiveness of these regulations; good cause exists for making these regulations effective immediately upon this publication."

"The Director of OPM has further determined, consistent with both the former Manual and these regulations, that the deadline for submission by Federated groups and voluntary agencies of applications for admittance to the 1982 campaign is extended until ten (10) days after this publication."

U.S. Office of Personnel Management.

Donald J. Devine,

Director.

[FR Doc. 82–18560 Filed 7–7–82; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Delegations of Authority by the Secretary of Agriculture and General Officers of the Department; Local Search and Rescue Operations

AGENCY: USDA.

ACTION: Final rule; correction.

SUMMARY: This documnent corrects a paragraph number and authority citation in a rule appearing in the **Federal Register** of April 28, 1982 (47 FR 18111) regarding the delegation of authority to implement the local search and rescue operations provisions of the Agriculture and Food Act of 1981.

EFFECTIVE DATE: July 9, 1982.

FOR FURTHER INFORMATION CONTACT: Wayne F. Maresch, Director, Administrative Services, Soil Conservation Service, P.O. Box 2890, Washington, D.C. 20013, Telephone: 202–447–5111.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 28, 1982 (47 FR 18111) the language amending 7 CFR 2.62 added a new paragraph incorrectly numbered (a)(12). The correct new paragraph number should be (a)(13). Additionally, the specific authority citation in 7 CFR 2.19 and 7 CFR 2.62 should be Section 1550, Pub. L. 97–98, 95 Stat. 1344 (7 U.S.C. 2273).

Accordingly, 7 CFR 2.19 and 2.62 are corrected to read as follows:

§ 2.19 Delegations of authority to the Assistant Secretary for Natural Resources and Environment.

* * * * *

(f) * * *

(10) Administer the search and rescue operations authority under Section 1550, Pub. L. 97–98, 95 Stat. 1344 (7 U.S.C. 2273).

* * * * *

§ 2.62 Chief, Soil Conservation Service.

(a) * * *

(13) Administer the search and rescue operations authority under Section 1550, Pub. L. 97–98, 95 Stat. 1344 (7 U.S.C. 2273).

* * * * *

Dated: June 28, 1982.

John R. Block,

Secretary.

Dated: June 28, 1982.

John B. Crowell, Jr.,

Assistant Secretary, Natural Resources and Environment.

[FR Doc. 82–18631 Filed 7–8–82; 8:45 am]

BILLING CODE 3410–01–M

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 698; Valencia Orange Reg. 697, Amdt. 1]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period July 9–15, 1982, and increases the quantity of such oranges that may be so shipped during the period July 2–8, 1982. Such action is needed to provide for orderly marketing of fresh Valencia oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: This regulation becomes effective July 9, 1982, and the amendment is effective for the period July 2–8, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This rule has been reviewed under Secretary's Memorandum 1512–1, and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. It would not substantially affect costs for the directly regulated handlers. This action is designed to promote orderly marketing of the California-Arizona Valencia orange crop.

This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on February 5, 1982. The committee met again publicly on July 6, 1982, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for Valencia oranges has improved.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of Valencia oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 908

Marketing agreements and orders, California, Arizona, Oranges (Valencia).

1. Section 908.998 is added as follows:

§ 908.998 Valencia Orange Regulation 698.

The quantities of Valencia oranges grown in Arizona and California which may be handled during the period July 9, 1982, through July 15, 1982, are established as follows:

(1) District 1: 235,000 cartons;
(2) District 2: 265,000 cartons;
(3) District 3: Unlimited cartons.

2. Section 908.997 Valencia Orange Regulation 697 (47 FR 28605), is hereby amended to read:

§ 908.997 Valencia Orange Regulation 697.

* * * * *

(1) District 1: 329,000 cartons;
(2) District 2: 371,000 cartons;
(3) District 3: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: July 7, 1982.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82–18707 Filed 7–8–82; 8:45 am]
BILLING CODE 3410–02–M

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7 CFR Part 910

[Lemon Regulation 367]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period July 11–17, 1982. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: The regulation becomes effective July 11, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. It would not substantially affect costs for directly regulated handlers. This action is designed to promote orderly marketing of the California-Arizona lemon crop.

This final rule is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on July 6, 1981. The committee met again publicly on July 7, 1982, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons has improved somewhat.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is

necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Agricultural Marketing Service, Marketing Agreements and Orders, California, Arizona, Lemons.

Section 910.667 is added as follows:

§ 910.667 Lemon Regulation 367.

The quantity of lemons grown in California and Arizona which may be handled during the period July 11, 1982, through July 17, 1982 is established at 290,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: July 8, 1982.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82–18795 Filed 7–8–82; 11:36 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1942

Community Programs Interest Rates

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: This action amends, FmHA regulations to provide alternative interest rates for water and waste disposal and community facility loans, depending on the median income of families in the service area. Under present regulations, certain loans for facilities required to meet health or sanitary standards where the median family income is below the poverty line bear interest at the rate of five percent. Other loans bear interest at a rate based on the current market yield on municipal obligations. This action is necessary to maintain the concept of interest rates based on market yield for higher income communities and provide reduced interest rates for additional lower income communities. The intended effect of this action is to create three interest rates for community facility and water and waste disposal loans instead of the two rates not provided for.

EFFECTIVE DATE: July 9, 1982.

FOR FURTHER INFORMATION CONTACT: Wayne Stansbery, Loan Officer, Community Facilities Loan Division, Farmers Home Administration, Room 6306 South Agriculture Building, Washington, DC 20250, telephone (202) 382–1490, or Howard Henderson, Loan Officer, Water and Waste Disposal Loan Division, Farmers Home Administration, Room 6316, South Agriculture Building, Washington, DC 20250, telephone (202) 382–9586.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 which implements Executive Order 12291 and has been determined to be nonmajor. The rule will not have:

(a) An annual effect on the economy of $100 million or more; or

(b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign based enterprises in domestic or export markets.

This action requires no change in recordkeeping or reporting requirements imposed upon the public.

Clearinghouse Review

The FmHA programs and projects which are affected by this instruction are subject to State and local clearinghouse review, in the manner delineated in FmHA Instruction 1901–H.

Environmental Impact

This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statement." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

Programs Affected

Catalogue of Federal Domestic Assistance (CFDA) No. 10.423, Community Facilities Loans; CFDA No. 10.418, Water and Waste Disposal Systems for Rural Communities.

Background

On September 30, 1981, FmHA published a final rule to implement requirements of the Omnibus Budget Reconciliation Act of 1981. That rule increased the interest rate on most community facility and water and waste disposal loans from five percent to a rate to be established quarterly using the Bond Buyer Index for guidance. The rates established for the first three quarters of fiscal year 1982 were 12.25 percent, 11.375 percent, and 12.375 percent respectively. Certain loans, for facilities required to meet health or sanitary standards where the median family income is below the poverty line for a nonfarm family of four, as prescribed by the Office of Management and Budget, are still made at five percent interest. The rate is increased by two percent for certain community facility loans that involve the use of prime farmland.

Much concern has been expressed by applicants, members of Congress, public interest groups, and others, that many needed projects are not eligible for the five percent rate and not economically feasible at the higher rate. FmHA is amending the regulations to allow somewhat lower interest rates in low income communities while maintaining the concept of rates based on the market for higher income communities.

Alternatives

The major alternatives considered and a brief evaluation of each are as follows:

1. Develop additional criteria for determining that applicants are of low income, thereby allowing more applicants to qualify for the five percent rate. This would not help applicants for projects not required to meet a health or sanitary standard.

2. Establish a sliding scale of interest rates depending on the median family income of the service area. This alternative would be complicated to administer, confusing to applicants, and might result in substantial subsidies.

3. Establish two additional interest rates between five percent and market rate depending on the median family income of the service area. This would also be confusing to applicants and difficult to administer and could result in an excessive percentage of loans being made at a reduced interest rate.

4. The alternative selected will maintain the two rates now in use and establish one additional rate half way between five percent and the market rate. The new intermediate rate will apply to projects that do not meet the requirements for the five percent rate when the median family income of the service area is not greater than 85 percent of the nonmetropolitan median family income of the State.

This alternative will provide some interest rate reduction to communities with incomes significantly below the median in their State, regardless of whether the income is below the poverty

line or the project is required to meet a health or sanitary standard. It will allow the interest rate to vary with the income of the applicant community, yet limit the number of different interest rates. It will preserve the concept of market rate for a large percentage of the loans and thereby limit the subsidy cost of the programs. FmHA believes this option will maximize the net benefit to society.

Comments

A proposed rule based on alternative number four was published in the **Federal Register** dated March 30, 1982, page 13366, with a 30 day comment period. Thirty three letters of comments on the proposed rule were received prior to the deadline. Twenty eight additional letters received later were also considered, making a total of 61 comment letters that have been considered in the development of this final rule. Thirty three of the commenters expressed general support for the concept of establishing an intermediate rate. The major issues contained in the comment letters are summarized as follows:

Twenty six commenters felt the figure of 85 percent of Statewide nonmetropolitan median family income, as the maximum for eligibility for the intermediate interest rate, is too low. The most commonly suggested alternative figure was 100 percent. FmHA selected the 85 percent figure based on projections of the percentage of applicants that would qualify, and feels that a higher limit could result in an excessive percentage of loans being made at the reduced interest rate and an excessive subsidy cost for the programs.

Eleven commenters suggested a revised definition of low income be developed, allowing more applicants to qualify for the five percent interest rate. FmHA feels the intermediate rate will be a more effective method of reducing the interest cost for low income communities. The five percent rate requires the additional criterion, not required for the intermediate rate, that the project be required to meet an applicable health or sanitary standard.

Seven commenters felt the eligibility for the intermediate rate should be based on a comparison of service area median family income to the Nationwide median family income rather than the Statewide median family income. FmHA feels the use of a National income standard creates an unfair disadvantage for communities in States with higher overall incomes, operating costs, and living expenses.

Six commenters suggested changing or further defining the source of income data used to make the determinations of which interest rate is applicable to particular projects. FmHA desires to use the most recent and accurate information that is available and administratively feasible for use and to primarily use objective, published data. FmHA further desires to maintain flexibility to adjust exact procedures as new information becomes available and more expertise is developed in using the information.

Five commenters thought the market, or highest, interest rate should be reduced. FmHA believes that would not comply with the spirit of the Omnibus Budget Reconciliation Act of 1981 or the desire of the Administration to reduce the subsidy cost of the programs.

Two commenters suggested the interest rate be established annually rather than quarterly. While this would be much easier to administer it would not be responsive to changing market conditions.

One commenter requested the time of loan approval and time of establishment of the interest rate for each loan be clarified. The language has been revised slightly from the proposed rule to clarify when the interest rate is established. FmHA is considering other regulation changes to clarify what constitutes loan approval.

List of Subjects in 7 CFR Part 1942

Community development, Community facilities, Loan programs—Housing and Community Development, Loan security, Rural areas, Waste treatment and disposal, Water supply.

PART 1942—ASSOCIATIONS

Accordingly, Subpart A of Part 1942, Chapter XVIII, Title 7, Code of Federal Regulations, is amended by revising § 1942.17 (f) to read as follows:

§ 1942.17 Appendix A—Community Facilities.

* * * * *

(f) *Rates and terms.*—(1) *General.* Each loan will bear interest at the appropriate rate prescribed in FmHA Instruction 440.1, Exhibit B (which is available in any FmHA office). The interest rates will be set by FmHA at least for each quarter of the fiscal year. All rates will be adjustd to the nearest one-eighth of one per centum. The interest rate for each loan will be the rate in effect on the date the signed copy of Form FmHA 1940–1, "Request for Obligation of Funds," is mailed to the applicant. The interest rate to be charged on each loan will be entered on Form FmHA 1940–1 on the date the form is mailed to the applicant. For each loan, the basis for determining what interest rate is appropriate will be completely documented on Form FmHA 442–43, "Project Summary—Community Facilities, (Other Than Utility-Type Projects)," or Form FmHA 1942–45, "Project Summary—Water and Waste Disposal and Other Utility-Type Projects."

(2) *Market rate.* The market interest rate will be set using as guidance the average of the Bond Buyer Index for the four weeks prior to the first Friday of the last month before the beginning of the quarter. The market rate will apply to all loans that do not qualify for a different rate under paragraphs (3) or (4) of this section. It may be adjusted as provided in paragraph (5) of this section.

(3) *Poverty line rate.* The poverty line interest rate will not exceed five per centum per annum. It will apply to loans for which the loan approval official determines both the following conditions exist:

(i) The primary purpose of the loan is to upgrade existing facilities or construct new facilities required to meet applicable health or sanitary standards. Documentation will be obtained from the appropriate regulatory agency with jurisdiction to enforce the standard, to verify that a bona fide standard exists, what that standard is, and that the proposed improvements are needed and required to meet the standard; and

(ii) The median family income of the service area is below the poverty line for a nonfarm family of four, as prescribed by the Office of Management and Budget (OMB), as adjusted under Section 624 of the Economic Opportunity Act of 1964 (42 U.S.C. 2971d).

(4) *Intermediate rate.* The intermediate interest rate will be set at the poverty line rate plus one-half of the difference between the poverty line rate and the market rate. It will apply to loans that do not meet the requirements for the poverty line rate and for which the median family income of the service area is not more than 85 percent of the nonmetropolitan median family income of the State.

(5) *Prime farmland.* For essential community facilities loans, the rate indicated by paragraphs (f) (2), (3), or (4) of this section will be increased by two per centum per annum if the project being financed will involve the use of, or construction on, prime or unique farmland in accordance with FmHA Instruction 440.1, Exhibits B and J (which are available in any FmHA office).

(6) *Income determination.* The income data used to determine median family income should be that which most accurately reflects the income of the service area. The service area is that

area reasonably expected to be served by the facility being financed by FmHA. The median family income of the service area and the nonmetropolitan median family income for the State will be determined from the U.S. Department of Commerce, Bureau of Census, Publication PC (1)—C Series, or from unpublished Bureau of Census data for individual enumeration districts. If there is reason to believe that the census data is not an accurate representation of the median family income within the area to be served, the reasons will be documented and the applicant may furnish, or FmHA may obtain, additional information regarding such median family income. Such information will consist of reliable data from local, regional, State or Federal sources or from a survey conducted by a reliable impartial source. The nonmetropolitan median family income of the State should be updated, using reliable data from State or Federal sources as such data becomes available.

(7) *Repayment terms.* Loans will ordinarily be scheduled for repayment on terms similar to those used in the State for financing such facilities but in no case shall they exceed the useful life of the facility or 40 years from the date of the note(s) or bond(s), whichever is less. In all cases, including those in which the FmHA is jointly financing with another lender, the FmHA payments of principal and interest should approximate amortized installments.

(i) If the borrower will be retiring other debts the repayment on such debts may be considered in developing the repayment schedule for the FmHA loans.

(ii) Principal payments may be deferred in whole or in part for a period not to exceed the end of the third full year after the estimated date of loan closing. If for any reason it appears necessary to permit a longer period of deferment, the State Director may authorize such deferment with the prior approval of the National Office. Deferments of principal will not be used to:

(A) Postpone the levying of taxes or assessments.

(B) Delay the collection of the full rates which the borrower has agreed to charge users for its services as soon as major benefits or the improvements are available to those users.

(C) Create reserves for normal operation and maintenance.

(D) Make any capital improvements except those approved by FmHA determined to be essential to the repayment of the loan or to the obtaining of adequate security thereof.

(E) Accelerate the payment of other debts.

(iii) *Payment date.* Loan payments will be scheduled to coincide with income availability and be in accordance with State law. Monthly payments will be required if consistent with the foregoing, and will be enumerated in the bond, other evidence of indebtedness, or other supplemental agreement. Insofar as practical monthly payments will be scheduled one full month following the date of loan closing; or semiannual or annual payments will be scheduled six or twelve full months respectively, following the date of loan closing or any deferment period. Due dates falling on the 29th, 30th or 31st day of the month will be avoided.

* * * * *

(7 U.S.C. 1989; 7 CFR 2.23; 7 CFR 2.70)

Dated: June 18, 1982.

Frank W. Naylor, Jr.,

Under Secretary for Small Community and Rural Development.

[FR Doc. 82-18633 Filed 7-8-82; 8:45 am]

BILLING CODE 3410-07-M

Food Safety and Inspection Service

9 CFR Parts 312 and 381

[Docket No. 80-046F]

Official Export Certificates, Marks, and Devices

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending the Federal meat inspection regulations (9 CFR 301.1 *et seq.*) and the poultry products inspection regulations (9 CFR 381.1 *et seq.*) to provide for a new "Application for Export Certificate" (MP Form 130–A), which will be used as the basis for granting meat and poultry export certificates. This new form will replace MP Form 412, which is currently used for making applications for meat exports, and will provide an application form for poultry exports (currently, there are no application forms used for poultry exports). A poultry export certificate may also be obtained upon request. In this instance, the inspector will complete the application form based on information supplied by the poultry exporter. A new official export certificate (MP Form 130) will also be used and will replace MP Form 412–3 and MP Form 506, which are respectively used currently for meat and poultry exports. The new export certificate will eliminate the necessity of using three of the four official export marks described in the poultry products inspection regulations. A new letterhead will also be used as part of this new form to replace the current legends on the meat and poultry export certificates.

EFFECTIVE DATE: August 9, 1982.

FOR FURTHER INFORMATION CONTACT: Dr. W. I. Leary, Director, Export Coordination Staff, Inspection Operations, Meat and Poultry Inspection Operations, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–9051.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final rule is issued in conformance with Executive Order 12291 and has been determined to be not a "major rule". No significant additional costs on industry are foreseen. This action will provide for a reduction in the existing number of forms and provide uniformity in their use. Consequently, it will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Effect on Small Entities

The Administrator, Food Safety and Inspection Service, has determined that this final rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 601 *et seq.*), because the information obtained with respect to the issuance of export certificates is presently required or necessary. Therefore, the new application and export forms are not imposing any significant additional economic impact upon small entities. For instance, poultry exporters will still be able to request a certificate as they do now. In fact, the reduction in number and uniformity in use in regard to the current forms should ease the existing burden. Additionally, the export certificates are required by most foreign countries.

Background

On July 21, 1981, the Food Safety and Inspection Service published a proposal (46 FR 37514) to amend the Federal meat and poultry products inspection regulations to provide for (1) the use of a uniform application for all meat and

poultry export certificates (MP Form 130–A) when an application is used, (2) the use of a uniform meat and poultry export certificate (MP Form 130) to replace the two separate certificates currently in use for meat and poultry exports, (3) the elimination of three of the four official export marks currently described in the poultry products inspection regulations, and (4) the deletion of the certificate legends that now appear on meat and poultry export certificates.

Currently, both the meat and poultry products inspection regulations prescribe how exporters may obtain export certificates, but the regulations are not consistent with one another. Under the Federal meat inspection regulations (9 CFR 322.2), exporters of meat and meat food products must submit an application (MP Form 412) to the inspector in charge in order to obtain an export certificate. However, under the Federal poultry products inspection regulations (9 CFR 381.105), exporters of poultry products need only "request" an export certificate.[1] Therefore, to eliminate the inconsistent provisions in regard to the requirement of formal applications for an export certificate and to provide for a uniform manner of obtaining export certificates, FSIS has designed a new application form (MP Form 130–A) for use by both exporters of meat and meat food products and exporters of poultry products. Information on the application will be reviewed by the inspector prior to issuing an export certificate. However, comments on the proposal have indicated that the requirement that poultry exporters complete an application form imposes a potential burden on the poultry industry. The Agency has accordingly amended this final rule to provide that an export certificate may be obtained by application, or by request. Upon request, the inspector will complete the application form based on information supplied by the poultry exporter.

Additionally, to provide consistency and cost savings, a new official export certificate, MP Form 130, for issuance in connection with meat and poultry exports, has been developed. The new form will combine the information now contained on MP Form 412–3, "Meat Export Certificate", and MP Form 506, "Poultry Export Certificate", on to one form. MP Forms 412–3 and 506 will be discontinued. Therefore, only two forms will be needed for meat and poultry exports—the application (MP Form 130–A) and the official export certificate (MP Form 130). The reduction in the number of forms will provide a projected savings of approximately $1,700 annually, while providing for uniformity in connection with the issuance of export certificates.

Three official marks, shown in figures 8, 9, and 10 of section 381.104 of the poultry products inspection regulations (9 CFR 381.104) and used to identify where the product was inspected and passed for export, are no longer necessary and will be eliminated because of the provisions in the new export certificate. This official export certificate includes blocks for checking where the product was inspected and passed for export, such as slaughter plants, processing plants, warehouses or docksides. Only one mark, figure 11 of § 381.104 of the poultry products inspection regulations (9 CFR 381.104), which is also specified in § 312.8 of the Federal meat inspection regulations and prescribed in § 322.1 of the Federal meat inspection regulations (9 CFR 312.8 and 322.1), will continue to be used to mark outside containers of any products inspected and passed for export.

Additionally, the certificate legend, "United States Department of Agriculture, Animal and Plant Health Inspection Service, Meat and Poultry Products Inspection" prescribed in § 312.8 of the Federal meat inspection regulations (9 CFR 312.8), and the similar legend prescribed in § 381.106 of the poultry products inspection regulations (9 CFR 381.106), will be replaced by a requirement that the certificate bear a letterhead of this Department. This will avoid the necessity for amending the regulations in the event of future Agency name changes.

Comments

The Department received nine comments on the proposal. Comments from the National Meat Association and Tama Meat Packing Corporation supported the proposal in its entirety.

Rocco Farms, Rockingham Poultry Marketing Cooperative, Inc., National Broiler Council, Poultry and Egg Institute of America, and Gold Kist, Inc., indicated support for that portion of the proposal dealing with the use of a uniform export certificate and eliminating three of the four official export marks described in the poultry products inspection regulations. However, these comments opposed the proposed use of an application form to obtain an export certificate for poultry exports, because they believed completing the form would be burdensome for the applicant.

The Agency has carefully considered the burden on the poultry industry of introducing a formal application form for obtaining an export certificate. In the past, poultry exporters have not had to fill out applications to obtain certificates. The applicants have been able to transmit the information orally. Since the PPIA does not specifically require the use of official export certificates for poultry products, the Agency has granted certificates "upon request", in accordance with the requirements of the importing country. Upon further consideration of this issue, the Agency agrees that requiring the submission of written applications rather than permitting oral transmission would be a new and potentially burdensome paperwork requirement on poultry exporters. Therefore, the final rule has been amended to provide that a poultry export certificate may be obtained either by submission of an MP Form 130–A or upon request. In the case of an oral request, the inspector will obtain the information orally and fill out the MP Form 130–A to serve as the basis for the poultry export certificate.

Two comments suggested changes in wording on the export certificate. Spring Valley Farms suggested that the words "Health Certificate", "Veterinary Certificate", or "Sanitary Certificate" be printed on top of the export certificate so the exporter could check the title that best describes the wording used by the foreign country. Swift and Company suggested the words "wholesome and fit for human consumption" be used instead of "sound and wholesome." The Agency notes that the new export certificate has a "Remarks" section where these and other specific statements required by individual foreign countries can be readily added.

In consideration of the foregoing, and pursuant to the authority granted in section 21 of the Federal Meat Inspection Act (21 U.S.C. 621) and section 14(b) of the Poultry Products Inspection Act (21 U.S.C. 463(b)), the Federal meat and poultry products inspection regulations are amended as follows:

[1] Sections 12, 13, 14, 16, 17, and 18 of the Federal Meat Inspection Act (21 U.S.C. 612, 613, 614, 616, 617, 618) provide a specific requirement for export certificates to accompany meat and meat food products being exported from the United States. The Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*) does not specifically require the use of an official certificate for exporting poultry and poultry products. However, the poultry products inspection regulations provide for this certificate on a request basis by the exporter since most foreign countries require an export certificate for products exported to such countries. The general authority for the regulations is found in section 14(b) of the Poultry Products Inspection Act (21 U.S.C. 463(b)).

Information Collection Requirements

Information collection requirements contained in this regulation (§ 318.17) have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB number 40R–2297.

Indexing Terms

As required by 1 CFR 18.20 (46 FR 7162, January 22, 1981) the following are the index terms for this regulation:

List of Subjects

9 CFR Part 312

Meat inspection, Official inspection marks, devices, Certificates.

9 CFR Part 381

Poultry inspection, Official inspection marks, devices, Certificates.

Part 312 of the Federal meat inspection regulations (specifically, 9 CFR 312.8(b)) and Part 381 of the poultry products inspection regulations (specifically, 9 CFR 381.104, 381.105(a), and 381.106) are revised as follows:

PART 312—OFFICIAL MARKS, DEVICES AND CERTIFICATES

1. The authority citation for Part 312 reads as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 et seq., 601 et seq., 33 U.S.C. 1254.

2. Section 312.8(b) of the Federal meat inspection regulations (9 CFR 312.8(b)) is amended by deleting the words "the legend: United States Department of Agriculture, Animal and Plant Health Inspection Service, Meat and Poultry Products Inspection" and adding the words "a letterhead" to the first sentence to read as follows:

§ 312.8 Official export inspection marks, devices, and certificates.

(a) * * *

(b) The official export certificate required by Part 322 of this subchapter is a paper certificate form for signature by a Program employee, bearing a letterhead and the seal of the United States Department of Agriculture, with a certification that meat or meat food products described on the form is from animals that received ante-mortem and post-mortem inspection and were found sound and healthy and that it has been inspected and passed as provided by law and the regulations of the Department of Agriculture and is sound and wholesome. The certificate also bears a serial number such as "No. 184432."

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

3. The authority citation for Part 381 reads as follows:

Authority: Sec. 14, 71 Stat. 441, 76 Stat. 110, 21 U.S.C. 463.

4. Section 381.10[illegible] of the poultry products inspectio[illegible] regulations (9 CFR 381.104) is amende[illegible] by deleting Figures 8, 9, and 10 and the [illegible]eferences to those figures to read as f[illegible]lows:

§ 381.104 Official e[illegible]port certificates, marks and devices.

The form of certi[illegible]cate described in § 381.106 is an offic[illegible]l export certificate, and the mark show[illegible] below is the official mark used on outsi[illegible]e containers to identify inspected [illegible]d passed poultry products for export[illegible] Devices used by the Department to app[illegible] such a mark are official devices.

5. Section 381.105 of the poultry products inspection regulations (9 CFR 381.105) is amended by adding the words "or applicati[illegible]" in paragraph (e), and reads as follow[illegible]

§ 381.105 Export ce[illegible]fication; marking of containers.

(a) Upon request [illegible] application by any person intending to [illegible]xport any poultry product, any inspect[illegible]r is authorized to issue an official exp[illegible]t certificate as prescribed in § 381.1[illegible]7 with respect to the shipment to any foreign country of any inspected and p[illegible]ssed poultry product, after adequ[illegible]te inspection of the product has been [illegible]ade by the inspector to determine its id[illegible]ntity as inspected and passed and eli[illegible]ible for export: *Provided,* That the product is offered for inspection at an of[illegible]cial establishment. Each shipping con[illegible]iner covered by the export certificate [illegible]all be marked with an official export [illegible]amp as shown in § 381.104 bearing t[illegible]e number of the export certificate. Official export certificates will be issued only upon condition that the products covered thereby shall be subject to reinspection at any place and at any time prior to exportation to determine the identity of the products and their eligibility for certification, and such certificates shall become invalid if such reinspection is refused or discloses that the products are not eligible for certification. If reinspection discloses that any poultry products covered by an export certificate are not eligible for such certification, a superseding certificate setting forth such findings shall be issued and copies shall be furnished to interested persons.

* * * * *

6. Section 381.106 of the poultry products inspection regulations (9 CFR 381.106) is amended by removing the words "form (MP–506)" and "the legend United States Department of Agriculture Animal and Plant Health Inspection Service Meat and Poultry Inspection Program, Export Certificate" and adding the words "a letterhead" to the first sentence to read as follows:

§ 381.106 Form of official export certificate.

The official export certificate authorized by this subpart is a paper certificate form for signature by an inspector, bearing a letterhead and the seal of the U.S. Department of Agriculture, with a certification that the slaughtered poultry and other poultry products described on the form came from birds that were officially given an ante-mortem and post-mortem inspection and passed in accordance with the regulations of the Department and that such products are wholesome and fit for human consumption. The certificate also bears a serial number, such as "MPA 002805", and shows the respective names of the exporter and consignee, the destination, the shipping marks, the names of such products, the total net weight thereof, and such other information as the Administrator may prescribe or approve in specific cases.

Done at Washington, D.C., on: June 23, 1982.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 82-18738 Filed 7-8-82; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 5

[Docket No. 82-13]

Rules, Policies, and Procedures for Corporate Activities: Establishment of a Domestic Branch, Seasonal Agency, CBCT (Customer-Bank Communication Terminal) Branches, and Change in Location of a Head Office, Domestic Branch, or CBCT

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency (Office) is adopting amendments to its policy statements, procedures and forms concerning applications to establish domestic branches, seasonal agencies, CBCT (customer-bank communication terminal) branches and to change the location of head offices, domestic branches, and CBCTs. These amendments reflect the Office's desire to streamline the application process and eliminate unnecessary regulatory analysis and application filing burdens.

EFFECTIVE DATE: August 9, 1982.

FOR FURTHER INFORMATION CONTACT: James E. Brennan, Manager, Policy and Procedures, Bank Organization and Structure Division, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, SW., Washington, D.C. 20219, Telephone: (202) 447–1184. Further information also may be obtained from the Regional Director for Corporate Activities in any office of the Regional Administrator of National Banks.

SUPPLEMENTARY INFORMATION: The primary drafter of this document is James E. Brennan, Manager, Policy and Procedures, Bank Organization and Structure Division.

Special Analyses

The Office has determined that under the provisions of the Regulatory Flexibility Act, a regulatory flexibility analysis is not required. The amendments deal with general statements of policy and agency procedures which are exempt from the Act's coverage.

The Office also has considered the requirements of Executive Order 12291. The amendments cover the Office's policies and procedures for applications to establish or relocate domestic branches and CBCT (customer-bank communication terminal) branches, and to relocated head offices. The amendments will clarify that the Office's role in deciding these applications is to assure that the proposal is legal, and that, with respect to the applicant, there are no significant supervisory or Community Reinvestment Act (CRA) concerns that should preclude approval. The Office will reduce substantially the amount of information that must be filed with each application. In particular, the Office will no longer require extensive economic and competitive data. This amendment should reduce considerably the cost to applicants of preparing applications and the cost to the agency of processing them.

It is the Office's opinion that none of the proposals will result in:

1. an annual effect on the economy of $100 million or more;

2. a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions;

3. significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Background

The Office's Corporate Applications Review and Evaluation (CARE) Program, described in 45 FR 68586, dated October 15, 1980, involves a comprehensive review of the Office's rules, policies, procedures and forms governing filings for corporate expansion and structural changes for national banks. The goals of the CARE Program are to minimize costs and burdens on applicants, the agency and the public; to provide a better understanding of policies; to modify or eliminate rules, policies, procedures and forms which are unnecessary or lead to inefficiencies; and to remove barriers to competition. As part of the ongoing program, in the first half of 1981 the Office undertook the extensive review of its policies, regulations, procedures, and forms concerning branching and relocation activities. All national banks should be aware that revised application forms and filing instructions will be available from the regional offices 15 days prior to the effective date of this final rule, and applications may be filed with the regional office on the revised form as of the effective date.

Requests for Comments

The proposed rulemaking on branching and relocation activities was published on July 30, 1981 (46 FR 38925), and comments were invited for 60 days, ending September 30, 1981. Over fifty comments were received from national banks, bank holding companies, banking trade associations, consultants, attorneys, Office personnel, and other interested parties.

General Support for the Proposals

Nearly all of the comment letters expressed support for the proposed amendments, especially the provisions that would eliminate the necessity for applicants to submit lengthy economic and competitive information. However, a number of commenters suggested other changes, some of which are incorporated into the final rule and are discussed below.

1. Several commenters noted that the proposed definition of a CBCT branch did not include a further definition or clarification of a "point-of-sale terminal." The commenters noted that "point-of-sale" devices generally act only as sophisticated telephone substitutes in providing a check or credit authorization or verification link to the customer's bank. Such devices (for example) allow merchants to verify immediately with a customer's bank that a proposed purchase, to be effected through the use of a credit or debit card, will be honored or has been previously authorized.

The final rule clarifies that the Office considers a "point-of-sale terminal" to be a CBCT branch if it performs one of the three branching functions stated in 12 U.S.C. 36(f). (In part, 12 U.S.C. 36(f) states that a "branch" is "* * * any branch bank, branch office, branch agency, additional office, or any branch place of business * * * at which deposits are received, or checks paid, or money lent.") The Office does not consider the type of transaction described in the previous paragraph as within the purview of section 36(f), and concludes that such devices are not CBCT branches.

The Office notes that the continuing developments in the electronic funds transfer field make it impractical to provide a definition of a CBCT branch that will cover all devices that might be presented in the future. In devising its definition, the Office was guided by section 36(f) and the decision reached in *Independent Bankers Assn. v. Smith*, 534 F. 2d 921, 951–952 (D.C. Cir. 1976), *cert. denied*, 429 U.S. 862 (1976). The Office believes that the definition will allow banks to determine whether or not a proposed installation will be a CBCT branch in most instances. However, in some instances it may be appropriate and helpful for the bank to contact the regional office for additional guidance.

2. Several comments noted that the proposed amended rules do not provide for the possible elimination or substitution of CBCT locations in multiple-site CBCT applications. The Office does not intend to permit substitution of proposed CBCT sites after the application has been accepted for filing, since it is considered administratively less burdensome to file a separate application rather than to request a substitution. However, the Office will permit elimination of sites from a multiple-site application after it has been accepted for filing; this will be accomplished through internal procedures and application instructions.

3. One comment recommended that the Office further expand its proposed CBCT rules to allow unlimited interstate CBCT branching, as was recently adopted by the Federal Home Loan Bank Board (FHLBB) for federally chartered savings and loan associations. As early as 1974, the Office promoted the view that CBCTs are not branches and thus can be established by national banks without reference to geographic restrictions. An Interpretive Ruling issued to that effect (12 CFR 7.7491, 39 FR 44416) was called into question in *IBAA v. Smith,* cited above. Holding that CBCTs constitute branches under federal law, the court ordered recission of the ruling in 1976 (41 FR 36198).

The Office recognizes the competitive advantage afforded savings and loan associations by the FHLBB's action, and continues to hold the view that the deployment of CBCTs should not be as limited as that for domestic branches. However, the referenced court action restricts the establishment of CBCTs by national banks to only those locations that would be authorized to similarly situated state chartered banks under state law.

4. Several comments expressed a concern over the requirement in the CBCT application process that the required newspaper notice be published within 5 days after mailing the application (the date placed in the mail is also the acceptance-for-filing date). Although this provision is not a change from current procedures, the commenters have apparently encountered difficulty in arranging for the newspaper publication, especially in areas where the newspaper is published weekly only. To resolve this, the Office will revise its application filing instructions to advise that *before* the application is mailed the bank should make the arrangements to have the required notice published. In this way, the applicant will be able to determine in advance the date (or approximate date) that the notice will appear, and can mail the application on that date or any time within the preceding five days. The Office anticipates that, by following these instructions, no additional unwarranted delays will be encountered in the application process.

5. One comment stated that the proposed CBCT procedure does not go far enough in streamlining the process. The commenter suggested that national banks be permitted to use the same application process that is required of state banks in the particular state involved. The Office has given considerable thought to this concept in the past and has decided not to adopt such procedures at this time.

In an effort to determine the most expeditious process that may be available for national banks, given the restraints imposed by *IBAA v. Smith,* the Office compared its proposed CBCT application process with that required of state chartered banks. Many states require some form of "30-day prior notice" before establishing the CBCT. In addition, state-chartered non-member insured banks are also required to file with the FDIC a notice, acceptance of which begins a 30 day advance notice process. As the Office's proposed process was developed, the staff considered the fact that most state banks can receive approval for routine CBCT installations in about 30 days. Therefore, without adopting a pure "notice" process, the Office's application process for routine CBCT proposals was structured to allow for a decision in as timely a manner as possible. The Office anticipates that the process will provide for a decision in 30 days or less from the time the application is mailed to the regional office in routine cases. While implementing this procedure, the Office is continuing to consider other methods to further shorten the CBCT application process and information requirements.

6. Several comments requested that the Office retain its current procedure of allowing 18 months within which time approved *de novo* domestic branches and relocations must be accomplished, rather than reducing the time to 12 months. The same comments also suggested that the 18-month period, rather than the proposed 6-month period, apply to CBCTs as well. The commenters noted that in many instances the reduced time would not be sufficient to allow for unanticipated delays due to property acquisition, lease negotiations, construction difficulties, etc. The Office has considered these comments and decided to retain the 18-month period for the establishment and relocation of domestic branches and the relocation of head offices. In addition, the Office has decided to extend from 6 to 9 months the time for establishment or relocation of CBCTs. The Office has also decided to extend, from 6 to 9 months, the time allowed in cases where a bank submits a multiple-site CBCT application.

7. A few comments, including one from a banking trade organization, recommended that guidelines governing CBCT and branch applications include adequate analysis of the market area. One comment noted further that experience has shown that an institution's operating plan must be stronger in markets where economic conditions are marginal or in which competition is intense. The Office agrees with the commenter's views concerning the need for stronger operating plans with respect to proposals for *new banks* in certain markets. However, except where possibly required by state law, the Office believes that a market or competitive analysis of branch proposals by the Office is not necessary. Through the examination process, the Office analyzes and appraises the extent to which an institution is being managed in a safe and sound manner. This analysis includes an appraisal of the management capabilities, earnings trends, and asset/funds management of the bank. By assigning satisfactory ratings to these and other related factors, the Office is stating that the bank's overall condition enables it to establish branches and engage in similar expansionary activities, without the need for the Office to analyze the applicant's market area study at a later date.

8. Several comments objected to the Office's proposal to require the applicant to submit a revised CRA statement with any application which would change the bank's existing community delineation. The comments stated that this requirement is onerous and premature because the bank does not know if the application will be approved. The comments noted also that this requirement would be redundant, since 12 CFR 25 requires the bank's board of directors to revise its CRA statement at its next meeting after the change in the delineation is effected. The Office has considered these comments and has changed the regulation so as not to require the applicant to submit a revised CRA statement with the application.

In addition, the Office has determined that its consumer compliance examination and CRA performance appraisal processes provide the Office with all data needed to adequately consider the applicant's record of helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods. The revised application form will request the bank to indicate in what ways it intends to vary its lending policy, procedures, or services at the proposed branch, if at all. With this information, the Office may supplement its CRA performance appraisal of the applicant for those proposals that may require further review.

List of Subjects in 12 CFR Part 5

National banks, Administrative practice and procedure.

Accordingly, for the reasons set forth above, sections 5.30, 5.31 and 5.40 are revised as follows:

PART 5—RULES, POLICIES, AND PROCEDURES FOR CORPORATE ACTIVITIES

1. The authority citation for Part 5 is as follows:

Authority: 12 U.S.C. Secs. 1 *et seq.*

2. By revising § 5.30 to read as follows:

§ 5.30 Establishment of domestic branches and seasonal agencies.

(a) *Authority.* A national bank may, with the approval of the Office, establish and operate new branches in acordance with 12 U.S.C. 36, *et seq.*, and 12 U.S.C. 2901 *et seq.*, subject to the additional requirements below.

(b) *Definition.* A domestic branch, as provided in 12 U.S.C. 36(f), includes any branch bank, branch office, branch agency, additional office, or any branch place of business, except a CBCT branch, located in any state or territory of the United States or in the District of Columbia at which deposits are received, or checks paid, or money lent.

(c) *Policy.* In determining whether to approve an application to establish and operate a branch or seasonal agency, the Office is guided by the following principles: the Office is responsible for maintaining a sound banking system; the Office is responsible for encouraging a bank to help meet the credit needs of its entire community; the marketplace normally is the best regulator of economic activity; and competition promotes a sound and more efficient banking system that serves customers well.

(1) Accordingly, it is the general policy of the Office to approve applications to establish and operate branches and seasonal agencies, provided that approval would not violate the provisions of applicable federal law or state law that is incorporated into federal law regarding the establishment of such branches and seasonal agencies.

(2) As provided in § 5.13, the Office reserves the right to deny applications, or to grant approval subject to fulfillment of certain conditions, if:

(i) There are significant supervisory concerns with respect to the applicant or any affiliated organizations as defined by 12 U.S.C. 221a; or

(ii) The applicant's record of helping to meet the credit needs of its entire community, including low and moderate income neighborhoods, consistent with the safe and sound operation of the bank, is less than satisfactory; or

(iii) Any financial or other business arrangement, direct or indirect, involving the proposed branch or seasonal agency and bank insiders (directors, officers, employees, and shareholders owning or controlling, directly or indirectly, 10 percent or more of any class of the subject bank's voting stock) involves terms and conditions more favorable to the insiders than would be available in a comparable transaction with unrelated parties.

(d) *Community.* (1) In order to comply with 12 CFR 25.4(d), if the proposed branch or seasonal agency will change the bank's existing community delineation, the applicant's board of directors must act upon any material change at its first regular meeting after the change, *i.e.*, the establishment of the branch. In the application, the bank must indicate the ways its intends to vary its lending policy, procedures or services at the proposed branch, if at all.

(2) For the purpose of any market area analysis that may be required by state law referred to in paragraph (c)(1) above, the bank's community as delineated in its CRA statement should be used.

(e) *Fees.* A filing fee of $900 is required for each application.

(f) *Decision.* Written notification of the decision will be issued in accordance with § 5.13.

(g) *Commencement of business.* The branch approval will expire if the branch has not commenced business within 18 months after the date of preliminary approval. Extensions to this period generally are not granted; however, in the event of extraordinary circumstances, requests for extension may be submitted to the regional office.

(h) *Authorization.* When all requirements and conditions for opening are satisfied, authorization for operation of the branch or seasonal agency at the location described in the application, will be granted.

(i) *Forms.*

(1) Form to be used by applicant:

CC 7021–01: Instructions for Filing and Application to Establish: Domestic Branch/CBCT Branch

(2) Forms to be used by Office:

CC 7021–02: Confidential Memorandum—Branch/CBCT/ Relocation Application

CC 7021–03: Regional Office Procedures—Applications to Establish Domestic Branches and Applications to Relocate Head Offices or Domestic Branches

CC 7021–04: Branch/CBCT/Relocation Processing Checklist

CC 7021–05: Branch/CBCT/Relocation—Review for Accuracy and Completeness

2. By revising § 5.31 to read as follows:

§ 5.31 Establishment of CBCT branches.[1]

(a) *Authority.* 12 U.S.C. 36 *et seq.*; 12 U.S.C. 2901 *et seq.*; and state branching statutes.

(b) *Definition.* A "CBCT branch" is an automated device, established (*i.e.*, owned or rented) by a national bank at a location separate from the main office or a domestic branch, that:

(1) Takes deposits, or

(2) Disburses cash drawn against:

(i) A customer's deposit account, or

(ii) A customer's pre-approved loan account.

An automated device that would otherwise qualify as a CBCT branch, but which is permanently staffed (either full- or part-time, directly or indirectly) by personnel employed by the applicant, is a domestic branch that requires an application pursuant to §5.30.

(c) *Policy.* (1) It is the general policy of the Office to approve applications to establish and operate CBCT branches provided that approval would not violate the provisions of applicable federal or state law that is incorporated into federal law.

(2) As provided in § 5.13, the Office reserves the right to deny applications, or to grant approval subject to fulfillment of certain conditions, if:

(i) There are significant supervisory concerns with respect to the applicant or any affiliated organizations as defined by 12 U.S.C. 221a; or

(ii) The applicant's record of helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the bank, is less than satisfactory; or

(iii) Any financial or other business arrangement, direct or indirect, involving the proposed branch or seasonal agency and bank insiders (directors, officers, employees, and shareholders owning or controlling, directly or indirectly, 10 percent or more of any class of the subject bank's voting stock) involves terms and conditions more favorable to the insiders than would be available in a comparable transaction with unrelated parties.

(d) *Community.* (1) In order to comply with 12 CFR 25.4(d), if the proposed branch or seasonal agency will change

[1] CBCT signifies customer-bank communication terminal.

the bank's existing community delineation, the applicant's board of directors must act upon any material change at its first regular meeting after the change, *i.e.*, the establishment of the branch.

(2) For the purpose of any market area analysis that may be required by state law referred to in paragraph (c)(1) above, the bank's community as delineated in its CRA statement should be used.

(e) *Rules of General Applicability.* Sections 5.8(a), 5.10, 5.11 and 5.13 do not apply to this section.

(f) *Fees.* A filing fee of $500 is required with each application.

(g) *Application filing requirements.* (1) The applicant shall mail an application form, or a document containing the information requested in the application form, to the appropriate regional office. For the purposes of this section, the filing date of the application shall be the date upon which the application was placed in the United States mail, postage prepaid, certified or registered mail, return receipt requested, addressed to the Regional Administrator for the region where the CBCT branch will be located.

(2) Within 5 days after filing an application, applicant shall publish once, in a newspaper of general circulation in the community in which the applicant's head office is located, and once in a newspaper(s) of general circulation in the community(ies) in which the applicant proposes to establish a CBCT branch(es), a notice containing the name of the applicant, the subject matter of the application, the date on which the application was filed, and a statement that written comments on the application must be submitted by interested persons within 10 days after the newspaper publication date to the appropriate regional administrator. Immediately thereafter, the applicant shall furnish the regional administrator with a clipped copy of the newspaper notice that indicates the publication dates.

(3) The applicant may request approval, through a single application, for as many CBCT branches as the applicant proposes to establish within nine months after the preliminary approval date. Each proposed location must be listed in the application.

(4) If a national bank proposes to establish a CBCT branch jointly with one or more national banks or other financial institutions, only one of the national banks must submit an application as agent for all the national banks in the group of financial institutions proposing to share the CBCT branch. The application must indicate in an attachment the names and head office addresses of all the national banks that propose to establish jointly the CBCT branch. A national bank that arranges for its customers to use another financial institution's automated teller device on a transaction fee basis does not require a separate CBCT branch application.

(h) *Written comments on CBCT branch applications.* Within 10 days after publication of the notice described in secion 5.31(g)(2), any interested person may submit to the Regional Administrator written comments concerning the application. Written requests for a hearing before the regional administrator or designee will be considered only by direction of the Comptroller.

(i) *Decisions.* For those CBCT branch applications that meet delegated authority criteria (§ 5.3(c)(3) of this Part), on or before the tenth day after the end of the comment period a decision will be made (1) to approve the application, or (2) that further consideration of the application is warranted. If the applicant has not received notification on or before the eleventh day after the end of the comment period that further consideration of the application is required, the applicant may conclude that the application was approved and may proceed with establishing the CBCT branch. Written notification of approvals will be forwarded to all interested parties within 30 days after the end of the comment period. If the application is disapproved, the applicant will be informed of the basis for the decision.

(j) *Expiration of preliminary approval.* CBCT branch approvals will expire if the CBCT is not in operation within nine months after the date of preliminary approval.

(k) *Authorization.* (1) The CBCT branch will be considered established on the date it becomes operational for customer use. Except as noted in paragraph (k)(2) of this section, the bank must notify the regional office by letter, confirming the location(s) of the CBCT and the date of establishment within seven days after the establishment date.

(2) If preliminary approval is granted subject to satisfaction of conditions, authorization for the establishment and operation of the CBCT branch(es) at the location(s) described in the application will be granted following satisfaction of the conditions. In these instances, the applicant must advise the regional office at least two weeks in advance of the establisment date of the CBCT(s) branch(es) so that the proper authorization can be issued.

(l) *Forms.*

(1) Form to be used by applicant:

CC 7021–01: Instructions for Filing and Application to Establish: Domestic Branch/CBCT Branch

(2) Forms to be used by Office:

CC 7021–02: Confidential Memorandum—Branch/CBCT/Relocation Application

CC 7021–03: Regional Office Procedures—CBCT Branch Applications

CC 7021–04: Branch/CBCT/Relocation Processing Checklist

CC 7021–05: Branch/CBCT/Relocation—Review for Accuracy and Completeness

3. Section 5.40 is revised to read as follows:

§ 5.40 Change in location of head office, domestic branch or CBCT branch.

(a) *Authority.* A national bank may, with the approval of this Office, change the location of its head office in accordance with 12 U.S.C. 30 or change the location of a branch office in accordance with 12 U.S.C. 36(e), and 12 U.S.C. 2901 *et seq.*, subject to the additional requirements below.

(b) *Definition.* (1) A relocation of a head office is one that involves a move to a location that would be permitted under 12 U.S.C. 30.

(2) A domestic branch is defined in § 5.30(b). A relocation of a domestic branch is one that involves a move to a location to which a branch of a similarly situated state chartered bank would be permitted to relocate under applicable state law governing establishment of or relocation of state chartered bank branches.

(3) The legal permissibility of CBCT branch relocations will be evaluated in the same manner as relocations of domestic branches. However, for procedural and administrative purposes only, the applicant must follow the filing procedures described in § 5.31, Establishment of CBCT branches.

(c) *Policy.* (1) It is the general policy of the Office to approve applications to relocate a head office or a branch office, provided that approval is consistent with applicable law.

(2) As provided in section 5.13, the Office reserves the right to deny applications, or to grant approval, subject to fulfillment of certain conditions, if:

(i) There are significant supervisory concerns with respect to the applicant or any affiliated organizations as defined by 12 U.S.C. 221a; or,

(ii) The applicant's record of helping to meet the credit needs of its entire

community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the bank, is less than satisfactory; or,

(iii) Any financial or other business arrangement, direct or indirect, involving the proposed branch or seasonal agency and bank insiders (directors, officers, employees, and shareholders owning or controlling, directly or indirectly, 10 percent or more of any class of the subject bank's voting stock) involves terms and conditions more favorable to the insiders than would be available in a comparable transaction with unrelated parties.

(d) *Community.* In order to comply with 12 CFR 25.4(d), if the proposed relocated office will change the bank's existing community delineation, the applicant's board of directors must act upon any material change at its first regular meeting after the change, *i.e.,* the relocation of the office. In the application, the bank must indicate ways it intends to vary its lending policy, procedures or services at the proposed relocated office, if at all, and must discuss the extent to which services to the community surrounding the present location will be diminished, if at all.

(e) *Rules of General Applicability.* In addition to the publication requirement of § 5.8(a), a notice must be published on the same day of two consecutive weeks in a newspaper of general circulation in the community in which the office to be relocated is located. In addition, a notice identical to that required by § 5.8(a) must be posted in the lobby of the office to be relocated on the date of the first publication in the newspaper, and must remain posted for 28 days.

(f) *Fees.* A filing fee of $500 is required with each application.

(g) *Decision.* Written notification of the decision will be issued in accordance with § 5.13, except for CBCT branches, in which case the same procedures as stated in § 5.31(i) apply.

(h) *Commencement of business.* The relocation approval will expire if the subject office has not opened at the relocated site within 18 months (nine months for CBCT branches) after the date of preliminary approval. Extensions to this period generally are not granted; however, in the event of unusual circumstances, requests for extension may be submitted to the regional office.

(i) *Authorization.* When all requirements and conditions for the relocation are satisfied, authorization for the relocation to the location described in the application will be granted.

(j) *Forms.*

(1) Forms to be used by applicant:

CC 7027–01: Instructions for Filing and Application to Relocate: Head Office/ Domestic Branch

(2) Forms to be used by Office:

CC 7021–02: Confidential Memorandum—Branch/CBCT/ Relocation Application

CC 7021–03: Regional Office Procedures—Applications to Establish Domestic Branches and for Applications to Relocate Head Office or Domestic Branches

CC 7021–04: Branch/CBCT/Relocation Processing Checklist

CC 7021–05: Branch/CBCT/Relocation—Review for Accuracy and Completeness

Dated: January 28, 1982.

C. T. Conover,

Comptroller of the Currency.

[FR Doc. 82–18571 Filed 7–8–82; 8:45 am]

BILLING CODE 4810–33–M

DEPARTMENT OF COMMERCE

Bureau of the Census

[Docket No. 2601–101]

15 CFR Part 30

Foreign Trade Statistics Amendment to the Foreign Trade Statistics Regulations

AGENCY: Bureau of the Census, Commerce.

ACTION: Final rule.

SUMMARY: This rule amends the Foreign Trade Statistics Regulations in order to obtain statistical data on movements of merchandise into and out of U.S. Foreign Trade Zones. The statistics obtained from this revised system of handling U.S. Foreign Trade Zone admissions and exportations will have the capacity to reflect in a timely fashion the full range of information on the movement of merchandise into and out of U.S. Foreign Trade Zones while keeping the reporting burden to a minimum.

EFFECTIVE DATE: July 9, 1982.

FOR FURTHER INFORMATION CONTACT: Martin M. Weingarten, Acting Chief, Foreign Trade Division, Bureau of the Census, Washington, D.C. 20233, (301) 763–5342.

SUPPLEMENTARY INFORMATION: On January 14, 1982, a Notice of Proposed Rulemaking was published in the **Federal Register** (47 FR 2122) to amend the Foreign Trade Statistics Regulations.

Prior to this rulemaking, the official U.S. import and export statistics reflected the movement of merchandise into and out of the Customs territory of the United States and thus excluded merchandise admitted to U.S. Foreign Trade Zones and reexported having never been entered into U.S. Customs territory.

When U.S. Foreign Trade Zone procedures were established (during the 1950's), there were about a half dozen Foreign Trade Zones in the United States with a very low volume of activity. This number has now increased to over 50 U.S. Foreign Trade Zones, some with related subzones. In addition, the nature of the activities taking place in U.S. Foreign Trade Zones has undergone substantial change. In the earlier years, the activities of U.S. Foreign Trade Zones were confined largely to sorting, grading, marking, and repackaging of merchandise. Current activities are expanding to include major manufacturing, assembling, testing, and other merchandise processing functions. Accordingly, notification was given to members of the ad hoc Interagency Committee on Foreign Trade Statistical Matters, Customs, the Foreign Trade Zone Board, and the Foreign Trade Zone Operators of the Bureau of the Census' intention to expand the coverage of its foreign trade statistics to include the movement of merchandise into and out of U.S. Foreign Trade Zones.

The information collected in association with this rule will be obtained from Customs Form 214 (O.M.B. No. 1515–0086). Customs requires this form for Zone tenants' use in applying for admission of merchandise into a U.S. Foreign Trade Zone. Thus, their action does not require any new forms or the collection of any additional information. These documents will serve as the basic source for including in the general import statistics foreign merchandise admitted into U.S. Foreign Trade Zones in terms of the condition of such merchandise when admitted. If such merchandise enters the Customs territory of the United States from U.S. Foreign Trade Zones, it will be included in the import for consumption statistics in terms of its condition when entering the U.S. Customs territory. The procedures will also afford information on movements of domestic merchandise out of the U.S. Customs territory into U.S. Foreign Trade Zones.

Formerly Form 7513, Shipper's Export Declaration for Intransit Goods, was used for exports of foreign merchandise from U.S. Foreign Trade Zones but is not

included in the regular export statistics. The inclusion of exports of merchandise from U.S. Foreign Trade Zones in the regular export statistics will simply require that Form 7525–V instead of Form 7513 be used to reflect such movements. If foreign merchandise is exported from the U.S. Foreign Trade Zone in the same condition as when admitted, it will be included in the export statistics as an export of foreign merchandise. If the merchandise has been subjected to processing while in the Zone, such as refining, assembling, manufacturing, and so forth, it will be reflected in the export statistics as an export of domestic merchandise.

This is not a major rule in accordance with the criteria set forth in Executive Order 12291. Therefore, no Regulatory Impact Analysis is required. Moreover, the amendment imposes no additional reporting burden on the public, thus satisfying the requirements of the Paperwork Reduction Act of 1980.

Interested persons were advised that March 14, 1982, was the closing date to submit comments regarding the proposal.

Discussion of major comments:

No comments were received.

AMENDMENTS TO THE REGULATIONS: The Foreign Trade Statistics Regulations (15 CFR Part 30) are amended as set forth below.

PART 30—FOREIGN TRADE STATISTICS

1. Section 30.3(a)(2) is hereby amended by removing the words "or from the Foreign Trade Zones" so that as amended the initial sentence reads as follows:

§ 30.3 Shipper's export declaration form.

(a) * * *

(2) For merchandise shipped in transit through the United States, Puerto Rico, or the Virgin Islands of the United States from one foreign country or area to another, including such merchandise destined from one foreign place to another and transshipped in ports of the United States, Puerto Rico, or the Virgin Islands of the United States, and for foreign merchandise exported from General Order Warehouses, the Shipper's Export Declaration for Intransit Goods (Commerce Form 7513) shall be filed. * * *

* * * * *

2. Section 30.7(a) is hereby revised by adding immediately succeeding the final sentence the statement "For merchandise exported after having been in a U.S. Foreign Trade Zone, the letters 'FTZ' followed by the Foreign Trade Zone number shall be inserted in lieu of the U.S. port of export." As revised § 30.7(a) reads as follows:

§ 30.7 Information required on shipper's export declarations.

* * * *

(a) *Port of export.* The name of the U.S. Customs port of exportation shall be entered in terms of Schedule D, Classification of Customs Districts and Ports. (See § 30.20(c) for definition of port of exportation.) (The boxes for District and Port codes in the upper portion of the form are to be completed by Customs except where the Customs Director requests that they be completed by the person preparing the declaration.) For shipments by mail, the name of the post office where the package is mailed shall be inserted in the space for U.S. port of export. For merchandise exported after having been in a U.S. Foreign Trade Zone, the letters "FTZ" followed by the Foreign Trade Zone number shall be inserted in lieu of the U.S. port of export.

3. Sections 30.7(p) (1) and (2) are hereby revised by inserting the phrase "including U.S. Foreign Trade Zones" immediately following "United States" in all four places in which it appears so that as revised § 30.7(p) (1) and (2) read as follows:

* * * * *

(p) *"D" (Domestic) or "F" (Foreign).* (1) The export declaration covering exports to foreign countries shall show foreign goods separately from goods of domestic production. Exports of foreign merchandise include those commodities which are the growth, produce, or manufacture of foreign countries which entered the United States, including U.S. Foreign Trade Zones, as imports and which at the time of exportation have undergone no change in form or condition or enhancement in value by further manufacture in the United States, including U.S. Foreign Trade Zones, Puerto Rico, or U.S. Possessions.

(2) Exports of domestic merchandise include those commodities which are the growth, produce, or manufacture of the United States, including U.S. Foreign Trade Zones, Puerto Rico, or U.S. Possessions (including commodities incorporating foreign components), and those articles of foreign origin which have been enhanced in value or changed from the form in which imported by further manufacture or processing in the United States, including U.S. Foreign Trade Zones, Puerto Rico, or U.S. Possessions.

4. The heading for § 30.70(b) is hereby revised by adding the parenthetical note "(Not required for merchandise entering U.S. Customs territory from U.S. Foreign Trade Zones.)" so that as revised the heading for § 30.70(b) reads as follows:

* * * * *

(b) *Importing vessel or carrier.* (Not required for merchandise entering U.S. Customs territory from U.S. Foreign Trade Zones.)

5. Section 30.70(c)(1) is hereby revised by inserting between the first and second sentences the statement "This information is not required for merchandise entering the U.S. Customs territory from a U.S. Foreign Trade Zone." As revised, § 30.70(c)(1) reads as follows:

* * * * *

(c) * * *

(1) (Customs Forms 7501, 7502, 7512 and 7521.) For merchandise arriving in the United States by vessel or air, the name and country of the foreign port at which the merchandise was actually loaded on the vessel or aircraft that carried the merchandise to the United States is required. This information is not required for merchandise entering the U.S. Customs territory from a U.S. Foreign Trade Zone. For shipments originating in either Canada or Mexico by rail, truck, pipeline, or other nonvessel/nonair mode of transportation, supply the name of the province (Canada) or state (Mexico) where the merchandise was first loaded for exportation to the United States.

6. A new § 30.70(c)(3) is hereby added immediately following § 30.70(c)(2) to read as follows:

* * * * *

(c) * * *

(3) For merchandise entering the U.S. Customs territory from a U.S. Foreign Trade Zone, the number of the Foreign Trade Zone, preceded by the letters "FTZ" shall be shown in this space.

7. The heading for § 30.70(d) is hereby revised by adding the parenthetical note "(Not required for merchandise entering U.S. Customs territory from U.S. Foreign Trade Zones.)" so that as revised the heading for § 30.70(d) reads as follows:

* * * * *

(d) *U.S. port of unlading.* (Not required for merchandise entering U.S. Customs territory from U.S. Foreign Trade Zones.)

§ 30.80 [Reserved]

8. Section 30.80 is hereby removed in its entirety and that section number is reserved for future use.

(Title 13, United States Code, section 302; and title 5, United States Code, section 301; Reorganization Plan No. 5 of 1950; Department of Commerce Organization Order No. 35–2A, August 4, 1975, 40 FR 42765.)

List of Subjects in 15 CFR Part 30

Census Bureau, Economic statistics, Foreign trade, Reporting requirements.

Bruce Chapman,

Bureau of the Census.

I concur:

Date: May 13, 1982.

J. M. Walker, Jr.,

Assistant Secretary, Department of the Treasury.

[FR Doc. 82–18569 Filed 7–8–82; 8:45 am]
BILLING CODE 3510–07–M

FEDERAL TRADE COMMISSION

16 CFR Part 460

Trade Regulation Rule: Labeling and Advertising of Home Insulation

AGENCY: Federal Trade Commission.

ACTION: Temporary partial stay of rules and request for comments.

SUMMARY: The Federal Trade Commission is issuing a temporary partial stay of certain requirements on labeling and advertising of home insulation insofar as those requirements apply to new home sellers. The temporary stay is being issued pending the receipt and evaluation of comments on whether or not to permanently exempt new home sellers from these requirements. The Commission is taking this action based on its tentative determination on a petition filed by the National Association of Home Builders.

DATES: The temporary stay is effective July 9, 1982. Written comments regarding the Commission's tentative decision to grant a partial exemption to new home sellers will be accepted until September 7, 1982.

ADDRESS: Written comments should be addressed to the Secretary, Federal Trade Commission, 6th and Pennsylvania Avenue, NW., Washington, D.C. 20580. All comments should be captioned: "Comment on petition for exemption for new home sellers—Home Insulation Rule, FTC File No. 215–59."

FOR FURTHER INFORMATION CONTACT: Kent C. Howerton, 202–376–2891, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: The National Association of Home Builders (NAHB) has filed a petition on behalf of all builders and sellers of new of substantially rehabilitated homes (hereafter referred to as "new home sellers") requesting exemption from the Commission's Rule.[1] Specifically, NAHB requests exemption from §§ 460.18 and 460.19 of the Rule, or at least from § 460.19(c).

Section 460.18 describes the insulation promotional claims that require R-value information disclosures. There are five subparts in the section. Section 460.18(a) of the Rule requires that an ad which states the insulation's R-value must disclose the type of insulation and the thickness needed to get that R-value. Section 460.18(b) requires that price claims made for insulation also include the type of insulation, the R-value at a specific thickness, and the coverage area at that thickness. If the ad gives the price per square foot, the coverage area does not have to be disclosed. Section 460.18(c) requires that an ad which states the product's thickness must disclose its R-value at that thickness. Section 460.18(d) requires that ads which compare the thermal performance of one type of insulation with that of another disclose the R-value and thickness of each material. In addition, §§ 460.18(a), (b), (c) and (d) require advertisements containing R-value disclosures to explain the meaning of R-value. The explanation must read: "The higher the R-value, the greater the insulating power. Ask your seller for the fact sheet on R-values." Because current testing practices for ureaformaldehyde foam do not take shrinkage into account, § 460.18(e) requires a shrinkage disclosure or a reduction in the claimed R-value for those products.

In its petition, NAHB argues that the disclosure requirements of § 460.18 should not apply to new home sales. Because the new home seller is offering a comprehensive package of energy-related features in addition to insulation, including storm windows and doors and choice of heating and cooling equipment, NAHB concludes that home sellers are not promoting insulation. Thus, it questions whether the mention of an R-value or type of insulation in an advertisement for a new home constitutes promotion of a specific insulation product, thereby requiring disclosures under the Rule.

NAHB also argues that disclosure of the type and thickness of a new home's insulation is irrelevant and deceptive. The home purchaser is acquiring a home with the insulation already in place. The type and thickness of insulation is only relevant to the consumer who will be installing the material himself or herself. NAHB reasons that the only useful information concerning a home's insulation is its R-value. Even the R-value disclosure could be deceptive, according to NAHB, because it does not give a complete picture of the heating requirements of a home. For example, a home containing insulation having a lower R-value might be more efficiently constructed and therefore less expensive to heat than a home containing insulation having a higher R-value. Relying on R-values alone might lead the home purchaser to incorrectly conclude that a home using high R-value insulation will always be more energy efficient.

According to NAHB, the requirements of § 460.18 are redundant with the requirements of § 460.16. § 460.16 requires the new home seller to disclose the following information in every sales contract: the type, thickness, and R-value of the insulation that will be installed in each part of the house. While this detailed information is appropriate when the consumer has decided to buy the home, NAHB believes that, previous to the decision to buy, the consumer does not need the disclosures required by § 460.18.

The Commission believes that the R-value of a new home's insulation retains its importance as evaluative information in the context of new home promotion. As noted in the Statement of Basis and Purpose accompanying the Rule,[2] the consumer's interest in energy conservation makes the R-value of insulation installed in the home a factor material to the purchasing decision. The rulemaking record indicates that most new home buyers will spend additional money on insulation if they are advised to do so by builders. Since R-values are the best way to evaluate the thermal resistance of insulation, it follows that when a potential home buyer is evaluating the insulation in a home, he or she must know its R-value. Therefore, the Commission believes that the new home seller should be required to disclose R-values when making certain

[1] The petition from NAHB, dated April 15, 1981, has been placed on the public record and is available for public inspection. It has been filed as Document No. X–16 in FTC File No. 215–59.

[2] Statement of Basis and Purpose, 44 FR 50218, 50233 (1979).

specific promotional claims about the insulation package.

The Commission is persuaded, however, that the disclosures required by §§ 460.18(a) and 460.18(c) may not be necessary to prevent the unfair or deceptive acts of practices to which the Rule relates. In insulation advertising, R-value information is material information because thermal performance is the major criterion in the insulation purchase and can only be measured by R-value. While R-value information is material to new home buyers, and therefore must be disclosed to them under § 460.16 in the sales contract, R-value information in new home advertising is less material than in insulation advertising. Consequently, any harm to consumers flowing from the failure to disclose R-value information in new home advertisements is likely to be relatively minor and cured by the disclosure of such information at the time of sale. Indeed, it is possible that such disclosures in new home advertisements would confuse or mislead consumers or discourage reference to helpful energy-savings information. Consequently, the Commission has tentatively determined that new home sellers should be exempted from §§ 460.18(a) and 460.18(c).

Section 460.18(a) also requires ads giving insulation R-values to explain R-values by stating: "The higher the R-value, the greater the insulation power. Ask your seller for the fact sheet on R-values." This provision is based on the Commission's belief that consumers do not understand the R-value concept. The FTC staff's compliance guidelines, noting that the Rule does not require new home sellers to make fact sheets available to consumers, permit advertisers of new homes to delete the reference to fact sheets from the disclosure. Thus, FTC staff has given an opinion that the following disclosure required by § 460.18(a) is appropriate for new home sellers: "The higher the R-value, the greater the insulating power."[3] The Commission has tentatively determined that it is appropriate to formalize the staff's advice and to exempt new home sellers from the second sentence of the disclosure requirement. This exemption would apply whenever the seller is required to make the § 460.18(a) statement.

Upon review of the other paragraphs of Section 460.18, the Commission does not believe that there are adequate grounds for the granting of an exemption. The Commission believes that the reasoning behind those requirements, as discussed in detail in the Rule's Statement of Basis and Purpose, applies to new home sellers. Therefore, the Commission has tentatively decided to grant an exemption only from the disclosure requirements of §§ 460.18(a) and 460.18(c). All other requirements of § 460.18 will continue to apply to new home sellers who make the triggering claims about insulation products defined in that section of the Rule.

NAHB also has petitioned for an exemption from Section 460.19, or at least from § 460.19(c). Section 460.19 sets forth the Rule's requirements pertaining to savings claims. There are six subparts in this section. Section 460.19(a) requires insulation materials that make a savings claim to have a reasonable basis for the claim. Section 460.19(b) requires promotional materials containing savings claims to contain the following statement:

"Savings vary. Find out why in the seller's fact sheet on R-values. Higher R-values mean greater insulating power."

If promotional materials state that a combination of products can cut fuel bills or use, § 460.19(c) requires the advertiser to list the combination of products and to state how much of the savings is due to each product. If exact figures are not possible, the products must be ranked. Section 460.19(d) explains what disclosures are required in promotional materials which contain claims covered by both §§ 460.18 and 460.19. Section 460.19(e) permits nonmanufacturers to rely on information provided by the manufacturer as a reasonable basis for their savings claims. Section 460.19(f) requires advertisers to keep records of all data on savings claims for three (3) years after the claim is made.

Only § 460.19(c) is addressed specifically by the NAHB petition. NAHB argues that § 460.19(c) goes beyond the Rule's stated scope and puts the home builder in the position of having to test building components for their energy savings. According to NAHB, the home builder is likely to use many products with energy saving features in the construction of a new home. Many of these products—for example, storm windows and doors—are not covered under the Rule. These products are not necessarily tested by their manufacturers for their energy savings potential. Yet the Rule requires the home seller making a savings claim to list the products in the order of their savings. According to NAHB, the home builder is, in effect, required to say how much savings come from each product without the necessary information.

NAHB suggests that § 460.19(c) is intended to inhibit installers or contractors who might attempt to reap additional profits by selling the homeowner a retrofit package consisting of one useful conservation product and others having only marginal value. However, according to NAHB, this problem is unlikely in the building industry, where the high cost of housing gives the builder the incentive to reduce costs by eliminating superfluous costs such as energy-saving products of marginal value. NAHB therefore contends that this section of the Rule does not produce benefits that justify the burden it places on the home building industry.

The Commission agrees with NAHB's assertion that this provision was not designed to apply to advertising claims made by new home sellers. Instead, the section was designed to cover energy savings claims made for a combination of products sold by insulation contractors or other retailers. The purpose of the provision is to apprise consumers of the fact that not all of the advertised products contributed equally to the energy savings achieved by the combination. The Rule provision thus enables consumers to make cost-effective purchase decisions concerning the individual products.

A new home builder may use numerous energy conserving products and construction techniques when designing a home package. Because of the number of products in such a package and the overlap in energy savings achieved, it becomes very difficult, if not impossible, for a new home seller to disclose the amount of savings that may be attributed to the various individual products. Thus, the Commission believes that requirements of § 460.19(c), if applied to new home advertising, may have the undesired effect of discouraging the promotion of energy efficient homes.

The Commission's staff has informally advised new home sellers that § 460.19(c) applies only to promotional claims in retrofit situations, and not to those affecting new homes. The Commission recognizes that such staff advice is not consistent with the literal wording of § 460.19(c), but the Commission agrees with the staff that the section should not apply to new

[3] Staff Compliance Guidelines, 45 FR 68920, 68926 (1980).

home sellers. Therefore, the Commission has tentatively decided to grant an exemption from § 460.19(c) to new home sellers.

NAHB does not present justification for an exemption from the other provisions of § 460.19. The Commission's analysis of the other provisions suggests that in addition to § 460.19(c) new home sellers should be exempted only from § 460.19(b). Section 460.19(b) requires ads which make savings claims about insulation to state that the savings vary, and to make a reference to the seller's fact sheet for further information. However, as discussed in connection with § 460.18(a), the Rule does not require new home sellers to have fact sheets; for this reason, the Commission staff has advised new home sellers that it is appropriate for them to delete the reference to fact sheets when making the savings disclaimer. The Commission agrees with the staff's reasoning, and has tentatively decided to grant new home sellers an exemption from the reference to fact sheets as it appears in § 460.19(b). Thus, the disclosure required of new home sellers who make savings claims will read: "Savings vary. Higher R-values mean greater insulating power."

Pending a final decision, the Commission has issued a temporary partial stay of §§ 460.18(a), 460.18(c), 460.19(b), and 460.19(c) insofar as they apply to new home sellers. In all other respects, the Commission believes the provisions of §§ 460.18 and 460.19 should continue to apply to new home sellers.

The Commission solicits public comment on the proposed exemption for new home sellers. Following the comment period, the Commission will review the comments received and will make a final decision on the exemption request.

List of Subjects in 16 CFR Part 460

Federal Trade Commission, Advertising, Insulation, Labeling, Trade practices.

§ 460.18 and § 460.19 [Amended]

Accordingly, the Commission has issued a temporary partial stay of §§ 460.18(a), 460.18(c), 460.19(b) and 460.19(c) insofar as they apply to new home sellers.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-18446 Filed 7-8-82; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 210, 229, 230, 231, 239, 240 and 249

[Release Nos. 33-6413; 34-18842; 35-22547; IC-12504; FR-2; File No. S7-906]

Instructions for the Presentation and Preparation of Pro Forma Financial Information and Requirements for Financial Statements of Businesses Acquired or To Be Acquired

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission announces the adoption of uniform instructions for the presentation and preparation of pro forma financial information in Commission filings. The rules codify existing administrative practices and do not significantly modify the various situations for which pro forma financial presentations are now required or alter the specific disclosures required by existing accounting literature. However, the rules do provide for an optional presentation of a financial forecast in place of certain of the required pro forma information. In addition, the Commission announces adoption of revised requirements for filing financial statements of businesses acquired or to be acquired which provide for variable disclosure depending on the significance of the acquisition to the registrant. Finally, Form 8-K and various other Commission reporting requirements have been amended to reflect adoption of these rules.

DATE: The rules adopted herein are effective for filings with the Commission after September 30, 1982; early application of these rules in their entirety is permitted.

FOR FURTHER INFORMATION CONTACT: David F. Martin, Edmund Coulson or Eugene W. Green, Jr. (202-272-2130), Office of the Chief Accountant, or Howard P. Hodges (202-272-2553) or James N. O'Brien (202-272-2549), Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission has adopted rules which incorporate in Regulation S-X ("S-X") (17 CFR Part 210) its administrative policies and practices applicable to the presentation and preparation of pro forma financial information included in certain filings with the Commission. The rules are intended to simplify and improve the registration and reporting process by codifying current policies developed by the Commission's Division of Corporation Finance through the comment process as well as those practices generally followed by registrants when presenting pro forma financial information in Commission filings. The rules do not significantly change or expand the various reporting situations for which pro forma financial information has been presented in the past, but they will generate pro forma financial information which distinguishes between the one-time impact and on-going impact of the transaction more clearly than such information has done historically. Further, as part of the Commission's effort to encourage presentation of projected financial information, the rules permit registrants to present a financial forecast in lieu of certain of the pro forma information.

In addition, the Commission has adopted rules which in certain situations significantly reduce the reporting requirements for financial statements of businesses acquired or to be acquired. The revised requirements are based on the significant subsidiary tests using a sliding scale so that the requirements for filing such financial statements as well as the periods covered by such financial statements will vary with the impact of the acquisition on the registrant.

Finally, Form 8-K has been amended to require the filing of pro forma financial information consistent with the concepts underlying the Commission's integrated disclosure system and to revise the provision relating to extension of time to file required financial statements. Several minor modifications of various Commission reporting requirements have been made to reflect adoption of these rules and to effect certain technical amendments.

Background

Pro forma financial information is principally used to show the effect of certain significant transactions which (a) occur or become probable after the date of the historical financial statements or (b) have occurred during the year and are not fully reflected in the historical financial statements. Pro forma disclosures are specifically required in a number of circumstances under generally accepted accounting principles (GAAP) and are also required in certain filings with the Commission to facilitate investor understanding of certain significant transactions. Notwithstanding this frequent use, guidance about the presentation and preparation of pro forma financial information is limited, and as a result,

the form and content of these disclosures can vary significantly.

Problems encountered with pro forma disclosures in specific filings have been resolved by the Commission staff on a case-by-case basis. As a consequence, informal policies and practices have developed. The Commission believes that its administrative policies and practices should be set forth as formal regulations so that registrants know when and what pro forma financial information is required. Thus, the Commission has amended S–X to establish uniform instructions for the presentation and preparation of pro forma financial information.

As a part of the development of these new guidelines and in response to commentators' concerns, the Commission has reexamined its rules relating to the presentation of historical financial statements of businesses acquired or to be acquired. As a result of this review, the Commission has adopted amendments which significantly modify the requirements for presentation of these financial statements.

Proposal and Comment

In Securities Act Release No. 6350 (September 24, 1981) (46 FR 48943), the Commission invited comment on uniform instructions for the presentation and preparation of pro forma financial information in Commission filings. In addition, that release proposed to consolidate existing provisions relating to financial statements of companies acquired or to be acquired.

The Commission received 31 letters of comment on these proposals. Although substantially all of the commentators endorsed the objective of the rule proposals, various improvements were suggested and changes in the rules reflect some of these suggestions. The major comments are listed below and the Commission's responses to those suggestions are discussed in the following section.

Pro Forma Financial Information

1. Commentators objected to the proposal to require disclosure of nonrecurring charges and credits in a table immediately following the pro forma condensed income statement because of concern that that disclosure would infer an inappropriate degree of exactness and create an ambiguity as to whether all nonrecurring items or only those attributable to the transaction had been included in the table. Footnote disclosure of these items was suggested by some as sufficient to highlight the one-time cost or benefit of the transaction to the registrant.

2. Approximately one-third of the commentators opposed the option to present a financial forecast in lieu of a pro forma income statement because of concern that the greater number of assumptions necessary to the preparation of a forecast as compared with a pro forma income statement adversely affects the accuracy of the former and its relevance to the transaction. In addition, in the opinion of most commentators, an independent accountant's review of a financial forecast would subject registrants to increased costs without significantly enhancing the reliability of the forecast.

3. Commentator response to the invitation to comment on whether pro forma financial information should be required in reports on Form 8–K was mixed with most commentators suggesting that inclusion of pro forma financial information in Form 8–K be optional. Those that objected to a requirement primarily cited the time constraint in the filing requirement.

Financial Statements of Businesses Acquired or To Be Acquired

1. Commentators questioned the need for financial statements of acquired businesses for periods prior to their acquisition.

2. In addition, commentators urged the Commission to revise the rules for financial statements of businesses acquired or to be acquired to call for summarized or condensed financial data or no information at all under certain circumstances.

Comments Applicable to Both Pro Forma Financial Information and Financial Statements of Businesses Acquired or To Be Acquired

1. Commentators' responses to the Commission's question relating to the need for a definition of or guidelines on the meaning of the term "business" were mixed. Some argued that a definition might restrict necessary flexibility while others requested that the Commission clarify when it believes a business is involved to facilitate registrants' understanding of when pro forma financial information and financial statements of a business acquired or to be acquired are required.

2. Various commentators objected to the proposal to require pro forma data or financial statements for planned transactions when consummation of the transaction is "probable" even though the transaction may be subject to shareholder approval.[1]

[1] The proposing release stated that such point in time is generally reached when an agreement in principal has been reached or when the board of directors has reached agreement on the transaction.

Discussion of Rules

Pro Forma Financial Information Presentation Requirements

New Rule 11–01 lists various situations for which pro forma financial information is required. In addition to business combinations and dispositions, entities sometimes enter into other types of significant transactions for which pro forma financial information should be presented. Such transactions might include reorganizations, unusual asset exchanges and restructuring of existing indebtedness. It is not possible to anticipate all of the situations for which pro forma financial information should be presented, so a comprehensive listing of situation has not been incorporated in the rules. Registrants must exercise judgment in determining whether pro forma financial information will be meaningful in light of the particular facts and circumstances of the transaction.[2]

Rule 11–01 establishes criteria for determining the significance of a business combination or disposition of a business for purposes of furnishing pro forma financial information. As with new Rule 3–05, the criteria are those used in the definition of significant subsidiary.

Preparation Requirements

Rule 11–02 contains rules and instructions for the preparation of pro forma financial information. These rules have been drafted in a broad fashion since flexibility is necessary to tailor pro forma disclosures to particular events and circumstances.

The presentation requirements for the pro forma condensed statement of income are designed to elicit disclosures that clearly distinguish between the one-time impact and the on-going impact of the transaction and thereby assist investors in focusing on the transaction at hand. Therefore, the rules call for the pro forma condensed income statement to show the impact of the transaction on income from continuing operations of the registrant; any discontinued operations, extraordinary items and the cumulative effects of accounting changes would not be reflected in the condensed historical financial statements used as the starting point for the pro forma presentation.

The rules provide that the only adjustments that are appropriate in the preparation of the pro forma condensed statement of income are those which

[2] The Commission may study the provisions of Rule 170 of the Securities Act as part of its merger proxy project. This rule currently precludes presentation of pro forma data when there is no guarantee that all securities offered will be taken.

give effect to events that are (i) directly attributable to the transaction, (ii) expected to have a continuing impact on the registrant, and (iii) factually supportable. Material nonrecurring charges or credits which result directly from the transaction and which will impact the income statement during the next 12 months should not be reflected in the pro forma condensed income statement, but should be separately disclosed (although not necessarily in a table, as proposed) with a clear indication that such charges or credits were not considered in the pro forma condensed income statement. Thus, the "bottom line" of the pro forma column of the condensed income statement will be "income (loss) from continuing operations before nonrecurring charges or credits directly attributable to the transaction." If, of course, the transaction for which the pro forma financial information is presented relates to a disposition of a business segment, the "bottom line" caption(s) in the pro forma condensed income statement should be revised accordingly, e.g., "income (loss) from continuing operations before nonrecurring charges or credits directly attributable to the transaction adjusted to give effect to the proposed disposition of company A."

The pro forma condensed balance sheet, on the other hand, should reflect pro forma adjustments for all events which are directly attributable to the transaction and factually supportable regardless of whether the impact is expected to be continuing or nonrecurring since the objective of the pro forma balance sheet is to reflect the impact of the transaction on the financial position of the registrant.

Financial Forecasts

Rule 11–03 permits registrants to file a financial forecast in lieu of the pro forma condensed statements of income. This provision is consistent with the Commission's goal of encouraging the disclosure of future oriented information when appropriate. The Commission believes that in certain circumstances the use of a forecast to reflect the impact of a transaction may be more relevant than a pro forma condensed income statement. Thus, the rules provide that this alternative may be used at the option of the registrant.

The Commission understands that there are many factors, in addition to those which are related to the transaction at hand, which must be considered in developing a forecast. The rules provide that when the forecast option is used, the assumptions particularly relevant to the transaction and effects thereof should be clearly set forth so that the effect of the transaction will not be obscured by the other data included in the forecast.

Financial Statements of Businesses Acquired or To Be Acquired

The Commission's requirements for financial statements of businesses acquired or to be acquired have been consolidated in new Rule 3–05 of S–X.[3] The reporting process should be simplified by the Commission's revision of these requirements which (1) base the number of periods for which financial statements are required on the significance of the acquisition and (2) limit the presentation of financial statements of businesses acquired in the past. The Commission recognizes that certain acquisitions have a greater impact on a registrant than others and, accordingly, has adopted a sliding scale type of requirement which determines the periods for which such financial statements are required.[4] The sliding scale test is based on the conditions specified in the definition of significant subsidiary [5] and although the percentages used are arbitrary, the Commission believes that they meet the objectives of providing adequate financial information to investors, shareholders and other users while at the same time reducing the reporting burdens of registrants involved in acquisitions.

The revised requirements adopted herein make the waiver procedures set forth in Securities Act Release No. 4950 obsolete. Therefore, the Commission is rescinding that release and the corresponding instruction in Form 8–K at this time.

The Commission has also reexamined the need for furnishing financial statements for businesses acquired in the past and has determined to codify the present staff practice of generally not insisting on the presentation of separate financial statements of an acquired business once the operating results of the acquired business have been reflected in the audited consolidated financial statements of the registrant for a complete fiscal year. The one exception to this general rule is when the acquired business is of such significance to the registrant that omission of its financial statements would materially impair an investor's ability to understand the historical financial results of the registrant. Codification of this practice will mean that registrants will be required to present separate financial statements of an acquired business when (1) the acquisition of the business is probable, (2) the business has been acquired during the latest fiscal year for which audited financial statements of the registrant are required or during the period between the end of the latest fiscal year and the filing date or (3) the business acquired was extremely significant to the registrant.

The Commission considered reducing the required disclosures to a condensed or summarized financial information level, but concluded that this level of disclosure would not be adequate for two reasons. First, there is important information contained in the notes to the financial statements which would not be reflected in condensed or summarized financial information. Second, there is currently no provision in the existing auditing literature which permits an independent auditor to issue a report on condensed or summarized financial information of nonpublic companies, and the Commission believes that certification of this financial information is essential in acquisition situations.

Requirements Applicable to Both Pro Forma Financial Information and Financial Statements of Businesses Acquired or To Be Acquired

Guidance About What Is a "Business"

A recurring problem in deciding whether separate historical financial statements and pro forma financial information is required for business combinations is the determination of whether a "business" has been acquired. In order to assist registrants, the Commission has included in new Rule 11–01 guidelines which are relevant to that determination; however, the Commission cautions registrants that these guidelines may not be all inclusive or determinative. Registrants must continue to exercise judgment in this area.

Businesses To Be Acquired and Other Transactions not yet Consummated

Frequently, a registration statement is filed at a time when management is

[3] New Rule 3–05(b)(1) relating to the periods for which financial statements are required refers to Forms S–14 and S–15 for specific requirements applicable to those forms. The Commission has initiated a comprehensive program to examine proxy regulation and disclosure. The financial statement requirements of Forms S–14 and S–15 may be reviewed in the course of the merger proxy project which is part of that program.

[4] The sliding scale approach to the evaluation of the significance of a business acquisition is generally based on the principles applicable to requests for waiver of certain audited financial statement requirements set forth in Securities Act Release No. 4950 (February 20, 1969) [34 FR 4886], "General Requirements for Certified Financial Statements of Companies Acquired or to be Acquired."

[5] Rule 1–02(v) of Regulation S–X.

considering a transaction (e.g., a business combination) which is unrelated to the reason for which the registration statement is being filed. In these situations, a question arises about whether historical financial statements of the business to be acquired and pro forma financial information reflecting the unrelated transaction should be included in the filing. The rules provide that these disclosures are required when it is probable that the transaction will be consummated. Guidance as to when consummation of a transaction is probable cannot be given because such a determination is dependent upon the facts and circumstances. In essence, however, consummation of a transaction is considered to be probable whenever the registrants' financial statements alone would not provide investors with adequate financial information with which to make an investment decision.

Form 8–K

Form 8–K plays a critical role in the integrated disclosure system which is intended to provide investors with a continuous stream of corporate information. Reports on Form 8–K are used to disclose material information concerning certain specified events that have occurred since the latest annual report on Form 10–K or quarterly report on Form 10–Q was filed.

In light of the enhanced role this Exchange Act report plays in the integrated disclosure system, the Commission has amended this form to require reporting of pro forma financial information pursuant to Article 11 of Regulation S–X whenever a significant business combination or disposition of a business is consummated. The Commission believes that investors should be informed of the potential financial statement impact in these circumstances. The Commission has also amended Form 8–K to be consistent with the new requirements for filing financial statements of a business acquired or to be acquired. Thus, when reporting business acquisitions on Form 8–K or in certain registration statements, registrants need only look to one test to determine the need for and periods to be covered by financial statements of a business acquired or to be acquired.

In addition, the Commission has amended Form 8–K to make clear that the required financial statements and pro forma financial information should be included, if practicable, in the Form 8–K report filed within 15 days of the occurrence of the acquisition or disposition.[6] Thus, the Form provides that the required financial statements and information shall be presented in the report on Form 8–K, but also provides that, if it is impracticable to file the required statements or information at the time the Form 8–K is filed, the Commission may, upon written request, grant an extension of time. While some commentators expressed concern about time constraints imposed by a requirement for pro forma financial information in Form 8–K, the Commission believes that, once required historical financial statements are available, preparation of pro forma financial information does not involve significantly more preparation time. Moreover, any time constraints which do exist should be ameliorated, where necessary and appropriate, by the granting of specific extensions.

Other Changes

Regulation S–X

Several housekeeping changes have been made to Regulation S–X. For example, the substance of former Article 11, "Contents of Statements of Other Stockholders' Equity" [17 CFR 210.11], which specifies reporting requirements for changes in other stockholders equity, has been moved to Rule 3–04. In addition, the Commission has deleted Article 11A, "Statement of Source and Application of Funds" (17 CFR 210.11A) because that article required disclosure substantially similar to the information required by Accounting Principles Board Opinion No. 19, "Reporting Changes in Financial Position."

Forms S–1, S–2, S–3 and S–18

Forms S–1, S–2, S–3 and S–18 have been amended to reflect the adoption of Rule 3–05 and Article 11. Additionally, several technical amendments to cross-references in Form S–18 have been made.

Form 10–K and Annual Reports to Security Holders

Form 10–K has been amended to specify that the information required by Rule 3–05 and Article 11 need not be disclosed. (This exemption was previously in Rules 3–07 and 3–08.) Annual reports to security holders continue to be exempt from these disclosures.

Technical Amendments

The Commission is also adopting technical amendments which, among other things, (1) revise Rule 3–09 of Regulation S–X to clarify that the conditions under which separate financial statements of unconsolidated subsidiaries and 50 percent or less owned persons need not be audited for prior years are to be based on 20 percent measurements and (2) conform Schedule III under Rule 7–05 of Regulation S–X with the revised requirements for condensed parent company financial information.

Codification Update

The "Codification of Financial Reporting Policies" announced in Financial Reporting Release 1 (April 15, 1982) (47 FR 21028) is updated to:

1. Add a new section, Section 506, entitled as follows:

506 Pro Forma Financial Information and Financial Statements of Businesses Acquired or to be Acquired

2. Include in Section 506 the sections of this release entitled "Background," "Discussion of Rules" and "Form 8–K" numbered as specified below:

.01 Background
.02 Discussion of Rules
  a. Pro Forma Financial Information
    i. Presentation Requirements
    ii. Preparation Requirements
    iii. Financial Forecasts
  b. Financial Statements of Businesses Acquired or to be Acquired
  c. Requirements Applicable to Both Pro Forma Financial Statements of Businesses Acquired or to be Acquired
    i. Guidance About What is a "Business"
    ii. Businesses to be Acquired and Other Transactions not yet Consummated
.03 Form 8–K

Regulatory Flexibility Act Certification

Pursuant to Section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chairman of the Commission

[6] The adoption of the integrated disclosure system included a revision to Form 8–K which provided that required financial statements for an acquired business, if not available at the time the Form 8–K is filed, could be filed up to 60 days after the report is filed and that any extension of time for filing beyond 60 days would have to be granted by the Division of Corporation Finance upon the registrant's written request. Securities Act Release No. 6383 (March 3, 1982) (47 FR 11380). At the same time, however, the Commission noted that there were outstanding proposals relating to pro forma financial information in which comment had been solicited as to whether Form 8–K should be revised to require pro forma financial information and that it would reconsider revisions to Form 8–K as part of its final action with respect to the pro forma proposals. Upon reconsideration, particularly in light of the adoption of the sliding scale test for determining financial statement requirements and the rescission of Securities Act Release No. 4950, the Commission has determined to return to the requirement for financial statements to be filed with the Form 8–K filed within 15 days of the occurrence of the acquisition or disposition unless it is impracticable to do so and the Division of Corporation Finance grants a request for an extension of time to file.

has certified that the adopted amendments will not have a significant economic impact on a substantial number of small entities. This certification, including the reasons therefore, is attached to this release.

List of Subjects in 17 CFR Parts 210, 229, 230, 231, 239, 240 and 249

Accounting, Reporting requirements, Securities.

Text of Rules

In accordance with the foregoing, 17 CFR Chapter II is amended as follows:

PART 210—FORM AND CONTENT OF AND REQUIREMENTS FOR FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, INVESTMENT COMPANY ACT OF 1940, AND ENERGY POLICY AND CONSERVATION ACT OF 1975

1. By revising paragraph (v)(1) of § 210.1–02 to read as follows:

§ 210.1–02 Definitions of terms used in Regulation S–X (17 CFR Part 210).

* * * * *

(v) *Significant subsidiary.*

* * * * *

(1) The registrant's and its other subsidiaries' investments in and advances to the subsidiary exceed 10 percent of the total assets of the registrant and its subsidiaries consolidated as of the end of the most recently completed fiscal year (for purposes of determining whether financial statements of a business acquired or to be acquired in a business combination accounted for as a pooling of interests are required pursuant to § 210.3–05, this condition is also met when the number of common shares exchanged by the registrant exceeds 10 percent of its total common shares outstanding at the date the combination is initiated); or

* * * * *

2. By revising paragraph (a) of § 210.3–02 to read as follows:

§ 210.3–02 Consolidated statements of income and changes in financial position.

(a) There shall be filed, for the registrant and its subsidiaries consolidated and its predecessors, audited statements of income and changes in financial position for each of the three fiscal years preceding the date of the most recent audited balance sheet being filed.

* * * * *

§ 210.3–06 Redesignated as § 210.3–03

3. By redesignating § 210.3–06 as § 210.3–03.

§ 210.11–01 and § 210.11–02 [Removed]

4. By removing §§ 210.11–01 and 210.11–02 (Article 11) and combining their substance in a new § 210.3–04 to read as follows:

§ 210.3–04 Changes in other stockholders' equity.

An analysis of the changes in each caption of other stockholders' equity presented in the balance sheets shall be given in a note or separate statement. This analysis shall be presented in the form of a reconciliation of the beginning balance to the ending balance for each period for which an income statement is required to be filed with all significant reconciling items described by appropriate captions. State separately the adjustments to the balance at the beginning of the earliest period presented for items which were retroactively applied to periods prior to that period. With respect to any dividends, state the amount per share and in the aggregate for each class of shares.

5. By adding § 210.3–05 to read as follows:

§ 210.3–05 Financial statements of businesses acquired or to be acquired.

(a) Financial statements required.

(1) Financial statements prepared and audited in accordance with this regulation should be furnished for the periods specified in paragraph (b) below if any of the following conditions exist:

(i) Consummation of a business combination accounted for as a purchase has occurred or is probable (for purposes of this rule, the term "purchase" encompasses the purchase of an interest in a business accounted for by the equity method); or

(ii) Consummation of a business combination to be accounted for as a pooling of interests is probable.

(2) For purposes of determining whether the provisions of this rule apply, the determination of whether a "business" has been acquired should be made in accordance with the guidance set forth in § 210.11–01(d).

(3) If consummation of more than one transaction has occurred or is probable, the required financial statements may be presented on a combined basis, if appropriate.

(4) This rule shall not apply to a business which is totally held by the registrant prior to consummation of the transaction.

(b) Periods to be presented. (1) If securities are being registered to be offered to the security holders of the business to be acquired, the financial statements specified in §§ 210.3–01 and 210.3–02 shall be furnished for the business to be acquired, except as provided otherwise for filings on Forms S–14 and S–15. In all other cases, financial statements of the business acquired or to be acquired shall be filed for the periods specified in this paragraph or such shorter period as the business has been in existence. The financial statements covering fiscal years shall be audited except as provided in Item 15 of Schedule 14A, § 240.14a–01 with respect to certain proxy statements. The periods for which such financial statements are to be filed shall be determined using the conditions specified in the definition of significant subsidiary in § 210.1–02. The determination shall be made by comparing the most recent annual financial statements of each such business to the registrant's most recent annual consolidated financial statements filed at or prior to the date of acquisition.

(i) If none of the conditions exceeds 10 percent, financial statements are not required. However, if the aggregate impact of the individually insignificant businesses acquired since the date of the most recent audited balance sheet filed for the registrant exceeds 20%, financial statements covering at least the substantial majority of the businesses acquired, combined if appropriate, shall be furnished. Such financial statements shall be for at least the most recent fiscal year and any interim periods specified in §§ 210.3–01 and 210.3–02.

(ii) If any of the conditions exceeds 10 percent, but none exceed 20 percent, financial statements shall be furnished for at least the most recent fiscal year and any interim periods specified in §§ 210.3–01 and 210.3–02.

(iii) If any of the conditions exceeds 20 percent, but none exceed 40 percent, financial statements shall be furnished for at least the two most recent fiscal years and any interim periods specified in §§ 210.3–01 and 210.3–02.

(iv) If any of the conditions exceeds 40 percent, the full financial statements specified in §§ 210.3–01 and 210.3–02 shall be furnished.

(2)(i) Notwithstanding the requirements in (b)(1) above, separate financial statements of the acquired business need not be presented once the operating results of the acquired business have been reflected in the audited consolidated financial statements of the registrant for a complete fiscal year unless such

financial statements have not been previously filed or unless the acquired business is of such significance to the registrant that omission of such financial statements would materially impair an investor's ability to understand the historical financial results of the registrant. For example, if, at the date of acquisition, the acquired business met at least one of the conditions in the definition of significant subsidiary in § 210.1–02 at the 80 percent level the income statements of the acquired business should normally continue to be furnished for such periods prior to the purchase as may be necessary when added to the time for which audited income statements after the purchase are filed to cover the equivalent of the period specified in § 210.3–02.

(ii) A separate audited balance sheet of the acquired business is not required when the registrant's most recent audited balance sheet required by § 210.3–01 is for a date after the date the acquisition was consummated.

§ 210.3–07 and 210.3–08 [Removed]

6. By removing §§ 210.3–07 and 210.3–08.

7. By revising paragraph (b) of § 210.3–09 to read as follows:

§ 210.3–09 Separate financial statements of subsidiaries not consolidated and 50 percent or less owned persons.

* * * * *

(b) Insofar as practicable, the separate financial statements required by this section shall be as of the same dates and for the same periods as the audited consolidated financial statements required by §§ 210.3–01 and 3–02. However, these separate financial statements are required to be audited only for those fiscal years in which any of the conditions described in § 210.1–02(v), substituting 20 percent for 10 percent, are met. For purposes of a filing on Form 10–K, if the fiscal year of any majority-owned subsidiary not consolidated or any 50 percent or less-owned person ends within 90 days before the date of filing, or if the fiscal year ends after the date of filing, the required financial statements may be filed as an amendment to the report within 90 days after the end of such subsidiary's or person's fiscal year.

* * * * *

8. By revising paragraph (d) of § 210.3–18 to read as follows:

§ 210.3–18 Special provisions as to registered management investment companies and companies required to be registered as management investment companies.

* * * * *

(d) Interim financial statements provided in accordance with these requirements may be unaudited but shall be presented in the same detail as required by §§ 210.6–01 to 6–10. When unaudited financial statements are presented in a registration statement, they shall include the statement required by § 210.3–03(d).

§ 210.5–02 [Amended]

9. By deleting paragraph 31(c) of § 210.5–02.

10. By revising paragraph 26(c) of § 210.6–22 to read as follows:

§ 210.6–22 Balance sheets.

* * * * *

26 *Surplus.*

* * * * *

(c) An analysis of each surplus account setting forth the information prescribed by § 210.3–04 shall be given for each period for which a profit and loss or income statement is filed, as a continuation of the related profit and loss or income statement or in the form of a separate statement of surplus, and shall be referred to in the balance sheet.

11. By revising paragraph (a) of § 210.7–05 and revising Schedules III, IV and V to read as follows:

§ 210.7–05 What schedules are to be filed.

(a) Except as expressly provided otherwise in the applicable form—

(1) The schedules specified below as Schedules I and VII shall be filed as of the dates of the most recent audited balance sheet for each person or group.

(2) Other schedules specified below as Schedules II, IV, VI, VIII and IX shall be filed for each period for which an audited income statement is required to be filed for each person or group.

(3) Schedules III and V shall be filed as of the dates and for the periods specified in the schedule.

* * * * *

Schedule III—Condensed financial information of registrant. The schedule prescribed by § 210.12–04 shall be filed when the restricted net assets (§ 210.4.08(e)(3)) of consolidated subsidiaries exceed 25 percent of consolidated net assets as of the end of the most recently completed fiscal year. For purposes of the above test, restricted net assets of consolidated subsidiaries shall mean that amount of the registrant's proportionate share of net assets of consolidated subsidiaries (after intercompany eliminations) which as of the end of the most recent fiscal year may not be transferred to the parent company by subsidiaries in the form of loans, advances or cash dividends without the consent of a third party (i.e., lender, regulatory agency, foreign government, etc.). Where restrictions on the amount of funds which may be loaned or advanced differ from the amount restricted as to transfer in the form of cash dividends, the amount least restrictive to the subsidiary shall be used. Redeemable preferred stocks (§ 210.7–03.21) and minority interests shall be deducted in computing net assets for purposes of this test.

Schedule IV—Indebtedness of and to related parties—not current. The schedule prescribed by § 210.12–05 shall be filed in support of captions 3(b) and 17 of the balance sheet. This schedule may be omitted if (1) neither the sum of captions 3(a) and 3(b) in the related balance sheet nor the amount of caption 17 in such balance sheet exceeds five percent of total assets as shown by the related balance sheet at either the beginning or end of the period or (2) there have been no material changes in the information required to be filed from that last previously reported.

Schedule V—Supplementary insurance information. The schedule prescribed by § 210.12–16 shall be filed giving segment detail in support of various balance sheet and income statement captions. The required balance sheet information shall be presented as of the date of each audited balance sheet filed, and the income statement information shall be presented for each period for which an audited income statement is required to be filed, for each person or group.

* * * * *

12. By adding new Article 11 and §§ 210.11–01, 210.11–02 and 210.11–03 to read as follows:

Pro Forma Financial Information

§ 210.11–01 Presentation requirements.

(a) Pro forma financial information shall be furnished when any of the following conditions exist:

(1) During the most recent fiscal year or subsequent interim period for which a balance sheet is required by § 210.3–01, a significant business combination accounted for as a purchase has occurred (for purposes of these rules, the term "purchase" encompasses the purchase of an interest in a business accounted for by the equity method);

(2) After the date of the most recent balance sheet filed pursuant to § 210.3–01, consummation of a significant business combination to be accounted for by either the purchase method or pooling-of-interests method of accounting has occurred or is probable;

(3) Securities being registered by the registrant are to be offered to the security holders of a significant business to be acquired or the proceeds from the offered securities will be applied directly or indirectly to the purchase of a specific significant business;

(4) The disposition of a significant portion of a business either by sale, abandonment or distribution to shareholders by means of a spin-off, split-up or split-off has occurred or is probable and such disposition is not fully reflected in the financial statements of the registrant included in the filing;

(5) The registrant previously was a part of another entity and such presentation is necessary to reflect operations and financial position of the registrant as an autonomous entity; or

(6) Consummation of other events or transactions has occurred or is probable for which disclosure of pro forma financial information would be material to investors.

(b) A business combination or disposition of a business shall be considered significant if:

(1) A comparison of the most recent annual financial statements of the business acquired or to be acquired and the registrant's most recent annual consolidated financial statements filed at or prior to the date of acquisition indicates that the business would be a significant subsidiary pursuant to the conditions specified in § 210.1–02, or

(2) The business to be disposed of meets the conditions of a significant subsidiary in § 210.1–02.

(c) When consummation of more than one transaction has occurred or is probable during a fiscal year, the tests of significance in paragraph (b) above shall be applied to the cumulative effect of those transactions. If the cumulative effect of the transactions is significant, pro forma financial information shall be presented.

(d) For purposes of this rule, the term business should be evaluated in light of the facts and circumstances involved and whether there is sufficient continuity of the acquired entity's operations prior to and after the transactions so that disclosure of prior financial information is material to an understanding of future operations. A presumption exists that a separate entity, a subsidiary, or a division is a business. However, a lesser component of an entity may also constitute a business. Among the facts and circumstances which should be considered in evaluating whether an acquisition of a lesser component of an entity constitutes a business are the following:

(1) Whether the nature of the revenue-producing activity of the component will remain generally the same as before the transaction; or

(2) Whether any of the following attributes remain with the component after the transaction:

(i) Physical facilities,
(ii) Employee base,
(iii) Market distribution system,
(iv) Sales force,
(v) Customer base,
(vi) Operating rights,
(vii) Production techniques, or
(viii) Trade names.

(e) This rule does not apply to transactions between a parent company and its totally held subsidiary.

§ 210.11–02 Preparation requirements.

(a) *Objective.* Pro forma financial information should provide investors with information about the continuing impact of a particular transaction by showing how it might have affected historical financial statements if the transaction had been consummated at an earlier time. Such statements should assist investors in analyzing the future prospects of the registrant because they illustrate the possible scope of the change in the registrant's historical financial position and results of operations caused by the transaction.

(b) *Form and content.* (1) Pro forma financial information shall consist of a pro forma condensed balance sheet, pro forma condensed statements of income, and accompanying explanatory notes. In certain circumstances (i.e., where a limited number of pro forma adjustments are required and those adjustments are easily understood), a narrative description of the pro forma effects of the transaction may be furnished in lieu of the statements described herein.

(2) The pro forma financial information shall be accompanied by an introductory paragraph which briefly sets forth a description of (i) the transaction, (ii) the entities involved, and (iii) the periods for which the pro forma information is presented. In addition, an explanation of what the pro forma presentation shows shall be set forth.

(3) The pro forma condensed financial information need only include major captions (i.e., the numbered captions) prescribed by the applicable sections of this Regulation. Where any major balance sheet caption is less than 10 percent of total assets, the caption may be combined with others. When any major income statement caption is less than 15 percent of average net income of the registrant for the most recent three fiscal years, the caption may be combined with others. In calculating average net income, loss years should be excluded unless losses were incurred in each of the most recent three years, in which case the average loss shall be used for purposes of this test. Notwithstanding these tests, *de minimis* amounts need not be shown separately.

(4) Pro forma statements shall ordinarily be in columnar form showing condensed historical statements, pro forma adjustments, and the pro forma results.

(5) The pro forma condensed income statement shall disclose income (loss) from continuing operations before nonrecurring charges or credits directly attributable to the transaction. Material nonrecurring charges or credits and related tax effects which result directly from the transaction and which will be included in the income of the registrant within the 12 months succeeding the transaction shall be disclosed separately. It should be clearly indicated that such charges or credits were not considered in the pro forma condensed income statement. If the transaction for which pro forma financial information is presented relates to the disposition of a business, the pro forma results should give effect to the disposition and be presented under an appropriate caption.

(6) Pro forma adjustments related to the pro forma condensed income statement shall be computed assuming the transaction was consummated at the beginning of the fiscal year presented and shall include adjustments which give effect to events that are (i) directly attributable to the transaction, (ii) expected to have a continuing impact on the registrant, and (iii) factually supportable. Pro forma adjustments related to the pro forma condensed balance sheet shall be computed assuming the transaction was consummated at the end of the most recent period for which a balance sheet is required by § 210.3–01 and shall include adjustments which give effect to events that are directly attributable to the transaction and factually supportable regardless of whether they have a continuing impact or are nonrecurring. All adjustments should be referenced to notes which clearly explain the assumptions involved.

(7) Historical primary and fully diluted per share data based on continuing operations (or net income if the registrant does not report either discontinued operations, extraordinary items, or the cumulative effects of accounting changes) for the registrant, and primary and fully diluted pro forma per share data based on continuing operations before nonrecurring charges or credits directly attributable to the transaction shall be presented on the face of the pro forma condensed income statement together with the number of shares used to compute such per share data. For transactions involving the issuance of securities, the number of shares used in the calculation of the pro forma per share data should be based on the weighted average number of shares outstanding during the period adjusted to give effect to shares subsequently issued or assumed to be issued had the particular transaction or event taken place at the beginning of the

period presented. If a convertible security is being issued in the transaction, consideration should be given to the possible dilution of the pro forma per share data.

(8) If the transaction is structured in such a manner that significantly different results may occur, additional pro forma presentations shall be made which give effect to the range of possible results.

Instructions. 1. The historical statement of income used in the pro forma financial information shall not report operations of a segment that has been discontinued, extraordinary items, or the cumulative effects of accounting changes. If the historical statement of income includes such items, only the portion of the income statement through "income from continuing operations" (or the appropriate modification thereof) should be used in preparing pro forma results.

2. For a purchase transaction, pro forma adjustments for the income statement shall include amortization of goodwill, depreciation and other adjustments based on the allocated purchase price of net assets acquired. In some transactions, such as in financial institution acquisitions, the purchase adjustments may include significant discounts of the historical cost of the acquired assets to their fair value at the acquisition date. When such adjustments will result in a significant effect on earnings (losses) in periods immediately subsequent to the acquisition which will be progressively eliminated over a relatively short period, the effect of the purchase adjustments on reported results of operations for each of the next five years should be disclosed in a note.

3. For a disposition transaction, the pro forma financial information shall begin with the historical financial statements of the existing entity and show the deletion of the business to be divested along with the pro forma adjustments necessary to arrive at the remainder of the existing entity. For example, pro forma adjustments would include adjustments of interest expense arising from revised debt structures and expenses which will be or have been incurred on behalf of the business to be divested such as advertising costs, executive salaries and other costs.

4. For entities which were previously a component of another entity, pro forma adjustments should include adjustments similar in nature to those referred to in Instruction 3 above. Adjustments may also be necessary when charges for corporate overhead, interest, or income taxes have been allocated to the entity on a basis other than one deemed reasonable by management.

5. When consummation of more than one transaction has occurred or is probable during a fiscal year, the pro forma financial information may be presented on a combined basis; however, in some circumstances (e.g., depending upon the combination of probable and consummated transactions, and the nature of the filing) it may be more useful to present the pro forma financial information on a disaggregated basis even though some or all of the transactions would not meet the tests of significance individually. For combined presentations, a note should explain the various transactions and disclose the maximum variances in the pro forma financial information which would occur for any of the possible combinations. If the pro forma financial information is presented in a proxy or information statement for purposes of obtaining shareholder approval of one of the transactions, the effects of that transaction must be clearly set forth.

6. Tax effects, if any, of pro forma adjustments normally should be calculated at the statutory rate in effect during the periods for which pro forma condensed income statements are presented and should be reflected as a separate pro forma adjustment.

(c) *Periods to be presented.* (1) A pro forma condensed balance sheet as of the end of the most recent period for which a consolidated balance sheet of the registrant is required by § 210.3–01 shall be filed unless the transaction is already reflected in such balance sheet.

(2)(i) Pro forma condensed statements of income shall be filed for only the most recent fiscal year and for the period from the most recent fiscal year end to the most recent interim date for which a balance sheet is required. A pro forma condensed statement of income may be filed for the corresponding interim period of the preceding fiscal year. A pro forma condensed statement of income shall not be filed when the historical income statement reflects the transaction for the entire period.

(ii) For a business combination accounted for as a pooling of interests, the pro forma income statements (which are in effect a restatement of the historical income statements as if the combination had been consummated) shall be filed for all periods for which historical income statements of the registrant are required.

(3) Pro forma condensed statements of income shall be presented using the registrant's fiscal year end. If the most recent fiscal year end of any other entity involved in the transaction differs from the registrant's most recent fiscal year end by more than 93 days, the other entity's income statement shall be brought up to within 93 days of the registrant's most recent fiscal year end, if practicable. This updating could be accomplished by adding subsequent interim period results to the most recent fiscal year-end information and deducting the comparable preceding year interim period results. Disclosure shall be made of the periods combined and of the sales or revenues and income for any periods which were excluded from or included more than once in the condensed pro forma income statements (e.g., an interim period that is included both as part of the fiscal year and the subsequent interim period). For investment companies subject to §§ 210.6–01 to 210.6–10, the periods covered by the pro forma statements must be the same.

(4) Whenever unusual events enter into the determination of the results shown for the most recently completed fiscal year, the effect of such unusual events should be disclosed and consideration should be given to presenting a pro forma condensed income statement for the most recent twelve-month period in addition to those required in paragraph (c)(2)(i) above if the most recent twelve-month period is more representative of normal operations.

§ 210.11–03 Presentation of financial forecast.

(a) A financial forecast may be filed in lieu of the pro forma condensed statements of income required by § 210.11–02(b)(1).

(1) The financial forecast shall cover a period of at least 12 months from the latest of (i) the most recent balance sheet included in the filing or (ii) the consummation date or estimated consummation date of the transaction.

(2) The forecasted statement of income shall be presented in the same degree of detail as the pro forma condensed statement of income required by § 210.11–02(b)(3).

(3) Assumptions particularly relevant to the transaction and effects thereof should be clearly set forth.

(4) Historical condensed financial information of the registrant and the business acquired or to be acquired, if any, shall be presented for at least a recent 12 month period in parallel columns with the financial forecast.

(b) Such financial forecast shall be presented in accordance with the guidelines established by the American Institute of Certified Public Accountants.

(c) Forecasted earnings per share data shall be substituted for pro forma per share data.

(d) This rule does not permit the filing of a financial forecast in lieu of pro forma information required by generally accepted accounting principles.

§ 210.11A–01 and 210.11A–02 [Removed]

13. By deleting §§ 210.11A–01 and 210.11A–02 (Article 11A).

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933 AND SECURITIES EXCHANGE ACT OF 1934—REGULATION S–K

14. By revising paragraph (b)(2) of § 229.303 to read as follows:

§ 229.303 (Item 303) Management's discussion and analysis of financial condition and results of operations.

* * * * *

(b) *Interim periods.* * * *

(2) *Material changes in results of operations.* Discuss any material changes in the registrant's results of operations with respect to the most recent fiscal year-to-date period for which an income statement is provided and the corresponding year-to-date period of the preceding fiscal year. If the registrant is required to or has elected to provide an income statement for the most recent fiscal quarter, such discussion also shall cover material changes with respect to that fiscal quarter and the corresponding fiscal quarter in the preceding fiscal year. In addition, if the registrant has elected to provide an income statement for the twelve-month period ended as of the date of the most recent interim balance sheet provided, the discussion also shall cover material changes with respect to that twelve-month period and the twelve-month period ended as of the corresponding interim balance sheet date of the preceding fiscal year. Notwithstanding the above, if for purposes of a registration statement a registrant subject to paragraph (b) of § 210.3–03 of Regulation S–X provides a statement of income for the twelve-month period ended as of the date of the most recent interim balance sheet provided in lieu of the interim income statements otherwise required, the discussion of material changes in that twelve-month period will be in respect to the preceding fiscal year rather than the corresponding preceding period.

* * * * *

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

15. By revising paragraph (1) of the definition of significant subsidiary in § 230.405 to read as follows:

§ 230.405 Definitions of terms.

* * * * *

Significant subsidiary.

* * * * *

(1) The registrant's and its other subsidiaries' investments in and advances to the subsidiary exceed 10 percent of the total assets of the registrant and its subsidiaries consolidated as of the end of the most recently completed fiscal year (for purposes of determining whether financial statements of a business acquired or to be acquired in a business combination accounted for as a pooling of interests are required pursuant to § 210.3–05, this condition is also met when the number of common shares exchanged by the registrant exceeds 10 percent of its total common shares outstanding at the date the combination is initiated); or

* * * * *

PART 231—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

16. By rescinding Release No. 4950 (February 20, 1969) (34 FR 4886).

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

17. By revising Item 11(e) of Form S–1 in § 239.11 to read as follows (Form S–1 does not appear in the Code of Federal Regulations):

§ 239.11 Form S–1, registration statement under the Securities Act of 1933.

* * * * *

Item 11. *Information with Respect to the Registrant.*

* * * * *

(e) Financial statements meeting the requirements of Regulation S–X (17 CFR Part 210) (Schedules required under Regulation S–X shall be filed as "Financial Statement Schedules" pursuant to Item 16, Exhibits and Financial Statement Schedules, of this Form), as well as any financial information required by Rule 3–05 and Article 11 of Regulation S–X;

* * * * *

18. By revising Items 11(a)(3) and 11(b)(2) of Form S–2 in § 239.12 to read as follows (Form S–2 does not appear in the Code of Federal Regulations):

§ 239.12 Form S–2, for registration under the Securities Act of 1933 of securities of certain issuers.

* * * * *

Item 11. *Information with Respect to the Registrant.*

* * * * *

(a) * * *

(3) If not reflected in the registrant's latest annual report to security holders, provide information required by Rule 3–05 and Article 11 of Regulation S–X (17 CFR Part 210).

* * * * *

(b) * * *

(2) Include financial statements and information as required by Rule 14a–3(b)(1) to be included in annual reports to security holders as well as: (i) the interim financial information required by Rule 10–01 of Regulation S–X for a filing on Form 10–Q; (ii) any financial information required by Rule 3–05 and Article 11 of Regulation S–X; and (iii) any financial information required because of a material disposition of assets outside the normal course of business. The financial statements shall be restated if there has been a change in accounting principles or a correction of an error where such change or correction requires a material retroactive restatement of financial statements, or where one or more business combinations accounted for by the pooling of interest method of accounting have been consummated subsequent to the most recent fiscal year and the acquired businesses, considered in the aggregate, are significant pursuant to Rule 11–01(b).

* * * * *

19. By revising Item 11(b) of Form S–3 in § 239.13 to read as follows (Form S–3 does not appear in the Code of Federal Regulations):

§ 239.13 Form S–3, for registration under the Securities Act of 1933 of securities of certain issuers offered pursuant to certain types of transactions.

* * * * *

Item 11. *Material Changes.*

* * * * *

(b) Include in the prospectus, if not incorporated by reference therein from the reports filed under the Exchange Act specified in Item 12(a), a proxy or information statement filed pursuant to Section 14 of the Exchange Act, a prospectus previously filed pursuant to Rule 424 under the Securities Act, or a Form 8–K filed during either of the two preceding fiscal years: (i) information required by Rule 3–05 and Article 11 of Regulation S–X (17 CFR Part 210); (ii) restated financial statements prepared in accordance with Regulation S–X if there has been a change in accounting principles or a correction in an error where such change or correction requires a material retroactive restatement of financial statements; (iii) restated financial statements prepared in accordance with Regulation S–X where one or more business combinations accounted for by the pooling of interest method of accounting have been consummated subsequent to the most recent fiscal year and the acquired businesses, considered in the aggregate, are significant pursuant to Rule 11–01(b), or (iv) any financial information required because of a material disposition of assets outside the normal course of business.

* * * * *

20. By revising Form S–18 in § 239.28 to read as follows (Form S–18 does not appear in the Code of Federal Regulations):

§ 239.28 Form S–18, optional form for the registration of securities to be sold to the public by the issuer for an aggregate cash price not to exceed $5,000,000.

General Instructions

I. Rule as to Use of Form S–18

A. * * *

(3) Is not an investment company;

* * * * * *

III. Application of General Rules and Regulations

* * * * *

C. Attention is directed to Regulation S–K (17 CFR 229.001 et seq.) relating to

registration statement content. Where this form specifically references an item within that Regulation, the information need only be furnished to the extent appropriate. Special attention also is directed to paragraphs (b) and (c) of § 229.10 of Regulation S–K which outline the Commission's policies on projections and securities ratings, respectively.

D. Attention is directed to disclosure provisions set forth in the Industry Guide which are listed in § 229.801 of Regulation S–K (17 CFR 229.801). These Industry Guides represent Division practices with respect to the disclosure to be provided by the affected industries in registration statements.

* * * * *

F. Attention is directed to Form S–11 (17 CFR 239.18), which relates to the registration of securities of certain real estate companies, and particularly Item 13 (Investment Policies of Registrant), Item 14 (Description of Real Estate), and Item 15 (Operating Data) contained therein. To the extent that these items offer enhanced guidelines for disclosure by real estate entities, registrants engaged or to be engaged in real estate operations may wish to consider these items for use in a Form S–18 offering.

* * * * *

Item 18. *Interest of Management and Others in Certain Transactions.*

* * * * *

(3) Any security holder named in answer to Item 11; or

* * * * *

Instructions. 1. See Instruction 2 to Item 20(a)(i). No information need be given in response to this Item as to any remuneration or other transaction reported in response to Item 20 or specifically excluded from Item 20.

* * * * *

Item 21. *Financial Statements.*

* * * * *

(a) * * *

(2) Regulation S–X (17 CFR 210.1–210.12), Form and Content of and Requirements for Financial Statements, shall not apply to the preparation of such financial statements, except that the report and qualifications of the independent accountant shall comply with the requirements of Article 2 of Regulation S–X (17 CFR 210.2), and registrants engaged in oil and gas producing activities shall follow the financial accounting and reporting standards specified in Article 4–10 of Regulation S–X (17 CFR 210.4–10) with respect to such activities. However, to the extent that Article 10 (17 CFR 210.10) (Interim Financial Statements), Article 11–01 (17 CFR 210.11–01) (Pro Forma Presentation Requirements) and Article 11–02 (17 CFR 210.11–02) (Pro Forma Preparation Requirements) offer enhanced guidelines for the preparation, presentation and disclosure of condensed financial statements and pro forma financial information, registrants may wish to consider these items for use in a Form S–18 offering.

* * * * *

(d) Financial Statements of Businesses Acquired or to be Acquired.

(1) Financial statements for the periods specified in (3) below should be furnished if any of the following conditions exist:

(i) Consummation of a significant business combination accounted for as a purchase has occurred or is probable (for purposes of this rule, the term "purchase" encompasses the purchase of an interest in a business accounted for by the equity method); or

(ii) Consummation of a significant business combination to be accounted for as a pooling of interests is probable.

(2) A business combination shall be considered significant if a comparison of the most recent annual financial statements of the business acquired or to be acquired and the registrant's most recent annual consolidated financial statements filed at or prior to the date of acquisition indicates that the business would be a significant subsidiary pursuant to the conditions specified in Rule 405 of Regulation C (17 CFR 230.405).

(3)(i) The financial statements shall be furnished for the periods up to the date of acquisition, for those periods for which the registrant is required to furnish financial statements as specified in paragraph (b) and (c)(1).

(ii) The financial statements covering fiscal years shall be audited.

(iii) A separate audited balance sheet of the acquired business is not required when the registrant's most recent audited balance sheet filed is for a date after the acquisition was consummated.

(iv) If none of the conditions in the definitions of significant subsidiary in Rule 405 exceeds 20%, income statements of the acquired business for only the most recent fiscal year and any interim period need be filed.

(4) If consummation of more than one transaction has occurred or is probable, the tests of significance shall be made using the aggregate impact of the businesses and the required financial statements may be presented on a combined basis, if appropriate.

(5) This paragraph (d) of this section shall not apply to a business which is totally held by the registrant prior to consummation of the transaction.

(e) Pro Forma Financial Information.

(1) Pro forma information shall be furnished if any of the following conditions exist (for purposes of this rule, the term "purchase" encompasses the purchase of an interest in a business accounted for by the equity method):

(i) During the most recent fiscal year or subsequent interim period for which a balance sheet is required by paragraph (b), a significant business combination accounted for as a purchase has occurred;

(ii) After the date of the most recent balance sheet filed pursuant to paragraph (b), consummation of a significant business combination to be accounted for by either the purchase method or pooling of interests method of accounting has occurred or is probable.

(2) The provisions of paragraph (d) (2), (4) and (5) apply to this paragraph (e).

(3) Pro forma statements shall ordinarily be in columnar form showing condensed historical statements, pro forma adjustments, and the pro forma results and should include the following:

(i) If the transaction was consummated during the most recent fiscal year or in the subsequent interim period, pro forma statements of income reflecting the combined operations of the entities for the latest fiscal year and interim period, if any; or

(ii) If consummation of the transaction has occurred or is probable after the date of the most recent balance sheet, a pro forma balance sheet giving effect to the combination as of the date of the most recent balance sheet required by paragraph (b). For a purchase, pro forma statements of income reflecting the combined operations of the entities for the latest fiscal year and interim period, if any, and for a pooling of interests, pro forma statements of income for all periods for which income statements of the registrant are required.

* * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

21. By revising paragraph (1) of the definition of significant subsidiary in § 240.12b–2 to read as follows:

§ 240.12b–2 Definitions.

* * * * *

Significant Subsidiary.

* * * * *

(1) The registrant's and its other subsidiaries' investments in and advance to the subsidiary exceed 10 percent of the total assets of the registrant and its subsidiaries consolidated as of the end of the most recently completed fiscal year (for purposes of determining whether financial statements of a business acquired or to be acquired in a business combination accounted for as a pooling of interests are required pursuant to § 210.3–05, this condition is also met

when the number of common shares exchanged by the registrant exceeds 10 percent of its total common shares outstanding at the date of the combination is initiated); or

* * * * *

22. By revising paragraph (b)(1) of § 240.14a–3 to read as follows:

§ 240.14a–3 Information to be furnished to security holders.

* * * * *

(b) * * *

(1) The report shall include, for the registrant and its subsidiaries consolidated, audited balance sheets as of the end of the two most recent fiscal years and audited statements of income and changes in financial position for each of the three most recent fiscal years prepared in accordance with Regulation S–X (Part 210 of this chapter), except that the provisions of Article 3, other than §§ 210.3–03(e) and 210.3–04, and Article 11 shall not apply and only substantial compliance with Articles 6 and 9 is required. Any financial statement schedules or exhibits or separate financial statements which may otherwise be required in filings with the Commission may be omitted. Investment companies registered under the Investment Company Act of 1940 need include financial statements only for the last fiscal year except for statements of changes in net assets which are to be filed for the two most recent fiscal years. If the financial statements of the registrant and its subsidiaries consolidated in the annual report filed or to be filed with the Commission are not required to be audited, the financial statements required by this paragraph may be unaudited.

* * * * *

23. By revising Items 14(b)(5), (b)(6) and (b)(7); the instructions to Item 14(b); and Item 15(f) of § 240.14a–101 to read as follows:

§ 240.14a–101 Schedule 14A. Information required in proxy statement.

* * * * *

Item 14. *Mergers, consolidations, acquisitions and similar matters.*

* * * * *

(b) * * *

(5) Furnish selected financial data pursuant to Item 301 of Regulation S–K (§ 229.301) and book value per common share as of the end of the most recent period for which a balance sheet is required by § 210.3–01.

(6) Furnish any pro forma financial information required by Article 11 of Regulation S–X and pro forma book value per common share as of the end of the most recent period for which a balance sheet is furnished pursuant to § 210.3–01.

(7) Furnish the equivalent share information specified in the instructions below for exchange transactions.

* * * * *

Instructions. 1. The historical primary and fully diluted earnings per share before discontinued operations, extraordinary items, or the cumulative effects of accounting changes, as appropriate, and the primary and fully diluted pro forma per share data; cash dividends declared per common share; and book value per common share presented in response to paragraphs (b)(5) and (6) and equivalent share data pursuant to (b)(7) where appropriate shall be set forth in comparative columnar form.

2. Equivalent share amounts of the acquired company shall be calculated by multiplying the pro forma income (loss) per share before nonrecurring charges or credits directly attributable to the transaction, pro forma book value per share, and the historical dividends per share of the acquiring company by the exchange ratio so that the per share amounts are equated to the respective values for one share of the company being acquired. In situations where the fiscal year-ends of the companies involved are different, additional historical information should be presented so that equivalent share amounts may be compared for equivalent periods. If the impact of the exchange transaction is immaterial to the registrant, all equivalent share amounts furnished should be determined on the basis of the historical per share data of the registrant.

3. Paragraph (b) shall not apply if the plan described in answer to paragraph (a) involves only the issuer and one or more of its totally held subsidiaries.

(c) * * *

Item 15. *Financial Information.*

* * * * *

(f) The financial statements of an acquired company not subject to the reporting provisions of the Exchange Act required to be furnished pursuant to Regulation S–X shall be certified to the extent practicable. However, if the proxy statement is to be included in a filing on Form S–14 and if any of the securities are to be reoffered to the public by any person who is deemed to be an underwriter thereof, within the meaning of Rule 145(c), the financial statements of the acquired business must be certified for three years.

* * * * *

24. By revising paragraph (a)(1) of § 240.14c–3 to read as follows:

§ 240.14c–3 Annual report to be furnished security holders.

(a) * * *

(1) The report shall include, for the registrant and its subsidiaries consolidated, audited balance sheets as of the end of each of the two most recent fiscal years and audited statements of income and changes in financial position for each of the three most recent fiscal years prepared in accordance with Regulation S–X (Part 210 of this chapter), except that the provisions of Article 3, other than §§ 210.3–03(e) and 210.3–04, and Article 11 shall not apply and only substantial compliance with Articles 6 and 9 is required. Any financial statement schedules or exhibits or separate financial statements which may otherwise be required in filings with the Commission may be omitted. Investment companies registered under the Investment Company Act of 1940 need include financial statements only for the last fiscal year except for statements of changes in net assets which are to be filed for the two most recent fiscal years. If the financial statements of the registrant and its subsidiaries consolidated in the annual report filed or to be filed with the Commission are not required to be audited, the financial statements required by this paragraph may be unaudited.

* * * * *

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

25. By revising instructions 4 and 6 of Item 2 and paragraph (a) of Item 7 of § 249.308 to read as follows (Form 8–K does not appear in the Code of Federal Regulations):

§ 249.308 Form 8–K, for current reports.

* * * * *

Information To Be Included in the Report.

* * * * *

Item 2. Acquisition or Disposition of Assets.

* * * * *

Instructions.

* * * * *

4. An acquisition or disposition shall be deemed to involve a significant amount of assets (i) if the registrant's and its other subsidiaries' equity in the net book value of such assets or the amount paid or received therefor upon such acquisition or disposition exceeded 10 percent of the total assets of the registrant and its consolidated subsidiaries, or (ii) if it involved a business (see § 210.11–01(d)) which is significant (see § 210.11–01(b)).

* * * * *

6. Attention is directed to the requirements in Item 7 of the form with respect to the filing of (i) financial statements for businesses acquired, (ii) pro forma financial information, and (iii) copies of the plans of acquisition or disposition as exhibits to the report.

* * * * *

Item 7. Financial Statements, Pro Forma Financial Information and Exhibits.

List below the financial statements, pro forma financial information and exhibits, if any, filed as a part of this report.

(a) Financial statements of businesses acquired.

(1) For any business acquisition required to be described in answer to Item 2 above, financial statements of the business acquired shall be filed for the periods specified in § 210–3.05(b).

(2) The financial statements shall be prepared pursuant to Regulation S–X except that supporting schedules need not be filed. A manually signed accountants' report should be provided pursuant to Rule 2–02 of Regulation S–X (17 CFR 210.2–02).

(3) The Commission may, upon the written request of the registrant and where consistent with protection of investors, extend the time for filing the financial statements herein required if it is impracticable for required audited financial statements to be filed at the time the report on Form 8–K is filed. A written request for such relief setting forth the reason(s) for the impracticability of filing the audited financial statements at that time should be submitted, separately from the subject report or the cover letter to the report, to the Chief Accountant of the Division of Corporation Finance. In such circumstances, the registrant may also, at its option, include unaudited financial statements in the report on Form 8–K.

(b) Pro forma financial information.

(1) For any transaction required to be described in answer to Item 2 above, furnish any pro forma financial information that would be required pursuant to Article 11 of Regulation S–X.

(2) The provisions of (a)(3) above shall also apply to pro forma financial information relative to an acquired business.

(c) Exhibits. The exhibits shall be furnished in accordance with the provisions of Item 601 of Regulation S–K (§ 229.601 of this chapter).

* * * * *

26. By revising the first paragraph of Item 8 of § 249.310 to read as follows (Form 10–K does not appear in the Code of Federal Regulations):

§ 249.310 Form 10–K, annual report pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934.

* * * * *

Item 8. Financial Statements and Supplementary Data.

Furnish financial statements meeting the requirements of Regulation S–X (§ 210 of this chapter), except § 210.3–05 and Article 11 thereof, and the supplementary financial information required by Item 302 of Regulation S–K (§ 229.302 of this chapter). Financial statements of the registrant and its subsidiaries consolidated (as required by Rule 14a–3(b)) shall be filed under this item. Other financial statements and schedules required under Regulation S–X may be filed as "Financial Statement Schedules" pursuant to Item 13, Exhibits, Financial Statement Schedules, and Reports on Form 8–K, of this Form.

* * * * *

(The amendments are adopted pursuant to authority in Sections 7 and 19a of the Securities Act, 15 U.S.C. 77g, 77s(a), 77aa(25)(26); Sections 12, 13, 14, 15(d), and 23(a) of the Securities Exchange Act of 1934, 15 U.S.C. 78*l*, 78m, 78n, 78o(d), 78w(a), Sections 5(b), 10(a), 14, 20(a) of the Public Utility Holding Company Act, 15 U.S.C. 79e(a), 79n, 79t(a); Sections 8, 20, 30, 31(c), 38(a) of the Investment Company Act of 1940, 15 U.S.C. 80a–8, 80a–20, 80a–29, 80a–30(c), 80a–37(a).)

By the Commission.

Dated: June 24, 1982.

George A. Fitzsimmons,

Secretary.

Regulatory Flexibility Act Certification

I, John S. R. Shad, Chairman of the Securities and Exchange Commission, hereby certify pursuant to 5 U.S.C. 605(b) that the adopted rules relating primarily to presentation and preparation of pro forma financial information and financial statements of businesses acquired or to be acquired, set forth in Securities Act Release No. 6413 will not have a significant economic impact on a substantial number of small entities. The reasons for this certification are that these rules generally codify existing practice, are limited to specific situations which do not occur regularly for any company and will not significantly change the reporting burdens of a substantial number of small businesses. Although to some extent these rules represent a revision to the requirements and potentially change some reporting burdens, a substantial number of small businesses are not expected to engage in the transactions that would result in the type of disclosure for which changes in the reporting burden are likely to occur.

Dated: June 24, 1982

John S. R. Shad,

Chairman.

[FR Doc. 82–18570 Filed 7–8–82; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 546

Tetracycline Antibiotic Drugs for Animal Use; Chlortetracycline Hydrochloride Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) providing revised labeling for safe and effective use of chlortetracycline hydrochloride soluble tablets for treatment of bacterial enteritis (scours) and bacterial pneumonia in calves. The application was filed by American Cyanamid Co., in compliance with the National Academy of Sciences/National Research Council (NAS/NRC) Drug Efficacy Study Group evaluation of the product. The regulations are further amended to add a 24-hour preslaughter withdrawal period.

EFFECTIVE DATE: July 9, 1982.

FOR FURTHER INFORMATION CONTACT: Richard A. Carnevale, Bureau of Veterinary Medicine (HFV–125), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1788.

SUPPLEMENTARY INFORMATION: American Cyanamid Co., P.O. Box 400, Princeton, NJ 08540, is the sponsor of NADA 55–039 for Aureomycin Soluble Oblets (oblong tablets containing 500 milligrams of chlortetracycline hydrochloride). The product was the subject of an NAS/NRC Drug Efficacy Study Group evaluation which was published in the **Federal Register** of August 6, 1970 (35 FR 12563). In that document, NAS/NRC evaluated the product as probably effective for treatment of cow, calf, ewe, sow, swine, and poultry diseases caused by pathogens sensitive to chlortetracycline (CTC) or chlortetracycline hydrochloride (CTC HCl).

FDA agreed with the NAS/NRC evaluation and concluded such articles are new animal drugs. FDA provided 6 months in which to submit supplements containing adequate documentation (data and information) in support of the labeling used.

American Cyanamid did not submit any data to establish safety and effectiveness for any of the claims reviewed by NAS/NRC. Consequently, the Bureau of Veterinary Medicine (the Bureau) again reviewed the NAS/NRC report for Aureomycin Soluble Oblets (CTC HCl soluble tablets) and the NAS/NRC recommended dosage for CTC in calves and concluded that CTC HCl soluble tablets are effective for certain conditions of use in calves. Those conditions were specified in the Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing which was published in the **Federal Register** of March 30, 1979 (44 FR 19030).

American Cyanamid responded by submitting a supplemental NADA which complies with the Bureau Director's conclusions as described in the 1979 notice. Accordingly, the supplemental NADA is approved and § 546.110d (21 CFR 546.110d) is amended to reflect the approval. Section 546.110d is further amended to specify a 24-hour preslaughter withdrawal period as required by FDA.

Under the Bureau's supplemental approval policy (42 FR 64367; December 23, 1977), this is a Category II supplemental approval because (1) the

dosage level is increased, (2) claims and species have been removed, and (3) a 24-hour preslaughter withdrawal requirement has been added. The higher dosage poses no increased human risk from exposure to residues of the drug because of the 24-hour withdrawal period. The Bureau has determined, based on tissue residue data, that 24 hours withdrawal will allow for any residues to deplete below tolerance. Therefore, this supplement does not require reevaluation of the human safety data in the original approval.

NADA's that pertain to identical products and that provide for similar labeling for treatment of bacterial enteritis and bacterial pneumonia do not require efficacy data as specified by § 514.1(b)(8)(ii) or § 514.111(a)(5)(vi) (21 CFR 514.1(b)(8)(ii) or 514.111(a)(5)(vi)). In lieu of such data, approval may require bioequivalency or similar data as suggested in the guideline for submitting NADA's for NAS/NRC-reviewed generic drugs. The guideline is available from the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857 from 9 a.m. to 4 p.m., Monday through Friday.

The notice of opportunity for hearing (44 FR 19030) is hereby withdrawn, because the sponsor did not submit a request for hearing, and because the previously approved claims are withdrawn with the approval of this supplement.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (address above) from 9 a.m. to 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 546

Animal drugs, Antibiotics, Tetracycline.

PART 546—TETRACYCLINE ANTIBIOTIC DRUGS FOR ANIMAL USE

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512 (i) and (n), 82 Stat. 347, 350–351 (21 U.S.C. 360b (i) and (n))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 546.110d is amended by redesignating existing paragraph (c)(5) as (c)(6) and revising it, and by adding new paragraph (c)(5), to read as follows:

§ 546.110d Chlortetracycline hydrochloride tablets.

* * * * *

(c) * * *

(5) *NAS/NRC status.* The conditions of use specified in paragraph (c)(6)(ii) of this section are NAS/NRC reviewed and found effective. Applications for these uses need not include effectiveness data as specified in § 514.111 of this chapter but may require bioequivalency and safety information.

(6) *Conditions of use.* Administer orally as chlortetracycline hydrochloride tablets to calves as follows:

(i) *Amount.* 25 milligrams per tablet.

(*a*) *Indications for use.* Aid in reduction of incidence of bacterial scours.

(*b*) *Limitations.* 75 milligrams per animal per day.

(ii) *Amount.* 500 milligrams per tablet.

(*a*) *Indications for use.* Treatment of bacterial enteritis (scours) caused by *E. coli* and *Salmonella* spp. and bacterial pneumonia associated with *Pasteurella* spp., *Hemophilus* spp., and *Klebsiella* spp., susceptible to chlortetracycline.

(*b*) *Limitations.* Administer 1 tablet (500 milligrams) per 100 pounds of body weight twice a day for 3 to 5 days; administer tablet directly by mouth or crush and dissolve in water for drenching; if no improvement is noted after 3 days of treatment, consult a veterinarian; do not use for more than 5 days; do not administer within 24 hours of slaughter.

Effective date: July 9, 1982.

(Sec. 521 (i) and (n), 82 Stat. 347, 350–351 (21 U.S.C. 360(b) (i) and (n)))

Dated: July 7, 1982.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 82–18515 Filed 7–8–82; 8:45 am]
BILLING CODE 4160–01–M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed for Heinold Feeds, Inc., providing for use of a 10-gram-per-pound tylosin premix for making complete swine, beef cattle, and chicken feeds in addition to its current use for making certain swine feeds.

EFFECTIVE DATE: July 9, 1982.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV–136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5247.

SUPPLEMENTARY INFORMATION: Heinold Feeds, Inc., P.O. Box 377, Kouts, IN 46347, is sponsor of NADA 95–628 providing for use of 4- and 10-gram-per-pound tylosin premixes for making complete swine feeds for increased rate of weight gain and improved feed efficiency. On behalf of Heinold Feeds, Elanco Products Co. submitted a supplement to the NADA which provides for use of the 10-gram-per-pound tylosin premix for making complete swine, beef cattle, chicken, and layer, broiler, and replacement chicken feed. The swine feed is used, in addition to use for increased rate of weight gain and improved feed efficiency, for prevention, treatment, and control of swine dysentery, and for maintenance of weight gains and promotion of feed efficiency in the presence of atrophic rhinitis; the beef cattle feed for reduction of incidence of certain liver abscesses; the chicken feed for increased rate of weight gain and improved feed efficiency; the layer feed for improved feed efficiency; and the broiler and replacement chicken feed for control of chronic respiratory disease.

Approval of this supplemental NADA relies upon safety and effectiveness data contained in NADA 12–491. Elanco has authorized use of the data in NADA 12–491 to support approval of this supplement. This approval does not change the approved use of the drug. Consequently, approval of this supplement poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species.

Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), this is a Category II supplemental approval which does not require reevaluation of the safety and effectiveness data in NADA 12–491.

The supplement is approved and the regulations are amended accordingly.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 558.625 is amended by revising paragraph (b)(9) to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(9) To 043727: 4 grams per pound; paragraph (f)(1)(vi)(*a*) of this section; 10 grams per pound paragraph (f)(1)(i) through (vi) of this section.

* * * * *

Effective date. July 9, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: June 30, 1982.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 82-18440 Filed 7-8-82; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF LABOR

Employment Standards Administration

29 CFR Part 5

Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)

Correction

In FR Doc. 82–18167, appearing on page 28916, in the issue of Friday, July 2, 1982, make the following correction.

On page 28917, first column, the third and fourth lines of the second complete paragraph reading "Wage and Hour Division on or before August 2, 1982 * * *" should read "Wage and Hour Division within 30 days after * * *".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 211, 221, 231, 250, and 270

Limitation on Adjustments to Statements of Account on Minerals Leases on Federal, Indian, and Outer Continental Shelf Lands

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of final dates for making adjustments to inactive lease accounts.

SUMMARY: The Minerals Management Service (MMS) is in the process of reconciling and closing out lease accounts maintained under the Royalty Accounting System (RAS) as part of its procedures for converting that system to the Auditing and Financial System (AFS). Accounts will be reconciled in each former RAS office as the accounts in that office are converted to AFS.

Notice is hereby given that the MMS is establishing a 120-day limitation period during which each lessee/payor may initiate adjustments to the lease accounts or to the RAS Statement(s) of Account (Form 9–1424). This policy will provide incentive to each lessee/payor to review all open RAS accounts and make adjustments to them in a timely fashion, allowing for completion of the MMS program on lease reconciliation within time frames and guidance provided by the General Accounting Office (GAO) and the Commission on Fiscal Accountability of the Nation's Energy Resources.

EFFECTIVE DATE: July 9, 1982.

FOR FURTHER INFORMATION CONTACT: Raymond A. Hicks, Chief, Branch of Rules and Procedures for Royalty Management, Minerals Management Service—Mail Stop 660, 12203 Sunrise Valley Drive, Reston, VA 22091, (703) 860–7311, (FTS) 928–7311.

SUPPLEMENTARY INFORMATION: On January 19, 1982, the Secretary of the Interior established the MMS and transferred to it all functions previously exercised by the Conservation Division, U.S. Geological Survey. Secretarial Order 3071 (47 FR 4751, February 2, 1982).

MMS has the fiscal and financial responsibility to enforce the contractual obligation of each lessee/payor to pay royalties fully, accurately, and timely. Controls over timeliness and accuracy of royalties payments necessitate placing a reasonable time limit on lessee/payor generated adjustments to the RAS Statement(s) of Account.

This notice of procedure is issued pursuant to the authority of the Mineral Leasing Act, the Act of February 25, 1920 (30 U.S.C. 181 et seq.); the Acquired Lands Leasing Act of August 7, 1947 (30 U.S.C. 351 et seq.); the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.); the Outer Continental Shelf Lands Act (43 U.S.C. 1801 et seq.); the Allotted Lands Leasing Act of 1909 (25 U.S.C. 396); and the Tribal Lands Act of 1938 (25 U.S.C. 396a; and 46 FR 13193).

This notice applies only to those lessees/payors whose RAS lease accounts are being rendered inactive by the MMS conversion of paying responsibility for those leases to the new AFS now operated in Denver, Colorado.

For RAS lease accounts already converted to the AFS, lessee/payor generated adjustments must be received at the MMS Accounting Center in Denver on or before the 120th day after the effective date of this notice. Lessee/payor generated adjustments for those RAS lease accounts that have not been converted from the field paying offices must be received at the Accounting Center on or before the 120th day after the effective date of conversion (or the first workday thereafter). Adjustments received after the final due dates established in the following reconciliation schedule will not be accepted by MMS.

Royalty Management Reconciliation Schedule of Lease Accounts by Field Office

Oil and gas accounts:

WALA (Washington, Anchorage, Los Angeles), effective date of this notice plus 120 days.

Metairie, effective date of this notice plus 120 days.

Tulsa, December 29, 1982.

Albuquerque & Roswell, July 29, 1983.

Casper, October 29, 1983.

Mining accounts:

All field offices, November 28, 1983.

Any adjustments submitted during a 120-day post conversion period and the reports due on current sales and royalties shall be made by the lessee/payor on Form 9–2014 (Report of Sales and Royalty Remittance). All adjustments made by the lessee/payor will be reviewed and cleared by the MMS personnel responsible for reconciling accounts. After MMS completes the reconciliation of accounts, the lessee/payor responsible for paying on the lease(s) under the old RAS system will receive a final Statement of Account showing any debit or credit balances for the account(s).

List of Subjects in 30 CFR Parts 211, 221, 231, 250, and 270

Minerals royalties, Royalty accounting

Dated: June 29, 1982.

Harold E. Daley,

Director, Minerals Management Service.

[FR Doc. 82-18735 Filed 7-8-82; 8:45 am]

BILLING CODE 4310-MR-M

Bureau of Land Management

43 CFR Public Land Order 6293

[U-50566]

Utah; Partial Revocation of Public Land Order No. 2354

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes a Forest Service withdrawal affecting 120 acres of lands which have been used as a roadside zone. This action will restore the lands to uses which may be made of national forest lands, including location for minerals under the mining laws.

EFFECTIVE DATE: August 6, 1982.

FOR FURTHER INFORMATION CONTACT: Deen Bowden, Utah State Office, 801–524–4245.

SUPPLEMENTARY INFORMATION:

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 2354 of April 27, 1961, which withdrew the following described lands for use as a roadside zone is hereby revoked:

Salt Lake Meridian

T. 26 S., R. 1 E.,

Sec. 27, S½SW¼ and SW¼SE¼.

The area described contains 120 acres in Sevier County.

2. At 10:00 a.m. on August 6, 1982, the lands shall be open to such forms of appropriation as may by law be made of national forest land, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, 136 East South Temple, Salt Lake City, Utah 84111.

July 1, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-18635 Filed 7-8-82; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 82-62; RM-3959]

TV Broadcast Stations in Natchez, Mississippi; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF television Channel 48 to Natchez, Mississippi, as its first local commercial television assignment, in response to a petition filed by Harold Calish.

EFFECTIVE DATE: August 24, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television.

Adopted: June 23, 1982.

Released: June 30, 1982.

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations (Natchez, Mississippi); BC Docket No. 82–62, RM–3959; Report and Order (Proceeding Terminated).

1. The Commission herein considers the notice of proposed rule making, 47 FR 6897, published February 17, 1982, which invited comments on a proposal to assign UHF television Channel 48 to Natchez, Mississippi, as its first commercial television assignment. The notice was issued in response to a petition filed by Harold Calish ("petitioner"). Supporting comments were filed by petitioner. No oppositions to the proposal were received.

2. In its comments to the proposal, petitioner incorporated by reference the information set out in the notice demonstrating the need for a first commercial television assignment at Natchez. Petitioner repeated his intention to apply for the channel, if assigned.

3. We believe that the petitioner has adequately demonstrated its need for a first UHF commercial television assignment to Natchez, and that the public interest would be served by assigning UHF television Channel 48 to that community. The assignment can be made in compliance with the minimum distance separation requirements and other technical criteria.

4. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281 and 0.204(b) of the Commission's Rules, it is ordered, that effective August 24, 1982, the Television Table of Assignments (§ 73.606(b) of the Rules) is amended with respect to the community listed below:

City	Channel No.	
	Present	Proposal
Natchez, Mississippi	*42+	*42+, 48

5. It is further ordered, That this proceeding is terminated.

6. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 305, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-18622 Filed 7-8-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-75; RM-3963]

TV Broadcast Station in Forest City, North Carolina; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF television Channel 66 to Forest City, North Carolina, in response to a petition filed by Rutherford Broadcasting, Inc. The assignment could provide a first television service to Forest City.

DATE: Effective August 31, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television.

Adopted: June 28, 1982.

Released: July 2, 1982.

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations (Forest City, North Carolina); BC Docket No. 82-75, RM-3963; Report and order (Proceeding Terminated).

1. The Commission has under consideration a notice of proposed rule making, 47 FR 7462, published February 19, 1982, proposing the assignment of UHF television Channel 66 to Forest City, North Carolina, as its first local television assignment. The notice was issued in response to a petition filed by Rutherford Broadcasting, Inc. ("petitioner"). Supporting comments were filed by petitioner. No oppositions to the proposal were received. Petitioner reaffirmed its interest in applying for the channel, if assigned.

2. Forest City (population 7,688),[1] in Rutherford County (population 53,787), is located in western North Carolina, approximately 90 kilometers (56 miles) west of Charlotte. Forest City presently has no local television channel assignment.

3. In its comments to the proposal, petitioner incorporated by reference the information contained in the notice demonstrating the need for a first television assignment to Forest City. Petitioner restated its intention to apply for the channel, if assigned.

[1] Population figures are taken from the 1980 U.S. Census, Advance Report.

4. The Commission believes that the petitioner has adequately demonstrated the need for a first television assignment to Forest City, and that the public interest would be served by assigning UHF television Channel 66 to that community. The assignment can be made in compliance with the minimum distance separation requirements and other technical criteria.

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204 and 0.281 of the Commission's rules, it is ordered, That effective August 31, 1982, the Television Table of Assignments (§ 73.606(b) of the rules), is amended with respect to the following community:

City	Channel No.
Forest City, North Carolina	66+

6. It is further ordered, That this proceeding is terminated.

7. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

(Sec. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-18623 Filed 7-8-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-110; RM-4012]

FM Broadcast Station in Goldendale, Wash.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 272A to Goldendale, Washington, in response to a petition filed by Klickitat Valley Broadcasting Service. The assigned channel could provide a first FM service to Goldendale.

EFFECTIVE DATE: August 31, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), table of assignments, FM Broadcast Stations (Goldendale, Washington); BC Docket No. 82-110, RM-4012; Report and Order (Proceeding Terminated).

Adopted: June 20, 1982.

Released: July 2, 1982.

1. The Commission has under consideration the *Notice of Proposed Rule Making*, 47 FR 8796, published March 2, 1982, proposing the assignment of Channel 272A to Goldendale, Washington, as that community's first FM assignment in response to a petition filed by Klickitat Valley Broadcasting Service ("petitioner"). Comments in support of the proposal were filed by the petitioner.

2. Petitioner incorporated by reference the information in the *Notice* demonstrating the need for an FM assignment. Petitioner urges the Commission to adopt its proposal, and restated its intention to apply for the channel, if assigned. Additionally, petitioner indicated its preference of a transmitter site more distant than is usually allowed but stated that it would accept a closer one.

3. The Commission has determined that the public interest would be served by assigning Channel 272A to Goldendale, Washington, since it would provide the community with its first local FM broadcast service. The transmitter site is restricted to 2.5 miles south of the city of Goldendale to avoid short spacing to KPQ-FM, Channel 271, in Wenatchee, Washington.

4. Canadian concurrence has been received.

5. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's Rules, it is ordered, That effective August 31, 1982, § 73.202(b) of the Commission's Rules, is amended with respect to the following community:

City	Channel No.
Goldendale, Washington	272A

6. It is further ordered, That this proceeding is terminated.

7. For further information, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-18638 Filed 7-6-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 81-817; RM-3954]

FM Broadcast Station in Pukalani, Hawaii; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns FM Channel 252A to Pukalani, Hawaii, in response to a petition filed by Ethnic Minorities Broadcasting. The assignment could provide a first local broadcast service to Pukalani.

DATE: Effective August 31, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Pukalani, Hawaii), BC Docket No. 81-817; RM-3954; *Report and Order* (proceeding terminated).

Adopted: June 28, 1982.

Released: July 2, 1982.

1. The Commission herein considers the notice of proposed rule making 47 FR 8792, published March 2, 1982, proposing the assignment of Channel 252A to Pukalani, Hawaii, as its first FM assignment. The *Notice* was issued in response to a petition filed by Ethnic Minorities Broadcasting ("petitioner"). Supporting comments were filed by the petitioner restating its intention to apply for the channel, if assigned. Maui Broadcasting Corporation, licensee of FM Station KAOI, Wailuku, Hawaii, submitted opposing comments, to which petitioner responded.

2. Opposing comments submitted by Maui Broadcasting Corporation and the petitioner's response focused on economic conditions, community size and service received from other communities as factors for us to consider in assessing the need for a Pukalani assignment. However, the Commission recently adopted a *Second Report and Order*, 47 FR 26624, published June 21, 1982, revising the FM assignment policies. In accordance with that action the issues raised in opposition to the proposal are not pertinent in a nonconflicting FM proceeding. Also, Maui's statement regarding economic conditions are of a competitive nature and should be considered at the application stage.

3. The notice proposed assigning Channel 252A to Pukalani, Hawaii. Channel 253 was later proposed for assignment to Honolulu (BC Docket 82-124) requiring a site restriction of 1 mile east of the city for a Channel 252A assignment to Pukalani. Should there be a problem with the site restriction, alternate channels or other options are available.

4. The Commission believes that the public interest would be served by assigning Channel 252A to Pukalani, Hawaii, since it would provide that community with an opportunity for a first local FM broadcast service.

5. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281 and 0.204(b) of the Commission's rules, it is Ordered, That effective August 31, 1982, the FM Table of Assignments (§ 73.202(b) of the Rules) is amended with respect to the following community:

City	Channel No.
Pukalani, Hawaii	252A

6. It is further ordered, That this proceeding is terminated.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-18618 Filed 7-6-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 81-782; RM-3937]

FM Broadcast Station in Cozad, Nebraska; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns a first FM channel to Cozad, Nebraska, in response to a petition filed by Tri-City Broadcasting, Inc.

DATE: Effective August 31, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: June 28, 1982.

Released: July 1, 1982.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Cozad, Nebraska); BC Docket No. 81-782, RM-3937; Report and order (proceeding terminated).

1. The Commission herein considers the notice of proposed rule making, 46 FR 58719, published December 3, 1981, proposing to assign either Class C Channel 283 or Channel 221A to Cozad, Nebraska, as its first FM channel. The *Notice* was issued in response to a petition filed by Tri-City Broadcasting, Inc. ("petitioner"). Only the petitioner filed comments in the proceeding, urging the Class C channel assignment but stating that it will apply for either channel.

2. In response to the notice, petitioner indicated that no new first or second service to the area will be provided and alternate channels are available to each of the precluded communities. However, in view of the action taken in *Revision of FM Policies and Procedures*, 47 FR 26624, June 21, 1981, this information is no longer relevant.

3. After considering the proposal, the Commission is persuaded that the public interest would be served by granting the Class C assignment in order to provide Cozad with a first FM service. Although the *Notice* had requested additional information to justify a wide coverage area Class C channel for Cozad, the action taken in *Revision of FM Policies and Procedures* eliminated the need to justify a Class C channel to a small community.

4. In view of the foregoing and pursuant to the authority contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's rules, it is ordered, That effective August 31, 1982, the FM Table of Assignments (§ 73.202(b) of the Rules) is amended with respect to the following community:

City	Channel No.
Cozad, Nebr.	283

5. It is further ordered, That this proceeding is terminated.

6. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau (202) 632–7792.

(Secs. 4, 303, 48 stat., as amended 1066, 1082, 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82–18613 Filed 7–8–82; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[BC Docket No. 82–133; RM–4035]

FM Broadcast Station in Shallotte, North Carolina; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 292A to Shallotte, North Carolina, in response to a petition filed by Shallotte Broadcasting Company. The assigned channel could provide a second FM service to Shallotte.

DATE: Effective August 31, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: June 28, 1982.

Released: July 2, 1982.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Shallotte, North Carolina); BC Docket No. 82–133, RM–4035; *Report and order* (proceeding terminated).

1. The Commission has under consideration the notice of proposed rule making, 47 FR 11908, published March 19, 1982, proposing the assignment of Channel 292A to Shallotte, North Carolina, as that community's second FM assignment in response to a petition filed by Shallotte Broadcasting Company ("petitioner"). Petitioner submitted comments restating its interest in applying for the channel, if assigned. Shallotte is served by AM Station WCB, licensed to petitioner, and FM Station WDZD (Channel 228A). The channel can be assigned in compliance with the Commission's minimum distance separation requirements.

2. In response to the notice petitioner submitted a preclusion study for Channel 292A and a listing of alternate channels available to communities precluded by the proposed assignment. However, this information is no longer required in view of the action taken in the *Second Report and Order* in BC Docket No. 80–130, 47 FR 26624 published June 21, 1982.

3. After careful consideration of the proposal, we believe that the public interest would be served by assigning Channel 292A to Shallotte, since it would provide a second local FM broadcast service to that community.

4. Accordingly, pursuant to the authority contained in section 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's Rules, it is ordered, That effective August 31, 1982, § 73.202(b) of the Commission's rules, is amended with respect to the following community:

City	Channel No.
Shallotte, N.C.	228A and 292A.

5. It is further ordered, That this proceeding is terminated.

6. For further information, contact Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82–18616 Filed 7–8–82; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[BC Docket No. 82–77; RM–3981]

FM Broadcast Stations in Klamath Falls, Oregon; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns a third FM channel to Klamath Falls, Oregon, in response to a petition filed by Wynne Broadcasting Company, Inc.

EFFECTIVE DATE: August 31, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: June 28, 1982.

Released: July 1, 1982.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (Klamath Falls, Oregon); BC Docket No. 82–77, RM–3981; Report and order (proceeding terminated).

1. In response to a petition filed by Wynne Broadcasting Co., Inc. ("petitioner") [1], the Commission adopted a *Notice of Proposed Rule Making*, 47 FR 7465, published February 19, 1982, proposing the assignment of Channel 240A to Klamath Falls, Oregon. Supporting comments were filed by the petitioner stating its intention to apply for the channel, if assigned. Comments were also filed by 960 Radio, Inc., licensee of AM Station KLAD, Klamath Falls.[2]

2. Since the assignment of Channel 240A could provide a third FM service to Klamath Falls, we believe that the public interest would be served by the requested assignment. Accordingly, pursuant to sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's Rules, it is ordered, That effective August 31, 1982, the FM Table of Assignments, § 73.202(b) of the Rules is amended with regard to the following community:

City	Channel No.
Klamath Falls, Oreg.	223, 240A, and 256.

3. It is further ordered, That this proceeding is terminated.

4. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632–7792.

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[1] In comments to the proposal, petitioner submitted preclusion data. However, in view of the action in *Revision of FM Policies and Procedures*, BC Docket No. 80–130, 47 FR 26624, published June 21, 1982, that information is no longer needed to justify the requested assignment.

[2] The comments of 960 Radio were submitted for the purpose of correcting the record in this proceeding to state that Station KLAD (AM) is a full-time station.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-18614 Filed 7-8-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 81-853; RM-3962]

FM Broadcast Station in Amarillo, Texas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns a sixth Class C FM channel to Amarillo, Texas, in response to a petition filed by K. T. Wiggins and R. K. Jack.

DATE: Effective August 31, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: June 28, 1982.

Released: July 2, 1982.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Amarillo, Texas); BC Docket No. 81-853, RM-3962; Report and Order (proceeding terminated).

1. In response to a petition filed by K. T. Wiggins and R. K. Jack (petitioners), the Commission adopted a notice of proposed rule making, 46 FR 61679, published December 18, 1981. The notice proposed assigning Class C Channel 245 to Amarillo, Texas, as its sixth commercial FM allocation.[1] Supporting comments were filed by the petitioners [2] restating their interest in the channel.

2. In comments, the petitioners restated the information previously submitted demonstrating the need for an additional FM assignment at Amarillo, and provided a list of alternate channels available to the communities precluded by a Channel 245 assignment to Amarillo.[3]

[1] Amarillo is served by five commercial FM stations (KQIZ-FM, KBUY-FM, KGNC-FM, KYTX-FM, and KWAS); one noncommercial educational FM station, (KACV-FM); four fulltime AM stations (KDJW, KGNC, KIXZ and KPUR); and two daytime-only AM stations (KQIZ and KZIP).

[2] Petitioners also submitted reply comments to a counterproposal to assign Channel 300 to Canyon, Texas. That request is being handled in another rule making, and has no impact on the outcome of this proceeding.

[3] The Commission on May 30, 1982, adopted a *Second Report and Order*, BC Docket 80-130, 47 FR 28624, published June 21, 1982, revising the FM assignment policies. In accordance with that action, a preclusion showing is no longer required to justify and assignment.

3. In view of the fact that the assignment could provide a sixth FM station to Amarillo, Texas, the Commission believes that the public interest would be served by assigning Channel 245 to that community. Accordingly, pursuant to the authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's Rules, it is ordered, That effective August 31, 1982, the FM Table of Assignments, § 73.202(b) of the rules is amended with regard to the following city:

City	Channel No.
Amarillo, Texas	226, 231, 245, 250, 254, and 270.

4. It is further ordered, That this proceeding is terminated.

5. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-18612 Filed 7-8-82; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 47, No. 132
Friday, July 9, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 214

Nonimmigrant Classes; Petitions for Aliens Accompanying Nonimmigrant Aliens of Distinguished Merit and Ability

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: This proposed rule clarifies the admission requirements for aliens seeking to enter the United States for the purpose of accompanying nonimmigrant entertainers. The rule is needed to ensure that only those persons who are necessary to the successful performance by an alien of distinguished merit and ability are included in the same classification.

DATE: Written comments will be considered if received on or before August 9, 1982.

ADDRESS: Please submit written comments in duplicate to the Commissioner, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536.

FOR FURTHER INFORMATION CONTACT:

For General Information: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536, Telephone: (202) 633–3048.

For Specific Information: Bert C. Rizzo, Immigration Examiner, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536, Telephone (202) 633–3946.

SUPPLEMENTARY INFORMATION: On August 4, 1980, the Service published a proposed rule in the **Federal Register** at 45 FR 51580 to give interested persons the opportunity to comment upon the rule to clarify the admission requirements for those nonimmigrant aliens who accompany aliens of distinguished merit and ability to the United States. The rule proposed that an entertainer's successful performance must be dependent upon the accompanying alien's participation in the performance because of their unique qualities, experience, or familiarity with the performance.

Due to the passage of time and a detailed examination of the area of concern, the Service has delayed implementing the proposed rule change and is again proposing a slightly modified change to the existing regulation.

Originally, four comments were received by the Service regarding the proposed rule. Three commenters, representing various labor organizations in the entertainment field, opposed amending the regulation. They believe no accompanying aliens should be allowed to enter as H-1 nonimmigrants unless they also are distinguished in merit and ability.

There are numerous instances where a support staff is essential to the successful performance by a distinguished entertainer, such as: Manager and trainers of an internationally famous boxer, musical accompanist to a celebrated soloist, and assistants to a renowned theatrical magician, among others. The Service proposes to continue to recognize these individuals as accompanying aliens and grant admission under H–1 provided the need to the entertainer for the success of the performance is fully established.

The fourth commenter, noting the economic contributions of foreign film makers, suggested exempting producers and key support personnel coming to the United States as nonimmigrants to produce motion pictures or television commercials or films from the requirements of the H classification. While his statement that such groups contribute to the local economy and often create jobs is well taken, the H nonimmigrant visa classification is currently the only classification available to temporary workers. The Service, in conjunction with the Department of State, is currently studying a similar suggestion relating to rules in this area. That proposal is to classify foreign film makers coming to film other than entertainment films under the visitor for business classification (B–1) if certain other restrictions are met.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that the rule, if promulgated, will not have significant impact on a substantial number of small entities. The proposed rule will not be a major rule as defined in section 1(b) of E.O. 12291. It will not have an effect on the economy of $100 million or more; result in an increase in costs or prices for consumers, individuals industries, federal, state, or local government agencies, or geographic regions; or have a significant adverse effect on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprised to compete with foreign-based enterprised in domestic or export markets.

List of Subjects in 8 CFR Part 214

Administrative practice and procedure, Aliens, Crime, Employment, Passports and visas.

After considering the comments received and restudying the proposed amendment, the Service is publishing this new proposed rule to provide a better understanding of the admission requirements and to again allow for public comment.

Accordingly, it is proposed to amend Chapter I of Title 8 of the Code of Federal Regulations as follows:

PART 214—NONIMMIGRANT CLASSES

In § 214.2 it is proposed to revise paragraph (h)(2)(v) to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(h) * * *

(2) * * *

(v) *Accompanying aliens.* Managers, trainers, musical accompanists, and other persons determined by the district director to be necessary for successful performance by the beneficiary of a petition approved for classification under section 101(a)(15)(H)(i) of the Act may also be accorded such classification if included in the same or a separate petition. The petitioner must establish that accompanying aliens possess unique qualities, experience, or knowledge of the performance as to render success of the performance dependent upon their participation.

* * * * *

(Secs. 103 and 214 of the Immigration and Nationality Act, as amended; 8 U.S.C. 1103 and 1184)

Dated: June 28, 1982.

Andrew J. Carmichael, Jr.,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 82-18634 Filed 7-8-82; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

9 CFR Parts 201 and 203

Regulations and Policy Statements

AGENCY: Packers and Stockyards Administration, USDA.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On May 12, 1982, a notice of proposed rulemaking; review of existing regulations was published in the **Federal Register** (47 FR 20311) advising that the Packers and Stockyards Administration was considering amending and removing certain regulations and policy statements.

That notice provided that comments regarding the proposal should be filed with the Administration on or before July 12, 1982.

Pursuant to a request from interested parties for additional time to prepare their comments, the time for filing comments concerning the proposed revisions and removal of regulations and policy statements is hereby extended to and including July 31, 1982.

DATE: The time for filing comments is hereby extended to and including July 31, 1982.

ADDRESS: Comments may be mailed to the Administrator, Packers and Stockyards Administration, Room 3039, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. Comments received may be inspected during normal business hours in the Office of the Administrator.

FOR FURTHER INFORMATION CONTACT: Jack Brinckmeyer, (202) 447-4366.

Done at Washington, D.C., July 6, 1982.

B. H. (Bill) Jones,

Administrator, Packers and Stockyards Administration.

[FR Doc. 82-18678 Filed 7-8-82; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM82-34-000]

High-Cost Gas Produced from Tight Formations

June 22, 1982

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Petition for interpretation and clarification of rule.

SUMMARY: Anderson Petroleum, Inc. has filed a petition for interpretation and clarification of Commission regulations under the Natural Gas Policy Act regarding the definition of recompletion tight formation gas. Anderson states that an ambiguity exists in this definition as it is applied to various tight formations which could discourage the efficient production of available reserves of tight sands gas.

DATE: Comments must be received on or before July 26, 1982.

ADDRESS: File comments with: Office of the Secretary, FERC, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, Office of the General Counsel, FERC, (202) 357-8511.

Petition of Anderson Petroleum, Inc. for Interpretation and Clarification of Part 271 of the Commission's Regulations

Take notice that on June 4, 1982, Anderson Petroleum, Inc. (Anderson) filed a petition pursuant to § 1.7 of the Commission's Rules of Practice and Procedure requesting that the Commission interpret and clarify § 271.703 of its regulations implementing sections 107(b) and 107(c)(5) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301-3432. Anderson requests that the Commission exercise its authority under NGPA sections 501(a), 501(b), 107(b) and 107(c)(5), and issue an interpretation of § 271.703(b)(3) of its regulations to clarify that the definition of "recompletion tight formation gas" includes additional volumes of natural gas produced as a result of enhanced production work undertaken after the filing date of the subject petition, involving perforation, fracturing, and other necessary downhole recompletion work from certain wells completed for production in a designated tight formation prior to July 16, 1979.

Section 271.703(b)(2) of the Commission's regulations defines "recompletion tight formation gas" as "* * * natural gas which is produced from a designated tight formation through a well, the surface drilling of which was begun before July 16, 1979, if such well was not completed for production from such designated formation before July 16, 1979." Anderson states in its application that it believes that "an ambiguity exists in this definition as it is applied to various tight formations which could discourage the efficient production ofravailable reserves of tight sands gas." Anderson requests that the Commission issue a clarifying rule which would allow recompletions in zones other than the zone in which the well was completed on July 16, 1979, in the designated tight formations, to be permitted the incentive price as this gas is produced as a result of undertaking high risks and costs. Anderson states that this result is consistent with the regulations which allow a producer to recomplete a single well in separately designated tight formations and to qualify for the incentive price.

Anderson also proposes that in order to prevent premature abandonment of existing reserves, the Commission could stipulate that before recompletion work in undertaken on wells orginally completed in a designated tight formation prior to July 16, 1979, the well must have a recorded average daily maximum efficient production of 60 Mcf per day or less for a 120-day which falls entirely within 150 days prior to the date on which the application for recompletion qualification is filed.

Anderson's petition is on file with the Commission and is available for public inspection in the Commission's Office of Public Information. Any persons desiring to participate in this request for clarification should file their comments with the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before July 26, 1982.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-18687 Filed 7-8-82; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

Public Comment Period on Modified Portions of the West Virginia Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; notice of receipt of permanent program modification and public comment period.

SUMMARY: OSM is announcing a public comment period on the substantive adequacy of a program amendment submitted to satisfy a condition imposed on the approval of the West Virginia permanent regulatory program (hereinafter referred to as the West Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

This notice sets forth the times and locations that the West Virginia program and the proposed amendment are available for public inspection and the comment period during which interested persons may submit written comments on the proposed program amendment.

DATE: Written comments must be received on or before 4:00 p.m. on August 9, 1982, to be considered in the Director's decision on whether the proposed amendment satisfies the condition.

ADDRESSES: Written comments should be mailed or hand delivered to: Office of Surface Mining Reclamation and Enforcement, Attention: West Virginia Administrative Record, 603 Morris Street, Charleston, West Virginia 25301.

Copies of the West Virginia program, the modification to the program, a listing of the scheduled public meetings, and all written comments are available for review at the OSM offices and the office of the State regulatory authority listed below, Monday through Friday, 9:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, 603 Morris Street, Charleston, West Virginia 25301, Telephone: (304) 347–7158;

Office of Surface Mining Reclamation and Enforcement, Room 5315, 1100 "L" Street, N.W., Washington, D.C. 20240, Telephone: (202) 343–7896;

West Virginia Department of Natural Resources, Room 630, Building 3, 1800 Washington Street, East, Charleston, West Virginia 25305, Telephone: (304) 348–9160.

FOR FURTHER INFORMATION CONTACT: David H. Halsey, State Director, Office of Surface Mining, 603 Morris Street, Charleston, West Virginia 25301, Telephone: (304) 347–7158.

SUPPLEMENTARY INFORMATION: On March 3, 1980, the Secretary of the Interior received a proposed regulatory program from the State of West Virginia. On January 21, 1981, following a review of that proposed program as outlined in 30 CFR Part 732, the Secretary of the Interior approved the program conditioned on the correction of minor deficiencies. Information pertinent to the general background of the permanent program submission, as well as the Secretary's findings, the disposition of comments and explanations of the conditions of approval of the West Virginia program can be found in the January 21, 1981 **Federal Register** (46 FR 5915–5956).

On April 29, 1981, the State provided a copy of proposed coal refuse disposal regulations to OSM for review (Administrative Record No. WV 400). On June 8, 1981, OSM provided an informal listing of deficiencies found in the proposed regulations (Administrative Record No. 401a) and informed the State that the promulgated regulations must be submitted as a program amendment which would be subject to public comment. The regulations were promulgated by West Virginia on October 1, 1981, and submitted as a program amendment on October 29, 1981.

The Director, OSM, determined that the amendment contained minor deficiencies and therefore, conditionally approved the amended regulation on May 11, 1982 (47 FR 20119–20122, Administrative Record No. WV 438). Finding 4 of the Director's approval stated that the State regulations required that water leaving the permit area would not lower the water quality of the river, stream or drainway into which it is discharged. Since this conflicts with the requirements of 30 CFR 816.41 and 817.41, the Director conditioned the approval of the amended regulations upon compliance with the Federal requirements of June 15, 1982 (See Condition 8 (iii)).

On June 17, 1982, the State of West Virginia submitted a copy of an amendment to the Coal Refuse Regulations to satisfy Condition 8 (iii) of the conditional approval. The amendment was filed on an emergency basis with the West Virginia Secretary of State on June 17, 1982. The complete text of the amendment follows. The brackets indicate deleted language and italic indicates the added provision.

"E. 03 *Water Quality.* a. Water Quality Control—All reasonable measures shall be taken to intercept all surface water by the use of diversions, culverts and drainage ditches or other methods to prevent water from entering the operational area. The water leaving the permit area will [not lower the water quality of] *meet all applicable federal and state water quality standards for* the river, stream or drainway into which it is discharged. All surface drainage from the disturbed area must pass through a sediment pond or series of sediment ponds or other approved sediment or treatment control structures."

The Director now seeks public comment on the adequacy of this amendment in satisfying Condition 8 (iii) of the conditional program approval. No public hearing will be held concerning this amendment.

Additional Determinations

Pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared for this rulemaking.

On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 6 and 8 of Executive Order 12291 for all State program actions taken to approve or conditionally approve State regulatory programs, actions or amendments. Therefore, this rule is exempt from a Regulatory Impact Analysis and regulatory review by OMB.

Pursuant to the Regulatory Flexibility Act, Pub. L. 96–354, I have certified that this proposed rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 30 CFR Part 948

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: July 1, 1982.

William B. Schmidt,

Assistant Director, Program Operations and Inspection.

[FR Doc. 82-18029 Filed 7-8-82; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 712

[OPTS–82004 F; 2039–7]

Chemical Information Rules; Preliminary Assessment Information; Opportunity for Additional Comment

Correction

In FR Doc. 15957 appearing on page 27009 in the issue of Tuesday, June 22, 1982, make the following correction.

On page 27013, second column, paragraph "(f)", third line, in place of the date "September 20, 1982" insert the phrase "(insert date 90 days after date of publication of the final rule in the **Federal Register**.)".

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6355]

Proposed Base Flood Elevation and Zone Designation Determinations for City of Midwest City, Oklahoma County, Oklahoma, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations as described below.

The proposed base flood elevations and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to quality or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the floodprone areas and the proposed base flood elevations and zone designations are available for review at the Office of the City Engineer, 100 North Midwest Boulevard, Midwest City, Oklahoma.

Send comments to: Honorable Dave Herbert, Mayor, City of Midwest City, P.O. Box 10570, Midwest City, Oklahoma 73140.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION:

The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations and zone designations for the City of Midwest City, Oklahoma, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 67.

These base flood elevations and zone designations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base flood elevations and zone designations are as follows:

Source of flooding	Location	Elevation (feet) national geodetic vertical datum	Zone designation
North Canadian River.	At the northwesternmost portion of the city.	1154	A10.
Crutcho Creek.	The area located south of N.E. 36th Street and west of the Arlington Memorial Park Cemetery.	1156	A2.

The area generally located between Air Depot Boulevard and Hughson Avenue and between N.E. 23rd Street and the Chicago Rock Island and Pacific Railroad has been deleted. The corporate limits have been adjusted along the southernmost City boundary and added in the southernmost portion of the City. These areas have been identified as Zone C. In the eastern portion of the City, along tributaries with drainage areas less than 1 square mile, special flood hazard areas, identified as Zone B, have been added.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: June 16, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-18669 Filed 7-8-82; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 82-351; RM-4104]

TV Broadcast Stations (La Salle, and Pontiac, Ill.); Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the reassignment of UHF Television Channel 35 from La Salle, Illinois, to Pontiac, Illinois, in response to a petition filed by Livingston County Broadcasters, Inc. The proposed channel assignment at Pontiac could provide a first local television service to that community.

DATES: Comments must be filed on or before August 9, 1982, and reply comments on or before August 24, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTAL INFORMATION:

List of Subjects in 47 CFR Part 73

Television.

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (La Salle, and Pontiac, Illinois); BC Docket No. 82-351, RM-4104.

Adopted: June 23, 1982.
Released: July 1, 1982.

1. The Commission herein considers a petition for rule making filed April 16, 1982, by Livingston County Broadcasters, Inc. ("petitioner") seeking the reassignment of UHF television Channel 35 from La Salle, Illinois, to Pontiac, Illinois. Petitioner expressed an interest in applying for the channel, if assigned.

2. Pontiac (population 11,227),[1] seat of Livingston County (population 41,381), is located 130 kilometers (82 miles) southwest of Chicago Illinois. La Salle (population 10,347), in La Salle County (population 109,139), is located 65 kilometers (38 miles) northwest of Pontiac. Pontiac has no local television broadcast service.

3. Pontiac is the county seat of Livingston County and is also the largest city in the county. With over 300 businesses in the county, Pontiac was responsible for over $60 million of the county's total retail sales of $184 million in 1981. Even though the population of Livingston County decreased between 1970 and 1980, Pontiac shows an increase in population for that period. Pontiac is located over 50 miles from the nearest VHF and UHF television stations. The assignment of Channel 35 to Pontiac will be that community's first local television service.

4. Petitioner says that Channel 35 has been assigned to La Salle for ten years without an interest shown. Therefore, a change should be proposed to the TV Table of Assignments.

5. In view of the fact that the proposal could provide a first TV service to Pontiac, it is proposed, That the TV Table of Assignments, § 73.606(b), be amended as follows:

City	Channel No.	
	Present	Proposed
La Salle, Ill.	35	—
Pontiac, Ill.	—	35

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before August 9, 1982, and reply comments on or before August 24, 1982, and are advised to read the Appendix for the proper procedures.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 82-18526 Filed 7-8-82; 8:45 am]

BILLING CODE 6712-01-M

[1] Population figures are taken from the 1980 U.S. Census, Advance Report.

47 CFR Part 73

[BC Docket No. 82-359; RM-4117]

FM Broadcast Station in Harwichport, Massachusetts; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of FM Channel 228A to Harwichport, Massachusetts, in response to a petition filed by Donald J. Kelley. The proposed assignment could provide Harwichport with a first local FM service.

DATES: Comments must be filed on or before August 16, 1982, and reply comments must be filed on or before August 31, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Harwichport, Massachusetts); BC Docket No. 82-359, RM-4117.

Adopted: June 28, 1982.

Released: July 2, 1982.

1. A petition for rule making was filed April 20, 1982, by Donald J. Kelley ("petitioner"), seeking the assignment of Channel 228A to Harwichport, Massachusetts,[1] as its first FM assignment. This channel can be assigned with a site restriction of approximately one mile east of the city to avoid short spacing to Station WSNE in Taunton, Massachusetts. Petitioner expressed his interest in applying for the channel, if assigned. No opposition to the proposal was received.

2. In view of the provision of a first local FM service to Harwichport, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Harwichport, Mass.		228A

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

4. Interested parties may file comments on or before August 16, 1982, and reply comments on or before August 31, 1982, and are advised to read the Appendix for the proper procedures.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules*, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-18627 Filed 7-8-82; 8:45 am]

BILLING CODE 6712-01-M

[1] Petitioner submitted community data for Harwichport. However, in view of the action taken in BC Docket 80-130, released June 2, 1982, 47 FR 28624 (1982), this information is no longer considered.

47 CFR Part 73

[BC Docket No. 82-350; RM-4080]

FM Broadcast Station in Bay Shore, New York; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign FM Channel 276A to Bay Shore, New York, in response to a petition filed by Living Communications, Inc. The assignment could provide Bay Shore with a first local aural service.

DATES: Comments must be filed on or before August 9, 1982, and reply comments must be filed on or before August 24, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: June 18, 1982.

Released: July 2, 1982.

In the matter of amendment of § 73.702(b), Table of Assignments, FM Broadcast Stations (Bay Shore, New York), BC Docket No. 82-350, RM-4080.

1. Before the Commission is a petition for rule making filed by Living Communications, Inc. ("petitioner"), proposing the assignmet of FM Channel 276A to Bay Shore, New York, as that community's first FM assignment. Petitioner stated its intention to apply for the channel, if assigned.

2. Bay Shore (population 11,119) [1] is located in Suffolk County (population 1,284,231),[2] approximately 63 kilometers (39 miles) east of New York, New York. It currently has no local aural service.

3. In support of its proposal, petitioner submits that Bay Shore, a hamlet of Islip Township, is the commercial center for the surrounding portion of Suffolk County. According to petitioner, Bay Shore has numerous retail outlets, schools, health-care facilities, a post office, State and county government facilities, financial institutions, churches, civic and social organizations, as well as local print media. Further,

[1] Population figure was obtained from the 1970 U.S. Census, since the preliminary 1980 U.S. Census does not provide statistics for unincorporated communities.

[2] Population figure was derived from the preliminary 1980 U.S. Census.

petitioner indicates that two major highways serve Bay Shore, which is said to be the main access point to Fire Island.

4. In order to accommodate this proposal, the transmitter site is restricted to an area approximately 4 miles south of Bay Shore, New York, to avoid short-spacing to Station WDRC (Channel 275), Hartford, Connecticut, and WNEW (Channel 274), New York, New York. Due to the close proximity to the Atlantic Ocean and the scarcity of land in this area, it is questionable whether an on-shore site can be found.

5. Generally, we are not concerned with site availability at the rule making stage. However, we note that this particular problem was under consideration previously in 1970. At that time, Channel 276A was assigned to Bay Shore as a drop-in, with a 5 mile site restriction. (See, *Bay Shore, New York*, 20 FCC 2d 988 (1970), 18 RR 2d 1510). The restricted location required placing the transmitter on a protion of Fire Island, lying within the Fire Island National Seashore. (That area was established pursuant to an Act of Congress in 1964, and placed under the jurisdiction of the Secretary of the Interior and the National Park Service). This very limited area was the only suitable location because of the spacing requirements to the north and west; the Atlantic Ocean to the south and environmental considerations to the east. Furthermore, a Coast Guard tower located less than a mile from the proposed site was not available for joint use since permission by military authorities was not given and, in any event, a tower of 300 feet was required to provide city-grade coverage over all of Bay Shore.

6. At the time the assignment was made, however, the Commission was unaware of the exact provisions of the National Environmental Policy Act of 1969, 42 U.S.C. 4321–4347, which had recently been enacted. That Act directs, *inter alia*, that all agencies of the Federal Government invoke or implement the environmental impact statement process before deciding on legislative or other major agency actions which would have a significant effect on the quality of the human environment. Further, it requires that, before making an environmental statement, the initiating agency is responsible for consulting with and obtaining the comments of any other Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved.

7. Since the proposed antenna site required to accommodate that Bay Shore proposal would have been located within a national preserve falling within the jurisdiction of the Department of Interior or the National Park Service, those officials should have been contacted to determine whether there would be an impact on the environment from an esthetic viewpoint. Such consultations were never had, and the Department of Interior filed comments opposing the assignment.

8. As a consequence of the opposition, the Commission determined that, although the assignment would have provided Bay Shore residents an opportunity to receive a first local broadcast service, the environmental impact involved outweighed retaining the channel in the Table. Therefore, the Commission rescinded its earlier action and deleted the channel in the Table of Assignments for Bay Shore, New York. See, *Bay Shore, New York*, 25 FCC 2d 877 (1970), 20 RR 2d 1556.

9. In view of the background circumstances surrounding the lack of a proper site location to accommodate an assignment to Bay Shore, we must require petitioner to provide evidence that the requirements of § 73.208(a)(4) of our Rules can be satisfied. Petitioner should indicate in its comments the extent to which it has investigated Federal, State and local requirements, if any, which must be complied with in order to obtain approval for use of its site, and a technical showing to demonstrate that its proposed site could place the requisite city-grade signal over all of Bay Shore from an acceptable site.

10. In view of the foregoing, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules with respect to Bay Shore, New York, as follows:

City	Channel No.	
	Present	Proposed
Bay Shore, N.Y.		276A

11. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

12. Interested parties may file comments on or before August 9, 1982, and reply comments on or before August 24, 1982, and are advised to read the Appendix for the proper procedures.

13. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules, 46 FR 11549, published February 9, 1981.*

14. For further information concerning this proceeding, contact Nancy V. Joyner, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the notice of proposed rule making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if

authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rule making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 82-18626 Filed 7-8-82; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-352; RM-4096]

TV Broadcast Station Wilmington, North Carolina; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes to substitute UHF television Channel 26 for Channel 29 at Wilmington, North Carolina, and modify the permit for Channel 29 accordingly in response to a petition filed by Wilmington Telecasters, Inc.

DATES: Comments must be filed on or before August 9, 1982, and reply comments on or before August 24, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television.

Adopted: June 23, 1982.

Released: July 1, 1982.

In the matter of Amendment of § 73.606(b), Table of Assignments, Television Assignments (Wilmington, North Carolina); BC Docket No. 82-352, RM-4096.

1. Wilmington Telecasters, Inc. ("petitioner"),[1] on April 5, 1982, filed a petition for rule making seeking to substitute UHF television Channel 26 for Channel 29 at Wilmington, North Carolina.

2. Petitioner states that the proposal is a result of its search for a suitable transmitter and antenna location for the proposed station on Channel 29. Petitioner is said to be negotiating with Clay Broadcasting Corporation (licensee of Station WWAY-TV), Wilmington, North Carolina, for use of its planned tower. A station operating on Channel 29 at its intended location would be short-spaced to Station WGSE(TV), Myrtle Beach, South Carolina. However, a station operating on Channel 26 at that location could meet the necessary spacing requirements.

3. We believe that the petitioner's proposal warrants consideration. The channel can be substituted in compliance with the Commission's minimum distance separation requirements and other technical criteria. In addition, we also propose to modify the permit for Channel 29 to specify Channel 26.

4. In view of the above, comments are invited on the proposal to amend the Television Table of Assignments, § 73.606(b) of the Commission rules, with regard to the following community:

City	Channel No.	
	Present	Proposed
Wilmington, North Carolina	3-, 6, 26+, *39-	3-, 6, 26-, *39-

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before August 9, 1982, and reply comments on or before August 24, 1982, and are advised to read the Appendix for the proper procedures.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes

[1] Wilmington Telecasters, Inc. is the permittee for Channel 29 at Wilmington, North Carolina (BC Docket 81-291, 292).

an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the notice of proposed rule making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the notice of proposed rule making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rule making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleading, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-18625 Filed 7-8-82; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-355; RM-4092]

TV Broadcast Station in Farwell, Texas; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of UHF television Channel 18 to Farwell, Texas, as its first television assignment in response to a petition filed by Best Broadcasting Company, Inc.

DATES: Comments must be filed on or before August 13, 1982, and reply comments on or before August 30, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television.

Adopted: June 24, 1982.

Released: June 29, 1982.

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (Farwell, Texas); BC Docket No. 82-355, RM-4092.

1. The Commission herein considers a petition for rule making filed March 23, 1982, by Best Broadcasting Company, Inc.[1] ("petitioner"), which seeks the assignment of UHF television Channel 18 to Farwell, Texas.

2. Farwell (population 1,354)[2] is the seat of Parmer County (population 11,038). It is located approximately 140 kilometers (88 miles) southwest of Amarillo and northwest of Lubbock in the Texas Panhandle. Farwell has no local television service.

3. According to petitioner, Farwell's economy would support a first television assignment. There are no television channels assigned to the community or to Parmer County.

4. The transmitter site is restricted to 1.5 miles north of the city to avoid short spacing to Channel 18 in Midland, Texas.

5. In view of the fact that Farwell could receive a first local television service, the Commission finds that it would be in the public interest to seek comments on the proposal to amend the Television Table of Assignments (§ 73.606(b) of the rules) as follows:

City	Channel No.	
	Present	Proposed
Farwell, Texas		18+

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before August 13, 1982, and reply comments on or before August 30, 1982, and are advised to read the Appendix for the proper procedures.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the Television Table of

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[1] Petitioner is the licensee of AM Station KZOL, and an applicant for FM Channel 222 (BPH 811016AQ) in Farwell. Petitioner states that if it is the ultimate permittee of television Channel 18, it will sell its conflicting broadcast interests or seek a waiver of § 73.636 in order to comply with the Commission's multiple ownership rules.

[2] Population figures were derived from the 1980 U.S. Census Advance Report.

Assignments, § 73.606(b) of the Commission's rules. See, *Certification that Section 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(l), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281(b)(6) of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the notice of proposed rule making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions or rule making which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rule making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, and original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 82-18824 Filed 7-8-82; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 47, No. 132
Friday, July 9, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Protection of Historic and Cultural Properties

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice of supplementary guidance regarding preparation of memoranda of agreement.

SUMMARY: On June 4, 1982, 47 FR 24306, the Advisory Council on Historic Preservation (Council) temporarily suspended its regulations at 36 CFR 800.6(c)(1) which set out directions for preparation of Memoranda of Agreement. The Council now publishes supplementary guidance for the preparation of Memoranda of Agreement to be used in lieu of § 800.6(c)(1).

FOR FURTHER INFORMATION CONTACT: John Fowler, General Counsel, Advisory Council on Historic Preservation, 1522 K Street NW., Suite 430, Washington, D.C. 20005, 202–254–3967.

SUPPLEMENTARY INFORMATION: The Council has prepared this "Supplementary Guidance: Preparation of Memoranda of Agreement" for Federal agencies, State Historic Preservation Officers, and other interested parties to use in lieu of 36 CFR 800.6(c)(1), which was suspended on June 4, 1982, in the preparation of Memoranda of Agreement under the Council's Section 106 process as set forth in 36 CFR Part 800. The purpose of the suspension and these guidelines is to introduce more flexibility into the Memorandum of Agreement process while providing sufficient direction for the adequate preparation of Memoranda of Agreement. The suspension and guidelines do not relieve Federal agencies of any other responsibilities regarding Memoranda of Agreement that are contained in other provisions of 36 CFR Part 800.

Robert R. Garvey,
Executive Director.

Supplementary Guidance: Preparation of Memoranda of Agreement

I. Purpose

This guidance is issued in accordance with 36 CFR 800.14 and provides Federal agencies, State Historic Preservation Officers, and other interested parties with information to assist in the preparation of Memoranda of Agreement (MOA) that are used to meet the requirements of section 106 of the National Historic Preservation Act. This guidance is in lieu of the provisions of 36 CFR 800.6(c)(1), which have been suspended. Suspension of 36 CFR 800.6(c)(1) does not eliminate other provisions of 36 CFR Part 800 regarding Memoranda of Agreement.

II. Policy

A duly executed MOA constitutes the comments of the Council and evidences that a Federal agency has taken into account the effects of its undertaking on historic properties. It is a contractual document setting forth the rights and responsibilities of the signatories. As such, it must be precise in its terms and clearly understandable as to the intent of the parties should a question arise regarding compliance with the MOA. Within this framework, MOAs should be crafted to meet the particular needs of each undertaking and the consulting parties. In reviewing MOAs, the Executive Director will seek to ensure that they accurately and concisely set forth the agreements reached by the parties and that they are then executed with a minimum of paperwork and delay. Objections to a proposed MOA will be based on questions relating only to substantive matters, the clarity of the MOA, or legal sufficiency. Elements strictly of form will not be a basis for rejecting a proposed MOA.

III. Preparation of an MOA

Depending on the circumstances of the particular undertaking, an Agency Official may elect to follow either the normal process of preparing an MOA or an expedited method. An Agency Official is encouraged to assume responsibility for preparing an MOA and should select the method most appropriate to the particular undertaking and its effects. An applicant for Federal assistance or approval may draft the MOA.

A. Normal Process

When the consultation process (§ 800.6(b)) the SHPO, and the Executive Director have reached agreement on feasible and prudent alternatives to avoid or mitigate the adverse effects of the undertaking and on proposed language for an MOA, the Agency Official should prepare the final MOA, unless the consulting parties determine otherwise. The Agency Official may submit to the Executive Director for review the MOA with the signature of the SHPO and, when appropriate, any other signatory or concurring parties. If the Executive Director determines that it accurately reflects the agreement of the consulting parties, he shall sign it and forward it within 10 days to the Chairman for ratification in accordance with § 800.6(c)(2). If the Executive Director determines the MOA is deficient, he may return it to the Agency Official for revision or may prepare an alternate MOA.

Alternately, to assist in focussing the consultation, a proposal for an MOA may be developed jointly by the Agency Official and the SHPO prior to formal initiation of the consultation process and submitted for consideration along with the preliminary case report. A draft should not be signed when it is submitted at the beginning of the consultation process. Formalities of preparing the final MOA shall be determined by the consulting parties as the consultation process is concluded.

B. Expedited Process

In the case of noncontroversial undertakings that have effects which are customarily mitigated in a standard manner, following accepted professional practices such as those set out in the Council's *Manual of Mitigation Measures*, initial discussion between the Agency Official and the SHPO may indicate that a certain course of action is desirable and that further consultation with the Council is likely to reach the same result. In such a case, the Agency Official may prepare an MOA, obtain the signatures of the SHPO and any other appropriate signatories or concurring parties and submit the MOA to the Executive Director concurrent with the request for comments and

preliminary case report (§ 800.4(d)). The Executive Director will review the MOA and accompanying documentation and, unless one of the following criteria is found to apply or the accompanying documentation is deficient, will sign the agreement within 30 days and forward it to the Chairman for ratification pursuant to § 800.6(c)(2). Normally, an on-site inspection and public information meeting be waived. The criteria for determining that further consultation is necessary are as follows:

1. Inadequate consideration of alternatives to lessen harm to historic properties.
2. Inadequacy of proposed mitigation measures.
3. Inadequacy of provisions to ensure that the mitigation measures are properly carried out.
4. Excessive costs of mitigation measures.
5. Inadequacy of public involvement or evidence of public controversy regarding impacts on historic properties.
6. Opposition of local government to the impacts of the undertaking or mitigation measures with regard to historic properties.

The Agency Official must ensure that the preliminary case report contains adequate information regarding these six areas. If the Executive Director determines further consultation is necessary, the consulting parties will then complete the consultation and prepare the MOA following the normal process.

IV. Formal Requirements of the MOA

Two principles guide the form of an MOA. First, an MOA is a legal document evidencing agency compliance with section 106 and must unambiguously state all the terms for taking into account the undertaking's effects on historic properties. Second, an MOA should be concise and free of extraneous language, while accurately reflecting the parties' intent. An MOA may be adapted to the needs of a particular situation as long as these two principles are met. Certain standard language is useful to ensure clarity; drafters are encouraged to employ accepted terms and phrases or incorporate by reference standards and guidelines issued by the Council to achieve their objectives. Drafters should not be constrained by stock terms when different language is more appropriate in a particular case. Objections to language simply because it deviates from a standard form will not be made unless there is a reason to believe the substituted language is ambiguous, misstates the intent of the parties, is legally insufficient or raises problems of substance.

An MOA must contain all the substantive elements of the agreement among the parties. These stipulations may be prepared as a separate document, delineating the rights and responsibilities of all signatories; this should be appended to an MOA that conforms to the attached sample. The stipulations may take the form of a letter or memorandum. Alternatively, the MOA may be drafted as a single document, incorporating the stipulations into the body of the MOA.

An MOA is normally executed with all signatures on a single original. Where all parties concur, an MOA may be executed in duplicate originals so that the assembled documents evidence the signatures of all parties, though not on a single document. An MOA executed this way will be submitted to the Chairman for ratification when all signed originals have been received by the Executive Director.

V. Parties to an MOA

The Council's regulations require that an MOA be signed by the Agency Official, the Executive Director, and the SHPO, unless the latter has declined to participate pursuant to § 800.5(c). As a general rule, any other party who assumes a responsibility for action under the terms of an MOA should also be a signatory. Other parties who have an interest in the undertaking and its effects on historic properties may be invited by the consulting parties to indicate their concurrence with the MOA. This can be indicated by a concurring signature on the MOA or a letter of concurrence.

VI. Additional Information

Agency Officials, SHPOs and others who have specific questions regarding the preparation of an MOA are encouraged to contact the Executive Director for assistance in meeting the objectives of this guidance.

Sample—Memorandum of Agreement

Whereas, the (agency) has determined that (undertaking) will have an effect upon properties included in or eligible for inclusion in the National Register of Historic Places and has requested the comments of the Advisory Council of Historic Preservation pursuant to section 106 (and section 110f) of the National Historic Preservation Act (16 U.S.C. 470) and its implementing regulations, "Protection on Historic and Cultural Properties (36 CFR Part 800).

Now, Therefore, the (agency), the (State) Historic Preservation Officer, and the Advisory Council on Historic Preservation agree that the undertaking shall be implemented in accordance with the (following or attached) stipulations in order to take into account the affect of the undertaking on historic properties.

(Insert stipulations or attach to document)

Execution of this Memorandum of Agreement evidences that the (agency) has afforded the Council a reasonable opportunity to comment on the (undertaking) and its effects on historic properties and that the (agency) has taken into account the effects of its undertaking on historic properties.

Agency Official Date

State Historic Preservation Officer Date

Executive Director, ACHP Date

Chairman, ACHP Date

[FR Doc. 82-18706 Filed 7-8-82; 8:45 am]
BILLING CODE 4310-10-M

DEPARTMENT OF AGRICULTURE

Forest Service

Nezperce National Forest Grazing Advisory Board; Meeting

The Nezperce National Forest Grazing Advisory Board will meet at 9:00 a.m., August 10, 1982, at Hoot's Cafe near White Bird, Idaho. The purpose of the meeting will be to make a guided field survey of noxious weeds, wildlife and local livestock grazing allotments.

Public participation is welcome; however, participants will be responsible for their own transportation.

David M. Spores,
Acting Forest Supervisor.
June 30, 1982.

[FR Doc. 82-18585 Filed 7-8-82; 8:45 am]
BILLING CODE 3410-11-M

South Kaibab Grazing Advisory Board; Meeting

July 1, 1982.

The South Kaibab Grazing Advisory Board will meet at 10:00 A.M., Friday, August 6, 1982, at the Supervisor's Office, 800 South 6th Street, Williams, Arizona.

The purpose of this meeting is:

1. Election of Officers.
2. Adoption of By-Laws.

3. Elk Management (Tom Britt—Arizona Game and Fish Department).

4. Development of Allotment Management Plans.

5. Utilization of Range Betterment Funds.

The meeting will be open to the public. Persons who wish to attend should notify: Forest Supervisor, Kaibab National Forest, 800 South 6th Street, Williams, Arizona 86046, Telephone: (602) 635–2681.

Those attending may express their views when recognized by the Chairman.

Dated: June 30, 1982.

Leonard A. Lindquist,

Forest Supervisor.

[FR Doc. 82–18601 Filed 7–8–82; 8:45 am]

BILLING CODE 3410–11–M

Rural Electrification Administration

Tri-State Generation and Transmission Association, Inc. and Colorado-Ute Electric Association, Inc.; Final Environmental Impact Statement

AGENCY: Rural Electrification Administration, USDA.

ACTION: Availability of Final Environmental Impact Statement.

SUMMARY: Notice is hereby given that REA has prepared a Final Environmental Impact Statement (FEIS) in connection with the proposed construction of an approximately 145 km (90 mi) 345 kV transmission line and associated facilities by the Tri-State generation and Transmission Association, Inc., (Tri-State) and Colorado-Ute Electric Association, Inc., (Colorado-Ute). The proposed line would connect the existing Hayden Substation in Routt County, Colorado, with the proposed Blue River Substation, to be located northwest of Dillon in Summit County, Colorado. REA has been requested to provide assistance with financing for the proposed construction.

DATE: Public comments must be received by REA no later than August 9, 1982.

ADDRESS: Submit written comments to Mr. Frank W. Bennett, Director, Power Supply Division, Rural Electrification Administration, Room Number 0230, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Mr. Frank W. Bennett, Director, Power Supply Division, above address, telephone number (202) 382–1400 or FTS 382–1400.

SUPPLEMENTARY INFORMATION: In connection with the anticipated request for financing assistance from Tri-State and Colorado-Ute, REA has prepared a FEIS on the proposed construction of an approximately 145 km (90 mi) 345 kV transmission line and associated facilities in Grand, Routt and Summit Counties, Colorado.

The FEIS may be examined during regular business hours at the following locations, and also at the public libraries of Northglenn (Adams County), Kremmling (Grand County), Steamboat Springs (Routt County) and Breckenridge (Summit County), Colorado.

Rural Electrification Administration, 14th and Independence Avenue SW., Washington, D.C. 20250

Tri-State Generation and Transmission Association, Inc., 12078 Grant Street, Thornton, Colorado 80241

Colorado-Ute Electric Association, Inc., 845 South Townsend Avenue, Montrose, Colorado 81401.

Alternatives considered in the FEIS are no action, alternative voltages, upgrading of existing facilities, alternative sources, energy conservation, and alternative routes and construction methods.

The preferred alternative, which is construction of the 345 kV transmission line, will not affect threatened or endangered species, prime farmland, archaeological or historic sites. The project is anticipated to affect some floodplain and wetland areas associated with the Colorado and Yampa Rivers. To cross the Colorado River a maximum of 5 km (3 mi) of designated 100-year floodplain will be crossed. For the Yampa River, a maximum of 2 km (1.6 mi) of designated 100-year floodplain will be crossed. REA has tentatively concluded that there is no practicable alternative to crossing these areas. Further information concerning this matter can be found in the FEIS.

Copies of the FEIS have been sent to various Federal, State and local agencies and individuals outlined in the Council on Environment Quality guidelines (40 CFR Part 1500). Limited copies of the FEIS are available upon request to: Mr. Frank W. Bennett, Director, Power Supply Division, address above.

Final REA action concerning the project, including any release of funds for construction, will be taken only after REA has reached satisfactory conclusions with respect to its environmenal effects and compliance with the National Environmental Policy Act of 1969 and with other environmentally related statutes, regulations, Executive Orders and Secretary's Memoranda.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated: July 2, 1982.

Jack Van Mark,

Acting Administrator.

[FR Doc. 82–18683 Filed 7–8–82; 8:45 am]

BILLING CODE 3410–15–M

United Power Association; Elk River, Minn.; Proposed Loan Guarantee

Under the authority of Pub. L. 93–32 (87 Stat. 65), and in conformance with the applicable agency policies and procedures as set forth in REA Bulletin 20–22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $5,748,000 to United Power Association (UPA) of Elk River, Minnesota. This loan guarantee will be used to finance UPA's 44 percent share of system improvements at the existing Coal Creek 1000 MW power plant and associated transmission facilities.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. Phillip O. Martin, Manager, United Power Association, Elk River, Minnesota 55330.

In order to be considered, proposals must be submitted on or before August 9, 1982, to Mr. Martin. The right is reserved to give such consideration and to make such evaluation or other disposition of all proposals received as UPA and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20–22 are available from the Director, Public Information Office, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 1st day of July, 1982.

Jack Van Mark,

Acting Administrator, Rural Electrification Administration.

[FR Doc. 82-18662 Filed 7-8-82; 8:45 am]

BILLING CODE 3410-15-M

Soil Conservation Service

Calapooya Creek Watershed, Oregon; Availability of a Record of Decision

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of availability of a record of decision.

SUMMARY: Jack P. Kanalz, the Responsible Federal Official for projects administered under the provisions of Pub. L. 83-566, 16 U.S.C. 1001-1008, in the State of Oregon, is hereby providing notification that a Record of Decision to proceed with the installation of the Calapooya Creek Watershed Project is available. Single copies of the Record of Decision may be obtained from Jack P. Kanalz at the address shown below.

FOR FURTHER INFORMATION CONTACT: Jack P. Kanalz, State Conservationist, Soil Conservation Service, 1220 S.W. Third Avenue, 16th Floor, Portland, Oregon 97204, telephone (503) 221-2751.

(Catalog of Federal Domestic Assistance Program No. 10.904 Watershed Protection and Flood Prevention. Office of Management and Budget Circular A-95 regarding state and local clearinghouse review of federal and federally-assisted programs and projects is applicable)

Dated: June 30, 1982.

W. R. Evans,

Acting State Conservationist.

[FR Doc. 82-18718 Filed 7-8-82; 8:45 am]

BILLING CODE 3410-16-M

Wheeling Creek Watershed, Pennsylvania and West Virginia

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of Availability of a Record of Decision.

FOR FURTHER INFORMATION CONTACT: Graham T. Munkittrick, State Conservationist, Soil Conservation Service, P.O. Box 985, Federal Square Station, Harrisburg, Pennsylvania 17108, telephone (717) 782-2202.

Notice

Graham T. Munkittrick, responsible Federal official for projects administered under the provisions of Pub. L. 83-566, 16 U.S.C. 1001-1008, in the State of Pennsylvania, is hereby providing notification that a Record of Decision to proceed with the completion of the Wheeling Creek Watershed project is available. Single copies of this Record of Decision may be obtained from Graham T. Munkittrick at the above address.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally-assisted programs and projects is applicable)

Dated: June 29, 1982.

Graham T. Munkittrick,

State Conservationist.

[FR Doc. 82-18617 Filed 7-8-82; 8:45 am]

BILLING CODE 3410-16-M

OFFICE OF THE FEDERAL INSPECTOR FOR THE ALASKAN NATURAL GAS TRANSPORTATION SYSTEM

Final Design Cost Estimate

AGENCY: Office of the Federal Inspector for the Alaska Natural Gas Transportation System.

ACTION: Notice of tentative decision and request for public comments, on the final design cost estimate for Compressor Station No. 8 on Phase I of the Eastern Leg of the Alaska Natural Gas Transportation System.

Take notice that on July 2, 1982, the Office of the Federal Inspector (OFI) made a tentative decision on the Final Design Cost Estimate (FDCE) submitted by the Northern Border Pipeline Company for Compressor Station No. 8 being constructed in Phase I of the Eastern Leg of the Alaska Natural Gas Transportation System. Copies of this tentative decision are available by writing or telephoning: Mr. Richard Berman, Director, Audit and Cost Analysis, Office of the Federal Inspector, ANGTS, Room 2319, Post Office Building, 1200 Pennsylvania Avenue, N.W., Washington, DC 20044; (202) 275-1153.

Public comments on this tentative decision should be submitted in writing to the OFI, at the same address by August 2, 1982.

As a first step to implement the Incentive Rate of Return (IROR) for Phase I of the Eastern Leg, the Federal Energy Regulatory Commission (FERC) on April 28, 1980, set the Certification Cost and Schedule Estimate (CCSE) at $1,061,581,000 (1979 dollars).

On April 15, 1981, the OFI approved a FDCE of $1,226,462,100, incorporating certain changes to the certificated design. Subsequently, Northern Border applied for and was granted by the FERC (Docket Nos. CP78-123, *et al.*, April 24, 1981) a Certificate of Public Convenience and Necessity for a Second Compressor Station as part of the Phase I facilities, including a CCSE for the station of $10,743,000.

Northern Border then applied to the OFI for approval of changes to its compressor station design. These engineering and schedule matters have been analyzed and approved, where appropriate, by OFI. As a related matter, Northern Border seeks OFI approval of an increase of about $964,000 from its CCSE to yield its FDCE upon which the IROR will operate.

It is solely this $964,000 portion of the FDCE for Compressor Station No. 8 to which the OFI's tentative decision is, and public comments should be, addressed. Commenters may also address whether these design changes comport with Condition 9 of the FERC's Order Nos. 31 and 31-B.

Dated: July 2, 1982.

Peter L. Cook,

Acting Federal Inspector.

[FR Doc. 82-18577 Filed 7-8-82; 8:45 am]

BILLING CODE 6115-01-M

CIVIL AERONAUTICS BOARD

[Docket 40658]

Hawaii Express, Inc., Fitness Investigation; Reopened Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the hearing in the above-titled proceeding will be reopened on July 9, 1982, at 10:00 a.m. (local time), in Room 1012, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D C., before Administrative Law Judge William A. Kane, Jr.

For information concerning the issues involved and other details of this proceeding, interested persons are referred to Board Order 82-5-128 adopted May 24, 1982, the order by the undersigned dated June 30, 1982, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., July 1, 1982.

William A. Kane, Jr.,

Administrative Law Judge.

[FR Doc. 82-18657 Filed 7-8-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40627]

Houston-Acapulco Route Proceeding; Hearing

Notice is hereby given that a hearing in the above-entitled matter is assigned to be held commencing August 3, 1982, at 10:00 a.m. (local time), in Room 1003, Hearing Room A, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., June 30, 1982.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 82-18058 Filed 7-8-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-428-062]

Animal Glue and Inedible Gelatin From West Germany; Final Results of Administrative Review of Antidumping finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Antidumping Finding.

SUMMARY: On December 29, 1981, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on animal glue and inedible gelatin from West Germany. The review covered eight of the nine known exporters of this merchandise to the United States and separate time periods for each through November 30, 1980.

Interested parties were given an opportunity to submit written comments or request a hearing on these preliminary results. Two exporters provided written comments which the Department reviewed. After our analysis of these comments, our results of review remain unchanged.

EFFECTIVE DATE: July 9, 1982.

FOR FURTHER INFORMATION CONTACT: Betty H. Laxague or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-3601).

SUPPLEMENTARY INFORMATION:

Background

On December 22, 1977, an antidumping finding with respect to animal glue and inedible gelatin from West Germany was published in the **Federal Register** as Treasury Decision 78-1 (42 FR 64116). On December 29, 1981, the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 62887-9) the preliminary results of its administrative review of the finding. The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of animal glue and inedible gelatin, of which there are two principal types, hide glue and bone glue. They are organic colloids of protein derivation. There is no significant difference between animal glue and inedible gelatin. Animal glues are odorless, dry, hard, hornlike materials. They are used as general purpose adhesives in industries producing abrasives, paper containers, book and magazine bindings, and leather goods. They are also used as sizing agents, as an essential part of many compositions, and as colloids in emulsions and cleaning compounds. Animal Glue and inedible gelatin are currently classifiable under items 455.4000 and 455.4200 of the Tariff Schedules of the United States Annoated (TSUSA).

The Department knows of a total of nine West German firms engaged in the production and exportation of animal glue and inedible gelatin to the United States. This review covers eight of the firms and various periods through November 30, 1980.

Analysis of Comments Received

Interested parties were given an opportunity to submit comments on the preliminary results. We received the following comments.

(1) *Comment:* One exporter, Gould-Metall GmbH, maintains that, since it sells glue only to its related companies in the U.S. for their own use, it should not be covered by the dumping finding.

Position: Gould-Metall informed the Department that it purchased glue exclusively for sale to its related companies in the U.S. Gould-Metall purchased the glue from Deutsche Gelatine Fabriken, Stoess & Co. ("Stoess"). Stoess did not provide the Department with any information concerning its sales either to Gould-Metall or in the home market. Since Stoess did not provide sufficient information for us to analyze, and since there was no previous information available for Stoess, the Department used the best information available which was the highest margin calculated during the original fair value investigation, that is, 158 percent, which was higher than rates for responding firms with shipments in the current period.

(2) *Comments:* Another exporter, Ph. Carl Weiss ("Weiss"), maintains that, since all of its shipments to the U.S. were sold to European dealers which in turn sold to the U.S., Weiss should be considered as not having any sales to the U.S. however, if its sales are considered sales to the U.S., it indicated that the sales prices charged by the dealers to the U.S. customers should be used for United States price.

Position: The Department determined that the manufacturer knew the merchandise it sold to dealers was destined for the U.S. market. Accordingly, we have determined that Weiss was selling to the U.S. and that its prices to dealers should be used to calculate U.S. price.

Final Results of the Review

As a result of our analysis of these comments, the final results of our review are the same as those presented in our preliminary results of review, and we determine that the following weighted-average margins exist:

Manufacturer/exporter	Time period	Margin (percent)
Rendsburg	05/05/79-11/30/80	[1]158.00
Martens	07/01/78-12/31/78	0
	01/01/79-11/30/80	[1]0
Conradt	05/02/79-11/30/80	[1]67.00
Stoess/Gould	01/01/78-11/30/80	158.00
Hacker	06/01/78-11/30/80	0
Weiss	05/01/78-12/31/78	22.64
	01/01/79-12/31/79	8.25
	01/01/80-11/30/80	15.34
Animal Produkten	09/01/78-11/30/80	100.00

[1]No shipments during the period.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate shipments made by these firms with purchase dates during the periods involved. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided for by section 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumpting duties based on the margins calculated above shall be required on all shipments by these firms of animal glue and inedible gelatin from West Germany entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. For any shipment from a new exporter not covered in this review, unrelated to any covered firm, a cash

deposit shall be required at the highest rate for responding firms with shipments during the most recent period in which shipments occurred. These deposit requirements shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of December 1982.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and §353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

July 2 1982.

[FR Doc. 82-18863 Filed 7-8-82; 8:45 am]

BILLING CODE 3510-25-M

[A-580-073]

Bicycle Tires and Tubes From Korea; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Antidumping Finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on bicycle tires and tubes from Korea. This review covers the six known manufacturers and exporters of this merchandise to the United States and generally the period from April 1, 1980 through March 31, 1981. The review indicates the existence of de minimis dumping margins in the period for two exporters and margins in an earlier period for a third firm. As a result of the review, the Department has preliminarily determined to assess dumping duties for the three exporters equal to the calculated differences between foreign market value and United States price on each of their shipments occuring during the covered periods. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: July 9, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph A. Fargo or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-3020/2496).

SUPPLEMENTARY INFORMATION:

Background

On April 13, 1979, a dumping finding with respect to bicycle tires and tubes from Korea was published in the **Federal Register** as Treasury Decision 79-115 (44 FR 22051-2). The Department of Commerce published in the **Federal Register** of March 16, 1981 (46 FR 16921) a notice of intent to conduct administrative reviews of outstanding dumping findings. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has conducted an administrative review of the finding on bicycle tires and tubes from Korea. The substantive provisions of the Antidumping Act of 1921 ("the 1921 Act") apply to all unliquidated entries made prior to January 1, 1980.

Scope of the Review

Imports covered by this review are shipments of bicycle tires and tubes from Korea. The term "bicycle tires and tubes" means pneumatic bicycle tires and tubes of rubber or plastics, whether such tires and tubes are sold together as units or separately. Bicycle tires and tubes are currently classifiable under items 772.4800 and 772.5700 respectively of the Tariff Schedules of the United States Annotated (TSUSA). The Department knows of six exporters to the United States of Korean bicycle tires and tubes. This review covers those firms generally for the period from April 1, 1980 through March 31, 1981.

The Department discovered the existence of one firm, Dae Woo Industrial Co., Ltd., too late for inclusion in the last administrative review. This present review therefore covers the period from April 1, 1978 through March 31, 1981 for Dae Woo. Daw Woo did not export bicycle tires and tubes during the latter period covered by this review. The estimated cash deposit rate for this firm shall be its margin for the earlier period since this is the most recent information available.

United States Price

In calculating United States price, the Department used purchase price, as defined in section 772 of the Tariff Act or section 203 of the 1921 Act as appropriate, since all sales were made to unrelated purchasers. Purchase price was calculated on the basis of either the F.O.B. or C&F packed price to unrelated purchasers in the United States. Where applicable, deductions were made for inland freight, customs brokerage charges, wharfage, and commissions to unrelated parties. Additions were made for customs duties, defense taxes and value-added taxes incurred on raw materials rebated by reason of exportation of the merchandise to the United States. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value, the Department used home market price, as defined in section 773(a) of the Tariff Act or section 205 of the 1921 Act as appropriate, for five companies since sufficient quantities of such or similar merchandise were sold in the home market by them to provide a basis for comparison during the periods covered. The Department used third-country price (Canada), as defined in section 773(b) of the Tariff Act, for the sixth company since such or similar merchandise was not sold by it in the home market. The home market prices and third-country prices are based on either delivered or F.O.B. prices to unrelated purchasers in the home market or third country, with adjustments for inland freight, rebates, bonuses, commissions to unrelated parties, credit costs incurred on delayed payment on home market sales, advertising costs incurred on behalf of customers and directly related to bicycle tires and tubes sold in the home market in accordance with section 353.15 of the Commerce Regulations, and packing differences where applicable. Also, where appropriate we made adjustments based on cost for differences in similar merchandise in accordance with section 353.16 of the Commerce Regulations. Claims made for insurance, advertising, bad debts, entertainment expenses and interest costs were not allowed because the firms did not showe that such costs were directly attributable to sales of bicycle tires and tubes. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determined that the following margins exist:

Korean exporter	Time period	Margin (percent)
Dae Yung Commercial Co., Ltd.	4/1/80-3/31/81	0.00
Hung-A Industrial Co., Ltd.	4/1/80-3/31/81	0.00
Korea Inoue Kasei Co., Ltd.	4/1/80-3/31/81	8.15
Shin Hung Rubber Co., Ltd.	4/1/80-3/31/81	0.37
Dae Woo Industrial Co., Ltd.	4/1/78-3/31/81	2.32
	4/1/80-3/31/81	[1]0.00
Kukje (KCC) Corporation	4/1/80-3/31/81	0.00

[1] No shipments during this period.

Interested parties may submit written comments on these preliminary results on or before August 9, 1982, and may

request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 30 days after publication of this notice or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries made with purchase dates during the time periods involved. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided for by § 353.48(b) of the Commerce Regulations, a cash deposit based upon the most recent of the margins calculated above shall be required on all shipments entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. Since the margins for Shin Hung Rubber Co. and Korea Inoue Kasei Co. are less than 0.5 percent and therefore *de minimis*, the Department shall waive the cash deposit requirement for these firms. Cash deposit and assessment rates shall be reduced by the amount of any countervailing duty attributable to export subsidies. These cash deposit requirements and waivers shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary, Import Administration.

July 2, 1982.

[FR Doc. 82-18654 Filed 7-8-82; 8:45 am]

BILLING CODE 3510-25-M

[A-401-040-001]

Stainless Steel Plate From Sweden; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Antidumping Finding.

SUMMARY: On May 6, 198[illegible] the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on stainless steel plate from Sweden. The review covered one of the two known exporters of this merchandise to the United States, Avesta Jernverks Aktiebolag, and the period October 1, 1976 through May 31, 1980.

Interested parties were given an opportunity to submit oral or written comments on these preliminary results. We received no comments.

EFFECTIVE DATE: July 9, 1982.

FOR FURTHER INFORMATION CONTACT: Valerie Newkirk or John Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-3601).

SUPPLEMENTARY INFORMATION:

Background

On June 8, 1973, an antidumping finding with respect to stainless steel plate from Sweden was published in the **Federal Register** as Treasury Decision 73-157 (38 FR 15079). On May 6, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 19571-72) the preliminary results of its administrative review of the finding. The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of stainless steel plate, which is commonly used in scientific and industrial equipment because of its resistance to staining, rusting, and pitting. Stainless steel plate is currently classifiable under item 607.9005 of the Tariff Schedules of the United States Annotated (TSUSA).

The Department knows of two exporters of stainless steel plate from Sweden to the United States, Avesta Jernverks Aktiebolag ("Avesta") and Uddeholm/Nyby Uddeholm AB ("Uddeholm"). This review covers Avesta for the period October 1, 1976 through May 31, 1980. The Department separately reviewed Uddeholm for the period January 1, 1980 through May 31, 1980 (47 FR 16666-7). The Department will cover shipments by both firms in earlier periods, unreviewed by the Treasury Department, in a subsequent review.

Final Results of the Review

Interested parties were invited to comment on the preliminary results. The Department received no written comments or requests for a hearing. Therefore, the final results of our review are the same as those presented in the preliminary results of review, and we determine that a margin of 5.22 percent exists for the period.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries with purchase dates during the period involved. The Department will issue assessment instructions directly to the Customs Service.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the above margin shall be required on all shipments of stainless steel plate manufactured by Avesta entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of June 1983. The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

July 2, 1982.

[FR Doc. 82-18655 Filed 7-8-82; 8:45 am]

BILLING CODE 3510-25-M

Initiation of Countervailing Duty Investigation; Steel Wire Rope From South Africa

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of Countervailing Duty Investigation.

SUMMARY: On the basis of a petition filed with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether producers, manufacturers, or exporters in South Africa of steel wire rope receive benefits which constitute bounties or grants within the meaning of the countervailing duty law. If our investigation proceeds normally, we will make our preliminary determination on or before September 7, 1982.

EFFECTIVE DATE: July 9, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph A. Black, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230 (202) 377–1774.

SUPPLEMENTARY INFORMATION:

Petition

On June 14, 1982, we received a petition from counsel for the Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers, on behalf of the U.S. industry producing steel wire rope. In compliance with the filing requirements of section 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in South Africa of steel wire rope receive, directly or indirectly, bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the "Act").

Since South Africa is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and the steel wire rope at issue here is dutiable, the domestic industry is not required to allege that, and the U.S. International Trade Commission ("ITC") is not required to determine whether, imports of these products cause or threaten material injury to the U.S. industry in question.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on steel wire rope, and we have found that the petition meets these requirements.

Therefore, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in South Africa of steel wire rope as described in the "Scope of the Investigation" section of this notice receive bounties or grants. If our investigation proceeds normally, we will make our preliminary determination by September 7, 1982.

Scope of the Investigation

For the purpose of this investigation, the term "steel wire rope" covers ropes, cables, and cordage, other than wire strand, made of steel wire, other than brass plated wire, whether or not cut to length and not fitted with hooks, swivels, clamps, clips, thimbles, sockets or other fittings, or made up into slings, cargo nets, or similar articles and not covered with textile or other nonmetallic material, currently provided for in items 642.1200, 642.1400, 642.1600, and 642.1650 of the *Tariff Schedules of the United States Annotated.*

Allegations of Bounties or Grants

The petition alleges that manufacturers, producers, or exporters of steel wire rope in South Africa receive the following benefits that constitute bounties or grants: reduced transportation rates; preferential pre- and post-shipment financing for exports; tax deductions and investment allowances for doing business in certain development areas and in the beneficiation of base minerals; rebates provided through the Iron and Steel Export Promotion Scheme; and tax deductions and rebates provided through the Export Incentive Program.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

July 2, 1982.

[FR Doc. 82-18041 Filed 7-8-82; 8:45 am]

BILLING CODE 3510-25-M

Importers and Retailers and Management-Labor Textile Advisory Committees; Public Meetings

July 1, 1982.

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Importers and Retailers' Textile Advisory Committee was established by the Secretary of Commerce on August 13, 1963 to advise U.S. Government officials of the effects on imports markets of cotton, wool, and man-made fiber textile agreements.

The Management-Labor Textile Advisory Committee was established by the Secretary of Commerce on October 18, 1961 to advise U.S. Government officials on problems and conditions in the textile and apparel industry and furnish information on world trade in textiles and apparel.

TIME AND PLACE: September 8, 1982 at 10:30 a.m. for the Importers and Retailers and 1:00 p.m. for the Management-Labor Textile Advisory Committee. The meetings will take place at the Main Commerce Building, Room 6802, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. (Public entrance to the building is on 14th Street between Constitution Avenue and E Streets, N.W.)

AGENDA: (1) Review of import trends, (2) Implementation of textile agreements, (3) Report on conditions in the domestic market, and (4) Other business.

PUBLIC PARTICIPATION: The meetings will be open to public participation to the extent time is available. The public may file written statements with the Committees before or after the meetings. Approximately 30 seats will be available for the public on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Helen L. LeGrande, Office of the Deputy Assistant Secretary for Textiles and Apparel, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202/377–3737.

Paul T. O'Day,

Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc. 82-18042 Filed 7-8-82; 8:45 am]

BILLING CODE 3510-25-M

Telecommunications Equipment Technical Advisory Committee; Closed Meeting

Agency holding the meeting: International Trade Administration.

Federal Register citation of previous announcement: 47 FR 25175.

Previously announced time and date of the meeting: 10:00 a.m., July 13, 1982. Changes in the meeting: 10:00 a.m., July 20, 1982, at the Main Commerce Building, Room B841, 14th Street and Constitution Avenue, N.W., Washington, D.C.

Dated: July 6, 1982.

Vincent F. DeCain,

Acting Director, Office of Export Administration.

[FR Doc. 82-18052 Filed 7-8-82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

National Marine Fisheries Service; Issuance of Permit

On May 26, 1982, Notice was published in the **Federal Register** (47 FR 23000), that an application had been filed with the National Marine Fisheries Service by Tel Aviv Dolphinarium, Ltd., Charles Clore Park, Herbert Samuel Boulevard, P.O. Box 29131, Tel Aviv 61290, Israel, for a Permit to take six (6) Atlantic bottlenose dolphins (*Tursiops truncatus*) for the purpose of public display.

Notice is hereby given that on July 2, 1982, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C 1361–1407), the National Marine Fisheries Service issued a Permit for the above

taking to Tel Aviv Dolphinarium subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, Duval Building, St. Petersburg, Florida 33702.

Dated: July 2, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-18636 Filed 7-8-82; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Increasing Import Restraint Levels for Certain Cotton and Man-Made Fiber Textile Products From the Republic of Singapore

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing the consultation levels for women's, girls', and infants' cotton and man-made fiber blouses in Categories 341 and 641, produced or manufactured in the Republic of Singapore and exported during the agreement year which began on January 1, 1982, to respective levels of 58,276 dozen from 48,276 dozen and to 89, 276 dozen from 48, 276 dozen.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926), and May 13, 1982 (47 FR 20654)).

SUMMARY: Pursuant to the terms of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of September 21 and 22, 1978, as amended, between the Governments of the United States and the Republic of Singapore, the consultation levels established for cotton and man-made fiber textile products in Categories 341 and 641 are being increased for the agreement year which began on January 1, 1982 and extends through December 31, 1982.

EFFECTIVE DATE: July 12, 1982.

FOR FURTHER INFORMATION CONTACT: Ronald J. Sorini, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-4212).

SUPPLEMENTARY INFORMATION: On December 18, 1981, there was published in the **Federal Register** (46 FR 61687) a letter dated December 15, 1981 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton, wool, and man-made fiber textile products, produced or manufactured in Singapore, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1982 and extends through December 31, 1982. In the letter published below, in accordance with the terms of the bilateral agreement, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to adjust the twelve-month levels previously established for Categories 341 and 641 to the designated amounts.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

July 2, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 15, 1981 from the Chairman of the Committee for the Implementation of Textile Agreements which directed you to prohibit entry for consumption, or withdrawal from warehouse for consumption, during the twelve-month period which began on January 1, 1982 and extends through December 31, 1982, of cotton, wool, and man-made fiber textile products in certain specified categories, produced or manufactured in Singapore, in excess of designated levels of restraint.

Effective on July 12, 1982, you are directed to increase the levels previously established for cotton and man-made fiber textile products in Categories 341 and 641 to the following amounts:

Category	Amended 12-mon. level of restraint [1] (dozen)
341	58,276
641	89,276

[1] The levels of restraint have not been adjusted to reflect any imports after December 31, 1981.

The actions taken with respect to the Government of the Republic of Singapore and with respect to imports of cotton and man-made fiber textile products from Singapore have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioners of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-18643 Filed 7-8-82; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1982; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1982 commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: July 9, 1982.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: W. FLETCHRE, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On March 19, 1982 and April 30, 1982, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (47 FR 11918 and 47 FR 18639) of proposed additions to Procurement List 1982, Noverber 12, 1981 (46 FR 55740).

After consideration of the revelant matter presented, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following commodities and services are hereby added to Procurement List 1982:

Class 4130

Filter, Air Conditioning
4130-00-870-8796
4130-00-274-7800
4130-00-541-3220
4130-00-756-1840
4130-00-720-4143
4130-00-349-0966

4130-00-203-3318
4130-00-203-3321
4130-00-542-4482
4130-00-959-4734
4130-00-756-0978
4130-00-951-1208
(For GSA Regions 4 and 5)

SIC 7349

Janitorial Service
Federal Building, Moultrie, Georgia
Federal Building, U.S. Post Office and U.S. Courthouse, Thomasville, Georgia
Janitorial/Custodial,
Federal Building, 6th and State Streets, Erie, Pennsylvania

SIC 7641

Metal Furniture Rehabilitation, Naval Ordance Station, Louisville, Kentucky

C. W. Fletcher,
Executive Director.

[FR Doc. 82-18644 Filed 7-8-82; 8:45 am]
BILLING CODE 6820-33-M

Procurement List 1982; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to Procurement List 1982 commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: August 11, 1982.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committeee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commmodities and services to Procurement List 1982, November 12, 1981 (46 FR 55740):

Class 7510

Pencil, Fine-Line, Writing
7510-00-286-5755
7510-00-286-5750
7510-00-286-5751
Pocket Planning Set
7510-01-119-6368

Class 7510

Refill, Pocket Planning set
7510-01-113-2079

Class 7520

Pencil, Mechanical
7520-01-126-7760
7520-01-132-4996
Trimmer, Paper
7520-00-224-7620

Class 7530

Jacket, Filing, Wallet
7530-00-285-2915
Paper Sets, Manifold and Carbon
7530-00-401-6910
7530-01-072-2536
7530-01-072-2537
7530-01-072-2538
7530-01-072-2539
(GSA Regions 2 and 5)

Class 8105

Bag, Evidence
8105-00-NIB-0001 (18×20")
8105-00-NIB-0002 (12×20")
8105-00-NIB-0003 (8×14")
8105-00-NIB-0004 (6×12")
8105-00-NIB-0005 (5×8")

Class 8440

Neckerchief, Desert
8440-01-103-5481

Class 8465

Cover, Field Pack, Camouflage
8465-01-103-0659

SIC 7349

Janitorial/Custodial,
Federal Building,
U.S. Post Office,
Courthouse,
Charleston, South Carolina
Janitorial/Mechanical Maintenance,
Federal Building,
U.S. Post Office,
403 West Lewis Street,
Pasco, Washington

C. W. Fletcher,
Executive Director.

[FR Doc. 82-18645 Filed 7-8-82; 8:45 am]
BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent To Prepare Draft Environmental Impact Statement (DEIS) for Flood Control Project at Oneida Creek in Oneida, Madison County, NY

AGENCY: U.S. Army Engineer District, Buffalo, DOD.

ACTION: Notice of intent to prepare a draft environmental impact statement (DEIS).

PROPOSED ACTION: The proposed action would involve various structural and nonstructural measures to provide a 500-year level of flood protection for Oneida Creek, to the occupants of the floodplain in the city of Oneida, Madison County, and the towns of Vernon and Verona, Oneida County, NY. Structural measures would include levee and training dike construction, an overflow channel, and construction of a holiday pond. In addition, a series of nonstructural measures such as floodproofing and relocations are proposed.

ALTERNATIVES CONSIDERED: A total of four alternatives were considered in detail. Each of these alternatives are briefly described below:

1. *No Action*—This alternative plan implies that the Federal Government acting through the Corps of Engineers, would take no structural or nonstructural action to reduce flood damage under the existing study authority.

2. *Plan C.1*—This plan entails the removal of approximately 27,000 cubic yards of an abandoned New York Central Railroad (NYCRR) bridge embankment (right bank) to reduce the flow constriction in the creek, thus creating a dry overflow diversion channel. In addition to this structural measure, nonstructural measures such as small ring levees, floodwalls, flood shields, and relocations would be provided.

3. *Plan D*—This plan would remove a portion of the NYCRR bridge (ref. Plan C.1), and would rebuild the existing levee to Federal standards. A training dike would be constructed in the underpass of the railroad embankment (left bank) to prevent overbank flooding from flowing back behind the levee. Interior drainage behind the levee would be handled by a system consisting of drainage ditches, storm sewers with flap gates, and a constructed 5.6-acre grass-

lined holding pond. In addition, nonstructural measures such as floodproofing berms, and relocation would be provided on the right bank.

4. *Plan G*—This plan would be permanent evacuation of the 100-year floodplain. All homes, businesses and structures, as well as utilities, driveways, and sidewalks would be removed. All residents and businesses would be relocated outside the floodplain. The vacant land would become a green span area.

Public Involvement

Considerable public involvement has been conducted for the Oneida Creek Flood Control Project. Three public workshops were held in the city of Oneida—10 December 1979, 5 November 1981, and 27 May 1982. In addition, a public meeting on 28 April 1981 was held to present Stage 2 planning information.

Issues

Significant issues to be analyzed in the DEIS will include a determination of the extent to which the selected plan and any other reasonable alternatives might have a positive or negative impact upon the physical, biological, cultural, and socioeconomic condition of the project area. In addition, all applicable laws and statutes outlined in 40 CFR 1502.25 and Corps of Engineers ER 200-2-2 will be reviewed and consulted during the preparation of the DEIS.

Scoping Needs

No scoping meeting will be held, since adequate coordination has already been conducted. A meeting with the public will be scheduled during the DEIS review period.

Availability

The Draft Environmental Impact Statement should be available for public review on or about 1 December 1982.

Address

Questions concerning this proposed action and DEIS should be directed to Mr. Philip D. Frapwell, U.S. Army Engineer District, 1776 Niagara Street, Buffalo, NY 14207, Tel. No. 716/876-5454.

Dated: July 1, 1982.

George P. Johnson,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 82-18802 Filed 7-8-82; 8:45 am]
BILLING CODE 3710-GF-M

DEPARTMENT OF ENERGY

Energy Emergencies Telephone Contact Number

June 30, 1982.

AGENCY: Assistant Secretary for Environmental Protection, Safety, and Emergency Preparedness, DOE.

ACTION: Energy Emergency Contact Telephone Number.

SUMMARY: DOE hereby gives notice of the establishment of a new energy emergency contact telephone number, (202) 252-5161, for use by utilities, energy concerns, Government agencies, and the general public, who wish to report energy emergencies to the DOE. This replaces the telephone number formerly used for electricity emergency reporting: (202) 653-3832. Such emergency energy reports should not be considered as satisfying the mandatory reporting requirements established by the Federal Energy Regulatory Commission (FERC) or other Federal agencies.

DATE: July 9, 1982.

FOR FURTHER INFORMATION CONTACT: Ronald L. Winkler, Deputy Assistant Secretary for Energy Emergencies, Department of Energy, Room 3G-072, Forrestal Building (EP-40), 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-2443.

SUPPLEMENTARY INFORMATION: Pursuant to the recent DOE reorganization, the Office of Energy Emergencies of DOE is responsible for receiving timely reports of energy emergency situations from electric utilities, petroleum refinery and/or operating organizations, natural gas production and transmission utilities, Federal agencies, State and local governments and the general public when Federal response action may be appropriate. Certain types of electric power outages, major electric system disturbances and other similar events must be reported to DOE pursuant to 10 CFR 205.355 *et seq.*, while reports of any other energy emergencies are voluntary. To assure the timely receipt of this information, the Office of Energy Emergencies has established an Alert Coordination Officer (ACO) system and a single telephone number, (202) 252-5161, to which reports may be made. This telephone number will be answered 24 hours per day, seven days per week, and replaces the telephone number formerly used for electric power outages and disturbance reporting, (202) 653-3832, which has been disconnected.

Written reports regarding energy emergencies should be sent to: Alert Coordination Officer, Office of Energy Emergencies, Department of Energy, Room 3G-072, Forrestal Building (EP-40), 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Recently, the FERC issued a Notice of Proposed Rulemaking indicating certain proposed reporting procedures and a telephone number for use by natural gas pipeline companies during service interruptions or emergencies. 47 FR 16644 (April 19, 1982). The Office of Energy Emergencies of DOE currently is discussing with FERC the possibility of coordinating these emergency alert procedures. If that proves feasible, we may need to adopt changes in one or both alert systems. However, as noted above, for the present, the telephone contact number and alert system established by this notice is separate and distinct from the FERC procedures proposed in the April 19, 1982 Notice.

Issued in Washington, D.C. on June 30, 1982.

William A. Vaughan,

Assistant Secretary for Environmental Protection, Safety, and Emergency Preparedness.

[FR Doc. 82-18840 Filed 7-8-82; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59089B; TSH-FRL 2166-7]

Approval of Test Marketing Exemption; Formaldehyde Polymer With 2-Furanmethanol and 2-Methyloxirane

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA received an application for a test marketing exemption (TM-82-20) under section 5 of the Toxic Substances Control Act (TSCA) on May 20, 1982. Notice of receipt of the application was published in the **Federal Register** of May 28, 1982 (47 FR 23554). EPA has granted the exemption.

EFFECTIVE DATE: This exemption is effective on July 2, 1982.

FOR FURTHER INFORMATION CONTACT: E. June Thompson, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-221, 401 M St., SW., Washington, DC 20460, (202-755-9190).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a notice to EPA before manufacture or import begins. A "new" chemical

substance is any chemical substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with section 5(d) and any applicable requirements of section 5(b). Section 5(d)(1) defines the contents of a PMN and section 5(b) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemptions", contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirements of section 5(a) or section 5(b), and to permit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under section 5(h)(6) the Agency must publish a notice of this disposition in the **Federal Register**. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

On May 20, 1982, EPA received an application from the Quaker Oats Company for an exemption from the requirements of sections 5(a) and 5(b) of TSCA to manufacture a new chemical substance for test marketing purposes. The application was assigned test marketing exemption number TM–82–20. The submission is for a formaldehyde polymer with 2-furanmethanol and 2-methyloxirane, to be used as a component polyol for rigid urethane foam. The submitter claimed the production volume of the new substance and process substance as confidential business information. The test marketing application is for a period not to exceed 12 months. During manufacture, the test market chemical will be produced in a closed process. Protective equipment and clothing will be provided during the sampling, mixing and processing operations. Up to eight processors will test the new chemical and as many as 35 workers could be exposed to the test market chemical at processing sites.

A notice published in the **Federal Register** of May 28, 1982 (47 FR 23554) announced receipt of this application and requested comment on the appropriateness of granting the exemption. The Agency did not receive any comments concerning the application.

EPA has established that the test marketing of the new chemical substance described in TM–82–20, under the specific conditions set out in the application, will not present any unreasonable risk of injury to health or the environment. Although there were health concerns for the test market substance, exposure to workers during manufacture will be minimal since it is manufactured in a closed process and test processing will be limited to workers experienced in the art of foam operations. Processing procedures will be performed under ventilated hooded areas and the workers will be provided with equipment and clothing. Overall release to the environment should be negligible.

This test marketing exemption is granted based on the facts and information obtained and reviewed, but is subject to all conditions set out in the exemption application and, in particular, those enumerated below.

1. This exemption is granted solely to this manufacturer.

2. The applicant must maintain records of the date(s) of shipment(s) to the customers specified in the application, and the quantities shipped in each shipment, and must make these records available to EPA upon request.

3. Each bill of lading that accompanies a shipment of the substance during the test marketing period must state that the use of the substance is restricted to that described to EPA in the test marketing exemption application.

4. The production volume of the new substance may not exceed the quantity described in the test marketing exemption application.

5. The test marketing activity approved in this notice is limited to a 12-month period commencing on the date of signature of this notice by the Assistant Administrator for Pesticides and Toxic Substances.

6. The number of workers exposed to the new chemical should not exceed that specified in the application, and the exposure levels and duration of exposure should not exceed those specified in the application.

The Agency reserves the right to rescind its decision to grant this exemption should any new information come to its attention which casts significant doubt on the Agency's conclusions that the test marketing of this substance under the conditions specified in the application will not present an unreasonable risk of injury to human health or the environment.

Dated: July 2, 1982.

John A. Todhunter,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 81–18568 Filed 7–8–82; 8:45 am]

BILLING CODE 6560–50–M

[WH–FRL–2167–3]

Management Advisory Group to the Construction Grants Program; Open Meeting

Under Public Law 92–463, notice is hereby given that a meeting of the Management Advisory Group (MAG) to the Construction Grants Program will be held at EPA Headquarters, Waterside Mall, Room S353, 401 M Street, S.W., Washington, D.C. 20460, on July 26–27, 1982. This meeting will begin at 9:00 a.m. on July 26, 1982.

The purpose of the meeting is to discuss and review the following: the status of the construction grants program, regulations reform, management of sludge, and proposed Clean Water Act Amendments. There will also be MAG Sub-Committee Task Force Meetings on various aspects of the construction grants program.

The meeting will be open to the public. Any member of the public wishing to attend the meeting should contact the Acting Executive Secretary, Mr. Alan Hais, Acting Director, Municipal Construction Division, EPA, Washington, D.C. 20460. The telephone number is area code 202–426–8986.

Frederick A. Eidsness,

Assistant Administrator for Water.

July 2, 1982.

[FR Doc. 82–18611 Filed 7–8–82; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–2166–8]

Availability of Environmental Impact Statements Filed June 28 Through July 2, 1982 Pursuant to 40 CFR Part 1506.9

RESPONSIBILE AGENCY: Office of Federal Activities, General Information, 382–5075 or 382–5706.

Corps of Engineers:

EIS #820443, Draft, COE, MI, Saginaw River and Tributaries, Flood Control-Fish/Wildlife Mgmt. Plan, Due: Aug. 23, 1982.

EIS #820441, FSuppl,, COE, LA, Barataria Bay Waterway/GIWW to Gulf of Mexico, Maintenance Dredging, Due: Aug. 9, 1982.

EIS #820434, Report, COE, NJ, Report—NJ Coastal Inlets/Reaches, Barnegat Inlet, Ocean County.

Department of Energy:
EIS #820444, Draft, DOE, MT, Fort Peck-Havre 230 kV Transmission Line, Approval, Due: Aug. 23, 1982.
Department of Interior:
EIS #820447, Draft, BLM, NV, Reno Domestic Livestock Grazing Management Program, Due: Aug. 30, 1982.
EIS #820446, Draft, BLM, WY, Green Mountain Livestock Grazing Management Program, Due: Aug. 2, 1982.
Department of Transportation:
EIS #820432, Draft, FHW, NJ, County Route 522, Realignment, US 1 to US 130, Middlesex County, Due: Aug. 23, 1982.
EIS #820437, Final, FHW, IN, Hamilton Co. Bridge No. 218 over Stoney Creek, Greenfield Pike, Replace, Due: Aug. 9, 1982.
EIS #820435, Final, FHW, NJ, NJ-152 Reconstruction, Bay Avenue to JFK Bridge, Atlantic County, Due: Aug. 9, 1982.
Department of Housing and Urban Development:
EIS #820438, Final, HUD, TX, Mission Glen Subdivision, Mortgage Insurance, Fort Bend County, Due: Aug. 9, 1982.
EIS #820440, Draft, HUD, UT, Dixie Knolls Development, Mortgage Insurance, Washington County, Due: Aug. 23, 1982.
EIS #820442, Draft, CDB, MA, North Station Urban Renewal Area, CDBG, Suffolk County, Due: Aug. 23, 1982.
EIS #820436, Final, CDB, CA, Valley Boulevard Redevelopment Project, CDBG, Los Angeles County, Due: Aug. 9, 1982.
EIS #820439, Final, CDB, NY, City of Yonkers Waterfront Development, UDAG, Westchester County, Due: Aug. 9, 1982.
Nuclear Regulatory Commission:
EIS #820445, Draft, NRC, WY, Teton Solution Mining Project, Operating License, Converse County, Due: Aug. 23, 1982.
Department of Defense, Army:
EIS #820433, Final, USA, WI, Fort McCoy Ongoing Mission, Sparta, Monroe County, Due: Aug. 9, 1982.
Dated: July 6, 1982.

Paul C. Cahill,

Office of Federal Activities.

[FR Doc. 82-18649 Filed 7-8-82; 8:45 am]

BILLING CODE 6560-50-M

[W-8-FRL 1909-2]

National Pollutant Discharge Elimination System General Permit for Concentrated Animal Feeding Operations in South Dakota

Correction

In FR Doc. 82-16356, published on page 28127, on Tuesday, June 29, 1982, make the following corrections:

1. In the third column of page 28127, in the "Effective Date" paragraph in the second line, "on or before July 29," should be corrected to read "on July 29,".

2. In the same column, in the third to last line from the bottom "or before July 29, 1982." should be corrected to read "July 29, 1982."

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 82-353, File No. 21572-CD-P(1)-82; CC Docket No. 82-354, File No. 22696-CD-P-(1)-82]

Autophone of San Antonio, Inc. and Luling Mobilphone, Inc., Designating Applications for Consolidated Hearing on Stated Issues

In the matter of applications of Autopone of San Antonio, Inc., for a construction permit to establish an additional transmitter location for Station KRS651 to operate on frequency 152.24 MHz in the Domestic Public Land Mobile Radio Service at New Braunfels, Texas, CC Docket No. 82-353, File No. 21572-CD-P-(1)-82 and Luling Mobilphone, Inc., for a construction permit for a new one-way station to operate on frequency 152.24 MHz in the Domestic Public Land Mobile Radio Service at Luling, Texas, CC Docket No. 82-354, File No. 22696-CD-P-(1)-82.

Order Designating Applications for Hearing

Adopted: June 23, 1982.
Released: June 28, 1982.

1. Presently before the Chief, Mobile Services Division, pursuant to delegated authority, are the captioned applications of Autopone of San Antonio, Inc. (Autophone) and Luling Mobilphone, Inc. (Luling).[1] These applications are mutually exclusive; therefore, a comparative hearing will be held to determine which applicant would better serve the public interest. We find the applicants to be otherwise qualified.

2. Accordingly, it is ordered, pursuant to section 309 of the Communications Act of 1934, as amended, that the applications of Autophone of San Antonio, File No. and Luling Mobilphone, Inc., File No. 22696-CD-P-(1)-82, 21572-CD-P-(1)-82, are designated for hearing in a consolidated proceeding upon the following issues:

(a) To determine on a comparative basis, the nature and extent of service proposed by each applicant, including the rates, charges, maintenance, personnel, practices, classifications, regulations, and facilities pertaining thereto;

(b) To determine on a comparative basis, the areas and populations that each applicant will serve within the prospective interference-free area within the 43 dBu contours,[2] based upon the standards set forth in Section 22.504(a) of the Commission's Rules,[3] and to determine the relative demand for the proposed service in said areas; and

(c) To determine, in light of the evidence adduced pursuant to the foregoing issues, what disposition of the referenced applications would best serve the public interest, convenience, and necessity.

3. It is further ordered, That the hearing shall be held at a time and place and before an Administrative Law Judge to be specified in a subsequent Order.

4. It is further ordered, That the Chief, Common Carrier Bureau, is made a party to the proceeding.

5. It is further ordered, That the applicants shall file written notices of appearances under § 1.221(c) of the Commission's Rules within 20 days of the release date of this Order.

6. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

William F. Alder,

Chief, Mobile Services Division, Common Carrier Bureau.

[FR Doc. 82-18552 Filed 7-8-82; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 82-371, File No. BRH-810202G7; BC Docket No. 82-372, File No. BPH-810501AD]

GAF Broadcasting Co., Inc. and Classical Radio, Inc.; Designating Applications for Consolidated Hearing on Stated Issues

In the matter of applications of GAF Broadcasting Company, Inc. Has: 104.3 MHz, Channel 282 5.4 kW(H)—3.8 kW(V), 1220 Feet, for renewal of license of station WNCN(FM) New York, New

[1] We note that while Luling's application is for a new facility, Autophone is seeking an additional transmitter location for Station KRS651. A grant of either application would preclude a grant of the other.

[2] For the purpose of this proceeding, the interference-free area is defined as the area within the 43 dBu contour as calculated from § 22.504, in which the ratio of desired-to-undesired signal is equal to or greater than R in FCC Report No. R-6406, equation 8.

[3] Section 22.504(a) of the Commission's Rules and Regulations describes a field strength contour of 43 decibels above one microvolt per meter as the limits of the reliable service area for base stations engaged in one-way communications service on frequencies in the 150 MHz band. Propagation data set forth in § 22.504(a) are the proper bases for establishing the location of service contours F(50,50) for the facilities involved in this proceeding. (The applicants should consult with the Bureau counsel with the goal of reaching joint technical exhibits.)

York, BC Docket No. 82–371, File No. BRH–810202G7; Classicial Radio, Inc., New York, New York, Req: 104.3 MHz, Channel 282 5.4 kW(H)—3.8 kW(V), 1220 Feet, BC Docket No. 82–372, File No. BPH–810501AD, for construction permit.

Memorandum Opinion and Order

Adopted: June 30, 1982.

Released: July 2, 1982.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it for consideration the 1981 license renewal application of GAF Broadcasting Company, Inc. ("GAF Broadcasting") for FM Station WNCN in New York, New York, and a mutually exclusive construction permit application filed by Classicial Radio, Inc. ("Classical").

2. GAF Broadcasting filed a petition to deny against Classical's construction permit application. Since the pleading is, in essence, a predesignation petition to specify issues and such petitions are no longer permitted, it will be dismissed. *Processing of Contested Broadcasting Applications*, 72 FCC 2d 202 (1979). GAF Broadcasting, however, will have an opportunity to raise the issues contained in the petition post designation, pursuant to § 1.229 of the Commission's Rules. In addition, GAF Broadcasting filed requests for expedited action on December 17, 1981 and April 12, 1982, which are rendered moot by our action today and will be dismissed. To the extent that GAF Broadcasting attempted to raise issues against Classical therein, those matters may be raised post designation.

3. Construction permit applicant Classical Radio, Inc. and renewal applicant GAF Broadcasting Company, Inc. appear qualified to be Commission licensees. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

4. Accordingly, it is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the application of GAF Broadcasting Company, Inc., for renewal of license of Station WNCN(FM), New York, New York, and the construction permit application of Classical Radio, Inc. are designated for consolidated hearing, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issue, which of the applications should be granted.

5. It is further ordered, That the petition to deny and requests for expedited action filed by GAF Broadcasting Company, Inc., are dismissed.

6. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

7. It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give local notice of the hearing (either individually or, if feasible and consistent with the rules, jointly) within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

8. It is further ordered, That the Secretary shall send, by Certified Mail—Return Receipt Requested, a copy of this *Memorandum Opinion and Order* to each of the parties named herein.

Roy J. Stewart,

Chief, Renewal and Transfer Division.

[FR Doc. 82–18550 Filed 7–8–82; 8:45 am]

BILLING CODE 6712–01–M

Radio Technical Commission for Marine Services; Meetings

In accordance with Pub. L. 92–463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Special Committee No. 78
"Federal Radionavigation Plan Review"
Notice of 9th Meeting
Tuesday, July 27, 1982—9:30 a.m.
Conference Room 9230/9232
Nassif (DOT) Building
400 Seventh Street, S.W. at D Street
Washington, DC

Agenda

1. Call to order and administrative matters.

2. Overview presentation of the 1982 edition of the Federal Radionavigation Plan.

3. Decision regarding scope of review to be recommended to RTCM Executive Committee.

4. Discussion concerning a proposed civil alternative to NAVSTAR–GPS.

John C. Fuechsel, Chairman SC–78,
National Ocean Industries Assoc.,
1100 17th Street NW., Washington, DC, Phone: (202) 785–5116

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat (phone: (202) 632–6490).

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82–18551 Filed 7–8–82; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in disupte and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *NCNB Corporation*, Charlotte, North Carolina; to acquire 100 percent of the voting shares or assets of the successor by merger of Gulfstream Banks, Inc., Boca Raton, Florida and thereby indirectly acquire 100 percent of Gulfstream Bank, Tamarac, Florida and Gulfstream Bank, N.A., Boca Raton, Florida. Comments on this application must be received not later than July 31, 1982.

2. *SouthTrust Corporation*, Birmingham, Alabama; to acquire 80

percent of the voting shares or assets of Citizens Bank of Northport, Northport, Alabama. Comments on this application must be received not later than July 31, 1982.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Seafirst Corporation,* Seattle, Washington; to acquire 100 percent of the voting shares or assets of Western National Bank, Bothell, Washington, a *de novo* bank. Comments on this application must be received not later than July 31, 1982.

Board of Governors of the Federal Reserve System, July 1, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-18545 Filed 7-8-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo),* directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than August 1, 1982.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York:

1. *Barclays Bank PLC* and its subsidiary, *Barclays Bank International Limited,* each a bank holding company whose principal office is in London, England (consumer finance, Plano, Texas): To engage through their subsidiary, BarclaysAmerican/ Financial, Inc., a Texas corporation in making direct consumer loans, including loans secured by real estate, and purchasing sales finance contracts representing extensions of credit such as would be made or acquired by a consumer finance company, and wholesale financing (floor planning); and acting as agent for the sale of related credit life, credit accident and health and credit property insurance. Credit life and credit accident and health insurance sold as agent may be underwritten or reinsured by BAC's insurance underwriting subsidiaries. This activity would be conducted from an office of BAC located at 230 W. Park Rd., Plano, Texas, serving customers in Plano and surrounding areas in Texas. This notification is for the relocation of an existing office located at 201 W. Louisiana St., McKinney, Texas.

Correction

2. *Bank of New York Company, Inc.,* New York, New York (mortgage banking; California). This notice corrects a previous published document (FR Doc. 82-17367) published at page 27965 of the issue for Monday, June 28, 1982. The proposed service area is the California counties of Los Angeles, Shasta, and Yolo.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *NBD Bancorp, Inc.,* Detroit, Michigan (insurance agency activities; Michigan, Virginia, California, Florida, Maryland, and the District of Columbia): To act indirectly through a de novo subsidiary, NBD Insurance Agency, Inc., as an agent for the sale of life, accident and health and accidental death and dismemberment insurance that is directly related to extentions of mortgage credit and/or the provision of other financial services by its bank and bank-related firms. These activities would be conducted from offices in Detroit, Michigan, serving Michigan, Virginia, California, Florida, Maryland, and the District of Columbia.

Board of Governors of the Federal Reserve System, July 2, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-18544 Filed 7-8-82; 8:45 am]

BILLING CODE 6210-01-M

Bank holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than July 31, 1982.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Manufacturers Hanover Corporation,* New York, New York (reinsurance activities; Nex Mexico): To engage, through its indirect subsidiary, Tempco Life Insurance Company ("Tempco"), in the activity of reinsuring single and joint credit life insurance directly related to extensions of credit made in the State of New Mexico by

subsidiaries of Manufacturers Hanover Corporation. These activities would be conducted from offices in Phoenix, Arizona, serving the State of New Mexico.

2. *Northeast Bancorp Incorporated,* New Haven, Connecticut (issuance and sale of travelers checks; United States): To engage, through its subsidiary, Union Financial Services Corporation, in the business of issuing and selling travelers checks. These activities would be conducted from an office in Norwalk, Connecticut, serving the United States.

B. **Federal Reserve Bank of Cleveland** (Harry W. Huning, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Mellon National Corporation,* Pittsburgh, Pennsylvania (leasing activities; throughout the United States and overseas): To engage, through its indirect subsidiary, Mellon Leasing and Management Company, in the leasing of real or personal property or acting as agent, broker or adviser in leasing such property so that the lease will serve as the functional equivalent of an extension of credit in accordance with § 225.4(a)(6) (a) and (b) of Regulation Y. These activities will be conducted from offices in Dallas, Texas; Cleveland, Ohio; Atlanta, Georgia; Chicago, Illinois; and Boston, Massachusetts, serving the United States and overseas.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Royal Dominion Ltd.,* Denver, Colorado (data processing and related financial and administrative activities; Denver, Colorado): To engage, through its wholly-owned subsidiary, Royal Dominion Service Center Ltd., in activities limited to provision of bookkeeping, accounting and data processing services, business record keeping, storage and retrieval services and related financial and administrative services to affiliated banks and bank subsidiaries. These activities will be conducted from an office in Denver, Colorado, serving subsidiary banks and affiliated banks located within the Denver, Colorado metropolitan area.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Allied Bancshares, Inc.,* Houston, Texas, (trust Company; Texas): To engage through a proposed subsidiary to be known as Allied Trust Company, in activities that may be carried on by a trust company, including activities of a fiduciary, investment advisory, agency or custodial nature. These activities will be conducted at offices located in Houston, Texas, serving the State of Texas.

Board of Governors of the Federal Reserve System, July 1, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-18548 Filed 7-8-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Cleveland** (Harry W. Huning, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *State National Bancorp Inc.,* Maysville, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of The State National Bank of Maysville, Maysville, Kentucky. Comments on this application must be received not later than August 1, 1982.

2. *Union Bancshares Corp.,* Bellevue, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of The Union Bank & Savings Company, Bellevue, Ohio. Comments on this application must be received not later than August 1, 1982.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *LaPlace Bancshares, Inc.,* LaPlace, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of LaPlace of St. John the Baptist Parish, LaPlace, Louisiana. Comments on this application must be received not later than August 1, 1982.

C. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Clark County Bancshares, Inc.,* Wyaconda, Missouri; to become a bank holding company by acquiring 82 percent of the voting shares of Peoples Bank of Wyaconda, Wyaconda, Missouri. Comments on this application must be received not later than August 1, 1982.

D. **Secretary, Board of Governors of the Federal Reserve System,** Washington, D.C. 20551:

1. *Em Kay Financing Corp.,* Panama, Panama; and *Em Kay Holding Corp.,* New York, New York; to become bank holding companies by acquiring at least 66 percent of the voting shares of Village Bank of New Jersey, South Orange, New Jersey. This application may be reviewed at the Federal Reserve Bank of New York. Comments on this application must be received not later than August 1, 1982.

Board of Governors of the Federal Reserve System, July 2, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-18543 Filed 7-8-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Kansas State Investments, Inc.,* Manhattan, Kansas; to become a bank holding company by acquiring 90.61 percent of the voting shares of Kansas State Bancshares, Inc., Manhattan,

Kansas. Comments on this application must be received not later than July 31, 1982.

Board of Governors of the Federal Reserve System, July 1, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-18546 Filed 7-8-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *BOS Bancshares, Inc.*, Metairie, Louisiana; to become a bank holding company by acquiring at least 80 percent of the voting shares of Bank of the South, Metairie, Louisiana. Comments on this application must be received not later than July 31, 1982.

2. *FBT Bancshares, Inc.*, Slidell, Louisiana; to become a bank holding company by acquiring 80 percent of the voting shares of Fidelity Bank and Trust Company, Slidell, Louisiana. Comments on this application must be received not later than July 31, 1982.

3. *First Hogansville Bankshares, Inc.*, Hogansville, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of The Citizens Bank, Hogansville, Georgia. Comments on this application must be received not later than July 31, 1982.

4. *United Bancorporation of Alabama, Inc.*, Atmore, Alabama; to become a bank holding company by acquiring at least 80 percent each of the voting shares of the successor by merger to The Bank of Atmore, Atmore, Alabama, and the successor by merger to Peoples Bank of Frisco City, Frisco City, Alabama. Comments on this application must be received not later than July 31, 1982.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Kentucky Southern Bancorp. Inc.*, Bowling Green Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of The Citizens National Bank of Bowling Green, Bowling Green, Kentucky. Comments on this application must be received not later than July 31, 1982.

Board of Governors of the Federal Reserve System, July 1, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-18547 Filed 7-8-82; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Early Termination of the Waiting Period of the Premerger Notification Rules; Coast Federal Savings and Loan Association

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Coast Federal Savings and Loan Association is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain assets of First City Properties, Inc., and certain voting securities of the Mayer Group, Inc. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Coast Federal Savings and Loan Asspciation. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: June 7, 1982.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-18535 Filed 7-8-82; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules; European Ferries Plc

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: European Ferries Plc is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all the voting securities of Gakopa BV. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: June 24, 1982.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-18553 Filed 7-8-82; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service

Advisory Committee on Preservation; Meeting

Notice is hereby given that the Subcommittee on Long Range Planning of the National Archives and Records Service Advisory Committee on Preservation will meet on July 26, 1982 from 10 a.m. to 4 p.m., McGraw-Hill Conference Room, 1221 Avenue of the Americas, New York, NY.

The meeting will be devoted to the identification of issues likely to arise during the next three years.

The meeting will be open to the public. For further information call Alan Calmes, 202–523–3159.

Dated: June 25, 1982.

Edward Weldon,

Acting Archivist of the United States.

[FR Doc. 82–18563 Filed 7–8–82; 8:45 am]

BILLING CODE 6820–26–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Consumer participation; Open Meetings

Correction

In FR Doc. 82–11746 appearing at page 18667 in the issue of Friday, April 30, 1982, on page 18667, first column, under **"FOR FURTHER INFORMATION CONTACT:"**, fourth line, the telephone number "589–2400" should read "583–2420".

BILLING CODE 1505–01–M

[Docket No. 82D–0149]

Thyroid Hormone Human Prescription Drug Products; Availability of Class Labeling Guideline

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the availability of a class labeling guideline for the professional labeling of thyroid hormone human prescription drug products. Class labeling is appropriate for these products because they are all closely related in chemical structure, pharmacology, therapeutic activity, and adverse reactions. The guideline is intended to promote the use of identical professional labeling for each member of the thyroid drug class.

DATE: Effective July 9, 1982, a person may adopt the class labeling guideline for thyroid hormone human prescription drug products and rely on it to meet FDA's professional labeling requirements for prescription drugs.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. Persons interested in obtaining copies of the guideline should contact Benjamin P. Lewis, Jr., at the address below.

FOR FURTHER INFORMATION CONTACT: Benjamin P. Lewis, Jr., National Center for Drugs and Biologics (HFD–177), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6004.

SUPPLEMENTARY INFORMATION: FDA has prepared a guideline for the professional labeling of thyroid hormone human prescription drug products. The guideline labeling can be used for each product within the drug class because all drugs in the class are closely related in chemical structure, pharmacology, therapeutic activity, and adverse reactions. Use of the guideline constitutes compliance with §§ 201.56, 201.57, and 201.100 (21 CFR 201.56, 201.57, and 201.100) of the agency's regulations for the content and format of professional labeling for human prescription drugs.

The professional labeling of prescription drugs is required to contain the information and be in the format specified by §§ 201.56 and 201.57. The application of these regulations to drug products is proceeding under the schedule established in § 201.59 (21 CFR 201.59). As described more fully in § 201.59, the regulations apply to thyroid hormone drug products as follows: (1) On April 10, 1981, to thyroid drug products that are not subject to section 505 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355); (2) on February 1, 1984, to thyroid drug products that on December 26, 1979, were subject to an approved new drug application under section 505 of the act, and duplicates of those products; and (3) as of December 26, 1979, to other thyroid drug products for which marketing approval under section 505 of the act is sought from FDA. The agency recognizes that some manufacturers and distributors of drugs in the first category may have already revised their drug labeling to comply with the regulations. The agency nonetheless encourages those persons to adopt the agency's guideline class labeling for thyroid hormone drug products when practicable.

Class labeling guidelines should enhance the agency's regulatory program for prescription drugs. The guidelines will promote consistency in labeling among various drugs of the same drug class and help the agency review proposed labeling for new drugs and antibiotics. They will also help drug manufacturers prepare labeling for drugs they propose to market that is in compliance with legal requirements. Finally, class labeling will be most helpful to health care professionals who prescribe and dispense prescription drug products. Prescribers and dispensers must now compare the labeling for members of a drug class to determine the similarities and differences among the products in the class. Class labeling, which contains information about each member of the drug class, will eliminate the need for such comparisons.

The guideline that is the subject of this notice is intended to provide class labeling for the thyroid drug class. The thyroid guideline has been developed by FDA, with the assistance of the agency's Endocrinologic and Metabolic Drugs Advisory Committee and two consultants. At the time the guideline was being developed, the advisory committee consisted of the following members: Chairman, Mortimer B. Lipsett, M.D.; Executive Secretary, A. T. Gregoire, Ph. D., FDA; Richard Brand, Ph. D., Department of Biomedical and Environmental Sciences, School of Public Health, University of California, Berkeley, CA; Walter Henry, M.D., Howard University College of Medicine, Washington, DC; Margaret MacGillivray, M.D., Professor of Pediatrics, SUNYAB School of Medicine, Children's Hospital of Buffalo, NY; Robert Neer, M.D., Associate Professor, Massachusetts General Hospital, Boston, MA; Lillian Recant, M.D., Professor of Medicine, Veterans Administration Hospital, Washington, DC; Simeon Margolis, M.D., Professor of Medicine, Johns Hopkins School of Medicine, Baltimore, MD; William H. Daughaday, M.D., Director, Metabolism Division, Department of Medicine, Washington University, St. Louis, MO; Seymour Reichlin, M.D., Ph. D., Professor of Medicine, New England Medical Center Hospital, 171 Harrison Ave., Boston, MA. The two consultants to the committee were Dr. Jack Robbins, Chief, Clinical Endocrinology Branch, NIH, and Dr. Tom Foley, Director, Clinical Research Center, Children's Hospital of Pittsburgh. This guideline is appropriate as the basis for labeling for the following drugs in the thyroid hormone drug class in the route of administration identified in parenthesis:

Liothyronine (T_3) Sodium (oral)
Levothyroxine (T_4) Sodium (oral)

These two drugs constitute the principal ingredient of five official preparations listed in the United States Pharmacopeia (USP):

Thyroid Tablets (oral)
Thyroglobulin Tablets (oral)
Levothyroxine Sodium Tablets (oral)
Liothyronine Sodium Tablets (oral)
Liotrix Tablets (oral)

This is the fourth guideline FDA has made available as part of an effort to evelop guideline professional labeling for 32 classes of prescription drug products. The first to be published as part of this effort was the class labeling guideline for single-entity barbituarates, which appeared in the **Federal Register** of November 18, 1980 (45 FR 76356). That guideline was followed by the guideline for androgen drug products, for which a notice of availability was published in the **Federal Register** of July 10, 1981 (46 FR 35787). The most recent guideline published was that for topical corticosteroid drug products (46 FR 49205; October 6, 1981). The agency's justification and rationale for developing class labeling guidelines as well as a description of the procedures followed in developing the text of the labeling was described in the November 18, 1980 notice. In the future, FDA intends to develop and make available a class labeling guideline for the following drug classes:

Aminoglycosides
Anesthetics—local
Anorectics—nonamphetamines
Anticoagulants—oral
Anticholinergics—centrally active
Anticholinergics—synthetic
Antidepressants
Antihistamines
Antipsychotics
Benzodiazepines
Cardiac glycosides
Cephalosporins
Diagnostic intravenous radiopaques
Diagnostic oral radiopaques
Erythromycins
Glucocorticoids
Insulins
Narcotic analgesics
Neuromuscular blocking drugs
Penicillins—G & V
Penicillins—semisynthetic
Potassium preparations
Quinidine salts
Rauwolfia alkaloids
Sulfonamides
Tetracyclines
Thiazides

This notice is issued under § 10.90(b) (21 CFR 10.90(b)), which provides for the use of guidelines to establish procedures of general applicability that are not legal requirements, but are acceptable to the agency. A person who follows this guideline is assured that his or her conduct is acceptable to the agency. The agency advises that the class labeling guideline for thyroid drug products complies with the prescription drug labeling regulations in §§ 201.56, 201.57, and 201.100 and can be relied upon by any person to meet these requirements. Under § 314.8 (21 CFR 314.8), manufacturers are required to submit supplemental new drug applications (NDA's) advising the agency that the labeling is being revised. However, under § 314.8(d) the guideline labeling may be used before approval of a supplement to an NDA. A person may choose to use alternative labeling statements that are not provided for in the guideline. If a person chooses to depart from the guideline, he or she may discuss the matter further with the agency to prevent expenditure of money and effort for labeling that the agency may later determine to be unacceptable.

Effective July 9, 1982, a person may adopt the class labeling guideline for thryroid prescription drug labeling requirements. Interested persons may submit written comments on the guideline to the Dockets Management Branch (address above). Comments will be considered in determining whether future amendments to the guideline are warranted. Comments should be in two copies except that individuals may submit single copies, identified with the docket number found in brackets in the heading of this document. The guideline and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Persons interested in obtaining copies of the guideline should contact Benjamin P. Lewis, Jr. (address above).

Dated: June 30, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-18445 Filed 7-8-82; 8:45 am]

BILLING CODE 4160-01-M

Office of Human Development Services

[Program Announcement No. 13600-821]

Discretionary Funds Programs

AGENCY: Office of Human Development Services, HHS.

SUBJECT: Correction notice.

SUMMARY: The Administration for Children, Youth and Families (ACYF) in the Office of Human Development Services (OHDS) announced in the **Federal Register** FR Doc. 82-13197 Monday, May 17, 1982, the Head Start Training and Technical Assistance Program; Availability of FY 1982 Funds. There are three errors in the announcement which we are correcting this notice.

On page 21194, in Appendix II, the line on which "Trust Territory" appears should have read "Guam, Trust Territories of the Pacific and Commonwealth of the Northern Mariana Islands" in order to comply with legislative changes in the Head Start Act of 1981. The revised deadline for the grant application from these areas is August 16, 1982.

On the same page in Appendix II, with respect to Arizona, the reference to footnote "3" should have been omitted, and the word "amd" which appears immediately after Arizona should have read "and".

DATE: July 9, 1982.

Dated: July 1, 1982

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

[FR Doc. 82-18576 Filed 7-8-82; 8:45 am]

BILLING CODE 4130-01-M

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on July 2.

Public Health Service

Food and Drug Administration

Subject: Recordkeeping Requirements for Low-Acid Canned Food Processors (0910-0036)—Extension
Respondents: Processors of low-acid canned foods
Subject: American Society of Hospital Pharmacists/Food and Drug Administration Drug Shortage Monitoring Program (0910-0054)—Extension
Respondents: Designated hospital pharmacies
OMB Desk Officer: Fay S. Iudicello

Social Security Administration

Subject: Placement and Progress Report for Refugee Unaccompanied Minors (ORR-3/ORR-4)—New
Respondents: State or local governments/businesses or other institutions
Subject: Monthly Statistical Report on Recipients and Payments Under State Administered Assistance Programs for Aged, Blind, and Disabled Recipients (SSA-9741)—Extension
Respondents: State or local governments
OMB Desk Officer: Milo Sunderhauf

Health Care Financing Administration

Subject: Monthly Statistical Report on Medical Care: Medicaid Program (HCFA-120)—Extension no change
Respondents: States
Subject: Medicaid Quality Control Review Schedule (HCFA-301)—Revision
Respondents: States
Subject: Medicaid Quality Control Third Party Liability Resource Worksheet (HCFA-301C)—Extension no change
Respondents: States
Subject: Medicaid Quality Control Claims Processing Review Schedule and Documentation Source Sheet (HCFA-331)—New
Respondents: States
OMB Desk Officer: Fay S. Iudicello

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202-245-6511.

Written comments and recommendations for the proposed information collections should be sent directly to both the HHS Reports Clearance Officer and the appropriate OMB Desk Officer designated above at the following addresses:

J. J. Strnad, HHS Reports Clearance Officer, Hubert H. Humphrey Building, Room 524.F, Washington, D.C. 20201
OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503, Attn. (name of OMB Desk Officer)

Dated: July 2, 1982.

Dale W. Sopper,

Assistant Secretary for Management and Budget.

[FR Doc. 82-18678 Filed 7-8-82; 8:45 am]
BILLING CODE 4150-04-M

Public Health Service

National Toxicology Program Board of Scientific Counselors; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Toxicology Program Board of Scientific Counselors, U.S. Public Health Service, in Conference Room 703-727A, Hubert H. Humphrey Building, Department of Health and Human Services, 200 Independence Avenue, SW, Washington, DC, on August 11, 1982.

The meeting will be open to the public from 9:00 a.m. until adjournment for the purpose of providing peer review of the data from the chronic carcinogenesis bioassay of FD&C Blue No. 2 in Charles River albino rats and Charles River CD-1, COBS (ICR-derived) mice of both sexes. The bioassay was sponsored by the Certified Color Manuacturers Association, conducted by Bio/Dynamics Inc., and submitted to the Food and Drug Administration (FDA) in support of permanent listing of FD&C Blue No. 2.

The meeting will commence with a brief overview of the study. This will be followed with presentations by scientific staff from the Bureau of Foods, FDA, concerning the pathology findings and statistical analyses of the bioassay. Sufficient time will be allowed for public comment.

The Executive Secretary, Dr. Larry G. Hart, Office of the Director, National Toxicology Program, P.O. Box 12233, Research Triangle Park, North Carolina 27709, telephone (919) 541-3971, FTS 629-3971, will furnish summary minutes of the review and other meeting information.

Dated: June 28, 1982.

David P. Rall,

Director, National Toxicology Program.

[FR Doc. 82-18687 Filed 7-8-82; 8:45 am]
BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Information Collection Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Mr. William T. Adams, at 202-395-7340.

- Title: 25 CFR Part 250 (Proposed), Indian Fishing—Hoopa Valley Reservation
Bureau Form Number: BIA-5601
Frequency: On occasion
Description of Respondents: Indians fishing on the Hoopa Valley Indian Reservation
Annual Responses: 200
Annual Burden Hours: 10
Bureau clearance officer: Ronal D. Eden, 202-343-7684

Dated: June 23, 1982.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 82-18561 Filed 7-8-82; 8:45 am]
BILLING CODE 4310-02-M

Bureau of Land Management

[I-18593]

Realty Action; Competitive Sale of Public Lands; Gooding County, Idaho

AGENCY: Bureau of Land Management, Shoshone District Office, Shoshone, Idaho, Interior.

ACTION: Notice.

SUMMARY: The following-described land has been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713) at no less than the fair market value of $8,600.00.

Boise Meridian, Idaho

T. 6 S., Range 13 East,
Sec. 12, NW¼NW¼.
Comprising 40.00 acres.

The land, which will be sold at public auction by competitive bidding, is no longer required for any Federal purpose. It does not complement BLM programs and the location and physical characteristics of the tract, along with the private ownership of adjoining lands, make it uneconomical to manage as public land. Disposal would not have any significant effect on resource values and would best serve the public interest.

A patent for the land, when issued, shall be subject to the following conditions:

1. A right-of-way for ditches or canals constructed by the authority of the United States. Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. All minerals including Gas and Oil shall be reserved to the United States as required by Section 209(a) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1719.

3. All valid existing rights and reservations of record; specifically the highway right-of-way I-06803, 200 ft. in

width, and county road right-of-way established under R.S. 2477 prior to October 21, 1976, on the west side of the tract, 50 ft. in width.

The sale will be held at the Shoshone District Office, Bureau of Land Management, 400 West F Street, Shoshone, Idaho 83352 at 1:00 p.m., on Wednesday, October 6, 1982.

Bidding Information and Instructions

Bidder Qualifications: The Federal Land Policy and Management Act requires that bidders must be citizens of the United States, 18 years of age or over, or, in the case of a corporation, be subject to the laws of any State or the United States. Bids may be made by a principal (the one desiring to purchase the land) or his duly qualified agent.

Bid Standards: No bid will be accepted for less than the appraised fair market value of $8,600. Bids must be for all the land.

Method of Bidding: Bids may be made either by mail or personally at the sale. Bids sent by mail shall only be considered if received at the Shoshone District Office, 400 West F Street, Shoshone, Idaho 8352 prior to 1:00 p.m., on October 6, 1982. Bids sent by mail must be in sealed envelopes accompanied by a certified check, postal money order, or cashier's check made payable to the Bureau of Land Management for not less than one-fifth of the amount of the bid. The sealed envelops must be marked in the lower left-hand corner, "Sealed Bid, Public Land Sale I–18593, Sale to be October 6, 1982." If two or more valid sealed bids in the same amount are received and they are the high bid, the determination of which is to be considered the highest bid shall be by a drawing. The drawing, if required, shall be held immediately following the opening of the bids. The highest qualifying sealed bid shall then be announced.

Oral bids will be received immediately after all sealed bids have been opened and the highest sealed bid is announced. The highest sealed bid shall be the base for oral bids. All oral bids must be made in increments of not less than $20.00. Sealed bidders present at the sale may also make oral bids. The highest bid price, either sealed or oral, shall establish the sale price. If the highest bid is an oral bid, the successful bidder shall be required to pay immediately one-fifth of the high bid price by cash, personal check, money order, or any combination of these.

Final Details

The successful higher bidder, whether it is by sealed or oral bid, shall be required to submit full payment for the balance of the bid within 30 days from the date of the sale. Failure to submit such payment within the 30 day period shall result in cancelation of the sale and the bid deposit shall be forfeited. All unsuccessful sealed bids will be returned within 30 days from the sale date. If no bids for the land, either sealed or oral, are received on the sale date, the sale will be adjourned until the next Wednesday at the same hour and place and continued on each succeeding Wednesday, until the lands are sold as specified in this notice or the sale is otherwise terminated.

FURTHER INFORMATION/INQUIRIES: Detailed information concerning this sale, including the planning documents and Environmental Assessment, is available for review in the Shoshone District Office at the address indicated above. For a period of 45 days from the date of this notice, interested parties may submit comments to the Shoshone District Manager. Any adverse comments will be evaluated by the Idaho State Director, Bureau of Land Management, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Dated: June 29, 1982.

Charles J. Haszier,

Shoshone District Manager.

[FR Doc. 82–18604 Filed 7–8–82; 8:45 am]

BILLING CODE 4310–84–M

[CA–7097 WR, CA–7393 WR]

California; Order Providing for Partial Revocation of Interpretations of Public Water Reserve 107

1. The Secretarial Orders of Interpretation Nos. 140 and 212, dated November 11, 1930, and January 18, 1935, respectively, of Public Water Reserve 107, are hereby revoked as to the following described lands which do not meet the criteria of the Executive Order of April 17, 1926:

Parcel A, San Bernardino Meridian

T. 5 N., R. 18 W.,
Sec. 33, SW¼NW¼.

The area contains 40 acres in Ventura County.

Parcel B, Mount Diablo Meridian

T. 21 S., R. 39 E.,
Sec. 15, SE¼NW¼, NE¼SW¼.

The area aggregates 80 acres in Inyo County.

2. The land in Parcel B is located in the Los Padres National Forest and is withdrawn for Power Site Classification No. 414.

3. At 10 a.m. on July 9, 1982, the land in Parcel A will be open to non-metalliferous mineral location under the United States mining laws, subject to Public Law 359 (69 Stat. 681). The land has been and continues to be open to metalliferous mineral location under the mining laws and to applications and offers under the mineral leasing laws.

4. The land described in Parcel B is withdrawn for a Naval Ordnance Testing Center and Proving Range and will remain closed to operation of the public land laws, including the mining and mineral leasing laws pursuant to Public Land Order 431, dated December 19, 1947.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, 2800 Cottage Way, Sacramento, CA 95825.

Ron Hofman,

Acting State Director.

[FR Doc. 82–18590 Filed 7–8–82; 8:45 am]

BILLING CODE 4310–84–M

[CA 7794 WR]

California; Termination of Suspension From all Forms of Filing and Entry

June 29, 1982.

1. Pursuant to the authority delegated by Bureau Order No. 701 of July 23, 1964 (29 FR 10526), the General Land Office Order dated May 31, 1927, which suspended the following land from all forms of filing and entry, is hereby terminated:

Mount Diablo Meridian

T. 13 N., R. 10 E.,
Sec. 14, lot 2, NW¼NE¼, S½NW¼, SW¼;
Sec. 16, lots 6, 7, and 10;
Sec. 22, lots 4 and 5, W½SW¼.

The area described aggregates 569.44 acres in Placer and El Dorado Counties.

2. All the lands described remain in existing withdrawals or are in private ownership and will not be opened to operation of the general land laws or to operation of the mining laws. The purpose of this action is to clear the records of an obsolete encumbrance.

The lands described in sections 14 and 22 remain open to offers and applications under the mineral leasing laws.

Ed Hastey,

State Director.

[FR Doc. 82–18582 Filed 7–8–82; 8:45 am]

BILLING CODE 4310–84–M

[U-50790]

Utah; Order Providing for Opening of Public Lands; Correction

In the Federal Register Document 82-10294, published on Thursday, April 15, 1982, Pages 16218, 16219, the lands listed as "U-50790" are hereby deleted and the following inserted:

Salt Lake Meridian, Utah

U-50790

T. 13 N., R. 9 W.,
Sec. 32, SE¼.
T. 13 N., R. 10 W.
Sec. 25, W½;
Sec. 36, W½.
T. 14 N., R. 10 W.,
Sec. 7, lots 3, 4, E½SW¼, SE¼;
Sec. 36, all.
T. 14 N., R. 11 W.,
Sec. 35, all;
Sec. 36, NE¼, S½

Aggregating 2,880.58 acres in Box Elder County.

Dated: June 30, 1982.

Darrell Barnes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-18610 Filed 7-8-82; 8:45 am]

BILLING CODE 4310-84-M

[ES 30500, Survey Group 78]

Michigan; Filing of Plat of Survey

1. On November 19, 1981, the plat representing the survey of 1 island in the North Channel, which was omitted from the original survey, was accepted. It will be officially filed in the Eastern States Office, Alexandria, Virginia, at 7:30 a.m. on October 7, 1982.

The tract shown below describes the island omitted from the original plat of survey.

Michigan Meridian, Michigan

T. 42 N., R. 7 E.,
Tract No. 37.

2. The island described as Tract No. 37 is separate and distinct yet similar in all respects to that of the adjacent surveyed lands. It rises 3 feet above the ordinary high water mark of the North Channel and has a thin layer of soil over rock. Boulders up to 3 feet in diameter were found on the island. Tree species consist of cedar, spruce, tamarack and birch.

3. The island was found to be over 50 percent upland in character with the purview of the Swamp Lands Act of September 28, 1850 (9 State. 519). It is, therefore, held to be public land.

4. Except for valid existing rights, the island will not be subject to application, petition, location, or selection under any public law until a further order is issued.

5. All inquiries relating to this island should be sent to the Chief, Division of Lands and Minerals Operations, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304 on or before October 7, 1982.

Jeff O. Holdren,

Chief, Division of Lands and Minerals Operations.

[FR Doc. 82-18591 Filed 7-8-82; 8:45 am]

BILLING CODE 4310-84-M

[ES 30511, Survey Group 78]

Michigan; Filing of Plat of Survey

1. On November 19, 1981, the plat representing the survey of 2 islands in Caribou Lake, which were omitted from the original survey, was accepted. It will be officially filed in the Eastern States Office, Alexandria, Virginia, at 7:30 a.m. on October 7, 1982.

The tracts shown below describe the islands omitted from the original survey.

Michigan Meridian, Michigan

T. 42 N., R. 3 E.,
Tract Nos. 37 and 38.

2. The islands described above are separate and distinct yet similar in all respects to that of the adjacent surveyed lands.

a. Tract No. 37 rises approximately 5 feet above the ordinary high water mark of Caribou Lake and has a thin layer of organic matter over a base of boulders. Twisted cedars were found on the island.

b. The island Tract No. 38 rises approximately 3 feet above the ordinary high water mark of Caribou Lake and has a soil composition of stony loam over glacial-till. Timber consists of cedar, spruce and tamarack. Borings showed trees to be up to 70 years old.

3. The tracts described above were found to be over 50 percent upland in character within the purview of the Swamp Lands Act of September 28, 1850 (9 Stat. 519). They are, therefore, held to be public land.

4. Except for valid existing rights, the islands will not be subject to application, petition, location, or selection under any public law until a further order is issued.

5. All inquiries relating to these islands should be sent to the Chief, Division of Lands and Minerals Operations, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304 on or before October 7, 1982.

Jeff O. Holdren,

Chief, Division of Lands and Minerals Operations.

[FR Doc. 82-18587 Filed 7-8-82; 8:45 am]

BILLING CODE 4310-84-M

[ES 30512, Survey Group 78]

Michigan; Filing of Plat of Survey

1. On November 19, 1981, the plat representing the survey of 3 islands in Lake Huron, which were omitted from the original survey, was accepted. It will be officially filed in the Eastern States Office, Alexandria, Virginia, at 7:30 a.m. on October 7, 1982.

The tracts shown below describe the islands omitted from the original survey.

Michigan Meridian, Michigan

T. 41 N., R. 3 E.,
Tract Nos. 37, 38 and 39.

2. The islands described above are separate and distinct yet similar in all respects to that of the adjacent surveyed lands.

a. The island Tract No. 37 rises approximately 6 feet above the ordinary high water mark of Lake Huron and has a soil composition of stony loam over glacial-till. Timber consists of cedar, spruce, tamarack, and birch. Borings showed trees to be up to 70 years old. Large boulders were found on the island.

b. Tract No. 38 rises approximately 6 feet above the ordinary high water mark of Lake Huron and has a soil composition of organic matter over a base strewn with boulders. Tree species consist of cedar, elm and ash. Borings showed trees to be up to 70 years old.

c. The island Tract No. 39 rises approximately 3 feet above the ordinary high water mark of Lake Huron and has a soil composition of organic matter over glacial-till. Timber consists of spruce, aspen and birch. Borings showed trees to be up to 60 years old. Decomposed stumps and large boulders were found on the island.

3. The islands described above were found to be over 50 percent upland in character within the purview of the Swamp Lands Act of September 28, 1850 (9 Stat. 519). They are, therefore, held to be public land.

4. Except for valid existing rights, the islands will not be subject to application, petition, location or selection under any public law until a further order is issued.

5. All inquiries relating to these islands should be sent to the Chief, Division of Lands and Minerals

Operations, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304 on or before October 7, 1982.

Jeff O. Holdren,

Chief, Division of Lands and Minerals Operations.

[FR Doc. 82-18568 Filed 7-8-82; 8:45 am]

BILLING CODE 4310-84-M

[ES 30505, Survey Group 78]

Michigan; Filing of Plat of Survey

1. On November 19, 1981, the plats representing the survey of 5 islands in Potagannissing Bay, which were omitted from the original survey, was accepted. It will be officially filed in the Eastern States Office, Alexandria, Virginia, at 7:30 a.m. on October 7, 1982.

The tracts shown below describe the islands omitted from the original survey.

Michigan Meridian, Michigan

T. 42 N., R. 5 E.,
Tract Nos. 37, 38, 39, 40, and 41.

2. The tracts described above are separate and distinct yet similar in all respects to that of the adjacent surveyed lands.

a. The island Tract No. 37 rises approximately 3 feet above the ordinary high water mark of Potagannissing Bay (Lake Huron) and has a soil composition of stony loam over glacial-till. Timber consists of cedar, spruce, balsam, fir, and birch. Borings showed trees to be up to 70 years old. Large boulders were found on the island.

b. Tract No. 38 rises approximately 6 feet above the ordinary high water mark of Potagannissing Bay (Lake Huron) and has a soil composition of stony loam over glacial-till. Tree species consist of cedar, spruce, balsam fir, and birch. Borings showed trees to be up to 70 years old. Large boulders were found on the island.

c. The island Tract No. 39 rises approximately 5 feet above the high water mark of Potagannissing Bay (Lake Huron) and has a soil composition of stony loam over glacial-till. Timber consists of cedar, spruce, balsam fir, and birch. Borings showed trees to be up to 70 years old. Large boulders were found on the island.

d. Tract No. 40 rises approximately 3 feet above the ordinary high water mark of Potagannissing Bay (Lake Huron) and has a soil composition of stony loam over glacial-till. Tree species consist of cedar, balsam fir, and birch. Borings showed trees to be up to 70 years old. Large boulders were found on the island.

e. The island Tract No. 41 rises approximately 5 feet above the ordinary high water mark of Potagannissing Bay (Lake Huron) and has a soil composition of stony loam over glacial-till. Timber consists of cedar, spruce, tamarack, balsam fir, and birch. Borings showed trees to be up to 70 years old. Large boulders were found on the island.

3. The islands described above were found to be over 50 percent upland in character within the purview of the Swamp Lands Act of September 28, 1850 (9 Stat. 519). They are, therefore, held to be public land.

4. Except for valid existing rights, the islands will not be subject to application, petition, location, or selection under any public law until a further order is issued.

5. All inquiries relating to these islands should be sent to the Chief, Division of Lands and Minerals Operations, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304 on or before (90 days from date of publication).

Jeff O. Holdren,

Chief, Division of Lands and Minerals Operations.

[FR Doc. 82-18610 Filed 7-8-82; 8:45 am]

BILLING CODE 4310-84-M

New Mexico; Proposed Land Exchange Between City of Albuquerque and Bureau of Land Management and USDA Forest Service

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action of proposed land exchange.

SUMMARY: This notice is to advise the public that the Albuquerque District of the Bureau of Land Management (BLM) is proposing to include an additional 2,928.61 acres of public land in a land exchange with the Region 3 Office of U.S. Forest Service and the City of Albuquerque.

SUPPLEMENTARY INFORMATION: A notice of Realty Action (NORA) was published in the **Federal Register** on May 14, 1982, advising the public that 15,759 acres of public land in the vicinity of Las Cruces, Albuquerque and Farmington and 3,930.31 acres in the Sedillo Unit of the Cibola National Forest were identified as being suitable for exchange out of federal ownership. On June 23, 1982, an initial decision was published in the **Federal Register** amending the San Juan Management Framework Plan (MFP), to identify and additional 2,928.61 acres of public land in Farmington area as being suitable for exchange. When this decision becomes final the BLM will include the 2,928.61 acres described below in the same land exchange with the U.S. Forest Service and the City of Albuquerque under authority of Section 206 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743).

Amendment Lands Found Suitable for Exchange

T. 29 N., R. 12 W., NMPM

Section 7—Lot 4	39.29
SE¼ SW¼	40.00
S½ SE¼	80.00
NE¼ SE¼	40.00
N½ SW¼ NE¼	20.00
SE¼ SW¼ NE¼	10.00
SE¼ NE¼	40.00
Section 8—E½ SW¼	80.00
N½ NW¼ SW¼	20.00
SE¼ NW¼ SW¼	10.00
W½ SW¼ NW¼ SW¼	5.00
W½ NW¼ SW¼ SW¼	5.00
S½ SW¼ SW¼	20.00
E½ SE¼	80.00
NE¼ NW¼ SE¼	10.00
S½ NW¼ SE¼	20.00
SW¼ SE¼	40.00
S½ NW¼	80.00
Section 17—E½	320.00
NW¼	160.00
NW¼ NE¼ SW¼	10.00
S½ NE¼ SW¼	20.00
W½ SW¼	80.00
SE¼ SW¼	40.00

T. 30 N., R. 13 W., NMPM

Section 24—E½	320.00
NW¼	160.00
W½ NE¼ SW¼	20.00
SE¼ NE¼ SW¼	10.00
W½ SW¼	80.00
SE¼ SW¼	40.00
Total—2,928.61 Acres	
Section 18—Lot 1	39.32
NE¼ NW¼	40.00
N½ NE¼	80.00
N½ SW¼ NE¼	20.00
SE¼ SW¼ NE¼	10.00
SE¼ NE¼	40.00
E½ SE¼	80.00
Section 19—NE¼ NE¼	40.00
N½ SE¼ NE¼	20.00
SE¼ SE¼ NE¼	10.00
N½ NE¼ SE¼	20.00
N½ S½ NE¼ SE¼	10.00
Section 20—N½	320.00
NW¼ SW¼	40.00
W½ NE¼ SW¼	20.00
SW¼ SE¼ SW¼	10.00
NW¼ SE¼	40.00
Section 32—NE¼ SE¼	40.00
Section 33—W½ SW¼	80.00
N½ NE¼ SE¼	20.00
W½ SW¼ NE¼ SE¼	5.00
SW¼ SE¼	40.00
W½ NW¼ SE¼ SE¼	5.00

When these lands are combined with the 15,759 acres of other public land and 3,930 acres of Forest Service land, they should approximate the value of 7,941.21 acres that are located in the Sandia Mountains adjacent to the city of Albuquerque. When these private lands are conveyed to the United States, they

will be included in the Cibola National Forest.

The 2,928.61 acres of public land will be conveyed subject to the following terms and conditions:

1. Authorized pipelines, powerlines, roads, highways, telephone lines, mineral leases, use permits and water wells will be identified as prior existing rights.

2. Oil, gas and coal will be the minerals reserved to the United States.

3. Grazing operators that will have their allotments affected by this exchange are entitled to a 2-year adjustment period. However, a permittee or lessee may waive this 2-year notice.

4. Archaeological clearances will be granted on all lands prior to conveyance of title.

In accordance with 43 CFR 2201.1(b), this notice shall segregate the public lands identified herein from further appropriations under all the public land laws, including the mining laws. This segregation shall terminate upon issuance of patent or 2 years from the date of this publication, whichever occurs first.

Detailed information concerning the exchange, including the environmental assessment, is available at the Albuquerque District Office, 3550 Pan American Freeway, NE, Albuquerque, New Mexico 87107.

On or before August 23, 1982, interested parties may submit comments to the District Manager, Albuquerque District Office at the above address. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this action will become the final determination.

Dated: June 30, 1982.

L. Paul Applegate,

District Manager.

[FR Doc. 82-18607 Filed 7-8-82; 8:45 am]

BILLING CODE 4310-84-M

Las Cruces District Grazing Advisory Board; Meeting

June 30, 1982.

AGENCY: Bureau of Land Management, Las Cruces District, Interior.

ACTION: Notice of meeting.

SUMMARY: Agenda.

DATE: July 29, 1982 9:30 AM.

ADDRESS: Elephant Butte Inn, Highway 52, 5 miles north of Truth or Consequences, New Mexico.

FOR FURTHER INFORMATION CONTACT:

Daniel C. B. Rathbun, District Manager, Las Cruces District, Bureau of Land Management, P.O. Box 1420, Las Cruces, New Mexico 88004, Telephone (505) 524-8551 FTS 572-0257.

SUPPLEMENTARY INFORMATION:

Agenda

1. Approval of Minutes.
2. Fiscal Year '83 Range Improvement Projects.
3. Actual Use Records Keeping.
4. Utilization Studies.
5. Update on Las Cruces-Lordsburg MFP Amendment and Wilderness Analysis Reports.

At 2:00 PM, Comments from the public will be received.

Daniel C. B. Rathbun,

District Manager.

[FR Doc. 82-18586 Filed 7-8-82; 8:45 am]

BILLING CODE 4310-84-M

Las Vegas District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Public Law 92-463 that a meeting of the Las Vegas District Grazing Advisory Board will be held on August 9, 1982, at 10:00 a.m. in the Calient Resources Area conference room of the Bureau of Land Management Office, Caliente, Nevada.

The agenda for the meeting will include: (1) Setting priorities for the FY83 range improvement projects; (2) public comment.

The meeting is open to the public. Interested persons may make oral statements to the board between 1:00 p.m. and 2:00 p.m. on the date of the meeting or file written statements for the Board's consideration before or during the meeting. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 4765 West Vegas Drive, Las Vegas, Nevada 89126 (P.O. Box 26569) by August 9, 1982. Depending on the number of persons wishing to make an oral statement, the District Manager may establish a per person time limit.

Summary minutes of the Board meeting will be maintained at the District Office. They will be available for public inspection and reproduction (during regular business hours) within thirty days after the meeting.

Dated: June 30, 1982.

Kemp Conn,

District Manager.

[FR Doc. 82-18609 Filed 7-8-82; 8:45 am]

BILLING CODE 4310-84-M

[Group 738]

California; Filing of Plat of Survey

June 29, 1982.

1. A plat of survey of the following described land accepted June 1, 1982, will be officially filed in the California State Office, Sacramento, California, immediately:

Mount Diablo Meridian, California

T. 20 N., R. 4 E.,
Sec. 4 and 10.

2. This plat, representing the dependent resurvey of a portion of the Fourth Standard Parallel North, South boundary, Township 21 North, Range 4 East, the dependent resurvey of a portion of the subdivisional lines, and certain mining claim boundaries, and the survey of the subdivision of section 4 and 10, Township 20 North, Range 4 East, Mount Diablo Meridian, under Group No. 738, California, was accepted June 11, 1982.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open file and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of this Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, Room E-2841, Cottage Way, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Section of Records and Data Management.

[FR Doc. 82-18593 Filed 7-8-82; 8:45 am]

BILLING CODE 4310-84-M

[Group 793]

California; Filing of Plat of Survey

June 29, 1982.

1. A plat of survey of the following described land accepted July 29, 1982 will be officially filed in the California State Office, Sacramento, California, immediately:

Mount Diablo Meridian, California

T. 4 N., R. 18 E.

2. This plat, representing the metes-and-bounds survey of Lot 13, in section 30, T. 4 N., R. 18 E., Mount Diablo Meridian, under Group No. 793, California, was accepted June 16, 1982.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open file and is

available to the public for information only.

4. This survey was executed to meet certain administrative needs of this Bureau and the U.S. Department of Agriculture Forest Service.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, Room E–2841, Cottage Way, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Section of Records and Data Management.

[FR Doc. 82–18594 Filed 7–8–82; 8:45 am]

BILLING CODE 4310–84–M

[ES 30510, Survey Group 78]

Michigan; Filing of Plat of Survey

1. On November 19, 1981, the plat representing the survey of 1 island in Raber Bay, which was omitted from the original survey, was accepted. It will be officially filed in the Eastern States Office, Alexandria, Virginia, at 7:30 a.m. on October 7, 1982.

The tract shown below describes the island omitted from the original survey.

Michigan Meridian, Michigan

T. 43 N., R. 3 E.,
Tract No. 37.

2. The island is separate and distinct yet similar in all respects to that of the adjacent surveyed lands.

The island Tract No. 37 rises approximately 4 feet above the ordinary high water mark of Raber Bay. Tree species consist of cedar, spruce, fir, maple, and aspen. Borings showed trees to be up to 60 years old. Large boulders were found on the island. The soil composition is of a stony loam over glacial-till.

3. The Tract No. 37 was found to be over 50 percent upland in character within the purview of the Swamp Lands Act of September 28, 1850 (9 Stat. 519). It is, therefore, held to be public land.

4. Except for valid existing rights, the island will not be subject to application, petition, location, or selection under any public law until a further order is issued.

5. All inquiries relating to this island should be sent to the Chief, Division of Lands and Minerals Operations, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304 on or before October 7, 1982.

Jeff O. Holdren,

Chief, Division of Lands and Minerals Operations.

[FR Doc. 82–18595 Filed 7–8–82; 8:45 am]

BILLING CODE 4310–84–M

[ES 30501, Survey Group 76]

Michigan; Filing of Plats of Survey

1. On November 19, 1981, the plats representing the survey of 1 island in Dickenson Lake, 1 island in Bass Lake and 2 islands in Lake Huron, which were omitted from the original survey, was accepted. It will be officially filed in the Eastern States Office, Alexandria, Virginia, at 7:30 a.m. on October 7, 1982.

The tracts shown below describe the islands omitted from the original survey.

Michigan Meridian, Michigan

T. 41 N., R. 7 E.,
Tract Nos. 37, 38, 39, and 40.

2. The islands described above are separate and distinct yet similar in all respects to that of the adjacent survey lands.

a. The island Tract No. 37 rises approximately 4 feet above the ordinary high water mark of Dickenson Lake and has a soil composition of stony loam over a rocky base. Tree species consist of cedar, balsam fir, spruce, and birch. Borings showed trees to be up to 60 years old.

b. Tract No. 38 rises approximately 3 feet above the ordinary high water mark of Bass Lake and has a thin layer of soil over a rocky base. Timber consists of balsam fir, spruce, birch, and cedar. Undergrowth consists primarily of alder.

c. The island Tract No. 39 rises approximately 4 feet above the ordinary high water mark of Lake Huron and has a soil composition of stony loam. Tree species consist of birch, aspen, spruce, tamarack, balsam fir, and cedar with undergrowth of alder, willow and balsam fir saplings. Many large boulders, were found on the island.

d. Tract No. 40 rises approximately 2 feet above the ordinary high water mark of Lake Huron and is composed of bedrock. Vegetation consists of a lone birch tree and a small bunch of alder.

3. The islands described above were found to be over 50 percent upland in character with the purview of the Swamp Lands Act of September 28, 1850 (9 Stat. 519). They are, therefore, held to be public lands.

4. Except for valid existing rights, the islands will not be subject to application, petition, location, or selection under any public law until a further order is issued.

5. All inquiries relating to these islands should be sent to the Chief, Division of Lands and Minerals Operations, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Viriginia 22304 on or before October 7, 1982.

Jeff O. Holdren,

Chief, Division of Lands and Minerals Operations.

[FR Doc. 82–18596 Filed 7–8–82; 8:45 am]

BILLING CODE 4310–84–M

[ES 30509, Survey Group 78]

Michigan; Filing of Plat of Survey

1. On November 19, 1981, the plat representing the survey of 2 islands in Munuscong Lake, which were omitted from the original survey, was accepted. It will be officially filed in the Eastern States Office, Alexandria, Virginia, at 7:30 a.m. on October 7, 1982.

The tracts shown below describe the islands omitted from the original survey.

Michigan Meridian, Michigan

T. 44 N., R. 3 E.,
Tract Nos. 37 and 38.

2. The islands are separate and distinct yet similar in all respects to that of the adjacent surveyed lands.

a. Tract 37 rises approximately 5 feet above the ordinary high water mark of Munuscong Lake and has a thin layer of soil. Many boulders were found on the island. Timber consists of ash and elm with willow, sumac and alder comprising most of the undergrowth.

b. Tract No. 38 rises approximately 1 foot above the ordinary high water mark of Munuscong Lake and has a thin layer of soil over a rocky base. Boulders were found on the island. Timber consists of birch, aspen, balsam fir, and cedar.

3. The islands described above were found to be over 50 percent upland in character within the purview of the Swamp Lands Act of September 28, 1850 (9 Stat. 519). They are, therefore, held to be public land.

4. Except for valid existing rights, the islands will not be subject to application, petition, location, or selection under any public law until a further order is issued.

5. All inquiries relating to these islands should be sent to the Chief, Division of Lands and Minerals Operations, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304 on or before October 7, 1982.

Jeff O. Holdren,

Chief, Division of Lands and Minerals Operations.

[FR Doc. 82–18598 Filed 7–8–82; 8:45 am]

BILLING CODE 4310–84–M

[CC-022723]

Nevada; Order Providing for Opening of Public Lands

July 1, 1982.

In an exchange of lands under the provisions of section 8 of the Act of June 28, 1934, as amended, the following described lands were reconveyed to the United States:

Mount Diablo Meridian, Nevada

T. 34 N., R. 54 E.,
Sec. 11, All;
Sec. 13, All;
Sec. 23, All.

The area described comprises 1,920 acres. The lands lie in Elko County approximately 4 miles west of Elko, Nevada.

All minerals were reconveyed to the United States.

At 9:00 a.m. on August 9, 1982, subject to valid existing rights, the land described above is hereby restored generally to the operation of the public land laws.

All valid applications received from the date of this publication until and including 9:00 a.m. on August 9, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

At 9:00 a.m. on August 9, 1982, the land shall be open to location and entry under the United States mining and mineral leasing laws.

Inquiries concerning this land should be addressed to District Manager, Bureau of Land Management, 2002 Idaho Street, Elko, Nevada 89801.

Wm. J. Malencik,

Chief, Division of Technical Services.

[FR Doc. 82-18597 Filed 7-8-82; 8:45 am]

BILLING CODE 4310-84-M

Oregon; Baker and Vale Districts; Consolidation

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of consolidation of Baker and Vale Districts.

SUMMARY: This notice announces the consolidation of the Baker and Vale Districts in eastern Oregon. The new District will be called the Vale District. The District Office will be located in Vale and the Baker office will be a detached Resource Area Office.

The objectives of the reorganization are to streamline management, provide more on-the-ground field personnel, and provide more timely response to the public.

EFFECTIVE DATE: June 29, 1982.

FOR FURTHER INFORMATION CONTACT: William G. Leavell, State Director, Bureau of Land Management, Oregon State Office, P.O. Box 2965, 825 NE Multnomah, Portland, Oregon 97208, 503-6251.

SUPPLEMENTARY INFORMATION: The new Vale District will include the following resource areas and public lands:

Resource area	Acres of BLM administered public lands
Baker Resource Area:	
Baker County	368,522
Malheur County	10,046
Morrow County	2,347
Umatilla County	12,800
Union County	5,385
Wallowa County	22,165
Asotin County, WA	9,738
Garfield County, WA	70
Total	431,073
Northern Malheur Resource Area:	
Malheur County	1,870,717
Grant County	9,383
Harney County	9,190
Total	1,889,290
Southern Malheur Resource Area:	
Malheur County	2,493,022
Harney County	162,904
Humboldt County, NV	31,606
Elko County, NV	999
Total	2,688,531

William G. Leavell,

State Director.

July 2, 1982.

[FR Doc. 82-18599 Filed 7-8-82; 8:45 am]

BILLING CODE 4310-84-M

[OR-9041-D]

Oregon; Order Providing for the Opening of Public Lands

1. The following identified Secretarial Orders of Interpretation of Public Water Reserve No. 107 are hereby revoked insofar as they affect the following described lands which do not meet the criteria of the Executive Order of April 17, 1926:

Willamette Meridian

Interpretation No. 62 of April 7, 1928

T. 12 S., R. 42 E.,
Sec. 35, NW¼NE¼ and NE¼NW¼.

Interpretation No. 93 of April 12, 1929

T. 5 N., R. 37 E.,
Sec. 35, SE¼SE¼.

Interpretation No. 108 of October 23, 1929

T. 4 N., R. 37 E.,
Sec. 1, SE¼SE¼.

Interpretation No. 196 of February 3, 1934

T. 8 S., R. 42 E.,
Sec. 15, SE¼SE¼.

Interpretation No. 199 of February 27, 1934

T. 7 S., R. 42 E.,
Sec. 33, NE¼.

Interpretation No. 201 of March 27, 1934

T. 8 S., R. 43 E.,
Sec. 22, SE¼NW¼.

Interpretation No. 247 of October 28, 1938

T. 14 S., R. 43 E.,
Sec. 4, SE¼NE¼.

The areas described aggregate 440 acres in Baker and Umatilla Counties, Oregon.

2. The SE¼SE¼ of Sec. 35, T. 5 N., R. 37 E., has been conveyed from United States ownership, and will not be restored to operation of the public land laws, including the mining laws and mineral leasing laws.

3. At 9:30 a.m., on August 13, 1982, the lands described in paragraph 1, except as provided in paragraph 2, will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 9:30 a.m., on August 13, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. At 9:30 a.m., on August 13, 1982, the lands described in paragraph 1, except as provided in paragraph 2, will be open to nonmetalliferous mineral location under the United States mining laws. The lands have been and continue to be open to metalliferous mineral location under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: June 30, 1982.

William G. Leavell,

State Director.

[FR Doc. 82-18584 Filed 7-8-82; 8:45 am]

BILLING CODE 4310-84-M

Idaho Falls District; Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that the Idaho Falls District Grazing Advisory Board will meet August 26, 1982.

The meeting will begin at 9 a.m. in the conference room of the Bureau of Land Management Office, 940 Lincoln Road, Idaho Falls, Idaho 83401. The meeting is open to the public. The Board will take statements from the public between 11:30 a.m. and 12 noon. Anyone wishing to make an oral statement must notify

the Idaho Falls BLM District Manager at the above address by August 20, 1982. Written statements will be accepted anytime prior to the Board meeting.

The agenda for the meeting will include:

1. Review of minutes.
2. Recommendations on Range Betterment Funds (8100).
3. Review of fiscal year 1982 projects constructed with Grazing Board and Range Betterment Funds.
4. Update on District's progress on maintenance plans for range projects.
5. Effects that the asset management program may have on grazing privileges.
6. Discussion on effects that Egin Lake Recharge outlet is having on Egin Lake Grazing Allotment.

Summary minutes of the Board meeting will be kept in the District Office and be available for public inspection and reproduction during regular business hours within 30 days of the Board meeting.

Dated: July 1, 1982.

O'dell A. Frandsen,

District Manager.

[FR Doc. 82-18603 Filed 7-8-82; 8:45 am]

BILLING CODE 4310-84-M

[AA-6670-A through AA-6670-K]

Alaska Native Claims Selection

The purpose of this decision is to modify the Decision to Issue Conveyance (DIC) dated January 23, 1980, and published in the **Federal Register** on pages 5402 through 5405. The DIC contained final determinations as to navigability and easements in accordance with the Alaska State Director (SD), Bureau of Land Management, memorandum dated November 16, 1979.

On May 20, 1982, an amendment to the SD Memorandum of November 16, 1979, was issued in accordance with a stipulation filed on May 18, 1982, with the Alaska Native Claims Appeal Board (ANCAB)(VLS 80-13). This amendment contained an administrative redetermination declaring Slopbucket Lake and Alexcy Lake as major waterways and identified three additional easements to be reserved.

On May 28, 1982, ANCAB directed the Bureau of Land Management to comply with the aforementioned stipulation. Therefore, the DIC, dated January 23, 1980, is modified to include the following.

Page 5405

Add the following easements:

n. (EIN 11a C5) A site easement upland of the ordinary high water mark in Sec. 27, T. 3 S., R. 32 W., Seward Meridian, on the north shore of Alexcy Lake. The site is one (1) acre in size with an additional 25-foot easement on the bed of the lake along the entire waterfront of the site. The allowable uses are those listed above for a one (1) acre site easement.

o. (EIN 11e C5) An easement for an existing access trail twenty-five (25) feet in width from site EIN 11a C5 on the north shore of Alexcy Lake northerly to site EIN 12a C5 on the Tazimina River. The allowable uses are those listed above for a twenty-five (25) foot trail easement.

p. (EIN 12a C5) a one-half (½) acre site easement upland of the ordinary high water mark in Sec. 22, T. 3 S., R. 32 W., Seward Meridian, on the left bank of the Tazimina River. The allowable uses are those listed above for a one (1) acre site easement.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this modified decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the ANCHORAGE TIMES.

Any party claiming a property interest in lands affected by this modified decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board before June 30, 1982, or to the Interior Board of Land Appeals after June 30, 1982; provided, however, pursuant to Public Law 96-487, this modified decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken *before June 30, 1982,* the notice of appeal must be filed with the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501.

If an appeal is taken *after June 30, 1982,* the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), address given above. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, address given above.

The time limits for filing an appeal are:

1. Parties receiving service of this modified decision shall have 30 days from the receipt of this modified decision to file an appeal.
2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until August 9, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this modified decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board or the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

State of Alaska, Department of Natural Resources, Division of Technical Services, Pouch 7-005, Anchorage, Alaska 99510.
Iliamna Natives Limited, Iliamna, Alaska 99605.
Bristol Bay Native Corporation, P.O. Box 198, Dillingham, Alaska 99576.

Except as modified by this decision the decision of January 23, 1980, stands as written.

Ann Johnson,

Chief, Branch of NACSA Adjudication.

[FR Doc. 81-18639 Filed 7-8-82; 8:45 am]

BILLING CODE 4310-84-M

F-14951-A

Alaska Native Claims Selections

Correction

In FR Doc. 82-17892 appearing on page 28822 in the issue of July 1, 1982 please make following change.

On page 28824, column 3 paragraph 6 should read as follows:

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State

Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Beaumont C. McLure,

Chief, Alaska Programs Staff.

[FR Doc. 82-18840 Filed 7-8-82; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Mines

Bureau Survey Form Submitted for Review

The extension for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and Suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Mr. William T. Adams, at 202-395-7340.

- Title: Producing or Developing Mining Property

Bureau Form Number: 6-1175X
Frequency: Annual
Description of Respondents: New mines or those which have recently become active.
Annual Responses: 50
Annual Burden Hours: 9
Bureau Clearance Officer: Robert L. Miller, 202-634-1125

Dated: June 28, 1982.

Robert C. Horton,

Director, Bureau of Mines.

[FR Doc. 82-18580 Filed 7-8-82; 8:45 am]

BILLING CODE 4310-53-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Chevron U.S.A. Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: This notice announces that Chevron U.S.A. Inc., Unit Operator of the South Bay Marchand Federal Unit Agreement No. 14-08-001-3915, submitted on June 24, 1982, a proposed annual plan of development/production describing the activities it proposes to conduct on the South Bay Marchand Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837-4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in development and production plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: July 1, 1982.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region

[FR Doc. 82-18606 Filed 7-8-82; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf, Tenneco Oil Exploration and Production

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Tenneco Oil Exploration and Production has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 3959, Block 13, Sabine Pass Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: July 2, 1982.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-18601 Filed 7-8-82; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Texaco U.S.A.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Texaco U.S.A. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 1606, Block 54, South Pass Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised

§ 250.34 of Title 30 of the Code of Federal Regulations.

Dated: July 2, 1982.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-18660 Filed 7-8-82; 8:45 am]

BILLING CODE 4310-31-M

INTERSTATE COMMERCE COMMISSION

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 C.F.R. 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after the publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office. (202) 275-7326.

Volume No. OP1-114

Decided: June 29, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 141651 (Sub-2), filed June 24, 1982. Applicant: GROVE TRANSPORT, INC., 215 14th St., Jersey City, NJ 07302. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 234-0301. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 162571, filed June 21, 1982. Applicant: R. D. ENTERPRISES, INC., 721 Courthouse Rd., Richmond, VA 23236. Representative: C. Thomas Mustain, Box K-53, Richmond, VA 23288, (804) 285-3800. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone, fertilizers and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 162581, filed June 21, 1982. Applicant: NORTHEAST DISTRIBUTING AND WAREHOUSING, INC., Pine St., Three Rivers, MA 01080. Representative: David M. Marshall, 101 State St., Suite 304, Springfield, MA 01103, (413) 732-1136. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 162620, filed June 22, 1982. Applicant: SHORELINE EXPRESS, INC., 611 Old Toll Rd., Madison, CT 06443. Representative: William Campbell (same address as applicant), (203) 421-3178. (1) As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI); and (2) transporting (a) for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI); (b) *food and other edible products and by products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI); and (c) *used household goods* for the account of the U.S. Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI).

MC 162640, filed June 24, 1982. Applicant: JOHN M. REIMER, Box 1244, Carman, Manitoba, Canada, ROG-0JO. Representative: John M. Reimer (same address as applicant), (204) 745-2567. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 162641, filed June 24, 1982. Applicant: T.W.A. TRUCK LINE, INCORPORATED, 725 North Springfield Avenue, Chicago, IL 60624. Representative: Abraham A. Diamond, 29 South La Salle Street, Chicago, IL 60603, (312) 236-0548. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

Volume No. OP3-102

Decided: June 30, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 124534 (Sub-5), filed June 21, 1982. Applicant: DYOLL DELIVERY SERVICE, INC., Box 66, Netcong, NJ 07857. Representative: George A. Olsen, P.O.

Box 357, Gladstone, NJ 07934, (201) 234–0301. Transporting *shipments weighing 100 pounds or less*, if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 152175 (Sub-3), filed June 21, 1982. Applicant: GRIFFIN DISTRIBUTING CO., INC., Rocky Ford Rd., P.O. Box 18471, Valdosta, GA 31601. Representative: Ken Combs (same address as applicant), (912) 242–8635. Transporting, for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

Volume No. OP4–242

Decided. July 2, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Williams not participating.)

MC 151356 (Sub-3), filed June 21, 1982. Applicant: THE BIRGE COMPANY, INC., 421 E. 16th St., Paterson, NJ 07514. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 234–0301. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP4–244

Decided: June 30, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 150947 (Sub-2), filed June 24, 1982. Applicant: ELDON L. ANNIS, d.b.a. ANNIS TRUCKING, Route 1, Glenwood City, WI 54013. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705–0086, (608) 238–3119 Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP4–248

Decided: July 2, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 162716, filed June 29, 1982. Applicant: GENE'S TRUCKING SERVICE, INC., 4529 Broadway Ave., Cleveland, OH 44127. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP5–139

Decided: June 28, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 79648 (Sub-5), filed June 11, 1982. Applicant: BROWN LINE, INC., 1677 Old Highway 99 South, Mt. Vernon, WA 98273. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055, (206) 228–3807. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except HI).

MC 162599, filed June 21, 1982. Applicant: E & J CONSOLIDATING, INC., 70 Western Ave., Allston, MA 02134. Representative: John A. Buckley, 38 May Ave., Brockton, MA 02401, (617) 587–3886. As a *broker of general commodities* (except household goods) between points in the U.S. (except AK and HI).

MC 162449, filed June 11, 1982. Applicant: WILLIAM G. YOUNG & COMPANY, 3 Park Row, New York, NY 10038. Representative: Robert C. Palmierri (same address as applicant), (212) 267–6320. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 162458, filed June 11, 1982. Applicant: DAVID L. REID, d.b.a. D AND N TRUCKING, 700 Capital Beach Blvd., Lincoln, NE 68528. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs) *agricultural limestone and fertilizers, and other soil conditioners* by owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 162489, filed June 14, 1982. Applicant: W. STEVE KNIGHT, JR., d.b.a. STEVE KNIGHT STEEL FABRICATORS, P.O. Box 337, Pearlington, MS 39572. Representative: W. Steve Knight, Jr. (same address as applicant), (504) 566–7389. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 162558, filed June 18, 1982. Applicant: LONNY G. FRIEDMAN AND JOSEPH S. SHENROSKE, d.b.a. J.C.F TRUCKING, 9964 Eden Ave., Schiller Park, IL 60176. Representative: Joseph Winter, 29 South LaSalle St., Chicago, IL 60603, 312–263–2306. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 162638, filed June 24, 1982. Applicant: HERBERT I. MEAD, d.b.a. MEAD ENTERPRISES, P.O. Box 572, Marion, IL 62959. Representative: Joseph Winter, 29 South LaSalle St., Chicago, IL 60603, 312–263–2306. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP5–143

Decided: July 1, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 158348 (Sub-1), filed June 23, 1982. Applicant: JRX TRUCKING, INC., 9121 South 52nd Avenue, Oak Lawn, IL 60453. Representative: Joseph Winter, 29 South LaSalle St., Chicago, IL 60603, 312–263–2306. (1) transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI), (2) as a *broker of general commodities* (except household goods) between points in the U.S. (except AK and HI), and (3) transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Clarksville, Huntertown and Wallen, IN, Cheektowaga and Williamsville, NY, and Truro and Whitehall, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI). Condition: Approval of the authority in (3) is conditioned upon applicant certifying to the Commission, prior to commencing operations, that all rail service has actually terminated at all of the involved points.

Note.—The purpose of (3) in this application is to substitute motor carrier service for complete abandonment of rail carrier service.

MC 162648, filed June 25, 1982. Applicant: CHARLES TAGUE & BRUCE TAGUE, RR 1, Gorin, MO 63543. Representative: Charles Tague (same address as applicant), (816) 479–5691. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners* by the owner of the motor

vehicle in such vehicle, between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-18557 Filed 7-8-82; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OP3-102

Decided: July 1, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 81835 (Sub-11), filed June 21, 1982. Applicant: MONIOWCZAK TRANSIT COMPANY, Pineridge—U.S. 2 & 41, Escanaba, MI 49829. Representative: William B. Elmer, P.O. Box 801, Traverse City, MI 49684, (616) 941-5313. Transporting *malt beverages*, between Milwaukee, WI, on the one hand, and, on the other, points in the upper peninsula of MI.

MC 107744 (Sub-7), filed June 24, 1982. Applicant: B & G TRUCKING, INC., 10907 So. Painter Ave., Santa Fe Springs, CA 90670. Representative: Raymond P. Keigher, Suite 102, 401 E. Jefferson St., Rockville, MD 20850, (301) 424-2420. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AZ, AR, CA, CO, ID, KS, LA, MS, NV, NM, OK, OR, TX, UT, WA and WY.

MC 115554 (Sub-27), filed June 25, 1982. Applicant: HEARTLAND EXPRESS, INC. OF IOWA, P.O. Box 89B, R.R. #6, Iowa City, IA 52240. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501, (402) 475-6761. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 133194 (Sub-27), filed June 21, 1982. Applicant: WOODLINE MOTOR FREIGHT, INC., Airport Rd., P.O. Box 1047, Russellville, AR 72801. Representative: Scotty D. Douthit, Sr. (same address as applicant), (601) 968-2240. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AR, KS, MO, OK, TX, LA, MS, KY, TN, AL, GA, NC, SC, and FL.

Note.—Applicant intends to tack this authority to its existing regular route authority.

MC 133735 (Sub-17), filed May 13, 1982. Applicant: AUDUBON-BROOKHISER TRANSPORT, INC., P.O. Box 186, Wever, IA 52658. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244-2329. Transporting (1) *food and related products* and (2) *chemicals and related products*, between points in Lake County, IN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 143394 (Sub-28), filed June 21, 1982. Applicant: GENIE TRUCKING LINE, INC., P.O. Box 840, 401 East Louther St., Carlisle, PA 17013. Representative: G. Kenneth Bishop (same address as applicant), (717) 249-2425. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 147494 (Sub-13), filed June 18, 1982. Applicant: BOBBY KITCHENS, INC., P.O. Drawer 5690, Jackson, MS 39208. Representative: Fred W. Johnson, Jr., P.O. Box 1291, Jackson, MS 39205, (601) 355-3543. Transporting (1) *scrap industrial batteries*, between points in the U.S. (except AK and HI), under continuing contract(s) with MPN Corporation, D/B/A Dallas Scrap Baling Co., of Dallas, TX, (2) (a) *building and construction materials*, (b) *machinery*, (c) *transportation equipment*, and (d) *metal products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Irby Construction Company, of Jackson, MS, (3) (a) *electrical equipment*, (b) *metal products*, and (c) *machinery*, between points in the U.S. (except AK and HI), under continuing contract(s) with Electric Wire and Cable Company, of Houston, TX, and (4) (a) *pipe fittings*, (b) *iron and steel articles*, and (c) *machinery*, between points in the U.S. (except AK and HI), under continuing contract(s) with G & W—Taylor Forge Division, of Ackerman, MS.

MC 149195 (Sub-20), filed June 21, 1982. Applicant: ARCADIAN MOTOR CARRIERS, 1100 Sierra St., Kingsburg, CA 93631. Representative: James F. Hauenstein (same address as applicant), (209) 897-4122. Transporting *electrical applicances and equipment, lamps, lanterns, and lighting fixtures*, between

points in NM, MS, TN, WI, CA, UT, and CT, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 151375 (Sub-2), filed June 21, 1982. Applicant: COMPUTER TRANSPORT OF GEORGIA, INC., 6105 Purdue Dr., S.W., Atlanta, GA 30336. Representative: Bruce E. Mitchell, 3390 Peachtree Rd., N.E., Suite 520, Atlanta, GA 30326, (404) 262–7855. Transporting (1) *duplicating machines,* (2) *computers,* (3) *typewriters,* (4) *instruments,* and (5) *photographic goods,* between Baltimore, MD, on the one hand, and, on the other, points in MD and VA.

MC 157544, filed June 24, 1982. Applicant: DEVON PUNNEO, d.b.a. PUNNEO'S SERVICE, P.O. Box 156, Lone Grove, OK 73443. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154, (405) 424–3301. Transporting (1) *scrap metal,* (2) *feed and feed ingredients,* and (3) *farm supplies,* between points in OK, on the one hand, and, on the other, points in AR, KS, MO, TN, and TX.

MC 161725, filed June 18, 1982. Applicant: LAR-CO EXPRESS, A DIVISION OF EXE-CAL TRANSPORTATION SALES, INC., 10803 Los Jardines, E., Fountain Valley, CA 92708. Representative: Lawrence J. Exe (same address as applicant), (714) 963–7706. Transporting *general commodities* (except classes A and B explosives, household goods, and hazardous waste materials), between points in the U.S., under continuing contract(s) with Lawi/Csa Consolidator, Inc., of Huntington Park, CA.

MC 161925, filed June 21, 1982. Applicant: KEENNDY LEASING, INC., P.O. Box 68, Birdsboro, PA 19508. Representative: Lynn E. Zampella (same address as applicant), (215) 582–2222. Transporting (1) *pulp and paper,* and (2) *plastic and related articles,* between points in Berks, Lycoming, and Allegheny Counties, PA, and Tuscarawas County, OH, on the one hand, and, on the other, points in MD, NY, PA, NJ, MA, DE, RI, CT, NH, and VA.

MC 161974, filed June 23, 1982. Applicant: TRIDENT TRUCK LINE, INC., 23724 Saklan Rd., Hayward, CA 94545. Representative: Eugene Q. Carmody, 15523 Sedgeman St., San Leandro, CA 94579, (415) 357–6236. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in CA.

MC 162635, filed June 23, 1982. Applicant: RON ABRAMS, d.b.a. ABRAMS TRUCKING, 743 West 11th St., Rushville, IN 46173. Representative: (same as above), (317) 932–4790. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Rush County, IN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Volume No. OP4–241

Decided: July 2, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 162596, filed June 22, 1982. Applicant: RITE TRUCK LINES, INC., 3777 Sparks Dr. SE, Suite 224, Grand Rapids, MI 49506. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, (616) 459–6121. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities, in bulk), (1) between points in IL, IN, MI, and OH, and (2) between points in MI.

Volume No. OP4–243

Decided: July 2, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 146496 (Sub-16), filed June 25, 1982. Applicant: JOSEPH MOVING & STORAGE CO. d.b.a. ST. JOSEPH MOTOR LINES, 5724 New Peachtree Rd., Chamblee, GA 30341. Representative: Edward J. Kiley, 1730 M St., N.W., Washington, DC 20036, (202) 296–2900. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Atlanta, GA, and points in Fulton, De Kalb, and Gwinnette Counties, GA, on the one hand, and, on the other, points in AL, AR, FL, GA, LA, TX, NC, SC, and TN. Condition: Issuance of a certificate in this proceeding is conditioned upon a request in writing by applicant for coincidental cancellation of its permits Nos. MC–146496 (Sub-Nos. 2, 5, 7, 13, 14, and 18).

MC 148286 (Sub-2), filed June 24, 1982. Applicant: RALPH OPPERMAN, 1017 Valley View Dr., Fortuna, CA 95540. Representative: Milton, W. Flack, 8484 Wilshire Blvd., #840, Beverly Hills, CA 90211, (213) 655–3573. Transporting *lumber and wood products, and building materials,* between points in AZ, CA, CO, ID, KS, MN, MT, NE, NV, ND, NM, OK, OR, SD, TX, UT, WA and WY.

MC 156336 (Sub-1), filed June 25, 1982. Applicant: OSCEOLA WASTE MATERIALS, INC., P.O. Box 752, Industrial Dr., Osceola, AR 72370. Representative: Thomas B. Staley, 1550 Tower Bldg., Little Rock, AR 72201, (501) 563–5461. Transporting *beer and malt beverages,* (a) between points in St. Louis County, MO, on the one hand, and, on the other, points in Phillips and Crittenden Counties, AR, and Shelby County, TN, and (b) between points in Crittenden and Phillips Counties, AR, on the one hand, and, on the other, points in Franklin County, OH, and Duvall County, FL.

MC 62666, filed June 25, 1982. Applicant: TIP TRUCKING, INC., 460 Nasa Road One, Seabrook, TX, P.O. Box 58170, Drawer 1047, Houston, TX 77058. Representative: Joe G. Fender, 9601 Katy Freeway, Suite 320, Houston, TX 77024, (713) 827–1407. Transporting *metal articles, machinery, pipe, and cooling towers,* between points in the U.S. (except AK and HI).

Volume No. OP4–245

Decided: June 30, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

FF 607, filed June 24, 1982. Applicant: ALLSTATE VAN & STORAGE, INC., P.O. Box 086, College Grove Station, San Diego, CA 92115. Representative: Robert J. Brooks, 1828 L St., NW., Suite 1111, Washington, D.C. 20036, (202) 466–3892. As a freight forwarder, in connection with the transportation of (1) *household goods,* (2) *unaccompanied baggage,* (3) *used automobiles,* and (4) *new furniture and fixtures,* between points in the U.S.

MC 54847 (Sub-14), filed June 24, 1982. Applicant: INTRACOASTAL TRUCK LINE, INC., P.O. Box 354, Harvey, LA 77059. Representative: C. W. Ferebee, 3910 FM 1960 W., Suite 106, Houston, TX 77068, (713) 537–8156. Transporting *Mercer commodities and earth-drilling commodities,* between points in the U.S. (except AK and HI).

MC 148737 (Sub-13), filed June 24, 1982. Applicant: SUNSET EXPRESS CORP., 2200 S 400 West, Salt Lake City, UT 84115. Representative: Michael A. Clark (same as applicant) (801) 484–4307. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Salt Lake County, UT, on the one hand, and, on the other, points in CT, MA, NJ, NY, and PA.

MC 160397, filed May 17, 1982, and previously noticed in the **Federal Register** issue of June 4, 1982. Applicant: C.R. COPE ENTERPRISES–LCM, Route 4, Box 120, Seminole, TX 79360. Representative: Timothy Mashburn, P.O. Box 2207, Austin, TX 78768, (512) 476–6391 Transporting *Mercer commodities,* between points in KY, MI, NC, SC, and VA, and points in the U.S. in and west of LA, AR, MO, IA and MN.

MC 161507, filed June 25, 1982. Applicant: SUNCOOK TAXI & BUS

LINES, INC., 7 Albin Ave., Allenstown, NH 03275. Representative: Mark Rufo, 133 Loudon Rd., Concord, NH 03301, (603) 224–8411. Transporting *passengers and their baggage*, in special and charter operations, (1) between points in NH, MA, and ME, and (2) between points in NH, MA, and ME, on the one hand, and, on the other, points in the U.S. (except HI).

MC 162637, filed June 24, 1982. Applicant: GESCO TRANSPORT, INC., 490 Park Ridge Dr., Munroe Falls, OH 44262. Representative: Lewis S. Witherspoon, 2455 North Star Rd., Columbus, OH 43221, (614) 486–0448. Transporting *food and related products*, between points in the U.S. under continuing contract(s) with Stouffer Foods Corporation, of Solon, OH.

Volume No. OP4–246

Decided: July 2, 1982.

By the Commission Review Board No. 2. Members Carleton, Fisher, and Williams.

MC 133466 (Sub-6), filed June 25, 1982. Applicant: FORT CALHOUN EXPRESS, INC., 12th & Madison, Fort Calhoun, NE 68023. Representative: Cole Sparkman (Same address as applicant), (402) 468–5511. Transporting *food and related products*, between points in Hennepin, Ramsey and Dakota Counties, MN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 150576 (Sub-4), filed June 25, 1982. Applicant: COASTAL TRANSPORT, INC., P.O. Box 1277, Goldsboro, NC 27530. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602, (919) 828–0731. Transporting *petroleum and petroleum products*, between points in NC and VA.

MC 151866 (Sub-5), filed June 25, 1982. Applicant: R. L. JONES & SONS, INC., 4900 E 12th St., Kansas City, MO 64127. Representative: Tom B. Kretsinger, P.O. Box 258, Liberty, MO 64068, (816) 781–6000. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in MO and KS.

MC 152056 (Sub-5), filed June 25, 1982. Applicant: RHETT BUTLER TRUCKING, INC., Route 6, Box 83, Andalusia, AL 36420. Representative: Gerald D. Colvin, Jr., 601–09 Frank Nelson Bldg., Birmingham, AL 35203, (205) 251–2881. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), on the one hand, and, on the other, points in the U.S. in and west of MI, IN, KY, TN, GA and FL (except AK and HI).

MC 156046 (Sub-3), filed June 28, 1982. Applicant: HABIT MOTOR LINES, INC., 98 N Broadway, Salem, NJ 03079. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108, (617) 742–3530. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in CT, ME, MA, NH, NJ, NY, PA, RI, and VT, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162656, filed June 25, 1982. Applicant: CHARLES G. UNSER, d.b.a. TRAVEL LAND TOURS, 117 E. 8th St., Suite 200C, Long Beach, CA 90813. Representative: Charles G. Unser (same address as applicant), (213) 435–4401. To operate as a *broker*, at Long Beach, CA, in arranging for the transportation, by motor vehicle, in interstate or foreign commerce, of *passengers and their baggage*, in special and charter operations, between points in the U.S. (except HI).

MC 162676, filed June 25, 1982. Applicant: ANTONIETTA BELLUCCI AND ANNA BELLUCCI d.b.a. ANNA-BELL TOURS, 706 Washington Ave., Portland, ME 04103. Representative: Antonietta Bellucci (same address as applicant), (207) 775–1580. To operate as a *broker*, at Portland, ME, in interstate or foreign commerce, in arranging for the transportation of *passengers and their baggage*, in special and charter operations, beginning and ending at points in Cumberland County, ME, and extending to points in the U.S. (except AK and HI).

MC 162686, filed June 25, 1982. Applicant: EMBASSY LIMO. SERVICE, 10944 Hayford St., Norwalk, CA 90650. Representative: Phil Constantine (same address as applicant), (213) 864–1113. Transporting *passengers and their baggage*, in special or charter operations, in round-trip sightseeing and pleasure tours, between points in CA, UT, AZ, and NV, under continuing contract(s) with A American Tours, of Los Angeles, CA.

Volume No. OP4–247

Decided: July 2, 1982.

By the Commission Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 48386 (Sub-22), filed June 29, 1982. Applicant: GRAVER TRUCKING, INC., R.D. #7, Box 7655, Stroudsburg, PA 18360. Representative: Joseph A. Keating Jr., 121 S. Main St., Taylor, PA 18517, (717) 344–8030. Transporting *rope and related products*, between points in Wayne County, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 105636 (Sub-44), filed June 29, 1982. Applicant: ARMELLINI EXPRESS LINES, INC., P.O. Box 2394, Stuart, FL 33494. Representative: Wilmer B. Hill, Suite 366, 1030 Fifteenth St., NW., Washington, D.C. 20005, (202) 296–5188. Transporting *such commodities* as are dealt in or used by the horticultural industry, between points in the U.S. (except AK and HI).

MC 145636 (Sub-25), filed June 18, 1982. Applicant: BOB BRINK, INC., 165 Steuben St., Winona, MN 55987. Representative: Edward H. Instenes, P.O. Box 676, 128½ Plaza E., Winona, MN 55987, 1–(507) 454–3914. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in MN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 152576 (Sub-2), filed June 28, 1982. Applicant: TERMINAL & TRANSPORT SYSTEMS, INC., 130 Freight St., Waterbury, CT 06723. Representative: Edward M. Taber, 64 Nottingham Terr., Waterbury, CT 06704, (203) 753–0939. Transporting *general commodities* (except classes A and B explosives household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 152706 (Sub-6), filed June 28, 1982. Applicant: MIDWEST OIL TRANSIT, INC., P.O. Box 68083, Indianapolis, IN 46268. Representative: Robert B. Herbert, 777 Chamber of Commerce Bldg., Indianapolis, IN 46204, (317) 639–4511. Transporting *petroleum and coal products*, between Toledo, OH, on the one hand, and, on the other, Indianapolis, IN.

MC 157426 (Sub-1), filed June 28, 1982. Applicant: BRIAN W. SMITH, d.b.a. BRIAN W. SMITH TRANSPORTATION COMPANY, S. 702 Felts Rd., Spokane, WA 99206. Representative: Russell A. Evans, 410 Maynard Bldg., 119 First Ave. S., Seattle, WA 98104, (206) 622–1471. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in WA, OR, CA and AK, under continuing contract(s) with Hathaway Meats, Inc., of Spokane, WA.

MC 161236, filed June 29, 1982. Applicant: BARBARA KRAKLIO, d.b.a. K & K TRUCKING, R.R. #1, Box 106, Eldridge, IA 52748. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting *coal and coal products*, (1) between Davenport and Dubuque, IA, and points in La Salle County, IL, on the one hand, and, on the other, Madison,

WI, Waterloo, Muscatine, and points in Johnson County, IA, and Rock Island County, IL, and (2) between points in Crawford County, WI, on the one hand, and, on the other, points in Cerro Gordo County, IA.

MC 162706, filed June 28, 1982. Applicant: D–V HAULING, INC., Box 209, Willmar, MN 56201. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542–1121. Transporting *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, limited to the transportation of not more than 10 passengers in any one vehicle, not including the driver, between points in Kandiyohi County, MN, on the one hand, and, on the other, points in IA and SD.

Volume No. OP5–138

Decided: June 28, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 111299 (Sub-16), filed June 24, 1982. Applicant: KRIVAN TRUCK LINES, Inc., Box 829, International Falls, MN 56649. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd, Suite 307, Edina, MN 55424, 612–927–8855. Transporting (1) *pulp paper and related products,* between points in the U.S. (except AK and HI), under contiuing contract(s) with Golper Supply Co., Inc. of Appleton, WI; (2) *general commodities* (except classes A and B explosives, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Menasha Corporation of Neenah, WI; and (3) *commodities in bulk,* between points in the U.S. (except AK and HI), under continuing contract(s) with Mobil Oil Corporation of Dallas, TX.

MC 114028 (Sub-45), filed June 18, 1982. Applicant: ROWLEY INTERSTATE TRANSPORTATION COMPANY, INC., 2010 Kerper Boulevard, Dubuque, IA 52001. Representative: Carl L. Steiner and Joel H. Steiner, 29 South LaSalle St., Suite 905, Chicago, IL 60603, (312) 236–9375. Transporting *general commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S.* (except AK and HI), under continuing contract(s) with Signode Corporation of Glenview, IL.

MC 114028 (Sub-46), filed June 21, 1982. Applicant: ROWLEY INTERSTATE TRANSPORTATION COMPANY, INC., 2010 Kerper Blvd., Dubuque, IA 52001. Representative: Carl L. Steiner, 29 South LaSalle St., Chicago, IL 60603, 312–236–9375. Transporting *distilled spirits and wines,* between points in the U.S. (except AK and HI), under continuing contract(s) with Federated Distributors, Inc. of Chicago, IL, and its subsidiaries, Lake Shore Distributing Company of Rockford and Waukeegan, IL; Illinois Wine and Spirits Company of Plainfield, IL; and Capitol Husting Company of Milwaukee, WI.

MC 138569 (Sub-6), filed June 21 1982. Applicant: BRAITHWAITE TRUCKING, INC., 3819 Sunset Dr., Rapid City, SD 57701. Representative: Thomas J. Simmons, P.O. Box 480, Sioux Falls, SD 57101, 605–339–3629. Transporting *cement and concrete products,* between points in the U.S. under continuing contract(s) with U-Cart Concrete and Precast Products of Gillette, WY.

MC 139069 (Sub-1), filed June 14, 1982. Applicant: GIROUX'S EXPRESS, INC., 10 Rex Dr., Braintree, MA 02184. Representative: John F. O'Donnell, 60 Adams St., P.O. Box 238, Milton, PA 02187, 617–696–7610. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CT, MA, ME, NH, RI, and VT.

MC 140268 (Sub-1), filed June 21, 1982. Applicant: J–GEM TRANSPORTATION, INC., 1418 17th St., Long Beach, CA 90813. Representative: Ensley Weimer (same address as applicant), (213) 263–6851). Transportating *air conditioning equipment,* between points in the U.S. (except AK and HI), under continuing contract(s) with Frigid Coil/Frick, Inc., of Santa Fe Springs, CA.

MC 140268 (Sub-2), filed June 18, 1982. Applicant: J–GEM TRANSPORTATION, INC., 1418 17th St., Long Beach, CA 90813. Representative: Ensley Weimer (same address as applicant), (213) 263–6851. Transporting *pipe and tubing,* between points in the U.S. (except AK and HI), under continuing contract(s) with Killsby Roberts Co. (wholly-owned subsidiary of Flour Corporation), of Brea, CA.

MC 140268 (Sub-3), filed June 14, 1982. Applicant: J–GEM TRANSPORTATION, INC., 1418 17th St., Long Beach, CA 90813. Representative: Ensley Weimer (same address as applicant), 213–263–6851. Transporting *Mercer commodities* between points in the U.S. (except AK and HI), under continuing contract(s) with Hughes Offshore (Division of Hughes Tool Corporation) of Torrance, CA.

MC 144118 (Sub-2), filed June 21, 1982. Applicant: COMPUTER TRANSPORT OF OHIO, INC., 3699 Interchange Rd., Columbus, OH 42301. Representative: Bruce E. Mitchell, 3390 Peachtree Rd., NE., Suite 520, Atlanta, GA 30326, 404–262–7855. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in OH, IL, IN, KY, MI, NY, PA, VA, and WV.

MC 150798 (Sub-6), filed June 21, 1982. Applicant: CKR TRANSPORT, LTD. P.O. Box 599, Elmhurst, IL 60126. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064, (615) 790–2510. (1) transporting *chemicals and related products, drug and health care items,* and *food and related products,* between points in CA, IL, IN, NJ, NC, DE, PA, WI, MN, MI, and TX, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *chemicals and related products* between Omaha, NE, Oklahoma City, OK, Vancouver, WA and West Memphis, AR, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 158429 (Sub-2), filed June 21, 1982. Applicant: ARTHUR, PETER, PHILIP, AND HANSEL MULDER, d.b.a. ART MULDER AND SONS TRUCKING, A4406 M–40 South, Holland, MI 49423. Representative: Paul M. Ross, 3104 S. Cedar St., Lansing, MI 48910, (517) 394–4220. Transporting *food and related products* between points in the U.S. under continuing contract(s) with Benco Pet Food, Inc., of Zanesville, OH, and Chef Pierre, Inc., of Traverse City, MI.

MC 159419 (Sub-1), filed June 21, 1982. Applicant: ARIZONA REFRIGERATED TRANSPORT, INC., 2401 S. 19th Ave., Phoenix, AZ 85009. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014, (602) 264–4891. Transporting *meat and meat byproducts,* between points in AZ on the one hand, and, on the other, points in KS.

MC 162479, filed June 14, 1982. Applicant: LEACH MANUFACTURING COMPANY, INC., P.O. Box 1010, Gadsden, AL 35902. Representative: John W. Cooper, P.O. Box 162, Mentone, AL 35984, (205) 634–4885. Transporting *metal products* between Birmingham, AL, New Orleans, LA, Memphis, TN, and points in Calhoun and Etowah Counties, AL, on the one hand, and, on the other, points in NJ, PA, OH, MD, DE, WV, VA, NC, SC, IN, IL, KY, TN, MO, GA, FL, AL, AR, MS, LA, KS, OK, TX, and DC.

MC 162488, filed June 15, 1982. Applicant: CHRISTOPHER J. STESKAL d.b.a. C. J. STESKAL TRUCKING, 417 Township Line Road, Chalfont, PA 18914. Representative: Mary C. Eberle, One South Fifth St., Perkasie, PA 18944. Transporting (1) *Construction materials* and *construction* equipment between points in PA, ME, VT, NH, MA, CT, RI,

NY, OH, NJ, MD, DE, VA, WV, NC, SC, and DC, and (2) *garden supplies* between points in Bucks and Montgomery Counties, PA, on the one hand, and, on the other, points in (1) above.

MC 162508, filed June 16, 1982. Applicant: BROUGHTON FOODS COMPANY, 114 Virginia St., W., Charleston, WV 25300. Representative: Philip H. Smith (same address as applicant), (304) 342–2176. Transporting *bananas,* between Charleston, SC and points in Hillsborough County, FL, on the one hand, and, on the other points in the U.S., under continuing contract(s) with Surface Banana Co., Inc., of Bluefield, WV.

MC 162568, filed June 21, 1982. Applicant: MARLIN C. BORTNER d.b.a. M.C.B. TRUCKING, 415 Hanover Rd., York, PA 17404. Representative: Norman T. Petow, 43 North Duke St., York, PA 17401, (717) 843–8004. Transporting (1) *bakery waste,* (2) *poultry feed supplement,* and (3) *grains and seeds,* between those points in the U.S. on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the U.S. and Canada.

MC 162598, filed June 21, 1982. Applicant: MAXON & SON'S TOWING, INC., 46 Main St., Norfolk, MA 02056. Representative: Robert G. Parks, 20 Walnut St., Suite 101, Wellesley Hills, MA 02181, (617) 235–5571. Transporting *motor vehicles* and *automotive parts and supplies,* between points in RI and MA, on the one hand, and, on the other, points in CT, ME, MA, NH, RI, and VT.

Volume No. OP5–140

Decided: June 24, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 79658 (Sub-23), filed June 16, 1982. Applicant: ATLAS VAN LINES, INC., 1212 St. George Rd., P.O. Box 509, Evansville, IN 47711. Representative: Robert C. Mills (same address as applicant), (812) 424–2222.Transporting *household goods* between points in the U.S. (except AK and HI), under continuing contract(s) with The St. Paul Companies, Inc., of St. Paul, MN.

MC 120888 (Sub-4), filed June 17, 1982. Applicant: SHEPHARD'S EXPRESS, INC., 207 Mill St., Leominster, MA 01453. Representative: Steve L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840–8565. Transporting *general commodities* (except classes A and B explosives, commodities in bulk and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Digital Equipment Corporation, of Northborough, MA.

MC 133118 (Sub-2), filed June 17, 1982. Applicant: TRI-WEST TRANSPORTATION CO., 6045 S. W. 179th Ave., Beaverton, OR 97007. Representative: Earle V. White, 2400 S. W. Fourth Ave., Portland, OR 97201, (503) 226–6491. Transporting (1) *greases, motor and lubricating oils,* and (2) *tires, batteries and auto accessories,* between points in Multnomah County, OR, on the one hand, and, on the other points in WA, under continuing contract(s) with Tri-City Oil Co., of Kennewick, WA, Christensen Oil Co., of Enumclaw, WA, Inland Oil Co., of Ephrata, WA, Carey & Son, of Issaquah, WA, and Mercer Oil Ltd., of Sunnyside, WA.

MC 138569 (Sub-5), filed June 18, 1982. Applicant: BRAITHWAITE TRUCKING, INC., 3819 Sunset Dr., Rapid City, SD 57701. Representative: Thomas J. Simmons, P.O. Box 1480, Sioux Falls, SD 57101, 605–339–3604. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S. under continuing contract(s) with The Great Western Sugar Company of Denver, CO.

MC 141318 (Sub-3), filed June 18, 1982. Applicant: WEATHER SHIELD TRANSPORTATION, LTD., P.O. Box Ltd., Medford, WI 54451. Representative: Robert S. Lee, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402, 612–333–1341. Transporting *food and related products,* between points in Cache, Davis, Morgan, Salt Lake and Weber Counties, UT and Taylor County, WI, on the one hand, and, on the other, points in the U.S.(except AK and HI).

MC 142539 (Sub-13), filed June 17, 1982. Applicant: B.W.T. TRANSPORT, INC., 757 River Drive, Passaic, NJ 07055. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, (201) 572–5551. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 147978 (Sub-10), filed June 14, 1982. Applicant: SYSTEM REEFER SERVICE, INC., 4614 Lincoln Ave., Cypress, CA 90630. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740, (301) 797–6060. Transporting *toilet articles and toilet preparations* between points in Baltimore County, MD, on the one hand, and, on the other, points in OR, WA, ID, AZ and MT.

MC 150339 (Sub-48), filed June 14, 1982. Applicant: PIONEER TRANSPORTATION SYSTEMS, INC., 151 Easton Boulevard, Federalsburg, MD 21632. Representative: Ronald D. Endzel (same address as applicant), (301) 754–5084. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Exxon Corporation, of Houston, TX.

MC 156428, filed June 18, 1982. Applicant: JACK MULA and FRANK GUMINA, JR., d.b.a. MARSAN WAREHOUSING & TRANSPORTATION, Melrich Road, Cranbury, NJ 08512. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 234–0301. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with New Brunswick Nickel & Chromium Plating, Inc., of New Brunswick, NJ, Hoover Universal, Inc., of Georgetown, KY, Williamsburgh Steel Products Co., Inc., of Brooklyn, NY, Marsan Warehousing & Transportation, of South Brunswick, NJ, Frigidaire International Co., of Dayton, OH, Edison Products, of Edison, NJ, and Interstab Chemicals, Inc., of New Brunswick, NJ.

MC 158268 (Sub-1), filed June 17, 1982. Applicant: CLARENCE A. MILLER TRUCKING CO., INC., P.O. Box 628, Jackson, OH 45640. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215, 614–228–1541. Transporting *coal, clay and limestone,* between points in Gallia, Jackson, Meigs, Lawrence and Vinton Counties, OH, on the one hand, and on the other, points in IN, IL, MI, PA, and VA.

MC 158859 (Sub 1), filed June 14, 1982. Applicant: O. DEAN TRANSPORTATION, INC., 406 West Williamsburg Road, Sandston, VA 23150. Representative: P. Owen Dean (same address as applicant), (804) 737–7838. *Transporting* (1) *pulp, paper and related products,* (2) *rubber and plastic products,* and (3) *machinery parts* between Richmond, VA, Chicago, IL, Minerva, OH and points in Wood County, OH, Middlesex, Worcester, Berkshire, and Hampshire Counties, MA, Washtenaw, Oakland, and Kalamazoo Counties, MI, New Castle County, DE, Hunterdon County, NJ, Franklin County, ME, Bucks County, PA, and Coos County, NH, on the one hand, and, on the other, points in the U.S., under continuing contract(s) with James

River Corporation of Virginia, of Richmond, VA.

MC 159008 (Sub 3), filed June 14, 1982. Applicant: NORTHERN CARRIERS, INC., 3814 11th St., Rockford, IL 61110. Representative: William D. Brejcha, 180 North Michigan Ave., Suite 1700, Chicago, IL 60601, (312) 263–1600. Transporting *such commodities* as are dealt in or used by manufacturers of wheels, brake drums, and hubs, between points in the U.S. (except AK and HI), under continuing contract(s) with the Gunite Division of Kelsey Hayes Company of Rockford, IL.

MC 161979, filed May 14, 1982. Published initially in the **Federal Register** on June 15, 1982. Applicant: BEN C. WILLIAMS BAKERY SERVICE, INC., 6000 Denton Dr., Dallas, TX 75235. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245, 214–358–3341. Transporting *such commodities* as are dealt in or used by wholesale and retail bakeries, between points in TX, TN, NM, AL, AR, AZ, CO, GA, KS, KY, LA, MS, MO, OK, and IL.

Note.—This application is republished to include AZ as sought by applicant.

MC 162518, filed June 17, 1982. Applicant: RICHARDSON & SON TRANSFER COMPANY, 1010 St. Louis Ave., Kansas City, MO 64101. Representative: Donald J. Quinn, Commerce Bank Bldg., Suite 232, 8901 State Line, Kansas City, MO 64114, 816–444–7474. Transporting *hospital equipment and medical supplies,* between points in KS, MO, IA, and NE.

MC 162529, filed June 16, 1982. Applicant: ROBERT E. BENNETT, P.O. Box 462, Jamestown, NY 14701. Representative: Kent S. Pope, 10 Grant St., Clarion, PA 16214, 814–226–5700. Transporting (1) *coal,* between points in Armstrong, Butler, Clarion, and Elk Counties, PA, on the one hand, and, on the other, Buffalo, NY, and (2) *scrap metal,* (a) between points in Chautauqua County, NY, on the one hand, and, on the other, points in PA, and (b) between Pittsburgh, PA, on the one hand, and, on the other, Syracuse, NY.

MC 162539, filed June 16, 1982. Applicant: LINDELL MAY, d.b.a. LINDELL MAY TRUCKING SERVICE, Rt. 1, Metropolis, IL 62960. Representative: Lindell May (same address as applicant), (618) 524–9762. Transporting *general commodities* (except classes A and B explosives and household goods), between points in Massac County, IL and McCracken County, KY, on the one hand, and, on the other, points in AL, AR, IN, IA, KS, KY, MO, OH, PA, TN, and WV.

MC 162549, filed June 18, 1982. Applicant: RIVER CITY FOREST PRODUCTS, INC., Indiana Hwy 60, P.O. Box 52, Borden, IN 47106. Representative: Robert H. Kinker, 314 West Main St., P.O. Box 464, Frankfort, KY 40602, 502–223–8244. Transporting *furniture and fixtures,* between points in Washington County, IN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Volume No. OP 5–141

Decided: June 29, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 109818 (Sub-101), filed June 23, 1982. Applicant: WENGER TRUCK LINE, INC., P.O. Box 3427, 3909 West Rusholme, Davenport, IA 52808. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting (1) *such commodities* as are dealt in or used by food business houses and (2) *hides and skins,* between points in the U.S. (except AK and HI).

MC 143639 (Sub-6), filed June 24, 1982. Applicant: SMITH AND SMITH, INC., 4361 Headquarters Road, P.O. Box 71355, Charleston Heights, SC 29405. Representative: Frank A. Graham, Jr., P.O. Box 11864, Columbia, SC 29211, (803) 799–9122. Transporting *fertilizer and fertilizer materials,* between points in GA and SC.

MC 144298 (Sub-11), filed June 21, 1982. Applicant: MASTER TRANSPORT SERVICES, INC., 6000 Wyoming Ave., Suite 203, Dearborn, MI 48126. Representative: William B. Elmer, P.O. Box 801, Traverse City, MI 49684, (616) 941–5313. Transporting *general commodities* (except classes A and B explosives and household goods), between points in Wyandotte County, MI, Monroe County, PA, De Kalb County, GA, and Los Angeles County, CA, on the one hand, and, on the other, points in the U.S.

MC 152439 (Sub-6), filed June 23, 1982. Applicant: WILLETT INTERSTATE SYSTEM, INC., 3901 S. Ashland Ave., Chicago, IL 60609. Representative: Donald S. Mullins, 1033 Graceland Ave., Des Plaines, IL 60016, 312–298–1094. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with ITOFCA, Inc., of Downers Grove, IL.

MC 157459 (Sub-1), filed June 21, 1982. Applicant: LEWIS C. HOWARD, INC., 760 E. Vine St., Kalamazoo, MI 49001. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, 616–459–6121. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Kalamazoo County, MI, on the one hand, and, on the other, points in IN, IL, and OH.

MC 161139, filed June 24, 1982. Applicant: REDER, LTD., 1817 Winter Street, Superior, WI 54880. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705–0086, (608) 238–3119. Transporting *food and related products,* between points in MN and WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162249, filed May 28, 1982. Applicant: DAVID E. SHEEHAN, d.b.a. AIR–RIDE EXPRESS, 14339 So. California, Posen, IL 60469. Representative: David E. Sheehan (same address as applicant), 312–385–5397. Transporting *metal products,* between points in AR, IA, IL, IN, KS, KY, MN, MO, MS, NE, OK, PA, TN, TX, VA, and WI.

MC 162578, filed June 21, 1982. Applicant: SEA RAIL CARTAGE, INC., P.O. Box 17480, Portland, OR 97217. Representative: Michael D. Crew, 1618 S.W. First Ave., Suite 205, Portland, OR 97201, 503–221–1529. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in OR and WA, on the one hand, and, on the other, points in the U.S. (except HI).

MC 162639, filed June 24, 1982. Applicant: McMILLIAN TRANSPORT, INC., 300 Chauncey Ave., Manchester, NH 03104. Representative: Hughan R. H. Smith, 26 Kenwood Place, Lawrence, MA 01841, (617) 657–6071. Transporting *building materials and supplies* between points in the U.S., under continuing contract(s) with Kalwall Corp., Inc., of Manchester, NH.

Volume No. OP 5–142

Decided: JUly 1, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 134009 (Sub-4), filed June 21, 1982. Applicant: SECURITY ARMORED CAR SERVICE, INC., 1022 So. 9th St., St. Louis, MO 63104. Representative: B. W. LaTourette, Jr., 11 So. Meramec, Suite 1400, St., Louis, MO 63105, (314) 727–0777. Transporting *coin, currency, bullion, stamps, negotiable instruments, and articles of unusual value,* between points in the U.S. (except AK and HI), under continuing contract(s) with Federal Reserve Bank of St. Louis, of St. Louis, MO.

MC 146108 (Sub-7), filed June 14, 1982. Applicant: BIG T TRANSFER, INC., P.O. Box 287, New Albany, IN 47150. Representative: Harold C. Jolliff, 3242 Beech Drive, Columbus, IN 47201, (812) 379–2556. Transporting *drums* between Little Rock and Fort Smith, AR, Indianapolis and Evansville, IN, Bayonne, NJ, Pittsburgh, PA, and points in IL, OH, TN, and KY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 150209 (Sub-2), filed June 18, 1982. Applicant: E. & G. MOTOR EXPRESS, INC., U.S. Highway 42, Carrollton, KY 41008. Representative: Robert H. Kinker, 314 West Main St., P.O. Box 464, Frankfort, KY 40602, 502–223–8244. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in IN, OH, TN, WV, and that part of KY in and north of of Bracken, Bullitt, Grant, Hardin, Henry Jefferson, Lewis, Mason, Meade, Owen, Pendleton and Shelby Counties, KY.

MC 150658 (Sub-1), filed March 10, 1982 (previously filed in **Federal Register** (republication) on March 30, 1982). Applicant: FEDDERLY MARION FREIGHT LINES, INC., P.O. Box 228, Issaquah, WA 98027. Representative: Jack R. Davis, 1100 IBM Bldg., Seattle, WA 98101, (206) 624–7373. Transporting (1) *nonmetallic metals*, (2) *chemicals and related products*, (3) *clay, concrete, glass or stone products*, and (4) *construction materials*, between points in WA, OR, CA, ID, MT, NV, and UT.

Note.—Purpose of republication is to include OR in territorial description.

MC 151878 (Sub-2), filed June 25, 1982. Applicant: THREE WAY CORPORATION, 1120 Karlstad Drive, Sunnyvale, CA 94086. Representative: Charles H. White, Jr., 1019 19th St. NW., Suite 800, Washington, DC 20036, (202) 785–3420. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with Memorex Corporation, of Santa Clara, CA.

MC 154488 (Sub-4), filed June 25, 1982. Applicant: LASLEY TRUCKING COMPANY, INC., Highway 64 East, P.O.Box 1368, Conway, AR 72032. Representative: John B. Fowlkes, Jr. (same address as applicant), (501) 327–4477. Transporting *such commodities* as are dealt in or used by a manufacturer of sucker rods, between points in the U.S., under continuing contract(s) with J. A. Patton Corporation, of Little Rock, AR.

MC 157608 (Sub-1), filed June 21, 1982. Applicant: DANIEL W. LANG d.b.a., DANDY INTERMODAL SERVICE, 11444 Perry Hwy., Wexford, PA 15090. Representative: David W. Donley, 610 Smithfield St., Suite 400, Pittsburgh, PA 15222, 412–471–6272. Transporting *general commodities* (except classes A and B explosives, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with General Nutrition Corporation of Pittsburgh, PA.

MC 157809, filed June 18, 1982. Applicant: JOHN LAHOTSKI, STEPHEN LAHOTSKI, WILLIAM LAHOTSKI, AND PAUL LAHOTSKI d.b.a. BLUE AND WHITE TRUCKING, 181 Phillips St., Throop, PA 18512. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517, (717) 344–8030. Transporting (1) *coal* between points in Lackawanna County, PA, on the one hand, and, on the other, New York, NY, and Elizabeth and Newark, NJ, (2) *waste or scrap materials not identified by industry producing*, between points in Lackawanna County, PA, on the one hand, and, on the other, points in NY, NJ, and CT, and (3) *used motor vehicles*, between points in NY, NJ, PA, OH, MD, DE, CT, RH, and MA.

MC 158089 (Sub-1), filed June 21, 1982. Applicant: K & B TRANSPORT, INC., 7923 Whitecliff Rd., Egg Harbor, WI 54209. Representative: Stephen H. Loeb, 2777 Finley Rd., Suite E, Downers Grove, IL 60515, (312) 953–0330. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Crown Zellerbach Corporation of South Glen Falls, NY.

MC 158859 (Sub-3), filed June 21, 1982. Applicant: O. DEAN TRANSPORTATION, INC., 406 W. Williamsburg Rd., Sandston, VA 23150. Representative: P. Owen Dean (same address as applicant), (804) 737–7838. Transporting *furniture* between Chicago Heights, IL, Richmond, VA, Dallas, TX, and points in Los Angeles County, CA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 161338 (Sub-1), filed June 24, 1982. Applicant: LARRY FRICK, d.b.a. L & S TRUCKING, 3303 East Wausau Ave., Wausau, WI 54401. Representative: James A. Spiegel, Olde Towne Office Park, 633 Odana Rd., Madison, WI 53719, 608–273–1003. Transporting *metal products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Mitchell Metal Products, Inc. of Merrill, WI.

MC 162519, filed June 17, 1982. Applicant: RAIL DELIVERY SERVICES, 3620 Long Beach Blvd., C–10, Long Beach, CA 90807. Representative: Greg P. Steffire, 3620 Long Beach Blvd., C–11, Long Beach, CA 90807, (213) 595–0766. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CA and AZ.

MC 162559, filed June 18, 1982. Applicant: GARY L. CAPASSO, 22 Fenwick St., Ballston Spa, NY 12020. Representative: Gary L. Capasso (same address as applicant), (518) 885–5083. Transporting (1) *medical supplies and equipment*, under continuing contract(s) with Medline Industries, of Northbrook, IL and (2) *rubber and plastic products*, under continuing contracts(s) with GenPak Corporation, or Glen Falls, NY, between points in the U.S.

MC 162589, filed June 21, 1982. Applicant: EXECULINE, INC., 997 Brook Road, Lakewood, NJ 08701. Representative: Ronald I. Shapss, 450 Seventh Avenue, New York, NY 10123, (212) 239–4610. Over regular routes: transporting *passengers and their baggage*, and *express and newspapers* in same vehicle with passengers, in motor vehicles not exceeding 21 passengers (excluding the driver), between Toms River, NJ and New York, NY (a) between junction Main St. and Water Street in Toms River, NJ and New York, NY as follows: from junction Main and Water Streets in Toms River, NJ over Water Street to junction access roads to Garden State Parkway, then over Garden State Parkway to junction exit 90, then over Chambers Bridge Road to junction State Highway 70, then over Chambers Bridge Road to junction Lanes Mill Road, then over Lanes Mill Road to junction Burnt Tavern Road, then over Burnt Tavern Road, to junction access roads to Garden State Parkway, then over Garden State Parkway to junction Interstate Highway 95 (New Jersey Turnpike) then over New Jersey Turnpike to New Jersey Turnpike Extension to the Holland Tunnel, then through the Holland Tunnel to New York, NY and return over the same route (b) between junction Main Street and Water Street in Toms River, NJ and New York, NY as follows: from junction Main and Water Sts. in Toms River, NJ over Water Street to junction access roads to Garden State Parkway, then over Garden State Parkway to junction exit 90, then over Chambers Bridge Road to junction Lanes Mill Rd., then over Lanes Mill Rd. to junction Burnt Tavern Rd. then over Burnt Tavern Road to junction access roads to Garden State Parkway, then over Garden State Parkway to junction Interstate Highway 95 (New Jersey Turnpike) then over New Jersey Turnpike to access roads to Interstate Highway 495, then over Interstate Hwy

495 to Lincoln Tunnel, then through Lincoln Tunnel to New York, NY, and return over the same route.

MC 162658, filed June 25, 1982. Applicant: GORDON and JUDITH WOLD, d.b.a. ALAS–CAN TRUCKING COMPANY, Star Route A, Box 4008–T, Anchorage, AK 99507. Representative: Gordon and Judith Wold (same address as applicant), 907–345–2660. Transporting *general commodities* (except classes A and B explosives, household goods, and bulk commodities), between points in AK.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–18667 Filed 7–8–82; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. 276]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: July 1, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Canadian Carrier Applicants

In the event an application to transport property, filed by a Canadian domiciled motor carrier, is unopposed, it will be reopened on the Commission's own motion for receipt of additional evidence and further consideration in light of the record developed in Ex Parte No. MC–157, *Investigation Into Canadian Law and Policy Regarding Applications of American Motor Carriers For Canadian Operating Authority.*

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Shaffer, Ewing, and Williams.

Agatha L. Mergenovich,

Secretary.

MC 97841 (Sub-26)X, filed June 11, 1982. Applicant: GENERAL HIGHWAY EXPRESS, INC., 2280 Industrial Dr., P.O. Box 727, Sidney, OH 45365. Representative: Jack R. Wells (same as above). Sub 20 certificate: Remove (1) all exceptions from its general commodities authority, except classes A and B explosives and household goods; sheets 1 and 16; and (2) the restriction prohibiting transportation of shipments moving to, from or through named points, sheet 16.

MC 119834 (Sub-9)X, filed June 17, 1982. Applicant: ROBERT N. TOOMEY TRUCKING COMPANY INC., 1516 S. George St., York, PA 17402. Representative: Edward N. Button, 635 Oak Hill Ave. Hagerstown, MD 21740. Lead No. MC–124144 and Subs 8, 16 and 17 permits; broaden to (A)(1) "metal products" from (a) wire cloth, lead, and (b) chains, cotter pins, hoisting equipment, trolleys, screws, washers and abrasive wheels, Sub 16; and (2) "food, chemicals and related products" from foodstuffs, food treating compounds, chemicals (except chemicals in liquid form or in bulk), and additives, in vehicles equipped with mechanical refrigeration and commodities (exempt or partially exempt from regulation) and/or materials, equipment and supplies used in the manufacture, preparation, sale and distribution of spices, extracts and convenience foods, Subs 8 and 17; and (B) "between points in the U.S. under continuing contract(s)" with named shippers, all Subs.

MC 124534 (Sub-6)X, filed June 24, 1982. Applicant: DYOLL DELIVERY SERVICE, INC., P.O. Box 56, Netcong, NJ 07857. Representative: George A. Olsen, P,O. Box 357, Old Chester Rd., Gladstone, NJ 07934. Lead certificate and No. MC–139725 Sub-4 permit, (1) remove special equipment exception from authority to transport general commodities (with exceptions), in lead; (2) broaden component parts of special ordnance equipment, radar and underwater sound devices, missile and missile handling equipment aircraft carriers, and special machinery manufactured to customer's specification, and pile hammers and parts, * * * rough steel and iron castings, to "electrical equipment, ordnance and accessories, machinery, and metal products", in Sub 4; (3) change airports and cities to city or county-wide authority: New York International Airport and La Guardia Airport (New York, NY), Newark Municipal Airport (Newark, NJ), Rockaway, NJ (Morris County), West Conshohocken and Avondale, PA (Montgomery and Chester Counties), in lead, (4) broaden to between points in the U.S. (except AK and HI) under a continuing contract(s) with named shipper, in Sub 4; and (5) remove ex-air restriction, in lead.

MC 125473 (Sub-13)X, filed June 28, 1982. Applicant: YAZOO TRUCKING CO., INC., P.O. Box 626, Yazoo City, MS 39194. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. Subs 5, 7, and 9 Permits: (1) Broaden to "clay, concrete, glass or stone products" from dry clay in Sub 5; to "chemicals and related products" from manufactured fertilizer in Sub 5, fertilizer, fertilizer materials, urea and urea products in Sub 7, and dry manufactured fertilizer and dry fertilizer ingredients in Sub 9, (2) Remove the restrictions: to packages in Sub 5; to dry commodities in Sub 7; to containers in Subs 7 and 9, (3) Expand to between points in the U.S. under continuing contract(s) with named shippers in all Subs.

MC 146228 (Sub-1)X, filed June 28, 1982. Applicant: WHITING PUBLIC WAREHOUSES, INC., 9450 Buffalo St., Hamtramck, MI 48212. Representative: Daniel L. Whiting (same address as applicant). Lead certificate: remove facilities restriction and change existing one-way authority to radial authority in the transportation of general commodities with five exceptions, between Detroit, MI (facilities near Hamtramck and Detroit), on the one hand, and, on the other points in OH and IN.

MC 146807 (Sub-40)X, filed June 21, 1982. Applicant: S n W ENTERPRISES, INC., P.O. Box 1131, Wilkes Barre, PA 18702. Representative: Peter Wolff, 722 Pittston Ave., Scranton, PA 18505. Subs 2, 3, 4, 6, 8, 14, 15, 16, 17, 18, 19, 20, 22, 23 and 24: Broaden to (1)(a) "food and related products" from foodstuffs subs 2 and 8; from confectionary and chewing gum, sub 15; (b) "metal products" from steel wire rope, sub 3; from steel wire, sub 4; from wire products and dishwasher racks, sub 6; from wire, sub 14; from chains and gearing, sub 17; from iron and steel wire rope, sub 24; (c) "rubber and plastic products" from

plastic film, plastic sheeting and plastic bags, subs 16 and 19; from plastic sheeting, sub 23; (d) "coal and coal products" from coal, sub 20; (e) "furniture and fixtures" from store furnishings and furniture, sub 22; (2) to countywide authority: (a) Broome County (Johnson City, NY), sub 2; (b) Luzerne County (Hanover Township, PA) Peoria, Woodford and Tazewell Counties (Peoria, IL) Pettis County (Sedalia, MO) Harris, Brazoria, Galveston, Chambers, Liberty, Montgomery, Waller, Ft. Bend and San Jacinto Counties (Houston, TX) Kitsap, Jefferson and King Counties (Seattle, WA) Allegheny County (Leetsdale, PA) Bergen County (Teterboro, NJ), sub 3; (c) Luzerne County (Hanover Township, PA) Webb County (Laredo, TX), sub 4; (d) Luzerne County (Wilkes Barre, PA) Collin, Denton, Dallas, Ellis, Kaufman, Rockwell and Tarrant Counties (Dallas, TX) San Bernardino County (Cucamonga, CA) Jefferson and St. Louis Counties, MO, St. Louis, MO, St. Clair, Madison and Monroe Counties, IL (St. Louis), sub 6; (e) Broome County (Johnson City, NY) Philadelphia, Delaware, Montgomery, Bucks, and Chester Counties, PA; Hunterdon, Mercer, Burlington, Camden, Gloucester and Salem County, NJ and New Castle County, DE (Philadelphia, PA) Allegheny County (Pittsburgh, PA); Camden, Hudson and Cumberland Counties (Gloucester, Jersey City and Vineland, NJ) sub 8; (f) Luzerne County (Hanover Township and Kingston, PA), Fulton, De Kalb, Cobb, Clayton, Henry, Gwinnett and Douglas Counties (Atlanta, GA) Denver, Arapahoe, Elbert, Douglas, Jefferson and Boulder Counties (Denver, CO) Harris, Brazoria, Galveston, Chambers, Liberty, Montgomery, Waller, Ft. Bend, San Jacinto and Ector Counties (Houston and Odessa, TX) Orleans, St. Bernard, Plaquemines, Jefferson, St. Charles and St. Tammany Parishes, LA and Hancock County, MS (New Orleans, LA) Tulsa and Osage Counties (Tulsa, OK), sub 14; (g) Lackawanna and Luzerne Counties (Duryea and Scranton, PA), sub 15; (h) Schuylkill County (Pottsville, PA), sub 16; (i) Luzerne County (West Pittston, PA), sub 17; (j) Lackawanna and Luzerne County (Duryea and Scranton, PA), sub 18; (k) Schuylkill County (Pottsville, PA), sub 19; (l) Luzerne County (Wilkes Barre, PA), sub 20; (m) Luzerne County (Mountaintop, PA), sub 23; (n) Kaufman County (Terrill, TX), sub 22; (3) Remove (a) facility restrictions, subs 2, 8, 15, 17 and 18(b) remove "originating at/destined to" restriction, sub 8; (4) to radial, all subs.

[FR Doc. 82-18558 Filed 7-8-82; 8:45 am]

BILLING CODE 7035-01-M

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent Corporation: Glesby Building Materials Co., Inc., 15119 Oxnard St., Van Nuys, CA 91408.

2. Wholly-owned subsidiary: Nanrik Trucking, Inc., 15119 Oxnard St., Van Nuys, CA 91408.

1. Parent corporation and address of principal office: INE, INC., 2220 Toledo Road, Elkhart, Indiana 46515.

2. Wholly-owned subsidiaries which will participate in the operations, and State of incorporation: (i) Zook, Inc., 15978 County Road 38, Goshen, Indiana, 46526, an Indiana corporation. (ii) Ag Trucking, Inc., P.O. Box 1046, Elkhart, Indiana, 46514, an Indiana corporation.

1. Parent corporation and address of principal office: Rock Hill Materials Company (a Pennsylvania Corporation), 339 School St., Catasauqua, PA 18032.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation: (i) R. H. Aggregates, Inc. (Pennsylvania). (ii) Rock Hill Trucking Co., Inc. (Pennsylvania).

1. Parent Corporation: Southern Container Corp., P.O. Box J, Deer Park, NY 11729.

2. Wholly-owned subsidiaries which will participate in the operations and their respective States of incorporation:

Penn State Container Corp. (a Pennsylvania corporation), 500 Richardson Drive, Lancaster, Pa. 17603.

Package & Display Developers, Inc. (a New York corporation), 115 Engineers Road, Hauppauge, N.Y. 11788.

Southern Container Management Corp. (a Delaware corporation), 115 Engineers Road, Hauppauge, N.Y. 11788.

Great Southern Trucking Co., Inc. (a North Carolina corporation), 500 Richardson Drive, Lancaster, Pa. 17603.

Metropolitan Corrugated, Inc. (a New Jersey corporation), 1 Corn Road, Dayton, N.J. 08810.

South Carolina Container Corp. (a South Carolina corporation), I-26 at New Cut Road, Spartanburg, S.C. 29304.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-18561 Filed 7-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29942]

Atchison, Topeka and Santa Fe Railway Co.; Exemption; Purchase; 2.1 Miles of Track From Missouri Pacific Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts the acquisition by Atchison, Topeka and Santa Fe Railway Company of six track segments (2.1 miles) of the Missouri Pacific Railroad Company in the vicinity of Caney, KS, from the requirements of 49 U.S.C. 11343.

DATES: This exemption is effective on August 9, 1982. Petitions for reconsideration must be filed by July 29, 1982 and petitions for stay must be filed by July 19, 1982.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

ADDRESSES: Send petition for reconsideration to: (1) Section of Finance, Room 5349, Interstate Commerce Commission, Washington, DC 20423; and (2) Michael W. Blaszak, 80 East Jackson Blvd., Chicago, IL 60604. Pleadings should refer to F.D. No. 29942.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave. NW., Washington, DC 20423, (202) 289-4357—DC metropolitan area, (800) 424-5403—Toll-free for outside the DC area.

Decided: July 1, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham, Sterrett, Andre, and Simmons. Chairman Taylor was absent and did not participate. Commissioner Gresham did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-18555 Filed 7-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29955]

Berlin Mills Railway, Inc., James River-Dixie/Northern Inc., James River Corp. of Virginia; Exemption Control

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission has exempted Berlin Mills Railway, Inc., James River Dixie/Northern, Inc., and James River Corp. of Virginia which will acquire control of

Meridian & Bigbee Railroad Company from the requirements of 49 U.S.C. 11343.

DATES: Exemption effective on July 6, 1982. Petitions to reopen must be filed by July 26, 1982.

ADDRESSES: Send pleadings to:

(1) Section of Finance, Room 5349, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioners' Representatives:

Richard H. Catlett, Jr., McGuire, Woods & Battle, 1400 Ross Building, Richmond, VA 23219;

William H. Borghesani, Jr., Keller & Heckman, 1150 17th Street, N.W., Suite 1000, Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., NW., Washington, DC 20423, (202) 289–4357, DC metropolitan area, (800) 424–5403, Toll-free for outside the DC area.

Decided: July 2, 1982.

By the Commission, Division 1, Commissioners Sterrett, Simmons, and Gradison. Commissioner Gradison did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–18662 Filed 7–8–82; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 387 (Sub-168)]

Chesapeake & Ohio Railway Co.; Exemption For Contract Tariff ICC–CO–C–0017

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 1005 from the notice requirements of 49 U.S.C. 10713(e). The contract tariffs to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275–7278.

SUPPLEMENTARY INFORMATION: The Chesapeake and Ohio Railway Company (CO) filed a petition on June 24, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract ICC–CO–C–0017 to become effective on one day's notice. The contract was filed to become effective on July 23, 1982 and involves the movement of petroleum coke.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. However, relief can be granted under 49 U.S.C. 10505.

The petition shall be granted. Advancement of the contract effective date will allow the shipper to load two vessels at the Port of Newport News, VA in early July in an economically practical manner and aid the carrier in the effective use of its surplus equipment. An exemption will obviously be in the public interest.

The CO's contract may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

> Although the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement in this instance is not necessary to carry out the transportation policy of 49 U.S.C. 10101(a) and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(d) if protests showing good cause are filed within 15 days of publication in the **Federal Register.**

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505).

Dated: July 2, 1982.

By the Commission, Division 2, Commissioners Andre, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–18660 Filed 7–8–82; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 23388]

Chicago & North Western Railway Co.; Merger; Chicago Great Western Railway Co.; Petition To Reopen

AGENCY: Interstate Commerce Commission.

ACTION: Petition to reopen.

SUMMARY: In Finance Docket No. 29683, *Soo Line R. Co.—Petition for Exemption,* 366 I.C.C. 286 (1982), the Commission concluded that a reply filed by the Chicago and North Western Transportation Company to an exemption petition which was the subject of that proceeding, should be treated as a petition to reopen Finance Docket No. 23388, *Chicago & N.W. Ry. Co.—Merger,* 330 I.C.C. 12 (1967), and the latter proceeding should be reopened on the modified procedure to determine whether conditions imposed there should be removed because of changed circumstances. Accordingly, the Commission is reopening Finance Docket No. 23388 and setting it for hearing on the modified procedure.

DATES: (1) Opening statements of fact and arguments by petitioner and any party supporting petitioner should be filed within 30 days of the service date, July 8, 1982, of the Commission's decision.

(2) Statements in opposition by protestants and any party supporting protestants should be filed within 60 days of the service date of the Commission's decision.

(3) Statements in reply by petitioner and any supporting party should be filed within 75 days of the service date of the Commission's decision.

ADDRESSES: Send pleadings to:

(1) Section of Finance, Room 5349, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's representatives: Stuart F. Gassner, One North Western Center, 165 North Canal Street, Chicago, IL 60606, (312) 559–6072.

Pleadings should refer to Finance Docket No. 23388.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., NW., Washington, DC 20423, (202) 289–4357, DC metropolitan area, (800) 424–5403, Toll-free for outside the DC area.

Decided: July 1, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham, Sterrett, Andre, and Simmons. Commissioner Gresham did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–18656 Filed 7–8–82; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 387 (Sub-162)]

Graham County Railroad, Inc.; Exemption for Contract Tariffs ICC-GC-C-1 and ICC-GC-C-2

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariffs to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275-7278.

SUPPLEMENTARY INFORMATION: The Graham County Railroad filed a petition on June 15, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contracts ICC-GC-C-1 and ICC-GC-C-2 to become effective on one day's notice. The contract was filed to become effective on July 14, 1982 and involves the movement of general commodities.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. However, relief can be granted under 49 U.S.C. 10505.

Graham is a new carrier. The actual commencement of its operations is dependent upon its contracts. An exemption will obviously be in the public interest.

Graham's contract may be come effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

Although the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(e) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find tht the 30-day notice requirement in this instance is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(d) if protests showing good cause are filed within 15 days of publication in the Federal Register.

This action wil not significantly affect either the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Dated: June 29, 1982.

By the Commission, Division 2, Commissioners Andre, Gilliam, and Taylor, Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-18503 Filed 7-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-163)]

Union Pacific Railroad Co.; Exemption for Contract Tariff ICC-UP-C-0054

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariffs to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Tom Smerdon, (202) 275-7277.

SUPPLEMENTARY INFORMATION: The Union Pacific Railroad Company (UP) filed a petition on June 24, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract ICC-UP-C-0054 filed on June 24, 1982, to become effective on one day's notice. The contract involves the movement of tractors.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. However, the Commission has granted relief under the section 10505 exemption authority in exceptional situations.

The petition shall be granted. Due to economic conditions, the shipper has been forced to lay off some of its employees. Short notice effectiveness of the contract will provide immediate work for those employees involved in loading the tractors and preparing them for shipment. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

Petitioner's contract ICC-UP-C-0054 may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings.

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approve contract for purposes of 49 U.S.C. 10713(e) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement in this instance is not necessary to carry out the transportation policy of 49 U.S.C. 10101(a) and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(d) if protests are filed within 15 days of publication in the Federal Register.

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505).

Dated: July 1, 1982.

By the Commission, Division 1, Commissioners Sterrett, Simmons, and Gradison. Commissioner Gradison did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-18504 Filed 7-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29951]

Union Pacific Railroad Co. and Oregon Short Line Railroad Co.; Exemption; Abandonment and Discontinuance in Lincoln County, WY

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the requirement of prior approval under 49 U.S.C. 10903 *et seq.* the abandonment by the Oregon Short Line Railroad Company of 0.04 mile of track at Elkol, Lincoln County, WY, between Milepost 3.31 and Milepost 3.35, and the discontinuance of service by the Union Pacific Railroad Company over such line subject to the standard labor protection.

DATES: This exemption will be effective on August 9, 1982. Petitions to stay the effectiveness of the decision must be

filed by July 19, 1982, and petitions for reconsideration of the decision must be filed by July 29, 1982.

ADDRESSES: Send pleadings to:

(1) Section of Finance, Room 5449, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioners' representative: Joseph D. Anthofer, 1416 Dodge Street, Omaha, NE 68179.

Pleadings should refer to Finance Docket No. 29951.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., NW., Washington, DC 20423, (202) 289–4357—DC metropolitan area, (800) 424–5403—Toll-free for outside the DC area.

Decided: June 28, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham, Sterrett, Andre, and Simmons.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-18556 Filed 7-8-82; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Advisory Committee on Voluntary Foreign Aid; Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a)(2), Pub. L. 92–463, Federal Advisory Committee Act, notice is hereby given of the meeting of the working group for the proposed University-PVO (private voluntary organizations) Relations Subcommittee of the Advisory Committee on Voluntary Foreign Aid, which will be held on July 21, 1982.

The purpose of the meeting is to consider the functions of a proposed Subcommittee on PVO-University Relations and the agenda for the upcoming Advisory Committee meeting on October 7 and 8, 1982, where this subject will be the theme for the meeting.

The meeting will be convened by Dr. Carl E. Taylor from 10:00 a.m. to 12:00 noon, and will be held in the Baltimore Convention Center, West Pratt Street, Baltimore, Maryland. The meeting is open to the public. Any interested person may attend, request to appear before, or file statements with the working group in accordance with procedures established by the working group.

Dr. Toye Byrd will be the AID representative at the meeting. It is suggested that those desiring further information contact Dr. Byrd at 703/235–2708, or by mail c/o the Advisory Committee on Voluntary Foreign Aid, Agency for International Development, Washington, D.C. 20523.

Dated: June 30, 1982.

Julia Chang Bloch,

Assistant Administrator, Bureau for Food for Peace and Voluntary Assistance.

[FR Doc. 82-18589 Filed 7-8-82; 8:45 am]

BILLING CODE 6116-01-M

Housing Guaranty Program; Investment Opportunity

The Agency for International Development (A.I.D.) has authorized guaranties of loans to a number of developing countries (Borrowers) as part of A.I.D.'s overall development assistance program. The proceeds of these loans will be used to finance shelter projects for low income families residing in the countries of the Borrowers. The following address of Borrower and loan amount indicate two projects that will soon be ready to receive financing and for which the Borrower plans to request competitive proposal from U.S. lenders or investment bankers:

Central American Bank for Economic Integration

Project: 596–HG–004(B) and 596–HG–005—$20,000,000–$25,000,000

Banco Centroamericano de Integracion Economica, Apartado 772, Tegucigalpa, Honduras, Attention: Victor Diaz, Cable: BANCADIE, Telex: 1103 HT.

Additional projects will be advertised from time to time as they become ready for borrowing.

The Borrower plans to request competitive bids in the latter part of July 1982, for a loan of from $20,000,000 to $25,000,000. The Borrower will contact interested investors with details as to the terms of the competitive bidding. Investors who are interested in bidding on the loan should contact the Borrower and provide a telex number at which the Borrower may send them details about the bidding. Selection of investment bankers and/or lenders and the terms of the loans are initially subject to the individual discretion of the Borrowers and thereafter subject to approval by A.I.D. The lenders and A.I.D. shall enter into a Contract of Guaranty, covering each of the loans. Disbursements under the loans will be subject to certain conditions required of the Borrowers by A.I.D. as set forth in implementation agreements between A.I.D. and the Borrowers.

The full repayment of the loans will be guaranteed by A.I.D. The A.I.D. guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to authority in section 222 of the Foreign Assistance Act of 1961, as amended (the "Act").

Lenders eligible to receive an A.I.D. guaranty are those specified in Section 238(c) of the Act. They are: (a) U.S. citizens; (2) domestic U.S. corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and, (4) foreign partnerships or associations wholly owned by U.S. citizens.

To be eligible for an A.I.D. guaranty, the loans must be repayable in full no later than the thirtieth anniversary of the disbursement of the principal amount thereof and the interest rates may be no higher than the maximum rate established from time to time by A.I.D.

Information as to the eligibility of investors and other aspects of the A.I.D. housing guaranty program can be obtained from: Director, Office of Housing and Urban Development, Agency for International Development, Room 625, SA/12, Washington, D.C. 20523, Telephone: (202) 632–9637.

Dated: June 30, 1982.

Fredrik A. Hansen,

Deputy Director, Office of Housing and Urban Development.

[FR Doc. 82-18600 Filed 7-8-82; 8:45 am]

BILLING CODE 6116-01-M

DEPARTMENT OF JUSTICE

Consent Decree Amendment Pursuant to Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on June 24, 1982 a proposed consent decree amendment in *United States* v. *National Steel Corporation*, Civil Action No. 79–73214, was lodged with the United States District Court for the Eastern District of Michigan, Southern Division. The proposed decree amendment makes substantial modifications to the existing Clean Air Act consent decree covering sources at National's Great Lakes Steel Division.

The Department of Justice will receive for a period of thirty (30) days from the

date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States of America* v. *National Steel Corporation,* D.J. Ref. 90–5–1–1–1057.

A proposed consent decree may be examined at the office of the United States Attorney, Eastern District of Michigan, Southern Division, Eighth Floor, United States Courthouse, 231 W. Lafayette, Detroit, Michigan 48226, at the Regional V Office of the Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604; and the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $2.30 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

Anthony C. Liotta,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 82–18659 Filed 7–8–82; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

[Docket No. 82–12]

Mohamed Ghassan Taleb-Agha, M.D.; Buchanan, Ga.; Hearing

Notice is hereby given that on March 12, 1982, the Drug Enforcement Administration, Department of Justice, issued to Mohamed Ghassan Taleb-Agha, M.D., an Order To Show Cause as to why the Drug Enforcement Administration should not revoke his DEA Certificate of Registration, AT8751910.

Thirty days having elapsed since the said Order To Show Cause was received by Respondent and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 10:00 a.m. on Wednesday, July 28, 1982, in the U.S. Tax Court Courtroom, Room 1705, Russell Federal Building, 75 Spring Street, S.W., Atlanta, Georgia.

Dated: July 2, 1982.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82–18554 Filed 7–8–82; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Employment and Training Administration

Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period June 21, 1982–June 25, 1982.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) that sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–12,823; Teledyne Stillman Manufacturing, Lakewood, NJ

TA–W–12,827; Cheboygan Manufacturing Co., Cheboygan, MI

TA–W–12,715; Door-Master Manufacturing Co., Royal Oak, MI

TA–W–12,716; Hipwell Industries, Inc., Fraser, MI

TA–W–12,729; Union Special Corp., Woburn, MA

TA–W–12,747; Wean United, Inc., Canton, OH

TA–W–12,774; Brother Sportswear, Inc., New York, NY

TA–W–12,796; Kaiser Steel Corp., Structural Fabrication Plant, Fontana, CA

TA–W–12,352; Queen Casuals, Inc., Philadelphia, PA

TA–W–12,352A; Queen Casuals, Inc., Punxsutawney, PA

TA–W–12,352B; Queen Casuals, Inc., Atco, NJ

In the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA–W–12,474; Imperial Camera Corp., Chicago, IL

TA–W–12,732; The Gilbert Shoe Co., Thiensville, WI

TA–W–12,805; Sillisculpt, Inc., Hialeah, FL

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA–W–12,829; Gulf Oil Corp., Gulf Oil Co.—U.S. Div., Toledo, OH

Aggregate U.S. imports of refined petroleum products did not increase as required for certification.

TA–W–12,831; Maroshel Mills, Inc., New York, NY

Aggregate U.S. imports of finished fabric did not increase as required for certification.

TA–W–12,737; Columbian Chemicals Co., Trenton, NJ

Aggregate U.S. imports of iron oxide did not increase as required for certification.

TA–W–12,791; Ashland Oil, Inc., Findlay, OH

Aggregate U.S. Imports of refined petroleum products did not increase as required for certification.

TA–W–12,812; Aquarius Dyeing & Finishing, Inc., St. Johnsville, NY

Aggregate U.S. imports of finished fabric did not increase as required for certification.

TA–W–12,594; Feuer Leather Corp., Johnstown, NY.

The investigation revealed that criterion (2) has not been met. Sales or production, or both, of the firm or subdivision have not decreased absolutely during the period under investigation.

TA–W–12,598; Karg Brothers, Johnstown, NY

The investigation revealed that criterion (2) has not been met. Sales or production, or both, of the firm or subdivision have not decreased absolutely during the period under investigation.

TA–W–12,608; Karg Finishing, Johnstown, NY

The investigation revealed that criterion (2) has not been met. Sales or production, or both, of the firm or subdivision have not decreased absolutely during the period under investigation.

TA–W–12,604; Risedorph, Inc., Gloversville, NY

The investigation revealed that criterion (2) has not been met. Sales or production, or both, of the firm or subdivision have not decreased absolutely during the period under investigation.

TA–W–12,956; Crown Leather Finishing, Johnstown, NY

The investigation revealed that criterion (2) has not been met. Sales or production, or both, of the firm or subdivision have not decreased absolutely during the period under investigation.

Affirmative Determinations

TA–W–12,735; Platt Saco Lowell, A Div. of Stone-Platt Industries, Ltd, Easley, SC

A certification was issued in response to a petition received on May 28, 1981 covering all workers separated on or after August 31, 1980.

TA–W–12,763; Grocery Store Products Co., Kennett Square Growing Div. & Cannery, Kennett Square, PA

A certification was issued in response to a petition received on June 10, 1981 covering all workers separated on or after January 1, 1981 and before January 1, 1983.

TA–W–12,819; Selva & Sons, Inc., Long Island City, NY

A certification was issued in response to a petition received on June 25, 1981 covering all workers separated on or after January 1, 1981 and before December 31, 1981.

TA–W–12,728; Pinckneyville, Garment Co., Pinckneyville, IL

A certification was issued in response to a petition received on May 27, 1981 covering all workers separated on or after January 1, 1981 and before May 1, 1981.

TA–W–12,771; Russ-Wear Undergarment Co., New York, NY

A certification was issued in response to a petition received on June 11, 1981 covering all workers separated on or after May 1981 and before December 31, 1981.

I hereby certify that the aforementioned determinations were issued during the period June 21, 1982–June 25, 1982. Copies of these determinations are available for inspection in Room 10,332. U.S. Department of Labor, 601 D Street NW, Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: June 29, 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82–18465 Filed 7–8–82; 8:45 am]

BILLING CODE 4510–30–M

Unemployment Insurance Program Letters Interpreting Section 3304(a)(15) of the Federal Unemployment Tax Act

In the case of *Lawrence Cabais, et al.* v. *Roscoe Egger, Commissioner of Internal Revenue, et al.*, the United States Court of Appeals for the District of Columbia Circuit entered a judgment on June 15, 1982, ordering the publication in the **Federal Register** of the Department of Labor Unemployment Insurance Program Letters at issue in the case, in compliance with the Freedom of Information Act. The Unemployment Insurance Program Letters, Numbers 24–80, 7–81 and Change 1 to 7–81, are published below in accordance with the Court's order.

Dated: July 1, 1982.

Albert Angrisani,

Assistant Secretary of Labor.

U.S. Department of Labor,

Employment and Training Administration, Washington, D.C.

Classification: UI
Correspondence Symbol: TURL
Date: March 17, 1980

Expiration Date: February 28, 1981.

Distribution A–500, 501, 502–20, 505, 506, 507, 509, 510, 511.

Directive: Unemployment Insurance Program Letter No. 24–80

To: All State Employment Security Agencies

From: Office of the Deputy Assistant Secretary, Roberts T. Jones, Administrator, Office of Management Assistance

Subject: Pension Deduction Provisions, FUTA

1. *Purpose.* To inform State Employment Security Agencies (SESAs) of the requirements of the pension deduction provision of Section 3304(a)(15), FUTA, the Federal law provision that will become effective for weeks of unemployment beginning after March 31, 1980.

2. *Reference.* UIPL 10–77 and 37–79; Draft Language and Commentary to Implement the UC Amendments of 1976, page 61, and Supplement #1, Q and A's 3 and 4, pages 29–30.

3. *Background.* Public Law 94–566 added Section 3304(a)(15) to the Federal Unemployment Tax Act (FUTA) requiring States, for weeks of unemployment beginning after September 30, 1979, to reduce an individual's weekly benefit amount by the weekly amount of a "governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment which is based on the previous work of such individual * * *." The effective date of this provision was extended by P.L. 95–19 to March 31, 1980. Although Congress is currently considering bills that would amend this provision of Federal law, as the SESAs were informed by the Regional Administrators following our telegram to them on January 14, 1980, there is no assurance that final Congressional action will occur before the current provision in Section 3304(a)(15) takes effect.

As we indicated in that telegram, both the Senate Finance Committee and the House Ways and Means Committee have reported out pension deduction provisions (H.R. 4612 and H.R. 5507, respectively) which differ only in effective dates. Under both bills, the present FUTA provision would be retained with provisos to: (a) require States to apply the provision to payments made under a plan maintained or contributed to by a base-period or chargeable employer (although States would be permitted to apply the deduction to payments made by any employer); and (b) permit States to reduce benefits on less than a dollar-for-dollar basis to take into account the contributions made by the worker to the plan from which payments are made. The Senate version would be effective for weeks of unemployment beginning after January 1, 1980; the House version for weeks of unemployment beginning after January 1, 1982.

We recommended in the telegram the following provisions to provide for maximum flexibility consistent with the proposals now under consideration in Congress:

"The amount of benefits payable to an individual for any week which begins after the effective date of the applicable provision in the Federal Unemployment Tax Act and which begins in a period with respect to which such individual is receiving a governmental or other pension, retirement or retired pay, annuity, or other similar periodic payment which is based on the previous work of such individual shall be reduced (but not below zero) by an amount equal to the amount of such pension, retirement or retired pay, annuity, or other payment, which is reasonably attributable to such week; provided that, if the provisions of the Federal Unemployment Tax Act permit, the executive director may prescribe in regulations which are consistent with the Federal Unemployment Tax Act that—(a) the requirements of this paragraph shall only apply in the case of a pension, retirement or retired pay, annuity, or other similar periodic payment under a plan maintained (or contributed to) by base period or chargeable employer (as determined under this Act), and/or that (b) the amount of any such reduction shall be determined taking into account contributions made by the individual for the pension, retirement or retired pay, annuity or other similar periodic payment."

4. *Discussion.* Many questions have been received as to the scope of the language now

in the Federal law—specifically, what kinds of payments are required to be deducted, how are lump-sum retirement payments handled, how does retroactive payment of pensions effect benefits already received, how is the pension deduction applied when only one of several employers provided a pension?

First, because the Federal language specifies that the reduction must occur for payments" * * * based on the previous work of such individual* * *," the reduction applies only to pensions or annuities collected by the person who actually earned them. It does not apply to, for example, a survivor's or widow's pension that is payable to a survivor or widow but not based on the previous work of that individual. No exhaustive list of the kinds of payments that are deductible is available; however, based on the broad language of the provision, we believe that the following must be deductible; primary social security old age and disability retirement benefits, including those based on self-employment; State and local government pensions of all types; Federal Civil Service pensions, including disability pensions; private for-profit employer pensions; military retirement pensions and disability retirement pensions; and Railroad Retirement annuities. Also included are benefits derived from IRA and Keogh plans on the basis that these benefits are the result of the individual's previous work, and, while they may be participated in by both employer and employee, are generally payable only because the individual, while employed, was not covered by any other pension plan but, instead, established his or her own pension plan with money set aside and exempt from tax for that purpose. Military service-connected disability compensation payable under 38 U.S.C. Chapter 11 is not deductible because it is based on disability rather than on the previous work of the individual, and bears no direct relationship to the level of prior remuneration or the length of the past service. Other types of disability compensation, such as temporary disability insurance and worker's compensation (including Black lung benefits), which are not payable as a retirement or pension payment, also are not required by Section 3304(a)(15) to be deducted from unemployment compensation.

Second, as to lump-sum retirement payments, the States have the option as to whether to treat them as "similar periodic payments" which are deductible under their laws, and if they treat them as such periodic payments they have the further option of providing in their laws whether the payments shall apply only to the week in which they were paid, or to the week following the last week worked prior to retirement, or whether they shall be allocated to the weeks or months or other applicable periods following the last week worked prior to retirement. Severance pay and separation payments are not required to be treated as lump-sum retirement payments, or as any other form of retirement, pension, or annuity required by Section 3304(a)(15) to be deducted from unemployment compensation.

Third, retroactive payment of pensions for weeks in which the individual has already received unemployment compensation may be treated as causing overpayments under the provisions of the State law applicable to benefit overpayments, as appropriate under the State law. The reason for this is that, under the Federal law provison, the deduction is required to apply only to weeks in which the individual is receiving the pension. Therefore, unemployment compensation payments made for any week for which pension payments are retroactively made may be recovered by the State agency, subject to waiver of recovery if appplicable under the State law, or the State agency may choose not to recover benefits that were paid for weeks with respect to which the claimant receives a retroactive payment of social security of other retirement benefits.

Fourth, unless the Federal law is amended as described earlier, States will be expected to deduct from the weekly benefit amount the full amount of any pension received from any employer in the claimant's work history. Should the Federal law be amended, the full amount of pension received must be deducted from the weekly benefit amount but the deduction may be limited to pensions maintained or contributed to by base-period or chargeable employer. In a survey of current practice in the States with pension deduction provisions, it was found that one State prorates the amount of the pension to be deducted in cases where a claimant has more than one base-period employer but not all of those employers have contributed to the pension being received by the claimant. Under the provisions of Section 3304(a)(15), FUTA, this practice is no longer acceptable. It was found that most States make a dollar-for-dollar reduction by the amount of the pension payment received regardless of the proportion of base-period wages paid by the pension-providing employer. In any event, States must deduct, dollar-for-dollar, the amount of any pension payment received without regard to the proportion of base-period wages that may have been paid by the employer who contributed to or maintained the pension.

Absent amendment to Section 3304(a)(15), FUTA, employee contributions to the pension plan, whether OASI, Civil Service, or private, cannot be taken into account in determining the amount of the reduction. The total weekly prorated amount of the pension must be deducted from the weekly benefit amount otherwise payable. Should the Federal law be amended as indicated in the telegram referred to above, States will be free to take into account, in determining the amount of the deduction, the employee's contribution to the retirement plan. In such cases the State can provide for not deducting any part of an employee-contributed pension, or it can provide for deduction of a representative percentage of the pension as determined under the State law.

SESA's may want to accumulate information on pension recipients in their data base in preparation for implementing this provision.

5. *Action Required.* State administrators are requested to: (a) Insure that the State law conforms to the Federal law requirements, and (b) construe their laws to provide for deduction of at least those types of payments discussed above.

6. *Inquiries.* Questions should be addressed to the appropriate Regional Office.

U.S. Department of Labor,
Employment and Training Administration, Washington, D.C.

Classification: UI
Correspondence Symbol: TURL
Date: November 7, 1980

Expiration Date: October 31, 1981

Directive: Unemployment Insurance Program Letter No. 7–81
To: All State Employment Security Agencies
From: Office of the Deputy Assistant Secretary, Roberts T. Jones, Administrator, Office of Management Assistance
Subject: Amendments Made to the Federal Unemployment Tax Act by P.L. 96–364

1. *Purpose.* To inform State agencies of the amendments made by P.L. 96–364 to the Federal Unemployment Tax Act, the Federal-State Extended Unemployment Compensation Act of 1970 (EUCA) and Title 5 U.S.C. 8521.

2. *References.* Sections 414, 415 and 416 of P.L. 96–364; Section 3304(a)(15), FUTA; Section 202, EUCA; 5 U.S.C., 8521(a)(1), and UIPL 24–80.

3. *Background.* These amendments modify the pension deduction provision in section 3304(a)(15), FUTA, specify circumstances in which extended benefits are not payable on interstate claims, and increase the period of service necessary for former members of the Armed Forces to establish entitlement to unemployment compensation under Title 5 of the U.S.C.

4. *Amendment to Section 3304(a)(15), FUTA, the Pension Deduction Provision.* Section 414 of P.L. 96–364 amended section 3304(a)(15), FUTA, to require deduction of pension payments only in specified circumstances, and to allow States to consider an individual's contributions to the pension payment in determining the amount to be deducted. As so revised, the pension deduction standard now provides as follows:

"the amount of compensation payable to an individual for any week which begins after March 31, 1980, and which begins in a period with respect to which such individual is receiving a governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment which is based on the previous work of such individual shall be reduced (but not below zero) by an amount equal to the amount of such pension, retirement or retired pay, annuity or other payment, which is reasonably attributable to such week [:] *except that—*

"(A) the requirements of this paragraph shall apply to any pension, retirement or retired pay, annuity, or other similar periodic payment only if—

"(i) such pension, retirement or retired pay, annuity, or similar payment is under a plan maintained (or contributed to) by a base period employer or chargeable employer (as determined under applicable law), and

"(ii) in the case of such a payment not made under Social Security Act or the

Railroad Retirement Act of 1974 (or the corresponding provisions of prior law), services performed for such employer by the individual after the beginning of the base period (or renumeration for such services) affect eligibility for, or increase the amount of, such pension, retirement or retired pay, annuity, or similar payment, and

"(B) the State law may provide for limitations on the amount of any such reduction to take into account contributions made by the individual for the pension, retirement or retired pay, annuity, or other similar periodic payment;". (New language in *italic*, deleted language bracketed.)

The amendments made by P.L. 96–364 to Section 3304(a)(15) became effective on September 26, 1980.

Section 414(b) of P.L. 96–364 provides that the new pension deduction standard is applicable for certification of the States for 1981 and subsequent years. Therefore, States have the option to implement the new Federal deduction standard as of September 26, 1980. However, full conformity and compliance with the requirements of section 3304(a)(15), FUTA, as amended, iis required for certification of State laws for the 12-month period beginning on November 1, 1980, and ending October 31, 1981. The requirements of section 3304(a)(15) prior to amendment by P.L. 96–364 remain effective through September 25, 1980. However, we do not recommend that these amendments be made retroactive except as is necessary where the State will have no pension deduction provision as of November 1, 1980, in which case the law should be made effective retroactively as of that date.

State laws which now provide for the deduction of pension payments in the circumstances prescribed by the Federal law prior to these amendments are not required to take further action in order to satisfy the requirements in the new amendments. However, we strongly recommend that States proceed now to take advantage of the less stringent condition under which pensions must be deducted from unemployment benefits pursuant to the Federal law requirement.

Section 3304(a)(15), FUTA as amended by P.L. 96–364, reflects only the minimum conditions under which deduction must be required by State law for certification under FUTA. Although a State may broaden the scope of its deduction of pension payments beyond the conditions in which deduction is required under the Federal law, it may not adopt less stringent conditions which fall short fo the Federal requirement.

The requirement of the pension deduction standard in section 3304(a)(15), FUTA, as modified by the above cited amendments, is now applicable in less restrictive circumstances as noted above. The deduction is not only limited by the conditions contained in clauses (i) and (ii), but also gives States the option of limiting the deduction in unemployment benefits by taking into account an employee's contribution to the pension fund. As will be explained below, the limitations specified by these new clauses mean that the reduction in unemployment compensation by the amounts of pension payments received by an individual will be required under Federal law only if the pension is under a plan maintained or contributed to by a base period or chargeable employer and then, only if the services performed for such employer affect eligibility for, or increase the amount of, the retirement payment. However, as a result of the exception in clause (ii), eliminating application of its provisions to payments made under the Social Security Act or the Railroad Retirement Act of 1974, those particular payments are deductible in any case in which the individual's base period employer contributed to or maintained the pension plan under such Acts.

The limitation specifying that the deduction of a pension payment is required only if the pension is derived under a plan that a base period employer or chargeable employer contributed to or maintained is set forth in clause (i). Whether or not the employer is a chargeable or a base period employer is to be determined under the provisions of the State law. The employer need not be both a base period employer and also chargeable with any benefits payable under the Stae law. If it is either a base period *or* a chargeable employer that contributed to or maintained the plan, the pension received from the plan must be deducted.

Furthermore, the plan must be the same as that under which the individual has established his right to the pension payments. For example, if an individual at company A retires and collects a pension from A under a particular plan maintained by that employer, but then goes to work for company B who has an entirely different plan, and is subsequently laid off, the pension payment from company A would not be deductible (assuming that A is no longer a base period employer). Conversely, if an individual retires from company C to collect Social Security and then goes to work for company D where the inividual is also covered under the Social Security Act, and thereafter the individual is terminated, the Social Security pension would then be deductible since company D (base period employer) contributed to the same plan as company C.

Clause (ii) also requires in addition that the "services performed for such employer by the individual after the beginning of the base period (or renumeration for such services)" must affect "eligibility for, or increase the amount of, such pension * * *." This means that if the services performed for the base period or chargeable employer did not affect either eligibility for or the amount of the pension received from the plan maintained or contributed to by a base period or chargeable employer, then the deduction is not required. The phrase "eligible for" pertains to the individual's capability of satisfying the conditions necessary to qualify for the pension. Thus, if the individual qualifies for a pension on the basis of the services performed for the base period or chargeable employer, or if the amount of the pension payment is increased by reason of such services, the pension payment would then be deductible.

The provisions of clause (ii) allowing States to disregard pension payments if the base period employment did not affect eligibility for or increase the amount of the pension, is not applicable, however, to Social Security and Railroad Retirement pensions received by an individual. Clause (ii) states specifically that the conditions contained therein are applicable only "in the casse of such a payment not made under the Social Security Act or the Railroad Retirement Act of 1974 (or the corresponding provisions of prior law) * * *." Consequently, only the provisions in clause (i) apply to Social Security and Railroad Retirement payments, which means that those payments are deductible whenever the individual's base period employer or the chargeable employer contributed to the plans provided under those Acts. It is not necessary that any contribuition made on behalf of an individual under those plans or any services performed for such employers affect eligibility for or increase the amount of the individual's pension.

Finally, under new section 3304(a)(15)(B), a State "may provide for limitations on the amount of any such reduction to take into account contributions made by the individual for the pension * * *." Under this option a State may provide under its law for eliminating any part of the pension payment equivalent to the employee's share of the contributions to the pension fund, or it can provide for elimination of a representative percentage of the pension as determined under State law. These are only examples of the types of limitations that can be applied under this option and are not intended to cover all of the possible alternatives that may be developed by the States. Although broad latitude is provided to the State in exercising this option, we believe any limitation adopted should be consistent with the basic purpose of the option which is to allow elimination of the individual's share of the contributions to the pension fund in determining the amount of pension to be deducted.

Determinations and review decisions on pension deduction issues should include specific findings on each of the elements involved. The kinds of findings will depend upon the provision adopted by the State. For example, when a Social Security pension is involved, there should be a finding on whether the individual is a primary beneficiary, because only primary insurance benefits are required by the Federal requirement to be deducted. If the provision is limited to pensions maintained or contributed to by a base period employer, the findings should specifically indicate whether a base period employer is involved. When an individual is receiving more than one pension, it should be specifically found whether both meet the deduction requirements. It is also required that determinations and appeal decisions particularly include the method by which a monthly pension is pro-rated to a weekly amount.

A number of States that amended their laws to meet the requirements of section 3304(a)(15) prior to its amendment by Pub. L. 96–364, also included provisos to render those provisions inoperative if they were not required to be included in the State law as a condition for full tax credit against the tax

imposed by the FUTA. Those provisos were included in anticipation of the possible deletion of the Federal pension deduction standard. Since no deletion occurred, a question has arisen as to the impact of the Federal law changes on these provisos. Whether or not those changes will require the States to invoke those provisos is, of course, a matter to be decided by State officials. However, since the prior provisions of section 3304(a)(15) are more restrictive than the revised provisions, a State law which contains the elements of the prior provision would nevertheless continue to be consistent with section 3304(a)(15) as amended. Therefore, it is strongly recommended that States take action or refrain from taking action under such provisos only if it is assured that the State law will meet the requirements of section 3304(a)(15), as amended by Pub. L. 96–364. The States are urged not to take action which would have the effect of leaving the State without any pension deduction provision because that would immediately place the State in the position of having its law inconsistent with the requirements in section 3304(a)(15). In this case, the State should refrain from taking any action until the State legislature has had the opportunity to amend the law to assure consistency with the Federal requirement and thereby avoid any period in which the State does not meet those requirements.

5. *Amendment to Section 202 of the Federal-State Extended Unemployment Compensation Act of 1970.* Section 416 of Pub. L. 96–364 amended section 202 of the Federal-State Extended Unemployment Compensation Act of 1970 by adding a new subsection (c) which prohibits payment of extended benefits pursuant to an interstate claim if the claim was filed in an agent-State where an extended benefit period was not in effect. However, the first 2 weeks of extended benefits otherwise payable under such a claim must still be paid to an individual since the prohibition applies only to weeks beyond that period.

New subsection (c) of section 202 reads as follows:

"(c)(1) Except as provided in paragraph (2), payment of extended compensation shall not be made to any individual for any week if—

"(A) extended compensation would (but for this subsection) have been payable for such week pursuant to an interstate claim filed in any State under the interstate benefit plan, and

"(B) an extended benefit period is not in effect for such week in such State.

"(2) Paragraph (1) shall not apply with respect to the first 2 weeks for which extended compensation is payable (determined without regard to this subsection) pursuant to an interstate claim filed under the interstate benefit payment plan to the individual from the extended compensation account established for the benefit year.

"(3) Section 3304(a)(9)(A) of the Internal Revenue Code of 1954 shall not apply to any denial of compensation required under this subsection."

This is a new Federal requirement that State laws must include in order to satisfy the provisions of section 3304(a)(11), FUTA, requiring payment of [illegible]ended compensation as provided by the Fe[illegible]al-State Extended Unemployment Comp[illegible]ation Act of 1970. To meet this requirement, State law must, as specified by section 41[illegible]a), include provisions implementing new subsection (c) of section 202 for any week which begins on and after June 1, 1981, unless the State legislature does not meet in a regular session which begins during 1981 and before April 1, 1981. In that event, the State must implement the requirement for weeks of unemployment beginning on or after June 1, 1982. However, since the amendment is otherwise effective for weeks of unemployment beginning after October 1, 1980, a State has the option to implement the requirement with the week beginning October 5, 1980.

Under the provisions of new subsection (c), when an individual files an interstate claim for extended compensation under the interstate benefit payment plan such compensation shall be paid for the first two compensable weeks but may not be paid for any additional week unless an extended benefit period is in effect in the agent State for such weeks. If a claimant thereafter moves to another agent State and files an interstate claim under the interstate benefit program, he or she may receive extended compensation only if an extended benefit period is in effect for the week compensation is claimed. If such a period is not in effect, the liable State would be prohibited form paying extended compensation under that claim since the individual will have previously received "the first 2 weeks for which extended compensation is payable" pursuant to an interstate claim filed in a State with an "off" trigger. Since the restriction in new subsection (c) is only applicable to interstate claims filed under the interstate benefit payment plan, it does not apply so as to deny extended compensation to an individual who files a claim classified as either a visiting, transient, or courtesy claim.

When Canada is the agent State, the denial of extended benefits applies to the same extent as for any other claim filed from an agent State that is not an Extended Benefit Period. Canada is not a party to the Federal-State Extended Unemployment Compensation Act.

The provision in new section 202(c)(3) rendering the requirements in section 3304(a)(9)(A), FUTA, inapplicable to any denial required by these amendments, was included to avoid the conflict that would otherwise have occurred in the Federal law upon enactment of new subsection (c). Paragraph (3) has no other effect.

Procedural instructions for implementing this new requirement and amendments to the current Extended Benefit regualtions to reflect these changes will be issued at a later date.

6. *Amendment Relating to length of Service Needed to Qualify for UCX Benefits.* Section 415 of P.L. 96–364 also amended Title 5 of the United States Code to increase the length of service in the Armed Forces that is required for former members to establish eligibility for unemployment compensation. Under the provisions of subparagraph (A) of section 8521(a)(1) of Title 5, U.S.C., as amended, a service member must now have 365 days or more of active service in order to be eligible for unemployment compensation instead of the 90-day period formerly required by that section. The amendment applies with respect to any new (first) claims filed for unemployment compensation on or after October 1, 1980. Instructions for implementing this change are being provided in a separate document.

The attachment contains draft language which can be used by States to implement the new pension deduction standard and the amendment providing for the cessation of extended benefits in the prescribed circumstances discussed earlier.

7. *UIPL No. 24–80.* This letter supplements UIPL No. 24–80 dealing with the Federal pension deduction standard prior to amendment by P.L. 96–364, except that in those respects in which the two letters are inconsistent, this letter supersedes UIPL No. 24–80.

8. *Action Required.* SESAs are requested to:

a. Take necessary action to assure by change in the State law that pension payments received by claimants are deductible under the State law as required by section 3304(a)(15), FUTA, as amended, and that extended compensation is denied in the circumstances required by new subsection (c) of section 202 of the Federal-State Extended Unemployment Compensation Act of 1970 as amended; and,

b. Inform the regional offices of the necessity for action or no action invoking provisos included in existing pension deduction provisions which, when invoked, invalidate such provisions, and indicate what other action will be taken to assure that the State law continues to be applied consistent with the requirements of section 3304(a)(15), FUTA, if those provisos are invoked.

9. *Inquiries.* Inquiries should be directed to your regional office.

Draft Language To Implement Section 3304(a)(15), FUTA, as Amended by P.L. 96–364—Federal Pension Deduction Standard

The following draft provision provides for reduction of pensions as required by the amendents to section 3304(a)(15), and includes two options for adjusting the pension to take into account contributions made by the individuals.

"For any week with respect to which an individual is receiving a pension (which shall include a governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment) under a plan maintained or contributed to by a base period or chargeable employer (as determined under applicable law), the weekly benefit amount payable to such individual for such week shall be reduced (but not below zero),

(a) by the pro-rated weekly amount of the pension after deduction of that portion of the pension that is directly attributable to the percentage of the contributions made to the plan by such individual; or

(Alternative to subsection (a))

(a) by one-half the pro-rated weekly amount of the pension if at least half but less than 100 percent of the contributions to the plan were provided by such individual; or

(b) by the entire pro-rated weekly amount of the pension if subsection (a) or subsection (c) does not apply; or

(c) by no part of the pension if the entire contributions to the plan were provided by such individual, or by the individual and an employer (or any other person or organization) who is not a base period or chargeable employer (as determined under applicable law).

(d) No reduction shall be made under this section by reason of the receipt of a pension if the services performed by the individual during the base period (or remuneration received for such services) for such employer did not affect the individual's eligibility for, or increase the amount of, such pension, retirement or retired pay, annuity, or similar payment. The conditions specified by this subsection shall not apply to pensions paid under the Social Security Act or the Railroad Retirement Act of 1974 (or the corresponding provisions of prior law). Payments made under such Acts shall be treated solely in the manner specified by subsection (a), (b) and (c) of this section."

The provisions of the alternative to subsection (a) are designed to facilitate administration of this option by providing a practical means of adjusting the deduction to take into account the individual's contribution to the pension fund without extension calculations.

Draft Language To Implement New Section 202(c) of the Federal-State Extended Unemployment Compensation Act of 1970 as Amended by P.L. 96-364—Cessation of Extended Benefits Paid Under an Interstate Claim in a State When No Extended Benefit Period is in Effect

Following the enactment of P.L. 91-373, which established the permanent Federal-State extended benefits program, we issued the *Draft Legislation to Implement the Employment Security Amendments of 1970—H.R. 14705.* Each State received a copy of that document for use in implementing P.L. 91-373. A section was included on pages 119-128 setting forth recommended language to implement that extended benefit program. The following draft language is intended to be incorporated into the framework of that section and should be inserted as new subsection (g).

"(g)(1) Cessation of extended benefits when paid under an interstate claim in a State where extended benefit period is not in effect. Except as provided in paragraph (2), an individual shall not be eligible for extended benefits for any week if:

"(A) extended benefits are payable for such week pursuant to an interstate claim filed in any State under the interstate benefit payment plan, and

"(B) no extended benefit period is in effect for such week in such State.

"(2) Paragraph (1) shall not apply with respect to the first 2 weeks for which extended benefits are payable (determined without regard to this subsection) pursuant to an interstate claim filed under the interstate benefit payment plan to the individual from the extended benefit account established for the individual with respect to the benefit year."

U.S. Department of Labor,
Manpower Administration, Washington, D.C.
Classification: UIS
Correspondence Symbol: TURL
Date: June 9, 1981
Expiration Date: May 31, 1982.
Directive: Unemployment Insurance Program Letter No. 7-81 Change 1
To: All State Employment Security Agencies
From: T. James Walker, Administrator, Administration and Management
Subject: Interpretation of Provisions in Section 3304(a)(15)(B), FUTA, Permitting State laws to Take into Account Employee Contributions to Pension Plans Under Pension Reduction Requirement

1. *Purpose.* To inform SESAs of the interpretation of subparagraph (B) of section 3304(a)(15) of the Federal Unemployment Tax Act giving States the option of limiting by law the amount to be deducted from an individual's weekly benefit entitlement by reason of receipt of a pension payment based on the previous work of the individual, by taking into account the individual's contributions for the pension.

2. *References.* Section 414, Pub. L. 96-364 (H.R. 3904); UIPL 24-80 and UIPL 7-81.

3. *Background.* UIPL 7-81, issued November 7, 1980, contained an explanation of the amendments to section 3304(a)(15) made by section 414 of Pub. L. 96-364. With reference to subparagraph (B), relating to the option to take into account employee contributions to pension plans, it was stated on page 5 of UIPL 7-81 that a State may eliminate from the pension amount to be deducted from a benefit amount payment "any part of the pension payment equivalent to the employee's share of the contributions to the pension fund" or "a representative percentage of the pension," as examples of acceptable types of limitations on pension reduction. In UIPL 7-81 it was further stated that subparagraph (B) gave States "broad latitude" in exercising the option; however, it also contained an expression of the view that any limitation adopted by a State "should be consistent with the basic purpose of the option which is to allow elimination of the individual's share of the contributions to the pension fund in determining the amount of pension to be deducted." In UIPL 24-80, a similar view had been expressed earlier with respect to two bills in Congress late in 1979 and early in 1980 to amend the pension reduction requirement in language identical to subparagraph (B). The view was expressed on page 5 of UIPL 24-80 that State laws "can provide for deduction of a representative percentage of the pension *as determined under the State law.* (Emphasis added). A more recent decision on the meaning of subparagraph (B) necessitates changes on page 5 of UIPL 7-81, and supersedes the sentence on page 5 of UIPL 24-80 from which the above quote is taken.

Subparagraph (B) is an optional exception to the general rule which requires the deduction of pensions from unemployment benefits dollar for dollar, and is, therefore, to be narrowly construed to effectuate its purpose. Its purpose, as reflected in its legislative history, is to reduce the pension offset amount by an amount "consistent with" or "related to" contributions toward the pension made by the worker. The "flexibility" given to the States, mentioned in the legislative history, refers to the amendments to section 3304(a)(15) which limited the deduction requirement (1) to pension payment made under a plan maintained or contributed to by a base period or chargeable employer, in contrast to pension payments based upon the previous work of the individual in his work history; and (2) to pension payments where eligibility for the pension or the amount of the pension is affected by work performed after the beginning of the base period (except social security and railroad retirement pensions); and which further gave to the States the option to take into account by their laws contributions made by individuals for their pensions.

Reduction of the pension offset amount is "consistent with" the worker's contributions when, as explained by Congressman Brodhead, one of the conferees on the bill, a State limits "the offset to one-half the amount of the social security pension received by an individual who qualifies for unemployment benefits." *Congressional Record,* page H 9180, September 19, 1980. A similar statement was made and example given by Congressman Corman, Chairman of the Subcommittee on Public Assistance and Unemployment Compensation of the House Ways and Mans Committee, which had jurisdiction of the bill, with repsect to a provision identical to subparagraph (B) in H.R. 5507, *Congressional Record* page H 623, February 6, 1980. A similar example was given by Senator Bradley, one of two co-sponsors of the amendment in H.R. 3904. *Congressional Record,* page S 12901, September 18, 1980. States would be permitted by the option to reduce the offset amount by "that part of a pension which reflects a return of employee contributions." Senate Report No. 96-472, page 3, December 10, 1979. States would be permitted to apply the reduction "in a manner which provides a reasonable adjustment" to take into account an employee's contributions to the pension plan. *Ibid,* page 12.

4. *Interpretation of Subparagraph (B).* It is clear from this legislative history that it was the intent of Congress to allow States to take into account employee contributions for a pension in an amount up to the proportion by which the employee contributed to the pension plan from which the payments are received. Subparagraph (B) is construed, in accordance with its langauge and related legislative history, as permitting a State to provide in its law for limiting the pension deduction otherwise required under subparagraph (A) of section 3304(a)(15) by reducing the offset amount by an amount that is the ratio of the employee's contributions to total contributions to the plan or system by both the employee and his or her employer(s). From the statutory language and the examples given in the legislative history, it is clear that the amount of the pension that may be disregarded may be no greater than such ratio of the employee's contributions.

In the case of pension plans or systems where the employee makes all of the contributions to the principal forming the

basis of the pension, none of the period would be deductible. This is so because if a base period or chargeable employer had not made any financial contributions to the principal of the pension for the employee, the amount received as a pension would not fall within the scope of subparagraph (A)(i) of section 3304(a)(15), and the provisions of subparagraph (B) would not be reached.

5. *Determination of Proportion of Employee Contributions.* It will be necessary in any State law provision that is consistent with subparagraph (B) to provide for reasonably based determinations of the proportion of employee contributions to a pension plan or system, so that the amount of any pension to be disregarded for benefit reduction purposes will not exceed the ratio of the employee's contributions to the total contributions to the principal of the plan or system by the employee and his or her employer(s). Because of the different types of pension plans and systems that exist, and the specific data that may be readily available to SESAs for making determinations of the ratios of employee contributions, it is recommended that the State laws confer broad authority for making reasonably based determinations.

Depending upon the type of plan or system and specific data available, the following rules apply:

a. *General rule, where proportion of employee contributions to total contributions is known.*

(1) Add values of total employee and employer contributions to find amount of total contributions.

(2) Divide amount of total employee contributions by total of all contributions to find proportion of contributions paid by employee.

(3) Multiply the ratio representing employee contributions by the amount of the employee's weekly pension to find amount of pension attributable to employee contributions.

Example: *x*, over his working life, contributed $2,500 to his employer's (ABC's) defined contribution pension plan. ABC also contributed $7,500 to the plan on *x's* behalf. When *x* retires, he will receive $100 a week as a pension benefit. The portion of this pension attributable to *x's* contributions is calculated as follows:

Total amounts contributed on *x's* behalf: $10,000 ($2,500+$7,500).

Ratio of contributions attributable to *x:* 25% ($2,500/$10,000).

Weekly pension amount attributable to *x's* contributions: $25 (25%×$100).

b. *Rule where proportions of both employee and employer contributions are known.*

Where the ratio of employee and employer contributions have been fixed at specified proportions in the plan or system over a substantial period of time preceding the employee's retirement, such ratio can be adopted without further determination for the purposes of a subparagraph (B) type of provision. For example, under the system for primary social security and Federal civil service retirement, the employee contributions are set at 50 percent, and it is not necessary to inquire any further.

c. *Rule where amount of employer contributions is not known.*

In situations where it is not possible to determine exactly the aggregate amount of employer contributions paid to a pension plan on an individual's behalf (as often is the case where the employee participates in a defined benefit plan), any method of computation that reasonably reflects or approximates the proportion of contributions made by the employee will be acceptable.

6. *Scope of Letter.* The interpretations contained in this letter apply solely to section 3304(a)(15), FUTA, and have no application to any other Federal statute.

7. *Revised Page 5.* This letter transmits a change to page 5 of UIPL 7–81.

8. *Action Required.* SESAs are requested to substitute the attached page 5 for the one contained in UIPL 7–81, November 7, 1980, and retain this Change 1 to UIPL 7–81. The substituted text is in the first paragraph. There are, in addition, revisions in the second paragraph for consistency with the changes in the first paragraph.

The interpretations contained in this letter are effective for the certification period beginning November 1, 1980. SESAs should apply these interpretations as soon as possible after receipt of this letter.

9. *Inquiries.* Questions should be directed to the appropriate Regional Office.

Attachment (Revised page 5, UIPL–7–81)

reduction to take into account contributions made by the individual for the pension * * *" Subparagraph (B) is construed, in accordance with its language and related legislative history, as permitting a State to provide in its law for limiting the pension deduction otherwise required under subparagraph (A) by reducing the offset amount by an amount that takes "into account contributions made by the individual for the pension." From the examples given in the legislative history, it is clear that the offset amount reflecting the individual's contributions is intended to be in a maximum amount which is no greater than the proportion that is the ratio of the individual's contributions made to the pension plan, from which pension payments are received, to total contributions made to the pension plan by the individual and the employer(s) of the individual in the pension plan or system.

Determinations and review decisions on pension deduction issues should include specific findings on each of the elements involved. The kinds of findings will depend upon the provision adopted by the State. For example, when a social security pension is involved, there should be a finding on whether the individual is a primary beneficiary, because only primary insurance benefits are required by the Federal requirement to be deducted. If the provision is limited to pensions maintained or contributed to by a base period employer, the findings should specifically indicate whether a base period employer is involved. When an individual is receiving more than one pension, it should be specifically found whether only one or all meet the deduction requirements. It is also required that determinations and appeal decisions particularly include the method by which a monthly pension is prorated to a weekly amount, and the basis for the determination of the employee's contribution and the amount taken into account in arriving at the amount deducted.

A number of States that amended their laws to meet the requirements of section 3304(a)(15) prior to its amendment by P.L. 96–364, also included provisos to render those provisions inoperative if they were not required to be included in the State law as a condition for full tax credit against the tax imposed by the FUTA. Those provisos were included in anticipation of the possible deletion of the Federal pension deduction standard. Since no deletion occurred, a question has arisen as to the impact of the federal law changes on these provisos. Whether or not those changes will require the States to invoke those provisos is, of course, a matter to be decided by State officials. However, since the prior provisions of section 3304(a)(15) are more restrictive than the revised provisions, a State law which contains the elements of the prior provision would nevertheless continue to be consistent with section 3304(a)(15) as amended. Therefore, it is strongly recommended that States take action or refrain from taking action under such provisos only if it is assured that

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BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total of partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 19, 1982.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 19, 1982.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, N.W., Washington, D.C. 20213.

Signed at Washington, D.C. this 30th day of June 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Airco Carbon (IUE)	St. Mary's, PA	6/24/82	6/21/82	TA-W-13,598	Graphite electrodes, carbon and graphite products.
Airway Ind., Inc. (ILGPNWU)	Ellwood City, PA	6/22/82	6/17/82	TA-W-13,599	Luggage.
Block Industries (workers)	New York, N.Y	5/25/82	4/6/82	TA-W-13,600	Woven, knit shirts—men's (showroom).
Block Industries (workers)	Wilmington, N.C	5/25/82	4/6/82	TA-W-13,601	Woven, knit shirts—men's.
Connors Steel Co. (USWA)	Huntington, W.V	6/24/82	6/21/82	TA-W-13,602	I-beams, channels.
Ellingson Timber Co. (workers)	Baker, Oregon	6/22/82	6/15/82	TA-W-13,603	Softwood veneer.
Ellingson Timber Co. (workers)	Baker, Oregon	6/22/82	6/15/82	TA-W-13,604	Softwood lumber.
Joseph Love, Inc. (ILGWU)	College Pt., N.Y	11/25/81	11/19/81	TA-W-13,605	Dresses—children.
Inverness Mining Co. (workers)	Cave-in-Rock, Ill	6/24/82	6/21/82	TA-W-13,606	Fluorspar, barite, zinc and lead concentrates.
MRC Fashions, Inc. (ILGWU)	Hoboken, N.J	5/18/82	5/13/82	TA-W-13,607	Ladies coats—contractors.
Pepi Spina (ILGWU)	West New York, N.J	5/18/82	5/13/82	TA-W-13,608	Ladies coats—contractors.
Republic Steel Corp. (USWA)	Buffalo, N.Y	6/18/82	6/16/82	TA-W-13,609	Hot rolled carbon, alloy steel bar products.
S & S Products Inc. (workers)	Wyandotte, MI	6/13/82	4/26/82	TA-W-13,610	Wheel covers, trim rings, wheel caps and heater plates.
Tommies, Inc. (ILGWU)	Staunton, VA	6/24/82	6/21/82	TA-W-13,611	Pajamas, gowns, dusters, robes—ladies.
U.S. Steel Corp. (USWA)	McKeesport, PA	5/25/82	5/22/82	TA-W-13,612	Drill pipe, casing pipe, line pipe.
Wheeling-Pittsburg Steel Corporation (USWA)	Martins Ferry, OH	6/24/82	6/21/82	TA-W-13,613	Galvanized steel coils, sheet and strip.

[FR Doc. 82-18650 Filed 7-8-82; 8:45 am]

BILLING CODE 4510-30-M

Labor Surplus Area Classifications Under Executive Orders 12073 and 10582; Additions to Annual List of Labor Surplus Areas

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

DATE: The additions to the annual list are effective on July 1, 1982.

SUMMARY: The purpose of this notice is to announce additions to the annual list of labor surplus areas.

FOR FURTHER INFORMATION CONTACT: James W. Higgins, Assistant Chief, Division of Labor Market Information, 601 D Street, N.W., Attention: TEEPA, Washington, D.C. 20213, Telephone: 202-376-6890.

SUPPLEMENTARY INFORMATION: Executive Order 12073 requires executive agencies to emphasize procurement set-asides in labor surplus areas. The Secretary of Labor is responsible under that Order for classifying and designating areas as labor surplus areas.

Under Executive Order 10582 executive agencies may reject bids or offers of foreign materials in favor of the lowest offer by a domestic supplier, provided that the domestic supplier undertakes to produce substantially all of the materials in areas of substantial unemployment as defined by the Secretary of Labor. The preference given to domestic suppliers under Executive Order 10582 has been modified by Executive Order 12260. Federal Procurement Regulations Temporary Regulation 57 (41 CFR Chapter 1, Appendix), issued by the General Services Administration on January 15, 1981 (46 FR 3519), implements Executive Order 12260. Executive agencies should refer to Temporary Regulation 57 in procurements involving foreign businesses or products in order to assess its impact on the particular procurements.

The Department of Labor's regulations implementing Executive Orders 12073 and 10582 are set forth at 20 CFR Part 654, Subparts A and B. Subpart A requires the Assistant Secretary of Labor to classify jurisdictions as labor surplus areas pursuant to the criteria specified in the regulations and to publish annually a list of labor surplus areas. Pursuant to those regulations the Assistant Secretary of Labor published the annual list of labor surplus areas on June 4, 1982 (47 FR 24474).

Subpart B of Part 654 states that an area of substantial unemployment for purposes of Executive Order 10582 is any area classified as a labor surplus area under Subpart A. Thus, labor surplus areas under Executive Order 12073 are also areas of substantial unemployment under Executive Order 10582.

The areas described below have been classified by the Assistant Secretary of Labor as labor surplus areas pursuant to 20 CFR 654.5(c) and are added to the annual list of labor surplus areas, effective July 1, 1982. The following additions to the annual list of labor surplus areas are published for the use of all Federal agencies in directing procurement activities and locating new plants or facilities.

Signed at Washington, D.C. on June 24, 1982.

Albert Angrisani,

Assistant Secretary of Labor.

ADDITIONS TO THE ANNUAL LIST OF LABOR SURPLUS AREAS, JULY 1, 1982

Labor surplus area	Civil jurisdiction included
Alabama: Huntsville City	Huntsville City in Madison County.
Arkansas: Drew County	Drew County.
California: Balance of Riverside County.	Riverside County less Riverside City.
Colorado:	
Huerfano County	Huerfano County.
Balance of Pueblo County.	Pueblo County less Pueblo City.
Florida:	
Holmes County	Holmes County.
Jackson County	Jackson County.
Liberty County	Liberty County.
Washington County	Washington County.
Georgia: Butts County	Butts County.
Illinois:	
Mason County	Mason County.
Richland County	Richland County.
Kentucky:	
Bath County	Bath County.
Bell County	Bell County
Boyd County	Boyd County.
Bracken County	Bracken County.
Butler County	Butler County.
Caldwell County	Caldwell County.
Calloway County	Calloway County.
Carlisle County	Carlisle County.
Carter County	Carter County.
Clay County	Clay County.
Clinton County	Clinton County.
Crittenden County	Crittenden County.
Edmonson County	Edmonson County.
Elliott County	Elliott County.
Estill County	Estill County.
Fleming County	Fleming County.
Floyd County	Floyd County.
Fulton County	Fulton County.
Gallatin County	Gallatin County.
Garrard County	Garrard County.
Graves County	Graves County.
Harlan County	Harlan County.

ADDITIONS TO THE ANNUAL LIST OF LABOR SURPLUS AREAS, JULY 1, 1982—Continued

Labor surplus area	Civil jurisdiction included
Hart County	Hart County.
Hickman County	Hickman County.
Jackson County	Jackson County.
Johnson County	Johnson County.
Balance of Kenton County.	Kenton County less Covington City.
Knott County	Knott County.
Knox County	Knox County.
Lawrence County	Lawrence County.
Lee County	Lee County.
Letcher County	Letcher County.
Lewis County	Lewis County.
Lincoln County	Lincoln County.
Livingston County	Livingston County.
Logan County	Logan County.
Magoffin County	Magoffin County.
Marion County	Marion County.
Marshall County	Marshall County.
McCreary County	McCreary County.
Menifee County	Menifee County.
Metcalfe County	Metcalfe County.
Monroe County	Monroe County.
Montgomery County	Montgomery County.
Morgan County	Morgan County.
Muhlenberg County	Muhlenberg County.
Nelson County	Nelson County.
Owsley County	Owsley County.
Perry County	Perry County.
Powell County	Powell County.
Pulaski County	Pulaski County.
Robertson County	Robertson County.
Rockcastle County	Rockcastle County.
Russell County	Russell County.
Simpson County	Simpson County.
Spencer County	Spencer County.
Todd County	Todd County.
Trigg County	Trigg County.
Washington County	Washington County.
Wayne County	Wayne County.
Whitley County	Whitley County.
Wolfe County	Wolfe County.
Massachusetts:	
Acushnet Town	Acushnet Town in Bristol County.
Adams Town	Adams Town in Berkshire County.
Athol Town	Athol Town in Worcester County.
Ayer Town	Ayer Town in Middlesex County.
Berkley Town	Berkley Town in Bristol County.
Bourne Town	Bourne Town in Barnstable County.
Boylston Town	Boylston Town in Worcester County.
Brimfield Town	Brimfield Town in Hampden County.
Brockton City	Brockton City in Plymouth County.
Dighton Town	Dighton Town in Bristol County.
Douglas Town	Douglas Town in Worcester County.
Falmouth Town	Falmouth Town in Barnstable County.
Gardner Town	Gardner Town in Worchester County.
Gloucester City	Gloucester City in Essex County.
Haverhill City	Haverhill City in Essex County.
Kingston Town	Kingston Town in Plymouth County.
Lynn City	Lynn City in Essex County.
Merrimac Town	Merrimac Town in Essex County.
Middlefield Town	Middlefield Town in Hampshire County.
Montague Town	Montague Town in Franklin County.
New Bedford City	New Bedford City in Bristol County.
Newburyport City	Newburyport City in Essex County.
Plainfield Town	Plainfield Town in Hampshire County.
Shirley Town	Shirley Town in Middlesex County.
Taunton City	Taunton City in Bristol County.
Westport Town	Westport Town in Bristol County.
Minnesota:	
Cass County	Cass County.
Lake County	Lake County.
Missouri: Miller County	Miller County.
Nebraska: Box Butte County.	Box Butte County.
North Carolina:	
Avery County	Avery County.
McDowell County	McDowell County.

ADDITIONS TO THE ANNUAL LIST OF LABOR SURPLUS AREAS, JULY 1, 1982—Continued

Labor surplus area	Civil jurisdiction included
Wilson County	Wilson County.
Pennsylvania: Wayne County.	Wayne County.
South Carolina: Lee County.	Lee County.
South Dakota:	
Buffalo County	Buffalo County.
Corson County	Corson County.
Dewey County	Dewey County.
Mellette County	Mellette County.
Shannon County	Shannon County.
Todd County	Todd County.
Utah: Wayne County	Wayne County.
Virginia: King and Queen County.	King and Queen County.
Washington:	
Asotin County	Asotin County.
Benton County	Benton County.
Wisconsin:	
Juneau County	Juneau County.
Price County	Price County.

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BILLING CODE 4510-30-M

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 82-115]

Exemption From the Prohibitions for Certain Transactions Involving Pension Equity Growth Trust Located in Salt Lake City, Utah (Exemption Application No. D-2525)

AGENCY: Department of Labor, Pension and Welfare Benefit Programs Office.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption will permit certain prohibited transactions between Pension Equity Growth Trust (the Trust) and certain parties in interests with respect to the Trust subject to specified conditions. The proposed exemption would also exempt certain possible prohibited transactions between the Trust and employees benefit plans purchasing or selling an interest in the Trust.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On April 6, 1982, notice was published in the **Federal Register** (47 FR 14811) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of certain sections of the Employee Retirement Income Security Act of 1974 (the Act) and from certain sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code), for the above-described transactions. The notice set forth a summary of facts and representations contained in the applications for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. No public comments and no requests for a hearing were received by the Department.

Since the publication of the notice of pendency, the applicant has proposed certain amendments to the written agreements establishing the Trust. The Department has reviewed these proposed changes, such as the elimination from the list of permissible investments, the investment in precious gems of investment grade and precious metals, and has determined that, because they related solely to the internal operations of the Trust, the proposed change do not materially affect the transactions which are the subject of this exemption.

Additionally, the applicant has represented that the Trust has received a favorable determination letter from the Internal Revenue Service qualifying the Trust under section 401(a) of the Code. Accordingly, the Department herein amends the effective date stated in the notice of proposed exemption. The effective date of this exemption is **Federal Register** of the grant of this individual exemption.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited

transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Trust and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Trust.

Accordingly, the following exemption is hereby granted under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 and Revenue Procedure 75–26.

Section I. Exemption for Certain Transactions Involving Pension Equity Growth Trust

a) Effective the date of publication in the **Federal Register** of the grant of this exemption, (hereinafter, the Effective Date) the restrictions of sections 406(a), 406(b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to the transactions described below if the applicable conditions set forth in Section IV are met.

(1) *Transactions Between Parties In Interest and the Trust: General.*

Any transaction between the Trust and a party-in-interest with respect to a plan that has an interest in the Trust (Participating Plan), (provided that such party in interest is not Pension Equity Advisers, Incorporated (the Investment Manager), the trustees of the Trust (the Trustees), or any other trust or fund maintained by the Investment Manager, Trustees or affiliates thereof)), or any acquisition or holding by the Trust of employer securities or employer real property, if, at the time of the transaction, acquisition or holding, the interest of the plan, together with the interests of any other plans maintained by the same employer or employee organization in the Trust, does not exceed 5 percent of the total assets in the Trust.

(2) *Special Transactions Not Meeting the Criteria of Section I(a)(1) Between Employers of Employees Covered by a Multiple Employer Plan and the Trust.*

Any transaction between an employer (or an affiliate of an employer) of employees covered by a mutliple employer plan that is a Participating Plan, and the Trust or any acquisition or holding by the Trust of employer securities or employer real property, if at the time of the transaction, acquisition or holding—

(a) The interest of the multiple employer plan in the Trust does not exceed 10 percent of the total assets in the Trust, and the employer is not a "substantial employer" with respect to the plan [within the meaning of section 4001(a)(2) of the Act), or

(b) The interest of the multiple employer plan in the Trust exceeds 10 percent of the total assets in the Trust, but the employer is not a "substantial employer" with respect to the plan and would not be a "substantial employer" within the meaning of section 4001(a)(2) of the Act if "5 percent" were substituted for "10 percent" in that definition.

(3) *Acquisition, Sales or Holdings of Employer Securities and Employer Real Property.*

A. Except as provided in subsection (B) of this section (3), any acquisition, sale or holding of employer securities and any acquisition, sale or holding of employer real property by the Trust which does not meet the requirements of paragraphs (a)(1) and (a)(2), if no commission is paid to the Investment Manager or to the employer, or any affiliate of the Investment Manager or the employer in connection with the acquisition or sale of employer securities or the acquisition, sale or lease of employer real property; and

(i) In the case of employer real property—

(aa) Each parcel of employer real property and the improvements thereon held by the Trust are suitable (or adaptable without excessive cost) for use by different tenants, and

(bb) The property of the Trust that is leased or held for lease to others, in the aggregate, is dispersed geographically.

(ii) In the case of employer securities—

(aa) The Investment Manager is not an affiliate of the issuer of the security, and

(bb) If the security is an obligation of the issuer, either:

1. The Trust owns the obligation at the time the plan acquires an interest in the Trust, and interests in the Trust are offered and redeemed in accordance with valuation procedures of the Trust applied on a uniform or consistent basis, or

2. Immediately after acquisition of the obligation: (1) not more than 25 percent of the aggregate amount of obligations issued in the issue and outstanding at the time of acquisition is held by such plan, and (2) in the case of an obligation that is a restricted security within the meaning of Rule 144 under the Securities Act of 1933, at least 50 percent of the aggregate amount of obligations issued in the issue and outstanding at the time of acquisition is held by persons independent of the issuer. The Investment Manager, its affiliates and the Trust shall be considered to be persons independent of the issuer if the Investment Manager is not an affiliate of the issuer.

B. In the case of a Participating Plan that is not an eligible individual account plan (as defined in section 407(d)(3) of the Act), the exemption provided in subsection (A) of this paragraph (3) shall be available only if, immediately after the acquisition of the securities or real property, the aggregate fair market value of employer securities and employer real property with respect to which the Investment Manager or its affiliates has investment discretion does not exceed 10 percent of the fair market value of all the assets of the Participating Plan with respect to which the Investment Manager has such investment discretion.

C. For purposes of the exemption contained in subsection (A) of this paragraph (3), the term "employer securities" shall include securities issued by, and the term "employer real

property" shall include real property leased to, a person who is a party-in-interest with respect to a Participating Plan by reason of a relationship to the employer described in section 3(14) (E), (G), (H) or (I) of the Act.

(b) Effective upon the Effective Date, the restrictions of section 406(a)(1) (A), (B), (C), and (D) and section 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the transactions described below, if the conditions of Section IV are met.

(1) *Transactions with Persons Who Are Parties in Interest by Virtue of Being Certain Service Providers or Certain Affiliates of Service Providers.* Any transaction between the Trust and a person who is a party-in-interest with respect to a plan that has an interest in the Trust, if—

(a) The person is a party-in-interest (including a fiduciary) solely by reason of providing services to the plan, or solely by reason of a relationship to a service provider described in section 3(14) (F), (G), (H) or (I), of the Act, or both, and the person neither exercised nor has any discretionay authority, control, responsibility or influence with respect to the investment of plan assets in, or held by, the Trust, and

(b) The person is not an affiliate of the Investment Manager.

(2) *Certain Leases and Goods.* The furnishing of goods to the Trust by a party-in-interest with respect to a Participating Plan or the leasing of real property owned by the Trust to such party-in-interest and the incidental furnishing of goods to such party-in-interest by the Trust, if—

(a) In the case of goods, they are furnished to or by the Trust in connection with real property owned by the Trust;

(b) The party-in-interest is not the Investment Manager or any affiliate of the Investment Manager, or any other collective investment fund maintained by the Investment Manager; and

(c) The amount involved in the furnishing of goods or leasing of real property in any calendar year (including the amount under any other lease or arrangement for the furnishing of goods in connection with the real property investments of the Trust with the same party-in-interest, or any affiliate thereof) does not exceed the greater of $25,000 or 0.5 percent of the fair market value of the assets of the Trust on the most recent valuation date of the Trust prior to the transaction.

(3) *Management of Real Property.* Any services provided to the Trust by the Investment Manager or by an affiliate of the Investment Manager in connection with the management of the real property owned by the Trust, if the compensation paid to the Investment Manager or its affiliate does not exceed the cost of the services to the Investment Manager or its affiliate.

(4) *Transactions Involving Places of Public Accommodation.* The furnishing of services, facilities and any goods incidental to such services and facilities by a place of public accommodation owned by the Trust to a party-in-interest with respect to a plan that has an interest in the Trust, if the services, facilities and incidental goods are furnished on a comparable basis to the general public.

Section II. Excess Holdings Exemption for Employee Benefit Plans

(a) Effective upon the Effective Date, the restrictions of sections 406(a), 406(b)(2) and 407(a) of the Act and the sanctions imposed by section 4975 of the Code by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to any acquisition or holding of qualifying employer securities or qualifying employer real property (other than through the Trust) by a plan that has an interest in the Trust, if (1) the acquisition or holding constitutes a prohibited transaction solely by reason of being aggregated with employer securities or employer real property held by the Trust; (2) the requirements of either paragraph (a)(1) or paragraph (a)(2) of Section I of this exemption are met; and (3) the applicable conditions set forth in Section IV of this exemption are met.

Section III. Exemption for Certain Transactions Involving the Purchase and Sale of Units of Beneficial Interest in the Trust

Effective upon the Effective Date, the restrictions of section 406(a)(1)(A) and 406(a)(1)(D) of the Act and section 4975(c)(1)(A) and section 4975(c)(1)(D) of the Code shall not apply to the purchase and sale of units of beneficial interest in the Trust if no more than reasonable compensation is paid therefore and each purchase and sale is authorized in writing by a fiduciary of the employee benefit plan who is independent of the Investment Manager and any of its affiliates, if the applicable conditions of Section IV are met.

Section IV. General Conditions

(a) At the time the transaction is entered into, and at the time of any subsequent renewal thereof that requires the consent of the Investment Manager or any affiliate, the terms of the transaction are not less favorable to the Trust than the terms generally available in arm's-length transactions between unrelated parties.

(b) The Investment Manager or any affiliate maintains for a period of six years from the date of the transaction the records necessary to enable the persons described in paragraph (c) of this Section IV to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of the Investment Manager or any affiliate, the records are lost or destroyed prior to the end of the six-year period, and (2) no party interest shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (c) below.

(c)(1) Except as provided in section 2 of this paragraph (c) and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (b) of this Section IV are unconditionally available at their customary location for examination during normal business hours by:

(A) any duly authorized employee or representative of the Department or the Internal Revenue Service,

(B) any fiduciary of a Participating Plan who has authority to acquire or dispose of the interests in the Trust of the Participating Plan or any duly authorized employee or representative of such fiduciary,

(C) any contributing employer to any Participating Plan or any duly authorized employee or representative of such employer, and

(D) any participant or beneficiary of any Participating Plan, or any duly authorized employee or representative of such participant or beneficiary.

(2) None of the persons described in subparagraphs (B) through (D) of this paragraph (c) shall be authorized to examine trade secrets of the Investment Manager or any affiliate, or commerical or financial information which is privileged or confidential .

Section V. Definitions and General Rules

For the purpose of this exemption,

(a) An "affiliate" of a person includes—

(1) any persons directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person.

(2) any officer, director, employee, relative of, or partner in any such person, and

(3) any corporation or partnership of which such person is an officer, director, partner or employee.

(b) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(c) The term "relative" means a "relative" as that term is defined in section 3(15) of the Act (or a "member of the family" as that term is defined in section 4975(e)(6) of the Code), or a brother a sister, or a spouse of a brother, or sister.

(d) The term "multiple employer plan" means an employee benefit plan that satisfies at least the requirements of section 3(37)(A)(i), (ii) and (v) of the Act and section 414(f)(1)(A), (B) and (E) of the Code.

(e) The time as of which any transaction, acquisition or holding occurs is the date upon which the transaction is entered into, the acquistion is made or the holding commences. In addition, in the case of a transaction that is continuing, the transaction shall be deemed to occur until it is terminated. If any transaction is entered into, or an acquisition is made, on or after the date of granting of this exemption, or a renewal that requires the consent of the Trust occurs on or after the date of granting of this exemption, and the requirements of this exemption are satisfied at the time the transaction is entered into or renewed, respectively, or at the time the acquisition is made, the requirements will continue to be satisfied thereafter with respect to the transaction or acquisition and the exemption shall apply thereafter to the continued holding of the property so acquired. Notwithstanding the foregoing, this exemption shall cease to apply to a holding exempt by virture of Section I(a)(1) at such time as the interest of the Participating Plan exceeds the percentage interest limitation of Section I(a)(1), unless no portion of such excess results from the increase in the assets allocated to the Trust by the Participating Plan. For this purpose, assets allocated do not include the reinvestment of Trust earnings. Nothing in this paragrah (e) shall be construed as exempting a transaction entered into by the Trust which becomes a transaction described in section 406 of the Act or section 4975 of the Code while the transaction is continuing, unless the conditions of the exemption were met either at the time the transaction was entered into or at the time the transaction would have become prohibited but for this exemption.

(f) Each Participating Plan shall be considered to own the same proportionate undivided interest in each asset of the Trust as its proportionate interest in the total assets of the Trust as calculated on the most recent preceding valuation date of the Trust.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 25th day of June 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards.

[FR Doc. 82-18379 Filed 7-8-82; 8:45 am]

BILLING CODE 4510-29-M

Wage and Hour Division

Certificates Authorizing the Employment of Learners at Special Minimum Wages

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act (52 Stat. 1062, as amended; U.S.C. 214), Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004), and Administrative Order No. 1–76 FR 16949), the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the Act. For each certificate, the effective and expiration dates, number or proportion of learners and the principal product manufactured by the establishment are as indicated. Conditions on occupations, wage rates, and learning periods which are provided in certificates issued under the supplemental industry regulations cited in the captions below are as established in those regulations.

The following certificates were issued under the apparel industry learner regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.20 to 522.25, as amended). Each of the following normal turnover certificates authorize 10 learners.

College Casuals Co., Sheppton, PA; 04–23–82 to 04–22–83. (Ladies' slacks).

Flushing Shirt Mfg. Co., Inc. Waynesburg, PA; 04–18–82 to 04–17–83. (Work shirts).

Each learner certificate has been issued upon the representations of the employer which, among other things were that employment of learners at special minimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available.

The certificate may be annulled or withdrawn as indicated therein, in the manner provided in 29 CFR Part 528. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof on or before July 26, 1982.

Signed at Washington, DC this 30th day of June 1982.

Arthur H. Korn,

Authorized Representative.

[FR Doc. 82-18462 Filed 7-8-82; 8:45 am]

BILLING CODE 4510-27-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Design Arts Advisory Panel (Fellowships); Notice of Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Design Arts Advisory Panel (Fellowships) to the National Council on the Arts will be held on August 2–3, 1982, from 9:00 a.m.–5:30 p.m. and on August 4, from 9:00 a.m.–5:00 p.m. in room 1426 of the Columbia Plaza Office Complex, 2401 E Street, NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National

Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

June 30, 1982.

[FR Doc. 82–18578 Filed 7–8–82; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–334]

Duquesne Light Co. et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 53 to Facility Operating License No. DPR–66 issued to Duquesne Light Company, Ohio Edison Company, and Pennsylvania Power Company (the licensees), which revised Technical Specifications for operation of the Beaver Valley Power Station, Unit No. 1 (the facility) located in Beaver County, Pennsylvania. The amendment is effective as of the date of issuance.

The amendment revises the reactor coolant system heatup and cooldown curves, and the bases for these curves.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated April 5, 1982, (2) Amendment No. 53 to License No. DPR–66 and (3) the Commission's related letter dated June 30, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 30th day of June, 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82–18664 Filed 7–8–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–334]

Duquesne Light Co. et al.; Grant of Relief From ASME Section XI Inservice Testing Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components" to Duquesne Light Company, Ohio Edison Company, and Pennsylvania Power Company (the licensees). The relief relates to the inservice testing program for the Beaver Valley Power Station, Unit No. 1 (the facility) located in Beaver County, Pennsylvania. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of June 29, 1982.

The relief permits the licensee to test certain designated pumps and valves in a manner or on a schedule different from that prescribed in Section XI of the ASME Boiler and Pressure Vessel Code and applicable Addenda, as required by 10 CFR 50, because of inaccessibility, configuration of components, radiation level, or other valid reasons.

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this relief.

For further details with respect to this action, see (1) the application for relief dated May 2, 1979, as revised March 17, 1980, (2) the Commission's letter dated June 29, 1982 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W. Washinton, D.C. and at the B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 29th day of June, 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82–18665 Filed 7–8–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–416]

Mississippi Power and Light Co. et al.; Issuance of Amendment of Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 1 to Facility Operating License No. NPF–13, issued to Mississippi Power and Light Company, Middle South Energy, Inc., and South Mississippi Electric Power Association (the licensees), which revised Technical Specifications for operation of the Grand Gulf Nuclear Station, Unit No. 1 (the facility) located in Caliborne County, Mississippi. The amendment is effective as of the date of issuance.

The amendment consists of a change to the Technical Specifications. The change to the Technical Specifications was as follows:

(1) In Table 3.6.6.2–1, change the maximum isolation time for secondary containment isolation valve P11–F062 (Cond. & Refuel Water Transfer Aux. Bldg. Isol. Valve) from 4 to 9 seconds.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact

statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated June 23, 1982; (2) Amendment No. 1 to License NPF–13 dated June 30, 1982; and (3) the Commission's evaluation in its letter to the licensee dated June 30, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Hinds Jr. College, George M. McLendon Library, Raymond, Mississippi 39154. A copy of items (1), (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 30th day of June 1982.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 82–18606 Filed 7–8–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. STN 50–437 ML]

Offshore Power Systems (Manufacturing License for Floating Nuclear Power Plants); Reconstitution of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for this manufacturing license proceeding. As reconstituted, the Appeal Board for this proceeding will consist of the following members: Christine N. Kohl, Chairman, Dr. W. Reed Johnson, Howard A. Wilber.

Dated: July 1, 1982.

Barbara A. Tompkins,

Secretary to the Appeal Board.

[FR Doc. 82–18608 Filed 7–8–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 40–8781]

Teton Exploration Drilling Co., Inc.; Availability of Draft Environmental Statement for the Teton Project in Converse County, Wyoming

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Draft Environmental Statement (DES) prepared by the Commission's Office of Nuclear Material Safety and Safeguards, related to the proposed operation of the Teton Solution Mining Project located at the Leuenberger site in Converse County, Wyoming is available for inspection by the public in the Commission's Public Document Room (PDR) at 1717 H Street, NW., Washington, D.C. 20555. Based upon successful R&D testing, Teton Exploration Drilling Co., Inc. (the Applicant) has applied under Docket No. 40–8781 for a Source and Byproduct Material License approving commercial-scale uranium solution mining of approximately eighty acres by injecting a carbonate/bicarbonate lixiviant into the orebody. Copies of the DES are being provided to the State Planning Coordinator, Office of the Governor, 2320 Capitol Avenue, Cheyenne, Wyoming 82002 and the Converse County Library, 300 Walnut Street, Douglas, Wyoming 82633. Request for copies of the Draft Environmental Statement (identified as NUREG–0925) should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Division of Technical Information and Document Control.

The Applicant's Environmental Report and supplements are also available for public inspection at the above-designated locations. Notice of the availability of the Applicant's Environmental Report was published in the **Federal Register** on May 4, 1981 (46 FR 25020).

Interested persons may submit written comments on the DES for the Commission's consideration to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. ATTN: Uranium Recovery Licensing Branch. Federal, State and local agencies are being provided with copies of the document. All comments received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C. Comments are due by August 23, 1982. Upon consideration of comments submitted with respect to the draft environmental statement, the Commission's staff will prepare a final environmental statement, the availability of which will be published in the **Federal Register.**

Dated at Silver Spring, Maryland this 30th day of June, 1982.

For the Nuclear Regulatory Commission.

Ross A. Scarano,

Chief, Uranium Recovery Licensing Branch, Division of Waste Management.

[FR Doc. 82–18607 Filed 7–8–82; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

National Eligibility Committee for the Combined Federal Campaign; Meeting

Note.—This document originally appeared in the **Federal Register** of Thursday, July 8, 1982. It is reprinted in this issue to meet requirements for publication on the Tuesday, Friday schedule assigned to the Office of Personnel Management.

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the Director of the Office of Personnel Management announces the following meeting:

NAME: National Eligibility Committee for the Combined Federal Campaign.

DATE AND TIME: July 23, 1982, at 10 a.m.

PLACE: The OPM Auditorium (Room GJ–14, on the Ground Floor), U.S. Office of Personnel Management, 1900 E Street, NW., Washington, D.C.

Type of Meeting

Open

Interested persons may submit written statements with the committee in advance of or at the start of the meeting. Written statements submitted in advance of the meeting may be addressed to the Committee in the care of the Secretary of the committee, whose name and address are set forth in this Notice under the heading, "Contact Person." Written statements submitted at the start of the meeting may be filed with the Committee at the place of the meeting. Oral comments will not be permitted at the meeting, except with the leave of the Chairman or a majority of the Committee. In the event that leave is given for oral comment, no person will be permitted to make an oral statement at the meeting unless such person (1) has advised the Secretary of the Committee in writing at least 48 hours in advance of the meeting that the person wishes to be heard at the meeting (clearly specifying the matter on which the person wishes to be heard); (2) has submitted a written statement relating to the matter on which such person wishes to be heard; and (3) wishes to be heard on a matter that is contested by or before the Committee. Persons, if any, given leave to make oral comments shall each be confined in their oral comments to five (5) minutes.

CONTACT PERSON: Joseph S. Patti, Secretary of the National Eligibility Committee for the Combined Federal Campaign, Office of the Special Assistant for Regional Operations, U.S. Office of Personnel Management, 1900 E Street NW., Washington, D.C., 20415, telephone 202–632–5544.

Purpose of Meeting

The Committee will meet to consider applications of organizations seeking to participate in the Combined Federal Campaign as federated and national voluntary health, welfare, and other appropriate agencies, with fund-raising privileges within the Federal service, in accordance with Executive Order 12353 (March 23, 1982) and regulations promulgated thereunder, and to determine recommendations on such applications to be made to the Director of the Office of Personnel Management.

SUPPLEMENTARY INFORMATION: This Notice amends and supersedes the Notice of Meeting which was published on July 6, 1982, 47 **Federal Register** 29512.

Donald J. Devine,

Director, Office of Personnel Management.

[FR Doc. 82–18550 Filed 7–7–82; 8:45 am]

BILLING CODE 6325–01–M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Reserves and Reliability Subcommittee Meeting

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting.

STATUS: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of the Reserves and Reliability Subcommittee of its Scientific and Statistical Advisory Committee.

DATE: Thursday, July 15, 1982. 9:00 a.m.

ADDRESS: The meeting will be held at the Council's Central Office located at 700 S.W. Taylor Street, Suite 200, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Ms. Torian Donohoe, (503) 222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 82–18570 Filed 7–8–82; 8:45 am]

BILLING CODE 0000–00–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–18886; File No. SR–AMEX 82–9]

Self-Regulatory Organizations; Proposed Rule Change by American Stock Exchange, Inc. Relating to Distribution Criteria for Original Listing of Common Stock and Warrant Issues

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on June 17, 1982, the American Stock Exchange filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commision is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange is proposing to amend Sections 102 and 105 of the AMEX Company Guide (i) to modify public float and holder requirements of existing distribution criteria for evaluating the listing eligibility of common stock and warrant issues and (ii) to provide for alternative listing criteria based on prior trading volume.

Specifically, the proposed modification would require: (i) a minimum public distribution of 500,000 shares, exclusive of insider holdings, including at least 400,000 of such shares held in lots of 100 to 1,000 shares, and (ii) a minimum of 1,200 public shareholders, including not less than 800 holders of lots of 100 shares or more among which at least 500 holders must hold lots of 100 to 500 shares. The present rule requires a public distribution of 400,000 sahres with at least 150,000 shares held in lots of 100 to 500 shares and requires at minimum of 1,200 public stockholders, with not less than 800 holders of lots of 100 shares or more, including at least 500 holders of 100 to 500 shares.

Under the proposal, where a company cannot provide reasonably accurate data relating to the above distribution criteria, the Amex would still be able to consider listing the company's securities if the company had a minimum of 500,000 shares publicly held and a daily trading volume of approximately 2,000 shares for the six months preceding the application. The Amex, in judging the suitability of a listing under this alternative provision, would also review other factors that might affect auction market trading and would not consider securities that trade infrequently or that lack wide public distribution, even though daily trading volume in the security may amount to 2,000 or more shares.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for the Proposed Rule Change

(a) *Purpose.* The purpose for amending the rules is to update the Exchange's present distribution criteria for stock and warrant issues to reflect the changes in trading activity since the guidelines were formulated. The modification includes an increase in the size of the public float for stock issues, expansion of the round-lot category, and a reduction in the number of odd-lot holders by narrowing the gap between the existing specified number of round-lot holders and total holders.

Alternative criteria based on pre-listing volume are proposed for evaluating applicants about which holder information is difficult to obtain because of significant holdings in "street" or nominee name.

(b) *Basis.* The proposed amendments are consistent with Section 6(b) of the Exchange Act and further the objectives of Section 6(b)(5) in that they are designed to protect investors and the public interest and are not designed to regulate matters not related to the purposes of the Act or the administration of the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange has determined that the proposed rule change will have no impact on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, Washington, D.C., 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. (450 5th Street, N.W., Washington, D.C., after July 23, 1982). Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory orgainzation. All submissions should refer to the file number in the caption above and should be submitted on or before July 30, 1982.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 30, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-18617 Filed 7-8-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of Forms Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATE: Comments must be received on or before July 30, 1982. If you anticipate commenting on a submission but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer and the agency clearance officer of your intent as early as possible.

COPIES: Copies of the proposed form, the request for clearance (S.F. 83), supporting statement, instructions, transmittal letters, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Elizabeth M. Zaic, Small Business Administration, 1441 L St., N.W., Room 200, Washington, D.C. 20416, Telephone: (202) 653-8538

OMB Reviewer: J. Timothy Sprehe, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, D.C. 20503, Telephone: (202) 395-4814

FORMS SUBMITTED FOR REVIEW:

Title: Technology Assistance Program Evaluation
Form No.: SBA 419
Frequency: On Occasion
Description of Respondents: Small businesses needing technology assistance
Annual Responses: 100
Annual Burden Hours: 250
Title: Small Business Opinion Leader
Form No.: SBA 2006
Frequency: On Occasion
Description of Respondents: Small business owners
Annual Responses: 3000
Annual Burden Hours: 500

Dated: July 6, 1982.

Elizabeth M. Zaic,

Chief, Paperwork Management Branch, Small Business Administration.

[FR Doc. 82-18656 Filed 7-8-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 197]

Delegation of Authority; Office of the Director of Practice

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: This order implements Treasury Department Order 150-97, issued May 21, 1982, effecting the transfer from the Department of the Treasury to Internal Revenue Service of the Office of the Director of Practice.

EFFECTIVE DATE: June 28, 1982.

FOR FURTHER INFORMATION CONTACT: Mrs. Martha Seeman, PM:S:FM:IMD, 1111 Constitution Ave., N.W., Washington, DC 20224, 202-566-4273 (Not Toll Free).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury directive appearing in the **Federal Register** for Wednesday, November 8, 1978.

Martha M. Seeman,

Acting Chief, Internal Management, Documents Branch.

DELEGATION ORDER [Order No. 197]

Date of issue: June 28, 1982.
Effective Date: June 28, 1982.

Subject: Transfer of the Office of the Director of Practice to the Internal Revenue Service

Pursuant to the authority granted the Commissioner of Internal Revenue by Treasury Department Order No. 150-97, the transfer to the Internal Revenue Service of the Office of the Director of Practice and all functions performed therein, except as noted below, is effective as of the effective date of this Order.

The Director of Practice shall be under my direction and supervision, except that decisions of the Director in individual cases relating to enrollment, disbarment, or disciplinary measures shall not be subject to change by me.

All references to the Director of Practice, Office of the Secretary, in existing regulations shall be considered to be references to the Director of

Practice, Internal Revenue Service, until such regulations are amended to reflect this change. Existing provisions in regulations concerning appeals from recommended decisions of the Director of Practice to the Secretary shall remain in full force and effect.

The duties of the Director of Practice performs pursuant to 31 CFR Part 15, Post-Employment Conflict of Interest, remain with the General Counsel. References in that Part to the Director of Practice shall be considered to be references to the General Counsel, or his or her designee, until these regulations are amended.

James I. Owens,

Acting Commissioner.

[FR Doc. 82-18638 Filed 7-8-82; 8:45 am]

BILLING CODE 4830-01-M

Office of the Secretary

[Supp. to Dept. Circular, Public Debt Series—No. 17-82]

Series E-1989 Notes; Interest Rate

July 2, 1982.

The Secretary announced on July 1, 1982, that the interest rate on the notes designated Series E-1989, described in Department Circular—Public Debt Series—No. 17-82 dated June 23, 1982, will be 14½ percent. Interest on the notes will be payable at the rate of 14½ percent per annum.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 82-18537 Filed 7-8-82; 8:45 am]

BILLING CODE 4810-40-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Presidential Disapproval of the Determination of the U.S. International Trade Commission in Investigation No. 337-TA-99, Certain Molded-In Sandwich Panel Inserts and Methods for Their Installation

On June 28, 1982, the President notified the Chairman of the United States International Trade Commission of his disapproval of the determination of the Commission in Investigation No. 337-TA-99, Certain Molded-In Sandwich Panel Inserts and Methods for Their Installation. Following is the text of the President's determination.

William E. Brock,

United States Trade Representative.

Disapproval of the Determination of the United States International Trade Commission in the Matter of Certain Molded-In Sandwich Panel Inserts And Methods for Their Installation

The United States International Trade Commission (USITC), following a finding of a violation of Section 337 of the Tariff Act of 1930, as amended, has ordered excluded from entry into the United States imports of molded-in sandwich panel inserts (panel inserts) that were held to infringe U.S. Letters Patent No. 3,182,015, until that patent expires in November of 1983. A cease and desist order was issued to the importer of the panel inserts prohibiting it from contributing to or inducing the infringement of U.S. Letters Patent Nos. 3,392,225 and 3,271,498 which cover processes by which panel inserts are installed. Finally, the USITC issued cease and desist orders to three purchasers of the imported panel inserts directing them not to use imported panel inserts to practice the methods covered by the process patents until the second of those patents expires in July of 1985.

The President is authorized by Section 337(g) to disapprove USITC determinations for domestic or foreign policy reasons. The statute does not authorize partial disapprovals or changes in the remedies. I have notified the USITC today of my decision to disapprove its determination in this case.

The effect of the cease and desist orders directing the three purchasers not to use imported products when practicing a process in the United States that infringes a process patent may not be in compliance with U.S. international obligations. The orders may result in less favorable treatment in requirements affecting purchase and use being accorded imported products than the treatment being accorded domestic products. The three orders do not stop the infringement of the process patents in the U.S. Because of the statutory limits on USITC jurisdiction, those orders can only act as restrictions on the purchase and use of the imported products.

My disapproval of the USITC determination in this case in no way circumscribes the USITC authority to issue cease and desist orders. Cease and desist orders are more flexible remedies than enclusion orders and are appropriate in cases where an importer is the wrongdoer. The discriminatory effect upon imported products of the three orders directed to the users of those products forms the basis of my decision to disapprove in this case.

My decision is based upon narrow grounds and does not mean that the petitioner in this case is left without legal remedies. It can pursue its rights both through the courts and the USITC. Denial of the USITC determination here does not imply there would be a rejection of another remedy which would fully protect the legitimate patent rights of the petitioner without unnecessarily discriminating against imported products.

The exclusion from the U.S. market of products which infringe U.S. patents or the issuance of cease and desist orders preventing the importation, advertising or sale of such infringing products is an entirely appropriate use of Section 337 because of the practical difficulties in achieving workable remedies in our courts. A narrowly drafted cease and desist order such as that issued to the importer in this case also is appropriate. Where, as here, however, adequate remedies are available under U.S. law which do not discriminate between foreign and domestic products in preventing infringement of U.S. process patents, I must defer the American judicial system.

[FR Doc. 82-18542 Filed 7-8-82; 8:45 am]

BILLING CODE 3190-01-M

Implementation of Duty Concessions of Certain Television Receiver Components and Printed Circuit Boards

Correction

In FR Doc. 82-17475 appearing on page 28201 in the issue of Tuesday, June 29, 1982, make the following correction:

In the table at the bottom of page 28201, the TSUS item now reading "658.16" should have read "685.16".

BILLING CODE 1505-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 132
Friday, July 9, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 3 p.m., July 8, 1982.

PLACE: 2033 K Street, N.W., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 10 a.m., Tuesday, July 13, 1982.

PLACE: 2033 K Street, N.W., Washington, D.C., 5th Floor Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Discussion of possible conflict of interest of Exchange Board members.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1002-82 Filed 7-7-82; 10:11 am]

BILLING CODE 6351-01-M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Tuesday, July 13, 1982, 9:30 a.m. (Eastern Time).

PLACE: Commission Conference Room No. 5240 on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Ratification of Notation Vote/s.
2. Freedom of Information Act Appeal No. 82-04-FOIA-055-MK, concerning a request for materials from requestor's charge file.
3. Freedom of Information Act Appeal No. 82-5-FOIA-95, concerning a request for systematic conciliation guidance.
4. Proposed Section 93 of the EEOC Compliance Manual.
5. Proposed Staff Report—Analysis of Pre-Complaint Counseling and Complaint Processing Data Submitted by Federal Agencies for Fiscal Year 1981.
6. Report on Commission Operations by the Acting Executive Director.

CLOSED to the public:

Litigation Authorization; General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Officer, Executive Secretariat, at (202) 634-6748.

This Notice Issued July 6, 1982.

[S-1001-82 Filed 7-7-82; 9:37 am]

BILLING CODE 6570-06-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Cancellation of Agency Meetings

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the meetings of the Corporation's Board of Directors scheduled for 2:00 p.m. (open session) and 2:30 p.m. (closed session) on Tuesday, July 6, 1982, have been CANCELLED.

No earlier notice of the cancellation of the meetings was practicable.

Dated: July 6, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1004-82 Filed 7-7-82; 3:16 pm]

BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 4:45 p.m. on July 2, 1982, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to (1) receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Belle-Bland Bank, Bland, Missouri, which was closed by the Missouri Commissioner of Finance as of the close of business on Friday, July 2, 1982; (2) accept the bid for the transaction submitted by Eagle Bank of Gasconade County, Bland, Missouri, a newly-chartered State bank; (3) approve the application of Eagle Bank of Gasconade County, Bland, Missouri, for Federal deposit insurance and for consent to purchase certain assets of and assume the liability to pay deposits made in Belle-Bland Bank, Bland, Missouri; and (4) provide such financial assistance, pursuant to section 13(e) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)), as was necessary to effect the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: July 6, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1005-82 Filed 7-7-82; 3:16 pm]

BILLING CODE 6714-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 7:30 p.m. on Friday, July 2, 1982, the

Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider a request from the Comptroller of the Currency that the Corporation, pursuant to section 10(b) of the Federal Deposit Insurance Act, assist in an examination of a national bank.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting pursuant to subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8) and (c)(9)(A)(ii)).

The meeting was held in Room 6020 of the Federal Deposit Insurance Corporation Building located at 550 17th Street, NW., Washington, D.C.

Dated: July 6, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1006-82 Filed 7-7-82; 3:20 pm]

BILLING CODE 6714-01-M

6

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 9:05 P.M. on Monday, July 5, 1982 the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following matters:

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,299-L—Coles County National Bank of Charleston, Charleston, Illinois

Case No. 46,000-L—Midtown National Bank, Pueblo, Colorado

Case No. 45,290-SR—the Peoples Bank of the Virgin Islands, Charlotte Amalie, Virgin Islands

Memorandum and Resolution re: The Hamilton National Bank of Chattanooga, Chattanooga, Tennessee

The establishment of the Deposit Insurance National Bank of Oklahoma City, Oklahoma City, Oklahoma, to assume the insured deposits of Penn Square Bank, National Association, Oklahoma City, Oklahoma.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Chairman's Office, Room 6023 of the Federal Deposit Insurance Corporation Building located at 550 17th Street, N.W., Washington, D.C.

Dated: July 6, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1007-82 Filed 7-7-82; 3:22 pm]

BILLING CODE 6714-01-M

7

NUCLEAR REGULATORY COMMISSION

DATE: Week of July 5, 1982 (Revised).

PLACE: Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE DISCUSSED:

Tuesday, July 6:

2:00 p.m.:
Discussion of Psychological Stress (Closed—Exemption 10) (Replaces Discussion of License Fees—Proposed Schedule)

Wednesday, July 7:

10:00 a.m.:
Discussion of Waste Conference Proceeding (Closed—Exemption 10) (as announced)

2:00 p.m.:
Discussion and Possible Vote on Contested Issues in Susquehanna Operating License Proceeding (Closed—Exemption 10) (revised title)

Thursday, July 8:

3:00 p.m.:
Affirmation/Discussion Session (public meeting) (items revised)
Affirmation and/or Discussion and Vote:
a. S-3 Policy Statement
b. 10 CFR Part 50—Proposed Rule to Clarify Applicability of License Conditions and Technical Specifications in an Emergency

Friday, July 9:

2:00 p.m.:
Discussion of Indian Point Hearing (public meeting) (additional item)

ADDITIONAL INFORMATION: Discussion of Management-Organization and Internal Personnel Matters scheduled for June 30 was *cancelled.* Affirmation of S-3 Policy Statement scheduled for July 1 moved to July 8.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634-1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

Walter Magee,

Office of the Secretary.

July 2, 1982.

[S-999-82 Filed 7-7-82; 9:34 am]

BILLING CODE 7590-01-M

8

NUCLEAR REGULATORY COMMISSION

DATE: Week of July 12, 1982.

PLACE: Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE DISCUSSED: *Monday, July 12:*

10:00 a.m.:
Discussion of Proposed Rulemaking—Accreditation of Qualification Testing Organizations (public meeting)

Tuesday, July 13:

2:00 p.m.:
Briefing on Status of the ATWS Rulemaking (public meeting)

Wednesday, July 14:

10.00 a.m.:
Discussion of 10 CFR Part 61—"Licensing Requirements for Land Disposal of Radioactive Waste" (public meeting)

2:00 p.m.:
Discussion of Safety Goals and Implementation Program (public meeting)

Thursday, July 15:

10.00 a.m.:

Briefing on Staff Plans for Quality Assurance (public meeting)

2:00 p.m.:

. Briefing by Executive Branch (Closed—Exemption 1)

3:30 p.m.:

Affirmation/Discussion Session (public meeting)

Affirmation and/or Discussion and Vote:

a. Partial Vacating of Commission Order of May 22, 1979, on Preservation of Records of TMI–2 Accident

b. Draft Policy Statement on Treatment of Psychological Stress Contentions in Proceedings Other than TMI–1 Restart

c. Draft Immediate Effectiveness Order for San Onofre 2 and 3

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Walter Magee,

Office of the Secretary.

July 2, 1982.

[S–1000–82 Filed 7–7–82; 9:35 am]

BILLING CODE 7590–01–M

9

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 28525, June 30, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m. on July 8, 1982.

CHANGES IN THE MEETING: This meeting has been canceled.

Date: July 7, 1982.

[S–1003–82 Filed 7–7–82; 2:24 pm]

BILLING CODE 7500–01–M

Friday
July 9, 1982

Part II

Department of Health and Human Services

Food and Drug Administration

Human Food Ingredients; Generally Recognized as Safe

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 172, 182, and 184

[Docket No. 77N-0039]

GRAS Status of Ammonium Alginate, Calcium Alginate, Potassium Alginate, and Sodium Alginate; Amendment of Food Additive Regulation for Propylene Glycol Alginate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that ammonium alginate, calcium alginate, potassium alginate, and sodium alginate are generally recognized as safe (GRAS) as direct human food ingredients with limitations. These substances are made from certain brown algae and may be added to certain specified foods as emulsifiers, stabilizers, or thickeners or for other purposes in accordance with the limitations in these regulations. Additionally, the agency is amending the food additive regulation for propylene glycol alginate. The safety of these ingredients has been evaluated under the comprehensive safety review conducted by the agency.

DATES: Effective August 9, 1982, objections to amendment of § 172.858 by August 9, 1982.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 27, 1978 (43 FR 3725), FDA published a proposal to affirm that ammonium alginate, calcium alginate, potassium alginate, and sodium alginate are GRAS for use as direct human food ingredients and to amend the food additive regulation for propylene glycol alginate (21 CFR 172.858). The proposal was published in accordance with the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 170.35 (21 CFR 170.35), copies of the scientific literature review on alginates, reports of the mutagenic tests for ammonium, potassium, and sodium alginates and propylene glycol alginate, teratogenic tests for propylene glycol alginate, and the report of the Select Committee on GRAS Substances (the Select Committee) have been made available for public review in the Dockets Management Branch (address above). Copies of these documents also are available for public purchase from the National Technical Information Service as announced in the proposal.

In addition to proposing to affirm the GRAS status of ammonium, calcium, potassium, and sodium alginates and to amend the food additive regulation for propylene glycol alginate, FDA gave public notice that it was unaware of any prior-sanctioned food ingredient uses for these substances, other than for the proposed conditions of use. Persons asserting additional or extended uses in accordance with approvals granted by the U.S. Department of Agriculture or FDA before September 6, 1958, were given notice to submit proof of those sanctions, so that the safety of the prior-sanctioned uses could be determined. That notice was also an opportunity to have prior-sanctioned uses of the alginates recognized by issuance of appropriate regulations under Part 181—Prior-Sanctioned Food Ingredients (21 CFR Part 181) or affirmed as GRAS under Part 184 or 186 (21 CFR Parts 184, 186).

FDA also gave notice that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert that sanction at any future time.

No reports of prior-sanctioned uses for ammonium alginate, calcium alginate, potassium alginate, sodium alginate, or propylene glycol alginate were submitted in response to the proposal. Therefore, in accordance with that proposal, any right to assert a prior sanction for a use of these substances under conditions different from those set forth in this regulation has been waived.

Nineteen comments were received. Four comments were from alginate producers and their trade association, 14 comments were from food manufacturers and their trade associations, and one comment was from a physician. Most of the comments concerned the proposed maximum levels of alginates in various food products. A summary of the comments and the agency's responses follow.

1. One comment from a trade association for food manufacturers stated that none of its members had been invited to submit data in the 1971 National Academy of Sciences/National Research Council (NAS/NRC) survey of the food industry (phase II survey). Therefore, according to the comment the proposal did not reflect accurately some current uses and use levels of the various alginates. This association surveyed its members and provided a compilation of use data in its comment. Because the member firms are suppliers of bulk food ingredients, the data represented their best estimates of levels occurring in finished food products. A related comment from an individual food manufacturer also stated that the firm had not been invited to submit data in the phase II survey. This comment also provided use information. Another comment from a food manufacturer noted that data on propylene glycol alginate had not been requested in the phase II survey, but that information on propylene glycol alginate had been requested in the 1977 (phase III) survey to which the commenter had responded. This comment did not include a recapitulation of those data, however.

FDA acknowledges that the phase II survey did not request data on propylene glycol alginate. Because that survey was intended to determine the use of GRAS ingredients, and propylene glycol alginate is not a GRAS ingredient, the only data received on the food additive propylene glycol alginate were those provided voluntarily by several of the firms surveyed. These data were used in developing the proposed amendment to the propylene glycol alginate food additive regulation. The phase III survey, which primarily requested use information on direct food additives, colors, and flavors, does include propylene glycol alginate. FDA has now received the phase III data, and these data have been incorporated into this final rule.

2. Eight comments requested increases in alginate limitations for various food categories without providing supporting information to indicate that these levels were current good manufacturing practice. Two comments requested alterations in the proposed limitations specifically to permit expanded use of the alginates. One comment requested that the limitations for "all other food categories" be raised to 1.0 percent for calcium, potassium, and propylene glycol alginates but only presented information on current uses at levels below those requested. A similar request to raise all foods to 4.0 percent for sodium alginate and to 1.0 percent for ammonium alginate presented no supporting use information. Three other related comments requested higher limitations in order to encompass products currently under development.

FDA emphasizes that the safety evaluation of the alginates has been based upon known current uses and use levels. The agency decision to adopt

these uses and levels as limitations was based on the Select Committee's and FDA's view that although current use of the alginates presents no health risks, the safety of significantly increased alginate use cannot be assessed at this time. The agency does not have sufficient safety data to determine whether uses of these substances at significantly increased levels are GRAS. Consequently, the agency advises that it cannot raise use level limitations nor add food use categories and technical effects, unless it is presented with evidence that the levels, technical effects, and food categories represent current good manufacturing practice and are safe.

The agency has revised this final rule to provide for increased levels of use of these substances in certain food categories. FDA has done so based on comments advising the agency that these increases reflect current uses and based on data that have been presented to the agency that these increased levels of use are safe.

Other requests for changes in use levels to include products under development are denied. The GRAS review and this proceeding consider current uses only. Uses under development represent potentially expanded levels of consumption and therefore must be the subjects of GRAS or food additive petitions. The safety of any petitioned new uses will need to be supported by additional toxicological data.

3. Seven comments objected to the proposed limitations for propylene glycol alginate. Three of these comments stated that the proposed maximum level for propylene glycol alginate in sweet sauces (0.4 percent) was below current good manufacturing practice of 0.5 percent. The other comments made a similar assertion about the level proposed for all other food categories (0.1 percent). The requested increases in this level ranged from 0.15 to 0.6 percent. A number of specific food categories were enumerated to support the requests. Among the food categories enumerated were condiments and relishes at 0.6 percent, confections and frostings at 0.5 percent, and jams and jellies at 0.4 percent. In addition, the phase III survey indicated that propylene glycol alginate is used at levels of 1.1 percent in fats and oils, 0.6 percent in gelatins/puddings, and 1.7 percent in seasonings.

FDA has carefully considered the requested modifications in the maximum use levels for propylene glycol alginate. The newly reported levels of use are higher than the levels voluntarily reported in the 1971 NSA/NRC survey. However, the agency concludes that these usage levels, and those reported in the phase III NAS/NRC survey, represent current uses; that adequate safety data have been compiled as part of this GRAS review to support the conclusion that the relatively small additional exposures expected from the increases in the specific food categories indicated are safe; and that § 172.858 should be amended as set forth in this document. The request to raise the level for all other foods to 0.6 percent is denied, however, because those uses above 0.3 percent have been included by the increases in specific food categories. The level for "all other food categories" is increased to 0.3 percent to include many current low levels of propylene glycol alginate use that were reported in these comments. The amended § 172.858, therefore, includes the use of propylene glycol alginate in seasonings at 1.7 percent, fats and oils at 1.1 percent, gelatins/puddings at 0.6 percent, condiments and relishes at 0.6 percent, sweet sauces at 0.5 percent, confections and frostings at 0.5 percent, jams and jellies at 0.4 percent, and for all other food categories at 0.3 percent.

4. Eight comments objected to the proposed limitations for calcium alginate. All stated that those limitations are lower than current good manufacturing practice. The comments specifically requested that the calcium alginate use level for gravies and sauces be raised to 0.4 percent from the proposed level of 0.1 percent, and that use of calcium alginate in a number of other food categories be permitted at levels ranging from 0.01 to 0.6 percent. The specific requested uses were 0.5 percent for jams and jellies, 0.4 percent for confections and frostings, 0.4 percent for alcoholic beverages, 0.6 percent for egg products, 0.5 percent for fats and oils, and 0.5 percent for sweet sauces. A number of other current uses for specific food categories and general food use were requested at levels up to 0.3 percent.

FDA has carefully considered these requested modifications in maximum use levels. The agency concludes that available safety data compiled during this GRAS review are sufficient to support these newly reported, current uses and use levels. Therefore, FDA has amended § 184.1187 to provide for the specific uses of calcium alginate enumerated in the comment and to raise the "all other foods" category to 0.3 percent. The use level for baked goods will be retained at 0.002 percent, however, because of the relatively large consumption of foods in this category.

5. Nine comments requested increases in levels of use for sodium alginate. They requested raising the use levels for baked goods from the proposed 0.33 percent to levels ranging from 0.5 to 1.0 percent and adding pimiento ribbon used to stuff olives at levels ranging from 3 to 6 percent. One request asked that sodium alginate be premitted for use in confections and frostings at 0.3 percent.

After careful consideration of these requests and the safety data compiled during this GRAS review, FDA has revised proposed § 184.1724 to provide for use of sodium alginate in condiments and relishes at 1 percent (6 percent in pimiento ribbon used to stuff olives) and in confections and frostings at 0.3 percent. Baked goods have also been increased to 1.0 percent but deleted as a separate category listing and included in the "all other foods" category.

6. One comment requested that potassium alginate be permitted in gelatins and puddings at 0.7 percent and in processed fruits and fruit juices at 0.25 percent to cover these current food uses of this ingredient. Both of these uses had been included in the proposal under all other food categories at 0.01 percent.

After further consideration of the safety data compiled during this GRAS review, FDA has revised proposed § 184.1610 to provide for use of potassium alginate in these specified food categories at the requested levels.

7. Three comments pointed out that although sodium alginate is the substance added to certain food products, the presence of calcium salts in the products causes, intentionally or inadvertently, the formation of calcium alginate. The comments contended that it is therefore the calcium alginate that produces the technical effect, although the comments acknowledged that the extent of conversion of the calcium salt is highly variable, depending upon the food and the amount of calcium available. Based upon this information, two of the comments requested that calcium alginate limitations be set equal to those for sodium alginate.

The agency disagrees with these requests for increased uses of calcium alginate. The proposed use levels for sodium alginate and calcium alginate were those reported in the NAS/NRC Phase II survey of food manufacturers. Because FDA is concerned that a significant increase in alginate consumption may not be GRAS, the proposal restricted the use of the alginates to current use levels. The information provided by the comments indicates that these two alginates are not currently used at identical levels. Furthermore, information provided by

these comments indicates that it is not technologically feasible to use calcium alginate at the levels current for sodium alginate. Therefore, the agency does not agree that the uses and use levels permitted for sodium alginate should also be permitted for calcium alginate.

The agency recognizes that once an ingredient is added to a food, and the food is processed, the chemical identity of the ingredient may change. Therefore, compliance with specific use levels cannot be ensured through detection and quantitation of each added ingredient in the finished food. Instead, FDA interprets "maximum level, as served" as the amount of the ingredient added to food. Therefore, the use limitations must be set on the basis of the added ingredient, sodium alginate, and not the ingredient it may form (calcium alginate).

Because of these considerations, the agency has concluded that this final rule should contain limitations for calcium alginate and sodium alginate based upon current, and not identical, use levels. Specific use levels identified in the comments as current good manufacturing practice have been incorporated.

8. Two comments stated that other polysaccharides, namely the various gums, have been affirmed as GRAS without specific limitations. These comments questioned whether there was sufficient evidence to single out alginates for specific restrictions.

These comments are in error. FDA's regulations provide specific limitations on the use of all polysaccharide gums that the agency has affirmed as GRAS. In the preambles to the proposed regulations for all these gums, FDA has also clearly stated that it was setting specific limitations on use of these gums that were not to be exceeded (38 FR 20041; July 26, 1973 and 39 FR 34201, 34203, 34205, 34207, and 34209; September 23, 1974). FDA's GRAS regulations provide specific limitations on the use of these gums because of toxicity questions that are similar or identical to the toxicity questions raised for the alginates. Therefore, the requirements that uses of the various alginates not exceed the specific limitations established in this final rule are entirely consistent with past agency actions.

9. A comment noted that the World Health Organization/Food and Agricultural Organization's (WHO/FAO) recommended Acceptable Daily Intake (ADI) limits were 100 to 200 times the intakes that could result from current alginate production. The comment requested that the level for "all other food categories" for all alginates be raised to 1.0 percent.

The general issue of raising use limitations above current use levels has been discussed in comment 2 above. It must be emphasized again that GRAS usage levels, whether they be good manufacturing practice levels or specific limitations, represent current use levels, not margins of safety based upon "no effect" levels from toxicity studies. Thus, the fact that the recommended WHO/FAO ADI limits are considerably higher than current usage has no relevance to this rulemaking.

Furthermore, the WHO/FAO report on alginates commented on the paucity of toxicity studies. The last evaluation by WHO/FAO was conducted in 1964. The teratology study that displayed maternal toxicity and that was the basis for the Select Committee's recommendation on alginates was published in 1972. Thus, the WHO/FAO was not aware of this study at the time it made its evaluation. FDA has therefore concluded that this final rule should limit alginate use to current good manufacturing practice usage levels and food categories as set forth below.

10. Two comments responded to the FDA request for data on the heavy metals content of alginates. The data submitted indicate that the lead, arsenic, and total heavy metal content of alginates are well within the limits (lead 10 parts per million (ppm), arsenic 3 ppm, total heavy metals 40 ppm) prescribed by the Food Chemicals Codex, 3d Ed. (1981). The maximum level attained by any of the metals of interest was 9.6 ppm for zinc. Lead levels averaged about 1.5 ppm, while selenium averaged 1 ppm or less. Mercury, cadmium, and arsenic all averaged considerably less than 1 ppm. One of the comments indicated that any heavy metal contamination caused by algae harvested from contaminated waters would be removed during normal alginate processing.

FDA has independently analyzed samples of alginates from the same product batches analyzed by one of the comments. The levels the agency found were well within levels prescribed by Food Chemicals Codex and similar to those in the comments. There appears to be no need, therefore, to develop additional heavy metal specifications for the safe use of these products at this time.

11. Five comments requested approval of the use of sodium alginate at levels of up to 6.0 percent in cured pimiento ribbon or other restructured food.

There currently is no specific provision for restructured food in the food categories listed in § 170.3(n) (21 CFR 170.3(n)). Such restructured food must be described by current food categories. The only restructured food specifically described in the comments and for which use data were supplied was cured pimiento ribbon. This food is apparently used exclusively in the production of stuffed olives, which would be classified in the food category "condiments and relishes." In view of the Select Committee's conclusion that the safety of increased levels above current practice is unknown, the agency cannot consider raising the limitation for the entire category of condiments and relishes to 6.0 percent for this one use. As noted in comment 5 above, FDA has revised proposed § 184.1724 to provide for use of sodium alginate as a texturizer, formulation aid, and stabilizer and thickener in condiments and relishes at the level of 1.0 percent permitted for "all other food categories" and specifically in pimiento ribbon used to stuff olives at levels up to 6.0 percent.

12. One comment noted that, contrary to the proposed regulations, alginates are obtained from brown algae only, and that the calcium salt is prepared from the sodium alginate salt and calcium chloride rather than from alginic acid. The comment also requested that the regulations be amended to permit the alginate salts to be produced from "common reactants" rather than from specifically required substances. The comment suggested that all references to manufacturing methods be deleted.

The comment is correct that brown algae is the source of the alginic acid from which alginates are derived. Accordingly, the final rule states that alginates are prepared from alginic acid that is isolated from brown algae. Furthermore, the agency agrees that common reactants may be used to produce the alginate salts. Therefore, the final regulation for calcium alginate indicates that this substance may be prepared by metathesis from sodium alginate and calcium salts or by neutralization of alginic acid with calcium pH control agents. The final regulations also state that sodium, potassium, and ammonium alginates are prepared from alginic acid by neutralization with appropriate pH control agents.

FDA does not agree that all reference to manufacturing methods should be removed however. The absence of a production method in the regulations might be interpreted as prior agency GRAS approval of products prepared by methods that are as yet undeveloped. The agency wishes to avoid such an interpretation. FDA has addressed this issue before (39 FR 34174, 34195;

September 23, 1974) and refers interested persons to that discussion.

13. A request was received to alter the standard statement in regulations for affirmed GRAS substances that refers to a specific edition or revision of the Food Chemicals Codex. The comment suggested that the phrase "currently effective edition" would obviate the necessity of amending regulations when new editions appear. The comment was prompted in part by the fact that a new edition of the Food Chemicals Codex (3d ed.) has recently been prepared and is now available.

A declaration such as that suggested by the comment would constitute prior agency approval of any future specification changes that might be made by NAS/NRC in the Food Chemicals Codex. FDA considered this idea but rejected it because the agency would be effectively waiving its right, and that of the public, to review and comment on new specifications before they become effective. FDA therefore plans to review each new edition or supplement of the Food Chemicals Codex and then issue a proposal in the **Federal Register** for comment. Although this process will result in some delay in the adoption of new Food Chemicals Codex Specifications, the agency concludes that the proposal and final rulemaking procedure should not be omitted.

14. A comment from a trade association for manufacturers of bulk food products stated that it was unclear to the association's members whether the proposed alginate limitations should be applied to bulk food products or to finished food products.

FDA advises that all limitations are intended to apply to the finished food as served. Bulk food products that will be incorporated into finished foods will be considered to be intermediate mixes. Such mixes, contributing only a portion of the total weight of the finished food product, may contain incrementally greater percentages of GRAS ingredients. However, the labeling provisions for food substances affirmed as GRAS for direct addition to food (21 CFR 184.1(f)) states in § 184.1(f)(3) that directions for the use of ingredients or intermediate mixes shall be adequate to provide a final food product that complies with any limitations prescribed for the ingredient. Thus, the alginate levels in bulk food products or intermediate mixes may be higher than the prescribed limitations, provided that the bulk food is not also sold as a finished food, and that its labeling is sufficiently informative to permit the manufacturers of finished foods to comply with the limitations.

15. One food manufacturer submitted information on the use of sodium alginate and calcium alginate as flavor adjuvants in baked goods and baking mixes. The comment requested that this use be included in the final regulation.

The proposed regulation for sodium alginate contained a provision for its use as a flavor adjuvant in puddings and gelatins and in "all other food categories." The proposed regulation for calcium alginate did not include this technical effect. The evidence presented in the comment indicates that although it is calcium alginate that principally produces the intended technical effect, sodium alginate is the ingredient actually used in the formulation. By reasoning identical to that given in response to comment 7 above, only the sodium alginate final regulation need contain this technical effect. Because the "baked goods" food category is included in "all other food categories" in the final regulation, no change is necessary to provide for this use of sodium alginate.

16. One comment from a physician expressed concern that the quantities of alginates and other polysaccharide gums being used in food might pose a risk of bodily depletion of certain essential divalent cations, calcium in particular. The comment requested that FDA consider the aggregate use of these substances.

FDA shares this concern. However, even though the comment was on the use of alginates and gums in general, this rule concerns the use of alginates only. Thus, the evaluation of this comment is limited to its bearing on alginate use. Agency scientists trained in nutrition have examined the available literature on this topic. They also have considered the total daily intake of alginates with ion-binding potential as calculated from available consumption data. The agency concludes that current total intake of alginates does not present a hazard with respect to bodily depletion of essential divalent cations. Because specific limitations have been established for the use of alginates, any future increase in alginate use levels would require FDA approval through the GRAS or food additive petition procedures outlined in § 170.35 or § 171.1 (21 CFR 171.1). The agency will specifically consider the possible hazard presented by ion-binding during the scientific review of any future petitions or proposals for the use of polysaccharides in foods.

17. One comment from a trade association discussed the difficulties associated with the use of food categories as defined in § 170.3(n). The comment requested that two food categories proposed for propylene glycol alginate be more fully described in the regulation, corresponding to the description in § 170.3(n). The comment further stated that even the food categories in § 170.3(n) were unclear and insufficiently descriptive to permit proper categorization of members' products. The comment also noted that bulk food products (intermediate mixes) might be used in several food categories, thus presenting the manufacturer with a possible compliance problem.

The food category descriptions used in the regulations for substances affirmed as GRAS or regulated as food additives are not intended to be complete repetitions of the food category definitions in § 170.3(n). The brief category title used is intended only to provide a quick, general identity of the food category. It is unnecessary to define completely each food category in every food additive or GRAS regulation, because a separate definition section has been included in the general provisions for food additive regulations. Section 170.3(n) is frequently cited in GRAS or food additive regulations to alert the reader to the location of the definitions for the food categories.

FDA recognizes that occasionally there may be difficulty in identifying the correct food category for a food product. The definitions listed in § 170.3(n) are an attempt to include all food products while keeping the number of definitions to a workable minimum. As indicated in § 170.3(n), food products are included in these categories according to the detailed classification lists contained in Exhibit 33B of the NAS/NRC phase II survey report. A food manufacturer who is having difficulty in categorizing a product should consult these classification lists or request FDA assistance. A copy of the NAS/NRC Comprehensive Exhibits Master may be ordered from the National Technical Information Service (NTIS), 5285 Port Royal Rd., Springfield, VA 22161. The order number is PB 221–949, and the price code is A15. The most recent price quoted for this NTIS code number is $18.00.

When intermediate mixes are used in products from different food categories, it is the responsibility of the producer of the finished food to ensure that the food is in compliance with the pertinent regulations. It is the responsibility of the intermediate mix manufacturer to label the mix to properly guide the users of the mix. The labeling provisions for intermediate mixes, § 184.1(f)(3), are more fully discussed in comment 14 above.

No comments were received providing evidence of prior-sanctioned uses

different from the uses described in the proposal. Therefore, FDA believes the final regulations cover all such uses, and no prior sanction regulation is being promulgated.

The format of the final regulations is different from that in the proposal and in previous GRAS affirmation regulations. The agency has modified the form in which the specific limitations on the use of these ingredients are presented. This change has no substantive effect but is made merely for clarity.

The agency has determined under 21 CFR 25.24 (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

The requirement for a regulatory flexibility analysis under the Regulatory Flexibility Act does not apply to this final rule because the proposed rule was issued prior to January 1, 1981, and is therefore exempt.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this rule, and the agency has determined that the rule is not a major rule as defined by that Order.

List of Subjects

21 CFR Part 172

Food additives; Food preservatives; Spices and flavorings.

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients; Spices and flavorings.

21 CFR Part 184

Direct food ingredients; Food ingredients; Generally recognized as safe (GRAS) food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

1. Part 172 is amended by revising § 172.858 to read as follows:

§ 172.858 Propylene glycol alginate.

The food additive propylene glycol alginate (CAS Reg. No. 9005–37–2) may be used as an emulsifier, flavoring adjuvant, formulation aid, stabilizer, surfactant, or thickener in foods in accordance with the following prescribed conditions:

(a) The additive meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 256, which is incorporated by reference (copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408), and the additional specification that it shall have up to 85 percent of the carboxylic acid groups esterified with the remaining groups either free or neutralized.

(b) The additive is used or intended for use in the following foods as defined in § 170.3(n) of this chapter, when standards of identity established under section 401 of the act do not preclude such use:

(1) As a stabilizer in frozen dairy desserts, in fruit and water ices, and in confections and frostings at a level not to exceed 0.5 percent by weight of the finished product.

(2) As an emulsifier, flavoring adjuvant, stabilizer, or thickener in baked goods at a level not to exceed 0.5 percent by weight of the finished product.

(3) As an emulsifier, stabilizer, or thickener in cheeses at a level not to exceed 0.9 percent by weight of the finished product.

(4) As an emulsifier, stabilizer, or thickener in fats and oils at a level not to exceed 1.1 percent by weight of the finished product.

(5) As an emulsifier, stabilizer, or thickener in gelatins and puddings at a level not to exceed 0.6 percent by weight of the finished product.

(6) As a stabilizer or thickener in gravies and in sweet sauces at a level not to exceed 0.5 percent by weight of the finished product.

(7) As a stabilizer in jams and jellies at a level not to exceed 0.4 percent by weight of the finished product.

(8) As an emulsifier, stabilizer, or thickener in condiments and relishes at a level not to exceed 0.6 percent by weight of the finished product.

(9) As a flavoring adjunct or adjuvant in seasonings and flavors at a level not to exceed 1.7 percent by weight of the finished product.

(10) As an emulsifier, flavoring adjuvant, formulation aid, stabilizer or thickener, or surface active agent in other foods, where applicable, at a level not to exceed 0.3 percent by weight of the finished product.

(c) To ensure safe use of the additive, the label of the food additive container shall bear, in addition to the other information required by the act:

(1) The name of the additive, "propylene glycol alginate" or "propylene glycol ester of alginic acid".

(2) Adequate directions for use.

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§§ 182.7133, 182.7187, 182.7610, and 182.7724 [Removed]

2. Part 182 is amended by removing § 182.7133 *Ammonium alginate,* § 182.7187 *Calcium alginate,* § 182.7610 *Potassium alginate,* and § 182.7724 *Sodium alginate.*

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

3. Part 184 is amended:

a. By adding new § 184.1133, to read as follows:

§ 184.1133 Ammonium alginate.

(a) Ammonium alginate (CAS Reg. No. 9005–34–9) is the ammonium salt of alginic acid, a natural polyuronide constituent of certain brown algae. Ammonium alginate is prepared by the neutralization of purified alginic acid with appropriate pH control agents.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 18, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(2), the ingredient is used in food only within the following specific limitations:

Category of food	Maximum level of use in food (as served) (percent)	Functional use
Confections, frostings, § 170.3(n)(9) of this chapter.	0.4	Stabilizer, thickener, § 170.3(o)(28) of this chapter.
Fats and oils, § 170.3(n)(12) of this chapter.	0.5	Do.
Gelatins, puddings, § 170.3(n)(22) of this chapter.	0.5	Do.
Gravies and sauces, § 170.3(n)(24) of this chapter.	0.4	Do.
Jams and jellies, § 170.3(n)(28) of this chapter.	0.4	Do.
Sweet sauces, § 170.3(n)(43) of this chapter.	0.5	Do.

Category of food	Maximum level of use in food (as served) (percent)	Functional use
All other food categories.	0.1	Humectant, § 170.3(o)(16) of this chapter; stabilizer, thickener, § 170.3(o)(28) of this chapter.

(d) Prior sanctions for ammonium alginate different from the uses established in this section do not exist or have been waived.

b. By adding new § 184.1187, to read as follows:

§ 184.1187 Calcium alginate.

(a) Calcium alginate (CAS Reg. No. 9005–35–0) is the calcium salt of alginic acid, a natural polyuronide constituent of certain brown algae. Calcium alginate is prepared by the neutralization of purified alginic acid with appropriate pH control agents, or from sodium alginate by metathesis with appropriate calcium salts.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 45, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(2), the ingredient is used in food only within the following specific limitations:

Category of food	Maximum level of use in food (as served) (percent)	Functional use
Baked goods, § 170.3(n)(1) of this chapter.	0.002	Stabilizer, thickener, § 170.3(o)(28) of this chapter
Alcoholic beverages, § 170.3(n)(2) of this chapter.	0.4	Do.
Confections and frostings, § 170.3(n)(9) of this chapter.	0.4	Do.
Egg products, § 170.3(n)(11) of this chapter.	0.6	Do.
Fats and oils, § 170.3(n)(12) of this chapter.	0.5	Do.
Gelatins, puddings, § 170.3(n)(22) of this chapter.	0.25	Do.
Gravies and sauces, § 170.3(n)(24) of this chapter.	0.4	Do.
Jams and jellies, § 170.3(n)(28) of this chapter.	0.5	Do.
Sweet sauces, § 170.3(n)(43) of this chapter.	0.5	Do.

Category of food	Maximum level of use in food (as served) (percent)	Functional use
All other food categories.	0.3	Do.

(d) Prior sanctions for calcium alginate different from the uses established in this section do not exist or have been waived.

c. By adding new § 184.1610, to read as follows:

§ 184.1610 Potassium alginate.

(a) Potassium alginate (CAS Reg. No. 9005–36–1) is the potassium salt of alginic acid, a natural polyuronide constituent of certain brown algae. Potassium alginate is prepared by the neutralization of purified alginic acid with appropriate pH control agents.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 239, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(2), the ingredient is used in food only within the following specific limitations:

Category of food	Maximum level of use in food (as served) (percent)	Functional use
Confections and frostings, § 170.3(n)(9) of this chapter.	0.1	Stabilizer, thickener, § 170.3(o)(28) of this chapter
Gelatins and puddings, § 170.3(n)(22) of this chapter.	0.7	Do
Processed fruits and fruit juices, § 170.3(n)(35) of this chapter.	0.25	Do
All other food categories.	0.01	Do.

(d) Prior sanctions for potassium alginate different from the uses established in this section do not exist or have been waived.

d. By adding new § 184.1724, to read as follows:

§ 184.1724 Sodium alginate.

(a) Sodium alginate (CAS Reg. No. 9005–38–3) is the sodium salt of alginic acid, a natural polyuronide constituent of certain brown algae. Sodium alginate is prepared by the neutralization of purified alginic acid with appropriate pH control agents.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 274, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(2), the ingredient is used in food only within the following specific limitations:

Category of food	Maximum level of use in food (as served) (percent)	Functional use
Gelatins and puddings, § 170.3(n)(22) of this chapter.	4.0	Firming agent, § 170.3(o)(10) of this chapter; flavor adjuvant, § 170.3(o)(12) of this chapter; stabilizer, thickener, § 170.3(o)(28) of this chapter.
Hard candy, § 170.3(n)(25) of this chapter.	10.0	Stabilizer, thickener, § 170.3(o)(28) of this chapter.
Confections and frostings, § 170.3(n)(9) of this chapter.	0.3	Do.
Condiments and relishes, § 170.3(n)(8) of this chapter, except pimento ribbon for stuffed olives.	1.0	Texturizer, § 170.3(o)(32) of this chapter; formulation aid,
	[illegible]	§ 170.3(o)(14) of this chapter; stabilizer, thickener, § 170.3(o)(28) of this chapter.
All other food categories.	1.0	Emulsifier, § 170.3(o)(8) of this chapter; firming agent, § 170.3(o)(10) of this chapter; flavor enhancer, § 170.3(o)(11) of this chapter; flavor adjuvant, § 170.3(o)(12) of this chapter; processing aid, § 170.3(o)(24) of this chapter; stabilizer and thickener, § 170.3(o)(28) of this chapter; surface active agent, § 170.3(o)(29) of this chapter.

(d) Prior sanctions for sodium alginate different from the uses established in this section do not exist or have been waived.

Any person who will be adversely affected by the amendment of § 172.858 may at any time on or before August 9, 1982, submit to the Dockets Management Branch (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered, and each

numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall be effective August 9, 1982.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)))

Dated: June 17, 1982.

Note.—Incorporation by reference was approved by the Director of the Office of the Federal Register on May 27, 1982, and is on file at the Office of the Federal Register.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-18439 Filed 7-8-82; 8:45 am]

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21 CFR Parts 182 and 184

[Docket No. 79N-0088]

GRAS Status of Corn Silk and Corn Silk Extract

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that corn silk and corn silk extract are generally recognized as safe (GRAS) as direct human food ingredients, with specific limitations. The safety of these ingredients has been evaluated under the comprehensive safety review conducted by the agency. Sufficient information has been received to support affirmation of corn silk and corn silk extract as GRAS under current conditions and levels of use.

EFFECTIVE DATE: August 9, 1982.

FOR FURTHER INFORMATION CONTACT: Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 15, 1979 (44 FR 28332), FDA published a proposal to remove corn silk from the GRAS list in § 182.20 (21 CFR 182.20). The proposal was published in accordance with the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 170.35 (21 CFR 170.35), copies of the scientific literature review on corn silk and the report of the Select Committee on GRAS Substances (the Select Committee) are available for public review in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Copies of these documents also are available for public purchase from the National Technical Information Service, as announced in the proposal.

The agency also gave notice that it is unaware of any prior-sanctioned food ingredient uses for corn silk. Persons asserting uses based upon approvals granted by the U.S. Department of Agriculture or FDA before September 6, 1958 were given notice to submit proof of these sanctions, so that the safety of the prior-sanctioned uses could be determined. That notice was also an opportunity to have prior-sanctioned uses of corn silk recognized by issuance of an appropriate regulation under Part 181—Prior-Sanctioned Food Ingredients (21 CFR Part 181) or affirmed as GRAS under Part 184 or 186 (21 CFR Part 184, 186), as appropriate.

FDA also gave notice that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert that sanction at any future time.

No reports of prior-sanctioned uses of corn silk or corn silk extract were submitted in response to the proposal. Therefore, in accordance with the proposal, any right to assert a prior sanction for a use of corn silk or corn silk extract under conditions different from those set forth in this regulation has been waived.

The agency's proposal contained the conclusion of the Select Committee which stated, in part, "that in view of the lack of information on the identity of the product used in foods and of relevant biological studies concerning it, there is insufficient data upon which to base an evaluation of corn silk when it is used as a food ingredient." (May 15, 1979; 44 FR 28333-28334). Based upon its own evaluation of all information available on the ingredient, FDA agreed with the Select Committee's conclusion. (May 15, 1979; 44 FR 28334). Subsequent inquiries by the agency to food manufacturers also failed to produce the necessary identity and toxicity information on the corn silk product that is added to food. The agency therefore proposed to remove corn silk and its essential oils, oleoresins, and natural extractives from the GRAS list (§ 182.20).

One comment from a trade association was received in response to the proposal. The comment supplied a recently published article from the scientific literature (*J. Agric. Food Chem.*, Vol. 26, p. 1290, 1978) providing information on the volatile components of corn silk. The comment also referenced the eighth edition of the National Formulary (NF VIII, 559-560, 1946), and supplied manufacturer specifications for two extracts of corn silk. The comment stated that the method of manufacture for corn silk and corn silk extracts is essentially the same as described in the eighth edition of the National Formulary, and that these descriptions would help clarify the identity of the products that were studied in experimental animals, as reported in the agency's proposal. The comment also indicated that corn silk and corn silk extracts have been used as food flavors since at least 1954.

FDA has reviewed this information and finds that it provides sufficient data to review the GRAS status of corn silk and its extracts. On the basis of this information and the information that was already before the Select Committee, the agency concludes that corn silk and alcohol extracts of corn silk may be affirmed as GRAS as food flavoring ingredients. FDA is affirming the GRAS status of these substances with specific limitations, however, because available data are limited and only support current conditions of use. The current levels of use of these substances were reported in the National Academy of Sciences/National Research Council 1972 survey, and the agency confirmed them with the comment.

The agency is not adopting specifications for corn silk or corn silk extracts at this time because this information is available from only one manufacturer. The agency will work with the Committee on Codex Specifications of the National Academy of Sciences to develop acceptable specifications for corn silk and corn silk extract. If acceptable specifications are developed, the agency will incorporate them into this regulation at a later date. Until specifications are developed, commercial corn silk and corn silk

extract should comply with the description in the regulation and should be of food-grade purity (21 CFR 170.30(h)(1) and 182.1(b)(3)).

The format of the final regulation is different from previous GRAS affirmation regulations. FDA has modified paragraph (c) of § 184.1262 to make clear that GRAS affirmation is based upon specific limitations on the use of this ingredient in food, including the categories of food, maximum levels of use, and functional use listed. This change has no substantive effect but is made merely to clarify the effect of the regulation.

The requirement for a regulatory flexibility analysis under the Regulatory Flexibility Act does not apply to this final rule because the proposed rule was issued prior to January 1, 1981, and is therefore exempt.

The agency has determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this rule, and the agency has determined that the rule is not a major rule as defined by the Order.

List of Subjects in 21 CFR

Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 182 and 184 are amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.20 [Amended]

1. Part 182 is amended in § 182.20 *Essential oils, oleoresins (solvent-free), and natural extractives (including distillates)* by removing the entry for "Corn silk—*Zea mays* L."

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended by adding new § 184.1262 to read as follows:

§ 184.1262 Corn silk and corn silk extract.

(a) Corn silk is the fresh styles and stigmas of *Zea mays* L. collected when the corn is in milk. The filaments are extracted with dilute ethanol to produce corn silk extract. The extract may be concentrated at a temperature not exceeding 60°C.

(b) The Food and Drug Administration, in cooperation with the National Academy of Sciences, is developing food-grade specifications for corn silk and corn silk extract. In the interim, this ingredient must be of a suitable purity for its intended use.

(c) In accordance with § 184.1(b)(2), the ingredients are used in food only within the following specific limitations:

Category of food	Maximum level of use in food (as served)[1]	Functional use
Baked goods and baking mixes, § 170.3(n)(1) of this chapter.	30	Flavoring agent, § 170.3(o)(12) of this chapter.
Nonalcoholic beverages, § 170.3(n)(3) of this chapter.	20	Do.
Frozen dairy desserts, § 170.3(n)(20) of this chapter.	10	Do.
Soft candy, § 170.3(n)(38) of this chapter.	20	Do.
All other food categories.	4	Do.

[1] Parts per million.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

Effective date. This regulation shall be effective August 9, 1982.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)))

Dated: June 14, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs

[FR Doc. 82-18436 Filed 7-8-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 182 and 186

[Docket No. 78N-0111]

GRAS Status of Sulfamic Acid

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that sulfamic acid is generally recognized as safe (GRAS) as an indirect human food ingredient. FDA is denying a request in a comment that the agency also affirm ammonium sulfamate as GRAS for indirect human food use. The safety of sulfamic acid has been evaluated under the comprehensive safety review conducted by the agency.

EFFECTIVE DATE: August 9, 1982.

FOR FURTHER INFORMATION CONTACT: Corbin I. Miles, Bureau of Foods (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–4750.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 13, 1979 (44 FR 9402), FDA published a proposal to affirm that sulfamic acid is GRAS when used as an indirect human food ingredient. The proposal was published in accordance with the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 170.35 (21 CFR 170.35), copies of the scientific literature review on sulfamic acid and the report of the Select Committee on GRAS Substances (the Select Committee) are available for public review in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. Copies of these documents also are available for public purchase from the National Technical Information Service as announced in the proposal.

In addition to proposing the above action, FDA gave public notice that it was unaware of any prior-sanctioned food ingredient uses for sulfamic acid other than for the proposed conditions of use. Persons asserting additional or extended uses, in accordance with approvals granted by the U.S. Department of Agriculture or FDA before September 6, 1958, were given notice to submit proof of those sanctions, so that the safety of any prior-sanctioned uses could be determined. That notice was also an opportunity to have prior-sanctioned uses of sulfamic acid approved by issuance of an appropriate regulation under Part 181—Prior-Sanctioned Food Ingredients (21 CFR Part 181) or affirmed as GRAS under Part 184 or 186 (21 CFR Part 184, 186), as appropriate.

FDA also gave notice that failure to submit proof of applicable prior sanction in response to the proposal would constitute a waiver of the right to assert the sanction at any future time.

No reports of prior-sanctioned uses for sulfamic acid were submitted in

response to the proposal. Therefore, in accordance with that proposal, any right to assert a prior sanction for use of sulfamic acid under conditions different from those set forth in this regulation has been waived.

In its original proposal, FDA proposed to establish food grade specifications for sulfamic acid. Since then, however, the agency has reconsidered the necessity for imposing food grade specifications on indirect GRAS substances, such as sulfamic acid. Because indirect uses usually result in extremely low levels of consumer exposure to the ingredient and the impurities it contains, the agency has concluded that, as a general rule, food-grade specifications are not necessary to assure the safety of an indirect GRAS substance. FDA finds that the general requirements that indirect GRAS ingredients be of a purity suitable for their intended use in accordance with § 170.30(h)(1) and used in accordance with current good manufacturing practice are sufficient to ensure safety of sulfamic acid as an indirect GRAS ingredient and that no additional specifications are necessary. Therefore, FDA has modified the final regulation governing the use of sulfamic acid as an indirect GRAS ingredient, § 186.1093(b) (21 CFR 186.1093(b)) by removing the specifications. FDA published a proposal in the **Federal Register** of June 25, 1982 (47 FR 27817) to amend its procedural regulations in Part 186 to reflect clearly this new policy regarding specifications for indirect GRAS substances.

Two comments were submitted in response to the FDA proposal and supporting data and information on sulfamic acid. A summary of these comments and the agency's response follows:

1. One comment requested that, in addition to sulfamic acid, ammonium sulfamate be affirmed as GRAS for indirect human food use because the ammonium salt of sulfamic acid is less toxic than sulfamic acid. The comment stated that very little, if any, ammonium sulfamate would migrate to food from indirect use, and ammonium salts in general present little safety concern as food ingredients at the levels normally encountered.

FDA is denying the requested affirmation of GRAS status of ammonium sulfamate. The agency does not agree with the comment's assertion concerning the safety of ammonium salts in general. Although several ammonium salts are either approved food additives or GRAS food ingredients, this fact is no basis for assuming that other ammonium salts are also safe for food use. Although FDA agrees with the comment regarding the migration characteristics of pure ammonium sulfamate and its reduced toxicity compared to that of sulfamic acid, the purity of the ammonium sulfamate proposed for use by the comment is not completely established. The comment proposes to generate the ammonium sulfamate *in situ* (i.e., in the packaging material itself) from urea and sulfamic acid, without further purification for possible chemical byproducts (e.g., biuret and cyanuric acid) formed during the reaction. The comment has provided no scientific information on the levels of these byproducts that might be expected to migrate to food or information on their potential toxicity. Because of the possibility of low dose toxicity and the absence of specific safety information, FDA is unable to affirm the GRAS status of ammonium sulfamate generated *in situ* from urea and sulfamic acid for use as an indirect human food ingredient. However, if the required information is supplied in a petition, FDA will reconsider issuing a GRAS or food additive regulation for indirect human food uses of ammonium sulfamate not included in this regulation. Future FDA approval of this substance may be sought through the GRAS or food additive petition procedures outlined in § 170.35 and § 171.1 (21 CFR 171.1) for any new uses of ammonium sulfamate.

2. The second comment requested changes in the proposed specifications for sulfamic acid. In particular, the comment requested that the minimum assay requirement be reduced from the proposed 98 percent to 91 percent, and that the specification for residue on ignition be increased from the proposed 0.05 percent to 0.8 percent. Although the commercial grade of sulfamic acid is less pure than the sulfamic acid described in the proposal, the comment pointed out that the impurities are themselves GRAS substances, e.g., sulfuric acid, ammonium sulfate, urea, and magnesium oxide. Moreover, the commercial grade of sulfamic acid meets the specification for heavy metals as presented in the proposal. In objecting to the proposed assay test, the comment argued that the test only provided an estimate of total acidity, and that it was not adequate for measuring the actual sulfamic acid content.

In light of the FDA decision not to require food-grade specifications for sulfamic acid, the issues raised by the comment are moot. The commercial grade of sulfamic acid currently used in the manufacture of food packaging is acceptable to FDA for this purpose.

The agency has determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

The requirement for a regulatory flexibility analysis under the Regulatory Flexibility Act does not apply to this final rule because the proposed rule was issued prior to January 1, 1981, and is therefore exempt.

In accordance with Executive Order 12291, FDA has analyzed the economic effects on this rule, and the agency has determined that the rule is not a major rule as defined by the Order.

List of Subjects in 21 CFR

Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

Part 186

Food ingredients, Generally recognized as safe (GRAS) food ingredients, Indirect food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 182 and 186 are amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.90 [Amended]

1. In Part 182, § 182.90 *Substances migrating to food from paper and paperboard products* is amended by removing the entry for "sulfamic acid" from the list of substances.

PART 186—INDIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. In Part 186 by adding new § 186.1093, to read as follows:

§ 186.1093 Sulfamic acid.

(a) Sulfamic acid (H_3NO_3S, CAS Reg. No. 5329-14-6) is a white crystalline solid manufactured from urea, sulfur trioxide, and sulfuric acid. It is soluble and highly ionized in water.

(b) In accordance with § 186.1(b)(1), the ingredient is used as an indirect food ingredient with no limitations other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as an indirect human food ingredient is based upon the current good

manufacturing practice of using this ingredient in the manufacture of paper and paperboard that contact food.

(c) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

Effective date. This regulation is effective August 9, 1982.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)))

Dated: June 15, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-18441 Filed 7-8-82; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 182 and 184

[Docket No. 81N-0314]

Sulfiting Agents; Proposed Affirmation of GRAS Status With Specific Limitations; Removal From GRAS Status as Direct Human Food Ingredient

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to affirm that potassium metabisulfite, sodium bisulfite, sodium metabisulfite, and sulfur dioxide are generally recognized as safe (GRAS), with specific limitations, as direct human food ingredients. In addition, FDA is proposing not to affirm potassium bisulfite and sodium sulfite as GRAS as direct human GRAS. The safety of these ingredients has been evaluated under the comprehensive safety review conducted by the agency.

DATE: Comments by September 7, 1982.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: FDA is conducting a comprehensive safety review of human food ingredients classified as GRAS or subject to a prior sanction. The agency has issued several notices and proposals (see the **Federal Register** of July 26, 1973 (38 FR 20040)) initiating this review, under which the safety of potassium bisulfite, potassium metabisulfite, sodium bisulfite, sodium metabisulfite, sodium sulfite, and sulfur dioxide has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35), the agency proposes to affirm, with specific limitations, the GRAS status of potassium metabisulfite, sodium bisulfite, sodium metabisulfite, and sulfur dioxide, and to remove potassium bisulfite and sodium sulfite from GRAS status.

Potassium bisulfite ($KHSO_3$), also referred to as potassium acid sulfite or potassium hydrogen sulfite, consists of colorless crystals with a reported decomposition melting point of 190° C. It is soluble in water but insoluble in alcohol. Potassium bisulfite is prepared by passing sulfur dioxide through a solution of potassium carbonate, evaporating the resultant solution, and crystallizing the product. Potassium metabisulfite ($K_2S_2O_5$), also identified as potassium pyrosulfite, exists as white or colorless free-flowing crystals. It, too, has a decomposition melting point of 190° C. Potassium metabisulfite is only slightly soluble in water and in alcohol, and it is insoluble in ether. It is prepared by heating potassium bisulfite until it loses water or by treating aqueous potassium bisulfite with excess sulfur dioxide. Sodium bisulfite ($NaHSO_3$), commonly called sodium acid sulfite or sodium hydrogen sulfite, is normally available as a mixture with sodium metabisulfite. The mixture consists of white or yellowish-white crystals or granular powder. Because sodium bisulfite decomposes, it has no reported melting point. It is soluble in water and slightly soluble in alcohol. Sodium bisulfite is prepared by passing sulfur dioxide through a solution of sodium carbonate until the solution is saturated. Sodium bisulfite then crystallizes from the solution. Sodium metabisulfite ($Na_2S_2O_5$), or sodium pyrosulfite, exists as colorless crystals or white to yellowish crystalline powder. It is freely soluble in water but only slightly soluble in alcohol. Sodium metabisulfite is generated either by treating aqueous sodium bisulfite or sodium carbonate with excess sulfur dioxide or by heating sodium bisulfite until it loses water. The latter process occurs below the melting point, so a melting point is not available for this compound. Sodium sulfite (Na_2SO_3) is a white or tan to slightly pink powder. It is soluble in water and slightly soluble in alcohol. Sodium sulfite is reported to decompose before melting. Sodium sulfite is synthesized by reacting alkali with an aqueous solution of sodium bisulfite. Sulfur dioxide (SO_2), occasionally referred to as sulfurous anhydride, is a colorless, nonflammable gas having a strong, characteristic, suffocating odor. At normal atmospheric pressure, it has a boiling point of —10° C. Sulfur dioxide is produced by burning elemental sulfur in air, by roasting pyrites, or by reducing calcium sulfate with coke.

The sulfiting agents have been employed for centuries in food processing as sanitizing agents for food containers and fermentation equipment; as preservatives to reduce or prevent microbial spoilage of food; as selective inhibitors of undesirable microorganisms in the fermentation industries; and as antioxidants and inhibitors of enzyme-catalyzed oxidative discoloration and nonenzymatic browning during the preparation, storage, and distribution of many foods.

The inorganic sulfites function by liberating sulfur dioxide under conditions of use. Choice among the various sulfiting agents depends in large measure upon the stability required for the intended use. The sulfites tend to oxidize during storage, thus decreasing the amount of available sulfur dioxide. The metabisulfites are more stable than the bisulfites, which are, in turn, more stable than the sulfites. The functional effects of the sulfiting agents are related to their sulfur dioxide content. When dissolved in water, the sulfites form sulfurous acid and sulfite and bisulfite ions, the relative proportions of each depend upon the pH of the solution.

Each of the six sulfiting agents is listed in Part 182 (21 CFR Part 182) as a GRAS ingredient for use as a chemical preservative. The inclusion of potassium bisulfite (21 CFR 182.3616), potassium metabisulfite (21 CFR 182.3637), sodium bisulfite (21 CFR 182.3739), sodium metabisulfite (21 CFR 182.3766), sodium sulfite (21 CFR 182.3798), and sulfur dioxide (21 CFR 182.3862) in the GRAS list was effectuated by a regulation published in the **Federal Register** of November 20, 1959 (24 FR 9368) and subsequent recodification.

Several specific food additive uses of the sulfiting agents have been approved by FDA: (1) Sulfur dioxide is permitted as a bleaching agent for food starches, as described in § 172.892(b) (21 CFR 172.892(b)); (2) sodium metabisulfite and neutral or alkaline sodium sulfite are permitted as additives to boiler water used in the preparation of steam that will contact food, as described in § 173.310(c) (21 CFR 173.310(c)); (3) sodium sulfite and sodium metabisulfite are permitted as components of cellophane for food packaging, as described in § 177.1200(c) (21 CFR 177.1200(c)); (4) sodium sulfite and sodium metabisulfite are permitted as constituents of water-insoluble hydroxyethyl cellulose film, as described in § 177.1400 (21 CFR 177.1400); and (5) potassium metabisulfite, sodium bisulfite, sodium metabisulfite, and sulfur dioxide are permitted as sterilizing and preservative agents in the treatment of wine, as described in 27 CFR 240.1051.

In addition to the GRAS and regulated food additive uses of the sulfiting agents identified above, prior sanctions and advisory opinion letters for these substances have been issued by FDA.

Because of their prior-sanctioned status, sodium sulfite and sulfur dioxide may be used at levels from 200 to 300 parts per million (ppm) in molasses, dried fruits, and foods that are not good sources of vitamin B_1. In addition, sodium bisulfite solution is prior sanctioned for use as a dip to prevent darkening of fresh-peeled, uncooked potatoes, and sodium bisulfite is also prior-sanctioned as a dip to control the incidence of black spot in shrimp. Advisory opinions have addressed the following food uses of specific sulfiting agents: (1) potassium metabisulfite is permitted at levels up to 1 percent by weight as a stabilizer for preparation of dry vitamin A palmitate; (2) sodium bisulfite is permitted in wash water for mushrooms; (3) sodium bisulfite is permitted as a preservative in citron brining; (4) sulfur dioxide is permitted at levels up to 400 ppm in corn syrups that are subsequently applied to meats; and (5) sodium sulfite is permitted at levels up to 1 percent in the wash water of sweet potatoes.

Several food standards contain references to the optional use of unspecified safe and suitable preservatives or to the optional use of antioxidant preservatives listed in Subpart D of Part 182. Except for maximum levels of sulfur dioxide content in specific nutritive sweeteners listed in Part 168 (21 CFR Part 168), none of the sulfiting agents appear in the food standards.

In 1971, the National Academy of Sciences/National Research Council (NAS/NRC) surveyed a representative cross-section of food manufacturers to determine the specific foods in which sulfiting agents are used and the levels of usage. However, a number of problems associated with this survey created uncertainties about its result.

The Select Committee on GRAS Substances (the Select Committee), which was selected by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB), was aware of the problems with the 1971 NAS/NRC survey. Instead of waiting for a new survey to correct these problems, the Select Committee decided to estimate consumer exposure to sulfiting agents on the basis of its own review of the pertinent scientific literature. In its report, which it issued in 1976, the Select Committee noted that a number of studies indicated that there is a substantial decrease in sulfur dioxide equivalents between processing and consumption. After review of these studies, the Select Committee concluded that:

Losses of SO_2 through volatilization can and do occur during processing, in-subsequent storage, and in home preparation. Oxidation of sulfite to sulfate can also occur at all stages, and sulfite can react with a number of food ingredients. All of these factors tend to lower the amount of available sulfite in foods as eaten.

* * * * *

The daily intake of SO_2 via sulfited foods consumed in the United States does not exceed 2 mg per kg body weight for adults, except in unusual circumstances, and probably is no more than 0.2 mg per kg for the bulk of the adult population. There is no reason to suspect from the data available that SO_2 intakes of infants and children will exceed 0.2 mg per kg daily. Actual analysis of foods as consumed by various age groups is desirable if more realistic estimates of daily SO_2 intakes are to be obtained.[1]

Because of the uncertainties associated with the results obtained from its 1971 survey, NAS/NRC resurveyed the sulfiting agents in 1977. On the basis of this second survey, NAS/NRC reported that the following total amounts of sulfiting agents are added to foods in the United States:

Substance	Total pounds/yr added to foods
Potassium bisulfite	(1)
Potassium metabisulfite	220,000
Sodium bisulfite	4,900,000
Sodium metabisulfite	82,000
Sodium sulfite	15,000
Sulfur dioxide	2,200,000

[1] None reported.

Additionally, in the **Federal Register** of May 31, 1977 (42 FR 27676), FDA issued a notice requesting the submission of data and information regarding the extent of use of certain GRAS or prior-sanctioned human food ingredients, including selected sulfiting agents. In response to this notice, FDA received data about additional human food uses for some of the sulfiting agents. Furthermore, a comment submitted to FDA in response to the proposed regulation to affirm gelatin as GRAS (42 FR 58763; November 11, 1977) addressed the use and use levels of sulfur dioxide. These submissions, along with the use information resulting from the NAS/NRC survey of 1977, have been evaluated as part of the safety review of the sulfiting agents.

On the basis of the information it has gathered, FDA has learned that the primary technical effect of sulfiting agents in food is as an antimicrobial agent. These substances are particularly useful in such foods as processed fruits and fruit juices, processed vegetables and vegetable juices, in alcoholic beverages, and in some baked goods, condiments, and sweet sauces.

Sulfiting agents also have been the subject of a search of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 1,903 abstracts on sulfiting agents was reviewed, and 145 particularly pertinent reports have been summarized in a scientific literature review.

The scientific literature review includes the following information, as summarized in the report of the Select Committee:

The primary detoxication mechanism for sulfite in rats, and presumably in other mammalian species, is by oxidation to sulfate; only a small proportion is converted to organic sulfate. In four hours, 55 percent of the sulfur of intubated sodium metabisulfite solution (equivalent to about 1.0 g SO_2 per kg body weight) was recovered as inorganic sulfate in the urine of rats. In dogs, 80 mg of sodium bisulfite per kg per hour (corresponding to 49 mg SO_2 per kg per hour) infused for three hours into the splenic vein was completely metabolized to sulfate. In rats, mice, and monkeys 70 to 95 percent of the ^{35}S of ingested $Na_2{}^{35}SO_3$ (10 to 50 mg SO_2 per kg body weight) was absorbed from the intestine and voided in the urine of all three species within 24 hours. Most of the remaining ^{35}S was eliminated in the feces; 2 percent or less was found in the carcass. No free sulfite was detected in the urine or rats even after a single oral dose of sodium bisulfite (400 mg SO_2 per kg) indicating a large capacity to rapidly oxidize sulfite.

A sulfite oxidase has been isolated from the livers of rats, dogs, and cattle. Tissue distribution of the enzyme in the rat shows highest activity in liver, heart, and kidney, with lower activity in several other tissues, and very low activity in lung. It is not known whether human tissues show a similar distribution of sulfite oxidase activity. A congenital deficiency of hepatic sulfite oxidase has been described in man. In this rare hereditary metabolic disorder, S-sulfocysteine is excreted in the urine. It is noteworthy that Olney *et al.* have found this compound [COOH-CH-

[1] "Evaluation of the Health Aspects of Sulfiting Agents as Food Ingredients", Life Sciences Research Office, Federation of American Societies for Experimental Biology, Bethesda, MD, 1976, pp. 5-6.

$(NH_2)CH_2$-S-SO_3H] to produce lesions in the retinas and arcuate nuclei of the hypothalamus in 5-day-old rats injected subcutaneously at levels of 80 to 800 mg per kg body weight, but not a level of 8 mg per kg; similar brain damage also occurred in adult rats injected intracerebrally at a level of 30 mg per kg.

It is possible, based on studies in rabbits, that the small portion of oral sulfite that may not be immediately oxidixed could react with disulfide bonds of plasma proteins to form S-sulfonates in the plasma. The authors theorize that the formation of plasma S-sulfonates may protect the tissues from exposure to sulfite, but because the chemical reaction is reversible, these products might also serve as carrier forms of sulfite to release it in the tissues at a later time. The action of sulfite on proteins and peptides to produce S-sulfonate derivatives has been reviewed by Meister. Such thiosulfate esters are converted to sulfite by reaction with glutathione. This conversion is catalyzed reversibly by an enzyme in rate liver for glutathione disulfide and cystine but not for disulfide groups in proteins. S-sulfocysteine is converted to thiosulfate, pyruvate, and ammonia when fed to rats.

Sulfites can produce direct effects on tissues presumably as a consequence of disturbance of acid-base balance. Rost and Franz gave dogs up to 1.0 g of sulfite per day for more than a year without evidence of gross or microscopic tissue changes. Larger doses caused vomiting but no other symptoms appeared. Humans receiving 1.0 g of sodium sulfite per day (about 17 mg per kg) had no gastrointestinal symptoms but abdominal pain and vomiting occurred at dose of 4 to 5.8 g per day (about 70 to 100 mg per kg). Lafontaine and Goblit found does of sulfite in excess of 3.5 mg per kg to induce gastrointestinal irritation leading to vomiting in man and suggested that the vomiting reflex protects against acute toxicity.

Enzymes inhibited by sulfites *in vitro* include a number that require nicotinamide adenine dinucleotide (NAD) or pyridoxal as cofactors, peroxidase, and acetylcholine esterase; alkaline phosphatase was inhibited *in vivo*. Bisulfite *in vitro* in excess (118 mg of sodium bisulfite to 5 mg of yeast ribonuclease) has been shown to react over a period of several hours with some nucleic acid components to alter their structure; for example, the deamination of cystosine to uracil. However, treatment of calf thymus DNA with excess of bisulfite under similar conditions, even for 72 hours, resulted in no deamination of cytosine. Such reactions have not been demonstrated to occur *in vivo*. However, the authors suggests their findings imply that the mutagenic properties of bisulfite [to be considered shortly] are due to its reaction with single-stranded DNA.

Sodium sulfite added to the diet of rats and fed for periods up to 1.5 years produced evidence of vitamin E deficiency as measured by effects on the enamel organs of the teeth. Such evidence appeared only at levels of 500 mg of sodium sulfite per kg body weight and higher.

Interpretation of the biological effects of sulfiting agents in many experimental studies is difficult because sulfite reacts with thiamine. Thus, some of the observed effects attributed to sulfiting agents may well be due to the destruction of thiamine and with the resulting avitaminosis, rather than to direct action of sulfiting agents on the tissues. The relationship between thiamine content of the food and sulfite content has been studied by Wilmes in rats, and by several others in laboratory animals and man. Typically, the animal experiments showed that sulfite was toxic at a level of 50 mg SO_2 per kg to animals on diets deficient in thiamine but when adequate thiamine levels were maintained, animals survived 300 mg of sulfite per kg per day without significant influence on weight or food utilization. However, a study by Bhagat and Lockett indicates that some stored sulfited diets may be toxic to rats. Rat diet containing 0.6 percent solid sodium metabisulfite (about 400 mg SO_2 per kg body weight) did not support normal rate of growth when fed as freshly prepared, but normal growth rate was restored by addition of thiamine. When the sulfite diet was stored at room temperature for 75 days or more before feeding, reduced growth rate occurred and normal rate was not restored by addition of thiamine. The authors offered no explanation of this effect.

An experiment involving 12 human volunteers (6 female, 6 male) was particularly significant with respect to evaluating sulfite tolerance. After a normal diet for 15 days, all subjects were placed on a thiamine deficient diet (120 μg thiamine per 1000 kcal) for another 15 days. Six of the subjects received the same beverages without added SO_2 for 25 days. Sulfite administration was then discontinued for 10 days and all 12 subjects were given 100 mg of thiamine orally each day for two days. All volunteers were examined clinically, including neurophysiological examination of motor conduction and reflex action, before, during and after the experiment and no clinical changes could be detected. Tests for activity of a number of enzymes, and measurements such as serum electrophoresis, thymol turbidity, hematocrit, and erythrocyte count were conducted and the data exhibited no sign of any disturbance caused by sulfite.

It has been shown by Thomas and Berryman that the usual acceptable amounts of sulfite present in foods such as dehydrated fruits and vegetables which are normally sulfited, do not cause significant destruction of the thiamine content of a mixed meal including meat and other sources of thiamine.

Acute LD_{50} values for sulfiting agents by several routes of administration and in several species are given in (the table below).

Species	Route	Chemical	LD_{50} (mg/kg)	SO_2 equiv. (mg/kg)
Mouse	I.p.	Sodium bisulfite	875	416
	I.v.	Sodium bisulfite	190	90
	I.v.	Sodium sulfite	155	79
	I.v.	Sodium sulfite	175	89
Rat	P.o.	Sulfur dioxide[a]	1,040	1,040
	P.o.	Sulfur dioxide[b]	2,000	2,000
	I.p.	Sodium bisulfite	650	400
	I.v.	Sodium bisulfite	115	71
	P.o.	Potassium metabisulfite	1,800	1,037
Rabbit	I.p.	Sodium bisulfite	300	185
	I.v.	Sodium bisulfite	65	40
Hamster	I.v.	Sodium bisulfite	95	58
Dog	I.p.	Sodium bisulfite	244	150

[a] As a 6.5 percent aqueous solution.
[b] As a 3.5 percent aqueous solution.

Sodium bisulfite fed to groups of rats for a year at various levels (0.0125 to 2.0 percent of the diet) led to the following conclusions: on diets containng less than 0.1 percent bisulfite no significant effect on growth occurred; on diets containing more than 0.1 percent bisulfite, growth rate and animal size decreased as SO_2 concentration increased; on diets containing 0.25 percent bisulfite or more,

pathological changes observed were polyneuritis, bleached incisors, visceral organ atrophy, renal tubular casts, bone marrow atrophy, stunting of growth and spectacle eyes; the level of bisulfite at which histological changes began to appear was estimated to be about 0.1 percent (about 62 mg SO_2 per kg body weight).

It is to be noted that while no toxicological studies of sulfite adducts of carbonyl compounds have come to the attention of the Select Committee, experiments in humans receiving 350 mg of sodium glucose sulfonate per day for 25 days revealed no sign of any disturbance caused by this compound.

One-month-old male and female Wistar rats were given potassium metabisulfite in drinking water (700 mg SO_2 equivalent per liter) for 20 months. The dosage level of the metabisulfite ws 190 mg SO_2 per kg body weight during the first 15 days, 58 to 78 mg SO_2 per kg at the end of 60 days and 29 to 40 mg SO_2 per kg at the end of 20 months. There were insignificant differences between the control and experimental animals in mortality, rate of growth, feed consumption, clinical signs, and in the weight and histological appearance of heart, kidneys, adrenals, and gonads. Leucocyte count was slightly elevated in experimental males and splenomegaly occurred in some females. There were 19 and 10 percent reductions, respectively, in the reproduction rates in the F_1 and F_2 generations of the metabisulfite-treated F_0 females, and significantly fewer F_1 and F_2 males born in the treated group. There were no malformations in the young. Such reproductive effects were not observed by Lockett and Natoff who gave sodium metabisulfite solution containing 750 ppm of SO_2 equivalent per liter to rats as drinking water over three generations. Daily dosage varied from 75 mg SO_2 per kg body weight to 170 mg per kg, depending on volume of solution consumed and animal weight. No differences were found in growth rates between the experimental and control animals. There were no effects on fertility, postnatal survival, lacation, behavior or general health. There was no significant difference in body weight or organ weight between test and control rats, and no carcinogenesis could be attributed to the SO_2. Gastric mucosal hyperplasia was not observed.

More recently, Til *et al.* mixed sodium metabisulfite in the diet of rats (given added thiamine) and fed them for more than two years and more than three generations. They found the "no observed adverse effect" level to be 0.215 percent (equivalent to 72 mg SO_2 per kg body weight per day determined by analysis of the diet as fed). At a level of 2 percent metabisulfite there was slight growth retardation in the F_1 and F_2 generations. At levels of 1 percent or higher, occult blood was present in the feces, and hyperplastic changes were noted in the gastric mucose, but there was no evidence of carcinoma. At high metabisulfite levels, 6 to 8 percent, the galandular portion of the stomach showed ulcers, papillomatous elevations, erosions, and inflammatory changes. Anemia occurred at 2 percent metabisulfite or above, and splenic enlargement with marked hematopoiesis took place with levels of 4 percent or above. No dose-related effects of metabisulfite on reproductive factors such as litter size, female fertility, birth weight or mortality of the young were found, but there was a significant reduction in the number of F_{2a}-generation offspring at sulfite levels of 0.5 percent or above.

The same authors studied the effect of feeding sodium metabisulfite to pigs for up to 48 weeks. Diets were supplemented with extra thiamine to avoid deficiency to the vitamin. They found the no observed adverse effect level of sodium metabisulfite to be 0.35 percent (equivalent to about 120 mg SO_2 per kg body weight at the beginning of the experiment and about 28 mg per kg at the end); growth was decreased at the 0.83 percent level (due to lowered palatability of the diet as indicated by paired-feeding), and mild inflammatory and hyperplastic changes in the stomach were noted in several animals fed 0.83 or 1.72 percent sulfite. Except for some pigmentation of the cecal mucosa resembling pseudomelanosis coli, no histopathological changes were noted in any of the tissues.

Cattle (herd of 600) consuming daily silage containing 45 g of sodium metabisulfite (67 mg SO_2 per kg body weight per day) showed no adverse effects after more than five years of feeding. A cow in her third month of pregnancy receiving a dosage of about 100 mg SO_2 per kg per day for 180 days showed no adverse effects, calved normally, and the calf was normal. It should be noted, however, that experience with ruminants should not be equated with monogastric animals since the former appear to tolerate considerably larger amounts of sulfites.

From the foregoing acute and chronic administration studies it is evident that the level of sulfite that produces no observed toxic effects varies from about 30 to 100 or more mg of SO_2 per kg body weight per day, depending on the species and experimental conditions. This wide range may be related to the variable amounts of thiamine used in the experimental diets of reported studies. The FAO/WHO considers 35 mg SO_2 per kg body weight per day as the no observed adverse effect level in the rat.

Teratologic evaluations of intubated sodium bisulfite, sodium metabisulfite, and potassium metabisulfite have been made in several species. The compounds were administered daily on day 6 through day 15 of gestation in mice and rats; and day 6 through day 10 in hamsters. For sodium bisulfite the doses in mg per kg body weight in mice, rats, and hamsters were up to 150, 110, and 120, respectively; for sodium metabisulfite in mice, rats, and hamsters, up to 160, 110, and 120, respectively; for potassium metabisulfite in mice and rats up to 125 and 155, respectively. In no instance were significant effects observed on nidation or on maternal or fetal survival. The number of abnormalities found in either the soft or skeletal tissues of the test groups did not differ from the number occurring spontaneously in the sham-treated controls.

When sodium metabisulfite was injected in the air cell of fertilized eggs at 0 hour the calculated LD_{50} (based on an average egg weight of 50 g) was 19.5 mg per kg, and when injected after 96 hours of incubation the LD_{50} was 3.4 mg per kg, and at 96 hours, 162 mg per kg. Significantly elevated levels o abnormalities attributable to [illegible]porary growth retardation were note[illegible]nd a low level of structural anomalies involving the head and/or limbs was encountered. A second laboratory tested potassium metabisulfite on chick embryos and found it to be quite embryotoxic; yolk treatment was more toxic than air cell treatment; the evidence was inconclusive with respect to teratological effects. A third laboratory found sodium bisulfite to be toxic to chick embryos when injected into either the air cell or the yolk with greater toxicity following air cell administration. No significant teratogenic findings were reported. A fourth laboratory found sodium sulfite to be toxic on air cell injection into eggs at 0 and 96 hours of incubation (LD_{50} 20.7 and 16.7 mg per kg of egg, respectively) but not significantly toxic on yolk injection. Because there were no serious structural abnormalities compared to untreated or solvent treated controls, it was concluded that sodium sulfite is not teratogenic under these conditions.

When a great excess of sodium bisulfite is present, the deamination of cytosine to uracil *in vitro* in single-standard DNA is optimal at pH 5. At

SO_2 equiv. (mg/kg)
416
80
79
89
1,040
2,000
400
71
1,037
185
40
58
150

higher pH values the rate is considerably reduced, but the authors suggest the possibility that a potential hazard of sulfite acting as mutagenic agent *in vivo* may exist based on this model chemical reaction *in vitro*. In at least four microorganisms (*E. coli*, phage, T_4 phage and a yeast) sulfite has been shown to be a mutagen, and the nature of the mutation follows the expected pattern predicted by the model chemical reaction. However, there is no evidence of sulfite causing mutations or cancer in mammals *in vivo*.

Sodium bisulfite was not mutagenic in the host-mediated assay in mice, the dominant lethal assay in rats, or the *in vivo* cytogenic assay in rats at doses up to 150 mg per kg; it showed no mutagenic activity on human tissue culture cells *in vitro* at levels up to 200 g per ml. In similar tests conducted on sodium metabisulfite by another laboratory, no mutagenic activity was observed in the host mediated, dominant lethal, or cytogenic assays, but mitotic inhibition and widespread damage to anaphase cells were noted when sodium metabisulfite was added to human embryonic lung cells growing in tissue culture. No mutagenic activity was exhibited by sodium sulfite or potassium metabisulfite in *in vitro* plate and suspension microbial assays using *Salmonella typhimurium*, strains TA–1535, TA–1537, and TA–1538, and *Saccharomyces cerevisiae*, either unactivated or activated with liver, lung, or testis homogenates from mice, rats, and monkeys.

Effects of SO_2, sodium sulfite, and sodium bisulfite on three tissue culture cell lines (mouse fibroblast strain L cells (NCTC 929), mouse liver cells (NCTC 1769), and HeLa cells) were studied by Thompson and Pace. If the culture media were high in protein, the cells tolerated concentrations of sulfite of 500 ppm with no inhibition and as much as 2000 ppm with only a moderate degree of growth inhibition. If the media contained a low concentration of protein, the toxicity of sulfite was increased nearly tenfold. HeLa cells were more sensitive to sulfite than the mouse cell lines.

Human lymphocyte cells in tissue culture received a single exposure to 100 ml air containing 5.7 ppm SO_2 which was bubbled through the medium after 0, 1, 2, or 3 days of incubation. Cell growth and DNA synthesis were reduced and chromosomal abnormalities, mainly chromosomal clumping, were observed. The authors suggest that lymphocyte damage caused by sulfur dioxide exposure may explain the reduced immunological responses of laboratory animals after SO_2 inhalation *in vivo*. Other workers have found that rabbits exposed seven hours per day for 113 days to air containing 8 ppm SO_2 showed a reduced formation of agglutinins and conclude that chronic exposure to low SO_2 concentrations decreases the effectiveness of the immune response and resistance to infections.

The Select Committee considered the possibility that inhalation exposure would add an additional burden of SO_2 that should be considered in discussion of exposure to sulfiting agents in foods. Conditions might exist where the load of inhaled SO_2 could be equal to or greater than that of dietary SO_2. However, there is evidence to indicate that at prevailing levels, most air-borne SO_2 is rapidly oxidized to sulfate before inhalation or in the respiratory tract. Because the sulfuric acid formed has greater irritant properties than sulfurous acid, it is difficult to make dose-response interpretations. From the information available, the Select Committee is unable to estimate the contribution made to total SO_2 load from that present in inspired air.[2]

Qualified scientists of the Select Committee have evaluated all available safety information on the sulfiting agents. In the Select Committee's opinion:

Based upon chronic toxicity tests in animals, primarily in rats, the no observed adverse effect level of SO_2 is estimated to be in the range of 30 to 100 mg of SO_2 per kg of body weight per day. These values are considerably higher than the estimated average per capita consumption of about 0.2 mg of SO_2 equivalent per kg body weight per day, and well above the estimates of up to 2 mg per kg body weight per day that some individuals may consume if they select foods and beverages relatively high in SO_2 content. The margin of only about fifteenfold between the SO_2 that may be ingested by high-intake consumers and the lowest estimated no observed adverse effect level is relatively narrow. However, consideration of the significance of this difference should recognize the difficulties in estimating with confidence the components which are the basis of the calculated margin.

While the biological effects of sulfiting agents are still incompletely understood, certain conclusions are warranted. There is no reason to believe that the direct, local, irritating effects of sulfite, seen in high-dose acute toxicity tests, constitute a hazard from ingestion of sulfiting agents as they are presently used in foods. Orally administered sulfite is very rapidly oxidized to sulfate in all species studied. The metabolic removal of sulfite appears to be the critical defense mechanism, and this points to the important role of the enzyme, sulfite oxidase. Congenital deficiency of hepatic sulfite oxidase has been described as a rare metabolic disorder in man. There is also a paucity of data on the normal development of this enzyme with age in various species, and on the possible effects of dietary factors and disease on sulfite oxidase activity. Moreover, sulfite is capable of deaminating cytosine *in vitro* and inhibiting several enzymes requiring NAD or pyridoxal as cofactors which suggests that sulfite might be toxic *in vivo* if sulfite oxidase activity were sufficiently impaired or this metabolic mechanism were sufficiently overloaded, to prevent rapid oxidation of ingested sulfite to sulfate. Information in these respects would be helpful in assessing any special risk factors that may apply for select subpopulations.

Destruction of thiamine can occur as a result of the sulfiting of foods, but sufficient thiamine is present in usual mixed diets, particularly because use of sulfiting agents is prohibited by regulation in foods known to be major sources of the vitamin.

While there is no evidence that the sulfiting agents are teratogenic, there is evidence that directly added sulfite produces mutations in bacteria by alteration of nucleic acids. None of the available mammalian *in vivo* studies confirms these observations. Because the same organisms are not affected in the host-mediated assay, it seems reasonable to infer that rapid destruction of sulfite by the host's sulfite oxidase provides protection.[3]

The Select Committee concludes that no evidence in the available information on potassium bisulfite, potassium metabisulfite, sodium bisulfite, sodium metabisulfite, sodium sulfite, and sulfur dioxide demonstrates, or presents reasonable grounds to suspect, a hazard to the public when these substances are used at levels that are now current and in the manner now practiced. However, the Select Committee also states that it is not possible to determine, without additional data, whether a signficiant increase in consumption would constitute a dietary hazard.

FDA has undertaken its own evaluation of all available information on sulfiting agents and concurs with the conclusions of the Select Committee. Based upon available safety data, the

[2] *Ibid.*, pp. 6–13.

[3] Ibid., pp. 13–15.

agency concludes that potassium metabisulfite, sodium bisulfite, sodium metabisulfite, and sulfur dioxide should be affirmed as GRAS with specific limitations placed upon their use. The treatment levels set forth in this proposal for various food categories are the maximum levels reported to the NAS/NRC in their 1977 survey of food manufacturers on the use of GRAS ingredients. The agency encourages the submission of other food uses for these ingredients that may not have been reported during the 1977 survey as comments on this proposal. Each report of an additional use should include the maximum treatment level and the resulting residue level of the sulfiting agent remaining in the food when consumed, so that the agency may determine whether a significant increase in consumption of sulfiting agents will result from these new reported uses. FDA will address any changes in the regulatory status of the subject compounds when it issues the final rule.

Regarding potassium bisulfite and sodium sulfite, FDA proposes to revoke their GRAS status as direct human food ingredients. No evidence was provided to NAS/NRC during either the 1970 or the 1977 survey of the food industry to indicate that potassium bisulfite is used in foods. Although total poundage information was provided on sodium sulfite, the only food use reported for sodium sulfite was as a boiler water additive. This use of sodium sulfite is covered by § 173.310. No information pertaining to the GRAS use of sodium sulfite is currently available, and FDA is assuming that its use in the washing of sweet potatoes and any other uses have been discontinued.

As discussed earlier, a prior sanction exists for the use of sodium sulfite and sulfur dioxide at levels of 200 to 300 parts per million in molasses, dried fruits, and other foods that are not good sources of vitamin B_1. However, FDA is not proposing to revise Part 181 (21 CFR Part 181) to list specifically this prior-sanctioned use for which the agency has no evidence that this use of sodium sulfite and sulfur dioxide is a current use. If current evidence of this use is submitted in response to this proposal, FDA will consider establishing a prior sanction regulation under Part 181 or affirming the reported use as GRAS under Part 184.

In previous GRAS affirmation proposals, FDA emphasized that use information (i.e., foods to which the ingredient is added, the intended technical effect, and the levels of addition) is very important in assessing the safety of GRAS food ingredients. Because the agency does not have any evidence of food use for potassium bisulfite or sufficient information relating to the GRAS food uses of sodium sulfite, FDA cannot establish limitations on the use of these two sulfiting agents. Consequently, the agency is proposing not to affirm potassium bisulfite and sodium sulfite as GRAS and to remove them from the list of substances that are GRAS. FDA will reconsider their regulatory status if adequate use information of the type cited above is submitted. FDA is especially interested in comments on potassium bisulfite because this ingredient is a possible substitute for sodium bisulfite. The agency considers such a substitution desirable because of FDA's interest in reducing the level of total sodium consumption in the United States. Comments on the uses of potassium bisulfite and sodium sulfite should provide specific information on the maximum treatment level and resulting residual level remaining in the food as consumed, food categories, and technical effects. Alternatively, persons seeking FDA approval of the use of potassium bisulfite and sodium sulfite may submit a GRAS or food additive petition in accordance with §§ 170.35 and 171.1.

Copies of the scientific literature review on sulfiting agents; reports of teratogenic and mutagenic evaluations for potassium metabisulfite, sodium bisulfite, and sodium metabisulfite; a report of the mutagenic evaluation for sodium sulfite; and the report of the Select Committee are available for review at the Dockets Management Branch (address above), and may be purchased from the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161, as follows:

Title	Order No.	Price code	Price [1]
Sulfiting agents (scientific literature review).	PB-221-217	A09	$12.00
Potassium metabisulfite (teratologic evaluation).	PB-245-529/AS	A03	6.00
Potassium metabisulfite (mutagenic evaluation).	PB-245-485/AS	A03	6.00
Sodium bisulfite (teratologic evaluation).	PB-221-788	A03	6.00
Sodium bisulfite (mutagenic evaluation).	PB-245-456/AS	A06	9.00
Sodium metabisulfite (teratologic evaluation).	PB-221-795	A03	6.00
Sodium metabisulfite (mutagenic evaluation).	PB-221-825	A06	9.00
Sodium sulfite (mutagenic evaluation).	PB-245-488/AS	A03	6.00
Sulfiting agents (Select Committee report).	PB-265-308/AS	A05	5.00

[1] Price subject to change.

The format of the proposal is different from that in previous GRAS affirmation regulations. The agency has modified the form in which the specific limitations on the use of these ingredients is presented. This change has no substantive effect but is made merely to clarify the effect of the regulation.

This proposed action does not affect the current use of sulfiting agents in pet food or animal feed, nor does it affect the regulated or prior-sanctioned food uses of sulfiting agents addressed in this document.

The agency has determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities including small businesses and has determined that the effect of this proposal is to maintain current known uses of the substances covered by this proposal by both large and small businesses. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this proposal, and the agency has determined that it will not result in a major rule as defined by the Order.

List of Subjects in 21 CFR

Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated

to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Parts 182 and 184 be amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§§ 182.3616, 182.3637, 182.3739, 182.3766, 182.3798, and 182.3862 [Removed]

1. Part 182 is amended by removing § 182.3616 *Potassium bisulfite,* § 182,3637 *Potassium metabisulfite,* § 182.3739 *Sodium bisulfite,* § 182.3766 *Sodium metabisulfate,* § 182.3798 *Sodium sulfite,* and § 182.3862 *Sulfur dioxide.*

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended:

a. By adding new § 184.3637 to read as follows:

§ 184.3637 Potassium metabisulfite.

(a) Potassium metabisulfite ($K_2S_2O_5$, CAS Reg. No. 004429–42–9) is also referred to as potassium pyrosulfite. It is prepared by heating potassium bisulfite until it loses water or by treating aqueous potassium bisulfite with excess sulfur dioxide.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 247, which is incorporated by reference. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(2), the ingredient is used to treat food, except food recognized as a source of vitamin B_1, only within the following specific limitations:

Category of food	Maximum treatment level in food (percent)	Functional use
Beverages, alcoholic, § 170.3(n)(2) of this chapter.	0.06	Antimicrobial agent, § 170.3(o)(2) of this chapter; antioxidant, § 170.3(o)(3) of this chapter.
Processed fruits and fruit juices, § 170.3(n)(35) of this chapter.	0.2	Antimicrobial agent, § 170.3(o)(2) of this chapter.

b. By adding new § 184.3739 to read as follows:

§ 184.3739 Sodium bisulfite.

(a) Sodium bisulfite ($NaHSO_3$, CAS Reg. No. 007631–90–5) is also referred to as sodium acid sulfite or sodium hydrogen sulfite. It is prepared by passing sulfur dioxide through a solution of sodium carbonate until it is saturated and then crystallizing the sodium bisulfite from solution.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 279, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(2), the ingredient is used to treat food, except food recognized as a source of vitamin B_1, only within the following specific limitations:

Category of food	Maximum treatment level in food (percent)	Functional use
Baked goods and baking mixes, § 170.3(n)(1) of this chapter.	0.0045	Dough strengthener, § 170.3(o)(6) of this chapter; texturizer, § 170.3(o)(32) of this chapter.
Beverages, alcoholic, § 170.3(n)(2) of this chapter.	0.3	Antimicrobial agent, § 170.3(o)(2) of this chapter; antioxidant, § 170.3(o)(3) of this chapter.
Condiments and relishes, § 170.3(n)(8) of this chapter.	0.035	Antimicrobial agent, § 170.3(o)(2) of this chapter.
Dairy product analogs, § 170.3(n)(10) of this chapter.	0.03	Do.
Fish products, § 170.3(n)(13) of this chapter.	0.060	Do.
Grain products and pastas, § 170.3(n)(23) of this chapter.	0.035	Antimicrobial agent, § 170.3(o)(2) of this chapter; pH control agent, § 170.3(o)(23) of this chapter.
Processed fruits and fruit juices, § 170.3(n)(35) of this chapter.	0.025	Antimicrobial agent, § 170.3(o)(2) of this chapter; antioxidant, § 170.3(o)(3) of this chapter.
Processed vegetables and vegetable juices, § 170.3(n)(36) of this chapter.	0.1	Antimicrobial agent, § 170.3(o)(2) of this chapter; antioxidant, § 170.3(o)(3) of this chapter; processing aids, § 170.3(o)(24) of this chapter.
Sweet sauces, toppings, and syrups, § 170.3(n)(43) of this chapter..	0.004	Antimicrobial agent, § 170.3)(o)(2) of this chapter; antioxidant, § 170.3(o)(3) of this chapter; oxidizing and reducing agent, § 170.3(o)(22) of this chapter.

c. By adding new § 184.3766 to read as follows:

§ 184.3766 Sodium metabisulfite.

(a) Sodium metabisulfite ($Na_2S_2O_5$, CAS Reg. No. 007757–74–6) is also referred to as sodium pyrosulfite. It is produced either by treating aqueous sodium bisulfite or sodium carbonate with excess sulfur dioxide or by heating sodium bisulfite until it loses water.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 289, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(2), the ingredient is used to treat food, except food recognized as a source of vitamin B_1, only within the following specific limitations:

Category of food	Maximum treatment level in food (percent)	Functional use
Baked goods and baking mixes, § 170.3(n)(1) of this chapter.	0.04	Antimicrobial agent, § 170.3(o)(2) of this chapter; antioxidant, § 170.3(o)(3) of this chapter.
Beverages, alcoholic, § 170.3(n)(2) of this chapter.	0.003	Antimicrobial agent, § 170.3(o)(2) of this chapter; antioxidant, § 170.3(o)(3) of this chapter; oxidizing and reducing agent, § 170.3(o)(22) of this chapter.
Gravies and sauces, § 170.3(n)(24) of this chapter.	0.015	Antioxidant, § 170.3(o)(3) of this chapter.
Sweet sauces, toppings, and syrups, § 170.3(n)(43) of this chapter.	0.15	Do.

d. By adding new § 184.3862 to read as follows:

§ 184.3862 Sulfur dioxide.

(a) Sulfur dioxide (SO_2, CAS Reg. No. 007446–09–5) is also referred to as sulfurous anhydride. It is prepared by burning elemental sulfur in air, by roasting pyrites, or by reducing calcium sulfate with coke.

(b) The ingredient meets the specifications of the U.S. Pharmacopeia (USP), XIX, 1975, p. 577, which is incorporated by reference. Copies are available from the U.S. Pharmacopeial Convention, Inc., 12601 Twinbrook Parkway, Rockville, MD 20852, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(2), the ingredient is used to treat food,

except food recognized as a source of vitamin B_1, only within the following specific limitations:

Category of food	Maximum treatment level in food (percent)	Functional use
Beverages, alcoholic, § 170.3(n)(2) of this chapter.	0.035	Antimicrobial agent, § 170.3(o)(2) of this chapter; antioxidant, § 170.3(o)(3) of this chapter; pH control agent, § 170.3(o)(23) of this chapter.
Gelatins, puddings, and fillings, § 170.3(n)(22) of this chapter.	0.05	Antimicrobial agent, § 170.3(o)(2) of this chapter.
Processed fruits and fruit juices, § 170.3(n)(35) of this chapter.	0.4	Antimicrobial agent, § 170.3(o)(2) of this chapter
Sugar, white, granulated, § 170.3(n)(41) of this chapter.	0.001	Antimicrobial agent, § 170.3(o)(2) of this chapter; antioxidant, § 170.3(o)(3) of this chapter.

FDA is unaware of any prior sanction for the use of these ingredients in foods under conditions different from those identified in this document. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The regulation proposed above will constitute a determination that excluded prior-sanctioned uses would result in adulteration of the food in violation of section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342), and the failure of any person to come forward with proof of an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on the sanction later. Should any person submit proof of the existence of a prior sanction, the agency hereby proposes to recognize such use by issuing an appropriate regulation under Part 181 or affirming it as GRAS under Part 184 or 186, as appropriate.

Interested persons may, on or before September 7, 1982 submit to the Docket Management Branch (address above), written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 16, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-18442 Filed 7-8-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 182

[Docket No. 80N-0108]

Ethyl Acrylate and Methyl Acrylate; Proposed Removal From GRAS Status as Indirect Human Food Ingredients

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing not to affirm ethyl acrylate and methyl acrylate as generally recognized as safe (GRAS) as indirect food ingredients and to remove them from the list of substances that are GRAS for use in the manufacture of paper and paperboard products. The safety of these ingredients has been evaluated under a comprehensive safety review conducted by the agency. The agency is proposing not to affirm ethyl acrylate and methyl acrylate as GRAS because there is no evidence the ethyl acrylate monomer and methyl acrylate monomer are used in the manufacture of paper and paperboard products except as components of polymers which are covered under food additive regulations and prior-sanctioned listings.

DATE: Comments by September 7, 1982.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lawrence Lin, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: FDA is conducting a comprehensive safety review of human food ingredients classified as GRAS or subject to a prior sanction. The agency has issued several notices and proposed regulations (see the **Federal Register** of July 26, 1973 (38 FR 20040)) initiating this review, under which the safety of ethyl acrylate and methyl acrylate, including monomers and polymers, has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35), the agency proposes not to affirm the GRAS status of ethyl acrylate and methyl acrylate and to remove them from the GRAS list because the monomers are not used in the manufacture of paper and paperboard products except as components of polymers that are covered under food additive regulations and prior-sanctioned listings.

Ethyl acrylate and methyl acrylate are both colorless, volatile, lacrimatory liquids. They easily polymerize on standing but are stable when stored below 10° C. Ethyl acrylate and methyl acrylate are miscible with alcohol and ether and are slightly soluble in water. Ethyl acrylate occurs in such fruits as pineapples and raspberries and has an intense, penetrating, fruity odor. Methyl acrylate has an unpleasant, acrid odor, and it is not known to occur naturally. Both compounds can be synthesized from ethylene chlorohydrin with sulfuric acid and ethanol or methanol and from acetylene, carbon monoxide, and ethanol or methanol in the presence of suitable catalysts.

Ethyl acrylate and methyl acrylate are listed in § 182.90 (21 CFR 182.90) as substances migrating to food from paper and paperboard products used in food packaging under regulations published in the **Federal Register** of June 17, 1961 (26 FR 5421). Films made from ethyl acrylate resin and methyl acrylate resin were prior-sanctioned by the U.S. Department of Agriculture for use in contact with federally inspected meat food products. Methyl acrylate polymer and ethyl acrylate and methyl methacrylate copolymers of itaconic acid or methacrylic acid are listed as prior-sanctioned in § 181.30 (21 CFR 181.30) for use in the manufacture of paper and paperboard that is waxed.

Ethyl acrylate polymer and methyl acrylate polymer are listed in § 175.105 (21 CFR 175.105) as components of adhesives; in § 175.300 (21 CFR 175.300) as components of resinous and polymeric coatings; in § 175.320 (21 CFR 175.320) as components of resinous and polymeric coatings for polyolefin films; in § 175.380 (21 CFR 175.380) as components of xylene-formaldehyde resins condensed with 4,4'-isopropylidene-diphenol-epichlorohydrin epoxy resins; in § 175.390 (21 CFR 175.390) as components of zinc-silicon dioxide matrix coatings; in § 176.180 (21 CFR 176.180) as components of paper and paperboard in contact with dry food; in § 177.1010 (21 CFR 177.1010) as components of acrylic and modified acrylic plastics, semirigid and rigid; and in § 177.1210 (21 CFR 177.1210) as components of closures with sealing gaskets for food containers.

Ethyl acrylate copolymer and methyl acrylate copolymer are regulated in § 175.360 (21 CFR 175.360) as components of vinylidene chloride

copolymer coatings for nylon film; in § 176.170 (21 CFR 176.170) as components of paper and paperboard in contact with aqueous and fatty foods; in § 177.1630 (21 CFR 177.1630) as components of polyethylene phthalate polymers; and in § 177.2420 (21 CFR 177.2420) as components of polyester resins, cross-linked.

Ethyl acrylate is regulated in § 172.515 (21 CFR 172.515) as a synthetic flavoring substance and adjuvant. Ethyl acrylate copolymer is regulated in § 175.210 (21 CFR 175.210) as a component of acrylate ester copolymer coating and in § 177.1320 (21 CFR 177.1320) as a component of ethylene-ethyl acrylate copolymers. Ethyl acrylate polymer is regulated in § 177.2260 (21 CFR 177.2260) as a component of resin-bonded filters and in § 178.3790 (21 CFR 178.3790) as a component of polymer modifiers in semi-rigid and rigid vinyl chloride plastics.

Methyl acrylate copolymer is regulated in § 173.25 (21 CFR 173.25) as a component of ion-exchange resins; in § 175.365 (21 CFR 175.365) as a component of vinylidene chloride copolymer coatings for polycarbonate film; in § 177.1340 (21 CFR 177.1340) as a component of ethylene-methyl acrylate copolymer resins; and in § 177.1600 (21 CFR 177.1600) as a component of carboxyl modified polyethylene resins.

Ethyl acrylate, methyl acrylate and their polymers have been the subject of a search of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) carcinogenicity, teratogenicity or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 65 abstracts was reviewed and 36 particularly pertinent reports from the literature survey have been summarized in a scientific literature review.

Information from the scientific literature review has been summarized in a report to FDA by the Select Committee on GRAS substances (Select Committee), which is composed of qualified scientists chosen by the Life Sciences Reserch Office of the Federation of American Societies for Experimental Biology (FASEB). The members of the Select Committee have carefully evaluated all the available safety information on ethyl acrylate, methyl acrylate, and their polymers.[1] In the Select Committee's opinion:

The amounts of monomeric and polymeric methyl and ethyl acrylates that may migrate to foods from paper and paperboard used in food packaging are limited by regulation.

Measurements made under severest conditions of extraction, show that human exposure to these substances from food packaged in materials containing them is less than 1 mg per kg body weight per day, and is probably considerably less than this figure under usual conditions.

While it has been shown that both monomers are absorbed from the gastrointestinal and respiratory tracts and from the skin, no absorption studies of the polymers have been made and the metabolic fate of the monomers and polymers has not been elucidated. However, no adverse effects have been observed and no pathological changes encountered in animals consuming up to 23 mg per kg of the methyl monomer for 33 days, or up to 280 mg per kg of the ethyl monomer for two years.

Polyethyl acrylate, but not polymethyl acrylate, has been fed for eight weeks at a dose of 5.5 g per kg body weight and a formulation containing both polyethyl acrylate and polymethacrylate has been fed for six months at a dose of 2.5 g per kg body weight without appearance of toxic or pathological effects.

The biological data on the monomers and on ployethyl acrylate, when related to estimates of human exposure that might occure due to migration of these substances from packaging materials, raise no concern about the safety of current practices. However, no biological studies upon which evaluation of the methyl polymer can be based have been reported.[2]

The Select Committee concludes that there is no evidence in the available information on monomeric ethyl acrylate, monomeric methyl acrylate, or polymeric ethyl acrylate that demonstrates or suggests reasonable grounds to suspect, a hazard to the public when they are used in paper and paperboard food-packing materials as now practiced, or as they might be expected to be used for such purposes in the future.

In view of the dificiency of relevant biological studies, the Select Committee has insufficient data upon which to base an evaluation of polymeric methyl acrylate when it is used as an ingredient of food packing materials.[3]

Based on is own evaluation of the available information on monomeric ethyl acrylate and methyl acrylate, FDA concurs with the conclusions for these compounds. However, based on the greater volatility and reactivity of the monomers compared to the polymers, the agency concludes that any hazard to the public resulting from the use of polymeric ethyl acrylate and methyl acrylate in paper and paperboard food-packaging materials is a consequence of the migration of the respective monomers to food. Therefore, the agency concludes that the Select Committee's conclusion regarding the safety of the use of monomers in paper and paperboard food-packaging materials applies also to the use of polymers in these materials.

In addition, FDA has no information indicating that ethyl acrylate monomer and methyl acrylate monomer have been used in paper and paperboard food-packaging materials except as components of polymers. The monomers are volatile, and, to be funcional as an ingredient of paper and paperboard products, they must be polymerized to some extent before use in the manufacture of such products. Therefore, the agency finds that because the monomers are not themselves useful and functional in the manufacture of paper products and have not been used as such in those products, it is inappropriate to affirm the GRAS status of the monomers. The agency also finds that it is unnecessary to address the GRAS status of ethyl acrylate and methyl acrylate polymers because all known uses of these substances are covered under the existing food additive regulations and prior-sanctioned listings. Consequently, the agency is proposing not to affirm the GRAS status of ethyl acrylate, methyl acrylate, and their polymers as indirect human food ingredients.

This proposal does not affect the uses of acrylate polymers permitted by other regulations or the use of ethyl acrylate as a synthetic flavoring substance.

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[1] "Evaluation of the Health Aspects of Monomeric and Polymeric Ethyl Acrylate and Methyl Acrylate as They May Migrate To Foods From Paper and Paperboard Used in Food Packaging," Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, Maryland 20014, p. 4. In the past the agency presented verbatim the Select Committee's discussion of the biological data it reviewed. However, because the Select Committee's report is available at the Dockets Management Branch and from the National Technical Information Service, and because it represents a significant savings to the agency in publication costs, FDA has decided to discontinue presenting the discussion in the preamble to proposals that affirm GRAS status in accordance with current good manufacturing practice, or that do not affirm GRAS status on a basis other than safety.

[2] Ibid., p. 8.

[3] Ibid., p. 9.

Copies of the scientific literature review on methyl and ethyl acrylates and the report of the Select Committee are available for review at the Dockets Management Branch (address above), and may be purchased from the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161 as follows:

Title	Order No.	Price code	Price[1]
Methyl and Ethyl Acrylates (Scientific Literature Review).	PB-234-697/AS	A05	$8.00
Monomeric and Polymeric Ethyl Acrylate and Methyl Acrylate (Select Committee report).	PB-276-415/AS	A02	5.00

[1]Price subject to change.

This proposal does not affect the current use of ethyl acrylate, methylacrylate or their polymers in pet food or animal feed.

The agency has determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

In accordance with the Regulatory Flexibility Act, FDA has considered the effect that this proposal would have on small entities including small businesses and has determined that the effect of this proposal is to maintain current known uses of the substances as components of polymers that are covered under food additive regulations and prior-sanctioned listings. FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this proposal, and the agency has determined that it will not result in a major rule as defined by that Order.

List of Subjects in 21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients; Spices and flavorings.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Part 182 be amended in § 182.90 *Substances migrating to food from paper and paperboard products* by removing "Methyl and ethyl acrylate" from the list of substances.

FDA is unaware of any other prior sanction for use of these substances as indirect human food ingredients under conditions different from those identified in this document. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The action proposed above will constitute a determination that excluded prior-sanctioned uses would result in adulteration of the food in violation of section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342), and the failure of any person to come forward with proof of such an applicable prior sanction in response to this proposal constitues a waiver of the right to assert or rely on it later. Should any person submit proof of the existence of a prior sanction, the agency hereby proposes to recognize such use by issuing an appropriate regulation under Part 181 (21 CFR Part 181) or by affirming it as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

Interested persons may, on or before September 9, 1982 submit to the Dockets Management Branch (address above), written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 15, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-18444 Filed 7-8-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 182

[Docket No. 80N-0196]

Japan Wax; Proposed Deletion From GRAS Status as an Indirect Human Food Ingredient

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) proposes not to affirm Japan wax as generally recognized as safe (GRAS) as an indirect human food ingredient migrating to food from cotton and cotton fabrics used in dry food packaging and to remove it from the list of substances that are GRAS. The safety of this ingredient is being evaluated under a comprehensive safety review being conducted by FDA. Because of the absence of sufficient safety information, it is not possible to affirm the safety of the ingredient for GRAS use. The proposed action does not affect the present food additive regulated use of Japan wax.

DATE: Comments by September 9, 1982.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: John W. Gordon, Bureau of Foods (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–426–9463.

SUPPLEMENTARY INFORMATION: FDA is conducting a comprehensive review of human food ingredients classified as GRAS or subject to a prior sanction. The agency has issued several notices and proposed regulations (see the **Federal Register** of July 26, 1973 (38 FR 20040)), initiating this review. Under this review, the safety of Japan wax has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35), the agency proposes to delete this ingredient from the GRAS list. The use of Japan wax as an indirect food ingredient will continue under existing food additive regulations.

Japan wax is a tallow obtained from the fruits of the oriental sumac, *Rhus succedanea* (Japan, Taiwan, and Indo-China), *R. vernicifera* (Japan) and *R. trichocarpa* (China, Indo-China, India, and Japan). Japan wax is prepared mostly from the mesocarp by hot pressing the immature fruit. Depending upon the method of preparation, the commercial tallow may contain more or less of the kernal fat that alters its melting range. Japan wax may be bleached by exposing flakes to sunlight for some days or weeks. The wax is unusual in that it contains glycerides of the C_{16}–C_{22} dibasic acids and also has a particularly high content of tripalmitin. The former are credited with giving Japan wax its characteristic properties of toughness and ability to be kneaded without crumbling.

Japan wax is used in the manufacture of candles, wax matches, pomades, creams, polishes, textile finishes, and sizing. It is also used as a lubricant for cordage and leather dressing.

Japan wax is currently listed in § 182.70 (21 CFR 182.70) as a GRAS substance migrating from cotton and

cotton fabrics used in dry food packaging, under a regulation published in the **Federal Register** of June 10, 1961 (26 FR 5224). As a regulated substance, Japan wax is listed in § 73.1(b)(2) (21 CFR 73.1(b)(2)) for use in diluents in color additive mixtures for coloring shell eggs, in § 175.105 (21 CFR 175.105) for use in adhesives, in § 175.350 (21 CFR 175.350) for use as an optional substance in vinyl acetate/crotonic acid copolymer, and in § 176.170 (21 CFR 176.170) for use as a component of paper and paperboard in contact with aqueous and fatty foods.

No information was requested on Japan wax during the National Academy of Sciences/National Research Council (NAS/NRC) survey of food manufacturers on the use of GRAS ingredients in food, and none was submitted. However, information from other sources indicates that in recent years total annual imports have varied from 321,000 pounds in 1968 to 97,000 pounds in 1972. From the largest annual import it may be calculated, assuming a population of 205 million, that about 2 milligrams are available per person per day. Most domestic consumption is apparently in nonfood uses. Thus, the quantity used in cotton packaging materials for dry foods is likely to be a fraction of a milligram per person per day. No data are available on the extent of migration of Japan wax from packaging material to food, but it is reasonable to assume that only a small percentage of the Japan wax that is present will migrate. It is probable, therefore, that exposure from this source is not more than a small fraction of a milligram per person per day.

Japan wax was the subject of a search of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 129 abstracts on beeswax and Japan wax was reviewed, and 11 particularly pertinent reports from the literature survey have been summarized in a scientific literature review. Of the abstracts, six dealt specifically with Japan wax, and one particularly pertinent report was summarized in the review. In addition, eight other sources containing data on Japan wax or its constituents were consulted.

The select Committee on GRAS Substances (the Select Committee), composed of qualified scientists chosen by the Life Sciences Research Office (LSRO) of the Federation of American Societies for Experimental Biology (FASEB), has examined the available information on Japan wax. The scientific literature review shows the following information, as summarized in the report of the Select Committee:

Only one early study, involving the feeding of Japan wax to four rats, was available to the Select Committee. Four rachitic rats were fed Japan wax at a 2 percent level (about 2 g per kg of body weight) in their rations. Two animals gained weight over 8 to 16 days and one lost weight; the fourth lost weight and died after 22 days. No antirachitic effect was produced by feeding the wax.

Digestibility of tripalmitin (M.P. 66.5° C), the major constituent of Japan wax, was determined in adult female rats fed rations containing 15 percent of the triglyceride (about 10 g per kg of body weight). Coefficient of digestibility was 12.8 for rations containing 7 percent of the Osborne-Mendal salt mixture (6.1 mg calcium and 0.9 mg magnesium per gram ration) and 27.9 for rations in which the calcium and magnesium salts had been omitted from the salt mixture. However, digestibility of tripalmitin as a component of a diet containing unsaturated fats may be higher since increasing the fluidity of saturated fats by the addition of unsaturated fat markedly increases the digestibility.

In vitro mutagenic evaluation of Japan was using *Saccharomyces cerevisiae*, strain D4 and *Salmonella typhimurium*, strains TA–1536, TA–1537, and TA–1538, with and without metabolic activation with liver, lung, kidney or testis homogenates from mice, rats, or monkeys revealed that it exhibits no genetic activity. Dimethylsulfoxide was used as the solvent; dose levels of the wax were 0.015 to 0.060 percent in the Salmonella tests and 0.125 to 0.500 percent in the tests with Saccharomyces.

No reports were available to the Select Committee on the acute toxicity, long-term feeding carcinogenicity or teratogenicity of Japan wax.[1]

All of the available safety information on Japan wax has been carefully evaluated by the Select Committee. It is the opinion of the Select Committee that:

Japan wax is a substance of plant origin which is [listed as] generally recognized as safe (GRAS) as a substance migrating to food from cotton and cotton fabrics used in dry food packaging. However, the Select Committee found no information on the acute toxicity of this substance, or reports of long-term feeding studies, or studies of it carcinogenicity or teratogenicity.[2]

The Select Committee concludes that, in view of the nearly complete lack of biological studies, it has insufficient data upon which to evaluate the safety of Japan wax as a substance migrating to food from cotton and cotton fabrics used in dry food packing. After considering all available data, including the Select Committee's report, FDA agrees with the conclusion of the Select Committee. However, before deciding on a course of regulatory action, the agency approached a wax trade association to determine whether any of its members could supply additional safety data on Japan wax. The association's response was that there were no additional safety data available. FDA also inquired whether any of the association's members would be willing to conduct or sponsor an LD_{50} study on the ingredient. The association responded that because the quantity of Japan wax used for food purposes is small, there is no interest in sponsoring this study. FDA concludes, therefore, that Japan wax must be removed from the GRAS list as an ingredient migrating to food from cotton and cotton fabrics because there is insufficient information to affirm it as GRAS. If, however, during the comment period, information is presented that supports the safe use of Japan wax in cotton and cotton fabrics for use in dry food packaging, FDA will reconsider its proposal to remove this ingredient from the GRAS list. Alternatively, FDA approval for this use of Japan wax may be sought through the GRAS or food additive petition procedures as outlined in § 170.35 (21 CFR 170.35) or § 171.1 (21 CFR 171.1).

FDA has reviewed the regulated uses of Japan wax as a diluent in color additive mixtures for shell eggs, as a component of adhesives, as an optional substance in vinyl acetate/crotonic acid copolymers, and as a component of paper and paperboard in contact with aqueous and fatty foods. The agency concludes that these regulated uses of Japan wax may continue pending their evaluation under the safety review of regulated food additives.

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[1] "Evaluation of the Health Aspects of Japan Wax as a Substance Migrating to Food From Cotton and Cotton Fabrics Used in Dry Food Packaging," Life Sciences Research Office, Federation of American Societies for Experimental Biology, 1975, p. 4.

[2] "Evaluation of the Health Aspects of Japan Wax as a Substance Migrating to Food From Cotton and Cotton Fabrics Used in Dry Food Packaging," Life Sciences Research Office, Federation of American Societies for Experimental Biology, 1975, p. 5.

Copies of the scientific literature review of Japan wax, the mutagenic screening test for the ingredient, and the report of the Select Committee are available for review at the Dockets Management Branch (address above), and may be purchased from the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161, as follows:

Title	Order No.	Price code	Price [1]
Beeswax and Japan wax (scientific literature review).	PB-233-854/AS	A03	$6.00
Japan wax (Select Committee report).	PB-262-657/AS	A02	5.00
Japan wax (mutagenic evaluation, tier I, microbial test).	PB-254-513/AS	A03	6.00

[1] Price subject to change.

This proposed action does not affect the present use of Japan wax in pet food or animal feed.

The agency has determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities including small businesses and has concluded that the removal of Japan wax from the GRAS list will not cause measurable economic effect. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this proposal and the agency has determined that the proposal will not result in a major rule as defined by the Order.

List of Subjects in 21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients; Spices and flavorings.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Part 182 be amended in § 182.70 *Substances migrating from cotton and cotton fabrics used in dry food packaging* by removing the entry for "Japan wax".

The agency hereby gives notice that it is unaware of any prior sanction for the use of this ingredient in food under conditions different from those identified in this document. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The regulation proposed above will constitute a determination that excluded prior-sanctioned uses would result in adulteration of the food in violation of section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342), and the failure of any person to come forward with proof of an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on it later. Should any person submit proof of the existence of a prior sanction, the agency hereby proposes to recognize such use by issuing an appropriate regulation under Part 181 (21 CFR Part 181) or affirming it as GRAS under Part 184 or 186 (21 CFR Part 184, 186), as appropriate.

Interested persons may, on or before September 7, 1982 submit to the Docket Management Branch (address above), written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 14, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-18443 Filed 7-8-82; 8:45 am]

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Friday
July 9, 1982

Part III

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Arkansas: AR82-4006	Feb. 12, 1982.
District of Columbia: DC81-3040	June 5, 1981.
Maryland: DC81-3040	June 5, 1981.
Virginia: DC81-3040	June 5, 1981.
Florida: GA82-2041	June 25, 1982.
Georgia: GA82-2041	June 25, 1982.
District of Columbia: GA82-2041	June 25, 1982.
North Carolina: GA82-2041	June 25, 1982.
South Carolina: GA82-2041	June 25, 1982.
Virginia: GA82-2041	June 25, 1982.
Kansas:	
KS82-4016	Apr. 16, 1982.
KS82-4017	Apr. 16, 1982.
California: CA81-5143	Aug. 21, 1981.
Colorado: CO82-5104	Feb. 26, 1982.
Connecticut:	
CT82-3001	Feb. 5, 1982.
CT81-3032	Feb. 15, 1981.
Oregon: OR82-5100	Mar. 12, 1982.
Washington: WA81-5163	Dec. 4, 1981.
Texas: TX82-4033	June 18, 1982.
New York: NY81-3030	May 1, 1981.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Arkansas:	
AR81-4042 (AR82-4036)	June 19, 1981.
AR81-4043 (AR82-4037)	June 19, 1981.
Michigan: MI81-2056 (MI82-2042)	Oct. 30, 1981.
Virginia:	
VA81-3083 (VA82-3023)	Nov. 27, 1981.
VA81-3084 (VA82-3022)	Nov. 27, 1981.

Please note that we are changing the format for **Federal Register** wage decisions to coincide with the provisions of All Agency Memorandum No. 132 dated January 29, 1980 which provides that the Department will discontinue identifying fringe benefits separately. Rather, they will be stated as a composite figure which is the total hourly equivalent value of fringe benefits found to be prevailing. Fringe benefits which can not be stated in monetary terms will be shown in footnotes. This procedure is being phased in gradually.

Signed at Washington, D.C., this 2nd day of July 1982.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

MODIFICATION PAGE 1

DECISION #AR82-4006-Mod. #2 47FR6547-February 12, 1982 Sebastian, Crawford and Washington Counties, Arkansas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
SEBASTIAN & CRAWFORD COS.:		
Asbestos workers	$15.25	2.04
Boilermakers	16.35	2.415
ELECTRICIANS:		
Electricians	14.79	3%+1.35
Cable splicers	15.04	3%+1.35
LABORERS:		
Group I	8.30	1.15
Group II	8.55	1.15
Group III	8.70	1.15
Group IV	8.80	1.15
Group V	8.95	1.15
Group VI	9.20	1.15
Group VII	9.10	1.15
POWER EQUIPMENT OPERATORS:		
Group I	13.22	1.25
Group II	11.97	1.25
Group III	11.40	1.25
Group IV	9.38	1.25
SPRINKLER FITTERS	14.57	2.83

DECISION NO. DC81-3040 - MOD. #12 (46 FR 30290 - June 5, 1981) DISTRICT OF COLUMBIA; MARYLAND-MONTGOMERY AND PRINCE GEORGES; D.C. TRAINING SCHOOL; VIRGINIA-INDEPENDENT CITY OF ALEXANDRIA, ARLINGTON AND FAIRFAX COUNTIES	Basic Hourly Rates	Fringe Benefits
CHANGE:		
HEAVY CONSTRUCTION (EXCLUDING WATER AND SEWER LINES):		
BUILDING CONSTRUCTION:		
POWER EQUIPMENT OPERATORS:		
GROUP I	15.83	2.12
GROUP II	15.49	2.12
GROUP III	14.93	2.12
GROUP IV	13.72	2.12
GROUP V	9.76	2.12
GROUP VI	16.91	2.12

DECISION NO. GA82-2041 - MOD. #1 (47 FR 27685 - June 25, 1982) GEORGIA, NORTH CAROLINA, SOUTH CAROLINA, VIRGINIA, WASHINGTON, D.C., AND IN FLORIDA, ALL COUNTIES ON THE ATLANTIC COAST AND THE GULF COAST WEST TO THE AUCILLA RIVER AND ALL TRIBUTARY WATERWAYS	Basic Hourly Rates	Fringe Benefits
CHANGE:		
FOOTNOTE A: Six paid holidays, A through F, plus vacation contribution of 7% of straight time pay for all hours worked		

DECISION #KS82-4016 MOD. #2 (47FR16528) April 16, 1982 Shawnee County, Kansas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Sheet Metal Workers	$14.90	3.16

DECISION #KS82-4017 MOD. #2 (47FR16530) April 16, 1982 Shawnee County, Kansas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Sheet Metal Workers	$14.90	3.16

MODIFICATION PAGE 2

DECISION NO. CA81-5143 - Mod. #3 (46 FR 42591 - August 21, 1981) San Diego County, California	Basic Hourly Rates	Fringe Benefits
Change:		
Asbestos Workers	$20.25	2.84
Boilermakers	20.01	3.89
Bricklayers; Stonemasons	19.09	3.89
Brick, Block and Stonemason's Tenders	15.42	4.54
Carpenters:		
Carpenters	18.06	3.93
Piledriver	18.31	3.93
Millwrights; Pneumatic Nailer; Hardwood Floorlayers	18.66	3.91
Cement Masons:		
Cement Masons	11.48	5.87
Color Work; Composition, Mastic or Epoxy; Finishing Machine; Curb Machine	11.76	5.87
Divers:		
Divers	41.12	2.93
Stand-by Divers	20.56	2.93
Tender	19.56	2.93
Electricians:		
Electricians; Technicians	19.68	3.84
Cable Splicers	20.13	3.85
Elevator Constructors' Helpers	13.07	2.465+a
Elevator Constructors' Helpers (Prob.)	9.33	2.465+a
Glaziers	16.02	3.85
Ironworkers:		
Fence Erectors	14.86	6.83
Reinforcing; Ornamental; Structural	15.75	6.83
Line Construction:		
Groundman	15.85	3.73
Lineman	20.59	3.87
Cable Splicers	20.89	3.88
Painters:		
Sandblaster (swing stage); Iron, steel and bridge painters (swing stage); Iron, steel and bridge painter, spray (swing stage)	17.74	3.83
Parking Lot Work and/or Highway Markers:		
Traffic delineating device applicator	$12.42	1.55+b
Wheel stop installer; Striper; and Sandblaster	11.96	1.55+b
Slurry Seal Operation:		
Traffic surface protective coating applicator	12.42	1.55+b
Mixer Operator	11.96	1.55+b
Squeegee Man; Applicator Operator; and Shuttleman	10.60	1.55+b
Top Man	8.91	1.55+b
Plasterers' Tenders	15.99	4.44
Plumbers; Pipefitters; Steamfitters; Air Condition, Refrigeration	21.12	5.23
Roofers	14.79	4.80
Sheet Metal Workers	20.15	4.63
Soft Floor Layers	15.40	4.79
Sprinkler Fitters	21.87	2.83
Tile, Marble, and Terrazzo Setters	17.91	2.95
Tile, Marble, and Terrazzo Finishers	13.29	3.30
Laborers:		
Group 1	14.10	4.67
Group 2	14.40	4.67
Group 3	14.60	4.67
Tunnel Laborers:		
Group 1	14.60	4.67
Group 2	14.40	4.67
Group 3	14.85	4.67
Add:		
Utility Technician	16.00	.95

DECISION NO. CO82-5104 - MOD. #7 (47 FR 8497 - Feb.26,1982) El Paso County, Colorado	Basic Hourly Rates	Fringe Benefits
Change:		
Tile Setters	$13.31	$1.55

MODIFICATION PAGE 3

MODIFICATION PAGE 4

DECISION NO. CT82-3001 - MOD. #8 (47 FR 5621 - February 5, 1982) FAIRFIELD, LITCHFIELD AND WINDHAM COUNTIES, CONN.	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BOILERMAKERS	16.44	1.415+ 10%
BRICKLAYERS; CEMENT MASONS; FINISHERS; MARBLE MASONS; PLASTERERS; STONE MASONS; TERRAZZO WORKERS AND TILE SETTERS:		
BUILDING CONSTRUCTION:		
AREA 1	15.10	1.85
AREA 2, 7 and 9	13.95	1.85
AREA 3	15.55	1.85
AREA 4	15.88	1.58
AREA 5	15.00	2.73
AREA 6	15.00	1.85
AREA 8	14.90	1.85
HEAVY AND HIGHWAY CONSTRUCTION:		
AREAS 1, 2, 3, 6, 7, 8 and 9	12.30	1.85
AREA 4	13.07	1.08
AREA 5	11.95	2.20
IRONWORKERS	17.50	3.93+i
LABORERS:		
BUILDING CONSTRUCTION:		
Laborers, carpenter tenders, wrecking laborers	11.05	2.15
Jackhammer hammer operator, mason tenders, mortar mixers, pipe layers, plasterers tenders, power buggy operators, powdermen	11.30	2.15
Air track operators, wagon drill operators, sand blasters, blasters	11.80	2.15
Open Air Caisson, Cylindrical Work & Boring Crew:		
Bottom Men	11.55	2.15
Top Men	11.05	2.15
Sprinkler Fitter	15.80	2.43
Sheet Metal Workers:		
Litchfield & Fairfield Counties	16.73	4.40
Sheet Metal Workers(Contd): Windham County	$14.99	2.46

DECISION NO. CT81-3032 - MOD. #15 (46 FR 27040 - Feb. 15, 1981) HARTFORD, MIDDLESEX, NEW HAVEN, NEW LONDON AND TOLLAND COUNTIES, CONN.	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BOILERMAKERS	16.44	1.415+ 10%
BRICKLAYERS; CEMENT MASONS; FINISHERS; MARBLE MASONS; PLASTERERS; STONE MASONS; TERRAZZO WORKERS AND TILE SETTERS:		
BUILDING CONSTRUCTION:		
AREAS 1, 3, 4, 5 and 6	13.95	1.85
AREAS 2 & 7	14.90	1.85
AREA 8	15.10	1.85
Heavy and Highway Construction	12.30	1.85
IRONWORKERS	17.50	3.93+j
LABORERS:		
BUILDING CONSTRUCTION:		
Laborers, carpenter tenders, wrecking laborers	11.05	2.15
Jackhammer hammer operator, mason tenders, mortar mixer, pipe layers, plasterers tenders, power buggy operators, powdermen	11.30	2.15
Air Track Oprs.,Wagon Drill Oprs.,Sand Blasters, Blasters	11.80	2.15
Open Air Caisson,Cylindrical work & Boring Crew:		
Bottom Men	11.55	2.15
Top Men	11.05	2.15
SHEET METAL WORKERS	14.99	2.46

DECISION NO. OR82-5100 - Mod #7 (47 FR 10954 - March 12, 1982 Statewide Oregon CHANGE:	Basic Hourly Rates	Fringe Benefits
ROOFERS (Area 3)	$14.25	$1.85
DREDGING:		
Leverman, Hydraulic	16.97	3.87
Leverman, Dipper	17.68	3.87
Assistant Engineer (Including Watch Engineer, Welder, Mechanic, Machinist); Mate	16.43	3.87
Tenderman (Boatman, attending Dredge Plant); Fireman	16.02	3.87
Assistant Mate (Deckhand); Oiler	15.67	3.87

DECISION NO. WA81-5163-Mod #13 (46 FR 59457 - Dec. 4, 1981) Statewide Washington CHANGE:	Basic Hourly Rates	Fringe Benefits
CEMENT MASONS (AREA 2) as contained in Mod #12 to read "CEMENT MASONS (AREA 1)"		
BRICKLAYERS;MARBLE MASONS:		
Area 4	18.50	2.93
Area 8	17.64	3.25
Area 9	18.51	2.98
ELEVATOR CONSTRUCTORS (Area 2):		
Mechanics	21.155	2.465+a
GLAZIERS:		
Area 2	15.50	2.56
Area 4	13.79	2.04+b
PAINTERS (Area 1):		
Brush	15.97	2.46
Drywall Taper	16.22	2.46
Steel; Spray; Steam Cleaning	16.47	2.46
Swing Stage, High Work over 30'	16.67	2.46
Bitumastic; Sandblasting; Bridge; Tanks on Legs; Towers; Stacks; Steeples	16.77	2.46
TV, Radio, and Electrical Transmission Towers	17.47	2.46
PLASTERERS (Area 1)	15.88	3.20
ROOFERS (Area 5):		
Roofers and Waterproofers	14.73	1.56
Slate and Tile Roofers	15.23	1.56
IRONWORKERS	18.04	3.80
SOFT FLOOR LAYERS:		
Area 1	14.49	1.44
Area 3	15.00	2.34
Area 5	16.03	3.09
Area 7	13.91	3.07
TERRAZZO WORKERS; TILE SETTERS:		
Area 5	17.31	3.05
Area 8	16.11	3.18
TILE, MARBLE and TERRAZZO FINISHERS:		
Area 2	$15.70	$2.10
DREDGING (Area 3):		
Group 1	16.97	3.87
Group 1A	17.68	3.87
Group 2	16.43	3.87
Group 3	16.02	3.87
Group 4	15.67	3.87

DECISION NO. TX82-4033 - MOD. #1 (47 FR 26549 - 6/18/82) Galveston & Harris Cos., Texas CHANGE:	Basic Hourly Rates	Fringe Benefits
Carpenters:		
Carpenter	$15.75	2.17

MODIFICATION PAGE 5

DECISION NO. NY81-3030 - MOD. #3 (46 FR 24850 - May 1, 1981) CATTARAUGUS, CHAUTAUGUA & ERIE COUNTIES, NEW YORK	Basic Hourly Rates	Fringe Benefits
CHANGE:		
CARPENTERS:		
Chautauqua County & Cattaraugus County (Remainder of County)		
Carpenters, Building Millwrights & Pile-drivers	11.46	2.58
ELECTRICIANS:		
Cattaraugus County (Lenn & Dayton Townships) & Chautauqua County	15.35	3.6%+ 3%
LABORERS, HEAVY & HIGHWAY		
ERIE COUNTY		
CLASS A	12.095	3.71
CLASS B	12.295	3.71
CLASS C	12.495	3.71
CLASS D	12.695	3.71
CARPENTERS:		
Erie County & Cattaraugus County (the township of Perrysburg and the Village of Gowanda in the Township of Persia)		
Carpenters, Millwrights & Piledrivermen (Building)	15.48	4.30
IRONWORKERS:		
Chautauqua County (Townships of Cherry Creek, Ellington, Sheridan, Pomfret, Charlotte, Arkwright, Hanover, Villenova & Brockton)		
Erie County (except the northern half of Grand Island) Cattaraugus Co.	13.97	3.87
ELECTRICIANS:		
Erie County & Cattaraugus Co.(Remainder of Co.)	17.29	4.00+ 3%

	Basic Hourly Rates	Fringe Benefits

SUPERSEDEAS DECISION

STATE: ARKANSAS COUNTY: PULASKI
DECISION NO.: AR82-4036 DATE: Date of Publication
SUPERSEDES DECISION #AR81-4042 dated June 19, 1981 in 46FR32178
DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including four stories).

	Basic Hourly Rates	Fringe Benefits
Asbestos workers	$15.25	2.05
Boilermakers	16.35	2.415
Bricklayers-Stonemasons	12.00	1.44
CARPENTERS:		
Carpenters	11.40	1.06
Millwrights-Piledrivermen	11.90	1.06
Cement masons	12.00	.35
ELECTRICIANS:		
Electricians	14.25	3%%+2.15
Cable splicers	14.325	3%%+2.15
ELEVATOR CONSTRUCTORS:		
Journeymen	12.04	2.33+A
Helpers	70%JR	2.33+A
Probationary helpers	50%JR	
Glaziers	10.48	.25
Ironworkers	12.80	1.91
LABORERS:		
Group I	8.30	1.15
Group II	8.55	1.15
Group III	8.70	1.15
Group IV	8.80	1.15
Group V	8.95	1.15
Group VI	9.20	1.15
Group VII	9.10	1.15
LINE CONSTRUCTION:		
Linemen-Operators	13.75	3-3/8%
Cable splicers	13.875	3-3/8%
Groundmen	65%JR	3-3/8%
Winch equipment	73%JR	3-3/8%
Marble, tile & terrazzo workers	10.95	.48
PAINTERS:		
Painters, paperhangers, steam cleaners, sheetrock finishers and wall cover hangers	10.45	.53
Spray gun operators and sandblasterers	11.05	.53
All skeleton steel & all work on stages, structural steel over 30 ft. high	10.70	.53
Plasterers	12.00	.35
PLUMBERS-PIPEFITTERS:		
Within 10 Mi. rad. of Pulaski Co. Courthouse	13.85	1.43
Over 10 mi. from Pulaski County Courthouse	14.15	1.43
Roofers	$11.81	.30
Sheet metal workers	13.86	1.65
Sprinkler fitters	14.57	1.83
POWER EQUIPMENT OPERATORS:		
Group I	13.22	1.25
Group II	11.97	1.25
Group III	11.40	1.25
Group IV	9.38	1.25

FOOTNOTES:
A. 6 mos. to 5 yrs - 6%; over 5 yrs. - 8% of basic hourly rate; plus seven paid holidays.

PAID HOLIDAYS:
A-New Years Day
B-Memorial Day
C-Independence Day
D-Labor Day
E-Thanksgiving Day
F-Day after Thanksgiving
G-Christmas Day

WELDERS--receive rate prescribed for craft performing operation to which welding is incidental.

UNLISTED classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii).

DECISION NO. AR82-4036 Page 2

SUPERSEDEAS DECISION

LABORERS LABORERS CLASSIFICATION DEFINITIONS

GROUP I - Construction laborer-concrete, wrecking, carpentrs, dry-wall, mechanics, excavating, plumbers and electricians laborers, green cutter, blowpipe, and crete pump hose placer

GROUP II - Semi-skilled labor - pipelayers, concrete, clay, and mechanical tool, cement mixer, wet or dry finishers and plasterers, mason tenders, mortar mixers, asphalt rakers and shovelers, creosote wood handlers, chuck tender

GROUP III - Skilled "A" - Steelform setters, curb and gutters, grout and cement muckers

GROUP IV - Skilled "B" - Swinging scaffold, barco, 90lb pavement breaker and burners

GROUP V - Nozzleman (gunite, grout, and sandblasters); concrete pump (nozzel placer)

GROUP VI - Powderman and blaster GROUP VII - Wagon drill

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I - Cranes, draglines, shovels and piledrivers with a lifting capacity of 50 tons or over, and operators of all towers, climbing cranes, and derricks required to work 25 feet or over from the ground, blacksmith, mechanics

GROUP II - Hydraulic cranes, cherry pickers, backhoes and all derricks with a lifting capacity less than 50 tons, as specified by the manufacturers, all backhoes, tractor or truck type, all overhead and traveling cranes, or tractors with swinging boom attachments, gradalls, all above equipment irrespective of motive power, leverman (engineer), hydraulic or bucket dredges, irrespective of size

GROUP III - HEAVY EQUIPMENT OPERATORS: All bulldozers, all front end loaders, all sidebooms, skytracks, all push tractors, all pull scrapers, all motor graders, all trenching machines, regardless of size or motive power, all back fillers all central mixing plants, 10S and larger, finishing machines, all boiler firemen high or low pressure, all asphalt spreaders, hydro truck crane, multiple drum hoist, irrespective of motive power, all rotary, cable tool core drill or churn drill, water well and foundation drilling machines regardless of size, regardless of motive power and dredge tender operator

GROUP IV - LIGHT EQUIPMENT OPERATORS: Oilerdriver motor crane, single drum hoists, winches and air tuggers, irrespective of motive power, winch or A-frame trucks, forklifts, rollers of all types and pull tractors, regardless of size, elevator operators inside and outside when used for carrying workmen from floor to floor & handling building material. Lad-A-Vator, conveyor, batch plant, and mortar or concrete mixers, below 10S, end dump Euclid, pumporete, spray machine & pressure grout machine, air compressors, regardless of size, all equipment, welding machines light plants, pumps, all well point system de-watering and portable pumps, space heater, irrespective of size, and motive power, equipment greaser, oiler, asphalt distributor, and like equipment, safety boat operator and deckhand.

SUPERSEDEAS DECISION

STATE: ARKANSAS COUNTY: JEFFERSON
DECISION NO.: AR82-4037 DATE: Date of Publication
SUPERSEDES DECISION #AR81-4043 dated June 19, 1981 in 46FR32175
DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including four stories).

	Basic Hourly Rates	Fringe Benefits
Asbestos workers	$15.25	2.05
Boilermakers	16.35	2.415
Bricklayers-Stonemasons	12.00	1.44
CARPENTERS:		
Carpenters	11.40	1.06
Millwrights-Piledrivermen	11.90	1.06
Cement masons	12.00	.35
ELECTRICIANS:		
Electricians	14.20	3%+2.15
Cable splicers	14.325	3%+2.15
ELEVATOR CONSTRUCTORS:		
Journeymen	12.04	2.33+A
Helpers	70%JR	2.33+A
Probationary helpers	50%JR	
Glaziers	10.48	.25
Ironworkers	12.80	1.91
LABORERS:		
Group I	8.30	1.15
Group II	8.55	1.15
Group III	8.70	1.15
Group IV	8.80	1.15
Group V	8.95	1.15
Group VI	9.20	1.15
Group VII	9.10	1.15
LINE CONSTRUCTION:		
Linemen-Operators	13.75	3-3/8%
Cable splicers	13.875	3-3/8%
Groundmen	65%J%	3-3/8%
Winch equipment	73%JR	3-3/8%
Marble, tile & terrazzo workers	10.95	.40
PAINTERS:		
Painters, paperhangers, steam cleaners, sheetrock finishers and wall cover hangers	10.45	.53
Spray gun operators and sandblasterers	11.05	.53
All skeleton steel & all work on stages, structural steel over 30 ft. high	10.70	.53
Plasterers	12.00	.35
PLUMBERS-PIPEFITTERS	14.35	1.60
Roofers	$11.81	.30
Sheet metal workers	13.86	1.65
Sprinkler fitters	14.57	1.83
POWER EQUIPMENT OPERATORS:		
Group I	13.22	1.25
Group II	11.97	1.25
Group III	11.40	1.25
Group IV	9.38	1.25

FOOTNOTES:
A. 6 mos. to 5 yrs - 6%; over 5 yrs. - 8% of basic hourly rate; plus seven paid holidays.

PAID HOLIDAYS:
A-New Years Day
B-Memorial Day
C-Independence Day
D-Labor Day
E-Thanksgiving Day
F-Day after Thanksgiving
G-Christmas Day

WELDERS--receive rate prescribed for craft performing operation to which welding is incidental.

UNLISTED classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii).

LADORERS LABORERS CLASSIFICATION DEFINITIONS

GROUP I - Construction laborer-concrete, wrecking, carpentrs, dry-wall, mechanics, excavating, plumbers and electricians laborers, green cutter, blowpipe, and crete pump hose placer

GROUP II - Semi-skilled labor - pipelayers, concrete, clay, and mechanical tool, cement mixer, wet or dry finishers and plasterers, mason tenders, mortar mixers, asphalt rakers and shovelers, creosote wood handlers, chuck tender

GROUP III Skilled "A" - Steelform setters, curb and gutters, grout and cement muckers

GROUP IV - Skilled "B" - Swinging scaffold, barco, 90lb pavement breaker and burners

GROUP V - Nozzleman (gunite, grout, and sandblasters); concrete pump (nozzel placer)

GROUP VI - Powderman and blaster GROUP VII - Wagon drill

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I - Cranes, draglines, shovels and piledrivers with a lifting capacity of 50 tons or over, and operators of all towers, climbing cranes, and derricks required to work 25 feet or over from the ground, blacksmith, mechanics

GROUP II - Hydraulic cranes, cherry pickers, backhoes and all derricks with a lifting capacity less than 50 tons, as specified by the manufacturers, all backhoes, tractor or truck type, all overhead and traveling cranes, or tractors with swinging boom attachments, gradalls, all above equipment irrespective of motive power, leverman (engineer), hydraulic or bucket dredges, irrespective of size

GROUP III - HEAVY EQUIPMENT OPERATORS: All bulldozers, all front end loaders, all sidebooms, skytracks, all push tractors, all pull scrapers, all motor graders, all trenching machines, regardless of size or motive power, all back fillers all central mixing plants, 10S and larger, finishing machines, all boiler firemen high or low pressure, all asphalt spreaders, hydro truck crane, multiple drum hoist, irrespective of motive power, all rotary, cable tool core drill or churn drill, water well and foundation drilling machines regardless of size, regardless of motive power and dredge tender operator

GROUP IV - LIGHT EQUIPMENT OPERATORS: Oilerdriver motor crane, single drum hoists, winches and air tuggers, irrespective of motive power, winch or A-frame trucks, forklifts, rollers of all types and pull tractors, regardless of size, elevator operators inside and outside when used for carrying workmen from floor to floor & handling building material. Lad-A-Vator, conveyor, batch plant, and mortar or concrete mixers, below 10S, end dump Euclid, pumpcrete, spray machine & pressure grout machine, air compressors, regardless of size, all equipment, welding machines light plants, pumps, all well point system de-watering and portable pumps, space heater, irrespective of size, and motive power, equipment greaser, oiler, asphalt distributor, and like equipment, safety boat operator and deckhand.

SUPERSEDEAS DECISION

STATE: Michigan COUNTIES: Statewide
DECISION NO. MI82-2042 DATE: Date of Publication
Supersedes Decision No.MI81-2050, dated October 30, 1981, in 46 FR 53929
DESCRIPTION OF WORK: Highway, Bridge, Airport and Sewer Construction Projects (Exclusive of Buildings).

CARPENTERS:	Basic Hourly Rates	Fringe Benefits
ZONE 1 MACOMB, MONROE, OAKLAND, ST. CLAIR & WAYNE COS.; LIVINGSTON CO. (Townships of Brighton, Deerfield, Genoa, Hartland, Osceola & Tyrone); SANILAC CO. (That part East of a line projected North & continuing to East Lapeer Co. & West St. Clair Co. lines and to South Huron County line	$15.50	1.30 +22%
ZONE 2E ARENAC, BAY, CLARE, CLINTON, GENESEE, GLADWIN, GRATIOT, HURON, INGHAM, ISABELLA, IOSCO, JACKSON, LAPEER, LENAWEE, MIDLAND, OGEMAN, SAGINAW, SHIAWASSEE, TUSCOLA & WASHTENAW COS. LIVINGSTON & SANILAC COS. (Remainder of Cos.); EATON CO. (all but the Townships of Bellevue, Kakamo, Vermontville & Walton); IONIA CO. (Townships of Danby, Orange, Portland & Sebewa)	13.68	1.90
ZONE 2W ALLEGAN, BARRY, BRANCH, CALHOUN, CASS, HILLSDALE KALAMAZOO, KENT, LAKE, MANISTEE, MASON, MECOSTA MONTCALM, MUSKEGON, NEWAYGO, OCEANA, OTTAWA, ST. JOSEPH & VAN BUREN COUNTIES; EATON & IONIA COS. (Remainder of Cos.) BERRIEN CO. (All but the Townships of Chickaming, New Buffalo & Three Oaks); BENIIE CO. (Townships of Blaine, Colfax, Crystal Lake, Gilmore, Joyfield & Weldon)	13.55	1.90
ZONE 3LP ALCONA, ALPENA, ANTRIM, CHARLEVOIX, CHEBOYGAN, CRAWFORD, EMMET, GRAND TRAVERSE, KALKASKA, LeeLANAU, MISSAUKEE, MONTMORENCY, OSCEOLA, OSCODA, OSTEGO, PRESQUE ISLE, ROSCOMMON & WEXFORD COS.; BENZIE CO. (Remainder of Co.)	13.44	1.90
ZONE 3UP ALGER, BARAGA, CHIPPEWA DELTA, DICKINSON, GOGEBIC, HOUGHTON, IRON, KEWEENAW, LUCE, MACKINAC, MANQUETTE, MONOMINEE, ONTONAGON & SCHOOLCRAFT COUNTIES	13.39	1.90
ZONE 4 BERRIEN COUNTY (Remainder of County	14.90	2.10
CEMENT MASONS:		
ZONE 1 GENESEE, LIVINGSTON, MACOMB, MONROE, OAKLAND, SAGINAW, WASHTENAW & WAYNE COUNTIES (Cement masonary related to Highway, Road & Street construction)	15.67	1.92
ZONE 2 REMAINDER OF STATE	15.02	1.92
PAINTERS:		
KENT, MONTCALM, MECOSTA COS.; IONIA CO. (Western ½ of Co.)		
Brush	11.70	1.07
Bridges over Highway and Railroads	11.95	1.07
Bridge work over Rivers and Lakes	12.20	1.07
Spray, Pressure Roller, Steam Cleaning, Sand or Water Blasting	12.45	1.07

DECISION NO. MI82-2042

	Basic Hourly Rates	Fringe Benefits
IRONWORKERS: Structural & Reinforcing		
ZONE 1 ALGER, BARAGA, CHIPPEWAS, DELTA, DICKINSON, GOGEBIC, HOUGHTON, IRON, KEWEENAW, LUCE, MACINAC, MARQUETTE, MENOMINEE, ONTONAGON & SCHOOLCRAFT COS.	13.05	4.86
ZONE 2 EMMET, CHARLEVOIX, ANTRIM, LEELANAU, BENZIE, GRANT TRAVERSE, KALKASKA, MASON, MANISTEE, WEXFORD, MISSAUKEE, LAKE, OSCEOLA, OCEANA, MECOSTA NEWAGO, MUSKEGON, KENT, MONTCALM, OTTAWA, IONIA, BARRY, ALLEGAN, EATON, VAN BUREN, KALAMAZOO, CALHOUN, ST. JOSEPH, BRANCH & HILLSDALE COS.	15.12	2.66
ZONE 3 BERRIEN & CASS COS.	14.40	3.71
ZONE 4 LENAWEE & MONROE COS.	16.58	2.97
ZONE 5 REMAINDER OF STATE: Structural	14.98	47% +.09
Reinforcing	13.08	1.98+ 38.64%

LABORERS: HIGHWAY, AIRPORT & BRIDGE CONSTRUCTION	Basic Hourly Rates ZONE 1	Basic Hourly Rates ZONE 2	Basic Hourly Rates ZONE 2A	Basic Hourly Rates ZONE 3	Basic Hourly Rates ZONE 3A
CLASS A	13.13	12.36	11.90	11.77	11.59
CLASS B	12.87	12.07	11.64	11.41	11.23
CLASS B-1	12.71	12.19	11.73	11.74	11.56
CLASS B-2	12.49	11.97	11.51	11.53	11.35
CLASS C	12.63	11.88	11.43	11.35	11.17
CLASS D	12.49	11.69	11.24	11.11	10.93
CLASS E	12.40	11.63	11.17	10.99	10.81
CLASS F	12.37	11.52	11.07	10.93	10.75
CLASS G	12.37	11.52	11.07	10.93	10.75
CLASS H	9.37	8.52	8.07	7.93	7.75
FRINGE BENEFITS: Health & Welfare Pension Vacation and Holiday Apprenticeship Training Total $2.64					

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LABORERS: OPEN CUT CONSTRUCTION	Basic Hourly Rates	Fringe Benefits
ZONE 1 - WAYNE, OAKLAND & MACOMB COS.		
CLASS 1	10.81	3.94
CLASS 2	10.89	3.94
CLASS 3	10.94	3.94
CLASS 4	10.99	3.94
CLASS 5	11.04	3.94
ZONE 2 - WASHTENAW & SOUTH EAST PART OF LIVINGSTON COS.		
CLASS 1	10.85	2.19
CLASS 2	10.94	2.19
CLASS 3	10.99	2.19
CLASS 4	11.04	2.19
CLASS 5	11.09	2.19
ZONE 3 - SANILAC, ST. CLAIR & MONROE COS.		
CLASS 1	10.88	2.19
CLASS 2	10.98	2.19
CLASS 3	11.08	2.19
CLASS 4	11.13	2.19
CLASS 5	11.23	2.19
ZONE 4 - JACKSON, HILLSDALE & LENAWEE COS.		
CLASS 1	10.52	2.19
CLASS 2	10.62	2.19
CLASS 3	10.72	2.19
CLASS 4	10.77	2.19
CLASS 5	10.87	2.19
ZONE 5 - CLINTON, EATON, INGHAM COS.; LIVINGSTON (Western part of Co.), IONIA (City of Portland)		
CLASS 1	10.88	2.19
CLASS 2	10.98	2.19
CLASS 3	11.08	2.19
CLASS 4	11.13	2.19
CLASS 5	11.23	2.19
ZONE 6 - GENESEE, LAPEER & SHIAWASSEE COS.		
CLASS 1	10.58	2.49
CLASS 2	10.68	2.49
CLASS 3	10.78	2.49
CLASS 4	10.83	2.49
CLASS 5	10.93	2.49

	Basic Hourly Rates	Fringe Benefits
ZONE 7 - SAGINAW, BAY, MIDLAND, GRATIOT, TUSCOLA, ISABELLA, HURON, CLARE, GLADWIN, ARENAC, ROSCOMMON & OGEMAN COS.		
CLASS 1	10.81	2.19
CLASS 2	10.91	2.19
CLASS 3	11.01	2.19
CLASS 4	11.06	2.19
CLASS 5	11.16	2.19
ZONE 8 - BARRY, CALHOUN, BRANCH, ALLEGAN, KALAMAZOO, ST. JOSEPH, VAN BUREN, BERRIEN, CASS, MUSKEGON, OCEANA, NEWAYGO COS..; EATON (S. W. part to City of Olivet) & LAKE CO. (Eastern part)		
CLASS 1	9.66	2.19
CLASS 2	9.76	2.19
CLASS 3	9.86	2.19
CLASS 4	9.91	2.19
CLASS 5	10.01	2.19
ZONE 9 - OSCEOLA, MECOSTA, KENT, MONTCALM, OTTAWA COS.; IONIA (Except the City of Portland)		
CLASS 1	8.95	2.19
CLASS 2	9.05	2.19
CLASS 3	9.15	2.19
CLASS 4	9.20	2.19
CLASS 5	9.30	2.19
ZONE 10 - MANISTEE, MASON, EMMET, CHEBOYGAN, ANTRIM, CHARLEVOIX, OTSEGO, LEELANAU, BENZIE, GRAND TRAVERSE, KALKASKA, CRAWFORD, WEXFORD, MISSAUKEE, PRESQUE ISLE, MONTMORENCY, ALPENA, OSCODA, ALCONA, IOSCO COS.; LAKE CO. (Western part)		
CLASS 1	8.60	2.19
CLASS 2	8.70	2.19
CLASS 3	8.80	2.19
CLASS 4	8.85	2.19
CLASS 5	8.95	2.19

LABORERS: OPEN CUT CONSTRUCTION (CONT'D)	Basic Hourly Rates	Fringe Benefits
ZONE 11 - ENTIRE UPPER PENINSULA		
CLASS 1	9.79	2.19
CLASS 2	9.89	2.19
CLASS 3	9.99	2.19
CLASS 4	10.04	2.19
CLASS 5	10.09	2.19
LABORERS: TUNNEL, SHAFT & CAISSON CONSTRUCTION		
ZONE 1 - WAYNE, OAKLAND & MACOMB COS.		
CLASS 1	10.90	3.94
CLASS 2	10.98	3.94
CLASS 3	11.03	3.94
CLASS 4	11.18	3.94
CLASS 5	11.38	3.94
CLASS 6	11.63	3.94
ZONE 2 - GENESEE, LAPEER & SHIAWASSEE COS.		
CLASS 1	11.41	2.49
CLASS 2	11.49	2.49
CLASS 3	11.54	2.49
CLASS 4	11.69	2.49
CLASS 5	11.89	2.49
CLASS 6	12.14	2.49
ZONE 3 - REMAINDER OF STATE		
CLASS 1	11.71	2.19
CLASS 2	11.79	2.19
CLASS 3	11.84	2.19
CLASS 4	11.99	2.19
CLASS 5	12.19	2.19
CLASS 6	12.44	2.19
LANDSCAPE LABORERS:		
ZONE 1 - WASHTENAW, GENESEE, LAPEER , SHIAWASSE, OAKLAND, WAYNE, MONROE, LIVINGSTON, ST. CLAIR & MACOMB COS.		
ZONE 2 - REMAINDER OF STATE		
CLASS A - Landscape Specialist, including air, gas, diesel, electric tool and/or equipment		
ZONE 1	8.60	
ZONE 2	8.18	
CLASS B - Landscape Laborer, Truck Driver, Material Haulers & Small Power Equipment.		
ZONE 1	8.56	
ZONE 2	8.14	
LINE CONSTRUCTION:		
ZONE 1 - HURON, LAPEER, MACOMB, ST. CLAIR, SANILAC, TUSCOLA & WAYNE COS.; INGHAM (Twps. of Leroy, Locke, Wheatfield, White Oak & Williamson), LENAWEE (Twps. of Clinton & Macon), LIVINGSTON (All but the Twps. of Tyrone, Cohoctah, Deerfield and Unadilla), MONROE (All but the Twps. of Bedford, Erie, Lasalle and Whiteford), WASHTENAW (All but the Twps. of Lyndon, Manchester, Sharon, & Sylvan), OAKLAND (All but the Twp. of Holly).		
Linemen Technician	17.38	1.70 +11⅓%
Cable Splicer	16.12	1.70 +11⅓%
Combination Equipment Operator & Groundman	13.54	1.70 +11⅓%
Combination Driver-Groundman	13.12	1.70 +11⅓%
Groundman	12.89	1.70 +11⅓%
ZONE 2 - REMAINDER OF STATE		
Lineman-Technician	14.21	.65% H⅓%+a
Cable Splicer	14.71	.65% H⅓%+a
Combination Digger Operator - Tractor Operator	11.06	.65+ H⅓%+a
Light Equipment Operator - Groundman, Distribution Line Truck driver - Operator Groundman	9.70	.65+ H⅓%+a
Combination Winch Truck Driver - Groundman	9.25	.65 H⅓%+a

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LINE CONSTRUCTION (CONT'D)	Basic Hourly Rates	Fringe Benefits
Combination Truck Driver - Groundman	7.82	.65+ 8⅓%+a
(See Footnote on Page 9)		
POWER EQUIPMENT OPERATORS: HIGHWAY, AIRPORT & BRIDGE CONSTRUCTION		
ZONE 1 - WAYNE, MONROE, OAKLAND, WASHTENAW, MACOMB & GENESEE		
CLASS 1	12.73	4.00 +13%
CLASS 2	12.25	4.00 +13%
CLASS 3	11.81	4.00 +13%
CLASS 4	11.67	4.00 +13%
ZONE 2 - REMAINDER OF STATE		
CLASS 1	12.73	4.00 +13%
CLASS 2	12.13	4.00 +13%
CLASS 3	11.69	4.00 +13%
CLASS 4	11.44	4.00 +13%
POWER EQUIPMENT OPERATORS: UNDERGROUND CONSTRUCTION		
ZONE 1 - WAYNE, OAKLAND, MACOMB, MONROE, LENAWEE, HILLSDALE, BRANCH, CALHOUN, JACKSON, WASHTENAW, LIVINGSTON, INGHAM, EATON, CLINTON, SHIAWASSEE, GENESEE, LAPEER, ST. CLAIR, SANILAC, TUSCOLA, SAGINAW, GRATIOT, MIDLAND, BAY & HURON COS.		
CLASS 1	13.73	3.35+ 13%
CLASS II	13.44	3.35+ 13%
CLASS III	12.80	3.35+ 13%
CLASS IV	12.29	3.35+ 13%
ZONE 2 - REMAINDER OF LOWER PENINSULA		
CLASS I	12.22	3.35+ 13%
CLASS II	11.79	3.35+ 13%
CLASS III	11.35	3.35+ 13%
CLASS IV	11.10	3.35+ 13%
ZONE 3 - UPPER PENINSULA		
CLASS A	11.82	3.35+ 13%
CLASS B	10.76	3.35+ 13%
CLASS C	10.25	3.35+ 13%
CLASS D	9.50	3.35+ 13%
POWER EQUIPMENT OPERATORS: STEEL ERECTION		
ZONE 1 - ALCONA, ALPENA, ARENAC, BAY, CHEBOYGAN, CLARE, CLINTON, CRAWFORD, GENESEE, GLADWIN, GRATIOT, HURON, INGHAM, IOSCO, ISABELLA, JACKSON, LAPEER, LENAWEE, LIVINGSTON, MACOMB, MIDLAND, MONROE, MONTMORENCY, OAKLAND, OGEMAW, OSCODA, OTSEGO, PRESQUE ISLE, ROSCOMMON, SAGINAW, ST. CLAIR, SANILAC, SHIAWASSEE, TUSCOLA, WASHTENAW & WAYNE COS.		
CLASS 1	18.52	3.35 +13%
CLASS 2	19.41	3.35 +13%
CLASS 3	18.24	3.35 +13%
CLASS 4	19.12	3.35 +13%
CLASS 5	17.57	3.35 +13%
CLASS 6	18.45	3.35 +13%
CLASS 7	17.25	3.35 +13%
CLASS 8	18.13	3.35 +13%
CLASS 9	17.02	3.35 +13%
CLASS 10	13.95	3.35 +13%
CLASS 11	12.65	3.35 +13%

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POWER EQUIPMENT OPERATORS: STEEL ERECTION (CONT'D)	Basic Hourly Rates	Fringe Benefits
ZONE 2 - ALLEGAN, ANTRIM, BARRY, BENZIE, BERRIEN, BRANCH, CALHOUN, CASS, CHARLEVOIX, EATON, EMMET, GRAND TRAVERSE, HILLSDALE, IONIA, KALAMAZOO, KALKASKA, KENT, LAKE, LEELANAU, MANISTEE, MASON, MECOSTA, MISHAUKEE, MONTCLAM, MUSKEGON, NEWAYGO, OCEANA, OSCEOLA, OTTAWA, ST. JOSEPH, VAN BUREN & WEXFORD COS.		
CLASS A	16.55	3.35 +13%
CLASS B	16.30	3.35 +13%
CLASS C	15.80	3.35 +13%
CLASS D	14.20	3.35 +13%
CLASS E	12.85	3.35 +13%
CLASS F	11.50	3.35 +13%
ZONE 3 - ALL COUNTIES IN UPPER PENINSULA		
CLASS 1	12.04	3.35 +13%
CLASS 2	10.72	3.35 +13%
CLASS 3	9.61	3.35 +13%
CLASSIFICATION: (ZONE 3 only)		
CLASS 1 - Operator		
CLASS 2 - Compressor & Welder		
CLASS 3 - Oiler & Fireman		
NOTE:		
1-Cranes with Boom & Jib of 220' or longer, Tower Cranes & Derricks-- $.75 per hour more than Class 1		
2-Cranes with Boom & Jib of 140' or longer-- $.50 per hour more than Class 1		
3-Cranes with Boom & jib of 120' or longer-- $.25 per hour more than Class 1		

SIGN INSTALLERS:	Basic Hourly Rates	Fringe Benefits
ZONE 1- WAYNE, MONROE, OAKLAND, WASHTENAW, MACOMB, & GENESEE COS.		
CLASS A	12.[illegible]222	b
CLASS B	12.[illegible]725	b
ZONE 2 - REMAINDER OF STATE		
CLASS A	11.6725	b
CLASS B	11.4225	b
CLASS A - Performs all necessary labor uses all tools required to construct & set concrete forms required in the installation of highway & street signs		
CLASS B - Performs all miscellanious labor, uses all hand & power tools, & operates all other equipment, mobile or otherwise, required for the installation of highway & street signs		
FOOTNOTE: b. $94.50 per week, per employee		
TRUCK DRIVERS: HIGHWAY, AIRPORT & BRIDGE CONSTRUCTION		
ZONE 1 - GENESEE, OAKLAND, MACOMB, MONROE, WASHTENAW, WAYNE, ST. CLAIR, LENAWEE, LIVINGSTON & LAPEER COS.		
CLASS 1	13.54	.50+c
CLASS 2	13.65	.50+c
CLASS 3	13.79	.50+c
ZONE 2 - REMAINDER OF STATE		
CLASS 1	13.44	.50+c
CLASS 2	13.54	.50+c
CLASS 3	13.69	.50+c
FOOTNOTE: c. $98.50 per week, per employee		

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TRUCK DRIVERS UNDERGROUND CONSTRUCTION	Basic Hourly Rates	Fringe Benefits
ZONE 1 - WAYNE, OAKLAND, MACOMB, WASHTENAW, MONROE, ST. CLAIR, GENESEE, HURON, SANILAC & LIVINGSTON (Eastern ½ of Co.)		
CLASS 1	12.37	d
CLASS 2	12.50	d
CLASS 3	12.70	d
ZONE 2 - LAPEER & SHIAWASSEE COS.		
CLASS 1	12.27	d
CLASS2	12.40	d
CLASS 3	12.60	d
ZONE 3 - JACKSON, LENAWEE & HILLSDALE COS.		
TRUCK DRIVERS	10.86	d
FOOTNOTE: d $94.50 per week, per employee		
ZONE 4 - BRANCH, CALHOUN & EATON (Southern ½) COS.		
CLASS 1	11.35	e+.20
CLASS 2	11.45	e+.20
FOOTNOTE: e. $65.00 per week per employee		
ZONE 5 - BENZIE, MANISTEE, MASON, LAKE, OCEANA, NEWAYGO & MUSKEGON COS.		
TRUCK DRIVERS	10.86	d
ZONE 6 - CLINTON, INGHAM, IONIA (Eastern ½), EATON (Northern ½) & LIVINGSTON (Western ½) COS.		
CLASS 1	10.16	f
CLASS 2	10.26	f
CLASS 3	10.36	f
CLASS 4	10.66	f
FOOTNOTE: f. $80.50 per week per employee		

ZONE 7 - EMMET, CHARLEVOIX, ANTRIM, LEELANAU, KALKASKA, GRAND TRAVERSE, WEXFORD, MISSAUKEE, OSCEOLA, MECOSTA, MONTCALM, KENT, OTTAWA & IONIA (Western ½) cos.	Basic Hourly Rates	Fringe Benefits
CLASS 1	11.50	g
CLASS 2	11.40	g
CLASS 3	11.60	g
CLASS 4	11.70	g
FOOTNOOTE: g. $76.50 per week per employee		
ZONE 8 - ALLEGAN, BARRY, VAN BUREN, KALAMAZOO, CASS, BERRIEN & ST. JOSEPH COS.		
CLASS 1	10.02	h
CLASS 2	10.42	h
FOOTNOTE: h. $89.50 per week, per employee		
ZONE 9 - ENTIRE UPPER PENINSULA		
CLASS 1	13.44	.50+c
CLASS 2	13.54	.50+c
CLASS 3	13.69	.50+c
FOOTNOTE: c. $98.50 per week per employee		
ZONE 10 - REMAINDER OF STATE		
CLASS 1	10.30	f
CLASS 2	10.40	f

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TRUCK DRIVERS (CONT')	Basic Hourly Rates	Fringe Benefits
CLASS 3	10.50	f
CLASS 4	10.60	f

FOOTNOTE:
f. $80.50 per week, per employee

	Basic Hourly Rates	Fringe Benefits
WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.		

CLASSIFICATION DEFINITIONS

LABORERS: HIGHWAY, AIRPORT & BRIDGE CONSTRUCTION

CLASSIFICATIONS:
CLASS A - Line-Form Setter for curb or pavement
CLASS B - Pipe Layer, Oxygen Gun
CLASS B-1 - Asphalt Raker
CLASS B-2 - Asphalt Tamper and Asphalt Raker Helper
CLASS C - Tunnel Miner (highway work only), Finishers Tender, Guard Rail Builder, Highway and Median Barrier Installer (including sound barrier & crash barrier), Fence Erector, Bottom Man, Powder Man, Wagon Drill and Air Track Operators, Curb and Side Rail Setters' Helpers, Diamond and Core Drills .
CLASS D - Mixer Operator (less than 5 sacks), Air or Electric Tool Operators (jackhammer, etc.), Spreader, Boxman (asphalt, stone, gravel, etc.), Concrete Paddler, Power Chain Saw Operator, Paving Batch Truck Dumper, Asphalt Screed Checker, Grade Checker and Tunnel Mucker (highway work only), Concrete Saw (under 40 h.p.), and Dry Pack Machine.
CLASS E - Cement Handler or Dockman, Fireman, Asphalt Dust Handler.
CLASS F - Asphalt Shoveler or Loader, Asphalt Plant Misc., Axe Man, Batch Bin (no power), Burlap man, Carpenter's Helper, Subgrade Labor (hand tools), Yard Man, Guard Rail Builder's Helper, Highway and Median Barrier Installer's Helper, Fence Erector's Helper, Dumper (wagon, truck, etc.), Jetting Labor, Joint Filling Labor, Misc. Unskilled Labor, Powder Monkey (helper), Sprinkler Labor, Form Setting Labor, Pavement Reinforcing, Handling and Placing (e.g. wire mesh, steel mats, dowel bars, etc.), Mason's or Bricklayer's Tender on Manholes, Headwalls, etc., water proofing, seal coating and slurry mix.
CLASS G - Pavement Markers
CLASS H - Cone Setters

ZONE DEFINITIONS:
ZONE 1 - GENESEE, MACOMB, MONROE, OAKLAND, WASHTENAW & WAYNE COUNTIES.
ZONE 2 - ALLEGAN, BARRY, BAY, BERRIEN, BRANCH, CALHOUN, CASS, CLINTON, EATON, GRATIOT, HILLSDALE, HURON, INGHAM, JACKSON, KALAMAZOO, LAPEER, LENAWEE, LIVINGSTON, MIDLAND, MUSKEGON, SAGINAW, SHIAWASSEE, ST. CLAIR, ST. JOSEPH, TUSCOLA, VAN BUREN COUNTIES.
ZONE 2A- IONIA, KENT, MONTCALM, OTTAWA COUNTIES.
ZONE 3 - ALCONA, ALGER, ALPENA, ANTRIM, ARENAC, BARAGA, BENZIE, CHARLEVOIX, CHEBOYGAN, CHIPPEWA, CLARE, CRAWFORD, DELTA, DICKINSON, EMMET, GLADWIN, GOGEBIC, GRAND TRAVERSE, HOUGHTON, IOSCO, IRON, ISABELLA, KALKASKA, KEWEENAW, LAKE, LEELANAU, LUCE, MACKINAC, MANISTEE, MARQUETTE, MASON, MENOMINEE, MISSAUKEE, MONTMORENCY, NEWAYGO, OCEANA, OGEMAW, ONTONAGON, OSCODA, OTSEGO, PRESQUE ISLE, ROSCOMMON, SCHOOLCRAFT & WEXFORD COUNTIES.
ZONE 3A- MECOSTA & OSCEOLA COUNTIES.

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CLASSIFICATION DEFINITIONS

LABORERS: OPEN CUT CONSTRUCTION

CLASSIFICATIONS:
CLASS 1 - Construction Laborers
CLASS 2 - Mortar and Material Mixer, Concrete Form Man, Signal Man, Well Point Man, Manhole, Headwall and Catch Basin Builder, Guard Rail Builders and Fence Erector
CLASS 3 - Air, Gasoline and Electric Tool Operator, Vibrator Operator, Drillers, Pump Man, Tar Kettle Operator, Bracers, Rodders, Reinforced Steel or Mesh Man (e.g. wire mesh, steel mats, dowel bars, etc.), Cement Finisher, Pipe Jacking and Boring Man, Wagon Drill and Air Track Operator and Concrete Saw Operator (under 40 h.p.), Windlass and Tugger Man.
CLASS 4 - Trench or Excavating Grade Man.
CLASS 5 - Pipe Layer (including crock, metal pipe, multi-plate or other conduits).

LABORERS: TUNNEL, SHAFT & CAISSON CONSTRUCTION

CLASSIFICATIONS:
CLASS 1 - Tunnel, Shaft and Caisson Laborer, Dump Man, Shanty Man, Hog House Tender, Testing Man (on gas).
CLASS 2 -Manhole, Headwall, Catch Basin Builder, Bricklayer Tender, Mortar Man, Material Mixer, Fence Erector and Guard Rail Builder.
CLASS 3 - Air Tool Operator (jackhammer man, bush hammer man & grinding man), First Bottom Man, Second Bottom Man, Cage Tender, Car Pusher, Carrier Man, Concrete Man, Concrete Form Man, Concrete Repair Man, Cement Invert Laborer, Cement Finisher, Concrete Shoveler, Conveyor Man, Floor Man, Gasoline and Electric Tool Operator, Gunnite Man, Grout Operator, Pump Man, Outside Lock Tender, Scaffold Man, Top Signal Man, Switch Man, Track Man, Tugger Man, Utility Man, Vibrator Man, Winch Operator, Pipe Jacking, Boring Man, Wagon Drill and Air Track Operator and Concrete Saw Operator (under 40 h.p.).
CLASS 4 - Tunnel,Shaft and Caisson Mucker, Bracer Man, Liner Plate Man, Long Haul Dinky Driver and Well Point Man.
CLASS 5 - Tunnel, Shaft and Caisson Miner, Drill Runner, Key Board Operator, Power Knife Operator, Reinforced Steel or Mesh Man (e.g. wire mesh, steel mats, dowel bars, etc.).
CLASS 6 - Dynamite Man and Powder Man.

FOOTNOTE:
a - 7 Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Day after Thanksgiving, and Christmas Day (Providing the employee worked the scheduled work day preceding and the next work day following the day observed).

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CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS: HIGHWAY, AIRPORT & BRIDGE CONSTRUCTION

CLASSIFICATIONS:

CLASS 1 - Asphalt Plant Operator, Crane Operator, Dragline, Shovel Operator, Locomotive Operator, Paver (5 bags or more), Elevating Grader Operator, Pile Driving Operator, Roller (asphalt), Blade Grader Operator, Trenching Machine (ladder or wheel type), Auto-Grader, Slip Form Paver, Self-Propelled or Tractor Drawn Scraper, Conveyor Loader Operator (euclid type), Endloader Operator (1 yd. capacity or over), Bulldozer, Concrete Pump (3" and over), Swing Boom Truck (over 12 ton capacity), Hoisting Engineer, Tractor Operator, Finishing Machine (asphalt), Mechanic, Pump Operator (6" discharge or over, gas, diesel powered or generator of 300 amp or over), Shoulder or Gravel Distributing, Machine Operator (self-propelled), Backhoe (with over 3/8 yard bucket), Side Boom Tractor (type D-4 or equivalent or larger), Tube Finisher (slip form paving), Gradall (and similar type machines), Asphalt Paver (self-propelled), Asphalt Planer (self-propelled), Batch Plant (Concrete-central mix, transit mix, shrink mix), Slurry Machine (asphalt), Roto Mill.

CLASS 2 - Sweeper (Wayne type & similar equipment), Screening Plant Operator, Washing Plant Operator, Crusher, Backhoe (with 3/8 yard bucket or less), Side Boom Tractor (smaller than D-4 type or equivalent), Batch Plant (concrete - dry mix).

CLASS 3 - Air Compressor Operator (600 cfm or more), Air Compressor (2 or more - less than 600 cfm), Wagon Drill Operator, Concrete Breaker, Tractor Operator (Farm type w/ attachments).

CLASS 4 - Boiler Fireman, Oiler, Fireman, Mechanic's Helper, Trencher (service), Flexplane Operator, Cleftplane Operator, Grader (Self-propelled Fine-Grade or Form (concrete)), Finishing Machine (concrete), Boom or Winch Hoist Truck Operator, Concrete Pump (under 3"), Mesh Installer (self-propelled), Endloader (under 1 yard capacity), Roller Operator (other than asphalt), Curing Equipment (self-propelled), Concrete Saw Operator (40 h.p. or over), Power Bin Operator, Plant Drier (asphalt), Vibratory Compaction Equipment (6 ft. wide or over), Guard Post Driver (power driven), All Mulching Equipment, Stump Remover, Farm Type Tractor Operator.

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POWER EQUIPMENT OPERATORS: UNDERGROUND CONSTRUCTION

CLASSIFICATIONS: (ZONES 1 & 2 only)

CLASS I - Backfiller Tamper, Backhoe, Batch Plant Operator (concrete), Clamshell, Concrete Paver (two drum or larger), Conveyor Loader (euclid type), Crane (crawler, truck type or pile driving), Dozer (9 ft. blade and over), Dragline, Elevating Grader, Endloader (over 1½ cubic yds. capacity), Gradall (and similar type equipment), Mechanic, Power Shovel, Roller (asphalt), Scraper (self-propelled or tractor drawn), Side Boom Tractor (type D-4 or equivalent and larger), Slip Form Paver, Slope Paver, Trencher (over 8 ft. digging capacity), Well Drilling Rig.

CLASS II - Boom Truck (power swing type boom), Crusher, Dozer (less than 9 ft. blade), Endloader (1½ cubic yds. capacity and smaller), Hoist, Pump (one or more--6 in. discharge or larger--gas or diesel powered or powered by generator of 300 amps or more--inclusive of generator), Side Boom Tractor (smaller than type D-4 or equivalent), Sweeper (Wayne type and similar equipment), Tractor (pneu-tired, other than backhoe or front end loader), Trencher (8 ft. digging capacity).

CLASS III - Air Compressors (600 cfm or larger), Air Compressors (two or more--less than 600 cfm), Boom Truck (non-swinging, non-powered type boom), Concrete Breaker (self-propelled or truck mounted--includes compressor), Concrete Paver (one drum--1½ yd. or larger), Elevator (other than passenger), Maintenance Man, Mechanic Helper, Pump (two or more--4 in. up to 6 in. discharge--gas or diesel powered--excluding submersible pumps), Pumperete Machine (and similar equipment), Wagon Drill (multiple), Welding Machine or Generator (two or more 300 amp. or larger--gas or diesel powered).

CLASS IV - Boiler, Concrete Saw (40 h.p. or over), Curing Machine (self-propelled), Farm Tractor (with attachment), Finishing Machine (concrete), Fireman, Hydraulic Pipe Pushing Machine, Mulching Equipment, Oiler, Pumps (two or more up to 4 in. discharge if used three hours or more a day--gas diesel powered--excluding submersible pumps), Roller (other than asphalt), Stump Remover, Trencher (service), Vibrating Compaction Equipment (self-propelled, 6 ft. wide or over)

CLASSIFICATIONS: (ZONE 3 only)

CLASS A - Regular Equipment Operators, Crane, Dozer, Front End Loader, Pumpcrete, Squeeze Crete, Job Mechanic & Welder.

CLASS B - Air Track Drill, Boom Truck (non-swing), Concrete Mixers, Fork Truck, Material Hoist and Tugger, Pumps (6" and over), Belt Crete, Sweeping Machine, Trenches, Head Grease Man, Winches, Well Points and Freeze Systems.

CLASS C - Air Compressor, Conveyor, Concrete Saw, Farm Tractor (without attachments), Generator, Guard Post Driver, Mulching Machines, Pumps (under 6"), Welding Machines, Grease Man.

CLASS D - Oiler, Fireman, Heater Operator.

DECISION NO. MI82-2042

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS: STEEL ERECTION

CLASSIFICATIONS: (ZONE 1 only)
CLASS 1 - Crane Operator when operating combination of Boom and Jib 220' or longer.
CLASS 2 - Crane Operator when operating combination of Boom and Jib 220' or longer on a Crane that requires an Oiler.
CLASS 3 - Crane Operator when operating combination of Boom and Jib 140' or longer.
CLASS 4 - Crane Operator when operating combination of Boom and Jib 140' or longer on a Crane that requires an Oiler.
CLASS 5 - Crane Operator when operating combination of Boom and Jib 120' or longer.
CLASS 6 - Crane Operator when operating combination of Boom and Jib 120' or longer on a Crane that requires an Oiler.
CLASS 7 - Crane Operator and Job Mechanic.
CLASS 8 - Crane Operator on a Crane that requires an Oiler.
CLASS 9 - Hoisting Operator.
CLASS 10 - Compressor and/or Welder Operator.
CLASS 11 - Oiler.

POWER EQUIPMENT OPERATORS: STEEL ERECTION (Cont'd)

CLASSIFICATIONS: (ZONE 2 only)
CLASS A - Crane Operator with main Boom & Jib 220' or longer.
CLASS B - Crane Operator with main Boom & Jib 140' or longer, Tower Cranes, Gantry Cranes, Whirley Derrick.
CLASS C - Regular Equipment Operator, Crane, Dozer, Loader, Hoist, Straddle Wagon, Job Mechanic.
CLASS D - Air Tugger (single drum), Material Hoist, Pump (6" or over).
CLASS E - Air Compressor, Welder, Generators, Conveyors.
CLASS F - Oiler and Fireman.

TRUCK DRIVERS: HIGHWAY, AIRPORT & BRIDGE CONSTRUCTION

CLASSIFICATIONS:
CLASS 1 - Truck Drivers (less than 8 cyd capacity).
CLASS 2 - Truck Drivers (8 cyd Capacity & over).
CLASS 3 - Drivers (Euclid type equipment).

DECISION NO. MI82-2042

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS: UNDERGROUND CONSTRUCTION

CLASSIFICATIONS: (ZONES 1 & 2 only)
CLASS 1 - Truck Drivers on all trucks (EXCEPT dump trucks of 8 cubic yards capacity or over, pole trailers, semis, low boys, euclid, double bottom & fuel trucks.)
CLASS 2 - Truck Drivers of Dump Trucks of 8 cubic yards capacity or over, Pole Trailers, Semis & Fuel Trucks.
CLASS 3 - Truck Drivers on Low Boys, Euclid & Double Bottoms.

CLASSIFICATIONS: (ZONE 4 only)
CLASS 1 - Truck Drivers (Straight & dump trucks less than 8 cubic yards capacity.)
CLASS 2 - Dump Trucks (8 cubic yards capacity & over), Tandem Axles & Semis.

CLASSIFICATIONS: (ZONE 6 only)
CLASS 1 - Truck Drivers on all trucks (EXCEPT dump trucks of 8 cubic yards capacity or over, pole trailers & double bottoms.)
CLASS 2 - Truck Drivers on Dump Trucks of 8 cubic yards capacity or over & Pole Trailers.
CLASS 3 - Low Boys & Double Bottoms.
CLASS 4 - Structural Steel Driver.

CLASSIFICATIONS: (ZONE 7 only)
CLASS 1 - Truck Drivers.
CLASS 2 - Yardmen.
CLASS 3 - Truck Drivers on trucks 8 cubic yards capacity or over, Mechanics.
CLASS 4 - Semi Driver.

CLASSIFICATIONS: (ZONE 8 only)
CLASS 1 - Straight or Dump Drivers.
CLASS 2 - Semi &/or Double Bottoms.

CLASSIFICATIONS: (ZONE 9 only)
CLASS 1 - Truck Drivers (less than 8 cubic yards capacity.)
CLASS 2 - Truck Drivers (8 cubic yards capacity & over.)
CLASS 3 - Drivers (Euclid type equipment.)

CLASSIFICATIONS: (ZONE 10 only)
CLASS 1 - Truck Drivers & General Warehouse Combination.
CLASS 2 - Tandem Trucks & Trucks 8 cubic yards or over capacity.
CLASS 3 - Semis, Double Bottoms, Low Boys, Pitman Operators &/or related equipment.
CLASS 4 - Euclid type, Bottom & End Dump Drivers.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5:5(a)(1)(ii)).

SUPERSEDEAS DECISION

SUPERSEDEAS DECISION

STATE: Virginia

LOCATION: The Cities of Chesapeake, Portsmouth and Virginia Beach

DECISION NO.: VA82-3023

DATE: Date of Publication

Supersedes Decision No. VA81-3083 dated November 27, 1981 in 46 FR 58029

DESCRIPTION OF WORK: Building Construction (does not include single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	12.55	1.91
BOILERMAKERS	13.70	2.715
BRICKLAYERS AND STONE MASONS	12.68	1.23
CARPENTERS AND SOFT FLOOR LAYERS	11.65	1.46
CEMENT MASONS:		
Cement Masons	10.40	.40
Machine and Scaffold Men	10.50	.40
ELECTRICIANS AND CABLE SPLICERS	12.90	1.76
ELEVATOR CONSTRUCTORS	11.095	2.465+ a+b
ELEVATOR CONSTRUCTORS HELPERS	7.77	2.465+ a+b
ELEVATOR CONSTRUCTORS HELPERS PROBATIONARY	5.55	
GLAZIERS	11.10	1.12
IRONWORKERS:		
Reinforcing, Ornamental, Structural, Riggers, Fence Erectors, Machinery Movers	13.15	2.38
LABORERS:		
Unskilled	7.50	.66
Tenders, Motorized Georgia Buggy Operators, Nozzlemen (gunite or sandblasting), Concrete Saw Operators, Air Tool and Vibrator Operators	7.60	.66
Mortar Mixers, Hod Carriers, Pipelayers, Caulkers, Marble, Tile and Terrazzo Workers Helpers	7.75	.66
Burners (wrecking)	7.85	.66
Floor, Base and Terrazzo Grinders	7.90	.66
Wagon Drill and Air Trac	8.00	.66
Powdermen	8.25	.66
LATHERS	10.75	.25
LEAD BURNERS	10.75	.66+d
LINE CONSTRUCTION:		
Linemen and Cable Splicers	12.90	1.76
MARBLE SETTERS	10.15	1.20
MILLWRIGHTS	13.55	1.51
PAINTERS:		
Brush and Roller	11.05	.70
Structural Steel from Ground to 74 feet	11.55	.70
Spray, Paperhangers and Tapers	11.40	.70
Any Work Over 74 feet From the Ground	12.35	.70
Bituminous Coating and Hot Creosote	12.70	.70
Swing Stage Under 40 Feet, Rollers With 6 Feet Handles and Over, Epoxy Brushed or Rolled	11.30	.70
Swing Stage Over 40 Feet	11.55	.70
Epoxy, Sprayed	11.65	.70
Sandblasting	11.80	.70
PILEDRIVERMEN AND DOCK-BUILDERS	11.65	1.40
PLASTERERS	12.91	.40
PLUMBERS AND STEAMFITTERS	12.55	2.02
ROOFERS COMPOSITION	8.10	
ROOFERS HELPERS (Tearing off old roofing, carrying materials & clean-up)	6.20	
SHEET METAL WORKERS	10.05	1.005
SOUND AND SIGNAL INSTALLER	6.00	
SPRINKLER FITTERS	13.47	2.83
TERRAZZO AND TILE WORKERS	10.15	1.20
POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION:		
GROUP 1	12.40	1.775
GROUP 2	9.95	1.775
GROUP 3	8.00	1.775
GROUP 4	7.80	1.775
GROUP 5	7.61	1.775

WELDERS-receive rate prescribed for craft performing operation for which welding is incidental.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Workmen shall be allowed 2 hours with pay at the start or at the end of the work day on State and National Electimn days; Tuesday following the first Monday in November, provided they are qualified to and Vote.

b. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years service as vacation pay credit.

c. Holidays: A through F; Washington's Birthday, Good Friday and Christmas Eve provided the employee has worked 30 full days during the 90 calendar days prior to the holiday and the regular scheduled work days immediately preceeding and following the holiday.

POWER EQUIPMENT OPERATOR CLASSIFICATIONS:

GROUP 1 - Tunnel machine, cranes, derricks, pile drivers, pavers, two or more drum hoist, finish motor grader, mechanic, batch plant, gradall, quad

GROUP 2 - Cableways, tractors with attachments, combination front end loader and backhoe, front end loader, rubber tired scraper and pans, rough motor grader, 20-ton locomotive, bulldozers, pump crete, trenching machine, mixer larger than 16S, fork lift

GROUP 3 - Compressor over 125 cu. ft., bottom and end dumps, tractors without attachments, 1 drum hoist, rollers, welding machines (gas or diesel), locomotive under 20-tons, power plant, generator (1200 KW or larger), pumps (over 2 inches, including wellpoints), A-frame trucks, mechanic's helper

GROUP 4 - Firemen

GROUP 5 - Oilers

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Virginia

COUNTIES: Henrico and the Independent City of Richmond

DECISION NO.: VA82-3022

DATE: Date of Publication

Supersedes Decision No. VA81-3084 dated November 27, 1981 in 46 FR 58031

DESCRIPTION OF WORK: Building Construction (does not include single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	12.83	1.96
BOILERMAKERS	13.70	2.715
BRICKLAYERS AND STONEMASONS	13.00	1.37
CARPENTERS AND SOFT FLOOR LAYERS	11.65	1.46
CEMENT MASONS	10.75	
CEMENT MASONS MACHINE MAN	10.85	
ELECTRICIANS:		
ZONE I -within a 12 air mile radius of Staples Mills Road and Broad Street in the City of Richmond	13.85	1.46
ZONE II-remainder of city of Richmond and Henrico County	14.60	1.53
ELEVATOR CONSTRUCTORS	12.03	2.465+ a+b
ELEVATOR CONSTRUCTORS HELPERS	8.42	2.465+ a+b
ELEVATOR CONSTRUCTORS HELPERS PROBATIONARY	6.015	
GLAZIERS	11.10	1.12
IRONWORKERS-STRUCTURAL, REINFORCING AND ORNAMENTAL:		
ZONE I-up to 10 miles from Capital Square	13.50	1.85
ZONE II-from 10 miles to 30 miles radius	13.875	1.85
ZONE III-from 30 miles and beyond	14.125	1.85
LABORERS:		
Unskilled	7.50	.66
Tenders, Motorized Georgia Buggy Operators, Nozzlemen (gunite or sandblasting), Concrete Saw Operators, Air Tool and Vibrator Operators	7.60	.66
Mortar Mixers, Hod Carriers, Pipelayers, Caulkers, Marble and Tile and Terrazzo Workers Helpers	7.75	.66
Burners (wrecking)	7.85	.66
Floor, Base and Terrazzo Grinders	7.90	.66
Wagon Drill, Air Track and Similar Drills	8.00	.66
Powdermen	8.25	.66
LATHERS:		
Plasterer and Drywall Finisher	11.01	1.41
Sheet Rock Applicator	9.39	1.41
LEADBURNERS	10.75	.66+a
LINEMEN AND CABLE SPLICERS:		
ZONE I-within a 12 mile air radius of Staples Mill Road and Broad Street in the City of Richmond	12.35	1.235
ZONE II-remainder of City of Richmond and Henrico County	13.10	1.31
MARBLE, TILE AND TERRAZZO WORKERS	10.10	
MILLWRIGHTS	13.55	1.51
PAINTERS:		
Brush, Paperhangers, Tapers and Finishers	10.80	
Structural Steel, Swing State and Bosun Chair	11.05	
Scaffold or Other Hazard Work Over 50 Feet	11.05	
Spray	11.30	
Sandblasting, Elevated Tanks, Smoke Stacks and all Towers	11.45	
PILEDRIVERMEN AND DOCKBUILDERS	11.65	1.40
PLASTERERS	12.50	
PLUMBERS AND STEAMFITTERS	13.25	1.75
ROOFERS COMPOSITION	8.10	
ROOFERS HELPERS (TEARING OFF OLD ROOFING, CARRYING MATERIALS & CLEANUP)	6.20	
SHEET METAL WORKERS:		
City of Richmond	11.32	.81
Remainder of County	11.57	.81
SOUND AND SIGNAL INSTALLER	8.00	
SPRINKLER FITTERS	13.47	2.83
POWER EQUIPMENT OPERATORS-BUILDING CONSTRUCTION:		
GROUP 1	12.40	1.775
GROUP 2	9.95	1.775
GROUP 3	8.00	1.775
GROUP 4	7.80	1.775
GROUP 5	7.61	1.775

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% of basic hourly rate for 6 months to 5 years of service as vacation pay credit.

b. Paid Holidays: A through F, Day after Thanksgiving.

c. Paid Holidays: A through F; Washington's Birthday; Good Friday and Christmas Eve, provided the employee has worked 30 full days during the 90 calendar days prior to the holiday and the regular scheduled work days immediately preceeding and following the holiday.

PEO DEFINITIONS:

GROUP 1 - Tunnel machine, cranes, derricks, pile drivers, pavers, two or more drum hoist, finish motor grader, mechanic, batch plant, gradall, quad

GROUP 2 - Cableways, tractors with attachments, combination front end loader and backhoe, front end loader, rubber tired scraper and pans, rough motor grader, 20-ton locomotive, bulldozers, pump crete, trenching machine, mixer larger than 16S, fork lift

GROUP 3 - Compressor over 125 cu. ft., bottom and end dumps, tractor without attachments, 1 drum hoist, rollers, welding machines (gas or diesel), locomotive under 20-tons, power plant, generator (1200 KW or larger), pumps (over 2 inches, including wellpoints), A-frame trucks, mechanic's helpers

GROUP 4 - Firemen

GROUP 5 - Oilers

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(ii)).

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federal register

Friday
July 9, 1982

Part IV

Department of Health and Human Services

Food and Drug Administration

Topical Antimicrobial Drug Products for Over-the-Counter Human Use; Tentative Final Monograph

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 333

[Docket No. 76N-0482]

Topical Antimicrobial Drug Products for Over-the-Counter Human Use; Tentative Final Monograph

AGENCY: Food and Drug Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is issuing a notice of proposed rulemaking in the form of a tentative final monograph that would establish conditions under which over-the-counter (OTC) topical first aid antibiotic drug products are generally recognized as safe and effective and not misbranded. FDA is issuing this notice of proposed rulemaking after considering the report and recommendations of the Advisory Review Panel on OTC Topical Antimicrobial II Drug Products and public comments on an advance notice of proposed rulemaking that was based on those recommendations. This proposal is part of the ongoing review of OTC drug products conducted by FDA.

DATES: Written comments, objections, or requests for oral hearing before the Commissioner of Food and Drugs on the proposed regulation by September 7, 1982. New data by July 11, 1983. Comments on the new data by September 9, 1983. These dates are consistent with the time periods specified in the agency's final rule revising the procedural regulations for reviewing and classifying OTC drugs, published in the **Federal Register** of September 29, 1981 (46 FR 47730). Written comments on the agency's economic impact determination by November 8, 1982.

ADDRESS: Written comments, objections, or requests for oral hearing to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Bureau of Drugs (HFD-510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 1, 1977 (42 FR 17642), FDA published, under § 330.10(a)(6) (21 CFR 330.10(a)(6)), an advance notice of proposed rulemaking to establish a monograph for OTC topical antibiotic drug products, together with the recommendations of the Advisory Review Panel on OTC Topical Antimicrobial II Drug Products, which was the advisory review panel responsible for evaluating data on the active ingredients in this drug class. Interested persons were invited to submit comments by June 30, 1977. Reply comments in response to comments filed in the initial comment period could be submitted by August 1, 1977.

In a notice published in the **Federal Register** of March 21, 1980 (45 FR 18400), the agency advised that it had reopened the administrative record for OTC topical antibiotic drug products to allow for consideration of data and information that had been filed in the Dockets Management Branch after the date the administrative record previously had officially closed. The agency concluded that any new data and information filed prior to March 21, 1980 should be available to the agency in developing a proposed regulation in the form of a tentative final monograph.

In accordance with § 330.10(a)(10), the data and information considered by the Panel were put on public display in the Dockets Management Branch (HFA-305), Food and Drug Administration (address above), after deletion of a small amount of trade secret information. Data and information received after the administrative record was reopened have also been put on display in the Dockets Management Branch.

The advance notice of proposed rulemaking, which was published in the **Federal Register** of April 1, 1977 (42 FR 17642), was designated as a "proposed monograph" in order to conform to terminology used in the OTC drug review regulations (21 CFR 330.10). Similarly, the present document is designated in the OTC drug review regulations as a "tentative final monograph." Its legal status, however, is that of a proposed rule. In this tentative final monograph (proposed rule) the FDA states for the first time its position on the establishment of a monograph for OTC topical first aid antibiotic drug products. Final agency action on this matter will occur with the publication at a future date of a final monograph, which will be a final rule establishing a monograph for OTC topical first aid antibiotic drug products.

In response to the advance notice of proposed rulemaking, one drug manufacturer association, three drug manufacturers, two medical associations, nine physicians, one pharmacologist, one consumer, and one consumer group submitted comments. Copies of the comments received are also on public display in the Dockets Management Branch.

This proposal to establish new Subpart B of Part 333 constitutes FDA's tentative adoption of the Panel's conclusions and recommendations on OTC topical antibiotic drug products as modified on the basis of the comments received and the agency's independent evaluation of the Panel's report. Modifications have been made for clarity and regulatory accuracy and to reflect any new information that has come to the agency's attention. Such new information has been placed on file in the Dockets Management Branch (address above). These modifications are reflected in the following summary of the comments and FDA's responses to them.

The agency points out that the categories "skin wound protectant" and "skin wound antibiotic," as recommended by the Panel, have been replaced by the category "First aid antibiotic" and that a new Category I indication is proposed in this tentative final monograph. The details of these monograph modifications are explained in part I. paragraph B. 5. below—Comments on Product Categories and Labeling. The agency invites specific comment on these modifications.

In the **Federal Register** of September 13, 1984 (39 FR 33103), the agency published an advance notice of proposed rulemaking to establish a monograph for OTC topical antimicrobial drug products (21 CFR Part 333) in four subparts: Subpart A—General Provisions, Subpart B—Active Ingredients, Subpart C—Testing Procedures, and Subpart D—Labeling. In the **Federal Register** of January 6, 1978 (43 FR 1210), the agency published a tentative final monograph which contained the same subpart designations in Part 333 as described above. The agency is republishing Part 333 to delete the four subparts appearing in the tentative final monograph at 43 FR 1246. The sections appearing those subparts (§§ 333.1, 333.3, 333.20, 333.30, 333.40, 333.45, 333.50, 333.65, 333.80, 333.85, 333.87, 333.90, 333.92, 333.93, 333.97, 333.99) will now be combined under the designation "Subpart A—[Reserved]." The name of Subpart A has not yet been determined, but will be designated when that portion of Part 333 is republished as an amended tentative final monograph.

In the **Federal Register** of April 1, 1977 (42 FR 17642), the agency published an advance notice of proposed rulemaking to establish a monograph for OTC topical antibiotic drug products (21 CFR Part 342). The agency has determined that both antimicrobial and antibiotic drug products should be

combined into one monograph to be designated as "PART 333—Topical Antimicrobial Drug Products for OTC Human Use." Therefore, the proposed rulemaking for OTC Topical Antibiotic Drug Products (formerly designated as 21 CFR Part 342) will now be designated in this tentative final monograph as Subpart B of Part 333.

FDA published in the **Federal Register** of September 29, 1981 (46 FR 47730) a final rule revising the OTC procedural regulations to conform to the decision in *Cutler* v. *Kennedy*, 475 F. Supp. 838 (D.D.C. 1979). The Court in *Cutler* held that the OTC drug review regulations (21 CFR 330.10) were unlawful to the extent that they authorized the marketing of Category III drugs after a final monograph had been established. Accordingly, this provision is now deleted from the regulations. The regulations now provide that any testing necessary to resolve the safety or effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other data, must be done during the OTC drug rulemaking process, before the establishment of a final monograph (46 FR 47738).

Although it was not required to do so under *Cutler*, FDA will no longer use the terms "Category I," "Category II," and "Category III," at the final monograph stage in favor of the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III). This document retains the concepts of Categories I, II, and III at the tentative final monograph stage.

The agency advises that the conditions under which the drug products that are subject to this monograph would be generally recognized as safe and effective and not misbranded (monograph conditions) will be effective 12 months after the date of publication of the final monograph in the **Federal Register**. On or after that date, no OTC drug products that are subject to the monograph and that contain nonmonograph conditions, i.e., conditions that would cause the drug to be not generally recognized as safe and effective or to be misbranded, may be initially introduced or initially delivered for introduction into interstate commerce unless they are the subject of an approved new drug application. Further, any OTC drug products subject to this monograph that are repackaged or relabeled after the effective date of the monograph must be in compliance with the monograph regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to comply voluntarily with the monograph at the earliest possible date.

In the advance notice of proposed rulemaking for OTC topical antibiotic drug products (published in the **Federal Register** of September 13, 1974 (42 FR 17642)) the agency suggested that the conditions included in the monograph (Category I) be effective 30 days after the date of publication of the final monograph in the **Federal Register** and that the conditions excluded from the monograph (Category II) be eliminated from OTC drug products effective 6 months after the date of publication of the final monograph, regardless of whether further testing was undertaken to justify their future use. Experience has shown that relabeling of products covered by the monograph is necessary in order for manufacturers to comply with the monograph. New labels containing the monograph labeling have to be written, ordered, received, and incorporated into the manufacturing process. The agency has determined that it is impractical to expect new labeling to be in effect 30 days after the date of publication of the final monograph. Experience has shown also that if the deadline for relabeling is too short, the agency is burdened with extension requests and related paperwork.

In addition, some products have to be reformulated to comply with the monograph. Reformulation often involves the need to do stability testing on the new product. An accelerated aging process may be used to test a new formulation; however, if the stability testing is not successful, and if further reformulation is required, there could be a further delay in having a new product available for manufacture.

The agency wishes to establish a reasonable period of time for relabeling and reformulation in order to avoid an unnecessary disruption of the marketplace that could not only result in economic loss but also interfere with consumers' access to safe and effective drug products. Therefore, the agency is proposing that the final monograph be effective 12 months after the date of its publication in the **Federal Register**. The agency believes that within 12 months after the date of publication most manufacturers can order new labeling and have their products in compliance in the marketplace. However, if the agency determines that any labeling for a condition included in the final monograph should be implemented sooner, a shorter deadline may be established. Similarly, if a safety problem is identified for a particular monograph condition, a shorter deadline may be set for removal of that condition from OTC drug products.

All "OTC Volumes" cited throughout this document refer to the submissions made by interested persons pursuant to the call for data notice published in the **Federal Register** of September 7, 1973 (38 FR 24391) or to additional information that has come to the agency's attention since publication of the advance notice of proposed rulemaking. The volumes are on public display in the Dockets Management Branch.

I. The Agency's Tentative Conclusions on the Comments and Reply Comments

A. General Comments

1. One comment contended that OTC drug monographs are interpretive, as opposed to substantive, regulations. The comment referred to statements on this issue submitted earlier to other OTC rulemaking proceedings.

The agency addressed this issue in paragraphs 85 through 91 of the preamble to the procedures for classification of OTC drug products, published in the **Federal Register** of May 11, 1972 (37 FR 9464) and in paragraph 3 of the preamble to the tentative final monograph for antacid drug products, published in the **Federal Register** of November 12, 1973 (38 FR 31260). FDA reaffirms the conclusions stated there. Subsequent court decisions have confirmed the agency's authority to issue substantive regulations by rulemaking. See, e.g., *National Nutritional Foods Association* v. *Weinberger*, 512 F. 2d 688, 696–98 (2d Cir. 1975) and *National Association of Pharmaceutical Manufacturers* v. *FDA*, 487 F. Supp. 412 (S.D.N.Y. 1980), *aff'd*, 637 F. 2d 887 (2d Cir. 1981).

2. One comment contended that Category III is illegal and that consumers should not be exposed to antibiotics which have not been proven safe and effective while manufacturers undertake tests.

As noted earlier in this document, the legality of Category III was the subject of litigation in *Cutler* v. *Kennedy*, 475 F. Supp. 838 (D.D.C. 1979). The Court in *Cutler* held that the OTC drug regulations (21 CFR 330.10) were unlawful to the extent that they authorized the marketing of Category III drugs after a final monograph had been established. Accordingly, FDA proposed in the **Federal Register** of May 13, 1980 (45 FR 31422) to delete this provision and provide that any testing necessary to resolve safety or effectiveness issues that formerly resulted in a Category III

classification, and the submission to FDA of the results of that testing or any other data, must be done during the OTC drug rulemaking process, before the establishment of a final monograph.

The final rule on this proposal was published in the **Federal Register** of September 29, 1981 (46 FR 47730).

The agency points out that it has been FDA's policy to take regulatory action prior to a final monograph against products that present a potential health hazard or a significant and substantial question of effectiveness. The agency concludes that none of the topical antibiotics included in this document fit either of these criteria. Therefore, the agency sees no need for regulatory action on Category III conditions prior to the effective date of the final monograph for topical first aid antibiotic drug products.

3. Several comments supported the continued OTC availability of topical antibiotics for first aid of minor skin injuries. The comments stated that there is more evidence that topical antibiotics are safe and effective than for other topical antibacterial agents and that removing topical antibiotics from the OTC market would deprive the public of a safe and effective first aid product. The comments expressed concern that if OTC topical antibiotics were not available, the public would either switch to older, more toxic, and less effective OTC topical agents, such as ammoniated mercury, or delay proper first aid treatment until an infection developed and became severe enough to justify a visit to a physician.

Because the agency is not proposing to remove the entire topical antibiotic drug class from the OTC market, it is unnecessary to respond to the comment on a hypothetical basis. All OTC agents, including ammoniated mercury for topical use, are being reviewed and evaluated for safety and effectiveness. At the conclusion of the OTC drug review, only those ingredients that are generally recognized as safe and effective for OTC use will be included in the OTC drug monographs.

4. One comment expressed concern over the Panel's statement "that the American Academy of Pediatrics recommendations to the Panel (on the safety and effectiveness of certain OTC topical antibiotics) were based on members' (Academy members) clinical impressions rather than on a comprehensive review of the extensive data which was reviewed by the Panel." (See 42 FR 17646.) The comment submitted a statement concerning the effectiveness of topical antibiotics from the Academy's Committee on Drugs and pointed out that this statement, which was published in the June 1977 issue of *Pediatrics* (Ref. 1), represented the official position of the Academy. In this statement, the Academy concluded that the use of topical antibiotics may prevent infection after minor cuts, abrasions, and burns and therefore may be appropriate as an adjunct to cleansing, but it pointed out that systemic therapy is the treatment of choice in established skin infection. The Academy cautioned that because persons who are sensitive to neomycin may also react to other aminoglycosides (e.g., gentamycin, kanamycin, paromomycin, and streptomycin), the systemic use of any of the aminoglycoside antibiotics should be avoided, if possible, in patients known to be sensitive to neomycin. The Academy also cautioned that, because of possible absorption and systemic toxicity, aminoglycosides should not be used topically on large denuded skin surfaces.

The Panel's conclusion that the Academy's recommendations on the safety and effectiveness of certain topical antibiotics were based at that time on clinical impressions resulted from the appearance of a representative of the Academy at the Panel's meeting on July 24, 1975. The agency recognizes that the official statement of the Academy's Committee on Drugs was published in *Pediatrics* in June 1977 (Ref. 1) and was based on an extensive review of the literature. The agency has considered the Academy's official recommendations in reaching its conclusions on topical antibiotic drug products in this document.

Reference

(1) American Academy of Pediatrics Committee on Drugs, "Topical Antibiotics," *Pediatrics*, Supplement, 59:1041–1042, 1977.

B. Comments on Product Categories and Labeling

5. Numerous comments objected to the Panel's recommendation of two different drug product categories (skin wound protectant and skin wound antibiotic) for the same antibiotic-containing topical drug products. Several comments pointed out that, although the two product categories contained the same ingredients, the Panel recommended two different claims depending on whether a manufacturer chose to promote the product as a skin wound protectant or a skin wound antibiotic. The comments stated that there is no logical justification for two simultaneous categories for these antibiotic drugs.

Some of the comments contended that the Panel's definition of "skin wound protectant" is misleading, confusing, and scientifically unsound because it fails to recognize the antibacterial effects of topical antibiotics. The comments argued that unless the antibacterial effect of an antibiotic is to be acknowledged as more than an aid to the physical barrier effect of the product, there is no justification for adding it. The comments concluded that the skin wound protectant category should be eliminated from consideration in the labeling of OTC topical antibiotic drug products.

The agency agrees with the comments that the Panel's recommendation for two drug product categories for the same topical antibiotic ingredients, but with different labeling indications for each, would be confusing and misleading to consumers. The agency believes that the different claims can be appropriately classified in Categories I, II, or III within a single product category rather than having two separate drug categories for the different claims. Therefore, the agency proposed that there should be only one drug category for OTC topical products containing antibiotics.

FDA further agrees with the comments that it would be misleading to allow marketing of an antibiotic-containing drug product without labeling that indicates the product has antimicrobial activity. For this reason, the agency has decided that the "skin wound protectant" category, as recommended by the Panel, is inappropriate for topical antibiotic ingredients because it does not recognize the antimicrobial activity of the antibiotic ingredients.

In determining the name of this drug category, the agency has considered all of the available data, the Panel's recommendations, and the labeling of existing products. In comparing the indications recommended by the Panel for skin wound protectants and skin wound antibiotics, the agency identified the phrase "first aid product" as common to both drug categories. "First aid" is also a term that is frequently included in the labeling of topical antibiotic drug products, is readily understood by consumers, and reflects the intended OTC use of these products. For these reasons, FDA proposes that the drug category and statement of identity for OTC topical drug products containing antibiotics should be "first aid antibiotic."

The agency has also reviewed the available data to determine the acceptable Category I claims for this drug category. As discussed in comment 14 below, the agency concludes that the application of topical antibiotics may

help prevent infection in minor skin injuries. The agency has therefore determined that the Category I indication for a first aid antibiotic drug product should be as follows: "First aid to help prevent infection in minor cuts, scrapes, and burns." In order to improve clarity and to simplify OTC labeling, the agency has used the word "scrapes" instead of "abrasions" in the indication. The agency believes that this statement will clearly inform consumers of the function of these products.

In addition, the agency has reviewed the labeling recommended by the Panel in § 342.52(a) and proposes that those statements, with slight modifications or deletions made for clarity or to eliminate redundancy, may be used in addition to the required indication stated above. The revised labeling appears in § 333.150(b)(2) of this tentative final monograph as follows:

(1) (Select one of the following: "Decreases" or "Helps reduce") "the number of bacteria on the treated area."

(2) "Helps" (select one of the following: "prevent," "guard against," or "protect against") "skin infection."

(3) "Helps reduce the" (select one of the following: "risk" or "chance") "of skin infection."

(4) "Helps prevent bacterial contamination in minor cuts, scrapes, and burns."

In addition to the required indications the labeling may contain one or both of the following statements: "First aid product" or "Antibiotic medication for minor cuts, scrapes, and burns," provided such statements are neither placed in direct conjunction with information required to appear in the labeling nor occupy labeling space with greater prominence or conspicuousness than the required information.

Also, as discussed in comment 13 below, the agency proposes that treatment of infections is not an OTC indication, and such claims have been placed in Category II in this document.

The agency recognizes that the vehicles of topical antibiotic preparations contain many of the same ingredients that were reviewed as skin protectants by the Advisory Review Panel on OTC Topical Analgesic, Antirheumatic, Otic, Burn, and Sunburn Prevention and Treatment Drug Products (hereafter referred to as the Topical Analgesic Panel). The agency believes that any protection-type claims would be attributable to these ingredients and not to the antibiotic ingredients. The agency is also aware of substantial comment to the Topical Analgesic Panel's report on Skin Protectant Drug Products for Over-the-Counter Human Use, published in the Federal Register of August 4, 1978 (43 FR 34628), stating that skin protectants should not be considered drugs.

Because the subject of this document is topical first aid antibiotics and not protectants, the agency has deferred discussion of protective claims to the skin protectant rulemaking. Depending upon the agency's conclusions with regard to the advance notice of proposed rulemaking to establish a monograph for OTC skin protectant drug products, the agency will consider the suitability of a combination first aid antibiotic/skin protectant product and will amend the first aid antibiotic monograph at that time if necessary.

6. One comment believed that the Panel's distinction between antiseptics (which are often synthetic chemicals having antimicrobial activity when used in fairly high concentration) and antibiotics (chemicals which are derived from microorganisms and which have antimicrobial activity in low concentration) presents a problem because some antibiotics are now synthesized in commercial quantities.

The agency points out that the terms "antibiotic" and "antiseptic" are defined in the Federal Food, Drug, and Cosmetic Act (hereafter referred to as the act). An antibiotic drug is defined in section 507(a) of the act (21 U.S.C. 357(a)) as "any drug intended for use by man containing any quantity of any chemical substance which is produced by a microorganism and which has the capacity to inhibit or destroy microorganisms in dilute solution (including the chemically synthesized equivalent of any such substance)." Antiseptic is defined in section 201(o) of the act (21 U.S.C. 321(o)) as "* * * a germicide except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or such other use as involves prolonged contact with the body." The agency believes that the Panel was attempting to distinguish the antibiotic class of drugs from other (nonantibiotic) antimicrobial drugs. Antibiotics are all produced by or derived from living microorganisms even though, as the comment states and the act recognizes, some are now being commercially synthesized. Nonantibiotic antimicrobial drugs are chemically synthesized and are usually used in higher concentration.

The agency believes that the term "antiseptic" is most often associated with the nonantibiotic group of antimicrobial drugs and that allowing this term to be used on antibiotic products would be misleading and confusing to consumers. For this reason, the agency agrees with the Panel that the term "antiseptic" is a Category II claim for topical antibiotic drug products. The agency further believes that the term "first aid antibiotic," discussed in comment 5 above, adequately identifies this class of OTC drug products and distinguishes it from other antimicrobial products.

7. One comment contended that FDA does not have the authority to legislate the exact wording of OTC labeling claims to the exclusion of what the comment described as other equally truthful claims for the products. The comment objected to the labeling recommended by the Panel as being overly restrictive and recommended that more flexibility in labeling be permitted by adding the following statement to each list of approved claims: "* * * or similar indication statements which are in keeping with the Panel's report." The comment further contended that some of the wording recommended by the Panel is meaningless to consumers and suggested that manufacturers be permitted to use those words that experience indicates are best understood by consumers. Specifically, the comment questioned what meaning the terms "hand eczema," "wound contamination," "protectant," and "microorganisms" would have to the consumer.

Since the inception of the OTC drug review, the agency has maintained that a monograph describing the conditions under which an OTC drug will be generally recognized as safe and effective and not misbranded must include both specific active ingredients and specific labeling. (This policy has become known as the "exclusivity rule.") The agency's position has been that it is necessary to limit the acceptable labeling language to that developed and approved through the OTC drug review process in order to ensure the proper and safe use of OTC drugs. The agency has never contended, however, that any list of terms developed during the course of the review literally exhausts all the possibilities of terms that appropriately can be used in OTC drug labeling. Suggestions for additional terms or for other labeling changes may be submitted as comments to proposed or tentative final monographs within the specified time periods or through petitions to amend monographs under 21 CFR 330.10(a)(12). For example, the labeling proposed in this tentative final monograph has been expanded and revised in response to comments received.

During the course of the review, FDA's position on the "exclusivity rule"

has been questioned many times in comments and objections filed in response to particular proceedings and in correspondence with the agency. The agency has also been asked by the Proprietary Association to reconsider its position. To assist the agency in resolving this issue, FDA plans to conduct an open public forum on September 29, 1982 where all interested parties can present their views. The forum will be a legislative type administrative hearing under 21 CFR Part 15 that will be held in response to a request for a hearing on the tentative final monograph for nighttime sleep aids (published in the **Federal Register** of June 13, 1978; 43 FR 25544). Details of the hearing were announced in a notice published in the **Federal Register** of July 2, 1982 (47 FR 29002). In proposed and tentative final monographs issued in the meantime, the agency will continue to state its longstanding policy. Accordingly, the agency at this time does not accept the comment's recommendation to add to the monograph the statement "* * * or similar indications statements which are in keeping with the Panel's report."

FDA believes that the labeling of OTC antibiotic drug products has been made clearer and more meaningful to the consumer by the changes reflected in this document. These changes include the deletion of the terms "microorganisms," "protectant," and "hand eczema," three of the four terms which the comment contended consumers would not understand. (See comment 8 below for discussion of "hand eczema.") "Wound contamination," the fourth term, has been revised to "bacterial contamination in minor cuts, scrapes, and burns" in the following allowable statement in § 333.150(b)(2)(iv): "Helps prevent bacterial contamination in minor cuts, scrapes, and burns." As discussed above, labeling terminology in addition to that specified in the monograph can still be considered when a final monograph is issued.

8. One comment questioned whether most consumers would know what the term "hand eczema" means. This term appears in the Panel's warning, "Do not use on long-standing skin conditions such as leg ulcers, diaper rash or hand eczema," in §§ 342.50(b)(5) and 342.52(b)(5).

The agency agrees that most consumers probably would not know what the term "hand eczema" means. The agency believes that the use of this term in the above warning is confusing because it implies that an OTC topical antibiotic may be used on eczema that occurs on areas of the body other than the hands. The agency concludes that it was the Panel's intent to prohibit the use of OTC topical antibiotics on any chronic skin condition, including eczema on any part of the body. The agency believes that the revised indication for use, "first aid to help prevent infection in minor cuts, scrapes, and burns," and the 1-week use limitation warning are sufficient to warn the consumer that topical antibiotics are not to be used on longstanding skin conditions. Therefore, the Panel's warnings in §§ 342.50(b)(5) and 342.52(b)(5) have been deleted from the monograph. The agency recognizes, however, that a physician may prescribe an OTC topical antibiotic to be used for longer than 1 week. For this reason, the 1-week use limitation warning has been revised to read as follows: "Do not use longer than 1 week unless directed by a doctor."

9. One comment stated that the labeling of topical antibiotic drug products should be clear and simple, and that the agency should limit the number of explicit instructions to avoid confusion or causing the consumer needless anxiety.

Another comment expressed concern over the extensive warnings recommended by the Panel. The comment pointed out that the length and extent of these warnings may be counterproductive because the consumer may not pay attention to important warning statements and may become unduly alarmed and confused. The comment recommended that FDA accept only those warnings that are necessary and meaningful to consumers.

The agency agrees that the labeling of all OTC drug products should be understandable to the public and should include only those directions and warnings that are necessary for the safe and effective use of the product. While the comments failed to indicate which statements are not clear and simple or which warnings would confuse or needlessly alarm the consumer, the agency points out that a number of changes have been made in the Panel's recommended labeling. For example, in the response to comment 5 above, the agency discusses its decision to make substantial changes in the definitions of product categories of topical antibiotics, and these changes are reflected in the labeling.

For clarity and to eliminate some duplicative words, the agency has combined and revised the warnings in § 342.50(b)(1), (4), and (5) to read as follows: "For external use only. Do not use in the eyes or apply over large areas of the body. In case of deep or puncture wounds, animal bites, or serious burns, consult a doctor." The agency has added "animal bites" to this warning, although such injuries might be included under "puncture wounds." However, the agency believes that many consumers may not consider animal bites as puncture wounds. In order to assure that the warning is clear, the term "animal bites" has been added because it is understood by all consumers. Animal bites often become infected, and consumers should be alerted to get proper medical care.

The agency has combined and revised the warnings in § 342.50(b)(2) and (3) to read as follows: "Stop use and consult a doctor if the condition persists or gets worse. Do not use this product longer than 1 week unless directed by a doctor." The agency believes that the warning recommended by the Panel in § 342.50(b)(3) could confuse consumers because it states that the user should stop using the product if itching, redness, swelling, or pain develops or increases. These are the same symptoms that often occur after a minor skin injury, the condition for which topical first aid products are indicated. The agency believes that the above revision will be more informative and less confusing to consumers.

The agency has also slightly revised the directions for use to make them clearer. (See comments 7 and 8 above for other specific labeling changes.)

10. One comment suggested deletion of the Panel's recommended warning in § 342.52(b)(2), "Do not use longer than 1 week." The comment claimed that the desired effect of the warning could be achieved by adding the words "for not longer than 1 week" to the last sentence in the directions for use in §§ 342.50(c) and 342.52(c), to read as follows: "May be applied one to three times daily for not longer than 1 week."

The agency disagrees with the comments The purpose of a period-of-use statement on a product is to warn the consumer of the product's limitations. In the case of OTC topical antibiotics, the indications are for minor cuts, scrapes, and burns, which normally heal within 1 week. If the 1-week limitation statement were incorporated into the directions for use, it would lose its intended effect of alerting consumsers that an unhealed lesion could indicate a more serious skin disease or a proliferating infection. Therefore, the agency proposes that the 1-week limitation, as modified in comment 8 above, be retained as part of the warnings.

11. One comment objected to the Panel's Category II classification of

labeling terms that suggest decreased healing time. The comment maintained that the Panel's statement that the rate of wound healing may vary, depending on how many and what types of bacteria are present in the wound, and the Panel's conclusion that there is little evidence to support the claim of shortened healing time are inconsistent. The comment also pointed out that the Panel should not have been concerned with wound-healing claims because under § 369.21 (21 CFR 369.21) topical antibiotic drug products containing the bacitracin-polymyxin-neomycin combination may be labeled only for the prevention of infection in minor cuts and abrasions. The comment stated that § 369.21 would prevent claims dealing with wound healing from being used in the labeling of these products; therefore, the Panel's statement that manufacturers had made such claims was incorrect.

The agency agrees with the Panel that the rate of healing is variable, depending on the number and types of bacteria present in the wound. However, the Panel placed wound-healing claims in Category II because it had no evidence to show that applying topical antibiotics to minor wounds would alter the healing rate. The agency agrees that additional evidence is necessary to support such claims. Although § 369.21 indicates that any bacitracin-containing preparation is to be labeled only for the prevention of infection in minor cuts and abrasions, several marketed products submitted to the Panel for review (Ref. 1 through 6) included the indications "aids in healing" or "as an aid to healing." It was for this reason that the Panel categorized these claims. The agency points out that the current regulations for labeling topical antibiotics in § 369.21 will be revoked on the effective date of the final monograph for OTC first aid antibiotics.

References

(1) OTC Volume 190001.
(2) OTC Volume 190003.
(3) OTC Volume 190004.
(4) OTC Volume 190005.
(5) OTC Volume 190006.
(6) OTC Volume 190012.

12 Two comments objected to the Panel's Category II classification of the phrase "helps kill bacteria." One comment noted that the Panel acknowledged in its discussion on potencies that each antibiotic ingredient is present in products in sufficient amounts to either destroy susceptible bacteria or arrest their development. The other comment questioned the logic of prohibiting the phrase "kills bacteria" but permitting the phrase "decreases bacteria," when the mechanism by which the bacteria are "decreased" is by "killing" them.

The agency agrees with the Panel's Category II classification of the phrase "helps kill bacteria," although for different reasons than those stated by the Panel. According to the definition in section 507(a) of the act (21 U.S.C. 357(a)), antibiotics have the capacity to inhibit or destory microorganisms. However, the agency believes that the claim "helps kill bacteria" is misleading to the average consumer because the word "kill" implies elimination of all bacteria on the skin when, in fact, topical antibiotics only decrease the number of certain bacteria on the skin. For this reason, the ageny believes that the term "decreases the number of bacteria" would not be misleading and is an allowable Category I labeling claim. (See comment 5 above.) The phrase "helps kill bacteria" will remain in Category II.

13. One comment objected to the Panel's conclusion that the claim "treats infection" would be acceptable for OTC labeling of topical antibiotics provided that the effectiveness of this claim was established in controlled studies. The comment pointed out that OTC topical antibiotic drug products are now labeled principally for prevention of infection on the premise that lay users could properly use a topical antibiotic only for prevention of infection.

The agency agrees with the comment that treatment of bacterial skin infection is not an OTC indication. Lay persons do not have adequate medical background or training and should consult a physician for diagnosis and appropriate therapy of the different types of skin infections. Also, the treatment of bacterial infections usually involves systemic therapy. Therefore, the agency concludes that the claim "treats infection" or any similar claim is inappropriate for OTC first aid antibiotic drug labeling and is classified Category II. However, the agency would consider including claims for treatment of skin infection in professional labeling if data are submitted to demonstrate the effectiveness of topical first aid antibiotics for this use.

C. Comments on Effectiveness of Topical Antibiotics

14. One comment, opposed to the availability of OTC topical antibiotics, asserted that consumers should not be exposed to any topical antibiotic for the prevention of minor skin infections. The comment stated that there is little chance of minor cuts and wounds becoming infected and that such infections are usually handled by the body's normal healing functions. The comment concluded that even if topically applied antibiotics are shown to be effective in preventing infection, the risks would outweigh the benefit. These risks include the possibility of sensitization of the skin, or the development of bacterial resistance to other antibacterial agents that might be important for treating serious disease.

A reply comment agreed that many minor skin injuries heal without treatment, but pointed out that some do not and that it is impossible to make a distinction at the time of injury. This comment stated that most people want to insure against the risk of infection by applying a safe and effective product for that purpose.

Other comments stated that OTC topical antibiotics can provide rational preventive therapy. Several comments objected to the Panel's not accepting controlled studies of prevention and treatment of infection in large wounds. The comments contended that if an antibacterial preparation is effective in reducing the incidence of infection in a variety of large wounds, there is no reason to believe that the same activity would not be exerted in smaller wounds.

One comment, noting that FDA has provided for a waiver from the requirement of controlled clinical trials for OTC drugs (21 CFR 330.10(a)(4)(ii)), objected to the Panel's unwillingness to apply this waiver to the topical antibiotic ingredients (42 FR 17647). The comment concluded that topical antibiotics have been used for 25 years, and that this experience is sufficient to support the continued use of these products in the prevention and treatment of minor skin injuries.

The agency has determined that OTC topical antibiotic drug products can be used safely and effectively to help prevent infection in minor skin injuries. The agency concludes that this use of the OTC topical antibiotics is rational and dose not pose undue risks to the consumer.

The agency agrees with the comments that many minor skin injuries, such as cuts and scrapes, are self-healing and that the body's healing mechanisms can handle some infections that might develop in these injuries. However, as the reply comment pointed out, some minor skin injuries do not heal without treatment and it is impossible to make this distinction at the time of injury.

The agency believes that reducing the number of bacteria on the skin may help prevent infection in minor skin injuries. It is well documented in the medical literature that applying topical antibiotics to skin wounds reduces the

number of bacteria at the site of application and serves as an adjunct to cleansing wounds (Refs. 1 through 4). The agency also agrees with the Panel that studies in which topical antibiotics were used in major wounds under supervised conditions in hospitals or physicians' offices (Refs. 5 through 9) were insufficient to establish the prophylactic effectiveness of topical antibiotics in minor skin injuries, and that a well-controlled study of the prophylactic effectiveness of these drug products on minor skin injuries was needed.

The agency has reviewed a well-controlled study, published after the Panel had completed its review, in which the effectiveness of an antibiotic ointment was compared with a placebo in preventing infection in minor skin injuries and insect bites (Ref. 10). This 15-week study was conducted in a rural day-care center in 59 subjects ranging in age from 2 through 5 years. Health aides examined the children daily for minor skin injuries or insect bites, and a placebo ointment or an ointment containing neomycin sulfate, zinc bacitracin, and polymyxin B sulfate was applied three times daily to any minor skin injury or insect bite. Minor skin injuries and insect bites occurred with similar frequency in both treatment groups.

The study investigators examined the children twice weekly and cultured lesions that were present at either or both of these examinations. Epidermal cultures were done weekly. Fifteen (47 percent) of the 32 children in the placebo group and 3 (15 percent) of the 27 children in the antibiotic group developed streptococcal infection. Infections recurred in five of the placebo group but none of the antibiotic group. Twelve children in the placebo group and one child in the antibiotic group required oral therapy for the skin infection. The authors stated that the lower incidence of streptococcal skin infection in the antibiotic group was statistically significant ($p<0.01$).

The agency considers this study, along with the other data cited above, as sufficient evidence to support the claim "first aid to help prevent infection in minor cuts, scrapes, and burns" for all OTC topical antibiotics. Treatment of infection is not appropriate as an indication for OTC topical antibiotics. (See comment 13 above.)

References

(1) Leyden, J. J., R. Stewart, and A. M. Kligman, "Updated *in vivo* Methods for Evaluating Topical Antimicrobial Agents on Human Skin," *The Journal of Investigative Dermatology*, 72:165–170, 1979.

(2) Marples, R. R., and A. M. Kligman, "Methods for Evaluating Topical Antibacterial Agents on Human Skin," *Antimicrobial Agents and Chemotherapy*, 5:323–329, 1974.

(3) Marples, R. R. A. Rebora, and A. M. Kligman, "Topical Steroid-Antibiotic Combinations: Assay of Use in Experimentally Induced Human Infections," *Archives of Dermatology, 108:237–240, 1973.*

(4) Leyden, J. J., and A. M. Kligman, "Rationale for Topical Antibiotics," *Cutis*, 22:515–528, 1978.

(5) Mack, R. M., and J. R. Cantrell, "Quantitative Studies of the Bacterial Flora of Open Skin Wounds: The Effect of Topical Antibiotics," *Annals of Surgery*, 166:886–896, 1967.

(6) Reiss, E., and E. J. Pulaski, "Local Antibiotics in Established Wound Suppuration," *Surgical Forum*, 1951:539–543, 1951.

(7) Saik, R. P., C. A. Walz, and J. E. Rhoads, "Evaluation of a Bactracin-Neomycin Surgical Skin Preparation," *American Journal of Surgery*, 121:557–560, 1971.

(8) Stone, H. R., and R. Hester, "Incisional and Peritoneal Infection after Emergency Celiotomy," *Annals of Surgery*, 177:669–677, 1973.

(9) Levy, R. S., J. Goldstein, and R. S. Pressman, "Value of a Topical Antibiotic Ointment in Reducing Bacterial Colonization of Percutaneous Venous Catheters," *Journal of the Albert Einstein Medical Center*, 18:67–70, 1970.

(10) Dillon, H. C., S. Maddox, and J. C. Ware, "Pathogenesis and Prevention of Streptococcal Impetigo," *in* "Current Chemotherapy and Infectious Disease—Proceedings of the 11th International Congress of Chemotherapy and the 19th Interscience Conference on Antimicrobial Agents and Chemotherapy," The American Society for Microbiology, Washington, Vol. II, pp. 1190–1192, 1980.

15. Two comments stated that OTC topical antibiotics applied to an insect bite or a wound are capable of killing the bacteria that would go on to produce impetigo in susceptible populations. One comment stated that application of topical antibiotics to impetigo lesions serves as an adjunct ot systemic therapy by minimizing the shedding of virulent organisms into the environment because systemic antibiotics do not reach the outer surfaces of skin lesions. The comment cited a published article (Ref. 1) to support this statement.

The agency has reviewed the article cited by the comment. The authors of the article discussed the potential use of topical antibiotics as adjuncts to systemic therapy by reducing the shedding of virulent organisms into the environment. The study was not designed to evalute this indication, but rather to evaluate the effectiveness of antibiotic combinations in experimentally induced infections. In addition, the authors concluded that a final judgment on the usefulness of topical antibiotics in prevention the shedding of virulent organisms into the environment would depend upon evidence of clinical efficacy. The agency concurs with the authors' conclusions. (For a discussion of the effectiveness of topical antibiotics in preventing infection in minor skin injuries, see comment 14 above).

Reference

(1) Marples, R. R., A. Rebora, and A. M. Kligman, "Topical Steroid-Antibiotic Combinations. Assay of Use In Experimentally-Induced Human Infections," *Archives of Dermatology*, 108:237–240, 1973.

16. Several comments suggested using a human model study as an alternative to the Panel's recommendation of a double-blinded, controlled clinical study to substantiate claims for prevention and treatment of infection for topical antibiotics. The comments stated that the following difficulties are likely to occur in performing a clinical study using patients with spontaneously occurring wounds: (1) Variability in the extent and depth of spontaneous lesions; (2) differences in the age of the lesion at the time the treatment is started; (3) differences in the number and type of organisms causing the infection; (4) differences from one patient to another in response to infection, personal habits, and living environment. The comments concluded that these difficulties could be avoided by using a human model study in which these factors are more exactly controlled.

Several comments considered it unethical to withhold antibacterial treatment from patients randomly selected for a clinical trail because of the potential for septicemia or acute poststreptococcal glomerulonephritis developing. One comment stated that a human model study on healthy young adult volunteers would use accurately determined numbers of known pathogenic staphylococci and streptococci, and care would be taken to avoid using strains of streptococci that can cause poststreptococcal glomerulonephritis to develop.

One comment stated that the Panel's report contained several substantive errors regarding published work, unpublished material, and testimony to the Panel concerning human model studies. The comment resubmitted a protocol for a human model study (Ref. 1) and stated that this particular model had used *Staphylococcus aureus* and a pathogenic strain of *Escherichia coli*, and not normal skin bacteria as the Panel stated. The comment contended

that the Panel's recommended requirement that "effectiveness must necessarily be demonstrated in clinical trails because this model system uses normal skin bacteria" is not a valid conclusion. (See 42 FR 17650.)

The comments concluded that well-controlled human model studies, using volunteers, were submitted to the Panel to show that bacitracin and polymyxin, alone and in combination, are effective in preventing infection in experimentally induced wounds. The comments objected to the Panel's Category III classification of the claim "prevents infection" for the combination of bacitracin and polymyxin B sulfate.

The agency disagrees with the comments that the performance of clinical trials to study prevention and treatment claims is unethical. Although septicemia can develop from minor cuts or scrapes, it is extremely rare. Testimony presented to the Panel during its deliberations showed that treatment probably cannot be administered soon enough to prevent glomerulonephritis when a nephritogenic strain is present in an infection. (A nephritogenic strain of streptococci is one that can cause inflammation of the kidney.). Therefore, the risk of poststreptococcal glomerulonephritis would not differ between the treated and the control groups in the clinical trial.

As discussed previously, claims of preventing bacterial infection are Category I (see comments 5 and 14 above); claims of treating bacterial infections are Category II (see comment 13 above). The agency points out that the combination of bacitracin and polymyxin B sulfate is Category I for the indication "first aid to help prevent infection in minor cuts, scrapes, and burns," and needs no further study. (See § 333.110 and § 333.120 in this tentative final monograph.)

The agency believes that human model studies have a place in the testing of topical antibiotics. For example, they can be used as a screening mechanism to determine the possible effectiveness of new ingredients or to demonstrate bioavailability of the Category I ingredients from new formulations. However, because the agency has reclassified most of the submitted antibiotics into Category I, there is no need to discuss model studies in great detail in this document.

Reference

(1) Comment No. 00005, Docket No. 76N–0482, Dockets Management Branch.

17. One comment contended that the Panel's conclusion that topical antibiotics have not been shown to prevent or treat infections was influenced by the results of a study performed in 1971 (Ref. 1), and this study has since been discredited. This study compared the effectiveness of a bacitracin, polymyxin, and neomycin combination with the base alone in 30 patients with impetigo. On each patient one lesion was treated with the combination antibiotic preparation, and another lesion was treated only with the base, on the assumption that each person would serve as his or her own control. Although treated and untreated lesions showed some improvement, no significant differences were reported between the effects of the antibiotic and the placebo.

The comment argued that the phenomenon of translocation (the spread of a drug from the site of application to other areas of the skin) operated to produce an antibiotic effect on both lesions of each subject because the lesions were deliberately left uncovered after the ointments were applied. The comment contended that because this study met the Panel's recommendations for control, it influenced the Panel's final conclusions, even though a report on translocation (Ref. 2) was included in a submission to the Panel in 1975 (Ref. 3).

The agency notes that the summary of data and conclusions in this submission has since been published (Ref. 4). The agency agrees with the comment that the phenomenon of translocation could explain the results of the 1971 study cited by the Panel. However, a more involved discussion of this issue is not necessary because FDA has placed prevention claims in Category I and treatment claims in Category II. (See comments 5, 13, and 14 above.) Also, according to § 333.120, the combination of bacitracin, polymyxin, and neomycin is Category I.

References

(1) Pace, B. F., "Report on Mycitracin-Impetigo Study," Draft of unpublished paper in OTC Volume 190023.

(2) Marples, R. R., and A. M. Kligman, "Limitations of Paired Comparisons of Topical Drugs," *British Journal of Dermatology*, 88:61–67, 1973.

(3) OTC Volumes 190019 through 190025.

(4) V. Anderson, "Over-the-Counter Topical Antibiotic Products Data on Safety and Efficacy," *International Journal of Dermatology*, Supplement, 15:1–116, 1976.

18. One comment objected to the Panel's recommendation that animal and human model studies be used to test the effectiveness of the submitted antibiotic ingredients because of the large volume of clinical experience already at hand. The comment pointed out that such studies are suitable for screening new ingredients before clinical trials, but are unnecessary and wasteful for widely used ingredients.

As stated in comment 16 above, the agency agrees that animal and human model studies are useful as a screening mechanism; however, they will not be required for establishing proof of the effectivenes of the submitted antibiotic ingredients. Because gramicidin is the only submitted ingredient that remains to be tested, and because it will not be necessary to test this ingredient using animal or human model studies, it is not necessary to discuss the use of these models any further in this document. Because no comments were received regarding gramicidin, the agency will address the testing of gramicidin in response to any future comments as provided in the policy statement published in the **Federal Register** on September 29, 1981 (46 FR 47740).

D. Comments on Safety of Topical Antibiotics

19. Several comments objected to the Panel's concern over potential misuse of OTC topical antibiotics because the Panel had no evidence that these products had ever been misused. The comments contended that theoretical possibilities should not be made a part of a scientific report and that it was improper for any scientific Panel to assume "misuse" of the drugs under its purview.

FDA agrees that the Panel cited no specific evidence of misuse of OTC topical antibiotic ingredients. However, the agency does not agree that concerns about potential misuse should not be a part of a scientific report. Theoretical concerns of misuse or potential misuse may be taken into account by panels in determining general recognition of safety and in developing labeling for an OTC drug product. The Panel's main concern in considering this potential problem was to recommend labeling that would, through clear and accurate directions for use and warnings against misuse, prevent misuse or abuse of these products.

20. Several comments stated that preparations that are merely occlusive barriers (and do not contain an antibiotic) may be dangerous for the public to use on minor skin injuries because such products would be ineffective in preventing multiplication of bacteria and could even favor the proliferation of bacteria. These comments supported the continued availability of topical antibiotic drug products and stated that there is no justification for a skin wound protectant without antimicrobial action.

As stated in comment 14 above, the agency has concluded that topical antibiotics will continue to be available as OTC first aid preparations to be applied to minor cuts, scrapes, and burns to help prevent infection. The comments' argument that there is no justification for skin wound protectants without antimicrobial activity concerns a class of products that does not fall within the scope of this tentative final monograph. Products of this type were discussed by the Topical Analgesic Panel in the advance notice of proposed rulemaking for skin protectant drug products, which was published in the **Federal Register** of August 4, 1978 (43 FR 34628). The agency will address the issue of skin wound protectants without antimicrobial activity in a future issue of the **Federal Register.**

21. One comment objected to the following statement by the Panel concerning the data necessary to establish the safety of all topical antibiotics: "Studies should be conducted to determine the highest blood levels achievable in man from maximum exposure to topical application." (See 42 FR 17652.) The comment contended that such a study was conducted and presented to the Panel in May 1975 (Refs. 1 and 2), but the results of the study apparently were not taken into account in the Panel's conclusions.

The agency points out that the statement to which the comment objected is part of the Panel's general discussion of the rationale for determination of the safety factors of topical antibiotics and is not part of the Panel's recommended testing guidelines. Although the study cited by the comment was not specifically cited by the Panel in its report, the agency does not agree that its results were not taken into account. The agency points out that the Panel concluded that it had been presented with enough data on all ingredients except gramicidin to make a determination concerning systemic toxicity. The agency concurs with the Panel that no further systemic toxicologic data are needed for any of the submitted OTC topical antibiotics other than gramicidin. The agency encourages manufacturers to use the Panel's recommendations for guidance in the development of the toxicologic data necessary for establishing the safety of gramicidin when used topically. (See 42 FR 17678.)

References

(1) OTC Volumes 190019 through 190025.

(2) V. Anderson, "Over-the-Counter Topical Antibiotic Products: Data on Safety and Efficacy," *International Journal of Dermatology*, Supplement, 15:79–82, 1976.

22. One comment urged FDA to ban the prophylactic use of all topical antibiotics because such unnecessary exposure to antibiotics increases the chances of bacterial resistance to antibiotics that are useful or essential for the systemic treatment of serious infections. The comment contended that FDA has proposed to ban the use of certain antibiotics in animal feed because of the potential for promoting bacterial resistance, and that antibiotics for prevention of minor skin infections should be banned for the same reason.

The agency's proposal, published in the **Federal Register** of January 20, 1978 (43 FR 3023), was not intended to ban the use of all antibiotics in animal feed, but to limit the routine subtherapeutic use of certain antibiotics in animal feed. The proposal was based on the concern that chronic exposure to animal feeds containing antibiotics could lead to the development of antibiotic-resistant bacteria. However, the proposal was limited to those antibiotics that are also used systemically in humans to treat infections.

The agency points out that, for the most part, the antibiotics used in OTC topical first aid products are not used systemically. The agency recognizes that the use of topical antibiotics in closed environments, such as hospitals, or in chronic conditions for extended periods of time may lead to the development of resistant strains. However, the agency is unaware of any evidence indicating that the occasional use of OTC topical antibiotics has led to an increase in infection in the general population because of resistant organisms. Therefore, the agency concludes that concerns regarding the development of resistant organisms from occasional use of OTC topical antibiotics should not prevent these ingredients from being classified in Category I.

E. Comments on Bacitracin

23. One comment contended that products containing antibiotics effective only for gram-positive bacteria, such as bacitracin, may promote the uncontrolled growth of gram-negative bacteria and that the Panel failed to address this potential problem in its report. A reply comment maintained that the Panel recognized the potential for bacterial overgrowth and made recommendations in those cases where there was a problem, e.g., in recommending that polymyxin B sulfate should not be used as a single active ingredient in OTC antibiotic drug products.

The agency agrees with the reply comment that the Panel recognized the limited spectra of the various antibiotic ingredients (e.g., polymyxin B sulfate and bacitracin) and considered the potential for bacterial overgrowth if those ingredients were used alone. Polymyxin B sulfate is active against certain gram-negative bacteria, but is not active against gram-positive bacteria. Because most infections of minor skin wounds are caused by gram-positive bacteria, applying polymyxin B sulfate alone could allow for uncontrolled growth of these gram-positive bacteria. The Panel determined, and the agency agrees, that it is rational to require polymyxin B sulfate to be used only in combination with antibiotics that have activity against gram-positive bacteria. Conversely, because bacitracin is active against gram-positive bacteria, which are the most frequent cause of minor skin wound infections, the Panel determined that it is aceptable to use this ingredient alone as a first aid antibiotic. The agency also agrees with this conclusion.

F. Comments on Neomycin.

24. One comment contended that neomycin should be removed from the market immediately until it is proven safe and effective. The comment stated that the National Academy of Sciences—National Research Council Drug Efficacy Study concluded that topical applications of neomycin have not been proven effective. (See 37 FR 12857.) A reply comment stated that this study did not make that conclusion, but instead stated that no well-controlled trials comparing topical neomycin with the cream or ointment vehicle alone in minor skin infections have been reported.

The agency agrees with the reply comment that the Drug Efficacy Study concluded that neomycin preparations were possibly effective for their labeled indications, not that they were ineffective. The Drug Efficacy Study stated that many studies support the fact that superficial skin injuries and infections improve after the use of topical neomycin preparation; however, in searching the literature of 1952 to 1967, no double-blind, controlled studies comparing neomycin ointment or cream with the vehicle alone were found. The agency points out that any final conclusions on certain OTC topical preparations containing neomycin sulfate were deferred to the OTC drug review. A notice of this deferment was published in the **Federal Register** on

June 29, 1972 (37 FR 12857). As discussed below (see comments 25 through 28), the agency has reclassified neomycin sulfate from Category III to Category I.

25. Several comments objected to the Panel's classification of neomycin in Category III because the use of neomycin may promote the development of resistant organisms or cross-resistance to other aminoglycoside antibiotics. The comments stated that although cases of neomycin resistance and cross-resistance in closed environments, such as hospitals, have been reported, there is no evidence that the use of neomycin in the general population has led to any increase in infection due to neomycin-resistant strains. One comment stated that the Panel used a "double standard" in evaluating bacterial resistance of neomycin and the tetracyclines when it classified these topical antibiotics. The comment stated that bacterial resistance to tetracyclines has been demonstrated in hospitalized patients, but this did not prevent the Panel from classifying the tetracyclines in Category I.

The agency recognizes that the use of topical antibiotics in closed environments, such as hospitals, or in chronic conditions for extended periods of time has led to the emergence of resistant strains of bacteria. These closed environments are particularly prone to the development of resistant strains. However, the agency is unaware of any evidence indicating that the occasional use of OTC topical antibiotics, including neomycin, has led to an increase in infection in the general population because of resistant organisms. OTC topical antibiotics have been marketed for a number of years, some for more than 25 years. The agency believes that if the development of resistance were a problem from the OTC use of these ingredients it would have been evident by now. As noted in comment 22 above, the agency concludes that concerns regarding the development of resistant organisms for occasional use of OTC topical antibiotics should not prevent these ingredients from being classified in Category I.

26. One comment stated that until the Panel's questions concerning percutaneous absorption of neomycin are answered, it must be assumed that topical use of this ingredient presents the same risks of deafness and kidney damage that are seen from systemic use of the drug. Other comments objected to the Panel's statement that toxic blood levels can be reached if neomycin sulfate preparations are placed on large areas of broken skin (42 FR 17662), and that the amount of neomycin that may be absorbed into the bloodstream after topical application to diseased skin is unknown (42 FR 17661). One comment contended that the Panel's statements are imprecise because a study submitted to the Panel in May 1975, a summary of which has since been published (Ref. 1), showed that the use of neomycin in patients with widespread psoriasis and atopic dermatitis produced no detectable blood levels of neomycin despite the patients' broken skin barrier. Another comment pointed out that systemic toxicity has occurred only when neomycin has been applied to large areas of denuded skin, and that there is no risk of toxicity from the application of neomycin to minor cuts and burns.

Although FDA agrees with the comments that the Panel's statements regarding "broken" and "diseased" skin are imprecise, the agency believes that it was the Panel's intent to make it clear that the topical use of neomycin can be potentially hazardous if the drug is used improperly. After reviewing the Panel's report and the comments, the agency concludes that the short-term use of neomycin in minor cuts and burns would not present a toxicologic risk. The agency concurs with the Panel's conclusion that no further toxicologic testing is needed for neomycin for OTC topical use.

Reference

(1) Anderson V., "Over-the-Counter Topical Antibiotic Products: Data on Safety and Efficacy," *International Journal of Dermatology*, Supplement, 15:79–82, 1976.

27. Several comments objected to the Panel's placement of neomycin sulfate in Category III because of questions concerning this ingredient's sensitization potential. The comments contended that the symptoms of sensitization are not serious and that they subside and leave no lasting effect when the treatment is stopped. One of the comments submitted two articles (Refs. 1 and 2), which were published after the Panel had completed its deliberations. These articles show that the incidence of sensitivity is much lower than previously believed and that the topical use of neomycin products on minor cuts or abrasions presents little risk to the user. Another comment suggested that a precautionary statement on the label would be more appropriate than the testing recommended by the Panel to determine the sensitization rate of neomycin in the general population, because the frequency of clinical hypersensitivity to neomycin is probably quite low and because the reactions are not serious. Another comment stated that neomycin sulfate should not be available OTC because it can cause allergic sensitization and can sensitize the skin to structurally related, potentially lifesaving drugs.

After evaluating the comments and other information, the agency believes that little would be gained by requiring further study to determine the actual prevalence or incidence of neomycin sensitization in the general population. Therefore, no further testing to determine a sensitization rate will be required.

Among the studies reviewed by the agency was one by Leyden and Kligman (Ref. 1), in which 2,175 subjects were patch tested with 20 percent neomycin sulfate ointment. The researchers reported that only two subjects (0.09 percent of the total population) had a clear-cut reaction to neomycin. Both of these subjects had a history of frequent use of neomycin-containing products.

Leyden and Kligman (Ref. 1) also reviewed the results of patch testing with 20 percent neomycin in 653 children who had chronic dermatoses and had been referred for diagnostic patch testing. Only one child (0.15 percent) had an allergic response to neomycin. The authors noted that this sensitization rate is much lower than that seen when adults with chronic dermatoses are patch tested with neomycin. The authors stated that because topical antibiotics are mainly used on minor cuts and wounds, which are more common in children, the periodic use of topical antibiotics is unlikely to pose a sensitization problem. They also noted tht when sensitization to neomycin did occur, the reactions were mild and self-limiting.

Prystowsky et al. (Ref. 2) reported that in a general population of 1,158 subjects who were patch tested with 20 percent neomycin sulfate, 12 subjects (1.1 percent) showed sensitivity to neomycin. Ten of these 12 subjects had used neomycin for 1 week or longer on an inflammatory dermatosis. Use tests, in which commercial products containing neomycin 0.5 percent were applied three times a day for 7 days, were then conducted on these subjects. Three of the 12 subjects with positive patch tests had negative use tests. The authors concluded that these persons could possibly use neomycin-containing products for several days on minor cuts, wounds, and abrasions without experiencing persistent dermatitis. In patients who had positive reactions to the use test, the reactions were mild, self-limiting dermatoses. Prystowsky et al. concluded that the use of neomycin-containing products presents little risk

to the user. However, they emphasized that labeling should limit the use of such products to not more than 7 days because using these products for more than a week increases the chance of an allergic reaction.

The agency is aware of a study in which the estimated prevalence of positive neomycin patch test results was 0 percent in 50 "normal" subjects (Ref. 3). In another study the prevalence of positive neomycin patch tests was 3 percent in 100 "normal" subjects (Ref. 4). The agency is also aware that the rate of contact sensitivity to neomycin in patch test studies of dermatologic clinic populations was reported to be between 5 and 6 percent (Refs. 5, 6, and 7).

The data discussed above are sufficient to show that the general population is at a much lower risk of developing sensitization than persons who have chronic dermatitis or who have used neomycin-containing products for extended periods of time. Children, because of their play activities, are more likely than adults to have minor skin injuries and would be the more frequent users of topical antibiotics. However, among persons with chronic dermatitis, neomycin sensitization appears to be much less prevalent in children than in adults. Even when sensitization does occur, the symptoms are not severe and are localized and self-limiting. Also, the labeling on products containing neomycin includes warnings not to use the product for longer than 1 week and to discontinue use and consult a doctor if the condition persists or gets worse. For these reasons, the agency believes that concerns regading sensitization should not prevent placing neomycin in Category I as a first aid antibiotic.

References

(1) Leyden, J. J., and A. M. Kligman, "Contact Dermatitis to Neomycin Sulfate," *Journal of the American Medical Association*, 242:1276–1278, 1979.

(2) Prystowsky, S. D., et al., "Allergic Hypersensitivity to Neomycin," *Archives of Dermatology*, 115:713–715, 1979.

(3) Schorr, W. F., F. J. Wenzel, and S. I. Hegedus, "Cross-sensitivity and Aminoglycoside Antibiotics," *Archives of Dermatology*, 107:533–539, 1973.

(4) Patrick, J., J. D. Panzer, and V. J. Derbes, "Neomycin Sensitivity in the Normal (Nonatopic) Individual," *Archives of Dermatology*, 102:532–535, 1970.

(5) Fisher, A. A., "Contact Dermatitis," 2d Ed., Lea and Febiger, Philadelphia, 1973.

(6) Rudner, E. J., et al., "Epidemiology of Contact Dermatitis in North America: 1972," *Archives of Dermatology*, 108:537–540, 1973.

(7) Bandmann, H. J., et al., "Dermatitis From Applied Medicament," *Archives of Dermatology*, 106:335–337, 1972.

28. One comment contended that neomycin can sensitize the skin to agents such as the sun and cosmetics. A reply comment disagreed with the statement that neomycin can cause sensitivity to the sun and cosmetics and pointed out that allergens sensitize only to themselves or very closely related chemical entities.

The agency acknowleges that a variety of drugs can, theoretically, be altered by sunlight to form allergenic or irritating compounds, and that some drugs may interact with cosmetics to produce sensitivity. However, the comment submitted no data to show that neomycin caused such reactions, and a search of the literature revealed no information that neomycin is altered in this way.

G. Comments on Combinations and Dosage Forms

29. One comment requested that the proposed monograph be amended to provide for combinations of Category I antibiotics with Category I corticosteroids or Category I anesthetics. The comment contended that the Panel recognized the rationality of combining antibiotics with corticosteroids (42 FR 17671). The comment further stated that the Panel's concern that anesthetics in combination with antibiotics would mask signs of worsening infection was applicable only to products that were used to treat an existing infection. These concerns, the comment added, are not applicable to products that by definition are excluded from making anti-infective claims. The comment pointed out that the Topical Analgesic Panel approved a number of topical anesthetics for use on minor cuts and burns (42 FR 69864), and because the "combined attributes of such ingredients are indicated for simultaneous use in first aid type products," it would be inappropriate and against the public interest for FDA to ban topical antibiotic-anesthetic combinations.

Although the Panel stated that "it is entirely conceivable" to combine "certain" nonantibiotic ingredients, such as Category I corticosteroids, with antibiotics for reducing inflammation, the Panel believed that any such combination would have to be "properly evaluated." (See 42 FR 17671.) The agency points out that when the Topical Analgesic Panel evaluated corticosteroids in its report on OTC External Analgesic Drug Products (44 FR 69768), it considered hydrocortisone to be Category I as a topical analgesic, but only for use in single active ingredient drug products and not for use in combination drug products (44 FR 69787 and 69813).

Furthermore, the agency points out that no data on any antibiotic-nonantibiotic combination were submitted to the Antimicrobial II Panel for review, nor were any submitted in the comments. Although it may be "conceivable" that antibiotic and "certain" nonantibiotic ingredients could provide rational therapy for OTC use, this possibility is theoretical at present. In view of the Panel's concern that combinations of antibiotics with anesthetic ingredients could pose safety problems by masking signs of infection (42 FR 17672), the agency concludes that more information is needed to show that the population who would use antibiotic-nonantibiotic combinations on skin wounds would not be at risk. Until information is submitted to show that antibiotic-nonantibiotic combinations meet the criteria in 21 CFR 330.10(a)(4)(iv), such combinations will not be included in the monograph.

30. One comment objected to the Panel's restriction in § 342.10 (a), (b), and (c) of the dosage form of topical antibiotics to "topical ointment dosages" only. The comment stated that the term "ointment" is vague and unnecessarily restrictive. Referring to the definitions of cream and ointment in the United States Pharmacopeia (Ref. 1), the comment stated that "apparently one cannot readily distinguish ointments from creams since both dosage forms can be either water-in-oil or oil-in-water emulsions." The comment added that the Panel intended to include more than one dosage form in the monograph. To support this opinion, the comment cited several statements in the Panel's report, such as "ointment or any other topical dosage form" (42 FR 17675); and "ointment, powder or any other topical dosage form" (42 FR 17678). The comment requested that the term "ointment" be replaced in the monograph by the term "semi-solid dosage form," which would provide for more flexibility in the formulation of these products.

Several comments supported the recommended restriction to the ointment dosage form only. One comment theorized that a petrolatum (ointment) base may actually be more effective than a cream base because the occlusive effect of the ointment allows transepidermal moisture to solubilize the antibiotic, producing a higher concentration of the drug at the site of action than the concentration that would be delivered by a cream at the same labeled potency. Another comment argued that ointment bases are

preferable because they rarely produce allergic sensitization; whereas creams, which contain potential allergens, such as preservatives, emulsifiers, antioxidants, lanolin, wood alcohols, and perfumes, often produce allergic sensitization. Another comment stated that these added ingredients could delay wound healing.

The agency points out that manufacturers of OTC topical antibiotics must comply not only with the OTC drug regulations, but also with the antibiotic drug regulations in Subparts F of Parts 444, 446, and 448 (21 CFR Parts 444, 446, and 448), which establish standards of identity, strength, quality, and purity. In the **Federal Register** of October 28, 1980 (45 FR 71354), FDA published a final rule amending the antibiotic drug regulations (21 CFR 433.1) to exempt dermatologic antibiotic drug products, including those subject to the OTC drug review, from batch certification. The agency recognizes that the acceptable dosage forms for the various topical antibiotics are characterized in the antibiotic monographs and therefore sees no need to specify particular dosage forms in this OTC drug monograph. Manufacturers are restricted to using only those dosage forms that are contained in the antibiotic regulations.

The agency agrees that the traditional cream bases have been shown to produce allergic sensitization more often than petrolatum-type ointment bases, but recognizes that creams can be formulated to omit many of the potential allergens. Almost any preparation can produce an allergic reaction in some individuals. However, such reactions are usually not severe, and the agency believes that the labeling of topical antibiotic drug products adequately warns the user to consult a doctor if the condition worsens. Because no data were presented to support the contentions that ointments are more effective or that ingredients in cream preparations delay wound healing, these comments are not being adopted.

Reference

(1) "The United States Pharmacopeia," 19th Rev., United States Pharmacopeial Convention, Inc., Rockville, MD, pp. 700–702, 1975.

II. The Agency's Tentative Adoption of the Panel's Report

A. Summary of Ingredient Categories and Testing of Category II and Category III Conditions

1. *Summary of ingredient categories.* The agency has reviewed all claimed active ingredients submitted to the Panel, as well as other data and information available at this time, and has proposed the recategorization of neomycin sulfate from Category III to Category I as well as a change in the designation of the drug product categories from skin wound antibiotic and skin wound protectant to topical first aid antibiotic. For the convenience of the reader, the following table is included as a summary of the categorization of topical antibiotic ingredients by the agency.

First aid antibiotic active ingredients	Category
Bacitracin	I.
Bacitracin zinc	I.
Chlortetracycline hydrochloride	I.
Gramicidin	III.
Neomycin sulfate	I.
Oxytetracycline hydrochloride	I.
Polymyxin B sulfate (in combination only)	I.
Tetracycline hydrochloride	I.

2. *Testing of Category II and Category III conditions.* The Panel recommended testing guidelines for topical antibiotic drug products (42 FR 17678). The agency is offering these guidelines as the Panel's recommendations without adopting them or making any formal comment on them except as otherwise noted in this document. (See comments 16 and 18 above.) Interested persons may communicate with the agency about the submission of data and information to demonstrate the safety or effectiveness of any antibiotic drug product ingredient or condition included in the review by following the procedures outlined in the agency's policy statement published in the **Federal Register** of September 29, 1981 (46 FR 47740). This policy statement includes procedures for the submission and review of proposed protocols, agency meetings with industry or other interested persons, and agency communications on submitted test data and other information.

B. Summary of the Agency's Changes in the Panel's Recommendations

FDA has considered the comments and other relevant information and concludes that it will tentatively adopt the Panel's report and recommended monograph with the changes described in FDA's response to the comments above and with other changes described in the summary below. A summary of the changes made in the Panel's recommendations and conclusions follows.

1. Part 342—Topical Antibiotic Drug Products For OTC Human Use has been renumbered as follows: Part 333—Topical Antimicrobial Drug Products For OTC Human Use, Subpart B—Topical First Aid Antibiotic Drug Products. (See Supplementary Information above.)

2. The two topical antibiotic drug product categories, skin wound protectant and skin wound antibiotic, have been combined and renamed "first aid antibiotic." The definition for first aid antibiotic is "an antibiotic-containing drug product applied topically to the skin to help prevent infection in minor cuts, scrapes, and burns." (See comment 5 above.)

3. The required indication for the first aid antibiotic drug product category is: "First aid to help prevent infection in minor cuts, scrapes, and burns." Certain allowable phrases may be used in addition to this indication. (See proposed § 333.150(b) (2) and (3).) Protectant claims have been deferred to the rulemaking for skin protectant drug products. (See comment 5 above.)

The indication "treats infection" is in Category II because it is not suitable for OTC first aid antibiotic labeling. (See comment 13 above.)

4. The agency has included bacitracin zinc in addition to bacitracin as a Category I first aid antibiotic ingredient in this tentative final monograph. Both bacitracin and bacitracin zinc were included in products submitted to the OTC drug review. Although both ingredients were discussed in the Panel's report, bacitracin zinc was inadvertently omitted from the Panel's recommended monograph. The agency has corrected this oversight by including bacitracin zinc in this tentative final monograph.

5. The Panel's recommended monograph stated the concentration of antibiotic ingredients as "not less than *x* amount per gram," but did not specify an upper limit. The agency has clarified these ingredient concentrations by stating the labeled amounts of each antibiotic consistent with the requirements of the applicable antibiotic drug monographs (Subparts F of Parts 444, 446, and 448). Bacitracin concentration has been restated from not less than 500 units per gram (units/g) to 500 units/g. The concentration for all three of the tetracyclines has been set at 30 milligrams per gram (mg/g). The Panel's recommended monograph set oxytetracycline hydrochloride at not less than 30 mg/g, tetracycline hydrochloride at not less than 15 mg/g, and chlortetracycline hydrochloride at not less than 1 mg/g. The agency notes that various products containing the three tetracyclines reviewed by the Panel all contained 30 mg/g. Polymyxin B sulfate concentration has been revised to between 5,000 to 10,000 units/g instead of 4,000 to 5,000 units/g as recommended by the Panel. The agency notes that various polymyxin

combination products reviewed by the Panel contained polymyxin 5,000, 8,000, and 10,000 units/g. The Panel recommended a neomycin sulfate concentration of not less than 5 mg/g of finished ointment dosage form. This could be interpreted as requiring a specific 5-mg weight of neomycin sulfate to be contained in each gram of suitable vehicle. Because the antibiotic activity in a milligram of neomycin sulfate can vary depending on the purity of the material, it is better to designate the neomycin content on an activity basis. (See 21 CFR 430.6(b)(20).) Therefore, the neomycin sulfate concentration has been revised to an amount of neomycin sulfate equivalent to the antibiotic activity of 3.5 mg neomycin per gram of vehicle. (See 21 CFR 444.542a(a).)

6. Neomycin sulfate was listed in Category III in the Panel's report because of safety concerns about the potential of this ingredient to cause sensitization or antibiotic-resistant staphylococci. Neomycin sulfate has been classified as a Category I first aid antibiotic in this tentative final monograph. (See comments 24 through 28 above.)

7. In its recommended monograph, the Panel specifically listed acceptable combinations if they met the Panel's criteria for combinations and if a monograph existed for the combination in the antibiotic drug regulations. Similarly, the monograph provided only for those dermatologic dosage forms that were contained in the antibiotic drug regulations for OTC topical antibiotics.

The tentative final monograph has been revised to state that OTC topical antibiotic drug products must conform not only to the OTC drug regulations, but also to the antibiotic drug regulations (Subpart F of Parts 444, 446, and 448), thus obviating reference to specific antibiotic monographs.

The Panel concluded that to qualify as a Category I combination product, each of the following conditions must be met:

a. Each active antibiotic and claim in the combination product is Category I.

b. The active antibiotic ingredients are combined on the basis of broadening the relevant antimicrobial spectrum.

c. The total number of ingredients does not exceed three.

The agency concurs with the Panel's criteria for combinations and has proposed in the tentative final monograph a combination policy consistent with these criteria as follows:

The Category I antibiotic active ingredients are grouped according to antibacterial activity.

Group A. *Broad-spectrum antibiotics:*
Chlortetracycline hydrochloride
Neomycin sulfate
Oxytetracycline hydrochloride
Tetracycline hydrochloride

Group B. *Antibiotics with primarily gram-positive activity:*
Bacitracin
Bacitracin zinc

Group C. *Antibiotic with primarily gram-negative activity:*
Polymyxin B sulfate

First aid antibiotic drug products may contain a single antibiotic ingredient chosen from either Group A or Group B. Antibiotic ingredients in Group C must be used in combination with at least one other antibiotic from Group A or B. Any combination of up to three antibiotic ingredients may be marketed provided only one antibiotic is chosen from each group.

The agency points out that, because OTC first aid antibiotics are subject to both an OTC final monograph and the antibiotic drug regulations, only those combinations for which an antibiotic certification monograph exists in Subparts F of Parts 444, 446, and 448 may be legally marketed.

8. The agency has combined and revised the warnings in § 342.50(b)(1), (4), and (5) and § 342.52(b)(1), (4), and (5) for clarity and to eliminate duplicative words. The agency has also added "animal bites" to the revised warnings, which appear in § 333.150(c)(1) in this tentative final monograph as follows: "For external use only. Do not use in the eyes or apply over large areas of the body. In case of deep or puncture wounds, animal bites, or serious burns, consult a doctor."

9. The agency has revised the Panel's recommended directions for use in § 342.50(c) and § 342.52(c) to make them clearer and simpler. This information appears in § 333.150(d) in this tentative final monograph as follows: "Clean the affected area. Apply a small amount of this product one to three times daily. May be covered with a sterile bandage."

To eliminate inconsistencies and duplication, the warning and caution statements for OTC topical antibiotic-containing drugs included in 21 CFR 369.20 and 369.21 will be revoked when the final monograph becomes effective.

10. In several of its warnings, the Panel recommended the phrase, "see a physician," which has often been used in OTC drug labeling as advice to the consumer in case of symptoms that indicate a condition that cannot be self-treated. Believing that the word "doctor" is more commonly used and better understood by consumers, the agency proposes to substitute "doctor" for "physician" in the warnings appearing in the tentative final monograph. This change is part of a continuing effort to achieve OTC drug labeling language that is simple, clear, and accurate, in keeping with § 330.10(a)(4)(v), which states in part, "Labeling * * * shall state the intended uses and results of the product; adequate directions for proper use; and warnings against unsafe use, side effects, and adverse reactions in such terms as to render them likely to be read and understood by the ordinary individual, including individuals of low comprehension, under customary conditions of purchase and use." If the word "doctor" is adopted in the final monograph, the agency will use this language in other final monographs and other applicable OTC drug regulations and will propose amendments to those regulations accordingly. Public comment on this proposed change in labeling language is invited.

The agency has examined the economic consequences of this proposed rulemaking and has determined that it does not require either a Regulatory Impact Analysis, as specified in Executive Order 12291, or a Regulatory Flexibility Analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96-354). Specifically, the proposal would necessitate some relabeling, resulting in minimal costs. Manufacturers may wish to test the one ingredient that is in Category III, but testing costs would be voluntary because products containing this ingredient may also be reformulated. Costs associated with reformulation include stability testing. Therefore, the agency concludes that the proposed rule is not a major rule as defined in Executive Order 12291. Further, the agency certifies that the proposed rule, if implemented, will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act.

The agency invites public comment regarding any substantial or significant economic impact that this rulemaking would have on OTC topical first aid antibiotic drug products. Types of impact may include, but are not limited to, costs associated with product testing, relabeling, repackaging, or reformulating. Comments regarding the impact of this rulemaking on OTC topical first aid antibiotic drug products should be accompanied by appropriate documentation. Because the agency has not previously invited specific comment on the economic impact of the OTC drug review on topical first aid antibiotic drug products, a period of 120 days from the date of publication of this proposed rulemaking in the **Federal Register** will be provided for comments on this subject to be developed and transmitted.

The agency will evaluate any comments and supporting data that are received and will reassess the economic impact of this rulemaking in the preamble to the final rule.

The agency has determined that under 21 CFR 25.24(d)(9) (proposed in the **Federal Register** of December 11, 1979; 44 FR 71742) this tentative final monograph is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 333

OTC drugs: Topical antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371)), and the Administrative Procedure Act (secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704)), and under 21 CFR 5.11 as revised (see 47 FR 16010; April 14, 1982) it is proposed that Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations be amended in proposed Part 333 by adding new Subpart B, to read as follows:

PART 333—TOPICAL ANTIMICROBIAL DRUG PRODUCTS FOR OVER-THE COUNTER HUMAN USE

Subpart B—Topical First Aid Antibiotic Drug Products

Sec.

333.101 Scope.
333.103 Definitions.
333.110 First aid antibiotic active ingredients.
333.120 Permitted combinations of active ingredients.
333.150 Labeling of first aid antibiotic drug products.

Authority: Secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371); secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704).

§ 333.101 Scope.

(a) An over-the-counter first aid antibiotic drug product in a form suitable for topical administration is generally recognized as safe and effective and is not misbranded if it meets each of the conditions in this subpart, each of the general conditions established in § 330.1, the exemptions established in § 433.1, and the applicable sections of Subpart F of Parts 444, 446, and 448.

(b) References in this subpart to regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21 unless otherwise noted.

§ 333.103 Definitions.

As used in this subpart:

(a) *Antibiotic drug.* In accordance with section 507(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357(a)), "any drug intended for use by man containing any quantity of any chemical substance which is produced by a microorganism and which has the capacity to inhibit or destroy microorganisms in dilute solution (including the chemically synthesized equivalent of any such substance)."

(b) *First aid antibiotic.* An antibiotic-containing drug product applied topically to the skin to help prevent infection in minor cuts, scrapes, and burns.

§ 333.110 First aid antibiotic active ingredients.

The active ingredient of the product consists of any of the following within the specified concentration established for each ingredient:

(a) *Broad-spectrum anitbiotics.* (1) Chlortetracycline hydrochloride 30 milligrams per gram.

(2) Neomycin sulfate equivalent to the antibiotic activity of 3.5 milligrams neomycin per gram.

(3) Oxytetracycline hydrochloride 30 milligrams per gram.

(4) Tetracycline hydrochloride 30 milligrams per gram.

(b) *Antibiotics with primarily gram-positive activity.*

(1) Bacitracin 500 units per gram.

(2) Bacitracin zinc 500 units per gram.

(c) *Antibiotic with primarily gram-negative activity.* Polymyxin B sulfate 5,000 to 10,000 units per gram for use only in combination as provided in § 333.120.

§ 333.120 Permitted combinations of active ingredients.

Two or three ingredients identified in § 333.110 may be combined provided the combination contains only one ingredient from each class of antibiotics identified in § 333.110(a), (b), and (c), and provided the combination meets the conditions in § 433.1 and in the applicable sections of Subparts F of Parts 444, 446, and 448.

§ 333.150 Labeling of first aid antibiotic drug products.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as a "first aid antibiotic."

(b) *Indications.* (1) The labeling of the product contains a statement of the indications under the heading "Indications" that is limited to the phrase, "First aid to help prevent infection in minor cuts, scrapes, and burns."

(2) *Other allowable indications.* In addition to the required indication identified in § 333.150(b)(1), the labeling of the product may contain additional indications under the heading "Indications" that are limited to any of the following phrases:

(i) (Select one of the following: "Decreases" or "Helps reduce") "the number of bacteria on the treated area."

(ii) "Helps" (select one of the following: "prevent," "guard against," or "protect against") "skin infection."

(iii) "Helps reduce the" (select one of the following: "risk" or "chance") "of skin infection."

(iv) "Helps prevent bacterial contamination in minor cuts, scrapes, and burns."

(3) *Other allowable statements.* In addition to the required information specified in § 333.150(a), (b)(1), (c), and (d), the labeling of the product may contain any of the following statements, provided such statements are neither placed in direct conjunction with information required to appear in the labeling nor occupy labeling space with greater prominence of conspicuousness than the required information.

(i) "First aid product."

(ii) "Antibiotic medication for minor cuts, scrapes, and burns."

(c) *Warnings.* The labeling of the product contains the following warnings under the heading "Warning":

(1) "For external use only. Do not use in the eyes or apply over large areas of the body. In case of deep or puncture wounds, animal bites, or serious burns, consult a doctor."

(2) "Stop use and consult a doctor if the condition persists or gets worse. Do not use longer than 1 week unless directed by a doctor."

(d) *Directions.* The labeling of the product contains the following information under the heading "Directions": "Clean the affected area. Apply a small amount of this product one to three times daily. May be covered with a sterile bandage."

Interested persons may, on or before September 17, 1982 submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments, objections, or requests for oral hearing before the Commissioner on the proposed regulation. A request for an oral hearing must specify points to be covered and time requested. Written comments on

the agency's economic impact determination may be submitted on or before November 8, 1982. Three copies of all comments, objections, and requests are to be submitted, except that individuals may submit one copy. Comments, objections, and requests are to be identified with the docket number found in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. Comments, objections, and requests may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday. Any scheduled oral hearing will be announced in the **Federal Register**.

Interested persons, on or before July 11, 1983 may also submit in writing new data demonstrating the safety and effectiveness of those conditions not classified in Category I. Written comments on the new data may be submitted on or before September 9, 1983. These dates are consistent with the time periods specified in the agency's final rule revising the procedural regulations for reviewing and classifying OTC drugs, published in the **Federal Register** of September 29, 1981 (46 FR 47730). Three copies of all data and comments on the data are to be submitted, except that individuals may submit one copy, and all data and comments are to be identified with the docket number found in brackets in the heading of this document. Data and comments should be addressed to the Dockets Management Branch (HFA–305) (address above). Received data and comments may also be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In establishing a final monograph, the agency will ordinarily consider only data submitted prior to the closing of the administrative record on September 9, 1983. Data submitted after the closing of the administrative record will be reviewed by the agency only after a final monograph is published in the **Federal Register** unless the Commissioner finds good cause has been shown that warrants earlier consideration.

Dated: April 16, 1982.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

Dated: June 7, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

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Part V

Department of Health and Human Services

Food and Drug Administration

Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products for Over-the-Counter Human Use; Tentative Final Monograph for Over-the-Counter Anticholinergic Drug Products and Expectorant Drug Products

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 341

[Docket No. 76N-052C]

Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products for Over-the-Counter Human Use; Tentative Final Monograph for Over-the-Counter Anticholinergic Drug Products and Expectorant Drug Products

AGENCY: Food and Drug Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is issuing a notice of proposed rulemaking in the form of a tentative final monograph that would establish conditions under which over-the-counter (OTC) anticholinergic drug products and expectorant drug products are generally recognized as safe and effective and not misbranded. (Anticholinergics are drugs used in cough-cold products for the relief of excessive secretions of the nose and eyes, symptoms which are commonly associated with hay fever, allergy, rhinitis, and the "common cold" (cold); expectorants are drugs used to promote or facilitate the removal of secretions from the respiratory airways.) FDA is issuing this notice of proposed rulemaking after considering the report and recommendations of the Advisory Review Panel on OTC Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products and public comments on an advance notice of proposed rulemaking that was based on those recommendations. This proposal deals only with anticholinergic drug products and expectorant drug products and is part of the ongoing review of OTC drug products conducted by FDA.

DATES: Written comments, objections, or requests for oral hearing before the Commissioner of Food and Drugs on the proposed regulation by September 7, 1982. New data by July 11, 1983. Comments on the new data by September 9, 1983. These dates are consistent with the time periods specified in the agency's final rule revising the procedural regulations for reviewing and classifying OTC drugs, published in the **Federal Register** of September 29, 1981 (46 FR 47730). Written comments on the agency's economic impact determination by November 8, 1982.

ADDRESS: Written comments, objections, or requests for oral hearing to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. New data and comments on new data should also be addressed to the Dockets Management Branch.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Bureau of Drugs (HFD-510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 9, 1976 (41 FR 38312), FDA published, under § 330.10(a)(6) (21 CFR 330.10(a)(6)), an advance notice of proposed rulemaking to establish a monograph for OTC cold, cough, allergy, bronchodilator, and antiasthmatic drug products, together with the recommendations of the Advisory Review Panel on OTC Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products, which was the advisory review panel responsible for evaluating data on the active ingredients in these drug classes. Interested persons were invited to submit comments by December 8, 1976. Reply comments in response to comments filed in the initial comment period could be submitted by January 7, 1977.

In a notice published in the **Federal Register** of March 21, 1980 (45 FR 18400), the agency advised that it had reopened the administrative record for OTC cold, cough, allergy, bronchodilator, and antiasthmatic drug products to allow for consideration of data and information that had been filed in the Dockets Management Branch after the date the administrative record previously had officially closed. The agency concluded that any new data and information filed prior to March 21, 1980 should be available to the agency in developing a proposed regulation in the form of a tentative final monograph.

In accordance with § 330.10(a)(10), the data and information considered by the Panel were put on public display in the Dockets Management Branch (HFA-305), Food and Drug Administration (address above), after deletion of a small amount of trade secret information. Data and information received after the administrative record was reopened have also been put on display in the Dockets Management Branch.

FDA is issuing the tentative final monograph for OTC cold, cough, allergy, bronchodilator, and antiasthmatic drug products in segments. This document on anticholinergic drug products and expectorant drug products is the first segment. Subsequent segments on antitussives, bronchodilators, antihistamines, nasal decongestants, combinations, etc., will be published in future issues of the **Federal Register**.

The advance notice of proposed rulemaking, which was published in the **Federal Register** on September 9, 1976 (41 FR 38312), was designated as a "proposed monograph" in order to conform to terminology used in the OTC drug review regulations (21 CFR 330.10). Similarly, the present document is designated in the OTC drug review regulations as a "tentative final monograph." Its legal status, however, is that of a proposed rule. In this tentative final monograph (proposed rule) the FDA states for the first time its position on the establishment of a monograph for OTC anticholinergic drug products and expectorant drug products. Final agency action on this matter will occur with the publication at a future date of a final monograph, which will be a final rule establishing a monograph for OTC anticholinergic drug products and expectorant drug products.

In response to the advance notice of proposed rulemaking, two drug manufacturers, one consumer group, and one health professional submitted comments on anticholinergics. Two drug manufacturers, two health care professionals, and two consumer groups submitted comments on expectorants. Copies of the comments received are also on public display in the Dockets Management Branch.

This proposal to establish Part 341 (21 CFR Part 341) constitutes FDA's tentative adoption of the Panel's conclusions and recommendations on OTC anticholinergic drug products and expectorant drug products as modified on the basis of the comments received and the agency's independent evaluation of the Panel's report. Modifications have been made for clarity and regulatory accuracy and to reflect new information. Such new information has been placed on file in the Dockets Management Branch (address above). These modifications are reflected in the following summary of the comments and FDA'a responses to them. The agency emphasizes that no anticholinergic active ingredients and no expectorant active ingredients have been determined to be generally recognized as safe and effective and not misbranded. However, the agency is proposing Category I labeling in this document in the event that data are submitted which result in the upgrading of any ingredients to monograph status in the final rule.

FDA published in the **Federal Register** of September 29, 1981 (46 FR 47730) a final rule revising the OTC procedural regulations to conform to the decision in

Cutler v. *Kennedy*, 475 F. Supp. 838 (D.D.C. 1979). The Court in *Cutler* held that the OTC drug review regulations (21 CFR 330.10) were unlawful to the extent that they authorized the marketing of Category III drugs after a final monograph had been established. Accordingly, this provision is now deleted from the regulations. The regulations now provide that any testing necessary to resolve the safety or effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other data, must be done during the OTC drug rulemaking process before the establishment of a final monograph (46 FR 47738).

Although it was not required to do so under *Cutler*, FDA will no longer use the terms "Category I," "Category II," and "Category III" at the final monograph stage in favor of the terms "monograph conditions" (old Category I and "nonmonograph conditions" (old Categories II and III). This document retains the concepts of Categories I, II, and III at the tentative final monograph stage.

The agency advises that the conditions under which the drug products that are subject to this monograph would be generally recognized as safe and effective and not misbranded (monograph conditions) will be effective 12 months after the date of publication of the final monograph in the **Federal Register**. On or after that date, no OTC drug products that are subject to the monograph and that contain nonmonograph conditions, i.e., conditions that would cause the drug to be not generally recognized as safe and effective or to be misbranded, may be initially introduced or initially delivered for introduction into interstate commerce unless they are the subject of an approved new drug application. Further, any OTC drug products subject to this monograph that are repackaged or relabeled after the effective date of the monograph must be in compliance with the monograph regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to comply voluntarily with the monograph at the earliest possible date.

In the advance notice of proposed rulemaking for OTC cold, cough, allergy, bronchodilator, and antiasthmatic drug products (published in the **Federal Register** of September 9, 1976 (41 FR 38312)), the agency suggested that the conditions included in the monograph (Category I) be effective 30 days after the date of publication of the final monograph in the **Federal Register** and that the conditions excluded from the monograph (Category II) be eliminated from OTC drug products effective 6 months after the date of publication of the final monograph, regardless of whether further testing was undertaken to justify their future use.

In the case of anticholineric drug products and expectorant drug products, there are currently no Category I conditions. The agency is aware that at least one expectorant ingredient is being tested and that data relating to that ingredient may be submitted before the final monograph is issued. Thus, the agency cannot at this time determine whether all expectorant drug products, or only some, may have to be reformulated. The agency is not aware that any anticholinergic ingredients are being tested. Thus, it appears that products containing anticholinergic ingredients will have to be reformulated to comply with the monograph. Reformulation often involves the need to do stability testing on the new product. An accelerated aging process may be used to test a new formulation; however, if the stability testing is not successful, and if further reformulation is required, there could be a further delay in having a new product available for manufacture.

In addition to reformulation, relabeling of products will be necessary in order for manufacturers to comply with the final regulation. New labels complying with the regulation have to be written, ordered, received, and incorporated into the manufacturing process. The agency has determined that it is impractical to expect new labeling to be in effect 30 days after the date of publication of the final regulation. Experience has shown also that if the deadline for relabeling is too short, the agency is burdened with exension requests and related paperwork.

The agency wishes to establish a reasonable period of time for relabeling and reformulation in order to avoid an unnecessary disruption of the marketplace that could not only result in economic loss but also interfere with consumers' access to safe and effective drug products. Therefore, the agency is proposing that the final monograph be effective 12 months after the date of its publication in the **Federal Register**. The agency believes that within 12 months after the date of publication most manufacturers can order new labeling or reformulate their products and have them in compliance in the marketplace. However, if the agency determines that any labeling for a condition included in the final monograph should be implemented sooner, a shorter deadline may be established. Similarly, if a safety problem is identified for a particular nonmonograph condition, a shorter deadline may be set for removal of that condition from OTC drug products.

All "OTC Volumes" cited throughout this document refer to the submissions made by interested persons pursuant to the call-for-data notice published in the **Federal Register** of August 9, 1972 (37 FR 16029) or to additional information that has come to the agency's attention since publication of the advance notice of proposed rulemaking. The volumes are on public display in the Dockets Management Branch.

I. The Agency's Tentative Conclusions on the Comments

A. General Comments on Anticholinergic Drug Products

1. One comment contended that the amount of belladonna alkaloids contained in a particular OTC timed-release cough-cold product is too high for safe use, and another comment questioned whether this same product might be unsafe because the timed-release dosage form could release its ingredients inconsistently or all at once.

The product mentioned in the comments contains 0.2 milligrams (mg) belladonna alkaloids, 50 mg phenylpropanolamine hydrochloride, and 4 mg chlorpheniramine maleate in a 12-hour timed-release dosage form. The Panel concluded that the dosage of belladonna alkaloids in this timed-release dosage form is probably safe in OTC cough-cold products for anticholinergic use, but that further testing is needed to establish their effectiveness. The agency concurs with the finding, and points out that the product is the subject of a new drug application (NDA), approved on September 1, 1961 on the basis of safety. FDA is unaware of any data that would change the conclusion that the specific product subject to the NDA is safe. However, timed-release products are subject to the regulation in § 200.31(a) (21 CFR 200.31(a)), which requires that any timed-release dosage form that contains per dosage unit (e.g., capsule or tablet) a quantity of active drug ingredient that is not generally recognized as safe for administration as a single dose under the conditions suggested in its labeling is regarded as a new drug within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(p)). This requirement is grounded on the agency's recognition that there is a possibility of overdosage if products that are designed

to release the active ingredient over a prolonged period are improperly made and the active ingredient is released all at once or over too short a time interval. An NDA for a timed-release product must contain bioavailability data that demonstrate that the active ingredient is released uniformly over the dosage duration of the product and not over too short or too long a time interval. Thus, timed-release products containing a quantity of active ingredient that is not generally recognized as safe for administration as a single dose may not be introduced into interstate commerce unless an NDA has been approved for the product. Because the Panel reviewed no data on belladonna alkaloids apart from the timed-release formulation, it made no recommendations as to a single dose amount that would be generally recognized as safe and effective. The agency is unaware of any data that would establish a generally recognized safe and effective single dose of belladonna alkaloids for use in non-timed-release cough-cold products.

2. One comment objected to FDA's permitting the marketing of the timed-release product containing belladonna alkaloids until FDA has evaluated data on the belladonna component and has found the ingredient to be effective for use in OTC cough-cold products.

It has been the agency's policy, since the initiation of the OTC drug review, to take regulatory action prior to a final monograph against only those products that present a potential health hazard or a significant and substantial effectiveness question. The product which the comment refers to has been marketed OTC since 1961 with an approved NDA for safety. FDA believes that with additional testing the belladonna alkaloids may be shown to be effective. Therefore, the agency sees no need for regulatory action toward this ingredient prior to publication of a final rule.

3. A comment objected to the Panel's not having required studies of belladonna alkaloids for "long-term" effects.

The Panel stated that "clinical experience has confirmed that belladonna alkaloids are safe in the dosage ranges used as anticholinergics" (41 FR 38373). Section 330.10(a)(4)(i) of the OTC drug regulations states that proof of safety "shall include results of significant human experience during marketing." Because belladonna alkaloids have been marketed in this and other products, and have been widely used for many years, the Panel did not believe it necessary to recommend studies for long-term effects. The agency agrees with the Panel and concludes that studies for long-term effects are not needed.

4. One comment requested that a dosage be established for belladonna alkaloids when they are used in combination drug products which are not time-released. The comment pointed out that the Panel recommended only an adult oral dose for belladonna alkaloids of 0.2 mg two times a day, based on review of a timed-release dosage form. Based on this timed-release dose, the comment requested that a dose of 0.067 mg every 4 hours or 0.1 mg every 6 hours also be allowed.

The Panel did not recommend a dosage for belladonna alkaloids to be administered every 4 to 6 hours because no data on such dosage forms were submitted for review. Because the comment submitted no new data, and because FDA is unaware of any such data, a generally recognized safe and effective dosage for belladonna alkaloids administered every 4 to 6 hours in cold, cough, and allergy products has not been established. Therefore, the agency denies this request.

5. Two comments expressed concern that belladonna alkaloids might cause urinary retention in males. The comments cited personal experiences where urinary retention has occurred after taking an OTC combination cough-cold product containing belladonna alkaloids.

It is well known that belladonna alkaloids and related drugs, particularly atropine, contribute to retention of urine (Ref. 1). The Panel recognized that urinary retention might become a problem in a male with an enlarged prostate. Such persons might develop urinary obstruction. For this reason, the Panel recommended an appropriate label warning which states in part *"Caution:* Do not take this product if you have * * * difficulty in urination due to enlargement of the prostate gland except under the advice and supervision of a physician." FDA concurs that this warning will adequately alert men who have an enlarged prostate gland and who may experience urinary retention problems following use of a product containing belladonna alkaloids. FDA has incorporated this warning into the tentative final monograph with two minor revisions, i.e., deletion of the signal word "Caution" and substitution of the word "doctor" for "physician." (See § 341.70(c)(3) below.

Historically there has not been a consistent usage of the signal words "warning" and "caution" in OTC drug labeling. For example, in §§ 369.20 and 369.21 (21 CFR 369.20 and 369.21), which list "warning" and "caution" statements for drugs, the signal words "warning" and "caution" are both used. In some instances, either of these signal words is used to convey the same or similar precautionary information.

FDA has considered which of these signal words would be most likely to attract consumers' attention to that information describing conditions under which the drug product should not be used or its should be discontinued. The agency concludes that the signal word "warning" is more likely to flag potential dangers so that consumers will read the information being conveyed. Therefore, FDA has determined that the signal word "warning," rather than the word "caution," will be used routinely in OTC drug labeling that is intended to alert consumers to potential safety problems. Accordingly, the signal word "caution" has been deleted from § 341.70(b)(3) (redesignated as § 341.70(c)(3) in the tentative final monograph).

The agency believes that the word "doctor" is more commonly used and better understood by consumers and, therefore, is substituting "doctor" for "physician" in the warnings appearing in the tentative final monograph. This change is being made as part of a continuing effort to achieve OTC labeling language that is simple, clear, and accurate, in keeping with § 330.10(a)(4)(v), (21 CFR 330.10(a)(4)(v)), which states in part:

Labeling * * * shall state the intended uses and results of the product; adequate directions for proper use; and warnings against unsafe use, side effects, and adverse reactions in such terms as to render them likely to be read and understood by the ordinary individual, including individuals of low comprehension, under customary conditions of purchase and use.

Public comment on these proposed changes in labeling language is invited. The agency also invites public comment on ways to define the words "anticholinergic" and "expectorant" in lay language.

Reference

(1) Cullumbine, H., "Cholinergic Blocking Drugs," *in* "Drill's Pharmacology in Medicine," 4th Ed., edited by J. R. DiPalma, McGraw-Hill, New York, p. 616, 1971.

6. One comment expressed concern about belladonna alkaloids in OTC cough-cold (combination) products causing dizziness and blurring of vision, noting that such side effects have been reported with the use of belladonna alkaloids in these products.

The Panel recognized that blurring of vision, as well as constipation,

excessive dryness of the mouth, insomnia, excitement, confusion, and rapid pulse are side effects, which can occur with the use of belladonna alkaloids. The Panel recommended in § 341.70(b)(2) that the labeling of these products bear a warning that consumers should stop taking the product if any of these side effects occur. The Panel did not, however, specifically include dizziness as a possible side effect. Because the agency previously recognized dizziness as a possible side effect of belladonna alkaloid products, dizziness was included in the recommended warning statement set forth for belladonna preparations in § 369.20. Therefore, the agency agrees with the comment and has added dizziness to the warning in § 341.70(c)(2). Further, in the interest of clarity, the agency is changing the Panel's recommended wording "do not continue to take" to "stop taking." Thus, § 341.70(b)(2) which is redesignated as § 341.70(c)(2) in the tentative final monograph, reads as follows: "Stop taking this product if constipation, excessive dryness of the mouth, insomnia, excitement, confusion, dizziness, rapid pulse, or blurring of vision occurs."

7. One comment questioned the Panel's classification of an antihistamine and an anticholinergic combination drug product in Category III for safety. The comment contends that information presented to the Panel at its December 3, 1974 meeting showed that combining an anticholinergic with an antihistamine does not increase the nature or severity of the potential side effects of each ingredient. The comment requested elimination of the requirement of additional safety studies for such a combination.

The agency disagrees with the comment. The agency concludes that the data cited by the comment cannot be used to establish general recognition of the safety of OTC anticholinergic/antihistamine combinations because different antihistamines and anticholinergics have varying degrees of side effects. Moreover, because antihistamines have anticholinergic effects in varying degrees, when drugs from each class are combined it may be necessary to adjust the dose of each to prevent cumulative side effects. The agency therefore considers it important to require a measure of the side effects of any proposed antihistamine/anticholinergic combination. Effectiveness testing will be required for any such combinations that are proposed because there are no Category I anticholinergics, and the two anticholinergic ingredients in Category III were placed there because of a lack of effectiveness data. Measurement of side effects could be done in conjunction with this effectiveness testing in order to determine the overall benefit-to-risk ratio of the addition of the anticholinergic to the combination, as well as a safe dosage for the combination.

B. General Comments on Expectorant Drug Products

8. One comment agreed with the Panel's conclusion that oral expectorants lack proven effectiveness and that some of them are potentially dangerous as OTC drugs. The comment suggested, however, that wild cherry syrup or tea and honey preparations should be labeled as placebos and marketed for the treatment of mild, self-limited cough.

The Panel suggested that a number of currently marketed expectorant active ingredients required further testing to establish their effectiveness. A number of other expectorants reviewed by the Panel were placed in Category II because they were considered safe. The agency appreciates the comment's agreement with the Panel's conclusions.

As for the comment's suggestions that certain ingredients be labeled as placebos and marketed for the treatment of mild self-limited cough, in order for a product to be marked with OTC drug labeling it must be shown to be generally recognized as safe and effective for its labeled indication. There are no data available to the agency to demonstrate that tea and honey or wild cherry syrup are effective for the treatment of mild, self-limited cough. Therefore FDA disagrees with the comment.

9. One comment submitted a new clinical study (Protocol 14) in support of the effectiveness of guaifenesin (glyceryl guaiacolate). The comment also questioned specific statements made by the Panel and presented a reevaluation of previous studies (Protocols 06 and 08) discussed in the Panel's report at 41 FR 38362–38363. The data, rebuttal of the Panel's statements, and the reevaluation were submitted to establish the effectiveness (Category I status) of guaifenesin as an expectorant for OTC use (Ref. 1).

The agency has reviewed the new data (Protocol 14) and all of the data on guaifenesin which the Panel had previously reviewed. In summary, the studies performed under Protocol 08 were judged unacceptable by the Panel (41 FR 38363), and the agency concurs with the Panel's conclusions. Because the studies performed under Protocol 06 were essentially identical to Protocol 08, the agency finds that these studies are also unacceptable. The Protocol 14 study was inadequate for several reasons: (a) The lack of comparability between placebo and treatment groups with respect to age and characteristics of disease (i.e., the placebo group was older and produced more and thicker sputum), (b) the small sample of patients studied, and (c) the inadequate period of drug administration. Additionally, although the Panel required only subjective tests for determining the effectiveness of expectorants, the agency believes that objective measurements of sputum volume and sputum viscosity should be done. The data submitted were inadequate to establish whether the subjective improvement produced was the result of an expectorant action, i.e, reduced thickness or increased quantity of secretions. The agency concludes that the data do not support the reclassification of guaifenesin as an expectorant from Category III to Category I.

The agency's detailed comments and evaluations on the data and its recommendations for additional studies are on file in the Dockets Management Branch (Refs. 2, 3, and 4).

References

(1) Comment Nos. SUP013 and SUP014, Docket No. 76N–0052, Dockets Management Branch.

(2) Letter from William E. Gilbertson, FDA, to Frederick A. Clark, Jr., A. H. Robins Co., coded ANS and 81/01/14 to SUP013 and SUP014, Docket No. 76N–0052, Dockets Management Branch.

(3) Memoranda of meetings, coded MM0004, MM0005, and MM0006, Docket No. 76N–052C, Dockets Management Branch.

(4) Letter from William E. Gilbertson, FDA, to Frederick A. Clark, Jr., A. H. Robins Co., coded LET076, Docket No. 76N–052C, Dockets Management Branch.

10. One comment stated that several references concerning research on guaifenesin, which was conducted by the correspondent and his colleagues, were inappropriately used by the Panel in reaching its conclusions. The comment contended that, because the cited studies were performed in patients with chronic lung secretion problems and employed larger-than-usual doses, they should not have been used in drawing conclusions about the effectiveness of guaifenesin in acute conditions, for which guaifenesin is generally used as an OTC drug. The comment stated that it would have been more reasonable for the Panel to have distinguished the use of guaifenesin in acute illnesses from its use in chronic

illnesses, even though this distinction would not have resulted in a change in the Panel's recommendations.

The Panel's recommendations apply only to the use of guaifenesin in acute, self-limited conditions which are suited to OTC treatment. The agency notes that the data cited above were not the sole determining factor in the Panel's decision to place quaifenesin in Category III. The Panel recognized that the available data showed conflicting results regarding guaifenesin's effectiveness and noted that there is considerable dispute among experts as to the appropriate dosage for OTC use. The Panel therefore placed guaifenesin in Category III for further study. The agency concurs with this classification.

11. One comment objected to the Panel's review of ipecac fluidextract. The comment contends that ipecac fluidextract is not contained in any OTC preparation and that any reference to this ingredient in the OTC drug review is unnecessary.

The agency disagrees. The Panel received data on the use of ipecac fluidextract as a source of ipecac in an OTC preparation intended for use as an expectorant. These data comprise OTC Volume 040011 (Ref. 1). Therefore, it was necessary for the Panel to review this ingredient.

Reference

(1) OTC Volume 040011.

12. One comment questioned the omission of an article by Boyd, Palmer, and Pearson (Ref. 1) in the Panel's discussion of ipecac syrup as an expectorant at 41 FR 38363. The comment stated that this article is an excellent short paper showing favorable results of the use of ipecac syrup as an expectorant.

The Boyd, Palmer, and Pearson article reports a study concerning testing of a cough mixture containing theophylline ethylenediamine, potassium citrate, wine of ipecac, and chloroform in a syrup. The article reports the results of testing the expectorant action of this cough mixture in animals and humans, testing the effects of the separate ingredients in animals, investigating the mechanism of action of the cough mixture in animals, and measuring the effect of the cough mixture on volume output of respiratory tract fluid in animals. The agency notes that the Panel was aware of this article and cited it as a reference in its discussion of sodium citrate as an expectorant at 41 FR 38367 but not in the ipecac syrup section of the report.

The agency has reviewed the Boyd, Palmer, and Pearson article. Ipecac as a single expectorant ingredient was studied only in albino rats. The wine of ipecac was tested in a group of 11 albino rats at a dose of 0.4 milliliter per kilogram of body weight. Each of the active ingredients of the cough mixture when tested separately had an expectorant effect measured as a percentage increase in respiratory tract fluid output. The agency notes, however, that the Boyd, Palmer, and Pearson article does not provide the amount of ipecac contained in the wine of ipecac administered to the animals in the study. The data from the study are of little value in supporting a safe and effective single dose of ipecac for use as an expectorant in humans.

The only human data presented were on the whole cough mixture combining the four active ingredients. In this part of the study, the combination was tested in 43 patients for antitussive and not for expectorant properties.

The agency concludes that because of the lack of testing of ipecac as a single ingredient in humans the Boyd, Palmer, and Pearson article provides no additional significant data to establish general recognition of the effectiveness of ipecac syrup as an OTC expectorant.

Reference

(1) Boyd, E. M., B. Palmer, and G. Pearson, "Is There Any Advantage in Combining Several Expectorant Drugs in a Compound Cough Mixture?" *Canadian Medical Association Journal*, 54:216–220, 1946.

13. One comment noted that, in the Panel's discussion on the effectiveness of ipecac syrup as an expectorant, the Panel referred to several references (Refs. 1, 2, and 3 below—cited as Refs. 8, 9, and 10 in the Panel's report on page 38364 (41 FR 38364)) as "* * * controlled studies in humans with chronic cough * * *" as though they meet the Panel's criteria for controlled studies. The comment suggested that the Panel erred in referring to these studies as "controlled studies." Further, the comment stated that "none of the references cited to support the proposition of controlled studies showing no efficacy actually support that proposition."

Even though the Panel referred to these studies as "controlled," the agency believes that the Panel did not intend to mean that the studies met the Panel's testing criteria for establishing effectiveness of expectorants.

The Panel concluded that the available data were insufficient to make a determination that ipecac is effective. The agency has reviewed these studies and concurs with the Panel that they do not demonstrate that ipecac is effective as an expectorant and that further study is needed.

References

(1) Alstead, S., "Potassium Iodide and Ipecacuanha as Expectorants," *The Lancet*, 2:932–934, 1939.

(2) Hillis, B. R., and L. Stein, "The Assessment of Expectorant Drugs," *Scottish Medical Journal*, 3:252–263, 1958.

(3) Rose, L., "The Ineffectiveness of Expectorants," *Canadian Medical Association Journal*, 69:494–495, 1953.

14. One comment submitted individual patient data sheets for two studies previously submitted to the Panel (Ref. 1). The comment believed that these additional data would support the classification of ipecac as a Category I expectorant. One study was a single dose study in 72 subjects—24 received the comment's product (a liquid combination drug product containing ipecac as one of its ingredients), 24 received a product containing guaifenesin as its active ingredient, and 24 received placebo. The purpose of the study was to investigate the single-dose effect of the combination drug product in the relief of symptoms of upper respiratory congestion associated with the common cold. The study was conducted under double-blind conditions. Results were reported in terms of a decrease in nasal-airway resistance, relief of runny nose, relief of stuffy nose, reduction in sneezing, relief of coughing, and reduction of a number of other symptoms for which there were insufficient positive responses to carry out statistical evaluations. The second study assessed the effectiveness of a single-and multi-dose schedule of the combination drug product in 25 patients with chronic cough. The study was carried out as a double-blind, placebo-controlled trial with the random allocation of 13 patients to test drug treatment and 12 patients to placebo. Frequency, intensity, and distress of cough were evaluated subjectively by the patients, and reduction in the number of coughs was measured objectively.

The agency has reviewed the studies submitted by the comment and concludes that they were improperly designed and thus could not demonstrate the effectiveness of ipecac as an expectorant. The combination drug product contains ipecac, beechwood creosote, cascara, menthol, white pine, wild cherry, and alcohol. Ipecac, white pine, and beechwood creosote were classified by the Panel as Category III expectorants. Menthol and beechwood creosote were classified as Category III antitussives and as Category III nasal decongestants. The wild cherry and alcohol are considered inactive ingredients. Guaifenesin, used

as a comparative drug in the first study, was classified as a Category III expectorant by the Panel. As the combination drug product contains a number of ingredients with various pharmacologic actions (expectorant/antitussive/nasal decongestant), it is impossible to determine from the studies, as conducted, which of the active ingredients were contributing to or producing the pharmacologic actions that resulted in relief of the symptoms evaluated. Because the ingredients of the combination drug product were not studied individually, the agency cannot ascertain which ingredient(s) in the product were responsible for any of the effects obtained.

In addition, an expectorant drug product was defined by the Panel in § 341.3(j) as "a drug used to promote or facilitate the removal of secretions from the respiratory airways." The studies submitted by the comment did not include any objective measurements of the quality or thickness of sputum. The agency believes that such measurements (an increase in sputum volume and a decrease in viscosity) are necessary to establish the effectiveness of an expectorant ingredient (see comment 9 above). In order to establish the effectiveness of ipecac as an expectorant, it should be studied alone against a placebo (not guaifenesin) with the appropiate parameters being objectively evaluated. The agency concludes that the studies as conducted by the comments do not establish the effectiveness of ipecac as an expectorant active ingredient.

Reference

(1) OTC Volume 040289.

15. A comment disagreed with limiting the OTC use of ipecac syrup as an expectorant to Children 6 years of age and older. The comment contended that there is no basis in the literature for such a limitation. Furthermore, accordingly to the comment, ipecac syrup has a long history of safe usage in children between 2 and 6 years of age, and there is no basis to require the advice and supervision of a physician for its OTC use in children in this age range.

A committee composed of experts in pediatric drug therapy served as advisors to the Panel in determining pediatric dosages for OTC cough-cold drug ingredients. These experts reviewed the available data and recommended that ipecac syrup, as an OTC expectorant, be used only in children 6 years of age and over. The Panel also reviewed the available data and noted that there were no clinical studies substantiating the effectiveness of ipecac syrup as an expectorant and no data on the toxicity of ipecac syrup as a single ingredient for expectorant use in children under 6 years of age. Because of this lack of data, the Panel adopted the pediatric committee's recommendation limiting ipecac syrup as an expectorant to use in children 6 years of age and over. The comment provides not new information which would lead the agency to alter the Panel's recommendation.

16. One comment states that because of the very unusual pharmacological properties of noscapine the Panel should have considered it as an expectorant as well as an antitussive. The comment pointed out that noscapine has been shown to have the significant advantage of facilitating expectoration and stimulating the production of bronchial mucus while suppressing non-productive cough in certain disease states such as asthma. One study was referenced in support of this activity (Ref. 1). The comment requested that noscapine be considered as an expectorant or, alternatively, be placed in Category III so that further studies can confirm its unique qualities.

The agency has reviewed the reference cited in the comment in which noscapine hydrochloride was administered intravenously to 50 surgical patients in a dosage of 3 milligrams per kilogram of body weight. Doses were administered before the induction of anesthesia or at the end of anesthesia. The cough reflex was not completely removed but foreign matter in the laryngeal or bronchial areas was coughed up. Loder (Ref. 1) concluded that "It appears that this drug should be given an extended trial in any situation where a reduction of the cough reflex is desirable."

The agency concludes that the study only assessed the intravenous use of noscapine in surgical patients as an antitussive and was not designed to measure the expectorant activity of the drug. Data and information submitted to the Panel contained studies which were designed primarily to assess antitussive effectiveness (Ref. 2) but also contained unsupported statements that implied the effectiveness of noscapine as an expectorant. The agency has reviewed the Panel's statement on the Category III status of noscapine as an antitussive. (See 41 FR 38352.) The Panel concluded that "There are no well-controlled studies documenting the effectiveness of noscapine as an antitussive. Effectiveness has not been established by objective, controlled clinical trials." Because the comment provided no additional data and because the data and information reviewed by the Panel do not support the effectiveness of noscapine as an expectorant, the agency concludes that noscapine is Category II for OTC use as an expectorant.

References

(1) Loder, R. E., "Safe Reduction of the Cough reflex with Noscapine," *Anaesthesia*, 24:355–358, 1969.

(2) OTC Volumes 040001, 040002, 040003, 040004, and 040204.

17. Two comments objected to the Panel's recommendation that chloroform be permitted for use as a flavoring agent in cough-cold products. Both comments stated that the Panel's recommendation conflicts with the National Cancer Institute's finding that chloroform is an animal carcinogen having the potential for carcinogenesis in humans. The comments concluded that chloroform should not be allowed to be used as a flavoring agent.

This issue is addressed in this document because the Panel discussed the safety of chloroform as a flavoring agent as part of its evaluation of chloroform as an expectorant agent. One of the documents which the Panel reviewed pertaining to the possible carcinogenicity of chloroform was a preliminary report from the National Cancer Institute (NCI) entitled "Report on Carcinogenesis Bioassay of Chloroform" dated February 1976 (Ref. 1). After considering the dosage of chloroform administered in the study described in the NCI report, the Panel stated that it was unable to determine from the available data whether chloroform at a maximum allowable concentration of 0.4 percent proposed for use as a flavoring agent was safe.

The Panel's report was adopted and submitted to FDA during its last meeting on March 2 and 3, 1976. On March 1, 1976, the agency received the NCI's "Report On The Carcinogenesis Bioassay of Chloroform." FDA reviewed this report and, prior to publication of the Panel's report, published a proposal in the **Federal Register** of April 9, 1976 (41 FR 15026) and a final regulation in the **Federal Register** of June 29, 1976 (41 FR 26842), which has been codified in § 310.513 (21 CFR 310.513), stating that any human drug product containing chloroform as an ingredient is a new drug and is misbranded. The Panel's report was subsequently published in the **Federal Register** on September 9, 1976 (41 FR 38312), and was not changed to reflect the above regulation because it was not an agency proposal. The chloroform ban in § 310.513 is, of course, applicable to chloroform used as an

active (expectorant) or inactive (flavoring agent), and any drug product containing chloroform is considered to be a new drug.

Reference

(1) OTC Volume 040338.

II. The Agency's Tentative Adoption of the Panel's Report

A. Summary of Ingredient Categories and Testing of Category II and Category III Conditions

1. *Summary of ingredient categories.* The agency has reviewed all claimed active ingredients submitted to the Panel, as well as other data and information available at this time, and has made no changes at this time in the Panel's categorization of ingredients. For the convenience of the reader, the following tables are included as summaries of the categorization of anticholinergic and expectorant active ingredients.

	Category
Anticholinergic Active Ingredients	
Atropine sulfate	III.
Belladonna alkaloids	III.
Belladonna alkaloids as contained in atropa belladonna and datura stramonia (inhalant).	II.
Expectorant Active Ingredients	
Ammonium chloride	III.
Antimony potassium tartrate	II.
Beechwood creosote	III.
Benzoin preparations (inhalant) (compound tincture of benzoin, tincture of benzoin).	III.
Camphor (topical/inhalant)	III.
Chloroform	II.
Eucalyptol/eucalyptus oil (topical/inhalant)	III.
Guaifenesin (glyceryl guaiacolate)	III.
Iodides (calcium iodide, anhydrous; hydriotic acid syrup; iodized lime; potassium iodide).	II.
Ipecac fluidextract	II.
Ipecac syrup	III.
Menthol/peppermint oil (topical/inhalant)	III.
Pine tar preparations (extract white pine compound, pine tar, syrup of pine tar, compound white pine syrup, white pine).	III.
Potassium guaiacolsulfonate	III.
Sodium citrate	III.
Squill preparations (squill, squill extract)	II.
Terpin hydrate preparations (terpin hydrate, terpin hydrate elixir).	III.
Tolu preparations (tolu, tolu balsam, tolu balsam tincture).	III.
Turpentine oil (spirits of turpentine) (oral)	II.
Turpentine oil (spirits of turpentine) (topical/inhalant)	III.

2. *Testing of Category II and Category III conditions.* The Panel recommended testing guidelines for anticholinergic drug products and expectorant drug products (41 FR 38329, 38369, and 38379). The agency is offering these guidelines as the Panel's recommendations without adopting them or making any formal comment on them. The agency has some reservations about the Panel's testing guidelines for expectorants and suggests that manufacturers discuss their proposed protocol(s) with the agency prior to performing studies. Interested persons may communicate with the agency about the submission of data and information to demonstrate the safety or effectiveness of any anticholinergic or expectorant ingredient or condition included in the review by following the procedures outlined in the agency's policy statement published in the **Federal Register** of September 29, 1981 (46 FR 47740). This policy statement includes procedures for the submission and review of proposed protocols, agency meetings with industry or other interested persons, and agency communications on submitted test data and other information.

B. Summary of the Agency's Changes in the Panel's Recommendations

FDA has considered the comments and other relevant information and concludes that it will tentatively adopt the anitcholinergic and expectorant sections of the Panel's report and recommended monograph with the changes described in FDA's response to the comments above and with other changes described in the summary below. A summary of the changes made in the Panel's conclusions and recommendations follows.

1. The agency has amended §§ 341.70 and 341.78 to include a "Statement of identity" paragraph and a "Directions" paragraph to conform to the format of other recently published proposed and tentative final monographs. Inclusion of new paragraphs has necessitated a redesignation of paragraphs within these sections as noted below. The agency is also redesignation proposed Subpart D as Subpart C and placing the labeling sections of the monographs under Subpart C.

2. The agency has combined the indications for anticholinergics that were included under § 341.70(a) (redesignated as § 341.70(b)). The agency has also combined several indications for expectorants that were inlcuded under § 341.78(a) (redesignated as § 341.78(b)). The agency believes that combining these respective indications presents them to the consumer in a clearer and more concise manner. Therefore, the Panel's indications in § 341.70(a) (1) through (5) have been revised, combined, and redesignated as new § 341.70(b). The Panel's indications in § 341.78(a) (1) through (4) have been combined, revised, and redesignated as new § 341.78(b)(1). Section 341.78(a)(5) has been redesignated as new § 341.78(b)(2).

3. The Panel's recommended warning in § 341.70(b)(2) has been redesignated as § 341.70(c)(2) and changed to include "dizziness" as described in comment 6 above.

4. In §§ 341.70(b)(3) and 341.78(b)(3) the Panel recommended use of the signal word "caution" in a section of the labeling where the heading "Warnings" is also recommended. FDA has determined that the signal word "warning," rather than the word "caution," will be used routinely in OTC drug labeling. Accordingly, the signal word "caution" has been deleted from §§ 341.70(b)(3) and 341.78(b)(3) (redesignated as §§ 341.70(c)(3) and 341.78(c)(3) respectively in the tentative final monograph). (See comment 5 above).

5. The agency has deleted the word "high" (in reference to fever) from the Panel's warning for expectorants in § 341.78(b)(3) (redesignated as § 341.78(c)(3)). Fever can be defined as a body temperature above the normal temperature of 98.6° F (37° C). In the same or different disease states, however, fevers may vary significantly. Fever may be low grade, moderate, high, intermittent, or sustained. The particular characteristics of a fever depend on the disease state, and, in many cases, the stage of development of the disease. The word "high" has been deleted from the warning because the agency believes that it is important for the consumer to recognize the presence of fever, regardless of whether the fever is high or low.

6. The Panel recommended use of the word "physician" in several warnings. Believing that the word "doctor" is more commonly used and better understood by consumers, the agency is substituting the word "doctor" for "physician" in the warnings appearing in the tentative final monograph. FDA is proposing that the term "doctor" be used instead of the term "physician" in all OTC drug monographs. (See comment 5 above).

The agency has examined the economic consequences of this proposed rulemaking and has determined that it does not require either a Regulatory Impact Analysis, as specified in Executive Order 12291, or a Regulatory Flexibility Analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96–354). Specifically, the proposal would necessitate some testing or reformulation as there are currently no Category I anticholinergic or expectorant ingredients. The agency is aware that one expectorant ingredient, guaifenesin, is being tested and that the data relating to that ingredient may be submitted before the final monograph is issued. If guaifenesin is placed in Category I, some minor relabeling will be necessary, resulting in minimal costs. The agency knows of no anticholinergic ingredients being tested, and it appears that cough-cold products containing these ingredients will have to be

reformulated after the final monograph is issued. Minimal impact is expected, however, as most of these products have already been reformulated voluntarily without the anticholinergic ingredient. Therefore, the agency concludes that the proposed rule is not a major rule as defined in Executive Order 12291. Further, the agency certifies that the proposed rule, if implemented, will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act.

The agency invites public comment regarding any substantial or significant economic impact that this rulemaking would have an OTC anticholinergic drug products and expectorant drug products. Types of impact may include, but are not limited to, costs associated with product testing, relabeling, repackaging, or reformulating. Comments regarding the impact of this rulemaking on OTC anticholinergic drug products and expectorant drug products should be accompanied by appropriate documentation. Because the agency has not previously invited specific comment on the economic impact of the OTC drug review on anticholinergic drug products and expectorant drug products, a period of 120 days from the date of publication of this proposed rulemaking in the **Federal Register** will be provided for comments on this subject to be developed and submitted. The agency will evaluate any comments and supporting data that are received and will reassess the economic impact of this rulemaking in the preamble to the final rule.

The agency has carefully considered the potential environmental effects of this proposal and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The agency's finding of no significant impact and the evidence supporting this finding, contained in an environmental assessment (under 21 CFR 25.31, proposed in the **Federal Register** of December 11, 1979; 44 FR 71742), may be seen in the Dockets Management Branch, Food and Drug Administration.

List of Subjects in 21 CFR Part 341

OTC drugs: Anticholinergics, Expectorants.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371)) and the Administrative Procedure Act (secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704)), and under 21 CFR 5.11 as revised (see 47 FR 16010; April 14, 1982), it is proposed that Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations be amended by adding new Part 341, to read as follows:

PART 341—COLD, COUGH, ALLERGY, BRONCHODILATOR AND ANTIASTHMATIC DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

Subpart A—General Provisions

Sec.
341.1 Scope.
341.3 Definitions.

Subpart B—Active Ingredients [Reserved]

Subpart C—Labeling

341.70 Labeling of anticholinergic drug products.
341.78 Labeling of expectorant drug products.

Authority: Secs. 201(p), 502, 505, 701, 52 Stat. 1041–42 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371); secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704).

Subpart A—General Provisions

§ 341.1 Scope.

(a) An over-the-counter cold, cough, allergy, bronchodilator, or antiasthmatic drug product in a form suitable for oral, inhalant, or topical administration is generally recognized as safe and effective and is not misbranded if it meets each of the conditions in this part in addition to each of the general conditions established in § 330.1.

(b) References in this part to regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21 unless otherwise noted.

§ 341.3 Definitions.

As used in this part:

(a) *Anticholinergic drug.* A drug used for the relief of excessive secretions of the nose and eyes, symptoms which are commonly associated with hay fever, allergy, rhinitis, and the "common cold" (cold).

(b) *Expectorant drug.* A drug used to promote or facilitate the removal of secretions from the respiratory airways.

Subpart B—Active Ingredients [Reserved]

Subpart C—Labeling

§ 341.70 Labeling of anticholinergic drug products.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any and identifies the product as an "anticholinergic."

(b) *Indications.* The labeling of the product contains a statement of the indications under the heading "Indications" that is limited to the following phrase: "Temporarily" (selected one of the following: "suppresses" or "relieves" (select one of the following: "watery nasal discharge," "excessive nasal secretions," or "running nose") "and watery eyes as may occur in certain allergic conditions and infections of the upper respiratory tract."

(c) *Warnings.* The labeling of the product contains the following warnings under the heading "Warnings":

(1) "Do not exceed recommended dosage unless directed by a doctor."

(2) "Stop taking this product if constipation, excessive dryness of the mouth, insomnia, excitement, confusion, dizziness, rapid pulse, or blurring of vision occurs."

(3) "Do not take this product if you have asthma, glaucoma, or difficulty in urination due to enlargement of the prostate gland unless directed by a doctor."

(4) "Do not give this product to children under 12 years of age unless directed by a doctor."

(d) *Directions. [Reserved]*

§ 341.78 Labeling of expectorant drug products.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as an "expectorant."

(b) *Indications.* The labeling of the product contains a statement of the indications under the heading "Indications" that is limited to one or both of the following phrases:

(1) "Helps" (select one of the following: "Loosen phlegm) (sputum) and bronchial secretions and rid the bronchial passageways of bothersome mucus" or "drain bronchial tubes by thinning mucus.")

(2) "Relieves irritated membranes in the respiratory passageways by preventing dryness through increased mucus flow."

(c) *Warnings.* The labeling of the product contains the following warnings, under the heading "Warnings":

(1) "Do not give this product to children under 2 years of age unless directed by a doctor."

(2) "Do not take this product for persistent or chronic cough such as occurs with smoking, asthma, or emphysema, or where cough is

accompanied by excessive secretions unless directed by a doctor."

(3) "A persistent cough may be a sign of a serious condition. If cough persists for more than 1 week, tends to recur, or is accompanied by fever, rash, or persistent headache, consult a doctor."

(d) *Directions.* [Reserved]

Interested persons may, on or before September 7, 1982 submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments, objections, or requests for oral hearing before the Commissioner on the proposed regulation. A request for an oral hearing must specify points to be covered and time requested. Written comments on the agency's economic impact determination may be submitted on or before November 8, 1982. Three copies of all comments, objections, and requests are to be submitted, except that individuals may submit one copy. Comments, objections, and requests are to be identified with the docket number found in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. Comments, objections, and requests may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday. Any scheduled oral hearing will be announced in the **Federal Register**.

Interested persons, on or before July 11, 1983 may also submit in writing new data demonstrating the safety and effectiveness of those conditions not classified in Category I. Written comments on the new data may be submitted on or before September 9, 1983. These dates are consistent with the time periods specified in the agency's final rule revising the procedural regulations for reviewing and classifying OTC drugs, published in the **Federal Register** of September 29, 1981 (46 FR 47730). Three copies of all data and comments on the data are to be submitted, except that individuals may submit one copy, and all data and comments are to be identified with the docket number found in brackets in the heading of this document. Data and comments should be addressed to the Dockets Management Branch (HFA–305) (address above). Received data and comments may also be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In establishing a final monograph, the agency will ordinarily consider only data submitted prior to the closing of the administrative record on September 9, 1983. Data submitted after the closing of the administrative record will be reviewed by the agency only after a final monograph is published in the **Federal Register**, unless the Commissioner finds good cause has been shown that warrants earlier consideration.

Dated: April 16, 1982.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

Dated: June 7, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

[FR Doc. 82–18540 Filed 7–8–82; 8:45 am]

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July 9, 1982

Part VI

Department of Health and Human Services

Food and Drug Administration

Topical Otic Drug Products for Over-the-Counter Human Use; Tentative Final Monograph

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 344

[Docket No. 77N-0334]

Topical Otic Drug Products for Over-the-Counter Human Use; Tentative Final Monograph

AGENCY: Food and Drug Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is issuing a notice of proposed rulemaking in the form of a tentative final monograph that would establish conditions under which over-the-counter (OTC) topical otic drug products (products for the ear) are generally recognized as safe and effective and not misbranded. FDA is issuing this notice of proposed rulemaking after considering the report and recommendations of the Advisory Review Panel on OTC Topical Analgesic, Antirheumatic, Otic, Burn, and Sunburn Prevention and Treatment Drug Products and public comments on an advance notice of proposed rulemaking that was based on those recommendations. This proposal is part of the ongoing review of OTC drug products conducted by FDA.

DATES: Written comments, objections, or requests for oral hearing before the Commissioner of Food and Drugs on the proposed regulation by September 7, 1982. New data by July 11, 1983. Comments on the new data by September 9, 1983. These dates are consistent with the time periods specified in the agency's final rule revising the procedural regulations for reviewing and classifying OTC drugs, published in the **Federal Register** of September 29, 1981 (46 FR 47730). Written comments on the agency's economic impact determination by November 9, 1982.

ADDRESS: Written comments, objections, or requests for oral hearing to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. New data and comments on new data should also be addressed to the Dockets Management Branch.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Bureau of Drugs (HFD-510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 16, 1977 (42 FR 63556) FDA published, under § 330.10(a)(6) (21 CFR 330.10(a)(6)), an advance notice of proposed rulemaking to establish a monograph for OTC topical otic drug products, together with the recommendations of the Advisory Review Panel on OTC Topical Analgesic, Antirheumatic, Otic, Burn, and Sunburn Prevention and Treatment Drug Products, which was the advisory review panel responsible for evaluating data on the active ingredients in this drug class. Interested persons were invited to submit comments by March 16, 1978. Reply comments in response to comments filed in the initial comment period could be submitted by April 14, 1978.

In accordance with § 330.10(a)(10), the data and information considered by the Panel were put on public display in the Dockets Management Branch (HFA-305), Food and Drug Administration (address above), after deletion of a small amount of trade secret information.

The advance notice of proposed rulemaking, which was published in the **Federal Register** on December 16, 1977 (42 FR 63556), was designated as a "proposed monograph" in order to conform to terminology used in the OTC drug review regulations (21 CFR 330.10). Similarly, the present document is designated in the OTC drug review regulations as a "tentative final monograph." Its legal status, however, is that of a proposed rule. In this tentative final monograph (proposed rule) the FDA states for the first time its position on the establishment of a monograph for OTC topical otic drug products. Final agency action on this matter will occur with the publication at a future date of a final monograph, which will be a final rule establishing a monograph for OTC topical otic drug products.

In response to the advance notice of proposed rulemaking, two drug manufacturer associations, one drug manufacturer, one otolaryngologist, and one consumer group submitted comments. Copies of the comments received are also on public display in the Dockets Management Branch.

This proposal to establish Part 344 (21 CFR Part 344) constitutes FDA's tentative adoption of the Panel's conclusions and recommendations on OTC topical otic drug products as modified on the basis of the comments received and the agency's independent evaluation of the Panel's report. Modifications have been made for clarity and regulatory accuracy and to reflect new information. Such new information has been placed on file in the Dockets Management Branch (address above). These modifications are reflected in the following summary of the comments and FDA's responses to them.

FDA published in the **Federal Register** of September 29, 1981 (46 FR 47730) a final rule revising the OTC procedural regulations to conform to the decision in *Cutler* v. *Kennedy*, 475 F. Supp 838 (D.D.C. 1979). The Court in *Cutler* held that the OTC drug review regulations (21 CFR 330.10) were unlawful to the extent that they authorized the marketing of Category III drugs after a final monograph had been established. Accordingly, this provision is now deleted from the regulations. The regulations now provide that any testing necessary to resolve the safety or effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other data, must be done during the OTC drug rulemaking process before the establishment of a final monograph (46 FR 47738).

Although it was not required to do so under *Cutler*, FDA will no longer use the terms "Category I," "Category II," and "Category III" at the final monograph stage in favor of the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III). This document retains the concepts of Categories I, II, and III at the tentative final monograph stage.

The agency advises that the conditions under which the drug products that are subject to this monograph would be generally recognized as safe and effective and not misbranded (monograph conditions) will be effective 12 months after the date of publication of the final monograph in the **Federal Register**. On or after that date, no OTC drug products that are subject to the monograph and that contain nonmonograph conditions, i.e., conditions that would cause the drug to be not generally recognized as safe and effective or to be misbranded, may be initially introduced or initially delivered for introduction into interstate commerce unless they are the subject of an approved new drug application. Further, any OTC drug products subject to this monograph that are repackaged or relabeled after the effective date of the monograph must be in compliance with the monograph regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to comply voluntarily with the monograph at the earliest possible date.

In the advance notice of proposed rulemaking for OTC topical otic drug products (published in the **Federal Register** of December 16, 1977 (42 FR 63556)), the agency suggested that the

conditions included in the monograph (Category I) be effective 30 days after the date of publication of the final monograph in the **Federal Register** and that the conditions excluded from the monograph (Category II) be eliminated from OTC drug products effective 6 months after the date of publication of the final monograph, regardless of whether further testing was undertaken to justify their future use. Experience has shown that relabeling of products covered by the monograph is necessary in order for manufacturers to comply with the monograph. New labels containing the monograph labeling have to be written, ordered, received, and incorporated into the manufacturing process. The agency has determined that it is impractical to expect new labeling to be in effect 30 days after the date of publication of the final monograph. Experience has shown also that if the deadline for relabeling is too short, the agency is burdened with extension requests and related paperwork.

In addition, some products will have to be reformulated to comply with the monograph. Reformulation often involves the need to do stability testing on the new product. An accelerated aging process may be used to test a new formulation; however, if the stability testing is not successful, and if further reformulation is required, there could be a further delay in having a new product available for manufacture.

The agency wishes to establish a reasonable period of time for relabeling and reformulation in order to avoid an unnecessary disruption of the marketplace that could not only result in economic loss but also interfere with consumers access to safe and effective drug products. Therefore, the agency is proposing that the final monograph be effective 12 months after the date of its publication in the **Federal Register**. The agency believes that within 12 months after the date of publication most manufacturers can order new labeling and reformulate their products and have them in compliance in the marketplace. However, if the agency determines that any labeling for a condition included in the final monograph should be implemented sooner, a shorter deadline may be established. Similarly, if a safety problem is identified for a particular nonmonograph condition, a shorter deadline may be set for removal of that condition from OTC drug products.

I. The Agency's Tentative Conclusions on the Comments

A. General Comments

1. Two comments urged the agency to recognize the legal status of the monographs issued under the OTC drug review as being interpretative rather than substantive regulations.

This subject was dealt with in paragraph 85 through 91 of the preamble to the procedures for classification of OTC drug products published in the **Federal Register** of May 11, 1972 (37 FR 9464) and in paragraph 3 of the preamble to the tentative final monograph for antacid drug products, published in the **Federal Register** of November 17, 1973 (38 FR 31260). FDA reaffirms the conclusions stated there. Subsequent court decisions have confirmed the agency's authority to issue substantive regulations by rulemaking. See, e.g., *National Nutritional Foods Association v. Weinberger*, 512 F. 2d 688, 696–98 (2d Cir. 1975); *National Associatin of Pharmaceutical Manufacturers v. FDA*, 487 F. Supp. 412 (S.D.N.Y. 1980), *aff'd.*, 637 F. 2d 887 (2d Cir. 1981).

2. One comment suggested that FDA should affirm its active support of the Federal Trade Commission (FTC) proposal to limit commercial advertising claims of OTC drugs to the labeling specified in the OTC drug monographs. The comment recommended several statements on OTC drug advertising for inclusion in the topical otic monograph.

In a notice published in the **Federal Register** of May 1, 1981 (46 FR 24584), the FTC announced its decision to terminate the proposal to restrict the terms used in OTC drug advertising to those labeling terms specifically permitted by the OTC drug monographs. Instead of using this across-the-board approach, FTC will review advertising for OTC drugs on a case-by-case basis, taking into consideration the OTC drug review findings on safety and effectiveness in making its decisions. It is thus no longer relevant for FDA to take a position on the FTC proposal. Further, because OTC drug advertising is regulated primarily by the FTC, it would not be appropriate for FDA to include specific statements dealing with advertising in applicable OTC drug monographs.

3. One comment noted the Panel's statement that there is a great need for consumer education regarding ear care and topical otic therapy and expressed concern that the proposed reguations alone will do little to educate the public regarding ear care. The comment recommended that FDA develop a consumer education program on ear care to be released at the same time the final monograph is published.

The comment makes a sound recommendation. FDA has Consumer Affairs Officers who implement consumer education programs in all parts of the country. Information about the OTC drug review is provided in the consumer drug education program, and the agency will develop information for consumers on ear care and topical otic therapy which will be included in this program.

B. General Comments on Topical Otic Ingredients

4. One comment stated that the Panel supported its conclusions on the safety of carbamide peroxide in anhydrous glycerin as an earwax removal aid on clinical use and marketing experience and not on well-controlled studies. This comment contended that such an approach is in violation of regulations promulgated by FDA.

The agency does not believe that the process by which the Panel concluded that carbamide peroxide in anhydrous glycerin is safe for use as an earwax removal aid is in violation of FDA regulations. The regulations at 21 CFR 330.10(a)(4)(i) state: "Proof of safety shall consist of adequate tests by methods reasonably applicable to show the drug is safe under the prescribed, recommended, or suggested conditions of use. This proof shall include results of significant human experience during marketing. General recognition of safety shall ordinarily be based upon published studies which may be corroborated by unpublished studies and other data."

The Panel's conclusion as to the safety of carbamide peroxide in anhydrous glycerin was arrived at in accordance with the above regulation. The Panel reviewed published studies, as cited in its report, and used clinical and marketing experience to corroborate these studies. The agency believes that the evidence in these studies and the Panel's expertise in evaluating the clinical and marketing experience of carbamide peroxide in anhydrous glycerin are sufficient to establish the safety of this ingredient under its recommended conditions of use as an earwax removal aid.

5. One comment stated that the Panel supported its conclusions on the effectiveness of carbamide peroxide in anhydrous glycerin as an earwax removal aid on clinical use and marketing experience and not on well-controlled studies. The comment argued that such an approach is inadequate, is in violation of FDA regulations, and sets a dangerous precedent with regard to establishing the required burden of proof for other Category I drugs.

Proof of effectiveness, as defined in 21 CFR 330.10(a)(4)(ii), "* * * shall consist of controlled clinical investigations as

defined in § 314.111(a)(5)(ii) of this chapter, unless this requirement is waived on the basis of a showing that it is not reasonably applicable to the drug or essential to the validity of the investigation and that an alternative method of investigation is adequate to substantiate effectiveness. Investigations may be corroborated by partially controlled or uncontrolled studies, documented clinical studies by qualified experts, and reports of significant human experience during marketing."

The agency agrees that the studies on which the Panel primarily based its conclusion that carbamide peroxide in anhydrous glycerin is effective as an earwax removal aid were not double-blinded or placebo-controlled. However, all patients participating in these studies were examined professionally and found to require removal of earwax. When carbamide peroxide was instilled in affected ears over periods ranging from 3 to 5 days, subsequent irrigation of the ears with lukewarm water was shown to remove earwax from a significant number of the ears tested.

The agency is aware of an additional study, not cited by the Panel, in which 26 patients were treated for bilateral excessive or impacted earwax (Ref. 1). Ten drops of 6.5 percent carbamide peroxide in anhydrous glycerin were instilled into each ear canal twice daily, upon arising and at bedtime, for 6 days followed by syringing the ear canals twice daily for 2 days with lukewarm water and a soft rubber ear syringe. The following day the ear canals were examined by a physician for any evidence of tissue reaction and for the degree of earwax removal. Complete removal of the earwax was achieved in 22 of the 26 patients. In two cases, additional syringing by the physician resulted in complete removal of the earwax. The remaining two patients required a second course of treatment, which resulted in complete removal of the earwax. The author concluded that carbamide peroxide in anhydrous glycerin was a safe, clinically effective, and easily administered agent for the lysis and removal of earwax, without the need for pressure syringing and instrumentation.

The agency believes that the methods of investigation employed in these studies and the results obtained, along with subsequent reports of significant human experience during marketing, justify a waiver of the well-controlled study requirements. Because an earwax removal aid achieves its intended therapeutic effect by means of a mechanical action whose results are readily ascertainable, these studies are sufficient to establish the effectiveness of carbamide peroxide in anhydrous glycerin as an earwax removal aid.

Reference

(1) Dickstein, B., "A Simplified Approach to Cerumenolysis," *EENT Digest*, 26:1, 1964.

6. One comment contended that the Panel did not rely on controlled studies to support its conclusions on the safety and effectiveness of glycerin as an earwax removal aid.

Glycerin has been adequately demonstrated to be safe for topical use in the ear. However, a thorough review of the data cited by the Panel in support of the effectiveness of glycerin as an earwax removal aid indicates that the only published study referred to was an in vitro study by Senturia and Doubly (Ref. 1) of the effect different vehicles in their action on earwax removed from the human ear canal. Distilled water, hydrogen peroxide (1.5 and 3 percent), and saline solutions (1 and 2 percent) showed immediate reaction with the earwax, and total disintegration occurred in 60 minutes. Glycerin has no effect on the earwax after 60 minutes and showed only surface softening after 24 hours. The authors concluded that glycerin showed little effect upon earwax except that of surface softening. Glycerin has been used by itself in inflammations of the external auditory canal or the middle ear (Ref. 2), and "AMA Drug Evaluations" (Ref. 3) lists glycerin as one ingredient which might be instilled in the ears of patients who have chronic difficulty with impacted earwax; however, it cites no data to support this use. The agency is not aware of any well-controlled studies that demonstrate effectiveness. FDA believes, therefore, that the existing data are not adequate to support the effectiveness of glycerin as an earwax removal aid. The agency is placing glycerin in Category III so that studies may be performed to establish its effectiveness for this indication.

References

(1) Senturia, B. H., and J. A. Doubly, "Treatment of External Otitis," *Laryngoscope*, 57:633–656, 1947.

(2) Osol, A., and R. Pratt, "The United States Dispensatory," 27th Ed., J. B. Lippincott Company, Philadelphia, pp. 560–561, 1973.

(3) "AMA Drug Evaluations," 4th Ed., American Medical Association, Publishing Sciences Group, Inc., Littleton, MA, p. 435, 1980.

7. One comment suggested that it is unduly restrictive to limit the carbamide peroxide in anhydrous glycerin to a concentration of 6.5 percent in earwax removal aids. This comment proposed amending the monograph to allow for a range of 5 to 8 percent carbamide peroxide in anhydrous glycerin.

Only two products containing carbamide peroxide in anhydrous glycerin were submitted to the Panel for review, and both had a carbamide peroxide concentration of 6.5 percent. No evidence was presented to the Panel, and none has been submitted to the agency, to show that a 5- to 8-percent range of carbamide peroxide in anhydrous glycerin would be safe and effective. Thus, the agency cannot propose a concentration range for this ingredient without additional data being provided to support such a range.

C. General Comments on Topical Otic Labeling

8. One comment contended that FDA does not have the authority to legislate the exact wording of OTC labeling claims. The comment stated that limiting the indications to the exact terminology of the monograph is overly restrictive because the Panel itself has used alternate terminology throughout the report in discussing the indications for these products. The comment stated that the following truthful claims could be made for earwax removal aids based on language not recommended by the Panel but contained in or referenced in its report: "to soften and loosen earwax," "to relieve the symptoms of fullness due to the accumulation of earwax," "aids in the removal of accumulated earwax," "mechanically softens and loosens earwax so that it can be washed out of the ear canal by irrigation with warm water," "mild mechanical action," "aids in the removal of earwax," and "topical earwax softening agent." The comment requested that more flexibility in labeling be permitted by adding to the approved indications a statement as follows: "* * * or similar indications statements which are in keeping with the Panel's report."

Since the inception of the OTC drug review, the agency has maintained that a monograph describing the conditions under which an OTC drug will be generally recognized as safe and effective and not misbranded must include both specific active ingredients and specific labeling. (This policy has become known as the "exclusivity rule.") The agency's position has been that it is necessary to limit the acceptable labeling language to that developed and approved through the OTC drug review process in order to ensure the proper and safe use of OTC drugs. The agency has never contended, however, that any list of terms developed during the course of the

review literally exhausts all the possibilities of terms that appropriately can be used in OTC drug labeling. Suggestions for additional terms or for other labeling changes may be submitted as comments to proposed or tentative final monographs within the specific time periods or through petitions to amend monographs under 21 CFR § 330.10(a)(12). For example, the labeling proposed in this tentative final monograph has been expanded and revised in response to comments received.

During the course of the review, FDA's position on the "exclusivity rule" has been questioned many times in comments and objections filed in response to particular proceedings and in correspondence with the agency. The agency has also been asked by the Proprietary Association to reconsider its position. To assist the agency in resolving this issue, FDA plans to conduct an open public forum on September 29, 1982 where all interested parties can present their views. The forum will be a legislative type administrative hearing under 21 CFR Part 15 that will be held in response to a request for a hearing on the tentative final monograph for nighttime sleep-aids (published in the **Federal Register** of June 13, 1978; 43 FR 25544). Details of the hearing were announced in a notice published in the **Federal Register** of July 2, 1982 (47 FR 29002). In proposed and tentative final monographs issued in the meantime, the agency will continue to state its longstanding policy.

As discussed below in comment 12, FDA is proposing to modify the Panel's recommended indication statement in § 344.50(b). In light of the Panel's use of alternative terminology throughout its report, the agency has reviewed the other claims noted in the comment. FDA believes that a number of these statements are consistent with the labeling message that the Panel intended to convey and that these statements, with slight modifications to ensure accurate reflection of the agency's and Panel's positions on labeling of OTC topical otic drug products, will provide the consumer with meaningful information on the labeling of earwax removal aid drug products. Accordingly, a new § 344.50(b)(2) entitled *"Other allowable statements"* is being proposed in this tentative final monograph. The following statements, as included in this section, may also be made on the labeling of earwax removal aid drug products:

"Softens and loosens excessive earwax."

"Aids in the removal of accumulated earwax."

"Aids in the removal of excessive earwax."

"Topical earwax softening and loosening agent."

The phrases "mild mechanical action" and "mechanically softens and loosens earwax" have not been included in § 344.50(b). (See comment 13 below.) The claim "to relieve the symptoms of fullness due to the accumulation of earwax" also has not been included in § 344.50(b). (See comment 15 below.)

9. Comments contended that experience in mass communication was not a criterion for scientific advisory panelists participating in the OTC drug review and questioned whether some of the terminology used in the labeling for OTC topical otic products could be understood by the ordinary individual in accordance with 21 CFR 330.10(a)(4)(v). One of the comments suggested that FDA consult with behavioral scientists and linguistic experts to help translate the technical language, which is used both in the labeling and in other portions of the Panel report, into lay language that the average consumer can understand. Another comment stated that FDA should leave the implementation of labeling language to the industry, which has had years of experience developing terminology generally understood by the public.

Since its inception, the OTC drug review has focused on developing labeling of OTC drug products that can be understood by the average consumer. While the agency acknowledges that professional experience in mass communication was not a criterion for participation in the OTC drug advisory review panels, the clinical background of the physicians, pharmacists, and other health professionals on each panel involved direct experience with patients and an awareness of the terms used by them to refer to their symptoms. In addition to members of the scientific and medical communities, each panel included representatives from industry and consumer groups and thus had access to the experience of these groups in mass communication of medical terminology. Finally, any citizen interested in doing so could participate in the OTC drug review by presenting views at panel meetings, and, now that the Panels have concluded their reviews, by commenting on advance notices of proposed rulemaking or by commenting or objecting to tentative final monographs proposed by the agency. As mentioned in comment 8 above, a number of changes in the Panel's recommended labeling of topical otic drug products have been incorporated into the agency's proposed labeling as a result of comments received. The agency urges anyone having suggestions for making the labeling language used in the topical otic final monograph more understandable to the average consumer to submit these suggestions in comments responding to this document. After a final monograph for topical otic drug products is issued, such suggestions may be made in the form of a petition to amend the monograph according to the procedures described in 21 CFR 10.30.

10. One comment expressed concern about the minimal discussion on labeling in the Panel's report and stated that a position on labeling should be made explicit by FDA. The comment provided a "Labeling General Statement" which it recommended be adopted by the agency. This labeling statement contains a general discussion of Categories I, II, and III, what labeling must contain to be acceptable, the function of FDA to clarify labeling, the role of the FDA in approving labeling for OTC drug products, the use of labeling indicating superiority of one product over another, the use of extra strength claims in labeling, other misleading superiority claims, claims implying a unique action, and claims relating to time that do not actually relate to the directions or indications, e.g., claims such as "fast" or "prompt."

The "Labeling General Statement" recommended by the comment embodies many principles beyond the scope of the topical otic monograph. Section 330.10(a)(4)(v) (21 CFR 330.10(a)(4)(v)) of the general regulations for classifying OTC drugs states the agency's general labeling standards for OTC drug products. In its report, the Panel has provided a general discussion of Categories I, II, and III; specified the indications, directions for use, and the warnings for the labeling of OTC topical otic drug products; and identified those labeling claims (Category II) that it considers to be misleading and unsupported by scientific data and (in some instances) unsupported by sound theoretical reasoning. The agency believes that the labeling discussion in the Panel's report is adequate and disagrees with the comment that the labeling discussion is minimal. The agency also disagrees with the need for the "Labeling General Statement" recommended by the comment because existing FDA regulations already state the agency's labeling requirements. In addition, most panels have specifically addressed a number of the issues contained in the "Labeling General

Statement" as these issues apply to the ingredients reviewed by the respective panels. In sum, the agency believes that the labeling statements proposed in this tentative final monograph are adequate for consumers to use OTC topical otic drug products safely and effectively.

11. One comment stated that the signal word "warning" is too strong for the types of cautionary statements required in labeling of topical otic drug products and suggested that the term "caution" be used instead. This comment argued that the word "warning" should be used only on certain other types of consumer products to highlight imminent physical hazards associated with normal storage or use of products such as household cleaners, polishes, insecticides, or products marketed as aerosols. This comment suggested that the Panel's recommendation § 344.50(c) be revised to read as follows:

"*Cautions.* The labeling of the product shall contain the following cautionary statements under the heading "Cautions."

This comment also suggested that in § 344.50(c)(ii) the signal word "caution" should be deleted as redundant because in no event should two signal words be necessary.

Section 502(f)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(f)(2)) states, in part, that any drug marketed OTC must bear in labeling "* * * such adequate warnings * * * as are necessary for the protection of users." Section 330.10(a)(4)(v) of the OTC drug regulations provides that labeling of OTC drug products shall state "* * * warnings against unsafe use, side effects, and adverse reactions * * *."

The agency notes that historically there has not been a consistent usage of the signal words "warning" and "caution" in OTC drug labeling. For example, in §§ 369.20 and 369.21 (21 CFR 369.20 and 369.21), which list "warning" and "caution" are both used. In some instances either of these signal words is used to convey the same or similar precautionary information.

FDA has considered which of these signal words would be most likely to attract consumers' attention to that information describing conditions under which the drug product should not be used or its use should be discontinued. The agency concludes that the signal word "warning" is more likely to flag potential dangers so that consumers will read the information being conveyed. Therefore, FDA has determined that the signal word "warning," rather than the word "caution," will be used routinely in OTC drug labeling that is intended to alert consumers to potential safety problems.

12. One comment questioned whether the term "obstructive" could be understood by the average consumer.

The Panel used the phrase "obstructive earwax" in its recommended indication for topical otic drug products to indicate that these products were intended only for use by individuals who have a tendency to accumulate excessive earwax that needs to be removed occasionally and that these products were not to be used for routine ear cleansing. The agency agrees with the comment that the term "obstructive" may not be understood by the average consumer and therefore is proposing the term "excessive" instead. In keeping with the Panel's intention and with the agency's goal of providing understandable wording, the agency is proposing in this tentative final monograph to revise the indication statement in § 344.50(b) to read as follows: "For occasional use as an aid in the removal of excessive earwax."

13. One comment suggested that the phrase "mild mechanical action to soften and loosen earwax" be added to the monograph as an allowable indication for OTC earwax removal aids because the Panel itself had used this terminology in describing such ingredients in the report.

The Panel used the term "mechanically softens and loosens" to distinguish agents which dissolve earwax from those which soften and loosen earwax so that it may be removed by irrigating the affected ear. The agency believes that the use of the words "mild mechanical action" to describe the mode of action of earwax removal aids would have no meaning to consumers. Therefore, a phrase describing these products as having a mild mechanical action will not be added to the monograph. However, because the phrase "softens and loosens excessive earwax" accurately describes the action of these products, the agency will allow use of this phrase on the labeling of OTC topical otic drug products. As described in comment 8 above, a new § 344.50(b)(2), entitled "*Other allowable statements,*" has been proposed in the tentative final monograph.

14. One comment questioned why the Panel placed the indication "removal and softening of earwax" in Category II because, but for a few words, the phrase is almost identical to the allowable Category I indication.

The agency points out that the Panel included the statement referred to in the comment in its discussion of the use of anesthetics and analgesics in OTC topical otic drug products. The above indication was one of six claims the Panel classified as Category II for topical otic anesthetics and analygesics, not for earwax removal agents. The Panel concluded, and the agency concurs, that the use of analgesics and anesthetics in the ear should be restricted to prescription use, and, therefore, ingredients and claims for these uses are placed in Category II.

15. Several comments proposed that the labeling be amended to include an additional indication "To relieve symptoms of fullness due to an excessive accumulation of earwax." These comments noted that this indication was included in the general discussion of the Panel report. One comment contended that the warning "if symptoms of fullness persist, consult a physician" is only suitable if "relief of the symptoms of fullness" is allowed as an indication. Another comment stated that the term "fullness" is unclear and confusing in the context in which it is used.

As the comments pointed out, the Panel recognized that an excessive accumulation of earwax could cause symptoms of fullness in the ear canal. However, the agency believes that the word "fullness," when used to describe an ear symptom, lacks precise meaning for most consumers. The agency is concerned that consumers might consider the symptoms of ear conditions that are more serious than excessive earwax as symptoms of fullness and thus risk the consequences of nondiagnosis and mistreatment. Therefore, the agency proposes that "symptoms of fullness" not be allowed as an indication for OTC earwax removal aids, and, correspondingly, proposes that the warning, "if symptoms of fullness persist, consult a physician," be deleted.

However, the agency believes that the labeling should state that, if the wax is not removed after using the product, the user should consult a physician. In the Panel report, it is clear that impacted earwax that cannot be removed with OTC earwax softening agents should be treated by a physician who may use agents that dissolve earwax or instruments which are not suitable for OTC use. In addition, the agency believes that the word "doctor" is more commonly used and more readily understood by consumers than the word "physician." Therefore, the agency is proposing that the warning statement, "if symptoms of fullness persist, consult a physician" be replaced by the statement: "If excessive earwax remains after use of this product, consult a

doctor." (See part II. paragraph 6. below.)

16. One comment recommended that "for use as an aid in the prevention of swimmer's ear" be included in the topical otic monograph as an indication for OTC topical otic ingredients. Also, a physician requested that the ingredient propylene glycol be included in the topical otic monograph for the prevention and treatment of swimmer's ear because he had been successfully using the ingredient for this purpose for the past 2 years. The comment included dosage instructions that the physician routinely provided to patients.

The Panel reviewed treatment of "swimmer's ear" and placed this indication in Category II as inappropriate for an OTC topical otic product. The Panel considered "swimmer's ear" to be an infection of the external ear and not amenable to self-diagnosis and self-treatment. FDA concurs. The Panel did not, however, specifically address the claim of prevention of swimmer's ear, nor did it review any product containing propylene glycol as an active ingredient for this use. The Panel stated that "swimmer's ear" is apparently due to excessive moisture in the external auditory meatus, which may be the result of various causes. Because the external auditory canal is a cul-de-sac well suited for the collection of moisture, and "swimmer's ear" occurs with greater frequency during hot, humid weather and has been reported to occur in divers and swimmers, it is possible that propylene glycol may be useful in preventing swimmer's ear because it absorbs moisture. However, the agency has not received any clinical data demonstrating that propylene glycol or any other ingredient is generally recognized as safe and effective in preventing swimmer's ear. The information provided by the comment was only testimonial. Hence, currently there is no basis to include prevention of swimmer's ear as an indication for OTC topical otic drug products. If clinical data are developed, they may be submitted within 12 months after the publication of this tentative final monograph, or thereafter in the form of a petition to amend the monograph as described in 21 CFR 10.30.

17. One comment objected to the Panel's recommended use restriction in § 344.50(c)(viii), "Do not use in children under 12 years without consulting a physician," as unwarranted and recommended that the age restriction be lowered to children under 2 years of age. In support of its position, the comment submitted two journal articles describing the use of 6.5 percent carbamide peroxide in anhydrous glycerin in children (Refs. 1 and 2).

The agency notes that the studies submitted with this comment dealt with professionally supervised use of carbamide peroxide in anhydrous glycerin in children's ears. In both studies, the children were examined by physicians prior to treatment to determine that they had excessive earwax, and the parents of the children were given specific instructions by the physician on how to use the preparation. After the treatment, the children were reexamined to determine whether any further treatment was necessary. The Panel believed that if the product is used in children it should be under the advice and supervision of a physician. The Panel was concerned that some parents would use these products unnecessarily to clean their children's ears routinely, and the agency shares this concern. The agency also belives, based on the studies cited above, that an earwax removal aid should not be used in children unless a physician has made a determination that there is a need to use such a product. The Panel addressed this point by recommending that the directions section of the labeling (§ 344.50(d)) include the statement: "For children under 12 years of age, there is no recommended dosage except under the advice and supervision of a physician." The agency believes that this statement can be shortened to read as follows: "For children under 12 years of age, consult a doctor." The agency also believes that, with this statement in the directions for use, there is no need for a similar statement in the warnings in § 344.50(c)(viii). Accordingly, the agency is proposing in this tentative final monograph to delete the statement from the warnings section.

References

(1) Dickstein, B., "A Simplified Approach to Cerumenolysis," *EENT Digest*, 26:1, 1964.

(2) Cunningham, J. M., "Clinical Evaluation of a Ceruminolytic Agency," *General Practice*, 26:11–12, 1963.

18. One comment suggested that the Panel's recommended warning in § 344.50(c)(v), "For external use only, not to be swallowed, " should be deleted. This comment argued that neither ingredient proposed to be classified in Category I poses a serious risk if ingested and stated that the phrase "for external use" would confuse consumers, many of whom would not consider use in the ears to be an external use.

The agency agrees with the comment that carbamide peroxide in anhydrous glycerin does not pose a serious risk if ingested and that the use of the phrase "for external use only" labeling of OTC topical otic preparations may be confusing to consumers. Accordingly, the agency is proposing in this tentative final monograph to delete the warning "For external use only, not to be swallowed," and to add the statement "FOR USE IN THE EAR ONLY" to the directions for use to state clearly that the product is to be used only in the ear. To emphasize the importance of this direction, the agency proposes that this statement should be printed in capital letters.

19. One comment questioned whether the words "drainage" and "perforation," as used by the Panel in its recommended warnings, would be understood by the average consumer since they are infrequently used in everday conversation.

The agency believes that these words would not be readily understood by the average consumer. Therefore, to explain the meanings of these terms, the agency has added to the Panel's warning the word "hole" in parentheses after "ear drum perforation," and the words "or discharge" after the term "drainage."

20. One comment recommended the addition of a warning: "Do not use whenever an (ear) infection is suspected."

The Panel did not believe that a consumer would be able to self-diagnose an ear infection. Therefore, instead of using the word "infection," the Panel listed in the warnings the common symptoms of ear infections, such as ear pain and ear drainage. The agency believes that the Panel's recommended warning in § 344.50(c)(ii) as amended in this tentative final monograph (now § 344.50(c)(1)) is adequate, and that the warning suggested in the comment would be redundant. Accordingly, FDA has not added this warning to the tentative final monograph.

21. A comment objected to the Penel's recommended warning in § 344.50(c)(iii) not to use topical otic drug products following ear surgery. This comment contended that ear surgery should not preclude the use of a topical otice drug product forever and suggested that the warning should be revised to have a time limit of 6 weeks following ear surgery.

The agency agrees with the comment that it may be unnecessary to ban forever the use of these products following ear surgery. However, the time period of restriction from use will vary depending on the type of surgery performed. Therefore, the decision when to use a topical otic drug product following ear surgery should be made by

the patient's physician. The agency believes that the warning should not be revised to state a specific time period during which these drug products should not be used following ear surgery. However, the agency is proposing in this tentative final monograph that the warning recommended by the Panel in § 344.50(c)(iii) be modified to state that these products should be used after ear surgery only if directed by a doctor. (See comment 22 below.)

22. Several comments stated that some of the phrases in the warnings were redundant. One comment suggested a statement be added to the monograph which would allow for the general warnings to be combined when the intent of the warnings is not affected. Another comment suggested that three warning statements recommended by the Panel (§ 344.50(c)(ii), (iii), and (iv)) be combined and revised to read as follows:

(1) "Do not use in the presence of ear drainage, pain, or dizziness, or whenever an infection is suspected. If these develop, consult a physician."

(2) "Do not use in the presence of known injury or perforation (hole) of the ear drum or within six weeks following ear surgery except under the advice and supervision of a physician."

The agency agrees with the comments that some of the warnings could be combined without losing their intent. However, the references to ear infection and the 6-week period following ear surgery are not being adopted, as explained above in comments 20 and 21. The agency believes that the warning recommended by the Panel in § 344.50(c)(vii), "Discontinue use if irritation or rash appears," can be incorporated into the suggested revision of § 344.50(c)(ii) (which appears in this tentative final monograph as § 344.50(c)(1)) without changing the intent. Accordingly, the agency proposes in this tentative final monograph that the first two statements under the heading *"Warnings"* in § 344.50(c) read as follows:

(1) "Do not use if you have ear drainage or discharge, ear pain, irritation or rash in the ear, or are dizzy; consult a doctor."

(2) "Do not use if you have an injury or perforation (hole) of the ear drum or after ear surgery unless directed by a doctor."

23. One comment expressed a belief that the consumer should be informed of the improper uses of topical otic drug products. It suggested that because misuse can lead to harmful aftereffects a warning should be added listing the symptoms for which the consumer ought not to use topical otic drug products. The comment proposed the following warning: *"Warning:* Avoid using to relieve minor irritation or pain for raw, inflamed tissues, swimmer's ear, anethetizing, or itching."

The agency believes that the comment has misinterpreted the requirements for OTC drug labeling as set forth in § 330.10(a)(4)(v). It is not necessary or even possible for the agency to identify every improper use of a drug that could occur and to require the listing of such information on the OTC drug product label. FDA believes that the indications for use and the warnings proposed in this tentative final monograph are adequate to inform the consumer of the proper use of these products.

24. Several comments objected to the Panel's recommendation in § 344.50(d), which directs the user to "Place sufficient drops into affected ear and allow to remain at least 15 minutes." These comments contended that the term "sufficient" is too vague and could result in unnecessary underdosage or overdosage. One comment expressed the belief that it would be more meaningful and accurate to give the dosage in numbers of drops, e.g., 5 to 10 drops, and suggested revising the directions for administering the drops as follows: "Tilt head sideways and place 5 to 10 drops into ear. Tip of applicator should not enter ear canal. Keep drops in ear for several minutes by keeping head tilted or by inserting cotton."

The agency agrees with this suggestion. Stating the amount is much more precise and is safer for the consumer. Also, the use of "5 to 10 drops" is consistent with the amount used in the studies reviewed by the Panel. Therefore, the agency is proposing that the directions in § 344.50(d) be modified accordingly. For additional clarity, the agency is changing the words "inserting cotton" to "placing cotton in the ear."

25. Comments objected to the Panel's recommendation in § 344.50(d) that direct the user to "Remove wax by gentle washing with lukewarm water using a soft rubber syringe. May be repeated a second time if necessary." One comment questioned whether the average consumer would know the meaning of the term "soft rubber syringe." Another comment cautioned that the use of an irrigation syringe should be discouraged when possible and its use indicated as an adjunct only for the removal of accumulated cerumen in difficult cases. The comment stated that in the case of carbamide peroxide in anhydrous glycerin it is not always necessary to use an irrigation syringe to remove the earwax. The comment stated that the mechanical effect of effervescence of carbamide peroxide loosens debris and in many cases this mechanical effect has been shown to accomplish removal of the earwax and debris without use of an irrigation syringe. The comment recommended extending the duration of treatment to 3 or 4 days and delaying the use of an irrigation syringe until the end of the treatment period, making clear that even then the use of an ear syringe should be optional. The comment suggested the following revision in directions for use of preparations containing carbamide peroxide in anhydrous glycerin: "Repeat twice daily for at least 3 to 4 days or as directed by a physician. Any remaining wax may be removed by gently flushing with warm water, using a soft rubber bulb ear syringe."

FDA agrees that "soft rubber bulb ear syringe" is a more meaningful term for the average consumer than the term "soft rubber syringe." The agency also concurs with the comment that the use of an irrigation syringe in the ear should be limited as much as possible and that the ear drops may be used for 3 to 4 days. FDA proposes to use the phrase "for up to 4 days if needed." With this modification, the agency accepts the revision suggested by the comment and proposes to revise § 344.50(d) to include the following as part of the directions for use: "Use twice daily for up to 4 days if needed, or as directed by a doctor. Any wax remaining after treatment may be removed by gently flushing the ear with warm water, using a soft rubber bulb ear syringe."

In addition, the agency believes that the failure to obtain relief after 4 days of treatment with an earwax removal aid could indicate a more serious condition for which the patient should consult a doctor. Accordingly, the agency is proposing the following additional warning in § 344.50(c)(3): "Do not use for more than 4 days; if excessive earwax remains after use of this product, consult a doctor."

II. The Agency's Tentative Adoption of the Panel's Report

A. Summary of Ingredient Categories and Testing of Category II and Category III Conditions

1. *Summary of ingredient categories.* The agency has reviewed all claimed active ingredients submitted to the Panel, as well as other data and information available at this time, and concurs with the Panel's categorization of carbamide peroxide in anhydrous glycerin in Category I and antipyrine and benzocaine in Category II. The

Panel also placed glycerin in Category I. FDA is proposing reclassification of glycerin in Category III because of a lack of sufficient data to demonstrate effectiveness.

2. *Testing of Category II and Category III conditions.* The agency notes that, because the Panel did not place any ingredients in Category III, it did not recommend any testing guidelines for Category III topical otic conditions. Interested persons may communicate with the agency about the submission of data and information to demonstrate the safety or effectiveness of any topical otic ingredient or condition included in the review by following the procedures outlined in the agency's policy statement published in the **Federal Register** of September 29, 1981 (46 FR 47740). This policy statement includes procedures for the submission and review of proposed protocols, agency meetings with industry or other interested persons, and agency communications on submitted test data and other information.

B. Summary of the Agency's Changes in the Panel's Recommendations

FDA has considered the comments and other relevant information and concludes that it will tentatively adopt the Panel's report and recommended monograph with the changes described in FDA's responses to the comments above and with other changes described in the summary below. A summary of the changes made in the Panel's conclusions and recommendations follows.

1. As mentioned above, the Panel placed glycerin in Category I as an ear wax removal aid. FDA is proposing reclassification of glycerin in Category III for effectiveness. This reclassification is discussed in the agency's response to comment 6 above.

2. In its report and recommended monograph, the Panel often referred to the active ingredient as carbamide peroxide in glycerin with subsequent discussion clarifying that the anhydrous form of glycerin is the vehicle to be used. Glycerin is glycerin U.S.P., which has a moisture content of approximately 5 percent, and anhydrous glycerin is an ingredient that may be prepared by heating glycerin U.S.P. at 150° C for 2 hours to drive off the moisture content (Ref. 1). The agency wishes to clarify that the active ingredient should correctly be referred to as carbamide peroxide formulated in an anhydrous glycerin vehicle.

Reference

(1) Martin, E. W., "Dispensing of Medications," 7th Mack Publishing Co., Easton, PA, p. 284, 1971.

3. The agency is redesignating proposed Subpart D of the monograph as Subpart C and placing the labeling sections under Subpart C.

4. The Panel recommended that the labeling of the product should identify the product as an "earwax softening agent." FDA is proposing that it would be more appropriate to identify the product as an "earwax removal aid" and to allow the phrase "softens and loosens excessive earwax" as another allowable statement in labeling (see comment 13 above).

5. The Panel's definitions of "age (dosage) usage" and "cerumen" have been deleted as unnecessary because these terms are not used in the tentative final monograph, a definition of "anhydrous glycerin" has been proposed, and a definition of "earwax removal aid" has replaced the definition of "earwax softening agent."

6. The Panel recommended the classification of one labeling indication and eight warnings as Category I labeling. To simplify and clarify the labeling, FDA is proposing to modify the Panel's labeling indication and directions for use, delete two warnings and add one, and combine or otherwise modify the other warnings so that the OTC topical otic drug monograph now requires four labeling warnings. In addition, the agency is proposing to use the signal word "warning" instead of the signal word "caution" in labeling. The agency has also expanded the labeling by proposing "Other allowable statements," which may be used in addition to required labeling language. The labeling modifications are discussed in comments 8 through 25 above.

7. In several of its recommended warnings, the Panel used the phrase "consult physician." This phrase has been consistently used in OTC drug labeling as advice to the consumer in case of symptoms that indicate a condition that cannot be self-treated. Believing that the word "doctor" is more commonly used and better understood by consumers, the agency is substituting "doctor" for "physician" in the warnings appearing in the tentative final monograph. These changes are proposed as part of a continuing effort to achieve OTC labeling language that is simple, clear, and accurate, in keeping with § 330.10(a)(4)(v), (21 CFR 330.10(a)(4)(v)), which states in part, "Labeling * * * shall state the intended uses and results of the product; adequate directions for proper use; and warnings against unsafe use, side effects, and adverse reactions in such terms as to render them likely to be read and understood by the ordinary individual, including individuals of low comprehension, under customary conditions of purchase and use." If the phrases "consult a doctor" and "unless directed by a doctor" are adopted in the final monograph for topical otic drug products, the agency proposes to use this language in other final monographs and other applicable OTC drug regulations, and will propose amendments to those regulations accordingly. Public comment on the proposed changes in labeling language is invited.

The agency has examined the economic consequences of this proposed rulemaking and has determined that it does not require either a Regulatory Impact Analysis, as specified in Executive Order 12291, or a Regulatory Flexibility Analysis, as defined in the Regulatory Flexibility Act (Public Law 96–354). Specifically, it would leave carbamide peroxide, the active ingredient used in currently marketed OTC ear wax removal aid drug products, in Category I; move glycerin, currently not used in any of these products, to Category III; and leave analgesics in Category II. The only reformulation necessary would involve products containing analgesics; however, many of these products have already been reformulated. Necessary relabeling will not result in minimal costs because manufacturers will have 12 months from the date of publication of the final monograph to use existing stocks of labels and print new ones. Therefore, the agency concludes that the proposed rule is not a major rule as defined in Executive Order 12291. Further, the agency certifies that the proposed rule, if implemented, will have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act.

The agency invites public comment regarding any substantial or significant economic impact that this rulemaking would have on OTC topical otic drug products. Types of impact may include, but are not limited to, costs associated with product testing, relabeling, repackaging, or reformulating. Comments regarding the impact of this rulemaking on OTC topical otic drug products should be accompanied by appropriate documentation. Because the agency has not previously invited specific comment on the economic impact of the OTC drug review on topical otic drug products, a period of 120 days from the date of publication of this proposed rulemaking in the **Federal Register** will be provided for comments on this subject to be developed and submitted. The agency will evaluate any comments and supporting data that are

received and will reassess the economic impact of this rulemaking in the preamble to the final rule.

The agency has determined that under 21 CFR 25.24(d)(9) (proposed in the Federal Register of December 11, 1979; 44 FR 71742) this proposal is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 344

OTC drugs: Topical otic drug products.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371)), and the Administrative Procedure Act (secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704)), and under 21 CFR 5.11 as revised (see 47 FR 16010; April 14, 1982)), it is proposed that Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations be amended to add new Part 344 to read as follows:

PART 344—TOPICAL OTIC DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

Subpart A—General Provisions

Sec.
344.1 Scope.
344.3 Definitions.

Subpart B—Active Ingredients

344.10 Topical otic active ingredient.

Subpart C—Labeling

344.50 Labeling of topical otic drug products.

Authority: Secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371); secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704).

Subpart A—General Provisions

§ 344.1 Scope.

(a) An over-the-counter topical otic drug product in a form suitable for topical administration is generally recognized as safe and effective and is not misbranded if it meets each of the conditions in this part in addition to each of the general conditions established in § 330.1.

(b) References in this part to regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21 unless otherwise noted.

§ 344.3 Definitions.

As used in this part:

(a) *Anhydrous glycerin.* An ingredient that may be prepared by heating glycerin U.S.P. at 150° C for 2 hours to drive off the moisture content.

(b) *Earwax removal aid.* A drug used in the external ear canal that aids in the removal of excessive earwax.

Subpart B—Active Ingredients

§ 344.10 Topical otic active ingredient.

The active ingredient of the product consists of carbamide peroxide 6.5 percent forumlated in an anhydrous glycerin vehicle.

Subpart C—Labeling

§ 344.50 Labeling of topical otic drug products.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as an "earwax removal aid."

(b) *Indications.* The labeling of the product contains a statement of the indications under the heading "Indications" that is limited to the following phrase:

(1) "For occasional use as an aid in the removal of excessive earwax."

(2) *Other allowable statements.* In addition to the required information specified in paragraphs (a), (b)(1), (c) and (d) of this section, the labeling of the product may contain any of the following statements provided such statements are neither placed in direct conjunction with information required to appear in the labeling nor occupy labeling space with greater prominence or conspicuousness than the required information.

(i) "Softens and loosens excessive earwax."

(ii) "Aids in the removal of accumulated earwax."

(iii) "Aids in the removal of excessive earwax."

(iv) "Tropical earwax softening and lossening agent."

(c) *Warnings.* The labeling of the product contains the following warnings under the heading "Warnings":

(1) "Do not use if you have ear drainage or discharge, ear pain, irritation or rash in the ear or are dizzy; consult a doctor."

(2) "Do not use if you have an injury or perforation (hole) of the ear drum or after ear surgery unless directed by a doctor."

(3) "Do not use for more than 4 days; if excessive earwax remains after use of this product, consult a doctor."

(4) "Avoid contact with the eyes."

(d) *Directions.* The labeling of the product contains the following statement under the heading "Directions": "FOR USE IN THE EAR ONLY. Adults and children over 12 years of age: Tilt head sideways and place 5 to 10 drops into ear. Tip of applicator should not enter ear canal. Keep drops in ear for several minutes by keeping head tilted or placing cotton in the ear. Use twice daily for up to 4 days if needed, or as directed by a doctor. Any wax remaining after treatment may be removed by gently flushing the ear with warm water, using a soft rubber bulb ear syringe. Children under 12 years of age: consult a doctor."

Interested persons may, on or before September 7, 1982 submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments, objections, or requests for oral hearing before the Commissioner on the proposed regulation. A request for an oral hearing must specify points to be covered and time requested. Written comments on the agency's economic impact determination may be submitted on or before November 9, 1982. Three copies of all comments, objections, and requests are to be submitted, except that individuals may submit one copy. Comments, objections, and requests are to be identified with the docket number found in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. Comments, objections, and requests may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday. Any scheduled oral hearing will be announced in the Federal Register.

Interested persons, on or before July 11, 1983, may also submit in writing new data demonstrating the safety and effectiveness of those conditions not classified in Category I. Written comments on the new data may be submitted on or before September 9, 1983. These dates are consistent with the time periods specified in the agency's final rule revising the procedural regulations for reviewing and classifying OTC drugs, published in the Federal Register of September 29, 1981 (46 FR 47730). Three copies of all data and comments on the data are to be submitted, except that individuals may submit one copy, and all data and comments are to be identified with the docket number found in brackets in the heading of this document. Data and comments should be addressed to the Dockets Management Branch (HFA–305) (address above). Received data and

comments may also be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In establishing a final monograph, the agency will ordinarily consider only data submitted prior to the closing of the administrative record on September 9, 1983. Data submitted after the closing of the administrative record will be reviewed by the agency only after a final monograph is published in the **Federal Register** unless the Commissioner finds good cause has been shown that warrants earlier consideration.

Dated: May 17, 1982.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

Dated: June 21, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

[FR Doc. 82-18451 Filed 6-8-82; 8:45 am]

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Friday
July 9, 1982

Part VII

Department of Labor

Mine Safety and Health Administration

Underground Coal Mine Safety Standards Review; Advance Notice of Proposed Rulemaking

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DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 75

Underground Coal Mine Safety Standards Review; Advance Notice of Proposed Rulemaking

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Mine Safety and Health Administration (MSHA) invites public participation in the initial stages of its review of the underground coal mine safety standards in Title 30 of the Code of Federal Regulations, Part 75. The Agency specifically solicits comments with respect to possible regulatory action concerning standards for roof support, blasting and explosives, and the ventilation plan requirements and criteria in § 75.316. As a result of a recent review, these standards have been identified as areas that MSHA believes can be improved. In addition, MSHA invites written comments from interested persons relating to any concerns that they may have with other underground coal mine safety standards, including suggestions for the order in which the standards should be reviewed. The purpose of this review is to eliminate unnecessary reporting and recordkeeping requirements, minimize conflicting provisions, delete irrelevant standards, simplify and consolidate existing regulations, update standards to conform to state-of-the-art technology, and clarify and reorganize standards, where necessary.

DATES: Comments must be received on or before September 7, 1982.

ADDRESS: Interested persons are invited to submit written comments and suggestions to the Office of Standards, Regulations and Variances, MSHA, 4015 Wilson Boulevard, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Acting Director, Office of Standards, Regulations and Variances, MSHA, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203, (703) 235–1910.

SUPPLEMENTARY INFORMATION: MSHA has initiated a review of all safety standards for underground coal mines in 30 CFR Part 75. This comprehensive review is consistent with the goals of Executive Order 12291, the Regulatory Flexibility Act, the Paperwork Reduction Act, and the Department of Labor's initiatives with respect to improving regulations. A primary purpose of this comprehensive review of MSHA's underground coal mine safety standards is to improve the Agency's existing standards to promote the health and safety of miners and further the goals of regulatory reform.

Particularly, MSHA will evaluate (1) the adequacy of existing standards; (2) changes in mining technology; (3) the continued relevancy of certain provisions; (4) duplicative or overlapping requirements; (5) inconsistencies with other MSHA, Federal, or State agency requirements; and (6) reporting and recordkeeping requirements.

MSHA considers early public participation in this standards review process to be particularly important. The Agency, therefore, urges the mining community and other interested parties to submit comments related to the applicability and effectiveness of any of the underground safety standards in Part 75.

As part of this review, MSHA is specifically soliciting suggestions for regulatory changes to Subpart C—Roof Support, and the ventilation requirements in § 75.316. The Agency is particularly interested in any comments that the mining community has with respect to requirements related to the approval of roof control plans and plans for ventilation systems and methane and dust control. In addition, MSHA invites comments concerning blasting and explosives standards, including related requirements in 30 CFR Parts 15, 16 and 17.

List of Subjects in 30 CFR Part 75

Mine safety and health, Underground mining.

Dated: July 2, 1982.

Ford B. Ford,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 82–18830 Filed 7–8–82; 8:45 am]
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July 9, 1982

Part VIII

Department of Commerce

National Telecommunications and Information Administration

Grants for Planning and Construction of Public Telecommunications Facilities; Acceptance of Applications for Filing

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Grants for Planning and Construction of Public Telecommunications Facilities; Acceptance of Applications for Filing

I. New Applications and Major Amendments to Deferred Applications

Notice is hereby given that the following described applications for Federal financial assistance are accepted for filing under provisions of Title III, Part IV of the Communications Act of 1934, as amended (47 U.S.C. 390–94) and in accordance with 15 CFR Part 2301. All of the applications listed in this section were received or were postmarked by May 7, 1982. The effective date of acceptance of these proposals, unless otherwise indicated herein, is May 7, 1982. In the cases where "Date Received" is indicated as being other than May 7, 1982, the "Date Received" indicated will serve as the effective date of acceptance of the application. Applications are listed alphabetically by their State.

The acceptance of applications for filing is a procedure designed for making preliminary determinations of eligibility and for providing the opportunity for public comment on applications. Acceptance of an application does not preclude subsequent return or disapproval of an application if it is found to be not in accordance with the provisions of either the Act or 15 CFR Part 2301, or if the applicant fails to file any additional information requested by the Public Telecommunications Facilities Program (PTFP). Acceptance for filing does not assure an application of being funded; it merely qualifies it to compete for funding with other applications which have also been accepted for filing.

Pursuant to 15 CFR 2301.09, applicants were required to publish in a newspaper of general circulation in the community to be served by the applicant, a notice that such application has been tendered to the PTFP of the National Telecommunications and Information Administration. The notice shall have been published once a week for two consecutive weeks on or before May 7, 1982. The notice included (1) information as to where within the community to be served a copy of the application and any amendments thereto, may be inspected by the public during normal business hours, and (2) an invitation for parties supporting or opposing the application to file comments with the Administrator, National Telecommunications and Information Administration, Public Telecommunications Facilities Program, Washington, D.C. 20230. All filings must be made within 15 calendar days from the date of this public notice of acceptance of the application, and must be accompanied by a certificate that the copy of the comments has been mailed to the applicant.

AK

File No. 2155CRB, Aurora Comty Brdcstg Inc., Anchorage, AK 99508. Signed By: Mike Mense, President. Funds Requested: $117,943.00. Total Project Cost: $157,258.00. To extend the signal of KSKA–FM, operating on 103.1 MHZ in Anchorage, AK, by increasing power from 3000 to 36,000 watts and changing frequencies from 103 to 91 FM, and to provide basic production facilities to take advantage of local programming resources.

File No. 2237CRB, Rainbird Cmty Brdcstg Corp, 716 Totem Way, Ketchikan, AK 99901. Signed By: James Hanson, President, KCBC. Funds Requested: $31,884.00. Total Project Cost: $42,512,00. To replace the transmitter of public radio station KRBD–FM, operating on 105.9 MHZ at Ketchikan, AK, which brings the only public radio service to the communities of Ketchikan, Metlakatla, Thorne, Bay, Hollis, Craig and Klawock in southeast Alaska.

AL

File No. 2214CTB, Alabama ETV Commission, 2101 Magnolia Ave, Birmingham, AL 35256. Signed By: Edward Wegener, General Manager. Funds Requested: $434,100.00. Total Project Cost: $714,300.00. To extend the coverage of WAIQ Channel 26, in Montgomery, Alabama, by the acquisition of a higher tower and new antenna whih will provide first service to 271,992 persons.

File No. 2251CRB, Bd of Trustees for Univ of AL, 1028 7th Ave South, Birmingham, AL 35294. Signed By: Kenneth M. Pruitt, Assistant VP/ Research. Funds Requested: $24,707.00. Total Project Cost: $32,943.00. To extend the radio reading service protion of public radio station WBHM–FM, operating on 90.3 MHZ in Birmingham, AL, to other areas of the state via Alabama public television's existing microwave system.

File No 2252PTB, Lawson State Cmty Coll, 3060 Wilson Road, Birmingham, AL 35221. Signed By: Jesse J. Lewis, President. Funds Requested: $34,500.00 Total Project Cost: $74,400.00. to plan for a noncommercial TV station in the city of Birmingham, Alabama, to provide programming to the black population within the area.

AR

File No. 2084CRB, Arkansas Brdcstg Fdn, 1501 Arch Street, Little Rock, AR 72202. Signed By: Lia Lent, Project Director. Funds Requested: $57,975.00 Total Project Cost: $77,300.00. To construct a noncommercial FM station in Little Rock, AR, to serve Little Rock, North Little Rock, Hot Springs, Conway and Jacksonville, Arkansas.

AZ

File No. 2010CTB, AZ Bd of Regents for AZ St Univ, Arizona State Univ, Tempe, AZ 85287. Signed By: Paige E. Mulhollan, Exec Vice Pres. Funds Requested: $1,275,000.00. Total Project Cost: $2,550,000.00. To replace antenna, tower, etc., and some studio equipment. Arizona State University operates noncommercial educational Channel 8 in Phoenix. Some of the existing equipment is 30 years old and spare parts are no longer obtainable.

File No 2099CRB, Apache Radio Broadcasting Corp, Box 310, Whiteriver, AZ 85941. Signed By: Billy Kane, Chairman, ARBC. Funds Requested: $65,276.00 Total Project Cost: $87,035.00. To extend thie signal of tribal owned noncommercial FM raido station KNNB via translators. First service will be provided to five communities on White Mountain Indian Reservation (Apache). Earth station will provide reception of NPR at KNNB.

File No. 2329PTB, Navajo Community College, Tsaile, AZ 86556. Signed By: Dean C. Jackson, President. Funds Requested: $25,000.00. Total Project Cost: $25,000.00. To plan for a TV distribution network to serve the Navajo Nation in Arizona, New Mexico, and Utah. Network is needed to distribute Navajo programming to low power TV and cable systems on Navajo Nation. Overall objective is to establish an educational/public affairs TV network for the Navajo reservation.

CA

File No. 2017CTB, Corp on Disabilities & T/C, P.O. Box 27573, Los Angeles, CA 90027. Signed By: Neil Goldstein, Sec/ Treas. Funds Requested: $1,482,220.00 Total Project Cost: $1,976,293.00. To establish a noncommercial TV station operating on Channel 68, Los Angeles, CA, to serve and employ disabled people.

File No. 2044CRB, University of the Pacific, 3601 Pacific Avenue, Stockton, CA 95211. Signed By: Clifford J. Hand, Acting President. Funds Requested: $51,593.00. Total Project Cost: $68,791.00.

To extend the signal of public radio station KUOP–FM, operating on 91.3 MHZ at Stockton, CA, by relocating the primary transmitter at Mt. Oso, providing first service to portions of Stanislaus, Calaveras and other counties.

File No. 2075CTB, Santa Clara Cnty Board of Educ, 100 Skyport Drive, San Jose, CA 95115. Signed By: Maynard E. Orme, Gen Mgr. Funds Requested: $202,275.00. Total Project Cost: $269,700.00. To establish an ITFS system at Monument Peak, CA, to serve various sites in Santa Clara County, CA.

File No. 2092CRN, Blind San Franciscans, Inc, 420 Taylor Street, San Francisco, CA 94102. Signed By: Jewel McGinnis, Pres, Bd of Directors. Funds Requested: $63,750.00. Total Project Cost: $85,000.00. To provide SCA receivers for 1000 print handicapped persons in the San Francisco Bay area.

File No. 2098CTB, Central California ETV, Inc, P.O. Box 6, Sacramento, CA 95801. Signed By: Marilyn Shearer, Director of Develop;ment. Funds Requested: $62,890.00. Total Project Cost: $83,854.00. To upgrade public television station KVIE–TV, operating on Channel 6 at Sacramento, CA, by replacing an obsolete STL.

File No. 2100CRB, California St Univ, Sacramento, 6000 J Street, Sacramento, CA 95819. Signed By: Phil Corriveau, Gen Mgr. Funds Requested: $77,827.00. Total Project Cost: $103,770.00. To improve the transmission capabilities of KXPR, operating on 88.9 at Walnut Grove, CA, by moving to Rio Linda, changing frequency to 90.9, increasing power, and installing a translator at Angel's Roost Peak, CA.

File No. 2101CTB, Office of the Supt of Schools, 135 S. Jackson, P.O. Drawer G, Independence, CA 93526. Signed By: Janet Watkins, Superintendent of Schools. Funds Requested: $82,165.00. Total Project Cost: $109,553.00. To improve an existing translator system in Inyo County, CA, by providing local origination facilities and a low power TV transmitter at Bishop, and a satellite earth station.

File No. 2103CRB, Voces Unidas Biling Brdcstg Fdn, P.O. Box 1243, Salinas, CA 93902. Signed By: Ann Cabailero, President. Funds Requested: $5,250.00. Total Project Cost: $7,000.00. To establish FM radio (KUBO) translator in San Benito County, CA, to provide first service to Watsonville, Hollister, and the San Benito County area.

File No. 2106CTB, Black TV Workshop of LA, Inc, 7469 Melrose Avenue, Suite 28, Los Angeles, CA 90046. Signed By: Clint Wilson II, Director. Funds Requested: $2,364,637.00. Total Project Cost: $3,152,850.00. To construct a noncommercial minority controlled and programmed television station to serve the Los Angeles area.

File No. 2111CTB, San Bernardino Comty Coll Dist, 701 South Mt Vernon Avenue, San Bernardino, CA 92410. Signed By: Dr. Richard A. Jones, Chancellor. Funds Requested: $80,000.00. Total Project Cost: $107,684.00. To extend the signal of public television station KVCR–TV, operating on Channel 24 at San Bernardino, CA, with translators at Crestline, Victorville, and Barstow, CA.

File No. 2116PON, County of Mendocine, 589 Lou Gap Road, Ukiah, CA 95482. Signed By: Albert P. Beltrami, County Administrator. Funds Requested: $19,760.00. Total Project Cost: $26,260.00. To plan for a comprehensive public service telecommunications network in Mendocino County to provide a multi-use, cost-effective, integrated system.

File No. 2124PTN, California St College Fdn, CA St Coll, Stanislaus, Turlock, CA 95380. Signed By: Frank C. Balbo, Treasurer. Funds Requested: $56,726.00. Total Project Cost: $90,746.00. To plan for an integrated telecommunications network serving regional colleges and institutions in central California.

File No. 2128CRB, Pacifica Foundation, 3729 Cahuenga Blvd West, North Hollywood, CA 91604. Signed By: Jim Berland, VP & Gen Mgr. Funds Requested: $204,172.00. Total Project Cost: $272,230.00. To establish FM radio (KPFK) translators in 11 communities of southern California, providing first or second service and to replace studio equipment.

File No. 2151CON, San Joaquin Delta Comty College, 5151 Pacific Avenue, Stockton, CA 94207. Signed By: Lawrence A. DeRicco, President-Superintendent. Funds Requested: $194,455.00. Total Project Cost: $338,617.00. To establish an ITFS system with local origination in Calaveras County, CA, to serve a learning center in San Andreas, California.

File No. 2157CTN, San Diego State Univ Fdn, San Diego State Univ, San Diego, CA 92180. Signed By: Frank Medeiros, VP for Academic Affairs. Funds Requested: $183,000.00. Total Project Cost: $244,000.00. To expand the ITFS system into northern San Diego County, CA, and to provide an audio talk-back capability.

File No. 2187PRB, Sonoma State University, 1801 E Cotati Avenue, Rohnert Park, CA 94928. Signed By: David S. Walls, Vice President. Funds Requested: $40,658.00. Total Project Cost: $58,654.00. To plan for a comprehensive telecommunications network serving several northern California counties, to extend university services in the area and evaluate campus communications needs.

File No. 2200CTB, The Peralta Cmty Coll District, 333 E Eighth Street, Oakland, CA 94606. Signed By: Donald B. Berz, Vice Chancellor. Funds Requested: $725,257.00. Total Project Cost: $965,077.00. To establish a microwave system in Alameda County, CA, to interconnect existing ITFS and cable facilities.

File No. 2208CRB, North Bay Public Radio, Broadcast Center, Angwin, CA 94508. Signed By: Robert B. Wareham, General Manager. Funds Requested: $160,553.00. Total Project Cost: $214,071.00. To extend the signal of public radio station KPRN–FM, operating on 89.9 MHZ at Angwin, CA., to provide first signal to rural counties using translators, and to replace obsolete studio equipment.

File No. 2220CRB, Hoopa Valley T/C Corp, P.O. Box 1220, Hoopa, CA 95546. Signed By: David A. Contreras, Chairman. Funds Requested: $19,303.00. Total Project Cost: $25,737.00. To extend the signal of noncommercial radio station KIDE–FM, Channel 217 (91.3 MHZ), at Hoopa, CA, with translators at Horse Mountain and Fickle Hill, CA.

File No. 2225CRB, White Ash Broadcasting, Inc., 1515 Van Ness, Fresno, CA 93721. Signed By: Augustine Dempsey, Station Manager. Funds Requested: $25,430.00. Total Project Cost: $36,907.00. To extend the signal of public radio station KVPR–FM, operating on 89.3 MHZ at Fresno, CA, by locating translators at Mt. Adelaide, Mammoth and Casa Diablo.

File No. 2261CON, California State University, 6000 J Street, Sacramento, CA 95819. Signed By: Karl Von den Steinen, Executive Director. Funds Requested: $313,520.00. Total Project Cost: $463,520.00. To establish an interactive ITFS system at Sacramento, Pine Hill and Wolf Mountain, serving learning centers in Yuba, Placer, Nevada, and El Dorado counties.

File No. 2273PTN, Imperial County Office of Educ, 1398 Sperber Road, El Centro, CA 92243. Signed By: William H. Fisher, Assistant Superintendent. Funds Requested: $12,000.00. Total Project Cost: $16,000.00. To plan for an ITFS system to provide service to Imperial County, CA schools and to study various program sources.

File No. 2275CRB, California Public Radio, 385 8th Street, San Francisco, CA 94103. Signed By: Donovan Reynolds, Director. Funds Requested: $204,710.00. Total Project Cost: $272,946.00. To upgrade the production capabilities of California public radio in San Francisco,

by replacing and augmenting obsolete apparatus and facilities.

File No. 2279PON, Regents of the Univ of CA T/C, Univsity of California, Irvine, CA 92717. Signed By: E. L. Bradt, Assistant Manager. Funds Requested: $53,280.00. Total Project Cost: $58,738.00. To plan for a teleconferencing capability, if feasible, using university facilities at Irvine to serve various agencies and businesses in Orange County, CA.

File No. 2300CTN, Calif St College, Stanislaus, Monte Vista Avenue, Turlock, CA 95380. Signed By: Frank C. Balbo, Business Manager. Funds Requested: $145,231.00. Total Project Cost: $308,431.00. To extend an ITFS system at Turlock CA, to rural and isolated places in Mariposa and Merced counties, and to provide interactive capability at learning centers.

File No. 2346CON, California State Univ, 1000 E Victoria Street, Carson, CA 90747. Signed By: Donald A. MacPhee, Vice President/Planning. Funds Requested: $157,152.00. Total Project Cost: $238,652.00. To establish an ITFS system/cable access with local origination in Los Angeles and Orange Counties by interconnecting campus sites and cable facilities.

CO

File No. 2018CTB, Front Range Educ Media Corp, 6801 W 117th Avenue, Broomfield, CO 80020. Signed By: Ted Krichels, Station Mgr. Funds Requested: $184,765.00. Total Project Cost: $246,215.00. To upgrade and extend the program capability of public TV station KBDI, operating on Channel 12, in Broomfield, CO, by replacing obsolete and loaned apparatus and adding interconnection equipment to create links to cable headends within the coverage area, and to provide for permanent remote links from downtown Boulder and Denver to the KBDI studio.

File No. 2070CRB, Five Cnty Pub T/C Project, P.O. Box 143, Lake George, CO 80827. Signed By: Sheila Williams, Project Director. Funds Requested: $4,500.00. Total Project Cost: $6,000.00. To extend the signal of KCFR–FM, Denver, by translator on Badger Mountain, bringing first public radio services to residents of Park and Teller counties located in the central part of Colorado.

File No. 2076CTB, County of San Miguel, P.O. Box 548, Telluride, CO 81435. Signed By: Fred Ellerd, Chmn, Bd of Cnty Commissioners. Funds Requested: $40,018.00. Total Project Cost: $53,358.00. To extend the signal of KRMA–TV Channel 6, Denver and provide first public TV service to residents of the County of San Miguel.

File No. 2095PRB, University of Denver, 2056 S York Street, Denver, CO 80208. Signed By: Howard L. Mai, Dir, Officer of Grants & Contrac. Funds Requested: $84,795.00. Total Project Cost: $113,234.00. To plan for the extension of public radio services to at least 90 percent of the state, using the State of Colorado's microwave system. This project would focus on currently unserved communities.

File No. 2153CTB, County of Hinsdale, P.O. Box 107, Lake City, CO 81235. Signed By: John Benvenuto, Commissioner, Hinsdale Cnty. Funds Requested: $34,815.00. Total Project Cost: $46,420.00. To construct translators on Blue Mesa and Round Top Mountain which extends the signal of Channel 6, KRMA–TV, Denver, to residents of Hinsdale County in western Colorado.

File No. 2154CTB, Gunnison Metropolitan Rec Dist, P.O. Box 1382, Gunnison, CO 81230. Signed By: Frank Edlin, Jr., President. Funds Requested: $16,500.00. Total Project Cost: $22,000.00. To extend the signal of KRMA–TV by translator from Monarch Pass to unserved residents of Gunnison and Hinsdale counties in western Colorado.

File No. 2201CTB, NW Colorado Council of Govts, P.O. Box 739, Frisco, CO 80443. Signed By: Thomas R. H. Glass, NWCCOG Exec Director. Funds Requested: $114,500.00. Total Project Cost: $157,000.00. To activate a low power TV facility at Williams Hill in Pitkin County, operating on Channel 18, which retransmits selected programming of Channel 6, KRMA, Denver, as well as locally and regionally produced materials to residents on the western slope of Colorado.

File No. 2247CRB, Carbondale Cmty Access Radio, Box 1388, Carbondale, CO 81623. Signed By: Lee Swidler, President. Funds Requested: $37,974.00 Total Project Cost: $50,631.00. To establish a noncommercial radio operating on station 90.5 MHZ in Carbondale, CO, to bring first public radio service to portions of Garfield, Pitkin, and Eagle counties.

File No. 2271CRB, San Miguel Educational Fund, Box 1069, Telluride, CO 81435. Signed By: Rita Robinson, Station Manager. Funds Requested: $47,379.00. Total Project Cost: $63,172.00. To increase the power of KOTO–FM, operating on 91.7 MHZ in Telluride, CO, from 10 to 100 watts, relocate the transmitter to an elevation of 10,000 ft., replace outmoded translator, and to acquire basic studio production facilities, to better serve 90% of the residents of San Miguel County.

File No. 2320CRB, Equal Rep of Media Advoc Corp., 314 11th, P.O. Box 879, Alamosa, CO 81101. Signed By: Frances Valdez, Member, Bd of Directors. Funds Requested: $77,062.00. Total Project Cost: $102,750.00. To activate a noncommercial radio station, operating on 88.7 MHZ in Alamosa, Colorado, to bring a first public radio signal to the residents of San Luis Valley.

File No. 2352CTB, Pitkin County, 506 E. Main, Aspen, CO 81611. Signed By: John Dady, Comm Eng. Funds Requested: $66,000.00. Total Project Cost: $88,000.00. To construct a solar-powered translator to provide first public television to residents of Marble area of Pitkin County, and to link the southwestern part of Colorado to Channel 62 being broadcast by Pitkin County.

DC

File No. 2009CTB, Howard University, 2222 4th Street, NW, Washington, DC 20059. Signed By: Dr. Caspa L. Harris, Treasurer. Funds Requested: $511,655.00. Total Project Cost: $811,655.00. To establish a satellite transmit station at WHMM, operating on Channel 32 in Washington, DC, to provide nationwide minority and general audience programming.

File No. 2051CRB, The American University, Washington, DC 20016. Signed By: John McKinley, Vice President. Funds Requested: $30,000.00. Total Project Cost: $40,000.00. To augment the production facilities of WAMU–FM, operating on 88.5 MHZ in Washington, DC, by replacing obsolete apparatus needed to deliver programming to the residents of the District and outlying areas.

File No. 2179CRB, Pacifica Foundation, Inc., 700 H Street, NW., Washington, DC 20001. Signed By: Marita Rivero, Vice Pres & Gen Mgr. Funds Requested: $63,973.00. Total Project Cost: $85,297.00. To augment the production and transmission facilities of WPFW–FM, operating on 89.3 MHZ in Washington, DC, to provide more diverse programming to the communities within the coverage area.

DE

File No. 2031CTB, Delaware Citizens Committee, 122 North Front Str/PO Box 864, Seaford, DE 19973. Signed By: Shelton J. Merrill, President. Funds Requested: $453,151.00. Total Project Cost: $707,805.00. To increase power of WDPB–TV in Seaford and to construct a 1KW translator to provide first service to Dover. Funds to enhance WDPB's existing studios are also requested.

FL

File No. 2177CRB, Univ of South Florida, 4202 Fowler Avenue, Tampa, FL

33620. Signed By: D. W. Ervin, Dir. Sponsored Research. Funds Requested: $40,875.00. Total Project Cost: $54,500.00. To improve the programming for WSFP–FM which serves the Ft. Myers, Naples, and Port Charlotte areas of southwest Florida by adding radio reception capability to the Ft. Myers public TV satellite earth terminal and an audio reception system to receive the FM signal from WUSF in Riverview, FL. Also, the project proposes to add 500 SCA receivers to expand the radio reading service to the handicapped audience.

File No. 218CRB, Nathan B. Stubblefield Fdn, 3838 Nebraska Avenue, Tampa, FL 33603. Signed By: Cam Hendrix, Technical Director. Funds Requested: $31,560.00. Total Project Cost: $42,080.00. To upgrade the transmission system of radio station WMNF in Tampa, Florida, operating on 88.5 MHZ with a power of 70 KW, by securing a circularly polarized antenna.

File No. 2189PRB, Latinos In Pub Radio of FL, Inc., 7002 Haden Road, Suite 10, West Palm Beach, FL 33406. Signed by: Andres A. Avello II, Executive Director. Funds Requested: $25,000.00. Total Project Cost: $25,000.00. To plan for the establishment of a Spanish language SCA service for Palm Beach County using the subcarrier Channel of WHRS–FM in Boynton Beach, Florida.

File No. 2192CTB, Pensacola Junior College, 1000 College Boulevard, Pensacola, FL 32504. Signed By: Dr. C. W. Walker, Vice President. Funds Requested: $1,088,495.00. Total Project Cost: $1,451,326.00. To extend the signal coverage of WSRE–TV, Channel 23 in Pensacola, FL, by changing the location and increasing the height of the tower, by increasing the power of the transmitter and installing a 20% more efficient antenna, thereby providing first service to 169,782 persons.

File No. 2224PRTBN, Brevard Community College, 1519 Clearlake Road, Cocoa, FL 32922. Signed by: Maxwell C. King, President. Funds Requested: $25,000.00. Total Project Cost: $53,008.00. To plan the ascertainment of the current and future capabilities of Brevard Community College in Cocoa, Florida, to serve the educational needs of the citizens of Brevard County, including the Board of Public Instruction, through the use of public telecommunications facilities available to this east central community in Florida.

File No. 2280CTN, School Board of Marion Cnty, 512 Southeast Third Street, Ocala, FL 32671. Signed By: H. Leon Rogers, Supt of Schools. Funds Requested: $274,449.00. Total Project Cost: $467,071.00. To establish a multi-Channel instructional TV fixed service system in Ocala, FL, to provide local educational programming to the Marion County area, some of which is unserved, and also provide state and national programs through coordination with WUFT–TV/FM in Gainesville as well as with other local telecommunications systems.

File No. 2264CRB, Bascomb Mem Brdcstg Fdn, Inc, P.O. Box WDNA, Miami, FL 33155. Signed By: Earl G. Gallop, Treasurer/Secretary. Funds Requested: $18,383.00. Total Project Cost: $24,444.00. To equip a new on-air production studio in downtown Miami and thereby improve the local prodcution capability of WDNA–FM, operating on 88.9 MHZ in Miami, Florida, which provides local minority focused programming to 1.5 million persons in Dade and Monroe Counties.

File No. 2280PON, Florida A&M University, Tallahassee, FL 32307. Signed By: Dr. Sybil C. Mobley, Dean. Funds Requested: $42,500.00. Total Project Cost: $42,500.00. To plan for the development of a national model for integration of telecommunications into business education, and explore new methods of imparting btusiness instruction using non-bradcast technology, both to on-campus and community audiences in Tallahassee, Florida.

File No. 2238PON, City of Atlanta, GA, 2nd Floor CH, 68 Mitchell Bldg, Atlanta, GA 30303. Signed By: Andrew Young, Mayor. Funds Requested: $29,519.00. Total Project Cost: $43,211.00. To plan for the use of a communications network utilizing the cable system. This network will be used to provide a computer aided fire dispatching system in support of the bureau of fire services.

File No. 2259PON, Cohen Communications, Inc, 1319 E Henry Street, Savannah, GA 31404. Signed By: Richard C. Morgan, Jr., Exec Dir. Funds Requested: $10,000.00. Total Project Cost: $10,000.00. To plan for a community telecommuncations center that would provide local origination capacity for minority programming.

HI

File No. 2060CTB, Hawaii Public Brdcstg Auth, 2350 Dole Street, . Honolulu, HI 96822. Signed By: James B. Young, Executive Director. Funds Requested: $787,500.00. Total Project Cost: $1,050,000.00. To expand noncommercial television dissemination facilities at station KMEB, Channel 10, Wailuku, Maui. Also to replace obsolete apparatus at noncommercial television station KHET, Channel 11, Honolulu, Hawaii. Both stations serve the communities of Hawaii.

IA

File No. 2022CTB, Iowa Lakes Community College, 300 South 18th Street, Estherville, IA 51334. Signed By: R. H. Blacker, Superintendent. Funds Requested: $117,179.00. Total Project Cost: $167,398.00. To extend and improve the ITFS system by adding two interactive receivers sites at Spirit Lake and Swea City, both unserved areas.

File No. 2127CTB, Marycrest College, 1607 W. 12th Street, Davenport, IA 52804. Signed By: A. Lynn Bryant, President. Funds Requested: $131,175.00. Total Project Cost: $174,900.00. To establish a noncommercial TV station on Channel 36 in Davenport, Iowa. Station will provide ETV from Marycrest College. The College now operates a closed circuit TV production facility for use on campus only, and is operated by students in the communications department. Station will provide second service to area.

IL

File No. 2043CTB, Chicago ETV Assoc, 5400 N Ste Louis Avenue, Chicago, IL 60625. Signed By: John C. Rahmann, Senior Vice President. Funds Requested: $318,750.00. Total Project Cost: $425,000.00. To extend the signal of public television station WTTW, Channel 11 in Chicago, Ill., by altering the antenna pattern to deliver service to unserved communities in western Michigan, northern Indiana and northwestern and western Illinois.

File No. 2068PRB, Springfield & Sangamon Community Action, Inc., 1101 South 15th Street, Springfield, IL 62703. Signed By: Gary E. Spears, Chairman, Board of Directors. Funds Requested: $71,060.00. Total Project Cost: $ 76,060.00. To plan for a noncommercial FM radio station to offer local news and public affairs programming to minorities residing in Sangamon County, IL.

File No. 2081CTB, Black Hawk College, 6600 34th Avenue, Moline, IL 61265. Signed By: Dr. Richard J. Puffer, Chancellor. Funds Requested: $163,000.00. Total Project Cost: $239,700.00. To improve noncommercial TV station WQPT, operating on Channel 24 in Moline, Illinois, by replacing obsolete equipment to current technically compatable state-of-the-art, in order to better serve the programming needs of residents in the Greater Quad Cities area.

File No. 2174CRB, Chicagoland Radio Info Services, 425 N Michigan Avenue, Chicago, IL 60611. Signed By: Kathryn A. Bikos, Gen Mgr. Funds Requested:

$16,650.00. Total Project Cost: $22,200.00. To extend SCA services of CRIS radio, operating on subcarrier Channel of WBEZ–FM, in Chicago, Illinois, to bring specialized programming to the print handicapped residents of metropolitan Chicago area.

File No. 2185CTB, Bd of Trustees of Univ of IL, 354 Admin Building, Urbana, IL 61801. Signed By: Linda Wilson, Associate Vice Chancellor. Funds Requested: $28,125.00. Total Project Cost: $37,500.00. To replace failing transmission facilities of noncommercial FM radio station WILL–FM, on frequency 90.9 MHZ in Urbana, Illinois, to enable continuous service to the communities surrounding Champaign-Urbana, Ill.

File No. 2188CTB, Bd of Trustees of the Univ of IL, 354 Admin Building, Urbana, IL 61801. Signed By: Linda Wilson, Associate Vice Chancellor. Funds Requested: $607,500.00. Total Project Cost: $810,000.00. To replace obsolete dissemination apparatus for public television station WILL–TV, Channel 12, University of Illinois, Urbana, Illinois, in order to deliver program services to the Champaign-Urbana, Decatur-Springfield metropolitan areas.

IN

File No. 2012CRB, Pub Brdcstg of NE Indiana, Inc, 2000 N Wells Street, Fort Wayne, IN 46804. Signed By: Rocco J. Navarro, President. Funds Requested: $160,276.00. Total Project Cost: $213,701.00. To extend the signal of noncommercial FM radio station WBNI, operating on frequency 89.1 MHZ in Fort Wayne, IN, to provide first local service to communities in northeast Indiana and improve signal quality to residents of Fort Wayne.

File No. 2107CTB, WIPB-Ball State University, 246 Minnetrista Blvd, Muncie, IN 47303. Signed By: Robert P Bell, President. Funds Requested: $406,500.00. Total Project Cost: $542,000.00. To replace obsolete and improve origination facilities at public television station WIPB, Channel 49, Muncie, Indiana, in order to deliver noncommercial programming to residents in the City of Muncie and surrounding communities.

File No. 2108CTB, Michiana Public Brdcstg Corp, P.O. Box 34, South Bend, IN 46624. Signed By: Thomas E. Brubaker, Exec Dir & Gen Mgr. Funds Requested: $121,125.00 Total Project Cost: $161,500.00. To replace obsolete and failing origination facilities at noncommercial television station WNIT, Channel 34, South Bend, Indiana, to assure uninterrupted telecommunications services to the communities in the station's service area.

File No. 2121CRB, Butler University, 4600 Sunset Ave, Indianapolis, IN 46208. Signed By: Louis F. Chenette, Dean. Funds Requested: $59,170.00. Total Project Cost: $78,893.00. To extend the service capability of public radio station WJAC, 104.5 MHZ, Butler University, Indianapolis, Indiana, through the acquisition of subcarrier receivers and origination facilities to bring specialized program service to the print handicapped in the metropolitan area.

File No. 2209CTB, Fort Wayne Public TV, Inc, P.O. Box 39, Fort Wayne, IN 46801. Signed By: Donald Sugarman, MD, President. Funds Requested: $618,861.00. Total Project Cost: $836,000.00. To extend and improve the services of noncommercial TV station W39AA, Channel 39, Fort Wayne, Indiana, by constructing new dissemination and origination facilities to provide telecommunications services to Fort Wayne and surrounding counties.

File No. 2284CTN, City of Lake Station, 3625 Central Avenue, Lake Station, IN 46405. Signed By:,. Funds Requested: $1,261,555.00. Total Project Cost: $1,682,073.00. To establish telecommunications service in the form of cablevision and up stream return for emergency services to better protect the citizens of Lake Station, IN.

File No. 2323CTB, Bd of Trustees for Vincennes Uni, 1002 N 1st Street, Vincennes, IN 47591. Signed By: Dr. Phillip Summers, President. Funds Requested: $224,625.00. Total Project Cost: $299,500.00. To replace obsolete and improve dissemination and origination facilities at public television station WVUT, Channel 22, Vincennes University, Vincennes, Indiana, to deliver programming to the communities in the metropolitan area.

File No. 2340CRB, Vincennes University, 1029 N 4th Street, Vincennes, IN 47591. Signed By: Dr. Phillip M. Summers, President. Funds Requested: $21,485.00. Total Project Cost: $33,055.00. To replace obsolete and improve origination and dissemination facilities at Vincennes University public radio station WVUB–FM, 91.1 MHZ, Vincennes, Indiana, thereby enabling delivery of locally produced programs to communities in the metropolitan area.

File No. 2344CTB, City of Hobart, 414 Main Street, Hobart IN 46342. Signed By: Calvin E. Green, Jr., Mayor. Funds Requested: $1,738,500.00. Total Project Cost: $2,318,857.00. To establish a cable TV system to provide local programming to the City of Hobart, Indiana.

KS

File No. 2002CRB, Friends University, 2100 University, Wichita, KS 67213. Signed By: Richard Felix, President. Funds Requested: $73,581.00 Total Project Cost: $98,109.00. To reactivate FM radio station KDSA by Friends University in Wichita, KS. New call letters (KSOF) have been assigned to an old frequency, 91.1 MHZ, to offer local programming to the city of Wichita.

File No. 2027CTB, Washburn University of Topeka, 301 North Wanamaker Road, Topeka, KS 66604. Signed By: Dr. John L. Green, President. Funds Requested: $463,890.00. Total Project Cost: $618,520.00. To upgrade facilities and programming capabilities of station KTWU–TV, Channel 11, in Topeka, Kansas, by replacement of outdated VTR's and purchase of additional VTR's to develop programming for nationwide distribution.

File No. 2049CTB, Kansas Public T/C Service Inc, 320 West 21st PO Box 288, Wichita, KS 67201. Signed By: Zoel Parenteau, Pres & General Manager. Funds Requested: $782,880.00. Total Project Cost: $1,043,843.00 Project proposes to establish a UHF sister station on Channel 15 to provide alternative programming specifically targeted to a populus which has a large degree of unemployment.

File No. 2125CRB, KANZA Society, Inc, Box 57, Pierceville, KS 67868. Signed By: Kennis Bosley, Chairman Bd of Directors. Funds Requested: $68,709.00. Total Project Cost: $91,613.00. To extend signal of KANZ–FM on 91.1 MHZ in Pierceville, KS, to the western regions of Kansas, eastern Colorado, and northern Oklahoma by means of ten watt translators.

File No. 2211CTB, Smoky Hills Public Television P.O. Box 9, 6th & Elm Streets, Bunker Hill, KS 67626. Signed By: Kenneth F. Gardner, Vice President & Gen Mgr. Funds Requested: $31,000.00. Total Project Cost: $58,000.00. To extend the signal of public television station KSMH–TV, Channel 9, at Hays, KS to north central Kansas (Phillips, Norton, Smith, Rooks, and Osborne counties) by means of a 100W translator.

File No. 2285CTB, Smoky Hills Public TV, P.O. Box 9, Bunker Hill, KS 67626. Signed By: Kenneth F. Gardner, Vice Pres & Gen Mgr. Funds Requested: $44,620.00. Total Project Cost: $74,020.00. To construct a TV translator station in north central Kansas on Channel 64, output 100W. This will supply first service to five counties of Cloud, Clay, Republic, Jewell, and Mitchell. The

originating station is KSMH, Channel 14, in Hays, KS.

KY

File No. 2079CRB, Eastern Kentucky Univ, Lancaster Ave, Richmond, KY 40475. Signed By: J. C. Powell, President. Funds Requested: $91,297.00. Total Project Cost: $130,230.00. To activate a repeater noncommercial radio station on 90.9 frequency to broadcast the signal of WEKU–FM into Hazard and the southeastern counties of Kentucky, which are presently unserved.

File No. 2146CRB, Western Kentucky Univ., College Heights, Bowling Green, KY 42101. Signed By: Dr. Donald W. Zacharlas, President. Funds Requested: $117,333.00. Total Project Cost: $156,445.00. To establish a noncommercial FM radio station on 89.9 MHz in Somerset, Kentucky, to provide first local service to the Taylor, Green, Adair, Cumberland, Clinton, Russell, Casey and Pulaski County areas of south central Kentucky.

LA

File No. 20005CRB, LA State Univ. at Shreveport, 8515 Youree Drive, Shreveport, LA 71115. Signed By: E. Grady Bogue, Chancellor. Funds Requested: $290,563.00. Total Project Cost: $387,418.00. To activate a new noncommercial FM radio station on 89.9 MHz, in Shreveport, LA. Station will provide first service to 839,016 people in 16 counties. University also proposes to acquire satellite reception equipment.

File No. 2006CRB, Louisiana St. Univ. at Alexandria, Alexandria, LA 71301. Signed By: H. Rouse Caffey, Chancellor. Funds Requested: $386,027.00. Total Project Cost: $514,703.00. To activate a new noncommercial FM radio station on 88.3 MHz in Alexandria, LA. Station will provide first service to 614,392 people in 16 parishes. University also proposes to acquire satellite reception equipment.

File No. 2140CTB, Louisiana ETV Authority, 2618 Wooddale Blvd., Baton Rouge, LA 70805. Signed By: A. Fred Frey, Exec. Director. Funds Requested: $234,708.00. Total Project Cost: $312,944.00. To replace the antenna and transmission line of WLPB–TV in Baton Rouge. WLPB has experienced disruption of service due to repeated equipment failure. Station is flagship station for the Louisiana public broadcasting system.

File No. 2321PRTBN, State of Louisiana, P.O. Box 44095, Baton Rouge, LA 70804. Signed By: E. L. Henry, Comm. of Adm. Funds Requested: $250,000.00. Total Project Cost: $250,000.00. To plan for the extension of public telecommunications services to areas of Louisiana not currently served.

MA

File No. 2118CTB, WGBH Educational Foundation, Inc., 44 Hampden Street, Springfield, MA 01103. Signed By: Gordon Carpenter, Chairman of Board of Tribunes. Funds Requested: $145,031.00. Total Project Cost: $193,375.00. To increase the efficiency of the WGBY–TV transmitter, which is located in Springfield, MA, and to add a telrode amplifier to prolong the life of the station's Klystron.

File No. 2158PTN, City of Boston, One City Hall Square, Boston, MA 02201. Signed By: Micho F. Spring, Deputy Mayor. Funds Requested: $117,917.00 Total Project Cost: $207,711.00. To plan for Boston's Public Institution Network, a separate institutional cable system to be developed for public, municipal and non-profit users.

MD

File No. 2069CRB, Baltimore Radio Reading Serv., 2901 Liberty Heights Ave., Baltimore, MD 21215. Signed By: Eugene Spurrier, Chairman, Bd. of Directors. Funds Requested: $42,000.00. Total Project Cost: $60,000.00. To purchase 1090 subcarrier receivers for use by print handicapped citizens in the Baltimore and upper eastern shore of Maryland areas. Transmitted via WBJC–FM radio.

ME

File No. 2119CRB, University of Maine, Alumni Hall, Orono, ME 04469. Signed By: William J. Sullivan, Treasurer. Funds Requested: $256,792.00 Total Project Cost: $342,395.00. To activate satellite radio station that will transmit the signal of Maine Public Broadcasting Network and will provide first public service to Waterville/ Winslow and Washington County, Maine.

File No. 2233PON, Medical Care Development, Inc., 11 Parkwood Drive, Augusta, ME 04330. Signed By: John A. LaCasse, Executive Director. Funds Requested: $67,808.00. Total Project Cost: $101,125.00. To plan for the provision of health education at home through the interconnection of existing closed circuit hospital systems with cable companies in rural Maine.

MI

File No. 2014CTB, Grand Valley State Colleges, College Landing, Allendale, MI 49401. Signed By: James Starkweather, Director of Budgets. Funds Requested: $380,638.00. Total Project Cost: $507,785.00. To provide microwave interconnection between the metropolitan cable system and Channel 35 to make possible the implementation of a second service to meet expanded and specific target audience programming needs for the residents of West Michigan.

File No. 2015CRB, Grand Valley State Colleges, College Landing, Allendale, MI 49401. Signed By: James Starkweather, Director of Budgets. Funds Requested: $64,260.00. Total Project Cost: $85,680.00. To upgrade the origination and production facilities of noncommercial radio station WSRX–FM to better serve the community.

File No. 2034CTB, Ojibwa Community College Learning Center, Rte. 1 Tribal Center, Baraga, MI 49908. Signed By: Gerry Blanchard, Washington Representative. Funds Requested: $11, 903.00. Total Project Cost: $15,870.00. To extend and improve the television signal of public television station KMWU–TV, channel 13, Marquette, Michigan, by establishing a translator to Ojibwa Community College and Reservation, Baraga, Michigan, to bring public broadcasting to the Keweenaw Bay Indian Reservation.

File No. 2035PRTB, Inter-Tribal Council of MI, Inc., 405 Easterday Avenue, Sault Ste. Marie, MI 49783. Signed By: Gerry Blanchard, Washington Representative. Funds Requested: $46,500.00. Total Project Cost: $62,082.00. To plan for noncommercial public radio and television facilities to serve the community members of the Inter-Tribal Council of Michigan and related publics.

File No. 2048CRB, Central Michigan Univ Pub Brdcst, Mt. Pleasant, MI 48859. Signed By: Harold Abel, President. Funds Requested: $95,062.00. Total Project Cost: $172,677.00. To establish a noncommercial FM radio station operating on 90.1 MHZ in Bay City, MI., to provide first service to the Bay City-Saginaw area and the "Thumb" counties of Michigan.

File No. 2109CRB, Delta College, Delta Road, University Center, MI 48710. Signed By: Donald J. Carlyon, President. Funds Requested: $153,370.00. Total Project Cost: $249,100.00. To establish a noncommercial FM radio station operating on 90.1 MHZ at Bay City, MI., to provide first service to the core counties of the Saginaw Valley and the northern tier counties of the "Thumb" area.

File No. 2113CTB, Bd of Control Northern Michigan Univ, Marquette, MI 49855. Signed By: John X. Jamrich, President. Funds Requested: $344,065.00 Total Project Cost: $458,780.00. To replace obsolete and improve dissemination and origination equipment at Northern Michigan University's public television station

WNMU, Channel 13, Marquette, Michigan, to deliver programming to communities in the Northern Peninsula area.

File No. 2114CRB, Blue Lake Fine Arts Camp, WBLV, Route 2, Twin Lake, MI 49457. Signed By: William F. Stansell, President. Funds Requested: $17,632.00. otal Project Cost: $23,510.00. To augment the noncommercial facilities of WBLV–FM in Twin Lake, MI, by installing a satellite receive dish to acquire NPR programming.

File No. 2221PON, Bay de Noc Community College, College Avenue, Escanaba, MI 49829. Signed By: Edwin Wuehle, President. Funds Requested: $82,380.00. Total Project Cost: $82,380.00. To plan for a microwave/ITFS network of colleges, federal institutions, state institutions and public schools in Michigan's Upper Peninsula. The network will study the technical requirements for a variety of public telecommunications services for instruction in colleges and uses in libraries, schools and with public television in libraries to the communities within the coverage area.

File No. 2332CTB, Delta College, Delta Road, University Center, MI 48710. Signed By: Donald J. Carlyon, President. Funds Requested: $137,250.00. Total Project Cost: $201,000.00. To extend the signal of public TV station WUCM–TV, operating on Channel 19, University Center, Michigan, by constructing a translator to serve Bad Axe, Michigan.

MN

File No. 2061CRB, Bemidji State University, Birchmont Drive, Bemidji, MN 56601. Signed By: Richard Haugo, President. Funds Requested: $64,750.00. Total Project Cost: $86,333.00. To provide SCA capabilities to Bemidji Stated University/Minnesota public radio station to bring specialized programming to the three largest Ojibwe Nations in Minnesota and non-Indian citizens in north central Minnesota.

File No. 2104CRB, Center for Communications and Development, 810 5th Avenue North, Minneapolis, MN 55405. Signed By: Jeanette Cotton, Station Manager. Funds Requested: $90,566.00. Total Project Cost: $120,755.00. To extend and improve the production and transmission facilities of public radio station KMOJ–FM, 89.7 MHZ, Minneapolis, Minnesota, operated by The Center for Community Development, to utilize both broadcast and cable radio to serve the metropolitan area.

File No. 2129CRB, Minnesota Public Radio, Inc., 45 East 8th Street, St. Paul, MN 55101. Signed By: William H. Kling, President. Funds Requested: $270,000.00. Total Project Cost: $360,136.00. To establish a new 100 kilowatt public radio station on 90.5 in St. Peter, MN, to provide first local origination capability, and to extend the new station's signal to the communities of Albert Lea and Owatonna by two translators.

File No. 2137CRB, Northern Community Radio, 1841 E. Hwy 169, Grand Rapids, MN 55744. Signed By: Patricia Clarke, Chairman, Bd of Directors. Funds Requested: $8,735.00. Total Project Cost: $11,647.00. To extend the signal of public radio station KAXE, 91.7 MHZ, Grand Rapids, Minnesota, with translators located in Virginia and Brainerd to serve communities in northern Minnesota.

File No. 2142CRB, Mankato State University, MSU Box 106, Mankato, MN 56001. Signed By: Margaret R. Preska, President. Funds Requested: $37,500.00 Total Project Cost: $50,000.00. To improve public radio station KMSU–FM, operating on Frequency 89.7, Mankato State University, Mankato, Minnesota, by installing stereo origination and remote studio facilities to better serve the communities in south central Minnesota.

MO

File No. 2086PRB, Lincoln University, 1004 E. Dunklin Street, Jefferson City, MO 65101. Signed By: Dr. James Frank, President. Funds Requested: $42,541.00. Total Project Cost: $42,541.00. To plan for expansion of the facilities at station KLUM–FM (88.9MHZ) in all aspects of mass media communications (AM/FM, TV, cable, etc.). The station is located at Lincoln University in Jefferson City, MO. Station provides a second service in the area.

File No. 2087CRB, Lincoln University, 1004 E. Dunklin Street, Jefferson City, MO 65101. Signed By: Dr. James Frank, President. Funds Requested: $62,104.00. Total Project Cost: $82,805.00. To upgrade equipment to provide better programming for station KLUM–FM on 88.9 MHZ in Jefferson City, MO, particularly for the black minority population. The station is owned and operated by Lincoln University.

File No. 2244CTB, Ozark Pub T/C, Inc., MPO Box 21, Springfield, MO 65801. Signed By: Roseann Bentley, Chmn. of the Board. Funds Requested: $235.159.00 Total Project Cost: $333,545.00. To upgrade production and transmission equipment of station KOZK–TV, Channel 21, in Springfield, MO, to overcome inordintate downtime.

File No. 2299CRN, Missouri Federation of The Blind, 2883 South Big Bend Blvd, Maplewood, MO 63143. Signed By: Fred C. Lilley, Executive Director. Funds Requested: $75,000.00. Total Project Cost: $100,000.00. Reactiviation of KUMR sideban for transmission to the Blind and Pr nt handicapped. KUMR operates o t of Rolla, MO, on 88.5 MHZ and is a member of NPR. Other Stations involved will be KBIA–FM 91.3 MHZ Columbia, KWMU–FM 90.7 MHZ St. Louis, and KCUR–FM 89.3 MHZ Kansas City.

MS

File No. 2206PRB, Alcorn State University, Lorman, MS 39096. Signed By: Walter Washington, President, ASU. Funds Requested: $21,282.00. Total Project Cost: $27,859.00 To plan the establishment of FM station in Lorman, MS. Total population to be served is 25,000 of which 75% are black.

MT

File No. 2135CTB, Blaine Cmty Pub TV, Inc, Box 188, Chinook, MT 59523. Signed By: Bruce Moerer, Acting Chairman. Funds Requested: $58,875.00. Total Project Cost: $78,500.00. to establish a low power TV facility providing a public TV signal to be distributed over-the-air to residents of Blaine County and by the local cable system serving residents of Chinook.

File No. 2141CTB, Dull Knife Memorial College, Box 206, Lame Deer, MT 59043. Signed By: Darius T. Rowland, President. Funds Requested: $250,000.00. Total Project Cost: $380,600.00. To establish a low-power public TV station in Lame Deer, Montana, to serve the needs of the Northern Cheyenne Indian Reservation and residents of Rosebud and Big Horn counties in sou heastern Montana.

File No. 2243CRB, Eastern Montana College, 1500 N. 30th Street, Billings, MT 59101. Signed By: William Johnstone, Acting Pres. Funds Requested: $30,000.00 Total Project Cost: $40,000.00. To extend by translator the signal of public radio station KEMC–FM of Billings to seven communities, six of which are in Montana and one in northern Wyoming.

File No. 2253CTN, Wolf Point TV District, P.O. Box 276, Wolf Point, MT 59201. Signed By: Bob Lundstrom, President. Funds Requested: $42,375.00. Total Project Cost: $56,500.00. to establish first local origination capability and to provide a public TV signal to be distributed over the local cable system serving the residents of Wolf Point, in rural Montana.

NC

File No. 2020CRB, Friends of Public Radio, P.O. Box 4234, Wilmington, NC 28406. Signed By: John A. Tiedeman, Agent. Funds Requested: $165,738.00. Total Project Cost: $220,985.00. To

activate a new FM radio station on 90.7 MHZ in Wilmington, NC. Station would provide first service to 240,000 people within five county area.

ND

File No. 2122CTB, Praire Pub TV Inc, 4500 S. Univ Drive, Fargo, ND 58103. Signed By: Dennis L. Falk, Pres & Gen Mgr. Funds Requested: $392,415.00. Total Project Cost: $542,415.00. To improve the production facilities of the public television network originating from station KFME, Fargo, North Dakota, by replacing obsolete equipment needed to deliver programming to residents of North Dakota, northwest Minnesota and northeast Montana.

File No. 2223CRB, Fort Berthold Comm Enterprise, Box 549, New Town, ND 58763. Signed By: Austin Gillette, Chairman, FBCE. Funds Requested: $30,170.00. Total Project Cost: $40,226.00. To augment a tribal owned FM radio station operating on 92.1 MHZ in New Town, North Dakota, by installing a satellite receive dish to receive NPR programming to better serve the community's 10,000 residents.

NE

File No. 2193CRB, Sunrise Communications, 1038 South 23rd Street, Lincoln, NE 68510. Signed By: Charles N. Quinn, Vice President. Funds Requested: $24,816.00. Total Project Cost: $35,387.00. To extend the signal of station KZUM–FM (89.3 MHZ) in Lincoln, NE, by increasing the power from 10W to 2KW.

File No. 2313CTB, Nebraska ETV Commission, P.O. Box 83111, Lincoln, NE 68501. Signed By: Jack G. McBride, Secretary & Gen Mgr. Funds Requested: $240,000.00. Total Project Cost: $320,000.00. To replace an obsolete and worn-out TV transmitter. Project would provide upgraded and extended coverage in Alliance, NE.

NJ

File No. 2132CON, Educ Improvement Center, 3684 US Rte 1 Bldg 1, Princeton, NJ 08540. Signed By: Thomas J. Rookey, Exec Director. Funds Requested: $14,288.00. Total Project Cost: $19,051.00. To provide post-production facilities and training to interested high school students, and for production of educational programming to be distributed by cable to five central New Jersey counties.

File No. 2248PTB, City of Jersey City, 201 Cornelison Ave, Jersey City, NJ 07304. Signed By: Horatius A. Greene III, Director. Funds Requested: $3,607,000.00. Total Project Cost: $3,607,999.00. To plan a TV station for the City of Jersey City that would provide statewide TV service.

File No. 2277CRB, Mercer County Community College, 1200 Old Trenton Road, Trenton, NJ 08690. Signed By: John P. Hanley, President. Funds Requested: $63,907.00. Total Project Cost: $85,210.00. To increase production capability of WWFM, licensed to Mercer County Community College, to cover local issues in Trenton.

File No. 2289PRB, United Progress Inc., 401 Pennington Ave, Trenton, NJ 08618. Signed By: Albert M. Robinson, Executive Director, Funds Requested: $36,050.00. Total Project Cost: $36,050.00. To plan for a low powered radio station to serve the minorities and elderly in Trenton, New Jersey.

NM

File No. 2102CTB, Regents of the Univ of NM, Board of Educ City of Albuquerque, NM, 1130 University Blvd NE, Albuquerque, NM 87102. Signed By: Leontine M. Benton, Associate Director. Funds Requested: $614,250.00. Total Project Cost: $819,000.00. To improve KNME–TV operating on channel 5 in Albuquerque, NM, by replacing worn out and obsolete origination equipment. Station provides only service in central NM, parts of southern Colorado and eastern Arizona.

File No. 2165CRB, Alamo Navajo School Bd, Inc., P.O. Box 907, Magdalena, NM 87825. Signed By: William O. Berlin, Executive Director. Funds Requested: $48,819.00. Total Project Cost: $65,092.00. To activitate a new daytime-only AM station to serve Alamo Navajo Reservation. Station will operate on 1500 MHZ and provide native American programming.

File No. 2258PRB, Realidades, A Comm Group, 1584 Five Points, SW, Albuquerque, NM 87105. Signed By: Eduardo Diaz, President. Funds Requested: $39,491.00. Total Project Cost: $39,491.00. To plan for a noncommercial FM radio station in the Santa Fe, NM area. Proposed station will provide a first local service to northern New Mexico. Will provide local bilingual service to unserved minorities in northern New Mexico.

File No. 2325CRB, Ramah Navajo School Board, Inc, Box 18, Ramah, NM 87321. Signed By: Bennie Cohoe, Executive Director. Funds Requested: $138,300.00. Total Project Cost: $184,401.00. To expand the service area of KTDB–FM to better serve the needs of the Ramah Navajo Reservation and surrounding areas. Project includes both a power increase and the use of translator networks.

File No. 2333CRB, Eastern New Mexico Univ, Portales, NM 88130. Signed By: Duane W. Ryan, Director of Brdcstg. Funds Requested: $202,768.00. Total Project Cost: $270,358.00. To activate a repeater FM station on 88.9 MHZ in Maljamar, NM. Station will repeat most of the programming of KENW–FM, Portales, NM. Also, station can be programmed separately from KENW–FM to provide local interest.

File No. 2338CTB, Eastern New Mexico Univ, Portales, NM 88130. Signed By: Duane W. Ryan, Director of Brdcst. Funds Requested: $319,976.00. Total Project Cost: $426,635.00. To improve the facilities of KENW–TV in Portales, New Mexico. Equipment will provide upgrade to allow use of one-inch videotapes. Equipment will also improve on-the-air appearance of KENW–TV. Station provides only service in eastern New Mexico.

NV

File No. 2148CTB, Channel 5 Pub Brdcstg Inc., P.O. Box 8856, Reno, NV 89507. Signed By: Daniel Tone, Executive Director. Funds Requested: $333,900.00. Total Project Cost: $445,200.00. To provide additional local origination equipment for channel 5, Reno, Nevada. To also construct a translator station which will rebroadcast the signal of primary public TV station channel 5 into Carson City, Nevada.

File No. 2190CTB, City of Yerington, P.O. Box 479, Yerington, NV 89447. Signed By: Frank M. McGowan, City Manager. Funds Requested: $42,375.00. Total Project Cost: $56,500.00. To construct a noncommercial low-power TV station to service Yerington, Nevada.

NY

File No. 2008CTN, Columbia-Greene Community College, P.O. Box 1000, Hudson, NY 12534. Signed By: Roger A. Van Winkle, Pres. Funds Requested: $196,111.00. Total Project Cost: $284,333.00. To augment, improve and interconnect the facilities of Columbia-Greene Community College to the local cable television facilities.

File No. 2041CTB, Western NY Public Brdcstg Assoc, P.O. Box 1263, Buffalo, NY 14240. Signed By: J. Michael Collins, President. Funds Requested: $1,741,104.00. Total Project Cost: $2,321,472.00. To extend the coverage area of WNED–TV, channel 17, in Buffalo, NY, by constructing a new tower which will increase the antenna height, and by increasing the transmitter power in order to provide first service to 112,789 persons.

File No. 2082CRB, North Country Public Radio, Payton Hall, SLU, Canton, NY 13617. Signed By: James A. Arvidson, Director of Brdcst. Funds Requested: $11,250.00. Total Project

Cost: $15,788.00. To extend the signal of WSLU–FM at 96.7 MHZ by activating a translator to bring first service into Franklin and Essex counties, known as the Tri-Lakes region; and to upgrade the transmission system by replacing the worn-out studio transmitter link.

File No. 2183CTB, Educational Broadcasting Corp., 356 West 58th Street, New York, NY 10019. Signed By: Rolf Drucker, VP Eng. & Operations. Funds Requested: $498,765.00. Total Project Cost: $993,530.00. To upgrade the programming capabilities of WNET–TV, channel 13 in New York City by replacing worn-out obsolete studio production equipment in order to provide the current level of national, state and local programs.

File No. 2204CRN, Buffalo & Erie Cnty Pub Library, Lafayette Square, Buffalo, NY 14203. Signed By: William A. Miles, Assistant Deputy Director. Funds Requested: $59,183.00. Total Project Cost: $114,183.00. To augment the SCA services of public radio station WBFO–FM in Buffalo, NY, operating on 88.7 MHZ, to provide programming for the print handicapped population in the area.

File No. 2246CTN, COACT, Inc., P.O. Box 6136, Syracuse, NY 13217. Signed By: James Crowley, President. Funds Requested: $323,876.00. Total Project Cost: $519,576.00. To upgrade the production facilities of Coact, Inc. This organization augments programming for the local cable TV company.

File No. 2250CTB, Instr TV, Archdiocese of NY, 215 Seminary Ave., Yonkers, NY 10704. Signed By: Sr. M. Irene Fugazy, Director. Funds Requested: $308,214.00. Total Project Cost: $513,690.00. To augment an existing three channel ITFS system with a fourth channel dedicated to medical programming and health education. The existing facilities are on ITFS station KRS and KRW in lower New York State operated by the Catholic Archdiocese of New York.

File No. 2255CRTB, Pub Brdcstg Council of Central NY, 506 Old Liverpool Road, Liverpool, NY 13088. Signed By: Richard W. Russell, President & Gen Mgr. Funds Requested: $304,054.00. Total Project Cost: $405,405.00. To extend the signal and service of WCNY–FM in Syracuse, by activating a repeater transmitter for Utica, NY, which is unserved, and adding SCA receivers for the WCNY radio reading service. To upgrade origination equipment for WCNY–TV.

File No. 2263PRTN, Hispanic Info & T/C Network, 80 E 11th Street, New York, NY 10003. Signed By: Jose Luis Rodriguez. Funds Requested: $175,510.00. Total Project Cost: $175,510.00. To plan a nationwide telecommunications network to provide programming for the Hispanic population.

File No. 2265CTB, City College of Cuny, Convent Ave at 138th St, New York, NY 10031. Signed By: Bernard W. Harleston, President. Funds Requested: $157,860.00. Total Project Cost: $205,860.00. To establish a production facility with connection to the local cable facilities to provide programming to the black population within the area. If a license to construct a low power TV station is granted by the FCC, they plan to broadcast directly.

OH

File No. 2013CTN, Bowling Green State Univ, Troup Ave, Bowling Green, OH 43403. Signed By: Garrett T. Heberlein, Vice provost for Research. Funds Requested: $140,085.00. Total Project Cost: $186,780.00. To establish an ITFS system operated by WBGU–TV to bring specialized educational programming to the Firelands Branch of Bowling Green State University.

File No. 2019CTB, Greater Cincinnati Educ TV Fdn, 1223 Central Parkway, Cincinnati, OH 45214. Signed By: Charles W. Vaughn, Pres & Gen Mgr. Funds Requested: $295,105.00. Total Project Cost: $393,605.00. To replace obsolete apparatus at public television station WCET, channel 48, Cincinnati, Ohio, and thereby enable the Greater Cincinnati Television Educational Foundation to maintain its program originations in order to serve metropolitan Cincinnati communities.

File No. 2029CRB, University of Cincinnati, 1223 Central Parkway, Cincinnati, OH 45214. Signed By: Dr. Eula Bingham, V.P. for Grad. Studies & Research. Funds Requested: $114,790.00. Total Project Cost: $153,054.00. To improve origination, and replace obsolete dissemination apparatus, of public radio station WGUC, 90.9 MHZ, University of Cincinnati, Cincinnati, Ohio, to better serve the communities in the Cincinnati metropolitan area.

File No. 2062CRB, Toledo Board of Education, Manhattan and Elm Streets, Toledo, OH 43608. Signed By: Hugh T. Caumartin, Superintendent. Funds Requested: $12,920.00. Total Project Cost: $17,227.00. To improve noncommercial radio station WAMP–FM, operating on 88.3 MHZ, in Toledo, Ohio, by providing additional origination equipment to better serve the Greater Toledo community.

File No. 2130CTB, Ohio State Univ, 2400 Olentangy River Rd, Columbus, OH 43210. Signed By: Dale K. Ouzts, President. Funds Requested: $77,790.00. Total Project Cost: $103,720.00. To improve the origination facilities of noncommercial television station WOSU–TV, channel 34, Columbus, Ohio, by providing increased flexibility and efficiency to programming operations to better serve the communities reached by the station's network signal.

File No. 2184CRB, Dayton Public Radio, Inc., 370 W. First Street, Dayton, OH 45402. Signed By: Clark J. Hughes, President. Funds Requested: $222,102.00. Total Project Cost: $297,470.00. To establish a noncommercial FM station for Dayton, Ohio, to provide first local service to west central Ohio.

OK

File No. 2083CRB, Carrie Williams Comm Fdn, Inc, P.O. Box 48538, Tulsa, OK 74106. Signed By: Gerald L. Davis, Chairman, Bd of Directors. Funds Requested: $74,460.00. Total Project Cost: $99,280.00. To establish a noncommercial FM radio station operating on 88.1 MHZ, in Tulsa, Oklahoma, to provide programming to the minority population in the area.

OR

File No. 2072CTB, Oregon Public Brdcstg, 2828 SW Front Street, Portland, OR 97201. Signed By: Gerard L. Appy, Exec Director. Funds Requested: $75,000.00. Total Project Cost: $256,152.00. To improve the transmission facilities of station KTUR, operating on Channel 13 in LaGrande, Oregon, by replacing obsolete equipment needed to deliver programming to the residents of northeastern Oregon.

File No. 2073CTB, Oregon Public Brdcstg, 2828 SW Front Street, Portland, OR 97201. Signed By: Gerard L. Appy, Exec Director. Funds Requested: $100,000.00. Total Project Cost: $298,030.00. To establish first service public television in central Oregon by relocating the Salem VHF station KUDO–TV, operating on Channel 3, to Bend, Oregon. The move requires the construction of a new tower and microwave transmission links.

File No. 2182CRB, State of Oregon Acting by and through the State Board of Higher Education, Southern Oregon State College, 1250 Siskiyou Boulevard, Ashland, OR 9752. Signed By: Donald E. Lewis, Dean of Administration. Funds Requested: $31,012.00. Total Project Cost: $41,350.00. To extend the signal of station KSOR–FM, operating on 90.1 MHZ in Ashland, Oregon, by replacing four existing translators and adding two new translators to cover rural areas of southern Oregon and northern California.

PA

File No. 2090CTB, NE Pennsylvania ETV Association, Old Boston Road, Pittston, PA 18640. Signed By: Dr. John E. Walsh, Pres & Gen Mgr. Funds Requested: $83,073.00. Total Project Cost: $110,765.00. To replace modulator exciter in transmitter and to purchase spare Klystron, for station WVIA–TV in Pittston, PA.

File No. 2161CRB, Temple Univ, 2020 N 13th Street, Philadelphia, PA 19122. Signed By: George Huganir, Univ Secretary. Funds Requested: $125,062.00. Total Project Cost: $166,750.00. To replace obsolete studio equipment and to replace telephone lines with a microwave STL.

File No. 2282CRB, Middletown Area School District, 55 W. Water Street, Middletown, PA 17057. Signed By: W. Reed Ernst, Superintendent. Funds Requested: $3,442.00. Total Project Cost: $4,590.00. To improve studio facilities and quality of sound of WMSS–FM serving Middletown, Pennsylvania.

File No. 2290CRB, Pittsburgh Cmty Brdcstg Corp, 4 Cable Place, Pittsburgh, PA 15213. Signed By: Raymond R. Christman, President. Funds Requested: $72,000.00. Total Project Cost: $96,000.00. To implement power increase and to replace obsolete studio equipment.

PR

File No. 2050CTB, Fundacion Educ Ana G. Mendez, Box E, Rio Piedras, PR 00928. Signed By: Jose F. Mendez. Funds Requested: $1,079,821.00. Total Project Cost: $1,439,762.00. To establish a noncommercial TV station operating on Channel 40 at Fajardo, PR, to provide first local service to the northeastern sector of Puerto Rico.

File No. 2055CRB, Catholic Univ of PR Serv Assoc, Box 529, Station 6, Ponce, PR 00731. Signed By: Jaime Fuster, Vice President. Funds Requested: $198,979.00. Total Project Cost: $265,305.00. To establish a noncommercial FM radio station operating on 88.9 MHZ in Ponce, Puerto Rico, to provide first service to western Puerto Rico.

SC

File No. 2088CTN, South Carolina ETV Commission, Drawer L, Columbia, SC 29250. Signed By: Henry J. Cauthen, Pres & Gen Mgr. Funds Requested: $275,050.00. Total Project Cost: $366,734.00. To establish an ITFS system in Charleston, SC, to provide instructional and educational television to fifteen high schools and two vocational centers in Charleston County.

File No. 2181CRB, South Carolina State College, College Avenue, Orangeburg, SC 29117. Signed By: M. Maceo Nance, Jr., President. Funds Requested: $206,413.00. Total Project Cost: $275,218.00. To establish noncommercial FM radio station, operating on 90.3 MHZ, in Orangeburg, SC, to provide first local service to Bamberg, Calhoun and Orangeburg counties.

SD

File No. 2231CRB, South Dakota ETV Board, 310 East Clark, Vermillion, SD 57069. Signed By: Martin P. Busch, Executive Director. Funds Requested: $81,420.00. Total Project Cost: $110,420.00. To construct FM radio transmitters in Reliance and Rapid City, South Dakota, to extend the current statewide public radio network to an estimated 135,000 additional population.

File No. 2232CRB, South Dakota Board of Regents, Pugsley Center, Brooksings, SD 57007. Signed By: Sherwood O. Berg, President. Funds Requested: $48,080.00. Total Project Cost: $139,080.00. To extend the signal and shift the transmitter location for KESD–FM in Garden City, South Dakota, by constructing a new public radio transmitting station at that location and displacing the old station to Reliance, South Dakota.

File No. 2267CRB, Lakota Communications, Inc., P.O. Box 378, Pine Ridge, SD 57770. Signed By: Dale Means, Project Director. Funds Requested: $19,213.00. Total Project Cost: $25,615.00. To augment a tribal owned radio station operating on 90.1 MHZ at Pine Ridge, South Dakota by installing a satellite receive dish to receive NPR programming.

TN

File No. 2097PRTBN, Chattanooga St Tech Cmty College, 4501 Amnicola Highway, Chattanooga, TN 37406. Signed By: Dr. Charles W. Branch, President. Funds Requested: $24,180.00. Total Project: $36,180.00. To plan for the expansion of noncommercial radio and other telecommunications distribution systems to offer service to counties surrounding Chattanooga and to remote Appalachian communities.

TX

File No. 2003CTB, SW TX Public Brdcstg Council, P.O. Box 9, San Antonio, TX 78291. Signed By: Howard D. Gutin, Pres & Gen Mgr. Funds Requested: $865,420.00. Total Project Cost: $1,715,420.00. To extend and improve the signal of KLRM–TV in San Antonio, TX. Relocation of station will provide acceptable signal to unserved areas of San Antonio. Will provide first service to 261,448 people not receiving KLRN–TV.

File No. 2023CRB, South Texas Educ Brdcstg Cncil, 4455 S. Padre Island Drive #38, Corpus Christi, TX 78411. Signed By: Terrel Cass, President & General Manager. Funds Requested: $46,500.00. Total Project Cost: $62,000.00. To extend the signal of KKED–FM in Corpus Christi, TX, to Victoria, TX. Repeater station on 88.5 MHZ will reach 80,000 unserved in Victoria, Texas.

File No. 2024CRB, South Texas Educ Brdcstg Cncil, P.O. Box 416, Corpus Christi, TX 78403. Signed By: Terrel Cass, President & General Manager. Funds Requested: $8,025.00. Total Project Cost: $10,700.00. To construct a translator to extend the signal of KKED–FM in Corpus Christi. Station will translate the signal of the proposed Harlingen, TX, repeater station. Translator will provide first signal to 30,000 people in Brownsville, TX.

File No. 2025CRB, South Texas Educ Brdcstg Cncil, P.O. Box 416, Corpus Christi, TX 78403. Signed By: Terrel Cass, President & General Manager. Funds Requested: $89,625.00. Total Project Cost: $119,500.00. To establish a new FM repeater station in Harlingen, TX to repeat KKED–FM. Station will provide some local origination capacity. Station will also be used by Texas Southmost College for training purposes. KKED–FM, Corpus Christi, and the new station will be connected by microwave.

File No. 2026CRB, South Texas Educ Brdcstg Cncil, 4455 S. Padre Island Drive #38, Corpus Christi, TX 78411. Signed By: Terrel Cass, President & General Manager. Funds Requested: $97,500.00. Total Project Cost: $130,000.00. To improve the local origination capacity of KEDT–TV in Corpus Christi. Funding will allow for the replacement of old/obsolete origination equipment that no longer is manufactured.

File No. 2071PRB, Southwest Center for ETV, 7703 North Lamar, Suite 500, Austin, TX 78752. Signed By: Louis Barbash, Gen Mgr. Funds Requested: $17,820.00 Total Project Cost: $21,020.00. To plan for a minority owned and operated FM radio station. Station would serve 477,900 people in either Georgetown or San Marcos, Texas.

File No. 2123CTN, Assoc for Higher Educ of N Texas, P.O. Box 686, Richardson, TX 75080. Signed By: Gilbert A. Peters, President. Funds Requested: $160,837.00 Total Project Cost: $214,450.00. To extend the cable/ITFS system to provide instructional TV service to Tarrant County, Texas. Service would benefit 456,000 people in the City of Ft. Worth and Tarrant County.

File No. 2149CRB, ETCOM, Inc, 813 N Estrella Street, El Paso, TX 79903. Signed By: Ignacio Acosta, President. Funds Requested: $185,002.00. Total Project Cost: $246,670.00. To activate a new FM station in El Paso, Texas to serve the minority population. Station will operate on 89.5 MHZ and will be owned and operated by minorities. Applicant is also requesting satellite reception equipment.

File No. 2150CRB, East Texas State Univ, P.O. Box BB, ET Station, Commerce, TX 75428. Signed By: Dr. Charles Austin, President. Funds Requested: $59,951.00 Total Project Cost: $79,935.00. To extend the signal of KETR–FM in Commerce, TX to serve ten Texas counties. Project will increase tower height and increase power to 100KW.

File No. 2194CON, Region IV Educ Service Center, P.O. Box 863, Houston, TX 77001. Signed By: Dr. Tom Pate, Jr., Executive Director. Funds Requested: $498,469.00 Total Project Cost: $979,027.00. To construct the primary transmitting system of an interactive ITFS network, to provide educational programs to school districts, business and industry in the Houston, TX area.

File No. 2229CRB, N Texas Radio Reading Serv, Inc, 3001 Bookhout Street, Dallas, TX 75201. Signed By: H. X. Salzberger, Treasurer. Funds Requested: $69,417.00 Total Project Cost: $92,557.00. To acquire 400 SCA receivers for use with KERA–FM in Dallas, Texas. Also proposes to acquire additional studio equipment to expand capability. Project will provide service to print handicapped in Dallas, TX area.

File No. 2274CTB, Navarro College, P.O. Box 1170, Corsicana, TX 75110. Signed By: Kenneth P. Walker, PhD, President. Funds Requested: $453,930.00. Total Project Cost: $622,590.00. To construct a low power TV station and a TV translator station. LPTV programming will be broadcast in Corsicana and repeated in Fairfield. Stations will provide programming service to 40,000 people within three counties.

File No. 2326CRB, Texarkana Community College, 2500 N Robison Road, Texarkana, TX 75501. Signed By: B. J. Murdock, Dean of Program Development. Funds Requested: $106,636.00. Total Project Cost: $142,182.00. To activate a new FM radio station on 91.5 MHZ in Texarkana, Texas. Station would provide first service to northeast Texas and southwest Arkansas. Station would serve as a training facility for students at the college.

File No. 2342CTB, Public Comm Fdn for North Texas, 3000 Harry Hines Blvd, Dallas, TX 75201. Signed By: Richard J. Meyer, President. Funds Requested: $1,603,270.00 Total Project Cost: $2,137,695.00. To establish new noncommercial TV channel two at Flower Mound, TX, that would serve the Dallas and Fort Worth areas.

UT

File No. 2032CRTBN, University of Utah, 204 James Talmadge Building, Salt Lake City, UT 84112. Signed By: James J. Brophy, Vice President for Research. Funds Requested: $1,073,445.00. Total Project Cost: $1,431,260.00. To implement the second phase of a state plan, by extending the signal of KUSU–FM in Logan, UT, with FM translators; replacing two existing TV translators to rebroadcast KUED TV from Salt Lake City; providing a new translator to serve Snowville, UT and Holbrook, ID; expanding the state's microwave looping system to include unserved areas; providing production facilities for UT Technical College; and relocating Southern UT State's FM transmitter and providing STL, remote control, and production equipment.

VA

File No. 2054CRTN, Center for Excellence, Inc., P.O. Box 158, Williamsburg, VA 23185. Signed By: John A. Curtis, President. Funds Requested: $2,461,994.00. Total Project Cost: $5,507,492.00. To extend multimedia production and transmission capabilities of an existing telecommunications delivery system in eastern Virginia, to provide specialized educational and informational programming to the rural area population.

WA

File No. 2269CR B, Fine Arts Radio, P.O. Box 1424, Richland, WA 99352. Signed By: Dennis Haarsager, Vice President, Gen Mgr. Funds Requested: $41,715.00. Total Project Cost: $55,620.00. To extend the signal of KFAE–FM, which will be licensed in Richland, Washington, with translators located in eastern Washington, northeastern Oregon, and northwestern Idaho, to provide first service to the majority of the population in these rural areas.

File No. 2272CTB, Tacoma School District #10, 601 8th Avenue, P.O. Box 1357, Tacoma, WA 98402. Signed By: Del Cross, Superintendent. Funds Requested: $883,827.00 Total Project Cost: $1,178,436.00. To improve existing transmission facilities of station KTPS–TV in Tacoma, Washington, by relocating to a higher existing tower and operating on Channel 28 as well as replacing their current low power transmitter.

WI

File No. 2256CTOB, Lakeshore Technical Institute, 1290 North Avenue, Cleveland, WI 53015. Signed By: Frederick J. Nierode, District Director. Funds Requested: $131,250.00 Total Project Cost: $254,000.00. To establish an ITFS system to service Manitowoc County, Sheboygan County and Southeastern Calumet County, with vocational, technical and adult education.

WV

File No. 2046CON, West Virginia Educ Brdcstg Auth, B424, Bldg Six State Capitol, Charleston, WV 25305. Signed By: Philip English, Executive Director. Funds Requested: $256,623.00. Total Project Cost: $886,766.00. To construct a statewide microwave interconnect to facilitate program distribution of West Virginia ETV's public radio and TV stations.

File No. 2047CTB, Hardy Cnty Rural Dev Auth, P.O. Box N, Moorefield, WV 26836. Signed By: Leslie A. Barr, Chairman. Funds Requested: $88,556.00. Total Project Cost: $152,465.00. To construct translator stations to bring first public TV service to Wardenville and Mathias, WV. The stations will rebroadcast the signal of WWVU–TV, Morgantown, WV.

WY

File No. 2139CRTB, Casper Cmty College District, 125 College Drive, Casper, WY 82601. Signed By: Lloyd H. Loftin, President. Funds Requested $37,845.00. Total Project Cost: $50,460.00. To establish local programming capability on a recently constructed 100 watt VHF translator, and to expand to 100 watts the FM translator bringing the signal of KUWR–FM of Laramie to the residents of Casper.

File No. 2266CRTB, Central Wyoming College, Highway 26, Riverton, WY 85201. Signed By: Richard St Pierre, President. Funds Requested: $156,447.00. Total Project Cost: $208,596.00. To co-locate the transmission equipment of KCWC–FM, operating on 88.1 MHZ, Riverton, Wyoming, with KCWC–TV on Limestone Mountain, which will provide expanded public radio service to the area. To also establish radio and TV studios on the Wind River Indian Reservation which will be used to originate up to 20 percent of the programming of KCWC–TV–FM.

File No. 2276CTB, Western Wyoming Comty College, Box 428, 2500 College Drive, Rock Springs, WY 82901. Signed

By: Dr. Bert S. Slafter, President. Funds Requested: $298,604.00. Total Project Cost: $398,139.00. To extend the public broadcasting signal of KCWC–TV, channel 4, Riverton, WY, to Rock Springs, WY, by microwave where a low power TV facility with local origination capability will be activated and its signal translated to unserved rural communities, including Eden, Farson, and Stillwater.

II. Deferred Applications

The following deferred applications were submitted and accepted for filing by PTFP in prior fiscal years, and have been assigned new processing numbers for fiscal year 1982. The applicant in each case indicated that it wants the application considered for Federal funding from monies appropriated in fiscal year 1982, and has furnished updated materials as required. (It is not necessary that these applicants republish notice in a local newspaper in the community to be served under 15 CFR 2301.09)

(47 U.S.C. 390–94; 397)

(Catalog of Federal Dopmestic Assistance Program No. 11.550, Public Telecommunications Facilities Program)

FOR FURTHER INFORMATION CONTACT:
John J. O'Neill, (202) 377–5802.

Reactivated Applications For 1982

AK

New file No. 2339CRB; old file No. 1680; University of Alaska, Fairbanks

AR

New file No. 2066CTB; old file No. 1513; Univ of Arkansas at Little Rock, Little Rock

AZ

New file No. 2030CTB; old file No. 1304; Casa Grande Union High School, Casa Grande

CA

New file No. 2134PTN; old file No. 1481; California State College, Bakersfield

New file No. 2230CTB; old file No. 1419; Rural CA Broadcasting Corp., Cotati

New file No. 2067PTN; old file No. 1732; Deaf Informed Comm Center, Inc, Fremont

New file No. 2198CRB; old file No. 1635; Radio Bilingue, Inc., Fresno

New file No. 2011CTB; old file No. 1383; Community TV of Southern Calif, Los Angeles

New file No. 2302CRB; old file No. 1766; International Institute of LA, Los Angeles

New file No. 2236CRB; old file No. 1673; Morgan Hill Unified School Dist, Morgan Hill

New file No. 2063PTN; old file No. 1653; Open Channel, Inc, Santa Cruz

New file No. 2115CRB; old file No. 1622; California State Univ at Long Beach

CO

New file No. 2324PRTN; old file No. 1740; Univ of Denver (CO Seminary), Denver

CT

New file No. 2040PTN; old file No. 1579; Community Renewal Team, Hartford

New file No. 2156CTN; old file No. 1664; Connecticut Educ T/C Corp, Hartford

New file No. 2159 CTB; old file No. 1407; Connecticut Educ T/C Corp, Hartford

New file No. 2059PTN; old file No. 1825; City of New Britain, New Britain

DC

New file No. 2318CTB; old file No. 1712; Community T/C Dev Fdn, Inc, Washington

New file No. 2319CTB; old file No. 1357; Booker T Washington Fdn, Washington

New file No. 2057CTB; old file No. 1302; Greater Wasshington Educ T/C Asso, Washington

DE

New file No. 2089CTN; old file No. 1435; Delaware Tech & Cmty College, Newark

FL

New file No. 2045CRB; old file No. 1621; Broward Public Radio Assoc, Inc., Fort Lauderdale

New file No. 2038PRTB; old file No. 1842; School Board of Broward County, Ft. Lauderdale

New file No. 2004CTB; old file No. 1443; University of Florida, Gainesville

New file No. 2199CROB; old file No. 1531; WJCT, Inc., Jacksonville

New file No. 2216CRB; old file No. 1577; The School Bd of Dade Cnty, Miami

New file No. 2093CTB; old file No. 1457; Cmty TV Fdn of S Florida, Inc., Miami

New file No. 2242CTB; old file No. 1485; Community Comm, Inc., Orlando

New file No. 2007CRB; old file No. 1401; The School Bd of Broward County, Sunrise

New file No. 2176CTB; old file No. 1488; Florida State Univ, Tallahassee

New file No. 2297CRB; old file No. 1451; The Florida A&M Univ, Tallahassee

New file No. 2335CTB; old file No. 1345; University of South Florida, Tampa

New file No. 2133CTB; old file No. 1436; Florida W Coast Pub Brdcstg, Tampa

New file No. 2178CRB; old file No. 1819; Univ of South Florida, Tampa

New file No. 2336CTB; old file No. 1702; University of South Florida, Tampa

GA

New file No. 2303CRB; old file No. 1368; Clark College, Atlanta

IA

New file No. 2065PTB; old file No. 1727; Northern Trails Area Educ Agency, Clear Lake

New file No. 2341CRB; old file No. 1517; Urban Community Brdcstg Company, Des Moines

New file No. 2215PTB; old file No. 1316; Community Communications Fdn, Waterloo

New file No. 2331PON; old file No. 1409; Southeastern Community College, West Burlington

ID

New file No. 2328CTB; old file No. 1710; St Bd of Educ & Bd of Regents, Boise

IL

New file No. 2293CRB; old file No. 1845; Capital Area Vocational Center, Springfield

New file No. 2314CRB; old file No. 1799; Argo Community High School, Summit

IN

New file No. 2245CTN; old file No. 1804; NW Indiana Pub Brdcstg, Inc., Highland

New file No. 2036CTB; old file No. 1682; Metro Indianapolis TV Assoc Inc., Indianapolis

KS

New file No. 2077CRB; old file No. 1578; University of Kansas, Lawrence

New file No. 2168CTB; old file No. 1809; Johnson Cnty Cmty Coll, Overland Park

New file No. 2098CTN; old file No. 1751; Wichita Public Schools, Wichita

KY

New file No. 2078CTN; old file No. 1821; Appalshop, Inc., Whitesburg

LA

New file No. 2138CTN; old file No. 1649; Louisiana ETV Authority, Baton Rouge

MA

New file No. 2039PTB; old file No. 1584; University of Mass/Amherst, Amherst
New file No. 2203PTN; old file No. 1704; Emerson College, Boston
New file No. 2249CTN; old file No. 1780; The Clarke School for the Deaf, Northampton

MD

New file No. 2016CRB; old file No. 1521; The Johns Hopkins University, Baltimore
New file No. 2327CTN; old file No. 1351; Dundalk Community College, Baltimore

ME

New file No. 2167CTN; old file No. 1416; Health Educ Channel, Portland

MO

New file No. 2218CTB; old file No. 1374; The Fab Foundation, Inc., Jefferson City
New file No. 2278CRB; old file No. 1495; Mid-Coast Radio Project, Inc., Kansas City
New file No. 2222CON; old file No. 1300; City of Kansas City, Kansas City
New file No. 2301CTB; old file No. 1688; Double Helix Corp., St. Louis
New file No. 2160CRB; old file No. 1441; Central MO State University, Warrensburg

MS

New file No. 1999CRB; old file No. 1512; Mississippi Authority For ETV, Jackson

MT

New file No. 2308CTB; old file No. 1473; East Butte TV Club, Inc., Chester
New file No. 2212CTB; old file No. 1731; Circle TV Booster Club, Inc., Circle
New file No. 2306CTB; old file No. 1468; Circle TV Booster Club, Inc., Circle
New file No. 2311CTB; old file No. 1469; Roundup TV Tax District, Roundup
New file No. 2305CTB; old file No. 1470; Wolf Point TV District, Wolf Point

NC

New file No. 2120CON; old file No. 1582; NC Agency for Public T/C, Raleigh
New file No. 2173CTN; old file No. 1431; Southwestern Technical College, Sylva

ND

New file No. 2186CRB; old file No. 1598; Prairie Public Television, Inc., Fargo
New file No. 2074PRTBN; old file No. 1573; North Dakota Rural Dev Corp., Grand Forks

NE

New file No. 2312CTB; old file No. 1522; Nebraska ETV Commission, Lincoln
New file No. 2310CRB; old file No. 1671; Union College, Lincoln

NJ

New file No. 2281CON; old file No. 1523; Pemberton Township School Dist., Brown Mills
New file No. 2064PRN; old file No. 1375; N.J. Radio Info Serv, Hightstown
New file No. 2350PTB; old file No. 1623; Wayne Board of Education, Wayne

NV

New file No. 2219CTB; old file No. 1393; Elko TV District, Elko
New file No. 2295CTB; old file No. 1394; White Pine TV Dist #1, Ely
New file No. 2217CTB; old file No. 1395; City of Fallon, Fallon
New file No. 2348CTB; old file No. 1550; North Lake Tahoe Cmty Fdn, Inc., Incline Village
New file No. 2210CTB; old file No. 1563; Pershing County, Lovelock
New file No. 2058CTN; old file No. 1736; Rural Television System, Reno New file
New file No. 2360CTB; old file No. 1564; Nye County Commissioners, Tonopah
New file No. 2334CTB; old file No. 1726; Humboldt County, Winnemucca

NY

New file No. 2144CTB; old file No. 1672; Educational Brdcstg Corp., New York
New file No. 2343PTN; old file No. 1652; City University of New York, New York
New file No. 2355CRB; old file No. 1733; The Radio Foundation, Inc., New York
New file No. 2298PRN; old file No. 1721; American Fdn for the Blind, New York City
New file No. 2052CTB; old file No. 1609; Rochester Area ETV Assoc Inc., Rochester
New file No. 2112CTB; old file No. 1641; Mohawk-Hudson Council on ETV, Inc., Schenectady

OH

New file No. 2105CTN; old file No. 1445; University of Akron, Akron
New file No. 2213CRB; old file No. 1378; Cleveland Public Radio, Cleveland
New file No. 2169CTB; old file No. 1414; ETV Assoc of Metro Cleveland, Cleveland
New file No. 2357PTN; old file No. 1843; Russel-Robinson Comm Serv, Columbus
New file No. 2117CTB; old file No. 1376; Univ Regional Broadcasting, Inc., Dayton
New file No. 2000PRB; old file No. 1852; Edison Local School District, Hammondsville
New file No. 2021CTB; old file No. 1527; Northeastern Educational TV-Ohio, Kent
New file No. 2042CTB; old file No. 1766; The Public Brdcstg Fdn of NW OH, Toledo
New file No. 2136CTB; old file No. 1402; Central State University, Wilberforce
New file No. 2358PTB; old file No. 1701; City of Zanesville, Zanesville

OR

New file No. 2094CTN; old file No. 1554; Lane Community College, Eugene
New file No. 2202PRB; old file No. 1497; Comte of Span Spkg People of OR, Portland

PA

New file No. 2287CRB; old file No. 1524; Solebury School, New Hope
New file No. 2234CRO; old file No. 1335; Metro Pittsburgh Public Brdcstg, Pittsburgh
New file No. 2296CTB; old file No. 1336; Metro Pittsburgh Public Brdcstg, Pittsburgh
New file No. 2286CTN; old file No. 1689; Borough of Pottstown, Pottstown
New file No. 2347CRB; old file No. 1387; PA Association for the Blind, Scranton

TN

New file No. 2322CRB; old file No. 1420; The University of Tennessee, Chattanooga
New file No. 2147PTN; old file No. 1814; Fisk University, Nashville

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New file No. 2304CTB; old file No. 1472; Sheridan TV Translator, Inc, Sheridan.

Dated: July 6, 1982.

Bernard J. Wunder, Jr.,

Administrator, National Telecommunications and Information Administration.

[FR Doc. 82-18674 Filed 7-16-82; 8:45 am]

BILLING CODE 3510-60-M

federal register

Friday
July 9, 1982

Part IX

Department of Justice

Immigration and Naturalization Service

Detention and Parole of Inadmissible Aliens; Interim Rule With Request for Comments

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 212 and 235

Detention and Parole of Inadmissible Aliens; Interim Rule With Request for Comments

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule, published pursuant to an order of the District Court for the Southern District of Florida, sets forth the Service's policy regarding the detention and parole of aliens who seek to enter the United States illegally. The Administration has determined that a large number of Haitian nationals and others are likely to attempt to enter the United States illegally unless there is in place a detention and parole regulation meeting the approval of the District Court. Such a large scale influx would clearly be contrary to the public interest. This rule insures that the parole of illegal aliens will be carefully and narrowly exercised to conform to statutory purposes and legislative intent.

EFFECTIVE DATE: July 9, 1982. Comments must be received on or before August 9, 1982.

ADDRESSES: Please submit written comments in duplicate to the Commissioner of Immigration and Naturalization, Room 7100, 425 I Street, N.W., Washington, DC 20536.

FOR FURTHER INFORMATION CONTACT:

For General Information: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536, Telephone: (202) 633–3048.

For Specific Information: Maurice C. Inman, Jr., General Counsel, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536, Telephone: (202) 633–2895.

SUPPLEMENTARY INFORMATION: On June 18, 1982, the District Court for the Southern District of Florida held that the Service's present detention policy in regard to aliens who attempt to enter the United States illegally was "null and void." In its decision, *Louis v. Nelson*, No. 81–1260–CIV–EPS, the court found that the Service had not complied with the rule making provisions of the Administrative Procedure Act (APA) with respect to its detention policy. The court enjoined the enforcement of this policy with respect to those Haitians who were then detained in the United States.

In its subsequent order of July 2, 1982, the court stayed for 30 days, that portion of its order which enjoined enforcement of the detention policy with respect to future illegal entrants into the United States. The court expressly conditioned the stay of its order with respect to future illegal entrants upon the Service's publication, within a 30 day period, of rules embodying the Service's detention policy.

This rule is therefore being published in compliance with and consistently with the court's order, although the Service strongly disagrees with the analysis and conclusions of the court, strongly disagrees that the Service's detention policy is subject to and falls within the APA rule making requirements, and strongly disagrees that its detention policy is null and void because the Service did not engage in formal APA rule making. Accordingly, this rule is being published "under protest." The Service has sought judicial review of this order.

This rule is being published as an *interim rule* with comment, effective immediately upon publication, because the delays involved in customary publication would seriously impair the Service's ability to protect the country's borders and would be detrimental to the public interest. Accordingly, suspension of the normal 30 day publication requirement is essential under the "good cause" provision of 5 U.S.C. 553(d)(3).

The district court's order has created a vacuum in the Service's detention policy and in the enforcement of the immigration laws of the United States. This vacuum will be prolonged unless the 30 day publication requirement is suspended. If this requirement is not suspended, a significant number of persons who were previously deterred from attempting to enter the United States illegally by the Service's detention policy may now enter the United States without fear of being detained until publication is completed.

This potential emergency was expressly recognized by the district court in its July 2, 1982 order, where the court referred to the affidavit of Bob Graham, the Governor of Florida as follows:

> The affidavit * * * states that there are between 20,000 and 40,000 Haitians in the Bahamas as well as "additional numbers of Haitians, Nicaraguans, El Salvadorans and other nationals currently residing in other areas within the Caribbean basin * * *. Consistent with the information obtained from the aforesaid reports your affiant fears a renewed influx of Haitian and other aliens into south Florida if the court's judgment dated June 29, 1982 is not stayed * * *".

The court recognizes the validity of this assessment in its July 2, 1982 order at page 3:

> The appearance of an inability on behalf of the United States Government to control unlawful immigration into this country is "the greatest inducement to the ultimate swollen tide of undocumented aliens." *Haitian Refugee Center v. Smith*, No. 80–5683, slip op. 15182 n. 11 (11th Cir. May 4, 1982). This Court does not want its Final Judgment to render INS helpless and thereby induce further migration to these shores.

Publication of this rule as an interim rule is therefore the only possible course of action for the Service to follow in discharging its obligation to enforce the immigration laws of the United States.

Section 235(b) of the Immigration and Nationality Act directs that every alien, (other than crewmen, stowaways, and security risks who are covered by separate provisions) "* * * who may not appear to the examining immigration officer at the port of arrival to be clearly and beyond a doubt entitled to land *shall* be detained for further inquiry to be conducted by a special inquiry officer." (Italics supplied.) Detention is therefore mandated by the statute.

In the event that an arriving alien covered by section 235(b) does not wish to withdraw his application and depart, the only exception to detention is through the exercise of parole authority under section 212(d)(5) of the Act. That section provides that parole may be exercised in the discretion of the Attorney General, and "* * * under such conditions as he may prescribe for emergent reasons or reasons deemed strictly in the public interest * * *".

The legislative history of the parole provision shows a Congressional intent that parole be used in a restrictive manner. The drafters of the Immigration and Nationality Act of 1952 gave as examples situations where parole was warranted in cases involving the need for immediate medical attention, witnesses, and aliens being brought into the United States for prosecution. H. Rep. No. 1365, 82nd Cong., 2d Sess., at 52 (1952). In 1965, a Congressional committee stated that the parole provisions "were designed to authorize the Attorney General to act only in emergent, individual, and isolated situations, such as the case of an alien who requires immediate medical attention, and not for the immigration of classes or groups outside the limit of the law." S. Rep. No. 748, 89th Cong., 1st Sess., at 17 (1965). Finally, in the Refugee Act of 1980, Congress removed the Attorney General's authority to parole groups of aliens as refugees. Pub.

L. 96–212, 96th Cong., 2d Sess., 94 Stat. 108 (1980).

By regulation, the authority to parole aliens is delegated to district directors of the Service. However, in exercising this discretion, district directors should be guided by the fact that the statutory rule is one of detention, and that the use of parole authority is an exception to that rule and should be carefully and narrowly exercised to be in conformity with the statutory purpose and legislative intent.

Where an alien who appears to be inadmissible has arrived aboard a regular carrier which has entered into a contract with the Attorney General under section 238 of the Act, the placing of aliens in the custody of the carrier, as authorized by section 233 of the Act, will ordinarily satisfy the detention requirements of the statute. In cases where carrier custody appears to be inadequate to protect the safety of the public, or where the security precautions which the carrier will take appear to be inadequate or inappropriate to detain the alien, custody may be assumed by the Service.

Aliens who appear to be inadmissible and who have false or no documentation, and/or who arrive at places other than designated ports of entry, will be detained by the Service under section 235(b) of the Act. This policy is set forth in this rule. In addition, the rule defines a number of situations where exercise of the parole authority is justified for "emergent reasons" or would be "strictly in the public interest": (1) Serious medical conditions; (2) pregnant women; (3) certain juveniles; (4) aliens with close family relatives in the United States; (5) other unusual situations warranting parole.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is contrary to the public interest and is waived for good cause.

In accordance with 5 U.S.C. 605(d), the Commissioner of Immigration and Naturalization certifies that this rule will not have significant economic impact on a substantial number of small entities.

This rule is not a major rule within the meaning of section 1(b) of E.O. 12291, and it is exempt under section 8(a)(1) of E.O. 12291 from the normal procedures prescribed by virtue of the emergency situation which exists by virtue of a mass influx of illegal aliens.

List of Subjects

8 CFR Part 212

Administrative practice and procedure, Aliens, Bonds, Detention, Probation and parole.

8 CFR Part 235

Aliens, Bonds, Detention, Inspections, Port of Entry, Probation and parole.

Accordingly, Title 8 of the Code of Federal Regulations is amended as follows:

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

1. In Part 212, § 212.5 is revised to read as follows:

§ 212.5 Parole of aliens into the United States.

(a) In determining whether or not aliens detained in accordance with § 235.3(b) or (c) will be paroled, the district director should consider the following:

(1) The parole of aliens who have serious medical conditions in which continued detention would not be appropriate would generally be justified by "emergent reasons";

(2) The parole of aliens within the following groups would generally come within the category of aliens for whom the granting of the parole exception would be "strictly in the public interest", provided that the aliens present neither a security risk nor a risk of absconding:

(i) Women who have been medically certified as pregnant;

(ii) Aliens who are defined as juveniles should only be placed in a juvenile facility or with an appropriate responsible agency or institution, recognized or licensed to accommodate juveniles by the laws of that state. A juvenile is generally defined as a person subject to the jurisdiction of a juvenile court. To determine what constitutes legal age or exceptions to the above definition in a particular state, the laws of the state where the alien is physically present will apply. Children of tender years who are too young to be placed in a juvenile facility or youth hall, and older juveniles who it is anticipated will remain in detention for a period longer than thirty days, should be placed with relatives or friends. In those extreme cases where it is impossible to accommodate a child of tender years accompanied by an adult or juvenile who will or has remained in detention for periods of over 30 days, consideration should be given to paroling the juvenile with the accompanying adult to a responsible agency, relative, or friend. When it is determined that such juvenile should be paroled from detention, the following guidelines should be followed:

(A) Juveniles may be released to a relative (brother, sister, aunt, uncle) not in Service detention who is willing to sponsor a minor and the minor may be released to that relative notwithstanding that he has a relative who is in detention.

(B) If a relative who is not in detention cannot be located to sponsor the minor, the minor may be released with an accompanying relative who is in detention.

(C) If the Service cannot locate a relative in or out of detention to sponsor the minor, but the minor has identified a nonrelative in detention who accompanied him on arrival, the question of releasing the minor and the accompanying nonrelative adult shall be addressed on a case-by-case basis.

(iii) Aliens who have close family relatives in the United States (parent, spouse, children, or siblings who are United States citizens or lawful permanent resident aliens) who are eligible to file, and have filed, a visa petition on behalf of the detainee;

(iv) Aliens who will be witnesses in proceedings being, or to be, conducted by judicial, administrative, or legislative bodies in the United States;

(v) Aliens whose continued detention is not in the public interest as determined by the district director.

(3) Aliens subject to prosecution in the United States who are needed for the purposes of such prosecution may be paroled to the custody of the appropriate responsible agency or prosecuting authority.

(b) In the cases of all other arriving aliens except those detained under § 235.3(b) or (c), and paragraph (a) of this section, the district director in charge of a port of entry may, prior to examination by an immigration officer, or subsequent to such examination and pending a final determination of inadmissibility in accordance with sections 235 and 236 of the Act and this chapter, or after a finding of inadmissibility has been made, parole into the United States temporarily in accordance with section 212(d)(5) of the Act any such alien applicant for admission at such port of entry under such terms and conditions, including those set forth in paragraph (c) of this section, as he may deem appropriate.

(c) *Conditions.* In any case where an alien is paroled under paragraph (a) or (b) of this section, the district director may require reaonable assurances that the alien will appear at all hearings

and/or depart the United States when required to do so. Not all factors listed need be present for parole to be exercised. The district director should apply reasonable discretion. The consideration of all relevant factors includes:

(1) The giving of an undertaking by the applicant, counsel, or a sponsor to ensure appearances, and a bond may be exacted on Form I–352 in such amount as the district director may deem appropriate;

(2) Community ties such as close relatives with known addresses; and

(3) Agreement to reasonable conditions (such as periodic reporting of whereabouts).

(d) *Termination of parole.—(1) Automatic.* Parole shall be automatically terminated without written notice (i) upon the departure from the United States of the alien, or, (ii) if not departed, at the expiration of the time for which parole was authorized, and in the latter case the alien shall be processed in accordance with paragraph (d)(2) of this section except that no written notice shall be required.

(2) *On notice.* In cases not covered by paragraph (d)(1) of this section, upon accomplishment of the purpose for which parole was authorized or when in the opinion of the district director in charge of the area in which the alien is located neither emergency nor public interest warrants the continued presence of the alien in the United States, parole shall be terminated upon written notice to the alien and he or she shall be restored to the status which he or she had at the time of parole. Any further inspection or hearing shall be conducted under section 235 or 236 of the Act and this chapter, or any order of exclusion and deportation previously entered shall be executed. If the exclusion order cannot be executed by deportation within a reasonable time, the alien shall again be released on parole unless in the opinion of the district director the public interest requires that the alien be continued in custody.

(e) *Advance authorization.* When parole is authorized for an alien who will travel to the United States without a visa, the alien shall be issued Form I–512.

(Sec. 103, 212 of the Immigration and Nationality Act, as amended; 8 U.S.C. 1103, 1182)

PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

2. In Part 235, § 235.3 is revised to read as follows:

§ 235.3 Detention and deferred inspection.

(a) *Prior to inspection.* All persons arriving at a port in the United States by vessel or aircraft shall be detained aboard the vessel or at the airport of arrival by the master, commanding officer, purser, person in charge, agent, owner, or consignee of such vessel or aircraft until admitted or otherwise permitted to land by an officer of the Service. Notice or order to detain shall not be required.

(b) *Aliens with no documentation or false documentation.* Any alien who appears to the inspecting officer to be inadmissible, and who arrives without documents (except an alien for whom documentary requirements are waived under § 211.1(b)(3) or § 212.1 of this chapter) or who arrives with documentation which appears to be false, altered, or otherwise invalid, or who arrives at a place other than a designated port of entry, shall be detained in accordance with section 235(b) of the Act. Parole of such aliens shall only be considered in accordance with § 212.5(a) of this chapter.

(c) *Aliens with documents.* Any alien who appears to the inspecting officer to be inadmissible, but who does not fall within paragraph (b), may be detained, paroled, or paroled for deferred inspection by the inspecting officer. In determining whether or not a parole or a parole for deferred inspection is warranted the inspecting officer shall consider the likelihood that the alien will abscond or pose a security risk.

(d) *Carrier custody.* Any alien subject to detention under paragraph (b) or (c) of this section may be placed in the custody of the carrier if the carrier has entered into a contract with the Attorney General under section 238 of the Act. If in the opinion of the examining immigration officer it is not practical to resolve a question of admissibility at the time of arrival of a passenger on a vessel or aircraft, the officer shall execute Form I–259 to notify the agent for the vessel or aircraft and the master or commanding officer, if available, that the passenger is to be presented for further inspection. The Form I–259 shall list the name of each such passenger and shall contain instructions as to the date and place the passenger is to be presented for continued inspection or further proceedings under the Act. If the place specified is a designated port of entry to which the transportation company has carried or has contracted to carry the passenger, the transportation company shall remain under the obligation, described in the preceding paragraph, to prevent an unauthorized landing, unless the transportation company has been relieved of this obligation by removal under section 233(a) of the Act at the direction of the Service or unless the Service has paroled the alien under section 212(d)(5) of the Act without directing the carrier in writing to present the alien for further inspection. The term port of entry as used in this paragraph includes a Service district office or suboffice within the city or town or in local commuting distance of the seaport or airport at which the passenger arrived or of the onward seaport or airport specified by the examining immigration officer as the place for completion of inspection. In cases where carrier custody appears to be inadequate to protect the safety of the public, or where the security precautions which the carrier will take appear to be inadequate or inappropriate to detain the alien, custody may be assumed by the Service.

(Secs. 103, 233, 235 of the Immigration and Nationality Act, as amended; 8 U.S.C. 1103, 1223, 1225)

Dated: July 7, 1982.

Alan C. Nelson,

Commissioner of Immigration and Naturalization.

[FR Doc. 82–18771 Filed 7–8–82; 9:07 am]

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		Total Order	$_____

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Presidential Documents

Title 3—

The President

Executive Order 12370 of July 8, 1982

Creating an Emergency Board To Investigate a Dispute Between the Brotherhood of Locomotive Engineers and Certain Railroads Represented by the National Carriers' Conference Committee of the National Railway Labor Conference

A dispute exists between the Brotherhood of Locomotive Engineers and certain railroads represented by the National Carriers' Conference Committee of the National Railway Labor Conference designated on the list attached hereto and made a part hereof.

This dispute has not heretofore been adjusted under the provisions of the Railway Labor Act, as amended; and

This dispute, in the judgment of the National Mediation Board, threatens substantially to interrupt interstate commerce to a degree such as to deprive a section of the country of essential transportation service.

NOW, THEREFORE, by the authority vested in me by Section 10 of the Railway Labor Act, as amended (45 U.S.C. 160), it is hereby ordered as follows:

Section 1. *Establishment of the Board.* There is established effective July 10, 1982, a board of three members to be appointed by the President to investigate this dispute. No member of the board shall be pecuniarily or otherwise interested in any organization of railroad employees or any carrier.

Sec. 2. *Report.* The board shall report its finding to the President with respect to the dispute within 30 days from the date of its creation.

Sec. 3. *Maintaining Conditions.* As provided by Section 10 of the Railway Labor Act, as amended, from the date of the creation of the Emergency Board and for 30 days after the board has made its report to the President, no change, except by agreement, shall be made by the carriers or by their employees, in the conditions out of which the dispute arose.

Ronald Reagan

THE WHITE HOUSE,
July 8, 1982.

APPENDIX OF RAILROADS

Ann Arbor Railroad
Atchison, Topeka and Santa Fe Railway Company
Belt Railway Company of Chicago
Boston and Maine Corporation
Burlington Northern Railroad Company
Camas Prairie Railroad Company
Canadian National Railways:
  St. Lawrence Region, Lines in the United States
Central of Georgia Railroad Company
Central Vermont Railway, Inc.
The Chessie System:
  Baltimore and Ohio Railway Company
  Baltimore and Ohio Chicago Terminal Railroad Company
  Chesapeake and Ohio Railway Company
  Staten Island Railroad Corporation
Chicago and North Western Transportation Company
Chicago, Milwaukee, St. Paul and Pacific Railroad Company
Colorado and Southern Railway Company
Denver and Rio Grande Western Railway Company
Detroit, Toledo and Ironton Railroad Company
Elgin, Joliet and Eastern Railway Company
The Family Lines:
  Seaboard Coast Line Railroad Company
  Gainesville Midland Railroad Company
  Louisville and Nashville Railroad Company
  Clinchfield Railroad Company
  Georgia Railroad
  Atlanta and West Point Railroad Company:
    The Western Railway of Alabama
Ft. Worth and Denver Railway Company
Grand Trunk Western Railroad Company
Houston Belt and Terminal Railroad Company
Illinois Central Gulf Railroad Company
Indiana Harbor Belt Railroad Company
Joint Texas Division of the CRI&P and FW&D Railway Company
Kansas City Southern Railway Company:
  Louisiana and Arkansas Railway Company
Longview, Portland and Northern Railway Company
Minnesota Transfer Railway Company
Missouri-Kansas-Texas Railroad Company:
  Oklahoma, Kansas and Texas Railroad Company
Missouri Pacific Railroad Company
New York Dock Railway
Norfolk and Portsmouth Belt Line Railroad Company
Norfolk and Western Railway Company
Northwestern Pacific Railroad Company
Ogden Union Railway and Depot Company
Pittsburgh and Lake Erie Railroad Company
Pittsburgh, Chartiers & Youghiogheny Railroad Company
Portland Terminal Railroad Company
Richmond, Fredericksburg and Potomac Railroad Company
Sacramento Northern Railway
St. Louis Southwestern Railway Company
Soo Line Railroad
Southern Pacific Transportation Company:
  Western Lines
  Eastern Lines
Southern Railway Company:
  Alabama Great Southern Railroad Company
  Atlantic and East Carolina Railway Company
  Terminal Railroad Association of St. Louis
Toledo Terminal Railroad Company
Union Pacific Railroad Company
Western Pacific Railroad Company
Youngstown and Southern Railway Company

[FR Doc. 82-18897

Filed 7-9-82; 8:45 am]

Billing code 3195-01-M

Editorial Note: The President's announcement of July 8, 1982, on creating an emergency board to investigate a railway labor dispute is printed in the *Weekly Compilation of Presidential Documents* (vol. 18, no. 27).

Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 6

Section 22 Import Quotas; Certain Dairy Products

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice of adjustment of application period for certain import licenses.

SUMMARY: This notice is to advise applicants for import licenses for certain dairy products that applicants mailed on either August 1 or 2 will be treated equally as to the date of mailing.

FOR FURTHER INFORMATION CONTACT: Phillip J. Christie, Head, Import Licensing Group, Dairy, Livestock and Poultry Division, Foreign Agricultural Service, Room 6616 South Building, Department of Agriculture, Washington, D.C. 20250, Telephone (202) 447–5270.

SUPPLEMENTARY INFORMATION: Import Regulation 1, Revision 7 requires that applications for nonhistorical and supplementary import licenses for certain dairy products be submitted during a 90-day application period which begins on August 1 each year. Since many of the import licenses are issued on a first come, first served basis applicants are encouraged to mail their applications on August 1 each year. This year August 1, 1982, falls on Sunday, a non-work day for most post offices. Therefore, the purpose of this notice is to advise all applicants who submit applications on either August 1 or 2, 1982, that their applications will be treated equally for the purposes of determining priority in the issuance of import licenses. Thus, an application mailed on August 2 will receive the same consideration as one mailed on August 1.

Signed, the 6th of July, 1982.

Richard A. Smith,

Administrator, Foreign Agricultural Service.

[FR Doc. 82–18737 Filed 7–9–82; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Airworthiness Docket No. 82–ASW–21; Amdt. 39–4416]

Airworthiness Directives; Hiller Aviation Model UH–12 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document adopts a new Airworthiness Directive (AD) which supersedes AD 82–10–06 which required replacement of the fasteners of the main transmission mounted mercury clutch on Hiller Aviation Model UH–12 series helicopters. This superseding AD is required because a Hiller Aviation Service Bulletin was incorrectly cited in the original AD. This AD cites the correct Hiller Aviation Service Bulletin.

DATES: Effective July 16, 1982. Compliance required within 50 hours' additional time in service from the effective date of this AD.

ADDRESSES: The applicable service information may be obtained from Hiller Aviation, 2075 West Scranton Avenue, Porterville, California 93257.

A copy of each applicable service document is contained in the Rules Docket, Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591, or at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas, 76101.

FOR FURTHER INFORMATION CONTACT: Harold Ferris, Aerospace Engineer, Propulsion Section, ANM–174W, Western Aircraft Certification Field Office, Northwest Mountain Region, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009, telephone (213) 536–6381, or Sam Brodie, Helicopter Policy and Procedures Staff, Aircraft Certification Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas, 76101, telephone (817) 624–4911, extension 504.

SUPPLEMENTARY INFORMATION: Amendment 39–4381 (47 FR 21003; May 17, 1982), AD 82–10–06 required replacement of four bolts attaching the mercury clutch to the torsional coupling and replacement of the related washers with washers of a different design. There had been reports of loss of power to the main and tail rotors on Hiller Model UH–12 series helicopters which resulted in forced landings. The loss of power was attributed to the deformation of the washers under the bolt head. The resultant loss of torque resulted in the fatigue failure of the four bolts attaching the mercury clutch to the torsional coupling. Since this condition was likely to exist or develop in other helicopters of the same type design, the AD required replacement of the four attach bolts with new bolts and replacement of the related washers with washers of a different design which relieve the fatigue problem on Hiller Aviation Model UH–12 series helicopters. AD 82–10–06 incorrectly cited Hiller Aviation Service Bulletin No. 21–1, in the body of the AD. The correct Hiller Aviation Service Bulletin is No. 21–2, dated January 20, 1982. Therefore, a new AD is required to correct the previous AD.

Since a situation still exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, and Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by removing Amendment 39–4381 (47 FR 21003), AD 82–10–06 and by adding the following new airworthiness directive:

Hiller Aviation: Applies to Model UH–12D, UH–12E, UH–12E4, UH–12E–L, UH–12L, UH–12L4, and military OH–23D, OH–23F and OH–23G series helicopters, certificated in all categories, through serial No. 5187.

Compliance required as indicated, unless already accomplished.

To prevent loss of power to the main and tail rotors, accomplish the following:

Within 50 hours' additional time in service after the effective date of this AD, remove the four P/N 21041 bolts and four AN 960–716L washers which attach the mercury clutch to the torsional coupling and replace with new P/N 21041 bolts and P/N 21074–3 washers in accordance with Part 2, Accomplishment Instruction, of Hiller Aviation Service Bulletin No. 21–2 dated January 20, 1982, or FAA approved equivalent. The four P/N 21041 bolts removed per this action must be considered unairworthy and marked accordingly.

Note.—Hiller Model UH–12 series helicopters converted to turbine power by Supplemental Type Certificate (STC) SH178WE or SH177WE do not incorporate the subject parts and therefore are not affected by this AD unless restored to the original configuration.

Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the FAR to operate rotorcraft to a base for the accomplishment of inspections or modifications required by this AD.

Alternative inspections, modifications, or other actions which provide an equivalent level of safety may be used when approved by the Chief, Western Aircraft Certification Field Office, FAA Northwest Mountain Region.

This amendment supersedes AD 82–10–06.

This amendment becomes effective July 16, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the various courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Fort Worth, Texas, on June 28, 1982.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 82–18572 Filed 7–9–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Airworthiness Docket No. 82–ASW–33; Amdt. 39–4414]

Airworthiness Directives; Hughes Helicopters Models 269 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires a one-time inspection, rework or replacement as required, and increased torque of the attaching hardware for the main transmission ring gear/carrier assembly on certain Hughes Model 269 series helicopters. The AD is needed because there have been reports of main transmission ring gear attachment bolts coming loose in service. This could result in main transmission jamming, loss of power to the rotors, and loss of control of the helicopter.

DATES: Effective July 12, 1982.

Compliance required within 50 hours' time in service after the effective date of this AD unless already accomplished.

ADDRESSES: The applicable service information may be obtained from Hughes Helicopters, Inc., Centinela and Teale Streets, Culver City, California 90230. A copy of the service information is contained in the Office of Regional Counsel, Federal Aviation Administration, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas 76106.

FOR FURTHER INFORMATION CONTACT: Harold Ferris, Aerospace Engineer, Propulsion Section, ANM–174W, Western Aircraft Certification Field Office, Federal Aviation Administration, Northwest Mountain Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009 Telephone: (213) 536–6381.

SUPPLEMENTARY INFORMATION: There have been reports that the bolts that attach the main transmission ring gear to its carrier have become loose in service. This loss of torque could cause fretting corrosion, fatigue cracking of the carrier assembly, and fatigue fracture of the attaching bolts resulting in loss of power to the rotor system or jamming of the main transmission and could result in loss of control of the helicopter. Since this condition is likely to exist or develop on other helicopters of the same type design, an airworthiness directive is being issued which requires inspection, rework or replacement (as required), and increased bolt torque of the main transmission ring gear/carrier assembly on certain Hughes Model 269 series helicopters.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aircraft, Aviation safety, Safety, and Air transportation.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 9.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive.

Hughes Helicopters: Applies to Model 269A (all S/N's), TH–55A (all S/N's converted to civil use), 269A–1 (all S/N's), and 269C (S/N's 0001 through 1074) helicopters equipped with main transmission assemblies P/N 269A5175–7, –9, –11, –13, –15, and –17, except those transmissions with the letter "W" on the transmission nameplate below and adjacent to the transmission serial number. Applies to helicopters certificated in all categories.

Compliance is required as indicated unless already accomplished.

To prevent failure of the main transmission, accomplish the following:

(a) Within 50 hours' additional time in service after the effective date of this AD, disassemble the transmission and inspect the ring gear/carrier interface and attachment bolts for possible fretting or cracking, and rework in accordance with Service Information Notice N–181, paragraphs a. through j., or later FAA approved equivalent. All parts that cannot be reworked within the criteria of Service Information Notice N–181 are considered unairworthy and must be replaced with like serviceable parts.

Note.—Those portions of Service Information Notice N–181 which address disposition of parts which exceed the prescribed inspection and rework criteria are not applicable.

(b) Reassemble the transmission in accordance with Service Information Notice N–181, paragraphs k. through o., or FAA approved equivalent.

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations to operate aircraft to a base for the accomplishment of inspections or modifications required by this AD.

(d) Alternative inspections, modifications, or other actions which provide an equivalent level of safety may be used when approved by the Chief, Aircraft Certification Field Office, FAA Northwest Mountain Region, 15000 Aviation Boulevard, Room 5W20, Hawthorne, California.

This amendment becomes effective July 12, 1982.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the various courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Fort Worth, Texas, on June 25, 1982.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 82-18574 Filed 7-9-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Airworthiness Docket No. 82-ASW-36; Amdt. 39-4415]

Airworthiness Directives; Hughes 269 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document adopts a new Airworthiness Directive (AD) that requires visual inspection of the drive belt idler pulley support bracket assembly for cracks or damage on certain Hughes Helicopters, Inc., Model 269 series helicopters. The AD is needed because there have been reports of cracks and fractures of the pulley bracket support arm. These cracks and fractures could result in loss of drive belt tension and loss of power to the entire rotor system.

DATES: Effective July 16, 1982. Compliance required as prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from Hughes Helicopters, Inc., Centinela and Teale Streets, Culver City, California 90230.

These documents may be examined at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76102, or at the Rules Docket in Room 916, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Hal Ferris, Aerospace Engineer, Propulsion Section ANM-174W, Western Aircraft Certification Field Office, Federal Aviation Administration, Northwest Mountain Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6381.

SUPPLEMENTARY INFORMATION: There have been two reported cases that belt drive idler pulley support brackets have cracked or failed as a result of fatigue. Cracks have been found during the 100-hour inspection called for in the Hughes Maintenance Instruction (HMI) and a failure has occurred during operation causing clutch disengagement. This results in loss of power to the rotors. The fatigue crack initiation point and propagation is in an area of calculated and measured low stress. It is not known how the loads increase to cause fatigue cracks. The loads may be due to incorrect assembly or spring tension. Due to the critical nature of this failure mode, a mandatory inspection in the critical area is imposed by this AD.

Since this condition is likely to exist or develop on other helicopters of the same type design, an airworthiness directive is being issued which requires visual inspection of the belt drive idler pulley bracket on the Hughes 269 series helicopters.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making the amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, and Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administration, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Hughes Helicopters, Inc.: Applies to Model 269 series helicopters certified in all categories with belt drive idler pulley clutch assembly P/N 269A5447 series installed and idler pulley support bracket assembly P/N 269A5575 or 269A5575-3 incorporated therein.

Compliance required as indicated, unless already accomplished.

To prevent loss of power to the rotor system accomplish the following:

(a) Within the next 50 hours' time in service after the effective date of this AD unless already accomplished, and thereafter at intervals not to exceed 100 hours' time in service from the last inspection, inspect the idler pulley support bracket assembly P/N 269A5575 or 269A5575-3 in accordance with paragraph (b) of the section entitled "Inspection Procedures" of the Hughes Service Information Notice No. N-182 dated May 26, 1982, or FAA approved equivalent.

(b) If any crack is found, prior to further flight replace bracket with a like serviceable part.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate aircraft to a base for the accomplishment of inspections or modifications required by this AD.

(d) Alternative inspections, modifications, or other actions which provide an equivalent level of safety may be used when approved by the Chief, Western Aircraft Certification Field Office, FAA, Northwest Mountain Region, Hawthorne, California.

This amendment becomes effective July 16, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator, under the Federal

Aviation Act of 1958, as amended. As such, it is subject to review only by the various courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Fort Worth, Texas, on June 28, 1982.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 82-18573 Filed 7-9-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 18605/81-AWP-2]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Group II Terminal Control Area, Las Vegas, NV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment reconfigures the Group II Terminal Control Area (TCA) at Las Vegas, NV, which first became effective on November 11, 1974. This realignment provides greater flexibility to aircraft wishing to avoid the TCA airspace, ensures that turbine-powered aircraft operations are wholly contained within TCA airspace, and ensures that the high level of safety provided by the TCA is not reduced.

EFFECTIVE DATE: September 30, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. B. Keith Potts, Airspace and Air Traffic Rules Division (AAT-200), Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3731.

SUPPLEMENTARY INFORMATION:

History

On August 20, 1981, a Notice of Proposed Rulemaking (NPRM) was published in the **Federal Register** to amend the Las Vegas TCA by raising the TCA floor in some areas to provide greater flexibility to aircraft wishing to avoid the TCA airspace and to expand certain other areas to assure that turbine-powered aircraft operations are wholly contained within the TCA. Other aspects considered in meeting these specific goals included noise abatement, costs to users, safety to passengers, and the safe and efficient use of airspace.

The action contained in this rule was preceded with broad and helpful public participation with the FAA in considering the development of an airspace description for a TCA that is responsive to the need to increase safety and to the needs of both transient and local aircraft operators who might be affected. An extensive publicity effort was made to invite all interested persons to participate in meetings held on June 19 and 27, 1979. Invitations were extended to 3,000 airspace users in the Las Vegas area. Notice of the meetings was also given radio and press coverage. In response to public suggestions, several adjustments to the TCA configuration were developed and were reflected in the notice.

After experience is gained with the revised TCA configuration, consideration will be given to proposing any modifications that appear necessary. Any future modifications that may be prepared would be thoroughly coordinated with airspace users.

Discussion of Comments

The FAA received three written comments from citizen groups and aviation and trade industry associations in response to the proposed modification to the Las Vegas TCA. The FAA also had the benefit of discussions with airspace users at user group meetings. The FAA appreciates the thoughtful and meaningful contributions and interest expressed by all those who took time to participate in this rulemaking action.

In reviewing the comments submitted verbally and in writing, the following categories of comments emerged:

A. The Aircraft Owners and Pilots Association was pleased that the FAA had chosen not to extend the TCA ceiling to 12,500 feet mean sea level (MSL) as had been originally proposed in the June 1979 meeting. They concur with the proposal.

B. The Air Line Pilots Association responded with general support for the proposed reconfiguration. They recommend, however, raising the TCA ceiling for Area "D" to 10,500 feet MSL to provide optimum fuel descent procedures for Runway 25 approaches.

No discernable fuel savings beyond current operations could be derived from the proposed ceiling alteration of Area "D." Las Vegas is now in full concert with the provisions of Order 7110.22C, Arrival and Departure Handling of High Performance Aircraft. The proposed alteration, as stated, has no real bearing insofar as optimizing fuel descent procedures of Runway 25 approaches.

C. The Air Transport Association of America (ATA) disagrees in the portion of the reconfiguration designating the new Area "I." They believe this area will pose a restriction by increasing flying miles for Runway 25 heavy turbojet departures using the MEAD 6 and OVETO 5 Standard Instrument Departures (SID's), while not providing separation from north Las Vegas traffic. Contrary to ATA's beliefs, virtually no increase in flying miles will result from the adoption of Area "I." What will result, however, is the containment and protection of large turbine-powered aircraft within the TCA, heretofore nonexistent in that specific area.

To substantiate this, we need only correlate the existing OVETO 5 and MEAD 6 flight path restrictions with the area in question. Departures are required to "climb on runway heading until reaching 4 DME (4 nautical miles from Las Vegas VORTAC) then turn right heading 070° to cross the LAS R-280 between 4,000 and 7,000 * * *" At 4 DME, aircraft are still within Area "A," at the apex of their right turn, aircraft routinely are between 6 an 8 DME, thus contained in reconfigured Area "H." Crossing the LAS R-280 (dividing line between Areas "H" and "I"), aircraft in today's environment are at or above 4,500 feet, thus providing the rationale for the floor altitude of Area "I."

In summary, the procedures and flight paths currently flown will not be altered physically, but merely added to the confines of the Las Vegas TCA.

Local Benefits

The modifications of the Group II TCA will provide greater flexibility to aircraft wishing to avoid TCA airspace. In addition, all turbojet arrival and departure profiles are fully contained within TCA airspace for air safety purposes. The TCA will have a minimum impact on aircraft not required to be under ATC control due to this proposed action.

Economic Impacts

The costs of modifying the Las Vegas TCA were considered as part of the regulatory decisions being made. Since all turbine-powered IFR aircraft will continue to be contained in the TCA as reconfigured, there will be no change in economic effect for those flights. Uncontrolled aircraft have the same or larger amounts of airspace in which to conduct their activities. Any adverse economic impact that may now exist will remain the same or be reduced as available airspace is increased for traffic not operating withing the TCA.

This TCA configuration, as compared to the existing configuration, demonstrates no change in impacted airports, number of operations, or the number of airports receiving diverted traffic, the number of aircraft expected to relocate or divert due to the TCA, and operational procedures at adjacent airports remain unchanged.

List of Subjects in 14 CFR Part 71

Terminal control areas.

Adoption of the Amendment

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Accordingly, pursuant to the authority delegated to me, § 71.401(b) of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 g.m.t. September 30, 1982, by revising the Las Vegas, NV, TCA as follows:

Subpart K—Terminal Control Areas

§ 71.401 Designation.

* * * * *

(b) Group II, Terminal Control Areas:

* * * * *

Las Vegas, NV, Terminal Control Area [Revised]

Primary Airport and Navigational Aid
McCarran International Airport (lat. 36°04'48" N., long. 115°09'08" W.).

Las Vegas VORTAC (lat. 36°04'47" N., long. 115°09'32" W.).

Boundaries—Based on Las Vegas VORTAC (LAS) arcs, DME distances, and radials.

Area A. That airspace extending upward from the surface to and including 9,000 feet MSL within an area bounded by a line beginning at the 15-mile DME point on the Las Vegas 020° radial; thence direct to the 20-mile DME point on the Las Vegas 033° radial; thence northeasterly along the Las Vegas 033° radial to the 25-mile DME point, and clockwise along the 25-mile radius arc to the Las Vegas 046° radial, and southwesterly along the Las Vegas 046° radial, to and clockwise along the 10-mile radius arc to the Las Vegas 115° radial; thence westerly along a line direct to, and counterclockwise along, the 2-mile radius arc of Henderson Sky Harbor Airport (lat. 35°58'35" N., 115°07'55" W.) to, and along, the Las Vegas 180° radial to, and clockwise along, the 6-mile radius arc to, and counterclockwise along, the 2.5-mile radius arc of North Las Vegas Air Terminal (lat. 36°12'45" N., long. 115°11'46" W.) to, and north along, the Las Vegas 005° radial to, and clockwise along, the 15-mile radius arc to the point of beginning.

Area B. That airspace extending upward from 4,500 feet MSL to and including 9,000 feet MSL between the Las Vegas 10 and 15-mile radii arcs bounded on the north by the Las Vegas 046° radial and on the south by the Las Vegas 115° radial.

Area C. That airspace extending upward from 6,500 feet MSL to and including 9,000 feet MSL between the Las Vegas 15 and 20-mile radii arcs bounded on the north by the Las Vegas 046° radial and on the south by the Las Vegas 125° radial.

Area D. That airspace extending upward from 8,000 feet MSL to and including 9,000 feet MSL between the Las Vegas 20 and 25-mile radii arcs bounded on the north by the Las Vegas 083° radial and on the south by the Las Vegas 115° radial.

Area E. That airspace extending upward from 6,000 feet MSL to and including 9,000 feet MSL between the Las Vegas 10 and 15-mile radii arcs bounded on the northeast by the Las Vegas 115° radial and on the southwest by the Las Vegas 185° radial.

Area F. That airspace extending upward from 8,000 feet MSL to and including 9,000 feet MSL between the Las Vegas 15 and 20-mile radii arcs bounded on the east by the Las Vegas 125° radial and on the west by the Las Vegas 235° radial.

Area G. That airspace extending upward from 5,000 feet MSL to and including 9,000 feet MSL within an area bounded by a line beginning at the 10-mile DME point on the Las Vegas 115° radial; thence clockwise along the 10-mile radius arc to, and south along, the Las Vegas 185° radial to, and clockwise along, the 15-mile radius arc to, and northeasterly along, the Las Vegas 135° radial to, and clockwise along, the 10-mile radius arc to, and easterly along, the 8-mile radius arc, to, and northerly along the Las Vegas 180° radial to lat. 35°59'45" N., long. 115°09'40" W. and clockwise along, the 2-mile radius arc to Shy Harbor Airport to, and easterly along, a line direct to the point of beginning.

Area H. That airspace extending upward from 4,000 feet MSL to and including 9,000 feet MSL between the Las Vegas 6 and 8-mile radii arcs bounded on the north by the Las Vegas 295° radial and on the south by the Las Vegas 180° radial.

Area I. That airspace extending upward from 4,500 feet MSL to and including 9,000 feet MSL within an area bounded by a line beginning at the 6-mile DME point on the Las Vegas 295° radial; thence westerly along that radial to, and clockwise along, the 10-mile radius arc to, and northwesterly along, U.S. Highway 95 to, and clockwise along, the 11-mile radius arc, to and southerly along, the Las Vegas 005° radial to, and clockwise along, the 2.5-mile radius arc of North Las Vegas Air Terminal to, and counterclockwise along, the 6-mile radius arc to the point of beginning.

Area J. That airspace extending upward from 5,000 feet MSL to and including 9,000 feet MSL between the Las Vegas 11 and 15-mile radii arcs bounded on the east by the Las Vegas 005° radial and on the west by U.S. Highway 95.

Area K. That airspace extending upward from 6,500 feet MSL to and including 9,000 feet MSL between the Las Vegas 15 and 20-mile radii arcs, bounded on the west by U.S. Highway 95, and on the east by a line from the 15-mile DME point on the Las Vegas 020° radial direct to the 20-mile DME point on the Las Vegas 033° radial.

Area L. That airspace extending upward from 7,500 feet MSL to and including 9,000 feet MSL bounded by a line beginning at the 36-mile DME point on the LAS 033° radial thence southwest along the 033° radial to and counterclockwise along the 20-mile arc to U.S. Highway 95 direct to the 36-mile DME point on the 005° radial thence clockwise along the 36-mile arc to the point of beginning.

Area M. That airspace extending upward from 5,000 feet MSL to and including 9,000 feet MSL between the Las Vegas 25 and 30-mile radii arcs, bounded on the west by the Las Vegas 033° radial and on the east by the Las Vegas 046° radial.

Area N. That airspace extending upward from 7,000 feet MSL to and including 9,000 feet MSL between the Las Vegas 30 and 36-mile radii arcs, bounded on the west by the Las Vegas 033° radial and on the east by the Las Vegas 046° radial.

Area O. That airspace extending upward from 8,000 feet MSL to and including 9,000 feet MSL between the Las Vegas 20 and 25-mile radii arcs, bounded on the west by the Las Vegas 046° radial and on the southeast by the Las Vegas 060° radial.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on July 1, 1982.

Ramon A. Alvarez,

Acting Director, Air Traffic Service.

[FR Doc. 82-18549 Filed 7-9-82; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R-82-894]

Community Development Block Grants

AGENCY: Office of Community Planning and Development, HUD.

ACTION: Interim rule.

SUMMARY: This interim rule establishes a new Community Development Special Project Program for States and units of general local government. This rule describes policy and procedures for HUD to award Special Projects assistance. The program is authorized by the 1981 amendments to the Housing and Community Development Act of 1974.

EFFECTIVE DATE: August 11, 1982.

COMMENTS DUE: September 10, 1982.

ADDRESS: Interested persons are invited to submit comments regarding this rule to the Office of General Counsel, Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410. Comments should refer to the above docket number and title. A copy of each comment submitted will be available for public inspection during regular business hours at the above address. This rule may be changed on the basis of comments received.

FOR FURTHER INFORMATION CONTACT: Liza Bowles, Office of Program Policy Development, Room 7131, Community Planning and Development, U.S. Department of Housing and Urban Development, Washington, D.C. 20410, telephone (202) 755–8909 (this is not a toll free number).

SUPPLEMENTARY INFORMATION: The 1981 amendments to the Housing and Community Development Act of 1974 established a new program to provide grants to States and units of local government for special projects otherwise authorized under Title I of the Act. The regulations provide the necessary guidance to implement this program. Although the new Special Projects Program and the Technical Assistance Program are both authorized pursuant to section 107(b)(4) of the Act, the two programs are distinct. The Department is publishing this rule for interim effect to allow for the immediate implementation of the program. Additionally, the rule does not contain policy directives beyond that included in the statute so that public comment is not deemed necessary to the successful implementation of the program. The rule has no adverse impact and delaying the effective date would be counter to efficient management.

The subject matter of this rulemaking action relates to grants and is therefore exempt from the notice and public comment requirements of section 553 of the Administrative Procedure Act. As a matter of policy, the Department submits many rulemaking actions with such subject matter to public comment, either before or after effectiveness of the action, notwithstanding the statutory exemption.

The Secretary has determined that it is in the public interest to implement the new Special Projects Program as soon as possible. Accordingly, the delay that would result from affording an opportunity for public comment on this amendment prior to its effective date would be contrary to the public interest. For that reason, the Secretary has found that good cause exists for adopting this amendment as an interim rule, without prior public comment. However, public comments are invited for 60 days following publication and will be considered in the adoption of a final rule.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk at the address listed above.

This rule does not constitute a "major rule" as the term is defined in section 1 (b) of Executive Order 12291 on Federal Regulation. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities.

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the reporting or recordkeeping provisions that are included in this regulation have been or will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained and the public notified to that effect through a technical amendment to this regulation. The Special Projects program will be listed in the Catalog of Federal Domestic Assistance under number 14.226.

This rule was not listed in the Department's Semi-annual Agenda of Regulations published on August 17, 1981 pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 570

Community development block grants, Grant programs; Housing and community development, Loan programs; Housing and community development, Low and moderate income housing, New communities, Pockets of poverty, Small cities.

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

Accordingly, 24 CFR Part 570, Subpart E, is amended by adding a new § 570.410 to read as follows:

§ 570.410 Special Projects Program.

(a) *Program Objectives.* The Community Development Special Projects Program enables HUD to award grants to States and units of general local government, subject to availability of funds, for special projects that address community development activities or techniques consistent with the purposes of Title I of the Housing and Community Development Act of 1974, as amended.

(b) *Eligible Applicants.* Only States and units of general local government (as defined in 24 CFR 570.3(u) and 24 CFR 570.3(v)) are eligible to submit proposals or applications for Special Projects grants. Proposals or applications may be submitted by eligible applicants on behalf of themselves, on behalf of other eligible applicants, or jointly by more than one eligible applicant.

(c) *Eligible Activities.* Project activities that may be funded under this Section are those eligible under 24 CFR Part 570—Community Development Block Grants, Subpart C—Eligible Activities. No more than twenty (20) percent of the funds awarded under this Section may be used for overall program administration or planning activities eligible under 24 CFR 570.205 and 24 CFR 570.206.

(d) *Proposals.* Eligible applicants may submit unsolicited proposals. HUD may ask proposers to submit additional information if necessary for evaluation. There is no HUD commitment to fund any unsolicited proposal regardless of its merit. If HUD elects to fund a proposal, it will request that the proposer submit a formal application.

(1) Three (3) copies of a proposal must be sent to the address stated in (3), below. Each proposal submitted pursuant to this Section shall be evaluated by HUD using the following criteria:

(i) The extent to which the proposal satisfies purposes of this Title and addresses a special community development need.

(ii) The eligibility of proposed activities.

(iii) The feasibility of the project; i.e., its technical and financial feasibility for achieving the goals stated in the proposal.

(iv) The capacity of the proposer to carry out satisfactorily the proposed project activities.

(2) If the proposal is submitted jointly by, or on behalf of, more than one eligible applicant, the proposal must:

(i) Contain a cooperation agreement signed by the Chief Executive Officer of each participating jurisdiction which specifies concurrence with the purpose and intent of the proposal and intent to comply with grant requirements;

(ii) Address problems faced by all jurisdictions listed in the proposal; and,

(iii) Be submitted by the lead jurisdiction. The lead jurisdiction shall be responsible for overall coordination and administration of the project.

(3) Unsolicited proposals may be submitted any time during the year. However, if there are no funds available for such proposals, they will be returned without review. Proposals shall contain a Standard Form 424 signed by the Chief Executive Officer of the State or unit of general local government. They shall be sent to: Department of Housing and Urban Development, Office of Community Planning and Development, 451 Seventh Street, S.W., Washington, D.C. 20410, Attention: Director, Office of Program Policy Development, CPP.

(e) *Applications.* Applications are accepted only from eligible applicants in response to letters of solicitations, or to competition announcements published in Notices in the **Federal Register.** Submission requirements and criteria to be used by HUD to evaluate solicited applications and instructions regarding their submission shall be stated in each Notice or letter.

(f) *Certifications.* Applications shall contain the certifications required by 24 CFR 570.307, except that regarding citizen participation: The applicant must certify that citizens likely to be affected by the project, particularly low- and moderate-income persons, have been provided an opportunity to comment on the proposal or application. If the application is submitted jointly, or on behalf of more than one jurisdiction, each jurisdiction shall submit the required certifications.

(g) *Selection and Notification.* The HUD decision to approve, disapprove or conditionally approve a proposal or application shall be communicated in writing to the applicant.

(Title 1, Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq); Title I, Housing and Community Development Act of 1977 (42 U.S.C. 5301 et seq.); and section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)))

Dated: May 24, 1982.

Stephen J. Bollinger,

Assistant Secretary for Community Planning and Development.

[FR Doc. 82-18766 Filed 7-9-82; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

Oil and Gas and Sulphur Operations on the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Final rule.

SUMMARY: This final rulemaking amends the regulations to specify that the Director, Minerals Management Service (MMS), has the authority to consider inordinate delays in obtaining governmental permits and consents when evaluating a lessee's request for a suspension of operations thereby extending the primary term of the lease on the Outer Continental Shelf (OCS). Such action assures a lessee that its leasehold interest will not expire because of governmental delays beyond the control of the lessee. The equitable position of lessees in such situations had previously been recognized and suspensions had been granted when appropriate. The effect of the rule is to formalize the criteria so that lessees can be assured of the Director's authority to grant a suspension under the circumstances identified in the rule. In response to the Notice of Proposed Rulemaking published in the **Federal Register** on August 20, 1981 (46 FR 42286), by the U.S. Geological Survey (USGS) (the MMS succeeded to the authorities and responsibilities of the USGS in this regard on January 19, 1982 (Secretarial Order No. 3071),) industry, various Government Agencies, and the interested public submitted comments on the proposed changes which were evaluated and analyzed in connection with this final rule.

EFFECTIVE DATE: August 11, 1982.

FOR FURTHER INFORMATION CONTACT: David A. Schuenke, (703) 860-7916, (FTS) 928-7916.

SUPPLEMENTARY INFORMATION:

Background

The current regulation, 30 CFR 250.12(b), was promulgated to implement section 5 of the Outer Continental Shelf Lands Act (OCSLA) with respect to granting a suspension of operations upon the request of the lessee. The regulation identifies the criteria used by the Director, upon the lessee's request, to suspend operations and extend the term of the lease, as provided in the Act. The first criterion authorizes a suspension to facilitate the proper development of a lease. The Director has interpreted this criterion to encompass situations where delays in obtaining governmental permits and consents have been of such a duration as to jeopardize the exploration and development of a lease within the initial lease term, and which delays are not the result of fault or negligence of the lessee. However, in order to clarify that inordinate delays are a proper element for consideration in granting a suspension of operations, the regulations are being amended to explicitly recite this standard.

Comments

A total of 18 comments and recommendations were received in response to the Notice of Proposed Rulemaking. Fourteen commenters agreed that inordinate delays should be considered in determining whether suspensions of operations should be granted, one was opposed, and three questioned what was meant by the change but expressed no opinion.

Difference Between Proposed Rule and Final Rule

There is no difference between the proposed rule and final rule.

Discussion of Comments

The majority of commenters agreed with the Department's proposal to articulate the authority of the Director to grant suspensions of operations when inordinate delays are encountered in obtaining governmental permits or consents. Several of the commenters expressed their approval because the amendment would facilitate the development of OCS leases by minimizing the risk of losing a lease for failure to explore and develop during the lease term because of inordinate delays in obtaining necessary governmental permits or consents. The specific authorization serves to put lessees on notice as to their ability to request a suspension when facing such delays.

Many commenters questioned the definition of inordinate. Some industry commenters suggested the use of a specific time frame for permit or consent approval, such as 90 or 120 days beyond which an inordinate delay would be presumed. We disagree with the use of a specific time frame. Because of the many differences in the types of permits and consents that a lessee may need

and the time that may be necessary to process such permits and consents, it is not practicable to establish a time frame in advance. Each case must be dealt with on an individual basis to determine what constitutes an inordinate delay. Two governmental Agencies expressed the opinion that the determination of what was an inordinate delay should not reside exclusively in the Department of the Interior (DOI), but that the permitting Agency should be consulted. We fully intend to consult with other Agencies when appropriate, but do not feel that a mandatory formal procedure for contact should be established. The evidentiary burden concerning the delays is on the lessee who requests a suspension of operations based on inordinate delay. If the lessee meets the threshold burden of showing that an unreasonably lengthy period of time has passed without some resolution in a permitting situation, it them becomes the responsibility of the Department to determine if the delay has been unreasonably lengthy, i.e., has there been an inordinate delay. A number of factors would be considered, such as the usual time required for processing the specific type of permit in question, whether the lessee cooperated with the permitting Agency, and whether the lessee's proposed operations were atypical so as to justify a closer and more time-consuming analysis by the permitting Agency. In many cases, knowledge of and consideration of these and other relevant factors could not occur without consulting the permitting Agency.

Another commenter recommended that upon a showing of inordinate delay the granting of a suspension of operations should be automatic. We disagree. The decision to grant or deny a suspension of operations is a matter of discretion under the OCSLA. The existence of inordinate delays is not the only criterion considered in granting a suspension. The Department must also consider whether the suspension is in the national interest. That determination requires the exercise of judgment and cannot be subject to an automatic determination.

One of the commenters stated several reasons for opposing the rule. First, it felt the rule conflicted with the OCSLA since the Act lists three criteria for granting suspensions. The commenter argued that the Congress intended these three criteria to be exclusive. The commenter stated that the three criteria were all for postlease operational type delays and that if delays were encountered in obtaining permits, they resulted from DOI's failure to perform its duty to consult with other Agencies prior to granting a lease. We disagree that prelease consultation would necessarily identify all of the issues that might arise under a permit. The passage of time alone may well result in changed circumstances. We also disagree that the proposed suspension criterion is inconsistent with the statutory criteria. Permits and consents are a necessary prerequisite to development of an OCS lease. If failure to obtain the necessary permits through no fault of the lessee jeopardizes the proper development of a lease, the lessee should not be penalized when the lessee cannot control the issuance of a permit. The Department is simply clarifying its authority to grant suspensions for inordinate delays in order to facilitate proper development of a lease—a statutorily identified criterion.

Second, the commenter argued that the Department had violated the standard announced by the court in *Union Oil v. Morton,* 512 F.2d 743 (1975), that a lease cannot be suspended for matters that could have been anticipated at the time of the issuance of the original lease. We disagree that this rulemaking violates the court's ruling. If delays are inordinate they are unanticipated by definition and can be the basis for granting a suspension.

Third, the commenter alleged that the Department had inappropriately waived the requirements of the National Environmental Policy Act (NEPA) and Executive Order (E.O.) 12291. No such waivers occurred. The Notice of Proposed Rulemaking stated that the Department had made determinations that the proposed revision was not a major Federal action that would significantly affect the quality of the human environment, therefore, an environmental impact statement was not necessary; and that a regulatory impact analysis was not required under E.O. 12291 because the rule was not major within the meaning of that Order. This rulemaking does not change any policy that affects the human environment, rather it formalizes in the regulations a criterion currently recognized by the Director when considering a lessee's request for suspension of operations.

The regulations of the Council on Environmental Quality (CEQ) implementing NEPA (40 CFR 1508.4) provide for the identification of categories of actions that do not have a significant impact on the human environment. An action within such a categorical exclusion ordinarily requires neither an environmental impact statement nor an environmental assessment. Pursuant to these CEQ regulations, a list of categorical exclusions has been published as an appendix to the DOI Manual chapter of NEPA procedures (516 DM 6, Appendix 2) (46 FR 7485, January 23, 1981). One of the listed exclusions relates to modification of regulations with impacts limited to administrative, economic, or technological effects and minimal environmental impact. Because the proposed rule simply clarifies the preexisting authority of the Director, the impacts of the amendment of this regulation are limited to administrative effects. The Department Manual further lists nine exceptions that apply to actions within categorical exclusions which necessitate preparation of an environmental assessment (516 DM 2). None of the nine exceptions is applicable to the amendment of this regulation and, therefore, it remains within the categorical exclusion status. Accordingly, it was properly determined that no NEPA documentation was required. In accordance with E.O. 12291 a Determinations of Effects of Rules document was prepared by the Department concluding that the rule was not major within the meaning of that Order and, therefore, a regulatory impact analysis was not necessary. This conclusion was concurred in by the Office of Management and Budget as required by E.O. 12291 prior to publication of the Notice of Proposed Rulemaking. The same procedure is followed by the Department regardless of the nature of the rule. The Department has been in full and complete compliance with the requirements of NEPA and E.O. 12291 throughout this rulemaking process.

Finally, the commenter alleged that the rule was simply a response to an adverse trial court decision that affirmed the position of the State of California in Lease Sale No. 53. The commenter bases this allegation on the fact that the Notice of Proposed Rulemaking was published less than 1 week after the trial court's decision. As the Department was in no position to anticipate the court's decision far enough in advance to initiate the rulemaking process, it is not possible that this revision could have been in response to the court decision. This rulemaking is part of a departmental effort to streamline regulatory requirements found to be excessive, burdensome, or counterproductive. This rule was identified as a result of internal review and was also identified in comments solicited from the public by the Secretary in January 1981. It was one of a number of regulations approved for

streamlining action by the Department in June 1981. The processing of rulemaking through to the publication stage under E.O. 12291 is a lengthy undertaking and could not be accomplished in response to an action occurring less than a week earlier.

INFORMATION COLLECTION: The information collection requirement contained in 30 CFR 250.12 has been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1028–0043.

AUTHORS: Platte Clark, Jane Roberts, and David Schuenke, Minerals Management Service, Department of the Interior, (703) 860–7916.

REGULATORY ANALYSIS AND SMALL ENTITY FLEXIBILITY ANALYSIS: The Department has determined that this final rule is not a major action and does not require the preparation of a regulatory impact analysis under E.O. 12291. In addition, the Department has determined that this rule will not have a significant economic effect on a substantial number of small entities and does not, therefore, require a small entity flexibility analysis under the Regulatory Flexibility Act.

Daniel N. Miller, Jr.,

Assistant Secretary of the Interior.

March 4, 1982.

List of Subjects in 30 CFR Part 250

Continental shelf; Suspension of operations; Lessees for Federal Government OCS tracts.

PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

For the reasons set out in the preamble, 30 CFR Part 250 is amended as set out below:

1. Section 250.0(b) is added to 30 CFR 250.0 to read as follows:

§ 250.0 Authority for information collection.

(a) * * *

(b) The information collection requirement contained in 30 CFR 250.12 has been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1028–0043. The information is being collected and will be used to determine the propriety of granting a suspension of operations requested by a lessee. The obligation to respond is required to obtain a benefit.

2. Section 250.12 is amended by changing the format of (b)(1), by adding a new paragraph (b)(1)(iv), and by revising (b)(3)(iii) to read as follows:

§ 250.12 Suspension of operations and lease cancellation.

* * * * *

(b)(1) Upon the request of a lessee, the Director may suspend or temporarily prohibit production or any other operation or activity pursuant to a lease when the Director determines that the suspension or temporary prohibition is in the national interest and will—

(i) Facilitate proper development of a lease;

(ii) Allow for the construction of, or for the negotiation for the use of, transportation facilities;

(iii) Facilitate the installation of equipment the Director determines is necessary for safety or environmental reasons; or

(iv) Allow for inordinate delays encountered by the lessee in obtaining any required permit or consent from a Federal, State, or local Government authority, including administrative or judicial challenges or appeals.

(2) * * *

(3) * * *

(iii) Whether, during the primary term, the lessee has been prompt and efficient in the exploration or in attempts to explore the lease.

* * * * *

(43 U.S.C. 1334)

[FR Doc. 82-18772 Filed 7-9-82; 8:45 am]

BILLING CODE 4310-MR-M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 204

Pacific Ocean at San Miguel Island, California Danger Zone; Correction

AGENCY: Army Corps of Engineers, DOD.

ACTION: Final rule; correction.

SUMMARY: The Department of the Army published final rules in the **Federal Register** on February 3, 1982 (47 FR 4990–4991), amending the regulations which establish a danger zone at San Miguel Island, California, under 33 CFR 204.203. The statutory authority in 33 U.S.C. 3 was omitted in the **Federal Register** document. We are correcting that omission by inserting: "AUTHORITY: (33 U.S.C. 3)."

EFFECTIVE DATE: July 12, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph T. Eppard, HQDA, DAEN–CWO–N, Washington, D.C. 20314 or call (202) 272–0200.

Dated: June 30, 1982.

Approved:

James W. Ray,

Colonel, Corps of Engineers, Executive Director, Engineer Staff.

[FR Doc. 82-18734 Filed 7-9-82; 8:45 am]

BILLING CODE 3710-92-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–5–FRL 2066–6]

Approval and Promulgation of Air Pollution Control Regulations As Part of the Illinois State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On April 3, 1979, the Illinois Environmental Protection Agency (IEPA) submitted for incorporation in the Illinois State Implementation Plan (SIP) a number of rules and amendments to rules contained in Chapter 2 of the Illinois Pollution Control Board Rules and Regulations. This notice announces the Environmental Protection Agency (EPA) final approval of the incorporation of this material in the Illinois SIP.

DATE: This action will be effective on September 10, 1982 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Written comments should be addressed to Mr. Gary Gulezian, Chief of the Regulatory Analysis Section of the EPA Region V Air Programs Branch (address below). Copies of the material submitted by the State of Illinois are available at the following locations:

United States Environmental Protection Agency, Air Programs Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604

Public Information Reference Unit, U.S. Environmetal Protection Agency, Room 2922, 401 M Street, S.W., Washington, D.C. 20460

Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706

FOR FURTHER INFORMATION CONTACT: Mr. Randolph O. Cano at the EPA Region V address above, or call him at (312) 886–6035.

SUPPLEMENTARY INFORMATION: On April 3, 1979, the Illinois Environmental Protection Agency (IEPA) submitted a number of rules and amendments to

rules contained in Chapter 2 of the Illinois Pollution Control Board Rules and Regulations for incorporation in the Illinois SIP. EPA, however, in its February 21, 1980 rulemaking (45 FR 11472) indicated that it was taking no action at that time to include these regulations and amendments in the federally approved SIP.

EPA has subsequently reviewed these regulations and amendments. Each regulation and/or amendment is summarized below in order of the date of adoption by the Illinois Pollution Control Board (IPCB). The full text of these regulations is available for inspection at the addresses listed in the beginning of this notice.

The following Illinois Regulations were adopted on May 3, 1973.

Rule 301 serves as a preamble which discusses the nature and purpose of ambient air quality standards.

Rule 302 indicates that the standards of Part III are applicable throughout the State of Illinois except as otherwise provided in this part.

Rule 304 makes the standards contained in Part III effective 10 days after they are filed with the Secretary of State.

Rule 305 requires that pollution levels be determined by sampling stations beyond the premises on which a source is located. These stations will be established in conformance with the guidelines developed by the National Air Pollution Control Administration.

Rule 306 requires that all measures of air quality be corrected to a reference temperature of 25°C, and to a reference pressure of 760 millimeters of mercury (1013.2 millibars).

Rule 307 sets the primary and secondary ambient air quality standards for particulates and defines the measurement method.

Rule 308 sets the primary and secondary ambient air quality standards for sulfur oxide and defines the measurement period.

Rule 310 sets the ambient air quality standards for carbon monoxide and defines the measurement method.

Rule 311 sets the ambient air quality standards for nitrogen dioxide and defines the measurement method.

The following Illinois regulations were adopted March 28, 1975:

Amendments to Rule 103(i) were added exempting certain types of equipment which constitute only minor sources of air pollution from the requirement of an operating permit.

Rule 205(c) which regulates emissions of uncontrolled organic material emitted to the atomosphere from effluent water separators receiving 200 or more gallons per day of organic material from any equipment processing, refining, treating, storing or handling organic material was amended by deleting Rule 205(c)(2)(B).

Rule 206(c) which sets carbon monoxide emission standards and limitations from petroleum and petrochemical processes was relaxed by adding Rule 206(c)(2) and (3).

The following Illinois regulation was adopted on September 4, 1975:

Rule 204(f)(1) which sets sulfur dioxide standards and limitations for process emission sources was changed. It relaxes sulfur dioxide emissions standards for hydrogen sulfide flares at chemical manufacturing plants.

The following Illinois regulation was adopted on September 29, 1975:

Rule 205(f)(2)(D) which exempts any owner, operator, user or manufacturer of paint, varnish, lacquer, coatings or printing ink whose Compliance Program and Project Compilation Schedule provides for the reduction of organic material used in such processes to 20 percent or less of total volume by May 30, 1975, from the requirements of Rule 205(f) which prohibits the discharge of more than 8 pounds per hour of organic material into the atmosphere was changed.

The following Illinois regulation was adopted on November 23, 1977:

Rule 203(d)(9) which exempts certain small iron melting air furnaces located in Hoopeston, Vermilion County, Illinois from Rules 203(b) and 203(c) if certain conditions are met was added.

The following Illinois regulations were adopted on December 8, 1977:

Rule 201 defines Polybasic Organic Acid Partial Oxidation Manufacturing Process as any process involving partial oxidation of hydrocarbons with air to manufacture polybasic acids or their anhydrides, such as maleic anhydride, phthalic anhydride, terephthalic acid, isophthalic acid, or trimelletic anhydride.

Rule 206(h) which regulates the emission of gases containing carbon monoxide from polybasic organic acid partial oxidation manufacturing processes was added.

The following Illinois regulations were adopted on March 30, 1978:

Rule 201 defines coal refuse as waste products of coal mining, cleaning, and coal preparation operations containing coal, matrix material, clay and other organic and inorganic material.

Rule 207(a) was amended to incorporate two new provisions: Rule 207(a)(4) sets nitrogen oxide emission standards and limitations for new fuel combustion emission sources firing solid fossil fuel with actual heat input equal to or greater than 250 million btu per hour.

Rule 207(a)(5) sets nitrogen oxide emission standards for new fuel combustion emission sources burning simultaneously any combination of solid, liquid and gaseous fossil fuels with actual heat input equal to or greater than 250 million btu per hour.

EPA is today approving the incorporation of these regulations and/or amendments thereto without prior proposal. The public should be advised that this action will be effective September 10, 1982. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and a subsequent notice will be published before the effective da withdrawing the final action and beginning a new rulemaking by announcing a proposal of the action and establishing a comment period.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the present rule will not have a signficant economic impact on a substantial number of small entities since it imposes no burden on sources.

This regulation is exempt from the office of Management and Budget review under section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Clean Air Act, judicial review of these actions is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Sec. 110 of the Clean Air Act (42 U.S.C. 7407).)

Note.—Incorporation by reference of the State Implementation Plan for the State of Illinois was approved by the Director of the Federal Register on July 1, 1982.

Dated: March 23, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS.

1. Section 52.720 is amended by revising the introductory text of paragraph (c) (16) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(16) On April 4, 1979, the State submitted its draft nonattainment area plan for all areas designated

nonattainment as of March 3, 1978 and as revised on October 5, 1978. This submittal contained a request for extensions of the statutory attainment deadline for CO and O3. The submittal also included a vehicle emission inspection and maintenance program and a new source review plan. Although the State submittal also included the following provisions, U.S. EPA is taking no action to include them in the federally approved SIP at this time: the portions of Rules 101, 103 and 105 relating to the provisions addressing malfunctions, general requirements of the Clean Air Act which are not Part D requirements, and the provisions covering open burning, mobile source emission standards, diesel locomotive emission standards, sulfur dioxide emissions for certain fuel combustion sources located outside major metropolitan areas, compliance dates for organic emission limitations, particulate emissions from low carbon waste incinerators, and adoption of Federal New Source Performance Standards. In addition, U.S. EPA is not rulemaking at this time on those portions of the following rules which contain specified changes made between the publication of the notice of proposed rulemaking and the final rulemaking action:

* * * * *

[FR Doc. 82-18717 Filed 7-9-82; 8:45 am]
BILLING CODE 6560-38-M

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40 CFR Part 52

[A-4-FRL 2121-6]

Approval and Promulgation of Implementation Plan—Kentucky: Approval of Plan Revisions

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On June 6, 1979, the Kentucky Division of Air Pollution Control submitted numerous revisions to the State's implementation plan. EPA has conditionally approved the revisions which were submitted to satisfy the requirements of Part D of Title I of the Clean Air Act (CAA) for nonattainment areas. EPA today announces final approval of the remaining revisions in this submittal.

EFFECTIVE DATE: This action will be effective on September 10, 1982 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the materials submitted by the State may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460
Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365
Library, Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20005
Kentucky Department for Natural Resources and Environmental Protection, Division of Air Pollution Control, 18 Reilly Road, Bldg. 2, Fort Boone Plaza, Frankfort, Kentucky 40601.

FOR FURTHER INFORMATION CONTACT: Ms. Denise W. Pack, Air Programs Branch, EPA Region IV, at the above address, telephone 404/881-3286 (FTS 257-3286).

SUPPLEMENTAL INFORMATION: On May 13, 1972 (37 FR 10842), EPA approved Kentucky's State Implementation Plan (SIP) as submitted on February 8, 1972. On June 6, 1979, the Kentucky Department for Natural Resources and Environmental Protection adopted numerous revisions in its implementation plan and air pollution control regulations. Public hearings were conducted on the revisions on January 9, 10, April 16, and June 7, 1979. The revisions were submitted to EPA on June 29, 1979. EPA has already given conditional approval to the revisions which were submitted to satisfy the requirements of Part D of Title I of the Clean Air Act (CAA) for nonattainment areas. The non-Part D revisions being approved today deal with the following subjects:

- *General Administrative Procedures*—In this section the State has made minor changes to several definitions; the source sampling methods that have been incorporated by reference; and the procedures for which permit and compliance schedules are approved and enforced.
- *Hazardous Pollutants*—In this section a definition of hazardous air pollutants has been added and the classification dates for all of the pollutants have been changed.
- *New Source Standards and Existing Source Standards*—In this section the State has made numerous minor changes to the New Source Standards which include changes in the opacity limitations and applicability of the standard.

General Standards of Performance—In this section the State has rewritten its standard for fugitive emissions to make it more stringent and enforceable.

EPA has reviewed these revised regulations and found them to meet all applicable requirements. Therefore, EPA today approves the Kentucky revisions.

The public should be advised that this action will be effective September 10, 1982. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under 5 U.S.C. Section 605(b), I have certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See sec. 307(b)(2).)

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Note.—Incorporation by reference of the State Implementation Plan for the Commonwealth of Kentucky was approved by the Director of the Federal Register on July 1, 1982.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Section 110 of the Clean Air Act (42 U.S.C. 7410)

Dated: May 20, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Section 52.920 is amended by adding paragraph (c)(31) as follows:

§ 52.920 Identification of plan.

* * * * *

(c) The plans revisions listed below were submitted on the dates specified.

* * * * *

(31) Miscellaneous non-Part D revisions, submitted on June 29, 1979, by the Kentucky Department for Natural Resources and Environmental Protection.

[FR Doc. 82-18773 Filed 7-9-82; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 52

[A-9-FRL 2125-3]

Approval and Promulgation of Implementation Plans—Massachusetts—Revision for Metal Coil Coating

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The purpose of this document is to approve the State Implementation Plan (SIP) revision for metal coil coating in Massachusetts as submitted on June 24, 1980 by the Massachusetts Department of Environmental Quality Engineering (DEQE). This revision was prepared to meet the requirements of Part D (Plan Requirements for Non-Attainment Areas) and certain other sections of the Clean Air Act (the Act), as amended in 1977. Approval of this SIP revision will establish an emissions limit for the only metal coil coater in the state. This action is an Immediate Final Rulemaking.

EFFECTIVE DATE: This action will be effective September 10, 1982 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Comments may be mailed to Harley F. Laing, Chief, Air Branch, Room 1903, Environmental Protection Agency, Region I, JFK Federal Building, Boston, MA 02203. Copies of the Massachusetts submittal are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW, Washington, DC 20460; The Office of the Federal Register, 1100 L Street NW, Room 8401, Washington, DC; and the Department of Environmental Quality Engineering (DEQE), Division of Air Quality Control, One Winter Street, 8th Floor, Boston, Massachusetts 02111.

FOR FURTHER INFORMATION CONTACT: Cynthia L. Greene, (617) 223-5630.

SUPPLEMENTARY INFORMATION: On September 16, 1980 (45 FR 61293), EPA approved the Massachusetts SIP with the condition that, by July 15, 1980, the DEQE submit a metal coil coating regulation as a SIP revision. The DEQE submitted Regulation 310 CMR 7.18(10) on June 24, 1980 and it was consistent with EPA guidance, except that it contained an extended compliance date.

The regulation provides the source with the following two options for achieving the CTG recommended emission limitation of 2.6 pounds of VOC per gallon of coating (excluding water) at application:

1. The source can comply by July 1, 1980. This would normally necessitate using add-on control equipment since low/no solvent coatings were not available to the source in 1980.

2. The source can choose to postpone full compliance until December 31, 1984, if it chooses to study and develop low/no solvent coatings in order to achieve the emissions limitation. If the source elects this option it must be achieving annual incremental reductions according to the schedule which is specified in the regulation, and if at some point during the study it determines it cannot achieve full compliance through low/no solvent coatings, it must install add-on control equipment.

The extended compliance date was included in the regulation because the State believed that the only metal coil coater in the State, Teledyne Rodney Metals, needed additional time to achieve compliance through reformulation to low/no solvent coatings. Low/no solvent coatings eliminate the need for add-on control equipment and thereby significantly reduce overall plant energy requirements. EPA policy therefore allows the approval of an extended compliance date if it is demonstrated that the additional time is needed for a source to develop low/no solvent technology. (See Walter Barber's November 3, 1978 memorandum, "Categorical Compliance Schedule for VOC Sources").

Teledyne Rodney chose to study and develop low/no solvent coatings, but after converting to 50 percent waterborne coatings, Teledyne Rodney realized that it could not achieve full compliance with Regulation 310 CMR 7.18(10), nor could it resolve its nearby residents' odor complaints and maintain customer acceptance using waterborne coatings. It therefore decided that additional reformulation was not feasible, decided to change its control strategy and installed an incinerator (which was approved by the State on February 16, 1982) to achieve compliance with the regulation.

EPA has reviewed the materials submitted by the state and has concluded that the Massachusetts regulation for metal coil coating, submitted on June 24, 1980, is approvable, and that Teledyne Rodney is in compliance with 310 CMR 7.18(10).

This action fulfills the condition of approval on the metal coil coating portion of the Massachusetts 1979 SIP as set forth on September 16, 1980 (45 FR 61293). It also amends the Massachusetts VOC Surface Coating Bubble Regulation 310 CMR 7.18(2)(b) by procedures set forth in the July 21, 1981 Notice of Proposed Rulemaking (46 FR 37525), to allow metal coil coaters to bubble their emissions to achieve compliance.

This approval is being made without prior proposal because this action effects only one source, and the agency views this as a noncontroversial SIP revision and anticipates no comments. This action will be effective September 10, 1982 unless, within 30 days from the date of this Federal Register, notice is received that adverse or critical comments will be submitted. If such notice is received, the Region will publish two subsequent notices, one to withdraw this Immediate Final Rulemaking and one to announce a proposal action and establish a comment period before the effective date.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 10, 1982. This action may not be challenged later in proceedings to enforce its requirements. (See sec. 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulated matter, Carbon monoxide, Hydrocarbons.

(Sec. 110(a) and section 301(a) of the Clean Air Act, is amended (42 U.S.C. 7410(a) and 7601(a)))

Dated: July 2, 1982.

Anne M. Gorsuch,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Massachusetts was approved by the Director of the Federal Register on July 1, 1982.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart W—Massachusetts

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. Section 52.1120 is amended by adding paragraph (c)(47) as follows:

§ 52.1120 Identification of plan.

* * * * *

(c) * * *

(47) Regulation 310 CMR 7.18(10) for metal coil coating was submitted on June 24, 1980 by the Commissioner of the Department of Environmental Quality Engineering, in order to meet Part D requirements for ozone.

2. Section 52.1120 paragraph (c)(42) is revised to read as follows:

* * * * *

(c) * * *

(42) Regulation 310 CMR 7.18(2)(b), to allow existing surface coating lines regulated under 310 CMR 7.18 (4), (5), (6), (7), (10), (11), (12), (14), (15) and (16) to bubble emissions to meet the requirements of Part D for ozone was submitted by the Governor on March 6, 1981, and a letter clarifying state procedures was submitted on November 12, 1981. The emission limitations required by the federally-approved portion of 310 CMR 7.18 are the applicable requirements of the Massachusetts SIP for the purpose of section 113 of the Clean Air Act and shall be enforceable by EPA and by citizens in the same manner as other requirements of the SIP; except that emission limitations adopted by the state under and which comply with 310 CMR 7.18(2)(b) and the procedures set out in the letter of November 12, 1981 shall be the applicable requirements of the Massachusetts SIP in lieu of those contained elsewhere in 310 CMR 7.18 and shall be enforceable by EPA and by citizens.

* * * * *

§ 52.1166 [Amended]

3. Section 52.1166 is amended by removing and reserving paragraph (a)(1).

[FR Doc. 82-18721 Filed 7-9-82; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Parts 60 and 61

[A-9-FRL 2165-6]

Delegation of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS); State of Arizona

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation.

SUMMARY: The EPA hereby places the public on notice of its delegation of new source performance standards (NSPS) and national emission standards for hazardous air pollutants (NESHAPS) authority to the Pima County Health Department (PCHD). This action is necessary to bring the NSPS and NESHAPS program delegations up to date with recent EPA promulgations and amendments of NSPS and NESHAPS categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift primary program responsibility for the affected NSPS and NESHAPS source categories from EPA to local governments.

EFFECTIVE DATE: June 3, 1982.

FOR FURTHER INFORMATION CONTACT: David Jesson, New Source Section (A-3-1), Air Operations Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974-8220, FTS 454-8220.

SUPPLEMENTARY INFORMATION: The PCHD has required authority for delegation of certain NSPS and NESHAPS source categories. A delegation of authority was granted by letter dated May 24, 1982 and is reproduced in its entirety as follows:

Mr. C. Lee Fox,
Director, Air Quality Control District, Pima County Health Department, 151 West Congress Street, Tucson, AZ 85701.

Dear Mr. Fox: I am pleased to inform you that we are delegating to your agency authority to implement and enforce certain categories of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS). We have reviewed your request for delegation and have found your present programs, rules, and procedures to be acceptable. This delegation includes authority for the following source categories:

NSPS	40 CFR Part 60 subpart
Electric Utility Steam Generators	Da.
Storage Vessels for Petroleum Liquids	Ka.
Kraft Pulp Mills	Bb.
Grain Elevators	DD.
Stationary Gas Turbines	GG.
Lime Manufacturing Plants	HH.

NESHAPS	40 CFR Part 61 subpart
Vinyl Chloride	F.

In addition, we are redelegating the following NSPS and NESHAPS categories since your revised programs, rules, and procedures are acceptable:

NSPS	40 CFR Part 60 subpart
Fossil-Fuel Fired Steam Generators	D.
Incinerators	E.
Portland Cement Plants	F.
Nitric Acid Plants	G.
Sulfuric Acid Plants	H.
Asphalt Concrete Plants	I.
Petroleum Refineries	J.
Storage Vessels for Petroleum Liquids	K.
Secondary Lead Smelters	L.
Secondary Brass and Bronze Ingot Production Plants	M.
Iron and Steel Plants (BOPF)	N.
Sewage Treatment Plants	O.
Primary Copper Smelters	P.
Primary Zinc Smelters	Q.
Primary Lead Smelters	R.
Primary Aluminum Reduction Plants	S.
Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants.	T.
Phosphate Fertilizer Industry: Superphosphoric Acid Plants.	U.
Phosphate Fertilizer Industry: Diammonium Phosphate Plants.	V.
Phosphate Fertilizer Industry: Triple Superphosphate Plants.	W.
Phosphate Fertilizer Industry: Granular Triple Superphosphate.	X.
Coal Preparation Plants	Y.
Ferroalloy Production Facilities	Z.
Iron and Steel Plants (Electric Arc Furnaces)	AA.

NESHAPS	40 CFR Part 61 subpart
Asbestos	B.
Beryllium	C.
Mercury	E.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Parts 60 and 61. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Cordially yours,

Sonia F. Crow,
Regional Administrator.

cc. Arizona Department of Health Services.

With respect to areas under the jurisdiction of the PCHD, all reports, applications, submittals, and other

communications pertaining to the above listed NSPS and NESHAPS source categories should be directed to the PCHD at the address shown in the letter of delegation.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

(Secs. 111 and 112 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*))

Dated: June 29, 1982.

Sonia F. Crow,

Regional Administrator.

[FR Doc. 82-18661 Filed 7-9-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Parts 60 and 61

[A-9-FRL 2165-7]

Delegation of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS); State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation.

SUMMARY: The EPA hereby places the public on notice of its delegation of new source performance standards (NSPS) and national emission standards for hazardous air pollutants (NESHAPS) authority to the California Air Resources Board (CARB) on behalf of the Ventura County Air Pollution Control District (APCD). This action is necessary to bring the NSPS and NESHAPS program delegations up to date with recent EPA promulgations and amendments of NSPS and NESHAPS categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift primary program responsibility for the affected NSPS and NESHAPS source categories from EPA to local governments.

EFFECTIVE DATE: June 3, 1982.

FOR FURTHER INFORMATION CONTACT: David Jesson, New Source Section (A-3-1), Air Operations Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974-8220, FTS 454-8220.

SUPPLEMENTARY INFORMATION: The CARB has requested authority for delegation of certain NSPS and NESHAPS source categories on behalf of the Ventura County APCD. A delegation of authority was granted by letter dated May 24, 1982 and is reproduced in its entirety as follows:

Mr. James D. Boyd,
Executive Officer, Air Resources Board,
1709-11th Street, P.O. Box 2815,
Sacramento, CA 95812.

Dear Mr. Boyd: I am pleased to inform you that we are delegating to your agency authority to implement and enforce certain categories of New Source Performance Standards (NSPS) on behalf of the Ventura County Air Pollution Control District (APCD). We have reviewed your request for delegation and have found that the Ventura County APCD's present programs, rules, and procedures are acceptable. This delegation includes authority for the following source categories:

NSPS	40 CFR Part 60 subpart
General Provisions	A.

In addition, we are redelegating the following National Emission Standards for Hazardous Air Pollutants (NESHAPS) categories since the Ventura County APCD's revised programs, rules, and procedures are acceptable.

NESHAPS	40 CFR Part 61 subpart
Asbestos	B.
Beryllium	C.
Beryllium Rocket Motor Firing	D.
Mercury	E.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Parts 60 and 61. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you or the District of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the future.

Cordially yours,

Sonia F. Crow,

Regional Administrator.

cc: Ventura County Air Pollution Control District

With respect to Ventura County, all reports, applications, submittals, and other communications pertaining to the above listed NSPS and NESHAPS source categories should be directed to the Ventura County APCD at the address shown in 40 CFR Parts 60.4 and 61.4.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

(Secs. 111 and 112 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*))

Dated: June 28, 1982.

Sonia F. Crow,

Regional Administrator.

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Subpart A of Parts 60 and 61 Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart A—General Provisions

§§ 60.4 and 61.04 [Amended]

1. Sections 60.4(b)(F) and 61.04(b)(F) are each amended by revising the address of the Ventura County Air Pollution Control District to read as follows:

* * * * *

(b) * * *

(F) * * *

Ventura County Air Pollution Control District,
800 South Victoria Avenue,
Ventura, CA 93009

* * * * *

[FR Doc. 82-18662 Filed 7-9-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Parts 60 and 61

[A-9-FRL 2165-8]

Delegation of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS), State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation.

SUMMARY: The EPA hereby places the public on notice of its delegation of new source performance standards (NSPS) and national emission standards for hazardous air pollutants (NESHAPS) authority to the California Air Resources Board (CARB) on behalf of the South Coast Air Quality Management District (AQMD). This action is necessary to bring the NSPS and NESHAPS program delegations up to date with recent EPA promulgations and amendments of NSPS and NESHAPS categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift primary program responsibility for the affected NSPS and NESHAPS source categories from EPA to local governments.

EFFECTIVE DATE: June 3, 1982.

FOR FURTHER INFORMATION CONTACT:
David Jesson, New Source Section (A–3–1), Air Operations Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974–8220, FTS 454–8220.

SUPPLEMENTARY INFORMATION: The CARB has requested authority for delegation of certain NSPA and NESHAPS source categories on behalf of the South Coast AQMD. A delegation of authority was granted by letter dated May 24, 1982 and is reproduced in its entirety as follows:

Mr. James D. Boyd,
Executive Officer,
Air Resources Board,
1709—11th Street,
P.O. Box 2815,
Sacramento, CA 95812.

Dear Mr. Boyd: I am pleased to inform you that we are delegating to your agency authority to implement and enforce certain categories of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) on behalf of the South Coast Air Quality Management District (AQMD). We have reviewed your request for delegation and have found that the South Coast AQMD's present programs, rules, and procedures are acceptable. This delegation includes authority for the following source categories:

NSPS	40 CFR Part 60 subpart
General Provisions	A.
Storage Vessels for Petroleum Liquids	Ka.
Stationary Gas Turbines	GG.
Lime Manufacturing Plants	HH.
Ammonium Sulfate	[illegible]

NESHAPS	40 CFR Part 61 subpart
General Provisions	A.*

In addition, we are redelegating the following NSPS and NESHAPS categories since the South Coast AQMD's revised programs, rules, and procedures are acceptable:

NSPS	40 CFR Part 60 subpart
Fossil-Fuel Fired Steam Generators	D.
Incinerators	E.
Portland Cement Plants	F.
Nitric Acid Plants	G.
Sulfuric Acid Plants	H.
Asphalt Concrete Plants	I.
Petroleum Refineries	J.
Storage Vessels for Petroleum Liquids	K.
Secondary Lead Smelters	L.
Secondary Brass & Bronze Ingot Production Plants.	M.
Iron and Steel Plants (BOPF)	N.
Sewage Treatment Plants	O.
Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants.	T.
Phosphate Fertilizer Industry: Superphosphoric Acid Plants.	U.
Phosphate Fertilizer Industry: Diammonium Phosphate Plants.	V.
Phosphate Fertilizer Industry: Triple Superphosphate Plants.	W.
Phosphate Fertilizer Industry: Granular Triple Superphosphate.	X.
Coal Preparation Plants	Y.
Iron and Steel Plants (Electric Arc Furnaces)	AA.
Grain Elevators	DD.

NESHAPS	40 CFR Part 61 subpart
Asbestos	B.
Beryllium	C.
Beryllium Rocket Motor Firing	D.
Mercury	E.
Vinyl Chloride	F.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Parts 60 and 61. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you or the District of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Cordially yours,
Sonia F. Crow,
Regional Administrator.

cc: South Coast Air Quality Management District

With respect to areas under the jurisdiction of the South Coast AQMD, all reports, applications, submittals, and other communications pertaining to the above listed NSPS and NESHAPS source categories should be directed to the South Coast AQMD at the address shown in 40 CFR Parts 60.4 and 61.4.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

(Sec. 111 and 112 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*))

Dated: June 29, 1982.

Sonia F. Crow,
Regional Administrator.

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Subpart A of Parts 60 and 61 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart A—General Provisions

§§ 60.4 and 61.04 [Amended]

1. Sections 60.4(b)(F) and 61.04(b)(F) are each amended by revising the address of the South Coast Air Quality Management District to read as follows:

* * * * *

(b) * * *

(F) * * *

South Coast Air Quality Management District, 9150 Flair Drive, El Monte, CA 91731

* * * * *

[FR Doc. 82–18663 Filed 7–9–82; 8:45 am]
BILLING CODE 6560–50–M

40 CFR Parts 60 and 61

[A–9–FRL 2166–1]

Delegation of New Source Performance Standards (NSPS); and National Emission Standards for Hazardous Air Pollutants (NESHAPS); State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation.

SUMMARY: The EPA hereby places the public on notice of its delegation of New Source Performance Standards (NSPS) and National Emission Standards for the Hazardous Air Pollutants (NESHAPS) authority to the California Air Resources Board (CARB) on behalf of the Bay Area Air Quality Management District (AQMD). This action is necessary to bring the NSPS and NESHAPS program delegations up to date with recent EPA promulgations and amendments of NSPS and NESHAPS categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift primary program responsibility for the affected NSPS and NESHAPS source categories from EPA to local governments.

EFFECTIVE DATE: June 3, 1982.

FOR FURTHER INFORMATION CONTACT:
David Jesson, New Source Section (A–3–1), Air Operations Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974–8220, FTS 454–8220.

SUPPLEMENTARY INFORMATION: The CARB has requested authority for delegation of certain NSPS and NESHAPS source categories on behalf of the Bay Area AQMD. A delegation of authority was granted by letter dated May 24, 1982 and is reproduced in its entirety as follows:

Mr. James D. Boyd,
Executive Officer, Air Resources Board, 1709 11th Street, P.O. Box 2815, Sacramento, CA 95812.

Dear Mr. Boyd: I am pleased to inform you that we are delegating to your agency authority to implement and enforce certain categories of New Source Performance Standards (NSPS) on behalf of the Bay Area Air Quality Management District (AQMD). We have reviewed your request for delegation and have found that the Bay Area AQMD's present programs, rules, and procedures are acceptable. This delegation includes authority for the following source categories:

NSPS	40 CFR Part 60 subpart
Electric Utility Steam Generators	Da.
Kraft Pulp Mills	BB.
Grain Elevators	DD.
Stationary Gas Turbines	GG.
Lime Manufacturing Plants	HH.
Ammonium Sulfate	PP.

In addition, we are redelegating the following NSPS and National Emission Standards for Hazardous Air Pollutants (NESHAPS) categories since the Bay Area AQMD's revised programs, rules, and procedures are acceptable.

NSPS	40 CFR Part 60 subpart
General Provisions	A.
Fossil-Fuel Fired Steam Generators	D.
Incinerators	E.
Portland Cement Plants	F.
Nitric Acid Plants	G.
Sulfuric Acid Plants	H.
Asphalt Concrete Plants	I.
Petroleum Refineries	J.
Storage Vessels for Petroleum Liquids	K.
Secondary Lead Smelters	L.
Secondary Brass & Bronze Ingot Production Plants.	M.
Iron and Steel Plants (BOPF)	N.
Sewage Treatment Plants	O.
Primary Copper Smelters	P.
Primary Zinc Smelters	Q.
Primary Lead Smelters	R.
Primary Aluminum Reduction Plants	S.
Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants.	T.
Phosphate Fertilizer Industry: Superphosphoric Acid Plants.	U.
Phosphate Fertilizer Industry: Diammonium Phosphate Plants.	V.
Phosphate Fertilizer Industry: Triple Superphosphate Plants.	W.
Phosphate Fertilizer Industry: Granular Triple Superphosphate.	X.
Coal Preparation Plants	Y.
Ferroalloy Production Facilities	Z.
Iron and Steel Plants (Electric Arc Furnaces)	AA.

NESHAPS	40 CFR Part 61 subpart
General Provisions	A.
Asbestos	B.
Beryllium	C.
Beryllium Rocket Motor Firing	D.
Mercury	E.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Parts 60 and 61. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you or the District of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Cordially yours,
Sonia F. Crow, Regional Administrator.

cc: Bay Area Air Quality Management District

With respect to areas under the jurisdiction of the Bay Area AQMD, all reports, applications, submittals, and other communications pertaining to the above listed NSPS and NESHAPS source categories should be directed to the Bay Area AQMD at the address shown in 40 CFR Parts 60.4 and 61.4.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

(Secs. 111 and 112 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*))

Dated: June 29, 1982.

Sonia F. Crow,
Regional Administrator.

[FR Doc. 82-18884 Filed 7-9-82; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Parts 60 and 61

[A-9-FRL 2166-2]

Delegation of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS); State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation.

SUMMARY: The EPA hereby places the public on notice of its delegation of new source performance standards (NSPS) and national emission standards for hazardous air pollutants (NESHAPS) authority to the California Air Resources Board (CARB) on behalf of the San Diego County Air Pollution Control District (APCD). This action is necessary to bring the NSPS and NESHAPS program delegations up to date with recent EPA promulgations and amendments of NSPS and NESHAPS categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift primary program responsibility for the affected NSPS and NESHAPS source categories from EPA to local governments.

EFFECTIVE DATE: June 3, 1982.

FOR FURTHER INFORMATION CONTACT: David Jesson, New Source Section (A-3-1), Air Operations Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974-8220, FTS 454-8220.

SUPPLEMENTARY INFORMATION: The CARB has requested authority for delegation of certain NSPS and NESHAPS source categories on behalf of the San Diego County APCD. A delegation of authority was granted by letter dated May 24, 1982 and is reproduced in its entirety as follows:

Mr. James D. Boyd,
Executive Officer, Air Resources Board, 1709 11th Street, P.O. Box 2815, Sacramento, CA 95812.

Dear Mr. Boyd: I am pleased to inform you that we are delegating to your agency authority to implement and enforce certain categories of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) on behalf of the San Diego County Air Pollution Control District (APCD). We have reviewed your request for delegation and have found that the San Diego County APCD's present programs, rules, and procedures are acceptable. This delegation includes authority for the following source categories:

NSPS	40 CFR Part 60 subpart
General Provisions	A.
Electric Utility Steam Generators	Da.
Storage Vessels for Petroleum Liquids	Ka.
Glass Manufacturing Plants	CC.
Grain Elevators	DD.
Stationary Gas Turbines	GG.

NESHAPS	40 CFR Part 61 subpart
General Provisions	A.

In addition, we are redelegating the following NSPS categories since the San Diego County APCD's revised programs, rules, and procedures are acceptable:

NSPS	40 CFR Part 60 subpart
Petroleum Refineries	J.
Storage Vessels for Petroleum Liquids	K.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Parts 60 and 61. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you or the District of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Cordially yours,
Sonia F. Crow,
Regional Administrator.

cc: San Diego County Air Pollution Control District

With respect to San Diego County, all reports, applications, submittals, and other communications pertaining to the above listed NSPS and NESHAPS source categories should be directed to the San Diego County APCD at the address shown in 40 CFR Parts 60.4 and 61.4.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

(Secs. 111 and 112 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*))

Dated: June 29, 1982.

Sonia F. Crow,

Regional Administrator.

[FR Doc. 82-18685 Filed 7-9-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Parts 60 and 61

[A-9-FRL 2165-4]

Delegation of New Source Performance Standards (NSPA) and National Emission Standards for Hazardous Air Pollutants (NESHAPS); State of Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation.

SUMMARY: The EPA hereby places the public on notice of its delegation of new source performance standards (NSPS) and national emission standards for hazardous air pollutants (NESHAPS) authority to the Clark County Health District (CCHD). This action is necessary to bring the NSPS and NESHAPS program delegations up to date with recent EPA promulgations and amendments of NSPS and NESHAPS categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift primary program responsibility for the affected NSPS and NESHAPS source categories from EPA to State and local governments.

EFFECTIVE DATE: June 3, 1982.

FOR FURTHER INFORMATION CONTACT: David Jesson; New Source Section (A-3-1), Air Operations Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974-8220, FTS 454-8220.

SUPPLEMENTARY INFORMATION: The CCHD has requested authority for delegation of certain NSPS and NESHAPS source categories. A delegation of authority was granted by letter dated May 24, 1982 and is reproduced in its entirety as follows:

Mr. Michael H. Naylor, *P.E.*,
Director, Air Pollution Control Division, Clark County Health District, P.O. Box 4426, 625 Shadow Lane, Las Vegas, NV 89106.

Dear Mr. Naylor: I am pleased to inform you that we are delegating to your agency authority to implement and enforce certain categories of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS). We have reviewed your request for delegation and have found your present programs and procedures to be acceptable. This delegation includes authority for the following source categories:

NSPS	40 CFR Part 60 subpart
General Provisions	A.
Storage Vessels for Petroleum Liquids	Ka.
Grain Elevators	DD.
Stationary Gas Turbines	GG.
Lime Manufacturing Plants	HH.
Automobile and Light Duty Truck Surface Coating Operations	MM.

NESHAPS	40 CFR Part 61 subpart
General Provisions	A.
Beryllium Rocket Motor Firing	D.

In addition, we are redelegating the following NSPS and NESHAPS categories since your revised programs and procedures are acceptable:

NSPS	40 CFR Part 60 subpart
Fossil-Fuel Fired Steam Generators	D.
Incinerators	E.
Portland Cement Plants	F.
Asphalt Concrete Plants	I.
Storage Vessels for Petroleum Liquids	K.
Secondary Lead Smelters	L.
Sewage Treatment Plants	O.
Primary Copper Smelters	P.
Primary Zinc Smelters	Q.
Primary Lead Smelters	R.
Coal Preparation Plants	Y.

NESHAPS	40 CFR Part 61 subpart
Asbestos	B.
Beryllium	C.
Mercury	E.
Vinyl Chloride	F.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Parts 60 and 61. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Cordially yours,

Sonia F. Crow,

Regional Administrator.

cc: Division of Environmental Protection, Nevada Department of Conservation and Natural Resources

With respect to areas under the jurisdiction of the CCHD, all reports, applications, submittals, and other communications pertaining to the above listed NSPS and NESHAPS source categories should be directed to the CCHD at the address shown in the letter of delegation.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

(Secs. 111 and 112 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*)

Dated: June 29, 1982.

Sonia F. Crow,

Regional Administrator.

[FR Doc. 82-18690 Filed 7-9-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 81

[A-1-FRL 2160-1]

Designation of Areas for Air Quality Planning Purposes; Rhode Island

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is approving a request to change the attainment status of Providence, Rhode Island, for suspended particulate ambient air quality standards from nonattainment for primary standards to nonattainment for secondary standards. EPA is taking this action because the Rhode Island Department of Environmental Management has requested it. This redesignation will make Providence's suspended particulate attainment classification more accurately reflect current actual air quality measurements.

DATES: This action will be effective September 10, 1982 unless notice is received on or before August 11, 1982 that someone intends to submit adverse or critical comments.

ADDRESSES: Copies of Rhode Island's submittal are available for public inspection during normal business hours at the U.S. Environmental Protection Agency, Region I Air Branch—Room 1903, JFK Federal Building, Boston, Massachusetts 02203; U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street S.W.,

Washington, D.C. 20460; and the Rhode Island Department of Environmental Management, Division of Air Resources, Cannon Building, Room 204, 75 Davis Street, Providence, Rhode Island 02908.

Send written comments to Linda M. Murphy, Acting Chief, State Air Programs Branch, U.S. Environmental Protection Agency, at the Boston address listed above.

FOR FURTHER INFORMATION CONTACT: Brian Hennessey at the U.S. Environmental Protection Agency Boston address above or call (617) 223–4448.

SUPPLEMENTARY INFORMATION: For each pollutant for which there is a national ambient air quality standard (NAAQS), section 107(d) of the Clean Air Act requires all areas of the nation to be designated either (1) as attaining the NAAQS, (2) as unclassifiable with respect to attainment status, (3) as not meeting primary NAAQS, or (4) as not meeting secondary NAAQS for the pollutant. Primary NAAQS protect the public health; secondary NAAQS protect the public welfare. Providence, Rhode Island was designated nonattainment for the suspended particulate (TSP) primary NAAQS on May 7, 1981 (46 FR 25447) based upon air quality data collected in 1978 at a Westminister Street air sampler.

On February 28, 1982 the Rhode Island Department of Environmental Management (RIDEM) requested that EPA redesignate Providence from nonattainment for TSP primary standards to nonattainment for TSP secondary standards. RIDEM's submittal noted that the 1978 primary NAAQS violation occurred during a period of local and unusually high construction and demolition activity. Furthermore, RIDEM has reviewed its former TSP sampling practices and concluded that passive sampling error was likely to have biased TSP readings high enough to have caused the reported primary standards violation. Last, and supporting these two findings, no violation of the TSP primary NAAQS has been observed in the 3 years of sampling since 1978. For these reasons, EPA agrees with RIDEM that the 1978 TSP measurements at Westminister Street are an inappropriate basis for a nonattainment designation and approves the state's request to redesignate Providence from nonattainment for TSP primary to nonattainment for TSP secondary NAAQS. The secondary standards violation is based on TSP measurements collected in 1980 at Westminister Street.

Since this action affects only the designated air quality status of a limited geographical area, this rulemaking is considered noncontroversial. Based on past experience with similar actions in Region I, no adverse or critical comments are expected. Therefore, this action is being published as a final rulemaking. EPA believes that publishing a notice of proposed rulemaking is unnecessary.

However, if notice is received on or before August 11, 1982, that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective 60 days from the date of publication of this **Federal Register** notice.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This rule is not Major because it imposes no new regulatory requirements, but only changes an area's air quality designation. The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 10, 1982. This action may not be challenged later in proceedings to enforce its requirements. (See Sec. 307(b)(2).)

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: July 2, 1982.

Anne M. Gorsuch,

Administrator.

PART 81—DESIGNATION OF AIR QUALITY CONTROL REGIONS

Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. In § 81.340 the attainment status designation table for TSP is revised to read as follows:

§ 81.340 Rhode Island.

Designated areas	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Rhode Island—TSP				
Providence		X		
East Providence, Warwick, North Providence, Pawtucket, and Central Falls			X	
Remainder of Rhode Island portion of AQCR 120				X

(Secs. 107, 301 of the Clean Air Act, as amended (42 U.S.C. 7407, 7601))

[FR Doc. 82-18755 Filed 7-9-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 73 and 74

[Gen. Docket No. 81-911; RM-3533; FCC 82-283]

Reallocate Certain MHz Frequency Bands to Television and Radio Respectively in the State of Alaska.

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Alaska Public Broadcasting Commission, a government body of the State of Alaska, asked the FCC to make VHF-TV channels 5 and 6 and FM channels 201–260 (76–100 MHz) available for broadcast use in Alaska. Up until now broadcasters were not allowed to use these channels because they were reserved for another use, namely common carrier fixed operations. The FCC proposed to reallocate the spectrum between 76 and 100 MHz in a Notice of Proposed Rule Making adopted December 24, 1981, and released January 7, 1982. In this Report and Order, the FCC is adopting changes to its Rules which are required to make these channels available to broadcast operations in Alaska. With this action broadcasters in Alaska gain access to TV and FM channels which they may now use in providing service to the people of that State.

EFFECTIVE DATE: August 11, 1982.

FOR FURTHER INFORMATION CONTACT: Maureen Cesaitis—(202) 653–8164.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 2

Radio, Frequency allocation.

47 CFR Part 73

Radio broadcast, Television, Noncommercial educational FM stations.

47 CFR Part 74

Radio, Television, TV translators and low power TV stations, FM translators.

Report and Order

In the matter of amendment of Parts 2 of the Commission's rules governing frequency allocations and radio treaty matters general rules and regulations, 73 of the Commission's rules governing the Radio Broadcasting Services, and 74 governing Experimental, Auxiliary and Special Broadcast and Other Program Distributional Services to reallocate the frequency bands 76–88 and 88–100 MHz to television and radio respectively in the State of Alaska; Gen Docket No. 81–911, RM–3533.

Adopted: June 23, 1982.

Released: July 2, 1982.

1. Since 1955, the frequency band 76–100 MHz has been allocated, in the State of Alaska, for Government and non-Government fixed operations. This spectrum is presently allocated throughout the rest of the U.S. to the Broadcast Services and is commonly referred to as VHF Television Channels 5 and 6 (76–88 MHz) and FM Radio Channels 201–260 (88–100 MHz). In 1979, the Commission received a petition for rule making (RM–533) from the Alaska Public Broadcasting Commission (APBC) requesting reallocation of the band 76–100 MHz to the Broadcast Services in Alaska which would bring that State's allocation in line with the rest of the United States.[1]

2. On January 7, 1982, the Commission issued a *Notice of Proposed Rule Making (Notice)*[2] proposing to reallocate that portion of the spectrum between 76 and 100 MHz for shared use by the Broadcast Services on a primary basis and the Common Carrier Fixed Service on a secondary basis. The *Notice* also proposed to "grandfather" existing common carrier operations to provide them interference protection from new broadcast stations. A list of the existing fixed service licensees is included as Appendix B to this Order.

3. The eight comments and the two reply comments which were filed in response to our notice voiced unanimous support for the proposed reallocation, including the provisions for existing and future common carriers. Aurora Community Broadcasting, Alascom, State of Alaska, Northern Television, Alaska Public Broadcasting Commission (APBC), and Association of Maximum Service Telecasters (MST) urged the Commission to adopt the proposed Rule changes without delay. The remaining commenters qualified their support as follows:

4. Communication Equipment and Service, a radio common carrier (RCC) in Alaska, recommended that immediate reallocation take place but that licensing be deferred "* * * until all other available FM and TV channels have been exhausted." In reply comments, APBC opposed the RCC suggestion pointing out, among other reasons, the existence of other low VHF bands which are available to the RCC. We agree with APBC that such a delay in licensing would undermine the purpose of this rule making proceeding. Petitioner has already demonstrated the effects of needless restrictions on applicants for educational FM stations. Our purpose here is to eliminate these hindrances, not to prolong their existence.

5. The National Association of Broadcasters (NAB) supports the entire proposal, but recommends limiting fixed use of the 76–100 MHz band by establishing a cut-off date. However, NAB does not offer any specific date(s). We understand NAB's concern that at some time a broadcaster will be prevented from obtaining a TV or FM radio channel because an RCC is operating in that portion of the spectrum. We draw NAB's attention to the comments of MST where the latter explains why "[a] unique combination of circumstances makes [sharing] possible * * *" (page 2). Furthermore we now have no idea how long RCC's will continue to use the 76–100 MHz band in Alaska. Alascom, in its reply highlights the advantage of having "* * * a broad range of facilities * * *" available. In 1955, circumstances dictated that we reallocate the band for Government and non-Government Fixed use. The situation in 1982 is changed, and our action herein seeks to meet the new need for extensive cross-Service sharing. Our provisions for Fixed use of this band may indeed become obsolete as the common carriers gradually move to other parts of the spectrum. If so, we will then delete the Fixed provisions from these Rules.

6. Because of the eight parties' unanimous support for our proposal, and based on our own study of the population distribution and fixed-use locations, we are confident that reallocation of the 76–100 MHz band to the Broadcast Services is entirely in the interest of the people of Alaska. Without interrupting the Common Carrier Rural Radio Service in Alaska, we are expanding the number of available TV and FM channels, thus providing greater spectrum utilization on these frequencies in the State.

7. We have altered the language originally proposed for the affected rule sections in Parts 73 and 74. These changes are purely editorial and are intended simply to clarify the intent of the rules for ease of understanding. At the same time, we have included an editorial amendment of Section 73.513, which was not proposed, but which is necessary to reflect the adoption of the change in allocation.

8. Pursuant to section 605 of the Regulatory Flexibility Act (Pub. L. 96–354, September 19, 1980, 94 Stat. 1164; 5 U.S.C. 601 *et seq.*) the Commission certifies that the action contained herein will not have a significant economic impact on a substantial number of small entities. There is only one radio common carrier, Alascom, operating in the Fixed Service in Alaska in the 76–100 MHz range, and that entity is not a small business according to the Small Business Administration's criteria.

9. Accordingly, it is ordered that under the authority contained in sections 4 and 303 of the Communications Act of 1934, as amended, the Commission's Rules are amended as set forth in Appendix A, effective thirty days after publication in the **Federal Register.**

10. It is further ordered that a copy of this Report and Order be sent to the Chief Counsel for Advocacy of the Small Business Administration.

11. It is further ordered, that this proceeding is terminated.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

Parts 2 and 73 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

[1] At the time APBC filed (November 30, 1979), TV Channels 5 and 6 (76–88 MHz), and FM Channels 251–300 (98–108 MHz) were allocated to the Common Carrier Rural Radio Service in Hawaii. Hawaii's allocation has since been changed to conform with broadcast allocation of the contiguous States (46 FR 50372).

[2] 47 FR 983, General Docket 81–911.

PART 2—FREQUENCY ALLOCATION AND RADIO TREATY MATTERS: GENERAL RULES AND REGULATIONS

§ 2.106 [Amended]

1. Section 2.106 is revised by removing footnote designator US23 in column 5 for the bands 76–88 and 88–108 MHz.

2. Section 2.106 is revised by adding a new footnote, NG129, in column 7 for the bands 76–88 and 88–108 MHz.

3. Section 2.106 is revised by removing the text of footnote US23 from the list of footnotes following the Table of Frequency Allocations.

4. Section 2.106 is revised by adding a new footnote to the list of footnotes following the Table to read:

NG129 In Alaska, the bands 76–88 MHz and 88–100 MHz are also allocated to the Fixed service on a secondary basis to the Broadcast service. Broadcast stations operating in these bands shall not cause interference to and must accept interference from non-Government fixed operations authorized prior to January 1, 1982.

PART 73—RADIO BROADCAST SERVICES

1. In § 73.220, paragraph (b) is revised to read as follows:

§ 73.220 [Amended]

* * * * *

(b) In Alaska, FM broadcast stations operating on Channels 221–300 (92.1–107.9 MHz) shall not cause harmful interference to and must accept interference from non-Government fixed operations authorized prior to January 1, 1982.

* * * * *

2. In § 73.501, paragraph (b) is revised to read as follows:

§ 73.501 [Amended]

* * * * *

(b) In Alaska, FM broadcast stations operating on Channels 200–220 (87.9–91.9 MHz) shall not cause harmful interference to and must accept interference from non-Government fixed operations authorized prior to January 1, 1982.

* * * * *

3. Section 73.513 should be revised as follows:

§ 73.513 Noncommercial educational FM stations operating on unreserved channels.

Noncommercial educational FM stations other than Class D (secondary) which operate on Channels 221 through 300 but which comply with § 73.503 as to licensing requirements and the nature of the service rendered, must comply with the provisions of the following Sections of Subpart B: § 73.201 through § 73.213 (Classification of FM Broadcast Stations and Allocations of Frequencies) and such other Sections of Subpart B as are made specially applicable by the provisions of this Subpart C. Stations in Alaska authorized before August 11, 1982, using Channels 201–300 need not meet the minimum effective radiated power requirement specified in § 73.211(a). In all other respects, stations operating on Channels 221 through 300 are to be governed by the provisions of this Subpart and not Subpart B.

4. In § 73.603, paragraph (b) is revised to read as follows:

§ 73.603 [Amended]

* * * * *

(b) In Alaska, television broadcast stations operating on Channel 5 (76–82 MHz) and on Channel 6 (82–88 MHz) shall not cause harmful interference to and must accept interference from non-Government fixed operations authorized prior to January 1, 1982.

* * * * *

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST, AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

1. In § 74.702, the last sentence of paragraph (a)(1) is revised and the paragraph now reads as follows:

§ 74.702 Channel assignments.

(a) * * *

(1) Any one of the 12 standard VHF Channels (2 to 13 inclusive) may be assigned to a VHF low power TV or TV translator station. Channels 5 and 6 assigned in Alaska shall not cause harmful interference to and must accept interference from non-Government fixed operation authorized prior to January 1, 1982.

* * * * *

2. In § 74.1202, paragraph (b)(3) is revised to read as follows:

§ 74.1202 [Amended]

* * * * *

(b) * * *

(3) In Alaska, FM translators operating on Channels 201–280 (88.1–99.9 MHz) shall not cause harmful interference to and must accept interference from non-Government fixed operations authorized prior to January 1, 1982.

* * * * *

APPENDIX B.—LIST OF RECEIVE SITES OF EXISTING FIXED OPERATIONS AS OF JANUARY 1, 1982, INCLUDING PROPOSED INTERFERENCE PROTECTION CRITERIA

Rx stations	Lat	Long	Rx freq (MHz)	Rx occupied BW (KHz)	Rx threshold sensitivity (C/N-10dB)	Ant. type	Ant. gain (dBi)	Gnd. elev. ft. AMSL	Ant ft. AGL	Call sign	Ant azimuth	Interference criteria
Pelican	57 57 30.00	136 13 50.00	96.9000	510	−99 dBm	VC.004M (Andrew 3605A).	8.5	50.	80.	WGF39	318.02°	−116 dBm
Cape Spencer	58 11 56.00	135 38 15.00	93.6000	510	−99 dBm	VC.004M	8.5	70.	40.	WGF30	137.62°	−116 dBm
Cape Spencer	58 11 56.00	135 38 15.00	86.6000	510	−99 dBm	VY.005M (Scale CLFM).	7.0	70.	40.	WGF30	65.79°	−116 dBm
Gustavus	58 25 4.00	135 41 43.00	90.2000	510	−99 dBm	VY.005M	7.0	30.	60.	WGF35	246.15°	−116 dBm
Gustavus	58 25 4.00	135 41 43.00	82.4000	510	−99 dBm	VY.005M	7.0	95.	60.	WGF35	154.20°	−116 dBm
Hoonah	58 7.4090.	135 25 50.86	79.1000	510	−99 dBm	VY.005M	7.0	1539.	105.	WGF826	334.43°	−116 dBm
Hoonah	58 7.4093.	135 25 50.86	88.1000	264	−102 dBm	VY.005V	7.0	1539.	105.	WGF826	194.88°	−121 dBm
Hoonah Village	58 6 29.00	135 26 27.00	93.1000	264	−102 dBm	VY.005V	7.0	75.	30.	WGF36	19.68°	−121 dBm
Boswell Bay	60 25 4.00	146 9 8.00	95.4000	510	−99 dBm	VY.005M	7.0	782.	42.	WGF70	57.57°	−116 dBm
Sand Point	55 21 3.00	160 29 15.00	93.0000	60	−108.5 dBm	VC.004H	8.5	295.	66.	WGF45	255.66°	−127 dBm

NOTE.—The interference criteria denote the maximum allowable received interference levels (in dBm) over the receiver occupied bandwidth exceeded no more than 10% of the time.

[FR Doc. 82-18539 Filed 7-9-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[Docket No. 21502; RM-2737; FCC 82-281]

Radio Broadcast Services; Subscription Television Service

Preamble

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Four of the five issues raised in the Further Notice of Proposed Rule Making, relating to subscription television (STV) 46 FR 57078, published November 20, 1981, are resolved by this action which amends the Commission's rules. First, the rule restricting STV operation to communities within the Grade A contour of at least five commercial television stations, including that of the STV operator, is eliminated. Second, the requirement that an STV station broadcast at least 28 hours of conventional programming per week is eliminated. Third, the Commission is allowing either the purchase or lease of STV decoders by subscribers at the discretion of the STV licensee. Fourth, the requirement that an applicant for STV authorization ascertain the needs and interests of the community specifically with regard to subscription programming is eliminated. The deletion of these rules essentially deregulates the subscription television service. These restrictions have inhibited competition and unnecessarily burdened STV licensees while depriving the public of greater diversity in programming. Removal of these regulatory restraints will thus foster the development of this relatively new communications outlet and thereby provide consumers with more diverse programming.

DATE: Effective August 5, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Freda Lippert Thyden, Broadcast Bureau, (202) 632-7792, or Scott W. Roberts, Broadcast Bureau, (202) 632-6302.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television, Radio broadcast.

In the matter of Amendment of Part 73 of the Commission's rules and regulations in regard to § 73.642(a)(3) and other aspects of the subscription television service; Docket No. 21502, RM-2737.

Third Report and Order

Adopted: June 17, 1982.

Released: June 29, 1982.

1. This document is the *Third Report and Order* in the above referenced subscription television ("STV") proceeding.[1] Now before the Commission for consideration are the comments filed in response to a *Further Notice of Proposed Rule Making* ("*Further Notice*").[2] Four of the five issues raised in the *Further Notice* will be resolved in this *Order*. They are:

(1) Whether the rule restricting STV operation to communities within the Grade A contour of at least five commercial television stations, including that of the STV operator, should be modified or deleted;

(2) Whether the requirement that an STV station broadcast at least 28 hours of conventional programming per week should be modified or deleted;

(3) Whether the Commission should allow the purchase of decoders by subscribers or should retain the present system of permitting only the leasing of such equipment; and

(4) Whether the requirement that an applicant for STV authorization ascertain the needs and interests of the community specifically with regard to subscription programming should be deleted.[3]

2. To place our consideration of these issues in an historical context, we will briefly summarize the more detailed history of STV regulation contained in the *Further Notice*. After lengthy administrative proceedings, the Commission in 1968 established the basis for nationwide over-the-air STV service.[4] At that time it was concluded that STV could provide a beneficial supplement to conventional television programming and that, as an alternative medium, it might well provide a wholesome stimulus to conventional television which could lead to an improvement in overall programming available to the public. Until more was known about how STV would develop on a nationwide scale, the Commission decided it was best to proceed with caution.

3. Thus the regulations initially governing the subscription television service were imposed in the belief that they were necessary to maintain the availability of conventional programming. These regulations restricted STV operation to communities within the Grade A contour of at least five commercial television stations including that of the STV operator (the "complement of four" rule). In those communities, only one station was permitted to engage in STV operations (the "one-to-a-community" rule). Also, STV stations were required to broadcast at least 28 hours of conventional programming per week and operated under a variety of program restrictions. Additionally, to protect the public against the obsolescence of equipment or cessation of service during STV's infancy, decoder equipment could be leased but not purchased by subscribers.

4. Although non-experimental STV stations were permitted as of 1968, none commenced operation until almost a decade later. Because of the increased public interest in pay broadcast and the significant development of pay television technology, the Commission commenced a re-evaluation of its rules restricting STV service in 1977. *Notice of Inquiry and Proposed Rule Making ("Notice")*, Docket No. 21502, 67 F.C.C. 2d 202 (1977).

5. In the *First Report and Order ("First Report")* in Docket No. 21502, the Commission eliminated the rule providing that only one station in a community could engage in STV operations.[5] The Commission found that rather than precluding additional conventional programming, the growth of STV could both stimulate the use of UHF channels not currently utilized and provide a sound economic underpinning for existing UHF facilities. The Commission noted that since STV can obtain subscribers by responding to intense demands of a small viewing group, this communications service could make cultural, minority-oriented, or quality children's programming financially viable. Therefore, it was concluded that eliminating the "one-to-a-community" rule could hold the promise of more diversity in the mode and substance of television fare. The Commission also refused to require compatibility of STV systems, and decided that a cut-off procedure for applications for STV authorization was neither necessary nor beneficial in view of the elimination of the "one-to-a-community" rule.

6. In the *Second Report and Order* in Docket 21502 ("*Second Report*"), we

[1] Briefly described, subscription television broadcasting involves the broadcasting of a scrambled television signal which, on payment of a fee, subscribers are authorized to unscramble through use of a decoder. See *In the Matter of Subscription Television Program Rules*, 52 F.C.C. 2d 1, 2 (1974).

[2] 88 F.C.C. 2d 213 (1981).

[3] The fifth issue raised the question of whether STV stations should be made to comply with those television technical standards, largely in the audio performance area, not currently met by STV stations. We are not prepared, at this time, to resolve this issue.

[4] *Fourth Report and Order*, 15 F.C.C. 2d 466 (1968).

[5] FCC 79-535, 44 F.R. 60091 (published October 18, 1979).

established the policy that mutually exclusive applications proposing STV and conventional service would be compared by traditional comparative criteria.[6] The Commission found that STV is an alternate form of programming, and that the marketplace would more efficiently serve the public interest in selecting the more needed format.

7. Upon adoption of the *Second Report*, the only issues raised in the *Notice* which remained unresolved were: (a) Whether criteria should be established for comparing applications for STV authorization where the applicants hold licenses or construction permits, but only one can operate as an STV station because of the "complement of four" rule; (b) whether proceedings should be consolidated where an applicant is involved in two mutually exclusive hearings, one in which it seeks a construction permit for a new television station and the other in which it seeks an STV authorization; and (c) whether the purchase of decoders by subscribers should be allowed. Resolution of issues (a) and (b) was left to a final decision on whether to delete the "complement of four" rule. Deletion of the rule would obviate the need for both comparative criteria and consolidation of mutually exclusive STV and conventional application proceedings because no STV comparative situations would arise. These matters will be resolved in this *Third Report and Order.*

The STV Marketplace

8. The *Further Notice* indicated that nineteen STV stations were on the air as of April 1981, serving approximately 864,000 subscribers. *Further Notice* at paragraph 16. As of May 1, 1982, there were 27 stations operating in an STV mode in 18 different markets serving over 1,300,000 subscribers.[7] The 27 stations are as follows:

WWHT Newark, New Jersey
WSNL Smithtown, New York
KBSC Corona, California
KWHY Los Angeles, California
WSNS Chicago, Illinois
WFBN Joliet, Illinois
WWSG Philadelphia, Pennsylvania
WRBV Vineland, New Jersey
KTSF San Francisco, California
KSTS San Jose, California
WQTV Boston, Massachusetts
WSMW Worcester, Massachusetts
WXON Detroit, Michigan
WIHT Ann Arbor, Michigan
WCQR Washington, D.C.
WCLQ Cleveland, Ohio
KTWS Dallas, Texas
KNBN Dallas, Texas
KTXA Ft. Worth, Texas
WVEU Atlanta, Georgia
WKID Ft. Lauderdale, Florida
KECH Salem, Oregon
WBTI Cincinnati, Ohio
WCGV Milwaukee, Wisconsin
KNXV Phoenix, Arizona
KAUT Oklahoma City, Oklahoma
KGCT Tulsa, Oklahoma

An additional sixteen stations have been approved for STV operation, but they have not yet commenced operating in a pay mode.

9. STV stations provide both conventional and pay programming. Generally, from sign-on to about 7 or 8 pm, they present conventional programming much the same as other non-network affiliated stations. In the pay mode, the signal is scrambled so that only subscribers supplied with a decoder can receive the programming. Pay programming consists of unedited movies, sports and specials. Movies make up the bulk of the pay schedule and in any given month as many as twelve to twenty new titles are scheduled with older movies to provide the customer with diverse viewing. Specials include Las Vegas type shows and cultural events such as ballet, opera, symphonies and plays. Sometimes educational children's programs are also included in the earlier hours of pay programming. A few stations also present late night movies considered "adult" fare. These movies are offered for an additional fee over and above the regular monthly fee, a practice known as "tiering." Occasionally, some STV stations also charge an additional fee for a special telecast such as the Roberto Duran-Sugar Ray Leonard fight.

10. The costs to the STV subscriber are broken down into three categories: deposit, installation and monthly fees. Not all stations require a deposit, but, of those that do, the range is from $25 to $50. Installation fees vary from $30 to $100 and monthly charges range from $17 to $22.95. The average monthly charge is $19.95. Of those stations that use tiering, the second level generally costs an additional $5 per month.

Issues for Resolution

11. As indicated in the brief history of STV development discussed, *supra*, STV has been encumbered by administrative restrictions that had the unintended effect of inhibiting its growth because of concern over the availability of conventional programming. Although some deregulation has occurred, a number of restrictions, including the "complement of four" rule, remain intact. As stated in the *Further Notice*, a significant question to be resolved is whether STV should be viewed as an additional broadcast service with the ability to develop as the marketplace dictates or as a minor supplemental service limited to that role by government regulation. The comments filed in response to the *Further Notice* have aided us in making this determination.[8]

12. As will be discussed in further detail, we have concluded that STV should be given the opportunity to develop on an equal footing with conventional television since it can respond directly to the intensity of consumer preferences, and therefore serve the public interest. We find that conventional broadcasting need not be protected from STV incursion. Neither the data studied nor the comments submitted indicate that STV development threatens the preservation of conventional broadcasting. Whatever impact it has on the continued existence of conventional television is thus likely to be minimal.

The "Complement of Four" Rule

13. The "complement of four" rule was adopted to assure that a pay service would not replace an existing free service or use an allocated but vacant channel which could otherwise be utilized by a conventional station, unless there was a minimum of four operating conventional services available. The *Further Notice* proposed eliminating the "complement of four" rule because it constitutes a barrier which prevents implementation of STV service in many television markets. Moreover, we noted that STV can serve the public interest by leading to the activation of otherwise vacant UHF allocations, and providing a new service where no service was previously available. Finally, our own staff study concluded that very few existing conventional stations could be expected to alter their mode of operation and become STV stations in the absence of the "complement of four" limitation.

14. In response to the *Further Notice*, most parties who commented on the merits of the "complement of four" rule favored its elimination. They submit that the Commission has recognized the shortcomings of the STV eligibility requirement by granting waivers,

[6] 85 F.C.C. 2d 631 (1981). Traditional comparative criteria include, but are not limited to, diversification of mass media and integration of ownership and management.

[7] The STV subscriber count as of January 1, 1982, is based on information obtained from the Subscription Television Association.

[8] A list of the parties filing comments and/or reply comments is contained in Appendix B.

eliminating the restriction in connection with low power subscription operations, and by apparently viewing this limitation as unnecessary for and inconsistent with the development of Direct Broadcast Service ("DBS") subscription television services. Commenters assert that entrepreneurs should be encouraged to select the appropriate pay television delivery system for their products based on engineering and economic considerations and not on the basis of an eligibility rule. They further note that the restriction has had a limiting effect on the ability of television broadcasters to compete with other pay television modes.

15. Commenters also argue that the development of STV has not been at the expense or in place of conventional programming. Rather, STV has led to the construction of new stations and the broadcasting of conventional programming which otherwise might not have existed. Proponents of deleting the "complement of four" rule submit that its elimination would not cause conventional programming to be supplanted. Although the National Association of Broadcasters ("NAB") views the continued availability of free over-the-air television as crucial, it too believes that market forces can be relied upon to provide a mix of conventional and STV programming which would satisfy the public interest.[9] Most commenters conclude that the Commission's entry restriction does little more than deny large segments of the viewing public access to STV's programming services.[10]

16. Two parties addressed themselves specifically to the staff study analyzing the effect of relaxing the "complement of four" rule on conventional television. The Subscription Television Association ("STVA") [11] submits that operating experience demonstrates that the STV break-even point occurs at a much higher level than the staff estimated, and that therefore the study significantly overstated an entrepreneur's willingness to forego conventional programming and provide STV services.[12] On the other hand, Subscription Television of America ("STA") [13] argues that the study estimates the value of a television household to a conventional station at too high a level. STV submits that the value is really half the $109 estimated by the staff and therefore more conversions are likely to occur.

17. STA objects to a complete elimination of the "complement of four" rule. Instead, it suggests a hybrid approach to modifying the rule. According to STA, the rule should be modified so that it does not prevent the inauguration of new service. However, STA would retain the rule to the extent that it prevents an existing station from changing to an STV format, except in cases that warrant a waiver of the restriction. Only two other parties opposed eliminating the "complement of four" rule in its entirety, Liberty Communications, Inc. ("Liberty"), owner of 34 cable television systems, and Wometco Home Theatre, Inc. ("Wometco"), a cable as well as an STV entrepreneur. Liberty submits that elimination of the rule might lead to a significant loss of conventional service.[14] Wometco argues that diversity can be obtained in small communities through low power facilities without eliminating the rule.

18. In 1968, we concluded that a nationwide STV service is in the public interest. The growth of the service, particularly over the last few years, reinforces this conviction. STV can no longer be considered a service offering a product of uncertain appeal. Pay programming is now widely available over cable, through MDS systems, as well as STV stations. Proposals to offer vast subscription services via a DBS service have been filed with the Commission. There is clearly a market for pay video services and suppliers are likely to find themselves competing not only with conventional television but also among themselves.

19. There are some obvious advantages to be realized by allowing STV to be offered without the "complement of four" restriction. The most significant advantage is the activation of new stations. Of the 27 operating STV stations, 18 were activated on otherwise unused channels. Only 9 were converted from previously operating conventional stations. Sixteen additional STV authorizations have been issued, and applications for STV authority are pending for 31 other stations, for a total of 47 potential STV stations. Thirty-five of these 47 stations represent new stations and 12 represent conventional stations which would convert to STV.[15]

20. Since the overwhelming majority of existing STV stations (two-thirds) and issued STV authorizations and pending applications (three-fourths) involve activation of new channels, we can expect the elimination of the "complement of four" restriction to permit STV to activate previously vacant channels. In this regard, there are 133 television markets comprising 25 percent of all television households which do not qualify for STV because of the "complement of four" rule. There are 503 vacant television allocations, the vast majority of which are UHF. Deletion of the "complement of four" rule will allow many of those 133 markets to obtain STV service by virtue of the activation of unused allocations. The data indicates that at least two out of three STV stations activate otherwise vacant channels. Although our experience shows that such conversions have occurred, their proportion is at a rate that is acceptable because many more new stations are put into service. Moreover, a conventional station that converts to STV may well be replaced in the market by an entrepreneur who wishes to fill the conventional programming void that was created by the conversion. The large number of vacant allocations allows for marketplace dynamics to occur.[16]

21. The staff study (Appendix A of the *Further Notice*), to which we have already referred, consists of an economic analysis undertaken to determine the likely result of eliminating

[9] The Department of Justice comments that some loss of conventional programming is not necessarily bad. Justice states that a conversion from conventional to STV service is likely to increase net economic welfare because it is in every broadcaster's interest to provide the kind of programming most desired by its customers. Further, Justice notes that the marketplace is far more sensitive to customer desires than is the prohibition of the "complement of four" rule.

[10] The Department of Justice states in its comments that the "complement of four" rule prohibits *de novo* STV entry into a market with fewer than four existing conventional stations even though such entry involves no loss of conventional programming.

[11] STVA is a trade association comprised of companies which provide over-the-air subscription television services to the public. Its membership includes all of the STV operators now on the air.

[12] The staff study estimates the STV break-even point to occur between 25,000 and 40,000 subscribers, whereas STVA's estimate is 70,000 subscribers.

[13] STA has interests, through affiliated corporations, in operational STV franchisees in Atlanta, Georgia; Dallas, Texas; Chicago, Illinois; and Washington, D.C., and in proposed STV operations in St. Petersburg, Florida, and Boulder, Colorado.

[14] However, Liberty suggests that the public interest might warrant the Commission granting particular requests for waiver of the "complement of four" rule.

[15] In the *Further Notice* we found that about half of the 19 STV stations on the air in April 1981 had been converted from conventional stations. *Supra* at 219. These more recent figures indicate a significant increase in the ratio of new stations to conversions.

[16] We will entertain requests to amend the UHF Table of Assignments to add a channel to a community that has had an operating conventional station alter its format and become a pay service should such a request be filed by a party who indicates an intention to apply for a new authorization. The proposed reallocation would, of course, have to comply with relevant engineering requirements.

the "complement of four" restrictions of the mix of television services in markets thereby made available to STV. To predict the likely decisions of entrepreneurs who would consider markets opened up to STV by a change in the rule, the staff undertook to compare the advantages and disadvantages of each pay television delivery system, as well as the capital and operating costs of each system. The study concluded that cable has a significant advantage in head-to-head competition with STV. To apply this conclusion to an entrepreneur's decisional process, the staff also determined relative value of a single television household to both an STV station and a conventional station. By considering that value, along with the number of alternative pay and conventional program sources and the market's cable penetration, the staff concluded that the stations would remain conventional in both one and two station markets. As to markets with three or more operating stations, the staff concluded that there are really only *four* markets where conditions suggest a loss of conventional service if the "complement of four" rule is eliminated.[17] The reason loss of conventional service is expected to be minimal is that in many markets cable penetration is sufficiently great to make STV entry unlikely.

22. Of the two parties addressing the staff's economic analysis, STVA's argument that the study significantly overstated an entrepreneur's willingness to forego conventional programming and provide STV services merely buttresses the staff's conclusions that conventional programming would not significantly be impaired by eliminating the "complement of four" rule. We take issue, however, with STA's assertion that the study is flawed in projecting the likely conversion of conventional stations to STV operations because it estimates the value of a television household to a conventional station at too high a level. STA contends that the study incorrectly attributed certain monies to a conventional broadcaster that actually are received by the networks from advertisers for program distribution and other monies that are given to advertising agencies as a commission for services rendered. Thus, STA asserts that the staff study values a television household to a conventional station at twice its true value. Similar costs, however, also could reduce the value of a subscription household to half the amount used in the staff's analysis. Since no data has been offered to convince us that the staff's economic analysis is not essentially correct, we have no reason to dispute the study's conclusions. In any event, whether the staff's prediction that only four markets are likely to lose some conventional programming can be relied upon with precision is not crucial. What is significant is the fact that the study suggests only a limited loss of such programming. Even those who took issue with the study did not maintain that the loss would be significant.

23. Commenters have not expressed concern that the expansion of STV service will jeopardize the continued availability of conventional programming. There is very little information available demonstrating the effect of the addition of a premium service, such as STV, on existing service. Whether it would fractionalize the audience or create new audience (enlarge the audience) is not clear. However, we are satisfied that the growth of STV will not result in a net loss of service to the public. Net service loss would be a concern—increased competition is not. See *Carroll Broadcasting Co.* v. *FCC*, 258 F. 2d 440 (D.C. Cir. 1958).

24. The growth of pay cable and other pay services provides a compelling reason for removing restrictions to the introduction of STV.[18] In facing the competition offered by pay cable, STV stations are at a potential disadvantage because they operate on a single channel, whereas cable offers multiple channels. It has been found that pay services which enter a market first have an advantage over similar types of services which follow. We do not believe that the public interest is served by a regulation which restricts market entry by one pay service but leaves those markets open to others. Rather, the public is best served by allowing interested parties to establish STV stations wherever they believe a market exists and a channel is available.

25. It has been suggested that we retain a version of the "complement of four" rule that would permit institution of a new service but would prevent conversion by an operating conventional station in the absence of four other conventional signals. However, prospering conventional stations are usually not candidates for STV operation. If it were otherwise, many more stations already eligible to operate as subscription facilities would have chosen to do so. It is the marginal station that would consider conversion in an attempt to improve its situation. We do not wish to prohibit these stations from offering STV service, nor do we wish to adopt a test to evaluate the financial health of a conventional station that might apply for an STV authorization. Any such test would be arbitrary and would result in unavoidable delays that could prove fatal to the applicant. Moreover, such a rule would create an inequitable situation whereby an operating station could not offer a form of programming that is available to a newcomer with whom the operating station would eventually have to compete. We believe that existing stations should have the same options as applicants for new facilities. Finally, since we conclude on the basis of past performance and the staff's study that conventional television will continue to be viable in the absence of the "complement of four" rule, we perceive no overriding public interest justification for modifying the rule to permit new STV services while restricting the conversion of conventional services to an STV mode.

26. We also find it inappropriate and unnecessary to retain a more modest version of the rule, such as a complement of one or two. Our experience and the staff study indicates that STV provides a service that complements rather than substitutes for existing service. It has also been suggested that we retain the "complement of four" restriction, and apply a case-by-case waiver procedure to decide when the rule should be waived. Such a procedure would be time-consuming for all involved, *i.e.*, the STV applicant, the FCC and the public. Furthermore, a waiver procedure is only advisable if the rule generally governs. Since we believe this regulation is unnecessary, retaining it in any form would be inappropriate. Another suggestion offered by a commenter would employ low power television as a substitute for STV. However, low power stations have a restricted coverage area and are secondary facilities. They are another means, not a substitute method, for bringing diverse services to many communities.

27. We are aware that deletion of the "complement of four" rule theoretically means that all the television stations in a market could become STV stations and that there would be no absolute guarantee that "free" service would be available. Our decision here should not be interpreted as an indication that the

[17] The four markets are: Rochester, New York; Chattanooga, Tennessee; South Bend, Indiana; and Fort Wayne, Indiana.

[18] Approximately 12 percent of television homes now have pay cable. By 1985 this percentage is expected to rise to 17 percent. See *Wines, The Cable Revolution—Tough Choices for the Industry and the Government*, the National Journal, page 1891, October 24, 1981.

continued availability of conventional service is no longer deemed essential for the "fair, efficient, and equitable distribution of radio service" as mandated by section 307(b) of the Communications Act of 1934, as amended. Rather, it is our conclusion that the net result of our decision here will be the addition of new service. We do not expect to lose conventional programming which has been accepted by the community.

The "28 Hour" Rule

28. Like the "complement of four" rule, the "28 hour" rule was designed to ensure the availability of conventional programming. The complement guaranteed at least four conventional stations in a community, while the "28 hour" restriction mandated the provision of conventional programming on an STV station.[19] In 1968, the Commission was of the opinion that STV and conventional television could exist side by side on the same station, each service supplementing the other to the ultimate benefit of the public. However, the *Further Notice* asked whether the mix of conventional and pay programming might better be determined by the judgment of the individual entrepreneur and the demands of the marketplace. In the alternative, we solicited comments on a rule requiring conventional programming on a sliding scale according to the number of conventional stations in a community.[20] The *Further Notice* also indicated that elimination of the "28 hour" requirement would permit STV stations to forgo all nonscrambled programming. In this connection, we solicited comments on whether STV licensees should continue to bear the responsibility to provide programming responsive to community needs, and if so, whether STV stations should be permitted to fulfill their public service programming obligations through offerings presented on a subscription basis.

29. Many commenters addressed the issue of whether to relax the "28 hour" rule. All but one were in favor of eliminating this requirement. None, however, found the sliding scale approach a viable one.[21] Parties such as NAB submit that the rule's rescission would appear to be consistent with the First Amendment goal of reducing government involvement in broadcasters' programming decisions and licensees' choices as to how best to serve their audiences. While recognizing the possibility that eliminating the "28 hour" rule could result in some loss of conventional television programming in at least certain markets, NAB nevertheless believes that sufficient economic and competitive considerations exist to limit any potential loss of non-scrambled programming. A number of parties note that one of STV's benefits is that its success depends entirely upon subscriber satisfaction. The minimum hour requirement, however, restricts the independent judgment of STV licensees to meet subscriber demand. Cox Broadcasting Corporation submits that subscriber election to take or reject STV service represents a more direct and efficient means of influencing the licensee than intervention by the government to determine STV program schedules.

30. Only National Business Network, Inc. ("NBN"), licensee of an STV station, KNBN, Dallas, Texas, opposes deleting the "28 hour" rule at this juncture. It submits that inadequate STV operational experience makes it premature to either eliminate or modify this requirement. NBN's major concern in this matter is with a loss of competition and diversity in the STV industry. It alleges that STV operations are dominated by a handful of national businesses incapable or unwilling to deliver locally-oriented programming to the communities they serve. Of those parties responding to the *Further Notice*, only Liberty Communications, Inc., commented on the questions raised in regard to an STV licensee's obligation to provide responsive programming to ascertained community needs. Liberty submits that the Commission should permit STV stations to fulfill their public service programming obligations through offerings presented on a subscription basis.

31. As previously noted, we do not see a present or future need for regulations to protect conventional programming. Accordingly, we will no longer require STV systems to broadcast any conventional programming. We do not believe that the "28 hour" rule is necessary to assure an adequate amount of conventional programming. Even if STV stations air only subscription programming, there will be substantial conventional programming available from non-STV facilities. Nothing has been offered to substantiate a public need for, or interest in, the broadcast of a designated number of hours of non-scrambled programming by STV facilities.

32. We conclude that the "28 hour" rule places an unnecessary and potentially burdensome requirement on STV stations with no apparent concomitant public interest benefit. This rule may operate to restrict an STV licensee from exercising independent programming judgments, and it could prevent efficient programming determinations in response to audience demands for conventional and/or pay programming. If there is an audience for non-scrambled programming, STV licensees will find it in their interests to air such broadcasts. Community needs for conventional and pay programming differ and those relative needs should be adequately addressed and met by marketplace forces rather than an arbitrary government rule. Therefore, we are deleting the "28 hour" rule.

33. However, an STV licensee will be expected to continue to meet its obligation to program in response to community needs. No reasons were offered by commenters or are evident to us to indicate that STV and conventional licensees should have different obligations in this area. However, we believe that the public interest will be better served if this basic obligation is fulfilled with the least government intrusion and with the most licensee flexibility. Therefore, we will allow an STV broadcaster to meet its programming responsibilities with either scrambled or conventional programming. In fact, permitting the former will allow the development of new types of non-entertainment

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[19] Section 73.643(a) of the Commission's Rules provides: "Any television broadcast station licensee or permittee authorized to broadcast subscription programs shall broadcast in addition to its subscription broadcasts, at least the minimum hours of nonsubscription programming required by § 73.1740." Section 73.1740(a)(2)(ii) states that all commercial television stations are required to operate not less than 2 hours in each day of the week and not less than a total of 28 hours per calendar week once they have been in operation 36 months. Before that time, television licensees or permittees are required by § 73.1740(a)(2)(i) to meet less strenuous standards, those being "* * * not less than 2 hours daily in any 5 broadcast days per calendar week and not less than a total of:

(A) 12 hours per week during the first 18 months.

(B) 16 hours per week during the 19th through 24th month.

(C) 20 hours per week during the 25th through 30th month.

(D) 24 hours per week during the 31st through 36th month."

[20] For example, where the only station in a community was an STV facility, it might be required to present 28 hours of non-scrambled programming per week. If there were one conventional station in a community, the STV station would present at least 14 hours of non-scrambled programming. If two conventional stations were in operation, only 7 hours of such programming would be required by an STV operator. Finally, if three or more conventional stations were in operation, an STV licensee would have no conventional programming requirement.

[21] While preferring deletion of the minimum hour requirement, Cox Broadcasting Corporation submits that the sliding scale procedure is preferable to no modification of the rule at all.

programs designed for select audiences willing to pay for such broadcasts (narrow-casting). In our view, greater diversity in responsive programming will result from an STV licensee's option to meet its programming responsibilities by conventional or scrambled means.

The "Decoder Purchase" Option

34. Another regulation adopted in 1968 as a means to protect consumers was the requirement that STV equipment be leased and not sold to subscribers.[22] The Commission reasoned that the best way to protect the public against the obsolescence of equipment or cessation of service at that early stage of STV development was to adopt the lease only rule. It also stated that requiring decoders to be leased could conceivably stimulate the growth of STV since selling decoders for an unfamiliar service might be more difficult than leasing. The Commission noted, however, that at some later stage the public interest might better be served by permitting sale or lease. Since early STV operations demonstrated a measure of success, the *Further Notice* raised the issue of whether to allow licensees to offer the purchase and/or lease of decoders.

35. Of the fourteen parties commenting on this issue, most favored a relaxation of the "lease only" provision. They submit that the significant increase in existing and potential nationwide STV service to the public precludes any real concern over the likelihood of the extinction of STV. Commenters, such as Channel 57 Corporation ("57 Corporation"), permittee of STV Station WWSG–TV, Philadelphia, Pennsylvania, assert that the sale of decoders would save consumers money since rental fees accumulated over two to three years would exceed the purchase price of the decoder box. Another purported benefit of permitting the purchase of decoders is the reduction of the STV operator's capital requirements by eliminating the substantial financial outlay required to purchase decoders for lease to subscribers. 57 Corporation asserts that this reduction is significant in view of the high interest rates and tight money faced by entrepreneurs. Also, ABC notes that allowing the purchase of decoders will give STV operations parity with other pay technologies, such as pay cable, where decoders may be offered on a lease or purchase basis.

36. Those opposing a modification of the "lease only" rule submit that the threat of technological obsolescence is greater today than it was at the time the regulation was adopted. Then, STV services were anticipated as being fairly simple and geographically isolated. As the STV industry evolved, notes STVA, the services offered have became more complex, and in turn subscriber equipment is more sophisticated.[23] STVA argues that the STV operator should be the one to bear the burden of any major shift in design of decoder boxes. STVA contends that the "lease-only" rule should be retained in order to reduce the likelihood of marketing schemes which would attempt to sell decoder boxes like new automobiles based upon a premise of technological obsolescence.

37. Some commenters argue that there is still a threat of cessation of service. These parties maintain that most STV stations currently are operating at the edge of profitability notwithstanding the fact that the STV industry is now well established. STVA asserts that there would be a strong temptation to change decoder boxes and sell new ones as a means of raising quick capital each time that control of an STV franchise shifts from one company to another.

38. Some commenters also argue that if STV operators sell equipment to consumers, subscriber entry costs would escalate and harm the ability of STV operators to compete in the entertainment marketplace. According to American Television and Communications Corporation, the forced upfront purchase of a $150 decoder would be a substantial deterrent to subscriber growth, and the STV operator who relies on this approach would suffer accordingly.

39. Opponents further argue that Multipoint Distribution Service ("MDS") and cable operators do not sell subscriber equipment. They also assert that subscribers' accumulated rental fees do not exceed the purchase price of decoder equipment and that, if purchased, subscribers would have to bear any maintenance costs required for the decoder. According to STVA, the wholesale cost of decoders ranges from $100 to $200, while that portion of the monthly subscription fee attributable to decoders is only between $1.60 and $2.00 depending on whether the cost of the decoder is amortized over a five, six or seven year period. It argues that the cost to a consumer of purchasing a decoder could be substantial compared to the cost of leasing it, even for a period of fifteen years. STVA also submits that from a technological perspective, it is highly probable that over a fifteen year period decoder boxes will wear out or become obsolete. Consumers would then have to purchase new boxes to obtain the new technology and more sophisticated services.

40. One of the major concerns of opponents, such as Wometco Home Theatre, is piracy of the STV signal. They submit that subscriber purchases can only worsen the present problem of signal piracy by proliferating decoders owned by private parties. Even if a particular operator decides not to sell decoders, others may do so, thereby resulting in a pirate operation that will be difficult to quash.

41. Whether favoring or opposing the relaxation of the "lease only" rule, commenters generally recommend that, if purchase is allowed, the choice of offering sale and/or lease of decoders should be the province of individual STV entrepreneurs. They argue that this is a business matter best left to their judgment. Furthermore, giving this option to the STV operator allows it to decide whether the purchase of decoder equipment would create security problems. ABC contends, however, that whether or not an operator decides to offer decoders for purchase, it should be required to continue to offer decoders on a lease basis because significant changes in STV technology are still foreseeable. According to Telease, Inc., subscribers should be able to lease or purchase decoders at their option, but not until late in this decade. Until that time, STV operators should have that option, thus providing a reasonable opportunity for them to solve any security problems.

42. After careful consideration of the comments on this issue, we believe it is appropriate to eliminate our requirement that STV decoders must be leased to subscribers. Thus, licensees will be able to lease or sell decoders to their customers. An operator that insists that its subscribers buy a decoder will impose a substantial entry barrier on new customers. Similarly, an operator that changes decoders in order to raise new capital will very likely lose a significant number of subscribers in the process. With the availability of alternative forms of home video entertainment, including conventional television, cable, pay cable, MDS and potentially low power and DBS, a businessman must respond appropriately to the requirements of the marketplace.

[22] See § 73.642(f)(3) of the Commission's Rules.

[23] "Tiering" of services now is possible whereby several different programs may be offered, either simultaneously (using two or more available channels) or over time (as in the case of adult tiers offered late at night). Moreover, STVA asserts that widespread piracy of STV signals has caused nearly every new STV operation to use addressable decoding devices.

43. We recognize that encoding technology is in a state of flux, and that new and more secure systems are constantly being introduced. However, the possibility that a purchased decoder may become obsolete if the station decides to adopt a more modern system does not support a rule which absolutely bans the sale of decoders. Rather, it appears that the STV operator could retain subscriber good will by acknowledging the possibility of future new decoding systems when it offers a box for sale. The licensee may achieve the same type of customer satisfaction by offering a decoder owner a favorable price on any new decoder that is adopted by the station.

44. Finally, we do not believe that the sale of decoders by some or all STV operators may aggravate the piracy problem. Those individuals who may be capable of duplicating a decoder may be able to do so by utilizing boxes that are sold or rented to others or, for that matter, they may purchase the components from companies manufacturing and soliciting their sale.

45. In conclusion, allowing purchase or lease of decoder equipment at the STV operator's discretion can benefit both the businessman and consumer. As previously noted, decoder purchases can provide working capital to securely establish subscription operations. Additionally, the elimination of the restriction gives the STV operator the ability to change business practices on demand, thus serving himself and his subscribers. We do not believe that STV licensees should be restricted any longer in their ability to make a business judgment on whether to offer subscribers the purchase and/or lease of decoders. Thus, we are eliminating the rule prohibiting the sale of decoders.

The "STV Ascertainment" Study

46. One year after adopting the basic framework for the STV service, the Commission established guidelines for filing applications for STV authorization including the requirement that applicants survey the community's STV needs and interests.[24] This entails not only stating the methods used to ascertain those needs and interests, but indicating how the proposed STV programming will address them. The Commission believed that a substantial amount of STV programming might consist of feature films and sports with lesser amounts of STV programming offering opera, ballet or theater presentations. Thus, the Commission felt that ascertainment of the community's needs and interests regarding STV programming would initially be a search principally directed at the sports and entertainment needs of a community.

47. After observing a number of STV services in operation, we believed it appropriate to question the necessity of this ascertainment obligation. As stated in the *Further Notice,* it appears that ascertaining the community's STV interests could be accomplished by the operation of the marketplace. Is it not likely, we asked, that consumers will subscribe only to those who pay television systems offering programs meeting their STV interests? All those parties addressing the issue favor abolishing this requirement. They note that such action would be in keeping with the Commission's present policy of avoiding involvement in entertainment programming decisions.[25] Commenters further submit that the marketplace can most effectively and efficiently ensure that STV broadcasters provide subscription programming that meets the community's needs. Channel 57 Corporation contends that if an STV operator fails to present subscription programming that directs itself to the needs and interests of the community, subscriber support will dwindle. Thus, the success or failure of an STV operator will depend upon its programming and its ability to satisfy viewer demand. Inherent in such a process is determining the consumers' sports and entertainment programming needs.

48. We agree with commenters who submit that the basic economic relationship between an STV operator and the consumers of a community provides sufficient incentive for that operator to determine its service area's STV requirements and to provide programming that addresses these desires. It is in an STV operator's self-interest to maximize the number of subscribers. This can only be accomplished through meeting subscriber demand. The special STV ascertainment requirement is clearly unnecessary. It imposes a costly, time-consuming burden on the STV applicant with no benefit whatsoever accruing to the public. Consequently, we are eliminating the obligation on applicants to survey the *STV* needs of their service area.[26] [27]

Conclusion

49. In summary, we are persuaded from the data available to us and comments submitted by interested parties that deregulating the STV service will be of great benefit to the public. We have every expectation that the action taken herein will accelerate the utilization of unused channels, allow for additional specialized programming, provide financial support for small market stations and offer a unique broadcast service that directly responds to consumer interests to a far greater audience, *i.e.,* the entire country.

50. The removal of the "complement of four" restriction, the 28 hour rule, the lease-only limitation and the STV ascertainment requirement will aid not only the public but the STV industry as well. This pay broadcast medium now can effectively compete with other pay technological systems which do not operate under the same or similar regulatory restraints. The consequence of such competition should result in benefits to business and benefits to the consumer in the form of greater diversity in programming.

51. *Regulatory Flexibility Analysis:*

I. Need for and Purpose of the Rule

The Commission has concluded that the present restraints on the STV service inhibit the development of this broadcast medium while serving no public benefit. The proposal relaxation of the rules governing STV, by modification or deletion, will allow the natural expansion of the industry to the benefit of the public.

II. Summary of Issues Raised by Public Comment in Response to the Initial Regulatory Flexibility Analysis, Commission Assessment, and Changes Made as a Result

A. *Issues raised:*

1. Those commenting in response to our initial analysis generally favored our proposals to relax the restrictions imposed on the STV service.

2. A few parties, however, opposed particular proposals. Some believed that in order to ensure an adequate amount of conventional programming, the "complement of four" restriction and the 28 hour rule should be retained.

3. Others argued that allowing subscriber purchase of decoder equipment would endanger the security

[24] *Fifth Report and Order* in Docket No. 11279, 19 F.C.C. 2d 559 (1969).

[25] See, *FCC* v. *WNCN Listeners Guild,* 450 U.S. 582 (1981).

[26] No change in the Commission's rules is required as a consequence of the action taken herein eliminating the STV ascertainment obligation. This requirement appeared in the text of the *Fifth Report and Order,* 19 F.C.C. 2d 559 (1969), but was not the subject of any specific Commission rule.

[27] STV permittees, like other television permittees, are required to ascertain the community's needs, problems and interests and propose programs to meet those needs when applying for a license. Similarly, licensees must ascertain needs when applying for renewal. The action taken herein in no way affects this basic ascertainment requirement.

of the STV signal thereby increasing the problem of STV piracy. Thus, they opposed relaxing the requirement providing that STV equipment be leased and not sold to subscribers.

B. *Assessment.*

1. The Commission concludes that the arguments opposing the relaxation of various STV regulations are not persuasive.

2. We also conclude that both the public and industry will benefit from removal of regulatory restraints on STV development. Deregulation of this broadcast service will permit additional STV authorizations in additional television markets with reduced administrative and operating restrictions. Thus, consumers can be offered greater diversity in programming. We are convinced that relaxation of the rules will open up opportunities for small entities and reduce burdens imposed on them. In addition, STV entrepreneurs will be able to compete effectively with other pay technologies.

C. *Changes made as a result of such comment:*

1. In response to those comments favoring the removal of regulatory restraints, we are deregulating the STV service.

2. We did not adopt any of the suggestions made by those commenters opposing the elimination of particular STV restrictions.

III. Significant Alternatives Considered and Rejected

1. The *Further Notice* proposed eliminating or modifying the "complement of four" restriction and the 28 hour rule. Specifically, we considered whether the "complement of four" rule should be reduced to a complement of some number less than four. Also, we evaluated an option which would require conventional programming on a sliding scale according to the number of non-pay stations in a community.

2. The Commission concludes that these regulations are unnecessary for the preservation of conventional programming and have operated only to prevent STV from being competitive with other pay technologies. Thus, preserving these rules in some form not only is unnecessary but harmful to the public as well as industry.

52. Authority for adoption of the action taken herein is contained in sections 4(i) and 303 of the Communications Act of 1934, as amended.

53. Accordingly, it is ordered, That §§ 73.642, 73.643 and 73.644 of the Commission's Rules are amended, effective August 5, 1982, as described above and set forth in the attached Appendix A.

54. Accordingly, it is further ordered, That the proceedings concerning this *Third Report and Order* are terminated.

55. For further information concerning this proceeding, contact Freda Lippert Thyden, Broadcast Bureau, (202) 632-7792, or Scott W. Roberts, Broadcast Bureau, (202) 632-6302.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

PART 73—RADIO BROADCAST SERVICES

1. Section 73.642 of the Commission's Rules is amended by revising paragraph (a)(3) and removing paragraph (f)(3) in its entirety to read as follows:

§ 73.642 Subscription TV licensing policies.

(a) * * *

(3) An applicant for a construction permit for a new commercial television broadcast station: *Provided, however,* That such authorization will not be issued prior to issuance of the construction permit for the new station.

* * * * *

(f) * * *

(3) [Removed]

* * * * *

§ 73.643 [Amended]

2. Section 73.643 of the Commission's Rules is amended to remove paragraph (a) in its entirety and redesignate paragraph (b) as the sole undesignated paragraph of this section.

Appendix B

*Parties Filing Comments**

American Broadcasting Companies, Inc.
American Television and Communications Corporation
Channel 57 Corporation
Choice Channel of Kansas City, Inc.
Consumer Electronics Group of the Electronic Industries Association
Cox Broadcasting Corporation
Department of Justice
Liberty Communications, Inc.
Marnel Associates, Ltd.
National Association of Broadcasters
National Business Network, Inc.
Oak Industries, Inc.
Subscription Television Association
Subscription Television of America, Inc.
Telease, Inc.
Wometco Home Theatre, Inc.
Zenith Radio Corporation

Parties Filing Reply Comments

American Broadcasting Companies, Inc.
National Cable Television Association
Satellite Syndicated Systems, Inc.
Subscription Television Association
Subscription Television of America, Inc.

Separate Statement of Commissioner Mimi Weyforth Dawson re: Subscription Television Service

With this decision we are taking the major step of removing all Commission regulations that restrict the ability of television broadcast licensees to collect subscription revenues. Under the existing "complement of four" rule, subscription service is restricted to communities within the Grade A contour of at least five commercial television stations, including that of the STV operator. The Report and Order adopted today correctly observes that elimination of the "complement of four" restriction will have the very beneficial result for consumers of additional television outlets. However, as discussed below, the potential long term benefits of the Order are much more significant and far reaching.

The question of whether consumers will be better off under a subscription television system has been extensively discussed. For example, two decades ago Minasian correctly explained that:

> In an advertising-supported system the program results reflect an all-or-nothing type of voting since votes take weights of either one (viewer) or zero (non-viewer). In contrast, a subscription system can be expected to yield a more diversified program menu than an advertising system, because the former enables individuals, by concentrating their dollar votes, to overcome the "unpopularity" of their tastes.[1]

Of course, the scholarly literature on pay television has recognized that there is no clear answer to the question of what pricing structure maximizes consumer welfare. For example, Noll, Peck and McGowan observe that:

> The nature of a television broadcast precludes a solution which meets all of the efficiency criteria as satisfactorily as does a perfectly competitive industry producing a private good. Leaving aside the problem of income distribution, no structure will both insure equality of price and marginal cost and produce the socially most desirable mix and number of programs * * *[2]

Nevertheless, other scholars have argued that "pay TV with unrestricted entry and many competing channels (large numbers of differentiated products produced under

*The dates for filing comments and reply comments were originally December 21, 1981, and January 5, 1982, respectively. They were extended to January 15 and 29, 1982, by an *Order* adopted December 15, 1981. Because of severe weather conditions, the date for any submissions due to be filed on January 15, 1982, was extended to January 18, 1982, by the Commission. Thus, all comments were timely filed.

[1] Jora R. Minasian, "Television Pricing and the Theory of Public Goods," 7 *Journal of Law and Economics* 75 (1964).

[2] R. G. Noll, M. J. Peck and J. J. McGowan, *Economic Aspects of Television Regulation*, p. 28 (1973).

monopolistic competition) may at least begin to approach efficiency."[3]

The question for the Commission to determine is what pricing system has the prospect to be the most efficient one. I believe the optimal system is most likely to be the one that naturally evolves in the marketplace, even if it results in many conventional stations switching over to subscription operations. Over the long term, as we gain experience with the newer methods of distributing video information, the optional pricing structure for video distribution may, for example, turn out to be advertiser supported channels broadcast by direct broadcast satellites, pay channels broadcast by VHF and UHF television stations and per-program pay television delivered by cable television. The number of possibilities is endless. But the implication for consumers is not. With the growth of subscription services the quantity and quality of video information distributed to the home will increase dramatically. I do not believe that the Commission should place any restrictions on the ability of conventional broadcast stations, or any other video distribution technology, to provide subscription service. Therefore, I strongly support this deregulatory action.

[FR Doc. 82-18754 Filed 7-9-82; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 74-09; Notice 11]

Federal Motor Vehicle Safety Standards; Child Restraint Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Technical amendment.

SUMMARY: When the final rule establishing Standard No. 213, *Child Restraint Systems*, was issued, it included a section setting requirements for a diagram to show the proper installation of a child restraint within a vehicle. Although the preamble discussed the installation diagram requirement, the standard inadvertently did not require the diagram to be placed on the restraint. This notice makes the necessary technical amendment to correct the standard.

DATE: The amendment is effective August 26, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Vladislav Radovich, Office of Vehicle Safety System, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590 (202-426-2284).

SUPPLEMENTARY INFORMATION: In May 1978, the agency proposed a substantially upgraded Standard No. 213, *Child Restraint Systems* (43 FR 21470). In sections 5.5.2(a)-(k) of the standard, the agency proposed requirements for certain warning and installation labels for child restraints. In particular, section 5.5.2(k) proposed specific requirements for a diagram showing the proper installation of a child restraint in a vehicle. Section 5.5.1 of the standard proposed that all of the labels specified in 5.5.2(a)-(k) would have to be placed permanently on the child restraint.

When the agency issued its final rule, it expanded the labeling requirements for child restraints (44 FR 72131). The preamble for the final rule discussed the specifics of the expansion and the reasons for adopting the labeling requirements. Because of the expansion, the installation diagram requirement of section 5.5.2(k) of the proposal was redesignated as section 5.5.2(l) in the final rule. Inadvertently, section 5.5.1 of the standard was not modified to reflect the expansion of the labeling requirements and thus it continued to specify that only the information found in section 5.5.2(a)-(k) be placed on the child restraint.

Most manufacturers recognized the intent of the agency and have placed the correct installation diagram on their restraints. A number of manufacturers apparently have not included such diagrams on their child restraints.

This notice makes the necessary technical amendment to correct the standard to require the installation diagram to be placed on a child restraint. The effective date of this correction is August 26, 1982. This will allow time for the few manufacturers that have not included installation diagrams to prepare the needed diagrams for their child restraints.

The agency has determined that there is good cause for not providing additional notice and opportunity to comment on this technical amendment. The public has previously had notice and opportunity to comment on the installation diagram requirement. This technical amendment merely corrects an error arising from the redesignation of the installation diagram requirement during the rulemaking process.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

In consideration of the foregoing, Standard No. 213, *Child Restraint Systems* (49 CFR 571.213), is corrected as follows:

1. Section 5.5.1 is revised by amending it to read as follows:

Each child restraint system shall be permanently labeled with the information specified in § 5.5.2 (a) through (l).

2. Section 5.5.2 is revised by amending it to read as follows:

The information specified in paragraphs (a)-(l) of this section shall be stated in the English language and lettered in letters and numbers that are not smaller than 10 point type and are on a contrasting background.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on July 2, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 82-18722 Filed 7-9-82; 8:45 am]
BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1063

[Ex Parte MC 95 (Sub-1)]

Practices of Motor Common Carriers of Passengers; Checked Baggage Prohibitions and Liability Exemptions; Correction

AGENCY: Interstate Commerce Commission.

ACTION: Correction to notice of final rules.

SUMMARY: At 47 FR 21840, May 20, 1982, the Commission adopted regulations which define the groups of articles that motor common carriers of passengers (bus lines) may refuse to transport in checked baggage and for which bus lines may limit or disclaim liability for loss or damage. The regulations contained an inadvertent error, which omitted watches from the list of "valuable articles" given in § 1063.4(c)(3). That error is corrected below.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr., (202) 275-7656.

SUPPLEMENTARY INFORMATION: Correct § 1063.4, which is amended at 47 FR 21840, by adding the word "watches", to follow the word "jewelry" and to precede the words "and other" in

[3] B. M. Owen, J. H. Beebe and W. G. Manning, Jr., *Television Economics*, p. 80 (1974).

paragraph (c)(3), which appears in the second column on that page.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-18832 Filed 7-9-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 2707-123]

Ocean Salmon Fisheries Off the Coasts of California, Oregon, and Washington

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of closure.

SUMMARY: The Secretary of Commerce issues this notice to close the commercial salmon fishery in the fishery conservation zone between Cape Falcon, Oregon and Leadbetter Point, Washington (subarea B) on July 8, 1982. the Director, Northwest Region, National Marine Fisheries Service has determined that the commercial quota of 89,000 coho salmon for this subarea will be reached by that date. This action is to ensure that quotas for coho salmon are not exceeded in 1982.

EFFECTIVE DATES: Closure of subarea B to commercial salmon fishing is effective from 2400 hours Pacific Daylight Time (PDT), July 8, 1982, until 2400 hours PDT December 31, 1982.

FOR FURTHER INFORMATION CONTACT: H.A. Larkins (Director, Northwest Region, National Marine Fisheries Service), 7600 Sand Point Way, BIN C15700, Seattle, Washington 98115; telephone 206-527-6150.

SUPPLEMENTARY INFORMATION: Emergency regulations to implement a 1982 amendment to the fishery management plan (FMP) for the Commercial and Recreational Fisheries off the Coasts of Washington, Oregon, and California were published in the **Federal Register** (47 FR 21256) for the commercial fishery north of Cape Blanco, Oregon, and the recreational fisheries coastwide. These emergency regulations were effective on May 14, 1982, for a 45-day period and were extended for an additional 45 days on June 28 through August 11, 1982 (47 FR 28105).

These regulations specify at § 661.22 (a)(2) that when a subarea quota is projected by the Director, Northwest Region, National Marine Fisheries Service, (Regional Director) to be reached by a certain date, the Secretary shall, by publishing a field order in the **Federal Register**, close the commercial fishery as of the date the quota will be reached in that subarea.

The coho quota for the commercial fishery in subarea B is 89,000 coho salmon as stated in § 661.22 (a)(1). Based on the most recent catch data supplied by the Washington Department of Fisheries (WDF) and the Oregon Department of Fish and Wildlife (ODF&W), the commercial fishery in subarea B will reach the 89,000 coho salmon quota by July 8, 1982. The Secretary of Commerce therefore issues this notice that the commercial fishery in subarea B will be closed effective midnight, July 8, 1982. This notice does not affect seasons for other subareas specified in the 1982 regulations. Consultations were held with the Directors of WDF and ODF&W regarding the more-rapid-than-anticipated approach of the season closure. On the basis of that consultation, the Regional Director determined that no basis exists for adjusting the quota for subarea B as provided for in § 661.22(b)(1) (with respect to the contribution of private hatchery coho to established quotas).

As provided under § 661.22(c) all information and data relevant to this notice of closure have been compiled in aggregate form and are available for public review at the above-noted address during normal working hours.

This action is taken under the authority of 50 CFR 661.22, and is taken in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fish, Fisheries, Fishing, Indians.

(16 U.S.C. 1801 *et seq.*)

Dated: July 8, 1982.

William H. Stevenson,

Deputy Administrator, National Marine Fisheries Service.

[FR Doc. 82-18872 Filed 7-8-82; 3:35 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 47, No. 133
Monday, July 12, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 54

Regulations for Federal Meat Grading and Certification Services

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service proposes to amend the regulations governing the grading and certification of meats, prepared meats, and meat products by changing the basis for collecting fees on Federal legal holidays from establishments using Federal grading and certification services. The change that is being proposed will make charges for Federal grading and certification services more equitable among all users of the service without imposing additional costs to the industry.

DATE: Comments on this proposed rule must be received on or before September 10, 1982.

ADDRESS: Written comments may be mailed to David K. Hallett, Chief, Meat Grading and Certification Branch; Livestock, Meat, Grain, and Seed Division; Agricultural Marketing Service; U.S. Department of Agriculture; Room M-1, Annex Building; Washington, D.C. 20250. (For further information regarding comments, see "Comments" under Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: David K. Hallett (202/382-1246).

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed action has been reviewed under Executive Order 12291 and USDA Secretary's Memorandum 1512-1 implementing Executive Order 12291, and it has been determined that this is not a major rule. It will not result in an annual effect on the economy of $100 million or more. There will be no increase in production costs or prices for consumers, individual industries, Federal, State, or local governments, agencies, or geographic regions. Additionally, this rule will not adversely effect competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, a regulatory impact analysis is not required.

Regulatory Flexibility Act

Vern F. Highley, Administrator, Agricultural Marketing Service, has determined that this proposed action will not have an adverse economic impact on small entities. This proposed rule will make the industry's cost of using Federal grading and certification services more equitable among all establishments using the services without imposing additional costs to the industry.

Comments

Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent, in duplicate, to the Meat Grading and Certification Branch and should bear a reference to the date and page number of this issue of the **Federal Register**. Comments submitted pursuant to this proposed rule will be made available for public inspection in the Washington, D.C., Meat Grading and Certification Branch office during regular business hours.

List of Subjects in 7 CFR Part 54

Meat and meat products, Grading and certification, Beef, Veal, Lamb, Pork.

Background

The Agricultural Marketing Act of 1946, as amended, authorizes the Secretary of Agriculture to provide voluntary Federal meat grading and certification services to facilitate the orderly marketing of meats and meat products and to enable consumers to obtain the quality of meat which they desire. It also provides for the collection of fees from users of Federal meat grading and certification services which are approximately equal to the costs of providing services. The hourly fees for services include salary and fringe benefit expenses and the cost of supervision, travel, training, and other administrative and overhead costs.

The Department uses two methods of charging hourly fees for meat grading and certification services to ensure that the costs of providing services are recovered. Establishments located in areas where meat graders are assured of being utilized a minimum of 8 hours per day, Monday through Friday, are charged on an hourly, noncommitment basis. As such, these establishments pay only for the hours they actually utilize a meat grader and are not required to pay any charges on Federal legal holidays when grading and certification services are not provided.

Alternatively, in locations where insufficient work exists to justify stationing a permanent grader in the area, the Department arranges for an establishment or group of establishments to enter into a 40-hour commitment agreement for grading and certification services. Under a commitment agreement, the establishments guarantee a minimum payment for 8 hours of service per day, Monday through Friday, even if the meat grader is not utilized for the full 40 hours per week. This minimum payment includes 8 hours on any Federal legal holiday occurring Monday through Friday, even if the meat grader does not work on these legal holidays.

The Department has determined that it would be more equitable among all establishments using the service if commitment establishments are not required to pay for time on Federal legal holidays when no services are provided on these days. Therefore, the Department is proposing to eliminate the requirement that commitment users of the service guarantee a minimum payment for 8 hours on Federal legal holidays occurring Monday through Friday. The change will not affect the requirement that all establishments must pay for the hours they actually utilize a meat grader on Federal legal holidays. In addition, this action may make the use of grading and certification services more attractive on a commitment basis in outlying areas. Finally, no significant adverse effect on program revenue is anticipated as a result of this action.

In view of the foregoing, it is proposed that certain sections of the regulations appearing in 7 CFR Part 54, as they relate to commitment agreements and fees for Federal grading and certification

of meats, prepared meats, and meat products, be revised as set forth below.

PART 54—MEATS, PREPARED MEATS, AND MEAT PRODUCTS (GRADING, CERTIFICATION, AND STANDARDS)

1. The authority citation for Part 54 reads as follows:

Authority: Agricultural Marketing Act of 1946, secs. 203, 205, as amended; 60 Stat. 1087, 1090, as amended (7 U.S.C. 1622 and 1624).

2. 7 CFR 54.6(c)(2) and 54.27(b) are revised to read as follows:

§ 54.6 How to obtain service.

* * * * *

(c) Request by applicant for service

* * *

(2) *Commitment.* If desired, the applicant may request to enter into an agreement with the Agricultural Marketing Service for the furnishing of service on a weekly commitment basis, whereby the applicant agrees to pay for 8 hours of service per day, 5 days per week, Monday through Friday, excluding Federal legal holidays occurring Monday through Friday on which no grading and certification services are performed, as provided in § 54.27(b), and the Agricultural Marketing Service agrees to make an official grader available to perform such service for the applicant. However, the Agricultural Marketing Service reserves the right to use any grader assigned to a plant under such a commitment to perform service for other applicants when, in the opinion of the Chief, the grader is not needed to perform service for the commitment applicant. An applicant who terminates a commitment, and within 1 year after cancellation is granted a new commitment at his request, shall pay for the moving costs actually incurred by the Agricultural Marketing Service to cover the transfer of the grader who will service the applicant's new commitment. If more than one applicant is involved in the reapplication for a cancelled meat grading and certification commitment requiring the transfer of the grader, the moving costs will be prorated among the applicants according to each applicant's committed portion of the grader's services. However, the moving costs will be charged only to those applicants who were parties to the previously cancelled commitment. An applicant may, for periods of 3 months or less, enter into an agreement by memorandum with the Agricultural Marketing Service for the furnishing of service on a weekly basis. In the latter case, transfer of graders would not be involved and charges will be made in accordance with § 54.27.

§ 54.27 Fees and other charges for service.

* * * * *

(b) *Fees for Service on Commitment Basis.* Minimum fees for service performed under a commitment agreement shall be on the basis of 8 hours per day, Monday through Friday, excluding Federal legal holidays occurring Monday through Friday on which no grading and certification services are performed, calculated at the hourly rates in accordance with paragraph (a) of this section. Hours worked on Saturdays, Sundays, Federal legal holidays, and in excess of 8 hours per day will be charged at the appropriate hourly rate in accordance with paragraph (a) of this section. The Agricultural Marketing Service reserves the right under such a commitment to use any grader assigned to the plant on a commitment basis to perform service for other applicants as provided in § 54.6(c), crediting the commitment applicant with the number of hours charged to the other applicant, provided the allowable credit hours, plus hours actually worked for the applicants, do not exceed 8 hours on any day, Monday through Friday, excluding all Federal legal holidays.

* * * * *

Done at Washington, D.C.: July 6, 1982.

Eddie F. Kimbrell,

Deputy Administrator, Commodity Services.

[FR Doc. 82-18705 Filed 7-9-82; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Parts 1011, 1046, and 1098

[Docket Nos. AO-251-A23, AO-123-A48, and AO-184-A43]

Milk in the Tennessee Valley, Louisville-Lexington-Evansville and Nashville, Tennessee, Marketing Areas; Extension of Time for Filing Exceptions to Proposed Amendments to Tentative Marketing Agreements and to Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Extension of time for filing exceptions to proposed rules.

SUMMARY: This action extends the time for filing exceptions to a recommended decision concerning proposed amendments to the Tennessee Valley, Louisville-Lexington-Evansville, and Nashville, Tennessee, milk orders. The additional time was requested by Counsel for Dairymen, Inc. (DI), a cooperative association that represents producers in all three marketing areas.

DATE: Exceptions now are due on or before August 2, 1982.

ADDRESS: Exceptions (four copies) should be filed with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-4829.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing: Issued September 4, 1981; published September 11, 1981 (46 FR 45354).

Correction: Published September 22, 1981 (46 FR 46813).

Notice of Rescheduled Hearing: Issued September 24, 1981; published September 29, 1981 (46 FR 47588).

Suspension of Rule: Issued November 24, 1981; published November 30, 1981 (46 FR 58064).

Emergency Partial Final Decision: Issued January 15, 1982; published January 21, 1982 (47 FR 2999).

Final Order: Issued January 26, 1982, published January 29, 1982 (47 FR 4228).

Recommended Decision: Issued June 14, 1982; published June 21, 1982 (47 FR 26656).

Notice is hereby given that the time for filing exceptions to the recommended decision on proposed amendments to the Tennessee Valley, Louisville-Lexington-Evansville and Nashville, Tennessee, milk orders is hereby extended to August 2, 1982.

This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

List of Subjects in 7 CFR Parts 1011, 1046 and 1098.

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C. on July 6, 1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-18675 Filed 7-9-82; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 114

[Docket No. 82-033]

Viruses, Serums, Toxins, and Analogous Products; Amendment of Extension of the Expiration Date for a Serial or Subserial

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: Current regulations do not permit the extension of the expiration date for any portion of a biological product which has left the premises of a licensed establishment. The restriction applies to any product which is shipped between two licensed establishments owned or controlled by the same person. Since the Department has greater assurance that a product moving between two licensed establishments owned by the same person would be properly stored, handled, and shipped, this proposal would exempt such movements from the restriction but only on a one-time basis for a particular lot of the product.

DATE: Comments must be received on or before September 10, 1982.

ADDRESS: Interested parties are invited to submit written data, views, or arguments regarding the proposed amendment to: Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 828–A, Federal Building, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Dr. R. J. Price, Senior Staff Veterinarian, Veterinary Biologics Staff, USDA, APHIS, VS, Room 827, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8245.

SUPPLEMENTARY INFORMATION: This proposed amendment has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 to implement Executive Order 12291 and has been classified as a "non-major" rule.

Additionally, Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that these proposed changes would not have a significant economic impact on a substantial number of small entities. A small entity is defined as an independently owned firm not dominant in the field of veterinary biologics. This action would result in a beneficial effect to licensed producers with more than one establishment owned or controlled by the same person and would have no effect on other licensees.

This proposed amendment relating to extension of dating of biological products would allow such extension for serials, subserials, or portions thereof which had been shipped one time between licensed establishments owned or controlled by the same person. Current regulations specifically prohibit an extension of dating for product that has left licensed premises. Such prohibition is based on the fact that proper storage, handling, and shipment of biological products have a great bearing on their potency and stability. When biologics are shipped from one licensed establishment to another licensed establishment owned or controlled by the same person, there is greater assurance that such products would be properly stored, handled, and shipped. Proper storage conditions at both licensed locations which are subject to USDA inspection, and shipment under control of a single licensee warrant different treatment of such product from product which is found in normal distribution channels. The licensee using normal distribution channels has little control over the distributed product and cannot be assured that it is properly handled and protected from abuse by a distributor, wholesaler, or user at another location. Therefore, such product should not be considered for an extension of dating.

This proposed amendment would provide additional flexibility in distribution and control of inventories of the producers affected by it. Further, it has not been shown that existing regulations permitting the shipment between establishments owned or controlled by the same person of partially prepared products or serials of completed fractions of combination products in accordance with 9 CFR 114.3(d) has had any adverse effect on the quality of these products or components. Therefore, it is reasonable to believe that a one-time shipment of finished product between two establishments owned or controlled by the same person would not adversely effect such product thereby preventing consideration of an extension of dating.

List of Subjects in 9 CFR Part 114

Animal biologics.

PART 114—PRODUCTION REQUIREMENTS FOR BIOLOGICAL PRODUCTS

Section 114.14(a)(2) would be revised to read:

§ 114.14 Extension of expiration date for a serial or subserial.

(a) * * *

(2) For any serial or any portion of any serial which has left licensed premises; *Provided,* That product which has been shipped once between two licensed establishments owned or controlled by the same person shall be exempt from this requirement.

* * * * *

(37 Stat. 832–833; 21 U.S.C. 151–158)

All written submissions made pursuant to this notice will be made available for public inspection at the address listed in this document during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 12.7(b)).

Done at Washington, D.C., this 6th day of July 1982.

Norvan L. Meyer,

Acting Deputy Administrator Veterinary Services.

[FR Doc. 82-18777 Filed 7-9-82; 8:45 am]

BILLING CODE 3410-34-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 704

[OPTS-80011B; TSH-FRL 2169-7]

Small Manufacturer Exemption Standards Reporting and Recordkeeping Requirements; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; correction.

SUMMARY: EPA issued a proposed rule containing general exemption standards for "small chemical manufacturers" under section 8(a) of the Toxic Substances Control Act. The rule was published in the **Federal Register** of June 23, 1982 (47 FR 27206). This document deletes the words "or mixture" wherever they appear inappropriately in the rule proposal. This correction is necessary because the proposed small manufacturer exemption standards are intended to apply only to manufacturers of chemical substances. The standards, particularly the production volume criterion they contain, are not intended to apply to manufacturers of mixtures.

FOR FURTHER INFORMATION CONTACT: Douglas Bannerman, Acting Director, Industry Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–511B, 401 M St., SW., Washington,

D.C. 20460, Toll free: (800–424–9065), In Washington, D.C. (554–1404), Outside the USA: (Operator–202–554–1404).

SUPPLEMENTARY INFORMATION: The following corrections are made in FR Doc. 82–16794 appearing on page 27206 in the issue of June 23, 1982:

1. On page 27206, column 3, paragraph 5, line 7, the words "or mixture" are removed.

2. 40 CFR 704.65(a), (b)(4) and (8), and (c)(1) are corrected to read as follows:

§ 704.65 Persons who are small manufacturers.

(a) *Scope.* (1) Under the authority of section 8(a)(3)(B) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2607(a)(3)(B), this rule sets forth standards identifying small manufacturers (including importers) of chemical substances. Except as stated in paragraph (a)(2) of this section, the manufacturers who qualify as "small" under the standards contained in paragraph (c) of this section are exempt from rules promulgated under the authority of section 8(a) after June 23, 1982.

(2) Notwithstanding this exemption, the Administrator may, for any rule promulgated under section 8(a), require reporting or recordkeeping from any small manufacturer of a chemical substance that is subject to a rule proposed or promulgated under TSCA sections 4, 5(b)(4), or 6, or is subject to an order in effect under TSCA section 5(e), or is the subject of relief that has been granted under a civil action brought under TSCA section 5 or 7.

(b) * * *

(4) "Manufacturer" means a person who imports, produces, or manufactures a chemical substance. A manufacturer may own or control one or more manufacturing sites. A manufacturer may be owned or controlled by a foreign or domestic parent company.

* * * * *

(8) "Production volume" means the quantity of a chemical substance which is produced by a manufacturer, as measured in kilograms or pounds.

* * * * *

(c) * * *

(1) *First standard.* A manufacturer is small if its total annual sales, when combined with those of its parent company (if any), are less than $30 million. However, if the annual production volume of a particular chemical substance at any individual site owned or controlled by the manufacturer is greater than 45,400 kilograms (100,000 pounds), the manufacturer shall not qualify as small for purposes of reporting on the production of that chemical substance at that site, unless the manufacturer qualifies as small under paragraph (c)(2) of this section.

* * * * *

Dated: July 7, 1982.

John A. Todhunter,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 82–18844 Filed 7–9–82; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 761

[OPTS–62017C; TSH FRL 2170–01]

Polychlorinated Biphenyls (PCBs); Notice of Availability of Guidelines for the Analysis of PCBs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule-related notice.

SUMMARY: In the **Federal Register** of June 8, 1982 (47 FR 24976), the Environmental Protection Agency issued a proposed rule which excluded Polychlorinated Biphenyls (PCBs) produced in closed manufacturing processes and controlled waste manufacturing processes from the Toxic Substances Control Act (TSCA) ban on the manufacture, processing, distribution in commerce and use of PCBs. In the proposed rule, EPA announced that it was in the process of developing guidelines for use in analyzing air emissions, water effluents, commercial products, and process waste streams from closed and controlled waste processes for PCBs. This notice announces the availability of the guidelines, which includes (1) a guidance document addressing sample collection and (2) detailed protocols for sample analysis as well as an EPA-sponsored analytical method validation study for review and comment.

DATES: Elsewhere in today's issue of the **Federal Register**, an informal hearing on the proposed rule is announced for July 26, 1982 in Washington, D.C. Comments on the guidance document, the proposed protocols and the analytical method validation study should be submitted by July 26, 1982. However, reply comments will be accepted for two weeks following the close of the hearing.

ADDRESSES: Comments should be submitted to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, D.C. 20460.

Comments should bear the identifying notation OPTS 62017C. The administrative record, including comments supporting this action is available for public inspection in Rm. E–107 at the address noted above from 8:00 a.m. to 4:00 p.m. Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–509, 401 M St., SW., Washington, D.C. 20460, Toll free (800–424–9065), in Washington, D.C. (554–1404), Outside the USA (Operator–202–554–1404).

SUPPLEMENTARY INFORMATION: The proposed rule published in the **Federal Register** of June 8, 1982 (47 FR 24976) excluded PCBs produced in closed and controlled waste manufacturing processes from the TSCA ban on the manufacture, processing, distribution in commerce, and use of PCBs. Closed manufacturing processes were defined as chemical processes in which PCBs are generated but from which no quantifiable PCBs are released to air, water, products, or wastes if capillary gas chromatography (CGC) coupled to electron impact mass spectrometry (EIMS) were used to analyze for PCBs. Similarly, controlled waste manufacturing processes were defined as chemical processes in which PCBs are generated but from which no quantifiable PCBs are released to air, water, or products if CGC/EIMS were used to analyze for PCBs, and any PCB containing wastes are disposed of by EPA-approved methods.

In the proposed rule, EPA described guidelines that it was in the process of developing for conducting chemical analyses of commercial products, air emissions, water effluents, and process waste streams for inadvertently produced PCBs by CGC/EIMS. EPA described the guidelines as addressing seven areas: (1) Sample collection and homogenization of the sample, (2) addition of surrogate compounds to the sample, (3) extraction and cleanup of the sample, (4) concentration or dilution of the sample, (5) analysis of the final extract, (6) reporting the results of the chemical analysis, and (7) developing a quality assurance program (QAP).

Since the publication of the proposed rule, EPA has prepared a guidance document addressing sample collection, developed protocols for sample analysis and has, in addition, sponsored an

analytical method validation study to test the efficacy of the EPA-specified analytical protocol for the analysis of non-Aroclor PCBs (CGC/EIMS). The method validation exercise was undertaken to check the validity of the proposed protocol for the analysis of PCBs in commercial products and process waste streams in particular. The samples analyzed to date in the validation study were provided by Dow Chemical Company and Vulcan Materials Company (through the cooperation of the Chemical Manufacturers Association) and by the Dry Chemical Manufacturers Association.

Data are presented in the preliminary analytical method validation study from the analyses of individual cleanup procedures as well as from the actual CGC/EIMS analyses of commercial products and process waste samples. Although these are preliminary studies conducted in a very short timeframe, the data generated from the studies indicate that the proposed method is applicable and useful for the analysis of PCBs in the matrices studied.

The guidance document provides detailed guidance on sample collection. The proposed protocols address separately, protocols for the analysis of chlorinated biphenyls generated as impurities or byproducts in commercial products, process wastes, air releases, and industrial wastewater. The document provides detailed guidance on extracting, purifying, separating, and detecting PCBs in the four media listed above. In addition, it provides detailed guidance on developing quality assurance plans to insure the integrity of the analytical data produced by the specified protocols.

Both the guidance document and the initial proposed protocols and analytical method validation study are available for review and comment in Rm. E–107 at the EPA address given above or by contacting the Industry Assistance Office (see **FOR FURTHER INFORMATION CONTACT**).

List of Subjects in 40 CFR Part 761

Hazardous materials, Labeling, Polychlorinated biphenyls, Recordkeeping and reporting requirements, Environmental protection.

Dated: July 7, 1982.

John A. Todhunter,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 82–18845 Filed 7–9–82; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 761

[OPTS 62017B; 2169–8]

Polychlorinated Biphenyls (PCBs); Manufacture, Processing, Distribution, and Use in Closed and Controlled Waste Manufacturing Process; Notice of Informal Hearing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule related notice.

SUMMARY: As the result of requests, this notice announces that EPA will hold an informal hearing on its proposed rule to exclude the production of Polychlorinated Biphenyls (PCBs) in closed and controlled waste manufacturing processes from the provisions of section 6(e) of the Toxic Substances Control Act.

DATE: The informal hearing will be held on July 26, 1982, beginning at 9 a.m.

ADDRESS: The informal hearing will be held in: Rm. 3906, Waterside Mall, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Douglas G. Bannerman, Acting Director, Industry Assistance Office (OTS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–511, 401 M St., SW., Washington, D.C. 20460, Toll free: (800–424–9065), In Washington, D.C.: (554–1404), Outside the USA: (Operator—202–554–1404).

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 8, 1982 (47 FR 24976), notice was given that an informal hearing on EPA's proposed rule to exclude the production of PCBs in closed and controlled waste manufacturing processes from the provisions of section 6(e) of the Toxic Substances Control Act would be held, if requested, on August 6, 1982. The date of that informal hearing was corrected to July 23, 1982 in the **Federal Register** of June 14, 1982 (47 FR 25555). The date was tentative pending determination whether there would be an informal hearing. Since then, EPA has received requests to hold the informal hearing and the date has now been set to accommodate those requests. The hearing will take place on July 26, 1982.

List of Subjects in 40 CFR Part 761

Hazardous materials, Labeling, Polychlorinated biphenyls, Recordkeeping and reporting requirements, Environmental protection.

Dated: July 7, 1982.

John A. Todhunter,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 82–18843 Filed 7–9–82; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Denial of Petition for Rulemaking; Strobe Lights on Motorcycles

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Denial of petition for rulemaking

SUMMARY: This notice records the denial of a petition for rulemaking by Dennis Palmer to allow the use of a small strobe light on motorcycles. The purpose of the light is to enhance motorcycle conspicuity. The agency concluded that, as designed, the light would impair the effectiveness of the headlamps and turn signals.

FOR FURTHER INFORMATION CONTACT:

Marx Elliott, Crash Avoidance Division, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–426–1714)

SUPPLEMENTARY INFORMATION: Dennis Palmer of Fairview, Pennsylvania, petitioned the agency for rulemaking to amend Motor Vehicle Safety Standard No. 108 to allow the use of a small strobe light for the purpose of enhancing motorcycle conspicuity. The lamp would emit 190 candelas, and be positioned 1 to 2 inches below the headlamp, and within 10 to 12 inches of the turn signal lamps. It would flash at a rate of 45 to 55 flashes per minute.

The agency concluded that the effectiveness of the headlamp and turn signals would be impaired by the location and intensity of the strobe lamp. Turn signal effectiveness would also be diminished by the strobe's flash rate which is slightly below the minimum required for the signals. Accordingly, the agency denied the petition. However, because the agency believes the concept of a variable intensity lamp has merit, it has encouraged Mr. Palmer to re-think his device in accordance with NHTSA's comments with the possibility of submitting another petition at a later date.

(Sec. 124, Pub. L. 89-492, 88 Stat. 1470 (15 U.S.C. 1410a); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on July 2, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 82-18739 Filed 7-9-82; 8:45 am]

BILLING CODE 4910-59-M

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49 CFR Part 571

Federal Motor Vehicle Safety Standards; Termination of Rulemaking Proceeding

AGENCY: National Highway Traffic Safety Administration (NHTSA) DOT.

ACTION: Termination of rulemaking proceeding.

SUMMARY: The purpose of this notice is to announce the termination of a rulemaking proceeding to amend Safety Standard No. 214, *Side Door Strength*, to upgrade motor vehicle side impact protection and to extend the applicability of the standard to light trucks, vans and multipurpose passenger vehicles. The agency issued an advance notice of proposed rulemaking concerning the possibility of such an amendment on December 6, 1979. Because extensive research still remains to be completed to determine the best approach for upgrading the standard, and because a notice of proposed rulemaking is not contemplated in the near future, the agency has determined that it is proper to terminate the rulemaking proceeding at the current time. The rulemaking will be re-opened after research has progressed to the point that definitive test methods and performance parameters can be developed.

DATES: This termination is effective July 12, 1982.

ADDRESS: Any interested person who would like to submit information or data concerning side impact protection in motor vehicles should forward that information to: National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Mr. William Brubaker, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-2242).

SUPPLEMENTARY INFORMATION: On December 6, 1979, the NHTSA issued an advance notice of proposed rulemaking announcing that the agency was considering the proposal of an amendment to Safety Standard No. 214, *Side Door Strength*, to upgrade motor vehicle side impact protection and to extend the applicability of the standard to light trucks, vans and multipurpose passenger vehicles (Standard 214 currently only applies to passenger cars) (44 FR 70204). That advance notice also announced a public meeting concerning the proposed rulemaking, which was held on January 31 and February 1, 1980.

Standard No. 214 presently specifies crush-resistance requirments for the side doors of passenger cars under static test conditions. The primary purpose of the contemplated upgrade, as explained in the advance notice, is to establish performance criteria for occupant protection in side impacts under dynamic crash tests. The performance criteria would require a higher level of protection for occupants involved in side impact collisions than presently exists, and under test conditions that more closely approximate real-world crashes.

The agency has conducted considerable research since the issuance of the advance notice. However, this research, as well as the information obtained in response to the advance notice and at the public meeting, has demonstrated that there are still many questions remaining concerning the most appropriate test methodologies and performance criteria and levels. Many complex issues have arisen which will require considerable time to resolve.

Because more than two years have elapsed since issuance of the advance notice, and because a substantial amount of research remains to be completed before a proposal can be issued, the agency has determined that the rulemaking proceeding on an upgraded side impact protection standard should be terminated. The rulemaking will re-opened after research and analysis has progressed to the point that appropriate test methods and performance parameters can be developed. The agency anticipates that this will take at least one year. The NHTSA requests that any person obtaining new information or data concerning side impact protection in future motor vehicles forward that information to the agency.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50 and 501.8)

Issued on July 2, 1982.

Courtney M. Price,

Associate Administrator for Rulemkaking.

[FR Doc. 82-18736 Filed 7-9-82; 8:45 a.m.]

BILLING CODE 4910-59-M

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49 CFR Part 575

[Docket No. 25; Notice 47]

Consumer Information Regulations; Uniform Tire Quality Grading

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to suspend, on an interim basis, the treadwear grading requirements of the Uniform Tire Quality Grading Standards. This action is being taken as a result of a recently completed agency review indicating the existence of significant variability in treadwear test results and in response to submissions by tire manufacturers. The agency tentatively concludes that suspension of the treadwear rating requirements is necessary primarily to avoid dissemination of potentially misleading tire grading information to consumers, but also to minimize the imposition of unwarranted compliance costs on industry and consumers.

To determine whether testing or test procedures can be undertaken which would reduce test result variability to levels sufficiently low to support a treadwear grading program, the agency has determined to undertake an extensive testing program, discussed below.

DATES: Comments must be received on or before August 26, 1982. A public hearing will be held beginning at 10 a.m. on August 12.

ADDRESSES: Comments should refer to the docket number and be submitted to: Docket Section, Room 5108, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. Docket hours are 8 a.m. to 4 p.m., Monday through Friday. The public hearing will be held in Room 2230 of the Nassif Building.

FOR FURTHER INFORMATION CONTACT: George Parker, Office of Automotive Ratings, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-1740).

SUPPLEMENTARY INFORMATION: The Uniform Tire Quality Grading (UTQG) Standards (49 CFR 575.104) require that manufacturers and brand name owners of passenger car tires grade their tires in terms of their treadwear, traction, and temperature resistance performance and provide consumers with information regarding those grades. The treadwear grade is required to be based on the treadwear performance of a production tire when tested under controlled conditions on a specified test course.

Under the test procedures, tires being evaluated (candidate tires) and standardized "course monitoring tires" (CMT's) are installed on standard, rear-wheel drive passenger cars which are run in four vehicle convoys first for an 800-mile break-in period and then over a 6,400-mile specified test course laid out on public roads near San Angelo, Texas. Actual treadwear is measured periodically during testing and such measurements are used to compute the expected treadlife of the candidate tire. As a means of controlling for changes in environmental conditions during testing, the treadwear figures for the candidate tires are adjusted by comparison to the treadwear results obtained for the CMT's run in the same convoy.

Throughout the development of the UTQG system, questions had been raised concerning the reliability of the treadwear grading procedure and the ability of such a process to accurately predict tire treadlife from measurements taken in a limited test period. These questions were among the issues considered when various tire manufacturers unsuccessfully challenged the UTQG Standards (*B. F. Goodrich v. Department of Transportation*, 541 F. 2d 1178 (6th Cir. 1976), referred to herein as *"Goodrich I"*, and *B. F. Goodrich v. Department of Transportation*, 592 F. 2d 322 (6th Cir. 1979).

The petitioner tire companies asserted throughout such proceedings that variation in test vehicles is "an important influence on treadwear." The petitioners' brief in *Goodrich I* concluded that the "treadwear test required by the Regulation is fraught with uncontrolled variables of such magnitude that obtaining identical and repeatable results in different tests * * * is impossible." The tire companies cited data in which four sets of course monitoring tires, which should exhibit lower variability than do candidate tires, produced treadwear grades ranging from 166 to 276 when tested according to the UTQG Standards.

Based on then available information, the agency took the position in the litigation that the treadwear test procedures produce sufficiently uniform, reliable, and meaningful results. The agency argued that variables in the testing are controlled and taken into account in the test procedures, principally through the selection of a single test course and the use of course monitoring tires. With regard to variation in test vehicles as discussed in this notice, the agency stated that "while variations in vehicles can have some effect on treadwear, the effect is minimal when testing is performed according to the carefully designed procedures of the UTQGS." See p. 66, Respondent's brief for *Goodrich I*. The agency further stated that when a vehicle is properly aligned and loaded as specified in the UTQG rule, the effect of suspension system variation on wear rates is insignificant.

Ongoing Agency Reviews

Subsequent to implementation of the regulation, the tire industry continued to provide information and comments to NHTSA. While most industry commenters continued to question the value of the UTQG Standards, sharply opposing views supportive of the program were submitted as well.

These submissions and the undertakings and representations of continued monitoring made to the courts in the above cited cases led the agency to review the possible need for revision to the UTQG Standards in early 1981. In its April 7, 1981 Notice of Intent, the agency announced a plan to consider modification of the UTQG Standards (46 FR 21203). In an accompanying fact sheet, NHTSA indicated that its initial conclusion was to proposed rulemaking to retain the treadwear requirements but to delete the traction and heat resistance requirements and reserve them for future possible rulemaking attention. As discussed below, that conclusion is now held to have been incorrect and different action appears appropriate to serve the public interest.*

Current Status

In large part in response to its Notice of Intent, the agency has received extensive technical comments regarding the validity of the treadwear portion of the UTQG Standards. Although the commenters were sharply divided in their view of the treadwear grading, the comments have led the agency to change the focus of its study of the UTQG Standards.

Comments received last year from Firestone Tire & Rubber Company, for example, again argued that a high degree of variability is inherent in the UTQG treadwear test procedure, but added specific suggestions that such variations were due to the unreliability of the CMT adjustment technique, vehicle and driver differences in testing, variations in road surface and traffic conditions on the test course, weather and other factors. According to Firestone, treadwear test results could vary up to 30 percent even for CMT's, which are specially purchased for homogeneity. Docket No. 25, Gen. Ref. No. 245.

Similarly, General Tire & Rubber Company submitted comments arguing that variables such as vehicle type and engine horsepower, wheel alignment, weight distribution, driver behavior and roadway conditions contribute to making treadwear test results unreplicable. General commented that differences between CMT and candidate tire tread compounds cause these tires to react differently to environmental and test course conditions, thereby contributing to the unreliability of the CMT as a method of controlling variability. Docket 25, Notice 43, No. 013.

Goodyear Tire & Rubber Company raised questions concerning variations in the performance of course monitoring tires and the adequacy of a 6,400-mile test sequence for treadwear testing. Goodyear concluded that the treadwear grading procedure is unworkable due to uncontrolled sources of variation in test results, including vehicle, driver, and environmental factors. Docket 25, Notice 43, Nos. 004 and 019. Michelin Tire Corporation also questions the repeatability of the test procedures and the validity of the 6,400-mile test sequence. Docket No. 25, Notice 43, No. 017.

Recently, the BF Goodrich Company submitted data and analyses indicating that significant changes in treadwear grades for the same tire may result from temperature and road surface variations on the test course. The Goodrich submission suggests that differences in candidate and CMT tire composition contribute to grading variability. Goodrich concluded that test variability is too great to permit meaningful treadwear grading or compliance testing and suggested that further tests are needed to identify the effect of various factors on test results. Docket No. 25, Gen. Ref. No. 250; see also, Docket No. 25, Gen. Ref. No. 246.

By contrast, Uniroyal Tire Company has consistently supported the present UTQG system. While Uniroyal has stated that it recognizes that the system is not perfect, it believes that variation in treadwear test results can be corrected by retesting tires, to achieve statistical reliability. Based on what it characterized as a "careful study" of the UTQG system, Uniroyal found the test results to be basically sound. In a recent submission, that company suggested certain minor changes in testing which it

* The receipt of this information and the detailed technical arguments, counterarguments and data contained in those comments in the agency's view have obviated the need for the issuance of an advance notice at this time. The agency is continuing to review the relevance and efficiency of the traction and heat resistance requirements.

believes could correct the problems which exist with regard to test variability. Uniroyal also proposed that NHTSA conduct an evaluation program of those changes, first using test convoys of vehicles on which tires are not rotated between vehicles and then using test convoys on which tires are rotated. Docket No. 25, Gen. Ref. No. 249.

Current Agency Action

It has long been recognized that the data and arguments submitted by the opponents of the system, if validated, would raise serious doubts about the ability of the UTQG test procedures adequately to control variability. For example, if the current technique involving the CMT is not adequate to control for variations in road and weather conditions on the test course, the grades of candidate tires tested at one time of year, or even under one set of weather conditions, would not be comparable to grades of tires tested at another time of year or under different conditions. In such case, the past and future grading of particular tire lines would be undermined. As a result, the underlying objective of the UTQG regulation, to provide comparative information for use in tire purchasing decisions, would not merely be frustrated, but directly controverted. The UTQG program would not only fail to inform, but also affirmatively mislead consumers.

As noted above, the agency has addressed a number of questions regarding performance to date of the UTQG Standards, particularly the treadwear provisions. Agency technical personnel have primarily focused on those issues raised by agency experts or by the various commenters which could have outcome-determinative effects on an appropriate functioning UTQG system, i.e., one capable of providing consumers with valid comparative performance data with respect to treadwear.*

As part of this effort, the agency has reviewed the procedures used at each of the various facilities which conduct UTQG treadwear testing, for the agency and the tire manufacturers, in San Angelo, Texas. The report of this detailed on-site review has now been received and forms the principal basis for this proposal.

Although this review did not consider all of the sources of variability suggested by the manufacturers, the agency has found several significant sources of data variability which it tentatively concludes may undermine the accuracy and reliability of the UTQG treadwear measurement system, and the reliability of the conclusions and representations made by the agency in the litigation mentioned above. These sources of variability relate to the instrumentation and practices used in measurement, in the calibration and use of vehicles, and in the performance of fleet drivers, and to the effect of weather conditions.

Problems of Instrumentation

Scales

The scales used in three of the six facilities are impossible to calibrate properly for UTQGS purposes. Such scales are mechanical, and designed to measure weights many times greater than the approximately one thousand pounds of weight involved in the proper loading of cars for treadwear testing. Accuracy is seriously compromised at the low extremes of weight measurement invovled in UTQG Standard testing. Errors of as much as ±20 to 30 pounds would be expected in the vehicle loading under which each tire is tested. To illustrate the effects of this error, using the appropriate ratio of 4:1 between changes in loading and changes in treadwear, this error in a 700 to 800 pound load could produce a corresponding treadwear grade error of between 10 and 17 percent. That translates into a grade difference of ±20 to 34 points on a tire with a treadwear rating of 200.

Treadwear Depth Probes

Use of a mechanical treadwear depth probe to measure the degree of treadwear at various locations around the circumference of a tire can produce different readings depending on how hard the person doing the measuring presses downward on the probe when measuring. Realistic differences in the actual pressure applied by different technicians in measuring the course monitoring tire and the candidate tire could produce as much as a 10 mil difference, or a 2.7 percent error, in the amount of measured wear. In a tire with a tread depth of 365 mils when new, a large such error would result in a candidate tire with a 200 rating being rated as much as 6 points above or below its proper value.

Electronic probes are subject to different problems which produce variability. The lack of temperature compensation in most electronic probes can create drifts in both the zero reading and the gain if not corrected during the measurement process. Such corrections are not routinely sought or made. The use of uncalibrated springs in the probe tips produces additional measurement differences. Finally, application of different amounts of force to the electronic probe could alone produce a 3 to 5 mil measurement difference. On tires rated 160 to 200, this can result in treadwear rating errors of ±2 to 3 points.

Equipment Alignment

The agency has now determined that treadwear is significantly more sensitive to variation in wheel alignment than had previously been assumed. The review of the alignment practices at all San Angelo facilities now forces the agency to conclude tentatively that significant differences exist in fact in the actual alignment of convoy vehicles. These differences stem from not only the frequency of alignment, and the skill of the technicians who do the alignment, but also the allowable tolerances used (i.e., alignment anywhere within the vehicle manufacturers' range of acceptable alignments). The agency notes that driving the test cars over the test course will inevitably cause different and perhaps major changes in alignment among vehicles.

Recent agency testing indicates that the effect of differences in alignment can be far more substantial than had been assumed in the past. The testing, which was intended to determine the effect of toe-in differences *within manufacturers' specifications*, revealed differences of ±11 to 14 points for tires with a rating of 200. The results of this testing are set forth in the report of the Agency Review in Docket Number 25.

Problems of Measurement

Information feedback during treadwear depth measurement produces currently unquantifiable measurement errors at some facilities. Allowing access by measurers to the treadwear results from the previous day's testing, and the normal expectation that the amount of treadwear will be similar from day to day, has led some measurers to attempt to "reach for" measurements which essentially duplicate the previous day's results.

In similar fashion, the practices of some testing companies indicate that the

* In undertaking this review, the agency has considered such questions to represent necessary threshold determinations for agency action with respect to the UTQG Standards. Other agency efforts, such as detailed survey or promotional activity directed towards the analysis or promotion of the utility of such a system to consumers, would not be appropriate if the validity and accuracy of the grade results are in fact seriously questionable. The agency has reviewed the helpful data on consumer reliance submitted to the docket by Uniroyal, which has conducted extensive advertising and promotional efforts based on the UTQG Standards, and related market analysis of the results of such efforts.

coefficient of variation (CV) of measurement, i.e., the variability among the separate measurements of depth in the same groove around the circumference of the tire, is greater than previously thought. A relatively low coefficient of variability is desirable, and CV measurement is intended to operate as a check against wear or measurement anomalies. Some facilities, however, have erroneously established a desired absolute level of CV. Some technicians attempt, through repetition of any tests which lead to CV results outside of their "acceptable" range, to hunt for groove depths as uniform as possible around the tire.

Large variations in treadwater measurement could occur as a result of changes in measurement personnel, or changes, due to fatigue, in the amount of force applied to the probe by a single measurer. In such instances, a spread of up to ±35 points could be produced on a tire with a treadwear rating of 200. The range of this potential error reflects the problem of accurately predicting the x-intercept, i.e., miles to wear out, using the least squares method to extrapolate beyond the end points of the actual data. A slight change in the regression line slope will result in a large change in the intercept location.

Problems of Vehicle Use and Maintenance

Weight Distribution (vehicle loading)

There is a wide variation in the approaches of the testing companies to achieving the proper vertical load on a tire. While some follow the desired practice of placing the weight between the wheels, some place the weight forward of the front wheels, some rearward of the rear wheels, and some even on the vehicle exterior. These latter practices create vehicles with different oversteer or understeer characteristics and different polar moments of inertia. This would produce different rates of wear as these vehicles corner, accelerate or decelerate.

Similar problems arise from the installation of homemade deer guards on the fronts of all test cars except those involved in testing for NHTSA. These guards vary in weight and configuration and thus have differing effects on vehicle steering and ride characteristics. Some attempt is made by the testing companies to compensate for the different weight distribution, but the agency does not know of any accurate way of doing so.

Differences in Suspension Systems

Differences in vehicle loading practices produce currently unquantifiable effects on treadwear results. Some companies load vehicles to whatever weight is required to meet the test tire's load level. Often gross vehicle weight rating is exceeded, necessitating the use of special springs or shims to reestablish normal ride height. These heavy loads can cause the vehicles to bottom out while the variations in the springs create different roll stiffness and weight transfers.

Problems with Drivers

Several driver-related factors also contribute to an unquantifiable extent to the variability of treadwear results.

Degree of Training and Skill

Differences in driver training and skill and in their familiarity with the hilly southern portion of the test course (the "Juno" hills and curves) produce significant differences in the degree of constancy in vehicle speed. That portion of the course is particularly significant since 60 to 80 percent of the treadwear occurs there. Skilled drivers familiar with the test course are able to maintain their speed during the southern portion of the course, and thus minimize accelarations and decelerations. Unskilled and less familiar drivers appear to coast or brake when approaching rough terrain, a blind curve or the top of a hill. Tires on vehicles driven by the latter type of driver will show greater treadwear due to the more frequent accelerations.

A strong indication of the degree of effect of such driver behavior on treadwear is provided by the voluntary discontinuation by the contractors of the use of cruise controls on the test vehicles. The facilities report that they took this action upon finding that use of cruise control produced treadwear levels much lower than those "expected."

Driver Discipline and the Course Itself

There are significant differences in the responses of some test convoys to unexpected occurrences on the test course such as a vehicle breakdown. Some convoys ensure that consistent mileage is accumulated on the tires of all cars by stopping and calling the dispatcher for instructions in all such events. In other cases, however, the lead driver will drive for help. Consistent mileage could still be obtained by replacing the vehicles involved. However, some convoys destroy the integrity of the test being conducted by simply turning around and heading home.

Problems with Weather Conditions

Although severe weather conditions such as heavy rainstorms have a significant effect on test results, tests are not suspended during those conditions. These conditions may not have a similar effect on the treadwear of different tires it those tires have significantly different tread composition. In this regard, the agency notes that the chemical composition of the CMT has changed between CMT lots as a result of agency requested changes in size (from 15 inches to 14 inches) and manufacturer changes in the product line selected for the CMT production. This change occurred after production of lots 1 and 2, and has been in effect for lots 3 and 4. The possible effect of such changes in composition is uncertain, but now being monitored.

Tentative Agency Conclusions

This review of the San Angelo test protocols appears to confirm the data and arguments of most tire manufacturers that major discrepancies exist in UTQG treadwear test results due to the lack of control of variables such as those described above. There are two types of errors which cause these variations, systematic errors such as improper groove depth measurement and random errors such as driver performance. Particularly where different sources of variation produce directionally consistent errors in a single test (e.g., treadwear depth probe, weight, and driver technique cause variations all on the high side of the treadwear distribution), the sources of variability described above could combine to produce serious grading discrepancies. Further, the sources of variability noted in the San Angelo review are not an exhaustive list of the possible sources of error in UTQG test results—many more exist. Some of these may be more significant than those sources whose effect has already been quantified.

Consideration of the new data, other information and comments discussed above, as well as the agency's review and its own compliance test data, has led the agency to conclude that it could not today make the same representations it was able to make in the UTQG Standard litigation regarding treadwear and variability. Instead, the agency believes that unacceptable levels of variability exist in the present treadwear system and tests conducted under it. The rank order of treadwear values assigned a given set of tires similar in design and size could, and in fact under agency test has, changed

under repetition of test on other tire specimens.

Under such circumstances, the agency believes that consumers might not only not be fully served, but might be affirmatively misled by UTQG test results to date. The UTQG grades could themselves cause consumers to pay more for a tire which will in fact provide only the same or even inferior treadwear performance as another available tire at equivalent or lower price. Even if the agency considers only those sources of variability which were included in its own review and whose effect on treadwear could be quantified, it is readily apparent that the cumulative effect of these sources is potentially substantial.

Further, variability of test results has hindered the agency in its attempt to enforce the treadwear rating requirements. The treadwear test does not appear to be repeatable and the results are not readily verifiable. It is difficult if not impossible for the agency to demonstrate that a treadwear grade assigned by a manufacturer is improper. In fact, one effort by the agency to determine the appropriateness of a particular grade assignment produced such a wide variation of test results that the agency could not conclude with any certainty whether any tires were incapable of achieving the assigned grade.

Finally, the present grading system imposes a substantial burden on the tire industry in determining treadwear grades. NHTSA estimates that the cost to manufacturers of UTQG treadwear testing is roughtly $10 million annually. This cost results in either higher prices for consumers, lower profits for the tire companies, or both.

NHTSA agrees with industry commenters who contend that additional testing is needed to determine whether factors causing test variability can be adequately controlled. The agency has determined to undertake an extensive testing program to identify specific sources of treadwear test variability and assess possible modifications of the test procedure to control these sources.

One major goal of this program is to determine the extent to which the use of course monitoring tires ("CMT's") in fact can reduce vehicle and driver related sources of variability. The CMT procedure is currently designed to reduce environmental sources of variability. The first phase of this portion of the agency's research involves the determination of the relationship between tire loads, inflation pressure and wear rates for the CMT's. Once this relationship is determined, the second phase of the research would involve rotating CMT's and candidate tires among the vehicles in a test convoy. Rotating the tires will mean that CMT's and candidate tires will be exposed to the various types of vehicle and driver related variability existing within the convoy. The mathematical relationship determined in the first phase of the research would be used to adjust for differences in load ratings for the CMT's and the candidate tires. The goal of the second phase will be to ascertain the extent to which the various sources of variability are reduced by this "averaging" process. The agency will also continue research on the extent to which various individual sources of treadwear variability (e.g., wheel alignment differences) can be reduced by more precise specification of test parameters.

Public comment on this testing program is solicited.

Until such testing is completed, the agency tentatively concludes that continuation of costly testing and grading under a system the results of which are at best questionable and which are in all likelihood misleading to consumers cannot be justified.

The agency believes that the potential for injury to consumers through reliance on misleading information, together with the unjustified testing costs imposed on industry, create a situation in which specific, readily identifiable damage to the public interest would occur in the absence of a suspension of the treadwear grading requirements.

In taking this action, the Agency specifically notes that the interest of consumers is important and relevant to this issue.

Accordingly, NHTSA is providing a 45-day comment period for interested parties to present data, views, and arguments on the appropriateness of this proposed suspension and any related issues. The agency invites comments on the possible sources of treadwear test variability, i.e., environmental, driver, and vehicle factors, which should be evaluated in the agency's testing and how these sources can best be isolated and controlled.

The agency is also providing an opportunity for the oral presentation of data, views, and arguments in this proceeding. This public meeting will begin at 10 a.m. on August 12, 1982, and will be held in Room 2230 of the Nassif Building. If necessary to accommodate a large number of participants, a second day may be scheduled. Interested persons are invited to attend the meeting and to present oral or written comments. Persons making oral comments are encouraged to submit their comments in written form either at the meeting or by mail to the docket. All written comments are subject to the deadlines and page limitations noted below.

Persons who desire to make an oral statement should contact Mr. George Parker, the individual listed as the "information contact," at the address and phone number stated above so that time limitations, if necessary, and the need for any special equipment, such as projectors, can be discussed and final arrangements can be made. A general outline of each planned oral presentation should also be submitted to Mr. Parker. A schedule of the persons making oral presentations at the meeting will be available on the date of the meeting.

Persons whose presentations include slides, motion pictures, or any other visual aids should plan to submit copies of them for the record at the meeting. Persons making oral presentations are requested but not required to submit 25 written copies of the full text of their presentation to Mr. Parker not later than the beginning of the meeting.

No opportunity will be afforded for persons to question other participants. However, the presiding officials reserve the right to ask questions of all persons making presentations.

A transcript of the meeting will be made and will be available for examination, along with any written comments submitted, in the NHTSA Docket Section, as soon as possible after the meeting.

In addition, the agency recognizes that there could be economic losses in the conversion of tire molds and the printing of treads labels and point of sale information to effectuate this action on a permanent basis. Therefore, if this proposal is ultimately adopted, the agency is considering permitting tire manufacturers to continue to use existing tire molds which mark treadwear grades on tire sidewalls. Similarly, they might be permitted to continue to include the treadwear grades for those tires in the labels and consumer information pamphlets required by the UTQG Standards. Comment is requested on these issues.

NHTSA has determined that this proceeding does not involve a major rule within the meaning of section 1, paragraph (b), of Executive Order 12291 because it is not likely to have an effect on the economy of $100 million or more, to result in a major increase in costs or prices, or to have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States firms to meet

foreign competition. However, this action is significant for purposes of Department of Transportation procedures for internal review of regulatory actions and a regulatory evaluation of this action has been prepared. This evaluation has been placed in the rulemaking docket for this notice and can be obtained from the agency's Docket Section at the address stated above.

Pursuant to the Regulatory Flexibility Act, the agency has considered the impact this rulemaking action would have on small entities. The agency certifies that this action would not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis will not be required for this action. The agency has concluded that few, if any, manufacturers and brand name owners of passenger car tires are small entities and that, in any event, any effect on such manufacturers or brand name owners would be a small positive one in terms of reduced costs and elimination of possible market distortion. While this proposed action might lead to reductions in employment at the testing companies in San Angelo, those companies are small subsidiaries of larger entities. The effects on those larger entities would not be substantial. The effects of this action on tire prices would not be great enough to significantly affect tire dealers or small entities purchasing tires and any effects on those entities would be positive in terms of elimination of potentially misleading information.

While this proposed action may have some beneficial effect on the environment in terms of reduced fuel consumption in treadwear testing, and reduced air and noise pollution on the test course, NHTSA has concluded that the environmental consequences of this action would be of such limited scope that they clearly would not have a significant effect on the quality of the human environment.

Interested persons are invited to submit comments on the proposed agency action announced above and on any other topics relevant to this notice. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary argument in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. 552(b)(4), and that disclosure of the information is likely to result in substantial competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commenter or, in the case of a corporation, a responsible corporate official authorized to speak for the corporation must certify in writing that each item for which confidential treatment is required is in fact confidential within the meaning of section (b)(4) and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items have previously been disclosed or otherwise become available to the public.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filled after the closing date will also be considered. However, the rulemaking may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. Since NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, it is recommended that interested persons continue to examine the docket for new material. Those persons desiring to be notified upon receipt of their comments in the rulemaking docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 575

Consumer protection, Labeling, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

PART 575—CONSUMER INFORMATION REGULATIONS

In consideration of the foregoing, it is proposed to amend 49 CFR 575.104 as follows:

§ 575.104 [Amended]

1. Section 575.104(a) would be amended by removing the words "treadwear, traction," and substituting in their place the "traction".

2. Section 575.104(d)(1)(i)(B)(1) would be amended by removing the words "The treadware grade attributed to the tire shall be either imprinted or indelibly stamped on the label adjacent to the description of the treadwear grade."

3. Section 575.104(d)(1)(i)(B)(2) would be amended by removing the words, "The treadwear grade attributed to the tire shall be either imprinted on indelibly stamped on the label containing the material in Part I of Figure 2, directly to the right of or below the word 'TREADWEAR' ", and removing the word " 'TREADWEAR.' " in the fourth sentence thereof.

4. Section 575.104(d)(2)(i) would be removed and reserved.

5. Section 575.104(e) would be removed and reserved.

6. Section 575.104(h)(1) would be revised by removing the reference to "paragraphs (e)(2)(iii), (f)(2)(viii) and (g)(6)", and substituting in its place "paragraphs (f)(2) (viii) and (g)(6)".

7. Section 575.104, Figure 1 would be amended by removing the words "TREADWEAR 160" wherever they appear therein.

8. Section 575.104, Figure 2 would be amended by removing the words:

Treadwear

The treadwear grade is a comparative rating based on the wear rate of the tire when tested under controlled conditions on a specified government test course. For example, a tire graded 150 would wear one and half (1½) times as well on the government course as a tire graded 100. The relative performance of tires depends upon the actual conditions of their use, however, and may depart significantly from the norm due to variations in driving habits, service practices and differences in road characteristics and climate.

9. Section 575.104, Appendices A and C would be removed and reserved.

10. Section 575.104, Figure 3 is removed and reserved.

(Secs. 103, 112, 119, 201, 203, Pub. L. 98–563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407, 1421, 1423); delegations of authority at 49 CFR 1.50)

Issued on: July 8, 1982.

Raymond A. Peck, Jr.,

Administrator.

[FR Doc. 82–18896 Filed 7–8–82; 4:57 pm]

BILLING CODE 4910–59–M

Notices

Federal Register
Vol. 47, No. 133
Monday, July 12, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Nellie Juan-College Fiord Wilderness Study Area and Rare II Further Planning Areas; Hearing

Notice is hereby given that public hearings will be held at the following dates, times, and locations for the purpose of receiving comments on the proposal for designation of approximately 1,648,000 acres as wilderness within the Chugach National Forest in the Greater Anchorage Municipality, Kenai Peninsula Borough and Matanuski-Susitna Borough, State of Alaska. This wilderness proposal is included in a draft forest plan for the Chugach National Forest. Comments relative to other aspects of the draft forest plan will also be accpeted at these hearings if time is available.

Hearing Dates and Locations

August 16, 1982—7 p.m.—High School—Cordova, Alaska
August 17, 1982—7 p.m.—High School—Valdez, Alaska
August 18, 1982—7 p.m.—City Council Chamber—Seward, Alaska
August 19, 1982—1 p.m.—Mountain View, 7 p.m.—Branch Library—Anchorage, Alaska

Approximately 1,393,000 acres of the proposed wilderness is located within the Nellie Juan-College Fiord Wilderness Study Area established by section 704 of the Alaska National Interest Lands Conservation Act of 1980. The remaining approximate 255,000 acres are located within areas identified as Further Planning Areas during the second roadless area review and evaluation (RARE II) completed in 1979.

A draft forest plan and draft environmental impact statement containing a map and information about the proposed wilderness have been prepared and are available for public review and comment. For information contact, the Forest Supervisor, Chugach National Forest, Suite 238, 2221 E. Northern Lights Boulevard, Anchorage, Alaska 99508.

Individuals and organizations may express their views by appearing at one of these hearings or by submitting written comments to the Forest Supervisor for inclusion in the official hearing record. To be included in the official hearing record, written comments must be received not later than September 18, 1982.

Dated: July 2, 1982.

F. Dale Robertson,
Associate Chief.

[FR Doc. 82-18753 Filed 7-9-82; 8:45 am]
BILLING CODE 3410-11-M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations; Week Ended July 2, 1982

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show cause order, a tentative order, or in appropriate cases a final order without further proceedings, (see 14 CFR 302.1701 et seq.).

Date filed	Docket No.	Description
June 30, 1982	40811	Arista International Airlines, Inc., c/o Stephen D. Potts, Shaw, Pittman, Potts & Trowbridge, 1800 M Street, N.W., Suite 900 [illegible]gth, Washington, D.C. 20036. Application of Arista International Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Proc[illegible]ral Regulations, requests authority to provide scheduled foreign air transportation of persons, property, and mail as f[illegible]ws: Between a point or points in the United States and Vienna, Austria. Conforming Applications, motions to modify scope, and Answers may be filed by July 28, 1982.
June 30, 1982	40812	Capitol Air, Inc., P.O. Box 325, Smyrna, Tennessee 37167. Application of Capitol Air, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations, req[illegible]sts authorization to provide "back-up" scheduled foreign air transportation of persons, property and mail between: A. "The terminal point Baltimore, Maryland, on the one hand, and the terminal point London, United Kingdom, on the other h[illegible]d;" and/or B. "The terminal point Baltimore, Maryland, on the one hand and the terminal point London, United Kingdom, on the other hand, [illegible]th authority to serve London and any of the transatlantic points listed in Capitol's certificate of public convenience and neces[illegible]y for Route-191F; Conforming Applications, motions to modify scope, and Answers may be filed by July 28, 1982.
June 30, 1982	40813	Firstair Corp., c/o James M. Burger, Shaw, Pittman, Potts & Trowbridge, 1800 M Street, N.W., Washington, D.C. [illegible]0036. Application of Firstair Corp. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests issuance of a certificate of public convenience and necessity which would authorize it to engage in the scheduled interna[illegible]air transportation of passengers, property, and mail between and among all points within the United States. Conforming Applications, motions to modify scope, and Answers may be filed by July 28, 1982.

Date filed	Docket No.	Description
July 1, 1982	40816	Transamerica Airlines, Inc., c/o Walter D. Hansen, Burwell, Hansen, Manley & Peters, 1706 New Hampshire Avenue, N.W., Washington, D.C. 20009. Application of Transamerica Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations, requests that its certificate of public convenience and necessity for interstate charter air transportation last issued by Order 79-10-154 be amended by eliminating condition (2) now contained in that certificate and which reads as follows: "The holder is not authorized to engage in air transportation between points within the State of Alaska." Conforming Applications and motions to modify scope, and Answers may be filed by July 29, 1982.

Phyllis T. Kaylor,
Secretary.
[FR Doc. 82-18783 Filed 7-9-82; 8:45 am]
BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

Maine Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Maine Advisory Committee to the Commission will convene at 4:00 p.m.; and will end at 8:30 p.m., on August 10, 1982, at the Maine Teachers Association, in the Conference Room, 35 Community Drive, Augusta, Maine 04330. The purpose of this meeting is to discuss future projects for the Committee including: successful affirmative action programs, bilingual education needs, Indian land case settlement, civil rights legislation and women's economic issues.

Persons desiring additional information or planning a presentation to the Committee should contact the Chairperson, Lois G. Reckitt, 38 Myrtle Avenue, South Portland, Maine 04106, (207) 775-1415 or the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110, (617) 223-4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 1, 1982.

John I. Binkley,
Advisory Committee Management Officer.

[FR Doc. 82-18808 Filed 7-9-82; 8:45 am]
BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Notice of Availability of Marine Mammal Annual Report

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of availability of 1981/82 Marine Mammal Annual Report.

SUMMARY: On June 21, 1982, the Secretary of Commerce sent to the Congress the annual report on the administration of the Marine Mammal Protection Act of 1972 as required by Section 103(f) of the Act. This report covers the period April 1, 1981 to March 31, 1982. The Assistant Administrator for Fisheries, National Marine Fisheries Service, informs the public that the report is available and that any interested individual may obtain a copy by requesting it from the Service.

ADDRESS: A copy may be obtained from the Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Margaret C. Lorenz, Editor, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, (202) 634-7529.

SUPPLEMENTARY INFORMATION: The Marine Mammal Protection Act of 1972 assigns responsibility for marine mammals of the Order Cetacea (whales and dolphins) and the Suborder Pinnipedia (seals and sea lions), except walrus, to the Department of Commerce. Under authority delegated to it, the National Marine Fisheries Service carries out those responsibilities. The annual report reviews the Service's marine mammals related activities.

This report reviews the 1981 amendments to the Act, the permit program for scientific research and public display of marine mammals and the incidental take of these animals in commerical fisheries, the marine mammal stranding networks, international activities, legal actions, and enforcement of the Act. It includes a discussion of the management and research programs for bowhead whales, humpback whales, north Atlantic whales and dolphins, bottlenose dolphins, Dall's porpoise, porpoises involved in the tuna purse-seine fishery, and seals and sea lions in Hawaii, the Channel Islands National Park, California, the Pribilof Islands, Alaska, and the north Atlantic area. Estimated population numbers of pinnipeds and cetaceans of interest to the United States appear in the appendix.

Dated: July 6, 1982.

Richard B. Roe,
Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-18752 Filed 7-9-82; 8:45 am]
BILLING CODE 3510-22-M

[Document No. 2702-116]

Northern Anchovy Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of preliminary specifications.

SUMMARY: This notice announces the preliminary determination of estimated spawning biomass and optimum yield for the northern anchovy (*Engraulis mordax*) fishery in the fishery conservation zone for the 1982-83 fishing season. The optimum yield has been determined by application of the formula in the fishery management plan for the northern anchovy fishery. A final determination will be announced on or about August 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Alan W. Ford, Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731; telephone 213-548-2575.

SUPPLEMENTARY INFORMATION: In consultation with the California Department of Fish and Game and Southwest Fisheries Center, National Marine Fisheries Service (NMFS), the Regional Director, Southwest Region, NMFS (Regional Director), has made a preliminary determination that the spawning biomass of the central

subpopulation of northern anchovy is estimated to be 2,060,000 short tons. This preliminary determination is based on Administrative Report Number LJ–82–16, Southwest Fisheries Center, NMFS. The report is currently under review. It documents the method used to estimate the 1982 spawning biomass of the central subpopulation of northern anchovies. The biomass estimate is based on an egg production estimate. This method of biomass estimation has been calibrated to the larva census measure used each year since implementation of the fishery management plan for the northern anchovy fishery (FMP) and provides the historical data series for establishing annual harvest quotas.

Applying the formula in the FMP to calculate optimum yield (OY), the Regional Director has made a preliminary determination for the 1982–83 fishing season that: (1) The OY is 247,000 short tons, (2) the domestic annual harvest capacity is 247,000 short tons, and (3) the total allowable level of foreign fishing is zero.

This preliminary determination has been made in consultation with the Pacific Fishery Management Council (Council) as specified in the FMP. A summary of the information on which the estimates are based has been provided to the Council. A final determination of OY and harvest quotas will be announced on or about August 1, 1982.

Dated: July 7, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 82–18740 Filed 7–7–82; 4:13 pm]
BILLING CODE 3510–22–M

COMMODITY FUTURES TRADING COMMISSION

New Orleans Commodity Exchange: Proposed Amendments Relating to the Soybean Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of proposed contract market rule changes.

SUMMARY: The New Orleans Commodity Exchange has submitted a proposal to amend its soybean futures contract. These amendments substantially revise the terms and conditions of the contract. The Commodity Futures Trading Commission ("Commission") has determined that the proposal is of major economic significance and that, accordingly, publication of the proposal is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before August 11, 1982.

ADDRESS: Interested persons should submit their views and comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581.

Reference should be made to the New Orleans Commodity Exchange, Chapter 13.

FOR FURTHER INFORMATION CONTACT: Nicholas Memoli, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, (202) 254–6990.

SUPPLEMENTARY INFORMATION: By letter dated May 7, 1982, the New Orleans Commodity Exchange ("NOCE" or "EXCHANGE") submitted proposed amendments to Chapter 13 of its soybean contract for Commission approval, pursuant to Section 5a(12) of the Commodity Exchange Act, as amended (the "Act"). The NOCE proposal substantially revises the terms and conditions of the contract. The amendments would change the contract specifications from No. 1 yellow soybeans to No. 2 or better; reduce the delivery area from that portion of the Mississippi River between Myrtle Grove, Louisiana and Memphis, Tennessee, to that portion of the river between Myrtle Grove and Baton Rouge, Louisiana; change the delivery instrument from a warehouse receipt to a shipping certificate; change the pricing basis from CIF a regular warehouse to FOB the buyer's vessel; and reduce the number of days without price limits from every day during the delivery month to the last day of the delivery month. The proposed rules are intended to adjust the soybean contract to commercial practices in the export grain market. The proposed amendments would be applied to newly listed contracts immediately after Commission approval. Currently, no contracts are listed for trading, and none will be listed pending Commission approval of the proposed amendments.

In accordance with Section 5a(12) of the Commodity Exchange Act, 7 U.S.C. 7a(12) (Supp. IV 1980), the Commission has determined that the proposal submitted by the NOCE concerning its soybean futures contract is of major economic significance. Accordingly, the NOCE's proposed Chapter 13 will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Copies can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by the NOCE in support of the proposed rules may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1981)). Requests for copies of such materials should be made to the FOIA, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed amendments should send such comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, by August 11, 1982. Such comment letters will be publicly available except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C., on July 2, 1982.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 82–18719 Filed 7–9–82; 8:45 am]
BILLING CODE 6351–01–M

COUNCIL ON ENVIRONMENTAL QUALITY

Synopsis of Comments on Federal Agency Implementation of CEQ's NEPA Regulations and Public Meeting

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Notice.

SUMMARY: The Council on Environmental Quality announces a public meeting on issues brought to light as a result of a request for public comment on Federal agency implementation of CEQ's NEPA regulations (40 CFR Part 1500 et. seq.). A synopsis of the comments received by the Council is available upon request.

ADDRESS: In order to participate or receive a copy of the synopsis contact: General Counsel, Council on Environmental Quality, 722 Jackson Place, N.W., Washington, D.C 20006.

DATES: Requests to participate should be received by August 5, 1982; the meeting will take place at 9:30 a.m. on Thursday, August 12, 1982, First Floor Conference Room, 722 Jackson Place, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Nancy Nord, General Counsel, Council on Environmental Quality, 722 Jackson Place, N.W., Washington, D.C. 20006, (202) 395–5754.

SUPPLEMENTAL INFORMATION: Since the creation of the Council on Environmental Quality in 1970 by the National Environmental Policy Act (NEPA), CEQ has been responsible for overseeing federal efforts to comply with NEPA. Shortly after its creation, the Council issued guidelines to the federal agencies for the preparation of environmental impact statements (EIS's) required under NEPA. In 1978, these guidelines were changed to regulations. Under these regulations, federal agencies must adopt implementing procedures after consultation with CEQ (see 40 CFR 1507.3). The Council's regulations and agency procedures issued pursuant thereto were designed to make the NEPA process more useful to decisionmakers and the public, reduce paperwork and delay, and establish procedures for referrals in case of interagency conflicts.

On August 14, 1981, the Council solicited comments from the public on how the federal agencies were implementing the CEQ regulations (46 FR 41131, 1981). The solicitation resulted in 142 comments with comments coming from both the public and private sectors.

The Council has now synopsized the comments and will mail a copy of the synopsis to all persons who responded to the August 14, 1981, solicitation. Any one else wishing to receive a copy of the synopsis can do so by contacting General Counsel, Council on Environmental Quality, 722 Jackson Place, N.W., Washington, D.C. 20006, (202) 395–5754.

The comments received indicate that guidance from the Council, pursuant to 40 CFR 1506.7, is appropriate. Specifically, the Council is considering issuing guidance on the following issues:

—Proper management of the scoping process.

—Appropriate analysis of alternatives in permitting situations as opposed to situations in which the agency is undertaking activity at its own initiative.

—Agency adoption of analysis done by other Federal and State agencies.

—Proper use of tiering to reduce repetitious analyses in environmental documents.

—The circumstances in which an agency may charge an applicant for EIS preparation.

Guidance in other areas may be developed as determined appropriate by the Council.

So that the Council may benefit from the views of interested members of the public, the Council will be holding a public meeting on August 12, 1982 at 9:30 a.m. in the CEQ Conference Room, 722 Jackson Place, N.W., Washington, D.C. At this time the Council will hear the views of any intrested person who wishes to comment on the issues set out in the previous paragraph. The Council is requesting that oral presentations be limited to seven minutes and an outline of remarks be given to the CEQ General Counsel's office at least seven days before the meeting.

Nancy Nord,

General Counsel.

[FR Doc. 82–18821 Filed 7–9–82; 8:45 am]

BILLING CODE 3125–01–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Air Force Institute of Technology Subcommittee of the Air University Board of Visitors; Meeting

June 28, 1982.

The Air Force Institute of Technology Subcommittee of the Air University Board of Visitors will hold an open meeting at 1 p.m. on August 11, 1982, in Room 2004 (10 seats available), Building 125, Wright-Patterson Air Force Base, Ohio.

The purpose of the meeting is to give the subcommittee the opportunity to present to the Commandant, Air Force Institute of Technology, a report of findings and recommendations concerning the Institute's educational programs. The findings of the subcommittee will also be reported to the Commander, Air University, at the next regularly scheduled meeting of the Air University Board of Visitors.

For further information on this meeting, contact Captain Peter Macchia, Chief, Academic Development, Directorate of Educational Plans and Operations, Air Force Institute of Technology, (513) 255–5760 or 3791.

Darwin W. Berg,

Alternate Air Force Federal Register Liaison Officer.

[FR Doc. 82–18729 Filed 7–9–82; 8:45 am]

BILLING CODE 3910–01–M

Department of the Army

Performance Review Boards

AGENCY: Department of the Army, DOD.

ACTION: NOTICE.

SUMMARY: Notice is hereby given of the name of additional members of the DARCOM and Consolidated Command Performance Review Boards for the Department of Army for 1982.

EFFECTIVE DATE: July 8, 1982.

FOR FURTHER INFORMATION CONTACT: Carol D. Smith, Senior Executive Service Office, Directorate of Civilian Personnel, Headquarters, Department of the Army, the Pentagon, Washington, DC 20310, (202) 697–2204.

SUPPLEMENTARY INFORMATION: Section 4314(c)(1) through (5) of Title 5 U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards. The boards shall review and evaluate the initial appraisal of senior executive's performance by the supervisor and make recommendations to the appointing authority or rating official relative to the performance of the senior executives. Each board's review and recommendation will include only those senior executive's appraisals from their respective commands or activities. A consolidated board has been established for those commands who do not have enough senior executives to warrant the establishment of separate boards. Publication of this notice corrects the notice published in 47 CFR 120, dated June 22, 1982, page 26884, to account for additions and deletions to the membership of those boards previously published.

The additional member of the Performance Review Board for the Consolidated Commands is:

(Major General Charles C. Rogers, Deputy Chief of Staff for Personnel, USAREUR.

The additional member of the Performance Review Board for the US Army Material Development and Readiness Command is:

Mr. Leon Kniaz, Deputy Director for Personnel, Training and Force Development, HQ US Army Material Development and Readiness Command.

John O. Roach, II,

Army Liaison Officer With the Federal Register.

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BILLING CODE 3710–08–M

Department of the Navy

Government-owned Inventions; Availability for Licensing

The inventions listed below are owned by the U.S. Government and are in the custody of the Department of the Navy. They are available for domestic and, possibly, foreign licensing.

Copies of patents cited are available from the Commissioner of Patents and

Trademarks, Washington, D.C. 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161, for $5.00 each ($10.00 outside North American Continent). Requests for copies of patent applictions must include the patent application serial number. Claims are deleted from patent application copies sold to avoid premature disclosure.

FOR FURTHER INFORMATION CONTACT:
Dr. A. C. Williams, Staff Patent Adviser, Office of Naval Research (Code 305), Ballston Tower No. 1, 800 North Quincy Street, Arlington, Virginia 22217, Telephone No. 202–696–4005.

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81. Patent application 253,417: Laser Beam Steering Device. Filed April 13, 1981.

82. Patent application 253,622: Triple Minimum Dispersion Wavelengths for a High Na Single-Mode Step-Index Fiber. Filed April 13, 1981.

83. Patent application 254,311: Efficient Low-Sidelobe Pulse Compression. Filed April 15, 1981.

84. Patent application 254,576: Internally Electrode Ceramic Piezoelectric Transformer. Filed April 16, 1981.

85. Patent application 254,706: New Microwave Dissociation Source. Filed April 16, 1981.

86. Patent application 254,809: A Self-Deploying Buoy System. Filed April 16, 1981.

87. Patent application 255,081: Gold Based Electrical Contact Materials and Method Therefor. Filed April 17, 1981.

88. Patent application 255,122: Calibrating Device for Ionizing Radiation Dosimeters. Filed April 17, 1981.

89. Patent application 255,621: An N-Way Summing Network Characterization System. Filed April 20, 1981.

90. Patent application 256,230: 1,9-Diazido-2,4,6,8-Tetranitro-2,4,6,8-Tetrazanonane. Filed April 21, 1981.

91. Patent application 256,289: Pressure Insensitive Optical Fiber. Filed April 22, 1981.

92. Patent application 256,327: Test Apparatus for Fluid Level Control Valves. Filed April 22, 1981.

93. Patent application 256,330: Electrical Connection. Filed April 22, 1981.

94. Patent application 256,355: Composite Video Signal Separator. Filed April 22, 1981.

95. Patent application 256,750: Apparatus and Method for Quantitative Nondestructive Wire Testing. Filed May 23, 1981.

96. Patent application 256,868: Low Power Driver for Flux Gate Magnetometer. Filed April 24, 1981.

97. Patent application 257,028: Selected Photoinduced Condensation Technique for Producing Semiconducting Compounds. Filed April 24, 1981.

98. Patent application 257,302: In-Situ Leach Rate Measuring System. Filed April 24, 1981.

99. Patent application 258,084: Waveguide Coupler Using Three or More Wave Modes. Filed April 27, 1981.

100. Patent application 258,122: Deepwater Propellant Embedded Anchor Having Emergency Release Mechanism. Filed April 27, 1981.

101. Patent application 258,128: Deepwater Propellant Embedded Anchor Having Emergency Release Mechanism. Filed April 27, 1981.

102. Patent application 258,134: Gold Based Material for Electrical Contact Materials. Filed April 27, 1981.

103. Patent application 258,157: Gold Based Electrical Contact Materials. Filed April 27, 1981.

104. Patent application 258,345: Recessed Interdigital Integrated Capacitor and Method Therefor. Filed April 28, 1981.

105. Patent application 258,346: Radar Clutter Reduction by Use of Frequency-Diverse, Wideband Pulse-Compression Waveforms. Filed April 28, 1981.

106. Patent application 258,704: Transmission Line Biased Coherent Array of Josephson Oscillators. Filed April 29, 1981.

107. Patent application 258,705: Coherent Array of Josephson Oscillators with External Bias Lead. Filed April 24, 1981.

108. Patent application 258,829: Gold Based Electrical Materials. Filed April 29, 1981.

109. Patent application 258,836: Polymer Packaged Cell in a Sack. Filed April 29, 1981.

110. Patent application 258,988: A Method for Deployment of a Towed Array from a Swath Ship. Filed April 30, 1981.

111. Patent application 259,786: A Method and Apparatus for Precise Measurement of Long-Term Stability of Photodetectors. Filed April 29, 1981.

112. Patent application 260,629: Phase Demodulator. Filed May 5, 1981.

113. Patent application 261,341: Optical Transmitter/Receiver Apparatus Sharing Common Optics. Filed May 7, 1981.

114. Patent application 262,152: Circuit for Calculating the Position of the Eye. Filed May 11, 1981.

115. Patent application 262,153: Helmet Mounted Eye Tracker Using a Position Sensing Detector. Filed May 11, 1981.

116. Patent application 262,351: Projectile Carrier for Liquid Propellant Gun. Filed May 11, 1981.

117. Patent application 262,362: Adaptive Quantizer for Acoustic Binary Information Transmission. Filed May 11, 1981.

118. Patent application 262,658: Fiber-Optic Radiation Detector and Read-Time Radiation Dosimeter. Filed May 11, 1981.

119. Patent application 263,664: Composite Superconductors. Filed May 14, 1981.

120. Patent application 265,129: Passive Maser. Filed May 19, 1981.

121. Patent application 265,299: Light Actuated Electroexplosive Device. Filed May 20, 1981.

122. Patent application 265,475: Speed Measuring Apparatus. Filed May 20, 1981.

123. Patent application 265,874: Lens System for Panoramic Imagery. Filed June 1, 1981.

124. Patent application 266,299: Hybrid Coupled Microstrip Amplifier. Filed May 22, 1981.

125. Patent application 266,852: Pseudo-Random Noise Generated Target. Filed May 26, 1981.

126. Patent application 266,878: Process for Synthesizing Silylated Polyalkenamers. Filed May 26, 1981.

127. Patent application 267,111: Olefin Metathesis. Filed May 26, 1981.

128. Patent application 267,937: Aswixs Remote Speaker and Handset Set. Filed May 28, 1981.

129. Patent application 268,203: Widerange Photomultiplier Circuit. Filed May 29, 1981.

130. Patent application 268,601: Compass Checker. Filed May 29, 1981.

131. Patent application 269,125: Digital M of N Correlation Device Having Increased Bit Rate. Filed June 1, 1981.

132. Patent application 269,455: Analog to Digital Converter. Filed June 2, 1981.

133. Patent application 270,035: A Solid-State Magnetometer. Filed July 9, 1981.

134. Patent applications 270,061: Acoustic Envelope Having Minimal Vibrating and Flow Induced Noises. Filed June 3, 1981.

135. Patent application 270,061: Low Frequency Nonresonant Acoustic Projector. Filed October 5, 1981.

136. Patent application 272,624: Airspeed Display Scale with Integral Trend Indication. Filed June 11, 1981.

137. Patent application 273,785: Nighttime/Daytime Diffuse Attenuation Coefficient Device for Seawater. Filed June 15, 1981.

138. Patent application 273,825: Anchor Holding Capacity Augmentation System. Filed June 15, 1981.

139. Patent application 274,857: A Three-Axis Current Meter. Filed June 18, 1981.

140. Patent application 274,958: Nephelometer. Filed June 18, 1981.

141. Patent application 275,474: Linearizing Circuit for a Voltage Controlled Oscillator. Filed June 19, 1981.

142. Patent application 275,564: Serial to Parallel Data Conversion Interface Circuit. Filed June 22, 1981.

143. Patent application 276,099: Collapsible Salvage Drum and Method. Filed June 22, 1981.

144. Patent application 276,277: Data Buffer Circuit. Filed June 22, 1981.

145. Patent application 276,416: Lift Sling Emplacement Device. Filed June 22, 1981.

146. Patent application 276,593: Multiplexed Computer-Controlled Protective System. Filed June 23, 1981.

147. Patent application 277,298: A/D Dynamic Range Enhancing Technique. Filed June 25, 1981.

148. Patent application 277,310: Volumetric Positive Displacement Mixer. Filed June 22, 1981.

149. Patent application 277,368: High Pressure Mechanical Mixer for Epoxy Compounds. Filed June 22, 1981.

150. Patent application 277,376: Passive Optical, Rangefinder/Sextant Having Search Capability. Filed June 25, 1981.

151. Patent application 278,026: Electric Delay Detonator. Filed June 29, 1981.

152. Patent application 278,294: Method of Determining the Material Composition of a Dielectrically Coated Radar Target/Obstacle. Filed June 26, 1981.

153. Patent application 278,297: Percussion Primer for Cartridge Actuated Devices. Filed June 24, 1981.

154. Patent application 278,300: Long Line Hydrophone. Filed June 24, 1981.

155. Patent application 279,644: Ultrasonic Loading of Extrudable Plastic Bonded Explosives. Filed July 2, 1981.

156. Patent application 279,645: Synthesis of Alkenols. Filed July 2, 1981.

157. Patent application 280,107: Optical Gyroscope with Time Dependent Wavelength. Filed July 2, 1981.

158. Patent application 280,166: A Reusable Cable Termination. Filed July 2, 1981.

159. Patent application 280,608: Deck Clearance System for Gun Control. Filed June 30, 1981.

160. Patent application 280,767: Laser Formed Video Tube Calibration Markers. Filed July 6, 1981.

161. Patent application 281,817: Optical Decoder. Filed July 9, 1981.

162. Patent application 282,474: Synchronously Filtered Synchro Demodulator. Filed July 13, 1981.

163. Patent application 282,783: Quadrant Avalanche Photodiode. Filed July 13, 1981.

164. Patent application 283,418: A Controller for a Locked Carrier Distributed Multiplexed Telemetry System. Filed July 15, 1981.

165. Patent application 283,708: Tetraazide Polyesters and Methods of Preparation. Filed June 16, 1981.

166. Patent application 283,709: Improvement in the Breakdown of Solid Propellants and Explosives, Recovery of Nitramines. Filed July 16, 1981.

167. Patent application 285,661: Inductive Intense Beam Source. Filed July 21, 1981.

168. Patent application 286,690: MPD Intense Beam Pulser. Filed July 21, 1981.

169. Patent application 286,099: External Cavity Diode Laser Sensor. Filed July 22, 1981.

170. Patent application 287,005: An Overcurrent Protection Circuit System. Filed July 27, 1981.

171. Patent application 287,959: Optimum Flow Noise Cancelling Hydrophone Module. Filed July 28, 1981.

172. Patent application 288,229: Millimeter Wave Printed Circuit Mixer. Filed July 29, 1981.

173. Patent application 288, 598: Water Displacing Paint. Filed July 30, 1981.

174. Patent application 289,445: Internal Clamp. Filed August 3, 1981.

175. Patent application 290,757: Interference Suppressor for Radar MTI. Filed August 7, 1981.

176. Patent application 290,760: Channelized Feed-Forward System. Filed August 7, 1981.

177. Patent application 291,000: A Test for a Directional Command Active Sonobuoy System (DICASS). Filed August 7, 1981.

178. Patent application 292,777: Millimeter Wave Dielectric Waveguide Rotary Joint. Filed August 14, 1981.

179. Patent application 293,559: Negative Rotation Cinch Strap. Filed August 17, 1981.

180. Patent application 293,569: A Sensitive Fiber Optic Sensor. Filed August 28, 1981.

181. Patent application 294,667: A Trawl Resistant Sensor Mount. Filed August 20, 1981.

182. Patent application 295,353: Improved Electronic Packaging Technique. Filed August 24, 1981.

183. Patent application 295,398: Heated Breathing Bag Sheath. Filed August 24, 1981.

184. Patent application 295,989: Extended Fiber Optic Sensor Using Birefringent Fibers. Filed August 25, 1981.

185. Patent application 297,490: Coupled Multilayer Antenna. Filed August 28, 1981.

186. Patent application 297,605: Method for Supressing Thermally Induced Signals in Fiber Optic Interferometer Sensors. Filed August 31, 1981.

187. Patent application 297,655: Improved Smoke Screen Generators. Filed August 31, 1981.

188. Patent application 298,053: A Shallow Water Environmental/ Oceanographic Measurement System. filed August 31, 1981.

189. Patent application 298,700: Cylindrical Object Recovery Device. Filed September 2, 1981.

190. Patent application 298,712: Release Mechanism for a Cylindrical Object Recovery Device. Filed September 2, 1981.

191. Patent application 299,748: Lift Line Tension Limiter. Filed September 8, 1981.

192. Patent application 299,750: Gold Based Electrical Contact Materials. Filed September 8, 1981.

193. Patent application 300,867: Coarse-Fine Digital Pattern Combiner for High Accuracy Angular Measurement. Filed September 10, 1981.

194. Patent application 301,088: Digital Sidelobe Canceller with Real Weights. Filed September 11, 1981.

195. Patent application 301,488: Driver for High Power Sonar Systems. Filed September 14, 1981.

196. Patent application 301,704: Multicolor Focal Plane Array and Method of Preparation. Filed September 14, 1981.

197. Patent application 301,909: Monopole Inductively Loaded Antenna Tuning System. Filed September 14, 1981.

198. Patent application 303,448: Digital Multi-Tapped Delay Line with Automatic Time-Domain Programming. Filed September 18, 1981.

199. Patent application 303,450: A Machining Process for Metal Mirror Surfaces. Filed September 18, 1981.

200. Patent application 305,075: Pattern Generating Circuit. Filed September 24, 1981.

201. Patent application 305,231: Slotline Reverse-Phase Hybrid Ring Coupler. Filed September 24, 1981.

202. Patent application 306,111: Pit Depth Gauge. Filed September 28, 1981.

203. Patent application 307,403: Single-Sideband Acoustic Telemetry. Filed October 1, 1981.

204. Patent application 307,557: Subwavelength Monopole Underwater Sound Radiation. Filed October 1, 1981.

205. Patent application 308,740: Radiation Detector and Method of Opaquing the Mica Window. Filed October 2, 1981.

206. Patent application 309,649: Freeze Crystallization Desalting/Concentration System Utilizing Fluidized Bed Heat Exchanger. Filed October 8, 1981.

207. Patent application 309,742: Fluidizer Bed Heat Exchanger/Freezer. Filed October 8, 1981.

208. Patent application 311,219: Microprocessor Controlled Fiber Optic Cable Winding Machine. Filed October 14, 1981.

209. Patent application 311,709: Improved Ion-Implated GaAs FET. Filed October 15, 1981.

210. Patent application 311,715: Cartridge Butterfly Valve. Filed October 15, 1981.

211. Patent application 314,161: An Augmented Combustion Chamber Using Vorbix Principle with Core Stream Swirl. Filed October 23, 1981.

212. Patent application 314,285: A Swirler Assembly for Vorbix Augmentor. Filed October 23, 1981.

213. Patent application 314,289: Dual Input Gyroscope. Filed October 23, 1981.

214. Patent application 314,299: Double Coupled Dual Input Rate Sensor. Filed October 23, 1981.

215. Patent application 314,325: Hard Magnetic Alloys of a Transition Metal and Lanthanide. Filed October 23, 1981.

216. Patent application 314,326: Soft Magnetic Alloys and Preparation Thereof. Filed October 23, 1981.

217. Patent application 314,327: Magnetostrictive Devices. Filed October 23, 1981.

218. Patent application 314,592: Transient Protection Device Current Interrupter. Filed October 26, 1981.

219. Patent application 314,606: Fluid Ejected and Retracted Tube Clearance Tester. Filed October 26, 1981.

220. Patent application 315,121: Compound Semiconductor Device Performance & Reproducibility Improvement. Filed October 26, 1981.

221. Patent application 315,124: Room Temperature Accumulation Mode Charge Transfer Device. Filed October 26, 1981.

222. Patent application 317,357: Synchronous/Asynchronous Independent Single Sideband Acoustic Telemetry. Filed November 2, 1981.

223. Patent application 317,662: Wavelength Selective Fused Single-Mode Fiber Couplers. Filed November 2, 1981.

224. Patent application 319,159: Improved Ramjet Fuel. Filed November 9, 1981.

225. Patent application 322,808: Hermetic High Pressure Fiber Optic Bulkhead Penetrator. Filed November 19, 1981.

226. Patent application 325,454: Generalized Polyphase Code Pulse Compressor. Filed November 27, 1981.

227. Patent application 329,848: Externally Specified Index Peripheral Simulation System. Filed December 11, 1981.

228. Patent application 330,281: Heterojunction Source-Drain Insulated Gate Field-Effect. Filed December 14, 1981.

229. Patent application 330,283: Inversion-Mode Insulated Gate $Ga_{0.47}$ $In_{0.53}$ As Field-Effect Transistors. Filed December 14, 1981.

230. Patent application 330,756: Head Position and Orientation Sensor. Filed December 14, 1981.

231. Patent application 333,152: Generalized Coupler Realization for Use in Fiber Optic Systems. Filed December 21, 1981.

232. Patent application 334,848: Preparation of Aluminum-Lithium and Aluminum-Magnesium Alloys by Rapid Crystallization Under High Specific Pressures. Filed December 28, 1981.

233. Patent application 335,903: Undersea, High Pressure Bulkhead Penetrator for Use with Fiber Optic Cables. Filed December 30, 1981.

234. Patent application 336,132: Refractory Oxide-Refractory InP Schottky Barrier. Filed December 31, 1981.

235. Patent application 337,658: Means for Focusing and Adjusting Video Camera System. Filed January 7, 1982.

236. Patent application 337,659: Multi-Color Tunable Semiconductor Device. Filed January 7, 1982.

237. Patent application 338,696: Anti-Armor Weapons Trainer. Filed January 11, 1982.

238. Patent application 340,397: Switching Mixer. Filed January 18, 1982.

239. Patent application 341,357: Millimeter Wave Suspended Substrate Multiplexer. Filed January 21, 1982.

240. Patent application 344,236: Phantom Computer Gating System. Filed January 29, 1982.

241. Patent application 344,450: Magnetic Ship's Hog Line Holder. Filed February 2, 1982.

242. Patent application 345,127: Magnetically-Unbiased Microwave Coupling Device. Filed February 2, 1982.

Dated: July 7, 1982.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 82-18608 Filed 7-9-82; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF ENERGY

Economic Regulatory Commission

[Docket No. ERA-FC-82-004; FC Case Number 55242-3063-01-12]

Order Granting Publishers Paper Co.; Exemption From Prohibitions of Powerplant and Industrial Fuel Use Act of 1978

Correction

In FR Doc. 82-17975, at page 28735 in the issue of Thursday, July 1, 1982, correct the date under the preamble item "DATES" now reading August 1, 1982 to read August 30, 1982.

BILLING CODE 1505-01-M

Office of Assistant Secretary for International Affairs

International Atomic Energy Agreements; Proposed Subsequent Arrangement; Canada

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Canada Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the following sale: Contract Number S-CA-327, to the Geological Survey of Canada, 0.005 grams of uranium enriched to 99.9% in U-235, for use as standard reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than July 27, 1982.

For the Department of Energy.

Dated: July 6, 1982.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 82-18761 Filed 7-9-82; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Proposed Subsequent Arrangement; Hungary

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement".

The subsequent arrangement involves approval for sale of the following materials, pursuant to general licenses issued by the U.S. Nuclear Regulatory Commission:

Contract Number S-IA-119, to the Institute of Isotopes of the Hungarian Academy of Sciences, 0.005 grams of natural uranium and 0.005 grams of thorium, for use as standard reference materials.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than July 27, 1982.

For the Department of Energy.

Dated: July 6, 1982.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 82-18762 Filed 7-9-82; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Issuance of Decision and Orders; Week of June 14 Through June 18, 1982

During the week of June 14 through June 18, 1982, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

Ginsburg, Feldman, Weil and Bress, 6/14/82, HFA-0057

The law firm of Ginsburg, Feldman, Weil and Bress filed an Appeal from a partial denial by the Dallas regional office of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that some documents and portions of documents originally withheld under Exemption 4 of the FOIA should be released to the public. Important issues that were considered in the Decision and Order were (i) whether the withheld information was available to the public from another source and (ii) whether the information was privileged or confidential.

Requests for Exceptions

Kern Oil & Refining Company, 6/14/82, HEE-0056

Kern Oil & Refining Company filed an Application for Exception from the provisons of 10 CFR 211.67(i)(3) in which the firm requested that it be issued any entitlements attributable to Kern County Refining Inc. In considering the request, the DOE found that as a result of an Assumption and Indemnity Agreement entered into by the two firms exception relief was unnecessary in order for Kern Oil & Refining to be assigned Kern County's entitlements. Accordingly, the request was dismissed.

UCO Oil Company, 6/14/82, DPI-0014

UCO Oil Company (UCO) filed an Application for Exception from the provisions of 10 CFR 213.35(c) (the Mandatory Oil Import Program) in which the firm sought a refund of the naphtha import fees that it incurred during the period May 1, 1978 through April 30, 1979. In considering the request, the DOE rejected UCO's argument that it had experienced a financial hardship as a result of the provisions of the Oil Import Program. Accordingly, the exception request was denied.

Interlocutory Order

Office of Special Counsel For Compliance, 6/14/82, HRZ-0007

The Office of Special Counsel for Compliance (OSC) sought an order adopting certain factual findings made in a Proposed Remedial Order (PRO) issued to the Gulf Oil Corporation. The DOE entered an order finding Gulf to have admitted specified factual findings in the PRO which the firm failed to controvert in its Statement of Factual Objections.

Refund Applications

Tenneco Oil Company/J. O. Cook, Inc., 6/17/82, RF7-19

J. O. Cook, Inc (Cook) filed an Application for Refund pursuant to a Decision and Order issued on February 18, 1982 in *Office of Special Counsel*, 9 DOE ¶ 82,538 (1982). In its Application, Cook sought a portion of a fund obtained by the DOE through a consent order entered into by the agency and the Tenneco Oil Company on January 18, 1981. In considering the request the DOE found that Cook was not eligible for a refund because it had not suffered an injury from Tenneco's alleged regulatory violations. Accordingly, Cook's Application for Refund was denied.

Tenneco Oil Company/Thomas Fastiggi et al., 6/18/82, RF7-6 et al.

On February 18, 1982, the Office of Hearings and Appeals issued a Decision and Order implementing special refund procedures with respect to a $5,000,000 fund obtained by the DOE through a consent order with the Tenneco Oil Company. *See Office of Special Counsel*, 9 DOE ¶ 82,538 (1982). The February 18, 1982 Decision stated that the DOE would accept applications for refund filed by purchasers of Tenneco crude oil or refined petroleum products who bought these products during the period covered by the consent order, March 3, 1973 through December 31, 1980. On June 18, 1982, the Office of Hearings and Appeals issued an order concerning 23 of the applications for refund filed in response to the February 18 Decision. These applications all requested refunds based on an average purchase volume of 50,000 gallons per month per product, or less. In considering these applications, the DOE determined that 17 of those applications had met the standards set forth in the February 18 Decision and in DOE regulations applicable to special refund proceedings, 10 CFR Part 205, Subpart V. Accordingly, those 17 applications were granted. However, six of the applications, which requested refunds for amounts less than $15.00, were denied because the administrative costs of proceeding such applications were found to outweigh the modest restitutionary effect of such small refunds.

Dismissals

The following submissions were dismissed without prejudice:

Name and Case No.

Crystal Petroleum Co., DRO-0081, BRD-0023
Harrison Gas & Oil, BRO-0336
Gerald Holton, HFA-0060
Jay Petroleum, Inc., HRO-0031

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th Street and Pennsylvania Avenue, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

July 2, 1982.

[FR Doc. 82-18760 Filed 7-9-82; 8:45 am]

BILLING CODE 6450-01-M

Office of the Secretary

Defense Programs; New Production Reactor; Concept and Site Selection Advisory Panel; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

NAME: New Production Reactor (NPR) Concept and Site Selection Advisory Panel (CSSAP).

DATE AND TIME:

Tuesday, July 27, 1982—9:00 am to 5:00 pm
Wednesday, July 28, 1982—9:00 am to 5:00 pm
Thursday, July 29, 1982—9:00 am to 5:00 pm
Friday, July 30, 1982—9:00 am to 2:00 pm

PLACE:

Los Alamos National Laboratory, Los Alamos, New Mexico
July 27—Technical Area 3, Building SM-43, Room D-418
July 28-30—Technical Area 18, Building 30, Room 123

CONTACT:
Gloria Decker, Information Management Systems Branch, U.S. Department of Energy, Forrestal Building—Room 4D-024, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone: (202) 252-8990

PURPOSE OF THE BOARD: To provide the Department of Energy (DOE) with advice regarding the selection of a reactor concept and site for DOE's proposed NPR.

Tentative Agenda

Briefings and discussion of:

- Advisory Panel Charter, criteria, and groundrules.
- Summary of previous NPR Technical Working Group Activities.
- Summary of NPR activities since the Technical Working Group
- Reactor Concept presentations.
- Panel deliberations.

Public Participation

Because the meeting of the NPR CSSAP will involve the discussion of Restricted Data, as defined in the Atomic Energy Act of 1954, the meeting will be closed in the interest of National security. The deliberations of the NPR CSSAP are such that no portion of the meeting will be unrelated to Restricted Data.

Transcripts

Will be maintained in Technical Area 18, Building 30, Room 122. They will be classified and thus will not be available to the public.

Issued at Washington, DC., July 8, 1982.

Howard H. Raiken,

Deputy Advisory Committee, Management Officer.

[FR Doc. 82-18827 Filed 7-9-82; 10:31 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[WH-FRL-2146-3]

North Carolina Pretreatment Program Approval

Correction

In FR Doc. 82-16789 appearing on page 26908 in the issue of Tuesday, June 22, 1982, make the following correction:

On page 26909, the table contained errors for New York and North Carolina. For the convenience of the user, the table is republished in its entirety below.

The following table will provide the public with an up-to-date list of the status of NPDES permitting authority throughout the country.

	Approved State NPDES permit program	Approved to regulate Federal facilities	Approved State pretreatment program
Alabama	10/19/79	10/19/79	10/19/79
California	5/14/73	5/5/78	
Colorado	3/27/75		
Connecticut	9/26/75		6/3/81
Delaware	4/1/74		
Georgia	6/28/74	12/8/80	3/12/81
Hawaii	11/26/74	6/1/79	
Illinois	10/23/77	9/30/79	
Indiana	1/1/75	12/6/78	
Iowa	8/16/78	8/16/78	6/3/81
Kansas	6/28/74		
Maryland	9/5/74		
Michigan	10/17/73	12/9/78	
Minnesota	6/30/74	12/9/78	7/16/79
Mississippi	5/1/74		5/13/82
Missouri	10/30/74	6/26/79	6/3/81
Montana	6/10/74	6/23/81	
Nebraska	6/12/74	11/2/79	
Nevada	3/19/75	8/31/78	
New Jersey	4/13/82	4/13/82	4/13/82
New York	10/28/75	6/15/80	
North Carolina	10/19/75		6/14/82
North Dakota	6/13/75		
Ohio	3/11/74		
Oregon	9/26/73	9/2/79	3/12/81
Pennsylvania	6/30/78	6/30/78	
South Carolina	6/10/75	9/28/80	6/9/82
Tennessee	12/28/77		
Vermont	3/11/74		3/16/82
Virgin Islands	5/30/74		
Virginia	3/31/75	2/9/82	
Washington	11/14/73		
West Virginia	5/10/82	5/10/82	5/10/82
Wisconsin	2/4/74	11/28/79	12/24/80
Wyoming	1/30/75	5/18/81	

BILLING CODE 6560-50-M

[OPTS 140013; TSH-PRC 2166-6]

American Management Systems, Inc.; Access to Data by Contractor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has contracted with the American Management Systems, Inc. (AMS), of Arlington, Virginia, to design and operate a PMN Tracking System and a Document Tracking System (DTS) for the Office of Toxic Substances. Some of the material AMS will have access to will contain confidential business information.

DATE: Access to confidential business information will occur no sooner than July 22, 1982.

FOR FURTHER INFORMATION CONTACT:
Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-509, 401 M St., SW., Washington, D.C. 20460. Toll-free: (800-424-9065). In Washington, D.C.: (554-1404). Outside the USA: (Operator 202-554-1404).

SUPPLEMENTARY INFORMATION: EPA has contracted with the American Management Systems, Inc. (AMS) of Arlington, Virginia, to design and operate a Document Tracking System (DTS) and a PMN Tracking System for the Office of Toxic Substances (OTS). (Contract No. 68-01-5146) The purpose of the tracking systems is to monitor and facilitate the movement between appropriate OTS Offices of PMNs and other documents submitted to EPA under the Toxic Substances Control Act.

Pursuant to 40 CFR 2.306(j), EPA has determined that access to Confidential Business Information (CBI) by AMS is necessary for the satisfactory completion of this contract. Access to CBI is particularly important to AMS to enable the contractor to design the parameters of the Tracking Systems.

However, at no time will AMS be permitted to remove any CBI from EPA premises. Contractor employees will have access to CBI only while working on site at EPA.

In accordance with the EPA security manual "Contractor Requirements for the Control and Security of TSCA CBI," AMS is legally required to safeguard CBI from any unauthorized disclosure. AMS employees will sign nondisclosure agreements and will be briefed on appropriate security procedures which must be followed before they will be allowed access to any CBI.

Dated: June 25, 1982.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 82-18715 Filed 7-9-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51421; TSH-FRL 2167-6]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of eighteen PWNs and provides a summary of each.

DATES: Close of Review Period:

PMN 82–463, September 23, 1982.
PMN 82–464, 82–465, and 82–466, September 26, 1982.
PMN 82–468 and 82–469, September 27, 1982.
PMN 82–467, 82–470, 82–471, 82–472, 82–473, 82–474, 82–475, 82–476, 82–477, and 82–478, September 28, 1982.
PMN 82–479 and 82–480, September 29, 1982.

Written comments by:

PMN 82–463, August 24, 1982.
PMN 82–464, 82–465, and 82–466, August 27, 1982.
PMN 82–468 and 82–469, August 28, 1982.
PMN 82–467, 82–470, 82–471, 82–472, 82–473, 82–474, 82–475, 82–476, 82–477, and 82–478, August 29, 1982.
PMN 82–479 and 82–480, August 30, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS–51421]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, DC 20460, (202–382–3532).

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M St., SW., Washington, DC 20460, (202–382–3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the pubic reading room E–107.

PMN 82–463

Manufacturer. Confidenital.
Chemical. (G) Unsaturated polyester resin.
Use/Production. (G) Contained use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture, processing and use: dermal and inhalation, a total of 6 workers, up to 24 hrs/da, up to 250 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air 24 hrs/da, 250 da/yr. Disposal by incineration.

PMN 82–464

Manufacturer. Confidential.
Chemical. (G) 2-hydroxy-3-naphthoic acid N-arly amide.
Use/Production. (G) Coating application. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture, use and disposal: dermal and inhalation, a total of 5 workers, up to 2 hrs/da, up to 12 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air 2 hrs/da, 12 da/yr. Disposal by incineration, approved landfill, hazardous waste disposal.

PMN 82–465

Manufacturer. E. I. du Pont de Nemours and Company, Inc.
Chemical. (G) Quaternary ammonium chloride.
Use/Production. (S) Catalyst for use within the company. Prod. range: Confidential.
Toxicity Data. Acute oral: 1,500 mg/kg; Skin irritation: Severe; Eye irritation: Moderate; Ames Test: Non-mutagenic; Skin sensitization: Positive.
Exposure. Manufacture: dermal, 12 workers, 2 hrs/da, 20 da/yr.
Environmental Release/Disposal. Release to water. Disposal by publicly owned treatment works (POTW) and biological treatment system.

PMN 82–466

Manufacturer. Confidential.
Chemical. (S) Polymer of vinyl toluene, styrene, 2 ethyl hexyl acrylate.
Use/Production. (S) Industrial paint manufacture. Prod. range: 0–65,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Accidental dermal.
Environmental Release/Disposal. Less than 10 kg/yr released to water and land 6 hrs/da, 12 da/yr.

PMN 82–467

Manufacturer. Confidential.
Chemical. (G) Aromatic aliphatic branched polyester resin.
Use/Production. (G) Open use. Prod. range: 8,074–60,554 kg/yr.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by incineration.

PMN 82–468

Manufacturer. Uniroyal, Inc.
Chemical. (G) Isocyanate terminated polyether polyurethane prepolymer.
Use/Production. (S) Molded goods applications. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: inhalation.
Environmental Release/Disposal. No release. Disposal by landfill.

PMN 82–469

Importer. American Hoechst Corporation.
Chemical. (S) Reaction product from benzyl-1-hydroxydiphenyl ethoxylate and glycolic acid, sodium salt.
Use/Import. Confidential. Import range: 2,000–3,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Processing: dermal, 50 workers, less than 1 hr/da, 30 da/yr.
Environmental Release/Disposal. Negligible.

PMN 82–470

Manufacturer. Ashland Chemical Company.
Chemical. (G) Terephthalic acid modified unsaturated polyester resin.
Use/Production. (S) General purpose molding resin. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Disposal by incineration and land fill.

PMN 82–471

Maufacturer. Ashland Chemical Company.
Chemical. (G) Terephthalic acid modified unsaturated polyester resin.
Use/Production. (S) General purpose molding resin. Prod. range: Confidential.
Toxicity Data. No data sumitted.
Exposure. Confidential.
Environmental Release/Disposal. Disposal by incineration and landfill.

PMN 82–472

Manufacturer. Ashland Chemical Company.
Chemical. (G) Terephthalic acid modified unsaturated polyester resin.
Use/Production. (S) General purpose molding resin. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Disposal by incineration and landfill.

PMN 82–473

Manufacturer. Ashland Chemical Company.
Chemical. (G) Terephthalic acid modified unsaturated polyester resin.
Use/Production. (S) General purpose molding resin. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Disposal by incineration and landfill.

PMN 82–474

Manufacturer. Ashland Chemical Company.
Chemical. (G) Terephthalic acid modified unsaturated polyester resin.
Use/Production. (S) General purpose molding resin. Prod. range: Confidential.
Toxicity Data. No Data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Disposal by incineration and landfill.

PMN 82–475

Manufacturer. Ashland Chemical Company.
Chemical. (G) Terephthalic acid modified unsaturated polyester resin.
Use/Production. (S) General purpose molding resin. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Disposal by incineration and landfill.

PMN 82–476

Manufacturer. Ashland Chemical Company.
Chemical. (G) Terephthalic acid modified unsaturated polyester
Use/Production. (S) General purpose molding resin. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Disposal by incineration and landfill.

PMN 82–477

Manufacturer. Ashland Chemical Company.
Chemical. Terephthalic acid modified unsaturated polyester resin.
Use/Production. (S) General purpose molding resin. Prod. range: Confidential.
Toxicity Data. No Data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Disposal by incineration and landfill.

PMN 82–478

Importer. Shinko American, Inc.
Chemical. (G) Calcium salt of a substituted amino acid.
Use/Import. (G) Open use. Import range: Confidential.
Toxicity Data. Oral ingestion: Male—8,500 mg/kg, Female—6,250 mg/kg.
Exposure. Processing and disposal: dermal, a total of 6 workers, up to 1 hr/da, up to 365 da/yr.
Environmental Release/Disposal. Disposal by landfill.

PMN 82–479

Manufacturer. Confidential.
Chemical. (G) Heteropolycyclic(dihydroxyheteropolycycle)
Use/Production. (S) Site-limited industrial intermediate. Prod. range: 3,000–15,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal and inhalation, a total of 144 workers, up to 24 hrs/da, up to 322 da/yr.
Environmental Release/Disposal. Disposal by POTW, approved landfill, or for treatment or recovery.

PMN 82–480

Manufacturer. Confidential.
Chemical. (G) Polyol polyacrylate.
Use/Production. (G) Open use. Prod. rnage: Confidential.
Toxicity Data. Acute oral: >5 gm/kg; Acute dermal: >2 gm/kg; Skin irritation: Moderate irritant; Eye irritation: Slight irritant; Mouse lymphoma: Positive; Ames Test: Negative; Sister Chromatid: Negative.
Exposure. Potential dermal exposure.
Environmental Release/Disposal. No release.

Dated: July 2, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82-18714 Filed 7-9-82; 8:45 am]
BILLING CODE 6560-50-M

[OPTS-59094; TSH-FRI 2167-5]

Certain Chemicals; Premanufacture Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5(a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's revised statement of interim policy published in the **Federal Register** of November 7, 1980 (45 FR 74378). This notice, issued under section 5(h)(6) of TSCA, announces receipt of four applications for exemptions, provides a summary, and requests comments on the appropriateness of granting each of the exemptions.

DATE: Written comments by: July 27, 1982.

ADDRESS: Written comments, identified by the document control number [OPTS-59094] and the specific TME number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Management Support Division, Environmental Protection Agency, Rm. E-401, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M Street, SW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TME received by EPA. The complete non-confidential document is available in the public reading room E-107.

TME 82–30

Close of Review Period. August 12, 1982.
Manufacturer. Allied Corporation.
Chemical. (G) Substituted diyne urethane.
Use/Production. (G) Specialty label. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Release information confidential. Disposal by incineration and approved landfill.

TME 82–31

Close of Review Period. August 12, 1982.
Manufacturer. U.C.T., Inc.
Chemical. (G) Alkylphenol, formaldehyde, alkanolamine, alkylene oxides reaction product.
Use/Production. (S) In manufacture of rigid urethane foam. prod. range: 45 days—441 kg.
Toxicity Data. No data submitted.
Exposure. Manufacture, processing and disposal: dermal, 2 workers, up to 8 hrs/da, intermittently.
Environmental Release/Disposal. Less than 10 kg/yr released to air, water and land.

TME 82-32

Close of Review Period. August 13, 1983.

Importer. Shinko American, Inc.

Chemical. (G) Calcium salt of a substituted amino acid.

Use/Import. (G) Open use. Import range: 3 mos—minimum 500 kg, maximum 750 kg.

Toxicity Data. Acute oral: Male—8,500 mg/kg, female—6,250 mg/kg.

Exposure. Potential dermal exposure during use may occur more than once per week to chemical industry employees. Use may also involve restricted consumer exposure to the substance as part of an article.

Environmental Release/Disposal. Less than 50 kg to environment (landfill) during test market period.

TME 82-33

Close of Review Period. August 14, 1982.

Importer. Confidential.

Chemical. (S) Polymer of hexane, 1,6-diisocyanato-homopolymer with 2-butane, oxime.

Use/Import. (S) Crosslinker for industrial coatings. Import range: 6 mos—2,273 kg.

Toxicity Data. No data submitted.

Exposure. A total of 50 workers may have dermal, inhalation and eye exposure as a result of test marketing.

Environmental Release/Disposal. Negligible.

Dated: July 2, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82-18713 Filed 7-9-82; 8:45 am]
BILLING CODE 6560-50-M

[OPTS 140012 and TSH-FRL 2166-5]

Computer Services Corporation, InterAmerica Research Associates, Inc.; Access to Data by Contractor and Subcontractor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has contracted with the Computer Services Corporation (CSC) of Falls Church, Virginia, and subcontracted with InterAmerica Research Associates, Inc. of Rosslyn, Virginia, to organize and operate a Confidential Business Information (CBI) Information Center for the Office of Toxic Substances. Some of the material which CSC and InterAmerica will have access to will contain confidential business information.

DATE: Access to confidential business information will occur no sooner than July 22, 1982.

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-509, 401 M St., SW., Washington, D.C. 20460, Toll-free: (800-424-9065), In Washington, D.C.: (554-1404), Outside the USA: (Operator 202-554-1404).

SUPPLEMENTARY INFORMATION: EPA has contracted with the Computer Services Corporation (CSC) of Falls Church, Virginia, and subcontracted with InterAmerica Research Associates, Inc. Rosslyn, Virginia, to organize and operate an Information Center for Confidential Business Information (CBI) submitted to EPA under various provisions of the Toxic Substances Control Act (TSCA). (Contract No. 68-01-6360) The purpose of this CBI Information Center (CIC) is to efficiently organize and distribute within EPA the large quantity of CBI material received to date and expected to be received in the future so as to facilitate its effective and timely use. The Office of Toxic Substances (OTS) needs the assistance of CSC and InterAmerica because it does not have sufficient staffing and expertise for the kind and amount of work which must be performed to design and operate the CIC.

CSC and InterAmerica will manage and update EPA's TSCA CBI files and data bases, perform information searches and retrievals on those data bases, and index and microfiche CBI files. Pursuant to 40 CFR 2.306(j), EPA has determined that disclosure of CBI to CSC and InterAmerica is necessary for the satisfactory completion of this contract.

At no time will CSC or InterAmerica be permitted to remove any CBI from EPA premises. Contractor and subcontractor employees will have access to CBI only while working on site at EPA.

In accordance with the EPA security manual "Contractor Requirements for the Control and Security of TSCA CBI," CSC and InterAmerica are legally required to safeguard CBI from any unauthorized disclosure. CSC and InterAmerica employees will sign nondisclosure agreements and will be briefed on appropriate security procedures which must be followed before they will be allowed access to any CBI.

Dated: June 24, 1982.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 82-18716 Filed 7-9-82; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-663-DR]

Kansas; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Kansas (FEMA-663-DR), dated June 28, 1982, and related determinations.

DATED: June 28, 1982.

FOR FURTHER INFORMATION CONTACT: Sewall, H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0501.

NOTICE: Pursuant to the authority vested in the Director of the Federal Emergency Management Agency by the President under Exectutive Order 12148, effective July 15, 1979, and delegated to me by the Director under Federal Emergemcy Management Agency Delegation of Authority, and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter of June 28, 1982, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Kansas resulting from severe storms and flooding beginning on June 8, 1982, is of sufficient severity and magnitude to warrant a major-disater declaration under Pub. L. 93-288. I therefore declare that such a major disaster exists in the State of Kansas.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93-288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area except for technical assistance which will be funded at 100 percent.

Pursuant to Section 408(b) of Pub. L. 93-288, you are authorized to advance to the State its 25 percent share of the individual and family grant program, to be repaid to the United States by the State when it is able to do so.

The time period prescribed for the implementation of section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of Federal Emergency Management Agency under Executive Order 12148, and delegated to me by the Director under the Federal Emergency Management Agency Delegation of Authority, I hereby appoint Mr. Patrick J. Breheny of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of Kansas to have been affected adversely by this declared major disaster:

For Public Assistance only:

Jackson County

For Individual Assistance only:

Washington Township in Jackson County
Rossville Township in Shawnee County

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Lee M. Thomas,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 82-18770 Filed 7-9-82; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 133]

Arthur Louis Rankin, d.b.a. A. L. Rankin; Order of Revocation

On June 14, 1982, Arthur Louis Rankin, d/b/a/ A. L. Rankin, 722 Wilson Bldg., Corpus Christi, TX 78491 requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 133.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 10.01(e) dated November 12, 1981;

It is ordered, that independent Ocean Freight Forwarder License No. 133 issued to Arthur Louis Rankin, d/b/a/ A. L. Rankin, be revoked effective June 14, 1982 without prejudice to reapplication for a license in the future.

It is further ordered, that Independent Ocean Freight Forwarder License No. 133 issued to Arthur Louis Rankin, d/b/a/ A. L. Rankin be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the Federal Register and served upon Arthur Louis Rankin, d/b/a/ A. L. Rankin.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 82-18693 Filed 7-9-82; 8:45 am]

BILLING CODE 6730-01-M

Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

K. S. Anderson & Co., Inc., 7720 Shelly Drive, New Orleans, LA 70126, Officer: Kay S. Anderson, Sole Stockholder

Dated: July 7, 1982.

By the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82-18696 Filed 7-9-82; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1552]

J. D. Express Co., Inc.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issed in favor of J. D. Express Co., Inc., P.O. Box 5123, 215 East Kinney Street, Newark, NY 07105 was cancelled effective June 11, 1982.

By letter dated May 14, 1982, J. D. Express Co., Inc. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1552 would be automatically revoked unless a valid surety bond was filed with the Commission.

J. D. Express Co., Inc. has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 10.01(f) dated November 12, 1981;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 1552 be and is hereby revoked effective June 11, 1982.

It is ordered, that Independent Ocean Freight Forwarder License No. 1552 issued to J. D. Express Co., Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the Federal Register and served upon J. D. Express Co., Inc.

Albert J. Klingel, Jr.,

Director, Bureau of Certification & Licensing.

[FR Doc. 82-18692 Filed 7-9-82; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2205]

McKinney International Forwarders, Inc.; Order of Revocation

On June 29, 1982, McKinney International Forwarders, Inc., 24 Drayton Street, Suite 203, Savannah, GA 31412 surrendered its Independent Ocean Freight Forwarder License No. 2205 for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 10.01(e) dated November 12, 1981;

It is ordered, that Independent Ocean Freight Forwarder License No. 2205 issued to McKinney International Forwarders, Inc. be revoked effective June 29, 1982, without prejudice to reapplication for a license in the future.

It is further ordered, that a copy of this Order be published in the Federal Register and served upon McKinney International Forwarders, Inc.

Albert J. Klingel,

Director, Bureau of Certification and Licensing.

[FR Doc. 82-18694 Filed 7-9-82; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2000]

Stanley Edward Wells, d.b.a. Pacific Customs Brokers; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule

510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Stanley Edward Wells, d.b.a. Pacific Customs Brokers, 110 West Ocean Blvd., Long Beach, CA 90803 was cancelled effective June 16, 1982.

By letter dated June 3, 1982, Stanley Edward Wells, d.b.a. Pacific Customs Brokers was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 2000 would be automatically revoked unless a valid surety bond was filed with the Commission.

Stanley Edward Wells, d.b.a. Pacific Customs Brokers has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 10.01(f) dated November 12, 1981;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2000 be and is hereby revoked effective June 16, 1982.

It is ordered, that Independent Ocean Freight Forwarder License No. 2000 issued to Stanley Edward Wells, d.b.a. Pacific Customs Brokers be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Stanley Edward Wells, d.b.a. Pacific Customs Brokers.

Albert J. Klingel, Jr.,

Director, Bureau of Certification & Licensing.

[FR Doc. 82-18691 Filed 7-9-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

BankAmerica Corp.; Order for Hearing

BankAmerica Corporation, San Francisco, California, has applied pursuant to section 4(c)(8) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1843(c)(8)) and §§ 225.4(a) and (b)(2) of the Board's Regulation Y (12 CFR § 225.4(a) and (b)(2)), for permission to acquire directly all of the voting shares of The Charles Schwab Corporation, San Francisco, California, and thereby indirectly acquire Charles Schwab & Company, Inc., San Francisco, California (together "Schwab"). Applicant would engage in securities brokerage, consisting principally of buying and selling securities solely upon the order and for the account of customers, margin lending in conformity with the Board's Regulation T, 12 CFR 220, and the offering of certain specified services for its securities customers. This group of nonbanking activities has not yet been determined by the Board to be "closely related" to banking within the meaning of section 4(c)(8) of the Act and has not been added to the list of permissable activities in section 225.4(a) of the Board's Regulation Y, 12 CFR 225.4(a).

By notice published in the **Federal Register** on April 14, 1982, the Board invited interested persons to express their views on whether: (1) The proposed activities are so closely related to banking or managing or controlling banks as to be a proper incident thereto; (2) the proposed activities are permissable under the Glass-Steagall Act (i.e., 12 U.S.C. 24, 78, 377 and 378(a)), which is designed to separate commercial from investment banking, and, (3) consummation of the proposal can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices. Parties requesting a hearing were directed to state why a written presentation would not suffice in lieu of a hearing, to identify specifically any disputed question of fact and to summarize the evidence that would be presented at a hearing.

By memorandum dated May 28, 1982, the Securities Industry Association ("SIA") opposed the application. SIA contends that the proposed (or substantially similar) activities have never been conducted by banks or bank holding companies to the extent proposed by Applicant and therefore may not be considered "closely related" to banking within the meaning of section 4(c)(8) of the Act. Additionally, SIA claims that the proposed activities are precluded by sections 16 and 20 of the GSA, since banks are prohibited from conducting such activities by those provisons of the GSA. Finally, SIA disputes the public benefits alleged by Applicant to accompany its proposal and claims several possible adverse effects (e.g., anticompetitive effects in the product lines of discount brokerage, conflicts of interest, possible failure of Applicant to provide its trust and other customers the best brokerage services at the lowest cost, voluntary tying, unfair competition due to Schwab's affiliation with a bank and its alleged low cost of funds, public confusion and preemption of legislative process).

In connection with these contentions, SIA has requested that the Board hold a public hearing to explore the questions posed by the Board in its **Federal Register** notice, to investigate the factual premises of Applicant's proposal and to examine the possible adverse effects claimed by SIA. SIA also states that the record should contain information on the scope of Schwab's proposed operations, including: (1) The extent to which Schwab will take principal positions; (2) whether Schwab employees will receive bonuses; (3) Applicant's plans to promote and market Schwab's services; (4) resemblances between the proposed activities (including the Charles Schwab One Account) and deposit banking; (5) the alleged adverse anticompetitive effects associated with the proposal; and (6) Applicant's plans to minimize the possibility of voluntary tying. By letter dated June 21, 1982, Applicant opposed SIA's request for a hearing and stated that no disputed material facts have been raised in connection with its proposal.

While the Board believes that questions raised in the submissions of the parties and public comments might appropriately be resolved through additional written submission or an informal presentation, a procedure that has been utilized and found effective in other cases, the Board has decided to order a formal hearing conducted under the procedures and time schedule outlined in this Order as agreed to by the Applicant and SIA. The hearing will provide an appropriate and expeditious method to develop a full record for Board consideration of any disputed material fact involved in this proposal.

Accordingly, *it is hereby ordered* that a public and formal administrative hearing be held to resolve any disputed issues of material fact raised by SIA in its protest. In this connection, the hearing should address the scope of Applicant's proposed operation of Schwab and the alleged adverse competitive effects raised by SIA in its protest.

The hearing shall be conducted, except as modified below, in accordance with Subpart A of the Board's Rules of Practice for Hearings, 12 CFR Part 263, and will commence at 10:00 a.m., September 13, 1982, at the offices of the Board in Washington, D.C., before an administrative law judge. In the interest of concluding such hearing as expeditiously as possible, the hearing shall be conducted in accordance with the following schedule, which has been agreed to by both Applicant and SIA and which shall not be departed from in any material respect without the Board's prior consent:

July 19, 1982—Production of Information response to the requests of the parties
August 18, 1982—Submission of Direct Testimony
September 13–17, 1982—Hearing
October 1, 1982—Submission of Briefs and Proposed Findings of Fact
October 12, 1982—Submission of Reply Briefs
November 12, 1982—Filing of Recommended Decision
November 24, 1982—Filing of Exceptions

Additionally, the parties have agreed to submit requests for the production of documents and other information from the opposing party to the Board for a determination as to the general relevance and as to the reasonable scope of specific requests and to abide by the ruling of the Board's General Counsel on these matters as well as on any objections to the production of specific information by a party.

By order of the Board of Governors, effective July 8, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-19089 Filed 7-9-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Epidemiologic Study of Workers Exposed to Beryllium; Open Meeting

The following meeting will be convened by the National Institute for Occupational Safety and Health of the Centers for Disease Control and will be open to the public, limited only by space available.

Date: July 20, 1982
Time: 10:00 a.m. to 4:00 p.m.
Place: Room 9510, Federal Office Building, 550 Main Street, Cincinnati, Ohio 45202
Purpose: To discuss the protocol for the epidemiologic study of workers exposed to beryllium. Viewpoints and suggestions from industry, organized labor, academia, other government agencies, and the public are invited.

Additional information may be obtained from:

Ms. Andrea H. Okun, Division of Surveillance, Hazard Evaluations, and Field Studies, National Institute for Occupational Safety and Health, Centers for Disease Control, 4676 Columbia Parkway, Cincinnati, Ohio 45226, Telephone: 513/684-2145.

Dated: July 6, 1982.

Jeffrey P. Koplan,

Acting Director, Centers for Disease Control.

[FR Doc. 82-18733 Filed 7-9-82; 8:45 am]

BILLING CODE 4160-18-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Lewistown District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Lewistown District Grazing Advisory Board, Interior.

ACTION: Notice of meeting.

SUMMARY: The Lewiston District Grazing Advisory Board will meet August 5 and August 6, 1982. The agenda will be:

August 5
1:00 p.m. Introduction and Organization
1:45 p.m. Range Improvement Projects—1983
3:45 p.m. Allotment Categorization
4:30 p.m. Grazing Fee Schedule
5:00 p.m. Recess
August 6
8:00 a.m. Ervin Ridge Allotment Discussion
10:00 a.m. Final Range Improvement Policy
12:00 p.m. Adjournment

Opportunity for public comment will be provided throughout the meeting.

DATES: August 5, 1982, 1:00 p.m. to 5:00 p.m.; August 6, 1982, 8:00 a.m. to 12:00 noon.

ADDRESS: The Yogo Inn, Main St., Lewistown, Montana.

FOR FURTHER INFORMATION CONTACT: Glenn W. Freeman, District Manager, Bureau of Land Management, Airport Road, Lewiston, Montana 59457.

SUPPLEMENTARY INFORMATION: The Lewiston District Grazing Advisory Board is authorized under section 403 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1753). The Board advises the District Manager concerning the Rangeland Management Program.

Dated: July 1, 1982.

Glenn W. Freeman,

District Manager.

[FR Doc. 82-18730 Filed 7-9-82; 8:45 am]

BILLING CODE 4310-84-M

[Survey Group 669]

New Mexico Principal Meridian

July 2, 1982.

Plat of survey of the following described lands accepted May 11, 1982, will be officially filed in the Colorado State Office, Bureau of Land Management, Denver, Colorado, effective August 20, 1982.

New Mexico

Principal Meridian

T. 34 N., R. 13 W., North of the Ute line.

The plat representing the dependent resurvey of a portion of the north boundary of the Southern Ute Indian Reservation, a portion of the north boundary of the Ute Mountain Indian Reservation, the east and west boundaries and subdivisional lines and the subdivision of certain sections.

This survey was executed to meet certain administrative needs of the Bureau.

All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, 1037 20th Street, Denver, Colorado 80202.

Harold Martin,

Chief, Division of Operations.

[FR Doc. 82-18731 Filed 7-9-82; 8:45 am]

BILLING CODE 4310-84-M

Wyoming; Eastern Powder River Basin Management Framework Plan Coal Amendment—Recluse Review Area

June 25, 1982.

The Casper, Wyoming District Office of the Bureau of Land Management has reviewed and made a final decision regarding the amendment of portions of the 1977 Eastern Powder River Basin Management Framework Plan (MFP).

The reasons for the review and amendment are to make certain the MFP reflects, as completely as possible, current statutory requirements and policies, and to continue carrying out the requirements of Section 522 of the Surface Mining Control and Reclamation Act of 1977. Planning procedures and other aspects of the Federal Coal Management Program, are described in Title 43, Code of Federal Regulations, Part 3400.

The Recluse Review Area, which is part of the Powder River Coal Production Region, is located in Campbell County, Wyoming. High and moderate development potential coal in the Review Area is generally located in:

Portions of T. 58 N., Rs. 71, 72, 73, 74, 75, and 76W., south of the Montana state boundary.
T. 57 N., Rs. 71, 72, 73, 74, 75, and 76 W.
T. 56 N., Rs. 71, 72, 73, 74, 75, and 76 W.
T. 55 N., Rs. 71, 72, 73, 74, 75, and 76 W.
T. 54 N., Rs. 74, 75, and 76 W.
T. 53 N., Rs. 74, 75, and 76 W.
T. 52 N., Rs. 74, 75, and 76 W.
T. 51 N., Rs. 74, 75, and 76 W.

The MFP amendment also includes an area of low development potential coal for possible leasing and in-situ development. That area is generally located in:

T. 44 N., Rs. 70, 71, and 72 W.
T. 44 N., Rs. 70, 71, and 72 W.

Public participation opportunities were provided in the following ways: (1) Public notice of the review was issued in March, 1981; (2) a proposed decision brochure was issued on April 16, 1982 and 30 days were allowed for public review and comment; (3) a public meeting and hearing was conducted in Gillette, Wyoming on May 12, 1982 to present the proposed decisions and receive oral comments. Public comments were considered in preparation of the final amendment.

The Recluse Review Area contains approximately 473,000 acres and 57 billion tons of coal. Non-federal and committed federal coal lands containing approximately 51,000 acres and 6 billion tons of coal were excluded from the planning process.

Coal unsuitability criteria were applied to approximately 422,000 acres and 51 billion tons of coal. Approximately 18,000 acres containing 1.5 billion tons of coal were found to be unsuitable for further leasing consideration. Approximately 404,000 acres containing 49.5 billion tons of coal were found acceptable or acceptable pending study for further leasing consideration or exchange.

Planning constraints in the 1977 MFP were applied to all coal lands that were available for further consideration. These constraints were: (1) To defer coal leasing in producing oil and gas fields until the economic recovery of oil and gas is complete or where it can be shown that surface coal mining will not interfere with the economic recovery of oil and gas (73,000 acres and 9.5 billion tons of coal); and, (2) excluding leasing of coal lands that provide a buffer for the LX Bar historic site (25 acres and .005 billion tons of coal). Approximately 329,000 acres containing 40 billion tons of coal are available for futher leasing consideration.

A 30-day protest period begins from the date of this notice. During that time, any person who participated in the planning process and has an interest which is or may be adversely affected by the decision may protest the approval of the amendment. Once approved, areas found acceptable or acceptable pending study can be further considered for exchange or leasing through lease exchanges or modifications, or through the competitive coal leasing program. A second coal lease sale is scheduled for 1984 in the Powder River Basin of Wyoming and Montana.

For further information contact Don Whyde at the Bureau of Land Management, Casper District Office, 951 Rancho Road, Casper, Wyoming 82601, phone (307) 261–5594. Documents relevant to the planning process are also available at the above address.

Leslie A. Olver,

Assistant District Manager.

[FR Doc. 82–18708 Filed 7–9–82; 8:45 am]

BILLING CODE 4310–84–M

Cedar City District; Grazing Advisory Board Meeting

Notice is hereby given in accordance with Pub. L. 92–463 that a meeting of the Cedar City District Grazing Advisory Board will be held on Tuesday, August 10, 1982. The meeting will begin at 9:30 a.m. in the Bureau of Land Management Cedar City District Office located at 1579 North Main Street, Cedar City, Utah.

The agenda is as follows: (1) Review of Proposed Allotment Management Plans, (2) Rangeland Betterment Project Proposals, (3) Rangeland Betterment Project Funding Policy, (4) General Advisory Board Business.

Grazing Advisory Board meetings are open to the public. Interested persons may make oral statements or file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 1579 North Main Street, Cedar City, Utah 84720, phone 801–586–2401, by August 6, 1982. Depending on the number of persons wishing to make statements, a per person time limit may be established by the District Manager.

Summary minutes of the Board meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: June 29, 1982.

Morgan S. Jensen,

District Manager.

[FR Doc. 82–18747 Filed 7–9–82; 8:45 am]

BILLING CODE 4310–84–M

Montana; Centennial Mountains Wilderness Inventory

July 2, 1982.

Notice is hereby given of Public Review period for the Centennial Mountains Instant Study Area Intensive Wilderness Inventory.

The Montana State Office of the Bureau of Land Management (BLM) announces the completion of the intensive wilderness inventory for the Centennial Mountains Instant Study Area. The area is located in the Butte, Montana, BLM District, the Beaverhead National Forest, Montana, and the Targhee National Forest, Idaho. A portion of the BLM acreage in Montana (21,44.39 acres) has been administered as a designated primitive area.

The intensive inventory follows guidelines provided in the Bureau's Wilderness Inventory Handbook, dated September 1978, and is the first step in the wilderness review process for such designated areas.

The Centennial Mountains study area consists of 21,774.39 acres within the designated BLM primitive area, 8,256 acres of contiguous BLM administered lands and 50,050 acres of contiguous Forest Service administered lands. All lands within the existing primitive areas, 4,260 acres of contiguous BLM administered lands and 46,852 acres of contiguous Forest Service lands were found to have wilderness characteristics and are hereby designated a proposed wilderness study area. Total acreage in the study area is 72,886 acres. The remaining 3,996 acres BLM administered acreage and 3,198 acres of Forest Service acreage are proposed to be dropped from further wilderness consideration.

A thirty-day public comment period from July 19, 1982, through August 17, 1982, to review the intensive inventory findings and recommendations and gather public issues and concerns is hereby initiated.

Public open houses will be held on August 3 at the Forest Service Office from 3 p.m. to 8:30 p.m. in St. Anthony, Idaho, on August 4 at the BLM office from 1 to 5 and 7 to 10 p.m. in Dillon, Montana, and August 5 at the Holiday Inn from 1 to 5 and 7 to 10 p.m. in Bozeman, Montana.

Inventory documents may be obtained by writing:

Bureau of Land Management, 106 N. Parkmont, P.O. Box 3388, Butte, Montana 59702–3388 or
Targhee National Forest, St. Anthony, Idaho 83445.

Public comments should be submitted to the same addresses by August 17, 1982.

Bill D. Noble,

Acting State Director.

[FR Doc. 82–18732 Filed 7–9–82; 8:45 am]

BILLING CODE 4310–84–M

Shoshone District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Shoshone District Grazing Advisory Board Meeting.

SUMMARY: Notice is hereby given, in accordance with Pub. L. 94–529, and 43 CFR Part 1780, that a meeting of the Shoshone District Grazing Advisory Board will be held on Friday, August 13, 1982, at 9 a.m., at the BLM District Office, 400 West F Street, Shoshone, Idaho 83352.

The purpose of the meeting will be to seek recommendations on livestock conversions, base property requirements where livestock leases are involved and review of the FY 83 Preliminary Annual Work Plan, specifically the 8100 Rangeland Betterment Funds.

SUPPLEMENTARY INFORMATION: The public is invited to attend and make written or oral statements which should not exceed 15 minutes in length. Requests for these statements should be made to the official listed below at least five days prior to the meeting.

Further information concerning this meeting may be obtained from the Shoshone District Manager, Bureau of Land Management, P. O. Box 2B, Shoshone, Idaho 83352, telephone (208) 886–2206. Minutes of the meeting will be available for public inspection and copying three weeks after the meeting at the Shoshone District Office, Shoshone, Idaho.

Charles J. Haszier,

District Manager.

July 1, 1982.

[FR Doc. 82–18746 Filed 7–9–82; 8:45 am]

BILLING CODE 4310–84–M

Bureau of Reclamation

Duchesne River Area Canal Rehabilitation Strawberry Aqueduct Collection System; Central Utah Project; Intent To Prepare a Supplement to Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior proposes to prepare a supplement to Bonneville Unit Final Environmental Statement INT FES 83–42 filed August 2, 1973. The final environmental statement covered the Strawberry Aqueduct and Collection System portion of the Bonneville Unit. The supplement will address the Duchesne River Area Canal Rehabilitation, a part of the Strawberry Aqueduct and Collection System, and is expected to be available for public review by the spring of 1983.

In addition to addressing the impacts of construction and operation of the project, this process will insure compliance with Executive Orders relating to Floodplain Management (11988) and Protection of Wetlands (11990).

The purpose of the canal rehabilitation is to facilitate successful farming operations in the Duchesne River area, Duchesne County, Utah, by providing an onfarm delivery supply of irrigation water of 3.4 acre-feet per productive acre. This rate is based upon the determination under the Bonneville Unit that the diversion requirement of all canals along the Duchesne River will be 4.0 acre-feet per acre at the canal heading. To achieve the onfarm water requirement of 3.4 acre-feet per acre, each canal must have an overall conveyance efficiency of at least 85 percent.

Investigations are being conducted to determine which canals should be improved and what alternative methods of rehabilitation may be available. A public meeting to present information, identify key environmental issues, and receive other input was held in April 1982. Other public meetings, including a scoping meeting or other public participation activities, may be held during the interim depending upon interest and issues identified.

Anyone interested in this project and/or supplement should direct inquiries to Mr. Jay Franson, Bureau of Reclamation, 160 North 200 West, Provo, Utah 84601, telephone (801/374–8610).

Dated: July 7, 1982.

Eugene Hinds,

Assistant Commissioner.

[FR Doc. 82–18784 Filed 7–9–82; 8:45 am]

BILLING CODE 4310–09–M

National Park Service

General Management Plan/Development Concept Plan and Environmental Assessment; Lake Clark National Park and Preserve—Alaska

AGENCY: National Park Service, Interior.

ACTION: Notice of availability.

SUMMARY: The general management plan/development concept plan and environmental assessment for Lake Clark National Park and Preserve, Alaska, are available for public and other agency reviews. Public open houses will be held in mid-August in Alaska to discuss the future management strategies for the park and preserve and to accept comments on the plan and its alternatives. The time and place of these open houses will be released through the regional news media. Written comments will be accepted by the Alaska Regional Director of the National Park Service until September 1, 1982. Following an evaluation of the issues raised by public and other agency review, decisions will be made on all the elements which will constitute the final plan. In addition, either a finding of no significant impact or a notice of intent to prepare an environmental impact statement on the final plan will be issued.

AVAILABILITY: Copies of the document are being mailed to individuals, organizations, and agencies that have expressed interest in the future management of the park and preserve. A small supply of documents is being retained by the Alaska Regional Office of the National Park Service to fill additional requests. When this supply is exhausted, a charge will be made to cover the cost of photocopying. Copies of the document can be inspected at the following places:

Parks and Forests Information Center, 540 W. Fifth Avenue, Anchorage, AK
Headquarters, Lake Clark National Park and Preserve, 701 C Street, Anchorage, AK
Field Headquarters, Lake Clark National Park and Preserve, Port Alsworth, AK
Elmer E. Rasmuson Library, University of Alaska, Fairbanks, AK
Alaska State Library, Juneau, AK
Denver Public Library, Denver, CO
Department of the Interior Central Library, Washington, D.C.
U.S. Geological Survey Library, 1526 Cole Blvd., Golden, CO
Seattle Public Library, Seattle, WA
Interior Resources Library, 701 C Street, Anchorage, AK

ADDRESSES: Address requests for documents and all comments on the plan and its assessment to the Regional Director, Alaska Region, U.S. National Park Service, 540 W. Fifth Avenue, Anchorage, Alaska 99501.

FOR FURTHER INFORMATION CONTACT: Terry Carlstrom, Chief, Division of Planning and Design, U.S. National Park Service, 540 W. Fifth Avenue, Anchorage, Alaska 99501, telephone (907) 271–4637 or Paul Haertel, Superintendent, Lake Clark National Park and Preserve, 701 C Street, Anchorage, Alaska 99513, telephone (907) 271–3751.

SUPPLEMENTARY INFORMATION: The park and preserve were established

December 2, 1980, by the Alaska National Interest Lands Conservation Act (16 U.S.C. 1301 et seq.). In the summer of 1981, the National Park Service began an informal scoping process to draw out planning and environmental issues of concern from the public, organizations, and state and federal agencies. The issues raised were combined with legislative mandates, National Park Service policies, park and preserve objectives, resource information, and environmental considerations to form three progressive strategies for the conservation and management of the park and preserve over the next five to ten years.

The first strategy would perpetuate existing trends and conditions by generating no new developments or actions beyond those of a custodial or emergency nature. It would not directly cause any environmental change; however, in the absence of long-term programs for comprehensive management of resources and visitor use, adverse trends might develop and result in environmental degradation.

The second strategy forms the proposed general management plan/development concept plan. It outlines the minimum actions necessary for basic operations: research and monitoring to gain knowledge about the natural and cultural environments, protective management of resources, support of dispersed outdoor recreational activities, and programs to insure visitors' safety and to promote their understanding of the resources they enjoy. The proposed plan includes proposals for the management of three wild rivers, a wilderness suitability review, and a development concept for the field headquarters at Port Alsworth. Less than ten acres of land will be required for permanent and temporary structures to provide for the necessary onsite presence of National Park Service personnel.

The third strategy would respond to a rapid increase in visitation with three developed areas within the park and preserve to provide visitor services and to support resource protection activities. The expanded development would require less than 100 acres of park and preserve land.

None of the strategies would cause a significant change in the park and preserve's majory ecosystems. The increase in visitation anticipated under the expanded development alternative would create the need for additional protective regulations and enforcement personnel in the near future.

John E. Cook,

Regional Director, Alaska Region.

[FR Doc. 82-18756 Filed 7-9-82; 8:45 am]

BILLING CODE 4310-70-M

Kalaupapa National Historical Park Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Kalaupapa National Historical Park Advisory Commission will be held at 9:00 a.m. on Thursday, August 12, 1982, at Paschoal Community Hall, Kalaupapa, Molokai, Hawaii.

The Advisory Commission was established by Pub. L. 95-565 to provide advice with respect to park development, operations, public visitation, and employee training.

Members of the Commission are as follows:

Rev. David K. Kaupu, Chairman
Mr. Clifford K. Anderson
Mr. Robert L. Barrel
Mrs. Kueli Bell
Mr. James Brede
Mr. Shoichi Hamai
Mr. Paul Harada
Mr. Isaac Keao
Mr. Richard Marks
Mr. Ralston Nagata
Mr. Bernard Punikaia

This meeting will be devoted to issues related to proposed language of cooperative agreements between the National Park Service and the State.

The meetings are open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing to receive further information on this meeting or who wish to submit written statements may contact Mr. Bryan Harry, Pacific Area Director, National Park Service, 300 Ala Moana Boulevard, Box 50165, Honolulu, Hawaii 96850; telephone (808) 546-7584.

Minutes of the meeting will be available for public inspection by October 11, 1982, in the Office of the Pacific Area Director, National Park Service, 300 Ala Moana Boulevard, Room 6305, Honolulu, Hawaii 96850.

Dated: June 28, 1982.

Howard H. Chapman,

Regional Director, Western Region.

[FR Doc. 82-18758 Filed 7-9-82; 8:45 am]

BILLING CODE 4310-70-M

Upper Delaware National Scenic and Recreational River; Meeting

AGENCY: Upper Delaware Citizens Advisory Council, National Park Service; Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Upper Delaware Citizens Advisory Council. Notice of this meeting is required under the Federal Advisory Committee Act.

DATE: July 23, 1982, 7 p.m.

ADDRESS: Arlington Hotel, Narrowsburg, New York.

FOR FURTHER INFORMATION CONTACT: John T. Hutzky, Superintendent, Upper Delaware National Scenic and Recreational River, Drawer C, Narrowsburg, N.Y. 12764-0159 (717/729-7135).

SUPPLEMENTARY INFORMATION: The Advisory Council was established under section 704(f) of the National Parks and Recreation Act of 1978, Pub. L. 95-625, 16 U.S.C. 1274 note, to encourage maximum public involvement in the development and implementation of the plans and programs authorized by the Act. The Council is to meet and report to the Delaware River Basin Commission, the Secretary of the Interior, and the Governors of New York and Pennsylvania in the preparation of a management plan and on programs which relate to land and water use in the Upper Delaware region. The agenda for the meeting will include review of Draft Management Plan.

The meeting will be open to the public. Any member of the public may file with the Council a written statement concerning agenda items. The statement should be addressed to the Council c/o Upper Delaware National Scenic and Recreational River, Drawer C, Narrowsburg, N.Y. 12764-0159. Minutes of the meeting will be available for inspection four weeks after the meeting at the permanent headquarters of the Upper Delaware National Scenic and Recreational River, River Road, 1¾ miles north of Narrowsburg, N.Y., Damascus Township, Pennsylvania.

Dated: July 2, 1982.

Sandra C. Otskivi,

Acting Regional Director, Mid-Atlantic Region.

[FR Doc. 82-18757 Filed 7-9-82; 8:45 am]

BILLING CODE 4310-71-M

INTERSTATE COMMERCE COMMISSION

Agricultural Cooperative; Notice to the Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: July 7, 1982.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

(1) Agricultural Services Association, Inc.
(2) P.O. Box 472, Bells, TN 38006
(3) A.S.A. Office—Transportation High St., Bells, TN 38006
(4) J. P. McCormick, A.S.A. Transportation, P.O. Box 472, Bells, TN 38006
(1) Cache Valley Dairy Association
(2) P.O. Box 155, Smithfield, UT 84335
(3) 6351 North 2150 West, Amalga, UT 84335
(4) Lyle Tuddenham, P.O. Box 155, Smithfield, UT 84335
(1) Farm Bureau Services, Inc.
(2) 7373 West Saginaw Highway, Lansing, Michigan 48917
(3) 7373 West Saginaw Highway, Lansing, MI 48917
(4) Maurice Tase, 7373 West Saginaw Hwy., Lansing, MI 48917
(1) Farmers Exchange Cooperative
(2) 11 Market St., Lake Park, Iowa 51347
(3) 11 Market St., Lake Park, IA 51347
(4) Harold E. Nelsen, Lake Park, IA 51347
(1) Green Valley Transport Systems, Inc.
(2) 482 #CW Arrow Highway, San Dimas, CA 91773
(3) Calle 1 NO 703 PUE 7-8 Agua Prieta, Mexico
(4) Sharon Sharp, 482 #CW Arrow Hwy., San Dimas, CA 91773
(1) Sun Land Sales, Inc.
(2) 2051 Geneva St. #43, Oceanside, CA 92054
(3) 2051 Geneva St. #43, Oceanside, CA 92054
(4) Richard B. Jones, 2051 Geneva St. #43, Oceanside, CA 92054

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-18708 Filed 7-9-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC-FC-79863. By decision of June 24, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to ARKANSAS FREIGHTWAYS, INC. of Certificate No. MC-121805 (Sub-Nos. 12, 13, 14, 15X, 16 and 17) issued to ARKANSAS EXPRESS, INC. authorizing the transportation of *general commodities,* (usual exceptions) over regular and irregular routes between points in AR, OK, KS, NE, MO, KY, TN, TX, LA, MS. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210.

Note(s).— (1) TA has been filed. (2) Transferee is a non-carrier.

MC-F-79874. By decision of Jun 28, 1982 issued under 49 U.S.C. 10926 nd the transfer rules at 49 CFR 1132, Review Board Number 3 approve the transfer to S.T.C. Trucking Co., Ir , of Corriganville, Md, of Certificate N . MC-154569 and Subs 1 and 3 issued to Leydig Trucking, Inc., of Corriganville, MD, authorizing *coal and coal products,* between points in MD, PA, and N , *salt,* between points in Allegany Coun , MD, on the one hand, and, on the othe points in PA, WV, and VA; and *brick, tile, and concrete products,* between points in Allegany and Garrett Counties, MD, on the one hand, and, on the other, points in OH, VA, and PA. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. TA lease is not sought. Transferee is not a carrier.

MC-FC-79875. By decision of June 23, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board No. 3 approved the transfer to CARSON TRUCK LINES, INC. of Certificate No. MC-1 835 and sub-numbers thereunder issu to CARSON MOTOR LINES, IN authorizing the transportation of (1) *general commodities* (usual st tutory exceptions) for the United Sta es Government between points in the United States, (2) *drugs and toilet preparations,* from Lynchburg, VA, to points in the United States (except AK and HI), (3) *food and related products,* between specifi d cities and counties in PA, OH, MI, MA, DC, GA, NY, FL, NJ, VA, WV, TX, and NC, on the one hand, and, on the other, points in AL, AR, CT, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NJ, NH, NY,

NC, OH, OK, PA, RI, SC, TN, TX, VA, WV, and WI, and (4) *furniture,* between points in Guilford County, NC, on the one hand, and, on the other, points in FL. Representative: A Charles Tell, Suite 1800, 100 E. Broad St., Columbus, OH 43215.

Notes.—(1) Transferee is a non carrier. (2) This does not purport to be a complete description of the authority and territory involved.

MC–FC–79887. By decision of June 24, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to H & H BULK TRANSPORT, INC., of Indianapolis, IN, of Certificate Nos. MC 124083 (Sub-Nos. 62 and 63X), issued to SKINNER MOTOR EXPRESS, INC., also of Indianapolis, IN, which authorize the transportation of (1) *metal products,* between points in Winnebago County, WI, on the one hand, and, on the other, points in IN; and (2) *commodities in bulk,* (a) between points in IL, IN, MI, WI, OH, PA, IA, MO, KY, and TN, (b) between points in Posey County, IN, on the one hand, and, on the other, points in AR, IL, IN, KY, MO, OH, and TN, (c) between points in Jay County, IN, on the one hand, and, on the other, points in KY, MI, MO, NY, OH, PA, WV, and WI, (d) between points in Daviess County, KY, on the one hand, and, on the other, points in AR, IL, IN, KY, MI, MO, OH, TN, VA, and WV, and (e) between points in Bureau, McLean and Cook Counties, IL, and Polk County, IA, on the one hand, and, on the other, points in IL, IA, IN, MI, OH, WI, MO, KS, NE, SD, ND, and MN. Representative: Constance J. Goodwin, Suite 800, Circle Tower Bldg., Indianapolis, IN 46204.

Note.—TA has been filed. Transferee is not a carrier, but is affiliated with transferor.

Agatha Mergenovich,

Secretary.

[FR Doc. 82–18710 Filed 7–9–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349,* 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: July 1, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce and Dowell.

Agatha L. Mergenovich,

Secretary.

MC–F–14870, filed June 1, 1982. SOUTHERN FREIGHTWAYS, INC., (Southern), P.O. Box 158, Eustis, FL 32726—PURCHASE—GOLDEN TRIANGLE TRANSPORTATION, INC., (Golden), P.O. Box 2043, Columbus, MS 39701. Representative: K. Edward Wolcott, 235 Peachtree St., N.E., Ste. 1200, Atlanta, GA 30303. Southern seeks authority to purchase the interstate operating rights of Golden. Gene Baugh, who controls Southern through stock ownership and management, seeks authority to acquire control of said rights through the transaction. The operating rights to be purchased are contained in Golden's Permits in MC–147148 (Sub 2F) authorizing the transportation of general commodities (except household goods and Classes A and B explosives) between points in the US under contract with Kerr-McGhee Chemical Corporation, and MC–147148 (Sub 3) authorizing general commodities (except Classes A and B explosives) between points in the US under contract with Ribelin Sales, Inc. Southern is a motor common carrier pursuant to Certificates issued in MC–144140 and Sub Numbers thereunder. Condition: Gene Gaugh, has signed the application on behalf of Southern; however, as a condition to our approval, he must join in the application, in his own right, as party in control of Southern.

Note.—Southern has filed an application for temporary authority.

[FR Doc. 82–18709 Filed 7–9–82; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. 277]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: July 6, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Canadian Carrier Applicants

In the event an application to transport property, filed by a Canadian domiciled motor carrier, is unopposed, it will be reopened on the Commission's own motion for receipt of additional evidence and further consideration in light of the record developed in Ex Parte No. MC–157, *Investigation Into Canadian Law and Policy Regarding Applications of American Motor Carriers For Canadian Operating Authority.*

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Shaffer, Ewing, and Williams.

Agatha L. Mergenovich,

Secretary.

MC 217 (Sub-28)X, originally published May 7, 1982, republished this issue to include several inadvertent omissions. Applicant: POINT TRANSFER, INC., P.O. Box 1441 Station C, Canton, OH 44708. Representative: John P. McMahon, 100 East Broad St., Columbus, OH 43215. Lead and Subs 3, 4, 5, 6, 11 and 21, as previously noticed, and, in addition broaden (1) glassware to "Clay, concrete, glass or stone products" and (2) canned goods to "food and related products", lead.

MC 19678 (Sub-2)X, filed June 14, 1982. Applicant: STEINWAY VAN & STORAGE CORP., 42–45 12th Street, Long Island city, NY 11101. Representative: Kenneth M. Piken, Esq., 95–25 Queens Blvd., Rego Park, NJ 11374. Lead and Sub 1, broaden household goods to "household goods, furniture and fixtures".

MC 32122 (Sub-9)X, filed June 18, 1982. Applicant: PAZEN TRANSFER LINE, INC., P.O. Box 243, Waukau, WI 54980. Representative: Edward J. Gerrity, P.O. Box 914, Appleton, WI 54912. Lead and Sub 7: (1) broaden (a) musical instruments to "instruments and photographic goods", malt beverages, and empty malt beverage containers, wallpaper, stoves and refrigerators to "food and related products, pulp, paper and related products, metal products, and machinery", household goods to household goods, furniture and fixtures", and packing-house products to "food and related products", lead; and (b) building and roofing materials, asphalt or composition siding, and metal fasteners, nails, cement and caulking compounds to "building materials", flour, sugar, and cookies to "food and related products", and such corrugated or fibreboard containers and plastic shipping trays as are used in bakeries to "pulp, paper and related products, and rubber and plastic products", Sub 7; (2) change city-wide to county-wide authority: Oshkosh and Menasha, WI (Winnebago County), Rockford, IL (Winnebago County), and Chicago, IL (Cook, DuPage, Kane, Lake, McHenry and Will Counties, IL and Lake and Porter Counties, IN), lead; and Ripon, WI (Fond du Lac County), Marseilles, IL (La Salle County), South Bend, IN (St. Joseph County), MT. Olive, IL (Macoupin County), Chicage, IL (Cook, DuPage, Kane, Lake, McHenry and Will Counties, IL and Lake and Porter Counties, IN), and Blue Island, Morris and St. Charles, IL (Cook, Grundy, and Kane Counties), Sub 7; (3) remove the pick-up only restriction and the restriction against service to points in IN within the Chicago, IL commercial zone, Sub 7; and (4) change one-way to radial authority in both certificates.

MC 148849 (Sub-7)X, filed June 24, 1982. Applicant: EQUITABLE BAG CO., INC., 45–50 Van Dam St., Long Island City, NY 11101. Representative: George A. Olsen, P.O. Box 357, Old Chester Rd., Gladstone, NJ 07934. Subs 2F, 3F, and 5F permits: (1) remove bulk restriction from its authority to transport such commodities as are sold or dealt in by department stores and/or paper and paper products, Subs 2F and 3F; and (2) broaden to "between points in the U.S. (except AK and HI)," under continuing contract (s) with named shippers, all Subs.

[FR Doc. 82-18711 Filed 7-9-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–183

The following applications were filed in Region I: Send protests to: Interstate Commerce Commission, Region I, Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 99749 (Sub-1–4TA), filed June 28, 1982. Applicant: BOURNE'S TRANS., INC., 1029 Pearl Street, Brockton, MA 02401. Representative: John F. Hollengreen, 1020 Pennsylvania Bldg., Pennsylvania Avenue and 13th St., N.W., Washington, D.C 20004. *General commodities (except Classes A and B explosives)*, between points in CT, ME, MA, NH, RI, and VT, on the one hand, and, on the other, points in AR, KY, OH, PA, TN, and Gordon and Fulton Counties, GA. Supporting shipper(s):

There are eighteen statements in support of this application which may be examined at the Regional Office of the I.C.C. in Boston.

MC 145108 (Sub-1–22TA), filed June 28, 1982. Applicant: BULLET EXPRESS, INC., 5600 First Avenue, P.O. Box 289, Bay Ridge Station, Brooklyn, NY 11220. Representative: Robert L. Van Buren (same as applicant). *General commodities (except Class A and B explosives)* between points in the U.S. (except AK and HI) under continuing contract(s) with Signode Corporation of Glenview, IL. Supporting shipper: Signode Corp., 3610 W. Lake, Glenview, IL 60025.

MC 162756 (Sub-1–1TA), filed July 1, 1982. Applicant: CARROLS DEVELOPMENT CORPORATION, 968 James Street, Syracuse, NY 13203. Representative: James Robert Evans, 145 W. Wisconsin Avenue, Neenah, WI 54956. *Contract carrier:* Irregular routes: *Food and related products* (1) from King of Prussia, PA to Washington, D.C., Baltimore, MD, Syracuse, NY, and their Commercial Zones, Oxford, MA, Bellmar, NJ, and Jericho, NY, and (2) from Bedford and Harrisonburg, VA to Oxford and Worcester, MA, Blue Anchor and Vineland, NJ and Jericho, NY, under continuing contract(s) with Golden West Foods, Inc., (Subsidiary McCormick & Co., Inc.), Bedford, VA, and American Foodservice Corporation, King of Prussia, PA. Supporting shipper(s): Golden West Foods, Inc. (Subsidiary McCormick & Co., Inc.), Bedford, VA 24523; American Foodservice Corporation, 400 Drew Ct., King of Prussia, PA 19406.

MC 147812 (Sub-1–1TA), filed June 29, 1982. Applicant: ANTHONY W. DAUITO, d.b.a. DAUITO'S EXPRESS, 3526 Northwest Boulevard, Vineland, NJ 08360. Representative: Wilmer B. Hill, Suite 366, 1030 Fifteenth Street, N.W., Washington, D.C. 20005. *General commodities (except Classes A and B explosives, commodities in bulk, and household goods),* between Alexandria, VA, on the one hand, and, on the other, points in CT, DE, MD, MA, NJ, NY, PA, RI, and VA. Supporting shipper(s): Part IV Associates, Inc., 580 Germantown Pike, Plymouth Meeting, PA 19462; National Piggyback Services, Inc., 6440 Hillcroft, Suite 412, Houston, TX 77081.

MC 151783 (Sub-1–3TA), filed June 28, 1982. Applicant: S. GOSKI & SONS, INC., 318 Massachusetts Street, Westfield, NJ 07090. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Contract carrier:* Irregular routes: *Paper and plastic articles* between points in CT, DE, MD, NY, NJ and PA, under continuing contract(s) with James River Corporation of VA and its subsidiaries, Richmond, VA. Supporting shipper: James River Corporation of VA and its subsidiaries, P.O. Box 2218, Richmond, VA 23217.

MC 142784 (Sub-1–1TA), filed June 25, 1982. Applicant: RICHARD H. GRAVES, Box 193, East Conway Road, Center Conway, NH 03813. Representative: Richard H. Graves (same as applicant). *Contract carrier:* Irregular routes: *(1) Building Materials, boxes, skids, crates and pallets* from Silver Lake and Center Ossipee, NH, to points in ME, RI, CT, VT, NY and SC, under continuing contract(s) with John F. Chick & Son, Inc., of Silver Lake, NH; and *(2) Lumber and wood products* between points in and east of the Mississippi River including ports of entry on the International Boundary Line between the U.S. and the Province of Quebec, CD, under continuing contract(s) with Bear Paw Timber Corp., of Fryeburg, ME. Supporting shipper: John F. Chick & Son, Inc., Route 113, Silver Lake, NH 03815; Bear Paw Timber Co., P.O. Box 20, Fryeburg, ME 04038.

MC 156046 (Sub-1–2TA), filed June 24, 1982. Applicant: HABIT MOTOR LINES, INC., 154 Broad Street (Suite 6), Nashua, NH 03063. Representative: Frank M. Cushman, 5 Carbrey Avenue, Sharon, MA 02067. *Contract carrier:* Irregular routes: *General commodities (except Classes A and B explosives, hazardous waste, household goods as defined by the Commission, commodities in bulk and those requiring special equipment)* between all points in the U.S. (except AK and HI) under continuing contract(s) with AAA Cargo Brokers, Inc., Sharon, MA. Supporting shipper: AAA Cargo Brokers, Inc., 36 South Main Street, Sharon, MA 02067.

MC 162688 (Sub-1–1TA), filed June 28, 1982. Applicant: WHITE ROCK DISTILLERIES, INC. d.b.a. LAWRENCE & COMPANY, 88 Commercial Street, Lewiston, ME 04240. Representative: Raymond R. Coulombe (same as applicant). *Contract carrier:* Irregular routes: *Water* from ME to NC, IL, PA, MD, NY, OH, NJ, NH, MA, VT, CT, and RI, under continuing contract(s) with Poland Spring Corp., Poland Spring, ME. Supporting shipper: Poland Spring Corp., P.O. Box 499, Poland Spring, ME 04274.

MC 121463 (Sub-1–1TA), filed June 28, 1982. Applicant: LEGGETT EXPRESS, INC., 95 Leggett Street, East Hartford, CT 06108. Representative: John E. Fay, 663 Maple Avenue, Hartford, CT 06114. *General commodities (with the usual exceptions)* between points and places in CT on the one hand, and, on the other, points and places in MA, ME, NH, NJ, NY, RI, and VT. Applicant intends to interline. Supporting shipper: C & M Warehouse, Inc., 95 Leggett Street, East Hartford, CT 06108.

MC 162478 (Sub-1–1TA), filed June 28, 1982. Applicant: MERMAID TRANSPORTATION COMPANY, 9 Woodland Road, South Portland, ME 04106. Representative: John C. Lightbody, Esq., 30 Exchange Street, Portland, ME 04101. *Contact carrier:* Irregular routes: *Passengers and their baggage in the same vehicle with passengers,* between the Portland International Jetport, Portland, ME, on the one hand, and, on the other, Logan International Airport, Boston, MA, under continuing contract(s) with the Mermaid Club of Portland, ME. Supporting shipper: The Mermaid Club, 2 Canal Plaza, Portland, ME.

MC 151193 (Sub-1–33TA), filed June 28, 1982. Applicant: PAULS TRUCKING CORPORATION, 286 Homestead Avenue, Avenel, NJ 07001. Representative: Michael A. Beam (same as applicant). *Contract carrier:* Irregular routes: *Toilet preparations, hair-care products, shampoos, conditioners, bath and body powers, health and beauty aids, and equipment, materials and supplies,* between points in FL, GA, NJ, and NY, under continuing contract(s) with Contract Packaging Corporation, Totowa, NJ. Supporting shipper: Contract Packaging Corporation, 10 West End Road, Totowa, NJ 07512.

The following applications were filed in Region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, N.E., Atlanta, GA 30309.

MC 162714 (Sub-3–1TA), filed June 28, 1982. Applicant: FERGUSON HARBOR SERVICE, INC., P.O. Box 8153, Nashville, TN 37207. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St., NW., Washington, D.C. 20004. *Hazardous and toxic wastes,* between Clermont and Hamilton Counties, OH, on the one hand, and, on the other, points in KY, TN, GA, MS, AR, and AL. Supporting shipper(s): CECOS/CER Company, 4879 Spring Grove Ave., Cincinnati, OH 45232.

MC 160454 (Sub-3–2TA), filed June 28, 1982. Applicant: OWEN PRODUCE, INC., Locust Grove Road, Elizabethtown, KY 42701. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064. *Automobile lifts, ramps, and suspensions* from the facilities of Weaver Corporation at Paris, KY to points in CA. Supporting shipper: Weaver Corporation, Ford's Mill Road, Paris, KY 40361.

MC 128372 (Sub-3–1TA), filed June 29, 1982. Applicant: PHILPOT CONTRACTING COMPANY, INC., P.O. Box 44004, Atlanta, GA 30336. Representative: Raymond F. Philpot (same as above). *Scrap metal telephone parts and equipment and cable, reels and supplies,* between points in GA on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Southern Bell Telephone & Telegraph Company, 25P65 Southern Bell Center, Atlanta, GA 30375.

MC 149011 (Sub-3–3TA), filed June 28, 1982. Applicant: RDR, INC., 3600 N.W. 82nd Avenue, Miami, FL 33166. Representative: Dale A. Tibbets (same address as applicant). *CONTRACT;* irregular; *appliances and paper products* from Anniston, AL and Cartersville, GA to Cleveland and Chattanooga, TN under continuing contract(s) with (1) Magic Chef and (2) H-Box Corporation. Supporting shippers: Magic Chef, 740 King Edward Avenue, Cleveland, TN 37311 and H-Box Corporation, Box 951, Cartersville, GA 30120.

MC 162263 (Sub-3–1TA), filed June 25, 1982., 1982. Applicant: SPARTAN TOURS, INC., P.O. Box 2462, Spartanburg, South Carolina 29304. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, North Carolina 28202. *Contract:* Irregular: *Passengers and their baggage, in special and charter operations,* from Spartanburg County, SC, to Knoxville, TN and return. Supporting shipper: Spartan Travel Incorporated, P.O. Box 3232 1484 Greenville Highway, Spartanburg, S.C. 29304.

MC 162419 (Sub-3–1TA), filed June 28, 1982. Applicant: JACK YANCEY, RFD 1, Rhine, GA 31077. Representative: Paul Felty, P.O. Box 2216, Warner Robins, GA 31099. *Passengers and their baggage in special and charter operations* between points in GA on the one hand, and on the other hand, points in FL, TN, SC, NC, VA, WV, DE, CT, DC, MD, NY, TX, NM, LA, KY, NJ, PA, AL, MS, IN, MI, IL, MA, OK, MO, and OH. There are 11 support statements attached to this application which may be examined at the ICC Regional Office, Atlanta, GA.

Mc 140484 (Sub-3–30TA), filed July 1, 1982. Applicant: LESTER COGGINS TRUCKING, INC., Post Office Box 69, Fort Myers, FL 33902. Representative: Frank T. Day (same as applicant). *Foodstuffs and related products* from Liberal, KS, to points in the states of AL, FL, GA, IL, IN, KY, MI, NY, NC, OH, PA, SC, TN, and WV. Supporting shipper: National Beef Packing Company, P.O. Box 1358, Liberal, KS 67901.

Mc 148872 (Sub-3–2TA), filed July 2, 1982. Applicant: H. O. H. COMPANY, INC., P.O. Box 637, Rossville, GA 30741. Representative: C. Jack Pearce, Suite 1200, 1000 Connecticut Avenue, NW., Washington, D.C. 20036. *General commodities (except used household goods, class A & B explosives, and commodities in bulk)* between all points in the U.S. under continuing contract(s) with North Georgia Shippers Association, Inc. Supporting shipper: North Georgia Shippers Association, P.O. Box 3427, Dalton, GA 30721.

Mc 162790 (Sub-3–1TA), filed July 2, 1982. Applicant: HAROLD W. KELLEY d.b.a. HAROLD W. KELLEY TRUCKING, Rt. 6, Box 647, Cleveland, TN 37311. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064. *Beverage vending and cooling machines* from the facilities of Cavalier Corporation at Chattanooga, TN to points in TX, OK, CO, NM, and AR. Supporting shipper: Cavalier Corporation, 1100 E. 11th Street, Chattanooga, TN 37403.

Mc 162789 (Sub-3–1TA), filed July 2, 1982. Applicant: MAJESTIC TOURS AND CHARTER, INCORPORATED, 547 Janice Avenue, Daytona Beach, FL 32014. Representative: Ervin Ross, Jr., 430 Jabaly Street Daytona Beach, FL 32014. *Passengers and their baggage in charter and special operations* beginning and ending in Volusia, Flagler, Orange, St. Johns and Duval Counties, FL and extending to points in Chatham County, GA; Knox County, TN; Tuscaloosa County, AL; and Washington, DC. Supporting shippers: Bethune-Cookman College, 640 Second Avenue, Daytona Beach, FL. Stewart Memorial United Methodist Church, 300 North Campbell Street, Daytona Beach, FL. Community Church of God In Christ, 359 Jefferson Street, Daytona Beach, FL. Bethune-Cookman College Gospel Choir, 640 Second Avenue, Daytona Beach, FL.

Mc 155061 (Sub-3–1TA), filed July 2, 1982. Applicant: MARYVILLE–ALCOA TRANSPORTATION SYSTEM, INC., P.O. Box 378, Alcoa, Tennessee 37701. Representative: Edward P. Bocko, P.O. Box 496, Mineral Ridge, OH 44440. *Such commodities as are dealt in or used by retail tire and automotive parts stores* between points in TN on the one hand, and, on the other, points in AL, GA, KY, NJ, NC, OH, PA and VA. Supporting shipper: Auto Parts Store, Inc., of 402–12 East Market St., Kingsport, TN, 37660.

MC 157204, (Sub-3–3TA), filed July 2, 1982. Applicant: SUR-WAY TRANSPORT, INC., 1506 Radium Springs Road, Albany, GA 31705. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Contract,* irregular; *General Commodities (except classes A & B explosives, household goods as defined by the Commission, commodities in bulk and hazardous commodities)* between points in the U.S. (except AK and HI) under a continuing contract with Calabrian International Corporation of New York, NY. Supporting Shipper: Calabrian International Corporation, 26 Broadway, New York, NY 10004.

The following applications were filed in region 4: Send protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 105159, (Sub-4–19), filed June 28, 1982. Applicant: KUDSEN TRUCKING, INC., 1320 West Main St., Red Wing, MN 55066. Representative: Stephen F. Grinnell, 1600 TCF Tower, 121 S. 8th St., Minneapolis, MN 55402. *Food and related products,* from the facilities of Sanna, Inc. at Eau Claire, Menomonie, Vesper and Wisconsin Rapids, WI, to points in the U.S. in and east of ND, SD, NE, CO, OK , AR, and LA. Supporting Shipper: Sanna, Inc., P.O. Box 8046, Madison WI 53708.

MC 120184, (Sub-4–6TA), filed June 30, 1982. Applicant: PEP LINES TRUCKING CO., 32600 Dequindre Rd., Warren, MI 48092 Representative: Thomas B. Hill, 1010 Jorie Blvd., Oak Brook, IL 60521. *Contract,* Irregular routes, transporting: *Aluminum Ingots, metal castings, aluminum automotive pistons, and scrap metal,* between points in IN, MI and OH, under continuing contract(s) with Bohn Metals Division of Gulf & Western Manufacturing Company. Supporting Shipper: Bohn Metals Division, Gulf & Western Manufacturing Company, 26261 Evergreen Rd., Southfield, MI 48076.

MC 123640, (Sub-4–3 TA), filed July 1, 1982. Applicant: SUMMIT CITY ENTERPRISES, INC, 3200 Maumee Ave, Fort Wayne, IN 46803. Representative: Irving Klein, Esq., Suite 7, 1205 Franklin Ave., Garden City, NY 11530. Contract, Irregular: *Foam rubber* between points in the U.S. (except AK and HI) under continuing contract with Lifetime Foam Products, Inc. Supporting Shipper: Lifetime Foam Products, Inc., 3001 Cullerton Drive, Franklin Park, IL 60131.

MC 129016 (Sub-4–1TA), filed June 28, 1982. Applicant: M & E CORP., 6719 Hibiscus Dr., Muncie, IN 47302. Representative: Michael D. McCormick, Scopelitis & Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. *Contract* irregular: *Sweeteners, in bulk and in bags,* between Cincinnati, OH, Dayton, OH, and St. Louis, MO, on the one hand, and points in IL, IN, KY, MI, NJ, OH, and WV, on the other. Restricted to a contract or continuing contracts with

Process Sugar Sales, Division of Process Supply Co., Inc., Muncie, IN. An underlying ETA seeks 120 days authority. Supporting shipper: Process Sugar Sales, Division of Process Supply Co., Inc., 1600 East Washington Street, P.O. Box 1271, Muncie, IN 47305.

MC 148966 (Sub-4–10TA), filed June 28, 1982. Applicant: DROTZMANN, INC., P.O. Box 667, Yankton, SD 57078. Representative: James M. Hodge, 3730 Ingersoll Ave., Des Moines, IA 50312. *Food and related products,* From Janesville, WI, Rochester, MN, Dundee and Williamson, NY, Kennett Square, PA and Mountain Home, NC to all points in the U.S. Supporting shipper(s): Seneca Foods Corporation, P.O. Box 71, Prosser, WA 99350.

MC 149419 (Sub-4–2), filed June 30, 1982. Applicant: OSTERBUR TRUCKING, INC., P.O. Box 26, Royal, IL 61871. Representatives: Edward D. McNamara, Leslieann G. Maxey, 907 South Fourth St., Springfield, IL 62703. *Contract* irregular: *Paving asphalt and asphalt cement* between Whiting, IN, on the one hand, and points in the IL counties of Edgar, Clark, Vermilion, Champaign, and Douglas, on the other hand. Supporting shipper: Danville Asphalt Company, Inc., and University Asphalt Company, Inc., P.O. Box 848, Urbana, IL 61801.

MC 149586 (Sub-4–1), filed June 25, 1982. Applicant: GAZDA MOVING COMPANY INC., 7580 Commerce Lane, NE, Minneapolis, MN 55432. Representative: Robert P. Sack, P.O. Box 21–307, Eagan, MN 55121. *Contract* irregular. *Furniture and fixtures,* between Minneapolis, MN and Conway, AR on the one hand, and, on the other, points in the U.S. (except AK and HI) under a continuing contract with Sico, Inc., of Minneapolis, MN. Supporting shipper: Sico, Inc., 7525 Cahill Rd., Minneapolis, MN 55440.

MC 150157 (Sub-4–6TA), filed June 30, 1982. Applicant: REGENCY MOTOR FREIGHT, INC., 26600 Van Born Road, Dearborn Heights, MI 48125. Representative: Martin J. Leavitt, Sullivan & Leavitt, P.C., 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. *Contract* irregular: *Products of Wolverine Aluminum Corporation* between Lincoln Park and Jackson, MI and Waverly, OH, on the one hand, and on the other, Hartford, Bridgeport and New Britain, CT; Newport, DE; Atlanta, GA; Davenport, IA; Wichita and Kansas City, KS; Springfield, Worcester, Braintree, Leominster and Woburn, MA; Omaha and Lincoln, NE; Manchester, NH; Syracuse, Rochester and New York, NY; Fargo, ND; Tulsa, OK; Scranton and Lebanon, PA, Warwick and Cranston, RI; Knoxville, TN; Beaumont and Dallas, TX; and Salt Lake City, UT. Supporting shipper: Wolverine Aluminum Corporation, 1650 Howard St., Lincoln Park, MI.

MC 150631 (Sub-4–3TA), filed June 29, 1982. Applicant: HENRY W. FREDENBERG, LTD., Route 1, 2360 Uphoff Road, Cottage Grove, WI 53527. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. *Contract;* irregular; *(a) food and related products and (b) wood and wood products* between points in the U.S. (except AK and HI). Restriction: restricted to transportation performed under continuing contract(s) with Oconomowoc Canning Co. and Midwest Lumber Associates. Supporting shippers: Oconomowoc Canning Co., 628 East Wisconsin Avenue, Oconomowoc, Wisconsin 53066; Midwest Lumber Associates, 1150 West Main Street, Box 187, Sun Prairie, WI 53590.

MC 152257 (Sub-4–3TA), filed June 25, 1982. Applicant: LORDCO TRUCKING, INC., 535–F Tollgate Road, Elgin, IL 60120. Representative: Paul J. Maton, 27 East Monroe Street, Suite 1000, Chicago, IL 60603, (312) 332–0905. *Contract;* irregular: *rolled or sheeted cellulose; unprinted rolled plastic; plastic or cellulose bags; overhead doors and materials, equipment and supplies used in the manufacture, distribution and sale of overhead doors* between Kane and Cook Counties, IL, on the one hand, and, on the other, the counties of Milwaukee, Racine, Walworth, Rock, Green, Vernon, Crawford, Sauk, and LaCrosse, WI under continuing contract(s) with Northwest Door Corporation of Elgin, of Elgin, IL and Printpack, Inc. of Elgin, IL. An underlying ETA seeks 120 days authority. Supporting shippers: Northwest Door Corporation of Elgin, 1331 Davis Road, Elgin, IL 60120 and Print-Pack, Inc., 1400 Abbott Drive, Elgin, IL 60120.

MC 153590 (Sub-4–1TA), filed July 1, 1982. Applicant: BELCOURT OIL COMPANY, INC., P.O. Box 750, Belcourt, N.D. 58316. Representative: C. Jack Pearce, Law Offices of Jack Pearce, Suite 1200, 1000 Connecticut Ave., NW., Washington, D.C. 20036. *Contract* irregular: *Building materials,* between points in OR, WA, ID and MT, on the one hand; and, on the other hand, points in ND, SD, MN and NE, under continuing contract(s) with Idaho Pacific Lumber Company, Inc. Supporting shipper: Idaho Pacific Lumber Company Inc., P.O. Box 4815, Boise, ID 83704.

MC 159733 (Sub-4–2), filed June 28, 1982. Applicant: S&L TRUCKING, INC., P.O. Box 322, Harvard, IL 60033. Representative: William F. Mix, 21 A Muzzey St., Lexington, MA 02173. *Contract* irregular: *Electronic components and plastic molding compounds, granules or pellets, in packages, and materials, equipment and supplies used in the sale, manufacture and distribution,* (except Class A & B explosives) between points in IL on the one hand, and on the other, points in CA and WA. Restricted to traffic moving under continuing contract with Signetics, a Subsidiary of U.S. Philips Corp. An underlying ETA seeks 120 days authority. Supporting shipper: Signetics, a Subsidiary of U.S. Philips Corp., 811 East Arques Avenue, Sunnyvale, CA 94086.

MC 159968 (Sub-4–2), filed June 24, 1982. Applicant: BORCULO GARAGE, INC., d.b.a. GRASSMID TRANSPORT, 6410 96th Ave., Zeeland, MI 49464. Representative: D. Richard Black, Jr., 285 James Street, P.O. Box 638C, Holland, MI 49423. *Contract* irregular: *Food and related products* between the facilities of Henry House, Inc., in Holland, MI and points in IL, MO, GA, AL, SC under continuing contracts with Henry House, Inc. of Holland, MI. Supporting shipper: Henry House, Inc., 284 Roost Road, Holland, MI 49423.

MC 162380 (Sub-4–1TA), filed June 25, 1982. Applicant: CMM TRANSPORTATION, INC., Abbott Park, North Chicago, IL 60064. Representative: Edward G. Bazelon, 29 South La Salle Street, Chicago, IL 60603. *Contract,* Irregular: *Foodstuffs,* between Jacksonville, IL and Rocky Mount, NC, under continuing contract(s) with Anderson Clayton Foods, a Division of Anderson, Clayton & Company. Supporting shipper: Anderson Clayton Foods, a Division of Anderson, Clayton & Company, P.O. Box 226165, Dallas, TX 75266.

MC 162652 (Sub-4–1TA), filed June 25, 1982. Applicant: CHRIS HANSON AND EVAN HANSON, d.b.a. HANSON PROPERTIES, P.O. Box 167, Hammond, WI 54015. Representative: Norman A. Cooper, 145 W. Wisconsin Ave. Neenah, WI 54956. *Contract Carrier Irregular Routes: Plastic film in rolls and sheets, and equipment, materials and supplies used in the manufacture, sale and distribution between* Hammond, WI on the one hand, and, on the other, Circleville, OH; Hopewell, VA; West Chester, PA; Greenville, SC; Decatur, AL; Chicago, IL; Los Angeles, CA; Dallas, TX; Glenbrook, CT; and San Francisco, CA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Douglas

Hanson Company, P.O. Box 167, Hammond, WI 54015.

MC 162694 (Sub-4–1TA), filed June 28, 1982. Applicant: TOM A. WIMMER, d.b.a. T–W TRANSPORT, 1010 N. Mill, P.O. Box 37, Fairmont, IN 46298. Representative: Robert W. Loser, 1101 Chamber of Commerce Bldg., 320 N. Meridian St., Indianapolis, IN 46204, (317) 635–2339. *Contract,* Irregular: *Such merchandise as is dealt in or used by wholesale, retail and chain grocery and food business houses, and equipment, materials and supplies used in the manufacture of said products,* between points in TN, KY, OH, IN, IL, VA and TX, under continuing contract(s) with The Kroger Co., of Cincinnati, OH. Supporting shipper: The Kroger Co., 1014 Vine Street, Cincinnati, OH 45201. Underlying ETA seeks 120 days authority.

MC 162696 (Sub-4–1TA), filed June 28, 1982. Applicant: GENE MILLER, 1919 Ashland Ave., Sheboygan, WI 53081. Representative: Richard D. Armstrong, 925 Hyland Dr., Stroughton, WI 53589. *Contract,* Irregular: 1) *Foodstuffs and related articles* between Sheboygan, WI and points in IL, MD, MN and VA under continuing contract(s) with Lugen Brothers Sausage, Inc.; 2) *Building materials* between Cedarburg and Sheboygan, WI and points in IN, KS, MI, MN, MO and OH under continuing contract(s) with Alpine Insulation Company, Inc. Supporting shipper: Lugen Bros. Sausage Inc., P.O. Box 606, Sheboygan, WI 53081; Alpine Insulation, Inc., 1170 Wanwatosa Rd., Cedarburg, WI 53012.

MC 162730 (Sub-4–1TA), filed June 30, 1982. Applicant: CASEY CARTAGE, INC., 4631 S. Racine Ave., Chicago, IL 60609. Representative: Stephen H. Loeb, Suite 4, 2777 Finley Road, Downers Grove, IL 60515. *Contract, Irregular: General commodites* (except class A & B explosives, household goods, and commodities in bulk) between Chicago, IL and points in its commercial zone, on the one hand, and, on the other, points in IA, IL, IN, MI, MN, and WI under contract with Hub City Detroit Terminals, Inc. Supporting shipper: Hub City Detroit Terminals, Inc., 1695 Woodward, Bloomfield, MI 48084.

MC 162731 (Sub-4–1TA), filed June 30, 1982. Applicant: SUN-DOWN OF HUTCHINSON, INC., 117 First Ave. Northeast, Hutchinson, MN 55350. Representative: Thomton, Sperry & Jensen, Ltd., 329 East Highway 12, Litchfield, MN 55355. *Powder cement and fly ash,* between McLeod, Kandiyohi, Meeker, Doulgas, Stearns, Pope, Olmstead, Wright and Hennepin Counties, MN on the one hand, and on the other, points in Columbia and Douglas Counties, WI and Cerro Gordo County, IA. Supporting shippers: 9.

MC 162770 (Sub-4–1TA), filed July 1, 1982. Applicant: TENNYBROOK TRANSPORTATION, INC., 1150 Junction Ave., Schererville, IN 46375. Representative: Lewis S. Witherspoon, 2455 N. Star Rd., Columbus, OH 43221. *Contract,* irregular, *hydrochloric acid* and *pickle liquor* between points in IL and MI and that portion of IN within the Chicago, IL Commercial Zone on the one hand, and, on the other points in IN, IL, and MI under continuing contract(s) with By Products Management of Indiana, Inc., Schererville, IN 46375 and Dow Chemical U.S.A., Rolling Meadows, IL 60008.

MC 162771 (Sub-4–1TA), filed July 1, 1982. Applicant: DYER TRANSPORT, INC., P.O. Box 33, Remington, IN 47977. Representative: John R. Frawley, Jr., Suite 200, 120 Summit Parkway, Birmingham, AL 35209–4786. *General Commodities (except Classes A and B explosives, household goods as defined by the Commission, hazardous wastes and commodities in bulk),* between points in the U.S. (except AK and HI) restricted to service for the accounts of Customer Machine Shop, LaFayette, IN; Kel-Mar, Inc., McKenzie, TN; Master Metals, Inc., Cleveland, OH; Poly-Cycle Industries, Jacksonville, TX; Jim Segrest and Associates, Inc., Birmingham, AL. Supporting shippers: Custom Machine Shop, 715 North 31st Street, LaFayette, IN 47904; Kel-Mar, Inc., 246 West Witt Avenue, McKenzie, TN 38201; Master Metals, Inc., 2850 West Third Street, Cleveland, OH 44113; Poly-Cycle Industries, P.O. Box 205, Jacksonville, TX 75766; Jim Segrest and Associates, Inc., P.O. Box 449, Dolomite, AL 35061.

The following applications were filed in region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 114028 (Sub-5–7TA), filed June 29, 1982. Applicant: ROWLEY INTERSTATE TRANSPORTATION COMPANY, INC., 2010 Kerper Boulevard, Dubuque, IA 52001. Representative: Carl L. Steiner, 29 South LaSalle Street, Chicago, IL 60603. Contract, irregular; *Distilled Spirits and Wines* between points in the U.S. (except AK and HI) under continuing contract(s) with Federated Distributors, Inc., and its subsidiaries. Supporting shipper: Federated Distributors, Inc., 4130 South Morgan Street, Chicago, IL 60609.

MC 145797 (Sub-5–6TA), filed June 29, 1982. Applicant: NANCY TRANSPORTATION, INC., 1 Hilltown Village Center, Chesterfield, [illegible] 3017. Representatives: Daniel J. Sweeney, Steven J. Kalish, 1750 Pennsylvania Avenue, NW., Washington, D.C. 20006. *Drugs, medicines and toilet preparations and materials, equipment and supplies used in the manufacture, distribution and sale of drugs, medicines and toilet preparations* between the facilities of the Vicks Health Care Division of Richardson-Vicks and all points in the U.S. Supporting shipper: Vicks Health Care Division, Philadelphia, Pa.

MC 146553 (Sub-5–25TA), filed June 28, 1982. Applicant: ADRIAN CARRIERS, INC., 8938 N. Zenith, Davenport, IA 52804. Representative: James M. Hodge, 3730 Ingersoll Avenue, Des Moines, IA 50312. *Malt beverages,* from St. Louis, MO and Columbus, OH to the facilities of Dale Lee Distributing Co. at Marion, IA. Supporting shipper: Dale Lee Distributing Co., 859 Old Marion Road, Marion, IA 52302.

MC 148789 (Sub-5–1TA), filed June 28, 1982. Applicant: HURRICANE TRUCKING, INC., 550 Aleen St., Houston, TX 77029. Representative: H. W. Stephens (same as above). *General commodities in ocean containers* between points in TX, LA, [illegible], CO, NM, and AR. Supporting shipper(s): Shelton W. Greer Co., Inc., Houston, TX; Sunbelt Warehouse, Houston, TX.

MC 153138 (Sub-5–6TA), filed June 29, 1982. Applicant: LARRY DONE EASLEY, dba. EASLEY TRUCKING, P.O. Box 103, Ben Wheeler, TX 75754. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. *Copper tubing* from Wynne, AR to points in CA, OR, CO, AZ, NM, NV and WA. Supporting shipper(s): Cambridge-Lee Industries, Inc., 16418 Berwyn Road, Cerritos, CA 90701; P. E. O'Hair & Company, 945 Bryant Street, San Francisco, CA 94103.

MC 155903 (Sub-5–2TA), filed June 29, 1982. Applicant: DAHLIA PLANTATION, INC., Route 2, Box 18, Tallulah, LA 71282. Representative: Gene Laird (same as applicant). *Lumber and such commodities as are dealt in or used by manufacturers or distributors of lumber,* between points in Tensas Parish and Tangipahoa Parish, LA and Claiborne County, MS on the one hand, and, points in the US on the other. Supporting shipper: W. E. Parks Lumber Co., Inc., Newellton, LA.

MC 156499 (Sub-5–6TA), filed June 28, 1982. Applicant: CIRCLE C TRUCKING, INC., P.O. Box 865 Grand Island, NE. 68802. Representative: Robert D. Eklund, 175 W. Apple Avenue, Muskegon, MI

49443–0786. Contract irregular: *General commodities (except Classes A and B explosives and hazardous waste materials)* between all points in the U.S. Restricted to traffic under continuing contract with James River Corporation and its subsidiaries. Supporting shipper: James River Corp., Richmond, VA.

MC 161894 (Sub-5–1TA), filed June 28, 1982. Applicant: P. T. R. TRUCK LINES, INC., RR No. 4, Box 720, Davenport, IA 52804. Representative: James M. Hood, 302 Union Arcade Building, Davenport, IA 52801. Contract: Irregular. Transporting *malt beverages and related advertising materials* between Davenport, IA, and Rock Island, IL and St. Louis, MO, under continuing contracts with A. D. Huesing Corporation of Rock Island, IL and Jack's Distributing of Davenport, IA.

MC 162677 (Sub-5–1TA), filed June 28, 1982. Applicant: GREGG GOODENOW, P.O. Box 221, Ida Grove, IA 51445. Representative: Ronald R. Adams or Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. Contract, irregular; *Reinforcing steel bar, cast foundary products, bar stock, angles, channels, beams, steel sheets, steel plate, fabricated metal products, and equipment, materials, and supplies used in the manufacture and distribution of the foregoing commodities,* between Sioux City, IA and South Sioux City, NE, on the one hand, and, on the other, points in the U.S., (except AK and HI) under continuing contract(s) with Sioux City Foundry Co., of Sioux City, IA. Supporting shipper: Sioux City Foundry Co., P.O. Box 3067, Sioux City, IA 51102.

MC 162679 (Sub-5–1TA), filed June 29, 1982. Applicant: RICHARD KEMPKES, d.b.a. Kempkes Farms, Walton, NE 68561. Representative: Lavern R. Holdeman, 1610 S. 70th St., Suite 200, Lincoln, NE 68506. *Fertilizer and irrigation equipment used in farming,* between points in SD, NE, KS, OK, TX, LA, NM, MT, and CO, restricted to the account of James A. Mabray, d.b.a. Central Ag Supply, Arlington, TX. Supporting shipper: Central Ag Supply, 5400 Oak Brook Rd., Arlington, TX 76016.

MC 67234 (Sub-5–26TA), filed July 1, 1982. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105. *General commodities (except Classes A and B explosives)* between points and places in the U.S. (including AK and HI), under continuing contract(s) with General Mills, Inc. Supporting shippers: General Mills, Inc., P.O. Box 1113, Minneapolis, MN 55440.

MC 151158 (Sub-5–10TA), filed July 2, 1982. Applicant: BROWN TRANSIT, INC.; 325 Ingram, Conway, AR 72032. Representatives: D. R. Beeler, P.O. Box 482, Franklin, TN 37064. *(1) Food and related products* from points in ID and Dallas County, TX to points in LA, MS, OK, and TN; and *(2) metal products* between the facilities of Alamo Hanger at San Antonio, TX on the one hand, and, on the other, points in AR, GA, LA, NJ, NY, MS, PA, OK, TN, and VT. Supporting Shippers: Institutional Food Brokers, Inc., Little Rock, AR 72214; Lone Star Food Service Products, Dallas, TX 75265; Alamo Hanger Supply, San Antonio, TX 78217.

MC 156693 (Sub-5–3TA), filed July 1, 1982. Applicant: LYNN D. PLETCHER AND PAULETTE PLETCHER, d.b.a. PLETCHER TRUCKING, 450 Coombs Drive, Aurelia, IA 51005. Representative: D. Douglas Titus, 340 Insurance Exchange Building, Sioux City, IA 51101. *Contract* irregular *lumber and wood products,* between points in AR, ID, MN, MO, MT, and WA, and points in IA. Supporting shipper: Central Forest Products, Inc., P.O. Box 69, Blairsburg, IA 50034.

MC 158343 (Sub-5–2TA), filed July 1, 1982. Applicant: CHRIS CAMPBELL TRUCKING INC., 1702 15th St., Woodward, OK 73801. Representative: Jim Patton, 3925 N.W. 10th St., Oklahoma City, OK 73147. *Oilfield Equipment, Materials and Supplies* between OK, KS, TX and LA. Supporting shipper(s): Homco, Woodward, OK; N.L. Baroid, Woodward, OK; Flemco Mud Co., Inc., Gage, OK; Dowell Fluid Service, Woodward, OK.

MC 162378 (Sub-5–1TA), filed June 30, 1982. Applicant: J'S PIGGY BACK SERVICE, J. W. Lindsey, d.b.a. P.O. Box 2235, Fort Worth, TX 76101. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. *General commodities in Plan II½ piggy back ramp to ramp services, in railroad owned trailers, (except classes A and B explosives, household goods and commodities in bulk in tank vehicles),* between rail ramping facilities located in Tarrant and Dallas Counties, TX, on the one hand, and, on the other, points in Tarrant, Dallas, Ellis, Erath, Hood, Jack, Johnson, Palo Pinto, Parker and Wise Counties, TX. Restricted to traffic having a prior or subsequent movement by rail. Supporting shippers: 5.

MC 162525 (Sub-5–1TA), filed July 1, 1982. Applicant: 3C, INC., P.O. Box 18425, Oklahoma City, OK 73154. Representative: Jim Patton, P.O. Box 75613, Oklahoma City, OK 73147. *Oilfield equipment, materials and supplies,* between points in OK on the one hand, and on the other, points in TX. Supporting shipper(s): There are 10 supporting shippers.

MC 162767 (Sub-5–1TA), filed July 2, 1982. Applicant: CENTRAL ILLINOIS EXPRESS, INC., 2509 Westpark Way Circle, Euless, TX 76039. Representative: Paul E. Peldyak, 120 W. Madison Street, Chicago, IL 60602. Contract, irregular; *General commodities (except commodities in bulk, Classes A and B explosives and household goods)* between points in Rantoul, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract with Caradco Corp., Rantoul, IL.

MC 162787 (Sub-5–1TA), filed July 2, 1982. Applicant: KATUIN BROS. INC., 102 Terminal Street, Dubuque, IA 52001. Representative: Carl E. Munson, P.O. Box 796, Dubuque, IA 52001. (1) *Silica sand,* from points in La Salle County, IL, and Le Sueur County, MN, to points in IL, IA, NE and WI; and (2) *Sand and Sand Products,* from Oregon and East St. Louis, IL, Muscatine, IA, Eau Claire, Portage and Taylor, WI, to points in IL, IN, IA, MI, MN, MO, NE and WI. Supporting shippers: Bos Sand Co., 20500 So. La Grange Rd., Frankfort, IL 60423; Martin Marietta Aggregates Industrial Sand Division, Two Crossroads of Commerce, Rolling Meadows, IL 60008; and Unimin Corp., 50 Locust Avenue, New Canaan, CT 06840.

MC 162788 (Sub-5–1TA), filed July 2, 1982. Applicant: OWEN G. HEIMANN AND FREDERICK W. HEIMANN, d.b.a. L & K SERVICES, Route 3, Box 357J, Waco, TX 76708. Representative: Charles E. Munson, P.O. Box 1945, Austin, TX 78767. *General commodities (except Classes A and B explosives, commodities in bulk, and household goods)* between points in McLennan and Bell Counties, TX, on the one hand, and, on the other, points in TX. Restricted: To Traffic having a prior or subsequent movement by rail. Supporting shippers: M–K–T Railroad Company, Dallas, TX; Greater South Traffic, San Antonio, TX.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6, Motor Carrier Board, 211 Main St., Suite 501, San Francisco, CA 94105.

MC 121044 (Sub-6–1TA), filed June 23, 1982. Applicant: ACTION EXPRESS, INC., P.O.B. 722, Boise, ID 83701. Representative: Timothy R. Stivers, P.O.B. 1576, Boise, ID 83701. *General Commodities (except classes A and B explosives, commodities in bulk and used household goods),* between points in UT, on the one hand, and, on the

other, Boise and Twin Falls, ID for 270 days. The applicant intends to tack and interline authority. Supporting shippers: There are twenty-three (23) supporting shippers whose statements can be reviewed at the regional office.

MC 42487 (Sub-6–69TA), filed June 28, 1982. Applicant: CONSOLIDATED FREIGHTWAYS, CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 94025.Representative: V.R. Oldenburg, P.O. B. 3062, Portland, OR 97208. *Contract Carrier,* irregular routes: *Logs, Pellets or Fuel, forest slash, wood or agricultural waste residues, compressed, with or without wax,* from Austin, TX to points in AL, AR, GA, IL, IN, KY, MO, MS, NC, OH, SC, TN, WV and WI, for 270 days. Supporting shipper(s): Pine Mountain Corporation, 2800 Peralta Street, Oakland, CA 94608.

MC 134484 (Sub-6–5TA) filed June 28, 1982. Applicant: EDWARDS BROS., INC., P.O.B. 1684, Idaho Falls, ID 83401. Representative: Timothy R. Stivers, P.O.B. 1576, Boise, ID 83701. *Contract Carrier,* Irregular routes: *Beer and malt beverages and related advertising materials,* from points in Fairfield, CA to Jackson, WY including points in the commerical zones thereof, restricted to traffic moving under continuing contract(s) with Dunlap Distributing, for 270 days. Supporting shipper: Dunlap Distributing, P.O.B. A, Jackson, WY 8301.

MC 143289 (Sub-6–1TA), filed June 29, 1982. Applicant: FEDERATED TRANSPORT SYSTEMS, INC., 800 South McGarry St., Los Angeles, CA 90021. Representative: Frank M. Cushman, 5 Carbrey Avenue, Sharon, MA 02067. *Contract Carrier:* Irregular routes: *general commodities* (except Classes A and B explosives, hazardous waste, household goods as defined by the Commission, commodities in bulk and those requiring special equipment) between all points in the U.S. including AK and HI, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: AAA Cargo Brokers, Inc., 36 South Main Street, Sharon, MA 02067.

MC 162700 (Sub-6–1TA), filed June 28, 1982. Applicant: MYRON A. CAMPBELL, d.b.a. M.A.C. ENTERPRISES, 1036 W. Santa Barbara Ave., Los Angeles, CA 90037. Representative: Donald R. Hedrick, POB 4334, Santa Ana, CA 92702. (1) *Aircraft,* partially assembled, in containers, from the Los Angeles/Long Beach Harbors, CA to San Angelo, TX; and, (2) *used trucks, truck tractors and trailers,* in towaway or driveaway service and *parts therefor,* and *machinery,* from points in the U.S. to Huntington Park, CA and from Huntington Park, CA to points in NY and TX, for 270 days. Supporting shippers: Mitsubishi International Corporation, 555 S. Flower St., Los Angeles, CA 90071; and National Truck Parts & Service, 6069 Maywood Ave., Huntington Park, CA 90255.

MC 162597 (Sub-6–1TA), filed June 28, 1982. Applicant: MASTER CONTRACT MOVERS; 1554 Trimble Rd., San Jose, CA 95101. Representative: Andrew J. Skaff, 256 Montgomery St., Fifth Fl., San Francisco, CA 94104. *Contract Carrier,* Irregular Routes: *Such commodities as are dealt in by manufacturers, distributors and retailers of telephone and telecommunications equipment* between points in the U.S. under continuing contract or contracts with ROLM Corporation for 270 days. Supporting shipper: Rolm Corporation, 4900 Old Ironsides, Santa Clara, CA 95050.

MC 147553 (Sub-6–5TA), filed June 24, 1982. Applicant: DENNIS MOSS AND GARY MOSS, d.b.a. MOTOR WEST, P.O.B. 1405, Caldwell, ID 83605. Representative: Timothy R. Stivers; P.O.B. 1576; Boise, ID 83701. *Contract Carrier,* Irregular routes: *foodstuffs.* from the facilities of the Amalgamated Sugar Co. located in CO, ID, OR and UT, to points in the U.S. (except AK and HI) for the account of The Amalgamated Sugar Co., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: The Amalgamated Sugar Co., P.O.B. 1520, Ogden, UT 84402.

MC 162578 (Sub-6–1TA), filed June 29, 1982. Applicant: SEA-RAIL CARTAGE, INC., P.O.B. 17480, Portland, OR 97217. Representative: Michael D. Crew, 1618 S.W. First Ave., Suite 20, Portland, OR 97201. *Iron and steel articles, building materials, and commodities which because of size or weight require the use of special equipment,* between points in OR and WA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): There are six (6) supporting shippers. Their statements may be examined at the Regional Office listed above.

MC 148237 (Sub-6–2TA), filed June 30, 1982. Applicant's name: JESS A. MAY, d.b.a. MAY TRUCKING CO., 540 Sonoma Ave., Livermore, CA. 94550. Representative: Richard E. Macey, 2111 West March Lane, Suite A, Room three, Stockton, CA 95207. *Contract Carrier,* Irregular routes, *general commodities* . (except hazardous Wastes, classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Komatsu America Corp., for 270 days. Supporting shipper: Komatsu America Corp., Western Regional Office, 31145 San Antonio, Hayward, CA 94544.

MC 162773 (Sub-6–1TA), filed July 1, 1982. Applicant: SALIDA TRANSFER COMPANY, P.O.B. 447, Salida, CO 81201. Representative: David E. Driggers of 1600 Lincoln Center, 1660 Lincoln St., Denver, Co 80264. *Sulfuric acid,* in bulk, between points in San Juan County, NM, on the one hand, and, on the other, points in Chaffee County, CO for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: CoZinCo, P.O.B. 1005, Salida, CO 81201.

MC 123265 (Sub-6–7TA), filed July 1, 1982. Applicant: SANTRY TRUCKING COMPANY, 10505 NE Second Ave., Portland, OR 97211. Representative: John G. McLaughlin, 101 SW Main St., Rm 1600, Portland, OR 97204. *Contract carrier,* over irregular routes, *paper and paper products,* between points in CA, ID, OR and WA for 270 days, under continuing contract(s) with Potlatch Corporation, P.O.B. 1016, Lewiston, ID 83501. Supporting shipper: Potlatch Corporation, P.O.B. 1016, Lewiston, 10 83501.

MC 151878 (Sub-6–3 TA), Filed July 1, 1982. Applicant: THREE WAY CORPORATION 1120 Karlstad Dr., Sunnyvale, CA 94086. Applicant's Representative: Charles H. White, Jr. 1019–19th St., N.W., Suite 800, Washington, D.C. 20036 *Contract Carrier:* Irregular Routes: *General Commodities (except Classes A and B explosives, hazardous waste materials, and commodities in bulk)* between points in the U.S. under continuing contract with Memorex Corporation for 270 days. Supporting shipper: Memorex Corporation, San Thomas at Central Expressway, Santa Clara, CA 95052.

MC 155389 (Sub-6–2TA), filed July 1, 1982. Applicant: WITS TRANSPORT, INC. P.O. Box 3805, Seattle, WA 98121. Representative: James T. Johnson, 1610 IBM Bldg., Seattle, WA 98101. *General Commodities (except Classes A & B explosives, household goods and commodities in bulk),* between points in CA, on the one hand, and on the other, points in the U.S. (except AK and HI) for 270 days. Supporting shipper(s): There are five supporting shippers. Their statements may be examined at the regional office listed.

WC 1351 (Sub-1TA), filed June 1, 1982. Applicant: SUNSHINE CHARTERS, INC., P.O.B. 134, Wallual, WA 99363. Representative: Lester L. Kelly (same as applicant). By order served July 2, 1982, Regional Motor Carrier Board (granted Sunshine Charters, Inc., Wallual, WA 180 days temporary authority to engage in the business of transportation by

water vessel, in interstate commerce: Common Carrier, Passengers in special and charter operations between points in ID, OR & WA on the Columbia and Snake Rivers. Supporting shippers: Pacific Northwest Countryside Tours, 1020–108th N.E., Bellevue, WA 98004; Alladin's Desert River Inn, 705 Willamette, Umatilla, OR 97882; Clover Island Motor Inn, 435 Clover Island, Kennewick, WA 99336; and White Lightning Tours, Inc., 419 N. Yelm St., Kennewick, WA 99336. Any interested party may file a petition for reconsideration within 20 days of the date of this publication. Within 20 days after the filing of such petition with the Commission, any interested party may file and serve a reply thereto. Petitions and replies should be sent to Regional Motor Carrier Board 6, Interstate Commerce Commission, 211 Main St. #501, San Francisco, CA 94105.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–18712 Filed 7–9–82; 8:45 am]

BILLING CODE 7035–01–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–110]

Certain Methods for Extruding Plastic Tubing; Commission Hearing on the Presiding Officer's Recommendation and on Relief, Bonding, and the Public Interest, and the Schedule for Filing Written Submissions

AGENCY: International Trade Commission.

ACTION: The scheduling of a public hearing and written submissions in investigation No. 337–TA–110, Certain Methods for Extruding Plastic Tubing.

Notice is hereby given that the presiding officer has issued a recommended determination that there is a violation of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, in the unauthorized importation into the United States and sale of certain extruded plastic tubing and reclosable plastic bags that are the subject of the Commission's investigation. Accordingly, the recommended determination and the record of the hearing have been certified to the Commission for review and a Commission determination. Interested persons may obtrain copies of the nonconfidential version of the presiding officer's recommendation (and all other public documents on the record of the investigation) by contacting the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 161, Washington, D.C. 20436, telephone 202–523–0161.

COMMISSION HEARING: The Commission will hold a public hearing on July 15, 1982, in the Commission's Hearing Room, 701 E Street NW., Washington, D.C. 20436, beginning at 10:00 a.m. The hearing will be divided into two parts. First, the Commission will hear oral arguments on the presiding officer's recommended determination that a violation of section 337 of the Tariff Act of 1930 exists. Second, the Commission will hear presentations concerning appropriate relief, the effect that such relief would have upon the public interest, and the proper amount of the bond during the Presidential review period in the event that the Commission determines that there is a violation of section 337 and that relief should be granted. These matters will be heard on the same day in order to facilitate the completion of this investigation within time limits established under law and to minimize the burden of this hearing upon the parties.

Oral Arguments

Any party to the Commission's investigation or any interested Government agency may present an oral argument concerning the presiding officer's recommended determination. That portion of a party's or an agency's total time allocated to oral argument may be used in any way the party or agency making argument sees fit, i.e., a portion of the time may be reserved for rebuttal or devoted to summation. The oral arguments will be held in the following order: complainant, respondents, Government agencies, and the Commission investigative attorney. Any rebuttals will be held in this order: respondents, complainant, Government agencies, and the Commission investigative attorney. Persons making oral argument are reminded that such argument must be based upon the evidentiary record certified to the Commision by the presiding officer.

Oral Presentations on Relief, Bonding, and the Public Interest

Following the oral arguments on the presiding officer's recommendation, parties to the investigation, Government agencies, public-interest groups, and interested members of the public may make oral presentations on the issues of relief, bonding, and the public interest. This portion of the hearing is quasi-legislative in nature; presentations need not be confined to the evidentiary record certified to the Commission by the presiding officer, and may include the testimony of witnesses. Oral presentations on relief, bonding, and the public interest will be heard in this order: complainant, respondents, Government agencies, the Commission investigative attorney, public-interest groups, and interested members of the public.

If the Commission finds that a violation of section 337 has occurred, it may issue (1) an order which could result in the exclusion of the subject articles from entry into the United States and/or (2) an order which could result in one or more respondents' being required to cease and desist from engaging in unfair methods of competition or unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in hearing presentations which address the form of relief, if any, which should be ordered.

If the Commission concludes that a violation of section 337 has occurred and contemplates some form of relief, it must consider the effect of that relief upon the public interest. The factors which the Commission will consider include the effect that an exclusion order and/or a cease and desist order would have upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the U.S. production of articles which are like or directly competitive with those which are the subject of the investigation, and (4) U.S. consumers.

If the Commission finds that a violation of section 337 has occurred and orders some form of relief, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in hearing presentations concerning the amount of the bond, if any, which should be imposed.

Time Limit for Oral Argument and Oral Presentation

Parties and Government agencies will be limited to a total of 30 minutes (exclusive of time consumed by questions from the commission or its advisory staff) for making both oral argument on violation and oral presentations on remedy, bonding, and the public interest. Persons making only oral presentations on remedy, bonding, and the public interest will be limited to 10 minutes (exclusive of time consumed by questions from the Commission and its advisory staff). The Commission may in its discretion expand the

aforementioned time limits upon receipt of a timely request to do so.

Written Submissions

In order to give greater focus to the hearing, the parties to the investigation and interested Government agencies are encouraged to file briefs on the issues of violations (to the extent they have not already briefed that issue in their written exceptions to the presiding officer's recommended determination), remedy, bonding, and the public interest. The complainant and the Commission investigative attorney are also requested to submit a proposed exclusion order and/or proposed cease and desist orders for the Commission's consideration. Persons other than the parties and Government agencies may file written submissions addressing the issues of remedy, bonding, and the public interest. Written submissions on the question of violation must be filed not later than the close of business on July 8, 1982; written submissions on the questions or remedy, bonding, and the public interest must be filed not later than the close of business on July 12, 1982. During the course of the hearing, the parties may be asked to file posthearing briefs.

Notice of Appearance

Written requests to appear at the Commission hearing must be filed with the Office of the Secretary by July 12, 1982.

Additional Information

The original and 14 true copies of all briefs on violation must be filed with the Office of the Secretary not later than July 8, 1982; the original copy and 14 true copies of all briefs on remedy, bonding, and the public interest must be filed with the Office of the Secretary not later than July 12, 1982. Any person desiring to discuss confidential information, or to submit a document (or a portion thereof) to the Commission in confidence, must request in camera treatment unless the information has already been granted such treatment by the presiding officer. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. Documents or arguments containing confidential information approved by the Commission for in camera treatment will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Secretary's Office.

Notice of this investigation was published in the **Federal Register** of November 12, 1981, 46 FR 55797.

FOR FURTHER INFORMATION CONTACT: Eliza R. Patterson, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0480.

By order of the Commission.

Issued: July 7, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-18918 Filed 7-9-82; 0:23 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 82-3]

Faunce Drug Store; Revocation of Registration and Denial of Application

On February 8, 1982, the Acting Administrator of the Drug Enforcement Administration (DEA) directed an Order to Show Cause to Faunce Drug Store, 3473 Frankford Avenue, Philadelphia, Pennsylvania 19134 (Respondent), seeking to revoke DEA Certificate of Registration AF 9165374, issued to Respondent pursuant to 21 U.S.C. 823. The statutory predicate for the Order was the conviction on October 30, 1981, in the United States District Court for the Eastern District of Pennsylvania, of Raymond Barnett, the owner and managing pharmacist of Respondent, of one count of distribution of Desoxyn in violation of 21 U.S.C. 841(a)(2), and two counts of omitting material information from a report required to be kept by the Controlled Substances Act in violation of 21 U.S.C. 843(a)(4), felonies relating to controlled substances.

The matter was placed on the docket of Administrative Law Judge, Francis L. Young. The Acting Administrator publishes this Final Order pursuant to 21 CFR 1316.67.

Following a motion by Respondent, Judge Young found that Barnett was convicted of a felony relating to a controlled substance. Judge Young found that a conviction is final even though the trial court suspends execution of sentence and stated the issue is whether Barnett has been "convicted"; the finality of such a conviction is irrelevant. The Acting Administrator adopts the well reasoned conclusion of the Administrative Law Judge. In an earlier proceeding under this statute, *In Re Leonard S. Cohen, et al.*, Docket No. 72–5, 38 FR 9522 (1973), the Director of the Bureau of Narcotics and Dangerous Drugs, DEA's predecessor agency, said: "Also it would appear that under an administrative hearing it is not necessary that sentence be imposed or that judgment on a verdict be rendered to satisfy the requirement of a 'conviction'." The Acting Administrator finds that the finality of a conviction is irrelevant in determining whether a registrant has been convicted of a felony relating to controlled substances under 21 U.S.C. 824(a)(2). A registrant is convicted of a controlled substance related felony if there is a judgment of guilt, plea of guilty or nolo contendere, or some other indication that he has been found guilty of a controlled substance related felony. See *Berman v. United States*, 302 U.S. 211, 58 S. Ct. 164 (1937) and *Korematsu v. United States*, 319 U.S. 432, 63 S. Ct. 1124 (1943). See also *United States v. Rosenstengel*, 323 F. Supp. 499 (E.D. Mo. 1971), where the court looked at the purpose of Congress in enacting 18 U.S.C. 1202(d) (relating to possession of firearms by convicted felons) and concluded "there is no doubt in our mind that the word 'convicted' was used in the statute in its broadest sense. To narrowly equate the term 'convicted' with the final judgment of conviction thereafter entered would clearly frustrate the congressional purpose * * *". The court held that once guilt has been established, either by plea or by verdict and nothing remains to be done except pass sentence, the defendant has been convicted within the intendment of Congress. The Acting Administrator adopts the cogent reasoning of Judge Young and the *Rosenstengel* court in construing 21 U.S.C. 824(a)(2). It is clear that Congress intended the term "conviction" to have the broadest meaning in 21 U.S.C. 823 and 824. The Acting Administrator finds that Raymond Barnett was convicted of a controlled substance related felony.

The Acting Administrator rejects Respondent's argument that DEA should not entertain the action against Faunce Drug Store since it was Barnett and not Faunce Drug Store that was convicted of a controlled substance related felony. This Administration has consistently held that the conviction of a natural person whose relation to a registered pharmacy gives him such control over its affairs as its owner and managing pharmacist provided ample grounds for revocation of the pharmacy's DEA registration. See *In Re Lynnfield Drug Inc.*, Docket No. 76–6, 42 FR 8435 (1977), *In Re Woodfield Drugs Inc. et al.*, Docket No. 80–20, 46 FR 35397 (1981).

Following disposition of Respondent's motion, the Administrative Law Judge ordered Respondent and the Government to simultaneously file prehearing statements, with which the Government timely complied. Respondent has not complied with the

Order. Judge Young concluded that Respondent had waived its right to a hearing by failing to file a prehearing statement and terminated the proceedings before him and pursuant to 21 CFR 1316.65 transmitted the record to the Acting Administrator. Judge Young found that Respondent has impliedly waived its right to a hearing and withdrew its request for a hearing by failing to file a prehearing statement as requested. Judge Young pointed out that his call for prehearing statements is clearly authorized by 21 CFR 1316.52(c) and 1316.58(a) and noted that his Order for prehearing statements admonished Respondent that failure to timely file a prehearing statement as directed may be considered a waiver of hearing and an implied revocation of a request for a hearing. The Administrative Law Judge went on to state that the applicable statutes and regulations require only that an agency grant Respondent an opportunity for a hearing. *National Independent Coal Operators v. Kleppe*, 423 U.S. 388 (1976); *Costle v. Pacific Legal Foundation*, 100 S. Ct. 1095 (1980); *United States v. Consolidated Mines and Smelting Co. Ltd.*, 455 F.2d 432 (9th Cir. 1971).

The Acting Administrator fully concurs in the conclusions of the Administrative Law Judge. The law does not require this agency to go through the useless and wasteful exercise of convening a hearing for the presentation of both sides of the controversy when one side has failed to show that it has a case to be heard, particularly after it has been specifically ordered to make such a showing. Respondent has failed to abide by an Order of the Administrative Law Judge. Clearly, the orderly procedures of justice are disrupted when one side of the proceeding decides to ignore an order of the Presiding Official. This Administraton cannot permit the parties that appear before it to choose which orders to obey and which orders to disregard. The actions of the Administrative Law Judge were well taken and appropriate under the facts in this matter.

The Acting Administrator finds that Respondent has waived its right to a hearing and pursuant to 21 CFR 1301.54(d) cancels the hearing in this matter and enters his final order upon the record as it appears. The Acting Administrator finds that on September 8, 1981, Raymond Barnett was charged in a 159 count indictment. Counts 1 through 155 charge that between February 1, 1980, and September 26, 1980, Barnett knowingly and intentionally distributed approximately 4,650 Desoxyn, a Schedule II controlled substance. The remaining counts of the indictment charge Barnett with failure to retain records required to be kept under the Controlled Substances Act in violation of 21 U.S.C. 843(a)(4). Barnett pled guilty of one count of distribution of Desoxyn and two counts of omitting material information. The Acting Administrator finds that Raymond Barnett trading as Faunce Drug Store dispensed literally tens of thousands of dosage units of Quaalude, Parest, Preludin, Ritalin, Desoxyn, Percocet, Lotusate, Talwin and Brominal illegally. An in-depth investigation of Respondent by DEA compliance investigators revealed tremendous shortages of controlled substances. At least 399 Schedule II prescriptions for 14,430 dosage units that were filled by Barnett were determined to be forgeries. DEA compliance investigators obtained statements from 14 Philadelphia area physicians whose names appeared on these prescriptions that none of these prescriptions were issued by any of the physicians. An informant who frequently filled forged prescriptions at Respondent cooperated with the United States in the criminal investigation. The informant was able to easily obtain controlled substances by submitting a forged prescription to Barnett. Contrary to Respondent's assertions the Acting Administrator finds that Barnett was under no compulsion when he sold the informant the controlled substances.

The Acting Administrator has studied the record in this case and finds ample evidence for the revocation of Respondent's DEA Certificate of Registrtation and the denial of any subsequent application for reregistration with DEA; there is nothing in the record to mitigate this decision. Accordingly, under the authority vested in the Attorney General by section 304 of the Controlled Substances Act, 21 U.S.C. 824, and redelegated to the Administrator of the Drug Enforcement Administration, the Acting Administrator hereby orders that the DEA registration of Faunce Drug Store be and hereby is revoked and the subsequent application for a DEA certificate of Registration be denied, effective August 11, 1982.

Dated: July 6, 1982.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82-18880 Filed 7-9-82; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 82-9]

Anthony Di Flumeri, M.D.; Modification of Registration; Final Order

On March 8, 1982, the Acting Administrator of the Drug Enforcement Administration (DEA) directed to Anthony Di Flumeri, M.D., c/o Alpha Medical Emergency Services, Bay Harbor Plaza, Bricktown, New Jersey (Respondent) an Order to Show Cause proposing to deny the application for a DEA Certificate of Registration executed by Respondent on October 6, 1981. The statutory predicate was Respondent's conviction in the New Jersey Superior Court, Ocean County, Law Division—Criminal of four counts of obtaining a controlled dangerous substance (Demerol) by fraud in violation of New Jersey Statutes 24:21–22a(3), a controlled substance related felony.

Respondent, through counsel, requested a hearing on the issues raised by the Order and the matter was placed on the docket of Administrative Law Judge Francis L. Young. In lieu of a hearing on the issues raised by the Order, Respondent and DEA entered into an agreement. The Administrative Law Judge approved the agreement and terminated administrative proceedings.

The Acting Administrator has considered the agreement entered into by the parties and pursuant to 21 CFR 1316.67 publishes this Final Order. The Acting Administrator finds that Respondent pled guilty on October 19, 1979, to four counts of obtaining a controlled dangerous substance (Demerol) by fraud in violation of New Jersey Statutes 24:21–22a(3). The Acting Administrator further finds that the parties agreed that Respondent will submit to DEA quarterly reports for a three-year period which will include legible copies of all prescriptions for controlled substances in Schedules III through V written by Respondent and a summary report of all Schedules II through V controlled substances which he administered, dispensed and prescribed. During the same three-year period, Respondent will submit monthly reports to DEA that will include legible copies of all prescriptions for Schedule II controlled substances which he wrote. These monthly reports will include the name and address of any person who receives such a prescription and the controlled substance and amount involved.

The Acting Administrator further finds that the parties have stipulated that Respondent will only administer, dispense or prescribe controlled substances in connection with his position as a physician employed by

Alpha Medical Emergency Services at Bay Harbor Plaza, Bricktown, New Jersey, and his position as an emergency room physician employed by Community Memorial Hospital, Highway 37, Toms River, New Jersey and that Respondent will notify DEA of a change of employer or affiliation. Respondent understands that the agreement is probationary in nature and that any violation of the terms of the agreement will result in summary suspension of his controlled substance privileges by the Acting Administrator.

The Acting Administrator finds that the agreement is an appropriate resolution to the issues raised in the Order to Show Cause, and incorporates the agreement into the final disposition of this case. Accordingly, pursuant to the authority vested in the Attorney General by 21 U.S.C. 823 and 824 and redelegated to the Administrator of the Drug Enforcement Administration, the Acting Administrator grants the application of Anthony Di Flumeri, M.D., for registration under 21 U.S.C. 823 and 824 subject to the restrictions imposed by the agreement between Respondent and the Government, effective immediately.

Dated: July 2, 1982.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82-18689 Filed 7-9-82; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on February 8, 1982, SmithKline Chemicals, Division of SmithKline Corporation, 900 River Road, Conshohocken, Pennsylvania 19428, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
4-Methoxyamphetamine (7411)	I.
Amphetamine (1100)	II.
Phenylacetone (8501)	II.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Acting Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, N.W., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than August 11, 1982.

Dated: July 2, 1982.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82-18690 Filed 7-9-82; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Registration

By Notice dated December 28, 1981, and published in the **Federal Register** on January 5, 1982; (47 FR 363), Syncates Associates, Inc., 9307-M Harwin, Houston, Texas 77036, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of pentobarbital (2270), a basic class of controlled substance listed in Schedule II.

No comments or objections having been received, and pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations § 1301.54(e), the Acting Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: July 2, 1982.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82-18688 Filed 7-9-82; 8:45 am]

BILLING CODE 4410-09-M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: Revision.

2. The title of the information collection: Equal Access to Justice, 10 CFR Part 2.

3. The form number if applicable: None.

4. How often the collection is required: On occasion.

5. Who will be required or asked to report: Parties to NRC adversary adjudications.

6. An estimate of the number of responses: 6 responses.

7. An estimate of the total number of hours needed to complete the requirement or request: 150 hours.

8. An indication of whether section 3504(h), Pub. L. 96-511 applies: not applicable.

9. Abstract: Equal Access to Justice Act (Pub. L. 96-48) requires NRC to obtain information from prevailing parties in NRC adversary adjudications.

Copies of the submittal may be inspected or obtained for a fee from NRC Public Document Room, 1717 H Street, NW., Washington, D.C. 20555.

Comments and questions should be directed to the OMB reviewer, Gwendolyn W. Pla, (202) 395-6880.

NRC Clearance Officer is R. Stephen Scott, (301) 492-8585.

Dated at Bethesda, Maryland, this 6th day of July 1982.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Acting Director, Office of Administration.

[FR Doc. 82-18750 Filed 7-9-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-369]

Duke Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 14 to Facility Operating License No. NPF-9, issued to Duke Power Company (licensee) for the McGuire Nuclear Station, Unit 1 (the facility) located in Mecklenburg County, North Carolina.

The amendment was authorized by telephone on June 9, 1982, and was confirmed by letter on June 10, 1982. The amendment exempts McGuire from the requirements of Technical Specification 3.5.2.c. for 72 hours to allow sufficient time to repair the seismic support system associated with the residual heat exchangers. This amendment was

issued on an expedited basis to permit McGuire to remain at power.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an enviromental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) Duke Power Company letter dated June 9, 1982, (2) Amendment No. 14 to Facility Operating License No. NPF-9 with Appendix A Technical Specification page change, and (3) the Commission's related Safety Evaluation.

All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223. A copy of Amendment No. 14 and the Commission's related Safety Evaluation may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 1st day of July 1982.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing, NRR.

[FR Doc. 82-18740 Filed 7-9-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 40-8064]

Exxon Minerals Co.; Negative Declaration Regarding Renewal of the Source Material License SUA-1064 for Operation of the Highland R. & D. In Situ Facility in Converse County, Wyo.

The U.S. Nuclear Regulatory Commission (the Commission) is issuing a renewal of the Source Material License SUA-1064 for Exxon's Highland R. & D. In Situ Facility, located 20 miles northwest of Douglas, Wyoming. The license has been under timely renewal and Exxon is presently conducting groundwater restoration with incidental uranium recovery. The renewed license will authorize continuation of the restoration phase culminating in final reclamation of the R. & D. in situ facility.

The Commission's Division of Waste Management has prepared an environmental impact appraisal for the licensing action. Based on this appraisal, the Commission has concluded that an environmental impact statement for this particular action is not necessary for there will be no significant environmental impact attributable to the renewal of this license. The environmental impact appraisal is available for public inspection and copying at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

Dated at Silver Spring, Maryland, this 30th day of June, 1982.

For the Nuclear Regulatory Commission.

Ross A. Scarano,

Chief, Uranium Recovery Licensing Branch, Division of Waste Management.

[FR Doc. 82-18751 Filed 7-9-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-266]

Wisconsin Electric Power Co.; Proposed Issuance of Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to facility Operating License No. DPR-24 issued to Wisconsin Electric Power Company (the licensee), for operation of the Point Beach Nuclear Plant, Unit 1 located in the Town of Two Creeks, Manitowoc County, Wisconsin.

The amendment would revise the conditions of the operating license to permit repair of steam generators by replacement of major components including the tube bundles in accordance with the licensee's application for amendment dated May 27, 1982.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By August 11, 1982, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularlity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extend of the petitioner's property, financial, or other interest in the proceeding, and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also indentify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend his petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to

present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Robert A. Clark: (petitioner's name and telephone number); (date petition was mailed); (plant name); and (publication date and page number of this Federal Register notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Mr. Bruce Churchill, Esq. Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20035, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions for leave for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated May 27, 1982, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Joseph Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin 54241.

There is currently pending before an Atomic Safety and Licensing Board a prior application for amendments to the licenses for Point Beach 1 and 2 to authorize steam generator repair by sleeving (46 FR 40359, August 7, 1981).

The present application for authorization for repair by tube bundle replacement involves consideration of a separate and distinct license amendment action by the NRC.

Dated at Bethesda, Maryland this 6th day of July 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82–18748 Filed 7–9–82; 8:45 am]

BILLING CODE 7590-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 05/05–0158]

Golder, Thoma Capital Company; Filing of an Application for an Exemption Under the Conflict of Interest Regulation

Notice is hereby given that Golder, Thoma Capital Company (Golder, Thoma), 210 South LaSalle Street, Suite 630, Chicago, Illinois 60603, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act), has filed an application with the Small Business Administration (SBA) pursuant to § 107.1004(b) of the Regulations governing small business investment companies (13 CFR 107.1004(b) (1982)) for an exemption from the provisions of the Regulation.

The exemption, if granted, will permit Golder, Thoma to provide financing in the amount of $500,000 to ATM Network Management Corporation (ATM), 2901 Finley Road, Downers Grove, Illinois 60515. The Golder, Thoma Fund (GTF), principal limited partner of Golder, Thoma, holds 500 shares of ATM nonconvertible preferred stock and warrants permitting it to acquire shares of common stock of ATM. ATM is required to redeem all such preferred stock on June 25, 1983, for $500,000.

ATM proposes to sell, for an aggregate of $2,050,000, subordinated debentures and warrants to purchase common stock to five small business investment companies, including the Licensee. The funds obtained by ATM through the sale of subordinated debentures and warrants will be used to expand its automated banking computer services, to buy additional equipment and for working capital and will not be used or set aside to redeem the preferred stock held by GTF.

In anticipation of this investment, Golder, Thoma has lent $100,000 to ATM on a demand basis to be used for working capital, which loans will be applied to the purchase price of Golder, Thoma's investment in the subordinated debentures and warrants.

Pursuant to Paragraph (b) (f) and (g) of the definition of "Associate of a Licensee" in § 107.3 of the SBA Regulations, ATM may be deemed an Associate of Golder, Thoma because GTF owns more than 10 percent of Golder, Thoma's partnership capital, and GTF's representative served on ATM's Board of Directors within the last six months and because the preferred stock owned by GTF may be a 10 percent or more equity interest in ATM. As such, the transaction will require an exemption from the provisions of § 107.1004(b)(1) of the Regulations.

Notice is hereby given that any interested person may, on or before July 27, 1982, submit written comments on the proposed transaction to the Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street NW., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in Chicago, Illinois.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 6, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82–18742 Filed 7–9–82; 8:45 am]

BILLING CODE 8025-01-M

Presidential Advisory Committee on Small and Minority Business Ownership; Public Meeting

The Presidential Advisory Committee on Small and Minority Business Ownership, located in Washington, D.C., will hold a public meeting at 9:00 a.m. until 5:00 p.m., Friday, July 30, 1982, at the Small Business Administration, 2nd Floor Conference Room, 1441 L Street, NW., Washington, D.C. 20416, to discuss such business as may be presented by the Committee members. The meeting will be open to the interested public, however, space is limited.

Persons wishing to present written statements should notify Mrs. Bettye Bolden, Office of the Associate Administrator for Minority Small Business and Capital Ownership Development, Small Business Administration, Room 317, 1441 L Street, NW., Washington, D.C. 20416, (202) 653–6851, in writing or by telephone no later than July 23, 1982.

Dated: July 6, 1982.

Jean M. Nowak,

Acting Director, Office Advisory Councils.

[FR Doc. 82–18741 Filed 7–9–82; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 04/04-5216]

Valley Capital Corp.; Application for a License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.), has been filed by Valley Capital Corporation (Applicant) with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1982).

The officers, directors, and stockholders of the Applicant are as follows:

John F. Germ, 912 Shore Drive, Soddy, Tennessee 37379, Chairman of the Board
Steven L. Lilly, 409 Cameron Circle, Chattanooga, Tennessee 37403, President
William P. Aiken, Jr., 425 West Brow Road, Lookout Mountain, Tennessee 37350, Secretary
Charles M. Bryant, 400 Kilmer Street, Chattanooga, Tennessee 37404, Director
Charles P. Henderson, 1616 South Rugby Place, Chattanooga, Tennessee 37412, Director
William S. Hunt III, 5394 Sky Valley Drive, Hixson, Tennessee 37343, Director
Theodore L. Lamb, 46 Rock Crest Road, Signal Mountain, Tennessee 37377, Director
Randolph C. Martin, Sr., 5125 Mimosa Circle, Chattanooga, Tennessee 37416, Director
Harry W. McKeldin, 51321 Lantana Lane, Chattanooga, Tennessee 37416, Director
Peter J. Ripp, 409 Cameron Circle, Apt. 1815, Chattanooga, Tennessee 37416, Director
Reuben Strickland, 819 Greenwood Road, Chattanooga, Tennessee 37411, Director
Robert J. Sudderth, 107 Glenview Street, Lookout Mountain, Tennessee 37350, Director
Walter F. Williams, 2432 Haven Cove Lane, Chattanooga, Tennessee 37421, Director
Lyndhurst Foundation, Inc., 700 Krystal Building, Chattanooga, Tennessee 37402, 40.3 percent Stockholder
American National Bank and Trust Company, P.O. Box 1638, 736 Market Street, Chattanooga, Tennessee 37401, 10.1 percent Stockholder
Provident Life and Accident Insurance Company, Fountain Square, Chattanooga, Tennessee 37402, 10.0 percent Stockholder
16 other Stockholders, each owning less than 10 percent of the common stock, 39.6 percent

The Applicant, a Tennessee corporation with its principal place of business at the 8th Floor Krystal Building, 100 W. Martin Luther King Boulevard, Chattanooga, Tennessee 37402, will begin operations with $500,000 of paid-in capital and paid-in surplus derived from the sale of 5,000 shares of common stock.

The Applicant will conduct its activities primarily in the Tennessee Valley and adjoining region.

Applicant intends to provide assistance to all qualified socially or economically disadvantaged small business concerns as the opportunity to profitably assist such concerns is presented.

As a small business investment company under section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the Applicant under this management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, on or before July 27, 1982, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Chattanooga, Tennessee.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 6, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-18743 Filed 7-9-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Future Navigation Systems Planning Conference

A Future Navigation Systems Planning Conference is to be held at the Federal Aviation Administration Headquarters, Washington, D.C., 800 Independence Avenue, SW., in the third floor Auditorium, on August 3, 1982, from 9:00 a.m. to 5:00 p.m., and on August 4, 1982, from 9:00 a.m. to 3:00 p.m.

The purpose of the Conference is to present to the users and suppliers of navigation systems the results to date of FAA sponsored studies and technical evaluations of navigation systems which are to satisfy air navigation requirements in the post-1995 time period. These studies and evaluations relate to the selection of a future mix of navigation systems as required by the Federal Radionavigation Plan. An opportunity will be provided for the navigation community to participate in a discussion of both the study results and the planned activities in this field.

On Tuesday, August 3, the scheduled agenda includes: opening remarks by the Administrator; a Conference overview; technical presentations and discussions of navigation systems, including VOR, DME, Loran-C, GPS, and Omega/VLF; a presentation of operational and safety considerations; and a discussion of economic issues in navigation system planning. The agenda for Wednesday, August 4, includes opening remarks by a member of the Department of Transportation Radionavigation Working Group, a presentation of institutional issues, an expert panel discussion on future navigation system planning issues, the presentation of statements by selected organizations representing the users of the future navigation systems, an open discussion, and closing remarks.

This meeting is open to all interested individuals and organizations without prior notification by attendees. The Federal Aviation Administration contact for the Conference is Mr. Keith McDonald, AEM-200, telephone (202) 426-8796.

Issued in Washington, D.C., on July 2, 1982.

A. Albrecht,

Associate Administrator for Engineering and Development.

[FR Doc. 82-18704 Filed 7-9-82; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; Chatham County, GA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this

notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Chatham County, Georgia.

FOR FURTHER INFORMATION CONTACT:

David H. Densmore, Development Engineer, Federal Highway Administration, Suite 700, 1422 West Peachtree Street, N.E., Atlanta, Georgia 30309, telephone (404) 881–4758, or Peter Malphurs, State Environmental Analysis Engineer, Georgia Department of Transportation, Office of Environmental Analysis, 65 Aviation Circle, Atlanta, Georgia 30336, telephone (404) 696–4634.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Georgia Department of Transportation (Georgia DOT) will prepare an environmental impact statement (EIS) on a proposal identified as PESP–25(5), Chatham County. The project is proposed as the replacement of the existing Eugene Talmadge Memorial Bridge across the Savannah River in the City of Savannah, Chatham County, Georgia. The purpose of the project is to provide improved vertical and horizontal clearance for shipping along the navigation channel of the Savannah River. The route on the bridge is U.S. 17 Alternate which enters South Carolina beyond the limits of this project.

1. Alternative A–1 begins on the south at the intersection of Interstate 16 and Boundary Street in Savannah. The first half mile of this alternative is an at-grade widening of existing two-lane Boundary Street to five lanes. The bridge then begins and bridges over another half mile of the City of Savannah before crossing the Savannah River and ending on Hutchinson Island. This alternative is downstream of and closely parallels the existing bridge. From the island, an existing two-lane bridge will be utilized to continue the route across Back River and into the State of South Carolina. The length of the new bridge and approaches is approximately two miles and the maximum height of the roadway over the river of mean high tide is 185 feet. The design provides for four travel lanes divided by a concrete barrier.

2. Alternative A–2 is identical to Alternative A–1 except that a steeper grade is applied to the bridge and it touches down about 700 feet closer to the river in Savannah, thereby providing better local access, but at the expense of higher operating costs to the road user.

3. Alternative B begins in Savannah at a point about 1.5 miles upstream of the existing bridge crossing, at the intersection of Lynes Parkway and W. Lathrop Avenue. After widening W. Lathrop Avenue to five lanes for about 1,000 feet, the new bridge begins and extends out over an industrial district of Savannah and across the Savannah River to Hutchinson Island which it traverses laterally until tying back into the existing bridge and ending at the same point on the north as the "A" alternatives. The total length of the bridge and approaches is about 2.6 miles. The bridge characteristics are similar to those of the "A" alternatives.

4. Another bridge across the Savannah River about six miles upstream from the Talmadge Bridge brings U.S. 17/S.R. 25 into Georgia from South Carolina. This bridge serves as a partial impediment to river traffic and upstream port development. The structure, named the James P. Houlihan Bridge, is being considered for optional removal under all "build" alternatives, since the new bridge and the nearby I–95 bridges could handle that traffic demand.

5. The No-Build Alternative is under consideration and would leave both existing bridges in place and continue normal maintenance.

Letters describing the proposed action and soliciting comments are being sent to appropriate Federal, State and local agencies, and to private organizations and citizens who have previously expressed interest in this proposal. A formal scoping meeting will be held in mid-1982 to receive input from interested State and Federal agencies. Written notice will be given of the time and place of the scoping meeting. In addition, a public hearing will be held. Public notice will be given of the time and place of the hearing.

To ensure that the full range of issues related to this proposed project are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

The Catalog of Federal Domestic Assistance Program Number is 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and Federally assisted programs and projects apply to this program.

David H. Densmore,

Development Engineer, Atlanta, Georgia.

[FR Doc. 82–18502 Filed 7–9–82; 8:45 am]

BILLING CODE 4910–22–M

National Highway Traffic Safety Administration

[Docket No. IP81–17; Notice 2]

General Motors Corp.; Grant of Petition for Inconsequential Noncompliance

This notice grants the petition by General Motors Corporation of Warren, Michigan, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety (15 U.S.C. 1381 *et seq.*) for noncompliance with 49 CFR 571.101–80, Motor Vehicle Safety Standard No. 101–80, *Controls and Displays.* The basis of the petition was that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on August 20, 1981, and an opportunity afforded for comment (46 FR 42399).

Paragraph S5.2.3 of Standard No. 101–80 requires, by reference to Table 2, that the speedometer display be identified with the words "MPH" and "Km/h." In more than 30,000 1981 model Cadillac Sevilles, General Motors used the word "SPEED" in its informational readout display, a technical noncompliance with Standard 101–80. The company argued that the noncomplying word clearly indicates the function of the display, and that the behavior of the display is obvious also, reading, "0" when the vehicle is stationary and increasing as the vehicle velocity increases. The digital instrument cluster incorporates a two-position switch marked Metric/english which displays speeds in kilometers per hour or miles per hour depending on its setting. For these reasons the petitioner argued that the noncompliance is inconsequential as it relates to safety.

No comments were received on the petition.

The agency considers that the word "SPEED" is a sufficiently clear indication of the function of the speedometer, and that whether the read-out is in kilometers or miles per hour would be readily ascertainable by reference to the position of the Metric/English switch. Neither the manufacturer nor NHTSA has received any complaints that the lack of identification creates a safety hazard or that the display is confusing.

Accordingly, petitioner has met its burden that the noncompliance here described is inconsequential as it relates to motor vehicle safety, and its petition is hereby granted.

The engineer and attorney responsible for this notice are John Carson and Taylor Vinson, respectively.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on July 2, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 82–18646 Filed 7–9–82; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. IP80–15; Notice 2]

Kawasaki Motors Corp., U.S.A.; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by Kawasaki Motors Corp., U.S.A. of Santa Ana, California to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncompliance with 49 CFR 571.115, *Vehicle Identification Number.* The basis of the petition was that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on February 5, 1981, and an opportunity afforded for comment (46 FR 11086).

Effective September 1, 1980, each motorcycle has been required by Standard No. 115 to be assigned a vehicle identification number (VIN) that includes a "check digit" used to verify the acccuracy of the transcription of the VIN (S3, S4.1, S5). Kawasaki manufactured approximately 3,100 motorcycles in the transition period August 18–September 17, 1980, with an incorrectly calculated check digit. These were models KZ440A2 and KZ440D2. The company stated that the location of the VIN stamping is difficult to reach and therefore it is not practicable to repair the noncompliance. Further, restamping is not an operation that can be successfully performed in a dealership. As of the date of the petition 60 units had been retailed and 2,500 were in dealer inventory. Only 500 are in Kawasaki's stock, and to uncrate them, correct, re-assemble and recrate the vehicles would be "extremely disruptive" and "very costly".

In support of its petition, Kawasaki argued that the incorrect check digit poses no risk to traffic safety, nor does it reduce the potential effectiveness of any future recall campaign involving the vehicles, as the vehicles can be correctly identified by the VIN regardless of the check digit. In the event that State registration becomes a problem, the company said it will explain the problem and identify the vehicles affected. It has promised to provide the National Auto Theft Bureau with a letter listing all affected VIN's including the incorrect check digit. A copy of the letter will be inserted in Docket IP80–15.

Three comments were received in response to the notice, all of which supported Kawasaki's petition.

The agency agrees that the incorrect check digit by itself poses no risk to motor vehicle safety. Information in the VIN is sufficient to accomplish an effective recall campaign should one be required. Kawasaki's willingness to provide the National Auto Theft Bureau and, if needed, States of registration, with information clarifying the error is noted with approval. Petitioner has met its burden of persuasion and it is hereby determined that the noncompliance herein described is inconsequential as it relates to motor vehicle safety. Accordingly, its petition is granted.

The engineer and attorney principally responsible for this notice are Nelson Erickson and Taylor Vinson, respectively.

(Sec. 102, Pub. L. 93–492, 99 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8).

Issued on July 2, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 82–18647 Filed 7–9–82; 8:45 am]

BILLING CODE 4910–59–M

Automotive Fuel Economy Program; Report to Congress

July 2, 1982.

The attached document "Automotive Fuel Economy Program, Sixth Annual Report to Congress," has been prepared pursuant to section 502(a)(2) of the Motor Vehicle Information and Cost Savings Act (Pub. L. 92–513), as amended by the Energy Policy and Conservation Act (Pub. L. 94–163), which requires in pertinent part that "each year, beginning in 1977, the Secretary shall transmit to each House of Congress, and publish in the **Federal Register** a review of average fuel economy standards under this part."

Raymond A. Beck, Jr.,

Administrator.

Automotive Fuel Economy Program; Sixth Annual Report to the Congress, January 1982

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Section I: Introduction

A. Purpose of the Report

This Sixth Annual Report to the Congress (1982) summarizes the activities of the National Highway Traffic Safety Administration (NHTSA) during fiscal year (FY) 1981 toward the implementation of applicable sections of Title V: "Improving Automotive Fuel Efficiency," of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 *et seq.)* as amended (the Act). Section 502(a)(2) of the Act requires submission of a report and publication in the **Federal Register** (FR) by January 15 of each year. Also included in this report is a section summarizing the use of advanced automotive technology by the industry, required by Section 305, Title III of the Department of Energy Act of 1978 (Pub. L. 95–238); and a section on the accomplishments of NHTSA in carrying out the Automobile Fuel Efficiency Act of 1980.

It is particularly important to note that this is the first time in the history of this Annual Report to the Congress that the use of advanced technology by the industry has been able to be quantified. For this reason, a substantial, detailed treatment of this topic is presented in Section III.

Title V of the Act requires the Secretary of Transportation to administer a program for regulating the fuel economy of new automobiles (including passenger cars and light trucks) in the U.S. market. On June 22, 1976, the authority to administer the program was delegated by the Secretary to the Administrator of NHTSA (41 FR 25015).

NHTSA's fuel economy responsibilities include: (1) Establishing average fuel economy standards for manufacturers of passenger automobiles and light trucks as necessary; (2) promulgating regulations concerning procedures, definitions, and reports necessary to support the fuel economy standards; (3) considering petitions for exemption from established fuel economy standards by low volume manufacturers (those producing under 10,000 vehicles annually) and establishing alternative standards for them; (4) reporting to Congress annually on the progress of the fuel economy program, (5) enforcing the fuel economy standards and regulations; and (6) responding to petitions concerning

domestic production by foreign manufacturers and other matters.

To date, passenger car fuel economy standards have been established by the Congress for model years (MY) 1978 through 1980 and for 1985 and thereafter and by the Department of Transportation for the 1981 through 1984 MYs. Standards for light trucks have been established by the Department of Transportation for MYs 1979 through 1985.

Section II: Fuel Economy Improvement by Automotive Manufacturers

During FY 1981, domestic passenger automobile and light truck manufacturers continued to increase the average fuel economy of their fleets. The fuel economy achievements of both domestic and foreign manufacturers have been updated since their publication in the Fifth Annual Report to the Congress, and are summarized in Tables II–1 and II–2. Figure II–1 shows the progress made, and the anticipated future fuel economy improvements, by domestic manufacturers. Current plans of the major manufacturers for the early to-mid 1980's indicate that they will easily meet or exceed the existing fuel economy standards through MY 1985 for both passenger cars and light trucks.

The primary reason for this trend is the increased demand in the marketplace for fuel-efficient vehicles. In the face of rising real fuel prices and occasionally uncertain supply and the realization by consumers that artifically cheap fuel is a thing of the past, consumers have been demanding fuel efficient vehicles. The result has been a substantial change in new vehicles from Detroit in response to this pronounced shift in consumer demand. Most recently, gasoline prices have remained rather stable chiefly due to a large supply of gasoline available in the market relative to gasoline demand. Most observers view this development as a mere aberration in the market with no basic changes in the long-term trend of rising real gasoline prices. It is therefore likely that these short-term stable gasoline prices will not induce a reversal of long-term forces at work in the motor vehicle market.

TABLE II–1.—PASSENGER CAR FUEL ECONOMY PERFORMANCE BY MANUFACTURER AND MODEL YEAR

[In miles per gallon]

Manufacturer	Model Year—CAFE			
	1978	1979	1980	1981
Domestic:				
AMC	18.6	19.9	21.5	22.5
Avanti [1]	16.7	16.5	15.6	15.7
Checker [1]	17.7	16.7	18.5	18.3
Chrysler	16.4	20.4	21.3	26.4
Excalibur [1]	11.5	11.5	.....	17.9
Ford	18.4	19.1	22.0	23.1
GM	19.0	19.1	21.6	23.2
Sales weighted average	18.7	19.3	21.8	23.0
Imported:				
Alfa Romeo	21.4	20.7	22.3	22.5
Aston-Martin [1]	.....	11.5	12.1	12.2
BMW	19.7	20.1	25.9	26.6
Chrysler	30.0	30.1	30.7	31.9
Datsun	25.0	26.7	31.5	30.3
Fiat	21.7	25.9	27.4	27.5
Ford	37.3	32.2	29.5	34.8
Honda	33.7	29.8	30.0	31.0
Isuzu	.....	.....	.....	34.9
Jaguar Rover Triumph (JRT) [2]	21.1	21.8	25.0	18.4
Lamborghini [1]	.....	11.5	.....	.....
Lotus	18.6	18.8	20.0	.....

TABLE II–1.—PASSENGER CAR FUEL ECONOMY PERFORMANCE BY MANUFACTURER AND MODEL YEAR—Continued

[In miles per gallon]

Manufacturer	Model Year—CAFE			
	1978	1979	1980	1981
Maserati [1]	12.5	12.5	9.0	.....
Mazda	35.5	25.6	29.3	31.0
Mercedes-Benz	19.2	20.5	23.9	25.1
Peugeot	24.8	23.8	27.2	28.2
Renault	30.4	30.3	33.3	29.4
Rolls-Royce [1]	10.8	10.8	11.1	10.7
Saab	22.7	21.7	23.3	23.4
Subaru	29.4	28.8	27.8	32.4
Toyota	26.8	24.4	27.4	31.0
TVR	20.7	20.7	.....	.....
Volvo	21.2	20.7	21.6	22.3
VW	27.2	29.5	30.8	33.5
Sales weighted average	27.3	26.1	25.6	30.5
Total fleet average	19.9	20.3	23.4	25.2
Fuel economy standards	18.0	19.0	20.0	22.0

[1] Low volume manufacturer, projected by NHTSA.
[2] The shortfall of the combined average fuel economy of JRT for model year 1981 is currently being handled under the carry forward/carry back provisions of the Automobile Fuel Economy Efficiency Act of 1980.

TABLE II–2.—Light Truck Fuel Economy Performance by Manufacturer and Model Yea

[In miles per gallon]

Manufacturer	Model year							
	2-wheel drive			4-wheel drive			Limited [2] product line	
	[1] 1979	1980	1981	[1] 1979	1980	1981	1979	1980
Domestic:								
AM	20.0	NA	.....	16.5	16.9	19.1	NA	NA
Chrysler	18.5	17.0	18.2	NA	14.1	15.2	NA	NA
Ford	17.9	17.7	18.3	NA	14.2	15.6	NA	NA
GM	17.7	17.5	18.9	NA	14.9	16.7	NA	NA
IH	NA	NA	.....	NA	NA	.....	NA	17.4
Sales weighted average	17.9	17.5	18.6	16.5	15.2	17.1	NA	17.4
Imported:								
Chrysler Import	NA	24.8	24.5	NA	NA	NA	NA	NA
Datsun	23.1	25.3	30.4	NA	22.7	23.6	NA	NA
Ford Import	NA	25.7	26.2	NA	NA	NA	NA	NA
GM Import	NA	27.5	28.3	NA	24.7	26.3	NA	NA
Isuzu	NA	NA	33.1	NA	NA	27.9	NA	NA
Mazda	30.2	30.2	30.9	NA	NA	NA	NA	NA
Suzuki	NA	NA	NA	25.6	25.2	25.2	NA	NA
Toyota	19.7	22.3	27.6	NA	19.8	24.0	NA	NA
VW	18.7	26.5	31.0	NA	NA	NA	NA	NA
Sales weighted average	20.9	25.0	28.0	25.6	21.8	24.3	NA	NA
Total fleet average	18.4	19.3	20.7	16.6	16.1	18.6	NA	NA
Fuel economy standards	17.2	16.0	18.7	15.8	14.0	15.0	.....	.....

[1] In model year 1979 the light truck fuel economy standards applied only to those light trucks having a gross vehicle weight rating (GVWR) of 6,000 pounds or less; in model year 1980 and 1981 the standards apply to light trucks having a GVWR of 8,500 pounds or less.
[2] IH, the only manufacturer of light trucks eligible to use the limited product line standard, ceased production of light trucks at the end of model year 1980.

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FIGURE II–1

FIGURE II–I

FLEET AVERAGE FUEL ECONOMY

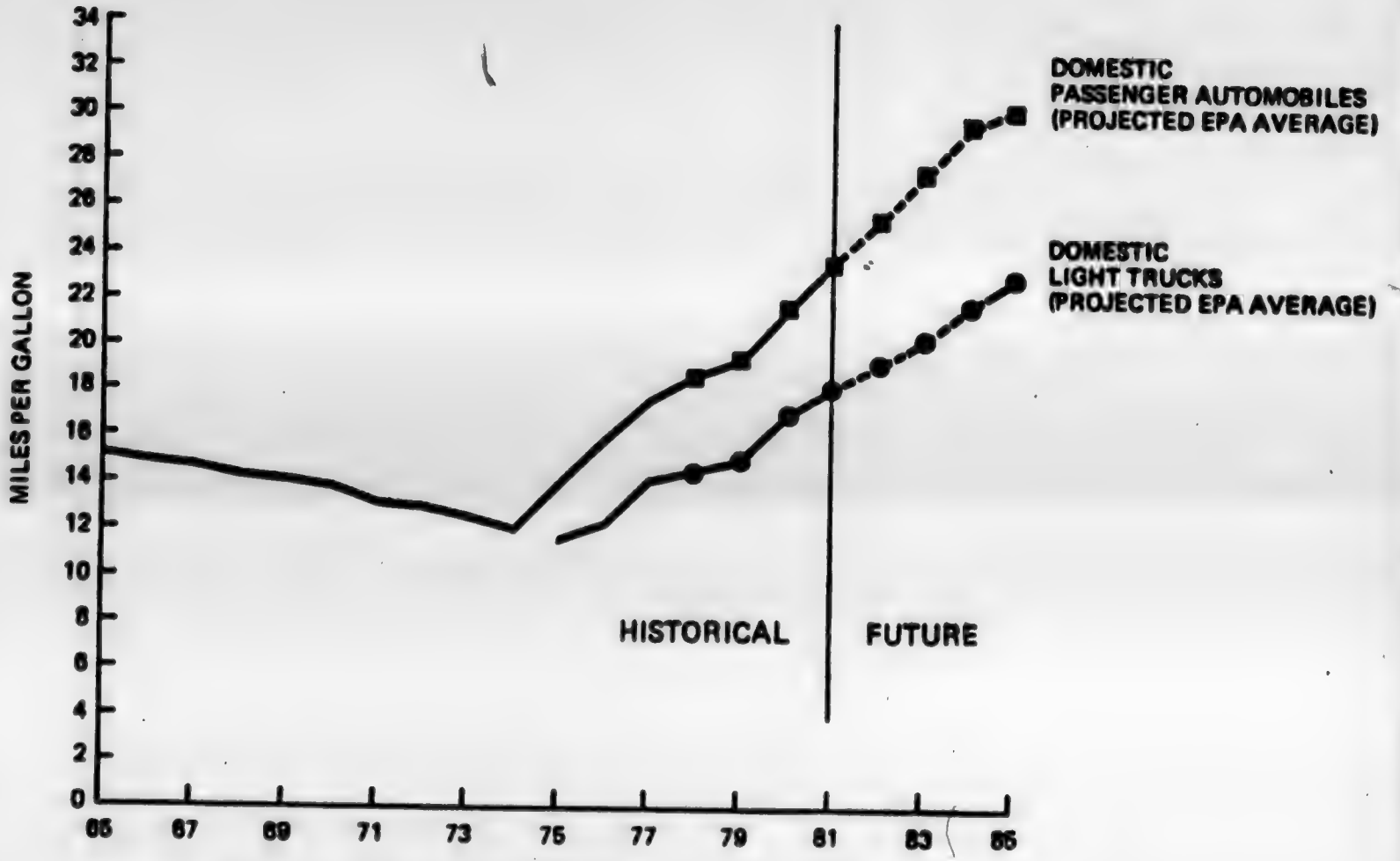

SOURCE: DERIVED FROM NHTSA DATA BASE

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The effect of this market shift, and the resulting projected fuel economy increase above the standards through MY 1985, is given in Figure II–2.

This figure compares projected U.S. fleet fuel consumption resulting from manufacturers only just meeting the standards with consumption resulting from manufacturers achieving their projected increase in new vehicle fuel economy.

By 1995 the projected cumulative fuel savings if all new cars and light trucks were to just meet the Federal fuel economy requirements through 1985 would amount to 428 million gallons, compared to consumption projected at 1976 vehicle fuel economy levels. The additional savings resulting from manufacturers exceeding the standards is projected to be 90 million gallons.

During FYs 1980 and 1981 the Department conducted analyses of the post 1985 automotive fuel economy by assessing various scenarios of technology implementation and industry economic conditions. It was concluded that continued fuel economy improvements beyond the MY 1985 standard of 27.5 mpg were possible and would be cost beneficial to consumers. A similar study conducted by the Mellon Research Institute reached the same conclusions. Neither of the studies, however, addressed the need for nor the degree of Federal Government intervention to produce continued fuel economy improvement.

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FIGURE II—2

PROJECTED ANNUAL FUEL CONSUMPTION

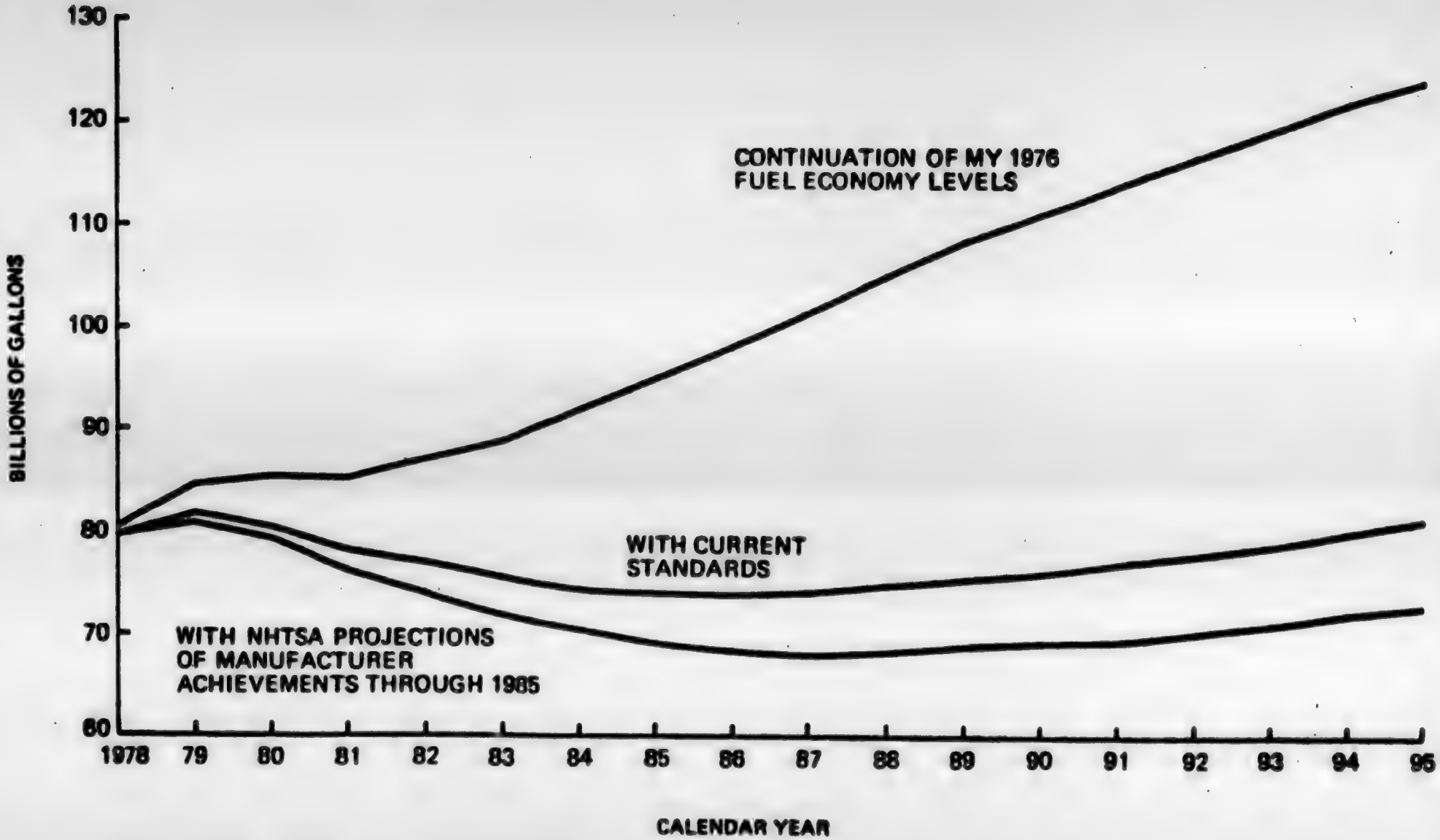

SOURCE: DERIVED FROM NHTSA DATA BASE

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Early in FY 1981 the Department issued an ANPRM to solicit comments on passenger car and light truck fuel economy after 1985, including comments on such issues as the benefits and costs to the nation and to the consumer of improved fuel economy, and the appropriate role of the Federal Government.

On April 9, 1981, this ANPRM was formally withdrawn in recognition of the market pressures which were creating strong consumer demand for fuel efficient vehicles and sending clear signals to manufacturers to produce such vehicles. It is expected that the market will continue to act as a powerful catalyst in this direction. Available information suggests that future model year product plans of vehicle manufacturers demonstrate a strong commitment to improving fuel economy.

Section III: Use of Advanced Technology

This section fulfills the statutory requirement of the Department of Enegry Act of 1978 (Pub. L. 95–238), Title III, Section 305, which directs the secretary of Transportation to submit an annual report to Congress on the technologies used by the automotive industry to improve motor vehicle fuel economy. This report is limited principally to passenger cars with lesser attention given to light trucks because less data are available on them.

A. Passenger Cars

This section identifies quantiatively the relative contributions of the various technologies to the improvements in passenger car fuel economy from MY 1978 through MY 1981. During this period the sales weighted fuel economy of the passenger automobile fleet (imported and domestic combined) rose from 19.9 miles per gallon (mpg) to 25.2 mpg.

Weight Reduction

The largest improvements in fuel economy to date have resulted from weight reduction. The passenger car fleet average inertia weight of 3627 pounds in MY 1978 was reduced to 3155 pounds in MY 1981: a reduction of 472 pounds. The following table shows the average inertia weight for MY 1978 and MY 1981 by EPA size class.

TABLE III–1

	Model year			
	1978		1981	
	Average inertia weight	Share market	Average inertia weight	Share market
	(Pounds)	(Percent)	(Pounds)	(Percent)
Mini	2,627	7.7	2,185	3.4
Sub-compact	2,869	18.0	2,611	32.8
Compact	3,587	14.8	2,828	12.7
Intermediate	3,772	35.7	3,471	36.5
Full	4,431	22.1	4,245	12.7
2-seater	3,065	1.8	3,076	1.9
Total fleet	3,627	100	3,155	100

This major weight reduction has been accomplished using four technological approaches: downsizing, material substitution, vehicle component redesign and mix shift (increased sales of smaller vehicles).

Downsizing is the reduction of a vehicle's external dimensions while maintaining its interior size and roominess. It has been the dominant technique for weight reduction over the past several years. As shown in Table III–1, vehicles in every size class except Two Seaters were reduced by at least 200 pounds. The greatest reduction, 759 pounds, was for the compact class. This class consists mostly of newly designed domestic front-wheel drive vehicles. The General Motors X-Cars, Chrysler Omni/Horizon, and Ford Motor Company Escort/Lynx are all 800 to 1000 pounds lighter than a typical domestic compact of the 1970s. The use of front-wheel drive with a transversely mounted engine allows substantial weight savings over a conventional rear-wheel drive automobile of equal interior space. Manufacturers used computer-aided design (CAD) techniques to good advantage in these programs.

Manufacturers are using increasing amounts of lighter weight materials, such as aluminum, plastic, high strength steel, and magnesium in place of heavier materials such as mild steel and cast iron. Computer aided design and systems analysis techniques have decreased the time necessary to develop parts from these substitute materials, and have allowed more efficient use of these new applications, further reducing vehicle weight. The following table displays the materials used in a typical U.S. built car in 1981 compared with 1978, as estimated by *Ward's Automotive Yearbook*.

TABLE III–2

Material	Percentage usage		
	MY 1978	MY 1981	Change
High Strength Steel	3.8	5.9	+2.1
Other Steel	56.2	50.4	−5.8
Iron	14.9	14.6	−.3
Aluminum	3.3	4.0	+.7
Glass	2.5	2.6	+.1
Plastics	5.2	6.1	+.9
Rubber	4.2	4.1	−.1

Source: Derived from Ward's Automotive Yearbook, [illegible] and [illegible].

The expanded use of high strength steel, aluminum, and plastic has reduced the requirements for the heavier mild steel. Substitute materials are expected to be increasingly used in future years as downsizing reaches practical limits.

A shift in the market from larger to smaller vehicle size classes is called a "mix shift." It is not specifically a technological change, but it has been responsible for a substantial weight reduction in the new vehicle fleet. Table III–1 shows the sizeable reduction in the full size vehicle market share and the increase in subcompact share from MY 1978 to MY 1981.

Engine

Reduced engine size and weight, and incrased efficiency, contribute substantially to fuel economy improvement. Table III–3 shows engine use by type (gasoline and diesel), fuel system, and number of cylinders for MYs 1978 and 1981:

TABLE III–3

	Model Year (percent)	
	1978	1981
Gasoline (Spark-Ignition):		
Naturally Aspirated:		
Carburetor	93.8	84.5
Fuel Injection	4.9	8.9
Turbocharged	0.2	0.7
Diesel (compression ignition):		
Naturally aspired	1.1	5.8
Turbocharged	.02	0.1
Number of cylinders:		
4 cylinder	22.4	51.0
5 cylinder	0.4	0.7
6 cylinder	20.0	26.9
8 cylinder	57.2	21.0
12 cylinder	0.02	0.00
Rotary	0.02	0.4

Sales of fuel injected spark ignition engines nearly doubled from 4.9 percent of the market in MY 1978 to 8.9 percent in MY 1981. Fuel injection has a number of advantages over carburetion. These advantages include: increased power for a given displacement, more uniform cylinder to cylinder fuel distribution,

improved cold start performance and better exhaust emission control. These advantages are enhanced with feedback electronic controls.

Microprocessor engine controls that monitor various engine parameters and control spark timing, air-fuel ratios, exhaust gas recirculation, and idle speed are becoming common. General Motors applied its Computer Command Control across their entire line of spark ignition engines in MY 1981. Optimized engine control and electronics should yield a 1 to 3 percent fuel economy gain at the MY 1981 emissions levels.

A number of manufacturers introduced turbocharged engines during the last several years. Turbocharging offers the potential for improved fuel economy by allowing substitution of a smaller turbocharged engine for a larger naturally aspirated engine of equal performance. However, most of the turbocharged engines introduced to date appear to be intended to improve acceleration performance and have poorer fuel economy than their naturally aspirated counterparts. Consumer acceptance of turbocharged engines has been mild to date with penetration rising only to 0.8 percent in MY 1981 from 0.2 percent in MY 1978.

The diesel engine has surged in popularity increasing its market share from 1.1% in MY 1978 to 5.9% in MY 1981. Turbocharged diesels are being used by at least one foreign manufacturer to improve fuel economy (compared to their gasoline-powered counter parts) without sacrificing acceleration capability.

Transmissions

Table III–4 shows the percentage shares of various types of transmissions used in MYs 1978 and 1981.

TABLE III–4

Transmission type	Model year (percent)	
	1978	1981
Automatic 3-Speed	70	34.3
Automatic 3-Speed with Lockup Clutch	7.7	27.4
Automatic 4-Speed	0.4	1.6
Automatic 4-Speed with Lockup Clutch	0	7.1
All Automatics with Lockup Clutches	7.7	34.5
All Automatics	84	70.4
Manual 3-Speed	0.4	0
Manual 4-Speed	10.5	15.2
Manual 5-Speed	5.1	14.4
All Manuals	15	29.6

Table III–4 shows there has been a trend away from automatic to manual transmissions. Purchase of cars with manual transmissions nearly doubled in the last three years. Manual transmissions generally offer approximately 5–10 percent better fuel economy than current 3-speed automatics with lockup clutches.

The average number of gear speeds in manual transmissions has also increased. Three-speed transmissions were no longer available by 1981, while five-speed transmissions increased from 5.1 percent to 14.4 percent of the market. The addition of another gear range generally yields about a 5 percent improvement in fuel economy if the ratio spread of the speeds is also increased, as in the case of an added overdrive ratio.

Similarly, the number of speeds in automatic transmissions have also increased. The four-speed automatic, which was not used in the domestic MY 1978 fleet, climbed to a penetration of 8.7 percent in MY 1981. In addition, torque converter losses have been minimized by either mechanically locking the torque converter or by-passing it altogether. A locked-up torque converter on the average is 5 percent more fuel efficient than a conventional torque converter. Lock-up torque converters were used on 34.5 percent of the fleet in MY 1981 versus 7.7 percent in MY 1978.

Acceleration Performance

The acceleration performance of a car is related to its weight, engine size, and horsepower. Table III–5 shows the fleet average engine displacement (CID), inertia weight (IW) and the ratio of engine horsepower to inertia weight for MYs 1978 and 1981.

Table III–5

	Model year	
	1978	1981
Inertia Weight (Pounds)	3,627	3,155
Engine Displacement (cu. in.)	260	182
Horsepower/Inertia Weight	.0339	.0310

The average engine size was reduced from 260 cubic inches (4.3 liter) in MY 1978 to 182 cubic inches (3.0 liter) in MY 1981, consistent with the substantial weight reduction and increased interest in fuel economy. Further, the ratio of horsepower to inertia weight, has also been decreased from .0339 hp/lb in MY 1978 to .0310 hp/lb in MY 1981 indicating the reduction of average acceleration capabilities of all vehicles.

Engine size has been reduced by a greater proportion than the reduction in vehicle weight. The net result is approximately a 10 percent reduction in acceleration performance, and a 4 percent improvement in fleet average fuel economy.

Aerodynamics

Manufacturers have reduced the aerodynamic drag of many new cars by using clean and more efficient body designs and aerodynamic add-on devices. Forward sloping hoods, flush fitting glass and more sloping hatchback angles are examples of detailed changes to enhance body aerodynamics. Front air dams and rear deck airspoilers are typical aerodynamic add-on devices to further reduce drag. The net result is an average 10 percent reduction in aerodynamic drag between MY 1978 and MY 1981, and this produced approximately a 2 percent improvement in the fleet fuel economy.

Tire Rolling Losses

The rolling resistance of passenger car tires was substantially reduced during the MY 1978 through MY 1981 period although it is difficult to quantify the fleet average effect. Radial tires have long been recognized as being more fuel efficient than either bias or bias-belted tires and accordingly manufacturers began switching over to radials some time ago. Approximately 85 percent of the new passenger car fleet was equipped with radials in MY 1978 and this has risen to nearly 100 percent in MY 1981. In addition to the relatively small gains from this additional penetration of radials into the new car fleet, the tire companies have introduced a new generation of radial tires exhibiting considerably reduced rolling resistance. They reduced rolling resistance by improvements in: type of rubber base stock and additives used in rubber compounds, cord and belt materials, modified tire size and geometry and increased recommended inflation pressure. A 10 percent reduction in tire rolling resistance results in approximately a 1.5 percent improvement in fuel economy.

Other Technology

Improvements in a number of other areas have led to increases in fuel economy although it is difficult to quantify the fuel economy increase from each of these changes. The major improvements are: reduced engine accessory power requirements, improved engine and driveline lubricants and the reduced driveline losses.

Engine accessory power demands have been reduced by more efficient engine cooling fans, as typified by the viscous drive fan. The transition to front-wheel drive has resulted in increased use of more efficient fans since most transverse front-wheel drive vehicles of necessity are equipped with electric motor driven fans which operate

on demand only. More efficient power steering pumps, water pumps, air pumps, transmission pumps, and alternators have also contributed to reduced parasitic losses.

Although the Environmental Protection Agency (EPA) has thus far not permitted the use of the new generation of lubricants containing friction modifiers and additives in certification tests,[1] a number of other benefitical changes have taken place.

Redesign of components and improvements in lubricant properties have led to reductions in oil viscosity (a measure of internal friction) reductions in many instances. As an example, the typical front-wheel drive transaxle requires 5–10 weight equivalent automatic transmission fluid, whereas the typical rear-wheel drive hypoid gearset requires 80–90 weight gear oil, which is more viscous oil.

Driveline losses have been reduced through low-drag disc brake designs, changes in suspension geometry and reduced rotating inertia.

The fuel economy improvement potential of these changes is highly dependent on the individual vehicle but in general would result in gains similar to those for rolling resistance (i.e., a 10 percent reduction in parasitic losses would result in a 1.5 percent improvement in fuel economy).

Summary Analysis

The overall fuel efficiency of a given automobile is a function of a large number of design and operational characteristics. They are interdependent, and their contribution depends on the conditions under which the vehicle is operated. It is difficult to predict the contributon of a single change in a vehicle to its overall fuel efficiency. However, statistical analyses have led to fairly accurate predictive techniques in the aggregate (i.e., when applied over large numbers of vehicles) for estimating the effects of various technological changes on fleet average fuel economy. These techniques have been applied to the MY 1978 and MY 1981 passenger car fleet descriptions to define the relative contribution of the various technological changes to the 5.3 mile per gallon improvement in fleet fuel economy which occurred in this period. The results are shown in Table III–6.

[1] Consumers can, of course, use these lubricants to improve their fuel economy so long as they meet manufacturers' requirements.

TABLE III–6.—SUMMARY ANALYSIS

	1978	1981	Fleet average mpg change 1978 vs 1981
Fleet average fuel economy	19.9 mpg	25.2 mpg	+5.3
Inertia weight	3,627 lb.	3,155 lb.	+2.35
Engine displacement	260 in.	183 in.	(1)
Diesel engine	1.1%	5.9%	+0.25
Vehicle performance as indicated by HP/W.	.0339 hp/lb.	.0310 hp/lb.	+0.8
Aerodynamic drag (dynamometer power absorption unit).	10.4 hp	9.4 hp	+0.37
Manual trans vs. auto.	18%	29.8%	+0.14
Lock-up torque converter.	7.7%	34.5%	+0.27
Four-speed auto	0.4%	8.7%	+0.09
Five-speed manual.	5.1%	14.4%	+0.09
More stringent emissions standards.	1.4/15/3.1	.41/3.4/1.0	(2)
Total change attributable to above factors.			4.35

[1] The effect of engine displacement reduction is included in the inertia weight and performance reduction calculations.
[2] No change.

The above factors account for 4.35 mpg of the 5.3 mpg difference between MY 1978 and MY 1981. It is presumed that the remaining 0.95 mpg gain resulted from a combination of engine efficiency improvements, engine parastic loss reductions, tire rolling resistance reduction, other driveline loss reductions (e.g., low drag brakes, conversion to front-wheel drive eliminating the hypoid gearset and high viscosity gear lube). EPA Certification Test procedure changes and other administrative changes may have also been responsible for a portion of this difference.

B. Light Trucks

Prior to MY 1979 the EPA light duty truck classification excluded all trucks having a gross vehicle weight rating (GVWR) in excess of 6,000 pounds. In 1979 the first light truck fuel economy standards became effective, but the standards applied only to vehicles having a GVWR of 6,000 pounds or less. Therefore, those light trucks with a GVWR above 6,00 pounds (more than half of the sales in MY 1979) were excluded from fuel economy testing and manufacturers' reports. Consequently, the available classification and fuel economy data is inadequate for a quantitative discussion of MY 1978 and MY 1981 fleets. (In MY 1980 data became available from fuel economy testing and manufacturers' reports for over 90 percent of all new light trucks).

In order to analyze the changes in the fleet, the Agency estimated certain characteristics of the MY 1978 fleet so that differences between the MY 1978 and MY 1981 fleets could be identified. Published data[1] was used to estimate the vehicle characteristics of the MY 1978 light truck fleet having a GVWR of 8,500 pounds or less, the weight range covered by the MY 1981 fuel-economy standards. These estimates are only a guide, but they appear to be a reasonable means of assessing technology changes. Manufacturers' reports were used for the MY 1981 data.

In this sub-section, only light trucks produced by American Motors, Chrysler, Ford, and General Motors were examined because the vehicles produced by these companies comprise the largest segment of the market. These vehicles have undergone the greatest technology change to improve their relatively poor fuel economy.

Manufacturers of imported pickups, including the captive imports, have made smaller relative improvements in fuel economy because their fuel economy was relatively high in MY 1978. The major technology change in the imported pickups has been the offering of optional diesel engines. In MY 1981, diesel engines are offered by General Motors (LUV pickups imported from Japan), Isuzu, Toyota, Datsun, and Volkswagen; they constitute 15 percent of the import light truck fleet.

The domestic light truck fleet has changed considerably between MY 1978 and MY 1981. Domestic manufacturers have redesigned their pickup lines to reduce weight and aerodynamic drag. They have introduced automatic transmissions with lockup torque converters, including one (Ford) with overdrive. Large engines have been dropped in many cases and smaller engines are now offered in some lines. Radial tires are used almost exclusively.

A comparison of the overall light truck fleet characteristics for MY 1978 and MY 1981 is shown in Table III–7.

TABLE III–7.—LIGHT TRUCK FLEET CHARACTERISTICS

	Model year 1978	Model year 1981
Domestic Fleet Fuel Economy (miles per gallon)	13.8	18.2
Average Test Weight (pounds)	4,600	4,160
Average Engine Displacement (cubic inches)	340	200

Weight Reduction

The average test weight of the light truck fleet dropped 440 pounds from MY 1978 to MY 1981. This weight change is

[1] Ward's Automotive Reports, November 20, 1978.

primarily due to a shift in market demand towards compact trucks, and a large reduction in the market share of the heaviest vehicles in the fleet (primarily vans and four-wheel drive vehicles). An accompanying reduction in engine size also contributed to this weight reduction. Redesign and material substitution were used by some manufacturers to reduce the weight of their pickup trucks.

Transmissions

Table III–8 shows the percentage use of the various types of light duty truck transmissions in MYs 1978 and 1981.

TABLE III–8.—LIGHT TRUCK TRANSMISSION MIX

Transmission type	Model year	
	1978 (percent)	1981 (percent)
3 Speed Automatic Transmissions	76	19
3 Speed Automatic Transmissions with Lockup Clutches		41
4 Speed Automatic Overdrive Transmissions with Lockup Clutches		4
All Automatics	76	64
3 and 4 Speed Direct Drive Manual Transmissions	24	26
4 Speed Manual Overdrive Transmissions	(1)	10
All Manual Transmissins	24	36

[1] Negligible.

As in passenger cars, the use of automatic transmissions in trucks decreased from MY 1978 to MY 1981. However, nearly half of all truck automatic transmissions (45 percent) had lockup torque converters in MY 1981. The market share for direct drive 3 or 4-speed manual transmissions remained about the same. Manual overdrive transmissions increased to 10 percent of the market.

Engines

Engine improvements that occurred in the light duty trucks include a small increase in the penetration of diesels and the general reduction in spark-ignition engine size. Table III–9 shows spark-ignition engine mix changes between model years 1978 and 1981.

TABLE III–9.—DOMESTIC LIGHT TRUCK ENGINE MIX

	Model year (percent)	
	1978	1981
Fleet Average Displacement (cu. in.)	360	290
4-Cylinder Engines (percent)	0	2
6-Cylinder Engines (percent)	18	49
Small V–8 (Less than or equal to 318 in. (cu. in.) (percent)	16	36
Medium V–8 (319 to 399 cu. in.) (percent)	57	10
Large V–8 (Greater than or equal 400 (cu. in.) (percent)	9	0

The large V–8 has virtually disappeared from the new light trucks and there has been a significant decrease in sales of vans, heavy duty pickups and four-wheel drive vehicles. In 1981 small V–8 and 6-cylinder engines account for 87 percent of the domestic light truck fleet. Small displacement 4-cylinder engines have been introduced in compact pickups produced domestically by Volkswagen and in Jeep vehicles.

Engine control systems introduced for the passenger automobile fleet are also making their way into these light truck engines, which are usually derived from passenger car engines.

Summary

For light trucks, technology improvement in engines, transmissions, tires, aerodynamics and weight reduction have provided significant improvements in fuel economy during the period of time between MYs 1978 and 1981. However, the major contribution to increase of light truck fleet average fuel economy is the changed market mix. The loss in sales of vans, four-wheel drive vehicles and the large pickups produced the largest reductions in average weight and engine size, and thus the increase in fuel economy.

Section IV. Activities Related to Petitions for Exemption or Reconsideration

A. Petitions and Other Activities

In accordance with amendments to Title V of the Motor Vehicle Information and Cost Savings Act (the Act) as contained in the Automobile Fuel Efficiency Act of 1980 (AFEA), petitions for exemption from the established fuel economy standards were submitted by five Low Volume Manufacturers (LVM's). They are Checker, Excalibur, Avanti, Rolls-Royce, and Aston Martin.

Excluding Checker, all LVM's produce specialty automobiles in the luxury, sport and/or high performance class. Of the 7,000 vehicles sold by all LVM's requesting exemption in MY 1980, over 70 percent were produced by U.S. manufacturers. They are Checker, Excalibur, and Avanti. Over 90 percent of these domestically produced vehicles were sold by Checker whose market is mostly for vehicles in taxi and airport limousine service. Avanti and Excalibur produce specialty sports cars, and had a combined MY 1980 sales of only 450 automobiles.

The petitions for MYs 1981 through 1985 were analyzed by NHTSA and a rulemaking support paper was completed. A Notice of Proposed Rulemaking is expected to be submitted for public comment in the near future.

B. Domestic Manufacturing Content of Foreign Producers

Volkswagen of America, Inc., (VWOA) submitted a petition under Section 503(b)(3)(A) of the Act. VWOA requested exemption from the requirement under the Act that domestically manufactured passenger automobiles must comply with fuel economy standards separately from imported automobiles. The AFEA requires the agency to grant this petition unless it determines that such action would result in reduced employment in the U.S. related to motor vehicle manufacturing.

In general, fuel economy ratings for domestically manufactured passenger automobiles may not be averaged together with those of imported automobiles for purposes of determining compliance with average fuel economy standards. However, Section 503(b)(3)(c) provides for exemption from the separate compliance requirement for companies which begin U.S. production in the 1975–1985 period. Exemptions from the separate compliance requirement may be for five years or longer should the manufacturer request and the Agency so provide. VWOA requested that an exemption be granted for an indefinite future.

VWOA currently produces about 200,000 automobiles per year at its Westmoreland, Pennsylvania, plant and plans to add a second plant during 1982 with a capacity to produce an additional 185,000 automobiles annually. Current vehicles produced in the U.S. by VWOA have a domestic content of greater than 60 percent and are rapidly increasing toward 75 percent. Domestic content at the second facility is expected to reach 75 percent in a short time. VWOA contends that granting of the petition is expected to generate nearly 10,000 new jobs.

A public notice explaining the petition was prepared September 10, 1981. General Motors, the only commenter, opposed the granting of this petition on the grounds that special consideration would be given to VWOA providing them with a competitive advantage over other manufacturers. General Motors further argued that employment increases due to the planned increase in the value of the domestic content of U.S. manufactured VW vehicles should be balanced against possible employment losses due to displaced sales of U.S. automobiles by VWOA's imported vehicles. These comments were analyzed and since the Agency could

find no substantive evidence that a deterioration in U.S. automotive employment would result (and this is the only statutory basis for denying the petition) VWOA's petition was granted on October 23, 1981.

Section V. Federal Purchases of Motor Vehicles

Use of Fuel Efficient Passenger Vehicles by the Federal Government

The establishment of a formal program for purchasing fuel efficient passenger vehicles by the Federal Government was mandated by Congress in Title V of the Motor Vehicle Information and Cost Savings Act.

Section 510 of Title V requires that all passenger vehicles acquired by all executive agencies, achieve a fleet average fuel economy of at least the average fuel economy standard applicable to automobile manufacturers. This section defines acquisition as those vehicles purchased or leased for a period of 60 continuous days or more, but it exempts passenger automobiles designed to be used in law enforcement work, emergency rescue work, or designed to perform combat related missions for the Armed Forces.

In July 1977, Executive Order 12003 extended the requirement to include light trucks beginning in FY 1979, and increased the fleet average fuel economy for all Federally acquired passenger automobiles above the statutory fuel economy standard by 2 miles per gallon (mpg) in FY 1978, 3 mpg in FY 1979, and 4 mpg in FY 1980–1985. The Executive Order further requires that no automobiles may be acquired if the mpg rating is below the fuel economy standard for that particular year, without prior written approval by the Administrator of General Services and the Secretary of Energy.

During FYs 1977–1981, agencies acquired 75,348 passenger automobiles and 20,662 light trucks, under this program. This will result in a total fuel savings of approximately 143.8 million gallons over the assumed useful life of 60,000 miles for vehicles in the Federal fleet. Table VI–1 below illustrates the year by year results achieved.

TABLE VI–1.—EXECUTIVE ORDER

Fiscal year	Sedan acquisitions	12,003 mi/gal requirements	Miles per gallon actual	Gallons fuel [1] saved (10^6)	Dollars saved [2]
1977	18,670	18	19.3	11.12	(.70 per gallon) 7.8 million.
1978	15,294	20	21.0	16.26	(1.00 per gallon) 16.3 million.
1979	17,072	22	22.4	20.67	(1.40 per gallon) 29.2 million.
1980	13,001	24	25.2	29.00	(1.75 per gallon) 50.7 million.
1981	11,311	25	26.7	19.83	(1.75 per gallon) 34.7 million.
Total	75,348			97.10	

Fiscal year	Light truck acquisitions	12,003 mi/gal requirements	Miles per gallon actual	Gallons fuel [1] saved (10^6)	Dollars saved
1979	4x2 3,022	17.2	18.8	7.1	(1.40 per gallon) 9.9 million.
1979	4x4 595	15.8	17.9	1.3	(1.40 per gallon) 1.8 million.
1980	4x2 9,530	18.0	19.7	18.8	(1.75 per gallon) 32.6 million.
1980	4x4 2,465	14.0	16.1	.1	(1.75 per gallon) 5.4 million.
1981	4x2 4,500	16.7	18.3	7.8	(1.75 per gallon) 13.6 million.
1981	4x4 550	15.0	16.0	1.0	(1.75 per gallon) 1.7 million.
Total	20,662			38.9	

[1] Based upon GSA estimates of base year fuel consumption for each year, 1977–81.
[2] Based upon a GSA estimate of the average price of gasoline over the Federal service life of the vehicle.

[FR Doc. 82–18621 Filed 7–9–82; 8:45 am]
BILLING CODE 4910–59–M

[Docket No. IP81–23; Notice 2]

Bridgestone Tire Co.; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by Bridgestone Tire Company of America, Inc. of Torrance, California, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for a noncompliance with 49 CFR 571.109, Motor Vehicle Safety Standard No. 109, *New Pneumatic Tires—Passenger Cars*. The basis of the petition was that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on January 28, 1982, and an opportunity afforded for comment (47 FR 4189).

Paragraph S4.3.1 of Standard No. 109 requires each tire to be "labelled with the symbol DOT in the manner specified in Part 574. * * * " Figure 1 of Part 574, *Tire Identification and Recordkeeping*, specifies that the DOT symbol shall be not less than ¼-inch from the tire identification number, or in metrics, 6.35 mm. Bridgestone has manufactured 429,000 tires in which the spacing has varied from 4.0 to 6.5 mm. It has received no reports or complaints on the noncompliance, has corrected the mistake, and believes that the noncompliance is inconsequential as the tire otherwise complies with Standard No. 109 and Part 574.

No comments were received on the petition.

The noncompliance reported is a simple failure to meet a dimensional specification of a labelling requirement, in no way affecting the informational content or the performance characteristics of the tire. Accordingly, petitioner has met its burden of persuasion that the noncompliance with Standard No. 109 is inconsequential as it relates to motor vehicle safety, and its petition is granted.

The engineer and attorney primarily responsible for this notice are Art Neill and Taylor Vinson, respectively.

(Sec. 102, Pub. L. 93–492, 88 Stat 1470 (15 U.S.C. 1417); Delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on July 7, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 82–18727 Filed 7–9–82; 8:45 am]
BILLING CODE 4910–59–M

[Docket No. IP81–20; Notice 2]

Dunlop Tire Co., Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by the Dunlop Tire Company of Buffalo, New York to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for a noncompliance with 49 CFR 571.109, Motor Vehicle Safety Standard No. 109, *New Pneumatic Tires—Passenger Cars*. the basis of the petition was that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on September 4, 1981, and an opportunity afforded for comment (46 FR 46737).

Paragraph S4.3 requires that the sidewalls of each passenger car tire be labled with, among other information, the generic name of the cord material used in the plies, and the actual number

of plies in the sidewall and tread areas. Because of an erroneous mold, Dunlop produced 1485 G78–15 and L78–15 Remington Cushion Aire Belted tires, one sidewall of which contains the word "4 ply polyester" instead of the correct marking for bias-belted tires. Petitioner stated that the tire is clearly marked "Belted" and was correctly labled in all other respects.

For this reason, the company argued that its noncompliance was inconsequential as it relates to motor vehicle safety, noting that the tires otherwise comply with Standard No. 109.

No comments were received on the petition.

The replacement of bias-belted markings with bias ply markings on one sidewall does not compromise the durability or strength of the tires. Although there is a possibility that the tires in question could be mixed with bias ply tires, resulting in a degree of instability, that possibility is considered remote because of the small number of tires, and because each tire is clearly marked "BELTED" on its outer sidewall, and all its other markings indicate that it is a bias belted tire.

Accordingly, petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety and its petition is hereby granted.

The engineer and attorney primarily responsible for this notice are Art Neill and Taylor Vinson, respectively.

(Sec. 102, Pub. L. 93–492, 99 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on July 2, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 82–18728 Filed 7–9–82; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. IP81–18; Notice 2]

General Motors Corp.; Grant of Petitions for Determination of Inconsequentiality

This notice grants the petitions by General Motors Corporation of Warren, Michigan to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for two apparent noncompliances with 49 CFR 571.110, *Tire Selection and Rims for Passenger Cars.* The basis of the grant is that the noncompliances are inconsequential as they relate to motor vehicle safety.

Notice of the petitions was published on October 29, 1981, and an opportunity afforded for comment (46 FR 53576).

The two petitions by General Motors involved the failure of the tire inflation placard required by Standard No. 110 to state correctly the seating capacity, and the consequent misstatement of the overall vehicle capacity weight. Both of the petitions involve 1981 Cadillacs. The first covered 73 Sedan DeVilles equipped with front consoles and placards specifying front seat occupancy as three when it is in fact two, and overstating vehicle capacity weight by 150 pounds. This noncompliance was said to be inconsequential because the presence of the console between the individual front seats precludes the addition of a third person; should an additional passenger be added, the total load carrying capacity of the vehicle would not be exceeded because that capacity is identical to Sedan DeVilles with a six-passenger capacity. The second petition covered 6,250 Eldorados and presented the obverse situation, understating vehicle capacity and capacity weight. Placards show rear seating capacity as two, when it is in fact three, and the capacity weight is understated by a corresponding 150 pounds. General Motors argued that this was inconsequential because the vehicle capacity weight would not be exceeded if an owner loaded the car to the capacity for which it is designed, even if that is one person more than that specified on the placard. Seat belts for the full complement of five passengers were also provided.

No comments were received in response to the notice.

Neither of the noncompliances reported have an effect upon motor vehicle safety because the addition of an extra passenger will not cause the vehicle capacity weight or the tire loading capacity to be exceeded. With respect to the noncompliance of the DeVille, it is improbable that anyone would be misled by the placard and attempt to seat a passenger astride the console.

Accordingly, petitioner has met its burden of persuasion that the noncompliances herein described are inconsequential as they relate to motor vehicle safety, and its petitions are hereby granted.

The engineer and lawyer primarily responsible for this notice are Art Neill and Taylor Vinson, respectively.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on July 2, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 82–18726 Filed 7–9–82; 8:45 am]

BILLING CODE 4910–59–M

Research and Special Programs Administration

Applications for Exemptions

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

DATES: Comment period closes August 11, 1982.

ADDRESS COMMENTS TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
88	ETS. Fauvet Girel, Neuilly-Sur-Seine, France	49 CFR 173.264	To manufacture, mark and sell non-DOT specification IMCO Type 5 portable tanks for shipment of hydogen fluoride, classed as a corrosive material. (Modes 1, 2, 3.)
8655-N	Ciba-Geigy Corporation, Summit, NJ	49 CFR 173.268	To authorize shipment of nitric acid, classed as a corrosive material in non-DOT specification aluminum drums similar to DOT Specification 42B except for closure. (Mode 1.)
8660-N	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE.	49 CFR 173.31(c)	To authorize a 5/5/5/5/5 year periodic retest schedule for those 103W and 103EW tank car tanks constructed of stainless steel for shipment of chlorosulfonic acid, corrosive material and nitric acid (over 40%), oxidizer. (Mode 2.)
8661-N	Hoover Universal, Inc., Beatrice, NE	49 CFR 173.119(m), 173.346, 173.349, 173.352.	To manufacture, mark and sell DOT Specification 57 portable tanks for shipment of various flammable liquids which are also corrosive or poison and certain Class B poison liquids. (Modes 1, 2.)
8662-N	ABERCO Inc., Seabrook, MD	49 CFR 173.119	To authorize shipment of propylene oxide, classed as a flammable liquid in DOT Specification 5P metal drums. (Mode 1.)
8663-N	Union Carbide Corporation, Danbury, CT	49 CFR 173.245, 173.264	To authorize shipment of hydrofluoric acid solution and a corrosive liquid, n.o.s. contained in 4 one-gallon DOT Specification 2E polyethylene bottles overpacked in a DOT Specification 33A polystyrene case. (Modes 1, 2.)
8664-N	Miller Transporters, Inc., Jackson, MS	49 CFR 173.245	To authorize transport of a corrosive liquid, n.o.s. in existing non-DOT Specification cargo tanks comparable to DOT Specification MC-312 except for remote release valve and overturn protection. (Mode 1.)
8665-N	Carleton Controls International, East Aurora, NY.	49 CFR 173.302(a), 175.3, 178.65	To authorize shipment of helium, classed as a nonflammable gas in a manifolded pressure vessel system including a steel cylinder similar to DOT Specification 3B. (Modes 1, 2, 4.)
8666-N	Cambridge Group of Princeton, Inc., Princeton, NJ.	49 CFR Part 100-199	To authorize shipment of safety book matches contained in a caddy (box of 50 books) with a non-hazardous material essentially deregulated. (Modes 1, 2, 4.)
8667-N	3M Company, St. Paul, MN	49 CFR 173.119(k), 175.3	To authorize shipment of a viscous flammable liquid, n.o.s. contained in a polyvinylchloride bottle overpaced six to a DOT Specification 12B fiberboard box. (Modes 1, 2, 4.)
8668-N	Bresu Agricultural Service, Stockton, CA	49 CFR 173.272(d)	To authorize shipment of a corrosive liquid, n.o.s. in DOT Specification MC-306 cargo tank. (Mode 1.)
8669-N	Air Exec, Inc., Fort Madison, IA	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b).	To authorize carriage of Class A, B, and C explosives not permitted for air shipment or in quantities greater than those prescribed for air shipment. (Mode 4.)
8670-N	Hach Company, Ames, IA	49 CFR 172.101, 172.404, 173.266	To comingle compatible hazardous materials of various classifications packed in separate inside receptacles not exceeding 8 fluid ounces or ½ lb. packed inside a strong outside container, labeled according to the highest order of hazard, and described as chemical kit. (Modes 1, 2, 4, 5.)
8671-N	Chase Bag Company, Oak Brook, IL	49 CFR 173.154, 173.182, 173.245(b)	To manufacture, mark and sell large polypropylene bulk containers, with polyethylene liners, having top and bottom openings, of approximately 2,000 pounds capacity, for shipment of certain corrosive solids and nitrates. (Modes 1, 2.)
8672-N	do	49 CFR 173.201	To manufacture, mark and sell a composite polyethylene valve bag/fiberboard box package for shipment of ground rubber scrap. (Modes 1, 2.)
8673-N	Stauffer Chemical Company, Westport, CT	49 CFR 173.121	To authorize shipment of carbon disulfide, classed as a flammable liquid, in a special DOT Specification MC-312 cargo tank. (Mode 1.)
8674-N	Cylinder Technology, Incorporated, Chanute, KS.	49 CFR 178.46	To manufacture, mark and sell aluminum cylinders complying with DOT Specification 3AL except manufactured by utilizing the deep drawing or draw and iron process for shipment of oxygen and compressed air. (Modes 1, 2, 3, 4, 5.)

This notice of receipt of applications for new exemptions is published in accordance with section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C., on July 2, 1982.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 82-18724 Filed 7-9-82; 8:45 am]

BILLING CODE 4910-60-M

Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Materials Transportation Bureau, DOT

ACTION: List of applications for renewal or modification of exemptions or application to become a party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107 Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier Federal Register publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATE: Comment period closes July 27, 1982.

ADDRESS COMMENTS TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S.

Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT:
Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

Application No.	Applicant	Renewal of exemption
1479-X	Rookwell International Corporation, Canoga Park, CA	1479
1479-X	U.S. Department of Defense, Washington, DC	1479
2136-X	U.S. Department of Defense, Washington, DC	2136
3095-X	Dowell Inc., Tulsa, OK (See Footnote 1)	3095
3126-X	Hercules, Incorporated, Wilmington, DE	3126
3142-X	U.S. Department of Energy, Wshington, DC	3142
3216-X	E.I. du Pont de Nemours & Company, Inc., Wilmington, DE	3216
3941-X	Pacific Engineering & Production Company of Nevada, Henderson, NV	3941
3941-X	Aerojet Tactical Systems Company, Sacramento, CA	3941
4108-X	Purity Cylinder Gases, Inc., Grand Rapids, MI	4108
4108-X	Burdett Gas Products Company, Norristown, PA	4108
4497-X	Red Ball Supply, Inc., Oklahoma City, OK	4497
4803-X	Dowell, Inc., Tulsa, OK (See Footnote 2)	4803
6080-X	U.S. Department of Energy, Washington, DC	6080
6232-X	U.S. Department of Defense, Washington, DC (See Footnote 3)	6232
6334-X	Allied Corporation, Morristown, NJ	6334
6349-X	Union Carbide Corporation, Danbury, CT	6349
6392-X	Stauffer Chemical Company, Westport, CT	6392
6472-X	Thiokol Corporation, Odgen, UT	6472
6484-X	International Minerals and Chemical Corporation, Mundelein, IL	6484
6484-X	Dow Chemical company, Midland, MI	6484
6670-X	E.I. du Pont de Nemours & Company, Inc., Wilmington, DE	6670
6672-X	Chandler Evans, Inc., West Hartford, CT	6672
6760-X	Terra Chemicals International, Inc., Sioux City, IA	6760
6763-X	Pool Water Products, Garden Grove, CA	6763
6929-X	U.S. Department of Energy, Washington, DC	6929
6962-X	U.S. Department of Energy, Washington, DC	6962
6984-X	E.I. du Pont De Nemours & Company, Inc., Wilmington, DE	6984
6984-X	Hercules, Incorporated, Wilmington, DE	6984
7024-X	Burlington Industries, Inc., Burlington, NC	7024
7052-X	ENDECO, Inc., Marion, MA	7052
7052-X	Battery Engineering, Inc., Hyde Park, MA	7052
7052-X	Ray-O-Vac Corporation, Madison, WI (See Footnote 4)	7052
7076-X	LaMotte Chemical Products Company, Chestertown, MD	7076
7275-X	Express Airways, Inc., Sanford, FL (See Footnote 5)	7275
7538-X	Southern Chemical Products Company, Macon, GA	7538
7640-X	Mauser Packaging, Limited, New York, NY	7640
7680-X	Sterling Drug, Inc., New York, NY	7680
7744-X	Dow Corning Corporation, Midland, MI	7744
7753-X	Stauffer Chemical Company, Westport, CT	7753
7798-X	RO-GO Chemical Company, Fresno, CA	7798
7802-X	Bennett Industries, Pacoima, CA	7802
7835-X	Scientific Gas Products, Inc., South Plainfield, NJ	7835
7891-X	Reliance Electric Company, Cleveland, OH	7891
7991-X	Union Pacific Railroad Company, Omaha, NE (See Footnote 6)	7991
8009-X	Matador Service, Inc., Wichita, KS	8009
8037-X	Mauser Packaging, Ltd., New York, NY	8037
8238-X	ASARCO, Incorporated, New York, NY	8238
8247-X	Container Corporation of America, Wilmington, DE (See Footnote 7)	8247
8390-X	Ashland Oil, Inc., Columbus, OH	8390
8394-X	Tempsect, Inc., St. Louis, MO	8394
8395-X	3M Company, St. Paul, MN	8395
8400-X	ES Science, Division of EM Industries, Inc., Cincinnati, OH	8400
8436-X	Pennwalt Corporation, Buffalo, NY	8436
8445-X	Advanced Environmental Technology Corporation, Morris Plains, NJ	8445
8445-X	Owens-Corning Fiberglas Corporation, Granville, OH	8445
8445-X	Dow Chemical Company, Midland, MI	8445
8456-X	E. I. du Pont de Nemours & Company, Inc., Wilmington, DE	8456
8464-X	Garrett Pneumatic Systems Division, Phoenix, AZ	8464
8466-X	Atlas Powder Company, Dallas, TX	8466
8476-X	Warren Petroleum Company, Tulsa, OK	8476
8705-X	General Electric Company, San Jose, CA	8705
8723-X	IRECO Chemicals, Salt Lake City, UT (See Footnote 8)	8723
8732-X	Union Carbide Corporation, Danbury, CT (See Footnote 9)	8732

[1] To renew; to include additional corrosive liquid; and to revise the cargo tank specification and retest requirements.
[2] To renew; to include additional corrosive liquid shipped and to revise the cargo tank specification and retest requirements.
[3] To authorize an additional survival kit containing an oxygen cylinder, carbon dioxide cylinder and signal flares.
[4] To to modify paragraph 3(e) to include thionyl chloride and lithium tetrachloroaluminate.
[5] To authorize an additional class A explosive as packaged under DOT-E 6658.
[6] To renew and to modify paragraph 8(d) pertaining to unattended flag kits.
[7] To authorize 5 gallon capacity polyethylene containers for shipment of sulfuric acid.
[8] To authorize a tank trailer manufactured by Heil Company as an additional container for shipment of blasting agents.
[9] To authorize shipment of anyl alcohol, corrosive liquid, n.o.s. as an additional commodity.

Application No.	Applicant	Parties to exemption
4453-P	Kentucky Anfo, Inc., Madisonville, KY	4453
6205-P	Beech Aircraft Corporation, Boulder, CO	6205
6652-P	Goodyear Aerospace Corporation, Akron, OH	6652
6658-P	U.S. Department Defense, Washington, DC	6658
6816-P	General Dynamic, San Diego, CA	6816
7835-P	Ideal Gas Products, Inc., Edison, NJ	7835

Application No.	Applicant	Parties to exemption
8390-P	Mallinckrodt, Inc., Paris, KY	8390
8441-P	GIE Products Corporation, Westborough, MA	8441
8457-P	Duracell U.S.A., Tarrytown, NY	8457
8554-P	Margraf Explosives, Inc., Rancho Cordova, CA	8554

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with Section 107 of the hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on July 2, 1982.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 82-18725 Filed 7-9-82; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF TREASURY

Office of the Secretary

Public Information Collection Requirements Submitted to OMB for Review.

During the period June 25 through July 1, 1982, the Department of Treasury submitted the following public information collection requirements to OMB, for review and clearance under the Paperwork Reduction Act of 1980, P.L. 96-511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634-2179. Comments regarding these information collections should be addressed to the Treasury Reports Management Officer, Information Resources Management Division, Room 309, 1625 I St. N.W., Washington, D.C. 20220; *and* to the OMB reviewer listed at the end of each entry.

Date Submitted: June 28, 1982
Submitting Bureau: Internal Revenue Service
OMB Number: N/A (new submission)
Form Number: DIR: IND 4-882
Type of Submission: New
Title: Personal Interview Questionnaire

Purpose: Form shall be used to evaluate material submitted by taxpayers in connection with the examination of their tax returns. Failure to collect this information will result in failure to meet the quality requirements of IRM 4253.2 and less of tax revenues to the government.

OMB Reviewer: Michael Abrahams, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

* * * * *

Date Submitted: June 28, 1982
Submitting Bureau: Internal Revenue Service
OMB Number: N/A (new submission)
Form Number: DIR: IND 4-881
Type of Submission: New
Title: Income Probe Workpapers

Purpose: Form shall be used to evaluate material submitted by taxpayers in connection with the examination of their tax returns. Failure to collect this information will result in failure to meet the quality requirements of IRM 4253.2 and less of tax revenues to the government.

OMB Reviewer: Michael Abrahams, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

* * * * * *

Date Submitted: July 1, 1982
Submitting Bureau: U.S. Customs Service
OMB Number: 1515-0042
Form Number: CF 4457
Type of Submission: Extension
Title: Certificate of Registration for Personal Effects Taken Abroad

Purpose: Document is used to provide travelers with means of showing proof of prior possession of a foreign-made personal item which will accompany them on a trip abroad and will be returned to the United States. Customs restricts this registration to articles with serial numbers or unique markings.

OMB Reviewer: Suzann Evinger, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Dated: July 6, 1982.

Joy Tucker,

Departmental Reports Management Officer.

[FR Doc. 82-18720 Filed 7-9-82; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 133
Monday, July 12, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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Synthetic Fuels Corporation	3

1

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 10 a.m., Thursday, July 15, 1982.

PLACE: Board room, 6th floor, 1700 G Street, NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION. Mr. Marshall (202–377–6679).

MATTERS TO BE CONSIDERED:

Branch Office Application—Northeast Savings, A Federal Savings and Loan Association (Formerly The Schenectady Savings Bank, FSB), Hartford, Connecticut
Request for Modification of Insurance Conditions—(Proposed) Charter Savings and Loan Association, Delray Beach, Florida
Termination of Status as Insured Institution—Equality Savings and Loan Association, San Diego, California
Application for Extension of Time to Establish a Branch Office, City Federal Savings and Loan Association, Birmingham, Alabama
Service Corporation Activity: Reinsurance of Credit Life and Credit Accident and Health Insurance First Service Insurance Corporation (a subsidiary of)—First Federal Savings and Loan Association of Arizona, Phoenix, Arizona
Request for a Commitment to Insure Accounts—Crossroads Savings and Loan Association, Checotah, Oklahoma (New Stock Association)

[No. 47, July 8, 1982]

[S–1008–82 Filed 7–8–82; 10:01 am]

BILLING CODE 6720–01–M

2

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of July 12, 1982, in Room 825, 500 North Capitol Street, Washington, D.C.

An open meeting will be held on Wednesday, July 14, 1982, at 10:00 a.m. followed by a closed meeting.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Chairman Shad and Commissioners Evans, Thomas and Longstreth voted to consider the items listed for the closed meeting in closed session.

The subject matter of the open meeting scheduled for Wednesday, July 14, 1982, at 10:00 a.m., will be:

Consideration of whether to publish a release which would publicize a letter written by the Division of Market Regulation to the New York Stock Exchange, Inc. ("NYSE") clarifying the language of the release which approved proposed amendments to NYSE Rules 382 and 405. For further information, please contact Elizabeth S. York at (202) 272–2376.

The subject matter of the closed meeting scheduled for Wednesday, July 14, 1982, following the 10:00 a.m. open meeting, will be

Institution of administrative proceedings of an enforcement nature.

Settlement of administrative proceedings of an enforcement nature.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matter have been added, deleted or postponded, please contact: Bob Zutz at (202) 272–2467.

July 7, 1982.

[S–1010–82 Filed 7–6–82; 3:56 pm]

BILLING CODE 8010–01–M

3

SYNTHETIC FUELS CORPORATION

Meeting of the Board of Directors

ACTION: Notice of meeting.

SUMMARY: Interested members of the public are invited to attend and observe a meeting of the Board of Directors of the United States Synthetic Fuels Corporation to be held at the time, date and place specified below. This public announcement is made pursuant to the open meeting requirements of Section 116(f)(1) of the Energy Security Act (9 Stat. 611, 637; 42 U.S.C. 8701, 8712(f)(1)) and Section 4 of the Corporation's Statement of Policy on Public Access to Board Meetings. During the meeting, the Board of Directors will consider a resolution to close a portion of the meeting pursuant to Article II Section 4 of the Corporation's By-laws, Section 116(f) of the said Act and Sections 4 and 5 of the said policy.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Prior Meeting.
2. Management Report.
3. Approval of Amendments to Article IV of the Corporation By-law Establishing the Office of Vice President for Planning, and Conforming Sections 1, 5, 6, 8 and 10 Thereof to the System of Organization Approved June 17, 1982.
4. Status Report—Memphis Light Gas and Water Project.
5. Consideration of Second Solicitation Projects.
6. Consideration of Third Solicitation Strategy.
7. Consideration of Second Solicitation Strategy.

In addition, the Board of Directors will consider such other matters as may be properly brought before the meeting.

TIME AND DATE: 8:30 a.m., July 15, 1982.

PLACE: 2121 K Street NW., Washington, D.C.

PERSON TO CONTACT FOR MORE INFORMATION:

If you have any questions regarding this meeting, please contact Mr. Owen J. Malone, Office of General Counsel (202) 822–6336.

Synthetic Fuels Corporation.

July 6, 1982.

Edward E. Noble,

Chairman of the Board.

[S–1009–82 Filed 7–8–82; 10:19 am]

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federal register

Monday
July 12, 1982

Part II

Department of the Interior

Fish and Wildlife Service

Migratory Bird Hunting; Supplemental Proposals for Early Season Migratory Bird Hunting Regulations Frameworks

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Supplemental Proposals for Early Season Migratory Bird Hunting Regulations Frameworks

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Supplemental proposed rule.

SUMMARY: This document supplements Federal Register Document 82-10568 published on April 19, 1982, and Document 82-16106 published on June 15, 1982, which notified the public that the U.S. Fish and Wildlife Service proposes to establish hunting regulations for certain migratory game birds during 1982-83, and provided information on certain proposed regulations.

This proposed rulemaking provides frameworks or outer limits for dates and times when shooting may begin and end, and the number of birds that may be taken and possessed in early seasons for migratory bird hunting. These are hunting seasons that open prior to October 1 and relate to mourning doves; white-winged doves; band-tailed pigeons; woodcock; common snipe; rails; gallinules; September teal; sea ducks; experimental September duck seasons in Florida, Iowa, Kentucky, and Tennessee; sandhill crane seasons; and extended falconry seasons. The Service annually prescribes hunting regulations frameworks to the States for season selection purposes. The effect of this proposed rule is to facilitate establishment of early season migratory bird hunting regulations for the 1982-83 season.

The Service also proposes supplemental rulemakings for some late hunting seasons, defined as those seasons opening on or about October 1. These generally relate to the times and places where certain waterfowl may be hunted.

DATES: The comment period for the remaining proposed early season frameworks will end on July 16, 1982. That for Alaska, Puerto Rico, and the Virgin Islands has closed, while that for late season proposals will close on August 23, 1982. A Public Hearing on Late Season Regulations will be held August 3, 1982, starting at 9 a.m.

ADDRESS: Comments to: Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. The Public Hearing will be held in the Auditorium of the Department of the Interior Building on C Street, between 18th and 19th Streets, NW., Washington, D.C. Notice of intention to participate in this hearing should be sent in writing to the Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Comments received on the supplemental proposed rulemaking will be available for public inspection during normal business hours in Room 525-B, Matomic Building, 1717 H Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: John P. Rogers, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (202-254-3207).

SUPPLEMENTARY INFORMATION: The annual process for developing migratory game bird hunting regulations deals with regulations for early and late seasons. Early seasons include those which open before October 1, while late seasons open October 1 or later. Regulations are developed independently for early and late seasons. The early season regulations cover mourning doves; white-winged doves; band-tailed pigeons; rails; gallinules; woodcock; common snipe; sea ducks in the Atlantic Flyway; teal in September in the Central and Mississippi Flyways; experimental duck seasons opening in September in Florida, Iowa, Kentucky, and Tennessee; sandhill cranes; doves in Hawaii; migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; and some special falconry seasons. Late seasons include the general waterfowl seasons; special seasons for scaup and goldeneyes; extra scaup and teal in regular seasons; coots, gallinules, and snipe in the Pacific Flyway; and other special falconry seasons. These regulations contain no information collections subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980.

Certain general procedures are followed in developing regulations for both the early and the late seasons. Initial regulatory proposals are announced in a **Federal Register** document published in late winter or early spring and opened to public comment. These proposals are supplemented in a second **Federal Register** document published in late spring on the basis of additional information and comment. Following the termination of the comment period and after a pubilc hearing, the Service develops and publishes the proposed frameworks for times of seasons, season lengths, shooting hours, daily bag and possession limits, and other regulatory elements. Following another public comment period, and after consideration of additional comments, the Service publishes the final frameworks in the **Federal Register**. Using these frameworks, State conservation agencies then select hunting season dates and options. States may prescribe more restrictive seasons and options than those offered in the Service's frameworks. The final regulations, reflected in amendments to Subpart K of 50 CFR 20, then appear in the **Federal Register**, becoming effective upon publication.

The regulations schedule for this year is as follows. On April 19, 1982, the Service published for public comment in the **Federal Register**, (47 FR 16718) a proposal to amend 50 CFR 20, with comment periods ending as noted earlier. Except that the comment period for Alaska, Puerto Rico, and the Virgin Islands ended June 23, 1982.

On June 15, 1982, the Service published (47 FR 25922) for public comment a second document which provided supplemental proposals for both early and late season migratory bird hunting regulations frameworks, with comment periods ending July 16, 1982, for remaining early season proposals, and August 23, 1982, for late season proposals.

This document is the third in a series of proposed, supplemental, and final rulemaking documents for migratory bird hunting regulations and deals specifically with supplemental proposed frameworks for early season migratory bird hunting regulations from which, when finalized, States may select season dates, shooting hours, and daily bag and possession limits for the 1982-83 season. All pertinent comments on the April 19 proposals received since May 13, 1982, have been considered in developing this document. In addition, new proposals for certain early and late season regulations are provided for public comment. Comment periods on this third document are specified above under DATES. Final regulatory frameworks for migratory game bird hunting seasons for Alaska, Puerto Rico, and the Virgin Islands are scheduled for publication in the **Federal Register**, on or about July 2, 1982, and for early seasons for other areas of the United States are scheduled for **Federal Register**, publication on or about July 27, 1982.

On June 23, 1982, a public hearing was held in Washington, D.C., as announced in the **Federal Register** of April 19 (47 FR 16718) and June 15 (47 FR 25922), 1982, to review the status of mourning doves, woodcock, band-tailed pigeons, white-

winged doves, and sandhill cranes. Proposed hunting regulations were discussed for these species and for common snipe; rails; gallinules; migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; mourning doves in Hawaii; September teal seasons in the Mississippi and Central Flyways; experimental duck seasons in September in Florida, Iowa, Kentucky, and Tennessee; and experimental crane-Canada goose season in southwest Wyoming; special sea duck seasons in the Atlantic Flyway; extended falconry seasons; migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; and mourning doves in Hawaii. Statements or comments were invited.

This supplemental proposed rulemaking consolidates further changes in the original framework proposals published on April 19, 1982, in the Federal Register (47 FR 16718).

Presentations at Public Hearing

A number of reports were given on the status of various migratory bird species for which early hunting seasons are being proposed. These are briefly reviewed as a matter of public information, and to facilitate the Service's response to public comments at the Public Hearing on June 23 and in correspondence. Unless otherwise noted, persons making the presentations are Service employees.

Mr. David Dolton, Mourning Dove Management Biologist, presented the status of the 1982 mourning dove population. Mourning dove population indices, as determined from nationwide Call-Count Surveys, showed no significant change from 1981 to 1982 in any of the 3 dove management units. The 1982 index was significantly above the preceding 10-year average only in the Central Management Unit. Linear regression analyses indicated stable trends in the Eastern and Western Management Units and an upward trend in the Central Management Unit from 1972–1982.

Mr. John Tautin, Woodcock Management Biologist, reported upon the 1982 status of American woodcock. The most significant finding was from the recently completed Singing-Ground Survey. This cooperative survey of woodcock breeding populations in the United States and Canada indicated declines of 6.7 percent in the Central Region (the Mississippi Flyway and eastern edge of the Central Flyway) and 20.3 percent in the Eastern Region (Atlantic Flyway States). In both regions, significant long-term (1966–82) trends are evident.

The 1982 decline in the Eastern Region is the sharpest annual change since inception of these surveys. The decrease was attributed largely to a blizzard and severe weather in the East and Northeast between April 5 and 10, 1982. During this period, heavy snows and abnormally low temperatures prevailed. Woodcock are early spring migrants, and in New England they normally arrive on their breeding grounds in mid- to late March. They are also early nesters, and nesting there usually begins in mid- to late April. Woodcock are susceptible to severe climatic conditions during the early spring, particularly when their weights are low because of migration stresses, courtship, activities, and egg laying. Field observations this year document the return of woodcock to New England prior to the blizzard. The reduced Singing Ground Survey index this spring is believed to reflect woodcock mortality resulting from the severe weather conditions described above.

Mr. Ronnie R. George, Texas Parks and Wildlife Department, reported on the status of white-winged doves in Texas and northeastern Mexico. Approximately 487,000 whitewings were found breeding in the Lower Rio Grande Valley of Texas this spring. This is about 1 percent fewer than were present in 1981. Approximately 58 percent of the 1982 breeding population was located in citrus groves with the remainder in native brush and residential shade trees. An increase of about 8 percent was noted for scattered populations breeding north of the Valley. A cooperative survey of breeding whitewings in northeastern Mexico indicates that this population is stable or possibly increasing.

Mr. Roy Tomlinson, Southwest Dove Coordinator, conveyed information received from the Arizona Department of Game and Fish. During the mid- to late 1970's Arizona white-winged dove populations declined because of habitat loss, changes in agricultural practices, and overharvests. In response to the situation, Arizona has acquired some dove production habitat, experimented with food production, and restricted hunting regulations the past 3 years. These measures evidently have helped arrest the population decline. Arizona recommended that no further changes be made in the hunting frameworks.

Dr. James C. Bartonek, Pacific Flyway Representative, summarized the present status of band-tailed pigeons of the Coastal and Four-Corner States Populations. The Coastal Population continues its gradual recovery following a precipitous decline apparently resulting from an exceptionally large harvest in California in 1972. The Four-Corner States Population is lightly harvested and it appears to be relatively stable. A draft management plan for the Coastal Population has been completed and is available for review. No regulatory changes are recommended for either population.

Mr. Harvey Miller, Central Flyway Representative, reported on the status of sandhill cranes of the Mid-Continent Population in the Central Flyway. Recent photographic surveys in the Platte River Valley of Nebraska during spring migration indicate a population substantially larger than revealed by previous methodology. A photographic survey in 1980 placed the population size at about 551,000 birds, and in 1982 about 570,000 birds, with some additional cranes known to be outside photo coverage areas. Based on improved knowledge of recruitment and populations dynamics, it estimated that from 25–58 thousand sandhills could be harvested from a population of 570,000. In recent years, hunting in the U.S., Canada, and Mexico has accounted for about 17 thousand birds annually. Measurements of adult cranes taken during 1980–81 indicate the following subspecific composition of the harvest in the Central Flyway: 72 percent lesser sandhill cranes *(Grus canadensis canadensis)*, 23 percent Canadian sandhill cranes, *(G. c. rowani)*, and 5 percent greater sandhill cranes *(G. c. tabida)*. Generally, the subspecific composition of the harvest follows that of the populations available. These findings indicate that the Mid-Continent Population can withstand additional harvest. Additional harvest that would be expected from the proposed changes in hunting regulations described in 47 FR 16718 are consistent with the objectives of the Mid-Continent Sandhill Crane Management Plan, and should be well within the recruitment capabilities of the population.

Dr. Paul Geissler, Biometrician, summarized results of a recently completed mourning dove nesting study. Because of sustained interest in the hunting of mourning doves during September, a portion of Dr. Geissler's statement is quoted:

> A nationwide study was initiated in 1978 through the cooperation of 23 State wildlife agencies, 6 State universities and the Service. This study was designed to examine effects of September hunting on mourning dove nesting by (1) determining the proportion of annual dove nesting activity and production that occurs in September and October, and (2) determining if September survival rates of eggs and nestings are lower in areas where dove hunting is permitted compared to areas where it is prohibited. The study has been completed and we expect the final report to

be available for public distribution in late summer.

During the 2 years of the study, 6,950 active nests, located on 106 study areas in 27 States, were followed to obtain data on annual nesting patterns. Of all nests found nationwide, the percent initiated in September and October was 1.0% based on backdating hatch dates and 2.7% based on dates on which nests were initially found. Nesting activity was measured by numbers of individual eggs and nestlings present in weekly counts. Nationally, 4.5% of these counts occurred in September and October. Based on hatching dates, the observed period when 80% of the nests were active lasted from April 22 to September 4. The measure of production used in this study was number of young fledged. Nationally, 10.13% of this production occurred in September and October. The number of nests found for the first time peaked in late May and steadily declined to a low level by the September 1 start of hunting. Thus, it was concluded that the reduction in nesting activity at the end of the season is a natural phenomenon, and not caused by hunting disturbance.

In the second phase of the study, survival rates of eggs and nestlings during September were estimated from data on 668 nests from randomly chosen paired plots in hunted and nonhunted sections of 11 study areas. These study areas were established along the boundaries between 6 pairs of hunting and nonhunting States and between early and late hunting zones within 5 hunting States. Differences were not statistically significant (p 0.05) between the observed daily survival rates of 95.0% in the hunted sections and 95.9% in the nonhuned sections. Restated as fledging rates, these rates become 26% and 33%, respectively. Daily survival and fledging rates are in fact the identical rates operating over different periods of time and thus fledging rates also did not differ significantly. Results of a power analysis indicated that a reduction in daily survival rates greater than that from 96.0% to 94.2% (or 35% to 21% in fledging rates) could be detected with 80% probability when a 5% significance level was used.

In conclusion, the study found that only a small proportion of annual nesting attempts were (sic) exposed to hunting. There was no statistically significant difference in survival rates of eggs and nestlings in sections where hunting was permitted compared to sections where it was prohibited. This study concluded that dove hunting under current regulations has no detectable effect on recruitment of fledglings into the mourning dove population.

Review of Public Comments and the Service's Response

Comments Received at Public Hearing

Eight individuals presented statements at the Public Hearing on the proposed early season regulations. The comments are summarized below and, where appropriate, responded to by the Service.

Mr. Ronnie R. George, representing the Central Flyway Waterfowl Council, supported a number of regulatory changes. These included: establishment of a special sandhill crane season in Lincoln County, Wyoming; changes in frameworks, season lengths, and hunting areas for sandhill cranes in the Central Flyway; establishment of a southwestern New Mexico sandhill crane hunting area; and implementation of standardized mourning dove hunting frameworks throughout the United States. On behalf of the Texas Parks and Wildlife Department, he recommended a 4-day white-winged dove hunting season in 16 designated counties. Hunting season dates would be September 4, 5, 11, and 12, 1982, with daily bag and possession limits being 10 and 20, respectively. A portion of the mourning dove season would be held concurrently with the white-winged dove season. Shooting hours would be from noon to sunset. For identification purposes, one full-feathered wing would be retained on each dressed bird.

Response. A little-studied population of about 13,000–19,000 sandhill cranes wintes in southwestern New Mexico. New Mexico and the Central Flyway Council believe it desirable to initiate a limited experimental season on these cranes to better obtain information on their subspecific composition and other information necessary to their management. Hunter participation and harvest would be rigidly limited by State permits. The experimental season would be patterned after that implemented last year in the nearby Willcox Basin area of Arizona.

Because of chronic crop depredations problems and excessive populations of both sandhill cranes and Canada geese in southwestern Wyoming, the Wyoming Game and Fish Department and the Central Flyway Council believe it desirable that a limited hunting season be allowed this year. The season would conclude before the usual arrival of whooping cranes from Grays Lake, Idaho. Limited permits would be issued for hunting in the Bear River Valley and Star Valley of Lincoln County. These valleys are confined by mountain ranges, and hunter access and activity can be closely monitored to insure conformity with regulations. Details of the proposed hunt appear in the proposed frameworks.

In all instances where sandhill crane hunting is contemplated within the range of migrant whooping cranes, special consideration is being given to the endangered species by means of Section 7, Endangered Species Act, consultation. Emergency hunting closures will be considered whenever whooping cranes appear in a hunting area. The Service concurs in the above recommendations and they are included in the following proposed frameworks.

Dr. H. Elliott McClure, representing the Committee for Dove Protection, noted that many people consider the mourning dove a songbird rather than a gamebird; asserted that for ethical and humane reasons it should not be hunted in September while it is still breeding; stated that in northern States the early migration of juvenile doves leaves only breeding adults to bear the brunt of the harvest but in southern States the influx of migrants serves to protect mourning doves that are still nesting by diluting the population; and suggested that hunting may have altered the proportion of doves nesting in September through genetic adaptation. He reported that dove abundance at Lewis, Iowa, an area familiar to him since 1938, has decreased sharply during a period coinciding with loss of trees and more intensive land use. Dr. McClure urged the Service to: (1) Manage doves on a local or regional basis rather than tying their management to a flyway system developed for unrelated species, (2) consider local population trends when establishing hunting regulations, (3) close or limit hunting in northern States to assure a continuous production over a wide area, and (4) delay hunting until after October 1.

Response. As previously noted (e.g., see the **Federal Register** dated June 28, 1978, at 43 FR 28013), the various migratory bird treaties to which the United States is a party, plus the implementing Migratory Bird Treaty Act, list the mourning dove as a game bird and show that hunting is regarded as a legitimate use of the migratory bird resource so long as certain guidelines and conditions are met.

The appropriateness of present mourning dove management units was discussed in the **Federal Register** dated July 1, 1980, at 45 FR 44541. The three current operational units were developed specifically for mourning doves through analysis of banding records. They reasonably delineate dove population segments that are independent of each other and from waterfowl flyways. Managing by independent north-south units provides an opportunity to deal with specific population issues and we believe this enhances rather than detracts from dove management. A recent comprehensive banding analysis in the Central Management Unit confirms the validity of these units.

The effects of September mourning dove hunting were addressed by Dr. Geissler in a report on the cooperative nationwide dove nesting study cited

earlier. The results of this study and other evidence in the literature lead the Service to conclude that dove hunting in September has no substantial adverse effects on mourning dove populations. This study showed that only a small proportion of breeding doves are still nesting after September 1 in northern States, as well as in southern States. Furthermore, it was concluded that the reduction in nesting activity at the end of the breeding season prior to September is a natural phenomenon and is not caused by hunting disturbance.

The Service has responded previously in a number of **Federal Register** documents to concerns about September hunting of mourning doves (see list in 43 FR 22420 in 1978; 44 FR 9936, 44 FR 34086, and 44 FR 37859 in 1979; 45 FR 13619 and 45 FR 44541 in 1980).

Mr. John Newsom, representing The Wildlife Society (TWS), noted that recent findings in mallard population dynamics may be applicable to other migratory bird populations, including the mourning dove. He therefore suggested that the Service consider standardization and stabilization of national mourning dove hunting frameworks, similar to those in effect for ducks. Ample safeguards should be built into the system in event any unforeseen adverse effect on the dove population occurs. TWS also fully supported the practice of allowing mourning dove hunting in September, citing the recently completed cooperative nesting study which demonstrated that September hunting has no discernable effect on mourning doves.

Response. The Service will consider the TWS proposal for possible application in connection with changes in mourning dove hunting regulations proposed for 1982.

Comments on a variety of migratory bird subjects were offered by Mr. Toby Cooper of Defenders of Wildlife (Defenders). Although several of the topics were irrelevant to the purpose of the public hearing, they are briefly described, and will be considered later this summer as the late season frameworks are being developed.

Defenders expressed strong opposition to the Office of Management and Budget (OMB) proposal to modify the process followed by the Service in establishing annual hunting regulations (see 47 FR 16721 for details on the proposal) because it would truncate the role of Federal decision makers, and only they are charged with the responsibility of protecting and enchancing migratory bird conservation under the Migratory Bird Treaty Act.

Response. The Service will consider these and other comments on the OMB proposal.

Defenders reiterated objections about shooting hours, alleging that, as presently formulated, they "run counter to sound resource management policy and good common sense." They expressed concern about the design of a field study of shooting hours recently conducted by the Service, and requested "an update on the results of shooting hours research, or an indication of when such research will be completed and made available."

Response. The Service believes that the shooting hours proposed for migratory bird hunting are reasonable based on information in a 1975 EIS titled "Final Environmental Impact Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds" (FES 75–54), and an environmental assessment issued in 1977. This has been discussed previously in the **Federal Register**, (e.g. 42 FR 13313–13315). A report on the recently conducted field study will be released shortly.

Defenders asserted that data is inadequate for establishing hunting frameworks on coots, gallinules, rails, snipe, and woodcock, and the Service does not apply the "optimum numbers" language of the U.S.-Japan migratory bird treaty to this group of birds. Mr. Cooper stated that the highest limits in the proposed frameworks are for species for which the least data are available. He noted that Defenders supports legislation before Congress which would establish a funding source for research on this group of birds.

Response. The Service discussed its management programs for these species in an EIS issued in 1975. The species of concern to Defenders are generally abundant, widely distributed, and have high reproductive potentials. Band recovery data indicate that they are lightly harvested. To illustrate, long-term, direct band recovery rates of snipe, gallinules, and most rails are less than 1 percent; coot, 1.3 percent; and clapper rail, 1.6 percent.

The "optimum numbers" portion of the U.S.-Japan treaty was at issue in The Fund for Animals, et al. (including Defenders of Wildlife) vs. Kent Frizzell, et al. (Civil Action No. 75–1597, United States District Court for the District of Columbia, December 24, 1975) in 1975. The Court stated:

> While it is not clear whether plaintiffs may sue to enforce the terms of the Convention, * * *, the Court nevertheless finds that the Secretary of the Interior and the Director of the U.S. Fish and Wildlife Service have acted in accord with the Convention. The federal defendants point out that the phrase 'population in optimum numbers' is not further clarified in the drafting history of the Convention. Apparently neither contracting party has *expressly* established the optimum number of birds for any of the 189 species protected by the Convention. Rather, the U.S. implementing legislation has listed specific criteria and factors to be considered before allowing any taking of migratory birds. The Service's formulation of hunting regulations has in fact attended to bird population totals by evaluating production estimates, survival projections, waterfowl distribution, habitat conditions, weather developments, and migratory flight patterns. * * * It is well-recognized that hunting is one element among many affecting the size of the individual geese (sic) and duck populations. FES at 185. In view of the complex balancing process undertaken to determine the appropriate limits and conditions of migratory bird hunting, an absolute population figure for each species is not technically required under the 1972 Convention.

Other comments by Defenders included: Concern that the method used in the study of September dove nesting to select the study plots did not effectively isolate hunting as a source of variability in survival of nestlings; shooting hours for teal and other duck seasons in September should begin one-half hour after sunrise as a means of reducing risk to non-target species; sea duck and merganser bag limits should be reduced; and there should be no expansion of whistling swan hunting seasons.

Response. Most of these comments relate to late season hunting frameworks, which are scheduled for development later in the summer. As stated in the July 1, 1980, **Federal Register** (at 45 FR 44541), the Service believes that the design and statistical procedures followed in the study of September dove nesting are adequate and appropriate to the objectives of the study and objectively deal with the matter of hunting pressure on the study areas.

Mr. John M. Anderson, National Audubon Society, urged that the proposed woodcock hunting regulations be further restricted in view of the decrease in population this year. Specifically, he recommended reducing the daily bag limit from 5 birds to 4, and reducing the season length 10 days to 55 days.

Response. The Service recognizes that general flywaywide restrictions beyond the specific framework change proposed would further reduce the harvest. Woodcock wing collection survey data from 86,000 hunts suggest that lowering the daily bag from 5 to 4 birds would reduce harvest by 6 percent, and a lowering the daily bag to 3 birds would

result in a 16 percent reduction. However, the average daily harvest per hunter is well below the potential limit offered by the regulations. Less precise information is available about the effects of shortening the woodcock hunting season. The Service is of the view that some recovery of the population from the 1982 decline can be expected without any changes in regulations. The proposed framework change is intended to reduce hunting pressure in specific breeding ground areas to assist this recovery. It is felt that imposing additional types of restrictions would complicate an evaluation of the effects of the framework restriction upon harvests and populations.

Dr. John W. Grandy, speaking on behalf of the Humane Society of the United States (HSUS), commented on several migratory bird topics, some of which were not within the scope of the public hearing. Among the latter were comments about stabilizing hunting regulations for waterfowl, the hunting of whistling swans in the Atlantic Flyway, and the status of black ducks. Frameworks for these species, including stabilizing regulations, will be developed later. HSUS comments on these matters will be considered later as the late seasons frameworks are being finalized.

In regard to mourning doves, Dr. Grandy noted an apparent inconsistency in Service regulations which do not allow the taking of watefowl during the breeding season but do permit hunting of mourning doves while doves are still reproducing. He urged that dove hunting be prohibited in areas and at times when doves are nesting.

Response. This comment relates to previously expressed concerns about mourning dove hunting in September. The Service responded to these concerns in presenting a summary of the recently completed mourning dove nesting study at the June 23, 1982, public hearing and in its response to the Committee for Dove Protection.

Ms. Christine Stevens, representing the Society for Animal Protective Legislation, discussed humanitarian aspects of hunting on nesting doves and young, and also urged prohibition of hunting before sunrise and September hunting.

Response. The Service addressed these subjects in its response to previous comments on the proposed regulations.

Mr. Charles D. Kelley, Chairman of the Southeastern Association of Fish and Wildlife Agencies' Dove Committee, urged the Service to direct more attention to migratory shore and upland game birds. He noted that the mourning dove is the most important migratory game bird species in the United States in terms of birds harvested by hunters. He further urged the Service to continue funding the Accelerated Research Program (ARP) for Migratory Shore and Upland Game Birds.

Response. While Mr. Kelley's comments are welcome and appreciated as being pertinent to the management of migratory shore and upland game birds, they are, strictly speaking, outside the scope of the subject matter under consideration here. The Service will consider his views elsewhere in relation to budgetary decisions.

Written Comments Received

The supplemental proposed rulemaking which appeared in the Federal Register dated June 15, 1982, (at FR 25922) summarized 22 public comments which had been received by May 19, 1982. Since then, 12 additional comments on early season proposals have been received. They are summarized below and numbered in the order used in the April 19 Federal Register. These responses originated from 3 organizations, 5 States, and 2 individuals. One organization and 2 States submitted 2 comments each.

16. *Sandhill cranes.* Texas indicated support of proposed changes in the sandhill crane frameworks for regular hunting seasons in the Central Flyway. New Mexico requested consideration of a limited, experimental season in portions of 3 counties in southwestern New Mexico. A major objective of the season would be to obtain detailed information on the various subspecies comprising the population of 13,000 to 17,000 cranes which winter there. The hunt would be similar to that allowed last year and proposed for continuation this year in the nearby Willcox area of Arizona. Two individuals expressed concern that whooping cranes might be joepardized by the experimental sandhill crane-Canada goose season proposed for southwestern Wyoming.

Response. The accompanying frameworks propose changes in the regular sandhill crane hunting seasons in the Central Flyway. The status of the Mid-Continent Population cranes was discussed earlier in this document. The Service also proposes to implement the experimental hunt requested for southwestern New Mexico. Insofar as the southwestern Wyoming experimental season is concerned, the hunting season of September 1–14 is designed to terminate before the arrival of any Grays Lake whooping cranes. Protective measures will be employed should any appear.

23. *Mourning doves.* Two organizations (1 commenting twice) and 3 States (2 commenting twice) offered recommendations on the proposed mourning dove frameworks. The Southeastern Association of Fish and Wildlife Agencies' Director's Dove Committee (Southeastern Dove Committee) recommended that the frameworks for the Eastern Management Unit provide for a 70 full day season with a daily bag limit of 15 and possession limit of 30 doves. In the event this recommendation is not accepted, preferences were for a 70 full day season with 12 and 24 doves in the daily bag and possession, respectively, with an option for a 60 full day season with 15 doves daily and 30 in possession.

The Southeastern Association of Fish and Wildlife Agencies itself endorsed a 70 full day season with limits of 15 doves daily and 30 in possession, asserting that the modification would provide increased hunting opportunity without jeopardizing the dove population. The Northeast Association of Fish and Wildlife Agencies requested that 90 half-days of hunting with limits of 12 doves daily and 24 in possession be permitted. Georgia recommended that the daily limit for doves be increased to 18 birds. Texas endorsed a 70-day season with 12 and 24 doves daily and in possession, respectively, with an option for a 45-day season with 15 and 30 doves, respectively. A second Texas communication recommended adoption of uniform mourning dove hunting frameworks throughout the United States. California recommended a 70-day season with 12 doves daily and 24 in possession, with an option of 45 days with 15 and 30 doves, respectively. Georgia recommended a minor change in the bounday separating its North and South Zones. Also, see Florida's recommendation involving both white-winged and mourning doves, under Item 24.

Response. Early in 1982, the Service introduced for consideration the idea of establishing generally uniform mourning dove season and bag limit options for all 3 management units (see the Federal Register dated April 19, 1982, at 47 FR 16729). A review of the situation revealed no current reason why the Western and Central Management Units should be more restrictive than the Eastern Management Unit. The population in the Western Unit is stable while there is an increasing trend in the Central Unit (see previously mentioned dove status report). The Eastern Management Unit also appears to have a stable mourning dove population, but

harvest rates are estimated to be significantly higher than in other Units. Thus, while the Service believes that consideration of a regulatory option allowing for a larger bag limit, e.g. 45 days and 15 birds, is appropriate, it is felt to be desirable to take a conservative approach to such regulations changes initially, and observe the effects on harvests and breeding populations before considering more substantial changes. It is recognized that a previous study (Southeastern Association of Game and Fish Commissioners Technical Bulletin No. 2, 1975) failed to show that increased bag limits adversely affect mourning dove populations in the Eastern Unit. However, it appears that the study may not have been sufficiently sensitive to detect other than quite large changes. The Service therefore proposes that season and bag limit options in the Eastern Management Unit be consistent with those in the other units. Further regulations changes can be considered in the future if populations indices continue to show a stabilized or increasing trend. The Service's proposed frameworks reflect Georgia's boundary change.

24. *White-winged doves.* Florida requested that provision be made for a harvest of 4 white-winged doves daily within an aggregate daily bag of 15 mourning and white-winged doves during the regular mourning dove season. The present nesting population of some 6,000 to 8,000 white-winged doves in south Florida apparently originated from escapes from a Homestead, Florida, progator several years ago. The request would allow for a limited harvest of whitewings, some of which would likely be accidentally killed during the regular mourning dove season.

Response. The Service concurs with the Florida request to permit the taking of white-winged doves concurrent with the hunting season for mourning doves. However, the dove bag limits should be consistent with those of the Eastern Management Unit. Accordingly, an aggregate bag limit of 12 doves (or 15 under the alternative season length), no more than 4 of which may be whitewings is proposed.

Public Comment Invited

Based on the results of migratory game bird studies now in progress and having due consideration for any data or views submitted by interested parties, the possible amendments resulting from this supplemental rulemaking will specify open seasons; shooting hours; and bag and possession limits for designated migratory game birds in the United States.

The Director intends that finally adopted rules be as responsive as possible to all concerned interests. He therefore desires to obtain the comments and suggestions of the public, other concerned governmental agencies, and private interests on these proposals and will take into consideration the comments received. Such comments, and any additional information received, may lead the Director to adopt final regulations differing from these proposals.

Special circumstances are involved in the establishment of these regulations which limit the amount of time which the Service can allow for public comment. Specifically, two considerations compress the time in which the rulemaking process must operate: The need, on the one hand, to establish final rules at a point early enough in the summer to allow affected State agencies to appropriately adjust their licensing and regulatory mechanisms, and, on the other hand, the unavailability before mid-June of specific, reliable data on this year's status of some migratory shore and upland game bird populations. Therefore, the Service believes that to allow comment periods past the dates specified earlier is contrary to the public interests.

Comment Procedure

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may participate by submitting written comments to the Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments received will be available for public inspection during normal business hours at the Service's office in Room 525–B, Matomic Building, 1717 H Street, NW., Washington, D.C.

All relevant comments on the remaining early season proposals received no later than July 16, 1982, and those on late season proposals received by August 23, 1982, will be considered. The Service will attempt to acknowledge received comments, but substantive response to individual comments may not be provided.

NEPA Consideration

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75–54)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the **Federal Register** on June 13, 1975 (40 FR 25241). In addition, several environmental assessments have been prepared on specific matters which serve to supplement the material in the Final Environmental Statement. Copies of these documents are available from the Service.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act," and "by taking such action necessary to insure that any action authorized, funded, or carried out * * * is not likely to jeopardize the continued existence of such endangered or threatened species or result in the destruction or modification of habitat of such species * * * which is determined to be critical."

The Service initiated Section 7 consultation under the Endangered Species Act for the proposed hunting season frameworks.

On July 1, 1982, Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, concluded:

> Therefore, it is my biological opinion that your action, as proposed, is not likely to jeopardize the continued existence of the above listed species or result in the destruction or adverse modification of the American peregrine falcon, whooping crane, or Everglade kite Critical Habitat.

As in the past, hunting regulations this year are designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species and their habitats. Examples of such consideration include areas in Alaska and the Pacific Flyway closed to Canada goose hunting for protection of the endangered Aleutian Canada goose, and closed areas in Puerto Rico for protection of the Puerto Rican plain pigeon and Puerto Rican parrot.

The Service's biological opinion resulting from its consultation under Section 7 is considered a public document and is available for public inspection in or available from the Office of Endangered Species and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Regulatory Flexibility Act and Executive Order 12291

In the **Federal Register** dated April 19, 1982 (at 47 FR 16722), the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act and the Executive Order. These included preparing a Determination of Effects and an updated Final Regulatory Impact Analysis, and publication of a summary of the latter. These regulations have been determined to be major under Executive Order 12291 and they have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act. This determination is detailed in the aforementioned documents which are available upon request from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. As noted in the early FR publication, the Service plans to issue its Memorandum of Law for migratory bird hunting regulations at the same time the first of the annual hunting rules is finalized.

Authorship

The primary author of this proposed rulemaking is Henry M. Reeves, Office of Migratory Bird Management, working under the direction of John P. Rogers, Chief.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Transportation, Wildlife.

BILLING CODE 4310-55-M

Proposed Regulations Frameworks for 1982-83 Early Hunting Seasons on Certain Migratory Game Birds

Pursuant to the Migratory Bird Treaty Act, the Secretary of the Interior has approved proposed frameworks which prescribe season lengths, limits, shooting hours, and outside dates within which States may select seasons for mourning doves; white-winged doves; band-tailed pigeons; rails; woodcock; snipe; gallinules; September teal seasons; experimental duck seasons opening in September in Iowa, Florida, Kentucky, and Tennessee; sea ducks (scoter, eider and oldsquaw) in certain defined areas of the Atlantic Flyway; sandhill cranes; and special extended falconry regulations. For the guidance of State conservation agencies, these frameworks are summarized below.

NOTICE

Any State desiring its hunting seasons for mourning doves, white-winged doves, band-tailed pigeons, rails, woodcock, snipe, gallinules, sandhill cranes, or extended falconry seasons to open in September must make its selection no later than July 30, 1982. Those States which desire these seasons to open after September 27 may make their selection at the time they select their regular waterfowl seasons. Season selections for the 4 States offered experimental September duck seasons must also be made by July 30, 1982.

Those Atlantic Flyway coastal States desiring their seasons on sea ducks in certain defined areas to open in September must make their selection no later than July 30, 1982. Those which desire this season to open after September may make their selection when they select their regular waterfowl seasons.

Outside Dates: All dates noted are inclusive.

Shooting Hours: Between 1/2 hour before sunrise and sunset daily for all species unless otherwise noted below. The hours noted here and elsewhere also apply to hawking (taking by falconry).

MOURNING DOVES

Outside Dates: Between September 1, 1982, and January 15, 1983, except as otherwise provided, States may select hunting seasons and bag limits as follows:

Eastern Management Unit

(All States east of the Mississippi River and Louisiana)

Hunting Seasons, and Daily Bag and Possession Limits:

Not more than 70 full or half days with bag and possession limits of 12 and 24, respectively,

or

Not more than 45 full or half days with bag and possession limits of 15 and 30, respectively.

Hunting seasons may be split into not more than 3 periods under either option.

Shooting Hours: Between 1/2 hour before sunrise and sunset daily, or as an option, between 12 o'clock noon and sunset daily.

Zoning: Alabama, Georgia, Louisiana, and Mississippi may elect to zone their States as follows:

A. Two zones per State having the following descriptions or division lines:

Alabama - The South Zone consists of the area south of U.S. Highway 84 running east to the Covington County line, and including Coffee, Covington, Dale, Geneva, Henry, and Houston Counties. The North Zone consists of the remainder of Alabama.

Georgia - U.S. Highway 280 from Columbus to the Ocmulgee River, along the Ocmulgee River to the western border of Jeff Davis County, south along the western border of Jeff Davis County, east along the southern border of Jeff Davis and Appling Counties, north along the eastern border of Appling County to the Altamaha River, west to the western border of Tattnall County, north along the western boundary of Tattnall and Emanuel Counties, east along the northern boundary of Jenkins County, south along the western border and east along the southern border of Screven County to the South Carolina line.

Louisiana - Interstate Highway 10 from the Texas State line to Baton Rouge, Interstate Highway 12 from Baton Rouge to Slidell, and Interstate Highway 10 from Slidell to the Mississippi State line.

Mississippi - U.S. Highway 84.

B. Within each zone, these States may select hunting seasons of not more than 70 days which may be split into not more than 3 periods.

C. The hunting seasons in the South Zones of these States may commence no earlier than September 20, 1982.

Central Management Unit

(Arkansas, Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming)

Hunting Seasons, and Daily Bag and Possession Limits:

Not more than 70 days with bag and possession limits of 12 and 24, respectively,

or

Not more than 45 days with bag and possession limits of 15 and 30, respectively.

Hunting seasons may be split into not more than 3 periods under either option.

Texas Zoning: Option 1 - In addition to the basic framework and the alternative, Texas may select hunting seasons for each of 2 previously established zones subject to the following conditions:

A. The hunting season may be split into not more than 2 periods.

B. The North Zone may have a season of not more than 70 (or 45 under the alternative) days between September 1, 1982, and January 22, 1983.

C. The South Zone may have a season of not more than 70 (or 45 under the alternative) days between September 20, 1982, and January 22, 1983. In that portion of Texas where white-winged dove hunting is allowed, the mourning dove season may be held concurrently with the white-winged dove season and with shooting hours coinciding with those for white-winged doves. However, the remaining days must be within the September 20, 1982-January 22, 1983, period.

or

Option 2 - Texas may select hunting seasons for each of 3 zones (to be designated), subject to the following conditions:

A. The hunting season may be split into not more than 2 periods, except that, in that portion of Texas where white-winged dove hunting is allowed, the mourning dove season may be held concurrently with the white-winged dove season and with shooting hours coinciding with those for white-winged doves.

B. Each zone may have a season of not more than 70 (or 45 under the alternative) days between September 1, 1982, and January 25, 1983.

Western Management Unit

(Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington)

Hunting Seasons, and Daily Bag and Possession Limits:

Not more than 70 days with bag and possession limits of 12 and 24, respectively,

or

Not more than 45 days with bag and possession limits of 15 and 30, respectively.

Hunting seasons may be split into not more than 3 periods under either option.

WHITE-WINGED DOVES

Outside Dates: Arizona, California, Nevada, New Mexico, and Texas (except as shown below) may select hunting seasons between September 1 and December 31, 1982.

Arizona may select a hunting season of not more than 29 consecutive days running concurrently with the first period of the split mourning dove season. The daily bag limit may not exceed 12 mourning and white-winged doves in the aggregate, no more than 6 of which may be white-winged doves, and a possession limit twice the daily bag limit after the opening day.

In the Nevada counties of Clark and Nye, and in the California counties of Imperial, Riverside, and San Bernardino, the aggregate daily bag and possession limits of mourning and white-winged doves may not exceed 12 and 24, respectively, with a 70-day season, or 15 and 30 with a 45-day season; however, in either season, the bag and possession limits of white-winged doves may not exceed 10 and 20, respectively.

New Mexico may select a hunting season with daily bag and possession limits not to exceed 12 and 24 (or 15 and 30) white-winged and mourning doves, respectively, singly or in the aggregate of the 2 species. Dates, limits, and hours are to conform with those for mourning doves.

Texas may select a hunting season of not more than 5 days for that portion of the State where the species occurs. The daily bag and possession limits may not exceed 10 and 20 white-winged doves, respectively. The season may be split within the overall time frame.

and

In addition, Texas may also select a white-winged dove season of not more than 70 (or 45 under the alternative) days to be held between September 1, 1982, and January 25, 1983, and coinciding with the mourning dove season. The daily bag limit of both species in the aggregate may not exceed 12 (or 15 under the alternative), of which not more than 2 may be whitewings. The possession limit of both species in the aggregate may not exceed 24 (or 30 under the alternative), of which not more than 4 may be whitewings.

Florida may select a white-winged dove season of not more than 70 (or 45 under the alternative) days to be held between September 1, 1982, and January 15, 1983, and coinciding with the mourning dove season. The daily bag limit of both species in the aggregate may not exceed 12 (or 15 under the alternative), of which not more than 4 may be whitewings. The possession limit of both species in the aggregate may not exceed 24 (or 30 under the alternative), of which not more than 8 may be whitewings.

BAND-TAILED PIGEONS

West Coast States: California, Oregon, Washington, and the Nevada counties of Carson City, Douglas, and Lyon.

Outside Dates: Between September 1, 1982, and January 15, 1983.

Hunting Seasons, and Daily Bag and Possession Limits: Not more than 30 consecutive days, with bag and possession limits of 5 and 5, respectively. Nevada may select an experimental season in Carson City, Douglas, and Lyon Counties coinciding with that selected by California in Alpine County.

Zoning: California may select hunting seasons of 30 consecutive days in each

Zoning: California may select hunting seasons of 30 consecutive days in each of the following two zones:

1. In the counties of Alpine, Butte, Del Norte, Glenn, Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama, and Trinity; and

2. The remainder of the State.

Four-Corners States: Arizona, Colorado, New Mexico, and Utah.

Outside Dates: Between September 1 and November 30, 1982.

Hunting Seasons, and Daily Bag and Possession Limits: Not more than 30 consecutive days, with bag and possession limits of 5 and 10, respectively.

Areas: These seasons shall be open only in the areas delineated by the respective States in their hunting regulations.

Zoning: New Mexico may be divided into North and South Zones along a line following U.S. Highway 60 from the Arizona State line east to Interstate Highway 25 at Socorro and along Interstate Highway 25 from Socorro to the Texas State line. Hunting seasons not to exceed 20 consecutive days may be selected between September 1 and November 30, 1982, in the North Zone and October 1 and November 30, 1982, in the South Zone.

Permit Regulation in Nevada and Four-Corners States: Each hunter must have been issued and carry on his person while hunting band-tailed pigeons a valid band-tailed pigeon hunting permit issued by the respective State conservation agency.

RAILS
(Clapper, King, Sora, and Virginia)

Outside Dates: States included herein may select seasons between September 1, 1982, and January 20, 1983, on clapper, king, sora, and Virginia rails as follows:

Hunting Seasons: 70 days. Any State may split its season into two segments.

Clapper and King Rails

Daily Bag and Possession Limits: In Rhode Island, Connecticut, New Jersey, Delaware, and Maryland, 10 and 20, respectively, singly or in the aggregate of these two species. In Texas, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, and Virginia, 15 and 30, respectively, singly or in the aggregate of the two species.

Sora and Virginia Rails

Daily Bag and Possession Limits: In the Atlantic, Mississippi, and Central Flyways, and portions of Colorado, Montana, New Mexico, and Wyoming in the Pacific Flyway[1, 2], 25 and 25, singly or in the aggregate of the two species.

WOODCOCK

Outside Dates: States in the Atlantic Flyway may select hunting seasons between October 5, 1982, and February 28, 1983. In Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, and Virginia the season must end no later than January 31. States in the Central and Mississippi Flyways may select hunting seasons between September 1, 1982, and February 28, 1983.

Hunting Seasons, and Daily Bag and Possession Limits: Not more than 65 days, with bag and possession limits of 5 and 10, respectively. Seasons may be split.

Zoning: New Jersey may select seasons by north and south zones divided by State Highway 70. The season in each zone may not exceed 55 days.

COMMON SNIPE

Outside Dates: Between September 1, 1982, and February 28, 1983. In Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, and Virginia the season must end no later than January 31.

Hunting Seasons, and Daily Bag and Possession Limits: Not more than 107 days in the Atlantic, Mississippi, and Central Flyways; 93 days in Pacific Flyway portions of Montana, Wyoming, Colorado, and New Mexico; and coinciding with the duck seasons in the remainder of the Pacific Flyway. Seasons may be split into two segments. Bag and possession limits are 8 and 16, respectively.

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[1] The Central Flyway is defined as follows: Colorado (east of the Continental Divide), Kansas, Montana (east of Hill, Chouteau, Cascade, Meagher, and Park Counties), Nebraska, New Mexico (east of the Continental Divide but outside the Jicarilla Apache Indian Reservation), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

[2] The Pacific Flyway is defined as follows: Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington; those portions of Colorado and Wyoming lying west of the Continental Divide; New Mexico west of the Continental Divide plus the entire Jicarilla Apache Indian Reservation; and in Montana, the counties of Hill, Chouteau, Cascade, Meagher, and Park, and all counties west thereof.

GALLINULES

Outside Dates: States in the Atlantic, Mississippi, and Central Flyways may select hunting seasons between September 1, 1982, and January 20, 1983. States in the Pacific Flyway must select their hunting seasons coinciding with the duck seasons.

Hunting Seasons, and Daily Bag and Possession Limits: Not more than 70 days in the Atlantic, Mississippi, and Central Flyways and the same as the duck season in the Pacific Flyway. Seasons may be split. Bag and possession limits are 15 and 30, respectively; except in the Pacific Flyway the daily bag and possession limits may not exceed 25 coots and gallinules, singly or in the aggregate of the two species.

SANDHILL CRANES

Regular Seasons in the Central Flyway:

North Dakota: Between September 1 and 20, 1982, a season of 9 days in Benson, Burleigh, Emmons, Kidder, Logan, McHenry, Pierce, and Stutsman Counties; and a season of 16 days in McLean and Sheridan Counties.

Colorado (the Central Flyway portion except the San Luis Valley); **Kansas**; **Montana** (the Central Flyway portion except that area south of I-90 and west of the Bighorn River); **South Dakota**; and **Wyoming** (in the counties of Campbell, Converse, Crook, Goshen, Laramie, Niobrara, Platte, and Weston): not to exceed 58 days between September 1, 1982, and January 31, 1983.

New Mexico (the counties of Chaves, Curry, DeBaca, Eddy, Lea, Quay, and Roosevelt); **Oklahoma** (that portion west of I-35); and **Texas** (that portion west of a line from Del Rio along U.S. Highway 277 to Abilene; Texas Highway 351 to Albany; U.S. Highway 283 to Vernon; and U.S. Highway 183 to the Texas-Oklahoma boundary): not to exceed 93 days between September 1, 1982, and January 31, 1983.

Bag and Possession Limits: 3 and 6, respectively.

Permits: Each person participating in the regular season must obtain and have in his possession while hunting, a valid Federal sandhill crane hunting permit. Exceptions are made for experimental seasons described below where State permits are required.

Experimental Seasons in New Mexico: New Mexico may select experimental seasons, to be described in detail in State hunting regulations, in portions of Dona Ana, Luna, and Sierra Counties as follows:

Area 1: October 30 through November 1, 1982; December 4 through 6, 1982; and January 15 through 17, 1983, with not to exceed 40 special permits during each season; and

Area 2: October 30 through November 1, 1982; December 4 through 6, 1982; and January 15 through 17, 1983, with not to exceed 75 special permits during each season.

Bag and Possession Limits: Not to exceed 3 cranes which must be tagged upon taking.

Permits: Each person participating in the experimental season must obtain and have in his possession while hunting, a valid special permit issued by the State of New Mexico.

Experimental Season in Arizona: Arizona may select an experimental sandhill crane season subject to the following conditions:

1. The season may not exceed 4 days in November 1982.
2. The hunting area is confined to Game Management Units 30A, 30B, and 32.
3. Each hunter must obtain and possess a special permit issued by the State. No more than 200 permits may be issued. Each permittee may take 2 sandhill cranes per season.
4. Emergency closures for all crane hunting may be invoked as necessary.

SPECIAL SANDHILL CRANE-CANADA GOOSE SEASON

Wyoming may select an experimental season on sandhill cranes and Canada geese subject to the following conditions:

1. The season will be September 1-14.
2. Hunting would be by State permit, with 125 permits issued for the Bear River drainage and 125 permits issued for Star Valley, all in Lincoln County. Each permittee may take 2 sandhill cranes and 3 Canada geese per season.
3. Emergency closures for all crane hunting may be invoked as necessary.

SCOTERS, EIDERS, AND OLDSQUAW DUCKS (Atlantic Flyway)

Outside Dates: Between September 15, 1982, and January 20, 1983.

Hunting Seasons, and Daily Bag and Possession Limits: Not to exceed 107 days, with bag and possession limits of 7 and 14, respectively, singly or in the aggregate of these species.

Bonus During Regular Duck Season: In the Atlantic Flyway, States may set, in addition to the regular limits, a daily limit of 7 and a possession limit of 14 scoter, eider, and oldsquaw ducks, singly or in the aggregate of these species.

Areas: In all coastal waters and all waters of rivers and streams seaward from

1. In Kentucky and Tennessee the seasons will be in lieu of September

Areas: In all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut; in those coastal waters of the State of New York lying in Long Island and Block Island Sounds and associated bays eastward from a line running between Miamogue Point in the town of Riverhead to Red Cedar Point in the town of Southampton, including any ocean waters of New York lying south of Long Island; in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 1 mile of open water from any shore, island, and emergent vegetation in New Jersey, South Carolina, and Georgia; and in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 800 yards of open water from any shore, island, and emergent vegetation in Delaware, Maryland, North Carolina, and Virginia; and provided that any such areas have been described, delineated, and designated as special sea duck hunting areas under the hunting regulations adopted by the respective States. In all other areas of these States and in all other States in the Atlantic Flyway, sea ducks may be taken only during the regular open season for ducks.

Deferred Selection: Any State desiring its sea duck season to open in September must make its selection no later than July 30, 1982. Those States desiring their sea duck season to open after September may make their selection at the time they select their waterfowl seasons.

SEPTEMBER TEAL SEASON

Outside Dates: Between September 1 and September 30, 1982, an open season on all species of teal may be selected by Alabama, Arkansas, Colorado (Central Flyway portion only), Illinois, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, New Mexico (Central Flyway portion only), Ohio, Oklahoma, Tennessee, and Texas in areas delineated by State regulations.

Hunting Seasons, and Bag and Possession Limits: Not to exceed 9 consecutive days, with bag and possession limits of 4 and 8, respectively.

Shooting Hours: From sunrise to sunset daily.

Deadline: States must advise the Service of season dates and special provisions to protect non-target species by July 30, 1982.

SPECIAL SEPTEMBER DUCK SEASONS

Iowa September Duck Season: Iowa is offered the option of holding a portion of its regular duck hunting season in September. All ducks which are legal during the regular duck season may be taken during the September segment of the season. In 1982, the 5-day season segment may commence no earlier than September 18, with daily bag and possession limits being the same as those in effect during the 1982 regular duck season.

Tennessee, Kentucky, and Florida September Duck Seasons: Experimental 5-consecutive-day duck seasons may be selected in September by Tennessee, Kentucky, and Florida subject to the following conditions:

1. In Kentucky and Tennessee the seasons will be in lieu of September teal seasons;

2. In all States, the daily bag limit will be 4 ducks, no more than 1 of which may be a species other than teal or wood ducks, and the possession limit will be double the daily bag limit;

3. The experimental season will be for 3 years to facilitate evaluation; and

4. Additional information to be gathered by the States to evaluate the experiment will include hunter and harvest surveys, banding, and population surveys.

SPECIAL FALCONRY REGULATIONS

Extended Seasons: Falconry is a permitted means of taking migratory game birds in any State meeting Federal falconry standards in 50 CFR 21.29(k). These States may select an extended season for taking migratory game birds in accordance with the following:

Framework Dates: Seasons must fall within the regular season framework dates and, if offered and accepted, other special season framework dates for hunting.

Daily Bag and Possession Limits: Falconry daily bag and possession limits for all permitted migratory game birds shall not exceed 3 and 6 birds, respectively, singly or in the aggregate, during both regular hunting seasons and extended falconry seasons.

Regulations Publication: Each State selecting the special season must inform the Service of the season dates and publish said regulations.

Regular Seasons: General hunting regulations, including seasons, hours, and limits, apply to falconry in each State listed in 50 CFR 21.29(k) which does not select an extended falconry season.

NOTE: In no instance shall the total number of days in any combination of duck seasons (regular duck season, sea duck season, September seasons, special scaup season, special scaup and goldeneye season, or falconry season) exceed 107 days for a species in one geographical area.

Dated: July 1, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-18820 Filed 7-9-82; 8:45 am]

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federal register

Monday
July 12, 1982

Part III

Department of Transportation

Coast Guard

Drawbridge Operation Regulations; Navigable Waterways of the United States

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 82-025]

Drawbridge Operation Regulations; Navigable Waterways of the United States

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard is proposing changes to its drawbridge regulations which are contained in Part 117. The purpose of the revision is to consolidate and clarify requirements that are common to many drawbridges across the navigable waters of the United States. These requirements are presently contained in numerous sections of Part 117. Consolidation of these requirements should simplify as well as shorten the rules for the use of the reader.

DATE: Comments must be received on or before September 7, 1982.

ADDRESS: Comments should be submitted to and are available for examination at the Marine Safety Council (G–CMC), Room 4402, Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593. Between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday, comments may be delivered to, and are available for inspection and copying at the Marine Safety Council (G–CMC).

FOR FURTHER INFORMATION CONTACT: Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G–NBR), Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593 (202–426–0942).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a self-addressed stamped postcard or envelope.

The Chief, Office of Navigation, U.S. Coast Guard Headquarters, Washington, D.C., will evaluate all communications received before taking final action on this proposal. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. The proposed regulations may be changed in light of comments received. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

In addition to publication in the **Federal Register**, copies of the printed proposal will be mailed to a list of persons and organizations who have expressed a continued interest in drawbridge operation regulations and have requested that copies of proposed changes in rules and regulations be furnished them. After the supply of copies of this printed document is exhausted, copies will be available for reading purposes in Room 2418, Coast Guard Headquarters, and at the offices of the Coast Guard District Commanders.

DRAFTING INFORMATION: The principal persons involved in drafting this proposal are: Frank L. Teuton, Jr., Project Manager, and LT Michael Tagg, Project Attorney.

Discussion of the Proposed Regulations

The purpose of these proposed regulations is to consolidate and clarify requirements common to many drawbridges across navigable waters of the United States. These requirements are presently set forth in numerous sections of Part 117. For example, in the 1980 edition of 33 CFR Parts 1–199, the requirement that regulations be posted appears in 145 sections; the requirement that vehicles not be stopped to delay the openings in 47 sections; and the requirement that drawtenders be present and machinery be operational in 55 sections. Consolidation of these common types of requirements in the general regulations should greatly simplify the use of 33 CFR Part 117 for the reader.

In some instances, the mileage designating the location of a bridge has been omitted. Where the waterway is covered by an official mileage system, efforts are being made to obtain this information for insertion in the final rule.

Regulatory Evaluation

These proposed regulations have been determined to be nonsignificant under the criteria established by the Policies and Procedures for Simplification, Analysis and Review of Regulations (DOT Order 2100.5 of May 22, 1980). The Order requires a review of the estimated costs of the regulations to the private sector, consumers, and governments as well as the anticipated benefits and impacts of the regulations. These proposed regulations will impose no costs on the public or bridge owners and operators and should facilitate the use of the drawbridge operation regulations by boaters and bridge operators. The regulations have also been found to be nonmajor under Executive Order 12291 under the same analysis.

Since this proposal merely consolidates and clarifies existing regulations it is certified under section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164, 5 U.S.C. 601) that these regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges, Coast Guard.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be reissued to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Subpart A—General Regulations

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Authority: 33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5)

Subpart A—General Regulations

§ 117.1 General requirements.

(a) Owners, operators and tenders of drawbridges shall operate the draw in accordance with the regulations contained in Part 117.

(b) Except as specified in Subpart B, signals must conform with the requirements established in § 117.11.

(c) Unless otherwise permitted in Subpart B, the owners or operators of drawbridges shall provide the necessary drawtenders for the safe and prompt opening of the draw for the passage of vessels.

(d) The owners or operators of drawbridges shall maintain the operating machinery in a serviceable condition, and the draws shall be operated at sufficient intervals to insure the satisfactory operation of the draw.

§ 117.3 Discontinuance of drawtender service.

(a) Upon application by the owner or operator of a drawbridge, the District Commander may permit a drawbridge to be untended due to the infrequency of use of the draw by vessels. The District Commander may condition such permission upon the continued maintenance of the operating machinery.

(b) When drawtender service is discontinued without permission as provided in paragraph (a), the draw shall be maintained in the fully open position so as to permit the passage of vessels. The draw shall remain in this position until tender service is restored or the District Commander permits the draw to remain closed to navigation.

§ 117.5 Operation.

Except as provided in Subpart B, the draw shall be opened to the fullest extent with the least possible delay upon receipt of an opening signal from a vessel.

§ 117.7 Public vessels, commercial vessels and vessels in distress.

(a) Except as provided in Subpart B, public vessels of the United States, vessels owned or operated by state, county or local governments in use for public safety purposes, tugs with tows, regularly scheduled sightseeing and passenger vessels, or any vessel in a life or property endangering emergency, shall be passed through the draw as soon as possible.

(b) The opening signal for such vessels shall be five short blasts.

§ 117.9 Unnecessary delay prohibited.

Vessel traffic shall promptly pass through the draw so as to prevent the delay of vehicular traffic. The passage shall be made at a speed that will prevent wake damage.

§ 117.11 Signals.

(a) Sound signals. Sound signals shall be the primary signals for use by vessel operators and drawtenders. The signals may be made by whistle, horn or other device capable of producing the signals described in this section. On vessels not required by the Inland Navigation Rules (33 U.S.C. 2001) to have a whistle or a horn, signals may be made by a megaphone, loud hailer, or other device capable of producing a sound loud enough to be heard by the drawtender.

(1) A prolonged blast shall be of four to six seconds duration, and a short blast shall be of approximately one second duration.

(2) Except as provided in Subpart B, the following sound signals shall be used:

(i) A signal to request the opening of a draw shall be one prolonged blast followed by one short blast sounded not more than three seconds after the prolonged blast.

(ii) The acknowledging signal by the drawtender shall be:

(A) When the draw will open immediately, one prolonged blast, followed by one short blast.

(B) When the draw will not open immediately or is open and must be closed promptly, five short blasts sounded in rapid succession, repeated at regular intervals until acknowledged by the same signal from the vessel.

(b) Visual Signals. Visual signals shall be used when sound signals will not suffice to alert the drawtender or vessel. Visual signal may be used along with sound signals.

(1) Except as provided in Subpart B, the following visual signals shall be used:

(i) The signal to request the opening of a draw shall be a white flag of sufficient size to be readily visible by day or a white or green light of sufficient intensity to be readily visible by night, raised and lowered vertically in full sight of the drawtender. The signal shall be repeated until acknowledged by the drawtender. Mechanical devices producing essentially the same signal using fixed and/or flashing lights may be used.

(ii) The acknowledging signal by the drawtender shall be:

(A) When the draw will open immediately, the same signal as used to request the opening, displayed not more than 30 seconds after the vessel's opening signal.

(B) When the draw cannot open immediately or is open and must be closed immediately, a red flag of sufficient size to be readily visible, or a red light of sufficient intensity to be readily visible. The flag or light will be displayed not more than one minute after the vessel's signal and will be swung back and forth horizontally in full sight of the vessel. The signal will be repeated until acknowledged by the vessel with the same signal.

(c) Radiotelephones. When the request for draw opening and the answering acknowledgments are given by radiotelephone, sound or visual signals need not be used. Both the vessel and the drawtender shall monitor the frequency used until the vessel has cleared the draw. When radiotelephone contact cannot be maintained, sound or visual signals as provided in this Part shall be used.

§ 117.13 Special rules.

(a) Contiguous drawbridges. When a vessel must pass two or more drawbridges close together, the opening signal shall be given for the first bridge. After acknowledgment from the first bridge that it will promptly open, the opening signal shall be given for the second bridge, and so on until all bridges that the vessel must pass have been given the opening signal and have acknowledged that they will open promptly.

(b) Vessels approaching a drawbridge.

(i) When two or more vessels are approaching the same drawbridge at nearly the same time from the same or opposite directions each shall signal independently for the opening of the

draw and the drawtender shall reply in turn to the signal of each vessel.

(ii) When a vessel approaches a drawbridge with the draw in the open position, the vessel shall give the opening signal. If no response is received, the vessel may proceed through the open draw.

§ 117.15 Installation of radiotelephone stations.

(a) When the District Commander deems it necessary to the operation of any drawbridge for safety or navigation, he may require the installation and operation of radiotelephone stations. The bridge owner or operator shall be given written notice of the proposed requirement by the District Commander, and the owner or operator shall have 30 days in which to submit comments or objections to the proposal. Upon a determination by the District Commander that a radiotelephone station is necessary, the bridge owner or operator shall have a reasonable time, to be not more than six months, in which to install a radiotelephone station and commence operation.

§ 117.17 Natural disater or civil disorders.

Drawbridges need not open for the passage of vessels during periods of natural disasters or civil disorders declared by the appropriate authorities unless specifically provided for in Subpart B or directed to do so by the appropriate District Commander.

§ 117.19 Closure of draws.

(a) When the draw will be inoperative for scheduled repairs or maintenance work, the drawbridge owner or operator shall notify the appropriate District Commander at least 30 days prior to the date of the intended closure. The notice shall include a brief description of the nature of the work to be performed and the times and dates of such closure.

(b) When the draw is inoperative for repairs, in cases of emergency, damage to the structure, or for vital maintenance which cannot be delayed, the drawbridge owner or operator shall immediately notify the apropriate District Commander. The notice shall give the reasons for the closure and the expected date of completion of the repairs.

(c) In situations where the public interest, health, or safety so requires, including the holding of public functions or events such as street parades and marine regattas, the District commander may authorize the closure of a drawbridge. A request for the closure of a drawbridge for such an event must include a brief description of the proposed event, or reason why the closure is required, and the time and date of the closure. Approval will depend upon the necessity for the closure, the reasonableness of the times and dates, and the overall effect on navigation. The request shall be made not less than 30 days prior to the desired closure.

§ 117.21 Posting of regulations.

The owners or operators of drawbridges contained in Subpart B, or drawbridges which may be unattended for certain periods, shall conspicuously post a brief statement of the operating regulations both upstream and downstream of the drawbridge. The posted statements shall be placed in such a manner that they may be easily read at any time from an approaching vessel.

§ 117.23 Advance notice.

(a) The owners or operators of drawbridges requiring advance notice to open the draw shall include notice of this requirements in the statement required by § 117.21. The notice shall state to whom or where advance notice is to be given and how contact may be made.

(b) The owners or operators of such drawbridges shall use all reasonable means to open the draw at the requested time.

§ 117.25 Clearance gauges.

The District Commander may require the owner or operator of a drawbridge to install clearance gauges when necessary for navigation.

§ 117.27 Removable span bridges.

Owners or operators of removable span bridges may be required to remove the span upon order of the District Commander. Vessels desiring passage through such a bridge shall make application to the District Commander stating the desired passage. In emergencies, the span shall be ordered removed as soon as possible.

§ 117.29 Federal preemption of drawbridge operation regulations.

The authority to issue regulations governing the operation of drawbridges over navigable waters is vested in the Secretary of Transportation by 33 U.S.C. 499. This authority has been delegated to the Commandant, U.S. Coast Guard, and has been redelegated to Coast Guard District Commanders. Laws, ordinances, regulations, rules, or orders governing such drawbridges which are not issued through the Secretary of Transportation have neither force nor effect.

Subpart B—Special Operation Regulations

§ 117.100 Alabama.

The following navigable waters in Alabama are listed alphabetically and are crossed by drawbridges that have certain periods when the draw need not open for the passage of vessels or have other special operation regulations. All other drawbridges across navigable waters in Alabama are required to operate as provided by Subpart A.

§117.100 Alabama River.

(a) The draw of the Burlington Northern (St. Louis-San Francisco) railroad bridge, mile 105.3, at Coy shall open on signal if at least 48 hours notice is given.

(b) The draw of the Illinois Central Gulf railroad bridge, mile 277.8, shall open on signal if at least 24 hours notice is given.

(c) The draw of the US31 and 82 bridge, mile 278.2, near Montgomery shall open on signal if at least 24 hours notice is given.

(d) The draw of the Family Lines Rail System (Louisville and Nashville) railroad bridge, mile 293.3, shall open on signal if at least 24 hours notice is given.

§117.100–3 Bayou LaBatre.

The draw of the S188 bridge, mile 2.3, at Bayou LaBatre shall open on signal, except that the draw need not open from 7:30 a.m to 8:30 a.m., and 3 p.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

§ 117.100–5 Bayou Sara.

The draw of the Family Lines Rail System (Louisville and Nashville) railroad bridge, mile 0.1, at Saraland, shall open on signal from 6 a.m. to 10 p.m. From 10 p.m. to 6 a.m., the draw shall open on signal if at least four hours notice is given, During periods of severe storms or hurricanes, from the time the National Weather Service sounds an "alert" for the area until the "all clear" is sounded, the draw shall open on signal.

§ 117.100–7 Chattahooche River.

(a) The draws of the Southern Railway (Central of Georgia) railroad bridge, mile 49.4, at Columbia shall open on signal if at least six hours notice is given.

(b) The draws of the Family Lines Rail System (Seaboard Coast Line) railroad bridge, mile 117.1 near Omaha, Georgia, shall open on signal if at least six hours notice is given.

§ 117.100-9 Coosa River.

The draw of the Family Lines Rail System (Louisville and Nashville) railroad bridge, mile 175.0, shall open on signal if at least six hours notice is given.

§ 117.100-11 Mobile River and Chichasaw Creek.

The draw of the US90 bridge, mile 2.9, Mobile River, and the Family Lines Rail System (Louisville and Nashville) railroad bridge, mile 0.0, Chickasaw Creek, both at Mobile shall open on signal, however, the following special signals shall be used to request openings.

(a) Vessels preceeding either up or down the Mobile River and desiring the US90 bridge to open shall sound three prolonged blasts.

(b) Vessels proceeding down the Mobile River and desiring to proceed up Chickasaw Creek, requiring an opening of both bridges, shall sound one prolonged blast, wait one minute, and then sound three prolonged blasts.

(c) Vessels proceeding up the Mobile River and desiring to proceed up Chickasaw Creek, requiring an opening of both bridges, shall sound three prolonged blasts, wait one minute, and then sound one prolonged blast followed by three prolonged blasts.

§ 117.100-13 Tensaw River.

The draw of the Family Lines Rail System (Louisville and Nashville) railroad bridge, mile 15.0, at Hurricane, shall open on signal from 8 a.m. to midnight. The draw need not open from midnight to 8 a.m. During periods of severe storms or hurricanes, from the time the national Weather Service sounds an "alert" for the area until the "all clear" is sounded, the draw shall open on signal.

§ 117.100-15 Three Mile Creek.

(a) The draw of the US90 bridge, mile 1.0, at Mobile, need not open from 7 a.m. to 9 a.m. and from 4:30 p.m. to 6:30 p.m. daily At all other times the draw shall open on signal if at least 12 hours notice is given.

(b) The draw of the Southern railroad bridge, mile 1.1, at Mobile, shall open on signal if at least five days notice is given.

§ 117.100-17 Tombigbee River.

(a) The draw of the US80 bridge, mile 201.6, at Bellamy, shall open on signal from December 1 through April 30. From May 1 through November 30 the draw shall open on signal if at least 12 hours notice is given. When so directed by the Coast Guard District Commander, the bridge owner or operator shall maintain a drawtender in constant attendance and the draw shall open on signal.

(b) The draw of the Southern Railroad bridge, mile 226.8, near Epes shall open on signal from 8 a.m. to 4 p.m., Monday through Friday, if at least 24 hours notice is given. The draw need not open at all other times.

§ 117.105 Alaska.

There are no known or authorized drawbridges in Alaska.

§ 117.110 Arkansas.

The following navigable waterways in Arkansas are listed alphabetically and are crossed by drawbridges that have certain periods when the draws need not open for the passage of vessels or have other special operation regulations. All other drawbridges in Arkansas are required to operate as provided by Subpart A.

§ 117.110-1 Arkansas River.

The draw of the Missouri Pacific Railroad bridge, mile 23.1, near Yancopin, shall open on signal if a least 96 hours notice is given. When so directed by the Commander, Second Coast and Guard District, the bridge owner shall provide a drawtender in constant attendance and the draw shall open on signal.

§ 117.110-3 Arkansas and White Rivers—Automated Railroad Bridges.

(a) The draws of the Burlington Northern (St. Louis-San Francisco) railroad bridge, mile 300.8, Arkansas River, at Van Buren, and the Missouri Pacific railroad bridge, mile 7.5, White River, at Benzal, are maintained in the open position (a minimum vertical clearance of 52 feet is provided).

(1) When a train approaches either bridge, amber lights attached to the bridge begin to flash and an audible signal on the bridge sounds. At the end of six minutes the amber light continues to flash, however, the audible signal stops and the draw lowers and locks, if the photoelectric boat detection system detects no obstruction under the span. If there is an obstruction, the draw will raise to its full height until the obstruction is cleared.

(2) After the train clears the bridge, the draw will raise to its full height, the amber flashing light will stop, and the midchannel lights will change from red to green indicating the navigation channnel is open for the passage of vessels.

(b) Across the Arkansas River the draws of the Cotton Belt railroad (Rob Roy) bridge, mile 67.4, the Chicago, Rock Island, and Pacific railroad (Junction) bridge, mile 118.2, at Little Rock, and the Missouri Pacific Railrod (Baring Crossing) bridge, mile 118.7, at Little Rock, are maintained in the closed position.

(1) The opening signal from the vessel for each of these bridges is three short blasts.

(2) The acknowledging signal is flashing white lights visible upstream and downstream. When the operator of the vessel sights the acknowledging signal, one prolonged blast shall be sounded.

(3) This signal is acknowledged by the bridge controller when the draw is to open by changing the flashing white lights to continuous white lights, and sounding one blast on a horn. When the span is fully raised to a maximum clearance of 52 feet, the navigation light at midchannel shall be changed from red to green, indicating that the draw is ready for passage.

(4) If the draw cannot open, flashing amber warning lights shall start and four blasts will sound, indicating that a train is approaching or that maintenance work is in progress.

(5) The vessel shall acknowledge that there will be a delay by sounding five blasts.

(6) When the draw will open (after the train crosses or when maintenance work permits), the amber lights are turned off, the continuous white lights turned on, and one blast sounded, to indicate the draw is ready for passage.

(7) The vessel acknowledges with one blast and, after the draw is fully open, shall proceed through the draw.

(8) When the vessel clears the draw the midchannel light will change from green to red, the amber warning lights will flash, and, after one minute, the draw will lower and lock.

§ 117.110-5 Black River.

The following draws need not open for the passage of vessels:

(a) Missouri Pacific railroad bridge, mile 3.4, at Paroquet.

(b) Burlington Northern (St. Louis-San Francisco) railroad bridge, mile 68.4, at Black Rock.

(c) Arkansas State Highway Department bridge, mile 90.1, at Pocahontas.

(d) Burlington Northern (St. Louis-San Francisco) railroad bridge, mile 90.4, at Pocahontas.

(e) Missouri Pacific railroad bridge, mile 144.4, at Corning.

(f) Arkansas State Highway Department bridge, mile 152.2, at Corning.

§ 117.110-7 Current River.

The draws of the Arkansas Highway bridge, mile 10.2, and the Burlington

Northern (St. Louis-San Franciso) railroad bridge, mile 12.2, both at Biggers, need not open for the passage of vessels.

§ 117.110–9 Little Red River.

The draws of the Missouri Pacific railroad bridge, mile 25.0, at Judsonia and Arkansas highway bridge, mile 25.2, Judsonia, need not open for the passage of vessels.

§ 117.110–11 Little River.

The draw of the Louisville and Arkansas railway bridge, mile —, near Red Bluff need not open for the passage of vessels.

§ 117.110–13 Ouachita River.

(a) The draw of the Chicago, Rock Island and Pacific railroad bridge, mile 291.7, at Calion, shall open on signal if at least 24 hours notice is given. Any vessel that requires the opening of the draw and that intends to return within 24 hours shall inform the drawtender of the probable time of return. The draw shall open for the returning vessel without further notice.

(1) When the pool stage is above 21 feet on the upper gauge at Lock and Dam No. 8, the Commander, Second Coast Guard District will notify the bridge owner, who will then have one day in which to place a drawtender in constant attendance.

(b) The draw of the St. Louis Southwestern railroad bridge, mile 331.4, near Camden, shall open on signal if at least 48 hours notice is given.

§ 117.110–15 Red River.

The draws of the bridges from mile 66.0 through mile 283.1 shall open on signal if at least 49 hours notice is given. The draws of any of these bridges need not open for a vessel that arrives later than two hours after the time specified in the notice, unless a second notice of at least 48 hours is given. The draws of the bridges above mile 283.1 need not open for the passage of vessels.

§ 117.110–17 St. Francis River.

(a) The draw of the Arkansas highway bridge, mile 29.6, at Cody, shall open on signal if at least 72 hours notice is given. Any vessel that requires the opening of the draw and that intends to return within 72 hours shall inform the drawtender of the probable time of return. The draw shall open for the returning vessel without further notice.

(b) The draws of the Chicago, Rock Island and Pacific railroad bridge, mile 59.7, at Madison, and all drawbridges above that point, need not open for the passage of vessels.

§ 117.110–19 White River.

(a) The draws of the St. Louis Southwestern railroad bridge, mile 98.9, at Clarendon, the US70 highway bridge, mile 121.7, at Duvalls Bluff; the Chicago, Rock Island and Pacific Railroad bridge, mile 122.0, at Duvalls Bluff, the Missouri Pacific railroad bridge, mile 196.3, at Augusta; and the Missouri Pacific railroad bridge, mile 254.8, at Newport; shall open on signal if at least eight hours notice is given. When a vessel has failed to arrive within two hours after the time specified in the notice, at any of these bridges, a second eight-hour notice is required.

(b) The draws of the Arkansas highway bridge, mile 300.1, at Batesville, and Missouri Pacific Railroad Company bridge, mile 401.9, at Cotter, need not open for the passage of vessels.

§ 117.115 Arizona.

There are no known or authorized drawbridges in Arizona.

§ 117.120 California.

The following navigable waterways in California are listed alphabetically and are crossed by drawbridges that have certain periods when the draws need not open for the passage of vessels or have other special operation regulations. All other drawbridges in California are required to operate as provided by Subpart A.

Note.—The Rio Vista bridge, on the Sacramento River, mile 12.8, is equipped with radiotelephone and serves as the contact point for the advance notice required for several bridges listed in this section.

§ 117.120–1 American River.

The draws of the Jiboon Street bridge, mile 0.1, at Sacramento need not open for the passage of vessels.

§ 117.120–3 Burns Cutoff.

The draw of the Daggett Road bridge, mile 3.0, at Stockton, shall open on signal if at least 48 hours notice is given to the U.S. Naval Communications Station at Stockton.

§ 117.120–5 Cerritos Channel.

(a) The draws of the Commodore Schuyler F. Heim highway bridge, mile 4.5, and the Henry Ford Avenue highway and railroad bridge, mile 4.4, at Long Beach, shall open on signal, except that from 6:30 a.m. to 8 a.m. and 3:30 p.m. to 6 p.m., Monday through Friday, except Federal holidays, the draws need not open for the passage of vessels.

(b) The draw of the Henry Ford Avenue bridge shall be maintained in the open to navigation position except when a train is crossing or when maintenance work is being performed.

(c) the opening signal for the Commodore Schuyler Heim bridge is three prolonged blasts. The acknowledging signal is two prolonged blasts followed by one short blast when the draw will open immediately, and five short blasts when the draw cannot open immediately.

(d) If the draw of the Henry Ford bridge is in the closed position, the opening signal is two short blasts followed by one prolonged blast. The acknowledging signal is two prolonged blasts followed by one short blast when the draw will open immediately, and five short blasts when the draw cannot open immediately.

(e) Radiotelephones are installed to enable the drawtenders at the Commodore Schuyler Heim bridge and the Henry Ford bridge to communicate with vessels on a radiotelephone frequency 156.65 megahertz (Channel 13), or such other frequency as may be assigned by the Federal Communications Commission.

§ 117.120–7 Cordelia Slough (a tributary of Suisun Bay).

The draws of the Southern Pacific railroad bridge, mile 1.5, at Suisun, shall open on signal if at least 24 hours notice is given.

§ 117.120–9 Corte Madera Creek.

The draw of the Northwestern Pacific railroad bridge, mile 0.5, near Greenbrae, shall open on signal if at least 24 hours notice is given. However, from May 1 through October 31 on Saturdays, Sundays, and holidays that are observed on Monday and Friday during this period, the draw shall open on signal from 8 a.m on the first day of the holiday or weekend until 10 p.m. on the last day of the weekend or holiday. If no drawtender is present during these periods the draw shall be maintained in the fully open position.

§ 117.120–11 Eureka Slough.

The draws of the Northwestern Pacific railroad bridge, mile 0.5, at Eureka, shall open on signal if at least 24 hours notice is given.

§ 117.102–13 Georgiana Slough.

(a) The draws of the Sacramento County highway bridges, mile 4.5, near Isleton, and mile 12.4, near Walnut Grove, shall open on signal from 6 a.m. to 10 p.m. from May 1 through October 31. The draws shall open on signal from November 1 through April 30 from 9 a.m. to 5 p.m. At all other times, the draws of these bridges shall open on signal if at least four hours notice is given to the drawtender at the Rio Vista bridge.

(b) The draws of the Southern Pacific railroad bridge, mile 5.8, near Isleton, will normally be maintained in the open position and a drawtender need not be present; except that the draw may close for the passage of trains or for maintenance. When the draw is closed and visibility from the drawtender's station is less than one mile up or down the channel, the drawtender shall sound two prolonged blasts every minute. When the draw is reopened, the drawtender shall sound one prolonged blast followed by one short blast.

§ 117.120–15 Grant Line Canal.

The draw of the San Joaquin County highway bridge, mile 5.5, at Tracy, shall open on signal if at least 12 hours notice is given to the San Joaquin County Department of Public Works at Stockton.

§ 117.120–17 Honker Cut.

The draw of the San Joaquin County bridge, mile 0.3, between Empire Tract and King Island at Stockton, shall open on signal if at least 12 hours notice is given to the San Joaquin County Department of Public Works at Stockton.

§ 117.120–19 King Island Cut.

The draw of the San Joaquin County highway bridge, mile 1.0, between King Island and Bishop Tract, shall open on signal if at least 12 hours notice is given to the San Joaquin County Department of Public Works at Stockton.

§ 117.120–21 Lindsey Slough.

The center span of the Hastings Farms highway bridge, mile 2.0, between Egbert and Lower Hastings Tracts, shall be removed for the passage of maintenance vessels if a least 72 hours notice is given to the Hastings Farms Office at San Francisco.

§ 117.120–23 Little Potato Slough.

The draw of the California highway bridge, mile 0.1, at Terminous, shall open on signal from July 1 through September 30 from 8 a.m. to 5 p.m. At all other times the draw shall open on signal if at least four hours notice is given to the drawtender at the Rio Vista bridge.

§ 117.120–25 Mare Island Strait, Napa River, and their tributaries.

(a) The draw of the U.S. Navy bridge (Mare Island Causeway), mile 2.8, at Vallejo:

(1) Shall open on signal from 7:30 a.m. to 3:45 p.m., and 4:45 p.m. to 10 p.m., Monday through Firday, except Federal holidays, and from 6:30 a.m. to 10 p.m. on Saturdays, Sundays, and holidays.

(2) Need not open for the passage of vessels, other than public vessels of the United States, from 6:30 a.m. to 7:30 a.m. and 3:45 p.m. to 4:45 p.m., except Saturdays, Sundays, and Federal holidays.

(3) Shall open on signal from 10 p.m. to 6:30 a.m. daily, if at least two hours notice is given.

(b) The draw of the Southern Pacific railroad bridge, mile 7.8, at Brazos, will normally be maintained in the open position. The owner of or agency controlling this bridge need not keep a drawtender in attendance except when the draw is in the closed position. When the draw is closed and visiblity at the drawtender's station is less than one mile, up or down the channel, the drawtender shall sound two prolonged blasts every minute. When the draw is fully opened again the drawtender shall sound three prolonged blasts to indicate the draw is in the fully open position.

(c) The draw of the Maxwell highway bridge, mile 14.8, near Imola, shall open on signal if at least 72 hours notice is given to the California Department of Transportation office at Napa.

§ 117.120–27 Middle River and the Woodward Canal.

(a) The draw of the San Joaquin County highway bridge, mile 5.6, between Bacon Island and Lower Jones Tract, shall open on signal from May 15 through September 15 from 9 a.m. to 5 p.m. From September 16 through May 14 the draw shall open on signal from 9 a.m. to 5 p.m. from Thursday through Monday. At all other times the draw shall open on signal if at least 12 hours notice is given to the San Joaquin County Department of Public Works at Stockton.

(b) The draw of the Atchison, Topeka and Santa Fe railroad bridge, mile 6.8, near Middle River Station, shall open on signal if at least 12 hours notice is given the Atchison, Topeka and Santa Fe Railway Yardmaster at Stockton.

(c) Drawbridges above Woodward Canal need not open for the passage of vessels.

§ 117.120–29 Miner Slough.

The draw of the California highway bridge, mile 5.5, between the northerly end of Ryer Island and Holland Tract shall open on signal if at least 12 hours notice is given to the drawtender at the Rio Vista bridge.

(a) The draw of the California highway bridge, mile 3.0, at East Isleton, shall open on signal from May 1 through October 31 from 6 a.m. to 10 p.m., and from November 1 through April 30 from 9 a.m. to 5 p.m. At all other times, the draw shall open on signal if at least four hours notice is given to the drawtender at the Rio Vista bridge.

(b) The draw of the Sacramento and San Joaquin Counties highway bridge, mile 12.1, over the North Fork of the Mokelumne River near Walnut Grove shall open on signal from May 1 through October 31, from 9 a.m. to 5 p.m. At all other times the draw shall open on signal if at least 12 hours notice is given to the San Joaquin County Department of Public Works at Stockton.

(c) The removable span of the San Joaquin County highway bridge over the South Fork of the Mokelumne River, mile 18.0, at New Hope Landing shall be operated as provided for in Section 117.27.

(d) The draws of the bridges above New Hope Landing need not open for the passage of vessels.

§ 117.120–31 Mud Slough.

The draw of the Southern Pacific Railroad bridge, mile 0.7, near Alviso, shall open on signal if at least 24 hours notice is given.

§ 117.120–33 Newark Slough.

The draw of the Southern Pacific railroad bridge, mile 0.5, near Newark, shall open on signal if at least 24 hours notice is given to the Superintendent, Southern Pacific Transportation Company, at Oakland.

§ 117.120–35 Oakland Inner Harbor Tidal Canal.

The draws of the Alameda County highway bridges at Park Street, mile 7.3; Fruitville Avenue, mile 7.7; and High Street, mile 8.1; and the U.S. Army Corps of Engineers railroad bridge, mile 7.7, all at Fruitville, shall open on signal, except that from 7:30 a.m. to 8:30 a.m. and 3:45 p.m. to 5:45 p.m., Monday through Friday, except Federal holidays, the draws need not open for the passage of vessels.

§ 117.120–37 Old River.

The draw of the California highway bridge, mile 14.8, between Victoria Island and Byron Tract, shall open on signal from May 1 though October 31 from 6 a.m. to 10 p.m., and from November 1 through April 30 from 9 a.m. to 5 p.m. At all other times, the draw shall open on signal if at least four hours notice is given to the drawtender at the Rio Vista bridge.

§ 117.120–39 Pacheco Creek.

The draw of the Contra Costa County highway bridge, mile 0.5, and Southern Pacific railroad bridge, mile 0.5, both near Martinez, shall open on signal if at least 24 hours notice is given.

§ 117.120–41 Petaluma River.

(a) The draw of the Northwestern Pacific railroad bridge, mile 0.8, at Blackpoint and Haystack Landing, will normally be maintained in the open position. The owner of or agency controlling these bridges need not keep a drawtender in constant attendance except when the draw is in the closed position. When the draw is closed and visibility at the drawtender's station is less than one mile, up or down the channel, the drawtender shall sound two long blasts every minute. When the draw is fully opened again, the drawtender shall sound three blasts once to indicate the draw is in the fully open position.

(b) The draw of the Petaluma highway bridge at "D" Street, mile 13.7, at Petaluma, shall open on signal if at least four hours notice is given.

§ 117.120–43 Sacramento River.

(a) The draws of each bridge from Isleton to American River junction shall open on signal from May 1 through October 31 from 6 a.m. to 10 p.m., and from November 1 through April 30 from 9 a.m. to 5 p.m. At all other times, the draws shall open on signal if at least four hours notice is given to the drawtender at the Rio Vista Bridge.

(b) The draws of each bridge from the American River junction to Chico Landing shall open on signal if at least 12 hours notice is given to the owners' agents as follows:

(1) California highway bridge at Knights Landing—State Division of Highways Office at Woodland.

(2) California highway bridge at Meridian—State Division of Highway office at Marysville.

(3) California highway bridge at Butte City—California Department of Transportation Office at Gridley.

(4) The draws of the bridges above Chico Landing need not open for the passage of vessels.

§ 117.120–45 San Joaquin River.

(a) The draws of the bridge from Stockton to Old River junction shall open on signal if at least 12 hours notice is given to the owners' agents at Stockton as follows:

(1) Port District railway bridge at Stockton—Port Director.

(2) U.S. Navy highway bridge at Stockton—U.S. Naval Communications Station at Stockton.

(3) Atchison, Topeka and Santa Fe railroad bridge at Stockton—Atchison, Topeka and Santa Fe Railway Yardmaster at Stockton.

(4) State of California highway bridge (Garwood Bridge) near Stockton—California Department of Transportation Office at Stockton.

(b) All drawbridges above the Old River junction need not open for the passage of vessels.

§ 117.120–47 San Leandro Bay.

The draw of the California highway bridge, mile 0.0, between Alameda and Bayfarm Island, shall open on signal from 8 a.m. to 5 p.m. From 5 a.m. to 8 a.m. and 5 p.m. to 9 p.m. the draw shall open on signal if at least 12 hours notice is given. Notice shall be given to the drawtender of the Bayfarm Island bridge from 8 a.m. to 5 p.m., and to the drawtender of the Park Street bridge at Alameda at all other times. The draw need not open for the passage of vessels from 9 p.m. to 5 a.m.

§ 117.120–49 Snodgrass Slough.

(a) The draw of the Southern Pacific railroad bridge, mile 3.5, at Walnut Grove, will normally be maintained in the open position and a drawtender will not be present. When the draw is closed, a drawtender shall be present and the draw shall open on signal, as provided by Subpart A.

(b) The draw of the Sacramento County bridge, mile 4.4, at Walnut Grove, shall open on signal if at least 24 hours notice is given to the Sacramento County Highway Office at Sacramento.

§ 117.120–51 Sonoma Creek.

The draw of the Northwestern Pacific railroad bridge, mile 5.4, at Wingo, shall open on signal if at least 24 hours notice is given.

§ 117.120–53 Steamboat Slough.

The draw of the California highway bridge, mile 11.2, at the head of Grand Island, shall open on signal from May 1 through October 31 from 6 a.m. to 10 p.m. At all other times the draw shall open on signal if at least four hours notice is given to the drawtender at the Rio Vista bridge.

§ 117.120–55 Sutter Slough.

The draw of the Sacramento County highway bridge, mile 6.4, near Courtland need not open for the passage of vessels.

§ 117.125 Colorado.

There are no known or authorized drawbridges in Colorado.

§ 117.130 Connecticut.

The following navigable waterways in Connecticut are listed alphabetically and are crossed by drawbridges that have certain periods when the draws need not open for the passage of vessels or have other special operation regulations. All other drawbridges in Connecticut are required to operate as provided by Subpart A.

§ 117.130–1 Housatonic River.

(a) The draw of the US 1 bridge, mile 3.5, at Stratford, shall open on signal except that from 7 a.m. to 9 a.m. and 4 p.m. to 5:45 p.m., Monday through Friday, the draw need not open for the passage of vessels.

(b) The draw of the CONRAIL bridge, mile 3.9, at Stratford, shall open on signal from 5 a.m. to 9 p.m. except that:

(1) The draw need not open from 7 a.m. to 9 a.m., and from 4 p.m. to 5 p.m., Monday through Friday, except Federal holidays or an emergency.

(2) The draw need not open more than once in any 60-minute period from 5:30 a.m. to 7 a.m.; and from 5:45 p.m. to 8:15 p.m., except on Saturdays, Sundays and Federal holidays.

(3) The draw shall open on signal from 9 p.m. to 5 a.m. if notice if given before 4 p.m. on the day of the intended passage.

(4) A delay of up to 20 minutes in the opening of the draw may be expected if a train is approaching the bridge so closely that the train may not be safely stopped.

§ 117.130–3 Johnson River.

The draw of the highway bridge, mile 0.0, at Bridgeport, shall open on signal if at least 24 hours notice is given.

§ 117.130–5 Mianus River.

The draw of the CONRAIL bridge, mile 1.0, at Greenwich, shall open on signal from 5 a.m. to 9 p.m. The draw need not open from 9 p.m. to 5 a.m.

§ 117.130–7 Mill River.

The draw of the Chapel Street bridge, mile 0.4, at New Haven, shall open on signal, except that from 7:30 a.m. to 8:30 a.m., 12 noon to 12:15 p.m., 12:45 p.m. to 1 p.m., and 4:45 p.m. to 5:45 p.m., the draw need not open for the passage of vessels.

§ 117.130–9 Mystic River.

(a) The draw of the Connecticut highway bridge, mile 1.2, at Mystic, shall open on signal from April 1 through October 31. From November 1 through March 31 from 5 a.m. to 9 p.m., the draw shall open on signal and from 9 p.m. to 5 a.m., the draw shall open on signal if at least eight hours notice is given.

(b) The draw of the AMTRAK railroad bridge, mile 2.4, at Mystic, shall open on signal from April 1 through October 31 and November 1 through March 31 from 5 a.m. to 9 p.m. The draw shall open on signal from November 1 through March 31 from 9 p.m. to 5 a.m. if at least eight hours notice is given.

Note.—A delay of up to 20 minutes may be experienced.

(c) The draw of the US 1 bridge, mile 2.8, at Mystic, shall open on signal on the quarter hour from 8:15 a.m. to 7:15 p.m., and the draw shall open on signal from May 1 through October 31 from 7:15 p.m. to 8:15 a.m. The draw shall

open on signal from November 1 through April 30 from 7:15 p.m. to 8:15 a.m. if at least one hours notice is given.

§ 117.130–11 Niantic River.

(a) The draw of the CONRAIL bridge, mile 0.0, at Niantic, shall open on signal, except that from April 1 through October 31 from 6 p.m. to 4 a.m., and from November 1 through March 31 from 6 p.m. to 6 a.m., the draw shall open on signal if at least one hours notice is given.

(b) The draw of the S156 bridge, mile 0.1, at Niantic shall open on signal, except that from 7 a.m. to 8 a.m., and from 4 p.m. to 5 p.m., Monday through Friday, except Federal holidays, the draw need not open for the passage of recreational vessels.

§ 117.130–13 Norwalk River.

(a) The draw of the Washington Street S136 bridge, mile 0.0, at Norwalk shall open on signal, except that from 7 a.m. to 8:45 a.m., 11:45 a.m. to 1:15 p.m., and 4 p.m. to 6 p.m., Monday through Friday, except Federal holidays, the draw need not open for the passage of vessels that draw less than 14 feet of water. The opening signal is three short blasts of a whistle, horn or by shouting. Vessels drawing 14 feet of water or more shall add one prolonged blast after the three short blasts.

(b) The draw of the CONRAIL bridge, mile 0.1, at Norwalk shall open on signal, except that from 7 a.m. to 9 a.m., and 4 p.m. to 6 p.m., the draw need not open for the passage of vessels that draw less than 14 feet of water, unless low tide is predicted in the tide tables publishes by the U.S. Coast and Geodetic Survey to occur within one hour before or after the time when the opening signal is given; in this case the opening of the draw may not be delayed for more than 20 minutes. The opening signal is one prolonged blast followed by one short blast. Vessels drawing 14 feet or more of water shall add one prolonged blast after the one short blast.

§ 117.130–15 Pequonnock River.

(a) The draws of the Stratford Avenue bridge, mile 0.1, the CONRAIL bridge, mile 0.3, Congress Street bridge, mile 0.4 and the East Washington Street bridge, mile 0.6, all at Bridgeport shall open on signal, except that the draws of these bridges need not open for passage of vessels from 6:45 a.m. to 7:15 a.m., 7:45 a.m. to 8:15 a.m., 11:45 a.m. to 1:15 p.m., and 4:30 p.m. to 6:10 p.m.

(b) The draw of the Grand Street bridge, mile 0.9, at Bridgeport need not open for the passage of vessels.

§ 117.130–17 Quinnipiac River.

The draws of the Tomlinson bridge, mile 0.0, the Ferry Street bridge, mile 0.7, and the Grand Avenue bridges, mile 1.3, all at New Haven, shall open on signal, except that the draws need not open for the passage of vessels from 7:30 a.m. to 8:30 a.m., 12 noon to 12:15 p.m., 12:45 p.m. to 1 p.m., and 4:45 p.m. to 5:45 p.m.

§ 117.130–19 Saugatuck River.

The draw of the CONRAL bridge, mile 1.1, at Saugatuck shall open on signal from June 1 through September 30 from 5 a.m. to 9 p.m. and from October 1 through May 31 from 8 a.m. to 4 p.m. The draw shall open on signal from October 1 through May 31 from 5 a.m. to 8 a.m., and from 4 p.m. to 9 p.m., if at least eight hours notice is given. The draw need not open at all other times.

§ 117.130–21 Shaws Cove.

The draw of the CONRAIL bridge, mile 0.0, at New London shall open on signal from December 1 through March 31 from 8 a.m. to 5 p.m., Monday through Friday. From December 1 through March 31 fron 5 p.m. to 8 a.m. and on Saturdays and Sundays, the draw shall open on signal if at least eight hours notice is given. From April 1 through November 30, from 5 a.m. to 10 p.m., the draw shall open on signal, and from 10 p.m. to 5 a.m. the draw shall open on signal if at least one hour notice is given.

§ 117.130–23 Yellow Mill Channel.

The draw of the Stratford Avenue bridge, mile 0.3, at Bridgeport shall open on signal if at least 24 hours notice is given.

§ 117.135 Delaware.

The following navigable waterways in Delaware are listed alphabetically and are crossed by drawbridges that have certain periods when the draws need not open for the passage of vessels or have special operation regulations. All other drawbridges in Delaware are required to operate as provided by Subpart A.

§ 117.135–1 Appoquinimink River.

The draw of the Delaware highway bridge, mile 3.5, at Fennimores shall open on signal if at least 24 hours notice is given.

§ 117.135–3 Brandywine River.

(a) The draw of the Seventh Street bridge, mile 0.1, at Wilmington shall be maintained in the open to navigation position at all times.

(b) The draws of the CONRAIL bridge, mile 1.1, the Church Street bridge, mile 1.3, and the Sixteenth Street bridge, mile 1.7 at Wilmington need not open for the passage of vessels.

§ 117.135–5 Broad Creek River.

(a) The draws of the CONRAIL bridge, mile 8.0, the Poplar Street bridge, mile 8.2, and the US13A bridge, mile 8.2, all at Laurel shall open on signal if at least four hours notice is given.

(b) The draw of the Delaware Avenue bridge, mile 8.3, at Laurel need not open for the passage of vessles.

§ 117.135–7 Chesapeake and Delaware Canal.

(a) The draw of the CONRAIL bridge, mile 7.7, shall open on signal.

(b) The signals listed in Section 117.11 shall be supplemented by the following light signals in the center of the drawspan on both sides of the bridge.

(1) When the drawspan is to be opened immediately: one fixed amber light.

(2) When the drawspan is not ready to be opened: one flashing red light.

§ 117.135–9 Christina River.

(a) The draws of the CONRAIL bridge, mile 1.4, the CONRAIL bridge, mile 4.1, the Reading railroad bridge, mile 4.2, and the CONRAIL bridge, mile 5.4, all at Wilmington shall open on signal from 6 a.m. to 8 p.m., if at least 24 hours notice is given. From 8 p.m. to 6 a.m. the draws need not open for the passage of vessels.

(b) The draws of the Third Street bridge, mile 2.3, the Walnut Street bridge, mile 2.8, and the Market Street bridge, mile 3.0, all at Wlmington shall open on signal except that from 7 a.m. to 8 a.m. and 4:30 p.m. to 5:30 p.m., Monday through Friday, except Federal holidays, the draws need not open for the passage of vessels. Any vessel which has passed through one or more of these three bridges immediately prior to a closed period and which requires passage through the other bridge or bridges in order to continue to its destination shall be passed through the draw or draws of such bridge or bridges without delay. In times of flood or other emergency the closed periods may be suspended or modified by the Coast Guard District Commander.

§ 117.135–11 Lewes and Rehoboth Canal.

The draw of the Delaware highway bridge, mile 7.0, at Rehoboth shall open on signal from May 1 through October 31 from 7 a.m. to 8 p.m. and from 8 p.m. to 7 a.m. if at least two hours notice is given. From November 1 through April 30 the draw shall open on signal if at least 24 hours notice is given.

§ 117.135–13 Mispillion River.

The draw of the S14 bridge, mile 11.0, at Milford shall open on signal if at least two hours notice is given.

§ 117.135–15 Nanticoke River.

The draw of the CONRAIL bridge, mile 39.4, at Seaford shall open on signal from May 1 through September 30 from 8 a.m., to 8 p.m., and need not open from 8 p.m. to 8 a.m. From October 1 through April 30 the draw shall open on signal if at least four hours notice is given.

§ 117.135–17 Smyrna River.

The draw of the Delaware highway bridge, mile 4.0, at Fleming Landing shall open on signal if at least 24 hours notice is given to the New Castle County Division Engineer, Delaware State Highway Department at Bear.

§ 117.135–19 St. Jones River.

The draws of the Delaware highway bridge, mile 4.5, at Barkers Landing, and the Delaware highway bridge, mile 8.0, at Lebanon shall open on signal if at least 24 hours notice is given.

§ 117.140 District of Columbia.

The following navigable waterways in the District of Columbia are listed alphabetically and are crossed by drawbridges that have certain periods when the draws need not open for the passage of vessels or have other special operation regulations.

§ 117.140–1 Anacostia River.

(a) The draw of the Frederick Douglas Memorial (South Capitol Street) bridge, mile 1.2, shall open signal if at least 24 hours notice is given. The draw will be closed on each Presidential Inauguration Day and may occasionally be closed to the passage of vessels, without advance notice, to permit uninterrupted transit of dignitaries across the bridge.

(b) The draw of the CONRAIL bridge, mile 3.4 shall:

(1) Open on signal on Saturdays, Sundays, and Federal holidays, and on weekdays from 10 a.m. to 8 p.m. from April 1 through September 30.

(2) Open on signal on the hour from April 1 through September 30, Monday through Friday, except Federal holidays, from 8 p.m. to 10 a.m. and from October 1 through March 31, on Saturdays, Sundays, and Federal holidays, from 10 a.m. to 6 p.m.

(3) At all other times, the draw shall open on signal if at least two hours notice is given.

§ 117.140–3 Potomac River.

(a) The draw of the Woodrow Wilson (I–495) bridge, mile 103.8, shall open on signal except that from 6:30 a.m. to 9 a.m. and 4 p.m. to 6:30 p.m., Monday through Friday, except Federal holidays, the draw need not open for the passage of vessels.

(b) The draws of all other bridges need not open for the passage of vessels.

§ 117.145 Florida.

The following navigable waterways in Florida are listed alphabetically and are crossed by drawbridges that have certain periods when the draws need not open for the passage of vessels or have other special operation regulations. All other drawbridges in Florida are required to operate as provided by Subpart A.

§ 117.145–1 Atlantic Intracoastal Waterway (AIWW) from Jacksonville to Miami.

(a) The draw of the Bridge of Lions bridge SR A–1–A, mile 777.9, Matanzas River, at St. Augustine, shall open on signal, except that:

(1) From 7 a.m. to 6 p.m., Monday through Friday, except Federal holidays, the draw need open only on the hour and half-hour, however, the draw need not open at 8 a.m., 12 noon, and 5 p.m.

(2) From 7 a.m. to 6 p.m. on Saturdays, Sundays, and Federal holidays, the draw need open only on the hour and half-hour.

(b) Daytona Beach Area.

(1) The draws of the Granada Avenue bridge, mile 824.9, Halifax River at Ormond Beach, the Seabreeze Boulevard bridge, mile 829.1, Halifax River at Daytona Beach, and the SR A–1–A bridge, mile 835.5, Halifax River at Port Orange shall open on signal, except that from 7:30 a.m. to 8:30 a.m. and 4:30 p.m. to 5:30 p.m., Monday through Saturday, except Federal holidays, the draws need not open for the passage of vessels. However, the draws shall open at 8: a.m. and 5 p.m. if any vessels are waiting to pass.

(2) The draw of the Memorial bridge, mile 830.6, Halifax River at Daytona Beach shall open on signal, except that from 7:45 a.m. to 8:45 a.m. and 9:45 p.m. to 5:45 p.m., Monday through Saturday, except Federal holidays, the draw need not open for the passage of vessels. However, the draw shall open at 8:15 a.m. and 5:15 p.m. if any vessels are waiting to pass.

(3) During periods when storm signals are displayed in the Daytona Beach area, the draw of these bridges shall open on signal. Storm signals are displayed upon notification by the National Weather Service that winds of up to 33 knots or more and/or sea conditions considered dangerous to small craft are expected.

(c) The draw of the Harris Saxon bridge, mile 896.5, at New Smyrna Beach shall open on signal, except that from March 15 through October 15 on Saturdays, Sundays, and Federal holidays from 3 p.m. to 6 p.m., the draw need open only on the hour and half hour.

(d) The draw of the Florida East Coast railroad bridge, mile 876.6, Indian River near Jay Jay shall open as follows:

(1) The bridge will not be manned by a regular attendant.

(2) The bascule span will normally be in the open position, displaying flashing green signals, to allow the movement of water traffic.

(3) When a train approaches the bridge, the navigation signals will go to flashing red, and a horn starts four blasts, pauses and then continues four blasts, etc.

(4) After an eight-minute time delay, the bridge will lower and lock providing the scanning equipment reveals nothing under the bridge. Train crews can hold the bridge down by pushing a hold button, and the bridge will remain down for a period of eight minutes or while the approach track circuit is occupied.

(5) After the train has cleared, the bridge will raise and the signals will return to flashing green for navigation.

(e) The draw of the SR402 bridge, mile 878.9, Indian River at Titusville shall open on signal except that from 6:45 a.m. to 7:45 a.m. and 4:15 p.m. to 5:45 p.m., Monday through Friday, the draw need not open for the passage of vessels.

(f) The draw of the SR518 bridge, mile 914.4, Indian River at Eua Gallie shall open on signal, except that from 6:45 a.m. to 8:15 a.m. and 4:15 p.m. to 5:45 p.m., Monday through Friday, the draw need not open for the passage of vessels. The draws shall open at 8:15 a.m. and 4:15 p.m. if any vessels are waiting to pass. From 8:45 a.m. to 3:45 p.m., Monday through Friday, except Federal holidays, the draw need open only on the quarter and three-quarter hour.

(g) The draw of the SR516 bridge, mile 918.2, Indian River at Melbourne shall open on signal, except that from 6:45 a.m. to 8:15 a.m. and 4:14 p.m. to 5:45 p.m., Monday through Friday, the draw need not open for the passage of vessels.

(h) The draw of the John F. Kennedy Space Center, NASA, SR405 bridge, mile 885.0, Indian River at Addison Point shall open on signal except that from 6:45 a.m. to 8 a.m. and 4:15 p.m. to 5:45 p.m., Monday through Friday, the draw need not open for the passage of vessels.

(i) The draw of the SR60 bridge, mile 951.9, Indian River at Vero Beach shall open on signal, except that from 6:45 a.m. to 9 a.m., 12 noon to 1:15 p.m. and 4 p.m. to 5:15 p.m., Monday through Friday, except Federal holidays, the draw need not open for the passage of vessels; however, the draw shall open at 8:30 a.m., 12:30 p.m., and 4:30 p.m. if any vessels are waiting to pass.

(1) During periods when storm signals are displayed in the Vero Beach area,

the draw shall open on signal. Storm signals are displayed upon notification by the National Weather Service that winds of up to 33 knots or more and/or sea conditions considered dangerous to small craft are expected.

(j) The draw of the Parker bridge, mile 1013.7, at North Palm Beach shall open on signal except that from November 15 through April 15, from 7 a.m. to 7 p.m., the draw need open only on the hour and half-hour.

(k) The draw of the SR A–1–A Flagler Memorial bridge, mile 1021.9, Lake Worth at Palm Beach shall open on signal, except that from November 1 to May 31, Monday through Friday, except Federal holidays, the draw need not open from 8 a.m. to 9:30 a.m. and from 4 p.m. to 5:45 p.m.; however, the draw shall open at 8:30 a.m. and 4:45 p.m., if any vessels are waiting to pass. From 9:30 a.m. to 4 p.m., the draw need open only on the hour and half hour. At all other times the draw shall open on signal.

(l) The draw of the SR704 Royal Park bridge, mile 1022.6, Lake Worth at Palm Beach shall open on signal, except that from November 1 through May 31, Monday through Friday, except Federal holidays, the draw need not open from 8 a.m. to 9:30 a.m. and from 3:30 p.m. to 5:45 p.m.; however, the draw shall open at 8:45 a.m., at 4:15 p.m. and 5 p.m., if any vessels are waiting to pass. From 9:30 a.m. to 3:30 p.m., the draw need open only on the quarter and three-quarter hour. At all other times the draw shall open on signal.

(m) The draw of the Southern Boulevard bridge SR700/80, mile 1024.7, Lake Worth, at Palm Beach, shall open on signal, except that from November 1 through May 31, Monday through Friday, except Federal holidays, the draw need not open from 7:30 a.m. to 9:00 a.m. and from 4:30 p.m. to 6:30 p.m.; however, the draw shall open at 8:15 a.m. and 5:30 p.m. if any vessels are waiting to pass.

(n) The draw of the Atlantic Avenue bridge SR806, mile 1039.6, at Delray Beach shall open on signal except that from November 1 to May 31 from 10 a.m. to 6 p.m., Monday through Friday, the draw need open only on the hour and half hour.

(o) The draw of the N.E. 14th Street bridge, mile 1055.0, at Pompano shall open on signal, except that from 7 a.m. to 6 p.m. the draw need open only on the quarter and three-quarter hour.

(p) The draw of the Atlantic Boulevard bridge SR814, mile 1056.0, at Pompano, shall open on signal, except that from 7 a.m. to 6 p.m. the draw need open only on the hour and half hour.

(q) The draw of the Commercial Boulevard bridge, mile 1059.0, at Lauderdale-by-the-Sea shall open on signal, except that from November 1 through May 15 from 12 noon to 6 p.m., Monday through Saturday, and from 9 a.m. to 6 p.m. on Sunday, the draw need open only on the hour, quarter-hour, half hour, and three-quarter hour.

(r) The draw of the Sunrise Boulevard bridge SR838, mile 1062.6, New River Sound at Fort Lauderdale shall open on signal, except that from November 15 through May 15 from 7:15 a.m. to 6:15 p.m., the draw need open only on the quarter and three-quarter hour.

(s) The draw of the S.E. 17th Street, Brooks Memorial bridge, mile 1065.9, Stranahan River at Fort Lauderdale shall open on signal, except that from 7 a.m. to 7 p.m. the draw need not reopen for a period of 15 minutes after each closure. The owner of or agency controlling the bridge will display on both sides thereof a time clock acceptable to the District Commander, which will indicate to approaching vessels the number of minutes remaining before the draw will be available for opening.

(t) The draw of the Hollywood Beach Boulevard bridge SR820, mile 1072.2, at Hollywood shall open on signal except that:

(1) From November 15 through May 15 from 10 a.m. to 6 p.m. the draw need open only on the hour and half hour and;

(2) From May 16 through November 14 on Saturdays, Sundays, Memorial Day, Independence Day, Labor Day and Veterans Day from 9 a.m. to 7 p.m., the draw need open only on the hour and half hour.

(u) The draw of the Hallandale Beach Boulevard bridge SR824, mile 1074.0, at Hallandale shall open on signal, except that from 7:15 a.m. to 6:15 p.m. the draw need open only on the quarter and three-quarter hour.

(v) The draw of the N.E. 163rd Street bridge SR826, mile 1078.0 Biscayne Creek at Sunny Isles shall open on signal, except that from 7 a.m. to 6 p.m., Monday through Friday, and 10 a.m. to 6 p.m., Saturdays, Sundays, and Federal holidays the draw need open only on the quarter and three-quarter hour.

(w) Biscayne Bay.

(1) The draw of the Broad Causeway bridge, mile 1081.4, at Bay Harbor Islands shall open on signal, except that from 8 a.m. to 6 p.m. the draw need open only on the hour and half hour.

(2) The draw of the West Span of the Venetian Causeway, mile 1088.6, at Miami shall open on signal, except that from November 1 through April 30 from 7 a.m. to 9 a.m. and 4:30 p.m. to 6:30 p.m. the draw need open only on the hour and half hour. The draw shall open on signal at any time on Thanksgiving, Christmas, New Year's Day, and Washington's birthday.

(3) The draw of the MacArthur Causeway bridge, mile 1088.8, at Miami shall open on signal, except that from November 1 through April 30 from 7 a.m. to 9 a.m. and 4:30 p.m. to 6:30 p.m. the draw need open only on the hour and half hour.

(4) The draws of the Dodge Island bridges, mile 1089.4, Biscayne Bay at Miami shall open on signal, except that from 7:15 a.m. to 5:45 p.m., Monday through Saturday, except Federal holidays, the draws need open only on the quarter and three-quarter hour.

(5) The draw of the Rickenbacker Causeway bridge, mile 1091.6, at Miami shall open on signal except, that from 7:30 a.m. to 9 a.m. and 4:30 p.m. to 6 p.m., Monday through Friday, except Federal holidays, and 11 a.m. to 6 p.m. on Saturdays, Sundays, and holidays the draw need open only on the hour and half hour. However, during the display of small craft warnings or warnings for winds of greater force by the National Weather Service affecting the area, the draw shall open for the passage of vessels at any time.

§ 117.145–3 Banana River.

The draw of the NASA Causeway bridge, mile 27.6, at Cape Kennedy shall open on signal if at least four hours notice is given to the NASA Security Office by telephone or in person.

§ 117.145–5 Bayou Chico.

The draw of the highway bridge, mile 0.3, at Pensacola shall open on signal, except that from 7:30 a.m. to 8:30 a.m., 3:30 p.m. to 4:30 p.m., and 5 p.m. to 5:30 p.m., Monday through Friday, except Federal holidays the draw need not open for the passage of vessels.

§ 117.145–7 Big Carlos Pass.

The draw of the SR865 bridge, mile 0.0, between Estero Island and Black Island shall open on signal from 8 a.m. to 7 p.m. The draw need not open from 7 p.m. to 8 a.m.

§ 117.145–9 Biscayne Bay.

The draw of the East Span of the Venetian Causeway bridge, mile 1088.6, between Miami and Miami Beach shall open on signal, except that from November 1 through April 30 from 7:15 a.m to 8:45 a.m. and 4:45 p.m. to 6:15 p.m., Monday through Friday, except Federal holidays, the draw need not open; however, the draws shall open at 7:45 a.m., 8:15 a.m., 5:15 p.m. and 5:45 p.m., if any vessels are waiting to pass.

§ 117.145–11 Blackwater River.

The draw of the SR10 bridge, mile 0.8, at Milton shall open on signal if at least 12 hours notice is given.

§ 117.145–13 Boca Ciega Bay, GIWW.

(a) The draw of the Corey Causeway bridge SR693, mile 117.7, at South Pasadena shall open on signal except that from 8 a.m. to 7 p.m., Monday through Friday, and 10 a.m to 7 p.m., Saturdays, Sundays, and Federal holidays, the draws need not open on the hour, 20 minutes after the hour and 40 minutes after hour.

(b) The draw of the Treasure Island Causeway bridge, mile 119.0, at Central Avenue shall open on signal, except that from 3 p.m. to 6 p.m., Monday through Friday, and from 11 a.m. to 6 p.m., Saturdays, Sundays, and Federal holidays, the draw need not open except on the hour, quarter-hour, half hour, and three-quarter hour.

(c) The draw of the Welch Causeway bridge SR699, mile 122.8, at Madiera Beach shall open on signal, except that from 9:30 a.m. to 6 p.m., on Saturdays, Sundays, and Federal holidays, the draw need open only on the hour, 20 minutes after the hour and 40 minutes after the hour.

§117.145–15 Canaveral Harbor Barge Canal.

The draw of the SR A–1–A bridge, mile 1.0, near Indianola on Merritt Island shall open on signal, except that from 6:45 a.m. to 7:45 a.m. and 4:15 p.m. to 5:45 p.m., Monday through Friday, except Federal holidays, the draw need not open for the passage of vessels. From 10 p.m. to 6 a.m. the draw shall open on signal if at least three hours notice is given.

§117.145–17 Canaveral Harbor.

The draw of the SR401 bridge, mile 5.5, near Cape Canaveral shall open on signal, except that from 6:30 a.m. to 8 a.m. and 3:30 p.m. to 5:15 p.m., Monday through Friday, except Federal holidays, the draw need not open for the passage of vessels. From 10 p.m. to 6 a.m. the draws shall open on signal if at least three hours notice is given.

§ 117.145–19 Choctawhatchee River.

The draw of the SR20 bridge, mile 20.0, at Ebro shall open on signal if at least 12 hours notice is given.

§117.145–21 Clearwater Harbor GIWW.

The draw of the Clearwater Memorial Causeway SR60 bridge, mile 136.0, at Clearwater shall open on signal except that from 9 a.m. to 6 p.m., the draw need not open except on the hour, 20 minutes past the hour, and 40 minutes past the hour. From 2 p.m. to 6 p.m. Saturdays, Sundays, and Federal holidays, the draw need open only on the hour and half hour. At all other times, the draw shall open on signal.

§ 117.145–23 Clearwater Pass.

The draw of the SR699 bridge, mile 0.0, at Clearwater Beach shall open on signal from 7 a.m. to 11 p.m. From 11 p.m. to 7 a.m. a delay of up to 10 minutes may be expected.

§ 117.145–25 Coffee Pot Bayou.

The draw of the Snell Isle Boulevard bridge, mile 0.4, at St. Petersburg, need not open for the passage of vessels.

§ 117.145–27 Dead River.

The draw of the Family Lines Rail System (Seaboard Coast Line) railroad bridge, mile 0.3, at Tavares shall open on signal from 6 a.m. to 10 p.m. From 10 p.m. to 6 a.m. the draw need not open for the passage of vessels.

§ 117.145–29 Dunns Creek.

The draw of the US 17 bridge, mile 0.9, near Satsuma shall open on signal if at least three hours notice is given.

§ 117.145–31 Gasparilla Sound.

The southerly draw of the Family Lines Rail System (Seaboard Coast Line) railroad bridge, mile 1.3, between Placida and Gasparilla shall open on signal from 6 a.m. to 6 p.m. From 6 p.m. to 6 a.m. the draw need not open for the passage of vessels.

§ 117.145–33 Hatchett Creek.

The draw of the US 41 bridge, mile 56.9, GIWW, at Venice shall open on signal from 6 p.m. to 7:30 a.m. From 7:30 a.m. to 6 p.m. the draw need open only on the hour, quarter-hour, half-hour, and three-quarter hour.

§ 117.145–35 Hillsboro Inlet.

The draw of the SR A–1–A bridge, mile 0.3, at Hillsboro Beach shall open on signal from 6 p.m. to 7 a.m. From 7 a.m. and 6 p.m. the draw need only on the hour, quarter-hour, half hour, and three-quarter hour.

§ 117.145–37 Hillsborough River.

(a) The draws of the highway bridges at Platt Street, mile 0.0, Brorein Street, mile 0.1, and Kennedy Boulevard, mile 0.4, all at Tampa, shall open on signal from 6 a.m. to 10 p.m., except that from 7:30 a.m. to 9 a.m. and 4 p.m. to 6:16 p.m., Monday through Saturday, the draws need not open for the passage of vessels. From 10 p.m. to 6 a.m. the draws shall open on signal if at least two hours notice is given.

(b) The draws of the Cass Street bridge, mile 0.7, and the Laurel Street bridge, mile 1.0, shall open on signal from 6 a.m. to 10 p.m. From 10 p.m. to 6 a.m., the draws shall open on signal if at least two hours notice is given.

(c) The draw of the Family Lines Rail System (Seaboard Coast Line) railroad bridge, mile 0.7, shall open on signal from 4 p.m. to 12 midnight. At all other times, the draw shall be maintained in the open to navigation position.

(d) The draws of the West Columbus Drive bridge, mile 2.3, and the Hillsborough Avenue bridge S 580–US 41–92, mile 4.8, both at Tampa shall open on signal from 8 a.m. to 6 p.m. From 6 p.m. to 8 a.m. the draws shall open on signal if at least a one hour notice is given.

§ 117.145–39 Hudson Bayou.

The draw of the Orange Avenue bridge, mile 0.2, at Sarasota need not open for the passage of vessels.

§ 117.145–41 Indian Creek.

The draw of the 63rd Street bridge, mile 4.0, at Miami Beach shall open on signal except that from December 1 through April 15 from 11 a.m. to 6 p.m. the draw need open only on the hour.

§ 117.145–43 Kissimmee River.

(a) The removable span of the SR 78 bridge, mile 0.5, and the removable span of the SR 70 bridge, mile 19.5, both at or near Okeechobee shall be removed if at least 72 hours notice is given.

(b) The draw of the Seaboard Coast Line railroad bridge, mile 37.0, at Fort Bassinger shall open, if at least 72 hours notice is given, for passage of floating equipment employed in flood control work under the jurisdiction of the Central and South Florida Water Management District or the U.S. Army Corps of Engineers. The draw need not open for other vessels.

(c) The removable span of the SR 98 bridge, mile 39.0, at Fort Bassinger shall be removed if at least 96 hours notice is given.

§ 117.145–45 Little Manatee River.

The draw of the Family Lines Rail System (Seaboard Coast Line) railroad bridge, mile 2.4, at Ruskin shall open on signal if at least three hours notice is given.

§ 117.145–47 Longboat Pass.

The draw of the SR789 bridge, mile 0.0, between Longboat Key and Anna Marie Key near Bradenton Beach shall open on signal from 6 a.m. to 6 p.m. The draw shall open on signal from 6 p.m. to 6 a.m. if at least three hours notice is given.

§ 117.145–49 Manatee River.

The draw of the US41 bridge, mile 4.3, at Manatee, shall open on signal from 6 a.m. to 7 a.m. and 9 a.m. to 4 p.m. The draw need not open for the passage of vessels from 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m. The draw shall open at 6 p.m. if any vessels are waiting to pass. From 6 p.m. to 6 a.m. the draw shall open on signal if at least three hours notice is given.

§ 117.145–51 Matlacha Pass.

The draw of the SR78 bridge, mile 6.0, at Fort Myers shall open on signal from 8 a.m. to 7 p.m. From 7 p.m. to 8 a.m. the draw need not open for the passage of vessels.

§ 117.145–53 Miami River.

The draw of each bridge from the mouth (mile 0.0) to and including the bridge at N.W. 27th Avenue, mile, shall open on signal except that from 7:30 a.m. to 9 a.m. and 4:30 p.m. to 6 p.m., Monday through Friday, except Federal holidays, the draws need not open for the passage of vessels. During the period of a hurricane alert issued by the Hurricane Center all bridges shall open on signal.

§ 117.145–55 Miami River, North Fork.

The draw of the Family Lines Rail System (Seaboard Coast Line) railroad bridge, mile 5.3, at Hialeah shall open on signal from 8:30 a.m. to 5:30 p.m., Monday through Friday. At all other times the draw shall open on signal if at least three hours notice is given.

§ 117.145–57 Moser Channel, Seven Mile bridge, near Marathon.

The draw need not open for the passage of vessels.

§ 117.145–59 Myakka River.

The draw of the Family Lines Rail System (Seaboard Coast Line) railroad bridge, mile 3.1, between El Jobean and Charlotte Beach, shall open on signal from 7 a.m. to 7 p.m. From 7 p.m. to 7 a.m. the draw shall open on signal if at least six hours notice is given.

§ 117.145–61 Nassau Sound.

The draw of the Fernandina Port Authority bridge, SR A–1–A, mile 0.4, between Amelia Island and Talbot Island, shall open on signal from 6 a.m. to 6 p.m. if at least six hours notice is given. The draw need not open from 6 p.m. to 6 a.m.

§ 117.145–63 New Pass.

The draw of the SR789 bridge, Sarasota County, shall open on signal from 6 p.m. to 7:30 a.m. From 7:30 a.m. to 6 p.m. the draw need open only on the hour, quarter-hour, half hour and three-quarter hour.

§ 117.145–65 New River.

(a) The draw of the S.E. Third Avenue Bridge, mile 1.4, at Fort Lauderdale, shall open on signal except that from 7:30 a.m. to 8:30 a.m. and 4:30 p.m. to 5:30 p.m., Monday through Friday, the draw need not open for the passage of vessels.

(b) The draw of the Andrews Avenue bridge, mile 2.3, at Fort Lauderdale, shall open on signal, however, the draw need not open for an upbound vessel when the draws of the Family Lines Rail System (Seaboard Coast Line) railroad bridge, mile 2.5, are in the closed to navigation position to allow the passage of a train.

§ 117.145–67 New River, South Fork.

(a) The draw of the Southwest 12th Street Bridge, mile 0.9, at Fort Lauderdale shall open on signal, except that from 7:30 a.m. to 8:30 a.m. and 4:30 p.m. to 5:30 p.m., Monday through Friday, the draws need not open for the passage of vessels.

(b) The draw of the SR84 bridge, mile 4.4, at Fort Lauderdale shall open on signal if at least 24 hours notice is given.

§ 117.145–69 Okeechobee Waterway.

(a) The draw of the Belle Glade Dike bridge, SR717, mile 60.7, between Torry Island and Lake Shore near Belle Glade, shall open on signal from 7 a.m. to 6 p.m., Monday through Thursday, and from 7 a.m. to 7 p.m., Friday through Sunday. At all other times the draw need not open for the passage of vessels.

(b) The draws of the Family Lines Rail System (Seaboard Coast Line) railroad bridge, mile 78.3, Caloosahatchee Canal at Moorehaven, shall open on signal from 6 a.m. to 10 p.m. From 10 p.m. to 6 a.m. the draw need not open for the passage of vessels.

(c) The draw of the US27 bridge, mile 78.4, at Moorehaven; the SR29 bridge, mile 103.0, at LaBelle; the SR78A bridge, mile 108.2, at Denaud; the SR78A bridge, mile 116.0, at Alva; and the SR78A bridge, mile 126.3, near Olga; all across the Caloosahatchee Canal and River, shall open on signal from 6 a.m. to 10 p.m. The draws shall open on signal from 10 p.m. to 6 a.m. if at least three hours notice is given.

(d) The draw of the Edison Memorial bridge US41, mile 134.5, Caloosahatchee River at Fort Myers, shall open on signal, except that from 7:30 a.m. to 8:30 a.m. and from 5 p.m. to 6 p.m., Monday through Friday, except Federal holidays, the draw need not open for the passage of vessels.

(e) The draws of the Florida East Coast railroad bridges across the Loxahatchee River, mile 1.2, at Jupiter; the St. Lucie River, mile 7.5, at Stuart; and the St. Lucie Canal, mile 38.0, at Port Mayaca; shall open as follows:

(1) The bridges will not be manned by a regular attendant.

(2) The spans will normally be in the open to navigation position, displaying flashing green signals, to allow the movement of water traffic.

(3) When a train approaches one of the bridges, the navigation signals will go to flashing red, and a horn starts four blasts, pauses and then continues four blasts, etc.

(4) After an eight-minute time delay, the bridge will lower and lock, providing the scanning equipment reveals nothing under the bridge. Train crews can hold the bridge down by pushing a hold button, and the bridge will remain down for a period of eight minutes or while the approach track circuit is occupied.

(5) After the train has cleared, the bridge will raise and the signals will return to flashing green for navigation.

(f) The draw of the Family Lines Rail System (Seaboard Coast Line) railroad bridge, mile 28.5, St. Lucie Canal, at Indiantown shall open on signal from 6 a.m. to 10 p.m. From 10 p.m. to 6 a.m. the draw shall open on signal if at least three hours notice is given.

(g) The draw of the Roosevelt bridge US 1, mile 7.5, St. Lucie River at Stuart shall open on signal, except that from 7:30 a.m. to 9 a.m. and 4:30 p.m. to 6 p.m., Monday through Friday, the draw need open only on the hour and half hour.

§ 117.145–71 Oklawaha River.

The draws of the Sharpes Ferry bridge SR 40, mile 55.1; Muclan Farms bridge, Southwest Florida Water Management District, mile 63.9; Moss Bluff bridges, SR 464, mile 66.0; and the Starkes Ferry bridge, SR 42, mile 73.0; shall open on signal if at least three hours notice is given.

§ 117.145–73 Orange River.

The draw of the SR 80 bridge, mile 0.9, between Fort Myers Shores and Tice shall open on signal if at least 24 hours notice is given.

§ 117.145–75 Peace River.

The draw of the Barron Collier bridge US 41, mile 2.0, at Punta Gorda, shall open on signal from 6 a.m. to 10 p.m. From 10 p.m. to 6 a.m. the draws shall open on signal if at least two hours notice is given.

§ 117.145–77 Ringling Causeway.

The draw of the SR 780 bridge, mile 73.6, at Sarasota, shall open on signal from 6 p.m. at 7:30 a.m. From 7:30 a.m. to 6 p.m. the draw need open only on the hour and half hour.

§ 117.145–79 Santa Rosa Sound.

The draw of the Santa Rosa Island Authority bridge SR 399, mile . , at Santa Rosa Sound, shall open on signal except that from Memorial Day through Labor Day from 3 p.m. to 6 p.m. on Saturdays, Sundays, and Federal holidays, the draw need not open for the passage of vessels.

§ 117.145–81 St. Johns River.

(a) The draws of the Main Street bridge, US 17, mile 24.7; the Acosta bridge, mile 24.9; and the Fuller Warren bridge, I 95–I 10, mile 24.5, at Jacksonville, shall open on signal, except that from 7:30 to 9 a.m. and 4:30 p.m. to 6 p.m., Monday through Saturday, except Federal holidays, the draw need not open for the passage of vessels.

(b) The draw of the Florida East Coast automated railroad bridge, mile 24.9, shall be operated as follows:

(1) The bridge shall be constantly manned by a bridge supervisor who has a mechnical override capability for the automated operation.

(2) The bridge will normally be in the open position displaying flashing green lights to indicate that water traffic may pass.

(3) When a train approaches the bridge, large signs on both the upstream and downstream sides of the bridge will flash "bridge coming down," the navigational lights will go to flashing red, and the siren signals will sound.

(4) After an eight-minute delay, the bridge will lower and lock if there are no vessels under the bridge. Train crews can hold the bridge down by pushing a hold button, and the bridge will remain down for a period of eight minutes or while the approach track circuit is occupied.

(5) After the train has cleared, the bridge will open and the light signals will return to flashing green.

(6) A radiotelephone will be maintained at the bridge for the safety of navigation.

§ 117.145–83 St. Marks River.

The draw of the US 98 bridge, mile 9.0, at St. Marks, shall open on signal if at least 48 hours notice is given to the State Road Department Maintenance Office at Tallahassee.

§ 117.145–85 Steinhatchee River.

The draw of the SR 358 bridge, mile 2.3, at Stevensville shall open on signal if at least three hours notice is given.

§ 117.145–87 Suwanee River.

The draw of the Family Lines Rail System (Seaboard Coast Lines) railroad bridge, mile 35.0, at Old Town shall open on signal if at least five days notice is given.

§ 117.145–89 Taylor Creek.

The draw of US 90–SR 15–SR 7000 bridge, mile 0.3, at Okeechobee shall open on signal if at least two hours notice is given.

§ 117.145–91 Trout River.

The draw of the Family Lines Rail System (Seaboard Coast Line) railroad bridge, mile 0.9, at Panama Park shall open on signal from 6 a.m. to 10 p.m. From 10 p.m. to 6 a.m. the draw shall open on signal if at least 12 hours notice is given.

§ 117.145–93 West Palm Beach Canal.

The draw of the US 441 bridge, mile 0.1, at West Palm Beach shall open on signal if at least 24 hours is given.

§ 117.145–95 Whitcomb Bayou.

The draw of the highway bridge, mile 0.5, at Tarpon Springs shall open on signal from 9 a.m. to 6 p.m. on Saturdays and Sundays. The draw shall open on signal if at least two hours notice is given at all other times.

§ 117.150 Georgia.

The following navigable waterways in Georgia are listed alphabetically and are crossed by drawbridges that have certain periods when the draws need not open for the passage of vessels or have special operation regulations. All drawbridges in Georgia are required to operate as provided by Subpart A.

§ 117.150–1 Altamaha River.

The draws of all bridges except the Family Lines Rail System (Seaboard Coast Line) railroad bridge, mile 59.4, at Doctortown shall open on signal if at least 24 hours notice is given. The draw of the Family Lines Rail System (Seaboard Coast Line) railroad bridge at Doctortown shall open on signal if at least seven days notice is given.

§ 117.150–3 Black River.

The draw of the Torras Causeway bridge, mile 1.5 near Brunswick shall open on signal, except that from 6 a.m. to 9 a.m. and 4 p.m. to 6 p.m. the draw need not open for the passage of vessels; however the draw shall open at 7. a.m., 8 a.m., and 5 p.m., if any vessels are waiting to pass.

§ 117.150–5 Flint River.

The draws of the Family Lines System (Seaboard Coast Line) railroad bridges, miles 28.0 and 28.7, both at Bainbridge shall open on signal if at least 15 days notice is given.

§ 117.150—7 . Frederica River.

The draw of the Torras Causeway bridge, mile 675.5, AIWW, Near St. Simons, shall open on signal, except that from 7:30 a.m. to 9:30 a.m. and 4:30 p.m. to 6:30 p.m., Monday through Friday, except Federal holidays, the draw need open only on the hour and half hour.

§ 117.150–9 Ocmulgee River.

The draws of each bridge shall open on signal if at least 24 hours notice is given.

§ 117.150–11 Oconee River.

The draw of the SR 46 bridge, mile 44.3, near Soperton shall open on signal if at least 24 hours notice is given.

§ 117.150–13 Ogeechee River.

(a) The draw of the Family Lines Rail System (Seaboard Coast Line) railroad bridge, mile 30.7 at Richmond Hill shall open on signal if at least 15 days notice is given.

(b) The draw of the highway bridge, mile 37.8, near Richmond Hill need not open for the passage of vessels.

§ 117.150–15 Satilla River.

(a) The draw of the Family Lines Rail System (Seaboard Coast Line) railroad bridge, mile 25.7, at Woodbine shall open on signal if at least 24 hours notice is given.

§ 117.150–17 Savannah River.

(b) The draw of the Family Lines Rail System (Seaboard Coast Line) railroad bridge, mile 60.9, at Clyo shall open on signal from 6 a.m. to 11 a.m. and from 12 noon to 3 p.m. At all other times the draw shall open on signal if at least three hours notice is given. Contact may be made by VHF radiotelephone maintained at the bridge tender's house and the dispatcher's office in Savannah.

(a) The draw of the Family Lines Rail System (Seaboard Coast Line) railroad bridge, mile 135.4, near Augusta shall open on signal if at least three hours notice is given.

§ 117.150–19 St. Marys River.

The draws of the US17 bridge, mile 23.0, and the Family Lines Rail System (Seaboard Coast Line) railroad bridge, mile 23.1, both at Kingsland shall open on signal if at least 48 hours notice is given.

§ 117.150–21 Wilmington River.

(a) The draw of the Causton Bluff SR26 bridge, mile 579.9, near Causton Bluff shall open on signal, however, from 7:30 a.m. to 9 a.m. and 4:30 p.m. to 6 p.m., Monday through Friday, except Federal holidays, the draw need not

open, except at 8:10 a.m. and 5:20 p.m., if any vessels are waiting to pass.

(b) The draw of the SR80 bridge, mile 582.8, at Thunderbolt shall open on signal, however, from 7:45 a.m. to 9:15 a.m. and 5 p.m. to 6:30 p.m., Monday through Friday, except Federal holidays, the draw need not open, except at 8:30 a.m. and 5:45 p.m., if any vessels are waiting to pass.

§ 117.155 Hawaii.

The following drawbridge in Hawaii has certain periods when the draw need not open for the passage of vessels and has special regulations. There are no other drawbridges in Hawaii.

§ 117.155–1 Honolulu Harbor, Sand Island.

The draw of the Slattery (Kalihi Channel) bridge, mile 1.8, shall open on signal from 5 a.m. to 6 a.m. and 6 p.m. to 7 p.m., Monday through Friday, except Federal holidays. On Saturdays, Sundays, and Federal holidays from 5 a.m. on Saturdays through 5 a.m. on Mondays or on Federal holidays, the draw shall open on signal if at least six hours notice is given to the Honolulu Harbor Control Unit at Aloha Tower. In the event of emergencies during the closed periods specified above, the Control Unit will be called for clearance. In the event that a seismic sea-wave (tidal wave) is imminent, the bridge shall be opened to full horizontal and vertical clearances upon orders of the Harbor Master, Port of Honolulu Emergency ship movements or imminence of wave arrival may require the bridge to be opened even though all persons have not evacuated the Sand Island area. Every effort shall be made to keep the bridge in the down position as long as reasonably possible; however, the Harbor Master may open the bridge within thirty (30) minutes of estimated time of wave arrival if he deems it necessary to protect life and property. In addition to the visual signals, two amber lights in a vertical line, six feet apart, will be mounted on the bridge control tower. The upper amber light shall be flashing and, when exhibited, shall indicate incoming traffic only. The lower amber light shall be fixed and, when exhibited, shall indicate outgoing traffic only. When both harbor lights are exhibited, the harbor is closed to all traffic. Vessels longer than 150 feet shall not pass through the opened bridge span at the same time whether moving in the same direction or approaching each other from opposite directions. When vessels less than 150 feet long are approaching the bridge from opposite directions, the vessels approaching from seaward shall have the right-of-way.

§ 117.160 Idaho.

The following navigable waterways in Idaho are listed alphabetically and are crossed by drawbridges that have certain periods when the draws need not open for the passage of vessels or have special operation regulations. All other drawbridges in Idaho are required to operate as provided by Subpart A.

§ 117.160–1 Clearwater River.

The draws of the Union Pacific (Camas Prairie) railroad bridge, mile 0.6, at Lewiston shall open on signal if at least three hours notice is given to the Camas Prairie Railroad in Lewiston.

§ 117.160–3 Pend Oreille River.

The draw of the Burlington Northern railroad bridge, mile 111.3, near Sandpoint need not open for the passage of vessels.

§ 117.160–5 Snake River.

(a) The draw of the US12 bridge, mile 140.0, between Lewiston, Idaho and Clarkston, Washington, shall open at the following times if at least two hours notice is given to the Washington State Department of Highways.

(1) From March 15 through November 15—6 a.m., 10 a.m., 3 p.m., 7 p.m., and 9 p.m.

(2) From November 16 through March 14—9 a.m., 10 a.m., 2 p.m., and 3 p.m.

(3) The draw need not open at all other times.

§ 117.165 Illinois.

The following navigable waterways in Illinois are listed alphabetically and are crossed by drawbridges that have certain periods when the draw need not open for the passage of vessels or have special operation regulations. All other drawbridges in Illinois are required to operate as provided by Subpart A.

§ 117.165–1 Calumet River.

The draws of the Conrail bridges, mile 1.4 and 1.5, at Chicago shall open on signal. However, the draws need not open if either one of the bridges is inoperable because of equipment breakdown.

§ 117.165–3 Chicago River.

(a) The draws of the bridges across the Chicago River from its mouth to the junction of the North and South Branches; the South Branch from the junction to and including the West Roosevelt Road; and the North Branch to and including North Kinzie Street and the Northwest Expressway Feeder Bridge; shall open on signal, except that from Monday through Friday, from 7:30 a.m. to 10 a.m. and 4 p.m. to 6:30 p.m. the draws need not open for the passage of vessels.

(b) The draws of the bridges across the North Branch of the Chicago River at Grand Avenue and all bridges north of the Northwest Expressway Feeder Bridge to and including North Halsted Street; and the bridges across the South Branch of the Chicago River south of South Halsted Street; shall open on signal, except that from 7 a.m. to 8 a.m., and 5:30 p.m. to 6:30 p.m. the draws need not open for the passage of vessels.

(c) From January 1 through March 31, the draws of the highway bridges across the Chicago River, the North Branch of the Chicago River, North Branch Canal and the South Branch of the Chicago River shall open on signal if at leat 12 hours notice is given.

(d) The Randolph Street, Cermak Road, Throop Street and Loomis Street bridges across the South Branch of the Chicago River, the North Halsted Street bridge across the North Branch Canal and the West Kinzie Street bridge across the North Branch of the Chicago River shall open on signal from April 1 through December 31.

(e) The draw of the Milwaukee Line railroad bridge across the North Branch Canal shall open on signal if at least one hour notice is given.

(f) Constant attendance is not required at the following City of Chicago bridges:

Chicago River, South Branch

Washington Street
Madison Street
Monroe Street
Adams Street
Jackson Boulevard
Van Buren Street
Congress Street (Eisenhower Expressway)
Harrison Street
Roosevelt Road
Eighteenth Street
Canal Street
South Halsted Street

West Fork of the South Branch

South Ashland Avenue
South Damen Avenue

Chicago River, North Branch

Grand Avenue
Chicago Avenue
North Halsted Street
Ogden Avenue
Division Street

North Branch Canal

Ogden Avenue
Divison Street

Roving drawtenders shall open these bridges not more than 30 minutes after notification to the Port Director's Office.

(g) The draws of bridges across the North Branch Canal that have a vertical clearance of less than 17 feet above Low Water Datum for Lake Michigan shall

open at any time to permit the passage of tugs and tugboats.

(h) The draws of any of the bridges listed in this section shall be opened as soon as possible for the passage of emergency vessels of the City of Chicago or public vessels of the United States.

(i) The draw of the Lake Shore Drive Bridge across Ogden Slip need not open for passage of vessels.

(j) The draws of the North Avenue, Cortland Street, Webster Avenue, North Ashland Avenue, Chicago and Northwestern Railroad, North Damen Avenue, and Belmont Avenue bridges across the North Branch of the Chicago River need not open for the passage of vessels.

§ 117.165–5 Illinois River.

(a) The draw of the automated Burlington Northern railroad bridge, mile 88.8, at Beardstown, Illinois will normally be maintained in the open position, providing a minimum vertical clearance of 68.4 feet above normal pool.

(b) When a vessel is approaching, and the liftspan is in the open position, contact shall be established by radiotelephone to assure that the liftspan will remain open until passage has been completed.

(c) When a vessel is approaching and the liftspan is in the closed position, contact shall be established by radiotelephone with the remote operator. If the liftspan CANNOT open promptly, alternate flashing red lights shall be displayed. If the liftspan will open promptly, flashing amber lights shall be displayed.

(d) When a train approaches the bridge and the liftspan is in the open position, alternate flashing red lights on top of the drawspan shall commence flashing and a horn shall sound four short blasts. The remote operator shall scan the river on radar to determine whether any vessels are approaching the bridge. The remote operator shall also broadcast his intentions to lower the liftspan. If a vessel or vessels are approaching the bridge within one mile, as determined by radar scanning, response to radio broadcast, or electronic detector, the flashing red lights shall be changed to flashing amber and the liftspan remain the fully open position until such vessels or vessels have cleared the bridge. If no vessels are approaching the bridge or are beneath the liftspan, the alternate flashing red lights shall continue to flash and the liftspan shall be lowered and locked in place.

(e) After the train has cleared the bridge, the draw shall be raised to its full height and locked in place; the red flashing lights will stop and drawspan lights changed from red to green indicating the navigation channel is clear for the passage of vessels.

§ 117.165–7 Illinois Waterway.

The draws of the highway bridges in Joliet listed below shall open on signal except that they need not open from 7:30 a.m. to 8 a.m. and from 4:30 p.m. to 5:30 p.m., Monday through Saturday: McDonough Street, Mile 287.3, Jefferson Street, Mile 287.9, Cass Street, Mile 288.1, Jackson Street, Mile 288.4.

§ 117.165–9 Wabash River.

The draws of each bridge across the Wabash River shall open on signal if at least 72 hours notice is given.

§ 117.170 Indiana.

The following navigable waterways in Indiana are listed alphabetically and are crossed by drawbridges that have certain periods when the draws need not open for the passage of vessels or have special operation regulations. All other drawbridges in Indiana are required to operate as provided by Subpart A.

§ 117.170–1 Ohio River.

The draw of the Kentucky and Indiana railroad bridge, mile 607.4, at New Albany need not open for the passage of vessels.

§ 117.170–3 Trail Creek.

The draw of the CONRAIL bridge, mile 0.9, at Michigan City shall open on signal from 6:30 a.m. to 2:30 p.m. daily, except Sunday, from February 16 through December 14. The draw will not be manned at all other times. If passage is desired, the Chief Dispatcher, CONRAIL at Chicago shall be notified by collect telephone and he shall arrange to have the draw open within 20 minutes.

§ 117.170–5 Wabash River.

The draws of each bridge shall open on signal if at least 72 hours notice is given.

§ 117.175 Iowa.

The following navigable waterways in Iowa are listed alphabetically and are crossed by drawbridges that have certain periods when the draws need not open for the passage of vessels or have special operation regulations. All other drawbridges in Iowa are required to operate as provided by Subpart A.

§ 117.175–1 Missouri River.

The draws of the bridges across the Missouri River from the mouth to Sioux City, shall open on signal from March 1 through December 15. The draws shall open on signal from December 16 though the last day of February, if at least 24 hours notice is given.

§ 117.180 Kansas.

The following navigable waterways in Kansas are listed alphabetically and are crossed by drawbridges that have certain periods when the draws need not open for the passage of vessels or have special operation regulations. All other drawbridges in Kansas are required to operate as provided by Subpart A.

§ 117.180–1 Missouri River.

The draws of the bridges across the Missouri River from the mouth to Sioux City, Iowa, shall open on signal from March 1 through December 15. The draws shall open on signal from December 16 through the last day of February, if at least 24 hours notice is given.

§ 117.185 Kentucky.

The following navigable waterways in Kentucky are listed alphabetically and are crossed by drawbridges that have certain periods when the draws need not open for the passage of vessels or have special operation regulations. All other drawbridges in Kentucky are required to operate as provided by Subpart A.

§ 117.185–1 Green River.

(a) The draw of the Family Lines Rail System (Louisville and Nashville) railroad bridge, mile 8.3, at Spottsville shall open on signal when there is 40 feet or less of vertical clearance beneath the draw. When the vertical clearance is more than 40 feet at least four hours notice shall be given. During this period if a vessel Captain informs the drawtender during his passage through the draw that the vessel will return within four hours, the drawtender shall remain on duty until the vessel returns but shall not be required to remain for longer than four hours.

(b) The draws of the Family Lines Rail System (Louisville and Nashville) railroad bridges, miles 71.2 and 79.6, at Livermore and Smallhouse are normally maintained in the fully open position and a vessel may pass through the draw without further signals. When the draws are in the closed position they shall open on signal.

(c) The owners of or agencies controlling the Family Lines Rail System (Louisville and Nashville) railroad bridges at miles 8.3 and 71.2, shall arrange for ready telephone communication with the authorized representative at any time from the

bridges or their immediate vicinity. Brief resumés of these regulations shall be conspicuously posted at Green River Navigation Locks Nos. 1, 2, 3, and 4.

(d) The Illinois Central Gulf railroad bridge, mile 95.8, at Rockport is operated as follows:

(1) When the stage of the river permits a vertical clearance of 34 feet or more under the closed draw, as determined from gauges suitably marked to indicate the minimum clearance and attached to the upstream and downstream sides of the bridge, the draw shall open on signal if at least eight hours notice is given. If for any reason the vessel is delayed and cannot arrive for passage at the time specified, the authorized representative shall be promptly notified of the estimated delay for opening the draw.

(2) When the stage of the river does not permit a vertical clearance of 34 feet or more under the closed draw, the draw will normally be maintained in the open to navigation position. Automatic closing for passing of trains will be in effect. The owner of the bridge shall arrange for ready telephone communication with the authorized representative at any time from the bridge or its immediate vicinity. A brief resume of these regulations and the automatic operating procedure shall be conspicuously posted at Green River Navigation Locks Nos. 1, 2, 3 and 4.

§ 117.185–3 Ohio River.

The draw of the Kentucky and Indiana Terminal railroad bridge, mile 607.4, at New Albany, Indiana need not be open for the passage of vessels.

§ 117.190 Louisiana.

The following navigable waterways in Louisiana are listed alphabetically and are crossed by drawbridges that have certain periods when the draws need not open for the passage of vessels or have special operation regulations. All other drawbridges in Louisiana are required to operate as provided by Subpart A.

§ 117.190–1 Amite River.

(a) The draw of the S22 bridge, mile 6.0, at Clio shall open on signal from 9 a.m. to 5 p.m. From 5 p.m. to 9 a.m., the draw shall open on signal if at least 12 hours notice is given.

(b) The draw of the S22 bridge, mile 21.4, near French Settlement shall open on signal if at least 48 hours notice is given.

§ 117.190–3 Black Bayou.

(a) The draw of the Morgan's Louisiana and Texas Railroad and Steamship Company bridge at Southdown, mile —.—, shall open on signal if at least 24 hours notice is given.

(b) The draws of the US 90—S20 bridge, mile 7.0, near Gibson and Terrebonne Parish Police Jury bridges, miles 7.5, 15.0, 18.7, and 22.5, between Gibson and Houma, and the Shell Oil bridge, mile 15.7, at Humphreys shall open on signal if at least 24 hours notice is given.

§ 117.190–5 Boeuf Bayou.

The draw of the S307 bridge, mile 7.3, at Kraemer shall open on signal from 5 a.m. to 9 p.m. From 9 p.m. to 5 a.m., the draw shall open on signal if at least 12 hours notice is given.

§ 117.190–7 Boeuf River.

The draw of the Louisiana highway bridge, mile 32.3, near Mason shall open on signal if at least 48 hours notice is given.

§ 117.190–9 Bonfouca Bayou.

The draw of the S433 bridge, mile 7.9, at Slidell shall open on signal from 5 a.m. to 9 p.m. From 9 p.m. to 5 a.m., the draw shall open on signal if at least 12 hours notice is given.

§ 117.190–11 Caddo Lake.

The draw of the Kansas City Southern railroad bridge mile 26.4, near Mooringsport shall open on signal if at least 24 hours notice is given.

§ 117.190–13 Choupique Bayou.

The draw of the S27 bridge, mile 4.5, near Calcasieu shall open on signal if at least 48 hours notice is given.

§ 117.190–15 Colyell Bayou.

The Louisiana highway removable span bridge, mile 1.0, near Port Vincent shall be removed for the passage of a vessel if at least 48 hours notice is given.

§ 117.190–17 Des Allemands Bayou.

The draws of the S631 bridge, mile 13.0, Des Allemands shall open on signal from 5 a.m. to 9 p.m. From 9 p.m. to 5 a.m., the draw shall open on signal if at least 12 hours notice is given.

§ 117.190–19 D'Inde Bayou.

The draw of the Southern Pacific railroad bridge, mile 4.3, Defense Plant Coporation, Cities Service Refining Corporation Agent, shall open on signal if at least 72 hours notice is given.

§ 117.190–21 DuLarge Bayou.

The draw of the S315 bridge, mile 23.2, near Theriot shall open on signal from 5 a.m. to 9 p.m. From 9 p.m. to 5 a.m., the draw shall open on signal if at least 12 hours notice is given.

§ 117.190–23 Franklin Canal.

The draw of the Chatsworth bridge, mile 4.8, at Franklin shall open on signal.

(a) From 5 a.m. to 9 p.m.

(b) From October 1 through January 31 from 9 p.m. to 5 a.m., if at least three hours notice is given.

(c) From February 1 through September 30 from 9 p.m. to 5 a.m., if at least 12 hours notice is given.

§ 117.190–25 Grand Bayou.

The draw of the S70 bridge, mile 7.6 near Paincourtville shall open on signal if at least 24 hours notice is given.

§ 117.190–27 Grosse Tete Bayou.

(a) The draw of the Texas and Pacific railroad bridge, mile 14.7, at Grosse Tete need not open for the passage of vessels.

(b) The draw of S377 bridge, mile 15.3, near Rosedale shall open on signal if at least 48 hours notice is given.

§ 117.190–29 Gulf Intracoastal Waterway.

The draw of the Lousiana highway bridge, mile 243.8, west of Harvey Canal Locks shall open on signal when more than 50 feet vertical clearance is required, if at least four hours notice is given to the Louisiana Department of Highways, District Maintenance Engineer at Lake Charles.

§ 117.190–31 Houma Canal.

The draw of the US90 bridge, mile 1.7, at Houma shall open on signal from 5 a.m. to 9 p.m. From 9 p.m. to 5 a.m., the draw shall open on signal if at least 12 hours notice is given.

§ 117.190–33 Houston River

The draw of the Kansas City Southern Railroad bridge, mile 5.2, near Lake Charles shall open on signal if at least 24 hours notice is given.

§ 117.190–35 Inner Harbor Navigation Canal, New Orleans.

The New Seabrook bridge, mile 3.4 and the Danziger bridge, mile 5.4, at Chef Menteur Highway (US90) need not open for the passage of vessels from 7 a.m. to 8:30 a.m. and 5 p.m. to 6:30 p.m., Monday through Friday, at all other times the draws shall open on signal.

§ 117.190–37 Lacassine Bayou.

The draws of S14 bridge, mile 17.0, the Southern Pacific railroad bridge, mile 20.4, and the Calcasieu and Jefferson Davis Parishes bridge, mile 21.5, all near Hayes shall open on signal if at least 24 hours notice is given.

§ 117.190–39 Lacombe Bayou

The draw of the US190 bridge, mile 6.8 at Lacombe shall open on signal if at least 48 hours notice is given.

§ 117.190–41 Lafourche Bayou.

(a) The draws of the US90 bridge, mile 58.2, US90 bridge and S307 bridge, mile 58.7, all at Raceland; and the S18 bridge, mile 66.1, Lafourche shall open on signal if at least six hours notice is given.

(b) The draws of the Southern Pacific railroad bridge, mile 69.0 at Lafourche shall open on signal if at least 48 hours notice is given.

(c) The draws of the S20 bridge, mile 73.4, at Thibodaux need not open for the passage of vessels.

§ 117.190–43 Lake Pontchartrain.

(a) The draws of the S11 and the Norfolk Southern (Southern) railroad bridges near New Orleans, miles—.—,and —.—,,shall open on signal if at least 48 hours notice is given. In case of emergency, as provided by 117.17, the draws shall open within 12 hours and shall be kept in condition for immediate operation unitl the emergency is over.

(b) The draws of the Greater New Orleans Expressway Commission causeway, north bascule spans, mile —.—,and —.—,shall open on signal if at least three hours notice is given.

§ 117.190–45 Liberty Bayou.

The draw of the S433 bridge, mile 2.0, at Slidell shall open on signal from 5 a.m. to 9 p.m., and from 9 p.m. to 5 a.m. if at least 12 hours notice is given.

§ 117.190–47 Little Black Bayou.

The draw of the Southern Pacific railroad bridge, mile —.—,at Southdown need not open for the passage of vessels.

§ 117.190–49 Little River.

The draw of the Louisiana and Arkansas Railroad bridge, mile 12.1, at Archie shall open on signal if at least 12 hours notice is given. During highwater periods the District Commander may require the constant attendance of a drawtender.

§ 117.190–51 Little (Petit) Caillou Bayou.

The draws of the S58 bridge, mile 25.7, at Sarah, the S56 (Smith River) bridge, mile 26.6, near Montegut, the S56 (Duplantis) bridge, mile 29.9. near Bourg, and the S24 bridge, mile 33.7, at Petit Caillou shall open on signal from 5 a.m. to 9 p.m. From 9 p.m. to 5 a.m., the draws shall open on signal if at least 12 hours notice is given.

§ 117.190–53 Lower Atchafalaya River.

The draw of the S182 bridge, mile 26.8, at Patterson shall open on signal from 5 a.m. to 9 p.m. From October 1 through January 31 from 9 p.m. to 5 a.m., the draw shall open on signal if at least three hours notice is given. From February 1 through September 30 from 9 p.m. to 5 a.m., the draw shall open on signal if at least 12 hours notice is given.

§ 117.190–55 Macon Bayou.

The draw of the S555 bridge, mile 44.8 near Winnsboro shall open on signal if at least 24 hours notice is given.

§ 117.190–57 Nezpique Bayou.

The draw of the Louisiana highway bridge, mile 7.0, near Jennings shall open on signal if at least 48 hours notice is given.

§ 117.190–59 Patout Bayou.

The draw of the S83 bridge, mile 0.4., at Weeks shall open on signal from 5 a.m. to 9 p.m. From 9 p.m. to 5 a.m., the draw shall open on signal if at least 12 hours notice is given.

§ 117.190–61 Plaquemine Bayou.

The draws of the Texas and Pacific railroad bridge, mile 10.5, at Plaquemine and S1 bridge, mile 10.5, at Plaquemine, need not open for the passage of vessels.

§ 117.190–63 Plaquemine Brule Bayou.

(a) the draw of the Southern Pacific railroad bridge, mile 5.1, near Midland shall open on signal if at least 24 hours notice is given.

(b) The draw of the S91 bridge, mile 8.0, at Estherwood shall open on signal from 5 a.m. to 9 p.m. if at least four hours notice is given. From 9 p.m. to 5 a.m., the draw shall open on signal if at least 12 hours notice is given.

§ 117.190–65 Red River.

The draws of all bridges from mile 66.0 through mile 283.1 shall open on signal if at least 48 hours notice is given. The draws of the bridges need not open for a vessel that arrives at any of these bridges more than two hours after the time specified in the notice, unless a second notice of at least 48 hours is given. The draws of the bridges above mile 283.1 need not open for the passage of vessels.

§ 117.190–67 Sabine River.

The draws of the Southern Pacific railroad bridge, mile 19.3, near Echo, the Kansas City Southern railroad bridge, mile 36.2, near Ruliff, and the S7 bridge, mile 40.8, at Starks shall open on signal if at least 24 hours notice is given.

§ 117.190–69 Superior Oil Canal.

The draw of the S82 bridge, mile 6.3, in Cameron Parish shall open on signal from 5 a.m. to 9 p.m., and from 9 p.m. to 5 a.m., if at least 12 hours notice given.

§ 117.190–71 Stumpy Bayou.

The draw of the Louisiana highway bridge, mile 1.0, near Weeks Island shall open on signal if at least six days notice is given.

§ 117.190–73 Tante Phine Pass.

The draw of the Tidewater Associated Oil Company bridge, mile 7.6, near Venice shall open on signal if at least 24 hours notice is given.

§ 117.190–75 Bayou Teche.

(a) The draws of all drawbridges, except those listed in subparagraph (d) below, shall open on signal from 5 a.m. to 9 p.m.

(b) The bridges listed in this subparagraph shall open on signal from October 1 through January 31 from 9 p.m. to 5 a.m., if at least three hours notice is given and from February 1 through September 30, if at least 12 hours notice is given.

S182 bridge, mile 3.9 at Calumet
S87 bridge, mile 11.8, at Centerville
S3069 bridge, mile 17.2, at Franklin
S322 bridge, mile 19.8, at Sterling
S323 bridge, mile 22.3, at Oaklawn
S87 bridge, mile 27.0, at Baldwin
S324 bridge, mile 32.5, at Charenton
S670 bridge, mile 37.0, at Adeline
S318 bridge, mile 38.9, at Sorell
S671 bridge, mile 41.8, at Jeanerette
S671 bridge, mile 43.5, at Jeanerette
S320 bridge, mile 48.7, at Oliver
S37 bridge, mile 52.5, at New Iberia
S86 bridge, mile 53.0, at New Iberia
S3156 bridge, mile 53.3, at New Iberia
S344 bridge, mile 56.7, at New Iberia

(c) The bridges listed in this subparagraph shall open on signal from 9 p.m. to 5 a.m., if at least 12 hours notice is given.

S330 bridge, mile 2.3, at Delcambre
S353 bridge, mile 58.0, at New Iberia
S94 bridge, mile 60.0, at Loreauville
S344 bridge, mile 61.0, at Loreauville
S86 bridge, mile 62.5, at Daspit
Missouri Pacific railroad bridge, mile 69.0, at Loreauville
St. Martin Sugar Cooperative railroad bridge, mile 77.7, at Loreauville

(d) The draws of the S31 bridge, mile 87.5, at Ruth, and the S31 bridge, mile 90.5, at Breaux, and the Southern Pacific railroad bridge, mile 91.0, at Breaux shall open on signal if at least 48 hours notice is given.

§ 117.190–77 Tensas River.

(a) The draw of the Missouri Pacific railroad bridge, mile 17.2, at Clayton shall open on signal from May 1 through December 31 during normal river stages if at least 12 hours notice is given to the Dispatcher, Missouri Pacific Railroad, Little Rock, Arkansas. During high-water periods the District Commander may require the constant attendance of a drawtender. The draw shall open on signal during such periods.

(b) The draw of the S15 bridge, mile 27.3, at Clayton shall open on signal if at least 48 hours notice is given.

§ 117.190–79 Terrebonne Bayou.

(a) The draw of the S24 bridge, mile 28.8, near Presquille Isle open on signal if at least 24 hours notice is given.

(b) The draw of the S3087 bridge, mile 33.9, at Prospect shall open on signal from 5 a.m. to 9 p.m.. From 9 p.m. to 5 a.m., the draw shall open on signal if at least 12 hours notice is given.

§ 117.190–81 Vermilion River.

(a) The draws of the bridges listed below shall open on signal from 5 a.m. to 9 p.m. From 9 p.m. to 5 a.m., the draw shall open on signal if at least 12 hours notice is given:

S82 bridge, mile 22.4, at Perry
S14 bridge, mile 25.4, at Abbeville
S14 bridge, mile 26.0, at Abbeville
S82 bridge, mile 34.2, three miles south of Milton
S92 bridge, mile 37.6, at Milton
S733 bridge, mile 41.0, at Eloi Broussard

(b) The draw of the US167 bridge, mile 44.9, at Lafayette shall open on signal if at least 48 hours notice is given.

§ 117.190–83 West Pearl River.

(a) The draw of the New Orleans and Northeastern railroad bridge, mile 22.1, at Pearl River Station shall open on signal if at least six hours notice is given.

(b) The draw of the US 90 bridge, mile 7.9, near Pearlington shall open on signal from 5 a.m. to 9 a.m., and from 9 p.m. to 5 a.m. if at least 12 hours notice is given.

§ 117.195 Maine.

The following navigable waterways in Maine are listed alphabetically and are crossed by drawbridges that have certain periods when the draws need not open for the passage of vessels or have special operation regulations. All other drawbridges in Maine are required to operate as provided by Subpart A.

§ 117.195–1 Back Cove.

The draw of the Canadian National railroad bridge, mile 0.2, at Portland shall open on signal from June 1 through September 30 from 8 a.m. to 12 midnight. At all other times the draw shall open on signal if at least 12 hours notice is given to the General Agent, Grand Trunk Railway, 1 India Street at Portland.

§ 117.195–3 Back River.

The draw of the Maine highway bridge, mile 4.6, between Hodgdon and Barter Island at Boothbay shall open on signal from June 1 through October 31 from 8 a.m. to 5 p.m. From 5 p.m. to 8 a.m. the draw shall open on signal if notice was given to the drawtender from 8 a.m. to 5 p.m. From November 1 through May 31 the draw shall open on signal if at least 24 hours notice is given to the drawtender or to the Maine State Highway Commission at Augusta.

§ 117.195–5 Kennebec River.

(a) The draw of the highway-railroad bridge, mile 14.0, between Bath and Woolwich shall open on signal:

(1) Except that from 6:30 a.m. to 7:30 a.m. and from 3:45 p.m. to 4:45 p.m., Monday through Friday, except Federal holidays, the draw need not open. However, loaded commercial fishing vessels proceeding upstream shall be passed at any time.

(2) From 3 a.m. to 7 p.m., from April 15 through June 15 and from October 1 through November 15; and at all times from June 16 through September 30.

(3) From April 15 through June 15 and October 1 through November 15 if at least four hours notice is given from 7 p.m. to 3 a.m.

(4) From February 15 through April 14 and November 16 through December 15 if at least four hours notice is given.

(5) From December 16 through February 14 if at least 24 hours notice is given.

(b) The draws of the Maine highway bridges, mile 27.1, between Richmond and Dresden, and mile 37.6 between Gardiner and Randolph shall open on signal from 5 a.m. to 9 p.m. From 9 p.m. to 5 a.m. the draw shall open on signal if notice is given to the drawtender from 5 a.m. to 9 p.m.

§ 117.195–7 Kennebunk River.

The draw of the Maine Dock Square highway bridge, mile 1.0, between Kennebunk and Kennebunkport shall open on signal from 7 a.m. to 5 p.m. From 5 p.m. to 7 a.m. the draw shall open on signal if notice is given to the drawtender from 7 a.m. to 5 p.m.

§ 117.195–9 Narraguagus River.

The draw of the highway bridge, mile 1.8, at Milbridge shall open on signal if at least 24 hours notice is given to the Maine State Highway Commission, Division Office at Ellsworth.

§ 117.195–11 Presumpscot River.

The draw of the US 1 bridge, mile 0.0, between Portland and Falmouth need not open for the passage of vessels.

§ 117.195–13 Sheepscot River.

The draws of the Maine highway bridge, mile 14, and the Maine Central railroad bridge, mile 15.0, both between Wiscasset and North Edgecomb need not open for the passage of vessels.

§ 117.195–15 Taunton River.

The draw of the Maine highway bridge, mile 4.3, between Hancock and Sullivan need not open for the passage of vessels.

§ 117.200 Maryland.

The following navigable waterways in Maryland are listed alphabetically and are crossed by drawbridges that have certain periods when the draws need not open for the passage of vessels or have special operation regulations. All other drawbridges in Maryland are required to operate as provided in Subpart A.

§ 117.200–1 Baltimore Harbor-Patapsco River.

(a) The draw of the Hanover Street S2 bridge, mile 12.0, across the Middle Branch of the Patapsco River at Baltimore shall open on signal from 5 a.m. to 6:30 a.m., 9:30 a.m. to 4 p.m. and 6 p.m. to 9 p.m. The draw need not open from 6:30 a.m. to 9:30 a.m. and 4 p.m. to 6 p.m. When a vessel desires to pass the draw from 9 p.m. to 5 a.m., notice shall be given to the superintendent of the bridge by telephone or otherwise, either at the bridge before 9 p.m. or at his residence thereafter. If the notice is given between the hours of 5 a.m. and 9 p.m., or if at least one-half hour has elapsed since it was given, the draw shall open promptly at the time specified.

(b) The draw of the Western Maryland railroad bridge, mile 12.5, across the Middle Branch of the Patapsco River at Baltimore shall open on signal from 7 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday, except Federal holidays. At all other times at least six hours notice is required except for marine firefighting equipment and pollution control vessels which shall be passed as soon as possible but in no event more than 15 minutes after notification that such an opening is required.

§ 117.200–3 Bear Creek.

(a) The draws of the Baltimore County Revenue Authority highway toll bridges, miles 1.5 and 2.1, between Dundalk and Sparrows Point shall open on signal except that from April 16 through November 15 from 12 midnight to 8 a.m., except Saturdays, Sundays, and Federal holidays, at least a one-half hour notice is required.

(b) The draw of the Baltimore County highway bridge, mile 3.4, at Wise Avenue between Dundalk and Sparrows Point shall open on signal if at least four hours notice is given.

§ 117.200–5 Bohemia River.

(a) The draw of the S213 bridge, mile 4.0, at Cayots shall open on signal:

(1) From May 30 through September 30 from sunrise to sunset on Saturdays, Sundays and Federal holidays.

(2) From May 30 through September 30 from sunrise to sunset and from October 1 through May 29 from 7 a.m. Monday through 7 p.m. Friday if at least three hours notice is given.

(3) From October 1 through May 29 from 7 p.m. Friday through 7 a.m. Monday, the draw need not open unless the request was made before 7 p.m. Friday.

§ 117.200–7 Bush River.

The draw of the CONRAIL bridge, mile 6.8, at Perryman shall open on signal from June 1 through September 30 from 10 a.m. to 5 p.m., twice on Saturdays and twice on Sundays if at least 24 hours notice is given to the Bush River Boat Club. The draw need not open at all other times.

§ 117.200–9 Cambridge Harbor.

The draw of the S342 bridge, mile 0.1, at Cambridge shall open on signal from 6 a.m. to 8 p.m., except that from 12 noon to 1 p.m., Monday through Friday, the draw need not open. The draw need not open from 8 p.m. to 6 a.m.

§ 117.200–11 Chester River.

The draw of the S213 bridge, mile 26.8, at Chestertown shall open on signal from April 1 through September 30 from 6 a.m. to 6 p.m. At all other times the draw shall open on signal if at least six hours notice is given.

§ 117.200–13 Choptank River.

(a) The draw of the S404 bridge, mile 50.4, at Denton shall open on signal from 6 a.m. to 6 p.m., and from 6 p.m. to 6 a.m. if at least three hours notice is given.

(b) The draw of the CONRAIL bridge, mile 50.9, at Denton shall open on signal from May 30 through September 30 from sunrise to sunset and at all other times if at least four hours notice is given.

§ 117.200–15 Curtis Creek.

The draw of the I–695 bridge, mile 0.9, at Baltimore shall open on signal if at least a one-hour notice is given to the Maryland Transportation Authority in Baltimore.

§ 117.200–17 Dorsey Creek.

The draws of the Naval Academy highway bridge, mile 0.3, at Annapolis, and the Maryland highway bridge, mile 0.4, at Annapolis need not open for the passage of vessels.

§ 117.200–19 Kent Island Narrows.

(a) The draw of the US301 bridge, mile 1.0, at Kent Island Narrows shall open on signal from November 1 through April 30 from 6 a.m. to 6 p.m. The draw need not open from 6 p.m. to 6 a.m.

(b) From May 1 through October 31:

(1) The draw shall open for vessel traffic on the hour from 7 a.m. to 7 p.m. every day.

(2) The draw need not open from 7 p.m. to 7 a.m.

(3) If a vessel is approaching the drawbridge and cannot reach the draw exactly on the hour the drawtender may delay the hourly opening up to ten minutes past the hour for the passage of the approaching vessel and any other vessels that are waiting to pass.

§ 117.200–21 Marshyhope Creek.

The draw of the S14 bridge, mile 5.8, at Brookview need not open for the passage of vessels.

§ 117.200–23 Miles River.

(a) The draw of the S370 bridge, mile 10.0, at Easton shall open on signal from sunrise to sunset. A vessel wishing to pass the bridge between sunset and sunrise will notify the drawtender of the time at which it is desired to pass and the draw of the bridge shall open as soon as practicable thereafter.

§ 117.200–25 Patuxent River.

The draw of S231 bridge, mile 24.4, at Benedict shall open on signal from 6 a.m. to 6 p.m. From 6 p.m. to 6 a.m. the draw shall open on signal if notice is given to the Toll Captain at the Administration Building at the east end of the bridge before 6 p.m.

§ 117.200–27 Pocomoke River.

(a) The draw of the US 113 bridge, mile 15.6, at Pocomoke City shall open on signal from 6 a.m. to 10 p.m. The draw need not open from 10 p.m. to 6 a.m.

(b) The draw of the S12 bridge, mile 29.9, at Snow Hill shall open on signal if at least five hours notice is given.

§ 117.200–29 Sinepuxent Bay.

(a) The draw of the US 50 bridge, mile 0.5, at Ocean City shall open on signal, except that:

(1) From October 1 through April 30 at least three hours notice is required from 6 p.m. to 6 a.m.

(2) From May 25 through September 15, from 9 a.m. to 10 p.m. the draw shall open at 25 minutes after and 55 minutes after the hour for a maximum of five minutes to permit accumulated vessels to pass.

§ 117.200–31 South River.

(a) The draw of the S2 bridge, mile 5.7, at Edgewater shall open on signal:

(1) From April 1 through November 30, Monday through Friday, except Federal holidays, except that the draw need not open from 7:30 a.m. to 9 a.m. and from 4:30 p.m. to 6 p.m.

(2) From April 1 through November 30, on Saturdays, Sundays and Federal holidays, from 9 p.m. to 9 a.m., and on the hour and half hour from 9 a.m. to 9 p.m., if any vessels are waiting to pass.

(3) From December 1 through March 31, if at least three hours notice is given.

§ 117.200–33 Spa Creek.

(a) The draw of the S181 bridge, mile 0.4, at Annapolis shall open on signal except that:

(1) From 7:30 a.m. to 9 a.m. and 4:30 p.m. to 6 p.m., Monday through Friday, except Federal holidays, the draw need not open for the passage of vessels.

(2) From May 1 through November 1, from 10 a.m. to 5 p.m. on Saturdays and Sundays, the draw need not open except on the hour and half hour if any vessels are waiting to pass.

§ 117.200–35 Stoney Creek.

The draw of the S173 bridge, mile 0.9, at Riviera Beach shall open on signal except that from 6:30 am. to 9 a.m. and from 4 p.m. to 6 p.m., Monday through Friday, except Federal and State holidays, the draw need open only at 7:30 a.m. and 5 p.m. if any vessels are waiting to pass.

§ 117.200–37 Weems Creek.

The draw of the S437 bridge, mile 0.7, at West Annapolis shall open on signal from sunrise to sunset from May 1 through September 30. At all other times the draw shall open on signal if at least five hours notice is given.

§ 117.200–39 Wicomico River (North Prong).

The draw of the Main Street (US 50) bridge, mile 22.4, at Salisbury shall open on signal except that from 6 a.m. to 9 a.m., 12 noon to 1 p.m., and 3:30 p.m. to 5:30 p.m. the draw need not open for the passage of vessels.

§ 117.205 Massachusetts.

The following navigable waterways in Massachusetts are listed alphabetically and are crossed by drawbridges that have certain periods when the draws need not open for the passage of vessels have special operation regulations. All other drawbridges in Massachusetts are required to operate as provided in Subpart A.

§ 117.205–1 Achushnet River.

The draws of the US 6 bridge, mile 0.0, between New Bedford and Fairhaven shall open on signal except that from 6:30 a.m. to 8:30 a.m., 11:30 a.m. to 1:30 p.m., and 4 p.m. to 6 p.m. on all days other than Sundays and Federal holidays, the draws need not open for vessels drawing less than 15 feet of water. From May 1 through September 30 from 9 p.m. to 5 a.m. and from October 1 through April 30 from one hour after sunset to one hour before sunrise the draw shall open on signal if at least two hours notice is given.

§ 117.205–3 Apponaganset River.

The draw of the Padanarum highway bridge, mile 1.0, at South Dartmouth shall open on signal from May 1 through October 31 from sunrise to 7:30 a.m., 9:30 a.m., 11:30 a.m., 1 p.m., 4:30 p.m., 6:30 p.m. and one hour after sunset. At all other times the draw shall open on signal if at least six hours notice is given.

§ 117.205–5 Cape Cod Canal.

(a) The lift span of the Buzzards Bay railroad bridge, mile 0.7, at Bourne will normally be kept in the raised (open) position except for the passage of trains or for maintenance. No signal is required if the lift span is raised.

(b) If the lift span is in other than the raised position, the opening signal shall be one prolonged and one short blast.

(c) Signals to be sounded from the bridge are:

(1) Immediately preceding the raising of the drawspan: One prolonged blast.

(2) Immediately preceding the lowering of the drawspan: Two prolonged blasts.

(3) When a vessel has sounded the opening signal and the drawspan cannot be raised immediately: Five short blasts in a rapid succession.

(4) When the draw is closed and visibility is reduced in foggy weather: Five short blasts in rapid sucession every two minutes.

§ 117.205–7 Charles River.

(a) The draw of the Charlestown bridge, mile 0.4, at Boston need not open for the passage of vessels.

(b) The draws of the Boston & Maine railroad bridge, mile 0.8, and the Metropolitan Transit Authority railroad bridge, mile 1.0, both at Boston shall open on signal except that from 6:15 a.m. to 9:10 a.m. and 4:15 p.m. to 7:40 p.m., except Sundays and Federal holidays, the draws need not open for the passage of vessels.

(c) The draws of the Cambridge Viaduct bridge, mile 1.5, at Boston need not open for the passage of vessels.

(d) The draw of the Commercial Avenue bridge across Lechmere Canal, mile 0.0, at Boston need not open for the passage of vessels.

(e) The draw of the First Street bridge across Broad Canal, mile 0.0, at Boston shall open on signal from October 1 through May 31, except that from Monday through Friday, except Federal holidays, from 7:30 a.m. to 9 a.m., and 4:30 p.m. to 6 p.m. the draws need not open. From June 1 through September 30 the draw shall open on signal if at least 12 hours notice is given.

(f) The draws of the bridges across Broad Canal need not open for the passage of vessels.

§ 117.205–9 Danvers River.

The draws of the US 1 bridge, mile 0.0, the Boston and Maine railroad bridge, mile 0.0, and the Essex County bridge, mile 1.0, all at Salem shall open on signal from 8 a.m. to 12 midnight. From 12 midnight to 8 a.m. the draws shall open as soon as possible after notice is given to the drawtenders, either at the bridges during the time the operators are on duty or at their residences thereafter.

§ 117.205–11 Dorchester Bay.

The draw of the William T. Morrisey Boulevard bridge, mile . , at Boston shall open on signal from April 16 through October 14, except that the draw need not open for the passage of vessels from 7:30 a.m. to 9 a.m., and from 4:30 p.m. to 6 p.m. except on Saturdays, Sundays, or Federal holidays. From October 15 through April 15, the draw shall open on signal if at least 24 hours notice is given.

§ 117.205–13 Fort Point Channel.

(a) The draws of the Northern Street bridge, mile 0.1, at Boston shall open on signal, except that from 7 a.m. to 9 a.m., and 4:30 p.m. to 6:30 p.m., Monday through Friday, except Federal holidays, the draw need not open except for vessels whose draft is less than 18 feet. From 8 p.m. to 6 a.m. the draw need not open for the passage of vessels.

(b) The draws of the Congress Street bridge, mile 0.3, and the Sumner Street bridge, mile 0.4, both at Boston need not open for the passage of vessels.

(c) The draws of the Dorchester Avenue bridge, mile 0.8, the Conrail railroad bridge, mile 0.8, the Broadway bridge, mile 1.0, and the Dover Street bridge, mile 1.2, all at Boston, need not open for the passage of vessels.

§ 117.205–15 Malden River.

The draw of the US 1 bridge, mile 0.3, between Medford and Everett need not open for the passage of vessels.

§ 117.205–17 Manchester Harbor.

The draw of the Boston and Maine railroad bridge, mile 1.0, at Manchester shall open on signal from April 1 through November 1 from 9 a.m. to 1 p.m., and 2 p.m. to 6 p.m. At all other times at least two hours notice is required from 6:45 a.m. to 3:45 p.m. and at least five hours notice is required from 3:45 p.m. to 6:45 a.m. The notice is to be given to the Chief Dispatcher, Boston and Maine railroad, Boston.

§ 117.205–19 Merrimack River

(a) The draws of the US 1 bridge, mile 3.4, at Newburyport shall open on signal May 1 through October 31 from 6 a.m. to 10 p.m., and from November 1 through April 30 from 8 a.m. to 5 p.m. At all other times the draws shall open if at least a one-hour notice is given.

(b) The draw of the Boston and Maine railroad bridge, mile 3.4, at Newburyport will normally be maintained in the open position. When the draw is in the closed position, a drawtender shall be on duty and the draw shall open on signal.

(c) The draws of the Essex County bridge, mile 5.8, at Newburyport, the Essex County bridge, mile 12.6, at Rocks Village, and Groveland bridge, mile 16.5, at Groveland shall open on signal if at least two hours notice is given.

§ 117.205–21 Mystic River.

(a) The draws of the US 1 bridge, mile 1.4, and the Boston and Maine railroad bridge, mile 1.8, both at Boston shall open on signal except that from 7:45 a.m. to 9 a.m., 9:10 a.m. to 10 a.m. and 5 p.m. to 6 p.m., except Sundays and on Federal holidays, the draws need not open for the passage of vessels whose draft is less than 18 feet.

(b) The draws of the Wellington bridge, mile 2.5, and the General Lawrence bridge, mile 3.6, both at Boston need not open for the passage of vessels.

§ 117.205–23 Neponset River.

The draw of the Granite Avenue bridge, mile 0.0, at Boston shall open on signal from May 1 through October 31 and from November 1 through April 30 from 8 a.m. to 4 p.m. The draw shall open on signal from November 1 through April 30 from 4 p.m. to 8 a.m. if at least 24 hours notice is given.

§ 117.205–25 North River.

The draws of the S3A bridge, mile 1.6, at Scituate and the Plymouth County bridge, mile 3.0, at Norwell shall open on signal from May 1 through October 31 if at least four hours notice is given.

§ 117.205–27 Plum Island River.

The draw of the US 1 bridge, mile 0.1, between Newburyport and Plum Island shall open on signal from April 1 through November 30 during daylight hours two hours before to two hours after each high tide. Daylight shall begin one-half hour before sunrise and end one-half hour after sunset and high tide shall occur one-half hour later than the time of high tide for Portland as published by the National Oceanic and Atmospheric Administration. At all other times the draw shall open on signal if at least three hours notice is given.

§ 117.205–29 Reserve Channel.

The draw of the Sumner Street bridge, mile 0.2, at Boston shall open on signal from 9:30 a.m. to 4 p.m., Monday through Saturday. At all other times the draw shall open on signal if at least 10 hours notice is given.

§ 117.205–31 Taunton River.

The draw of the Bristol County bridge, mile 10.3, at Berkley shall open on signal from May 1 through October 31 from 5 a.m. to 10 p.m. and from November 1 through April 30 from 6 a.m. to 6 pm. At all other times the draw shall open on signal if at least a one-half hour notice is given.

§ 117.205–33 Weymouth Fore River.

The draw of the S3 bridge, mile 3.5, between Quincy Point and Weymouth shall open on signal, except that the draw need not open from 6:30 a.m. to 9 a.m. and 4:30 p.m. to 6:30 p.m., Monday through Friday, except Federal holidays.

§ 117.210 Michigan.

The following navigable waterways in Michigan are listed alphabetically and are crossed by drawbridges that have certain periods when the draws need not open for the passage of vessels or have special operation regulations. All other drawbridges in Michigan are required to operate as provided in Subpart A.

§ 117.210–1 Black River.

(a) The draws of the Military Street bridge, mile 0.3, and Seventh Street bridge, mile 0.5, both at Port Huron shall open on signal:

(1) From May 1 through October 31 on Sundays and Federal holidays from 5:30 p.m. to 9 a.m.

(2) From May 1 through October 31, from 9 a.m. to 5:30 p.m., Monday through Saturday, except Federal holidays, only on the hour and half hour.

(3) From November 1 through November 30 and April 1 through April 30 from 8 a.m. to 4 p.m., and from 4 p.m. to 8 a.m., if at least three hours notice is given.

(4) From December 1 though March 31 if at least 24 hours notice is given.

(b) The draw of the Tenth Street bridge, mile 0.9, at Port Huron shall open on signal:

(1) From May 1 through October 31 from 8 a.m. to 11 p.m. and from 11 p.m. to 8 a.m. if at least one hours notice is given.

(2) From April 1 through April 30 and November 1 through November 30 if at least three hours notice is given.

(3) From December 1 through March 31 if at least 24 hours notice is given.

(c) Notice requesting the opening of any of the Black River bridges may be given to the dispatcher of the Port Huron Police Department.

§ 117.210–3 Cheboygan River.

(a) The draw of the US 23 bridge, mile 0.9, at Cheboygan shall open on signal:

(1) From March 16 through May 15 and September 16 through December 14.

(2) From May 16 through September 15, Monday through Friday, from 6:12 p.m. to 7:18 a.m.; from 5:12 p.m. to 11:18 a.m. on Saturdays; and all day on Sundays.

(3) From May 16 through September 15, Monday through Friday, from 7:18 a.m. to 6:12 p.m., and on Saturdays from 11:18 a.m. to 5:12 p.m., the draw need open only from three minutes before to three minutes after the quarter hour and the three-quarters hour.

(4) From December 15 through March 15 if at least 24 hours notice is given to the Cheboygan Police Department.

§ 117.210–5 Crooked River.

The draw of the S68 bridge, mile 29.6, at Alanson shall open on signal from May 16 through October 31. From November 1 through May 15 the draw shall open on signal if at least eight hours notice is given. The draw may be left unattended in the open position.

§ 117.210–7 Detroit River (Trenton Channel).

The draw of the Wayne County bridge, mile 5.6, at Detroit shall open on signal from March 16 through December 14 and from December 15 through March 15 the draw shall open on signal if at least five hours notice is given.

§ 117.210–9 Grand River.

(a) The draw of the Grand Trunk Western railroad bridge, mile 2.0, at Grand Haven shall open on signal from March 16 through December 14. From December 15 through March 15 the draw shall open on signal if at least 24 hours notice is given.

(b) The draw of the US31 bridge, mile 2.2, at Grand Haven shall open on signal:

(1) From March 16 through May 14, and from October 15 through December 14.

(2) From May 15 through October 14 from 9:03 p.m. to 6:03 a.m.

(3) From May 15 through October 14 from 6:03 a.m. to 9:03 p.m., from three minutes before to three minutes after the hour and half hour.

(4) From December 15 through March 15 if at least 24 hours notice is given.

(c) The draw of the Grand Trunk Western railroad bridge, mile 0.2, across the mouth of Spring Lake shall open on signal from March 16 through December 14 and from December 15 through March 15 if at least 24 hours notice is given.

§ 117.210–11 Keweenay Waterway.

The draw of the US41 bridge, mile 16.0, between Houghton and Hancock shall open on signal from March 16 through December 31. From January 1 through March 15 the draws shall open on signal if at least 24 hours notice is given.

§117.210–13 Manistee River

The draws of the Maple Street bridge, mile 1.1, the Smith Street bridge, mile 1.4, and the Chessie System railroad bridge, mile 1.5, all at Manistee shall open on signal from April 1 through December 31. From January 1 through March 31 the draws shall open on signal if at least 24 hours notice is given.

§117.210–15 Ontonagon River.

The draw of the S64 bridge, mile 0.3, at Ontonagon shall open on signal from March 16 through December 15 from 7 a.m. to 11 p.m., and from 11 p.m. to 7 a.m. if at least one hour notice is given. From December 16 through March 15 the draw shall open on signal if at least 24 hours notice is given.

§117.210–17 Pine River.

The draw of the US31 bridge, mile 0.3, at Charlevoix shall open on signal from 6 p.m. to 6 a.m. From 6 a.m. to 6 p.m. the draw shall open on signal on the hour and half hour if any vessels are waiting to pass.

§117.210–19 Pine River.

The draw of the S29 bridge, mile 0.1, at St. Clair shall open on signal from April 1 through November 30 from 2 a.m. to 8 a.m. and from 8 a.m. to 2 a.m. on the hour and one-half hour. From December 1 through March 31 the draw shall open on signal if at least 24 hours notice is given.

§117.210-21 Rouge River (Short Cut Canal).

(a) The draws of the Jefferson Avenue bridge, mile 1.1, and the Fort Street bridge, mile 2.2, shall open on signal from March 16 through December 14 and from December 15 through March 15 from 8:30 a.m. to 4 p.m., 4:40 p.m. to 5 p.m., and 6 p.m. to 7:30 a.m., Monday through Friday, and on Saturdays, Sundays, and Federal holidays.

(1) From December 15 through March 15 the draws need not open from 7:30 a.m. to 8:30 a.m., 4 p.m. to 4:40 p.m., and 5 p.m. to 6 p.m., Monday through Friday, except Federal holidays.

§117.210-23 Saginaw River.

(a) The draws of the Detroit and Mackinac railroad bridge, mile 2.5, at Bay City, the CONRAIL railroad bridge, mile 4.4, at Bay City and the Chessie System railroad bridge, mile 17.2, at Saginaw shall open on signal from March 16 through December 15. From December 16 through March 15 the draws shall open on signal if at least 12 hours notice is given.

(b) The draws of the Belinda Street bridge, mile 3.4, Third Street bridge, mile 4.7, Veterans Memorial bridge, mile 5.0, and Lafayette Street Bridge, mile 6.2, all in Bay City shall open on signal from March 16 through December 15, except that:

(1) From 6:30 a.m. to 8:30 a.m. and 3:30 p.m. to 5:30 p.m., except Sundays, the draws need not open for the passage of vessels of less than 50 gross tons.

(2) From 6:30 a.m. to 7:30 a.m. and 4:30 p.m. to 5:30 p.m., except on Sundays and Federal holidays, the draws need not open for the passage of downbound vessels of over 50 gross tons.

(3) From 8 a.m. to 8 p.m., on Saturdays, Sundays, and Federal holidays, the draw of the Belinda Street bridge need not open for the passage of pleasure craft except on the hour and half hour.

(4) From December 16 through March 15 the draws of these bridges shall open on signal if at least 12 hours notice is given to the dispatcher of the Bay City Police Department.

(c) The draw of the I-75 bridge, mile 14.5, at Zilwaukee, shall open on signal from March 16 through December 15, and December 16 through March 15 if at least 12 hours notice is given.

(d) The draw of the Sixth Avenue bridge, mile 16.5, at Zilwaukee shall open on signal from April 1 through November 15 from 7 a.m. to 11 p.m., and at all other times if at least three hours notice is given to the bridge operations officer of the Saginaw Police Department.

(e) The draws of all bridges above the Sixth Avenue bridge shall open on signal if at least three hours notice is given to the bridge operations officer of the Saginaw Police Department.

§117.210-25 St. Joseph Harbor.

The draw of the US31 bridge, mile 0.9, at St. Joseph shall open on signal from March 2 through December 14. From December 15 through March 1 the draw shall open on signal if at least 12 hours notice is given.

§117.210-27 St. Mary's Falls Canal.

The draw of the Sea Line railroad bridge, mile 1.0, at Sault Ste. Marie shall be maintained in the open position during the navigation season, except when a train is approaching and crossing this bridge or for maintenance.

Bridge operators shall not give precedence to railway traffic and shall not close the bridge against an upbound vessel after lock gates are open and the vessel is proceeding toward the bridge, nor against a downbound vessel, 1,200 feet or less west of the bridge, unless said vessel is moored at either canal pier awaiting its turn to take position at lock approaches.

§ 117.210-29 Thunder Bay River.

The draw of the US23 bridge, mile 0.3, at Alpena shall open on signal if at least three hours notice is given to the Dispatcher, Police Department, City of Alpena, Michigan.

§ 117.215 Minnesota.

The following navigable waterways in Minnesota are listed alphabetically and are crossed by drawbridges that have certain periods when the draws need not open for the passage of vessels or have special operation regulations. All other drawbridges in Minnesota are required to operate as provided in Subpart A.

§ 117.215-1 Duluth Ship Canal (Duluth-Superior Harbor).

(a) The draw of the Duluth Ship Canal bridge, mile 0.1, at Duluth shall open on signal from March 16 through December 31. From January 1 through March 15 the draw shall open on signal if at least 24 hours notice is given.

(1) If the Duluth Ship Canal Bridge is disabled, the bridge authorities must give incoming and outgoing vessels timely and dependable notice, by tug service if necessary, so that they will not attempt to enter the canal.

(2) Vessels must be given precedence over highway or railway traffic at all times.

§ 117.215-3 Minnesota River.

The draws of the bridges from the mouth through LeSueur shall open on signal if at least 24 hours notice is given. The draws of the bridge above LeSueur need not open for the passage of vessels.

§ 117.215-5 Red River of the North.

The draws of the bridges need not open for the passage of vessels.

§ 117.215-7 St. Croix River.

(a) The draws of the bridges from the mouth through Hudson shall open on signal from March 2 through December 14. From December 15 through March 1 the draws shall open on signal if at least 24 hours notice is given.

(b) The draw of the S36 bridge, mile 23.4, at Stillwater shall open on signal from May 15 through October 15 as follows:

(1) From 8 a.m. to 2 p.m., and from 9 p.m. to 12 midnight on Saturdays, Sundays and Federal holidays.

(2) From 2 p.m. to 9 p.m. on Saturdays, Sundays, and Federal holidays every hour on the hour.

(3) From 1 p.m. to 9 p.m., Monday through Friday, except Federal holidays.

(4) At all other times the draw shall open on signal if at least two hours notice is given.

(c) The draw of the Soo Line railroad bridge, mile 40.7, at Otisville need not open for the passage of vessels.

§ 117.215-9 St. Louis River.

(a) The draws of the Burlington Northern railroad bridges, Minnesota Draw, mile 5.7, and Wisconsin Draw, mile 5.7, the Grassy Point Bridge, mile 8.0, and the Arrowhead Bridge, mile 8.7, shall open on signal from March 16 through December 31. From January 1 through March 15 the draw shall open on signal if at least 24 hours notice is given.

(b) The draws of the Duluth Missabe and Iron Range Railway bridge (Transfer Bridge), mile 16.3, need not open for the passage of vessels.

§ 117.215-11 Upper Mississippi River.

(a) The draws of all bridges between Lock and Dam No. 2, mile 815.2, and Lock and Dam No. 10, mile 615.1, shall open on signal from March 2 through December 14. From December 15 through March 1 the draws shall open on signal if at least 24 hours notice is given.

(b) The draws of all bridges between Lock and Dam No. 1, mile . , and Lock and Dam No. 2, mile 815.2, from March 2 through December 14 shall open on signal. From December 15 through

March 1 the draws shall open on signal if at least 12 hours notice is given.

§ 117.220 Mississippi.

The following navigable waterways in Mississippi are listed alphabetically and are crossed by drawbridges that have certain periods when the draws need not open for the passage of vessels or have special operation regulations. All other drawbridges in Mississippi are required to operate as provided in Subpart A.

§ 117.220–1 Back Bay of Biloxi.

The draw of the S15 bridge, mile 3.0, at Biloxi shall open on signal if at least six hours notice is given.

§ 117.220–3 Big Sunflower River.

The draw of the Columbus and Greenville railroad bridge, mile 96.1, at Baird shall open on signal if at least four hours notice is given.

§ 117.220–5 Escatawpa River.

The draw of the S63 bridge, mile 1.0, at Moss Point shall open on signal except that from 6 a.m. to 6:45 a.m., 7 a.m. to 7:30 a.m., 3:25 p.m. to 3:45 p.m., and 4 p.m. to 5 p.m., Monday through Friday, Federal holidays, the draw need not open for the passage of vessels.

§ 117.220–7 Old Fort Bayou.

The draw of the US90 bridge, mile 1.6, at Ocean Springs shall open on signal from 5 a.m. to 9 p.m. From 9 p.m. to 5 a.m. the draw shall open on signal if at least eight hours notice is given to the Old Fort Bayou drawtender.

§ 117.220–9 Pascagoula River.

The draw of the US90 bridge, mile 1.8, at Pascagoula shall open on signal except that from 6:15 a.m. to 7:15 a.m., 7:25 a.m. to 8 a.m., 3:15 p.m. to 4:15 p.m., and 4:30 p.m. to 5:30 p.m., Monday through Friday, Federal holidays, excepted, the draw need not open for the passage of vessels.

§ 117.220–11 Yazoo River.

(a) The draws of the Illinois Central Gulf railroad bridge, mile 16.7, at Redwood, and the Satartia highway (S433) bridge, mile 53.3, at Satartia shall open on signal if at least two hours notice is given. When a vessel has given notice and fails to arrive within the two-hour period specified, the drawtender shall remain on duty for two additional hours and open the draw if the requesting vessel appears. After this time, an additional two-hour notice is required.

(b) The draws of the bridges upstream from the Satartia highway (S433) bridge shall open on signal if at least four hours notice is given. When a vessel has given notice and fails to arrive within the four-hour period specified, the drawtender shall remain on duty for two additional hours and open the draw if the requesting vessels appears. After this, time, an additional four-hour notice is required.

§ 117.225 Missouri.

The following navigable waterways in Missouri are listed alphabetically and are crossed by drawbridges that have certain periods when the draws need not open for the passage of vessels or have special operation regulations. All other drawbridges in Missouri are required to operate as provided in Subpart A.

§ 117.225–1 Missouri River.

The draws of the bridges across the Missouri River from the mouth to Sioux City, Iowa, shall open on signal from March 1 through December 15. From December 16 through the last day of February, the draws shall open on signal if at least 24 hours notice is given.

§ 117.225–3 Osage River.

The draw of the Missouri Pacific Railroad bridge, mile 5.6, at Osage City need not open for the passage of vessels.

§ 117.230 Montana.

The following navigable waterways in Montana are listed alphabetically and are crossed by drawbridges that have certain periods when the draws need not open for the passage of vessels or have special operation regulations. All other drawbridges in Montana are required to operate as provided in Subpart A.

§ 117.230–1 Missouri River.

The draw of the Burlington Northern Railroad bridge, mile 1,589.8, near Snowden need not open for the passage of vessels.

§ 117.230–3 Yellowstone River.

The draw of the Burlington Northern Railroad bridge, mile 8.9, at Fremont need not open for the passage of vessels.

§ 117.235 Nebraska.

The following navigable waterways in Nebraska are listed alphabetically and are crossed by drawbridges that have certain periods when the draws need not open for the passage of vessels or have special operation regulations. All other drawbridges in Nebraska are required to operate as provided in Subpart A.

§ 117.235–1 Missouri River.

The draw of the Illinois Central Gulf railroad bridge, mile 616.3, at Omaha shall open on signal from March 2 through November 30. From December 1 through March 1 the draw shall open on signal if at least 24 hours notice is given.

§ 117.240 Nevada.

There are no known or authorized drawbridges in Nevada.

§ 117.245 New Hampshire.

The following navigable waterways in New Hampshire are listed alphabetically and are crossed by drawbridges that have certain periods when the draws need not open for the passage of vessels or have special operation regulations. All other drawbridges in New Hampshire are required to.

§ 117.245–1 Bellamy River.

The draw of the state highway bridge, mile 0.2, at Dover shall open on signal from April through October 31 from 6 a.m. to 10 p.m. if at least four hours notice is given. At all other times the draw shall open as soon as possible only for emergencies.

§ 117.245–3 Hampton River.

The draw of the state highway bridge, mile 0.0, at Hampton shall open on signal from April 1 through October 31 for the passage of vessels during the daylight portions of the periods beginning three hours before and ending three hours after each high water. For the purpose of this section, daylight is construed to begin 30 minutes before sunrise and to end 30 minutes after sunset, and high water shall be deemed to occur 30 minutes later than the time of high water for Portland, Maine, as given in the tide tables for the United States published by the National Oceanic and Atmospheric Administration. At all other times the draw shall open on signal if at least three hours notice is given.

§ 117.245–5 Little Harbor.

The draw of the US1 bridge, mile 1.0, between New Castle and Rye shall open on signal from April 1 through October 31 from 6 a.m. to 10 p.m. if at least four hours notice is given. At all other times the draw shall open as soon as possible only for emergencies.

§117.250 New Jersey.

The following navigable waterways in New Jersey are listed alphabetically and are crossed by drawbridges that have certain periods when the draws need not open for the passage of vessels or have special operation regulations. All other drawbridges in New Jersey are required to operate as provided in Subpart A.

§117.250-1 Alloway Creek.

(a) The draws of the Salem County bridges, miles 5.1 at Hancocks and 6.5 at Upper Hancocks shall open on signal if at least 24 hours notice is given.

(b) The draw of the S49 bridge, mile 9.5, at Quinton need not open for the passage of vessels.

§117.250-3 Bass River.

The draw of the US9 bridge, mile 2.6, at New Gretna shall open on signal from December 1 through the last day of February, and from March 1 through November 30 from 7 a.m. to 11 p.m. From March 1 through November 30, from 11 p.m. to 7 a.m., the draw shall open on signal if at least six hours notice is given.

§117.250-5 Beaver Dam Creek.

The draw of the Ocean County bridge, mile 0.5, at Point Pleasant shall open on signal from April 1 through November 30 from 8 a.m. to 4 p.m. At all other times the draw shall open on signal if at least 24 hours notece is given.

§117.250-7 Cape Island Creek.

The draw of the Cape May County bridge, mile 0.3, at Cape May need not open for the passage of vessels.

§117.250-9 Cheesequake Creek.

(a) The draw of the S35 bridge, mile 0.0., at Morgan, South Amboy shall open on signal except that from May 15 through October 15 from 7 a.m. to 7 p.m. the draw need only open on the hour, and from December 1 through March 31 from 11 p.m. to 7 a.m., the draw need not open for the passage of vessels.

(b) The draws of the railroad bridge, mile 0.2, shall open on signal, except at least four hours notice is required:

(1) From January 1 through March 1 from 6 p.m. to 6 a.m.

(2) From April 1 through April 30 and November 1 through November 30, from 10 p.m. to 6 a.m., Monday through Thursday, and midnight Sunday through 6 a.m. Monday.

(3) From December 1 through December 31 from 10 p.m. to 6 a.m.

§117.250-11 Cohansey River.

The draw of the Broad Street bridge, mile 16.2, at Bridgeton need not open for the passage of vessels.

§117.250-13 Cooper River.

(a) The draws of the State Street bridge, mile 0.3, the CONRAIL bridge at North River Avenue, mile 0.9, and the Federal Street bridge, mile 1.0, all at Camden shall open on signal if at least four hours notice is given.

(b) The draw of the Admiral Wilson Boulevard bridge, mile 1.1, at Camden need not open for the passage of vessels.

§117.250-15 Debbies Creek.

The draw of the Monmouth County highway bridge, mile 0.4, at Mansasquan shall open on signal except that from Memorial Day through Labor Day from 7 a.m. to 8 p.m., the draw need open only on the hour and half hour if any vessels are waiting to pass.

§117.250-17 Delaware River (Back Channel).

The draw of the CONRAIL bridge between Petty Island and Camden need not open for the passage of vessels.

§117.250-19 Elizabeth River.

(a) The draws of the railroad bridge, mile 0.7, the Baltic Street bridge, mile 0.9, the Summer Street bridge, mile 1.3, the South Street bridge, mile 1.8, and the Bridge Street bridge, mile 2.1, all at Elizabeth need not open for passage of vessels.

(b) The draws of the South First Street bridge, mile 0.4, at Elizabeth shall open on signal if at least three hours notice is given.

(c) The draw of the South Front Street bridge, mile 0.0, at Elizabeth shall open on signal from 7 a.m. to 12 midnight. From 12 midnight to 7 a.m. the draw shall open on signal if at least three hours notice is given.

§ 117.250-21 Great Channel.

The draw of the Cape May County bridge, mile 0.7, between Stone Harbor and Nummy Island shall open on signal from May 1 through October 31. From November 1 through April 30 the draw shall open on signal if at least 24 hours notice is given.

§117.250-23 Hackensack River.

(a) The draws of each bridge shall open on signal except that:

(1) The draw of Amtrak's Portal bridge at Snake Hill, mile 5.0, need not open Monday through Friday, except Federal holidays from 7:30 a.m. to 9 a.m. and from 4:30 p.m. to 6:50 p.m. Outside of these closed periods, an opening may not be delayed for more than ten minutes unless the drawtender and the vessel, communicating by radiotelephone, agree to a longer delay.

(2) The draw of the S46 bridge, mile 14.0, at Little Ferry shall open on signal if at least six hours notice is given.

(3) The draw of the Court Street bridge, mile 16.2, at Hackensack shall open on signal if at least two hours notice is given from 8 a.m. to 12 midnight. From 12 midnight ot 8 a.m. the draw shall open on signal if at least eight hours notice is given.

(4) The draws of the CONRAIL and New York, Susquehanna and Western railroad bridges, mile 0.0, on Overpeck Creek shall open on signal if at least 24 hours notice is given.

(5) The draws of the New York, Susquehanna, and Western railroad bridge, mile 16.3, at Hackensack and the Midtown bridge, mile 16.5, at Hackensack need not open for the passage of vessels (see 33 CFR 117.3).

§ 117.250-25 Manantico Creek.

The draw of the highway bridge, mile 0.5, at Millville need not open for the passage of vessels.

§ 117.250-27 Maurice River.

The draw of the Cumberland County bridge, mile 12.1, at Mauricetown need not open for the passage of vessels.

§ 117.250-29 New Jersey Intracoastal Waterway.

(a) The draw of the S34 bridge, mile 3.4, across the Manasquan River at Brick township shall open on signal from 7 a.m. to 11 p.m. The draw need not open from 11 p.m. to 7 a.m.

(b) The draw of the S37 bridge, mile 6.3, across Barnegat Bay at Montoloking shall open on signal except that:

(1) From December 1 through March 31 from 11 p.m. to 7 a.m., the draw need not open to navigation.

(2) From Memorial Day through Labor Day from 10 a.m. to 2 p.m. Saturdays, Sundays, and Federal holidays, the draw need only open on the hour and half hour, except that it shall open at any time for the passage of vessels with tows during such periods.

(c) The draws of the Pennsylvania-Reading Seashore Lines railroad bridge, mile 68.9, across Beach Thorofare at Atlantic City shall open on signal from 11 p.m. to 6 a.m. The draw shall open on signal from 20 minutes to 30 minutes after each hour from 6 a.m. to 11 p.m. if any vessels are waiting to pass.

(d) The draw of the Albany Avenue (US40-322) bridge, mile 70.0 across the Inside Thorofare at Atlantic City shall open on signal from October 1 through May 30, and from June 1 through September 30 from 9 p.m. to 9 a.m. From June 1 through September 30 from 9 a.m. to 4 p.m., and from 6 p.m. to 9 p.m., the draw shall open on the hour and half hour. From June 1 through September 31 from 4 p.m. to 6 p.m., the draw need not open.

(e) The draw of the Dorset Avenue bridge, mile 71.2, across the Inside Thorofare at Ventnor City shall open on signal from October 1 through May 30 and from June 1 through September 30 from 9:15 p.m. to 9:15 a.m. From June 1 through September 30 from 9:15 a.m. to 9:15 p.m., the draw need open only on the quarter and three-quarter hours for any vessels waiting to pass.

(f) The draw of the Route 52 (Ninth Street) bridge, mile 80.4, across Beach Thoroughfare at Ocean City shall open on signal except that from Memorial Day through Labor Day from 11 a.m. to 5 p.m. on Saturdays, Sundays, and Federal holidays, the draw need open only on the hour and half hour if any vessels are waiting to pass.

§ 117.250–31 Oceanport Creek.

The draw of the New York and Long Branch railroad bridge, mile 8.4, near Oceanport shall open on signal if at least four hours notice is given.

§ 117.250–33 Oldmans Creek.

The draws of the US30 bridge, mile 3.1, at Nortonville, the Pennsylvania-Reading Seashore Lines bridge, mile 4.0, at Jumbo and the Salem County bridge, mile 5.1, at Pedricktown need not open for the passage of vessels.

§ 117.250–35 Passaic River.

The draws of each bridge except those listed below shall open on signal except that:

(a) The following bridges need not open during the hours specified, Monday through Friday, except Federal holidays:

(1) Amtrak's Dock bridge, mile 5.0, from 7:30 a.m. to 9 a.m. and 4:30 p.m. to 6:50 p.m. Outside of these closed periods, an opening of the Dock bridge may be delayed no more than 10 minutes unless the drawtender and the vessel, communicating by radiotelephone, agree to a longer delay.

(2) CONRAIL's Morristown Line bridge, mile 5.8, from 7:30 a.m. to 9 a.m. and 4:30 p.m. to 6 p.m.

(b) The opening of the draw of the following bridges may be delayed as specified:

(1) Route 280 (Stickel Memorial) bridge, mile 5.8. The draw shall open on signal if at least eight hours notice is given. In an emergency the draw shall open as soon as possible but not more than two hours after the opening request.

(2) CONRAIL bridge (West Arlington), mile 8.0, from 7 a.m. to 11 p.m., the draw shall open on signal if at least eight hours notice is given. From 11 p.m. to 7 a.m., the draw need not open.

(3) CONRAIL bridge (Lyndhurst), mile 11.7, from 8 a.m. to midnight, the draw shall open on signal. From midnight to 8 a.m., the draw shall open on signal if at least six hours notice is given.

(4) Route 3 bridge, Rutherford, mile 11.8. The draw shall open on signal if at least six hours notice is given.

(5) Union Avenue bridge, mile 13.2, shall open on signal from 8 a.m. to midnight. From midnight to 8 a.m. the draw shall open on signal if at least eight hours notice is given.

(c) The draws of the following bridges need not open for the passage of vessels:

(1) Gregory Avenue bridge, mile 14.0.

(2) Second Street bridge, mile 14.7.

(3) West Eighth Street bridge, mile 15.3.

§ 117.250–37 Raccoon Creek.

The draw of the Pennsylvania-Reading Seashore railroad bridge, mile 2.0, at Bridgeport shall open on signal from March 1 through November 30, and from December 1 through the last day of February from 6 a.m. to 10 p.m., Monday through Friday. At all other times at least four hours notice is required.

§ 117.250–39 Rahway River.

The draw of the railroad bridge, mile 2.0, at Linden shall open on signal from April 1 through November 30 from 6 a.m. to 10 p.m. At all other times the draw shall open on signal if at least four hours notice is given.

§ 117.250–41 Rancocas River (Creek).

The draws of the S543 bridge, mile 1.3, at Riverside, the CONRAIL bridge, mile 1.6, at Delanco, the US130 bridge, mile 3.3, at Bridgeboro and the S38 bridge, mile 7.8, at Centerton shall open on signal from April 1 through November 30 from 7 a.m. to 11 p.m. From December 1 through March 31 from 7 a.m. to 11 p.m. the draws shall open on signal if at least 24 hours notice is given. From 11 p.m. to 7 a.m. the draws need not open for the passage of vessels.

§ 117.250–43 Raritan River and Arthur Kill and their tributaries.

The draws of all bridges shall open on signal except that from 7:30 a.m. to 10 a.m. and 5 p.m. to 7:30 p.m. the draws may open for the passage of vessels for periods no longer than 10 minutes.

§ 117.250–45 Salem River.

The draw of the S49 bridge, mile 3.5, at Salem shall open on signal if at least 24 hours notice is given.

§ 117.250–47 Shark River.

(a) The draws of S71 bridge, mile 0.8, at Avon, the railroad bridge, mile 0.9, at Avon and the S35 bridge, mile 0.9, at Avon are considered and operate as one unit. The owners shall provide signal systems so connected that the operator of any of the bridges may simultaneously notify the operators of the other two. The operator of the first bridge to be passed shall be responsible for observing the approach of vessels for receiving and acknowledging signals, and for communicating to the operators of the other bridges, the intention of such vessels.

(b) The draws shall open on signal from October 1 through May 14 and from May 15 through September 30, Monday through Friday, except Federal holidays, from 7 p.m. to 4 p.m., and Saturdays, Sundays and holidays, from 9 p.m. to 9 a.m.

(c) From May 15 through September 30 from 4 p.m. to 7 p.m., Monday through Friday, except Federal holidays, and from 9 a.m. to 9 p.m. Saturdays, Sundays, and holidays the draw need open only on the hour and half hour if any vessels are waiting to pass.

§ 117.250–49 Ship Channel, Great Egg Harbor Bay.

The draw of the S52 bridge, mile 0.5, at Ocean City shall open on signal from 7 a.m. to 11 p.m. From 11 p.m. to 7 a.m. the draw shall open on signal if at least 24 hours notice is given.

§ 117.250–51 Shrewsbury River (South Branch).

The draw of the Monmouth County highway bridge, mile 4.0, at Seabright shall open on signal:

(a) From November 1 through April 14 and from April 15 through October 30 from 8 p.m. to 9 a.m.

(b) From April 15 through October 30, on Saturdays, Sundays, Memorial Day, Independence Day and Labor Day, from 9 a.m. to 8 p.m., on the hour and half hour if any vessels are waiting to pass.

(c) From April 15 through October 30 delays of the openings of the draw may be made for a maximum of 10 minutes in order to consolidate vessels or clear road traffic.

§ 117.250–53 Tuckahoe River.

The draw of the State highway bridge, mile 8.0, at Tuckahoe shall open on signal if at least 24 hours notice is given.

§ 117.250–55 Wading River.

The draw of the Burlington County highway bridge, mile 5.0, at Wading River shall open on signal if at least 24 hours notice is given.

§ 117.250–57 Woodbridge Creek.

The draws of the Middlesex County highway bridge, mile 0.5, at Sewaren and the railroad bridge, mile 0.7, at Sewaren shall open on signal if at least four hours notice is given.

§ 117.255 New Mexico.

There are no known or authorized drawbridges in New Mexico.

§ 117.260 New York.

The following navigable waterways in New York are listed alphabetically and are crossed by drawbridges that have certain periods when the draws need

not open for the passage of vessels or have special operation regulations. All other drawbridges in New York are required to operate as provided in Subpart A.

§ 117.260-1 Bronx River.

The draws of the Westchester Avenue highway bridge, mile 1.5, at New York City need not open for the passage of vessels.

§ 117.260-3 Buffalo River.

(a) The draws of the Michigan Avenue bridge, mile 1.3, and the Ohio Street bridge, mile 2.1, both at Buffalo shall open on signal, except that from 7:30 a.m. to 9 p.m. and from 4 p.m. to 5:45 p.m., Monday through Saturday, except Federal holidays, the draws need not open for the passage of vessels.

(b) The draws of the South Park Avenue bridge, mile 5.3, at Buffalo shall open on signal, except that from 7 a.m. to 8:30 a.m., and from 4 p.m. to 5:45 p.m., Monday through Saturday, except Federal holidays, the draws need not open for the passage of vessels.

§ 117.260-5 Coney Island Creek.

The draws of the Cropsey Avenue bridge, mile 0.4, and the New York City Transit Authority bridges near Stillwell Avenue, mile 0.7, both at New York City need not open for the passage of vessels.

§ 117.260-7 Dutch Kills.

(a) The draws of the Hunters Point Avenue, mile 1.2, and the Borden Avenue bridge, mile 1.4, both at New York City shall open on signal if at least six hours notice is given to the New York City Highway Department's Radio (Hotline) Room.

(b) The draws of the Long Island Railroad bridge, mile 1.1, at New York City shall open on signal if at least six hours notice is given to the Long Island Railroad Movement Bureau.

§ 117.260-9 Eastchester Bay (Arm of).

The draw of the highway bridge, mile 2.2, between Rodman Neck and City Island at New York City need not open for the passage of vessels.

§ 117.260-11 East River.

The draw of the Roosevelt (Welfare) Island bridge, mile 6.4, at New York City shall open on signal if at least six hours notice is given to the New York City Highway Department's Radio (Hotline) Room.

§ 117.260-13 Flushing Creek.

The draws of the Whitestone Parkway bridge, mile 0.2, the Roosevelt Avenue bridge, mile 0.6, and the Long Island Railroad bridge, mile 1.0, all at New York City need not open for the passage of vessels.

§ 117.260-15 Genessee River.

(a) The draw of the CONRAIL bridge, mile 0.9, at Rochester shall open on signal from April 1 through December 15. From December 15 through March 31, the draw shall open on signal if at least 12 hours notice is given.

(b) The draw of the Stutson Street bridge, mile 1.2, at Rochester shall open on signal from April 1 through December 15, however, from 7 a.m. to 9 a.m. and from 4 p.m. to 6 p.m., Monday through Friday, except Federal holidays, the draw need not open for the passage of vessels. From 9 a.m. to 4 p.m. and 6 p.m. to 11 p.m., Monday through Friday, except Federal holidays, and from 7 a.m. to 11 p.m. on Saturdays, Sundays, and Federal holidays, the draw need open only on the hour and half hour. From December 16 through March 31 the draw shall open on signal if at least 12 hours notice is given.

§ 117.260-17 Gowanus Canal.

The draws of the Third Street bridge, mile 1.3, the Carroll Street bridge, mile 2.0, and the Union Street bridge, mile 2.1, all at New York City shall open on signal from October 1 through April 30. From May 1 through September 30, the draws shall open on signal if at least six hours notice is given to the New York City Highway Department's Radio (Hotline) Room.

§ 117.260-19 Harlem River.

(a) The draws of each bridge need not open from 5 p.m. to 10 a.m.

(b) The draws of each bridge shall open on signal from 10 a.m. to 5 p.m., if at least six hours notice is given to the New York City Highway Department's Radio (Hotline) Room.

§ 117.260-21 Hudson River.

(a) The draws of the CONRAIL bridge, mile 146.2, between Albany and Rensselaer shall open on signal from April 1 through December 15. From December 16 through March 31, the draw shall open on signal if at least 24 hours notice is given.

(b) The draws of the state highway bridge, mile 150.2, between Troy and Menands need not open for the passage of vessels.

(c) The draws of the highway bridge, mile 152.7, between Troy and Green Island:

(1) Need not open from December 16 through March 31.

(2) Shall open on signal from April 1 through December 15, from 9 a.m. to 4 p.m. and from 6 p.m. to 7 a.m., if notice is given, before 4:30 p.m., of the time the vessel is expected to pass.

(3) Need not open from 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m. from April 1 through December 15.

(d) The draws of the 112th Street bridge, mile 155.4, between Troy and Cohoes:

(1) Shall open on signal from 9 a.m. to 4 p.m. and from 6 p.m. to 7 a.m., if notice is given, before 4:30 p.m., of the time the vessel is expected to pass.

(2) Need not open from 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m.

(3) During the period that the Federal Lock at Troy is inoperative, the draw need not open for the passage of vessels.

§ 117.260-23 Hutchinson River.

The draws of the Hutchinson River Parkway bridge, mile 0.9, and the New England Thruway (I-95) bridge, mile 2.2, both at New York City shall open on signal if at least six hours notice is given.

§ 117.260-25 Jamaica Bay and connecting waterways.

(a) The draws of the New York City Transit Authority bridge, mile 10.6, across the North Channel, at Hamilton Beach and the New York City highway bridge, mile 10.0, across the North Channel (Grassy Bay) at Jamaica Bay Boulevard shall open on signal if at least 24 hours notice is given.

(b) The draws of the New York City highway bridge, mile 0.8, across Mill Basin on Belt Parkway need not open for the passage of vessels from noon to 9 p.m. on the following days: Sundays, from May 15 to September 30, Memorial Day, Independence Day, and Labor Day. However, on these days, during the period from two hours before to one hour after the time of predicted high tide for the locality the bridge shall open on signal.

Note.—For the purpose of the regulations in this part, high tide at the bridge shall be deemed to occur 15 minutes later than the time of high tide for Sandy Hook as given in the tide tables for the United States, published by the National Oceanic and Atmospheric Administration. The time stated in the tables is eastern standard time and one hour should be added thereto to convert to eastern daylight saving time.

§ 117.260-27 Lake Champlain.

(a) The draw of the Vermont highway bridge, mile 105.9, across the entrance to Missisquoi Bay, between Alburg Tongue and Hog Island, at East Alburg shall open on signal if at least 24 hours notice is given.

(b) The draw of the Central Vermont railroad bridge, mile 105.6 shall open on signal from June 15 through September

15 from 7 a.m. to 11 p.m. The draw shall open on signal at all other times if at least 24 hours notice is given.

(c) The draws of the Vermont highway bridge, mile 91.8, between Sandy Point, Grand Isle (South Hero Island) and Knights Point, North Hero Island:

(1) Shall open on signal from May 15 through October 15 from 7 a.m. to 9 p.m.

(2) Shall open on signal from May 15 through October 15 from 9 p.m. to 7 a.m. if at least four hours notice is given.

(3) Shall open on signal from October 16 through May 14 if at least 24 hours notice is given.

§ 117.260–29 Lemon Creek.

The draw of the Bayview Avenue bridge, mile 0.1, at New York City shall open on signal from November 1 through March 31, except from 4 p.m. to 8 a.m. and from April 1 through May 15 and from October 16 through October 31 from 10 p.m. to 6 a.m. the draw need not open.

§ 117.260–31 Long Island, New York Inland Waterway from East Rockaway Inlet to Shinnecock Canal.

(a) The draw of the Atlantic Beach Bridge across Reynolds Channel, mile 0.4, shall open on signal:

(1) From October 1 through May 14.

(2) From May 15 through September 30 the draw shall open on signal except that it need open only on the hour and half-hour:

(i) From 4 p.m. to 7 p.m. on weekdays; and

(ii) From 11 a.m. to 9 p.m. on Saturdays, Sundays, Memorial Day, Independence Day and Labor Day.

(3) From May 15 through September 30 the draw shall open on signal from two hours before to one hour after predicted high tide (predicted high tide for this bridge shall be 10 minutes earlier than that predicted for Sandy Hook as given in the tide tables for the United States published by the National Oceanic and Atmospheric Administration).

(b) The draw of the Long Beach Bridge across Reynolds Channel, mile 4.7, shall open on signal:

(1) From October 1 through May 14.

(2) From May 15 through September 30 the draw shall open on signal except that from 3 p.m. to 8 p.m. on Saturdays, Sundays, Memorial Day, Independence Day and Labor Day the draw need open only on the hour and half hour.

(3) From midnight to 7 a.m. the draw shall open on signal if at least four hours notice is given.

(c) The draw of the Loop Parkway Bridge across Long Creek, mile 0.7, shall open on signal:

(1) Every other hour on the even hour except that from April 1 through October 31 on Saturdays, Sundays, and Federal holidays, the draw shall open on signal every three hours beginning at 3 a.m.

(2) If an opening is desired at other than a scheduled time, notice may be given from the telephone located on either side of the bridge or via marine radiotelephone.

(d) The draws of the Meadowbrook State Parkway across Sloop Channel, mile 12.8, Wantagh State Parkway across Goose Creek, mile 16.1 and Captree State Parkway across State Boat Channel at Captree Island, mile 30.7 shall open on signal if at least one-half hour notice is given to the Jones Beach State Park, as follows:

(1) Every other hour on the even hour.

(2) From April 1 through October 31 on Saturdays, Sundays, and Federal holidays the draw of the Meadowbrook State Parkway Bridge across Sloop Channel, mile 12.8, shall open on signal every three hours beginning at 1:30 a.m.

(3) From April 1 through October 31 on Saturdays, Sundays, and Federal holidays the draws of the Wantagh State Parkway Bridge across Goose Creek, mile 16.1, and Captree State Parkway Bridge across State Boat Channel at Captree Island, mile 30.7, every three hours beginning at 3 a.m.

(4) Notice may be given from the telephone located at the moorings on each side of each bridge or by marine radiotelephone.

(e) The draws of the Smith Point bridge, mile 6.1 across Narrow Bay, Potunk Point bridge, mile 0.1, across Quantuck Canal, Beach Lane bridge, mile 1.1, across Quantuck Canal, Quoque bridge, mile 1.1 across Quoque Canal, and Ponquoque Point bridge, mile 78.0, across Shinnecock Bay:

(1) Shall open on signal from October 1 through April 30 from 8 a.m. to 4 p.m. and from May 1 through September 30 from 6 a.m. to 10 p.m.

(2) At all other times during these periods the draws shall open as soon as possible but no more than one hour after a request to open is received.

§ 117.260–33 Newtown Creek (English Kills).

The draw of the Grand Street (Montrouse Avenue) Bridge, mile 3.8, at New York City shall open on signal except that Monday through Saturday, except holidays, the draw need not open from 6:45 a.m. to 7 a.m., 7:15 a.m. to 7:30 a.m., 4:30 p.m. to 4:45 p.m., and 5 p.m. to 5:15 p.m.

§ 117.260–35 Niagara River.

The draw of the Canadian National Railway bridge, mile 3.8, need not open for the passage of vessels.

§ 117.260–37 Peekskill (Annsville) Creek.

The draw of the CONRAIL bridge, mile 0.0, at Peekskill need not open for the passage of vessels.

§ 117.260–39 Richmond Creek.

The draw of the Richmond Avenue bridge, mile 2.0, at New York City need not open for the passage of vessels.

§ 117.260–41 Tonawanda Creek.

(a) The draw of the CONRAIL bridge, mile 0.1, at Tonawanda shall:

(1) Open on signal from April 1 through December 15.

(2) Open on signal from December 16 through March 31 if at least 12 hours notice is given.

§ 117.260–43 Tonawanda Harbor.

The draw of the CONRAIL bridge, mile 0.2, at Tonawanda shall open on signal if at least 24 hours notice is given.

§ 117.260–45 Wappinger Creek.

The draw of the CONRAIL bridge, mile 0.0, at New Hamburg shall open on signal from May 15 through October 15 from 11:30 a.m. to 7:30 p.m. At all other times the draw shall open on signal if at least 12 hours notice is given.

§ 117.260–47 Westchester Creek.

The draws of each bridge shall open on signal, except that from 7 a.m., to 9 a.m. and 4 p.m. to 6 p.m., Monday through Friday, the draws need not open for the passage of vessels.

§ 117.265 North Carolina.

The following navigable waterways in North Carolina are listed alphabetically and are crossed by drawbridges that have certain periods when the draws need not open for the passage of vessels or have special operation regulations. All other drawbridges in North Carolina are required to operate as provide in subpart A.

§ 117.265–1 Bogue Sound.

The draw of the S58 bridge, mile 206.7, at Atlantic Beach shall open on signal except that from March 15 through October 15 the draw need open only on the hour from 8 a.m. to 8 p.m. for the passage of pleasure craft. However, if a pleasure craft is approaching the draw and cannot reach the draw exactly on the hour, the drawtender may delay the opening up to 10 minutes past the hour for the passage of the approaching vessel and any other vessels that are waiting.

§ 117.265–3 Neuse River.

(a) The draw of the US 17 bridge, mile 33.7, at New Bern shall open on signal except that the draw need not open from

6:30 a.m. to 7:30 a.m. and from 4:30 p.m. to 5:30 p.m., Monday through Friday. From May 24 through September 8, on Sundays and Federal holidays, the draw need not open from 2 p.m. to 7 p.m., however, the draw shall open at 4 p.m. and 6 p.m. if any vessels are waiting to pass.

(b) The draws of the Atlantic and East Carolina Railway bridge, mile 80.0, at Kinston shall open on signal if a least 24 hours notice is given.

§ 117.265–5 Newport River.

The draw of the Atlantic and East Carolina Railway bridge, mile 13.0, at Newport need not open for the passage of vessels.

§ 117.265–7 New River.

The draw of the Family Lines Rail System (Seaboard Coast Line) railroad bridge, mile 21.1, at Jacksonville shall open on signal if at least 24 hours notice is given.

§ 117.265–9 Northeast River.

The draw of the Family Lines Rail System (Seaboard Coast Line) railroad bridge, mile 27.0, at Castle Hayne shall open on signal only from 7:30 a.m. to 4:30 p.m., Monday through Friday. The draw shall open on signal from 4:30 p.m. to 7:30 a.m. for tugs with tows if at least 24 hours notice is given.

§ 117.265–11 Pamlico and Tar Rivers.

The draws of the US 17–264 bridge, mile 37.2, at Washington and the Boyds Ferry bridge, mile 44.8, at Grimesland shall open on signal if at least 24 hours notice is given.

§ 117.265–13 Roanoke River.

The draw of the US 17 bridge, mile 37.5, at Williamson shall open on signal if at least 24 hours notice is given.

§ 117.265–15 Smiths Creek.

The draw of the S133 bridge, mile 1.5, at Wilmington shall open on signal if at least 24 hours notice is given.

§ 117.265–17 Trent River.

(a) The draws of the US 70 bridge, mile 0.0, at New Bern shall open on signal except that the draw need not open from 6:30 a.m. to 7:30 a.m. and 4:30 p.m. to 5:30 p.m., Monday through Friday. From May 24 through September 8, on Sundays and Federal holidays, the draw need not open from 2 p.m. to 7 p.m., however, the draw shall open at 4 p.m. and 6 p.m., if any vessels are waiting to pass.

(b) The draws of the Family Lines Rail System (Seaboard Coast Line) railroad bridge, mile 18.0, near Pollocksville need not open for the passage of vessels.

§ 117.265–19 Wrightsville Beach (AIWW).

The draw of the highway bridge, mile 283.1, Atlantic Intracoast Waterway, at Wrightsville Beach shall open on signal from November 1 through April 30, and from 7 p.m. to 7 a.m. from May 30 through October 31. From May 30 through October 31 from 7 a.m. to 7 p.m. the draw need not open only on the hour.

§ 117.270 North Dakota.

There are no known or authorized drawbridges in North Dakota that are required to open on signal.

§ 117.275 Ohio.

The following navigable waterways in Ohio are listed alphabetically and are crossed by drawbridges that have certain periods when the draws need not open for the passage of vessels or have special operation regulations. All other drawbridges in Ohio are required to operate as provided by Subpart A.

§ 117.275–1 Ashtabula River.

(a) The draw of the Fifth Street bridge, mile 1.4, at Ashtabula shall open on signal on the hour and half hour.

(b) The draw of the CONRAIL bridge, mile 2.2, at Ashtabula shall open on signal from April 1 through November 30 from 7 a.m. to 11 p.m., from April 1 through November 30. At all other times the draw shall open on signal if at least 24 hours notice is given.

§ 117.275–3 Portage River.

(a) The draws of the Monroe Street bridge, mile 1.1, at Port Clinton shall open on signal:

(1) From May 1 through May 14 and from November 1 through December 1.

(2) From May 15 through October 31 from 12 midnight to 6 a.m. From 6 a.m. to 12 midnight the draw shall open on signal from three minutes before to three minutes after the hour and half-hour.

(3) From December 2 through April 30 the draw shall open on signal if at least 24 hours notice is given.

§ 117.275–5 Sandusky Bay.

(a) The draw of the CONRAIL bridge, mile 3.5, at Sandusky shall open on signal from April 1 through October 31 and from November 1 November 30 from 8 a.m. to 4 p.m. At all other times the draw shall open on signal if at least 24 hours notice is given to the Chief Dispatcher, Central Union Terminal, Toledo.

(b) The draw of the CONRAIL bridge, mile 7.7, at Sandusky shall open on signal from 7 a.m. to 11 p.m. From 11 p.m. to 7 a.m. the draw shall open on signal if at least 24 hours notice is given to the Sandusky Post, State Highway Patrol.

(c) The draw of the Ohio Highway 269 bridge, mile 8.2, at Sandusky shall be maintained in the fully opened position from March 16 through December 31, except that it may be closed five minutes in advance of the time a train is expected to cross the bridge, when the drawtender shall signal boat operators that the draw is to be closed by hoisting a four-foot by six-foot white pennant on a staff located at the northerly end of the bridge, clearly visible from Sandusky Bay and East Cove, and by sounding five short blasts of a whistle, horn, or by ringing a bell continuously for five seconds. From January 1 through March 15 the draw shall open on signal if at least 24 hours notice is given.

§ 117.280 Oklahoma.

There are no known or authorized drawbridges in Oklahoma that are required to open on signal.

§ 117.285 Oregon.

The following navigable waters in Oregon are listed alphabetically and are crossed by drawbridges that have certain periods when the draws need not open for the passage of vessels or have special operation regulations. All other drawbridges across navigable waters in Oregon are required to operate as required by Subpart A.

§ 117.285–1 Blind Slough.

The draws of the Burlington Northern railroad bridge, mile 1.1, at Knappa shall open on signal if at least one hour's notice is given. However, the draw shall open promptly on signal from four hours before to four hours after each day's authorized commercial fishing period in the Columbia River Fishery below Bonneville Dam to the jetties at the mouth of the Columbia River as established by the Columbia River Compact (Washington State Department of Fisheries and the Fish Commission of Oregon).

§ 117.285–3 Catching Slough.

The draw of the secondary highway bridge, mile 1.0, near Eastside shall open on signal if at least 48 hours notice given.

§ 117.285–5 Clatskanie River.

The draw of the Burlington Northern railroad bridge, mile 0.7, at Clatskanie shall open on signal if at least one hour's notice is given. However, the draw shall open promptly on signal from four hours before to four hours after each day's authorized commercial fishing period in the Columbia River Fishery below Bonneville Dam to the jetties at the mouth of the Columbia River as established by the Columbia River

Compact (Washington State Department of Fisheries and the Fish Commission of Oregon).

§ 117.285-7 Coalbank Slough.

(a) The draws of the Southern Pacific railroad bridge, mile 0.1, at Coos Bay shall open on signal if at least 24 hours notice is given.

(b) The draw of the US101 bridge, mile 0.2, at Coos Bay need not open for the passage of vessels.

§ 117.285-9 Columbia River.

(a) The draw of the Interstate 5 bridge, mile 106.5, at Vancouver shall open on signal, except that from 6:30 a.m. to 8 a.m., and 3:30 p.m. to 6 p.m., Monday through Friday, except Federal holidays, the draws need not open for the passage of vessels.

(b) The draw of the Port of Hood River bridge, mile 169.8, at Hood River shall open on signal if at least 12 hours notice is given.

§ 117.285-11 Coos Bay.

The draw of the Southern Pacific railroad bridge, mile 9.0, at North Bend shall be kept open at all times except while actually required for the necessary passage of trains over the drawspan. During foggy weather a fog bell installed in the center of the drawspan shall be rung continuously, striking every 10 seconds. Any time during foggy weather, when the draw is closed and the passage is not clear for vessels, there shall be sounded continuously a siren which may be heard at a distance of one mile from the drawspan. When the bridge is again opened the siren shall be stopped, indicating that the way is clear for the passage of vessels.

§ 117.285-13 Coos River.

The draw of the secondary highway bridge, mile 2.2, near Eastside shall open on signal if at least 12 hours notice is given.

§ 117.285-15 Coquille River.

(a) The draws of the Oregon highway bridge, mile 3.5, at Bandon shall open on signal if at least two hours notice is given to the Coos Bay South Slough bridge attendant.

(b) The draws of the US101 Highway bridge, mile 24.0, at Coquille shall open on signal if at least 48 hours notice is given.

§ 117.285-17 Isthmus Slough.

The draw of the Oregon secondary highway bridge, mile 1.0, at Coos Bay shall open on signal if at least four hours notice is given.

§ 117.285-19 John Day River.

(a) The draw of the Burlington Northern railroad bridge, mile 0.0, near Astoria shall open on signal if at least one hour's notice is given. However, the draws shall open promptly on signal from four hours before to four hours after each day's authorized commercial fishing period in the Columbia River Fishery below Bonneville Dam to the jetties at the mouth of the Columbia River as established by the Columbia River Compact (Washington State Department of Fisheries and the Fish Commission of Oregon).

(b) The draw of the US30 bridge, mile 1.0, near Astoria shall open on signal if at least 48 hours notice is given.

§ 117.285-21 Nehalem River.

The draw of the Oregon highway bridge, mile 6.5, at Nehalem need not open for the passage of vessels.

§ 117.285-23 Oregon Slough.

The draw of the Burlington Northern railroad bridge, mile 3.2, at Portland shall open on signal if at least a one-half hour notice is given.

§ 117.285-25 Siuslaw River.

(a) The draw of the US101 bridge, mile 5.0, at Florance shall open on signal if at least two hours notice is given.

(b) The draw of the Southern Pacific railroad bridge, mile 8.0, at Florance shall open on signal if at least 24 hours notice is given.

§ 117.285-27 Skipanon River.

(a) The draw of the Burlington Northern railroad bridge, mile 1.9, at Warrenton shall open twice weekly no closer apart than three days if at least 12 hours notice is given.

(b) The draw of the Oregon highway bridge, mile 2.5, above Warrenton need not open for the passage of vessels.

§ 117.285-29 Umpqua River.

(a) The draw of the Oregon highway bridge, mile 11.1, at Reedsport shall open on signal from 8 a.m. to 4 p.m., Monday through Friday. At all other times the draw shall open on signal if at least four hours notice is given.

(b) The draw of the Southern Pacific railroad bridge, mile 11.5, at Reedsport shall be kept fully open at all times except when actually required for the passage of trains or other railroad equipment or when maintenance to the drawspan is being performed. During foggy weather, when the draw is closed and the channel is not clear for the passage of vessels, there shall be sounded a fog horn with an audible range of one-half mile from the drawspan. The fog horn shall emit two clear signals of approximately six seconds duration each, repeated at intervals of sixty seconds from completion of the second signal to commencement of the next signal. The fog horn shall be sounded repeatedly from commencement of closure to full opening of the drawspan. When the drawspan is again in the open position, the fog horn shall be stopped, indicating that the channel is clear for the passage of vessels.

(c) Umpqua River (side channel). The draw of the Oregon Highway bridge, mile 11.1, near Reedsport need not open for the passage of vessels.

§ 117.285-31 Walluski River.

The draw of the secondary highway bridge, mile 1.0, at Astoria shall open on signal if at least 48 hours notice is given.

§ 117.285-33 Willamette River.

(a) The draws of the following bridges shall open on the designated signal listed below except that from 7 a.m. to 8:30 a.m., and 4 p.m. to 5:30 p.m., except Saturdays, Sundays, and Federal holidays, the draws need not open for the passage of vessels:

Bridge	Mile	Opening and acknowledging signals
(1) Broadway Bridge, Portland.	11.7	Two prolonged followed by one short blast.
(2) Steel Bridge, Portland.	12.1	One prolonged followed by one short blast.
(3) Burnside Bridge, Portland.	12.4	One prolonged followed by two short blasts.
(4) Morrison Bridge, Portland.	12.8	One prolonged followed by three short blasts.
(5) Hawthorne Bridge, Portland.	13.1	One prolonged followed by four short blasts.

The acknowledging signals from the drawtender shall be those set forth in § 117.11(b)(ii).

Note.—The closed periods do not include harbor patrol or fire boats answering calls and for the Broadway Bridge only, oceangoing vessels of 750 gross tons or over.

(b) Signals to open shall be given by vessels at a distance of at least 1,000 feet from the bridge, except in case of a vessel leaving a wharf or anchorage or when waiting less than 1,000 feet from the bridge. In such cases the signal shall be given early enough to allow the operator of the bridge sufficient time in which to clear and open the draw before arrival of the vessel.

(c) In case two vessels approaching from opposite directions would meet at or near the bridge, the vessel bound downstream shall be considered as having the right of way.

(d) The draw of the Southern Pacific railroad bridge, mile 84.3, at Salem shall open on signal except that when river stages are below 28 feet, Corps of Engineers gauge, at least 24 hours notice

is given to the Southern Pacific railroad agent at Portland or to the Southern Pacific railroad agent at Salem.

(e) The draw of the Southern Pacific railroad bridge, mile 119.6, at Albany shall open on signal if at least six hours notice is given.

(f) The draw of the Oregon highway bridge, mile 132.1, at Corvallis shall open on signal if at least seven days notice is given, however, the draw need not open on Saturdays, Sundays, and Federal holidays.

(g) The draw of the Southern Pacific railroad bridge, mile 164.3, near Harrisburg need not open for the passage of vessels.

§ 117.290 Pennsylvania.

The following navigable waterways in Pennsylvania are listed alphabetically and are crossed by drawbidges that have certain periods when the draws need not open for the passage of vessels or have special operation regulations. All other drawbridges in Pennsylvania are required to operate as provided by Subpart A.

§ 117.290-1 Chester Creek.

The draw of the Front Street bridge, mile 0.1, at Chester shall open on signal if at least 24 hours notice is given.

§ 117.290-3 Darby Creek.

(a) The draws of the CONRAIL railroad bridge, mile 0.3, at Essington and the Reading railroad bridge, mile 0.3, at Essington shall open on signal from May 15 through October 15 at 7:15 a.m., 10:30 a.m., 1 p.m., 3 p.m., 7:30 p.m., and 10:30 p.m., and at other times during this period if an opening will not unduly delay railroad operations. Any vessel which may have passed through one of these bridges shall be passed through the draw of the other bridge without delay. When once opened for the passage of any vessel these bridges shall remain open sufficiently long to permit the passage through both bridges of all vessels waiting to pass.

(b) From 11 p.m. to 7 a.m. from May 15 through October 15 the draws need not open for the passage of vessels.

(c) From October 16 through May 14 the draws shall open on signal if at least 24 hours notice is given.

§ 117.290-5 Schuylkill River.

(a) The draw of the University Avenue bridge, mile 6.2, at Philadelphia shall open on signal from 8 a.m. to 4 p.m., and 8 p.m. to 4 a.m., Monday through Friday. At all other times the draw shall open on signal if at least two hours notice is given.

(b) The draws of the CONRAIL bridge, mile 6.4, near Christian Street, at Philadelphia shall open on signal if at least two hours notice is given.

§ 117.295 Rhode Island.

The following navigable waterways in Rhode Island are listed alphabetically and are crossed by drawbridges that have certain periods when the draws need not open for the passage of vessels or have special operation regulations. All other drawbridges in Rhode Island are required to operate as provided in subpart A.

§ 117.295-1 Providence River.

The draw of the USI (Point Street) bridge, mile 7.5, at Providence, need not open for the passage of vessels from 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m. At all other times, the draw shall open on signal if at least 24 hours notice is given to the Director of Public Works, City Hall, Providence.

§ 117.300 South Carolina.

The following navigable waterways in South Carolina are listed alphabetically and are crossed by drawbridges that have certain periods when the draws need not open for the passage of vessels or have special operation regulations. All other drawbridges in South Carolina are required to operate as provided in Subpart A.

§ 117.300-1 Ashepoo River.

The draw of the Family Lines Rail System (Seaboard Coast Line) railroad bridge, mile 32.0, at Ashepoo need not open for the passage of vessels.

§ 117.300-3 Ashley River.

(a) The draws of the US17 highway bridges, miles 2.4 and 2.5, at Charleston, shall:

(1) Open on signal from 9 a.m. to 4 p.m. and from 7 p.m. to 7 a.m.

(2) Open on signal from 7 a.m. to 9 a.m., Monday through Friday, and 4 p.m. to 7 a.m. daily, if at least 12 hours notice is given.

(b) The draw of the Family Lines System (Seaboard Coast Line) railroad bridge, mile 12.0, near Drayton Hall shall open on signal from 7 a.m. to 11 p.m. From 11 p.m. to 7 a.m. the draw shall open on signal if at least three hours notice is given.

§ 117.300-5 Battery Creek.

The draw of the state highway bridge, mile 2.1, between Beaufort and Parris Island, shall open on signal if at least 24 hours notice is given.

§ 117.300-7 Beaufort River (Atlantic Intracoastal Waterway).

The draw of the Ladies Island bridge, mile 536.0, at Beaufort shall open on signal except that the draw need not open from 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m., Monday through Saturday, except Federal holidays, provided that the draw shall open at 8 a.m. and 5 p.m., if any vessels are waiting to pass.

§ 117.300-9 Black River.

The draw of the US17 highway bridge, mile 8.0, near Georgetown shall open on signal if at least 12 hours notice is given.

§ 117.300-11 Broad River.

(a) The draw of the S170 bridge, mile 14.0, near Beaufort shall open on signal if at least 24 hours notice is given.

(b) The draw of the Family Lines Rail System (Seaboard Coast Line) railroad bridge, mile 17.0, near Whale Branch shall open on signal if at least 24 hours notice is given.

§ 117.300-13 Congaree River.

The draw of the Norfolk Southern (Southern) railroad bridge, mile 4.3, at Moye's Station shall open on signal if at least 24 hours notice is given.

§ 117.300-15 Cooper River.

The draw of the Family Line Rail System (Seaboard Coast Line) railroad bridge, mile 42.8, near Cordesville shall open on signal from 7 a.m. to 12 noon, and 1 p.m. to 4 p.m. At all other time the draw shall open on signal if at least 24 hours notice is given.

§ 117.300-17 Coosaw River (Whale Branch).

The draw of the Family Lines Rail System (Seaboard Coast Line) railroad bridge, mile 5.3, at Seabrook and the draw of the US21 bridge, mile 7.0, at Beaufort shall open on signal from 6 a.m. to 8 p.m., Monday through Friday, if at least 24 hours notice is given. At all other times the draw need not open for the passage of vessels.

§ 117.300-19 Durham Creek.

The removable span of the South Carolina Electric & Gas Co., railroad bridge, mile 1.7, at Bushy Park shall be removed to allow the passage of dredges and construction equipment if at least 20 days notice is given. When notified by the City of Charleston of an emergency in the Bushy Park Reservoir the span shall be removed as soon as possible to permit the passage of dredges and construction equipment.

§ 117.300-21 Harbor River.

The draw of the S285 bridge, mile 0.5, at Hunting Island shall open on signal if at least 24 hours notice is given.

§ 117.300-23 Pee Dee River.

The draws of the Family Lines Rail System (Seaboard Coast Line) railroad

bridges, miles 72.6 and 107.2, near Poston need not open for the passage of vessels.

§ 117.300-25 Rantowles Creek.

The draw of the Family Lines Rail System (Seaboard Coast Line) railroad bridge, mile 1.1, near Rantowles need not open for the passage of vessels.

§ 117.300-27 Sullivans Island Narrows (Atlantic Intracostal Waterway).

The draw of the Ben Sawyer, S703 bridge, mile 462.2, between Sullivan's Island and Mount Pleasant shall open on signal, except that the draw need not open from 6:30 a.m. to 9 a.m. and from 4 p.m. to 6 p.m., Monday through Friday; and on Saturdays, Sundays, and Federal holidays from 2 p.m. to 6 p.m., the draw need open only on the hour and one-half hour.

§ 117.300-29 Wando River.

The draw of the state highway bridge, mile 10.0, near Cainhoy shall open on signal if at least 12 hours notice is given.

§ 117.300-31 Wappoo Creek (Atlantic Intracoastal Waterway).

The draw of the S171/700 bridge, mile 470.8, at Charleston shall open on signal, except that the draw need not open from 6:30 a.m. to 9 a.m. and from 4 p.m. to 6 p.m., Monday through Friday; and on Saturdays, Sundays, and Federal holidays from 2 p.m. to 6 p.m., the draw need open only on the hour and one-half hour.

§ 117.305 South Dakota.

§ 117.305-1 Missouri River.

The draws of the US81 bridge, mile 805.7, at Yankton and the Chicago Northwestern railroad bridge, mile 1066.5, at Pierre need not open for the passage of vessels.

§ 117.310 Tennessee.

The following navigable waterways in Tennessee are listed alphabetically and are crossed by drawbridges that have certain periods when the draws need not open for the passage of vessels or have special operation regulations. All other drawbridges in Tennessee are required to operate as provided by Subpart A.

§ 117.310-1 Cumberland River.

The draw of the Family Lines Rail System (Louisville and Nashville) railroad bridge, mile 126.5, at Clarksville shall open on signal when the vertical clearance under the navigational span is 47 feet or less. The draw shall open on signal if at least two hours advance notice has been given when the vertical clearance is greater then 47 feet. The draw need not open for a vessel that arrives at the bridge more than 30 minutes after the time specified in the advance notice, unless a second two hours notice has been given. A resumé of these regulations shall also be conspicuously posted at the Kentucky and Pickwick Locks on the Tennessee River and at the Barkley and Cheatham Locks on the Cumberland River.

§ 117.310-3 Hatchie River.

The draws of the Illinois Central Gulf railroad bridge, mile 35.0, at Covington and the Family Lines Rail System (Louisville and Nashville) railroad bridge, mile 71.0, at Brownsville need not open for the passage of vessels.

§ 117.310-5 Obion River.

The draws of all bridges need not open for the passage of vessels.

§ 117.310-7 Tennessee River.

The draws of the Chief John Ross bridge, mile 464.1, at Chattanooga, and the Norfolk Southern (Southern) railroad bridge, mile 470.7, at Hixon, shall open on signal when the vertical clearance beneath the draw span is 50 feet or less. When the vertical clearance beneath the draw is more than 50 feet at least eight hours advance notice is required. Whenever any vessel that requires the opening of the draw will return through the draw within four hours and informs the drawtender of the probable time of its return, the drawtender shall return one-half hour before the time specified and the draw shall be promptly opened on signal for the passage of the vessel on the return trip without further advance notice. When a vessel has given advance notice and fails to arrive within one hour after the arrival time specified, whether upbound or downbound, a second eight hours notice shall be required. Notices of these regulations shall be posted at the Nickajack and Watts Bar Locks on the Tennessee River.

§ 117.315 Texas.

The following navigable waterways in Texas are listed alphabetically and are crossed by drawbridges that have certain periods when the draws need not open for the passage of vessels or have special operation regulations. All other drawbridges in Texas are required to operate as provided by Subpart A.

§ 117.315-1 Arroyo-Colorado River.

The draw of the S106 highway bridge, mile 22.5, at Rio Hondo shall open on signal if at least 12 hours notice is given.

§ 117.315-3 Brazos River (Diversion Channel).

(a) The draw of the S36 highway bridge, mile 4.4, at Freeport shall open on signal if at least 12 hours notice is given.

(b) The draw of the Missouri Pacific railroad bridge, mile 22.6, at Brazoria need not open for the passage of vessels.

§ 117.315-5 Buffalo Bayou.

(a) The draw of the Southern Pacific railroad bridge and all drawbridges upstream, except the Houston Belt and Terminal railroad bridge, mile 4.3, shall open on signal if at least 24 hours notice is given.

(b) The draw of the Houston Belt and Terminal railroad bridge, mile 4.3, need not open for the passage of vessels.

§ 117.315-7 Cedar Bayou.

(a) The lift span of the Missouri Pacific automated bridge, mile 7.0, at Baytown shall be maintained at a vertical clearance of 81.4 feet above mean high water. Fixed green navigation lights shall be displayed in the center of the lift span.

(b) When a train appoaches the bridge, the navigation lights shall be changed from green to red, alternating flashing red lights shall be turned on, a horn shall be sounded for six minutes, and at the end of six minutes the horn shall be stopped and the draw may be lowered and locked if the scanning equipment does not detect any object under the span. If the scanning equipment detects an obstruction, the draw shall be raised until the obstruction is cleared.

(c) After a train has cleared the bridge, the draw shall be raised to 81.4 feet above mean high water, the flashing red lights shall be stopped, and the navigation lights shall be changed from red to green.

§ 117.315-9 Chocolate Bayou.

The draw of the Missouri Pacific railroad bridge, mile 11.4, at Liverpool need not open for the passage of vessels.

§ 117.315-11 Clear Creek.

(a) The draw of S146 bridge, mile 1.0, between Kemah and Seabrook, shall open on signal except that on Saturdays, Sundays and Federal holidays, from 8 a.m. to 8 p.m., the draw need not open only every other 10 minutes if any vessels are waiting to pass.

(b) The draw of the Southern Pacific railroad bridge, mile 1.0, at Seabrook will be maintained in the open position for the passage of vessels except when it is necessary to close the draw for the passage of trains or for maintenance.

§ 117.315-13 Colorado River.

The draw of the highway bridge, mile 10.7, at Wadsworth shall open on signal if at least 24 hours notice is given.

§ 117.315–15 Cow Bayou.

The draws of the Orange County highway bridge, mile 2.9, at West Orange, and the S87 bridge, mile 4.5, at Bay City shall open on signal if at least six hours notice is given.

§ 117.315–17 Greens Bayou.

The draw of the Port Terminal Railroad Association railroad bridge, mile 2.8, at Houston shall open on signal if at least four hours notice is given. The draw shall open on signal for three hours thereafter if the opening is for returning downbound vessels.

§ 117.315–19 Lavaca River.

The draws of the Missouri Pacific railroad bridge, mile 11.2, and the highway bridge, mile 11.2, both at Vanderbilt shall open on signal if at least 48 hours notice is given.

§ 117.315–21 Neches River.

The draw of the Atchison, Topeka and Santa Fe railroad bridge, mile 53.9, at Evadale need not open for the passage of vessels.

§ 117.315–23 Nueces Bay.

The draw of the US181 bridge, mile 0.5, Corpus Christi need not open for the passage of vessels.

§ 117.315–25 Old Brazos River.

The draw of the Missouri Pacific railroad bridge, mile 4.4, at Freeport shall be maintained in the fully open to navigation position except for the crossing of trains or for maintenance.

§ 117.315–27 Pelican Island Causeway.

The draw of the Pelican Island causeway bridge, mile ——, across Galveston Channel at Galveston shall open on signal except that from 7 a.m. to 8:30 a.m., 12 noon to 1 p.m. and 4:15 p.m. to 5:15 p.m., Monday through Saturday, and Federal holidays, the draw need not open for the passage of vessels.

§ 117.315–29 Sabine Lake.

The draw of the S82 bridge, mile 10.0, at Port Arthur shall open on signal from 5 a.m. to 9 p.m. From 9 p.m. to 5 a.m., the draw will open on signal if at least six hours notice is given to the Maintenance Construction Supervisor or the Maintenance Foreman at Port Arthur.

§ 117.315–31 Sabine River.

The draws of the Southern Pacific railroad bridge, mile 19.3, at Echo, the Kansas City Southern railroad bridge, mile 36.2, at Ruliff, and the Texas and Louisiana railroad bridge and the Louisiana S7 bridge, mile 40.8, both at Deweyville shall open on signal if at least 24 hours notice is given.

§ 117.315–33 Sabine River (Old Channel) behind Orange Harbor Island.

The draw of the highway bridge, mile ——, at Orange shall open on signal from 7 a.m. to 12 midnight, Monday through Friday, except Federal holidays. The draw shall open on signal at all other times if at least eight hours notice is given.

§ 117.315–35 Taylor Bayou.

The draws of the Southern Pacific railroad bridge, mile 2.0, and the S73 bridge, mile 10.2, both at West Port Arthur need not open for the passage of vessels.

§ 117.315–37 Trinity River.

The draws of the Southern Pacific railroad bridge, mile 41.4, at Liberty, the Missouri Pacific railroad bridges, mile 54.8, at Kenefick, and mile 181.8, at Riverside, and the Atchison, Topeka and Santa Fe railroad bridge, mile 96.2, at Romayor need not open for the passage of vessels.

§ 117.315–39 Victoria Channel.

(a) The draw of the Missouri Pacific railroad automated bridge, mile 29.4, near Bloomington, need not be manned by a regular attendant.

(b) The lift span is normally in the down position, providing a vertical clearance of 22 feet above mean high water.

(c) Three prolonged blasts of a horn or whistle from an approaching vessel activates navigational approach detectors, located one-half mile upstream and downstream from the bridge. If the span is inoperable, these sound signals will activate an alarm to alert bridge maintenance crews.

(d) Interruption of the approach detector beams by a vessel will cause (1) the draw to open to the fully raised position of 50 feet above mean high water for 10 minutes, (2) a navigation warning siren to sound, (3) the navigation light in the center of the lift span to change from red to green, (4) the indicator lights, located one-quarter mile of each side of the bridge, to change from red to yellow. However, if a train is approaching the bridge so closely that the train may not be safely stopped, the light will remain red and the bridge will not open until the train has passed.

(e) Interruption of the detector beam, located at the end of the bridge fender system, will cancel the existing time intervals and start a new 10-minute interval during which the bridge will remain open. The span will not close until the vessel clears the detector located at the opposite end of the fender system, or the 10-minute interval elapses, whichever occurs earlier.

(f) If a vessel is unable to reach the detectors located on the outer ends of the fender system before the span closes, an additional signal of three prolonged blasts of a horn or whistle will cause the span to reopen and initiate a new 10-minute interval.

(g) If the draw is in the open position for the passage of a vessel, and a train enters an approach circuit to the bridge, the bridge will remain open for five minutes if the detector beam has been interrupted. If the detector beam has not been interrupted the span will close at the end of the original 10-minute opening period and will not reopen in response to the additional signal described in paragraph (f) of this section. After the train passes, the span will open on signal for any waiting vessels.

§ 117.320 Utah.

There are no known or authorized drawbridges in Utah.

§ 117.325 Virginia.

The following navigable waterways in Virginia are listed alphabetically and are crossed by drawbridges that have certain periods when the draws need not open for the passage of vessels or have special operation regulations. All other drawbridges in Virginia are required to operate as provided by Subpart A.

§ 117.325–1 Albemarle and Chesapeake Canal.

The draw of the S168 bridge, mile 12, at Chesapeake (Great Bridge) shall open on signal from 7 p.m. to 6 a.m. From 6 a.m. to 7 p.m., the draw need open only on the hour. If any vessel is approaching the drawbridge and cannot reach the draw exactly on the hour, the drawtender may delay the hourly opening up to 10 minutes past the hour for the passage of the approaching vessel and any other vessels that are waiting to pass.

§ 117.325–3 Appomattox River.

The draw of the Family Lines Rail System (Seaboard Coast Line) railroad bridge, mile 2.5, at Hopewell shall open on signal if at least 24 hours notice is given to the Family Lines Rail System (Seaboard Coast Line) Agent at Hopewell.

§ 117.325–5 Blackwater River.

The draw of the S189 bridge, mile 9.2, at South Quay shall open on signal if at least 24 hours notice is given.

§ 117.325–7 Cat Point Creek.

The draw of the S634 bridge, mile 0.3, at Naylors need not open for the passage of vessels.

§ 117.325–9 Chickahominy River.

The draw of the highway bridge, mile 1.5, at Barrets Ferry shall open on signal from 7 a.m. to 11 p.m. From 11 p.m. to 7 a.m., the draw shall open on signal if at least 12 hours notice is given.

§ 117.325–11 Chuckatuck Creek.

The draw of the US17 bridge, mile 1.0, at Crittenden shall open on signal if at least two hours notice is given.

§ 117.325–13 Elizabeth River—Eastern Branch.

The draw of the Campostella bridge, mile 1.8, at Norfolk shall open on signal except that from 7:35 a.m. to 7:50 a.m., Monday through Friday, the draw need not open except for the passage of tugs with tows.

§ 117.325–15 Elizabeth River—Southern branch.

(a) The draw of the Jordan (S337) bridge, mile 2.8, at Portsmouth-Chesapeake shall open on signal except that from 6:30 a.m. to 7:30 a.m. from 3:30 p.m. to 4:30 p.m., Monday through Friday, except Federal holidays, the draw need not open for the passage of pleasure craft.

(b) The draw of the Norfolk Southern (Norfolk and Western) railroad bridge, mile 3.6, at Portsmouth-Chesapeake shall be maintained in the open to navigation position except the draw may close for the crossing of trains and the maintenance of the bridge. When the draw is closed, there shall be a drawtender present and the draw shall open on signal.

(c) The draw of the I–64 bridge, mile 7.1, at Chesapeake shall open on signal if at least 24 hours notice is given.

§ 117.325–17 Elizabeth River—Western branch.

The draw of the S337 bridge, mile 4.7, Hodges Ferry, shall open on signal if at least eight hours notice is given.

§ 117.325–19 Great Wicomico River.

The draw of the S200 bridge, mile 8.0, at Tipers shall open on signal from 6 a.m. to 6 p.m. If an opening is desired from 6 p.m. to 6 a.m., the drawtender on duty must be notified before 6 p.m.

§ 117.325–21 Kinsale Creek.

The draw of the state highway bridge, mile 4.0, at Kinsale need not open for the passage of vessels.

§ 117.325–23 Lafayette River.

The draw of the Granby Street bridge, mile 3.3, at Norfolk need not open for the passage of vessels.

§ 117.325–25 Mattaponi River.

The draws of the Lord Delaware (S33) bridge, mile 0.8, at West Point and the S629 bridge, mile 28.5, at Walkerton, shall open on signal if at least 24 hours notice is given.

§ 117.325–27 Nansemond River.

The draw of the US 460 bridge, mile 18.2, at Suffolk shall open on signal if at least 12 hours notice is given.

§ 117.325–29 Nansemond River—Western branch.

The draw of the S10 bridge, mile 2.0, at Reids Ferry need not open for the passage of vessels.

§ 117.330 Vermont.

The following navigable waterways in Vermont are listed alphabetically and are crossed by drawbridges that have certain periods when the draw need not open for the passage of vessels or have other special operation regulations. All other drawbridges in Vermont are required to operate as provided by Subpart A.

§ 117.330–1 Lake Champlain.

(a) The draw of the Vermont highway bridge, mile 108.9, between Alburg Tongue and Hog Island at East Alburg shall open on signal if at least 24 hours notice is given.

(b) The draw of the Central Vermont railroad bridge, mile 105.6, across Missiquoi Bay between South Hero Island and North Hero Island shall open on signal from 7 a.m. to 11 p.m. from June 15 through September 15. At all other times the draw shall open on signal if at least 24 hours notice is given.

(c) The draw of the Vermont highway bridge, mile 90.1, between South Hero Island and North Hero Island shall open on signal:

(1) From May 15 through October 15 from 7 a.m. to 9 p.m.

(2) From May 5 through October 15 from 9 p.m. to 7 a.m. if at least four hours notice is given.

(3) From October 16 through May 14 if at least 24 hours notice is given.

§ 117.335 Washington.

The following navigable waterways in Washington are listed alphabetically and are crossed by drawbridges that have certain periods when the draws need not open for the passage of vessels or have special operation regulations. All other drawbridges in Washington are required to operate as provided by Subpart A.

§ 117.335–1 Chehalis River.

(a) The draw of the state highway bridge, mile 0.1, at Aberdeen shall open on signal except that from 7:15 a.m. to 8:15 a.m. and 4:15 p.m. to 5:15 p.m., Monday through Friday, except Federal holidays, the draw need not open for the passage of vessels of less than 5,000 gross tons.

(b) The draw of the Union Pacific railroad bridge, mile 13.1, at South Montesano shall be maintained in the open to navigation position except the draw may close for the crossing of trains and the maintenance of the bridge. When the draw is closed, there shall be a drawtender present and the draw shall open on signal.

§ 117.335–3 Columbia and Snake Rivers in the vicinity of Pasco.

(a) The draw of the Burlington Northern railroad bridge across the Columbia River, mile 328.0, between Pasco and Kennewick shall open on signal from 8 a.m. to 4 p.m. At all other times, the draw shall open on signal if at least two hours notice is given through the General Yardmaster, Pasco, Washington.

(b) When two vessels approaching from opposite directions meet near a drawbridge listed in this section, the downbound vessel shall have the right-of-way. When one vessel waits for passage of another, the waiting vessel shall repeat the call signal for the bridge and receive an acknowledging signal from the drawtender before proceeding.

§ 117.335–5 Cowlitz and Lewis Rivers.

(a) The draw of the Burlington Northern railroad bridge, mile 2.0, across the Lewis River at Woodland need not open for the passage of vessels.

(b) The draw of the Allen Street bridge, mile 5.5, across the Cowlitz River at Kelso shall open on signal if at least two hours notice is given. In the event a vessel is delayed, the operator will remain a reasonable time, not to exceed two hours, and open the bridge on signal for the passage of the vessel. If a vessel is expected to be delayed more than two hours the operator will be so advised, and notified of the later time the opening will be required. If a vessel passing through the bridge intends to return through within two hours the vessel shall notify the bridge tender who shall remain at and open the draw upon signal for the vessel's return passage.

§ 117.335–7 Deep River.

The draw of the US 830–S12 bridge, mile 3.5, near Deep River shall open on signal if at least four hours notice is given.

§ 117.335–9 Duwamish Waterway at Seattle.

(a) The draws of each bridge across the Duwamish Waterway shall open on signal except that the draws of the Southwest Spokane Street bridge and the First Avenue South bridge need not

open for the passage of vessels from 6:30 a.m. to 8:30 a.m. and 3:45 p.m. to 5:45 p.m., Monday through Friday, except Federal holidays. However, the draws of these bridges shall open at any time for a vessel of 5,000 tons or more.

(b) The following bridges shall open on the following signals:

(1) Burlington Northern railroad bridge, mile 0.4, and Southwest Spokane Street bridge, mile 0.3. One prolonged blast followed quickly by three short blasts.

(2) Burlington Northern railroad bridge, mile 0.4. One prolonged blast followed quickly by one short blast.

(3) First Avenue South bridge, mile 2.5. Three prolonged blasts.

(4) Fourteenth Avenue South bridge, mile 3.8. One prolonged blast followed quickly by one short blast and one prolonged blast.

(c) During conditions of restricted visibility, as defined in 72 COLREGS, 33 CFR, Subchapter D, the drawtender, after giving the acknowledging signals that the draw will open, shall toll a bell continuously during the approach and the passage of the vessel.

§ 117.335–11 Hood Canal.

(a) The draw of the pontoon highway bridge near Port Gamble shall open on signal if at least one hour's notice is given.

(1) Telephone requests for bridge opening may be directed as collect calls to the Toll Office at the bridge site. The call may also be made by direct telephone communication, through the Seattle Marine Operator, Station KOH, or through other marine wire or radio telephone service.

(2) Sound signals for requesting the opening of the draw shall be one prolonged blast of a horn or whistle followed quickly by two short blasts in the immediate vicinity of the drawspan. The bridge attendant will acknowledge by repeating the signal.

(3) During unusual or emergency periods, the authorized representative of the owner of or agency controlling the bridge will be required to operate the draw of the bridge on a demand basis for specified periods of time, which will normally not exceed 48 hours, when requested by the Department of the Navy. While on a demand basis the drawtender will be in attendance on the bridge with radio communications equipment in operation.

(4) After receipt of proper advance notice of a required opening of the drawspan, the authorized representative of the owner of or agency controlling the bridge shall arrange for opening the span at the specified time. When opening of the bridge is imminent, all signals, radio or audio, will be promptly acknowledged by both the bridge and vessels desiring to pass through the draw.

(b) Communication when opening is imminent.

(1) Radio. The drawtender shall monitor and communicate with vessels on radiotelephone frequency 156.65 megahertz (Channel 13). If radio contact cannot be made on 156.65 megahertz, the drawtender shall monitor and communicate with vessels on 156.80 megahertz (Channel 16). These frequencies are subject to change by the Federal Communications Commission.

(2) Audio. The drawtender will communicate with vessels not equipped with radiotelephones or in instances where radio communication is not satisfactory by use of sound signals as follows:

(i) Vessels wishing to have the draw opened will sound one prolonged blast of a horn or whistle followed quickly by two short blasts.

(ii) If the drawspan cannot be opened immediately, or if open and must close immediately, the drawtender will sound five or more short blasts of a horn or whistle, to be repeated at regular intervals until acknowledged.

§ 117.335–13 Hoquiam River.

The draw of the Simpson Avenue bridge, mile 0.5, at Hoquiam shall open on signal if at least a one hour notice is given. The State Department of Highways shall accept collect telephone calls from vessels via the local marine telephone operator, or long distance telephone, and shall provide a two-way radiotelephone on the Chehalis River bridge which will be attended at all times. Vessels may place one hour's notice calls for the Hoquiam River Simpson Avenue bridge through the Chehalis River bridge operator. Radio frequencies are 2182Kz and 2738Kz. The bridge tender shall monitor 2182Kz and switch to 2738Kz for communication. These frequencies are subject to change by the Federal Communications Commission.

§ 117.335–15 Lake Washington.

(a) The draw of the pontoon highway bridge between Foster Island and Evergreen Point, shall open on signal if at least one hour's notice is given.

(1) Telephone requests for bridge opening may be directed as collect calls to the Highway Radio. The call may also be made by direct telephone communication, through the Seattle Marine Operator, Station KOH, or through other marine wire or radiotelephone service.

(2) Sound signals shall be one prolonged blast of a horn or whistle followed quickly by two short blasts in the immediate vicinity of the drawspan. The bridge attendant will acknowledge by repeating the signal.

(3) The draw need not open Monday through Friday from 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m. for any vessel or other watercraft of less than 2,000 gross tons, unless such vessel has in tow a vessel of 2,000 gross tons or over, or a piledriver that is unable to pass under the fixed spans.

§ 117.335–17 Lake Washington Ship Canal.

(a) The draw of the Burlington Northern railroad bridge, mile 0.1, shall open on signal.

(b) The draws of the Ballard (15th Avenue) bridge, mile 1.1, Fremont Avenue bridge, mile 2.6, University bridge, mile 4.3, and Montlake bridge, mile 5.2, all at Seattle shall open on signal except that they:

(1) Need not open from 7 a.m. to 9 a.m., and from 4 p.m. to 6 p.m., Monday through Friday, except federal holidays, for vessels of less than 1,000 tons unless the vessel has a vessel of over 1,000 tons in tow, except under emergency conditions when the Seattle City Engineer is notified.

(2) Shall open on signal from 12 midnight to 8 a.m., if at least one hour notice is given by telephone, radiotelephone, or otherwise to the drawtender at the Fremont Avenue drawbridge.

(c) The opening sound signal for each bridge is one prolonged blast followed by one short blast, except that the University bridge opens on one prolonged blast followed by three short blasts.

(d) During conditions of restricted visibility, as defined in the Rules of the Road, the drawtender after giving the acknowledging signals that the draw will open, shall toll a bell continuously during the approach and passage of the vessel.

§ 117.335–19 Skagit River.

The Draws of all bridges across the Skagit River need not open for the passage of vessels.

§ 117.335–21 Skamokawa Creek.

The draw of the Washington State highway bridge at Skamokawa need not be opened for the passage of vessels.

§ 117.335–23 Snohomish River.

(a) The draw of the Burlington Northern railroad bridge, mile 3.5, at Everett shall open on the signal of one prolonged blast followed by one short blast followed by one prolonged blast.

(b) The draws of the US99 bridges, mile 3.6, at Everett, shall open on signal if at least two hours notice is given.

(c) The draw of the US2–S15 bridge, mile 6.9, shall open on signal if at least four hours notice is given.

§ 117.335–25 Steamboat Slough.

(a) The draws of the Burlington Northern railroad bridge, mile 1.0, and the (twin) US99 bridges, mile 1.2, both near Marysville, shall open on signal if at least four hour notice is given.

(b) The opening signals are:

(1) For the railroad bridge—one prolonged blast followed by one short blast followed by one prolonged blast.

(2) Both highway bridges—two prolonged blasts followed by one short blast.

Tacoma Harbor

§ 117.335–27 City Waterway.

(a) The draw of the South 11th Street bridge, mile 0.6, at Tacoma shall open on signal if at least two hours notice is given. However, the draw need not open from 6:30 a.m. to 8:30 a.m. and 3:30 p.m. to 5:30 p.m., Monday through Friday, except Federal holidays, for vessels of less than 1,000 gross tons, unless such vessel has in tow a vessel of 1,000 gross tons or over, or opening of the draw is required for the pickup for towing of a vessel of 1,000 gross tons or over. Under emergency conditions, openings will be made as soon as possible upon notification to the city of Tacoma, Department of Public Works.

(b) The draw of the Union Pacific railroad bridge, mile 0.9, at Tacoma shall open on signal except that from 7:15 a.m. to 8 a.m. and 4:15 p.m. to 5 p.m., the draw need not open. (1) The opening signal is one prolonged blast followed by one short blast followed by one prolonged blast.

§ 117.335–29 Puyallup Waterway and River.

The draw of the Milwaukee Road railroad bridge, mile 0.9, at Tacoma shall open on signal if at least 24 hours notice is given.

§ 117.335–31 Blair Waterways.

The draw of the East 11th Street bridge at Tacoma shall open on signal except that the draw need not open from 6:30 a.m. to 8:30 a.m. and 3:30 p.m. to 5:30 p.m., Monday through Friday, except Federal holidays, for vessels of less than 1,000 gross tons, unless such vessel has in tow a vessel of 1,000 gross tons or over, or opening of the draw is required for the pickup for towing of a vessel of 1,000 gross tons or over. Under emergency conditions, openings will be made as soon as possible upon notification to the city of Tacoma, Department of Public Works.

§ 117.335–33 Hylebos Waterway.

The draw of the East 11th Street bridge at Tacoma shall open on signal except that the draw need not open from 6:30 a.m. to 8:30 a.m., and 3:30 p.m. to 5:30 p.m., Monday through Friday, except Federal holidays, for vessels of less than 1,000 gross tons, unless such vessel has in tow a vessel of 1,000 gross tons or over, or opening of the draw is required for the pickup for towing of a vessel of 1,000 gross tons or over. Under emergency conditions, openings will be made as soon as possible upon notification to the city of Tacoma, Department of Public Works.

All Tacoma Harbor Bridges.

Note.—Fog signals. When fog prevails by day or night, the drawtender, after giving the opening signal, shall toll a bell continuously during the approach and passage of a vessel.

§ 117.335–35 Willapa Harbor.

The draws of the state highway bridge, mile 7.8, North Fork of the Willapa River, at Raymond and the state highway bridge, mile 2.5, Naselle River, at Naselle shall open on signal from 8 a.m. to 5 p.m., Monday through Friday, except Federal holidays, if at least two hours notice is given, and at all other times if at least eight hours notice is given.

§ 117.335–37 Wishkah River.

(a) The draws of the Heron Street bridge, mile 0.2, and the Wishkah Street bridge, mile 0.4, both at Aberdeen shall open on the signal of one prolonged blast followed by two short blasts if at least a one-half hour notice is given. The State Department of Highways may accept collect telephone calls from vessels via the local marine telephone operator long distance telephone. The State Department of Highways shall provide a two-way radiotelephone on the Chehalis River bridge which will be attended at all times. Vessels may place calls for the Wishkah River bridges through the Chehalis River operator who shall monitor 21 82 Kz and switch to 27 38 Kz for communication. These frequencies are subject to change by the Federal Communications Commission.

(b) When fog prevails by day or by night the drawtender on giving signal that draw will be opened, shall toll a bell continuously during the approach and passage of the vessel.

§ 117.340 West Virginia

There are no known or authorized drawbridges in West Virginia.

§ 117.345 Wisconsin.

The following navigable waterways in Wisconsin are listed alphabetically and are crossed by drawbridges that have certain periods when the draws need not open for the passage of vessels or have special operation regulations. All other drawbridges in Wisconsin are required to operate as provided by Subpart A.

§ 117.345–1 Black River.

(a) The draw of the Milwaukee Road railroad bridge, mile 1.0, at La Crosse shall open on signal if at least two hours notice is given.

(b) The draw of the Wisconsin highway bridge, mile 1.9, at North La Crosse shall open on signal if at least 24 hours notice is given.

§ 117.345–3 Duluth-Superior Harbor (St. Louis River).

(a) The draw of the Duluth Ship Canal bridge, mile 0.1 at Duluth shall open on signal from March 16 through December 31. From January 1 through March 15 the draw shall open on signal if at least 24 hours notice is given.

(1) In case the Duluth Ship Canal bridge is disabled, the bridge authorities must give incoming and outgoing vessels timely and dependable notice, by tug service if necessary, so that they will not attempt to enter the canal.

(2) Vessels must be given precedence over highway or railway traffic at all times.

(b) The draws of the Burlington Northern railroad bridge, mile 5.7, shall open on signal from March 16 through December 31 and shall open on signal from January 1 through March 15 if at least 24 hours notice is given. The following signals shall be used:

Minnesota Draw—One prolonged blast followed by two short blasts
Wisconsin Draw—Two prolonged blasts followed by two short blasts.

(c) The draws of the Grassy Point bridge, mile 8.0, and the Arrow Head bridge, mile 8.7, shall open on signal from March 16 through December 31. From January 1 through March 15 the draw shall open on signal if at least 24 hours notice is given.

(d) The draw of the Duluth Missabe and Iron Range Railway bridge, mile 16.3, need not open for the passage of vessels.

§ 117.345–5 East River.

The draw of the Monroe Street bridge, mile 0.3, at Green Bay need not open for the passage of vessels.

§ 117.345-7 Fox River.

(a) The draws of the Main Street bridge, mile 1.6, Walnut Street bridge, mile 1.8, and Mason Street bridge, mile . , at Green Bay need not open for the passage of vessels, Monday through Saturday, except Federal holidays:

7:45 a.m. to 8 a.m.
12 noon to 12:15 p.m.
12:50 p.m. to 1:10 p.m.
4:55 p.m. to 5:25 p.m.

However, public vessels of the United States, vessels of 300 short tons or over cargo capacity engaging in commercial transportation and their attendant towing tugs, and tugs and fireboats shall be passed at any time.

(1) The opening signals for each bridge are:

Main Street—Two short blasts followed by one prolonged blast
Walnut Street—One prolonged blast followed by two short blasts
Mason Street—One prolonged blast followed by one short blast

(b) The draw of the George Street bridge, mile 7.2, at DePere shall open on signal from 8 a.m. to 6 p.m., during the navigation season. From 6 p.m. to 8 a.m., during the navigation season, the draw shall open on signal if at least two hours notice is given.

§ 117.345-9 Manitowoc River.

(a) The draws of the Eighth Street bridge, mile 0.3, and the Tenth Street bridge, mile 0.5, both at Manitowoc, shall open on signal, Monday through Friday, except Federal holidays, however, the draws need not open:

6:50 a.m. to 7 a.m.
7:50 a.m. to 8 a.m.
11:55 a.m. to 12:10 p.m.
12:45 p.m. to 1 p.m.

(1) The opening signals for each bridge are:

Eight Street—One prolonged blast followed by one short blast
Tenth Street—Two short blasts followed by one prolonged blast

Note.—When signal is given by a car ferry or other large vessel to pass either of the two bridges, the remaining bridge shall also open promptly so that such vessel shall not be held between the two bridges.

§ 117.345-11 Menomonee River.

The draw of the Ogden-First Street bridge, mile 0.4, at Marinette, shall open on signal from May 1 through October 31 and shall open on signal from November 1 through April 30 if at least 12 hours notice is given.

§ 117.345-13 Milwaukee, Menomonee, and Kinnickinnic Rivers, and South Menomonee Canal, Milwaukee.

(a) The draws of the North Broadway Street bridge, mile 0.5, North Water Street bridge, mile 0.6, and Michigan Street bridge, mile 1.1, across the Milwaukee River; the North Plankinton Avenue bridge, mile 0.1, across the Menomonee River, and the Kinnickinnic Avenue bridge, mile 1.5, across the Kinnickinnic River, shall open on signal, except that from 7:30 a.m. to 8:30 a.m. and 4:30 p.m. to 5:30 p.m., Monday through Saturday, except Federal holidays, the draws need not open.

(b) The draws of the Milwaukee Road railroad bridge and the Chicago and Northwestern Railway bridges across the Kinnickinnic River, mile 1.5 and mile 1.52, respectively; and the draw of the Milwaukee Road railroad bridge across the Burnham Canal, mile 0.8, shall open on signal if at least two hours notice is given.

(c) The draws of the birdges across the Milwaukee River need not open from 7:30 a.m. to 8:30 a.m. and 4:30 p.m. to 5:30 p.m. At all other times the draws shall open on signal if at least two hours notice is given.

(d) All other drawbridges across the Kinnickinnic, and Menomonee Rivers, and the Menomonee and Burnham Canals shall open on signal. However, from 7:30 a.m. to 8:30 a.m., and 4:30 p.m. to 5:30 p.m., Monday through Saturday, except Federal holidays, the draws need not open, and from 11 p.m. to 7 a.m., the draws shall open on signal if at least two hours notice is given.

(e) Signals.

(1) The opening signal for all drawbridges except those listed below is one prolonged blast followed by one short blast.

(i) The opening signal for the Chicago and Northwestern drawbridges across the Kinnickinnic River, mile 1.0, and the Milwaukee River, mile 0.3, is two prolonged blasts.

(ii) The opening signal for the Broadway Street drawbridge, mile 0.5, is three prolonged blasts followed by one short blast.

(iii) The opening signal for the Water Street drawbridge, mile 0.6, is three prolonged blasts followed by two short blasts.

(iv) The opening signal for the Milwaukee Road railroad drawbridge across the Menomonee River, mile 0.1, is two prolonged blasts followed by two short blasts.

(2) The acknowledging signal when the draw will open is the same as the opening signal.

(3) The acknowledging signal when the draw will not open or is open and must be closed is four short blasts.

§ 117.345-15 Root River.

(a) The draw of the Main Street bridge, mile 0.3, at Racine shall open on signal, except that Monday through Friday, except Federal holidays, the draw need not open:

7:30 a.m. to 8:10 a.m.
11:50 a.m. to 12:10 p.m.
12:50 p.m. to 1:10 p.m.
3:30 p.m. to 4:10 p.m.
4:30 p.m. to 5:10 p.m.

(b) The draw of the State Street bridge, mile 0.5, at Racine shall open on the signal of three short blasts, except that Monday through Friday, except Federal holidays, the draw need not open:

6:30 a.m. to 7 a.m.
12 noon to 12:15 p.m.
12:45 p.m. to 1 p.m.

§ 117.345-17 Sheboygan River.

The draw of the Eighth Street bridge, mile 0.7, at Sheboygan shall open on signal from May 1 through October 30 from 6 a.m. to 10 p.m. The draws shall open on signal at all other times if at least two hours notice is given.

§ 117.345-19 St. Croix River.

(a) The draws of all bridges from the mouth through Hudson shall open on signal from March 2 through December 14. From December 15 to March 1, the draws shall open on signal if at least 24 hours notice is given.

(b) The draw of the Stillwater bridge, mile 23.3, shall open on signal:

(1) From May 15 through October 15 from Monday through Friday, except Federal holidays, as follows:

8 a.m. to 11 a.m. every hour on the hour
11 a.m. to 3 p.m. every hour and half hour
3 p.m. to 6 p.m. every hour on the hour
6 p.m. to 10 p.m. every hour and half hour
10 p.m. to 8 a.m. if at least two hours notice is given.

(2) On Saturdays, Sundays, and Federal holidays, as follows:

8 a.m. to 11 a.m. every hour and half hour
11 a.m. to 8 p.m. every hour on the hour
8 p.m. to midnight every hour and half hour
Midnight to 8 a.m. if at least two hours notice is given.

(3) From October 16 through May 14 if at least 24 hours notice is given.

(c) The draw of the Soo Line railroad bridge, mile 40.7 at Otisville, need not open for the passage of vessels.

§ 117.345-21 Sturgeon Bay.

(a) The draws of the highway bridge, mile 4.3, at Sturgeon Bay shall open on signal:

(1) From March 15 through May 14 and from September 15 through December 31.

(2) From May 15 through September 15, the draw shall open on signal from 6 p.m. to 6:30 a.m.

(3) From May 15 through September 15, from 6:30 a.m. to 6 p.m. the draw shall open on the hour and half hour provided vessels are waiting to pass.

(4) From January 1 through March 14 the draw shall open on signal if at least 12 hours notice is given.

§ 117.345–23 Upper Mississippi River.

(a) The draws of all bridges between Lock and Dam No. 2, mile 815.2, and Lock and Dam No. 10, mile 615.1, shall open on signal from March 2 through December 14. From December 15 through March 1 the draws shall open if at least 24 hours notice is given.

(b) The draws of all bridges between Lock and Dam No. 2, mile 815.2, and Lock and Dam No. 1, mile 847.6, shall open on signal from March 2 through December 14. From December 15 through March 1 the draws shall open on signal if at least 12 hours notice is given.

§ 117.345–25 Wisconsin River.

The draws of each drawbridge shall open on signal if at least 48 hours notice is given.

§ 117.350 Wyoming.

There are no known or authorized drawbridges in Wyoming.

Dated: June 25, 1982.

R. A. Bauman,

Rear Admiral. U.S. Coast Guard, Chief, Office of Navigation.

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federal register

Monday
July 12, 1982

Part IV

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Coal Exploration and Surface Coal Mining and Reclamation Operations on Non-Federal and Non-Indian Lands in Idaho; Proposed Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 912

Surface Mining and Reclamation Operation Under a Federal Program for Idaho

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) of the Department of the Interior proposes a Federal program for regulation of coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands in Idaho. This includes surface effects of underground coal mining. This proposed program is necessary in order to regulate surface coal mining activities in the absence of a State program.

DATES: Written comments must be received not later than 5:00 p.m. on September 20, 1982, at the address below. A public hearing will be held on September 7, 1982, at 1:00 p.m. Requests to testify at the hearing should be received by September 2, 1982. If commenters request a hearing date later than that set, the hearing will be rescheduled and the new date announced by a notice in the **Federal Register.**

ADDRESSES: Written comments must be mailed to: Administrative Record Room R&I–23 Office of Surface Mining, Wyoming State Office, P.O. Box 1420, Mills, Wyoming 82644, or hand delivered to Office of Surface Mining, Wyoming State Office, Freden Building, 435 Pendell Blvd., Mills, Wyoming 82644.

The public hearing on the proposed program will be held at the Federal Building, Room 523, 550 West Fort Street, Boise, Idaho.

FOR FURTHER INFORMATION CONTACT: James M. Kress, Office of Surface Mining, Branch of Regulatory Programs, Room 222, 1951 Constitution Avenue, NW., Washington, D.C. 20240. Telephone: (202) 343–5866.

SUPPLEMENTARY INFORMATION:

Availability of Copies

Copies of the proposed program are available for inspection and may be obtained at the OSM office listed above under "**ADDRESSES.**"

Public Comment Period

The comment period on the proposed program will extend until September 20, 1982. All comments must be received at the location listed above under "**ADDRESSES**" by the close of business on that date.

All written comments received, a transcript of the public hearing, summaries of public meetings held at the request of any person or organization to receive advice and recommendations concerning the proposed program with representatives of OSM, and other documents comprising the administrative record on the Idaho Federal program will be made available for public review during regular business hours at the location listed above under "**ADDRESSES.**"

OSM appreciates any and all comments on the proposal, but those that would be most useful should be as specific as possible, focus on the issues of this proposed rulemaking, and provide reasons for any recommendations. OSM will not consider comments that do not pertain to the issues in this proposal. Nor can OSM ensure consideration of comments received after the comment period ends or those delivered to an address other than those specified.

Public Hearing

A public hearing on the proposed program will be held at the time and location listed above to hear all those who wish to testify. The hearing may be cancelled if, by September 2, 1982, no person has expressed interest in presenting testimony.

Individual testimony at the hearing will be limited to 15 minutes. The hearing wil be transcribed. Filing of a written statement at the time of giving oral testimony would be helpful and would facilitate the job of the court reporter. Submission of written statements in advance of the hearing would greatly assist OSM officials who will attend the hearing. Advance submissions will give these officials an opportunity to consider appropriate questions which could be asked for clarification or to request more specific information from the person testifying. The public hearing will continue until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak and wish to do so will be heard following the scheduled speakers. The hearing will end after all persons scheduled to testifying and persons present in the audience who wish to speak have been heard. Persons not scheduled to testify, but wishing to do so, assume the risk of having the public hearing adjourned unless they are present in the audience at the time all scheduled speakers have been heard.

Background

Under section 504(a) of the Surface Mining Control and Reclamation Act of 1977 (the Act), Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*, the Secretary is required to promulgate a Federal program within 34 months after passage of the Act if a State fails to submit a program to assume responsibility for regulating surface mining activities, fails to resubmit a program within 60 days of disapproval, or fails at any time to implement, enforce, or maintain an approved State program. The time for submitting State programs was extended by seven months to March 3, 1980 as the result of litigaton, *In re: Permanent Surface Mining Regulation Litigation*, 13 ERC 1447 (July 25, 1979). The date for submission of State programs has now passed.

An additional standard for the promulgation of a Federal program is found in 30 CFR Part 736, which requires the implementation of a Federal program for a State where the Director of OSM (the Director) "reasonably expects coal exploration or surface coal mining and reclamation operations to exist on non-Federal and non-Indian lands * * * at any time before June 1985 * * *." 30 CFR 736.11(a)(1).

Once a decision is made that a Federal program is necessary for a State, the Secretary must make several determinations before promulgating a program. Section 504(a) of the Act requires that in implementing a Federal program the Secretary take into consideration the nature of the State's terrain, climate, biological, chemical, and other relevant physical conditions. This requirement is also found in the regulations, 30 CFR 736.22(a)(1). The Act (section 505(b)] and the regulations (§ 736.23(b)) also provide that if a State has more stringent land use and environmental laws or regulations, they shall not be construed to be inconsistent with the Act or the Secretary's regulations. The Secretary believes that the requirements of section 505(b) can best be met by identifying State laws and regulations which impose equivalent or more stringent environmental controls and incorporating the requirements of those laws in the Federal program. If the State's laws or regulations establish more stringent standards regulating surface mining control and reclamation procedures than those found in the Act or the Secretary's regulations or if the State regulates or protects an aspect of the environment affected by surface mining and reclamation operations which neither the Act nor the

Secretary's regulations protect, OSM would then specifically preserve those State standards in the Federal program.

Also, in promulgating a program for a State, section 504(g) specifies that any State statutes or regulations which regulate surface mining and reclamation operations subject to the Act will be superseded and preempted by the Federal program to the extent that they interfere with the achievement of the purposes and requirements of the Act and the Federal program. This provision is reinforced by section 505(a) of the Act, which states that only those State laws and regulations which are inconsistent with the Act and its implementing regulations shall be superseded by the Federal program. Thus, State statutes and rules regulating the same activities as those covered by the Federal law and regulations and which interfere with achievement of the purposes of the Act must be identified and preempted by OSM.

Finally, section 504(h) of the Act requires that each Federal program include a process for coordinating the review and issuance of surface mining permits with other Federal or State permits applicable to the proposed operation. The Federal statutes with which the surface mining permitting process must be coordinated are set out in 30 CFR 736.22(c). State statutes for which a permit is required must be identified in the process of promulgating a Federal program, and the Federal program must provide for coordination with the permit review and issuance procedures.

Federal programs are based on the Secretary's permanent program regulations: 30 CFR Subchapters A, F, G, J, K, L and M. The permanent program regulations establish procedures and performance standards under the Act and form the benchmark for State programs. In order for a State to have a program approved by the Secretary, section 503(a)(7) requires that the State's rules and regulations be consistent with the Secretary's regulations.

The parts of the permanent program regulations that must be included in a Federal program are listed at 30 CFR 736.22(b). They include general requirements and definitions (Parts 700 and 701), the exemption for coal extraction incident to government-financed highway or other construction (Part 707), the designation of lands unsuitable for surface mining (Parts 760, 761 and 765), permits and permit applications (Subchapter G), reclamation bonding (Subchapter J), performance standards (Subchapter K), inspection and enforcement (Parts 842, 843 and 845), and blaster training and certification (Subchapter M). In addition, the provision in the permanent program regulations on protection of employees (Subchapter P) and restrictions on financial interests (Part 706) are applicable to Federal employees who are directly enforcing the Act.

The rules for the permanent program are found in 30 CFR Parts 700–707 and 730–865. Part 705 was published October 20, 1977 (42 FR 56064). Parts 795 and 865 (originally Part 830) were published December 13, 1977 (42 FR 62639). The other permanent program regulations were published at 44 FR 15323–15393 (March 13, 1979). Subchapter M was published on December 12, 1980 (45 FR 82098). Corrections were published at 44 FR 15485 (March 14, 1979); 44 FR 53507–53509 (September 14, 1979); 44 FR 66195 (November 19, 1979); 45 FR 26001 (April 16, 1980); 45 FR 37818 (June 5, 1980); and 45 FR 47424 (July 15, 1980). Amendments to the rules have been published at 44 FR 60969 (October 22, 1979) as corrected at 44 FR 75143 (December 19, 1979); at 44 FR 77440–77447 (December 31, 1979); 45 FR 2626–2629 (January 11, 1980); 45 FR 25998–26001 (April 16, 1980); 45 FR 33926–33927 (May 20, 1980); 45 FR 39446–39447 (June 10, 1980); 45 FR 52306–52324 (August 6, 1980); 45 FR 52375 (August 7, 1980); 45 FR 58780–58786 (September 4, 1980); and 45 FR 76932 (November 20, 1980); 46 FR 37232 (July 17, 1981); 46 FR 41702 (August 17, 1981); 46 FR 47720 (September 29, 1981); 46 FR 53376 (October 28, 1981); and 46 FR 52287 (December 7, 1981).

Representatives of industry, two States and several environmental groups challenged the permanent regulatory program in the U.S. District Court for the District of Columbia. These suits were consolidated and heard in a single lawsuit entitled *In re: Permanent Surface Mining Regulation Litigation* (Civil Action No. 79–1144). In response to the arguments raised in the challenges, the Secretary voluntarily suspended several permanent program regulations. These suspensions were announced in the **Federal Register** on November 27, 1979 (44 FR 67942); December 31, 1979 (44 FR 77447–77454); January 30, 1980 (45 FR 6913); and August 4, 1980 (45 FR 51547–51550). In two opinions the court remanded certain other regulations which had been challenged in the lawsuit. These opinions were issued on February 26, 1980, and May 16, 1980. Many of the issues decided by the District Court have been appealed to the Court of Appeals for the District of Columbia Circuit. *In re: Permanent Surface Mining Regulation Litigation*, Nos. 80–1810, 80–1811, 80–1812, 80–1813 and 80–1823. The Court has granted a stay of the proceedings pending the revision of regulations as noted below. However, the stay does not apply to Federal programs such as this one.

Idaho Federal Program

The State has identifiable coal reserves, but has failed to submit a program to the secretary to obtain primary regulatory responsibility. Therefore, pursuant to 30 CFR 736.11, the Director must promulgate and implement a Federal program.

As mentioned above, when promulgating a Federal program for a State, the Secretary is required by section 504(a) of the Act to take into consideration the nature of the terrain, climate, biological, chemical, and other relevant physical conditions of that State. OSM has reviewed Idaho's laws and regulations to determine whether they suggest that special provisions may be necessary or appropriate based on special terrain or other physical conditions in the State. OSM is of the opinion that there are statutes which, in certain circumstances, impose stricter environmental controls than are provided under the Act or the Federal regulations. These are listed in § 912.700(e).

Pursuant to section 504(a), the Secretary becomes the regulatory authority when a Federal program is implemented for a State. OSM's permanent program regulations contain references to "the regulatory authority" or "the State regulatory authority," which means the Secretary when a Federal program for a State is involved, section 701(22) of the Act. The Secretary has delegated all authority for surface coal mining activities to the director of the Office of Surface Mining. This proposed program for Idaho would not change these responsibilities.

Explanation of Cross-Referencing

In the general notice of intent to promulgate Federal programs of May 16, 1980 (45 FR 32228), OSM stated that each Federal program would be specific to the particular State and would implement the permanent program procedures and environmental protection provisions of the Act (45 FR at 32229). However, except for changes to incorporate more stringent State environmental protection standards and to list other State laws requiring permits for which coordination is required, OSM believes that few changes are needed in the permanent program regulations for any particular State for which a Federal program must be promulgated.

In January 1981 the Secretary directed that the Department review all existing

regulations in order to eliminate those which are burdensome, excessive and unnecessary. Review of the permanent program regulations was initiated and may result in a large scale revision of them. See semi-annual Calendar of Federal Regulations notice of rule review and revision, 47 FR 1709 (January 13, 1982). See also, e.g., revisions of OSM's bonding regulations, 30 CFR Subchapter J, 46 FR 45082 (September 9, 1981) and OSM's inspection and enforcement regulations, 30 CFR Parts 842, 843, and 845, 46 FR 58464 (December 1, 1981).

In order to take advantage of the results which revision of the permanent program regulations will achieve, OSM proposes to develop and promulgate this Federal program in the following manner. Rather than repeating the full text of the permanent regulations which are being revised, there would be a cross-reference to the permanent program regulations. For example, criteria for the designation of lands unsuitable for surface coal mining would be provided by the statement that "the Secretary shall designate lands unsuitable * * * pursuant to the criteria in 30 CFR Part 762" (see proposed § 912.762). One effect of the proposed cross-referencing to the permanent program regulations would be that as the permanent program regulations are revised, this Federal program would be similarly revised. Over time, all of the permanent program regulations will undergo review and many will be revised. No separate rulemaking would be undertaken or necessary for revision of this program if the cross-referencing alternative becomes effective, unless OSM determined that special conditions were necessary for a particular State. A statement would appear in both the proposed and final permanent program rulemaking notices advising the public that the change in the permanent program rule would also result in a change in this program absent special conditions. The statement for the permanent program proposed rule would invite comment on necessary modifications to accommodate unique or unusual aspects of surface mining in any State and the final rule would be tailored for each State as necessary.

The promulgation of this cross-referencing program would not result in any modification of the substance of OSM's permanent program rules. Where specific provisions are needed for an individual State's Federal program which are different from the permanent program regulations, a separate paragraph is proposed to be added to the appropriate section of that State's Federal program. Cross-referencing to the permanent program rules may also be used in the promulgation of other Federal programs. Public comment on the cross-referencing method as it affects other Federal programs, however, should be directed to each of those rulemaking notices.

Several provisions of the permanent program regulations are already applicable to a particular State-Federal program and need not be cross-referenced here because they were fully promulgated for application to all regulatory programs. Those provisions are 30 CFR Chapter VII, Subchapter P—Protection of Employees; Part 706—Restrictions on Financial Interests of Federal Employees; and part 769—Petition Process for Designation of Federal Lands Unsuitable for Surface Coal Mining. However, 30 CFR Part 764—Designating Lands Unsuitable for Surface Coal Mining would be included in a State program by a cross-reference under Section 912.764, to provide a petition process on non-Federal and non-Indian lands in that State.

With regard to the bonding regulations (Subchapter J), only Part 800 is proposed to be cross-referenced because OSM has proposed to revise Subchapter J to include just one part, Part 800. 46 FR 45082 (September 9, 1981) (proposed).

Content and Organization of the Program

The content and organization of the proposed Idaho Federal program shall generally follow the permanent program regulations. As discussed above, instead of the full text appearing it is proposed that only a reference to the permanent program part would be made in each section of the Idaho program.

Sections 912.700 (e) and (f) set out more stringent State statutes and regulations and inconsistent State statutes and regulations respectively. Where specific provisions are needed for the proposed Idaho Federal program which are different from the permanent program regulations a separate statement is added to that section of the Federal program.

In order to fulfill the Secretary's obligation under section 504(a) of the Act to take into consideration the nature of the terrain, climate, biological, chemical, and other relevant physical conditions of each State, Idaho laws have been reviewed. OSM is of the opinion that there are statutes which, in certain circumstances, impose stricter environmental controls than are provided for under the Act or the Federal regulations. Section 912.700(e) of the proposed Federal program for Idaho lists the Idaho laws and regulations which OSM has tentatively identified as setting more stringent land use and environmental controls for surface mining. Those more stringent Idaho statues are summarized as follows:

(a) Section 47–1503(20), operator is defined to include those who engage in surface mining or exploration operations. This definition of operator is not subject to the 250 ton limitation for a twelve month period contained in OSM regulation, 30 CFR 701.5.

(b) Section 47–1509(c), requires that every operator who conducts exploration or surface mining operations which disturb less than 2 acres, return the land to the approximate original contour whenever possible. Section 528(2) of the Act exempts from OSM regulation those surface mining operations affecting two acres or less.

(c) Section 47–1513(c) provides for the assessment against an operator, in certain circumstances, of a civil penalty in the amount of the anticipated cost of reclamation. 30 CFR Part 808 *et seq.* contain no such provision.

(d) Sections 47–1513 (f) and (g) provide for the assessment of civil penalties in the amount of $100 to $1,000 per day, in addition to bond forfeiture, in certain circumstances. 30 CFR Part 808 *et seq.* contains no such provision.

(e) Section 47–1301 *et seq.* and the rules promulgated thereunder, rules 1 through 20, regulate the practice of dredge mining, which is not specifically addressed by the Act.

(f) Section 18–4301 provides that interference with ditches, canals or reservoirs used for several uses, including mining, is punishable as a misdemeanor. Neither the Act nor permanent regulations contain such a provision.

(g) Section 18–7019 provides for criminal sanctions for wilfull or malicious interference with structures used to conduct water for mining and other purposes. Neither the Act nor permanent regulations contain such a provision.

(h) Section 42–1713 requires a fee to be paid for by each owner of a dam, reservoir or mine tailing impoundment structure. 30 CFR 816.49, 816.91–93, 817.49 and 817.91–93 do not require payment of such a fee.

(i) Section 42–1718 (Supp.) provides that the State costs and expenses of work done to render a dam, impounding structure or its appurtenances safe, shall be recoverable from the owner by the State. 30 CFR 816.49, 816.91–93, 817.49 and 817.91–93 contain no such provision.

(j) Section 47–703A (1981 Session Laws) requires that prior to any entry or

exploration with heavy motorized equipment on State lands an operator shall obtain a bond not to exceed $750 per acre affected. Neither section 512 of the Act nor 30 CFR Part 771 *et seq.* or 30 CFR Part 776 *et seq.* require such bond.

(k) Section 47–718(1)(b) (1981 Session Laws) provides that for a violation of Chapter 345 there may be assessed the reasonable cost of repair and reclamation and provides for the assessment against an operator, where there is an insufficient bond for exploration activities, of the amount in excess of the bond necessary to reclaim the affected State land. Neither the Act nor permanent regulations contain comparable provisions.

(l) Section 47–718(3) (1981 Session Laws) provides for the assessment of a civil penalty, in addition to any other penalties for a violation of Chapter 325, of not less than $100 or greater than $1,000 per day. Section 518 of the Act and 30 CFR Part 845 *et seq.* only provide for one civil penalty assessment per notice of violation and/or cessation order. Comment is invited on whether laws identified in § 912.700(e) of the proposed Federal Program, which reflect more stringent Idaho environmental controls, adequately take into consideration the nature of the relevant physical conditions. Comment is also invited concerning any other Idaho laws which establish more stringent land use and environmental controls.

In accordance with 30 CFR 736.23, OSM believes that those Idaho statutes and rules, listed in § 912.700(f) of the proposed Federal Program, interfere with the attainment of the goals and purposes of the Act and the Permanent Program Rules thereunder. Thus, OSM proposes that the following Idaho statutes and rules be preempted and superseded when the proposed Federal Program takes effect:

(a) Idaho Surface Mining Act, Section 47–1501 *et seq.* and Section 47–1512 (Supp.). However, sections 47–1503 (20), 47–1509(c), 47–1513(c), and 47–1513 (f) and (g) listed in § 912.700(e) are not preempted and superseded as they have been found to be more stringent than the Act and Permanent Rules Program thereunder. In addition, OSM proposes that it be the permitting authority for surface mining and exploration.

(b) Sections 42–3801 *et seq.* and 42–3801 *et seq.* (Supp.). OSM proposes to preempt and supersede the sections of Chapter 38, Alteration of Channels of Stream, as they are less stringent than the Act and regulations and would interfere with the attainment of the goals and purposes of the Act and Permanent Rules Program thereunder.

(c) Sections 42–1701, *et seq.* and 42–1701 *et seq.* (Supp.). OSM proposes to preempt and supersede the sections of Chapter 17, Department of Water Resources-Water Resources Board, as they are less stringent than the Act and regulations and would interfere with the attainment of the goals and purposes of the Act and Permanent Program Rules thereunder regarding the construction, maintenance and inspection of dams. However, sections 42–1713 and 42–1718 (Supp.) listed in § 912.700(e) are not preempted and superseded as they have been found to be more stringent than the Act and Permanent Rules Program thereunder.

(d) Section 42–108, (1981 Session Laws). OSM proposes to preempt and supersede, section 42–108, of Chapter 147, Change in Point of Diversion, as it is less stringent than the Act and regulations and would interfere with the attainment of the goals and purposes of the Act and Permanent Rules Program thereunder regarding the diversion of water.

(e) Sections 47–701, 47–702, 47–703, and 47–718 (1981 Session Laws). OSM proposes to preempt and supersede Chapter 345, sections 47–701, 47–702, 47–703 and 47–718, relating to mineral rights in State lands, as it is less stringent than the Act and regulations and would interfere with the attainment of the goals and purposes of the Act and Permanent Rules Program thereunder regarding coal leasing and exploration. However, sections 47–703A, 47–718(1)(b) and 47–718(3) listed in § 912.700(e) are not preempted and superseded as they have been found to be more stringent than the Act and Permanent Rules Program thereunder.

(f) OSM has reviewed the rules and regulations promulgated under section 42–1714 of the Idaho Code: Mine Tailings Impoundment Structures (October 1980); Safety of Dams (October 1980); and the Idaho Water Quality Standards promulgated pursuant to section 39–105 of the Idaho Code. OSM does not believe it is necessary to prempt or supercede these rules and regulations.

The Idaho laws and rules represent the main body of Idaho law relating to the exploration and surface mining of minerals and mined land reclamation. To a limited extent, Idaho requires the reclamation of surface mined lands. A close review of the Idaho statutes and rules indicates that they are not consistent with the Act or the Federal Permanent program Rules and interfere with the attainment of the reclamation goals and purposes expressed in the Act. Thus, OSM proposes that the Idaho statutes and rules, described above, no longer be applicable to the regulation of coal exploration, surface coal mining operations or the reclamation of surface coal mined lands in the State of Idaho, except as they pertain to operations affecting two acres or less or which otherwise are not regulated by the Surface Mining Control and Reclamation Act.

In order to coordinate the Federal Program permitting process with the permitting requirements of Idaho and those imposed by other Federal statutes, § 912.770 of the proposed Federal Program tentatively identifies the various permits, statutes and rules which may, expressly or impliedly, impact on surface coal mining and reclamation and coal exploration under the proposed Federal Program. The pertinent permits, statutes, and rules are:

(a) Sections 47–1317, 47–1318, 47–1319, and 47–1317 (Supp.) provide for the permitting of dredge mining operations.

(b) Section 39–101 *et seq.*, and Section 39–101 *et seq.* (Supp.) Environmental Protection and Health Act of 1972, and regulations promulgated thereunder, addressing issuance and regulation of pollution source permits.

(c) Section 47–704 addressing the leases of mineral rights in State lands.

Copies of the Idaho Surface Mining Act, as amended, and the other Idaho statutes referred to herein are in the administrative record and are available for review at the place listed above under "ADDRESSES."

The recordkeeping and reporting requirements of the proposed rule are the same as those of the permanent program regulations which have been approved by the Office of Management and Budget under 44 U.S.C. 3507. Although this rule would contain information and recordkeeping requirements, OSM anticipates less than ten respondents. Under the Paperwork Reduction Act, clearance of information collection forms is required only if ten or more respondents are expected. If in the future the number of respondents appears to be increasing, the proper forms, if they differ from those already approved, will be submitted to the Office of Management and Budget with accompanying notices in the **Federal Register**, in accordance with the requirements of 44 U.S.C. Chapter 35.

Other Information

OSM has examined these proposed rules according to the criteria of Executive Order 12291 (46 FR 13193, February 19, 1981) and determined that they do not constitute a major rule. There would be no major economic

impact through adoption of this rule because it would affect only a small number of mining operations.

OSM has examined these proposed rules pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and determined that they will not have a significant impact on a substantial number of small entities. Separate determinations of effect will be prepared for all revisions of the permanent program rules and would consider the effects on small entities in the State of Idaho.

Section 702(d) of the Act provides that promulgation of a Federal program shall not constitute a major Federal action under the National Environmental Policy Act, 42 U.S.C. 4332. Thus, no Environmental Assessment is required for this rulemaking.

List of Subjects in 30 CFR Part 912

Coal mining, Intergovernmental relations, Surface mining, Underground mining, Reporting requirements.

Drafting Information

These regulations were drafted by William F. Larkin, Office of the Solicitor and James M. Kress, Branch of Regulatory Programs, Office of Surface Mining.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

June 18, 1982.

OSM proposes to amend 30 CFR Chapter VII by adding Part 912 which would provide as follows:

PART 912—IDAHO

Sec.

912.700 General.
912.701 General.
912.707 Exemption for coal extraction incident to Government-financed highway or other construction.
912.761 Areas designated unsuitable for surface coal mining by Act of Congress.
912.762 Criteria for designating areas as unsuitable for surface coal mining operations.
912.764 Process for designating areas unsuitable for surface coal mining operations.
912.770 General requirements for permits and exploration procedures.
912.771 General requirements for permits and permit applications.
912.776 General requirements for coal exploration.
912.778 Surface mining permit applications—minimum requirements for legal, financial, compliance, and related information.
912.779 Surface mining permit applications—minimum requirements for information on environmental resources.
912.780 Surface mining permit applications—minimum requirements for reclamation and operations plan.
912.782 Underground mining permit applications—minimum requirements for legal, financial, compliance, and related information.
912.783 Underground mining permit applications—minimum requirements for information on environmental resources.
912.784 Underground mining permit applications—minimum requirements for reclamation and operation plan.
912.785 Requirements for permits for special categories of mining.
912.786 Reviews, public participation, and approval or disapproval of permit applications and permit terms and conditions.
912.787 Administrative and judicial review of decisions on permit applications.
912.788 Permit review, revisions, and renewals, and transfer, sale, and assignment of rights granted under permits.
912.795 Small operator assistance.
912.800 General requirements for bonding of surface coal mining and reclamation operations.
912.815 Performance standards—coal exploration.
912.816 Performance standards—surface mining activities.
912.817 Performance standards—underground mining activities.
912.818 Special performance standards—concurrent surface and underground mining.
912.819 Special performance standards—auger mining.
912.822 Special performance standards—operations in alluvial valley floors.
912.823 Special performance standards—operations on prime farmland.
912.824 Special performance standards—mountaintop removal.
912.826 Special performance standards—operations on steep slopes.
912.827 Special performance standards—coal processing plants and support facilities not located at at or near the minesite or not within the permit area for a mine.
912.828 Special performance standards—in situ processing.
912.842 Federal inspections.
912.843 Federal enforcement.
912.845 Civil penalties.

Authority: Pub. L. 95–87, The Surface Mining Control and Reclamation Act of 1977, 130 U.S.C. 1201 *et seq.*

§ 912.700 General.

(a) This part contains all rules that are applicable to surface coal mining operations in Idaho which have been adopted under the Surface Mining Control and Reclamation Act of 1977.

(b) The rules in this part cross-reference pertinent parts of the permanent program regulations in this chapter. The full text of a rule is in the permanent program rule cited under the relevant section of the Idaho Federal program.

(c) The rules in this part apply to all surface coal mining operations in Idaho conducted on non-Federal and non-Indian lands. The rules in Subchapter D of this chapter apply to operations on Federal lands in Idaho.

(d) The information collection requirements contained in this part do not require approval by the Office of Management and Budget under 44 U.S.C. 3507 because there are fewer than ten respondents annually.

(e) The following provisions of Idaho laws provide, where applicable, for more stringent environmental control and regulation of surface coal mining operations than do the provisions of the Act and the regulations in this chapter. Therefore, pursuant to Section 505(b) of the Act, they shall not be construed to be inconsistent with the Act:

(1) Section 47–1503(20) pertaining to the definition of an operator.

(2) Section 47–1509(c) regarding reclamation of disturbed land less than 2 acres.

(3) Section 47–1513(c) providing for assessment of anticipated costs of reclamation against an operator.

(4) Sections 47–1513 (f) and (g) providing for assessment of civil penalties in addition to bond forfeiture.

(5) Section 47–1301 *et seq.* and rules 1 through 20 promulgated thereunder pertaining to regulations of dredge mining.

(6) Sections 18–4301 and 18–7019 providing for punishment for interference with water sources used in mining operations.

(7) Section 42–1713 requiring a fee to be paid by each owner of a dam, reservoir or mine tailing impoundment structure.

(8) Section 42–1718 (Supp.) providing for assessment against an operator for costs incurred in correcting deficiencies in dams and impoundment structures.

(9) Section 47–703A (1981 Session laws) requiring a bond, not to exceed $750 per affected acre, for exploration where heavy motorized equipment is used on State lands.

(10) Section 47–718(1)(b) (1981 Session Laws) providing for assessment against an operator of reasonable costs of repair and reclamation of lands not covered by a bond.

(11) Section 47–718(3) (1981 Session Laws) providing for an assessment of a civil penalty, in addition to any penalties otherwise assessed, for a violation of Chapter 325.

(f) The following Idaho laws interfere with the achievement of the purposes and requirements of the Act and are, in accordance with section 504(g) of the Act, preempted and superseded except as they apply to surface coal mining operations affecting two acres or less or

which otherwise are not regulated by the Surface Mining Control and Reclamation Act:

(1) Sections 47–1501 *et seq.* and section 47–1512 (Supp.), with the exception of sections 47–1503(20), 47–1509(c), 47–1513(c), and 47–1513 (f) and (g) listed in § 912.700(e), supra.

(2) Sections 42–3801 *et seq.* and 42–3801 *et seq.* (Supp.).

(3) Sections 42–1701 *et seq.* and 42–1701 *et seq.* (Supp.), excepting sections 42–1713 and 42–1718 (Supp.) listed in § 912.700(e), supra.

(4) Section 42–108 (1981 Session Laws).

(5) Sections 47–701, 47–702, 47–703 and 47–718 (1981 Session Laws) excepting sections 47–703A, 47–718(1)(b) and 47–718(3) listed in § 912.700(e), supra.

§ 912.701 General.

Sections 700.5, 700.11, 700.12, 700.13, 700.14, 700.15 and Part 701 of this chapter shall apply to surface coal mining operations in Idaho.

§ 912.707 Exemption for coal extraction incident to Government-financed highway or other construction.

Part 707 of this chapter, Exemption for Coal Extraction Incidental to Government-Financed Highway or Other Construction, shall apply to surface coal mining and reclamation operations.

§ 912.761 Areas designated unsuitable for surface coal mining by act of Congress.

Part 761 of this chapter, Areas Designated by Act of Congress, shall apply to surface coal mining and reclamation operations.

§ 912.762 Criteria for designating areas as unsuitable for surface coal mining operations.

Part 762 of this chapter, Criteria for Designating Areas Unsuitable for Surface Coal Mining Operations, shall apply to surface coal mine operations.

§ 912.764 Process for designating areas unsuitable for surface coal mining operations.

Part 764 of this chapter, State Processes for Designating Areas Unsuitable for Surface Coal Mining Operations, pertaining to petitioning, initial processing, hearing requirements, decisions, data base and inventory systems, public information, and regulatory responsibilities shall apply to surface coal mine operations beginning one year after the effective date of this program.

§ 912.770 General requirements for permits and exploration procedures.

(a) Part 770 of this chapter, General Requirements for Permit Systems Under State Programs, shall apply to surface coal mining and exploration operations.

(b) Where applicable, no person shall conduct surface coal exploration operations which result in the removal of more than 250 tons in one location, or surface coal mining operations without permits issued pursuant to leases and/or certificates required by the State of Idaho, pursuant to Sections 47–1317, 47–1318, 47–1319, 47–1317 (Supp.) 39–101 *et seq.* and 39–101 *et seq.* (Supp.).

§ 912.771 General requirements for permits and permit applications.

(a) Part 771 of this chapter, General Requirements for Permits and Permit Applications, shall apply to any person who makes application for a permit to conduct surface coal mine operations.

(b) Any person who wishes to conduct new surface coal mining and reclamation operations or who wishes a revision of his permit shall file a complete application at least 12 months prior to the date upon which permit issuance or revision is desired, and shall pay to the Secretary a permit fee in accordance with Section 736.25 of this chapter.

§ 912.776 General requirements for coal exploration.

(a) Part 776 of this chapter, General Requirements for Coal Exploration, shall apply to any person who conducts or seeks to conduct coal exploration operations.

(b) The Office shall make every effort to act on an exploration application within 60 days of receipt or such longer time as may be reasonable under the circumstances. If additional time is needed, OSM shall notify the applicant that the application is being reviewed, but more time is necessary to complete such review, setting forth the reasons and the additional time that is needed.

§ 912.778 Surface mining permit application—minimum requirements for legal, financial, compliance and related information.

Part 778 of this chapter, Surface Mining Permit Applications—Minimum Requirements for Legal, Financial, Compliance and Related information, shall apply to any person who makes application for a permit to conduct surface coal mining and reclamation operations.

§ 912.779 Surface mining permit applications—minimum requirements for information on environmental resources.

Part 779 of this chapter, Surface Mining Permit Applications—Minimum Requirements for Information on Environmental Resources, shall apply to any person who makes application to conduct surface coal mining and reclamation operations.

§ 912.780 Surface mining permit applications—minimum requirements for reclamation and operation plan.

Part 780 of this chapter, Surface Mining Permit Applications—Minimum Requirement for Reclamation and Operation Plan, shall apply to any person who makes application to conduct surface coal mining and reclamation operations.

§ 912.782 Underground mining permit applications—minimum requirements for legal, financial, compliance, and related information.

Part 782 of this chapter, Underground Mining Permit Applications—Minimum requirements for Legal, Financial, Compliance, and Related Information, shall apply to any person who makes application for a permit to conduct underground mining operations.

§ 912.783 Underground mining permit applications—minimum requirements for information on environmental resources.

Part 783 of this chapter, Underground Mining Permit Applications—Minimum Requirements for Information on Environmental Resources, shall apply to any person who submits an application to conduct underground mining operations.

§ 912.784 Underground mining permit applications—minimum requirements for reclamation and operation plan.

Part 784 of this chapter, Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan, shall apply to any person who makes application to conduct underground mining.

§ 912.785 Requirements for permits for special categories of mining.

Part 785 of this chapter, Requirements for Permits for Special Categories of Mining, shall apply to each person who makes application for a permit to conduct certain categories of surface coal mining and reclamation operations.

§ 912.786 Review, public participation, and approval or disapproval of permit applications and permit terms and conditions.

Part 786 of this chapter, Review, Public Participation, and Approval or Disapproval of Permit Applications and Permit Terms and Conditions, shall apply to the review of applications made by any person for surface coal mining and reclamation operations.

§ 912.787 Administrative and judicial review of decisions on permit applications.

Decisions of permit applications shall be subject to administrative and judicial review in accordance with Part 787 of this chapter and sections 520, 525 and 526 of the Act.

§ 912.788 Permit reviews, revisions, and renewals, and transfer, sale, and assignment of rights granted under permits.

Part 788 of this chapter, Permit Reviews, Revisions, and Renewals, and Transfer, Sale, and Assignment of Rights Granted Under Permits, shall apply to review, revision, and renewal of permits for surface coal mine operations, and to transfer, sale, and assignment of rights granted under permits.

§ 912.795 Small operator assistance.

Part 795 of this chapter, Small Operator Assistance, shall apply to any person making application for assistance under the small operator assistance program.

§ 912.800 General requirements for bonding of surface coal mining and reclamation operations.

Part 800 of this chapter, General Requirements for Bonding of Surface Coal Mining and Reclamation Operations Under Regulatory Programs, shall apply to all surface coal mining and reclamation operations.

§ 912.815 Performance standards—coal exploration.

(a) Part 815 of this chapter, Permanent Program Performance Standards—Coal Exploration, shall apply to any person conducting coal exploration operations.

(b) All operators shall comply with the Idaho statutory requirements specified in § 912.700(e).

§ 912.816 Performance standards—surface mining activities.

(a) Part 816 of this chapter, Permanent Program Performance Standards—Surface Mining Activities, shall apply to any person who conducts surface coal mining and reclamation operations.

(b) All operators shall comply with the Idaho statutory requirements specified in § 912.700(e).

§ 912.817 Performance standards—underground mining activities.

(a) Part 817 of this chapter, Permanent Program Performance Standards—Underground Mining Activities, shall apply to any person who conducts underground mining operations.

(b) All operators shall comply with the Idaho statutory requirements specified in § 912.700(e).

§ 912.818 Special performance standards—concurrent surface and underground mining.

Part 818 of this chapter, Special Permanent Program Performance Standards—Concurrent Surface and Underground Mining, shall apply to any person who conducts combined surface and underground mining operations.

§ 912.819 Special performance standards—auger mining.

Part 819 of this chapter, Special Permanent Program Performance Standards—Auger Mining, shall apply to any person who conducts surface coal mining operations which include auger mining.

§ 912.822 Special performance standards—operations on alluvial valley floors.

Part 822 of this chapter, Special Permanent Program Performance Standards—Operations in Alluvial Valley Floors, shall apply to any person who conducts surface coal mining and reclamation operations on alluvial valley floors.

§ 912.823 Special performance standards—operations on prime farmland.

Part 823 of this chapter, Special Permanent Program Performance Standards—Operations on Prime Farmland, shall apply to any person who conducts surface coal mining and reclamation operations on prime farmlands.

§ 912.824 Special performance standards—mountaintop removal.

Part 824 of this chapter, Special Permanent Program Performance Standards—Mountaintop Removal, shall apply to any person who conducts surface coal mining operations constituting mountaintop removal mining.

§ 912.826 Special performance standards—operations on steep slopes.

Part 826 of this chapter, Special Permanent Program Performance Standards—Operations on Steep Slopes, shall apply to any person who conducts surface coal mining and reclamation operations on steep slopes.

§ 912.827 Special performance standards—coal processing plants and support facilities not located at or near the minesite or not within the permit area for a mine.

Part 827 of this chapter, Special Permanent Program Performance Standards—Coal Processing Plants and Support Facilities Not Located at or Near the Minesite or Not Within the Permit Area for a Mine, shall apply to any person who conducts surface coal mining and reclamation operations which includes the operation of coal processing plants and support facilities not located at or near the minesite or not within the permit area for a mine.

§ 912.828 Special performance standards—in situ processing.

Part 828 of this chapter, Special Permanent Program Performance Standards—In Situ Processing, shall apply to any person who conducts in situ processing activities.

§ 912.842 Federal inspections.

(a) Part 842 of this chapter, Federal Inspections, shall apply to all exploration and surface coal mining and reclamation operations.

(b) In addition to the requirements of Part 842, the Secretary will furnish a copy of each inspection report regarding inspections conducted pursuant to this subpart to the State of Idaho upon request.

§ 912.843 Federal enforcement.

(a) Part 843 of this chapter, Federal Enforcement, shall apply when enforcement action is required for violations on surface coal mining and reclamation operations.

(b) The Office will furnish a copy of each enforcement action and order to show cause issued pursuant to this subpart to the State of Idaho upon request.

§ 912.845 Civil penalties.

Part 845 of this chapter, Civil Penalties, shall apply when civil penalties are assessed for violations on surface coal mining and reclamation operations.

[FR Doc. 82-18628 Filed 7-9-82; 8:45 am]
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Federal Register

Monday
July 12, 1982

Part V

Department of the Interior

Office of the Secretary

Preliminary Certification of No Adverse Impact on Theodore Roosevelt National Park and Lostwood National Wildlife Refuge

DEPARTMENT OF THE INTERIOR

Preliminary Certification of No Adverse Impact on Theodore Roosevelt National Park and Lostwood National Wildlife Refuge Under Section 165(d)(2)(C)(iii) of the Clean Air Act

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of preliminary determination under section 165(d)(2)(C)(iii) of the Clean Air Act.

SUMMARY: This notice announces the preliminary determination by the Federal Land Manager of Theodore Roosevelt National Park and Lostwood National Wildlife Refuge that five proposed sources in North Dakota subject to Prevention of Significant Deterioration air quality requirements will not adversely affect the resources of the park and refuge (wilderness portion). The Department of the Interior has decided as a matter of policy to invite full public discussion of the issues involved and thereafter to make a decision on the basis of the best available information. The intent of this notice is to alert interested parties to the availability of supporting documentation and to solicit comments on the preliminary determination.

DATE: Comments must be received on or before August 11, 1982.

ADDRESSES: *Comments:* Comments should be submitted (in duplicate, if possible) to: Chief, Permit Review and Technical Support Branch, National Park Service—AIR, P.O. Box 25287, Denver, CO 80225.

Supporting Documentation: Copies of the supporting documentation are available for public inspection and copying between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, at the following locations: National Park Service, Main Interior Building, Room 3021, 18th and C Sts. NW., Washington, D.C.; Air Quality Division, 11011 W. Sixth Avenue, Denver, CO, Room 306; and Theodore Roosevelt National Park, Headquarters, Medora, ND. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: John P. Christiano, Air Quality Division, National Park Service—AIR, P.O. Box 25287, Denver, CO 80225, telephone number (303) 234–6620.

SUPPLEMENTARY INFORMATION: The Prevention of Significant Deterioration Section of the Clean Air Act deals with a complex problem. It concerns major new facilities which wish to locate in relatively unpolluted areas of the country ("clean air regions"), where the new pollution might affect certain federal conservation areas ("class I areas"), set aside for their pristine air quality or other natural, scenic, recreational, or historic values vulnerable to air pollution. In this situation, the Act imposes special requirements on the proposed facilities to insure that the pollution from them will be minimal. In addition, the Act imposes special responsibilities on the managers of the federal class I areas to insure that no new facility will have an unacceptable impact on the areas' protected resources.

The Clean Air Act establishes several "standards" or "tests" for analyzing a proposed facility's impact on the clean air regions in general, and on the class I areas in particular. These standards or tests include, among others, National Ambient Air Quality Standards; Prevention of Significant Deterioration classes I, II, and III air pollution increments; and the "adverse impact" determination for class I areas. An explanation of the relationship among these standards or tests is particularly relevant to the action which is the subject of this notice.

In brief, *National Ambient Air Quality Standards,* which a proposed facility must not violate under any circumstances, are standards applicable to the entire country. These standards represent those pollution levels acceptable for protecting the public health and national welfare. Attainment and maintenance of these National Ambient Air Quality Standards constitute one of the fundamental purposes of the Clean Air Act: all areas presently not in compliance with the standards must improve their air quality to meet them, and all areas cleaner than the standards must not deteriorate so as to violate them.

The two remaining "standards" or "tests"—classes I, II, and III increments and adverse impact determinations—are the primary tools of the Prevention of Significant Deterioration (PSD) provisions which govern the permitting of proposed major new sources of pollution in clean air regions. The *class I increments* apply to clean air regions of the country containing areas such as national parks and wilderness areas. Under the Clean Air Act, Congress designated 158 natural, scenic, or historic areas of special national significance as class I. The class I increments represent the extremely small amount of additional pollution that Congress thought, as a general rule, should be allowed in class I areas. The class I increments also represent the restriction on additional pollution which Congress thought necessary in most cases for protection of the resources in federal class I areas. Typically, therefore, a proposed facility must not violate the class I increment.

The *"adverse impact" determination,* however, provides the possible exception to the general rule that a proposed facility must not violate the class I increment described above. The adverse impact determination, which is the subject of this notice, is a site specific test which examines whether a proposed facility will, in fact, unacceptably affect the resources of a class I area. If the manager of the federal class I area determines that a proposed facility will not adversely affect the class I area, then the permitting authority may authorize the facility even though the facility's emissions may cause a violation of the class I increment. In this situation, the facility must nevertheless meet a revised set of class I increments established by the Act. Conversely, if the Federal Land Manager determines and convinces the permitting authority that a proposed facility will adversely affect the class I area even though it will not cause a violation of the class I increment, then the permitting authority may not authorize the facility. Thus, the adverse impact determination is a critical test for a proposed facility desirous of locating near a class I national park or wilderness area.

The action which is the subject of today's notice concerns two mandatory class I areas: Theodore Roosevelt National Park (Theodore Roosevelt NP) and the wilderness portion of Lostwood National Wildlife Refuge (Lostwood NWR). The situation is that the proposed and existing sources located in the vicinity of the two class I areas will meet the National Ambient Air Quality Standards, but they will apparently violate the class I increments for sulfur dioxide (SO_2). Therefore, the adverse impact determination of the Federal Land Manager may be the determining factor in the State of North Dakota's pending permit decision for six proposed facilities.

Prevention of Significant Deterioration New Source Applications

Six Prevention of Significant Deterioration (PSD) permit applications have been submitted to the State of North Dakota. The applicants are: Basin Electric Power Cooperative for a 500 MW unit expansion to the Antelope Valley electric generating station; Warren Petroleum for a natural gas processing facility; Nokota Company for a coal-to-methanol plant; Minnesota Power and Light for a 500 MW electric generating station; Amoco Production

Company for a natural gas processing facility; and Phillips Petroleum Company for a natural gas processing facility.

The State of North Dakota, which has been delegated complete PSD authority, has performed regional scale modeling to determine the cumulative air pollution concentrations resulting from all sources subject to PSD on Theodore Roosevelt NP and Lostwood NWR. These sources include ten facilities already permitted or operating and the six applicants. The results indicate concentrations higher than the allowed sulfur dioxide class I 24-hour and 3-hour increments in the North and South Units of Theodore Roosevelt NP and higher than the class I 24-hour increment at the Theodore Roosevelt Elkhorn Ranch Unit and Lostwood NWR.

Because of the model results, the State informed five of the applicants of several options available for obtaining a permit, including the option of requesting certification from the Federal Land Manager under section 165(d)(2)(C)(iii) of the Clean Air Act that the sources will have no adverse effect on the resources of Theodore Roosevelt NP and Lostwood NWR even though the maximum allowable class I increase, (i.e., class I increments) will be exceeded. The sixth applicant, Phillips, does not need to request certification from the Federal Land Manager because the emissions from the proposed Phillips plant do not contribute to concentrations that exceed the maximum allowable increases in the class I areas. The five other applicants have chosen to request Federal Land Manager's certification from the Department of the Interior.

Adverse Impact Discussion

The Federal Land Manager considers that any effects on resources in class I areas caused by air pollutants that:

1. Diminish the national significance of the area;
2. Impair the structure and functioning of ecosystems; and/or
3. Impair the quality of visitor experience

constitute an unacceptable, adverse impact. See Senate Report No. 127, 95th Congress, 1st Session 35–36 (1977). Consequently, if a proposed new source will have such an adverse impact on the air quality related values of a class I area, the Federal Land Manager will not issue the certification under section 165(d)(2)(C)(iii) of the Clean Air Act.

The effects that meet the three criteria for adverse impact listed above must be placed in a time, space and direction context. In order to determine whether the effects are unacceptable, and therefore adverse, a determination must be made of their projected frequency, magnitude, duration, location, and reversibility. This is done by answering the following questions:

1. Will the effects last long enough and/or occur frequently enough to impair the structure and functioning of ecosystems in the park, impair visitor experience or diminish the national significance of the area?
2. Will the effects occur on a scale large enough to impair the structure and functioning of ecosystems in the park, impair visitor experience or diminish the national significance of the area?
3. Are the effects reversible if the stress causing them is removed from the area?

In order to answer the questions relevant to the adverse impact determination for Theodore Roosevelt NP and Lostwood NWR, the Federal Land Manager took the following steps:

1. Plant and animal species lists for the park and refuge were reviewed to identify sensitive species, dominant species, bioindicator species, and rare and endangered species sensitive to the presence of sulfur dioxide particulate matter, ozone, fluoride, and acid precipitation.
2. The sensitivity/effects literature was examined for known effects on these species at concentration predicted to occur in the park and refuge.
3. Soil types and historic structures were screened in a similar way.
4. A visibility analysis was conducted to determine (a) plume perceptibility and (b) reduction in visual range (i.e., regional haze).
5. A field trip was conducted to look for existing injury symptoms on all air quality related values.

Findings and Determinations

As detailed in the following statements, the Federal Land Major concludes that the proposed new sources will have minimal impact of any kind, and no adverse impact, on either of the class I areas.

1. Plant and animal species known to be sensitive to low levels of SO_2 and particulate matter are present in each class I area. Lichens appear to be the species most senstitive to changes in air quality.
2. The model predicts that SO_2 concentrations higher than the class I increments would occur in the park and refuge even if the six applicants are not permitted. Furthermore, the six applicants would contribute relatively small percentages of the maximum concentrations.
3. A cumulative frequency of occurrence analysis of the measured SO_2 data shows that high concentrations are episodic and do not represent typical conditions. Half the hourly values are an order of magnitude below the minimum detectable limit of the instruments (5 ug/m^3).
4. Worst case estimates of the maximum SO_2 concentrations in Theodore Roosevelt NP and Lostwood NWR are at levels known to produce effects on certain sensitive speices, (i.e., two species of lichens).
5. Predicted concentrations of particulate matter are lower than the class I increments and are expected to contribute virtually nothing to ambient air quality levels.
6. Estimated ambient air flouride concentrations in the park and refuge (wilderness) are insignificant.
7. Soils in the park and refuge (wilderness) are buffered and are therefore unlikely to be affected by acidic rainfall events. Similarly, the streams, ponds and rivers are also unlikely to be affected.
8. A recent field evaluation of sensitive species in each class I are a found no symptoms of visible injury due to current ambient air pollution.
9. None of the applicants alone should cause a percepitble plume affecting visibility in the class I areas. An estimate of the combined effect of all sources on visibility indicates that less that a 2% reduction in standard visual range should occur. This is below the threshold limit for human observers.
10. Many factors exist in this analysis that tend to overpredict effects on air quality related values. In other words, the actual impact on the resources from the proposed sources will probably be even less than the analysis assumes.
11. The effects on air quality related values are not found to impair the structure and functioning of ecosystems, impair the quality of visitor experience, or diminish the national significance of either class I area.

Based on the above findings and the overall analysis, the Federal Land Manager concludes the following:

1. Granting these permits will not cause an unacceptable, adverse impact on the natural resources of Theodore Roosevelt NP or Lostwood NWR. The predicted concentrations (modeled estimates plus monitored concentrations) in the park are at levels at which studies have indicated effects on two species of lichens. Even in the absence of the five sources requesting a certification from the Federal Land Manager, the model estimates and air quality data indicate concentrations high enough to produce effects. In fact, the five applicants contribute relatively small percentages of the maximum

predicted concentrations. It is likely that the major contributors to the monitored SO_2 concentrations are existing sources near the class I areas. In the case of the proposed gas processing plants, processing sour natural gas which is presently being flared will result in an overall decrease in SO_2 emissions. This offset in emissions cannot be quantified without an extensive emission inventory of all the oil wells that are flaring gas (probably in the thousands); however, there should be an emission reduction when the proposed gas plants begin processing the sour gas.

2. Even though the Federal Land Manager is confident of no significant risk to resources in this case, because of the potential for additional growth near these class I areas, it is recommended that several studies be undertaken to provide an extra measure of protection. Possibilities for studies include completion of vegetation maps for the class I areas; lichen monitoring studies; analysis of particulate matter burdens in bird lungs; sulfur analyses of vegetation and soils; and increased ambient monitoring. In the event these studies indicate increased potential for adverse effects, a State Implementation Plan revision might be appropriate to reduce emissions of existing and unreviewed sources.

Conclusions reached in this review should not be extrapolated to any future permit applications in the vicinity of Theodore Roosevelt NP or Lostwood NWR. Each future application must be reviewed on a case-by-case basis, because a source's emission parameters, such as stack height, gas temperature, and geogaphic location, determine its interaction with other sources and hence, the potential for effects. New applicants must demonstrate to the Federal Land Manager's satisfaction that the proposed source will not cause or contribute to an adverse impact on the resources of Theodore Roosevelt NP and wilderness portion of Lostwood NWR.

Interested parties are invited to comment on this preliminary determination. Comments should be confined to the issue of whether the air quality related values of Theodore Roosevelt NP or Lostwood NWR will be adversely affected by the proposed sources. Comments on other aspects of the permitting of these sources should be directed to the State when the State announces a public comment period on the approvability of the permits.

The North Dakota State Department of Health will process the PSD permit applications concurrently with the Federal Land Manager while at the same time ensuring normal and full opportunity for public comment and participation.

Because the State is under a statutory deadline to approve or disapprove the permits, the Federal Land Manager will not extend the public comment period beyond 30 days from publication of this notice.

Dated: July 2, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks, Federal Land Manager of Theodore Roosevelt National Park and Lostwood National Wildlife Refuge.

[FR Doc. 82-18744 Filed 7-9-82; 8:45 am]
BILLING CODE 4310-70-M

federal register

Monday
July 12, 1982

Part VI

Department of the Interior

Office of the Secretary

Internal Procedures for Determinations of Adverse Impact Under Section 165(d)(2)(C)(ii) and (iii) of the Clean Air Act

DEPARTMENT OF THE INTERIOR

Internal Procedures for Determinations of Adverse Impact Under Section 165(d)(2)(C)(ii) and (iii) of the Clean Air Act

AGENCY: Interior Department.

ACTION: Notice of internal procedures on adverse impact determinations under section 165(d)(2)(C)(ii) and (iii) of the Clean Air Act.

SUMMARY: The Federal Land Management for class I air quality areas under the jurisdiction of the National Park Service and U.S. Fish and Wildlife Service has established internal procedures to govern the processing of adverse impact determinations under section 165(d)(2)(C)(ii) and (iii) of the Clean Air Act. These procedures represent the steps through which the determination must go within the Department, including procedures for reaching a preliminary determination on adverse impact, procedures for obtaining public comment whenever possible, and procedures for reaching a final determination. The Department is publishing these internal procedures for general inforamtion purposes, i.e., to let the public know how the Department will process adverse impact determinations.

FOR FURTHER INFORMATION CONTACT: John P. Christiano, Air Quality Division, National Park Service—AIR, P.O. Box 25287, Denver, CO 80225, telephone number (303) 234–6620.

SUPPLEMENTARY INFORMATION: Part C of the Clean Air Act ("Act"), as amended, entitled the "Prevention of Significant Deterioration of Air Quality," includes requirements for major new facilities which wish to locate in relatively unpolluted areas of the country ("clean air regions"), where the new pollution might affect certain Federal conservation areas ("class I areas"), valued for their pristine air quality or other natural, scenic, recreational, or historic resources sensitive to air pollution. In this situation, the Act imposes special responsibilities on the managers of such class I areas to ensure that no major new facility will have an unacceptable, adverse impact on the areas' protected resources. The "Directive on Procedures" printed below sets forth the internal procedures which the Assistant Secretary for Fish and Wildlife and Parks, who is the Federal Land Manager for areas under the jurisdiction of the National Park Service and U.S. Fish and Wildlife Service, has instructed the bureaus to follow in processing such an adverse impact determination.

Section 165 of the Act governs the permitting of proposed major facilities in clean air regions. 42 U.S.C. 7475. It sets forth several "standards" or "tests" for analyzing a proposed facility's impact on the clean air regions in general, and on the class I areas in particular. These standards or tests include, among others, the National Ambient Air Quality Standards; class I, II, and III air pollution increments; and the adverse impact determination for class I areas, which is the subject of the internal procedures published in this notice. Knowledge of the relationship among these three standards or tests is necessary in order to understand the role of the third one, the adverse impact determination.

In brief, *National Ambient Air Quality Standards*, which must not be exceeded under any circumstances, are standards applicable to the entire country. These standards represent those pollution levels appropriate for protecting the public health and national welfare. Attainment and maintenance of these National Ambient Air Quality Standards constitute one of the fundamental purposes of the Clean Air Act: All areas presently not in compliance with the standards must improve their air quality to meet them, and all areas cleaner than the standards must not deteriorate so as to exceed them.

The two remaining standards or tests—class I, II, and III increments and adverse impact determinations—are the primary tools of section 165 for preventing the significant deterioration of the air quality in the clean air regions of the country. The class I increments apply to clean air regions containing areas such as national parks and wilderness areas. Under the Clean Air Act, Congress designated 158 natural, scenic, or historic areas of special national significance as class I. The class I increments represent the extremely small amount of additional pollution that Congress thought, as a general rule, should be allowed in class I areas. The class I increments also represent the restriction on additional pollution which Congress thought necessary in most cases for protection of the resources in class I areas. Typically, therefore, a proposed facility must not violate the class I increment.

The *"adverse impact" determination*, however, provides the possible exception to the general rule that a proposed facility must not violate the class I increment described above. The adverse impact determination, which is the subject of the internal procedures printed below, is a site specific test which examines whether a proposed facility will, in fact, unacceptably affect the resources of a class I area. If the Federal Land Manager of the class I area determines that a proposed facility will not adversely affect the class I area, then the permitting authority may authorize the facility even though the facility's emissions may cause a violation of the class I increment. (In this situation, the facility must, nevertheless, not exceed a revised set of class I increments established by section 165(d)(2)(C)(iv) of the Act.) Conversely, if the Federal Land Manager determines and convinces the permitting authority that a proposed facility will adversely affect the class I area even though it will not cause a violation of the class I increment, then the permitting authority may not authorize the facility. Thus, the adverse impact test is a critical test for a proposed facility desirous of locating near a class I national park or wilderness area.

The directive published below instructs the bureaus as to the processing of an adverse impact determination. It constitutes a procedural checklist for the bureaus. It also embodies the evolving policy of the Department to include the public in the decisionmaking on the adverse impact determination. In particular, the directive provides for a thirty-day public comment period on the preliminary determination whenever possible within the constraints of statutory and implementation plan deadlines. In this way, the Department seeks to allow full discussion of the issues involved and to ensure the best available information for the final detemination.

The procedures listed in the directive published below are being followed in an ongoing adverse impact determination concerning five major new facilities in North Dakota proposing to locate in the vicinity of Theodore Roosevelt National Park and Lostwood National Wildlife Refuge (wilderness portion), both mandatory class I areas. A notice of the preliminary determination by the Federal Land Manager that these facilities will not adversely affect the class I areas is published elsewhere in today's **Federal Register.**

Directive on Procedures for Determinations Under Section 165(d)(2)(C)(ii) and (iii) of the Clean Air Act

To: Director, National Park Service, Director, Fish and Wildlife Service
From: G. Ray Arnett, Assistant Secretary for Fish and Wildlife and Parks

The following procedures apply to determinations under section

165(d)(2)(C)(ii) or (iii) of the Clean Air Act of whether a proposed new source will have an unacceptable, adverse impact on the air quality related values established for a class I area. The steps listed below are to be carried out as expeditiously as possible, without jeopardizing sound decisionmaking, in order to enable the permitting authority (the State or the Environmental Protection Agency (EPA)) to make its decision on the overall PSD permit application within one year of the filing of the completed application as required by section 165(c) of the Act. The following steps are also to be carried out in consultation with EPA as appropriate. Whenever provisions of the permitting authority's implementation plan make execution of the listed steps impossible (*e.g.*, inadequate time allotments for the Federal Land Manager's determination), the procedures shall be adjusted as appropriate, after consultation with the Solicitor's Office.

1. Receipt of PSD permit application.

2. Technical review of application to determine need for additional information.

3. Technical review of impact of proposed new source on air quality related values (including visibility) of class I area.

4. Compliance with other statutory authorities, as applicable, including the following:

a. Initiation of consultation with the U.S. Fish and Wildlife Service if required under Endangered Species Act, 16 U.S.C. 1536.

b. Determination of effect, if appropriate, on properties included or eligible for inclusion in the National Register, and solicitation of comment from the Advisory Council on Historic Preservation if required under National Historic Preservation Act, 16 U.S.C. 470f.

5. Technical review of "adverseness" of impact (if any), and submission of bureau recommendation on "adverse impact" or "no adverse impact" determination.

6. Assistant Secretarial review of bureau recommendation on "adverse impact" or "no adverse impact" determination, and formulation of Assistant Secretarial determination under section 165(d)(2)(C)(ii) or (iii).

7. Notification of preliminary determination by letters to owner/operator of proposed new source, State, and EPA.

Simultaneous with #7, publication of preliminary determination in "Notice" section of **Federal Register**, including—

a. Statement as to availability of supporting documentation for inspection and copying at NPS Air Quality Division offices in Denver, Colorado, and in Washington, D.C., and at affected park and refuge headquarters; and

b. Announcement of thirty-day public comment period (not to be extended except in the most unusual circumstances) on issues directly relevant to the determination in question.

9. Timely review and brief summarization of relevant comments received within comment period, and responses thereto.

10. Final Assistant Secretarial determination, as soon as possible after end of comment period, of "adverse impact" or "no adverse impact", with a clear and concise statement of reasons supporting that determination.

11. Notification of final determination by letters to owner/operator of proposed new source, State, and EPA. If final determination in a section 165(d)(2)(C)(iii) situation concludes "no adverse impact", Assistant Secretary (in role as "Federal Land Manager") shall so "certify" in letter.

12. Simultaneous with No. 11, publication of final determination in "Notice" section of **Federal Register**, including—

a. Clear and concise statement of reasons supporting that determination;

b. Statement as to availability of supporting documentation for inspection and copying at NPS Air Quality Division offices in Denver, Colorado and in Washington, D.C.; and

c. Statement as to immediate effective date (as of date signed) of final determination.

Dated: July 7, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks, and Federal Land Manager for Areas Under the Jurisdiction of the National Park Service and the Fish and Wild life Service.

[FR Doc. 18745 Filed 7-9-82; 8:45 am]

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Tuesday, July 13, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 531

Pay Under the General Schedule

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This regulation prescribes a rule for determining a General Schedule employee's rate of basic pay upon loss of merit pay status. Such a rule is necessary because the current regulations provide pay determination rules for position or appointment changes and for conversion *to* the Merit Pay System, but not for loss of merit pay status. This regulation will fill this gap in the current regulations.

EFFECTIVE DATE: August 12, 1982.

FOR FURTHER INFORMATION CONTACT: Donald J. Winstead, (202)–632–4634, or Peter G. Rymshaw, (202)–632–5626.

SUPPLEMENTARY INFORMATION: A proposed regulation was published in the **Federal Register** on August 14, 1981 (46 FR 41077), for a public comment period of 30 days. The Office of Personnel Management (OPM) received written comments from five agencies, three of which offered specific recommendations for clarifying or modifying the proposed regulation. No substantive changes are required in the proposed regulation. However, OPM has modified the proposed regulation slightly, as explained below.

One agency recommended a clarification of the proposed regulation to indicate that it applies to a change in merit pay status that has actually taken place, rather than to a change that is merely contemplated. The source of this confusion appears to be the term "prospective." To avoid such confusion, OPM has modified the proposed regulation to indicate that it applies only to a "prospectively effective" change—i.e., a change that, because it does not represent the correction of a merit pay coverage determination that has been found to be erroneous, has prospective, rather than retroactive, effect.

Note.—A change in coverage based solely on a bargaining unit clarification decision by the Federal Labor Relations Authority is considered to be a prospectively effective change.

Another agency noted that the proposed regulation applies only to prospectively effective changes and inquired about the possibility of retroactively effective changes. The proposed regulation applies only to prospectively effective changes because any retroactively effective change in an agency's merit pay coverage determination would require that the employee's rate of basic pay be adjusted to the rate to which he or she would have been entitled if the erroneous merit pay coverage determination upon which the change is based had not been made. If the correction of an erroneous merit pay coverage determination results in entitlement to back pay, the action must be processed under Subpart H, Part 550, of Title 5, Code of Federal Regulations. If the correction of an erroneous merit pay coverage determination results in an overpayment and the need for a reduction in pay, the overpayment may be considered for waiver under 5 U.S.C. 5584, and the reduction in pay is not considered to be an adverse action. (See 5 CFR 752.401(c)(10).)

A third agency recommended a change in the proposed regulation to indicate that if the existing rate of basic pay falls between two steps of the General Schedule, the employee shall be paid at the higher step. Such a change is unnecessary because the proposed regulation already accomplishes the same result. For example, a GS–13 employee with a rate of basic pay of $35,000 per year would be entitled to basic pay at the rate for GS–13, step 3 ($35,826 per year), because the rate for GS–13, step 3, is "the *lowest* rate of the grade of his or her position that is equal to *or greater than* his or her existing rate of basic pay." (Emphasis added.) This regulation does not permit an agency to set the employee's rate of basic pay at any higher rate.

Finally, one agency requested clarification concerning equivalent increase determinations for within-grade increase purposes when an employee loses his or her merit pay status. An adjustment in pay under 5 CFR 531.204(d) must be counted towards an equivalent increase even though it would not, by itself, constitute an equivalent increase. In addition, any merit pay increase received by the employee before the loss of merit pay status occurred must be counted towards an equivalent increase (except for that portion, if any, that was necessary to increase the employee's rate of basic pay to the new minimum rate for the grade). Therefore, it is likely that the pay adjustment under 5 CFR 531.204(d), together with the portion of the last merit pay increase that must be counted towards an equivalent increase, will result in an equivalent increase effective on the date the employee lost his or her merit pay status, at which time a new waiting period for a within-grade increase would begin.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation concerns administrative practices and will affect only employees of the Federal Government.

List of Subjects in 5 CFR Part 531

Administrative practice and procedure, Government employees, Wages.

Office of Personnel Management.

Donald J. Devine,

Director.

PART 531—PAY UNDER THE GENERAL SCHEDULE

Accordingly, a new paragraph (d) is added to § 531.204 of Title 5, Code of Federal Regulations, to read as follows:

§ 531.204 Special provisions.

* * * * *

(d) *Pay determination upon loss of merit pay status.* When an employee loses his or her merit pay status as a result of a prospectively effective change in the agency's merit pay

coverage determination, the employee shall be entitled to basic pay at the lowest rate of the grade of his or her position that is equal to or greater than his or her existing rate of basic pay.

(5 U.S.C. 5334, 5402)

[FR Doc. 82-18824 Filed 7-12-82; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1955

Disposal of Acquired Property

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations regarding Disposal of Acquired Property. The intended effect of this action is to authorize the use of an exclusive listing agreement for the sale of Rural Housing acquired properties on a pilot basis as authorized by the Administrator and is needed to facilitate sales of inventory property.

EFFECTIVE DATE: July 13, 1982.

FOR FURTHER INFORMATION CONTACT: Ron Tharrington, Chief, Property Management Branch, Single Family Housing, Farmers Home Administration, USDA, Room 5309, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250, Telephone: (202) 382-1452.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1512-1 to implement Executive Order 12291, and has been determined to be exempt from those requirements because it involves Agency management concerning contracts entered into for the disposal of Agency owned property.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comments notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rulemaking since the purpose of this change involves only Agency management and procurement and publication for comment is unnecessary.

This regulation does not directly affect any FmHA programs or projects which are subject to A-95 Clearinghouse review. This document has been reviewed in accordance with FmHA Instruction 1901-G, "Environmental Impact Statement." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

List of Subjects in 7 CFR Part 1955

Government acquired property, Sale of Government acquired property.

PART 1955—PROPERTY MANAGEMENT

Accordingly, Subpart C of Part 1955, Chapter XVIII, Title 7, Code of Federal Regulations is amended by revising § 1955.117(a)(2)(iii) and § 1955.118(c) to read as follows:

§ 1955.117 Sale of real estate that secured Rural Housing (RH) loans.* * *

(a) *Method of sale.* * * *

(2) *Sale by real estate brokers.* * * *

(iii) The broker listing acquired housing properties on a term basis or who agrees to list five or more acquired properties on an individual listing basis within a calendar year must submit Form HUD 935.2, "Affirmative Fair Housing Marketing Plan," or be signatory to a Voluntary Affirmative Marketing Agreement approved by FmHA. A signed copy of the approved marketing agreement will be attached to the original Form FmHA 1955-C-2, "Non-Exclusive Real Property Master Listing Agreement," or other listing agreement pursuant to § 1955.118(c).

* * * * *

§ 1955.118 Selection and use of real estate brokers.

* * * * *

(c) *Listing agreements.* Any real estate broker who agrees to list acquired property for sale will execute Form FmHA 1955-C-2, except where exclusive listing agreements are authorized by the Administrator on a pilot basis. The County Supervisor or the State Director within their contracting authority are authorized to execute listing agreements on behalf of the Government.

* * * * *

(42 U.S.C. 1480; 7 CFR 2.23; 7 CFR 2.70)

Dated: June 17, 1982.

Charles A. Jewell,

Acting Administrator.

[FR Doc. 82-18901 Filed 7-12-82; 8:45 am]
BILLING CODE 3410-07-M

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 82-48]

Chlortetracycline Treatment of Psittacine Birds in USDA Quarantine Stations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends feeding requirements for prevention of psittacosis (chlamydiosis) in psittacine birds in USDA-approved quarantine stations, to allow the use of pelleted medicated feed ration in addition to medicated cooked grain mash presently recommended in the United States Public Health Service (USPHS) guidelines. The United States Department of Agriculture (USDA) currently requires quarantine stations to follow USPHS guidelines. This action is being taken because recent research conducted by USDA indicates that pelleted medicated feed ration which contains the proper percentages of ingredients is equally, if not more, effective than the cooked grain ration in the treatment and prevention of psittacosis (chlamdiosis).

This final rule will result in a medicated feeding requirement that will:

(1) Control and prevent the spread of psittacosis to other birds and animals; assure a high level of protection to USDA employees and others exposed to the birds by a diet that provides a uniform high blood level of chlortetracycline (CTC) in birds, and

(2) Allow the bird importer to choose the method of feeding that is most convenient or cost-effective for his or her operation.

EFFECTIVE DATE: August 13, 1982.

FOR FURTHER INFORMATION CONTACT: Dr. S. S. Richeson, USDA, APHIS, VS, Import-Export Staff, Room 817, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8170.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This document has been reviewed in conformance with Executive Order 12291, and has been determined to be not a "major rule." This final rule will not have a significant effect on the economy and will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises, in domestic or export markets.

Alternatives

The alternatives considered in making this decision were:

(1) *To make no change in the regulation*—Option 1 will require the quarantine stations to continue using cooked mash, although the Department is aware that an effective alternative method is available. Stations where labor is a limiting factor will be at a disadvantage if required to continue using this labor intensive method of preparing mash. All employees and USDA personnel at the station will still be protected from the disease.

(2) *To make the proposed change*—Option 2 will allow importers to choose a feeding method suitable to their operation. It is believed that some quarantine stations will switch to the pelleted feed because of the convenience of using it. Allowing flexibility in how CTC is administered should improve operations at these individual quarantine stations. The feed will be equally, if not more, effective in protecting those persons in contact with the birds from the disease. Should other feeds be developed which meet the new requirement, importers will be allowed to use these feeds as well. Withdrawing the requirement for CTC medicated feed was not considered a viable alternative because it is necessary to prevent disease spread to other birds and animals and because of the risk to USDA personnel and other individuals in contact with these birds in the quarantine stations. For these reasons, Option 2 has been selected.

Therefore, the Department is amending Title 9, Code of Federal Regulations, § 92.11(f)(3)(ii)(C) and in § 92.11(f)(8), paragraph A.13. of the Cooperative Agreement is amended by removing the reference to the USPHS guidelines, and thus, allow the feeding of chlortetracycline to psittacine birds in a pelleted form.

Regulatory Flexibility Act

Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it merely allows the oral antibiotic CTC which is fed to certain birds in quarantine facilities under USDA supervision to be administered in more than one form. The formulation currently required is available from only one company. Its sale to USDA-approved quarantine stations is not a significant part of that company's income. Two additional companies in California and Chicago, Illinois, have a pelleted CTC feed and are interested in obtaining approval for feeding their ration. The quarantine facilities will not be affected unless they choose to change their methods of feeding.

Background

On November 23, 1981, a document was published in the **Federal Register** (46 FR 57307–57308) which proposed to amend feeding requirements for psittacine birds to allow the use of pelleted medicated feed ration in addition to medicated cooked grain mash presently recommended in the United States Public Health Service (USPHS) guidelines.

A 60 day comment period was provided for receipt of comments which expired on January 22, 1982. Three comments were received.

One comment concerned the number of birds and species used in research on which USDA based this action and public health concerns with the psittacosis program in general.

USDA-approval of the pelleted feed is based on 3 trials using various sized psittacine species ranging from conures and amazon parrots to macaws in size. The total number of psittacines of all sizes which were used totaled nearly 70 birds. Three levels of CTC (1 percent, 1½ percent and 1¾ percent) were fed in the pelleted ration.

The results of the testing showed that the birds ate the feed, that the pelleted form is easily adaptable to the feeding program at the quarantine stations, and pellets left CTC in the blood at levels consistent enough to inhibit and destroy *Chlamydia psittaci*. Although psittacosis is at a relatively low incidence in poultry in the United States, it is frequently found in birds coming into the United States from other parts of the world. USDA has a responsibility to protect our personnel who work with these birds while the birds are in quarantine. Therefore, it is required that the birds be fed CTC while under USDA quarantine.

A second commenter conditionally supported this rule but asked USDA to reassess the efficacy data generated during our testing of the pelleted medicated feed ration. The data was analyzed by Department bio-statisticians using established scientific criteria. The results of the testing, as described above, indicated that the effectiveness of the medication in a pelleted form was comparable to using the medication in mash form and the Agency believes, as a result of this testing, that feeding birds CTC in a pelleted form is adequate to lower the incidence of the *Chlamydia psittaci* organism in the birds to a level which is safe for humans in contact with the birds in quarantine. This commenter also suggested that the final rule require CTC serum assays, facility sanitation standards, and microbiologic assessment of each lot of birds prior to release from quarantine in order to document efficacy of using the medication in a pelleted form to eradicate psittacosis in birds. This is not possible as USDA has no funding or manpower to handle such sampling and standards which would be part of a program to eradicate psittacosis in birds or research concerning the feasibility of eradicating psittacosis in birds. The CTC feeding requirement for birds in quarantine is imposed only to protect people in contact with the birds; it is not intended as a research for or program to eradicate psittacosis in birds.

A third comment recommended the proposal be adopted.

Based on the reasons set forth in the proposal and in this document, the provisions in the proposal are being adopted without change.

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Livestock & livestock products, Mexico, Poultry & poultry products, Quarantine, Transportation, Wildlife.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, Part 92, Title 9, Code of Federal Regulations, is amended as follows:

1. Section 92.11 is amended by revising paragraph (f)(3)(ii)(C) to read:

§ 92.11 Quarantine requirements.

* * * * *

(f) * * *

(3) * * *

(ii) * * *

(C) Birds of the psittacine family shall receive a balanced, medicated feed ration treatment containing not less than 1% CTC with not more than 0.7% calcium for the entire quarantine period as a precautionary measure against chlamydiosis (psittacosis).

* * * * *

2. In § 92.11(f)(3)(ii)(C), footnote number 9 is removed and footnotes 10 through 16 and all references thereto are redesignated 9 through 15.

3. In § 92.11(f)(8) paragraph A.13 of the cooperative agreement, the first sentence is amended, to read: "To feed chlortetracycline to psittacine birds, upon their arrival in the facility, as prescribed in § 92.11(f)(3)(ii)(C)."

(Sec. 2, 32 Stat. 792, as amended; secs. 2 and 11, 76 Stat. 129 and 132; (21 U.S.C. 111, 134a and 134f); 37 FR 28464, 28477; 38 FR 19141)

Done at Washington, D.C., this 7th day of July 1982.

R. L. Rissler,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 82-18629 Filed 7-12-82; 8:45 am]
BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Emergency Planning and Preparedness

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations to clarify: (1) That emergency preparedness exercises are part of the preoperational inspection and thus required prior to operation above 5% of rated power, but not for a Licensing Board, Appeal Board, or Commission licensing decision; and (2) that for issuance of operating licenses authorizing only fuel loading and low power operation (up to 5% of rated power), no NRC or Federal Emergency Management Agency (FEMA) review, findings and determinations concerning the state or adequacy of offsite emergency preparedness shall be necessary.

EFFECTIVE DATE: July 13, 1982.

FOR FURTHER INFORMATION CONTACT: Michael T. Jamgochian, Human Factors Branch, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone (301) 443-5942.

SUPPLEMENTARY INFORMATION: On December 15, 1981, the Commission published in the **Federal Register** two proposed rule changes (46 FR 61132 and 46 FR 61134). The proposed rule change in 46 FR 61134 was considered by the Commission as clarifying in nature. It proposed that 10 CFR 50.47(a)(1) be modified to clarify that the findings on emergency planning required prior to license issuance are predictive in nature and need not reflect the actual state of preparedness at the time the finding is made. The amendment to 10 CFR 50.47(a)(2) was proposed to emphasize the predictive nature of the review and to provide that licensing decisions need not include the results of an exercise. The Commission noted that preparedness connotes the actual state of implementation, is important during the life of the plant, and should be treated as an operational inspection matter. The proposed rule change would require that a full-scale exercise be conducted before operation above 5% of rated power and periodically thereafter.

The proposed rule change in 46 FR 61132 provided that in order to grant a low power license, only a finding as to the adequacy of onsite emergency planning and preparedness is required; that is, neither FEMA nor NRC must have evaluated the adequacy and capability of offsite preparedness organizations and plans prior to issuance of a low power license. While the proposed rule would eliminate the need to have any NRC or FEMA review, findings, or determinations on the adequacy of offsite agencies' emergency planning and preparedness, the NRC review of the licensees' onsite response mechanism would necessarily include aspects of some offsite elements: Communications, notification, assistance agreements with local law enforcement, fire protection, and medical organizations, and the like. Some examples, but not an exclusive list, where review of an applicant's emergency plan would involve aspects of some offsite elements may be found in pertinent portions of 10 CFR 50.47(b)(3), (5), (6), (9), and (12).

Extensive comments were received, all of which were evaluated and considered in developing the final rule.

Summary of Public Comments

The Commission received 40 letters commenting on the 46 FR 61134 proposed rule change and 66 letters commenting on the 46 FR 61132 proposed rule change. Many letters commented on both issues within the same letter. For 46 FR 61134, 27 letters opposed the rule change while 11 letters favored the rule change. In 46 FR 61132, 43 letters opposed the rule change, while 18 letters favored the rule change. For both rule changes, commenters favoring the rule changes were typically utilities, legal firms and consulting firms representing utilities, and one State health department. Commenters opposing the rule changes included private citizens, local elected officials from New Hampshire and Suffolk County, New York, an Assistant Attorney General of Massachusetts, an Assistant Attorney General of New Hampshire, and representatives of various public groups.

All of the significant comments favoring the rule changes basically reiterated the Commission's rationale for promulgation of the proposed rule changes that was put forth in the **Federal Register** Notices, 46 FR 61134 and 46 FR 61132.

The following major issues against changing the regulations were raised in specific comments received. These major issues reflect the areas of concern of many commenters.

Issue 1: The NRC's credibility was so undermined by the handling of the TMI accident that the Commission should take pains to avoid even the *appearance* of relaxing safety standards. By relaxing the current emergency preparedness regulations, far more than the prestige of the agency or the Commissioners is at stake; indeed, it is believed that the credibility of NRC is a vital component of emergency preparedness. If another serious accident were to occur, many lives may be saved if people have enough faith in the dedication and truthfulness of the NRC. As things stand, substantial segments of the population are still alienated and cynical in their feelings about the agency to interfere seriously with the workability of any plans for managing an emergency.

Commission Response: When the Commission published the upgraded emergency preparedness regulations in August 1980, the subject of low power operating licenses was not addressed. At that time the Commission did not differentiate as to what emergency planning requirements would be applicable to the period of fuel loading and low power testing. The Commission has now focused on the risks associated with this level of operation and has chosen a level of emergency preparedness appropriate to assure the health and safety of the public at the stage. In doing so, the Commission does not alter the high standards applicable to the review of emergency preparedness at full power.

Issue 2: During low power testing there are higher risks due to unfamiliarity of the plant operators with their particular plant and due to undiscovered design and construction defects.

Commission Response: The Commission agrees that there may be slightly higher risks due to the plant operators having less experience with the plant at this stage and with a

potential for undiscovered design and construction defects. However, in the Commission's view, this risk is significantly outweighed by several other factors. First, the fission product inventory during low power testing is much less than during higher power operation due to the low level of reactor power and short period of operation. Second, at low power there is a significant reduction in the required capacity of systems designed to mitigate the consequences of accidents compared to the required capacities under full-power operation. Third, the time available for taking actions to identify accident causes and mitigate accident consequences is much longer than at full power. This means the operators should have sufficient time to prevent a radioactive release from occurring. In the worst case, the additional time available (at least 10 hours), even for a postulated low likelihood sequence which could eventually result in release of the fission products accumulated at low power into the containment, would allow adequate precautionary actions to be taken to protect the public near the site. Weighing all risks involved, the Commission has determined that the degree of emergency preparedness necessary to provide adequate protection of the public health and safety is significantly less than that required for full-power operation.[1]

Issue 3: The rule changes would eliminate public participation in the review and assessment of exercises before a licensing board.

Commission Response: While it is true that the rule changes will have the likely effect of limiting litigation of the success of exercises in licensing hearings, it is the Commission's view that such assessments are not necessary to make the kind of predictive finding on emergency planning called for by the regulations prior to license issuance. The substantive emergency planning issues now being litigated in license hearings are largely focused on the 16 planning standards found in 10 CFR 50.47(b). These planning standards are unchanged by the rule changes and do not, in themselves, require a successful exercise. Thus the Commission does not regard the exclusion of the exercise generally from the Licensing Board process as affecting in any fundamental way the manner of public participation on prelicensing emergency planning issues. Finally, the rule changes do not preclude public observation of and participation in the exercises themselves (to the extent consistent with the rules and policies of the Commission and the objectives of the exercise) and in the review and assessment critique meetings held after the exercise. The rule changes clarify that the emergency preparedness exercises are not required for a Licensing Board, Appeal Board, or Commission licensing decision. Exercises will still be required before actual power above 5% and commercial operation. The conduct of full-scale exercises early enough in the licensing process to permit the outcome of the exercises to be fully litigated at the hearing is premature. Such exercises are best held at a later time, when the operating and management staff of the plant—who are central figures in an exercise—are in place and trained in emergency functions. The Commission believes that, while the actual exercise is not an issue in a hearing under these rules (except to the extent that an outline for the exercise may be involved), the exercise will be held before full power and all significant deficiencies will be properly addressed.

Issue 4: These rule changes would undermine public confidence in the adequacy of emergency planning, safe operation of the plant, and the licensing process.

Commission Response: As the Commission noted in the **Federal Register** notice which announced the upgraded emergency planning regulations on August 19, 1980 (45 FR 55403) that "The [TMI] accident also showed clearly that onsite conditions and actions, even if they do not cause significant offsite radiological consequences, will affect the way the various State and local entities react to protect the public from any dangers associated with the accident. In order to discharge effectively its statutory responsibilities, the Commission must know that proper means and procedures will be in place to assess the course of an accident and its potential severity, that NRC and other appropriate authorities and the public will be notified promptly, and that adequate protective actions in response to actual or anticipated conditions can and will be taken."

Given that no change is envisioned in the caliber of reviews for full-power licenses, and indeed, more resources in theory would be available, the Commission believes that the final rule changes announced herein do not change this responsibility or diminish in any respect the protection of the public health and safety. While the Commission understands the feelings expressed by these commenters, the Commission wants to state its continued commitment to the adequacy of emergency planning, safe operation of the plant, and in an efficient licensing process. These rule changes should not be cause for concern about this commitment.

Issue 5: Unlike some of the more technical issues, emergency planning is a subject upon which the average citizen is knowledgeable and can make a valuable contribution to the licensing proceedings. This is an important opportunity for public participation. Eliminating this consideration from licensing decisions in effect removes this vital experimental evidence from public scrutiny.

Commission Response: The proposed rule does not eliminate any important substantive aspect of emergency planning from the operating license hearings. Whether an applicant satisfies the requirements of 50.47(a) and 50.47(b) is still an issue that may be raised and litigated in those hearings. In cases where such issues are raised, applicants' and State and local jurisdictions' emergency plans should be available for examination in the hearing process prior to the issuance of an operating license. In addition, an outline of an exercise should also be available in order to assure that the requirement for the conduct of exercises (10 CFR Part 50, Appendix E, Section IV) can or will be met. Moreover, if the actual conduct of an exercise should identify fundamental defects in the way that the emergency plan is conceived such that it calls into question whether the requirements of 10 CFR 50.47 can or will be met, a party to a license proceeding may seek to reopen a concluded hearing or file a petition for action pursuant to 10 CFR 2.206 as appropriate. This is distinct from deficiencies identified by an exercise which only reflect the actual state of emergency preparedness on a particular day in question but which do not represent some basic flaw in emergency planning. Finally, it should be recalled that the full-scale exercises themselves involve participation by local and State governments. Both the NRC and FEMA attempt to make sure that all local and regional concerns expressed by representatives of these governments are fully addressed, and that any deficiencies brought to light are remedied before a full-power license is

[1] The level of risk associated with low-power operation has been estimated by the staff in several recent operating license cases: Diablo Canyon, Docket Nos. 275–OL, 323–OL, San Onofre, Docket Nos. 361–OL, 362–OL, and LaSalle, Docket Nos. 373–OL, 374–OL. In each case the Safety Evaluation Report concluded that low-power risk is several orders of magnitude less than full-power risk. These findings support the general conclusion in the text that a number of factors associated with low-power operation imply greatly reduced risk compare with full power.

issued. The underlying feelings expressed by these comments, however, are addressed in the Commission Responses to Issues 3 and 4.

Issue 6: The public knowledge that no offsite protection exists could cause chaos in the event of an incident during fuel loading or low power testing.

Commission Response: Prior to issuing an operating license authorizing low-power testing and fuel loading, the NRC will review the following offsite elements of the applicant's emergency plan:

(a) Section 50.47(b)(3). Arrangements for requesting and effectively using assistance resources have been made, arrangements to accommodate State and local staff at the licensee's near-site Emergency Operations Facility have been made, and other organizations capable of augmenting the planned response have been identified.

(b) Section 50.47(b)(5). Procedures have been established for notification, by the licensee, of State and local response organizations and for notification of emergency personnel by all organizations; the content of initial and followup messages to response organizations and the public has been established; and means to provide early notification and clear instruction to the populace within the plume exposure pathway Emergency Planning Zone have been established.

(c) Section 50.47(b)(6). Provisions exist for prompt communications among principal response organizations to emergency personnel and to the public.

(d) Section 50.47(b)(8). Adequate emergency facilities and equipment to support the emergency response are provided and maintained.[1]

(e) Section 50.47(b)(9). Adequate methods, systems, and equipment for assessing and monitoring actual or potential offsite consequences of a radiological emergency condition are in use.

(f) Section 50.47(b)(12). Arrangements are made for medical services for contaminated injured individuals.

(g) Section 50.47(b)(15). Radiological emergency response training is provided to those who may be called on to assist in an emergency.[1]

Knowing that the above elements of the applicants emergency plan have been reviewed by NRC should assure the public that, for low-power testing and fuel loading, adequate protective measures could and would be taken in the event of an accident.

Issue 7: The rule changes are fundamentally not in the best interest of the public health and safety but obviously in the interest of the utilities.

Commission Response: As explained in previous Responses, the Commission is convinced that the rule changes will not compromise the health and safety of the public. The Commission considers that the rule changes provide flexibility in its licensing procedures, thereby meeting its obligation to the public to conduct its business in a timely and efficient manner. This obligation includes the establishment of an efficient licensing process, while not adversely affecting the public health and safety.

Issue 8: The proposed rule changes contradict previous TMI policy statements.

Commission Response: In developing the upgraded emergency preparedness regulations (45 FR 55402 dated August 19, 1980) one of the policy statements that the Commission made was "that onsite and offsite emergency preparedness as well as proper siting and engineered design features are needed to protect the health and safety of the public [and] as the Commission reacted to the accident at Three Mile Island, it became clear that the protection provided by siting and engineered design features must be bolstered by the ability to take protective measures during the course of an accident."

This rulemaking will in no way deviate from previous policy statements but in fact will add flexibility and efficiency to the licensing process.

Issue 9: Include § 50.47(b)8 and § 50.47(b)15 in evaluating the coordination of offsite and onsite emergency preparedness. These elements require that:

(a)(8) Adequate emergency facilities and equipment to support the emergency response are provided and maintained, and

(b)(15) Radiological emergency response training is provided to those who may be called on to assist in an emergency.

Commission Response: The Commission agrees with this comment. See Commission Response to Issue #6.

Issue 10: The rule changes effectively exclude the public from the decisionmaking process on a matter of primary public concern, and create apprehension in the public mind as to whether "preparedness" will be a reality even after a full-scale exercise before operation above 5% of rated power. The public is unlikely to be granted a special hearing, before full-power operation is granted a utility, in order to assess the actual state of preparedness.

Commission Response: It is true that special hearings will not, in a typical case, be held following the full-scale exercise. The public should recognize that the Commission does not intend to authorize the issuance of a full-power operating license if there has been a full-scale exercise which raises serious and significant deficiencies which have not been compensated for and which go to the fundamental nature of the emergency plan itself. Such a deficiency calls into question whether reasonable assurance may be found that public health and safety will be adequately protected in a radiological emergency. However, some deficiencies may be found that only reflect the actual state of preparedness which may be easily remedied; these types of deficiencies should not delay licensing action. See 10 CFR 50.47(c).

Issue 11: No rationale sustains the requirement of offsite emergency preparedness for small research reactors possessing a fission product inventory equivalent to that generated up to 5% by a large reactor while eliminating offsite emergency preparedness for the large reactor.

Commission Response: Although research reactors present an inherently smaller risk than power reactors, they do not possess the accident mitigation features (e.g., large containments) required for power reactors. In addition, research reactors are often located in high population density areas. It is therefore prudent to have an offsite emergency plan for these reactors.

Summary: The Commission has evaluated all public comments, and has also fully considered the risks of operating a nuclear power reactor at low power. The risks of operating a power reactor at low power are significantly lower than the risks of operating at full power because: first, the fission product inventory during low power testing is much less than during higher power operation due to the low level of reactor power and short period of operation; second, at low power there is a significant reduction in the required capacity of systems designed to mitigate the consequences of accidents compared to the required capacities under full-power operation; and third, the time available for taking actions to identify accident causes and mitigate accident consequences is much longer than at full power. This means the operators should have sufficient time to prevent a radioactive release from occurring. In the worst case, the additional time available (at least 10 hours), even for a postulated low likelihood sequence which eventually results in release of

[1] Added in response to public comment.

the fission products accumulated at low power into the containment, would allow adequate precautionary actions to be taken to protect the public near the site. On balance, the Commission has concluded that the rule changes are technically justifiable and will enhance the efficiency of the licensing process, without adversely affecting the public health and safety and therefore should be promulgated.

Commissioner Gilinsky's Separate Opinion

I disapprove both parts of the proposed amendment.

One part of the rule provides that no NRC or FEMA findings whatsoever concerning the state or adequacy of offsite emergency preparedness shall be necessary prior to issuance of a low power license. As I stated in my disapproval of the proposed rule, there should be some offsite preparedness, especially if there is to be an extended period of low power operation. Moreover, emergency preparedness for full power should not be a hurried, last-minute affair. Some of the steps required for full-power should already be in place at the low power stage.

The other part of the rule excludes consideration of emergency exercises in an operating license proceeding, thereby eliminating an opportunity for public participation in this phase of decisionmaking. The exercises never completely follow the plan. And this area happens to be one in which the nuclear plant's neighbors have special competence, greater in some respects than that of NRC or FEMA. Their comments can be particularly useful. These need not be presented in formal hearings but we should have some means to receive and consider them. I would have modified the final rule to provide for such a brief comment period before NRC issuance of an operating license.

I would also note that the Simpson Report shows that FEMA findings will cause delays in only 2 plants: Shoreham and Byron 1. These delays are based on the applicants' construction dates. If NRC estimates are used, this amendment would have no effect on the dates for issuing operating licenses.

Commissioner Ahearne's Additional Views

In response to Commissioner Gilinsky's comment that "the rule provides that no NRC of FEMA findings whatsoever concerning the state or adequacy of offsite emergency preparedness shall be necessary prior to issuance of a low power license," I would note "the NRC review of the licensees' onsite response mechanism would necessarily include aspects of some offsite elements: communications, notification, assistance agreements with local law enforcement, fire protection, and medical organizations, and the like" (Statement of considerations for this rule at 2).

With respect to his other point concerning consideration in the operating license proceeding, (1) it is important to hold the exercise close to completion of the plant since the operating personnel will then be on site and be able to learn from the experience, and the exercise will be more realistic since hardware and procedures will be closer to completion; and (2) there are public meetings after each drill and the state, local government and other emergency people do participate in these meetings and do provide comments and criticism.

National Environmental Policy Act Consideration

Pursuant to 10 CFR 51.5(d)(3) of the Commission's regulations, an environmental impact appraisal need not be prepared in connection with the subject final amendment because there is no substantive or significant environmental impact.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The proposed rule changes concern a clarification of the elements and findings necessary for the issuance of an operating license for nuclear power plants licensed pursuant to Section 103 and 104b of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2133, 2134b. The electric utility companies owning and operating these nuclear power plants are dominant in their service areas, and do not fall within the definition of a small business found in Section 3 of the Small Business Act, 15 U.S.C. 632, or within the Small Business Size Standards set forth in 13 CFR Part 121. Accordingly, there is no significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act of 1980.

Paperwork Reduction Act Statement

Pursuant to the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the NRC has made a preliminary determination that these rule changes do not impose new recordkeeping, information collection, or reporting requirements.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 552 and 553 of title 5 of the United States Code, notice is hereby given that the following amendments to Title 10, Chapter I, Code of Federal Regulations, Part 50 is published as a document subject to codification. These rules are made immediately effective because restrictions on applicants are being relieved.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Fire prevention, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting critieria, and Reporting requirements.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 reads as follows:

Authority: Secs. 103, 104, 161, 182, 183, 189, 68 Stat. 936, 937, 948, 953, 954, 955, 956, as amended (42 U.S.C. 2133, 2134, 2201, 2232, 2233, 2239); secs. 201, 202, 206, 88 Stat. 1243, 1244, 1246 (42 U.S.C. 5841, 5842, 5846), unless otherwise noted. Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Sections 50.100–50.102 issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236). For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), § 50.54(i) issued under sec. 161i, 68 Stat. 949 (42 U.S.C. 2201(i)), §§ 50.70, 50.71, and 50.78 issued under sec. 1610, 68 Stat. 950, as amended; (42 U.S.C. 2201(o)), and the laws referred to in Appendices.

2. In § 50.47, paragraph (a) is revised, the introductory text to paragraph (b) is revised, paragraph (c)(1) is revised, and a new paragraph (d) is added. All revisions to read as follows:

§ 50.47 Emergency plans.

(a)(1) Except as provided in paragraph (d) of this section, no operating license for a nuclear power reactor will be issued unless a finding is made by NRC that there is reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency.

(2) The NRC will base its finding on a review of the Federal Emergency Management Agency (FEMA) findings and determinations as to whether State and local emergency plans are adequate and whether there is reasonable assurance that they can be implemented, and on the NRC assessment as to whether the applicant's onsite emergency plans are adequate and whether there is

reasonable assurance that they can be implemented. A FEMA finding will primarily be based on a review of the plans. Any other information already available to FEMA may be considered in assessing whether there is reasonable assurance that the plans can be implemented. In any NRC licensing proceeding, a FEMA finding will constitute a rebuttable presumption on questions of adequacy and implementation capability. Emergency preparedness exercises (required by paragraph (b)(14) of this section and Appendix E, Section F of this part) are part of the operational inspection process and are not required for any initial licensing decision.

(b) The onsite and, except as provided in paragraph (d) of this section, offsite emergency response plans for nuclear power reactors must meet the following standards:

* * * * *

(c)(1) Failure to meet the applicable standards set forth in paragraph (b) of this section may result in the Commission declining to issue an operating license; however, the applicant will have an opportunity to demonstrate to the satisfaction of the Commission that deficiencies in the plans are not significant for the plant in question, that adequate interim compensating actions have been or will be taken promptly, or that there are other compelling reasons to permit plant operation.

* * * * *

(d) Notwithstanding the requirements of paragraphs (a) and (b) of this section, no NRC or FEMA review, findings, or determinations concerning the state of offsite emergency preparedness or the adequacy of and capability to implement State and local offsite emergency plans are required prior to issuance of an operating license authorizing only fuel loading and/or low power operations (up to 5% of the rated power). Insofar as emergency planning and preparedness requirements are concerned, a license authorizing fuel loading and/or low power operation may be issued after a finding is made by the NRC that the state of onsite emergency preparedness provides reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency. The NRC will base this finding on its assessment of the applicant's emergency plans against the pertinent standards in paragraph (b) of this section and Appendix E of this Part.

3. Section 50.54(q) is revised to read as follows:

§ 50.54 Conditions of licenses.

* * * * *

(q) A licensee authorized to possess and/or operate a nuclear power reactor shall follow and maintain in effect emergency plans which meet the applicable standards in § 50.47(b) and the applicable requirements in Appendix E to this part. A licensee authorized to possess and/or operate a research reactor or a fuel facility shall follow and maintain in effect emergency plans which meet the requirements in Appendix E to this part. The nuclear power reactor licensee may make changes to these plans without Commission approval only if such changes do not decrease the effectiveness of the plans and the plans, as changed, continue to meet the applicable standards of § 50.47(b) and the applicable requirements of Appendix E to this part. The research reactor licensee and/or the fuel facility licensee may make changes to these plans without Commission approval only if such changes do not decrease the effectiveness of the plans and the plans, as changed, continue to meet the requirements of Appendix E to this part. Proposed changes that decrease the effectiveness of the approved emergency plans shall not be implemented without application to and approval by the Commission. The licensee shall furnish 3 copies of each proposed change for approval; and/or if a change is made without prior approval, 3 copies shall be submitted within 30 days after the change is made or proposed to the Administrator of the appropriate NRC regional office specified in Appendix D, 10 CFR Part 20, with 10 copies to the Director of Nuclear Reactor Regulation, or, if appropriate, the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

* * * * *

Appendix E [Amended]

4. Section I of Appendix E to 10 CFR Part 50 is revised to read as follows [footnotes unchanged]:

I. Introduction

Each applicant for a construction permit is required by § 50.34(a) to include in the preliminary safety analysis report a discussion of preliminary plans for coping with emergencies. Each applicant for an operating license is required by § 50.34(b) to include in the final safety analysis report plans for coping with emergencies.

This appendix establishes minimum requirements for emergency plans for use in attaining an acceptable state of emergency preparedness. These plans shall be described generally in the preliminary safety analysis report and submitted as part of the final safety analysis report.

The potential radiological hazards to the public associated with the operation of research and test reactors and fuel facilities licensed under 10 CFR Parts 50 and 70 involve considerations different than those associated with nuclear power reactors. Consequently, the size of Emergency Planning Zones [2] (EPZs) for facilities other than power reactors and the degree to which compliance with the requirements of this section and sections II, III, IV, and V as necessary will be determined on a case-by-case basis.[3]

Notwithstanding the above paragraphs, in the case of an operating license authorizing only fuel loading and/or low power operations up to 5% of rated power, no NRC or FEMA review, findings, or determinations concerning the state of offsite emergency preparedness or the adequacy of and the capability to implement State and local offsite emergency plans, as defined in this Appendix, are required prior to the issuance of such a license.

5. Section F of Appendix E to 10 CFR Part 50, item (b) is revised to read as follows:

F. Training.

* * * * *

b. For each site at which a power reactor is located for which the first operating license for that site is issued after July 13, 1982, within one year before issuance of the first operating license for full power, and prior to operation above 5% of rated power of the first reactor, which will enable each State and local government within the plume exposure pathway EPZ and each State within the ingestion pathway EPZ to participate.

* * * * *

Dated at Washington, D.C. this 8th day of July, 1982.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 82-18888 Filed 7-12-82; 8:45 am]

BILLING CODE 7590-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 223

[ER-1298; Economic Regulations Amdt. No. 13]

Free and Reduced-Rate Transportation; Persons to Whom Free and Reduced-Rate Transportation May Be Furnished

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB amends its rules to clarify that transportation benefits received as compensation for goods or services rendered to an airline, including

fringe benefits, may be given to any third person if the airline so agrees.

DATES: Adopted: July 8, 1982; Effective: July 13, 1982.

FOR FURTHER INFORMATION CONTACT: David Schaffer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202–673–5442.

SUPPLEMENTARY INFORMATION: By ER–1181, 45 FR 46797, July 11, 1980, the Board added a new paragraph (k) to § 223.2 of 14 CFR Part 223, *Free and Reduced-Rate Transportation* to allow airlines to provide air transportation free or at below-tariff rates in return for goods or services. This action was taken to further the mandate of the Airline Deregulation Act of 1978, Pub. L. 95–504, to place maximum reliance on competitive market forces. The Board intended to remove itself completely from this area so that airline management would have the discretion to decide whether to engage in in-kind transactions and what form those transactions should take.

Despite the broad permission granted by ER–1181, the Board has received many questions about the scope of its rules. In particular, people have asked whether employees of an airline may direct the transportation they receive, as incidents of their employment, to a third party. Some have noted that an older provision, paragraph (a) of § 223.2, appears to limit the provision of free and reduced rate transportation to the immediate families of airline employees.

In responding to these inquiries, the Board's Office of the General Counsel has interpreted § 223.2(k) consistently with the broad permission intended by ER–1181. It has stated that airlines may now, at their discretion, provide to their employees free or reduced-rate travel passes which those employees may use or dispose of in any way they please, including giving them to unrelated persons. Examples are letters from the General Counsel to Ms. Irene Ruefer of Douglaston, N.Y. (July 8, 1980) and to Mr. Bruce I. Waxman of the Association of Flight Attendants (January 23, 1981) and a letter from the Associate General Counsel, Rules and Legislation, to Ms. Pamela DeBisschop of the Independent Union of Flight Attendants (July 21, 1981) in Docket 35392. Thus the permission in paragraph (k) of § 223.2 overrides the narrower provision of paragraph (a) of that section. The Board did not eliminate paragraph (a) when it added paragraph (k) only because many organizations were accustomed to operating under the older provisions.

In order to eliminate any misconceptions about the scope of § 223.2(k), the Board is hereby adding some clarifying language. This amendment makes clear that any free or reduced-rate transportation benefits provided in return for goods or services may be passed on or extended to any third person(s). It also makes clear that the exemption covers any transportation given to an employee, whether characterized as compensation for some specific services or as an employee fringe benefit.

Although the inquiries were directed toward the issue of employees extending travel benefits under § 223.2(k) to travel companions, the principles set forth here apply equally in other situations. Thus, any person that provides goods or services to an airline for which it receives transportation benefits under § 223.2(k) may, as far as the Board is concerned, transfer them to a third party. The only exception is the unusual case of specific-flight tickets being given in return for goods or services. In that case further limitations apply to transfer of the tickets. See Order 81–1–107.

This amendment to § 223.2(k) is interpretative and clarifying in nature and involves no change in the intent or effect of that provision. The Board therefore finds that notice and public procedure are unnecessary and that it may take effect immediately.

List of Subjects in 14 CFR Part 223

Air rates and charges, Handicapped, Travel agents.

PART 223—FREE AND REDUCED-RATE TRANSPORTATION

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 223, *Free and Reduced-Rate Transportation*, as follows:

1. The authority for Part 223 is:

Authority: Secs. 204, 403, 404, 405(j), 407, 416, Pub. L. 85–726, as amended, 72 Stat. 743, 758, 760, 766, 771, 49 U.S.C. 1324, 1373, 1374, 1375, 1377, 1386; sec. 2 of the Postal Reorganization Act, 84 Stat. 767, 39 U.S.C. 5007.

2. Paragraph (k) of § 223.2 is revised to read as follows:

§ 223.2 Persons to whom free and reduced-rate transportation may be furnished.

* * * * *

(k) Carriers are exempted from sections 403 and 404(b) of the Act and Part 221 of this chapter to the extent necessary to provide transportation (including free and reduced-rate transportation) in return for goods or services, whether the transportation is used by the person providing goods or services or any designees of such person. This exemption includes free or reduced-rate transportation furnished as an employee fringe benefit.

* * * * *

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–18804 Filed 7–12–82; 8:45 am]

BILLING CODE 6320–01–M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket C–3091]

Broward County Medical Association; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violation of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement requires a Florida medical association to cease, among other things, inhibiting competition among health care providers by restricting its members from soliciting patients; advertising fees and services; and by declaring such activities unethical. The association is required to remove from its code of ethics, constitution and bylaws, any provision which is inconsistent with the prohibitions contained in the order; and publish revised versions of these documents. The order also requires that the association take no formal action against a party charged with violating an ethical standard without first providing that party with reasonable notice of the allegations and a hearing, as well as written findings and conclusions concerning the allegations. Further, for a period of ten years, the association is required to provide each new member with a copy of the order.

DATES: Complaint and order issued June 28, 1982.[1]

FOR FURTHER INFORMATION CONTACT: FTC/CS–8, Arthur N. Lerner, Washington, D.C. 20580. (202) 724–1303.

SUPPLEMENTARY INFORMATION: On Tuesday, March 16, 1982, there was published in the **Federal Register**, 47 FR 11285, a proposed consent agreement with analysis In the Matter of Broward County Medical Association, a corporation, for the purpose of soliciting public comment. Interested parties were

[1] Copies of the Complaint and the Decision and Order filed with the original document.

given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

A comment was filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Coercing and Intimidating: § 13.367 Members. Subpart—Combining or Conspiring: § 13.384 Combining or conspiring; § 13.472 To restrain cooperatives' activities. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533–45 Maintain records; 13.533–60 Release of general, specific or contractual constrictions, requirements, or restraints.

List of Subjects in 16 CFR Part 13

Doctors, Medical personnel, Physicians.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended (15 U.S.C. 45))

Carol M. Thomas,

Secretary.

[FR Doc. 82–18826 Filed 7–12–82; 8:45 am]

BILLING CODE 6750–01–M

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16 CFR Part 13

[Docket No. C–3066]

Godfrey Company; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: This order reopens the proceeding and modifies the Commission's order issued on May 14, 1981 (46 FR 29458), by modifying Paragraph I(G) of the order to relieve respondent from the obligation of divesting a specified retail grocery store.

DATES: Final order issued May 14, 1981. Modifying order issued June 28, 1982.

FOR FURTHER INFORMATION CONTACT: FTC/CC, Selig S. Merber, Washington, D.C. 20580. (202) 634–4642.

SUPPLEMENTARY INFORMATION: In the Matter of Godfrey Company, a corporation. Codification appearing at 46 FR 29456 remains unchanged.

List of Subjects in 16 CFR Part 13

Retail grocery stores.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

The Order Modifying Cease and Desist Order Issued May 14, 1981 is as follows:

The Federal Trade Commission having considered respondent Godfrey Company's petition filed on March 12, 1982, to reopen this matter and to modify the consent to cease and desist issued by the Commission on May 14, 1981, and having determined that reopening and modification of the order is warranted:

IT IS ORDERED that this matter be, and it hereby is reopened and that Paragraph I(G) of the Commission's order be and it is hereby modified to read as follows:

(G) The "disposition stores" means the following Godfrey ("G") stores and Jewel ("J") stores:

1. G–427 (3045 S. 13th St., Milwaukee, WI.).
2. G–810 (3939 S. 76th St., Milwaukee, WI.).
3. J–1201 (1201 N. 35th St., Milwaukee, WI.).
4. J–729 (729 S. Layton Blvd., Milwaukee, WI.).
5. J–15182 (N81 W. 15182 Appleton Ave., Menomonee Falls, WI.).

By the Commission.

Issued: June 28, 1982.

Carol M. Thomas,

Secretary.

[FR Doc. 82–18825 Filed 7–12–82; 8:45 am]

BILLING CODE 6750–01–M

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16 CFR Part 13

[Docket 9077]

General Motors Corporation; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Dismissal order.

SUMMARY: On June 25, 1982, the Commission dismissed its complaint charging a major car manufacturer with violating Section 5 of the Federal Trade Commission Act by its use of a selective distribution system for new crash parts for GM automobiles and light trucks.

DATES: Complaint issued March 22, 1976. Final Order issued June 25, 1982.[1]

[1]Copies of the Complaint, Initial Decision, Opinion of the Commission, Dissenting Statement of Commissioner Pertschuk, Concurring Statement of Commissioner Clanton and the Final Order filed with the original document.

FOR FURTHER INFORMATION CONTACT: FTC/CS–7, Donald K. Tenney, Washington, D.C. 20580. (202) 724–1136.

SUPPLEMENTARY INFORMATION: In the Matter of General Motors Corporation, a corporation.

List of Subjects in 16 CFR Part 13

Motor vehicle parts and accessories.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended (15 U.S.C. 45))

The Final Order is as follows:

Final Order

This matter has been heard by the Commission upon the appeals of complaint counsel and respondent from the initial decision and upon briefs and oral argument in support of and in opposition to the appeals. For the reasons stated in the accompanying Opinion, the Commission has determined to sustain respondent's appeal. Complaint counsel's appeal is denied. Accordingly,

It is ordered, That the complaint dismissed.

By the Commission, Chairman Miller not participating; Commissioner Pertschuk dissenting.

Carol M. Thomas,

Secretary.

[FR Doc. 82–18827 Filed 7–12–82; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 619

Special Unemployment Assistance Revocation of Regulations

AGENCY: Employment and Training Administration, Labor.

ACTION: Revocation.

SUMMARY: The Department of Labor revokes 20 CFR Part 619, originally established under Title II of the Emergency Jobs and Unemployment Assistance Act of 1974 (Pub. L. 93–567, approved December 31, 1974). The Special Unemployment Assistance (SUA) Program was a temporary program of unemployment assistance for workers not covered by permanent unemployment compensation programs. The SUA Program expired on June 30, 1978, and all benefit activities have ceased. There is no longer a need for the regulations.

EFFECTIVE DATE: July 13, 1982.

FOR FURTHER INFORMATION CONTACT:
Bert Lewis, Administrator, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 601 "D" Street, NW., Washington, D.C. 20213; telephone: (202) 376–2022 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The revocation of these regulations merely removes regulations that are no longer necessary because the program to which they applied ceased operating in July 1978. Subsection (b) of 5 U.S.C. 553 requires that a notice of proposed rulemaking be published in the **Federal Register**, except when the agency for good cause finds that notice and public procedures thereon are impracticable, unnecessary, or contrary to the public interest. I have determined that the notice and comment procedures of section 553(b) are unnecessary, since the purpose and effect of this rule is merely to remove regulations that are no longer useful. For the same reason, this revocation is made effective upon publication in the **Federal Register**, pursuant to 5 U.S.C. 553(d).

Drafting Information

This document was prepared under the direction and control of the Administrator of the Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 601 "D" Street, NW., Washington, D.C. 20213; telephone: (202) 376–2022 (this is not a toll-free number).

Classification—Executive Order 12291

The rule in this document is not classified as a "major rule" under Executive Order 12291 on Federal Regulations, and therefore no regulatory impact analysis is required.

Regulatory Flexibility Act

Because notice of proposed rulemaking is not required for this rule under 5 U.S.C. 553(b), the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., pertaining to regulatory flexibility analyses, do not apply to this rule.

Words of Issuance

PART 619—[REMOVED AND RESERVED]

Accordingly, for the reasons set out in the preamble, 20 CFR Part 619 is hereby removed and reserved.

(Sec. 202, Pub. L. 93–567, 88 Stat. 1845, 1850 (26 U.S.C. 3304 note); Secretary's Order No. 4–75 (40 FR 18515))

Signed at Washington, D.C., on June 8, 1982.

Albert Angrisani,

Assistant Secretary of Labor.

[FR Doc. 82–16902 Filed 7–12–82; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 76F–0347]

Indirect Food Additives; Adjuvants, Production Aids, and Sanitizers; Antioxidants and/or Stabilizers for Polymers; Di(n-Octyl)Tin Bis(2-Ethylhexyl Maleate)

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of di(*n*-octyl)tin bis(2-ethylhexyl maleate) as an antioxidant and/or stabilizer in acrylonitrile copolymers used in articles intended for food-contact use. This action responds to a food additive petition filed by the Borg-Warner Corp.

DATES: Effective July 13, 1982; objections by August 12, 1982.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:
Rudolph Harris, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of September 10, 1976 (41 FR 38539), FDA announced that a food additive petition (FAP 6B3218) had been filed by Borg-Warner Corp., Washington, WV 26181, proposing to amend § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) to provide for the safe use of di(*n*-octyl)tin bis(2-ethylhexyl maleate) as an antioxidant and/or stabilizer in acrylonitrile copolymers intended for food-contact use.

Having evaluated data in the petition and other relevant material, FDA concludes that the proposed food additive use is safe and that § 178.2010 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in § 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has previously considered the potential environmental effects of this regulation as announced in the notice of filing published in the **Federal Register**. No new information or comments have been received that would alter the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

List of Subjects in 21 CFR Part 178

Food additives; Food packaging; Sanitizing solutions.

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 178 is amended in § 178.2010(b) by alphabetically adding a new item in the list of substances, to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
. . .	. . .
Di(*n*-octyl)tin bis(2-ethylhexyl maleate) [CAS Reg. No. 10039–33–5] having 12.5 to 15.0 percent by weight of tin (Sn) and having a saponification number of 250 to 255. The additive is made from di(*n*-octyl)tin oxide meeting the specifications of § 178.2600(a)(1)..	For use only at levels not to exceed 0.5 percent by weight of acrylonitrile copolymers complying with §§ 177.1020 and 177.1030 of this chapter and used in contact with all food types under conditions of use C through G described in Table 2 of § 176.170(c) of this chapter.
. . .	. . .

Any person who will be adversely affected by the foregoing regulation may at any time on or before August 12, 1982 submit to the Dockets Management Branch (address above), written objections thereto and may make a writtren request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with

particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation is effective July 13, 1982.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: July 2, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-18861 Filed 7-12-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 178

[Docket No. 80F-0211]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers; Antioxidants and/or Stabilizers for Polymers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to extend the safe use of octadecyl 3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate as an antioxidant and/or stabilizer for styrene block polymers intended for food-contact use. This action responds to a petition filed by the Ciba-Geigy Corp.

DATES: Effective July 13, 1982; objections by August 12, 1982.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of June 27, 1980 (45 FR 43474) (correction published at 45 FR 45961; July 8, 1980), FDA announced that a petition (FAP 0B3514) had been filed by the Ciba-Geigy Corp., Three Skyline Drive, Hawthorne, NY 10352 (formerly Ardsley, NY 10502), proposing that the food additive regulations be amended to provide for the safe use of octadecyl 3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate as an antioxidant and/or stabilizer for styrene block polymers used as articles or components of articles intended for food contact.

FDA has evaluated data in the petition and other relevant material and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below. In accordance with § 171.(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has previously considered the potential environmental effects of this regulation as announced in the notice of filing published in the **Federal Register.** No new information or comments have been received that would alter the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

List of Subjects in 21 CFR Part 178

Food additives; Food packaging; Sanitizing solutions.

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 178 is amended in § 178.2010(b) by adding a new limitation for "Octadecyl 3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate" to read as follows:

§ 178.2010 Antioxidant and/or stabilizers for polymers.

* * * * * *

(b) * * *

Substances	Limitations
* * * * *	
Octadecyl 3,5-di-*tert*-butyl-4-hydroxyhyrocinnamate (CAS Reg. no. 2082-79-3).	For use only: * * * 11. At levels not exceeding 0.6 percent by weight of styrene block polymers complying with § 177.1810 of this chapter when used in articles that contact food only of the types identified in § 178.170(c) of this chapter, table 1, under categories I, II, IV–B, VI, VII–B, and VIII, and under conditions of use D, E, F, and G described in table 2 of § 178.170(c) of this chapter.
* * * * *	

Any person who will be adversely affected by the foregoing regulation may at any time on or before August 12, 1982 submit to the Dockets Management Branch (HFA–305), address above, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective July 13, 1982.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: July 6, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-18862 Filed 7-12-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 178

[Docket No. 81F-0244]

Indirect Food Additive: Adjuvants, Production Aids, and Sanitizers; Calcium Bis[Monoethyl (3,5-Di-Tert-Butyl-4-Hydroxybenzyl)Phosphonate]

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of calcium bis[monoethyl (3, 5-di-*tert*-butyl-4-hydroxybenzyl) phosphonate] as an antioxidant and/or stabilizer for certain olefin polymers. Ciba-Geigy Corp. petitioned for this use.

DATES: Effective July 13, 1982; objections by August 12, 1982.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Garnett R. Higginbotham, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of September 25, 1981 (46 FR 47302), FDA announced that a petition (FAP 1B3571) had been filed by the Ciba-Geigy Corp., Ardsley, NY 10502, proposing that the food additive regulations be amended to provide for the safe use of calcium bis[monoethyl (3,5-di-*tert*-butyl-4-hydroxybenzyl) phosphonate] as an antioxidant and/or stabilizer for certain olefin polymers.

FDA has evaluated the data in the petition and other relevant material and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition, are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h)(2), the agency will remove from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency previously considered the potential environmental effects of this rule as announced in the notice of filing published in the **Federal Register**. No new information or comment has been received that would alter the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

List of Subjects in 21 CFR Part 178

Food additives; Food packaging; Sanitizing solutions.

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 178 is amended in § 178.2010(b) by alphabetically inserting a new item in the list of substances to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
* * * * *	
Calcium bis[monoethyl(3,5-di-*tert*-butyl-4-hydroxybenzyl) phosphonate] (65140-91-2)..	For use only: 1. At levels not to exceed 0.25 percent by weight of polypropylene that complies with § 177.1520(c) of this chapter, items 1.1, 1.2, and 1.3, and that is limited to use in contact with food only under conditions of use E, F, G, and H described in table 2 of § 176.170(c) of this chapter. 2. At levels not to exceed 0.2 percent by weight of polyethylene that complies with § 177.1520(c) of this chapter, items 2.1, 2.3, and 3.1, that has a density greater then 0.94 gram per cubic centimeter, and that is limited to use in contact with food only under conditions of use E, F, G, and H described in table 2 of § 176.170(c) of this chapter
* * * * *	

Any person who will be adversely affected by the foregoing regulation may at any time on or before August 12, 1982 submit to the Dockets Management Branch (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularily the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis of any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above betwen 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective July 13, 1982.

(Secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348))

Dated: July 6, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-18863 Filed 7-12-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 436, 440, 442, 444, and 446

[Docket No. 82N-0136]

Antibiotic Drugs; Updating and Technical Changes

Correction

In FR Doc. 14140 appearing at page 22513 in the issue of Tuesday, May 25, 1982, make the following changes:

(1) On page 22514, third column, under "**§ 436.102 [AMENDED]**", first line, "a. In § 436.103" should be changed to read "a. In § 436.102".

(2) On page 22515, in the table at the top of the page, fifth column, "(milligrams)" should be removed; in the fifth column in the table, under "Final concentration units or milligrams per millimeter", "mg" should appear next to the number "1"; and in the sixth column in the table, under "Storage time under refrigeration", "days" should appear next to the number "14".

BILLING CODE 1505-01-M

21 CFR Parts 510 and 558

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) sponsored by Gossett Nutrition, Inc., providing for safe and effective use of several tylosin

premixes for making complete feeds for certain uses in swine and to add the sponsor to the list of sponsors of approved NADA's.

EFFECTIVE DATE: July 13, 1982.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV–136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5247.

SUPPLEMENTARY INFORMATION: Gossett Nutrition, Inc., 1676 Cascade Dr., Marion, OH 43302, is sponsor of NADA 131–537 submitted on its behalf by Elanco Products Co. This NADA provides for use of premixes containing 0.36, 0.4, 0.72, 0.8, and 1 gram of tylosin (as tylosin phosphate) per pound for making complete swine feeds for increased rate of weight gain and improved feed efficiency. The 1-gram-per-pound premix also bears claims for prevention of swine dysentery and maintaining weight gains and feed efficiency in the presence of atrophic rhinitis.

Approval of this NADA relies upon safety and effectiveness data contained in Elanco's approved NADA 12–491. Elanco has authorized use of the data in NADA 12–491 to support this NADA. This approval does not change the approved use of the drug. Consequently, approval of this NADA poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species.

Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), approval of this NADA has been treated as would approval of a Category II supplement and does not require reevaluation of the safety and effectiveness data in NADA 12–491.

The application is approved and the regulations are amended to reflect approval of the NADA and to add the sponsor to the list of sponsors of approved NADA's.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects

21 CFR Part 510

Administrative practice and procedure; Animal drugs; Labeling; Reporting requirements.

21 CFR Part 558

Animal drugs; Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 510 and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. In Part 510, § 510.600 is amended by adding a new sponsor alphabetically to paragraph (c)(1) and numerically to paragraph (c)(2), to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Gossett Nutrition, Inc., 1676 Cascade Dr., Marion, OH 43302	050672
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
050972	Gossett Nutrition, Inc., 1676 Cascade Dr., Marion, OH 43302.
* * * * *	

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

2. In Part 558, § 558.625 is amended by adding new paragraph (b)(78), to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(78) To 050972: 0.36, 0.4, 0.72, and 0.8 gram per pound, paragraph (f)(1)(vi)(*a*) of this section; 1 gram per pound, paragraph (f)(1)(vi)(*a*), (*b*), and (*d*) of this section.

* * * * *

Effective date. This amendment is effective July 13, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: July 6, 1982.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 82–18656 Filed 7–12–82; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Levamisole Hydrochloride Paste

Correction

In FR Doc. 82–14069 appearing at page 22516 in the issue of Tuesday, May 25, 1982, make the following changes:

(1) On page 22516, third column, under "**EFFECTIVE DATE**", "May 25, 1980" should be changed to read "May 25, 1982".

(2) On page 22517, first column, in 520.1242f", second line from bottom of page, "dairy" should not appear before "cattle" but should instead appear before "animals" in the last line.

BILLING CODE 1505–01–M

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21 CFR Parts 520 and 556

Oral Dosage Form New Animal Drugs Not Subject to Certification; Tolerances for Residues of New Animal Drugs in Food; Sulfabromomethazine Sodium Boluses

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Merck Sharp & Dohme Research Laboratories, providing revised labeling for use of sulfabromomethazine sodium boluses to treat certain bacterial infections in cattle. The revised labeling conforms to the conclusions of the National Academy of Sciences/National

Research Council (NAS/NRC) evaluation of the product. Tolerances for residues of sulfabromomethazine are also codified, and a withdrawal period is established.

EFFECTIVE DATE: July 13, 1982.

FOR FURTHER INFORMATION CONTACT: Charles E. Haines, Bureau of Veterinary Medicine (HFV–138), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3410.

SUPPLEMENTARY INFORMATION: Merck Sharp and Dohme Research Laboratories, Division of Merck & Co., Inc., Rahway, NJ 07065, has filed a supplemental new animal drug application (NADA 11–532) for Sulfabrom Boluses (sulfabromomethazine sodium boluses) providing revised labeling for use of the drug to treat cattle. The revised labeling reflects the recommendations of the NAS/NRC report for use of 2.5-gram and 15-gram sulfabromomethazine sodium boluses as published in the **Federal Register** of February 13, 1969 (34 FR 2147). The NAS/NRC report concluded, and the agency concurred, that Sulfabrom was probably effective for treating bacterial infections in cattle but extensive label revisions were needed. The NAS/NRC evaluation stated: (1) Each disease claim should be properly qualified as to causative pathogens sensitive to the drug; if not the claim must be dropped. (2) The labeling must contain a warning that the drug may produce abortion in pregnant animals. (3) The winter dysentery claim must be deleted. (4) Evidence must be presented to demonstrate that the bolus disintegrates in the gastrointestinal tract to produce the desired therapeutic effect.

On February 14, 1974, Merck requested elimination of the NAS/NRC recommended label warning concerning abortion in pregnant animals. Merck stated that the drug has been sold for 15 years without any reports alleging abortions in cattle. The firm also reported that it had searched the published literature and did not find any reports of abortions in cattle caused by the drug. The Bureau of Veterinary Medicine reviewed the information submitted and agreed, in its letter of October 8, 1974, that the label warning regarding use in pregnant animals was not required.

The firm submitted a supplement to NADA 11–532 that included data from published literature and other studies using sulfabromomethazine sodium boluses. The studies yielded acceptable blood levels of the drug, thereby demonstrating disintegration of the bolus in the gastrointestinal tract to produce the desired effect.

In response to other comments in the NAS/NRC evaluation, Merck provided revised labeling for the 15-gram bolus and copies of published literature which, together with data contained in the original NADA, supports the drug's effectiveness for use as indicated in the revised labeling. Merck did not submit revised labeling for the 2.5-gram bolus because marketing had been discontinued. Use of the 2.5-gram bolus is thereby no longer authorized.

Based on the data and information submitted, the supplemental NADA is approved and the regulations amended to reflect the approval.

The NAS/NRC evaluation was published to inform NADA sponsors of the NAS/NRC findings and to inform all interested persons that such articles may be marketed provided they are the subject of approved NADA's and otherwise comply with the requirements of the Federal Food, Drug, and Cosmetic Act. NADA's that pertain to identical products and reflect the same conditions of use do not require effectiveness data as specified by § 514.1(b)(8)(ii) (21 CFR 514.1(b)(8)(ii)) or § 514.111(a)(5)(ii)(*a*)(*4*) (21 CFR 514.111(a)(5)(ii)(*a*)(*4*)) of the animal drug regulations. In lieu of such data, approval may require bioequivalency or similar data as suggested in the guideline for submitting NADA's for NAS/NRC-reviewed generic drugs. The guideline is available from the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

The NAS/NRC review concerned effectiveness of the drug and safety to the treated animal. It did not concern safety for food use of products derived from treated animals. The firm had previously submitted the results of 90-day oral studies in dogs and rats. Based on these studies, the agency assigned a tolerance of 0.1 part per million (ppm) for residues of sulfabromomethazine in edible tissues (0.01 ppm in milk). The tolerance has not been published, however. Therefore, the regulations in 21 CFR Part 556 are amended to provide for a tolerance for residues of the drug in the edible tissues and milk of cattle. Under these circumstances, the agency did not reevaluate the underlying human safety data.

In addition, the withdrawal time is established at 18 days, based on data submitted by the sponsor. The regulations are amended to reflect this new withdrawal time. Because residue levels in edible tissues of treated animals at the newly assigned withdrawal time are below those at the previously permitted withdrawal time, the approval poses no increased risk to people exposed to residues of the drug. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), the new withdrawal period has been treated as a Category II change which did not require a complete reevaluation of the underlying human safety data supporting the parent application.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (address above), from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR

Part 520

Animal drugs, Oral use.

Part 556

Animal drugs, Foods, Residues.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 520 and 556 are amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. Part 520 is amended by adding new § 520.2170 to read as follows:

§ 520.2170 Sulfabromomethazine sodium boluses.

(a) *Specifications.* Each bolus contains 15 grams of sulfabromomethazine sodium.

(b) *Related tolerance.* See § 556.620 of this chapter.

(c) *Sponsor.* See No. 000006 in § 510.600(c) of this chapter.

(d) *NAS/NRC status.* These conditions of use are NAS/NRC reviewed and found effective. NADA's for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

(e) *Conditions of use: Cattle*—(1) *Amount.* 90 milligrams per pound body weight.

(2) *Indications for use.* Treatment of necrotic pododermatitis (foot rot) and calf diphtheria caused by *Fusobacterium necrophorum;* colibacillosis (scours) caused by *Escherichia coli;* bacterial pneumonia and bovine respiratory disease complex (shipping fever complex) associated with *Pasteurella* spp.; acute metritis and acute mastitis caused by *Streptococcus* spp.

(3) *Limitations.* Administer orally; repeat in 48 hours if necessary; milk taken from animals within 96 hours (8 milkings) of latest treatment must not be used for food; do not administer within 18 days of slaughter; discontinue use if hematuria, crystalluria or severe depression are noticed; if signs persist after 2 or 3 days consult a veterinarian.

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

2. Part 556 is amended by adding new § 556.620 to read as follows.

§ 556.620 Sulfabromomethazine sodium.

Tolerances for residues of sulfabromomethazine sodium in food are established as follows:

(a) In the uncooked edible tissues of cattle at 0.1 part per million (negligible residue).

(b) In milk at 0.01 part per million (negligible residue).

Effective date. This regulation shall become effective July 13, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: July 7, 1982.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 82-18739 Filed 7-12-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin and Sulfamethazine.

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed for Dale Alley Co. providing for safe and effective use of a premix containing 5 grams per pound each of tylosin and sulfamethazine for making complete swine feeds.

EFFECTIVE DATE: July 13, 1982.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV–136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5247.

SUPPLEMENTARY INFORMATION: Dale Alley Co. P.O. Box 444, St. Joseph, MO 64502, is the sponsor of NADA 129–645 submitted on its behalf by Elanco Products Co. This NADA provides for use of a premix containing 5 grams per pound each of tylosin (as tylosin phosphate) and sulfamethazine for making complete swine feeds used to maintain weight gains and feed efficiency in the presence of atrophic rhinitis, lower the incidence and severity of *Bordetella bronchiseptica* rhinitis, prevent swine dysentery (vibrionic), and control swine pneumonias caused by bacterial pathogens (*pasteurella multocida* and/or *Corynebacterium pyogenes).*

Approval of this application is based on safety and effectiveness data contained in Elanco's approved NADA's 12–491 and 41–275. Elanco has authorized use of the data in NADA's 12–491 and 41–275 to support approval of this application. This approval does not change the approved use of the drug. Consequently, approval of this NADA poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species.

Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), approval of this NADA has been treated as would approval of a Category II supplemental NADA and does not require reevaluation of the safety and effectiveness data contained in NADA's 12–491 and 41–275.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.630 [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), part 558 is amended in § 558.630 *Tylosin and sulfamethazine* by adding, in numerical sequence, drug sponsor code "018063" to paragraph (b)(9).

Effective date. July 13, 1982

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: July 6, 1982.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 82-18859 Filed 7-12-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Lincomycin With Pyrantel Tartrate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Pfizer, Inc., providing for safe and effective use of certain complete swine feeds manufactured by combining separately approved lincomycin and pyrantel tartrate premixes. The feeds are used (1) for treatment and control of swine dysentery, (2) as an aid in the prevention of migration and establishment of large roundworm infections, (3) as an aid in the prevention of establishment of nodular

worm infections, and (4) for removal and control of large roundworm and nodular worm infections.

EFFECTIVE DATE: July 13, 1982.

FOR FURTHER INFORMATION CONTACT: Charles E. Haines, Bureau of Veterinary Medicine (HFV–138), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3410.

SUPPLEMENTARY INFORMATION: Pfizer, Inc., 235 East 42d St., New York, NY 10017, filed an NADA (116–044) providing for combining separately approved premix formulations containing lincomycin and pyrantel tartrate to manufacture complete swine medicated feeds. The feeds are to contain fixed combinations of lincomycin and pyrantel tartrate at several concentrations. The resulting complete feeds are to be used (1) for treatment and control of swine dysentery, (2) as an aid in prevention of migration and establishment of large roundworm *(Ascaris suum)* infections, (3) as an aid in the prevention of establishment of nodular worm *(Oesophagostomum)* infections, and (4) for removal and control of large roundworm and nodular worm infections.

The firm submitted data to comply with the requirements of the Bureau of Veterinary Medicine's combination drug guidelines. The NADA is approved and the regulations are amended to reflect this approval.

Approval of this NADA relies in part upon safety and effectiveness data contained in Pfizer's NADA 43–290 for pyrantel tartrate and Upjohn's NADA 97–505 for lincomycin. Use of those data to support this NADA has been authorized by both firms.

This approval does not change the dosage levels or indications for use of the drugs but merely provides for combining them in complete swine feeds. Residues from each drug component in the combination are below their corresponding tolerances at withdrawal times currently established for their individual use. Therefore, it poses no increased human risk from exposure to residues of the drugs.

Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), approval of this NADA has been treated as would an approval of a Category II supplement and does not require reevaluation of the safety and effectiveness data in NADA's 43–290 and 97–505.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(ii) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended as follows:

1. In § 558.325 by adding new paragraph (f)(4) to read as follows:

§ 558.325 Lincomycin.

* * * * *

(f) * * *

(4) Lincomycin may also be used for swine in combination with:

(i) Pyrantel tartrate as in § 558.485.

(ii) [Reserved]

2. In § 558.485 by adding new paragraphs (d)(2)(iv) and (e)(7), (8), (9), (10), and (11) to read as follows:

§ 558.485 Pyrantel tartrate.

* * * * *

(d) * * *

(2) * * *

(iv) Not more than 0.106 percent (960 grams/ton) pyrantel tartrate with not more than 1,000 grams per ton lincomycin when produced from a fixed combination supplement or from individual supplements and used as provided in paragraph (e)(7), (8), (9), (10), and (11) of this section.

* * * * *

(e) * * *

(7) *Amount per ton.* Pyrantel tartrate, 96 grams (0.0106 percent) and lincomycin, 40 grams, as lincomycin hydrochloride monohydrate.

(i) *Indications for use.* For control of swine dysentery; aid in the prevention of migration and establishment of large roundworm (*Ascaris suum*) infections; aid in the prevention of establishment of nodular worm (*Oesophagostomum* spp.) infections.

(ii) *Limitations.* Feed as sole ration; for use in swine on premises with a history of swine dysentery but where symptoms have not yet occurred; not to be fed to swine that weigh more than 250 pounds; withdraw 6 days before slaughter. Consult your veterinarian before feeding to severely debilitated animals and for assistance in the diagnosis, treatment, and control of parasitism.

(8) *Amount per ton.* Pyrantel tartrate, 96 grams (0.0106 percent) and lincomycin, 100 grams, then 40 grams, as lincomycin hydrochloride monohydrate.

(i) *Indications for use.* For treatment and control of swine dysentery; aid in the prevention of migration and establishment of large roundworm (*Ascaris suum*) infections; aid in the prevention of establishment of nodular worm (*Oesophagostomum* spp.) infections.

(ii) *Limitations.* Feed 100 grams per ton for 3 weeks or until signs of disease disappear, followed by 40 grams per ton; feed as sole ration; not to be fed to swine that weigh more than 250 pounds; withdraw 6 days before slaughter. Consult your veterinarian before feeding to severely debilitated animals and for assistance in the diagnosis, treatment, and control of parasitism.

(9) *Amount per ton.* Pyrantel tartrate, 96 grams (0.0106 percent) and lincomycin, 100 grams, as lincomycin hydrochloride monohydrate.

(i) *Indications for use.* For treatment of swine dysentery; aid in the prevention of migration and establishment of large roundworm (*Ascaris suum*) infections; aid in the prevention of establishment of nodular worm (*Oesophagostomum* spp.) infections.

(ii) *Limitations.* Feed 100 grams per ton 3 weeks or until signs of disease disappear, followed by 40 grams per ton; feed as sole ration; not to be fed to swine that weigh more than 250 pounds; withdraw 6 days before slaughter. Consult your veterinarian before feeding to severely debilitated animals and for assistance in the diagnosis, treatment, and control of parasitism.

(10) *Amount per ton.* Pyrantel tartrate, 96 grams (0.0106 percent) and lincomycin, 100 or 40 grams.

(i) *Indications for use.* For treatment and/or control of swine dysentery; for

removal and control of large roundworm (*Ascaris suum*) infections.

(ii) *Limitations.* Administer in accordance with paragraph (f)(2)(i), (ii), or (iii) of § 558.325 and paragraph (e)(2)(i) of this section.

(11) *Amount per ton.* Pyrantel tartrate, 800 grams (0.0881 percent) and lincomycin, 100 or 40 grams.

(i) *Indications for use.* For treatment and/or control of swine dysentery; for removal and control of large roundworm (*Ascaris suum*) and nodular worm (*Oesophagostomum* spp.) infections.

(ii) *Limitations.* Administer in accordance with paragraph (f)(2)(i), (ii), or (iii) of § 558.325 and paragraph (e)(3)(ii) of this section.

Effective date. July 13, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: July 6, 1982.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 82-18660 Filed 7-12-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animals Drugs for Use in Animal Feeds; Hygromycin B

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed for Carl S. Akey, Inc., providing for use of a 0.6-gram-per-pound hygromycin B premix for making complete swine feeds for control of large roundworm, nodular worm, and whipworm infections, and for making complete chicken feeds for control of large roundworms, cecal worms, and capillary worms.

EFFECTIVE DATE: July 13, 1982.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV-136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5247.

SUPPLEMENTARY INFORMATION: Carl S. Akey, Inc., Lewisburg, OH 45338, is the sponsor of NADA 127-508 providing for use of a 0.6-gram-per-pound hygromycin B premix for making complete swine and chicken feeds. The complete swine feed is used as an aid in the control of large roundworm, nodular worm, and whipworm infections. The complete chicken feed is used as an aid in the control of large roundworms, cecal worms, and capillary worms. The NADA was filed by Elanco Products Co. for the sponsor Carl S. Akey, Inc.

Approval of this NADA is based on safety and effectiveness data contained in Elanco's approved NADA's 10-918 and 11-948. Elanco has authorized use of the data in NADA's 10-918 and 11-948 to support approval of this application. Satisfactory chemistry, manufacturing, and control information was also submitted. This approval does not change the approved use of the drug. Consequently, approval of the NADA poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species.

Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), approval of NADA 127-508 has been treated as would approval of a Category II supplemental NADA and does not require reevaluation of the safety and effectiveness data in NADA's 10-918 and 11-948. NADA 127-508 is approved, and the regulations are amended to reflect the approval.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.274 [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.274 *Hygromycin B* by adding, in numerical sequence, drug sponsor code "017790" to paragraph (a)(4) and to the "sponsor" column in paragraph (e)(1) (i) and (ii).

Effective date. July 13, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: July 6, 1982.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 82-18664 Filed 7-12-82; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 211

Advance of Funds for Cooperative Work

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: The Forest Service is deleting the existing regulation at 36 CFR 211.5 which provides for the advance of Forest Service research funds to recipients of cooperative aid. Section 211.5 is rendered unnecessary by Department of Agriculture regulations, 7 CFR 3015, Subpart L, published in the **Federal Register** on November 10, 1981 (46 FR 55636, 55650).

EFFECTIVE DATE: July 13, 1982.

FOR FURTHER INFORMATION CONTACT: Darold Foxworthy, Fiscal and Accounting Management Staff, Forest Service, USDA, 703-235-8359.

SUPPLEMENTARY INFORMATION: During the past several years, considerable changes have taken place in Federal financial assistance programs. Uniform administrative requirements and uniform cost principles have been promulgated by the Office of Management and Budget in the form of OMB circulars. These circulars (A-102, A-110, A-122, A-87, and A-21) are applicable to both grants and cooperative agreements. In addition, Pub. L. 95-224, the Federal Grant and Cooperative Agreement Act of 1977, as amended, distinguishes procurement from financial assistance and characterizes both grants and cooperative agreements as financial assistance transactions. Guidelines issued by OMB to implement the Act made the uniform administrative requirements and cost principles applicable to both grants and cooperative agreements.

Payment requirements are just one of several categories of administrative

requirements provided for by OMB Circulars A–102 and A–110. Also, advance payment by Treasury check is only one of the three payment methods prescribed. The other two methods are letter of credit and reimbursement by Treasury check.

The Office of Management and Budget directed agencies to issue appropriate regulations necessary to implement the provisions of OMB Circulars A–102, A–110, A–122, A–87, and A–21. The Department of Agriculture published final rules, 7 CFR Part 3015, in the **Federal Register** on November 10, 1981 (46 FR 55636), to implement these circulars. As a result, the Forest Service found its existing regulation at 36 CFR 211.5 to be made unnecessary by the Department's regulations.

36 CFR 211.5 provides for advances of funds for cooperative aid when such advances will stimulate or facilitate cooperative research. The elimination of 36 CFR 211.5 will not change the method or procedures of making advance payments to recipients of financial assistance awards for research. The number or amount of such advances will be neither increased nor decreased.

This rule has been reviewed under USDA procedures and Executive Order 12291. It has been determined that this action is not a major rule and does not require a regulatory impact analysis since it merely eliminates unnecessary duplication and will have no effect on the economy. For the same reason, this action will not affect costs, prices, competition, employment, investment, productivity, innovations, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Assistant Secretary of Agriculture for Natural Resources and Environment has determined that this action will not have a significant economic impact on a substantial number of small entities and does not require a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

In accordance with the exceptions to rulemaking procedures in 5 U.S.C. 533 and Department of Agriculture policy (36 CFR 13804), it has been found and determined that advance notice and request for comments are unnecessary. The Catalog of Federal Domestic Assistance number of the program to which the existing regulation is applicable is 10.652, Forestry Research.

List of Subjects in 36 CFR Part 211

Administrative practices and procedures, Fire prevention, Intergovernmental relations, National Forests.

PART 211—ADMINISTRATION

For the reasons set out in the preamble, 36 CFR Part 211 is amended as follows:

1. The authority citation for Part 211, Subpart A reads as follows:

Authority: 30 Stat. 35, as amended, sec. 1, 33 Stat. 628 (16 U.S.C. 551, 472).

§ 211.5 [Removed]

2. 36 CFR Part 211, Subpart A is amended by removing § 211.5.

John R. Block,

Secretary.

June 25, 1982.

[FR Doc. 82–18862 Filed 7–12–82; 8:45 am]

BILLING CODE 3410–11–M

VETERANS ADMINISTRATION

DEPARTMENT OF DEFENSE

38 CFR Part 21

Education Benefit Payments; Flight Training

AGENCIES: Veterans Administration and Department of Defense.

ACTION: Final regulation.

SUMMARY: This regulation, issued jointly by the Veterans Administration and the Department of Defense, implements some of the provisions of the Omnibus Budget Reconciliation Act of 1981 which affect people receiving educational assistance under VEAP (the Post-Vietnam Era Veterans' Educational Assistance Program).

The regulation places restrictions upon payments made to people in flight training. It should eventually result in the elimination of flight training from VEAP. This regulation implements changes in the law.

EFFECTIVE DATE: October 1, 1981.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420 (202–389–2092).

SUPPLEMENTARY INFORMATION: On pages 11041 and 11042 of the **Federal Register** of March 15, 1982, there was published notice of intent to amend part 21 to gradually eliminate flight training from VEAP.

Interested people were given 30 days in which to submit comments, suggestions or objections regarding the proposal. The Department of Defense and the Veterans Administration received no comments. Accordingly, the agencies are adopting the proposal.

The agencies have determined that this regulation is not a major rule as that term is defined by Executive Order 12291, Federal Regulation. The annual effect on the economy will be less than $100 million. It will not result in any major increases in costs or prices for anyone. It will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans' Affairs and the Secretary of Defense hereby certify that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Under 5 U.S.C. 605(b), this final rule therefore is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reason for this certification is that the regulation will regulate recipients of educational assistance under VEAP. It will have no significant impact on small entities (i.e. small businesses, small private and nonprofit organizations, and small governmental jurisdictions.)

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

The Catalog of Federal Domestic Assistance number for the program affected by this regulation is 64.120.

Approved: June 14, 1982.

Robert P. Nimmo,

Administrator.

Approved: June 24, 1982.

R. Dean Tice,

Deputy Assistant Secretary of Defense.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Section 21.5137 is added as follows:

§ 21.5137 Benefit payments—flight training.

(a) *Payments to individuals who enroll in flight training before September 1, 1981.* (1) The Veterans Administration will pay benefits to an individual who enrolls in an approved program of flight training before September 1, 1981, provided—

(i) The individual incurs no changes of program after August 31, 1981, and

(ii) The continuity of the enrollment is not broken.

(2) If after September 30, 1981, an individual, who enrolled in a program of flight training before September 1, 1981, breaks the continuity of his or her enrollment, the Veterans Administration will not pay for flight training which occurs after the date the continuity of enrollment was broken.

(3) The Veterans Administration will consider the continuity of an enrollment to be broken any time the individual receives no flight training for a period of six or more consecutive months. (Pub. L. 97–35, secs. 2003 and 2006)

(b) *Payments to individuals who enroll in flight training during September 1981.* If an individual enrolls in a flight course during September 1981 and this does not form part of a continuous enrollment begun before September 1, 1981, the Veterans Administration will make payment only for that portion of the course completed during September 1981. The Veterans Administration will make no payment for any portion of the course completed after September 30, 1981. (Pub. L. 97–35, secs. 2003 and 2006)

(c) *Payments to individuals who enroll in flight training after September 30, 1981.* The Veterans Administration will make no payment for flight training an individual receives if the individual enrolls in flight training for the first time after September 30, 1981. (Pub. L. 97–35, secs. 2003 and 2006).

[FR Doc. 82–18822 Filed 7–12–82; 8:45 am]
BILLING CODE 8320–01–M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 101

[FPMR Temporary Reg. G–46]

Reporting Motor Vehicle Data

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: FPMR 101–38.1 relating to reporting motor vehicle data is being revised to incorporate a revision to Standard Form 82, Agency Report of Motor Vehicle Data, and remove text concerning Standard Form 82D which was canceled by FPMR Temporary Regulation G–37. The Standard Form 82 data elements were revised by the Interagency Motor Equipment Management Committee in order to facilitate the reporting of data relating to agency-owned and -leased vehicles and to provide more relevant data for inclusion in the Federal Motor Vehicle Fleet Report.

DATES: Effective date: July 13, 1982.

Expiration date: February 28, 1983.

FOR FURTHER INFORMATION CONTACT: Mrs. Pat Padgett, Federal Fleet Management Division, Transportation and Public Utilities Service (202–275–1021).

SUPPLEMENTARY INFORMATION: The General Services Administration (GSA) has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs; and has maximized the net benefits to society.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)))

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB approval number 3090–0081.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)))

In 41 CFR Chapter 101, the following temporary regulation is listed in the appendix at the end of Subchapter G.

Federal Property Management Regulations

[Temporary Regulation G–46]

To: Heads of Federal agencies.

Subject: Standard Form 82—Agency Report of Motor Vehicle Data.

1. *Purpose.* This regulation issues a change to Subpart 101–38.1, Reporting Motor Vehicle Data, which includes the revised Standard Form 82, Agency Report of Motor Vehicle Data.

2. *Effective date.* This regulation is effective upon publication in the **Federal Register.**

3. *Expiration date.* This regulation expires February 28, 1983, unless revised or superseded sooner.

4. *Applicability.* This regulation is applicable to all Federal executive agencies operating commercially designed, Government-owned or -leased motor vehicles. Military designed motor vehicles are exempt from the provisions of this regulation.

5. *Background.*

a. FPMR 101–38.100–1 requires the use of Standard Form 82 by agencies for reporting motor vehicle management data to the General Services Administration (GSA). The data are used by GSA to evaluate and analyze the operations and management of the Federal motor vehicle fleet, and for publication in the Federal Motor Vehicle Fleet Report.

b. The Interagency Motor Equipment Management Committee (IMEMC) studied the motor vehicle reporting requirements and recommended changes to simplify the collection and reporting of the data. The IMEMC has recommended the following:

(1) Standard Form 82 be revised to simplify data elements and eliminate the requirement for calculating "Vehicle Years of Operation" and depreciation. Vehicle years of operation will now be calculated as a simple average inventory, and depreciation will be calculated by GSA.

(2) The revised Standard Form 82 will be made available for the fiscal year 1982 report.

6. *Agency action.* Agencies shall report data for fiscal year 1982 using revised Standard Form 82.

7. *Reports.* The report prescribed by this regulation has been cleared in accordance with Subpart 101–11.11 and assigned interagency report control number 1102–GSA–AN.

8. *Availability of forms.* Agencies may obtain supplies of Standard Form 82, Agency Report of Motor Vehicle Data, by submitting a FEDSTRIP requisition to the GSA regional office providing support to the requesting activity. Include National Stock Number 7540–00–634–4031 on the requisition for Standard Form 82.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 82–18791 Filed 7–12–82; 8:45 am]
BILLING CODE 6820–AM–M

41 CFR Ch. 101

[FPMR Temp. Reg. E–70, Supp. 2]

Supply Activity Report

AGENCY: Federal Supply Service, General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This supplement extends to May 31, 1983, the expiration date of FPMR Temporary Regulation E–70, relating to supply activity reports, pending the development of a refined reporting system using more significant data elements.

DATES: Effective date: July 13, 1982.

Expiration date: May 31, 1983.

FOR FURTHER INFORMATION CONTACT: Robert A. Renner, Director, Regulations Division (703–557–7990).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; or major increase in costs to consumers or others; or significant adverse effects.

The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

(Sec. 205(c), 63 Stat. 390, 40 U.S.C. 486(c))

In 41 CFR Chapter 101, this temporary regulation is listed in the appendix at the end of Subchapter E.

Note.—Supplement 2 to FPMR Temporary Regulation E–70 is filed with the orginal document, and its text does not appear in this volume.

Ray Kline,

Acting Administrator of General Services.

June 15, 1982.

[FR Doc. 82–18704 Filed 7–12–82; 8:45 am]

BILLING CODE 6820–24–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6354]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP) and eligible for second layer insurance coverage.

These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the regular program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (200) 287–0270, 500 C Street Southwest, Donohoe Building, Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fourth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of Eligible Communities.

State and county	Location	Community No.	Effective date of authorization of sale of flood insurance for area	Hazard area identified
Alaska:				
Wrangell-Petersburg	Petersburg, city of	020074	750725, emergency; 820601, regular	750614
Sitka Division	Sitka, city and borough of	020006	741108, emergency; 820601, regular	740628
Arizona: Navajo	Navajo County [3]	040066	750130, emergency; 820601, regular	740625
California:				
Humboldt	Eureka, city of	060062	750609, emergency; 820601, regular	740524
Solano	Suisun city, city of	060372	750523, emergency; 820601, regular	740322
Tehama	Tehama County [3]	065064	710423, emergency; 820601, regular	780307
Connecticut:				
Tolland	Stafford Springs, borough of	090113	750605, emergency; 820601, regular	740625
Do	Stafford, town of	090152	820112, emergency; 820601, regular	800725
Florida: Hernando	Brooksville, city of	120333	741030, emergency; 820601, regular	750221
Georgia: Tift	Tift County [3]	130404	791001, emergency; 820601, regular	780217
Iowa: Pottawattamie	Underwood, city of	190494	771028, emergency; 820601, regular	780326
Illinois:				
Rock Island	Carbon Cliff, village of	170584	750523, emergency; 820601, regular	740412
Kendall	Millington, village of	170043	750526, emergency; 820601, regular	731228
Do	Newark, village of	170344	750428, emergency; 820601, regular	731123
Do	Oswego, village of	170345	750416, emergency; 820601, regular	731123
Do	Yorkville, city of	170347	750403, emergency; 820601, regular	740329
Indiana:				
Dubois	Jasper, city of	180055	710624, emergency; 820601, regular	731026
Porter	Portage, city of	180202	750606, emergency; 820601, regular	740726
Kansas: Shawnee	Shawnee County [3]	200331	780623, emergency; 820601, regular	785221

State and county	Location	Community No.	Effective date of authorization of sale of flood insurance for area	Hazard area identified
Massachusetts:				
Worcester	Douglas, town of	250301	750129, emergency; 820601, regular	740507
Berkshire	Hancock, town of	250025	750925, emergency; 820601, regular	740528
Do	Lee, town of	250028	741003, emergency; 820601, regular	740322
Norfolk	Stoughton, town of	250253	750304, emergency; 820601, regular	740802
Middlesex	Sudbury, town of	250217	750601, emergency; 820601, regular	740823
Worcester	Sutton, town of	250336	750529, emergency; 820601, regular	740806
Middlesex	Wayland, town of	250224	750321, emergency; 820601, regular	740728
Worcester	West Brookfield, town of	250546	740625, emergency; 820601, regular	740725
Berkshire	West Stockbridge, town of	250045	750723, emergency; 820601, regular	740726
Michigan:				
Monroe	Luna Pier, city of	260150	730126, emergency; 820601, regular	740826
Lenawee	Tecumseh, city of	260117	741217, emergency; 820601, regular	740324
Kent	Walker, city of	260110	730406, emergency; 820601, regular	731012
Minnesota: Nobles	Adrian, city of	270318	740502, emergency; 820601, regular	740503
Missouri:				
Jasper	Carl Junction, city of	290179	751028, emergency; 820601, regular	740208
Stoddard	Dexter, city of	290424	710813, emergency; 820601, regular	740510
Laclede	Lebanon, city of	290197	740630, emergency; 820601, regular	740331
Jasper	Webb City, city of	290187	750519, emergency; 820601, regular	740116
North Carolina: Wayne	Goldsboro, city of	370255	750529, emergency; 820601, regular	740507
New Jersey:				
Salem	Carney Point, township of	340424	750303, emergency; 820601, regular	751105
Bergen	Palisades Park, borough of	340061	750522, emergency; 820601, regular	731228
Gloucester	West Deptford, township of	340214	721222, emergency; 820601, regular	740308
Nevada: Lincoln	Caliente, city of	320015	750822, emergency; 820601, regular	750502
New York:				
Oswego	Cleveland, village of	360295	760113, emergency; 820601, regular	740531
Onondaga	Marcellus, village of	360546	740725, emergency; 820601, regular	740412
Cayuga	Port Byron, village of	360121	750504, emergency; 820601, regular	740503
Onondaga	Skaneateles, town of	360592	740919, emergency; 820601, regular	741108
Ohio: Hamilton	Hamilton County [3]	390204	730702, emergency; 820601, regular	750414
Oklahoma: Beckham	Elk City, city of	400010	750117, emergency; 820601, regular	740524
Oregon:				
Yamhill	Dayton, city of	410252	750904, emergency; 820601, regular	740125
Josephine	Josephine County [3]	414590	701291, emergency; 820601, regular	770810
Pennsylvania:				
Lehigh	Allentown, city of	420585	711015, emergency; 820601, regular	740726
Lawrence	Ellwood City, borough of	420567	741003, emergency; 820601, regular	740531
Blair	Hollidaysburg, borough of	420162	730330, emergency; 820601, regular	731012
Bucks	Milford, township of	422937	750617, emergency; 820601, regular	741213
Beaver	North Sewickley, township of	421161	740424, emergency; 820601, regular	741018
Do	Pulaski, township of	422328	751231, emergency; 820601, regular	741220
Juniata	Susquehanna, township of	421746	750627, emergency; 820601, regular	750124
Texas:				
Angelina	Lufkin, city of	480009	730629, emergency; 820601, regular	740322
Tarrant	Watauga, town of	480613	750518, emergency; 820601, regular	740308
Washington:				
King	Bothell, city of	530075	750620, emergency; 820601, regular	740524
Lewis	Centralia, city of	530109	741115, emergency; 820601, regular	740315
Wisconsin:				
Kenosha	Twin Lakes, village of	550211	750624, emergency; 820601, regular	740507
Walworth	Whitewater, city of	550260	750327, emergency; 820601, regular	740109
West Virginia:				
Kanawha	Cedar Grove, town of	540072	750626, emergency; 820601, regular	740306
Do	Dunbar, city of	540076	740626, emergency; 820601, regular	740301
Do	East Bank, town of	540077	750529, emergency; 820601, regular	740320
Fayette	Montgomery, city of	540029	750702, emergency; 820601, regular	750303
Georgia: Bartow	White, town of	130278	750618, emergency; 820604, regular	750404
Pennsylvania: Schuylkill	Branch, township of	421998	751202, emergency; 820604, regular	741115
Idaho: Twin Falls	Hansen, city of	160140	750529, emergency; 820608, regular	750627
Illinois: Kendall	Lisbon, village of	170342	820611, emergency; 820611, regular	741101
New York: Rensselaer	Schaghticoke, village of	361058	791227, emergency; 820611, regular	750121
Pennsylvania:				
Fulton	Bethel, township of	422429	760611, emergency; 820611, regular	770812
Washington	Buffalo, township of	421230	750407, emergency; 820611, regular	741101
Bradford	Canton, township of	421357	760510, emergency; 820611, regular	741018
Huntingdon	Tell, township of	421702	751015, emergency; 820611, regular	750124
Virginia: Charlotte	Drakes Branch, town of	510032	741016, emergency; 820611, regular	740809
California: Kern	Tehachapi, city of	060084	761001, emergency; 820615, regular	760730
Connecticut:				
New London	Colchester, borough of	090192	750521, emergency; 820615, regular	740618
Do	Colchester, town of	090095	750521, emergency; 820615, regular	740802
Litchfield	Litchfield, town of	090047	750606, emergency; 820615, regular	740621
Fairfield	Redding, town of	090141	740923, emergency; 820615, regular	740823
Tolland	Willington, town of	090159	760113, emergency; 820615, regular	741220
Illinois:				
Sangamon	Rochester, village of	170840	760302, emergency; 820615, regular	750321
Kane	Sleepy Hollow, village of	170231	750218, emergency; 820615, regular	740412
Massachusetts:				
Worcester	Barre, town of	250293	750612, emergency; 820615, regular	740517
Middlesex	Belmont, town of	250182	740906, emergency; 820615, regular	740726
Worcester	Clinton, town of	250300	770526, emergency; 820615, regular	740809
Do	Dudley, town of	250302	750623, emergency; 820615, regular	740405
Berkshire	Egremont, town of	250022	750703, emergency; 820615, regular	740626
Do	Lanesborough, town of	250027	741118, emergency; 820615, regular	740329
Worcester	Lunenburg, town of	250315	750904, emergency; 820615, regular	740926
Do	Sterling, town of	250336	750709, emergency; 820615, regular	740719
Plymouth	West Bridgewater, town of	250284	750724, emergency; 820615, regular	740809
Middlesex	Wilmington, town of	250227	740701, emergency; 820615, regular	740301
Worcester	Winchedon, town of	250348	750606, emergency; 820615, regular	740823
Michigan:				
Calhoun	Albion, city of	260050	750701, emergency; 820615, regular	740826

State and county	Location	Community No.	Effective date of authorization of sale of flood insurance for area	Hazard area identified
Washtenaw	Ann Arbor, city of	260213	730419, emergency; 820615, regular	740625
Kalamazoo	Kalamazoo, township of	260429	771227, emergency; 820615, regular	770520
Washtenaw	Manchester, village of	260316	750826, emergency; 820615, regular	740222
Minnesota: Winona	Goodview, city of	270528	750623, emergency; 820615, regular	760315
Missouri				
Franklin	Berger, city of	290132	751007, emergency; 820615, regular	740630
St. Louis	Valley Park, city of	290391	750623, emergency; 820615, regular	731217
North Carolina: Lenoir	Kinston, city of	370145	741107, emergency; 820615, regular	740315
New Hampshire: Coos	Berlin, city of	330029	750506, emergency; 820615, regular	740719
New Jersey:				
Passaic	Clifton, city of	340396	750219, emergency; 820615, regular	740531
Mercer	Hamilton, township of	340246	711203, emergency; 820615, regular	771104
Bergen	Little Ferry, borough of	340046	750721, emergency; 820615, regular	731229
Cumberland	Millville, city of	340173	750502, emergency; 820615, regular	770114
Nevada: Clark	Henderson, city of	320005	750114, emergency; 820615, regular	740628
New York: Tioga	Barton, town of	360832	750902, emergency; 820615, regular	740621
Oregon:				
Lane	Junction City, city of	410124	750502, emergency; 820615, regular	740510
Yamhill	Lafayette, city of	410254	750520, emergency; 820615, regular	731130
Multnomah	Multnomah County [2]	410179	720204, emergency; 820615, regular	0
Benton	Philomath, city of	410011	750606, emergency; 820615, regular	740222
Tennessee: Davidson	Nashville and Davidson Co., Metropolitan Gov	470040	740726, emergency; 820615, regular	741227
Texas:				
Liberty	Daisetta, town of	481101	791114, emergency; 820615, regular	750702
Ellis	Ennis, city of	480337	780213, emergency; 820615, regular	740628
Lampasas	Lampasas, city of	480430	750807, emergency; 820615, regular	740630
Utah: Weber	Harrisville, city of	490206	750929, emergency; 820615, regular	700508
Wisconsin				
Trempealeau	Ettrick, village of	550442	750715, emergency; 820615, regular	731130
Waukesha	Pewaukee, village of	550489	750324, emergency; 820615, regular	760303
West Virginia:				
Kanawha	Glasgow, town of	540076	750609, emergency; 820615, regular	740628
Do	St. Albans, city of	540080	750716, emergency; 820615, regular	740628

Total is: 123.

[1] Key for reading 4th column (effective date): First two digits designate the year, middle two digits designate the month, last two digits designate the day.
[2] Disaster community.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: June 24, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-18671 Filed 7-12-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 65

[Docket No. FEMA 6353]

List of Communities With Special Hazard Areas Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule identifies communities with areas of special flood, mudslide, or erosion hazards as authorized by the National Flood Insurance Program. The identification of such areas is to provide guidance to communities on the reduction of property losses by the adoption of appropriate flood plain management or other measures to minimize damage. It will enable communities to guide future construction, where practicable, away from locations which are threatened by flood or other hazards.

EFFECTIVE DATE: The effective date shown at the top right of the table or August 12, 1982, whichever is later.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (200) 287–0270, 500 C Street Southwest, Donohoe Building, Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93–234) requires the purchase of flood insurance on and after March 2, 1974, as a condition of receiving any form of Federal or federally related financial assistance for acquisition or construction purposes in an identified flood plain area having special flood hazards that is located within any community participating in the National Flood Insurance Program.

One year after the identification of the community as flood prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction in these areas unless the community has entered the program. The prohibition, however, does not apply in respect to conventional mortgage loans by federally regulated, insured, supervised, or approved lending institutions.

This 30 day period does not supersede the statutory requirement that a community, whether or not participating in the program, be given the opportunity for a period of six months to establish that it is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The six months period shall be considered to begin August 12, 1982 or the effective date of the Flood Hazard Boundary Map, whichever is later. Similarly, the one year period a community has to enter the program under section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin August 12, 1982 or the effective date of the Flood Hazard Boundary Map, whichever is later.

This identification is made in accordance with Part 64 of Title 44 of the Code of Federal Regulations as authorized by the National Flood Insurance Program (42 U.S.C. 4001–4128)

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and

Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information or regarding the completed stages of engineering tasks in delineating the special flood hazard areas of the specified community. This rule imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 65

Flood insurance, Flood plains.

Section 65.3 is amended by adding in alphabetical sequence a new entry to the table

§ 65.3 List of communities with special hazard areas (FHBMs in effect).

1	2	3	4	5	6	7	8	9		10		11	12	13	14
State	Identification No.	Community name and county name	Panels printed (number and suffix)	Inland coastal	Hazard	60.3 code	Program status	Status of		Previous map dates		Revision code(s)	Rescission	Floodways participate printed	Location of map repository
								FHBM	FIRM	FHBM	FIRM				
Effective Date: June 4, 1982															
OH	390219	City of Greenhills, Hamilton County.	0001B	I	FL	B	1	3	1	1/25/74; 5/21/76	N/A	9 10 16	N/A	N/A	Ronald Otting, Mayor, 10 Burnham, Greenhills, OH 45218, (513) 825-2100.
VA	510245	Caroline County, unincorporated areas.	0001A through 0009A.	I	FL	B	1	3	1	4/25/75	N/A	9 10 16	N/A	N/A	L. Edward Ayers, County Administrator, P.O. Box 307, Bowling Green, VA 22427, 804-633-5380.
WV	540279	Monroe County, unincorporated areas.	0001A through 0010A.	I	FL	B	1	3	1	7/25/75	N/A	9 10 16	N/A	N/A	Randell Weisce, President, Monroe Co. Commissioners, County Courthouse, Union, WV 24983, 304-772-3998.
NC	370046	Lenoir, city of, Caldwell County.	0005C, 0010C.	I	FL	B	1	3	1	12/3/76 2/2/79	N/A	10 9	N/A	N/A	Lewis Price, City Manager, P.O. Box 958 Lenoir, North Carolina 28645.
Effective Date: June 8, 1982															
OK	400497	Seminole County, unincorporated areas.	0001A through 0010A.	I	FL	B	4	2	1	N/A	N/A	N/A	N/A	N/A	Max Dye, Chairman Seminole Co. Commissioners, P.O. Box 457, Sasakwa, OK 74884, 405-2 2450.
Effective Date: June 11, 1982															
OK	400475	Cleveland County, unincorporated areas, Index—0050A, 0075A, 0100A, 0125A, 0150A, 0175A, 0200A, 0225A, 0250A.		I	FL	B	1	2	1	N/A	N/A	N/A	N/A	N/A	L. L. Chandler, Chairman, County Commissioner Chairman, Cleveland Co. Courthouse, Norman, OK 73069.
Effective Date: June 18, 1982															
KY	210077	Hickman, city of, Fulton County.	0005B	I	FL	B	1	3	1	6/28/74, 6/4/76	N/A	5, 8, 9, 10	N/A	N/A	Steve Fields, Mayor, City of Hickman, Route 4, Hickman, KY 42050.
Effective Date: June 22, 1982															
TX	481516	Town of Double Oak; Denton County.	0001B	I	FL	B	4	3	1	6/19/79	N/A	II	N/A	N/A	Bernard V. Carnco, Jr., P.O. Box 1396, Lewisville, TX 75067, 817-491-2271.
WY	560060	Town of Medicine Bow, Carbon County.	0001A	I	FL	B	II	II	1	6/25/76	N/A	II	N/A	N/A	Gerald Cook, P.O. Box 158, 319 Pine St., Medicine Bow, WY 82329.
Effective Date: July 2, 1982															
NY	361136	Stratford, town of, Fulton County.	0001A, 0004A, 0005A through 0010A.	I	FL	B	1	3	1	11/15/74	N/A	10 9	N/A	N/A	Ronald L. Aubin, Supervisor, Star Route, Stratford, NY 13470.
OH	390013	City of Springfield, Clark County.	0001B through 0004B.	I	FL	B	1	3	1	4/12/74 3/14/75	N/A	9 10 16	N/A	N/A	Thomas Bay, City Manager, 76 E. High Street, Springfield, OH 45502.
VA	510162	York County, unincorporated areas.	0001A through 0005A.	I	FL	B	1	II	1	11/29/74	N/A	9 10 16	N/A	N/A	John Richardsons, County Administrator, York Co. Administration Building, P.O. Box 532, Yorktown, VA 23690, 804-898-0200.

1	2	3	4	5	6	7	8	9		10		11	12	13	14
State	[illegible] cation No.	Community name and county name	Panels printed [number and suffix]	Inland coastal	Hazard	60.3 code	Program status	Status of FHBM	Status of FIRM	Previous map dates FHBM	Previous map dates FIRM	Revision code(s)	Rescission	Floodway panels printed	Location of map repository
WV	540226	Hampshire County, unincorporated [illegible]	0001A through 0013A.	I	FL	B	1	3	1	1/31/75	N/A	9 10 16	N/A	N/A	George E. Herriott, President Co. Commissioner, P.O. Box 398, Romney, WV 26757, 304-822-5112
Effective Date: July 9, 1982															
WV	540230	Fayette County, unincorporated areas.	0001A through 0008A, 0010A, 0011A.	I	FL	B	1	3	1	4/11/75	N/A	9 10 16	N/A	N/A	James E. Lively, President, Fayette Co. Commissioners, County Courthouse, Fayetteville, WV 25840, 304-574-1250.
Effective Date: July 13, 1982															
OK	400480	Oklahoma County, unincorporated areas.	0001A through 0003A, 0005A, 0006A, 0008A, 0009A.	I	FL	B	4	2	1	N/A	N/A	N/A	N/A	N/A	S. G. Buchanon, Chairman, County Commissioners, 320 Robert S. Kerr Blvd., Oklahoma City, OK 73102, 405-236-2727.
Effective Date: July 16, 1982															
VT	500174	Weybridge, town of, Addison County.	0001A through 0004A.	I	FL	B	1	3	1	1/17/75	N/A	10	N/A	N/A	Paul Denis, Chairman, Board of Selectmen, R.D. #2, Middlebury, VT 05753.
PA	422456	Township of Greenfield, Lackawanna County.	0001A, 0002A, 0003A.	I	FL	B	1	3	1	1/10/75	N/A	9 10 16	N/A	N/A	Thomas Cerra, Chairman, Township Supervisors, R.D. #1, Carbondale, PA 18407, 717-282-2921.

Community Map Actions

(Codes: Where no entry is necessary use N/A)

Column Code:

1. Two letter state designator
2. FIA Community 6-digit identity number
3. Community name, County(ies) name
4. Four digit number and suffix of each FIRM or FHBM panel printed
5. INL/Coast:
   I=Inland; C=Coastal; W=Wave Height
6. Hazard:
   FL=Flood; MS=Mudslide; ER=Erosion; NF=Non Flood Prone; MF=Minimally Flood Prone
7. 60.3 Code:
   A=Special Hazard not defined, no elevation data (No FHBM)
   B=Special Hazard Designated, no elevation data (FHBM)
   C=FIRM, No Floodway or Coastal High Hazard
   D=FIRM, Regulatory Floodway Designated [1]
   E=FIRM, Coastal High Hazard [1]
8. Program status:
   1=Emergency; 2=Regular; 3=Not participating, no map; 4=Not participating, with map; 5=Withdrew; 6=Suspended
9. FHBM status:
   1=Never mapped; 2=Original; 3=Revised; 4=Rescinded; 5=Superceded by FIRM
10. FIRM status:
    1=Never mapped; 2=Original; 3=Revised; 4=Rescinded; 5=All zone C—no published FIRM; 6=All zone A and C—no elevations determined
11. Dates of all previous maps:
12. Revision codes:
    1. 67 BFE (Base Flood Elevation) Decrease
    2. 67 BFE Increase
    3. 65 SFHA (Special Flood Hazard Area) Change
    4. Change of Zone Designation; revised FIRM
    5. Curvilinear
    6. 64 Incorporation
    7. 64 Discorporation
    8. 64 Annexation
    9. SFHA Reduction
    10. Non-67 SFHA Increase Without Numbered Zones
    11. Non-67 SFHA Increase With Numbered Zones
    12. Drafting Correction; Printing Errors
    13. Suffix Change ONLY
    14. Change to Uniform Zone Designations (7/1/74)
    15. Revisions Withdrawn
    16. Refunds Possible
    17. Letter of Map Amendment (70)
    18. Letter of Map Amendment (70 without Federal Register publication)
    19. Federal Register Omission
    20. Attention. A previous map (or maps) has been rescinded or withdrawn for this community. This may have affected the sequence of suffixes.
    21. Miscellaneous
13. List of Numbered Floodway Panels Printed
14. Address of Community Map Repository

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: June 24, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-18670 Filed 7-12-82; 8:45 am]

BILLING CODE 6718-03-M

[1] Dual entry is available.

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44 CFR Part 64

[Docket No. FEMA 6357]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended effective the dates listed within this rule because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATES: The third date ("Susp.") listed in the fifth column.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287–0270, 500 C

Street Southwest, Donohoe Building—Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date flood insurance is no longer available in the community.

In addition, the Director of Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elapsed since identification of the community as having flood prone areas, as shown on the Federal Emergency Management Agency's initial flood insurance map of the community. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 533(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

Pursuant to the provision of 5 U.S.C. 605(b), the Associate Director of State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local flood plain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact Any economic impact results from the community's decision not to (adopt) (enforce) adequate flood plain management, thus placing itself in non-compliance of the Federal standards required for community participation.

In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of Eligible Communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
California:					
Humboldt	Unincorporated areas	060060B	Sept. 11, 1974, emergency; July 19, 1982, regular; July 19, 1982, suspended.	Sept. 13, 1977	July 19, 1982.
Mendocino	Ukiah, city of	060186B	Oct. 30, 1974, emergency; July 19, 1982, regular; July 19, 1982, suspended.	Jan. 3, 1978, June 6, 1978, Aug. 9, 1974, Sept. 17, 1976.	Do.
Idaho: Bonneville	Ammon, city of	160028B	June 30, 1976, emergency; July 19, 1982, regular; July 19, 1982, suspended.	June 30, 1976	Do.
Illinois: Kendall	Unincorporated areas	170341C	July 5, 1973, emergency; July 19, 1982, regular; July 19, 1982, suspended.	Feb. 21, 1975, Jan. 13, 1978, Aug. 17, 1979.	Do.
Indiana: Bartholomew	Columbus, city of	180007B	Nov. 12, 1974, emergency; July 19, 1982, regular; July 19, 1982, suspended.	Dec. 7, 1973, July 23, 1976	Do.
Massachusetts:					
Bristol	Acushnet, town of	250046B	Apr. 3, 1981, emergency; July 19, 1982, regular; July 19, 1982, suspended.	Sept. 6, 1974, Oct. 15, 1976	Do.
Middlesex	Ayer, town of	250180B	Nov. 7, 1974, emergency; July 19, 1982, regular; July 19, 1982, suspended.	Mar. 22, 1974, Sept. 3, 1976.	Do.
Worcester	Charlton, town of	250299B	June 10, 1975, emergency; July 19, 1982, regular; July 19, 1982, suspended.	July 26, 1974, Nov. 19, 1976.	Do.
Berkshire	Cheshire, town of	250019B	Aug. 7, 1975, emergency; July 19, 1982, regular; July 19, 1982, suspended.	Sept. 13, 1974, Jan. 14, 1977.	Do.
Do	Great Barrington, town of	250024B	Sept. 24, 1974, emergency; July 19, 1982, regular; July 19, 1982, suspended.	Oct. 18, 1974, Nov. 12, 1976.	Do.
Worcester	Hopedale, town of	250310B	June 23, 1975, emergency; July 19, 1982, regular; July 19, 1982, suspended.	July 26, 1974, Oct. 15, 1976	Do.
Do	Mendon, town of	250316B	Jan. 22, 1976, emergency; July 19, 1982, regular; July 19, 1982, suspended.	Sept. 6, 1974, Nov. 19, 1976.	Do.
Do	Millville, town of	250319B	Mar. 7, 1975, emergency; July 19, 1982, regular; July 19, 1982, suspended.	June 28, 1974, Oct. 15, 1976.	Do.
Michigan:					
Lenawee	Adrian, city of	260115B	Apr. 1, 1975, emergency; July 19, 1982, regular; July 19, 1982, suspended.	May 31, 1974, Aug. 22, 1975.	Do.
Charlevoix	Boyne City, city of	260056B	Dec. 27, 1973, emergency; July 19, 1982, regular; July 19, 1982, suspended.	Mar. 29, 1974, June 11, 1976.	Do.
Monroe	Dundee, village of	260013	Mar. 10, 1975, emergency; July 19, 1982, regular; July 19, 1982, suspended.	Feb. 1, 1974, June 11, 1976	Do.
Charlevoix	East Jordan, city of	260372A	July 30, 1975, emergency; July 19, 1982, regular; July 19, 1982, suspended.	July 11, 1975	Do.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Minnesota:					
Winona	Minnesota City, city of	270578B	Aug. 25, 1975, emergency; July 19, 1982, regular; July 19, 1982, suspended.	Aug. 2, 1974, Oct. 24, 1975	Do.
Winona	Rollingstone, city of	270530C	Sept. 4, 1975, emergency; July 19, 1982, regular; July 19, 1982, suspended.	Oct. 31, 1975, Sept. 15, 1978, Aug. 2, 1974.	Do.
New Mexico: Chaves	Roswell, city of	350006B	May 23, 1979, emergency; July 19, 1982, regular; July 19, 1982, suspended.	June 14, 1974, Dec. 10, 1976.	Do.
North Carolina: Wilson	Wilson, city of	370270B	Mar. 21, 1975, emergency; July 19, 1982, regular; July 19, 1982, suspended.	Nov. 29, 1974, Dec. 10, 1976.	Do.
North Dakota:					
Barnes	Kathryn, city of	380001A	June 4, 1975, emergency; July 19, 1982, regular; July 19, 1982, suspended.	Nov. 22, 1974	Do.
Traill	Portland, city of	380134B	Oct. 14, 1975, emergency; July 19, 1982, regular; July 19, 1982, suspended.	May 10, 1974, Dec. 19, 1975.	Do.
South Carolina:					
Pickens	Easley, city of	450167C	Mar. 4, 1974, emergency; July 19, 1982, regular; July 19, 1982, suspended.	June 28, 1974, Apr. 30, 1976, Mar. 24, 1978.	Do.
Fairfield	Unincorporated areas	450075B	Dec. 21, 1978, emergency; July 19, 1982, regular; July 19, 1982, suspended.	Nov. 25, 1977	Do.
Pickens	Unincorporated areas	450169B	Apr. 2, 1974, emergency; July 19, 1982, regular; July 19, 1982, suspended.	Feb. 14, 1975, Dec. 23, 1977.	Do.
Tennessee: Sullivan	Bristol, city of	470162B	July 7, 1975, emergency; July 19, 1982, regular; July 19, 1982, suspended.	Mar. 8, 1974, July 8, 1977	Do.
Washington:					
Benton	Unincorporated areas	530237B	Aug. 9, 1977, emergency; July 19, 1982, regular; July 19, 1982, suspended.	Apr. 11, 1974, Aug. 9, 1977	Do.
Jefferson	Unincorporated areas	530088B	Apr. 2, 1975, emergency; July 19, 1982, regular; July 19, 1982, suspended.	June 21, 1977	Do.
Skagit	Lyman, town of	530157B	May 16, 1975, emergency; July 19, 1982, regular; July 19, 1982, suspended.	Nov. 15, 1974, Dec. 19, 1975.	Do.
Pierce	Steilacoom, city of	530146B	June 4, 1975, emergency; July 19, 1982, regular; July 19, 1982, suspended.	Aug. 9, 1974, Jan. 23, 1976	Do.
Wisconsin:					
Waukesha	Elm Grove, village of	550578B	May 1, 1975, emergency; July 19, 1982, regular; July 19, 1982, suspended.	Dec. 23, 1977	Do.
Fond Du Lac	Unincorporated areas	550131A	Apr. 2, 1974, emergency; July 19, 1982, regular; July 19, 1982, suspended.	Dec. 13, 1974	Do.
Texas: Brazoria	Hillcrest Village, city of	485478C	Mar. 17, 1972, emergency; July 19, 1982, regular; July 19, 1982, suspended.	Mar. 18, 1972, July 1, 1974	Do.

[1] Date certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969–(33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: June 28, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-18672 Filed 7-12-82; 8:45 am]

BILLING CODE 5718-03-M

FEDERAL MARITIME COMMISSION

46 CFR Parts 528 and 537

OMB Clearance Information

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: Rules containing OMB clearance information are amended to reflect OMB clearance for the reporting requirements contained therein and to delete reference to the expiration dates. The amendment is necessary to comply with the Paperwork Reduction Act of 1980.

EFFECTIVE DATE: July 13, 1982.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573, (202) 523–5725.

SUPPLEMENTARY INFORMATION: 44 U.S.C. 3504 requires the Office of Management and Budget (OMB) to review information collection requests from 10 or more persons undertaken by Federal agencies.

This Commission has received an extension of clearance from OMB for General Orders 7 and 18, which are contained in 46 CFR Parts 528 and 537, respectively. 44 U.S.C. 3304(c)(3)(A) also requires that notice of OMB's clearance appear in the information collection requests.

The clearance information is presently included in General Orders 7 and 18; however, they must be amended to reflect OMB's latest clearance advice that expiration dates need not be shown in the Commission's General Orders.

List of Subjects in 46 CFR Parts 528 and 537

Maritime carriers.

Accordingly, Parts 528 and 537 are amended as follows:

PART 528—SELF POLICING REQUIREMENTS FOR SECTION 15 AGREEMENTS

1. The authority citation for part 528 reads as follows:

Authority: Secs. 14, 15, 16, 18(b), 21, 35, and 43 of the Shipping Act, 1916 (46 U.S.C. 812, 814, 815, 817(b), 820, 833a, and 841a).

2. Under the Authority citation remove the words "OMB Control Number 3072–0003. Expires February 28, 1982" and insert "OMB Control Number 3072–0003."

PART 537—CONFERENCE AGREEMENT PROVISIONS RELATING TO CONCERTED ACTIVITIES

1. The Authority citation for Part 537 reads as follows:

Authority: Secs. 15, 21, 43, 75 Stat. 763–764, 39 Stat. 736; 75 Stat. 766; 46 U.S.C. 814, 817, 822.

2. Under the Authority citation, remove the words "OMB Control

Number 3072–0013. Expires January 31, 1982" and insert "OMB Control Number 3072–0013."

Effective Date. Notice, public procedure and delayed effective date are not necessary for the promulgation of this amendment because of its nonsubstantive nature. Accordingly, this amendment shall be effective July 13, 1982.

By the Commission, June 28, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82–18823 Filed 7–12–82; 8:45 am]

BILLING CODE 6730–01–M

Proposed Rules

Federal Register
Vol. 47, No. 134
Tuesday, July 13, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 958

Onions Grown in Certain Designated Counties in Idaho and Malheur County, Oregon; Proposed Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed continuing regulation would require fresh market shipments of onions grown in certain designated counties in Idaho and Malheur County, Oregon, to be inspected and meet minimum quality and size requirements. The regulation should promote orderly marketing of such onions and keep less desirable qualities and sizes from being shipped to consumers.

DATE: Comments due July 15, 1982.

ADDRESS: Comments should be sent to: Hearing Clerk, Room 1077–S, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments shall be submitted, and they will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250 (202) 447–2615. The Draft Impact Statement relating to this proposed rule is available upon request from Mr. Porter.

SUPPLEMENTARY INFORMATION: Paperwork Reduction Act Information collection requirements contained in this regulation (7 CFR Part 958) have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB #0581–0087.

This proposed rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "nonmajor" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably affect costs for the directly regulated handlers.

Marketing Agreement No. 130 and Order No. 958, both as amended, regulate the handling of onions grown in certain designated counties in Idaho and Malheur County, Oregon. The program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Idaho-Eastern Oregon Onion Committee, established under the order, is responsible for its local administration.

This proposed continuing handling regulation is based upon recommendations made by the committee at its public meeting in Ontario, Oregon, on June 22, 1982.

The grade, size, pack, maturity and inspection requirements recommended herein are similar to those which have been issued during past seasons. They are necessary to prevent onions of poor quality or undesirable sizes from being distributed to fresh market outlets. The specific proposals, hereinafter set forth, would benefit consumers and producers by standardizing and improving the quality of the onions shipped from the production area.

This regulation is designed to enable the Idaho-Eastern Oregon onion industry to better compete with other onion producing areas by establishing minimum quality standards for onions entering the fresh market. Exceptions would be provided to recognize special situations in which these requirements would be inappropriate or unreasonable.

Shipments would be permitted to certain special purpose outlets without regard to the grade, size, maturity, pack, and inspection requirements, provided that safeguards were met to prevent such onions from reaching unauthorized outlets. These special purpose shipments would include those for planting, livestock feed, charity, dehydration, extraction and pickling since such shipments do not normally enter commercial fresh market channels and no useful purpose would be served by regulating such shipments. Onions for canning and freezing are exempt under the legislative authority for this part.

Additionally, a minimum quantity exemption of one ton per day is proposed. This would relieve the burden on handling noncommercial quantities of onions.

It is proposed that requirements contained in this proposed handling regulation, effective August 1, 1982, would continue in effect from marketing season to marketing season indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the committee or other information available to the Secretary. Interested persons are invited to comment through July 15, 1982 with regard to the proposed handling regulation. Heretofore, regulations issued under the marketing order were made effective for a single marketing season. The proposed change to issue regulation which would continue in effect from marketing season to marketing season reflects the fact that regulations change infrequently from season to season and it is believed unnecessary to issue them for only a single season. In addition, the proposed action could result in a reduction in operational costs to the committee and the government. Although the final regulation would be effective for an indefinite period, the committee would continue to meet prior to or during each season to consider recommendations for modification, suspension, or termination of the regulation. Prior to making any such recommendations, the committee would submit to the Secretary a marketing policy for the season in accordance with § 958.50 of the order, including an analysis of supply and demand factors having a bearing on the marketing of the crop. Committee meetings are open to the public and interested persons may express their views at these meetings or may file comments with the Fruit and Vegetable Division before July 1 each year. The Department will evaluate committee recommendations and information submitted by the committee, comments filed, and other available information, and determine whether modification, suspension, or termination of the regulations on shipments of Idaho-Eastern Oregon onions would tend to effectuate the declared policy of the act.

List of Subjects in 7 CFR Part 958

Marketing agreements and orders, Onions, Idaho, Oregon.

PART 958—ONIONS GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREGON

It is proposed that § 958.327 (46 FR 50044, October 9, 1981) be removed and a new § 958.328 be added as follows:

§ 958.328 Handling regulation.

During the period beginning August 1 and ending June 1 each season, no person may handle any lot of onions, except braided red onions, unless such onions are at least "moderately cured," as defined in paragraph (f) of this section, and meet the requirements of paragraphs (a) and (b) of this section, or unless such onions are handled in accordance with paragraphs (c) and (d) or (e) of this section.

(a) *Grade and size requirements.* (1) *White varieties.* Shall be either:

(i) U.S. No. 2, 1, inch minimum to 2 inches maximum diameter; or

(ii) U.S. No. 2, if not more than 30 percent of the lot is comprised of onions of U.S. No. 1 quality, and at least 1½ inches minimum diameter; or

(iii) U.S. No. 1, at least 1½ inches minimum diameter.

However, none of these three categories of onions may be commingled in the same bag or other container.

(2) *Red varieties.* U.S. No. 2 or better grade, at least 1½ inches minimum diameter.

(3) *All other varieties.* Shall be either:

(i) U.S. No. 2 grade, at least 3 inches minimum diameter, if not more than 30 percent of the lot is comprised of onions of U.S. No. 1 quality; or

(ii) U.S. No. 1, 1½ inches minimum to 2¼ inches maximum diameter; or

(iii) U.S. No. 1, at least 2¼ inches minimum diameter.

However, none of these three categories of onions may be commingled in the same bag or other container.

(b) *Inspection.* No handler may handle any onions regulated hereunder unless such onions are inspected by the Federal-State Inspection Service and are covered by a valid applicable inspection certificate, except when relieved of such requirement pursuant to paragraphs (c) or (d) of this section.

(c) *Special purpose shipments.* The minimum grade, size, maturity, loading and inspection requirements of this section shall not be applicable to shipments of onions for any of the following purposes:

(1) Planting; (2) livestock feed; (3) charity; (4) dehydration; (5) canning; (6) freezing; (7) extraction; and (8) pickling.

(d) *Safeguards.* Each handler making shipments of onions for dehydration, canning, freezing, extraction or pickling pursuant to paragraph (c) of this section shall:

(1) First apply to the committee for or obtain a Certificate of Privilege to make such shipments;

(2) Prepare, on forms furnished by the committee, a report in quadruplicate on each individual shipment to such outlets authorized in paragraph (c) of this section;

(3) Bill or consign each shipment directly to the applicable processor; and

(4) Forward one copy of such report to the committee office and two copies to the processor for signing and returning one copy to the committee office. Failure of the handler or processor to report such shipments by promptly signing and returning the applicable report to the committee office may be cause for cancellation of such handler's Certificate of Privilege and/or the processor's eligibility to receive further shipments pursuant to such Certificate of Privilege. Upon cancellation of any such Certificate of Privilege the handler may appeal to the committee for reconsideraton.

(e) *Minimum quantity exemption.* Each handler may ship up to, but not to exceed, one ton of onions each day without regard to the inspection and assessment requirements of this part, if such onions meet minimum grade, size and maturity requirements of this section. This exception shall not apply to any portion of a shipment that exceeeds one ton of onions.

(f) *Definitions.* The terms "U.S. No. 1" and "U.S. No. 2" have the same meaning as defined in the United States Standards for Grades of Onions (Other Than Bermuda-Granex-Grano and Creole Types), as amended (7 CFR 51.2830–51.2854), or the United States Standards for Grades of Bermuda-Granex-Grano Type Onions (7 CFR 51.3195–51.3209), whichever is applicable to the particular variety, or variations thereof specified in this section. The term "braided red onions" means onions of red varieties with tops braided (interlaced). The term "moderately cured" means the onions are mature and are more nearly well cured than fairly well cured. Other terms used in this section have the same meaning as when used in Marketing Agreement No. 130 and this part.

(g) *Applicability to imports.* Pursuant to section 8e of the act and § 980.117 *"Import regulations; onions"* (43 FR 5499); onions imported during the effective period of this section shall meet the grade, size, quality and maturity requirements specified in the introductory paragraph and paragraph (a) of this section.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division Agricultural Marketing Service.

July 8, 1982.

[FR Doc. 82–18883 Filed 7–12–82; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 982

Handling of Filberts/Hazelnuts Grown in Oregon and Washington; Administrative Rules and Regulations; Proposed Establishment of Different Marketing Year Period

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: Notice is hereby given of a proposal to change the marketing year dates from May 1–April 30 to July 1–June 30. Under the current marketing year dates, compliance with any withholding obligation must occur no later than the last day of February. This proposed change would give handlers more time to meet their respective obligations and allow them more time to plan their packing and shelling operations for the coming season.

DATES: Comments must be received by August 30, 1982.

ADDRESS: Send two copies of comments to the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, where they will be available for public inspection during regular business hours.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, Washington, D.C. 20250 (202) 447–5697.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified a "non-major" rule under criteria contained therein.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would result in only minimal costs being incurred by the regulated nine handlers.

This proposal would amend Subpart—Administrative Rules and Regulations (7 CFR 982.432–982.471) by adding a new § 982.417 entitled "Marketing year". That section would change the definition of marketing year contained in § 982.17 to mean the 12-months from July 1 to the following June 30, both inclusive, except that the marketing year ending June 30, 1983, should begin May 1, 1982.

This subpart is issued under the marketing agreement and Order No. 982, both as amended (7 CFR 982; 46 FR 26037), regulating the handling of filberts/hazelnuts grown in Oregon and Washington. The marketing agreement and order, hereinafter referred to as the "order", are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal is based on a unanimous recommendation of the Filbert/Hazelnut Marketing Board, hereinafter referred to as the "Board", which works with USDA in administering the order.

When marketing percentages for inshell filberts are established for a marketing year, the inshell filberts that must be withheld from handling in the domestic inshell market are designated as "restricted filberts". Restricted filberts may be exported or shelled.

An order amendment effective May 11, 1981, changed the beginning date of the marketing year from August 1 to May 1 to permit handlers with excessive inventories of filberts to shell or export these filberts during the months of May, June, and July. Credit for the disposition in these restricted outlets would be available for use if volume regulations were established later for that marketing year. The purpose of the change was to encourage handlers to shell or export filberts during those months, thus lessening the chances of excessive inventory burdening new crop sales, and cutting handlers' inventory costs.

However, during the 1981–82 marketing year, some handlers experienced unanticipated problems in meeting their withholding obligations under the May 1–April 30 marketing year. Pursuant to § 982.54, a handler can defer meeting this withholding obligation up to 60 days prior to the end of the marketing year, by posting bonds as surety that the handler will have satisfied fully his withholding obligation by the date specified in the undertaking. Under the current marketing year period, compliance with any withholding obligation must occur no later than the last day of February.

Those handlers experiencing problems during the 1981–82 season had difficulty meeting this deadline because of limited processing facilities and the short time interval between the peak inshell shipping season and the last day of February. The marketing period for inshell filberts occurs primarily during the fall and winter holiday season. Consequently, handlers concentrate on shipping to this market, which is of comparatively short duration, before meeting their withholding obligations.

The proposed change in the marketing year period to July 1–June 30 would give handlers an additional two months to meet their withholding obligations when volume regulations are in effect for a marketing year. This additional time would allow handlers to schedule their processing operations more efficiently to take full advantage of the inshell marketing season and still meet their withholding obligations in timely fashion by shelling. This change would also lessen the chances of inadvertent noncompliance with seasonal withholding requirements.

The May 11 amendment also established a new marketing policy mechanism to reduce the chances of disorderly marketing. Under the former mechanism, there was a tendency toward overly optimistic trade demand estimates and/or underestimated crops, which resulted in excessive carryovers. It is anticipated that this mechanism can reduce the chances of excessive carryovers and foster orderly marketing conditions for filberts.

The current 1982–83 marketing year under the order began May 1, 1982, and ends April 30, 1983. Under the proposal, the next marketing year would begin July 1, 1983. Thus, the proposal, also provides for an extension of the current marketing year by an additional two months through June 30, 1983.

List of Subjects in 7 CFR Part 982

Marketing Agreement and Orders; Filberts; Hazelnuts; Oregon; and Washington.

PART 982—FILBERTS/HAZELNUTS GROWN IN OREGON AND WASHINGTON

Therefore, it is proposed to add § 982.417 to Subpart—Administrative Rules and Regulations as follows:

Subpart—Administrative Rules and Regulations

§ 982.417 Marketing year.

"Marketing year" means the 12-month period from July 1 to the following June 30, both inclusive, except that the marketing year ending June 30, 1983, shall begin on May 1, 1982.

Dated: July 8, 1982.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 82-18900 Filed 7-12-82; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 113

[Docket No. 81-080]

Viruses, Serums, Toxins, and Analogous Products; Revision of Standard Requirements for Salmonella and Pasteurella Bacterins

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the testing criteria for a valid potency assay in the standards for Salmonella Typhimurium Bacterin, Pasteurella Multocida Bacterin, Salmonella Choleraesuis Bacterin, and Salmonella Dublin Bacterin. Presently, when mouse tests are performed and the Standard Bacterin meets the requirements for a valid assay but the lowest dilution of the three dilutions of the Unknown Bacterin fails to protect more than 50 percent of the mice, only the difference in the number of mice surviving the lowest dilution of the Standard Bacterin and those surviving the lowest dilution of the Unknown Bacterin are used in determining whether a serial can be retested. The proposed amendment would allow use of the accumulative mouse test results obtained in all three dilutions when making the determination for retest. Efficacious serials of bacterins may occasionally be found unsatisfactory using the present standard single step potency test because of variable mouse response to these products. These proposed amendments would increase the probability for valid initial potency tests and provide for additional potency testing of serials to compensate for variable mouse response.

DATE: Comments must be received on or before September 13, 1982.

ADDRESS: Interested parties are invited to submit written data, views, or arguments regarding the proposed regulations to: Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 828–A, Federal Building, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Dr. R. J. Price, Senior Staff Veterinarian, Veterinary Biologics Staff, USDA,

APHIS, VS, Room 827, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8245.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 to implement Executive Order 12291 and has been classified as a "non-major" rule.

The proposed rule would not have a signficant effect on the economy and would not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises, in domestic or export markets.

Additionally, Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. There are currently 12 USDA licensed establishments producing one or more of these bacterins. Only one of these is considered a small entity; i.e., a business which is independently owned and operated and which is not dominant in the field of veterinary biologics manufacturing.

Some of the manufacturers and National Veterinary Services Laboratories (NVSL) are currently using the proposed testing procedures to determine serial release when specified in the Outline of Production. It has been estimated that the yearly cost to NVSL to conduct the additional tests involving licensees' products has been less than $1,000. Therefore, the cost for individual firms should be less. In addition, these amendments should result in an increased number of serials found satisfactory and released to market.

The Standards in §§ 103.105–113.108 of the regulations provide that when a serial of product fails to meet the relative potency value (RP value) requirements of the regulation it is unsatisfactory and cannot be released. An exception to this rule is when the 50 percent endpoint of an unknown cannot be calculated because the lowest dilution does not exceed 50 percent protection. The failure of a serial to meet the required RP value may sometimes be due to the variability of the responses of mice rather than to a substandard product. This lack of differentiation between low potency serial and mouse test variability would be corrected by changing the test criteria to include consideration of the difference in the cumulative number of mice which survived administration of the Standard Bacterin and of the Unknown Bacterin. Also, the proposed addition of two independent tests in paragraph (c)(10) of §§ 113.105–113.108 for serials found unsatisfactory in the initial test addresses the current lack of sensitivity in the testing procedure. In this manner, a more complete and accurate evaluation of potency would be achieved and assure that all efficacious serials are found eligible for release.

When standard requirements have been developed by Veterinary Services (VS) through experience with a number of Outlines of Production and/or through the development of scientific knowledge at NVSL or elsewhere, such requirements are codified in the regulations. Codification assures uniformity of requirements for licensees and makes information on regulatory standards generally available to the public. This proposed amendment would make uniform requirements for Salmonella Typhimurium Bacterin, Pasteurella Multocida Bacterin, Salmonella Choleraesuis Bacterin, and Salmonella Dublin Bacterin available to the general public and applicable to all licensees.

List of Subjects in 9 CFR Part 113

Animal biologics.

PART 113—STANDARD REQUIREMENTS

1. Section 113.105 would be amended by revising paragraph (c)(8) and adding paragraph (c)(10) to read:

§ 113.105 Salmonella Typhimurium Bacterin.

* * * * * *

(c) * * *

(8) If the 50 percent endpoint of an Unknown cannot be calculated because the lowest dilution does not exceed 50 percent protection, that serial may be retested in a manner identical to the initial test; *Provided,* That, if the Unknown is not retested or if the protection provided by the lowest dilution of the Standard exceeds the protection provided by the lowest dilution of the Unknown by 6 mice or more; or, if the total number of mice protected by the Standard exceeds the total number of mice protected by the Unknown by 8 mice or more, the serial being tested is unsatisfactory.

* * * * *

(10) If the RP is less than the minimum required in paragraph (c)(7) of this section, the serial may be retested by conducting two independent replicate tests in a manner identical to the initial test. The average of the RP values obtained in the retests shall be determined. If the average RP is less than the required minimum, the serial is unsatisfactory. If the average RP obtained in the retests is equal to or greater than the required minimum, the following shall apply:

(i) If the RP obtained in the original test is one-third or less than the average RP obtained in the retests, the initial RP may be considered a result of test system error and the serial is satisfactory.

(ii) If the RP value obtained in the original test is more than one-third the average RP obtained in the retests, a new average shall be determined using the RP values obtained in all tests. If the new average is less than the minimum required in paragraph (c)(7) of this section, the serial is unsatisfactory.

2. Section 113.106 would be amended by revising paragraph (c)(8) and adding paragraph (c)(10) to read:

§ 113.106 Pasteurella Multocida Bacterin

* * * * * *

(c) * * *

(8) If the 50 percent endpoint of an Unknown in a valid assay cannot be calculated because the lowest dilution does not exceed 50 percent protection, that serial may be retested; *Provided,* That either the protection provided by the lowest dilution of the Standard does not exceed the protection provided by the lowest dilution of the Unknown by 6 mice or more or that the total number of mice protected by the Standard does not exceed the total number of mice protected by the Unknown by 8 or more. If the results do not meet these criteria or if the Unknown is not retested, the serial is unsatisfactory.

* * * * * *

(10) If the RP is less than the minimum required in paragraph (c)(7) of this section, the serial may be retested by conducting two independent replicate tests in a manner identical to the initial test. The average of the RP values obtained in the retests shall be determined. If the average RP is less than the required minimum, the serial is unsatisfactory. If the average RP obtained in the retests is equal to or greater than the required minimum, the following shall apply:

(i) If the RP obtained in the original test is one-third or less than the average RP obtained in the retests, the initial RP may be considered a result of test system error and the serial is satisfactory.

(ii) If the RP value obtained in the original test is more than one-third the

average RP obtained in the retests, a new average shall be determined using the RP values obtained in all tests. If the new average is less than the minimum required in paragraph (c)(7) of this section, the serial is unsatisfactory.

3. Section 113.107 would be amended by revising paragraph (c)(8) and adding paragraph (c)(10) to read:

§ 113.107 Salmonella Choleraesuis Bacterin.

* * * * *

(c) * * *

(8) If the 50 percent endpoint of an Unknown in a valid assay cannot be calculated because the lowest dilution does not exceed 50 percent protection, that serial may be retested; *Provided,* That either the protection provided by the lowest dilution of the Standard does not exceed the protection provided by the lowest dilution of the Unknown by six mice or more or that the total number of mice protected by the Standard does not exceed the total number of mice protected by the Unknown by eight or more. If the results do not meet these criteria or if the Unknown is not retested, the serial is unsatisfactory

* * * * *

(10) If the RP is less than the minimum required in paragraph (c)(7) of this section, the serial may be retested by conducting two independent replicate tests in a manner identical to the initial test. The average of the RP values obtained in the retests shall be determined. If the average RP is less than the required minimum, the serial is unsatisfactory. If the average RP obtained in the retests is equal to or greater than the required minimum the following shall apply:

(i) If the RP obtained in the original test is one-third or less than the average RP obtained in the retests, the initial RP may be considered a result of test system error and the serial is satisfactory.

(ii) If the RP value obtained in the original test is more than one-third the average RP obtained in the retests, a new average shall be determined using the RP values obtained in all tests. If the new average is less than the minimum required in paragraph (c)(7) of this section, the serial is unsatisfactory.

4. Section 113.108 would be amended by revising paragraph (c)(8) and adding paragraph (c)(10) to read:

§ 113.108 Salmonella Dublin Bacterin.

* * * * *

(c) * * *

(8) If the 50 percent endpoint of an Unknown in a valid assay cannot be calculated because the lowest dilution does not exceed 50 percent protection, that serial may be retested; *Provided,* That either the protection provided by the lowest dilution of the Standard does not exceed the protection provided by the lowest dilution of the Unknown by six mice or more or that the total number of mice protected by the Standard does not exceed the total number of mice protected by the Unknown by eight or more. If the results do not meet these criteria or if the Unknown is not retested, the serial is unsatisfactory

* * * * *

(10) If the RP is less than the minimum required in paragraph (c)(7) of this section, the serial may be retested by conducting two independent replicate tests in a manner identical to the initial test. The average of the RP values obtained in the retests shall be determined. If the average RP is less than the required minimum, the serial is unsatisfactory. If the average RP obtained in the retests is equal to or greater than the required minimum, the following shall apply:

(i) If the RP obtained in the original test is one-third or less than the average RP obtained in the retests, the initial RP may be considered a result of test system error and the serial is satisfactory.

(ii) If the RP value obtained in the original test is more than one-third the average RP obtained in the retests, a new average shall be determined using the RP values obtained in all tests. If the new average is less than the minimum required in paragraph (c)(7) of this section, the serial is unsatisfactory.

(37 Stat. 832–833 (21 U.S.C. 151–158))

All written submissions made pursuant to this notice will be made available for public inspection at the address listed in this document during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 12.7(b)).

Done at Washington, D.C., this 6th day of July 1982.

Norvan L. Meyer,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 82-18776 Filed 7-12-82; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL TRADE COMMISSION

16 CFR Parts 801, 802, and 803

Premerger Notification Program; Paperwork Burden; Correction

AGENCY: Federal Trade Commission.

ACTION: Correction.

SUMMARY: This document makes two technical corrections to Federal Trade Commission proposed rule on paperwork burden of the premerger notification program which was published in the **Federal Register** on July 2, 1982.

DATE: These corrections are effective. July 13, 1982.

FOR FURTHER INFORMATION CONTACT: Roberta S. Baruch, Attorney or Kenneth M. Davidson, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580. (202) 523–3404.

SUPPLEMENTARY INFORMATION: In FR Doc. 82–18035, appearing in the **Federal Register** issue for Friday, July 2, 1982, as separate Part V, 47 FR 29182, on page 29182, middle column, fourth paragraph, line 8, change "reality" to "realty."

On page 29192, in Table IX, the five columns under the heading "Second Request Issued" are misaligned. All five columns of numbers should be moved to the right one column so that the first line should read:

Number		Percentage of sales range group		
FTC	DOJ	FTC	DOJ	Total
2	1	2.2	1.1	3.3

The remaining numbers should be moved accordingly.

On page 21999, middle column, second paragraph under "C. *Should the Requirement* * **", line 8, change "16 CFR 804.7" to "16 CFR 803.7."

Carol M. Thomas,

Secretary.

[FR Doc. 82-18874 Filed 7-12-82; 8:45 am]

BILLING CODE 6750-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Minimum Financial and Related Reporting Requirements for Futures Commission Merchants

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rules.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is proposing to amend certain of its minimum financial and related reporting requirements for futures commission merchants ("FCMs"). The proposed

amendments would alter, for certain FCM's, the amount of adjusted net capital which must be maintained. The minimum adjusted net capital requirement for FCMs is currently the greatest of (1) the minimum dollar amount, or (2) four percent of all customer funds required to be segregated by the Commodity Exchange Act ("Act") and the Commission's regulations, or (3) for those FCMs which are also registered as brokers or dealers with the Securities and Exchange Commission ("SEC"), the amount of net capital required by Rule 15c3–1(a) of the SEC's rules. Under the proposals contained herein, an FCM could exclude the market value of exchange-traded commodity options purchased by the FCM's option customers when calculating segregation requirements for purposes of Commission Rule 1.17. The new minimum adjusted net capital requirement for most FCMs would therefore be the greater of the minimum dollar amount or four percent of the difference obtained by subtracting from all funds required to be segregated the market value of exchange-traded commodity options purchased by the FCM's option customers.

In conjunction with the proposed amendment to the minimum adjusted net capital requirement for FCM's the Commission is also proposing a new safety factor charge, or "haircut," which would be applied to the net capital of FCMs in computing adjusted net capital. The new haircut would be four percent of the market value of exchange-traded commodity options granted (sold) by the FCM's options customers.

The effect of the proposed amendments would be to require a greater amount of capital to be provided by FCMs for each short option customer position carried on its books, and to require less capital for each long option position. The Commission believes that these amendments would reflect more accurately the relative risks to the financial condition of an FCM resulting from carrying exchange-traded commodity option positions for option customers. The impact of the proposed amendments on the adjusted net capital requirement or on the actual adjusted net capital of any particular FCM would depend, of course, upon the option customer positions carried at any given point in time.

DATE: Comments must be submitted on or before August 13, 1982.

ADDRESS: Comments should be sent to: Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Attention: Secretariat.

FOR FURTHER INFORMATION CONTACT: Daniel A. Driscoll, Deputy Director, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION:

I. Amendments To FCM Capital Requirements

The minimum adjusted net capital requirement for FCMs is set forth in § 1.17(a)(1) of the Commission's regulations, which reads as follows:

> Except as provided in paragraph (a)(2) of this section, each person registered as a futures commission merchant must maintain adjusted net capital equal to or in excess of the greatest of $50,000 ($100,000 for each person registered as a futures commission merchant who is not a member of a designated self-regulatory organization), or 4 percent of the funds required to be segregated pursuant to the Act and these regulations, or for securities brokers and dealers, the amount of net capital required by Rule 15c3–1(a) of the regulations of the Securities and Exchange Commission (17 CFR 240.15c3–1(a)).[1]

Thus, for any FCM whose minimum adjusted net capital requirement exceeds the minimum dollar amounts set forth in 1.17(a)(1) (*i.e.*, and exchange-member FCM with segregation requirements in excess of $1,250,000 and a non-member FCM with segregation requirements in excess of $2,500,000), as segregation requirements increase, the amount of adjusted net capital which must be maintained increases.[2] As the Commission has stated previously, a minimum financial requirement based upon the amount of funds required to be segregated reflects the volume of an FCM's customer business and helps to safeguard customer funds. The Commission has stated further that because one of the principal elements of the financial early warning system is also based upon the amount of funds required to be segregated, the system of early warning of the deterioration of an FCM's financial condition is enhanced.[3]

The Commission recently adopted regulations to govern a three-year pilot program under which commodity options on certain commodity futures contracts will be permitted to be traded on and through the facilities of domestic boards of trade designated by the Commission as contract markets for option trading.[4] The Commission has also recently proposed a limited expansion of the pilot program which would allow for exchange trading of options on physicals. The Commission's Division of Trading and Markets interprets an FCM's segregation requirements in connection with exchange-traded option transactions to require an option customer's account to be marked to the market. This interpretation means that FCMs must include the market value of each open commodity option purchased by an option customer in the customer's account equity, and deduct the market value of each open commodity option granted by an option customer from the customer's account equity, based on the contract market's daily settlement price. This interpretation assures that option customers are accorded the same protection as futures customers.

Under the current minimum financial requirement, that segregation interpretation will result in an increase in the minimum amount of adjusted net capital which must be maintained by an FCM for each open commodity option purchased by an option customer. The Commission believes that the financial risk to an FCM would be reflected more accurately if the FCM's financial condition were affected by the market value of each open commodity option granted by an option customer, rather than the market value of each open commodity option purchased by an option customer. The Commission believes that there is relatively less risk associated with a long option position than with a short option position because an option customer must pay the full premium at the time the option is purchased, while an option grantor margins his position. Accordingly, the Commission is proposing (1) to amend § 1.17(a)(1) to allow an FCM to exclude the market value of exchange-traded commodity options purchased by the FCM's option customers when calculating segregation requirements for purposes of § 1.17, and (2) to add a new safety factor charge, or "haircut," to an FCM's net capital of four percent of the market value of exchange-traded commodity options granted (sold) by the

[1] 17 CFR 1.17(a)(1) (1981), as amended, 47 FR 22352 (May 24, 1982).

[2] The remainder of this discussion assumes that any FCM referred to has segregation requirements in excess of the amounts cited in the text and that such an FCM's adjusted net capital requirement would be affected by option customer transactions. The Commission recognizes, however, that FCM/broker-dealers with such segregation requirements may have higher minimum net capital requirements than FCMs which are not broker-dealers due to the volume of their securities business.

[3] 45 FR 42633, at 42635 (June 25, 1980); 45 FR 79416, 79418 (December 1, 1980).

[4] 46 FR 54500 (November 3, 1981).

FCM's option customers (*see* proposed § 1.17(c)(5)(iii)).

The following example will demonstrate the effect of the proposed rule changes. Assume that there are two FCMs, Firm A and Firm B, which are clearing members of the same contract market, and that Customer C has an account at Firm A with a $5,000 cash ledger balance and Customer D has an account at Firm B with a $1,000 cash ledger balance. Customer C enters an order to buy a commodity option, and the order is executed with Customer D being the grantor, The premium is $5,000. As of the date of the option pruchase, Firm A transmits $5,000 to the clearing organization as full payment of the premium to purchase the option for its Customer C. The clearing organization in turn passes on the $5,000 to Firm B. As a result of this transaction, Firm A debits Customer C's account $5,000 for the purchase of the option, reducing Customer C's account to a cash ledger balance of $0, and Firm B credits Customer D's account with $5,000 which represents the proceeds of the grant of the option, increasing the cash ledger balance in Customer D's account to $6,000.

To determine the segregation requirements for Firm A and Firm B resulting from this hypothetical transaction, assume that the daily settlement price for the option in question was $5,000, the same as the premium paid to purchase the option. Firm A's customer, Customer C, has a zero cash ledger balance and an option with a market value of $5,000, so Firm A's segregation requirement is $5,000.[5] Firm B's customer, Customer D, has a $6,000 cash ledger balance and a $5,000 unrealized obligation with respect to the option which he granted, so Firm B's segregation requirement is $1,000.

The effect of this hypothetical option transaction on the financial position of Firms A and B would be as follows. Under the present minimum financial rules, Firm A's adjusted net capital requirement would be $200 (4% of $5,000) and Firm B's adjusted net capital requirement would be $40 (4% of $1,000). Under the proposed amendments, Firm A's adjusted net capital requirement would be $0, since Firm A could exclude the market value of the option ($5,000) when calculating four percent of segregation requirements. Also, Firm A's computation of its actual adjusted net capital would be the same under the proposed rules as it is under the current rules, since the new haircut would not apply, so Firm A's excess adjusted net capital would be enhanced by $200 under the proposed rules in comparison to the results under the current rules. On the other hand, Firm B's adjusted net capital requirement would still be $40 under the proposed amendments and, in addition, Firm B's computation of its actual adjusted net capital would be reduced by $200 based on the new haircut. As a result, the proposed rules would cause a decline in Firm B's adjusted net capital of $200. To sum up, the hypothetical option transaction would require additional capital of $240 between the two firms involved under the current rules as well as under the proposed rules. However, while the current rules would place a $200 burden on the firm whose customer purchased the option and a $40 burden on the firm whose customer granted the option, the proposed rules would shift the entire $240 burden to the latter firm.

[5] Firm A would not be required to use its own funds to meet the segregation requirement, because it has the long option position at the clearing organization worth $5,000.

II. Other Matters

A. *Conforming Amendments.* Several provisions of the Commission's minimum financial rules for FCMs, as well as one provision of the financial early warning system, make references to specified adjusted net capital levels. Certain actions are restricted, or, in the case of the early warning system, required, if those specified levels are breached. (In all cases, the specified adjusted net capital levels exceed the minimum adjusted net capital requirement.) Because the Commission is proposing to change the minimum adjusted net capital requirement contained in § 1.17(a)(1), conforming changes are also being proposed in the following provisions which refer to specified adjusted net capital levels: Paragraph (e) of § 1.17 (restricting withdrawal of equity capital); paragraphs (h)(2)(vi)(C), (h)(2)(vii), (h)(2)(viii), (h)(3)(ii) and (h)(3)(v) of § 1.17 (concerning subordinated debt); and § 1.12(b) (one component of the financial early warning system). Also, amendments would be made in Form 1–FR, the basic financial reporting form for FCMs. These include Items 22C and 25 of the Statement of the Computation of the Minimum Capital Requirements. In addition, a new item would be added to that Statement under the heading "Charges to Net Capital" for the new charge of four percent of the market value of commodity options granted (sold) by option customers on or subject to the rules of a contract market. The changes to the Form 1–FR which would be necessitated by the proposed amendments to the regulations discussed herein are not being published in this release since those changes are of a minor, technical nature and because Form 1–FR does not appear in the Code of Federal Regulations. Anyone interested in further information regarding the changes to Form 1–FR may contact Mr. Driscoll at the address or telephone number listed in this release. Form 1–FR is available upon request from the Commission.

B. *Contract Market Rules.* The Commission wishes to reiterate that central to the operation of the financial surveillance system for FCMs are the requirements in § 1.52(a) of the regulations (17 CFR 1.52(a)) that each contract market have in effect, and be responsible for enforcing, financial and reporting rules for their member FCMs which are at least as stringent as those contained in §§ 1.10 and 1.17 of the Commission's regulations, and that each contract market's definition of adjusted net capital be the same as that provided in § 1.17(c). Most of the contract markets' rules in this regard incorporate, by reference, the requirements of §§ 1.10 and 1.17 and, hence, any amendments to § 1.17 would be incorporated automatically into the rules of those contract markets upon the effective date of such amendments. Two contract markets do not follow this approach, however, and instead have detailed financial and reporting rules. If the proposed new safety factor charge based on four percent of the market value of exchange-traded commodity options granted by option customers (proposed § 1.17(c)(5)(iii)) is adopted by the Commission, the definition of adjusted net capital would be affected, and the rules of those two contract markets would have to be amended so that their definition of adjusted net capital would remain the same as the Commission's definition. Those two contract markets should begin the preparations necessary to effectuate an appropriate change in their rules in the event the Commission adopts this particular proposal.

C. *Certification Under the Regulatory Flexibility Act.* The Commission does not believe that the rule amendments discussed herein would have significant economic impact on small entities. As discussed above, the only regulated entities which would be affected by the rule amendments would be FCMs. The Commission has recently published its determination that a registered FCM not be considered a "small entity" within the meaning of the Regulatory Flexibility Act, Pub. L. 96–354, 94 Stat. 1165, 1166 (5 U.S.C. 601 (3) and (6)). 47 FR 18618, 18619 (April 30, 1982). Accordingly, pursuant to section 3(a) of the

Regulatory Flexibility Act, 94 Stat. 1168 (5 U.S.C. 605(b)), the Chairman, on behalf of the Commission, certifies that the rule amendments proposed herein, if promulgated, will not have a significant economic impact on a substantial number of small entities. However, the Commission particularly invites comments from any firms or other persons which believe that promulgation of these rule amendments might have a significant economic impact upon their activities.

List of Subjects in 17 CFR Part 1

Financial requirements, Futures commission merchants, Commodity options.

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

In consideration of the foregoing, the Commission, pursuant to the authority contained in sections 4c, 4d, 4f and 8a of the Act, 7 U.S.C. 6c, 6d, 6f and 12a (1976 and Supp. IV 1980), hereby proposes to amend 17 CFR Chapter I in the manner set forth below.

1. 17 CFR Part 1 is proposed to be amended by revising paragraph (b) of § 1.12 to read as follows:

§ 1.12 Maintenance of minimum financial requirements by futures commission merchants.

* * * * *

(b) Each person registered as a futures commission merchant, or who files an application for registration as a futures commission merchant, who knows or should have known that its adjusted net capital at any time is less than the greatest of 150 percent of the appropriate minimum dollar amount required by § 1.17, or 6 percent of the funds (exclusive of the market value of commodity options purchased by option customers on or subject to the rules of a contract market) required to be segregated pursuant to section 4d(2) of the Act and these regulations, or, for securities brokers or dealers, the amount of net capital specified in Rule 17a–11(b) of the Securities and Exchange Commission (17 CFR 240.17a–11(b)), must file written notice to that effect as set forth in paragraph (g) of this section within five (5) business days of such event. Such applicant or registrant must also file a Form 1–FR (or, if such applicant or registrant is registered with the Securities and Exchange Commission as a securities broker or dealer, it may file (in accordance with § 1.10(h)) a copy of its financial and Operational Combined Uniform Single Report under the Securities Exchange Act of 1934, Part II, in lieu of Form 1–FR) or such other financial statement designated by the Commission and/or the designated self-regulatory organization, if any, as of the close of business for the month during which such event takes place and as of the close of business for each month thereafter until three (3) successive months have elapsed during which the applicant's or registrant's adjusted net capital is at all times equal to or in excess of the minimums set forth in this paragraph (b) which are applicable to such applicant or registrant. Each financial statement required by this paragraph (b) must be filed within 30 calendar days after the end of the month for which such report is being made.

* * * * *

2. 17 CFR Part 1 is proposed to be amended further by revising paragraph (a)(1), by adding a new paragraph (c)(5)(iii), and by revising paragraphs (e), (h)(2)(vi)(C), (h)(2)(vii)(A), (h)(2)(vii)(B), (h)(2)(viii), (h)(3)(ii) and (h)(3)(v) of § 1.17 to read as follows:

§ 1.17 Minimum financial requirements—futures commission merchants.

(a)(1) Except as provided in paragraph (a)(2) of this section, each person registered as a futures commission merchant must maintain adjusted net capital equal to or in excess of the greatest of $50,000 ($100,000 for each person registered as a futures commission merchant who is not a member of a designated self-regulatory organization), or 4 percent of the funds (exclusive of the market value of commodity options purchased by option customers on or subject to the rules of a contract market) required to be segregated pursuant to the Act and these regulations, or, for securities brokers and dealers, the amount of net capital required by Rule 15c3–1(a) of the regulations of the Securities and Exchange Commission (17 CFR 240.15c3–1(a)).

* * * * *

(c) * * *

(5) * * *

(iii) Four percent of the market value of commodity options granted (sold) by option customers on or subject to the rules of a contract market;

* * * * *

(e) No equity capital of the applicant or registrant or a subsidiary's or affiliate's equity capital consolidated pursuant to paragraph (f) of this section, whether in the form of capital contributions by partners (including amounts in the commodities, options and securities trading accounts of partners which are treated as equity capital but excluding amounts in such trading accounts which are not equity capital and excluding balances in limited partners' capital accounts in excess of their stated capital contributions), par or stated value of capital stock, paid-in capital in excess of par or stated value, retained earnings or other capital accounts, may be withdrawn by action of a stockholder or partner or by redemption or repurchase of shares of stock by any of the consolidated entities or through the payment of dividends or any similar distribution, nor may any unsecured advance or loan be made to a stockholder, partner, sole proprietor, or employee if, after giving effect thereto and to any other such withdrawals, advances, or loans and any payments of payment obligations (as defined in paragraph (h) of this section) under satisfactory subordination agreements and any payments of liabilities excluded pursuant to paragraph (c)(4)(vi) of this section which are scheduled to occur within six months following such withdrawal, advance or loan, either adjusted net capital of any of the consolidated entities would be less than the greatest of (1) 120 percent of the appropriate minimum dollar amount required by § 1.17, or (2) 7 percent of the funds (exclusive of the market value of commodity options purchased by option customers on or subject to the rules of a contract market) required to be segregated pursuant to the Act and these regulations, or (3) for securities brokers or dealers, the amount of net capital specified in Rule 15c3–1(e) of the Securities and Exhange Commission (17 CFR 240.15c3–1(e)), or, in the case of any applicant or registrant included within such consolidation, if equity capital of the applicant or registrant (inclusive of satisfactory subordination agreements which qualify as equity under paragraph (d) of this section) would be less than 30 percent of the required debt-equity total as defined in paragraph (d) of this section: *Provided*, That this provision shall not preclude an applicant or registrant from making required tax payments or preclude the payment to partners of reasonable compensation. The Commission may, upon application of the applicant or registrant, grant relief from this paragraph (e) if the Commission deems it to be in the public interest or for the protection of nonproprietary accounts.

* * * * *

(h) * * *

(2) * * *

(vi) * * *

(C) The secured demand note agreement may also provide that, in lieu of the procedures specified in the

provisions required by paragraph (h)(2)(vi)(B) of this section, the lender, with the prior written consent of the applicant or registrant and the designated self-regulatory organization, or, if the applicant or registrant is not a member of a designated self-regulatory organization, then the Commission, may reduce the unpaid principal amount of the secured demand note: *Provided,* that after giving effect to such reduction the adjusted net capital of the applicant or registrant would not be less than the greater of 7 percent of the funds (exclusive of the market value of commodity options purchased by option customers on or subject to the rules of a contract market) required to be segregated pursuant to the Act and these regulations, or, for securities brokers or dealers, the amount of net capital specified in Rule 15c3–1d(B)(6)(iii) of the regulations of the Securities and Exchange Commission (17 CFR 240.15c3–1d(b)(6)(iii)): *Provided, further,* That no single secured demand note shall be permitted to be reduced by more than 15 percent of its original principal amount and after such reduction no excess collateral may be withdrawn. No designated self-regulatory organization shall consent to a reduction of the principal amount of a secured demand note if, after giving effect to such reduction, adjusted net capital would be less than 120 percent of the appropriate minimum dollar amount required by this section.

(vii) *Permissive prepayments and special prepayments.* (A) An applicant or registrant at its option, but not at the option of the lender, may, if the subordination agreement so provides, make a payment of all or any portion of the payment obligation thereunder prior to the scheduled maturity date of such payment obligation (hereinafter referred to as a "prepayment"), but in no event may any prepayment be made before the expiration of one year from the date such subordination agreement became effective: *Provided, however,* That the foregoing restriction shall not apply to temporary subordination agreements which comply with the provisions of paragraph (h)(3)(v) of this section nor shall it apply to "special prepayments" made in accordance with the provisions of paragraph (h)(2)(vii)(B) of this section. No prepayment shall be made if, after giving effect thereto (and to all payments of payment obligations under any other subordination agreements then outstanding, the maturity or accelerated maturities of which are scheduled to fall due within six months after the date such prepayment is to occur pursuant to this provision, or on or prior to the date on which the payment obligation in respect to such prepayment is scheduled to mature disregarding this provision, whichever date is earlier) without reference to any projected profit or loss of the applicant or registrant, the adjusted net capital of the applicant or registrant is less than the greater of 7 percent of the funds (exclusive of the market value of commodity options purchased by option customers on or subject to the rules of a contract market) required to be segregated pursuant to the Act and these regulations, or, for securities brokers or dealers, the amount of net capital specified in Rule 15c3–1d(B)(7) of the regulations of the Securities and Exchange Commission (17 CFR 240.15c3–1d(b)(7)), or its adjusted net capital is less than 120 percent of the appropriate minimum dollar amount required by this section. Notwithstanidng the above, no prepayment shall occur without the prior written approval of the designated self-regulatory organization and the Commission.

(B) An applicant or registrant at its option, but not at the option of the lender, may, if the subordination agreement so provides, make a payment at any time of all or any portion of the payment obligation thereunder prior to the scheduled maturity date of such payment obligation (hereinafter referred to as a "special prepayment"). No special prepayment shall be made if, after giving effect thereto (and to all payments of payment obligations under any other subordination agreements then outstanding, the maturity or accelerated maturities of which are scheduled to fall due within six months after the date such special prepayment is to occur pursuant to this provision, or on or prior to the date on which the payment obligation in respect to such special prepayment is scheduled to mature disregarding this provision, whichever date is earlier) without reference to any projected profit or loss of the applicant or registrant, the adjusted net capital of the applicant or registrant is less than the greater of 10 percent of the funds (exclusive of the market value of commodity options purchased by option customers on or subject to the rules of a contract market) required to be segregated pursuant to the Act and these regulations, or, for securities brokers or dealers, the amount of net capital specified in Rule 15c3–1d(c)(5)(ii) of the regulations of the Securities and Exchange Commission (17 CFR 240.15c3–1d(c)(5)(ii)), or its adjusted net capital is less than 200 percent of the appropriate minimum dollar amount required by this section, nor shall any special prepayment be made if pre-tax losses during the latest three-month period were greater than 15 percent of current excess adjusted net capital. Notwithstanding the above, no prepayment shall occur without the prior written approval of the designated self-regulatory organization and the Commission.

(viii) *Suspended repayment.* (A) The payment obligation of the applicant or registrant in respect of any subordination agreement shall be suspended and shall not mature if, after giving effect to payment of such payment obligation (and to all payments of payment obligations of the applicant or registrant under any other subordination agreement(s) then outstanding which are scheduled to mature on or before such payment obligation), the adjusted net capital of the applicant or registrant would be less than the greater of 6 percent of the funds (exclusive of the market value of commodity options purchased by option customers on or subject to the rules of a contract market) required to be segregated pursuant to the Act and these regulations, or, for securities brokers or dealers, the amount of net capital specified in Rule 15c3–1d(b)(8)(i) of the regulations of the Securities and Exchange Commission (17 CFR 240.15c3–1d(b)(8)(i)), or its adjusted net capital would be less than 120 percent of the minimum dollar amount required by this section: *Provided,* That the subordination agreement may provide that if the payment obligation of the applicant or registrant thereunder does not mature and is suspended as a result of the requirement of this paragraph (h)(2)(viii) of this section for a period of not less than six months, the applicant or registrant shall then commence the rapid and orderly liquidation of its business, but the right of the lender to receive payment, together with accured interest or compensation, shall remain subordinate as required by the provisions of this section.

* * * * *

(3) * * *

(ii) *Notice of maturity or accelerated maturity.* Every applicant or registrant shall immediately notify the designated self-regulatory organization and the Commission if, after giving effect to all payments of payment obligations under subordination agreements then outstanding which are then due or

mature within the following six months without reference to any projected profit or loss of the applicant or registrant, its adjusted net capital would be less than 120 percent of the minimum dollar amount required by this section, or its adjusted net capital would be less than the greater of 6 percent of the funds (exclusive of the market value of commodity options purchased by option customers on or subject to the rules of a contract market) required to be segregated pursuant to the Act and these regulations, or, for securities brokers or dealers, the amount of net capital specified in Rule 15c3–1d(c)(2) of the regulations of the Securities and Exchange Commission (17 CFR 240.15c3–1d(c)(2)).

* * * * *

(v) *Temporary Subordinations.* To enable an applicant or registrant to participate as an underwriter of securities or undertake other extraordinary activities and remain in compliance with the adjusted net capital requirements of this section, an applicant or registrant shall be permitted, on no more than three occasions in any 12-month period, to enter into a subordination agreement on a temporary basis which has a started term of no more than 45 days from the date the subordination agreement became effective: *Provided,* That this temporary relief shall not apply to any applicant or registrant if the adjusted net capital of the applicant or registrant is less than the greater of 7 percent of the funds (exclusive of the market value of commodity options purchased by option customers on or subject to the rules of a contract market) required to be segregated pursuant to the Act and these regulations, or, for securities brokers or dealers, the amount of net capital specified in Rule 15c3–1d(c)(5)(i) of the Securities and Exchange Commission (17 CFR 240.15c3–1d(c)(5)(i)), or its adjusted net capital is less than 120 percent of the appropriate minimum dollar amount required by this section, or the amount of equity capital as defined in paragraph (d) of this section is less than the limits specified in paragraph (d) of this section. Such temporary subordination agreement shall be subject to all the other provisions of this section.

* * * * *

Issued in Washington, D.C. on July 7, 1982, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 82-18997 Filed 7-12-82; 8:45 am]

BILLING CODE 8351-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 452

[Docket No. 79N-0459]

Erythomycin Estolate: Withdrawal of Proposal to Revoke Provisions for Certification of Tablets and Capsules; Response to Petition; Labeling

Correction

In FR Doc. 14162 appearing at page 22547 in the issue of Tuesday, May 25, 1982, make the following change:

On page 22554, first column, in "(3)", thirteenth line, "developed" should appear after "(2.9 percent)" and before "abnormal".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 700, 701, 715, 717, 736, 760, 762, 769, 770, 771, 772, 773, 775, 776, 778, 779, 780, 782, 783, 784, 785, 786, 787, 788, 815, 816, 817, 818, 819, 822, 823, 824, 826, 827, 843, and 850

Permanent Regulatory Program; Closing of Public Comment Periods for Certain Proposed Rules.

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of closing of public comment periods.

SUMMARY: The Office of Surface Mining (OSM) has published several proposed rules for public comment which would amend OSM's permanent regulatory program. For a listing of the specific proposed rules, see Supplementary Information. OSM has prepared a draft supplemental Environmental Impact Statement (EIS) on some of these proposed rules. The comment period on this draft EIS will close on August 25, 1982. On the same date OSM will also close the comment period on those rules covered by the EIS. The comment periods on all of these rules were previously left open indefinitely or reopened to allow the public to consider them concurrently with the draft EIS in the preparation of comments.

On May 13, 1982, OSM (47 FR 20631) reopened the comment period on portions of the proposed sedimentation pond rule, containing the Environmental Protection Agency (EPA) effluent limitation guidelines, which are not analyzed in the draft EIS. The comment period on these portions of the Sedimentation Pond rules will be closed on July 23, 1982.

DATES: The comment periods on the proposed rules listed in this notice will close at 5:00 p.m. on August 25, 1982. The comment period for specified portions of the sedimentation pond rule will close July 23, 1982.

FOR FURTHER INFORMATION CONTACT: Jerry R. Ennis, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240, 202–343–7881.

SUPPLEMENTARY INFORMATION: As part of its regulatory reform effort, OSM has proposed the rules set forth below which are considered in a draft supplement to the Final Environmental Impact Statement on the Permanent Regulatory Program (OSM–EIS–1, January 1979). The comment periods on all of these rules were previously left open indefinitely or reopened to allow the public to consider them concurrently with the draft EIS in the preparation of comments.

The comment periods for both the draft supplemental EIS and the associated proposed rules will close at 5:00 p.m. on August 25, 1982. Comments received after that time will not necessarily be considered by OSM or incorporated in the Administrative Record.

The comment period for the following proposed rules or, with respect to the Sedimentation Pond and the Inspection and Enforcement rules, specified portions thereof will close on August 25, 1982:

Rule, Federal Register Citation and Date Published

Sedimentation Ponds, 46 FR 34784, July 2, 1981.
Inspection and Enforcement, 46 FR 58464, December 1, 1981.
Topsoil, 47 FR 10742, March 11, 1982.
Experimental Practices, 47 FR 12082, March 19, 1982.
Auger Mining, 47 FR 12088, March 19, 1982.
Revegetation, 47 FR 12596, March 23, 1982.
Blaster Certification, 47 FR 12779, March 24, 1982.
Fish and Wildlife, 47 FR 13466, March 30, 1982.
Postmining Land Use and Variances from approximate original contour, 47 FR 16152, April 14, 1982.
Roads, 47 FR 16592 April 16, 1982.
Subsidence and Concurrent Surface and Underground Mining, 47 FR 16604 April 16, 1982.

Prime Farmlands, 47 FR 19075, May 3, 1982.
Coal Exploration, 47 FR 21442, May 18, 1982.
Excess Spoil Fills, 47 FR 24954, June 8, 1982.
Lands Unsuitable, 47 FR 25278, June 10, 1982.
Alluvial Valley Floors, 47 FR 25486, June 11, 1982.
Coal Processing Waste, 47 FR 26598, June 18, 1982.
Impoundments, 47 FR 26754, June 21, 1982.
Backfilling and Grading, 47 FR 26760, June 21, 1982.
Support Facilities/Coal Processing Plants, 47 FR 27688, June 25, 1982.
Permitting, 47 FR 27694, June 25, 1982.
Hydrology, 47 FR 27712, June 25, 1982.
Remining, 47 FR 27734, June 25, 1982.

Sedimentation Ponds

OSM inadvertently reopened the comment period (47 FR 20631, May 13, 1982) on all sections of the proposed Sedimentation Pond rule. This was inappropriate since the following portions of that rule are comprised of the EPA effluent limitation guidelines and are not being considered in the EIS: 30 CFR 715.17(a), 717.17(a), 816.42 and 817.42. To rectify this action, the comment period on these portions of the Sedimentation Pond rule will close ten days after publication of this notice (July 26, 1982). The comment period for the following portions of the proposed Sedimentation Pond rule will close on August 25, 1982: 30 CFR 715.17(e), 717.17(e), 816.46 and 817.46.

Inspection and Enforcement

The comment period for proposed 30 CFR 843.12(a)(2) will close on August 25, 1982. The comment period for the remainder of the inspection and enforcement proposal was not reopened.

Effect on Federal Programs

If proposed revisions to the permanent program regulations are adopted as final rules, they will also modify those Federal programs which adopt those rules by cross-referencing the permanent program rules. Public comment is invited on the proposed rules as they would affect states which may have cross-referencing Federal programs. If it is determined that changes were needed as a result of conditions identified in a Federal program state, modification will be made to the Federal program for that state. States for which cross-referencing Federal programs have been proposed include Georgia, Michigan, Oregon and Washington. Others which may be proposed before the permanent program revisions are finalized include Federal programs for Idaho, California, South Dakota, Massachusetts, Rhode Island, Arizona, North Carolina, Nevada and Nebraska.

Dated: July 8, 1982.

Dean Hunt,

Assistant Director, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 82-18946 Filed 7-12-82; 8:45 am]
BILLING CODE 4310-05-M

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30 CFR Ch. VII

Surface Mining; Public Meeting

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of public meeting.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) has scheduled a public meeting to discuss various revised rules proposed under Title V of the Surface Mining Control and Reclamation Act of 1977 (the Act), 30 U.S.C. 1201 et seq. This meeting is being conducted pursuant to the request of the Mining and Reclamation Council (MARC). Among other topics, OSM has agreed to discuss the proposed rules concerning Hydrology and Areas Unsuitable for Mining. The public is invited to attend the meetings.

DATES: July 22, 1982, 1:00 to 5:00 p.m.; July 23, 9:00 a.m. to 5:00 p.m.

ADDRESS: Best Western Motor Lodge, #7 Parkway Center, Pittsburgh, Pennsylvania. (Telephone: 412–922–7070)

FOR FURTHER INFORMATION CONTACT: Jerry R. Ennis, Office of Surface Mining, 1951 Constitution Ave. NW. Washington, D.C. 20240. (telephone: 202–343–7881)

SUPPLEMENTARY INFORMATION: OSM has agreed to convene a public meeting to discuss generally the revised rules which have been proposed by OSM and for which the public comment period will close on August 25, 1982. More specifically, MARC has requested an opportunity to discuss and present its views on the proposed Hydrology rule (47 FR 27712, June 25, 1982) during the afternoon of July 22, 1982 and the Areas Unsuitable for Mining proposed rule (47 FR 25278, June 10, 1982) during the meetings on July 23, 1982.

The meetings will be open to the public and appropriate entries will be made in the Administrative Record detailing the substance of the discussions.

Dated: July 8, 1982.

Dean Hunt,

Assistant Director, Office of Surface Mining.

[FR Doc. 82-18787 Filed 7-12-82; 8:45 am]
BILLING CODE 4310-05-M

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30 CFR Part 904

Abandoned Mine Land Reclamation Plan for the State of Arkansas Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: On July 7, 1982, the State of Arkansas submitted to OSM its proposed Abandoned Mine Land Reclamation Plan (Plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). OSM is seeking public comment on the adequacy of the State Plan.

DATES: Written comments on the Plan must be received on or before 5:00 p.m., August 12, 1982.

ADDRESSES: Copies of the full text of the proposed Arkansas Plan are available for review during regular business hours at the following locations:

State of Arkansas, Department of Pollution Control and Ecology, 8001 National Drive, Little Rock, Arkansas 72209
Office of Surface Mining Reclamation and Enforcement, Room 3432, 333 W. 4th Street, Tulsa, Oklahoma 74103
Office of Surface Mining Reclamation and Enforcement, Administrative Record—Rm. 5315, 1100 "L" Street, N.W., Washington, D.C. 20240

Written comments must be mailed or hand carried to: Office of Surface Mining Reclamation and Enforcement, Room 342, 333 W. 4th St., Tulsa, Oklahoma, 74103. Comments received after 5:00 p.m., (30 days from publication) will not necessarily be considered or included in the administrative record for this rulemaking.

The administrative record will be available for public review at the OSM Tulsa, Oklahoma office above, on Monday through Friday, 8:00 a.m. to 4:00 p.m. excluding holidays.

FOR FURTHER INFORMATION CONTACT: Duane Pearce, Abandoned Mine Land Reclamation, Office of Surface Mining Reclamation and Enforcement, Room 3432, 333 W. 4th St., Tulsa, Oklahoma 74103. Telephone: (918) 581–7927.

SUPPLEMENTARY INFORMATION: Title IV of the Surface Mining Control and

Reclamation Act of 1977 (SMCRA), Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*, establishes an abandoned mine land reclamation program for the purposes of reclaiming and restoring lands and water resources adversely affected by past mining. This program is funded by a reclamamtion fee imposed upon the production of coal. Lands and water eligible for reclamation are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977 and for which there is no continuing reclamation responsibility under State or Federal law.

Title IV provides that if the Secretary determines that a State has developed and submitted a program for reclamation of abandoned mines and has the ability and necessary State legislation to implement the provisions of Title IV, the Secretary may approve the State program and grant to the State exclusive reponsibility and authority to implement the approved program.

On July 7, 1982, OSM received a proposed Abandoned Mine Land Reclamation Plan from the State of Arkansas. The purpose of this submission is to demonstrate both the intent and capability to assume responsibility for administering and conducing the provisions of SMCRA and OSM's Abandoned Mine Land Reclamation (AMLR) Program (30 CFR Chapter VII, Subchapter R) as published in the **Federal Register** (FR) on October 25, 1978 (43 FR 49932–49952).

This notice describes the proposed program and sets forth information concerning public participation in the Assistant Secretary's determination of whether or not the submitted Plan may be approved. The public participation requirements for the consideration of a State Plan are found in 30 CFR 884.13 and 884.14 (43 FR 49948 (1978)). Additional information may be found under corresponding sections of the preamble to OSM's AMLR Program Final Rules (43 FR 49932–49940 (1978)).

The receipt of the Arkansas Plan submission is the first step in the process which will result in the establishment of a comprehensive program for the reclamation of abandoned mine lands in Arkansas.

By submitting a proposed Plan, Arkansas has indicated that it wishes to be primarily responsible for this program. If the submission is approved by the Assistant Secretary for Energy and Minerals of the Department of the Interior, the State will have primary responsibility of the reclamation of abandoned mine lands in Arkansas. If the program is disapproved and the State does not choose to revise the Plan, a Federal AMLR program will be implemented and OSM will have primary responsible for these activities.

OSM's State Office Director has determined that the public was provided adequate notice and opportunity to be heard on the Plan and that the record does not reflect any major unresolved controversies. Therefore, a public hearing will not be held.

Representatives of OSM's State Office Director will be available to meet Monday through Friday, excluding holidays, between 8:00 a.m. and 4:00 p.m. at OSM's office in Tulsa, Oklahoma, indicated above under "Addresses", at the request of members of the public to receive their advice and recommendations concerning the proposed State Abandoned Mine Land Reclamation Plan.

Persons wishing to meet with representatives of the State Director's Office during this time period may place such request with Duane Pearce, telephone 918/581–7927.

The Department intends to continue to discuss the State's Plan with representatives of the State throughout the review process. All contacts between Departmental personnel and representatives of the State will be conducted in accordance with OSM's guidelines on contacts with States published September 19, 1979 at 44 FR 54444.

The Office of Surface Mining has examined this proposed rulemaking under section 1(b) of Executive Order No. 12291 (February 17, 1981) and has determined that, based on available quantitative data, it does not constitute a major rule. The reasons underlying this determination are as follows:

1. Approval will not have an effect on costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; and

2. Approval will not have adverse effects on competition, employment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This proposed rulemaking has been examined pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and the Office of Surface Mining has determined that the rule will not have significant economic effects on a substantial number of small entities. The reasons for this determination is that approval will not have demographic effects, direct costs, information collection and recordkeeping requirements, indirect costs, nonquantifiable costs, competitive effects, enforcement costs or aggregate effects on small entities.

Further, the Office of Surface Mining has determined that the Arkansas Plan will not have a significant effect on the quality of the human environment because the decision relates only to the policies, procedures and organization of the State's Abandoned Mine Land Reclamation Program. Therefore, under the Department of the Interior Manual DM 5162.3(A)(1), the Assistant Secretary's decision on the Arkansas Plan is categorically excluded from the National Environmental Policy Act requirements. As a result, no environmental assessment nor environmental impact statement (EIS) has been prepared on this action. It should be noted that a programmatic EIS was prepared by OSM in conjunction with the implementation of Title IV. Moreover, an environmental analysis or an EIS will be prepared for the approval of grants for the abandoned mine land reclamation projects under 30 CFR Part 886.

The Arkansas Abandoned Mine Land Reclamation Plan can be approved if:

1. The Assistant Secretary finds that the public has been given adequate notice and opportunity to comment, and the record does not reflect major unresolved controversies.

2. Views of other Federal agencies have been solicited and considered.

3. The State has the legal authority, policies and administrative structure to carry out the Plan.

4. The Plan meets all requirements of the OSM, AMLR Program Provisions.

5. The State has an approved Regulatory Program.

6. It is determined that the Plan is in compliance with all applicable State and Federal laws and regulations.

The Arkansas Department of Pollution Control and Ecology has been designated by the Governor of the State of Arkansas to implement and enforce the Abandoned Mine Land Reclamation Program in accordance with SMCRA. The Department has developed State regulations to carry out the State mandate. Contents of the State Plan submission include:

(a) Designation of authorized State Agency to administer the Program;

(b) State's chief legal officer's opinion on the authority of the designated agency to conduct the program in accordance with Title IV of the SMCRA;

(c) Description of the policies and procedures to be followed in conducting the Program including:

(1) Goals and objectives;

(2) Project ranking and selection procedures;

(3) Coordination with other reclamation projects;

(4) Land acquisition, management and disposal;

(5) Reclamation on private land;

(6) Rights of entry; and

(7) Public participation in the Program.

(d) Description of the administrative and management structure to be used in the Program including:

(1) Description of the organization of the designated agency and its relationship to other organizations that will participate in the Program;

(2) Personnel staffing policies;

(3) Purchasing and procurement systems and policies; and

(4) Description of the accounting system including specific procedures for operation of the reclamation fund;

(e) Description of the public's participation in the preparation of the Plan;

(f) A general description of activities to be conducted under the Plan including:

(1) Known or suspected eligible lands and water requiring reclamation, including a map;

(2) General description of the problems identified and how the Plan proposes to deal with them;

(3) General description of how the lands to be reclaimed and proposed reclamation relate to the surrounding lands and land uses;

(4) A table summarizing the quantities of land and water affected and an estimate of the quantities to be reclaimed during each year covered by the Plan;

(5) General description of the social, economic, and environmental conditions in the different geographic areas where reclamation is planned, including:

(i) The economic base;

(ii) Sociologic and demographic characteristics;

(iii) Significant aesthetic, historic or cultural, and recreational values;

(iv) Hydrology, including water quality and quantity problems associated with past mining;

(v) Flora and fauna, including endangered and threatened species and their habitat;

(vi) Underlying or adjacent coal beds and other minerals and projected methods of extraction; and

(vii) Anticipated benefits from reclamation.

List of Subjects in 30 CFR Part 904

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: June 21, 1982.

James R. Harris,

Director, Office of Surface Mining.

Dated: June 29, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary—Energy and Minerals.

[FR Doc. 82-18805 Filed 7-12-82; 8:45 am]

BILLING CODE 4210-05-M

VETERANS ADMINISTRATION

DEPARTMENT OF DEFENSE

38 CFR Part 21

Post-Vietnam Era Veterans' Educational Assistance Program

AGENCY: Veterans Administration and Department of Defense.

ACTION: Proposed regulations.

SUMMARY: These proposed regulations, issued jointly by the Veterans Administration and the Department of Defense, clarify that participants in VEAP (Post-Vietnam Era Veterans' Educational Assistance Program) may not receive an extended period of eligibility for benefits. The proposal also required State approving agencies to include on their monthly reports activities connected with schools which have students receiving benefits under VEAP. This proposal makes these minor corrections in the regulations governing VEAP.

DATES: Comments must be received on or before August 12, 1982. The Veterans Administration proposes to make these regulations effective on the date of final approval.

ADDRESS: Send written comments to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm, Monday through Friday (except holidays) until August 23, 1982. Anyone visiting the Veterans Administration Central Office in Washington, D.C. for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Visitors to VA field stations will be informed that the records are available for inspection only in the Central Office and will be furnished the address and room number.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. (202-389-2092).

SUPPLEMENTARY INFORMATION: Section 21.5030 is amended to state that the Veterans Administration will not apply § 21.1032(d) to claims for educational assistance allowance under VEAP. That subparagraph deals with claims for extended periods of eligibility. VEAP participants are not eligible for extended periods of eligibility.

Section 21.5150 is amended to show that State approving agencies must include in their monthly report activities connected with schools which have students training under VEAP.

The Veterans Administration has determined that these proposed regulations do not contain a major rule as that term is defined by Executive Order 12291, Federal Regulation. The annual effect on the economy will be less than $100 million. The proposal will not result in any major increases in costs or prices for anyone. It will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans' Affairs hereby certifies that these proposed regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. These regulations are exempt under 5 U.S.C. 605(b) from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. This certification is based on the fact that the proposed amendment to § 21.5030 will affect only individual benefit recipients. The proposed amendment to § 21.5150 will affect agencies of State government. States are not small entities according to the Regulatory Flexibility Act.

These amendments will have no significant impact on small entities, i.e. small businesses, small private and nonprofit organizations, and small governmental jurisdictions.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting requirements, Schools, Veterans, Veterans Administration, Vocational education, Vocational rehabilitation.

The Catalog of Federal Domestic Assistance number is 64.120.

Approved: May 26, 1982.

By direction of the Administrator.

Charles T. Hagel,

Deputy Administrator.

Approved: June 24, 1982.

R. Dean Tice,

Deputy Assistant Secretary of Defense.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

The Veterans Administration proposes to amend 38 CFR Part 21 as follows:

1. In § 21.5030, paragraph (c)(3) is revised as follows:

§ 21.5030 Applications, claims, informal claims, and time limits.

* * * * *

(c) * * *

(3) Section 21.1032 (except paragraph (d))—Time limits.

(38 U.S.C. 1641, 1671)

2. I § 21.5150, paragraph (e) is added as follows:

§ 21.5150 State approving agencies.

* * * * *

(e) Section 21.4154—Report of activities.

(38 U.S.C. 1641, 1774)

[FR Doc. 82-18886 Filed 7-12-82; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 761

[OPTS-62024A; TSH-FRL 2168-4]

Polychlorinated Biphenyls; Extension of Comment Period on Incorporations by Reference Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule related notice.

SUMMARY: EPA is reopening the comment period on its proposal to incorporate by reference certain American Society for Testing and Materials (ASTM) test methods in its PCB regulations. This notice is unrelated to the proposed rule published in the **Federal Register** of June 8, 1982 (47 FR 24976) which would exclude PCBs produced in closed manufacturing processes and controlled waste manufacturing processes from the Toxic Substances Control Act (TSCA) ban on PCBs. This action is being taken to insure all interested persons an adequate opportunity to evaluate and comment on the proposed methodology.

DATE: Comments on this proposed amendment should be submitted by August 12, 1982.

ADDRESS: Address written comments to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, D.C. 20460.

EPA requests that written comments be submitted in triplicate. Comments should include the docket number OPTS-62024A. Comments on this proposed amendment will be available for review from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays, in Rm. E-107, Environmental Protection Agency, 401 M St. SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-511, 401 M. St., SW., Washington, D.C. 20460, Toll free: (800-424-9065), In Washington, D.C.: (554-1404), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 21, 1982 (47 FR 22123), EPA proposed revised test methodologies for incorporation by reference in its PCB regulations. These methodologies should not be confused with the protocols specified by EPA under the rule proposed in the **Federal Register** of June 8, 1982 (47 FR 24976). The revised tests are:

Old	New
ASTM D93-77	ASTM D93-80.
ASTM D482-74	ASTM D482-80.
ASTM D524-76	ASTM D524-81.
ASTM D808-63	ASTM D808-81.
ASTM D923-75	ASTM D923-81.
ASTM D1266-70	ASTM D1266-80.
ASTM D2158-65	ASTM D2158-80.
ASTM D2784-70	ASTM D2784-80.
ASTM D3278-73	ASTM D3278-78.

EPA invites comment on the revised material which is available for inspection from the Document Control Officer in Rm. E-107 at the address given above. Copies of individual test methods are available from ASTM, 1916 Race St., Philadelphia, PA 19103, (215-299-5585) at four dollars each.

(Sec. 6, 90 Stat. 2020 (15 U.S.C. 2065))

List of Subjects in 40 CFR Part 761

Environmental protection, Hazardous materials, Labeling, Polychlorinated biphenyls, Recordkeeping and reporting requirements.

Dated: June 30, 1982.

John A. Todhunter,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 82-18881 Filed 7-12-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 681

[Docket No. 2517-97]

Western Pacific Lobster Fisheries

Correction

In FR Doc. 82-17661, appearing at page 28433 in the issue of Wednesday, June 30, 1982, the following corrections should be made:

1. On page 28436, first column, the ninth line of the definition of "*Interested parties*" should read, "681.27 and 681.28 and who has".

2. Also on page 28436, second column, the fifth line of the definition of "*Permit Area 2*" should read, "Islands: the FCZ of the Territory of".

3. On page 28437, first column, the sentence, "An application for a replacement permit is not considered a new application." should be added to paragraph (i) of § 681.4.

BILLING CODE 1505-01-M

Notices

Federal Register
Vol. 47, No. 134
Tuesday, July 13, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COMMITTEE ON FEDERAL PAY

Federal Pay; Meeting

The Advisory Committee on Federal Pay announces that public discussions of the adjustment in Federal pay for October 1982 have been scheduled for Monday, August 23, in Suite 600, 1730 K Street, NW. They will start at 10:00 a.m.

These discussions are intended to give organizations representing Federal employees or any interested government officials an opportunity to express their views regarding the Pay Agent's proposals. Those wishing to discuss the Agent's proposals with the Committee should notify the Committee by August 18. The telephone number is 653–6193. Written comments should also reach the Committee by August 18—Suite 205, 1730 K Street, NW., Washington, D.C. 20006. Both written submissions and requests for an opportunity to dicuss the issues should include a telephone number where the organization or official can be reached.

The Advisory Committee on Federal Pay, established as an independent establishment by section 5306 of Title 5, United States Code (Pub. L. 91–656, the Federal Pay Comparability Act), is charged with assisting the President in carrying out the policies of section 5301 of Title 5, United States Code. The Committee's fundamental obligation is to afford the President an independent judgment respecting Federal pay. Section 5306 of Title 5 requires the Committee to make findings and recommendations to the President with respect to the annual adjustment in Federal pay, after considering the written views of employee organizations, the President's Agent, other officials of the Government of the United States, and such experts as the Committee may consult.

Jerome M. Rosow,
Chairman, Advisory Committee on Federal Pay.

[FR Doc. 82–18775 Filed 7–12–82; 8:45 am]
BILLING CODE 6820–43–M

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

Cedar Lane Public Drainage Association, Flood Prevention and Drainage Measure, Maryland Eastern Shore RC&D Area, Maryland; Finding of No Significant Impact

The Cedar Lane Public Drainage Association Flood Prevention and Drainage Measure to be installed in the Maryland Eastern Shore RC&D Area is federally assisted action authorized under Pub. L. 91–343 and Section 102 of the Food and Agriculture Act of 1962 (Pub. L. 87–703). An environmental evaluation was conducted in consultation with local, state, and federal agencies as well as interested organizations and individuals.

Based on the environment assessment, there will be no significant adverse impacts on the quality of the human environment.

Planned Action. Project action includes excavation of 1.6 miles of outlet drainage and flood prevention channels. Construction specifications will require daily seeding of all channel side slopes. Sediment traps will be installed at outlets or other sensitive locations by undercutting channel bottom grade two feet for a distance of at least 10 percent of the system length above a given location. All channel berms will be seeded to permanent vegetation immediately after construction.

Environmental Impacts. The planned action will enable more efficient use of the 96 acres of cropland and pasture land. There will be no significant adverse environmental impacts. There will be a temporary increase in sedimentation during construction; however, sedimentation over the long term will be decreased.

Alternatives. A "no action" alternative was considered, but not selected by the sponsor because it was not consistent with their goals and objectives. The effects of this alternative are the continued loss of the use of existing cropland due to wetness.

Short-Term Uses Versus Long-Term Productivity. The Cedar Lane Public Drainage Association Flood Prevention and Drainage Measure is part of the Choptank River Basin. The flood prevention and drainage measure will increase the long-term productivity of the area.

Commitment of Resources. Labor, capital resources, and energy used in installing and maintaining this planned measure will be irreversibly committed. Approximately one acre of Type 1 and 2 wetlands will be lost due to the planned action.

Conclusion. I have reviewed the Environmental Assessment and have determined the flood prevention and drainage measures will not result in significant adverse impact on the human environment. I conclude that an Environmental Impact Statement is not necessary. The Environmental Assessment file is available for public inspection through the office of Gerald R. Calhoun, State Conservationist, 4321 Hartwick Road, College Park, Maryland 20740.

Gerald R. Calhoun,
State Conservationist.

July 1, 1982.

[FR Doc. 82–18921 Filed 7–12–82; 8:45 am]
BILLING CODE 3410–16–M

OFFICE OF THE FEDERAL INSPECTOR FOR THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

Report on Results of Audit for Purposes of Rate Base Determination Invitation for Comments and Granting Interventions

Issued: July 7, 1982.

AGENCY: Office of the Federal Inspector for the Alaska Natural Gas Transportation System.

ACTION: Tentative Determination.

DATES: Comments should be submitted on or before August 12, 1982; reply comments should be submitted on or before August 27, 1982.

ADDRESS: For filing comments: Marcia D. Connelly, Office of General Counsel, Office of the Federal Inspector, ANGTS, Room 3407, 1200 Pennsylvania Ave., NW., Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: Marcia D. Connelly (202) 275–1144.

The Federal Inspector has received from the Office of Audit and Cost Analysis a Tentative Determination on the expenditures incurred by Northwest Alaskan Pipeline Company (NWA) related to the Alaskan segment of the Alaska Natural Gas Transportation System (ANGTS) during the period January 1, 1980 through September 30, 1981.[1] The report is based on three separate audit reports, copies of which can be acquired from the Office of the Federal Inspector (OFI) Public Affairs Office; telephone: (202) 275–0586.

The Northwest Alaskan Pipeline Company was formed in early 1978, and as a Partnership had 11 partners during the time of these audits.

The three audit reports cover expenditures charged to the gas plant accounts incurred by the Alaskan Northwest Natural Gas Transportation Company partners, including the Allowance for Funds Used During Construction (AFUDC), from January 1, 1980 through September 30, 1981. A Federal Energy Regulatory Commission (FERC) report covers the period January 1, 1980 through December 31, 1980, and the Office of the Federal Inspector (OFI) reports cover the period January 1, 1981 through September 30, 1981.

In accordance with established FERC procedures [2] and the OFI's Statement of Policy on General Standards and Procedures for Rate Base Audit and Approval for the ANGTS, the report expresses an opinion as to whether: expenditures are properly assignable to the project and of a nature that would qualify the expenditures for eventual inclusion in the rate base; the accounting used by the sponsors meets the Uniform System of Accounts and generally accepted accounting principles; the project sponsors are in compliance with other accounting and reporting regulations and requirements of the Natural Gas Act, the *Decision* and the certificate of public convenience and necessity; and the sponsor's management and cost control systems were in place and operating as planned during the period under review.

[1] ANGTS was authorized by the Alaska Natural Gas Transportation Act (ANGTA) 15 U.S.C. §§ 719–7190 and the *President's Decision and Report to Congress on the Alaska Natural Gas Transportation System* (Executive Office of the President, Energy Policy and Planning, September 1977) as enacted into law by H.J. Res. 621, Pub. L. No. 95–108 (November 2, 1977). The FERC by an order issued December 16, 1977, in Docket No. CP78–123, *et al.*, issued conditional certificates of public convenience and necessity to construct and operate the ANGTS.

[2] FERC Directive to the Office of the Chief Accountant, Administrative Order No. 4, dated April 18, 1961.

The Federal Inspector Solicits

(A) Within 30 days of the notice date the comments of any interested person as to why, or why not, for purposes of rate base determination pursuant to OFI Order No. 3,[3] the tentative determination should be made final.

(B) No later than 45 days after the notice date, any interested person may submit comments in response to any comment submitted within the 30-day period provided by paragraph (A) above.

Dated: July 7, 1982.

Peter L. Cook,

Acting Federal Inspector.

[FR Doc. 82–18793 Filed 7–12–82; 8:45 am]

BILLING CODE 5119–01–M

COMMISSION ON CIVIL RIGHTS

Illinois Advisory Committee; Agenda and Open Meeting

Notice is hereby given pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Illinois Advisory Committee to the Commission will convene at 10:00a and will end at 2:00p, on August 6, 1982, at the Everett Dirksen Federal Building, in Room 204–A, 219 South Dearborn Street, Chicago, Illinois, 60604. The purpose of this meeting will be a report on the status of the Industrial Revenue Bond project, a report on the Regional SAC Conference, and a discussion of the difficulty Hispanics and Haitians are experiencing as unclassified entrants to the United States.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Thomas J. Pugh, 500 West Melbourne Avenue, Peoria, Illinois, 61604, (309) 686–3121 or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois, 60604, (312) 353–7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 6, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82–18851 Filed 7–12–82; 8:45 am]

BILLING CODE 6335–01–M

[3] 10 CFR, Chapter XV, Order No. 3, Statement of Policy on General Standards and Procedures for Rate Base Audit and Approval for the Alaska Natural Gas Transportation System, dated October 22, 1981.

Indiana Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Indiana Advisory Committee to the Commission will convene at 3:00p and will end at 6:00p, on August 2, 1982, at the Gary Redevelopment Commission Office, on the Second Floor, 115 West Fifth Avenue, Gary, Indiana, 46402. The purpose of this meeting is to review information from staff on housing discrimination in Northwest Indiana and discuss future Committee activities.

Persons desiring additional information or planning a presentation to the Committee, should contact the Acting Chairperson, Lotte Meyerson, 650 North Tippecanoe Street, Gary, Indiana, 46403, (219) 938–1933 or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604, (312) 353–7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C. July 6, 1982.

John I. Binkley.

Advisory Committee Management Officer.

[FR Doc. 82–18774 Filed 7–12–82; 8:45 am]

BILLING CODE 6335–01–M

Maryland Advisory Committee; Agenda and Open Meeting

Notice is hereby given pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the Maryland Advisory Committee to the Commission will convene at 7:00p and will end at 9:00p, on August 4, 1982, and will convene at 9:00a and will end at 5:00p, on August 5, 1982, at the Government Office Building, in Room 106, North Division Street and Route 50, Salisbury, Maryland, 21801. The factfinding meeting will be conducted to obtain information concerning the enforcement of the standards and conditions in migrant labor camps located in the state of Maryland.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Dr. Martha E. Church, Hood College, Frederick, Maryland, 21701, (301) 663–8038 or the Mid-Atlantic Regional Office, 2120 L Street, North West, Room 510, Washington, D.C., 20037, (202) 254–6670

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 8, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-18852 Filed 7-12-82; 8:45 am]

BILLING CODE 6335-01-M

Virginia Advisory Committee; Agenda and Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Virginia Advisory Committee to the Commission will convene at 2:00p and will end at 9:00p, on August 3, 1982, at Central High School, in the Auditorium, Painter, Virginia 23420. The purposes of this meeting is to conduct a forum on, "The Design and Implementation of Federal Block Grant Programs to Meet the Needs of Migrant and Seasonal Farmworkers in Virginia."

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Rev. Curtis W. Harris, 209 Terminal Street, Hopewell, Virginia 23860, (804) 458-7404 or the Mid-Atlantic Regional Office, 2120 L Street, Room 510, Washington, D.C. 20037, (202) 254-6670.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 8, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-18853 Filed 7-12-82; 8:45 am]

BILLING CODE 6335-01-M

Washington Advisory Committee; Agenda and Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Washington Advisory Committee to the Commission will convene at 2:00p and will end at 5:00p, on July 30, 1982, at the Federal Building, in Room 2886, 915 Second Avenue, Seattle, Washington 98174. The purpose of this meeting is to discuss the status of reports for the state of Washington.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chirperson, Katharine M. Bullitt, 1125 Harvard Avenue East, Seattle, Washington 98102, (206) 447-9800 or the Northwestern Regional Office, 915 Second Avenue, Room 2852, Seattle, Washington 98174, (206) 442-1246.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 8, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-18854 Filed 7-17-82; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Countervailing Duty Investigation; Cotton Sheeting and Sateen From Peru

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of countervailing duty investigation.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether producers, manufacturers, or exporters in Peru of cotton sheeting and sateen receive benefits which constitute bounties or grants within the meaning of the countervailing duty law. If the investigation proceeds normally, a preliminary determination will be made not later than September 8, 1982.

EFFECTIVE DATE: July 13, 1982.

FOR FURTHER INFORMATION CONTACT: Mike Hudak, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230; Telephone (202) 377-3497.

SUPPLEMENTARY INFORMATION:

Petition

On June 15, 1982, we received a petition from the American Textile Manufacturers Institute on behalf of U.S. producers of cotton sheeting and sateen. In compliance with the filing requirements of the Commerce Regulations (19 CFR 355.26), the petition alleges that producers, manufacturers, or exporters in Peru receive subsidies from the government of Peru. Section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) ("The Act"), applies to this investigation because Peru is not a "Country under the Agreement" within the meaning of section 701(b) of the Act (19 U.S.C. 1671(b)) and, therefore, the domestic industry is not required to allege that, and the U.S. International Trade Commission (ITC) is not required to determine whether, imports of these products cause or threaten material injury to the U.S. industry in question.

Initiation of the Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation, and whether it contains information reasonably available to the petitioner supporting these allegations. We have examined the petition on cotton sheeting and sateen and have found that it meets these requirements.

Therefore, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Peru of cotton sheeting and sateen received benefits that constitute bounties or grants. If our investigation proceeds normally, we will make our preliminary determination by September 20, 1982.

Scope of Investigation

The merchandise covered by this investigation is: (1) Plain-woven cotton fabric sheeting, not fancy or figured and not napped, made of singles yarn, with an average yarn number between 3 and 26, imported in Textile and Apparel Category 313, currently classified in the *Tariff Schedules of the United States* ("TSUS") under numbers 320.36, 320.40 and 320.44, and (2) 100% carded cotton sateen fabrics woven with a sateen weave and not napped, imported in Textile and Apparel Category 317, and currently classified in TSUS under numbers 320.54 and 321.54.

Allegations of Bounties or Grants

The petition alleges that producers, manufacturers, and exporters of cotton yarn in Peru receive the following benefits that constitute bounties or grants: Tax rebates to exporters (Certex); preferential export financing under the Non-Traditional Exports Fund (FENT) of the Banco Industrial del Peru; and several benefits under "The Law for the Promotion of Exports of Non-Traditional Goods," including waiver of customs duties on the importation of capital goods, special depreciation rates, reinvestment tax incentives, income tax credits and deductions for increased work positions, income tax exemptions from capitalized earnings, and the Fund for the Promotion of Non-Tradtional Exports (FOPEX), whose functions include furnishing technical services.

Judith Hippler Bello,

Acting Deputy Assistant Secretary for Import Administration.

July 6, 1982.

[FR Doc. 82-18875 Filed 7-12-82; 8:45 am]

BILLING CODE 3510-25-M

Initiation of Countervailing Duty Investigation; Cotton Yarn From Peru

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of countervailing duty investigation.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether producers, manufacturers, or exporters in Peru of cotton yarn receive benefits which constitute bounties or grants within the meaning of the countervailing duty law. If the investigation proceeds normally, a preliminary determination will be made not later then September 8, 1982.

EFFECTIVE DATE: July 13, 1982.

FOR FURTHER INFORMATION CONTACT: Mike Hudak, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230; Telephone (202) 377–3497.

SUPPLEMENTARY INFORMATION:

Petition

On June 15, 1982, we received a petition from the American Yarn Spinners Association on behalf of the cotton yarn industry in the United States. In compliance with the filing requirements of the Commerce Regulations (19 CFR 355.26), the petition alleges that producers, manufacturers, or exporters in Peru receive bounties or grants from the government of Peru. Section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) ("the Act"), applies to this investigation because Peru in not a "country under the Agreement" within the meaning of section 701(b) of the Act (19 U.S.C. 1671(b)) and, therefore, the domestic industry is not required to allege that, and the U.S. International Trade Commission (ITC) is not required to determine whether, imports of this product cause or threaten material injury to the U.S. industry in question.

Initiation of the Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation, and whether it contains information reasonably available to the petitioner supporting these allegations. We have examined the petition on cotton yarn and have found that it meets these requirements.

Therefore, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Peru of cotton yarn received benefits that constitute bounties or grants. If our investigation proceeds normally, we will make our preliminary determination by September 20, 1982.

Scope of Investigation

The products covered by this investigation are various cotton yarns currently classifiable under the following *Tariff Schedules of the United States* numbers:

300.60, 301.01 to 301.60, 301.70, 301.80, 301.82, 301.84, 301.86, 301.88, 301.92, 301.94, 301.96, 301.98, 302.01 to 302.06, 302.70, 302.80, 302.84, 302.86, 302.88, 302.92, 302.94, 302.96 and 302.98.

These cotton yarns are of various counts. The count is a measure of fineness and refers to the number of 840-yard hanks of yarn in one pound.

Allegations of Bounties or Grants:

The petition alleges that producers, manufacturers, and exporters of cotton yarn in Peru receive the following benefits that constitute bounties or grants: tax rebates to exporters (Certex); preferential export financing under the Non-Traditional Exports Funds (FENT) of the Banco Industrial del Peru; and several benefits under "The Law for the Promotion of Exports of Non-Traditional Goods," including waiver of customs duties on the importation of capital goods, special depreciation rates, reinvestment tax incentives, income tax credits and deductions for increased work positions, income tax exemptions from capitalized earnings, and the Fund for the Promotion of Non-Traditional Exports (FOPEX), whose functions include furnishing technical services.

Judith Hippler Bello,

Acting Deputy Assistant Secretary for Import Administration.

July 6, 1982.

[FR Doc. 82-18674 Filed 7-12-82; 8:45 am]

BILLING CODE 3510-25-M

Initiation of Countervailing Duty Investigations; Certain Stainless Steel Products From Brazil

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of countervailing duty investigations.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating countervailing duty investigations to determine whether manufacturers, producers, or exporters in Brazil of hot-rolled stainless steel bar, cold-formed stainless steel bar and stainless steel wire rod (hereinafter referred to as "certain stainless steel products") receive benefits which constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission ("ITC") of this action so that it may determine whether imports of these products are materially injuring, or threatening to materially injure, a U.S. industry. If these investigations proceed normally, the ITC will make its preliminary determinations on or before August 2, 1982, and we will make its on or before September 9, 1982.

EFFECTIVE DATE: July 13, 1982.

FOR FURTHER INFORMATION CONTACT: Paul J. McGarr, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; (202)/377–1167.

SUPPLEMENTARY INFORMATION:

Petition

On June 16, 1982, we received a petition from counsel for Al Tech Specialty Steel Corporation; Carpenter Technology Corporation; Colt Industries, Inc., Crucible Specialty Metals Division; Cyclops Corporation; Guterl Special Steel Corporation; Joslyn Stainless Steel and Republic Steel Corporation on behalf of the U.S. industry producing stainless steel bar and wire rod. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges manufacturers, producers, or exporters in Brazil of certain stainless steel products receive subsidies within the meaning of section 771(5) of the Tariff Act of 1930, as amended (19 U.S.C. 1677(5)) (the "Act"), and that imports of these products are materially injuring, or threatening to materially injure, a U.S. industry.

Brazil is a "country under the Agreement" within the meaning of section 701(b) of the Act. Therefore, title VII of the Act applies and injury determinations are required.

Initiation of Investigations

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of countervailing duty investigations and whether it contains information reasonably available to the petitioner supporting these allegations. We have examined the petition and

have found that it meets these requirements.

Therefore, in accordance with section 702(c) of the Act, we are initiating countervailing duty investigations to determine whether manufacturers, producers, or exporters in Brazil of certain stainless steel products as described in the "Scope of the Investigations" section of this notice received benefits that constitute subsidies within the meaning of section 771(5) of the Act. If these investigations proceed normally, we will make our preliminary determinations by September 9, 1982.

Scope of the Investigations

The products covered by these investigations are hot-rolled stainless steel bar, cold-formed stainless steel bar and stainless steel wire rod. For a further description of these products, see Appendix A to this notice.

Allegations of Subsidies

The petition alleges manufacturers, producers, or exporters in Brazil of certain stainless steel products benefit from the following subsidies: Preferential long-term loans and loan guarantees, preferential working capital financing, tax exemptions, investment subsidies from tax rebates, overrebate of indirect taxes, special amortization and tax-loss carry forward privileges for export-oriented projects, and transportation subsidies.

Notification of ITC

Section 702(d) of the Act requires us to notify the U.S. International Trade Commission of this action and to provide it with the information used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by August 2, 1982, whether there is a reasonable indication that imports of certain stainless steel products from Brazil are materially injuring, or threatening to materially injure, a U.S. industry. If its determinations are negative, these investigations will terminate; otherwise, they will continue according to the statutory procedures.

Judith H. Bello,

Acting Deputy Assistant Secretary for Import Administration.

July 6, 1982.

Appendix A

For purpose of these investigations, the products are described below:

1. The term *"stainless steel wire rod"* covers a coiled, semi-finished, hot-rolled stainless steel product of solid cross section, approximately round in cross section, not under 0.20 inches nor over 0.74 inch in diameter, not tempered, not treated, and not partly manufactured as currently provided for in item 607.26 of the *Tariff Schedules of the United States (TSUS)* or if tempered, treated, or partly manufactured as provided for in item 607.43 of the TSUS.

2. The term *"hot-rolled stainless steel bars"* covers hot-rolled stainless steel products of solid section having cross sections in the shape of circles, segments of circles, ovals, triangles, rectangles, hexagons or octagons, not coated or plated with metal as currently provided for in item 606.9005 of the *Tariff Schedules of the United States Annotated.*

3. The term *"cold-formed stainless steel bars"* covers cold-formed stainless steel products of solid section having cross sections in the shape of circles, segments of circles, ovals, triangles, rectangles, hexagons or octagons, not coated or plated with metal as currently provided for in item 606.9010 of the *Tariff Schedules of the United States Annotated.*

Stainless steel is an alloy steel which contains by weight less than 1 percent of carbon and over 11.5 percent of chromium. Iron must predominate by weight and the alloy is malleable as first cast. Alloy steel is defined as a steel which contains one or more of the following elements in the quantity, by weight, respectively indicated:

Over 1.65 percent of mangahese, or
Over 0.25 percent of phosphorus, or
Over 0.35 percent of sulphur, or
Over 0.60 percent of silicon, or
Over 0.60 percent of copper, or
Over 0.30 percent of aluminum, or
Over 0.20 percent of chromium, or
Over 0.30 percent of cobalt, or
Over 0.35 percent of lead, or
Over 0.50 percent of nickel, or
Over 0.30 percent of tungsten, or
Over 0.10 percent of any other metallic element.

[FR Doc. 82-18866 Filed 7-12-82; 8:45 am]
BILLING CODE 3510-25-M

Supplement to Notice of Initiation of Antidumping Investigation; Certain Stainless Steel Sheet and Strip Products From the Federal Republic of Germany

AGENCY: International Trade Administration, Commerce.

ACTION: Supplement to Notice of Initiation of Antidumping Investigation.

SUMMARY: On May 21, 1982 the Department of Commerce published the "Notice of Initiation of Antidumping Investigation" concerning certain stainless steel sheet and strip products from the Federal Republic of Germany (47 FR 22132–22133). The notice was published without its appendix on product description, which is printed below.

Appendix: Product Description of Certain Stainless Steel Sheet and Strip Products

For the purpose of this investigation, the term "certain stainless steel sheet and strip products" covers hot-rolled or cold-rolled stainless steel sheet or strip, excluding hot-rolled or cold-rolled stainless steel strip not over 0.01 inch in thickness, as currently provided for in items 607.7610, 607.9010, 607.9020, 608.4300, and 608.5700 of the *Tariff Schedules of the United States Annotated.*

Hot-rolled stainless steel sheet covers hot-rolled stainless steel sheet products whether or not corrugated or crimped and whether or not pickled; not cold-rolled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal; and under 0.1875 inch in thickness and over 12 inches in width.

Hot-rolled stainless steel strip is flat-rolled stainless steel strip whether or not corrugated or crimped and whether or not pickled; not cold-rolled; not cut, not pressed, and not stamped to non-rectangular shape; and under 0.1875 inch in thickness and not over 12 inches in width. Hot-rolled stainless steel strip, including razor blade strip, not over 0.01 inch in thickness is not included.

Cold-rolled stainless steel sheet covers cold-rolled stainless steel sheet products whether or not corrugated or crimped and whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal; and under 0.1875 inch in thickness and over 12 inches in width.

Cold-rolled stainless steel strip is flat-rolled stainless steel strip whether or not corrugated or crimped and whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; under 0.1875 inch in thickness and over 0.50 inch in width but not over 12 inches in width. Cold-rolled stainless steel strip, including razor blade strip, not over 0.01 inch in thickness is not included in this investigation.

EFFECTIVE DATE: May 21, 1982.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230: Telephone (202) 377–2438.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

July 6, 1982.

[FR Doc. 82-18796 Filed 7-12-82; 8:45 am]
BILLING CODE 3510-25-M

Pig Iron From Romania; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Antidumping Finding.

SUMMARY: On April 22, 1982 the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on pig iron from Romania. The review covered the only known exporter of pig iron from Romania to the United States and the time period from October 1, 1980 through September 30, 1981. There were no known shipments of this merchandise to the United States during the period and there are no known unliquidated entries.

Interested parties were given an opportunity to submit oral or written comments on these preliminary results. We received no comments.

EFFECTIVE DATE: July 13, 1982.

FOR FURTHER INFORMATION CONTACT: Dennis U. Askey or David R. Chapman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–2923).

SUPPLEMENTARY INFORMATION:

Background

On October 29, 1968 a dumping finding with respect to pig iron from Romania was published in the **Federal Register** as Treasury Decision 68–264 (33 FR 15904). On April 22, 1982 the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 17321) the preliminary results of its second administrative review of the finding. The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of pig iron, which is used in steel production and in the iron foundry industry for making iron castings such as pipe, automobile castings, and machinery parts. Pig iron is currently classifiable under item numbers 606.1300 and 606.1500 of the Tariff Schedules of the United States Annotated (TSUSA).

The review covers the only known exporter of pig iron from Romania to the United States, Metalimport, and the period October 1, 1980 through September 30, 1981.

Final Results of the Review

Interested parties were invited to comment on the preliminary results. The Department received no written comments or requests for disclosure or a hearing. Therefore, the final results of our review are the same as those presented in the preliminary results of review. There were no known shipments to the United States during this period and there are no known unliquidated entries.

As provided for by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the most recent margin calculated for the firm shall be required on all shipments of pig iron from Romania entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. Metalimport failed to respond to our questionnaire for the review period. The most recent margin calculated for Metalimport is the rate of 70 percent calculated during the original fair value investigation. This rate shall remain in effect until publication of the final results of our next administrative review. The Department intends to conduct the next administrative review by the end of September 1983. The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information in the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

July 7, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82–18668 Filed 7–12–82; 8:45 am]

BILLING CODE 3510–25–M

Pig Iron From the U.S.S.R.; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Antidumping Finding.

SUMMARY: On May 11, 1982 the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on pig iron from the U.S.S.R. The review covered the only known exporter of pig iron from the U.S.S.R. to the United States and the time period from October 1, 1980 through September 30, 1981. There were no known shipments of this merchandise to the United States during the period and there are no known unliquidated entries.

Interested parties were given an opportunity to submit oral or written comments on these preliminary results. We received no comments.

EFFECTIVE DATE: July 13, 1982.

FOR FURTHER INFORMATION CONTACT: Dennis U. Askey or David R. Chapman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–2923).

SUPPLEMENTARY INFORMATION:

Background

On October 29, 1968 a dumping finding with respect to pig iron from the U.S.S.R. was published in the **Federal Register** as Treasury Decision 68–261 (33 FR 15904). On May 11, 1982 the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 20172–3) the preliminary results of its second administrative review of the finding. The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of pig iron, which is used in steel production and in the iron foundry industry for making iron castings such as pipe, automobile castings, and machinery parts. Pig iron is currently classifiable under item numbers 606.1300 and 606.1500 of the Tariff Schedules of the United States Annotated (TSUSA).

The review covers the only known exporter of pig iron from the U.S.S.R. to the United States, Promsyrioimport, and the period October 1, 1980 through September 30, 1981.

Final Results of the Review

Interested parties were invited to comment on the preliminary results. The Department received no written comments or requests for disclosure or a hearing. Therefore the final results our review are the same as those presented in the preliminary results of review. There were no known shipments to the United States during this period and there are no known unliquidated entries.

As provided for by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the most recent margin calculated for the firm shall be required on all shipments of pig iron from the U.S.S.R entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. Promsyrioimport failed to respond to our

questionnaire for the review period. The most recent margin calculated for Promsyrioimport is the rate of 70 percent calculated during the original fair value investigation. This rate shall remain in effect until publication of the final results of our next administrative review. The Department intends to conduct the next administrative review by the end of September 1983. The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information in the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

July 7, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-18887 Filed 7-12-82; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

Revision To Federal Information Processing Standard 61, Channel Level Power Control Interface

Under the provisions of Pub. L. 89-306 (79 Stat. 1127; 40 U.S.C. 759(f)) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary of Commerce (Secretary) is authorized to establish uniform Federal automatic data processing standards. On July 20, 1981, notice of a proposed revision to Federal Information Processing Standard (FIPS) 61 was published in the **Federal Register** (46 FR 37304) for public comment and sent to Federal agencies for comment. This notice proposed that the Emergency Power Off (EPO) capability as specified in FIPS 61 be made optional. Interested parties were invited to submit written comments concerning the proposed revised standard to the National Bureau of Standards (NBS).

The written comments submitted by interested parties and other material available to the Department relevant to this proposed revision were reviewed by NBS. On the basis of this review, NBS recommended to the Secretary his approval of the revised standard as a FIPS, and prepared a detailed justification document for the Secretary's review in support of that recommendation. The purpose of this notice is to announce that the Secretary has approved this revised standard as a FIPS, and that the standard shall be published as FIPS Publication 61-1. The provisions of this standard became effective June 23, 1980, and continue to be in effect.

The detailed justification document which was presented to the Secretary, and which includes an analysis of the written comments received, is part of the public record and is available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 6628, Main Commerce Building, 14th Street between Constitution Avenue and E Street, NW., Washington, D.C. 20230.

The original standard, FIPS 61, was approved by the Secretary on February 16, 1979 (44 FR 10098-10101) and was the subject of corrections and revisions announced in the **Federal Register** on August 27, 1979 (44 FR 50079-50080), August 31, 1979 (44 FR 51294), December 3, 1979 (44 FR 69317), and November 26, 1980 (45 FR 78746). This revised standard supersedes FIPS 61 in its entirety, including its subsequent corrections and revisions.

The approved FIPS contains two portions: (1) An announcement portion which provides information concerning the applicability, implementation, and maintenance of the standard and (2) a specifications portion which deals with the technical requirements of the standard. Only the announcement portion of the standard is provided in this notice. This revised standard incorporates by reference and modifies the technical specifications of ANSI document number X3T9/666, Rev. 2, Power Control Interface.

Interested parties may purchase either paper or microfiche copies of this revised standard, including the technical specifications portion, from the National Technical Information Service (NTIS). Specific ordering information from NTIS for this revised standard is set out in the Where to Obtain Copies section of the announcement portion of the standard.

Persons desiring further information about this revised standard may contact Mr. Michael Wong, Center for Computer Systems Engineering, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234 (301) 921-3723.

Dated: July 7, 1982.

Ernest Ambler,

Director.

Federal Information Processing Standards Publication 61-1

Announcing the Standard for Channel Level Power Control Interface

Federal Information Processing Standards Publications are issued by the National Bureau of Standards pursuant to section 111(f)(2) of the Federal Property and Administrative Services Act of 1949, as amended, Pub. L. 89-306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973) and Part 6 of Title 15 Code of Federal Regulations (CFR).

Name of Standard. Channel Level Power Control Interface (FIPS PUB 61-1).

Category of Standard. Hardware Standard, Interface.

Explanation. This standard defines the functional, electrical, and mechanical interface specifications for a power control interface for use in connecting computer peripheral equipment as a part of automatic data processing (ADP) systems. This standard, together with a companion standard for I/O Channel Interface, defines the hardware characteristics for the I/O channel level interface.

The Government's intent in employing this Channel Level Power Control Interface Standard is to reduce the cost of satisfying the Government's data processing requirements through increasing its available alternative sources of supply for computer system components at the time of initial system acquisition, as well as in system replacement and augmentation and in system component replacement. This standard is also expected to lead to improved reutilization of system components.

When acquiring ADP systems and system components, Federal agencies shall cite this standard in specifying the power control interface for connecting computer peripheral equipment as a part of ADP systems.

Approving Authority. Secretary of Commerce.

Maintenance Agency. Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

Cross Index. American National Standards Institute document X3T9/666, Rev. 2, Draft Proposed American National Standard Specification for Power Control Interface.

Applicability. This standard is applicable whenever use of Federal Information Processing Standard I/O Channel Interface (NBS-FIPS-PUB-60-1) is required.

Verification of the correct operation of all interfaces that are required to conform to this standard shall, through demonstration or other means acceptable to the Government, be provided prior to the acceptance of all applicable ADP equipment.

Specifications. This standard incorporates by reference the technical specifications of ANSI document number X3T9/666, Rev. 2. Copies of the technical specifications section of the standard will be available from the National Technical Information Service as described in the Where to Obtain Copies section below.

Implementation. The provisions of this standard are effective June 23, 1980. All applicable equipment ordered on or after the effective date, or procurement actions for which solicitation documents have not been issued by that date, must conform to the provisions of this standard.

Regulations concerning the specific use of this standard in the Federal procurement will

be issed by the General Services Administration to be a part of the Federal Property Management Regulations.

This standard shall be reviewed by NBS within three years after its effective date, taking into account technological trends and other factors, to determine whether the standard should be reaffirmed, revised, or withdrawn.

Waivers. Heads of agencies desiring a waiver from the requirements stated in this standard so as to acquire ADP equipment that does not conform to this standard, shall submit a request for such a waiver to the Secretary of Commerce for review and approval. Approval will be granted if, in the judgment of the Secretary based on all available information, including that provided in the waiver request, a major adverse economic or operational impact would occur through conformance with this standard.

A request for waiver shall include: (1) A description of the existing or planned ADP system for which the waiver is being requested, (2) a description of the system configuration, identifying those items for which the waiver is being requested, and including a description of planned expansion of the system configuration at any time during its life cycle, and (3) a justification for the waiver, including a description and discussion of the major adverse economic or operational impact that would result through conformance to this standard as compared to the alternative for which the waiver is requested.

The request for waiver shall be submitted to the Secretary of Commerce, Washington, D.C. 20230, and labeled as a request for Waiver to a Federal Information Processing Standard. Waiver requests will normally be processed within 45 days of receipt by the Secretary. No action shall be taken to issue solicitation documents or to order equipment for which this is standard is applicable and which does not conform to this standard prior to receipt of a waiver approval response from the Secretary.

Where to Obtain Copies. Either paper or microfiche copies of this Federal Information Processing Standard, including the technical specifications, may be purchased from the National Technical Information Service (NTIS) by ordering Federal Information Processing Standards Publication 61–1 (FIPS–PUB–61–1), Channel Level Power Control Interface. Ordering Information, including prices and delivery alternatives, may be obtained by contacting the National Technical Information Service (NTIS), U.S. Department of Commerce, Springfield, VA 22161, Telephone: (703)557–4650.

[FR Doc. 82–18916 Filed 7–12–82; 8:45 am]
BILLING CODE 3510-CN-M

National Telecommunications and Information Administration

Frequency Management Advisory Council; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that the Frequency Management Advisory Council (FMAC) will meet from 9:30 a.m. to 3:30 p.m. on July 29, 1982, in the Aspen Room at the National Telecommunications and Information Administration (NTIA), 1325 "G" Street, N.W., Washington, D.C. (Public entrance to the building is on "G" Street, between 13th Street and 14th Street, N.W.)

The Council was established on July 19, 1965. The objective of the Council is to advise the Secretary of Commerce on radio frequency spectrum allocation matters and means by which the effectiveness of Federal Government frequency management may be enhanced. The Council consists of 15 members whose knowledge of telecommunications is balanced in the functional areas of manufacturing, analysis and planning, operations, research, academia and international negotiations.

The principal agenda items for the meeting will be:

(1) Preparation for the 1982 ITU Plenipotentiary Conference
(2) Briefing and Discussion of NTIA EMC Activities and Capabilities
(3) Briefing on General Electric's New Consumer Mobile Radio Service—Mr. James D. Kearney
(4) Review and Discussion of Joint FMAC/ERMAC Statement on Non-Ionizing Radiation Effects
(5) Any Procedural Business of the Council.
(6) Scheduling of the next meeting.

The meeting will be open to public observation; and a period will be set aside for oral comments or questions by the public which do not exceed 10 minutes each per member of the public. More extensive questions or comments should be submitted in writing before July 27, 1982. Other public statements regarding Council affairs may be submitted at any time before or after the meeting. Approximately 15 seats will be available for the public on a first-come first-served basis.

Copies of the minutes will be available on request 30 days after the meeting.

Inquiries may be addressed to the Executive Secretary, FMAC, Mr. Charles L. Hutchison, National Telecommunications and Information Administration, Room 268, 1325 "G" Street, N.W., Washington, D.C. 20005, telephone 202–724–3301.

Dated: July 8, 1982.

Charles L. Hutchison,

Executive Secretary, FMAC National Telecommunications and Information Administration.

[FR Doc. 82–18855 Filed 7–12–82; 8:45 am]
BILLING CODE 3510-60-M

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council, its Scientific and Statistical Committee, and its Stone Crab Subpanel; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The Gulf of Mexico Fishery Management Council, established under section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265), has established a Scientific and Statistical Committee (SSC) and a Stone Crab Subpanel to assist the Council in carrying out its responsibilities under the Act. The Council, its SSC and Stone Crab Subpanel will hold separate public meetings.

Agendas

Council—review status reports on the development of fishery management plans (FMP's); consider foreign fishing applications, if any, as well as discuss other fishery management business.

SSC and Stone Crab Subpanel—discuss Tortuga Sanctuary provisions of the Shrimp FMP; monitor information on the Stone Crab fishery and discuss plan provisions of the Swordfish FMP.

ADDRESS: The Council meeting will convene on Wednesday, August 4, 1982, at approximately 9:30 a.m., and adjourn at approximately 5 p.m.; reconvene on Thursday, August 5, 1982, at approximately 8:30 a.m., and adjourn at approximately noon. The SSC meeting will convene on Monday, August 2, 1982, at approximately 1 p.m., and adjourn at approximately 5 p.m.; reconvene on Tuesday, August 3, 1982, at approximately 8 a.m., and adjourn at approximately noon. The Stone Crab Subpanel meeting will also convene on Tuesday, August 3, 1982, at approximately 1 p.m., and adjourn at approximately noon.

All public meetings will take place at the Key Wester Resort Inn, Copacabana Room, A1A on the Ocean, Key West Florida.

FURTHER INFORMATION: Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609; Telephone: (813) 228–2815.

Dated: July 8, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 82–18886 Filed 7–12–82; 8:45 am]
BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of the Navy

Intent To File a Draft Environmental Impact Statement for the Construction of a Five Megawatt Electric Generating Solar Pond at the Salton Sea

The U.S. Navy, with support from Southern California Edison, the Department of Energy, and the State of California, will prepare an Environmental Impact Statement (EIS) for construction of a five megawatt electric generating solar pond at the Salton Sea. This facility will be constructed on Navy land located at its Salton Sea Test Site, The Navy has been selected as the lead Federal agency for the EIS.

The purpose of this action is the construction of a prototype five megawatt electric generating plant at the western shore of the Salton Sea. As part of a national effort to develop alternative energy sources, a number of different applications of solar energy are currently being pursued. Among those now under consideration for development is the nonconvective, salinity-gradient solar pond. Because of recent improvements in state-of-the-art solar pond technology, it now appears feasible to apply this concept to large-scale energy production within the United States.

The Southern California Edison Company, the Department of Energy, and the State of California have initiated a program to study and implement the use of solar ponds at the Salton Sea in southern California. The initial effort nearing completion, consisted primarily of concept and feasibility studies. The proposed action consists of the design, construction, and testing of a prototype five megawatt (MWe) generating plant and would be dependent on the results of the concept and feasibility studies and on the approval of various regulatory bodies.

The EIS will consider the following impacts: Geology, hydrology and water quality, climatology and air quality, noise, biology, cultural, land use, socio-economic, visual, and public services.

A public sooping meeting will be held on the EIS to determine the issues of concern and to identify significant issues related to the proposed action. This meeting will be held at 7:30 p.m. on July 20, 1982, in the Imperial County Airport conference room in Imperial, California.

The meeting is open to the public for comment on the proposed action. Comments should summarize the viewpoint of the speaker and will be limited to five (5) minutes per speaker. Detailed comments may be submitted in writing for consideration. Written comments may be sent to the address shown below.

For information concerning the proposed EIS contact: Dr. Thomas McGill, Environmental Branch (Code 2632), China Lake, Calfironia 93555, Telephone (714) 939–3411, extension 383.

Dated: July 12, 1982.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register, Liaison Officer.

[FR Doc. 82–19047 Filed 7–12–82; 9:49 am]

BILLING CODE 3810–AE–M

DEPARTMENT OF ENERGY

New Production Reactor Concept and Site Selection Advisory Panel; Determination To Establish

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), I hereby certify that the establishment of the New Production Reactor Concept and Site Selection Advisory Panel is in the public interest in connection with the performance of duties imposed on the Department of Energy by law.

The purpose of the New Production Reactor Concept and Site Selection Advisory Panel is to advise the Department of Energy on the selection of a New Production Reactor concept and site. The Panel will evaluate and rank the various reactor concepts and available sites. A report incorporating and explaining the ranking will be submitted to the Department of Energy by December 1, 1982.

Further information concerning this Panel can be obtained from Gloria Decker at (202) 252–5187.

Date: July 6, 1982.

James B. Edwards,

Secretary.

[FR Doc. 82–18780 Filed 7–12–82; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

January and Clean-up Entitlements Notices

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of intent to conduct public proceeding.

FOR FURTHER INFORMATION CONTACT: William Funk (Office of General Counsel), U.S. Department of Energy, Room 6A–141, 1000 Independence Ave., SW., Washington, D.C. 20585, (202) 252–6736.

SUPPLEMENTARY INFORMATION: On December 9, 1981, the Department of Energy (DOE) gave notice that DOE would not issue any further entitlements lists pending resolution of certain litigation involving the so-called tertiary incentive program. (46 FR 60231.) That litigation is presently pending before the Temporary Emergency Court of Appeals (TECA). Further, on March 17, 1982, DOE gave notice that before the Department of Energy issued any further entitlements lists it would by publication in the **Federal Register** provide thirty days notice of an intent to issue such a list. (47 FR 11549.)

This notice is to advise that DOE intends to seek through a public proceeding the views and comments of interested persons with respect to any changes in circumstances that may have occurred or other matters that might affect the publication of further entitlements lists. Only after consideration of such views and comments would DOE make a determination regarding publication of further entitlements lists.

Although the litigation concerning the tertiary incentive program concerns the lawfulness of prices that crude oil producers charged for certain crude oil sold before decontrol, TECA's decisions in that litigation could have a bearing on issues related to the entitlements program. Accordingly, DOE intends to initiate its proposed public proceeding only after TECA renders its decision in the now pending tertiary cases.

Dated: July 6, 1982.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

[FR Doc. 82–18878 Filed 7–9–82; 9:46 am]

BILLING CODE 6450–01–M

[ERA Docket No. 82–05–NG]

Texas Eastern Transmission Corp.: Application To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administation, DOE.

ACTION: Notice of Application to Import Natural Gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of the receipt on May 14, 1982, of the application of Texas Eastern Transmission Corporation (Texas Eastern) to import up to 100,000 Mcf per day of Canadian natural gas, and additional unspecified daily volumes to be delivered, upon request, on a best efforts basis. The imported volumes are

to be purchased from ProGas Limited (ProGas) beginning on November 1, 1982, or as soon as possible thereafter, and continuing for a period of twenty (20) years through October 31, 2002.

The application is filed with ERA pursuant to Section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–54. Protests or petitions to intervene are invited.

DATE: Protests or petitions to intervene are to be filed no later than 4:30 p.m. on August 12, 1982.

FOR FURTHER INFORMATION CONTACT:

Earl D. Bragdon (Natural Gas Branch, Oil and Gas Imports Division), Economic Regulatory Administration, 12th & Pennsylvania Avenue, NW., Room 614, RG–631, Washington, D.C. 20461 (202) 633–9296

Sue D. Sheridan (Office of General Counsel, Natural Gas and Mineral Leasing), 1000 Independence Avenue, S.W., Forrestal Building, Room 6E–042; Washington, D.C. 20585 (202) 252–6667.

SUPPLEMENTARY INFORMATION: An October 29, 1981, Gas Sales Agreement (Agreement) between Texas Eastern and ProGas provides for the purchase of up to 100,000 Mcf of natural gas per day, and additional unspecified daily volumes to be delivered on a "best efforts" basis upon request by Texas Eastern. The Agreement specifies that the gas would be delivered at a point of interconnection between the facilities of ProGas and Texas Eastern's transporter at the Canadian-American border. The place of delivery will be either at a point near Niagara Falls, Ontario, or by mutual agreement between ProGas and Texas Eastern at a point near Emerson, Manitoba. Texas Eastern states that it is making arrangements for transportation of the gas from the Niagara Falls, Ontario, import point to its pipeline system in Pennsylvania.

The price for the imported natural gas wll be the authorized international border price, currently U.S. $4.94 per MMBtu. Texas Eastern also states that on April 2, 1982, ProGas filed an application with the Canadian National Energy Board (NEB) for authorization to export the gas for sale to Texas Eastern. The NEB has not yet approved ProGas' proposed export to Texas Eastern.

The Agreement obligates Texas Eastern to take or otherwise pay for a minimum annual quantity of gas equal to 75 percent of the maximum daily contract quantity of 100,000 Mcf times the number of days in the contract year, less the difference between the daily volumes of gas requested by Texas Eastern and actual amounts delivered. The price that Texas Eastern will be required to pay for the gas under the take-or-pay provision is the prevailing Canadian border price.

In any contract year after it has met its minimum annual purchase obligation, Texas Eastern may recover any gas paid for but not previously taken (prepaid gas).

The Agreement also provides a mechanism for reducing Texas Eastern's volume of prepaid gas if ProGas' contractual obligations to take gas from the Alberta producers which supply it are less than the total volume of prepaid gas of all of ProGas' customers. In that case, Texas Eastern's prepaid gas will be adjusted by its pro rata share of the difference (obtained by multiplying ProGas' prepaid volume by Texas Eastern's prepaid volume and dividing by the total prepaid volume).

In support of its application Texas Eastern asserts that the proposed import of natural gas is needed to meet future requirements of its customers at its current level of commitments to them.Texas Eastern also asserts that it continues to face the problem of a declining supply of gas from existing sources and must replace that gas from a variety of sources if it is to be able to continue to serve its customers' requirements. Texas Eastern concludes that the proposed import is in the public interest of the United States.

Texas Eastern requests that consideration of its application be expedited.

OTHER INFORMATION: Any person wishing to become a party to the proceeding, and thus to participate as a party in any conference or hearing which might be convened must file a petition to intervene.

Any person may file a protest with respect to this application. The filing of a protest will not serve to make the protestant a party to the proceeding. Protests will be considered in determining the appropriate action to be taken on the application.

All protests and petitions to intervene must meet the requirements specified in 18 CFR 1.8 and 1.10. They should be filed with the Natural Gas Branch, Economic Regulatory Administration, Room 6144, RG–631, 12th & Pennsylvania Avenue, N.W., Washington, D.C. 20461. All protests and petitions to intervene must be filed no later than 4:30 p.m., August 12, 1982.

A hearing will not be held unless a motion is made by a party or person seeking intervention and granted by the ERA, or if the ERA on its own motion believes that a hearing is necessary or required. A person filing a motion must demonstrate how a hearing will advance the proceedings. If a hearing is scheduled, the ERA will provide notice to all parties and persons whose petitions to intervene are pending.

A copy of Texas Eastern's application is available for inspection and copying in the Natural Gas Branch Docket Room, located in Room 6144, 12th & Pennsylvania Avenue, NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on July 6, 1982.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82–18789 Filed 7–12–82; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ERA–FC–82–011; FC Case Number 65033–9218–01–12]

Order Granting Northwestern University an Exemption From Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Order Granting to Northwestern University an Exemption from the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: On April 6, 1982, Northwestern University, hereinafter referred to as petitioner, filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent site limitation exemption for a new major fuel burning installation (MFBI) from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or the Act) that prohibit the use of petroleum and natural gas as a primary energy source in certain new MFBIs. The final rule containing the criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA was published in the **Federal Register** at 46 FR 59872 (December 7, 1981). Criteria governing the site limitation exemption are contained in 10 CFR 503.33.

The petitioner requested a permanent site limitation exemption in order to burn natural gas or petroleum in a proposed new package boiler, identified as Unit #4, to be operated at the petitioner's Campus Central Utility Plant located in Evanston, Illinois. Unit #4 will have a design heat input rate of approximately 172 million Btu per hour.

Pursuant to section 212(a)(1)(B) of the Act and 10 CFR 503.33, ERA hereby grants the petitioner a permanent site

limitations exemption for the new MFBI identified as Unit #4. The basis for ERA's Order is provided in the **SUPPLEMENTARY INFORMATION** section, below.

DATE: In accordance with section 702(a) of FUA, this Order and its provisions shall take effect on September 12, 1982.

The public file containing a copy of this Order and other documents and supporting materials on this proceeding is available for inspection upon request at: Department of Energy, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E–190, Washington, D.C. 20585, Monday through Friday, 8:00 a.m.–4:00 p.m.

FOR FURTHER INFORMATION CONTACT:

William H. Freeman, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA–073, 1000 Independence Avenue SW., Washington, D.C. 20585, Phone (202) 252–2993.

Marya Rowan, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6B–178, 1000 Independence Avenue SW., Washington, D.C. 20585, Phone (202) 252–2967.

Jack Vandenberg, Office of Public Information, Economic Regulatory Administration, Room 7120, Federal Building, 12th & Pennsylvania Avenue NW., Washington, D.C. 20461, Phone (202) 633–8108.

SUPPLEMENTARY INFORMATION: The proposed MFBI for which the petition for exemption has been filed is a package boiler to be operated at the petitioner's Campus Central Utility Plant, Evanston, Illinois. Identified as Unit #4 by the petitioner, the MFBI will have a design heat input rate of approximately 172 million Btu's per hour using natural gas as a primary energy source.

The petitioner certified that, due to specific physical limitations, the criteria for a permanent exemption based upon a site limitation under 10 CFR 503.33(a)(1) and the mixtures use criteria in 10 CFR 503.33(a)(3) are satisfied by proposed Unit #4.

Documentary evidence submitted by the petitioner in support of its certification included an aerial photograph and a plant layout description demonstrating (a) that land expansion to accommodate alternate fuel facilities is extremely limited; (b) that facility reconstruction to accommodate storage of a 14-day supply of bulk fuel (2114 tons of coal) for a coal-fired unit is not practicable; and (c) that there is a lack of adequate rail or other transportation to bring bulk fuels to the plant site.

The petitioner also furnished ERA with appropriate data containing the basis for certifications under 10 CFR 503.33(a), as well as copies of the necessary environmental permits, required by federal, state, and local authorities to install and operate Unit #4.

In accordance with the procedural requirements of FUA and 10 CFR §501.3(b), ERA published its Notice of its Acceptence of Petition for Exemption and Availability of Certification relating to proposed Unit No. 4 in the **Federal Register** on May 12, 1982 (47 FR 20348), commencing a 45-day public comment period pursuant to section 701(c) of FUA. As required by sections 701(f) and (g) of the Act, ERA provided a copy of the petition to the Environmental Protection Agency and the Federal Trade Commission for their respective comments. During that period, interested persons were also afforded an opportunity to request a public hearing. The period for submitting comments and for requesting a public hearing closed on June 28, 1982. No comments were received and no hearing was requested.

ERA has determined that the granting of the requested exemption does not constitute a major federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act.

Decision and Order.

Based upon the entire record of this proceeding, ERA has determined that the petitioner has satisfied all of the eligibility requirements for the requested exemption as set forth in 10 CFR § 503.33 and section 212(a) of FUA and ERA hereby grants the petitioner a permanent site limitation exemption for the proposed Unit #4 to be located at its Campus Central Utility Plant, Evanston, Illinois.

Pursuant to section 702(c) of the Act and 10 CFR § 501.69 any person aggrived by this order may petition for judicial review thereof at anytime before the 60th day following the publication of this order in the **Federal Register**.

Issued in Washington, D.C. on July 2, 1982.

James W. Workman,

Director, Office of Fuels Programs Economic Regulatory Administration.

[FR Doc. 82–18783 Filed 7–12–82; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 82–06–NG]

Transwestern Pipeline Co.; Application To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of application to import natural gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt of an application from Transwestern Pipeline Company (Transwestern) to import from Canada up to 66,000 Mcf per day of natural gas, and additional unspecified daily volumes on a best efforts basis. The imported volumes are to be purchased from ProGas Limited (ProGas) beginning on November 1, 1982, or as soon as possible thereafter, and continuing for a period of up to twenty (20) years through October 31, 2002.

The application is filed with ERA pursuant to Section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–54. Protests or petitions to intervene are invited.

DATE: Protests or petitions to intervene are to be filed no later than 4:30 p.m. on August 12, 1982.

FOR FURTHER INFORMATION CONTACT:

P. J. Fleming (Natural Gas Branch, Oil and Gas Imports Division), Economic Regulatory Administration, 12th and Pennsylvania Avenue NW., Room 6144, RG–631, Washington, D.C. 20461, (202) 633–9296.

Sue D. Sheridan (Office of General Counsel, Natural Gas and Mineral Leasing), 1000 Independence Avenue SW., Forrestal Building, Room 6E–042, Washington, D.C. 20585, (202) 252–6667.

SUPPLEMENTARY INFORMATION: On May 14, 1982, Transwestern filed an application to import up to 66,000 Mcf per day of Canadian natural gas, plus an additional unspecified amount on a best efforts basis, for a period of up to twenty years. The gas is to be purchased fron ProGas under a Gas Sales Agreement (Agreement) between Transwestern and ProGas dated October 29, 1981. The Agreement specifies that the gas will be delivered at a point of interconnection between the facilities of ProGas' transporter and the facilities of Transwestern's transporter on the international boundary at Kingsgate, British Columbia. Transwestern states it is currenty making transportation arrangements with Northwest Pipeline Corporation (Northwest) for delivery of the gas from Kingsgate to its pipeline system in the southwestern United States. Transwestern further states it anticipates that the gas will be transported through Northwest's existing pipeline facilities to Transwestern's transmission system by means of a new pipeline connecting the two systems at a point near Gallup, New Mexico. The proposed interconnecting

pipeline (Continental Divide Pipeline Company), which is the subject of an application before the Federal Energy Regulatory Commission, will be jointly owned by subsidiaries of Transwestern and Northwest.

The Agreement provides that the price Transwestern will pay ProGas for the imported natural gas will be the authorized international order price, currently U.S. $4.94 per MMBtu.

Transwestern also states that on April 2, 1982, ProGas filed an application with the National Energy Board of Canada (NEB) to export the gas for sale to Transwestern. The NEB has not yet approved ProGas' proposed export to Transwestern.

Transwestern is obligated under the Agreement to take or otherwise pay for a minimum annual quantity of gas equal to 75 percent of the maximum daily contract quantity times the number of days in the particular contract year, less the difference between the daily volumes requested by Transwestern and the actual amounts delivered. The price that Transwestern will be required to pay for the gas under the take-or-pay provisions is the prevailing Canadian border price.

In any contract year after it has met its minimum annual purchase obligation, Transwestern may recover any gas paid for but not previously taken (prepaid gas).

The Agreement also provides a mechanism for reducing Transwestern's volume of prepaid gas if ProGas' contractual obligations to take gas from the Alberta producers which supply it are less than the total volume of prepaid gas of all of ProGas' customers. In that case, Transwestern's prepaid gas will be adjusted by its pro rata share of the difference (obtained by mulitplying ProGas' prepaid volume by Transwestern's prepaid volume and dividing by the total prepaid volume).

In support of its application Transwestern asserts that it is experiencing a decline in its supply of natural gas from present sources and that it is making extensive efforts to secure replacement gas by various means in order to meet, in future years, its existing contractual supply commitments to its customers. Transwestern states the proposed import is one of several sources it intends to pursue to offset this decine, and that the import is in the public interest of the United States.

Transwestern requests that the processing of this application be expedited.

OTHER INFORMATION: Any person wishing to become a party to the proceeding, and thus to participate in any conference or hearing which might be convened, must file a petition to intervene. Any person may file a protest with respect to this application. The filing of a protest will not serve to make the protestant a party to the proceeding. Protests will be considered in determining the appropriate action to be taken on the application.

All protests and petitions to intervene must meet the requirements specified in 18 CFR 1.8 and 1.10. They should be filed with the Natural Gas Branch, Economic Regulatory Administration, Room 6144, RG–631, 12th & Pennsylvania Avenue NW., Washington, D.C. 20461. All protests and petitions to intervene must be filed no later than 4:30 p.m., August 12, 1982.

A hearing will not be held unless a motion for a hearing is made by a party or person seeking intervention and granted by ERA, or if ERA on its own motion believes that a hearing is necessary or required. A person filing a motion for hearing must demonstrate how a hearing will advance the proceedings. If a hearing is scheduled, ERA will provide notice to all parties and persons whose petitions to intervene are pending.

A copy of Transwestern's application is available for inspection and copying in the Natural Gas Branch Docket Room, located in Room 6144, 12th & Pennsylvania Avenue NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C. on July 6, 1982.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82–18782 Filed 7–12–82; 8:45 am]

BILLING CODE 6450–01–M

Office of Energy Research

Solar Panel Energy Research Advisory Board; Meeting

Notice is hereby given of the following meeting:

Name: Solar Panel of the Energy Research Advisory Board (ERAB). ERAB is a Committee constituted under the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770)

Date and time: August 2 and 3, 1982, 9 a.m. to 5 p.m.

Place: Room 4A–110, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585

Contact: William Woodard, Energy Research Advisory Board, Department of Energy, Forrestal Building, ER–6, 1000 Independence Avenue SW., Washington, DC 20585, Telephone: 202/252–8933.

Purpose of the parent board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative agenda:

Meet and discuss with solar technology and engineering and development community, including individuals from universities, industry, and the National Laboratories the draft report of the Solar R&D Panel.

Review draft of the Solar R&D Panel's report and obtain public comments thereon.

Public participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Energy Research Advisory Board at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW. Washington, DC, between 8:30 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

Issued at Washington, DC, on July 7, 1982.

Ira M. Adler,

Acting Director for Management, Office of Energy Research.

[FR Doc. 82–18781 Filed 7–12–82; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY.

[W–1–FRL 2133–6]

Cape Cod Aquifer Determination

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final determination.

SUMMARY: Pursuant to Section 1424(e) of the Safe Drinking Water Act the Administrator of the U.S. Environmental Protection Agency (EPA) has determined that the Cape Cod aquifer is the sole or principal source of drinking water for Cape Cod, Massachusetts, and that the Cape Cod aquifer, if contaminated, would create a significant hazard to public health. As a result of this action, Federal financially assisted projects constructed anywhere on Cape Cod will be subject to EPA review to ensure that these projects are designed and constructed so that they do not

create a significant hazard to public health.

ADDRESSES: The data on which these findings are based are available to the public and may be inspectd during normal business hours at the U.S. Environmental Protection Agency, Region I, Drinking Water Branch, J.F. Kennedy Federal Building, Boston, Massachusetts, 02203.

FOR FURTHER INFORMATION CONTACT: Steven J. Koorse, Drinking Water Branch, Environmental Protection Agency, Region I, at (617) 223–6688.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to Section 1424(e) of the Safe Drinking Water Act (42 U.S.C. 300h–3(e), Pub. L. 93–523) the Administrator of the U.S. Environmental Protection Agency (EPA) has determined that the Cape Cod aquifer is the sole or principal source of drinking water for Cape Cod, Massachusetts. Pursuant to Section 1424(e), Federal financially assisted projects constructed anywhere on Cape Cod will be subject to EPA review.

I. Background

Section 1424(e) of the Safe Drinking Water Act states:

> If the Administrator determines, on his own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health, he shall publish notice of that determination in the **Federal Register**. After the publication of any such notice, no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health, but a commitment for Federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer.

On March 4, 1981, EPA received a petition from the Cape Cod Planning and Economic Development Commission requesting EPA to designate the Cape Cod aquifer as a sole source aquifer. In response to this petition, EPA published a notice in the **Federal Register** on November 16, 1981 (46 Fed. Reg. 56232), announcing a public comment period and setting a public hearing date. A public hearing was conducted on January 4, 1982, and the public was allowed to submit comments on the petition until February 12, 1982.

II. Basis for Determination

Among the factors to be considered by the Administrator in connection with the designation of an area under Section 1424(e) are: (1) Whether the aquifer is the area's sole or principal source of drinking water, and (2) whether contamination of the aquifer would create a significant hazard to public health.

On the basis of information available to this Agency, the Administrator has made the following findings, which are the bases for the determination noted above:

1. The Cape Cod aquifer is a single continuous aquifer which currently serves as the "sole source" of drinking water for the approximately 147,725 permanent residents and 424,445 peak seasonal residents of Cape Cod.

2. There is no existing alternative drinking water source, or combination of sources, which provides fifty percent or more of the drinking water to the designated area, nor is there any reasonably available alternative future source capable of supplying Cape Cod's drinking water demands.

3. The Cape Cod aquifer is glacial in origin and is composed of unconsolidated sand, gravel, silt and clay deposits. As a result of its highly permeable soil characteristics, the Cape Code aquifer is susceptible to contamination through its recharge zone from a number of sources, including but not limited to, chemical spills, highway runoff, septic tanks, leaking storage tanks, and leaching from open dumps. There is present evidence of localized contamination of the aquifer from chemical spills, individual disposal systems, leaking fuel tanks, and wastewater treatment systems. Since ground water contamination can be difficult or impossible to reverse, and since this aquifer is relied on for drinking water purposes by the general population, contamination of the aquifer would pose a significant hazard to public health.

III. Description of the Cape Cod Aquifer and Its Recharge Zone

Cape Cod, located within Barnstable County in southeastern Massachusetts, is a peninsula that extends 40 miles into the Atlantic Ocean. It is 440 square miles in area and is separated from the mainland by Cape Cod Canal. The area in which Federal financially assisted projects will be subject to review is the area that includes the Cape Cod aquifer, its streamflow source zone, and its recharge zone, which are one and the same.

For purposes of this designation, the Cape Cod aquifer is considered a single continuous aquifer, with the Cape Cod Canal, Cape Cod Bay, the Atlantic Ocean, Nantucket Sound and Buzzards Bay its lateral boundaries. Similarly, the recharge zone boundaries of the aquifer will be regarded as coterminous with the lateral boundaries of the aquifer.

IV. Information Utilized in Determination

The information utilized in this determination includes the petition, written and verbal comments submitted by the public, U.S. Environmental Protection Agency technical publications, and a ground water resources study conducted by the U.S. Geological Survey (Cape Cod Aquifer, Water-Resources Investigation 80–571). The above data is available to the public and may be inspected during normal business hours at the Environmental Protection Agency, Region I, Drinking Water Branch, J. F. Kennedy Federal Building, Boston, Massachusetts.

V. Project Review

EPA Region I is working with the Federal agencies that may in the future provide financial assistance to projects in the area of concern. Interagency procedures are being developed in which EPA will be notified of proposed commitments by Federal agencies for projects which could contaminate the Cape Cod aquifer. EPA will evaluate such projects and, where necessary, conduct an in-depth review, including soliciting public comments where appropriate. Should the Administrator determine that a project may contaminate the aquifer through its recharge zone so as to create a significant hazard to public health, no commitment for Federal financial assistance may be entered into. However, a commitment for Federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer.

Although the project review process cannot be delegated, the U.S. Environmental Protection Agency will rely to the maximum extent possible on any existing or future State and local control mechanisms in protecting the ground water quality of the Cape Cod aquifer. Included in the review of any Federal financially assisted project will be coordination with the State and local agencies. Their comments will be given full consideration and the Federal review process will attempt to complement and support State and local ground water protection mechanisms.

VI. Summary and Discussion of Public Comments

Most of the comments received from Federal, State and local government agencies and from the public were strongly in favor of designation. Only three commenters expressed any reservations regarding the designation.

One commenter felt that EPA currently has sufficient ground water protection mechanisms, which together with State and local mechanisms, render a sole source designation unnecessary. Although a number of ground water protection measures are available at the Federal, State and local level, none of these, either individually or collectively, permit EPA to act as directly and comprehensively as would a sole source designation in the review and approval of Federal financially assisted projects. In addition, EPA feels that the sole source project review process will foster integration rather than duplication of environmental review efforts.

Two commenters, although generally in favor of the designation, expressed concern that sole source designation might preclude the use of land application as a wastewater treatment technique on Cape Cod. If properly sited, designed, operated and maintained, land application treatment can be an environmentally sound and cost effective waste management alternative. Sole source designation will not interfere with the development of any environmentally sound waste management solutions for Cape Cod municipalities. Federal financial assistance will only be withheld in those instances where it is determined that a proposed project may contaminate the aquifer so as to create a significant hazard to public health and no acceptable remedial measures are available to prevent the potential hazard.

VII. Economic and Regulatory Impact

Pursuant to the provisions of the Regulatory Flexibility Act (RFA), 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant impact on a substantial number of small entities. For purposes of this Certification the term "small entity" shall have the same meaning as given in Section 601 of the RFA. This action is only applicable to Cape Cod. The only affected entities will be those Cape-based businesses, organizations or governmental jurisdictions that request Federal financial assistance for projects which have the potential for contaminating the aquifer so as to create a significant hazard to public health. EPA does not expect to be reviewing small isolated commitments of financial assistance on an individual basis, unless a cumulative impact on the aquifer is anticipated; accordingly, the number of affected small entities will be minimal.

For those small entities which are subject to review, the impact of today's action will not be significant. Most projects subject to this review will be preceded by a groundwater impact assessment required pursuant to other Federal laws, such as the National Environmental Policy Act, as amended (NEPA), 42 U.S.C. 4321, *et seq.* Integration of those related review procedures with sole source aquifer review will allow EPA and other Federal agencies to avoid delay or duplication of effort in approving financial assistance, thus minimizing any adverse effect on those small entities which are affected. Finally, today's action does not prevent grants of Federal financial assistance which may be available to any affected small entity in order to pay for the redesign of the project to assure protection of the aquifer.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it will not have an annual effect of $100 million or more on the economy, will not cause any major increase in costs or prices, and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States enterprises to compete in domestic or export markets. Today's action only affects Cape Cod. It provides an additional review of groundwater protection measures, incorporating State and local measures whenever possible, for only those projects which request Federal financial assistance. This regulation was submitted to OMB for review under EO 12291.

Dated: July 6, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-18630 Filed 7-12-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-00034; TSH-FRL 2168-5]

Interagency Toxic Substances Data Committee; Cancellation of Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The August meeting of the Interagency Toxic Substances Data Committee has been cancelled.

DATE: The next meeting of the Committee has been scheduled for September 14, 1982.

FOR FURTHER INFORMATION CONTACT: Mary Belferman (TS-777), Executive Secretary, Interagency Toxic Substances Data Committee, Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, (202-554-1404).

SUPPLEMENTARY INFORMATION: The regular meetings of the Interagency Toxic Substances Data Committee usually take place on the first Tuesday of alternate months at 9:30 a.m. and are open to the public. The meetings are held in: Rtm. 2010, New Executive Office Building, 17th St. and Pennsylvania Ave., NW., Washington, D.C. 20006.

The August meeting has been cancelled, the next meeting of the Interagency Toxic Substances Data Committee will take place on the second Tuesday in September, September 14, 1982. The meeting after that will be held on November 2, 1982.

Dated: July 6, 1982.

Mary Belferman,

Executive Secretary, Interagency Toxic Substances Data Committee.

[FR Doc. 82-18660 Filed 7-12-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Interconnection of Customer-Provided Telephone Equipment With Nationwide Telephone Network; Grant of Request for Permanent Exemption

AGENCY: Federal Communications Commission.

ACTION: Grant of request for permanent exemption.

SUMMARY: Section 68.2(e) of the Commission's Rules and Regulations, 47 CFR 68.2(e), permits governmental departments, agencies or administrations to apply for exemption from the technical and legal requirements of Part 68 of the Commission's rules, in the interest of national defense and security. Part 68 governs the interconnection of customer-provided telephone equipment with the nationwide telephone network.

The Department of Energy has requested permanent exemption under § 68.2(e). The Commission hereby grants the Department of Energy's request.

FOR FURTHER INFORMATION CONTACT: James M. Talens, Senior Attorney, Common Carrier Bureau, Federal Communications Commission, Washington, D.C. 20554, (202) 634-1832.

SUPPLEMENTARY INFORMATION:

Adopted June 29, 1982.

Released July 1, 1982.

In the Matter of an Application of Federal Executive Agencies of Federal Executive Agencies of the United States Government, for authority to qualify for the interconnection of communications equipment for security devices to the Telephone Company-provided communications network pursuant to § 68.2(e) of the Commission's rules and regulations, for special temporary authority to qualify for the interconnection of communications equipment or security devices to the Telephone company-provided communications network pursuant to § 68.2(e) of the Commission's rules and regulations; Order.

1. Before the Commission is an Application to permit the Department of Energy (DOE) to act pursuant to § 68.2(e) of the Commission's Rules, 47 CFR 68.2(e). That section permits governmental departments, agencies or administrations to connect communications equipment or security devices to the public switched network without compliance with Part 68 of the rules where such compliance could result in the disclosure of communications equipment or security devices, locations, uses, personnel, or activities which would adversely affect the national defense and security. Entities seeking § 68.2(e) treatment must first obtain an exemption from the Commission.[1] Part 68 contains the technical and legal standards by which communications equipment may be directly connected to the telephone network.

2. On April 1, 1980, we granted ten governmental departments and agencies authority to act pursuant to § 68.2(e). They were the Department of State, Department of Defense, General Services Administration (GSA), Department of the Treasury, Central Intelligence Agency, Federal Bureau of Investigation, Department of Justice, Department of Commerce, Department of Transportation, and Federal Reserve Board. At that time, GSA performed communications equipment installations for DOE. Circumstances which had made it feasible for DOE to use GSA personnel for these purposes have changed, however. It is now necessary for DOE personnel to perform their own communications equipment installations. For example, DOE's Nuclear Emergency Search Teams carry and employ cryptographic and other privacy equipment which may be directly connected to the public switched telephone network. Accordingly, DOE Now requires independent authorization to act pursuant to § 68.2(e).

3. On March 25, 1982, the Commission published notice of DOE's rquest for permanent exemption in the Federal Register and granted DOE's request for special temporary authority for exemption for 90 days, pursuant to § 68.2 of the rules. *See* 47 FR 12,858. No comments were received in response to the notice.

4. We believe that DOE's request for permanent exemption should be granted. This action is consistent with the treatment accorded other governmental departments and agencies pursuant to § 68.2 of the rules. Accordingly, pursuant to the authority delegated under § 0.291 of the Commission's Rules and Regulations, 47 CFR 0.291, the Department of Energy's request for permanent exemption from Part 68 of the Commission's Rules and Regulations, 47 CFR Part 68, is granted.

5. It is ordered that notice of this action shall be published in the Federal Register.

Jack D. Smith,

Deputy Chief (Operations), Common Carrier Bureau.

[FR Doc. 82-18785 Filed 7-12-82; 8:45 am]

BILLING CODE 6712-01-M

[1] For each installation, the exempt entity must certify in writing to the appropriate common carrier that: (1) The connection is required in the interest of national defense and security; (2) the equipment or device to be connected either complies with the technical requirements of this part or will not cause harm to the nationwide telephone network or telephone company employees; and (3) the installation is performed by well-trained, qualified employees under the responsible supervision and control of a person who meets the qualifications stated in § 68.215(c). *See* Order (FCC 79-728), released November 14, 1979, 44 FR 66,625.

FEDERAL MARITIME COMMISSION

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement and the justification offered therefor at the Washington office of the Federal Maritime Commission, 1100 L Street, NY., Room 10427; or may inspect the agreement at the Field offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, Chicago, Illinois, and San Juan, Puerto Rico. Interested parties may submit comments on the agreement, including request for hearing to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before July 23, 1982. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreement and the statement should indicate that this has been done.

Agreement No.: T-3463-1.

Filing Party: Mr. Carl S. Parker, Jr., Traffic Manager, Board of Trustees of the Galveston Wharves, P.O. Box 328, Galveston, Texas 77553.

Summary: Agreement No. T-3463-1 amends and supplements the basic agreement between the Board of Trustees of the Galveston Wharves, lessor (Port) and Farmers Export Co, lessee (FEC) and FEC's successor in interest FAR-MAR-CO., INC., sublessee (FMC) which provides for FEC's and subsequently FMC's lease and operation of the Galveston Public Elevator. The amendment/supplement agreement provides for the issuance and sale of revenue bonds of approximately $30,000,000 (thirty million dollars) to finance certain additions and improvements made to the grain elevator leased to FMC and also inceases rental payments in an amount equal to all principal of and interest; paying agents' and trustees' fees, and premium, if any, on the new bonds to be issued.

Dated: July 8, 1982.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82-18824 Filed 7-12-82; 8:45 am]

BILLING CODE 6730-01-M

Application of Remolcadores Y Chalanes, S.A. (USAMEX Hydro-Train) for Tariff Filing Exemption From the Shipping Act, 1916; Order Denying Application for Exemption

Remolcadores Y Chalanes, S.A. (USAMEX Hydro-Train) (USAMEX) has filed an application for an exemption from tariff filing requirements of the

Shipping Act, 1916 (46 U.S.C. 801 *et seq.*). [1]

A notice of the filing of the application was published in the **Federal Register** and comments were received from New Orleans Traffic and Transportation Bureau (NOTT), Sea-Land Service, Inc., (Sea-Land) and Houston Port Bureau (HPB).

USAMEX advises that it intends to transport loaded and empty rail cars between Pascagoula, Mississippi and Alvarado, Veracruz, Mexico, as part of a joint rail/water service between interior U.S. points and points in Mexico and that this joint service will be offered with the U.S. railroads and Ferrocarriles Nacionales de Mexico (FCNM), the Mexican railroad. [2]

USAMEX plans to publish joint through tariffs containing rates competitive with the all land route. These tariffs will name rail-water, water-rail, or rail-water-rail rates and will apply from or to interior U.S. points. The proposed tariffs will be filed at the Interstate Commerce Commission (ICC) in compliance with ICC tariff publishing rules. It is USAMEX's contention that it will be burdensome to also file a tariff with the Commission. USAMEX therefore seeks a tariff filing exemption under section 35 of the Shipping Act, 1916 (46 U.S.C. 833). In support of its application, USAMEX points out that the Commission has granted exemptions from tariff filing to two water carriers providing service in connection with joint through routes between the United States and Canada.

NOTT urges the Commission to deny the exemption or, in the alternative, set the matter for hearing. NOTT is concerned with the possibility of unfair and excessive competition arising from the exemption of USAMEX, while regulation is retained over the rates and practices of the common carriers by water presently providing competitive service between New Orleans and the Mexican Gulf ports.

Sea-Land's main concern is the potential proliferation of exemptions for other trade areas. If the Commission grants the instant petition, Sea-Land fears it will encourage other carriers to seek the same exemption in other, high volume, trades. Sea-Land states that without the tariff filing the Commission cannot meet its statutory obligations.

HPB claims the exemption sought by USAMEX will impair the Commission's ability to regulate and will be detrimental to U.S. commerce. HPB points out that should the ICC find in favor of exempting box car traffic, potential problems of discrimination or even hidden rebates could result if no tariffs were on file. HPB states it is not protesting the proposed service, but only USAMEX's request to be exempted from filing a joint ICC–FMC tariff.

Discussion

Section 35 of the Shipping Act, 1916, authorizes the Commission to exempt activities otherwise subject to that Act which it finds "will not substantially impair effective regulation * * * be unjustly discriminatory, or be detrimental to commerce." Having considered USAMEX's application, the Commission finds that it fails to meet the section 35 criteria for exemption. Most particularly, USAMEX has not demonstrated that the requested tariff filing exemption will not impair FMC regulation. [3]

As the Courts have interpreted both the Shipping Act and the Interstate Commerce Act as applicable to through joint intermodal services, the FMC and ICC are expected to respectively regulate the activities of the parties subject to their Acts—see generally *Commonwealth of Pennsylvania* v. *Interstate Commerce Commission, et al.*, 561 F.2d 278 (D.C. Cir. 1977). In order to permit the Commission to meet its regulatory responsibilities under the Shipping Act, 1916, tariffs reflecting such joint through intermodal services must be filed with this Commission as well as with the ICC. USAMEX has not demonstrated any circumstances which are peculiar to its proposed operation that set it apart from the numerous other carriers that are presently required to file joint through intermodal tariffs. Although USAMEX emphasizes that, unlike other ocean carriers, it will only be dealing directly with railroads and not the ultimate shipper or consignee, this is not a valid distinction. By publishing a joint through tariff, USAMEX and the participating railroads will be jointly holding themselves out to the shipping public to provide the entire transportation.

The two alleged similar exemptions to which USAMEX refers in its application and upon which it relies, *Incan Superior Ltd.* (46 CFR 536.1(b)(4)) and *Foss Launch & Tug Co.* (46 CFR 536.1(b)(5)), are distinguishable.

The application of Incan for exemption was the culmination of a series of discussions between Incan and the staff of the Commission in regard to the difficulties of tariff compliance due to the unique operation of Incan. Incan operated a railcar ferry type service between Thunder Bay, Canada and Superior, Wisconsin, carrying primarily newsprint and wood pulp. Incan's tariff existed solely upon its ability to engage in a portion of a through rail service and accept a division of through rates filed with the Interstate Commerce Commission (ICC) and the Canadian Transportation Commission (CTC).

At the time of its application for exemption, Incan had a tariff on file and in effect with the FMC. The rates filed by Incan were proportional rates. While they had application only between the ports served by Incan, the rates varied depending upon the destination of the cargo. The rates filed with the FMC reflected the divisions accruing to Incan of through rates filed by the railroads with the ICC and the CTC. Whenever the railroads altered their rates Incan had to alter its rates to adjust to the new division it was to receive. This made it virtually impossible for Incan to file timely or meaningful port-to-port rates required by the Shipping Act, 1916. Incan could not obtain rail traffic if it were required to publish a single port-to-port rate for each commodity without regard to the through rail rate. The railroads would simply utilize an all rail routing whenever Incan's port-to-port rates exceeded the division attributable to the through movement.

The exemption was granted on the conditions that the through rates be contained in railroad tariffs filed with the ICC and/or the CTC and that Incan submit to the FMC certified copies of: (1) Its division sheets or tariffs; and (2) any and all agreements, arrangements, and concurrences entered into in connection with the transportation of cargo.

Foss operated a barge movement of rail cars between North Vancouver, British Columbia and Seattle and Tacoma, Washington. The barge movement connected with both U.S. and Canadian rail operations which were subject to regulation by the ICC. Foss served as a participant in a through route service. The railroad tariffs specified only the through railroad established rates and did not specify Foss' divisions which were set forth in

[1] USAMEX is a joint venture of Transportation Maritima Mexicana, S.A. and Crowley Maritime International S.A.

[2] USAMEX alleges that the ability of FCNM to move large volumes of rail traffic to and from the United States border through northern Mexico is limited. USAMEX's proposed service is intended as a supplement to the overland service of FCNM.

[3] USAMEX seeks to justify the exemption on the grounds that filing a tariff at the Commission would be "burdensome." Even if true, this does not constitute a ground for exemption under section 35. In any event, however, USAMEX has not demonstrated any undue difficulty in publishing a tariff jointly at both the ICC and this Commission. There are at present numerous intermodal tariffs which are jointly filed at both this Commission and the ICC.

joint division sheets. Foss, like Incan, often found it impossible to file port-to-port rates reflecting changes in its division in compliance with the Commission's thirty days' notice requirement for filing increases, or new and initial rates.

The Commission granted Foss' application under conditions similar to those imposed on Incan.

At the time the Incan and Foss exemptions were granted, ocean carriers participating in joint through intermodal arrangements with ICC carriers were required to publish port-to-port portions of the through rate in their FMC tariffs. This requirement has now been eliminated by the Commission with respect to joint through arrangements with rail carriers that have been exempted from tariff filing under the Interstate Commerce Act. (See 46 CFR 536.8). The Commission would entertain a request to exempt USAMEX from filing the port-to-port portion of the joint through rate. However, that is not what USAMEX seeks here. The application of USAMEX seeks an exemption which would permit it to avoid filing *any* tariff with this Commission.

In the view of the foregoing, the application for exemption of USAMEX is denied.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82-18799 Filed 7-12-82; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 82-34; Agreement No. T-3856]

Order of Investigation and Hearing

Agreement No. T-3856 between Mid-Gulf Seaports Marine Terminal Conference (MGSMTC), Terminal Operators Conference of Hampton rRads (TOCOHR), and the South Atlantic Marine Terminal Conference (SAMTC) has been filed for approval pursuant to section 15 of the Shipping Act, 1916 (46 U.S.C. 814). [1] Agreement No. T-3856 supersedes Agreement No. T-2299 between TOCOHR and SAMTC, and provides that the parties may:

* * * meet, confer, discuss, exchange information and make recommendations with respect to rates, charges, practices, legislation, port administration and on matters of concern to the marine terminal industry (Article 2).

Recommendations made pursuant to the Agreement are not binding on the members although each participating conference may adopt the recommendations under their respective conference agreements. No protests or comments regarding the Agreement were filed with the Commission.

The Commission conditionally approved the Agreement by Order issued April 16, 1981 on condition that:

1. The "Whereas" clause on page 2 of the Agreement be amended to read as follows:

Whereas, the members of said Conferences desire to meet, confer, discuss, exchange information and make recommendations from time to time on practices (other than rates and charges), legislation, port administration and procedures and matters of concern to the marine terminal industry (other than rates and charges);

2. The first sentence of Article 2, "Purposes," be amended to read as follows:

The members of MGSMTC, TOCOHR and SAMTC, acting by and through their Conferences, may, from time to time, meet, confer, discuss, exchange information and make recommendations with respect to practices (other than rates and charges), legislation, port administration and on matters of concern to the marine terminal industry (other than rates and charges).

3. The Commission receives, within 60 days of the date of this Order, a complete copy of Agreement No. T-3856, modified as required herein, signed by all the parties thereto or their duly authorized representatives.

The Commission imposed the above conditions because the discussion of matters relating to rates, even though the Agreement does not confer rate-making authority or bind the members to recommendations made pursuant to the Agreement, can be expected to affect the level of rates and charges or result in the establishment of uniform rates and charges in the relevant port areas. As such, the Agreement is anticompetitive and cannot be approved unless Proponents can demonstrate that the Agreement is required by a serious transportation need, necessary to secure public benefits, or is in furtherance of a valid regulatory purpose. *Federal Maritime Commission, et al., v. Aktiebolaget Svenska Amerika Linien, et al.*, 390 U.S. 238 (1968). *United States Lines, Inc. v. Federal Maritime Commission*, 584 F.2d 519 (1978).

The arguments submitted by Proponents in support of the Agreement did not constitute evidence demonstrating that the Agreement, insofar as it authorized the discussion of rates and charges, is required by legitimate transportation needs or other public interest objectives.

The Commission further ordered that if the Agreement was not so modified, then the Agreement was disapproved effective sixty-one days from the date of the Order, unless, on or before that date, any one of the parties thereto filed with the Secretary of the Commission a request for further hearing accompanied by a detailed recital of the facts that the Proponents intend to prove, a description of the evidence to be used to prove such facts, and an explanation why the facts sought to be proven support the Agreement. The Commission further provided that if a further hearing request was submitted which did not allege specific facts which, if true, would justify approval of the Agreement, no such hearing would be held and a final disapproval order may be issued. The Commission subsequently extended the period for compliance with the above conditions, at Proponents' request, to August 26, 1981.

On August 17, 1981 Proponents filed a petition declining to amend the Agreement to comply with the conditions established by the Commission for approval, and requested a further hearing to determine whether the Agreement should be approved unconditionally by the Commission. In their petition for further hearing Proponents stated, *inter alia*, that they intended to prove that the Agreement as submitted, and specifically requested rate discussion authority, is required by a serious transportation need, is necessary to secure important public benefits, is in furtherance of a valid regulatory purpose, that intrusion into the anti-trust laws will be minimal or nonexistent, and that the intrusion, if any, will be far outweighed by benefits to shippers and the public.

The Commission has determined that Proponents have met the requirements established by its April 16, 1981 Order to support a request for a further hearing. Accordingly, Proponents' request for a further hearing to determine whether Agreement No. T-3856 should be approved as filed is granted.

Therefore it is ordered, That pursuant to sections 15 and 22 of the Shipping Act, 1916 (46 U.S.C. 814 and 821) an investigation and hearing is instituted to determine if Agreement No. T-3856 should be approved, disapproved or modified;

It is further ordered, That the parties to Agreement No. T-3856, Mid-Gulf Seaports Marine Terminal Conference, Terminal Operators Conference of Hampton Roads, and South Atlantic Marine Terminal Conference, are

[1] The members of Agreement No. T-3856 are marine terminal conferences operating under approved section 15 agreements (Nos. T-2002, T-6435, and T-6455 respectively). Each conference has authority to establish rates, rules and regulations within the geographic scope of its basic agreement.

designated as Proponents in this proceeding;

It is further ordered, That pursuant to Rule 42 of the Commission Rules of Practice and Procedure (46 CFR 502.42), the Commission's Bureau of Hearings and Field Operations (Hearing Counsel) shall be a party to this proceeding;

It is further ordered, That this matter is assigned to an Administrative Law Judge for public hearing and decision at a date and place to be hereafter determined by the Administrative Law Judge. This hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents, or that the nature of the matters in issue otherwise requires an oral hearing and cross-examination for the development of an adequate record;

It is further ordered, That Proponents shall submit two copies of their direct case to the Secretary of the Commission, and one copy to each of the parties to this proceeding, on or before a date to be determined by the Administrative Law Judge;

It is further ordered, That discovery shall be in accordance with the process set forth in Rule 201 of the Commission's Rules of Practice and Procedure (46 CFR 502.201), but shall not commence until the receipt by the Commission of Proponents' direct case;

It is further ordered, That persons other than those already parties to this proceeding who desire to be parties to this proceeding and to participate herein shall file a petition for leave to intervene pursuant to Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72);

It is further ordered, That after completion of such discovery, all parties shall have an opportunity to submit written rebuttal testimony in accordance with a procedural schedule to be established by the Administrative Law Judge;

It is further ordered, That notice of this Order be published in the **Federal Register**, and a copy thereof be served upon all parties named herein;

It is further ordered, That hearing in this procedure shall commence no more than six months from the date of publication of this order in the **Federal Register**; and

It is further ordered, That, all documents submitted by any party in this proceeding be filed in accordance with Rule 118 of the Commission's Rules of Practice and Procedure (46 CFR Part 502.118), as well as being mailed directly to all parties of record.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82-18800 Filed 7-12-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

Open Committee Meetings

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Adivisory Committee will be held on:

Thursday, August 5, 1982
Thursday, August 12, 1982

These meetings will convene at 10 a.m., and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E. Street, NW., Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives of five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives of five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsiblility is to review the prevailing rate system and other matters pertinent to the establishment of prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management thereon.

These scheduled meetings will convene in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would impair to an unacceptable degree the ability of the Committee to reach a consensus on the matters being considered and disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public on the basis of a determination made by the Director of the Office of Personnel Management under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and 5 U.S.C. 522b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations thereon, and related activities. These reports are also available to the public, upon written request to the Committee Secretary.

Members of the public are invited to submit material in writing to the Chairman concerning Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Committee Secretary, Federal Prevailing Rate Advisory Committee, Room 5340, 1900 E Street, NW, Washington, D.C. 20415 (202-632-9710).

William B. Davidson, Jr.,

Chairman, Federal Prevailing Rate Advisory Committee.

July 7, 1982.

[FR Doc. 82-18871 Filed 7-12-82; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 82M-0124]

CooperVision Inc.; Premarket Approval of CLERZ® Lubricating & Rewetting Eye Drops

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the CLERZ® Lubricating & Rewetting Eye Drops sponsored by CooperVision, Inc., Mountain View, CA. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic, Ear, Nose, and Throat; and Dental Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by August 12, 1982.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles H. Kyper, Bureau of Medical Devices (HFK–402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7445.

SUPPLEMENTARY INFORMATION: On June 3, 1981, CooperVision, Inc., Mountain View, CA, submitted to FDA an application for premarket approval of the CLERZ® Lubricating & Rewetting Eye Drops for use with all soft (hydrophilic) contact lenses. The applications was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, an FDA advisory committee, which recommended approval of the application. On April 2, 1982, FDA approved the application by a letter to the sponsor from the Acting Director of the Bureau of Medical Devices.

Before enactment of the Medical Divice Amendments of 1976 (the amendments) (Pub. L. 94–295, 90 Stat. 539–583), soft contact lens solutions were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(h)), soft contact lens solutions are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the **Federal Register** of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly regulated as new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications for premarket approval of soft contact lenses or solutions comply with the records and reports provisions of Part 310 (21 CFR Part 310), Subpart D, until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based is on file with the Dockets Management Branch (address above), and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Bureau of Medical Devices. Contact Charles H. Kyper (HFK–402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

The labeling of the CLERZ® Lubricating & Rewetting Eye Drops states that the solution is designed for daily use as a lubricating and rewetting solution for use with all conventional hard contact lenses and all soft (hydrophilic) contact lenses. Sponsors of any soft (hydrophilic) contact lenses that have been approved for marketing are advised that whenever FDA publishes a notice in the **Federal Register** of the agency's approval of a new solution for use with an approved soft contact lens, the sponsor of each lens shall correct its labeling to refer to the new solution at the next printing or at such other time as FDA prescribes by letter to the sponsor. A sponsor who fails to update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41–58), as amended by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 93–637). Furthermore, failure to update the restrictive labeling to refer to new solutions that may be used with an approval lens may be grounds for withdrawing approval of the application for the lens, under section 515(e)(1)(F) of the act (21 U.S.C. 360e(e)(1)(F)).

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before August 12, 1982, file with the Dockets Management Branch (address above), four copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 17, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82–18700 Filed 7–12–82; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 82M–0195]

Danker Laboratories, Inc.; Premarket Approval of DANSIL (Dimefocon A) Silicone Contact Lenses

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the DANSIL (dimefocon A) Silicone Contact Lens, sponsored by Danker Laboratories, Inc., Parsippany, NJ. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by August 12, 1982.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles Kyper, Bureau of Medical Devices (HFK–402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7445.

SUPPLEMENTARY INFORMATION: On September 2, 1980, Danker Laboratories, Inc., Parsippany, NJ, submitted to FDA an application for premarket approval of DANSIL (dimefocon A) Silicone Contact Lenses for aphakic extended wear up to 30 days between cleaning and disinfection. The lenses are to be worn by persons with nondiseased eyes who have had cataract surgery (aphakic) and have astigmatism of 2.00 diopters or less. The application was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, and FDA advisory committee, which recommended approval of the application. On May 28,

1982, FDA approved the application by a letter to the sponsor from the Acting Director of the Bureau of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94–295, 90 Stat. 539–583), soft contact lenses and solutions were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(h)), soft contact lenses and solutions are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the **Federal Register** of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly regulated as new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications for premarket approval of soft contact lenses or solutions comply with the records and reports provisions of Part 310 (21 CFR Part 310), Subpart D, until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based is on file with the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Bureau of Medical Devices. Contact Charles Kyper (HFK–402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

The labeling of an approved contact lens states that the lens is to be used only with certain solutions for disinfection and other purposes. The restrictive labeling informs new users that they must avoid using certain products, such as solutions intended for use with hard contact lenses. But the restrictive labeling needs to be updated periodically to refer to new lens solutions that FDA approves for use with an approved contact lens. A sponsor who fails to update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41–58), as amended by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 96–637). Furthermore, failure to update the restrictive labeling to refer to new solutions that may be used with an approved lens may be grounds for withdrawing approval of the application for the lens, under section 515(e)(1)(F) of the Act (21 U.S.C. 360e(e)(1)(F)). Accordingly, whenever FDA publishes a notice in the **Federal Register** of the agency's approval of a new solution for use with an approved lens, the sponsor of the lens shall correct its labeling to refer to the new solution at the next printing or at any other time FDA prescribes by letter to the sponsor.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA;s action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition, supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitions may, at any time on or before August 12, 1982, file with the Dockets Management Branch (address above) four copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 2, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-18701 Filed 7-12-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82G-0178]

Devro, Inc., and Teepak, Inc.; Filing of Petition for Affirmation of GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Devro, Inc., and Teepak, Inc., have filed a petition (GRASP 2G0280) proposing affirmation that glutaraldehyde cross-linked collagen used in manufacture of sausage casings is generally recognized as safe (GRAS) as a direct human food ingredient.

DATE: Comments by September 13, 1982.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Leo F. Mansor, Bureau of Foods (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202–426–8950.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))) and the regulations for affirmation of GRAS status (21 CFR 170.35), notice is given that a petition (GRASP 2G0280) has been filed by Devro, Inc., Somerville, NJ 08876, and Teepak, Inc., 915 N. Michigan Ave., Danville, IL 61832, proposing that glutaraldehyde cross-linked collagen used in the manufacture of sausage casings is GRAS as a direct human food ingredient.

The petition has been placed on display at the Dockets Management Branch (address above).

Any position that meets the format requirements outlined in § 170.35 is filed by the agency. There is no prefiling review of the adequacy of data to support a GRAS conclusion. Thus, the filing of a petition for GRAS affirmation should not be interpreted as preliminary indication of suitability for affirmation.

Interested persons may, on or before September 13, 1982, review the petition and/or file comments (two copies, identified with the docket number found in brackets in the heading of this document) with the Dockets Management Branch. Comments should include any available information that would be helpful in determining whether the substance is, or is not, GRAS. A copy of the petition and received comments may be seen in the Dockets Management Branch, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 28, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82-18702 Filed 7-12-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82F-0174]

Velsicol Chemical Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Velsicol Chemical Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 2,2'-oxy-bis(ethanol)dibenzoate as a plasticizer in polymeric substances in the manufacture of paper and paperboard in direct contact with dry food.

FOR FURTHER INFORMATION CONTACT: Julius Smith, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2B3632) has been filed by Velsicol Chemical Corp., 341 East Ohio St., Chicago, IL 60611, proposing that the food additive regulations be amended to provide for the safe use of 2,2'-oxy-bis(ethanol)dibenzoate as a plasticizer in polymeric substances in the manufacture of paper and paperboard for use in direct contact with dry food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that document will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: June 28, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82-18703 Filed 7-12-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82F-0190]

Fujimori Kogyo Co., Ltd.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Fujimori Kogyo Co., Ltd., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of an aliphatic polyurethane laminating adhesive for fabricating retortable pouches and related high-temperature laminates for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Terry C. Troxell, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2B3633) has been filed by Fujimori Kogyo Co., Ltd., 4-16, 1-Chome, Nihonbashi, Bakuro-Cho, Chuo-Ku, Tokyo, Japan, proposing that the food additive regulations be amended to provide for the safe use of a 2-component aliphatic polyurethane laminating adhesive based on 3-isocyanatomethyl-3,5,5-trimethylcyclohexyl isocyanate, 1,3-bis(isocyanatomethyl)benzene, and certain polybasic acids and polyhydric alcohols listed in § 175.300(b)(3)(vii) (21 CFR 175.300(b)(3)(vii)) for fabricating retortable pouches and other high-temperature laminates identified in § 177.1390(c) (21 CFR 177.1390(c)).

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petiton results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in acordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: July 5, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82-18723 Filed 7-12-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82F-0185]

Mobay Chemical Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Mobay Chemical Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of dimethyl dicarbonate as a cold sterilant in beverages and fruit juices.

FOR FURTHER INFORMATION CONTACT: John L. Herrman, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 USC 348(b)(5))), notice is given that a petition (FAP 2A3636) has been filed by Mobay Chemical Corp., Penn Lincoln Parkway West, Pittsburgh, PA 15205, proposing that the food additive regulations be amended to provide for the safe use of dimethyl dicarbonate as a cold sterilant in beverages and fruit juices.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: July 5, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82-18779 Filed 7-12-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 77F-0261]

Monsanto Co.; Withdrawal of Petition for Food Additive

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal without prejudice of a petition (FAP 7B3305) proposing that the food additive regulations be amended to provide for the safe use of polyamine-epichlorohydrin resin as a component of paper and paperboard in contact with foods.

FOR FURTHER INFORMATION CONTACT: James B. Lamb, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786 (21 U.S.C. 348(b))), the following notice is issued:

In accordance with § 171.7 *Withdrawal of petition without prejudice* of the procedural food additive regulations (21 CFR 171.7), Monsanto Co., 800 N. Lindbergh Blvd.,

St. Louis, MO 63166, has withdrawn its petition (FAP 7B3305), notice of which was published in the **Federal Register** of November 4, 1977 (42 FR 57750), proposing that § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) be amended to provide for the safe use of polyamine-epichlorohydrin resins having nitrogen, chlorine, and phosphorous contents differing from the currently regulated resins. The subject polyamine-epichlorohydrin resin is prepared by reacting hexamethylenediamine with 1,2-dichloroethane to form a prepolymer and further reacting this prepolymer with epichlorohydrin. The resulting resin optionally may be modified with nitrilotris (methylenephosphonic acid), pentasodium salt. The resin was to be used as a component of paper and paperboard in contact with foods.

Dated: July 5, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82-18778 Filed 7-12-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 80N-0012; DESI Nos. 8884, 8924, 9049, 9405, 10367, 10826, 50168, 50234]

Certain Topical Anti-Infective Drug Products; Drugs for Human Use; Drug Efficacy Study Implementation; Revocation of Exemption; Notice of Public Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a public meeting on the effectiveness of certain prescription topical anti-infective drug products for dermatological use.

DATE: The meeting will be held from 10 a.m. to 12:30 on July 30, 1982.

ADDRESS: The meeting will be held in Conference Rm. D in the Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

FOR FURTHER INFORMATION CONTACT: Kenneth H. Flieger, Office of Health Affairs (HFY-1), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6143.

SUPPLEMENTARY INFORMATION: On September 25, 1981, the Director of the Bureau of Drugs of FDA issued a notice of opportunity for a hearing on whether the approval of certain prescription topical anti-infective drug products for dermatologic use should be withdrawn. FDA now gives notice of a public meeting at which a medical group's report concerning the effectiveness of these products will be discussed.

The Drug Efficacy Study Implementation (DESI) program is FDA's vehicle for implementing the 1962 amendments to the Federal Food, Drug, and Cosmetic Act. The amendments require that drugs approved for marketing before 1962 on the basis of safety be reviewed for effectiveness. Drugs not shown to be effective are removed from the market.

As part of the DESI review, the Bureau of Drugs published in the **Federal Register** of September 25, 1981 (46 FR 47408), a notice pertaining to 122 prescription topical anti-infective drugs products for dermatologic use. The notice also applies to identical, similar, or related products (46 FR 47419). The National Center for Drugs and Biologics is now carrying out the responsibilities formerly assigned to the Bureau of Drugs. (See the **Federal Register** of June 22, 1982 (47 FR 26913).)

The September 25 notice provided manufacturers of these drug products an opportunity to request a hearing on whether the products have been shown to be effective. The notice informed the manufacturers that a hearing would be held only if adequate and well-controlled clinical investigations showing effectiveness were submitted to FDA. Public meetings were held on September 24, 1981, to explain the DESI review process. (See 46 FR 44506; September 4, 1981.)

Subsequently, the American Academy of Dermatology (the Academy) requested the opportunity to file a report that a study group was preparing concerning these topical anti-infective drug products. By letter dated December 31, 1981, the Commissioner of Food and Drugs invited the Academy to submit a timely report that would deal with the question of whether these drug products had been shown to be effective by adequate and well-controlled studies.

In a letter dated May 14, 1982, the Academy informed FDA that it expected that its report would be submitted in the middle of July. The Academy asked that a meeting be held to present an oral summary of its report.

FDA has agreed to hold such a meeting, which will be open to the public. This meeting will be from 10 a.m. to 12:30 p.m., July 30, 1982, in Conference Rm. D of the Parklawn Building, 5600 Fishers Lane, Rockville, MD. Any interested person may attend the meeting. It is requested that any person who wishes to make a presentation concerning this report inform the contact person listed above. The Academy's report will be placed on public display at the Docket's Management Branch, FDA, Rm. 4-62, 5600 Fishers Lane, Rockville, MD, and at the FDA Press Office, once it has been received by FDA. A limited number of copies of the report will also be made available at the meeting.

Dated: July 8, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-18828 Filed 7-9-82; 10:35 am]

BILLING CODE 4160-01-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meeting: New York District Office, chaired by George J. Gerstenberg, District Director.

DATE: Wednesday, July 21, 1982, 9:30 a.m. to 12 a.m.

ADDRESS: Hostos Community College, 475 Grand Concourse, Rm. 318, Bronx, NY 10451.

FOR FURTHER INFORMATION CONTACT: William E. Martinez or Carolyn L. Hommel, Consumer Affairs Officers, Food and Drug Administration, 850 Third Ave., Brooklyn, NY 11232; 212-965-5043.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance understanding and exchange information between consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: July 7, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-18865 Filed 7-12-82; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Medicaid Program; Hearing; Reconsideration of Disapproval of Indiana State Plan Amendment

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on August 31, 1982 in Chicago, Illinois to reconsider

our decision to disapprove Indiana State Plan Amendment PCO–11–81–10.

CLOSING DATE: Request to participate in the hearing as a party must be received by July 28, 1982.

FOR FURTHER INFORMATION, CONTACT: Sharyn Smith, Docket Clerk, Bureau of Program Policy, G–20 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207; Telephone (301) 594–8261.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to deny an Indiana State plan amendment.

Section 1116 of the Social Security Act and 45 CFR Parts 201 and 213 establish Department procedures that provide an administrative hearing for reconsideration of a denial of a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues which will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with additional requirements contained in 45 CFR 213.15(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins, in accordance with additional requirements contained in 45 CFR 213.15(c)(1).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

The issue in this matter relates to the treatment of an individual's income in determining eligibility for, and the extent of medical assistance, provided to that individual's spouse under Medicaid. The proposed Indiana State Plan Amendment PCO–11–81–10 would have required that income between spouses be deemed continuously for an indefinite period of time. It therefore violated our current regulation, which requires that a 209(b) State such as Indiana may be no more restrictive than the Supplemental Security Income (SSI) program when deeming income between spouses. (See 1902(a)(17)(B) of the Social Security Act and 42 CFR 435.734.)

The notice to Indiana announcing an administrative hearing to reconsider our denial of its State plan amendment reads as follows:

July 6, 1982.

Mr. Donald L. Blinzinger,
Administrator, Indiana Department of Public Welfare, 100 North Senate Avenue, Indianapolis, Indiana 46204

Dear Mr. Blinzinger: This is to advise you that your request for reconsideration of Indiana State Plan Amendment PCO–11–81–10 was received on June 7, 1982. The provision of the plan amendment upon which my disapproval determination was based provides for deeming of income between an institutionalized individual and his or her immediate family. You have requested a reconsideration of whether this plan amendment conforms to the Social Security Act and pertinent regulations.

I have scheduled a hearing on your request to be held on August 31, 1982 at 10:00 a.m. in the 8th floor conference room, 175 West Jackson Boulevard, Chicago, Illinois. If, however, you wish to postpone the hearing until a hearing date is rescheduled for reconsideration of Indiana State Plan Amendment PCO–11–79–9, which was disapproved on November 9, 1981 on the basis of the same deeming provision, we would be glad to set another time.

I have designated Mr. Stanley Krostar as the presiding official. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify Mrs. Sharyn Smith, Docket Clerk, of the names of the individuals who will represent the State of the hearing. Mrs. Smith can be reached on (301) 594–8261.

Sincerely yours,

Carolyne K. Davis, Ph.D.

(Sec. 1116 of the Social Security Act (42 U.S.C. 1316))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: July 6, 1982.

Carolyn K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 82–18906 Filed 7–12–82; 8:45 am]

BILLING CODE 4120–03–M

Public Health Service

Food and Drug Administration; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HF (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (35 FR 3685–92, February 25, 1970, as amended in pertinent parts at 41 FR 21507–508, May 26, 1976 and 47 FR 3608, January 26, 1982) is amended to reflect changes in the Bureau of Veterinary Medicine. The Divisions of Biometrics and Production Drugs, Drug Manufacturing and Controls, and Therapeutic Drugs for Food Animals are established; the Divisions of Drugs for Avian Species, Ruminant Species, and Swine and Minor Species are abolished; the Division of Drugs for Non-Food Animals is retitled the Division of Therapeutic Drugs for Non-Food Animals and its functions are revised accordingly. The functions of the Office of the Director are revised to show the transfer of the biometrics function to the new Division of Biometrics and Production Drugs. Functional statements for the Division of Compliance are revised to show the transfer of veterinary drug review functions to the Division of Drug Manufacturing and Controls, and administrative document review to the Office of the Director.

These changes will improve operating efficiency by equalizing workload in the scientific evaluation divisions. This will allow the Bureau of Veterinary Medicine to be more responsive to the consumer and regulated industry.

Section HF–B, Organization and Functions, is amended as follows:

. Delete subparagraph (m-1) *Office of the Director* in its entirety, and substitute a new paragraph as follows:

(m-1) *Office of the Director (HFV1).* Directs overall Bureau activities and coordinates and establishes Bureau policy in the areas of research, management, scientific evaluation, compliance, and surveillance.

Directs systems for planning, programming, and budgeting and provides administrative and information support for the Bureau.

Approves new animal drug application and issues notices of withdrawal of new animal drug approvals when the opportunity for a hearing has been waived.

Authorizes, for use as edible products, animals treated with investigational drugs and terminates exemption for investigational trials.

In conjunction with the Bureau of Foods, provides FDA policy development and direction on environmental impact matters.

2. Delete subparagraph (m-6) *Division of Drugs for Avian Species* in its entirety, and substitute a new paragraph as follows:

(m-6) *Division of Biometrics and Production Drugs (HFVQ).* Evaluates, for animal safety and efficacy, applications for new animal drugs used at production levels in domestic food animals.

Determines the adequacy of information submitted for proposed use of investigational production drugs and additives in food animals; evaluates proposed labeling to assure that it clearly indicates the use and limitations of the product and provides other required information.

Determines the safety and efficacy of production drugs and feed additives proposed for use in food animals as that use relates to the safety of food from these animals and their effect on the environment; recommends procedures to establish the safety and efficacy of production drugs and feed additives for food animals and provides such information to investigators and manufacturers of the product.

Provides technical and biometrical support and expert testimony in legal proceedings relative to the approval or withdrawal of approval of new animal drugs or feed additives.

Recommends, and may participate in, intramural and extramural research projects to be conducted or coordinated by the Bureau's research division to gain further information on production drugs and feed additives for food animals.

Provides bureauwide biometrical, statistical, mathematical, and scientific computational support to the regulatory and research activities of the Bureau and serves as a consultant to the Agency and Federal and State organizations regarding biometrical issues.

Evaluates the statistical validity and adequacy of proposed and current experiments and studies submitted by sponsors in support of proposed and marketed animal drugs, feed additives, and devices for animal use; designs, develops, and applies new mathematical and statistical methods when existing techniques are inadequate.

Participates in the development and implementation of regulations and policies pertaining to production drugs and feed additives intended for use in food animals.

3. Delete subparagraph (m-7) *Division of Drugs for Ruminant Species* in its entirety and substitute the following:

(m-7) *Division of Drug Manufacturing and Controls (HFVR).* Evaluates chemistry and manufacturing control information submitted in Investigational New Animal Drug Applications, New Animal Drug Applications, Supplemental New Animal Drug Applications, Master Files, Food Additive Petitions and other documents for pharmaceuticals (drug dosage forms), medicated premixes, certain medicated feed preparations, other dosage forms, and certificable antibiotics.

Evaluates the total manufacturing and control operations of a veterinary drug manufacturer.

Evaluates raw material specifications to determine that the ingredients are adequate to insure the identity, strength, quality, and purity of the drug product; reviews the drug product formulation for composition, characteristics, and accuracy.

Evaluates assay methodology for the drug product and its components in its dosage forms and as residues in tissues to ascertain accuracy, precision, and specificity.

Evaluates stability data to establish product expiration dates; reviews adequacy of proposed labeling for conformance to labeling regulation requirements.

Provides technical support and expert testimony in legal proceedings relative to the approval of new animal drugs or feed additives.

Coordinates methods validation trials for drug dosage forms and tissues and evaluates the environmental impact of the drug manufacturing process.

Determines the Good Manufacturing Practices and regulatory posture of a drug firm prior to recommending approval of a new animal drug application.

Provides scientific or technical review of information as requested.

4. Delete subparagraph (m-8) *Division of Drugs for Swine and Minor Species* in its entirety and substitute a new paragraph as follows:

(m-8) *Division of Therapeutic Drugs for Food Animals (HFVS).* Evaluates, for animal safety and efficacy, applications for new animal drugs used at therapeutic levels in domestic food animals.

Determines the adequacy of information submitted for proposed use of investigational drugs and feed additives in food animals.

Determines the safety and efficacy of drugs proposed for use in food animals as that use relates to the safety of food from these animals and their effect on the environment.

Evaluates proposed labeling to assure that it clearly indicates the use and limitations of the product and provides other required information.

Recommends procedures to establish the safety and efficacy of drugs and feed additives for food animals and provides such information to investigators and manufacturers of the product.

Recommends, and may participate in, intramural and extramural research projects to be conducted or coordinated by the Bureau's research division to gain further information on drugs and feed additives for food animals.

Participates in the development and implementation of regulations and policies pertaining to drugs and feed additives intended for use in food animals.

Provides technical support and expert testimony in legal proceedings relative to the approval of new animal drugs or feed additives for food animals.

5. Delete subparagraph (m–9) *Division of Drugs for Non-Food Animals* in its entirety and substitute a new paragraph as follows:

(m–9) *Division of Therapeutic Drugs for Non-Food Animals (HFVL).* Evaluates, for animal safety and efficacy, applications for new animal drugs and petitions for feed additives in domestic non-food animals.

Determines the adequacy of information submitted for proposed use of investigational drugs and feed additives in non-food animals.

Determines the effect on the environment of drugs and feed additives proposed for use in non-food animals.

Evaluates proposed labeling to assure that it clearly indicates the use and limitations of the product and provides other required information.

Recommends procedures to establish the safety and efficacy of drugs and feed additives for non-food animals and provides such information to investigators and manufacturers of the product.

Recommends, and may participate in, intramural and extramural research projects to be conducted or coordinated by the Bureau's research division to gain further information on drugs and feed additives for non-food animals.

Participates in the development and implementation of regulations and policies pertaining to drugs and feed additives intended for use in non-food animals.

Provides technical support and expert testimony in legal proceedings relative to the approval of new animal drugs or feed additives for non-food animals.

6. Delete subparagraph (m–10) *Division of Compliance* in its entirety and substitute a new paragraph as follows:

(m–10) *Division of Compliance* (HFVM). Recommends Bureau policy concerning FDA's regulatory responsibilities for all animal drugs, feeds, devices, and non-drug substances.

Develops and evaluates compliance and surveillance programs for regulated industries in animal drugs, feeds, feed additives, devices, and related areas.

Develops and reviews regulations and standards for good manufacturing practices in animal feed and drug industries.

Reviews proposed regulatory actions submitted by the Field/District Offices and recommends whether such actions should be pursued further by the agency.

Provides support and guidance to the Field/District Offices on regulatory actions and provides Headquarters

support in case development, coordination, and contested case assistance.

Coordinates replies to routine inquiries from consumers, State governments, and industry and answers to complicated veterinary medical questions after consultation with appropriate professionals.

Issues informal opinions and drafts formal advisory opinions regarding the regulatory status of marketed products.

Coordinates requests and activities pertaining to the Freedom of Information Act, Privacy Act, and the Executive Order on Inflationary Impact Statements.

Coordinates the investigative and regulatory followup of all compliance programs, recalls, and drug residue reports.

Develops, reviews, and coordinates all Federal Register publications pertaining to Bureau functions.

Advises on regulatory and administrative issues involving drugs, medicated feeds, feed additives, and other veterinary medical matters.

Dated: July 1, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 81-18888 Filed 7-12-82; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Blackfeet Tribe; Plan for the Use and Distribution of Blackfeet Tribe Judgment Funds in Dockets 309-74, 310-74, 649-80L and 279-D Before the United States Court of Claims

June 25, 1982.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

The Act of October 19, 1973 (Pub. L. 93-134, 87 Stat. 466), requires that a plan be prepared and submitted to Congress for the use or distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian tribe. Funds were appropriated on May 20, 1981, June 30, 1981 and September 16, 1981, in satisfaction of the awards granted to the Blackfeet Tribe in United States Court of Claims Dockets 309-74, 310-74, 649-80L and 279-D. The plan for the use and distribution of the funds was submitted to the Congress with a letter dated February 12, 1982, and was received (as recorded in the Congressional Record) by the House of Representatives on February 22, 1982, and by the Senate on February 23, 1982. The plan became effective on May 12, 1982, as provided by Section 5 of the 1973 Act since Congress did not adopt a resolution disapproving it.

The plan reads as follows:

"The funds appropriated on May 20, 1981, and September 16, 1981 in satisfaction of awards granted to the Blackfeet Tribe of the Blackfeet Reservation of Montana in Dockets 309-74, 310-74, 649-80L, and 279-D respectively before the United States Court of Claims, including all interest and investment income accrued, less attorney fees and litigation expenses, shall be distributed as herein provided.

A. *Per Capita Distribution.* The membership roll of the Blackfeet Tribe shall be brought current to include all eligible members born on or prior to and living on the effective date of this Plan.

Subsequent to the preparation and approval by the Secretary of this roll, the Secretary shall make a per capita distribution of eighty (80) percent of the funds, in a sum as equal as possible, to each enrollee. the Secretary's determination concerning eligibility to share in the per capita payment shall be final.

The per capita shares of living competent adults shall be paid directly to them. The per capita shares of legal incompetents shall be handled pursuant to 25 CFR 115.5. The per capita shares of deceased individual beneficiaries shall be determined and distributed in accordance with 43 CFR, Part 4, Subpart D. The per capita shares of minors shall be handled pursuant to 25 CFR 87.10(a) and (b)(1) and 115.4 (25 CFR 104 redesignated to 25 CFR 115 and 25 CFR 60 to 87, as published in Federal Register of March 30, 1982,page 13327).

B. *Programing.* Twenty (20) percent of these funds shall be invested by the Secretary for the tribe. The governing body of the Blackfeet Tribe is authorized to use the interest and investment income accrued on such twenty (20) percent portion, on an annual budgetary basis, subject to the approval of the Secretary, as follows:

(1) Fifty (50) percent of the interest and investment income accrued to be used for the purchase of land within the exterior boundaries of the Blackfeet Indian Reservation.

A land purchase committee will be formalized by the members of the Blackfeet Tribal Business Council and will consist of enrolled members of the Blackfeet Tribe representing each of the districts on the Blackfeet Reservation to prioritize purchase of land based on best return according to the following priorities: land with water; land with mineral rights; land with timber; land with recreation capabilities; land with existing or obtainable rights of way; shares of undivided interests.

This portion of interest off the principal can be used for collateral in borrowing money toward the purchase of land within the exterior boundaries of the Blackfeet Indian Reservation. Such borrowing will be by the Tribal Business Council with the approval of the land purchase committee. All funds generated from the land purchased shall revert back to the principal for investment.

(2) Fifty (50) percent of the interest and investment income accrued to be used by the governing body of the Blackfeet Tribe for the purpose of an annual interest payment to all enrolled members of the Blackfeet Tribe.

These interest payments will be distributed on an annual basis to all enrolled members born on or prior to and living on November 15 of each year.

C. *General Provisions.* None of the funds distributed per capita or held in trust under the provisions of this Act shall be subject to Federal or State income taxes, and the per capita payments shall not be considered as income or resources when determining the extent of eligibility for assistance under the Social Security Act."

Kenneth Smith,

Assistant Secretary-Indian Affairs.

[FR Doc. 82-18915 Filed 7-12-82; 8:45 am]

BILLING CODE 4310-02-M

Coeur d' Alene Tribe; For the Use of the Judgment Funds awarded to the Coeur d'Alene Tribe of Indians of Idaho in Dockets 523-71 and 524-71 Before the United States Court of Claims

June 25, 1982.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

The Act of October 19, 1973 (Pub. L. 93-134, 87 Stat. 466), requires that a plan be prepared and submitted to Congress for the use or distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian tribe. Funds were appropriated on March 24, 1981, in satisfaction of the award granted to the Coeur d' Alene Tribe in United States Court of Claims Dockets 523-71 and 524-71. The plan for the use and distribution of the funds was submitted to the Congress with a letter dated December 2, 1981, and was received (as recorded in the Congressional Record) by the House of Representatives on

January 25, 1982, and by the Senate on January 28, 1982. The plan became effective on April 27, 1982, as provided by Section 5 of the 1973 Act since Congress did not adopt a resolution disapproving it.

The plan reads as follows:

"The funds appropriated on March 24, 1981, in satisfaction of an award granted to the Coeur d'Alene Tribe of Indians of Idaho in Dockets 523–71 and 524–71 before the United States Court of Claims, including all interest and investment income accrued, less attorney fees and litigation expenses, shall be distributed as herein provided.

The funds shall be invested by the Secretary and shall be available to the Coeur d'Alene Tribal Council as a financial reserve to be utilized for any or all of the following purposes, subject to the approval of the Secretary.

1. To supplement important land purchases

2. For reservation economic development programs

3. To provide funds, including the payment of legal fees, to protect the Tribe's resources, rights, jurisdiction and sovereignty."

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 82-18803 Filed 7-12-82; 8:45 am]
BILLING CODE 4310-02-M

Colorado River Indian Tribes; Plan for the Use and Distribution of Colorado River Indian Tribes' Judgment Funds in Docket 343–70 Before the United States Court of Claims

June 25, 1982.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

The Act of October 19, 1973 (Pub. L. 93–134, 87 Stat. 466), requires that a plan be prepared and submitted to Congress for the use or distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian Tribe. Funds were appropriated on March 24, 1981, in satisfaction of the award granted to the Colorado River Indian Tribes in United States Court of Claims Docket 343–70. The plan for the use and distribution of the funds was submitted to the Congress with a letter dated December 11, 1981, and was received (as recorded in the Congressional Record) by the House of Representatives on January 25, 1982, and by the Senate on January 28, 1982. The plan became effective on April 27, 1982, as provided by Section 5 of the 1973 Act since Congress did not adopt a resolution disapproving it.

The plan reads as follows:

"The funds appropriated on March 24, 1981, in satisfaction of an award granted to the Colorado River Indian Tribes in Docket 343–70 before the United States Court of Claims, including all interest and investment income accrued, less attorney fees and litigation expenses, shall be distributed as herein provided.

A. *Per Capita Distribution.* The Colorado River Indian Tribes' latest approved membership roll shall be brought current to include all eligible members born on or prior to and living on the effective date of this Plan.

Subsequent to the preparation and approval by the Secretary of this roll, the Secretary shall make a per capita distribution of eighty (80) percent of the funds, in a sum as equal as possible, to each enrollee. The Secretary's determination concerning eligibility to share in the per capita payment shall be final. Any amount remaining after the per capita payment to the enrollees shall be utilized pursuant to the provisions of Part B of this Plan.

The per capita shares of living competent adults shall be paid directly to them. The per capita shares of legal incompetents shall be handled pursuant to 25 CFR 115.5. The per capita shares of deceased individual beneficiaries shall be determined and distributed in accordance with 43 CFR, Part 4, Subpart D. The per capita shares of minors shall be handled pursuant to 25 CFR 87.10(a) and (b)(1) and 115.4 (25 CFR Part 104 redesignated to 25 CFR Part 115 and 25 CFR Parts 60 to 87, as published in **Federal Register** of March 30, 1982, page 13327).

B. *Programing.* The remaining twenty (20) percent of these funds shall be invested by the Secretary for the Tribe. The funds shall be utilized by the Tribe, subject to the approval of the Secretary for social and economic programs.

None of the funds distributed per capita or held in trust under the provisions of this Act shall be subject to Federal or State income taxes, and the per capita payments shall not be considered as income or resources when determining the extent of eligibility for assistance under the Social Security Act."

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 82-18804 Filed 7-12-82; 8:45 am]
BILLING CODE 4310-02-M

Lac du Flambeau Band of Chippewa Indians; Plan for the Use and Distribution of the Lac du Flambeau Band of Lake Superior Chippewa Indians of Wisconsin, Share of the Judgment Funds in Dockets Nos. 18–C and 18–T, Before the Indian Claims Commission to the Mississippi and Lake Superior Bands of Chippewa Indians

June 25, 1982.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

A plan for the use of certain judgment funds of the Lake Superior and Mississippi Bands of Chippewa Indians, pursuant to the provisions of the Act of October 19, 1973, 87 Stat. 466, became effective on February 1, 1979. Under Section (3) of the plan, the Lac du Flambeau Band's apportioned share of the funds were held and invested by the Secretary of the Interior under 25 U.S.C. 162a. A plan for the use and distribution of the funds was submitted to the Congress by a letter dated December 10, 1981, and was received (as recorded in the Congressional Record) by the House of Representatives on December 16, 1981, and by the Senate on January 25, 1982. The plan became effective on April 23, 1982, since Congress did not adopt a resolution disapproving it.

The plan reads as follows:

"The judgment funds in Dockets Nos. 18–C and 18–T, including the interest and investment income accruing thereon, apportioned to the Lac du Flambeau Band of Lake Superior Chippewa Indians of Wisconsin, pursuant to section 3 of the plan which became effective February 1, 1979 (published in the **Federal Register** March 14, 1979, 44 FR 15541), and vaidated by an Act of February 21, 1980, 94 Stat. 61, and being held and invested by the Secretary of the Interior (hereinafter 'Secretary'), shall be used and distributed as provided herein.

Per Capita Aspect

The Secretary shall make a per capita distribution of eighty (80) percent of such funds, including all interest and investment income accrued, in a sum as equal as possible, to each enrollee of the Lac du Flambeau Band born on or prior to and living on the effective date of this plan. The membership roll of the tribe shall be brought current under existing tribal procedures. Any amount remaining after the per capita payment to the enrollees shall revert to the tribe for use in the programing aspect of this plan.

Programing Aspect

The twenty (20) percent program funds, including the interest and investment income accrued, shall continue to be held and invested by the Secretary under 25 U.S.C. 162a until the tribal governing body develops specific program plans and tribal budgets for social and economic development programs and governmental operations, which shall be subject to approval by the Secretary.

General Provisions

The per capita shares of living competent adults shall be paid directly to them. The per capita shares of legal incompetents shall be handled pursuant to 25 CFR 115.5. The per capita shares of minor shall be handled pursuant to 25 CFR 87.10(a) and (b)(1) and 115.4. (25 CFR 104 redesignated to 25 CFR 115 and 25 CFR 60 to 87 as published in **Federal Register** of March 30, 1982, page 13327). The per capita shares of deceased individual beneficiaries shall be determined and distributed in accordance with 43 CFR, Part 4, subpart D.

None of the funds distributed per capita or held in trust under the provisions of this Act shall be subject to Federal or State income taxes, and the per capita payments shall not be considered as income or resources when determining the extent of eligibility for assistance under the Social Security - Act."

Kenneth Smith,

Assistant Secretary, Indian Affairs.

[FR Doc. 82-18017 Filed 7-12-82; 8:45 am]

BILLING CODE 4310-02-M

Three Affiliated Tribes of Fort Berthold Reservation; Plan for the Use and Distribution of Three Affiliated Tribes of Fort Berthold Reservation Judgment Funds in Dockets 350–G and 54–81L Before the United States Court of Claims

June 25, 1982.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

The Act of October 19, 1973 (Public Law 93–134, 87 Stat. 466), requires that a plan be prepared and submitted to Congress for the use or distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian tribe. Funds were appropriated on June 9, 1981, and on August 25, 1981, in satisfaction of the respective awards granted to the Three Affiliated Tribes of Fort Berthold Reservation in United States Court of Claims Dockets 350-G and 54–81L. The plan for the use and distribution of the funds was submitted to the Congress with a letter dated March 5, 1982, and was received (as recorded in the Congressional Record) by the Senate and by the House of Representatives on March 9, 1982. The plan became effective on May 26, 1982, as provided by Section 5 of the 1973 Act.

The plan reads as follows:

"The funds appropriated on June 9, 1981, and on August 25, 1981, in satisfaction of the respective awards in Docket 350–G and in Docket 54c–81L granted to the Three Affiliated Tribes before the United States Court of Claims, less attorney fees and litigation expenses, and including all interest and investment income accrued, shall be utilized as herein provided.

Per Capita Payment.Aspect

The Three Affiliated Tribes' latest approved membership roll shall be brought current to include all eligible members born on or prior to and living on the effective date of this plan. Subsequent to the preparation and approval of the membership roll, the Secretary of the Interior (hereinafter "Secretary") shall make a per capita distribution of eighty (80) percent of the funds, in a sum as equal as possible, to each tribal enrollee. Payment of the per capita is subject to the following conditions.

Those living enrollees who have delinquent tribal debts shall have their per capita shares placed in Individual Indian Money (IIM) accounts. Subject to the provisions of 25 CFR 115.9, the Agency Superintendent shall cause all or part of the delinquent tribal indebtedness of an enrollee to be paid to the tribe and any remainder of the per capita share in the IIM account shall be available to the enrollee subject to the provisions of 25 CFR, Part 115 governing IIM accounts. Living competent adult enrollees who have no delinquent tribal debts shall have their per capita shares paid directly to them. The ownership of the per capita shares of deceased individual enrollees shall be determined and the shares, subject to tribal claims, distributed in accordance with 43 CFR, Part 4, Subpart D. The per capita shares of legal incompetents who do not have delinquent tribal debts shall be handled pursuant to 25 CFR 115.5. The per capita shares of minors shall be handled pursuant to 25 CFR 87.10 (a) and (b)(1) and 115.4. (25 CFR Part 104 redesignated to 25 CFR Part 115 and 25 CFR Parts 60 to 87, as published in the **Federal Register** of March 30, 1982, page 13327).

Programing Aspect

Twenty (20) percent of the funds, and any amounts remaining after the per capita payment provided above, shall be invested by the Secretary and seventy-five (75) percent of the interest and investment income accrued shall be utilized on an annual budgetary basis, subject to the approval of the Secretary, for the following purposes:

1. *Land Acquisition and Consolidation.* Thirty (30) percent shall be utilized for land acquisition and consolidation, and may include the utilization of a portion of these funds as collateral to secure loans for land purchases.

2. *Business Development.* Twenty (20) percent shall be utilized, under a Plan of Operations developed by the tribal governing body and approved by the Secretary, for the establishment of tribal business ventures designed to provide employment for tribal members. Such ventures and projects may include, but are not limited to, Agri-Business Development, Irrigation Farming, Feedlost, Trailer Parks, Commercial Fisheries, Energy Development, Oil Refinery and Disposal Wells. A portion of these funds may be used as collateral for securing loans from private lending institutions for tribal members entering into business ventures, such loans to be fully secured. Under this program tribal membes may enter into business partnerships with the Tribes.

3. *Wake Fund.* Ten (10) percent shall be utilized for assistance to tribal members for the maintenance of traditional wakes and funerals, with the limit allowable per tribal member to be established by the tribal governing body in consideration of funds available under the existing tribal wake fund.

4. *Senior Citizens Assistance Program.* Ten (10) percent shall be used for assistance to senior tribal members under a Plan of Operations developed by the tribal governing body and approved by the Secretary.

5. *Higher Education.* Ten (10) percent shall be used for the furtherance of higher education, under a Plan of Operations developed by the tribal governing body and approved by the Secretary, and shall include college scholarships and the enhancement of the tribal Community College Fund.

6. *Communications Programs.* Seven and one-half (7.5) percent shall be used for tribal communications programs which may include, but are not limited to, a tribal newspaper and radio communications system.

7. *Alcoholism Treatment Programs.* Seven and one-half (7.5) percent shall be

utilized for programs designed to combat and treat alcoholism or any other form of chemical dependence.

8. *Child Welfare Program.* Five (5) percent shall be used in programs for the care of children with exceptional social, psychological, physiological or economic needs.

Should any funds in any of the above-cited program categories not be needed or be found in excess of programing goals in any given annual budget, such funds may be transferred by the tribal governing body, with the approval of the Secretary, to another of the above-cited program categories.

None of the funds distributed per capita or made available under this plan for programing shall be subject to Federal, State or local income taxes or be considered income or resources under the Social Security Act."

Kenneth Smith,

Assistant Secretary-Indian Affairs.

[FR Doc. 82-18602 Filed 7-12-82; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[AA-6698-E]

Alaska Native Claims Selection

Correction

In FR Doc. 82-16538, appearing at page 26461, in the issue of Friday, June 18, 1982, make the following change:

On page 26461, in the 3rd column, the land description for Seward Meridian, Alaska (Unsurveyed), T. 6N., R. 10W., the 4th line should read "Sec. 32, W½E½, W½;".

BILLING CODE 1505-01-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before July 2, 1982. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by July 28, 1982.

Carol D. Shull,

Acting Keeper of the National Register.

HAWAII

Honolulu County

Makaha vicinity, *Ukanipo Heiau (Site 50-80-03-181)*, N. of Makaha on SR 90

IDAHO

Idaho County

Riggins vicinity, *Aitken Barn*, SW of Riggins on US 95

Valley County

Donnelly vicinity, *Mahala, Jacob and Herman, Homestead (Long Valley Finnish Structures, TR)*, ½ mile north of Donnelly

LOUISIANA

Concordia Parish

Ferriday vicinity, *Canebrake*, NE of Ferriday on LA 901

MICHIGAN

Genesee County

Flint, *Knight, Morris A., House*, 1105 Church St.

Washtenaw County

Ann Arbor vicinity, *Parker Mill Complex*, E of Ann Arbor at Geddes and Dixboro Rds.

Wayne County

Detroit, *Cathedral Church of St. Paul Complex (Religious Structures of Woodward Ave. TR)*, 4800 Woodward Ave.
Detroit, *Cathedral of the Most Blessed Sacrament (Religious Structures of Woodward Ave. TR)*, 9844-9854 Woodward Ave.
Detroit, *Central United Methodist Church (Religious Structures of Woodward Ave. TR)*, Woodward Ave.-E. Adams St.
Detroit, *Central Woodward Christian Church (Religious Structures of Woodward Ave. TR)*, 9000 Woodward Ave.
Detroit, *First Baptist Church of Detroit (Religious Structures of Woodward Ave. TR)*, 8601 Woodward Ave.
Detroit, *First Unitarian Church of Detroit (Religious Structures of Woodward Ave. TR)*, 2870 Woodward Ave.
Detroit, *Metropolitan United Methodist Church (Religious Structures of Woodward Ave. TR)*, 8000 Woodward Ave.
Detroit, *North Woodward Congregational Church (Religious Structures of Woodward Ave. TR)*, 8715 Woodward Ave.
Detroit, *St. John's Episcopal Church (Religious Structures of Woodward Ave. TR)*, Woodward Ave. at E. Fisher Freeway
Detroit, *St. Joseph's Episcopal (Religious Structures of Woodward Ave. TR)*, 8850 Woodward Ave.
Detroit, *St. Joseph's Episcopal Church (Religious Structures of Woodward Ave. TR)*, 5930 Woodward Ave.
Detroit, *Temple Beth-El (Religious Structures of Woodward Ave. TR)*, 8801 Woodward Ave.
Detroit, *Temple Beth-El (WSU Bonstelle Theatre) (Religious Structures of Woodward Ave. TR)*, 3424 Woodward Ave.
Detroit, *Woodward Ave. Baptist Church (Religious Structures of Woodward Ave. TR)*, 1464 Woodward Ave.
Detroit, *Woodward Ave. Presbyterian Church (Religious Structures of Woodward Ave. TR)*, 8501 Woodward Ave.
Highland Park, *First United Methodist Church (Religious Structures of Woodward Ave. TR)*, 16300 Woodward Ave.
Highland Park, *Grace Evangelical Lutheran Church (Religious Structures of Woodward Ave. TR)*, 12375 Woodward Ave.
Highland Park, *Highland Park Presbyterian Church (Religious Structures of Woodward Ave. TR)*, 14 Cortland St.
Highland Park, *Trinity United Methodist Church (Religious Structures of Woodward Ave. TR)*, 13100 Woodward Ave.

MISSISSIPPI

Warren County

Vicksburg *Feld House*, 2108 Cherry St.

NEW MEXICO

Bernalillo County

Albuquerque, *Werner-Gilchrist House*, 202 Cornell SE

Socorro County

Magdalena, *Aragon House (Magdalena MRA)*, 2nd and Oak Sts.
Magdalena, *Bank of Magdalena (Magdalena MRA)*, 1st and Main St.
Magdalena, *Dobson House (Magdalena MRA)*, 1st and Pine Sts.
Magdalena, *Gutierrez House (Magdalena MRA)*, 3rd and Poplar Sts.
Magdalena, *Hall Hotel (Magdalena MRA)*, 2nd and Spruce Sts.
Magdalena, *Hilton House (Magdalena MRA)*, US 60
Magdalena, *Ilfeld Warehouse (Magdalena MRA)*, Main St.
Magdalena, *Lewellen House (Magdalena MRA)*, 2nd and Chestnut Sts.
Magdalena, *MacTavish House (Magdalena MRA)*, Elm St.
Magdalena, *Magdaline House (Magdalena MRA)*, 3rd and Chestnut Sts.
Magdalena, *Main Street Commercial Building (Magdalena MRA)*, Main St.
Magdalena, *Salome Store (Magdalena MRA)*, 1st St.
Magdalena, *Salome Warehouse (Magdalena MRA)*, 1st St.

NEW YORK

Greene County

Catskill, *East Side Historic District*, Roughly bounded by Catskill Creek, Hudson River, River, Harrison, Bay, and Gardner Sts.

Onondaga County

Fayetteville, *Genesee Street Hill-Limestone Plaza Historic District*, Roughly both sides of Genesee St., from Chapel St. to Limestone Plaza
Baldwinsville, *Oswego-Oneida Streets Historic Districts*, Oswego, E. and W. Sts. and Sunset Terr.

Oswego County

Oswego, *Franklin Square Historic District,* Roughly bounded by 3rd, 6th, Van Buren, and Bridge Sts.

Westchester County

White Plains *Friedlander Leo Studio,* 625 W. Hartsdale Rd.
Yonkers, *St. John's Protestant Episcopal Church,* One Hudson St.
Yonkers, *Hart Eleazer House,* 243 Bronxville Rd.

NORTH CAROLINA

Alamance County

Mebane vicinity, *Cross Roads Presbyterian Church and Cemetery and Sainback Store,* N of Mebane at SR 1910 and SR 1912
Mebane vicinity, *White Furniture Company,* E. Center and N. 5th Sts.

Alleghany County

Whitehead vicinity, *Crouse Elbert Farmstead,* S of Whitehead on Blue Ridge Parkway

Chatham County

Pittsboro vicinity, *Aspen Hall,* W of Pttsboro on US 64

Forsyth County

Winston Salem, *Gilmer Building,* 416–424 W. 4th St.

Guilford County

Oak Ridge vicinity *Guilford Mill,* SE of Oak Ridge on NC 68

Haywood County

Lake Junaluska, *Lambeth Inn,* Lambeth Dr.

Macon County

Franklin, *Franklin Terrace Hotel,* 67 Harrison Ave.

Moore County

Aberdeen, *Blue John House,* 200 Blue St.

SOUTH CAROLINA

Charleston County

Battery LeRoy (Civil War Defenses of Charleston TR), Riverland Dr., James Island
Battery No. 1 (James Island Seige Line) (Civil War Defenses of Charleston TR), Riverland Dr., James Island
Battery No. 5 (Civil War Defenses of Charleston TR), James Island
Battery Tynes (Civil War Defenses of Charleston TR), Stono River, James Island
Fort Pringle (Civil War Defenses of Charleston TR) Riverland Dr. James Island
Fort Trenholm (Civil War Defenses of Charleston TR) John's Island Airport
Clark's Point vicinity, *Unnamed Battery No. 1 (Civil War Defenses of Charleston TR)* James Island
Clarks Point vicinity *Unnamed Battery No. 2 (Civil War Defenses of Charleston TR),* James Island
Fort Johnson Estates, *Battery Cheves (Civil War Defenses of Charleston TR),* James Island
Hamlin Sound vicinity, *Fort Palmetto (Civil War Defenses of Charleston TR),* Christ Church Parish
Longbranch Estates vicinity, *Battery Wilkes (Civil War Defenses of Charleston TR),* St. Andrew's Parish
Shaftsbury Townhouses vicinity, *Unnamed Battery Civil War Defenses of Charleston TR),* St. Andrew's Parish

TEXAS

Grimes County

Anderson vicinity, *Piedmont Springs Archeological Site,* NW of Anderson on Texas Farm Rd.

VERMONT

Orange County

Brookfield vicinity, *Stratton's Inn,* E of Brookfield on East St.

WASHINGTON

Adams County

Ritzville, *Ritzville Carnegie Library (Carnegie Libraries of Washington TR),* 302 W. Main St.

Asotin County

Clarkston, *Clarkston Public Library (Carnegie Libraries of Washington TR),* 6th and Chestnut Sts.

Chelan County

Wenatchee, *Wenatchee Carnegie Library (Carnegie Libraries of Washington TR),* 2 S. Chelan St.

Clark County

Vancouver, *Vancouver Public Library (Carnegie Libraries of Washington TR),* 1511 Main St.

Franklin County

Pasco, *Pasco Carnegie Library (Carnegie Libraries of Washington TR),* 305 N. 4th St.

Grays Harbor County

Hoquiam, *Carnegie Library (Carnegie Libraries of Washington TR),* 621 K St.

Jefferson County

Port Townsend, *Port Townsend Carnegie Library (Carnegie Libraries of Washington TR),* 1220 Lawrence St.

King County

Auburn, *Auburn Public Library (Carnegie Libraries of Washington TR),* 306 Auburn Ave.
Kirkland, *Dr. Trueblood House (Kirkland Land Improvement Company TR),* 127 7th Ave.
Kirkland, *Loomis House (Kirkland Land and Improvement Company TR),* 304 8th Ave. W.
Kirkland, *Masonic Lodge Building (Kirkland Land and Improvement Company TR),* 700 Market St.
Kirkland, *Sears, Joshua, Building (Kirkland Land and Improvement Company TR),* 701 Market St.
Seattle, *Ballard Carnegie Free Public Library (Carnegie Libraries of Washington TR),* 2026 NW Market St.
Seattle, *Seattle Public Library (Columbia Branch) (Carnegie Libraries of Washington TR),* 4721 Rainier Ave., S
Seattle, *Seattle Public Library (Fremont Branch) (Carnegie Libraries of Washington TR),* 731 N. 35th St.
Seattle, *Seattle Public Library (Green Lake Branch) (Carnegie Libraries of Washington TR),* 7364 E. Green Lake Dr., N
Seattle, *Seattle Public Library (Queen Anne Branch) (Carnegie Libraries of Washington TR),* 400 W. Garfield St.
Seattle, *Seattle Public Library (University Branch) (Carnegie Libraries of Washington TR),* 5009 Roosevelt Way, NE
Seattle, *Seattle Public Library (West Seattle Branch) (Carnegie Libraries of Washington TR),* 2306 42nd Ave. SW

Klickitat County

Goldendale, *Goldendale Free Public Library (Carnegie Libraries of Washington TR),* 131 W. Burgen

Pacific County

South Bend, *South Bend Carnegie Public Library (Carnegie Libraries of Washington TR),* W. 1st and Pacific Sts.

Skagit County

Anacortes, *Anacortes Carnegie Library (Carnegie Libraries of Washington TR),* 1305 6th St.
Burlington *Burlington Carnegie Library (Carnegie Libraries of Washington TR),* 1901 Fairhaven St.

Snohomish County

Edmonds, *Edmonds Carnegie Library (Carnegie Libraries of Washington TR),* 118 5th Ave., N
Everett, *Everett Carnegie Library (Carnegie Libraries of Washington TR),* 3001 Oakes Ave.

Spokane County

Spokane, *Spokane Public Library (Carnegie Libraries of Washington TR),* 10 S. Cedar
Spokane, *Spokane Public Library (East Side Branch) Carnegie Libraries of Washington TR),* 25 Altamont St.
Spokane, *Spokane Public Library (Heath Branch) (Carnegie Libraries of Washington TR),* 525 Mission St.
Spokane, *Spokane Public Library (North Monroe Branch) (Carnegie Libraries of Washington TR),* 925 W. Montgomery St.

Thurston County

Olympia, *Olympia Public Library (Carnegie Libraries of Washington TR),* S. Franklin and E. 7th St.

Walla Walla County

Walla Walla, *Walla Walla Public Library (Carnegie Libraries of Washington TR),* 109 S. Palouse St.

Whatcom County

Bellingham, *Fairhaven Library (Carnegie Libraries of Washington TR),* 1105 12th St.

WISCONSIN

Milwaukee County

Milwaukee, *Bay View Historic District,* Roughly bounded by Lake Michigan,

Meridith, Superior, Nock, Wentworth, Pryor, RR tracks and Conway St.

[FR Doc. 82-18667 Filed 7-12-82; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL COMMUNICATION AGENCY

United States Advisory Commission on Public Diplomacy; Meeting

The U.S. Advisory Commission on Public Diplomacy is holding a rapidly-scheduled meeting on July 19, 1982 to discuss release of its report. The meeting will be held from 10 a.m. to 12:00 noon in the Commission office: Room 1008, 1750 Pa. Ave., NW., Washington, D.C.

Jane S. Grymes,

Management Analyst, Management Analysis/Regulations Staff, Associate Directorate for Management, International Communication Agency.

[FR Doc. 82-18625 Filed 7-12-82; 8:45 am]

BILLING CODE 8230-01-M

INTERNATIONAL DEVELOPMENT CORPORATION AGENCY

Overseas Private Investment Corporation

Public Information Collection Requirement Submitted to OMB for Review

The Overseas Private Investment Corporation has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension (Adjustment to burden only)

Application for Political Risk Insurance for Hydrocarbons Projects (OPIC-77) (OMB No. 3420-0003)

This application form is essential to elicit information from international petroleum companies necessary for drafting political risk insurance contracts.

International Petroleum Companies; 15 responses; 240 total reporting hours.

Telephone comments to David Reed, OMB Desk Officer, at (202) 395-7231.

A copy of the information collection may be obtained from Jacqueline Brent, Room 630, Overseas Private Investment Corporation, 1129 20th Street, NW., Washington, D.C. 20527.

Leo H. Phillips, Jr.,

Assistant General Counsel for Legislative and Administrative Affairs.

[FR Doc. 82-18628 Filed 7-12-82; 8:45 am]

BILLING CODE 3210-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Public Information Collection Requirements Submitted To OMB for Review

On June 9, 1982, the International Development Cooperation Agency submitted the following public information collection rquirement to OMB, for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission may be obtained from the Agency for International Development Clearance Officer by calling (202) 632-0084. Comments regarding this information collection should be addressed to the Reports Management Officer, Ms. Melita E. Yearwood, DM/IM, Room 714, SA-12, Washington, D.C. 20523; and to the OMB reviewer listed at the end of the entry.

Date Submitted: June 9, 1982.

Submitting Bureau: Agency for International Development.

OMB Number: 0412-0017..

Type of Submission: Extension (no change).

Title: Contractor's Certificate and Agreement with the Agency for International Development-Contractor's Invoice and Contract Abstract

Purpose: Forms are submitted by the contractor with each request for payment, ensuring that the contractor is complying with AID's requirements.

OMB Reviewer: David Reed (202) 395-7231, Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C., 20503.

Dated: July 1, 1982.

Steven F. Renz,

Acting Chief, Information Management Division.

[FR Doc. 82-18919 Filed 7-12-82; 8:45 am]

BILLING CODE 8116-01-M

INTERSTATE COMMERCE COMMISSION

Washington; Long-and-Short-Haul Application for Relief (Formerly Fourth Section Application)

July 7, 1982.

This application for long-and-short-haul relief has been filed with the ICC.

Protests are due at the ICC within 15 days from the date of publication of this notice.

No. 43969, Southwestern Freight Bureau, Agent (No. B-160), reduced rates on rice and rice products from Rotherwood, LA to stations in Central-Eastern, Southern, and Western Trunk Line (including Illinois) Territories, in Supplement No. 78 to its tariff ICC SWFB 4390-A, effective July 31, 1982. Grounds for relief: Market Competition.

By the Commission

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-18815 Filed 7-12-82; 8:45 am]

BILLING CODE 7035-01-M

[H.R. 3663]

Implementation of Bus Legislation

Notice is hereby given that the Interstate Commerce Commission intends to implement proposed bus legislation in an expedited manner.

Most provisions of the Senate bill, passed on June 30, 1982, are effective 60 days from date of enactment. The legislative history indicates that the purpose of the delayed effective date is to provide a period during which the Commission can promulgate rules as required by the new legislation, so that final rules can be in place by the effective date (128 Cong. Rec. S 7708, daily ed. June 30, 1982).

In order to have final rules adopted within a 60-day period, it will be necessary for the Commission to shorten the normal 30-day comment period in various rulemakings. Additionally, to meet the time constraints, it may be necessary to make implementing rules effective on less than 30 days' notice.

This notice is intended to alert interested parties to the fact that strict time deadlines will be imposed in proceedings implementing the "Bus Regulatory Reform Act of 1982," final passage of which is expected within the next several weeks. Accordingly, persons desiring to participate in rulemakings under the Act may wish to commence their review of the bus legislation at this time.

Dated at Washington, D.C. the 7th day of July, 1982.

Reese H. Taylor, Jr.,

Chairman.

[FR Doc. 82-18607 Filed 7-12-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect

It is Ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC–FC–79892. By decision of June 28, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1133, Review Board Number 3 approved the transfer to KINGS'S SKI TOURS, INC., D.B.A. THE KING COMPANY, of Lambertville, NJ, of License No. MC–130177, issued to MARGARET A. KING, D.B.A. THE KING CO., also of Lambertville, NJ, which authorizes operations as a *broker,* at Lambertville, NJ, of *passengers and their baggage,* in round-trip all-expense ski tours, in special charter operations, beginning and ending at points in Hunterdon, Mercer, Monmouth, Ocean and Somerset Counties, NJ, and points in that part of Middlesex County, NJ south of the Raritan river, and extending to points in CT, MA, NH, NY, PA, and VT. Representative: Thomas M. King, RD #2, Box 8H, Lambertville, NJ 08530.

Note.—Transferee is not a carrier.

MC–FC–79662. By decision of June 28, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to D. D. JACOBS, INC., of Walla Walla, WA, of Certificate No. MC–142866, issued to DONALD G. OLSON, of Port Townsend, WA, authorizing the transportation of *frozen fruits, berries and vegetables,* from Albany, OR, and Seattle, Kent, Arlington, and Stanwood, WA, to Los Angeles, CA. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055.

Notes.—TA has not been filed. Transferee is not a carrier.

MC–FC–79760. By decision of June 17, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to LARRY PAPE, of Pisgah, IA, of Certificate No. MC–72693 issued November 16, 1953, to FAY L. WILTSE, of Pisgah, IA, authorizing agricultural implements, binder tape, feed, coal, petroleum products, in containers building materials, and furniture over irregular routes, between Pisgah, IA, and points within 12 miles of Pisgah, on the one hand, and on the other, Omaha, NE. Representative: Larry Pape, Pisgah, IA. Phone 712–456–2502. TA lease is not sought. Transferee is not a carrier.

MC–FC–79777. By decision of June 29, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to MID-SOUTH TRANSORT, INC., of Certificate Nos. MC–121142 (Sub-Nos. 8, 14, and 20), issued to J & G EXPRESS, INC., of Jackson, MS, (S & W FREIGHT LINES, INC., Assignor) which authorize the transportation of (1) *general commodities* (with exceptions), over irregular routes, between Jackson, MS, on the one hand, and, on the other, points in northwestern MS on and north of MS Hwy 8 and on and west of Interstate Hwy 55 (except points in the Memphis, TN Commercial Zones); and (2) *general commodities* (with exceptions) over regular routes, (a) between Greenville and Jackson, MS, serving all intermediate points on U.S. Hwy 82 and off-route points in Washington County, MS, (b) between Jackson and Holly Springs, MS, serving all intermediate points, (c) between Grenada and Calhoun City, MS, serving all intermediate points, (d) between Memphis, TN and Jackson, MS, serving specified intermediate and off-route points, (e) between Memphis, TN, and Leland, MS, serving all intermediate points, and (f) between Jackson and Canton, MS, serving all intermediate points, and serving points in Madison County, MS, as off-route points. Representative: Roland M. Lowell, 5th Floor, 501 Union Street, Nashville, TN 37219.

Note.—Transferee is not a carrier.

MC–FC–79787. By decision of June 24, 1982, issued 49 U.S.C. 10924 and the transfer rules at 49 CFR 1133, Review Board Number 3 approved the control by BOSTON CONSOLIDATION SERVICE, INC., of Boston, MA, of License No. MC–130829 issued November 12, 1980, to BOSTON CONSOLIDATION SERVICE, INC., of Boston, MA, to engage in operations as a *property broker,* arranging for the transportation of *general commodities* (except household goods) between all points in the US. Representative: Robert T. Coyne, 31 Fargo Street, South Boston, MA 02127. Phone: 617–451–3400. TA lease is not sought. Transferee is not a carrier.

MC–FC–79783. By decision of May 4, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to J.S. HUNTER TRUCKING, INC., of Woodburn, OR, of Certificate No. MC–155162 issued to BRUCE J. HAWLEY, of Tualatin, OR, which authorizes the transportation of *food and related products,* between points in CA on the one hand, and, on the other, points in OR. Representative: Philip G. Skofstad, 529 S.E. Grand Avenue, Portland, OR 97214.

Note.—TA had not been filed. Transferee is not a carrier.

MC–FC–79798. By decision of June 24, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to WINTERS MOVERS

INCORPORATED of Certificate No. MC–33549 issued to EVA LOU JOHNSON d.b.a. WINTERS authorizing the transportation of *household goods* as defined by the Commission, and *plants and flowers*, between points in Philadelphia, Montgomery, Bucks, Delaware, Lancaster, and Chester Counties, PA, on the one hand, and, on the other, points in NJ, MD, DE, VA, and DC. Representative: Sidney Johnson, 17 Veterans Square, P.O. Box 140, Media, PA 19063.

Note(s).—(1) Transferee is a non-carrier; (2) The Commission records indicate this is the only certificate issued to EVA LOU JOHNSON d.b.a. WINTERS.

MC–FC–79799. By decision of June 18, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to MYSTIC MOTOR EXPRESS, INC. of Farmingdale, NY of Certificate No. MC–80913 and Sub-Nos. 8, 9 and 10 issued to PRINTER BROS., INC. of Deer Park, NY authorizing general commodities (with exceptions), over described regular and irregular routes, serving named intermediate and off-route points between NY, NJ, and CT. Representative: Anthony F. Cilluffo, 2061 Deer Park Ave., Deer Park, NY 11729. TA lease is not sought. Transferee is not a carrier.

MC–FC–79838. By decision of June 22, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to CASCADE PACIFIC TRUCK LINES, INC., of Vancouver, WA, of Certificate No. MC–158244, issued to ALPHA TRANSPORT, INC., of Wilsonville, OR, which authorizes the transportation of *lumber and wood products*, between points in OR, WA, MT, ID, and CA, on the one hand, and, on the other, points in CA, CO, IL, IN, IA, KS, MN, MO, NE, ND, OH, SD, TX, UT, WI, and WY. Representative: Nancy J. Phelps, 9570 SW Barbur Blvd., Apt. 307, Portland, OR.

Note.—Transferee is not a carrier.

MC–FC–79846. By decision of June 17, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to BOWLING HEAVY HAULING, INC. of Bluefield, WV, of a portion of Certificate No. MC–73937 and Sub-No. 12 thereunder, issued to MOUNTAIN STATE TRANSPORT, INC. (Formerly Hogan Storage & Transfer Company, Inc.) of Huntington, WV authorizing: the transportation as a common carrier of (1) mine machinery and mining equipment requiring the use of special equipment between points in Mingo County, WV, on the one hand, and, on the other, defined portions of TN, OH, VA and PA; and (2) various commodities, including those requiring special equipment, between points in defined areas of WV, VA, OH and KY. Applicant's representative: Russell R. Sage, P.O. Box 11278, Alexandria, VA 22312. TA lease is sought. Transferee is not a carrier.

MC–FC–79856. By decision of June 15, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to JIMMIE D. OTT, RICHARD D. OTT, TERRI BRACAMONTE STONEBRAKER and CHUCK STONEBRAKER, a partnership, d.b.a. JIM OTT & SON TRUCKING of Certificate No. MC–151248 (Sub-No. 1F) issued to JIMMIE D. OTT d.b.a. JIM OTT & SON TRUCKING authorizing the transportation of *such commodities* as are used in the establishment, maintenance or dismantling of oil, gas, steam, and a water wells, pipe lines, refineries, and cracking and casinghead plants, between points in CA, on the one hand, and, on the other, points in AZ, CO, ID, KS, MT, NV, NM, OK, OR, TX, UT, WA, and WY. Representative: Earl N. Miles, 3704 Candlewood Drive, Bakersfield, CA 93306.

Note.—Transferee is a non-carrier.

MC–FC–79876. By decision of June 29, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to LOYD McCORD, INC., of Springdale, AR, of Certificate No. MC–150724 Subs 3 and 4 issued to DONALD SANTISI TRUCKING CO. (a corporation) of Youngstown, OH, authorizing *such commodities as are dealt in by wholesale and retail stores (except commodities in bulk)*, between points in Franklin County, OH; St. Joseph County, MI; and Campbell County, VA; on the one hand, and, on the other, points in the U.S. (except Alaska and Hawaii); and *farm products and food and related products* between the facilities of or facilities used by Kal Kan Foods, Inc. in the U.S., on the one hand, and, on the other, points in the U.S. Representative: Paul F. Beery, 275 E State Street, Columbus, OH 43215. TA lease is not sought. Transferee is not a carrier.

MC–FC–79879. By decision of June 23, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to WILLIAM C. CONFER of Certificate No. MC–11301 (Sub-Nos. 1 and 17) issued to JOSEPH KOFMAN, FREDA K. GAINES AND BENJAMIN KOFMAN d.b.a. KOFMAN'S authorizing the transportation of *brass products, brass scrap and rejected or refused brass products, brass billets, lead, copper scrap, brass bars and brass ro[illegible], and unfinished brass shapes, copper, brase, and bronze bars and rods, emp[illegible] containers, aluminum bars, blanks, stampings, extensions, castings, forgings, moldings, rods, scrap, twining[illegible], and borings, lead, zinc, metal articles[illegible] and materials, equipment and supplie[illegible]* used in the manufacture of metal articles, and *scrap metals, waste materials and metals, copper and copper products*, between various potins in PA, DE, MD, WV, VA, CT, DE, IL, IN, MA, MI, NJ, NY, OH, RI, and DC. Transferee is a non-carrier. Representative: John Fullerton, 407 N. Front St., Harrisburg, PA 17101.

MC–FC–79883. By decision of June 18, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to EDWARD. D. POHUTSKY, d.b.a. EDWARD POHUTSKY MOVERS, of Eynon, PA, of that portion of Certificate No. MC–13794, issued to SISSER BROS., INC., of Edison, NJ, which authorizes the transportation of *household goods* as defined by the Commission, between points in PA, on the one hand, and, on the other, points in CT, IL, IN, MA, RI, VA, OH, and WV. Representative: Edward Pohutsky, 104 Handley Street, Eynon, PA 18403

Note.—Transferee holds authority under MC–138200 and sub-numbers thereunder.

MC–FC–79884. By decision of June 24, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to PENNSYLVANIA ENERGY MANAGEMENT SYSTEMS, INC. of Permit No. MC–145844 issued to J.H. RUSSELL d.b.a. J. H. RUSSELL TRUCKING authorizing the transportation of *fertilizer, lime and agricultural chemicals*, between points in MD, NJ, OH, and PA under a continuing contract(s) with Helena Chemical Company of Memphis, TN. Representative: Warren R. Yocum, 104 Third Street, Huntington, PA 16642.

Note(s).—Transferee is a non-carrier.

MC–FC–79885. By decision of June 28, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to McCANDLESS TRANSPORT, INC. of Jacksonville, FL of a portion of Certificate No. MC–141941 issued J & S INTERMODAL SERVICE, INC. of Thomasville, GA authorizing *general commodities* (with certain exceptions), between points in the Jacksonville, FL, Commercial Zone, as defined by the Commission (including Jacksonville, FL),

and containing a term limitation with respect to the authority to transport Classes A and B explosives. Representative: Thomas McCandless, P.O. Box 3191, 2070 Talleyrand Ave., Jacksonville, FL 32206.

Note.—TA lease is not sought. Transferee is not a carrier.

MC–FC–79886. By decision of June 28, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to DANIEL SAMM of Pleasant Mount, PA of Permit No. MC–113408 issued to ROBERT DAVIS of Pleasant Mount, PA authorizing *livestock and poultry feed,* from Binghamton, NY, to (1) Lakewood, PA; and (2) Pleasant Mount, PA. (1) above is under contract with Grange League Federation. Representative: Richard Mulcahey, 345 Wyoming Ave., Scranton, PA 18503. TA lease is not sought. Transferee is not a carrier.

MC–FC–79877. By decision of June 30, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to MIDLAND TRANSPORT, INC. of Chicago Heights, IL of a portion of Certificate No. MC–98025 (Sub-No. 2) issued to LINCOLN TRANSFER COMPANY, INC. of Lincoln, IL authorizing *general commodities* (except classes A and B explosives), over regular routes, between specified points in Illinois. Representative: James C. Hardman, 33 N. La Salle Street, Chicago, IL 60602. TA lease is not sought. Transferee is a carrier.

MC–FC–79882. By decision of June 24, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3, approved the transfer to ROSS G. HOWE, d.b.a. HOWE TRUCKING CO., of Certificate No. MC–138076 (Sub-No. 24), issued February 17, 1982, to HEAVY HAULING, INC. authorizing *coal and coal products, clay products and minerals,* between points in Bowman County, ND; Big Horn and Weston Counties, WY; and Butte County, SD, on the one hand, and, on the other, Fort Smith, AR; points in Red Willow County, NE; and points in KS and OK. Representative: John E. Jandera, P.O. Box 1979, Topeka, KS, 66601.

Note.—Transferee is not a carrier.

MC–FC–79891. By decision of June 29, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to JACK E. PROCTOR d.b.a. CUSTOM TRANSIT, INC. of Permit No. MC–136319 (Sub-No. 3) issued to CUSTOM TRANSIT, INC. authorizing the transportation of *mineral wool and mineral wool conduit,* from Dallas, TX, to points in OK under a continuing contract(s) with Certain-Teed Products Corporation, CSG Group, of Valley Forge, PA. Representative: Jack E. Proctor, 412 S. Jupiter, No. 108, Garland TX 75042.

Note.—Transferee is a non-carrier.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–18810 Filed 7–12–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 2, Members Carleton, Fisher and Williams.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP3–105

Decided: July 6, 1982.

MC 162654, filed June 25, 1982. Applicant: ILLINI WASTE BROKERS, 531 South Park Street, Sheffield, IL 61361. Representative: Carl E. Munson, 469 Fischer Building, P.O. Box 796, Dubuque, IA 52001 (319) 557–1320. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 162685, filed June 25, 1982. Applicant: EDWARD A. PETERSON d.b.a. STEEL CITY FREIGHT SERVICES, 565 Oxford Blvd., Pittsburgh, PA 15243. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219 (412) 471–1800. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except HI).

MC 162695, filed June 28, 1982. Applicant: KAREN PAIGE GERMO, d.b.a. K. G. TRANSPORTATION, 18587 E. Colima Rd., Rowland Heights, CA 91748. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort

Worth, TX 76112 (817) 457–0804. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 162705, filed June 28, 1982. Applicant: WALLY HUSE TRUCKING, 301 Delana, Sherburn, MN 56171. Representative: Wallace Huse (same address as applicant) (507) 764–7821. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP3–107

Decide: July 6, 1982.

MC 149295 (Sub-3), filed June 30, 1982. Applicant: H & W HOTSHOT DELIVERY SERVICE, INC., P.O. Box 96503, Houston, TX 77015. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459 (713) 437–1768. Transporting for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials and sensitive weapons and munition), (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, (3) as a *broker* of *general commodities* (except household goods), (4) *used household goods,* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, and (5) *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs) *agricultural limestone, and fertilizer* and *other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 151244 (Sub-2), filed June 28, 1982. Applicant: EDWARD YELLI, d.b.a. E & E TRUCKING, Ewing, NE 68735. Representative: James F. Crosby, 7363 Pacific Street, Suite 210B, Omaha, NE 68114 (402) 397–8900. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 159544 (Sub-1), filed June 28, 1982. Applicant: LADNER TRANSFER (1980) LTD., 2620 Viscount Way, Richmond, B.C., Canada V6V 1N1. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 239, Renton, WA 98055, (206) 228–3807. Transporting, for or on behalf of the U.S. Government, *General commodites* (except used household goods, hazardous or secret materials and sensitive weapons and munitions), between points in the U.S. (except HI).

MC 162674, filed June 25, 1982. Applicant: RAPID TRANSIT, P.O. Box 1189, Oxnard, CA 93032. Representative: Victor Menashe (same address as applicant), (805) 485–5154. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except HI).

MC 162665, filed June 25, 1982. Applicant: HOLMES TRUCKING CO., 1046 Katherwood Dr., Atlanta, GA 30310. Representative: Bennie R. Holmes (same address as applicant), (404) 753–6571. Transporting (1) *used household goods,* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI), (2) transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI), (3) transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI), and (4) as a *broker of general commodities,* (except household goods), between points in the U.S. (except AK and HI).

MC 162715, filed June 28, 1982. Applicant: METRO WAREHOUSES, INC. d.b.a. METRO MOVING & STORAGE, 8300 Military Rd. S., P.O. Box 80305, Seattle, WA 98108. Representative: Jim Pitzer, 15 S. Grady Way, Suite 321, Renton, WA 98055, (206) 235–1111. Transporting *used household goods,* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI).

[FR Doc. 82–18817 Filed 7–12–82; 8:45 am]
BILLING CODE 7035–01–M

[Volume No. 278]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: July 8, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Canadian Carrier Applicants

In the event an application to transport property, filed by a Canadian domiciled motor carrier, is unopposed, it will be reopened on the Commission's own motion for receipt of additional evidence and further consideration in light of the record developed in Ex Parte No. MC–157. *Investigation Into Canadian Law and Policy Regarding Applications of American Motor Carriers For Canadian Operating Authority.*

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Shaffer, Ewing, and Williams.

Agatha L. Mergenovich,

Secretary.

MC 14743 (Sub-30)X, filed June 30, 1982. Applicant: E.L. POWELL & SONS TRUCKING CO., INC., 3777 South Jackson, Tulsa, OK 74101. Representative: J.G. Dail, Jr., P.O. Box 11, McLean, VA 22101. No. MC–141646 Sub-1F permit, broaden (1) asphalt, asphaltic emulsions, and fuel oils, in bulk, in tank vehicles to "ores and minerals, and petroleum, natural gas, and their products", and (2) to between points in the U.S. (except HI), under a continuing contract(s) with named shipper.

MC 120737 (Sub-101)X, filed April 6, 1982 and previously noticed in the **Federal Register** of May 4, 1982, republished as corrected, this isssue. Applicant: STAR DELIVERY & TRANSFER, INC., P.O. Box 39, Canton, IL 61520. Representative: James C. Hardman, 33 N. LaSalle Street, Chicago, IL 60602. Sub-Nos. E–1, E–2 and E–3: broaden as previously published and, in addition, in Sub E–2, from plastic articles to "rubber and plastic products." The purpose of this republication is to correct an inadvertent omission.

MC 126635 (Sub-7)X, filed July 2, 1982. Applicant: CHRISTIE-LAMBERT VAN & STORAGE CO., INC., 1010 6th Ave. N., Kent, WA 98031. Representative: Michael Duppenthaler, 211 S. Washington St., Seattle, WA 98104. Lead and Sub 3F: (1) broaden used household goods to "household goods," both certificates; and (2) remove restrictions to "prior or subsequent movement in containers beyond the points authorized" and to "pickup and deliver in connection with packing, crating, and containerization or unpacking of the traffic," both certificates.

MC 127610 (Sub-10)X, filed June 14, 1982. Applicant: J.P. NOONAN TRANSPORTATION, INC., 436 West Street, West Bridgewater, MA 02379. Representative: David F. McAllister (same as above). Sub 9 certificate: broaden to (A)(1) "food and related products" from (a) groceries, grocery-store supplies, canned goods and sugar, (not liquid sugar, in bulk, in tank vehicles) (part 1); and (b) malt and vinous beverages, in containers (parts 3 and 5); (2) "ores and minerals, and clay, concrete, glass or stone products" from (a) marble, marble products, limestone and/or ground limestone (except limestone slurries) and/or dry in bulk, in tank and hopper type vehicles (parts 2, 7, 8, and 9); and (3) "containers" from empty malt and vinous beverage containers, (parts 4 and 6); (B) county-wide authority: (1) Suffolk, Middlesex, Norfolk, Essex and Plymouth Counties, MA (Boston), part 1; (2) Franklin, Rutland and Addison Counties, VT (Swanton, Florence, Proctor, Center Rutland, West Rutland, Middlebury and Danby), part 2; (3) Essex County, NJ (Orange) and Rutland County, VT (Rutland), parts 3 and 4; (4) Hampden County, MA (Willimansett) and Rutland County, VT (Rutland), parts 5 and 6; (5) Rutland County, VT (Florence) and Cumberland, Androscoggin, York and Kennebec Counties, ME (Cumberland Mills, Lisbon, Sanford and Winthrop), part 7; (6) Addison and Rutland Counties, VT (New Haven Junction, Middleburry and Florence), part 8; and (7) Rutland and Addison Counties, VT (Florence and New Haven Junction) and Ashtabula County, OH (Ashtabula), part 9; and (C) radial authority, all parts.

MC 115523 (Sub-207)X, filed June 21, 1982. Applicant: CLARK TANK LINES COMPANY, 1450 N. Beck St., Salt Lake City, UT 84110. Representative: Melvin J. Whitear (same as above). Subs 52, 56, 61, 72, 98, 99, 117, 133, 139, 142, 144, 154, 155, 184F and E2 certificates: (A) broaden to (1) "food and related products" from Sub 52, dry potato flour; Sub 56, salt; Sub 61, (6) cottonseed meal, cottonseed cake and cottonseed pellets; (9) and (10) salt; (14) sugar; (15) sugar beet pulp and sugar beet pellets; (27) dehydrated alfalfa meal and alfalfa pellets; and (33) animal and poultry feeds; Sub 72, salt and salt products; Sub 98, beet pulp and beet pulp pellets; Sub 99, molasses; Sub 117, liquid sugar; Sub 139, hides; Sub 142, (1) animal and poultry feed, animal and poulty foods and ingredients used in the manufacture of both commodities; (2) hides, dry, green and salted; and (3) sheep pelts; Sub 144, materials and supplies used in the agricultural water treating, food processing, wholesale grocery and institutional supply industries; Sub 154, salt; Sub 155, animal and poultry feed; Sub 184F, sugar corn products and blends of sugar and corn; and Sub E2, salt; and (2) "chemicals and related products" from Sub 133, agricultural chemicals; (B) remove the (1) "in bulk," "in containers," "mixed loads," "tank vehicles," and/or "specified commodities" restrictions, all Subs except 72, 98, 133, 154 and E2; (2) "prior movement by rail" restriction, Sub 66; (3) restriction against movements from Salt Lake, UT to Idaho Falls, ID, in Sub 72, (4) restriction against transportation of commodities in containers to designations within incorporated cities or towns in Sub 61; (5) restriction to traffic originating at points within 10 miles of Brandon, Manitoba, Canada, Sub 133; (C) broaden to (1) county-wide authority: (a) Sub 52, Bonneville County, ID (Idaho Falls); (b) Sub 56, Salt Lake, Box Elder and Tooele Counties, UT (Salt Lake City and sites at Saline and Silsbee); (c) Sub 61, Tooele and Salt Lake Counties, UT (Saltaire and Lake Point); Grand County, UT (Moab), Page 2; Eddy County, NM (Carlsbad) Salt Lake, Box Elder, and Sanpete Counties, UT (West Jordan, Garland, and Gunnison), and Bonneville County, ID (Idaho Falls), page 3; Yuma County, AZ (Yuma), page 5; and Booneville County, ID (Idaho Falls), page 6; (d) Sub 72, Box Elder, Davis, Weber, Salt Lake, and Tooele Counties, UT (Saline, Silsbee and points within 10 miles thereof, and Salt Lake); (e) Sub 99, Grant and Yakima Counties, WA (plantsites Scalley and Toppenish); Booneville County, ID, and Box Elder, Sanpete and Salt Lake Counties, UT (plantsites-Idaho Falls, ID and Garland, Gunnison and West Jordon, UT); Malheur County, OR (plantsite-Nyssa); Canyon, Twin Falls, Minidoka, and Franklin Counties, ID, and Cache County, UT (plantsites-Nampa, Twin Falls, Rupert and Preston, ID and Lewiston, UT); (f) Sub 117, Canyon County, ID (Nampa) and Malheur County, OR (Nyssa); (g) Sub 142, Los Angeles and Orange Counties, CA (Los Angeles) and Multnomah County, OR (Troutdale); (h) Subs 144, 154, and E–2, Salt Lake County, UT (plantsite-Saltair); (i) 155, Yellowstone County, MT (Billings); and (j) Sub 184F, Canyon, Twin Falls, Minidoka Counties, ID (Nampa, Twin Falls and Paul) and Weber County, UT (Ogden); and, (2) radial authority, Subs 52, 56, 61 (in part), 72, 98, 99, 117, 133, 142, 144, 154, 155, 184F and E–2 (in part).

[FR Doc. 82–18618 Filed 7–12–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request

and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 2, Members Carleton, Fisher and Williams.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP3–104

Decided: July 6, 1982.

MC 1515 (Sub-312), filed June 25, 1982. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: L. J. Celmins (same address as applicant), (602) 248–2942). Over *regular routes,* transporting *passengers and their baggage and express and newspapers,* in the same vehicle with passengers, between Grand Rapids, MI and Chicago, IL: from Grand Rapids, over Interstate Hwy 196 to junction Interstate Hwy 94 near Millburg, MI, then over Interstate Hwy 94 to junction Interstate Hwy 90 near Gary, IN, then over Interstate Hwy 90 to Chicago, and return over the same route, serving all intermediate points.

Note.—Applicant intends to tack this authority with its existing regular route authority in MC–1515.

MC 15735 (Sub-49), filed June 25, 1982. Applicant: ALLIED VAN LINES, INC., P.O. Box 4403, Chicago, IL 60680. Representative: Richard V. Merrill (same address as applicant), (312) 681–8378. Transporting *general commodities* (except commodities in bulk and classes A and B explosives), between points in the U.S., under continuing contract(s) with the 3M Corporation, of St. Paul, MN.

MC 143315 (Sub-1), filed June 25, 1982. Applicant: RENT-A-BUS, INC., d.b.a. SUNWAY CHARTERS, Highway 17 South, Myrtle Beach, SC 29577. Representative: Bruce E. Mitchell, 3390 Peachtree Road, NE., Suite 520, Atlanta, GA 30326, (404) 262–7855. Transporting *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, beginning and ending at points in SC and NC, and extending to points in the U.S. (except HI).

MC 143434 (Sub-6), filed June 25, 1982. Applicant: CHARLES McALPIN TRUCKING, INC., Route 4, Box 71–A, Decatur, AL 35601. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401, (205)578–3212. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 149195 (Sub-21), filed June 25, 1982. Applicant: ARCADIAN MOTOR CARRIERS, 1100 Sierra St., Kingsburg, CA 93631. Representative: James F. Hauenstein (same address as applicant), (209) 897–4122. Transporting *paper and paper products,* between points in the U.S. (except AK and HI).

MC 156965 (Sub-1), filed June 25, 1982. Applicant: HARWARD & SONS FREIGHT, INC., R.R. #3, Fairfield, IA 52556. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting *metal products,* between points in Jefferson County, IA, on the one hand, and, on the other, points in Crosby and Lubbock Counties, TX.

MC 157195 (Sub-2), filed June 23, 1982. Applicant: DANIEL E. GAGAIN d.b.a. D & L TRUCKING, 5715 Angola Rd., P.O. box 7490, Toledo, OH 43615. Representative: Keith D. Warner, 5732 W. Rowland Rd., Toledo, OH 43613, (419) 474–6083.Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Exper Freight Brokerage, Inc., of Toledo, OH.

MC 160655, filed June 25, 1982. Applicant: COMMERCIAL MOTOR FREIGHT CO., 1309 Bergeline Ave., Union City, NJ 07087. Representative: Michael V. Petrole (same address as applicant), (201) 866–0197. Transporting *wearing apparel, piece goods, accessories and trimming,* between points in Hudson County, NJ, on the one hand, and, on the other, points in El Paso County, TX.

MC 161314 (Sub-1), filed June 25, 1982. Applicant: DONALD DEJNO d.b.a. DEJNO'S TRUCKING, 11121—63rd Avenue, Kenosha, WI 53142. Representative: Daniel R. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203, (414) 273–7410. Transporting *pulp, paper and related products,* between Chicago, IL, on the one hand, and, on the other, points in WI.

MC 162225, filed June 25, 1982. Applicant: DAILY JUICE PRODUCTS, INC., 1 Daily Way, Verona, PA 15147. Representative: Jack L. Schiller, 123–60 83rd Ave., Kew Gardens, NY 11415, (212) 263–2078. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contracts with (1) Dairyland Sales Company, of Pittsburgh, PA, (2) Foremost-McKesson, Inc., of San Francisco, CA, (3) Fox Grocery Company, of Belle Vernon, PA, (4) La Magna Cheese Company, of Verona, PA, and (5) Packaging Specialists, Inc., of Pittsburgh, PA.

MC 162394 (Sub-1), filed June 25, 1982. Applicant: MOVING CONSULTANTS OF NEBRASKA, INC., 7201 Main St., Ralston, NE 68127. Representative: Robert J. Gallagher, 1000 Connecticut

Ave., NW., Suite 1200, Washington, DC 20036, (202) 785–0024. As a *broker*, at Ralston, NE, in arranging for the transportation of *household goods*, between points in the U.S. (except AK and HI).

MC 162565, filed June 21, 1982. Applicant: DONALD R. STONE d.b.a PALO ALTO TRANSPORT, 3618 Louis Rd., Palo Alto, CA 94303. Representative: (Same as applicant), (415) 494–7456. To operate as a *broker*, at Palo Alto, CA, in arranging for the transportation of general commodities (except classes A and B explosives), between points in the U.S.

MC 162655, filed June 25, 1982. Applicant: LOUTEX, INC., 989 Terrace Place, Ontario, OR 97914. Representative: Raymond D. Givens, Box 2720, Boise, ID 83701, (208) 342–6571. Transporting *fertilizer*, between points in Benton County, WA, on the one hand, and, on the other, points in ID.

MC 162664, filed June 25, 1982. Applicant: ROGAL BOSTON, INC., 72 Langley Rd., Newton Centre, MA 02159. Representative: Hughan R. H. Smith, 26 Kenwood Pl., Lawrence, MA 01841, (617) 657–6071. As a *broker*, at Newton Centre, MA, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in special and charter operations, between points in the U.S.

MC 162675, filed June 25, 1982. Applicant: ALASKA PACIFIC TRANSPORT, A DIVISION OF XTEE, INC., 2310 Sucess Dr., Anchorage, AK 99501. Representative: Harold O. Orlofske, 145 W. Wisconsin Ave., P.O. Box 368, Neenah, WI 54956, (414) 722–2848. Transporting (1) *commodities used for building, repairing, and/or support of pipeline used in exploration and/or distribution of oil or natural gas* and (2) *classes A, B and C explosives and blasting agents*, between points in AK, WA and Sweetgrass, MT, on the one hand, and, on the other, points in AK.

Note.—The authority granted in (2) above shall expire 5 years from the date of issuance.

MC 162684, filed June 25, 1982. Applicant: BUD MORGAN, d.b.a. BUD MORGAN TOWING & WRECKER, P.O. Box 864, 611 Mooney, Muskogee, OK 74401. Representative: Bud Morgan (same address as applicant), (918) 683–3776. Transporting *wrecked or disabled motor vehicles*, between points in the U.S. (except AK and HI).

Volume No. OP3-106

Decided: July 6, 1982.

MC 12945 (Sub-4), filed June 28, 1982. Applicant: THE TOLEDO AUTOMOBILE CLUB, 2271 Ashland Ave., Toledo, OH 43620. Representative: Keith D. Warner, 5732 West Rowland Rd., Toledo, OH 43613, (419) 474–6883. Transporting *passengers and their baggage*, in charter operations, between points in the U.S. (except AK and HI), under continuing contract(s) with The Toledo Automobile Club, Motorcoach Tour Department, of Toledo, OH.

MC 14314 (Sub-56), filed June 28, 1982. Applicant: DUFF TRUCK LINE, INC., P.O. Box 359, Lima, OH 45802. Representative: Ronald D. Mills (same address as applicant), (419) 222–8045. Transporting *General commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S. (except AK and HI).

MC 96324 (Sub-47), filed June 29, 1982. Applicant: GENERAL DELIVERY, INC., P.O. Box 1816, Fairmont, WV 26554. Representative: Mel P. Booker, Jr., P.O. Box 1281, Old Town Station, Alexandria, VA 22313, (703) 836–6115. Transporting (1) *paper and paper products*, (2) *plastic and plastic products*, (3) *metal and metal products*, (4) *wood and wood products*, (5) *machinery*, and (6) *such commodities* as are dealt in and distributed by wholesale, retail and chain grocery stores and food business houses, between those points in the U.S. in and east of MN, IA, MO, AR, and LA.

MC 114334 (Sub-98), filed June 28, 1982. Applicant: BUILDERS TRANSPORTATION COMPANY, 3710 Tulane Rd., Memphis, TN 38116. Representative: Dale Woodall, 6077 Primacy Parkway, Suite 209, Memphis, TN 38119, (901) 683–5400. Transporting *aluminum products*, between points in Rockwall County, TX and Lancaster County, PA.

MC 121234 (Sub-3), filed June 28, 1982. Applicant: A & A TRUCK LINES, INC., 1211 E. Cheyenne Rd., Colorado Springs, CO 80906. Representative: Nancy P. Bigbee, 745 E. 18th Ave. #101, Denver, CO 80203, (303) 839–0057. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CO.

MC 130654 (Sub-2), filed June 28, 1982. Applicant: PACIFIC RELOCATING SERVICES, INC., 1415 West Torrance Boulevard, Torrance, CA 90501. Representative: Robert J. Gallagher, 1000 Connecticut Avenue, NW., Suite 1200, Washington, DC 20036. As a *broker*, in arranging for the transportation of *household goods*, between points in the U.S. (except AK and HI).

MC 133565 (Sub-23), filed June 28, 1982. Applicant: TRUE TRANSPORT, INC., P.O. Box 829, 15 Stockton St., Newark, NJ 07101. Representative: James T. White (same address as applicant), (201) 344–5400. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between those points in the U.S. on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the International Boundary line between the U.S. and Canada.

MC 134134 (Sub-107), filed June 28, 1982. Applicant: MAINLINER MOTOR EXPRESS INC., 4202 Dahlman Ave., Omaha, NE 68107. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114, (402) 397–9900. Transporting *such commodities* as are dealt in or used by manufacturers of aluminum and aluminum products, between points in Lebanon County, PA, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, CO, and NM.

MC 136225 (Sub-2), filed June 28, 1982. Applicant: PHILIPPS BUS SERVICE, INC., Route 3, Box 112, Winona, MN 55987. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956 (414) 722–2848. Transporting *passengers and their baggage* in special and chartered operations, beginning and ending at points in Dakota, Dodge, Fillmore, Freeborn, Goodhue, Houston, Mower, Olmsted, Rize, Scott, Steele, and Wabasha Counties, MN, and Buffalo, LaCrosse, Pepin, and Trempealeau Counties, WI, and extending to points in the U.S. (except AK and HI).

MC 149234 (Sub-4), filed June 28, 1982. Applicant: RIVER VALLEY OIL CO., INC., P.O. Box 526, Spring Green, WI 53588. Representative: Michael J. Collins, 17 West Mifflin St., Suite 310, P.O. Box 1042, Madison, WI 53701, (608) 231–258–8555. Transporting *glass and glass units* between Minneapolis, MN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 152414 (Sub-4), filed June 22, 1982. Applicant: PAUL M. MUNSEN, 120 E. Ogden Avenue, Hinsdale, IL 60521. Representative: James C. Hardman, 33 N. LaSalle Street, Chicago, IL 60602, (312) 236–5944. Transporting *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, between points in the U.S.

MC 153134 (Sub-6), filed June 29, 1982. Applicant: HI COUNTRY CARRIERS, INC., P.O. Box 1354, Englewood, CO

80150. Representative: Charles M. Williams, 1600 Shermand St., #665, Denver, CO 80203, (303) 839–5856. Transporting (1) *such commodities* as are dealt in or used by manufacturers and distributors of household appliances, televisions, air conditioners, audio systems and electronic sound equipment, between points in the U.S. (except AK and HI), under continuing contract(s) with Western Supply Co., Inc., of Salt Lake City, UT, (2) *printed material,* and *pulp, paper and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Rocky Mountain Bank Note, of Denver, CO, and (3) *such commodities* as are dealt in or used by manufacturers and distributors of floor coverings, between points in the U.S. (except AK and HI), under continuing contract(s) with L. D. Brinkman, Inc., of Denver, CO.

MC 154705 (Sub-1), filed June 28, 1982. Applicant: MAC'S CUSTOMIZED DISTRIBUTION SERVICE, INC., 4150–B Pleasantdale Rd., Doraville, GA 30340. Representative: Kim G. Meyer, 235 Peachtree St. NE., Ste. 1200, Atlanta, GA 30303, (404) 522–2322. Transporting *sound recordings, sound discs, sound tape, video discs, musical instruments, tape recorders, stereos, phonograph stands and printed matter,* between points in Fulton County, GA, Marion County, IN and Dade County, FL, on the one hand, and, on the other, those points in the U.S. in and east of WI, IL, MO, AR, LA and TX.

MC 159434 (Sub-1), filed June 28, 1982. Applicant: FEDERAL TRANSPORT, INC., 5658 Elmore Rd., Bartlett, TN 38134. Representative: Thomas A. Stroud, 109 Madison Ave., Memphis, TN 38103, (901) 526–2900. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Shelby County, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 160424, filed June 28, 1982. Applicant: JOHN T. LANCASTER, INC., Ervin Route, Hugo, OK 74743. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154, (405) 424–3301. Transporting *road construction materials,* between points in OK and TX.

MC 161995 (Sub-1), filed June 28, 1982. Applicant: D & D TRANSPORT OF WISCONSIN, INC., R. R. 2, Mondovi, WI 54735. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Edina, MN 55424, (612) 927–8855. Transporting (1) *food and related products,* between points in MN and WI, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *rubber and plastic products,* between Ramsey County, MN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162444, filed June 28, 1982. Applicant: B.A.D. SERVICES, INC., P.O. box 32318, Oklahoma City, OK 73123. Representative: William P. Parker, P.O. box 54657, Oklahoma City, OK 73154, (405) 424–3301. Transporting *metal products and machinery,* between points in OK, on the one hand, and, on the other, points in CO, KS, LA, NM, TX and WY.

MC 162634, filed June 23, 1982. Applicant: UNITED SUPREME TRANSPORTATION, INC., Hwy 14, Greer, SC 29651. Representative: David L. Capps, P.O. box 924, Douglasville, GA 30133, (404) 949–7756. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with (a) United Furniture Mfg., Inc., of Greer, SC, and (b) Nicolson Farms of Inman, SC.

MC 162704, filed June 28, 1982. Applicant: CRAIG A. SWITZER, d.b.a. WILD IRIS TRANSPORT, 3821 W. Pryor Ct., Visalia, CA 93277. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306, (805) 872–1106. Transporting *such commodities* as are dealt in or used by manufacturers of pre-stressed concrete articles, between points in the U.S., under continuing contract(s) with Kabo-Karr Corporation and Quail Enterprises, of Visalia, CA.

[FR Doc. 82–18819 Filed 7–12–82; 8:45 am]
BILLING CODE 7035–01–M

[Docket No. AB–167 (Sub-No. 186N)]

Conrail Abandonment Between Roaring Spring and End of Track and Between Martinsburg Junction and Martinsburg, PA; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Roaring Spring and end of Track and Martinsburg Junction and Martinsburg in the County of Blair, PA, a total distance of 6.8 miles effective on June 11, 1982.

The net liquidation value of this line is $114,948. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82–18806 Filed 7–12–82; 8:45 am]
BILLING CODE 7035–01–M

[Docket No. AB–167 (Sub-445N)]

Conrail Abandonment of Lines in Zanesville, OH; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between mileposts 19.4 and 22.5 the Zanesville Secondary Track; the Z&W Industrial Track between mileposts 45.8 and 57.5; the Roseville Secondary Track between mileposts 22.5 and 36.0 and the Fultonham Running Track between mileposts 0.1 and 3.1, a total distance of 31.3 miles effective on March 12, 1982.

The net liquidation value of this line s $540,000. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation va e, of this line it shall sell such line an the Commission shall, unless the pa on otherwise agree, establish an eq table division of joint rates for throug routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82–18806 Filed 7–12–82; 8:45 am]
BILLING CODE 7035–01–M

[AB 10 SDM]

Norfolk and Western Railway Co.; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the Norfolk and Western Railway Company has filed with the Commission its amended color-coded system diagram map in docket No. AB 10 SDM. The Commission on June 30, 1982, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal

charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 10 SDM.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-18809 Filed 7-12-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-14 (Sub-3)]

Northwestern Pacific Railroad Co.; Abandonment in Marin County, CA; Notice of Findings

The Commission has found that the public convenience and necessity permit the Northwestern Pacific Railroad Company to abandon a 1.401 mile portion of its line of railroad between milepost 14.329 near Detour and milepost 15.730 south of San Rafael, in Marin County, CA. A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds that: (1) a financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be resubmitted within this 10 day period.

Information and procedures regarding financial assistance for continued rail services are contained in 49 U.S.C. 10905 and 49 CFR 1121.38.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-18808 Filed 7-12-82; 8:45 am]

BILLING CODE 7035-01-M

[AB 36 SDM]

Oregon Short Line Railroad Co.; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the Oregon Short Line Railroad Company has filed with the Commission its amended color-coded system diagram map in docket No. AB 36 SDM. The Commission on July 2, 1982, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 36 SDM

Agatha L Mergenovich,

Secretary

[FR Doc. 82-18870 Filed 7-12-82; 8:45 am]

BILLING CODE 7035-01-M

[AB 12 SDM]

Southern Pacific Transportation Co.; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the Southern Pacific Transportation Company has filed with the Commission its amended color-coded system diagram map in docket No. AB 12 SDM. The Commission on July 2, 1982, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 12 SDM

Agatha L. Mergenovich,

Secretary

[FR Doc. 82-18811 Filed 7-12-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-364N)]

Conrail Abandonment in Jeannette, PA

AGENCY: Interstate Commerce Commission.

ACTION: Notice exemption.

SUMMARY: The Interstate Commerce Commission has exempted Elliott Turbomachinery Co, Inc., which will acquire and operate 0.7 miles of railroad in Jeannette, PA, from 49 U.S.C. Subtitle IV.

DATES: Exemption effective on July 13, 1982. Petitions to reopen must be filed by August 2, 1982.

ADDRESSES: Send pleadings to:

(1) Section of Finance, Room 5349, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's Representative, Charles F. Hildebrand, Senior Attorney, Elliott Turbomachinery Co., Inc., North Fourth Street, Jeannette, PA 15644

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., NW., Washington, DC 20423, (202) 289-4357—DC metropolitan area; (800) 424-5403—Toll-free for outside the DC area.

Decided: June 30, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham, Sterrett, Andre, and Simmons. Commissioner Gresham dit not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-18820 Filed 7-12-82; 8:45 am]

BILLING CODE 7035-01-M

[AB 43 SDM]

Illinois Central Gulf Railroad Co.; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.23, that the ILLINOIS CENTRAL GULF RAILROAD COMPANY has filed with the Commission its amended color-coded system diagram map in docket No. AB 43 SDM. The Commission on June 22, 1982, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 43 SDM.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-18813 Filed 7-12-82; 8:45 am]

BILLING CODE 7035-01-M

[AB 102 SDM]

Missouri-Kansas-Texas Railroad Co.; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.23, that the MISSOURI-KANSAS-TEXAS RAILROAD COMPANY has filed with the Commission its amended color-coded system diagram map in docket No. AB 102 SDM. The Commission on June 28, 1982, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 102 SDM.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-18814 Filed 7-12-82; 8:45 am]

BILLING CODE 7035-01-M

[AB 14 SDM]

Northwestern Pacific Railroad Co.; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.23, that the Northern Pacific Railroad Company has filed with the Commission its amended color-coded system diagram map in docket No. AB 14 SDM. The Commission on July 2, 1982, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 14 SDM

Agatha L. Mergenovich,

Secretary

[FR Doc. 82-18812 Filed 7-12-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Performance Review Boards; Membership

AGENCY: Department of Justice.

ACTION: Notice of the Department of Justice's 1982 Performance Review Boards.

SUMMARY: Pursuant to the requirement of 5 U.S.C. 4314(c)(4), the Department of Justice announces the membership of its Performance Review Boards. The purposes of the Performance Review Boards are to provide fair and impartial review of Senior Executive Service performance appraisals and to make recommendations to the Deputy or Associate Attorney General regarding the ratings.

FOR FURTHER INFORMATION CONTACT: Mr. Warren Oser, Director, Personnel Staff, Justice Management Division, Department of Justice, Washington, D.C. 20530. Telephone 633-3221.

Harry H. Flickinger,

Executive Secretary, Senior Executive Resources Board.

Board No. 1

Office of the Attorney General, Office of the Deputy Attorney General, Office of the Associate Attorney General, Justice Management Division—

Principal Members

Anthony C. Liotta, Deputy Assistant Attorney General, Land and Natural Resources Division

Gilbert L. Ingram, Assistant Director, Correctional Programs, Federal Prison System

John L. Martin, Chief, Internal Security Section, Criminal Division

Alternate Members

W. Ronald Bonds, Deputy Assistant Attorney General, Civil Division

Donald J. Gavin, Special Litigation Counsel, Tax Division

Board No. 2

Criminal Division, Community Relations Service, Office of Professional Responsibility, Office of Intelligence Policy Review, Office of Legal Policy, Executive Office for U.S. Attorneys—

Principal Members

Stanley M. Gorinson, Chief, Special Regulated Industries Section, Antitrust Division

D. Patrick Mullarkey, Chief, Civil Trial Section, Northern Region, Tax Division

Guy K. Zimmerman, Director, Audit Staff, Justice Management Division

Alternate Members

Peter R. Steenland, Chief, Appellate Section, Land and Natural Resources Division

Howard Safir, Assistant Director, Operations, U.S. Marshals Service

Board No. 3

Civil Division, Office of the Solicitor General, U.S. Marshals Service—

Principal Members

David L. Rose, Chief, Federal Enforcement Section, Civil Rights Division

David L. Milhollan, Chairman, Board of Immigration Appeals

Richard E. Carter, Director, Office of Legal Education, Executive Office for U.S. Attorneys

Alternate Members

Walter R. Burkhart, Director, Office of Research Programs, Office of Justice Assistance, Research and Statistics

Robert J. D'Agostino, Deputy Assistant Attorney General, Civil Rights Division

Board No. 4

Antitrust Division, Office of Legal Counsel, Office of Legislative Affairs—

Principal Members

Andrew J. Carmichael, Associate Commissioner, Examinations, Immigration and Naturalization Service

Michael L. Paup, Chief, Appellate Section, Tax Division

T. George Gilinsky, Senior Appellate Counsel, Criminal Division

Alternate Members

Wade B. Houk, Assistant Director, Planning and Development Division, Federal Prison System

D. Jerry Rubino, Director, Security Staff, Justice Management Division

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Principal Members

Kamal J. Rahal, Director, Procurement and Contracts Staff, Justice Management Division

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Alternate Members

Stephen D. Ramsey, Chief, Environmental Enforcement Section, Land and Natural Resources Division

Michael W. Dolan, Deputy Assistant Attorney General, Office of Legislative Affairs

Board No. 6

Tax Division, Land and Natural Resources Division—

Principal Members
Stuart E. Schiffer, Deputy Assistant Attorney General, Civil Division
Charles S. Stark, Chief, Foreign Commerce Section, Antitrust Division
Gerald M. Farkas, Associate Commissioner, UNICOR, Federal Prison Industries, Inc.
Alternate Members
Robert B. Levinson, Deputy Assistant Director, Correctional Programs Division, Federal Prison System
Edward S. G. Dennis, Jr., Chief, Naracotic and Dangerous Drug Section, Criminal Division

Board No. 7

Federal Prison System, Office of Justice Assistance, Research and Statistics, U.S. Parole Commission—
Principal Members
Stuart A. Smith, Tax Asssistant, Office of the Solicitor General
Richard K. Willard, Deputy Assistant Attorney General, Civil Division
Roger P. Brandemuehl, Assistant Commissioner, Border Patrol, Immigration and Naturalization Service
Alternate Members
Hugh J. Brien, Assistant Commissioner, Detention and Deportation, Immigration and Naturalization Service
James P. Turner, Deputy Assistant Attorney General, Civil Rights Division

[FR Doc. 82-18792 Filed 7-12-82;8:45 am]
BILLING CODE 4410-01-M

Antitrust Division

United States v. C. Itoh & Co., Ltd., et al.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b) through (h), that a proposed Final Judgment, Stipulation and Competitive Impact Statement, as set forth below, have been filed with the United States District Court for the Western District of Washington in *United States of America* v. *C. Itoh & Co., Ltd., et al.*, Civil Action No. C–82–810.

The complaint in this case alleged that eight Japanese corporations engaged in a combination and conspiracy to fix the price of processed Alaska tanner crab in violation of Section 1 of the Sherman Act, 15 U.S.C. 1.

The proposed Judgment would enjoin the defendants from fixing prices for processed Alaska seafood, and would require the defendants to establish an antitrust compliance program.

Public comment on the proposed Judgment is invited within the statutory 60-day comment period. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to Charles S. Stark, Chief, Foreign Commerce Section, Room 7115, Antitrust Division, Department of Justice, Washington, D.C. 20530 (telephone 202–633–2464).

Joseph H. Widmar,

Director of Operations, Antitrust Division, Department of Justice.

United States District Court Western District of Washington

United States of America, Plaintiff, v. *C. Itoh & Co., Ltd.; Kyokuyo Co., Ltd.; Mitsui & Co., Ltd.; Nippon Reizo Kaisha, Ltd.; Nippon Suisan Kaisha, Ltd.; Shinko Sangyo Trading Co., Ltd.; Taiyo Fishery Co., Ltd.; and Toshoku Ltd.*, Defendants.

No. C–82–810, Filed: June 30, 1982, Entered.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. A Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this stipulation, this stipulation shall be of no effect whatever and the making of this stipulation shall be without prejudice to plaintiff and defendants in this or other proceedings.

Dated:

For Plaintiff: William F. Baxter, *Assistant Attorney General;* Joseph H. Widmar, Charles S. Stark, *Attorneys, Department of Justice;* Joel E. Leising, Rangeley Wallace, Kenneth P. Freiberg, Carolyn G. Mark, Eric L. Wilson, *Attorneys, Department of Justice Antitrust Division 10th & Pennsylvania Ave., NW. Washington, D.C. 20530 Telephone: (202) 633–4428.*

For Defendants: D. Wayne Gittinger, *Attorney for C. Itoh & Co., Ltd.;* Hugh F. Bangasser, *Attorney for Kyokuyo Co., Ltd.;* D. Wayne Gittinger, *Attorney for Mitsui & Co., Ltd.;* Thomas H. S. Brucker, *Attorney for Nippon Reizo Kaisha, Ltd.;* Kenneth G. Kutler, *Attorney for Nippon Suisan Kaisha, Ltd.;* Stew Cogan, *Attorney for Shinko Sangyo Trading Co., Ltd.;* Sharon S. Armstrong, *Attorney for Taiyo Fishery Co., Ltd.,* Patrick D. McVey, *Attorney for Toshoku Ltd.*

UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON

United States of America, Plaintiff, v. *C. Itoh & Co., Ltd.; Kyokuyo co., Ltd.; Mitsui & Co., Ltd.; Nippon Reizo Kaisha, Ltd.; Nippon Suisan Kaisha, Ltd.; Shinko Sangyo Trading Co. Ltd.; Taiyo Fishery Co., Ltd.; and Toshoku Ltd.*, Defendants.

No. C–82–801, Final Jugement Fled June 30, 1982.

Plaintiff, United States of America, having filed its complaint in this case, and plaintiff and defendants, by their respective attorneys having consented to waive, solely for the purpose of this Final Judgment, their rights to contest the jurisdiction of the Court over their persons, and having further consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or an admission by any party with respect to any such issue;

Now, therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby,

Ordered, adjudged, and decreed as follows:

I

This Court has jurisdiction of the subject matter of this action and of each of the parties consenting hereto. The Complaint states a claim upon which relief may be granted against each defendant under Section 1 of the Sherman Act (15 U.S.C. 1).

II

As used in this Final Judgment, the term:

(A) "Person" shall mean any individual, corporation, partnership, firm, association, or other business or legal entity;

(B) "Processed seafood" shall mean any fish or shellfish prepared in or off the shore of Alaska by any commercial process, including canning, packing, freezing, or the addition of chemical substances;

(C) "JMPIA" shall mean the Japan Marine Products Importers Association and includes any formal or informal committee or subcommittee thereof;

(D) "Importer" shall mean any person, including each of the defendants, that purchases processed seafood from U.S. persons for resale in Japan;

(E) "Japanese translation" shall mean an accurate Japanese language translation of this final Judgment.

III

This Final Judgment applies to the defendants, their successors and assigns and to their respective subsidiaries, officers, directors, agents and employees and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

Each defendant is enjoined from:

(A) Entering into, adhering to, maintaining, furthering, participating in, or enforcing any agreement, arrangement, understanding, combination, or conspiracy with any other

importer or group of importers to fix, maintain, establish, or adhere to the prices, range of prices, or other terms or conditions for the purchase of processed seafood from any U.S. person or persons;

(B) Communicating with any other importer or group of importers to exchange information or opinions concerning (i) current season or future prices for the purchase of processed seafood from any U.S. person or persons; (ii) current season or future price offers or counter offers made or received, to be made, or under consideration for the purchase of processed seafood from any U.S. person or persons; (iii) strategy, timing, or conduct of negotiations for the current season or future purchases of processed seafood from any U.S. person or persons; or (iv) quantity of processed seafood being or to be purchased from any U.S. person or persons; and

(C) Attending or participating in any meeting with any other importer or group of importers during which such defendant knows or has been advised that any importer will discuss any subject listed in paragraph IV(B) hereof.

V

Except to the extent undertaken for the purpose of circumventing the prohibitions of Section IV hereof, nothing contained in this Final Judgment shall prohibit:

(A) Any necessary communication or negotiation between a defendant and any other person in connection with a contemplated or actual purchase or sale of processed seafood between such persons;

(B) Transactions or communications between a defendant and its parent or subsidiary or between the officers, directors, agents or employees thereof when acting in such capacity;

(C) Joint ventures for purposes of processing, storing, shipping, or harvesting fish or shellfish, and such transactions or communication as are necessary to the operation, management or business thereof;

(D) A defendant from engaging in any conduct, action, activity or communication with any other person, if such conduct, action, activity or communication is required by statute, law, rule or regulation having the force of law in the jurisdiction in which such conduct, action activity or communication takes place;

(E) Any negotiation or communications between a defendant and any other person on questions of the definition of grading and quality standards; on-site inspection, grading and contract administration; shipping; packaging; and similar technical matters;

(F) Provision by a defendant of information on prices at which it has purchased processed seafood or on quantities of processed seafood purchased by, or delivered to, it to a privately operated system of data exchange under which the data is aggregated in such a way that neither the identity of the parties nor information relating to individual transactions is disclosed to or reasonably ascertainable by any other importer, and receiving of such aggregated information;

(G) Communication of information concerning existing contracts to the extent such information has already been publicly disseminated through regularly published newspapers, trade journals or trade periodicals;

(H) Participation in a meeting called and chaired or vice-chaired by an official of the Japanese Fisheries Agency at which participants discuss their estimates of the total amount of any processed seafood product or products that will be imported into the Japanese market during a particular period, provided that such meetings do not include discussions by individual firms of their own import plans; or

(I) Provisions by a defendent of any information concerning the purchase of processed seafood to the Government of Japan or any agency or department thereof, provided that in the course of transmitting such information it is not divulged to any other importer.

VI

For a period of five years from the date of entry of this Final Judgment, each defendant is ordered to file annually with the plaintiff an affidavit, prepared without direct or indirect communication with any other defendant, identifying each JMPIA meeting that defendant attended at which processed seafood was discussed and each meeting with any other importer or group of importers during which any subject listed in paragraph IV(B) was discussed. Such affidavit shall contain a detailed account of all discussions at such meetings related to the purchase and importation of processed seafood, the date of such meetings, and to the extent known, the names and company affiliation of each person in attendance. If the defendant attended no such meetings, the affidavit shall so state. Such affidavit, if in Japanese, shall be accompaned by an English translation. Nothing in this Section VI shall require reports of discussions permitted by Section V hereof.

VII

Unless otherwise provided, each defendant is ordered and directed to:

(A) Within thirty (30) days after the date of entry of this Final Judgment and annually thereafter for ten (10) years, furnish a copy of this Final Judgment (accompanied by a Japanese translation, where required) to its president or chief executive officer, and to each of its officers, directors, agents and employees (whether located in Japan or the United States) then responsible, in whole or in part, for making pricing decisions for, or purchases of, processed seafood;

(B) Furnish a copy of this Final Judgment (accompanied by a Japanese translation, where required) to each successor to those persons described in paragraph VII(A) hereof, within thirty (30) days after such successor assumes responsibility for pricing decisions for, or puchases of, processed seafood;

(C) Attach to each copy of this Final Judgment furnished pursuant to paragraphs VII (A) and (B) hereof a statement in Japanese advising each person of the nature, scope, and prohibitions of the U.S. antitrust laws and that it is the policy and the intent of the defendant to comply with the requirements of the antitrust laws and the Final Judgment. Such statement shall also include a instruction that each agent and employee is required to comply with the Final Judgment, describe the consequences, including possible civil or criminal penalties, to the defendant, and its agents and employees, of a failure to compy, and advise that the defendant's legal advisors are available at all reasonable times to confer regarding any compliance question or problem;

(D) Within thirty (30) days after the date of entry of this Final Judgment, furnish each member company of the JMPIA with a copy of this Final Judgment, together with a Japanese translation, by mailing a copy to the president or other appropriate officer of such member company or ascertaining that either the JMPIA or another defendant has done so; and

(E) File with this Court and serve upon the plaintiff, within sixyty (60) days from the date of entry of this Final Judgment, a statement as to the fact and manner of its compliance with paragraphs VII(A), (C) and (D) hereof, and the measures that it has taken to assure compliance with paragraph VII( ) hereof.

VIII

(A) For the purpose of determining or securing compliance with this Final Judgment:

(1) Upon receipt of a written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, each defendant shall, on reasonable notice and subject to any legally recognized privilege:

(a) Provide with sixty (60) days to the Department of Justice in Washington, D.C., copies of any books, ledgers, accounts, correspondence, memoranda, and other documents or records in the possession or under the control of such defendant relating to any subjects covered by this Final Judgment;

(b) Submit written reports, under oath if requested, in English or accompanied by an English translation, with respect to its compliance with this Final Judgment as may, from time to time, be requested; and

(c) Permit any duly authorized representative of the Department of Justice, subject to the reasonable convenience of each defendant and without restraint or interference from it, to interview officers, employees and agents of such defendant, who may have counsel present, regarding any subject covered by this Final Judgment. This paragraph shall not require international travel by the person to be interviewed. Such request and notice may be made by delivery to the person appointed pursuant to Section X of this Final Judgment to receive service of process on behalf of each defendant. Nothing in this paragraph VIII(A)(1) shall require any defendant to take any action in Japan which is prohibited by the Government of Japan pursuant to provisions of Japanese law, provided that the defendant has exercised good faith efforts to obtain permission of the appropriate person or governmental authority but such permission has not been secured.

(2) Each defendant shall provide written notice in English to plaintiff prior to engaging

in any transaction or activity that, but for the provisions of paragraphs V(D) and V(F) hereof, would be prohibited by this Final Judgment. Such notice shall describe the transaction or activity and identify, if applicable, the statute, law, rule or regulation that the defendant believes requires such transaction or activity to be undertaken. In the event that such defendant is unable, despite the exercise of good faith efforts, to provide such notice prior to engaging in the required transaction or activity, the defendant shall do so as soon as practicable but not later than thirty (30) days thereafter.

(B) No information or ducuments obtained by the means provided in this Section VIII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized represenative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law. The defendant from which such documents or information was obtained shall be given twenty (20) days written notice prior to the disclosure of such documents or information in any legal proceeding (other than a grand jury proceeding) to which such defendant is not a party or pursuant to a request under the Freedom of Information Act.

IX

Jurisdiction is retained by this Court for the purposes of enabling any of the parties to this Final Judgment to apply to this Court at any time for such orders or directions as amy be necessary or appropriate for the construction or implementation of this Final Judgment, for the modification of any of its provisions, for the enforcement of compliance with its terms, and for the punishment of violations of its terms.

X

Each defendant shall appoint a person located in the United States as its agent for service of process in any proceeding for the purpose of the construction, implementation, modification, enforcement of compliance, or punishment of any violation of this Final Judgment. Each defendant shall maintain such agent for the life of this Final Judgment and, within ten (10) days from the date of entry of this Final Judgment, file with this Court and serve on plaintiff a statement identifying such agent. In the event of a need to appoint a successor agent, defendant shall immediately file with this Court and serve on plaintiff a statement identifying the successor agent.

XI

This Final Judgment shall expire ten (10) years from its date of entry.

XII

Entry of this Final Judgment is in the public interest.

It is so ordered.

Dated this — day of ——, 1982.

———, ———.

United States District Judge.

United States District Court Western District of Washington

United States of America, Plaintiff, v. *C. Itoh & co., Ltd.; Kyokuyo Co., Ltd.; Mitsui & Co., Ltd.; Nippon Reizo Kaisha, Ltd.; Nippon Suisan Kaisha, Ltd.; Shinko Sangyo Trading Co., Ltd.; Taiyo Fishery Co., Ltd.;* and *Toshoku Ltd.,* Defendants.

No. C–82–810, Competitive Impact Statement, Filed: June 30, 1982.

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)-(h), the United States files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

The United States has filed a civil antitrust complaint under Section 4 of the Sherman Act (15 U.S.C. 4), alleging that the defendants violated Section 1 of the Sherman Act (15 U.S.C. 1). The complaint alleges a combination and conspiracy consisting of a continuing agreement, understanding, and concert of action among the defendants and various co-conspirators to fix the prices they paid for processed Alaska tanner crab.

The complaint seeks a judgment by the Court that the defendants engaged in an unlawful combination and conspiracy in restraint of trade in violation of the Sherman Act. It also seeks an order by the Court to enjoin and restrain the defendants from any such activities or other activities having a similar purpose or effect in the future.

II. Description of the Practices Giving Rise to the Alleged Violation of the Antitrust Laws

Tanner crab is an edible salt water crustacean indigenous to the waters along many parts of the Alaska shoreline, as well as several other parts of the world. The most commercially significant species of tanner crab harvested from Alaska's fishing grounds are the *C. bairdi* and the somewhat smaller *C. opilio* tanner crab. In 1980, U.S. fishermen harvested approximately 121 million pounds of tanner crab from waters within 200 miles of the Alaska shoreline and sold their catch to processing companies operating in various parts of Alaska, earning about $55 million.

Tanner crab is processed and packaged in several different ways. Frozen or canned crabmeat is produced by boiling the crab in its shell and then extracting the meat for canning or for freezing in blocks. Most commonly, however, the crabmeat is frozen while still in the shell and sold as crab "sections." Various methods are used in processing crab sections. The most common method is to freeze 80 to 100 pound bulk packs of boiled crab sections by immersing them in a continuous superchilled brine solution. Another method is to freeze 20 to 25 pound packs of boiled crab sections in an air blast freezer. A third method, recently developed for the Japanese market, is to freeze uncooked sections in water containing chemical preservatives.

The primary markets for processed tanner crab are the United States and Japan. In 1980, approximately two-thirds of the tanner crab harvested from waters off Alaska were processed for export to Japan. Over twenty Japanese companies, principally through their U.S. subsidiaries, purchased such crab in 1980 paying a combined total of nearly $48 million.

In recent years, the defendants have purchased, directly or through their U.S. subsidiaries, large quantities of processed Alaska seafod, including processed tanner crab, from Alaska processors for importation to Japan. In 1980, the eight defendants accounted for more than fifty percent of the purchases made by Japanese firms of tanner crab processed in the Dutch Harbor-Akutan area of the Alaska peninsula, the most important tanner crab processing region of Alaska. In all, the defendants paid Alaska processors approximately $24 million in 1980 for processed tanner crab.

The defendants are members of the Japan Marine Products Importers Association ("JMPIA"), a trade association located in Tokyo, Japan, whose membership includes the major Japanese seafood importers. The JMPIA operates through a number of committees, including a crab committee that deals with processed crab imported from Alaska. Beginning at least as early as 1979, the defendants used the JMPIA crab committee as a forum to discuss, agree upon, and coordinate prices to be offered to Alaska processors for processed tanner crab. Defendants also communicated among themselves outside the context of JMPIA meetings to coordinate the conduct of price negotiations with, and the price offers to be made to, Alaska processors for the purchase of processed tanner crab.

The complaint alleges that the combination and conspiracy had the following effects, among others: (a) the prices paid for processed tanner crab were fixed at and depressed to artificial and non-competitive levels; (b) Alaska processors were deprived of the benefits of free and open competition in the purchase of processed tanner crab; and (c) competition in the purchase of processed tanner crab was restrained.

III. Explanation of Proposed Final Judgment

The United States and the defendants have stipulated that the Court may enter the proposed Final Judgment after compliance with the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h). The proposed Final Judgment provides that the entry of the Final Judgment does not constitute any evidence against, or an admission by, any party with respect to any issue of fact or law. Under the provisions of Section 2(e) of the Antitrust Procedures and Penalties Act, the proposed Final Judgment may not be entered until the Court determines that entry is in the public interest.

1. *Prohibited Conduct.* Section IV of the proposed Final Judgment prohibits each defendant from entering into, adhering to, participating in, maintaining, furthering, or enforcing any agreement, understanding, arrangement, combination, or conspiracy with any other importer or group of importers to fix, depress, establish, or adhere to the prices, range of prices or other terms or

conditions for the purchase of processed seafood from any U.S. person or persons. "Processed seafood" is defined in the Judgment as any fish or shellfish prepared in or off the shore of Alaska by any commercial process, including canning, packing, freezing, or the addition of chemical substances.

Section IV also prohibits each defendant from communicating with any other importer or group of importers to exchange information or opinions about the following subjects: current-season or future prices for the purchase of processed seafood from any U.S. person or persons; current-season or future price offers or counteroffers made or received, to be made, or under consideration for the purchase of processed seafood from any U.S. person or persons; strategy, timing, or conduct of negotiations for current-season or future purchases of processed seafood from any U.S. person or persons; or the quantity of processed seafood being or to be purchased from any U.S. person or persons. Section IV further prohibits each defendant from attending or participating in any meeting with any other importer or group of importers during which such defendant knows or has been advised that any importer will discuss any of the above subjects.

2. *Permissible Business Conduct.* Section V of the proposed Final Judgment makes clear that the Judgment would not prohibit the defendants from engaging in certain business conduct, provided such conduct is not undertaken for the purpose of circumventing the Judgment's injunctive provisions. Specifically, each defendant may engage in (i) any necessary communication or negotiation with any other person in connecting with a contemplated or actual purchase or sale of processed seafood between such persons; (ii) transactions or communications with its parent or subsidiary or between the officers, directors, agents or employees thereof when acting in such capacity; (iii) joint ventures for purposes of processing, storing, shipping, or harvesting fish or shellfish, and such transactions or communications as are necessary to the operation, management or business thereof; or (iv) any negotiation or communications with any other person on questions of the definition of grading and quality standards; on-site inspection, grading and contract administration; shipping; packaging; and similar technical matters. A defendant may also engage in any conduct, action, activity or communication with any other person if such conduct, action, activity or communication is required by a statute, law, rule or regulation having the force of law in the jurisdiction in which such conduct, action, activity or communication takes place. As set forth in Attachment 1, the exclusion of any reference to Japanese governmental admnistrative guidance is not intended to prevent a defendant from arguing in any subsequent proceeding relating to this Judgment that conduct taken pursuant to administrative guidance was, in fact, conduct required by a "regulation having the force of law," or to preclude the Justice Department from arguing that it was not so required.

Under Section V, a defendant may provide (i) any information concerning the purchase of processed seafood to the Government of Japan or any agency or department thereof, provided that in the course of transmitting such information it is not divulged to any other importer; (ii) information on prices at which it has purchased processed seafood or on quantities of processed seafood purchased by or delivered to it to a privately operated system of data exchange, under which the data is aggregated in such a way that neither the identity of the parties nor information relating to individual transactions is disclosed to or reasonably ascertainable by any other importer; or (iii) information concerning existing contracts to any person to the extent such information has already been publicly disseminated through regulatory published newspapers, trade journals or trade periodicals.

Section V further permits participation by a defendant in (i) joint ventures for purposes of processing, storing, shipping or harvesting fish or shellfish, and such transactions or communications as are necessary to the operation, management or business thereof; and (ii) meetings called and chaired or vice-chaired by an official of the Japanese Fisheries Agency at which participants discuss their estimates of the total amount of any processed seafood product or products that will be imported into the Japanese market during a particular period, provided that such meetings do not include discussions by individual firms of their own import plans.

3. *Affirmative Obligations.* Section VI of the Final Judgment requires that each defendant file annually, for a period of five years, with the Justice Department an affidavit, prepared without direct or indirect communication with any other defendant, that identifies each JMPIA meeting it attended at which processed seafood was discussed and each meeting with any other importers during which any subject listed in Paragraph IV(B) of the Judgment was discussed. The affidavit must provide a detailed account of any discussions relating to the purchase and importation of processed seafood at the meeting, the date of the meeting, and to the extent known, the names and company affiliation of each person in attendance. Any communication permitted by Section V need not be reported in the affidavit.

Under Section VII, each defendant must furnish annually, for a period of ten years, a copy of the Final Judgment (accompanied by a Japanese translation, where required) to its president or chief executive officer, and to each of its current (or successor) officers, directors, employees and agents (whether located in Japan or the United States) who have responsibility for making pricing decisions for, or purchases of, processed seafood. Defendants are also obliged to advise such persons within their companies of the requirements of this Final Judgment, of the criminal and civil penalties which may be imposed upon such persons or the company for violation of the Final Judgment, and of the fact that the company's legal advisors are available to confer regarding compliance questions or problems.

Section VII further requires the defendants to provide each member company of the JMPIA with a copy of the Judgment. Finally, within sixty days after entry of the Final Judgment, each defendant must file an affidavit as to the fact and manner of its compliance with the obligations imposed by Section VII.

Section VIII provides the Justice Department with access, upon reasonable notice and subject to any legally recognized privilege, to each defendant's records and personnel in order to determine compliance with the Judgment. Any interview conducted in Japan by a Department representative is subject to the Japanese Government's approval, as indicated in Attachment 1.

Under Section VIII, each defendant is required to provide the Justice Department with notice prior to engaging in any transaction or activity that, but for the provisions of paragraphs V(D) and V(F) of the Judgment, would be prohibited by the Final Judgment. Such notice shall describe the transaction or activity and identify, if applicable, the statute, law, rule or regulation that the defendant believes requires such transaction or activity to be undertaken. In the event the defendant is unable, despite the exercise of good faith efforts, to provide such notice prior to engaging in the required transaction or activity, the defendant shall do so as soon as practicable but not later than thirty days thereafter.

Finally, Section VIII limits the circumstances under which the Department may disclose information or documents obtained by reason of this Section and entitles the defendants to be given notice by the Department in some instances prior to such disclosure.

4. *Service of Process.* Section X of the Judgment requires that each defendant appoint a person located in the United States as its agent for service of process in any proceeding relating to the construction, implementation, modification, enforcement of compliance, or punishment of any violation of the Final Judgment. Each defendant must maintain such agent for the life of the Judgment and, within ten days from the date of entry of the Judgment, file with the Court and serve on the Department of Justice a statement identifying such agent. In the event of a need to appoint a successor agent, a defendant is required to immediately file with the Court and serve on the Department a statement identifying the successor agent.

5. *Scope of Proposed Judgment.* The proposed Final Judgment will remain in effect for a period of ten years from the date of entry. It applies to all defendants and to all other persons in active concert or participation with any of them who receive actual notice of the Final Judgment by personal service or otherwise.

6. *Effect of the Proposed Judgment on Competition.* The relief in the proposed Final Judgment is designed to prevent any recurrence of the activities alleged in the compliant. The prohibitive language of the Judgment is designed to ensure that each defendant will act independently of its competitors in determining prices, terms and conditions at which it will purchase processed seafood from U.S. persons. The affirmative obligations are designed to ensure that each defendant's employees are aware of their obligations under the decree in order

to avoid a repetition of behavior that occurred.

The Department of Justice believes that the proposed Final Judgment contains adequate provisions to prevent further violations by the defendants of the type upon which the complaint is based. The Department believes that disposition of the lawsuit without further litigation is appropriate because the proposed Judgment provides all the relief which the United States sought in its complaint, and the additional expense of litigation would not result in additional public benefit.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act (15 U.S.C. 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages suffered, as well as costs and reasonable attorney's fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of such actions. Under the provisions of Section 5(a) of the Clayton Act (15 U.S.C. 16(a)), the Judgment has no *prima facie* effect in any subsequent lawsuits that may be brought against these defendants.

V. Procedures Available for Modification of the Proposed Judgment

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed Final Judgment should be modified may submit written comments to Joel E. Leising, Attorney, Antitrust Division, United States Department of Justice, Washington, D.C. 20530, within the 60-day period provided by the Act. These comments, and the Department's responses, will be filed with the court and published in the **Federal Register**. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Judgment at any time prior to entry. The Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate or its modification, interpretation or enforcement.

VI. Alternatives to the Proposed Final Judgment

The Department considers the substantive language of the Judgment to be of sufficient scope and effectiveness to make litigation or relief unnecessary, as the Judgment provides all relief which reasonably could have been expected after trial.

VII. Determinative Materials and Documents

No materials or documents were considered determinative by the United States in formulating the proposed Final Judgment. Therefore, none are being filed pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b).

Respectfully submitted: Joel E. Leising, Rangeley Wallace, Kenneth P. Freiberg, Carolyn G. Mark, Eric L. Wilson, *Attorneys, Department of Justice, Antitrust Division, 10th & Pennsylvania Ave., N.W., Washington, D.C. 20530; Telephone: (202) 633-3220.*

Attachment 1

Joel Davidow, Esq., Mudge, Rose, Guthrie & Alexander, 20 Broad Street, New York, NY 10005

Hugh F. Bangasser, Esq., Preston, Thorgrimson, Ellis & Holman, 200 I.B.M. Building, Seattle, WA 98101

D. Wayne Gittinger, Esq., Lane, Powell, Moss & Miller, 3800 Rainier Bank Tower, Seattle, WA 98101

Thomas Brucker, Esq., Smith, Brucker, Winn & Ehlert, 1411 Fourth Avenue, Seattle, WA 98101

Patrick D. McVey, Esq., Riddell, William, Ivie, Bullitt & Walkinshaw, 4400 Seattle First National Bank Building, 1001 Fourth Avenue, Seattle, WA 98101

Albert R. Malanca, Esq., Gordon, Thomas, Honeywell, Malanca, Peterson & O'Hern, Post Office Box 1157, 2200 One Washington Plaza, Tacoma, WA 98401

Stew Cogan, Esq., Mills & Cogan, 3530 Seafirst Fifth Avenue Plaza, 800 Fifth Avenue, Seattle, WA 98104

E. Charles Routh, Esq., Houger, Garvey, Schubert, Adams & Barer, Bank of California Building, 900 Fourth Avenue, Seattle, WA 98164

Re: *United States* v. *C. Itoh & Co., Ltd., et al.*

Gentleman: In the course of negotiating a settlement of the above-captioned case, defense counsel expressed concern that the wording of three provisions of the consent decree did not completely reflect the parties' understanding and, accordingly, sought to include certain clarifying language. The Department felt that the inclusion of such language was unnecessary since the provisions, as written, implicitly encompassed the points defense counsel sought to make explicitly. Nonetheless, the Department agreed to set forth in writing its interpretation of the provisions involved.

This letter thus serves to memorialize the Department's understanding with respect to the following provisions, and does not in any manner modify or alter the terms of the proposed decree:

Section III—This section states that the Final Judgment applies to a defendant's officers, directors, agents, and employees. This provision should be read to mean that such individuals are bound by the provisions of the Judgment during their tenure, employment or agency with a defendant company.

Section V. Paragraph D—This section states that nothing in the Judgment shall prohibit a defendant form, among other things, engaging in conduct required by a "regulation having the force of law in effect in the jurisdiction in which such" conduct takes place. An issue that could arise under this provision is whether conduct taken pursuant to Japanese governmental "administrative guidance" is "required by . . . regulation having the force of law." The Department takes the view that administrative guidance, as that term is generally used and understood, is not legally binding and as such does not have the force of law; but that there may be unusual circumstances in which conduct undertaken pursuant to what may be characterized as administrative guidance is, in effect, conduct compelled under force of law by the Japanese Government. It is understood that the omission in this section of the Judgment of express reference to "administrative guidance" is not intended to preclude a defendant from attempting to establish in any subsequent proceeding relating to this Judgment that conduct taken pursuant to administrative guidance was, in the circumstances, conduct required by a "regulation having the force of law." or the Department from seeking to establish that it was not.

Section VIII, Paragraph A(1)(c)—This section grants the Department the right to interview a defendant's personnel for purposes of monitoring or securing compliance with the Final Judgment. The provision makes clear that the person to be interviewed shall not be required to engage in international travel for purposes of the interview. The interview may be conducted in the United States if the person to be interviewed resides or is present in the United States, and may be conducted in Japan subject to approval from the Japanese Government having been sought and obtained by the Justice Department or other appropriate U.S. Government officials.

Sincerely yours,

Charles S. Stark,

Chief, Foreign Commerce Section, Antitrust Division.

[FR Doc. 82-18677 Filed 7-12-82; 8:45 am]
BILLING CODE 4410-01-M

United States v. Pan-Alaska Fisheries, Inc., et al.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b) through (h), that a proposed Final Judgment, Stipulation and Competitive Impact Statement, as set forth below, have been filed with the United States District Court for the Western District of Washington in *United States of America* v. *Pan-Alaska Fisheries, Inc., et al.*, Civil Action No. C-82-600.

The complaint in this case alleged that four crab processors and a fishermen's cooperative marketing association engaged in a combination and conspriacy to fix prices of live Bering Sea king and tanner crab in violation of Section 1 of the Sherman Act, 15 U.S.C. 1.

The proposed Judgment would enjoin the defendants from fixing the price of live Bering Sea crab, and would require the defendants to establish an antitrust compliance program.

Public comment on the proposed Judgment is invited within the statutory 60-day comment period. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to

Charles S. Stark, Chief, Foreign Commerce Section, Room 7115, Antitrust Division, Department of Justice, Washington, D.C. 20530 (telephone: 202–633–2464.)

Joseph H. Widmar,

Director of Operations, Antitrust Division, Department of Justice.

United States District Court, Western District of Washington

United States of America, Plaintiff, v. *Pan-Alaska Fisheries, Inc., Sea-Alaska Products, Inc., Universal Seafoods, Ltd., Whitney-Fidalgo Seafoods, Inc., and Alaska Marketing Association,* Defendants.

No. C–82–809.
Filed: June 30, 1982.
Entered:————.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. A Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this stipulation, this stipulation shall be of no effect whatever and the making of this stipulation shall be without prejudice to plaintiff and defendants in this and other proceedings.

Dated:————.

For plaintiff: William F. Baxter, *Assistant Attorney General;* Joseph H. Widmar, Charles S. Stark, *Attorneys, Department of Justice;* Joel E. Leising, Kenneth P. Freiberg, Carolyn G. Mark, Eric L. Wilson, *Attorneys, Department of Justice, Antitrust Division, 10th and Pennsylvania Ave., N.W., Washington, D.C. 20530, Telephone: (202) 633–4428.*

For defendants: Andrew J. Kilcarr, Esq., *Donovan, Lesiure, Newton & Irvine, Washington, D.C. 20006, Attorneys for Pan-Alaska Fisheries, Inc.,* James R. Hermsen, Esq., *Karr, Tuttle, Koch, Campbell, Mawer & Morrow, Seattle, WA 98154, Attorneys for Universal Seafood, Ltd.;* Daniel J. Riviera, Esq., *Foster, Pepper & Riviera, Seattle, WA 98101, Attorneys for Sea-Alaska Products, Inc.;* Wilbur J. Lawrence, Esq., *Lane, Power, Moss & Miller, Seattle WA 98101, Attorneys for Whitney-Fidalgo Seafoods, Inc.;* Douglas M. Fryer, Esq., *Moriarty, Mikkelborg, Broz, Wells & Fryer, Seattle, WA 98154, Attorneys for Alaska Marketing Association.*

United States District Court, Western District of Washington

United States of America, Planintiff, v. *Pan-Alaska Fisheries, Inc., Sea-Alaska Products, Inc., Universal Seafoods, Ltd., Whitney-Fidalgo Seafoods, Inc., and Alaska Marketing Association,* Defendants.

No. C–82–809.
Final Judgment.
Filed: June 30, 1982.

Plaintiff, United States of America, having filed its Complaint in this case, and plaintiff and defendants, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence against or any admission by any party with respect to any such issue; Now therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein and upon consent of the parties hereto, it is hereby Ordered, adjudged, and decreed as follows:

I

This Court has jurisdiction of the subject matter of this action and of each of the parties consenting hereto. The Complaint states a claim upon which relief may be granted against each defendant under Section 1 of the Sherman Act (15 U.S.C. 1).

II

As used in this Final Judgment:

(A) "person" shall mean any individual, corporation, partnership, firm, association or other business or legal entity;

(B) "live crab" shall mean live ocean crab prior to any processing (*i.e.*, cnning, packing, or freezing);

(C) "Dutch Harbor area" shall mean the following area in the State of Alaska: Unalaska Island, including Dutch Harbor, Akutan Island and the waters within ten miles of the coasts of said Islands;

(D) "Dutch Harbor processor" shall mean any person engaged in the business of canning, packing or freezing live crab in the Dutch Harbor area, including such person's officers, directors, agents, employees and subsidiaries, and shall further include defendant processors as that term is defined herein;

(E) "defendant processor" shall mean each processor named as a party in this action, including its officers, directors, agents, employees, subsidiaries, or other persons acting on its behalf;

(F) "defendant association" shall mean the Alaska Marketing Association, including its members, officers, directors, agents, employees, or other persons acting on its behalf;

(G) "live crab price negotiations" shall mean contacts between any fisherman and any Dutch Harbopr processor with respect to the negotiation of prices for live crab to be processed in the Dutch Harbor area;

(H) "fisherman" shall mean one or more fisherman or any cooperative association of fisherman, including defendant association, established pursuant to the Fishermen's Collective Marketing Act (15 U.S.C. § 521, 522);

(I) "The opening of the Bering Sea Crab Season" shall mean the later of: (a) the date designated by the Alaskan Department of Fish and Game for the commencement of a crab harvest in the Bering Sea, or (b) with respect to any defendant processor, the time at which such processor has agreed with defendant association or any sucessor association on the price it will pay for the first delivery of live crab for that season or has announced its intention to pay a price previously agreed to between such association and any other Dutch Harbor processor.

III

This Final Judgment applies to the defendants and to their officers, directors, agents, employees, subsidiaries, successors, and assigns, and to members of the defendant association and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

1. The defendant processors, and each of them, are enjoined and restrained from entering into, adhering to, participating in, maintaining, furthering, or enforcing, either directly or indirectly, any agreement, understanding, arrangement, plan, program, combination, or conspiracy with any processor to determine, establish, fix, raise, lower, maintain, or adhere to prices or other terms or conditions for the purchase or sale of live crab to be processed in the Dutch Harbor area.

2. The defendant association is enjoined and restrained from entering into, adhering to, participating in, maintaining, furthering, or enforcing, either directly or indirectly, any agreement, understanding, arrangement, plan, program, combination, or conspiracy among the Dutch Harbor processors to determine, establish, fix, raise, lower, maintain, or adhere to prices or other terms or conditions for the purchase or sale of live crab to be processed in the Dutch Harbor area.

V

1. Each defendant processor is enjoined and restrained from directly or indirectly:

(A) Communicationg with any Dutch Harbor processor regarding (i) current prices, future prices, or anticipated changes in prices for live crab to be processed in the Dutch Harbor area; (ii) prices discussed or to be discussed, or offers or counteroffers made or to be made by any party in live crab price negotiations; or (iii) strategy, timing or conduct of live crab price negotiations.

(B) Communicating with any non-Dutch Harbor processor regarding future prices, anticipated changes in prices, or current prices not yet posted, published, or announced on the radio, for live crab to be processed in the Dutch Harbor area;

(C) Participating jointly or collectively with any other processor or processors in live crab price negotiations.

2. The defendant association is enjoined and restrained from, directly or indirectly:

(A) Knowingly engaging in live crab price negotiations in which two or more processors jointly or collectively participate;

(B) Requesting, encouraging or in any way knowingly facilitating or assisting processors to engage in joint or collective bargaining in respect to prices to be paid for live crab in the Dutch Harbor area.

VI

1. Nothing in Sections IV or V of this Final Judgment shall prohibit any defendant processor from:

(A) Separately negotiating and agreeing with any fisherman on the prices or other terms for the purchase of live crab by such processor from such fisherman;

(B) Posting, publishing, or publicly announcing by radio prices which such processor will pay to sellers of live crab to be processed in the Dutch Harbor area;

(C) Requesting, during live crab price negotiations, any fisherman to confirm orally or in writing any live crab price offers which it asserts it has recieved from any other Dutch Harbor processor, or seeking or giving verification of such live crab price offers from or to any other Dutch Harbor processors; provided however, that such verification from or to any Dutch Harbor processor shall occur only after the opening of the Bering Sea crab season and shall be confined to communication between legal counsel for such processors, and shall be limited to confirming or denying representations made by a seller of live crab as to the price which has been offered to such seller by the processor from which verification is sought;

(D) Participating with other Dutch Harbor processors in joint government lobbying efforts;

(E) Discussing with other Dutch Harbor processors common industry-wide or local issues, provided that, for purposes of this Paragraph 1(E), such discussions do not relate to prices to be paid for live crab;

(F) Separately negotiating or entering into any bona fide, arm's length contract, agreement or understanding with another processor to sell or furnish live crab to that processor; provided, however, that any price negotiated prior to the opening of the Bering Sea crab season shall be specified in terms of one of the following formulae, rather than a price: (i) The prevailing market price or the defendant processor's posted price at the time of delivery; (ii) a stated discount from such prevailing or posted price; or, (iii) a stated premium or commission to be added to such prevailing or posted price; provided further that such negotiations and sales transactions shall not be used by the defendant processor to communicate with the other party concerning the price (other than the formula set out herein) that either of them intends to pay any third party for live crab.

2. Nothing in Sections IV or V of this Final Judgment shall prohibit the defendant association, its officers, agents, employees, directors or members from:

(A) Negotiating and agreeing as to the price, terms or conditions of sale with any single processor or any other purchaser of live crab;

(B) Engaging in any and all conduct authorized by the Fishermen's Collective Marketing Act (15 U.S.C. 521, 522);

(C) Confirming, orally or in writing, to any defendant processor during price negotiations with such processor and upon its request, any price offers which the defendant association has received from other Dutch Harbor processors.

3. Nothing in Sections IV or V of this Final Judgment shall prohibit a defendant processor from directly or indirectly:

(A) Jointly owning and/or operating a shore-based processing facility or a fishing and/or processing vessel with another Dutch Harbor processor, if such defendant processor has at least a 20% ownership or participating interest in such facility or vessel; or

(B) Contracting with the owner or operator of a processing or a fishing and processing vessel to process live crab for such defendant processor, 20 and engaging in such communications, transactions and activities as are necessary to carry out such arrangements; provided, however, that this Paragraph 3 shall not apply to communications, transactions or activities between such defendant processor and any other defendant processor.

4. Without in any way limiting the generality of Paragraph 3, nothing in Sections IV and V of this Final Judgment shall apply to communications, transactions or activities solely between Universal Seafoods, Ltd., its officers, directors, agents or employees and Dutch Harbor Seafoods, Ltd., its officers, directors, agents or employees; provided, however, that this Paragraph 4 shall become inoperative at such time as the majority of the stock or substantially all of the assets of either company is transferred to persons not holding an ownership interest in the respective companies as of the date of entry of this Final Judgment.

VII

1. Each defendant processor is ordered and directed to:

(A) Furnish within thirty (30) days after the date of entry of this Final Judgment, a copy thereof to each of its officers, directors, employees and agents who has managerial responsibility for or authority over determining prices to be paid for live crab to be processed in the Dutch Harbor area, or who engages in or has responsibility or authority over live crab price negotiations;

(B) Furnish a copy of this Final Judgment to each successor to those officers, directors, employees, or agents described in Paragraph 1(A) of this Section, within thirty (30) days after such successor is employed by or becomes associated with the defendant processor;

(C) File with this Court and serve upon plaintiff within sixty days (60) after the date of entry of this Final Judgment, an affidavit as to the fact and manner of its compliance with Paragraph 1(A) of this Section; and

(D) Obtain from each officer, director, employee and agent served with a copy of this Final Judgment pursuant to Paragraph 1(A) of this Section, and from each successor to each such officer, director, employee and agent served with a copy of this Final Judgment pursuant to Paragraph 1(B) of this Section, a written statement evidencing such person's receipt of a copy of this Final Judgment; and retain such statements in its files.

2. The defendant association is ordered and directed to:

(A) Furnish within thirty (30) days after the date of entry of this Final Judgment a copy thereof to each of its current members, officers, directors and any members, employees or agents who engage in or have responsibility or authority over negotiating prices for the sale of live crab to Dutch Harbor processors;

(B) Furnish a copy of this Final Judgment to each successor to those officers and directors and to those members, employees or agents with responsibilities for price negotiations as described in Paragraph 2(A) of this Section within thirty (30) days after such successor is employed or becomes affiliated with the association;

(C) File with this Court and serve upon plaintiff within sixty (60) days after the date of entry of this Final Judgment, an affidavit as to the fact and manner of it compliance with Paragraph 2(A) of this Section; and

(D) Obtain from each officer, director, member, employee and agent served with a copy of this Final Judgment pursuant to Paragraph 2(A) of this Section, and from each successor to each such officer, director, member, employee and agent served with a copy of this Final Judgment pursuant to Paragraph 2(B) of this Section, a written statement evidencing such person's receipt of a copy of this Final Judgment; and retain such statements in its files.

VIII

1. Each defendant processor is ordered and director to:

(A) Advise each of its officers, employees or agents who is engaged in, or who has responsibility for or authority over determining prices to be paid for live crab to be processed in the Dutch Harbor area, or who is responsible for conducting negotiations regarding live crab prices with any fishermen's representative, of its and their obligations under this Final Judgment.

(B) For a period of ten (10) years from the entry of this Final Judgment, maintain a program to insure compliance with this Final Judgment, which program shall include, at a minimum, the following with respect to each of the persons described immediately above: (i) the annual distribution to them of this Final Judgment; (ii) the annual submission to them of a written directive setting forth the defendant's policy regarding compliance with the Sherman Act and with this Final Judgment, including: (a) An admonition that noncompliance with such policy and this Final Judgment will result in appropriate disciplinary action determined by the employing defendant processor, which may include dismissal, and (b) a statement that the defendant's legal advisors are available at all times to confer with such persons regarding any compliance questions or problems; and (iii) the imposition of a requirement that each of them sign and submit to his employer, once a year, a certificate in substantially the following form:

The undersigned hereby (1) acknowledges receipt of a copy of the Final Judgment

entered in *United States v. Pan Alaska Fisheries Inc., et al.,* Civil No. ——— (W. D. Wash.) and a written directive setting forth the company's policy regarding compliance with the antitrust laws and with such Final Judgment; (2) represents that the undersigned has read and understands such Final Judgment and directive; (3) acknowledges that the undersigned has been advised and understands that noncompliance with such policy and Final Judgment will result in appropriate disciplinary measures determined by the company and which may include dismisal; and (4) acknowledges that the undersigned has been advised and understands that noncompliance with the Final Judgment may also result in conviction for contempt of court and imprisonment and/or fine.

(C) For a period of ten (10) years from the entry of this Final Judgment, whenever such defendant processor invests in any joint venture, joint buying arrangement, or joint ownership of any entity engaged in the purchase of live Bering Sea crab with any non-defendant Dutch Harbor processor, the defendant processor shall furnish to the plaintiff within 30 days of such investment a report setting out the names and ownership interests of the parties, a full description of the activities contemplated, the names of the individuals with authority to set live crab purchase prices, and the manner in which the parties intend to allocate responsibilities for determining the price they will pay for such crab.

2. The defendant association is ordered and directed to:

(A) Advise each of its officers, directors, member, employees and agents who is engaged in, or who has responsibility or authority over negotiating prices for the sale of live crab to Dutch Harbor processors of its and their obligations under this Final Judgment.

(B) For a period of ten (10) years from the entry of this Final Judgment, maintain a program to insure compliance with this Final Judgment, which program shall include at a minimum the following with respect to each of the persons described immediately above: (i) the annual distribution to them of this Final Judgment; (ii) the annual submission to them of a written directive setting forth the defendant association's policy regarding compliance with the Sherman Act and with this Final Judgment, including (a) an admonition that noncompliance with such policy and this Final Judgment will result in appropriate disciplinary action determined by the defendant association, which may include expulsion from the association, and (b) a statement that the defendant association's legal advisors are available at all times to confer with such persons regarding any compliance questions or problems; and (iii) the imposition of a requirement that each of them sign and submit to the defendant association, once a year, a certificate in substantially the following form:

The undersigned hereby (1) acknowledges receipt of a copy of the Final Judgment entered in *United States* v. *Pan Alaska Fisheries Inc.,* Civil No. ———, (W.D. Wash.) and a written directive setting forth the Association's policy regarding compliance with the antitrust laws and with such Final Judgment; (2) represents that the undersigned has read and understands such Final Judgment and directive; (3) acknowledges that the undersigned has been advised and understands that noncompliance with such policy and Final Judgment will result in appropriate disciplinary measures determined by the Association and which may include expulsion; and (4) acknowledges that the undersigned has been advised and understands that noncompliance with the Final Judgment may also result in conviction for contempt of court and imprisonment and/or fine.

IX

1. Each defendant processor shall require, as a condition of the sale or other disposition of all, or substantially all, of the assets used by it in the processing of live crab in the Dutch Harbor area that the acquiring party agrees to be bound by the provisions of this Final Judgment and to file such agreement with this Court.

2. The members of the defendant association agree, and shall require, as a condition to the formation of any successor or alternative fishermen's marketing association formed under authority of the Fishermen's Collective Marketing Act in order to negotiate live crab prices in the Dutch Harbor area, that as a condition to joining any such other association, that such other association agree to be bound by the provisions of this Final Judgment and that no member shall join such other association unless such agreement is obtained. The defendant association and the members agree that any such agreement with any alternative or successor fishermen's marketing association formed to negotiate live crab prices in the Dutch Harbor area shall be filed with this Court.

X

For the purposes of determining or securing compliance with this Final Judgment, and subject to any legally recognized privliege, from time to time:

(A) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to a defendant processor or to the dependent association, made to its principal office, be permitted:

(1) Access during office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession of under the control of such defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, employees and agents of such defendant, who may have counsel present, regarding any such matters.

(B) No information or documents obtained by the means provided in this Section shall be divulged by any representative of the Department of Justice to any person other than duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with the Final Judgment, or as otherwise required by law.

(C) If at the time information or documents are furnished by a defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten (10) days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which that defendant is not a party.

XI

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction, carrying out or modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violation hereof.

XII

This Final Judgment shall expire ten (10) years from its date of entry.

XIII

Entry of this Final Judgment is in the public interest.

It is so ordered.

Dated this —— day of ————, 1982.

————,

United States District Judge.

United States District Court, Western District of Washington

United States of America, Plaintiff, v. *Pan-Alaska Fishies, Inc., Sea-Alaska Products, Inc., Universal Seafoods, Ltd., Whitney-Fidalgo Seafoods, Inc., and Alaska Marketing Association,* Defendants.

No. C–82–809.

Competitive impact statement.

Filed: June 30, 1982.

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h), the United States files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

The United States has filed a civil antitrust suit alleging that four Alaska seafood processing companies and a fishermen's cooperative conspired to fix the prices processors paid Bering Sea fishermen for king and tanner crab. The defendant processors, all of whom are Seattle-based firms with processing facilities in the Dutch Harbor area

of Alaska, are Pan-Alaska Fisheries, Inc., Sea-Alaska Products, Inc., Universal Seafoods, Ltd., and Whitney-Fidalgo Seafoods, Inc. The defendant fishermen's cooperative is the Alaska Marketing Association ("AMA"), whose members are Bering Sea fishing boat operators who harvest crab and sell it to Dutch Harbor processors. The primary function of the AMA is to represent its members in bargaining with the processors concerning the price to be paid for the crab.

The complaint alleges that the defendant processors jointly negotiated with the AMA on the price to be paid Bering Sea fishermen for deliveries of live king and tanner crab. The complaint further alleges that the defendant processors met and communicated with one another, outside the presence of the AMA, with regard to the prices they would pay for live Bering Sea crab.

The complaint seeks a judgment by the Court that the defendants engaged in an unlawful combination and conspiracy in restraint of trade in violation of the Sherman Act. It also seeks an order by the Court to enjoin the defendants from any such activities or other activities having a similar purpose or effect in the future. Specifically with respect to the defendant processors, the complaint seeks to enjoin them from agreeing among themselves or with other processors to fix the price of live crabs, and from communicating among themselves or with other processors concerning the price they are paying or intend to pay for live crab. Specifically with respect to the AMA, the complaint seeks to enjoin the defendant association from engaging in live crab price negotiations in which more than one processor participates, and from participating in or facilitating any agreement among processors to fix live crab prices.

II. Description of Practices Giving Rise to the Alleged Violation

In recent years, the fishing grounds off the coast of Alaska have been among the most commercially productive in the world, generating raw fish sales of more than $240 million in 1980. One of the most important seafood products commercially harvested in Alaska waters is crab, of which two varieties, king and tanner (or "snow") crab, account for the vast bulk of the catch. In recent years, the Bering Sea crab fishery—which lies west of the southern portion of the Alaska Peninsula—has been by far the most productive of the several Alaska crab fishing areas. The Bering Sea king crab fishery accounted for more than 80 percent of the 186 million pounds of Alaska king crab harvested in 1980 and 64 percent of the 131 million pounds of tanner crab harvested in the same year. In 1980, crab processors operating in the Dutch Harbor area of Alaska paid more than $100 million to Bering Sea fishermen for raw crab.

Bering Sea crab fishermen deliver their catch alive to processors for freezing or canning. The processors butcher the live crab and then, normally, boil it in the shell before either removing the meat for canning or freezing in blocks, or, more typically, freezing the crab parts in the shell for sale in that form. Crab processed in the Dutch Harbor area is generally either shipped directly to Japan, a principal consumer of Bering Sea crab, or transported to Seattle—where many of the processing companies own storage and freezer facilities—for warehousing pending sale in the United States and Europe.

The prices paid by processors to fishermen for live crab is a subject of yearly negotiation. In 1971, a number of Bering Sea fishermen formed the AMA, pursuant to the Fishermen's Collective Marketing Act ("FCMA"), 15 U.S.C. 521–22, in order to increase their bargaining power in negotiating crab prices with processors operating in the Dutch Harbor area. The FCMA provides an antitrust exemption for joint bargaining by fishermen through associations such as the AMA. It does not, however, permit joint bargaining among processors, or permit fishermen's associations to participate in joint bargaining among processors.

Around 1975, and continuing at least until 1980, a practice developed whereby two or more of the major Dutch Harbor processors, including the defendant processors (who annually account for about 40% of the live crab purchases in the Dutch Harbor area), jointly met with AMA representatives to reach agreement on the price they would pay for crab purchased from AMA members. Defendant processors also occasionally met outside the presence of AMA representatives to determine their negotiating stance and decide on the price they would be willing to pay. The price ultimately agreed upon by the defendant processors and AMA, whose members annually account for about 50% of the crab harvested from the Bering Sea, was then generally followed by the other Dutch Harbor area processors and by non-AMA fishermen operating in the Bering Sea.

The complaint alleges that the combination and conspiracy had the following effects, among others: (a) The price of live crab was fixed and maintained at artifical and noncompetitive levels; (b) sellers of live crab were denied the benefits of free and open competition; and (c) competition in the purchase of live crab was restrained.

III. Explanation of Proposed Final Judgment

The United States and the defendants have stipulated that the Court may enter the proposed Final Judgment after compliance with the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h). The proposed Final Judgment provides that the entry of the Final Judgment does not constitute any evidence against or an admission by any party with respect to any issue of fact or law. Under the provisions of Section 2(e) of the Antitrust Procedures and Penalties Act, the proposed Final Judgment may not be entered until the Court determines that entry is in the public interest.

1. *Prohibited Conduct.* Section IV of the proposed Final Judgment prohibits each defendant processor from entering into, adhering to, participating in, maintaining, furthering, or enforcing, either directly or indirectly, any agreement, understanding, arrangement, plan, program, combination, or conspiracy with any processor to determine, establish, fix, raise, lower, maintain, or adhere to prices or other terms or conditions for the purchase or sale of live crab to be processed in the Dutch Harbor area. Section IV also prohibits the AMA from participating in any such agreement among Dutch Harbor processors.

Section V prohibits the defendants from engaging in certain communications and joint bargaining activities. Specifically, each defendant processor is prohibited from, directly or indirectly, communicating with any other processor operating in the Dutch Harbor area regarding: curent prices, future prices or anticipated changes in the prices of live crab to be processed in the Dutch Harbor area; prices discussed or to be discussed, or offers or counteroffers made or to be made by any party in live crab price negotiations; or strategy, timing, or conduct of such negotiations. Defendant processors are also prohibited from communicating with any non-Dutch Harbor processor regarding future prices, anticipated changes in prices, or current prices not yet posted, published, or announced on the radio, for live crab to be processed in the Dutch Harbor area. Although the conduct on which the complaint is based did not involve communications or agreements with processors outside the Dutch Harbor area, the relief provided by this provision of the proposed Final Judgment will ensure that the defendant processors do not in the future engage in such conduct. Finally, each defendant processor is prohibited from engaging in any form of joint or collective bargaining regarding prices to be paid for live crab in the Dutch Harbor area.

Section V prohibits the AMA from knowingly engaging in live crab price negotiations in which two or more processors participate jointly or collectively. The AMA is further prohibited from requesting, encouraging, or knowingly facilitating or assisting, in any way, the processors to engage in joint or collective bargaining concerning prices to be paid for live crab in the Dutch Harbor area.

2. *Permissible Business Transactions.* Section VI of the proposed Final Judgment makes clear that the Judgment would not prohibit the defendants from engaging in certain business transactions. First, each defendant processor is specifically permitted to negotiate and agree, individually, with any fishermen (defined as one or more fishermen or any cooperative association of fishermen, including the AMA) on the price paid for live crab. Second, each defendant processor may post, publish, or publicly announce by radio to prospective sellers of live crab the price it is currently willing to pay them for live crab. Third, each defendant processor may request, during live crab price negotiations, that a fisherman confirm orally or in writing any live crab price offers which it asserts it has received from any other Dutch Harbor processor. Each defendant processor is further permitted to seek or give verification of such live crab price offers from or to any other Dutch Harbor processor. However, such verification may not occur before the opening of the Bering Sea crab season, defined as the later of (i) the date set by the State of Alaska for the official opening of the season or, (ii) with respect to each defendant processor, the time at which such processor has agreed with the AMA or any successor association on the

price it will pay for the first delivery of live crab for that season or has announced its intention to pay a price previously agreed to between such association and any other Dutch Harbor processor. Moreover, verification of prices may be undertaken only by legal counsel for such processors and must be limited to a confirmation or denial of representations made by a seller of live crab as to the price which it has allegedly been offered by the processor from which verification is sought.

A fourth area of permissible business conduct, as specified in Section VI of the proposed Judgment, is the participation with other Dutch Harbor processors in joint government lobbying efforts. Fifth, each defendant processor may discuss with other Dutch Harbor processors common industry-wide or local issues, provided such discussions do not relate to prices to be paid for live crab. Sixth, each defendant processor may separately negotiate or enter into any bona fide, arm's length contract, agreement or understanding with another processor to sell or furnish live crab to that processor. However, prior to the opening of the Bering Sea crab season any price agreed upon between the two processors must be specified in terms of one of the following formulas, rather than a particular price: (i) the prevailing market price or the defendant processor's posted price at the time of delivery; (ii) a stated discount from such prevailing or posted price; or (iii) a stated premium or commission to be added to such prevailing or posted price. A further condition set upon such transactions is that the negotiations and sales transactions not be used to communicate or signal the price that either processor intends to pay any third party for live crab.

Seventh, Section VI of the proposed Judgment would specifically permit a processor defendant to own or operate jointly with another Dutch Harbor processor a shore-based processing facility or fishing/processing vessel, provided the defendant processor has at least a 20% ownership or participating interest, or to contract with the owner or operator of a processing or a fishing and processing vessel to process live crab for such defendant processor. Section VI would also allow a defendant processor and any other *non*-defendant processor to engage in any communications, transactions, or activities necessary for carrying out such arrangements.

Finally, Section VI makes clear that the prohibitions specified in Sections IV and V of the proposed Judgment would not apply to communications, transactions, or activities solely between Universal Seafoods and its affiliate, Dutch Harbor Seafoods (or any of their respective officers, directors, agents, or employees), unless the majority of the stock or substantially all of the assets of either company are transferred to persons not holding an ownership interest in the respective companies as of the date of entry of the Final Judgment.

The AMA is specifically permitted, under the terms of Section VI, to negotiate and agree on the price, terms or conditions of sale with any individual processor or other purchaser of live crab; to engage in any conduct authorized by the Fishermen's Collective Marketing Act; and to confirm orally or in writing to any defendant processor during price negotiations with such processor and upon its request, any price offers the AMA has received from any other Dutch Harbor processor.

3. *Affirmative Obligations.* Section VII of the Final Judgment imposes a number of affirmative obligations upon the defendants. With respect to the processor defendants, they must furnish a copy of the Final Judgment to (as well as obtain a written statement evidencing receipt by) each of their current (or successor) officers, directors, employees and agents who have managerial responsibility for or authority over determining prices to be paid for live crab to be processed in the Dutch Harbor area, or who engages in or has responsibility or authority over live crab price negotiations. Within sixty days after entry of the Final Judgment, each processor defendant must file an affidavit as to the fact and manner of its compliance with this obligation.

The AMA has similar obligations under Section VII, requiring it to furnish a copy of the Final Judgment to (as well as obtain a written statement evidencing receipt by) each of its members, officers, and directors, and to any employees who engage in or have responsibility or authority over negotiating prices for the sale of live crab to Dutch Harbor processors. It is also required to file an affidavit as to the fact and manner of its compliance.

Section VIII requires the defendants to initiate a compliance program for their respective employees and/or members. They are obliged to advise certain persons within their company or association of the requirements of this Final Judgment, of the criminal and civil penalties which may be imposed upon such person or defendant for violation of the Final Judgment, of the possible disciplinary action by the defendant such person may suffer for failure to comply with the Final Judgment, and of the fact that defendant's legal advisors are available to confer regarding compliance questions or problems.

Section VIII further requires each processor defendant, for a period of ten years, to furnish the Department of Justice with notice of any investment in any joint venture, joint buying arrangement, or joint ownership of any entity engaged in the purchase of live Bering Sea crab with any non-defendant Dutch Harbor processor. The report must identify the name and interests of the parties, a full description of the activities contemplated, the names of individuals with authority to set live crab purchase prices, and the manner in which the parties intend to allocate responsibilities for determining the price they will pay for such crab.

Section IX requires each defendant processor, as a condition of the sale of its Dutch Harbor assets, to obtain from the acquiring party its agreement to be bound by the provisions of this Final Judgment and to file such agreement with the Court. In the course of negotiations over the terms of the Final Judgment, the defendant processors urged that if any of them were placed in a position of bankruptcy or insolvency, a sale of its assets by a trustee or receiver would be significantly hampered by operation of Section IX. The Department agreed in this case, and advised the defendant processors by letter (*see* Attachment 1) that it will not seek to enforce this Final Judgment against an unrelated party that purchases the assets in a bankruptcy or insolvency proceeding, nor oppose a motion to release a defendant processor from the requirements of Section IX regarding a sale in such circumstances. The Department further advised, however, that it would not release a defendant processor from the obligation of the Judgment in the event the assets were sold to a related person, another defendant processor, or to any person or persons having a controlling interest in any defendant processor.

Section IX also requires the members of the AMA, as a condition to joining any successor association, that such association agrees to be bound by the Final Judgment and file such agreement with the Court.

Finally, under Section X of the Final Judgment, the Justice Department will have access, upon reasonable notice to each defendant's records and personnel in order to determine each defendant's compliance with the Judgment.

4. *Scope of Proposed Judgment.* The proposed Final Judgment will remain in effect for a period of ten (10) years from the date of entry. It applies to each defendant and to all other persons in active concert or participation with any of them who shall have received actual notice of the Final Judgment by personal service or otherwise.

5. *Effect of the Proposed Judgment on Competition.* The relief in the proposed Final Judgment is designed to prevent any recurrence of the activities alleged in the complaint. The prohibitive language of the Judgment is designed to ensure that each defendant processor will act independently in determining prices, terms and conditions at which it will purchase live raw crab, and that the defendant association will not participate in or encourage price negotiations with more than one processor at a time. The affirmative obligations are designed to ensure that each defendant's employees are aware of their obligations under the decree in order to avoid a repetition of behavior that occurred.

The Department of Justice believes that the proposed Final Judgment contains adequate provisions to prevent further violations by the defendants of the type upon which the complaint is based. The Department believes that disposition of the lawsuit without further litigation is appropriate because the proposed Judgment provides all the relief which the United States sought in its complaint, and the additional expense of litigation would not result in additional public benefit.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act (15 U.S.C. 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the

bringing of such action. Under the provisions of Section 5(a) of the Clayton Act (15 U.S.C. 16(a)), the Judgment has no *prima facie* effect in any subsequent lawsuits that may be brought against these defendants.

V. Procedures Available for Modification of the Proposed Judgment

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed Final Judgement should be modified may submit written comments to Joel E. Leising, Attorney, Antitrust Divison, United States Department of Justice, Washington, D.C. 20530, within the 60-day period provided by the Act. These comments, and the Department's responses, will be filed with the Court and published in the **Federal Register**. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Judgment at any time prior to entry. The Judgment provides that the Court retains jurisdiciton over this action, and the party may apply to the Court for any order necessary or appropriate for its modification, interpretation or enforcement.

VI. Alternatives to the Proposed Final Judgment

The Department considers the substantive language of the Judgement to be of sufficient scope and effectiveness to make litigation on relief unnecessary, as the Judgment provides all relief which reasonably could have been expected after trial.

VII. Determinative Materials and Documents

No materials or documents were considered determinative by the United States in formulating the proposed Final Judgment. Therefore, none are being filed pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b).

Respectfully submitted,

Joel E. Leising, Kenneth P. Freiberg, Carolyn G. Mark, Eric L. Wilson, *Attorneys, Department of Justice, Antitrust Divison, 10th & Pennsylvania Ave., NW., Washington, D.C. 20530, Telephone: (202) 633-4428.*

Dated: ————.

Attachment 1

CSS:JEL
60-11-110

[Sent to each defendant processor].

Re: *United States* v. *Pan-Alaska Fisheries, Inc. et al.*

Dear ————: In connection with the above-captioned suit, and the proposed Final Judgment to be filed in the U.S. District Court for the Western District of Washington, you have expressed concern about Section IX of that Judgment whereby a defendant processor must require that any purchaser of all, or substantially all, of its Dutch Harbor processing assets agree, as a condition of sale, to be bound by the provisions of the Final Judgment. In particular, you have expressed concern that if your client were placed in a position of bankruptcy or insolvency, a sale of its assets by a trustee or receiver would be significantly hampered by operation of this Section of the Judgment.

The purpose of this letter is to advise you that in the circumstances of this case, the Department of Justice will not seek to enforce the Final Judgment entered in *United States* v. *Pan-Alaska Fisheries, Inc., et al.* with respect to a sale of assets to an unrelated person in a bankruptcy or an insolvency proceeding; nor will the Department oppose a motion to release a defendant processor from the requirements of Section IX of the Final Judgment with respect to a sale in such circumstances. It would not, however, be our intention to release a defendant processor from the obligations of Section IX in the event the assets were sold to a related person, defendant processor, or to any person or persons having a direct or indirect controlling interest in any defendant processor.

Sincerely yours,

Charles S. Stark,

Chief, Foreign Commerce Section, Antitrust Division.

[FR Doc. 82-18676 Filed 7-12-82; 8:45 am]

BILLING CODE 4410-01-M

Proposed Consent Decree in Action to Enjoin Discharge of Water Pollutants

In accordance with Departmental Policy, 28 CFR 50.7, 38 CFR Part 1902, notice is hereby given that a proposed stipulation for entry of judgment in *United States* v. *Standard Metals Corporation*, Civil Action No. 81-C-489, was lodged with the United States District Court for the District of Colorado on June 14, 1982. The proposed decree requires the Standard Metals Corporation to pay a civil penalty for alleged violations of the Clean Water Act, 33 U.S.C. 1251 *et seq.*, at its Sunnyside Mine and Mayflower Mill near Silverton, Colorado.

The Department of Justice will receive on or before August 12, 1982, written comments relating to the proposed judgment. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *United States* v. *Standard Metals Corp.*, D. J. Ref. 90-5-1-1-1208.

The proposed consent decree may be examined at the Region VIII office of the United States Environmental Protection Agency, Enforcement Division, 1860 Lincoln Street, Denver, Colorado 80203; and at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 1515, Ninth and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice.

Anthony C. Liotta,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 82-18790 Filed 7-12-82; 8:45 am]

BILLING CODE 4410-01-M

Office of Juvenile Justice and Delinquency Prevention

National Institute for Juvenile Justice and Delinquency Prevention Research Program on Serious and Violent Juvenile Crime

AGENCY: Office of Juvenile Justice and Delinquency Prevention (OJJDP), Justice.

ACTION: Response to Public Comment and Final Serious and Violent Juvenile Crime Research Plan.

SUMMARY: The National Institute for Juvenile Justice and Delinquency Prevention (NIJJDP) of the Office of Juvenile Justice and Delinquency Prevention, (OJJDP) published a draft announcement for its Program of Research on Serious and Violent Juvenile Crime in the **Federal Register** on March 17, 1982. (47 FR 11579). This notice consists of a summary of the public comments received on the draft program plan, responses to those comments, and the final program plan.

FOR FURTHER INFORMATION CONTACT:

Ms. Pamela Swain, Program Manager, Research and Program Development on Serious and Violent Juvenile Crime.

National Institute for Juvenile Justice and Delinquency Prevention, Office of Junvenile Justice and Delinquency Prevention, 633 Indiana Avenue NW., Room 700, Washington, D.C. 20531.

SUMMARY OF COMMENTS AND OJJDP'S RESPONSE: The National Institute for Juvenile Justice and Delinquency Prevention received 15 responses to the request for comments on the draft Serious and Violent Juvenile Crime Research Plan.

Comments were received from representatives of local governments, universities and private organizations. In general, the comments were very favorable. Most of the respondents indicated they were pleased with the overall scope of the program.

1. *Integration of information.*

Comment—It is not clear how the information from the various projects will be integrated.

NIJJDP Response—The NIJJDP developed the Assessment Centers Program in 1977. The purpose of this program is to establish the state-of-the-

art in research and programming in juvenile justice and delinquency prevention, and to continually update that assessment by incorporating the results of research sponsored by NIJJDP and other organizations. NIJJDP feels it is essential that research be a carefully coordinated, cumulative process. The Assessment Centers and internal program development work within NIJJDP/OJJDP help greatly to ensure that information from the various projects will be integrated.

2. *Monitoring of national trends in serious and violent juvenile crime.*

Comment—Regional and local differences may be masked by national level data. Also, differences between the problems of various types of jurisdictions are not acknowledged.

NIJJDP Response—NIJJDP recognizes the importance of examining the juvenile crime problem on both national and local levels. For example, studies are currently underway or planned in Philadelphia, Pennsylvania; Racin, Wisconsin; Los Angeles, California. NIJJDP agrees that it is important to expand the development of information on trends in serious and violent juvenile crime in diverse localities to the fullest extent possible. Limited resources preclude rapid accomplishment of this objective.

3. *Application of research results.*

Comment—Additional "basic" research is not required. Results of research should be applied to prevention and to the control of delinquency through system improvement.

NIJJDP Response—It is essential to apply the results of the most recent "basic" research to the development and testing of programs and strategies to prevent and control delinquency. However%, it is also important to continue to expand the knowledge base that is available to inform the development of more effective programs. NIJJDP has attempted to address both of these needs in the research plan.

4. *Use of existing data bases.*

Comment—Several respondents emphasized the value and efficiency of fully utilizing existing data bases.

NIJJDP Response—NIJJDP agrees with this comment, as exemplified by several projects in the plan. Also a project has been added which involves further analysis and expansion of a data base on a cohort of violent juvenile offenders in Columbus, Ohio.

5. *Recommendations for additional research.*

Comment—Some respondents offered suggestions for additional research under several of the five major areas.

NIJJDP Response—The suggestions will be carefully considered in developing the FY 1983 program plan for research and development on serious and violent juvenile crime.

SUPPLEMENTAL INFORMATION:

Introduction

The Juvenile Justice and Delinquency Prevention (JJDP) Act was amended in 1980 to provide for increased attention to the problem of serious and violent juvenile crime. The National Institute for Juvenile Justice and Delinquency Prevention research program on serious and violent crime is designed to address the provisions of the JJDP Act and the recommendations of the Attorney General's Task Force on Violent Crime. Serious and violent crimes include criminal homicide, forcible rape, mayhem, kidnapping, aggravated assault, robbery, larceny or theft punishable as a felony, motor vehicle theft, burglary or breaking and entering, extortion accompanied by threats of violence and arson punishable as a felony (Section 103(14) of the JJDP Act). The goal of the program is to develop sound information to guide Federal, state and local policy making and practitioners in allocating limited resources to prevent and control serious and violent juvenile crime.

Program

The NIJJDP FY 1982 workplan for research on serious and violent juvenile crime is designed to build upon the information base which has been developed over the past six years.

The major objectives of the research program are:

(1) To improve our understanding of the causes of serious and violent juvenile crime, and of serious and violent career patterns, and to improve our capability to predict serious and violent criminal behavior.

(2) To monitor trends in juvenile involvement in serious and violent crime.

(3) To improve our understanding of the determinants of police, prosecutor, court and correctional policy and practices for reducing serious and violent juvenile crime, and of the effects of these policies and practices.

(4) To determine the effectiveness of juvenile justice system and alternative programs in reducing serious and violent juvenile crime.

(5) To determine the effectiveness of programs designed to prevent serious and violent juvenile crime.

To achieve these objectives, the program is focused on specific topic areas: Extent and Nature of Juvenile Involvement in Serious and Violent Crime, Factors Related to Involvement in Serious and Violent Crime and Delinquent Career Patterns, Prevention of Serious and Violent Crime, Juvenile Justice System, and Alternatives to the Juvenile Justice System.

A. Extent and Nature of Juvenile Involvement in Serious and Violent Crime

Projects in this area are designed to monitor national trends in the volume, distribution and patterns of serious and violent juvenile crime. The major sources of national data are the Uniform Crime Reports (arrests), National Crime Survey (victimizations) and self-report surveys.[1] Although each type of national data has its limitations, together the major data sets provide the most accurate picture available of serious and violent youth crime in this Country. The following projects will likely be continued in FY 1982:

(1) Analysis of the National Crime Victimization Survey (NCS) Data to Study Serious Delinquent Behavior.

The NIJJDP supported analyses of the NCS data for 1973 to 1977 focused on trends and characteristics of serious and violent juvenile crime *(Analysis of National Crime Victimization Survey Data to Study Serious Delinquent Behavior*—five monographs, Hindelang et. al., 1981). This project consists of updating selected analyses of the victimization data for the years 1977–1980. Changes in the rates, seriousness and types of juveniles and victims involved in the personal crimes of rape, robbery, assault and personal larceny will be analyzed.

(2) Analyses of the UCR 1980–81 Arrest Data.

The analysis of national arrest data focuses on the amount of serious and violent crime attributable to juveniles, juvenile involvement in different types of crimes, and changes in their involvement from year to year. These analyses will be conducted by the NIJJDP Assessment Center on the Juvenile Justice System.

B. Factors Related to Juvenile Involvement in Serious and Violent Crime and Delinquent Career Patterns

Studies in this area focus on identifying the correlates and causes of the onset, duration, and intensity of serious and violent deliquency among youth. They are aimed at identifying characteristics of the chronic juvenile

[1] The NIJJDP has jointly funded nationwide self-report surveys of delinquency and drug use with NIMH since 1977. It is our understanding that the Center anticipates providing funds to continue this survey.

offender and improving our ability to predict future involvement in serious and violent crime. Projects likely to be continued in FY 1982 include:

(1) Delinquency In a Birth Cohort–II.

This is a replication of the landmark 1945 Philadelphia birth cohort study (*Delinquency in a Birth Cohort*, Wolfgang, et. al., 1972) based on a 1958 birth cohort of 29,000 males and females. Factors which influence the initiation, continuation or cessation of juvenile involvement in crime are being investigated.

(2) Study of the Relationship of Juvenile Delinquent Careers to Adult Criminal Careers.

This project is based on three birth cohorts in Racine, Wisconsin (*Assessing the Relationship of Adult Criminal Careers to Juvenile Careers*, Shannon, 1980). This phase consists of a more intensive analysis of serious offenders whose criminal careers developed in neighborhoods with high rates of crime and delinquency.

(3) Follow-up to the *The Violent Few*.

This project is based on the chronic offenders (350–400) in a cohort study of youth who were arrested for violent offenses in Columbus, Ohio. (*The Violent Few*, Hamparian et. al., 1978). Data on felony arrests as adults will be collected, and an analysis of the patterns of arrests and dispositions received by these offenders during the course of their delinquent and criminal careers will be conducted. Dispositions and other factors which are related to continuation or cessation of violence will be identified.

New Project

(1) Community-level study of the Development and Maintenance of Chronic Serious and Violent Juvenile Criminal Careers.

The major purposes of this project will be to expand knowledge of the causes of chronic, serious and violent juvenile crime, and to improve our ability to predict involvement in serious and violent crime. A growing tradition of research has identified the community as an important factor in the development of delinquent careers (Shaw and McKay, 1942; Miller, 1957; Cloward and Ohlin, 1960; Puntil and Schwartz, 1978; Weis and Sederstrom 1981). This study (or studies) will include an intensive study of community characteristics related to serious and violent juvenile crime. In addition, it will be designed to maximize comparability with previous longitudinal studies of the development of delinquent careers.

C. Prevention of Serious and Violent Juvenile Crime

Prevention is generally regarded as the most efficient and effective method for dealing with serious and violent youth crime. Responsibility for preventing juveniles from becoming involved in serious and violent crime rests with the family, school, peers and the community. Studies in this area are aimed at developing more effective community-based strategies and improving the response of the basic socializing institutions to youth. The following projects will likely be continued in FY 1982:

(1) Prevention Research and Development Program.

This program is designed to test, using experimental techniques, a comprehensive program model for preventing all types of delinquency (*Preventing Delinquency*, Weis and Hawkins, 1979). The major objective is to improve the socialization role performed by the family, school, peers and the community. The model is based on a four year analysis of previous research, theoretical work and a national survey of prevention programs.

(2) Violent Offender R&D Program Part II—The Prevention of Violent Juvenile Crime.

A neighborhood-based program for preventing and controlling violent crime by youth is being developed and will be evaluated. It is designed to identify effective methods for organizing residents to increase their capability to prevent violent crime by youth in their neighborhoods. Specific intervention strategies will be implemented by neighborhood groups and evaluated.

D. Juvenile Justice System

Studies in this area are designed to identify the effects of legal, organizational, community and client characteristics on justice system processing of the serious and violent juvenile offender. The relationships between juvenile court contacts and later criminal court involvement are being studied nationwide and in selected jurisdictions. In addition, the effects of alternative policies and practices for handling these offenders are assessed, and techniques for ensuring swift processing and appropriate dispositions are developed and evaluated. One project will likely be continued in FY 1982:

(1) Comparison of Juvenile and Criminal Court Processing and Dispositions for Serious and Violent Juvenile Offenders.

This study represents phase two of research on the transfer of juveniles to criminal court. The first phase consisted of a nationwide survey to assess the number of youths affected, to identify the various transfer mechanisms and to assess the legal history of the use of transfer in this country (*Youth In Adult Courts*, Hamparian, et. al.). The second phase will involve an examination of the prevalent assumption that youth tried in adult courts received longer, more severe sentences than if they are tried in juvenile courts.

New Projects

(1) Analysis of Los Angeles County Justice System Data.

Based in part on NIJJDP support, the University of Southern California has accumulated an unprecedented data set of juvenile and criminal justice system records which can be used to identify the correlates of persisting criminality. The first phase will be based on the records of all serious juvenile offenders (2,600 cases) petitioned to juvenile court for an eighteen month period centering on the 1950 census date. The analyses will focus on continuities between juvenile and adult criminal careers over a thirty year period (1950–1980).

(2) Analysis of National Juvenile Court Case Data.

This project will be designed to analyze justice system processing of serious and violent juvenile offenders nationwide. Detailed court histories, based on case files from 1975–1930 of juveniles charged with serious offenses, will be developed and analyzed. Patterns of offenses and sanctions will be studied to determine the effects of justice system intervention, e.g., continuation of cessation of delinquent or criminal careers.

(3) Study of the Impact of Juvenile Court Interventions.

The major question to be addressed is: what levels of court intervention are most effective in reducing delinquent behavior, and for what types of youth? The design will provide for a rigorous experimental test of the effects of varying levels of probation supervision and services. Also, comparison samples of institutional placements and fine or restitution orders will be studied. A cost analysis of the various levels of intervention will be performed.

E. Alternatives to the Traditional Juvenile Justice System

Projects in this area are designed to develop information on two levels: (1) effective composition and organization of state and local juvenile correctional systems for handling serious and violent juvenile offenders; and (2) identification of effective program approaches which

both help to ensure public safety and to more effectively rehabilitate the serious and violent juvenile offender. Projects likely to be continued in FY '82 include:

(1) National Evaluation of Juvenile Restitution Projects.

The national evaluation of this major OJJDP discretionary initiative will likely be supplemented to support the preparation of final reports on the relationships between program characteristics and performance measures, and to complete the data collection and analyses in the six experimental sites. Information on the effects of restitution on offender recidivism and victim satisfaction will likely be developed.

(2) Study of the Secure Care System in Massachusetts.

This research will be supplemented to complete a study of the critical linkages between secure care and community-based programs for juvenile offenders. It is also aimed at identifying approaches for increasing community capability to reintegrate juvenile offenders by enhancing legitimate opportunities for youth. The results of this research are being applied in designing and testing the R&D program described below.

(3) Violent Offender Research and Development Program—Part I.

This R&D program is designed to test the effectiveness of a correctional system of graduated sanctions, including a range of community reintegration services, organized by a continuous case management system. (*Violent Juvenile Offender Program,* April, 1981). The target population for this program is juveniles who have been adjudicated or convicted of at least two violent offenses, or those who have been convicted once of homicide.

Charles A. Lauer,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 82-18789 Filed 7-12-82; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period June 28, 1982—July 2, 1982.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-12,123; Brown Shoe Co., Houston, MO

TA-W-12,096; Goodyear Tire & Rubber Co., St. Mary's, OH

TA-W-12,538; Federal Screw Works, Romulus, MI

TA-W-12,539; Federal Screw Works, Detroit, MI

TA-W-12,166; Brown Shoe Co., St. Louis, MO

TA-W-12,671; Brown Shoe Co., Ironton, MO

TA-W-12,259; Mari Bar Industries, Deer Park, NY

TA-W-12,441; Pierette Fashions, North Bergen, NJ

TA-W-12,385; Baker Material Handling Corp., Tiedeman Road Plant, Cleveland, OH

TA-W-12,309; Camden Casting Center, Camden, TN

In the following case the investigation revealed that criterion (3) had not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA-W-12,334; Gillette Industries, Inc., LaCrosse, WI

In the following case the investigation revealed that criterion (3) had not been met for the reason specified.

TA-W-12,726; HRH Knitting, Jersey City, NJ

Aggregate U.S. imports of finished fabric did not increase as required for certification.

Affirmation Determinations

TA-W-12,413; Yearite Bunny Knit Sportwear, Inc., Bohemia, NY

A certification was issued in response to a petition received on March 3, 1981 covering all workers separated on or after February 25, 1980 and before January 2, 1981.

TA-W-12,573; Fur Modes, Inc., Jersey City, NJ

A certification was issued in response to a petition received on March 9, 1981 covering all workers separated on or after October 4, 1980.

TA-W-12,592; Climette, Inc., New York, NY

A certification was issued in response to a petition received on April 3, 1981 covering all workers separated on or after October 1, 1980 and before June 30, 1981.

TA-W-12,659; E. Norris Brown Co., Inc., Whitman, MA

A certification was issued in response to a petition received on April 27, 1981 covering all workers engaged in employment related to the production of wooden fan blades who became totally or partially separated from employment on or after March 28, 1981.

TA-W-12,663; Precision Woodcraft, Inc., East Bridgewater, MA

A certification was issued in response to a petition received on April 27, 1981 covering all workers separated on or after October 14, 1980.

I hereby certify that the aforementioned determinations were issued during the period June 28, 1982–July 2, 1982. Copies of these determinations are available for inspection in Room 10,332, U.S. Department of Labor, 601 D Street NW, Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: July 6, 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-18809 Filed 7-12-82; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-82-66-C]

Cardinal Resources, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Cardinal Resources, Inc., P.O. Box 628, London, Kentucky 40741 has filed a petition to modify the application of 30 CFR 75.1102 (slippage and sequence switches) to its Mine No. 18 (I.D. No. 15-10558) located in Leslie County, Kentucky. The petition is filed under

section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

(1) The petition concerns the requirement that underground belt conveyors be equipped with slippage and sequence switches.

(2) As an alternative method to installing slippage and sequence switches on the underground belt conveyors, the petitioner proposes to:

(a) Station an employee in the vicinity of each belt drive during the shift that the belts are running;

(b) Install a mine phone at each belt drive; and

(c) Provide a manually operated start-stop switch at each belt transfer point.

3. Petitioner states that this alternative method will provide a greater degree of safety for the miners affected than that afforded by the standard, because an employee can detect a malfunction at the belt drive much faster than a slippage or sequence switch can activate.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 12, 1982. Copies of the petition are available for inspection at that address.

Dated: July 7, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-18913 Filed 7-12-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-62-C]

Clinchfield Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Clinchfield Coal Company, P.O. Box 7, Dante, Virginia 24237 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Moss No. 4 Mine (I.D. No. 44-01644), Moss No. 4A Mine (I.D. No. 44-04817), Training Mine (I.D. No. 44-0445), McClure No. 1 Mine (I.D. No. 44-04251), Splashdam Mine (I.D. No. 44-00269), Open Fork Mine (I.D. No. 44-00267), Maple House Branch Mine (I.D. No. 44-04937), and McClure No. 2 Mine (I.D. No. 44-04946), all located in Dickenson County, Virginia; its Wilder Mine (I.D. No. 44-03686) located in Russell County, Virginia, and its Lambert Fork Mine (I.D. No. 44-00241), located in Buchanan County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The coal seams at the various mines range in height from 40 to 72 inches, 38 to 60 inches, 40 to 72 inches, 36 to 76 inches, 36 to 72 inches, 32 to 48 inches, 30 to 84 inches, 20 to 120 inches, and 24 to 72 inches. Each mine has undulating top and bottom conditions, creating rolls in the coal seam.

3. Petitioner states that application of the standard would result in a diminution of safety for the miners affected because the canopies could strike and dislodge the roof support system. In addition, the canopy creates a cramped operator compartment, which limits visibility and causes operator fatigue, increasing the chances for an accident.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 12, 1982. Copies of the petition are available for inspection at that address.

Dated: July 7, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-18912 Filed 7-12-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-59-C]

Jim Walter Resources, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Jim Walter Resources, Inc., P.O. Box C-79, Birmingham, Alabama 35283 has filed a petition to modify the application of 30 CFR 75.309 (return air; tests and adjustments) to its No. 4 Mine (I.D. No. 01-01247) located in Tuscaloosa County, Alabama. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that return air sections be examined for methane and changes or adjustments in air flow be made as necessary.

2. As an alternative method, petitioner proposes that:

(a) A methane monitor, utilizing a methane sensor approved by the Secretary, will be installed in section return airways as designated in the mine's ventilation system and methane and dust control plan;

(b) The methane monitor will activate an alert signal at the working section when it detects methane concentrations in excess of 1.6 volume per centum;

(c) The methane monitor, upon activation at 1.9 volume per centum of methane, will cut off electric power at the vacuum breaker to the affected section;

(d) Upon de-energizing the power to the affected section, steps will be taken to improve ventilation until the methane concentration decreases to less than 1.5 volume per centum, at which time power to the section may be restored;

(e) Should the methane monitor be affected by power failure or otherwise malfunction, petitioner will continuously monitor the return air using a qualified person with a permissible methane detector who will immediately de-energize the vacuum breaker when the methane content in the air current exceeds 1.9 volume per centum;

(f) Each methane monitor will be visually examined at least once each working day. Monitors will also be examined weekly for proper operations of safety features. To maintain operating accuracy, monitors will be calibrated with a known concentration of methane every 30 days;

(g) When the methane level exceeds 1.0 volume per centum in the return air course where a continuous mining machine is in operation, petitioner will use a trickle rock dusting machine to insert float coal dust in the affected return split of air; and

(h) To maintain methane concentrations in the return aircourses at less than 1.9 volume per centum, petitioner will control leakage of intake air through selected stoppings separating intake and return aircourses.

3. Petitioner states that the alternative method outlined above will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 12, 1982. Copies of the petition are available for inspection at that address.

Dated: July 7, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-18914 Filed 7-12-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-39-C]

Van Mulvehill Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Van Mulvehill Coal Company, Inc., Route 1, Box 245-A, Trafford, Alabama 35172 has filed a petition to modify the application of 30 CFR 75.1405 (automatic couplers) to its Black Creek No. 1 Mine (I.D. No. 01-02004) located in Jefferson County, Alabama. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that all haulage equipment be equipped with automatic couplers which couple by impact and uncouple without the necessity of people going between the ends of such equipment.

2. Haulage cars are regularly coupled and uncoupled at the loading points underground and the dumping point outside. Because of the track curvature and undulating bottom, petitioner states that it is necessary that the coupling link used between cars be free to move vertically over a wide range of track variations and proposes this as an alternative method. Most coupling and uncoupling is done when the cars are uncoupled from the locomotive. The grades are nearly level; the cars are light weight and can easily be pushed by hand. Petitioner states that there is little possibility of any injury during coupling or uncoupling, and states that their coupling procedures are practical and safe as can be made for this operation, and will provide the same measure of protection afforded by the standard.

3. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 12, 1982. Copies of the petition are available for inspection at that address.

Dated: July 7, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-18911 Filed 7-12-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-63-C]

Sewell Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Sewell Coal Company, Route 3, Box 125, Nettie, West Virginia 26681 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Sewell No. 1 Mine (I.D. No. 46-01478), Sewell No. 1-A Mine (I.D. No. 46-03859), and Sewell No. 4 Mine (I.D. No. 46-01477), all located in Nicholas County, West Virginia; and its Meadow River No. 1 Mine (I.D. No. 46-03467), located in Fayette County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The coal seams at the various mines range in height from 39 to 84 inches, 20 to 96 inches, 21 to 144 inches, and 36 to 54 inches. Each mine has undulating top and bottom conditions.

3. Petitioner states that application of the standard would result in a diminution of safety for the miners affected because:

a. The canopies cause cramped and awkward operator positions, limit visibility, and result in operator exposure to hazards of nearby mining equipment; and

b. The canopies could strike and dislodge the roof support system.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 12, 1982. Copies of the petition are available for inspection at that address.

Dated: July 7, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-18910 Filed 7-12-82; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

Connecticut State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On November 3, 1978, notice was published in the **Federal Register** (43 FR 51389) of the approval of the Connecticut Plan for Public Employees Only and the adoption of Subpart E to Part 1952 containing the decision.

The Connecticut plan provides for the adoption of Federal Standards as State standards (by reference after public hearing). Section 1952.40 of Subpart E sets forth the State's schedule for adoption of Federal standards. By letter dated November 23, 1981 from P. Joseph Peraro, Commissioner of the Connecticut Department of Labor to Edwin J. Riley, Jr., Assistant Regional Administrator for Federal and State Operations, and incorporated as part of the plan, the State submitted the following State Standards comparable to Federal Standards:

(a) 29 CFR 1910.20—Access to Employee Exposure and Medical Records, dated 5-23-80

(b) 29 CFR 1910.423—Commercial Diving Operations, dated 6-20-80

(c) 29 CFR 1910.1043—Occupational Exposure to Cotton Dust in Warehousing and Classing Industries, dated 7–29–80
(d) 29 CFR 1910.20—Access to Employee Exposure and Medical Records, dated 8–15–80
(e) 29 CFR 1910.35, .37, .38, .107–.109, .155–.165b—Fire Protection; Means of Egress; Hazardous Materials, dated 9–12–80
(f) 29 CFR 1910.1043—Occupational Exposure to Cotton Dust, dated 9–30–80
(g) 29 CFR 1910.1043—Occupational Exposure to Cotton Dust, dated 10–10–80
(h) 29 CFR 1910.1043—Occupational Exposure to Cotton Dust, dated 12–30–80
(i) 29 CFR 1910.95—Occupational Noise Exposure; Hearing Conservation Amendment, dated 1–16–81
(j) 29 CFR 1910.301–.399—Electrical Standards, dated 1–16–81
(k) 29 CFR 1910.1025—Occupational Exposure to Lead, dated 1–21–81
(l) 29 CFR 1910.1025—Occupational Exposure to Lead, dated 2–6–81
(m) 29 CFR 1910.1025—Occupational Exposure to Lead, dated 3–3–81
(n) 29 CFR 1910.1025—Occupational Exposure to Lead, dated 3–27–81
(o) 29 CFR 1910.95—Occupational Noise Exposure; Hearing Conservation Amendment, dated 4–10–81
(p) 29 CFR 1910.20—Access to Employee Exposure and Medical Records; Construction Industry; Administrative Stay, dated 4–28–81
(q) 29 CFR 1910.1025—Occupational Exposure to Lead; Supplemental Statement of Reasons and Amendment of Standard, dated 4–28–81
(r) 29 CFR 1910.Subpart L—Fire Protection; Means of Egress; Hazardous Materials, dated 5–1–81
(s) 29 CFR 1910.1025—Occupational Exposure to Lead, New Trigger Levels for Medical Removal Protection, dated 5–1–81
(t) 29 CFR 1910.500—Guarding of Low-Pitched-Roof Perimeters During the Performance of Built-Up Roofing Work, dated 11–14–80
(u) 29 CFR 1910.1043—Occupational Exposure to Cotton Dust; Cotton Waste Processors and Users, dated 1–26–79
(v) 29 CFR 1910.1025—Occupational Exposure to Lead; Notice of Partial Stay, dated 3–13–79
(w) 29 CFR 1910.1025—Occupational Exposure to Lead; Corrections to Preamble, dated 4–6–79
(x) 29 CFR 1910.1025—Occupational Exposure to Lead, dated 8–28–79
(y) 29 CFR 1910.1025—Occuaptional Exposure to Lead; Appendices to Standard, dated 10–23–79
(z) 29 CFR 1910.1025—Occupational Exposure to Lead, dated 11–30–79
(aa) 29 CFR 1910.177—Servicing Multi-Piece Rim Wheels; Procedures, dated 1–29–80
(bb) 29 CFR 1910.217—Mechanical Power Presses, dated 2–6–80
(cc) 29 CFR 1910.1043—Occupational Exposure to Cotton Dust; New Effective Dates, dated 2–26–80

The first group of the above standards (a) through (t), which are contained in Connecticut Occupational Safety and Health Standards Sections 31–372–101–1910 and 31–372–107–1926 were initially adopted under the State emergency procedure on October 9, 1980 with subsequent extensions. The notice of intent to permanently adopt all of the above standards was published in the Connecticut Law Journal on June 9, 1981. All of the above listed standards were approved by the Legislative Regulation Review Committee, filed with Secretary of the State and became effective on October 29, 1981. On November 17, 1981 notice of the adoption was published in the Connecticut Law Journal. No requests for hearing were made during the adoption process.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards it has been determined that the State standards are identical to the Federal standards and accordingly should be approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, 16–18 North Street, 1 Dock Square Building, 4th Floor, Boston, Massachusetts 02109; Connecticut Department of Labor, 200 Folly Brook Boulevard, Wethersfield, Connecticut 06109; Director, Federal Compliance and State Programs, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Room N–3617, Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Connecticut Plan for Public Employees Only as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standards were adoptèd in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective July 13, 1982.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Boston, Massachusetts this 5th day of February 1982.

Donald E. MacKenzie,

Regional Administrator.

[FR Doc. 82–18908 Filed 7–12–82; 8:45 am]

BILLING CODE 4510–26–M

Utah State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under the delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State Plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On January 10, 1973, notice was published in the **Federal Register** (38 FR 1178) of the approval of the Utah Plan and the adoption of Subpart E to Part 1952 containing the decision.

The Utah Plan provides for the adoption of Federal Standards as State Standards by:

1. Advisory Committee recommendation.

2. Publication in newspapers of general/major circulation with a 30-day waiting period for public comment and hearing(s).

3. Commission order adopting the standards and designating an effective date.

4. Providing certified copies of Rules and Regulations or Standards to the Office of the State Archivist.

Section 1952.113 sets forth the State's schedule for adoption of Federal Standards. By letter dated January 7, 1982 and February 24, 1982 from Ronald L. Joseph, Administrator, Utah Occupational Safety and Health Division, to Curtis A. Foster, Regional Administrator, and incorporated as part of the Plan, the State submitted rules

and regulations concerning 29 CFR Part 1910, Occupational Noise Exposure, Friday, January 16, 1981 (46 FR 4161) and Friday, August 21, 1981 (46 FR 42633) (amended). These standards which are contained in the Utah Occupational Safety and Health Rules and Regulations for General Industry, were promulgated per the requirements of Utah Code annotated 1953, Title 63–46–1, and in addition, published in newspapers of general/major circulation throughout the State. No public comment was received and no hearings held.

The Standards for 29 CFR 1910.95, Occupational Noise Exposure, were adopted by the Industrial Commission of Utah, Archives File Number 5260 on January 14, 1982, effective on February 4, 1982 pursuant to Title 35–9–6 Utah Code annotated 1953.

2. *Decision.* The State submission having been reviewed in comparison with the Federal Standards, it has been determined that the State Standards are identical to the Federal Standards and accordingly should be approved.

3. *Location of supplemental for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Room 1554, Federal Office Building, 1961 Stout Street, Denver, Colorado 80294; Utah State Industrial Commission, UOSHA Offices at 448 South 400 East, Salt Lake City Utah 84111; and Office of State Programs, Occupational Safety and Health Administration, Room N–3613, 3rd and Constitution Ave. NW., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Utah State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

The Standards were adopted in accordance with the procedural requirements of State law which permitted public comments, and further public participation would be repetitious.

This decision is effective July 13, 1982.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Denver, Colorado this 2nd day of April 1982.

H. C. Borchelt,

Acting Regional Administrator.

[FR Doc. 82–18007 Filed 7–12–82; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978, Pub. L. 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at Title 45 Part 670 of the Code of Federal Regulations.

DATE: Interested parties are invited to submit written data, comments, or views with respect to these permit applications by August 13, 1982. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESS: Comments should be addressed to Permit Office, Room 627, Division of Polar Programs, National Science Foundation, Washington, D.C. 20550.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers at the above address or (202) 357–7934.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Public Law 95–541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed in 1964 by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain mammals and certain geographic areas as requiring special protection. The regulations establish such a permit system and designate Specially Protected Areas and Sites of Special Scientific Interest. The regulations appeared in final form in the 7 June 1979 **Federal Register.** They were effective 1 July 1979.

The purpose of the regulations is to conserve and protect the mammals, birds, and plants of Antarctica and the ecosystem upon which they depend. To that end, unless the following activities are specifically authorized by permit, it is unlawful:

- to take any mammal or bird native to Antarctica (note that "take" means "to remove, harass, molest, harm, pursue, hunt, shoot, wound, kill, trap, capture, restrain, or tag" any native mammal or bird or to attempt to engage in such conduct)
- to collect any plant native to Antarctica in specially protected areas
- to enter any Specially Protected Area or certain Sites of Special Scientific Interest
- to import into or export from the United States any mammal or bird native to Antarctica or any plant collected in a Specially Protected Area
- to introduce to Antarctica any nonindigenous plant or animal.

The Antarctic Conservation Act of 1978 mandates civil and criminal penalties for noncompliance with the regulations.

All mammals and birds normally found in Antarctica, excluding whales regulated by the International Whaling Commisson, are designated as native mammals or native birds. Activities involving these mammals or birds require a permit. Areas of outstanding ecological interest are designated as Specially Protected Areas. No one may enter these areas or collect any native plants in these areas without a permit. Areas of unique scientific value that need protection from interference are designated as Sites of Special Scientific Interest. Entry into certain of these areas without a permit is prohibited.

The permit system is described in the regulations. To obtain a permit, each applicant must provide the scientific names and numbers of native mammals or birds to be taken, including age, size, sex, and condition (e.g., pregnant or nursing) or the scientific names and numbers of native plants to be collected in a Specially Protected Area. Each applicant must include a complete description of the location, the time period, and the manner of taking or collecting specimens. If the specimens are to be imported into the United States, the applicant must also indicate the ultimate disposition of the materials.

Permits for taking or collecting mammals, birds, or plants will be issued by the Director of the National Science Foundation or his designated representative. Each permit will be evaluated in terms of the objectives of the Antarctic Conservation Act, that is, the conservation and protection of antarctic flora and fauna and th

antarctic ecosystem. Permits issued under these regulations (or copies of them) must be held in the possession of those authorized to engage in a permitted action. The permits must be displayed upon request to any person responsible for enforcing the regulations.

Anyone who knowingly commits an act prohibited by the Antarctic Conservation Act of 1978 is liable to a civil penalty of up to $10,000 for each violation. If the violation was committed without knowledge of the regulations, the fine will not exceed $5,000. Criminal penalties for willful violation of the regulations may involve a fine of up to $10,000 and/or imprisonment for not more than 1 year.

The Antarctic Conservation Act of 1978 does not supersede the Marine Mammal Protection Act of 1972, the Endangered Species Act of 1973, or the Migratory Bird Treaty Act. Permit applications involving native mammals or native birds covered by these acts will be forwarded by NSF to the agencies that administer them. If a proposed activity involves approval under more than one law, then the activity must satisfy the conditions of all applicable laws or a permit cannot be granted. Even if a permit is approved by other appropriate agencies, the Director of the National Science Foundation still must decide whether to issue a permit according to the requirements of the Antarctic Conservation Act of 1978.

The regulations amend Title 45 of the Code of Federal Regulations by adding Part 670.

The applications received are as follows:

1. Applicant

Eric P. Hoberg, Department of Pathology, University of Washington, Seattle, Washington 98195

A. Activities for Which Permit Requested

Taking, Import into U.S.A.

The applicant requests permission to collect specimens of seabirds from colonies in the Palmer Archipelago and at sea for a study of ecological, zoogeographic, and systematic relationships of parasites infecting seabirds in the Antarctic. The applicant requests permission to collect up to 20 adult specimens of each of the following:

Fulmarus glacialoides (Southern Fulmar)
Pagodroma nivea (Snow Petrel)
Pachyptila desolta (Antarctic Prion)
Sterna paradisaea (Arctic Tern)
Daption capnesis (Cape Pigeon)

The applicant also requests permission to collect up to 20 adults and 20 young specimens of the following:

Pygoscelis adeliae (Adelie Penguin)
Pygoscelis antarctica (Chinstrap Penguin)
Oceanites oceanicus (Wilson's Storm Petrel)
Phalacrocorax atriceps (Blue-eyed Shag)
Sterna vittata (Antarctic Tern)
Chionis alba (American Sheathbill)
Larus dominicanus (Southern Black-backed Gull)
Macronectes giganteus (Southern Giant Fulmar)
Catharacta maccormicki (South Polar Skua)
Catharacta lonnbergi (Brown Skua)

B. Location

Palmer Archipelago, Antarctica and at sea.

C. Dates

January 1, 1983 to March 30, 1983 .

2. Applicant

David G. Ainley, Point Reyes Bird Observatory, 4990 Shoreline Highway, Stinson Beach, California 94970

A. Activities for Which Permit Requested

Taking, Entry into Site of Special Scientific Interest.

The applicant requests permission to enter Cape Crozier, Ross Island to conduct a population survey of South Polar Skuas. Birds are to be captured, banded and released. Up to 200 birds will be banded.

B. Location

Cape Crozier, Ross Island, Antarctica.

C. Dates

November 1, 1982 to January 15, 1983.

3. Applicant

Arthur L. DeVries, Department of Physiology, 524 Burrill Hall, University of Illinois, Urbana, Illinois 61801

A. Activities for Which Permit Requested

Introduction of a non-indigenous species into Antarctica.

The applicant request permission to introduce up to 15 specimens of the fish *Notothenia angustata* into a closed laboratory environment at McMurdo Station, Antarctica. The specimens will be used in experiments on the role of glycopeptides in prevention of freezing of the intestinal fluid of notothenid fishes.

B. Location

McMurdo Station, Antarctica.

C. Dates

October 10, 1982 to January 1, 1983.

4. Applicant

David E. Murrish, Department of Biological Sciences, State University of New York, Binghamton, New York 13901

A. Activity for Which Permit Requested

Taking, Entry into Specially Protected Area.

The applicant requests permission to capture up to 25 Adelie Penguins for a study of the physiological controls governing heat flow through the flippers. Most will be released to the wild within two to three days after capture, but several will be killed following laboratory study for further anatomical studies. Two penguins will have body temperature transmitters implanted for a study of body temperature. The transmitters will be removed after completion of the study and the animals released.

B. Location

Rookeries near Palmer Station, Antarctica; Litchfield Island Specially Protected Area.

C. Dates

December 1, 1982 to March 31, 1983.

5. Applicant

Donald B. Siniff, 108 Zoology Building, University of Minnesota, Minneapolis, Minnesota 55455.

A. Activity for Which Permit Requested

Taking, import into the U.S.A.

The applicant proposes to capture, tag and release seals in the McMurdo Sound area, Antarctica in support of continuing research on the population dynamics of Weddell seals. Incidental approach or capture of other Antarctic seals is a possibility during this survey. Up to 10 Weddell seals will be killed for age-growth studies. The applicant requests permission to capture and release up to the following number of seals:

Leptonychotes weddelli (Weddell Seal), 900
Ommataphoca rossi (Ross Seal), 15
Hydrurga leptonyx (Leopard Seal), 15
Mirounga leonina (Elephant Seal), 15

B. Location

Vicinity of McMurdo Station, Antarctica; West side of Ross Sea, Antarctica.

C. Dates

October 1, 1982 to October 1, 1983.

6. Applicant

Wayne Trivelpiece, Point Reyes Bird Observatory, 4990 Shoreline Highway, Stinson Beach, California 94970

A. Activity for Which Permit Requested

Taking, import into U.S.A., entry into Site of Special Scientific Interest.

The applicant requests permission to take up to 25 each Adelie, Chinstrap and Gentoo penguins for a study of the diet of the Pygoscelid penguins. The applicant also requests permission to enter Point Thomas Site of Special Scientific Interest.

B. Location

Admiralty Bay, King George Island, South Shetland Islands; Point Thomas Site of Special Scientific Interest.

C. Dates

October 1, 1982 to April 30, 1983.

7. Applicant

Warren M. Zapol, M.D., Department of Anesthesia, Massachusetts General Hospital, Boston, Massachusetts 02114

A. Activity for Which Permit Requested

Taking. The applicant requests permission to capture 10 pregnant Weddell seals to study maternal and fetal heart rate changes during free unrestrained diving, and 15 male Weddell seals to study time and depth related changes of arterial blood concentration of products of metabolism during diving. Seals will be released at the conclusion of the experiments.

B. Location

McMurdo Station vicinity, Antarctica.

C. Dates

October 1, 1982 to December 10, 1983.

8. Applicant

Wesley E. LeMasurier, Department of Geology, University of Colorado at Denver, Denver, Colorado 80202

A. Activity for which permit requested

Entry to Site of Special Scientific Interest, Entry to Specially Protected Areas.

The applicant requests permission to enter Beaufort Island and Cape Hallett Specially Protected Areas and Cape Crozier Site of Special Scientific Interest to collect rock samples in connection with a study of Volcanic geology.

B. Location

McMurdo Sound area, Antarctica.

C. Dates

November 1, 1982 to January 31, 1983.

Authority to take action under the Antarctic Conservation Act of 1978 including publication of this notice, has been delegated by the Director, NSF to the Director, Division of Polar Programs under NSF Staff Memorandum O/D 79–16, of May 29, 1979.

Edward P. Todd,

Director, Division of Polar Programs.

[FR Doc. 82–18700 Filed 7–12–82; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–237 SP, 50–249]

Commonwealth Edison Co. (Dresden Station, Units 2 and 3); Memorandum in Response to Applicant's Motion for Reconsideration or Clarification Notice of Hearing

July 8, 1982.

In reconsidering its decision to schedule a hearing on the issue as to whether or not the spent fuel pool floor at Dresden can withstand loads which could be imposed by the new high density fuel racks during a seismic event the Board held a telephone conference with the parties. Robert J. Fitzgibbons, Jr., Esquire, and Phillip P. Steptoe, Esquire, represented the Licensee; Phillip Willman, Esquire, represented the State of Illinois' Attorney General; and Richard Goddard, Esquire, represented the NRC Staff. The Board was represented by Dr. Forrest J. Remick and John F. Wolf, Chairman. Dr. Linda W. Little was not available at the time the conference was held.

Mr. Fitzgibbons spoke in support of Applicant's position that the sliding and tipping issue raised in the SEP review was never admitted as a contention in this proceeding and that no party sought to have it admitted as a contention. He stated that absent an exercise of the Licensing Board's *sua sponte* authority under 10 CFR 2.760(a) the issue of sliding and tipping racks, was not an appropriate subject for further evidentiary hearings.

Mr. Goddard of the NRC Staff withdrew his support for the *sua sponte* theory during his discussion of the issue.

Mr. Willman of the Illinois Attorney General's office expressed no opinion regarding the issue.

Dr. Remick and Mr. Wolf expressed the view that the Board had raised no issue *sua sponte* and that, therefore, the hearing should go forward as scheduled.

An argument was made that in view of what had taken place in this case the record is closed. Assuming *arguendo* that such is the case the presiding officer has the power under 10 CFR 2.718(j) "to reopen a proceeding for the reception of further evidence at any time prior to the initial decision." The record shows that the issue arose during the NRC staff's Systematic Evaluation Program (SEP) and that the Staff pursued it through an independent analysis of the pool floor's capacity to withstand a seismic event. Furthermore, the SSER was based not only on an independent analysis of the pool structure but on information submitted by the Applicant and on analysis performed on a similar plant. The Board did not raise the issue nor has it sponsored or required that it be resolved. However, when the NRC Staff seeks to make the results regarding it part of the record as an SSER the Board is required to determine its acceptability in evidence and the weight to be given it during the adjudicatory process. It is clear that the NRC Staff should sponsor the SSER in question and the Applicant should furnish support for any input it had in said report. Witnesses should be presented by the NRC Staff and the Applicant to testify in support of the conclusions set forth therein. It is expected that the Board members will have some questions for the witnesses sponsoring any exhibits that are offered.

The hearing previously noticed will take place as scheduled beginning at 10:00 a.m. on Tuesday, July 13, 1982 in the Nuclear Regulatory Commission Hearing Room, Room No. 5500 in the East-West Towers Building, 350 East-West Highway, Bethesda, Maryland.

For the Atomic Safety and Licensing Board.

John F. Wolf,

Chairman, Administrative Judge.

[FR Doc. 82–18690 Filed 7–12–82; 8:45 am]

BILLING CODE 7590–01–M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a proposed revision to a guide in its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft, temporarily identified by its task number, SG 044–4 (which should be

mentioned in all correspondence concerning this draft guide), is proposed Revision 1 to Regulatory Guide 5.21 and is entitled "Nondestructive Uranium-235 Enrichment Assay by Gamma Ray Spectrometry." The guide is being developed to describe conditions and procedures that are acceptable to the NRC staff for using gamma ray spectrometry to measure uranium-235 enrichment for material accountability.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by September 15, 1982.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 7th day of July 1982.

For the Nuclear Regulatory Commission.

Karl R. Goller,

Director, Division of Facility Operations, Office of Nuclear Regulatory Research.

[FR Doc. 82-18695 Filed 7-12-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-261]

Carolina Power & Light Co.; Issuance of Amendment To Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 70 to Facility Operating License No. DPR-23 issued to Carolina Power and Light Company (the licensee), which revised Technical Specifications for operation of the H. B. Robinson Steam Electric Plant, Unit No. 2 (the facility) located in Darlington County, South Carolina. The amendment is effective as of the date of issuance.

The amendment consists of revisions to the Appendix A Administrative Controls Section of the Technical Specifications to modify corporate and plant organizational structures and modifications to the Plant Nuclear Safety Committee (PNSC).

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated July 10, 1981, (2) Amendment No. 70 to License No. DPR-23, (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Hartsville Memorial Library, Home an Fifth Avenues, Hartsville, South Carolina 29550. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 28th day of June 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-18689 Filed 7-12-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 40-2061]

Kerr-McGee Chemical Corp.; Extension of Comment Period on the Draft Environmental Statement for the Rare Earths Facility West Chicago, Du Page County, Illinois

By Federal Register Notice published May 20, 1982 (47 FR 21943), the U.S. Nuclear Regulatory Commission (Commission) announced the availability of a Draft Environmental Statement (DES) related to the decommissioning of Kerr-McGee Chemical Corporation's Rare Earths Facility located in West Chicago, Illinois, with comments on the DES from interested persons due to the Commission by July 6, 1982.

In order to ensure that sufficient time is allowed for public comment, the Commission hereby extends the comment period for the DES an additional 25 days, with comments due for the Commission's consideration by August 1, 1982. Comments should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Uranium Fuel Licensing Branch. All comments received by the Commission will be made available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Commission's Local Public Document Room in the West Chicago Public Library, 332 E. Washington Street, West Chicago, Illinois 60185.

Dated at Silver Spring, Maryland, this 7th day of July, 1982.

R. G. Page,

Chief, Uranium Fuel Licensing Branch, Division of Fuel Cycle and Material Safety, NMSS.

[FR Doc. 82-18691 Filed 7-12-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-133]

Pacific Gas & Electric Co.; Granting an Exemption From the Requirements of 10 CFR 50.54(w)

The U.S. Nuclear Regulatory Commission (the Commission) has granted a temporary exemption from the requirements of 10 CFR 50.54(w) to the Pacific Gas & Electric Company (the licensee).

This temporary exemption related to a requirement for obtaining property damage insurance for the Humboldt Bay Power Plant, Unit 3. The basis for this action is set forth in the Commission's Exemption dated June 29, 1982.

The Commission has determined that the granting of this temporary exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the licensee's request dated May 28, 1982 and (2) the Commission's Exemption dated June 29, 1982. Items (1) and (2) are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Humboldt County Library, 636 F Street, Eureka, California 95501. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Assistant Director, State and Licensee Relations, Office of State Programs.

Dated at Bethesda, Maryland, this 7th day of July 1982.

For the Nuclear Regulatory Commission.

Jerome Saltzman,

Assistant Director, State and Licensee Relations, Office of State Programs.

[FR Doc. 82-18892 Filed 7-12-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-133]

Pacific Gas & Electric Co., Humboldt Bay Power Plant; Issuance of Director's Decision Under 10 CFR 2.206

Mr. Ron Guenther by letters dated January 16, 1982 and June 8, 1982 has petitioned for the decommissioning of Humboldt Bay Power Plant Unit No. 3.

Mr. Guenther's letters have been treated as a request for action under 10 CFR 2.206 and have been referred to the Office of Nuclear Reactor Regulation. Upon review of this matter, the Director of the Office of Nuclear Reactor Regulation has determined that the request does not provide an adequate basis for decommissioning of the Humboldt Bay Power Plant, Unit No. 3. Accordingly, the request has been denied.

Copies of the Director's decision are available for inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Humboldt County Library, 636 F Street, Eureka, California 95501. A copy of the decision will also be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c) of the Commission's regulations.

As provided in 10 CFR 2.206(c), the decision will constitute the final action of the Commission twenty-five (25) days after the date of issuance, unless the Commission, on its own motion, institutes a review of the decision within that time.

Dated at Bethesda, Maryland this 7th day of July 1982

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82-18893 Filed 7-12-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-133]

Pacific Gas & Electric Co. (Humboldt Bay Power Plant, Unit No. 3); Exemption

I

The Pacific Gas and Electric Company (the licensee) is the holder of Facility Operating License No. DPR-7 which authorizes operation of the Humboldt Bay Power Plant, Unit No. 3 (Humboldt). This license provides, among other things, that it is subject to all rules, regulations and orders of the Commission now or hereafter in effect.

The Facility is a boiling water reactor rated at 63 Mw(e) at the licensee's site located near Eureka, California.

II

The recently promulgated regulation, 10 CFR 50.54(w), requires that each commercial power reactor licensee shall, by June 20, 1982, take reasonable steps to obtain on-site property damage insurance available at reasonable costs and on reasonable terms from private sources or to demonstrate to the satisfaction of the Commission that it possesses an equivalent amount of protection covering the facility, provided, among other things, that "this insurance must have a minimum coverage limit no less than the combined total of (i) that offered by either American Nuclear Insurers (ANI) and Mutual Atomic Energy Reinsurance Pool (MAERP) jointly or Nuclear Mutual Limited (NML); plus (ii) that offered by Nuclear Electric Insurance Limited (NEIL), the Edison Electric Institute (EEI), ANI and MAERP jointly, or NML as excess property insurance."

On May 28, 1981, the licensee filed a Request for Exemption from 10 CFR 50.54(w). In support of this request, the licensee indicated that Humboldt Unit 3 has been shut down since July 1976 and is presently in cold shutdown condition. The licensee indicates that studies conducted by it and the NRC staff conclude that the unit presents no danger to the health and safety of the public. Further, the licensee presently maintains all-risk property damage insurance at Humboldt Unit 3 in the amount of approximately $100,000,000 which, in the licensee's opinion, is more than enough to cover the very remote possibility of any damage to the unit. The licensee submits that any additional insurance beyond that currently carried should not be required. In addition, the licensee states that the annual premium would be a burden on its ratepayers.

The licensee has not provided sufficient information for the Commission to conclude that a permanent exemption to the requirements of 10 CFR 50.54(w) is justified. However, the Commission requested additional information from the licensee in a letter dated June 24, 1982. Responses from the licensee are due by July 25, 1982. Given the status of the reactor in cold shutdown, the possibility of a serious accident at Humboldt Unit 3 is unlikely during the time that the licensee is preparing its response and the Commission considers the exemption request on its merits.

Accordingly, the Commission has determined that pursuant to 10 CFR 50.12 a temporary exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. Therefore, the Commission hereby approves the following exemption:

The licensee is temporarily exempt from the requirements of 10 CFR 50.54(w) with respect to on-site property damage insurance, until such time as the Commission completes its evaluation of the licensee's request, dated June 24, 1982.

The NRC staff has determined that the granting of this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact appraisal need not be prepared in connection with this action.

Dated at Bethesda, Maryland, this 29th day of June 1982.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82-18894 Filed 7-12-82; 8:45 am]

BILLING CODE 7590-01

SECURITIES AND EXCHANGE COMMISSION

[Release No. 18867; (SR-Amex-82-6)]

American Stock Exchange, Inc.; Order Approving Proposed Rule Change

July 2, 1982.

The American Stock Exchange, Inc. ("Amex"), 86 Trinity Place, New York, NY 10006, submitted on May 20, 1982, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 thereunder, to amend Amex Rule 400 to clarify the responsibilities of broker-dealers relative to the handling of customer accounts that are introduced by one broker-dealer to another under a fully disclosed carrying agreement.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 18758, May 24, 1982) and by publication in the **Federal Register** (47 FR 24001, June 2, 1982). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–18831 Filed 7–12–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 12521; (812–5188)]

Archer Money Market Fund of Government Securities, Inc.; Notice of Filing of Application for an Order Pursuant to Section 6(c) of the Act Exempting Applicant From the Provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 Thereunder

July 2, 1982.

Notice is hereby given that Archer Money Market Fund of Government Securities, Inc. ("Applicant"), 3100 Eastside, Suite 205, Houston, TX 77098, an open-end, diversified, management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on May 12, 1982, and an amendment thereto on June 14, 182, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder, to the extent necessary to permit Applicant to value its assets using the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it was organized as a corporation under the laws of the State of Texas, October 13, 1981, and registered under the Act on December 29, 1981. The investment adviser to Applicant is the Archer Group, Inc. The investment objective of Applicant is to maximize current income while preserving capital and maintaining liquidity. Applicant seeks to attain this goal by investing in United States Treasury bills, notes and bonds, other obligations issued or guaranteed by the United States, its agencies or instrumentalities and repurchase agreements relating to such obligations. All obligations purchased by Applicant will mature in one year or less. The Applicant will invest in fully insured certificates of deposit up to $100,000. Applicant may also enter into repurchase agreements with respect to its portfolio securities but that any repurchase agreements maturing in more than seven days including any other illiquid assets are limited to 10% of Applicant's total assets. Applicant may employ specialized techniques of investment in United States Government securities, including those having variable interest rates, securities purchased for forward delivery and United States Government instruments which may be backed by the credit of the instrumentality itself rather than by the full faith and credit of the United States.

In connection with these techniques, Applicant will comply with relevant Commission rules and interpretations including Investment Company Act Release No. 10666 (April 18, 1979). Upon purchase by Applicant of variable rate or floating rate obligations or forward delivery obligations, the maturities of such obligations will be determined in accordance with the procedures set forth in proposed Rule 2a–7 under the Act, or if the rule should ultimately be adopted, in accordance with the procedures set forth in the rule as adopted.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by an investment company's board of directors. Rule 22c–1 provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security. Rule 2a–4 provides, as here relevant, that the current net asset value of a redeemable security issued by a registered investment company used in computing its price for the purpose of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by an investment company's board of directors. Prior to the filing of the application, the Commission expressed its view that, among other things, Rule 2a–4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and it would be inconsistent generally with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments with over 60-day maturities on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Applicant requests an exemption from the provisions of Section 2(a)(41) of the Act, and Rules 2a–4 and 22c–1 thereunder, to the extent necessary to permit it to value its portfolio securities using the amortized cost method of valuation. In support of its request, Applicant represents that its board of directors has determined that, absent unusual or extraordinary circumstances, amortized cost value represents fair value of its portfolio securities and that the amortized cost method of valuation is preferable and appropriate for the Applicant. Applicant states that valuation of its assets on the amortized cost basis enables the maintenance of a stable price per share while at the same

time allowing a steady flow of investment income demanded by investors. In addition, Applicant states that given the nature of its policies and expected operations, there will normally be a relatively negligible discrepancy between the market value and the amortized cost value of securities held in Applicant's portfolio.

Section 6(c) of the Act provides, in part, that upon application the Commission may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant asserts that its application meets the standards of Section 6(c) of the Act in light of its management policies, and consents to the imposition of the following conditions to any order granting the requested relief:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, the board of directors of Applicant undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of directors of the Applicant shall be the following:

(a) Review by the board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from the $1.00 amortized cost price per share, and the maintenance of records of such review.[1]

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of directors will promptly consider what action, if any, should be initiated by it.

(c) Where the board of directors believes the extent of any deviation from the $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten the average maturity of portfolio instruments; withholding dividends; or utilizing a net assets value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1 above, and will record, maintain and preserve for a period of not less than six years in an easily accessible place a written record of its board of directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which its board of directors determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by its board of directors.

6. Applicant will include in each of its quarterly reports, as an attachment to Form N–1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Applicant submits that granting its requested exemptive order is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than July 26, 1982, at 5:30 p.m., submit to the Commission in writing a request for a earing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof as such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–18832 Filed 7–12–82; 8:45 am]

BILLING CODE 8010–01–M

[1] To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its board of directors in the exercise of its discretion to be appropriate indicators of value which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in exces of 120 days, Applicant will invest available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

[Release No. 12520; (812-5215)]

Great-West Life & Annuity Insurance Co., Maxim Series Account of Great-West Life & Annuity Insurance Co. and Great-West Life Assurance Co.; Filing of Application for an Order for Approval of Certain Offers of Exchange Pursuant to Section 11 of the Act

July 2, 1982.

Notice is hereby given that Great-West Life & Annuity Insurance Company ("GWL & A"), formerly Insuramerica Corporation, Maxim Series Account of Great-West Life & Annuity Insurance Company (the "Account"), a separate account of GWL & A registered under the Investment Company Act of 1940 ("Act") as a unit investment trust, and Great-West Life Assurance Company ("Great-West"), Great-West Plaza, 1675 Broadway, Denver, CO 80202, the principal underwriter for the Account (collectively "Applicant"), filed an application on June 14, 1982, and an amendment thereto on June 24, 1982, for an order pursuant to Section 11 of the Act approving certain offers of exchange described in the application. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The Account is a unit investment trust the assets of which are currently allocated to the Money Market Portfolio of Maxim Series Fund, Inc. (the "Fund"), a diversified open-end investment company. GWL & A now proposes to add two new Investment Divisions to the Account to permit a contractowner to allocate purchase payments among the following three Investment Divisions: (i) Investment Division A, which invests solely in shares of the Money Market Portfolio of the Fund; (ii) Investment Division B, which invests solely in shares of the Bond Portfolio of the Fund; and (iii) Investment Division C, which invests solely in shares of the Equity Portfolio of the Fund.

Applicants propose to permit contractowners to allocate all or a portion of their contract value among the three Investment Divisions under the following conditions. Transfers of contract value cannot be made more often than once every 30 days and must be made by written instruction to GWL & A. The entire contract value may be transaferred; however, when only a portion of contract value is to be transferred, the minimum amount which may be allocated to a new Investment Division is $1,000.00 and the minimum amount remaining in an Investment Division as a result of the transfer must be at least $1,000.00. No charges will be made by GWL & A for effecting such transfers. Transfers will result in the purchase of Accumulation Units in one Investment Division and surrender of Accumulation Units in the other Investment Division. Such transfers will be accomplished at relative Accumulation Unit values on the Valuation Date next computed after GWL & A's receipt of a contractowner's written request. No transfers are permitted on or after 30 days prior to the Retirement Date.

Section 11

Section 11(a) of the At provides that it shall be unlawful for any registered open-end company or any principal underwriter for such a company to make or cause to be made an offer to the holder of a security of such company or of any other open-end company to exchange his securty for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission. Section 11(c) provides that, irrespective of the basis of exchange, the provisions of subsection (a) shall be applicable to any type of offer to exchange the securities of registered unit investment trusts for the securities of any other investment company. Applicants propose that contractowners, upon written request to GWL & A, be permitted to realloate amounts held in the Investment Divisions A, B and C, subject to a minimum allocation of $1,000.00 to any one Investment Division.

Notice if further given that any interested person may, not later than July 27, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule O-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued, as of course, following July 27, 1982, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing, if ordered, and any postponements thereof.

For the Commission, by the Division of investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-18833 Filed 7-12-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22566; (70-6747)]

Gulf Power Co.; Notice of Proposal To Amend Charter and To Solicit Proxies

July 7, 1982.

Gulf Power Company ("Company"), 75 North Pace Boulevard, Pensacola, Florida 32520, a subsidiary of The Southern Company, a registered holding company, has filed a declaration with this Commission pursuant to Sections 6(a), 7 and 12(e) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 62 thereunder.

The Company's charter currently authorizes preferred stock having a par value of $100 per share ("Preferred Stock") of which 772,706 shares were outstanding at April 30, 1982. The Company proposes to amend its charter to create a new class of preferred stock with a par value of $10 per share ("Class A Preferred Stock") to consist initially of 10 million shares.

The Company estimates that prior to December 31, 1985 it will issue Preferred Stock and Class A Preferred Stock with a combined maximum aggregate stated capital of up to $100 million.

The Class A Preferred Stock will rank on a parity as to dividends and assets and will have the same rights and preferences as the Preferred Stock. On all matters submitted to a vote of the holders of the Preferred Stock and the Class A Preferred Stock, both classes will vote together as a single class. If any change in the rights and preferences of the outstanding Preferred Stock or Class A Preferred Stock would adversely effect the holders of only one, but not the other, such class, only the vote of the holders of at least two-thirds of the total voting power of the outstanding shares of the case of stock so affected would be required.

Each share of Preferred Stock and of Class A Preferred Stock would have such voting rights as are proportionate

to the ratio of the stated capital represented by such shares to the stated capital represented by all shares of both the Preferred Stock and Class A Preferred Stock outstanding. The stated capital represented by each share would be $100 per share in the case of the existing Preferred Stock and $10 per share in the case of the Class A Preferred Stock plus the excess of the consideration received over $10 per share (up to an amount which, when added to the par value of such share, would not exceed such share's preferential claim in the event of involuntary liquidation). The stated capital represented by each share so determinated would be equal to such share's preferential claim in the event of involuntary liquidation. Thus, the relative voting power of each share of Preferred Stock and Class A Preferred Stock (as described above) will be proporationate to the amount payable in respect of such share upon involuntary liquidation.

The Company also proposes to amend its charter so as to modify certain provisions relating to the calculation of net income available for dividends and gross income available for interest in meeting coverage requirements in connection with the issuance of additional shares of Preferred Stock or Class A Preferred Stock without prior stockholder approval. The Charter limits cash dividends on common stock to 50% of net income for a prior period of twelve months if the ratio of common stock equity to total capitalization, including surplus, adjusted to reflect the payment of the proposed dividend, is below 20% and to 75% of net income if such ratio is 20% or more but less than 25%.

The Charter also limits the issuance of additional shares of preferred stock without prior approval of the holders of 66⅔% of the outstanding shares of preferred stock, unless (i) net income available for dividends for a prior period of twelve months is at least equal to two times the annual dividend requirements on all shares of preferred stock and senior or equally ranking stock to be outstanding and (ii) gross income available for interest for a prior period of twelve months is at least equal to one and one-half times the aggregate of annual interest requirements and annual dividend requirements on all shares of preferred stock and senior or equally ranking stock to be outstanding.

In computing net income available for dividends and gross income available for interest in connection with the foregoing provisions, a deduction is required of the greater of (i) the total amount, if any, by which the aggregate of the charges to income or earned surplus during the period in question for repairs, maintenance and provision for depreciation shall have been less than 16% of gross operating revenues derived during the period, after deduction of purchased power, and (ii) the total amount, if any, by which the charges to income or earned surplus during the period as provision for depreciation shall have been less than an amount equal to the product of the applicable percentage (presently 2.1% and increasing to 2.5%) and the mathematical average of the amounts of depreciable property at the opening of business on the first day and at the close of business on the last day of such period.

The proposed charter amendment would, in each instance, eliminate the 16% maintenance requirement but would retain the 2.1%–2.25% replacement requirement and would increase the applicable percentage to 3.0% or such revised percentage as shall be authorized by this Commission.

The Company also proposes to submit to the holders of its outstanding preferred stock for consideration and action, a proposal that the Company be authorized, by vote of its preferred stockholders, to issue or assume, until July 1, 1989, securities representing unsecured debt having maturities of less than ten years in excess of 10% of capital, surplus and secured debt, provided that (a) the amount of securities representing unsecured debt having maturities of less than ten years outstanding on January 1, 1990 shall not exceed said 10% limitation, and (b) the Company's total indebtedness represented by unsecured securities shall at no time exceed 20% of capital, surplus and secured debt. This authorization would supersede a similar authorization approved by stockholders on November 17, 1975 (HCAR No. 19190).

The Company also proposed to solicit proxies from the holders of its outstanding preferred stock in connection with the special meeting of stockholders which is to be called to take action upon the foregoing proposals.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by July 30, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact of law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice of order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-18834 Filed 7-12-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12523; (811-1092)]

Harvard Small Business Investment Co.; Notice of Proposal To Terminate Registration Pursuant to Section 8(f) of the Investment Company Act

July 6, 1982.

Notice is hereby given that the Commission proposes, pursuant to Section 8(f) of the Investment Company Act of 1940 ("Act"), to declare by order on its own motion that Harvard Small Business Investment Company ("Fund"), 33 East Hunting Drive, Arcadia, California, registered under the Act as a closed-end, diversified management investment company, has ceased to be an investment company as defined by the Act.

Information contained in the files of the Commission indicates that the Fund was organized in the State California on March 9, 1961. The Fund filed Form N-8A, Notification of Registration, with the Commission on August 18, 1961. The Commission's files indicate that the Fund has not made filings required by the Act and that attempts to locate the Fund and its principals have been unsuccessful. According to a Certificate of Filing and Suspension executed by the Secretary of State of the State of California on June 10, 1982, the Fund's corporate powers, rights and privileges were suspended on June 1, 1970.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon the taking effect of that order the registration of that investment company shall cease to be in effect.

Notice is further given that any interested person may, not later than

August 2, 1982, at 5:30 p.m., submit to Commission in writing a request for a hearing on the proposal accompanied by a statement as to the nature of his interest, the reason for such request, and the issues if any, or fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Fund at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the matter will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–18835 Filed 7–12–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 12518; (812–5173)]

INA Annuity Fund, Inc.; Notice of Filing of Application for an Order of the Commission Pursuant to Section 6(c) of the Act Granting Exemptions From the Provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 Thereunder

July 2, 1982.

Notice is hereby given that INA Annuity Fund, Inc. ("Applicant"), 3411 Silverside Road, Wilmington, Delaware 19810, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on April 19, 1982, requesting an order of the Commission pursuant to Section 6(c) of the Act and rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to calculate the net asset value per share of its Short-term Government Portfolio pursuant to the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a corporation organized under laws of the State of Maryland on October 19, 1981, to offer four separate investment portfolios to fund variable annuity contracts issued by Investors Life Insurance Company of North America ("Insurance Company") through its CIGNA Separate Account. It is further stated that the investment objectives of Applicant's Short-term Government Portfolio will be the preservation of capital, the maintenance of liquidity, and the attainment of a high rate of current income consistent with investment in a diversified portfolio of short-term money market instruments issued or guaranteed by the United States Government or its agencies or instrumentalities, directly or subject to repurchase agreements. Applicant also states that it may purchase such securities on a when-issued or delayed-delivery basis. In addition, Applicant represents that all of its investments consist of obligations maturing within one year from the date of acquisition, and that the dollar-weighted average maturity of all of its investments is 120 days or less.

Applicant further states that dividends for the Short-term Government Portfolio will be declared and reinvested on each day that Applicant is open for business, in the form of additional shares of the Short-term Government Portfolio at the net asset value determined at the close of business on the day the dividend is declared.

Applicant represents that many of the contractholders for the CIGNA Separate Account desire a short-term government money market fund portfolio which (1) maintains a constant net asset value and (2) pays relatively steady dividends that do not fluctuate on account of daily changes in the market values of portfolio securities. It is stated that Applicant believes that investors in its Short-term Government Portfolio will expect that the daily dividend on their shares will be the practical equivalent of the interest rates (less expenses) actually being realized on the Short-term Government Portfolio. Applicant states that by investing in high quality money market instruments of short maturities and valuing these instruments in accordance with the amortized cost method of valuation, Applicant's Short-term Government Portfolio will be able to provide investors with a stable net asset value and a steady flow of investment income.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c–1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

Rules 2a–4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption shall be determined with reference to (1) current market value for portfolio securities with respect to which market quotations are readily available and (2) for other securities and assets, fair value as determined in good faith by the board of directors of the registered company. Prior to the filing of the application, the Commission expressed its view that, among other things, Rule 2a–4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and it would be inconsistent generally with the provisions of Rule 2a–4 for a "money market" fund to value its instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In support of the exemptions requested, Applicant asserts that if it is not permitted to compute the net asset value of its Short-term Government Portfolio by using the amortized cost method, periodic fluctuations in net asset value may occur and could well cause holders of contracts funded by the

Short-term Government Portfolio, upon redemption of their shares, to receive amounts nominally different from their cost. Therefore, Applicant states that such contractholders may be unfairly treated if Applicant were forced to price its Short-term Government Portfolio in a manner which would produce artificial price and yield volatility for instruments which Applicant ordinarily expects to hold to maturity. Applicant further represents that it has been advised by its investment manager, INA Capital Management Corporation, that potential investors in the Short-term Government Portfolio will place primary importance upon maintaining a constant net asset value per share and are less concerned with the theoretical differences which might occur between yield determined through market valuation methods and yield computed on the basis of amortized cost. Applicant further asserts that, given the nature of Applicant's policies and operations, there will normally be a relatively negligible discrepancy between market value and amortized value of the securities of its Short-term Government Portfolio.

Applicant represents that its board of directors has determined in good faith that in light of Applicant's characteristics as described above, absent unusual or extraordinary circumstances, the amortized cost method of valuing portfolio securities is appropriate and preferable and reflects the fair value of Applicant's Short-term Government Portfolio securities. Applicant asserts that, on the basis of the foregoing, the valuation of portfolio securities of the Short-term Government Portfolio pursuant to the amortized cost method will benefit its shareholders by enabling Applicant to maintain more effectively a stable price per share for its Short-term Government Portfolio while providing shareholders with the opportunity to receive a flow of investment income less subject to fluctuation than under procedures whereby its dividends would be adjusted by all unrealized gains and losses on its portfolio instruments.

Applicant further represents that the granting of the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant has agreed that the following conditions may be imposed in any order of the Commission granting the exemptions requested:

1. In supporting Applicant's operations and delegating special responsibilities involving management of Applicant's portfolio to Applicant's investment adviser, Applicant's board of directors undertakes—as a particular responsibility within its overall duty of care owed to holders of contracts funded by Applicant's share—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of directors shall be the following:

(a) Review by the board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share of the Short-term Government Portfolio, as determined by using available market quotations from the $1.00 amortized cost price per share, and maintenance of records of such review.[1]

(b) In the event such deviation from Applicant's $1.00 amortized cost price per share of the Short-term Government Portfolio exceeds ½ of 1 percent, a requirement that the board of directors will promptly consider what action, if any, should be initiated.

(c) Where the board of directors believes that the extent of any deviation from Applicant's $1.00 amortized cost price per share of the Short-term Government Portfolio may result in material dilution or other unfair results to investors or existing holders of contracts funded by shares representing that Portfolio, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which action may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten the average maturity of the Short-term Government Portfolio; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity for the Short-term Government Portfolio appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not cause its Short-term Government Portfolio to (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

4. Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act as though such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which the board of directors determines present minimal credit risks, and which are of high quality as determined by any major rating service, or, in the case of any instrument that is not rated, of comparable quality as determined by Applicant's board of directors.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to condition 2(c) above was taken during the preceding fiscal quarter, and, if any action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than July 27, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his/her interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he/she may request that he/she be notified if the Commission shall order a hearing

[1] To fulfill this condition, Applicant states that it intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its board of directors in the exercise of its discretion to be appropriate indicators of value, which may include among others, (i) quotations or estimates of market value for individual portfolio instruments, or (ii) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] In fulfilling this condition, Applicant states that if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest the available cash of the Short-term Government Portfolio in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as resonably practicable.

thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–18638 Filed 7–12–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 12522; 812–5153]

Jefferson-Pilot Money Market Fund, Inc.; Filing of Application

July 6, 1982.

Notice is hereby given that Jefferson-Pilot Money Market Fund, Inc. ("Applicant") 101 North Elm Street, P.O. Box 21008, Greensboro, NC 27420, an open-end, diversified, management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on April 1, 1982, and an amendment thereto on April 28, 1982, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant's price per share for the purposes of sales, redemptions and repurchases to be calculated utilizing the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it will operate as a "money market fund," and that its investment objective is to provide maximum current income consistent with liquidity and stability of principal. JP Investment Management Company will act as investment adviser to Applicant.

The application states that Applicant may not purchase any security which has a maturity date more than one year from the date of Applicant's purchase, unless purchased subject to a repurchase agreement requiring repurchase from Applicant in one year or less. It is asserted that Applicant's portfolio may be invested only in the following money market instruments: (i) Obligations issued or guaranteed by the United States Government or its agencies or instrumentalities; (ii) negotiable certificates of deposit and bankers' acceptances if they are obligations of a domestic bank or savings institution having total assets of at least $1,000,000,000 and which is a member of the Federal Deposit Insurance Corporation or Federal Home Loan Bank System and insured by the Federal Savings and Loan Insurance Corporation; (iii) commercial paper rated at least "A–1" by Standard & Poor's Corporation or at least "Prime-1" by Moody's Investors Services, Inc., or, if not rated, issued by companies which have an outstanding debt issue rated at least "AA" by Standard & Poor's Corporation, or at least "Aa" by Moody's Investors Services, Inc.; (iv) outstanding non-convertible corporate debt securities not issued as short-term obligations but which have at the time of purchase one year or less remaining to maturity and which at the time of purchase are rated at least "AA" by Standard & Poor's Corporation, or at least "Aa" by Moody's Investors Services, Inc.; and (v) repurchase agreements covering securities issued or guaranteed by the United States Government or its agencies or instrumentalities, certificates of deposit or bankers' acceptances described in (ii) above, or commercial paper described in (iii) above.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by an investment company's board of directors. Rule 22c–1 provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security.

Rule 2a–4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purpose of distribution and redemption shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company. Prior to the filing of the application, the Commission expressed its view that, among other things: (1) Rule 2a–4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977). In view of the foregoing, Applicant requests an exemption from Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to value its portfolio by means of the amortized cost method of valuation.

Section 6(c) of the Act provides, in part, that the Commission upon application may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or of any rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In support of the requested exemption, Applicant states its belief that the type of investors it seeks to attract prefers that the daily income dividends declared by Applicant reflect income as earned, and that Applicant's sales and redemption prices remain fixed. Applicant's directors have determined in good faith that (i) the stable per share value and the steady flow of investment income resulting from the foregoing policies will be helpful in attracting shareholders to Applicant and will provide such investors substantial benefits; and (ii) in light of the characteristics of Applicant, the

amortized cost method of valuation is appropriate and preferable for Applicant and will fairly reflect the fair value of each shareholder's interest in Applicant, and that Applicant will continue to use that method only so long as the board of directors believes that it fairly reflects the value of each shareholder's interest. Finally, Applicant represents that the granting of the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes intended by the policy and provisions of the Act.

Applicant has agreed that the following conditions may be imposed in any order granting the exemptions it has requested:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's board of directors undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objective, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of directors shall be the following:

(a) Review by the board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of Applicant's net asset value per share as determined by using available market quotations from the $1.00 amortized cost price per share, and the maintenance of records of such review.[1]

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of directors will promptly consider what action, if any, should be initiated by it.

(c) Where the board of directors believes the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redemption of shares in kind; the sale of portfolio instruments prior to maturity to realize capital gains or losses, or to shorten Applicant's average portfolio maturity; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of its board of directors' considerations and actions taken in connection with the discharge of their responsibilities, as set forth above, to be included in the minutes of the board of directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which its board of directors determines present minimal credit risks, and which are of high quality as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by its board of directors.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to condition 2(c) above was taken during the preceding fiscal quarter, and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than July 30, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of such person's interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or such person may request that he or she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-18837 Filed 7-12-82; 8:45 am]

BILLING CODE 8010-01-M

[1] To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the board of directors in the exercise of its discretion to be appropriate indicators of value. In addition, Applicant states that the quotations or estimates utilized may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

[Release No. 22562; 70–6749]

The Southern Co.; Proposal To Act as Guarantor of Subsidiary Company Obligations Under State Workmen's Compensation Laws

July 2, 1982.

The Southern Company ("Southern"), 64 Perimeter Center East, P.O. Box 720071, Atlanta, Georgia 30346, a registered holding company, has filed a declaration with this Commission pursuant to Sections 12(b) and 12(f) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 45 promulgated thereunder.

Southern proposes to act as a guarantor and surety with respect to the obligations and potential liabilities of its subsidiaries under various state workmen's compensation statutes.

These obligations arise when an employer has been granted self-insurer status for purposes of workmen's compensation claims. As a condition to being granted such status, a company may be required to post collateral or a surety bond to guarantee that it honors all compensation claims. Additional security in the form of an indemnification or guarantee by a third party may also be required.

Southern request herein both general authority to execute such surety bonds and to act as guarantor as well as specific approval with regard to the following transactions. Southern Company Services, Inc. ("SCSI"), a subsidiary of Southern, has applied for self-insurer status under the workmen's compensation laws of Mississippi, Florida and Alabama. In connection therewith, Southern proposes to execute surety bonds in varying amounts up to $100,000 and indemnification agreements whereby Southern will guarantee the performance of SCSI as a self-insurer. Southern proposes to assume the same responsibility in relation to an application by Georgia Power Company, an operating subsidiary, under the Alabama statute. The surety bond to be executed in the latter instance will cover the obligations of any Southern system company which now operates or which in the future seeks to operate as a self-insurer in Alabama.

Southern asserts that the opportunity for self-insurer status under state law allows for the provision of excess workers' compensation coverage through the Southern electric system's Comprehensive Liability Insurance Program. Annual premium savings also accrue to the system. Therefore, in the event future applications for self-insurer status require the execution by Southern of guarantees or bonds substantially similar to those described herein and filed with this Commission, Southern requests the authority to enter into such gurantees or execute such surety bonds on behalf of applicant system companies.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by July 28, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as amended or as it may be further amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-18840 Filed 7-12-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22565; 70-6755]

Southwestern Electric Power Co.; Proposal To Acquire an Office Building

July 2, 1982.

Southwestern Electric Power Company ("SWEPCO"), P.O. Box 21106, Shreveport, Louisiana 71156, an electric utility subsidiary of Central and Southwest Corporation, a registered holding company, has filed an application-declaration, and an amendment thereto, with this Commission pursuant to Sections 6(a), 7, 9(a) and 10 of the Public Utility Holding Company Act of 1935 and appropriate rules promulgated thereunder.

In order to satisfy its current need for additional office space and its anticipated need for additional space in the future, SWEPCO proposes to acquire a 15 story office building in Shreveport, Louisiana. The new building is currently fully occupied, but all occupants have relatively short-term leases. Consequently, space in addition to the 3 and ½ floors currently occupied by SWEPCO in the building will soon become available for its own use. SWEPCO asserts that this acquisition will guarantee sufficient office space in the future and that the purchase of an existing structure will be more cost effective than the construction of additional space.

The purchase price for the building and underlying property has been set at $8,300,000. All or a portion of the price may be financed through one of the following methods: (1) the assumption by SWEPCO of the existing mortgage on the land and building which has an unpaid principal balance of approximately $2,000,000 and bears interest at 7% per annum; (2) installment sale, conditional sale or mortgage financing made available to SWEPCO by the present owners; or (3) installment sale, conditional sale, mortgage or lease financing made available by unaffiliated third parties.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by July 21, 1982, to the Secretary, Securities and exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-18838 Filed 7-12-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22563; 70-6750]

Southwestern Electric Power Co.; Proposed Long-Term Lease and/or Sale of Pipeline to Nonassociate Company

July 2, 1982.

Southwestern Electric Power Company ("SWEPCO"), P.O. Box 21106, Shreveport, Louisiana 71156, a public-utility subsidiary company of Central and South West Corporation, a registered holding company, has filed a declaration with this Commission pursuant to Section 12(d) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 44 promulgated thereunder.

SWEPCO owns a 12-inch natural gas pipeline which extends from the Elm Grove Field in Bossier Parish, Louisiana, to SWEPCO's Arsenal Hill generating plant in Shreveport, Louisiana. The Arsenal Hill plant is used during SWEPCO's peak season, approximately 95 days a year. SWEPCO proposes to lease the pipeline to Shreveport Intrastate Gas Transmission, Ltd. ("SIG"), a nonassociate company, and will receive as rentals for the pipeline one-half of SIG's net revenue under transportation agreements pursuant to

which SIG transports gas through the pipeline. The term of the lease runs until September 30, 1991, with SIG having the option to extend the Lease for two additional 10-year terms. The lease also grants SIG an option to purchase the pipeline at a price of $4,000,000, and SWEPCO also seeks authorization for such a sale. SIG can apply toward the option price one-half of the rentals it has paid to SWEPCO under the lease. SWEPCO's investment in the pipeline is approximately $3,285,000. The declaration states that the proposal is financially advantageous to SWEPCO.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by July 28, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-18839 Filed 7-12-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18872; (SR-Amex-82-10)]

American Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

July 7, 1982.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on June 21, 1982, the American Stock Exchange, Inc. ("Amex"), 86 Trinity Place, New York, New York 10006, filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would amend Amex Rule 420 by deleting the spousal exemption from the rule's prohibition against the mailing of statements, confirmations and communications to a customer in care of any member or member organization or person associated with a member organization unless the customer so directs and duplicate copies are sent to the customer at some other address. The spousal exemption permits a member organization to send a husband or wife's account statement to a spouse associated with the member organization who acts as agent for the account without complying with the consent and duplicate mailing requirements.

The exchange is proposing to delete this exemption in order to assure a husband or wife whose spouse has power of attorney over an account the ability to properly monitor both the account and the performance of the individual handling the account.

Interested persons are invited to submit written data, views and arguments concerning the submission on or before July 26, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-Amex-82-10.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and, in particular, the requirements of Section 6. As stated in the Amex filing, the rule proposal is designed to protect investors and the public interest, in furtherance of the objectives of section 6(b)(5) of the Act.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the Commission recently approved a similar amendment to the New York Stock Exchange Inc.'s ("NYSE") Rule 409 which is comparable to Amex Rule 420.[1] Moreover, as the NYSE noted in its submission, eliminating the spousal exemption is consistent with Rule 10b-10 under the Act, because the rule requires brokers and dealers to mail quarterly account statements directly to the *customer*, and also provides that the quarterly statement may be delivered to some other person *designated by the customer* (italics added). Finally, the Commission notes that no comments were received regarding the NYSE filing. Accordingly, the Commission finds that notice for 30 days prior to approval is unnecessary in this case and that accelerated approval is in the public interest.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-18841 Filed 7-12-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-18865; File No. SR-MCC-82-7]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Clearing Corp.; Participants Fund by the Corporation in the Event of the Participant's Default.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on June 4, 1982, the Midwest Clearing Corporation filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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[1] Specifically, the NYSE rule filing, (SR-NYSE-81-20) deleted the provision of NYSE Rule 409 which permitted a member organization to address confirmations, statements and other communications to a husband having power of attorney over his wife's account, without the wife's express written instructions to do so and without providing her with duplicate copies. The NYSE filing stated that the exemption for wives' accounts was inconsistent with exchange requirements that the owner of an account get copies of statements unless the owner specifically instructs otherwise. *See* Securities Exchange Commission Release No. 18298 (December 2, 1981), 46 FR 60373 (December 9, 1981).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Rule 14, section 9 of the Rules of the Midwest Clearing Corporation is hereby amended as follows:

Arrows indicate additions—Brackets indicate deletions.

Rule 14

Section 9. If the Corporation suffers a loss in excess of a Participant's contribution to the Participants Fund by reason of such Participant's default, which loss is not fully recovered through insurance, the unrecovered portion of such excess loss [shall] ►may◄ be made good from the Contingency Reserve Fund provided for in Rule 25 hereof, ►or from the existing undivided profits and retained earnings of the Corporation.◄ [, and to the extent that the Contingency Reserve Fund is insufficient, from the Participants Fund.] ►Notwithstanding the foregoing, any such loss or liability, or any portion thereof, may be made good out of the Participants Fund, instead of such Contingency Reserve Fund or undivided profits and retained earnings of the Corporation, at the election of the Board of Directors.◄ The amount of such excess loss ►made good from the Participants Fund◄ shall be charged pro rata against Participants other than the defaulting Participant on the basis of their respective contribution to the Participants Fund at the time of the default.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) *Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.* The purpose of the proposed rule change is to clarify the Rule to conform to existing policy and rule interpretations regarding the ability of MCC to use retained earnings as a source of funds to be used in case of a loss by MCC due to a Participant's default. The rule change will make explicit the ability of the Board to use retained earnings and/or the Contingency Reserve Fund before going to the Participants Fund or to go directly to the Participants Fund or a combination of both, at its election, in order to recoup any losses.

This policy has been adopted by the Board under existing rules. the concept is presently embodied in the current rule because the Contingency Reserve is a fund established from retained earnings.

The proposed rule change is consistent with Section 17A in that it assures the safeguarding of securities and funds in MCC custody or control by providing alternate and additional means of covering excess losses caused by a defaulting Participant, thereby protecting investors and the public interest.

(B) *Self-Regulatory Organization's Statement on Burden on Competition.* The Midwest Clearing Corporation does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) *Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others.* Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

On or before August 17, 1982, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C. (450 5th Street, N.W., Washington, D.C., after July 23 1982). Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before August 3, 1982.

Dated: July 2, 1982.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-18849 Filed 7-12-82; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-18864; File No. SR-MSTC-82-10]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Securities Trust Co.; Participants Fund by the Corporation in the Event of a Participant's Default

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on June 4, 1982, the Midwest Securities Trust Company filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Rule 8, section 9 of the Rules of the Midwest Securities Trust Company is hereby amended as follows:

Arrows indicate additions—Brackets indicate deletions.

Rule 8

Section 9. If the Corporation suffers a loss in excess of a Depository Participant's contribution to the Participants Fund by reason of such Participant's default, which loss is not fully recovered through insurance, the unrecovered portion of such excess loss [shall] ►may◄ be made good from the Contingency Reserve Fund provided for in Rule 19 hereof, ►or from the existing undivided profits and retained earnings of the Corporation◄ [and to the extent that the Contingency Reserve

Fund is insufficient, from the Participants Fund.] ►Notwithstanding the foregoing, any such loss or liability, or any portion thereof, may be made good out of the Participants Fund, instead of such Contingency Reserve Fund or undivided profits and retained earnings of the Corporation, at the election of the Board of Directors.◄ The amount of such excess loss ►made good from the Participants Fund◄ shall be charged pro rata against Depository Participants other than the defaulting Participant on the basis of their contribution to the Participants Fund at the time of the default.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change. The purpose of the proposed rule change is to clarify the Rule to conform to existing policy and rule interpretations regarding the ability of MSTC to use retained earnings as a source of funds to be used in case of a loss by MSTC due to a Participant's default. The rule change will make explicit the ability of the Board of Directors to use retained earnings and/or the Contingency Reserve Funds before going to the Participants Fund or to go directly to the Participants Fund or a combination of both, at its election, in order to recoup any such losses.

This policy has been adopted by the Board under existing rules. The concept is presently embodied in the current rule because the Contingency Reserve is a fund established from retained earnings.

The proposed rule change is consistent with Section 17A of the Act in that it assures the safeguarding of securities and funds in MSTC custody or control by providing alternate and additional means of covering excess losses caused by a defaulting Participant, thereby protecting investors and the public interest.

(B) *Self-Regulatory Organization's Statement on Burden on Competition.* The Midwest Securities Trust Company does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) *Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others.* Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

On or before August 17, 1982 or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerining the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C. (450 5th Street, N.W., Washington, D.C., after July 23, 1982). Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before August 3, 1982.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 2, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-18880 Filed 7-12-82; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-18868; File No. SR PHLX 81-1, Amdt. No. 2]

Self-Regulatory Organizations; Proposed Rule Change By Philade[illegible]phia Stock Exchange, Inc.; Evaluation o[illegible] Specialists

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on June 25, 1982, the Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items, I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc. ("PHLX") pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") hereby proposes to amend its current rule filing concerning appointment of specialists and market makers, evaluation of specialists and allocation of securities in order to provide specific standards for determining when the performance of a specialist is unsatisfactory.

Under proposed Rule 503, the PHLX proposes that a specialist or specialist organization's ("specialist") performance will be considered unsatisfactory by the Allocation, Evaluation and Securities Committee ("Committee"), and that the specialist be required to meet with the Committee on an informal and advisory basis, if such specialist has received evaluations on the quarterly specialist performance evaluation questionnaire resulting in (i) an overall quarterly grade below 5.00 for the preceding quarter, (ii) an average quarterly grade below 5.00 on three or more individual questions for the preceding quarter, or (iii) an average quarterly grade below 5.00 for the same question for three consecutive quarters.

Under proposed Rule 504, a specialist's performance will be considered still unsatisfactory and the specialist shall be required to meet with the Committee on a formal basis whic[illegible] may result in a reallocation of the securities traded by the specialist or other corrective action, if such specialist has received evaluations on the specialist performance evaluation questionnaire resulting in (i) an overa[illegible] quarterly grade below 5.00 in any two out of four preceding quarters, (ii) an average quarterly grade below 5.00 on

three on more individual questions for any two out of four preceding quarters or (iii) an average quarterly grade below 5.00 for the same question for four or more consecutive quarters.

In addition, if formal reallocation proceedings have been commenced and concluded against a specialist or specialist unit, any single quarter of substandard performance in the following four quarters would again result in the commencement of formal reallocation proceedings.

It is further proposed that the evaluation and reallocation procedures provided in the filing become effective on October 1, 1982, and continue in effect on a pilot basis for two years from that date.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organizaton included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. *Self-Regulatory Organization's Statements of the Purpose of, and Statutory Basis for the Proposed Rule Change.* The purpose of the proposed rule change is to provide standards, based on the results of the specialist performance evaluation questionnaire, for determining unsatisfactory performance which may result in a reallocation of securities traded by a specialist or other corrective action.

The proposed rule change is consistent with section 6(b)(5) of the act which provides, in part, that the rules of an exchange be designed to facilitate transactions in securities, remove impediments to and perfect the mechanism of a free and open market system, and protect investors and the public interest.

B. *Self-Regulatory Organization's Statement on Burden on Competition.* The PHLX does not believe that the proposed rule change will impose any burden on competition.

C. *Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others.* No comments on this proposed rule change have been solicited or received from members.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action.

On or before August 17, 1982 or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change are filed with the Commission, and all written communications relating to the proposed rule change between the Commission any any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public reference Section, 1100 L Street, NW., Washington, D.C. (450 5th Street, NW., Washington, D.C., after July 23, 1982). Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before August 3, 1982.

For the Commission by the Division of Market Regulation, pursuant to delegated authority

Dated: July 6, 1982.

George A. Fitzsommons,

Secretary.

[FR Doc. 82-18648 Filed 7-12-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22564; (70-6751)]

Southern Co. et al.; Proposed Issuance and Sale of Common Stock for System Employees' Stock Ownership Plan

July 2, 1982.

The Southern Company ("Southern"), 64 Perimeter Center East, Atlanta, Georgia 30346, a registered holding company, and its subsidiary companies, Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, Southern Company Services, Inc., and Southern Electric Generating Company, have filed an application-declaration with this Commission pursuant to sections 6(a), 7, 9(a), and 10 of the Public Utility Holding Company Act of 1935 ("Act").

Southern proposes to issue up to a maximum of $30,000,000 in value of its authorized but unissued shares of common stock, par value $5 per share ("Additional Common Stock"), in order to provide common stock to fund The Employee Stock Ownership Plan of the Southern Company System ("Plan") for the Plan year 1981, including any reinvestment of cash dividends on such stock by direct purchases of common stock from Southern. The exact number of shares to be issued by Southern will be determined in each case by the aggregate amount of contributions to be invested by the trust established pursuant to the Plan in respect of the Plan year. The purchase price per share of Southern's common stock acquired from Southern by the trust with cash contributions shall be the fair market value as of the date of acquisition. Southern proposes to apply the proceeds it receives from the sale of the Additional Common Stock for further equity investments in its subsidiaries (See File No. 70-6701.) and for other corporate purposes.

The application-declaration and any amendments thereto are available for public inspection through the commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by July 29, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-Declarants at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-18842 Filed 7-12-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18871; File No. S7-433]

Receipt of Amendment to CTA Plan

July 7, 1982.

On June 25, 1982, the participants in the Consolidated Tape Association ("CTA") submitted to the Commission, pursuant to Rule 11Aa3-2 under the Securities Exchange Act of 1934, an amendment to the Restated and Amended Plan ("CTA Plan").[1]

I. Description of Amendment

The CTA Plan participants have amended Schedule A-1, attached to the CTA Plan as Exhibit D. The amendment applies a uniform first unit rate for Network A ticker display service to all Canadian provinces equal to the lowest rate in the present Canadian rate scale. In addition, the amendment increases by 12.8 percent the rate for additional ticker display units throughout Canada. The new rates will become effective on August 1, 1982.

The amendment also deletes footnotes 7 and references thereto in Schedules A-1 and A-3. These footnotes identified a one-time charge that applied only to units in service on August 1, 1981. The amendment also deletes from Schedule A-1 the charges for Canadian stock tickers because this service is no longer available in Canada.

II. Request for Comment

Pursuant to Rule 11Aa3-2(c)(3) under the Act, the amendment became effective upon filing with the Commission. The Commission, however, summarily may abrogate the amendment within 60 days of filing and require that the amendment be refiled pursuant to Rule 11Aa3-2(b)(1), if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system, or otherwise in furtherance of the purposes of the Act. Accordingly, in order to assist the Commission in determining whether to abrogate the amendment and to require further review, interested persons are invited to submit their views to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549, on or before August 3, 1982. The amendment to the CTA Plan will be available for public inspection in the Commission's public reference room. All communications should refer to File No. S7-433.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[2]

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-18847 Filed 7-12-82; 8:45 am]

BILLING CODE 8010-01-M

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[1] *See* Securities Exchange Act Release No. 16983, (July 16, 1980), 45 FR 49414.

[2] 17 CFR 200.30-3(a)(27).

SMALL BUSINESS ADMINISTRATION

[Proposed License No. 02/02-5447]

Freshstart Venture Capital Corp.; Application for License To Operate as a Small Business Investment Company (SBIC)

An application for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*), has been filed by Freshstart Venture Capital Corp. (Applicant), with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1982).

The officers, directors and stockholders of the Applicant are as follows:

Zindel Zelmanovich, President, 1934 East 18th Street, Brooklyn, New York 11229 (12%)
Peter Garden, Treasurer, Secretary and Director, 5 Brockwood Lane, New York City, New York 10958 (20%)
Andrew Greenbaum, Treasuer, Secretary and Director, 300 Winston Drive, Cliffside Park, New Jersey 07010 (40%)
Pearl Greenbaum, Director, 300 Winston Drive, Cliffside Park, New Jersey 07010 (Jointly with Andrew Greenbaum)
Neil Greenbaum, Director, 2171 B Ellery Avenue, Fort Lee, New Jersey 07024 (10%)
Michael L. Moskowitz, Director, 1601 48th Street, Brooklyn, New York 11204 (6%)
Jechiel Gruzin, Director, 1 Orlando Strasse, Munich, West Germany (6%)
Toba Moskowitz, Director, Hoshoftim 17-8, Petech-Tikua, Israel (6%)

The Applicant, a New York corporation, with its principal place of business at 1841 Broadway, New York, New York 10023, will begin operations with $500,000 of paid-in capital and paid-in surplus derived from the sale of 5,000 shares of common stock to 8 investors.

The Applicant will conduct its activities primarily in the State of New York.

Applicant intends to provide assistance to qualified socially or economically disadvantaged small business concerns in the field of transportation, research and technology and manufacturing retailing doing business in the States of New York, New Jersey, Connecticut and Pennsylvania.

As a small business investment company under Section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the Applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, on or before July 28, 1982, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in New York City.

Dated: July 6, 1982.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-18864 Filed 7-12-82; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2052]

Kansas; Declaration of Disaster Loan Area

Shawnee and Jackson Counties in the State of Kansas constitute a disaster area as a result of damage caused by severe storms and flooding which occurred on June 8, 1982. Eligible

persons, firms and organizations may file applications for loans for physical damage until the close of business on August 27, 1982, and for economic injury until the close of business on March 28, 1983, at the address below: U.S. Small Business Administration, 12 Grand Building, 5th Floor, 1150 Grand Avenue, Kansas City, Missouri 64106; or other locally announced locations.

	Percent
Homeowners with credit available elsewhere	155/8
Homeowners without credit available elsewhere	77/8
Businesses with credit available elsewhere	16
Businesses without credit available elsewhere	8
Businesses (EIDL) without credit available elsewhere	8
Other (non-profit organizations including charitable and religious organizations)	111/2

It should be noted that assistance for agriculture enterprises is the primary responsibility of the Farmers Home Administration as specified in Pub. L. 96–302.

Information on recent statutory changes (Pub. L. 97–35, approved August 13, 1981) is available at the above-mentioned office.

Dated: July 2, 1982.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

James C. Sanders,

Administrator.

[FR Doc. 82–18685 Filed 7–12–82; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–82–12]

Petitions for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration, (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before July 23, 1982.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–204), Petition Docket No. ———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on July 9, 1982.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemption

Docket No.	Petitioner	Regulations affected	Description of relief sought
23188	Muse Air Corporation	SFAR 44–4	To request an exemption from SFAR 44–4 to allow them to continue to utilize 4 Braniff slots at Tulsa, 3 at Midland/Odessa and 8 at Dallas which were granted to Muse under the emergency allocation of Braniff slots. Petitioner states that the request is in the public interest and is necessary for the survival of Muse Air.

Dispositions of Petitions for Exemption

Docket No.	Petitioner	Regulations affected	Description of relief sought

None this period.

[FR Doc. 82–19063 Filed 7–12–82; 10:22 am]

BILLING CODE 4910–13–M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 134
Tuesday, July 13, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CONSUMER PRODUCT SAFETY COMMISSION

TIME: 10 a.m., Wednesday, July 14, 1982.

LOCATION: Room 456, Westwood Towers Bldg., 5401 Westbard Avenue, Bethesda, MD.

STATUS: Closed to the public.

MATTERS TO BE CONSIDERED:

1. Complaint Process
   The staff will brief the Commission on issues related to the Complaint process.
2. Enforcement Matter OS ¿1086
   The staff will brief the Commission on issues related to enforcement of matter OS ¿1086.Q04

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Deputy Secretary, Office of the Secretary, Suite 342, 5401 Westbard Avenue, Bethesda, MD 20207; Telephone (301) 492-6800.

[S-1011-82 Filed 7-8-82; 4:05 pm]

BILLING CODE 6355-01-M

2

FEDERAL COMMUNICATIONS COMMISSION

The Federal Communications Commission will hold a Closed Meeting on the subject listed below on Thursday, July 15, 1982, following the Open Meeting, which is scheduled to commence at 2:00 p.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

Hearing—1—Questions certified to the Commission and appeals from interlocutory rulings in the Ventura, California television proceeding (Docket Nos. 80-698 and 80-699).

This item is closed to the public because it concerns adjudicatory matters (See 47 CFR 0.603 (j)).

The following persons are expected to attend:

Commissioners and their Assistants
General Counsel and members of his staff
Managing Director and members of his staff
Chief, Office of Public Affairs and members of his staff

Action by the Commission July 2, 1982. Commissioners Fowler, Chairman; Quello, Washburn, Fogarty, Jones, Dawson and Rivera voting to consider this item in Closed Session.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen P. Peratino, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: July 8, 1982.

Willam J. Tricarico,

Secretary, Federal Communications Commission.

[S-1020-82 Filed 7-9-82; 3:33 am]

BILLING CODE 6712-01-M

3

FEDERAL COMMUNICATIONS COMMISSION

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, July 15, 1982, which is scheduled to commence at 2:00 p.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

Private Radio—1—*Title:* Waiver of Section 90.487(c) of the Commission's Rules for medical services eligibles. *Summary:* The Commission will consider whether to grant a waiver of Section 90.487(c) of the Commission's Rules to the Albuquerque and Bernalillo County Medical Association. The Commission will also consider whether to adopt standards for waiver of Section 90.487(c) of the Rules for medical services eligibles and whether to authorize the Chief, Private Radio Bureau, to process future waiver requests under these standards pursuant to delegated authority.

Private Radio—2—*Title:* Application for Review seeking reversal of staff action granting radio station license KAD-3415 in the General Mobile Radio Service. *Summary:* The Commission will consider whether to grant or deny the Application for Review filed by Everett Tyrrel, d/b/a Havre Answering Service, et al.

Common Carrier—1—*Title:* Application of ISA Communications Services, Inc. for authority to provide an Extended Digital Electronic Message Service and for a Rule 21.31(e)(3) exemption. *Summary:* The Commission will consider ISACOMM's application to construct facilities necessary to provide Digital Electronic Message Service. It also will consider whether to permit a major amendment of the application reflecting a transfer of control from Insurance Systems of America, Inc. to United Telecommunications.

Common Carrier—2—*Title:* Application of MCI Telecommunications Corporation for authority to provide an Extended Network Digital Electronic Message Service. *Summary:* The Commission will consider MCI's application to construct facilities necessary to provide Digital Electronic Message Service.

Common Carrier—3—*Title:* Application of Contemporary Communications Corporation for authority to provide an Extended Network Digital Electronic Message Service. *Summary:* The Commission will consider Contemporary's application to construct facilities necessary to provide Digital Electronic Message Service.

Common Carrier—4—*Title:* Application of Tymnet, Inc. for authority to provide an Extended Network Digital Electronic Message Service. *Summary:* The Commission will consider Tymnet's application to construct facilities necessary to provide Digital Electronic Message Service.

Common Carrier—5—*Title:* Application of Satellite Business Systems for authority to provide an Extended Network Digital Electronic Message Service. *Summary:* The Commission will consider SBS's application to construct facilities necessary to provide Digital Electronic Message Service.

Cable Television—1—*Title:* Report and order in Docket 18891 concerning limitations on multiple ownership of cable television systems. *Summary:* Commission will consider conclusion of proceeding in which multiple ownership rules for the cable television industry were proposed.

Cable Television—2—*Title:* Notice of Proposed Rulemaking concerning whether the Commission should delete its existing prohibition on cross-ownership between national television networks and cable television systems (Section 76.501(a)(1) of the Rules). *Summary:* Commission will consider commencing a rulemaking proceeding relating to the national television network—cable television cross ownership rules.

Aural—1—*Title:* Mutually exclusive applications for construction permits for AM stations on 660 kHz in Rifle, Colorado (KWSR), Mount Vernon, Washington

(KAPS), Portland, Oregon (New), Phoenix, Arizona (KFLR), Fife, Washington (KMO), and Window Rock, Arizona (New); a petition to deny and two informal objections to the Window Rock application; and related matters. *Summary:* The Commission considers all the above matters and designates the applications for hearing.

Aural—2—*Title:* Mutually exclusive applications for new AM stations on 670 kHz in Tamarac and Miami, Florida, and a petition to deny the Miami application. *Summary:* The Commission considers all the above matters and designates the applications for hearing.

Television—1—*Title:* Applications of American Television of Utah, Inc. for new commercial television stations to operate on Channels 13 and 14 in Salt Lake City, Utah. *Summary:* The Commission will consider whether the applicant should be permitted to prosecute more than one application for a television station in Salt Lake City.

Broadcast—1—*Title:* Notice of Proposed Rule Making to amend Section 73.642(a) of the Commission's Rules. *Summary:* The Commission will consider in this Notice of Proposed Rule Making whether to amend its rules to permit the use of subscription television by public television licensees.

Broadcast—2—*Title:* Commission Policy Concerning the Noncommercial Nature of Educational Stations (BC Docket No. 21136). *Summary:* The Commission has before it petitions for reconsideration and clarification of the Commission's Second Report and Order (86 F.C.C. 2d 141 (1981)) and a petition for declaratory ruling regarding the impact of subsequently enacted 47 U.S.C. 399A and 399B upon the Commission's Second Report and Order. The Second Report and Order and the legislation liberalized prior restrictions upon public broadcasters, providing them with greater flexibility in their programming determinations and greater opportunities to attract and generate non-Federal financial support.

Complaint and Compliance—1—*Title:* Application for Review by the Continuing Committee for Mayor Bergin of the Broadcast Bureau's denial of its complaint against Thomas Television Inc., licensee of station WATR–TV, Waterbury, Connecticut. *Summary:* The Bureau rejected the complainant's argument that Mayor Bergin's opponent was a legally qualified candidate at the time of certain broadcasts since the opponent had not qualified for a place on the ballot. The Committee for Mayor Bergin argues that his opponent was legally qualified under Connecticut law and that the Mayor was entitled to equal opportunities.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: July 8, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S–1021–82 Filed 7–9–82; 3:54 pm]

BILLING CODE 6712–01–M

4

FEDERAL ENERGY REGULATORY COMMISSION

July 7, 1982.

AGENCY: Federal Energy Regulatory Commission.

TIME AND DATE: 10 a.m. July 14, 1982

PLACE: Room 9306, 825 North Capitol Street, N.E., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted withoiut further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary; Telephone (202) 357–8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information

Consent Power Agenda—753rd Meeting, July 14, 1982, Regular Meeting (10 a.m.)

CAP–1. Project No. 2866–002, The Metropolitan Sanitary District of Greater Chicago

CAP–2. Project No. 4459–000, City of Marseilles, Illinois; Project No. 3594–000, Mitchell Energy Co., Inc.; Project No. 4499–000, Village of Winnetka, Illinois

CAP–3. Project No. 2861–004, Robert W. Shaw

CAP–4. Project No. 4031–000, City of Peru, Illinois; Project No. 3568–002, Mitchell Energy Co., Inc.; Project No. 3592–000, Energencies Systems, Inc.; Project No. 4038–000, Cities of Oglesby and Ladd, Illinois; Project No. 4447–000, Village of Winnetka, Illinois

CAP–5. Project No. 3944–000, Village of Rockdale, Illinois; Project No. 3567–000, Mitchell Energy Co.; Project No. 4523–000, Village of Joilet, Illinois; Project No. 4561–000, Village of Winnetka, Illinois; Project No. 4577–000, Commonwealth Edison Co.

CAP–6. Project No. 405–013, Philadelphia Electric Power Co. and Susquehanna Power Co.

CAP–7. Project No. 2375.003, International Paper Co.

CAP–8. Project No. 5280–000, Eastern Sierra Energy Development; Project No. 5381–000, Modesto Irrigation District; Project No. 6188–000, Camille E. Held. Walton B. Held, A. W. Stuart Trust, W. Titus Nelson, Dale E. Grenoble

CAP–9. (a) Projet No. 3858–000, Idaho Renewable Resources, Inc. and City of Ashton, Idaho; Project No. 4168–000, Enagenics; Project No. 4803–001, American Falls Reservor District No. 2 and Big Wood Canal Co.; (b) Project No. 3858–001, Idaho Renewable Resources, Inc. and City of Ashton, Idaho; Project No. 4168–000, Enagenics; Project No. 4803–000, American Falls Reservoir District No. 2 and Big Wood Canal Co.

CAP–10. Project No. 2780–004, Solano Irrigation District

CAP–11. Project Nos. 4840–000, 4841–000, 4842–000, 4843–000, 4844–000, 4845–000, 4846–000, 4847–000, 4852–000, 4853–000, 4859–000, 4860–000, 4861–000, 4862–000, 4863–000, 4869–000, 4870–000, 4871–000, 4872–000, 4873–000, 4874–000, 4875–000, 4876–000, 4877–000, 4878–000, 4879–000, 4880–000, 4901–000, 4936–000, 4937–000, 4952–000, 4953–000, 4987–000, 4988–000, 4995–000, 4996–000, 4997–000, 4998–000, 5007–000, 5008–000, 5009–000, 5013–000, 5014–000, 5015–000, 5036–000, 5048–000, and 5049–000, Modesto Irrigation District

CAP–12. Project No. 4705–000, John J. Hockberger, Sr.; Project No. 3737–000, Mitchell Energy Co., Inc.; Project No. 4650–001, City of Ammon, Idaho

CAP–13. Project No. 4260–001, Consolidated Hydroelectric, Inc.

CAP–14. Project Nos. 4008–000, 4008–001, 4008–003 and 4938–000, Long Lake Energy Corp. and Village of Ilion, New York

CAP–15. (a) Project No. 6202–001, Lester Kelley, Vernon Ravenscroft, and Helen Chenoweth—Buck Trapper Creek Project; (b) Project No. 6245–001, Lester Kelley, Vernon Ravenscroft, and Helen Chenoweth—Bear Creek Project; (c) Project No. 6246–001, Lester Kelley, Vernon Ravenscroft, and Helen Chenoweth—Ditch Creek Project

CAP–16. Project No. 4167–001, Energenics Systems Inc.

CAP–17. Project No. 3747–000, Borough of Central City, Pennsylvania

CAP–18. Project No. 5870–000, Howard W. Bair

CAP–19. Omitted

CAP–20. Project Nos. 4636–000 and 4636–001, Hydro Development Group, Inc.; Project Nos. 4908–000 and 4908–001, Mary Jane Ruderman Hirschey; Project No. 5800–000, Crown Zellerbach Corp.; Project No. 5923–000, Long Lake Energy Corp.; Project No. 6368–000, Climax Manufacturing Co.

CAP–21. Project No. 4356–001, Long Lake Energy Corp.; Project No. 5236–000, Essex County Industrial Development Agency; Project No. 5752–000, New York State Department of Environmental Conservation; Project No. 5760–000, International Paper Co.; Project No. 5762–000, International Paper Co.

CAP–22. Docket No. EL81–14–001, American Municipal Power—Ohio, Inc. v. the Dayton Power & Light Co.; Docket No. ER81–353–000, the Dayton Power & Light Co.

CAP–23. Docket Nos. ER82–410–001 and ER82–410–002, New York State Electric & Gas Corp.

CAP–24. Docket No. ER82–426–000, Jersey Central Power & Light Co.

CAP–25. Docket No. ER82–427–000, Southern California Edison Co.

CAP–26. Docket No. ER82–545–000, Public Service Co. of Oklahoma and Southwestern Electric Power Co.; Docket No. ER82–548–

000, Central Power & Light Co. and West Texas Utilities Co.
CAP–27. Docket Nos. ER82–553–000 and ER82–554–000, Ohio Power Co.
CAP–28. Docket Nos. ER82–565–000 and ER82–566–000, Orange & Rockland Utilities, Inc.
CAP–29. Docket Nos. ER82–555–000, ER82–556–000, ER82–557–000, ER82–558–000 and ER82–559–000, Indiana & Michigan Electric Co.
CAP–30. Omitted
CAP–31. Omitted
CAP–32. Docket No. ER82–001–000, Public Service Co. of New Mexico
CAP–33. Docket Nos. ER81–341–000, ER81–341–001, and ER81–341–002, Kentcuky Utilities Co.
CAP–34. Docket Nos. ER79–126–001, ER79–126–002, ER79–126–003, and ER79–126–004, Arizona Public Service
CAP–35. Project No. 6175–001, Lester Kelley, Vernon Ravenscroft, and Helen Chenoweth—Riordan Creek Project

Consent Miscellanous Agenda

CAM–1. Docket Nos. ER78–507, Public Service Co. of Colorado
CAM–2. Docket No. RM81–19–000, 001, 002, 003, 004, 005, 006, 007 ,008, and 009, interstate pipeline certificates for routine transactions
CAM–3. Omitted
CAM–4. Docket No. GP82–21–000, Railroad Commission of Texas, Section 102 NGPA Determination, Texaco, Inc., Yturria L&C Co. NCT.1 #40 Well, RRC Docket No. 4–34425, FERC No. JD81–33171
CAM–5. Docket No. RM81–7–000, exemption from the licensing requirements of Part I of the Federal Power Act of certain categories of small hydro electric power projects with an installed capacity of 5 megawatts or less
CAM–6. Docket No. RM80–42, tax normalization for certain items reflecting timing differences in the recognition of expenses or revenues for ratemaking and income tax purposes Docket No. R–424, accounting for premium, discount and expense of issue, gains and losses on refunding reacquisition of long-term debt, and interperiod allocation of income taxes Docket No. R–446, amendment of the uniform systems of accounts for classes A, B and C public utilities and licenses and natural gas companies: deferred income taxes

Consent Gas Agenda

CAG–1. Docket No. TA82–1–30–003 (PGA82–1, IPR82–1, TT82–1, and AP82–1), Trunkline Gas Co.
CAG–2. Docket No. TA82–1–11–001 (PGA82–1, IPR82–1, GRI82–1), UNited Gas Pipe Line Co.
CAG–3. Docket No. RP81–61–005 and RP82–80–000, Michigan Wisconsin Pipe Line Co.
CAG–4. Omitted
CAG–5. Docket No. RP82–74–001, Texas Gas Transmission Corp.
CAG–6. Docket No. RP82–55–000, Transcontinental Pipe Line Corp.
CAG–7. Docket No. TA82–1–22–001 (PGA82–1, IPR82–1 and RD&D82–1), Consolidated Gas Supply Corp.
CAG–8. Docket No. RP81–81–004 and RP82–16–001, United Gas Pipe Line Co.
CAG–9.Docket No. RP81–34–000 and RP81–34–001, Distrigas of cassachusetts Corp.
CAG–10. Docket No. TA81–2–9 (PGA81–2, IPR81–2, DCA81–2 and R&D81–2), Tennessee Gas Pipeline Co., a Division of Tenneco, Inc.
CAG–11. Docket No. RP81–82–004, Columbia Gulf Transmission Co.; Docket No. RP81–83–005, Columbia Gas Transmission Corp.
CAG–12. Docket No. CI82–204–002, Cities Service, Co.; Docket No. CI80–491–001, Mobil Oil Exploration & Producing; Docket No. CS71–988–002, Damson Oil Corp., Damson Resources Corp., and A and E Pipeline Co. (Damson Oil Corp. and Damson Resources Corp.), et al.; Docket No. CS82–29–001, Goldson Oil Corp.; Docket NO. CS82–41–001, Mayfield Family Trust; Docket No. CS82–43–001, Nancy Goldston Herpin; Docket No. CS82–45–001, Patti Lynn Goldston Mayfield 1974 Trust; Docket No. CS82–46–001, Susan R. Mayfield; Docket No. CS82–51–001, Nancy Zoe Goldston Herpin 1962 Trust; Docket No. CI82–221–002, General American Oil Co. of Texas; Docket No. CS71–988–900, Damson Oil Corp., Damson Resources Corp., and A and E Pipeline Co. (Damson Resources Corp.), et al.; Docket No. G–7638–000, Mobil Producing Texas & New Mexico, Inc., et al.; Docket No CI81–444–001, Chevron U.S.A. Inc.; Docket No. CI78–66–003, Exxon Corp.; Docket No. CI82–234–001, Amoco Production Co.; Docket No. CI82–231–001, Pennzoil Oil & Gas, Inc.; Docket No. CI82–233–001, The Superior Oil Co.; Docket No. CI82–236–001, Natresco Inc.; Docket No. CI82–237–001, Conoco Inc.; Docket No. CI82–239–001, ANR Production Co.; Docket No. CI82–217–001, Cities Service Co.; Docket No. G–11955–001, Mobil Producing Texas & New Mexico Inc.; Docket No. CI82–244–001, The Superior Oil Co.; Docket No. CI82–245–001, Natresco Inc.
CAG–13. Docket Nos. CI80–39–001 and CI80–40–001, Tenneco Exploration, Ltd.; Docket Nos. CI78–473–001, CI78–485–001, CI78–486–001, CI79–522–001, Texaco, Inc.
CAG–14. Docket No. CS71–383–000, Texasgulf Inc.
CAG–15. Docket No. RI77–32–000, Disputed Zone Offshore Louisiana
CAG–16. Docket No. ST82–187–000, Coronado Transmission Co.
CAG–17. Docket Nos. ST81–260 and CP80–206, Mustang Fuel Corp.
CAG–18. Docket No. CP81–99–001 and 002, Transwestern Pipeline Co.
CAG–19. Docket Nos.CP77–321–004, CP78–241–003 and CP79–73–002, Southern Natural Gas Co.; Docket No. CP77–421–019, Transcontinental Gas Pipe Line Corp.
CAG–20. Docket Nos. CP81–445–000 and CP81–449–000, Transcontinental Gas Pipe Line Corp.
CAG–21. Docket Nos. CP82–158–000 and 001, Transcontinental Gas Pipe Line Corp., Tennessee Gas Pipeline Co., a Division of Tenneco Inc., Columbia Gulf Transmission Co., Michigan Wisconsin Pipe Line Co. and Northern Natural Gas Co., Division of Internorth, Inc.
CAG–22. Docket No. CP82–224–000, National Fuel Gas Supply Corp.
CAG–23. Docket No. CP81–378–002, Texas Eastern Transmission Corp.
CAG–24. Docket No. CP81–416–000, Louisiana Intrastate Gas Corp.
CAG–25. Docket Nos. CP81–347–000 and CP74–208–001, Honoye Storage Corp.; Docket No. CP82–72–000, Tennessee Gas Pipeline Co., a Division of Tenneco Inc., and National Fuel Gas Supply Corp.
CAG–26. Docket No. RP82–111–000, Commercial Pipeline Co., Inc.

I. Licensed Project Matters

P–1. Docket No. EL78–24 (phase I), Municipal Electric Utilities Association of the State of New York v. Power Authority of the State of New York; Docket No. EL78–37 (phase I), Village of Ilion, New York v. Power Authority of the State of New York
P–2. Project No. 2030–005, Portland General Electric Co.
P–3. Project No. 5090, City of Idaho Falls, Idaho
P–4. Omitted
P–5. Project No. 2971–000, Allegheny Electric Cooperative, Inc.; Project No. 2988–000, Ohio Edison Co.; Project No. 3219–000, Duquesne Light Co.; Project No. 3490–000, Potter Township, Pennslyvania

II. Electric Rate Matters

ER–1. Docket No. ER80–313–001, Public Service Co. of New Mexico
ER–2. Docket No. ER82–257–000, Kansas Gas & Electric Co.
ER–3. Docket No. ER82–146–004, Commonwealth Edison Co.
ER–4. Omitted
ER–5. (a) Docket Nos. EF81–2011–000 and EF81–2021–000, Bonneville Power Administration; (b) Docket No. EF80–2011–000 (remand), U.S. Secretary of Energy, Bonneville Power Administration
ER–6. Docket No. EF81–5021–000, Western Area Power Administration
ER–7. Docket Nos. EF81–5121–001 and 002, Western Power Area Administration and Central Valley Project—Pacific Gas & Electric Co.

Miscellaneous Agenda

M–1. Reserved
M–2. Reserved
M–3. Docket No. RM82–36–000, elimination of reporting requirements for sales of natural gas under sections 105, 106(b) and 109 of the NGPA
M–4. Docket No. RO80–10–000, L. E. Jones Production Co.
M–5. Docket No. RA81–52–000 and RA81–53–000 (Consolidated), Laketon Asphalt Refining, Inc.

Gas Agenda

I. Pipeline Rate Matters

RP–1. Omitted

II. Producer Matters

CI–1. Reserved

III. Pipeline Certificate Matters

CP–1. Docket No. CP74–122–007, Energy Terminal Services Corp.; Docket No. CP73–148–002, Energy Pipeline Corp.; Docket No.

CP80–453–000, Texas Eastern Transmission Corp.

Kenneth F. Plumb,

Secretary.

[S–1019–82 Filed 7–9–82; 3:19 pm]

BILLING CODE 6717–01–M

5

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. No. 47, Page No. None at this time. Date Published—None at this time.

PLACE: Board room, sixth floor, 1700 G Street, NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202–377–6679).

CHANGES IN THE MEETING: The following items have been added to the open portion of the Bank Board meeting scheduled Thursday, July 15, 1982.

Public Notice and Protest
Holding Company Acquisition Delegations
Net Worth Amendments
Liquidity, New Inclusions
[No. 48, July 9, 1982]

[S–1013–82 Filed 7–9–82; 10:25 pm]

BILLING CODE 6720–01–M

6

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

July 7, 1982.

TIME AND DATE: 10 a.m., July 14, 1982.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Gerald Boone v. Rebel Coal Company, Docket No. WEVA 80–532–D; (consideration of operator's motion to accept late-filed petition for discretionary review).
2. Lloyd Brazell v. Island Creek Coal Company, Docket No. KENT 81–46–D; (whether the judge erred in concluding that the operator did not violate section 105(c) of the Mine Act).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5632.

[S–1014–82 Filed 7–9–82; 11:15a.m.]

BILLING CODE 6735–01–M

7

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Notice of Deletion of Item From the June 30, 1982 Agenda

July 7, 1982.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Closed (Pursuant to 5 U.S.C. 552(c)(10)).

CHANGE IN THE MEETING: The following items was deleted from the agenda:

2. Mathies Coal Company, Docket Nos. PENN 80–260–R, PENN 81–35.

It was determined by a unanimous vote of Commissioners that the above item should be deleted from the agenda and that no earlier announcement of the deletion was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5632.

[S–1015–82 Filed 7–9–82; 11:15 am]

BILLING CODE 6735–01–M

8

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10 a.m., Monday, July 19, 1982.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: July 9, 1982.

James McAfee,

Associate Secretary of the Board.

[S–1016–82 Filed 7–9–82; 3:18 pm]

BILLING CODE 6210–01

9

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: 10 a.m., Thursday, July 22, 1982.

PLACE: Room 117, E Street, N.W., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary.
5. Investigation 731–TA–46 (Final) (Certain Stel Wire Nails from Korea)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[S–1017–82 Filed 7–9–82; 11:30 am]

BILLING CODE 7020–02–M

10

LEGAL SERVICES CORPORATION

Provision of Legal Services Committee

PREVIOUSLY ISSUED: July 2, 1982.

PROVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30–12 Noon, Saturday, July 17, 1982.

CHANGE IN THE MEETING: Addition to the agenda. Matters to be considered will include as item 4: Grant Review Authority.

CONTACT PERSON FOR MORE INFORMATION: LeaAnne Bernestein Office of the President, (202) 272–4040.

Dated: July 8, 1982.

Gerald M. Caplan,

Acting President.

[S–1012–82 Filed 7–8–82; 4:58 pm]

BILLING CODE 6829–35–M

11

UNITED STATES PAROLE COMMISSION

[2P0401]

TIME AND DATE: 4 p.m. to 5:30 p.m., Wednesday, July 21, 1982.

PLACE: Room 420–F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Appeals to the Commission of approximately 6 cases decided by the National Commissioners pursuant to a reference under 28 CFR 2.17 and appealed pursuant to 28 CFR 2.27. These are all cases originally heard by examiner panels wherein inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, National Appeals Board, United States Parole Commission (301) 492–5987.

[S–1018–82 Filed 7–9–82; 11:23 am]

BILLING CODE 4410–01–M

federal register

Tuesday
July 13, 1982

Part II

Department of Labor

Office of the Secretary

Privacy Act of 1974; Annual Notice of Systems of Records

DEPARTMENT OF LABOR

Office of the Secretary

Privacy Act of 1974; Annual Notice of Systems of Records

AGENCY: Office of the Secretary.

ACTION: Annual publication of systems of records.

SUMMARY: Federal agencies are required by the Privacy Act of 1974 to give annual notice of their records covered by the Act which they maintain. The purpose of this document is to republish in full the systems that this agency has published since the last full text publication of the systems of records (42 FR 49654, September 27, 1977 as updated at 43 FR 42106, September 19, 1978, 44 FR 61676, October 26, 1979, and 46 FR 12350, February 13, 1981); to add new systems which are being published for the first time; to amend other systems previously published; and to delete 31 systems.

DATE: Persons wishing to comment on newly published systems may do so by August 12, 1982.

EFFECTIVE DATE: Unless otherwise noticed in the **Federal Register**, this notice shall become final August 12, 1982.

ADDRESS: Seth D. Zinman, Associate Solicitor, Office of Solicitor, Division of Legislation and Legal Counsel, U.S. Department of Labor, Room N–2428, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Sofia P. Petters, Counsel for Administrative Legal Services, Office of the Solicitor, Department of Labor, 200 Constitution Avenue, N.W., Room N–2428, Washington, D.C. 20210; Telephone (202) 523–8188.

Pursuant to 5 U.S.C. 552a(e)(4), section 3 of the Privacy Act of 1974, the Department of Labor hereby publishes notice of its system of records currently maintained pursuant to the Privacy Act of 1974. The systems were previously published at 42 FR 49654 (September 27, 1977); 43 FR 42106 (September 19, 1978); 44 FR 61676 (October 26, 1979) and 46 FR 12350, February 13, 1981). This notice republishes numerous systems, deletes 31 systems of records; publishes fifteen new systems; and amends numerous systems.

The Department of Labor hereby publishes notice of fifteen new systems of records:

1. DOL/OSEC–1, Supervisors' Records of Employees.
2. DOL/OSEC–2, Employee Conduct Investigations.
3. DOL/OSEC–3, Employee Locator System.
4. DOL/OASAM–20, Personnel Investigation Records.
5. DOL/OASAM–21, Senior Executive Service Certification File.
6. DOL/ESA–26, Division of Longshoremen's and Harbor Workers' Compensation Investigation Files.
7. DOL/ETA–20, Federal Bonding Program, Bondees' Certification Files.
8. DOL/OIG–2, FOIA/PA Files.
9. DOL/OIG–3, Case Developments Records.
10. DOL/OIG–4, Temporary Matching Files, Loss Analysis Files.
11. DOL/OIG–5, Investigative Case Tracking Systems/Audit Track System.
12. DOL/LMSA–21, ERISA Coverage Correspondence Files.
13. DOL/LMSA–22, PWBP—Office of Reporting and Plan Standards, Division of Collective Bargaining Correspondence Files.
14. DOL/LMSA–23, Pension and Welfare Benefit Programs—Inquires from congressmen, senators and private citizens.
15. DOL/SOL–6, Special Litigation Staff—Litigation Files.

DOL/OSEC–1, Supervisors' Records of Employees, is a republication and retitling of DOL/OASAM–18, which was previously published on February 13, 1981 (46 FR 12358). DOL/OSEC–2, Employee Conduct Investigations, is a renumbered system, reflecting the relocation of records. This system was previously published as DOL/MSHA–4, Employee Conduct Investigations. DOL/OSEC–3, Employee Locator System, is a renumbered system, reflecting the relocation of the records. This system was previously published as DOL/MSHA–16, Employee Locator System.

Corrections are made to various OASAM systems published herein, to reflect such changes as new or additional locations for the systems, assorted typographical errors, organizational name changes, and changes in the names of Government entities, such as the renaming of the Civil Service Commission to the Office of Personnel Management, and so forth.

DOL–OASAM–17 is amended with regard to location of the system, the system's name, expansion of the routine uses, and exempting the system from portions of the Act. DOL–OASAM–18 is retitled as DOL/OSEC–1. DOL–OASAM–19 is a renumbered system, reflecting the relocation of the system to the Office of Labor-Management Relations. DOL–OASAM–20 is a new system of records, reflecting the files of the personnel security unit which pertains to clearance investigations for Federal employment. DOL–OASAM–21 is a new system of records, reflecting the files of the Senior Executive Service. DOL–OASAM–22 is a renumbered system, reflecting the case file system for discrimination complaints against recipients of DOL Federal financial assistance. This system was previously published as ETA–17.

The Department hereby amends DOL/BLS–2 to reflect a change in the room number of the system's location. DOL/BLS–2 is further amended as to the division name and room number and as to system manager and address. DOL/BLS–3 has been amended as to categories of individuals to include all regional employees. The categories of records in the system for DOL/BOLS–3 have been amended to include additional data elements. DOL/BLS–3 has been further amended in record source categories to include another source category.

DOL/ESA–26, a new system entitled Division of Longshoremen's and Harbor Workers' Compensation Investigation Files, is established similar in scope to DOL/ESA–23 which was deleted on October 26, 1979, 44 FR 61677. That system covered all workers' compensation program investigations and was transferred in 1979 to the Office of the Inspector General (OIG). However, there are certain aspects of the investigations which are conducted by ESA and which may be independent of or in conjunction with the OIG, and other Federal agencies engaged in the same or similar investigations. An exemption from disclosure is incorporated to protect the integrity and methodology of the investigations, as well as to protect the physical well-being of investigators.

DOL/ESA–6, 9, 10, and 13 are amended to reflect the Office of Worker Compensations Programs' (OWCP) renewed emphasis on investigations of possible violations of the Longshore and Black Lung compensation statutes. For the past several years such investigations were only conducted by the Office of the Inspector General and any relevant material which came into OWCP's possession was turned over to the OIG. Currently, investigations may be independent or in conjunction with the Department's Office of the Inspector General, and other Federal agencies engaged in the same or similar investigations. Accordingly, the "Categories of Records" and "Routine Uses" sections are being expanded to reflect such actions. Exemption from certain provisions of the Act is sought only for material contained in these systems which relate to investigations of fraud or abuse. It is deemed proper to

establish such exemptions within the scope of the Act in order to protect the integrity and methodology of the investigations as well as to protect the physical well-being of investigators.

The routine uses sections of DOL/ESA–2 and 25 are expanded to conform with a proposed change in OFCCP regulations expected to be finalized later in 1982, and to reflect current OFCCP policy. The additions include disclosure of complaint information to other Federal, State or local agencies with jurisdiction over a complaint; to a contractor, including providing a copy of a complaint or complaint summary for purposes of notice; and to persons who may have knowledge pertinent to a complaint, but only to the extent necessary to determine the validity of complaint charges.

DOL/ESA–6, 9, and 10 amends the "Routine Uses" section to authorize access equally to mine operators and their insurers immediately after report of injury or illness. Heretofore, the wording of the "Routine Uses" section was ambiguous in that it implied that insurers of mine operators had the authority to limit access of mine operators to information in the system. Such was never the intent.

DOL/ESA–5 to 13, 15, and 24 are amended to reflect the retention periods in the records retention schedules submitted to the National Archives and Records Service for approval in 1981.

DOL/ESA–18 is corrected to reflect the actual system name (Advisory Committee on Sheltered Workshops Members' Files) and system location. The system name and location published for DOL/ESA–18 on February 13, 1981, page 12358, are incorrect and relate to DOL/ESA–17 which was deleted on the same day, page 12351.

In addition, corrections are made to various ESA systems published herein, to reflect such changes as new contractors and new locations for ADP maintained systems, assorted typographical errors, changes in the name of Government entities such as the renaming of the Civil Service Commission to Office of Personnel Management, and so forth.

DOL/ETA–20, Federal Bonding Program, Bondees' Certification Files, is a new system which covers State Job Service applicants who are eligible and need a bond to get jobs.

DOL/OIGA–1 General Investigative Files, Case Tracking Files, and Subject/Title Index, USDOL/OIG, is amended to reflect disclosure of information to Federal, state or local agencies for their use in granting, amending or revoking a certification or license.

DOL/OIG–2 is a new centralized system of records to provide information related to requests received by the Office of Inspector General related to the FOIA/PA.

DOL/OIG–3 is a new system of records established to provide information on individuals known to be or suspected of being involved in Organized Crime and Labor Racketeering.

DOL/OIG–4 is a new system of records established to provide current information which may be pertinent to the possible illegal or questionable practices of individuals or organizations filing for and/or receiving benefits from programs funded or operated in whole or in part by DOL. Files associated with computer matching will reside in this system of records.

DOL/OIG–5 is a new system of records whose purpose is to make the Office of Inspector General more efficient in allocating assignments among personnel, manage its resources, and respond to official inquiries. In addition, the system will track specific events that occur during audits and investigations, produce periodic reports and provide statistical data for the IG Semi-Annual Report(s) to the Secretary and Congress, the Office of Management and Budget, and the President's Council on Integrity and Efficiency. Under the requirements of the Civil Service Reform Act to quantify work performance information to the greatest extent possible, ICTS information will be used as a part of individual work performance evaluation. No information concerning Office of Inspector General personnel will be disclosed outside the Department.

DOL/LMSA–1, 3, 4, 5, 7, 19 and 20 have been updated to reflect the current system locations and system manager's addresses.

DOL/LMSA–1 now covers those records previously in DOL/LMSA–8, 9, 10, 11, 14, and 15. As discussed later, those systems have been deleted.

DOL/LMSA–3 has been updated to more accurately reflect the system name, categories of individuals covered by the system, and categories of records in the system. The routine uses of records has been broadened to include referral to state and local governments as well as federal agencies which request data from this system.

DOL/LMSA–4 has been revised substantially, incorporating DOL/LMSA–17 which has been deleted. DOL/LMSA–12 and 13 have also been incorporated into this system because those records are a part of the PWBP case files. The exemptions have been limited to subsection (c)(3), (d), (e)(1), (e)(4)(G), (H), and (3) and (F) of 5 U.S.C. 552a. The routine uses have been updated to reflect current status.

DOL/LMSA–19 has been revised to more accurately reflect the retrievability and safeguards of the system. The routine use has been changed to none because the data processing of these records are done inhouse rather than being sent out to a contractor.

LMSA has added three new systems. DOL/LMSA–21, ERISA Coverage Correspondence Files, contains correspondence from persons addressing inquiries to the Department regarding ERISA coverage. DOL/LMSA/22, PWBP-Office of Reporting and Plan Standards, Division of Collective Bargaining Correspondence Files, contains correspondence and notes from telephone conversations regarding the propriety of the suspension of pension benefits and research on issues posed. DOL/LMSA–23, Pension and Welfare Benefit Programs—Inquiries from congressmen, senators and private citizens, contains correspondence regarding all aspects of the pension and welfare benefit plans and the status of individuals under these plans.

Corrections and editorial changes are made to the following MSHA systems:

MSHA–1: The retention and disposal periods have been corrected; the routine uses have been reworded for clarification; no routine uses have been added; the authority citation has been supplemented.

MSHA–3: The retention and disposal periods have been corrected; the system manager's name and address have been corrected; the routine uses have been reworded for clarification; no routine uses have been added; the authority citation has been supplemented.

MSHA–10: We have included portions of the notice which were omitted, and we clarify the system to cover investigations of complaints of discrimination in metal and nonmetal mines as well as coal mines; the retention and disposal periods have been corrected; routine uses have been reworded for clarification; no routine uses have been added.

MSHA–12: The routine uses have been clarified; no routine uses have been added.

MSHA–13: The authority has been clarified.

MSHA–14: The authority has been clarified.

MSHA—15: The authority citation has been supplemented; the routine uses have been clarified; no routine uses have been added.

MSHA—17: We have inlcuded the retention and disposal schedule and

general routine uses; these had been omitted.

MSHA—18: The authority has been clarified. We have included retention and disposal schedule and general routine uses that had been omitted.

Corrections made to various OSHA systems published herein reflect such changes as new or additional locations for the systems, name changes, and the like. Assorted clerical errors corrected.

DOL/SOL–8 is the system of records formerly designated as DOL/LMSA–16 and has been transferred to the Solicitor's Office. The system is now designated as DOL/SOL–8 as it is maintained by the Special Litigation Task Force within the Solicitor's Office. The Task Force no longer believes it is necessary to exempt the system under subsection (j)(2) of the Privacy Act. The system is exempt from certain provisions of the Act pursuant to subsection (k)(2). Certain changes have been made to reflect new room addresses for the system location.

Finally, the Department hereby gives notice of the deletion of the following thirty-one (31) systems of records. DOL/OASAM–8, Executive Candidacy Self-Nomination Application File, is deleted, and the records have been destroyed. DOL/OASAM–9, National Defense Executive Reserve Personnel Files, is deleted, and the records have been destroyed by the agency. DOL/BLS–1, Administrative Information Systems is deleted because this system was a duplication of OASAM–1 and OASAM–10.

DOL/ESA–16 is deleted. That system, Wage-Hour Sheltered Workshop File, was a one-time only survey which culminated in a summary report to the Congress. As the raw data are no longer useful, computer tapes containing personal identifiers have been scratched and corresponding paper records have been destroyed. DOL/ESA–19, 20, and 21 are deleted. These systems, the Advisory Committee on Women to the Secretary of Labor Members' Files, the Citizens' Advisory Council on the Status of Women Correspondence Files, and the Citizens' Advisory Council on the Status of Women Members' Files, are no longer used by the Department.

DOL/ETA 17, Employment and Training Administration, Equal Employment Opportunity File, is deleted. These files are now covered by DOL/OASAM–22, Office of Civil Rights Complaint Case Files.

DOL/ILAB–1, Employee Address File, is deleted as this system is included in DOL/OSEC–3, Employee Locator System. DOL/ILAB–2, Organizational Operating Pattern File, is deleted. This system is published as DOL/OASAM–14, Automated Position Control System.

DOL/LMSA–2, LMSA Case Opening and Closing Reports, has not been used since 1978 and has been discontinued and is being deleted. DOL/LMSA–8, Bonding Violations File, is deleted because these records are a part of the Office of Labor-Management Standards Enforcements (LMSE) case files and are covered under DOL/LMSA–1, LMSE Index Cards and Case Files, Division of Enforcement. DOL/LMSA–9, Ex-Offenders Application File, is deleted. These records are a part of the LMSE case files and are covered under DOL/LMSA–1. DOL/LMSA–10, Falsified Reports File, is deleted. These records are a part of the LMSE case files and are covered under DOL/LMSA–1. Likewise, DOL/LMSA–11, Organizational Interference File, is deleted, because these records are carried as a part of the LMSE case files and are covered under DOL/LMSA–1. DOL/LMSA–12, Pension bonding Violations File, are deleted since they are a part of the Office of Pension and Welfare Benefit Plans (PWBP) investigatory files which are covered under DOL/LMSA–4, PWBP-Division of Enforcement and Special Investigation Staff Case Files. DOL/LMSA–13, Pension Embezzlement File, is deleted since these records are part of the PWBP investigatory files which are covered under DOL/LMSA–4. DOL/LMSA–14, Prohibited Loan File, is deleted since these records are part of the LMSE case files which are covered under DOL/LMSA–1. DOL/LMSA–15, Union Funds Embezzlement File, is deleted. These records are a part of the LMSE Case Files and are covered under DOL/LMSA–1. DOL/LMSA–16, Investigatory Files-Special Investigations Staff, are no longer covered by this system. These files have been transferred to the Office of the SOL and are covered by DOL/SOL–8, Litigation Files-Special Litigation Task Force. DOL/LMSA–17, Investigatory Files-PWBP, Division of Enforcement, is deleted. The records in this system have been combined with the records in DOL/LMSA–4. DOL/LMSA–18, Veterans' Reemployment Rights Impact Survey and Analysis, is deleted. The records in this system have not been used since the impact survey and analysis was completed. These records have been destroyed.

DOL/MSHA–2, 4, 6, 7, 8, 9, and 16 are deleted. These systems were merged into the following various DOL/OASAM or DOL/OSEC systems. DOL/MSHA–2 is merged with DOL/OASAM–2; DOL/MSHA–4 is merged with DOL/OSEC–2; DOL/MSHA–6 and 7 are merged with DOL/OASAM–15; DOL/MSHA–8 is merged with DOL/OASAM–7; DOL/MSHA–9 is merged with DOL/OASAM–20; and DOL/MSHA–16 is merged with DOL/OSEC–3.

All three systems of the Presidents' Committee on the Employment of the Handicapped (PCEH) are deleted. These are DOL/PCEH–1, Employers of the Year Award Files; DOL/PCEH–2, Handicapped American of the Year Award File; and DOL/PCEH–3, Physician of the Year Award. These files are no longer maintained. DOL/OSHA–3, State Compliance Office Evaluation Records, is being deleted because this system is fully covered by the previously published DOL/OSHA–8, State Compliance Officer Spot-Check Records.

DOL/OSHA–5, Advisory Committee Candidates, OSHA, is being deleted because this system is fully covered by the previously published DOL/OSHA–4, Advisory Committee Biographies, OSHA.

DOL/SOL–4, DOL Accident Reports, is deleted. These reports are no longer maintained.

Signed at Washington, D.C. this 1st day of July 1982.

Raymond J. Donovan,

Secretary of Labor.

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Appendix I Responsible Officials
Appendix II Privacy Act Coordinators

General Prefatory Statement

The following routine uses apply to and are incorporated by reference into each system of records published below unless the text of a particular notice of a system of records indicate otherwise.

1. In the event that a system of records, maintained by the Department to carry out its functions, indicates a violation or potential violation of law, whether civil criminal or regulatory in nature, and whether arising by general statute or particular program pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency,

whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

2. A record from any system of records, set forth below may be disclosed, as a routine use, to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a Department decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

3. A record from any system of records set forth below may be disclosed, as a routine use, to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

4. A record from any system of records set forth below may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate or administrative tribunal, including disclosures to opposing counsel in the course of litigation or settlement negotiations.

5. A record from any system of records set forth below may be disclosed, as a routine use, to a Member of Congress submitting a request involving the indivual when the individual is a constituent of the Member and has requested assistance from the Member with respect to the subject matter of the record.

6. A record from any system of records set forth below which contains medical information may be disclosed, as a routine use, to the medical or health advisor of any individual submitting a request for access to the record if, in the sole judgment of the Department, disclosure could have an adverse effect upon the individual, under the provisions of 5 U.S.C. 552a(f)(3) and implementing regulations.

7. A record from any system of records set forth below may be disclosed, as a routine use, to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in the Circular.

Government-Wide Records

One system of records is reported by the Department of Labor for all Federal agencies since this Department has overall responsibility for the administration of the program in connection with which this system of records has been compiled. It is presumed that most, if not all federal agencies maintain systems of records comprising a portion of this government-wide system of records. In order to avoid duplication in reporting, the Department is reporting this system on behalf of all agencies. The Department has control over this system to the same extent as the Office of Personnel Management has control over systems of records containing federal employee personnel records.

1. Federal Employees' Compensation Act files: Except for the Panama Canal Zone, all records relating to injury or death of civilian employees or other persons entitled to benefits under the Federal Employees' Compensation Act are the records of the Office of Workers' Compensation Programs of the Department of Labor. The Office asserts control of these records under the provisions of 5 U.S.C. 8149 and Departmental regulations at 20 CFR 10.10. The systems of records for these records is being reported by the Department as a Government-wide notice. This notice, however, does not apply to other medical or related files not created pursuant to the Federal Employees' Compensation Act which may be in the possession of an agency.

Initial determinations concerning access, amendment or correction of these records shall be made by the employing agency. Administrative appeals shall be referred to the Solicitor of Labor, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

2. The Department of Labor formerly reported Office of Federal Contract Compliance Programs Complaint Files on behalf of all executive agencies. This government-wide report is no longer necessary, because Executive Order 12086 (43 FR 46501, October 10, 1978) has led to the consolidation, under the Secretary of Labor, of all contract compliance functions for equal employment opportunity. Accordingly, the OFCCP Compliant Files are now reported by the Employment Standards Administration under DOL/ESA–2.

Addresses to Which Requests May Be Directed. The addresses of the various component units of the Department as well as its field offices are contained in Appendix I annexed to this document. For general assistance, you may wish to contact the Privacy Act Coordinators listed in Appendix II.

DOL/OSEC/01

SYSTEM NAME:

Supervisors' Records of Employees

SYSTEM LOCATION:

Immediate supervisors and one additional organizational level at all facilities of the Department.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current employees and employees who have departed within the past year.

CATEGORIES OF RECORDS WITHIN THE SYSTEM:

Records related to individuals while employed by the Department and which contain such information as: emergency addressee information, record of personnel actions, record of employee/supervisor discussions, supervisory copies of officially recommended actions, awards, disciplinary actions, and training requests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 1302, 2951, 4118, Reorganization Plan 6 of 1950, and the Civil Service Reform Act of 1978.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

(1) To organizations and individuals making reference checks; (2) to the Office of Personnel Management, the Merit Systems Protection Board, the Office of Special Counsel, or the Federal Labor Relations Authority, when required in the performance of their investigative or adjudicative responsibilities; (3) to the Department of Justice in the event of litigation involving the records or the subject matter of the records; (4) to the appropriate agency or agencies, whether federal, state, or local, charged with the responsibility of investigation or prosecution of violations of statute, rule, regulation, order or license, in the event that such a violation is indicated.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in manual files, or computer printouts, form SF–7B, and other appropriate medium.

RETRIEVABILITY:

Records are indexed by any combination of name or Social Security Number.

SAFEGUARDS:

Locked storage cabinets and desks.

RETENTION AND DISPOSAL:

Records are maintained on current employees. Records on former employees are kept for one year, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

All supervisors having responsibility for performance evaluations.

NOTIFICATION PROCEDURE:

An individual may inquire whether or not the system contains a record pertaining to her/him by contacting the supervisor and/or the servicing Personnel Office for the employing organization.

RECORD ACCESS PROCEDURE:

As above.

CONTESTING RECORD PROCEDURES:

As above.

RECORD SOURCE CATEGORIES:

Information is supplied by the individual who is the subject of the record, or is derived from information he/she previously supplied, except information provided by agency officials.

DOL/OSEC/2

SYSTEM NAME:

Employee Conduct Investigations

SYSTEM LOCATION:

A. Offices in Washington, D.C., (1) Office of the Secretary of Labor, including (a) Office of the Assistant Secretary for Administration and Management, (OASAM), (b) Office of the Solicitor of Labor, (c) Office of Information, and Public Affairs, (d) Bureau of International Labor Affairs, (e) Employees' Compensation Appeals Board, (f) Wage Appeals Board, (g) Benefits Review Board, (h) Office of Administrative Law Judges, (i) Pension Benefit Guaranty Corporation, and (j) President's Committee on the Employment of the Handicapped, (2) Bureau of Labor Statistics, (3) Employment Standards Administration, (4) Labor-Management Services Administration, (5) Employment and Training Administration, (6) Occupational Safety and Health Administration, (7) Mine Safety and Health Administration, (8) Office of Inspector General, B. Regional Offices of the above.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DOL employee(s) against whom any allegation of misconduct, illegal acts, conflicts of interest, etc., has been made.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, organization, and other information relating to the individual involved. It also contains investigative report(s) associated with the case. including interviews and other confidential data gathered.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC 301, 7301, and Executive Order 11222.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Disclosure to other Federal Agencies, including the Department of Justice, the FBI, and to any other Federal, state, and local government responsible for investigation or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order, or license, (2) to a Federal Agency which has requested information relevant to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files.

RETRIEVABILITY:

Filed by name in alphabetical order.

SAFEGUARDS:

Locked combination safes.

RETENTION AND DISPOSAL:

Completed investigations are disposed of after 20 years. Matters not subject to full investigations are disposed of after 10 years.

SYSTEM MANAGER(S) AND ADDRESS:

See the appropriate Agency Official in the attached listing and at 29 CFR 70a.43.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURE:

As above.

RECORD SOURCE CATEGORIES:

Investigative reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Under the specific exemption authority provided by 5 U.S.C. 552a(k)(2), exempting this system from the following provisions of the Privacy Act: 5 U.S.C. 552a(c), 3, (d), (e)(1), (4) (G), (H), (I), and (f) of the Act. Disclosure of information could enable the subject of the record to take action to escape prosecution and could avail the subject greater access to information than already provided under rules of discovery. In addition, disclosure of information might lead to intimidation of witnesses, informants, or their families, and impair future investigations by making it more difficult to collect similar information.

DOL/OSEC/3

SYSTEM NAME:

Employee Locator System.

SYSTEM LOCATION:

Division of Telecommunications, OASAM, Room S1503, 200 Constitution Ave. NW, Washington, DC 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Labor employees in the National Office.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, title, business address, organization symbol, business telephone number of employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC 301, 44 USC 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files.

RETRIEVABILITY:

By employee name.

SAFEGUARDS:

Locked storage equipment.

RETENTION AND DISPOSAL:

Records are maintained until a notice of change or employment is terminated, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Telecommunications, OASAM, Room S1503, 200 Constitution Ave. NW, Washington, DC 20210.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURES:

As above.

RECORD SOURCE CATEGORIES:

Individual employees.

DOL/OASAM-1

SYSTEM NAME:

Attendance, Leave, and Payroll File.

SYSTEM LOCATION:

A. Offices in Washington, D.C., (1) Office of the Secretary of Labor, including (a) Office of the Assistant Secretary for Administration and Management, (OASAM), (b) Office of the Solicitor of Labor, (c) Office of Information and Public Affairs, (d) Bureau of International Labor Affairs, (e) Employees' Compensation Appeals Board, (f) Wage Appeals Board, (g) Benefits Review Board, (h) Office of Administrative Law Judges, (i) Pension Benefit Guaranty Corporation, and (j) President's Committee on the Employment of the Handicapped, (2) Bureau of Labor Statistics, (3) Employment Standards Administration, (4) Labor-Management Services Administration, (5) Employment and Training Administration, (6) Occupational Safety and Health Administration, (7) Mine Safety and Health Administration, (8) Office of Inspector General, B. Regional Offices of the above.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Labor employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, social security number and employee number, grade, step, and salary, organization (code), retirement or FICA data as applicable. Federal, State and local tax deductions, as appropriate. IRS tax lien data, savings bond and charity deductions; regular and optional government life insurance deduction(s), health insurance deduction and plan or code; cash award data; jury duty data, military leave data, pay differentials, union dues deductions, allotments by type and amount, financial institution code and employee account number, leave status and data of all types (including annual, compensatory, jury duty, maternity, military, retirement, disability, sick, transferred, and without pay), time and attendance records, including flexitime logs/sheets, indicating number of regular, overtime, holiday, Sunday, and other hours worked, pay period number and ending date, cost of living allowances, co-owner and/or beneficiary of bonds, marital status, number of dependents, mailing address, and "Notification of Personnel Action." The individual records listed herein are included only as pertinent or applicable to the individual employee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 66(a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Transmittal of data to U.S. Treasury to effect issuance of paycheck to employees and distribution to pay according to employee directions for savings bonds, allotments, financial institutions, and other authorized purposes. Tax withholding data sent to Internal Revenue Service and appropriate State and local taxing authorities, FICA deductions to the Social Security Administration, dues deductions to labor unions, withholdings for health insurance to insurance carriers and the Office of Personnel Management, charity deductions to agents of charitable institutions, annual W-2 statements to taxing authorities and the individual, and transmittal of computer tape data to appropriate State and local governments for their benefits matching projects.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual, and machine-readable files.

RETRIEVABILITY:

By name and SSN.

SAFEGUARDS:

Personnel screening and locked storage equipment.

RETENTION AND DISPOSAL:

Retained until after GAO audit. Records are then disposed of, or retired, according to specifid agency/GRS records schedules.

SYSTEM MANAGER(S) AND ADDRESS:

See the appropriate Agency Official in attached listing and at 29 CFR 70a.43.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURE:

As above.

RECORD SOURCE CATEGORIES:

Employees, supervisors, timekeepers, official personnel records, and IRS.

DOL/OASAM-2

SYSTEM NAME:

Employee Locator Card File.

SYSTEM LOCATION:

Directorate of Personnel Management, Office of Special Personnel Services, Office of the Assistant Secretary for Administration and Management (OASAM), U.S. Department of Labor, Room N-4421, 200 Constitution Avenue, N.W. 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Department prior to January 1, 1968.

CATEGORIES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Name, date of birth, organization, location, type of separation and effective date.

AUTHORITY OF MAINTENANCE OF THE SYSTEM:

Federal Personnel Manual, Chapter 294, Subchapter 1.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Card File (3" by 5" cards).

RETRIEVABILITY:

By name.

SAFEGUARDS:

Locked filing equipment.

RETENTION AND DISPOSAL:

Disposed of 3 years after employee leaves the agency.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director, Office of Special Personnel Services, U.S. Department of Labor, Room N-4421, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURE:

As above.

RECORD SOURCE CATEGORIES:

Personnel Records.

DOL/OASAM–4

SYSTEM NAME:

Occupational Accident/Injury/ Illness Reporting (AIIRS) File.

SYSTEM LOCATION:

Office of Employee Safety and Health, OASAM, U.S. Department of Labor, Room C–5319, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DOL employees, including Job Corps members and those covered under contract, involved in occupationally related accidents, injuries and illnesses.

CATEGORIES OF RECORDS IN THE SYSTEM:

Days worked/lost workdays, detailed accounts of occupationally related accidents, injuries and illnesses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

P.L. 91–596, 29 CFR, Part 1960, Section 7902 of Title 5 U.S.C., DOL Secretary's Order 6–81, Executive Order 12196.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files and machine readable magnetic tape.

RETRIEVABILITY:

By any record element including name.

SAFEGUARDS:

Locked storage equipment. Computer files accessible only through proper code numbers.

RETENTION AND DISPOSAL:

Records are maintained for five years after each report is filed with the Agency, according to the OSHA Act of 1970. They are then retired/disposed of according to NARS approved records schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room C–5319, Washington, D.C. 20210.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURES:

As above.

RECORD SOURCE CATEGORIES:

Employee, Supervisor's Report of Accident/Injury/Illness Reporting (AIIRS), DL 1–440, OWCP computer tapes and printouts, payroll computer printouts, health units, and compensation claims.

DOL/OASAM–5

SYSTEM NAME:

Rehabilitation and Counseling File.

SYSTEM LOCATION:

Office of Employee Safety and Health, OASAM, U.S. Department of Labor, Room C–5321, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DOL employee/clients recieving counseling.

CATEGORIES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Intake interview forms relating to employee/clients problem, e.g., medical, emotional, alcoholism, etc.

AUTHORITY OF MAINTENANCE OF THE SYSTEM:

Public Laws 91–616 and 92–255.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual Files.

RETRIEVABILITY:

Name of employee/client.

SAFEGUARDS:

Locked storage equipment, accessible by authorized staff employees.

RETENTION AND DISPOSAL:

Records are maintained for the duration of the counseling contact or until the employee's separation or for five (5) years, whichever is sooner.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Health Services, Office of Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room C–5321, Washington, D.C. 20210.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURES:

As above.

RECORD SOURCE CATEGORIES:

Employee, personnel office, supervisors, relatives, community.

DOL/OASAM–6

SYSTEM NAME:

Executive Assignment System/Senior Executive Service File.

SYSTEM LOCATION:

Office of Executive Personnel Management, OASAM, U.S. Department of Labor, Room S–6206, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Personnel information concerning candidates and appointees of supergrade or SES positions.

CATEGORIES OF RECORDS MAINTAINED IN THE SYSTEM:

Personal information concerning candidates and appointees of supergrade or SES positions.

AUTHORITY OF MAINTENANCE OF THE SYSTEM:

Federal Personnel Manual, Chapter 305, Federal Personnel Issuances in the 920 series.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure to other Federal Agencies' personnel offices, and the Office of Personnel Management/Executive Personnel Group.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files.

RETRIEVABILITY:

Organizational location and name.

SAFEGUARDS:

Locked storage equipment.

RETENTION AND DISPOSAL:

Active files are retained during employment. Inactive files are retained by organization for historical/ comparative purposes, and then destroyed when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Executive Personnel Management, Room S–6206, U.S. Department of Labor, 200

Constitution Avenue, N.W., Washington, D.C. 20210.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURE:

As above.

RECORD SOURCE CATEGORIES:

DOL Agency personnel offices.

DOL/OASAM-7

SYSTEM NAME:

Employee Medical Records.

SYSTEM LOCATION:

U.S. Department of Labor, OASAM, Room S-3214, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DOL National Office employees receiving medical treatment.

CATEGORIES OF RECORDS MAINTAINED IN THE SYSTEM:

Medical information re: illness, injury, and examinations.

AUTHORITY OF MAINTENANCE OF THE SYSTEM:

Public Law 656-49, Office of Management and Budget Circular No. A-72.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Records are maintained in a locked file cabinet with access limited to authorized staff employees.

RETENTION AND DISPOSAL:

Records are retained for five (5) years and retired to an appropriate Federal Records Center, according to retention standards established by the NARS/GRS.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Health Services, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room C-5321, Washington, D.C. 20210.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURE:

As above.

RECORD SOURCE CATEGORIES:

Employees, and their supervisors.

DOL/OASAM-10

SYSTEM NAME:

ACT Program Counseling and Evaluation Files.

SYSTEM LOCATION:

A. Offices in Washington, D.C.: (1) Office of the Assistant Secretary for Administration and Management (OASAM), Office of Education and Career Development; (2) Office of the Solicitor; (3) Bureau of Labor Statistics; (4) Employment Standards Administration; (5) Employment and Training Administration; (6) Labor-Management Standards Administration; (7) Occupational Safety and Health Administration; (8) Mine Safety and Health Administration; and B. OASAM Regional Personnel Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DOL Administrative, Clerical, and Technical (ACT) employees, GS-1-11, who participate in the ACT Career Development Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual Development Plans, Counselors' Worksheets, Counseling Activity forms, intake interview forms, employee evaluations, transcripts, testing records, and counselor's notes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

FPM Chapter 410, Subchapter 9, as supplemented by the Department's Manual Series Handbook, (DLMS Handbook 4-1, July, 1979).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files and computer system.

RETRIEVABILITY:

By name and Social Security Number.

SAFEGUARDS:

Locked storage equipment and magnetic tape. Computer files accessed through a code/password.

RETENTION AND DISPOSAL:

Records are disposed of when an employee transfers, resigns or retires from the DOL.

SYSTEM MANAGER(S) AND ADDRESSES:

Director, Office of Education and Career Development, Room N-5456, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURE:

As above.

CONTESTING RECORD PROCEDURES:

As above.

RECORD SOURCE CATEGORIES:

Interviews, questionnaires.

DOL/OASAM-11

SYSTEM NAME:

DOL Training Records.

SYSTEM LOCATION:

A. Offices in Washington, D.C.: (1) Office of Education and Career Development; (2) Office of the Solicitor; (3) Bureau of Labor Statistics; (4) Employment Standards Administration; (5) Employment and Training Administration; (6) Labor-Management Standards Administration; (7) Occupational Safety and Health Administration; (8) Mine Safety and Health Administration; (9) Office of Inspector General; and B. OASAM Regional Personnel Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All DOL employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual Development Plans, records of training received by individual employees, requests and applications for training, follow-up evaluations on training received, and records of payment for training from non-DOL sources.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, FPM Chapter 410, Subchapter 9, as supplemented by the Department's Manual Series Handbook 4-1, (July, 1979).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the Office of Personnel Management, and the Office of Management and Budget to prepare statistical reports.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files and computer system.

RETRIEVABILITY:

By name and/or Social Security Number.

SAFEGUARDS:

Locked storage equipment, and magnetic tape.

RETENTION AND DISPOSAL:

Disposed of on separation of the employee.

SYSTEM MANAGER(S) AND ADDRESS:

See the appropriate Agency official in attached listing and at 29 CFR 70a.43.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURES:

As above.

RECORD SOURCE CATEGORIES:

Interviews with employees and supervisors, training requests and applications, follow-up evaluations of training received.

DOL/OASAM-12

SYSTEM NAME:

Employee Relations Files.

SYSTEM LOCATION:

A. (1) Directors of Personnel Management, Office of Policy and Standards, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room N-5472, Washington, D.C. 20210; DOL Agency and Regional Personnel Offices; (2) Office of the Solicitor, Washington, D.C., and Regional Offices of the Solicitor.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual DOL employees and former employees who have filed grievances under the administrative grievance procedure, have been the subject of adverse actions, actions based on unacceptable performance, or who have been denied a within-grade increase.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence, merit staffing records, performance reports, Merit Systems Protection Board decisions, and administrative grievance fact-finders reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 CFR Part 432, 5 CFR Part 531, Subpart D, 5 CFR Part 752, 5 CFR Part 771.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Selected information may be disclosed at the appropriate stages of the grievance, adverse actions, and appeal processes to representatives of the affected employees, administrative greivance fact-finders, the Office of Personnel Management, the Merit Systems Protection Board, and the Office of the Special Counsel.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files.

RETRIEVABILITY:

By name and/or case number.

SAFEGUARDS:

Locked storage equipment.

RETENTION AND DISPOSAL:

Unacceptable performance records are destroyed 1 year from the date of the advance written notice if, because of performance improvement during the notice period no action is taken and the employee's performance continues to be acceptable for 1 year; otherwise, unacceptable performance records and all other records in this system are destroyed 4 years after the closing of the case.

SYSTEM MANAGER(S) AND ADDRESS:

See the appropriate Agency Official in the attached listing and at 29 CFR 70a.43.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURES:

As above.

DOL/OASAM-13

SYSTEM NAME:

Performance Requirements and Evaluation Files.

SYSTEM LOCATION:

DOL Agency Personnel Offices in Washington, D.C. and in each DOL Regional Personnel Office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DOL employees in the compteitive service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Performance Requirements and Evaluation forms.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

FPM Chapter 335.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Joint union-management review team under terms of contracts with DOL bargaining unit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files.

RETRIEVABILITY:

By employee's name.

SAFEGUARDS:

Locked storage equipment.

RETENTION AND DISPOSAL:

Records are retained for 2 years or for a longer period if periodic DOL joint Union-Management Review has not been completed and after which they can be destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

See the appropriate Agency Official in the attached litsing and at 29 CFR 70a.43.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURES:

As above.

RECORD SOURCE CATEGORIES:

Supervisor's personal records and notes; discussions with rated employee.

DOL/OASAM-14

SYSTEM NAME:

Automated Position Control System.

SYSTEM LOCATION:

A. Offices in Washington, D.C., (1) Office of the Secretary of Labor, including (a) Office of the Assistant Secretary for Administration and Management, (OASAM), (b) Office of the Solicitor of Labor, (c) Office of Information, and Public Affairs, (d) Bureau of International Labor Affairs,

(e) Employees' Compensation Appeals Board, (f) Wage Appeals Board, (g) Benefits Review Board, (h) Office of Administrative Law Judges, (i) Pension Benefit Guaranty Corporation, and (j) President's Committee on the Employment of the Handicapped, (2) Bureau of Labor Statistics, (3) Employment Standards Administration, (4) Labor-Management Services Administration, (5) Employment and Training Administration, (6) Occupational Safety and Health Administration, (7) Mine Safety and Health Administration, B. Regional Offices of the Above.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DOL employees of the Office of the Secretary.

CATEGORIES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Internal reports submitted to prepare the Departmental budget.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Chapter 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the OMB, Congress, and other Federal Agencies.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files and computer records.

RETRIEVABILITY:

By budget position number and grade.

SAFEGUARDS:

Locked file cabinets and magnetic tapes.

RETENTION AND DISPOSAL:

Destroy 1 year after the close of the FY.

SYSTEM MANAGER(S) AND ADDRESS:

See the appropriate Agency Official in the attached listing and at 29 CFR 70a.43.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURE:

As above.

RECORD SOURCE CATEGORIES:

Form DL–50, Notification of Personnel Action.

DOL/OASAM–15

SYSTEM NAME:

Travel Authorization and Voucher System.

SYSTEM LOCATION:

A. Offices in Washington, D.C., (1) Office of the Secretary of Labor, including (a) Office of the Assistant Secretary for Administration and Management, (OASAM), (b) Office of the Solicitor of Labor, (c) Office of Information, and Public Affairs, (d) Bureau of International Labor Affairs, (e) Employees' Compensation Appeals Board, (f) Wage Appeal Board, (g) benefits Review Board, (h) Office of Administrative Law Judges, (i) Pension Benefit Guaranty Corporation, and (j) President's Committee on the Employment of the Handicapped, (2) Bureau of Labor Statistics, (3) Employment Standards Administration (4) Labor-Management Services Administration, (5) Employment and Training Administration, (6) Occupational Safety and Health Administration, (7) Mine Safety and Health Administration, (8) Office of Inspector General, B. Regional Offices of the Above.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees of the Department of Labor who travel in performance of their official duties.

CATEGORIES OF RECORDS MAINTAINED IN THE SYSTEM:

Copies of Travel Authorizations, DL1–33, Travel Voucher, SF–1012 and GTR SF–1171.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC 5701, et seq., GSA Travel Regulations, FPMR 101–7.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files and computer systems.

RETRIEVABILITY:

By traveler's name and SSN.

SAFEGUARDS:

Locked storage equipment and magnetic tapes.

RETENTION AND DISPOSAL:

Destroy when three years old, or after audit, whichever is sooner.

SYSTEM MANAGER(S) AND ADDRESS:

See the appropriate Agency Official in the attached listing and at 29 CFR 70a.43.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURE:

As above.

RECORD SOURCE CATEGORIES:

Travel Authorization, DL 1–33, Travel Voucher, SF–1012 and GTR SF–117

DOL/OASAM–16

SYSTEM NAME:

Individual Career Plan Forms on Senior Executive Service Incumbents and Candidates Development Program Participants.

SYSTEM LOCATION:

Office of Executive Personnel Management, OASAM, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S–6206, Washington, D.C. 20210.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information concerning participants' career plans and goals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

DOL SES Personnel Regulations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To other Federal organizations and Agencies when required.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files.

RETRIEVABILITY:

By participant's name and file numbers.

SAFEGUARDS:

Locked storage equipment.

RETENTION AND DISPOSAL:

Retained until new plans are approved, and previous plans disposed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Executive Personnel Management, Room S–6206, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURE:

As above.

CONTESTING SOURCE CATEGORIES:

As above.

RECORD SOURCE CATEGORIES:

Personnel interviews with DOL Agency staff and with participant's supervisor.

DOL/OASAM-17

SYSTEM NAME:

Equal Employment Opportunity Complaint Files.

SYSTEM LOCATION:

Office of Civil Rights, OASAM, U.S. Department of Labor, Room N-4101, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Department of Labor employees and applicant for employment who have filed compaints of employment discrimination against the Department or one of its component Agencies.

CATEGORIES OF RECORDS IN THE SYSTEM:

Background information compiled during investigation of complaints of discrimination; investigative records and reports; correspondence files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

EO 11478; Public Laws 90-202, 92-261, 93-112, 92-259 and 95-454; 29 CFR 1613; and Chapter 713 of the Federal Personnel Manual.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records may be disclosed during the course of an investigation to persons who may thereby provide information or testimony directly relevant to the complaint. If the Department issues an Administrative decision which, directly or indirectly, finds that a named alleged discriminating official (ADO) has discriminated or committed any other significant error, that official may review a copy of the file from which the names and other identifying information for all parties except the ADO and the complainant have been deleted. In the event that DOL proposes or takes any adverse action or other disciplinary action against any official because of information disclosed in the investigation, that official may review the entire file with no deletions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files.

RETRIEVABILITY:

Alphabetically, by the complainant's name.

SAFEGUARDS:

Locked storage equipment.

RETENTION AND DISPOSAL:

Dispose of the files 4 years after resolution or administrative decision without appeal, or after administrative decision subsequent to appeal without civil suit, or after court adjudication, or after withdrawal or cancellation for failure to prosecute. A permanent alphabetical record is kept of complaints by name of the complainant, giving the basis of the complaint, the matter giving rise to the complaint, and the disposition.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Civil Rights, OASAM, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURE:

As above.

RECORD SOURCE CATEGORIES:

Individual compainants, respondent Agency officials and witnesses, Departmental and Agency records, and interrogatories.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Under the specific exemption authority provided by 5 U.S.C. 552a(k)(2), exempting this system from the following provisions of the Privacy Act: 5 U.S.C. 552a(d)(3)4(F) and (G) of the Act. The disclosure of information contained in these files may in some circumstances tend to discourage persons who have knowledge of facts and circumstances pertinent to charges from giving statements or cooperating investigations. In addition, disclosure of medical records contained in these files may adversely affect the health of individuals without guidance of a responsible physician.

DOL/OASAM-19

SYSTEM NAME:

Negotiated Grievance Procedure and Unfair Labor Practice Files.

SYSTEM LOCATION:

A. Offices in Washington, D.C.: (1) Office of Labor-Management Relations (OASAM); (2) Office of the Solicitor; (3) Bureau of Labor Statistics; (4) Employment Standards Administration; (5) Employment and Training Administration; (6) Labor-Management Services Administration; (7) Occupational Safety and Health Administration; (8) Mine Safety and Health Administration; and B. OASAM Regional Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DOL employees who have filed grievances under negotiated grievance procedures, and DOL employees who have filed Unfair Labor Practices charges against the Department.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence, merit staffing reports, performance appraisal reports, and reports of arbitrators.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7121 of 5 U.S. Code for grievances, Section 7116 of 5 U.S. Code for unfair labor practices, Federal Service Labor-Management Relations statutes and related amendments of 5 U.S. Code 5596(b) for back pay.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Selected information may be disclosed at appropriate stages of the grievance process to the Office of Personnel Management, arbitrators, the Merit Systems Protection Board, or the Federal Labor Relations Authority.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual file.

RETRIEVABILITY:

By name and or case file number.

SAFEGUARDS:

Locked storage equipment.

RETENTION AND DISPOSAL:

Records are destroyed 3 years after all administrative remedies have been exhausted.

SYSTEMS MANAGER(S) AND ADDRESS:

Director, Office of Labor-Management Relations, U.S. Department of Labor, Room N-5700, 200 Constitution Ave. N.W., Washington, DC 20210.

NOTIFICATION PROCEDURES:

As above.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURE:

As above.

RECORD SOURCE CATEGORIES:

Employee compliants and charges, employee/supervisor interviews, investigative and employment records, and finding of arbitrators and other tribunals.

DOL/OASAM-20

SYSTEM NAME:

Personnel Investigation Records.

SYSTEM LOCATION:

Office of Special Personnel Programs, (OASAM), Personnel Security Unit, U.S. Department of Labor, Room N–4427, 200 Constitution Avenue, NW., Washington, D.C. 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and applicants for employment with the Department.

CATEGORIES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Investigative files and investigative index card files which pertain to clearance investigations for federal employment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

E.O. 10450.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To other Federal Agencies including OPM, and the FBI.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual case files, and on index file cards alphabetically keyed to case files.

RETRIEVABILITY:

By name of individual who is subject of the record.

SAFEGUARDS:

Automated combination lock file cabinets. Access is by DOL employees with appropriate security clearances.

RETENTION AND DISPOSAL:

Indexed file cards which show the existence of an investigation file are maintained for 20 years plus the current year, or longer if further investigative activity was initiated within the past 20 years. Reports are destroyed after 5 years.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director, Special Personnel Programs, OASAM, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N 4421, Washington, D.C. 20210.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURE:

As above.

CONTESTING RECORD PROCEDURE:

As above.

RECORD SOURCE CATEGORIES:

Investigative data compiled by various sources, OPM, FBI, and other government agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT: INVESTIGATORY PORTION OF SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

(a) Criminal law enforcement. In accordance with paragraph 3(j)(2) of the Privacy Act, information maintained in this system of files is exempt from all provisions contained in 5 U.S.C. 552a except those requirements set forth in paragraphs (b), (c)(1) and (2), (e)(4) (A) through (F), (e)(6), (7), (9), (10), and (11) and paragraph (i) of the Privacy Act. The disclosure of criminal investigatory information, if any, contained in the files, including the names of persons or agencies to whom the information has been transmitted would substantially compromise the effectiveness of any investigations. Knowledge of such investigations could enable subjects to take such action as is necessary to prevent detection of criminal activities, conceal evidence, or to escape prosecution. Disclosure of this information could lead to the intimidation of, or harm to, informants, witnesses, and their respective families, and could jeopardize the safety and well-being of investigative personnel and their families. The imposition of certain restrictions on the manner in which investigative information is collected, verified, and retained would impede significantly the effectiveness of investigatory activities, and in addition, may often preclude the apprehension and successful prosecution of persons engaged in fraud of the compensation program.

(b) Other law enforcement. In accordance with paragraph 3(k)(2) of the Privacy Act, investigatory material compiled for law enforcement purposes other than material declared exempt under paragraph 3(j)(2) of the Privacy Act, which is maintained in this system's files is exempt from paragraphs (c)(3), (d), (e)(4), (G), (H), and (I), and paragraph (f) of 5 U.S.C. 552a. The disclosure of civil investigatory information, if any, contained in this system's files, including the names of persons and agencies to whom the information has been transmitted, would substantially compromise the effectiveness of investigations. Knowledge of such investigations would enable subjects to take such action as is necessary to prevent detection of illegal activities, conceal evidence, or otherwise escape civil enforcement action. Disclosure of this information could lead to the intimidation of, or harm to informants, witnesses, and their respective families, and in addition, could jeopardize the safety and well-being of investigative personnel and their families. The imposition of certain restrictions on the manner in which investigative information is collected, verified, and retained could also impede significantly the effectiveness of investigatory activities.

DOL/OASAM-21

SYSTEM NAME:

Senior Executive Service Certification File.

SYSTEM LOCATION:

Office of Executive Personnel Management, U.S. Department of Labor, Room S–6206, 200 Constitution Avenue, N.W. 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Senior Executive Service Candidates Program participants.

CATEGORIES OF RECORDS MAINTAINED IN THE SYSTEM:

Individual Development Plans; evaluations; OPM Form 1390; SF–171 and staff reviews determining whether program requirements have been satisfied.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To other Federal organizations and Agencies when required in performance of their responsibilities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual file.

RETRIEVABILITY:

By individual's name.

SAFEGUARDS:

Locked file cabinets with restricted access.

RETENTION AND DISPOSAL:

Records are retained until the employee retires, resigns, or transfers, after which they are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Executive Personnel Management, Room S-6206, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURES:

Mail inquiries to the System Manager at the above address.

CONTESTING RECORD PROCEDURE:

As above.

RECORD SOURCE CATEGORIES:

IDP completed by Candidate, Mentor, and DOL Agency DRB Chairperson, Evaluation by DOL Agency DRB Chairperson, Mentors and assignment supervisors, OPM Form 1390, and SF-171.

DOL/OASAM-22

SYSTEM NAME:

Office of Civil Rights Citizen Discrimination Complaint Case Files.

SYSTEM LOCATION:

A. Office of Civil Rights, (OASAM), U.S. Department of Labor, Room N-4101, 200 Constitution Avenue, N.W., Washington, D.C. 20210, and B. All Regional Offices of Civil Rights.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals filing complaints of discrimination under Title IV of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; Age Discrimination Act of 1975, as amended; Section 132 of the Comprehensive Employment and Training Act, as amended; Title IX of the Education Amendements of 1972, as amended.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal employment or program participation information, medical records and/or recipient information, correspondence files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 CFR 31.8; 20 CFR 676.86, Subpart D; 20 CFR Part 658.411, Subpart E, and Section 5(3) of Secretary's Order 2-81.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure to the Equal Employment Opportunity Commission or Department of Justice for investigatory, conciliation or enforcement purposes; disclosure to recipients of Federal financial assistance under applicable internal review procedures.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files.

RETRIEVABILITY:

By complainant's name or by OCR case number.

SAFEGUARDS:

Locked storage equipment.

RETENTION AND DISPOSAL:

Records are retained for 3 years after final resolution of case. They are then retired to the Federal Records Center of 2 additional years, and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Civil Rights, 200 Constitution Avenue, N.W., Room N-4101, Washington, D.C. 20210.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURE:

As above.

RECORD SOURCE CATEGORIES:

Individual complinants, witnesses of the complainant and the respondent, respondent statements, matters of public record, interrogatories, recipient and/or employer files and records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Under the specific exemption authority provided by 5 U.S.C. 552a(h)(2), exempting this system from the following provisions of the Privacy Act: 5 U.S.C. 552a(c), 3(d), (e)(1), (e)(4)(G), (H), (I), and (f) of the Act. Disclosure of information could enable the subject of the record to take action to escape prosecution and could avail the subject greater access to information than already provided under rules of discovery. In addition, disclosure of information might lead to intimidation of witnesses, informants, or their families, and impair future investigations by making it more difficult to collect similar information.

DOL/BLS-2

SYSTEM NAME:

Staff Utilization System.

SYSTEM LOCATION:

Records stored on computer at Optimum Systems, Inc., Rockville, Md. Access and maintenance occur by remote terminal in Room 2852, GAO Building, 441 G St., NW, Washington, DC. 20212.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Regular full- and part-time and intermittent employees in the BLS National and Regional Offices.

CATEGORIES OF RECORDS IN THE SYSTEM:

Payroll, accounting and staff utilization data: name, SSN, grade, and step, cost center, PAS home code, staff hours by PAS code, by function and by task (function and task specified by each office).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic disk packs.

RETRIEVABILITY:

Retrievable by any element, including name and SSN.

SAFEGUARDS:

Data on private disk, accessible only by authorized employees.

RETENTION AND DISPOSAL:

Cumulative file is retained by fiscal year until all research is completed, then it is destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Management Information Systems, Room 2852, GAO Building, 441 G St. NW., Washington, DC 20212.

NOTIFICATION PROCEDURE:

Mail all inquiries or present in writing to System Manager at above address.

Give name, SSN, and fiscal years of employment.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURE:

As above.

RECORD SOURCE CATEGORIES:

Input from employees' bi-weekly Time and Attendance cards and time distribution forms (DL 1-129, "Project Reporting Form"); Sf-52's "Request for Personnel Action."

DOL/BLS-3

SYSTEM NAME:

Regional Office Staff Utilization File.

SYSTEM LOCATION:

Records stored on computer at the National Institutes of Health, Bethesda, Maryland. Access and maintenance is generally by remote terminal in Room 1836, GAO Building, 441 G Street, N.W., Washington, D.C. 20212.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All BLS Regional Office employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Staff utilization and travel expenditures data: name, SSN, pay period, hours worked and units accomplished by PAS code for functions such as personal visit, telephone collection, training, and costs for transportation and subsistence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Mag tapes and disks.

RETRIEVABILITY:

By a data field, including name and SSN.

SAFEGUARDS:

Only authorized employees have access to tapes/disks, to the programs, and to the Regions' backup documents.

RETENTION AND DISPOSAL:

Cumulative file is retained by fiscal year until all research is completed, then it is destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Field Collection Activities, Room 1834, GAO Building, 441 G Street, N.W., Washington, D.C. 20212.

NOTIFICATION PROCEDURE:

Mail all inquiries or present in writing to System Manager at above address. Give name, SSN and dates of employment.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURE:

As above.

RECORD SOURCE CATEGORIES:

"Staff Utilization Report (form number SO-1) filled out each pay period by each R.O. employee (in place of the DL 1-291, "Project Reporting Form") and SF-1012 (Travel Voucher).

DOL/ESA-1

SYSTEM NAME:

Division of State Employment Standards Public Inquiry File.

SYSTEM LOCATION:

Room S3221, Department of Labor Building, 200 Constitution Ave., N.W., Washington, D.C. 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The general public, government officials (usually of State labor departments), and private organizations such as those representing labor, management, or private citizens.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of incoming letters and reports of telephone requests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files.

RETRIEVABILITY:

By subject matter, State, chronologically, and name if a private citizen.

SAFEGUARDS:

Building security guards.

RETENTION AND DISPOSAL:

Time retained depends on subject matter and importance, varying from 3 to 10 years.

SYSTEM MANAGER(S) AND ADDRESS:

Director, ESA Office of Program Development and Accountability, Room S3325, 200 Constitution Ave., N.W., Washington, D.C. 20210.

NOTIFICATION PROCEDURE:

DSES/OPDA, Room N4430, 200 Constitution Ave., N.W., Washington, D.C. 20210. Name and approximate date of previous correspondence should be provided.

RECORD ACCESS PROCEDURE:

Same as above.

CONTESTING RECORD PROCEDURE:

Same as above.

RECORD SOURCE CATEGORIES:

Information voluntarily submitted by correspondent on own initiative.

DOL/ESA-2

SYSTEM NAME:

Office of Federal Contract Compliance Programs Complaint files.

SYSTEM LOCATION:

Room C3225, Department of Labor Building, 200 Constitution Ave., N.W., Washington, D.C. 20210; and OFCCP Regional and Area offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals filing complaints of discrimination under Executive Order 11246, Section 402 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, and Section 503 of the Rehabilitation Act of 1973, as amended.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal employment information, medical records, investigative reports, employer information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 11246, as amended; 29 U.S.C. 793; 38 U.S.C. 2012.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure to the Equal Employment Opportunity Commission, Department of Justice, to other Federal, State or local agencies with jurisdiction over a complaint, for investigatory, conciliation or enforcement purposes; to Federal contractors, subcontractors, or federally-assisted construction contractors or subcontractors against

whom a complaint is filed, including providing a copy of the complaint or a complaint summary for purposes of notice and/or under applicable internal review procedures; during an investigation to persons who may have knowledge pertinent to the complaint, but only to the extent necessary to determine the validity of complaint charges.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Power Files/Magnetic Tape/Manual Files.

RETRIEVABILITY:

By name or OFCCP control number.

SAFEGUARDS:

Locked files and computer access codes.

RETENTION AND DISPOSAL:

Active files retained 2–5 years, referred to storage for additional 5 years.

SYSTEM MANAGER(S) AND ADDRESS:

Director, OFCCP, Room C3325, 200 Constitution Ave., N.W., Washington, D.C. 20210.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURE:

As above

CONTESTING RECORD PROCEDURE:

As above

RECORD SOURCE CATEGORIES:

Individual complainants, employers, co-workers, State rehabilitation agencies, physicians.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

In accordance with paragraph 3(k)(2) of the Privacy Act, these files have been exempted from section (d)(e)4(G), 4(H), and (f) of the Act. The disclosure of information contained in these files may in some circumstances tend to discourage persons who have knowledge of facts and circumstances pertinent to charges from giving statements or co-operating in investigations. In addition, disclosure of medical records contained in these files may adversely affect the health of individuals without guidance of a responsible physician.

DOL/ESA–3 (Office of Federal Contract Compliance Programs Handicapped Worker Complaint File): Deleted February 13, 1981.

DOL/ESA–4 (Office of Federal Contract Compliance Programs Veteran's Complaints Files): Deleted February 13, 1981.

DOL/ESA–5

SYSTEM NAME:

Office of Workers' Compensation Programs, Black Lung Anti-discrimination files.

SYSTEM LOCATION:

Office of Workers' Compensation Programs, Division of Coal Mine Workers' Compensation, Department of Labor Building, 200 Constitution Ave., N.W., Washington, D.C. 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals filing complaints against employers on account of discharge or other acts of discrimination by reason of a pneumoconiosis disease.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal, financial, medical.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

30 U.S.C. 938.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of file content may be made to any party of interest to the complaint.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Locked file with access by authorized personnel only.

RETENTION AND DISPOSAL:

Files are destroyed 10 years after case is closed.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, Division of Coal Mine Workers' Compensation, Department of Labor Building, Room C3520, 200 Constitution Ave., N.W., Washington, D.C. 20210.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURE:

As above.

CONTESTING ACCESS PROCEDURE:

As above.

RECORD SOURCE CATEGORIES:

Individual, correspondence, investigative records, employment records, payroll records, medical reports, any other documents or reports pertaining to an individual's work history, education, medical condition, or hiring practices of the employer.

DOL/ESA–6

SYSTEM NAME:

Office of Workers' Compensation, Black Lung Benefit Claim File.

SYSTEM LOCATION:

Office of Workers' Compensation Programs, Division of Coal Mine Workers' Compensation, Department of Labor Building, 200 Constitution Ave., N.W., Washington, D.C. 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals filing claims for black lung (pneumoconiosis) benefits under the provisions of Title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended, including miners, and their surviving widows, orphans, dependent parents and siblings.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal, medical, financial. The system also may contain information gathered in connection with investigations concerning possible violations of Federal law, whether civil or criminal under the authorizing legislation and related Acts. Such information may be derived from materials filed with the Department of Labor, other Federal, State and local departments and agencies, court records, medical records, insurance records, records of employers, articles from publications, published financial data, corporate information, bank information, telephone data, statements of witnesses, information received from Federal, State, local and foreign regulatory and law enforcement organizations, and from other sources. This record also contains the work product of the Department of Labor and other government personnel and consultants involved in the investigations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

30 U.S.C. 901 et seq., 20 CFR 715.1 et seq., 20 CFR 720.1 et seq., 20 CFR 725.1 et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure to the employer at any time after report of the injury or report of the

onset of the occupational illness, or the filing of a notice of injury or claim related to such injury or occupational illness, also to any party providing the employer with workers' compensation insurance coverage; State workers' compensation agencies and the Social Security Administration for the purpose of determining offsets as specified under the Act; doctors and medical services providers for the purpose of obtaining medical evaluations, physical rehabilitation or other services, and labor unions and other voluntary employee associations of which the claimant is a member which exercise an interest in claims of members as part of their service to the members. Records are made available to other Federal agencies and State and local agencies conducting similar or related investigations, and to the Justice Department in that agency's determination regarding potential litigation and during the course of actual litigation. Records may be disclosed to contractors providing automated data processing services for the Department of Labor, and may also be disclosed in any proceeding where the authorizing legislation is in issue, or in which the Secretary of Labor, any past or present Federal employee, or any consultant, is directly or indirectly involved in investigations or other enforcement activities, is a party, or is otherwise involved in an official capacity under the Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Case file documents, both original and copies in manual files.

RETRIEVABILITY:

Coal miner's name and social security number, and claimant's name when different from miner's must be provided.

SAFEGUARDS:

Files located in restricted area of a Federal building under guard by security officers.

RETENTION AND DISPOSAL:

Approved claims files are destroyed 10 years after death of last beneficiary. Denied claims are destroyed 17 years after final denial.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, Division of Coal Mine Workers' Compensation, Department of Labor Building, Room C3520, 200 Constitution Ave., N.W., Washington, D.C. 20210.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURE:

As above.

CONTESTING ACCESS PROCEDURE:

As above.

RECORD SOURCE CATEGORIES:

Claim forms, medical reports, correspondence, investigative reports, employment reports, Federal and State agency records, any other record or document pertaining to a claimant or his dependent as it relates to the claimant's age, education, work history, marital history or medical condition.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

INVESTIGATORY PORTION OF SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

(a) Criminal law enforcement. In accordance with paragraph 3(j)(2) of the Privacy Act, information maintained in this system of files in the Office of Workers' Compensation Programs of the Employment Standards Administration is exempt from all provisions contained in 5 U.S.C. 552a except those requirements set forth in paragraphs (b), (c)(1) and (2), (e)(4) (A) through (F), (e)(6), (7), (9), (10), and (11) and paragraph (i) of the Privacy Act. The disclosure of criminal investigatory information, if any, contained in the files, including the names of persons or agencies to whom the information has been transmitted would substantially compromise the effectiveness of any investigations. Knowledge of such investigations could enable subjects to take such action as is necessary to prevent detection of criminal activities, conceal evidence, or to escape prosecution. Disclosure of this information could lead to the intimidation of, or harm to, informants, witnesses, and their respective families, and could jeopardize the safety and well-being of investigative personnel and their families. The imposition of certain restrictions on the manner in which investigative information is collected, verified, and retained would impede significantly the effectiveness of investigatory activities, and in addition, may often preclude the apprehension and successful prosecution of persons engaged in fraud of the compensation program. (b) Other law enforcement. In accordance with paragraph 3(k)(2) of the Privacy Act, investigatory material compiled for law enforcement purposes other than material declared exempt under paragraph 3(j)(2) of the Privacy Act, which is maintained in this system's files of the Office of Workers' Compensation Programs of the Employment Standards Administration is exempt from paragraphs (c)(3), (d), (e)(4) (G), (H), and (I), and paragraph (f) of 5 U.S.C. 552a. The disclosure of civil investigatory information, if any, contained in this system's files, including the names of persons and agencies to whom the information has been transmitted, would substantially compromise the effectiveness of investigations. Knowledge of such investigations would enable subjects to take such action as is necessary to prevent detection of illegal activities, conceal evidence, or otherwise escape civil enforcement action. Disclosure of this information could lead to the intimidation of, or harm to informants, witnesses, and their respective families, and in addition, could jeopardize the safety and well-being of investigative personnel and their families. The imposition of certain restrictions on the manner in which investigative information is collected, verified, and retained could also impede significantly the effectiveness of investigatory activities.

DOL/ESA-7

SYSTEM NAME:

Office of Workers' Compensation Programs, Black Lung Benefit Payments File.

SYSTEM LOCATION:

Burroughs Corporation, Federal and Supply Systems Group, 7726 Old Spring House Road, McLean, Va. 22102.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Claimants receiving benefits.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal, financial.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

30 U.S.C. 901 et seq., 20 CFR 715.1 et seq., 20 CFR 720.1 et seq., 20 CFR 725.1 et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure to mine operators who have been determined to be potentially liable for the claim and any party providing the mine operator with workers' compensation insurance coverage; State workers' compensation agencies and the Social Security Administration for the purpose of determining offsets as specified under

the Act; and labor unions and other voluntary employee associations of which the claimant is a member which exercise an interest in claims of members as part of their service to the members.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tapes.

RETRIEVABILITY:

Social Security Number.

SAFEGUARDS:

Files located in restricted area of a Federal building under guard by security officers.

RETENTION AND DISPOSAL:

Files are destroyed when 12 years old.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, Division of Coal Mine Workers' Compensation, Department of Labor Building, Room C3520, 200 Constitution Ave., NW., Washington, D.C. 20210.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURE:

As above.

CONTESTING RECORD PROCEDURES

As above.

RECORD SOURCE CATEGORIES:

Black Lung Benefit Claims Files.

DOL/ESA-8

SYSTEM NAME:

Office of Workers' Compensation Programs, Black Lung Benefit Claimant Information File.

SYSTEM LOCATION:

Burroughs Corporation, Federal and Supply Systems Group, 7726 Old Spring House Road, McLean, Va. 22102.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Black lung claimants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal (name, date of birth, SSN, type claimant, miner's date of death); demographic (State, county, city, congressional district, zip code), mine employment history, medical disability, initial determination, conference results, hearing results.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

30 U.S.C. 901 et seq., 20 CFR 715.1 et seq., 20 CFR 720.1 et seq., 20 CFR 725.1 et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure to mine operators who have been determined to be potentially liable for the claim and any party providing the mine operator with workers' compensation insurance coverage; State workers' compensation agencies and the Social Security Administration for the purpose of determining offsets as specified under the Act; doctors and medical services providers for the purpose of obtaining medical evaluations, physical rehabilitation or other services, and labor unions and other voluntary employee associations of which the claimant is a member which exercise an interest in claims of members as part of their service to the members.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Nine track magnetic tape and punched cards.

RETRIEVABILITY:

Social Security Number.

SAFEGUARDS:

Files located in restricted area of a Federal building under guard by security officers.

RETENTION AND DISPOSAL:

Files are destroyed when 12 years old.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, Division of Coal Mine Workers' Compensation, Department of Labor Building, Room C3520, 200 Constitution Ave., NW., Washington, D.C. 20210.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURE:

As above.

CONTESTING RECORD PROCEDURES:

As above.

RECORD SOURCE CATEGORIES:

District Office Reports, Claims Forms, Claim Files Tracking Cards.

DOL/ESA-9

SYSTEM NAME:

Office of Workers' Compensation Programs, Black Lung Medical Treatment Records File.

SYSTEM LOCATION:

Office of Workers' Compensation Programs, Division of Coal Mine Workers' Compensation, Department of Labor Building, 200 Constitution Ave., NW., Washington, D.C. 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Division of Coal Mine Workers' Compensation Beneficiaries.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical and financial. The system also may contain information gathered in connection with investigations concerning possible violations of Federal law, whether civil or criminal under the authorizing legislation and related Acts. Such information may be derived from materials filed with the Department of Labor, other Federal, State and local departments and agencies, court records, medical records, insurance records, records of employers, articles from publications, published financial data, corporate information, bank information, telephone data, statements of witnesses, information received from Federal, State, local and foreign regulatory and law enforcement organizations, and from other sources. This record also contains the work product of the Department of Labor and other government personnel and consultants involved in the investigations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

30 U.S.C. 901 et seq., 20 CFR 715.1 et seq., 20 CFR 720.1 et seq., 20 CFR 725.1 et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure to the employer at any time after report of the injury or report of the onset of the occupational illness, or the filing of a notice of injury or claim related to such injury or occupational illness, also to any party providing the employer with worker's compensation insurance coverage; State workers' compensation agencies and the Social Security Administration for the purpose of determining offsets as specified under the Act; and labor unions and other voluntary employee associations of which the claimant is a member which exercise an interest in claims of members as part of their service to the members. Records are made available to other Federal agencies and State and local agencies conducting similar or related investigations, and to the Justice Department in that agency's determination regarding potential

litigation and during the course of actual litigation. Records may be disclosed to contractors providing automated data processing services for the Department of Labor, and may also be disclosed in any proceeding where the authorizing legislation is in issue, or in which the Secretary of Labor, any past or present Federal employee, or any consultant, is directly or indirectly involved in investigations or other enforcement activities, is a party, or is otherwise involved in an official capacity under the Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files to be transferred to magnetic tapes.

RETRIEVABILITY:

Name and Social Security Number.

SAFEGUARDS:

Files located in restricted area of a Federal building under guard by security officers.

RETENTION AND DISPOSAL:

Files are retained for 6 years and 3 months after becoming inactive.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, Division of Coal Mine Workers' Compensation, Department of Labor Building, Room C3520, 200 Constitution Ave., N.W., Washington, D.C. 20210.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURE:

As above.

CONTESTING RECORD PROCEDURES:

As above.

RECORD SOURCE CATEGORIES:

Medical reports and bills from physician of beneficiary's choosing providing medical treatment.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

INVESTIGATORY PORTION OF SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

(a) Criminal law enforcement. In accordance with paragraph 3(j)(2) of the Privacy Act, information maintained in this system of files in the Office of Workers' Compensation Programs of the Employment Standards Administration is exempt from all provisions contained in 5 U.S.C. 552a except those requirements set forth in paragraphs (b), (c)(1) and (2), (e)(4) (A) through (F), (e)(6), (7)(9), (10), and (11) and paragraph (i) of the Privacy Act. The disclosure of criminal investigatory information, if any, contained in the files, including the names of persons or agencies to whom the information has been transmitted would substantially compromise the effectiveness of any investigations. Knowledge of such investigations could enable subjects to take such action as is necessary to prevent detection of criminal activities, conceal evidence, or to escape prosecution. Disclosure of this information could lead to the intimidation of, or harm to, informants, witnesses, and their respective families, and could jeopardize the safety and well-being of investigative personnel and their families. The imposition of certain restrictions on the manner in which investigative information is collected, verified, and retained would impede significantly the effectiveness of investigatory activities, and in addition, may often preclude the apprehension and successful prosecution of persons engaged in fraud of the compensation program. (b) Other law enforcement. In accordance with paragraph 3(k)(2) of the Privacy Act, investigatory material compiled for law enforcement purposes other than material declared exempt under paragraph 3(j)(2) of the Privacy Act, which is maintained in this system's files of the Office of Workers' Compensation Programs of the Employment Standards Administration is exempt from paragraphs (c)(3), (d), (e)(4), (G), (H), and (I), and paragraph (f) of 5 U.S.C. 552a. The disclosure of civil investigatory information, if any, contained in this system's files, including the names of persons and agencies to whom the information has been transmitted, would substantially compromise the effectiveness of investigations. Knowledge of such investigations would enable subjects to take such action as is necessary to prevent detection of illegal activities, conceal evidence, or otherwise escape civil enforcement action. Disclosure of this information could lead to the intimidation of, or harm to informants, witnesses, and their respective families, and in addition, could jeopardize the safety and well-being of investigative personnel and their families. The imposition of certain restrictions on the manner in which investigative information is collected, verified, and retained could also impede significantly the effectiveness of investigatory activities.

DOL/ESA–10

SYSTEM NAME:

Office of Workers' Compensation Programs, Black Lung Profile Beneficiaries File.

SYSTEM LOCATION:

Office of Workers' Compensation Programs, Division of Coal Mine Workers' Compensation, Department of Labor Building, 200 Constitution Ave., N.W., Washington, D.C. 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Division of Coal Mine Workers' Compensation Beneficiaries.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical, personal. The system also may contain information gathered in connection with investigations concerning possible violations of Federal law, whether civil or criminal under the authorizing legislation and related Acts. Such information may be derived from materials filed with the Department of Labor, other Federal, State and local departments and agencies, court records, medical records, insurance records, records of employers, articles from publications, published financial data, corporate information, bank information, telephone data, statements of witnesses, information received from Federal, State, local and foreign regulatory and law enforcement organizations, and from other sources. This record also contains the work product of the Department of Labor and other government personnel and consultants involved in the investigations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

30 U.S.C. 901 et seq., 20 CFR 715.1 et seq., 20 CFR 720.1 et seq., 20 CFR 725.1 et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure to the employer at any time after report of the injury or report of the onset of the occupational illness, or the filing of a notice of injury or claim related to such injury or occupational illness, also to any party providing the employer with workers' compensation insurance coverage; State workers' compensation agencies and the Social Security Administration for the purpose of determining offsets as specified under the Act; and labor unions and other voluntary employee associations of which the claimant is a member which exercise an interest in claims of

members as part of their service to the members. Records are made available to other Federal agencies and State and local agencies conducting similar or related investigations, and to the Justice Department in that agency's determination regarding potential litigation and during the course of actual litigation. Records may be disclosed to contractors providing automated data processing services for the Department of Labor, and may also be disclosed in any proceeding where the authorizing legislation is in issue, or in which the Secretary of Labor, any past or present Federal employee, or any consultant, is directly or indirectly involved in investigations or other enforcement activities, is a party, or is otherwise involved in an official capacity under the Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files.

RETRIEVABILITY:

Name and Social Security Number.

SAFEGUARDS:

Files located in restricted area of a Federal building under guard by security officers.

RETENTION AND DISPOSAL:

Files are destroyed when 12 years old.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, Division of coal Mine Workers' Compensation, Department of Labor Building, Room C3520, 200 Constitution Ave., N.W., Washington, D.C. 20210.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURE:

As above.

CONTESTING ACCESS PROCEDURES:

As above.

RECORD SOURCE CATEGORIES:

Individual, Correspondence, Employment Records, Payroll Records, Medical Reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Investigatory portion of system exempted from certain provisions of the Act: (a) Criminal law enforcement. In accordance with paragraph 3(j)(2) of the Privacy Act, information maintained in this system of files in the Office of Workers' Compensation Programs of the Employment Standards Administration is exempt from all provisions contained in 5 U.S.C. 552a except those requirements set forth in paragraphs (b), (c)(1) and (2), (e)(4) (A) through (F), (e)(6), (7), (9), (10), and (11) and paragraph (i) of the Privacy Act. The disclosure of criminal investigatory information, if any, contained in the files, including the names of persons or agencies to whom the information has been transmitted would substantially compromise the effectiveness of any investigations. Knowledge of such investigations could enable subjects to take such action as is necessary to prevent detection of criminal activities, conceal evidence, or to escape prosecution. Disclosure of this information could lead to the intimidation of, or harm to, informants, witnesses, and their respective families, and could jeopardize the safety and well-being of investigative personnel and their families. The imposition of certain restrictions on the manner in which investigative information is collected, verified, and retained would impede significantly the effectiveness of investigatory activities, and in addition, may often preclude the apprehension and successful prosecution of persons engaged in fraud of the compensation program. (b) Other law enforcement. In accordance with paragraph 3(k)(2) of the Privacy Act, investigatory material compiled for law enforcement purposes other than material declared exempt under paragraph 3(j)(2) of the Privacy Act, which is maintained in this system's files of the Office of Workers' Compensation Programs of the Employment Standards Administration is exempt from paragraphs (c)(3), (d), (e)(4) (G), (H), and (I), and paragraph (f) of 5 U.S.C. 552a. The disclosure of civil investigatory information, if any, contained in this system's files, including the names of persons and agencies to whom the information has been transmitted, would substantially compromise the effectiveness of investigations. Knowledge of such investigations would enable subjects to take such action as is necessary to prevent detection of illegal activities, conceal evidence, or otherwise escape civil enforcement action. Disclosure of this information could lead to the intimidation of, or harm to informants, witnesses, and their respective families, and in addition, could jeopardize the safety and well-being of investigative personnel and their families. The imposition of certain restrictions on the manner in which investigative information is collected, verified, and retained could also impede significantly the effectiveness of investigatory activities.

DOL/ESA-11

SYSTEM NAME:

Office of Workers' Compensation Programs, Black Lung Service Payments File.

SYSTEM LOCATION:

Burroughs Corporation, Federal and Supply Systems Group, 7726 Old Spring House Road, McLean, Va. 22102.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Claimants, physicians and medical facilities providing services.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical, personal, financial.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

30 U.S.C. 901 et seq., 20 CFR 715.1 et seq., 20 CFR 720.1 et seq., 20 CFR 725.1 et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure to mine operators who have been determined to be potentially liable for the claim and any party providing the mine operator with workers' compensation insurance coverage; State workers' compensation agencies and the Social Security Administration for the purpose of determining offsets as specified under the Act; doctors and medical services providers for the purpose of obtaining medical evaluations, physical rehabilitation or other services, and labor unions and other voluntary employee associations of which the claimant is a member which exercise an interest in claims of members as part of their service to the members.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape.

RETRIEVABILITY:

Provider number, claimant's SSN.

SAFEGUARDS:

Files located in restricted area of a Federal building under guard by security officers.

RETENTION AND DISPOSAL:

Files are destroyed when 10 years old.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, Division of Coal Mine Workers' Compensation, Department of Labor Building, Room

C3520, 200 Constitution Ave., NW., Washington, D.C. 20210.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURE:

As above.

CONTESTING ACCESS PROCEDURES:

As above.

RECORD SOURCE CATEGORIES:

Billings, Claims Files, Medical Reports.

DOL/ESA-12

SYSTEM NAME:

Office of Workers' Compensation Programs, Black Lung X-ray Interpretation File.

SYSTEM LOCATION:

Office of Workers' Compensation Programs, Division of Coal Mine Workers' Compensation, Department of Labor Building, 200 Constitution Ave., NW., Washington, D.C. 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Division of Coal Mine Workers' Compensation claimants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical, personal.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

30 U.S.C. 901 et seq., 20 CFR 715.1 et seq., 20 CFR 720.1 et seq., 20 CFR 725.1 et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure to mine operators who have been determined to be potentially liable for the claim and any party providing the mine operator with workers' compensation insurance coverage; State workers' compensation agencies and the Social Security Administration for the purpose of determining offsets as specified under the Act; doctors and medical services providers for the purpose of obtaining medical evaluations, physical rehabilitation or other services, and labor unions and other voluntary employee associations of which the claimant is a member which exercise an interest in claims of members as part of their service to the members.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files.

RETRIEVABILITY:

Name and SSN.

SAFEGUARDS:

Files located in restricted area of a Federal building under guard by security officers.

RETENTION AND DISPOSAL:

Files are destroyed 17 years after final adjudication or denial.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, Division of Coal Mine Workers' Compensation, Department of Labor Building, Room C3520, 200 Constitution Ave., NW., Washington, D.C. 20210.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURE:

As above.

CONTESTING ACCESS PROCEDURE:

As above.

RECORD SOURCE CATEGORIES:

Individual's medical records.

DOL/ESA-13

SYSTEM NAME:

Office of Workers' Compensation Programs, Federal Employees' Compensation Act File.

SYSTEM LOCATION:

Optimum Systems, Inc., 5615 Fishers Road, Rockville, Md. 20852.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

FECA benefits recipients are Federal employees injured or killed while in the performance of duty. In case of death, beneficiary records are maintained. In addition to Federal employees the FECA covers volunteers in the Civil Air Patrol, Peace Corps Volunteers, Job Corps Enrollees, Volunteers in Service to America, members of the National Teachers Corps, certain student employees, employees of the Alaska Railroad, members of the Reserve Officers Training Corps, certain law enforcement officers not employed by the United States. Prior to January 1, 1957, the FECA also covered reservists in the Armed Forces of the United States. Also covered are various classes of persons who provide or have provided services to the Government of the United States.

CATEGORIES OF RECORDS IN THE SYSTEM:

Record includes reports of injury by employee and employing establishment, authorization for medical treatment, medical records, medical and transportation bills, compensation payment records, formal orders for or against payment of compensation, vital statistics such as birth, death and marriage certificates. The system also may contain information gathered in connection with investigations concerning possible violations of Federal law, whether civil or criminal under the authorizing legislation and related Acts. Such information may be derived from materials filed with the Department of Labor, other Federal, State and local departments and agencies, court records, medical records, insurance records, records of employers, articles from publications, published financial data, corporate information, bank information, telephone data, statements of witnesses, information received from Federal, State, local and foreign regulatory and law enforcement organizations, and from other sources. This record also contains the work product of the Department of Labor and other government personnel and consultants involved in the investigations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 8101 et seq., 20 CFR 1.1 et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure to any third-party named in a claim or representative acting on his/her behalf until the claim is adjudicated and all appeals are resolved; Federal agencies which employed the claimant at the time of occurrence or recurrence of the injury or occupational illness; Federal, State or private rehabilitation agencies to whom the claimant has been referred for evaluation of the extent and nature of the disability and/or rehabilitation; physicians making an examination for the United States under 5 U.S.C. 8123(a); medical insurance plans or health and welfare plans which the claimant is covered by in instances when there is evidence of payment by OWCP for treatment of a medical condition which is not compensable; and labor unions and other voluntary employee associations of which the claimant is a member which exercise an interest in claims of members as part of their service to the members. Records are made available to other Federal agencies and State and local agencies conducting similar or related investigations, and to the Justice Department in that agency's determination regarding potential

litigation and during the course of actual litigation. Records may be disclosed to contractors providing automated data processing services for the Department of Labor, and may also be disclosed in any proceeding where the authorizing legislation is in issue, or in which the Secretary of Labor, any past or present Federal employee, or any consultant, is directly or indirectly involved in investigations or other enforcement activities, is a party, or is otherwise involved in an official capacity under the Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Case files are maintained in manual files, security case files in locked cabinets, and FECA management information system information is stored on computer discs which are stored in cabinets.

RETRIEVABILITY:

Files are retrieved after identification by coded file number which is cross referenced to employee by name, employing establishment, date and nature of injury. Files located in District Offices are identified by master index file, which is maintained in the National Office.

SAFEGUARDS:

Files are maintained under supervision of OWCP personnel during normal working hours—only authorized personnel may handle or disclose any information contained therein. Only personnel having security clearance may handle or process security files. After normal working hours, security files are kept in locked cabinets. All files are maintained in guarded Federal buildings.

RETENTION AND DISPOSAL:

This system was first published on February 13, 1981. As this is a relatively new system, retention periods have not yet been finalized.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, Division of Federal Employees' Compensation, Department of Labor Building, Room S3229, 200 Constitution Ave., N.W., Washington, D.C. 20210.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURE:

Any individual seeking information about a case in which he/she is a party of interest may write or telephone the OWCP District Office and arrangement will be made to provide review of the file, consonant with restrictions defined as a Routine Use.

CONTESTING ACCESS RECORD PROCEDURES:

As above.

RECORD SOURCE CATEGORIES:

Injured employees, beneficiaries, employing Federal agencies, other Federal agencies, physicians, hospitals, clinics, educational institutions, attorneys, members of Congress, OWCP field investigations, State governments.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

INVESTIGATORY PORTION OF SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

(a) Criminal law enforcement. In accordance with paragraph 3(j)(2) of the Privacy Act, information maintained in this system of files in the Office of Workers' Compensation Programs of the Employment Standards Administration is exempt from all provisions contained in 5 U.S.C. 552a except those requirements set forth in paragraphs (b), (c)(1) and (2), (e)(4) (A) through (F), (e)(6), (7), (9), (10), and (11) and paragraph (i) of the Privacy Act. The disclosure of criminal investigatory information, if any, contained in the files, including the names of persons or agencies to whom the information has been transmitted would substantially compromise the effectiveness of any investigations. Knowledge of such investigations could enable subjects to take such action as is necessary to prevent detection of criminal activities, conceal evidence, or to escape prosecution. Disclosure of this information could lead to the intimidation of, or harm to, informants, witnesses, and their respective families, and could jeopardize the safety and well-being of investigative personnel and their families. The imposition of certain restrictions on the manner in which investigative information is collected, verified, and retained would impede significantly the effectiveness of investigatory activities, and in addition, may often preclude the apprehension and successful prosecution of persons engaged in fraud of the compensation program. (b) Other law enforcement. In accordance with paragraph 3(k)(2) of the Privacy Act, investigatory material compiled for law enforcement purposes other than material declared exempt under paragraph 3(j)(2) of the Privacy Act, which is maintained in this system's files of the Office of Workers' Compensation Programs of the Employment Standards Administration is exempt from paragraphs (c)(3), (d), (e)(4) (G), (H), and (I), and paragraph (f) of 5 U.S.C. 552a. The disclosure of civil investigatory information, if any, contained in this system's files, including the names of persons and agencies to whom the information has been transmitted, would substantially compromise the effectiveness of investigations. Knowledge of such investigations would enable subjects to take such action as is necessary to prevent detection of illegal activities, conceal evidence, or otherwise escape civil enforcement action. Disclosure of this information could lead to the intimidation of, or harm to informants, witnesses, and their respective families, and in addition, could jeopardize the safety and well-being of investigative personnel and their families. The imposition of certain restrictions on the manner in which investigative information is collected, verified, and retained could also impede significantly the effectiveness of investigatory activities.

DOL/ESA–14

SYSTEM NAME:

Office of Workers' Compensation Programs, Federal Employees' Compensation Act Chargeback File.

SYSTEM LOCATION:

Optimum Systems, Inc., 5615 Fishers Road, Rockville, Md. 20852.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

FECA benefits recipients.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal, financial.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 8147.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Reports sent to all other agencies in order to support the billing of cost paid by DOL.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape.

RETRIEVABILITY:

OWCP case number within OWCP District Office.

SAFEGUARDS:

Physical security—tapes are locked up.

RETENTION AND DISPOSAL:

OWCP/FECA is responsible for source data records. Computer records are maintained or destroyed (deleted) by OWCP/FECA authority.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, Division of Federal Employees' Compensation, Department of Labor Building, Room S3229, 200 Constitution Ave., N.W., Washington, D.C. 20210.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURE:

As above.

CONTESTING ACCESS PROCEDURE:

As above.

RECORD SOURCE CATEGORIES:

CA45, CA135 at originating OWCP District Office servicing injured employee's government agency.

DOL/ESA-15

SYSTEM NAME:

Office of Workers' Compensation Programs, Longshoremen's and Harbor Worker's Compensation Act Case Files.

SYSTEM LOCATION:

Most files are located in the following District Offices but cases involving special issues may be in the National Office—

JFK Bldg., Room 1800, Government Center, Boston, MA 02203.

1515 Broadway, Room 3362, New York, NY 10036.

Gateway Bldg., Room M–450, 3535 Market Street, Philadelphia, PA 19104.

Federal Bldg., Room 1026, 31 Hopkins Plaza, Baltimore, MD 23510.

Federal Bldg., Room 212, 200 Granby Mall, Norfolk, VA 23510.

1111 20th Street, N.W., Room 1014, Washington, DC 20211.

U.S. Post Office and Courthouse Bldg., 311 W. Monroe Street, Jacksonville, FL 32201.

230 S. Dearborn, 7th Floor, Chicago, IL 60004.

U.S. Post Office Bldg., Room 212, Galveston, TX 77563.

2320 La Branch Street, Room 2108, Houston, TX 77004.

Hale Boggs Federal Bldg., Room 1020, 500 Camp Street, New Orleans, LA 70130.

450 Golden Gate Ave., Room 10301, San Francisco, CA 94102.

300 S. Ferry Street, Room 2525, Terminal Island, CA 90731.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records of injuries, occupational disease and death of employees working in private industry who are covered by the provisions of the Longshoremen's and Harbor Worker's Compensation Act and related acts.

CATEGORIES OF RECORDS IN THE SYSTEM:

Reports of injury by employees and employers, authorization for medical care; medical reports; medical and transportation bills; formal orders for or against payment of compensation, vocational evaluations, rehabilitation plans and awards and vocational progress reports, vital statistics such as birth, marriage, death certificates, enrollment and attendance records at educational institutions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

33 U.S.C. 901 et seq. (20 CFR 701 et seq.); 36 U.S.C. 501 et seq.; 42 U.S.C. 1951 et seq.; 43 U.S.C. 1331 et seq.; 5 U.S.C. 8171 et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure to the employer at any time after report of the injury or report of the onset of the occupational illness, or the filing of a notice of injury or claim related to such injury or occupational illness, also to any party providing the employer with workers' compensation insurance coverage; doctors and medical service providers for the purpose of obtaining medical evaluations, physical rehabilitations or other services; public or private agencies to whom the injured worker has been referred for vocational rehabilitation services; contractors providing automated data processing services for the Department of Labor and labor unions and other voluntary associations of which the claimant is a member acting on behalf of the individual member.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files.

RETRIEVABILITY:

Name and SSN.

SAFEGUARDS:

Files are maintained in guarded Federal buildings.

RETENTION AND DISPOSAL:

Time retained varies by type of case ranging from destroy one year after creation for incomplete reported cases to destroy 6 years and 3 months after death of last possible beneficiary.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, FECA, Room S3229, U.S. Department of Labor Building, 200 Constitution Ave., N.W., Washington, D.C. 20210; and District Offices listed above.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURE:

As above.

CONTESTING ACCESS PROCEDURE:

As above.

RECORD SOURCE CATEGORIES:

The system obtains information from injured employees, their qualified dependents, employers, insurance carriers, physicians, medical facilities, educational institutions, attorneys, State and Federal vocational rehabilitation agencies and Members of Congress.

DOL/ESA-18

SYSTEM NAME:

Advisory Committee on Sheltered Workshops Members' Files.

SYSTEM LOCATION:

Room S-3513, U.S. Department of Labor Building, Washington, D.C. 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Past and current members of the Advisory Committee on Sheltered Workshops.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical information and correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Fair Labor Standards Act, as amended. Advisory Committee on Sheltered Workshops Charter, January 5, 1975.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Biographical information submitted to the Office of Personnel Management and the FBI for name checks prior to nomination.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files.

RETRIEVABILITY:

By members name.

SAFEGUARDS:

Files are maintained in guarded Federal building.

RETENTION AND DISPOSAL:

Retained in files 20 years then offered to the National Archives.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Branch of Handicapped Worker Problems, Room S3513, U.S. Department of Labor Building, Washington, D.C. 20210.

NOTIFICATION PROCEDURE:

Administrator Wage and Hour Division, 200 Constitution Ave., N.W., Washington, D.C. 20210.

RECORD ACCESS PROCEDURE:

As above.

CONTESTING ACCESS PROCEDURE:

As above.

RECORD SOURCE CATEGORIES:

Members, their offices, or other Federal agencies.

DOL/ESA-22

SYSTEM NAME:

Advisory Committee for Higher Education Equal Employment Opportunity Programs Members' files.

SYSTEM LOCATION:

Room C3225, Department of Labor Building, 200 Constitution Ave., N.W., Washington, D.C. 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the Advisory Committee for Higher Education Equal Employment Opportunity Programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Charter of the Advisory Committee for Higher Education Equal Employment Opportunity Programs, January 28, 1976, Executive Order 11246.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Name checks obtained from Office of Personnel Management and FBI. Membership list including names, positions and addresses sent to the public on request and published in press releases.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files.

RETRIEVABILITY:

By member's name.

SAFEGUARDS:

Room is locked when unattended. Files are in a Federal building under guard by security officers.

RETENTION AND DISPOSAL:

Records will be maintained for the life of the committee.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Secretary, Advisory Committee for Higher Education Equal Employment Opportunity Programs, Room C3225, Department of Labor Building, 200 Constitution Ave., N.W., Washington, D.C. 20210.

NOTIFICATION PROCEDURE:

Same as above.

RECORD ACCESS PROCEDURE:

Same as above.

CONTESTING ACCESS PROCEDURE:

Same as above.

RECORD SOURCE CATEGORIES:

Individuals covered or their offices.

DOL/ESA-24

SYSTEM NAME:

Office of Workers' Compensation Programs, Longshoremen's and Harbor Workers' Compensation Act Special Fund System.

SYSTEM LOCATION:

Division of Longshore and Harbor Workers' Compensation, Room C4315, Department of Labor Building, 200 Constitution Ave., N.W., Washington, D.C. 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons receiving compensation and related benefits under the Longshoremen's and Harbor Workers' Compensation Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Bills, vouchers, and records of payment for compensation and related benefits under the Longshoremen's and Harbor Workers' Compensation Act.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

33 U.S.C. 901 et seq. (20 CFR 701 et seq.); 36 U.S.C. 501 et seq.; 42 U.S.C. 1951 et seq.; 43 U.S.C. 1331 et seq.; 5 U.S.C. 8171 et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of payment information to insurance carriers or self-insurers under the Longshoremen's and Habor Workers' Compensation Act in instances of verification of payment.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files.

RETRIEVABILITY:

By name of payee.

SAFEGUARDS:

Files are locked at night and maintained during working hours under the constant supervision of OWCP personnel. Files are in a Federal building under guard by security officers.

RETENTION AND DISPOSAL:

Files are destroyed 7 years after last payment is made.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, FECA, Room S3229, U.S. Department of Labor Building, 200 Constitution Ave., N.W., Washington, D.C. 20210; and District Offices listed above.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURE:

As above.

CONTESTING ACCESS PROCEDURE:

As above.

RECORD SOURCE CATEGORIES:

Insurers and self-insurers under the Longshoremen's and Harbor Workers' Compensation Act and parties providing covered benefits and service to approved claimants under the Act.

DOL/ESA-25

SYSTEM NAME:

Office of Federal Contract Compliance Programs Management Information System (OFCC/MIS).

SYSTEM LOCATION:

Room C3225, Department of Labor Building, 200 Constitution Ave., N.W., Washington, D.C. 20210; U.S. Department of Health and Human Services, National Institute of Health, Building 12A DCRT, Bethesda, MD 20014.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals filing complaints of employment discrimination by Federal contractors and individuals who correspond with program officials, managers, and employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual complaints, Federal procurement (contract) actions, contractor establishment, contractor employment, enforcement/litigation, and correspondence control.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 11246, as amended; 29 U.S.C. 793; 38 U.S.C. 2012.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure to the Equal Employment Opportunity Commission, Department of Justice, to other Federal, State or local agencies with jurisdiction over a complaint, for investigatory, conciliation or enforcement purposes; to Federal contractors, subcontractors, or federally-assisted construction contractors or subcontractors against whom a complaint is filed, including providing a copy of the complaint or a complaint summary for purposes of notice and/or under applicable internal review procedures; during an investigation to persons who may have knowledge pertinent to the complaint, but only to the extent necessary to determine the validity of complaint charges.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files for working copies of source documents and magnetic tapes and disks for central computer processing.

RETRIEVABILITY:

Complaints are retrievable by complainant name, OFCCP control number, and contractor establishment number. Correspondence is retrievable by correspondent name, OFCCP control number, and status and action codes. Other data is retrievable by OFCCP control numbers, Dunn and Bradstreet Universal Numbering System establishment number, and status and action codes.

SAFEGUARDS:

Files are locked except during working hours, and only authorized personnel have access to files. Computer systems are restricted to authorized operators and each subsystem has multiple layers of password protection depending upon sensitivity of data.

RETENTION AND DISPOSAL:

Inactive records retained in system for two years before being purged to history files where they are stored for three years. Transfer to FARC and scratch 5 years after transfer.

SYSTEM MANAGER(S) AND ADDRESS:

Director, OFCCP, Room C3325, 200 Constutition Ave., N.W., Washington, D.C. 20210.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURE:

As above.

CONTESTING ACCESS PROCEDURE:

As above

RECORD SOURCE CATEGORIES:

Individuals, correspondents, Federal contractors, Federal Procurement Data Center, OFCCP personnel working in area, regional, and national office organizational components, Solicitor of Labor in regional and national offices, Department of Justice, and Equal Employment Opportunity Commission.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

In accordance with paragraph 3(k)(2) of the Privacy Act, these files have been exempted from section (d), 4(G), 4(H), and (f) of the Act. The disclosure of information contained in these files may in some circumstances tend to discourage persons who have knowledge of facts and circumstances pertinent to charges from giving statements or co-operating in investigations. In addition, disclosure of medical records contained in these files may adversely affect the health of individuals without guidance of a responsible physician.

DOL/ESA-26

SYSTEM NAME:

Division of longshore and Harbor Workers' Compensation Investigation Files.

SYSTEM LOCATIONS:

Division of Longshore and Harbor Workers Compensation, Office of Workers' Compensation Programs, Room C4315, 200 Constitution Ave., NW., Washington, D.C. 20210.

Assistant Deputy Commissioner's office for LS/HW in the following regional locations—

JFK Bldg., Room 1800, Government Center, Boston, MA 02203.

1515 Broadway, Room 3362, New York, NY 10036.

Gateway Bldg., Room M–450, 3535 Market Street, Philadelphia, PA 19104.

Federal Bldg., Room 1026, 31 Hopkins Plaza, Baltimore, MD 23510.

Federal Bldg., Room 212, 200 Granby Mall, Norfolk, VA 23510.

1111 20th Street, NW., Room 1014, Washington, DC 20211.

U.S. Post Office and Courthouse Bldg., 311 W. Monroe Street, Jacksonville, FL 32201.

230 S. Dearborn, 7th Floor, Chicago, IL 60604.

U.S. Post Office Bldg., Room 212, Galveston, TX 77563.

2320 La Branch Street, Room 2108, Houston, TX 77004.

Hale Boggs Federal Bldg., Room 1020, 500 Camp Street, New Orleans, LA 70130.

450 Golden Gate Ave., Room 10301, San Francisco, CA 94102.

300 S. Ferry Street, Room 2525, Terminal Island, CA 90731.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals filing claims for workers' compensation benefits under the Longshoremen's and Harbor Workers' Compensation Act as amended and extended (33 U.S.C. 901 et seq., except as it applies to the Office of Administrative Law Judges and the Benefits Review Board); individuals providing medical and other services to the Division; employees of insurance companies and of medical and other services providers to the Division; and other persons suspected of violations of law under the Act including related civil and criminal provisions as well as respondents, witnesses and other individuals involved in investigations and enforcement actions instituted by the Department of Labor.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains information gathered in connection with investigations concerning possible violations of Federal law, whether civil or criminal under the Longshoremen's and Harbor Workers' Compensation Act and related Acts. Such information may be derived from materials filed with the Department of Labor, other Federal, State and local departments and agencies, court records, medical records, insurance records, records of employers, articles from publications, published financial data, corporate information, bank information, telephone data, statements of witnesses, information received from Federal, State, local and foreign regulatory and law enforcement organizations, and from other sources. This record also contains the work product of the Department of Labor and other government personnel and consultants involved in the investigations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

33 U.S.C. 901 et seq.; 36 D.C. Code 501 et seq.; 42 U.S.C. 1651 et seq.; 43 U.S.C. 1331 et seq., 5 U.S.C. 8171 et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records are made available to other Federal agencies and State and local agencies conducting similar or related investigations, and to the Justice Department in that agency's determination regarding potential litigation and during the course of actual litigation. Records may be disclosed to contractors providing automated data processing services for the Department of Labor, and may also be disclosed in any proceeding where the Longshoremen's and Harbor Workers' Compensation Act and related Acts are in issue, or in which the Secretary of Labor, any past or present Federal employee, or any consultant, is directly or indirectly involved in investigations or other enforcement activities, is a party, or is otherwise involved in an official capacity under the Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

To be determined.

SYSTEM MANAGER AND ADDRESS:

Associate Director, Division of Longshore and Harbor Workers' Compensation, 200 Constitution Ave, N.W., Washington, D.C. 20210; and, Assistant Deputy Commissioners for LS/HW in each city listed in Systems Location section.

NOTIFICATION PROCEDURE:

Notify system manager.

RECORD ACCESS PROCEDURE:

Contact system manager.

CONTESTING ACCESS PROCEDURES:

Contact system manager.

RECORD SOURCE CATEGORIES:

Records from Division claim and payment files (DOL/ESA–15 and 24) and from employees, insurers, service providers; and information received from parties leading to the opening of an investigation, or developed as a product of interviews held during the course of an investigation.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

(a) Criminal law enforcement. In accordance with paragraph 3(j)(2) of the Privacy Act, information maintained in investigation files in the Division of Longshore and Harbor Workers' Compensation of the Office of Workers' Compensation Programs of the Employment Standards Administration is exempt from all provisions contained in 5 U.S.C. 552a except those requirements set forth in paragraphs (b), (c)(1) and (2), (e)(4) (A) through (F), (e)(6), (7), (9), (10), and (11) and paragraph (i) of the Act. The disclosure of information contained in the criminal investigative files, including the names of persons or agencies to whom the information has been transmitted would substantially compromise the effectiveness of investigations. Knowledge of such investigations could enable subjects to take such action as is necessary to prevent detection of criminal activities, conceal evidence, or to escape prosecution. Disclosure of this information could lead to the intimidation of, or harm to, informants, witnesses, and their respective families, and could jeopardize the safety and well-being of investigative personnel and their families. The imposition of certain restrictions on the manner in which investigative information is collected, verified, and retained would impede significantly the effectiveness of the investigatory activities, and in addition, may often preclude the apprehension and successful prosecution of persons engaged in fraud of the Longshore and Harbor Workers' compensation program. (b) Other law enforcement. In accordance with paragraph 3(k)(2) of the Privacy Act, investigatory material compiled for law enforcement purposes other than material declared exempt under paragraph 3(j)(2) of the Act, which is maintained in the investigation files of the Division of Longshore and Harbor Workers' Compensation of the Office of Workers' Compensation Programs of the Employment Standards Administration is exempt from paragraphs (c)(3), (d), (e)(4) (G), (H), and (I), and paragraph (f) of 5 U.S.C. 552a. The disclosure of information contained in civil investigative files, including the names of persons and agencies to whom the information has been transmitted, would substantially compromise the effectiveness of the investigations. Knowledge of such investigations would enable subjects to take such action as is necessary to prevent detection of illegal activities, conceal evidence, or otherwise escape civil enforcement action. Disclosure of this information could lead to the intimidation of, or harm to informants, witnesses, and their respective families, and in addition, could jeopardize the safety and well-being of investigative personnel and their families. The imposition of certain restrictions on the manner in which investigative information is collected, verified, and retained could also impede significantly the effectiveness of the investigatory activities.

DOL/ETA–1

SYSTEM NAME:

Bureau of Apprenticeship, (BA), Budget and Position Control File.

SYSTEM LOCATION:

Employment and Training Administration, (ETA), Bureau of Apprenticeship, Patrick Henry Building, 601 D St. NW, Washington, D.C. 20213.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Federal employees currently employed by BA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel matters concerning grades and salaries.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Kardex files.

RETRIEVABILITY:

By region, budget position number, or name of employee.

SAFEGUARDS:

Locked storage equipment.

RETENTION AND DISPOSAL:

Retained until employee is terminated, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Administrator, Bureau of Apprenticeship, ETA, Patrick Henry Building, 601 D St N.W. Washington, DC 20213.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURE:

As above.

RECORD SOURCE CATEGORIES:

SF-Form 50.

DOL/ETA–2

SYSTEM NAME:

Bureau of Apprenticeship, (BA), Field Service Staff Budget and Position Control File.

SYSTEM LOCATION:

ETA, Bureau of Apprenticeship, Patrick Henry Building, 601 D St. NW, Washington, D.C. 20213.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Regional employees currently employed by BA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel matters concerning grades and salaries, addresses and telephone numbers of employes, and copies of each position description in effect.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

P.L. 308 (Fitzgerald Act).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Kardex files.

RETRIEVABILITY:

By participant name and geographical location.

SAFEGUARDS:

Locked storage equipment.

RETENTION AND DISPOSAL:

Maintained until employee is terminated, then material is shredded.

SYSTEM MANAGER(S) AND ADDRESS:

Administrator, Bureau of Apprenticeship, Patrick Henry Building, 601 D St N.W. Washington, DC 20213.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURE:

As above.

RECORD SOURCE CATEGORIES:

SF-Form 50.

DOL/ETA–3

SYSTEM NAME:

Bureau of Apprenticeship Foreign National Individual Program File.

SYSTEM LOCATION:

ETA, Bureau of Apprenticeship, Patrick Henry Building, 601 D St. NW., Washington, D.C. 20213.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Foreign Nationals programmed by the Bureau of Apprenticeship under the Technical Assistance Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal information of the Foreign National and programming operation information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

P.L.–308 (Fitzgerald Act).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape.

RETRIEVABILITY:

By participant's name.

SAFEGUARDS:

Locked storage equipment.

RETENTION AND DISPOSAL:

Records are destroyed by scratching tape after the participant leaves the program.

SYSTEM MANAGER(S) AND ADDRESS:

Administrator, Office of Management Information Systems, Patrick Henry Building, 601 D St. N.W. Washington, D.C. 20213.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURE:

As above.

RECORD SOURCE CATEGORIES:

Program sponsor.

DOL/ETA–4

SYSTEM NAME:

Bureau of Apprenticeship, National Industry.

SYSTEM LOCATION:

ETA, Bureau of Apprenticeship, Patrick Henry Building, 601 D St. NW, Washington, D.C. 20213.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Apprentices.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of program sponsor.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L.–308 (Fitzgerald Act).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files—program and apprentice registration cards for apprentices.

RETRIEVABILITY:

Program sponsor's name, apprentice's name, and apprenticeable occupation.

SAFEGUARDS:

Standard file cabinets with locks.

RETENTION AND DISPOSAL:

Retain for three years, then destroy.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Bureau of Apprenticeship, Employment and Training Administration, 601 D St. NW, Washington, D.C. 20213.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURE:

As above.

RECORD SOURCE CATEGORIES:

Program sponsor.

DOL/ETA–5

SYSTEM NAME:

ESARS 2 Sample File.

SYSTEM LOCATION:

Optimum Systems Inc., 5615 Fishers Ln., Rockville, MD. 20852.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employment Service Applicants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Characteristics of individuals such as age, sex, race, and ES service provided.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 49, et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape.

RETRIEVABILITY:

By region, State, and SSN.

SAFEGUARDS:

Routine computer precautions limiting access to authorized expenditure codes.

RETENTION AND DISPOSAL:

Destroyed after 5 years by scratching of tape.

SYSTEM MANAGER(S) AND ADDRESS:

Administrator, Office of Management Information Systems, Patrick Henry Building, 601 D St. NW., Washington, D.C. 20213.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURE:

As above.

RECORD SOURCE CATEGORIES:

All records came from the State Employment Service Offices in the 50 states, P.R., and D.C.

DOL/ETS-6

SYSTEM NAME:

Exemplary Rehabilitation Certification Program File.

SYSTEM LOCATION:

ETA, Office of Foreign Labor Certifications, Patrick Henry Building, 601 D St. NW., Washington, D.C. 20213.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Ex-servicemen with less than honorable discharges from the U.S. Armed Forces.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal information such as: Local law enforcement reference, fingerprint card, character references, employer references.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 26.1; 80 Stat. 1017; P.L. 89-690.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Kept in locked storage equipment.

RETRIEVABILITY:

Records are indexed by name, address, serial number, social security number, and date of birth.

SAFEGUARDS:

Individual application folders are kept in file cabinets under lock and key.

RETENTION AND DISPOSAL:

Folders are maintained in the division, and destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Administrator, Office of Foreign Labor Certifications, ETA, Patrick Henry Building, 601 D St. NW., Washington, D.C. 20213.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURE:

As above.

RECORD SOURCE CATEGORIES:

Upon request of an ex-serviceman, an application packet, which includes an application form, employer reference form, character reference forms, local law authority reference form, and a fingerprint card is sent. When the completed application forms are returned to the Department of Labor, the fingerprint card is sent to the FBI for investigation. The FBI then returns the fingerprint card and report to the Department of Labor.

DOL/ETA-7

SYSTEM NAME:

Immigration and Rehabilitation Certification Program File.

SYSTEM LOCATION:

ETA, Office of Foreign Labor Certifications, Patrick Henry Building, 601 D St. NW., Washington, D.C. 20213; Regional Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employers who file application for alien employment certification on behalf of aliens.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information of record consists of employer's type, size and nature of business offer of employment to alien, and alien's background and qualifications.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

P.L. 414, Immigration and Nationality Act as amended by P.L. 89.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Any and all materials pertinent to the alien certification program are disclosed to employer's attorneys, aliens, State Department and Immigration and Naturalization Service.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files are stored in the national office, the 10 regional offices, and the office in Virgin Islands.

RETRIEVABILITY:

Records are maintained on all applications for alien employment certification filed by means of Immigration Case Record and Transmittal. PES form 71-30 (Rev. June 1968). Job offer applications are filed alphabetically by employer name, and applications by alien name if filed by alien on his own behalf.

SAFEGUARDS:

Access to records provided only to authorized personnel.

RETENTION AND DISPOSAL:

Retain case file in office for two years, transfer to a records center for disposition after two additional years.

SYSTEM MANAGER(S) AND ADDRESS:

Administrator, Office of Foreign Labor Certifications, ETA, U.S. Employment Service, 601 D St. NW., Washington, D.C. 20213.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURE:

As above.

RECORD SOURCE CATEGORIES:

Information comes from application form completed by employers and aliens.

DOL/ETA-8

SYSTEM NAME:

Job Corps Mainstream File.

SYSTEM LOCATION:

Optimum Systems Inc., 5615 Fishers Ln., Rockville, MD 20852.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Job Corps enrollees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal information about the trainees income, age, education, etc. In the placement system—was he placed—if not placed the reason for such.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 911, et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape.

RETRIEVABILITY:

Social Security Number.

SAFEGUARDS:

Unique data set name and volume serial number for the file.

RETENTION AND DISPOSAL:

Maintained in office until enrollee is terminated. The records are then shipped to a records center for storage and disposition.

SYSTEM MANAGER(S) AND ADDRESS:

Administrator, Office of Management Information Systems, ETA, Patrick Henry Building, 601 D St. NW, Washington, D.C. 20213.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURE:

As above.

RECORD SOURCE CATEGORIES:

Job Corps Centers.

DOL/ETA-9

SYSTEM NAME:

Job Corps Placement File.

SYSTEM LOCATION:

Optimum Systems Inc., 5615 Fishers Ln., Rockville, Md. 20852.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Job Corps enrollees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal characteristics.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 911, et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Report sent to Congress.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape.

RETRIEVABILITY:

Name and Social Security Number.

SAFEGUARDS:

Restricted to only authorized personnel.

RETENTION AND DISPOSAL:

Scratch tape 3 years after terminating of enrollee.

SYSTEM MANAGER(S) AND ADDRESS:

Administrator, Office of Job Corps, Patrick Henry Building, 601 D St. NW, Washington, D.C. 20213.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURE:

As above.

RECORD SOURCE CATEGORIES:

Job Corps Centers and Job Corps regional offices.

DOL/ETA-10

SYSTEM NAME:

Migrant Worker File.

SYSTEM LOCATION:

Optimum Systems Inc., 5615 Fishers Ln., Rockville, Md. 20852; ETA, Patrick Henry Building, 601 D St. NW., Washington, D.C.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Migrant workers who have reported to ES office for service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Characteristics of individual and ES services provided.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Court Order (Civil Action 2010–72, NAACP vs. Brennan).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape.

RETRIEVABILITY:

Region, State, SSN.

SAFEGUARDS:

Routine computer precautions limiting access to authorized expenditure codes.

RETENTION AND DISPOSAL:

Erase/destroy magnetic tape after 5 years.

SYSTEM MANAGER(S) AND ADDRESS:

Administrator, Office of Management Information Systems, ETA, Patrick Henry Building, 601 D St. NW., Washington, D.C. 20213.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURE:

As above.

RECORD SOURCE CATEGORIES:

State ES officers.

DOL/ETA-11

SYSTEM NAME:

Trainee Characteristic File.

SYSTEM LOCATION:

Optimum Systems Inc., 5615 Fishers Ln., Rockville, MD 20852.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Manpower trainees under MDTA and EOA Acts.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal, financial, and medical. System no longer active. Files are historical.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 USC 2571, et seq. (Manpower Development Training Act) 42 USC 2701, et seq., (Economic Opportunity Act).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape.

RETRIEVABILITY:

Indexed by Social Security Number.

SAFEGUARDS:

None.

RETENTION AND DISPOSAL:

Files are destroyed by scratching the magnetic tape.

SYSTEM MANAGER(S) NAME AND ADDRESS:

Administrator, Office of Management Information Systems, ETA, Patrick Henry Building, 601 D St. NW., Washington, D.C. 20213.

NOTIFICATION PROCEDURE:

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURE:

As above.

RECORD SOURCE CATEGORIES:

MDTA forms, MT101, 2, 3, 4, and EOA forms NYC–16 & OEO–16.

DOL/ETA–12

SYSTEM NAME:

WIN II Characteristics File.

SYSTEM LOCATION:

Optimums Systems, Inc., 5615 Fishers Ln., Rockville, MD.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

WIN registrants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Characteristics of individual such as age, sex, race, and ES Services provided.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 USC 630 et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape.

RETRIEVABILITY:

By region, state, and SSN.

SAFEGUARDS:

Routine computer precautions limiting access to authorized expenditure codes.

RETENTION AND DISPOSAL:

Files are destroyed by scratching tape every 5 years.

SYSTEM MANAGER(S) NAME AND ADDRESS:

Administrator, Office of Management Information Systems, ETA, Patrick Henry Building, 601 D St. NW., Washington, D.C. 20213.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURE:

As above.

RECORD SOURCE CATEGORIES:

All records came from the Employment Security offices in the 50 states, P.R., and D.C.

DOL/ETA–13

SYSTEM NAME:

1% Employee-Employer Sample File.

SYSTEM LOCATION:

Optimum Systems Inc., 5615 Fishers Lane, Rockville, MD 20852.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

1% of all employed persons covered by SSA in the US.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information on wages, sex, race employer, size, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 501 et seq. 26 U.S.C. 3301 et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape.

RETRIEVABILITY:

By Social Security Number and State Code.

SAFEGUARDS:

Tape libraries.

RETENTION AND DISPOSAL:

Tape is scratched every 3 years.

SYSTEM MANAGER(S) NAME AND ADDRESS:

Administrator, Office of Management Information Systems, ETA, Patrick Henry Building, 601 D St. NW, Washington, D.C. 20213.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURE:

As above.

RECORD SOURCE CATEGORIES:

Social Security Administration.

DOL/ETA–14

SYSTEM NAME:

Job Corpsmember Personnel File.

SYSTEM LOCATION:

State Employment Agencies, private contract screening agencies, Job Corps Regional Offices, Job Corps Center, Gatehouse (contract placement), and Federal Records Centers (FRC).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Job Corps trainees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Complete personnel file of each corpsmember with all pertinent papers including pay allowance, health, education, vocational training, and any correspondence or other documents relating to individual corpsmember status, assignment, promotion, discipline investigation, or course participation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Economic Opportunity Act of 1964 as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Training and work experience data to state and local agencies, county boards of assistance, potential employers and state, county, or private employment agencies.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Locked file cabinet with policy of limited access.

RETRIEVABILITY:

File retrieved only by name.

SAFEGUARDS:

Locked file cabinets with policy of very limited access.

RETENTION AND DISPOSAL:

Records are retained at JC Center until member is terminated. Records are then forwarded to an appropriate records center for eventual disposition.

SYSTEM MANAGER(S) NAME AND ADDRESS:

Administrator, Office of Job Corps, ETA, Patrick Henry Building, 601 D St., NW, Washington, D.C. 20213.

NOTIFICATION PROCEDURE:

Regional Job Corps office, or Systems manager at above address.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURE:

As above.

RECORD SOURCE CATEGORIES:

Pertinent personnel data received from various employment related sources.

DOL/ETA-15

SYSTEM NAME:

DOL/ETA Evaluation or Research Contractors Project Files.

SYSTEM LOCATION:

Individual Contractors Project Worksites.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Vary according to requirements of studies.

CATEGORIES OF RECORDS IN THE SYSTEM:

Vary according to requirements of studies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Part B, Title III, CETA, Social Security Act Sec. 441 and 906.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To provide a variety of data required by contract to researchers or evaluators to carry out the research and evaluation goals of the studies for which they are responsible. These records are used solely for statistical research or evaluation and not used in any way for making any determinaton about an identifiable individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Files are maintained by the contractors at their sites as folders, tapes, punchcards, etc., as appropriate, until the conclusion of the studies and for a limited time following a required by the ETA Systems Manager.

RETRIEVABILITY:

SAFEGUARDS:

RETENTION AND DISPOSAL:

SYSTEM MANAGER(S) NAME AND ADDRESS:

Systems Manager, Strategic Planning & Policy Dev., ETA, Patrick Henry Building, 601 D St. NW, Washington, D.C. 20213.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURE:

As above.

RECORD SOURCE CATEGORIES:

Evaluation contractors project files, research contractors project files.

DOL/ETA-16

SYSTEM NAME:

Employment and Training Administration, Investigatory File.

SYSTEM LOCATION:

Special Review Staff, ETA, Patrick Henry Building, 601 D St. NW, Washington, D.C. 20213.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants, contractors, subcontractors, grantees, private organizations and general public.

CATEGORIES OF RECORDS IN THE SYSTEM:

Resolution of investigations of allegations about criminal and civil violations, and on-going investigations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Federal, state, or local government agencies for civil, criminal, or regulatory law enforcement contracting and grant officers for award and administration of grants and contracts.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information in the system is stored in case files.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Physical security.

RETENTION AND DISPOSAL:

Retain 5 years after case is closed. The files are sent to the FRC for eventual disposition.

SYSTEM MANAGER(S) NAME AND ADDRESS:

Director, Special Review Staff, ETA, Patrick Henry Building, 601 D St. NW,Washington, D.C. 20213.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURE:

As above.

RECORD SOURCE CATEGORIES:

Program sponsors, contractors, complaints, witnesses, Federal, state, and local government records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

INVESTIGATORY PORTION OF SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

(a) Criminal law enforcement. In accordance with paragraph 3(j)(2) of the Privacy Act, information maintained in this system of files is exempt from all provisions contained in 5 U.S.C. 552a except those requirements set forth in paragraphs (b), (c)(1) and (2), (e)(4) (A) through (F), (e)(6), (7), (9), (10), and (11) and paragraph (i) of the Privacy Act. The disclosure of criminal investigatory information, if any, contained in the files, including the names of persons or agencies to whom the information has been transmitted would substantially compromise the effectiveness of any investigations. Knowledge of such investigations could enable subjects to take such action as is necessary to prevent detection of criminal activities, conceal evidence, or to escape prosecution. Disclosure of this information could lead to the intimidation of, or harm to, informants, witnesses and their respective families,

and could jeopardize the safety and well-being of investigative personnel and their families. The imposition of certain restrictions on the manner in which investigative information is collected, verified, and retained would impede significantly the effectiveness of investigatory activities, and in addition, may often preclude the apprehension and successful prosecution of persons engaged in fraud of the compensation program. (b) Other law enforcement. In accordance with paragraph 3(k)(2) of the Privacy Act, investigatory material compiled for law enforcement purposes other than material declared exempt under paragraph 3(j)(2) of the Privacy Act, which is maintained in this system's files is exempt from paragraphs (c)(3), (d), (e)(4) (G), (H), and (I), and paragraph (f) of 5 U.S.C. 552a. The disclosure of civil investigatory information, if any, contained in this system's files, including the names of persons and agencies to whom the information has been transmitted, would substantially compromise the effectiveness of investigations. Knowledge of such investigations would enable subjects to take such action as is necessary to prevent detection of illegal activities, conceal evidence, or otherwise escape civil enforcement action. Disclosure of this information could lead to the intimidation of, or harm to, informants, witnesses, and their respective families, and in addition, could jeopardize the safety and well-being of investigative personnel and their families. The imposition of certain restrictions on the manner in which investigative information is collected, verified, and retained could also impede significantly the effectiveness of investigatory activities.

DOL/ETA-18

SYSTEM NAME:

Analysis of Delayed and Never Filers for Unemployment Insurance.

SYSTEM LOCATION:

ABT Associates, Inc., Cambridge, MA.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals in employment covered by the unemployment insurance system, unemployment insurance claimants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, wage information, unemployment insurance claims information, questionnaire responses supplied by the individual, and SSN supplied by the individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 906 of the SSA, 42, USC 1106.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

When questionnaire responses have transferred to tape, questionnaires will be destroyed.

RETRIEVABILITY:

By name until merger of data sources has been completed.

SAFEGUARDS:

ABT Associates research staff have files access.

RETENTION AND DISPOSAL:

Questionnaires will be destroyed after responses have been transferred to tape. When all necessary cross references and file mergers of state agency administrative information and questionnaire data have been completed, personal identifiers will be destroyed. Data tapes provided to the Federal government will have no personal identifiers.

SYSTEM MANAGER(S) NAME AND ADDRESS:

Project Director, ABT Associates, Inc., Cambridge, MA.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURE:

As above.

RECORD SOURCE CATEGORIES:

State employment security agency quarterly wage files and unemployment insurance claim files, information voluntarily submitted by questionnaire respondents. Source of mailing addresses for nonfilers to be determined.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Under the specific exemption authority provided by 5 U.S.C. 552a(k)(4), exempting this system from the following provisions of the Privacy Act: 5 U.S.C. 552a(c), 3(d), (e)(1), (e)(4) (G), (H), (I), and (f) of the Act. The sole purpose in collecting the information contained in the system is for the preparation of a statistical report under sec. 906 of the Social Security Act. The information will not be used in whole or in part in making any determination about an identifiable individual. Identifiable information will be destroyed after all necessary cross references have been accomplished and the reulting data will be transmitted by the contractor to the Federal Agency without personal identifiers.

DOL/ETA-19

SYSTEM NAME:

Impact of Disqualifications Provisions of State Unemployment Insurance Laws.

SYSTEM LOCATION:

Stanford Research Institute, Menlo Park, CA.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Disqualified unemployment insurance claimants and unemployment insurance beneficiaries.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal and labor force characteristics of unemployment insurance claimants.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

SSA, sec. 906, 42 USC, 1106.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape.

RETRIEVABILITY:

Indexed by contractor's control number.

SAFEGUARDS:

Locked file cabinets.

RETENTION AND DISPOSAL:

Questionnaires and master file of names of respondents are destroyed after data is entered into computer.

SYSTEM MANAGER(S) NAME AND ADDRESS:

Project Director, Center for the Study of Welfare Policy, Stanford Research Institute, Menlo Park, CA.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURE:

As above.

RECORD SOURCE CATEGORIES:

State agency records containing unemployment insurance data, and data voluntarily submitted by unemployment insurance claimants.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Under the specific exemption authority provided by 5 U.S.C. 552a(k)(4), exempting this system from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4) (G), (H), (I), and (f) of the Act. The sole purpose in collecting the information contained in the system is for the preparation of a statistical report under sec. 906 of the Social Security Act. The information will not be used in whole or in part in making any determination about an identifiable individual. Indentifiable information will be destroyed after all necessary cross references have been accomplished and the resulting data will be transmitted by the contractor to the Federal Agency without personal identifiers.

DOL/ETA-20

SYSTEM NAME:

Federal Bonding Program, Bondees Certification Files.

SYSTEM LOCATION:

Punch Card Processing Co., 6875 New Hampshire Ave., Takoma Park, MD, 20012, and the McLaughlin Co., Suite 514, 2000 L St. NW, Washington, DC. 20036.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

State Job Service applicants who are eligible and need bond to get a job.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal (name, SSN, employer name), employment data, (DOT and SIC codes), employer data (address, city, State ZIP code), amount of bond (expressed in $500 units), cost of bond (expressed in units), effective date of bond, and termination date of bond.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

CETA of 1973, as amended, Title II, Part B, Sec. 211(9); and Title III, Part A, Sec. 301(b)(2).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Disk Operated System (DOS) and printout.

RETRIEVABILITY:

Assigned Bond Number.

SAFEGUARDS:

Located in locked offices of Federal, State, and private buildings.

RETENTION AND DISPOSAL:

States & Regions dispose of data 3 years and older; punch card processing keeps master DOS of all bondees prior to 1980.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Special National Level Programs, ETA, Office of Employment and Training Programs, Patrick Henry Building, 601 D St. NW, Washington, D.C. 20213.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURE:

As above.

RECORD SOURCE CATEGORIES:

Federal Bonding Program, Bondees Certification Files.

DOL/OIG-1

SYSTEM NAME:

General Investigative Files, Case Tracking Files, and Subject/Title Index, USDOL/OIG.

SYSTEM LOCATION:

In the Headquarters Office of the Inspector General, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, and in the OIG Investigative Field Offices.

CATEGORIES OF INDIVIDUAL COVERED BY THE SYSTEM:

DOL employees, applicants, contractors, subcontractors, grantees, subgrantees, claimants, individuals threatening DOL employees or the Secretary of Labor, alleged violators of Labor laws and regulations, union officers, individuals investigated and interviewed, and individuals filing claims for workers' compensation benefits under (1) the Federal Employees' Compensation Act, and amended and extended (5 U.S.C. 8101 et seq.) (except 8149 as it pertains to the Employees' Compensation Appeals Board) (2) the Longshoremen's and Harbor Workers' Compensation Act as amended and extended (33 U.S.C. 901 et seq.) (except 33 U.S.C. 912(b) as it applies to the Benefits Review Board) and (3) Title IV, Section 415 and Part C, of the Federal Coal Mine Health and Safety Act of 1969, as amended by the Black Lung Benefits Act of 1972, 30 U.S.C. 901 et seq.; individuals providing medical and other services to OWCP; employees of insurance companies and of medical and other services provided to OWCP; and other persons suspected of violations of law under the above acts and related civil and criminal provisions.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains investigative files regarding possible violations of Federal law whether civil or criminal, resolution of criminal or conduct violations, investigatory index file cards, information relating to investigations under the LMRDA–1959 and EO 11491 and information concerning possible violations of (1) the Federal Employees' Compensation Act and related Acts (2) the Longshoremen's and Harbor Workers' Compensation Act and related Acts and (3) Title IV, Section 415 and Part C, of the Federal Coal Mine Health and Safety Act of 1969, as amended by the Black Lung Benefits Act of 1972, 30 U.S.C. 901 et seq. This information may be derived from records filed with the Department of Labor, other Federal, state and local departments and agencies, court records, medical records, insurance records, records of employers, articles from publications, published financial data, corporate information, bank information, telephone data, statements of witnesses information received from Federal, state, local and foreign regulatory and law enforcement organizations and from other sources, the records also contain information obtained by DOL investigators, auditors, and other government personnel and consultants involved in investigations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

EO 11222, EO 11491, LMRDA–1959, 5 U.S.C. 301, 5 U.S.C. 8101 et seq.; 20 CFR 1.1 et seq.; 33 U.S.C. 901 et seq.; 20 CFR 701 et seq.; 36 U.S.C. 501 et seq.; 42 U.S.C. 1951 et seq.; 43 U.S.C. 1331 et seq.; 5 U.S.C. 8171 et seq.; 30 U.S.C. 901 35 et seq.; 20 CFR 715 et seq.; 20 CFR 720.1 et seq.; 20 CFR 725.1 et seq. and Pub. L. 95–452.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information may be disclosed to other Federal, state and local law enforcement

agencies for civil or criminal law enforcement, including the Justice Department regarding potential litigation and during the course of actual litigation. These records may be disclosed to other Federal agencies for hiring or retention of employees; security clearances; letting of contracts; and issuances of licenses, grants or other benefits. The records may be disclosed to participants in the President's Anti-Organized Crime Program, and also as part of any proceeding where the Federal Employees' Compensation Act and related Acts, Longshoremen's and Harbor Worker's Compensation Act and related Acts, Title IV, Section 415 and Part C, of the Federal Coal Mine Health and Safety Act of 1969, as amended by the Black Lung Benefits Act of 1972 is in issue. The records may be disclosed as part of any proceeding in which the Secretary of Labor, or any past or present Federal employee or consultant directly or indirectly involved in investigations or other enforcement activities under the above Acts, is a party or otherwise involved in an official capacity. In addition, records may also be provided to (1) the Merit Systems Protection Board, (2) the Office of Personnel Management, (3) any source from which information is requested in the course of an investigation, to the extent necessary to identify the individual being investigated, inform the source of the nature and purpose of the investigation, and to identify the type of information requested, (4) disclose, as necessary, to a contractor, subcontractor, or grantee firm of or organization to the extent that the disclosure is in USDOL's interest and is relevant and necessary in order that the contractor/subcontractor/grantee is able to take administrative or corrective action; and (5) disclose information to Federal, state or local agencies for their use in granting, amending or revoking a certification or license.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The information is maintained both as written records stored in manual case files and on 3 x 5 card files, punch cards, disc/magnetic tapes, and computer printed listings. The investigative files and indices are stored in steel file and lektriever cabinets or in Federal Records Centers (FARC). The records are maintained in limited access areas during duty hours and in locked offices at all other times.

RETRIEVABILITY:

The written case records are indexed by case number, while the file cards are indexed by subject name. The automated records are retrieved by using batch retrieval applications.

SAFEGUARDS:

Direct access is restricted to authorize staff members of the OIG. Access within DOL is limited to the Secretary, Under-Secretary, Inspector General, and other officials of employees on a need-to-know basis. Automated records can be accessed only through use of confidential procedures and passwords.

RETENTION AND DISPOSAL:

Investigative case files are retained for 15 years after completion of the investigation and/or actions based thereon, and then destroyed. Index and cross-indexed cards are retained permanently. In instances of computer matching of files, only those records which meet predetermined criteria for investigations are maintained. All records which do not meet these criteria are destroyed. All original source computer tapes are returned or destroyed once computer matching has been accomplished.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General for Investigations and Directors, OOCR Program, Office of Inspector General, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S-1303, Washington, D.C. 20210.

NOTIFICATION PROCEDURE:

Mail all inquiries to: Director of Information, Privacy & MIS, OIG, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

RECORD ACCESS PROCEDURES:

Investigatory data compiled for civil or criminal law enforcement purposes are exempt from the provisions pursuant to 5 U.S.C. 552a(j) and (k). Individuals desiring to contest or amend information maintained in the system should direct their requests to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it and the proposed amendment to the information sought.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

The information contained in this system was received from individual complaints, witnesses, interviews conducted during investigations, respondents, Federal, state and local government records, individual or company records, claim and payment files, employees, insurers, service providers, grantees, subgrantees, contractors and subcontractors.

CONTESTING RECORD PROCEDURES:

Same as above.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

a. Criminal Law Enforcement: In accordance with paragraph 3(j)(2) of the Privacy Act, information maintained in the files of the Office of Inspector General is exempt from all provisions contained in 5 U.S.C. 552a except those requirements set forth in paragraphs (b), (c) (1) and (2), (e)(4) (A) through (F), (e) (6), (7), (9), (10) and (11), and paragraph (i) of the Act. A function of OIG is that of enforcement of criminal laws within (1) the meaning of 5 U.S.C. 552a(j)(2), and (2) the provisions of the President's Anti-Organized Crime Program and Titles II, V, and VI of the Labor-Management Reporting and Disclosure Act of 1959; as amended. The disclosure of information contained in the criminal investigative files, including the names of persons or agencies to whom the information has been transmitted, would substantially compromise the effectiveness of OIG investigations. Knowledge of such investigations could enable suspects to take such action as is necessary to prevent detection of criminal activities, conceal evidence, or to escape prosecution. Disclosure of this information could lead to the intimidation of, or harm to, informants, witnesses, and their respective families, and could jeopardize the safety and well-being of investigative personnel and their families. This imposition of certain restrictions on the manner in which investigative information is collected, verified or retained would impede significantly the effectiveness of OIG investigatory activities and in addition, may preclude the apprehension and successful prosecution of persons engaged in fraud or criminal activity.

b. Other Law Enforcement: In accordance with paragraph 3(k)(2) of the Privacy Act, investigatory material compiled for law enforcement purposes other than material declared exempt under paragraph 3(j)(2) of the Act, including certain material compiled from reciprocal investigations, which is maintained in OIG investigative files is exempt from paragraphs (c)(3), (d), (e)(4) (G), (H) and (I), and (f) of 5 U.S.C. 552a, until such time as a determination is made based upon such information. The disclosure of information contained in

civil investigative files, including names of persons and agencies to whom the information has been transmitted would substantially compromise the effectiveness of OIG investigations. Knowledge of such investigations would enable subjects to take such action as is necessary to prevent detection of illegal activities, conceal evidence, or otherwise escape civil enforcement action. Disclosure of this information could lead to the intimidation of, or harm to informants, witnessess, and their respective families, and in addition, could jeopardize the safety and well-being of investigative personnel and their families. The imposition of certain restrictions on the manner in which investigative information is collected, verified, and retained would also impede significantly the effectiveness of OIG investigatory activities.

c. Protective service: In accordance with paragraph 3(k)(3) of the Act, OIG investigatory material maintained in connection with assisting the U.S. Secret Service (USSS) to provide protective service to the President of the United States or other individuals pursuant to Section 3056 of Title 18 is exempt from paragraph (c)(3), (d), (e)(4) (G), (H), and (I) and paragraph (f) of the Act. This exemption will enable OIG to continue its support of the U.S. Secret Service without compromising the effectiveness of either agency's activities.

d. Contract Investigations: In accordance with paragraph 3(k)(5) of the Act, investigatory material compiled in connection with contract investigations solely for the purpose of determining integrity, suitability, eligibility, or qualifications for a DOL contract is exempt from paragraphs (c)(3), (d) and (f) of the Act to the extent that disclosure of such material would reveal the identity of a confidential source when an express promise has been given to withhold the identity of the source (or prior to September 27, 1975, under an implied promise that the sources identity would not be revealed). This exemption is necessary for OIG to collect information from certain sources who would otherwise be unwilling to provide information necessary to conduct such investigations.

DOL/OIG-2

SYSTEM NAME:

Freedom of Information/Privacy Acts Records.

SYSTEM LOCATION:

Freedom of Information/Privacy Acts Disclosure Officer, Office of Inspector General, 200 Constitution Avenue, N.W., Room S–5512, Washington, D.C. 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who request disclosure of records pursuant to the Freedom of Information Act, persons who request access to or correction of records pertaining to themselves contained in the Office of Inspector General's systems of records pursuant to the Privacy Act; and, where applicable, persons about whom records have been requested or about whom information is contained in requested records.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains (1) copies of all correspondence and internal memorandums related to the Freedom of information Act and Privacy Act requests, and related records necessary to the processing of such requests; (2) copies of all documents relevant to appeals and lawsuits under the Freedom of Information and Privacy Acts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Freedom of Information Act, 5 U.S.C. 552, and the Privacy Act, 5 U.S.C. 552a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system may be disseminated as a routine use of such records as follows: (1) a record may be disseminated to a Federal agency which furnished the record for the purposes of permitting a decision as to access or correction to be made by that agency, or for the purpose of consulting with that agency as to the propriety of access or correction; (2) a record may be disseminated to any appropriate Federal, state, local, foreign agency for the purpose of verifying the accuracy of information submitted by an individual who has requested amendment or correction of records contained in the systems of records maintained by the Freedom of Information/Privacy Acts Disclosure Officer; and (3) a record from this system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authoirty of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records in this sytem are maintained in standard case file folders and in corresponding control log/cards.

RETRIEVABILITY:

A record is retrieved by the name of the individual or person making a request for access or correction of records.

SAFEGUARDS:

This system of records is maintained at OIG Headquarters which is protected by twenty-four hour guard service. In addition, the systme is stored in Conserva-File(s) and Safe(s) and access is restricted to the staff of the Freedom of Information/Privacy Acts Disclosure Officer on a need-to-know basis.

RETENTION AND DISPOSAL:

Individual case files are disposed of in accordance with General Records Schedule 14, items 16–25.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Information, Privacy and Management Information Systems, Office of Inspector General, 200 Constitution Avenue, N.W., Room S–5512, Washington, D.C. 20210.

NOTIFICATION PROCEDURE:

A part of this system is exempted from this requirement under 5 U.S.C. 552a (j) or (k). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request is received by the Office of Inspector General, 200 Constitution Avenue, N.W., Washington, D.C. 20210. A request shall be made in writing, with envelope and the letter clearly marked "Privacy Request".

RECORD ACCESS PROCEDURES:

Same as Notification Procedures above.

CONTESTING RECORD PROCEDURES:

Same as Notification Procedures above except individuals desiring to contest or amend information maintained in the system should direct their written request to the System Manager listed above, and state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system are the individuals and persons making requests, the systems of records searched in the process of responding to requests, and other agencies referring requests for access or correction of records originating in the Office of Inspector General.

USDOL/OIG–3

SYSTEM NAME:

Case Development Records.

SYSTEM LOCATION:

In the Headquarters Office(s) in the USDOL Building, 200 Constitution Avenue; N.W., Washington, D.C. 20210 and in the OIG offices listed in the System of Records designated USDOL/OIG–1.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Known individuals or individuals suspected of being involved in Organized Crime Labor Racketeering and Informants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records containing names, individuals, occupations, other information about known individuals or individuals suspected of being involved in Organized Crime Labor Racketeering, their business dealings and allegations against them; and types of information previously furnished by or to be expected from informants.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine uses for law enforcement purposes will include referral to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting a violation of law or of enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto, of any record within this system when information available indicates a violation of law or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by rule, regulation, or order issued pursuant thereto.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Stored on sheets of papers/index cards and or computer disos or tapes.

RETRIEVABILITY:

Retrievable by name of individual subject.

SAFEGUARDS:

Available on an official need-to-know basis and kept in locked storage when not in use.

RETENTION AND DISPOSAL:

Kept indefinitely and continually updated.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Organized Crime and Labor Racketeering Directors, OIG/DOL, Washington, D.C. 20210. Inquiries and requests should be addressed to: Director of Information, Privacy and Management Information Systems, USDOL, Office of Inspector General, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been exempted from the provisions of sections (c) (3), (4), (d), (e) (1), (2) and (3), (e)(4) (G), (H), (e)(5) and (8)–(f), and (h) pursuant to 5 U.S.C. 552a (j) and (k), as investigatory material compiled for law enforcement purposes.

DOL/OIG–4

SYSTEM NAME:

Temporary Matching Files, Loss Analysis Files.

SYSTEM LOCATION:

Office of the Inspector General, U.S. Department of Labor, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DOL employees, contractors, subcontractors, union officials, and those individuals or organizations filing for or receiving benefits from a program funded or operated in whole or in part by the Department of Labor—including grantees, subgrantees, claimants, representatives, beneficiaries and their dependents, providers of medical, legal or other services.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain information which may be pertinent to the possible illegal or questionable practices of individuals or organizations as regards their connection with the Department of Labor. This information may be derived from records filed with or compiled by the Department of Labor or other Federal, state or local government agencies, records of contractors, subcontractors, grantees, subgrantees, records of employers, records of employee organizations, court records, medical records, insurance records, published data, corporate data, bank data, or information obtained from individuals with pertinent knowledge.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC 301 and 5 USC 552a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

These records may be disclosed to other Federal agencies for hiring or retention of employees; security clearances; letting of contracts; and issuances of licenses, grants or other benefits.

In the event that a system of records maintained by this agency indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute or by regulation, rule or order issued pursuant thereto, the relevant records may be referred to the appropriate agency, whether Federal, state or local, charged with the responsibility of investigating, enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

Disclosure may be made as necessary to a Federal, state, or local government agency, to a government contractor, subcontractor or grantee, to labor unions and insurance carriers or to a provider of medical or other services to the extent that the disclosure is necessary in order that the appropriate organization may take administrative or corrective action to improve program integrity.

Disclosure may be made to the Congress when the appropriate Departmental official determines that the information may be relevant to the deliberations of Congress.

A record from this system may be disclosed as a "routine use" to a Federal, state or local agency maintaining pertinent records if necessary to obtain a record relevant to a Department decision concerning the

determination of initial or continuing eligibility for program benefits.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are stored on computer disks/tapes and computer printed listings.

RETRIEVABILITY:

The records in this system are retrieved by computer and manually using name, social security number or other personal identifier.

SAFEGUARDS:

Direct access is restricted to authorized staff members of the OIG. Access within DOL is limited to the Secretary, Under Secretary, Inspector General and other officials or employees on a need-to-know basis. Automated records can be accessed only through use of confidential procedures and passwords.

RETENTION AND DISPOSAL:

Original source date will be maintained for a maximum of three years and will then be either returned or destroyed. For internally generated data, only those records which meet predetermined criteria will be maintained. Records which do not meet those criteria will be destroyed. At the minimum, records retention periods will meet the specifications of USDOL records schedules.

SYSTEM MANAGER AND ADDRESS:

Director, Office of Loss Analysis and Prevention, Office of Inspector General, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Inquiries and requests should be addressed to Director of Information, Privacy and Management Information Systems, USDOL, Office of the Inspector General, 200 Constitution Avenue, N.W. Washington, D.C. 20210.

RECORD SOURCE CATEGORIES:

Information contained in this system is obtained from Federal, state and local government records, individual or company records, industrial or trade union records, employees, insurers, service providers, grantees, subgrantees, contractors, subcontractors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been exempted from the provisions of section (c)(3), (d), (e)(1), (e)(2), (e)(3), (e)(4) (G), (H), and (I) and (f) pursuant to 5 U.S.C. 552a(j)(k).

DIK/OIG-5

SYSTEM NAME:

Investigative Case Tracking System/ Audit Tracking System, USDOL/OIG.

SYSTEM LOCATION:

Office of Inspector General, U.S. Department of Labor, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210 and Regional Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Auditors, investigators and certain administrative support staff assigned to the Office of Inspector General.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records or information contained in the system may include: (1) Individual's name; (2) Social Security Number; (3) grade/step; (4) training; (5) details; (6) audit and investigative case tracking data (e.g. audit/investigative case number, program, findings, results, etc.) on audits/investigations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 95–452.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Stored on magnetic disks with backup records on magnetic tape. Records are also stored on computer print-outs and manual source document(s).

RETRIEVABILITY:

Records are retrieved by computer using individual name(s).

SAFEGUARDS:

Direct access is restricted to authorized staff members of the OIG. Automated records can be accessed only through use of confidential procedures and passwords by authorized personnel in both OIG Headquarters and Regional Offices.

RETENTION AND DISPOSAL:

Records will be maintained and disposed of in accordance with records disposition authority approved by the Archivist of the United States.

SYSTEM MANAGER(S) AND ADDRESS:

ICTS—Assistant Inspector General—Investigations, Room S–5512, FPB, 200 Constitution Avenue, NW., Washington, D.C. 20210.

ATS—Assistant Inspector General—Audit, Room S–5030, FPB, 200 Constitution Avenue, NW., Washington, D.C. 20210.

NOTIFICATION PROCEDURE:

Individuals seeking information concerning the existence of records or the contents of records on himself/herself must furnish a written request to the OIG Disclosure Officer, Room S–1303, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

RECORDS ACCESS PROCEDURE:

(See notification procedure above).

CONTESTING RECORDS PROCEDURES:

(See notification procedure above).

RECORDS SOURCE CATEGORIES:

Official personnel folders; other personnel documents; activity supervisors; audit/investigation report standard forms.

DOL/LMSA-1

SYSTEM NAME:

LMSE index cards and case files, Division of Compliance and Enforcement

SYSTEM LOCATION:

U.S. Department of Labor, 200 Constitution Avenue, N.W., Room N–5101, Washington, D.C. 20216, all Area Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Union Officers, individuals investigated, and individuals interviewed.

CATEGORIES OF RECORDS IN THE SYSTEM:

Primarily investigative material relating to investigations under the LMRDA–1959 and CSRA.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information is disclosed to other Federal, state and local law enforcement agencies, to various congressional committees, including but not limited to reports of investigation, reports of interview and memoranda relating to investigations, and intelligence information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual file.

RETRIEVABILITY:

By name of individual.

SAFEGUARDS:

Cards are in roladex machine which is locked at night. In addition, cards are number-coded so that only an authorized employee can find a desired file.

RETENTION AND DISPOSAL:

Cards will be retained by LMSE until they can be incorporated into the LMSE records disposiffon schedule. Files are kept for three years, at which time they are sent to Federal records Center for two years after which except for those records with historical value are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Dircetor, LMSE, U.S. Department of Labor, 200 Constitution Avenue, Room N5408, Washington, D.C. 20216.

NOTIFICATION PROCEDURE:

Mail all inquiries to Systems Manager at above address.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURES:

As above.

RECORD SOURCE CATEGORIES:

Information compiled from interviews conducted during investigations, written complaints, and written reports received from other agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

a. Criminal law enforcement: In accordance with paragraph 3(j)(2) of the Privacy Act, information maintained in the system of records consisting of the card index and case files in the Division of Compliance and Enforcement of the Office of Labor-Management Standards Enforcement which relates to criminal investigtions is exempt from all provisions contained in 5 U.S.C. 552a except those requirements set forth in paragraphs (b), (c) (1) and (2), (e)(4) (A) through (F), (e) (6), (7), (9), (10) and (11), and paragraph (i) of the Act. One of the three branches in the Division of Compliance and Enforcement perform activities primarily relating to the enforcement of criminal laws and Titles II, V, and VI of the Labor-Management Reporting and Disclosure Act of 1959, as amended. The disclosure of information contained in the criminal investigative files, including the names of persons or agencies to whom the information has been transmitted, would substantially compromise the effectiveness of the Division's investigations. Knowledge of such investigations could enable subjects to take such action as is necessary to prevent detection of criminal activities, conceal evidence, or to escape prosecution. Disclosure of this information could lead to the intimidation of, or harm to, informants, witnesses and their respective families, and could jeopardize the safety and well-being of investigative personnel and their families. The imposition of certain restrictions on the manner in which investigative information is collected, verified, or retained would impede significantly the effectiveness of the Division's investigatory activities and in addition, may often preclude the apprehension and successful prosecution of persons engaged in criminal activity in the labor-management area b. Other law enforcement: In accordance with paragraph 3(k)(2) of the Privacy Act, investigatory material compiled for law enforcement purposes other than material declared exempt under paragrpah 3(j)(2) of the Act, which is maintained in the card index and case files of the Division of Compliance and Enforcement of the Office of Labor-Management Standards Enforcement is exempt from paragraphs (c)(3), (d), (e)(4) (G), (H) and (I), and paragraph (f) of 5 U.S.C. 552a. The disclosure of information contained in civil investigative files, including the names of person or agencies to whom the information has been transmitted, would substantially compromise the effectiveness of the Division's investigations. Knowledge of such investigations would enable subjects to take such action as is necessary to prevent detection of illegal activities, conceal evidence, or otherwise escape civil enforcement action. Disclosure of this information could lead to the intimidation of, or harm to, informants, witnesses, and their respective families, and, in addition, could jeopardize the safety and well-being of investigative personnel and their families. The imposition of certain restrictions on the manner in which investigative information is collected, verified, or retained would also impede significantly the effectiveness of the Division's investigatory activities.

DOL/LMSA–3

SYSTEM NAME:

OVRR Inquiry files.

SYSTEM LOCATION:

U.S. Department of Labor, 200 Constitution Avenue, NW., Room N5414, Washington, D.C. 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Veterans, Reservists and members of the National Guard of the U.S. Armed Forces, labor organizations and Congressmen.

CATEGORIES OF RECORDS IN THE SYSTEM:

General inquiries and inquiries involving pending cases pertaining to military service, training, employment, personal, medical, financial, educational or union membership information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Chapter 43 of Title 38, U.S. Code and predecessor statutes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Referral to other agencies and organizations for appropriate action.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files.

RETRIEVABILITY:

By name of veteran and geographical location.

SAFEGUARDS:

Any request for disclosure is screened by Office Director.

RETENTION AND DISPOSAL:

Records are maintained for 3 years in National Office and then transferred to Federal Record Center where they are retained for 7 years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, OVRR, 200 Constitution Avenue, NW., Room N5414, Washington, D.C. 20210.

NOTIFICATION PROCEDURES:

As above.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURES:

As above.

RECORD SOURCE CATEGORIES:

Correspondent.

DOL/LMSA–4

SYSTEM NAME:

PWBP—Office of Enforcement Index Card File.

SYSTEM LOCATION:

U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–4716, Washington, D.C. 20216.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Plan administrators, trustees, and those individuals providing advice or services to the plan and other individuals involved in investigations and enforcement actions instituted by the Department of Labor under the Employee Retirement Income Security Act of 1974.

CATEGORIES OF RECORDS MAINTAINED IN THE SYSTEM:

Information including plan name, plan administrator's name, service provider name, trustees and plan participant or beneficiary's name.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The index cards are used to access case files and correspondence files which may in turn be used for the following purposes:

1. By Department of Justice, Treasury Department, Commerce Department and other Federal government personnel and consultants investigating possible violations of the Employee Retirement Income Security Act of 1974.

2. In any proceeding where the Employee Retirement Income Security Act of 1974 is in issue or in which the Secretary of Labor, any past or present Federal employee or consultant directly or indirectly involved in investigations or other enforcement activities under the Employee Retirement Income Security Act of 1974, is a party or otherwise involved in an official capacity.

3. When considered appropriate and pursuant to 29 U.S.C. 1134(a), records in this system concerning any matter which is the subject of an investigation by the Department of Labor under the Employee Retirement Income Security Act of 1974 may be available to any person actually affected by the matter under investigation, and to any department or agency of the United States.

4. Where there is an indication of a violation or potential violations of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, or, if such agency is participating in the particular investigation, the relevant records may continue to be used by the agency to investigate possible violations of the laws administered by it and to bring appropriate proceedings.

5. A record from this system of records may be disclosed to a Federal, State, local or foreign governmental authority, in response to its request in the connection with the hiring or retention of an employee, in the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or benefit by the requesting to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

3 x 5 index cards.

RETRIEVABILITY:

Retrieved by name of plan, participant or beneficiary's name, service provider name, and/or trustee name. All cards are filed alphabetically.

SAFEGUARDS:

Access to and use of these records is limited to those persons whose official duties require access.

RETENTION AND DISPOSAL:

Records will be retained by PWBP until they can be incorporated into the PWBP records disposition schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Administrator, Pension and Welfare Benefit Programs, Department of Labor, LMSA, 200 Constitution Avenue, N.W., Room S–4522, Washington, D.C. 20216.

NOTIFICATION PROCEDURES:

Request should be submitted to above address, it should include the name, address and employee benefit plan association, identifying the employee benefit plan by name, address and EIN (if known).

RECORD ACCESS PROCEDURE:

As above.

CONTESTING RECORD PROCEDURE:

As above.

RECORD SOURCE CATEGORIES:

Cases opened in the Office of Enforcement or in any of the field offices of LMSA and other material and documents received in the Office of Enforcement.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Other Law Enforcement. In accordance with subsection (k)(2) of the Privacy Act, any investigatory material maintained in the index and investigatory files of the Office of Enforcement, Pension and Welfare Benefit Programs, which is deemed not to be exempt under sub-section (j)(2) of the Act is exempt from subsection (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I) and (F) of 5 U.S.C. 552a. The disclosure of information contained in such investigative files including the names of persons or agencies to whom the information has been transmitted, would substantially compromise the effectiveness of the subject investigative activity. Knowledge of such investigations would enable subjects to take such action as is necessary to prevent detection of illegal activities, conceal evidence, or otherwise escape enforcement action. Disclosure of this information could lead to the intimidation of, or harm to, informants, witnesses and their respective families, and in addition, could jeopardize the safety and well-being of investigative personnel and their families. The imposition of certain restrictions on the manner in which investigative information is collected, verified, or retained would also impede significantly the effectiveness of the investigatory activities of the Office of Enforcement.

Material relating to criminal law enforcement [(j)(2)] is exempted from the provisions of the Act except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10) and (11) and paragraph (i) of the Act. Disclosure of this material could enable the subject of the record to evade prosecution and could, in addition, jeopardize the safety and welfare of investigators, witnesses, informants and their respective families.

DOL/LMSA–5

SYSTEM NAME:

Executive Secretary/Advisory Council on Employee Welfare and Pension Benefit Plans.

SYSTEM LOCATION:

U.S. Department of Labor, 200 Constitution Avenue, NW., Room S4522, Washington, D.C. 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Private persons who are members or have been recommended for appointment to the Advisory Council on Employee Welfare and Pension Benefit Plans.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical and personal data, background files on members and proposed members.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 512, Title I, Employee Retirement Income Security Act of 1974.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Material used to a limited extent by other agencies within the Executive Branch of the U.S. Government.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

RETRIEVABILITY:

Filed alphabetically by names, manually retrievable.

SAFEGUARDS:

Maintained by Executive Secretary of the Advisory Council, available or accessible only to limited Executive Staff members of LMSA and O/Secy.

RETENTION AND DISPOSAL:

Remove from active file upon termination of individuals membership, hold three years, then destroy.

SYSTEM MANAGER(S) AND ADDRESS:

Administrator, Pension and Welfare Benefit Plans, Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

NOTIFICATION PROCEDURES:

Request should be submitted to above address.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURES:

As above.

RECORD SOURCE CATEGORIES:

Primarily from the individual concerned, although in some instances from groups or entities making recommendations for Council membership.

DOL/LMSA-6

SYSTEM NAME:

Labor-Management Relations-Inquiries from congressmen and private citizens.

SYSTEM LOCATION:

U.S. Department of Labor, Room S2203, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Congressmen, Senators, and general public.

CATEGORIES OF RECORDS IN THE SYSTEM:

General inquiries regarding pension benefits, unfair labor practice complaints, violations of standards of conduct for labor organizations, employee protection under UMTA, strike force activities, veterans reemployment rights, and policy advice and research on labor-management relations problems.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Employee Retirement Income Security Act of 1974—Labor Management Reporting & Disclosure Act of 1959, Civil Service Reform Act: Vietnam Era Veterans Readjustment Assistance Act of 1974.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in File Cabinets.

RETRIEVABILITY:

Indexed alphabetically by name.

SAFEGUARDS:

Access limited to Assistant Secretary's staff.

RETENTION AND DISPOSAL:

Records are retained one year after the Assistant Secretary retires, and then records are retired to the National Archives.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Secretary for Labor-Management Relations, Room S2203, 200 Constitution Avenue, N.W., Washington D.C. 20210.

NOTIFICATION PROCEDURE:

As above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Congressional and Public correspondence.

DOL/LMSA-7

SYSTEM NAME:

Veterans' Reemployment Rights Complaint File.

SYSTEM LOCATION:

LMSA Area offices, LMSA Regional offices, OVRR National Offices, Regional Solicitors' offices, National Solicitor's office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Veterans of or rejectees from military service or reservists/National Guardsmen.

CATEGORIES OF RECORDS IN THE SYSTEM:

Military service, medical employment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

38 U.S.C. 2021 et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Sent to Department of Justice, United States Attorneys.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual.

RETRIEVABILITY:

Name.

SAFEGUARDS:

Locked Room and locked Cabinets.

RETENTION AND DISPOSAL:

Records will be retained by OVRR until incorporated into the OVRR records disposition schedule.

SYSTEM MANAGER(S) AND ADDRESS:

U.S. Department of Labor, Office of Veterans Reemployment Rights, Room N5414, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

NOTIFICATION PROCEDURES:

As above.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURES:

As above.

RECORD SOURCE CATEGORIES:

Veterans, employees, Department of Defense, Veterans Administration, physicians, fellow employees, union officers.

DOL-LMSA-19

SYSTEM NAME:

Private Pension Plan Benefit Payments.

SYSTEM LOCATION:

U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Retirees, Terminated Employees and Beneficiaries.

CATEGORIES OF RECORDS IN THE SYSTEM:

Data collected in field survey and transferred into magnetic tape and linked to social security records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Chapter 43 of Title 38, United States Code and predecessor statutes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape.

RETRIEVABILITY:

Indexed by social security number. After matching retrievable with no individual identifications.

SAFEGUARDS:

Tapes and other documents containing the personal information are to be accessible only to personnel working to create the data base. Materials are not to be used for any other purpose. Individual identifiers are to be removed from magnetic tapes upon completion of matching.

RETENTION AND DISPOSAL:

Records will be retained by PWBP until they can be incorporated into the PWBP records disposition schedule.

SYSTEMS MANAGER(S) AND ADDRESS:

Assistant Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURES:

As above.

RECORD SOURCE CATEGORIES:

Pension plan records of private pension plan administrators.

DOL/LMSA-20

SYSTEM NAME:

LMSA, Division of Employee Protection.

SYSTEM LOCATION:

U.S. Department of Labor, 200 Constitution Avenue, N.W., Room N-5677, Washington, D.C. 20216.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Redwood Employee Protection Program Applicants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Financial, medical, and personal information concerning applicant.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. Law 95-250.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information can be shared with the following agencies: California Economic Development Department; all participating and non-participating Health & Welfare Trusts, Administrators, and Pension Insurance Carriers; prospective employers of affected employees, and other interested parties.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Legal and letter size folders.

RETRIEVABILITY:

Filed manually, alphabetically.

SAFEGUARDS:

Maintained in National Office of LMSA, accessible to program personnel only.

RETENTION AND DISPOSAL:

Records will be retained by LMRS until they can be incorporated into the LMRS records disposition schedule.

SYSTEMS MANAGER(S) AND ADDRESS:

Program Officer, Redwood Program, U.S. Department of Labor, LMSA, 200 Constitution Avenue, N.W., Room N-5677, Washington, D.C. 20216.

NOTIFICATION PROCEDURES:

Address as above.

RECORD ACCESS PROCEDURES:

Written requests should be submitted to: Disclosure Officer, Room N-5677, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

CONTESTING RECORD PROCEDURES:

See "Record access procedures".

RECORD SOURCE CATEGORIES:

Individual applicants, employer health and welfare trusts, California Economic Development Department.

DOL/LMSA-21

SYSTEM NAME:

ERISA Coverage Correspondence Files.

SYSTEM LOCATION:

Room N-4472, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons addressing inquires to the Department regarding ERISA coverage.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Employee Retirement Income Security Act of 1974.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Limited to Division if Coverage staff.

RETENTION AND DISPOSAL:

Records will be retained by PWBP until they can be incorporated into the PWBP records disposition schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Avenue, N.W., Washington, D.C. 20216.

NOTIFICATION PROCEDURES:

As above.

RECORD ACCESS PROCEDURES:

As above.

RECORD SOURCE CATEGORIES:

Correspondence from individuals and responses thereto.

DOL/LMSA-22

SYSTEM NAME:

PWBP—Office of Reporting and Plan Standards—Division of Collective Bargaining Correspondence Files.

SYSTEM LOCATION:

U.S. Department of Labor, 200 Constitution Avenue, N.W., Room N-4461, Washington, D.C. 20216.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The general public.

CATEGORIES OF RECORDS IN THE SYSTEM:

Letters from the general public raising issues such as the propriety of the suspension of pension benefits, the Department's replies thereto, notes regarding research on the issues posed, and memoranda regarding discussions at meetings and in telephone calls.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Employee Retirement Income Security Act of 1974.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders in file cabinets.

RETRIEVABILITY:

Files are indexed alphabetically by name of correspondent.

ACCESS CONTROLS:

Access to and use of these records are limited to those staff members of PWBP whose official duties require access.

RETENTION AND DISPOSAL:

Records will be retained by PWBP until they can be incorporated into the PWBP records disposition schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Administrator, Pension and Welfare Benefit Programs, Department of Labor, LMSA, Room S-4522, Washington, D.C. 20216.

RECORD ACCESS PROCEDURES:

All requests must be in writing and either mailed or, if presented in person, presented during the Department's normal working hours and all requests should give name and be directed to the Systems Manager.

CONTESTING RECORD PROCEDURES:

Mail or present in writing all statements contesting records to the System Manager. Give name.

RECORD SOURCE CATEGORIES:

Public correspondence.

DOL/LMSA-23

SYSTEM NAME:

Pension and Welfare Benefits Program—Inquiries from congressmen, senators and private citizens.

SYSTEM LOCATION:

U.S. Department of Labor, Room N-5459, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Congressmen, senators and general public.

CATEGORIES OF RECORDS IN THE SYSTEM:

General inquiries and responses from the Department regarding all aspects of pension and welfare benefit plans and the status of individuals under these plans.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Employee Retirement Income Security Act of 1974, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file cabinets and boxes.

RETRIEVABILITY:

Inquiries from congressmen and senators are indexed first alphabetically by last name of congressman or senator, then alphabetically by last name of constituent. Inquiries from private individuals are indexed alphabetically by last name.

SAFEGUARDS:

Access limited to staff of Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

RETENTION AND DISPOSAL:

Currently files are maintained for period extending from September, 1974 to present. Records will be retained by PWBP until they can be incorporated into the PWBP records disposition schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor, Room S-4522, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Congressional and public corresondence.

LABOR/MSHA-1

SYSTEM NAME:

Coal and Metal and Nonmetal Mine Accident and Injury.

SYSTEM LOCATION:

Health and Safety Analysis Center, Technical Support Center, 730 Simms Street, Lakewood, Colorado 80215.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual workers in the coal and metal and nonmetal mining industries.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain accident, injury, fatality, and occupational illness data which includes the accident or injury, place of accident or injury, man-hours worked, name of mine and mine identification number and type and cause of accident, injury, or illness.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 103 of Pub. L. 91-173 as amended by Pub. L. 95-164, 30 U.S.C. 813.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are (a) to determine probable cause of accidents, injuries, and illnesses and (b) to provide a statistical analytic data base for allocation of MSHA and other resources to reduce occupational injuries and illnesses. Disclosures outside the Department of Labor may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation of or for enforcing or implementing a statute,

rule, regulation, order or license; (3) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual—in file folders, Computer—disk pack.

RETRIEVABILITY:

Indexed by mine identification number, name of mine, individual's name and social security number. Retrieved by manual search; frequently used information maintained on computer printouts.

SAFEGUARDS:

Computer—In accordance with the National Bureau of Standards publication "Computer Security Guidelines for Implementing the Privacy Act of 1974". Manual—File cabinets. During working hours records are accessible only to authorized personnel.

RETENTION AND DISPOSAL:

Source documents are retained for up to three years and then transferred to Federal Records Center. Tapes are retained indefinitely for historical purposes. Microfilm records are held for five years and then disposed of.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Health and Safety Analysis Center, 730 Simms Street, Lakewood, Colorado 80215.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him is required.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURES:

As above.

RECORD SOURCE CATEGORIES:

Information in these records is obtained from accident, injury, illness and fatality reports submitted by mine operators.

LABOR/MSHA-3

SYSTEM NAME:

Metal and Nonmetal Mine Safety and Health Management Information System.

SYSTEM LOCATION:

(1) Office of the Administrator for Metal and Nonmetal Mine Safety and Health, U.S. Department of Labor, 4015 Wilson Blvd., Arlington, Virginia 22203. (2) Substantially all Metal and Nonmetal Mine Safety and Health Offices listed in the appendix. (See appendix for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual metal and nonmetal miners who are covered by the Federal Mine Safety and Health Act of 1977, Pub. L. 91–173 as amended by Pub. L. 95–164; MSHA personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains records on metal and nonmetal mine safety and health activities which include annual manpower and activity plans, mine and mill locations, metal and nonmetal mine inspection personnel time and activity, inspections, citations and orders against operators, personal exposure data on personal exposure of miners and MSHA personnel to radiation, dust, noise and other contaminants, and comprehensive health surveys on individual operations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 91–173 as amended by Pub. L. 95–164, 30 U.S.C. 801 et seq.; 29 U.S.C. 668.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are (a) to determine the workload work scheduling and peformance of mine inspection personnel; (b) to maintain records on violations of health and safety standards and regulations; (c) to determine contaminant exposure level; (d) to maintain employment data relative to metal and nonmetal mine workers, e.g., number of workers, etc. Disclosure outside the Department of Labor may be made (1) to the National Institute of Occupational Safety and Health and the Environmental Protection Agency; (2) to state agencies; (3) to unions and company officials; (4) to the U.S. Department of Justice when related to litigation or anticipated litigation; and (5) to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation of or for enforcing or implementing a statute, rule, regulation, order or license.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer—Information from source documents to punch cards to disk storage for processing, final storage on magnetic tape. Manual—8x10½ inch report forms in standard file cabinets.

RETRIEVABILITY:

Computerized and manual records are indexed by mine identification number for operators and by Authorized Representative number for individuals.

SAFEGUARDS:

Computer—In accordance with the National Bureau of Standards Publication Computer Security Guidelines for implementing the Privacy Act of 1974. Manual—Locked file cabinets. During working hours records are accessible only to authorized personnel.

RETENTION AND DISPOSAL:

Computer tapes are updated annually and retained indefinitely. Source documents are retained for 2 years then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Administrative Officer, Metal and Nonmetal Mine Safety and Health, 4015 Wilson Blvd., Arlington, Virginia 22203.

NOTIFICATION PROCEDURES:

Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him is required.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURES:

As above.

RECORD SOURCE CATEGORIES:

MSHA inspection personnel and individual mine operators submit reports and information in accordance with prescribed procedures.

LABOR/MSHA-10

SYSTEM NAME:

Discrimination Investigations.

SYSTEM LOCATION:

Office of the Administrator for Coal Mine Safety and Health, and the Office of the Administrator for Metal and Nonmetal Mine Safety and Health, Mine Safety and Health Administration, U.S. Department of Labor, 4015 Wilson Boulevard, Arlington, Virginia 22203 and

some Coal and Metal and Nonmetal Mine Safety and Health Field Offices (see appendix for addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals alleged to have been discriminated against in violation of the Federal Mine Safety and Health Act of 1977 and the Coal Mine Health and Safety Act of 1969.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains name, address, telephone number, social security number, occupation, place of employment, and other identifying data along with the type of allegation. This material includes interviews and other confidential data gathered by the investigator.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Investigations conducted pursuant to section 105(c) of Pub. L. 91–173 as amended by Pub. L. 95–164, 30 U.S.C. 815(c).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are (a) to determine validity of allegations and (b) to determine the amount of civil penalty assessments against individuals and operators. Disclosures outside of the Department of Labor may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation of or enforcing or implementing a statute, rule, regulation, order or license, (3) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; and (4) to Federal, State, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual: In manila file folders.

RETRIEVABILITY:

Filed by docket and status of case, indexed by name of mine, docket number, and date of receipt. Retrieved by manual search.

SAFEGUARDS:

Maintained in locked file cabinets. Accessed only by authorized personnel.

RETENTION AND DISPOSAL:

Retained for 5 years then transferred to Federal Records Center. Destroyed after ten years.

SYSTEM MANAGER(S) AND ADDRESS:

Administrator for Coal Mine Safety and Health, Ballston Towers No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203; Administrator for Metal and Nonmetal Mine Safety and Health, same address as above.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him is required.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURES:

As above.

RECORD SOURCE CATEGORIES:

Individual complainants, witnesses, respondents, Federal, State and local government records, and individual or company records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Under section 3(k)(2) of the Privacy Act, 5 U.S.C. 552a(k)(2), investigatory material compiled for law enforcement purposes which is maintained in the Discrimination Investigations system is exempt from the following provisions: 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4) (G), (H) and (I), and (f) of the Privacy Act, and the portions of 29 CFR Part 70a which implement those provisions.

LABOR/MSHA–12

SYSTEM NAME:

Property Control.

SYSTEM LOCATION:

(1) Chief, Division of Management Services, Mine Safety and Health Administration, 4015 Wilson Blvd., Arlington, Virginia 22203, (2) Substantially all field offices listed in the appendix.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have responsibility for MSHA property, who have reserved parking spaces assigned, or who have submitted invention reports and all records directly related to property control functions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains information indicating what property, including equipment, application for motor vehicle operator's license, keys, motor pool vehicles, requests for assignment of carpool or reserved parking spaces, and transportation request books, for which the employee has custody and responsibility. A list of inventions is maintained by case numbers. In addition, all other records directly related to the property control function.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Property and Administrative Services Act of 1949, as amended, 40 U.S.C. 483(b)(1).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is for the identification and control of MSHA property. Disclosure outside the Department of Labor may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) to appropriate Federal, State, local or foreign agencies responsible for investigation or prosecuting the violation of or for enforcing or implementing a statute, rule, regulation, order or license.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are kept in manual form in file folders or card indexes, microfilm cassettes, and computer disks.

RETRIEVABILITY:

Indexed by alphabetical order or control number. Entire file retrieved by manual search; frequently used information is maintained on computer printouts.

SAFEGUARDS:

Computer—In accordance with the National Bureau of Standards publication "Computer Security Guidelines for Implementing the Privacy Act of 1974". Manual—File cabinet. During working hours records are accessible only to authorized personnel.

RETENTION AND DISPOSAL:

In accordance with the General Records Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Management Services, MSHA, 4015 Wilson Blvd., Arlington, Virginia 22203.

NOTIFICATION PROCEDURE:

To determine whether the records are maintained on you in this system, write to the System Manager or to the offices cited under "Records Location".

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURES:

As above.

RECORD SOURCE CATEGORIES:

MSHA employees and any property control records maintained by MSHA.

LABOR/MSHA-13

SYSTEM NAME:

Coal Mine Respirable Dust Program

SYSTEM LOCATION:

Coal Mine Safety and Health, MSHA, U.S. Department of Labor, 4015 Wilson Blvd., Arlington, Virginia 22203, and substantially all Coal Mine Safety and Health Offices listed in the appendix.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual coal miners for whom personal dust samples have been submitted for analysis.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain data concerning mine identification, mine section, name of individual sampled, social security number, date of sample, and concentration of respirable dust contained in the person sampler.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 91-173, as amended by Pub. L. 95-164, sections 103(a) and 202, 30 U.S.C. 813(a), 842.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the record is to determine respirable dust level standards. Disclosures outside the Department of Labor may be made (1) to the U.S. Department of Health and Human Services in accordance with provisions of Pub. L. 91-173 as amended by Public Law 95-164; (2) to mine operators to furnish information relevant to the respirable dust program as it applies to their operations as required by the law; (3) to the U.S. Department of Justice when related to litigation or anticipated litigation; (4) to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation of or for enforcing or implementing a statute, rule, regulation, order or license.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer on diskettes and mag tape.

RETRIEVABILITY:

Indexed by mine identification number, sampling entity number and social security number of Part 90 miners. This information is maintained on computer printouts.

SAFEGUARDS:

Records for Part 90 miners are stored in locked steel cabients in locked rooms with access being granted only to duly authorized personnel. No other individual records are identifiable.

RETENTION AND DISPOSAL:

Analysis forms are mailed to Denver and microfilmed. The forms and the microfilm record are maintained indefienitely. Computer tapes are purged periodically and computer output is utilized in the districts indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Health, Coal Mine Safety and Health, MSHA, 4015 Wilson Blvd., Arlington, Virginia 22203.

NOTIFICATION PROCEDURE:

To determine whether the records are maintained on you in this system, write to the System Manager.

RECORD ACCESS PROCEDURE:

As above.

CONTESTING RECORD PROCEDURES:

As above.

RECORD SOURCE CATEGORIES:

Mine operators submit the information used in this system.

LABOR/MSHA-14

SYSTEM NAME:

Coal Mine Noise Level Program.

SYSTEM LOCATION:

(1) Coal Mine Safety and Health, MSHA, U.S. Department of Labor, 4015 Wilson Blvd., Arlington, Virginia 22203. (2) Substantially all Coal Mine Safety and Health Offices listed in the appendix.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual coal miners for whom noise level samples have been submitted for analysis.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain data concerning mine identification, mine section, name of individual sampled, social security number, date of sample, and noise level data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 91-173, as amended by Pub. L. 95-164, sections 103(a) and 206, 30 U.S.C. 813(a), 846.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are (a) to determine noise levels in every active working mine to insure compliance with noise level standards and (b) for special studies relative to occupational types, mining methods, etc. Disclosures outside the Department of Labor may be made (1) to furnish mine operators with information relevant to the noise program as it applies to their operations as required by the law; (2) to the U.S. Department of Justice when related to litigation or anticipated litigation; (3) to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation of or for enforcing or implementing a statute, rule, regulation, order or license.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Currently noise level data is entered onto a form which is sent to district offices for manual processing and filing in manila folders. All district offices utilize diskettes and mini-computers to process the data.

RETRIEVABILITY:

Data is indexed by mine identification number, name of mine, name of operator, name of individual and individual social security number.

SAFEGUARDS:

Maintained in file cabinet. Accessed only by authorized personnel.

RETENTION AND DISPOSAL:

Forms and diskette are retained indefinitely in district offices.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Health, Coal Mine Safety and Health, MSHA, 4015 Wilson Blvd., Arlington, Virginia 22203.

NOTIFICATION PROCEDURE:

To determine whether the records are maintained on you in this system, write to the System Manager.

RECORD ACCESS PROCEDURE:

As above.

CONTESTING RECORD PROCEDURES:

As above.

RECORD SOURCE CATEGORIES:

Mine operators submit the information used in this system.

LABOR/MSHA-15

SYSTEM NAME:

Health and Safety Training Records including Qualification and Certification Data.

SYSTEM LOCATION:

Qualification and Certification Unit, Education, Policy and Development, Mine Safety and Health Administration, 730 Simms Street, Lakewood, Colorado 80215.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Contains training data on miners, mining industry personnel, and Federal employees who have taken MSHA approved training courses. Also individuals certified and qualified as required by regulations.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain name, social security number of persons who have taken training, mine ID number, training course, instructor's name and other relevant data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 115, 317(i) and 502 of Pub. L. 91–173 as amended by Pub. L. 95–165, 30 U.S.C. 825, 877(i), 952.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are to (a) maintain records of training of individual miners, mining industry personnel, and State and Federal employees who have taken MSHA approved training courses; (b) issue certificates or certification cards to individuals who become qualified or certified under the law, as appropriate; (c) issue certification cards to instructors authorizing them to teach MSHA approved training courses; (d) provide information to monitor and expand safety training programs; (e) verify that individuals have completed required training; (f) report training data in various formats for a variety of uses, e.g., reporting to Congress, publication, etc. Disclosures outside of the Department of Labor may be made (1) to coal companies requesting information to verify training required by law; (2) to unions requesting information on training status of its members; (3) to coal operators' associations requiring training for policy and programming utilization; (4) to the U.S. Department of Justice when related to litigation or anticipated litigation; (5) to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation of or for enforcing or implementing a statute, rule, regulation, order or license.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Input forms to key tape to magnetic tapes in the computer system. Microfilm records are stored in the Qualification and Certification Unit.

RETRIEVABILITY:

Computerized records are indexed by mine identification and individual social security numbers. Microfilm records are retrieved on basis of mine identification numbers date and course.

SAFEGUARDS:

Computer safeguards as described in the National Bureau of Standards Publication "Computer Security Guidelines for Implementing the Privacy Act of 1974" and procedures developed by MSHA under GSA Circular E–34. Files are posted with the appropriate Privacy Act warning. During working hours only authorized personnel have access to files.

RETENTION AND DISPOSAL:

Computer records are maintained on yearly historical file. Reporting outputs are discarded after they have served their purpose. Microfilm records are maintained indefinitely for historical purposes.

SYSTEM MANAGER(S) AND ADDRESS:

Education Specialist, Qualification and Certification Unit, Education, Policy and Development, P.O. Box 25367, 730 Simms Street, Lakewood, Colorado 80215.

NOTIFICATION PROCEDURE:

Inquiries regarding records in this system should be addressed to the System Manager. Such requests must be submitted in writing and be signed by the requester.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURES:

As above.

RECORD SOURCE CATEGORIES:

Individuals on whom the records are maintained, instructors of the training courses, mine inspection personnel, mine operators, State personnel and miners' representatives and organizations which provide training courses required by MSHA.

LABOR/MSHA-17

SYSTEM NAME:

MSHA Education, Policy and Development Activities Report.

SYSTEM LOCATION:

Qualification & Certification Unit, Education, Policy and Development, Mine Safety and Health Administration, U.S. Department of Labor, 730 Simms Street, Lakewood, Colorado 80215 and all Training Centers listed in the appendix.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

MSHA Personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel activity records including work times, allocated according to types of assignments, and leave time.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; section 302(a) of Pub. L. 95–164.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the record is to record the time utilization of Education, Policy and Development personnel and: (a) To determine the workload and work scheduling; (b) to assist in budgeting and staffing of Education, Policy and Development; and (c) to assess training needs of MSHA personnel. Disclosure outside the Department of Labor may be made: (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations or for enforcing or implementing a statute, rule, regulation, order or license; and (3) to a Federal agency which has requested information relevant to or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files. Punchcards and Mag tapes.

RETRIEVABILITY:

Computerized records are indexed by social security number and district office.

SAFEGUARDS:

Manual records kept in locked file cabinets. Computerized data accessible only by authorized personnel.

RETENTION AND DISPOSAL:

Audio; video; slides; discs; photographic material; manuals; and syllabuses are permanent. These records are offered to NARS for evaluation after thirty years.

SYSTEM MANAGER(S) AND ADDRESS:

Education Specialist, Qualification & Certification Unit, Education, Policy and Development, MSHA, 730 Simms St., Lakewood, Colorado 80215.

NOTIFICATION PROCEDURE:

To determine whether the records are maintained on you in this system write the System Manager, cited under "System Location".

RECORDS ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURES:

As above.

RECORDS SOURCE CATEGORIES:

Individual on whom record is maintained.

LABOR/MSHA-18

SYSTEM NAME:

Coal Mine Safety and Health Management Information System.

SYSTEM LOCATION:

(1) Office of the Administrator for Coal Mine Safety and Health, U.S. Department of Labor, 4015 Wilson Boulevard, Arlington, Virginia 22203. (2) Substantially all Coal Mine Safety and Health Offices listed in the appendix.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Coal Mine Safety and Health personnel and key officials at surface and underground coal installations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Annual manpower and activity plans; operational characteristics of surface and underground coal operations; identification of key officials at individual mines; functional time utilization information for all Coal Mine Safety and Health personnel; location categorization of all time utilized by inspection personnel for on-site visits to individual mines; violation information on individual mines, and information on plans and other documents submitted by coal mine operators.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 91-173 as amended by Pub. L. 95-164, 30 U.S.C. 801 et seq.; 29 U.S.C. 668.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To record the time utilization of Coal Mine Safety and Health personnel and: (a) To maintain information on characteristics of mining operations. (b) To maintain violation information. (c) To monitor the submission and subsequent actions taken on plans and other documents submitted by coal mine operators.

Disclosure outside the Department of Labor may be made: (1) To the U.S. Department of Justice when related to litigation or anticipated litigation; (2) to appropriate Federal, State local or foreign agencies responsible for investigating or prosecuting the violations of or for enforcing or implementing a statute, rule, regulation, order or license; and (3) to a Federal agency which has requested information relevant to or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files: Magnetic tape and disk units.

RETENTION AND DISPOSAL:

Source documents are destroyed when no longer needed. Reports are destroyed after 10 years.

RETRIEVABILITY:

By mine identification number, social security number for noninspection personnel, by Authorized Representative number for inspection personnel, by organization code, and by violation number.

SAFEGUARDS:

Access limited to authorized representatives in regard to computerized data. Manual records kept in locked file cabinets.

SYSTEM MANAGER(S) AND ADDRESS:

Administrator for Coal Mine Safety and Health, MSHA, Department of Labor, 4015 Wilson Boulevard, Arlington, Virginia 22203.

NOTIFICATION PROCEDURE:

To see your records, write the System Manager. Describe as specifically as possible the records sought.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURES:

As above.

RECORD SOURCE CATEGORIES:

Coal Mine Safety and Health personnel submit inspection, time utilization, violation and other enforcement information in accordance with prescribed procedures.

Appendix—Mine Safety and Health Administration

Headquarters Office

Mine Safety and Health Administration, U.S. Department of Labor, 4015 Wilson Boulevard, Arlington, Virginia 22203.

Metal and Nonmetal Mine Safety and Health

District Manager, Northeastern District, Metal & Nonmetal Mine Safety and Health, 4800 Forbes Avenue, Pittsburgh, Pennsylvania 15213.
Subdistrict Manager, Northeastern District, Metal & Nonmetal Mine Safety and Health, 4800 Forbes Avenue, Pittsburgh, Pennsylvania 15213.
Subdistrict Manager, Northeastern District, Metal & Nonmetal Mine Safety and Health, U.S. Post Office & Courthouse, Room 247, Albany, New York 12201.
District Manager, Southeastern District, Metal & Nonmetal Mine Safety and Health, 228 West Valley Avenue, Room 102, Birmingham, Alabama 35209.
Subdistrict Manager, Southeastern District, Metal & Nonmetal Mine Safety and Health, 228 West Valley Avenue, Room 102, Birmingham, Alabama 35209.
Subdistrict Manager, Southeastern District, Metal & Nonmetal Mine Safety and Health, 301 West Cumberland Avenue, Room 223, Knoxville, Tennessee 37902.
District Manager, North Central District, Metal & Nonmetal Mine Safety and Health, 228 Federal Building, Duluth, Minnesota 55802.
Subdistrict Manager, North Central District, Metal & Nonmetal Mine Safety and Health, 228 Federal Building, Duluth, Minnesota 55802.
Subdistrict Manager, North Central District, Metal & Nonmetal Mine Safety and Health, 501 Busseron Street, Vincennes, Indiana 47591.
District Manager, South Central District, Metal & Nonmetal Mine Safety and Health, 1100 Commerce Street, Room 4c50, Dallas, Texas 75242.
Subdistrict Manager, South Central District, Metal & Nonmetal Mine Safety and Health, 1100 Commerce Street, Room 4c50, Dallas, Texas 75242.
Subdistrict Manager, South Central District, Metal & Nonmetal Mine Safety and Health, 900 Pine Street Bldg., 2nd Floor, Rolla, Missouri 65401.

District Manager, Rocky Mountain District, Metal & Nonmetal Mine Safety and Health, 730 Simms Street, Lakewood, Colorado 80215.
Subdistrict Manager, Rocky Mountain District, Metal & Nonmetal Mine Safety and Health, 730 Simms Street, Lakewood, Colorado 80215.
Subdistrict Manager, Rocky Mountain District, Metal & Nonmetal Mine Safety and Health, 307 West 200 South, Suite 3003, Salt Lake City, Utah 84101.
District Manager, Western District, Metal & Nonmetal Mine Safety and Health, 620 Central Avenue, Bldg. 7, Alameda, California 94501.
Subdistrict Manager, Western District, Metal & Nonmetal Mine Safety and Health, 117—107th Avenue, N.E., Bellevue, Washington 98004.
Subdistrict Manager, Western District, Metal & Nonmetal Mine Safety and Health, 2721 North Central Avenue, South Tower, Amerco Towers, Phoenix, Arizona 85004.
ADP Liaison—MSHA, Metal & Nonmetal Mine Safety and Health, 730 Simms Street, Lakewood, Colorado 80215.

Coal Mine Safety and Health

District Manager, District 1, Coal Mine Safety and Health, Penn Place, 20 N. Pennsylvania Avenue, Wilkes-Barre, Pennsylvania 18701.
District Manager, District 2, Coal Mine Safety and Health, 4800 Forbes Avenue, Pittsburgh, Pennsylvania 15213.
Subdistrict Manager, District 2, Coal Mine Safety and Health, 200 James Place, Monroeville, Pennsylvania 15146.
Subdistrict Manager, District 2, Coal Mine Safety and Health, Sunray and Goucher, Johnstown, Pennsylvania 15905.
District Manager, District 3, Coal Mine Safety and Health, 5012 Mountaineer Mall, Morgantown, West Virginia 26505.
District Manager, District 4, Coal Mine Safety and Health, Stadium Drive and Bluestone Road, Mt. Hope, West Virginia 25880.
Subdistrict Manager, District 4, Coal Mine Safety and Health, Stadium Drive and Bluestone Road, Mt. Hope, West Virginia 25880.
Subdistrict Manager, District 4, Coal Mine Safety and Health, 110 Gott Road, Princeton, West Virginia 24740.
Subdistrict Manager, District 4, Coal Mine Safety and Health, 475 N. Main Street, Madison, West Virginia 25130.
District Manager, District 5, Coal Mine Safety and Health, 546 Alexandria Avenue, Norton, Virginia 24273.
Subdistrict Manager, District 5, Coal Mine Safety and Health, 546 Alexandria Avenue, Norton, Virginia 24273.
Subdistrict Manager, District 5, Coal Mine Safety and Health, 102 Augusta Avenue, Richlands, Virginia 24641.
District Manager, District 6, Coal Mine Safety and Health, 218 High Street, Pikeville, Kentucky 41501.
Subdistrict Manager, District 6, Coal Mine Safety and Health, 218 High Street, Pikeville, Kentucky 41501.
District Manager, District 7, Coal Mine Safety and Health, Municipal Building, Daniel Boone Drive, Barbourville, Kentucky 40906.
Subdistrict Manager, District 7, Coal Mine Safety and Health, 616 Manchester Street, Barbourville, Kentucky 40906.
Subdistrict Manager, District 7, Coal Mine Safety and Health, 228 West Valley Avenue, Birmingham, Alabama 35209.
Subdistrict Manager, District 7, Coal Mine Safety and Health, Meadowbrook Manor, Combs Lane–Airport Gardens, Hazard, Kentucky 41701.
District Manager, District 8, Coal Mine Safety and Health, 501 Busseron Street, Vincennes, Indiana 47591.
Subdistrict Manager, District 8, Coal Mine Safety and Health, 905 W. Washington Street, Benton, Illinois 62812.
Subdistrict Manager, District 8, Coal Mine Safety and Health, 50985 National Road, St. Clairsville, Ohio 43950.
District Manager, District 9, Coal, Mine Safety and Health, 730 Simms Street, Lakewood, Colorado 80215.
Subdistrict Manager, District 9, Coal Mine Safety and Health, 730 Simms Street, Lakewood, Colorado 80215.
Subdistrict Manager, District 9, Coal Mine Safety and Health, 575 East 1st South, Price, Utah 84501.
District Manager, District 10, Coal Mine Safety and Health, MSHA Building, Highway 41 North, Madisonville, Kentucky 42431.
Subdistrict Manager, District 10, Coal Mine Safety and Health, 509 S. Third Street, McAlester, Oklahoma 74501.
Subdistrict Manager, District 10, Coal Mine Safety and Health, MSHA Building, Highway 451 North, Madisonville, Kentucky 42431.
ADP Liaison—MSHA, Coal Mine Safety and Health, 730 Simms Street, Lakewood, Colorado 80215.

Assessment Office

Office of Assessments—MSHA, 4015 Wilson Boulevard, Arlington, Virginia 22203.

Training

Beckley Training Center—MSHA, Airport Road, Beckley, West Virginia 25801.
Qualification and Certification Unit—MSHA, Education, Policy and Development, 730 Simms Street, Lakewood, Colorado 80215.

Technical Support

Pittsburgh Technical Support Center—MSHA, 4800 Forbes Avenue, Pittsburgh, Pennsylvania 15213.
Denver Technical Support Center—MSHA, 730 Simms Street, Lakewood, Colorado 80215.
Health and Safety Analysis Center—MSHA, 730 Simms Street, Lakewood, Colorado 80215.

DOL/OSHA-1

SYSTEM NAME:

Discrimination Complaint File

SYSTEM LOCATION:

Standard Federal Regions I through V: U.S. Department of Labor, Occupational Safety and Health Administration Operations Review Office, Federal Building, Room 1110A, Charles Center, 31 Hopkins Plaza, Baltimore, Md. 21201; Standard Regions VI through X: U.S. Department of Labor, Occupational Safety and Health Administration Operations Review Office, Federal Office Building Room 3100, 909 First Avenue, Seattle, Washington 93174.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have filed complaints pursuant to section 11(c) of the Occupational Safety and Health Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Case files compiled in connection with investigations of discrimination complaints.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 11(c) of the Occupational Safety and Health Act (Pub. L. 91–596).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files.

RETRIEVABILITY:

By complainant's name or case identification number.

SAFEGUARDS:

Locked storage equipment, and personnel screening.

RETENTION AND DISPOSAL:

Destroy 5 years after case is closed.

SYSTEM MANAGER(S) NAME AND ADDRESS:

Regional Administrator at address where system is located.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURES:

As above.

RECORD SOURCE CATEGORIES:

Individual complaints filed alleging discrimination and information compiled in connection with investigations of alleged acts of discrimination.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

In accordance with paragraph (k)(2) of the Privacy Act, invetigatory material compiled for law enforcement purposes

which is maintained in the Discrimination Complaint File is exempt from paragraphs (c)(3); (d), (e)(1); (e)(4) (G), (H), and (I); and (f) of 5 U.S.C. 552a. Disclosure of information contained in this file could threaten investigators, witnesses, informants and their families with adverse consequences and could hinder effective enforcement of the Occupational Safety and Health Act. In order to conduct effective investigations it is necessary to guarantee the confidentiality of information being collected. Release of such information would constitute a breach of the guarantee of confidentiality, could lead to the intimidation, harassment of dismissal from employment of those involved, and could discourage those contacted in future investigations from cooperating with investigators.

DOL/OSHA-2

SYSTEM NAME:

Complaints about State Program Administration Files (CASPA)

SYSTEM LOCATION:

All Regional Offices, Area Offices and State Plans, States; see 29 CFR 70.36.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have filed complaints about the administration of State Occupational Safety and Health programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Case files compiled in connection with investigation of subject complaints.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 18(f) of the Occupational Safety and Health Act (Pub. L. 91–596).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files.

RETRIEVABILITY:

By name of complainant.

SAFEGUARDS:

Locked file cabinets.

RETENTION AND DISPOSAL:

a. Complaints which raise questions on overall trends in State performance: Destroy 5 years after state plan discontinuance.

b. All other complaints: Destroy 7 years after case is closed.

SYSTEM MANAGER(S) AND ADDRESS:

Regional Administrator for Occupational Safety and Health. For address see 29 CFR 70.36.

NOTIFICATION PROCEDURE:

As above.

CONTESTING RECORD PROCEDURES:

As above.

RECORD SOURCE CATEGORIES:

Complaints filed by individuals and information compiled in connection with investigations of such complaints.

DOL/OSHA-4

SYSTEM NAME:

Advisory Committee Candidates' Biographies.

SYSTEM LOCATION:

Division of Consumer Affairs, OSHA, Room N–3635, 200 Constitution Avenue, NW., Washington, D.C. 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Background resumes of individuals who are members of, or have been considered for membership on an OSHA Advisory Committee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Occupational Safety and Health Act (Pub. L. 91–596); Federal Advisory Committee Act.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual file.

RETENTION AND DISPOSAL:

a. Advisory Committee Members: *Permanent* Transfer to National Archives 3 years after expiration of term.

b. Advisory Committee Candidates not selected to serve on an advisory committee: Destroy when 5 years old.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Consumer Affairs, Room N–3635, 200 Constitution Avenue, NW., Washington, D.C. 20210.

NOTIFICATION PROCEDURE:

As above.

CONTESTING RECORD PROCEDURES:

As above.

DOL/OSHA-6

SYSTEM NAME:

Compliance Safety & Health Officer Manpower File.

SYSTEM LOCATION:

OSHA, Office of Management Data Systems, Room 156, 2100 M Street, NW., Washington, D.C.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Time sheets/logs documenting compliance officer activities, cover inspection, monitoring and other compliance-related data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Occupational Safety and Health Act (Pub. L. 91–596).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape media and manual files.

RETRIEVABILITY:

By compliance officer/investigator name and by inspection/investigation identification.

SAFEGUARDS:

Computer file available only through password system, and in locked storage equipment.

RETENTION AND DISPOSAL:

Source document forms for ADP system: Destroy after 2 years.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Management Data Systems, Room 156, 2100 M Street, NW., Occupational Safety and Health Administration, Washington, D.C. 20210.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURES:

As above.

RECORD SOURCE CATEGORIES:

Inspectors'/investigators' time logs.

DOL/OSHA–7

SYSTEM NAME:

Employees Reports of Unsafe or Unhealthy Working Conditions.

SYSTEM LOCATION:

Occupational Safety and Health Administration. Office of Federal Agency Programs (OFAP), Room N–3476, Washington, D.C. 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Federal agency employees filing complaints with OFAP because employer's final disposition of their report alleging an unsafe or unhealthy working condition was not satisfactory.

CATEGORIES OF RECORDS IN THE SYSTEM:

Workplace hazardous conditions complaints.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 CFR 1960.28, OSHA Act 1970.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files.

RETRIEVABILITY:

By OFAP log number, and by name (if OFAP authorized by employee).

SAFEGUARDS:

Locked storage equipment.

RETENTION AND DISPOSAL:

Destroy after 5 years old.

SYSTEM MANAGER(S) NAME AND ADDRESS:

Director, Office of Federal Agency Programs, Occupational Safety and Health Administration, Room N–3476, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

NOTIFICATION PROCEDURE:

As above.

CONTESTING RECORD PROCEDURES:

As above.

RECORD SOURCE CATEGORIES:

Complaints submitted by individuals to OFAP for follow-up action. Employees are notified in writing that OFAP (a) has received complaint, (b) has referred the report to the appropriate OSHA regional office or back to the employing agency for investigation, or (c) has information concerning resolution of complaint.

DOL/OSHA–8

SYSTEM NAME:

State Compliance Officer accompanied visit and on-the-job evaluation records.

SYSTEM LOCATION:

All Area Offices in States with approved state plans, see 19 CFR 70.36 for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

State Compliance Officers.

CATEGORIES OF RECORDS IN SYSTEM:

On-the-job evaluations through accompanied visits or inspections conducted by State inspectors.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 18(f) of the Occupational Safety and Health Act (Pub. L. 91–596).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USERS:

State Program Administrators upon request.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files.

RETRIEVABILITY:

By name of State compliance officers.

SAFEGUARDS:

Locked file cabinets.

RETENTION AND DISPOSAL:

Destroy 7 years after evaluation.

SYSTEM MANAGER(S) AND ADDRESSES:

Each Regional Administrator for OSHA at individual Regional Offices. For addresses see 29 CFR 70.36.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURES:

As above.

RECORD SOURCE CATEGORIES:

Report forms submitted by Federal monitoring inspector.

DOL/OSHA–9

SYSTEM NAME:

OSHA Compliance Safety and Health Officers (CSHO's) training records.

SYSTEM LOCATION:

All Regional offices and the OSHA Training Institute: See CFR 70.36 for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

CSHO's of the OSHA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records reflecting training courses completed by CSHO's.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Occupational Safety and Heath Act of 1970 (Pub. L. 91–596).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual file.

RETRIEVABILITY:

By name of CSHO.

SAFEGUARDS:

Locked file cabinets.

RETENTION AND DISPOSAL:

Being determined.

SYSTEM MANAGER(S) AND ADDRESS:

Each Regional Administrator for OSHA at Regional Offices or the Manager, OSHA Training Institute; see 29 CFR 70.36 for addresses.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURES:

As above.

RECORD SOURCE CATEGORIES:

Office of Personnel Management official personnel folders, Certificates of training, verification of record by individuals concerned.

DOL/OSHA–10

SYSTEM NAME:

OSHA Private Sector Instructor files for Construction and Voluntary Compliance Courses.

SYSTEM LOCATION:

U.S. Department of Labor Occupational Safety and Health Administration. Training Institute, 1555 Times Drive, Des Plaines, Illinois 60018.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Students who have satisfactorily completed courses 400–1 and 500–2 and, who as a result of taking the courses have elected to conduct the same or similar courses for their employing organization or other interested groups.

CATEGORIES OF RECORDS IN THE SYSTEM:

Reports transmitted to Training Institute by individuals who have completed courses sponsored by Institute.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Occupational Safety and Health Act of 1970 (Pub. L. 91–596).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files.

RETRIEVABILITY: BY NAME OF STUDENT.

SAFEGUARDS:

Locked file cabinets.

RETENTION AND DISPOSAL:

Inactive files are retained for one year beyond the last active date. If the files are not reactivated, they are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Administrative Officer, U.S. Department of Labor, Occupational Safety and Health Administration, Training Institute, 1555 Times Drive, Des Plaines, Illinois 60018.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURE:

As above.

RECORD SOURCE CATEGORIES:

The information contained in these files is voluntarily provided by the subject individuals.

DOL/OSHA–11

SYSTEM NAME:

OSHA Training Institute Course Files.

SYSTEM LOCATION:

1555 Times Drive, Des Plaines, Illinois 60018.

CATEGORIES OF INDIVIDUALS COVERED IN THE SYSTEM:

Employees of: U.S. Department of Labor; OSHA State and Territorial Governmentrs; other Federal agencies; private sector.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. Forms: a. OSHA Training Institute Form 102, Biographical Data Sheet (used for all students; b. DL–1–101, Registration and Enrollment Form (used for U.S. Department of Labor, OSHA, State, and Territorial employees). c. Optional registration and enrollment forms used for employees from other Federal agencies. d. Optional forms or letters used by private sector for registration and enrollment. 2. Index cards maintained for each U.S. Department of Labor and State participant. Card contains name, Social Security Number, and listing of courses the individual has taken and status of same.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 21(b) of the Occupational Safety and Health Act of 1970 (Pub. L. 91–596).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual or ADP Files.

RETRIEVABILITY:

By individuals' name and region.

SAFEGUARDS:

Locked file cabinets.

RETENTION AND DISPOSAL:

Dispose of when no longer needed for administrative purposes.

SYSTEM MANAGER(S) AND ADDRESS:

U.S. Department of Labor, Occupational Safety and Health Administration, Training Institute, 1555 Times Drive, Des Plaines, Illinois 60018.

NOTIFICATION PROCEDURES:

As above.

RECORD ACCESS PROCEDURES:

As above.

RECORD SOURCE CATEGORIES:

The students and the OSHA Form 43.

DOL/SOL–1

SYSTEM NAME:

Conflict of Interest File.

SYSTEM LOCATION:

U.S. Department of Labor, Room N–2700, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Those persons from whom reports may be required under Section 202 are those allegedly having conflicts of interest who must file reports. Investigation relates to either trial, litigation or criminal prosecution.

CATEGORIES OF RECORDS IN THE SYSTEM:

Investigative reports, legal analyses, forwarding memoranda.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 202, LMRDA. Section 601, LMRDA (investigative authority); Section 209, LMRDA; Section 607, LMRDA.

ROUTINE USERS OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Files interchanged in the processing of cases with the Department of Justice and Assistant U.S. Attorneys.

STORAGE:

Manual files.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Restricted to official business within agency, personnel screening.

RETENTION AND DISPOSAL:

Currently files are maintained for fiscal years 1975 through 1982; for prior years sent to National Archives and Records Service.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING,, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

SYSTEM MANAGER(S) AND ADDRESS:

Associate Solicitor, Division of Labor-Management Laws, Office of the Solicitor, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

NOTIFICATION PROCEDURES:

As above.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURES:

As above.

RECORD SOURCE CATEGORIES:

Complainants, witnesses, investigative reports.

DOL/SOL-2

SYSTEM NAME:

Employment and Training Administration Investigatory File.

SYSTEM LOCATION:

Room N–2101, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Named plaintiffs and complainants in court and administrative proceedings involving the Employment and Training Administration. Individual subjects of an administrative investigation under Employment and Training Administration programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Court and litigation files contain little, if any, information regarding the individual other than that supplied by the individual in its complaint. Investigatory files include employment and financial information related to possible fradulent activity on the part of the individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information is disclosed to Department of Justice for that agency's determination regarding potential litigation and in the course of actual litigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files.

RETRIEVABILITY:

By name of plaintiffs and complainants and individual subjects being investigated.

SAFEGUARDS:

Physical security.

RETENTION AND DISPOSAL:

Files are maintained as long as the case is open. When the case is closed and it is determined that the file is no longer needed, the file is then sent to Archives for ultimate disposal.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Solicitor for Employment and Training, Room N–2101, U.S. Department of Labor, Washington, D.C. 20210.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURES:

As above.

RECORD SOURCE CATEGORIES:

Information is normally obtained from other organizations within the Department of Labor.

DOL/SOL-3

SYSTEM NAME:

Federal Tort Claims Act (FTCA).

SYSTEM LOCATION:

U.S. Department of Labor, 200 Constitution Avenue, N.W., Room N–2620, Washington, D.C. 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Claimant under Federal Tort Claims Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Tort claims file, including negligence, medical, personnel and legal reports, summaries, correspondence and memoranda.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

28 U.S.C. 2671 *et seq.*

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None other than those contained in the Department's Prefatory Statement published in the **Federal Register** of September 8, 1975 (40 FR 41739).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files.

RETRIEVABILITY:

Name of claimant.

SAFEGUARDS:

Files are kept in office suite that is locked after working hours.

RETENTION AND DISPOSAL:

Records retention is being determined by NARS.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Solicitor, Division of Employee Benefits, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room N–2620, Washington, D.C. 20210.

NOTIFICATION PROCEDURE:

See above.

RECORD ACCESS PROCEDURES:

Inquirer should provide his full name, plus date and place of incident.

CONTESTING RECORD PROCEDURES:

See above.

RECORD SOURCE CATEGORIES:

Claimants, current and former employers, witnesses, physicians, insurance companies, attorneys, police, hospitals, other individuals.

DOL/SOL-5

SYSTEM NAME:

Comprehensive Employment and Training Act (paragraph 416 (b) (CETA).

SYSTEM LOCATION:

U.S. Department of Labor, 200 Constitution Avenue, N.W., Room N–2620, Washington, D.C. 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Claimants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Tort claims file, including negligence, medical, personnel and legal reports, summaries, correspondence and memoranda.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 926(b).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None other than those contained in the Department's Prefatory Statement published in the **Federal Register** of September 8, 1975 (40 FR 41739).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files.

RETRIEVABILITY:

Name of claimant.

SAFEGUARDS:

Files are kept in office suite that is locked after working hours.

RETENTION AND DISPOSAL:

Records retention is being established by NARS.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Solicitor, Division of Employee Benefits, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room N–2620, Washington, D.C. 20210.

NOTIFICATION PROCEDURE:

See above.

RECORD ACCESS PROCEDURES:

Inquirer should provide his full name, plus date and place of incident.

CONTESTING RECORD PROCEDURES:

See above.

RECORD SOURCE CATEGORIES:

Claimants, current and former employers, witnesses, physicians, insurance companies, attorneys, police, hospitals other individuals.

DOL/SOL–6

SYSTEM NAME:

Military Personnel and Civilian Employees Claims Act.

SYSTEM LOCATION:

U.S. Department of Labor, 200 Constitution Avenue, N.W., Room N–2620, Washington, D.C. 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Claimants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Tort claims file, including negligence, medical, personnel and legal reports, summaries, correspondence and memoranda.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 240–243.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None other than those contained in the Department's Prefatory Statement published in the Federal Register of September 8, 1975 (40 FR 41739).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files.

RETRIEVABILITY:

Name of claimant.

SAFEGUARDS:

Files are kept in office suite that is locked after working hours.

RETENTION AND DISPOSAL:

Records retention is being established by NARS.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Solicitor, Division of Employee Benefits, U.S. Department of Labor, 200 Constitution Avenue, NW., Room n–2026, Washington, D.C. 20210.

NOTIFICATION PROCEDURE:

See above.

RECORD ACCESS PROCEDURES:

Inquirer should provide his full name, plus date and place of incident.

CONTESTING RECORD PROCEDURES:

See above.

RECORD SOURCE CATEGORIES:

Claimants, current and former employers, witnesses, physicians, insurance companies, attorneys, police, hospitals, other individuals.

DOL/SOL–7

SYSTEM NAME:

Attorney Assignment Record—SOL–7.

SYSTEM LOCATION:

SOL Divisional Offices, Washington, D.C.; SOL Regional and Sub-Regional Offices terminals at various locations. DOL computer, GAO Building, Washington, D.C.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Attorneys employed by the Office of the Solicitor.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual attorney assignments; identification of cases pending, status of litigated cases, opinions requested, case agency record, and miscellaneous assignments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Civil Service Reform Act.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual and computer files.

RETRIEVABILITY:

Name of attorney.

SAFEGUARDS:

Manual files are kept locked. Computer files accessible only through proper code number.

RETENTION AND DISPOSAL:

Records are maintained for life of assignment and are then disposed.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Solicitors, Office of the Solicitor, Washington, D.C.; Regional Solicitors and Associate Regional Solicitors at various field locations.

NOTIFICATION PROCEDURE:

See above.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURES:

As above.

RECORD SOURCE CATEGORIES:

Case files, correspondence files, opinion files, and miscellaneous files.

DOL/SOL–8

SYSTEM NAME:

Litigation Files—Special Litigation Task Force (the "system").

SYSTEM LOCATION:

U.S. Department of Labor, Office of the Solicitor, Washington, D.C.

CATEGORY OF INDIVIDUALS COVERED BY THE SYSTEM:

The Special Litigation Task Force maintains records as defined in 5 U.S.C. 552a(a)(4) (the "records"). The records relate specifically to defendants, respondents, witnesses and other individuals who may have provided information relating to, or who may have been involved in, matters that are part of the Central States litigation. These records relate generally to litigation under the Employee Retirement Income Security Act of 1974 (the "Act") that involves the Secretary of Labor and the Central States Southeast and Southwest Areas Health and Welfare and Pension Funds (the "Central States litigation").

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains records gathered by the Special Litigation Task Force in connection with the Central States litigation. The records may be derived from materials filed with the Department of Labor, court records, articles from publications, published financial data, information received from employee benefit plans, business organizations and individuals, statements of witnesses, information received from federal, state, local, and foreign regulatory and law enforcement organizations, and from other sources. The system also contains records that incorporate the work product of the Special Litigation Task Force and other privileged documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 1132, 1134.

ROUTINE USES OF THE RECORDS, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) The records may be used by the Department of Labor, Department of Justice, Treasury Department,

Commerce Department and other Federal Government personnel and consultants investigating possible violations of the Employee Retirement Income Security Act of 1974.

(2) The records may be used in any proceeding where the Employee Retirement Income Security Act of 1974 is in issue or in which the Secretary of Labor, any past or present Federal Employee or consultant directly or indirectly involved in investigations or other enforcement activities under the Employee Retirement Income Security Act of 1974, is a party or is otherwise involved in an official capacity.

(3) The records may be made available pursuant to 29 U.S.C. 1134(a) to any person actually affected by the matters therein contained.

(4) The records may be referred when there is an indication of a violation or potential violation of law to the appropriate agency, whether federal, state, local or foreign, to be used by the agency to investigate possible violations of laws administered by it and to bring appropriate proceedings.

(5) The records may be referred, when appropriate, to a bar association, court, or federal, state, local or foreign licensing authority for possible disciplinary action.

(6) The records may be disclosed to a federal, state, local or foreign governmental authority, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the lettering of a contract, or the issuance of a license, grant or benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

(7) The records may be given or shown to anyone during the course of the Central States litigation if the Special Litigation Task Force has reason to believe that the person to whom such disclosure is made may have further information about the matter discussed therein and that those matters may be relevant to the Central States litigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained in hard copy, microfilm/microfiche or machine readable (computer/tape) form.

RETRIEVABILITY:

The records are indexed by name.

SAFEGUARDS:

Access to and use of the records are limited to those persons whose official duties require it.

RETENTION AND DISPOSAL:

The records retention is being determined by NARS.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Solicitor, Special Litigation Task Force, U.S. Department of Labor, P.O. Box 37296, Washington, D.C. 20013.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Under the specific exemption authority provided by 5 U.S.C. 552a(k)(2), this system is exempt from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f) and the portions of 29 CFR Part 70a which implement these provisions.

Notice of Intention to Exempt

Civil Law Enforcement: The principal function of the Special Litigation Task Force is the prosecution of civil lawsuits alleging violations of the Employee Retirement Income Security Act of 1974. The system of records maintained by the Special Litigation Task Force constitutes "investigatory material compiled for law enforcement purposes" as defined in subsection (k)(2) of the Privacy Act. 5 U.S.C. 552a(k)(2). Disclosure of the records compiled with regard to the Central States litigation would substantially compromise the effectiveness of such litigation. Disclosure of these records could facilitate the concealment of evidence and lead to the intimidation of, or harm to, informants, witnesses and their respective families. Accordingly, these records are entitled to exemption from subsections (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f) of the Privacy Act. 5 U.S.C. 552a.

Appendix I—Responsible Officials

The titles of the responsible officers of the various independent agencies in the Department of Labor are listed below. Unless otherwise specified, the mailing address of these officials shall be:

U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210

Chief, Administrative Law Judge.
Chairperson, Employees Compensation Appeals Board.
Chairperson, Benefits Review Board.
Deputy Under Secretary for International Affairs.
Director, Office of Information and Public Affairs.
Deputy Solicitor, Office of Solicitor.
Assistant Secretary for Administration and Management.
Director of Information, Privacy and Management Information System, Office of Inspector General.
Management Information Chief, Division of Management Information, Bureau of Labor Statistics.
Staff Utilization Chief, Division of Operation, Bureau of Labor Statistics.
Chairman, Wage Appeals Board.
Director, President's Committee for the Employment of the Handicapped.
Assistant Secretary for Labor-Management Relations (LMSA).
Assistant Administrator for Field Operations, LMSA.
Director, Office of Labor-Management Relations Services, LMSA.
Director, Office of Labor-Management Policy Development, LMSA.
Director, Office of Labor-Management Standards Enforcement, LMSA.
Director, Office of Veterans' Reemployment Rights, LMSA.
Deputy Administrator for Pension and Welfare Benefit Programs, LMSA.
Director, Office of Management, LMSA.
Deputy Under Secretary for Employment Standards, Employment Standards Administration.
Director, Office of Workers' Compensation Programs.
Associate Director for Federal Employees' Compensation.
Associate Director for Longshore and Harbor Workers' Compensation.
Associate Director for Coal Mine Workers Compensation.
Administrator, Wage and Hour Division.
Director, Office of Federal Contract Compliance Programs.
Chief, OFCCP Policy Implementation and Operations Review Staff.
Chief, OFCCP Division of Program Policy.
Chief, OFCCP Division of Program Operations.
Chief, OFCCP Division of Program Analysis.
Chief, OFCCP Division of Enforcement Coordination.
Director, Office of Administrative Management, ESA.
Director, Office of Program Development and Accountability, ESA.
ESA Office of Information and Consumer Affairs.
Assistant Secretary for Mine Safety and Health (MSHA).[1]
Executive Assistant to the Assistant Secretary of Labor, Occupational Safety and Health Administration (OSHA).
Office of Field Coordination, OSHA.
Office of Information & Consumer Affairs, OSHA.
Equal Employment Opportunity Officer, OSHA.
Director, Directorate of Health Standards Programs, OSHA.
Director, Directorate of Safety Standards Programs, OSHA.
Director, Directorate of Policy, Legislation and Interagency Affairs, OSHA.
Director, Directorate of Administrative Programs, OSHA.

[1] This official's mailing address is Ballson Tower #3, 4015 Wilson Blvd., Arlington, Virginia 22203.

Director, Directorate of Federal Compliance and State Programs, OSHA.
Director, Directorate of Technical Support, OSHA.

(2) The mailing address for the responsible officials in the Employment and Training Administration is the Patrick Henry Building, 601 D Street, NW., Washington, D.C. 20213.

Administrator, Bureau of Apprenticeship.
Administrator, Office of Management Informations Systems.
Administrator, Office of Foreign Labor Certifications.
Administrator, Office of Job Corps.
Administrator, Office of Research and Evaluation.
Director, Special Review Staff.
Chief, Division of Special National Level Programs.

(3) The titles of the responsible officials in the field offices of the various independent agencies are listed below. Unless otherwise specified, the mailing addresses for these officials, by regions, shall be:

Region I: J.F.K. Building, Government Center, Boston, Massachusetts 02203.
Region II: 1515 Broadway, New York, New York 10036.
Region III: 3535 Market Street, Philadelphia, Pennsylvania 19104.
Region IV: 1371 Peachtree Street, N.E., Atlanta, Georgia 30309.
Region V: 230 South Dearborn Street, Chicago, Illinois 60604.
Region VI: 555 Griffin Square Building, Griffin and Young Streets, Dallas, Texas 75202.
Region VII: Federal Office Building, 911 Walnut Street, Kansas City, Missouri 64106.
Region VIII: Federal Office Building, 1961 Stout Street, Denver, Colorado 80202.
Region IX: Federal Building, 450 Golden Gate Avenue, San Francisco, California 94102.
Region X: 909 First Avenue, Seattle, Washington 98174.

Office of the Assistant Secretary for Administration and Management

Regional Administrators for Administration and Management. Regional Personnel Officers.

Office of Information and Public Affairs

Regional Information Directors (All Regions).

Employment and Training Administration

Regional Administrators for Employment and Training (All Regions).
Regional Directors, Job Corps (All Regions).

Labor-Management Services

Assistant Regional Administrators for Labor-Management Services.
Regions II, III, IV, V, VII, and IX.

Area Administrators for Labor-Management Services

1365 Peachtree St., N.E., Suite 540, Atlanta, Georgia 30367.
New Studio Building 110 Tremont St., Rm. 211, Boston, Massachusetts 02108.
Federal Building 111 W. Huron St., Rm. 1310, Buffalo, New York 14202.
175 W. Jackson Boulevard, Suite 1201A, Chicago, Illinois 60604.
Federal Office, 1240 E. Ninth St., Rm. 821, Cleveland, Ohio 44199.
555 Griffin Square Building, 707 Griffin & Young Sts., Dallas, Texas 75202.
Federal Office Building, 1961 Stout St., Rm. 152, Denver, Colorado 80294.
Federal Office Building & U.S. Courthouse, Rm. 630, 231 W. Lafayette St, Detroit, Michigan 48226.
134 Evergreen Place, Rm. 201, East Orange, New Jersey 07018.
Federal Office Building, Rm. 650, Carlos Chardon St., Hato Rey, Puerto Rico, 00918.
300 Ala Moana, Rm. 5115, P.O. Box 50204, Honolulu, Hawaii 96850.
Federal Office Building, 911 Walnut St., Rm. 3000, Kansas City, Missouri 64106.
Federal Building, Rm. 4334, 300 N. Los Angeles St., Los Angeles, California 90012.
Washington Square Building, Suite 504, 111 N.W. 183rd St., Miami, Florida 33169.
Butler Square Building, Rm. 652 East, 100 North Sixth St., Minneapolis, Minnesota 55403.
1808 West End Building, Rm. 716, Nashville, Tennessee 37203.
Federal Office Building, Rm. 940, 600 South St., New Orleans, Louisiana 70130.
26 Federal Plaza, Rm. 537, New York, New York 10278.
James A. Byrne Courthouse, Rm. 7401, 601 Market St., Philadelphia, Pennsylvania 19106.
Federal Office Building, Rm. 804, 1000 Liberty Ave., Pittsburgh, Pennsylvania 15222.
210 Tucker Boulevard, Rm. 570, St. Louis, Missouri 63101.
211 Main Street, Rm. 317, San Francisco, California 94105.
Federal Office Building, Rm. 3135, 909 First Avenue, Seattle, Washington 98174.
1730 K Street, N.W., Rm. 558, Riddell Building, Washington, D.C. 20006.

The Employment Standards Administration

Regional Administrator: All Regions.
Assistant Regional Administrator for Wage and Hour Division: All Regions.
Assistant Regional Administrator for Office of Federal Contract Compliance Programs: All Regions.
Executive Assistant to the Regional Administrator: All Regions.

Office of Workers' Compensation Programs—Deputy Commissioner

147 Milk Street, Boston, Massachusetts 02109.
1515 Broadway, New York, New York 10036.
3535 Market Street, Philadelphia, Pennsylvania 19104.
Charles Center South, 31 Hopkins Plaza, Baltimore, Maryland 21201.
Stanwick Building, 3661 Virginia Beach Boulevard, East Norfolk, Virginia 23502.
400 West Bay Street, Box 35049, Jacksonville, Florida 32202.
Federal Office Building, 600 South Street, New Orleans, Louisiana 70130.
2320 LaBranch Street, Houston, Texas 77004.
1240 East Ninth Street, Room 879, Cleveland, Ohio 44199.
230 South Dearborn Street, Chicago, Illinois 60604.
1910 Federal Office Building, 911 Walnut Street, Kansas City, Missouri 64106.
1531 Stout Street, Room 303, Denver, Colorado 80202.
450 Golden Gate Avenue, Box 36022, San Francisco, California 94102.
Federal Office Building, 909 First Street, Seattle, Washington 98174.
1833 Kalakaua Avenue, Room 610, Honolulu, Hawaii 96315.
McLachlen Building, Room 405, 616 11th Street, N.W., Washington, D.C. 20211 (FECA).
812 Connecticut Avenue, N.W., Washington, D.C. 20211 (DCCA).
Director, Condominio San Alberto Building, 7th Floor, 120 Ponce de Leon Avenue, Santurce, Puerto Rico 00907.

Occupational Safety and Health Administration

400–2 Totten Pond Road, 2nd Floor, Waltham, Massachusetts 02154.
Federal Building, Room 334, 55 Pleasant Street, Concord, New Hampshire 03301.
MDC Building, 2nd Floor, 555 Main Street, Hartford, Connecticut 06103.
169 Weybosset Street, 5th Floor, Providence, Rhode Island 02903.
1200 Main Street, Suite 513, Springfield, Massachusetts 01103.
40 Western Avenue, Room 121, Augusta, Maine 04330.
90 Church Street, Room 1405, New York, New York 10007.
990 Westbury Road, Westbury, New York 11590.
Belle Mead GSA Depot Building T3, Belle Mead, New Jersey 08502.
2 East Blackwell Street, Dover, New Jersey 07801.
136–21 Roosevelt Avenue, 3rd Floor, Flushing, New York 11354.
2101 Ferry Avenue, Room 403, Camden, New Jersey 08104.
Leo W. O'Brien Federal Building, Clinton Avenue & North Pearl Street, Room 132, Albany, New York 12207.
220 Delaware Avenue, Suite 509, Buffalo, New York 14202.
Teterboro Airport Professional Building, 377 Route 17, Room 206, Hasbrouck Heights, New Jersey 07604.
US Courthouse & FOB, Carlos Chardon Avenue, Room 555, Hato Rey, Puerto Rico 00918.
100 South Clinton Street, Room 1267, Syracuse, New York 13260.
Room 242 US Customs House, Second & Chestnut Street, Philadelphia, Pennsylvania 19106.
400 Penn Center Boulevard, Suite 600, Pittsburgh, Pennsylvania 15235.
147 West 18th Street, Erie, Pennsylvania 16501.
Progress Plaza, 49 North Progress Avenue, Harrisburg, Pennsylvania 17109.
Federal Building, Room 6226, 400 North 8th Street, PO Box 10186, Richmond, Virginia 23240.
Federal Building, Room 1110, Charles Center 31 Hopkins Plaza, Baltimore, Maryland 21201.
Federal Office Building, Room 3007, 844 King Street, Wilmington, Delaware 19801.
Penn Place, Room 2005, 20 North Pennsylvania Avenue, Wilkes-Barre, Pennsylvania 18701.
550 Eagan Street, Room 303, Charleston, West Virginia 25301.

Building 10, Suite 33, LaVista Perimeter Office Park, Tucker, Georgia 30084.
Todd Mall, 2047 Canyon Road, Birmingham, Alabama 35128.
Federal Building, Suite 1445, 100 West Capitol Street, Jackson, Mississippi 39201.
Art Museum Plaza, Suite 4, 2809 Art Museum Drive, Jacksonville, Florida 32207.
Room 127, John C. Watts, Federal Building, 330W Broadway, Frankfort, KY 40601.
1835 Assembly Street, Room 1468, Columbia, South Carolina 29201.
951 Government Street, Suite 511, Mobile, Alabama 36604.
Federal Building, Room 302, 299 East Broward Boulevard, Fort Lauderdale, Florida 33301.
1600 Hayes Street, Suite 302, Nashville, Tennessee 37203.
Federal Office Building, Room 406, 310 New Bern Avenue, Raleigh, North Carolina 27601.
400 Mall Boulevard, Suite J, Savannah, Georgia 31406.
700 Twiggs Street, Room 124, Tampa, Florida 33602.
1400 Torrence Avenue, 2nd Floor, Calumet City, Illinois 60409.
6000 West Touhy Avenue, Niles, Illinois 60648.
344 Smoke Tree Business Park, North Aurora, Illinois 60542.
Federal Office Building, Room 4028, 550 Main Street, Cincinnati, Ohio 45202.
Federal Office Building, Room 899, 1240 East 9th Street, Cleveland, Ohio 44199.
Federal Office Building, Room 634, 200 North High Street, Columbus, Ohio 43215.
231 West Lafayette, Room 628, Detroit, Michigan 48226.
USPO & Courthouse, Room 422, 46 East Ohio Street, Indianapolis, Indiana 46204.
2618 North Ballard Road, Appleton, Wisconsin 54911.
Federal Building US Courthouse, 500 Barstow Street, Room B-9, Eau Claire, Wisconsin 54701.
Clark Building, Room 400, 633 West Wisconsin Avenue, Milwaukee, Wisconsin 53203.
2934 Fish Hatchery Road, Suite 220, Madison, Wisconsin 53713.
801 Butler Square Building, 100 North 6th Street, Minneapolis, Minnesota 55403.
228 NE Jefferson, 3rd Floor, Peoria, Illinois 61613.
218A Main Street, Belleville, Illinois 62220.
Federal Office Building, Room 734, 234 North Summit Street, Toledo, Ohio 43604.
1425 West Pioneer Drive, Irving, Texas 75061.
130 Petroleum Tower, 811 North Carancahua Street, Corpus Christi, Texas 78474.
2320 LaBranch Street, Room 2118, Houston, Texas 77004.
Western Bank Building, Room 1407, 505 Marquette Avenue, NW, Albuquerque, New Mexico 87102.
American Bank Tower, Suite 310, 221 West 6th Street, Austin, Texas 78701.
Hoover Annex, Suite 200, 2156 Wooddale Boulevard, Baton Rouge, Louisiana 70806.
West Mark Building, Suite 212, 4120 West Markham, Little Rock, Arkansas 72205.
50 Penn Place, Suite 408, Oklahoma City, Oklahoma 73118.
Federal Building, Room 421, 1205 Texas Avenue, Lubbock, Texas 79401.
1150 Grand Avenue, 6th Floor, 12 Grand Building, Kansas City, Missouri 64106.
210 Walnut Street, Room 815, Des Moines, Iowa 50309.
Overland-Wolf Building, Room 100, 6910 Pacific Street, Omaha, Nebraska 68106.
4300 Goodfellow Building, Room 105E, St. Louis, Missouri 63120.
216 North Waco, Suite B, Wichita, Kansas 67202.
Petroleum Building, Suite 210, 2812 1st Avenue North, Billings, Montana 59101.
Federal Building, Room 348, PO Box 2439, Bismark, North Dakota 58501
Tremont Center—1st Floor, 333 West Colfax, Denver, Colorado 80204.
US Post Office Building, Room 505, 350 South Main Street, Salt Lake City, Utah 84101.
211 Main Street, San Francisco, California 94105.
1050 East William Street, Suite 402, Carson City, Nevada 89701.
300 Ala Moana Bulevard, Suite 5122, PO Box 50072, Honolulu, Hawaii 96850.
400 Oceangate, Suite 530, Long Beach, California 90802.
Amerco Towers, Suite 300, 2721 North Central Avenue, Phoenix, Arizona 85004.
Federal Building, 701 C Street, Box 29, Anchorage, Alaska 99513.
121-107th Street, NE, Bellevue, Washington 98004.
1315 West Idaho Street, Boise, Idaho 83702.
1220 Southwest 3rd Street, Room 640, Portland, Oregon 97204.
OSHA Training Institute, US Department of Labor, 1555 Times Drive, Des Plaines, Illinois 60018.
OSHA Cincinnati Laboratory, USPO Building, Room 108, 5th and Walnut Streets, Cincinnati, Ohio 45202.
Analytical Laboratory, 390 Wakara Way Research Park, Salt Lake City, Utah 84108.

APPENDIX II.—FOR GENERAL ASSISTANCE, YOU MAY WISH TO CONTACT THE FOLLOWING AGENCY COORDINATORS FOR THE PRIVACY ACT

Agency	Person	Address	Telephone
Office of the Secretary (OSECY)	Elaine F. Jackson	S-5526, Frances Perkings Building	523-6312
Office of the Assistant Secretary for Administration and Management (OASAM)	Elaine F. Jackson	S-5526 Frances Perkings Building	523-6312
Bureau of Labor Statistics (BLS)	Rosemary Sheehy	Room 2115, GAO Building	523-1971
Employment Standards Administration (ESA)	Clark Forkel	C-3321, Frances Perkings Building	523-8480
Employment and Training Administration (ETA)	James Moriarty	Room 5100, Patrick Henry Building	376-6924
Office of Inspector General (OIG)	Anthony Rossi	S-5512, Frances Perkings Building	357-0497
Deputy Under Secretary for International Affairs or Bureau of International Labor Affairs (ILAB).	Dora E. Carrington	S-5303, Frances Perkings Building	523-6136
Labor-Management Services, Administration (LMSA)	Paul Fitzpatrick	N-5663, Frances Perkings Building	523-6859
Mine Safety and Health Administration (MSHA)	Richard Baker	Room 735, Ballston Tower No. 3, Arlington, VA	235-1470
Occupational Safety and Health Administration (OSHA)	James Foster	N-3637, Frances Perkings Building	523-8148
Office of Solicitor	Miriam Miller	N-2428, Frances Perkings Building	523-6196

Building Addresses
a. Frances Perkings Building, 200 Constitution Avenue NW., Washington, D.C. 20210.
b. GAO Building, 441 G Street NW., Washington, D.C. 20212.
c. Patrick Henry Building, 601 D Street NW., Washington, D.C. 20213.
d. Ballston Tower No. 3, 4015 Wilson Blvd., Arlington, Virginia 22203.

[FR Doc. 82-18877 Filed 7-12-82; 8:45 am]

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federal register

Tuesday
July 13, 1982

Part III

Department of Labor

Occupational Safety and Health Administration

Access to Employee Exposure and Medical Records; Proposed Modification; Request for Comments and Notice of Public Hearing

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H-112E]

Access to Employee Exposure and Medical Records; Proposed Modification; Request for Comments and Notice of Public Hearing

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Notice of proposed rulemaking; request for comments and notice of public hearing.

SUMMARY: OSHA is hereby proposing to modify the Access to Employee Exposure and Medical Records rule, 29 CFR 1910.20. Principally, and as a result of receiving numerous requests, comments and suggestions for changes to the standard, OSHA is proposing to modify: (1) The definition of "employee"; (2) the definition of "exposure"; (3) the definition of "toxic substance"; (4) the preservation requirements for employee exposure and medical records; (5) the prohibition on the microfilm storage of X-rays; and (6) the trade secret protection provisions.

The new regulation would maintain the benefits to occupational health in the current regulation while providing greater flexibility for employers to comply with the standards. This notice solicits comments on the proposed modifications. This notice also announces that OSHA has scheduled an informal public hearing to allow interested parties to present information and data related to the issues raised by the proposed modification.

DATES: Comments and notices of intention to appear at the public hearing must be received on or before September 14, 1982. Statements and any documentary evidence to be presented at the hearing must be submitted by September 21, 1982.

The public hearing is scheduled to begin on October 5, 1982, in Washington, D.C., at 9:30 a.m.

ADDRESSES: Comments should be submitted in quadruplicate to the Docket Office, Docket H-112E, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Room S6212, Washington, D.C. 20210; (202) 523-7894.

Notices of intention to appear at the hearings, statements and documentary evidence should be submitted in quadruplicate to Mr. Tom Hall, Division of Consumer Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-3635 Washington, D.C. 20210; (202) 523-8024.

The hearing will be held at the Auditorium, Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C.

Written comments received and notices of intention to appear, as well as any other information gathered by the Agency during this rulemaking, will be available for inspection and copying in the Docket Office, Room S-6212 at the above address.

FOR FURTHER INFORMATION CONTACT:

Proposal: Mr. David Welsh, Office of Special Standards Programs, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Room N-3663, Washington, D.C. 20210; (202) 523-7166.

Hearings: Mr. Thomas Hall, Division of Consumer Affairs, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., N-3635, Washington, D.C. 20210; (202) 523-8024.

SUPPLEMENTARY INFORMATION:

A. Background

On May 21, 1980, the Occupational Safety and Health Administration (OSHA) issued its rule entitled Access to Employee Exposure and Medical Records. 29 CFR 1910.20; 45 FR 35212 *et seq.* The rule imposes three major obligations on employers. First, employers are required to preserve and maintain exposure and medical records pertinent to an employee's occupational exposure to toxic substances or harmful physical agents. 20 CFR 1910.20(d). Generally, employee exposure records and analyses based on exposure or medical records must be retained for thirty years. 29 CFR 1910.20(d)(1)(ii) and (iii). Employee medical records must be retained for the duration of employment plus thirty years. 29 CFR 1910.20(d)(1)(i).

Second, throughout these time periods the employer must ensure access to pertinent exposure records by the exposed employee, fellow employees exposed or potentially exposed to similar job hazards, designated employee representatives, and OSHA. 29 CFR 1910.20(e). Access to medical records must also be ensured to the employee who is the subject of the records and to OSHA. Likewise, access to medical records must be ensured to an employee's designated representative, such as the employee's collective bargaining agent, but, because of the privacy interests involved, only if the employee has provided specific written consent for such access. 29 CFR 1910.20(e)(2)(ii)(B); *cf.* § 1910.20(c)(10). Employee and designated representative access must be provided at a reasonable time, place, and manner, but in no event later than fifteen (15) days after the request is made. 29 CFR 1910.20(e)(1). OSHA access must be provided immediately upon request, 29 CFR 1910.20(e)(3), but because of the personal privacy interests affected by access to medical records, OSHA's access to such records is further conditioned upon compliance with those procedures and protections which were simultaneously promulgated as 29 CFR Part 1913.

Third, upon entering into employment and annually thereafter, employees must be informed by their employers of their rights under the rule and of the requisite procedures for exercising those rights. 29 CFR 1910.20(g).

In issuing the regulation, the Secretary considered its potential impact on trade secrets. 29 CFR 1910.20(f). Although identities of toxic substances, levels of exposure, and health status data may not be withheld, the employer may delete any other trade secret data which discloses manufacturing processes or the percentage of a chemical substance in a mixture. In addition, the provisions of the final rule permit employers to condition access to trade secrets upon basic written agreements not to misuse this information.

On May 21, 1980, the Industrial Union Department, AFL-CIO, petitioned the United States Court of Appeals for the District of Columbia Circut to review the rule pursuant to Section 6(f) of the OSH Act, 29 U.S.C. 655(f), the statute's provision for exclusive court of appeals' preenforcement review of occupational safety and health standards, *Industrial Union Dep't AFL-CIO* v. *Marshall,* No. 80-1550. The Chemical Manufacturers Association and the Chamber of Commerce of the United States later intervened in that lawsuit.

On July 18 and 21, 1980, a number of individuals and two trade associations, the Association of Diving Contractors and the Louisiana Chemical Association, petitioned the Fifth Circuit Court of Appeals under the same section 6(f) review provision. These cases were transferred to the D.C. Circuit under 28 U.S.C. 2112(a) and consolidated with the pending IUD case. Also in the D.C. Circuit, but in abeyance, is *National Constructions Ass'n* v. *OSHA,* No. 80-1820, a challenge to the standard's application to the construction industry. In addition, there is a challenge to the regulation pending in the United States District Court for the Western District of Louisiana, which the District Court originally dismissed for lack of subject matter jurisdiction, but which has since

been remanded to it by the Fifth Circuit Court of Appeals. *Louisiana Chemical Association* v. *Bingham*, 657 F. 2d. 777 (5th Cir. 1981).

The records access rule expressed OSHA's policy, which became formalized after a full rulemaking proceeding, that employees, their representatives, and OSHA need access to employer maintained exposure and medical information in order to protect employee health and safety, and that this need is a proper subject for OSHA regulation. However, since particular provisions of the rule raised complex policy and legal questions concerning issues which in some cases had been resolved based on a limited rulemaking record and which had not yet been fully reviewed in light of the current administration's policies, OSHA obtained from the D.C. Circuit a six month deferral of the briefing schedule, beginning August 7, 1981. This deferral was later extended to expire in February, 1983. However, the agency has been forced to defend the existing rule in the district court case and a decision is expected before the end of the year.

OSHA has reviewed all aspects of the regulation, including: (1) Current enforcement experience: (2) the issues raised by the litigation; (3) petitions for modification of the standard from trade associations representing the flavor, fragrance, food and feed processing industries; and (4) other comments on the regulation that have been received from numerous interested persons. As a result of this review, OSHA has decided to propose modification of specific provisions of the rule. A draft of this proposal has been reviewed by the Advisory Committee on Construction Safety and Health. The issues involved in the proposed modification are discussed in the "Statement of Significant Issues" section of this preamble.

Legal Authority

By this proposal, OSHA seeks to modify, after rulemaking, its final rule on Access to Employee Exposure and Medical Records, 29 CFR 1910.20 (the "records access rule"). That rule was issued under both section 6(b) "standard-setting" and section 8 "general rulemaking" authority (see 45 FR 35243–48).

The issue of whether the records access rule is properly characterized as an "occupational safety and health standard" within the meaning of section 3(8) and issued under section 6(b) or a "regulation" under section 8(g)(2) has been the subject of litigation. The rule was challenged by both industry and union parties in the courts of appeals under section 6(f), the Act's provision for pre-enforcement review of OSHA "standards." As noted above, these petitions have been consolidated in the Court of Appeals for the District of Columbia, where the briefing schedule has been suspended until February 10, 1983, to allow OSHA this opportunity for reconsideration.

The rule was independently challenged in the U.S. District Court for the Western District of Louisiana. The district court dismissed the challenge for want of subject-matter jurisdiction on the ground that OSHA properly characterized the rule as a standard, which is reviewable only in a court of appeals. The Fifth Circuit Court of Appeals reversed this decision, holding that the rule is a section 8 regulation and not a section 6 standard; therefore the case was remanded to the district court. *Louisiana Chemical Association, et al.* v. *Bingham, et al.*, 657 F. 2d 777 (5th Cir., 1981). The Court of Appeals' reasoning was that Congress apparently intended standards to aim toward correction of specific and already identified hazards, rather than mere inquiry into possible hazards, and that the records access rule, while falling under the more general class of enforcement and detection regulations contemplated by Congress in section 8, does not address a particular hazard. This conclusion was based on the fact that the rule does not require employers to create the records in the first place and that the rule pertains to thousands of substances not all of which are known to pose a significant risk. The agency is currently defending the existing regulation in the district court case and a decision is expected before the end of the year.

Recognizing that this proposed rule can no longer be characterized as an occupational safety and health standard in the Fifth Circuit as a result of this decision, OSHA reaffirms its reliance on its section 8 general rulemaking authority to support the issuance of this proposed amendment (see 45 FR 35245–47). In so doing, the Secretary finds the rule, as proposed to be modified, necessary to carry out his responsibilities under the Act. In particular, the rule directly and indirectly promotes the control and detection of occupational health hazards by requiring the preservation and availability of toxic exposure and employee medical records to employees, their representatives, and to OSHA. As such, it contributes significantly to the protection of employees from toxic substances and harmful physical agents. With it, OSHA acts to fulfill its mandate to "assure so far as possible every working man and woman * * * safe and health working conditions." Section 2(b) of the Act.

In addition, however, OSHA believes that this rule not only falls squarely within the ambit of section 8 but also meets the somewhat more stringent and distinct requirements of section 6(b), as limited by the section 3(8) definition of an "occupational safety and health standard." In OSHA's opinion, the preservation and access requirements clearly satisfy the statutory element of "practices, means, methods * * * reasonably necessary or appropriate to provide safe or healthful employment and places of employment." In this regard, it should be noted that the rule operates not simply by making the record available to OSHA for enforcement purposes but directly to the employees themselves to assist them in achieving more healthful employment and places of employment." Secondly, in our view the rule addresses a significant risk—the risk of acute and chronic adverse health effects from workplace exposure to toxic substances and harmful physical agents. Further, the rule will significantly reduce this risk by providing employees with information necessary to avoid the risks and to correct unsafe conditions to the extent possible.

To the extent that the Fifth Circuit in *Louisiana Chemical Ass'n* v. *Bingham, supra.*, took a narrower view of what constitutes "significant risk," we do not believe that such a result is dictated by the Supreme Court decision in *Industrial Union Department* v. *American Petroleum Institute*, 448 U.S. 607 (1980). That decision, which established a finding of "significant risk" as a threshold condition for all section 6(b) standards, itself observed that Congress had an "information-gathering function" in mind when it enacted section 6(b)(7). and that requirements of this nature may be imposed at lower exposure levels than those that would support the regulation of a specific toxic substance on the basis of a finding of significant risk. This is so because it is necessary to "keep a constant check on the validity of the assumption made in developing the permissible exposure limit, giving it a sound evidentiary basis for decreasing the limit if it was initially set too high," *id.* at 2822, or *a fortiori*, if no permissible exposure limit was set at all. Furthermore, whatever the problems of breadth posed by the original rule which detracted from its status as a standard, we note that the proposed modifications—particularly the toxicological criteria introduced into the

"toxic substance" definition and the elimination of the fourth category of "exposure record"—have sharpened the focus of the rule considerably. Thus the rule now covers only actual exposure records pertaining to substances which are known to pose serious toxic hazards and to employees in employments characterized by exposures to such hazards. OSHA therefore believes that, in addition to meeting the legal criteria for a section 8 regulation, the proposed rule is, for purposes of judicial review, a section 6 standard.

In addition, it is important that the records access rule be characterized as an occupational safety and health standard in order to avoid protracted multiple district court litigation, which would result in: (1) General confusion over the applicability of the rule, (2) delays in the resolution of the validity of the rule, and (3) enforcement and compliance problems that would ensue from conflicting or inconsistent judicial decisions. Therefore, to preserve our right to relitigate the jurisdictional issue of section 6(b) authority should be challenged outside the Fifth Circuit, OSHA continues to rely on section 6(b) independent authority for issuance of this rule.

Finally, this proposal provides for modification of the trade secret protections of the rule. These changes are intended to provide for the maximum degree of trade secret protection which the Agency considers to be consistent with its mandate to promote the health and safety of employees. As a matter of legal authority, OSHA has previously taken the position that its mandate requires it to balance and accommodate the interests in occupational safety and health with the protection of trade secrets, but that any unavoidable conflict should be decided in favor of the health interest. (See 45 FR 35248–51, Records Access Preamble.) This position has been based on (1) federal preemption doctrine, which says that state law (i.e., trade secret protection) may be preempted if it burdens or conflicts with federal law; (2) the OSHA statute, whose limited trade secret section (Section 15; 29 U.S.C. 664) itself takes a balanced approach and does not directly restrict OSHA's otherwise broad rulemaking authority in the area of providing access to toxic substance information; and (3) analagous judicial contexts, where the courts have adopted a balancing approach favorable to the health and safety interest. By contrast, industry has argued, based on the Supreme Court decision in *Chrysler* v. *Brown*, 441 U.S. 281 (1979), that OSHA lacks the authority to require the disclosure of any trade secret because the Act does not affirmatively and explicitly give it that authority, but rather is protective of trade secrets as evidenced by Section 15. The argument has also been made that a requirement to disclose trade secrets may result in an unconstitutional "taking" of private property without just compensation violative of the Fifth Amendment. However, in providing protection to trade secret interests, OSHA must be cognizant of the recent cotton dust decision, *American Textile Manufacturers Institute* v. *Donovan*, 101 5 Ct. 2744 in which the Supreme Court declared that Congress in passing the OSH Act had made a legislative decision to strike the balance in favor of protecting the health of employees to the extent feasible. In our opinion, the proposed modifications, while providing significantly greater protection to trade secrets than does the current standard, satisfy this statutory mandate.

Statement of Significant Issues

A. *Scope and application.*—1. *General.* The rule currently applies to each general industry, maritime, and construction employer who makes, maintains, contracts for, or has access to employee exposure or medical records, or analyses thereof, pertaining to employees exposed to toxic substances or harmful physical agents. It applies whether or not the covered records are related to specific occupational safety and health standards. Also, the regulation applies to records created prior to the effective date of the regulation, August 21, 1980. The broad scope of the regulation has created certain problems, which we address as follows.

2. *Employees covered.* A literal construction of the rule would indicate that records of employees only marginally exposed to toxic substances and clearly not at health risk from such exposures are covered by the regulation. For example, records of office workers who make only infrequent or sporadic visits to production areas where toxic substances or harmful physical agents are present could be considered subject to the retention and access provisions of the regulation. However, OSHA's original intent was to provide access rights only to workers with significant toxic exposures.

For example, Dr. Leonard Guarraia of the Synthetic Organic Chemical Manufacturers Association (SOCMA) states "(W)e believe this rule covers almost every employer in the general industry, maritime and construction categories because the applicability of the standard pertains to employees exposed to 'toxic' substances or 'harmful' physical agents, but does not depend on any showing that the level of actual exposure is excessive or harmful" (Ex. 58, p.3).

Mr. J. Laurence McCarty (Prudential Insurance) also notes that the definition of "exposure" is "so overly inclusive that the company president on an annual tour walking past an area where a toxic substance is being stored would have to get a notice as an exposed employee since there is 'potential exposure' " (Ex. 31, p.2).

There is merit in this argument and therefore OSHA is proposing explicitly to limit the regulation's coverage to only those employees "whose work directly involve(s) the manufacturing, processing, installation, handling, packaging, transport, disposal, or use of toxic substances, or who (are) subject to harmful physical agents (e.g., noise, ionizing and non-ionizing radiation, hypo- or hyperbaric pressure) in any manner different from non-occupational situations; and includes, but is not limited to, coverage or production, maintenance, transport and construction workers" (paragraph (b)(1)). This modification targets the regulation at those specific employees whose job duties typically involve exposure to toxic substances or harmful physical agents. Production, maintenance, construction, and transport workers are covered if toxic substances or harmful physical agents are present in their workplaces, with no further inquiry necessary on whether each individual is working directly with a toxic substance or harmful physical agent. For instance, an electrician working near a welding operation on a construction site would be covered. At the suggestion of the Advisory Committee for Construction Safety and Health, "installation" was added to clarify the broad coverage of construction workers.

Coverage means that they have a right of access to their medical records and to relevant exposure records, and that these records must be retained in accordance with the rule. "White collar" employees and employees in other industries (e.g., service industries) where exposures to toxic substances or harmful physical agents do not typically occur would not in most cases be covered by the regulation.

However, the regulation would continue to provide for access to exposure and medical records of any general industry, construction or maritime employee not otherwise covered by the standard who is accidentally exposed to a toxic

substance or harmful physical agent to a degree sufficient to require medical treatment. Records documenting the extent and treatment of injuries due to accidental exposures have clear occupational health importance and therefore should be subject to the access provisions of this regulation. However, since medical records of accidentally exposed employees would not normally be segregated from medical records of non-exposed employees, medical records related to accidental exposures would not be subject to the retention requirements of the regulation. Otherwise, when an employer of employees not normally covered by the standard disposes of medical records, he would have to make a determination of whether or not each record to be disposed of was related to an accidental exposure, and therefore subject to mandatory retention.

Access to medical records concerning accidental exposures must be provided for as long as the employer does retain the record.

Exposure records relating to accidental exposures would, on the other hand, be subject to thirty year retention. Since exposure records would not normally be kept for employees in that work location, the determination of specific records subject to retention would not be difficult.

This proposed modification is consistent with the original intent of the standard, which was not generally meant to apply to office workers or workers exposed only to safety hazards causing cuts, falls, and traumatic injuries (45 FR 35258 and 35265).

3. *Records created under contract.* The status under the standard of records created under contract was a source of confusion to many affected parties (Ex. 62, pp. 37–46; Ex. 60, p. 3). Therefore, paragraph (b)(3) is being modified to clarify the obligations of employers who contract for exposure or medical services. The proposed modification requires that "each employer shall ensure that the requirements of this section are made known to physicians and others providing medical or industrial hygiene services under contract to the employer and shall make a good faith effort to ensure, by modification of the contract if necessary, that such persons comply with the preservation and access requirements of the section." This modification should alleviate employer concerns that they will be held strictly liable for noncompliance of contract physicians not fully under their control even when they have done everything reasonably possible to assure compliance.

Records of emergency medical treatments for traumatic injuries or illnesses would not be covered if no written contract for medical services was in effect at the time of the accident.

4. *Industries covered.* Several trade groups have argued that certain industries ought to be exempted from coverage. In particular, employer groups in the flavor and fragrance industries (Exs. 44, 45, 47, 48, 50, 52), the grocery manufacturing industry (Exs. 46, 49, 51, 53–56), the feed manufacturing industry (Ex. 26), the construction industry (Exs. 40–43), and the commercial diving industry (Ex.), have argued for limited or full exemption from the provisions of the standard. The flavor and fragrance industries are currently the subject of a partial administrative stay designed to protect its trade secrets (46 FR 40490–91). This stay has been extended to February 15, 1983.

The flavor, fragrance and grocery industries base their justifications for exemption primarily on the following assertions: (1) The broad definition of "toxic substance" includes many food and fragrance substances which, on the basis of objective data, are demonstrated to be safe; (2) the possibility for disclosure under the regulation of valuable trade secret formulas greatly outweighs the benefits of disclosure; and (3) the records access regulation overlaps regulation of these industries by the Food and Drug Administration (FDA) and the Department of Agriculture (USDA).

For example, the Flavor and Extract Manufacturers Association (FEMA) states that "(T)he standard's definition of toxic substances is so broad that many traditional innocuous food ingredients (i.e., sugar, vanilla, and lemon oil) would be considered 'toxic' within the meaning of the standard. The sheer number of substances considered 'toxic' under the standard will make compliance with requests for disclosure both extremely costly and very difficult" (Ex. 44, p. 1). FEMA also notes that "(T)rade secrets are the lifeblood of the flavor industry and are most carefully guarded by flavor manufacturers * * * The disclosure required by the standard would threaten the very existence of the flavor industry without any showing that flavors and flavor materials present significant risks to any worker or that those risks would be lessened or eliminated because of the standard" (Ex. 44, p. 2).

With regard to agency overlap, a statement submitted by the Grocery Manufacturers Association asserts that "(T)he primary intent of the FDA and USDA regulations is to reduce the possibility of microorganisms, chemicals, filth or other contaminants in food. However, one of the obvious effects of these regulations is the reduction of employee exposure to harmful food substances by regulating the proper use, storage, and handling of materials that may be toxic" (Ex. 46, p. 2).

OSHA review of the scientific evidence, however, indicates that many of the materials used in flavor, fragrance and grocery manufacturing could be toxic under workplace conditions. Although FDA regulations ensure that the concentrations of these toxic substances are too low in finished consumer goods to be of health significance, workplace exposures to bulk quantities may nonetheless be toxic to workers unless necessary precautions are taken. Furthermore, the jurisdictions of FDA and USDA do not extend to the protection of workers from exposures to harmful materials during manufacturing processes (Exs. 50, 51).

Therefore, rather than exempt these industries entirely, we have responded to their legitimate concerns through proposed modification of specific provisions of the regulation. In particular, we propose both narrowing the definition of "toxic substance" and modifying the trade secret provisions to substantially reduce the likelihood that the release of trade secrets will be required. In fact, the trade secret modifications basically parallel the current stay for the flavor and fragrance industries, which has evidently satisfied those industries' concerns in this interim period.

The feed manufacturing industry petition seeks a stay of the standard as it applies to employee exposure records (Ex. 26). The industry maintains that " 'Exposure records' have been so broadly defined so as to include nearly every piece of paper generated in many workplaces * * * (we) did not fully realize that the regulation likewise requires retention of literally thousands of routine documents." (Ex. 26, p. 2).

OSHA is responding to these bona fide concerns by narrowing the definition of "employee exposure record" to include only those records traditionally regarded as occupational exposure records.

The diving industry sought a stay of the records access standard as it applied to employees engaged in commercial diving on the grounds that: (1) The standard was improperly promulgated as it applied to them; (2) divers are not exposed to "toxic substances or harmful physical agents"; and (3) the standard jeopardized valuable trade secrets such as

proprietary decompression tables (Ex. 86). The Agency, while denying this stay request as lacking merit, issued an official interpretation of recordkeeping obligations in the diving industry which explained the interaction between the records access standard, 29 CFR 1910.20, and the commercial diving standard, 29 CFR 1910.401–441 (Ex. 87). Since employees in the commercial diving industry are subject to occupational illness associated with their workplace exposure (e.g. mixed gases, hyperbaric pressure), OSHA sees no basis for excluding the industry from the proposed records access rule. Certain proposed modifications to the rule—for instance, the proposed limitation on access to "similarly situated" exposure records which gave rise to the industry's concerns about access to proprietary decompression tables—should alleviate the industry's concerns about the rule's inpact while assuring their employees the benefits of the standard.

Employers in the construction industry argue that the records access standard poses certain practical compliance difficulties. The industry maintains that: (1) Construction employees are exposed to toxic substances, if at all, for only brief periods since their work requires movement from place to place on the construction site; (2) due to the large number of temporary employees (the typical construction employee annual turnover rate is between 300 and 600 percent), the regulation would require long-term retention of huge numbers of individual records having a negligible degree of occupational health significance; (3) the principal types of employee records generated on a construction site are much different from those generated in general industry—most monitoring is done on an area basis, and records do not reveal the identities of employees who may have been working in those areas; and (4) medical records generated would be primarily those concerned with first-aid and emergency treatment (Docket H–112C; Ex. 2–42A, pp. 4–6).

Because of the construction industry records access issues, OSHA partially stayed the records access regulation with respect to the construction industry (46 FR 23740; April 28, 1980). In that notice, OSHA solicited comments from interested parties concerning the experience of the construction industry under the regulation, and specifically what aspects of the construction industry render the regulation inappropriate. A total of 47 comments were received. Also, the Advisory Committee for Construction Safety and Health (CAC) met June 10–12, 1981, in Washington, D.C. and considered the issue of records access (Exs. 62, 63). OSHA published a summary and analysis of the comments and the Advisory Committee recommendations in the **Federal Register** on September 15, 1981 (46 FR 45758).

Based on its analysis of the comments and CAC recommendations, OSHA lifted the stay. At the same time, the agency issued interpretations which incorporated most of the CAC recommendations and stated that the construction records access issues would continue to be reviewed as part of the general modification process.

In developing this proposal, three basic alternatives were considered for dealing with construction industry concerns: (1) Exempt the construction industry from the regulation; (2) modify the regulation in accordance with CAC recommendations and the concerns of other industries (recognizing that the records access concerns of construction employers and non-construction employers are often similar); or (3) specifically exempt the construction industry from certain provisions of the regulation.

The alternative of exempting the construction industry from the regulation was not chosen by OSHA since, as has been argued by construction labor unions, construction workers are often exposed to toxic substances and generally are less protected than industrial workers (Docket H–112C; Exs. 24, 31, 33, 41, and 45). We argue that their need for access to records that are kept on toxic exposures or health status is at least as great as industrial workers. Most complaints from affected employers do not challenge, and in fact largely support, the basic premises of the regulation, but instead target certain specific provisions, such as the broad scope of the regulation, as being too burdensome.

OSHA has therefore decided to respond to the construction industry's specific concerns through a combination of both the second (modification of standard) and third (exemption from certain provisions of the standard) alternatives. Specifically, OSHA has decided to propose the following: (1) Exemption of construction industry from medical records retention requirements beyond the duration of employment; (2) modification of the definition of "toxic substance;" (3) removal of records of most first-aid and emergency treatment from the definition of "employee medical record;" (4) elimination of purchase order type records of chemical identity from the definition of "exposure record;" and (5) incorporation of various interpretations which were made in response to the June 11, 1981, CAC recommendations.

A draft of this current proposal was submitted to the Advisory Committee which met on March 3–5, 1982, for further consideration. The CAC submitted seven additional recommendations, which were considered in developing this proposal (Ex. 77, 78, 82). These recommendations are discussed elsewhere in the preamble in conjunction with the issues to which they pertain.

B. *Definitions.*—1. *Analysis using exposure or medical records.* The paragraph (c)(2) definition of "Analysis using exposure or medical records" is being modified to exclude "research" and "other" studies, thereby including only data compilations or statistical studies based on information contained at least in part in employee exposure or medical records. This modification is meant to conform the language of the regulation closer to the original intent, which was to cover such records as "charts, graphs, tables, industrial hygiene surveys, evaluation of disease experience, and other summaries and evaluations" of exposure and/or medical data (45 FR 35260). For the most part, these records simply represent conclusions that could be drawn by any competent health professional with access to the underlying exposure or medical records. Industrial hygiene surveys are included within the definition because they can provide an overview of where the toxic exposure problems in a plant are, as well as a critical understanding of the methodologies and sampling techniques being used.

On the other hand, the definition is not meant to cover such records as engineering reports or the records of experimental toxicological research, which typically bear only a tenuous relationship to the actual workplace exposures or health of employees. In making this distinction, OSHA is particulary concerned that the standard not act as a disincentive to employers who are inclined to conduct research in the occupational health area beyond routine measuring or monitoring of toxic exposures.

2. *Employee.* Modification of the definition of "employee" (paragraph (c)(4)) is being proposed to be consistent with changes made in the "scope and application" section. "Employee" is now defined as any employee "whose work directly involves the manufacturing, processing, handling, installation,

packaging, transport, disposal, or use of toxic substances, or who is subject to harmful physical agents in any manner different from typical non-occupational situations, and includes, but is not limited to, coverage of production, maintenance, construction and transport workers."

"Employee" also includes any employee exposed to a toxic substance or harmful physical agent to a degree sufficient to require medical attention.

3. *Employee exposure record.* In the absence of more formal exposure records (air contaminant measurement, biological monitoring data, material safety data sheets), paragraph (c)(5) of the current regulation treats any other record which reveals the identity of a toxic substance (e.g. purchase records) as an "exposure record." The requirement to keep and make available this information, when coupled with the current broad definitions for "toxic substance" and "exposure," is the source for much of the concern regarding trade secret disclosure and the practical burdens of complying with the regulation.

Mr. David Bossman (American Feed Manufacturers Association) comments that "(T)he rule, as adopted . . . requires employees to retain for at least 30 years massive quantities of routine documents, including production records, shipping records, invoices, etc., which are not at all directly related to the purpose of the rule" (Ex. 26, p. 7).

OSHA is proposing narrowing the definition of "exposure record" to conform closer to the common meaning of that term. This modification will reduce both the possibility of trade secret disclosure and the employer burdens in complying with the regulation.

The proposal requires retention and access for only the following types of exposure records: (1) Environmental (workplace) monitoring results; (2) biological monitoring results defined as exposure records by OSHA standards (other biological monitoring results would now be treated as medical records, which are entitled to greater confidentiality protection); and (3) material safety data sheets. Other records which reveal the identity of a toxic substance or harmful physical agent are no longer treated as exposure records. However, the employer is still required to inform an employee upon request of the identity of a toxic substance to which the employee is exposed (paragraph (e)(2)(ii)). This requirement will ensure that workers will continue to be able to find out what toxic substances they are currently working with, while reducing the burden on employers of maintaining a voluminous historical record which would provide little information of value concerning past toxic exposures.

This proposed modification responds favorably to the major concerns of many employers, including the construction, flavor and fragrance, food processing and feed manufacturing industries. These industries maintain that this requirement relating to general "exposure" records is especially burdensome, and that access to records such as purchase orders could jeopardize many valuable trade secrets (Ex. 44).

The current paragraph (c)(5) definition of "employee exposure record" includes all records of biological monitoring results that measure employee exposure. The proposed modification excludes records of biological monitoring results not defined as exposure records by specific occupational safety and health standards. This modification is proposed in response to comments that there are some privacy concerns connected with biological monitoring results, which are often kept in medical files. OSHA agrees, and in those instances where non-mandatory biological monitoring is performed, these records should be considered medical records. In cases such as the lead standard, where OSHA decides to require biological monitoring of a toxic substance due to significant health risks associated with exposure, the information does not significantly infringe upon personal privacy interests and is considered of critical importance to similarly or potentially exposed workers. Therefore, it should be readily accessible to those workers, their unions, and OSHA.

4. *Employee medical record.* The definition of "employee medical record" (paragraph (c)(6)) is being narrowed. The current definition includes all employee X-rays, regardless of the purpose for which they were taken. However, X-rays taken to detect and treat broken bones due to falls or other traumatic occurrences do not serve to assist in the detection of occupational diseases. Therefore, the proposal considers only those X-rays taken for the purposes of establishing a baseline or determining specific occupational illness as part of the medical record. The storage of, and access to, X-rays of broken bones and other traumatic injuries would not be regulated by OSHA but rather would be subject to the policies of each individual employer or physician.

The proposal is adding paragraph (c)(6)(ii)(B) to clarify that OSHA does not consider certain first-aid records to be a part of the employee's medical record. Like X-rays of traumatic injuries, first-aid records are not typically used to detect occupational disease. However, if a first-aid record is made by a physician or becomes part of an individual worker's medical record, it is then considered part of the medical record and subject to the regulation's retention and access provisions.

Paragraph (c)(6)(ii)(D) is being added to exclude from the definition of "employee medical record," "records created solely in preparation for litigation which are privileged from discovery under the applicable rules of procedure or evidence." This modification simply incorporates an interpretation that has already been made with respect to the existing standard. The purpose of this exclusion is to make clear that the rule is not meant to provide a way around local rules of discovery or evidence when the claim to which the record in question relates is being litigated and the record itself is a product of the litigation. As we explained when the interpretation was first published:

> The question has been raised whether an employer must provide access to records which are created solely in anticipation of litigation and which are otherwise privileged from discovery under the prevailing rules of procedure or evidence. An example could be a medical opinion prepared for the employer for purposes of aiding the employer's case by a company physician after a workmen's compensation claim has been filed. It has been OSHA's interpretation that the standard does not contemplate coverage of such a record if the record would not otherwise be available to the employee or his attorney in the litigation. On the other hand, the mere fact that a medical record (see definition at 29 CFR 1910.20(c)(6)) not originally created in anticipation of specific litigation will ultimately be used as evidence in a private legal proceeding does not put it outside the scope of the standard. (46 FR 40490)

5. *Exposure.* The paragraph (c)(8) definition of exposure is being to be deleted due to the changes in the scope of the regulation. As discussed earlier in this section, the current regulation covers all "exposed" employees. The proposed scope specifies more particularly which employees are covered, thereby eliminating the necessity to separately define "exposed."

6. *Specific written consent.* The definition of "specific written consent" (proposed paragraph (c)(9)(ii); (c)(10)(ii) in the current regulation) would remain unchanged except for a clarifying modification of the language indicating that "specific written consent" does not authorize the release of medical information not in existence on the date

of the written authorization unless the release of particular future information is expressly authorized.

7. Toxic substance. The definition of "toxic substance" (proposed paragraph (c)(10); (c)(11) in the current regulation) is being narrowed to include only those chemicals on the National Institute for Occupational Safety and Health (NIOSH) Registry of Toxic Effects of Chemical Substances (RTECS) list which meet certain toxicological criteria. The regulation currently requires the retention and disclosure of exposure information regarding any "toxic substance or harmful physical agent." "Toxic substance" was defined broadly, most notably by including any substance listed in the NIOSH RTECS list—a compendium of over 39,000 chemicals including such common substances as sugar and salt. Many affected parties have criticized RTECS as overinclusive.

The current regulation also defines as toxic any substance which "is regulated by any Federal law or rule due to hazard to health." This provision was broadly interpreted by some to mean that all food ingredients are "toxic" since they are substances regulated by the Food and Drug Administration. Mr. Sherwin Gardner (GMA) noted that "this regulation does not discriminate between the few genuine hazards (e.g.: flour dust inhalation) and the vast majority of safe food substances to which workers are exposed" (Ex. 55, p. 1). This was not OSHA's original intent, which was to cover such regulated substances as air and water pollutants and other serious health hazards. The deletion of this provision should not affect occupational health benefits since OSHA believes that the proposed "toxic substance" definition adequately delineates the scope of the regulation and includes the regulated substances which pose a toxic risk to workers.

For instance, many food ingredients will continue to be covered by the regulation since they meet the proposed criteria for "toxic substance." The handling of bulk quantities of dyes, additives, and other food ingredients considered toxic under the proposed definition can represent a potential hazard in food processing operations. FDA regulations do not extend to occupational exposures, but instead require that the concentrations of hazardous ingredients in consumer goods be kept at safe levels.

The "toxic substance" definition also included any substance which "has yielded positive evidence of an acute or chronic health hazard in human, animal, or other biological testing conducted by, or known to, the employer," ((c)(11)(iii)) and any substance which "has a material safety data sheet available to the employer indicating that the material may pose a hazard to human health" ((c)(11)(iv)).

Therefore OSHA is proposing to modify current paragraph (c)(11)(ii) pertaining to the use of RTECS, and to delete the requirements of (c)(11)(i) with regard to substances regulated by other Federal agencies. The aspect of the definition pertaining to positive studies known to the employer is proposed to be modified to incorporate the same toxicity criteria which would now limit the use of RTECS. In other respects, that provision, as well as the one pertaining to material safety data sheets, remains unchanged.

The modification of (c)(11)(ii) (renumbered as (c)(10)(iii)) retains the use of RTECS as a basic source of information, but greatly limits its application by adding specific toxicity criteria which would indicte whether or not a substance is likely to pose an occupational health risk. To come under the definition of "toxic substance" a substance would not only have to be listed in RTECS but would have to fulfill one of the following conditions: (1) Be reported to cause human toxicity at any dose level; (2) be reported to cause cancer or reproductive effects in animals at any dose level; (3) have a reported oral rat LD50 (that does required to kill 50% of the treated animals) of less than 500 milligrams per kilogram of body weight; (4) have a reported rabit skin contact LD50 of less than 1000 milligrams per kilogram of body weight; or (5) have a reported rat inhalation LC50 (that atmospheric concentration required to kill 50% of the exposed animals) of less than 2000 parts per million of gas or vapor, or less than 20 milligrams per liter of mist, fume or dust. Conditions (3), (4) and (5) are adopted from the "toxic chemical" definition in the American National Standards Institute's document, "American National Standard for the Precautionary Labeling of Hazardous Industrial Chemicals" (ANSI Z129.1–1976). These toxicological measurements are commonly performed for chemicals used in industrial processes.

NIOSH has generated from RTECS a list containing 3,492 substances which meet these criteria (Ex. 88). This list represents a greater than 90 percent decrease in the number of chemicals specified under the "toxic substance" definition. OSHA intends to make such a list available to affected parties, and to periodically issue an updated list.

In considering the proposed definition of "toxic substance," it should be remembered that, while the definition does in some sense determine the scope of the rule, the rule does not directly regulate any of the substances which falls within the definition. Rather, what is being regulated is access to which records relating to those substances or to employees exposed to those substances and which the employer has chosen to create. Thus, while the definition of "toxic substance" may encompass several thousand chemicals, only a fraction of them is likely to be present in any one workplace. Moreover, while some medical records are likely to be kept on employees who work directly with the covered substances in the workplace, it is less likely that there will be exposure records on all of them. Rather, an employer is likely to have exposure records only for those workplace chemicals which are most common or most hazardous. The scope of the employer's obligation will therefore, in most cases, be considerably narrower than the scope of the "toxic substance" definition would initially suggest.

Alternatives to this proposed modification will also be considered. An option to the proposed "toxic substance" definition is limiting the definition to only those substances which are regulated by OSHA, or to other lists of substances having recognized occupational health significance, such as the ACGIH TLV list (American Conference of Governmental Industrial Hygienists "Threshold Limit Values for Chemical Substances and Physical Agents in the Workroom Environment"). The regulation could be further limited to records of employees actually subject to exposures greater than the levels prescribed by OSHA or the ACGIH. For instance, Mr. John Webster (Ohio Gas Association) writes that "(W)e would recommend that OSHA require records to be kept only when there has been exposure to identified harmful physical agents" (Ex. 30, p. 4).

These latter options were not chosen for proposal since the benefits of the regulation largely reside in its role in the detection of occupational diseases, especially those diseases associated with the currently unrecognized hazards of many non-regulated or under-regulated sustances. Limiting the regulation only to the recognized hazards contained in these lists would therefore eliminate the regulation's role in detecting unknown hazards. Also eliminated would be much of the other public health benefits associated with providing workers access to critical information about unregulated toxic exposures and effects.

C. *Retention periods.* The regulation currently requires exposure and analysis records to be kept for thirty years and medical records to be kept for the duration of employment plus thirty years. These periods reflect the latency periods associated with some occupational diseases, most notably cancer.

Affected parties, construction industry employers in particular, have expressed concern over the need and expense of retaining records of short-term employees for the full thirty year periods (See Ex. 36 (American Gas Association); Docket H–112C, Ex. 2–42A (NCA)). They argue that exposure and medical records of short-term employees would likely not be of occupational health benefit, since in twenty or thirty years it would be nearly impossible for a researcher to trace the cause of an occupational disease to short-term employment at a particular job-site when the employee had worked at dozens of essentially similar job sites. It would also be nearly impossible to locate the former employees should follow-up be necessary.

OSHA is therefore proposing exempting from the retention requirements any individually identified medical records of short-term (i.e., less than one year) employees. Although records of short-term employees may often be of future occupational health significance, the total burdens of maintaining these records do not appear to be justified. These employees would instead be given a copy of their records upon termination of employment. Having the record travel with the employee rather than being kept by each of several employers should be of greater overall health benefit to the employee.

Also, based on comments from construction industry employers that due to the nature of construction employment extensive recordkeeping would unduly burden employers (Docket H–112C; Exs. 2–3, 2–6A, 2–14), OSHA is proposing to modify the current standard's retention requirements for medical records generated and maintained by construction industry employers to the duration of an employee's employment provided that the record is turned over to the employee upon termination of employment. This modification would not apply, however, to any medical records retention requirements contained in substance-specific OSHA standards.

In addition, OSHA is proposing changing the retention period for medical records to length of employment plus 5 years, but in no event less than thirty years after the beginning of employment. At the expiration of the retention period the medical record may be discarded. This modification will considerably reduce the burden of the current rule by shortening the outer limit of how long medical records of permanent employees will have to be kept. At the same time, the proposed retention period is still sufficiently lengthly to achieve the purposes of the rule, e.g., the preservation of worklife health records for research purposes. At the end of this period, an employee can in any event request a copy of the entire record to keep as part of his or her personal medical files. Thus, there should be no diminution of health benefits to the individual employee as a result of this proposed modification.

OSHA is also at this time soliciting information concerning the research benefit of retaining employee medical records beyond the duration of employment. OSHA is specifically interested in whether researchers engaged in current or completed research have made significant use of company-maintained medical records of former or deceased employees. OSHA is also interested in information concerning the number of occupational health investigations currently planned or forseeable which intend to make use of these records. OSHA hopes to determine whether the forseeable research needs for the medical records of former employees justify the expense to employers of maintaining these records.

In addition, OSHA solicits information and suggestions to make the retention requirement cost-effective. For example, epidemiological studies are generally performed in larger workplaces where a sufficient number of workers make up a study population. Therefore, it may be cost effective to require only these larger workplaces to preserve records beyond the duration of employment and to require the smaller firms to preserve records for the duration of employment.

D. *Access to Records.* The current regulation requires that requested records be made available within 15 days of the request. However, several commenters argue that situations may arise where it is not possible to comply with the fifteen day limit (Exs. 27, 28). Records may be stored at locations remote from where the request is made, or extraordinarily large numbers of records may be requested.

The proposed modification of paragraph (e)(1)(i) clarifies OSHA's intent in requiring records to be made available within fifteen working days. The modification allows employers to exceed the 15 day limit providing that: (1) It is not reasonably possible to fulfill the request within 15 days; and (2) within the 15 day period the employer apprises the requesting party of the reasons for the delay and an approximation of when the requested records will be available. The CAC recommended that OSHA explicitly require the 15 day limit with regard to the employer's obligation to notify the requesting party of any reasons for delay.

Paragraph (e)(1)(ii) is being added to indicate that an employer may require of the requesting party reasonable information to assist the employer in the location or identification of requested records. Typically, such information should be limited to only the dates and locations an employee worked during the time period in question. This information will assist employers in locating requested records and will preclude extensive searches of records by employers to determine which specific records are covered by a request. OSHA has also adopted a CAC recommendation that, in this case, only information related to locating the record may be requested by the employer.

The proposal would also add paragraph (e)(1)(iv) to indicate that "in the case of an original X-ray, the employer may restrict access to on-site examination or make other suitable arrangements for the temporary loan of the X-ray." This modification is intended to clarify an employer's responsibility in providing access to X-rays. Under paragraph (e)(1)(iii) of the proposed standard, the employer is required to provide an employee a copy of the record, or make copying facilities available to the requestor. However, in the case of X-rays a copy is not interchangeable with the original. Also, specialized equipment is required for copying X-rays, and this equipment is not normally available to employers. The proposed modification indicates that the copying provisions of the standard are intended to apply to the parts of the employee medical record which can be easily photocopied or reproduced, and not to X-rays.

A clarifying modification is proposed for paragraph (e)(2) concerning employee and designated representative access to records. The current regulation requires employers to provide an employee or designated representative access to exposure records of all employees having exposures similar to those of the subject employee. This provision is capable of overly broad interpretation, suggesting employee and

designated representative rights of access to potentially large numbers of duplicative records, specifically with regard to access to exposure records of other similarly exposed employees. This provision was intended only as an alternative when personally identified exposure records are inadequate to determine the amount and nature of toxic substances or harmful physical agents to which the employee is or has been subjected. The proposal therefore permits access to exposure records of other employees only in the absence of relevant personal exposure records, and only to the extent necessary to determine the subject employee's exposure.

As noted above in B.3., OSHA is proposing to narrow the definition of "employee exposure record" by excluding reference to "any other record which reveals the identity of a toxic substance or harmful physical agent." However, while these records no longer have to be retained or made available to employees, OSHA has decided to preserve the obligation for the employer to provide information on the identities of toxic chemicals currently in the workplace (paragraph (e)(2)(ii)). The requirement to provide such information would be subject to the trade secret protections in paragraph (f). The paragraph (e)(2)(ii) obligation, combined with the limitation of "employee exposure record," will retain the occupational health benefits derived from informing workers of the identities of the substances to which they are exposed, while removing the burden on employers to retain these records for thirty years.

E. *OSHA Access.* The current regulation requires that each employer, upon request, provide "immediate" access to records for authorized OSHA employees. The proposal substitutes the word "prompt," which reflects OSHA's intent that the employer must not unduly delay providing the requested records to the requesting OSHA official, but, consistent with whatever legal protections are available to the employer, makes them available to OSHA as soon as possible. The phrase "without derogation of any constitutional and statutory rights that the employer chooses to exercise" is proposed to be added to make explicit OSHA's recognition that its access to records takes place against a background of Fourth Amendment law, particularly as explicated in *Marshall* v. *Barlow's Inc.*, 436 U.S. 307 (1978). Although issuance of this rule is designed to promote voluntary compliance with OSHA access requests, the Agency will seek a search warrant or subpoena, as appropriate, if an employer exercises his right to require that OSHA resort to legal process before obtaining such access.

F. *Union Access to Records.* The current rule grants recognized or certified collective bargaining agents automatic status as designated representatives, without requiring individual employee authorization, for purposes of access to exposure and analysis records. The purpose of this special status was to assure that unions would have ready access to exposure information so that they could better represent the interests of their members in the occupational safety and health area. Comparable special status was not granted with respect to medical records, however, because of the significantly greater privacy interests involved. Commenters have questioned whether, under the OSH Act, unions should be treated preferentially to other designated representatives who have to obtain written authorization to establish the agency relationship. Further, commenters have also complained that providing unions unconsented access to employee exposure records enables union officials to burden employers with large-scale records access requests and is best handled through traditional collective bargaining (Ex. 33, DuPont).

In three recent companion decisions concerning union access to exposure and analyses records, the National Labor Relations Board (NLRB) held that unions do have a right of access to these records since the information contained in the records is presumptively relative to the unions' role as collective bargaining agent for unit employees. *Minnesota Mining and Mfg. Co.* 261 NLRB No. 2 (April 9, 1982); *Colgate-Palmolive, Inc.* 261 NLRB No. 7 (April 9, 1982); *Borden Chemical, a Division of Borden, Inc.* 261 NLRB No. 6 (April 9, 1982).

In the *3M* case, for instance, the union requested: (1) Morbidity and mortality statistics on all past and present employees; (2) the generic names of all substances used and produced at the plant; (3) results of clinical and laboratory studies of any employee, including the results of experimental toxicological investigations regarding workplace substances; (4) certain health information derived from insurance and workmen's compensation records; (5) a listing of contaminants monitored by the company, including sampling protocols; (6) a description of the company's hearing conservation program, including noise level surveys; (7) radiation sources in the plant; and (8) an indication of plant work areas which exceed recognized heat standards.

In its final decision, the NLRB ordered the company to furnish to the union: (a) The information it requested concerning employee health and safety programs, monitoring and testing systems, devices and equipment, and statistical data related to working conditions to the extent that such information does not include individual medical records from which identifying data have not been removed; and (b) the generic names of all chemicals and substances used and produced in the company's plant and which do not constitute trade secrets. Further, the NLRB ordered the company to bargain collectively with the union regarding access to the generic names of trade secret chemicals and substances with the express hope that parties could agree on a method of providing the information with suitable protections for the trade secrets. *Accord: Colgate—Palmolive, supra; borden Chemical, supra.*

The NLRB decisions apparently grant at least under most circumstances, unconsented rights of access for union representatives to exposure and analysis records that are equal to or greater than the rights provided by the current OSHA provision. If this is the case, the retention of such a provision in the agency's records access rule would appear to afford no additional assurance of ready access by unions to these types of records and data, and may therefore no longer be necessary. In addition, the deletion or revision of this provision by OSHA in light of the NLRB decisions may represent an appropriate accommodation of national safety and health policy and national labor relations policy. Under any modification of the rule, individual employees would still be free to specifically authorize a union to act as a designated representative for purposes of access to these records.

However, because of the importance of the issue to all parties, the need to be cautious and thorough in evaluating the impact of the NLRB decisions on the OSHA rule, and the possibility that, under limited circumstances, the retention of the special union access provision may not be duplicative of the rights now available in the collective bargaining context, OSHA has not altered the current union access provision in the proposed rule. Interested persons are encouraged to comment on whether modifications of the existing rule which would limit or delete the automatic status of unions as as designated representatives are appropriate in light of experience under

the current rule, the recent NLRB decisions, and considerations of safety and health. The agency will make its final determination concerning this issue once it has carefully evaluated the entire rulemaking record.

G. *Trade secret provisions.* The current regulation requires the disclosure of a toxic substance identity even if the employer considers the identity to be a trade secret. At the same time, the standard permits an employer to delete from requested records any trade secret information which discloses manufacturing processes, or discloses the percentage of a substance in a mixture. If the employer chooses to delete such information, he must notify the person requesting the records that such information was deleted on trade secret grounds. If the deletion of information adversely affects the ability to determine the nature of an employee's exposure, the employer must provide alternative information sufficient to allow adequate exposure evaluation.

The provision requiring toxic substance identity disclosure is troublesome to the flavor and fragrance industries and chemical industries, which maintain that the preservation of trade secrets is vital to corporate profitability, and that the standard's exclusive reliance on confidentiality agreements to protect trade secrets is inadequate (Ex. 44 (FEMA); Ex. 35 (CSMA)).

The purpose of the regulation is to provide employees with information on the chemical hazards to which they are potentially exposed. With this information they can better ensure that they are adequately protected against these hazards. Any barrier to disclosure between an employer and his employees can only serve to limit the effectiveness of the regulation. However, OSHA believes it necessary to modify the regulation so as to strike a better balance between providing employees with information unnecessary to maintain the benefits established by the standard and protecting legitimate trade secrets.

Unqualified trade secret protection can act as a significant barrier to the disclosure of exposure information. A trade secret can be anything which a business in fact keeps secret from its competitors and the public, provided it is minimally novel and commercially valuable. *Restatement of Torts*, s757 comment (b) (1939); Cavitch, *Business Organizations* s232.01 (1975). Absolute secrecy is not essential; information can be considered a trade secret even though it is divulged to employees or licensees with a "need to know," provided the holder of the secret had taken steps to restrict unnecessary access to, and the use of, this privileged knowledge. Cavitch, supra, s232.01(1). Trade secret protection entitles the holder of a trade secret to its commercial exploitation and to certain judicial remedies for a breach of confidence or dispossession of the trade secret through improper or unethical means (industrial theft, bribery, spying, ect.). The Supreme Court had identified the maintenance of standards of commercial ethics and the encouragement of invention as the broadly stated policies behind trade secret law. *Kewanee Oil Co.* v. *Bicron*, 416 U.S. 470 (1974). Unlike patents or copyrights, however, there is not comprehensive Federal law of trade secrets, as it is basically a state-created right.

The conflict between access to exposure and medical records and trade secret interests arises whenever an employer is asked to reveal information such as the identity of a chemical which the employer considers to be a trade secret. While most trade secrets relate to process information or formula or percentage mixture information, none of which is required to be disclosed by the regulation, the identity of a chemical or mixture ingredient may itself be considered a trade secret if its existence is unknown to a competitior (e.g. certain intermediates, catalysts) or cannot practically be "reverse engineered" by analytical techniques.

The same identity information, however, may be essential to the detection of occupational disease. Since exact chemical identity is the passkey to the scientific literature, this information must be available to an industrial hygienist or other health professional who is evaluating the hazards associated with a chemical. Likewise, it must be available to an epidemiologists who is attempting to link patterns of disease with exposure to a particular chemical and to a treating or consulting physician who suspects that a patient's health problems may be the result of chemical exposure. While not every employee needs the chemical identity, as distinct from hazardous effects and precautionary information, at all times, a primary goal of the regulation is to encourage employees to seek out advice and information about the chemicals in their workplaces. For this to happen effectively, they need to know the identities of the toxic substances they are exposed to.

In attempting to accommodate the competing interests between chemical identity disclosure and trade secret protection, OSHA has also taken into account the existence of several factors which contribute to the regulatory dilemma. First, a chemical is a trade secret in some contexts but not others, and it may be equally hazardous in either event. Second, whether or not a chemical's identity is a trade secret is basically a matter of an employer's self-definition; therefore, permitting non-disclosure of trade secret identity without any offsetting obligation could result in overclassification of chemicals as trade secrets.

Third, the value of a trade secret, once lost, cannot be fully recaptured, although private remedies for unathorized disclosures can result in the assessment of monetary damages and injunctive relief. And fourth, OSHA possesses neither the capacity nor expertise to act as a screen of all information which an employer is to disclose to employees and claims to be trade secret.

To accommodate these competing interests, OSHA initially proposed (August 7, 1981; 46 FR 40492) to strengthen the current trade secret protection provisions by permitting liquidated damages clauses in confidentiality agreements entered into by designated representatives. That proposal is now being merged into the current rulemaking, where it may receive broader consideration in the context of the interrelated issues raised by this general reconsideration.

OSHA is further proposing other modifications of the trade secret provisions to make them more protective of trade secrets. In general, these proposed provisions limit the requirements of disclosure to only certain categories of highly toxic chemicals (e.g., carcinogens) and make the confidentiality agreement authorization a more meaningful protection. More particularly, the proposal includes a provision which permits the employer to withhold precise chemical identity information of hazardous chemicals which constitute a trade secret, unless the chemical is a carcinogen, mutagen, teratogen, or a cause of significant irreversible damage to human organs or body systems and ther is a need to know the precise chemical name. The "need-to-know" qualification is meant to limit access to employees or their representatives with a legitimate health purpose. A distinction is thus drawn between "high chronic hazard" chemicals, where identities must be disclosed, and all other hazardous chemicals, whose identities may be withheld (except from a treating or consulting physician) if they constitute a trade secret. With

respect to these latter chemicals, the employer is nevertheless required to:

(1) Be capable of substantiating that it is a trade secret;

(2) Identify the chemical by a generic chemical classification;

(3) Provide all other information on the properties and effects of the chemical; and

(4) In any event, release on a confidential basis the chemical identity to a treating or consulting physician who has stated in writing (except in an emergency) that a patient's health problems may be the result of occupational exposure. Since the employee's personal or treating physician may not be familiar with the toxic effects of workplace chemicals, the CAC recommended that trade secrets also be mandatorily disclosed to consulting physicians assisting in the treatment of disorders of suspect occupational causation. OSHA has adopted this recommendation.

With respect to the "high chronic hazards," the identities of which must be disclosed, and the other hazards which an employer may choose to disclose, the regulation permits the employer to condition access to such information by employees or their designated representatives upon the signing of a confidentiality agreement. The agreement may resrict use of the information to health purposes, prohibit redisclosure of the information to anyone not specified in the agreement other than a treating or consulting physician, and provide for compensation or other legally appropriate relief for competitive harm which may result from a breach of the agreement. The terms of such an agreement should be worked out between the employer and the requesting party and be governed by the applicable state law. Thus, for example, OSHA intends to be neutral on the kinds of damages provisions that may be included. OSHA believes that this provision, with its combination of requirements and authorizations, reflects the current practice of responsible employers and will serve to maximize the amount of necessary hazard-related information available to employees, protect the commercial value of trade secrets, and minimize the potential problem of employers overclassifying chemicals as trade secrets in order to avoid the need to disclose chemical identities to their employees.

This accommodation of trade secret interests has been arrived at after careful consideration of this issue. At this point in the rulemaking, OSHA believes that the proposed modifications provide an optimum solution to this difficult problem and are consistent with its mandate to protect the health of workers to the extent feasible. At the same time, OSHA is fully aware that opinions vary widely on this matter and that a number of other alternatives, ranging from total disclosure of chemical identity regardless of the trade secret interest to total protection of trade secrets regardless of the health consequences, are theoretically possible. OSHA invites comment on all such alternatives and the trade secret issue in general.

Other proposed changes to the regulation, such as the redefinitions of "exposure," "exposure record," and "toxic substance," will also greatly help alleviate the trade secrets. problem by narrowing the regulation's scope. Because a signficantly smaller set of records will be covered, many trade secret problems will be avoided at the threshold.

H. *X-ray microfiliming.* Paragraph (d)(2) of the regulation states that "nothing in this section is intended to mandate the form, manner, or process by which an employer preserves a record so long as the information contained in the record is preserved and retrievable, except that X-ray films shall be preserved in their original state." The X-ray preservation requirement resulted from a finding by OSHA at that time that the diagnostic detail of certain X-rays could be lost when the original X-ray is microfilmed. X-rays related to a possible diagnosis of pneumoconiosis are particularly susceptible to this loss of detail. Pneumoconiosis is the accumulation of dust in the lungs and the tissue reaction to its presence. Inhalation of the dusts of coal, aluminum, beryllium, asbestos, aluminum oxide, silica, hematite (iron oxide), talc, kaolin, mica and cement are commonly associated with the development of pneumoconioses. The earliest diagnostic indications of pneumoconiosis are often barely perceptible changes in the chest X-ray.

Following promulgation of the standard, OSHA received comments from a number of interested parties concerning the requirement that X-rays be kept in their original state. (Exs. 3–5, 8, 10–15). They argued in general that modern microfilm processes can reduce X-rays for storage without an appreciable loss of diagnostic detail. Also, they maintain that microfilm storage is preferable for long-term X-ray preservation due to the fact that microfilm processes use archival materials (which are specially resistant to fading and decay). By contrast, original X-rays can fade and crack over time to the possible detriment of their diagnostic value.

After consideration of the available evidence, OSHA has decided to propose two modifications of the records access standard: (1) Exempt X-rays taken for the purpose of diagnosing broken bones from the definition of "employee medical record," and (2) allow the microfilm storage of remaining X-rays provided certain requirements are met.

As mentioned above in B., X-rays taken for the purpose of diagnosing bone fractures are not of value in the detection and prevention of occupational disease. The microfilm storage of the remaining X-rays will be allowed if performed under the supervision of a licensed radiologist who is a diplomate of the American Board of Radiology. In addition, for the microfilm storage of a chest X-ray where the subject worker has been exposed to a substance known to cause pneumoconiosis, the supervising radiologist shall consult with and obtain the written approval of the microfilm process from both: (a) A licensed physician who is a diplomate of the American Board of Internal Medicine certified in the subspecialty of pulmonary disease, and (b) a "B" reader certified by the National Institute for Occupational Safety and Health (NIOSH). Of course, approval by a single individual who meets both criteria is acceptable. OSHA believes that the microfilming of chest X-rays of workers exposed to toxic substances known to cause pneumoconiosis deserves separate consideration. In this case extremely fine shadings of image density are often required for proper analysis and diagnosis. Therefore there is an increased risk that diagnostic detail could be lost if current standard microfilm processes are used. The American College of Radiology's Task Force on Pneumoconiosis concurs in this view (Ex. 66).

This proposal relies on the professional expertise of radiologists to ensure that X-rays are microfilmed with minimal loss of diagnostic detail. This requirement is performance oriented, since any microfilm process satisfactory to the supervising radiologist may be used.

Radiologists have the principal training and responsibility for the interpretation of X-rays, and it is therefore appropriate to have the microfilming performed under the direction of a licensed radiologist. The requirement that the radiologist be a diplomate of the American Board of Radiology adds further assurance that the microfilming will be of high quality.

This is of particular importance in that the future interpretation of X-rays or microfilm most likely would be performed by a physician not involved in the initial microfilming process.

The requirement for approval of a licensed physician who is a diplomate of ABIM and certified in the subspecialty of pulmonary disease is included since these physicians would be especially sensitive to the difficulties in the X-ray diagnosis of pneumoconiosis.

A NIOSH certified "B" reader has demonstrated proficiency in the use of the ILO–U/C classification for interpreting chest X-rays for pneumoconiosis and other chest diseases. (Ex. 2). The ILO–U/C system of chest X-ray standards is meant to improve the interpretation and reporting of X-ray abnormalities caused by pneumoconiosis-producing dusts.

The use of quantifiable standards (e.g. resolution, image density) to regulate the microfilming of X-rays was considered by OSHA. However, the lack of consensus by national microfilm industry associations in identifying meaningful standards, coupled with forseeable problems enforcing such standards, led OSHA not to include this approach in the proposal.

To further minimize the possibility that diagnostic information will be lost during the microfilm process, OSHA is considering the recommendation of the Advisory Committee for Construction Safety and Health requiring that existing interpretations of X-rays be microfilmed along with the original X-rays.

However, due to uncertainties with regard to the feasibility and medical acceptability of this procedure, OSHA has decided not to include this provision in the proposed Appendix. OSHA is interested in receiving comments from interested persons concerning the appropriateness of this recommendation.

I. *Duty to Inform Employees.* The current regulation in paragraph (g)(1) requires that "upon an employee's first entering into employment, and at least annually thereafter, each employer shall inform employees exposed to toxic substances or harmful physical agents of (the regulation)." "Employees" was defined under paragraph (c)(4) as including former employees. Therefore, the regulation was susceptible to the interpretation that employers were required to inform former employees of the provisions of the regulation. Locating and informing large numbers of former employees would require a massive expenditure of resources. This was not OSHA's original intent. To clarify OSHA's intent, the word "current" has been inserted into paragraphs (g)(1) and (g)(2) to indicate that the employer's notification responsibility extends only to employees currently employed.

Preliminary Regulatory Impact Assessment and Regulatory Flexibility Certification

A. Introduction

Executive Order 12291 (46 FR 13197, February 19, 1981) provides for a "regulatory analysis" when a rule has major economic consequences for the general economy, individual industries, geographical regions or levels of government. E.O. 12291 replaced Executive Order 12044, which also had provided for regulatory analyses of major regulations.

OSHA issued the access to exposure and medical records regulation on May 23, 1980 (45 FR 35212–35303). At that time, OSHA concluded that this regulation would impose compliance costs below the Executive Order 12044 threshold of $100 million in annual costs for the economy. This is largely because the final rule would not require new records or reports, nor would impose any additional environmental or employee monitoring or medical surveillance requirements. Finally, the rule was performance-oriented, in that the content of exposure and medical records was left to the employer. As a result, OSHA determined that a regulatory analysis under E.O. 12044 was unnecessary.

The proposed revisions to the access regulation will further lower compliance costs. Also, the access regulation would not appear to exercise a significant impact on competition, productivity, domestic investment, employment, innovation, or foreign competition, which are criteria to be considered under the current executive order. For these reasons, this proposed regulation is not considered major under the new E.O. 12291.

Likewise, the Regulatory Flexibility Act of 1980 (Pub. L. 96–353, 94 Sta. 1164 (5 U.S.C. 60 *et seq.*)) requires that OSHA give special consideration to the economic impact of the proposed regulation on small entities. Such consideration should include a description of regulatory alternatives and estimates of the impact of reporting, recordkeeping, and other compliance requirements in order to minimize any significant impact of the proposed rule on small entities. The following analysis meets the requirements of the Regulatory Flexibility Act and addresses the economic implications of the changes proposed to the existing regulation and the bases for these determinations, and concludes that the proposed rule will not have a disproportionate economic impact on small entities.

B. Proposed Revisions

Several proposed modifications to the current access regulation have economic implications. The proposed changes include the following:

(1) Redefinition of employees covered by the proposal,

(2) Redefinition of "toxic substance,"

(3) Retention of records, and,

(4) Trade secret issues.

1. *Employee Coverage.* Currently, the regulation covers all employees who are exposed to toxic substances and harmful physical agents in the workplace, including those who experience incidental exposures, such as white collar employees who may make infrequent visits to production areas where toxic substances are present. The new proposal would limit employee coverage to those, "whose work directly involves the manufacture, processing, installation, handling, packaging, repackaging, transport, disposal, or use of toxic substances, or is subject to harmful physical agents including but not limited to production, maintenance, construction, and transport workers." This change will limit the access regulation to those workers who are more than casually exposed to toxic substances. Office workers, in general, will not be covered by the new proposal. This change will substantially reduce the costs and will target the regulation at those workers with exposures to toxic substances in the workplace.

2. *Redefinition of Toxic Substances for Medical and Exposure Records.* Another change to the rule is the redefinition of toxic substances. Under the existing regulation, toxic substances are defined to include the approximately 39,000 substances listed in the latest printed edition of the National Institute of Occupational Safety and Health's *Registry of Toxic Effects of Chemical Substances* (RTECS), many of which impose low health risks. Under the proposed regulation, toxic substances are more specifically defined to include only those substances that;

(a) Cause human toxicity;

(b) Cause cancer or harmful reproductive effects in animals;

(c) Have a median lethal dose of less than 500 milligrams per kilogram of body weight when administered orally to albino rats;

(d) Have a median lethal dose of less than 1000 milligrams per kilogram of body weight when administered by

continuous contact to the bare skin of albino rabbits; or

(e) Have a median lethal concentration in air of less than 2000 parts per million by volume of gas or vapor, or less than 20 milligrams per liter of mist, fume or dust when administered to albino rats.

This change limits recordkeeping requirements to those substances considered to be the most hazardous and reduces the number of toxic substances by approximately 90 percent. The corresponding number of records covered by the standard is probably reduced to a somewhat lesser extent because many of the workers experience exposures to multiple substances.

This modification, however, may cause some reduction in the benefits of the proposal because some substances that do not currently meet the proposed criteria may be found to be hazardous long after exposure has already occurred and the results have been discarded. Asbestos, for example, was long believed to be biologically inert, but has been proven to be a potent carcinogen. Also, the carcinogenicity of vinyl chloride was discovered through careful analysis of the medical records of exposed workers.

3. *Retention of Records.* The new proposal reduces the kinds of medical and exposure records that must be kept and provides for greater flexibility in the keeping of records, particularly X-rays. For example, many employee health records generated in industrial health units involve minor treatments of broken bones, cuts, bruises, or occasional headaches. These records are of little long-term value and need not be retained by the employer. Under the proposal, employers may summarize the results of continuous readouts and laboratory reports, rather than keep the full reports. This should result in reductions in the number of records being stored without any loss in essential information. Under the proposal, required material safety data sheets need only be maintained until replaced by a more recent copy. Also, X-rays of broken bones need not be kept, while X-rays of occupational health significance may be microfilmed under proper supervision. Microfilming could mean a potential cost savings to employers, because they could recover the silver content of X-rays, and the retention of information would require much less storage space.

Under the new standard, employers need not maintain records of short-term employees (i.e., those who have worked less than 1 year). Employers have the alternative of maintaining these records or of providing them to employees upon termination of their employment. This modification should substantially reduce the costs of compliance, especially for industries with higher than average turnover. At the same time, the employee receives his medical record so that no health information is lost. In the construction industry, this option is being adopted for all employees, regardless of the length of employment.

In the absence of formal exposure records (air contaminant measurements, biological monitoring data, and material safety data sheets), the current regulation treats any other record that reveals the identity of a toxic substance (e.g., and inventory record or a purchase record) as an "exposure record." The requirement to retain this information and make it available has been the source of much employer concern regarding costs due to the very large number of records that are included under this provision.

Under the proposed regulation these "other records" are no longer treated as exposure records, and therefore are not subject to access and retention requirements. However, the employer is still required to inform an employee upon request of the identity of a toxic substance to which the employee is exposed. These changes will significantly reduce employer costs and, at the same time, will ensure that workers will continue to have access to information on the toxic substances they are or could be working with.

Finally, the proposed regulation modifies the requirement that employee medical records be retained for 30 years after termination of employment to one of 30 years, or the length of employment, whichever is longer. This modification will result in some cost savings from the shorter retention periods.

Long-term recordkeeping is valuable for diagnosis in the treatment of latent diseases, including cancer and epidemiological research linking occupational illness to hazardous exposures. It is possible that shortening the time period for maintaining medical records may reduce some of the benefits of the access regulation, because latency periods for cancer may be greater than 30 years. However, this effect should not be significant, because in most cases, the retention of records for 30 years should be adequate.

4. *Trade Secrets Issues.* The proposed revision to the trade secret provision recognizes both the employer's rights with respect to proprietary information and the employee's need for exposure information. If the employee requests information on exposures to highly toxic substances involving a trade secret, the employer can provide the employee or his designated representative with access to the information on the basis of a confidentiality agreement. The proposed modifications of the trade secret provisions are more protective of trade secrets than the current rule. The likelihood of competitive harm resulting from trade secret disclosure under the rule should therefore be greatly reduced.

C. Summary of Costs

OSHA's Office of Regulatory Analysis estimates that the current access rule affects over 27 million workers. Eliminating coverage of casually exposed workers and turning records over to short-term employees will reduce the number of workers fully covered by the new proposal by more than 10 million.

The number of workers presently exposed to toxic substances was determined by calculating a growth rate in the labor force from 1970 to 1980 based on data in the Bureau of Labor Statistics, *Employment and Earnings, March, 1981* (Ex. 80). In addition, the number of short-term employees was estimated using figures from BLS *Job Tenure Declines As Work Force changes* (Ex. 79). The 10 million figure was arrived at by eliminating casually exposed and short-term workers. Although both figures are further based upon results of the 8-year-old data presented in the *National Occupational Hazard Survey* (NOHS) (Docket H–112, Ex. 171) and may be somewhat outdated, a substantial reduction in the number of workers covered represents a lessening of the compliance burden on employers.

The number of records that must be kept by employers, as well as the related costs, will also be reduced by changes in the definitions of toxic substances for medical and exposure records and by changes in the requirements for retaining these records.

When assessing the costs of the access regulation, it must be noted that several states already require employers to provide employees with access to their medical records. Many major corporations have kept extensive exposure and medical records on employees, often beyond the period of employment, prior to the implementation of the access regulation, and many have provided considerable access to their employees. The storage and access costs of these firms should be subtracted from the total compliance costs of the proposed regulation. At present, other OSHA regulations require recordkeeping for exposures to some toxic substances and harmful physical

agents, such as noise, vinyl chloride, lead, and asbestos. The recordkeeping costs for these and other harmful physical agents and toxic substances that have recordkeeping requirements under other OSHA regulations should also be subtracted from the compliance costs of the access regulation.

Moreover, employee preemployment health information may be the only health information recorded by some employers. Where preemployment information is the only information kept, the cost of storage and access will be minimal.

D. Summary of the Benefits

Employee medical and exposure records are potentially important to the detection, treatment, and prevention of occupational disease. If workers and their representatives are to play a meaningful role in their own health management they must have an opportunity to look at their medical and exposure records. Access will enable workers and their personal physicians to uncover patterns of health impairment and disease. Access to exposure and medical records and long-term preservation of these records will also facilitate formal occupational health research.

The new regulation will maintain the benefits to occupational health in the current regulation and will reduce compliance burdens on employers. The number of records kept and the time they need to be stored will be reduced, but exposure records of substances considered most hazardous will still be retained for at least 30 years. Employers have been given increased flexibility as to the format of recordkeeping. This should reduce compliance burdens while maintaining essential health information.

Employers still also recieve increased protection from trade secret disclosure. The trade secret provisions will protect employers, but will give employees access to necessary exposure information.

E. Regulatory Flexibility Analysis

The impact of the 1980 access rule on small businesses was determined to be insignificant. According to the NOH survey, only 1.4 percent of all small firms (8–250 employees) regularly monitor workplace environmental conditions, while only 2.3 percent of these firms have a formally established health unit. Approximately one-half of all small firms collect some preemployment health information on new employees, but less than 10 percent provide periodical medical exams to workers. The U.S. Department of Commerce *County Business Patterns 1977* (Ex. 81) estimates that more than 68 percent of all employees work in firms of less than 250 employees.

To summarize the results of the NOH survey as it pertains to small entities.

(1) Most small firms do not collect health information beyond that of new employees,

(2) Few small firms provide formal or periodic health care, and

(3) Few small firms monitor workplace environmental conditions.

The vast majority of small entities will not be affected by the proposed regulation because medical surveillance and environmental monitoring are not required. The regulation, however, does require that firms creating medical and exposure records must keep them and grant employee access to them. Since small entities overwhelmingly do not either create such records or have them in large numbers, the economic impact of the regulation on these firms is relatively small. The effect of the proposed changes will further reduce any impacts of the access regulation on small entities, because proposed revisions to the current rule will lessen compliance burdens on employers. They will be of particular benefit to those employers, including many small businesses, who have many short-term employees.

Public Participation

Interested persons are invited to submit written data, views, and arguments on this proposed standard. These comments must be received on or before September 14, 1982, and submitted in quadruplicate to the Docket Officer, Docket H–112E, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Room S–6212, Washington, D.C., 20210; (202) 523–7894. Written submissions must clearly identify the provisions of the proposal which are addressed, and the position taken on each issue.

Under section 6(b)(3) of the Act, OSHA is scheduling a public hearing to permit interested persons an opportunity to submit oral testimony concerning the issues raised by the proposed standard. The hearing is scheduled to begin on October 5, 1982 in Washington, D.C., at 9:30 a.m.

Notices of Intention to Appear

All persons wishing to participate in the public hearing must file a notice of intention to appear, in quadruplicate, on or before September 21, 1982, addressed to OSHA Division of Consumer Affairs, Docket No. H–112-2, Room N–3635, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210; (202) 523–8024.

The notices of intention to appear must contain the following information:

(1) The name, address and telephone number of each person to appear;

(2) The capacity in which the person will appear;

(3) The approximate amount of time requested for the presentation;

(4) The specific issues that will be addressed;

(5) A detailed statement of the position that will be taken on each issue addressed; and

(6) Whether the party intends to submit documentary evidence and if so, a brief summary of that evidence.

Filing of Testimony and Evidence Before Hearing

Any party requesting more than 15 minutes for a presentation at the hearing, or submitting documentary evidence, must provide in advance the complete text of the testimony and documentary evidence to be presented. These texts shall be submitted in quadruplicate to the OSHA Division of Consumer Affairs, at the above address, and must be submitted by September 21, 1982.

These submissions will be available for inspection and copying at the OSHA Docket Office, Room S6212, at the above address.

Each submission received will be reviewed to ascertain if the amount of time requested in the notice of intention to appear is appropriate. In those instances where the information contained in the submission does not justify the amount of time requested, a more appropriate time allocation will be made and the participant will be notified of the change. Any party who has not substantially complied with this requirement may be limited to a 15 minute presentation, and may be requested to return for questioning at a later time.

Conduct of Hearing

The hearing will begin at 9:30 a.m. with resolution of any procedural matters relating to the proceeding. The hearing will be conducted in accordance with 29 CFR Part 1911, allowing full development of the record and permitting all parties to exercise their rights of participation.

The hearing will be presided over by an Administrative Law Judge who will have all the powers necessary or appropriate to conduct a full and fair informal hearing as provided in 29 CFR Part 1911. Following the close of the hearing or of any post hearing comment

period, the presiding Administrative Law Judge will certify the record to the Assistant Secretary of Labor for Occupational Safety and Health.

All written and oral submissions, as well as other information gathered by the Agency, will be considered in any action taken. The record of this rulemaking, including written comments and materials submitted in response to this notice and notices of intention to appear at the public hearing, will be available for inspection and copying in the Docket Office, Room S–6212, at the above address, between the hours of 8:15 a.m. and 4:45 p.m.

Authority and Signature

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Pursuant to Sections 6(b), 8(c) and 8(g) of the Act, it is hereby proposed to amend 29 CFR 1910.20 to read as set forth below.

List of Subjects in 29 CFR Part 1910

Occupational safety and health, Health, Health records.

(Secs. 6(b), 8(c) and 8(g). Pub. L. 91–596, 84 Stat. 1593, 1599,1600; 29 U.S.C. 655, 657; 29 CFR Part 1911; Secretary of Labor's Order No. 8–76 (41 FR 25059))

Signed at Washington, D.C. this 7th day of July, 1982.

Thorne G. Auchter,

Assistant Secretary for Occupational Safety and Health.

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

It is proposed to revise § 1910.20 of title 29 CFR to read as follow:

§ 1910.20 Access to employee exposure and medical records.

(a) *Purpose.* The purpose of this section is to provide employees and their designated representatives a right of access to relevant exposure and medical records; and to provide representatives of the Assistant Secretary a right of access to these records in order to fulfill responsibilities under the Occupational Safety and Health Act. Access by employees, their representatives, and the Assistant Secretary is necessary to yield both direct and indirect improvements in the detection, treatment, and prevention of occupational disease. Each employer is responsible for assuring compliance with this section, but the activities involved in complying with the access to medical records provisions can be carried out, on behalf of the employer, by the physician or other health care personnel in charge of employee medical records. Except as expressly provided, nothing in this section is intended to affect existing legal and ethical obligations concerning the maintenance and confidentiality of employee medical information, the duty to disclose information to a patient/employee or any other aspect of the medical-care relationship, or affect existing legal obligations concerning the protection of trade secret information.

(b) *Scope and application.* (1) This section applies to each general industry, maritime, and construction employer who makes, maintains, contracts for, or has access to employee exposure or medical records, or analyses thereof, pertaining to:

(i) Employees whose work directly involves the manufacture, processing, installation, handling, packaging, repackaging, transport, disposal, or use of toxic substances, or who is subject to harmful physical agents (e.g. noise, heat, cold, vibration, repetitive motion ionizing and non-ionizing radiation, hypo or hyperbaric pressure) in any manner different from typical non-occupational situations, and includes, but is not limited to, coverage of production, maintenance, construction, and transport workers; and

(ii) Employees accidentally exposed to a toxic substance or harmful physical agent to a degree sufficient to require medical attention.

(2) This section applies to all employee exposure and medical records, and analyses thereof, of such employees, whether or not the records are mandated by specific occupational safety and health standards.

(3) This section applies to all employee exposure and medical records, and analyses thereof, made or maintained in any manner, including on an in-house or contractual (e.g., fee-for-service) basis. Each employer shall assure that the requirements of this section are made known to physicians and others providing medical or industrial hygiene services under contract to the employer, and shall make a good faith effort to assure, by modification of the contract if necessary, that such persons comply with the preservation and access requirements of the section.

(c) *Definitions.* (1) "Access" means the right and opportunity to examine and copy.

(2) "Analysis using exposure or medical records" means any compilation of data or any statistical study based at least in part on information collected from individual employees exposure or medical records or information collected from health insurance claims records, provided that either the analysis has been reported to the employer or no further work is currently being done by the person responsible for preparing the analysis.

(3) "Designated representative" means any individual or organization to whom an employee gives written authorization to exercise a right of access. For the purposes of access to employee exposure records and analyses using exposure or medical records, a recognized or certified collective bargaining agent shall be treated automatically as a designated representative without regard to written employee authorization.

(4) "Employee" means an employee whose work directly involves the manufacturing, processing, installation, packaging, repackaging, transport, disposal, or use of toxic substances, or who is subject to harmful physical agents in any manner different from typical non-occupational situations. "Employee" includes, but is not limited to, production, maintenance, construction, and transport workers. "Employee" includes current employees, former employees, and employees being assigned or transferred to such work. "Employee" also includes any employee accidentally exposed to a toxic substance or harmful physical agent to a degree sufficient to require medical attention. In the case of a deceased or legally incapacitated employee, the employee's legal representative may directly exercise all the employee's rights under this section.

(5) "Employee exposure record" means a record containing any of the following kinds of information:

(i) Environmental (workplace) monitoring or measuring of a toxic substance or harmful physical agent, including personal, area, grab, wipe, or other form of sampling, as well as related collection and analytical methodologies, calculations, and other background data relevant to interpretation of the results obtained;

(ii) Biological monitoring results which are designated as exposure records by specific occupational safety and health standards; and

(iii) Material safety data sheets.

(6) (i) "Employee medical record" means a record concerning the health status of an employee which is made or maintained by a physician, nurse, or other health care personnel or technician, including:

(A) Medical and employment questionnaires or histories (including job description and occupational exposures);

(B) The results of medical examinations (pre-employment, pre-assignment, periodic, or episodic) and laboratory tests (including chest and other X-ray examinations taken for the purposes of establishing a base-line or detecting occupational illness, and all non-mandated biological monitoring);

(C) Medical opinions, diagnoses, progress notes, and recommendations;

(D) Descriptions of treatments and prescriptions; and

(E) Employee medical complaints.

(ii) "Employee medical record" does not include medical information in the form of:

(A) Physical specimens (e.g., blood or urine samples) which are routinely discarded as a part of normal medical practice;

(B) First-aid records (not including medical histories) if made on-site by a non-physician and if maintained separately from the employer's medical program and its records;

(C) Records concerning health insurance claims if maintained separately from the employer's medical program and its records, and not accessible to the employer by employee name or other direct personal identifier (e.g., social security number, payroll number, etc.);

(D) Records created solely in preparation for litigation which are privileged from discovery under the applicable rules of procedures or evidence; or

(E) Records concerning voluntary employee assistance programs (alcohol, drug abuse, or personal counseling programs) if maintained separately from the employer's medical program and its records.

(7) "Employer" means a current employer, a former employer, or a successor employer.

(8) "Record" means any item, collection, or grouping of information regardless of the form or process by which it is maintained (e.g., paper document, microfiche, microfilm, X-ray film, or automated data processing).

(9) "Specific written consent" (i) means a written authorization containing the following:

(A) The name and signature of the employee authorizing the release of medical information;

(B) The date of the written authorization;

(C) The name of the individual or organization that is authorized to release the medical information;

(D) The name of the designated representative (individual or organization) that is authorized to receive the released information;

(E) A general description of the medical information that is authorized to be released;

(F) A general description of the purpose for the release of the medical information; and

(G) A date or condition upon which the written authorization will expire (if less than one year).

(ii) A written authorization does not operate to authorize the release of medical information not in existence on the date of written authorization, unless the release of future information is expressly authorized, and does not operate for more than one year from the date of written authorization.

(iii) A written authorization may be revoked in writing prospectively at any time.

(10) "Toxic substance" means any chemical substance or biological agent (bacteria, virus, fungus, etc.) which:

(i) Has yielded positive evidence of an acute or chronic health hazard (consistent with (c)(10)(iii)(A)–(E) below) in testing conducted by, or known to, the employer;

(ii) Is the subject of a material safety data sheet kept by or known to the employer indicating that the material may pose a hazard to human health; or

(iii) Is listed in the latest printed edition of the National Institute for Occupational Safety and Health (NIOSH) Registry of Toxic Effects of Chemical Substances (RTECS), provided that the substance:

(A) Has been reported to cause human toxicity at any dose level;

(B) Has been reported to cause cancer or reproductive effects in animals at any dose level;

(C) Has a median lethal dose (LD50) of less than 500 milligrams per kilogram of body weight when administered orally to albino rats;

(D) Has a median letal dose (LD50) of less than 1000 milligrams per kilogram of body weight when administered by continuous contact to the bare skin of abino rabbits; or

(E) Has a median letal concentration (LC50) in air of less than 2000 parts per million by volume of gas or vapor, or less than 20 milligrams per liter of mist, fume or dust when administered to albino rats.

(d) *Preservation of records.* (1) Unless a specific occupational safety and health standard provides a different period of time, each employer shall assure the preservation and retention of records as follows:

(i) *Employee medical records.* The medical record for each employee shall be preserved and maintained for at least the duration of employment plus five (5) years, but in no event less than thirty (30) years, from the beginning of employment, except that:

(A) Health insurance claims records maintained separately from the employer's medical program and its records need not be retained for any specified period;

(B) The medical records of employees who have worked for less than one (1) year for the employer need not be retained beyond the term of employment if they are provided to the employee upon the termination of employment;

(C) The medical records of employees in the construction industry need not be retained beyond the term of employment if they are provided to the employee upon the termination of employment; and

(D) The medical records of employees covered solely due to accidental toxic substance or physical agent exposures do not have to be retained for any specific length of time.

(ii) *Employee exposure records.* (A) The following employee exposure records shall be preserved and maintained for thirty (30) years:

(*1*) Environmental (workplace) monitoring results;

(*2*) Summaries of continuous read-out data;

(*3*) Data relevant to the results obtained, including, but not limited to, name(s) of employee(s) monitored, date and location of the monitoring or measurement, and the collection and analytical methodologies used.

(B) Background data to environmental (workplace) monitoring or measuring, such as laboratory reports, calculations, worksheets, and continuous read-outs, shall be preserved and maintained for one (1) year.

(C) Material safety data sheets shall be preserved and maintained until replaced by a more recent copy.

(D) Biological monitoring results designated as exposure records by specific occupational safety and health standards shall be preserved and maintained as required by the corresponding standard.

(iii) *Analyses using exposure or medical records.* Each analysis using exposure or medical records shall be preserved and maintained for at least thirty (30) years.

(2) Nothing in this section is intended to mandate the form, manner, or process by which an employer preserves a record so long as the information contained in the record is preserved and retrievable. In the case of X-ray films, Appendix B shall apply.

(e) *Access to records.*—(1) *General.* (i) Whenever an employee or designated representative requests access to a

record, the employer shall assure that access is provided in a reasonable time, place, and manner. If the employer cannot reasonably provide access to the record within fifteen (15) working days, the employer shall within the fifteen (15) working days apprise the employee or designated representative requesting the record of the reason for the delay and the earliest date when the record will be available.

(ii) The employer may require of the requester only such information as should be readily known to the requester and which may be necessary to locate or identify the records being requested (e.g. dates and locations where the employee worked during the time period in question).

(iii) Whenever an employee or designated representative requests a copy of a record, the employer shall assure that either:

(A) A copy of the record is provided without cost to the employee or representative,

(B) The necessary mechanical copying facilities (e.g., photocopying) are made available without cost to the employee or representative for copying the record, or

(C) The record is loaned to the employee or representative for a reasonable time to enable a copy to be made.

(iv) In the case of an original X-ray, the employer may restrict access to on-site examination or make other suitable arrangements for the temporary loan of the X-ray.

(v) Whenever a record has been previously provided without cost to an employee or designated representative, the employer may charge reasonable, non-discriminatory administrative costs (i.e., search and copying expenses but not including overhead expenses) for a request by the employee or designated representative for additional copies of the record, except that:

(A) An employer shall not charge for an initial request for a copy of new information that has been added to a record which was previously provided; and

(B) An employer shall not charge for an initial request by a recognized or certified collective bargaining agent for a copy of an employee exposure record or an analysis using exposure or medical records.

(VI) Nothing in this section is intended to preclude employees and collective bargaining agents from collectively bargaining to obtain access to information in addition to that available under this section.

(2) *Employee and designated representative access*—(i) *Employee exposure records.* Except as limited by paragraph (f) of this section, each employer shall, upon request, assure the access of each employee and designated representative to employee exposure records relevant to the employee. For the purpose of this section, an exposure record relevant to the employee consists of:

(A) A record which measures or monitors the amount of a toxic substance or harmful physical agent to which the employee is or has been subjected;

(B) In the absence of such directly relevant records, such records of other employees with past or present job duties or working conditions related to or similar to those of the employee as are necessary to reasonably indicate the amount and nature of the toxic substances or harmful physical agents to which the employee is or has been subjected; and

(C) Any exposure record pertaining to workplaces or working conditions to which the employee is being assigned or transferred.

(ii) *Current identity information.* Except as limited by paragraph (f) of this section, the employer shall, upon request, inform each employee and designated representative of the identities (chemical name, if known) of the toxic substances and harmful physical agents to which the employee is subjected.

(iii) *Employee medical records.* (A) Each employer shall, upon request, assure the access of each employee to employee medical records of which the employee is the subject, except as provided in paragraph (e)(2)(ii)(D) of this section.

(B) Each employer shall, upon request, assure the access of each designated representative to the employee medical records of any employee who has given the designated representative specific written consent. Appendix A to this section contains a sample form which may be used to establish specific written consent for access to employee medical records.

(C) Whenever access to employee medical records is requested, a physician representing the employer may recommend that the employee or designated representative:

(*1*) Consult with the physician for the purposes of reviewing and discussing the records requested;

(*2*) Accept a summary of material facts and opinions in lieu of the records requested; or

(*3*) Accept release of the requested records only to a physician or other designated representative.

(D) Whenever an employee requests access to his or her employee medical records, and a physician representing the employer believes that direct employee access to information contained in the records regarding a specific diagnosis of a terminal illness or a psychiatric condition could be detrimental to the employee's health, the employer may inform the employee that access will only be provided to a designated representative of the employee having specific written consent, and deny the employee's request for direct access to this information only. Where a designated representative with specific written consent requests access to information so withheld, the employer shall assure the access of the designated representative to this information, even when it is known that the designated representative will give the information to the employee.

(E) A physician, nurse, or other responsible health care personnel maintaining employee medical records may delete from requested medical records the identity of a family member, personal friend, or fellow employee who has provided confidential information concerning an employee's health status.

(iii) *Analyses using exposure or medical records.* (A) Each employer shall, upon request, assure the access of each employee and designated representative to each analysis using exposure or medical records concerning the employee's working conditions or workplace.

(B) Whenever access is requested to an analysis which reports the contents of employee medical records by either direct identifier (name, address, social security number, payroll number, etc.) or by information which could reasonably be used under the circumstances indirectly to identify specific employees (exact age, height, weight, race, sex, date of initial employment, job title, etc.), the employer shall assure that personal identifiers are removed before access is provided. If the employer can demonstrate that removal of personal identifiers from an analysis is not feasible, access to the personally identifiable portions of the analysis need not be provided.

(3) *OSHA access.* (i) Each employer shall, upon request, and without derogation of any constitutional and statutory rights that the employer chooses to exercise, assure the prompt access of representatives of the Assistant Secretary of Labor for Occupational Safety and Health to employee exposure and medical records and to analyses using exposure or

medical records. Rules of agency practice and procedure governing OSHA access to employee medical records are contained in 29 CFR 1913.10.

(ii) Whenever OSHA seeks access to personally identifiable employee medical information by presenting to the employer a written access order pursuant to 29 CFR 1913.10(d), the employer shall prominently post a copy of the written access order and its accompanying cover letter for at least fifteen (15) working days.

(f) *Trade secrets.* (1) An employer may delete from records requested by an employee or designated representative any trade secret which discloses manufacturing processes, or discloses the percentage of a chemical substance in a mixture, provided the employee or designated representative is notified that information has been deleted on trade secret grounds.

(2) An employer may withhold the precise chemical name of a chemical only if:

(i) The employer can substantiate that it is a trade secret;

(ii) The chemical is not a carcinogen, mutagen, teratogen, or a cause of significant irreversible damage to human organs or body systems for which there is a need to know the precise chemical name;

(iii) The chemical is identified by a generic chemical classification which would provide useful information to a health professional; and

(iv) All other information on the properties and effects of the chemical contained in the requested record is disclosed.

(3) The withheld information shall be provided on a confidential basis to a treating or consulting physician who states in writing (except in an emergency situation) that a patient's health problems may be the result of occupational exposure. The employer shall inform the requesting employee or designated representative at the time of the trade secret claim that the withheld information will be made available to the treating or consulting physician on this basis.

(4) To the extent that names of trade secret chemicals are disclosed, the employer may condition employee and designated representative access to such information upon acceptance of a reasonable confidentiality agreement. The agreement may restrict use of the information to health purposes, prohibit redisclosure of the information to anyone not specified in the agreement other than a treating or consulting physician, and provide for compensation or other legally appropriate relief for competitive harm which may result from a breach of the agreement.

(g) *Employee information.* (1) Upon an employee's first entering into employment, and at least annually thereafter, each employer shall inform current employees covered by this section of the following:

(i) The existence, location, and availability of any records covered by this section;

(ii) The person responsible for maintaining and providing access to records; and

(iii) Each employee's rights of access to these records.

(2) Each employer shall keep a copy of this standard and its appendices and make copies readily available, upon request, to employees. The employer shall also distribute to employees any informational materials concerning this standard which are made available to the employer by the Assistant Secretary of Labor for Occupational Safety and Health.

(h) *Transfer of records.* (1) Whenever an employer is ceasing to do business, the employer shall transfer all records subject to this section to the successor employer. The successor employer shall receive and maintain these records.

(2) Whenever an employer is ceasing to do business and there is no successor employer to receive and maintain the records subject to this standard, the employer shall notify affected current employees of their rights of access to records at least three (3) months prior to the cessation of the employer's business.

(3) Whenever an employer either is ceasing to do business and there is no successor employer to receive and maintain the records, or intends to dispose of any records required to be preserved for at least thirty (30) years, the employer shall:

(A) Transfer the records to the Director of the National Institute for Occupational Safety and Health (NIOSH) if so required by a specific occupational safety and health standard; or

(B) Notify the Director of NIOSH in writing of the impending disposal of records at least three (3) months prior to the disposal of the records.

(4) Where an employer regularly disposes of records required to be preserved for at least thirty (30) years, the employer may, with at least (3) months notice, notify the Director of NIOSH on an annual basis of the records intended to be disposed of in the coming year.

(i) *Appendices.* The information contained in the appendices to this section is not intended, by itself, to create any additional obligations not otherwise imposed by this section nor detract from any existing obligation.

Appendix A to § 1910.20

Sample Authorization Letter for the Release of Employee Medical Record Information To a Designated Representative

I (full name of worker/patient), hereby authorize (individual or organization holding the medical records) to release to (individual or organization authorized to receive the medical information), the following medical information from my personal medical records: (Describe generally the information desired to be released)

I give my permission for this medical information to be used for the following purpose:

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but I do not give permission for any other use or re-disclosure of this information.

(Note: Several extra lines are provided below so that you can place additional restrictions on this authorization letter if you want to. You may, however, leave these lines blank. On the other hand, you may want to (1) specify a particular expiration date for this letter (if less than one year); (2) describe medical information to be created in the future that you intend to be covered by this authorization letter; or (3) describe portions of the medical information in your records which you do not intend to be released as a result of this letter.)

Full name of Employee or Legal Representative

Signature of Employee or Legal Representative

Date of Signature

Appendix B to § 1910.20

Microfilm Storage of X-Ray

X-rays taken for the purpose of establishing a base-line or detecting occupational illness shall be kept in their original state or microfilmed, provided that:

A. The microfilm storage of X-rays shall be performed under the supervision of a licensed radiologist who is a diplomate of the American Board of Radiology; and

B. For the microfilm storage of chest X-rays of employees exposed to a toxic substance

known to cause pneumoconiosis, the supervising radiologist shall consult with and obtain the written approval of both a licensed physician who is a diplomat of the American Board of Internal Medicine certified in the subspecialty of pulmonary disease, and a "B" reader certified by the National Institute for Occupational Safety and Health in accordance with 42 CFR 37.51.

C. After the consultation required by paragraph B, Appendix B, the supervising radiologist shall attach to the X-ray a summary of the interpretation of the X-ray. This summary shall be microfilmed along with the X-ray and made part of the employee's medical record.

[FR Doc. 82-18873 Filed 7-9-82; 8:45 am]
BILLING CODE 4510-26-M

federal register

Tuesday
July 13, 1982

Part IV

Department of the Interior

Fish and Wildlife Service

Determination of Hedeoma Apiculatum (McKittrick Pennyroyal) To Be a Threatened Species and Determination of Critical Habitat

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Hedeoma Apiculatum (McKittrick pennyroyal) To Be a Threatened Species and Determination of Its Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service determines a plant, *Hedeoma apiculatum* W. S. Stewart (McKittrick pennyroyal), to be a Threatened Species and hereby designates its Critical Habitat under the authority contained in the Endangered Species Act. This plant occurs in Texas and New Mexico. The number of existing individuals is estimated to be less than 1,100 and their reproductive potential appears to be low. The populations occurring on Federal lands are threatened by the gradual destruction of habitat through long-term overuse and need to be considered in plans for park development such as trails, campsites, and visitor facilities.

The single known population on private land would be potentially threatened by any major change in land use. This determination of *Hedeoma apiculatum* to be a Threatened Species with Critical Habitat implements the protection provided by the Endangered Species Act of 1973, as amended.

DATES: This rule becomes effective on (August 14, 1982).

ADDRESSES: Questions concerning this action may be addressed to the Director (FWS/OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, 703/235–2771.

SUPPLEMENTARY INFORMATION:

Hedeoma apiculatum W. S. Stewart (McKittrick pennyroyal), a member of the mint family, was first collected in 1882, but remained undescribed until 1939. A long-lived perennial herb, this plant forms dense tufts of leaves from woody rootstocks and stands 10 to 15 cm in height. Its showy pink flowers are solitary or in two to three-flowered clusters, two (2) cm in length, and as with most mints, the flowers are axillary and crowded towards the apex (Irving, in 1980).

Hedeoma apiculatum is endemic to open, limestone rock surfaces and outcrops in canyons and along streamways in the Guadalupe Mountains of Texas and New Mexico at elevations above 1660 meters, and is particularly vulnerable to disturbance (Riskind, 1974; Brown and Lowe, 1977). The surrounding vegetation is sparse. The substrate in which these plants are found consists mostly of sand caught in rock fissures and in weathered pockets of limestone (U.S.D.A., 1974), thus there exists no natural protection from physical events, either natural or man-made. The continued existence of this plant and the fragile habitat in which it occurs could be threatened by trampling and unplanned development in the area.

Background

Section 12 of the Endangered Species Act of 1973 directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. On July 1, 1975, the Director published a notice in the **Federal Register** (40 FR 27832–27924) of his acceptance of the report of the Smithsonian Institution as a petition within the context of section 4(c)(2) of the Act, and of his intention thereby to review the status of the plant taxa named within. *Hedeoma apiculatum* was included in the July 1, 1975, Notice of Review. On August 15, 1980 (45 FR 45682), the Service proposed *Hedeoma apiculatum* to be Threatened species and proposed to determine its Critical Habitat.

Rules contained in 50 CFR Part 17, Subpart G, detail the regulations to protect Threatened plant species. These rules describe the prohibitions and permit procedure to grant exceptions, under certain circumstances, to such prohibitions.

The Department has determined that this document is not a major rule under E.O. 12291. Since this rule was proposed before January 1, 1981, a Determination of Effects on Small entities is not required by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3507).

Summary of Comments and Recommendations

In the August 15, 1980, **Federal Register** proposed rule (45 FR 54682) and associated notifications and press releases, all interested parties were requested to submit factual reports or information which might contribute to the development of a final rule. Letters were sent to the Governors of Texas and New Mexico notifying them of the proposed rule and soliciting their comments and suggestions. Only two comments were received during the comment period from August 15, 1980, through November 13, 1980, and they are discussed below.

The Superintendent of Guadalupe Mountains National Park in Texas commented through the Southwest Regional Director of the National Park Service on the proposed Critical Habitat for *Hedeoma apiculatum*. He stated that "The current proposal presents management problems for us with regard to at least one area proposed—that on McKittrick Ridge * * * The route of the upper McKittrick Canyon trail goes through the middle of the now proposed McKittrick Ridge Critical Habitat area. This trail is an essential route for hikers traveling from the canyon to the park high country * * * In that the park population of *Hedeoma apiculatum* is fairly widespread and not restricted to the three proposed Critical Habitat sites, we strongly recommend that the McKittrick Ridge site be deleted from this proposal." The Fish and Wildlife Service response: The population on McKittrick Ridge is one of the three major populations of this species and therefore should appropriately be included as part of *Hedeoma apiculatum's* Critical Habitat, which is defined as that area which is considered to be critical and necessary to the species' continued survival. Based on our current biological understanding of *Hedeoma apiculatum*, the population above Turtle Rock on McKittrick Ridge, must be considered as critical to the survival of this species. Moreover, it is not anticipated that declaring this population part of the Critical Habitat will have an adverse impact on use of the new McKittrick trail. Declaring this area Critical Habitat will not close it to use by hikers. At this time, it is appropriate only to monitor the status of this population to see what impact, if any, recreationists are having on it. Recent conversations between the National Park Service and the Fish and Wildlife Service have reached an understanding on the meaning of this Critical Habitat designation and its implications for park management which are predicted to be minimal. The National Park Service now supports the listing of *Hedeoma apiculatum* as Threatened.

The Texas Organization for Endangered Species commented on the

shortness of time between the publication of the proposal (August 15, 1980) and the date set for the public meeting (August 27, 1980). The Service response: Due to an oversight, this proposal was not published with the other plant proposal (*Eriogonum gypsophilum*) which together were the subject of the public meeting which had already been arranged for August 27, 1980, in Carlsbad, New Mexico. Service personnel were aware of the short lead time between the publication of the proposal in the **Federal Register** and the public meeting. However, the decision was made to proceed based on organizational and financial factors. It was an unusual situation which is not indicative of normal Service procedures.

No comments were received from the governors of Texas and New Mexico.

There was only one oral comment at the public meeting on this proposal, and it was made by a representative from the National Park Service. The Park Service spokeman was concerned about the effect of designating Critical Habitat on park hiking trails, especially the McKittrick Ridge trail. The Service responded that it was extremely unlikely that they would request that the trail be moved, but that it was impossible to predict the results of any biological consultation beforehand. The Service said that at this time it is appropriate to monitor the impacts of hikers on this population. The National Park Service also submitted a written comment on this action which was previously addressed.

Conclusion

After a thorough review and consideration of all available information, the Director has determined that *Hedeoma apiculatum* (McKittrick pennyroyal) is a Threatened species throughout all or a significant portion of its range due to one or more of the factors described in section 4(a) of the Endangered Species Act.

The Director has determined that *Hedeoma apiculatum* is primarily affected by factor numbers 1, 2, 4, and 5. All five factors and their application to *Hedeoma apiculatum* are as follows:

(1) *Present or threatened destruction, modification, or curtailment of its habitat or range.* Populations of *Hedeoma apiculatum* in Guadalupe Mountains National Park and adjacent Lincoln National Forest are relatively well protected from major modification or destruction of habitat. The administration of Guadalupe Mountains National Park recognizes the fragile nature of the park's plant and animal communities (U.S. Department of Interior, 1973) and has implemented some protective management strategies. Moreover, a U.S. House of Representatives committee report recommended that there be close cooperation between the Forest Service and the National Park Service in preserving the environmental resources of the North McKittrick Canyon and other canyons in the Lincoln National Forest (U.S. Department of Interior, 1973). Yet, the populations of *Hedeoma apiculatum* are potentially threatened. Existing trails allow access to most of the localities of *Hedeoma apiculatum* and as the number of trail users increases there is the danger of destruction of the local habitat. The plants are easily dislodged and the cumulative impact of hikers leaving the trail and climbing over the ledges and boulders that support colonies of *Hedeoma apiculatum* could be devastating to the small and slowly reproducing populations. Moreover, the showy and distinctive plants of *Hedeoma apiculatum* are highly visible from the trails and could be subject to increasing pressures from taking.

A number of new trail alignments are planned within the range of *Hedeoma apiculatum.* These do not appear to threaten the known localities and may actually reduce visitor pressure in some areas. However, Guadalupe Mountains National Park is a relatively new park and in all likelihood will attract an increasing number of visitors in the years ahead. During 1979 the park experienced approximately 29,000 backcountry user days compared to 26,258 user days in 1978. Trail counts of hikers into the South McKittrick biological area, a locality of *Hedeoma apiculatum,* totaled 323 in 1978 and more than 520 in 1979. Future increases, as well as construction of additional trails, shelters or camping areas to accommodate them, could potentially threaten the survival of *Hedeoma apiculatum.* Proper park management plans for this species should be prepared.

Dr. Robert Irving, of R. S. Irving & Associates, Little Rock, Arkansas, has noted that some small populations in the South McKittrick fork have disappeared since the late 1960's. This could be due to human disturbance, flooding or a combination of both threats. The population on private ranch land could potentially be threatened by increased grazing or major changes in land use.

(2) *Overutilization for commercial, sporting, scientific or educational purposes.* Although no evidence exists, there is the potential of taking this showy species for cultivation in rock gardens or for other purposes.

(3) *Disease or predation.* Grazing has occurred on the privately-owned site where this species occurs. This grazing does not presently appear to threaten the species.

(4) *Inadequacy of existing regulatory mechanisms. Hedeoma apiculatum* is not protected by State law. Existing Federal Regulations in 36 CFR 2.25 and 36 CFR 261.9 prohibit taking of this species in the Lincoln National Forest and the Guadalupe Mountains National Park; however, these regulations are difficult to enforce in a comprehensive fashion. Guadalupe Mountains National Park recognizes the fragile nature of this plant and its habitat and has implemented some protective management strategies. The Endangered Species Act will offer additional protection for this species.

(5) *Other natural or manmade factors affecting its continued existence.* Any human pressure on this species may increase the possibility of small populations going extinct through natural population fluctuations. The restricted distribution of *Hedeoma apiculatum* and the small number of known individuals will intensify any adverse impacts. In addition to man-induced threats, field work between 1966 and 1979 indicated that periodic and severe floods can reduce the populations of *Hedeoma apiculatum* in and adjacent to streambeds. Any such disturbance is likely to have a severe impact on this species as the reproductive potential is low and few young plants have been observed in the wild.

Critical Habitat

The Act defines "Critical Habitat" as (i) the specific areas within the geographical area occupied by the species at the time it is listed, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by the species at the time it is listed, in accordance with the provisions of Section 4 of this Act, upon a determination by the Secretary that such areas are essential for the conservation of the species.

Subsection 4(f)(4) of the Act requires, to the maximum extent practicable, that any proposal to determine Critical Habitat be accompanied by a brief description and evaluation of those activities which, in the opinion of the Secretary, may adversely modify such habitat if undertaken, or may be impacted by such designation.

Any activity which would result in increased trampling or disturbance of the fragile substrate where *Hedeoma apiculatum* occurs would probably adversely modify the Critical Habitat. The long term solution on how to best protect *Hedeoma apiculatum* may be to greatly reduce the human traffic in the area where this plant occurs. In this respect, Critical Habitat designation may affect Federal activities by prohibiting the development of new trails in areas where the plant occurs, relocating old trails, or other steps by the National Park Service and the Forest Service to protect this species. Initially, only monitoring of the impact of hikers is recommended. New trails could be located in such a way to minimize impact on *Hedeoma apiculatum* and still provide park visitors with access to the concerned areas. As stated earlier, the National Park Service supports the listing.

The Endangered Species Act of 1978 added the following provision to Subsection 4(a)(1) of the Endangered Species Act of 1973:

> At the time any such regulation (to determine whether a species is endangered or threatened) is proposed, the Secretary shall also by regulation, to the maximum extent prudent, specify any habitat of such species which is then considered to be Critical Habitat.

Critical Habitat for *Hedeoma apiculatum* is being determined to include the three areas in Texas where the three largest and best known populations of this species occur.

Critical Habitat was not proposed for the smallest population in Guadalupe Mountains National Park (Texas), the population in Lincoln National Forest (New Mexico) or the population located on private land. These three populations are not included in Critical Habitat at this time because they are very small populations which are not well studied or understood, in contrast to the three areas with the larger populations which are being determined to constitute the Critical Habitat. After management and recovery plans have been developed for this plant and after these populations are better known, Critical Habitat may be beneficial and may also be proposed for these three additional populations.

Subsection 4(b)(4) of the Act requires the Service to consider economic and other impacts of specifying a particular area as Critical Habitat. The Service has prepared an impact analysis and believes that economic and other impacts of this action are not significant in the foreseeable future. As previously stated, only minimal impacts upon the National Park Service and the Forest Service are expected. The Fish and Wildlife Service has notified and is working with the Forest Service and the National Park Service, the two agencies which have jurisdiction over the land and water under consideration in this action. The U.S. Forest Service, National Park Service, other Federal agencies, and other interested organizations were requested to submit information on economic or other impacts of the proposed action and this information was utilized in completing this final impact analysis. The Service's draft economic impact analysis was used as part of the basis for the Service's decision whether to exclude any area from Critical Habitat for *Hedeoma apiculatum*.

Effects of This Rule

In addition to the effects discussed above, the effects of this final rule would include, but would not necessarily be limited to, those mentioned below.

The Act and implementing regulations published in 50 CFR Part 17, Subpart G set forth a series of general prohibitions and exceptions which apply to all threatened plant species, excluding seeds of cultivated plants treated as Threatened, unless a special rule pertaining to that Threatened species has been published and indicates otherwise. The regulations which pertain to Threatened plants are found at 50 CFR 17.71 and are summarized below.

With respect to *Hedeoma apiculatum* all prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.71, would apply except for certain exceptions with respect to seeds. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import, export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Certain exceptions would apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving Threatened species, under certain circumstances. International and interstate commercial trade in *Hedeoma apiculatum* is not known to exist. It is not anticipated that many permits involving plants of wild origin would ever be requested.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species which is proposed or listed as Endangered or Threatened. This rule requires Federal agencies to satisfy their statutory obligations with respect to this species. This action requires Federal agencies to insure that activities they authorize, fund or carry out are not likely to jeopardize the continued existence of this species, and to insure that their actions are not likely to result in the destruction or adverse modification of its Critical Habitat which has been determined by the Secretary. Possible effects of this rule on the U.S. Park Service and the Forest Service have already been discussed. Park and National Forest management are likely to be affected but not in a major way (see discussion under Summary of Factors affecting the species). In a telephone conversation on April 14, 1982, Gerard Hoddenbach (National Park Service, Sante Fe, New Mexico) stated that the Park Service still agrees with this position (which was stated in the February 17, 1982, memorandum to the U.S. Fish and Wildlife Service from the Director, Southwest Region, National Park Service). A May 14, 1982, letter from the National Park Service further documents their support of the listing. In addition, there is no known or anticipated Federal involvement in activities on the private land on which this species occurs.

National Environmental Policy Act

An environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1000 N. Glebe Road, Arlington, Virginia, and may be examined by appointment during regular business hours. This assessment forms the basis for a decision that this is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)C) of the National Environmental Policy Act of 1969.

Authors

This final rule is being published under the authority contained in the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*; 87 Stat. 884, 92 Stat. 3751, 93 Stat. 1225). The authors of this rule are Barry S. Mulder, Washington Office of Endangered Species (703/235–2760), and Ms. Rosemary Carey, Ms. Sandra Limerick, and Dr. Russell Kologiski, Office of Endangered Species, Albuquerque, New Mexico (505/776–3972).

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Irving, R. S. 1980. Systematics of *Hedeoma* (Labiatae). SIDA 8(3):218–295.
Irving, R. S. 1980. Status Report on *Hedeoma apiculatum*. U.S. Fish and Wildlife Service, Office of Endangered Species, Albuquerque, New Mexico.
Riskind, D. 1974. Report submitted to the National Park Service: The Rare and Endangered Flora of Guadalupe Mountains National Park, Texas.
U.S. Department of Agriculture, Soil Conservation Service. 1974. General Soil Map, Culberson Co., Texas.
U.S. Department of the Interior, National Park Service. 1973. Master Plan, Guadalupe Mountains National Park, Texas.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulation Promulgation

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as follows:

1. Amend § 17.12 paragraph (h) by adding, in alphabetical order under the family "Lamiaceae," the following to the list of plants:

§ 17.12 Endangered and threatened species.

* * * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Lamiaceae—*Hedeoma apiculatum*	Mint Family—McKittrick pennyroyal.	U.S.A. (TX, NM)	T	117	17.96(a)	N/A

§ 17.96 [Amended]

2. Also, amend § 17.96(a) by adding the Critical Habitat of *Hedeoma apiculatum* in alphabetical order as follows:

Critical Habitat for Hedeoma apiculatum

1. Family Lamiaceae: *Hedeoma apiculatum* (McKittrick pennyroyal) Texas, Culberson County; 3 areas in Guadalupe Mountains National Park: 65 acres in Devil's Den Canyon; 60 acres above Turtle Rock on McKittrick Ridge and 180 acres in South McKittrick Canyon.

1. Devil's Den Canyon: from the 5,400′ contour on the canyon floor (1.1 km northwest of Pratt Lodge) and along the sides of the canyon southwestward following the 6,000′ contour on the north side of the canyon (beginning at Texas coordinates 19,892 m E., 39,169 m N.) and the 6,200′ contour on the south side (beginning at Texas coordinates 19,699 m E., 38,651 m N.) to approximately the 6,000′ elevation point of the canyon floor.

2. Above Turtle Rock on McKittrick Ridge: high ridge surrounding unnamed peak 2.65 km southwest of Pratt Lodge and located 19,073 m E., 36,439 m N. on the Texas coordinate system. The boundaries defined approximately by the 6,800′ contour on the southeast, southwest, and northeast and by the 7,400′ contour on the northwest. The 7,400′ contour connected to the 6,800′ contour by a line passing through Texas coordinates 18,699 m E., 36,530 m N., and 18,781 m E., 36,854 m N. on the southwest and coordinates 19,145 m E., 36,819 m N., and 19,000 m E., 36,952 m N. on the northeast.

3. South McKittrick Canyon: from the 5,400′ contour on the canyon floor (2.2 km southwest of Pratt Lodge) and southwestward along the sides of the canyon following the 5,800′ contour on the north side of the canyon (beginning at Texas coordinates 20,169 m E., 36,434 m N.) and the 6,200′ contour on the south side of the canyon (beginning at Texas coordinates 20,289 m E., 36,121 m N.) to the 5,800′ contour of the canyon floor.

BILLING CODE 4310-55-M

McKITTRICK PENNYROYAL

Culberson County, TEXAS

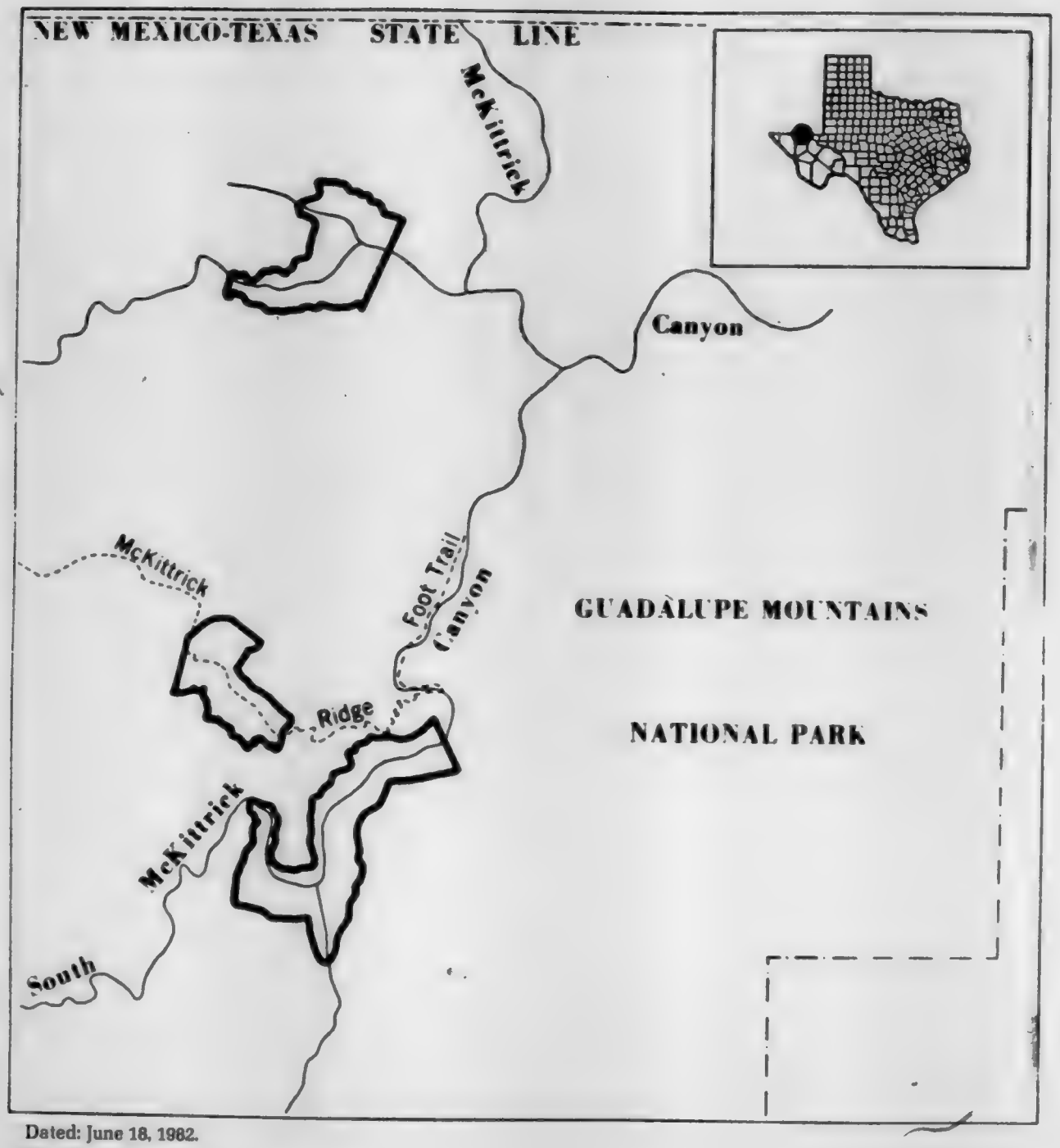

Dated: June 18, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-18887 Filed 7-12-82; 8:45 am]

BILLING CODE 4310-55-C

federal register

Tuesday
July 13, 1982

Part V

Environmental Protection Agency

Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities; Liability Coverage Requirements; Final Rule and Notice of Extension of Effective Date

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 264 and 265

[SWH-FRC 2168-2]

Standards Applicable To Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities; Liability Coverage Requirements

July 6, 1982.

AGENCY: Environmental Protection Agency.

ACTION: Final rule and notice of extension of effective date.

SUMMARY: The effective date for qualifications of insurers providing liability insurance used to satisfy liability coverage requirements applicable to owners or operators of hazardous waste management facilities, as such requirements are included in 40 CFR Parts 264 and 265, is extended from July 15, 1982, to October 16, 1982. The effective date for the rest of the liability coverage requirements remains July 15, 1982. This extension is being provided to allow 6 months between the date of promulgation and the effective date for the insurer qualification provision, in accordance with Section 3010(b) of the Resource Conservation and Recovery Act of 1976, as amended. During the period between July 15 and October 16, 1982, owners or operators may use certificates of insurance or policy endorsements that do not certify to the qualifications of the insurer.

DATES: Effective date for 40 CFR 264.147(a)(1)(ii), 264.147(b)(1)(ii), 265.147(a)(1)(ii), and 265.147(b)(1)(ii), is changed to October 16, 1982. Effective date for 40 CFR 264.147(g) and 265.147(g) is July 15, 1982.

ADDRESS: The public docket for the liability coverage regulation is located in Room S269-C, U.S. Environmental Protection Agency, 401 M St., S.W., Washington, D.C., which is open to the public from 9 a.m. to 4 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: Call the RCRA/Superfund Hotline at (800) 424-9346 (toll-free) or (202) 382-3000, or Emily Sano at (202) 382-4503.

SUPPLEMENTARY INFORMATION:

A. The Liability Coverage Requirements

On April 16, 1982, EPA promulgated a revised interim final rule, 40 CFR 264.147 and 265.147, which established liability coverage requirements for owners and operators of hazardous waste treatment, storage, and disposal facilities subject to the Federal regulatory program under the Resource Conservation and Recovery Act of 1976, as amended (47 FR 16544-16561).

The April 16 regulation requires all such owners or operators to demonstrate financial responsibility for bodily injury and property damage to third parties caused by sudden accidental occurrences arising from operations of their facilities. The minimum amount of this coverage is $1 million per occurrence, $2 million annual aggregate. Owners or operators of landfills, surface impoundments, or land treatment facilities must also demonstrate financial responsibility for nonsudden accidental occurrences in the amount of at least $3 million per occurrence, $6 million annual aggregate.

The required liability coverage may be demonstrated through liability insurance or by passing a financial test. Proof of liability insurance used to satisfy the requirements must be submitted in the form of an endorsement to the insurance policy or a certificate of insurance. The wording of these documents is specified in § 264.151 (i) and (j), respectively.

The April 16 regulation revised liability coverage requirements that were promulgated on January 12, 1981 but never put into effect. Rules for liability coverage were proposed on December 18, 1978, and May 19, 1980.

Insurer Qualifications. The April 16 regulation states that "Each insurance policy must be issued by an insurer which, at a minimum, is licensed or eligible as an excess or surplus lines insurer, in one or more States." (§§ 264.147(a)(1)(ii), 264.147(b)(1)(ii), 265.147(a)(1)(ii), and 265.147(b)(1)(ii).)

The background of this requirement is as follows. The proposed liability coverage requirements of May 19, 1980 (45 FR 33273), provided that owners or operators must obtain insurance from insurers licensed or eligible to insure in the jurisdiction where any of the owner's or operator's facilities are located. The Agency received comments to the effect that participation of insurers should not be so restricted. The Agency evaluated the issue and at that time concluded that it was preferable not to establish minimum qualifications for insurers in order not to restrict the market and availability of insurance. The January 12, 1981, regulations, therefore, did not include qualifications for insurers. Several commenters on those regulations, however, urged EPA to establish insurer qualifications.

Upon reconsideration of this issue, the Agency decided that minimum qualifications should be included to help assure the integrity of insurers whose policies are used by owners or operators to meet the liability coverage requirements. Therefore the revised regulations of April 16, 1982, require owners or operators to obtain insurance from insurers which are licensed to transact the business of insurance or are eligible as an excess or surplus lines insurer, in one or more States. These qualifications will assure that insurers are subject to some regulatory oversight by State insurance departments but will still permit broad participation in providing the insurance.

In the preamble to the revised regulations, the Agency discussed comments received on the issue of insurer qualifications and requested further public comment. Depending on the results of evaluating the comments received and findings of further study, the Agency may decide to propose revisions to the insurer qualifications or to retain them as they are.

Effective Date of the Regulation of April 16, 1982

The effective date of the liability coverage requirements as a whole was set at July 15, 1982, or 90 days from the date of promulgation. By this date, owners or operators must demonstrate liability coverage for sudden accidental occurrences. The requirement for coverage of nonsudden accidental occurrences is phased in over 3 years because of the current limited availability of liability insurance for nonsudden accidental occurrences. The largest owners or operators of landfills, surface impoundments, or land treatment facilities ($10 million or over in annual sales or revenues) must have coverage for nonsudden accidental occurrences by January 15, 1983; those between $5 million and $10 million must have this coverage by January 15, 1984; and all others must have coverage by January 15, 1985.

Section 3010(b) of RCRA provides that EPA's hazardous waste regulations and revisions thereto take effect 6 months after promulgation. The primary purpose of the provision is to allow persons affected by the rulemaking sufficient lead time to prepare for compliance with major new regulatory requirements. The Agency set the effective date of the revised rules at 3 months rather than 6 months from the date of promulgation because in general the previous requirements were not substantially changed except in ways that add greater flexibility and feasibility regarding compliance.

B. Extension of Effective Date for Insurer Qualification Requirement

Since promulgation of the April 16, 1982 regulation, the Agency has been advised by a large insurer that the July 15, 1982 effective date afforded insufficient time in which to obtain the necessary State qualifications. In view of this concern and the fact that, with regard to insurer qualifications, the April 16, 1982 regulation imposed a more stringent requirement than did the January 12, 1981 regulation, EPA has decided to extend the effective date for the insurer qualification requirement until October 16, 1982. As required by Section 3010(b) of RCRA, this date is 6 months after the promulgation of the April 16, 1982 regulation. For reasons stated above, the Agency has retained the July 15, 1982 effective date for the remainder of the regulation.

As noted above, insurance used to satisfy the liability coverage requirements must be evidenced by a policy endorsement or certificate of insurance worded as specified in § 264.151 (i) and (j). The specified wording for both the endorsement and the certificate of insurance contains a statement certifying that the insurer is licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more States. In conformity with the extension of the effective date for the insurer qualification requirement, the Agency will accept, until October 16, 1982, endorsements and certificates of insurance that do not certify to the insurer's qualifications. This is provided by adding a paragraph (§§ 264.147(g) and 265.147(g)) to the regulations which states that notwithstanding any other provision of these regulations, owners or operators using insurance to satisfy the liability coverage requirements may use, until October 16, 1982, endorsements and certificates that do not certify to insurer qualifications.

As of October 16, 1982, the insurer qualifications requirement will become effective. On that date, any insurance used to satisfy the liability coverage requirements must be issued by insurers meeting the qualifications specified in the April 16, 1982, regulation, and endorsements or certificates of insurance must conform to § 264.151 (i) or (j). Any owners or operators who had submitted endorsements or certificates without the statement certifying to the qualifications of the insurer will have to submit new ones conforming to § 264.151 (i) of (j) to the Regional Administrators of the EPA Regions in which their facilities are located.

C. Executive Order 12291, Paperwork Reduction Act, and the Regulatory Flexibility Act

The Agency has concluded that today's action extending the effective date for the insurer qualifications requirement is not a major rule for which a regulatory impact analysis must be prepared under Executive Order 12291.

Under the Paperwork Reduction Act of 1980, the Office of Management and Budget reviews reporting requirements in regulations in order to minimize reporting burdens and cost to the government. OMB has approved the reporting requirements of the liability coverage regulation (notice of approval was published July 1, 1982, 47 FR 28626). Today's action allows owners and operators the option of using, until October 16, 1982, endorsements and certificates of insurance that do not contain the statement certifying to the insurer's qualifications. Such endorsements and certificates of insurance must be replaced with endorsements and certificates conforming to § 264.151 (i) and (j) by October 16. The Agency does not consider this resubmission of documents, which stems from use of the option, to be a significant added paperwork burden.

The Regulatory Flexibility Act requires Federal Agencies to analyze the impact of regulations on small entities. Such an analysis of the liability coverage requirements is being undertaken. Extension of the effective date for the insurer qualifications requirement will provide additional time to some owners and operators, whose insurers do not presently meet the qualifications specified in the regulations, to obtain coverage fully conforming to the April 16, 1982, regulations. To the extent such owners or operators are small entities, additional flexibility has been provided. The Agency has concluded that a Regulatory Flexibility Analysis specifically for this extension is not necessary.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of the Executive Order 12291.

List of Subjects in 40 CFR Parts 264 and 265

Hazardous materials.

Dated: July 9, 1982.

Anne M. Gorsuch,

Administrator.

For reasons set out in the preamble, Title 40 CFR Parts 264 and 265 are amended as set forth below.

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

Subpart H—Financial Requirements

1. The authority citation for Part 264 reads as follows:

Authority: Secs. 1006, 2002(a), and 3004, Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), and 6924).

2. Section 264.147 is amended by adding paragraph (g) as follows:

§ 264.147 Liability requirements.

* * * * *

(g) Notwithstanding any other provision of this Part, an owner or operator using liability insurance to satisfy the requirements of this section may use, until October 16, 1982, a Hazardous Waste Facility Liability Endorsement or Certificate of Liability Insurance that does not certify that the insurer is licensed to transact the business of insurance, or eligible as an excess or surplus lines insurer, in one or more States.

PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

Subpart H—Financial Requirements

1. The authority citation for Part 265 reads as follows:

Authority: Secs. 1006, 2002(a), and 3004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), and 6924).

2. Section 265.147 is amended by adding paragraph (g) as follows:

§ 265.147 Liability requirements.

* * * * *

(g) Notwithstanding any other provision of this Part, an owner or operator using liability insurance to satisfy the requirements of this section may use, until October 16, 1982, a Hazardous Waste Facility Liability Endorsement or Certificate of Liability Insurance that does not certify that the insurer is licensed to transact the business of insurance, or eligible as an excess or surplus lines insurer, in one or more States.

[FR Doc. 82-18973 Filed 7-12-82; 8:45 am]

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This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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Title 3—

The President

Executive Order 12371 of July 12, 1982

Amending the Generalized System of Preferences

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including Title V of the Trade Act of 1974 (the Trade Act) (88 Stat. 2066, 19 U.S.C. 2461 *et seq.*), as amended, Section 604 of the Trade Act (88 Stat. 2073, 19 U.S.C. 2483), and as President of the United States of America, in order to modify the limitations on preferential treatment for eligible articles from countries designated as beneficiary developing countries and to adjust the original designation of eligible articles, and in particular in order to clarify that certain import sensitive articles are and since the enactment of the Trade Act of 1974 have been precluded from eligibility for duty-free treatment pursuant to section 503(c)(i) of the Trade Act, it is hereby ordered as follows:

Section 1. In order to subdivide the nomenclature of existing items for purposes of the Generalized System of Preferences (GSP), the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202) are modified as provided in Annex I, attached hereto and made a part hereof.

Sec. 2. Annex II of Executive Order No. 11888 of November 24, 1975, as amended, listing articles that are eligible for benefits of the GSP when imported from any designated beneficiary developing country is amended by adding in numerical sequence TSUS item numbers 688.32 and 688.34 created by Annex I of this Order, and by deleting TSUS items 688.35 and 688.44.

Sec. 3. Annex III of Executive Order No. 11888, as amended, listing articles that are eligible for benefits of the GSP when imported from all designated beneficiary developing countries except those specified in General Headnote 3(c)(iii) of the TSUS, is amended by deleting TSUS item 688.45 therefrom and inserting in lieu thereof TSUS item 688.43.

Sec. 4. General Headnote 3(c)(iii) of the TSUS, listing articles that are eligible for benefits of the GSP except when imported from the beneficiary countries listed opposite those articles, is modified by deleting "688.45 . . . Hong Kong" therefrom and inserting "688.43 . . . Hong Kong" in lieu thereof.

Sec. 5. In order to provide staged reductions in the rates of duty for those new TSUS items created by Annex I to this Order, Annex III to Proclamation 4707 of December 11, 1979, is amended by Annex II to this Order, attached hereto and made a part hereof.

Sec. 6. Whenever the column 1 rate of duty in the TSUS for any item specified in Annex I to this Order is reduced to the same level as, or to a lower level than, the corresponding rate of duty inserted in the column entitled "LDDC" by Annex I of this Order, the rate of duty in the column entitled "LDDC" for such item shall be deleted from the TSUS.

Sec. 7. In order to correct a typographical error in Executive Order No. 12354 of March 30, 1982, Annex I thereto is modified by inserting in the column of rates to be inserted in the Rates of Duty 2 column of the TSUS for item 661.14 the rate "35% ad val.".

Sec. 8. The amendments made by this Order are effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the day following the date of this Order, and for all articles previously entered for which liquidation has not been made final as of such date.

Ronald Reagan

THE WHITE HOUSE,
July 12, 1982.

ANNEX I—GENERAL MODIFICATIONS OF THE TARIFF SCHEDULES OF THE UNITED STATES

Notes:

1. Bracketed matter is included to assist in the understanding of ordered modifications.

2. The following items, with or without preceding superior description, supersede matter now in the Tariff Schedules of the United States (TSUS). The items and superior description are set forth in columnar from, and material in such columns is inserted in the columns of the TSUS designated "Item", "Articles", "Rates of Duty 1", "Rates of Duty LDDC", and "Rates of Duty 2", respectively.

Subject to the above notes the TSUS is modified as follows:

(A) Item 688.45 is superseded by:

	[Electrical . . .:]			
"688.36	Solid-state electronic watches and clocks and solid-state electronic watch or clock modules	[See Annex II].	3.9% ad val.	35% ad val.
688.37	If Canadian article and original motor-vehicle equipment (see headnote 2, part 6B, schedule 6)	Free		
688.39	Clocks with modules measuring less than 1.77 inches in width if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)	Free		35% ad val.
688.43	Other	[See Annex II].	3.9% ad val.	35% ad val."

(B) Items 688.35 and 688.44 are redesignated as 688.32 and 688.34, respectively.

ANNEX II

Annex III to Presidential Proclamation 4707 of December 11, 1979, is amended by deleting from Section A of that Annex TSUS item numbers 688.35, 688.40, 688.44, and 688.45 with their corresponding rates of duty and footnotes and by inserting the following TSUS item numbers, rates of duty, and footnotes therein:

Item in TSUS as modified by Annex II	Rate from which staged	Rates of duty[1], effective with respect to articles entered on and after January 1,—							
		1980	1981	1982	1983	1984	1985	1986	1987
688.32 [2]	10% ad val.	[3]9.5%	[3]9%	[3]8.4%	7.9%	7.4%	6.9%	6.3%	5.8%
688.34 [3]	5.5% ad val.	[3]5.3%	[3]5.1%	[3]4.9%	4.7%	4.5%	4.3%	4.1%	3.9%
688.35 [2]	10% ad val.	9.5%	9%	[3]8.4%	(*)	(*)	(*)	(*)	(*)
688.36 [3]	5.5% ad val.	[3]5.3%	[3]5.1%	[3]4.9%	4.7%	4.5%	4.3%	4.1%	3.9%
688.40 [3]	5.5% ad val.	[3]5.3%	(*)	(*)	(*)	(*)	(*)	(*)	(*)
688.43 [3]	5.5% ad val.	[3]5.3%	[3]5.1%	[3]4.9%	4.7%	4.5%	4.3%	4.1%	3.9%
688.44 [3]	5.5% ad val.	[3]5.3%	[3]5.1%	[3]4.9%	(*)	(*)	(*)	(*)	(*)
688.45 [3]	5.5% ad val.	[3]5.3%	[3]5.1	[3]4.9%	(*)	(*)	(*)	(*)	(*)

Footnote 2 for items 688.32 and 688.35:

[2]Item 688.35 is redesignated as item 688.32 effective on the day after the date of this Order.

Footnote 3 for items 688.34, 688.36, 688.40, 688.43, 688.44, and 688.45:

[3]Item 688.40 is discontinued effective March 30, 1980, and is superseded by items 688.44 and 688.45. Item 688.44 is redesignated as item 688.34 and item 688.45 is discontinued and is superseded by items 688.36 and 688.43 effective on the day after the date of this Order.

[FR Doc. 82-19187
Filed 7-12-82; 4:04 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 47, No. 135
Wednesday, July 14, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 1

Revision of Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary of Agriculture Under Various Statutes

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This document requires civil penalty hearings held by the U.S. Department of Agriculture under the Endangered Species Act of 1973, as amended, and the Lacey Act Amendments of 1981 to be conducted according to the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary of Agriculture under various statutes.

EFFECTIVE DATE: July 14, 1982.

FOR FURTHER INFORMATION CONTACT: John C. Frey, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Hyattsville, MD 20782 (301–436–6466).

SUPPLEMENTARY INFORMATION: Section 11 of the Endangered Species Act of 1973, as amended, (16 U.S.C. 1540) provides, among other things, that the Secretary of Agriculture may, following notice and opportunity for a hearing, assess a civil penalty for violation of the Act, for violation of provisions of any permit or certificate issued under the Act, and for violations of certain regulations issued under the Act. Section 4 of the Lacey Act Amendments of 1981 (16 U.S.C. 3403) provides, among other things, that the Secretary of Agriculture may, following notice and opportunity for a hearing, assess a civil penalty for violations of the Act or regulations issued under that Act. Under both the Endangered Species Act and the Lacey Act Amendments of 1981, the Secretary of Agriculture is responsible for regulating the importation, exportation, or reexportation of certain plants. The purpose of this document is to require any hearing to assess a civil penalty for violations of the Endangered Species Act or the Lacey Act Amendments of 1981, to be conducted in accordance with the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary of Agriculture under various statutes, as contained in subpart H, Part 1, Title 7, Code of Federal Regulations.

This rule relates to internal agency management, and, therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect thereto are inpractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register**. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Finally, this action is not a rule as defined by Public Law 96–351, The Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 1

Administrative practice and procedures.

Accordingly, Subpart H, Part 1, Title 7, Code of Federal Regulations is amended as follows:

PART 1—ADMINISTRATIVE REGULATION

1. The authority citation for Subpart H is revised to read as follows:

Authority: 5 U.S.C. 301; sec. 4, 23 Stat. 32, sec. 2, 32 Stat. 792, as amended, 34 Stat. 1260, as amended, 37 Stat. 832, sec. 28, 39 Stat. 490, sec. 407, 42 Stat. 169, sec. 10, 42 Stat. 1519, sec. 15, 46 Stat. 537, as amended, sec. 402, 53 Stat. 1285, sec. 205(b), 60 Stat. 1090, sec. 14, 71 Stat. 447, as amended, sec. 21, 80 Stat. 353, sec. 9, 84 Stat. 1406, sec. 14, 84 Stat. 1629, sec. 11, 87 Stat. 897, sec. 310, 90 Stat. 2767, sec. 18, 90 Stat. 2884, sec. 13, 94 Stat. 2233, sec. 7, 95 Stat. 1078; 7 U.S.C. 61, 87e, 228, 268, 499o, 1592, 1624(b), 2151, 3812, 15 U.S.C. 1828, 16 U.S.C. 1540(f), 3406, 21 U.S.C. 111, 120, 154, 463(b), 621, 1043, 43 U.S.C. 1740, unless otherwise noted.

§ 1.131 [Amended]

2. The list of statutes contained in paragraph (a) of § 1.131 is revised by adding "Endangered Species Act of 1973, as amended, Section 11(a) (16 U.S.C. 1540(a))." after "Egg Products Inspection Act, Section 18 (21 U.S.C. 1047)."

3. The list of statutes contained in paragraph (a) of § 1.131 is further revised by adding "Lacey Act Amendments of 1981, Section 4 (a) and (b) (16 U.S.C. 3403 (a) and (b))." after "Horse Protection Act of 1970, Sections 4(c) and 6 (15 U.S.C. 1823(c), 1825)."

Done at Washington, D.C., this 8th day of July 1982.

John R. Block,
Secretary of Agriculture.

[FR Doc. 82–18940 Filed 7–13–82; 8:45 am]
BILLING CODE 3410–01–M

Agricultural Marketing Service

7 CFR Parts 916 and 917

Nectarines Grown in California, and Fresh Pears, Plums, and Peaches Grown in California; Amendment of Subpart Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule terminates the minimum size requirements for shipments of fresh nectarines, peaches, pears, and plums grown in California which are exempted from the certification, assessment, regulatory and reporting requirements of the marketing orders which regulate the commodities in order to relieve restrictions on handlers. The rule also increases the maximum allowable daily shipments per person under such exemptions for nectarines and plums. This action is a relaxation of restrictions.

EFFECTIVE DATE: July 14, 1982.

ADDRESS: Send two copies of comments to the Hearing Clerk, United States Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley.

Deputy Administrator, Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably affect costs for the directly regulated handlers.

The amendments of the rules and regulations are issued under the marketing agreements, as amended, and Order Nos. 916 and 917, as amended (7 CFR Parts 916 and 917), regulating the handling of fresh nectarines, pears, plums and peaches grown in California. The agreements and orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Nectarine Administrative Committee, Pear Commodity Committee, Peach Commodity Committee and Plum Commodity Committee, and upon other available information. It is hereby found that these actions will tend to effectuate the declared policy of the act.

Currently, §§ 916.110(b), for nectarines, and 917.143(b) for pears, plums and peaches, provide that under certain conditions the commodities may be handled without regard to the marketing order requirements pertaining to handler assessments, reports, requirements for inspection and certification, and the grade, size or other regulations applicable to fruit regulated under the marketing orders. The specific conditions under which such handling can occur includes the requirement that the fruit meet the grade requirements of the Food and Agricultural Code of California, and certain specified minimum size requirements. Also, such pears, plums, peaches and nectarines must be for home use and not for resale, and they must be handled by the person who produced them at a roadside stand, farmers market or other specified sites. Finally, shipments to any one person during any one day cannot exceed 100 pounds of nectarines or plums or 200 pounds of peaches or pears.

The amendment contained herein would eliminate size requirements for such exempted shipments. The amendment would also increase the maximum allowable daily shipment of nectarines and plums to 200 pounds in order to standardize the minimum quantity provisions. The changes also represent relaxations of restrictions.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), and good cause exists for making these amendments effective as specified in that (1) shipment of the current crop is underway; (2) the amendments to the regulations were recommended by the committee following discussion at public meetings; (3) California handlers have been apprised of these requirements; and (4) the requirements relieve restrictions on handlers.

List of Subjects in 7 CFR Parts 916 and 917

Marketing agreements and orders, Nectarines, Pears, Plums, Peaches, California.

Therefore, §§ 916.110(b) and 917.143(b) are amended as follows:

1. Section 916.110 is amended by removing paragraph (b)(2), renumbering paragraphs (b)(3), (b)(4) and (b)(5) as (b)(2), (b)(3) and (b)(4) respectively, and revising paragraph (b)(3) (as renumbered) to read as follows:

§ 916.110 Exemptions.

* * * * *

(b) *Minimum quantities.* * * *

(3) The net weight of such nectarines to any one person during any one day does not exceed 200 pounds.

* * * * *

2. Section 917.143 is amended by removing paragraph (b)(2), renumbering paragraphs (b)(3), (b)(4) and (b)(5) as paragraphs (b)(2), (b)(3) and (b)(4), respectively, and revising paragraph (b)(3) (as renumbered) to read as follows:

§ 917.143 Exemptions.

* * * * *

(b) *Minimum quantities.* * * *

(3) The shipment does not exceed 200 pounds of pears, plums, and peaches to any one person during any one day.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: July 8, 1982.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-19113 Filed 7-13-82; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 19, 30, 40, 50, 60, 70, 72, and 150

Protection of Employees Who Provide Information

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The NRC is amending its regulations in regard to job protection for employees who provide information to the Commission. These amendments emphasize to employers—that is, licensees, permittees, applicants, and their contractors and subcontractors—that termination or other acts of job discrimination against employees who engage in activities furthering the purposes of the Atomic Energy Act and the Energy Reorganization Act is prohibited. In addition, these amendments will make the employee aware that if discrimination of this nature is believed to have occurred, a remedy is available through the Wage and Hour Division of the Department of Labor. To ensure that employees of licensees, permittees, and applicants are aware of these amendments, these organizations are required to post their premises with explanatory material related to the prohibition of discrimination and availability of a remedy in the event of discrimination.

EFFECTIVE DATE: October 12, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. A. J. DiPalo, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. (301–443–5981).

SUPPLEMENTARY INFORMATION: On March 10, 1980, NRC published in the **Federal Register** (45 FR 15184) proposed amendments related to employee protection. Those proposed amendments were intended (1) to implement section 210, "Employee Protection," of the Energy Reorganization Act of 1974, 42 U.S.C. 5851, as amended, (2) to incorporate into the regulations the Commission's authority under Section 161 of the Atomic Energy Act of 1954, as amended, to investigate an alleged unlawful discrimination against an employee and to take appropriate action, and (3) to complement the Department of Labor's program that is related to this matter (29 CFR Part 24). Section 210 identifies specific acts of employees as protected activities and prohibits employers from discriminating against employees who engage in those activities, provides the Department of Labor with new authority to investigate an alleged act of such discrimination, and provides a remedy to the discrimination by means of an administrative proceeding in the Department of Labor.

Those proposed amendments would announce the statutory prohibition of discrimination of the type described in section 210 above, indicate the

availability through the Department of Labor of a remedy for employees who believe they have been unlawfully discriminated against, and also require posting by specific types of licensees, permittees, and applicants of a revised NRC Form 3 that explains the prohibition and remedy. In addition, those amendments would delete 10 CFR 19.16(c) of the Commissions regulations, but at the same time amend Part 19 by the addition of a new § 19.20. This new section, when combined with proposed changes to Parts 30, 40, 50, 60, 70, and 72 of the regulations, would extend the current prohibition of unlawful discrimination against workers who provide information concerning radiological working conditions to NRC to include employees who provide information relating to radiological health protection matters and matters that could affect the public health and safety. The prohibition of unlawful discrimination also extends to information relating to antitrust matters and safeguard matters that could affect the common defense and security if these matters are considered in connection with an application for a license. The amendments continue the exemption from the requirement to post NRC Form 3 for most "general licensees," for example, those granted under § 40.25(e). This exemption is based on the nature of the licensed activity and therefore has not been granted to the general licensee carrier of special nuclear material (10 CFR 70.20(a)).

Comments on the Proposed Rule

The Commission received 26 letters commenting on the proposed rule. Copies of those letters and an analysis of the comments are available for public inspection and copying for a fee at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

A number of commenters stated that the proposed rule would extend the NRC activities beyond the regulatory area of radiological working conditions that is applicable to all licensees. The commenters interpreted the rulemaking preamble as a Commission attempt to become involved in antitrust, safety, and security matters of all licensees. This was not the Commission's intent. Matters pertaining to radiological working conditions and radiological safety of all licensees are of concern to the Commission. However, antitrust and security matters are relevant only to certain types of licensees. For example, antitrust information is considered by the Commission only with respect to certain production and utilization facilities (primarily nuclear reactors). This rule is not intended to extend the Commission's involvement with antitrust or security matters to licensees with whom such matters are not presently considered. As noted earlier, the final rule involves the Commission in radiological safety aspects of all licensees (and their contractors and subcontractors) that are beyond the area of radiological working conditions. This involvement is appropriate since an individual fabricating a component that is destined for use in connection with a regulated facility or activity may be fabricating such component in a nonradiological work area but that individual may possess information that indicates the component, when installed at the regulated facility or activity, may contribute to a degradation of public health or safety. At times this information has not been readily available from those responsible for component fabrication, for example, licensees and their subcontractors. The Commission, to effectively fulfill its mandate, requires complete, factual, and current information concerning the regulated activities of its licensees. Employees are an important source of such information and should be encouraged to come forth with any items of potential significance to safety without fear of retribution from their employers. The purpose of the final rule is to ensure that employees are aware that employment discrimination for engaging in a protected activity, for example, contacting the Commission, is illegal and that a remedy exists through the Department of Labor. The organizations subject to the rule should understand that the Commission will not permit any interference with communications between the Commission's representatives and employees of such organization. In addition to redress being available to the individual employee, the Commission may, upon learning of an adverse finding against an employer by the Department of Labor, take enforcement action against the employer because the employer engaged in illegal discrimination.

Based on the comments received, the following substantive changes have been incorporated into the final rule:

(1) The definition of discrimination has been revised to more closely track the statutory language (see § 30.7(a)).[1]

(2) The statute expressly provides that an employee is not protected from actions taken by the employer when the employer's action is in response to the employee's deliberate action to violate the Atomic Energy Act of 1954, as amended, or the Energy Reorganization Act of 1974, as amended. This concept was not included in the proposed rule but has been incorporated in the final rule for completeness (see § 30.7(a)).

(3) The statement of available NRC enforcement actions that are derived from the Atomic Energy Act, as amended, (see § 30.7(c)) has been revised to more clearly state the policy of enforcement in the event of unlawful discrimination.

(4) A new § 30.7(d) has been added to clarify the fact that some actions taken by an employer that adversely affect an employee are not prohibited by the new regulation.

The final rule requires, in a manner similar to the proposed amendments, that the premises of licensees—including permit holders—and applicants be posted, e.g., 10 CFR 50.7(e). In the course of construction of a nuclear facility an organization may transfer administrative control of a portion of its premises to a contractor or subcontractor, e.g., an office or supply trailer or a large area for concrete construction. Such transfer does not eliminate the requirement for posting by the licensee, permit holder or applicant of those premises in a manner adequate to ensure that employees of a contractor or subcontractor are able to observe the posted information on the way to or from their place of work.

In developing the final rule the Commission considered including in its requirements that would, by one of various means, cause information related to employee protection to be posted on the premises of contractors and subcontractors of licensees—including permit holders—and applicants. Based on, among other things, the experience gained in the drafting and implementing of 10 CFR Part 21 the Commission has determined that contractors and subcontractors should be required to post NRC Form 3. Accordingly, the staff has underway a rulemaking proposing an amendment of 10 CFR 50.7(e) to require contractors and subcontractors to post NRC Form 3 on their premises.

Based on NRC staff comments, the Parts of Title 10 that are included in the rulemaking have been revised to delete Part 71, "Packaging of Radioactive Material for Transport and Transportation of Radioactive Material Under Certain Conditions," to add Part

[1] For simplification in the preamble, reference is made only to the changes to Part 30. Conforming changes have also been made to Parts 40, 50, 60, 70 and 72.

60, "Disposal of High Level Radioactive Wastes in Geologic Repositories," and to add Part 72, "Licensing Requirements for the Storage of Spent Fuel in an Independent Spent Fuel Storage Installation (ISFSI)." Part 71 was deleted since all general licensees under Part 71 are also specific licensees under another Part, e.g., Part 50, and are, therefore, included in this rulemaking. Conforming amendments to Parts 60 and 72 are included in this final rulemaking to effectuate the Commission's intent that all specific licensees will have similar responsibilities under the Employee Protection amendments. Parts 60 and 72 were not included in the proposed rulemaking since they had not been codified at that time. Conforming amendments will be made to Part 61, "Licensing Requirements for Land Disposal of Radioactive Waste" when that proposed rule (46 FR 38081, July 24, 1981) becomes final.

A number of comments from licensees and their consultants stated that the proposed rule would allow the individuals to harass the employer with accusations that are false, frivolous, or unwarranted. To prevent this, it was recommended that either civil penalties be imposed on the individual that knowingly supplies false information or that compensation be provided to an employer to defray the cost of defending against the allegations. The Commission has rejected these comments since the statutory authority of the Commission under section 210 neither provides for penalties against individuals or for any reimbursement to an employer. Based on a review of allegations of employment discrimination complaints filed with DOL, it appears that at an early stage, DOL denies complaints that are without merit.

List of Subjects

10 CFR Part 19

Environmental protection, Nuclear materials, nuclear power plants and reactors, Occupational safety and health, Penalty, Radiation protection, Reporting requirements, Sex discrimination.

10 CFR Part 30

Byproduct material, Labeling, Nuclear materials, Packaging and containers, Penalty, Radiation protection, Reporting requirements, Scientific equipment.

10 CFR Part 40

Government contracts, Hazardous materials—transportation, Nuclear materials, Penalty, Reporting requirements, Source material, Uranium.

10 CFR Part 50

Antitrust, Classified information, Fire prevention, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting requirements.

10 CFR Part 60

High-level waste, Nuclear power plants and reactors, Nuclear materials, Penalty, Reporting requirements, Waste treatment and disposal.

10 CFR Part 70

Hazardous materials—transportation, Nuclear materials, Packaging and containers, Penalty, Radiation protection, Reporting requirements.

10 CFR Part 72

Manpower training programs, Nuclear materials, Occupational safety and health, Reporting requirements, Security measures, Spent fuel.

10 CFR Part 150

Hazardous materials—transportation, Intergovernmental relations, Nuclear materials, Penalty, Reporting requirements, Security measures, Source material, Special nuclear material.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of title 5 of the United States Code, notice is hereby given that the following amendments to Title 10, Chapter I, Code of Federal Regulations, are published as a document subject to codification.

PART 19—NOTICES, INSTRUCTIONS AND REPORTS TO WORKERS; INSPECTIONS

1. The authority citation for Part 19 is revised to read as follows:

Authority: Secs. 53, 63, 81, 103, 104, 161, 186, 68 Stat. 930, 933, 935, 936, 937, 948, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2073, 2093, 2111, 2133, 2134, 2201, 2236, 2282); sec. 201, 88 Stat. 1242, as amended by Pub. L. 94–79, 89 Stat. 413 (42 U.S.C. 5841). Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 19.11(a), (c), (d), and (e) and 19.12 are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); and §§ 19.13 and 19.14(a) are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

§ 19.13 [Amended]

2. The authority citation following § 19.13 is removed.

3. In § 19.11, paragraph (c) is revised to read as follows:

§ 19.11 Posting of notices to workers.

* * * * *

(c) Each licensee and applicant shall post Form NRC–3, (Revision 6–82 or later) "Notice to Employees," as required by Parts 30, 40, 50, 60, 70, 72, and 150 of this chapter.

* * * * *

§ 19.16 [Amended]

4. In § 19.16, paragraph (c) is removed.

5. A new § 19.20 is added to read as follows:

§ 19.20 Employee protection.

Employment discrimination by a licensee or a contractor or subcontractor of a licensee against an employee for engaging in protected activities under this part or Parts 30, 40, 50, 60, 70, 72, or 150 of this chapter is prohibited.

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

6. The authority citation for Part 30 is revised to read as follows:

Authority: Secs. 81, 82, 161, 182, 183, 186, 68 Stat. 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2111, 2112, 2201, 2232, 2233, 2236, 2282); secs. 202, 206, 88 Stat. 1244, 1246 (42 U.S.C. 5842, 5846) unless otherwise noted.

Section 30.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 30.34(b) also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 30.3, 30.34 (b) and (c), 30.41 (a) and (c), and 30.53 issued under sec. 161b., 68 Stat. 948 (42 U.S.C. 2201(b)) and §§ 30.34(f), 30.51, 30.52 and 30.55 issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

7. A new § 30.7 is added under the center heading "General Provisions" to read as follows:

§ 30.7 Employee protection.

(a) Discrimination by a Commission licensee, an applicant for a Commission license, or a contractor or subcontractor of a Commission licensee or applicant against an employee for engaging in certain protected activities is prohibited. Discrimination includes discharge and other actions that relate to compensation, terms, conditions, and privileges of employment. The protected activities are established in section 210 of the Energy Reorganization Act of 1974, as amended, and in general are related to the administration or enforcement of a requirement imposed under the Atomic Energy Act or the Energy Reorganization Act.

(1) The protected activities include but are not limited to—

(i) Providing the Commission information about possible violations of

requirements imposed under either of the above statutes;

(ii) Requesting the Commission to institute action against his or her employer for the administration or enforcement of these requirements; or

(iii) Testifying in any Commission proceeding.

(2) These activities are protected even if no formal proceeding is actually initiated as a result of the employee assistance or participation.

(3) This section has no application to any employee alleging discrimination prohibited by this section who, acting without direction from his or her employer (or the employer's agent), deliberately causes a violation of any requirement of the Energy Reorganization Act of 1974, as amended, or the Atomic Energy Act of 1954, as amended.

(b) Any employee who believes that he or she has been discharged or otherwise discriminated against by any person for engaging in the protected activities specified in paragraph (a)(1) of this section may seek a remedy for the discharge or discrimination through an administrative proceeding in the Department of Labor. The administrative proceeding must be initiated within 30 days after an alleged violation occurs by filing a complaint alleging the violation with the Department of Labor, Employment Standards Administration, Wage and Hour Division. The Department of Labor may order reinstatement , back pay, and compensatory damages.

(c) A violation of paragraph (a) of this section by a Commission licensee, an applicant for a Commission license, or a contractor or subcontractor of a Commission licensee or applicant may be grounds for—

(1) Denial, revocation, or suspension of the license.

(2) Imposition of a civil penalty on the licensee or applicant.

(3) Other enforcement action.

(d) Actions taken by an employer, or others, which adversely affect an employee may be predicated upon nondiscriminatory grounds. The prohibition applies when the adverse action occurs because the employee has engaged in protected activities. An employee's engagement in protected activities does not automatically render him or her immune from discharge or discipline for legitimate reasons or from adverse action dictated by nonprohibited considerations.

(e) Each licensee and each applicant shall post Form NRC–3, "Notice to Employees," on its premises. Posting must be at locations sufficient to permit employees protected by this section to observe a copy on the way to or from their place of work. Premises must be posted not later than 30 days after an application is docketed and remain posted while the application is pending before the Commission, during the term of the license, and for 30 days following license termination.

Note.—Copies of Form NRC–3 may be obtained by writing to the the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in Appendix D, Part 20 of this chapter or the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(f) The general licenses provided in Parts 31 and 35 of this chapter are exempt from paragraph (e) of this section.

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

6. The authority citation for Part 40 is revised to read as follows:

Authority: Secs. 62, 63, 64, 65, 81, 161, 182, 183, 186, 68 Stat. 932, 933, 935, 948, 953, 954, 955, as amended, secs. 83, 84, 92 Stat. 3033, as amended, 3039, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2092, 2093, 2094, 2095, 2111, 2113, 2114, 2201, 2232, 2233, 2236, 2282); secs. 202, 206, 88 Stat. 1244, 1246 (42 U.S.C. 5842, 5846) unless otherwise noted.

Section 40.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 40.31(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 40.46 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 40.3, 40.25(d)(1)–(3), 40.35(a)–(d), § 40.41(b) and (c), 40.46, 40.51(a) and (c) and 40.63 are issued under sec. 161b., 68 Stat. 948 as amended (42 U.S.C. 2201(b)); and §§ 40.25(c) and (d)(3) and (4), 40.26(c)(2), 40.35(e), 40.41(f), 40.61, 40.62, 40.64, and 40.65 are issued under sec. 161o., 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

9. A new § 40.7 is added under the center heading "General Provisions" to read as follows:

§ 40.7 Employee protection.

(a) Discrimination by a Commission licensee, an applicant for a Commission license, or a contractor or subcontractor of a Commission licensee or applicant against an employee for engaging in certain protected activities is prohibited. Discrimination includes discharge and other actions that relate to compensation, terms, conditions, and privileges of employment. The protected activities are established in Section 210 of the Energy Reorganization Act of 1974, as amended, and in general are related to the administration or enforcement of a requirement imposed under the Atomic Energy Act or the Energy Reorganization Act.

(1) The protected activities include but are not limited to—

(i) Providing the Commission information about possible violations of requirements imposed under either of the above statutes;

(ii) Requesting the Commission to institute action against his or her employer for the administration or enforcement of these requirements; or

(iii) Testifying in any Commission proceeding.

(2) These activities are protected even if no formal proceeding is actually initiated as a result of the employee assistance or participation.

(3) This section has no application to any employee alleging discrimination prohibited by this section who, acting without direction from his or her employer (or the employer's agent), deliberately causes a violation of any requirement of the Energy Reorganization Act of 1974, as amended, or the Atomic Energy Act of 1954, as amended.

(b) Any employee who believes that he or she has been discharged or otherwise discriminated against by any person for engaging in the protected activities specified in paragraph (a)(1) of this section may seek a remedy for the discharge or discrimination through an administrative proceeding in the Department of Labor. The administrative proceeding must be initiated within 30 days after an alleged violation occurs by filing a complaint alleging the violation with the Department of Labor, Employment Standards Administration, Wage and Hour Division. The Department of Labor may order reinstatement, back pay, and compensatory damages.

(c) A violation of paragraph (a) of this section by a Commission licensee, an applicant for a Commission license, or a contractor or subcontractor of a Commission licensee or applicant may be grounds for—

(1) Denial, revocation, or suspension of the license.

(2) Imposition of a civil penalty on the licensee or applicant.

(3) Other enforcement action.

(d) Actions taken by an employer, or others, which adversely affect an employee may be predicated upon nondiscriminatory grounds. The prohibition applies when the adverse action occurs because the employee has engaged in protected activities. An employee's engagement in protected activities does not automatically render him or her immune from discharge or discipline for legitimate reasons or from adverse action dictated by non-prohibited considerations.

(e) Each licensee and each applicant shall post Form NRC–3, "Notice to Employees," on its premises. Posting must be at locations sufficient to permit employees protected by this section to observe a copy on the way to or from their place of work. Premises must be posted not later than 30 days after an application is docketed and remain posted while the application is pending before the Commission, during the term of the license, and for 30 days following license termination.

Note.—Copies of Form NRC–3 may be obtained by writing to the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in Appendix D, Part 20 of this chapter or the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(f) The general licenses provided in §§ 40.21, 40.22, and 40.25 are exempt from paragraph (e) of this section.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

10. The authority citation for Part 50 is revised to read as follows:

Authority: Secs. 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2133, 2134, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5846), unless otherwise noted.

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Sections 50.100–50.102 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§50.10 (a), (b), and (c), 50.44, 50.46, 50.48, 50.54, and 50.80(a) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 50.10 (b) and (c) and 50.54 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 50.55(e), 50.59(b), 50.70, 50.71, 50.72, and 50.78 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

11. A new § 50.7 is added under the center heading "General Provisions" to read as follows:

§ 50.7 Employee protection.

(a) Discrimination by a Commission licensee, permittee, an applicant for a Commission license or permit, or a contractor or subcontractor of a Commission licensee, permittee, or applicant against an employee for engaging in certain protected activities is prohibited. Discrimination includes discharge and other actions that relate to compensation, terms, conditions, and privileges of employment. The protected activities are established in section 210 of the Energy Reorganization Act of 1974, as amended, and in general are related to the administration or enforcement of a requirement imposed under the Atomic Energy Act or the Energy Reorganization Act.

(1) The protected activities include but are not limited to—

(i) Providing the Commission information about possible violations of requirements imposed under either of the above statutes;

(ii) Requesting the Commission to institute action against his or her employer for the administration or enforcement of these requirements; or

(iii) Testifying in any Commission proceeding.

(2) These activities are protected even if no formal proceeding is actually initiated as a result of the employee assistance or participation.

(3) This section has no application to any employee alleging discrimination prohibited by this section who, acting without direction from his or her employer (or the employer's agent), deliberately causes a violation of any requirement of the Energy Reorganization Act of 1974, as amended, or the Atomic Energy Act of 1954, as amended.

(b) Any employee who believes that he or she has been discharged or otherwise discriminated against by any person for engaging in the protected activities specified in paragraph (a)(1) of this section may seek a remedy for the discharge or discrimination through an administrative proceeding in the Department of Labor. The administrative proceeding must be initiated within 30 days after an alleged violation occurs by filing a complaint alleging the violation with the Department of Labor, Employment Standards Administration, Wage and Hour Division. The Department of Labor may order reinstatement, back pay, and compensatory damages.

(c) A violation of paragraph (a) of this section by a Commission licensee, permittee, an applicant for a Commission license or permit, or a contractor or subcontractor of a Commission licensee, permittee, or applicant may be grounds for—

(1) Denial, revocation, or suspension of the license.

(2) Imposition of a civil penalty on the licensee or applicant.

(3) Other enforcement action.

(d) Actions taken by an employer, or others, which adversely affect an employee may be predicated upon nondiscriminatory grounds. The prohibition applies when the adverse action occurs because the employee has engaged in protected activities. An employee's engagement in protected activities does not automatically render him or her immune from discharge or discipline for legitimate reasons or from adverse action dictated by nonprohibited considerations.

(e) Each licensee, permittee and each applicant shall post Form NRC–3, "Notice to Employees," on its premises. Posting must be at locations sufficient to permit employees protected by this section to observe a copy on the way to or from their place of work. Premises must be posted not later than 30 days after an application is docketed and remain posted while the application is pending before the Commission, during the term of the license, and for 30 days following license termination.

Note.—Copies of Form NRC–3 may be obtained by writing to the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in Appendix D, Part 20 of this chapter or the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

PART 60—DISPOSAL OF HIGH LEVEL RADIOACTIVE WASTES IN GEOLOGIC REPOSITORIES

12. The authority citation for Part 60 is revised to read as follows:

Authority: Secs. 51, 53, 62, 63, 65, 81, 161, 182, 183, 68 Stat. 929, 930, 932, 933, 935, 948, 953, 954, as amended (42 U.S.C. 2071, 2073, 2092, 2093, 2095, 2111, 2201, 2232, 2233); secs. 202, 206, 88 Stat. 1244, 1246 (42 U.S.C. 5842, 5846); Pub. L. 95–601, secs. 10 and 14, 92 Stat. 2951 (42 U.S.C. 2021a and 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 60.71 to 60.73 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

13. A new § 60.9 is added to Subpart A to read as follows:

§ 60.9 Employee protection.

(a) Discrimination by a Commission licensee, an applicant for a Commission license, or a contractor or subcontractor of a Commission licensee or applicant against an employee for engaging in certain protected activities is prohibited. Discrimination includes discharge and other actions that relate to compensation, terms, conditions, and privileges of employment. The protected activities are established in section 210 of the Energy Reorganization Act of 1974, as amended, and in general are related to the administration or enforcement of a requirement imposed under the Atomic Energy Act or the Energy Reorganization Act.

(1) The protected activities include but are not limited to—

(i) Providing the Commission information about possible violations of requirements imposed under either of the above statutes;

(ii) Requesting the Commission to institute action against his or her employer for the administration or enforcement of these requirements; or

(iii) Testifying in any Commission proceeding.

(2) These activities are protected even if no formal proceeding is actually initiated as a result of the employee assistance or participation.

(3) This section has no applicaton to any employee alleging discrimination prohibited by this section who, acting without direction from his or her employer (or the employer's agent), deliberately causes a violation of any requirement of the Energy Reorganization Act of 1974, as amended, or the Atomic Energy Act of 1954, as amended.

(b) Any employee who believes that he or she has been discharged or otherwise discriminated against by any person for engaging in the protected activities specified in paragraph (a)(1) of this section may seek a remedy for the discharge or discrimination through an administrative proceeding in the Department of Labor. The administrative proceeding must be initiated within 30 days after an alleged violation occurs by filing a complaint alleging the violation with the Department of Labor, Employment Standards Administration, Wage and Hour Division. The Department of Labor may order reinstatement, back pay, and compensatory damages.

(c) A violation of paragraph (a) of this section by a Commission licensee, an applicant for a Commission license, or a contractor or subcontractor of a Commission licensee or applicant may be grounds for—

(1) Denial, revocation, or suspension of the license.

(2) Imposition of a civil penalty on the licensee or applicant.

(3) Other enforcement action.

(d) Actions taken by an employer, or others, which adversely affect an employee may be predicated upon nondiscriminatory grounds. The prohibition applies when the adverse action occurs because the employee has engaged in protected activities. An employee's engagement in protected activities does not automatically render him or her immune from discharge or discipline for legitimate reasons or from adverse action dictated by nonprohibited considerations.

(e) Each licensee and each applicant shall post Form NRC–3, "Notice to Employees," on its premises. Posting must be at locations sufficient to permit employees protected by this section to observe a copy on the way to or from their place of work. Premises must be posted not later than 30 days after an application is docketed and remain posted while the application is pending before the Commission, during the term of the license, and for 30 days following license termination.

Note.—Copies of Form NRC–3 may be obtained by writing to the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in Appendix D, Part 20 of this chapter or the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

14. The authority citation for Part 70 is revised to read as follows:

Authority: Secs. 51, 53, 161, 182, 183, 68 Stat. 929, 930, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2201, 2232, 2233, 2282); secs. 202, 206, 88 Stat. 1244, 1246 (42 U.S.C. 5842, 5846) unless otherwise noted.

Section 70.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 70.21(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 70.3, 70.19(c), 70.21(c), 70.22(a), (b), (d)–(k), 70.24(a) and (b), 70.32(a)(3), (5), and (i), 70.36, 70.39(b), and (c), 70.41(a), 70.42(a) and (c), 70.56, are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); § 70.7, 70.20a(a) and (d), 70.32(a)(6), (c), (d), (e), and (g), 70.36, 70.51(c)–(g), 70.56, 70.57(b) and (d), 70.58(a)-(g)(3) and (h)–(j) are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 70.32(h), 70.51(b) and (i), 70.52, 70.53, 70.54, 70.55, 70.58(g)(4), (k) and (l), 70.59 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

15. A new § 70.7 is added under the center heading "General Provisions" to read as follows:

§ 70.7 Employee protection.

(a) Discrimination by a Commission licensee, an applicant for a Commission license, or a contractor or subcontractor of a Commission licensee or applicant against an employee for engaging in certain protected activities is prohibited. Discrimination includes discharge and other actions that relate to compensation, terms, conditions, and privileges of employment. The protected activities are established in Section 210 of the Energy Reorganization Act of 1974, as amended, and in general are related to the administration or enforcement of a requirement imposed under the Atomic Energy Act or the Energy Reorganization Act.

(1) The protected activities include but are not limited to—

(i) Providing the Commission information about possible violations of requirements imposed under either of the above statutes;

(ii) Requesting the Commission to institute action against his or her employer for the administration or enforcement of these requirements; or

(iii) Testifying in any Commission proceeding.

(2) These activities are protected even if no formal proceeding is actually initiated as a result of the employee assistance or participation.

(3) This section has no application to any employee alleging discrimination prohibited by this section who, acting without direction from his or her employer (or the employer's agent), deliberately causes a violation of any requirement of the Energy Reorganization Act of 1974, as amended, or the Atomic Energy Act of 1954, as amended.

(b) Any employee who believes that he or she has been discharged or otherwise discriminated against by any person for engaging in the protected activities specified in paragraph (a)(1) of this section may seek a remedy for the discharge or discrimination through an administrative proceeding in the Department of Labor. The administrative proceeding must be initiated within 30 days after an alleged violation occurs by filing a complaint alleging the violation with the Department of Labor, Employment Standards Administration, Wage and Hour Division. The Department of Labor may order reinstatement, back pay, and compensatory damages.

(c) A violation of paragraph (a) of this section by a Commission licensee, an applicant for a Commission license, or a contractor or subcontractor of a Commission licensee or applicant may be grounds for—

(1) Denial, revocation, or suspension of the license.

(2) Imposition of a civil penalty on the licensee or applicant.

(3) Other enforcement action.

(d) Actions taken by an employer, or others, which adversely affect an employee may be predicated upon nondiscriminatory grounds. The prohibition applies when the adverse action occurs because the employee has engaged in protected activities. An employee's engagement in protected activities does not automatically render him or her immune from discharge or discipline for legitimate reasons or from

adverse action dictated by nonprohibited considerations.

(e) Each licensee and each applicant shall post Form NRC–3 "Notice to Employees," on its premises. Posting must be at locations sufficient to permit employees protected by this section to observe a copy on the way to or from their place of work. Premises must be posted not later than 30 days after an application is docketed and remain posted while the application is pending before the Commission, during the term of the license, and for 30 days following license termination.

Note.—Copies of Form NRC–3 may be obtained by writing to the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in Appendix D, Part 20 of this chapter or the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(f) The general licenses provided in §§ 70.19 and 70.20 are exempt from paragraph (e) of this section.

16. Section 70.20a paragraph (a) is revised to read as follows:

§ 70.20a General license to possess special nuclear material for transport.

(a) A general license is hereby issued to any person to possess formula quantities of strategic special nuclear material of the types and quantities subject to the requirements of §§ 73.20, 73.25, 73.26, and 73.27 of this chapter and irradiated reactor fuel containing material of the types and quantities subject to the requirements of § 73.37 of this chapter, in the regular course of carriage for another or storage incident thereto. Carriers generally licensed under § 70.20b are exempt from the requirements of this section. Carriers of irradiated reactor fuel for the United States Department of Energy are also exempt from the requirements of this section. The general license is subject to the applicable provisions of §§ 70.7 (a) through (e); 70.32 (a) and (b), and §§ 70.42, 70.52, 70.55, 70.61, 70.62, and 70.71.

* * * * *

PART 72—LICENSING REQUIREMENTS FOR THE STORAGE OF SPENT FUEL IN AN INDEPENDENT SPENT FUEL STORAGE INSTALLATION (ISFSI)

17. The authority citation for Part 72 is revised to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2282); sec. 274, Pub. L. 86–273, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, 202, 206, 88 Stat. 1242, 1243, 1246, as amended (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332).

18. A new § 72.10 is added to Subpart A to read as follows:

§ 72.10 Employee protection

(a) Discrimination by a Commission licensee, an applicant for a Commission license, or a contractor or subcontractor of a Commission licensee or applicant against an employee for engaging in certain protected activities is prohibited. Discrimination includes discharge and other actions that relate to compensation, terms, conditions, and privileges of employment. The protected activities are established in section 210 of the Energy Reorganization Act of 1974, as amended, and in general are related to the administration or enforcement of a requirement imposed under the Atomic Energy Act or the Energy Reorganization Act.

(1) The protected activities include but are not limited to—

(i) Providing the Commission information about possible violations of requirements imposed under either of the above statutes;

(ii) Requesting the Commission to institute action against his or her employer for the administration or enforcement of these requirements; or

(iii) Testifying in any Commission proceeding.

(2) These activities are protected even if no formal proceeding is actually initiated as a result of the employee assistance or participation.

(3) This section has no application to any employee alleging discrimination prohibited by this section who, acting without direction from his or her employer (or the employer's agent), deliberately cause a violation of any requirement of the Energy Reorganization Act of 1974, as amended, or the Atomic Energy Act of 1954, as amended.

(b) Any employee who believes that he or she has been discharged or otherwise discriminated against by any person for engaging in the protected activities specified in paragraph (a)(1) of this section may seek a remedy for the discharge or discrimination through an administrative proceeding in the Department of Labor. The administrative proceeding must be initiated within 30 days after an alleged violation occurs by filing a complaint alleging the violation with the Department of Labor, Employment Standards Administration, Wage and Hour Division. The Department of Labor may order reinstatement, back pay, and compensatory damages.

(c) A violation of paragraph (a) of this section by a Commission licensee, an applicant for a Commission license, or a contractor or subcontractor of a Commission licensee or applicant may be grounds for—

(1) Denial, revocation, or suspension of the license.

(2) Imposition of a civil penalty on the licensee or applicant.

(3) Other enforcement action.

(d) Actions taken by an employer, or others, which adversely affect an employee may be predicated upon nondiscriminatory grounds. The prohibition applies when the adverse action occurs because the employee has engaged in protected activities. An employee's engagement in protected activities does not automatically render him or her immune from discharge or discipline for legitimate reasons or from adverse action dictated by nonprohibited considerations.

(e) Each licensee and each applicant shall post Form NRC–3, "Notice to Employees," on its premises. Posting must be at locations sufficient to permit employees protected by this section to observe a copy on the way to or from their place of work. Premises must be posted not later than 30 days after an application is docketed and remain posted while the application is pending before the Commission, during the term of the license, and for 30 days following license termination.

Note.—Copies of Form NRC–3 may be obtained by writing to the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in Appendix D, Part 20 of this chapter or the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES AND IN OFFSHORE WATERS UNDER SECTION 274

19. The authority citation for Part 150 is revised to read as follows:

Authority. Sec. 161, 186, 68 Stat. 948, 955, (42 U.S.C. 2201, 2236); sec. 274, Pub. L. 86–273, 73 Stat. 688, as amended (42 U.S.C. 2021) sec. 201, 206, 88 Stat. 1242, 1246, as amended (42 U.S.C. 5841, 5846).

Section 150.17a also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152).

For purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), § 150.17a issued under sec. 161b, 68 Stat. 950 (42 U.S.C. 2201(b)).

20. In § 150.20, the introductory text of paragraph (b) is revised to read as follows:

§ 150.20 Recognition of agreement state licenses.

* * * * *

(b) Notwithstanding any provision to the contrary in any specific license issued by an Agreement State to a person engaging in activities in a non-Agreement State or in offshore waters under the general licenses provided in this section, the general licenses provided in this section are subject to the provisions of §§ 30.7(a) through (e), 30.14(d) and §§ 30.34, 30.41, and 30.51 to 30.63, inclusive, of Part 30 of this chapter; paragraphs 40.7(a) through (e) and §§ 40.41, 40.51, 40.61 to 40.63, inclusive, 40.71 and 40.81 of Part 40 of this chapter; and paragraphs 70.7(a) through (e) and §§ 70.32, 70.42, 70.51 to 70.56, inclusive, 70.61, 70.62, and 70.71 of Part 70 of this chapter; and to the provisions of Parts 19, 20, and 71 and Subpart B of Part 34 of this chapter. In addition, any person engaging in activities in non-Agreement States or in offshore waters under the general licenses provided in this section:

* * * * *

Dated at Washington, D.C. this 9th day of July, 1982.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 82-19024 Filed 7-13-82; 8:45 am]

BILLING CODE 7590-01-M

10 CFR Part 50

Codes and Standards for Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its regulations to incorporate by reference the Summer 1981 Addenda of the ASME Boiler and Pressure Vessel Code. The sections of the ASME Code being incorporated provide rules for the construction of nuclear power plant components. Adoption of these amendments will permit the use of improved methods for construction.

EFFECTIVE DATE: August 13, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. E. Baker, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone (301) 443-5892.

SUPPLEMENTARY INFORMATION: On February 3, 1982 the Nuclear Regulatory Commission published in the **Federal Register** (47 FR 5010) proposed amendments to its regulation, 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities." The proposed amendments revised § 50.55a to incorporate by reference the Summer 1981 Addenda to Section III of the ASME Boiler and Pressure Vessel Code.

Some of the changes effected in the addenda which are incorporated through the adoption of the amendments are:

1. Article NCA-3000 of Section III was revised to add a requirement that N, NA, and NPT certificate holders be responsible for documentation of the review and approval of materials used by them and the preparation, accumulation, control, and protection of required records while in their custody. Also, the owner must review the materials documentation to verify that the Code Edition, Addenda, and Code Cases used satisfy NCA-1140 and are acceptable to the regulatory and enforcement authorities.

2. Article NCA-8000 of Section III was revised editorially to make it easier to read and understand. Also, two new provisions, NCA-8240(b) and NCA-8430, were added. NCA-8240(b) describes the provisions that must be met if a name plate is to be removed from an item which has been installed in a nuclear power plant system. NCA-8430 describes alternatives for compiling the Code Data Reports so that they can be traced from the Data Report Form.

3. Article NB-3500 of Section III was revised to remove the nomenclatures "normal duty valve," "severe duty valve," "standard valve," and "expected cycle," but there were no technical changes associated with dropping these nomenclatures.

4. Article NB-6000 was given an extensive editorial rewrite which mainly reorganized the paragraphs into a more comprehensive form. Also added were a subarticle on special test procedures and a subparagraph allowing the hydrostatic testing of pump and valve subassemblies.

Interested persons were invited to submit written comments for consideration in connection with the proposed amendement by May 5, 1982. One information/editorial comment on the supplementary information section of the proposed rule was received but no significant comments were received. The necessary editorial corrections were made. The Commission has adopted the proposed amendment with a minor editorial revision to accommodate the incorporation by reference of the ASME Code.

Paperwork Reduction Act Statement

The recordkeeping requirements contained in this Regulation have been approved by the Office of Management and Budget; OMB approval No: 3150-0011.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule affects only the licensing and operation of nuclear power plants. The companies that own these plants do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR Part 121. Since these companies are dominant in their service areas, this rule does not fall within the purview of the Act.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Fire prevention, Intergovernmental relations, Nuclear Power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting requirements.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments to Title 10, Chapter 1, Code of Federal Regulations, Part 50 are published as a document subject to codification.

1. The authority citation for Part 50 continues to read as follows:

Authority: Secs. 103, 104, 161, 182, 183, 68 Stat. 936, 937, 948, 953, 954, 955, 956, as amended (42 U.S.C. 2133, 2134, 2201, 2232, 2233, 2239); secs. 201, 202, 206, 88 Stat. 1243, 1244, 1246 (42 U.S.C. 5841, 5842, 5846), unless otherwise noted.

Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80-50.81 also issued under sec. 184, 68 Stat. 954, as amended; (42 U.S.C. 2234). Sections 50.100-50.102 issued under sec. 186, 68 Stat. 955; (42 U.S.C. 2236).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 50.10 (a), (b), and (c), 50.44, 50.46, 50.48, 50.54, and 50.80(a) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 50.10 (b) and (c) 50.54 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 50.55(e), 50.59(b), 50.70, 50.71, 50.72, and

50.78 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In § 50.55a, paragraph (b)(1) is revised to read as follows:

§ 50.55a Codes and standards.

* * * * *

(b) * * *

(1) As used in this section, references to Section III of the ASME Boiler and Pressure Vessels Code refer to Section III, Division 1, and include editions through the 1980 Edition and addenda through the Summer 1981 Addenda.

* * * * *

Dated at Bethesda, Maryland this 17th day of June 1982.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 82-18699 Filed 7-13-82; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Docket No. R-0411]

Regulation Q; Interest on Deposits; Temporary Suspension of Early Withdrawal Penalty

AGENCY: Federal Reserve System.

ACTION: Temporary suspension of the Regulation Q early withdrawal penalty.

SUMMARY: The Board of Governors, acting through its Secretary, pursuant to delegated authority, has suspended temporarily the Regulation Q penalty for the withdrawal of time deposits prior to maturity from member banks for depositors affected by severe storms and flooding in the Oklahoma counties of Blaine, Caddo, Custer, Kingfisher, Lincoln, Logan, Okfuskee, Payne and Washita.

EFFECTIVE DATE: June 18, 1982.

FOR FURTHER INFORMATION CONTACT: Daniel L. Rhoads, Attorney (202/452-3711) or Beverly A. Belcamino, Attorney (202/452-3623).

SUPPLEMENTARY INFORMATION: On June 18, 1982, pursuant to section 301 of the Disaster Relief Act of 1974 (42 U.S.C. 5141) and Executive Order 12148 of July 15, 1979, the President, acting through the Director of the Federal Emergency Management Agency, designated the Oklahoma counties of Blaine, Caddo, Custer, Kingfisher, Lincoln, Logan, Okfuskee, Payne, and Washita as major disaster areas. The Board regards the President's action as recognition by the Federal government that a disaster of major proportions had occurred. The President's designation enables victims of the disaster to qualify for special emergency financial assistance. The Board believes it appropriate to provide an additional measure of assistance to victims by temporarily suspending the Regulation Q early withdrawal penalty (12 CFR 217.4(d)). The Board's action permits a member bank, wherever located, to pay a time deposit before maturity without imposing this penalty upon a showing that the depositor has suffered property or other financial loss in the disaster area as a result of the severe storms and flooding beginning on or about May 11, 1982. A member bank should obtain from a depositor seeking to withdraw a time deposit pursuant to this action a signed statement describing fully the disaster-related loss. This statement should be approved and certified by an officer of the bank. This action will be retroactive to June 18, 1982, and will remain in effect until 12 midnight, December 18, 1982.

List of Subjects in 12 CFR Part 217

Advertising; Banks, banking; Foreign banking.

In view of the urgent need to provide immediate assistance to relieve the financial hardship being suffered by persons in the designated counties of Oklahoma directly affected by the severe storms and flooding, good cause exists for dispensing with the notice and public participation provisions in section 553(b) of Title 5 of the United States Code with respect to this action. Because of the need to provide assistance as soon as possible and because the Board's action relieves a restriction, there is good cause to make this action effective immediately.

By order of the Board of Governors, acting through its Secretary, pursuant to delegated authority, July 8, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-18839 Filed 7-13-82; 8:45 am]

BILLING CODE 6210-01-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Federal Credit Unions; Contractual Agreements

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The purpose of this rule is to replace §§ 701.26, 701.27-1, and 701.28 with one section which enhances the scope of contractual agreements which may be entered into by Federal credit unions. The rule is being promulgated because of the belief that the existing sections, which it will replace, are confining to the extent that many Federal credit unions are unable to benefit from the increasing sophistication of facilities, equipment, and management expertise which is evolving in the financial marketplace. The ability to benefit from the more sophisticated facilities, equipment, and management expertise through contractual agreements will result in improved service to members and economies to all parties involved.

EFFECTIVE DATE: July 7, 1982.

ADDRESS: National Credit Union Administration, 1776 G Street, NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Joseph Visconti, Department of Supervision and Examination. Telephone (202) 357-1065.

SUPPLEMENTARY INFORMATION:

Background

On November 25, 1981, a proposed rule for consolidation of § 701.26—Credit Union Service Centers, § 701.27-1—Purchase and Sale of Accounting Services and § 701.28—Joint Operations and Activities into one rule was published in the **Federal Register** (46 FR 57683 1981) for public comment. The rule eliminated the redundant provisions of the three regulations and set the parameters for credit unions entering into agreements which relate to the daily operations of credit unions.

Comments

All commenters were supportive of the simplification effort. Two commenters recommended total elimination of the rules and the majority of commenters made suggestions to eliminate several of the requirements in the proposal.

One commenter observed that the definition of the term "operational functions" was so broad that it could be interpreted as including the exercise of all the express powers of Federal credit unions. Another commenter stated the term was self-explanatory and did not need an explicit definition. The NCUA Board agrees that the term could be subject to interpretation that is too broad and has eliminated the definition and the term itself in the final rule.

Three commenters stated that the definition of fixed assets by incorporation was unnecessary and confusing. Confusion is also caused by reference in § 701.36(c) to §§ 701.26, 701.27-1 and 701.28. It is agreed that it is not necessary to re-incorporate those

sections into the rule and the definition is deleted. Section 701.36 is also modified to delete the cross reference.

Four commenters recommended elimination of contract requirements because most of the provisions were standard contract requirements or stated elsewhere in the NCUA regulations. The NCUA Board concurs. With the exception of the requirement that books and records relating to the services provided to Federal credit unions be available to NCUA, all contract provision requirements have been removed. However, the NCUA Board is mindful of the fact that some credit union directors may not be aware of minimum contract requirements and will incorporate a list of recommended contract provisions in the next page change revision of the *Accounting Manual for Federal Credit Unions.*

Two commenters argued that the word vendor was too restrictive and that there may be instances where a Federal credit union may wish to enter into a contractual agreement with organizations other than vendors. The NCUA Board concurs and has changed the word vendor to organizations.

One commenter stated that there are instances where it may be expedient for a Federal credit union to act as a representative for another organization to facilitate the sale or sharing of its excess resources and requested comment on the applicability of the practice to this rule. The instance cited by the commenter was where credit unions with excess data processing time acted as a representative for a service organization. The credit unions sell their excess time to the service organization which re-sells it to other credit unions. The selling credit unions then represent the service organization by processing the work and are reimbursed by the service organization. This, according to the commenter, facilitates the sale of the excess time and obviates the need for the credit union, selling excess time, to get involved in other areas such as billing, customer service, and training.

The NCUA Board is of the opinion that there are many instances in joint operations and other resource sharing situations where a credit union acts as a representative of another credit union or organization in the normal course of business. Examples are sharing of management services, loan operations and negotiations with vendors for shared services or products. However, the situations under which a credit union represents another organization should be clearly stated in the contractual agreement.

Two commenters indicated the requirement for a Federal credit union to maintain in its files the specific information concerning the procedures to be used by parties for compliance with contractual agreements is not needed because that information would be in the credit union files under normal business practices. The NCUA Board concurs and that provision is deleted.

Three commenters recommended removal of the limitation of advance payments to other organizations because the limitation appears arbitrarily set and not reflective of normal business practice. The intent of the provision is to deter implicit investment in organizations that are not authorized in the Federal Credit Union Act. However, the NCUA Board is aware that there are instances where it may be advantageous to prepay for services for a longer period of time and is modifying the provision. Where an agreement calls for a prepayment for services greater than 90 days, it will be considered to be an investment in a credit union service organization under the investment authority delineated in Sections 107(7)(I) and 107(5)(D) of the Federal Credit Union Act (12 U.S.C. 1757(7)(I) and 12 U.S.C. 1757(5)(D)). Thus, all prepayments (in excess of 90 days) for services must be included in determining whether investments in credit union organizations are within the statutory limits delineated in Section 107(7)(I) of the Federal Credit Union Act.

Two commenters recommended deletion of the provision for surety bond requirements. One commenter pointed out that surety bond coverage requirements are already stated in the NCUA rules and regulations and did not need restating. The other commenter indicated that there are many situations where bond coverage would not be applicable or obtainable. The NCUA Board considers both points valid and has withdrawn this provision from the rule.

One commenter asked that the portion of the rule prohibiting officials, employees or family members from having an interest or receiving a salary from a contracted organization be liberalized. The commenter felt that by allowing organization employees to be on credit committees and on the boards of directors, communications between professionals and volunteers would improve and decision making would be facilitated. Another commenter indicated that this prohibition was adequately covered in Article XIX, Section IV of the *Federal Credit Union Bylaws.*

The NCUA Board concurs that the bylaw provisions are sufficient to guard against abuse and will drop this provision from the rule. However, the NCUA Board will consider any compensation to officials that is tied to the amount of business activity generated by an agreement as a misappropriation of the credit union income or "corporate opportunity" and will deal with the situation accordingly.

Several commenters recommended deletion of the requirement for regional director approval to permit contractual agreement income to exceed 10 percent of total income. One commenter recommended that it be left to the discretion of NCUA examiners to decide if income from contractual agreements is affecting credit union safety and soundness. Another commenter suggested NCUA monitor the activity and act when there are grounds for legitimate concerns in this area. The NCUA Board concurs and will drop the requirement from the rule. Contractual agreement income will be monitored during examinations and through EDP surveillance of call reports submitted to NCUA.

Regulatory Flexibility Analysis

This rule will not have a significant economic impact on a substantial number of small credit unions (less than $1 million in assets) because the rule lessens the burden for these credit unions in a number of areas. Therefore, a Regulatory Flexibility Analysis is not required, 5 U.S.C. 605(b).

Effective Date

Final rule is being made effective in less than 30 days because it relieves restrictions, 5 U.S.C. 553(d)(1).

Determination To Not Obtain Public Comments on the Modification of Section 701.36

The NCUA Board finds, for good cause, that obtaining public comment on the modification of § 701.36 is unnecessary because the modification is needed to eliminate cross reference provisions and does not change any other provision of the rule. Therefore, solicitation of public comment is not required, 5 U.S.C. 553(B).

List of Subjects in 12 CFR Part 701

Credit unions, Reporting requirements.

By the NCUA Board, July 7, 1982.

Rosemary Brady,

Secretary of the Board.

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

[Sec. 120, 73 Stat. 635 (12 U.S.C. 1766), sec. 209, 84 Stat. 1104 (12 U.S.C. 1789)]

Accordingly, Title 12 of the Code of Federal Regulations is amended as set forth below:

1. Section 701.26 is revised to read as follows:

§ 701.26 Credit union service contracts.

(a) A Federal credit union may act as a representative of and enter into a contractual agreement with one or more credit unions or other organizations for the purpose of sharing, utilizing, renting, leasing, purchasing, selling, and/or joint ownership of fixed assets or engaging in activities and/or services which relate to the daily operations of credit unions. Agreements must be in writing, and shall advise all parties subject to the agreement that the goods and services provided shall be subject to examination by the NCUA Board to the extent permitted by law.

(b) Where any agreement calls for, or requires, the payment in advance of the actual or estimated charges for more than 3 months such payment shall be deemed an investment in a credit union service organization and subject to the limitations delineated in Sections 107(7)(I) and 107(5)(D) of the Federal Credit Union Act (12 U.S.C. 1757(7)(I) and 1757(5)(D)).

§§ 701.27–1 and 701.28 [Removed]

2. Sections 701.27–1 and 701.28 are removed.

3. Section 701.36(c)(1) is revised to read as follows:

§ 701.36 FCU ownership of fixed assets.

* * * * *

(c) Investment in Fixed Assets. (1) No Federal credit union with $2,000,000 or more in assets, without the prior approval of the Administration, shall invest in fixed assets if the aggregate of all such investments exceeds 5 percent of assets.

* * * * *

[FR Doc. 82–19171 Filed 7–13–82; 8:45 am]
BILLING CODE 7535–01–M

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12 CFR Part 701

Credit Union Service Organizations

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: This final rule provides for considerable expansion in the list of permissible activities for a credit union service organization and permits them to be profit-making entities. This rule removes regulatory restrictions that limit the ability of Federal credit unions to compete effectively in today's marketplace and will ultimately allow them to better serve their members.

EFFECTIVE DATE: July 7, 1982.

ADDRESS: National Credit Union Administration, 1776 G Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Todd A. Okun, Assistant General Counsel, (202) 357–1030.

SUPPLEMENTARY INFORMATION: On March 4, 1982, the NCUA Board issued a proposed rule soliciting public comment on a proposal to deregulate 701.27–2 of the NCUA Rules and Regulations. The proposal would retitle 701.27–2 as "Credit Union Service Organizations" indicating that such entities would no longer be limited solely to the corporate form. In addition, the proposal would leave to the descretion of a Federal credit union's board of directors the identity of investment partners, the percentage of services to be sold to noninvesting credit unions and most other general business matters. It was proposed to permit these entities to be profit-making ventures and that the current approval procedures for this type of investment be significantly simplified. The proposal was based on a determination by the NCUA Board that the current rule may be having a stifling effect on the innovation and flexibility of credit unions in utilizing the service organization concept, especially in these difficult economic and budgetary times.

Summary of Comments

Of the 38 comment letters received, 36 were in support of the proposed regulation (although some proposed even more or complete deregulation). The two opposing comments indicated that such a deregulation would be to the detriment of smaller credit unions that could not afford to take advantage of expanded opportunities. It is the view of the NCUA Board, however, that these expanding opportunities will not obscure one of the original purposes of credit union service organizations: to permit small credit unions to join together to perform functions and engage in activities at a lesser cost than could be accomplished singly. Therefore, the Board does not believe that adoption of the proposed regulation, with appropriate modifications, will work to the detriment of smaller credit unions.

The NCUA Board has determined to adopt the proposed regulations with the changes outlined below.

1. The title of the regulation shall be changed to "Credit Union Service Organizations," as proposed, to reflect the fact that the corporate form is no longer mandatory. The regulation shall be renumbered as Section 701.27. By separate Board action, the previous Section 701.27–1, Purchase and Sale of Accounting Services, has been deleted.

2. As proposed, a credit union service organization:

(a) Need not provide services to each of its investing credit unions nor must it limit its provision of services to noninvestors to any particular percentage of the previous fiscal year's cost of operation,

(b) Need not be a non-profit entity,

(c) Need not limit its fee charges to an amount sufficient only to cover the cost of the services provided,

(d) Need not be the recipient of investment funds from a credit union in order to receive a loan from that credit union, and

(e) Need not engage in the present cumbersome approval procedure.

Significant Issues

1. *Purpose of Credit Union Service Organizations.* The majority of comments suggested changes and significant expansion of subsection (b) of the proposed regulation which describes the purpose of a credit union service organization and sets out permissible activities. Several commenters noted that the proposed "purpose" clause speaks in terms of a credit union service organization providing "only" goods and services and performing "only" these functions associated with the routine credit union operations. This contrasts with both section 107(5)(D) of the Federal Credit Union Act concerning lending to credit union service organizations, which speaks in terms of such an organization being established "primarily" to meet the needs of its member credit unions, and with section 107(7)(I) of the Federal Credit Union Act concerning investment in credit union service organizations which does not specifically limit these organizations to "only" performing functions or providing services associated with routine credit union operations. The NCUA Board is persuaded that a credit union service organization need not be limited to providing services only to credit unions. Thus, credit union service organizations may provide services to other organizations as well as to credit unions. Statutory limitations will, however, continue to apply. Thus, credit union service organizations must be established for the *primary* purpose of serving credit unions, and the word "only" has been deleted.

2. *Permissible Activities.* Commenters had various suggestions for additions to the list of permissible activities and

services. It is clear that a very specific listing would be fraught with problems not only because of the probability of a prohibitively lengthy list, but because different credit unions refer to different services and functions by different names resulting in a considerable amount of confusion. Therefore, the NCUA Board has concluded that in some cases broader, more general categories of activities with appropriate examples will delineate the thrust of the type of activity to be considered without raising the need to approve such specific activity. The Board has also expanded the categories in line with recommendations of various commentors. The NCUA Board is pre-approving broad permissible investments in compliance with the Federal Credit Union Act. It is strongly urged that credit unions obtain opinions of counsel prior to engaging in activities about which there may be any legal questions. Also, it is noted with respect to activities not covered by the revised, broadened listing that requests may be made to NCUA for approval on a case by case basis.

3. *Insurance Activities.* Many commenters suggested that credit union service organizations be permitted to sell insurance. It should be noted that in the proviso to section 107(7)(1) of the Federal Credit Union Act, upon which this regulation is based, there is a strict prohibition on Federal credit union investment in an insurance company. The Board believes, however, that a credit union service organization may act as an agent for the sale of insurance and that this activity is distinguished from acting as an insurance company, i.e. an insurance underwriter. Thus, the regulation has been revised by adding to the list of permissible activities the authority of a service organization to act as agent for the sale of liability, casualty, automobile, life, health, accident, title and other insurance.

4. *Pecuniary Interests.* The proposed regulation prohibited officials and employees of a Federal credit union from having a pecuniary interest in a credit union service organization in which it has invested or to which it has loaned funds. It also prohibited an official of a Federal credit union from receiving a salary or compensation from a credit union service organization in which that Federal credit union has invested or to which it has loaned funds, except for reimbursement for necessary expenses. Several commenters felt these prohibitions to be unwarranted. It was noted that, in any event, a Federal credit union's bylaws prohibit an official from participating in any vote that might affect his pecuniary interest. Also, the NCUA Board is persuaded that a Federal credit union official may well have a particular skill or talent that so enhances the functioning of a credit union service organization that it would be appropriate to receive compensation above cost reimbursement. This need not run afoul of the Federal Credit Union Act's prohibition on directors' salaries in that compensation would not be based upon the job *as a* director, but rather, on the relationship with the credit union service organization. The NCUA Board is not unaware of the particular possibility of abuse of the prohibition on directors' salaries through the sham use of the credit union service organization vehicle. However, just as is true in the case of officers' and employees' pecuniary interests, the NCUA Board chooses not to make negative presumptions about the integrity and honesty of credit union officials. It will, however, closely monitor such relations and use its administrative enforcement authority over the credit union and its officials should it become necessary. Also, any compensation to Federal credit union officials that is tied to the amount of business activity that is generated for the service organization by this particular credit union will be viewed as a misappropriation of the credit union's income, or "corporate opportunity", and dealt with accordingly. Accordingly, subsection (e) of the proposed regulation is deleted.

5. *Examination by NCUA.* Many commentors did not see the need for subsection (i) of the proposal which subjects credit union service organizations to examination by NCUA to the extent permitted by law. The NCUA Board considers it imperative that this provision remain. The substantial deregulation of § 701.27–2 can lead to the possibility of abuse and unsafe or unsound practice. Therefore, it is imperative that the NCUA Board retain the option to examine, if necessary. This subsection will, however, be combined with subsection (g) involving call reports and requests for other information by NCUA.

6. *Statutory Limitation.* Some commentors believed that subsection (g) is unnecessary in that it merely refers to sections 107(5)(D) and 107(7)(I) as prescribing the limits on lending and investing. The NCUA Board believes, however, that in referring to the statutory provisions in the regulation itself, credit union officials who would not normally refer to these statutory sections will do so and be reminded that there are percentage limits of 1% of total paid-in and unimpaired capital and surplus of the credit union for investment and an additional 1% on lending pursuant to the statute and the regulation.

7. The NCUA Board hereby repeals Policy Statement No. 79–1, concerning credit union service corporation approval under the previous regulation, as it is no longer necessary.

8. The NCUA Board also suggests that Federal credit unions investing in credit union service organizations review their liability insurance coverage and surety bond coverage relating to such investment.

Accordingly, the NCUA Board has adopted a final rule as set forth below.

List of Subjects in 12 CFR Part 701

Credit unions.

Effective Date

These amendments are being made effective in less than 30 days because they relieve a regulatory restriction, 5 U.S.C. 553(d)(1).

Procedures for Regulatory Development

The NCUA Board certifies that these proposed changes, if adopted, will not have a significant economic impact on a substantial number of small Federal credit unions (Federal credit unions with less than $1,000,000 in assets). These proposed changes, if adopted, will increase the management flexibility of small credit unions, increase their competitive positions and reduce their paperwork burden. Therefore, a regulatory analysis is not required. 5 U.S.C. 605(b).

Dated: July 7, 1982.

Rosemary Brady,

Secretary of the NCUA Board.

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

(Sec. 107, 84 Stat. 132 (12 U.S.C. 1756), Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1104 (12 U.S.C. 1789))

Section 701.27–2 is redesignated as § 701.27 and is revised to read as follows:

§ 701.27 Credit union service organization.

(a) For purposes of this section, a "credit union service organization" is an entity defined in section 107(5)(D) or described in section 107(7)(I) of the Federal Credit Union Act.

(b) The purpose of a credit union service organization is to provide goods and services and perform functions that are associated with routine credit union

operations. It may provide any or all of the following functions or services:

(1) Credit union operational functions including, but not limited to, credit union service centers, credit card and debit card services, ATM services, accounting systems, data processing, management training and support, payment item processing, record retention and storage, locator services, research services, debt collection services, credit analysis and loan servicing, and coin and currency services;

(2) Family financial services including, but not limited to, financial planning and counseling, including retirement counseling, estate planning and income tax preparation, developing and administering IRA and Keogh plans and other personnel benefit plans, and provision of trust services including acting as trustee or in other similar fiduciary capacities;

(3) Acting as agent for the sale of liability, casualty, automobile, life, health, accident, title and other insurance;

(4) Personal property leasing and development of leasing plans; and

(5) Other services, as determined by the Board, that are associated with the routine operation of credit unions.

(c) A Federal credit union may, either by itself or by agreement with other entities, form or invest in a credit union service organization.

(d) A Federal credit union investing in or lending to a credit union service organization must submit all reports or any other information concerning a credit union service organization upon request by the NCUA Board. In addition, a credit union service organization shall be subject to examination by the NCUA Board to the extent permitted by law.

(e) A Federal credit union may invest in and lend to a credit union service organization within the limits delineated in sections 107(7)(I) and 107(5)(D) of the Federal Credit Union Act (12 U.S.C. 1757(7)(I) and 1757(5)(D)).

[FR Doc. 82-19103 Filed 7-13-82; 8:45 am]
BILLING CODE 7535-01-M

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12 CFR Part 745

Clarification and Definition of Account Insurance Coverage

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: The National Credit Union Administration Board is amending its regulations governing insurance of accounts in federally insured credit unions to provide $100,000 insurance coverage for the interest of each participant in a deferred compensation plan.

EFFECTIVE DATE: July 12, 1982.

ADDRESS: National Credit Union Administration, 1776 G Street, NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Steven R. Bisker, Senior Attorney, or Fredrick S. Lipton, Staff Attorney, Office of General Counsel, at the above address, (202) 357-1030.

SUPPLEMENTARY INFORMATION: Section 207(c)(1) of the Federal Credit Union Act (the Act) (12 U.S.C. 1787(c)(1)) provides, in relevant part, that "the term 'insured account' means the total amount of the account in the member's name * * * less any part therof which is in excess of $100,000. * * * The Board may define, with such classifications and exceptions as it may prescribe, the extent of the insurance coverage provided for member accounts. * * *" Pursuant to this statutory authority, the NCUA Board is amending Part 745 of the NCUA rules and regulations (12 CFR Part 745) to insure the separate interest of each employee participant in a deferred compensation plan.

Generally, a deferred compensation plan is a contract by an employee with an employer to defer a specified amount of the employee's wages or other compensation. The deferred funds are invested by the employer for the employee's benefit and, if the parties agree, may be invaded for the employee's benefit in the case of an emergency beyond the employee's control. The deferred compensation, and any benefits accumulated under the deferred compensation plan, are paid to the employee upon retirement or separation from employment. Typically, this payment is made to the employee over a course of years.

The funds in a deferred compensation plan usually remain the sole property of the employer. In some cases this is done to satisfy the provisions of sections 451 or 457 of the Internal Revenue Code (I.R.C. §§ 451, 457). These sections postpone taxes on the deferred income until the year in which such income is paid to a plan participant. Even though the funds are held by the employer, the funds must be used for the participant's benefit. If the employer becomes insolvent, however, the funds may become depleted and would no longer be available to the employee.

At the present time, the interest of employees, i.e., participants, in non-trusteed deferred compensation plans are *not* separately insured. *See* §§ 745.2 and 745.9-1 of the NCUA Rules and Regulations (12 CFR 745.2, 745.9-1). Upon further consideration, the NCUA Board believes that for purposes of determining the extent of insurance coverage, the differences between a deferred compensation plan and the interest of a beneficiary in a trusteed employee pension plan are not significant.

In order to obtain extended insurance coverage, a plan must specifically set out the interest of each covered employee participant and such an employee must be a member of the credit union in which the funds are maintained. That is, whether or not a retirement plan is qualified with respect to tax consequences under rules issued by the internal Revenue Service, the interest of each employee that is to be insured must be ascertainable from records available to the credit union. Thus, for insurance purposes, the tax consequences of a given retirement plan are not relevant.

The final rule would extend the insurance coverage to all deferred compensation plans, even if they do not comply with the provisions of the Internal Revenue Code, and regulations promulgated thereunder, addressing the tax treatment of such plans. However, it should be noted that, as is the case with trusteed pension plans, in order to qualify for extended insurance of up to $100,000 for the interest of each employee participant, the employee must be a member of the Federal credit union in which the employer's account is maintained.

Regulatory Procedures

The NCUA Board certifies that the final rule will not have a significant economic impact on any small Federally-insured credit unions. The final rule will provide share insurance for each employee's interest in a deferred compensation plan. Since such insurance would be paid by the NCUSIF in the event of an involuntary liquidation of a Federal credit union, the final rule would not subject Federal credit unions to any new requirements or require them to take any new actions. Therefore, a regulatory flexibility analysis is not required, 5 U.S.C. 605(b).

The NCUA Board has determined that notice and public comment on this rule are unnecessary and not in the public interest. 5 U.S.C. 553(b)(B). The final rule will afford additional protection for deferred compensation plan funds and the interest of credit union members in those funds. In addition, the NCUA Board finds that a 30 day delayed effective date is unnecessary. It believes that the expansion and clarification of insurance coverage for interests in

retirement plan is in the public interest. 5 U.S.C. 553(d).

List of Subjects in 12 CFR Part 745

Credit unions, Insurance.

Rosemary Brady,

Secretary of the Board.

July 7, 1982.

PART 745—CLARIFICATION AND DEFINITION OF ACCOUNT INSURANCE COVERAGE

Accordingly, the NCUA Board hereby amends Part 745 of the NCUA Rules and Regulations by adding § 745.9–3 to read as set forth below.

(Sec. 207(c)(1), 84 Stat. 1010 (12 U.S.C. 1787(c)(1)), sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and sec. 209, 84 Stat. 1104 (12 U.S.C. 1789))

§ 745.9–3 Deferred compensation accounts.

Funds deposited by an employer pursuant to a deferred compensation plan shall be insured up to $100,000 as to the interest of each plan participant who is a member, separately from other accounts of the participant or employer.

[FR Doc. 82–19037 Filed 7–13–82; 8:45 am]

BILLING CODE 7535–01–M

FEDERAL TRADE COMMISSION

16 CFR Part 305

Rules for Using Energy Cost and Consumption Information Used in Labeling and Advertising of Consumer Appliances Under the Energy Policy and Conservation Act

AGENCY: Federal Trade Commission.

ACTION: Final rule revision.

SUMMARY: The Federal Trade Commission's Appliance Labeling Rule requires that the table in § 305.9, which sets forth the representative average unit energy costs for four residential energy sources, be revised periodically on the basis of updated information provided by the Department of Energy (DOE).

This notice revises the table to incorporate the latest figures for average unit energy costs as published in the **Federal Register** on May 4, 1982 by DOE.

EFFECTIVE DATE: July 14, 1982. The various mandatory dates for using these revised DOE cost figures are detailed below.

FOR FURTHER INFORMATION CONTACT: James Mills, 202–376–2891 or Lucerne D. Winfrey, 202–376–2805, attorneys, Division of Enforcement, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: On November 19, 1979, the Federal Trade Commission issued a final Appliance Labeling Rule (44 FR 66466) in response to a directive in section 324 of the Energy Policy and Conservation Act ("EPCA"), 42 U.S.C. 6201 (1975). The Rule requires the disclosure of energy efficiency or cost information on labels and in retail sales catalogs for seven categories of appliances, and mandates that these energy costs or energy efficiency ratings be based on standardized test procedures developed by DOE. The Rule also requires a general disclosure, on certain point-of-sale promotional materials, of the availability of energy cost or energy efficiency rating information, and requires that any claims concerning energy consumption made in writing or in broadcast advertisements be based on results of the standardized test procedures. The cost information obtained by following the test procedures is derived by using the representative average unit energy costs provided by DOE.

Table 1 in § 305.9 of the rule sets forth the representative average unit energy costs to be used for all requirements of the rule. As stated in section 305.9(b), the Table is intended to be revised periodically on the basis of updated information provided by DOE. Table 1 was first revised by publication of new DOE figures on January 13, 1981 in the **Federal Register** (46 FR 2974).

On May 4, 1982, DOE published (47 FR 19200) the most recent figures for representative average unit energy costs. Consequently, Table 1 must again be updated in order to reflect these latest cost figures.

PART 305—COAL UTILIZATION

Accordingly, in 16 CFR 305.9(a) Table 1 is revised as follows:

§ 305.9 Representative average unit energy costs.

(a) * * *

TABLE 1.—REPRESENTATIVE AVERAGE UNIT COSTS OF ENERGY FOR FOUR RESIDENTIAL ENERGY SOURCES (1982)

Type of energy	In common terms	As required by DOE test procedure	Dollars per million Btu's[1]
Electricity	6.75¢/kWh[2,3]	$0.0675/kWh	$19.78
Natural gas	54.8¢/therm[4] or $5.57/MCF[4,5]	$0.00000548/Btu	5.48
No. 2 heating oil	$1.23/gallon[7]	0.00000890/Btu	8.90
Propane	78.4¢/gallon[8]	0.00000873/Btu	8.79

[1] Btu stands for British thermal unit.
[2] kWh stands for kilowatt hour.
[3] 1 kWh=3,413 Btu's.
[4] 1 therm=100,000 Btu's.
[5] MCF stands for 1,000 cubic feet.
[6] For the purposes of this table, 1 cubic foot of natural gas has an energy equivalence of 1,016 Btu's.
[7] For the purposes of this table, 1 gallon of No. 2 heating oil has an energy equivalence of 138,700 Btu's.
[8] For the purposes of this table, 1 gallon of liquid propane has an energy equivalence of 91,000 Btu's.

* * * * *

The dates when use of these figures becomes mandatory in calculating cost disclosures for use in reporting, labeling and advertising products covered by the Commission's Rule and/or EPCA are as follows:

For 1982 Submissions of Data Under § 305.8 of the Commission's Rule: The new cost figures must be used in the August 1 submissions for refrigerators, refrigerator-freezers and freezers; the new figures have already been used in the June 1 dishwasher submission; all other 1982 submissions had to be based on the 1981 DOE cost figures because the 1982 figures were not available when those submissions were made.

For labeling and Advertising of Products Under the Commission's Rule: Only those products for which new ranges have been published based on 1982 submissions using the 1982 DOE cost figures should be labeled with estimated annual cost figures calculated using the 1982 DOE representative average unit costs for energy. If such new ranges are published, the effective date for labeling new products will be ninety days after publication of the ranges in the **Federal Register.** Advertising for these products must also be based on the new costs and ranges beginning ninety days after publication of the new ranges in the **Register.**

Advertising of Products Covered by EPCA but not by the Commission's Rule: Manufacturers of products covered by Section 323(c) of EPCA, but not by the Appliance Labeling Rule (clothes dryers, television sets, kitchen ranges and ovens, humidifiers and dehumidifiers, central air conditioners, and home heating equipment, not including furnaces), must use the 1982 representative average unit costs for energy in all representations effective October 12, 1982.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

Authority: Sec. 324 of the Energy Policy and Conservation Act, (Pub. L. 94–163) (1975), as amended by the National Energy Conservation Policy Act, (Pub. L. 95–619)

(1978), 42 U.S.C. 6294; section 553 of the Administrative procedure Act, 5 U.S.C. 553.

Carol M. Thomas,

Secretary.

[FR Doc. 82-18926 Filed 7-13-82; 8:45 am]

BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release No. 34-18874]

Delegation of Authority to Regional Administrators

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its rules governing delegation of authority in order to allow Regional Administrators to delay for up to six months inspections of newly registered broker-dealers that have not initiated operations during their first six months of registration. The delegation also will give Regional Administrators the option of conducting a complete examination of a broker-dealer during the first six months of its registration, or conducting only a financial and operational examination at that time, deferring the remainder of the inspection for up to six months.

EFFECTIVE DATE: July 14, 1982.

FOR FURTHER INFORMATION CONTACT: Robert A. Love, Esq., Division of Market Regulation (202-272-2781).

SUPPLEMENTARY INFORMATION: The Commission today announced the amendment, effective immediately, of its rules governing delegation of authority to the Regional Administrators (17 CFR 200.30-6) with respect to the Securities Exchange Act of 1934 ("Act") (15 U.S.C. 78a *et seq.*, as amended). The new amendment authorizes Regional Administrators of the Commission to delay certain of the inspections of newly registered broker-dealers required pursuant to section 15(b)(2)(C) [15 U.S.C. 78o(b)(2)(C)] of the Act. This action applies only to those inspections of newly registered broker-dealers for which such responsibility has not been transferred to self-regulatory organizations ("SROs") pursuant to rule 15b2-2 (17 CFR 240.15b2-2) under the Act.

Background

Section 15(b)(2)(C) of the Act[1] requires the Commission to conduct inspections of newly registered broker-dealers, generally within six months of the date of their registration with the Commission. The section also permits the Commission to authorize and direct SROs to conduct these inspections. The Commission recently adopted rule 15b2-2, which assigns responsibility for most of these inspections to the SROs.[2] However, notwithstanding this general assignment to the SROs of the responsibility for these inspections, the Commission's regional offices remain responsible under the section for the inspections of those newly registered broker-dealers that have not become members of an SRO within the first six months of registration.[3] Unlike the SROs, however, the Commission's staff currently does not have the flexibility to delay these inspections where appropriate. Rule 15b2-2 permits SROs to postpone, until the second six months from registration, the inspection of broker-dealer members that have not yet initiated operations.[4] Further, the rule allows SROs an option of either (i) conducting a complete inspection during the first six months of registration, or (ii) conducting only a financial and operational inspection at that time, deferring the remainder of its inspection for an additional period not to exceed six months.[5]

Discussion

Today's action extends to the Commission's staff the same flexibility to delay inspections under section 15(b)(2)(C) as was previously granted to SROs with respect to their analogous inspections. In the Commission's view, the reasons previously advanced in favor of an additional period of time for certain inspections by SROs apply equally well to the Commission's inspections under section 15(b)(2)(C). *See* Securities Exchange Act Release No. 34-18556 (March 10, 1982).

For example, little can be learned from the inspection of the books and records of a broker-dealer that has not yet commenced operations. Therefore, the Commission believes that postponing until the second six months from registration inspections of broker-dealers that have not initiated operations will ordinarily result in more meaningful inspections. Similarly, sufficient records may not have been generated during the first six months of operations to permit productive inspections in areas such as sales practices. Therefore, the Regional Administrators[6] should have discretion to delay these inspections as well.

The Commission believes that the factors which support conducting inspections during the second six month period promote the purposes of the section and are in the public interest. The delegation will permit more effective use of Commission staff time and will produce inspections that are more likely to detect and prevent certain problems to which new firms are susceptible and which prompted Congress to enact section 15(b)(2)(C). Moreover, Regional Administrators and Assistant Regional Administrators for regulation are best situated to determine whether this delegation should be exercised.

Accordingly, the Commission delegates authority to the Regional Administrators to delay until the second six month period from registration with the Commission: (i) inspection of newly registered broker-dealers that have not commenced actual operations within six months of their registration with the Commission; and (ii) inspection for applicable provisions of the Act and rules thereunder, other than financial responsibility rules.

List of Subjects in 17 CFR Part 200

Administrative practice and procedure, Freedom of Information, Privacy, Securities.

Text of Delegation[7]

Accordingly, the Commission revises paragraph (d) of § 200.30-6 of Title 17, Chapter II to read as follows:

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[1] Section 15(b)(2)(C) states: "Within six months of the date of the granting of registration to a broker or dealer, the Commission, or upon the authorization and direction of the Commission, a registered securities association or national securities exchange of which such broker or dealer is a member, shall conduct an inspection of the broker or dealer to determine whether it is operating in conformity with the provisions of this title and the rules and regulations thereunder: Provided, however, That the Commission may delay such inspection of any class of brokers or dealers for a period not exceed six months."

[2] *See* Securities Exchange Act Release Nos. 18248 (November 10, 1981), 46 FR 56426 (November 16, 1981) (proposal), and 18556 (March 10, 1982), 47 FR 11287 (March 16, 1982) (adoption), for a discussion of that action.

[3] These would generally include both those broker-dealers that have elected to join the Commission's SECO program and those that have applied to an SRO but have not yet been admitted to membership.

[4] 17 CFR 240.15b2-2(d).

[5] 17 CFR 240.15b2-2(c).

[6] The Chairman today has designated to the Assistant Regional Administrators (Regulation) authority to delay these inspections, in order to accurately reflect the functions of those staff members in the regional offices.

[7] Material pertaining to other delegations of authority is reprinted here in subparagraph (1) due to the need to renumber the items in paragraph (d).

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

§ 200.30–6 Delegation of authority to Regional Administrators.

* * * * *

(d) With respect to the Securities Exchange Act of 1934, 15 U.S.C. 78 et seq.:

(1) Pursuant to Rule 17a–5(a) (§ 240.17a–5(a) of this chapter) and Rule 17a–5(d) (§ 240.17a–5(d) of this chapter):

(i) To consider applications by brokers and dealers for extensions of time within which to file reports required by Rule 17a–5 (§ 240.17a–5 of this chapter) and to grant or to deny such applications: *Provided,* Such applicant is advised of his right to have such denial reviewed by the Commission; and

(ii) To grant or deny requests by brokers and dealers for the approval of a change of date for the annual audited reports required by Rule 17a–5 (§ 240.17a–5 of this chapter) where the report will not be as of a date more than 15 months from the date as of which the last preceding annual audited report was prepared: *Provided,* Such applicant is advised of his right to have such denial reviewed by the Commission.

(2) Pursuant to Section 15(b)(2)(C) of the Act (15 U.S.C. 78o(b)(2)(C)):

(i) To delay until the second six month period from registration with the Commission, the inspection of newly registered broker-dealers that have not commenced actual operations within six months of their registration with the Commission; and

(ii) To delay until the second six month period from registration with the Commission, the inspection of newly registered broker-dealers to determine whether they are in compliance with applicable provisions of the Act and rules thereunder, other than financial responsibility rules.

* * * * *

Statutory Basis and Competitive Considerations

The Securities and Exchange Commission, acting pursuant to the Act, and particularly sections 2, 15 and 23 thereof (15 U.S.C. 78b, 78o and 78w), and section 1(b) of the Delegation of Functions Act, 15 U.S.C. 78d–1, hereby adopts the amendments to section 200.30–6(d). The Commission finds that there will be no burden upon competition imposed by the amendment.

The Commission also finds that the foregoing action relates solely to agency management and personnel and, accordingly, that notice and prior publication for comment under the Administrative Procedure Act (5 U.S.C. 553) are not necessary. This action, taken pursuant to 15 U.S.C. 78d–1, as amended, becomes effective July 14, 1982.

By the Commission.

George A. Fitzsimmons,

Secretary.

July 8, 1982.

[FR Doc. 82–19021 Filed 7–13–82; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79–76–095 (Texas—20); Order No. 240]

High-Cost Gas Produced From Tight Formations; Texas

Issued: June 30, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Railroad Commission of Texas that the Monte Christo Vicksburg 9000′ Formation be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: June 30, 1982.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Walter Lawson, (202) 357–8556.

SUPPLEMENTARY INFORMATION: The Commission hereby amends § 271.703(d) of its regulations to include the Monte Christo Vicksburg 9000′ Formation, located in Hidalgo County, Texas, as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was first proposed in a Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation, issued February 12, 1982 (47 FR 7451, February 19, 1982),[1] based on a recommendation by the Railroad Commission of Texas (Texas) in accordance with § 271.703(c) that the Monte Christo Vicksburg 9000′ Formation be designated as a tight formation.

On March 26, 1982, the Commission staff sent a letter to Texas, requesting clarification of the areal extent of the recommended formation, as well as of the average permeability and stabilized production rate characteristics of the Vicksburg reservoirs. On June 2, 1982, Texas submitted an amended recommendation by which it deleted certain acreage from the original recommendation. Notice of the amended recommendation was issued by the Director of the Office of Pipeline and Producer Regulation on June 4, 1982, as a Notice of Proposed Rulemaking (47 FR 25374, June 11, 1982). No comments were received in response to this notice.

Evidence submitted by Texas supports the assertion that the Monte Christo Vicksburg 9000′ Formation meets the guidelines contained in § 271.703(c)(2). The Commission hereby adopts the Texas recommendation.

This amendent shall become effective immediately. The Commission has found that the public interest dictates that new natural gas supplies be developed on an expedited basis, and, therefore, incentive prices should be made available as soon as possible. The need to make incentive prices immediately available establishes good cause to waive the thirty-day publication period.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.;* Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Title 18, *Code of Federal Regulations,* is amended as set forth below, effective June 30, 1982.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—CEILING

Section 271.703(d) is amended by adding a new subparagraph (91) to read as follows:

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[1] Comments on the proposed rule were invited and one comment supporting the recommendation was received. No party requested a public hearing and no hearing was held.

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(91) *Monte Christo Vicksburg 9000' Formation in Texas.* RM79-76-095 (Texas—20).

(i) *Delineation of formation.* The Monte Christo Vicksburg 9000' Formation is located in a portion of Hidalgo County, Texas, and is encountered in portions of the following surveys: Jackson Subdivision of the San Salvadore Del Tule Grant, Juan Jose Balli Survey A-290; Section 203, Tex.-Mex. Ry. Co. Survey A-124; Section 206 Tex.-Mex. Ry. Co. Survey A-637; Section 207, Tex.-Mex. Ry. Co. Survey A-126; Section 210, W. T. Bomar Survey A-624; Section 211, Tex.-Mex. Ry. Co. Survey A-128; Section 214; Macedonia Vela, Jr. Survey A-623. Excluded from the designation is a rectangular area in the Juan Jose Balli Survey A-290, two sides of which extend due north and south, the north line being 750' north of and the west line being 750' west of the Shell Oil Co, Bright & Schiff Hamman #1 Well, and the south side being 750' south of the the east line being 750' east of the Shell Oil Co. Bright & Hamman #2 Well.

(ii) *Depth.* The Monte Christo Vicksburg 9000' Formation ranges from a depth of approximately 9000 feet to approximately 9700 feet, with a gross average thickness of approximately 650 feet. The bottom of the formation may extend as deep as 10,400 feet in the undeveloped areas.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

[Regulations Nos. 4 and 16]

Federal Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind and Disabled; Representative Payment

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: These final regulations reorganize and restate in simpler language our regulations on representative payment under titles II, Old-Age, Survivors, and Disability Insurance (OASDI), and XVI, Supplemental Security Income for the Aged, Blind, and Disabled (SSI) of the Social Security Act. These regulations (1) explain representative payment; (2) state when title II and title XVI benefits will be paid to a representative payee rather than directly to the entitled person; (3) indicate the procedure we follow in selecting a representative payee; (4) specify the responsibilities of a representative payee; and (5) clarify our responsibilities to the beneficiary when we make payments to a representative payee on his or her behalf.

DATE: These amendments are effective July 14, 1982.

FOR FURTHER INFORMATION CONTACT: Philip Berge, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594-7452.

SUPPLEMENTARY INFORMATION: We have rewritten and reorganized the existing regulations to make them clearer and easier for the public to use. In the process of reviewing our existing regulations, our policies in this area were also reexamined. We decided that the regulations should continue to present a set of basic guidelines for persons acting as representative payees. We also added to the regulations several of the policies we now follow in making representative rather than direct payment but which are not in the current regulations. First, we have added a provision to explain that we will give a beneficiary or the individual acting on his or her behalf advance notice before we make a determination that representative payment will be made. Second, we have added a provision to indicate that when conserved funds are held in an interest-bearing account, the interest from the account, as well as the principal, is the property of the beneficiary. Third, we have added a more complete explanation of how we select a representative payee and what we expect of him or her once the selection has been made. Fourth, we have clarified our responsibilities to a beneficiary when we select someone else to receive payments on the beneficiary's behalf. Fifth, we have added to the list of representative payee responsibilities, the responsibility to report to us any event which occurs that will affect the beneficiary's continued right to paymnents.

The Notice of Proposed Rulemaking (NPRM) was published in the **Federal Register** on December 1, 1980 at 45 FR 79501 with a 60-day comment period.

Revision and Reorganization of the Regulations

These regulations are being revised and reorganized to simplify, and improve our regulations. The regulations carry out sections 205, 1102, and 1631 of the Social Security Act.

The current regulations on representative payment of title II benefits are in Subpart U of Part 404 in Title 20 of the Code of Federal Regulations. On May 29, 1981, Subpart Q of Regulations No. 4 was redesignated as Subpart U (§§ 404.2001-2065) and a new Subpart Q, implementing section 304 (Determinations of Disability) of Pub. L. 96-265 (the Social Security Disability Amendments of 1980) was published as a final regulation at 46 FR 29190-29217. Corresponding title XVI regulations appear in Subpart F of Part 416 in Title 20.

When We Make Representative Payment

As a general rule, we pay benefits directly to the person entitled to receive them so that the person will have the full use of and control over his or her own funds. However, when we have reason to believe that a beneficiary is not able to handle the funds in his or her own interest, we investigate to determine whether benefits should be paid to someone else on his or her behalf. If we determine that a beneficiary cannot manage benefit payments in his or her own interest, we will select a representative payee and certify payments to the payee for the use and benefit of the beneficiary. Before we make this determination, we must be sure that the interests of the beneficiary will be served by our making representative rather than direct payment. Whenever we make representative payment, we certify payment to the representative payee on behalf of the beneficiary. This is to indicate that payment is being made to the representative payee as a fiduciary, and that the money is not the payee's own or for the payee's benefit, but solely for the benefit of the beneficiary. If we pay benefits to a representative payee and the representative payee misuses the benefits, we have no authority to make restitution of the misused funds and that the responsibility for restitution applies to the representative payee. (See §§ 404.2041 and 416.641.)

There are certain situations where we always make representative payment. For example, if we learn that a beneficiary has been found legally incompetent, we will name a representative payee. The payee we

select will often be the court-appointed fiduciary. However, depending upon the circumstances, we may select some other person who shows a personal as well as a financial responsibility for the beneficiary. Also, by law, we must select a representative payee to receive the Supplemental Security Income payments of a person who is eligible for benefits on the basis of a disability and who has been medically determined to be an alcoholic or a drug addict. Also, we generally name a representative payee to receive the benefits of a person under age 18.

How We Select a Representative Payee

The existing regulations describe the information we need from a person before we select him or her as a representative payee. They do not indicate, however, the preferences we use in selecting a payee. Our list of preferred payees is a guide we have prepared on the basis of our experience. It is considered along with all other factors in helping us select an appropriate payee for the beneficiary. We have included these preferences in §§ 404.2021 and 416.621.

Before We Name a Representative Payee

We have added a section to the regulations to reflect our current procedure of giving advance notice of our determination to make representative payment and to name a payee. In this notice we tell the beneficiary or the individual acting on his or her behalf that we plan to name a representative payee, indicate who the payee will be, and ask the person to contact us if he or she wishes to object to our proposed actions. If the person objects, we will review our intended decisions and consider any additional information given to us. We will then issue a determination stating the means of payment and the payee, which may be appealed under our administrative review process. The advance notice procedures are explained in §§ 404.2030 and 416.630.

Responsibilities of a Representative Payee

The existing regulations state certain responsibilities of a representative payee. These responsibilities are included in these regulations. We have added to this list the responsibility to report to us any event which occurs that will affect the beneficiary's continued right to payments. This is contained in §§ 404.2035 and 416.635. We have also added an example in §§ 404.2045 and 416.645 to illustrate our view that moneys not needed for the beneficiary's current maintenance should be deposited in an interest-bearing account or invested on behalf of the beneficiary. We have had experience with representative payees holding funds rather than investing them. Also, in some instances the funds were invested by a representative payee, but the dividends did not accrue to the benefit of the beneficiary. Some institutions or agencies acting as a representative payee deposit funds not needed for the current maintenance of the beneficiary in an interest-bearing account, but the interest payable on the account does not accrue to the beneficiary. In §§ 404.2045 and 416.645 of the regulations, we have added a provision to clarify that the interest earned from an investment account is the property of the beneficiary, and not the property of the payee.

Changes From Current Regulations Made by the Final Rule

1. We have added a provision to explain that we will give a beneficiary or the individual acting on his or her behalf advance notice before we make a determination that representative payment will be made. (See §§ 404.2030 and 416.630.)

2. We have added a provision to indicate that when conserved funds are held in an interest-bearing account, the interest from the account, as well as the principal, is the property of the beneficiary. (See §§ 404.2045 and 416.645.)

3. We have added a more complete explanation of how we select a representative payee and what we expect of the payee once the selection has been made. (See §§ 404.2020, 404.2021, 404.2025, 404.2035, 416.620, 416.621, 416.625, and 416.635.)

4. We have revised the preference list of potential representative payees for a beneficiary age 18 or older. This list includes persons other than those specifically mentioned who are qualified to carry out the responsibilities of a payee and who are able and willing to serve as a payee for a beneficiary; i.e., members of community groups or organizations who volunteer to serve as a payee for a beneficiary. This was omitted from the preference list when the NPRM was published. We have also reversed the order of the last two preferences in the preference list of potential payees for a beneficiary under age 18. These were not in proper order in the NPRM. (See §§ 404.2021 and 416.621.)

5. We have clarified our responsibilities to a beneficiary when we select someone else to receive payments on the beneficiary's behalf. (See §§ 404.2041 and 416.641.)

6. We have added to the list of representative payee responsibilities the responsibility to report to us any event which occurs that will affect the beneficiary's continued right to payments. (See §§ 404.2035 and 416.635.)

Response to Public Comments

In response to the NPRM we received 42 comments: 33 from attorneys, legal aid and social service organizations and 9 from various government employees and other members of the public.

Our objective in this recodification is to clarify the existing regulatory provisions by the use of simpler language and improved organization, so that they will be more easily understood by members of the public. Some of the comments we received were very useful in preparing the final version of the regulations. Several of the revisions discussed below were made as a result of these comments. Some of the comments were not applicable to these particular regulations. Those comments are not addressed in the preamble. Other comments are condensed, summarized or paraphrased.

For ease of comprehension and for perspective, we have grouped comments according to the subject and the issues raised. Our responses are presented in the order in which the regulations are organized.

Discussion of Public Comments Changes We Made From Notice of Proposed Rulemaking to Final

As the result of the public comments we received, we have made the following revisions in the final regulations.

1. *Emphasize that a representative payee should not be selected solely on the basis of a physical condition or limitation of the beneficiary.* We received several comments to the effect that proposed regulations would permit or require representative payment for mentally competent individuals who are physically incapable of managing their own benefits. In response to these comments we added "to direct the management of" to the last sentence of §§ 404.2001(a) and 416.601(a) to make it clear that physical disability would require representative payment only if the individual is unable to manage or to direct others in the management of benefit payments. This sentence now reads: "Generally, we appoint a representative payee if we have determined that the beneficiary is not able to manage or direct the management of benefit payments in his

or her own interest." Other sections revised as a result of these comments are 404.2001(b), 404.2015, 404.2055, 416.601(b), 416.615 and 416.655. Also, §§ 404.2010(a)(2) and 416.610(a)(2) of the proposed regulations have been revised to reflect that the beneficiary is "physically incapable of managing or directing the management of his or her benefit payments."

2. *Expand when representative payment will be made on behalf of a drug addict or alcoholic.* In response to several comments that we clarify when representative payment will be made on behalf of a drug addict or alcoholic we have added a new paragraph (3) to § 416.610(a) to provide for representative payment to an individual who is "Eligible for benefits solely on the basis of a disability and who is medically determined to be a drug addict or alcoholic." This provision reflects the current law.

3. *Clarify when we will make direct payment to minor beneficiaries.* One commenter suggested that we make direct payment to a minor beneficiary whenever the beneficiary shows the ability to manage benefits or meet the appropriate State law regarding emancipation. We added to §§ 404.2010(b) and 416.610(b) examples of situations in which we make direct payment to beneficiaries under age 18. The regulations will not, however, contain all our procedures concerning direct payment to minors. These are contained in our internal procedures.

4. *Editorial changes.* Various editorial comments were received. These comments were considered and, where the review indicated inclusion of the recommended changes would improve the regulations, the appropriate changes were made.

Changes We Did Not Make

For the reasons stated below, we did not agree that the final regulations should be revised to include other changes suggested by commenters, and we did not adopt the following suggestions.

1. *Revise the advance notice procedure.* We received the following comments for improving the advance notice procedure in §§ 404.2030 and 416.630.

(a) Omit the term "generally" in subsection (a) of §§ 404.2030 and 416.630 and specifically include legally incompetent adults and minors under the advance notice procedure.

(b) Provide and oral hearing before a representative payee is named.

(c) Explain when the advance notice is not sent.

(d) Have the advance notice reflect a specific time frame within which to protest.

(e) Identify what is to be included in the advance notice.

(f) Provide advance notice if we are continuing payment to the original representative payee at the time of reinstatement of benefits after a successful appeal or long-term suspension.

As noted, these comments are not being adopted. Sections 404.2030 and 416.630 provide to whom advance notice is sent and what is included in the advance notice. We have not provided for an oral hearing or face-to-face interview. If the beneficiary or his or her representative does, in fact, protest the proposed determinations, we will provide him or her with an opportuntiy to meet with us and to examine the evidence (as appropriate under part 401 of the regulations, disclosure procedures) before the decisions are formally rendered.

The term "generally" has been retained because exceptions to the advance notice procedure are more appropriately discussed in our operating procedures and not the regulations. In addition, information pertaining to when advance notice is not sent and the specific time frame within which to protest the payee recommendation, is also contained in our operating procedures.

Also, our current instructions provide the beneficiary with an opportunity to contest a continued appointment at the time of reinstatement of the beneficiary's benefits after a successful appeal or long-term suspension.

2. *Provide a face-to-face meeting to determine the capability of a beneficiary.* One commenter suggested we provide a face-to-face meeting to determine a beneficiary's capability. There is an opportunity for a face-to-face meeting discussed in our procedural instructions. Since we consider that procedure one of many operational details of our basic policy, we have not included it in the regulations. Generally, we believe only basic policy should be covered in the regulations.

3. *Personal needs of the beneficiary.* We received several comments that §§ 404.2040(b) and 416.640(b) of the proposed regulations should be changed to reflect that a beneficiary's personal needs over and above the expenses incurred for his or her basic needs (room, board, and nursing care) may be paid from the beneficiary's funds only after the beneficiary's obligations to pay for his or her basic needs have been met. Also, we received comments that the beneficiary's Medicaid eligibility and payment for covered services to an institutionalized individual would cease if the patient's representative payee does not pay the patient's share of liability for a medical vendor payment.

Benefits certified to a representative payee are considered to be used in a beneficiary's best interests if they are used for a beneficiary's current maintenance. Since clothing and personal comfort items are considered costs incurred for current maintenance, we have not added this statement.

Although we provide guidelines as to what is in the beneficiary's best interests, there is a considerable amount of discretion provided the payee. If satisfying the beneficiary's significant personal needs before paying his or her institutional charges is in the beneficiary's best interests, then the payee is performing appropriately.

Finally, Medicaid eligibility and payment for covered services to an institutionalized individual does not cease if the patient or that patient's representative payee does not pay the patient's share of liability for a medical vendor payment. While title XIX policy requires that all patient income in excess of the personal needs allowance be considered as the patient's share of liability when computing the medical vendor payment amount, it does not mandate that the amount of the patient's liability actually be paid as a condition of eligibility. If the patient's liability is not paid, there is no change in Medicaid status. It is a matter between the patient (or representative payee) and the Medicaid facility. In fact, there is no such requirement in the Medicaid law or regulations and the States are not permitted to impose one.

4. *Payment of a beneficiary's debt.* We received three comments that §§ 404.2040(d) and 416.640(d) of the proposed regulations should be amended to reflect that if funds are available, a payee is required to satisfy a debt of the beneficiary for basic needs even if the debt arose before the first month for which payments were certified to the payee. A payee is authorized and directed to apply benefits for the use and benefit of the beneficiary. While the payee has the authority to determine how and for what purpose the benefits are to be used for the beneficiary, the payee is required to use them in a manner that serves the beneficiary's best interests.

Whenever there is a use of legal process to compel payment of a past indebtedness which jeopardizes the beneficiary's current maintenance, including the satisfaction of his or her

reasonably foreseeable future needs, it is the representative payee's responsibility to invoke, on the beneficiary's behalf, the protection of section 207 of the Act. (Section 207 exempts benefits, either before or after payment, from execution, levy, attachment, garnishment, or other seizure by creditors so long as payments are identifiable.) A representative payee may, however, use benefits to discharge a valid, properly authenticated past indebtedness of the beneficiary provided the amount required to discharge such a past indebtedness is not necessary for the beneficiary's current maintenance, including his or her reasonably foreseeable future needs.

5. *Make the Social Security Administration liable for the misuse of benefit payments.* Several commenters suggested that §§ 404.2041 and 416.641 of the proposed regulations be revised to make us, as well as the representative payee, liable for misuse. We have no authority to assume liability for misuse.

It was also suggested that misuse should be an appealable determination and that we have a more affirmative role in attempting to recover misused funds. We are examining our policies with regard to the misuse of benefits and to recoupment generally. Any changes to current policy resulting from our study will be the subject of separate regulations.

6. *Eliminate examples specifying an amount which requires deposit in an interest-bearing account.* A number of commenters recommended that the examples in §§ 404.2045(a) and 416.645(a) of the proposed regulations be deleted since they specify an amount that requires depositing funds in an interest-bearing account and this requirement has not yet become part of a published regulation. We have determined that a monetary figure should be placed in the regulations for depositing funds in an interest-bearing account and that $150 would be a reasonable money amount.

7. *Require mandatory accountings.* Several commenters suggested that we require regulatory scheduled mandatory accounting. Under the regulations, we may require such accounting. However, we are reviewing our present accounting and verification process. As a result of our findings, we may make changes in the accounting requirements. If any changes are made they will be the subject of separate regulations.

8. *Liability for overpayment.* We received a comment suggesting that the regulations should specify whether the beneficiary and/or the representative payee are jointly or severally liable for an overpayment. Liability for overpayment is discussed in the Social Security Rulings (SSR 64–7). This ruling indicates that where a representative payee receives an overpayment on behalf of a beneficiary, the payee and the beneficiary may, under certain circumstances, be jointly and individually liable for the overpayment. However, the payee is not liable if he or she used the amounts received for the benefit of the beneficiary and was without fault with regard to the overpayment.

9. *Discuss situations in which the beneficiary objects to the appointment of a representative payee.* One commenter recommended that the regulations should discuss situations in which the beneficiary objects to the appointment of a specific representative payee but we appoint the payee over protest. Such a discussion would make the regulations unnecessarily lengthy. Furthermore, the payee determination is an appealable determination. The appeals process is discussed in Regulations No. 4, Subpart J and Regulations No. 16, Subpart N.

Regulatory Procedures

Executive Order 12291—These regulations have been reviewed under Executive Order 12291 and do not meet any of the criteria for a major regulation. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act—The reporting/recordkeeping requirements in the sections of these regulations cited below are subject to the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and therefore require Office of Management and Budget (OMB) approval. These requirements are presently approved by OMB under the OMB approval numbers cited.

Regulation section	OMB approval No.
404.2025(a)	0960–0014.
416.625(a)	
404.2035(b)	0960–0073.
404.2035(c)	0960–0012.
416.635(c)	
404.2065	0960–0068 (Individual). 0960–0069 (Institution).
416.635(b)	0960–0128.
416.665	0960–0135.

These regulations impose no new reporting or recordkeeping requirements requiring OMB clearance.

Regulatory Flexibility Act—Since a notice of proposed rulemaking for these rules was issued before January 1, 1981, a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act, is not required.

These amendments are hereby adopted and set forth below.

(Catalog of Federal Domestic Assistance Program, Nos. 13.802 Social Security-Disability Insurance; 13.803 Social Security-Retirement Insurance; 13.804 Social Security-Survivors Insurance; 13.807 Supplemental Security Income)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Death benefits, Disabled, Old-Age, Survivors and Disability Insurance.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disabled, Public assistance programs, Supplemental security income (SSI).

Dated: May 17, 1982.

Paul B. Simmons,

Acting Commissioner of Social Security.

Approved: June 24, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950-)

* * * * *

Subpart U—Representative Payment

Sec.

404.2001 Introduction.
404.2010 When payment will be made to a representative payee.
404.2015 Information considered in determining whether to make representative payment.
404.2020 Information considered in selecting a representative payee.
404.2021 Order of preference in selecting a representative payee.
404.2025 Information to be submitted by a representative payee.
404.2030 Advance notice of the determination to make representative payment.
404.2035 Responsibilities of a representative payee.
404.2040 Use of benefit payments.
404.2041 Liability for misuse of benefit payments.
404.2045 Conservation and investment of benefit payments.
404.2050 When new representative payee will be selected.
404.2055 When representative payment will be stopped.
404.2060 Transfer of accumulated benefit payments.
404.2065 Accounting for benefit payments.

Authority: Sec. 205 and 1102 of the Social Security Act; 53 Stat. 1368, 49 Stat. 647; 72 U.S.C. 405 and 1302.

Subpart U—Representative Payment

§ 404.2001 Introduction.

(a) *Explanation of representative payment.* This subpart explains the principles and procedures that we follow in determining whether to make representative payment and in selecting a representative payee. It also explains the responsibilities that a representative payee has concerning the use of the funds he or she receives on behalf of a beneficiary. A representative payee may be either a person or an organization selected by us to receive benefits on behalf of a beneficiary. A representative payee will be selected if we believe that the interest of a beneficiary will be served by representative payment rather than direct payment of benefits. Generally, we appoint a representative payee if we have determined that the beneficiary is not able to manage or direct the management of benefit payments in his or her interest.

(b) *Policy used to determine whether to make representative payment.* (1) Our policy is that every beneficiary has the right to manage his or her own benefits. However, some beneficiaries due to a mental or physical condition or due to their youth may be unable to do so. Under these circumstances, we may determine that the interests of the beneficiary would be better served if we certified benefit payments to another person as a representative payee.

(2) If we determine that representative payment is in the interest of a beneficiary, we will appoint a representative payee. We may appoint a representative payee even if the beneficiary is a legally competent individual. If the beneficiary is a legally incompetent individual, we may appoint the legal guardian or some other person as a representative payee.

(3) If payment is being made directly to a beneficiary and a question arises concerning his or her ability to manage or direct the management of benefit payments, we will, if the beneficiary is 18 years old or older and has not been adjudged legally incompetent, continue to pay the beneficiary until we make a determination about his or her ability to manage or direct the management of benefit payments and the selection of a representative payee.

§ 404.2010 When payment will be made to representative payee.

(a) We pay benefits to a representative payee on behalf of a beneficiary 18 years old or older when it appears to us that this method of payment will be in the interest of the beneficiary. We do this if we have information that the beneficiary is—

(1) Legally incompetent or mentally incapable of managing benefit payments; or

(2) Physically incapable of managing or directing the management of his or her benefit payments.

(b) Generally, if a beneficiary is under age 18, we will pay benefits to a representative payee. However, in certain situations, we will make direct payments to a beneficiary under age 18 who shows the ability to manage the benefits. For example, we make direct payments to a beneficiary under age 18 if the beneficiary is—

(1) Receiving disability insurance benefits on his or her own Social Security earnings record; or

(2) Serving in the military services; or

(3) Living alone and supporting himself or herself; or

(4) A parent and files for himself or herself and/or his or her child and he or she has experience in handling his or her own finances; or

(5) Capable of using the benefits to provide for his or her current needs and no qualified payee is available; or

(6) Within 4 months of attaining age 18 and is initially filing an application for benefits.

§ 404.2015 Information considered in determining whether to make representative payments.

In determining whether to make representative payment we consider the following information:

(a) *Court determinations.* If we learn that a beneficiary has been found to be legally incompetent, a certified copy of the court's determination will be the basis of our determination to make representative payment.

(b) *Medical evidence.* When available, we will use medical evidence to determine if a beneficiary is capable of managing or directing the management of benefit payments. For example, a statement by a physician or other medical professional based upon his or her recent examination of the beneficiary and his or her knowledge of the beneficiary's present condition will be used in our determination, if it includes information concerning the nature of the beneficiary's illness, the beneficiary's chances for recovery and the opinion of the physician or other medical professional as to whether the beneficiary is able to manage or direct the management of benefit payments.

(c) *Other evidence.* We will also consider any statements of relatives, friends and other people in a position to know and observe the beneficiary, which contain information helpful to us in deciding whether the beneficiary is able to manage or direct the management of benefit payments.

§ 404.2020 Information considered in selecting a representative payee.

In selecting a payee we try to select the person, agency, organization or institution that will best serve the interest of the beneficiary. In making our selection we consider—

(a) The relationship of the person to the beneficiary;

(b) The amount of interest that the person shows in the beneficiary;

(c) Any legal authority the person, agency, organization or institution has to act on behalf of the beneficiary;

(d) Whether the potential payee has custody of the beneficiary; and

(e) Whether the potential payee is in a position to know of and look after the needs of the beneficiary.

§ 404.2021 Order of preference in selecting a representative payee.

As a guide in selecting a representative payee, categories of preferred payees have been established. These preferences are flexible. Our primary concern is to select the payee who will best serve the beneficiary's interest. The preferences are:

(a) For beneficiaries 18 years old or older, our preference is—

(1) A legal guardian, spouse (or other relative) who has custody of the beneficiary or who demonstrates strong concern for the personal welfare of the beneficiary;

(2) A friend who has custody of the beneficiary or demonstrates strong concern for the personal welfare of the beneficiary;

(3) A public or nonprofit agency or institution having custody of the beneficiary;

(4) A private institution operated for profit and licensed under State law, which has custody of the beneficiary; and

(5) Persons other than above who are qualified to carry out the responsibilities of a payee and who are able and willing to serve as a payee for a beneficiary; e.g., members of community groups or organizations who volunteer to serve as payee for a beneficiary.

(b) For beneficiaries under age 18, our preference is—

(1) A natural or adoptive parent who has custody of the beneficiary, or a guardian;

(2) A natural or adoptive parent who does not have custody of the beneficiary, but is contributing toward the beneficiary's support and is demonstrating strong concern for the beneficiary's well being;

(3) A natural or adoptive parent who does not have custody of the beneficiary and is not contributing toward his or her support but is demonstrating strong concern for the beneficiary's well being;

(4) A relative or stepparent who has custody of the beneficiary;

(5) A relative who does not have custody of the beneficiary but is contributing toward the beneficiary's support and is demonstrating concern for the beneficiary's well being;

(6) A relative or close friend who does not have custody of the beneficiary but is demonstrating concern for the beneficiary's well being; and

(7) An unauthorized social agency or custodial institution.

§ 404.2025 Information to be submitted by a representative payee.

(a) Before we select a representative payee, the payee applicant must give us information showing his or her relationship to the beneficiary and his or her responsibility for the care of the beneficiary.

(b) Anytime after we have selected a payee, we may ask the payee to give us information showing a continuing relationship to the beneficiary and a continuing responsibility for the care of the beneficiary. If the payee does not give us the requested information within a reasonable period of time, we may stop paying the payee unless we determine that the payee had a good reason for not complying with our request, and we receive the information requested.

§ 404.2030 Advance notice of the determination to make representative payment.

(a) Generally, whenever we intend to make representative payment and to name a payee, we notify the beneficiary or the individual acting on his or her behalf, of our proposed actions. In this notice we tell the person that we plan to name a representative payee and who that payee will be. We also ask the person to contact us if he or she objects to either proposed action. If he or she objects to either proposed action, the person may—

(1) Review the evidence upon which the proposed actions will be based; and

(2) Submit any additional evidence regarding the proposed actions.

(b) If the person objects to the proposed actions, we will review our proposed determinations and consider any additional information given to us. We will then issue our determinations. If the person is dissatisfied with either determination, he or she may request a reconsideration.

(c) If the person does not object to the proposed actions, we will issue determinations. If the person is dissatisfied with either determination, he or she may request a reconsideration.

§ 404.2035 Responsibilities of a representative payee.

A representative payee has a responsibility to—

(a) Use the payments he or she receives only for the use and benefit of the beneficiary in a manner and for the purposes he or she determines, under the guidelines in this subpart, to be in the best interests of the beneficiary;

(b) Notify us of any event that will affect the amount of benefits the beneficiary receives or the right of the beneficiary to receive benefits;

(c) Submit to us, upon our request, a written report accounting for the benefits received; and

(d) Notify us of any change in his or her circumstances that would affect performance of the payee responsibilities.

§ 404.2040 Use of benefit payments.

(a) *Current maintenance.* We will consider that payments we certify to a representative payee have been used for the use and benefit of the beneficiary if they are used for the beneficiary's current maintenance. Current maintenance includes costs incurred in obtaining food, shelter, clothing, medical care, and personal comfort items.

Example: An aged beneficiary is entitled to a monthly Social Security benefit of $400. Her son, who is her payee, disburses her benefits in the following manner:

Rent and utilities	$200
Medical	25
Food	80
Clothing (coat)	55
Savings	30
Miscellaneous	30

The above expenditures would represent proper disbursements on behalf of the beneficiary.

(b) *Institutional care.* If a beneficiary is receiving care in a Federal, State, or private institution because of mental or physical incapacity, current maintenance includes the customary charges made by the institution, as well as expenditures for those items which will aid in the beneficiary's recovery or release from the institution or expenses for personal needs which will improve the beneficiary's conditions while in the institution.

Example: An institutionalized beneficiary is entitled to a monthly Social Security benefit of $320. The institution charges $700 a month for room and board. The beneficiary's brother, who is the payee, learns the beneficiary needs new shoes and does not have any funds to purchase miscellaneous items at the institution's canteen.

The payee takes his brother to town and buys him a pair of shoes for $29. He also takes the beneficiary to see a movie which costs $3. When they return to the institution, the payee gives his brother $3 to be used at the canteen.

Although the payee normally withholds only $25 a month from Social Security benefit for the beneficiary's personal needs, this month the payee deducted the above expenditures and paid the institution $10 less than he usually pays.

The above expenditures represent what we would consider to be proper expenditures for current maintenance.

(c) *Support of legal dependents.* If the current maintenance needs of the beneficiary are met, the payee may use part of the payments for the support of the beneficiary's legally dependent spouse, child, and/or parent.

Example: A disabled beneficiary receives a Veterans Administration (VA) benefit of $325 and a Social Security benefit of $525. The beneficiary resides in a VA hospital and his VA benefits are sufficient to provide for all of his needs; i.e., cost of care and personal needs. The beneficiary's legal dependents—his wife and two children—have a total income of $250 per month in Social Security benefits. However, they have expenses of approximately $450 per month.

Because the VA benefits are sufficient to meet the beneficiary's needs, it would be appropriate to use part of his Social Security benefits to support his dependents.

(d) *Claims of creditors.* A payee may not be required to use benefit payments to satisfy a debt of the beneficiary, if the debt arose prior to the first month for which payments are certified to a payee. If the debt arose prior to this time, a payee may satisfy it only if the current and reasonably foreseeable needs of the beneficiary are met.

Example: A retroactive Social Security check in the amount of $1,040, representing benefits due for July 1980 through January 1981, was issued on behalf of the beneficiary to the beneficiary's aunt who is the representative payee. The check was certified in February 1981.

The nursing home, where the beneficiary resides, submitted a bill for $1,139 to the payee for maintenance expenses the beneficiary incurred during the period from June 1980 through November 1980. (Maintenance charges for December 1980 through February 1981 had previously been paid.)

Because the benefits were not required for the beneficiary's current maintenance, the payee had previously saved over $500 for the beneficiary and the beneficiary had no foreseeable needs which would require large disbursements, the expenditure for the maintenance charges would be consistent with our guidelines.

§404.2041 Liability for misuse of benefit payments.

Our obligation to the beneficiary is completely discharged when we make a correct payment to a representative payee on behalf of the beneficiary. The payee in his or her personal capacity, and not SSA, may be liable if the payee misuses the beneficiary's benefits.

§ 404.2045 Conservation and investment of benefit payments.

(a) *General.* If payments are not needed for the beneficiary's current maintenance or reasonably foreseeable needs or the support of legal dependents, they shall be conserved or invested on behalf of the beneficiary. Conserved funds should be invested in accordance with the rules followed by trustees. Any investment must show clearly that the payee holds the property in trust for the beneficiary.

Example: A State institution for mentally retarded children, which is receiving Medicaid funds, is representative payee for several Social Security beneficiaries. The checks the payee receives are deposited into one account which shows that the benefits are held in trust for the beneficiaries. The institution has supporting records which show the share each individual has in the account. Funds from this account are disbursed fairly quickly after receipt for the current support and maintenance of the beneficiaries as well as for miscellaneous needs the beneficiaries may have. Several of the beneficiaries have significant accumulated resources in this account. For those beneficiaries whose benefits have accumulated over $150, the funds should be deposited in an interest-bearing account or invested relatively free of risk on behalf of the beneficiaries.

(b) *Preferred investments.* Preferred investments for excess funds are U.S. Savings Bonds and deposits in an interest or dividend paying account in a bank, trust company, credit union, or savings and loan association which is insured under either Federal or State law. The account must be in a form which shows clearly that the representative payee has only a fiduciary and not a personal interest in the funds. If the payee is the legally appointed guardian or fiduciary of the beneficiary, the account may be established to indicate this relationship. If the payee is not the legally appointed guardian or fiduciary, the accounts may be established as follows:

(1) For U.S. Savings Bonds—

———— (Name of beneficiary) ———— (Social Security Number), for whom ——— (Name of payee) is representative payee for Social Security benefits;

(2) For interest or dividend paying accounts—

———— (Name of beneficiary) by ———— (Name of payee), representative payee.

(c) *Interest and dividend payments.* The interest and dividends which result from an investment are the property of the beneficiary and may not be considered to be the property of the payee.

§ 404.2050 When a new representative payee will be selected.

When we learn that the interests of the beneficiary are not served by continuing payment to the present payee or that the present payee is no longer able to carry out the payee responsibilities, we try to find a new payee. We will select a new payee if we find a preferred payee or if the present payee—

(a) Has not used the benefit payments on the beneficiary's behalf in accordance with the guidelines in this subpart;

(b) Has not carried out the other responsibilities described in this subpart;

(c) Dies;

(d) No longer wishes to be payee;

(e) Is unable to manage the benefit payments; or

(f) Fails to cooperate, within a reasonable time, in providing evidence, accounting, or other information which we request.

§ 404.2055 When representative payment will be stopped.

If a beneficiary receiving representative payment shows us that he or she is mentally and physically able to manage or direct the management of benefit payments, we will make direct payment. Information which the beneficiary may give us to support his or her request for direct payment include the following—

(a) A physician's statement regarding the beneficiary's condition, or a statement by a medical officer of the institution where the beneficiary is or was confined, showing that the beneficiary is able to manage or direct the management of his or her funds; or

(b) A certified copy of a court order restoring the beneficiary's rights in a case where a beneficiary was adjudged legally incompetent; or

(c) Other evidence which establishes the beneficiary's ability to manage or direct the management of benefits.

§ 404.2060 Transfer of accumulated benefit payments.

A representative payee who has conserved or invested benefit payments shall transfer these funds, and the interest earned from the invested funds, to either a successor payee or to use, as we will specify. If the funds and the earned interest are returned to us, we will recertify them to a successor representative payee or to the beneficiary.

§ 404.2065 Accounting for benefit payments.

A representative payee is accountable for the use of benefits. We may require periodic written reports from representative payees. We may also, in certain situations, verify how a representative payee used the funds. A representative payee should keep records of what was done with the benefit payments in order to make accounting reports. We may ask the following questions—

(a) The amount of benefit payments on hand at the beginning of the accounting period;

(b) How the benefit payments were used;

(c) How much of the benefit payments were saved and how the savings were invested;

(d) Where the beneficiary lived during the accounting period; and

(e) The amount of the beneficiary's income from other sources during the accounting period. We ask for information about other funds to enable us to evaluate the use of benefit payments.

Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

2. Subpart F of Part 416 is revised to read as follows:

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

* * * * *

Subpart F—Representative Payment

Sec.

416.601 Introduction.
416.610 When payment will be made to a representative payee.
416.615 Information considered in determining whether to make representative payment.
416.620 Information considered in selecting a representative payee.
416.621 Order of preference in selecting a representative payee.
416.625 Information to be submitted by a representative payee.
416.630 Advance notice of the determination to make representative payment.
416.635 Responsibilities of a representative payee.
416.640 Use of benefit payments.
416.641 Liability for misuse of benefit payments.

Sec.

416.645 Conservation and investment of benefit payments.
416.650 When new representative payee will be selected.
416.655 When representative payment will be stopped.
416.660 Transfer of accumulated benefit payments.
416.665 Accounting for benefit payments.

Authority: Secs. 1102 and 1631(a)(2) and (d)(1) of the Social Security Act; 49 Stat. 647; 86 Stat. 1475; 42 U.S.C. 1302 and 1383 (a)(2) and (d)(1).

Subpart F—Representative Payment

§ 416.601 Introduction.

(a) *Explanation of representative payment.* This subpart explains the principles and procedures that we follow in determining whether to make representative payment and in selecting a representative payee. It also explains the responsibilities that a representative payee has concerning the use of the funds he or she receives on behalf of a beneficiary. A representative payee may be either a person or an organization selected by us to receive benefits on behalf of a beneficiary. A representative payee will be selected if we believe that the interest of a beneficiary will be served by representative payment rather than direct payment of benefits. Generally, we appoint a representative payee if we have determined that the beneficiary is not able to manage or direct the management of benefit payments in his or her own interest.

(b) *Policy used to determine whether to make representative payment.* (1) Our policy is that every beneficiary has the right to manage his or her own benefits. However, some beneficiaries due to a mental or physical condition or due to their youth may be unable to do so. Under these circumstances, we may determine that the interests of the beneficiary would be better served if we certified benefit payments to another person as a representative payee. However, we must select a representative payee for an individual who is eligible for benefits solely on the basis of disability and who is medically determined to be a drug addict or an alcoholic.

(2) If we determine that representative payment is in the interest of a beneficiary, we will appoint a representative payee. We may appoint a representative payee even if the beneficiary is a legally competent individual. If the beneficiary is a legally incompetent individual, we may appoint the legal guardian or some other person as a representative payee.

(3) If payment is being made directly to a beneficiary and a question arises concerning his or her ability to manage or direct the management of benefit payments, we will, if the beneficiary is 18 years old or older and has not been adjudged legally incompetent, continue to pay the beneficiary until we make a determination about his or her ability to manage or direct the management of benefit payments and the selection of a representative payee.

§ 416.610 When payment will be made to a representative payee.

(a) We pay benefits to a representative payee on behalf of a beneficiary 18 years old or older when it appears to us that this method of payment will be in the interest of the beneficiary. We do this if we have information that the beneficiary is—

(1) Legally incompetent or mentally incapable of managing benefit payments; or

(2) Physically incapable of managing or directing the management of his or her benefit payments; or

(3) Eligible for benefits solely on the basis of a disability and who is medically determined to be a drug addict or alcoholic.

(b) Generally, if a beneficiary is under age 18, we will pay benefits to a representative payee. However, in certain situations, we will make direct payments to a beneficiary under age 18 who shows the ability to manage the benefits. For example, we make direct payment to a beneficiary under age 18 if the beneficiary is—

(1) A parent and files for himself or herself and/or his or her child and he or she has experience in handling his or her own finances; or

(2) Capable of using the benefits to provide for his or her current needs and no qualified payee is available; or

(3) Within 4 months of attaining age 18 and is initially filing an application for benefits.

§ 416.615 Information considered in determining whether to make representative payment.

In determining whether to make representative payment we consider the following information:

(a) *Court determinations.* If we learn that a beneficiary has been found to be legally incompetent, a certified copy of the court's determination will be the basis of our determination to make representative payment.

(b) *Medical evidence.* When available, we will use medical evidence to determine if a beneficiary is capable of managing or directing the management of benefit payments. For example, a statement by a physician or other medical professional based upon his or her recent examination of the beneficiary and his or her knowledge of the beneficiary's present condition will be used in our determination, if it includes information concerning the nature of the beneficiary's illness, the beneficiary's chances for recovery and the opinion of the physician or other medical professional as to whether the beneficiary is able to manage or direct the management of benefit payments.

(c) *Other evidence.* We will also consider any statements of relatives, friends and other people in a position to know and observe the beneficiary, which contain information helpful to us in deciding whether the beneficiary is able to manage or direct the management of benefit payments.

§ 416.620 Information considered in selecting a representative payee.

In selecting a payee we try to select the person, agency, organization or institution that will best serve the interest of the beneficiary. In making our selection we consider—

(a) The relationship of the person to the beneficiary;

(b) The amount of interest that the person shows in the beneficiary;

(c) Any legal authority the person, agency, organization or institution has to act on behalf of the beneficiary;

(d) Whether the potential payee has custody of the beneficiary; and

(e) Whether the potential payee is in a position to know of and look after the needs of the beneficiary.

§ 416.621 Order of preference in selecting a representative payee.

As a guide in selecting a representative payee, categories of preferred payees have been established. These preferences are flexible. Our primary concern is to select the payee who will best serve the beneficiary's interests. The preferences are:

(a) For beneficiaries 18 years old or older our preference is—

(1) A legal guardian, spouse (or other relative) who has custody of the beneficiary or who demonstrates strong concern for the personal welfare of the beneficiary;

(2) A friend who has custody of the beneficiary or demonstrates strong concern for the personal welfare of the beneficiary;

(3) A public or nonprofit agency or institution having custody of the beneficiary;

(4) A private institution operated for profit and licensed under State law, which has custody of the beneficiary; and

(5) Persons other than above who are qualified to carry out the responsibilities

of a payee and who are able and willing to serve as a payee for the beneficiary; e.g., members of community groups or organizations who volunteer to serve as payee for a beneficiary.

(b) For beneficiaries under age 18, our preference is—

(1) A natural or adoptive parent who has custody of the beneficiary, or a guardian;

(2) A natural or adoptive parent who does not have custody of the beneficiary, but is contributing toward the beneficiary's support and is demonstrating strong concern for the beneficiary's well being;

(3) A natural or adoptive parent who does not have custody of the beneficiary and is not contributing toward his or her support but is demonstrating strong concern for the beneficiary's well being;

(4) A relative or stepparent who has custody of the beneficiary;

(5) A relative who does not have custody of the beneficiary but is contributing toward the beneficiary's support and is demonstrating concern for the beneficiary's well being;

(6) A relative or close friend who does not have custody of the beneficiary but is demonstrating concern for the beneficiary's well being; and

(7) An authorized social agency or custodial institution.

§ 416.625 Information to be submitted by a representative payee.

(a) Before we select a representative payee, the payee applicant must give us information showing his or her relationship to the beneficiary and his or her responsibility for the care of the beneficiary.

(b) Anytime after we have selected a payee, we may ask the payee to give us information showing a continuing relationship to the beneficiary and a continuing responsibility for the care of the beneficiary. If the payee does not give us the requested information within a reasonable period of time, we may stop paying the payee unless we determine that the payee had a good reason for not complying with our request, and we receive the information requested.

§ 416.630 Advance notice of the determination to make representative payment.

(a) Generally, whenever we intend to make representative payment and to name a payee, we notify the beneficiary or the individual acting on his or her behalf, of our proposed actions. In this notice we tell the person that we plan to name a representative payee and who that payee will be. We also ask the person to contact us if he or she objects to either proposed action. If he or she objects to either proposed action, the person may—

(1) Review the evidence upon which the proposed actions will be based; and

(2) Submit any additional evidence regarding the proposed actions.

(b) If the person objects to the proposed actions, we will review our proposed determinations and consider any additional information given to us. We will then issue our determinations. If the person is dissatisfied with either determination, he or she may request a reconsideration.

(c) If the person does not object to the proposed actions, we will issue our determinations. If the person is dissatisfied with either determination, he or she may request a reconsideration.

§ 416.635 Responsibilities of a representative payee.

A representative payee has a responsibility to—

(a) Use the payments he or she receives only for the use and benefit of the beneficiary in a manner and for the purposes he or she determines, under the guidelines in this subpart, to be in the best interests of the beneficiary;

(b) Notify us of any event that will affect the amount of benefits the beneficiary receives or the right of the beneficiary to receive benefits (See Subpart G of this Part concerning these reporting requirements);

(c) Submit to us, upon our request, a written report accounting for the benefits received; and

(d) Notify us of any change in his or her circumstances that would affect performance of the payee responsibilities.

§ 416.640 Use of benefit payments.

(a) *Current maintenance.* We will consider that payments we certify to a representive payee have been used for the use and benefit of the beneficiary if they are used for the beneficiary's current maintenance. Current maintenance includes costs incurred in obtaining food, shelter, clothing, medical care and personal comfort items.

Example: A Supplemental Security Income beneficiary is entitled to a monthly benefit of $264. The beneficiary's son, who is the representative payee, disburses the benefits in the following manner:

Rent and Utilities	$100
Medical	20
Food	60
Clothing	10
Miscellaneous	8

The above expenditures would represent proper disbursements on behalf of the beneficiary.

(b) *Institution not receiving Medicaid funds on beneficiary's behalf.* If a beneficiary is receiving care in a Federal, State or private institution because of mental or physical incapacity, current maintenance includes the customary charges for care and services provided by the institution, and expenditures for those items which will aid in the beneficiary's recovery or release from the institution or expenses for personal needs which will improve the beneficiary's conditions while in the institution. Any payments remaining may be used for a temporary period to maintain the beneficiary's residence outside of the institution unless a physician has certified that the beneficiary is not likely to return home.

Example: A disabled beneficiary is entitled to a monthly benefit of $264. The beneficiary, who resides in a boarding home, has resided there for over six years. It is doubtful that the beneficiary will leave the boarding home in the near future. The boarding home charges $215 per month for the beneficiary's room and board.

The beneficiary's payee pays the boarding home $215 and uses the balance to purchase miscellaneous personal items for the beneficiary. There are no benefits remaining which can be conserved on behalf of the beneficiary. The payee's use of the benefits is consistent with our guidelines.

(c) *Institution receiving Medicaid funds on beneficiary's behalf.* If a beneficiary is in an institution throughout a month and the institution receives Medicaid funds on behalf of the beneficiary, any payments due shall be used only for the personal needs of the beneficiary, and not for current maintenance.

Example: A disabled beneficiary resides in a psychiatric hospital. The superintendent of the hospital receives $25 per month as the beneficiary's payee. The benefit payment is disbursed in the following manner which would be consistent with our guidelines:

Miscellaneous canteen items	$9
Clothing	11
Conserved for future needs of the beneficiary	5

(d) *Claims of creditors.* A payee may not be required to use benefit payments to satisfy a debt of the beneficiary, if the debt arose prior to the first month for which payments are certified to a payee. If the debt arose prior to this time, a payee may satisfy it only if the current and reasonably foreseeable needs of the beneficiary are met.

Example: A disabled beneficiary was determined to be eligible for a monthly benefit payment of $206 effective April 1981. The benefits were certified to the beneficiary's brother who was appointed as the representative payee. The payee conserved $27 of the benefits received. In

June 1981 the payee received a bill from a doctor who had treated the beneficiary in February and March 1981. The bill was for $175.

After reviewing the beneficiary's current needs and resources, the payee decided not to use any of the benefits to pay the doctor's bill. (Approximately $180 a month is required for the beneficiary's current monthly living expenses—rent, utilities, food, and insurance—and the beneficiary will need new shoes and a coat within the next few months.)

Based upon the above, the payee's decision not to pay the doctor's bill is consistent with our guidelines.

§ 416.641 Liability for misuse of benefit payments.

Our obligation to the beneficiary is completely discharged when we make a correct payment to a representative payee on behalf of the beneficiary. The payee personally, and not SSA, may be liable if the payee misuses the beneficiary's benefits.

§ 416.645 Conservation and investment of benefit payments.

(a) *General.* If payments are not needed for the beneficiary's current maintenance or reasonably foreseeable needs, they shall be conserved or invested on behalf of the beneficiary. Conserved funds should be invested in accordance with the rules followed by trustees. Any investment must show clearly that the payee holds the property in trust for the beneficiary.

Example: A State institution for mentally retarded children, which is receiving Medicaid funds, is representative payee for several beneficiaries. The checks the payee receives are deposited into one account which shows that the benefits are held in trust for the beneficiaries. The institution has supporting records which show the share each individual has in the account. Funds from this account are disbursed fairly quickly after receipt for the personal needs of the beneficiaries. However, not all those funds were disbursed for this purpose. As a result, several of the beneficiaries have significant accumulated resources in this account. For those beneficiaries whose benefits have accumulated over $150, the funds should be deposited in an interest-bearing account or invested relatively free of risk on behalf of the beneficiaries.

(b) *Preferred investments.* Preferred investments for excess funds are U.S. Savings Bonds and deposits in an interest or dividend paying account in a bank, trust company, credit union, or savings and loan association which is insured under either Federal or State law. The account must be in a form which shows clearly that the representative payee has only a fiduciary and not a personal interest in the funds. If the payee is the legally appointed guardian or fiduciary of the beneficiary, the account may be established to indicate this relationship. If the payee is not the legally appointed guardian or fiduciary, the accounts may be established as follows:

(1) For U.S. Savings Bonds—

———— (Name of beneficiary) ——— (Social Security Number), for whom ———— (Name of payee) is representative payee for Supplemental Security Income benefits;

(2) For interest or dividend paying accounts—

———— (Name of beneficiary) by ———— (Name of payee), representative payee.

(c) *Interest and dividend payments.* The interest and dividends which result from an investment are the property of the beneficiary and may not be considered to be the property of the payee.

§ 416.650 When a new representative payee will be selected.

When we learn that the interests of the beneficiary are not served by continuing payment to the present payee or that the present payee is no longer able to carry out the payee responsibilities, we try to find a new payee. We will select a new payee if we find a preferred payee or if the present payee—

(a) Has not used the benefit payments on the beneficiary's behalf in accordance with the guidelines in this subpart;

(b) Has not carried out the other responsibilities described in this subpart;

(c) Dies;

(d) No longer wishes to be payee;

(e) Is unable to manage the benefit payments; or

(f) Fails to cooperate, within a reasonable time, in providing evidence, accounting, or other information which we request.

§ 416.655 When representative payment will be stopped.

If a beneficiary receiving representative payment shows us that he or she is mentally and physically able to manage or direct the management of benefit payments, we will make direct payment. Information which the beneficiary may give us to support his or her request for direct payment include the following—

(a) A physician's statement regarding the beneficiary's condition, or a statement by a medical officer of the institution where the beneficiary is or was confined, showing that the beneficiary is able to manage or direct the management of his or her funds; or

(b) A certified copy of a court order restoring the beneficiary's rights in a case where a beneficiary was adjudged legally incompetent; or

(c) Other evidence which establishes the beneficiary's ability to manage or direct the management of benefits.

§ 416.660 Transfer of accumulated benefit payments.

A representative payee who has conserved or invested benefit payments shall transfer these funds, and the interest earned from the invested funds, to either a successor payee, or to us, as we will specify. If the funds and the earned interest are returned to us, we will recertify them to a successor representative payee or to the beneficiary.

§ 416.665 Accounting for benefit payments.

A representative payee is accountable for the use of benefits. We may require periodic written reports from representative payees. We may also, in certain situations, verify how a representative payee used the funds. A representative payee should keep records of what was done with the benefit payments in order to make accounting reports. We may ask the following questions—

(a) The amount of benefit payments on hand at the beginning of the accounting period;

(b) How the benefit payments were used;

(c) How much of the benefit payments were saved and how the savings were invested;

(d) Where the beneficiary lived during the accounting period; and

(e) The amount of the beneficiary's income from other sources during the accounting period. We ask for information about other funds to enable us to evaluate the use of benefit payments.

[FR Doc. 82-18898 Filed 7-13-82; 8:45 am]
BILLING CODE 4190-11-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 193

[FAP 1H5322/R113; PH-FRL 2169-6]

Tolerances for Pesticides in Food Administered by the Environmental Protection Agency; Chlorpyrifos

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a regulation to permit the combined residues of the insecticide chlorpyrifos and its metabolite in the commodity citrus oil. This regulation to establish the maximum permissible level for the residues of chlorpyrifos was requested by The Dow Chemical Co.

EFFECTIVE DATE: Effective on July 14, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Jay Ellenberger, Product Manager (PM) 12, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 202, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703–557–2386).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the Federal Register of December 16, 1981 (46 FR 61326) which announced that The Dow Chemical Company, P.O. Box 1706, Midland, MI 48640 had filed a food additive petition (1H5322) with EPA proposing that 21 CFR 193.85 be amended by the establishment of a regulation permitting the combined residues of the insecticide chlorpyrifos [*O,O*-diethyl, *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate] and its metabolite 3,5,6-trichloro-2-pyridinol in citrus oil at 25.0 parts per million (ppm).

No comments were received in response to the notice of filing.

The scientific data and other relevant material considered in support of this regulation are contained and discussed in a related document (PP 1F2575) that appears elsewhere in this issue of the Federal Register.

The insecticide is considered useful for the purpose for which the regulation is sought, and it is concluded that the insecticide may be safely used in accordance with the prescribed manner when such uses are in accordance with the label and labeling registered pursuant to FIFRA as amended, (86 Stat. 973, 89 Stat. 751, U.S.C. 135(a) *et seq.*). Therefore, the regulation is established as set forth below.

Any person adversely affected by this regulation may, on or before August 13, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this regulation from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new food or feed additive levels, or conditions for safe use of additives, or raising such food and feed additive levels do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24945).

Effective on July 14, 1982.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 346a(c)(1)))

List of Subjects in 21 CFR Part 193

Food additives, Pesticides and pests.

Dated: July 6, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 193—TOLERANCES FOR PESTICIDES IN FOOD ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Therefore, 21 CFR 193.85 is revised to read as follows:

§ 193.85 Chlorpyrifos.

(a) Tolerances are established for the combined residues of the insecticide chlorpyrifos [*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate] and its metabolite 3,5,6-trichloro-2-pyridinol resulting from application of the insecticide to growing crops as follows:

Foods	Parts per million
Citrus oil	25.0
Corn oil	3.0
Mint oil	10.0
Peanut oil	1.5

(b) The additive chlorpyrifos [*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate] may be safely used in accordance with the following prescribed conditions.

(1) Application shall be limited solely to spot and/or crack and crevice treatment in food handling establishments where food and food products are held, processed, prepared or served. Contamination of food or food contact surfaces shall be avoided. Food must be removed or covered during treatment.

(2) Spray concentration for spot treatment shall be limited to a maximum of 0.5 percent of the active ingredient by weight. A course, low-pressure spray shall be used to avoid atomization or splashing of the spray.

(3) Paint-on application for spot treatment shall be limited to a maximum of 2 percent of the active ingredient by weight.

(4) Crack and crevice treatment shall be limited to a maximum of 2 percent of the active ingredient by weight. Equipment capable of delivering a pin-stream of insecticide shall be used.

(5) Application via adhesive strips shall contain a maximum of 10% by weight of the controlled-release product in food-handling establishments where food and food products are held, processed, prepared, or served. A maximum of 36 strips (or 5.15 grams of chlorpyrifos) is to be used per 100 square feet of floor space. The strips are not to be placed in exposed areas where direct contact with food, utensils, and food-contact surfaces would be likely to occur.

(6) To assure safe use of the insecticide, its label and labeling shall conform to that registered by the U.S. Environmental Protection Agency, and it shall be used in accordance with such label and labeling.

(c) A tolerance of 3.0 parts per million is established for the combined residues of the insecticide chlorpyrifos [*O,O*-diethyl *O*-[3,5,6-trichloro-2-pyridyl] phosphorothioate] and its metabolite 3,5,6-trichloro-2-pyridinol in or on the milling fractions of wheat [except flour] in accordance with an experimental use permit.

[FR Doc. 82–19022 Filed 7–13–82; 8:45 am]

BILLING CODE 6560–50–M

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21 CFR Part 561

[FAP 8H5177/R114; PH–FRL–2164–1]

Tolerances for Pesticides in Animal Feeds Administered by the Environmental Protection Agency; Profenofos

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a feed additive regulation to permit the combined residues of the insecticide profenofos and its metabolites in or on the commodities cottonseed hulls and soapstock resulting from application of the insecticide to the growing crop, cotton. This regulation to establish the maximum permissible level for residues

of the insecticide was requested by Ciba-Geigy Corporation.

EFFECTIVE DATE: Effective on July 14, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: William H. Miller, Product Manager (PM) 16, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 211, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703–557–2600).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of April 18, 1978 (43 FR 16400) which announced that Ciba-Geigy Corp., P.O. Box 11422, Greensboro NC 27409, had submitted a feed additive petition (8H5177) to the EPA proposing that 21 CFR 561 be amended by establishing a regulation permitting combined residues of the insecticide profenofos [*O*-(4-bromo-2 chlorophenyl) *O*-ethyl *S*-propyl phosphorothioate] and its metabolites converted to 4-bromo-2-chlorophenyl and calculated as *O*-(4-bromo-2 chlorophenyl) *O*-ethyl) *S*-propyl phosphorothioate in cottonseed hulls with a tolerance limitation of 6.0 part per million (ppm) and soapstock at 9.0 ppm resulting from the application of the insecticide to growing cotton.

A notice was published in the **Federal Register** of September 24, 1980 (45 FR 58677) that the petitioner had amended to petition by increasing the proposed tolerance limitation for soapstock from 9.0 to 15.0 ppm.

No comments were received in response to these notices of filing.

The toxicological data considered in support of the tolerances have been evaluated and discussed in the related document [PP 8F2057/R462] establishing tolerances for residues of the subject insecticide in or on the raw agricultural commodities cottonseed; milk; eggs; and the meat, fat, and meat by-products of cattle, goats, hogs, horses, poultry and sheep which appears elsewhere in today's **Federal Register.**

Desirable data that are currently lacking and which the petitioner has agreed to provide and the projected dates for provision of these studies to the Agency are as follows:

1. A new rabbit teratology study not later than June 1, 1983.
2. A new neurotoxicity study not later than June 1, 1983.
3. A complete report on the previously submitted rabbit teratology study by July 1, 1982.
4. A new rat teratology study by August 1, 1982.

In the event that these studies are not submitted within the specified time or in the event that the new studies show any significant adverse effects, these tolerances will be subject to revocation and the registration subject to cancellation.

The insecticide is considered useful for the purpose for which the regulation is sought and it is concluded that the insecticide may be safely used in accordance with the prescribed manner when such uses are in accordance with the label and labeling registered persuant to FIFRA, as amended (86 Stat. 973, 89 Stat. 751, U.S.C. 135(a) *et seq.*). Therefore, the regulation is established as set forth below.

Any person adversely affected by this regulation may file written objections with the Hearing Clerk at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for a hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator had determined that the regulations establishing new food or feed additive levels, or conditions for safe use of additives, or raising such food or feed additive levels do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24945).

Effective on July 14, 1982.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 346(c)(1)))

List of Subjects in 21 CFR Part 561

Animal feeds, Pesticides and pests.

Dated: June 28, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 561—TOLERANCES FOR PESTICIDE IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Therefore, 21 CFR 561.53 is revised to read as follows:

§ 561.53 Profenofos.

A regulation is established permitting residues of the insecticide profenofos [*O*-(4-bromo-2-chlorophenyl)-*O*-ethyl-*S*-propyl phosphorothioate] and its metabolites converted to 4-bromo-2-chlorophenol and calculated as profenofos in cottonseed hulls at 6.0 ppm and in soapstock at 15.0 ppm resulting from the application of the insecticide to the growing crop, cotton.

[FR Doc. 82–18476 Filed 7–13–82; 8:45 am]

BILLING CODE 6560–50–M

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21 CFR Part 561

[FAP 1H5322/R115; PH–FRL 2169–3]

Tolerances for Pesticides in Animal Feeds Administered by the Environmental Protection Agency; Chlorpyrifos

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a regulation to permit the combined residues of the insecticide chlorpyrifos and its metabolite in or on the feed commodity dried citrus pulp. This regulation to establish the maximum permissible level for the residues of chlorpyrifos was requested by The Dow Chemical Co.

EFFECTIVE DATE: Effective on July 14, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Jay Ellenberger, Product Manager (PM) 12, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 202, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703–557–2386).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of December 16, 1981 (46 FR 61326) which announced that The Dow Chemical Co., P.O. Box 1706, Midland, MI 48640 had filed a feed additive petition (1H5322) with EPA proposing that 21 CFR 561.98 be amended by the establishment of a regulation permitting the combined residues of the insecticide chlorpyrifos [*O,O*-diethyl, *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate] and its metabolite 3,5,6-trichloro-2-pyridinol in dried citrus pulp at 5.0 parts per million (ppm).

No comments were received in response to the notice of filing.

The scientific data and other relevant material considered in support of this regulation are contained and discussed in a related document (PP 1F2575) that appears elsewhere in this issue of the **Federal Register.**

The insecticide is considered useful for the purpose for which the regulation is sought, and it is concluded that the insecticide may be safely used in accordance with the prescribed manner when such uses are in accordance with the label and labeling registered pursuant to FIFRA as amended, (86 Stat. 973, 89 Stat. 751, U.S.C. 135(a) *et seq.*). Therefore, the regulation is established as set forth below.

Any person adversely affected by this regulation may, on or before August 13, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this regulation from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new food or feed additive levels, or conditions for safe use of additives, or raising such food and feed additive levels do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24945).

Effective on July 14, 1982.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348a(c)(1)))

List of Subjects in 21 CFR Part 561

Animal feeds, Pesticides and pests.

Dated: July 6, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 561—TOLERANCES FOR PESTICIDE IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Therefore, 21 CFR 561.98(a) is amended by adding the commodity citrus pulp to read as follows:

§ 561.98 Chlorpyrifos.

(a) * * *

Feeds	Parts per million
Citrus pulp, dried	5.0

* * * * *

[FR Doc. 82-19027 Filed 7-13-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF STATE

22 CFR Part 2

[Dept. Reg. 108.821]

Duration of Protection for Secretary of State

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department of State, by this regulation, authorizes security officers designated under 22 CFR 2.1 to provide protection to the Secretary designate and the departing Secretary. The purpose of the regulation is to clarify the continuity of protection for individuals who serve as Secretary of State.

The regulation requires that the Under Secretary of State for Management determine that such protection is necessary and, in the case of a departing Secretary, limits authorization to a maximum of 30 days.

EFFECTIVE DATE: July 8, 1982.

ADDRESS: Send written comments to: The Assistant Legal Adviser for Management, Department of State, Washington, D.C. 20520.

FOR FURTHER INFORMATION CONTACT: K. E. Malmborg, Assistant Legal Adviser for Management (202) 632-2350.

SUPPLEMENTARY INFORMATION: A successor to the Secretary of State has been designated but confirmation hearings will not be held during the present recess of the Congress. This presents an immediate emergency situation to which this regulation responds, making it impracticable to follow the procedures of Executive Order 12291 (46 FR 34263) (exemption (8)(a)(1)). Similarly, on the basis of the present security emergency, the Department finds that notice and public procedure on this regulation are impracticable and contrary to the public interest. Because of the importance of the protection of the Secretary designate and departing Secretary to the conduct of foreign relations, the Department also finds that this regulation involves a foreign affairs function of the United States.

As required by 22 U.S.C. 2666, this regulation has been transmitted, prior to its effective date, to the Speaker of the House of Representatives and the Chairman of the Senate Foreign Relations Committee.

List of Subjects in 22 CFR Part 2

Foreign officials, Security measures.

PART 2—PROTECTION OF FOREIGN DIGNITARIES AND OTHER OFFICIAL PERSONNEL

Accordingly, 22 CFR 2.1 is amended by designating the introductory paragraph as paragraph (a) and the present paragraphs (a) and (b) as paragraphs (a)(1) and (a)(2) respectively, and by adding at the end thereof the new paragraph (b) set forth below.

§ 2.1 [Amended]

* * * * *

(b) When the Under Secretary of State for Management determines that it is necessary, persons designated under paragraph (a) shall be authorized to provide protection to an individual who has been designated by the President to serve as Secretary of State, prior to his appointment, or to a departing Secretary of State. In providing such protection, they are authorized to exercise the authorities described in paragraphs (1) and (2) of paragraph (a). Such protection shall be for the period or periods determined necessary by the Under Secretary of State for Management, except that in the case of a departing Secretary of State, the period of protection under this paragraph shall in no event exceed 30 calendar days from the date of termination of that individual's incumbency as Secretary of State.

Dated: July 8, 1982.

Richard T. Kennedy,

Under Secretary for Management.

[FR Doc. 82-19114 Filed 7-13-82; 8:45 am]

BILLING CODE 4710-08-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-2145-4]

Method 20—Determination of Nitrogen Oxides, Sulfur Dioxide, and Oxygen Emissions From Stationary Gas Turbines; Corrections; Appendix A—Reference Methods

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; Corrections.

SUMMARY: When the final version of Method 20, Appendix A of 40 CFR Part 60 was published in the September 10, 1979, **Federal Register** (45 FR 52801), certain inadvertent and typographical errors were made. The purpose of this action is to correct these errors and clarify some sections of the method.

EFFECTIVE DATE: July 14, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Roger Shigehara, Emission Measurement Branch, Emission Standards and Engineering Division (MD–19), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541–2237.

The following changes and corrections to Appendix A should be made in the **Federal Register** document 79–27993, Monday, September 10, 1979, appearing on pages 52801, 52802, 52803, 52804, 52805, 52806, and 52807:

1. Page 52801:

a. First column, paragraph 1.2, seventh line: change "OO_2" to "O_2."

b. Second column, paragraph 2.5, second and third lines: change "before and" to "from zero."

c. Second column, paragraph 2.6, second and third lines: change "before and" to "from the known concentration of the calibration gas."

d. Second column, paragraph 2.7: delete all of paragraph 2.7.

e. Second column, paragraph 2.8, first line: change "2.8" to "2.7."

f. Second column, paragraph 2.9, first line: change "2.9" to "2.8."

g. Second column, paragraph 3.3: delete all of paragraph 3.3.

h. Second column, paragraph 3.4, first line: change "3.4" to "3.3," and change "20" to "40;" second line: change "minutes" to "seconds."

i. Second column, paragraph 3.5, first line: change "3.5" to "3.4;" second line: after "* * * span value," add "over the period of each test run." The specification for zero drift should read, "Less than ±2 percent of the span value over the period of each test run."

j. Second column, paragraph 3.6, first line: change "3.6" to "3.5;" second line: after "* * * span value," add "over the period of each test run." The specification for calibration drift should read, "Less than ±2 percent of the span value over the period of each test run."

k. Third column, paragraph 4.1.2, second line: the line should read "* * * stainless steel or Teflon tubing to transport * * *."

l. Third column, paragraph 4.1.5, second line: between the words "condenser" and "designed," add the words "* * * or other type device * * *;" fourth line: after the words "sample gas," add "* * * while maintaining minimal contact between any condensate and the sample gas." The first sentence of paragraph "4.1.5 Moisture Removal Trap." should read "A refrigerator-type condenser or other type device designed to continuously remove condensate from the sample gas while maintaining minimal contact between any condensate and the sample gas."

m. Third column, paragraph 4.1.5, last line: add a period at the end of the line.

n. Third column, paragraph 4.1.8, fourth line: delete the words "* * * type 316 * * *."

o. Third column, paragraph 4.3, first line: change "Caliberation" to "Calibration;" second line: change "may" to "shall;" third line: change the comma following "* * * NO in N_2" to a period and delete the rest of the line. Delete lines 4, 5, and 6 and "* * * in N_2." of line 7. Paragraph 4.3 should read "NO_x Calibration Gases. The calibration gases for the NO_x analyzer shall be NO in N_2. Use four calibration gas mixtures as specified below:"

2. Page 52802:

a. First column, paragraph 4.4, first line: change "ambient air" to "purified air;" second line: add "O_2" after "percent;" fourth line: add "in N_2" after "O_2."

b. First column, paragraph 4.5: delete all of paragraph 4.5.

3. Page 52803:

a. Second column, paragraphs 5.5 and 5.5.1: delete paragraph heading "5.5 Residence and Response Time" and delete all of paragraph 5.5.1.

b. Second column, paragraph 5.5.2, first line: change "5.5.2" to "5.5 Response Time." The first line should read "5.5 Response Time. To determine response time, first * * *."

4. Page 52804:

a. First column, paragraph 5.6, first line: change "NO_2 NO * * *" to "NO_2 to NO * * *."

b. First column, paragraph 5.6: delete all the text of paragraph 5.6 from "Introduce to the * * *" through "* * * approval of the Administrator." Replace this text with the following: "5.6.1 Add gas from the mid-level NO in N_2 calibration gas cylinder to a clean, evacuated, leak-tight Tedlar bag. Dilute this gas approximately 1:1 with 20.9 percent O_2, purified air. Immediately attach the bag outlet to the calibration valve assembly and begin operation of the sampling system. Operate the sampling system, recording the NO_x response, for at least 30 minutes. If the NO_2 to NO conversion is 100 percent, the instrument response will be stable at the highest peak valve observed. If the response at the end of 30 minutes decreases more than 2.0 percent of the highest peak valve, the system is not acceptable and corrections must be made before repeating the check.

"5.6.2 Alternatively, the NO_2 to NO converter check described in Title 40 Part 86: Certification and Test Procedures for Heavy-Duty Engines for 1979 and Later Model Years may be used. Other alternative procedures may be used with approval of the Administrator."

c. Third column, paragraph 6.1.2.1, fourth line: change "* * * one sample point * * * " to "* * * eight plus one additional sample point * * *;" lines seven and eight: change "* * * one sample point for each 0.4 m^2 (4.4 ft^2) of area, * * *" to "* * * 49 sample points (48 for circular stacks) * * *."

d. Third column, paragraph 6.1.2.2, third line: change "O^{2*}" to "O_2."

e. Third column, paragraph 6.1.2.3, first line: change "O^{2*}" to "O_2;" fourth line: change "O^{2*}" to "O_2" ninth line: change "O^{2*}" to "O_2."

f. Third column, paragraph 6.1.2.4, third line: change "O^{2*}" to "O_2."

5. Page 52807:

a. First column, paragraph 6.2.3, last five lines: delete "Alternatively, the test * * * rate are used." and replace with "Alternatively, recalibrate the measurement system and recalculate the measurement data. Report the test results based on both the initial calibration and the recalibration data."

b. Third column, paragraph 8, first line: change "Citations" to "Bibliography."

c. Third column, paragraph 8.1: following paragraph 8.1, add a new paragraph as follows:

8.2 Sigsby, John E., F. M. Black, T. A. Bellar, and D. L. Klosterman. Chemiluminescent Method for Analysis of Nitrogen Compounds in Mobile Source Emissions (NO, NO_2, and NH_3). "Environmental Science and Technology," 7:51–54. January 1973.

Dated: July 7, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82–19028 Filed 7–13–82; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 85

[FRL–2127–3]

Control of Air Pollution From Motor Vehicles and Motor Vehicle Engines; Exclusion and Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule simplifies the application requirements under which most manufacturers of new motor vehicles and new motor vehicle engines may obtain exemptions from the prohibitions of section 203(a) of the Clean Air Act. Section 203(a) prohibits, among other things, the introduction into commerce of new motor vehicles and new motor vehicle engines which are not covered by a certificate of conformity with Federal emission requirements. This section also prohibits manufacturers, dealers and others from removing or rendering inoperative emission controls installed on motor vehicles or motor vehicle engines either before or after sale to ultimate purchasers. Existing regulations allow any person to apply for a testing exemption from these prohibitions. In addition, manufacturers may obtain pre-certification exemptions to cover uncertified vehicles or engines that are not leased or sold. Much less information is required in an application for a pre-certification exemption than in an application for a testing exemption. Remarks from manufacturers have indicated that the existing application requirements for both types of exemptions are too burdensome. This final rule will eliminate much of that burden for most manufacturers and reduce the administrative cost for EPA.

EFFECTIVE DATE: August 13, 1982.

FOR FURTHER INFORMATION CONTACT: John Guy, Investigation/Imports Section, Manufacturers Operations Division (EN-340), Environmental Protection Agency, Washington, D.C. 20460, (202) 382-2504.

SUPPLEMENTARY INFORMATION: *OMB Control Number:* 2000-0226.

Under section 203(b)(1) of the Clean Air Act (Act), the Administrator of EPA is authorized to exempt motor vehicles and motor vehicle engines from the prohibitions of section 203(a) for purposes of "research, investigations, studies, demonstrations, or training, or for reasons of national security." The Administrator is given broad discretion to determine the "terms and conditions * * * necessary" to exempt vehicles and engines for these purposes. On September 10, 1974, 39 FR 32609, regulations were promulgated at 40 CFR Part 85, Subpart R, to provide for a program by which any manufacturer could apply for and receive exemptions to cover vehicles or engines used for the purposes mentioned above. These regulations were amended on March 3, 1980, 45 FR 13733, to extend the availability of exemptions under section 203(b)(1) to individuals and other non-manufacturers.

Manufacturers have typically been able to furnish all of the information required by the existing exemption regulations and to comply with the terms and conditions under which exemptions have been granted. However, some manufacturers have remarked that the existing regulations are excessively burdensome. It has also been stated that extensive procedures and controls are unnecessary in view of the civil penalties to which a manufacturer is subject for introducing into commerce uncertified vehicles or engines, or for removing emission controls from certified vehicles or engines.

This rule was discribed in the Notice of Intent published on April 13, 1981, 46 FR 21628, concerning EPA's efforts to reduce the regulatory burden on the motor vehicle industry.

EPA reviewed the exemption regulations in light of the manufacturers' remarks and determined that the amount of specific information required in an exemption application could be significantly reduced. As a result, an NPRM was published on July 15, 1981 (46 FR 36717) which proposed a number of revisions to reduce the information required of manufacturers desiring to obtain exemptions. This final rulemaking incorporates a number of comments that manufacturers submitted in response to the NPRM. These comments and EPA's responses are discussed later.

EPA believes that the changes implemented by this rulemaking will reduce the administrative burden of the exemption program on manufacturers by about two-thirds. This will save manufacturers, as a group, more than 1,000 work hours per year.

Amendments—Testing Exemptions

This rule greatly reduces the information that most manufacturers are required to submit to obtain testing exemptions. Manufacturers and other persons are currently required to provide substantial information about each planned testing activity in advance in order to obtain an exemption. A new provision, which is added at § 85.1705(f), will eliminate all of those requirements for most manufacturers except for those in paragraphs (a)(1) and (d)(2) which require information about the purpose of the test program and the maximum number of vehicles or engines involved. In lieu of providing the previously required information, most manufacturers will submit a brief description of the record-keeping and control procedures that will be employed to assure that the vehicles or engines are used for purposes consistent with section 203(b)(1) of the Act. EPA reserves the right to require additional information from some manufacturers, such as importers of uncertified vehicles for resale, when circumstances warrant such a request.

This rule does not change testing exemption requirements for non-manufacturers. Non-manufacturers have sought exemptions for purposes that are not consistent with those described in the Act, such as modifying engines to remove emission control components and systems for the sole purpose of improving performance and fuel economy. This has not been the case with requests received from manufacturers. Consequently, EPA believes it is reasonable to differentiate between manufacturers and non-manufacturers when establishing exemption requirements. Further, non-manufacturers typically operate one small test fleet and, therefore, can more easily provide the needed information than manufacturers who operate multiple fleets and frequently must exchange vehicles or engines from one fleet to another. No comments have been received concerning the burden of the existing regulations on non-manufacturers, although EPA's desire to receive and consider such comments was stated in the NPRM.

It is anticipated that under these new regulations, manufacturers will estimate the size of their test fleets for the next year and submit one testing exemption request each year. Testing exemptions for both manufacturers and non-manufacturers will continue to be granted subject to the terms and conditions of a Memorandum of Exemption as currently required under § 85.1708 (redesignated in this rulemaking as § 85.1710). Testing exemptions granted to manufacturers under the existing regulations will remain in effect until the expiration date listed in the applicable Memorandum of Exemption. However, manufacturers should include the number of vehicles or engines still on exempt status from those exemptions in their totals when they request their first comprehensive testing exemption under the amended requirements.

Amendments—Pre-Certification Exemption

The existing provision regarding pre-certification vehicle and engine exemptions (§ 85.1705(h)) is applicable only to manufacturers and requires the advance submittal of a minimal amount of information. Specifically,

manufacturers must provide a statement containing the number of vehicles or engines to be exempted, the nature of the fleet activities and the recordkeeping and control procedures that will be employed.

This rule will allow vehicles or engines used for pre-certification purposes (as defined by § 85.1702(a) (3) and (4)) by most manufacturers to be exempted without application to EPA, if the manufacturer complies with certain record-keeping and labeling conditions which are found in the Memorandum of Exemption that is currently issued when a pre-certification exemption is granted to a manufacturer. However, as with testing exemptions, EPA retains the right to require manufacturers involved with importing uncertified vehicles or engines for modification and subsequent resale to meet the existing application requirements in order to obtain pre-certification exemptions. Under the new provision, most manufacturers will no longer be required to sign a Memorandum of Exemption to cover pre-certification vehicles or engines.

Amendments—Miscellaneous

A number of minor changes in numbering, organization and referencing are included in this rulemaking.

Changes From NPRM

This final rule permits EPA to require some manufacturers to submit all the information presently required by 40 CFR 85.1705 in order to obtain testing and pre-certification exemptions. This change is necessary in order to scrutinize test programs by parties included within the term "manufacturer" (as defined in section 216(l) of the Act) who have not historically applied for testing or pre-certification exemptions, e.g., those individuals and businesses who import uncertified vehicles for subsequent resale. Since publication of the NPRM, EPA has received inquiries from a number of these manufacturers concerning the procedures for obtaining a certificate of conformity for such vehicles, and it is anticipated that they may also express interest in obtaining exemptions. Since the Agency has little experience with the types of test programs conducted by these manufacturers, it will likely be necessary to have additional information when considering their exemption requests. EPA does not expect it will be necessary to exercise its discretion to request this additional information from those manufacturers who have traditionally applied for exemptions under this section.

Several minor changes have been made in this final rule beyond those that were described in the NPRM. These changes act to reduce the burden of the regulations even further and provide greater flexibility to the regulated parties without impairing EPA's monitoring capability. The most notable of these changes involves the requirement to label exempt vehicles. The final rule allows a manufacturer to propose alternative methods to identify exempt vehicles besides labeling and allows the substitution on the label of the name of a person or office to contact in lieu of certain specific required items of information. Most of the changes made to the NPRM were implemented as a result of manufacturers' comments and are described in the *Discussion of Comments* section.

Discussion of Comments

Comments on the NPRM were received from five manufacturers: Ford Motor Company (Ford), General Motors Corporation (GM), Cummins Engine Company, Inc. (Cummins), American Motors Corporation (AMC) and Mack Trucks, Inc. (Mack). GM's comment merely expressed its agreement with the changes proposed in the NPRM.

AMC expressed its agreement with the intent of the proposal, but suggested that testing exemptions be granted for two years instead of one, since some test programs actually last longer than one year. AMC indicated that this comment was made because it believed that the NPRM would limit test programs to a maximum length of one year. It is not necessary to adopt this change, since test vehicles subject to an exemption in one year can be the subject of an application for subsequent years, as well. Each manufacturer need only adopt procedures whereby it will submit one comprehensive exemption request at about the same time each year.

AMC also suggested that the requirements to maintain vehicle identification information, purpose, and disposition of vehicles removed from exempt status be eliminated from the proposed precertification exemption provision. EPA believes that such information is necessary to afford it monitoring capabilities and is consistent with good fleet management practices. The Agency does not believe that this requirement poses a significant burden for manfacturers since they typically maintain such information for inventory control purposes for vehicles that are retained under company ownership.

AMC further requested that labeling requirements be eliminated from pre-certification vehicles and Ford suggested that, in some cases, labeling may not be the best way to identify exempt vehicles and engines. To allow more flexibility, EPA has amended the proposed labeling requirement in § 85.1708(a)(2) to indicate that it will consider requests to waive the labeling requirement or accommodate alternative methods of identifying exempt vehicles. Ford also requested that the information required on the labels be minimized to facilitate the use of pre-printed labels. Ford suggested that specific information such as model year and engine displacement is readily obtainable from other markings that most manufacturers put on their vehicles or engines and do not need to be put on the labels. Mack also requested that the model year requirement be deleted from the label since Mack believes such a requirement would be misleading in the case of certain pre-production or prototype vehicles or engines. To accommodate these requests, the final amendments allow the manufacturer to list either the prescribed information or a person or office to contact if further information about the vehicle or engine is desired.

Ford concurred with EPA's efforts to simplify the exemption regulations, but suggested that the requirement to apply for a testing exemption be eliminated as well. Vehicles and engines covered under a manufacturer's testing exemption(s) are not under the direct control of the manufacturer and are typically located throughout the U.S. Although the final amendments greatly reduce the application requirements for a manufacturer to obtain a testing exemption, EPA believes that maintaining the requirement for a manufacturer to review and sign a memorandum of the terms and conditions under which a testing exemption is granted will help insure that uncertified vehicles not involved in a manufacturer's testing program are not introduced into commerce and that those vehicles which participate in such a program will be returned to a certified configuration upon completion of the program. Further, the single annual testing exemption request should not pose a significant burden for a manufacturer.

In addition to the changes proposed in the NPRM, Cummins requested that the definition of "pre-certification vehicle engine" at § 85.1702(a)(4) be modified so that an engine owned by an engine manufacturer may clearly be operated under a pre-certification exemption in a vehicle that is not owned by the engine manufacturer. This comment was accepted and the definition at § 85.1702(a)(4) was revised accordingly. Two other minor comments from Cummins which improve the clarity of

the regulatory language were also incorporated into the final rule. Note: Section 3(b) of Executive Order 12291, 46 FR 13193 (February 19, 1981), requires EPA to determine whether any rule it intends to issue is a major rule and to prepare a Regulatory Impact Analysis (RIA) for every major rule. Section 1(b) of the Order defines a "major rule" as any "regulation" (as defined in the Executive Order) that is likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

EPA has determined that this action is not a "major rule" requiring preparation of an RIA. It will not have any detrimental effect on the economy, it will not cause any increase in prices and it will not have any adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign companies. The revision of exemption requirements as set forth in this rulemaking will reduce the affected industry's cost of compliance with Subpart R of 40 CFR Part 85 and significantly reduce the related paperwork.

Environmental Impact Statement

This regulation will have no adverse environmental effects. Accordingly, no environmental impact statement will be prepared.

Regulatory Flexibility Analysis

Under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, EPA is required to determine whether a regulation will have a significant economic impact on a substantial number of small entities so as to require a regulatory flexibility analysis. The change implemented by this rulemaking will reduce the burden, including costs, of compliance with exemption requirements for small manufacturers. In any case, this rule will not affect a substantial number of small businesses because motor vehicle and motor vehicle engine manufacturers are nearly all large businesses. Therefore, pursuant to 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Information collection requirements contained in this regulation (§ 85.1705 *et seq.*) have been approved by OMB under the provisions of the Paperwork Reduction Act of 1980 U.S.C. 3501 *et. seq.* and have been assigned OMB control number 2000-0226.

Dated: July 7, 1982.

Anne M. Gorsuch,

Administrator.

List of Subjects in 40 CFR Part 85

Imports, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements, Research, Warranties.

Accordingly, 40 CFR Part 85, Subpart R is amended as follows:

PART 85—CONTROL OF AIR POLLUTION FROM MOTOR VEHICLES AND MOTOR VEHICLE ENGINES

1. In § 85.1702, paragraph (a)(4) is revised to read as follows:

§ 85.1702 Definitions.

(a) * * *

(4) "Pre-certification vehicle engine" means an uncertified heavy-duty engine owned by a manufacturer and used in a manner not involving lease or sale in a vehicle employed from year to year in the ordinary course of business for product development, production method assessment and market promotion purposes.

* * * * *

§ 85.1704 [Amended]

2. In § 85.1704, paragraphs (b) and (c) are revised to read as follows:

* * * * *

(b) Any manufacturer may request a national security exemption under § 85.1708.

(c) For manufacturers, vehicles or engines for export purposes are exempt without application, subject to the provisions of § 85.1709. For eligible manufacturers, as determined by § 85.1706, vehicles or engines for pre-certification purposes are exempt without application, subject to the provisions of § 85.1706(a).

3. In § 85.1705, paragraphs (d)(3) and (h) are removed; paragraph (g) is redesignated as § 85.1707—Display exemption; and paragraph (f) is revised to read as follows:

§ 85.1705 Testing exemption.

* * * * *

(d) * * *

(3) [Removed] * * *

(f) A manufacturer of new motor vehicles or new motor vehicle engines may request a testing exemption to cover any vehicles and/or engines intended for use in test programs planned or anticipated over the course of a subsequent one-year period. Unless otherwise required by the Director, Manufacturers Operations Division, a manufacturer requesting such an exemption need only furnish the information required by paragraphs (a)(1) and (d)(2) of this section along with a description of the recordkeeping and control procedures that will be employed to assure that the vehicles and/or engines are used for purposes consistent with section 203(b)(1).

* * * * *

(h) [Removed]

§§ 85.1706 and 85.1707 [Redesignated as §§ 85.1708 and 85.1709]

4. The existing §§ 85.1706 and 85.1707 are redesignated as §§ 85.1708 and 85.1709, respectively.

5. A new § 85.1706 is added to read as follows:

§ 85.1706 Pre-certification exemption.

(a) Except as provided in paragraph (b) of this section, any pre-certification vehicle or pre-certification vehicle engine, as defined by § 85.1702(a)(3) or (4), is exempt from section 203(a), without application, if the manufacturer complies with the following terms and conditions:

(1) The manufacturer shall create, maintain, and make available at reasonable times for review or copying by appropriate EPA employees records which provide each vehicle identification or engine serial number, indicate the use of the vehicle or engine on exempt status and indicate the final disposition of any vehicle or engine removed from exempt status; and

(2) Unless the requirement is waived or an alternative procedure is approved by the Director, Manufacturers Operations Division, the manufacturer shall permanently affix to each vehicle or engine on exempt status in a readily visible portion of the engine compartment (on a readily visible portion of a heavy-duty engine or in a readily accessible position on a motorcycle) a label which cannot be removed without destruction or defacement and which states in the English language, in block letters and numerals of a color that contrasts with the background of the label, the following information:

(i) The label heading: Emission Control Information;

(ii) Full corporate name and trademark of manufacturer;

(iii) Engine displacement, engine family identification and model year of

vehicle or engine; or person or office to be contacted for further information about the vehicle or engine;

(iv) The statement: THIS VEHICLE OR ENGINE IS EXEMPT FROM THE PROHIBITIONS OF SECTIONS 203(a)(1), (3) and (4) OF THE CLEAN AIR ACT, AS AMENDED.

(3) No provision of paragraph (a)(2) shall prevent a manufacturer from including any other information it desires on the label.

(b) Any manufacturer that desires a pre-certification exemption and is in the business of importing, modifying or testing uncertified vehicles for resale under the provisions of 40 CFR 85.1501, *et seq.*, must apply to the Director, Manufacturers Operations Division. The Director may require such manufacturers to submit information regarding the general nature of the fleet activities, the number of vehicles involved, and a demonstration that adequate record-keeping procedures for control purposes will be employed.

§ 85.1708 Redesignated as § 85.1710 and Amended.

6. § 85.1708 is redesignated as § 85.1710 and amended by inserting the words "as required by § 85.1705 and § 85.1708," after the word "request," in the first sentence.

§ 85.1709 Redesignated as § 85.1711 and Amended.

7. § 85.1709 is redesignated as § 85.1711 and amended by inserting the mail code "(EN–340)" at the end of the second line of the mailing address.

(Secs. 203(b)(1) and 301 of the Clean Air Act (42 U.S.C. 7522(b)(1) and 7601))

[FR Doc. 82–19072 Filed 7–13–82; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 180

[PP 1F2575/R460; PH–FRL 2169–5]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or On Raw Agricultural Commodities; Chlorpyrifos

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the insecticide chlorpyrifos and its metabolite in or on the raw agricultural commodity citrus fruits. This regulation to establish the maximum permissible level for the combined residues of chlorpyrifos and its metabolite was requested by The Dow Chemical Company.

EFFECTIVE DATE: Effective on July 14, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Jay Ellenberger, Product Manager (PM) 12, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 202, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703–557–2386).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of December 16, 1981 (46 FR 61326) which announced that The Dow Chemical Company, P.O. Box 1706, Midland, MI 48640 had filed a pesticide petition (PP 1F2575) with EPA proposing that 40 CFR 180.342 be amended by establishing a tolerance for the combined residues of the insecticide chlorpyrifos [*O,O*-diethyl,*O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate] and its metabolite 3,5,6-trichloro-2-pyridinol in or on the raw agricultural commodity citrus fruits at 1.0 part per million (ppm).

No comments were received in response to the notice of filing.

The data submitted in the petition and all other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance included a 2-year rat feeding/oncogenicity study and a dog feeding study with a no-observed-effect level (NOEL) of 0.1 milligram (mg)/kilogram (kg) of body weight (bw) per day based on RBC cholinesterase activity; a mouse oncogenicity study which was negative at 15 ppm (highest dose); and a mouse teratology study which was negative at 25.0 mg/kg. Studies on delayed neurotoxicity and reproduction showed negative potential. Based on the 2-year chronic rat feeding study with a NOEL of 0.1 mg/kg of bw/day, and using a safety factor of 10, the acceptable daily intake (ADI) for humans is 0.01 mg/kg of bw/day. The theoretical maximum residue contribution (TMRC) in the human diet from this tolerance and previously established tolerances for residues of chlorpyrifos on a variety of raw agricultural commodities at levels ranging from 0.01 ppm to 3.0 ppm does not exceed the ADI.

The metabolism of chlorpyrifos is adequately understood for this use, and an adequate analytical method (gas chromatography) is available for enforcement purposes. No regulatory actions are currently pending against continued registration of chlorpyrifos, nor are there any other relevant considerations involved in establishing this tolerance.

The existing meat and milk tolerances are adequate to cover any secondary residues resulting in these commodities from the proposed use.

Desirable data that are considered lacking from this petition include a 2-generation rat reproduction study and a teratology study in a second species. In a letter dated February 11, 1982, the petitioner indicated that these studies would be submitted to the Agency by June of 1983. The petitioner also agreed to voluntarily delete the use on citrus from the label should the studies be found to exceed the risk criteria for unreasonable adverse effects.

The pesticide is considered useful for the purpose for which the tolerance is sought, and it is concluded that the establishment of this tolerance will protect the public health. Therefore, the tolerance is established as set forth below. Related documents (FAP 1H5322) establishing food and feed additive regulations for the combined residues of chlorpyrifos and its metabolite in citrus oil and dried citrus pulp at 25.0 ppm and 5.0 ppm, respectively, appears elsewhere in this issue of the **Federal Register**.

Any person adversely affected by this regulation may, on or before August 13, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulations deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined the regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950). Effective on: July 14, 1982.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 34a(d)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Raw agricultural commodities, Pesticides and pests.

Dated: July 6, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.342 is amended by adding and alphabetically inserting the raw agricultural commodity citrus to read as follows:

§ 180.342 Chlorpyrifos; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Citrus fruits	1.0
* * * * *	

[FR Doc. 82-19023 Filed 7-13-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 2F2589/R458; PH-FRL-2163-6]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Fluchloralin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the herbicide fluchloralin in or on certain raw agricultural commodities. This regulation to establish the maximum permissible level for residues of fluchloralin in or on the commodities was requested by BASF Wyandotte Corporation.

EFFECTIVE DATE: Effective on July 14, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-1800).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of January 13, 1982 (47 FR 1408) that BASF Wyandotte Corporation, 100 Cherry Hill Road, Parsippany, New Jersey 07054, had filed a pesticide petition (PP 2F2589) with the EPA. This petition proposed the establishment of tolerances for residues of the herbicide fluchloralin [*N*-2-chloroethyl)-alpha, alpha, alpha-trifluoro-2,6-dinitro-*N*-propyl-*p*-toluidine] in or on the raw agricultural commodities seed and pod vegetables (dry and succulent) at 0.05 part per million (ppm), sunflower seeds at 0.05 ppm, and forage and hay of seed and pod vegetables at 0.1 ppm.

No comments were received in response to the notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicology data evaluated included an acute oral LD_{50} 1,550 milligrams/kilogram (mg/kg) in the rat; a 90-day feeding study (rat) with a no-observed-effect level (NOEL) of 500 mg/kg/day; a 90-day oral study (dog) with a NOEL of 5.25 mg/kg/day; a 2-year feeding study (rat) with a NOEL of 4,400 ppm (no oncogenicity); a 3-generation reproduction study (rat) with a NOEL of 10,144 ppm; a teratology study (rabbit) with no-observed effects at 3,000 mg/kg; a dominant lethal mutagenicity study (rat) with no-observed effects at 500 mg/kg; a cytogenicity study (rat), negative at 10,144 ppm; and an 18-month feeding study (mouse) with a NOEL of 4,400 ppm (no oncogenicity).

Data currently lacking include a 6-month or longer dog feeding study, a teratology study on a second species, and mutagenicity data (multi-test evidence). The petitioner has been notified of the data deficiencies and has agreed to perform the required studies and to remove the use from the label should the results of the studies exceed the risk criteria for chronic toxicity as stated in 40 CFR 162.11.

Tolerances have previously been established for fluchloralin on cottonseed, soybeans, and peanuts at 0.05 ppm. The tolerances for seed and pod vegetables (0.05 pppm) and sunflower seeds (0.05 ppm) will contribute 0.00276 mg/day 1.5 kg to the current theoretical maximal residues contribution (TMRC) for a total of 0.0038 mg/day (1.5 kg). This will occupy 2.14 percent of the ADI (allowable daily intake). There are no other tolerances pending at this time.

There are no regulatory actions pending against continued registration of fluchloralin. The product contains a nitrosoamine at levels less than 1 ppm. Based on an Agency policy that was published in the **Federal Register** of June 15, 1980 (45 FR 42854), this level of nitrosoamine falls below the currently acceptable risk criteria. The metabolism of fluchloralin in plants and animals has been adequately delineated for the proposed uses. An adequate analytical method, gas chromatography using an electron capture detector, is available for enforcement purposes. There is no reasonable expectation of residues occurring in eggs, milk, meat, and meat byproducts of poultry and livestock, therefore, § 180.6(a)(3) applies. There are no other considerations in establishment of these tolerances. The pesticide is considered useful for the purpose for which the regulation is sought, and it is concluded that the tolerances will protect the public health.

Any person adversely affected by this regulation may, on or before August 13, 1982, file written objections with the Hearing Clerk at the address given above. Such objections should be submitted in triplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are legally sufficient to justify the relief sought.

The Office of Management and Budget (OMB) has exempted this regulation from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Effective on July 14, 1982.

(Sec. 408(d)(2), 68 Stat. 512. (21 U.S.C. 346a(d)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Raw Agricultural commodities, Pesticides and pests.

Dated: June 28, 1982.
Edwin L. Johnson,
Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.363 is revised to read as follows:

§ 180.363 Fluchloralin: tolerances for residues.

Tolerances are established for residues of the herbicide fluchloralin [*N*-(2-chloroethyl)-1,alpha, alpha, alpha-trifluoro-2,6-dinitro-*N*-propyl-*p*-toluidine] in or on the following raw agricultural commodities:

Commodities	Parts, per million
Cottonseed	0.05
Peanuts	0.05
Peanut, forage	0.05
Peanut, hay	0.05
Peanut, hulls	0.1
Seed and pod vegetables (dry/succulent)	0.05
Seed and pod vegetables, forage	0.1
Seed and pod vegetables, hay	0.1
Soybeans	0.05
Sunflower seeds	0.05

[FR Doc. 82-18480 Filed 7-13-82; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 180

[PP 8F2057/R462; PH-FRL-2163-8]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Profenofos

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the insecticide profenofos and its metabolites in or on certain raw agricultural commodities. This regulation to establish the maximum permissible level for residues of the insecticide in or on the commodities was requested by Ciba-Geigy Corporation.

EFFECTIVE DATE: Effective on July 14, 1982.

ADDRESS: Written objections may be submitted to the Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: William H. Miller, Product Manager (PM) 16, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 211, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-2600).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of April 18, 1978, (43 FR 16400) which announced that Ciba-Geigy Corp., P.O. Box 18300, Greensboro, NC 27409, had filed a pesticide petition (8F 2057) with the EPA. This petition proposed that 40 CFR Part 180 be amended by establishing tolerances for residues of the insecticide profenofos [*O*-(4-bromo-2-chlorophenyl)-*O*-ethyl-*S*-propylphosphorothioate] and its metabolites converted to 4-bromo-2-cholorophenol and calculated as *O*-(4-bromo-2-chlorophenyl)-*O*-ethyl *S*-propyl phosphorothioate in or on the raw agricultural commodities cottonseed at 3.0 parts per million (ppm); meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep at 0.05 ppm; and eggs and milk at 0.01 ppm.

A notice was published in the **Federal Register** of September 24, 1980 (45 FR 58677) that the petitioner had submitted and amendment to this petition to increase the proposed tolerance level for eggs from 0.01 ppm to 0.05 ppm. A related document [FAP 8H5177/R114] establishing feed additive tolerances for residues of the subject insecticide in cottonseed hulls and in soapstock appears elsewhere in today's **Federal Register.**

No comments were received in response to these notices of filing.

The toxicological data considered in support of the tolerances included rat, mouse, and rabbit acute oral LD_{50} studies; a rat acute dermal LD_{50} study; a rat acute inhalation LC_{50} study; a 24-month mouse carcinogenicity study with no observed effects at levels as high as 100 ppm (highest dose tested); a 6-month dog feeding study with a plasma and red bood cell (RBC) cholinergic (CHE) no-observed-effect level (NOEL) of 0.2 ppm (lowest dose tested); a 2-year rat chronic feeding and oncogenic study with plasma and RBC CHE NOEL of 0.3 ppm, and no observed oncogenicity at levels up to 100 ppm (highest dose tested); and IBT chicken delayed neurotoxicity study which, after validation, was classified as supplementary data by the Agency, and which indicated no apparent delayed neurotoxicity; a second chicken delayed neurotoxicity study which was also classified as supplementary data and which indicated no apparent delayed neurotoxicity; two mutagenicity studies (Salmonella/mammalian microsome and mouse dominant lethal) which were both negative; and an IBT 3-generation rat reproduction study which was classified as valid and which demonstrated a NOEL for reproductive effects at 20 ppm. Two teratology studies were submitted (rat and rabbit) both of which were classified as supplemental data. The petitioner has agreed to provide a complete report on the submitted rabbit teratology study including statistical analysis and individual animal data by July 1, 1982; to submit another rabbit teratology study by June 1, 1983; and to submit a new rat teratology study by August 1, 1982.

Desirable data that are currently lacking and which the petitioner has agreed to provide and the projected dates for provision of these studies to the Agency are as follows:

1. A new rabbit teratology study not later than June 1, 1983.
2. A new neurotoxicity study not later than June 1, 1983.
3. A complete report on the submitted rabbit teratology study by July 1, 1982.
4. A new rat teratology study by August 1, 1982.

In the event that these studies are not submitted within the specified time or in the event that the new studies show any significant adverse effects, these tolerances will be subject to revocation and the registration subject to cancellation.

The acceptable daily intake (ADI) for humans, based on the cholinergic NOEL of 0.2 ppm in the 6-month dog study and using a safety factor of 10, has been calculated to be 0.005 milligram (mg)/kilogram (kg) of body weight (bw) per day; the maximum permissible intake (MPI) is 0.0300 mg/day for a 60 kg human. The theoretical maximum residues contribution (TMRC) in the human diet from the tolerances is 0.0235 mg/day (1.5 kg). This value represents 78.35% of the ADI. (The 6-month dog study was used to establish the ADI because the dog study cholinergic effects were more sensitive than similar effects found in the 2-year rat chronic feeding study.)

The metabolism of profenofos in plants and animals is adequately understood and an adequate analytical method, gas chromatograph equipped with an electron capture detector, is available for enforcement purposes.

No permanent tolerances have been established for residues of the subject insecticide. Temporary tolerances have previously been established for combined residues of the insecticide and its metabolites converted to 4-bromo-2-chlorophenol and calculated as *O*-(4-bromo-2-chlorophenyl)-*O*-ethyl-*S*-propyl phosphorothioate in or on cottonseed at 3.0 ppm; in eggs and the meat, fat, and meat by-products of cattle, goats, hogs, horses, poultry, and sheep at 0.05 ppm;

and in milk at 0.01 ppm (July 1, 1978, 43 FR 33315) and have been renewed until June 29, 1982. A temporary feed additive regulation has previously been promulgated establishing permissible residue levels of the subject insecticide in cottonseed hulls at 6.0 ppm and in soapstock at 15.0 ppm (21 CFR 561.53) and has also been renewed until June 29, 1982. No actions are pending against registration of the insecticide and no other considerations are involved in establishing the tolerances.

The pesticide is considered useful for the purpose for which the tolerances are sought and it is concluded that establishment of the tolerances will protect the public health. Therefore, 40 CFR Part 180 is amended as set forth below.

Any person adversely affected by this regulation may file written objections with the Hearing Clerk at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for a hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Effective on July 14, 1982.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: June 28, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR Part 180 is amended by adding a new § 180.404 to read as follows:

§ 180.404 Profenofos; tolerances for residues.

Tolerances are established for combined residues of the insecticide profenofos [*O*-(4-bromo-2-chlorophenyl)-*O*-ethyl-*S*-propyl phosphorothioate and its metabolites converted to 4-bromo-2-chlorophenyl and calculated as profenofos in or on the following raw agricultural commodities:

Commodities	Parts per million
Cattle, fat	0.05
Cattle, mbyp	0.05
Cattle, meat	0.05
Cottonseed	3.0
Eggs	0.05
Goats, fat	0.05
Goats, mbyp	0.05
Goats, meat	0.05
Hogs, fat	0.05
Hogs, mbyp	0.05
Hogs, meat	0.05
Horses, fat	0.05
Horses, mbyp	0.05
Horses, meat	0.05
Milk	0.01
Poultry, fat	0.05
Poultry, mbyp	0.05
Poultry, meat	0.05
Sheep, fat	0.05
Sheep, mbyp	0.05
Sheep, meat	0.05

[FR Doc. 82-18477 Filed 7-13-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[OPP-300061A; PH-FRL 2168-8]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Alkyl (C_8-C_{18}) Sulfate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule broadens the exemption from the requirement of a tolerance for alkyl (C_8-C_{18}) sulfate and its ammonium, calcium, magnesium, potassium, sodium, and zinc salts to include the isopropylamine salt. This action was requested by Alcolac, Inc.

EFFECTIVE DATE: Effective on July 14, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk, Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Peter Gray, Process Coordination Branch, Registration Division (TS–67C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 716D, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703–557–7700).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking published in the **Federal Register** of June 9, 1982 (47 FR 25032), which announced that at the request of Alcolac, Inc., 3440 Fairchild Rd., Baltimore, MD 21226, the Administrator proposed to amend 40 CFR 180.1001(c) by broadening the exemption from the requirement of a tolerance for alkyl (C_8-C_{18}) sulfate and its ammonium, calcium, magnesium, potassium, sodium, and zinc salts to include the isopropylamine salt.

No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

The data and other relevant material have been evaluated and discussed in the notice of proposed rulemaking (47 FR 25032, June 9, 1982). The pesticide is considered useful for the purpose for which the exemption from the requirement of a tolerance is sought.

Based on the information considered by the Agency, it is concluded that this amendment to 40 CFR 180 will protect the public health. Therefore, the exemption from the requirement of a tolerance is established as set forth below.

Any person adversely affected by this regulation may, on or before August 13, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Agricultural commodities, Pesticides and pests.

Dated: July 1, 1982.

Louis P. True,

Acting Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.1001(c) is amended by revising the entry for alkyl (C_8–C_{18}) sulfate and its ammonium, calcium, magnesium, potassium, sodium, and zinc salts to read as follows:

§ 180.1001 Exemption from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
• • • • •		
Alkyl (C_8–C_{18}) sulfate and its ammonium, calcium, isopropylamine, magnesium, potassium, sodium, and zinc salts.		Surfactants
• • • • •		

[FR Doc. 82-19025 Filed 7-13-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[OPP-300062A; PH-FRL 2169-1]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Poly(Oxy-1,2-Ethanediyl), Alpha-(Carboxymethyl)-Omega-(Nonylphenoxy)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement of a tolerance for poly(oxy-1,2-ethanediyl), alpha-(carboxymethyl)-omega-(nonylphenoxy) when used as an inert ingredient in pesticide formulations. This exemption was requested by Sandoz, Colors and Chemicals, Inc.

EFFECTIVE DATE: Effective on July 14, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Peter Gray, Process Coordination Branch, Registration Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. 716D, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703–557–7700).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking published in the **Federal Register** of June 9, 1982 (47 FR 25031), which announced that at the request of Sandoz, Colors and Chemicals, the Administrator proposed to amend 40 CFR 180.1001(c) by establishing an exemption from the requirement of a tolerance for poly(oxy-1,2-ethanediyl), alpha-(carboxymethyl)-omega-(nonylphenoxy) produced by the condensation of 1 mole of nonylphenol (nonyl group is a propylene trimer isomer) with an average of 4–14 or 30–90 moles of ethylene oxide.

No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

The data and other relevant material have been evaluated and discussed in the notice of proposed rulemaking (47 FR 25031, June 9, 1982). The pesticide is considered useful for the purpose for which the exemption from the requirement of a tolerance is sought.

Based on the information considered by the Agency, it is concluded that the amendment to 40 CFR Part 180 will protect the public health. Therefore, the exemption from the requirement of a tolerance is established as set forth below.

Any person adversely affected by this regulation may, on or before August 13, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

(Sec. 408(e), 68 Stat. 514; (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: July 1, 1982.

Louis P. True,

Acting Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.1001(c) is amended by adding and alphabetically inserting the inert ingredient poly (oxy-1,2-ethanediyl), alpha-(carboxymethyl)-omega-(nonylphenoxy) produced by the condensation of 1 mole of nonylphenol (nonyl group is a propylene trimer isomer) with an average of 4–14 or 30–90 moles of ethylene oxide to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
• • • • • • •		
Poly(oxy-1,2-ethanediyl), alpha-(carboxymethyl)-omega-(nonylphenoxy) produced by the condensation of 1 mole of nonylphenol (nonyl group is a propylene trimer isomer) with an average of 4–14 or 30–90 moles of ethylene oxide. The molecular weight ranges are 454–894 and 1598–4238.	Surfactant	
• • • • • • •		

•

[FR Doc. 82-19026 Filed 7-13-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 19

[Circular No. 2506]

Wilderness Preservation; Removal of Provision Covering Wilderness Lands Administered by the Bureau of Land Management

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking removes Title 43, Part 19, Subpart B of the Code of Federal Regulations that provides for wilderness preservation of lands exclusively administered through the Bureau of Land Management. This regulation is based on the authority granted by the Classification and Multiple Use Act which has been replaced by authority in section 603 of the Federal Land Policy and

Management Act and is no longer needed.

EFFECTIVE DATE: August 13, 1982.

ADDRESS: Any suggestions or inquiries should be sent to: Director (340), Bureau of Land Management, 1800 C Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: R. Gregg Berry, (202) 343–6064.

SUPPLEMENTARY INFORMATION: The Classification and Multiple Use Act of 1964 (43 U.S.C. 1411), provided authority for the Bureau of Land Management to manage lands under its administration for wilderness uses, among other uses. This authority was implemented in regulations in 43 CFR Part 19, Subpart B—Retention and Management of Certain Classes of Public Lands for Wilderness Preservation. Section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782) provides authority for the review and identification of potential wilderness areas within lands under the jurisdiction of the Bureau of Land Management. As a result of the expiration of the authority of the Classification and Multiple Use Act and the granting of new authority relating to wilderness in the Federal Land Policy and Management Act, the provisions of 43 CFR Part 19, Subpart B are no longer needed and are removed by this final rulemaking. This final rulemaking removing 43 CFR Part 19, Subpart B is an administrative action reflecting that the authority contained in the Classification and Multiple Use Act has expired and has been replaced by the authority in section 603 of the Federal Land Policy and Management Act. New regulations will be issued for the management of wilderness when lands under the administration of the Bureau of Land Management have been added to the National Wilderness Preservation System.

The principal author of this final rulemaking is R. Gregg Berry, Division of Recreation, Cultural and Wilderness Resources, Bureau of Land Management, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and that it will not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

List of Subjects in 43 CFR Part 19

National Wilderness Preservation System, Wilderness areas.

Under the authority of section 605 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 782) and the Classification and Multiple Use Act of 1964 (43 U.S.C. 1411–1418), Part 19, Subtitle A, of Title 43 of the Code of Federal Regulations is amended as set forth below.

Frank A. Dubois,

Acting Assistant Secretary of the Interior.

June 18, 1982.

Subpart B (§ 19.25) [Removed]

1. Part 19 is amended by removing Subpart B which consists of § 19.25, in its entirety.

[FR Doc. 82-18922 Filed 7-13-82; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA 6350]

Identification and Mapping of Special Flood Hazard Areas; Changes in Special Flood Hazard Areas Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Interim rule.

SUMMARY: This rule lists those comunities where modification of the base (100-year) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base (100-year) elevations for new buildings and their contents and for second layer insurance on existing buildings and their contents.

DATES: These modified elevations are currently in effect and amend the Flood Insurance Rate Map (FIRM) in effect prior to this determination.

From the date of the second publication of notice of these changes in a prominent local newspaper, any person has ninety (90) days in which he can request through the community that the Associate Director, State and Local Programs and Support reconsider the changes. These modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base (100-year) flood elevation determinations are available for inspection at the office of the Chief Executive Officer of the community, listed in the fifth column of the table. Send comments to that address also.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Office of State and Local Programs and Support, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0220.

SUPPLEMENTARY INFORMATION: The numerous changes made in the base (100-year) flood elevations on the Flood Insurance Rate Map(s) make it administratively infeasible to publish in this notice all of the modified base (100-year) flood elevations contained on the map. However, this rule includes the address of the Chief Executive Officer of the community where the modified base (100-year) flood elevation determinations are available for inspection. Any request for reconsideration must be based on knowledge of changed conditions, or new scientific or technical data.

These modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 65.4.

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Progam (NFIP).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time, enact stricter requirements on its own, or

pursuant to policies established by other Federal, State or regional entities.

The changes in the base (100-year) flood elevations listed below are in accordance with 44 CFR 65.4.

State and county	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
Louisiana: Concordia Parish	Town of Vidalia	*Natchez Democrat*, April 12, 1982, and April 19, 1982.	Honorable Sidney A Murray, Jr., Mayor, Town of Vidalia; 409 Texas Street, Vidalia, LA 71343.	Jan. 5, 1982	220057C.
Washington: King	City of Redmond	*Sammamish Valley News*, April 28, 1982, and May 5, 1982.	Honorable Christine Himes, Mayor, City of Redmond, 15670 N.E. 85th Street, Redmond, WA 98052.	Jan. 19, 1982	530067C.
New Jersey: Camden	Collingswood (borough of)	*The Retrospect*, March 4, 1982, and March 18, 1982.	Hon. Michael G. Brennan, Mayor, Borough of Collingswood, 678 Haddon Avenue, Collingswood, New Jersey 08108.	Mar. 19, 1982	340131D.
New York: Monroe County	Village of Honeoye Falls	*Honeoye Falls Times*, April 8, 1982, and April 15, 1982.	The Honorable Mary Louise Bastian, Mayor, Village of Honeoye Falls, 5 East Street, Honeoye Falls, New York 14472.	Apr. 16, 1982	360421C.
Arizona: Nevada	City of Emmet	*Nevada County Picayune*, May 20, 1982, and May 27, 1982.	Honorable Dale Booker, Mayor, City of Emmet, P.O. Box 63, Emmet, AR 71835.	May 25, 1982	0604118.
Alaska:	Fairbanks North Star Borough	*Fairbanks Daily News-Miner*, May 14, 1982, and May 21, 1982.	Honorable John A. Carlson, Mayor, Fairbanks North Star Borough, P.O. Box 1267, Fairbanks, AK 99707.	May 3, 1982, 66-II LOMA.	025009E
Illinois: Cook and DuPage	Village of Elk Grove Village	*The Daily Herold*, May 6, 1982, and May 13, 1982.	Charles Zettek, Village President, Village of Elk Grove Village, 901 Wellington Avenue, Elk Grove Village, [illegible].	May 14, 1982	170086C.
Tennessee: Loudon County	City of Loudon	*The News Herald*, April 28, 1982, and May 5, 1982.	Mr. Randy McGill	May 7, 1982	470110C.
Texas: Dallas	City of Irving	*Irving Daily News*, May 19, 1982, and May 26, 1982.	Honorable Bobby Joe Raper, Mayor, City of Irving, 825 West Irving Boulevard, Irving, TX 75060.	May 3, 1982, 66-B LOMA.	480180A.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 65

Flood insurance—flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: June 16, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-18787 Filed 7-13-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 65

Identification and Mapping of Special Flood Hazard Areas; Changes in Special Flood Hazard Areas Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Associate Director, State and Local Programs and Support, after consultation with the Chief Executive Officer of each community listed, finds that modification of the proposed Special Flood Hazard Areas (SFHAs) for those communities is appropriate as a result of requests for changes in the interim and/or Proposed Rule.

DATES: These modified SFHAs are in effect as of the dates listed in the sixth column of the attached list and amend the Flood Insurance Rate Map(s) (FIRM) in effect for each listed community prior to this date.

ADDRESSES: The modified SFHA determinations for each community are available for inspection at the office of the Chief Executive Officer of the community, listed in the fifth column of the table.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Office of State and Local Programs and Support, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support has published a notification of the SFHAs in prominent local newspapers for the communities listed below. Ninety (90) days have elapsed since that publication, and the Associate Director has received appeals from the communities requesting changes in the proposed SFHA determinations.

The numerous changes made in the SFHAs on the Flood Insurance Rate Map for each community make it administratively infeasible to publish in this notice all of the SFHA changes contained on the maps. However, this notice includes the address of the Chief Executive Officer where the modiffed SFHA determinations are available for inspection.

The modifications are pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 65.

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

These SFHAs are basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These SFHAs together with the flood plain management measures required by § 60.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

These modified SFHAs shall be used to calculate the appropriate flood insurance premium rates for new buildings and their contents.

List of Subjects in 44 CFR Part 65

Flood insurance, Flood plains.

The changes in the SFHAs listed below are in accordance with 44 CFR 65.4.

§ 65.4 List of Communities with detailed engineering data (FIRM's).

State and county	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
Minnesota: Carver	City of Watertown, Docket No. FEMA 6242.	*Carver County News*, November 12, 1981, and November 19, 1981.	Gary Neumann, City Coordinator, City of Watertown, Box 278, Watertown, MN 55388.	Nov. 20, 1981	270056B.
Ohio: Butler	City of Hamilton, Docket No. FEMA 6242.	*The Journal News*, October 30, 1981, and November 6, 1981.	Honorable Robert L. Weigel; Mayor, City of Hamilton, Municipal Building, Room 204, Hamilton, Ohio 45011.	Nov. 6, 1981	390039C.
Illinois: Lake	Village of Round Lake Beach, Docket No. FEMA 6242.	*Round Lake News*, December 17, 1981, and December 24, 1981.	Honorable Rod Brenner, Village of Round Lake Beach, 1212 North Cedar Lake Road, Round Lake Beach, IL 60073.	Dec. 25, 1981	170389C.
Michigan:					
St. Clair	City of Algonac, Docket No. FEMA 6242.	*Courier Journal*, November 25, 1981, and December 2, 1981.	Gerald Tuznowski, City Manager, City of Algonac, Box 454, Algonac, MI 48001.	Dec. 4, 1981	260191C.
Wayne	City of Dearborn, Docket No. FEMA 6242.	*Dearborn Times Heard*, December 15, 1981, and December 22, 1981.	Honorable John B. O'Reilly, City of Dearborn, 13615 Michigan Avenue, Dearborn, MI 48126.	Dec. 25, 1981	260226C.
Minnesota:					
Dakota and Washington	City of Hastings, Docket No. FEMA 6242.	*Hastings Star Gazette*, December 10, 1981, and December 17, 1981.	Honorable Low Sotoffel, City of Hastings, 100 Sibley Street, Hastings, MN 55033.	Dec. 18, 1981	270105D.
Houston	City of Houston, Docket No. FEMA 6242.	*Houston Gazette and Country Journal*, November 26, 1981, and December 3, 1981.	Honorable Richard Dittman, City of Houston, P.O. Box 667, Houston, MN 55943.	Dec. 4, 1981	270193C.
Roseau County	Unincorporated area, Docket No. FEMA 6242.	*Roseau Times Region*, November 24, 1981, and December 1, 1981.	Luke Hagan, County Engineer, Roseau County, County Highway Department, Route #1, Roseau, MN 56751.	Dec. 4, 1981	270663C.
North Carolina: Watauga	Town of Boone, Docket No. FEMA 6242.	*Watauga Democrat*, December 17, 1981, and December 24, 1981.	The Honorable Marvin Hoffman, Mayor, Town of Boone, P.O. Box Drawer 192, Boone, NC 28607.	Dec. 25, 1981	370253C.
Ohio: Cuyahoga	City of Brooklyn, Docket No. FEMA 6242.	*West Side Sun*, November 26, 1981, and December 3, 1981.	Honorable John Coyne, City of Brooklyn, 7619 Memphis Avenue, Brooklyn, OH 44144.	Dec. 4, 1981	390100C.
Pennsylvania: Dauphin	Borough of Highspire, Docket No. FEMA 6242.	*The Patriot*, December 4, 1981, and December 11, 1981.	James Brokenshire, Borough Manager, Borough of Highspire, 640 Eshleman Street, Highspire, PA 17034.	Dec. 11, 1981	420381B.
Virginia: Independent City	City of Galax, Docket No. FEMA 6242.	*The Gazette*, October 31, 1980, and November 7, 1980.	W. Harold Snead, City Manager, City of Galax, 123 North Main St., Galax, VA 24333.	Dec. 25, 1981	510066B.
Texas:					
Tom Green	City of San Angelo, Docket No. FEMA 6242.	*Standard-Times*, August 26, 1981, and August 27, 1981.	The Honorable Thomas R. Parrett, Mayor, City of San Angelo, P.O. Box 1751, San Angelo, TX 76902.	Apr. 13, 1982	480623C.
Dallas, Denton and Collin Counties	City of Carrollton (Docket No. FEMA 6213).	*Carrollton Chronicle*, December 15, 1981, and December 18, 1981.	Honorable Leddie Taylor, Mayor, City of Carrollton, 1002 South Broadway, P.O. Box 535, Carrollton, TX 75006.	Apr. 13 1982 (LOMA).	480167B.
Minnesota: Blue Earth and Nicollet Counties	City of Mankato (Docket No. FEMA 6200).	*The Free Press*, December 4, 1981, and December 11, 1981.	Honorable Herbert Mocol, Mayor, City of Mankato, 202 East Jackson Street, Mankato, Minnesota 56001.	July 16, 1982	275242C.
Colorado:					
Boulder	Town of Erie (Docket No. FEMA 6214).	*Farmer and Miner*, December 17, 1981, and December 24, 1981.	Honorable David Louis, Mayor, Town of Erie, 645 Holbrook, P.O. Box 100, Erie, CO 80516.	Sept. 14, 1982	080181C.
Weld	Unincorporated area (FEMA Docket No. 6132).	*Johnstown Breeze*, January 21, 1981, and January 28, 1982.	Mr. Brad Otis, County Commissioners, Weld County Courthouse, P.O. Box 758, Greeley, CO 80631.	Sept. 28, 1982	080266C.
Connecticut: New London County.	Norwich, city of (Docket No. FEMA 6219).	*Norwich Bulletin*, January 7, 1982, and January 14, 1982.	Mr. Charles C. Whitty, City Manager, City Hall, 100 Broadway, Norwich, CT 06360.	Sept. 10, 1982	090102C.
Georgia: Walker County	Walker County (FEMA Docket No. 6132).	*The Walker County Messenger*, January 13, 1982, and Janaury 20, 1982.	Mr. Roy Parrish, Jr., County Commissioner, Walker County, P.O. Box 445, LaFayette, Georgia 30728.	Oct. 8, 1982	130160C.
Pennsylvania:					
Lebanon	Borough of Myerstown (FEMA Docket No. 6235).	*Lebanon Daily News*, January 22, 1982, and January 29, 1982.	Edward Treat, Borough Manager, Borough of Myerstown, 515 South College Street, Myerstown, Pennsylvania 17067.	Sept. 10, 1982	420557B.
Lancaster	Township of West Hempfield (Docket No. FEMA 6241).	*Intelligencer Journal*, January 15, 1982, and January 22, 1982.	Joseph J. Neley, Sec./Treas., West Hempfield Township Supervisors, 3401 Marietta Avenue, Lancaster, Pennsylvania 17601.	Sept. 3, 1982	421789C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: June 24, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-18034 Filed 7-13-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base (100-year) flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Federal Emergency Management Agency, National Flood Insurance Program, (202) 287–0230, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 448)), 42 U.S.C. 4001–4128, and 44 CFR Part 67. An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Agency has resolved the appeals presented by the community.

The Agency has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The final base (100-year) flood elevations for selected locations are:

FINAL BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
California	Fountain Valley (city), Orange County FEMA-5938	Santa Ana River	Intersection of San Diego Freeway and Brookhurst Street.	#2
			Palm Street	#3
			Azalea Avenue	#3
Maps available for inspection at City Hall, Fountain Valley, California.				
Connecticut	Groton Long Point Association, New London County (Docket No. FEMA-6196).	Fishers Island Sound	From north corporate limits, to approximately 770 feet north of cross street extended.	*13
			From approximately 770 feet north of Cross Street extended to approximately 240 feet west of Weston Road extended.	*15
			From approximately 240 feet south of Weston Road extended to approximately 720 feet south of confluence of Lower Lagoon.	*16
			From approximately 720 feet south of confluence of Lower Lagoon to approximately 520 feet south of confluence of Lower Lagoon.	*12
			From approximately 520 feet south of confluence of Lower Lagoon to Island Avenue extended.	*11
			From Island Avenue extended to northern corporate limits.	*10
Maps available for inspection at the Groton Long Point Association Community Center, Groton Long Point, Connecticut.				
Tennessee	City of Memphis, Shelby County (FEMA 6061)	Mississippi River	Just upstream of Shelby County line corporate limits	*222
			Just upstream of Interstate Highway 40	*233
		Wolf River	Just upstream of Interstate Highway 225	*234
			Just upstream of confluence of Harrington Creek	*240
			Just upstream of Germantown Road	*262
		Wolf River lateral A	At the confluence of Wolf River lateral AA	*258
		Wolf River lateral AA	Just upstream of Corsica Drive	*270
		Wolf River lateral M	Just upstream of Raleigh-LaGrange Road	*249
			Just upstream of Raleigh-Bartlett Road	*250
		Fletcher Creek	Just upstream of Bartlett Road	*247
			Just upstream of Raleigh-LaGrange Road	*259
		Fletcher Creek lateral B	Just upstream of corporate limits	*262
		Harrington Creek	Just upstream of Covington Pike	*240
			Just upstream of Raleigh-LaGrange Road	*244
			Just upstream of Louisville and Nashville Railroad	*262
		Harrington Creek lateral B	Just upstream of Stage Road	*266
		Cypress Creek	Just upstream of Mitchell Road	*229
			Just upstream of Raines Road	*239
			Just upstream of Neely Road	*255
		Nonconnah Creek	Just upstream of Highway 61	*226
			Just upstream of confluence of Hurricane Creek	*248

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just upstream of Ridgeway Road	*276
		Days Creek	Just upstream of Brooks Road	*242
			Just upstream of Raines Road	*259
		Hurricane Creek	Just upstream of Democrat Road	*249
			Just upstream of Christine Street	*265
		Tenmile Creek	Just upstream of Knight Arnold Road	*261
			Just upstream of Winchester Road	*278
			Just upstream of Pilot Road	*309
			Just downstream of Getwell Road	*337
		Tenmile Creek lateral A	Just upstream of Winchester Road	*285
		Johns Creek	Just upstream of Cottonwood Road	*269
			Just upstream of Winchester Road	*286
			Just downstream of Raines Road	*294
		Howard Road outfall	Just downstream of Quince Road	*283
			Just upstream of Messick Road	*298
			Just upstream of McVay Road	*306
		Loosahatchie River	Just downstream of Raleigh-Millington Road	*236
Maps available for inspection at City Hall, 125 North Main Street, Memphis, Tennessee 38103.				
Tennessee	Shelby County (unincorporated areas) (FEMA-6218)	Mississippi River	Just upstream of Pleasant View Road (extended)	*237
			Just upstream of River Road (extended)	*238
		Nonconnah Creek	Just upstream of Hacks Cross Road	*299
			Just upstream of Sycamore View Road	*351
		Ten Mile Creek	Just upstream of East Shelby Drive	*330
		Johns Creek	Just upstream of Hungerford Road	*300
			Just upstream of Holmes Road	*329
		Johns Creek lateral A	Just upstream of East Shelby Drive	*302
			Just upstream of Holmes Road	*315
		Johns Creek lateral AA	Just downstream of Crumpler Road	*346
		Johns Creek lateral AB	Just downstream of southernmost county limits (flooding affected by backwater from Johns Creek lateral A at this location).	*321
		Johns Creek lateral B	Just upstream of East Shelby Drive	*307
			Just downstream of Holmes Road	*324
		Nonconnah Creek lateral J	Just upstream of Oak Drive (extended)	*293
			Just downstream of Winchester Road	*303
		Nonconnah Creek lateral B	Just upstream of Shelby Drive	*322
			Just upstream of Holmes Road	*329
		Nonconnah Creek lateral BA	Just upstream of Shelby Road	*322
			Just upstream of Holmes Road	*328
		Wolf River	Just upstream of Houston Levee Road	*279
			Just upstream of Collierville-Arlington Road	*294
		Fletcher Creek	Just upstream of Appling Road	*276
			Just upstream of Interstate Highway 40	*282
			Just downstream of Germantown Road	*292
			Just downstream of U.S. Highway 64 and State Highway 15.	*362
		Fletcher Creek lateral B	Just downstream of Dexter Road	*272
			Just downstream of Macon Road	*286
		Fletcher Creek lateral BB	Just upstream of county road	*293
		Fletcher Creek tributary A	Just upstream of U.S. Highway 64/State Highway 15	*277
			Just upstream of Appling Road	*290
		Fletcher Creek tributary C	Just downstream of Ellis Road (extended)	*286
		Fletcher Creek tributary D	Just upstream of Liverpool Drive (extended)	*283
		Wolf River lateral F	Just upstream of Dogwood Road	*292
		Gray's Creek	Just downstream of Macon Road	*294
			Just upstream of Pigsah Road	*309
			Just upstream of Airline Road	*323
		Marys Creek	Just upstream of Hall Road	*282
			Just upstream of Pigsah Road	*294
			Just upstream of Reed Hooker Road	*314
		Wolf River lateral H	Just upstream of Frank Road	*304
			Just downstream of U.S. Highway 72	*325
		Wolf River lateral I	Just downstream of Shelton Road	*300
		Wolf River lateral IA	Just upstream of Shelton Road	*294
			Just downstream of Frank Road	*304
		Wolf River lateral J	Just upstream of Shelton Road	*292
		Wolf River lateral K	Just upstream of unnamed road	*294
			Just downstream of southernmost county limits	*298
		Loosahatchie River drainage canal	Just upstream of State Highway 14	*245
			Just upstream of Brunswick Road	*257
		Big Creek drainage canal	Just upstream of Ward Road	*241
			Just upstream of Sledge Road	*281
			Just upstream of Mudville Road	*313
		Big Creek lateral A	Just upstream of Independence Road	*252
			Just downstream of Woodstock-Cuba Road	*255
		Jakes Creek	Just upstream of Rankin Branch Road	*260
			Just downstream of Cuba-Millington Road	*268
		Bear Creek	Just upstream of County Road 1	*253
			Just upstream of West Union Road	*275
			Just upstream of Charles Bartlett Road	*297
		Bear Creek lateral	Just upstream of Chambers Road	*288
			Just downstream of Bass Road	*290
		Foyster Creek	Just upstream of Shelby Road	*280
			Just upstream of West Union Road	*274
		North Fork Road	Just upstream of U.S. Highway 51	*282
			Just upstream of Walker Road	*303

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		North Fork Creek lateral A	Just upstream of Shipp Road	*288
			Just upstream of Mathews Road	*318
		Casper Creek	Just upstream of Navy Road	*284
			Just upstream of Aycock Road	*303
			Just downstream of Center College Road	*319
		Crooked Creek Drainage canal	Just upstream of State Highway 14	*291
			Just upstream of Mudville Road	*342
		Crooked Creek lateral A	Just upstream of Kerrville-Rosemark Road	*322
		Crooked Creek lateral B	Just upstream of State Highway 14	*308
		Cypress Creek	Just upstream of U.S. Highway 70	*267
			Approximately 1,600 feet upstream of Interstate Highway 40.	*274
		Beaver Creek	Just downstream of Collierville-Arlington Road	*283
			Just upstream of Galloway Levee Road	*271
		West Beaver Creek	Just downstream of Turkey Road (extended)	*275
			Just upstream of Arlington-Collierville Road	*287
		Wolf River lateral E	Just downstream of Moose Road	*302
			Just downstream of Dogwood Road	*286
		Wolf River lateral EA	Just upstream of Poplar Pike	*317
			Just upstream of Ashmont Drive if extended	*320

Maps available for inspection at Shelby County Office of Planning and Development, Memphis City Hall, 4th Floor, 125-Mid-America Mall and Shelby County Department of Roads and Public Works, 160 Mid-American Mall, Suite 660, Memphis, Tennessee 38103.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: June 22, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-18769 Filed 7-13-82; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73, 74, 76, and 78

[BC Docket No. 78-253]

An Inquiry Into the Future Role of Low Power Television Broadcasting and Television Translators in the National Telecommunications System; Correction

AGENCY: Federal Communications Commission.

ACTION: Correction to Final Rule.

SUMMARY: In the Commission's *Order* amending the Commission's Rules to include a new low power television service, BC Docket No. 78–253, FCC 82–107, published in the **Federal Register** on May 18, 1982, at 47 FR 21468, various typographical errors are corrected.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Edythe Wise, (202) 632–6302.

SUPPLEMENTARY INFORMATION:

Released: July 7, 1982.

By the Commission.

The following corrections are made in the *Report and Order* in the above-captioned proceeding, 47 FR 21468 (released May 18, 1982):

1. In the Preamble (47 FR 21468, column 1), the paragraph entitled "**FOR FURTHER INFORMATION CONTACT** * * *" should read: **FOR FURTHER INFORMATION CONTACT:** Edythe Wise, Broadcast Bureau, (202) 632–6302.

2. The fifth sentence of paragraph 39 of the *Report and Order* (47 FR 21477, column 2) should read:

The frequency tolerance of a low power station operating with a specified offset will be ±1 kHz, the same as the full service TV station frequency tolerance.

3. The tenth sentence of paragraph 39 of the *Report and Order* (47 FR 21477, column 2) should read:

Comments indicate that manufacturers are capable of producing equipment meeting the ±1 kHz frequency tolerance.

4. The first sentence of paragraph 101 (47 FR 21490, column 2) of the *Report and Order* should read:

We shall require translator and low power licensees to conform to Sections 74.766 (b), (c) and (d) and also to measure the carrier frequencies of their output channels at least once a year and as often as necessary to assure compliance with frequency tolerance standards. *See* paragraph 39, *supra.*

5. Paragraph 121 (47 FR 21494, column 1) should read:

121. For further information concerning this proceeding, the contact person is Edythe Wise, Broadcast Bureau, (202) 632–6302.

6. Insert new paragraph 4(a) in Appendix A (47 FR 21494, column 2). Paragraph 4(a) should read:

4(a). Section 73.940 is amended by revising the introduction to read as follows:

§ 73.940 Encoder devices.

An encoder device shall be used by broadcast stations for the generation of the two-tone Attention Signal. Only noncommercial educational FM stations of 0.01 kW or less and low power TV stations are exempt from the requirement of installing the encoder device. The encoder device shall comply with the following requirements:

* * * * *

7. Paragraph 5 of Appendix A (47 FR 21494, column 2) should read:

5. Paragraph (c) of § 73.961 is revised to read:

§ 73.961 Tests of the Emergency Broadcast System procedures.

* * * * *

(c) *Weekly Transmission Tests of the Attention Signal and Test Script.* Except as provided in paragraph (d) of this Section, these tests shall be conducted by all AM, FM and TV stations a minimum of once a week at random days and times between the hours of 8:30 a.m. local time and local sunset.

These tests will be conducted in accordance with procedures set forth in the EBS Checklist furnished to all broadcast stations; however, Class D noncommercial educational FM stations authorized to operate with transmitter output powers of 0.01 kW or less and low power TV stations need not transmit the two-tone EBS Attention Signal.

8. Paragraph 7 of Appendix A (47 FR 21494, column 3) should read:

7. Section 73.1010 is amended by revising paragraph (e) to read as follows:

§ 73.1010 Cross reference to rules in other Parts.

* * * * *

(e) Part 74 (Volume III), "Experimental, Auxiliary and Special Broadcast, and Other Program Distributional Services" including subparts on the following stations: A, "Experimental Television—," B, "Experimental Fascimile—," C, "Developmental—," D, "Remote Pickup—," E, "Aural STL and Intercity Relay—," F, "Television Auxiliary—," G, "Low Power TV and TV Translator—," H, "Low Power Auxiliary—," I "Instructional TV Fixed Service—," L, "FM Translator and Booster—."

9. Paragraph 8 of Appendix A (47 FR 21494, column 3) should read:

8. Section 73.3500 table is amended by revising the titles for FCC Forms 346, 347, and 348 as follows:

* * * * *

346—Application for Authority to Construct or Make Changes in a Low Power TV, TV Translator, or FM Translator Station

347—Application for a Low Power TV, TV Translator, or FM Translator Station License

348—Application for Renewal of a Low Power TV, TV Translator, or FM Translator Station License

* * * * *

10. In paragraph 31 of Appendix A (47 FR 21499, column 2) §74.731(g)(3) should read:

§ 74.731 Purpose and permissible service.

* * * * *

(g)(3) For the transmission of subscription television broadcast (STV) programs, intended to be received in intelligible form by members of the public for a fee or charge, subject to the provisions of §§ 73.642(e) and (f)(3) and 73.644.

11. In paragraph 37 of Appendix A (47 FR 21500, column 3), § 74.750(d)(1) should read:

§ 74.750 Transmission system facilities.

* * * * *

(d) Low power TV and TV translator transmitting equipment using a modulation process for either program origination or rebroadcasting must meet the following requirements:

(1) The equipment shall meet the requirements of paragraph (a)(1), (a)(2), (a)(3), (b)(1), and (b)(7) of § 73.687.

12. In paragraph 40 of Appendix A (47 FR 21501, column 3), § 74.762(a) should read:

§ 74.762 Frequency measurements.

(a) The licensee of a low power TV station or a TV translator must measure the carrier frequencies of its output channel as often as necessary to ensure operation within the specified tolerances, and at least once each calendar year at intervals not exceeding 14 months.

* * * * *

13. Insert new paragraph 47(a) in Appendix A (47 FR 21502, column 2). New paragraph 47(a) should read:

47(a) Section 74.781 is amended by revising paragraph (a) to read as follows:

§ 74.781 Station records.

(a) The licensee of a low power TV or TV translator station shall maintain adequate station records, including the current instrument of authorization, official correspondence with the FCC, maintenance records, contracts, permission for rebroadcasts, and other pertinent documents.

* * * * *

14. In Appendix B, *Instructions for FCC Form 346*, (47 FR 21508, column 2) paragraph 2 of the portion of Section VII entitled *Attachment 1 to FCC Form 346* should read:

Attach as Exhibit No. ——— and allocation study utilizing topographic maps or an accurate full scale reproduction thereof and a full scale exhibit of the entire pertinent area to show the following:

* * * * *

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-19036 Filed 7-13-82; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 47, No. 135
Wednesday, July 14, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 703

Investments and Deposits; Advance Notice of Proposed Rulemaking

AGENCY: National Credit Union Administration.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: During the summer of 1981, the National Credit Union Administration reviewed and substantially eliminated mandatory regulatory provisions governing the granting of loans by Federal credit unions. In late 1981, the National Credit Union Administration began a review of its regulations that govern the liability side of the Federal credit union balance sheet. Now, the National Credit Union Administration is soliciting comments on whether, and to what extent, it should modify its rules governing investments and deposits by Federal credit unions.

DATE: Comments must be received on or before August 20, 1982.

ADDRESS: Send comments to Robert Monheit, Regulatory Development Coordinator, National Credit Union Administration, 1776 G Street, NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Robert M. Fenner, Deputy General Counsel, Telephone: (202) 357–1030.

SUPPLEMENTARY INFORMATION: A comment that surfaced quite frequently during this Agency's recently culminated proposal to deregulate Federal credit union share accounts was that NCUA should give serious consideration to relieving regulatory restrictions on the asset side of the Federal credit union balance sheet as well. At the outset, it should be specifically noted that Part 703 of NCUA's regulations governs only the manner in which a Federal credit union may invest and deposit its funds. The Federal Credit Union Act itself sets out in detail the types of investments that Federal credit unions may make and the places in which they may maintain deposit accounts.

The Current Regulation

In its present format, Part 703 is subdivided into three essentially separate sections. The first, § 703.1, implements the statutory authority provided in sections 107(7)(D) and 107(8) of the Federal Credit Union Act (12 U.S.C. 1757(7)(D) and 1757(8)). These sections provide, respectively, the authority to invest in shares or accounts of federally insured mutual savings banks and savings and loan associations and the authority to make deposits in national banks, wherever located, and in state banks, trust companies and mutual savings banks that operate in accordance with the laws of the state in which the Federal credit union does business. Part 703.1 adds some restrictions to the breadth of these statutory authorizations and refines the geographic limitations that the statute contains.

The second of the regulation's three parts, § 703.2, implements the authority presently codified at § 107(7)(C) of the Federal Credit Union Act (12 U.S.C. 1757(7)(C)) which authorizes Federal credit unions to invest their funds in loans to other credit unions. It has been the NCUA's position that this statutory provision allows Federal credit unions to make advances to other, nonmember credit unions, and thus that it is not a reference to their authority to make loans or to extend lines of credit to member credit unions. Accordingly, § 703.2 first recites the statutorily imposed limitation that the aggregate of all loans and lines of credit extended to other (nonmember) credit unions may not exceed 25% of the lending credit union's paid-in and unimpaired capital and surplus. It imposes a one year maximum maturity limit for all loans and credit lines. Several other procedural requirements, all designed to reflect sound business policy, also are imposed.

The third subdivision of the rule, § 703.3, was added in mid-1979. It restricts or prohibits Federal credit unions from engaging in certain investment activities. The rule reflects NCUA's determination that the specified activities are either beyond the authority of credit unions or represent unsafe or unsound practices. The rule prohibits the use of standby commitments, adjusted trading and short sales, and sets forth limitations regarding cash forward agreements, repurchase and reverse repurchase transactions, and futures contracts. Specific limitations on the purchase and sale of securities are also set forth. The rule was prepared by NCUA in reaction to very specific, concrete examples of losses that credit unions were sustaining as a result of certain speculative activities in the government securities market. The authority for the promulgation of this rule is NCUA's general statutory rulemaking authority.

Request for Comments

The NCUA Board requests public comment concerning the course it should follow with respect to Part 703. That is, public comment is specifically requested on whether the Board should remove or modify any or all of the procedural restrictions presently in place governing the manner in which a Federal credit union may deposit or invest its funds. The Board requests that commenters identify specific provisions of Part 703 that either are unduly burdensome or otherwise unwarranted, or that continue to be justified, and the reasons therefore in either case. Again, it should be noted that provisions that govern exactly what types of investments and what types of deposits may be made, both of which are imposed by statute, will necessarily remain unchanged.

In an effort to provide some initial guidance to this process, staff at NCUA have identified several key issues concerning the regulation. The first subdivision of the regulation contains restrictions on the use of third party brokerage services in connection with the making of deposits. The restriction reflects NCUA's past experience with losses sustained by credit unions in dealing with institutions that utilize a broker to attract deposit money. Comment is sought on whether conditions still warrant this type of restriction and on what voluntary alternatives to the regulation should be employed by credit unions to prevent investment in weak financial institutions through third parties.

This same broad question is raised by the second subdivision of the regulation.

In view of the NCUA Board's action in 1981 substantially deregulating the area of lending in general, the question presented is whether the area of loans to other credit unions represents a risk that warrants a detailed and restrictive regulation. An additional question concerns the interplay of the aggregate 25% of paid in and unimpaired capital and surplus lending limitations contained in the present regulation and based on § 107(7)(C) of the Federal Credit Union Act with the 10% of unimpaired capital and surplus limitation on loans to members, based on section 105 of the Act. Presently, this interplay is dealt with by § 703.2's specific application to loans to nonmember credit unions only.

Quite clearly, the chief substance of Part 703 is contained in its third subdivision, which addresses investment activities. It has been the experience of the NCUA that problems involving investments have arisen not out of a particular type or class of investment, but rather with respect to the method or technique by which the investment is made. Moreover, it has been our experience that some credit union management personnel have been overwhelmed in dealing with sophisticated brokers and complex investment schemes. The third subdivision of the regulation reflects this experience. The existence of the regulation also provides a basis upon which administrative action against dishonest or unscrupulous brokers may be brought. Each of the substantive prohibitions and restrictions set forth in § 703.3 except (b)(5), which is permissive in nature, represents the Agency's view that the various specified transactions are either unsafe or unsound or should be otherwise prohibited. The activities which have been prohibited are standby commitments, loan-type repurchase transactions to parties not authorized by section 107(5) of the Act and futures contracts except as may be incidental to a credit union's operations. All other tansactions are considered to be unsafe and unsound beyond the limits imposed in the regulation. Standby commitments fall into this category also. The Board specifically solicits views and comments on whether any of these restrictions should be modified, strengthened, or eliminated and on what voluntary alternatives credit unions should employ to prevent unsafe and unsound investment activities. Whether additional practices should be addressed is also a concern to the Board. Commentors are advised to support their views with specific documentation and reasoning. Inasmuch as the regulation itself addresses specified, concrete examples of abuses and losses that were in fact occurring, unfocused, generalized comments will be accorded relatively less weight.

The NCUA prepared an Interpretive Ruling, IRPS No. 79-4, to accompany Part 703. Deregulation of Part 703 may result in a corresponding repeal of the Interpretive Ruling. It should be noted, however, that the substance of the Ruling will remain available, in the form of guidances set forth in NCUA's Accounting Manual for Federal Credit Unions.

By the National Credit Union Administration Board, July 7, 1982.

Rosemary Brady,

Secretary of the Board.

[FR Doc. 82-18993 Filed 7-13-82; 8:45 am]

BILLING CODE 7535-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 3, 4, 15, 16, 18, 21, 32, 33, 145, 147, 155, 170, and 180

Domestic Exchange-Traded Commodity Options; Expansion of Pilot Program Provisions

Correction

In FR Doc. 82-17678, appearing at page 28401 in the issue of Wednesday, June 30, 1982, make the following changes:

(1) On page 28422, middle column,

"§ 37.7 Disclosure."

should be changed to read

"§ 33.7 Disclosure."

(2) On page 28423, first column, second paragraph, first line, "option who has" should be changed to read "option who does not have".

(3) On page 28423, middle column, under "(5) PROFIT POTENTIAL OF AN OPTION POSITION.", eighth line, "above" should appear after "rise" and before "or".

BILLING CODE 1505-01-M

DEPARTMENT OF EDUCATION

34 CFR Part 5b

Privacy Act of 1974; Extension of Comment Period

AGENCY: Education Department.

ACTION: Notice of extended comment period.

SUMMARY: A notice of proposed rulemaking was published on May 17, 1982 in FR Vol. 47, No. 95, p. 21096 amending the Privacy Act regulations. The proposed amendment would permit the Office for Civil Rights (OCR) to exempt "Complaint Files and Log" system of records from certain provisions of the Privacy Act of 1974. The comment period on the proposed amendment was scheduled to end on June 16, 1982. The coment period is hereby extended to August 13, 1982.

FOR FURTHER INFORMATION CONTACT: Jean Peelen, (202) 245-0261.

Dated: June 7, 1982.

T. H. Bell,

Secretary of Education.

[FR Doc. 82-19019 Filed 7-13-82; 8:45 am]

BILLING CODE 4000-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 123

[SW-4-FRL 2170-3]

Hazardous Waste Management Program, South Carolina: Application for Interim Authorization, Phase II, Components A and B

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and of a public hearing.

SUMMARY: Today EPA is announcing the availability for public review of the South Carolina application for Phase II, Components A and B, Interim Authorization, Hazardous Waste Management Program, inviting public comment, and giving notice that if significant public interest is expressed, EPA will hold a public hearing on the application.

DATES: If significant public interest is expressed in holding a hearing, a public hearing is scheduled for August 26, 1982 at 7:00 p.m. EPA reserves the right to cancel the public hearing if significant public interest in holding a hearing is not communicated to EPA by telephone or in writing by August 15, 1982. EPA will determine by August 19, 1982 whether there is significant interest to hold the public hearing. All written comments on the South Carolina interim authorization application must be received by the close of business on August 15, 1982.

ADDRESSES: If significant public interest is expressed, EPA will hold a public hearing on South Carolina's application for interim authorization on August 26,

1982, at 7:00 p.m. at the Rutledge Building, Conference Room, Basement Floor, 1429 Senate Street, Columbia, South Carolina.

Written comments on the application and written or telephoned communication of interest in EPA's holding a public hearing on the South Carolina application must be sent to: James H. Scarbrough, Chief, Residuals Management Branch, U.S., EPA, 345 Courtland St., NE., Atlanta, Georgia 30365, 404/881–3016.

If you wish to find out whether or not EPA will hold a public hearing on the South Carolina application based upon EPA's decision that there was significant public interest in such a hearing, write or telephone after August 12, 1982, the EPA contact person listed below or telephone Mr. Robert E. Malpass, Chief, Bureau of Solid and Hazardous Waste Management, South Carolina Department of Health and Environment Control, 2600 Bull Street, Columbia, South Carolina 29201, 803/758–5681.

Copies of the South Carolina Phase II interim authorization application are available during normal business hours at the following addresses for inspection and copying:

South Carolina Department of Health and Environmental Control, Bureau of Solid and Hazardous Waste Management, 2600 Bull Street, Columbia, South Carolina 29201, 803/758–5681

Environmental Protection Agency, Regional Office Library, Room 121, 345 Courtland Street, NE., Atlanta, Georgia 30365, Telephone: 404/881–4216

Written comments should be sent to: James H. Scarbrough, Chief, Residuals Management Branch, U.S. Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365, Telephone: 404/881–3016.

The public hearing will be held at: Rutledge Building, Conference Room, Basement Floor, 1429 Senate Street, Columbia, South Carolina.

FOR FURTHER INFORMATION CONTACT: James H. Scarbrough, Chief, Residuals Management Branch, Environmental Protection Agency, 345 Courtland Street, NE., Telephone: 404/881–3016.

SUPPLEMENTARY INFORMATION: In the May 19, 1980 **Federal Register** (45 FR 33063) the Environmental Protection Agency promulgated regulations, pursuant to the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, as amended, to protect human health and the environment from the improper management of hazardous waste. These regulations included provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified State programs can be granted interim authorization. The interim authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect.

The State of South Carolina received interim authorization for Phase I on February 25, 1981.

In the January 26, 1981 **Federal Register** (46 FR 7965), the Environmental Protection Agency announced the availability of portions or components of Phase II of interim authorization. Component A, published in the **Federal Register** January 12, 1981 (46 FR 2802), contains standards for permitting containers, tanks, surface impoundments and waste piles. Component B, published in the **Federal Register** January 23, 1981 (46 FR 7666), contains standards for permitting hazardous waste incinerators.

A full description of the requirements and procedures for State interim authorization is included in 40 CFR Part 123, Subpart F (45 FR 33479).

As noted in the May 19, 1980 **Federal Register**, copies of complete State submittals for Phase II interim authorization are to be made available for public inspection and comment. In addition, a public hearing is to be held on the submittal.

List of Subjects in 40 CFR Part 123

Hazardous materials, Indian lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

Dated July 6, 1982.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 82–19046 Filed 7–13–82; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3100

Minerals Management and Oil and Gas Leasing; Amendments to the Regulations Covering Oil and Gas Leasing on Federal Lands; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking; Correction.

SUMMARY: This document corrects proposed rulemaking that appeared at 47 FR 28550 on June 30, 1982. The proposed rulemaking revises existing regulations covering oil and gas leasing on Federal Lands. The correction relates to § 3103.3 Royalties, paragraphs (a) through (i). These paragraphs of § 3103.3 were inadvertently omitted during publication of the proposed rule.

DATE: Comments should be received by August 30, 1982.

ADDRESS: Comments or inquiries should be sent to: Director (140), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Richard O. Miller, (202) 343–7753.

SUPPLEMENTARY INFORMATION: In **Federal Register** Document 82–17646 appearing in the June 30, 1982 issue at page 28559, § 3103.3 paragraphs (a) through (i) are inserted to complete the proposed rulemaking. These sections deal with royalty rates on production removed or sold from competitive and non-competitive oil and gas leases.

The following correction is made to **Federal Register** Document 82–17646 appearing in the June 30, 1982 issue at page 28559:

1. On page 28559 column 3 after the third line of paragraph (g) of § 3103.2–2. insert the following material to read as follows:

§ 3103.3 Royalties

Royalty on production shall be payable only on the mineral interest owned by the United States.

§ 3103.3–1 Royalty on production.

(a) The following royalty rates shall be paid on production removed or sold from leases:

(1) 12½ percent royalty on noncompetitive leases;

(2) Such rates as are prescribed in the notice of sale in the case of all leases issued by competitive bidding;

(3) From lands within exchange and renewal leases, the rate of royalty shall be identical to that prescribed in the prior leases, except that for a lease issued in exchange for or as a renewal of a lease carrying a flat royalty rate of 5 percent to the United States, the royalty rate shall be as follows:

(i) When the average production of oil for the calendar month in barrels per well per day is:

Not over 110, the royalty rate shall be 12½ percent:

Over 110, but not over 130, the royalty rate shall be 18 percent of all production.

David G. Houston,

Acting Assistant Secretary of the Interior.

July 8, 1982.

[FR Doc. 82-18923 Filed 7-13-82; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6356]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below and proposed changes to base flood elevations for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., National Flood Insurance Program, (202) 287-0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or Regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Floodplains.

The proposed base (100-year) flood elevations for selected locations are:

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Arizona	Coconino County (unincorporated areas)	Cataract Creek	200 feet downstream from center of Interstate Highway 40.	*6,730
		Cataract Creek tributary	25 feet upstream of city park dam (city reservoir)	*6,880
		Clay Avenue Wash	25 feet upstream from center of Atchison, Topeka and Santa Fe Railroad.	*7,020
		Fanning Drive Wash	Intersection of Wash and Atchison, Topeka and Santa Fe Railroad.	*6,818
		Howard Draw Wash	1,100 feet upstream from confluence with Lower Lake Mary.	*6,807
		Munds Canyon Creek	100 feet upstream from confluence with Oak Creek	*4,570
		Munds Park Wash	Intersection of Walapai Road and Meadowview Road	*6,400
		Oak Creek	80 feet upstream from center of State Highway 179	*4,200
		Rio de Flag	75 feet upstream from center of Doney Park Road	*6,555
		Santa Fe Wash east	100 feet upstream from center of U.S. Highways 66 and 89.	*6,776
		Santa Fe Wash west	100 feet south from intersection of Quartermouse Drive and Fairgrounds Road (intersection within City of Williams FIS panel 0002).	*6,737
		Sinclair Wash	Intersection of Sinclair Street and Palmer Avenue	*6,910
		Soldier Wash	Intersection of Ranger Road and Brewer Road	*4,211
		Switzer Canyon Wash	50 feet upstream from center of Atchison, Topeka and Santa Fe Railroad.	*6,857
		Mormon Lake	Intersection of Fulton Canyon Creek and Mormon Lake Road.	*7,117
		Stoneman Lake	Stoneman Lake	*6,734

Maps available for inspection at Department of Community Development and Department of Engineering, 219 E. Cherry, Flagstaff, Arizona.

Send comments to the Honorable Tio A. Pachias, 219 E. Cherry, Flagstaff, Arizona 86001.

Arizona	Sierra Vista (city), Cochise County	Soldier Creek	Intersection of Sycamore Drive and Langan Avenue	*4,575
		Fab Avenue drainage	100 feet upstream from center of Carmichael Avenue	#2
		Buena No. 3	Intersection of Valerie Lane and Sugler Street	#2

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Fry Boulevard City Park drainage	100 feet upstream from center of Fry Boulevard	#3
Maps available for inspection at Engineering Department, 2400 E. Tacoma, Sierra Vista, Arizona.				
Send comments to the Honorable Mike Schade, 2400 E. Tacoma, Sierra Vista, Arizona 85635.				
Arizona	Williams (city), Coconino County	Cataract Creek	Intersection of 3rd Street and Edison Avenue	#1
		Cataract Creek tributary	100 feet upstream from center of Upper Saginaw Dam	*6,895
		Santa Fe Wash east	Intersection of Quarterhorse Drive and Homestead Road.	*6,734
		Santa Fe Wash west	Intersection of Fulton Avenue and Plum Street	*6,739
		Cemetary Wash	100 feet upstream from center of U.S. Highways 66 and 89.	*6,779
Maps available for inspection at Office of Building Inspection, 113 South First Street, Williams, Arizona.				
Send comments to the Honorable Robert Eddingfield, 113 South First Street, Williams, Arizona 86046.				
Arkansas	City of Malvern, Hot Springs County	Rockport Creek	Just upstream of State Highway 270	*275
		Town Creek	Just upstream of Walco Road	*255
			Just upstream of Laurel Street	*272
			Just upstream of Banks Street	*281
		Chatman Creek	Just upstream of U.S. Highway 67	*275
			Just upstream of Dyer Street	*276
		Tributary to Chatman Creek	Just upstream of State Highway 9	*294
Maps available for inspection at City Hall, 305 Locust Street, Malvern, Arkansas 72104.				
Send comments to Mayor Bill Scrimshire of Mr. Herman Higdon, Building Inspector, City Hall, 305 Locust Street, Malvern, Arkansas 72104.				
California	Fresno County (unincorporated areas)	Alluvial drain	100 feet upstream from center of Temperance Avenue	*391
		Bullard Avenue drainage	100 feet upstream from center of Bethel Avenue	*399
		Central Canal	Intersection of Central Avenue and Cedar Avenue	*285
		Coalmine Canyon Creek	500 feet north along Monterey Avenue from its intersection with Cambridge Avenue.	#1
		Dog Creek	Intersection of Highland Avenue and Bullard Avenue	*399
		Dry Creek	Intersection of Behymer Avenue and Sunnyside Avenue.	*385
		Dry Creek Canal	200 feet upstream from center of California Avenue	*268
		Fancher Creek	Intersection of McKinley Avenue and Greenwood Avenue.	#2
		Fancher Creek Canal	Intersection of Belmont Avenue and Temperance Avenue.	#1
		Fresno Canal	100 feet upstream from center of McCall Avenue	*359
		Greenwood Park drainage	Intersection of Bethel Avenue and Almond Avenue	*356
		Herndon Canal	250 feet downstream from center of McKinley Avenue	*314
		Hog Creek	Approximately 3,000 feet upstream from center of Friant Kern Canal.	*466
		Hughes Creek	100 feet upstream from center of Pine Flat Road	*559
		Kings River	Intersection of river and Goodfellow Avenue	*325
		Kings River east branch	Approximately 70 feet upstream from confluence with Kings River.	*345
		Los Gatos Creek	Intersection of Tractor Avenue and Monterey Avenue	#2
		Mill Creek	Intersection of Live Oak Road and Chaparal Road	#1
		Mill Ditch	Intersection of Brentwood Avenue and Kenmore Drive	*312
		Orange Cove drain	Intersection of South Avenue and Hill Avenue	*400
		Panoche Creek	Intersection of Barstow Avenue and San Diego Avenue.	*165
		Pup Creek	Intersection of Bullard Avenue and Armstrong Avenue	*389
		Redbank Creek	Intersection of Shields Avenue and Leonard Avenue	*359
		Redbank Creek tributary 1	Intersection of Bullard Avenue and creek	*408
		Redbank Creek tributary 2	100 feet upstream from center of Herndon Avenue	*436
		Redbank Creek tributary 3	100 feet upstream from center of Academy Avenue	*447
		Redbank Creek tributary 4	Intersection of Herndon Avenue and Academy Avenue	*433
		Redbank Creek tributary 5	Intersection of Sierra Avenue and Academy Avenue	*425
		San Joaquin River	300 feet upstream from center of Firebaugh-Madera Road.	*143
			200 feet upstream from center of Nork Fork Road	*311
		San Joaquin River B branch	Approximately 900 feet upstream from confluence with San Joaquin River.	*280
		Southern Pacific Railroad drainage	Intersection of J Street and North Avenue (within Sanger Corporate limits).	*365
		Tivy Valley Creek	Intersection of creek and Princeton Avenue	#3
		Warthen Creek	100 feet upstream from center of Alcalder Road	*725
		Weldon Creek	Intersection of Piedra Road and Weldon Avenue	#1
		Wootan Creek	Intersection of Sumner Avenue and Hill Avenue	#1
Maps available for inspection at Department of Resources and Development, 4499 E. Kings Canyon Road, Fresno, California.				
Send comments to the Honorable Harry Huey, 2281 Tulare Street, Hall of Records, Room 301, Fresno, California 93721.				
California	San Mateo County (unincorporated areas)	Colma Creek shallow folloding	200 feet southwest from center of intersection of El Camino Real and E Street.	#2
		Lomita Channel shallow flooding	500 feet northeast center of intersection of Cuardo Avenue and Corte Ana.	*4
		Montara Creek	50 feet upstream from center of State Highway 1	*70
			25 feet upstream from center of Drake Street	*240
		San Vicente Creek	Center of intersection of Nevada Avenue and North Lake Street.	*36
		Denniston Creek	50 feet upstream from center of State Highway 1	*44
		El Granada Creek	Center of intersection of Francisco Street and Alhambra Avenue.	*51

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Intersection of creek and San Carlos Avenue	*108
		Woodhams Creek	Center of intersection of Suano Camino and Roquena Drive.	*584
			25 feet upstream from center of Esmeralda Terrace	*700
		La Honda Creek	50 feet upstream from center of Entrada Way	*397
		San Gregorio and Alpine Creeks	40 feet upstream from confluence with La Honda Creek.	*325
		Pescadero Creek	25 feet upstream from center of State Highway 1	*11
			50 feet upstream from center of Butano Cutoff	*49
		San Francisco Bay	Center of intersection of Pulgas Avenue and O'Conner Street.	*7
			Vicinity of San Francisco International Airport	*7
Maps available for inspection at Department of Public Works, County Government Center, Redwood City, California.				
Send comments to the Honorable Edward J. Bacciocco, Jr., County Government Center, Redwood City, California 94063.				
Colorado	Paonia (town), Delta County	Minnesota Creek	75 feet upstream from center of Minnesota Avenue	*5,700
		North fork Gunnison River	50 feet upstream from center of P Road	*5,621
Maps available for inspection at Town Hall, 226 Grand Avenue, Paonia, Colorado.				
Send comments to the Honorable Donald Wood, Box 460, Paonia, Colorado.				
Connecticut	East Haven, town, New Haven County	Long Island Sound	Entire shoreline within community	*15
Maps available for inspection at the Town Engineer's Office, 250 Main Street, East Haven, Connecticut.				
Send comments to the Honorable Anthony Proto, Jr., Mayor of East Haven, Town Hall, 250 Main Street, East Haven, Connecticut 06512.				
Connecticut	Milford, city, New Haven County	Long Island Sound	Entire shoreline from Oyster River to Housatonic River	*15
			Milford Harbor	*11
Maps available for inspection at the Office of Planning and Zoning, City Hall, Milford, Connecticut.				
Send comments to the Honorable Henry Povinelli, Mayor of Milford, City Hall, Milford, Connecticut 06460.				
Connecticut	Torrington, city, Litchfield County	Naugatuck River	Downstream corporate limits	*515
			Boque Road (upstream side)	*519
			Palmer Street (upstream side)	*525
			Confluence of east branch Naugatuck River and west branch Naugatuck River.	*532
		East branch Naugatuck River	Confluence with Naugatuck River	*532
			East Pearl Street (upstream side)	*557
			State Route 4 (upstream side)	*597
			Duggan Road (upstream side)	*656
			Approximately 2,565' upstream of Duggan Road	*718
			Approximately 1,030' downstream of east branch dam	*775
		West branch Naugatuck River	Confluence with Naugatuck River	*532
			Prospect Street (upstream side)	*554
			Church Street (upstream side)	*586
			Wolcott Avenue (upstream side)	*603
			Union Hardware Dam (upstream side)	*631
			Approximately 2,760' downstream of Hodges Hill Road	*675
			Confluence of Drake Pond Brook	*741
			Confluence of Hart Brooks	*786
			Hall Meadow Brook Dam (downstream side)	*843
		Still River	Downstream corporate limits	*709
			Greenwood Road (upstream side)	*717
			Harris Drive (upstream side)	*729
			Upstream of Winsted Road	*734
		Nickel Mine Brook	Confluence with west branch Naugatuck River	*641
			Crystal Pond Dam (upstream side)	*726
			Town farm road (upstream side)	*770
			Allen Dam (upstream side)	*787
		Gulf Stream	Confluence with Naugatuck River	*527
			Conrail (upstream side)	*568
			Bellview Avenue (upstream side)	*605
			U.S. Route 202 and State Route 25 (upstream side) (downstream crossing).	*841
			U.S. Route 202 and State Route 25 (upstream side) (upstream crossing).	*888
			Approximately 100' upstream of Peck Road	*960
Maps available for inspection at the Building Department, Municipal Building, Torrington, Connecticut.				
Send comments to Honorable Michael J. Conway, Mayor of Torrington, Municipal Building, Torrington, Connecticut 06790.				
Connecticut	West Haven, city, New Haven County	Long Island Sound	From West River to a point approximately 130 feet north of May Street (extended).	*13
			From a point approximately 130 feet north of May Street (extended) to a point approximately 1,360 feet south of Arlington Street (extended).	*14
			From a point approximately 1,360 feet south of Arlington Street (extended) to Ocean Avenue (Route 162).	*15
Maps available for inspection at the Planning and Zoning Commission Offices, City Hall, 355 Main Street, West Haven, Connecticut.				
Send comments to Honorable Robert A. Johnson, Mayor of West Haven, City Hall, 355 Main Street, West Haven, Connecticut 06516.				
Florida	Alachua County (unincorporated areas)	Hatchet Creek	50 feet upstream from center of State Highway 24	*116
		Hatchet Creek	50 feet upstream from center of State Highway 24	*122
		Hogtown Creek	50 feet upstream from center of Southwest 20th Avenue.	*80

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Hogtown Creek tributary 2	80 feet upstream from center of Northwest 43rd Avenue.	*166
		Little Hatchet Creek	Confluence with Little Hatchet Creek tributary 1	*[illegible]
		Little Hatchet Creek tributary 1	200 feet upstream of confluence with Little Hatchet Creek.	*[illegible]
		Newnans Lake tributary 1	100 feet upstream from center of Southeast 43rd Street.	*109
		Newnans Lake tributary 2	100 feet upstream from confluence with Newnans Lake tributary 1.	*71
		Newnans Lake tributary 3	Center of intersection of stream and East University Avenue.	*118
		Sweetwater Branch	60 feet southeast from center of intersection of stream and Southeast 11th Street.	*[illegible]
		Tumbin Creek	150 feet upstream from mouth	*67

Maps available for inspection at Planning Department, City Administration Building, Gainesville, Florida.

Send comments to Honorable Ed Turlington, P.O. Drawer CC, Gainesville, Florida 32602.

Georgia	City of Covington, Newton County	Dried Indian Creek	Just upstream of Clark Street	*701
			Just upstream of Interstate Highway 20	*722
		Dried Indian Creek tributary No. 1	Just upstream of Rebecca Street	*674
			Just upstream of Thompson Avenue	*723
		Dried Indian Creek tributary No. 2	Approximately 100 feet downstream of Interstate Highway 20 (State Highway 402).	*720
		Yellow River tributary	Just downstream of State Highway 28	*[illegible]

Maps available for inspection at City Hall, 2111 Conyers Street, Covington, Georgia 30209.

Send comments to Mayor W. L. Dobbs or Mr. Frank B. Turner, City Manager, City Hall, 2111 Conyers Street, Covington, Georgia 30209.

Illinois	(V) London Mills, Fulton County	Spoon River	About 1,100 feet downstream of State Route 116	*532
			About 1,850 feet upstream of 2nd Street	*[illegible]
		Tributary to Swegle Creek	Just upstream of State Route 116	*533
			At upstream corporate limits (about 1,240 feet upstream of county boundary).	*[illegible]

Maps available for inspection at the Village Hall, P.O. Box 113, London Mills, Illinois.

Send comments to Honorable Mary Lue Riley, Village President, Village of London Mills, Village Hall, P.O. Box 113, London Mills, Illinois 61544.

Iowa	(C) Creston, Union County	Hurley Creek	Just upstream of Adams Street	*1,245
			Just downstream of Spruce Street	*1,254
			Just upstream of Spruce Street	*1,257
			Just upstream of Division Street	*1,260
			Just downstream of Townline Road Dam	*1,275
		Hurley Creek tributary	At confluence with Hurley Creek	*1,250
			Just upstream of Spencer Street	*1,256
			Just upstream of Prairie Street	*1,271
			About 880 feet upstream of Prairie Street	*1,274
		Lake McKinley	Shoreline	*1,244
		Hurley Creek Reservoir	Shoreline	*1,286

Maps available for inspection at the City Clerk's Office, City Hall, 116 West Adams, Creston, Iowa.

Send comments to Honorable Terry Donahue, Mayor, City of Creston, City Hall, 116 West Adams, Creston, Iowa 50801.

Iowa	(C) Elm Run Heights, Black Hawk County	Elk Run Creek	About 300 feet downstream of Lafayette Road	*[illegible]
			About 0.26 mile upstream of Gilbertville Road	*[illegible]

Maps available for inspection at the City Hall, 5042 Lafayette, Elk Run Heights, Iowa 50707.

Send comments to Honorable William Henninger, Mayor pro tem, City of Elk Run Heights, City Hall, 5042 Lafayette, Elk Run Heights, Iowa.

Iowa	(Uninc.) Pottawattamie County	Keg Creek	About 1.1 miles downstream of County Road L-66	*1,179
			About 0.38 mile upstream of County Road L-66	*1,186
		West Nishnabotna	About 1,300 feet upstream of U.S. Highway 6	*1,076
			About 2.7 miles upstream of U.S. Highway 6	*1,086
			About 0.5 mile downstream of County Road G30	*1,106
			About 1.4 miles upstream of County Road G30	*1,112
			About 0.5 mile downstream of State Highway 83	*1,130
			Just downstream of Interstate 80	*1,137
		East branch West Nishnabotna River.	About 0.9 mile downstream of State Highway 83	*1,134
			About 0.5 mile upstream of State Highway 83	*1,141
		Missouri River	At downstream county boundary	*972
			About 6,800 feet upstream of north county boundary	*1,002
		Pony Creek	About 800 feet upstream of confluence with Missouri River.	*975
			Just upstream of U.S. Highway 275	*1,009
			About 1.1 miles upstream of County Highway G66	*1,029
		Mosquito Creek	About 0.8 mile downstream of Chicago, Rock Island and Pacific Railroad.	*991
			Just upstream of Chicago, Rock Island and Pacific Railroad.	*996
			About 3 miles downstream of State Highway 191 (downstream crossing).	*1,021
			Just upstream of County Road G30	*1,057
			About 0.7 mile upstream of State Highway 191 (near City of Neola).	*1,090
		Mosquito Creek bypass	About 0.8 mile downstream of divergence with Mosquito Creek.	*1,066
			At divergence with Mosquito Creek	*1,066

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Neola Creek	Mouth at Mosquito Creek	*1,088
			About 0.8 mile upstream of mouth	*1,101
		Shallow flooding (overflow from Boyer River).	Intersection of County Road G14 and County Road L19.	#3
			Area just east of Boyer River and west of Interstate 29 and Interstate 80 Interchange.	#3
			Area just east of Interstate 29, west of Illinois Central Gulf Railroad and about 3,500 feet north of Interstate 80.	#3
			Area about 1,500 feet north of intersection between Illinois Central Gulf Railroad and Chicago and North Western Railroad.	#3
		Shallow flooding (overflow from Pigeon Creek).	At the Chicago and North Western Railroad crossing over.	#3

Maps available for inspection at the County Auditor's Office, Pottawattamie County Courthouse, 227 South Sixth Street, Council Bluffs, Iowa.

Send comments to Honorable Hubert Houser, Chairman of the County Board of Supervisors, Pottawattamie County, Pottawattamie County Courthouse, 227 South Sixth Street, Council Bluffs, Iowa 51501.

Kansas	(C) El Dorado, Butler County	Walnut River	Downstream corporate limit	*1,271
			Upstream corporate limit	*1,281
		Constant Creek	Just downstream Douglas Road	*1,276
			Just downstream Central Avenue	*1,313
			About 900 feet upstream Sixth Avenue	*1,326
		West branch Walnut River	Mouth at Walnut River	*1,280
			About 1.4 mile upstream confluence with tributary A	*1,297
		Tributary A	Mouth at west branch Walnut River	*1,292
			Just downstream Topeka Street	*1,297

Maps available for inspection at the City Hall, P.O. Box 762, El Dorado, Kansas.

Send comments to Honorable Max G. Main, Mayor, City of El Dorado, City Hall, P.O. Box 762, El Dorado, Kansas 67042.

Louisiana	City of Bossier City, Bossier Parish	Alligator Bayou	Just upstream of U.S. Highway 79–80 Westbound	*163
		Benoit Bayou	Approximately 400 feet downstream of Greenacres Boulevard	*170
		Bossier City ditch	Just downstream of Bailey Drive	*165
			Just upstream of Airline Drive	*166
			Just upstream of Waller Avenue	*167
		Herndon ditch	Confluence of Herndon ditch and Macks Bayou segment B.	*158
		Lateral B–1	Just downstream of Illinois Central Gulf Railroad	*167
			Just upstream of Shed Road	*168
		Lateral B–4	Just downstream of Airline Drive	*158
		Lateral C–16	Gail Street extended	*158
		Macks Bayou segment A	Just upstream of Golden Meadow Drive	*157
		Macks Bayou segment B	Just downstream of Farm Road 1	*159
		Macks Bayou segment D	Just upstream of Third Street South	*164
			Just upstream of North Gale Road	*167
		Macks Bayou segment E	Just downstream of Industrial Drive Gate	*160
		Macks Bayou segment F	Just upstream of Industrial Drive	*161
			Just upstream of Westbound U.S. Highways 79–80	*164
			Just downstream of Swan Lake Road	*165
		Macks Bayou segment G	Just upstream of Profit Lane Bridge	*166
		Macks Bayou segment H	Just upstream of Interstate Highway 220	*166
		Macks Bayou lateral	Golden Meadow Drive extended	*159
		New High School ditch	Just downstream of Benton Road	*162
		Red Chute Bayou (upstream)	Just upstream of Illinois Central Gulf Railroad	*161
			Just downstream of Kansas City Southern Railroad	*163
		Red River	Just downstream of Long-Allen Bridge (Texas Street)	*166
		Shady Grove ditch and Macks Bayou segment C.	Just upstream of Shady Grove Drive	*159
		Shallow flooding	Intersection of Malvern Street and Shiloh Lane	*167
			Intersection of Belle Grove Drive and North Side Drive	*168

Maps available for inspection at City Hall, 635 Barksdale Boulevard, Bossier City, Louisiana 71111.

Send comments to Mayor Marvin Anding or Mr. Dean Holt, Director, Metropolitan Planning Division, City Hall, P.O. Box 5337, Bossier City, Louisiana 71111.

Louisiana	Unincorporated areas of Bossier Parish	Benoit Bayou	Just upstream of Swan Lake Road	*167
			Just upstream of Brownlee Road	*173
		Fill Bayou	Just downstream of U.S. Highways 79 and 80	*168
			Just upstream of Smith Chapel-Princeton Road	*177
		Flat River (middle)	Approximately 3,000 feet upstream of Coy Road	*165
		Flat River (drainage canal)	Just downstream of Vanceville-Linton Road	*172
		Flat River (downstream)	Approximately 140 feet upstream of State Highway 612.	*156
		Lateral B–4	Approximately 700 feet downstream of private road	*167
		Herndon ditch	Approximately 1,200 feet upstream of Farm Road	*157
		Macks Bayou segment A	Just downstream of U.S. Highway 71	*157
		Macks Bayou segment H	Approximately 750 feet upstream of the confluence of Benoit Bayou.	*166
		Macks Bayou lateral	Approximately 1,700 feet upstream of confluence with Macks Bayou segment A.	*158
		Red Chute Bayou (downstream)	Approximately 2,000 feet upstream of Smith Road	*154
		Red Chute Bayou (upstream)	Approximately 650 feet downstream of Kansas City Southern Railroad.	*163
		Red River	Approximately 200 feet downstream of Kings Highway Bridge.	*163

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Shady Grove ditch and Macks Bayou segment C.	Approximately 650 feet downstream of Bayou Road	*158
		Willow Chute segment A	Just upstream of Modica Lane	*170
		Willow Chute segment B	Just upstream of Kingston Deans Point Road	*173
		Willow Chute segment C	Just downstream of Kingston Deans Point Road	*173
		Willow Chute segment D	Just downstream of Dukedale Road	*175
Maps available for inspection at Bossier Parish Courthouse, Benton, Louisiana 71006.				
Louisiana	Town of Delcambre, Vermilion and Iberia Parishes	Vermilion Bay/Delcambre Canal	Just upstream of Southern Pacific Railroad	*12
Maps available for inspection at Town Hall, 107 North Railroad, Delcambre, Louisiana 70528.				
Send comments to Mayor L. P. Mayard or A Trahan, Mayor Pro-tem, Town Hall, 107 North Railroad, Delcambre, Louisiana 70528.				
Louisiana	Town of Erath, Vermilion Parish	Vermilion Bay/Tigre Bay	At the intersection of Broadway (Highway 685) and Highway 14.	*11
Maps available for inspection at Town Hall, 115 West Edwards, Erath, Louisiana 70533.				
Send comments to Mayor Leroy Suire or Nolwyn G. Lee, Town Clerk, Town Hall, 115 West Edwards, Erath, Louisiana 70533.				
Louisiana	Town of Madisonville, St. Tammany Parish	Lake Pontchartrain	Intersection of drainage canal and State Highway 1077.	*17
			Intersection of Main Street and Jahncke Street	*11
			Intersection of Ponchatoula Avenue and 8th Street	*11
Maps available for inspection at Town Hall, P.O. Box K, Madisonville, Louisiana 70447.				
Send comments to Mayor Peter Glitz or Mitzi Pitton, Town Clerk, Town Hall, P.O. Box K, Madisonville, Louisiana 70447.				
Louisiana	Town of Mandeville, St. Tammany Parish	Lake Pontchartrain	Along the seawall	*16
			Along Illinois Central Gulf Railroad	*12
Maps available for inspection at Town Hall, 3101 East Causeway Approach, Mandeville, Louisiana 70448.				
Send comments to Mayor Ray Foil or Delia Hagan, Town Clerk, 3101 East Causeway Approach, Mandeville, Louisiana 70448.				
Louisiana	Town of Scott, Lafayette Parish	Lateral F2	Approximately 650 feet upstream from Provost Drive	*33
		Lateral F	Approximately 310 feet downstream from GL Landry Road.	*36
		West Coulee Mine	At the intersection of Wheat Circle and Mills Street	*38
Maps available for inspection at Town Hall, Lions Club Road, Scott, Louisiana 70583.				
Send comments to Mayor Eddy Richard, Town Hall, P.O. Box 144, Scott, Louisiana 70583.				
Louisiana	City of Shreveport, Caddo Parish	Red River	Just downstream of 70th Street	*162
			Just upstream of the Long Allen Bridge	*166
		Cross Bayou	Approximately 1,400 feet downstream of Hearne Avenue (LA Highway 3094).	*168
			Just upstream of the Texas and Pacific Railroad	*169
		Twelve Mile Bayou	Approximately 4,800 feet upstream of State Highway 3054.	*169
			Just upstream of U.S. Highway 71	*170
		Cross Bayou lateral	Just downstream of Holzman Street	*172
			Just upstream of Abbie Street	*175
		McCain Creek	Just downstream of Private Bridge	*179
			Just downstream of Pine Hill Road	*181
		County Club lateral	Just downstream of Lake Shore Drive	*178
			Just upstream of Hassett Avenue extended	*185
		Galaxy lateral	Just upstream of Jefferson Paige Road	*186
		Bickham Bayou	Just upstream of Jefferson Paige Road	*187
			Just downstream of Pines Road	*213
		Boggy Bayou	Just downstream of U.S. Highway 171	*198
			Just downstream of Southern and Pacific Railroad (abandoned).	*174
		Gilmer Bayou	Approximately 400 feet upstream of Colquitt Road	*172
			Just upstream of Flournoy-Luces Road	*182
			Just downstream of corporate limits which is Broadacres Road extended.	*210
			Just downstream of Buncombe Road	*218
		Southwood High lateral	Just upstream of Canal Drive extended	*189
			Just upstream of Dean Road extended	*192
		Industrial Park lateral	Just upstream of Southern Pacific Railroad (abandoned).	*177
			Just upstream of Buncombe Road	*206
			Just upstream of Industrial Loop Expressway	*206
			Just upstream of Woolworth Road	*215
		Francis Shirley lateral	Just upstream of Woolworth Road	*213
		Lincoln Memorial Park lateral	Just downstream of Industrial Loop Expressway	*201
			Just upstream of Buncombe Road	*206
			Just downstream of Texas and Pacific Railroad	*211
		Brush Bayou	Just upstream of U.S. Highway 171	*186
			Just upstream of West 70th Street	*182
			At Meadow Avenue	*186
		Brookwood lateral	Just upstream of Kingston Road	*170
			Just upstream of Acacia Lane	*176
		75th Street drainage	Just upstream of Wyngate Circle	*184
			Just upstream of Wallace Avenue	*180
		Airport ditch	Just downstream of Southern Pacific Railroad	*186
			At Jewella Road	*194
			Just upstream of Texas and Pacific Railroad	*204

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just upstream of Meriwether Road	*200
		Hollywood lateral	Just upstream of West 70th Street	*200
			Just upstream of Powell-Broadway Street	*209
			Just downstream of Kennedy Street	*213
		Werner Park lateral	Just upstream of Waggoner Street	*201
			Just downstream of Bibb Street	*213
		Southern Hills lateral	Just upstream of Darlington Court extended	*172
			Just downstream of Southern Pacific Railroad	*[illegible]
		Bayou Pierre	Just upstream of Flourney Lucas Road	*[illegible]
			Just upstream of Ockley Drive	*[illegible]
			Just upstream of King's Highway	*[illegible]
		Bayou Pierre lateral (Gilbert Atch)	Approximately 100 feet upstream of Radcliff Street	*[illegible]
			Approximately 80 feet upstream of Wilder Street	*[illegible]
		Ockley ditch	Just upstream of Line Avenue	*173
			Just upstream of Kansas City Southern Railroad	*190
		Sand Beach Bayou	Just downstream of Industrial Loop Expressway	*160
		South Broadmoor lateral	Just upstream of Village Green Drive extended	*160
			Just upstream of State Highway 1	*160
		Old River	Just upstream of State Highway 1	*162
			Just downstream of East 70th Street	*167
Maps available for inspection at City Engineer's Office, City Hall Annex, 1237 Murphy Avenue, Shreveport, Louisiana 71130.				
Maryland	Cecil County	Chesapeake Bay	Shoreline from confluence of the Sassafras River to Rocky Point.	*11
			Shoreline from Rocky Point to confluence of the Susquehanna River.	*12
		Northeast River	Entire shoreline within corporate limits	*12
		Elk River	Shoreline from Turkey Point to Greenbush Point	*11
			Shoreline from Stony Point to confluence of Little Elk Creek.	*12
		Bohemia River	Entire shoreline within corporate limits	*12
		Back Creek	Entire shoreline within corporate limits	*12
		Susquehanna River	Shoreline from confluence with Chesapeake Bay to State Route 276 (extended).	*12
			Town of Port Deposit northern corporate limits (extended).	*15
			Canal Road (extended)	*18
			Private Road (extended)	*27
			Confluence of Octoraro Creek	*30
			Conowingo Road (downstream side)	*38
		Big Elk Creek	Town of Elkton northern corporate limits	*27
			State Route 279 (upstream side)	*36
			Ricketts Mill Road (upstream side)	*41
			Private Road (extended)	*52
			Interstate Route 95 (downstream side)	*64
		Northeast Creek	Town of Northeast northern corporate limits	*17
			Confluence of Little Northeast Creek	*33
			U.S. Route 40 (downstream side)	*36
			Chessie System (downstream side)	*72
		Little Northeast Creek	Confluence with Northeast Creek	*37
			Mechanics Valley Road (upstream side)	*52
			Chessie System (downstream side)	*80
		Little Elk Creek	From confluence with the Elk River to CONRAIL (upstream side).	*12
			Wood Trestle Bridge (upstream side)	*16
			Confluence of Dogwood Run	*22
		Stone Run tributary 1	Confluence with Stone Run	*275
			Mount Street (upstream side)	*303
			Town of Rising Sun downstream corporate limits	*316
			State Route 273 (downstream side)	*340
		Mill Creek	Town of Perryville corporate limits	*74
			U.S. Route 40 (upstream side)	*105
			Reservoir Road (upstream side)	*163
			Jackson Station Road (upstream side)	*222
			Pricipio Road (upstream side)	*284
		West branch	State boundary	*101
			Chestnut Drive (upstream side)	*128
			Chessie System (upstream side)	*153
		Stone Run tributary 2	Confluence with Stone Run	*271
			State Route 273 (upstream side)	*311
Maps available for inspection at the Cecil County Courthouse, Room 210, Elkton, Maryland.				
Send comments to Honorable Robert Adams, President of the Cecil County Board of Commissioners, County Courthouse, Room 210, Elkton, Maryland 21921.				
Massachusetts	Hull, town, Plymouth County	Hull Bay	South shore Peddocks Island to Highland Avenue extended into Hull Bay.	*11
			Highland Avenue extended into Hull Bay to approximately 900 feet south of Lewis Street extended into Hull Bay.	*10
			Approximately 900 feet south of Lewis Street extended into Hull Bay of the confluence of the Weir River.	*11
		Weir River	Confluence with Hull Bay to George Washington Boulevard.	*11
			George Washington Boulevard to Hull Street	*12
			Hull Street to confluence of Straits Pond	*9
		Straits Pond	Entire shoreline	*9

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Massachusetts Bay	Hull-Hingham-Conhasset corporate limits to approximately 1,900 feet west of Summit Avenue along Massachusestts Bay shoreline.	*20
			Approximately 2,700 feet west of Summit Avenue along Massachusetts Bay shoreline to Gun Rock.	*25
			Phillips Road extended into Massachusetts Bay to Warren Street extended into Massachusetts Bay.	*19
			Warren Street extended in Massachusetts Bay to Point Allerton.	*17
			Point Allerton to Paddocks Island	*20

Maps available for inspection at the Office of the Building Commissioner, Town Offices, Hull, Massachusetts.

Send comments to Honorable Reno Constantinites, Chairman of the Hull Board of Selectmen, Town Offices, Hull, Massachusetts 02045.

Michigan	(C) Battle Creek, Calhoun County	Kalamazoo River	At downstream corporate limits	*804
			About 1,200 feet upstream of Kendall Street	*812
			About 2,650 feet downstream of Columbia Avenue	*832
			About 8,475 feet upstream of Columbia Avenue	*837
		Battle Creek River	At confluence with Kalamazoo River	*812
			Just upstream of Conrail (near Division Street)	*825
			Just upstream of Verona Dam	*828
			At upstream corporate limits	*830
		Sperry drain	At mouth	*806
			Just downstream of Michigan Avenue	*811
			Just upstream of Michigan Avenue	*819
			Just upstream of Limit Street	*824
			Just upstream of Waubascon Road	*849
			At upstream corporate limit	*850
		Sperry drain-west channel	At mouth	*807
			At divergence with Sperry drain	*810
		Waubescon Creek	At downstream corporate limit	*812
			At upstream corporate limit	*816

Maps available for inspection at the City Hall, East Michigan Avenue at East Division Street, Battle Creek, Michigan.

Send comments to Honorable Floyd Ogleaby, Mayor, City of Battle Creek, City Hall, East Michigan Avenue at East Division Street, P.O. Box 1717, Battle Creek, Michigan 49014.

Michigan	(Twp.) Battle Creek, Calhoun County	Minges Brook	Just upstream of Interstate 94	*864
			About 50 feet upstream of Riverside Drive	*872
			About 50 feet upstream of Capitol Avenue, S.W.	*888
			Just downstream of S. Minges Road	*906
			Just upstream of S. Minges Road	*912
			Just downstream of Watkins Road	*921
		Goguac Lake	Shoreline	*912

Maps available for inspection at the Town Hall, 359 W. Territorial Road, Battle Creek, Michigan.

Send comments to Honorable Richard Wentworth, Supervisor, Township of Battle Creek, Town Hall, 359 W. Territorial Road, Battle Creek, Michigan 49015.

Nebraska	(V) Yutan, Saunders County	Clear Creek	About 400 feet downstream of county road (at southern extraterritorial limit).	*1,141
			Just downstream of State Highway 92	*1,146
			Just upstream of State Highway 792	*1,152
			Just upstream of Union Pacific Railroad	*1,163
			Just downstream of county road (at western extraterritorial limit).	*1,180
		Upper Clear Creek	At mouth	*1,143
			Just upstream of Burlington Northern Railroad	*1,148
			Just downstream of County Road (at northern extraterritorial limit).	*1,173
		Platte River (riverward of levee)	Just south of Hillside Avenue at eastern extraterritorial limit.	*1,126
			About 3,000 feet north of Hillside Avenue at eastern extraterritorial limit.	*1,130
		Platte River (landward of levee)	About 300 feet north of Hillside Avenue at eastern extraterritorial limit.	*1,130
			Just south of County Road at north eastern extraterritorial limit.	*1,132

Maps available for inspection at the City Hall, Yutan, Nebraska.

Send comments to Honorable Steve Hayes, Mayor, Village of Yutan, City Hall, Yutan, Nebraska 68073.

Nevada	Mineral County (unincorporated areas)	Cottonwood Creek alluvial fan flooding.	Intersection of Kenneth Drive and Cottonwood Drive	#3
		Shallow flooding	80 feet west from center of intersection of Randel Street and U.S. Highway 95.	*4,085
		Corey, Powell, and Little Squaw Creeks alluvial fan flooding.	Intersection of 1st Street and State Highway 31	#1
		Luning area alluvial fan flooding	1.3 miles south of intersection of State Highway 23 and U.S. Highway 95.	#1

Maps available for inspection at County Clerk and County Treasurer's Office, 1st and A Streets, Hawthorne, Nevada.

Send comments to the Honorable Harry L. Poe, P.O. Box 1457, Hawthorne, Nevada.

New Hampshire	Hancock, town, Hillsborough County	Contoocook River	Downstream corporate limits	*683
			At Forest Road	*686
		Moose Brook	Approximately 100' downstream of dirt road	*824
			Upstream of Longview Road	*835
			Approximately 3,000' upstream of Longview Road	*836
		Ferguson Brook	Approximately 7,600' downstream of State Route 137	*724

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Downstream of State Route 137 (Sand Hill Road)	*737
			Approximately 700' upstream of State Route 137	*753
		Hosley Brook	Approximately 1,200' downstream of Hunts Pond Road	*1,169
			Upstream Hunts Pond Road	*1,194
			Approximately 900' upstream of Hunts Pond Road	*1,198

Maps available for inspection at the Selectmen's Office, Hancock, New Hampshire.

Send comments to Honorable Robert Kierstead, Chairman of the Hancock Board of Selectmen, School Street, Box 6, Hancock, New Hampshire 03449.

New Jersey	Bass River, township, Burlington County	Great Bay	Mullica River shoreline	*9

Maps available for inspection at the Municipal Building, New Gretna, New Jersey.

Send comments to Honorable Floyd West, Mayor of Burlington Township, P.O. Box 135, New Gretna, New Jersey 08224.

New Jersey	East Windsor, township, Mercer County	Millstone River	Downstream corporate limits	*72
			Upstream Old Cranbury Road (Old York Road)	*81
			Upstream New Jersey Turnpike	*91
			Upstream corporate limits	*98
		Rocky Brook	At confluence with Millstone River	*78
			Upstream of Ward Street	*90
			Upstream of ETRA Lake Dam	*99
			Upstream of Disbrow Hill Road	*108
		Bear Creek	Downstream corporate limits	*84
			At upstream corporate limits	*94
		Big Bear Brook	Downstream corporate limits	*88
			At Dutch Neck Road	*98
			Upstream of Oak Creek Drive	*97
			Upstream of U.S. Route 130	*108

Maps available for inspection at the Office of the Township Clerk, Municipal Building, Ward Street, East Windsor, New Jersey.

Send comments to Honorable Leonard J. Millner, Mayor of East Windsor, Municipal Building, Ward Street, East Windsor, New Jersey 08520.

New Jersey	Middletown, township, Monmouth County	Swimming River	Downstream Newman Springs Road	*1
			Downstream northbound Lane Garden State Parkway	*1.
			Downstream Normandy Road	*2.
			Downstream Swimming River Road	*9
		Claypit Creek	Upstream Locust Avenue	*12
			Upstream Lakeside Avenue	*9
		McGlees Creek	Upstream Cooper Road	*19
			Upstream Whipporwill Valley Road	*29
			Downstream Chapel Hill Road	*40
			Upstream Sleepy Hollow Road	*9
		Porlcy Brook	Downstream Conrail	*25
			At Navesink River Road	*45
			Downstream Normandy Road	*64
			Approximately 900 feet upstream of Middletown-Lincroft Road.	
		Nut Swamp Brook	Upstream private drive	*17
			Downstream Garden State Parkway	*27
			Upstream Middletown-Lincroft Road	*50
		Jumping Brook	Downstream West Front Street	*18
			Upstream Leedsville Drive	*40
			Approximately 1,150 feet upstream Middletown-Lincroft Road.	*46
		Mahorse Brook	Downstream corporate limits	*38
			Downstream Holland Road	*76
			Upstream corporate limits	*104
		Whackasack Creek	Downstream corporate limits	*22
			Downstream Cherry Tree Farm Road	*35
		Comptons Creek	Upstream Campbell Avenue	*12
			Downstream Leonardville Road	*14
		Town Brook	Downstream Park Avenue	*17
			Upstream Swartzel Drive	*31
			Downstream Spruce Drive	*48
		Raritan Bay	Entire shoreline within community	*18
		Navesink River	Shoreline from confluence with Shrewsbury River to Conover Lane extended.	*12
			Shoreline from Conover Lane extended to State Route 35.	*10
		Shrewsbury River	Entire shoreline within community	*12

Maps available for inspection at the Town Hall, One Kings Highway, Middletown, New Jersey.

Send comments to Honorable Frank A. Selt, Mayor of Middletown Township, One Kings Highway, Middletown, New Jersey 07748.

New Jersey	Newton, town, Sussex County	Moore's Brook	Downstream corporate limits	*561
			East Clinton Street (downstream side)	*574
			Lake Avenue (downstream side)	*612
			Upstream corporate limits	*633
		Mill Street tributary	Confluence with Moore's Brook	*588
			Clinton Street (upstream side)	*591
			Mill Street (upstream side)	*596

Maps available for inspection at the Town Hall, 39 Trinity Street, Newton, New Jersey.

Send comments to Honorable John Iliff, Mayor of Newton, 39 Trinity Street, Newton, New Jersey 07860.

New Jersey	South Hackensack, township, Bergen County	Hackensack River	In southern portion of community in vicinity of U.S. Route 46.	*9
		Saddle River	Downstream corporate limits	*18

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		West River ditch	Upstream corporate limits	*20
			Interstate Route 80 (downstream side)	*5
Maps available for inspection at the Municipal Building, 227 Phillips Avenue, South Hackensack, New Jersey.				
Send comments to Honorable Anne Kennis, Mayor of South Hackensack Township, 227 Phillips Avenue, South Hackensack, New Jersey 07606.				
New Mexico	City of Alamogordo, Otero County	Flow path 1	Just downstream of 24th Street	*4,380
			Just upstream of Fairgrounds Road	*4,413
		Flow path 2	Just upstream of Scenic Drive	*4,580
			Just upstream of State Highway 200	*4,595
		Flow path 3	Just upstream of Southern Pacific Railroad	*4,359
			Just upstream of Washinmgton Avenue	*4,410
			Just upstream of Scenic Drive	*4,573
		Flow path 4	Just upstream of the culvert inlet on Mountain View Avenue.	*4,266
			Just downstream of 16th Street	*4,406
		Flow path 5	Approximately 60 feet upstream of Southern Pacific Railroad.	*4,310
			Just upstream of the culvert inlet on White Sands Boulevard.	*4,320
			Just upstream of Abbott Avenue	*4,412
		Flow path 6	Just upstream of 10th Street	*4,509
			Approximately 80 feet upstream of the culvert inlet on Shawnee Trail.	*4,580
		Flow path 7	Just downstream of Bellamah Drive	*4,405
			Just downstream of Sunshine drive	*4,511
		Flow path 8	Just upstream of Washington Avenue	*4,367
			Just downstream of Del Norte Drive	*4,418
		Flow path 9	Approximately 100 feet upstream of Southern Pacific Railroad.	*4,320
			Approximately 120 feet upstream of the culvert inlet on U.S. Highway 54 and 70 (White Sands Boulevard).	*4,323
		Flow path 10	Approximately 70 feet upstream of Southern Pacific Railroad.	*4,311
			Just upstream of the culvert inlet on U.S. Highway 54 and 70 (White Sands Boulevard).	*4,320
		Flow path 11	Just downstream of West 1st Street	*4,317
			Just downstream of Southern Pacific Railroad	*4,319
		Flow path 12	Just upstream of South Florida Avenue	*4,373
			Just upstream of Canyon Road	*4,543
		Flow path 13	Just upstream of 24th Street	*4,379
			Just downstream of Hawaii Avenue	*4,405
		Flow path 14	Just upstream of Canal Street	*4,361
		Flow path 15	Just upstream of confluence with flow path 8	*4,420
			Just upstream of confluence of flow path 28	*4,430
		Flow path 16	Just upstream of South Florida Avenue	*4,360
			Just upstream of Canyon Road	*4,557
		Flow path 17	Just downstream of Collins Avenue	*4,219
			Just downstream of Southern Pacific Railroad	*4,300
		Flow path 18	Just downstream of Airport Road	*4,169
			Just downstream of Mescalero Street	*4,221
		Flow path 19	Just downstream of New York Avenue	*4,328
			Just upstream of Cuba Avenue	*4,374
		Flow path 20	Just downstream of New York Avenue	*4,330
			Just upstream of Utah Avenue	*4,378
		Flow path 21	Just upstream of Virginia Avenue	*4,347
			Just upstream of Oregon Avenue	*4,368
		Flow path 22	Just downstream of 14th Street	*4,345
			Just downstream of Utah Avenue	*4,392
		Flow path 23	Just downstream of New York Avenue	*4,330
			Just downstream of Alaska Avenue	*4,355
		Flow path 25	Just downstream of Adams Avenue	*4,419
			Just downstream of Juniper Avenue	*4,462
		Flow path 26	Just downstream of McKinley Avenue	*4,469
			Just upstream of Scenic Drive	*4,492
		Flow path 27	Just downstream of Sunbeam Avenue	*4,592
			Just upstream of Abbott Avenue	*4,644
		Flow path 28	Just upstream of the confluence with flow path 15	*4,430
			Just downstream of the eastern corporate limits	*4,491
		Flow path 29	Approximately 100 feet downstream of Alamo Avenue	*4,358
			Just downstream of Hawaii Avenue	*4,384
		Flow path 30	Just downstream of Airport Road	*4,158
			Just downstream of Municipal Avenue	*4,249
		Flow path 31	Just upstream of 1st Street	*4,312
			Just upstream of Eddy Drive	*4,322
		Flow path 32	Just upstream of the southern corporate limits	*4,137
		Flow path 33	Just downstream of La-Velle Road	*4,265
			Just downstream of Southern Pacific Railroad	*4,304
Maps available for inspection at City Hall, 511 Tenth Street, Alamogordo, New Mexico 88310.				
Send comments to Mayor Henry P. Pacelli or Mr. Dan Malone, City Manager, City Hall, 511 Tenth Street, Alamogordo, New Mexico 88310.				
New Mexico	Village of Bosque Farms, Valencia County	Rio Grande (east overbank)	Approximately 450 feet south of the intersection of Cottonwood and West Bosque loop.	*4,861
			Approximately 100 feet north of the intersection of West Bosque loop and Willow Trail.	*4,868

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately 100 feet north of the intersection of Otero drain and North Bosque loop.	*4,867

Maps available for inspection at Village Hall, 1455 West Bosque loop, Bosque Farms, New Mexico 87042.

Send comments to Mayor Sharon Eastman or Ms. Shirley Fay, Village Clerk, Bosque Farms Village Hall, P.O. Box 658, Peralta, New Mexico 87042.

New Mexico	Village of Ruidoso, Lincoln County	Brady Canyon	Just downstream of Oak Drive	*6,880
			Just downstream of Ash Drive	*6,907
		Cedar Creek	Just downstream of Cree Meadows Road	*6,795
			Just upstream of Cree Meadows Road	*6,802
			Just downstream of Starlite Drive	*6,716
		Cherokee Bill Canyon	Just upstream of Cliff Drive	*6,525
			Just upstream of Pinecrest Drive	*6,583
		Carrizo Creek	Just upstream of Sand and Gravel Road	*6,588
			Just upstream of Lower Tomahawk Trail	*6,599
		Rio Ruidoso	Just downstream of Cedar Creek Road	*6,517
			Just downstream of Chamber of Commerce Road	*6,548
			Just upstream of Willow Road River Trail	*6,596

Maps available for inspection at Village Hall, Cree Meadows Drive, Ruidoso, New Mexico 88345.

Send comments to Mayor George White or Mr. James L. Hine, Village Manager, Village Hall, P.O. Drawer 69, Ruidoso, New Mexico 88345.

New York	Bath, town, Steuben County	Cohocton River	Approximately 2,600' downstream of State Route 11	*1,083
			At downstream Village of Bath/Town of Bath corporate limits	*1,095
			At upstream Village of Bath/Town of Bath corporate limits	*1,115
			Upstream State Route 15	*1,130
			Upstream corporate limits	*1,152
		Five Mile Creek	Confluence with Cohocton River	*1,143
			Upstream of State Route 17 Westbound	*1,159
			Upstream corporate limits	*1,172

Maps available for inspection at the Office of the Town Clerk, 110 Liberty Street, Bath, New York.

Send comments to Honorable William Tobin, Supervisor of the Town of Bath, 110 Liberty Street, P.O. Box 327, Bath, New York 14810.

New York	Bath, village, Steuben County	Cohocton River	Downstream corporate limits	*1,095
			Upstream Cameron Street (County Route 10)	*1,102
			Upstream corporate limits	*1,115

Maps available for inspection at the Office of the Village Clerk, Municipal Building, 110 Liberty Street, Bath, New York.

Send comments to Honorable Warren Hopkins, Mayor of the Village of Bath, 110 Liberty Street, P.O. Box 668, Bath, New York 14810.

New York	Belle Terre, village, Suffolk County	Long Island Sound	Entire shoreline	*16
		Port Jefferson Harbor	Entire shoreline	*11

Maps available for inspection at the Village Hall, Belle Terre, New York.

Send comments to the Honorable Vincent Bove, Mayor of Belle Terre, 16 Soundview Drive, Belle Terre, New York 11777.

New York	Dolgeville, village, Herkimer County	East Canada Creek	Downstream corporate limits	*710
			Upstream High Falls Dam	*744
			Upstream D. Green Company dam	*791
			Upstream State Route 29	*795
			Approximately 3,700' upstream of State Route 29	*822
		Beaver Brook	Confluence with East Canada Creek	*750
			Upstream South Helmer Avenue	*804
			Downstream abandoned railroad	*831
			Upstream corporate limits	*850

Maps available for inspection at the Village Hall, 41 North Main Street, Dolgeville, New York.

Send comments to the Honorable Sidney Darling, Mayor of Dolgeville, 41 North Main Street, Dolgeville, New York 13329.

New York	East Hampton, town, Suffolk County	Atlantic Ocean	From western corporate limits to Montauk Point	*14
		Gardiners Bay and Block Island Sound	From Montauk Point to a point 1,780 feet west of Montauk Point	*13
			From a point 1,780 feet west of Montauk Point to False Point	*12
			From False Point to Lake Montauk	*11
			Lake Montauk, entire shoreline	*10
			From Lake Montauk to Napeague Harbor	*11
			Napeague Harbor, entire shoreline	*10
			From Napeague Harbor to Acabonack Harbor	*11
			Acabonack Harbor, entire shoreline	*9
			From Acabonack Harbor to Three Mile Harbor	*11
			Three Mile Harbor, entire shoreline	*10
			From Three Mile Harbor to western corporate limits including entire shoreline of Northwest Harbor and Sag Harbor Bay	*11
			Gardiners Island, south from Chiny Hill Point to a point 2,200 feet north of confluence with Great Pond	*10
			Gardiners Island, from a point 2,200 feet north of confluence with Great Pond north along shoreline to Cherry Hill Point	*11

Maps available for inspection at the Office of the Town Clerk, Town Hall, 159 Pantigo Road, East Hampton, New York.

Send comments to the Honorable Mary Fallon, Supervisor of East Hampton, 159 Pantigo Road, East Hampton, New York 11937.

New York	Esperance, town, Schoharie County	Schoharie Creek	At downstream corporate limits	*532

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			At most downstream town/village of Esperance corporate limits.	*574
			At most upstream town/village corporate limits	*582
		Fly Creek	At upstream corporate limits	*594
			At confluence with Schoharie Creek	*586
			Upstream of U.S. Route 20	*673

Maps available for inspection at the Office of the Town Clerk, Sloansville, New York.

Send comments to the Honorable Robert Lang, Supervisor of Esperance, R.D. 1, Sloansville, New York 12160.

New York	Little Falls, city, Herkimer County	Mohawk River	At downstream corporate limits	*330
			Downstream of dam	*339
			Upstream of South Ann Street	*360
			Upstream corporate limits	*373
			Approximately 4,000' upstream of upstream corporate limits.	*374
		Right channel of Mohawk River	At downstream confluence with Mohawk River	*364
			Upstream confluence with Mohawk River	*373
		Nydot Canal	At lock 17E	*368
			Confluence with Mohawk River	*379

Maps available for inspection at City Hall, East Main Street, Little Falls, New York.

Send comments to the Honorable Theodore S. Wind, Mayor of Little Falls, East Main Street, Little Falls, New York 13329.

New York	Village of Lloyd Harbor, Suffolk County	Long Island Sound	From Watch Way extended to northeast of Lloyd Point Drive.	*17
			From northeast of Lloyd Point Drive to east of the intersection of Pheasant Lane and Target Rock Road.	*16
			From east of the intersection of Pheasant Lane and Target Rock Road to southeast of Lighthouse Point.	*15
			At Fresh Pond	*19

Maps are available for inspection at the Village Hall, Village of Lloyd Harbor, 32 Middle Hollow Road, Huntington, New York.

Send comments to: Honorable William A. McAneny, Mayor, Village of Lloyd Harbor, 32 Middle Hollow Road, Huntington, New York 11743.

New York	Lyons, village, Wayne County	New York State barge canal	At downstream corporate limits	*396
			Upstream of State Route 14	*398
			At upstream corporate limits	*400
		Ganargua Creek	Confluence with New York State barge canal	*399
			At upstream corporate limits	*405

Maps available for inspection at the Village Office, 76 William Street, Lyons, New York.

Send comments to Honorable John J. Dashney, Mayor of Lyons, 76 William Street, Lyons, New York 14489.

New York	Niagara Falls, city, Niagara County	Gill Creek	Corporate limits upstream	*585
			Porter Road upstream	*578
			Robbin Drive upstream	*576
			Niagara Street upstream	*571
			Confluence with Niagara River	*562
		Niagara River	Corporate limits upstream	*569
			Approximately 4,500 feet downstream of upstream confluence of Little Niagara River.	*566
		Cayuga Creek	Upstream corporate limits	*571
			Approximately 700 feet upstream Lindbergh Avenue	*570
			Confluence with Little Niagara River	*560
		Bergholtz Creek	Upstream corporate limits	*573
			91st Street upstream	*572
			Confluence with Cayuga Creek	*571

Maps available for inspection at the City Hall, 745 Main Street, Niagara Falls, New York.

Send comments to Honorable Michael C. O'Laughlin, City Hall, Mayor of Niagara Falls, 745 Main Street, Niagara Falls New York 14302.

New York	Ossining, town, Westchester County	Croton River	Upstream of U.S. Route 9	*8
			Approximately 4,560 feet upstream of U.S. Route 9	*8
		Hudson River	Entire shoreline within community	*6

Maps available for inspection at the Office of the Town Engineer, Municipal Building, 16 Croton Avenue, Ossining, New York.

Send comments to Honorable Richard Wishnie, Supervisor of Ossining, 16 Croton Avenue, Ossining, New York 10562.

New York	Oyster Bay, town, Nassau County	Oyster Bay Harbor	Shoreline within community	*15
		Mill Neck Creek	Shoreline within community	*12
		Beaver Lake	Shoreline within community	*14
		Long Island Sound	Shoreline within community	*17
		Hempstead Harbor	Shoreline within community	*14
		Atlantic Ocean	Shoreline within community	*14
			Shoreline of Great South Bay within community	*9

Maps available for inspection at the Town Hall Complex, West Building, Audrey Avenue, Oyster Bay, New York.

Send comments to Honorable Joseph Colby, Town Supervisor of Oyster Bay, Town Hall, Audrey Avenue, Oyster Bay, New York 11743.

New York	Walworth, town, Wayne County	Black Creek	Downstream corporate limits	*456
			Corporate limits 2nd crossing	*461
			Corporate limits 3rd crossing	*472
			Upstream Wiedrick Road	*480
			Upstream Lincoln Road	*487
			Downstream Penfield Road	*493
		Tributary No. 1	Downstream corporate limits	*460

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream Walworth-Marion Road	*467
			Upstream Walworth-Ontario Road	*477
		Tributary No. 2	Confluence with Black Creek	*457
			Upstream Walworth-Ontario Road	*462
			Upstream Walworth-Penfield Road	*465
		Tributary No. 3	Confluence with Black Creek	*477
			Approximately 1,400' downstream Walworth-Penfield Road.	*484
			Upstream Walworth-Penfield Road	*494
		Tributary No. 4	Confluence with Black Creek	*480
			Upstream Canandaigua Road	*491
			Upstream Walworth-Penfield Road	*493
		Tributary No. 5	Confluence with Black Creek	*487
			Approximately 350' downstream West Road	*491
			Upstream West Road	*496

Maps available for inspection at the Town Hall, 2248 Marion Road, Walworth, New York.

Send comments to Honorable Frank Guelli, Supervisor of Walwoth, 2248 Marion Road, Walworth, New York 14568.

New York	Waverly, village, Tioga County	Cayuta Creek	State Route 17 (downstream)	*800
			Ithaca Street (upstream)	*813
			Upstream corporate limits	*818
		Dry Brook	Downstream corporate limits	*837
			Chemung Street (upstream)	*860
			Pine Street (upstream)	*884
			Clinton Street	*900
			Approximately 800' upstream from Moore Street (2nd footbridge).	*945
			Approximately 2,000' upstream from Moore Street (4th footbridge).	*981
		Chemung River	State Route 17 (downstream)	*778
			Upstream corporate limits (extended)	*781

Maps available for inspection at the Village Hall, 382 Broad Street, Waverly, New York.

Send comments to Honorable John Winkleman, Mayor of Waverly, P.O. Box 149, Waverly, New York 14892.

New York	Westhampton Beach, village, Suffolk County	Atlantic Ocean	Entire shoreline within community	*14

Maps available for inspection at the Village Hall, Sunset Avenue, Westhampton Beach, New York.

Send comments to Honorable Stewart Tobin, Mayor of Westhampton Beach, Village Hall, Sunset Avenue, Westhampton Beach, New York 11978.

New York	Westmoreland, town, Oneida County	Deans Creek	Downstream corporate limits	*482
			Upstream of Stop Seven Road	*504
			Upstream of State Route 233	*523
			Upstream of Creaser Road	*543
			Upstream of Station Hill Road	*581
			Upstream of abandoned railroad	*607
			Upstream of Deans Highway	*633
			Upstream corporate limits	*651
		Sucker Brook	Confluence with Deans Creek	*514
			Downstream of New York State Route 90	*525
		Tributary A to Oriskany Creek	Confluence with Oriskany Creek	*499
			Upstream of Stop Seven Road	*521
			Approximately 900' upstream of State Route 233	*534
		Oriskany Creek	Downstream corporate limits	*481
			Upstream corporate limits	*509

Maps available for inspection at the Town Barn, Station Hill Road, Westmoreland, New York.

Send comments to Honorable Edward Morris, Supervisor of Westmoreland, 26 Tindall Drive, Clinton, New York 13323.

North Carolina	Unincorporated areas of Forsyth County	Abbotts Creek	Just upstream of U.S. Highway 311	*806
			Just upstream of Watkins Ford Road (SR 2624)	*824
			Just upstream of Ogden Road	*851
			Just upstream of Old Salem Road	*865
		Bear Creek	Just downstream of Walker Road	*803
			Just downstream of upper dam	*826
			Just upstream of upper dam	*838
		Bill branch	Just upstream of Spicewood Drive (North Carolina State Road 1434).	*732
		Carstaff branch	Just upstream of Whitemore Drive	*890
		Cuddyburn branch	Just upstream of U.S. Highway 311	*816
		Fairway 14 branch	Just upstream of uppermost golf cart path	*875
		Fairway 7 branch	Glenview Drive extended	*881
		Fiddlers Creek	Just downstream of Teague Road	*751
			Just downstream of Oak Grove Road	*841
			Just upstream of Lake Valley Drive	*873
		Fiddlers Creek tributary	Approximately 150 feet upstream of confluence with Fiddlers Creek.	*817
		Frazier Creek	Largo Drive extended	*865
		Grassy Creek	Just upstream of North Carolina State Road 1659 (Ziglar Road).	*818
			Just upstream of U.S. Highway 52 (northbound lanes)	*837
			Summit Street extended	*967
		Harmon Mill Creek	Just upstream of Farm Road	*840
			Just upstream of I-40	*858
			Just upstream of U.S. Highway 150	*875
		Idlewild Road branch	Approximately 300 feet upstream of new U.S. Highway 311 bypass.	*826

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately 100 feet downstream of Watkins Ford Road.	*841
			Approximately 100 feet upstream of Watkins Ford Road.	*856
		James branch	Just upstream of Hilltop Drive	*777
		Johnson Creek	Approximately 100 feet upstream of Tanglewood Park Road (State Road 3003).	*682
			Schaefer Court extended	*700
		Johnson Creek	Tanglebrook Trail extended	*654
		Kerners Mill Creek	Just upstream of Hopkins Road	*673
		Knights Road branch	State Road 2830 extended	*668
		Leak Creek	Just upstream of State Road 150	*725
			Just upstream of U.S. Highway 52 (northbound lanes)	*754
		Little Creek	Just upstream of Jonestown Road	*711
		Lowery Mill Creek	Approximately 200 feet upstream of U.S. Highway 158	*653
			Swain Lake Drive extended	*677
		Martin Mill Creek	Ches Lane extended	*663
		Mill Creek	Just upstream of Shattalon Road (flooding at this location is affected by backwater from Muddy Creek).	*749
			Just upstream of Old Rural Hall Road	*823
			Just upstream of Baux Mountain Road	*844
			Just upstream of Davis Road	*872
		Mill Creek No. 3	Approximately 50 feet upstream of High Cliffs Road (State Road 1794).	*796
			Just upstream of Bowens Road (State Road 1625)	*843
		Millhaven Creek	Just downstream of dam	*756
			Just upstream of dam	*767
		Muddy Creek	Just downstream of Cooper Road	*692
			Just upstream of U.S. Highway 158 (Clemmons Road)	*706
			Just upstream of Robinhood Road	*747
			Just upstream of Yadkinville Road (State Road 1525)	*764
			Just upstream of North Carolina State Road 65	*784
			Just upstream of Jeff Trail	*805
			Just upstream of Griffin Road (State Road 1632)	*847
			Just upstream of Tobaccoville Road	*878
			Just downstream of Beeze Road	*915
		Oil Mill Branch	Just upstream of Spicewood Road (North Carolina State Road 1434).	*764
		Parkers Creek	Approximately 150 feet upstream of Griffin Road (State Road 1632).	*823
		Petree Creek	Approximately 60 feet downstream of Petree Road	*752
			Just upstream of Petree Road	*764
		Pinetree Branch	Just downstream of Teague Road (North Carolina State Road 2680).	*836
			Just downstream of Middle Dam	*871
			Just upstream of Middle Dam	*882
		Reynolds Creek	Approximately 100 feet downstream of Lewisville-Clemmons Road.	*736
			Approximately 150 feet upstream of Lewisville-Clemmons Road.	740
		Rich fork	Just upstream of U.S. Highway 311	*821
			Approximately 200 feet upstream of new U.S. Highway 311 (under construction).	*863
		Robindale branch	Just upstream of Robbin Road (North Carolina State Road 2677).	*815
			Jayson Lane extended	*839
		St. Delight branch	Approximately 750 feet downstream of Townsend Road.	*690
		Salem Creek	Approximately 100 feet upstream of Fraternity Church Road.	*696
			Just downstream of Clemmonsville Road	*709
		Sawmill branch	Just upstream of Sawmill Road	*805
		Silas Creek	Approximately 200 feet upstream of Interstate Highway 40.	*716
			Approximately 150 feet upstream of Robinhood Road	*817
			Just upstream of Partridge Lane	*825
			Approximately 150 feet upstream of Reynolds Road	*855
			Just downstream of Reynolds estate dam	*856
		Soakas Creek	Just upstream of Southern Railway	*747
		South Fork Muddy Creek	Approximately 100 feet upstream of Ebert Road	*704
			Just downstream of North Carolina State Road 2011	*716
			Just upstream of North Carolina State Road 150	*721
			Just upstream of Winston-Salem Southbound Railroad	*736
			Just downstream of North Carolina State Road 2743 (Old Lexington Road).	*747
			Just downstream of State Road 109	*774
			Just upstream of Union Cross Road	*788
			Just upstream of New U.S. Highway 311	*815
			Rash Drive extended	*870
		Swain Creek	Just upstream of Old U.S. Highway 311	*824
			Parnell Road extended	*906
		Tomahawk Branch	Chickasha Road extended	*701
		Vernon Branch	Approximately 100 feet upstream of Fox Meadow Lane.	*766
			Langden Road extended	*776

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		West Fork Deep River	Just upstream of North Carolina State Road 2802	*855
			Just upstream of North Carolina State Road 2803	*847

Maps available for inspection at Office of the Director of Planning, City-County Planning Board, Winston-Salem City Hall, 101 North Main Street, Winston-Salem, North Carolina 27102.
Send comments to Mr. John A. Donnelly, Director of Planning, City-County Planning Board, P.O. Box 2511, Winston-Salem, North Carolina 27102.

North Carolina	City of Winston-Salem, Forsyth County	Ardmore School branch	Just downstream of Revere Road	*789
			Just upstream of Revere Road	*801
			Just upstream of Kenwood Street	*807
			Just upstream of Martin Street	*847
		Berry branch	Just upstream of upstreammost golf cart path	*790
		Bethabara branch	Just upstream of Bethabara Road	*789
		Bolton Branch Creek	Just upstream of Silas Creek Parkway	*780
			Just downstream of Westover Drive	*815
			Just upstream of Westover Drive	*821
		Bowen Boulevard branch	Approximately 130 feet downstream of Attucks Street	*832
			Approximately 100 feet downstream of 25th Street	*845
			Just upstream of 25th Street	*858
		Brenner Lake branch	Wood Valley Road extended	*784
			Just downstream of Petree Road extended (Winston-Salem southern corporate limits).	*855
		Brush Fork branch	Just upstream of U.S. Highway 311	*838
			Just upstream of Butterfield Drive	*878
		Brushy Fork Creek	Just upstream of Southern Railway	*781
			Just upstream of Old Greensboro Road	*790
			Just upstream of U.S. Highway 311	*797
			Just upstream of Teresa Avenue	*827
		Buena Vista branch	Just upstream of Pine Valley Road	*827
			Rugby Road extended	*840
		Burke Creek	Just upstream of Burke Mill Road	*745
			Woodworth Drive extended	*758
		Cloverleaf branch	Just upstream of Stadium Drive	*774
		Dunagun branch	Just downstream of Fire Road	*804
			Gilbert Street extended	*813
		Fiddlers Creek	Just downstream of Teague Road	*751
			Just upstream of Thomasville Road	*770
			Just upstream of Cole Road	*795
			Just upstream of U.S. Highway 311	*808
		Fishers branch	Just upstream of Sedge Garden Road	*836
		Fivemile branch	Tekoa Lane extended	*854
		Frazier Creek	Just upstream of Waterworks Road	*792
			Approximately 50 feet upstream of Winston Lake Park Road.	*818
			Just upstream of Beeson Dairy Road	*849
		Grassy Creek	Just upstream of Becks Church Road	*790
		Hanes Park branch	Just upstream of Northwest Boulevard	*792
			Just upstream of Buena Vista Road	*814
		Hines Lake branch	Approximately 50 feet downstream of Roseann Drive	*759
			Ferndale Avenue extended	*833
		Kerners Mill	Just downstream of Linville Road	*798
			Just upstream of Linville Road	*805
			Just downstream of Interstate 40	*810
		Knollwood Street branch	Just upstream of Hawthorne Road	*793
			Just downstream of Maplewood Drive	*800
			Approximately 60 feet upstream of Patricia Lane	*857
		Leak fork	Just upstream of University Parkway	*796
			Just upstream of U.S. Highway 52	*822
			Just upstream of Motor Road	*845
			Just upstream of Patterson Avenue extension	*869
		Little Creek	Just upstream of U.S. Highway 421	*768
			Just upstream of Silas Creek Parkway	*815
		Lowery Mill Creek	Just upstream of Old Goldsboro Road (flooding at this location is affected by backwater from Kerners Mill Creek).	*799
			Richards Avenue extended	*814
		Martin Mill Creek	Just upstream of Walkertown Road	*825
		Mill Creek	Just upstream of Valley Road	*768
			Just downstream of Bethania Road	*780
			Just downstream of Shallalon Drive	*787
			Just upstream of University Parkway	*797
			Just upstream of Germanton Road	*809
		Mill Creek tributary	Confluence with Mill Creek (flooding at this location is affected by backwater from Mill Creek).	*805
		Millhaven Creek	Approximately 40 feet upstream of Millhaven Road (North Carolina State Road 1358).	*777
			Tallison Drive extended	*837
		Monarcus Creek	Just upstream of Old Town Road (Indiana Avenue extended).	*794
			Just upstream of Bethabara Road	*826
			Approximately 150 feet upstream of Linn Station Road	*840
		Muddy Creek	Just upstream of U.S. Highway 421	*728
			Just upstream of Lewisville Road (State Road 1001)	*734
		Muddy Creek tributary	Gatewood Drive extended	*740
		North School branch	Just upstream of Trade Street	*841
		Parkway branch	Just upstream of Salisbury Road	*743
			Just upstream of South Main Street	*821
		Peters Creek	Just upstream of Link Road	*745
			Just upstream of Glade Street	*784
			Just downstream of Northwest Boulevard	*822
		Petree Creek	Just upstream of Huntingreen Road	*865

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		St. Delight branch	Jamar Drive extended	*817
		Salem Creek	Just upstream of Ebert Street	*728
			Just upstream of Silas Creek Parkway	*743
			Just upstream of Vargrave Street	*770
			Just upstream of Reynolds Park Road	*772
		Silas Creek	Just upstream of Country Club road	*771
		Soakas Creek	Just upstream of Barnes Road	*742
		South fork Muddy Creek	Just upstream of State Road 8 (Main Street)	*731
			Just upstream of Winston-Salem Southbound Railroad	*736
			Just downstream of North Carolina State Road 2743	*747
		Stadium branch	Just upstream of Diggs Boulevard	*790
		Terry Road branch	Just upstream of Fire Road	*805
			Approximately 30 feet downstream of private dam	*842
			Just upstream of private dam	*853
	Maps available for inspection at City Hall, Room 27, 101 North Main Street, Winston-Salem, North Carolina 27102. Send comments to Mayor Wayne Corpening or Mr. John A. Donnelly, Director of Planning, City Hall, P.O. Box 2511, Winston-Salem, North Carolina 27102.			
North Dakota	Flasher (city), Morton County	Louse Creek	Intersection of College Street and 1st Street	*1,906
	Maps available for inspection at City Hall, Flasher, North Dakota. Send comments to the Honorable Jerry Rhome, Jr., Box 245, Flasher, North Dakota 58535.			
Ohio	(Uninc.) Stark County	Tuscarawas River	About 700 feet downstream of Blough Avenue	*919
			About 1,500 feet upstream of Wooster Street	*924
			Just downstream of Highmill Avenue	*938
			About 1,300 feet upstream of confluence of Nimisila Creek.	*947
			Just upstream of Pontius Street	*1,115
		Nimishillen Creek	About 0.8 mile upstream of Mogadore Avenue	*1,126
			About 300 feet downstream of Chessi System	*982
		East branch Nimishillen Creek	About 200 feet downstream of Mill Street	*1,003
			Just upstream of Conrail (about 1.1 miles downstream of Trump Avenue).	*1,050
			Just upstream of Conrail (about 0.9 mile downstream of Trump Avenue).	*1,054
			Just upstream of Beck Avenue	*1,083
			About 1,500 feet upstream of State Route 44	*1,107
			Just downstream of County Highway 179	*1,120
		Plum Creek	About 0.7 mile upstream of Leaver Road	*947
			About 0.8 mile upstream of Strausser Street	*975
			Just downstream of State Route 236	*1,015
		Beech Creek	Just upstream of Vine Street	*1,052
			Just downstream of Beeson Street	*1,065
		West branch Nimishillen Creek	About 800 feet downstream of Interstate 77	*1,043
			About 400 feet downstream of Interstate 77	*1,044
			About 150 feet upstream of 38th Street Northeast	*1,052
			Just upstream of Schneider Street	*1,066
			Just upstream of Mr. Pleasant Street	*1,099
			Just downstream of Midway Street	*1,127
		Chatham ditch	About 1,050 feet downstream of Marquardt Avenue	*1,090
			Just upstream of 7th Street Northeast	*1,100
			About 400 feet upstream of 7th Street Northeast	*1,101
		Tributary No. 1	Within community	*1,054
		Hayden ditch	At mouth at Sherrick Run	*1,050
			About 150 feet downstream of State Route 43	*1,051
			Just upstream of State Route 43	*1,056
			About 2,000 feet upstream of State Route 43	*1,057
		Black Run	About 1,100 feet downstream of Lincoln Street	*1,083
			About 400 feet upstream of Robertsville Avenue	*1,083
		Reemsnyder ditch	At mouth at McDowell Ditch	*1,048
			Just upstream of Hiram Road	*1,051
			About 1,500 feet downstream of Whipple Avenue	*1,051
			Just downstream of Whipple Avenue	*1,059
		Sandy Creek	Just downstream of dam	*950
			About 3,500 feet upstream of Waynesburg Drive	*967
			About 2,400 feet downstream of State Highway 183	*1,058
		Indian Run	At mouth at Sandy Creek	*963
			Just upstream of Goodland Road	*969
		Little Sandy Creek	At mouth at Sandy Creek	*966
			Just downstream of Minerva Road	*996
		Sherrick Run	Just upstream of Allen Ford Avenue	*1,005
			About 150 feet upstream of Cherry Avenue Southeast	*1,030
			About 1,600 feet upstream of confluence of Hayden ditch.	*1,054
		McDowell ditch	At mouth at west branch Nimishillen Creek	*1,043
			Just upstream of Everhard Road	*1,059
			At confluence of Zimmer ditch	*1,062
		McDowell ditch diversion channel	At confluence with McDowell ditch	*1,048
			Just downstream of Interstate 77	*1,050
			Just upstream of Interstate 77	*1,055
			At divergence with McDowell ditch	*1,055
		Middle branch Nimishillen Creek	About 1,800 feet downstream of Spangler Street Northeast.	*1,048
			Just upstream of middle branch Avenue Northeast	*1,060
			Just downstream of Diamond Street	*1,103
		Zimber ditch	Just upstream of Chessie System	*1,064
			Just downstream of Mount Pleasant Street	*1,086

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Firestone ditch	At mouth at middle branch Nimishillen Creek	*1,078
			Just upstream of Amsel Avenue	*1,086
			Just downstream of Norfolk and Western Railway	*1,095
			Just upstream of Norfolk and Western Railway	*1,110
			Just downstream of Applegrove Street	*1,101
		Sippo Creek	Just upstream of Hankins Street	*1,016
			At confluence of Johney ditch	*1,031
		Johney ditch	Just upstream of Briardale Drive	*1,035
			Just upstream of Roanoke Street	*1,039
			Just downstream of Perry Drive	*1,034
		Fairhope ditch	At mouth at east branch Nimishillen Creek	*1,072
			Just upstream of Conrail (upstream crossing)	*1,078
			About 300 feet downstream of Atlantic Boulevard	*1,095
			Just upstream of Atlantic Boulevard	*1,101
			About 2,100 feet upstream of Broadview Avenue	*1,109

Maps available for inspection at the Subdivision Engineer's Office, Stark County Office Building, Canton, Ohio.

Send comments to Honorable Jerry Patrick, President of the County Commissioners, Stark County, Stark County Office Building, Canton, Ohio 44702.

Pennsylvania	Altoona, city, Blair County	Burgoon Run	Downstream corporate limits	*1,060
			58th Street (upstream side)	*1,106
			Upstream corporate limits	*1,131
		Mill Run	Downstream corporate limits	*1,053
			Coleridge Avenue (upstream side)	*1,072
			Downstream crossing of Union Avenue (upstream side).	*1,080
			Upstream crossing of Union Avenue (upstream side)	*1,112
			6th Avenue and 31st Street (upstream side)	*1,139
			West Chestnut Avenue (upstream side)	*1,166
		Spring Run	Downstream corporate limits	*1,157
			14th Avenue (upstream side	*1,165
			Approximately 50' upstream of East Penn Avenue	*1,224
			Upstream corporate limits	*1,238
		Brush Run	Downstream corporate limits	*1,097
			14th Street (upsteam side)	*1,125
			Approximately 120' downstream of 7th Street	*1,148

Maps available for inspection at the City Engineer's Office, City Hall, Altoona, Pennsylvania.

Send comments to Honorable Allen G. Hancock, Mayor of Altoona, City Hall, Altoona, Pennsylvania 16603.

Pennsylvania	Manheim, township, York County	Codorus Creek	Confluence with west branch Codorus Creek	*520
			Legislative Route 66154 (upstream)	*526
			Sinsheim Road (upstream)	*542
			Kitzmiller Road (upstream)	*553
			Pentland Road (2nd crossing) (upstream)	*576
			Snyder Mill Road (upstream)	*598
			Pennsylvania Route 216	*649
			Wool Mill Road (upstream)	*663
			Glenville Road (upstream)	*692
			Wolfgang School Road (upstream)	*709
		Tributary No. 1	Confluence with Codorus Creek	*656
			Farm Road (upstream)	*674
			Approximately 1,550' downstream of Wool Mill Road	*700
			Wool Mill Road (upstream)	*728

Maps available for inspection at the Township Municipal Building, Manheim, Pennsylvania.

Send comments to Honoralbe Kenneth Smith, Chairman of the Manheim Board of Supervisors, R.D. 1, Glen Rock, Pennsylvania 17327.

Rhode Island	Portsmouth, town, Newport County	Narragansett Bay	Entire shoreline of Patience Island	*18
			Prudence Island, western shoreline from Providence Point south to approximately 0.5 mile south of Middle Road (extended).	*18
			Prudence Island, eastern shoreline from approximately 0.2 mile north of Madison Avenue (extended) to Providence Point.	*18
			Shoreline from southern corporate limits to Mount Hope Bridge.	*17
			Entire shoreline of Hog Island	*17
		Mount Hope Bay	Mount Hope Bridge to common fence point	*17
		Sakonnet River	Common fence point to Conrail bridge	*17
			Conrail bridge to approximately 0.1 mile north of Child Street (extended).	*20
			Approximately 0.1 mile north of Child Street (extended) to southern corporate limits.	*17

Maps available for inspection at the Office of the Building Official, Town Hall, 2200 East Main Road, Portsmouth, Rhode Island.

Send comments to Honorable L. Paul Poirier, President of the Portsmouth Town Council, Town Hall, 2200 East Main Road, Portsmouth, Rhode Island 02871.

South Carolina	Town of Atlantic Beach, Horry County	Atlantic Ocean	Approximately 150 feet seaward of intersection of 1st Avenue and 31st Avenue South along 31st Avenue South.	*16
			Approximately 50 feet seaward of intersection of 1st	*14

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Avenue and 31st Avenue South along 31st Avenue South.	

Maps available for inspection at Town Hall, 701 30th Avenue South, Atlantic Beach, South Carolina.

Send comments to Mayor Cleveland Stevens, or Mr. Isaac Parmley, Building Inspector, Atlantic Beach Town Hall, P.O. Box 1425, North Myrtle Beach, South Carolina 29582.

South Carolina	Town of Briarcliff Acres, Horry County	Atlantic Ocean	Intersection of Ocean View Drive and Cabana Drive	*13

Maps available for inspection at Mayor Turner's home at 30 Center Drive or Councilman Richard Rolses' home at 152 Pinetree Lane, Briarcliff Acres, South Carolina.

Send comments to Mayor B. L. Turner, 30 Center Drive or Councilman Richard Rolses, 152 Pinetree Lane, c/o Town of Briarcliff Acres, Myrtle Beach, South Carolina 29577.

South Carolina	City of Myrtle Beach, Horry County	Atlantic Ocean	Intersection of 3rd Avenue South and Ocean Boulevard.	*13
			Intersection of 72nd Avenue North and Ocean Boulevard.	*13

Maps available for inspection at City Hall, Tenth and Broadway Avenues, Myrtle Beach, South Carolina 29577.

Send comments to Mayor Erik B. Ficken, or Mr. Carey F. Smith, City Manager or Mr. Gary Williams, Building Inspector, City Hall, P.O. Box 2468, Myrtle Beach, South Carolina 29577.

South Carolina	Town of North Myrtle Beach, Horry County	Atlantic Ocean	Intersection of 55th Avenue North and Nixon Street	*15
			Intersection of 27th Avenue North and Nixon Street	*15
			Intersection of Main Street and Ocean Boulevard	*14
			Intersection of 21st Avenue South and Ocean Boulevard South.	*14
			Intersection of 46th Avenue South and Ocean Boulevard.	*14

Maps available for inspection at Town Hall, 1601 Highway 17 South, North Myrtle Beach, South Carolina 29582.

Send comments to Mayor Joseph J. Saleeby or Mr. Jack Ethredge, Town Manager, Town Hall, P.O. Box 1038, North Myrtle Beach, South Carolina 29582.

South Carolina	Town of Surfside Beach, Horry County	Atlantic Ocean	Intersection of Surfside Drive and Ocean Boulevard	*16
			Intersection of Pinewood Drive and Surfside Drive	*15
			Intersection of Myrtle Drive and Juniper Drive	*14

Maps available for inspection at Town Hall, Highway 17 South, Surfside Beach, South Carolina 29577.

Send comments to Mayor H. B. Huckabee or Mr. Dan Thomas, Building Inspector, Town Hall, Highway 17 South, Surfside Beach, South Carolina 29577.

Texas	City of Clear Lake Shores, Galveston County	Clear Lake	At intersection of Ivy Road and Clear Lake Road	*11
			20 feet west of intersection of Forest Road and Oak Road.	*11
			At intersection of Maple Road and Ivy Road	*11

Maps available for inspection at City Hall, 931 Cedar Street, Clear Lake Shores, Texas 77565.

Send comments to Mayor Joe E. Lee or Jean Rothwell, City Secretary, City Hall, P.O. Box 75, Clear Lake Shores, Texas 77565.

Texas	City of Dallas, Dallas, Denton, Collin, Rockwall, and Kaufman Counties.	Trinity River	Just downstream of I-635	*397
			Just downstream of Central Expressway	*407
			Just upstream of Houston Street	*414
			Just downstream of Texas Pacific Railroad	*415
			Just upstream of Hampton Road	*420
		West fork of Trinity River	Just upstream of confluence with Trinity River	*423
			Just downstream of corporate limits	*424
		Elm fork of Trinity River	Just downstream of Empire Freeway	*424
			Just upstream of State Highway 348	*427
			Just downstream of Royal Lane	*429
			Just upstream of Valley View Lane	*434
		Hickory Creek	Just upstream of Edd Road	*415
			Just upstream of Ravenview Road	*435
		Stream 4C3	Just downstream of Kleberg Road	*404
			Just upstream of Woody Road	*441
		Stream 4C6	Just about 150 feet from the corporate limits	*452
		Stream 4C1	Just about 335 feet from the corporate limits	*384
		Prairie Creek	Just upstream of Fireside Drive	*412
			Just upstream of Elam Road	*437
			Just downstream of Bruton Road	*472
			Just downstream of Prairie Creek Road	*480
			Just downstream of Military Parkway	*505
			Just upstream of Southern Pacific Railroad	*526
		Hatfield branch	Just upstream of Fireside Drive	*418
			Just downstream of St. Augustine Drive	*452
			Just downstream of Lake June Road	*483
		Rylie branch	Just upstream of St. Augustine Road	*420
			Just upstream of Seagoville Road	*452
			Just downstream of Acres Drive	*464
		Pleasant branch	Just upstream of Prairie Road	*472
			Just downstream of Bruton Road	*477
		Lake June	Just upstream of branch Lake June Road	*485
			Just upstream of St. Augustine Road	*498
		Estes branch	Just upstream of Bluff Creek Drive	*483
		Cypress branch	Just downstream of Jennie Lee Lane	*481
		Town East	Approximately 800 Branch feet upstream of the confluence with Prairie Creek.	*510
		Elam Creek	Just downstream of Gayglen Drive	*399
			Just downstream of Elam Road	*426
			Just downstream of Southern Railway	*441
			Just downstream of Lake June Road	*485
			Just downstream of Tillman Street	*484
		Stream 4B5	Just upstream of East Bound Loop 12	*417
		Fivemile Creek	Just upstream of Simpson Stuart Road	*409

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just upstream of Bonnie View Road	*429
			Just upstream of Lancaster Road	*447
			Just downstream of Marsalis Avenue	*470
			Just downstream of Interstate Highway 35	*481
			Just downstream of Polk Street	*502
			Just downstream of Rugged Drive	*518
			Just downstream of West Kiest Boulevard	*529
			Just downstream of Spring Valley Lane	*558
			Just upstream of Coombs Creek Drive	*566
			Just upstream of Ledbetter Bridge	*580
			Just upstream of West Keist Boulevard	*595
			Just downstream of Ledbetter Drive	*653
		Newton Creek	Just downstream of Highway 45	*404
			Just downstream of Bonnie View Road	*453
		Wilson branch	Just upstream of J.J. Lemon Road	*425
			Just downstream of Tioga Street	*440
		Memory branch	Just upsteam of confluence with Wilson branch	*446
		Whites Creek	Just downstream of Langdon Drive	*441
			Just downstream of Cleveland Road	*470
		Moreland branch	Just downstream of Cleveland Road	*472
		Sheppard branch	Just downstream of Langdon Drive	*467
			Just downstream of Cleveland Road	*492
		Santa Rosa branch	Approximately 800 feet upstream of confluence with Floyd branch.	*472
		Stream 5A1	Just upstream of Barnabus Drive	*477
		Alta Mesa branch	Just upstream of Persimmon Road	*441
			Just downstream of Simpson Stuart Road	*470
		Ricketts branch	Approximately 200 feet upstream of Houston School Road	*488
			Just upstream of Wheatland Road	*504
		Runyon Springs branch	Just downstream of Crouch Road	*463
			Approximately 350 feet upstream of the confluence of Barney branch.	*499
		Barney branch	Just downstream of Wheatland Road	*525
		Parrish branch	Just upstream of Wheatland Road	*593
		Herring branch	Just downstream of Greenspan Avenue	*579
			Just downstream of Cleerdale Drive	*592
		Lisbon branch	Just upstream of Ledbetter Drive	*455
			Just upstream of Adelaide Drive	*467
		Alice branch	Just downstream of Ann Arbor Avenue	*477
		Red Bird branch	Just upstream of Lake Placid Road	*591
			Just upstream of Reynoldston Road	*668
		South prong of Fivemile Creek	Just downstream of Hampton Road	*582
			Just downstream of Boulder Drive	*599
			Just downstream of Westmoreland Road	*622
			Just downstream of Camp Wisdom Road	*682
		Brooklawn branch	Just upstream of Chaucer Place	*605
			Just downstream of Camp Wisdom Road	*593
		Boulder branch	Just downstream of Camp Wisdom Road	*619
		Ranchita branch	Just downstream of Cockrell Hill Road	*668
		Corral branch	Just upstream of Cockrell Hill Road	*658
		Adams branch	Just upstream of confluence with Fivemile Creek	*498
		Red Bud Branch	Just downstream of West Kiest Boulevard	*541
			Just downstream of Nokomis Avenue	*529
		Crow Creek	Just upstream of Hampton Road	*538
			Just downstream of Westmoreland Avenue	*561
			Just downstream of Ledbetter Drive	*632
		Old Hickory branch	Just downstream of Ledbetter Drive	*567
			Just downstream of Boulder Drive	*595
		Hardin branch	Just downstream of Kiest Boulevard	*565
			Just downstream of Kiest Crest Drive	*593
		Stream 5A3	Just downstream of Atchison Topeka and Santa Fe Railroad	*596
			Just downstream of Cooms Creek Drive	*660
		Ledbetter branch	Just upstream of Duncanville Road	*639
			Just downstream of Cockrell Hill Road	*588
		Kenwood branch	Just upstream of Wisteria Drive	*633
			Just upstream of La Rue Street	*638
		Honey Springs branch	Just upstream of Central Expressway	*412
			Just upstream of Overton Road	*485
			Just upstream of Sunnyvale Street	*505
		White Rock Creek	Just upstream of Scyene Road	*406
			Just upstream of Missouri Pacific Railroad	*417
			Just upstream of Mockingbird Lane	*488
			Just upstream of Abrams Road	*493
			Just upstream of Forest Lane	*508
			Just upstream of Alpha Road	*544
			Just upstream of Beltline Raod	*561
			Just upstream of West Grove Road	*578
			Just upstream of Frankford Road	*595
		Stream 5B1	Just upstream of Jim Miller Road	*421
			Just upstream of Scyene Road	*448
		Stream 5B2	Just upstream of Loganwood Street	*453
			Just upstream of NcNeil Street	*479
		Stream 5B3	150 feet upstream of confluence with stream 5B1	*433
		Stream 5B3a	Just upstream of Hatcher Street	*406
			Just downstream of Reed Lane	*407
		Peaks branch	Just upstream of Hatcher Street	*410

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just upstream of Frank Street	*419
		Forney branch	Just upstream of Military Parkway	*445
			Just upstream of Forney Road	*447
			Just upstream of Jim Miller Road	*462
		Stream 5B5	Just upstream of Samuel Boulevard	*424
			Just downstream of Highland Road	*458
			Just upstream of Hunnicut Road	*480
		Stream 5B6	Just upstream of Thornton Freeway	*478
			Just upstream of Jim Miller Road	*514
		Stream 5B9	Just upstream of Grand Avenue	*459
			Just downstream of Lindsley Avenue	*465
		Ash Creek	Just upstream of Highland Road	*435
			Just downstream of Lakeland Drive	*451
			Just downstream of Buckner Boulevard	*472
		South fork of Ash Creek	Just upstream of Ferguson Road	*488
			Just upstream of King Edward Place	*485
		Stream 5B7	Just upstream of Peavy Road	*504
		McComas branch	Just upstream of Meadow Lake Drive	*470
			Just downstream of Sperry Street	*480
			Just upstream of Sperry Street	*487
		Beards branch	Just downstream of Wendover Road	*485
			Just upstream of Wendover Road	*498
		Rush Creek	Just upstream of Lawther Drive	*465
			Just upstream of Santa Barbara Drive	*506
			Just upstream of Trammel Drive	*535
		Williamson branch	Just upstream of Southern Pacific Railroad	*475
			Just upstream of Sperry Street	*497
			Just upstream of Mockingbird Lane	*519
			Just downstream of Abrams Road	*537
			Just upstream of Abrams Road	*546
			Just upstream of Norris Street	*562
		Dixon branch	Just upstream of Buckner Boulevard	*467
			Just downstream of Easton Road	*487
			Just upstream of Northwest Highway	*507
			Just downstream of L.B.J. Freeway	*560
		Stream 5B8	Just upstream of Buckner Boulevard	*500
			Just upstream of Peavy Road	*535
		Stream 5B10	Just upstream of Dixfield Road	*492
			Just downstream of Lochwood Road	*509
			Just upstream of Lochwood Road	*522
		Park branch	Just upstream of Bel-Air Drive	*501
		East prong of Dixon branch	Just upstream of Mediterranean Road	*526
			Just downstream of Rolling Rock Road	*531
			Just upstream of Rolling Rock Road	*548
		Jackson branch	Just downstream of Kingsley Road	*487
			Just downstream of L.B.J. Freeway	*526
			Just downstream of L.B.J. Freeway	*534
			Just downstream of Chimney Hill Road	*561
			Just upstream of Chimney Hill Road	*566
		McCree branch	Just upstream of Missouri-Kansas-Texas Railroad	*477
			Just upstream of Chiswell Road	*478
			Just downstream of Fieldcrest Drive	*488
		Audelia branch	Just downstream of L.B.J. Freeway	*526
			Just upstream of L.B.J. Freeway	*533
			Just upstream of Forest Lane	*552
			Just upstream of Shadow Way	*581
		Caruth Creek	Just upstream of Eastridge Drive	*495
			Just downstream of Hemlock Lane	*536
		Skillman branch	Just downstream of Northwest Highway	*516
			Just upstream of Northwest Highway	*526
			Just downstream of Southwestern Boulevard	*535
		Jenkins branch	Just upstream of Greenville Avenue	*501
			Approximately 100 feet downstream of Boedecker Street	*572
		Richardson branch	Just upstream of Golf Cart Bridge	*494
			Just downstream of Whitehurst Drive	*534
			Just upstream of Whitehurst Drive	*545
		Royal branch	Just upstream of Central Expressway	*512
			Just upstream of Boedecker Road	*546
			Just upstream of Barrywood Drive	*562
		Cottonwood Creek of White Rock Creek	Just downstream of Forest Lane	*506
			Just downstream of Road to Texas Instruments	*526
			Just downstream of Spring Valley Road	*561
		Floyd branch of White Rock Creek	Just upstream of Southern Pacific Railroad	*510
			Just upstream of Forrest Lane	*515
			Just downstream of L.B.J. Freeway (Interstate Highway 635).	*541
			Just upstream of L.B.J. Freeway (Interstate Highway 635).	*549
		Hunt branch	Just downstream of Spring Valley Road	*562
		Buffalo Creek	Just upstream of Forest Lane	*519
			Just upstream of Hillcrest Road	*536
		King of Glory branch	Just upstream of Wander Lane	*543
			Just upstream of Forest Lane	*558
		Arapaho branch	Just upstream of Meadow Creek	*553
			Just upstream of Hillcrest Road	*585
			Just upstream of Round Rock Road	*604

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Kiowa branch	Just downstream of Alexis Drive	*553
			Just downstream of La Cosa Drive	*583
			Just downstream of Meadering Way	*647
		McKamy branch	Just upstream of Mapleshade Lane	*674
			Just upstream of private drive	*652
			Just upstream of Shady Lane	*637
			Just downstream of Shady Lane	*629
			Just downstream of Davenport Road	*586
		Osage branch	Just downstream of Davenport Road	*602
			Just upstream of Davenport Road	*607
			Just downstream of Dickerson Street	*657
			Just upstream of Colt Road	[illegible]
		Stream 5B13	Just upstream of Davenport Road	*626
			Just downstream of Shady Lane	*648
			Just upstream of private road	*671
		Stream 5B14	Just upstream of Shady Lane	*645
		Keller Springs branch	Just upstream of Keller Springs Road	*572
			Just downstream of dirt road and dam	*578
			Just upstream of dirt road and dam	*595
		Hall branch	Just upstream of Club Hill Lane	*585
			Just upstream of Hilton Head Road	*613
			Just upstream of Addison Road	*632
		Stream 5B15	Approximately 300 feet upstream of North Forty Place	*597
		Stream 5B16	Just upstream of dirt road	*634
		Stream 5B17	Just downstream of private bridge	*635
		Long branch of Duck Creek	Just upstream of Centerville Road	*533
		Cedar Creek	Just downstream of Corinth Street	*414
			Just upstream of Moore Street	*421
			Just downstream of Clarendon Drive	*443
			Just downstream of Zangs Boulevard	*479
			Just upstream of Tyler Street	*516
			Just upstream of Montclair Avenue	*542
		Little Cedar Creek	Just upstream of Morrell Avenue	*428
			Just upstream of confluence of King's branch	*449
			Just upstream of Stella Avenue	*489
			Just upstream of Iowa Avenue	*519
			Just downstream of Louisiana Avenue	*535
		Kings branch	Just downstream of Denley Drive	*470
			Just downstream of Woodin Boulevard	*535
			Just downstream of Montana Avenue	[illegible]
		Cedar Crest branch	Just downstream of Southerland Avenue	*525
			Just upstream of Ozona Street	*548
		Beckley Club branch	Just downstream of Iowa Avenue	*491
			Just downstream of Elmore Avenue	*546
			Just upstream of Hobson Avenue	[illegible]
		South branch of Cedar Creek	Just upstream of Beckley Avenue	*477
			Just downstream of Louisiana Avenue	*504
			Just upstream of Illinois Avenue	*526
		Zang's branch	Just upstream of confluence with south branch of Cedar Creek	[illegible]
		Elmwood branch	Just downstream of Tyler Street and Vernon Avenue	*515
			Just upstream of Edgefield Avenue	*533
			Just downstream of Hampton Road	*574
			Just upstream of Melbourne Avenue	*595
		Rugged branch	Just downstream of Elmwood Boulevard	[illegible]
			Just downstream of Berkley Avenue	[illegible]
		Coombs Creek	Just upstream of Edgefield Avenue	*448
			Just upstream of Colorado Boulevard	*466
			Just upstream of Hampton Road	*494
			Just downstream of Davis Street	*519
			Just downstream of the intersection of Jefferson Boulevard and Westmoreland Road.	*549
			Just downstream of Clarendon Drive	*590
		Turtle Creek	Just upstream of Dallas North Tollway	*413
			Just upstream of Bowen Road	*443
			Just upstream of Blackburn Street	*453
			Just downstream of Avondale Avenue	*461
		Cedar Springs branch	Just upstream of Lucas Street	*413
			Just upstream of Maple Avenue	*440
			Just downstream of King Road	[illegible]
		Knights branch	Just downstream of Harry Hines Boulevard	*416
			Just downstream of Missouri-Kansas-Texas Railroad	[illegible]
			Just upstream of Missouri-Kansas-Texas Railroad	*467
		West fork of Knights branch	Just downstream of Mockingbird Lane	[illegible]
			Just upstream of Maple Avenue	[illegible]
		Chalk Hill branch	Just upstream of Bernal Drive	*421
			Just upstream of Texas and Pacific Railroad	*433
			Just upstream of Ft. Worth-Dallas Turnpike Ramp	*449
			Just upstream of Hale Street	*491
			Just upstream of Jefferson Boulevard	*592
		Fish Creek	Just upstream of Fish Creek Road	[illegible]
		Stream 9C1	Just upstream of confluence with Mountain Creek	*435
			Just downstream of Jefferson Boulevard	*446
		O'Guinn Creek	Just upstream of Florena Road	[illegible]
			Just upstream of West Kiest Boulevard	[illegible]
			Just upstream of spur 408 northbound service road	[illegible]
			Just upstream of private road	[illegible]
			Just downstream of Cedar Ridge Road	[illegible]

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Mountain Creek	Just upstream of confluence of stream 6C1	*435
			Just upstream of Texas and Pacific Railroad	*458
			Just downstream of I-20	*471
			Just upstream of Camp-Wisdon	*475
		Bachman branch	Just upstream of Harry Hines Boulevard	*425
			Just downstream of Midway Road	*466
			Just dupstream of Royal Lane	*549
			Just downstream of Willow Lane	*568
		Browning branch	Just upstream of Park Lane	*500
			Just upstream of Lake Hill Court	*519
			Just upstream of Walnut Hill Lane	*534
		Slaughter branch	Just upstream of Northwest Highway	*494
			Just upstream of Inwood Road	*500
		Joes Creek	Just upstream of Willowbrook Road	*431
			Just downstream of Brockbank Drive	*440
			Just upstream of Lombardy Lane	*450
			Just upstream of Shady Oak Lane	*490
			Just upstream of Northaven Road	*540
		East fork of Joes Creek	Just upstream of Dam	*515
		West fork of Joes Creek	Just downstream of Manana Drive	*430
			Just upstream of Walnut Hill Lane	*435
			Just downstream of Denton Drive	*451
		Farmers branch	Just upstream of I-635 north access road	*439
		Stream 6D3	Just upstream of Marsh Lane	*614
			Just downstream of Old Trinity Mills Road (approximately 2,000 feet east of the intersection of Kelly Springfield Boulevard and old Trinity Mills Road).	*585
			Just upstream of Old Trinity Mills Road (approximately 1,100 feet east of the intersection of Kelly Springfield Boulevard and Old Trinity Mills Road).	*572
		Stream 6E1	Just upstream of Marsh Lane	*598
			Just downstream of Marsh Lane	*598
			Just upstream of Kelly Springfield Road	*598
			Just upstream of the St. Louis-San Francisco Railway	*534
		Duck Creek	Just upstream of limit of detailed study	*410
			Approximately 1,300 feet downstream of East Fork Road	*412
		Rowlett Creek	Just upstream of Rowlett Road	*437
			Just upstream of Miller Road	*444
			Just upstream of Missouri-Kansas-Texas Railroad	*451
		Long branch of Rowlett Creek	Approximately 100 feet downstream of Kirby Road	*438
		Stream 2D1	Just downstream of dam	*445
			Just upstream of dam	*447
		Stream 2E10	Approximately 550 feet downstream of Chiesa Road	*441
		Muddy Creek	Just downstream of Liberty Grove Road	*442
		Stream 2E9	Approximately 850 feet downstream of Edgewater Road	*440
		Stream 2E2	Approximately 2,200 feet downstream of Liberty Grove Road	*440
		Stream 2A5	Just downstream of Dalrock Road	*440
			Just upstream of Dalrock Road	*446
		Stream 2A4	Just downstream of Dalrock Road	*439
			Just upstream of Dalrock Road	*444
		Stream 2A3	Just downstream of dirt road	*438
			Just upstream of dirt road	*444
		Cottonwood Creek (east fort—Trinity River.	Just downstream of Liberty Grove Road (flooding controlled by backwater from Lake Ray Hubbard).	*437
			Just upstream of Liberty Grove Road	*445
		Lake Ray Hubbard	Entire shoreline	*437
		Eagle Ford sump	Entire sump area	*416
		Eagle Ford No. 3 sump	Entire sump area	*413
		Trinity-Portland sump	Entire sump area	*413
		Francis Street sump	Entire sump area	*410
		Westmoreland-Hampton sump	Entire sump area	*407
		Pavaho sump	Entire sump area	*409
		Pumping Plant "C" sump	Entire sump area	*404
		Corinth Street sump	Entire sump area	*400
		Hampton-Oaklawn sump	Entire sump area	*405
		Nobles branch sump	Entire sump area	*406
		Record crossing sump	Entire sump area	*404
		Pumping plant "A" sump	Entire sump area	*395
		Beckley Avenue sump	Entire sump area	*450
		Grapevine Creek	Just downstream of Bettine Road	*458
			Just downstream of Moore Road	*466

Maps available for inspection at Public Works Department, 1500 West Mockingbird Lane, Room C24, Dallas, Texas 75235.

Send comments to Ms. Tommie McPherson, Director of Public Works, 1500 West Mockingbird Lane, Room C24, Dallas, Texas 75235.

Texas	City of Hitchcock, Galveston County	Lower Highland Bayou	Just upstream of Fairwood Road	*12
			Just upstream of Delaney Road	*12
		Upper Highland Bayou (flooding on this stream due to Galveston Bay).	Just upstream of Rural Road	*12
		Marchand Bayou	Just upstream of Main Street	*12
		Unnamed tributary 3	Just upstream of Delaney Road	*12
			Approximately 160 feet downstream of Temple Drive	*13

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
	Maps available for inspection at City Hall, 7423 Highway 6, Hitchcock, Texas 77563.			
	Send comments to Mayor Harry W. Robinson or Mr. Robert Freeman, Building Inspector, City Hall, 7423 Highway 6, Hitchcock, Texas 77563.			
Texas	Village of Jamaica Beach, Galveston County	Gulf of Mexico	Intersection of Beach Comber Road and Jamaica Beach Road.	*16
			Intersection of San Luis Pass Road and Buccaneer Drive.	*15
			Intersection of John Davis Road and Buccaneer Drive	*14
			Intersection of Jamaica Cove Road and Bahama Way	*13
			Intersection of Tortuga Way and Spanish Main	*12
	Maps available for inspection at Village Hall, 16628 San Luis Pass Road, Jamaica Beach, Texas 77551.			
	Send comments to Mayor Charles O. Koch or Ms. Joan S. Walstead, Village Administrator, Village Hall, P.O. Box 5264, Galveston, Texas 77551.			
Texas	City of Kemah, Galveston County	Galveston Bay	At corner of Kipp and East 3rd Street	*13
			At corner of Bradford and East 6th Street	*11
		Clear Lake	At Harbor Lane extension and Clear Creek	*13
	Maps available for inspection at City Hall, 602 Bradford Street, Kemah, Texas 77565.			
Vermont	Highgate, town, Franklin County	Lake Champlain	Flooding affecting the Missisquoi River	*102
		Missisquoi River	At Missisquoi National Wildlife Refuge boundary	*102
			Approximately 6,800' upstream Missisquoi National Wildlife Refuge boundary.	*107
			At confluence of Hungerford Brook	*124
			Downstream New County Route 2	*150
			Upstream Highgate Falls dam	*161
			Approximately 5,000' upstream Highgate Falls dam	*182
			Approximately 10,000' upstream Highgate Falls dam	*192
			Approximately 10,000' upstream Highgate Falls dam	*195
			Upstream County Route 6	*212
			Approximately 5,000' upstream County Route 6	*217
			At upstream corporate limits	*219
	Maps available for inspection at the Town Clerk's Office, Municipal Building, R.F.D. 1, Highgate, Vermont.			
	Send comments to Honorable Hyacinthe Beaulieu, Chairman of the Highgate Board of Selectmen, Municipal Building, R.F.D. 1, Highgate, Vermont 05459.			
Vermont	Swanton, town, Franklin County	Missisquoi River	At Missisquoi National Wildlife Refuge boundary	*102
			Downstream corporate limits	*107
			Approximately 5,500' upstream corporate limits	*110
			Downstream Village of Swanton corporate limits	*111
			Abandoned covered railroad bridge	*119
			Central Vermont Railroad	*121
			Upstream U.S. Route 7 bridge	*123
			Upstream corporate limits	*124
	Maps available for inspection at the Town Clerk's Office, Academy Street, Swanton, Vermont.			
	Send comments to Honorable Gordon Campbell, Chairman of the Swanton Board of Selectmen, Town of Swanton, P.O. Box G, Swanton, Vermont 05488.			
Vermont	Swanton, village, Franklin County	Missisquoi River	Downstream corporate limits (extended)	*110
			Downstream corporate limits	*111
			Downstream Swanton Village dam	*113
			Upstream corporate limits (extended)	*119
	Maps available for inspection at the Village Offices, First and Elm Streets, Swanton, Vermont.			
	Send comments to Honorable Leon Bable, Village President of Swanton, Village Offices, First and Elm Streets, Swanton, Vermont 05488.			
Virginia	Chesterfield County	James River	Confluence of Kingsland Creek	[illegible]
			Downstream of the city of Richmond (downstream county boundary).	*27
			Second downstream county boundary extended	*138
			Upstream county boundary extended	*145
		Falling Creek	Confluence with the James River	*25
			Upstream of U.S. Routes 1 and 301	*39
			Upstream of State Route 150 (downstream crossing Chippenham Parkway).	*43
			Upstream of Cogbill Road	[illegible]
			Upstream of Hopkins Road	[illegible]
			Upstream of State Route 150 (upstream crossing Chippenham Parkway).	[illegible]
			Upstream of State Secondary Route 643 (Turner Road).	*140
			Upstream of State Secondary Route 651 (Belmont Road).	*149
			Upstream of State Secondary Route 649 (Newbys Bridge Road.	*161
			Upstream Gregorys Dam	*174
			Upstream of State Secondary Route 653 (Courthouse Road).	*187
			Upstream Lucks Lane	*212
			Upstream of U.S. Route 60 (Midlothian Highway)	*242
			Upstream of Old Buckingham Road	*249
		Pocoshock Creek	Confluence with Falling Creek	*107
			Upstream of dam	*128
			Upstream of State Route 150 (Chippenham Parkway)	[illegible]
			Upstream of State Secondary Route 650 (Turner Road).	*152

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Downstream of State Secondary Route 647 (Walmsley Boulevard).	*163
			Upstream of U.S. Route 360	*179
			Upstream of Twilight Lane	*201
			Upstream of Providence Road	*207
			Upstream of South Arch Road	*225
			Upstream of Sturbridge Drive	*261
		Proctors Creek	Confluence with the James River	*19
			Upstream of Seaboard Coast Line Railway (downstream crossing).	*25
			Upstream of Interstate Route 95	*46
			Upstream of U.S. Route 1–301	*56
			Upstream of State Route 145 (Chester Road)	*103
			Upstream of Seaboard Coast Line Railway (3rd crossing).	*120
			Upstream of confluence of Crooked branch	*126
			Upstream of Salem Church Road	*146
		Great branch	Confluence with Proctors Creek	*103
			Upstream of State Route 145 (Chester Road)	*114
			Upstream of Seaboard Coast Line Railway	*126
			Upstream State Secondary Route 632	*145
		Great branch tributary	Confluence wih Great branch	*126
			Approximately 2,450 feet upstream of confluence of Great branch.	*132
		Redwater Creek	Confluence with Proctors Creek	*19
			Upstream of Coxendale Road	*66
			Downstream of Osborne Road	*85
			Approximately 4,800 feet upstream of Osborne Road	*105
		Crooked branch	Confluence with Proctors Creek	*126
			Upstream of Centralia Road	*147
			Approximately 8,100 feet upstream of Centralia Road (approximately 100 feet downstream of Hollyberry Drive).	*172
		Kingsland Creek	Confluence with the James River	*22
			Upstream of Seaboard Coast Line Railway spur	*55
			Upstream of Interstate Route 95	*63
			Upstream of U.S. Route 1–301	*76
			Upstream of Seaboard Coast Line Railway (downstream crossing).	*88
			Upstream of Seaboard Coast Line Railway (upstream crossing).	*107
			Upstream of confluence with Reedy Creek	*115
			Upstream of State Secondary Route 641 (Beulah Road).	*131
			Upstream of State Route 10	*182
		Johnson Creek	Confluence with the James River	*6
			Upstream Allied Chemical Road	*14
			Upstream of Spruce Avenue	*23
			Upstream of North Enon Church Road (State Secondary Route 746.	*45
			Upstream of Seaboard Coast Line Railway	*57
			Upstream of Kingston Avenue	*76
			Downstream of Inge Road	*95
			Upstream of Old Bermuda Hundred Road	*112
		Appomattox River	Downstream county boundary	*6
			Upstream of Chesterfield Avenue	*28
			Upstream of Seaboard Coast Line Railway	*41
			Upstream of Pickett Avenue	*87
			Upstream of upstream Vepco dam	*121
			Downstream of Brasfield Dam	*132
		Swift Creek	At confluence with the Appomattox River	*6
			Upstream of Interstate Route 95	*13
			Upstream of Seaboard Coast Line Railway	*28
			Upstream of State Secondary Route 625 (Brander's Bridge Road).	*69
			At confluence of Franks branch	*90
			Upstream of State Secondary Route 631 (Bradley Bridge Road).	*104
			Upstream of State Secondary Route 655 (Beach Road).	*125
			Upstream of Pocahontas State Park dam	*141
			Upstream of State Secondary Route 653 (Duella Road).	*149
			Upstream of State Secondary Route 654 (Bailey Bridge Road).	*158
			Upstream of U.S. Route 360	*175
		Licking Creek	At Confluence with Swift Creek	*109
			At Confluence first branch	*129
			Upstream of State Secondary Route 636 (Nash Road)	*144
		Timsberry Creek	Confluence with Swift Creek	*13
			Upstream of Seaboard Coast Line Railway	*57
			Approximately 7,900 feet upstream of Tipton Hill Street (downstream of State Route 144).	*96
		Timsberry Creek tributary	Confluence with Timsberry Creek	*68
			Upstream of State Route 144	*83
		Nuttree branch	Confluence with Swift Creek	*160
			Upstream of dam	*164
			Upstream of Hull Street (U.S. Route 360)	*187

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Ashton Creek	Confluence with the Appomattox River	*8
			Upstream of State Secondary Route 746	*20
			Upstream of State Secondary Route 620	*45
			Upstream of Interstate Route 95	*56
			Upstream of Seaboard Coast Line Railway	*93
			Downstream of State Route 144	*106
		Oldtown Creek	Upstream of Seaboard Coast Line Railway (downstream crossing)	*56
			Downstream of Branders Bridge Road	*73
			Downstream of Woodpecker Road	*82
			Upstream of Hickory Road (State Secondary Route 629)	*94
			Downstream of Warren Avenue	*108
			Downstream of Halloway Avenue	*120
			Downstream of Matoaca Road	*142
		Oldtown Creek tributary	Confluence with Oldtown Creek	*124
			Upstream of Matoaca Road	*131
		Tomahawk Creek	Confluence with Swift Creek Reservoir	*183
			Upstream of State Secondary Route 652 (Old Hundred Road)	*204
			Upstream of Otterdale Road	*224
			Downstream of Southern Railway	*271
		Little Tomahawk	Confluence with Swift Creek Reservoir	*183
			Upstream of State Secondary Route 652	*198

Maps available for inspection at the County Courthouse, Chesterfield, Virginia.

Send comments to Honorable Richard L. Hendrick, Chesterfield County Administrator, County Courthouse, Chesterfield, Virginia 23832.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: June 22, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-18872 Filed 7-13-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA-6333]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule: Revision.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Port Arthur, Jefferson County, Texas.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 47 FR 24370 on June 4, 1982, and in the *Port Arthur News* on April 29, and May 6, 1982, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for inspection at City Hall, 444 Fourth Street, Port Arthur, Texas 77640.

Send comments to: Mayor Bernis Sadler or Mr. Ross White, City Planner, City Hall, P.O. Box 1089, Port Arthur, Texas 77640.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., National Flood Insurance Program, (202) 287–0230, Federal Emergency Management Agency, Washington, D.D. 20472.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the City of Port Arthur in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 State. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(A).

These base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Mangement Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not proscribe development. Thus, this action only forms the basis for future

local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Floodplains.

The proposed base (100-year) flood elevations are:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Texas	City of Port Arthur, Jefferson County	Rhodair Gully	Just upstream of Port Arthur Road	*10
			Just downstream of U.S. Highway 69	*15
		Alligator Gully	At the intersection of Memorial Freeway and Main "B" Canal.	*3
		Port Acres	At the intersection of State Highway 365 and Wilson Avenue.	*3
		Lakeside	Along Bayou Drive and Cashmere Drive	*1
		Crane Bayou	At the intersection of Main Avenue and 15th Street	*3
		Sabine Pass	At the entrance to Sabine Pass	*21
			Just south of Texas Point at mouth of Texas Bayou	*16
			At the Coast Guard Station at shore side	*13
			At Sabine Pass side	*14
			At Sabine Pass community at intersection of State Highway 87 and Broadway Street.	*12
			At Sabine Pass just upstream of U.S. Highway 82	*12
			At the crossing of State Highway 87 over the Intracoastal Waterway.	*12
			At Gulf Gate Bridge at Sabine/Neches Canal	*10
			At Main Avenue extended outside of the Levee	*8
			Southwest of the community of Sabine Pass, at the intersection of State Highway 87 and a dirt road located 1.75 miles southwest of South 14th Avenue.	*15
		Neches River	At State Highway 87 (under the control of Wave Height Action).	*8
			At mouth of Molasses Bayou (affected by Wave Height Surge).	*8

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effectively January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: June 30, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-18930 Filed 7-13-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA-6333]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Town of Pine Forest, Orange County, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 287–0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Town of Pine Forest, Orange County, Texas.

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or Regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Previous publication of proposed base (100-year) flood elevations for the Town of Pine Forest appeared in the *Vidor Vidorian* on April 29 and May 6, 1982. This notice will serve to supersede those previous publications.

Under the source of flooding of Ten Mile Creek, the first location incorrectly reads "Approximately 300 feet upstream of Lake View Road at 15 feet NGVD". This location should correctly read "Approximately 300 feet upstream of Sugar Hill Road at 15 feet NGVD".

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the (proposed) (final) flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new

requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Floodplains.

The location and elevation have been corrected to read as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
Texas	Town of Pine Forest, Orange County	Ten Mile Creek	Approximately 300 feet upstream of Sugar Hill Road	*15

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: June 28, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-18932 Filed 7-13-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6358]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below and proposed changes to base flood elevations for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., National Flood Insurance Program, (202) 287–0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or Regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under Section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Floodplains.

The proposed base (100-year) flood elevations for selected locations are:

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Louisiana	Unincorporated areas of Terrebonne Parish	Gulf of Mexico	Immaculate Conception Church, located on State Highway 315.	*13
			Dulac School, located approximately 1000 feet west of State Highway 57.	*12

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Little Caillou Church just east of State Highway 56	*10
			St. Joseph School, located approximately 900 feet west of State Highway 56.	*9

Maps available for inspection at Terrebonne Parish Permit Chief's Office, Parish Courthouse, 500 School Street, Houma, Louisiana 70361.

Send comments to Mr. Calvin Bodden, President, Terrebonne Parish Police Jury or Mr. Pat Gordon, Parish Permit Chief, Terrebonne Parish Courthouse, P.O. Box 2768, Houma, Louisiana 70361.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: June 28, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-18883 Filed 7-13-82; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 82-194; RM-3998, RM-4027]

FM Broadcast Station in Monterey, Byrdstown and Lebanon, Tennessee; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension for filing reply comments.

SUMMARY: This action extends the time for filing reply comments in a proceeding involving a proposed channel allocation to either Monterey or Byrdstown, Tennessee, in response to a request from counsel for R. Gene Cravens. Counsel states that additional time is needed to prepare an informed response to comments in support of the Byrdstown proposal.

DATE: Reply comments must be filed on or before June 25, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Order Extending Time for Filing Reply Comments

Adopted: June 9, 1982.

Released: June 15, 1982.

1. On April 2, 1982, the Commission adopted a Notice of Proposed Rule Making and Order to Show Cause, 47 FR 16809, published April 20, 1982, in the above-referenced proceeding. Comments have been filed and reply comments were due June 8, 1982.

2. We now have before us for consideration a request for extension of time for filing reply comments to and including June 25, 1982, submitted by counsel for R. Gene Cravens, the Monterey, Tennessee, proponent. Counsel acknowledges that the request is late pursuant to the requirements of § 1.46(b) of the Commission's rules. Counsel states that in response to the Notice, he timely filed comments in support of its proposal and effectuated service on Robert W. Gallaher, Drew Huffines and Edward M. Johnson (RM-4027), which seeks the conflicting assignment of Channel 296A to Byrdstown, Tennessee.

3. Counsel advises it has recently been apprised that comments were filed by the Byrdstown proponents. Yet it states that contrary to the requirements of § 1.420(a) of the Commission's rules, it was not served with such filing. In view of this oversight, counsel seeks additional time in which to secure and review such filings, and to enable it to prepare an informed response.

4. Although counsel does not indicate the consent of other parties regarding the extension, he states that they have been served with a copy of the request.

5. We are of the view that under the circumstances recited, additional time is warranted. Counsel has provided good cause for waiver of § 1.46(b) since he did not have notice of the comments filed in support of the Byrdstown proposal. Such extension will assure development of a sound and comprehensive record on which to base a decision in this proceeding.

6. Accordingly, it is ordered, that the request for extension of time filed on behalf of R. Gene Cravens, is granted, and the time for filing reply comments in BC Docket No. 82-194 (RM-3998 and RM-4027), is extended to and including June 25, 1982.

7. This action is taken pursuant to authority contained in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's rules.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-19030 Filed 7-13-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-201, RM-3249, RM-3710, BC Docket No. 80-211, RM-3579, BC Docket No. 80-213, RM-3406, RM-3716, 3719, BC Docket No. 81-171, RM-3518, RM-3556, RM-3613, RM-3666, RM-3771]

FM Broadcast Station in North Charleston, Eastover, and Ravenel, South Carolina, FM Broadcast Station Elloree, South Carolina, FM Broadcast Station Mount Pleasant, Parris Island, Batesburg, South Carolina), FM Broadcast Station in Johnston, Leesville, Winnsboro Mills, Saluda, Union, and Batesburg, South Carolina; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension for filing reply comments.

SUMMARY: Action taken herein extends the time for filing reply comments to the oppositions filed in a proceeding involving FM channel assignments to various communities in South Carolina, in response to a request from counsel for William G. Dudley, III.

DATE: Reply comments to any or all oppositions filed herein must be filed on or before June 7, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Order Extending Time for Filing Replies to Oppositions to Petitions for Reconsideration

Adopted: May 21, 1982.

Released: May 27, 1982.

In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (North Charleston, Eastover, and Ravenel, South Carolina, BC Docket No. 80-201, RM-3249, RM-3710; Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Elloree, South Carolina), BC Docket No. 80-211, RM-3579; Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Mount Pleasant, Parris Island, Batesburg, South Carolina), BC Docket No. 80-213, RM-3406, RM-3718, RM-3719; and Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Johnston, Leesville, Winnsboro Mills, Saluda, Union, and Batesburg, South Carolina), BC Docket No. 81-171, RM-3518, RM-3556, RM-3613, RM-3666, RM-3771.

1. Five petitions for reconsideration have been filed in the above proceeding, notification of which has been published in the **Federal Register** as they were received, *i.e.*, 47 FR 13403, on March 30, 1982, 47 FR 17335, on April 22, 1982, and 47 FR 20185 on May 11, 1982. Oppositions have been filed with respect to the first two Notices, and replies thereto were due on April 26, and May 17, 1982, respectively.

2. On May 13, 1982, counsel for William G. Dudley, III, a petitioner herein, filed a motion for extension of time to file replies with respect to all oppositions submitted thus far to the five petitions for reconsideration. The extension is sought up to and including the date set for replies in the last notice, to wit, June 7, 1982. In support of its request, counsel states that additional time is needed to review the numerous oppositions and to formulate a proper response.

3. Counsel does not indicate he has received the consent of the other parties to this proceeding, although they were served with the request. We believe the five petitions are sufficiently interrelated that comments and replies on the latter two petitions may address the previously filed petitions. In this way, a sound and comprehensive record on which to base a decision herein can be developed.

4. In accordance with § 1.429(g) of the Commission's rules, it is ordered, That the time for filing replies to any or all of the oppositions filed in this proceeding is extended to and including June 7, 1982.

5. This action is taken pursuant to authority contained in §§ 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and §§ 0204(b) and 0.281 of the Commission's rules.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-19029 Filed 7-13-82; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Proposed Regulations Governing the Gray Wolf in Minnesota

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to amend the regulations under which the gray wolf in Minnesota is conserved. The amendment, which would have the effect of returning a great measure of wolf management to the Minnesota Department of Natural Resources, would authorize the State of Minnesota to permit a sport harvest of Gray wolves, and would permit the sale in interstate and international commerce of wolves and wolf pelts lawfully taken in that harvest, provided that the State's tagging requirements were observed and the provisions of the Convention on International Trade in Endangered and Threatened Species were met. The harvest would take place primarily in areas where wolves have repeatedly preyed on livestock, and would be limited by the wolf density figures established in the Fish and Wildlife Service's Eastern Timber Wolf Recovery Plan.

DATES: Comment from the public on this proposed rule must be received September 13, 1982, to be assured consideration. A hearing in Twin Cities, Minnesota will be held on August 4, 1982, at 10 A.M. A hearing in International Falls, Minnesota, will be held on August 11, 1982, at 7 P.M.

ADDRESSES: Submit written comments to the Regional Director (SE), U.S. Fish and Wildlife Service, U.S. Department of the Interior, Bishop Henry Whipple Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Comments and materials received in response to this proposal will be available for public inspection during normal working hours at the Service's Endangered Species office, Bishop Henry Whipple Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

The August 4 hearing will be held at: Bishop Henry Whipple Federal Building, Room 568, Fort Snelling, Twin Cities, Minnesota.

The August 11 hearing will be held at: Rainy River Community College, Humanities Building, Room #126 International Falls, Minnesota

FOR FURTHER INFORMATION CONTACT: Mr. James M. Engel, Senior Staff Biologist, Endangered Species, U.S. Fish and Wildlife Service, Bishop Henry Whipple Federal Building, Fort Snelling, Twin Cities, Minnesota, (612) 725-3596.

SUPPLEMENTARY INFORMATION: The proposed rulemaking is prompted by the Service's view that in certain areas in Minnesota, it may not be necessary to protect the gray wolf from all sport hunting and trapping.

Background

The History of the Species and Its Treatment

The taxonomy of the Gray wolf species can be debated, but it is clear that before North America was settled one or another subspecies of the Gray wolf occurred in most of Canada, the conterminous 48 states, and Mexico. In Canada, the species still occurs in fairly large numbers. The species' range south of Canada has been radically reduced as a consequence of the extensive habitat destruction and human persecution that accompanied the continent's settlement. The Gray wolf population in northern Minnesota is the last large surviving segment of the species south of Canada.

In Minnesota, Gray wolves at one time inhabited nearly all of the State. By 1918, however, the species had been eliminated from the southern two-thirds of the State; but since that time, the numbers of wolves in the State has been relatively stable, and probably has increased somewhat in recent years. The most notable change that the Minnesota wolf population has undergone in recent years has been connected with the areas where the

population is most concentrated. A decade ago, the numbers of wolves in the Superior National Forest, in the northeastern part of the state, was greater than it is at present. With the cessation of timber cutting in the forest, and the consequent maturation of the forest and deterioration of deer habitat, the wolf density in the forest has decreased, and wolves have tended to disperse to the south and west—into the areas identified as zones 2, 3 and 4, as they are delineated on the map appearing at 50 CFR 17.40(d)(1) (1981). In recent years the wolf also has appeared again in northern Wisconsin, where it previously was believed to be extirpated. And in 1981, an estimated 10 to 15 wolves were believed to have made their way into zone 5 in the far western part of Minnesota, where farming and livestock raising are the perdominant land uses.

The stability of the wolf's numbers in Minnesota over recent decades is noteworthy, in light of the wide variations in the treatment which the law has afforded the species. From 1948 to 1965, it was legal for private citizens to hunt wolves. During much of that period, wolves could be hunted from airplanes, on areas outside the Boundary Waters Canoe Area (BWCA) in northeastern Minnesota. In addition, until 1965 the State of Minnesota paid a bounty of wolves, and under the bounty system, from the years 1952 to 1965, the average annual take was 188 wolves. Further, until 1956, the state of Minnesota used its own employees to kill wolves, resulting in an average additional take of from 70 to 150 wolves. When the bounty system and other wolf hunting were eliminated in 1965, it was replaced by a "directed predator control program", under which the state maintained the list of predator "controllers", who could trap in areas where the state determined that predators were causing damage. These persons received $50.00 for each wolf they killed, and were allowed to keep the pelts. During and after the pendency of this program, charges were made that controllers took more wolves than was necessary, and did not confine their trapping efforts to the state-designated areas.

The first Federal protection which the wolf received was indirect: In 1948 all flights under 4,000 feet were prohibited in the BWCA. The effective result was that aerial wolf hunting in the BWCA was stopped as of that year.

The first direct Federal action that concerned wolves occurred in 1967. The Eastern timber wolf (*Canis lupus lycaon*)—a subspecies of wolf that formerly existed from Georgia to Maine and from the east coast to the great plains, and that therefore includes the wolves of Minnesota—was listed as an "endangered species" under the Endangered Species Act of 1967, Publ. L. No. 89–667, 80 Stat. 926. But that Act contained no mechanism for recognizing that a species' status might vary from State to State, and also contained no mechanism for directly protecting any listed species.

In 1967, the Eastern timber wolf was also included in a list of endangered species covered by the Pan American Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, 56 Stat. 1354. Under that Convention, which was signed in 1942, each contracting government agreed that it would adopt measures to protect any species appearing on the list which the Convention created.

The Endangered Species Act of 1969, Pub. L. No. 91–135, 83 Stat. 275 ("the 1969 Act") authorized the Secretary of the Interior to acquire lands that would be useful as habitat for endangered species, and created Federal penalties both for the unpermitted importation of endangered species and for transporting endangered wildlife in interstate or international commerce if the laws of a state or foreign country were violated. Again, however, no direct protection against taking was afforded to any domestic species, and no provision was made for recognizing that a species might merit different degrees of protection in differenct portions of its range.

In 1970, the Supervisor of the Superior National Forest—which includes the BWCA—prohibited the taking of timber wolves on Federal lands within the Forest, excepting only one district.

Then, on December 28, 1973, Congress repealed the 1969 Act and replaced it with the Endangered Species Act of 1973, 16 U.S.C. 1531–1543 (1976) ("the 1973 Act"). The 1973 Act directed the Secretary of the Interior to review the status of all species that might be facing extinction, and to decide whether such species merited the classification of "endangered" or the less restrictive classification of "threatened" (see 16 U.S.C. 1533 (1976)). It also authorized the Secretary to protect the same species differently in different places, if the species was in greter jeopardy in some places than in others. To ensure that after the passage of the Act there was no hiatus during which no protection was afforded to any species, Congress afforded the full protections of the "endangered" classification to all species which had been listed as endangered under the 1969 Act, (16 U.S.C. 1533(c)(3) [1976]), so the taking of any such species was prohibited. (16 U.S.C. 1538(a)(1)(B) [1976]). Thus, suddenly the wolf in Minnesota was the subject of a panoply of Federal protections, including a very stringent prohibition against taking.

On October 4, 1974, the Minnesota Department of Natural Resources petitioned the Fish and Wildlife Service to exclude the State of Minnesota from the range over which the Eastern timber wolf was considered to be "endangered" under the 1973 Act. In response, the Service issued a Notice of Review in the Federal Register of November 21, 1974 (39 FR 40877). Public comment was received, but the Service decided to withhold making any final decision on the state's petition pending formulation of recommendations by the Eastern Timber Wolf Recovery Team, which had been assembled under the provisions of the 1973 Act. After receiving the recommendations of that Team, on June 9, 1977 the Service issued a proposed rulemaking with respect to all members of the Gray wolf species in the United States, including the Eastern timber wolf in Minnesota (42 FR 29527); and after receiving and considering extensive public comment on that proposal, the Service published a final rulemaking on March 9, 1978 (43 FR 9607), which classified all members of the Gray wolf species in the United States as "endangered", except for the Minnesota population, which was classified as "threatened".

The 1973 Act directs the Secretary of the Interior to adopt such protective regulations "as he deems necessary and advisable to provide for the conservation of such species" (16 U.S.C. 1533(d)(1976)). Hence, the Service's final rulemaking in 1978 included the provisions that presently appear at 50 CFR 17.40(d)(1981). Those provisions prohibit the taking of wolves in Minnesota, but provide exceptions for taking in aid of human life, taking to rescue injured or orphaned wolves, taking to dispose of dead specimens, and taking by Government employees or agents of wolves that are committing significant depredations on lawfully present domestic animals.

The Present Regulations: Impact on Depredation

The regulations' exception concerning depredation was adopted in an attempt to deal with the fact that, while the causes and extent of the wolf depredation problem in Minnesota might be debated, it is clear that some wolves prey on domestic livestock. Thus, when

in 1974 the realization dawned in Minnesota that the 1973 Act forbade the taking of all wolves, including even depredating wolves, the Fish and Wildlife Service instituted a wolf trapping program. Under this program, in the years from 1974 through 1977, the wolves trapped by the Service in response to depredations in Minnesota were not killed; instead, because the killing of a species listed as "endangered" was deemed to be inappropriate, they were "translocated" to fairly remote areas within the Superior National Forest, in the northeastern corner of Minnesota.

But, as has been noted above, the wolf carrying capacity of the Superior National Forest was declining during this period, and translocated wolves (which were tagged, and in some instances radio-collared, before release) commonly moved westward out of the Forest, sometimes returning to the exact area from whence they had been trapped. Thus, virtually everyone with an opinion on the subject program considered the translocation program to be unsatisfactory. One farmer went so far as to file a lawsuit, claiming that the Endangered Species Act unconstitutionally deprived him of his property. This lawsuit subsequently was dismissed on the United States' motion (see *Brzoznowski v. Andrus*, Civil No. 5–77–19 [filed June 1, 1981]), and, paradoxically, the United States District Court, in *Fund for Animals v. Andrus*, Civil No. 5–78–66 (filed July 25, 1978; supplementary decision filed August 31, 1978), expressed the view that, in response to these complaints and this lawsuit, the Service had trapped and translocated far too many wolves. Meanwhile, the State of Minnesota had begun paying farmers for livestock lost to wolves.

The Service's response to this problem, in the 1978 regulations, was to authorize the trapping and killing of depredating wolves. Short after this authorization went into effect, it was the subject of litigation in the United States District Court for the District of Minnesota in *Fund for Animals v. Andrus*, cited above. At issue in that case was an Interior Department argument to the effect that its 1978 regulations permitted trapping in advance of depredation, in instances where historic depredation patterns were clear and where large numbers of wolves were present. The Court rejected that argument, and expressed the view that the language of the Service's regulation was very poorly conceived and that an amendment, giving greater latitude to persons charged with controlling depredations, might be in order. During the *Fund for Animals* litigation, the Service had proposed a rulemaking that would have provided such latitude (see 43 F.R. 29019 [July 5, 1978], but ultimately elected not to adopt the amendment, and instead to work within the framework of the regulations as they had been interpreted by the Court.

In the *Fund for Animals* case, the Court read the 1978 regulations to authorize the trapping of wolves within one-quarter mile of a farm at which a depredation had occurred; and since 1978, the Department has employed trappers who have operated within those limits, and who have also experimented with various techniques aimed at preventing depredation without trapping. During the three and one-half years of this program, the Service believes that it has proved to be a basically sound and effective approach, with two exceptions that are noted below.

The statistics gathered by the Service employees who have been conducting depredation control in Minnesota indicate that when the numbers of cattle or sheep available to wolves in Minnesota is considered, depredation has not been a widespread problem. Until 1981, wolf depredation in the State either was stable or declining slightly; and in 1981, when depredation increased, a major contributing factor to the increase was the new presence of wolves in zone 5, where there is almost no wolf habitat, and where therefore the wolf population apparently was obliged to depend to a great extent on livestock for survival.

The statistics also indicate that, when it occurs, wolf depredation is concentrated. The Service's research is summarized in a paper by Dr. Stephen H. Fritts, who has been the Fish and Wildlife Service employee directly responsible for the Service's wolf depredation control and research program in Minnesota. (Dr. Fritts' paper is an attachment to the Service's environmental assessment which addresses this proposed rulemaking.) The paper indicates that two farmers in Minnesota have received nearly 50% of the total payments made by the State under its program for compensating farmers for livestock losses caused by wolves. Further, a relatively small number of farmers made up the bulk of the remaining recipients of such payments.

With respect to the areas subject to depredation, it appears that until 1981, virtually all losses were experienced by farmers whose operations were located in zone 4. In 1981, however, a number of the losses were experienced by farmers in zone 5; but concentrated areas in zone 4, including particularly an area adjacent to the southern boundary of zone 3, in the vicinity of Northome, Minnesota, continued to experience depredation.

The chronic nature of wolf depredation problems in certain areas probably results at least in part from adult wolves learning to depend on livestock for part of their diet (perhaps, in some cases, as a result of poor livestock husbandry practices) and then passing this knowledge on to their pups. When those pups reach maturity, they too probably will commit depredation and, in turn, pass on their knowledge to the next generation.

This problem is one which cannot be dealt with conclusively, under the Service's 1978 regulations, because those regulations, as were interpreted in the *Fund for Animals* case, prohibit the killing of pups. The Service has attempted to solve the problem by using "taste aversion" techniques, in which the Service trapper places beef and cattle hair in the pup's mouth and then gives the wolf lithium chloride to make the animal violently ill; and it may be that this technique has had some effect, but the extent does not appear to be conclusive.

Hence, one of the two aforementioned problems with the Service's present regulations concerning depredation is this treatment of pups: it seems quite likely that more effective long-term depredation control would be afforded by permitting the killing of pups that are trapped near confirmed depredations. This position has been urged by conservation officers of the State of Minnesota, and it is supported by the Service employes engaged in depredation control.

The second problem which the present regulations pose, in the context of depredation, has to do with the distance limitations imposed on trapping in response to depredations. The Service is of the view that some distance limitations clearly are warranted.

In the *Fund for Animals* case, the Court expressed the view that too many wolves—wolves that clearly could have neither killed cattle nor eaten cattle carcasses—were taken during the Service's first attempts, in 1975 through 1978, to respond to depredation. The Court was of the view that these excesses were in part a product of the large distances from depredations the trapping had been permitted: occasionally, traps have been set from five to ten miles away from depredation.

The Service agrees that some distance limitations are warranted, but it has found, since 1978, that the one-quarter mile distance restriction which was established as a result of the *Fund for Animals* decision is too confining. The Service and the State therefore have recommended expansion of the limit to one-half a mile, which would give trappers needed leeway, while still ensuring that the trapping program wasn't abused.

The Present Regulations: What Prohibitions Are "Necessary" To Conserve the Wolf?

In addition to matters concerning depredation there exists in the present regulations a fundamental question concerning the role of the Service's regulations in wolf conservation. All experts on the subject agree that the wolf population in Minnesota is stable, and that it probably will remain that way absent either immense habitat modifications or an all-out systematic "war on wolves". Hence, the question is: What regulations are "necessary and advisable to provide for the conservation" of the wolf, as that phrase is used in the Endangered Species Act?

Put another way, the question is whether it is necessary or even desirable for the conservation of the wolf to prohibit all public taking of wolves (except taking in defense of human life) or whether limited public taking can be consistent with, and in fact foster, a stable wolf population in Minnesota.

This question has been central to discussions on wolf regulations since 1974. The State of Minnesota has repeatedly expressed the view that such a limitation is not necessary; and it has indicated that it will not devote substantial resources to a wolf management plan, unless the plan contained the flexibility to permit a carefully controlled taking of wolves by the public. Similarly, the Service's Eastern Timber Wolf Recovery Team in 1977 recommended, *inter alia*, that in the wolf's peripheral range in Minnesota where the species comes in conflict with humans, the species would best be served by "maintenance of wolf population densities at prescribed levels * * * through a combination of protections and regulated taking". (Wolf Recovery Team Report, at 5.) But in its reclassification of the wolf in 1978, the Service elected not to follow that recommendation of the Recovery Team. The Service said that—

"[f]or the time being, the Service sees no justification for allowing the take of nondepredating wolves. The Service could, however, continue to monitor the situation, as recommended by the team, and would propose new regulations whenever warranted." (42 FR 19526; June 9, 1977.)

The Service also initially rejected the State's management plan for the wolf, in part because the State proposed to authorize a limited public taking of wolves in zones 3 and 4. The Service expressed the view that although such a taking would not hurt the species, neither would it help.

Subsequently, the State has indicated that the public taking which it contemplates in zone 4 would be primarily targeted at areas where wolf depredation on livestock has been recurrent; that the public taking in zone 3 would be limited to the zone's periphery in areas where depredation has been chronic; and that no such public taking would be permitted in either zone if the Minnesota Department of Natural Resources, using generally accepted wildlife census techniques, determined that the average wolf population density in the zone had dropped below the levels which the Service's Wolf Recovery Plan recommended.

In other words, the State of Minnesota now proposes essentially to adopt the Wolf Recovery Plan's approach to managing wolves in the State of Minnesota. Under these circumstances, the Service is of the view that new regulations providing a framework within which the Recovery Team's recommendations and the State's plan—as it has been thus modified to provide for a targeted public harvest of wolves,—would better serve the species in Minnesota than do the Service's present regulations.

Several things have led the Service to this view. First, wolves appear to be at or near the carrying capacity of their habitat in their peripheral range. Thus, a thinning of their numbers, in areas where depredations have been recurring, would increase the amount of prey available to the wolves that remain, and might well inhibit future depredation. Second, wolves in the peripheral areas of their range appear to have become less wary of humans since they have been protected from public taking. Several incidents have occurred in which wolves have shown little or no fear of humans in human habitation. Such fearlessness can only increase the apprehension with which the public regards the species, and the contempt in which all taking regulations are held. Third, it clearly is to the species' advantage to have the State of Minnesota more directly involved in its conservation, given the manpower and resources of the State's Department of Natural Resources. Fourth, a public taking, targeted in the manner which the State intends, coupled with a maintenance of minimum wolf densities recommended in the Recovery Plan, would be consistent with the species' recolonization of appropriate habitat recommended by the Recovery Plan.

Accordingly, the Service has decided to propose amendments to its regulations which would accomplish the changes in depredation control discussed above, and would also permit the limited public taking as outlined in the Minnesota management plan and recommended in the Eastern Timber Wolf Recovery Plan.

Effects of the Rulemaking

Pursuant to the proposed regulation, the Gray wolf will be managed so that acceptable wolf densities are maintained. To achieve this, the proposed rule facilitates management techniques including attention to habitat, prey species and research. In addition, the rule allows four types of taking:

1. Taking by authorized State and Federal officials or agents for limited purposes, such as to aid injured, sick or orphaned specimens, when in the course of official duties.

2. Taking in zones 2 through 5 to control in direct response to particular depredations. This taking must be by certain individuals and must be both in response to depredation and within one-half mile of where the depredation occurred.

3. Regulated public taking is permitted in zones 3, 4, and 5. The extent of this taking cannot cause wolf populations to fall below specified densities for zones 3 and 4, and is primarily in areas where depredations have been recurring—thus tending to produce the effects discussed above. Several other restrictions on this taking are also proposed.

4. Taking by authorized Federal and State employees or agents when the extent of public taking allowed by the State of Minnesota did not, in the preceding season, reach the total allowed by the State. Such taking would give those agencies the flexibility to deal with the possibility that areas may exist where depredation has been recurring and where, because of the difficulty of the terrain or other factors, public taking has been ineffective in reducing the population's density to the desired level. Such taking by Government employees or agents cannot reduce the wolf populations below that specified in the regulation for particular zones.

In addition, any person can take a Gray wolf in Minnesota in self-defense

or the lives of others. Take for scientific research or conservation programs by specified persons is also allowed.

The rule contains restrictions on the sale and transportation of Gray wolves. Persons lawfully taking Gray wolves under the provisions allowing public taking can sell the wolves as long as tagging requirements are met. Such wolves can be exported if the requirements of the Convention on International Trade in Endangered Species of Fauna and Flora are met.

National Environmental Policy Act

A draft environmental assessment has been prepard in conjunction with the proposal. It is on file in the Service's Office of Endangered Species, U.S. Fish and Wildlife Service, Bishop Henry Whipple Federal Building, Fort Snelling, Twin Cities, Minnesota 55111, and may be examined during regular business hours. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

Author

This proposed rulemaking is issued under the authority contained in the Endangered Species Act 16 U.S.C. 1531–1543. It was prepared principally by James Engel, Endangered Species Coordinator, Region 3, United States Fish and Wildlife Service; Dr. L. David Mech, Research Biologist, Patuxent Wildlife Research Center, North Central Forest Experiment Station, St. Paul, Minnesota; and John E. Jacobson, Attorney-Advisor, Office of the Field Solicitor, U.S. Department of the Interior, Twin Cities.

Note.—The Department of the Interior has determined that this document is not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule does not contain information collection requirements subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980.

The only entity directly effected by the rule would be the State of Minnesota. This revision would give the State discretionary authority to manage wolf depredation control problems and to conduct regulated harvests. The course of action which the major entity of Minnesota chooses to take when given this discretionary authority is outlined in the Minnesota Timber Wolf Management Plan of 1980. Any economic effect upon small entities will directly result from the wishes of the sovereign State of Minnesota but will indirectly result from this regulation.

There is not expected to be an impact on the number of licensed trappers in Minnesota due to this rulemaking.

The fur industry of Minnesota effected by this rule could experience an increase in income from public take of wolves that has been previously prohibited. Because of the diversity of the impact to trappers, tanners, wholesalers, and furriers it is presently difficult to trace a speculative increase in business. In 1980 over 1.5 million pelts were available to the Minnesota fur industry. These included 1,419,000 muskrat, 42,000 red fox, 4,000 coyote, and 98,000 mink. The impact of 50 additional wolf pelts, although probably beneficial, would be minimal.

Local farmers may experience a decrease in the number of livestock loss to predation, since the sport harvest may effectively reduce the number of depredating animals. All effects are expected to be beneficial.

It is expected that the cost of wolf nuisance control will diminish in Minnesota if the State initiates the proposed management plan. Administration of harvests would require surveys, computation of removal rates, tag allocation, and law enforcement monitoring of harvests. The Minnesota Department of Natural Resources would have to support this additional workload to comply with the wolf management and recovery plans. The biological and enforcement staffs would be available for handling this increased workload.

The State has paid approximately $22,000 compensation for Fiscal Year 1981 to landowners due to loss of property by depredating wolves. It is not known if cost of administrating this management program by the State will offset any revenue gained by removal of nuisance animals.

This finding is the result of staff discussions and the analysis of data provided by FWS Regional Office, Minneapolis and the Minnesota Department of Natural Resources.

Literature Cited

Recovery Plan for the Eastern Timber Wolf, 1978 Minnesota Timber Wolf Management Plan, 1980

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulation Promulgation

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Section 17.40(d)(2) of Title 50 of the Code of Federal Regulations is proposed to be revised to read as follows:

§ 17.40 [Amended]

* * * * *

(d) * * *

(2) *Prohibitions.* The following prohibitions apply to the Gray wolf in Minnesota.

(i) *Taking.* Except as provided in this paragraph (d)(2)(i) of this section, no person may take a Gray wolf in Minnesota.

(A) Any person may take a Gray wolf in Minnesota in defense of his own life or the lives of others.

(B) Any employee or agent of the Service, any other Federal land management agency, or the Minnesota Department of Natural Resources, who is designated by his agency for such purposes, may, when acting in the course of his/her official duties, take a Gray wolf in Minnesota without a permit if such action is necessary to:

(1) Aid a sick, injured, or orphaned specimen; or

(2) Dispose of a dead specimen; or

(3) Salvage a dead specimen which may be useful for scientific study.

(4) Designated employees or agents of the Service of the Minnesota Department of Natural Resources may take Gray wolves without a permit in Minnesota, in zones 2, 3, 4, and 5, as delineated in paragraph (d)(1) of this section, in response to depredations by Gray wolves on lawfully present domestic animals; *provided,* that such taking must occur within one-half mile from the place where such depredation occurred.

(C) The Minnesota Department of Natural Resources may permit persons to take Gray wolves in zones 3, 4, and 5, as delineated in paragraph (d)(1) of this section, provided that—

(1) Such taking shall be permitted not more than 5 miles inside the boundary of zone 3, in areas of recurring wolf depredation on lawfully present domestic animals; and the extent of such taking shall be adjusted periodically to maintain an average population density of not less than 1 wolf per ten square miles. The Minnesota Department of Natural Resources may determine population density on the basis of generally accepted wildlife census techniques;

(2) In zone 4, such taking shall be permitted primarily in areas of recurring depredation, and the extent of such taking shall be adjusted periodically to maintain an average population density in the zone of not less than 1 wolf per 50 square miles. The Minnesota Department of Natural Resources may determine population density on the basis of generally accepted census techniques.

(3) During the first year after the effective date of these regulations, not more than 50 Gray wolves may be taken by the public in zone 4.

(D) Any employee or agent of the Service, any other Federal land management agency, or the Minnesota Department of Natural Resources who is designated by his/her agency for such purposes, may, when acting in the

course of his official duties, take a Gray wolf in Minnesota without a permit in any area within which the Minnesota Department of Natural Resources has authorized taking under paragraph (2)(i)(C) of this section, if during the season immediately preceding the taking the persons participating in the season have not taken the number of wolves which the State has permitted to be taken, and such taking by an employee or agent of the Service, any other Federal land management agency or the Minnesota Department of Natural Resources would not reduce the density in the zone in which taking occurs below that specified in paragraph (2)(i)(C) of this section.

(E) Any employee or agent of the Service or the Minnesota Department of Natural Resources, when operating under a Cooperative Agreement with the Service signed in accordance with section 6(c) of the Endangered Species Act of 1973, who is designated by the Service or the Minnesota Department of Natural Resouces for such purposes, may, when acting in the courts of his or her official duties, take a Gray wolf in Minnesota to carry out scientific research or conservation programs.

(ii) *Expert and Commercial Transactions.* (A) Except as provided in paragraph (d)(2)(ii)(B) of this section, or as provided in § 17.32 of this Title, no person may sell or offer for sale in interstate commerce, or export, or in the course of a commercial activity transport, ship, carry, deliver, or receive any Minnesota Gray wolf.

(B) Gray wolves taken in accordance with the provisions of paragraph (d)(2)(i)(C) of this section, and tagged with a locking seal in accordance with the regulations of the Minnesota Department of Natural Resources, may be exported if the requirements of the Convention on International Trade in Endangered Species of Fauna and Flora (see 50 CFR Part 23) are met; and Gray wolves taken and tagged in such manner may be transported, shipped, carried, delivered, or received in interstate commerce in the course of a commercial or noncommercial activity, and may be sold or offered for sale in interstate commerce.

(iii) *Unlawfully taken wolves.* No person may possess, sell, deliver, carry, transport, or ship, by any means whatsoever, a Gray wolf taken unlawfully in Minnesota, except that an employee or agent of the Service, or any other Federal land management agency, or the Minnesota Department of Natural Resources, who is designated by his agency for such purposes, may, when acting in the course of his official duties, possess, deliver, carry, transport or ship a Gray wolf taken unlawfully in Minnesota.

Dated: June 17, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-18886 Filed 7-13-82; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 47, No. 135
Wednesday, July 14, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

July 9, 1982.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of P.L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Comments and questions about the items in the listing should be directed to the agency person named at the end of each entry. If you anticipate commenting on a form but find that preparation time will prevent you from submitting comments promptly, you should advise the agency person of your intent as early as possible.

Copies of the proposed forms and supporting documents may be obtained from: Richard J. Schrimper, Statistical Clearance Officer, (202) 447–6201.

New

• Food and Nutrition Service
Multi-Commodity Food Requisition
FNS–53
On occasion
State or local governments: 600 responses; 1,800 hours; not applicable under 3504(h)
Barbara Batta, (703) 756–3360

• Rural Electrification Administration
Personal Experience Record of Applications for Position as Manager
REA Form 328
On occasion
Businesses or other institutions: 100 responses; 75 hours; not applicable under 3504(h)
Milton E. Wright, (202) 382–1936

Revised

• Food and Nutrition Service
Food Requisition
FNS–52
On occasion
State or local governments: 8,736 responses; 17,472 hours; not applicable under 3504(h)
Barbara Batts, (703) 756–3660

Richard J. Schrimper,
Statistical Clearance Officer.

[FR Doc. 82–18951 Filed 7–13–82; 8:45 am]
BILLING CODE 3410–01–M

Office of the Secretary

[Docket No. 82–013N]

National Advisory Committee on Meat and Poultry Inspection; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that a meeting of the National Advisory Committee on Meat and Poultry Inspection will be held on July 29 (beginning at 1:00 p.m.) and July 30, 1982, (beginning at 9:00 a.m.) in the Comstock Room of the Sheraton-Palace Hotel at 639 Market Street, San Francisco, California.

The purpose of the Committee is to advise the Secretary of Agriculture regarding certain issues pertaining to the meat and poultry products inspection program, pursuant to sections 7(c), 24, 205, and 301(a)(4) of the Federal meat Inspection Act (21 U.S.C. 607(c), 624, 645, and 661(a)(4) and sections 5(a)(4), 8(b), and 11(e) of the Poultry Products Inspection Act (21 U.S.C. 454(a)(4), 457(b), and 460(e)). The meeting will include a discussion of the following topics:

1. Margarine Standard
2. Prior Labeling Approval
3. Discretionary Processing Inspection Legislation
4. Sodium Labeling
5. Import Inspection
6. Food Safety Legislation
7. Food Safety Poster Contest

The meeting is open to the public on a space available basis. Comments of interested persons may be filed with the Committee before or after the meeting, by sending them to Linda Wood, Director, Executive Secretariat, Room 335–E, Administration Building, U.S. Department of Agriculture, 14th and Independence Avenue, SW., Washington, DC 20250, (202) 447–3002.

Done at Washington, DC, on: July 9, 1982.

Donald L. Houston,
Vice Chairman.

[FR Doc. 82–19001 Filed 7–13–82; 8:45 am]
BILLING CODE 3410–DM–M

CIVIL AERONAUTICS BOARD

[Docket 40822; Order 82–7–18]

Air Carrier Rules Governing Failure To Operate on Schedule or Failure To Carry; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 8th day of July, 1982.

Most U.S. certificated air carriers subscribe to Rule 240 in the domestic passenger rules tariffs, CAB No. 352, which sets forth the responsibilities of the carriers in the event they fail to operate as scheduled. Rule 240(G) sets forth the basic amenities, such as meals, telephone calls, or lodging, and related services that may be provided under certain circumstances to passengers affected by schedule irregularities. Several major carriers have recently amended their amenities rules so that the carriers will have no obligation to a passenger whose flight is diverted from the destination airport designated on the passenger's ticket to another airport in the same general vicinity or metropolitan area, not even for ground transportation to the destination airport.[1] For example, United Air Lines'

[1] United Air Lines and other carriers have amended their amenities rules in stages. In this respect, in the past, while there was an exception to providing general amenities such as hotel accommodations or meals to passengers whose flights were diverted to another airport in the same metropolitan area, carrier rules still made clear that ground transportation would be provided. As explained further below, however, the most recent amendments to carrier amenities rules removes any reference to their obligation to provide onward transportation.

Rule 240(G)(23)(a), Exception (ii) eliminates the carrier's obligation to ensure that a passenger is transported to the destination airport designated on the passenger's ticket as follows:

(ii) When the destination designated on the passenger's ticket is:	And the flight on which the passenger is being transported is diverted to:
Baltimore, MD	Washington, DC (Dulles Airport).
Baltimore, MD	Washington, DC (National Airport).
Ft. Lauderdale, FL	Miami, FL.
Los Angeles, CA	Ontario, CA.
Miami, FL	Ft. Lauderdale, FL.
Newark, NJ	New York, NY.
New York, NY	Newark, NJ.
Oakland, CA	San Francisco, CA.
Ontario, CA	Los Angeles, CA.
San Francisco, CA	Oakland, CA.
San Francisco, CA	San Jose, CA.
Washington, DC (Dulles Airport)	Baltimore, MD.
Washington, DC (Dulles Airport)	Washington, DC (National Airport).
Washington, DC (National Airport)	Baltimore, MD.
Washington, DC (National Airport)	Washington, DC (Dulles Airport).

Similar rules for domestic travel have been filed by Continental Air Lines, Braniff Airways, Pan American World Airways, Trans World Airlines, New York Air, Western Air Lines, American Airlines, and Northwest Airlines. In addition, most of these carriers have such provisions applying to U.S. airports in international rules tariffs on file with the Board. *See* Appendix to this order. This order is intended to apply to all of them and to any similar rules found in other tariffs on file with the Board. For the reasons discussed in this order, the Board has tentatively decided that such tariff provisions are unjust, unreasonable and unlawful, and we are ordering all interested parties to show cause why they should not be cancelled.

The Board has for several years encouraged carriers to offer a wide range of price and service options to the public, relying on the marketplace to influence carrier management in their decisions. Response to this flexibility has produced significant changes in the services offered passengers. In the past in the event of a schedule irregularity, most carriers provided passengers food, lodging, communications facilities, and local transportation regardless of the nature of the schedule irregularity. This general industry practice changed when many carriers filed tariffs limiting their responsibilities to passengers to situations where an enroute flight is diverted to an unscheduled point, and limiting the amenities provided in such circumstances to lodging and ground transportation. In addition, several of these carriers further limited their responsibilities to passengers through an exception to the above amenities rules that provided, in essence, that the carrier would not bear the expense of overnight accommodations if the airport to which a passenger's flight is diverted is located in the same general metropolitan area as the airport to which the flight was originally scheduled to operate.[2] Even so, the tariffs still made clear that carriers would provide ground transportation between airports to a passenger whose flight was diverted from one airport to another in the same metropolitan area.[3]

Several carriers have now amended their tariffs by deleting provisions requiring them to assume expenses for ground transportation between airports in the same metropolitan area in cases where their flights are diverted. Thus, these recent amendments allow carriers to divert passengers to an airport many miles from that at which they expected to arrive and to leave them not only to fend for themselves, but to bear any additional expense incurred in reaching their actual destination. These tariff rules effectively allow a carrier to excuse itself from the basic bargain it has made with a passenger—to carry the passenger to a particular point for a particular price. We think it inherently misleading for the tariff to negate what the ticket has promised. The Board has tentatively decided that tariff provisions that exculpate carriers from any obligation to transport a passenger to the destination airport designated on his or her ticket if the flight is diverted to another airport in the same general vicinity or metropolitan area are unjust and unreasonable and therefore unlawful. In the absence of these tariff provisions, consumers will be able to seek redress from carriers which fail to carry them to their destination. We therefore direct all interested parties to show cause why these tariff rules should not be cancelled.

Section 403(a) of the Federal Aviation Act requires carriers to file tariffs with the Board that describe in detail their fares, and, to the extent required by the Board, their services and practices. These tariffs, along with certain notices printed on tickets, constitute the contract between carriers and their passengers. Although the Board may suspend, reject, or cancel a tariff rule, once a particular tariff rule is effective a passenger is deemed to have constructive notice of its terms, whether or not the passenger was given actual notice thereof.

The Board has in the past taken steps to correct the inequities that may result from a passenger being bound, through tariff filings, to contractual terms of which he or she had no actual notice, especially where those terms are inconsistent with reasonable passenger expectations and may affect the basis of the bargain between the airline and the passenger. For example, in Order 79–12–98, the Board cancelled an industry-wide rule that allowed carriers to disclaim liability for any statements made by their agents or employees that were contrary to the applicable tariffs.[4] In addition, the Board has refused to allow carriers exempted from Part 250 to exculpate themselves, through tariff filings, from liability under customary contract and tort law.[5]

We are tentatively of the opinion that provisions such as United's Rule 240(G)(23)(a), Exception (ii) described herein and any similar rules found in other tariffs on file with the Board, including those listed in the attached appendix, are unlawful and should be removed from the tariffs. As in our other actions in cancelling tariff rules or not allowing rules to be filed, such as those described above, we do not mean to imply that carriers may not through normal methods establish such contractual terms. The terms and conditions of carriage in the circumstances here at issue are best left to agreement between the parties subject to review by the courts. By taking this action we would eliminate the constructive notice which attaches to tariff matter. In doing so we wish to make clear that such terms do not carry the imprimatur of the government.

Accordingly:

1. The Board directs all interested parties to show cause why we should not issue an order making final the tentative findings and conclusions stated here;

2. Any interested party objecting to the issuance of such an order shall, no later than August 12, 1982, file with the Board a statement of objection which shall set forth in detail any facts, economic or statistical data, and other evidence relied upon in support of the

[2] Thus, for example, no lodging would be provided to a passenger whose ticket shows a destination of Baltimore Washington International Airport and whose flight is diverted to Dulles International Airport. Other examples involve the following points: Ft. Lauderdale/Miami; Los Angeles/Ontario; New York/Newark; San Francisco/Oakland or San Jose.

[3] *See, e.g.*, United Air Lines' Rule 240(G)(23)(a), Exception (ii), 9th Revised Page 258, cancelled by 10th Revised Page 258, effective December 5, 1981.

[4] *See, e.g.*, former Rule 1(G) of CAB No. 352.

[5] Order 80–5–9, May 1, 1980. *Accord*, Order 81–6–41, June 5, 1981 (exempting People Express Airlines from Part 250 and the Board's baggage rules and refusing to allow carrier to file tariffs with respect to its practices in these areas).

objection. Answers to objections shall be filed no later than August 26, 1982;

3. Parties requesting an evidentiary on-the-record hearing in this matter shall set forth in detail the reasons why a hearing is needed, including a statement of the facts they intend to develop in a hearing and the reasons why such facts cannot otherwise be presented;

4. If timely and properly supported objections are filed, we will consider fully the matters or issues they raise before taking further action; and

5. If no objections are filed, all further procedural steps will be deemed to have been waived, and the matter will be submitted to the Board for final action.

This order shall be served on all U.S. certificated air carriers and foreign air carriers and shall be published in the **Federal Register.**

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

Appendix

Airline Tariff Publishing Company, Agent:

CAB No. 352:
- Rule 240(G)(1)(b)(i), Exception (bb)
- Rule 240(G)(5)(a), Exception (ii)
- Rule 240(G)(6)(a), Exception (ii)
- Rule 240(G)(8)(b)(i), Exception (bb)
- Rule 240(G)(9)(a), Exception (i)
- Rule 240(G)(10)(a), Exception (ii)
- Rule 240(G)(12)(a), Exception (b)
- Rule 240(G)(18)(a), Exception (ii)
- Rule 240(G)(23)(a), Exception (ii)
- Rule 240(G)(27)(a), Exception (ii)

CAB No. 376:
- Rule 95(A)(1)(a), Exception (ii)
- Rule 95(A)(9)(a), Exception (2)
- Rule 95(A)(11)(a), Exception (b)
- Rule 95(A)(12)(a), Exception (b)
- Rule 95(A)(13)(a), Exception (b)

Air Tariffs Corporation, Agent:

CAB No. 55:
- Exception to rule 43(H)(l)

[FR Doc. 82-19016 Filed 7-13-82; 8:45 am]
BILLING CODE 6320-01-M

[Order No. 82-7-32]

Application of Aer Turas Teoranta; Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause; order 82-7-32.

SUMMARY: The Board proposes to approve the following application.

Applicant: Aer Turas Teoranta.
Application Date: October 28, 1981.
Docket: 40190.
Authority Sought: Cargo charter operations between the United States and the Republic of Ireland.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall, no later than August 4, 1982, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, the Department of Transportation, the Department of State, and the Ambassador of the Republic of Ireland. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed permit.

ADDRESSES FOR OBJECTIONS:

Docket 40190, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

Aer Turas Teoranta, c/o Jerry W. Ryan, Crowell and Moring, Suite 1200, 1100 Connecticut Avenue, NW., Washington, D.C. 20036.

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION, CONTACT: Agnes M. Trainor, Bureau of International Aviation, Civil Aeronautics Board; (202) 673-5878.

By the Civil Aeronautics Board: July 8, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-19013 Filed 7-13-82; 8:45 am]
BILLING CODE 6320-01-M

[Order 82-7-29]

Blue Bell Inc.; Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause 82-7-29.

SUMMARY: The Board has tentatively decided to issue a certificate to Blue Bell, Inc. authorizing it to engage in overseas and foreign charter air transportation of cargo.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this action be taken as described in the order cited above, shall NO LATER THAN August 3, 1982, file a statement of such objections with the Civil Aeronautics Board (20 copies, addressed to Docket 40206, Dockets Section, Civil Aeronautics Board, Washington, D.C. 20428) and mail copies to Blue Bell, Inc. and the Departments of State and Transportation. A statement of objections must cite the docket number and must include a summary of testimony, statistical data or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will make final the Board's tentative findings and conclusions and issue a certificate authorizing Blue Bell, Inc. to engage in overseas and foreign charter air transportation of cargo.

To get a copy of the complete order, request it from the Civil Aeronautics Board, Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the Washington Metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Don Hainbach (202) 673-5035, Legal Division, Bureau of International Aviation, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: July 8, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-19015 Filed 7-13-82; 8:45 am]
BILLING CODE 6320-01-M

[Order No. 82-7-31; Docket No. 40828]

Central Zone—Caracas/Maracaibo, Venezuela Service Case; Order Instituting Investigation

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order instituting investigation; Order 82-7-31, Docket 40828.

SUMMARY: The Board is instituting the *Central Zone-Caracas/Maracaibo, Venezuela Service Case* to consider the joint application of Braniff Airways and Eastern Air Lines to transfer Braniff's U.S.-Venezuela authority to Eastern and to select a primary and back-up carrier to provide scheduled service between points in the United States Central Zone (area west of the Mississippi River, including New Orleans, to the Rocky Mountains) and Caracas and Maracaibo, Venezuela. The complete text of Order 82-7-31 is available as noted below.

DATES: Applications, motions to consolidate applications conforming to the scope of this proceeding, petitions from interested parties, and petitions for

reconsideration shall be filed by July 19, 1982.

ADDRESSES: All pleadings should be filed in the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428 in Docket 40828, *Central Zone-Caracas/Maracaibo, Venezuela Service Case.*

FOR FURTHER INFORMATION CONTACT: Ronald A Brown, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673–5203.

SUPPLEMENTARY INFORMATION: The complete text of Order 82–7–31 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

By the Civil Aeronautics Board, July 8, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–19014 Filed 7–13–82; 8:45 am]

BILLING CODE 6320–01–M

[Order 82–7–30; Docket 40827]

Order Instituting Dallas/Fort Worth-London Case

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order instituting investigation: Order 82–7–30, Docket 40827.

SUMMARY: The Board is instituting the *Dallas/Ft. Worth-London Case* to select a primary and back-up carrier to provide scheduled nonstop service between Dallas/Ft. Worth, Texas and London, England. The complete text of Order 82–7–30 is available as noted below.

DATES: Applications, motions to consolidate applications conforming to the scope of this proceeding, petitions from interested parties, and petitions for reconsideration shall be filed by July 19, 1982.

ADDRESSES: All pleadings should be filed in the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428 in Docket 40827, *Dallas/Ft. Worth-London Case.*

FOR FURTHER INFORMATION CONTACT: Jeffrey B. Gaynes, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673–5035.

SUPPLEMENTARY INFORMATION: The complete text of Order 82–7–30 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

By the Civil Aeronautics Board: July 8, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–19005 Filed 7–13–82; 8:45 am]

BILLING CODE 6320–01–M

[Docket 40580]

Samoa, Inc., d.b.a. Samoa Airlines, Inc., Fitness Investigation; Postponement of Hearing

Notice is hereby given that a hearing in the above-mentioned matter scheduled to be held on July 9, 1982 is hereby postponed until July 21, 1982, at 10:00 a.m. (local time), in Room 1012, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, before the undersigned administrative law judge.

Dated at Washington, D.C., July 8, 1982.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 82–19006 Filed 7–13–82; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, on or before August 3, 1982.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5:00 p.m., Monday through Friday, in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 82–00124. Applicant: Yale University, 272 Whitney Avenue, P.O. Box 6666, New Haven, CT 06511. Article: Large-Solid-Angle Split-Pole Magnetic Spectrograph. Manufacturer: ANAC, Inc., New Zealand. Intended use of article: The article will be used in conjunction with a MP-tandem Van de Graaff nuclear accelerator in a wide variety of nuclear physics experiments to make high precision measurements of the energy and momentum of particles produced in nuclear reactions. In many of these experiments coincidence measurements will be made which necessitate the large solid-angle feature of this new design. The overall objective of these experiments is to advance the understanding of the structure of excited nuclear states, including the degree to which it is possible to identify and study complex cluster configurations in such states. Most of the research will be carried out in collaboration with physics graduate students as part of their training for the Ph. D. degree. Application received by Commissioner of Customs: February 22, 1982.

Docket No. 82–00229. Applicant: University of Wisconsin-Parkside, P.O. Box 2000, Kenosha, WI 53141. Article: Counter Current Distribution Apparatus. Manufacturer: Chemical Center Workshop, Univ. of Lund, Sweden. Intended use of article: The article is intended to be used to examine *physarum polycephalum* amoebae cells that have been exposed to weak 60 Hz electromagnetic fields. The cells will partition between two aqueous polymer phases of poly (ethylene glycol) and dextran, in a way that depends upon the membrane surface properties. Application received by Commissioner of Customs: June 2, 1982.

Docket No. 82–00230. Applicant: University of California, San Diego, Receiving Dept., 3175 Miramar Road, Bldg. 509, La Jolla, CA 92093. Article: Extracellular Patch Clamp System with Pipette Holder. Manufacturer: List Electronics, West Germany. Intended use of article: The article is intended to be used for studies of biological membranes, primarily from the retina and from muscles. The experiments to be conducted will involve conductance measurements at a constant applied voltage and voltage measurements at constant applied current. The activity of the channels will be induced by illumination, in the case of the retina cells, or by the introduction of specific chemical ligands that bind to the acetylcholine receptor in the muscle cells. Application received by Commissioner of Customs: June 2, 1982.

Docket No. 82–00232. Applicant: University of California, Berkeley, Purchasing Department, 2405 Bowditch Street, Berkeley, CA 04720. Article: Excimer Pumped Dye Laser, Model FL 2002. Manufacturer: Lambda Physik GMBH & Co., West Germany. Intended

use of article: The article is intended to be used to study a variety of organic molecules in the gas phase, liquid phase, solid state, and chemisorbed or physisorbed on surfaces. The objective of these studies is to unveil new chemical and physical properties of material and to develop novel laser devices. The system will allow innovative long shots and high risk experiments to be performed in an efficient way. Application received by Commissioner of Customs: June 2, 1982.

Docket No. 82-00234. Applicant: Jet Propulsion Laboratory, 4800 Grove Drive, Pasadena, California 91109. Article: Carcinotron Power Supply, Model TH20200. Manufacturer: Siemel Corp., France. Intended Use of Article: The article is intended to be used for radio astronomical and atmospheric investigations of cosmic sources of molecular line emission. Investigations will be conducted to determine physical conditions, such as molecular abundance, temperature, and density in the three medicums observed: the Earth's atmosphere, the Jovian atmosphere, and interstellar molecular clouds. Application received by Commisioner of Customs: June 2, 1982.

Docket No. 82-00235. Applicant: President and Fellows of Harvard College, Office for Sponsored Research, Holyoke Center 458, Cambridge, MA 02138. Article: Excimer Laser, EMG 101. Manufacturer: Lambda Physik GmbH, West Germany. Intended use of article: The article will be used to pump a tunable dye laser which will thereby allow the study of non-linear coherent interactions of resonant laser radiation and matter in both the vapor and solid state. The coherent radiation caused to be emitted by the materials will serve as a probe of fundamental relaxation and energy transfer processes in the materials. Application received by Commissioner of Customs: June 2, 1982.

Docket No. 82-00236. Applicant: Yale University, 272 Whitney Avenue, P.O. Box 6666, New Haven, CT 06511. Article: NMR Control Unit-Magnetic Spectrograph. Manufacturer: ANAC, Inc., New Zealand. Intended use of article: The article will be used in connection with a MP-tandem Van de Graaff nuclear accelerator in a wide variety of nuclear physics experiments to make high precision measurements of the energy and momentum of particles producted in nuclear reactions. In many of these experiments coincidence measurements will be made which necessitate the large solid-angle feature of this new design. The overall objective of these experiments is to advance the understanding of the structure of excited nuclear states including the degree to which it is possible to identify and study complex cluster configurations in such states. Most of the research will be carried out in collaboration with physics graduate students as part of their training for the Ph.D. degree. Application received by Commissioner of Customs: June 2, 1982.

Docket No. 82-00237. Applicant: Brookhaven National Laboratory, Upton, New York 11973. Article: Toroidal Diffraction Gratings. Manufacturer: Astron Developments, Ltd., United Kingdom. Intended use of article: The article is intended to be used in studies of the electronic geometric structure using photoemission and surface EXAFS of molecules absorbed onto single crystal surfaces in order to understand catalytic reactions. Application received by Commissioner of Customs: June 2, 1982.

Docket No. 82-00238. Applicant: University of Chicago, Operator of Argonne National Laboratory, 9700 So. Cass Avenue, Argonne, IL 60439. Article: Klystron Tube. Manufacturer: Thomson—CSF, France. Intended use of article: The article is intended to be used in the Argonne National Laboratory high current Electron-Linear Accelerator Facility to produce the electro-magnetic waves in the waveguides that accelerate the electrons to the required energy for the experimental purposes. The Linac facility is used to conduct basic research in two areas:

(1) Photoneutron experiments in which neutron spectra near threshold are observed with high resolution, thus enabling a better understanding of neutron-nuclei interactions with applications directed toward reactor physics, radiological physics and physics in general.

(2) Pulse radiolysis experiments, utilizing fast pulse domain of less than 50 picoseconds to study fast reactions related to reaction kinetics, free radical and unstable ion chemistry, reaction chemistry, radiation biology, photosynthesis, combustion, and pollution and atmospheric chemistry.

Application recieved by Commissioner of Customs: June 2, 1982.

Docket No. 82-00240. Applicant: University of Massachusetts, Department of Civil Engineering, Marston Hall, Room 30, Amherst, MA 01003. Article: Electronic Hydraulic Controller, Triaxial Cell. Manufacturer: Geotechnical Digital, United Kingdom. Intended use of article: The article is intended to be used for research being conducted to obtain a better understanding of soil behavior when subjected to a variety of cyclic stress states. The stresses, volume changes and strains are determined at all times during the test, and the results used to evaluate the soil behavior. The article will also be used in the graduate course in geotechnical engineering, "Sheer Strength of Soil," in which the behavior of soil under a variety of loading states is studied. Appli ation received by Commissioner o Customs: June 2, 1982.

Docket No. 82-00241. Applicant: Iowa State University, Purchasing Department, 2nd Floor Physical Plant Bldg., Ames, IA 50011. Article: Diffraction Grating for Soft-x-ray Region. Manufacturer: Astron Developments, Ltd., United Kingdom. Intended use of article: The article is intended to be used in the construction of a monochromator which will be used to provide monochromatic soft-x-rays that will be used to study photoemission of electrons from solids. Application received by Commissioner of Customs: June 2, 1982.

Docket No. 82-00242. Applicant: Jet Propulsion Laboratory, 4800 Oak Grove Drive, Pasadena, CA 91109. Article: Millimeter Wavelength Carcinotron. Manufacturer: Thomson CSF, France. Intended use of article: The article is intended to be used for radio astronomical and atmospheric investigations of cosmic sources of molecular line emission. Investigations will be conducted to determine physical conditions such as molecular abundance, temperature, and density in the three mediums observed: the Earth's atmosphere, the Jovian atmosphere, and interstellar molecular clouds. The observations will be obtained in either the total power or beam differencing mode. Application received by Commissioner of Customs: June 2, 1982.

Docket No. 82-00243. Applicant: Washington University, Purchasing Dept., Lindell & Skinker Blvd., St. Louis, MO 63130. Article: Two Analyser Sections, One GS 61 and One GS 98 Ion Sources with Spare Filaments and Holder. Manufacturer: Institut fur Kristallographie und Petrographie, Switzerland. Intended use of article: The article is intended to be used for studies of noble gas mass spectrometry on minute samples of lunar, terrestrial, stratospheric dust, and meteoritic samples. Istopic ratios of He, Ne, Ar, Kr, and Xe are measured and from them is gained knowledge of the history of the early solar system, information to identify the source of cosmic dust, and data to study the early formative processes of the moon. The article will also be used in the training of graduate students in physics who learn state-of-

the-art mass spectroscopy in the laboratory. Application received by Commissioner of Customs: June 2, 1982.

Docket No. 82-00258. Applicant: Albion College, 611 East Porter, Albion, MI 49224. Article: Electron Microscope, Model JEM-100S with Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in examing various biological materials which have been prepared according to routine TEM methods, including embedding in plastic resins for ultramicrotomy and dispersion of bacterial and virae suspensions for negative stain preparations.

The projects include: (1) Wall formation in *Neurospora;* (2) plant symbioses; (3) stimulation of heterocyst formation in *Nostoc punctiforme;* (4) *Xylaria* spore development. The article will also be used for educational purposes in the courses Electron Microscope Techniques, Directed Study and Seminar in Ultrastructure. Application received by Commissioner of Customs: November 20, 1981.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-19020 Filed 7-13-82; 8:45 am]
BILLING CODE 3510-25-M

Carbon Steel Wire Rod From Argentina; Preliminary Affirmative Countervailing Duty Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary Affirmative Countervailing Duty Determination.

SUMMARY: We preliminary determine that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Argentina of carbon steel wire rod. The estimated net bounty or grant is indicated in the "Suspension of Liquidation" section of this notice. Therefore, we are directing the U.S. Customs Service to suspend liquidation of all entries of carbon steel wire rod from Argentina which are entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or bond on this product in the amount equal to the estimated net bounty or grant.

If this investigation proceeds normally, we will make our final determination by September 21, 1982.

EFFECTIVE DATE: July 14, 1982.

FOR FURTHER INFORMATION CONTACT: Paul J. McGarr, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377-1167.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine there is reason to believe or suspect that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the "Act"), are being provided to manufacturers, producers, or exporters in Argentina of carbon steel wire rod. For purposes of this investigation, the following programs are preliminarily found to confer bounties or grants:

- "Reembolso"—tax rebate on exports
- Pre-financing of exports through dollar-indexed pesos

We estimate the net bounty or grant to be the amount indicated in the "Suspension of Liquidation" section of this notice.

Case History

On February 8, 1982, we received a petition from counsel for Atlantic Steel Corporation, Georgetown Steel Corporation, Georgetown Texas Steel Corporation, Keystone Consolidated Incorporated, Korf Industries Incorporated, Penn-Dixie Steel Corporation, and Raritan River Steel Corporation, filed on behalf of the U.S. industry producing carbon steel wire rod. The petition alleged that certain benefits which constitute bounties or grants within the meaning of section 303 of the Act are being provided, directly or indirectly, to the manufacturers, producers, or exporters in Argentina of carbon steel wire rod.

We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation, and on March 4, 1982, we initiated a countervailing duty investigation (47 FR 9260). We stated that we expected to issue a preliminary determination by May 4, 1982. We subsequently determined that the investigation is "extraordinarily complicated," as defined in section 703(c) of the Act, and postponed our preliminary determination for 65 days until July 8, 1982 (47 FR 17319).

Since Argentina is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and the carbon steel wire rod at issue here is dutiable, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of this merchandise cause or threaten material injury to the U.S. industry in question.

We presented a questionnaire concerning the allegations to the government of Argentina in Washington, D.C. On May 7, 1982, we received the response to that questionnaire.

Scope of the Investigation

For the purpose of this investigation, the term "carbon steel wire rod" covers a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross section, not under 0.02 inch nor over 0.74 inch in diameter, not tempered, not treated, and not partly manufactured, and valued over 4 cents per pound, as currently provided for in item 607.17 of the *Tariff Schedules of the United States.*

Industria Argentina de Aceros, S.A. ("ACINDAR") is the only known producer in Argentina of carbon steel wire rod that exports to the United States. The period for which we are measuring bounties or grants is calendar year 1981.

Analysis of Programs

In its response, the government of Argentina provided data for the applicable period. Based upon our analysis to date of the petition and the response to our questionnaire, we preliminarily determine the following.

I. Programs Preliminarily Determined to be Bounties or Grants

We preliminarily determine that bounties or grants are being provided to manufacturers, producers, or exporters in Argentina of carbon steel wire rod under the following programs.

A. "Reembolso"—Tax Rebate on Exports

The reembolso program was established in 1971. It authorized a refund, by cash payment on export, of taxes "that bear directly or indirectly" on exported products and/or their component raw materials for the purpose of promoting exports. The amount of the reimbursement is equal to a fixed percentage of the f.o.b. value of the exported merchandise. This percentage varies by product.

Under U.S. countervailing duty law, the non-excessive rebate of indirect taxes levied at the final stage and prior stage cumulative indirect taxes borne by inputs that are physically incorporated into the final product is not considered a subsidy. With respect to such non-VAT rebates, in order to determine whether a cash payment on export is a *bona fide*

rebate of indirect taxes, we look to see whether: (1) The program involved operates for the purpose of rebating indirect taxes; (2) whether there is a clear link between eligibility for payments on exports and indirect taxes paid; and (3) whether the government has reasonably calculated and documented the actual tax incidence borne by the product concerned and has demonstrated a clear link between such tax incidence and the amount paid on export.

The reembolso program is designed to refund taxes that "bear directly or indirectly on export products." Generally, we view taxes borne by a product as indirect, and taxes on, for example, income and labor as direct.

Based on our review of the total tax incidence which the reembolso is designed to rebate, we are satisfied that the reembolso operates "for the purpose of rebating indirect taxes" and therefore meets our first test.

Following a general reorganization of the reembolso program in 1976, the rate of reembolso on carbon steel wire rod was set at 5 percent. At the time, the government of Argentina analyzed the steps of production and value added at each stage for each major sector of Argentine industry. The reembolso rate for each sector was then based on the estimated tax incidence derived from the analysis. This procedure provided the government of Argentina only a general model upon which the tax incidence for specific sectors could be estimated. Without more precise evidence of the indirect taxes levied on carbon steel wire rod, we would not find that the requisite link exists between indirect taxes actually paid and the reembolso payments, the second prerequisite for a showing of linkage.

As part of the reembolso program, a procedure was established under which an industry could petition for a rate increase if that industry beieved that the reembolso rate for its product was too low. A study conducted by the government of Argentina under this procedure in 1978 resulted in a modification of the reembolso on carbon steel wire rod, increasing the rate to 15 percent of the f.o.b. value. A further study done at the request of the government in 1980, following the establishment of a national value-added tax that eliminated some of the taxes rebated by the reembolso, resulted in no change in the reembolso on this merchandise. These detailed reviews of specific taxes levied on carbon steel wire rod, when considered in conjunction with the more general 1976 study, provide a sufficient basis for our preliminary determining that the reembolso program meets the second test and does involve a *bona fide* tax rebate.

In the questionnaire response, the government of Argentina provided us with data from its most recent analysis, as of January 31, 1982, of the tax incidence on carbon steel wire rod. This analysis shows that the taxes levied on carbon steel wire rod, which the reembolso is designed to rebate, total 18.80% of the f.o.b. value. Included in this calculation is the rebate of salary taxes and taxes on various indirect expenditures of 1.97% which do not meet our physical incorporation standard. We preliminarily determine that our third test is met to the extent of 3.66% and that this amount, therfore, is not countervailable. The 3.66% is based on the following taxes that occur at the final stage: A 1.5% municipal tax, a 0.6% tax on foreign currency sales, a 1.0% export contract stamp tax and 0.56% miscellaneous excise and insurance taxes.

Taxes on raw materials and other inputs, both domestic and imported, constitute the bulk of the taxes claimed to be rebated by the reembolso. Some of these inputs, such as electricity and natural gas, do not meet our physical incorporation standard. However, many of these inputs clearly do meet that standard but the tax incidence is not adequately documented at this time. We have received a total percentage value of the tax incidence on each input, but the particular taxes involved are not identified. Numerous taxes are identified only by name; the rate of each tax and the amount of its incidence on each input are not separately calculated. In the absence of sufficient documentation, we preliminarily determine that these rebates are countervailable.

Thus, of the total 18.80% tax incidence claimed by the government of Argentina on carbon steel wire rod, we have allowed 3.66% and disallowed 15.14%. While we recognize that the reembolso is a program to rebate indirect taxes, we have also preliminarily determined that as its applies to carbon steel wire rod it currently involves a subsidy element because the reembolso payment exceeds the amount of the indirect taxes, the rebate of which we find to be allowable.

The reembolso rate of 15 percent on carbon steel wire rod, established in 1978, remained in effect until December 23, 1981, when Resolution No. 2/81 of the ministry of Economy set the maximum general level of reembolso at 10 percent. This action was recently superseded by Resolution No. 437 of May 5, 1982, when the Ministry of Economy raised the reembolso for many export products including carbon steel wire rod to 14 percent of the f.o.b. value.

In addition to the normal reembolso, the petitioners alleged the existence of bounties or grants under two other features of this program. First, Decree No. 2863/72 permits an additional 5 percent reembolso, lasting for one year, for products being exported to new markets. In 1981, ACINDAR made a request for such a benefit on exports of carbon steel wire rod to the United States. Resolution 699/81 of the Ministry of Economy denied that request.

Second, Decree No. 1691 established an additional reembolso of 15 percent for certain products in October 1981. This program was a temporary measure for six months and expired on April 24, 1982. The government of Argentina states that ACINDAR did not use this program for exports of carbon steel wire rod.

The 14 percent reembolso reflects ACINDAR's current eligibility. Based upon Commerce Department policy, the subsidy element is the amount by which the reembolso payment exceeds the total allowable indirect taxes. Therefore, we have calculated an *ad valorem* export subsidy of 10.44 percent.

B. Pre-Financing of Exports Through Dollar-Indexed Pesos

This program makes available to exporters pre-export funds at an intereste rate of one percent on peso loans denominated in U.S. dollars. The funds are provided by the Central Bank of Argentina and are lent by private commercial banks to individual corporate borrowers. The Central Bank limits its financial participation to a percentage of the export's f.o.b. value. For carbon steel wire rod, the percentage is currently 60 percent. The maximum length of the loan is 120 days, but repayment must take place no later than 60 days from the effective export date. Prior to August 1981, the loans could be for 40 percent of the export's f.o.b. value and for up to 90 days.

The loans, originally granted in pesos but denominated in U.S. dollars by the banks at the exchange rate prevailing at the time of the loan, must be repaid in pesos, but in an equivalent amount of dollars at the then current exchange rate. Consequently, we consider these loans to be essentially dollar loans and are comparing them to commercially-available rates for dollar loans.

The government of Argentina states that ACINDAR began exporting carbon steel wire rod to the United States in August 1981 and began using this program to finance these exports in July 1981. The government has identified

several loans to ACINDAR under this program, but we have not received sufficient information on the loans or the total value of exports to the United States to determine the actual percentage of these exports that received such financing. Thus, we must assume that the maximum amount was borrowed for the maximum term on all shipments to the United States.

To determine the benefit of this financing program, we have used as the national average commercial rate of interest on dollars the average 90–day LIBOR (London Interbank Offered Rate) of 16.8 percent for 1981, plus the 1.25 percent spread which prevailed in Argentina during the latter half of 1981. Comparing the 1.0 percent rate on the preferential loans to the 18.05 percent national average commercial rate, we calculated in interest differential of 17.05 percent. Multiplying this differential by the maximum terms of 60 percent financing for 120 days, we calculate an *ad valorem* export subsidy of 3.36 percent.

II. Programs Preliminarily Determined Not To Be Utilized

We preliminarily determine that the following programs, alleged by the petitioners to confer bounties or grants, were not utilized by the manufacturers, producers, or exporters in Argentina of carbon steel wire rod.

A. Regional Development Incentives

The government of Argentina states that producers of carbon steel wire rod do not receive benefits from programs for regional development.

B. Capital Grants

The government of Argentina states that ACINDAR has not received grants from either the government or government-sponsored institutions.

III. Program Preliminarily Determined To Be No Longer in Existence

We preliminarily determine that the following program, alleged by the petitioners to confer bounties or grants, is no longer in existence.

Income Tax Exemption Benefit

This program, which allowed a company to deduct 10 percent of the f.o.b. vaule of its exports from taxable income, expired on June 30, 1980.

IV. Program for Which Additional Information Is Needed

The provision of long-term loans to ACINDAR has been alleged by the petitioners to be a bounty or grant.

The government of Argentina states that ACINDAR received a substantial loan from the National Development Bank in 1976 at an annual interest rate of 7 percent over the inflation rate. At this time, we lack sufficient information to determine whether this loan, or others, provides ACINDAR benefits which constitute bounties or grants within the meaning of the countervailing duty law. We will seek additional information regarding such loans before reaching a final determination.

Verification

In accordance with section 776(a) of the Act, we will verify data used in making our final determination.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of carbon steel wire rod from Argentina which are entered, or withdrawn from warehouse, for consumption, on or after July 14, 1982 and to require a cash deposit or bond for each such entry of this merchandise in the amount of 13.80 percent *ad valorem*. This suspension will remain in effect until further notice.

Public Comment

In accordance with section 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminatry determination at 10:00 A.M. on August 12, 1982, at the U.S. Department of Commerce, Room 6802, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address on or before July 26, 1982.

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy Assistant Secretary by August 5, 1982. Oral presentations will be limited to issues raised in the briefs.

All written views should be filed in accordance with 19 CFR 355.34, on or before August 13, 1982, at the above address and in at least ten copies.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

July 8, 1982.

[FR Doc. 82-18990 Filed 7-13-82; 8:45 am]

BILLING CODE 3510-25-M

Carbon Steel Wire Rod From Belgium; Preliminary Affirmative Countervailing Duty Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary Affirmative Countervailing Duty Determination.

SUMMARY: We preliminarily determine certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Belgium of carbon steel wire rod, as described in the "Scope of the Investigation" section of this notice. The estimated net subsidy is indicated under the "Summary of Preliminary Subsidies" section of this notice. Therefore, we are directing the U.S. Customs Service to suspend liquidation of all entries of the product subject to this determination which are entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or bond on this product in the amount equal to the estimated net subsidy. We will make our final determination by September 21, 1982.

EFFECTIVE DATE: July 14, 1982.

FOR FURTHER INFORMATION CONTACT: Michael J. Altier, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377–1785.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine that there is reason to believe or suspect certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended ("the Act"), are being provided to manufacturers, producers, or exporters in Belgium of carbon steel wire rod, and described in the "Scope of the Investigation" section of this notice. For purposes of this investigation, the following programs are preliminarily found to be subsidies: "interest rebates," capital grants, loan guarantees, exemptions from real property tax, exemptions from capital registration tax, loans to uncreditworthy companies, equity participation by the government of Belgiun ("GOB"), assumption of financing costs, labor assistance, preferential loans, industrial investment loans from the European Coal and Steel community ("ECSC"), and research and development aid. We estimate the net subsidy to be the amount indicated in

the "Suspension of Liquidation" section of this notice.

Case History. On February 8, 1982, we received petition from counsel for Atlantic Steel Corp., Georgetown Steel Corp., Georgetown Texas Steel Corp., Keystone Consolidated, Inc., Korf Industries, Inc., Penn-Dixie Steel Corp., and Raritan River Steel Co. filed on behalf of the U.S. industry producing carbon steel wire rod. The petition alleged that certain benefits which constitute subsidies within the meaning of section 701 of the Act are being provided, directly or indirectly, to the manufacturers, producers, or exporters in Belgium of carbon steel wire rod. The petition also alleged that "critical circumstances" exist, as defined in section 703(e) of the Act.

We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation, and on March 1, 1982, we initiated such an investigation (47 FR 9261). We stated that we expected to issue a preliminary determination by May 1, 1982. We subsequently determined that the investigation was "extraordinarily complicated," as defined in section 703(c) of the Act, and postponed our preliminary determination for 65 days until July 8, 1982 (47 FR 17319).

Since Belgium is a "country under the Agreement" within the meaning of section 701(b) of the Act, an injury determination is required for this investigation. Therefore, we notified the U.S. International Trade Commission ("ITC") of our initiation. On March 25, 1982, the ITC preliminarily determined that there is a reasonable indication that these imports are materially injuring a U.S. industry.

We presented questionnaires concerning the allegations to the Delegation of the Commission of the European Communities and to the government of Belgium at its embassy in Washington, DC. On May 7, 1982 we received responses to the questionnaires.

Scope of the Investigation. The product covered by this investigation is carbon steel wire rod. The product is fully described in Appendix A, which follows this notice.

Cockerill Sambre ("Cockerill") is the only known producer and exporter in Belgium of the subject product which was exported to the United States in 1981.

Cockerill was formed by them erger in June 1981 of the former Cockerill company, which itself is a merger of several steel mills, and Hainaut-Sambre. Hainaut-Sambre was composed of three major components: Carlam, a flat products mill built in 1976; Thy-Marcinelle et Providence ("TMP"), which resulted from a merger of a Providence mill of the former Cockerill company with Thy-Marcinelle et Monceau in 1979; and the old Hainaut-Sambre Company. TMP merged with Hainaut-Sambre in 1980.

The period for which we are measuring subsidization for Cockerill is the calendar year 1981.

Analysis of Programs. In their responses, the GOB and the Delegation of the Commission of the European Communities provided data for the applicable periods. Additionally, we received information from Cockerill.

Throughout this notice, general principles applied by the Department of Commerce to the facts of the current investigation concerning carbon steel wire rod are described in detail in Appendix B, which follows this notice. Appendix C, which also follows this notice, is a description of programs administered by organizations of the European Communities. Appendices B and C are identical to Appendices B and C published on June 17, 1982, with our notice of "Preliminary Affirmative Countervailing Duty Determinations, Certain Steel Products from Belgium" (47 FR 26300). Based upon our analysis to date of the petition and responses to our questionnaires, we preliminarily determine the following.

I. Programs Preliminarily Determined To Be Subsidies

We preliminarily determine subsidies are being provided to manufacturers, producers, or exporters in Belgium of carbon steel wire rod and under the programs listed below.

A. Programs Administered Under the Law of December 30, 1970 on Economic Expansion

The Law of December 30, 1970 on economic expansion (the "1970 law") provided for regional assistance to companies located in certain development areas to promote activities which contribute to the establishment, expansion, conversion or modernization of industrial enterprises. We preliminarily determine that the benefits provided under this law are countervailable because they are targeted to companies in specific areas.

1. *"Interest Rebates".* "Interest rebate" programs are administered by the Ministry of Economic Affairs. The rebates may be given on investment loans for tangible and intangible assets. The law also provides for "interest rebates" on interest payable by the companies to holders of bonds and convertible debentures. Rebates are variable depending upon the degree to which the investment projects meet the objectives of the 1970 law.

Cockerill responded that "interest rebates" received under this program benefited a division not involved in the production of steel. We will seek additional information.

2. *Capital Grants.* Where investments are financed by "at least" 50 percent of a company's own funds, a grant may be given which totally or partially replaces the "interest rebate" for which the investment is otherwise eligible. The methodology for calculating the subsidy value of grants is described in Appendix B. The benefits are allocated over the average useful life of capital assets in the steel industry, 15 years, and are applied to the value of total steel production of the company.

Cockerill received several grants for less than $50 million. The grants received amounted to a subsidy rate of 0.127 percent *ad valorem.*

3. *Loan Guarantees.* The Belgian government may guarantee total or partial repayment of loans and debentures. When the loan or debenture is not granted by a public institution, the guarantee may not exceed 75 percent of the difference between the amount of the loan outstanding and the value of any collateral offered by the borrower. Companies must pay fees of 0.75 percent of the principal for guarantees of capital investment loans and 1.5 percent for guarantees of working capital loans. The fees are paid into a fund managed by the Ministry of Finance. Government loan guarantees benefit the loan recipients when they enable them to obtain loans at lower rates, including fees, than might otherwise be available for comparable commercial loans.

Cockerill received loan guarantees under this program. Since these guaranteed loans were subject to payment holidays (moratoria) and in some cases were provided to the company after it was determined to be uncreditworthy, our calculations of the subsidies from this program are subsumed in the sections entitled "Loans to Uncreditworthy Companies" and "Assumption of Financing Costs."

4. *Exemptions from Real Property Tax.* Qualifying investments may be granted an exemption from the real property tax levied by the state, province, or local community on the estimated rental income from fixed assets. The exemption may be granted for a period of up to five years, depending on the degree to which the investment program achieves the objectives of the 1970 law. The tax is levied at an average rate of 1.25 percent by the state, 4.48 percent by the

province and 17.38 percent by the local community. Exemptions received by companies were treated as grants. We allocated the benefits solely to the year of grant receipt and applied the benefits to the value of total steel production of the company.

The subsidy rate for Cockerill under this program amounts to 0.074 percent *ad valorem.*

5. *Exemptions from Capital Registration Tax.* Assets transferred to a company through investments assisted by the 1970 law may be exempted from the one percent capital registration tax. Exemptions under this program were treated as grants. We allocated the benefits solely to the year of grant receipt and applied the benefits to the value of total steel production of the company.

Cockerill received exemptions amounting to a subsidy rate of 0.474 percent *ad valorem.*

B. Restructuring Plan Programs

The GOB has mandated a reorganization of the steel industry in Belgium under the following enactments and agreements:

- The Reorganization Plan of 1978 (Hanzinelle agreement)
- Council of Ministers decision of November 23, 1978
- Royal Decree of December 15, 1978
- Council of Ministers decision of May 15, 1981
- Related agreements between the government and individual steel companies

These are intended to assist the modernization of the steel industry. Specific programs include loans to uncreditworthy companies, equity participation by the GOB, assumption of financing costs and labor assistance. We find these programs to provide countervailable benefits.

1. *Loans to Uncreditworthy Companies.* Petitioners allege that Cockerill and Hainaut-Sambre (now merged with Cockerill) were uncreditworthy at the time loans were made to them.

We preliminarily determine Cockerill to be uncreditworthy from 1978 on. First, the company sustained net losses ranging from 2.4 to 7.0 billion Belgian francs ("BF") in each of the last four years prior to its merger with Hainaut-Sambre in 1981. Second, certain financial ratios for this company indicate an uncreditworthy situation. Third, Cockerill apparently lost access to loans from independent commercial sources. Fourth, the government-directed moratorium on Cockerill's debt service is a further indication of uncreditworthiness, as is the amount, timing and nature of some of the government equity participation.

Since Cockerill received a private loan in 1977, we will, for purposes of these preliminary determinations, consider the company as creditworthy in that year. We will seek additional information concerning this loan to see if it was made without government direction and on commercial terms.

We preliminarily determine Hainaut-Sambre to be uncreditworthy from 1977 on. First, the company sustained net losses ranging from 2.7 to 5.5 billion BF in three out of the last five years (and smaller losses in the other two), preceding its merger with Cockerill in 1981. Second, certain financial ratios for this company indicate an uncreditworthy situation. Third, the government-directed moratorium on Hainaut-Sambre's debt service is a further indication of uncreditworthiness, as is the timing amounts, and nature of some of the government equity participation.

Because we consider Cockerill (and before its acquisition, Hainaut-Sambre) to have been uncreditworthy, loans and loan guarantees issued by the GOB during the period of uncreditworthiness are treated essentially as equity investments. Under the equity methodology for loans to uncreditworthy companies in Appendix B, we compared the national rate of return on equity in Belgium to the rate realized by the GOB in Cockerill for 1981. To prevent countervailing a higher subsidy amount than if the loan had been an outright grant to the company, we limited the 1981 benefit under this methodology to the result that would be found if the loans were treted as grants under the grant methodology in Appendix B. The countervailable benefit from each loan was allocated over the value of total steel production of the company. Loans actually converted to equity or convertible debentures are treated separately under the section entitled "Equity Participation by the GOB."

The benefit to Cockerill under this program amounted to a subsidy rate of 7.405 percent *ad valorem.*

2. *Equity Participation by the GOB.* The GOB has purchased equity in Cockerill and has converted "medium" and long-term debt to equity. Equity infusions by the GOB took place as follows:

- Cockerill
  - 1979—Conversion of debt to equity and convertible debentures
  - 1981—Conversion of debt to equity and convertible debentures; purchases of equity to cover "cash drains"
- Hainaut-Sambre
  - 1979—Conversion of debt to equity and convertible debentures
- TMP
  - 1979—Conversion of debt to equity and convertible debentures

As indicated in Appendix B, equity participation by the government is not a subsidy *per se.* Petitioners allege, however, that government infusions of equity in Belgian steel companies were made at times when these infusions did not represent sound commercial investments. Under the methodology described in Appendix B, the treatment of government equity in a company hinges essentially on analysis of the soundness of the investment. If such an investment was not reasonably sound at the time made, we will consider it as potentially giving rise to a subsidy.

The companies listed above recorded substantial and persistent losses over the last several years. Cockerill sustained losses for the last five years. Hainaut-Sambre sustained losses in each of the five years prior to its merger with Cockerill, and TMP incurred losses in each of the three years prior to its merger with Hainaut-Sambre.

Under normal business or financial criteria, companies exhibiting a pattern of deep or significant continuing losses would not be regarded as sound investments. In view of these histories of losses and other factors already considered in the preceding section entitled "Loans to Uncreditworthy Companies," we do not regard these Belgian steel companies as representing sound commercial investments at the time the GOB acquired equity positions in them. Therefore, we preliminarily determine that the equity infusions are inconsistent with commercial considerations.

Since the stocks of Cockerill, Hainaut-Sambre and TMP were traded on Belgian markets during the time span covering the government's equity infusions (see equity section in Appendix B), we looked to the market to determine the value of the benefit by comparing the market value of these stocks at the beginning of the month in which the equity infusions took place to the actual value of the equity infusions paid by the government. If the value paid by the GOB was greater than the market value, we found the difference to be a grant and allocated it over the average useful life of capital assets, 15 years (see grants methodology in Appendix B).

In 1979 and 1981, the GOB entered into arrangements with Cockerill whereby it converted the company's debt into convertible debentures. Because these debentures are repayable

only at such time as the company makes sufficient profits to overcome its present heavy debt burden, we treated these conversions as tantamount to purchases of equity in amounts equal to the value of the debentures. Convertible debentures obtained through this arrangement in 1979, and apparently converted to equity in 1981 were treated as equity purchases in the latter year.

In addition, Cockerill received an advance payment on a pending equity purchase by the GOB to cover 1981 "cash drains." This payment was also treated as an equity purchase. Since the terms of this transaction did not permit identification of a per-share price, we used the per-share price for the previous 1981 GOB purchase of Cockerill's equity as the best information available for comparison in our calculations.

Allocated over the value of Cockerill's total steel production, the benefit for equity purchases amounted to a subsidy rate of 8.651 percent *ad valorem.*

3. *Assumption of Financing Costs.* For the years 1979–83, the GOB has assumed all of Cockerill's financing costs for "medium" and long-term borrowing. This assumption took the form of issuance of convertible debentures in the amount of interest payable and the postponement of principal repayments. We calculated the benefit from those deferred principal and assumed interest payments as loan holidays (moratoria) in accordance with the methodology described in Appendix B. Where the original loans or guaranteed loans were provided at preferential rates, these benefits were included in our calculation of benefits stemming from the moratoria.

To determine whether respondent's loans were preferential, we compared the interest rates for loans and guaranteed loans with "benchmark" rates. For benchmark rates, we used the lending rates of the Societe Nationale de Credit a l'Industrie ("SNCI") for capital investment loans exceeding five years in maturity which is a generally available commercial rate. We added 0.25 percent to our benchmark rate. This represents the fee that is often charged by lending banks to borrowers.

The information provided by Cockerill on certain loans subject to moratoria was incomplete. This necessitated our making the following assumptions based on the best information available. Where the term of the loan was missing, we assumed a 20-year life, the average life of those loans for which complete information was provided. We increased the estimated loan life to 25 years for loans that should have expired before the moratoria, but which in fact were still outstanding when the moratoria occurred. Where the original loan amount was missing, we calculated an estimated amount based on the 1981 balance and assumed constant repayment of principal. The benefit to Cockerill under this program, allocated over the value of its total steel production, amounted to a subsidy rate of 2.523 percent *ad valorem.*

4. *Labor Assistance.* In order to avoid a massive lay-off of surplus workers because of the government-mandated restructuring of the steel industry, companies entered into agreements with their unions for the early retirement of certain workers. The government has assumed portions of the costs for this program. We preliminarily determine that this government assumption of an obligation of the companies is a countervailable benefit. The assistance given to the companies is in the form of government-guaranteed loans with deferred interest and principal payments for the first five years. The loans to Cockerill were treated essentially as equity because they were provided at a time after the company had become uncreditworthy. We applied the equity methodology for loans and loan guarantees to uncreditworthy companies as described above and in Appendix B and allocated the benefits over the value of total steel production of the company.

The subsidy rate to Cockerill for this program was 0.493 percent *ad valorem.*

C. Preferential Loans

These loans were given by the SNCI at interest rates which apparently were lower than those commercially available. Therefore, we preliminarily determine a subsidy was provided to the loan recipient. To calculate the subsidy rate, we applied the methodology outlined in Appendix B, using the national commercial rate as our benchmark.

Cockerill failed to provide complete information on certain loans. Where the year of loan receipt was missing, we considered it to be a loan received in 1980 because the response indicated that the loans had been received by the beginning of 1981. Where the term of the loan was missing, we assumed it to be 20 years, as explained in the section entitled "Assumption of Financing Costs." Where no interest rate was provided, we assumed it to be equal to the lowest preferential interest rate of any loan in the response.

The benefits of this program to Cockerill were allocated over the value of total steel production and amounted to a subsidy rate of 0.082 percent *ad valorem.*

D. Industrial Investment Loans From the ECSC (Article 54)

For the reasons described in Appendix C, we preliminarily determine that ECSC industrial investment loans (under Article 54 of the Treaty of Paris) provide countervailable benefits. Using the appropriate methodoligy described in Appendix B, we calculated the benefits from these loans made to Cockerill and included the amounts in the sections entitled "Assumption of Financing Costs" to "Loans to Uncreditworthy Companies."

E. Research and Development ("R&D") Aid From the Institute for Scientific Research in Industry and Agriculture ("IRSIA") and the Center for Metallurgical Research ("CRM")

The GOB provides funds for applied research conducted by IRSIA and the CRM. Both organizations perform research that benefits the iron and steel industry. The results apparently remain property of these organizations and are not generally available.

Under these circumstances, we preliminarily determine government assistance for R&D is countervailable. We treated assistance received by Cockerill as a grant in the year received. We used the methodology described in Appendix B and allocated the benefit over the value of total steel production of the company.

Cockerill reported funding for certain research projects from IRSIA but provided no detail on the terms or use. We countervailed these funds in their full amount as grants allocated in the year received. We will seek additional information as to whether additional research projects that benefited Cockerill but were not included in the response were conducted by the CRM and IRSIA. The subsidy rate to Cockerill from this program is 0.076 percent *qd valorem.*

II. Programs Preliminarily Determined Not To Be Subsidies

We preliminarily determine subsidies are not being provided to manufacturers, producers, or exporters in Belgium of carbon steel wire rod under the following programs.

A. Environmental Incentives

The GOB provides funding for environmental projects. Once a company's request for an environmental grant is approved, the company arranges for a loan in the amount of the grant. The grant is not paid directly to the company but is used to pay the interest and principal payments on behalf of the company. Cockerill received relatively

small grants under this program. The GOB responded that benefits under this program are available to all industries on equal terms. Therefore, we preliminarily determine that this program does not provide subsidies to the steel industry. We will seek additional information to determine whether or not the program provides benefits to "a specific enterprise or industry or group of enterprises or industries" (section 771(5)(B) of the Act).

B. Employment Premiums for New Workers and Trainees

The "De Wulf Plan" (Royal Decree of October 15, 1979) grants employment premiums of 62,500 BF for each new permanent worker hired under certain conditions. Under a separate government plan, 30,000 BF may be paid for each trainee in excess of a number equaling one percent of the workforce of a company. We preliminarily determine that these programs are not countervailable since they do not benefit "a specific enterprise or industry, or group of enterprises or industries."

C. Reimbursement of Worker Training Costs

The National Employment Office in Belgium reimburses firms for various in-plant and outside professional training costs.

Cockerill, a recipient of these grants, claims that these benefits are available to all Belgian industries on equal terms. We preliminarily determine that this program is not countervailable since it does not benefit "a specific enterprise or industry, or group of enterprises or industries."

D. Assistance to the Coal Industry

We requested information from the GOB and the steel companies in order to determine whether or not aid given to the coal industry could be considered an indirect subsidy to the steel industry.

Most of the aid serves to bring the cost of Belgian coal down to but not lower than competitive prices. Belgium does not restrict the importation of coal, and the steel industry purchases more than half of its coal from sources outside Belgium, including the United States. The assistance to the coal industry at most only equalizes the prices of domestic and foreign coal, putting them both on the same commercial level.

The Belgian government provides assistance to producers of all types of coal, not just that used by the steel industry, and thus does not, through assistance to coal producers, provide to the Belgian steel producers a subsidy "provided * * * to a specific enterprise or industry, or group of enterprises or industries."

Regarding the allegation that the Belgian steel industry benefits from government assistance provided to the coal industry in the Federal Republic of Germany, we preliminarily do not consider such assistance to confer a countervailable benefit on the Belgian steel industry for the reasons outlined in Appendix B.

The ECSC provides various production and marketing grants to EC coal and coke producers; however, we preliminarily do not consider this assistance to confer a countervailable benefit on the Belgian steel industry for the reasons described in Appendix C.

E. Reduction of Capital Gains Tax

Capital gains on the sales of tangible property may be exempt from corporate taxes for a minimum of five years, if receipts are reinvested in Belgium within three years. The provision is contained in the Belgian Income Tax Code, and we believe that it is generally available on equal terms to all companies in Belgium.

We therefore preliminarily determine that this program does not provide a subsidy to the steel industry. We will seek additional information concerning the applicability of this program.

F. Programs Contained in the Law of July 17, 1959 for Economic Expansion

The Law of July 17, 1959 (the "1959 law") for economic expansion contains programs which are designed to promote economic expansion and modernization. The 1959 law provides for interest rebates, grants for capital investments, government loan guarantees, exemptions from property taxes on investments approved under the law and grants for R&D. We preliminarily determine that the programs contained in the 1959 law are not countervailable, since they are generally available and do not benefit "a specific enterprise or industry, or group of enterprises or industries." We will seek additional information concerning the application of the 1959 law.

G. ECSC Interest Rebates and R&D Grants

We preliminarily determine that ECSC interest rebates and R&D grants to the Belgian steel industry are not countervailable benefits. For our treatment of these programs in general, see Appendix C.

III. Programs Preliminarily Determined Not To Be Utilized

We preliminarily determine that the following programs alleged by petitioners to provide countervailable benefits are not used by the manufacturers, producers, or exporters in Belgium of carbon steel wire rod.

A. Accelerated Depreciation

Companies that receive investment benefits provided for by the 1970 law may take twice the normal annual straight-line depreciation for assets acquired as the result of the investment. The benefit of such a program is reduced taxable income. Cockerill stated that it did not participate in the program.

B. Employment Premiums

Article 14 of the 1970 law provides for employment premiums for investments that create new jobs. The assistance may be given for new enterprises or for the expansion of existing enterprises. Nonrepayable premiums may be paid for as long as five years, depending on the rate at which new jobs are created and filled. Cockerill stated that it did not participate in this program.

C. Exemption From Income Tax on Capital Grants

Grants provided under the 1970 law are exempted from income taxes. In calculating depreciation, the amount of such grants is deducted from the cost of value of the financed investments. Cockerill stated that it did not participate in this program.

D. Contractual Aid

The 1970 law provides for aid in realizing specific objectives related to certain long-term, large scale investments. The government and an enterprise negotiate the specific terms of the program and enter into a "progress contract." Under "management contracts" the government may grant interest-free aid, to be repaid within three years, for up to 75 percent of management advisory fees. The response states that Cockerill did not receive any aid under this program. We will seek additional information.

E. Export Assistance

Certain export assistance programs, such as export financing and commercial risk guarantees, are provided by the Office National du Ducroire. Cockerill stated that it received no assistance under this program.

F. The European Regional Development Fund ("ERDF")

We preliminarily determine that Cockerill did not receive ERDF funds (see Appendix C).

G. European Investment Bank ("EIB")

Cockerill stated that it had no loans outstanding from the EIB in 1981 (see Appendix C).

H. Loan Guarantees From the ECSC

Cockerill has indicated that it has not used this program (see Appendix C).

IV. Programs for Which Additional Information Is Needed

The following programs were alleged by the petitioners to be subsidies: readaptation and retraining assistance and GOB advances for R. & D. At this time, we do not have sufficient information upon which to determine whether these programs are providing manufacturers, producers, or exporters in Belgium of carbon steel wire rod with benefits which constitute subsidies within the meaning of the countervailing duty law. We will seek additional information regarding these programs before reaching a final determination.

A. Readaptation and Retraining Assistance

The GOB finances a portion of readaptation and retraining assistance to laid-off employees under Article 56 of the ECSC Treaty. It is unclear at this time whether or not this program provides countervailable benefits to the steel industry. We will seek additional information concerning the obligations of the steel companies to laid-off workers. If the government assumes a portion of the obligation of the steel companies, the assistance may constitute a subsidy. In addition, we are seeking information concerning the types of training and readaptation being performed. If laid-off workers or potentially laid-off workers are being retrained to assume jobs in the steel industry (to take the place of early retirees, for instance), then the assistance may well be a subsidy to steel companies. If, however, the government is assuming the cost of training a laid-off worker for a non-steel industry job (and the government was not assuming a portion of the steel company's mandated obligations to workers), then the assistance may not be a subsidy to the steel industry.

B. GOB Advances for R&D

Interest-free advances can be provided under the 1970 law up to a maximum of 80 percent of the expense incurred for the R&D of prototypes. The advances are repayable if the research leads to a profitable industrial or commercial activity. The results of the research become the property of the recipient companies. Under such circumstances, the assistance may convey a subsidy. The GOB responded that during 1980–81 it has provided aid to steel companies under this program. We are unable to determine from the company response if Cockerill received such aid. We are seeking additional information concerning this program to resolve this discrepancy and to determine the type of research, the recipients and the amount of aid in order to determine whether such aid constitutes a subsidy.

Negative Determination of Critical Circumstances. The petition alleged that imports of carbon steel wire rod from Belgium present "critical circumstances." Under section 703(e)(1) of the Act, critical circumstances exist when the alleged subsidy is inconsistent with the Subsidies Code of the General Agreement on Tariffs and Trade *and* "there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period."

Since these investigations were initiated, U.S. imports of carbon steel wire rod from Belgium/Luxembourg totaled 543 net tons in March, 331 net tons in April and 966 net tons in May (import statistics available to the Department of Commerce are combined for Belgium/Luxembourg). In the context of this industry, this product has not recently been massively imported from Belgium/Luxembourg over a relatively short period of time. Therefore, critical circumstances do not exist for carbon steel wire rod from Belgium.

Verification. In accordance with section 776(a) of the Act, we will verify data used in making our final determination.

Suspension of Liquidation. In accordance with section 703 of the Act, we are directing the U.S. Customs Service to suspend the liquidation of all entries of carbon steel wire rod which are entered, or withdrawn from warehouse, for consumption, on or after July 14, 1982 and to require a cash deposit or bond for each such entry of the merchandise in the amounts indicated below:

SUMMARY OF PRELIMINARY SUBSIDIES

Manufacturer/producer/exporter	Ad valorem rate (percent)
Name: Cockerill Sambre, carbon steel wire rod	19.905
All other manufacturers/producers/exporters: Carbon steel wire rod	19.905

This suspension will remain in effect until further notice.

ITC Notifications

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Public Comment

In accordance with § 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on August 11, 1982 at the U.S. Department of Commerce, Room 6802, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within ten days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy Assistant Secretary by August 4, 1982. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 355.34, on or before August 13, 1982, at the above address and in at least ten copies.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

July 8, 1982.

Appendix A.—Description of Product

For the purpose of this investigation in the term *"carbon steel wire rod"* covers a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross section, not under 0.20 inch nor over 0.74 inch in diameter, not tempered, not treated, not partly manufactured; and valued over 4 cents per pound, as currently provided for in item 607.17 of the *Tariff Schedules of the United States.*

Appendix B

Several basic issues are common to many of the countervailing duty investigations of carbon steel wire rod, initiated by the Department of Commerce (the "Department") on March 1, 1982; *e.g.*, government assistance through grants, loans, equity infusions, and research and development projects. This Appendix describes in some detail the

general principles applied by the Department when dealing with these issues as they arise within the factual contexts of these cases.

Grants

Petitioners allege that respondent foreign steel companies have received numerous grants for various purposes. Under section 771(5)(B) of the Tariff Act of 1930, as amended ("the Act") (19 U.S.C. 1677(5)(B)), domestic subsidies are countervailable where they are "provided or required by government action to a *specific* enterprise or industry, or group of enterprises or industries" (emphasis added).

The legislative history of Title VII of the Act states that where a grant is "tied" to—that is, bestowed expressly to purchase—costly pieces of capital equipment, the benefit flowing from the grant should be allocated over the useful life of that equipment. A subsidy for capital equipment should also be "front loaded" in these circumstances; that is, allocated more heavily to the earlier years of the equipment's useful life, reflecting its greater commercial impact and benefit in those years.

In the past we have allocated the face value of the grant, in equal increments, over the appropriate time period. For large capital equipment, we used a period of half the useful life of the equipment purchased with the grant. In each year we countervailed only that year's allocated portion of the total grant. For example, a hypothetical grant of $100 million used to purchase a machine with a 20-year life would have been countervailed at a rate of $10 million per year (allocated over the appropriate product group) for 10 years, beginning in the year of receipt.

This allocation technique has often been criticized for not capturing the entire subsidy by ignoring the time value of money. It has been argued that $100 million today is much more valuable to a grant recipient than $10 million per year for the next 10 years, since the present value of the latter is considerably less than $100 million. We agree, and are now changing our methodology of grant subsidy calculation to reflect this agreement. So long as the present value (in the year of grant receipt) of the amounts allocated over time does not exceed the face value of the grant, we are consistent with both our domestic law and international obligations because the amount countervailed will not exceed the total net subsidy.

Present value is calculated using a discount rate. We considered using each company's weighted cost of capital at the time of the grant receipt as the appropriate measure of the time value of its funds. However, we lacked sufficent information to do so for these preliminary determinations. Instead we used the national cost of long-term corporate debt as a substitute measure of a company's discount rate. We welcome additional information or comments on this estimate between the preliminary and final determinations.

For costly pieces of capital equipment, we believe that the appropriate time period over which to allocate the subsidy is its entire useful life. In the past, we allocated the subsidy over only half the useful life in order to front load the countervailing duties in order to comply with the legislative intent of the Act. However, so long as we allocate the subsidy in equal nominal increments over the entire useful life, it will still be effectively front loaded in real terms since money tomorrow is less valuable than money today.

For these steel investigations we have allocated a grant over the useful life of equipment purchased with it when the value of that grant was large (in these investigations, greater than $50 million), and specifically "tied" to pieces of capital equipment.

Where the grant was small (less than one percent of the company's gross revenues or, where we do not know gross revenues, less than one percent of the company's total value of 1981 steel production) and "tied" to items generally expensed in the year purchased (*e.g.* wages, purchases of materials), we have allocated the subsidy solely to the year of the grant receipt.

All other grants—the vast majority of those involved in these investigations—will be allocated over 15 years, a period of time reflecting the average life of capital assets in integrated steel mills in the U.S. The 15-year figure is based on Internal Revenue Service studies of actual experience in integrated mills in the U.S. Furthermore, we understand that a 15-year period is also used in some of the countries involved in these investigations. We are using this time period as the best available estimate of the average steel asset life worldwide. We could not calculate the average life of capital assets on a company-by-company basis, since different accounting principles, extraordinary write-offs, and corporate reorganizations yielded extremely inconsistent results. For example, the average life of one steel company's assets, as indicated on its books, increased from 3 years to 22 years within 3 years.

We do not distinguish grants bestowed expressly to cover operating losses from other "untied" grants. Since grants used to cover operating losses often keep the company in business and are frequently quite large, their real effects extend for a considerable period of time. It is appropriate to allocate them over a number of years.

Loans and Loan Guarantees for Companies Considered Creditworthy

In these investigations, various loan activities give rise to subsidies. The most common practice is the extension of a loan at a preferential interest rate where the government is either the actual lender or directs a private bank to lend at a preferential rate. The subsidy is computed by comparing what a company would pay a normal commercial lender in principal and interest in any given year with what the company actually pays on the preferential loan in that year. We determine what a company would pay a normal commercial lender by constructing a comparable commercial loan at the appropriate market rate (the "benchmark"). If the preferential loan is part of a broad, national lending program, we use a national average commercial interest rate as our benchmark. If the loan program is not generally available—like most large loans to respondent steel companies—the benchmark used instead, where available, is the company's actual commercial credit experience (*e.g.*, a contemporaneous loan to the company from a private commercial lender). If there were no similar loans, the national commercial rate is used as a second-best alternative.

For loans denominated in a currency other than the currency of the country concerned in an investigation, the benchmark is selected from interest rates (either national or company-specific, as appropriate) applicable to loans denominated in the same currency as the loan under consideration.

After calculating the payment differential in each year of the loan, we then calculate the present value of this stream of benefits in the year the loan was made, using a national cost of long-term corporate debt in that year as the discount rate. In other words, we determine the subsidy value of a preferential loan as if the benefits had been bestowed as a lump-sum grant in the year the loan was given. We determine how much less valuable money tomorrow is than money today by applying a discount rate. We are using the national cost of long-term corporate debt for the year in which the loan was given as this discount rate. This amount is then allocated evenly over the life of the loan, with one exception. Where the loan was given expressly for the purchase of a costly piece of capital equipment, the present value of the payment differentials is allocated over the useful life of the capital equipment concerned.

For loans not tied to capital equipment with mortgage-type repayment schedules, this methodology results in annual subsidies equivalent to those calculated under the previous Department policy of considering the difference in total repayments in each year of a loan's lifetime to be the subsidy *in that year*. For loans with constant principal repayments (*i.e.*, declining total repayments), loans with deferral of repayments, and loans for costly capital equipment, the present value method results in even allocations of the subsidy over the relevant period. This effectively front loads countervailing duties on these loan benefits in the same manner as grants are front loaded.

A loan guarantee by the government constitutes a subsidy to the extent the guarantee assures more favorable loan terms than for an unguaranteed loan. The subsidy amount is guantified in the same manner as for a preferential loan.

If a borrowing company preferentially received a payment holiday from a government lending institution or from a private lender at government direction, an additional subsidy arises that is separate from and in addition to the preferential interest rate benefit. The subsidy value of the payment holiday is measured in the same manner as for preferential loans, by comparing what the company pays verus what it would pay on a normal commerical loan in any given year. A payment holiday early in the life of a loan can result in such large loan payments near the end of its term that during the final years the loan recipient's annual payments on the subsidized loan may be greater than they would have been on an unsubsidized loan. By reallocating the benefit

over the entire life of the loan through the present value methodology described above, we avoid imposing countervailing duties in excess of the net subsidy.

Loans and Loan Guarantees for Companies Considered Uncreditworthy

In a number of cases petitioners have alleged that certain respondent steel companies were uncreditworthy at the time they received preferential loans or guarantees, and that they could not have obtained any commercial loan without government intervention.

Where the company under investigation has a history of deep or significant continuing losses, and diminishing (if any) access to private lenders, we generally agree with petitioners. In these situations neither national nor company-specific market interest rates provide an appropriate benchmark since, by definition, an uncreditworthy company could not receive loans on these terms without government intervention. Nor have we been able to find any reasonable and practical basis for selecting a risk premium to be added to a national interest rate in order to establish an appropriate benchmark for companies considered uncreditworthy. Therefore, we have treated loans to an uncreditworthy company as an equity infusion by the government. We believe this treatment is justified by the great risks, very junior status, and low probability of repayment of these loans. To the extent that principal and/or interest is actually paid these loans, however, the subsidy (which is calculated using our equity methodology, *infra*) is reduced dollar for dollar in the year of repayment. Moreover, in no case do we countervail a loan subsidy to a creditworthy or uncreditworthy company more than if the government gave the principal as an outright grant.

Equity

Petitioners allege that government purchases of equity in respondent steel companies constitute a countervailable subsidy equal to the entire amount of the equity purchased. Many respondents claim that such equity purchases are investments on commerical terms, and thus are not subsidies to these companies.

It is well settled that government equity ownership *per se* is not a subsidy. Such ownership is a subsidy only when it is on terms inconsistent with commerical considerations. An equity subsidy potentially arises when the government makes equity infusions into a company which is sustaining deep or significnat continuing losses. If such losses have been incurred, then we consider from whom the equity was purchased and at what price.

If the government buys previously issued shares on the market and not directly from the company, there is no subsidy to the company. This is true no matter what price the government pays, since any overpayment benefits only the prior shareholders and not the company.

If the government buys shares directly from the company (either a new issue or corporate treasury stock) and similar shares are traded in a market, a subsidy arises if the government pays more than the prevailing market price. To avoid any effect on the market price resulting from the government's purchase or speculation in anticipation of such purchase, we used for comparison a market price on a date sufficiently preceding the government's action. Any amount of overpayment is treated as a grant to the company.

It is more difficult to judge the possible subsidy effects of direct government infusions of equity where there is no market price for the shares since they were untraded (as where, for example, the government is already sole owner of the company). As a matter of principle, government equity participation can be a legitimate commercial venture. Often, however, as in many of these steel cases, equity infusions follow massive or sustained losses and are part of national government programs to sustain or rationalize an industry which otherwise would be noncompetitive. We respect the government's characterization of its infusion as equity in a commercial venture. However, to the extent in any year that the government realizes a rate of return on its equity investment less than the average rate of return on equity investment for the country as a whole (thus including returns on both successful and unsuccessful investments), its equity infusion is considered a subsidy. Under no circumstances do we countervail an amount greater than that which is calculated treating the government's equity infusion as an outright grant.

Forgiveness of Debt

Where we have found that the government has forgiven an outstanding debt obligation, we have treated this as a grant to the company equal to the outstanding principal at the time of forgiveness. Where outstanding debt has been converted into equity (*i.e.*, the government receives shares in the company in return for eliminating debt obligations of the company), a subsidy may result. The existence and extent of such subsidies are determined by treating the conversions as an equity infusion in the amount of the remaining principal of the debt. We then calculate the value of the subsidy by using our equity methodology, *supra*.

Coal Assistance.

Petitioners alleged that respondent steel companies outside the Federal Republic of Germany that buy German coal benefit from assistance given by the German government to German producers of coking coal. The issue of indirect subsidization of German steelmakers through the German government's assistance to German coking coal is considered separately in the "Notice of Preliminary Affirmative Countervailing Duty Determinations; Certain Steel Products from the Federal Republic of Germany," appearing in this issue of the **Federal Register.**

In the absence of special circumstances, a party receiving a benefit on the production of its merchandise is not assumed to share that benefit with an unrelated purchaser. It is in the commercial interest of a firm receiving a subsidy not to share the benefits with customers, but rather to pass it on to its shareholders in the form of greater net earnings. This view has previously been expressed by the Department in the "Preliminary Affirmative Countervailing Duty Determination; Sodium Gluconate from the European Economic Community" (46 FR 45975).

Moreover, the German government's assistance to its coking coal industry does not reduce the price of German coking coal *below* the world price. So long as non-German coal can be purchased more cheaply, we see no measurable benefit to non-German steelmakers who purchase German coal, whether or not it is subsidized.

Petitioners argue that German assistance to its coking coal industry exerts downward pressure on the price of coal in all markets in which German coking coal is sold. If so, we believe that such downward pressure would affect the price of coal worldwide, and thus benefit all steelmakers everywhere. Similarly, if the German coking coal assistance were eliminated and if German coal mine operations consequently were reduced or ceased, any consequent rise in the price of coking coal would likely have worldwide effects and thus affect steelmakers everywhere. Therefore we do not accept petitioners' contention that the FRG's assistance to its coking coal industry during 1981 had a significant downward effect on the price of coking coal which preferentially benefited steelmakers purchasing German coal.

Research and Development Grants and Loans

Grants and preferential loans awarded by a government to finance research that has broad application and yields results which are made publicly available are not subsidies. Programs of organizations or institutions established to finance research on problems affecting only a particular industry or group of industries (*e.g.*, metallurgical testing to find ways to make cold-rolled sheet easier to galvanize) and which yield results that are available only to producers in that country (or a limited number of countries) confer a subsidy on the products which benefit from the results of the research and development ("R&D"). On the other hand, programs which provide funds for R&D in a wide range of industries are not countervailable even when a portion of the funds is provided to the steel sector.

Once we determine that a particular program is countervailable, we calculate the value of the subsidy by reference to the form in which the R&D was funded. An R&D grant is treated as an "untied" grant; a loan for R&D is treated as any other preferential loan.

Labor Subsidies

To be countervailable, a benefit program for workers must give preferential benefits to workers in a particular industry or in a particular region. Whether or not the program benefits specifically some workers and not others is determined by looking at both program eligibility and participation. Even where provided to workers in specific industries, social welfare programs are countervailable only to the extent that they relieve the firm of costs it would ordinarily incur—for example, the government's

assumption of a firm's obligation partially to fund worker pensions.

Labor-related subsidies are generally conferred in the form of grants and are treated as untied grants for purposes of subsidy calculation. Where they are quite small and expensed by the company in the year received, we likewise allocated them only to the year received. However, where they were more than one percent of gross revenues (or, where we do not know gross revenues, one percent of the value of 1981 steel production), we allocated them over five years.

Appendix C.—Programs Administered by Organizations of the European Communities

I. The ECSC

On April 8, 1965, the three separate European communities—the European Coal and Steel Community ("ECSC"), the European Economic Community ("EEC"), and the European Atomic Energy Community ("EURATOM")—signed a treaty to merge into the European Communities ("EC"). Article 9 of the merger treaty established the Commission of the European Communities as the High Authority of each of the formerly independent institutions. The merger became effective in 1967.

The ECSC itself was established by the Treaty of Paris in 1951 to modernize production, improve quality, and assure a supply of coal and steel to the member countries. The Treaty of Paris governs all programs intended directly to affect the steel industry. Funds for these programs flow from two sources: (1) ECSC borrowings on international capital markets, and (2) the ECSC budget, substantially derived from producer-generated funds.

A. ECSC Programs Preliminarily Determined To Be Subsidies

With respect to ECSC borrowings, the ECSC enjoys a very high credit rating because of its quasi-governmental nature. It is therefore able to raise funds at interest rates lower than those which would be available to European steel companies. When the ECSC re-lends these borrowed funds to a company without increasing the interest rate, any difference between the lower interest rate passed on and the rate otherwise available to the steel company in the commercial financial market (the "benchmark") is a benefit to the company. For this reason we preliminarily determine that ECSC loans raised through capital market funding are counteravailable insofar as they offer preferential interest rates to steel companies.

Consequently any loan involving ECSC funds borrowed on international capital markets, provided under an ECSC assistance program, confers countervailable benefits if the loan is at a preferential interest rate.

1. *ECSC Industrial Investment Loans.* Article 54 of the Treaty of Paris authorizes the ECSC to provide loans to steel companies in member countries for reducing production costs, increasing production, or facilitating product marketing. Loans provided under this program are funded exclusively from ECSC borrowings on world capital markets. For the reasons discussed above, we preliminarily determine that this program confers countervailable benefits to loan recipients to the extent that the interest rates are preferential (as determined using the appropriate loan methodology described in Appendix B).

2. *ECSC Housing Loans for Workers.* Article 54(2) of the Treaty of Paris authorizes the ECSC to provide loans for residential housing for steel workers. In some cases these loans are provided directly to steel companies. In other cases, they are administered through financial institutions or housing authorities. These loans for the construction or purchase of homes are at highly concessionary one percent interest rates.

The preferential ECSC housing loans provide benefits directly to steel workers. We believe they also indirectly benefit the employer steel companies by relieving them of certain labor wage costs. That is, if steel workers were unable to obtain housing loans at these highly advantageous rates, the companies which employ them would be required to pay higher wages.

Our information to date indicates that ECSC funding for housing loans derives from both its budget and funds borrowed on international capital markets. To the extent that the loans derive from the budget, we preliminarily determine that they are not countervailable for the reasons indicated below in section B of this Appendix. To the extent they derive from ECSC borrowings on world capital markets, they confer a subsidy if the loan recipient could not have obtained a commercial loan on comparable terms. The proportion of total ECSC housing loans funded from borrowed money rather than from the budget in a given year is considered the preferential housing loan amount received in that year.

In 1980, the most recent year for which data are available, the portion of new ECSC housing loans financed by borrowings amounted to 42.24 percent. In 1979 the same portion was 17.94 percent; in 1978, 7.8 percent; and in 1977, 13.95 percent. For 1981 we are using as the best information available the 1980 information. Where these loans are not given directly to a steel company or are given to a steel company which merely serves as a disbursing agent, they yield a benefit to steel workers to the extent that the workers need not obtain a mortgage at the going commercial rate. The subsidy in these cases is the difference between what the workers pay on the ECSC housing loans and what they would have paid on a non-subsidized loan. In the absence of country-specific information on unsubsidized mortgage rates, we are estimating this rate by using as our benchmark the national long-term corporate debt rate. We believe this entire benefit is a subsidy on all steel production of the employer firm, allocated as described in Appendix B for labor subsidies.

On the other hand, where these loans are given directly to a company which disburses only a small portion of them, the subsidy value is calculated using the appropriate methodology for preferential loans as described in Appendix B.

3. *ECSC Loan Guarantees.* Under Article 54 of the Treaty of Paris, the ECSC is authorized to guarantee loans from commercial lenders to coal and steel companies. Since these guarantees are intended specifically for the steel industry, we find the resulting benefits to be countervailable. The countervailable benefit is based on the difference between the interest rate charged by private lenders to commercial customers in the ordinary course of business and the rates available with an ECSC loan guarantee.

B. ECSC Programs Preliminarily Determined Not To Be Subsidies

The ECSC budget for assistance to coal and steel producers is funded by levies on coal and steel producers within the ECSC member states. We examined the ECSC financial statements for 1971–1980, inclusive, and found that, for those years, the amount of funds generated by levies on producers exceeded the total amount of ECSC assistance provided through budget-funded programs. Therefore, we preliminary determine that any ECSC assistance provided from the ECSC budget does not provide a countervailable benefit. We will seek further information concerning the extent to which producer-generated funds are appropriately earmarked for these forms of program assistance.

1. *ECSC Industrial Reconversion Loans.* Under Article 56 of the Treaty of Paris, the ECSC provides loans to companies or public authorities for investments in new non-steel ventures in regions of declining steel industry activity. The goal of the loan program is to provide employment for former steel workers in new industries. This program does not appear to benefit steel companies. Therefore, we preliminarily determine that it does not confer subsidies on steel.

2. *ECSC Labor Assistance and Rehabilitation Aids.* Under Article 56 of the Treaty of Paris, the ECSC provides matching grants to member states for programs that assist former steelworkers presently unemployed or in training for a new trade. The program must be aimed specifically at steel industry workers, and at least 50 percent of its funding must be provided by the member state. The ECSC portion of the program is funded from its budget. For the reasons discussed above, we preliminarily determine that this program does not confer countervailable benefits.

3. *ECSC R&D Grants.* Article 55 of the Treaty of Paris provides funding in the form of grants for up to 60 percent of an R&D project's cost. The projects must be for improvements in the production and use of coal and steel. The results of the project become the property of the ECSC and are made available to all members.

These grants are funded exclusively from the ECSC budget. Therefore, for the reasons discussed above, we preliminarily determine that this program does not confer countervailable benefits.

4. *ECSC Interest Rebates.* Certain Article 54 loans qualify for further interest reductions depending on whether they are for environmental projects, removal of industrial bottlenecks, promotion of steel industry competitiveness, or stabilization of coal production. The rebates generally reduce the

interest expense for the first five years of the loan repayment schedule by three percentage points. The interest rebates are paid out of the ECSC's budget. For the reasons discussed above with respect to all budget-financed programs, we preliminarily determine that this program does not confer countervailable benefits.

5. *ECSC Coal and Coke Aids.* Petitioners have alleged that ECSC assistance to coal producers in EC countries constitutes an indirect benefit to steel producers purchasing that coal. However, the ECSC coal aids are bestowed on all types of coal. Therefore the ECSC aids on coal cannot be intended to benefit, and do not benefit, the steel industry in particular. Under section 771(5)(B) of the Act, there is no subsidy to steel in these circumstances, even though steel producers in EC countries purchase some ECSC coal.

In addition, we have found that non-repayable coal and coke aids from the ECSC are paid out of the ECSC's budget. For the reasons discussed above, they are therefore not considered to confer countervailable benefits.

C. ECSC Programs for Which Additional Information Is Needed

1. *ESCS Research and Development ("R&D") Loans.* R&D loans confer countervailable benefits on recipients if: (1) The research benefits a product under investigation; (2) the funding source is countervailable (*e.g.*, from ECSC borrowings on capital markets rather than from the ECSC budget); (3) the results are not generally available; and (4) the recipient could not have obtained a commercial loan on comparable terms without government intervention.

Based upon information available to date, it is unclear how widely available the results of research are, and from which source the funds derive. We will seek more information upon which to base a determination.

II. The European Investment Bank

The European Investment Bank ("EIB") was created by the Treaty of Rome establishing the EEC to fund projects that serve regional needs in Europe. Article 130 of the Treaty of Rome authorizes the EIB to make loans and guarantee finance projects in all sectors of the economy. These projects include the provision of funds to further the development of low income regions. Funds are drawn from debt instruments floated on world capital markets and from investment earnings. Because EIB loans are designed by charter to serve regional needs, we find them to be countervailable where the interest rate is less than the rate which would have been available commercially from a private lender without government intervention.

The EIB also provides loan guarantees to companies in EC member countries. Again, because this guarantee was available in some but not all regions, it is regarded as a countervailable benefit.

III. The European Regional Development Fund

The European Regional Development Fund was established by the EEC to provide funding in the form of low-interest loans for industrial projects designed to correct regional imbalances within the EEC. The fund also awards interest subsidies on EIB loans.

We preliminarily determine that this program was not utilized by any of the manufacturers, producers or exporters for any of the products from countries under investigation.

[FR Doc. 82-18892 Filed 7-13-82; 8:45 am]
BILLING CODE 3510-25-M

Carbon Steel Wire Rod From Brazil; Preliminary Affirmative Countervailing Duty Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary affirmative countervailing duty determination.

SUMMARY: We preliminarily determine that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Brazil of carbon steel wire rod. The estimated net subsidy is indicated in the "Suspension of Liquidation" section of this notice. Therefore, we are directing the U.S. Customs Service to suspend liquidation of all entries of carbon steel wire rod from Brazil which are entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or bond on this product in the amount equal to the estimated net subsidy.

If this investigation proceeds normally, we will make our final determination by September 21, 1982.

EFFECTIVE DATE: July 14, 1982.

FOR FURTHER INFORMATION CONTACT: Paul J. McGarr, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone (202) 377-1167.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine there is reason to believe or suspect that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the "Act"), are being provided to manufacturers, producers, or exporters in Brazil of carbon steel wire rod. For purposes of this investigation, the following programs are preliminarily found to confer subsidies:

- IPI rebates for capital investment.
- IPI export credit premium.
- Preferential working capital financing for exports.
- Income tax exemption for export earnings.
- Industrial Development Council ("CDI") program.
- Accelerated depreciation for capital goods manufactured in Brazil.

We estimate the net subsidy to be the amount indicated in the "Suspension of Liquidation" section of this notice.

Case History

On February 8, 1982, we received a petition from counsel for Atlantic Steel Corporation, Georgetown Steel Corporation, Georgetown Texas Steel Corporation, Keystone Consolidated Incorporated, Korf Industries Incorporated, Penn-Dixie Steel Corporation, and Raritan River Steel Corporation, filed on behalf of the U.S. industry producing carbon steel wire rod. The petition alleged that certain benefits which constitute subsidies within the meaning of section 701 of the Act are being provided, directly or indirectly, to the manufacturers, producers, or exporters in Brazil of carbon steel wire rod. Counsel for the petitioners also alleged that "critical circumstances" exist, as defined in section 703(e) of the Act.

We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation, and on March 1, 1982, we initiated a countervailing duty investigation (47 FR 9261). We stated that we expected to issue a preliminary determination by May 4, 1982. We subsequently determined that the investigation is "extraordinarily complicated," as defined in section 703(c) of the Act, and postponed our preliminary determination for 65 days until July 8, 1982 (47 FR 17319).

Since Brazil is a "country under the Agreement" within the meaning of section 701(b) of the Act, an injury determination is required for this investigation. Therefore, we notified the U.S. International Trade Commission ("ITC") of our initiation. On March 25, 1982, the ITC preliminary determined that there is a reasonable indication that these imports are materially injuring a U.S. industry.

We presented a questionnaire concerning the allegations to the government of Brazil in Washington, D.C. On May 24, 1982, we received the response to that questionnaire.

Scope of the Investigation

For the purpose of this investigation, the term "carbon steel wire rod" covers a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross section, not under 0.02 inch nor over 0.74 inch in diameter, not tempered, not treated, and not partly

manufactured, and valued over 4 cents per pound, as currently provided for in item 607.17 of the *Tariff Schedules of the United States.*

Companhia Siderurgica Belgo-Mineira ("Belgo-Mineira") and Companhia Siderurgica Da Guanabara ("COSIGUA") are the only known exporters in Brazil of carbon steel wire rod to the United States. The period for which we are measuring subsidization is calendar year 1981.

Analysis of Programs

In its response, the government of Brazil provided data for the applicable periods. Throughout this notice, general principles applied by the Department of Commerce to the facts of the current investigation concerning carbon steel wire rod are described in detail in Appendix B which appears with the notice of "Preliminary Affirmative Countervailing Duty Determination, Carbon Steel Wire Rod from Belgium," in this issue of the **Federal Register** (hereinafter Appendix B). Appendix B is identical to Appendix B published on June 17, 1982, with our notice of "Preliminary Affirmative Countervailing Duty Determinations, Certain Steel Products from Belgium" (47 FR 26300). Based upon our analysis to date of the petition and the response to our questionnaire, we preliminarily determine the following.

I. Programs Preliminarily Determined To Be Subsidies

We preliminarily determine that subsidies are being provided to manufacturers, producers, or exporters in Brazil of carbon steel wire rod under the following programs.

A. *IPI Rebates for Capital Investment.* Decree Law 1547 (April 1977) provides funding for the expansion of the Brazilian steel industry through a rebate of the Industrialized Products Tax ("IPI"), the Brazilian federal excise tax. Under this tax system, a company determines its liability for the tax at the end of each month. The net tax owed is calculated as the difference between the total IPI the company paid on purchases and the total IPI it collected on domestic sales. Normally, within five months after the end of each month, a company must pay the amount of the net tax owed directly to the Brazilian government. This net IPI tax is the basis for calculating the rebate for investment. A Brazilian steel company may deposit 95 percent of the net IPI tax in a special account with the Banco do Brasil. The amounts deposited are to be applied to steel expansion projects, and when rebated to the firms constitute tax-free capital reserves which must eventually be converted into subscribed capital. We consider the amount rebated each year as an untied grant received in that year. As such, we have applied the appropriate methodology for grants described in Appendix B. The grants were allocated over 15 years, the average useful life of capital assets in the steel industry, and the total benefit for 1981 was divided by each company's total sales for 1981. The *ad valorem* benefit of this subsidy is 1.77 percent.

B. *IPI Export Credit Premium.* The IPI export credit premium has been found to be a subsidy in previous countervailing duty investigations involving Brazilian products. After having suspended this program in December 1979, the government of Brazil reinstated it on April 1, 1981. Currently, the program is scheduled to be phased out in several steps, ending on April 1, 1983.

Exporters of carbon steel wire rod are eligible for the maximum IPI export credit premium. During the applicable period, 15 percent of the "adjusted" f.o.b. invoice price of the exported merchandise was reimbursed in cash to the exporter through the bank involved in the export transaction.

In calculating the amount the exporter is to receive, several deductions are made to the invoice price to obtain the "adjusted" f.o.b. value. These adjustments include: any agent commissions, rebates or refunds resulting from quality deficiencies or damage during transit, contractual penalties, and the value of imported inputs. In order to receive the maximum export credit premium, the exported product must consist of a minimum of 75 percent value added in Brazil. If this minimum limit is not met, there is a specific calculation to reduce the f.o.b. invoice price when calculating the base upon which the IPI export credit premium is paid.

To calculate the *ad valorem* subsidy, we relied on information provided by the government of Brazil. It provided us with the amount of the IPI credit received by Belgo-Mineira and COSIGUA for the period July 1, 1981 to March 31, 1982 (dating from when the companies began to receive payments), as well as the value of exports of carbon steel wire rod for the same time period. By dividing the IPI credits received by the value of their exports, we calculated an *ad valorem* export subsidy of 10.63 percent.

The *ad valorem* benefit is based on the experience of COSIGUA during this period. Although both Belgo-Mineira and COSIGUA are eligible for the same level of IPI credits, there was a considerable discrepancy in the *ad valorem* benefit reported for each company. We believe that the benefits received by Belgo-Mineira during this period do not accurately reflect its recent experience, because of some administrative problems. Consequently, we are relying on the value of the benefit to COSIGUA as the best information available on the receipt of this benefit by Belgo-Mineira.

This *ad valorem* rate is premised on an IPI export credit premium of 15 percent. The government of Brazil reduced the benefit on March 31, 1982, to 14 percent and again on June 30, 1982, to 12.5 percent. Accordingly, the Brazilian government asserts that a downward adjustment in the rate for this program is appropriate to reflect the current availability of the benefit.

We have not made such an adjustment because we must still resolve one matter. The receipt of the IPI credit occurs sometime after the merchandise is exported; therefore, the figures we relied on in making our calculation may understate the benefit. Exports reported for the first part of 1982 probably do not completely correspond to the IPI credits for those exports in the 1982 figures we received. If this is so, we will adjust the rate accordingly.

C. *Preferential Working Capital Financing For Exports: Resolution 674.* Under this program, companies are declared eligible to receive working capital loans by CACEX (the Department of Foreign Commerce of the Banco Central do Brasil). These loans may have a duration of up to one year. Firms in the steel industry can obtain this preferential financing for up to 20 percent of the net f.o.b. value of the previous year's exports. We preliminarily determine that such financing is an export subsidy.

The net export value is calculated by taking numerous deductions from the export value of the merchandise, including agent commissions, contractual penalties or refunds, exports denominated in cruzeiros, imported inputs over 20 percent of the export value, and a deduction for the company's trade deficit as a percentage of the value of its exports. In addition, any growth in the cruzeiro value of exports over the previous year will reduce the value of the benefit as a percentage of the current year's exports.

To determine the value of loans in existence under this program during 1981, we prorated any loans that straddled other years. For loans taken out in 1980, only that portion extending into 1981 was included in our calculation. Any 1981 loans extending into 1982 were similarly adjusted. We then divided the total value of these

loans by the total value of exports for these two companies in 1981 to calculate the amount of preferential financing they received as a percentage of exports.

As in previous Brazilian countervailing duty cases, we are looking to the rate established by the Banco do Brasil for discounting sales of accounts receivable as the commercial rate for the acquisition of short-term working capital. Although we are comparing the terms of a loan with the terms of sale of an asset, we have used this comparison because information provided by the government of Brazil indicates that, within the Brazilian financial system, working capital is normally raised through the sale of accounts receivable. Currently, the rate for discounting sales of accounts receivable is 59.6 percent plus a 6.9 percent tax on financial transactions ("IOF"). The subsidy is the difference between the interest rate available under Resolution 674 and the commercial rate.

The interest rate on loans under Resolution 674 is 40 percent, with interest payable semiannually and the principal fully payable on the due date of the loan. The effective rate of interest for these loans is 44 percent. These loans are also exempt from the IOF. Therefore, the differential between these two types of financing is 22.5 percent. When multiplying this differential by the amount of preferential financing received as a percent of exports, we calculated an *ad valorem* export subsidy of 1.31 percent.

D. *Income Tax Exemption For Export Earnings.* Exporters of carbon steel wire rod are eligible to participate in this program, under which the percentage of their profit attfibutable to export revenue is exempt from income tax. To arrive at this percentage, export revenue is divided by total revenue. The amount of profit exempt from the income tax is then multiplied by the 35 percent corporate income tax rate to determine the amount of the benefit.

In a program of this kind, benefits cannot be determined with finality until the books are closed sometime in the following year. Therefore, we must look at fiscal year 1980 to determine if any benefit was received in fiscal year 1981. Both Belgo-Mineira and COSIGUA received benefits under this program in 1981. By dividing the benefit received by the value of exports, we calculated an *ad valorem* export subsidy of 0.34 percent.

E. *Industrial Development Council ("CDI") Program.* This program allowed an exemption of 80 percent of the customs duties and 80 percent of the IPI tax on certain imported machinery for projects approved by the CDI.

Decree Law 1726 repealed this program in 1979 and no new projects are eligible for these benefits. However, companies with projects approved prior to repeal may still receive those benefits pending the completion of the project. The government of Brazil states that COSIGUA received such benefits during 1981. By dividing the benefit received by the total value of sales, we calculated a weighted-average *ad valorem* benefit of this subsidy to be 0.08 percent.

F. *Accelerated Depreciation For Capital Goods Manufactured In Brazil.* This program allows companies that purchase Brazilian-made capital equipment as part of an approved CDI expansion project to depreciate this equipment at twice the rate normally permitted under tax laws. However, once the asset has been fully depreciated at this accelerated rate, it is then appreciated (adding to taxable income) in order to repay the benefit received earlier. This is accomplished by keeping a record of both the amount depreciated and the amount appreciated, with the yearly balances adjusted by the indexing factor. As with the income tax exemption for export earnings, the tax benefit received under this program in a particular fiscal year equals the amount by which total depreciation exceeds appreciation in the prior fiscal year. The government of Brazil states that both Belgo-Mineira and COSIGUA utilized the accelerated depreciation provisions for fiscal year 1980, but only Belgo-Mineira enjoyed a tax benefit in 1981. By dividing the benefit received by the total value of sales, we calculated a weighted-average *ad valorem* benefit of 0.18 percent.

II. Programs Preliminarily Determined Not To Be Subsidies

We preliminarily determine subsidies are not being provided to manufacturers, producers, or exporters in Brazil of carbon steel wire rod under the following programs.

A. *Export Financing Under Communication 331.* Communication 331 is a set of rules and regulations established by the Brazilian government to govern foreign exchange contracts for export transactions. Beyond establishing these rules, the government has no further involvement. Banks that act as intermediaries in export transactions operate under these rules but are free to choose whether they will discount an account receivable denominated in foreign currency, the type of transaction at issue in this program.

The government of Brazil states that it provides no resources to banks to enable them to perform these operations nor does it establish the discount rates. The rate of discount reflects commercial considerations such as the bank's relationship with its customer, its own circumstances, and market rates of interest, which generally track the London Interbank Offered Rate (LIBOR). As such, we preliminarily determine that the discounting of foreign exchange accounts receivable under these conditions is not a subsidy.

B. *Transportation Subsidies.* The Brazilian government, in its response to our questionnaire, states that Belgo-Mineira and COSIGUA receive no preferential rates when using railroads and ports. We have no evidence that any programs exist which give preferential freight rates to steel exporters.

III. Programs Preliminarily Determined Not To Be Utilized

We preliminarily determine that the following programs, alleged by the petitioners to confer subsidies, were not utilized by the manufacturers, producers, or exporters in Brazil or carbon steel wire rod.

A. *The Commission For The Granting Of Fiscal Benefits For Special Export Programs ("BEFIEX").* BEFIEX grants several types of benefits to companies that are part of certain targeted industries and that sign contracts that include specific export commitments. These benefits include the following: A reduction of between 70 percent and 90 percent of the import duties and the IPI tax on the import of machinery, equipment, apparatus, instruments, accessories and tools necessary to meet the approved export commitment; an extension of the period for carrying tax losses forward from four to six years, provided no dividends are paid during that time; and amortization of pre-operational expenses of BEFIEX projects at the discretion of the company rather than the normal straight-line amortization over ten years. As a general rule, companies that sign BEFIEX contracts guaranteeing these and any other benefits must make an export commitment that over the life of the project it will generate export earnings of at least three times the value of imports for the project. The government of Brazil states that the steel industy in Brazil has been developed primarily to supply the domestic market. Since Belgo-Mineira and COSIGUA export only a small portion of their production, they are not in a position to make the required export commitments. Neither Belgo-Mineira nor

COSIGUA received any benefits from this program in 1981.

B. *Preferential Financing For The Storage Of Merchansdise Destined For Export: Resolution 330.* This program provides financing for up to 80 percent of the value of merchandise placed in a warehouse and destined for export. Interest rates for such loans are 40 percent per annum, with interest payable semiannually. The government of Brazil states that neither Belgo-Mineira nor COSIGUA used this program, since both companies' exports are manufactured to order and there is no need to warehouse their merchandise.

C. *Export Financing Under Resolution 68.* This program provides financing for the export of Brazilian goods for a period of 181 days up to one year. Such financing is granted on a transaction-by-transaction basis and may cover up to 85 percent of the f.o.b. invoice price of the merchandise (plus freight and insurance). To be eligible, the exporter must show that the foreign purchaser has prepaid 15 percent of the invoice price. Neither Belgo-Mineira nor COSIGUA used Resolution 68 to finance exports of carbon steel wire rod to the United States in 1981.

IV. Program Preliminarily Determined To Be No Longer in Existence

We preliminarily determine that the following program, alleged by the petitioners to confer subsidies, is no longer in existence.

Merchandise Circulation Tax (ICM) Export Credit Premium

This program, which provided Brazilian companies an overrebate of a state value-added tax on goods destined for export, was eliminated by Convention 01–79, published January 12, 1979.

V. Program for Which Additional Information is Needed

The provision of long-term loans at preferential rates to Belgo-Mineira and COSIGUA was alleged by the petitioners to be a subsidy.

Belgo-Mineira and COSIGUA have long-term loans from various sources in both domestic and foreign currencies. The loans in foreign currencies come from numerous foreign banks, with interest rates ranging from 6.5 percent to 2.25 percent above LIBOR. The government of Brazil states that long-term financing in cruzeiros is generally available only through government-controlled financial institutions. Both companies have received loans from FINAME, a program of the government-controlled National development Bank ("BNDE"), for the purchase of capital equipment. These loans have real interest rates ranging from 7 to 11 percent, with the principal fully adjusted by the indexing factor.

At this time, we do not have sufficient information upon which to determine whether these loans are providing manufacturers, producers, or exporters in Brazil of carbon steel wire rod benefits which constitute subsidies within the meaning of the countervailing duty law. We will seek additional information regarding these loans before reaching a final determination.

Negative Determination of "Critical Circumstances"

Counsel for the petitioners alleged that imports of carbon steel wire rod from Brazil present "critical circumstances." Under section 703(e)(1) of the Act, critical circumstances exist when the alleged subsidy is inconsistent with the Subsidies Code of the General Agreement on Tariffs and Trade and "there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period."

Since this investigation was initiated, U.S. imports of carbon steel wire rod from Brazil amounted to 13,385 net tons in March, 8 net tons in April, and 3,512 net tons in May, the most recent month for which import statistics are available. In the context of this industry, this product has not recently been massively imported from Brazil over a relatively short period of time. Therefore, critical circumstances do not exist for carbon steel wire rod.

Verification

In accordance with section 776(a) of the Act, we will verify data used in making our final determination.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of carbon steel wire rod from Brazil which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register** and to require a cash deposit or bond for each such entry of this merchandise in the amount of 14.31 percent *ad valorem.* This suspension will remain in effect until further notice.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

Public Comment

In accordance with section 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 2:00 p.m. on August 12, 1982, at the U.S. Department of Commerce, Room 6802, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within ten days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy Assistant Secretary by August 5, 1982. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 355.34, on or before August 13, 1982 at the above address and in at least ten copies.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

July 8, 1982.

[FR Doc. 82–18987 Filed 7–13–82; 8:45 am]

BILLING CODE 3510–25–M

Carbon Steel Wire Rod From France; Preliminary Affirmative Countervailing Duty Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary affirmative countervailing duty determination.

SUMMARY: We preliminarily determine that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in France of carbon steel wire rod, as described in the "Scope of the Investigation" section of this notice. The estimated net subsidy for each firm is indicated in the "Suspension of

Liquidation" section of this notice. Therefore, we are directing the U.S. Customs Service to suspend liquidation of all entries of the product subject to this determination which are entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or bond on this product in the amount equal to the estimated net subsidy. If this investigation proceeds normally, we will make our final determination by September 21, 1982.

EFFECTIVE DATE: July 14, 1982.

FOR FURTHER INFORMATION CONTACT: Nicholas C. Tolerico, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone 202–377–4036.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine that there is reason to believe or suspect that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended ("the Act"), are being provided to manufacturers, producers, or exporters in France of carbon steel wire rod, as described in the "Scope of the Investigation" section of this notice. For purposes of this investigation, the following programs are preliminarily found to be subsidies:

- Export credit insurance;
- Preferential financing including equity infusions;
- Grants;
- Regional development incentives;
- Certain labor-related aid;
- ECSC worker housing loans;
- Assistance to iron ore suppliers;
- Research and development.

We estimate the net subsidy to be the amount indicated for each firm in the "Suspension of Liquidation" section of this notice.

Case History

On February 8, 1982 we received a petition from counsel for Atlantic Steel Corp., Georgetown Steel Corp., Georgetown Texas Steel Corp., Keystone Consolidated, Inc., Korf Industries, Inc., Penn-Dixie Steel Corp., and Raritan River Steel Co., filed on behalf of the U.S. industry producing carbon steel wire rod. The petition alleged that certain benefits which constitute subsidies within the meaning of section 701 of the Act are being provided, directly or indirectly, to the manufacturers, producers, or exporters in France of carbon steel wire rod. Counsel for petitioners also alleged that "critical circumstances" exist, as defined in section 703(e) of the Act.

We reviewed the petition, and on March 1, 1982, determined that an investigation should be initiated (47 FR 9262). In our notice we stated that we expected to issue a preliminary determination by May 1, 1982. We subsequently determined that the investigation was "extraordinarily complicated," as defined in section 703(c) of the Act, and postponed our preliminary determination to no later than July 8, 1982 (47 FR 17319).

Since France is a "country under the Agreement" within the meaning of section 701(b) of the Act, an injury determination is required for this investigation. Therefore, we notified the U.S. International Trade Commission ("ITC") of our initiation. On March 25, 1982, the ITC preliminarily determined that there is a reasonable indication that these imports are materially injuring or threatening material injury to a U.S. industry.

We presented questionnaires concerning the allegations to the Delegation of the Commission of the European Communities and to the government of France at its embassy in Washington, D.C. On May 7, 1982 we received the responses to the questionnaires. A supplemental response was received on May 25, 1982.

Scope of the Investigation

For the purpose of this investigation, the term "carbon steel wire rod" covers a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross section, not under 0.02 inch nor over 0.74 inch in diameter, not tempered, not treated, and not partly manufactured, and valued over 4 cents per pound, as currently provided for in item 607.17 of the *Tariff Schedules of the United States*.

Societe des Acieries et Laminoirs de Lorraine ("Sacilor"), Societe Metallurgique de Normandie ("Normandie"), and Union Siderurgique du Nord et de l'Est de la France ("Usinor") are the only known producers in France of the subject product exported to the United States. The period for which we are measuring subsidization is the 1981 calendar year.

Analysis of Programs

In their responses, the government of France and the Delegation of the Commission of the European Communities provided data for the applicable periods. Additionally, we received information from Sacilor and Normandie, which produced and exported carbon steel wire rod to the United States in 1981. Sacilor is an integrated steel producer and a holding company for subsidiaries producing both steel and non-steel products. Of this group, only Sacilor is known to produce carbon steel wire rod. For purposes of this determination, we have treated benefits to Sacilor as benefits to all steel production. Therefore, for each program preliminarily determined to be a subsidy to Sacilor, we allocated the subsidy over the total value of Sacilor's steel production, and the production of its two known steel-producing subsidiaries, Societe Lorraine de Laminage Connu ("Sollac") and Societe Lorraine-et Meridionale de Laminage Continu ("Solmer"). Subsequent references to "Sacilor's total value of production" throughout this notice refer to the total value of Sacilor's Solmer's and Sollac's steel production. We allocated the benefits from the programs preliminarily determined to be subsidies to Normandie over the total value of Normandie's steel production. Usinor did not export carbon steel wire rod to the United States in 1981, and therefore was not sent a questionnaire.

Throughout this notice, general principles applied by the Department of Commerce to the facts of the current investigation concerning carbon steel wire rod are described in detail in Appendix B, which appears with the notice of "Preliminary Affirmative Countervailing Duty Determination, Carbon Steel Wire Rod from Belgium", in this issue of the **Federal Register** (hereinafter, Appendix B). Appendix C, which also appears with the above cited Belgium **Federal Register** notice, is a description of programs administered by organizations of the European Communities ("EC") (hereinafter, Appendix C). Appendices B and C are identical to Appendices B and C published on June 17, 1982, with our notice of "Preliminary Affirmative Countervailing Duty Determinations," Certain Steel Products from Belgium (47 FR 26300). Based upon our analysis to date of the petition and responses to our questionnaires, we preliminarily determine the following.

I. Programs Preliminarily Determined To Be Subsidies

We preliminarily determine that subsidies are being provided to manufacturers, producers, or exporters in France of carbon steel wire rod under the programs listed below.

A. *Export Credit Insurance.* The Compagnie Francaise d'Assurance pour le Commerce Exterieur ("COFACE") is a government corporation that provides export insurance to cover commercial,

political, exchange rate and inflation risks. In reviewing the 1980 annual report (the most recent report available), we found that, while the company showed an overall profit, its insurance activities operated at a deficit. Revenues from financial and real estate investments allowed COFACE to offset the operating deficit on insurance. Our preliminary review of the annual reports for 1976–1979 revealed a pattern of yearly operating deficits on insurance activities that were offset by revenues from investments. This pattern of operating deficits on insurance activities indicates that COFACE does not charge premiums sufficient to cover long-term operating costs and losses. We preliminarily determine that this is an export subsidy within the meaning of the countervailing duty law.

Based on the information currently available, Normandie is the only company in this investigation insuring its exports to the U.S. through COFACE. A portion of Normandie's U.S. accounts receivable is insured against commercial risk. From data contained in COFACE's 1980 profit and loss statement, we calculated the 1980 operating deficit on COFACE's insurance activities as a percentage of net premiums received. By applying this percentage to the premiums paid by Normandie to COFACE on shipments to the United States in 1980, we calculated the total benefit to Normandie on insured exports to the United States. We found a subsidy of 0.124 percent *ad valorem* on carbon steel wire rod exports to the United States by allocating the total benefit received by Normandie over the total value of its exports to the United States in 1980. We used this 1980-based figure as the best available information for the benefit of this subsidy to Normandie in 1981.

B. *Preferential Financing Including Equity Infusions.* Petitioners alleged preferential financing in the form of low-interest loans and loan guarantees, and the conversion of accumulated debt.

A number of French government and EC organizations have issued loans and/or loan guarantees to the French steel industry. The majority of these loans were provided by the following institutions:

• *Fonds de Developpement Economique.et Social ("FDES").* Created by Parliament in 1955, FDES lends funds to government-owned and privately held corporations for industrial development or relocation of facilities to further the government's regional development objectives. Loan applications are filed with the Ministry of the Economy and Finance, but the decision to issue a loan rests with the FDES Board, which is composed of government ministers whose agencies are involved in economic policy. Usually, loans are secured by a mortgage or a pledge. The source of FDES loan funds is a line item in the national budget. Because FDES provides loans on a regional basis, we consider these loans to be subsidies within the meaning of the countervailing duty law.

• *Credit National.* Credit National is a government credit institution with special legal status, which issues loans to the French industry, particularly the steel industry. Loan funds are raised by offering bonds in the public marketplace. Credit National also acted as the conduit through which FDES loans were granted to the steel industry. In addition, the French government, either directly or through Credit National, guarantees some loans to the steel companies. Until 1979, a yearly guarantee fee averaging 0.5 percent of the principal was paid by the company receiving a loan guarantee. The current charge is 0.25 percent of the principal of the loan. Because Credit National loans and loan guarantees are industry-specific, they are considered to be subsidies within the meaning of the countervailing duty law.

• *European Coal and Steel Community ("ECSC") and European Investment Bank ("EIB") Loans and Loan Guarantees.* A description of ECSC and EIB loans and loan guarantees, and the reasons we consider them countervailable, are presented in Appendix C.

Both Normandie and Sacilor received loans and loan guarantees through these institutions. Each company's unique circumstances are addressed below.

1. Normandie The subsidy amounts for loans made by FDES, Credit National and the ECSC to Normandie, at rates below the commercial benchmark for a comparable loan in the year of issuance and still outstanding in 1981, are calculated according to the methodology outlined in Appendix B in the section dealing with preferential loans and loan guarantees for creditworthy companies. We compared what Normandie would have paid normal commercial lenders in 1981 with what the company actually paid on preferential loans in that year. To determine what Normandie would have paid normal commercial lenders, we used as the commercial benchmark the average annual yield to maturity of newly issued corporate bonds on the Paris securities market. Accordingly, we found a subsidy of 0.428 *ad valorem.*

2. Sacilor Petitioners alleged that Sacilor is uncreditworthy. Based on information in the responses and our analyses of Sacilor's financial statements, we preliminarily conclude that by the end of 1975, Sacilor was uncreditworthy. Sacilor has recorded significant operating losses in each year since 1975 (from a low of FF 1.1 billion in 1979 to a high of FF 2.4 billion in 1977), and has had increasingly higher debt/equity ratios in each year since 1975. Significant and persistent operating losses, coupled with high debt/equity ratios, are indicative of an uncreditworthy situation. Although Sacilor has received some loans from commercial banks since 1975, the majority of commercial banking institutions in France have been nationalized since the late 1940s. Consequently, it would be difficult to consider these loans as conclusive proof of the creditworthiness of the company. Beginning in 1978, the government of France instituted a major recapitalization and restructuring program for the steel industry, hereinafter referred to as the "Rescue Plan." Sacilor participated in this plan, but Normandie was not included. Under this plan, the government converted loans made by the institutions identified above, as well as loans from other sources, into Loans of Special Characteristics (Prets a Caracteristiques Speciales or "PACS"). The government also granted new loans and loan guarantees through FDES, Credit National and other government agencies. Additionally, the government made a series of equity infusions in Sacilor through which it became a shareholder.

Sacilor's preferential loans and loan guarantees, PACS, and equity infusions have been treated in the following four ways:

a. *Preferential Loans and Loan Guarantees Issued Prior to the End of 1975.* The subsidies resulting from preferential rates for loans and loan guarantees made prior to 1975 by FDES, Credit National, the ECSC and the EIB to Sacilor at rates below the commercial benchmark for a comparable loan in the year of issuance and for which principal was still outstanding in 1981, are calculated according to the general methodology outlined in Appendix B in the section dealing with loans and loan guarantees for creditworthy companies. Using this methodology, we compared what Sacilor would have paid normal commercial lenders in 1981 with what the company actually paid on preferential loans in that year. To determine what Sacilor would have paid normal commercial lenders, we used the benchmark described above.

Accordingly, we computed a subsidy of .033 percent *ad valorem* for Sacilor.

b. *Preferential Loans and Loan Guarantees Made After 1975.* Because we consider Sacilor uncreditworthy after 1975, loans and loan guarantees issued since then by French government organizations, the ECSC, and the EIB, with principal still outstanding during 1981, are treated as loans and loan guarantees to companies considered uncreditworthy. For the reasons described in Appendix B, we treated these loans as equity investments and compared Sacilor's rate of return on investment in 1981 with the average rate of return on investment in France less the 1981 principal and/or interest payments made by Sacilor on these loans. The average rate of return on investment in France was based on the annual average yield to maturity of newly issued bonds on the Paris market. We will not countervail a loan subsidy to a creditworthy or uncreditworthy company for more than if the government gave the principal as an outright grant. Where the equity methodology produced a higher amount, we included in our calculation the subsidy which would exist if the equity were treaty as a grant. (Both methodologies are described in Appendix B in the sections dealing with grants and loans and loan guarantees to uncreditworthy companies). Accordingly, we found a subsidy of 5.082 percent *ad valorem* for Sacilor.

c. *Loans and Loan Guarantees Converted Into Loans of Special Characteristics (PACS).* By 1978, the debt of Sacilor to FDES, Credit National, the ECSC, the EIB, the Groupement de l'Industrie Siderurgique ("GIS"), other specialized financial institutions such as Groupement Interprofessionnel Financier Antipollution ("GIFIAP"), and banks had become quite large. The companies, stockholders, government and other creditors agreed that the burden of servicing this debt had to be reduced. The result was the Rescue Plan described above. Most of the debt owed by Sacilor to government agencies and specialized financial institutions was converted into PACS, which carry an interest rate of 0.1 percent, with no obligation to repay principal unless the company becomes profitable again. In addition to the initial 1978 conversions, PACS were also issued to Sacilor between 1978 and 1981. The benefits of these PACS were calculated using the equity methodology for loans to uncreditworthy companies as described above. We calculated a subsidy of 4.386 percent *ad valorem* for Sacilor. In calculating the benefit of the loans that were converted into PACS, we did not include those PACS that were subsequently cancelled in exchange for stock. These are discussed in part (d) below.

d. *Equity Infusions.* Between 1978 and 1981, the government of France made the following equity infusions in Sacilor:

- Investment of capital in Sacilor in exchange for shares of stock,
- Advances of capital to Sacilor in 1979 and 1981, and
- Cancellation of PACS at the end of 1981 in exchange for additional shares.

At the end of this period, the government's share of ownership in Sacilor reached approximately 90 percent. As stated above, Sacilor recorded significant and persistent losses in each year since 1975, ranging from FF 1.1 billion of FF 2.4 billion. Therefore, it is doubtful that the government's equity infusions were consistent with commercial considerations.

Since Sacilor's stock was traded on the Paris Bourse during the time span covering the government's equity infusions (see equity section in Appendix B), we calculated average stock prices for the period preceding each of the government's actions. We then compared the market value of the new stock issued to the government with the actual value to the company of the government's equity infusions. If the actual value was greater than the market value, we found the difference to be a grant and allocated it over 15 years, the average useful life of capital assets in the steel industry (See the grant section in Appendix B). This figure in turn was allocated over Sacilor's total steel production. Accordingly, we computed an *ad valorem subsidy of 8.998 percent.*

C. *Grants.* There is evidence that under the Rescue Plan, Sacilor also received refunds from the government for interest on loans that were not converted into PACS. Because this interest was refunded, it was not captured in our subsidy calculations on loans and loan guarantees. Such refunds are considered to be grants to a specific company and are therefore countervailable. The subsidy rate was calculated using 15 years, the average useful life of capital assets in the steel industry, according to the methodology outlined in Appendix B in the section dealing with grants. As was the case in certain steel products from France (47 FR 26315), Sacilor did not provide us with the annual amounts of these refunds. Therefore, for purposes of this preliminary determination, we are using as best information available the subsidy rate attributable to these refunds for Usinor in certain steel products from France. Accordingly, we find Sacilor's *ad valorem* subsidy for these refunds to be .222 percent.

In 1980, the French government authorized a grant to Normandie which was apparently tied to the industrial use of a LBE process converter. Funds were received by Normandie in 1981. As explained in Appendix B, we allocated this grant over 15 years, the average useful life of capital assets in the steel industry. This figure in turn is allocated over Normandie's total steel production. Accordingly, we found an *ad valorem* subsidy of .001 percent.

D. *Regional Development Incentives.* The government of France provides a series of tax and non-tax regional incentives to French and foreign businesses to establish new, or to expand existing, businesses in certain French regions. The Delegation a l'Amenagement du Territoire et a l'Action Regionale ("DATAR") coordinates the programs of various government agencies and ministries. For incentive purposes, France is divided into four zones. Each zone, or part of a zone, is eligible for different types of assistance. The assistance includes development grants, non-industrial grants, research and development grants, decentralization indemnities and job training subsidies. Job training assistance is provided through individual agreements with the Fonds National de l'Emploi ("FNE"). These agreements are available to reimburse training expenses for establishing facilities in certain zones and for converting declining facilities.

We consider the regional incentives provided through these programs to be subsidies within the meaning of the U.S. countervailing duty law because each zone is eligible for only certain types of assistance.

Based on information currently available, the only regional incentive program utilized was labor assistance provided through FNE and AFOREST, a regional training organization. Sacilor received grants from FNE and AFOREST for worker training and retraining. We were not informed as to the types of jobs for which workers were retrained. For purposes of this preliminary determination, we assume they were for jobs within the steel industry. Therefore, we consider them to be subsidies. We are seeking additional information as to the types of jobs for which workers were retrained.

The ECSC contributed a portion of the FNE grants to Sacilor. That portion,

where known, has been factored out of the allocation of net benefits received in 1981 by Sacilor. (For a discussion of ECSC grants for labor assistance, see Appendix C.)

We treated the payments received by Sacilor from FNE and AFOREST in 1981 as a grant generally expensed in one year and allocated it over the total value of Sacilor's steel production. (See the section dealing with grants in Appendix B.) Accordingly, we calculated a subsidy rate of .035 percent *ad valorem.*

E. *Certain Labor-Related Aid.* French corporations have statutory and contractual obligations to their employees in case of interruption or cessation of employment. The government has provided assistance to relieve the steel companies of labor-related obligations under the law. We prelimarily find this to be a subsidy under the countervailing duty law. At this time, we are not fully aware of the extent or duration of the companies' responsibilities under the law. We are seeking more complete information on the companies' legal obligations. The aid received by each company is discussed below.

1. Sacilor Under the Rescue Plan, the government and Sacilor concluded an agreement through which Sacilor is reimbursed by the government after compensating laid-off workers and implementing early retirement programs. We preliminarily determine this reimbursement to be a grant to the company. We allocated this grant over five years because that was the projected length of time of the Rescue Plan. We then allocated the 1981 benefit over the total value of Sacilor's 1981 steel production to arrive at a subsidy of 1.125 percent *ad valorem.*

2. Normandie The government of France does not permit Normandie to fire workers, and requires specific approval for layoffs. When such layoffs do occur, Normandie is obligated by law to pay the affected workers 50 percent of their normal salary. The government, acting through FNE, reimburse Normandie for at least 50 percent of that amount. We preliminarily find this reimbursement to be a countervailable grant to the company. Because the reimbursement was less than one percent of the total value of production and was used for items which would normally be expensed in one year (see Appendix B), we allocated the grant amount over the total value of Normandie's 1981 steel production. (See section in Appendix B dealing with labor subsidies and grants.) Using this method, the subsidy is 0.510 percent *ad valorem.*

F. *ECSC Worker Housing Loans.* Labor-related aid was also provided to Sacilor and Normandie by the ECSC. Both companies were allocated loans for the housing of workers. Based on current information, it appears that Sacilor received the loan and then passed a portion on to its employees; Normandie indicated that its employees received such loans directly from the ECSC. Our reasons for preliminarily determining that the ECSC assistance for worker housing loans constitutes a subsidy are presented in Appendix C. The aid provided to each company is discussed below.

1. Sacilor Based on information contained in its response, it has been preliminarily determined that Sacilor received the housing loan allocation directly, and then passed it on to employees. However, the monies actually passed on to its employees in 1981 were less than one percent of the loan amount. As we do not know the percentage of the ECSC 1981 budget financed by borrowings (See section dealing with ECSC housing loans in Appendix C), we applied the 1980 percentage, as the best information available, to Sacilor's 1981 loan in order to derive that portion of the ECSC housing loan that is countervailable. Where such loans are given directly to a company which disburses only a small portion of the loan, we calculate the subsidy using the appropriate methodology for preferential loans to the company. This loan was made after 1975, the year we concluded that Sacilor became uncreditworthy. Therefore, the appropriate methodology to calculate the benefit of this loan was the equity methodology described above and outlined in Appendix B in the section dealing with loans and loan guarantees to uncreditworthy companies. Accordingly, we found an *ad valorem* subsidy of .001 percent:

2. Normandie In 1975, Normandie received two worker housing loans from the ECSC. Based on current information, Normandie merely acted as a conduit for the loan funds which the ECSC provided directly to the workers. As explained in Appendix C, we compute the subsidy conveyed by this type of program using the methodology described in the labor subsidies' section of Appendix B. Since the two loans totaled less than one percent of the total value of steel production, we consider them expensed in the year received. Therefore, we found no subsidy accruing to Normandie in 1981 from these loans.

G. *Research and Development ("R&D").* Research and development directed at the French steel industry is provided through the Institut de Recherches de la Siderurgie Francaise ("IRSID"). IRSID was established by the French steel companies which underwrite a major portion of IRSID's budget. However, the government contributes at least three percent of IRSID's yearly budget.

Because IRSID's research is industry-specific and because there is no evidence at this time that the results of the research are publicly available, we find that portion of IRSID's budget funded by the government to be countervailable. However, we have insufficient information both on IRSID's budget and on R&D assistance that may have been provided to the companies on this and other products to calculate an *ad valorem* subsidy rate. We have asked for additional information regarding IRSID.

II. Programs Preliminarily Determined Not To Be Subsidies

We preliminarily determine that subsidies are not being provided to manufacturers, producers, or exporters in France of carbon steel wire rod under the following program.

Assistance to Coal Suppliers

The government of France, which directly or indirectly owns all French coal producers, makes available to Charbonnages de France ("CDF") such assistance as may be necessary to equalize the selling price of coal produced in France with the world market price for each type of coal. Even though the French coal industry appears to be subsidized, we do not consider this assistance to confer a countervailable benefit on the French steel industry for the following reasons. The apparently subsidized coal companies are unrelated to the steel companies, and their coal transactions are conducted at arm's length. Moreover, the French steel companies purchase coal at similar or even lower prices without regard to French government assistance to the coal industry. Over 75 percent of the French steel industry's coal requirements during 1981 were supplied by non-French sources, including the United States, which accounted for 25 percent of all coking coal and coke utilized.

With regard to allegations that Sacilor indirectly benefited from German federal and state assistance to coal producers in Germany, refer to Appendix B. ECSC provides various production and marketing grants to EC coal and coke producers; however, we do not consider this assistance to confer a countervailable benefit on the French

steel industry for the reasons given in Appendix C.

III. Programs Preliminarily Determined Not To Be Utilized

We preliminarily determine that the following programs which petitioners alleged to convey subsidies are not utilized by the manufacturers, producers, or exporters in France of carbon steel wire rod.

A. *Export Financing.* In France, exports may be financed or guaranteed through the Commission Interministerielle des Garanties et du Credit au Commerce Exterieur and the Banque Francaise du Commerce Exterieur ("BFCE"). At this time, we have no evidence that Sacilor or Normandie availed themselves of these programs.

B. *Special Fund for Industrial Adaptation.* Petitioners alleged that French steel companies received grants and preferential loans through the Fonds Special d'Adaptation Industrielle ("FSAI"). FSAI was established in 1978 to promote job creation and industrial diversification in the steel, textile, shipbuilding and coal regions of France. Respondents state that they received no benefits from FSAI.

C. *Loan Guarantees from the ECSC.* Respondents state that they received no ECSC loan guarantees. This program is described in Appendix C.

D. *European Regional Development Funds ("ERDF").* This program is explained in Appendix C. Resporents state analysis that they received no ERDF funds.

E. *Research and Development Grants from the ECSC.* This program is described in Appendix C. Sacilor and Normandie state that they received no R&D grants from the ECSC.

IV. Programs for Which Additional Information Is Needed

The programs listed below were alleged by the petitioners to be subsidies. At this time, we do not have sufficient information upon which to determine whether these programs are providing manufacturers, producers, or exporters in France of carbon steel wire rod, benefits which constitute subsidies within the meaning of the countervailing duty law. We will seek additional information regarding these programs before reaching a final determination.

A. *Research and Development Assistance.* A government organization, Direction Generale de la Recherche Scientifique et Technique, provided a small amount of research and development funding to Sacilor. We are seeking additional information because we are not aware of whether this program is industry- or sector-specific, and whether the results of this assistance are publicly available (see Appendix B).

B. *Energy Assistance.* Both Sacilor and Normandie received a few small grants from the Agence pour les Economies d'Energie ("AEE"). The AEE is a government agency created in 1974 to provide grants for fostering energy efficiency. Grants received from the agency may to be repayable if target efficiency levels are not met. Since it is not clear that this organization provides benefits on other than a country-wide basis, we will seek additional information before making a determination.

C. *Regional Development/Regional Anti-Pollution Agencies.* Created by Law No. 64–1245 of 1964, these regional agencies provide incentives for the installation of anti-pollution devices. The agencies collect dues for their operation and in return award "bonuses" and loans to combat pollution. Normandie and Soumont have received a few small grants and loans from such agencies.

Due to insufficient information both on the availability of this assistance within and across regions, and on the operating income and expenses of these agencies, we are unable to determine at this time if the grants and loans received under this program are countervailable.

D. *Caisse des Depots et Consignations ("CDC").* CDC is a government agency that invests funds deposited in the Caisses d'Epargne (the French savings banks). CDC makes both short- and long-term loans to various industries, including steel. Any loans made by CDC to Sacilor after 1975 that were converted into PACS or cancelled have been included in parts 2 (b), (c), and (d) of the preferential financing section. For CDC loans made to Normandie, and for CDC loans made to Sacilor prior to the end of 1975 with principal still outstanding during 1981, we will seek additional information.

E. *Housing Assistance.* Two organizations, UNICAL and Banque Federative du Credit Mutuel, have provided a few small loans to Soumont (Normandie). At this time we have insufficient information to determine whether this assistance constitutes a subsidy.

F. *French Government Assistance to Iron Ore Suppliers.* Petitioners alleged that French manufacturers of carbon steel wire rod benefit from government subsidies to iron mines. The situations of the respondents are discussed below.

1. Normandie Mines de Soumont (Soumont) is Normandie's wholly-owned iron-mining subsidiary. Loans and grants were provided to Soumont by a number of organizations. We have preliminarily determined that Soumont received countervailable assistance in the form of a preferential loan from Credit National. We will seek additional information on the other sources of Soumont's loans and grants. We will also seek information to determine if Normandie is receiving a benefit which constitutes a subsidy as a result of its transactions with Soumont.

2. Sacilor Sacilor indicated that its iron-mining subsidiary received no grants or other assistance from the government of France. It indicated further that it purchased iron ore from unrelated sources in other countries at world market prices.

Sacilor claims that French or foreign corporations may purchase iron ore from French producers at the same price as the French steel producers, but does not state at what price. We will seek additional information as to whether government assistance is provided to Sacilor through French iron ore suppliers.

Negative Determination of Critical Circumstances

Counsel for the petitioners alleged that imports of the product under investigation present "critical circumstances." Under section 703(e)(1) of the Act, critical circumstances exist when the alleged subsidy is inconsistent with the Subsidies Code of the General Agreement on Tariffs and Trade *and* "there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period."

Since this investigation was initiated, U.S. imports of carbon steel wire rod totaled 1,326 net tons in February, 4,878 net tons in March, 4,631 net tons in April and 11,507 net tons in May, the most recent month for which import statistics are available.

In the context of this industry, this product has not recently been massively imported from France over a relatively short period of time. Therefore, critical circumstances do not exist for carbon steel wire rod.

Verification

In accordance with section 776(a) of the Act, we will verify all the information used in making our final determination.

Suspension of Liquidation

In accordance with section 703 of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of carbon steel wire rod which

are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**, and to require a cash deposit or bond, for each such entry of the merchandise in the amounts indicated below:

Manufacturer/producer/exporter	Ad valorem rate (percent)
Eaclor	19.882
Normandie	1.063
All Others	19.882

This suspension will remain in effect until further notice.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

Public Comment

In accordance with section 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on August 10, 1982 at the U.S. Department of Commerce, Room 6802, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within ten days of this notice's publication. Requests should contain (1) the party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy Assistant Secretary by August 3, 1982. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 355.34, on or before August 13, 1982, at the above address and in at least ten copies.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

July 8, 1982.

[FR Doc. 82-18991 Filed 7-13-82; 8:45 am]

BILLING CODE 3510-25-M

Carbon Steel Wire Rod From South Africa; Preliminary Affirmative Countervailing Duty Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary affirmative countervailing duty determination.

SUMMARY: We preliminarily determine certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in South Africa of carbon steel wire rod, as described in the "Scope of Investigation" section of this notice. The estimated net bounties or grants are indicated in the "Suspension of Liquidation" section of this notice. Therefore, we are directing the U.S. Customs Service to suspend liquidation of all entries of the product subject to this determination which are entered, or withdraw from warehouse, for consumption and to require a cash deposit or bond on this product in the amount equal to the estimated net bounty or grant.

If this investigation proceeds normally, we will make our final determination by September 21, 1982.

EFFECTIVE DATE: July 14, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph A. Black, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone (202) 377-1774.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine there is reason to believe or suspect certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended ("the Act"), are being provided to manufacturers, producers, or exporters in South Africa of carbon steel wire rod, as described in the "Scope of Investigation" section of this notice. For the purpose of this investigation, the following propgrams are preliminarily found to be bounties or grants:

- Railroad Rate Differential;
- Government Equity Participation;
- Assumption of Finance Charges;
- Preferential Loans and Loan Guarantees.

We estimate the net bounties or grants to be the amount indicated in the "Suspension of Liquidation" section of this notice.

Case History

On February 8, 1982, we received a petition from counsel for Atlantic Steel Corporation, Georgetown Steel Coporation, Georgetown-Texas Steel Corporation, Keystone Consolidated Incorporated, Korf Industries Incorporated, Penn-Dixie Steel Corporation and Raritan River Steel Corporation, on behalf of the U.S. industry producing carbon steel wire rod. The petition alleged that certain benefits which constitute bounties or grants within the meaning of section 303 of the Act are being provided, directly or indirectly, to the manufacturers, producers, or exporters in South Africa of carbon steel wire rod.

We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation, and on March 1, 1982, we initiated a countervailing duty investigation (47 FR 5751). We stated that we expected to issue preliminary determinations by May 4, 1982. We subsequently determined that the investigation is "extraordinarily complicated," as defined in section 703(c) of the Act, and postponed our preliminary determinatons for 65 days until July 8, 1982 (47 FR 17319).

Since South Africa is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and the carbon steel wire rod at issue here is dutiable, the domestic industry is not required to allege that, and the U.S. International Trade Commission ("ITC") is not required to determine whether, imports of this product cause or threaten material injury to the U.S. industry in question.

We presented a questionnaire concerning the allegations to the government of South Africa in Washington, D.C. on March 18, 1982. On April 27, 1982 we received the response to the questionnaire.

Scope of the Investigation

For the purpose of this investigation, the term "carbaon steel wire rod" covers a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross section, not under 0.02 inch nor over 0.74 inch in diameter, not tempered, not treated, and not partly manufactured, and valued over 4 cents

per pound, as currently provided for in item 607.17 of the *Tariff Schedules of the United States*.

The South African Iron and Steel Industrial Corporation ("ISCOR") is the only known producer and exporter in South Africa of the subject product to the United States.

The period for which we are measuring subsidization is the corporate fiscal year 1981, which runs from July 1, 1980 through June 30, 1981.

Analysis of Programs

In its response, the government of South Africa provided data for the applicable periods. Additionallly, we received information from ISCOR, which produced and exported carbon steel wire rod to the United States during 1981. Throughout this notice, general principles applied by the Department of Commerce to the facts of the current investigation concening carbon steel wire rod are described in detail in Appendix B, which appears with the notice of "Preliminary Affirmative Countervailing Duty Determination, Carbon Steel Wire Rod from Belgium", in this issue of the **Federal Register** (hereinafter "Appendix B"). Appendix B is identical to Appendix B published on June 17, 1982 with our notice of "Preliminary Affirmative Countervailing Duty Determinations, Certain Steel Products from Belgium" (47 F.R. 26300). Based upon our analysis to date of the petition and responses to our questionaire, we have preliminarily determined the following.

I. Programs Preliminarily Determined To Be Bounties or Grants

We preliminarily determine bounties or grants are being provided to manufacturers, producers, or exporters in South Africa of carbon steel wire rod under the programs listed below.

A. *Railroad Rate Differential.* The South African Transport Services ("SATS"), a government-owned corporation, maintains a rate schedule that generally provides preferential railroad rates for shipments destined for export. SATS publishes a tariff book with 15 rates for various merchandise. SATS rates depend both on distance railed and on whether the merchandise is intended for export or domestic destinations. We find that the export rate is approximately 50 percent of the domestic rate. ISCOR benefits from this program.

ISCOR provided figures for the c&f value and volume of its exports of the subject merchandise to the United States. ISCOR estimated the shipping costs to be 11 percent of the stated value. Therefore, we reduced the average price per ton for ISCOR's exports by 11 percent to obtain an estimate of the f.o.b. price per ton.

The resulting estimated f.o.b. value was then divided into the rate differential. The quotient is the bounty or grant. We find the bounty or grant for carbon steel wire rod to be 5 percent *ad valorem* for the product under inventigation.

SATS maintains that its export rail rates are cost justified, and that the difference between the domestic and export rates reflects the difference in the cost of handling the two types of traffic. We will examine SATS' claim, and may adjust our calculation of the *ad valorem* benefit if the rail rates reflect different cost experience rather than export preference; provided that any such differential does not result from discriminatory regulation of export rail carriage.

B. *Government Equity Participation.* The government of South Africa owns over 99 percent of the outstanding shares of ISCOR. The remaining shares are not publicly traded. The petitioners have alleged that the purchase of equity by the government represents a bounty or grant. The firm did not make a profit from 1974 to 1979. It has noit paid taxes since 1972, nor has it paid dividends on the government's shares since 1972. ISCOR had significant growth during that period which was financed by debt and infusions of equity through share purchases by the government. In view of this history, we find that the government infusioin of equity from 1974 to the present is inconsistent with commercial considerations and may result in a bounty or grant. Based on our methodology, described in Appendix B, we find that the governmment's equity participation in ISCOR since 1974 results in a bounty or grant equal to 3.7 percent *ad valorem* for the product under investigation. We calculated this rate by multiplying the government equity infusion since 1974 by the difference between ISCOR's rate of return in 1981 and the national average rate of return on equity in South Africa during 1981.

C. *Assumption of Finance Charges.* In 1977 the government of South Africa assumed 70 million rand of ISCOR's finance charges, for which it received no consideration. We treated this assumption as a grant under our methodology (see Appendix B) and allocated the amount over the estimated average useful life of assets in the steel industry, 15 years. The resulting value for 1981 was then allocated over total sales. The benefit of this grant to ISCOR is 0.5 percent *ad valorem* for the product under investigation.

D. *Preferential Loans and Loan Guarantees.* the petitioners have also alleged that the South African government's ownership of ISCOR allows the company to receive loans at rates lower than those available to comparable privately held corporations. The law which governs the operations of ISCOR provides that the government "may a * * * gurantee due performance by (ISCOR) of any contractual obligation incurred by (ISCOR) * * *" ISCOR has been unwilling to provide the Department with all the loan information necessary to analyze this allegation properly.

ISCOR gave us what it characterized as the weighted-average interest rate for all new loans over the last five years. Therefore, based on the best information available, the ISCOR-provided rate and the corporate loan security rate in South Africa in 1981, we have assumed that the government has guaranteed loans resulting in a lower interest rate. We have found the benefit to be 1.9 percent *ad valorem* for the product under investigation. Our estimate of the benefit was found by multiplying the difference between the ISCOR-suppled rate and the commercial rate in 1981 by the outstanding loan balance in 1981. The result was allocated by total sales.

II. Programs Preliminarily Determined Not To Be Bounties or Grants

Based upon the responses received in this investigation, and our verification conducted during the recent countervailing duty investigation of prestressed concrete steel wire strand from South Africa (47 FR 16060), we preliminarily determine bounties or grants are not being provided to manufacturers, producers, or exporters in South Africa of carbon steel wire rod under the following programs.

A. *Export Credit Insurance.* The Credit Guarantee Insurance Company ("CGIC") offers export credit insurance to qualifying export companies. No other insurance company is known to provide similar coverage. According to its annual reports, CGIC's insurance premium rates appear to cover the longterm operating costs and losses of the program. Therefore, we find that the program does not constitute a bounty or grant.

B. *Employee Training Programs.* The South African Department of Manpower certifies training programs to the taxing authority which allows businesses to deduct 200 percent of qualified training expenses. The Department of Manpower has demonstrated that all qualified training programs are available to all companies and industries and that they

are neither restricted to certain sectors of the economy nor preferential to exporters. Therefore, we find the tax benefits from the training programs not to be bounties or grants.

C. *Reduced Ocean Freight Rates.* The petitions alleged that South African shippers benefited from reduced ocean freight rates. We could find no evidence of such a program. We did find evidence of rate negotiation between shippers and carriers; however, this does not constitute a bounty or grant under the Act.

III. Programs Preliminarily Determined Not To Be Utilized

We preliminarily determine that the following programs, which were alleged by the petitioners to confer bounties or grants, are not utilized by the manufacturers, producers, or exporters in South Africa of carbon steel wire rod.

A. *Pre- and Post-Shipment Financing.* The Industrial Development Corporation ("IDC") is a state-owned corporation that extends loans at reduced rates to domestic manufacturers and producers. IDC also finances, at reduced rates, expansion programs aimed at increasing foreign exchange earnings. We have found no evidence to indicate that ISCOR utilized this program during fiscal year 1981.

B. *Export Incentive Program—Category A, B and D.* Category A is a tax deduction for 50 percent of the import tariffs applying to inputs used for exports. Category B is a tax deduction equal to 10 percent of the value-added component of export goods. Category D is a tax deduction for export market development expenses. Since ISCOR paid no taxes during 1981, it did not use these programs.

C. *Beneficiation Allowances for Base Mineral Processing.* Businesses processing or reprocessing base minerals for export are eligible to receive a maximum investment allowance of 20 percent on plant and equipment. Recouped allowances are alleged not to be subject to taxation. ISCOR is not eligible for this benefit under the terms of the program since it does not export beneficiated minerals.

D. *Homeland Development.* Under South African tax laws, businesses may apply for income tax deductions for conducting operations in certain development areas. ISCOR has no facilities manufacturing the product under investigation in any of the development areas.

E. *Iron/Steel Export Promotion Scheme.* Through the Iron/Steel Export Promotion Scheme, a fixed percentage of the f.o.b. value of exports containing rolled, drawn, or forged steel is rebated if the product meets a value-added criterion. By its terms, this program does not apply to the exports of merchandise subject to this investigation.

IV. Programs Preliminarily Determined To Be No Longer in Existence

We preliminarily determine that the following programs, which were alleged by the petitioners to confer bounties or grants, are no longer in existence.

A. *Export Incentive Program—Category C (Finance Charges Aid Scheme).* The South African government provided for a tax-free rebate to certain firms increasing the value of their exports of manufactured goods. The rebate was equal to 25 percent of the interest costs for financing exports. This program was terminated on April 1, 1982.

B. *Central Government Rebate.* The government of South Africa offered an additional "Central Government Rebate" of up to 25 percent of the railroad charges on products shipped in open railway cars for export. This program was terminated on April 1, 1982.

Verification

In accordance with section 776(a) of the Act, data used in making our final determination will be verified.

Suspension of Liquidation

In accordance with section 703 of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of carbon steel wire rod which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register** and to require a cash deposit or bond on this product in the amount of 11.1 percent *ad valorem* for the product under investigation.

This suspension will remain in effect until further notice.

Public Comment

In accordance with § 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on these preliminary determinations at 1:00 p.m. on August 13, 1982, at the U.S. Department of Commerce, Room 6802, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within ten days of this notice's publication. Requests should contain (1) the party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy Assistant Secretary by August 6, 1982. Oral presentations will be limited to issues raised in the briefs.

All written views should be filed in accordance with 19 CFR 355.34, on or before August 13, 1982 at the above address and in at least ten copies.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

July 8, 1982.

[FR Doc. 82-18890 Filed 7-13-82; 8:45 am]

BILLING CODE 3510-25-M

Texas A&M University; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No.: 81-00327. Applicant: Texas A&M University, (Department of Agricultural Engineering), College Station, Texas 77843. Article: Fermentation Ethanol Distillery. Manufacturer: Coulter Cooper & Brass, Ltd., Canada. Intended use of article: See Notice on page 43729 in the **Federal Register** of August 31, 1981.

Comments: No comments have been received with respect to this application. Decision: Application denied.

Reasons: An instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. This application is a resubmission of Docket Number 80-00375 which was denied without prejudice to resubmission on April 22, 1981 for informational deficiencies. In response to Question 8 the applicant alleges that the foreign article provides certain features which are pertinent to the purposes for which the foreign article is intended to be used that are unmatched in comparable domestic instruments. However, the National Bureau of Standards (NBS) in its memoranda dated January 12, 1981,

January 25, 1982 and May 25, 1982, advises that these features are either not pertinent, within the meaning of §301.2(n) of the regulations, or were matched by the features bid by Arlon Industries, Inc. ("Arlon"), a domestic supplier. A discussion of each feature that the applicant claimed pertinent follows.

1. Size of fermenter tanks.—The foreign article has a 360 gallon tank, while domestic fermenters have 1,000 gallon tanks. The applicant states it requires the foreign article's 360 gallon capacity for two reasons: (1) It is large enough to be representative of a small-scale plant and (2) it is still small enough to require a minimum amount of grain per operation. The applicant also believed that a tank should be completely filled for accurate and reliable results. The 1,000 gallon fermenter tanks offered by Arlon meet the first requirement. The second requirement is related to cost and size and, therefore, is not pertinent, within the meaning of §301.2(n) of the regulations. NBS advises that the size of the tank offered by the domestic manufacturer meets the applicant's minimum requirements and that a [partially] controlled input would ensure the accuracy of results in replication of the steps in the process of ethanol production. NBS advises that the Arlon system is scientifically equivalent to the foreign article with respect to fermentation tank size.

2. Stainless Steel Construction for the Cooker and Fermenter.—Arlon offered to meet the applicant's requirements for stainless steel construction in its bid (April 18, 1980, page two). NBS advises that the materials of construction specified by the applicant were offered as options in Arlon's bid responses. We find, therefore, that the Arlon product satisfies the stainless steel construction feature of the foreign article.

3. Height of distillation columns.—The applicant's request for quotation called for two twenty-foot stainless steel distillation columns. In response to question 8c(3)(c), the applicant states that the capability of high proof production and efficiency of production is related to the height of the distillation columns. The foreign article provides 10 gallons of 190 proof ethanol per hour. Arlon quoted two 17 foot stainless steel columns with a minimum capacity of 15 gallons per hour of 190 proof ethanol. Thus Arlon provides the same high proof with better efficiency than the foreign article. The height of the distillation column is not the only critical factor for high proof and efficient production, as shown by the domestic manufacturer's capability of providing a minimum of 15 gallons per hour of 190 proof ethanol with 17 foot columns, which exceeds the minimum capacity of 10 gallons per hour with 20 foot columns specified by the applicant and provided by the foreign article. We find, therefore, that the domestic apparatus provides the capability conferred by the article's 20 foot columns. Based on the foregoing considerations, NBS advice, our own review of the record, as well as other information in our possession (specifications, textbooks, etc.), we find that the domestic apparatus manufactured by Arlon Industries, Inc. is of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-19018 Filed 7-13-82; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

National Bureau of Standards' Visiting Committee; Meeting

Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App., notice is hereby given that the National Bureau of Standards' Visiting Committee will meet on Wednesday, July 28, 1982, from 8:30 a.m. to 5:30 p.m. in Lecture Room B, Administration building, National Bureau of Standards, Gaithersburg, Maryland, and on Thursday, July 29, 1982, from 8:30 a.m. to 9:00 a.m. in Room 5859, Department of Commerce, Washington, D.C.

The NBS Visiting Committee is composed of five members prominent in the fields of science and technology and appointed by the Secretary of Commerce.

The purpose of the meeting is to review the efficiency of the Bureau's scientific work and the condition of its equipment in order to assist the Committee in reporting to the Secretary of Commerce as required by law.

The public is invited to attend, and the Chairman will entertain comments or questions at an appropriate time during the meeting. Any person wishing to attend the meeting should inform Mrs. Carolyn Goodfellow, Office of the Director, National Bureau of Standards, Washington, D.C. 20234, telephone (301) 921-2225.

Dated: July 9, 1982.

Ernest Ambler,

Director.

[FR Doc. 82-19017 Filed 7-13-82; 8:45 am]

BILLING CODE 3510-13-M

Approval of Federal Information Processing Standard 93, Parallel Recorded Magnetic Tape Cartridge for Information Interchange, 4-Track, 6.30 mm (¼ in), 63bpmm (1600 bpi), Phase Encoded

Correction

In FR Doc. 82-17515 appearing on page 28121 in the issue of Tuesday, June 29, 1982 make the following corrections:

On page 28122, first column, the fourteenth line from the bottom of the page, the first word reading "services" should read "series".

On page 28122, second column, tenth line from the bottom of the page reading "causes:" should read "cases:".

BILLING CODE 1505-01-M

National Oceanic and Atmospheric Administration

Modification of Permit No. 346(P6F)

On June 2, 1982, Notice was published in the **Federal Register** (47 FR 23967) that a modification to Permit No. 346 issued to the National Zoological Park, Smithsonian Institution was requested.

Notice is hereby given that on July 7, 1982, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service modified Permit No. 346 as follows:

Section A.1. was amended to read:

"A.1. Up to three hundred and thirty (330) California sea lions (*Zalophus californianus*) of any age and of either sex may be taken over a three year period as described in the application and documents submitted in the modification request."

The Permit and documents pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: July 7, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-19038 Filed 7-13-82; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Acceptance of Cadets, Massachusetts and New York Nautical Schools, World War I Application Under Pub. L. 95-202 and DODD 1000.20

Under the provisions of Section 401 of Pub. L. 95-202 and DODD 1000.20, the DOD Civilian/Military Service Review Board has accepted an application on behalf of Cadets, Massachusetts and New York Nautical Schools, World War I. Persons with information or documentation pertinent to the determination of whether the service of this group was equivalent to active military service are encouraged to submit such information or documentation within 60 days to the DOD Civilian/Military Service Review Board, Secretary of the Air Force (SAF/MIPC), Washington, D.C. 20330. For further information contact Mrs. Simard, Telephone No. 694-5074.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82-19086 Filed 7-13-82; 8:45 am]

BILLING CODE 3910-01-M

Office of the Secretary

Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of subsection (d) of section 10 of Pub. L. 92-463, as amended by section 5 of Pub. L. 94-409, notice is hereby given that a closed meeting of a Panel of the DIA Advisory Committee has been rescheduled from 14 July as follows:

Thursday, 5 August 1982, Plaza West, Rosslyn, Virginia. The entire meeting, commencing at 0900 hours is devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on the REIS program.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

July 9, 1982.

[FR Doc. 82-19031 Filed 7-13-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Floodplain/Wetlands Notice for L-Reactor Resumption of Operation, Savannah River Plant, Aiken, S.C.

AGENCY: Energy Department.

ACTION: Floodplain/Wetlands Notice.

DESCRIPTION: The Department of Energy (DOE) is considering the resumption of operation of the L-Reactor at its Savannah River Plant, Aiken, South Carolina. The L-Reactor previously operated from 1954 to 1968 when it was placed in official standby status. The resumption of operation of the reactor will impact floodplain/wetlands adjacent to the Savannah River and a tributary (Steel Creek) located on the Savannah River Plant site. Any comments regarding the proposed floodplain/wetlands action may be submitted to DOE at the address provided below.

DATE: Comments received on or before July 29, 1982.

ADDRESS: John J. Jicha, Jr., Director of Production Operations, DP-131, Office of the Assistant Secretary for Defense Programs, U.S. Department of Energy, Washington, D.C. 20545 (301-353-3782).

Issued in Washington, D.C., July 8, 1982.

William A. Vaughan,

Assistant Secretary, Environmental Protection, Safety and Emergency Preparedness.

[FR Doc. 82-19034 Filed 7-13-82; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Conoco, Inc.; Proposed Consent Order

AGENCY: Energy Department (DOE).

ACTION: Notice of Proposed Consent Order and Opportunity for Public Comment.

SUMMARY: The Office of Special Counsel (OSC) hereby gives the notice required by 10 CFR 205.199J that it has entered into a Consent Order with Conoco Inc. (Conoco). The Consent Order resolves all issues of compliance with the DOE Petroleum Price and Allocation Regulations, with the exceptions noted in the Consent Order, for the period January 1, 1973 through January 27, 1981, when crude oil and petroleum products were decontrolled by Executive Order 12287, 46 FR 9909 (January 30, 1981). To remedy any violations that may have occurred during the period, Conoco has agreed to remedies totalling $14 million.

As required by the regulation cited above, OSC will receive comments on the Consent Order for a period of not less than 30 days following publication of this notice. OSC will consider any comments received before determining whether to make the Consent Order final. Although the Consent Order has been signed and accepted by the parties, the OSC may after the expiration of the comment period, withdraw its acceptance of the Consent Order and attempt to obtain a modification of the Consent Order or, if appropriate, issue the Consent Order as proposed.

COMMENTS: To be considered, comments must be received by 5:00 p.m. on August 13, 1982.

Address comments to: Conoco Consent Order Comments, Department of Energy, RG-30, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT: Leslie Wm. Adams, Deputy Solicitor, Economic Regulatory Administration, Department of Energy, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20461, (202) 633-9165.

Copies of the Consent Order may be received free of charge by written request to: Conoco Consent Order Request, Department of Energy, RG-30, 1200 Pennsylvnia Avenue, NW., Room 5109, Washington, D.C. 20461.

Copies may also be obtained in person at the same address or at the Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue, SW., Room 1E-190, Washington, D.C.

SUPPLEMENTARY INFORMATION: Conoco is a petroleum refiner subject to the audit jurisdiction of OSC to determine compliance with the DOE Petroleum Price and Allocation Regulations (Regulations). During the period covered by the Consent Order, Conoco engaged in, among other things, the production, refining, processing, reselling and marketing of crude oil and refined petroleum products. An audit conducted by OSC included a review of Conoco's records relating to its compliance with the Regulations during the period January 1, 1973 through January 27, 1981 (the audit period). During the audit, questions and issues were raised and enforcement documents were issued. Except for the matters excluded from the settlement in the Consent Order, this Consent Order resolves all civil issues not previously resolved concerning the allocation and sale of covered products during the audit period, whether or not raised in a previous enforcement action.

Conclusion of OSC Audit

The Consent Order addresses all aspects of Conoco's compliance with the applicable Regulations; however, the Consent Order does not cover or affect

Conoco's entitlements obligations for January 1981 or pursuant to 10 CFR 211.69, any claim by either Conoco or DOE under a Consent Order between McAlester Fuel Company and the Federal Energy Administration, and two matters in litigation, one concerning the Entitlements Program and the other concerning the stripper well exemption. OSC's audit reviewed Conoco's pricing and allocation policies and procedures and the manner in which Conoco applied the Regulations with respect to, among other things, its production, refining, processing, reselling and marketing of crude oil and refined petroleum products during the audit period.

At the conclusion of the audit, OSC raised certain issues with respect to Conoco's compliance with the Regulations. Notwithstanding DOE's position to the contrary, Conoco maintains that it has correctly construed, and operated in accordance with, the Regulations. The parties desire, however, to resolve the issues raised without resort to complex, lengthy and expensive compliance actions. OSC believes that the Consent Order provides a satisfactory resolution of disputed issues and an appropriate conclusion of its audit of Conoco and that the Consent Order is in the public interest.

Terms and Conditions of the Consent Order

To resolve the issues raised by OSC's audit of Conoco and to remedy any violations that may have occurred during the audit period, Conoco has agreed to remedies, described more fully below, totalling $14 million. Conoco has previously made various adjustments, including price reductions, refunds, and payments to the U.S. Treasury, of approximately $14.6 million in order to correct errors or resolve questions arising out of Conoco's compliance with the Regulations during the audit period.

The $14 million in remedies consists of two elements. First, within thirty days after the Consent Order becomes effective, Conoco will pay $3 million to DOE. DOE will determine the appropriate distribution of those funds. Second, within twelve months of the effective date of the Consent Order, Conoco will deliver crude oil valued at $11 million to the Strategic Petroleum Reserve (SPR) or, if for any reason Conoco does not deliver the crude oil, pay $11 million to DOE. If the latter occurs, DOE will determine the appropriate disposition of the $11 million.

The delivery of crude oil to the SPR reflects OSC's conclusion concerning an appropriate remedy for Conoco's alleged violations of the crude oil producer price regulations. Because of the operation of the Entitlements Program, the effects of crude oil pricing violations on the prices of refined products are dispersed by the purchase and sale of entitlements and the opportunity to pass through the cost of the entitlements and the cost of crude oil. Because of the ability of a refiner to bank, allocate and pass through those costs under the refiner price regulations, it is virtually impossible to identify in what time period, to what product and to which purchasers the effects of crude oil violations were channeled. Under these circumstances, delivery of crude oil to the SPR, which is the equivalent of depositing the funds in the U.S. Treasury as miscellaneous receipts, is an appropriate remedy.

The Consent Order also provides details concerning the conclusion of the audit, the dismissal of pending litigation, confidentiality of audit data, recordkeeping and procedures concerning enforcement of the provisions of the Consent Order. Among other things, DOE reserves the right to initiate enforcement proceedings and to seek appropriate penalties for any newly discovered regulatory violations committed by Conoco, but only if Conoco knowingly concealed such violations. Thus, DOE would be free to institute enforcement proceedings where, for example, Conoco had misled DOE during the course of an audit. This provision would not warrant subsequent enforcement proceedings merely because the company had inadvertently failed affirmatively to disclose certain material during the course of the audit.

Upon becoming final after consideration of public comments, the Order will be a final order of DOE to which Conoco has waived its right to administrative or judicial review. The Consent Order does not constitute an admission by Conoco or a finding by OSC of a violation of any federal petroleum price and allocation statutes or regulations.

Submission of Written Comments

Interested persons are invited to submit written comments concerning this Consent Order to the address noted above. All comments received by 5:00 p.m. on the thirtieth day following publication of this notice will be considered by OSC before determining whether to adopt the Consent Order as a final order. Modifications of the Consent Order that, in the opinion of OSC, significantly change the terms or impact of the Consent Order will be published for comment. If, after considering the comments it has received, DOE determines to issue the Consent Order as a final order, the Consent Order will be made final and effective by actual notice to that effect to Conoco. Pursuant to 10 CFR 205.199J(c), DOE will thereafter promptly publish in the **Federal Register** notice of the action taken on this Consent Order and an appropriate explanation of that action.

Any information or data considered confidential by the person submitting it must be identified as such in accordance with the procedures of 10 CFR 205.9(f).

Issued in Washington, D.C., July 8, 1982.

Milton C. Lorenz,

Special Counsel, Economic Regulatory Administration.

[FR Doc. 82-19001 Filed 7-13-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER81-577-006]

Arkansas Power & Light Co.; Order Denying Application for Rehearing, Granting Reconsideration, Staying Prior Order, Establishing Procedures, and Consolidating Proceedings

July 6, 1982.

On June 4, 1982, the Cities of Thayer and Campbell, Missouri (Missouri Cities) filed an application for rehearing of the Commission's order issued on May 5, 1982 in Docket No. ER81-577-005 (19 FERC 61,115). The Commission's order of May 5, 1982 denied Missouri Cities' motion to accept a late-filed petition for rehearing of an earlier Commission order issued in this proceeding on March 3, 1982 (18 FERC 61,210). For the reasons stated below, the Commission shall deny the instant application for rehearing, and grant reconsideration of the Commission's order of March 3, 1982.

The Commission's order of March 3, 1982 denied a motion filed by Missouri Cities on December 30, 1981 requesting that the Commission reject Arkansas Power & Light Company's (AP&L) rate filing in this proceeding [1] on *Mobile-Sierra* grounds.[2] On April 5, 1982,

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[1] On June 30, 1981, AP&L filed revised rates for firm service to its wholesale customers which were accepted for filing and suspended by Commission order issued August 28, 1981 (16 FERC 61,150). In its December 30, 1981 motion, Missouri Cities requested that the Commission modify its order of August 28, 1981.

[2] *United Gas Pipe Line Co.* v. *Mobile Gas Service Corp.*, 350 U.S. 332 (1956); *FPC* v. *Sierra Pacific Power Co.*, 350 U.S. 348 (1956).

Missouri Cities submitted a late-filed application for rehearing of the Commission's order of March 3, 1982.

Also on April 5, 1982, Missouri Cities filed a motion which stated that the application was filed late due to the breakdown of a word processor and requested that the Commission (1) accept the late-filed application for rehearing as timely filed, or in the alternative, (2) grant a one-day extension of time for the filing of the application, or in the alternative, (3) grant reconsideration of its March 3, 1982 order, and (4) grant a stay of the March 3, 1982 order pending a hearing regarding the parties intent with respect to the *Mobile-Sierra* contract question. The Commission denied Missouri Cities' motion by order issued May 5, 1982 which gave rise to Missouri Cities' instant application for rehearing.

In its instant applicatioin for rehearing, Missouri Cities restates the four requests for relief set forth in its motion of April 5, 1982.

Discussion

As the Commission has previously stated, the time period for filing an application for rehearing of a Commission order is statutorily established at thirty days by section 313(a) of the Federal Power Act. (16 U.S.C. 8251(a)). In denying Missouri Cities's requests for acceptance of its late-filed application for rehearing, we expressed the view that the Commission has neither the authority to waive the statutory requirement nor any inclination to employ a legal artifice to circumvent it. (May 5, 1982 order at 2, *see also Southern California Edison Company*, 18 FERC 61,024, issued January 13, 1982). We continue to hold this view, particularly in a case such as this where the excluse offered for the delay is in the nature of an office failure. Accordingly, we shall deny rehearing of our May 5, 1982 order.

However, in reaching our conclusion also to deny reconsideration based on Missouri Cities' contentions regarding the *Mobile-Sierra* issue, the Commission was aware of only one of the two pleadings filed by Missouri Cities on April 5, 1982. Thus, the Commission ruled on the four requests submitted in Missouri Cities' motion, but did not consider the late-filed pleading entitled "Missouri Cities Application For Rehearing Of Commission's Order Denying Motion To Reject." Accordingly, the Commission shall treat Missouri Cities' late-filed pleading as a motion for reconsideration of the Commission's order of March 3, 1982.

In its pleading, Missouri cities disagrees with the Commission's interpretation of relevant precedent on the *Mobile-Sierra* contract question, rejects the distinction drawn by the Commission between party-initiated and Commission-initiated rate changes, and opposes the Commission's interpretation of the contract language at issue. After fully considering Missouri Cities' late-filed application for rehearing, the Commission adheres to its view that the plain language of Missouri Cities contract with AP&L appears to permit unilateral rate changes under section 205 of the Federal Power Act.

However, Missouri Cities states that notwithstanding the Commission's interpretation of the "plain language" of the contract, the Commission should consider extrinsic evidence of the parties' intent with respect to the contract provisions at issue. (April 5, 1982 Application for Rehearing at 13). In support of this contention Missouri Cities cite *Pennzoil* v. *FERC*, 645 F.2d 360, 388 (5th Cir. 1981). Accordingly, Missouri Cities requests that the Commission stay its order of March 3, 1982 and provide Missouri Cities and opportunity to present extrinsic evidence of the parties' contractual intent.

In the *Pennzoil* case, the Court in deciding a *Mobile-Sierra* contract issue, was faced with the question of whether the parol evidence rule precluded consideration of extrinsic evidence of the parties' intent where the contract language was found to be plain and unambiguous. The Court concluded that such a finding would not preclude consideration of extrinsic evidence of the commercial or regulatory context of the contract's execution or performance to prove a meaning to which the contract language is reasonably susceptible.[3] (*Pennzoil* v. *FERC*, at 388). The Court further stated that the parol evidence rule would exclude evidence offered to vary or contradict, rather than explain or interpret, the terms of an integrated contract.[4]

As the Commission previously noted in its order of March 3, 1982, consideration of Missouri Cities' conduct in the regulatory context may cut against its position inasmuch as Missouri Cities failed to object to AP&L's unilateral rate change at the outset of this proceeding or in AP&L's prior rate proceeding in Docket No. ER78-489. (March 3, 1982 order at 3). Under the principles of *Pennzoil*, such conduct would be relevant in determining the parties' contractual intent.

Nevertheless, considering the specific circumstances of this case, the Commission shall permit Missouri Cities to present other relevant extrinsic evidence offered to explain or interpret the contract terms at issue. Accordingly, the Commissions shall order a stay of its order of March 3, 1982 pending hearing and decision on the issue of the parties' intent with respect to the contract terms bearing on the *Mobile-Sierra* question. In addition, the Commission shall consolidate Docket Nos. ER81-577-006 and ER81-577-000 for the purpose of hearing and decision.

The Commission Orders:

(A) Missouri Cities' application for rehearing of the Commission's order of May 5, 1982 is hereby denied.

(B) The Commission hereby grants reconsideration of its order issued in this proceeding on March 3, 1982.

(C) Upon reconsideration of the Commission's order of March 3, 1982 in this proceeding, the Commission hereby stays the effectiveness of that order pending hearing and decision on the issue of the parties intent with respect to the terms of the Missouri Cities-AP&L contract which bear on the question of whether such contract permits unilateral rate changes under section 205 of the Federal Power Act.

(D) Docket Nos. ER81-577-006 and ER81-577-000 are hereby consolidated for the purposes of hearing and decision.

(E) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19073 Filed 7-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-625-000]

Boston Edison Co.; Filing

July 7, 1982.

The filing Company submits the following:

Take notice that Boston Edison Company (Edison) on June 25, 1982, tendered for filing revised Exhibit B's, designated as Rate S-7, to its rate schedules for its three total requirements wholesale for resale customers. Those customers and their FERC rate schedules are as follows:

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[3] The Court cited U.C.C 1.205, Official Comment 1, § 2-202 Official Comment 1(b) and (c), and *Lucie v. Kleen-Leen, Inc.*, 499 F.2d 220, 221 (7th Cir. 1974).

[4] *Pennzoil* v. *FERC*, *supra* at 388; *see also Lucie* v. *Kleen-Leen, Inc.*, *id.* at 221, n. *; *Appalachian Power Co.* v. *FPC*, 529 F.2d 342 (D.C. Cir. 1976).

	FERC rate schedule No.
Town of Concord	47
Town of Norwood	48
Town of Wellesley	51

Edison also tendered for filing a revised Exhibit B to its Contract Demand tariff under which partial requirements service is furnished to the Town of Reading.

Edison requests that the S–7 and the Contract Demand rates be granted an effective date of August 24, 1982, sixty days after the filing date.

According to Edison, the proposed All-Requirements Rate S–7 schedule will increase revenues from the three affected total requirements wholesale customers by $6,396,471 for the test year, the twelve-month period beginning October 1, 1982. Edison also states that the proposed Contract Demand rate schedule will increase revenues by $1,659,142, on the same test year basis.

Edison states that it has filed the rate increases in order to recover its increased costs of providing electric service and to earn a fair return on its investment dedicated to the public service. Edison further states that a copy of the filing has been posted as required by the Commission's regulations, and a copy has been mailed to each of the customers affected by the proposed changes and to the Massachusetts Department of Public Utilities. All of the affected customers are located in the Commonwealth of Massachusetts.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary

[FR Doc. 82–19074 Filed 7–13–82; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 6371–000]

Cedar Draw Falls Generating Co.; Application for Preliminary Permit

July 6, 1982.

Take notice that Cedar Draw Falls Generating Company (Applicant) filed on May 26, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 6371 to be known as the Cedar Draw Hydroelectric Project located on Cedar Draw Creek in Twin Falls County, Idaho. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. L. R. Bylund, President, Cedar Draw Falls Generating Company, P.O. Box 109, Buhl, Idaho 83316.

Project Description—The proposed project would consist of Alternative No. 1 or Alternative No. 2. Alternative No. 1 would consist of: (1) a 6-foot-high, 30-foot-long diversion structure; (2) two 54-inch-diameter, 200-foot-long penstocks; (3) a powerhouse containing two generating units with a combined rate capacity of 1,500 kW; and (4) appurtenant facilities. Alternative No. 2 would consist of: (1) a 6-foot-high, 30-foot-long diversion structure; (2) a 54-inch-diameter, 750-foot-long penstock; (3) a powerhouse containing a generating unit with a rated capacity of 1,550 kW; and (4) appurtenant facilities. The Applicant estimates in Alternative No. 1 and Alternative No. 2 a 10,249,200 kWh and 10,590,840 kWh average annual energy production, respectively.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested a 36-month permit to prepare a definitive project report including preliminary designs, and geological, environmental, and economic feasibility studies. The cost of forementioned activities along with preparation of an environmental impact report, obtaining agreements with Federal, State, and local agencies, and preparing a license application is estimated by the Applicant to be $27,500. Power would be sold to Idaho Power Company.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before September 17, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before September 17, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than November 16, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 17, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must

also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19075 Filed 7-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-621-000]

Central Telephone & Utilities Corp.; Filing

July 7, 1982.

The filing Company submits the following:

Take notice that on June 11, 1982, Central Telephone & Utilities Corporation (Central) tendered for filing Appendix No. 1 to Service Schedule J (Displacement Power Service) to become a part of the Electric Interconnection and Interchange Agreement between Central and Sunflower Electric Cooperative, Inc., dated April 9, 1980.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19076 Filed 7-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP80-145-000 and 146-000]

Columbia Gulf Transmission Co. and Columbia Gas Transmission Corp.; Settlement Conference

July 8, 1982.

Take notice that on August 3, 1982, at 10:00 a.m., there will be a settlement conference on liquids and liquefiables in this proceeding. On the day of the conference, the conference room number will be posted by 9:30 a.m. on the second floor bulletin board of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene in this matter by order of the Commission, attendance will not be deemed to authorize intervention as a party in these proceedings.

All parties will be expected to come fully prepared to discuss the merits of the issues arising in these proceedings and to make commitments with respect to such issues and to any offers of settlement or stipulation discussed at the conference.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19089 Filed 7-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6370-000]

Crystal Springs Ranch; Application for Preliminary Permit

July 6, 1982.

Take notice that Crystal Springs Ranch (Applicant) filed on May 26, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 6370 to be known as the Cedar Draw Hydroelectric Project located on Cedar Draw Creek in Twin Falls County, Idaho. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. L. R. Bylund, President, Crystal Springs Ranch, Buhl, Idaho 83316.

Project Description—The proposed project would consist of: (1) a 6-foot-high, 30-foot-long diversion structure; (2) a 60-inch-diameter, 2,500-foot-long conduit; (3) a 54-inch-diameter, 150-foot-long penstock; (4) a powerhouse containing a generating unit with a rated capacity of 600 kW; and (5) appurtenant facilities. The Applicant estimates a 4,099,680 kWh average annual energy production.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested a 36-month permit to prepare a definitive project report including preliminary designs, and geological, environmental, and economic feasibility studies. The cost of forementioned activities along with preparation of an environmental impact report, obtaining agreements with Federal, State, and local agencies, and preparing a license application is estimated by the Applicant to be $49,500. Power would be sold to Idaho Power Company.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before September 17, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before September 17, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than November 16, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an acency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 17, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb,

Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19077 Filed 7-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP82-4-001]

Dorchester Gas Producing Co.; Petition for Clarification and/or Waiver of NGPA Section 108 Stripper Well Regulations

Issued: July 8, 1982.

Take notice that on April 13, 1982, Dorchester Gas Producing Company (Dorchester), 5735 Pineland Drive, Dallas, Texas 75231, pursuant to § 1.7 of the Commission's Rules of Practice and Procedure, filed a petition for clarification and, if necessary, waiver of the Commission's regulations at 18 CFR 271.805 implementing section 108 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3318 (Supp. IV 1980).

Dorchester produces gas from the Wilson-Hart No. 1 well in the West Panhandle Field, Texas. Dorchester states that the subject well was granted final determination as a stripper well pursuant to NGPA section 108 on March 20, 1982. Dorchester states that production from the subject well was in excess of 60 Mcf per day during the 90 day production period ending December 31, 1981. Dorchester also states that daily production from the subject well during January and February 1982 averaged 20 and 35 Mcf respectively. Based upon the production data for these two months in 1982 and based upon the production data for the 24 months prior to that time, Dorchester, pursuant to § 271.804(d) of the Commission's regulations, has requested that the Railroad Commission of Texas (RRC) designate the subject well as seasonally affected.

Dorchester requests that the Commission confirm it may charge and collect the NGPA section 108 rate for production from the subject well after December 31, 1981 based upon Dorchester's filing with the RRC its Notice of Increased Production and Petition for Seasonally Affected Well.

In support of this request, Dorchester incorporates, *mutatis mutandis*, its petition filed October 20, 1981 in Docket No. GP82-4-000.[1] The question raised in that petition is whether the relevant notices and petitions were timely filed with the RRC pursuant to § 271.805, and the impact, if any, of any untimely filing upon Dorchester's entitlement to collect NGPA section 108 rates.

Dorchester therefore requests, by incorporation via reference, that (1) the Commission confirm it may charge and collect NGPA section 108 rates for gas produced from the subject well from the date the original application under section 108 was filed to the present; (2) that, if necessary, a waiver of the NGPA section 108 implementing regulations be granted to achieve the requested result; and (3) if the Commission will not confirm this interpretation or waive its regulations, the Commission confirm that Dorchester need not requalify the subject well as a stripper well prior to obtaining a determination that excess production is due to seasonal fluctuations (or recognized enhanced recovery techniques), and on that basis is entitled to the section 108 maximum lawful price commencing with the date of filing its Notice of Increased Production and Petition for Seasonally Affected Well with the RRC.

Any person desiring to be heard or to protest this petition must file a petition to intervene or a protest in accordance with § 1.8 or 1.10. All petitions or protests shall be filed with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 on or before July 29, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to this proceeding. Any person desiring to become a party must file a petition to intervene. Copies of the filing in this docket are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19080 Filed 7-13-82; 8:45 am]

BILLING CODE 6717-10-M

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[1] See "Notice of Petition for Clarification of Stripper Well Regulations", Dorchester Gas Producing Company, Docket No. GP82-4-000, issued November 6, 1981, 46 FR 56029 (November 13, 1981). Dorchester's October 20, 1981 Petition requested clarification (or waiver) of the Commission's stripper well regulations with respect to six wells in Carson and Gray Counties, Texas. The April 13, 1982 filing, which is the subject of the instant notice, simply adds the Wilson-Hart No. 1 well to the group of wells for which the request for clarification is made.

[Docket Nos. RP81-53-000 and 55-000]

East Tennessee Natural Gas Co.; Informal Settlement Conference

July 2, 1982.

Take notice that an informal settlement conference in the above-captioned dockets will commence at 10:00 a.m., on July 14, 1982. The conference will be held at the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Customers and other interested persons will be permitted to attend but if such persons have not previously been permitted to intervene by order of the Commission, attendance will not be deemed to authorize intervention as a party in this proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19084 Filed 7-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP82-179-000, 222-000, and 232-000]

El Paso Natural Gas Co. et al.; Informal Technical Conference

July 2, 1982.

Take notice that on July 28, 1982, at 10:00 a.m. an informal technical conference will be convened of all interested parties to discuss the application of El Paso Natural Gas Company (El Paso) in Docket No. CP82-179-000 to expand further its Panoma Pipeline System and the related applications of Natural Gas Pipeline Company of America and Northern Natural Gas Company, Division of InterNorth, Inc. in Docket Nos. CP82-222-000 and CP82-232-000, respectively. All parties should be prepared to discuss (1) the effect, if any, of attachment of additional gas reserves in the Anadarko Basin area upon El Paso's average cost of gas and California markets; (2) El Paso's need for the additional gas reserves to be obtained through the proposed facilities; and, (3) other related matters.

Customers and other interested parties are invited to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance will not be deemed to authorize intervention as a party in this proceeding.

The conference will be held in a hearing room at the office of the Federal Energy Regulatory Commission, 825

North Capitol Street, NE., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19065 Filed 7-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6404-000]

Energenics Systems, Inc.; Application for Preliminary Permit

July 8, 1982.

Take notice that ENERGENICS SYSTEMS, INC. (Applicant) filed on June 3, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C.791(a)–825(r)) for Project No. 6404 to be known as the Lavon Lake Project located on the East Fork of the Trinity River in Collins County, Texas. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Granville J. Smith II, Energenics Systems, Inc., 1717 K Street NW., Washington, D.C. 20006.

Project Description—The proposed project would utilize the existing Corps of Engineers Lavon Lake Dam and would consist of: (1) A new powerhouse containing one generating unit having a rated capacity of 1.8 MW; (2) two miles of 138-kV transmission line; and (3) appurtenant facilities. The Applicant estimates that the average annual energy output would be 7.2 GWh. The most likely market for the energy derived at the proposed project would be the Texas Power and Light Company.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $30,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before October 18, 1982, the competing application itself (see: 18 CFR 4.30 et seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before September 17, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 17, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19091 Filed 7-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4767-001]

Energenics Systems, Inc.; Surrender of Preliminary Permit

July 6, 1982.

Take notice that Energenics Systems, Inc., Permittee for the proposed Long Lake Dam Canal Project No. 4767, has requested that its preliminary permit be terminated. The permit was issued on January 29, 1982, and would have expired on December 31, 1983. The project would have been located on the Long Lake Dam Canal in Lincoln County, Washington.

The Permittee filed its request on June 23, 1982, and the surrender of the preliminary permit for Project No. 4767 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19089 Filed 7-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-624-000]

Florida Power & Light Co.; Filing

July 7, 1982.

The filing Company submits the following:

Take notice that Florida Power & Light Company (FPL), on June 25, 1982, tendered for filing documents entitled Amendment Number Two and Amendment Number Three to Agreement to Provide Specified Transmission Service Between Florida Power & Light Company and Florida Power Corporation.

FPL states that under Amendment Number Two FPL will transmit power and energy for Florida Power Corporation (Corporation) as is required by Corporation in the implementation of its interchange agreement with the City of Vero Beach.

Amendment Number Three updates the rates for transmission service provided by FPL, bringing them in accord with the increased rates filed by the Commission on July 1, 1981, in *Florida Power & Light Company*, Docket No. ER81-588-000.

FPL requests that waiver of Section 35.3 of the Commission's Regulations be granted and that the proposed Amendments be made effective

immediately. FPL states that copies of the filing were served on the Staff Engineer, System Operations for Florida Power Corporation.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19078 Filed 7-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5399-002]

Gardiner Water District; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

July 6, 1982.

Take notice that on May 20, 1982, Gardiner Water District (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 5399) would be located on the Cobbosseecontee stream in the city of Gardiner, Kennebec County, Maine. Correspondence with the Applicant should be directed to: Donald Tracy, Gardiner Water District, 246 Water Street, P.O. Box 536, Gardiner, Maine 04345.

Project Description—The proposed project would consist of: (1) An existing Applicant owned 7-foot-high, 100-foot-long concrete and rock dam with 3.5-foot-high flashboards; (2) an existing 1,456-acre reservoir with a usable storage capacity of approximately 2,900 acre-feet at two feet of drawdown from elevation 135 feet M.S.L.; (3) an existing forebay; (4) an existing powerhouse containing two existing turbines to be connected to two new generators with a total rated capacity of 116 kW; (4) a 50-foot-long, 12-kV transmission line; and (5) appurtenant facilities. The project would generate up to 600,000 kWh annually. Energy produced at the project would be sold to the local utility.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Maine Department of Inland Fisheries and Wildlife or the Department of Marine Resources are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before August 27, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 27, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19087 Filed 7-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP81-18-000]

High Island Offshore System; Settlement Conference

July 8, 1982.

Take notice that on July 22, 1982, at 10:00 a.m., a settlement conference of all interested parties will be convened concerning the issues involved in the above-referenced proceeding. All parties should come prepared to define any and all remaining issues in this proceeding and to establish a procedural schedule for the taking of evidence. The conference will be held in a room to be designated for such purposes at the Federal Energy Regulatory Commission,

825 North Capitol Street, NE., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19002 Filed 7-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6362-000]

Duane Hutton; Application for Preliminary Permit

July 6, 1982.

Take notice that Duane Hutton (Applicant) filed on May 24, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 6362 to be known as the Phillips Ditch Project located on Phillips Ditch, partially on Department of the Interior, Bureau of Land Management's land in Baker County, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. J. David Coughlin, 1933 Court Street, Baker, Oregon 97814.

Project Description—The proposed project would consist of: (1) A 10-foot-high, 200-foot-long diversion structure; (2) two impoundment ponds with a gross storage capacity of 5-acre-feet each; (3) a 24-inch-diameter, 3,000-foot-long penstock; (4) a powerhouse containing a generating unit with a rated capacity of 500 kW; and (5) appurtenant facilities. Applicant estimates a 2,160,000 kWh average annual energy production.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested a 36-month permit to prepare a definitive project report including preliminary designs, and geological, environmental, and economic feasibility studies. The cost of forementioned activities along with preparation of an environmental impact report, obtaining agreements with Federal, State, and local agencies, and preparing a license application is estimated to be $20,000. Power would be sold to Idaho Power Company.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before September 20, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et. seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before September 20, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than November 19, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 20, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 19008 Filed 7-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-622-000]

Idaho Power Co.;

Filing July 7, 1982.

The filing Company submits the following:

Take Notice that on June 24, 1982, Idaho Power Company (Idaho), tendered for filing a revised Appendix 1 as required by Exhibit C for retail sales in the State of Idaho, together with the Bonneville Power Administration's Average System Cost Report in which Bonneville determined the Average System Cost for the Idaho residential jurisdiction in accordance with the provisions of the Residential Purchase and Sale Agreement (Agreement) between Idaho and the Bonneville Power Administration (BPA). Idaho also submitted its agreement with and/or objections to BPA's Average System Cost Adjustments.

The Agreement was entered into pursuant to the Pacific Northwest Electric Power Planning and Conservation Act, Pub. L. 96-501. The Agreement provides for the exchange of electric power between Idaho and BPA for the benefit of Idaho's residential and farm customers.

A copy of the filing was served upon BPA and all parties that made comment on Idaho's Appendix 1 Filings.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20406, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19079 Filed 7-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6385-000]

Michael Jennings and Larry O. Oftedahl; Application for Preliminary Permit

July 6, 1982.

Take notice that Michael Jennings and Larry O. Oftedahl (Applicant) filed on June 1, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 6385 to be known as the Wind River Water Power Project located on Wind River, near Carson, in Skamania County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Michael Jennings, Rt. 1, Box 221, Centerville, Washington 98613.

Project Description—The proposed project would consist of: (1) An existing 20-foot-high, 460-foot-long concrete fishway structure which is owned by the State of Washington, Department of Fisheries; (2) an existing 460-foot-long, 36-inch-diameter penstock; (3) a proposed powerhouse containing one generating unit with installed capacity of 200 kW; (4) a proposed 500-foot-long transmission line from the powerhouse to an existing 1400-foot-long Skamania County PUD transmission line which would be upgraded. The Applicant estimates that the average annual energy production would be 1.73 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months during which it would conduct technical, environmental and economic studies; and prepare an FERC license application. No new roads would be required for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $5,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before October 18, 1982, the competing application itself (see: 18 CFR 4.30 et. seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before September 20, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 20, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19070 Filed 7-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-158-000]

Wilbur Johnson, M.D.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

July 8, 1982.

On May 7, 1982, Dr. Wilbur Johnson, M.D., Inc. located at RR2, Elkader, Iowa 52043 filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be a 10 kW wind installation located in Elkader, Iowa. There are no other such facilities located at the same site. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed on or before August 13, 1982 and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

FR Doc. 82-19093 Filed 7-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-412-000]

Kansas Gas and Electric Co.; Order Interpreting Rate Schedule

Issued: July 8, 1982.

By order of May 28, 1982, in this proceeding, we accepted for filing revised rates proposed by Kansas Gas and Electric Company (KG&E).[1] In that

[1] *Kansas Gas and Electric Company*, "Order Accepting for Filing and Suspending Revised Rates and Proposed Cancellation of Transmission Service Schedule, Granting Interventions, Denying Motions for Rejection and Summary Disposition and Establishing Hearing and Price Squeeze Procedures," Docket No. ER82-412-000 (May 28, 1982), 19 FERC 61,210.

order we noted that KG&E's municipal customers had alleged that the language of KG&E's contracts with the cities of Neodesha and Mulvane, Kansas, preclude any change in rates to those cities prior to judicial review of a final Commission order. The issue was deferred to allow for further consideration.

The language in question is found in Article X of KG&E's contracts with Neodesha and Mulvane (Rate Schedule Nos. 131 and 132, respectively). It reads as follows:

> This Agreement and all obligations hereunder are subordinate to, subject to and conditioned upon the valid orders (including but not necessarily limited to orders fixing or approving rates and/or standards and conditions of service) of, and the granting of approval and authorization by any Commission or other regulatory body having rate making and/or other jurisdiction or whose approval or authorization may be required by law including any judicial review thereof.

This language has been interpreted previously in a related context. In an order issued on February 1, 1978, we held:

> This provision indicates that the parties have bargained for and obtained the right to request a rate change pursuant to section 206 (of the Federal Power Act). Our interpretation is underpinned by the parenthetical provision that explicitly includes orders fixing or approving rates. Accordingly, we reject KG&E's filing as to these Cities and we shall institute a section 206 proceeding applying the just and reasonable standard. The proposed rates will be prospective in application.[2]

Drawing upon the same contractual provision, the intervenors now content that not only is a final Commission order required to effect any change in rates, but also that no such order is valid for that purpose until any judicial review is complete. While the Cities' pleading is somewhat unclear, they rely primarily on the fact that the contract states that it is "subject to * * * the valid orders * * * of, and authorization by any Commission * * * including judicial review thereof," In support of their position, the intervenors cite *City of Kaukauna* v. *FERC*, 581 F.2d 993 (D.C. Cir. 1978), in which the court determined that the language of Kaukauna's contract with the Wisconsin Michigan Power Company, while permitting a unilateral rate filing by the utility, prohibited a rate increase until any judicial review was complete.

In its answer to the intervenors' pleading, KG&E states that the phrase "including judicial review" merely restates the truism that all Commission actions are subject to appropriate judicial review. In this connection, it notes that section 313(c) of the Federal Power Act provides that the commencement of proceedings seeking judicial review is not effective as a stay of a Commission order absent a specific order by the court. It then asserts that the contracting parties must be regarded as having formulated the contract with knowledge of section 313. Under these circumstances, KG&E concludes that had "the parties intended judicial review to constitute a stay of the effectiveness of the Commission order, they should have specifically so provided." KG&E seeks to distinguish *City of Kaukauna* on the basis that the contract language there at issue explicitly provided that the customer would accept changed rates only if "ultimately made effective through * * * (Commission) proceedings and (judicial) review."

We are unable to concur with KG&E's argument. As noted above, the Commission has already interpreted the relevant contract provision in the order of February 2, 1978. Therein, the Commission found that the provision was not mere boilerplate, but was intended specifically to convey the substance of an agreement between the parties concerning the method by which rates may be changed. So too with the reference to judicial review. Given the fact that all Commission actions are subject to appropriate judicial review, the reference to judicial review would be mere surplusage if it had the meaning proposed by KG&E. In light of the clear purposefulness of the provision in its other aspect, we cannot accept such an interpretation. The only reasonable conclusion is that the provision explicitly, if inartfully, also states that the intervenors' obligation to pay changed rates pursuant to a proceeding under section 206 arises only after completion of judicial review. KG&E's argument based on section 313 of the Federal Power Act is off the mark. It makes no difference whether or not the Commission's order determining just and reasonable rates is stayed by judicial review because the parties have made a permissible bargain that, in any event, changed rates may take effect only after judicial review is completed.

City of Kaukauna has no precedential value here. Our decision is based on the plain meaning and logical interpretation of the words of the contract at issue.

The Commission orders:

(A) Revised or changed rates to Nedesha and Mulvane under KG&E's Rate Schedule Nos. 131 and 132 may take effect only upon completion of any applicable judicial review of a Commission order setting such rates.

(B) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19094 Filed 7-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1939-002]

John F. Kaslow; Application

July 8, 1982.

The filing individual submits the following:

Take notice that on April 5, 1982, John F. Kaslow filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director: Conn. Yankee Atomic Power Company
Director: Maine Yankee Atomic Power Company
President and Director: New England Power Company
Director: Vermont Yankee Nuclear Power Company
Director: Yankee Atomic Electric Company

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19056 Filed 7-13-82; 8:45 am]

BILLING CODE 6717-01-M

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[2] *Kansas Gas and Electric Company*, "Order Granting in Part and Denying in Part Motion to Reject, Instituting Section 206 Proceedings and Denying Petition for Rehearing," Docket No. ER77-578 (February 1, 1978), *mimeo* at 11.

[Docket No. ID-1896-001]

Richard J. Kelly; Errata Notice

July 8, 1982.

Richard J. Kelly seeks authorization to hold, rather than the positions described earlier, the positions of:

Director and Executive Vice President: Georgia Power Company
Director: Southern Electric Generating Company

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19086 Filed 7-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6378-000]

Monterey County Flood Control and Water Conservation District; Application for Preliminary Permit

July 6, 1982.

Take notice that Monterey County Flood Control and Water Conservation District (Applicant) filed on June 1, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a) 825(r) for Project No. 6378 to be known as the Nacimiento Hydroelectric Project located on Nacimiento River, near Paso Robles in San Louis Obispo County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Robert L. Binder, Acting District Engineer, Monterey County Flood Control and Water Conservation District, P.O. Box 930, 855-E, Laurel Dr., Salinas, California 93902.

Project Description—The project would consist of: (1) An existing 210-foot-high, 1630-foot-long Nacimiento Dam which is owned and operated by the Applicant; (2) an existing reservoir with 470,000 acre-feet total capacity which is proposed to be increased to 497,200 acre-feet by rasing the spillway crest by 6.5 feet; (3) a proposed 1250-foot-long, 96-inch-diameter lined tunnel; (4) a proposed 100-foot-long, 84-inch-diameter penstock; (5) a proposed powerhouse containing one generating unit with an installed capacity of 4.0 MW and (6) a proposed 3.5-mile-long transmission line from the powerhouse to an existing PG&E company transmission line. The Applicant estimates that the average annual energy production would be 14.24 million kWh.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does nto authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which it would conduct technical, environmental and economic studies and prepare an FERC license application. No new roads would be required for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $45,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before October 18, 1982, the competing application itself (see: 18 CFR 4.30 et. seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before September 17, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 17, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19088 Filed 7-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-113-000]

Northern Natural Gas Co.; Petition for Authority for Specified Accounting and Rate Treatment for Nonrecoverable Advance Payments Made to B P Alaska, Inc.

July 7, 1982.

Take Notice that on June 24, 1982, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed a petition pursuant to Section 1.7 of the Commission's Rules of Practice and Procedure and Paragraph H of Account No. 166 of the Commission's Uniform System of Accounts requesting the Commission to issue an order authorizing Northern, *first,* to amortize from Account No. 166, Advances for Gas Exploration, Development and Production, to Account No. 813, Operation and Maintenance Expense—Other Gas Supply Expenses, over a five-year period, commencing on the effectuation date of Northern's rate increase in Docket No. RP82-71-000, $16 million of advance payments made by Northern to B P Alaska, Inc. (BPA) pursuant to a Joint Venture Agreement dated January 1, 1972; *second,* to include such annual amortization in Northern's jurisdictional cost of service for rate purposes for each year of the five-year period commencing on such effectuation date; and *third,* to continue to receive rate base treatment for the unamortized portion of each advance payment to BPA, as contemplated and permitted by the Commission in its orders dated June 22, 1978 and July 31, 1979, in Docket Nos. RP71-107 (Phase II) and RP72-127.

As more fully set forth in the petition, Northern states that pursuant to the above Joint Venture Agreement, it advanced BPA $20 million during the period from January 1, 1972 through December 31, 1981 to conduct an exploration program in the offshore

Alaska and Atlantic Coast areas. In return for the amount advanced, Northern was to receive a first call on all gas found in the area of interest; the right to participate at its option, on a working interest basis, in up to 20% of BPA's interest in lease acquisitions and exploration and development thereof; and the right to recover 80% of its advances from production to the extent net revenues were realized by BPA. The Commission authorized rate base treatment for 80% of Northern's advances in Orders issued January 4, 1974; June 22, 1978; and July 31, 1979, in Docket Nos. RP71–107 (Phase II) and RP72–127. The July 31, 1979 Order permitted such rate base treatment for a ten-year period from the date each advance was initially included in Northern's rate base.

The exploration program conducted by BPA was completed in December, 1981 with Northern having made advance payments of $20 million in accordance with the Joint Venture Agreement. The agreement terminated on December 31, 1981. This exploration program was unsuccessful in that no hydrocarbon reserves were discovered. Therefore, there will be no production from which to recover Northern's advance payments to BPA.

Northern, therefore, is filing this petition to request authority to amortize to operating expense over a five-year period, commencing on the effectuation date of Northern's rate increase in Docket No. RP82–71–000, $16 million of such advances; to reflect such amortization in its rates during this period; and to continue to receive rate base treatment for the unamortized portion of each advance payment to BPA. The $16 million represents the 80% portion of the total $20 million of advances to BPA that would have been recovered from production to the extent that production had occurred as a result of this program.

Northern states that copies of the filing have been mailed to each of its Gas Utility customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests must be filed on or before July 13, 1982. Protests will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–19097 Filed 7–13–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP82–20–002, et al.]

North Penn Gas Co., et al.; Filing of Pipeline Refund Reports and Refund Plans

July 7, 1982.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before July 21, 1982. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

APPENDIX

Filing date	Company	Docket No.	Type filing
June 15, 1982	North Penn Gas Co	RP82–20–002	LFUT report.
June 17, 1982	Alabama-Tennessee Natural Gas Co.	RP81–128–009	Do.
Do	Equitable Gas Co.	RP80–40–003	Do.
Do	Granite State Gas Transmission, Inc.	RP82–18–003	Do.
Do	Lawrenceburg Gas Transmission Corp.	RP82–29–002	Do.
June 18, 1982	Michigan Wisconsin Pipe Line Co.	RP81–123–003	Do.
Do	South Georgia Natural Gas Co.	RP82–21–002	Do.
June 21, 1982	South Georgia Natural Gas Co.	RP81–69–003	Report.
June 22, 1982	Consolidated Gas Supply Corp.	RP72–157–053	Do.
June 23, 1982	Algonquin Gas Transmission Co.	RP82–112–000	LFUT report.

[FR Doc. 82–19096 Filed 7–13–82; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 2105–008]

Pacific Gas & Electric Co.; Application for Amendment of License

July 8, 1982.

Take notice that Pacific Gas and Electric Company (Applicant) filed on November 2, 1981, on application (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) to amend its license for the North Fork Feather River Project No. 2105 to permit the construction and operation of the Yellow Creek Diversion in the Plumas National Forest in Plumas County, California. Correspondence with the Applicant should be directed to: Mr. W. M. Gallavan, Vice President, Rates and Valuation, Pacific Gas and Electric Company, 77 Beale Street, San Francisco, California 94106.

Project Description—The proposed diversion would consist of: (1) A 46-foot-high, 55-foot-long, concrete dam located on Yellow Creek 300 feet upstream of its confluence with Squirrel Creek; (2) a pond formed by the dam with a surface area of 1.35 acres and a usable storage capacity of 19 acre-feet at normal water surface elevation 2,986.2 feet; (3) a 9,584-foot-long, 12-foot-high, concrete-lined tunnel; and (4) a 7.5-foot-diameter, 502-foot-long, surface pipe connecting the tunnel to the existing Belden Siphon. Flows diverted from Yellow Creek would pass through the existing Belden Powerhouse increasing generation by approximately 54,100 MWh annually. Applicant estimates construction costs to be 37,547,000 in 1986 dollars.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 30, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to : Kenneth F. Plumb, Secretary, Federal Energy Regulatory

Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19098 Filed 7-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER82-492-000, ER81-679-000, and ER82-271-000]

Pacific Gas & Electric Co.; Order Accepting for Filing and Suspending Revised Rates, Granting Intervention, Incorporating Cost Support by Reference, and Terminating Docket

July 2, 1982.

On May 3, 1982, Pacific Gas and Electric Company (PG&E) filed a request under section 35.17 of the Commission's regulations for permission to reduce the level of a previously filed rate increase during the suspension period established by Commission order in Docket No. ER82-271-000. On February 1, 1982, PG&E submitted for filing in Docket No. ER82-271-000 a proposed two-step increase in wholesale rates for supplemental service to the City of San Francisco, California. By order dated March 30, 1982, the Commission suspended PG&E's proposed step-one and step-two increases to become effective, subject to refund, on April 3, 1982, and September 5, 1982, respectively. The proposed step-two rates were based on a cost of service which included costs associated with the Diablo Canyon Nuclear Unit No. 1, originally scheduleld for commercial operation during August of the calendar 1982 test period.

In its present filing,[1] PG&E seeks to reduce its step-two rate increase based on the fact that the company is no longer able to estimate with precision the date on which the Diablo Canyon unit will become commercially operational. The reduced step-two rates reflect complete exclusion of Diablo Canyon costs from the test period and would produce revenues about $1.8 million below the originally proposed step-two rates. PG&E requests that its reduced rates become effective on September 5, 1982, in lieu of the originally filed step-two rates.

Notice of PG&E's filing was issued with responses due on or before May 28, 1982. Timely petitions to intervene were filed by the City and County of San Francisco (San Francisco), Norris-Ni Industries (Norris), Modesto Irrigation District (Modesto), and Turlock Irrigation District (Turlock). Turlock requests that the Commission consolidate this proceeding with Docket No. ER82-271-000, that the proposed increase in this docket be suspended until September 5, 1982, and that the step-two increase previously filed in Docket No. ER82-271-000 be cancelled. The remaining petitioners have requested no specific Commission action.

Discussion

Initially, we find that participation in this proceeding by Turlock, Norris-Ni, San Francisco, and Modesto is in the public interest and we shall therefore grant their petitions to intervene.

In view of the substantial slippage and uncertainty as to the Diablo Canyon in-service date, we agree that PG&E's reduction in its proposed step-two rate level is appropriate and we find that good cause exists to permit the rate substitution under section 35.17 of the regulations. However, our preliminary review indicates that the rates as revised have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. We shall therefore accept PG&E's reduced rates for filing and suspend them as ordered below.

We recently addressed the considerations underlying our suspension policy in *West Texas Utilities,* Docket No. ER82-23-000 (February 26, 1982). We state that where, as in this case, our preliminary examination indicates that increased rates may be substantially excessive (as described in *West Texas*), we shall suspend the rates for the maximum period, unless extraordinary circumstances dictate a shorter suspension. As noted, PG&E's originally filed step-two rates were previously suspended for five months. PG&E's filing represents a substantial reduction in proposed revenue level. Under these circumstances, it appears unnecessary to impose an additional suspension period beyond September 5, 1982. Therefore, we shall accept PG&E's reduced step-two rates for filing and suspend them to become effective on September 5, 1982, subject to refund.

We shall also order that the cost support statements submitted by PG&E in the instant docket be incorporated into the ongoing proceeding in consolidated Docket Nos. ER81-679-000 and ER82-271-000 and that Docket No. ER82-492-000 be terminated. Since we are terminating this docket, it is unnecessary to rule on Turlock's motion for consolidation.

The Commission orders:

(A) PG&E's request for waiver of the prohibition on changes in suspended rate schedules under section 35.17 of the regulations is hereby granted for good cause shown.

(B) PG&E's reduced step-two rates are hereby accepted for filing and suspended, to become effective on September 5, 1982, subject to refund.

(C) The petitions to intervene in this proceeding are hereby granted subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act; *Provided, however,* that participation by such intervenors shall be limited to the matters set forth in their petitions to intervene; and *provided, further,* that the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order of the Commission in this proceeding.

(D) The cost support statements submitted by PG&E in the instant docket are hereby incorporated into the ongoing proceedings in consolidated Docket Nos. ER81-679-000 and ER82-271-000.

(E) Docket No. ER82-492-000 is hereby terminated.

(F) The Commission staff shall serve top sheets in this proceeding on or before July 12, 1982.

(G) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19071 Filed 7-13-82; 8:45 am]

BILLING CODE 6717-01-M

[1] Designated as: Pacific Gas and Electric Company. Supplement No. 10 to Rate Schedule FPC No. 53 (Supersedes Supplemental No. 9).

[Docket No. ER82-623-000]

Pacific Gas & Electric Co.; Filing

July 7, 1982.

The filing Company submits the following:

Take notice that Pacific Gas and Electric Company (PGandE) on June 25, 1982, tendered for filing a signed letter agreement dated June 14, 1982 stipulating to an amendment to the United States Power Contract No. 14-06-200-2948A (Contract) between the Western Area Power Administration (Western) and PGandE dated July 31, 1967. (FPC Volume No. 4)

The letter agreement further defers review of certain rates and charges pursuant to Article 32 of the Contract from July 1, 1982 to December 31, 1982. Review of these rates was first deferred from April 1, 1981, to July 1, 1981, pursuant to a letter agreement dated January 27, 1981; from July 1, 1981 to December 31, 1981, pursuant to a letter agreement dated June 25, 1981; and from December 31, 1981 to July 1, 1982 pursuant to a letter agreement dated December 21, 1981.

The January 27, 1981, June 25, 1981, and December 21, 1981 letter agreements were filed with and accepted by FERC in FERC Docket Nos. ER81–245–000, ER81–584–000, and ER82–191–000, respectively. The rates and charges, review of which is deferred by the June 14, 1982, letter agreement, are provided under the following articles:

Article 22(c)(1)(i)—Sales from Capacity Account, Article 22(c)(2)(ii)—Sales from Energy Account No. 2, Article 28(b)(1), 28(b)(2), 28(b)(3)—Meter Rental.

The parties have agreed to further deferment of the April 1, 1981, rate review date to allow the parties sufficient time to complete their joint review of the rates in a more thorough manner.

The proposed effective date for the June 14, 1982, letter agreement is the date of filing hereof. Pacific requests a waiver of the notice requirements in order to avoid a possible hiatus in the effective rate review period agreed upon by the parties.

Copies of the filing have been served upon Western and the California Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19091 Filed 7-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER82-294-000, 295-000, and 318-001]

Philadelphia Electric Co.; and Philadelphia Electric Power Co.; The Susquehanna Electric Co.; and The Susquehanna Power Co., Order Vacating Prior Letter Order in Part, Granting Rehearing, and Consolidating Dockets

Issued: July 6, 1982.

On February 17, 1982, three wholly-owned subsidiaries ("Companies") [1] of Philadelphia Electric Company (PE) submitted for filing in Docket No. ER82–318–000 revisions to their agreements for the sale of Conowingo Project power to PE. The proposed change modifies existing cost of service tariffs by substituting a variable rate of return for the previously established fixed rate of return. On March 12, 1982, the Office of Peoples' Counsel for the State of Maryland ("MPC") filed a timely petition to intervene.

On April 12, 1982, the Comission's Secretary, acting by direction of the Commission, issued a letter order stating that the submittals had been accepted for filing to become effective April 19, 1982, as requested. The letter order noted that the submittal specifically provided that the cost rate for common equity would be subject to appropriate reduction and refund to reflect the return on equity approved by this Commission for PE'S service to the Borough of Lansdale ("Lansdale") and to the Conowingo Power Company ("Conowingo")[2] and that refunds would be computed in accordance with applicable Commission regulations.[3] The letter order granted intervenor status to MPC and terminated the proceedings in Docket No. ER82–318–000.

On May 12, 1982, MPC petitioned for rehearing. MPC's petition alleges that the Commission erred procedurally in terminating Docket No. ER82–318–000. In support of its allegation MPC states that while the Commission granted intervenor status, it did not provide MPC a "meaningful opportunity to participate." MPC's petition for rehearing also raises a specific substantive issue for the first time. It alleges that basic flaws exist in the capital structure and the computation of the overall rate of return proposed for the Conowingo rates which are inconsistent with the particular circumstances of the Conowingo Project financing, contrary to sound financial theory, and therefore unreasonable. MPC states that if its petition for rehearing is granted, it will be prepared to present testimony to support its position that the proposed overall rate of return in improperly inflated.

Discussion

MPC had "a meaningful opportunity to participate" at the time it filed its petition to intervene on March 12, 1982. Section 1.8(c) of the Commission's Rules of Practice and Procedure, 18 CFR 1.8(c), specifically provides that petitions to intervene "shall set out clearly and concisely * * * the grounds of the proposed intervention, and the position of the petitioner in the proceeding, so as fully and completely to advise the parties and the Commission as to the specific issues of fact or law to be raised or controverted, by admitting, denying or otherwise answering, specifically and in detail, each material allegation of fact or law asserted in the proceeding, and citing by appropriate reference the statutory provisions or other authority relied on * * *." The Commission evaluated the instant filing, as it must necessarily do, on the basis of the information and pleadings available at the time of initial action. MPC's application for rehearing offers no explanation for the delay in expressing substantive objections and we perceive no procedural error in "failing to address" an unstated concern.

Nonetheless, in its petition for rehearing, MPC has raised a substantive issue of fact and law which we believe warrants further inquiry at hearing. The capitalization and rate of return questions presented are sufficiently complex that they cannot be resolved on the basis of the initial pleadings and should be considered on the basis of an evidentiary record. Accordingly we shall grant rehearing by vacating that portion of the letter order issued April 12, 1982, which terminated Docket No. ER82–318–000. We note that the Conowingo rates are reflected as purchased power costs in PE's cost of service currently at issue in Docket Nos. ER82–294–000 and ER82–295–000. In addition, the Companies have agreed to adjust the equity return applicable to the Conowingo rates to reflect the equity cost approved in those pending dockets. Because the capitalization and rate of return issues in these proceedings may be integrally related, we shall consolidate Docket No. ER82–318–000 with Docket Nos. ER82–

[1] Philadelphia Electric Power Company, The Susquehana Electric Company, and The Susquehanna Power Company.

[2] Conowingo is another subsidiary of PE which provides electric service to retail customers within the State of Maryland.

[3] Revised rates for service to Lansdale and Conowingo are presently subject to proceedings in Docket Nos. ER82–294–000 and ER82–295–000. *See, Philadelphia Electric Company*, 19 FERC 61,107 (1982).

294–000 and ER82–295–000 to allow for consideration of the matters raised by MPC. In addition to the return on equity, the appropriate Conowingo capital structure and overall rate of return shall be subject to the outcome of the consolidated hearing. One possible result from the hearing on the capital structure issue is that the Conowingo overall rate of return may be lowered. Since this issue was not raised until after the rates proposed in Docket No. ER82–318–000 went into effect, any hearing on the capital structure and overall rate of return will not result in refunds unless the Companies voluntarily agree to such a result.

The Commission orders:

(A) The portion of the letter order dated April 12, 1982, which terminated Docket No. ER82–318–000 is hereby vacated.

(B) MPC's petition for rehearing is granted to the extent described in this order.

(C) Docket No. ER82–318–000 is hereby consolidated with the proceedings in Docket Nos. ER82–294–000 and ER82–295–000 for purposes of hearing and decision. The appropriate Conowingo capital structure and overall return shall be subject to the outcome of the consolidated hearing with refunds as discussed above.

(D) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–19090 Filed 7–13–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. ER82–493–000 and 494–000]

Pennsylvania Power & Light Co.; Order Accepting for Filing and Suspending Revised Rates, Granting Waiver of Fuel Adjustment Clause Regulations, Granting Intervention, Establishing Hearing and Price Squeeze Procedures, and Consolidating Proceedings

Issued: July 2, 1982.

On May 3, 1982, in Docket No. ER82–494–000, Pennsylvania Power & Light Company (PP&L) tendered for filing increased rates for firm power service to fifteen customers.[1] The proposed rates would result in increased revenues of approximately $3.3 million (17.6 percent) for the calendar year 1982 test period. PP&L requests that the revised rates be made effective on July 2, 1982.

PP&L concurrently submitted, in Docket No. ER82–493–000, a petition for waiver of § 35.14 of the Commission's regulations, to permit PP&L to modify the fuel adjustment clause in its wholesale rate schedules. With respect to nuclear generating units at the testing stage, PP&L suggests that it would be inequitable to require that the associated energy savings (some $32 million during Period II) be passed through automatically to wholesale customers who will not contribute related capital costs until the units are transferred from construction work in progress (CWIP) to plant in service. Under the modification proposed by PP&L, the fuel adjustment charges would be determined as though energy produced by facilities undergoing testing operations was not available to the PP&L system for supply to the wholesale customers. PP&L requests that this modification be permitted to take effect on July 2, 1982.

Notices of the filings were issued on May 17, 1982, with responses due on or before May 28, 1982. On May 28, 1982, Citizens Electric Company of Lewisburg, Pennsylvania (Citizens Electric) filed a petition to intervene in Docket No. ER82–494–000 and a petition to intervene and response to the petition for waiver in Docket No. ER82–494–000. Citizens Electric raises no substantive issues regarding the wholesale rate increase but requests that the increase be suspended for at least one day and set for hearing. Citizens Electric requests that the fuel clause modification be suspended for five months and set for hearing, noting that the anticipated testing may not begin for some time.

On June 1, 1982, thirteen of the fourteen Pennsylvania boroughs affected by the filings (Boroughs)[2] filed petitions to intervene in the two dockets and motions for permission to file their petitions out of time. On June 10, 1982, Boroughs filed a further motion to consolidate the two dockets. As grounds for their untimely intervention, Boroughs state that their petitions were timely served on counsel for PP&L, that their filing was delayed by a breakdown in word processing equipment, that the petitions were filed at the beginning of the following business day, that acceptance of the petitions would not pejudice any party, that the proposed filings will have a substantial impact on the Boroughs, and that counsel for PP&L does not object to their intervention. Boroughs request that PP&L's rate increase be suspended for five months. Boroughs raise various cost of service issues, such as the inclusion of expenses related to test power in PP&L's cost of service, overstatement of operation and maintenance expenses and of cash working capital, the forecast of interchange sales, and excess reserve capacity. In addition, Boroughs allege price squeeze.

Boroughs request that the proposed fuel clause modification be rejected, or, in the alternative, that it be suspended for five months and be placed into effect subject to refund. Boroughs assert that the modification would improperly permit PP&L to avoid passing on savings in its average fuel costs to its customers on a current basis and would allow the company to retain the current savings for its own use. Boroughs argue that this practice would violate section 35.14 of the Commission's regulations, that the impact on the customers would be substantial, and that conforming to the requirements of the regulations would not impose "an undue burden" on PP&L such as would justify a waiver of the regulations. Boroughs contend that the expenses involved in producing test power should be capitalized and recovered after the units are in service.

In addition to the pleadings mentioned, a number of letters have been received from residents of the Borough of Leighton, Pennsylvania, opposing PP&L's submittals.

On June 8, 1982, PP&L filed a motion for extension of time to permit the company to file one answer addressing the pleadings of Boroughs and Citizens Electric simultaneously. The motion was granted on June 11, 1982, and PP&L filed its response on June 6, 1982. On June 22, 1982, PP&L filed an answer to the Boroughs' motion for consolidation.

Discussion

The Commission finds that participation in this proceeding by each of the petitioners is in the public interest. Considering the matters asserted by Boroughs, we further find that good cause exists to grant their motion to intervene out of time. The Boroughs are municipal systems, which may be substantially affected by the outcome of these proceedings. Thus, they have a legitimate interest which may not be adequately represented by any other party. The delay in filing was not substantial and intervention at this early stage of the proceedings will not prejudice other parties or delay the proceedings. Therefore, each of the petitions to intervene will be granted.

PP&L argues that the fuel clause modification and the waiver of section 35.14 are necessary because flowing

[1] *See* Attachment A for customers and rate schedule designations.

[2] The Borough of Mifflinburg did not join in the petitions.

through the savings resulting from the generation of test power would produce a result inconsistent with the accounting treatment prescribed for a power plant undergoing test operation. PP&L further argues that the Commission should waive section 35.14 to permit the company's wholesale rates to approximate the treatment of test power approved in its retail rates, citing *Arkansas Power & Light Company*, Docket No. ER81–577–000, order issued August 28, 1981, 16 FERC 61,150. With regard to the latter argument, we note that the Commission in *Arkansas* granted the requested waiver in order to facilitate a settlement and expressly declined to extend the waiver to the rates charged to customers not affected by the settlement. Nevertheless, we believe that PP&L in the present case has presented circumstances justifying a departure from our fuel clause regulations.

The question of test energy presented by PP&L is one which was not specifically addressed when the fuel clause regulations were established. further, it appears that PP&L has devised a method of accounting for test energy that may be reasonable. Accordingly, we shall grant waiver of § 35.14 insofar as it is required to accept the proposed modification for filing, and shall suspend it for one day from sixty days after filing, to become effective subject to refund on July 4, 1982.[3] The reasonableness of the method chosen by PP&L may be addressed during the hearing in these proceedings. In the meantime, we feel that making the operation of the modification subject to refund will provide adequate protection to the interests of the intervenors.

Our preliminary review of the instant rate filing and the pleadings of the intervenors indicates that the rates proposed by PP&L have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the rates for filing and suspend them as ordered below.

In *West Texas Utilities Company*, Docket No. ER82–23–000 (February 26, 1982), we explained the Commission's suspension policy and noted that rate filings would ordinarily be suspended for one day where preliminary review indicates that the proposed rates may be unjust and unreasonable but may not generate substantially excessive revenues, as defined in *West Texas*. In the instant proceeding, our examination suggests that the proposed rates may not produce excessive revenues. Accordingly, we shall suspend the proposed rates for one day from 60 days after filing, to become effective subject to refund on July 4, 1982.

We find that common question of law and fact may be presented in Docket No. ER82–493–000 and Docket No. ER82–494–000. As a result, we shall consolidate these dockets for purposes of hearing and decision.

In accordance with the Commission's policy and procedures established in *Arkansas Power & Light Company*, Docket No. ER79–339 (August 6, 1979), we shall phase the price squeeze issue raised by Boroughs.

The Commission orders:

(A) PP&L's petition for waiver of § 35.14 is hereby granted as discussed above. The proposed modification to the fuel clause is hereby accepted for filing and suspended for one day from sixty days after filing to become effective, subject to refund, on July 4, 1982.

(B) PP&L's proposed rates in Docket No. ER82–494–000 are hereby accepted for filing and suspended for one day from 60 days after filing, to become effective, subject to refund, on July 4, 1982.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of PP&L's rates and its proposal to modify its fuel adjustment clause.

(D) Docket No. ER82–493–000 is hereby consolidated with Docket No. ER82–494–000 for purposes of hearing and decision.

(E) Petitioners are hereby permitted to intervene in this proceeding subject to the Commission's Rules of Practice and Procedure and the regulations under Federal Power Act; *Provided, however*, that participation by petitioners shall be limited to the matters set forth in their petitions to intervene; and *provided, further*, that the admission of petitioners shall not be construed as recognition by the Commission that they might be aggrieved by any order or orders entered by the Commission in this proceeding.

(F) The Commission staff shall serve top sheets in this proceeding on or before July 12, 1982.

(G) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days of the service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(H) The Commission hereby orders initiation of price squeeze procedures and further orders that this proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The presiding judge may modify this schedule for good cause shown. The price squeeze portion of this case shall be governed by the procedures set forth in § 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(I) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

PENNSYLVANIA POWER & LIGHT CO.

[Docket No. ER82–494–000; Filed: May 3, 1982]

Designations	Other party
(1) Supplement No. 1 to Supplement No. 13 to Rate Schedule FPC No. 28.	Borough of Watsontown.
(2) Supplement No. 1 to Supplement No. 13 to Rate Schedule FPC No. 32.	Borough of Duncannon.
(3) Supplement No. 1 to Supplement No. 11 to Rate Schedule FPC No. 45.	Borough of Bloomy.
(4) Supplement No. 1 to Supplement No. 11 to Rate Schedule FPC No. 50.	Borough of Weatherly.
(5) Supplement No. 1 to Supplement No. 11 to Rate Schedule FRC No. 51.	Borough of Schuylkill Haven.
(6) Supplement No. 1 to Supplement No. 8 to Rate Schedule FPC No. 54.	Borough of Perkasie.
(7) Supplement No. 1 to Supplement No. 9 to Rate Schedule FPC No. 56.	Borough of St. Clair.
(8) Supplement No. 1 to Supplement No. 8 to Rate Schedule FPC No. 57.	Borough of Catawissa.
(9) Supplement No. 1 to Supplement No. 9 to Rate Schedule FPC No. 58.	Borough of Ephrata.
(10) Supplement No. 1 to Supplement No. 9 to Rate Schedule FPC No. 61.	Citizens Electric Co. of Lewisburg.

[3] We note that the modification will have no impact until PP&L begins testing its units, which is scheduled as of this writing for September 1982 at the earliest.

PENNSYLVANIA POWER & LIGHT CO.—Continued

[Docket No. ER82-494-000; Filed: May 3, 1982]

Designations	Other party
(11) Supplement No. 1 to Supplement No. 10 to Rate Schedule FPC No. 63.	Borough of Lehighton.
(12) Supplement No. 1 to Supplement No. 5 to Rate Schedule FPC No. 65.	Borough of Olyphant.
(13) Supplement No. 1 to Supplement No. 3 to Rate Schedule FERC No. 69.	Borough of Hatfield.
(14) Supplement No. 1 to Supplement No. 3 to Rate Schedule FERC No. 70.	Borough of Mifflinburg.
(15) Supplement No. 1 to Supplement No. 3 to Rate Schedule FERC No. 71.	Borough of Quakertown.

[FR Doc.82-19082 Filed 7-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6348-000]

Rainsong Company; Application for License (5 MW or Less)

July 8, 1982.

Take notice that Rainsong Company (Applicant) filed on May 20, 1982, an application for license (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for construction and operation of a water power project to be known as Harlan Creek Water Power Project No. 6348. The project would be located on Harlan Creek, near Skykomish, within the Mt. Baker-Snoqualmie National Forest, in King County, Washington. Correspondence with the Applicant should be directed to: Mr. Jerry L. Johnson, P.O. Box 485, 208 Third Street, Lynden, Washington 98264.

Project Description—The proposed project would consist of: (1) A 6-foot-high, 50–foot-long concrete diversion structure impounding a reservior with less than one acre-foot surface area and no active storage capacity; (2) a 4400-foot-long, 24-inch-diameter pipeline: (3) a 1300-foot-long, 24-inch-diameter steel penstock; (4) a powerhouse containing one generating unit with an installed capacity of 2.0 MW; (5) a 4.5-mile-long, 12-kV transmission line from the powerhouse to an existing Puget Sound Power and Light Company transmission line. The Applicant estimates that the average annual energy production would be 12 million kWh.

Purpose of Project—The power produced by the proposed project would be sold to Puget Sound Power and Light Company.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application maybe obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before September 17, 1982, either the competing application itself (See 18 CFR 4.33(a) and (d)) or a notice of intent (See 18 CFR 4.33(b) and (c)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in §4.33(c) or §4.101 et. seq. (1981).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 17, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19100 Filed 7-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6384-000]

Redwood Trails; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

July 8, 1982.

Take notice that on June 1, 1982, Redwood Trails (Applicant) filed an application under section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended*), for exemption of proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 6384) would be located on McBrindle Creek near Orick in Humboldt County, California. Correspondence with the Applicant should be directed to: Mr. Robert Brindle, Redwood Trails, Star Route Box 280, Stone Lagoon, California 95570.

Project Description—The project would consist of: (1) A 7-foot-high, 30-foot long weir; (2) an 1,100-foot-long, 15-inch-diameter penstock; (3) a powerhouse to contain two generating units with a total rated capacity of 160 kW; and a 100-foot-long, 37-kV tap line to an existing Pacific Gas and Electric Company line. Estimated annual generation is 2.5 million kWhs.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the California Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that

agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before August 27, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 27, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19059 Filed 7-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL82-19-000]

St. Joe Minerals Corp.; Filing

July 8, 1982.

Take notice that on June 21, 1982, St. Joe Mineral Corporation (St. Joe) filed a petition for a declaratory order or, alternatively, for a wavier of the Commission's regulations. The first proposal is that the Commission declare that it will not assume jurisdiction over St. Joe as a public utility under the Federal power Act. In the alternative, St. Joe proposes that the Commission explicitly waive, insofar as they might apply to St. Joe, all reporting, filing, accounting, notice and approval regualtions under the Act.

Electricity produced at St. Joe's Monaca, Pennsylvania, powerplant which is not used in its smelting operations there is sold to Duquesne Light Company and CPU Service Corporation.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before July 28, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19055 Filed 7-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-373-000]

Southern Natural Gas Co.; Application

July 2, 1982.

Take notice that on June 11, 1982, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP82-737-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the purchase of certain compression and dehydration facilities located on the producer's Platform C in Main Pass Block 133, Main Pass area, offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant asserts that pursuant to a gas purchase contract between Applicant and Chevron, U.S.A., Inc. (Chevron) dated May 15, 1978, as amended, Applicant acquired a right to purchase certain reserves underlying Main Pass Blocks 120, 122, 133, 236, and 237, Main Pass area, offshore Louisiana. It is further asserted that pursuant to a letter agreement with Chevron of the same date Applicant agreed to acquire from Chevron certain compression and dehydration facilities at Chevron's actual capital cost subject to a specified cost ceiling.

Applicant proposes herein to acquire from Chevron four 1,100 horsepower turbine-driven compressor units, one 600 horsepower reciprocating unit and appurtenant dehydration facilities located on the producer's Platform C in Main Pass Block 133, Main Pass area, offshore Louisiana.

Pursuant to the May 15,1978, letter agreement Applicant also seeks to acquire certain appurtenant dehydration facilities currently being used to dehydrate the gas produced at Chevron's production platform in Main Pass Block 133, its production CA platform in Main Pass Block 120, and its Main Pass Block 133 B platform in Main Pass Block 236.

It is asserted that pursuant to the May 15, 1978, letter agreement, Applicant requests authorization to acquire the aforementioned compression and dehydration facilities for an amount equal to $3,066,000. Applicant asserts it would finance such costs by short-term financing and/or cash from current operations and ultimately from permanent financing.

It is asserted that the proposed facilities would enable Applicant to maintain an adequate and reliable natural gas service to its customers.

Any person desiring to be heard or to make any protest with reference to said

application should on or before July 27, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All proteats filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19088 Filed 7-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RM79-34 and ST82-241]

Transportation Certificates for Natural Gas Displacement of Fuel Oil and Michigan Wisconsin Pipe Line Corp.; Self-Implementing Transactions

July 8, 1982.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's Regulations and sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA). The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline pursuant to section 284.102 of the Commission's Regulations.

A "C" indicates transportation by an intrastate pipeline pursuant to § 284.122 of the Commission's Regulations. In those cases where Commission approval of a transportation rate is sought pursuant to § 284.123(b)(2), the table lists the proposed rate and expiration date for the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a petition to intervene with the Secretary of the Commission.

A "D" indicates a sale by an intrastate pipeline pursuant to § 284.142 of the Commission's Regulations and section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to §284.147(d) of the Commission's Regulations.

An "E" indicates an assignment by an intrastate pipeline pursuant to § 284.163 of the Commission's Regulations and section 312 of the NGPA.

An "F" indicates a fuel oil displacement transaction implemented pursuant to § 284.202 of the Commission's Regulations. Any interested persons may file a complaint concerning such transaction pursuant to §284.205(d) of the Commission's Regulations.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to a blanket certificate issued under §284.221 of the Commission's Regulations.

A "G (HT)" or "G (HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under §284.222 of the Commission's Regulations.

Kenneth F. Plumb,

Secretary.

Docket No.	Transporter/seller	Recipient	Date filed	Part 284 subpart	Expiration date [1]	Transportation rate (C/MMBTU)
ST82-290	Michigan Wisconsin Pipe Line Corp	Richie Gas System	May 3, 1982	B		
ST82-291	Oklahoma Natural Gas Co	Mid Louisiana Gas Co	May 4, 1982	D		
ST82-292	El Paso Natural Gas Co	Delhi Gas Pipeline Corp	May 5, 1982	B		
ST82-293	Mountain Fuel Supply Co	Northwest Pipeline Corp	May 10, 1982	G		
ST82-294	Mountain Fuel Supply Co	Northwest Pipeline Corp	do	G(HT)		
ST82-295	Northern Natural Gas Co	Tennessee Gas Pipeline Co	do	G		
ST82-296	Shreveport Intrastate Gas Trans. Ltd	United Gas Pipe Line Co	do	C	Oct. 7, 1982	25.00
ST82-297	Cities Service Gas Co	Colorado Interstate Gas Co	do	G		
ST82-298	Pacific Gas Transmission Co	Pacific Interstate Transmission Co	May 12, 1982	G		
ST82-299	Panhandle Eastern Pipe Line Co	Southern Natural Gas Co	May 13, 1982	G		
ST82-300	Transcontinental Gas Pipe Line Corp	Sugar Bowl Gas Corp	May 17, 1982	B		
ST82-301	Natural Gas Pipeline Co. of America	Tennessee Gas Pipeline Co	May 19, 1982	G		
ST82-302	Florida Gas Transmission Co	Tenngasco Gas Gathering	May 17, 1982	B		
ST82-303	Tennessee Gas Pipeline Co	United Gas Pipe Line Co	May 21, 1982	G		
ST82-304	Transcontinental Gas Pipe Line Corp	Southern Natural Gas Co	May 24, 1982	G		
ST82-305	Western Slope Gas Co	Northwest Pipeline Corp	May 25, 1982	G(HS)		
ST82-306	Delta Natural Gas Co	Columbia Gas Transmission Corp	May 26, 1982	G(HT)		
ST82-307	SW Pipeline Co	Northwest Pipeline Corp	May 28, 1982	D	Oct. 25, 1982	42.00
ST82-308	SW Pipeline Co	Panhandle Eastern Pipe Line Co	do	C	do	42.00
ST82-309	Natural Gas Pipeline Co. of America	El Paso Natural Gas Co	do	G		

[1] The Intrastate Pipeline has sought Commission approval of its transportation rate pursuant to Section 284.123(B)(2) of the Commission's Regulations (18 CFR 284.123(B)(2)). Such rates are deemed fair and equitable if the Commission does not take action by the date indicated.

[FR Doc. 82-19089 Filed 7-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2000-000]

Joseph P. Tyrrell; Application

July 8, 1982.

Take notice that on April 6, 1982, Joseph P. Tyrrell filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Senior Vice President and Director: Boston Edison Company
Director: Conn. Yankee Atomic Power Co.
Director: Yankee Atomic Power Company

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before July 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-19057 Filed 7-13-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ST80-322-001]

United Texas Transmission Co.; Extension Reports

July 8, 1982.

The companies listed below have filed extension reports pursuant to section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue transportation and sales of natural gas for an additional term of up to 2 years. These transactions commenced on a self-implementing basis without case-by-case Commission authorization. The Commission's regulations provide that the transportation or sales may continue for an additional term if the Commission does not act to disapprove or modify the proposed extension during the 90 days preceding the effective date of the requested extension.

The table below lists the name and addresses of each company selling or transporting pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A letter "B" in the Part 284 column indicates a transportation by an interstate pipeline which is extended under § 284.105. A letter "C" indicates transportation by an intrastate pipeline extended under § 284.125. A "D" indicates a sale by an intrastate pipeline extended under § 284.146.

Any person desiring to be heard or to make any protest with reference to said extension report should on or before July 29, 1982 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

Docket No.	Transporter/seller	Recipient	Date filed	Part 284 subpart	Effective date
ST80-322-001.	United Texas Transmission Co., P.O. Box 1478, Houston, TX 77001.	United Gas Pipe Line Co	June 9, 1982	C	Sept. 10, 1982.
ST80-323-001.	Northern Natural Gas Co., 2223 Dodge Street, Omaha, NE 68102.	United Gas Pipe Line Co	June 1, 1982	G	Sept. 8, 1982.
ST80-324-001.	Texas Eastern Transmission Corp., P.O. Box 2521, Houston, TX 77001.	Mid Louisiana Gas Co	June 7, 1982	G	Sept. 4, 1982.
ST80-336-001.	Sugar Bowl Gas Corp.,	Southern Natural Gas Co	June 15, 1982	C	Sept. 20, 1982.
ST80-338-001.	Northern Natural Gas Co., 2223 Dodge Street, Omaha, NE 68102.	West Texas Gas, Inc	June 1, 1982	B	Sept. 19, 1982.
ST80-339-001.	United Gas Pipe Line Co., P.O. Box 1478, Houston, TX 77001	Louisiana Resources Co	June 2, 1982	B	Sept. 26, 1982.
ST81-5-001	Southern Natural Gas Co., P.O. Box 2563, Birmingham, AL 35202.	Monterey Pipeline Co	June 3, 1982	B	Sept. 5, 1982.
ST81-10-001	Tennessee Gas Gathering Co., P.O. Box 2511, Houston, TX 77001.	Texas Eastern Transmission Corp	June 9, 1982	C	Sept. 8, 1982.
ST81-13-001	United Gas Pipe Line Co., P.O. Box 1478, Houston, TX 77001	Tennessee Gas Pipeline Co	June 2, 1982	G	Sept. 18, 1982.
ST81-87-001	United Gas Pipe Line Co., P.O. Box 1478, Houston, TX 77001	United Texas Transmission Co	June 2, 1982	B	Nov. 25, 1982.
ST81-314-001.	Channel Industries Gas Co., P.O. Box 2511, Houston, TX 77001.	Energy Gathering, Inc	June 11, 1982	C	July 23, 1982.

[FR Doc. 82-9061 Filed 7-13-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-423-001]

Virginia Electric & Power Co.; Compliance Filing

July 7, 1982.

Take notice that on June 28, 1982, Virginia Electric and Power Company filed revised rates and cost statements pursuant to the Commission's order of May 28, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before July 19, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-19063 Filed 7-13-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ID-2901-000]

N. P. Wagner; Application

July 8, 1982.

Take notice that on April 6, 1982 N. P. Wagner filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Director: Ohio Valley Electric Corp.
Director: Ind. Kentucky Electric Corp.
President, Chief Executive Officer, and Director: Southern Ind. Gas and Electric Company

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestant parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-19060 Filed 7-13-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. CS82-55-000]

Applications for "Small Producer" Certificates [1]

July 2, 1982.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before July 20, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,
Secretary.

Docket No.	Date filed	Applicant
CS82-66-000	May 21, 1982	Lake Petroleum Inc., 1108 Commercial National Bank Building, Shreveport, Louisiana 71101.
CS82-67-000	May 28, 1982	Cheyenne Exploration, Inc., P.O. Box 1754, Enid, Oklahoma 73702.
CS82-68-000	June 14, 1982[1]	Sherman A. Wengerd, 1040 Stanford Drive NE., Albuquerque, New Mexico 87106.
CS82-69-000	June 14, 1982	Elmer S. Parson, Jr., 3120 East 5th Street, Casper, Wyoming 82601.
CS82-70-000	June 11, 1982	James A. Masterson, 3958 South Poplar Street, Casper, Wyoming 82601.
CS82-71-000	June 14, 1982	Clifford P. Hickok, Room One Professional Building, Terrytown, New York 10591.
CS82-72-000	June 16, 1982	Tidelands Exploration Co., Inc., 637 Farmington Place, Gretna, Louisiana 70053.
CS82-73-000	June 22, 1982	Lewis Exploration Inc., 2321 Lackland Road, Suite 318, Fort Worth, Texas 76116.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No.	Date filed	Applicant
CS82-74-000	June 25, 1982	Agate Petroleum Inc., 2301 Fourth National Bank Building, Tulsa, Oklahoma 74119.
CS81-122-001	May 14, 1982[1]	Pacific Petroleums, Inc., P.O. Box 4240, Houston, Texas 77001.

[1] Additional information filed June 18, 1982.
[2] Letter received dated May 13, 1982 advising the Commission of the loss of small producer status and the fact that it was acquired by Zapata Exploration Company, a large producer.

[FR Doc. 82-19059 Filed 7-13-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. G-10083-002, et al.]

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

July 8, 1982.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before July 22, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-10083-992, D, June 14, 1982	Texaco Inc., (Operator) P.O. Box 2420, Tulsa, Okla. 74102.	Northern Natural Gas Co., Hugoton Field, Finney County, Kans.	(1)	
G-12710-000, D, June 24, 1982	Texaco Inc., P.O. Box 2420, Tulsa, Okla	Colorado Interstate Gas Co., Adams Ranch Field, Meade County, Kans.	(1)	
G-15700-002, D, June 24, 1982	Shell Offshore Inc. (succ. in interest to Shell Oil Co., One Shell Plaza, P.O. Box 2463, Houston, Tex. 77001.	Tennessee Gas Pipeline Co., Eugene Island Block 18 Field, St. Mary Parish, offshore Louisiana.	(2)	
C182-312-000, A, June 30, 1982	Amerada Hess Corp., 1200 Milam, 6th Floor, Houston, Tex. 77002.	Texas Eastern Transmission Corp., West Delta Field, 86, offshore Louisiana.	(16)	15.025
C164-1301-000, D, June 21, 1982	Conoco Inc., P.O. Box 2197, Houston, Tex. 77252	El Paso Natural Gas Co., Aneth, Bluff, and Boundary Butte Fields, San Juan County, Utah.	(1)	
C173-44-001, D, June 23, 1982	Conoco Inc., P.O. Box 2197, Houston, Tex. 77252	Michigan Wisconsin Pipe Line Co., Eugene Island Area, offshore Louisiana.	(1)	
C175-245-001, D, June 23, 1982	Sun Exploration and Production Co. (formerly Sun Oil Co.) P.O. Box 20, Dallas, Tex. 75221.	Arkansas Louisiana Gas Co., Lacy and River Areas, Blaine and Kingfisher Counties, Okla.	(1)	
C176-668-003, June 21, 1982	Getty Oil Co., P.O. Box 1440, Houston, Tex. 77001	Tennessee Gas Pipeline Co., Grand Isle Block 48 W/2 Field, offshore Louisiana.	(1)	15.025
C180-257-001, C, June 22, 1982	Phillips Petroleum Co., 336 Home Savings and Loan Bldg., Bartlesville, Okla. 74004.	El Paso Natural Gas Co., Yates Formation, Lea County, N. Mex.	(1)	14.65
C181-178-001, C, June 21, 1982	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001	Southern Natural Gas Co., Matagorda Island Blocks 632, 656, and 657, offshore Texas.	(13)	14.73
C181-450-001, June 28, 1982	The Louisiana Land and Exploration Co., 225 Baronne Street, Post Office Box 60350, New Orleans, La 70160.	Texas Eastern Transmission Corp., Marathon's West Delta Receiving Station NW/4 SE/4, Section 35, T21S, R30E, Plaquemines Parish, La.	(13)	15.025
C182-300-000, F, June 16, 1982	Amoco Production Co. (per. succ. in interest to R. H. Hedge), P.O. Box 50879, New Orleans, La. 70150.	Texas Gas Transmission Corp., North Shongaloo-Red Rock Field, Webster Parish, La.	(13)	14.73
C182-301-000, E, June 16, 1982[12]	Anadarko Production Co., (succ. in interest to Trunkline Gas Co.), P.O. Box 1330, Houston, Tex. 77251.	Tennessee Gas Transmission Co., Grosse Isle Field, Vermilion Parish, La.	(1)	14.73
C182-302-000, A, June 16, 1982	Cities Service Co., P.O. Box 300, Tulsa, Okla. 74102	Northern Natural Gas Co., Hugoton Field, Texas County, Okla.	(13)	14.73
C182-303-000, A, June 16, 1982	Aminoil USA, Inc., Golden Center One, 2800 North Loop West, Post Office Box 94193, Houston, Tex. 77018.	Trunkline Gas Co., South Pelto Block 12, offshore Louisiana.	(13)	15.025
C182-304-000 (G-15512), B, June 16, 1982.	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001	El Paso Hydrocarbons Co., Nena Lucia Field, Nolan County, Tex.	(13)	
C182-305-000, A, June 28, 1982	The Louisiana Land and Exploration Co., 225 Baronne Street, Post Office Box 60350, New Orleans, La. 70160.	Texas Eastern Transmission Corp., Blocks 85 and 86, West Delta Area, offshore Louisiana.	(13)	15.025
C182-306-000, A, June 23, 1982	Sun Exploration & Production Co., P.O. Box 20, Dallas, Tex. 75221.	Trunkline Gas Co., High Island SA Block 542, offshore Texas.	(13)	14.73
C182-307-000, A, June 25, 1982	Zapata Exploration Co., P.O. Box 4240, Houston, Tex. 77001.	Northern Natural Gas Co., West Delta Blocks 137 and 138, "A" Platform, offshore Louisiana.	(13)	15.025
C182-308-000, A, June 28, 1982	Pogo Producing Co., Post Office Box 2504, Houston, Tex. 77001.	United Gas Pipe Line Co., High Island Blocks A-563, A-564, and A-582, offshore Texas.	(20)	14.73
C182-309-000, A, June 28, 1982	Amerada Hess Corp., 1200 Milam, 6th Floor, Houston, Tex. 77002.	Texas Eastern Transmission Corp., South Pass Block 89, offshore Louisiana.	(20)	14.73
C165-199-000, D, June 26, 1982	Texaco Inc., P.O. Box 2100, Denver, Colo. 80201	El Paso Natural Gas Co., Basin Dakota Field, San Juan County, N. Mex.	(21)	
C170-1075-000, D, June 28, 1982	Conoco Inc., P.O. Box 2197, Houston, Tex. 77001	Michigan Wisconsin Pipe Line Co., Eugene Island Area, offshore Louisiana.	(9)	
C173-44-000, D, June 28, 1982	Conoco Inc., P.O. Box 2197, Houston, Tex. 77001	Michigan Wisconsin Pipe Line Co., Eugene Island Area, offshore Louisiana.	(9)	
C178-607-003, C, June 28, 1982	Mobil Producing Texas and New Mexico Inc., Nine Greenway Plaza, Suite 2700, Houston, Tex. 77046.	Michigan Wisconsin Pipe Line Co., High Island Blocks A-302, A-303, A-318, offshore Texas, Federal Domain.	(22)	14.73
C180-278-002, C, June 22, 1982	The Superior Oil Co., P.O. Box 1521, Houston, Tex. 77001.	Natural Gas Pipe Line Co., Block 9, Sabine Pass Area, offshore Louisiana.	(23)	15.025
C180-278-000, C, June 29, 1982	The Superior Oil Co., P.O. Box 1521, Houston, Tex. 77001.	Natural Gas Pipe Line Co., Block 9, Sabine Pass Area, offshore Louisiana.	(24)	15.025
C182-310-000, A, June 29, 1982	Aminoil USA, Inc., Golden Center One, 2800 North Loop West, Post Office Box 94193, Houston, Tex. 77018.	Texas Eastern Transmission Corp., Blocks 85 and 86, West Delta Area, offshore Louisiana.	(25)	15.025

Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[1] Fuel to Lessor for Agricultural Irrigation and Home Heating.

[2] Leases were released.

[3] No wells have been drilled in the surrendered acreage. Based upon geologic interpretation and upon information gained from nearby drilling, Shell Offshore Inc. plans no drilling in the surrendered area.

[4] Applicant is filing under Gas Purchase and Sales Agreement and agreed to January 6, 1982 between Tennessee and Anadarko and Applicant requests it be issued a Certificate of Public Convenience and Necessity effective as of the effective date of assignment, January 1, 1981.

[5] Expiration or assignment of leases subject to RS #275.

[6] Expiration of Federal leases.

[7] Leases have expired.

[8] Applicant is filing under Gas Purchase and Sales Agreement dated June 7, 1976, amended by amendatory agreement dated April 2, 1982.

[9] Applicant is filing under Supplemental Gas Purchase and Amendatory Agreement dated January 22, 1982.

[10] Applicant agrees to accept a permanent Certificate of Public Convenience and Necessity covering the subject sale conditioned in accordance with the Natural Gas Policy Act of 1978 and the Commission's Regulations under said Act.
[11] Applicant is filing to add an additional delivery point.
[12] Applicant is filing under Gas Purchase Contract dated October 29, 1969, ratified by letter agreement dated July 23, 1981.
[13] By assignment effective January 1, 1981, Applicant acquired all of Trunkline's interest in Sections 15, 16, 17, 20, 21 and 11, Township 12 South, Range 4 East, Grosse Isle Field, Vermilion Parish, Louisiana, dedicated under a contract dated April 14, 1960.
[14] Applicant is filing under Gas Purchase Contract dated June 28, 1954, ratified by agreement dated July 19, 1954.
[15] Applicant is filing under Gas Purchase Contract dated March 25, 1982.
[16] The contract has expired and arrangements have been made to sell this gas to Sun Gas Company under the provisions of a percentage of proceeds contract. Residue gas deliveries will continue to be made to El Paso Natural Gas Company, the present purchaser of residue gas delivered by El Paso Hydrocarbons Company and attributable to Exxon's properties in the Nena Lucia Field.
[17] Applicant is filing under Gas Purchase Contract dated May 24, 1982.
[18] Applicant is filing under Gas Purchase Contract dated April 29, 1982.
[19] Applicant is filing under Gas Purchase Contract dated November 6, 1979, as amended on August 3, 1981.
[20] Applicant is willing to accept a certificate of public convenience and necessity conditioned in price to the applicable ceiling rates as established by the Natural Gas Act
[21] Purchaser has refused to connect the well due to economic reasons.
[22] Applicant is filing under Gas Sales Agreement dated March 7, 1978, as amended, amended by amendment dated April 16, 1982.
[23] Applicant is filing under Gas Purchase Contract dated April 1, 1980, amended by Amendatory Agreement dated February 6, 1982.
[24] Applicant is filing under Gas Purchase Contract dated April 1, 1980, amended by Amendatory Agreement dated June 9, 1982.
[25] Applicant is filing under Gas Purchase Contract dated May 26, 1982.

[FR Doc. 82-19058 Filed 7-13-82; 8:45 am]
BILLING CODE 6717-01-M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: July 2, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
CALIFORNIA DEPARTMENT OF CONSERVATION									
-QUINTANA PETROLEUM CORP				RECEIVED:	06/15/82	JA: CA			
8238451	82-2-0002	0403780000		102-4		"N L & F" 1-21	DEL VALLE SOUTH	306.0	UNION OIL CO OF C
-SANTA FE ENERGY PRODUCTS CO				RECEIVED:	06/15/82	JA: CA			
8238452	82-2-0001	0411121124		103		ARCO 1A	OJAI	60.0	ARCO OIL & GAS CO
-TENNECO OIL COMPANY				RECEIVED:	06/15/82	JA: CA			
8238458	82-4-0002	0402964092		102-4		PALOMA 25X-32	PALOMA	186.0	PACIFIC LIGHTING
8238454	82-4-0008	0402965150		102-4		PALOMA 32X-31	PALOMA	183.0	PACIFIC LIGHTING
8238453	82-4-0003	0402965967		102-4		PALOMA 73X-31	PALOMA	78.0	PACIFIC LIGHTING
COLORADO OIL & GAS COMMISSION									
-AMOCO PRODUCTION CO				RECEIVED:	06/14/82	JA: CO			
8238412	79-522(8)	0506706667		108-ER		CRAIG GAS UNIT #1	DAKOTA	0.0	EL PASO NATURAL G
8238329	81-356	0500107499		103		UPRR 23 PAN AM "H" #2	UNNAMED	156.0	PANHANDLE EASTERN
-ARCO OIL AND GAS COMPANY				RECEIVED:	06/14/82	JA: CO			
8238330	81-341	0506706367		103		SOUTHERN UTE 4-1 32-10 (MV)	IGNACIO BLANCO (MV)	355.0	WESTERN SLOPE GAS
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	06/14/82	JA: CO			
8238331	81-451	0500107770		103		CARLSON 42-33 #1	RADAR	0.0	PANHANDLE EASTERN
8238332	81-452	0500107689		103		CAVENDER 41-11 #2	KRAUTHEAD	91.0	COLORADO INTERSTA
8238333	81-416	0500506462		103		REEVES 42-21	QUILL	120.0	
-CHANDLER & ASSOCIATES INC				RECEIVED:	06/14/82	JA: CO			
8238362	81-401	0507782050		107-TF		BARNARD 6-22	PLATEAU	219.0	NORTHWEST PIPELIN
8238363	81-399	0507708217		107-TF		BRUTON 5-17	PLATEAU	58.0	NORTHWEST PIPELIN
8238364	81-516	0507708328		107-TF		CURRIER 14-16	PLATEAU	139.0	NORTHWEST PIPELIN
8238365	81-515	0507708206		107-TF		KUEHN 15-17	PLATEAU	28.0	NORTHWEST PIPELIN
8238366	81-398	0507708320		107-TF		STITES 12-3	PLATEAU	147.0	NORTHWEST PIPELIN
8238367	81-397	0507708292		107-TF		TUPPER 13-13	PLATEAU	35.0	NORTHWEST PIPELIN
8238368	81-400	0507708220		107-TF		WALCK 1-5	PLATEAU	187.0	NORTHWEST PIPELIN
8238369	81-396	0507708283		107-TF		WEBB 11-4	PLATEAU	64.0	NORTHWEST PIPELIN
8238370	81-514	0507708321		107-TF		WOODRING 8-16	PLATEAU	135.0	NORTHWEST PIPELIN
-COLTON & COLTON				RECEIVED:	06/14/82	JA: CO			
8238334	81-357	0512300000		103		BROWN-MONFORT #1	HAMBERT	0.0	PANHANDLE EASTERN
8238371	81-100	0512310078		107-TF		BROWN-MONFORT #1	HAMBERT	0.0	PANHANDLE EASTERN
-CONTINENTAL GAS TRANSMISSION				RECEIVED:	06/14/82	JA: CO			
8238335	81-349	0500107795		103		ATWATER 34-24	PORTER	112.0	PANHANDLE EASTERN
8238336	81-350	0500107808		103		MEYER 32-14	PORTER	140.0	PANHANDLE EASTERN
8238337	81-380	0500107819		103		MITCHEM 42-26	ZENITH	170.0	PANHANDLE EASTERN
-COORS ENERGY CO				RECEIVED:	06/14/82	JA: CO			
8238372	81-434	0507708116		107-TF		ACCO - WOOD 1-32	PLATEAU FIELD SEC 32	54.3	NORTHERN NATURAL
8238373	81-435	0507708258		107-TF		BEVANS 1-29	PLATEAU FIELD SECTION	100.1	NORTHERN NATURAL
8238374	81-430	0507708269		107-TF		BIG CREEK CATTLE CO #2-7	PLATEAU FIELD SEC 7 T	39.9	NORTHERN NATURAL

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8238375	81-438	0507708237		107-TF		BOREM 1-7
8238376	81-433	0507700000		107-TF		DAVIS 1-24
8238377	81-427	0507708253		107-TF		FETTERS 1-18
8238378	81-425	0507708133		107-TF		FETTERS 1-19
8238379	81-437	0507708137		107-TF		FETTERS 2-19
8238380	81-436	0507708257		107-TF		FETTERS 3-19
8238381	81-439	0507708109		107-TF		LONG 1-3
8238382	81-429	0507708127		107-TF		MEADOR 1-24
8238383	81-426	0507708099		107-TF		NICHOLS 1-31
8238384	81-443	0507708261		107-TF		NYSTROM 2-18
8238385	81-440	0507708298		107-TF		SHEPARD 3-20
8238386	81-428	0507708188		107-TF		TRAHERN 1-20
8238388	81-442	0507708242		107-TF		UTE #4-17
8238387	81-432	0507708119		107-TF		UTE 1-20
8238389	81-431	0507708300		107-TF		WILSON 2-29
8238390	81-441	0507708326		107-TF		WOOD 2-32
-DAMSON OIL CORPORATION				RECEIVED:	06/14/82	JA: CO
8238338	81-410	0508106436		103		BIG GULCH #1
-DAVIS DRLG INC				RECEIVED:	06/14/82	JA: CO
8238399	81-518	0508900000		108		R B HOLT 1-3
-ENERGETICS INC				RECEIVED:	06/14/82	JA: CO
8238400	81-832	0508707562		108		DUCK FARMS 41-29
-ENERGY MINERALS CORPORATION				RECEIVED:	06/14/82	JA: CO
8238401	82-230	0512309887		108		ANNA #1
8238339	81-351	0512310166		103		DAVID #1
8238402	82-229	0512309713		108		KINGSBURY #1
8238403	81-389	0512309477		108		SAYA #1
-ENERGY OIL INC				RECEIVED:	06/14/82	JA: CO
8238348	81-387	0512310105		103		KRAUSE #1
-ESTATE OF ROY L COOK				RECEIVED:	06/14/82	JA: CO
8238398	82-242	0506700000		108		SUTTON #1
-GULF ENERGY CORP				RECEIVED:	06/14/82	JA: CO
8238350	81-337	0500107694		103		B W TRUPP #3
8238351	81-338	0500107788		103		B W TRUPP #4
8238341	81-652	0500107740		103		BULLARD #26-13
8238346	81-1007	0500107981		103		C LISCO #14-21
8238347	81-679	0500107876		103		C LISCO #14-32
8238342	81-334	0500107672		103		FARM RANCH EXPLORATION #2
8238343	81-680	0500107888		103		FARM RANCH EXPLORATION #3
8238344	81-335	0500107789		103		FARM RANCH EXPLORATION #5
8238345	81-982	0500107957		103		FARM RANCH EXPLORATION #6
8238348	81-336	0500107654		103		PILAND-TUPPS-LISCO #1
8238349	81-736	0500107889		103		PILAND-TUPPS-LISCO #2
-HOMESTEAD OIL INCORPORATED				RECEIVED:	06/14/82	JA: CO
8238391	82-64	0512300000		107-TF		MARGUERITE H SKATLER #1
-J-W OPERATING COMPANY				RECEIVED:	06/14/82	JA: CO
8238313	81-444	0512506499		102-2		H CHAPMAN #1-34
8238312	81-0445	0512506547		102-2		J BROPHY #6-34
8238314	81-487	0512506484		102-2		WHITE STAR FARMS #1-19
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	06/14/82	JA: CO
8238404	81-497	0512506422		108		BRAND 11-3
8238405	81-496	0512506073		108		BRUDER 1-8
8238315	81-450	0512506328		102-2		MEADE 2-32

FIELD NAME	PROD	PURCHASER
PLATEAU FIELD SEC 7 T	17.6	NORTHERN NATURAL
PLATEAU FIELD SEC 24	21.1	NORTHERN NATURAL
PLATEAU FIELD SEC 18	20.7	NORTHERN NATURAL
PLATEAU FIELD SEC 19	61.8	NORTHERN NATURAL
PLATEAU FIELD SEC 19	46.8	NORTHERN NATURAL
PLATEAU FIELD SEC 19	41.5	NORTHERN NATURAL
PLATEAU FIELD SEC 3 T	12.0	NORTHERN NATURAL
PLATEAU FIELD SEC 24	3.7	NORTHERN NATURAL
PLATEAU FIELD SEC 31	30.1	NORTHERN NATURAL
PLATEAU FIELD SEC 18	19.1	NORTHERN NATURAL
PLATEAU FIELD SEC 20	104.8	NORTHERN NATURAL
PLATEAU FIELD SECTION	25.1	NORTHERN NATURAL
PLATEAU FIELD SEC 17	54.5	NORTHERN NATURAL
PLATEAU FIELD SEC 20	13.2	NORTHERN NATURAL
PLATEAU FIELD - SEC 2	262.8	NORTHERN NATURAL
PLATEAU FIELD - SEC 3	96.7	NORTHERN NATURAL
BIG GULCH	0.8	MOUNTAIN FUEL SUP
WALSH	4.8	GEODYNE RESOURCES
ROULETTE	15.0	JUBILEE PIPELINE
WAITE LAKE	17.0	PANTERA ENERGY CO
SPINDLE	21.6	PANHANDLE EASTERN
WAITE LAKE	16.0	CRYSTAL OIL CO
ROGGEN	20.5	PHILLIPS PETROLEU
HAMBERT	56.0	PANHANDLE EASTERN
IGNACIO BLANCO	14.3	EL PASO NATURAL G
RADAR	90.0	COLORADO INTERSTA
RADAR	110.0	COLORADO INTERSTA
RADAR	36.0	COLORADO INTERSTA
SONAR	50.0	COLORADO INTERSTA
SONAR	75.0	COLORADO INTERSTA
RADAR	60.0	COLORADO INTERSTA
RADAR	75.0	COLORADO INTERSTA
WATTENBERG	146.0	COLORADO INTERSTA
RADAR	37.0	COLORADO INTERSTA
MARIA	36.0	COLORADO INTERSTA
MARIA	57.0	COLORADO INTERSTA
HAMBERT	12.0	PANHANDLE EASTERN
WAGES	72.3	KANSAS-NEBRASKA N
WILDCAT	397.0	KANSAS-NEBRASKA N
WAVERLY	211.0	KANSAS-NEBRASKA N
SHOUT	15.0	
BEECHER ISLAND	22.0	
SCHRAMM	38.0	KANSAS-NEBRASKA N

JD NO	JA DKT	API NO	C	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROL	PURCHASER
8238352	81-352	0512506543		103		THOMAS 1-34X	REPUBLICAN	70.0	
-MACEY & MERSHON OIL INC				RECEIVED:	06/14/82	JA: CO			
8238393	81-368	0512309981		107-TF		ABRAMS #1	WATTENBERG	64.0	PANHANDLE EASTERN
8238394	81-424	0512309951		107-TF		FLANIGAN #1	WATTENBERG "J"	70.0	PANHANDLE EASTERN
8238354	81-369	0512300000		103		HURT #1	WATTENBERG	100.0	PANHANDLE EASTERN
8238355	81-370	0512310087		103		JOHNSON #1	WATTENBERG	170.0	PANHANDLE EASTERN
-MADERA ROYALTY & ENERGY INC				RECEIVED:	06/14/82	JA: CO			
8238356	81-344	0500100000		103		RUTH #1	MANILA	9.1	PANHANDLE EASTERN
-MARTIN EXPLORATION MGMT CORP				RECEIVED:	06/14/82	JA: CO			
8238406	81-780	0501306023		108		CULVER #1	BOULDER VALLEY	0.0	PANHANDLE EASTERN
8238407	81-779	0507708268		108		FEDERAL #6-2	SHIRE GULCH	0.0	NORTHWEST PIPELIN
8238408	81-778	0501306017		108		THRONDSON #1	SPINDLE	0.0	PANHANDLE EASTERN
-MGF OIL CORP				RECEIVED:	06/14/82	JA: CO			
8238316	81-404	0512310245		103		HENDERSON #41-22	NE RIVERSIDE II	73.1	CRYSTAL OIL CO
8238353	81-403	0512310245		102-2		HENDERSON #41-22	NE RIVERSIDE II	73.1	CRYSTAL OIL CO
8238392	81-402	0512310244		107-TF		RUSCH 34-15X	WATTENBERG	830.8	PANHANDLE EASTERN
-MIDLANDS GAS CORPORATION				RECEIVED:	06/14/82	JA: CO			
8238357	81-347	0512506541		103		BRUEGGEMAN 1-6X	VERNON	148.0	KANSAS-NEBRASKA N
8238317	81-346	0512506526		102-2		GIAUQUE 1-9	BUCKBOARD	53.0	KANSAS-NEBRASKA N
8238318	81-348	0512506504		102-2		ROGERS 1-19	MILDRED	36.0	KANSAS-NEBRASKA N
8238395	81-422	0512506562		107-TF		WOOLERY/ROUNDTREE 1-34	WILDCAT	114.0	KANSAS-NEBRASKA N
-NORTHWEST EXPLORATION COMPANY				RECEIVED:	06/14/82	JA: CO			
8238409	81-637	0504506241		108		CLOUGH #126	RULISON MASATCH	28.8	NORTHWEST PIPELIN
-PUCKETT-WARREN-WALKER-CRABTREE				RECEIVED:	06/14/82	JA: CO			
8238396	81-415	0512506545		107-TF		KORF 1-25	ROCK CREEK	180.3	CITIES SERVICE GA
-SAMUEL GARY OIL PRODUCER				RECEIVED:	06/14/82	JA: CO			
8238311	81-448	3500107747		102-4		8-16 TRUPP	BENNETT	274.0	PANHANDLE EASTERN
-SANDLIN OIL CORP				RECEIVED:	06/14/82	JA: CO			
8238358	81-453	0505107627		103		TURECEK #1	TRIGGER	16.0	KOCH OIL CO
-STELBAR OIL CORP INC				RECEIVED:	06/14/82	JA: CO			
8238320	81-421	0512109664		102-2		GREEN #1-6	DENOVA	50.0	NATURAL GAS PIPEL
8238321	81-420	0512109665		102-2		GREEN #2-6	DENOVA	30.0	NATURAL GAS PIPEL
8238322	81-419	0512109663		102-2		PRICE #1-20	DENOVA	30.0	NATURAL GAS PIPEL
-STREAM INC				RECEIVED:	06/14/82	JA: CO			
8238359	81-339	0507508891		103		RAINDROP - STATE #1	RAINDROP	180.0	KANSAS NEBRASKA N
8238360	81-953	0507508949		103		SCHMIDT #1	RAINDROP	180.0	KANSAS NEBRASKA N
-SUPERIOR OIL CO				RECEIVED:	06/14/82	JA: CO			
8238410	81-731	0504506034		108		JUHAN 34-94	RULISON	0.0	WESTERN SLOPE GAS
-TENNECO OIL COMPANY				RECEIVED:	06/14/82	JA: CO			
8238397	81-376	0510308308		107-TF		KIRBY ROBERTSON 2M-25-4-102	FOUNDATION CREEK	70.0	NORTHWEST PIPELIN
-TEXAS OIL & GAS CORP				RECEIVED:	06/14/82	JA: CO			
8238361	81-417	0506706512		103		TIFFANY "C" #2	IGNACIO	73.0	EL PASO NATURAL G
-VESSELS OIL & GAS CO				RECEIVED:	06/14/82	JA: CO			
8238323	81-379	0500506444		102-2		AINSWORTH #1	FAIRWAY	103.0	FAIRWAY GAS PROCE
8238324	81-377	0500506784		102-2		EYMAN #1	FAIRWAY	55.0	FAIRWAY GAS PROCE
8238325	81-378	0500506445		102-2		FRIEND & MEYER #1	FAIRWAY	0.0	VESSLES GAS PROCE
8238411	82-181	0512307149		108		WHITESIDE #1	WATTENBERG	13.2	PANHANDLE EASTERN
-W R MURFIN D/B/A MURFIN DRILLING CO				RECEIVED:	06/14/82	JA: CO			
8238319	81-454	0509906135		102-2		SCHMIDT #1-15X	WILDCAT	365.0	PEOPLES NATURAL G
-WILLIAM E ZAJIC				RECEIVED:	06/14/82	JA: CO			
8238326	81-392	0509906121		102-2		STATE 2-9	CLYDE	175.0	PEOPLES NATURAL G
8238327	81-488	0509906131		102-2		STATE 3-8	CLYDE	275.0	PEOPLES NATURAL G
8238328	81-540	0509906150		102-2		STATE 4-9	CLYDE	36.0	PEOPLES NATURAL G

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROL	PURCHASER
KANSAS CORPORATION COMMISSION									
-GERALD W ZONGER				RECEIVED:	06/14/82	JA: KS			
8238416	K 82-0084	1509520658	103			WESTERMAN #1	SPIVEY-GRABBS	110.0	PEOPLE'S NATURAL
-M R M PETROLEUM CORPORATION				RECEIVED:	05/19/82	JA: KS			
8238455	K-82-0119	1553320475	102-4			SELZER #6-2	COLLIER FLATS SOUTH	87.5	NORTHERN NATURAL
-WALLACE OIL & GAS INC				RECEIVED:	06/14/82	JA: KS			
8238414	82-0032	1509320652	103			RICE #1	KANSAS HUGOTON	20.5	COLORADO INTERSTA
8238413	K 82-0035	1509320650	103			VAN DOREN #1	KANSAS HUGOTON	29.1	COLORADO INTERSTA
-WELLS ENERGY CORP				RECEIVED:	06/14/82	JA: KS			
8238415	K-82-0053	1511920534	102-4			WIENS #1	MCKINNEY	60.0	
LOUISIANA OFFICE OF CONSERVATION									
-ARKLA EXPLORATION COMPANY				RECEIVED:	06/14/82	JA: LA			
8238273	81-2524	1707522836	102-4			STATE LEASE 0565 WELL #1	LAKE PETIT	1500.0	ARKANSAS LOUISIAN
-DESCO OIL CO				RECEIVED:	06/14/82	JA: LA			
8238275	81-1393	1702321491	102-4			MIAMI CORP #1	NORTH GRAND CHENIERE	1086.0	LOUISIANA INTRAST
-EDWIN L COX				RECEIVED:	06/14/82	JA: LA			
8238276	81-2523	1705721762	102-4			S L #32582	LAKE LONG	876.0	COLUMBIA GAS TRAN
-FLYNN ENERGY CORP				RECEIVED:	06/14/82	JA: LA			
8238271	81-2265	1705721662	102-4			EXXON FEE #1	LAKE	6.0	UNITED GAS PIPELI
-GULF OIL CORPORATION				RECEIVED:	06/14/82	JA: LA			
8238274	81-3084	1707522868	102-4			S L 7332 #6	QUARANTINE BAY FIELD	176.0	UNITED GAS PIPELI
-HOGAN DRILLING COMPANY INC				RECEIVED:	06/14/82	JA: LA			
8238267	81-2079	1712720918	102-4			PARDEE #1	NORTHEAST HICKORY VAL	75.0	UNITED GAS PIPE L
-J M HUBER CORPORATION				RECEIVED:	06/14/82	JA: LA			
8238268	81-2521	1709320188	102-4			VUA PELTO FEE #1	HESTER	365.0	UNITED GAS PIPE L
-KERR-MCGEE CORPORATION				RECEIVED:	06/14/82	JA: LA			
8238270	81-2264	1772620157	102-4			S L 1238 #3	BRETON SOUND BLOCK 36	912.0	SOUTHERN NATURAL
-PENNZOIL PRODUCING COMPANY				RECEIVED:	06/14/82	JA: LA			
8238266	81-2435	1705721559	102-4			M M FEE 852 #1	BAYOU DES ALLEMANDS	108.0	UNITED GAS PIPE L
-TEXACO INC				RECEIVED:	06/14/82	JA: LA			
8238269	81-2233	1710922404	102-4			SL 301 TERREBONNE BAY #358	CAILLOU ISLAND	100.0	KAISER ALUMINUM &
8238272	81-2434	1705120580	102-4			SL 356 MARRERO UA #22 VUC	LAFITTE	533.0	KAISER ALUMINUM &
8238277	81-2433	1705120573	102-4			SL 356 MARRERO UA #23 VUC	LAFITTE	36.0	KAISER ALUMINUM &
MONTANA BOARD OF OIL & GAS CONSERVATION									
-ADOBE OIL & GAS CORPORATION				RECEIVED:	06/14/82	JA: MT			
8238279	6-81-116	2510121994	102-2			GRANT #1-19	WILDCAT	54.0	
-SECTOR RESOURCES LTD				RECEIVED:	06/14/82	JA: MT			
8238280	5-82-132	2504122212	102-4			DION 12-30-T32N-R17E	TIGER RIDGE	66.2	NORTHERN NATURAL
8238281	5-82-131	2504122211	102-4			TURNER 4-31-T32N-R17E	TIGER RIDGE	360.0	NORTHERN NATURAL
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-ALAN J ANTWEIL				RECEIVED:	06/14/82	JA: NM			
8238286		3002527725	103			HERMAN #2 2-K-8-20S-38E	WEST NADINE BLINEBRY	36.0	WARREN PETROLEUM
-ARCO OIL AND GAS COMPANY				RECEIVED:	06/14/82	JA: NM			
8238294		3002506652	108-ER			R L BRUNSON #5	DRINKARD	6.0	WARREN PETROLEUM
-C & E OPERATORS INC				RECEIVED:	06/11/82	JA: NM			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8238092		3004500000		108-PB		LARCHER #3	BLANCO P C	0.0	EL PASO NATURAL G
-EL PASO NATURAL GAS COMPANY				RECEIVED:	06/11/82	JA: NM			
8238169		3003920684		108		SAN JUAN 28-7 UNIT #172 PC & CH	SOUTH BLANCO-PICTURED	24.0	EL PASO NATURAL G
-EL PASO NATURAL GAS COMPANY				RECEIVED:	06/14/82	JA: NM			
8238293		3003906257		108		SOUTHERN PET STATE #3 PC & CH	SOUTH BLANCO-PICTURED	24.0	EL PASO NATURAL G
-ENSERCH EXPLORATION INC				RECEIVED:	06/11/82	JA: NM			
8238093		3000500000		103		J G OBRIEN #4	SOUTH ELKINS	80.0	MAPCO PRODUCTION
-HNG OIL COMPANY				RECEIVED:	06/11/82	JA: NM			
8238095		3002527677		103		MADERA "32" STATE COM #1	UNDESIGNATED MORROW	427.1	TRANSWESTERN PIPE
8238172		3001500000		103		SMITH "10" #1	UNDESIGNATED MORROW	328.5	LLANO INC
-J M HUBER CORPORATION				RECEIVED:	05/17/82	JA: NM			
8238278		3002527237		103		JAMES O'NEILL STATE #1	MORTON (WOLFCAMP)	75.0	WARREN PETROLEUM
-MARBOB ENERGY CORPORATION				RECEIVED:	06/11/82	JA: NM			
8238178		3001523863		103		GILLESPIE ST #1	RED LAKE QUEEN GRAYBU	66.0	PHILLIPS PETROLEU
-MOBIL PROD TEXAS & NEW MEXICO INC				RECEIVED:	06/14/82	JA: NM			
8238296		3002503021		108-SA		STATE M #6	VACUUM YATES	17.7	PHILLIPS PETROLEU
-MTS LIMITED PARTNERSHIP				RECEIVED:	06/11/82	JA: NM			
8238168		3000561335		102-2	107-TF	HORSE CREEK COM #2	PECOS SLOPE ABO	38.0	
-MWJ PRODUCING CO				RECEIVED:	06/11/82	JA: NM			
8238173		3002500000		103		BAUM 18 STATE #1	BAUM (UPPER PENN)	84.0	WARREN PETROLEUM
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	06/11/82	JA: NM			
8238162		3002502920		108		E VAC GB/SA U TR 2819 #001	VACUUM GB/SA	9.0	EL PASO NATURAL G
8238163		3002502845		108		E VAC GB/SA UNIT TR 2155 #084	VACUUM GB/SA	7.0	EL PASO NATURAL G
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	06/14/82	JA: NM			
8238288		3002502834		108		E VAC GB/SA TRACT 1912 #002	VACUUM GB/SA	1.0	EL PASO NATURAL G
8238287		3002502832		108		E VAC GB/SA UNIT TR 1943 #056	VACUUM GB/SA	1.0	EL PASO NATURAL G
8238291		3002502835		108		E VAC GB/SA UNIT TR 2054-#001	VACUUM GB/SA	1.0	EL PASO NATURAL G
8238292		3002502850		108		E VAC GB/SA UNIT TR 2175-#003	VACUUM GB/SA	1.0	EL PASO NATURAL G
8238290		3002502921		108		E VAC GB/SA UNIT TR 2819 #002	VACUUM GB/SA	1.0	EL PASO NATURAL G
8238289		3002526228		108		EAST VACUUM GB/SA 3202-033	EAST VACUUM GB/SA 320	5.0	EL PASO NATURAL G
-QUANAH PETROLEUM INC				RECEIVED:	06/14/82	JA: NM			
8238295		3002527643		103		WILLIAMS #2	BISHOP CANYON	6.0	PHILLIPS PETROLEU
-SHELL OIL CO				RECEIVED:	06/14/82	JA: NM			
8238283		3002500000		108		N HOBBS (G-SA) UNIT SEC 13 #121	HOBBS (G-SA)	7.5	PHILLIPS PETROLEU
8238284		3002500000		108		N HOBBS (G-SA) UNIT SEC 13 #221	HOBBS (G-SA)	5.4	PHILLIPS PETROLEU
8238285		3002500000		108		N HOBBS (G-SA) UNIT SEC 20 #111	HOBBS (G-SA)	2.2	PHILLIPS PETROLEU
8238297		3002500000		108		STATE SEC 2 #17	BLINEBRY OIL & GAS	7.6	GETTY OIL CO
8238282		3002500000		108		STATE SEC 2 #19	BLINEBRY OIL & GAS	20.5	GETTY OIL CO
-SUPERIOR OIL CO				RECEIVED:	06/11/82	JA: NM			
8238167		3002527466		102-2		STATE 7 SST #1	BOOTLEG RIDGE (MORROW	0.0	
-THRESHOLD DEVELOPMENT CO				RECEIVED:	06/11/82	JA: NM			
8238097		3001523931		103		CONOCO "7" STATE #8	E MILLMAN QUEEN GRAYB	14.0	CONOCO INC
8238096		3001523932		103		CONOCO "7" STATE #9	E MILLMAN QUEEN GRAYB	18.0	CONOCO INC
-VIKING PETROLEUM CORP				RECEIVED:	06/11/82	JA: NM			
8238164		3000500000		107-TF		MCDERMETT 36 "COM" #1	PECOS SLOPE ABO GAS	0.0	TRANSWESTERN PIPE
-YATES PETROLEUM CORPORATION				RECEIVED:	06/11/82	JA: NM			
8238100		3000561167		107-TF		DEE "DD" STATE #3	PECOS SLOPE - ABO GAS	0.0	TRANSWESTERN PIPE
8238099		3000561342		102-2	107-TF	KILGORE "SO" #1	PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8238171		3001523668		103		NIX "PK" #2	ATOKA YESO	0.0	TRANSWESTERN PIPE
8238165		3000561464		102-2	107-TF	REDMAN "OY" ST #5	UNDESIG PECOS SLOPE-A	0.0	TRANSWESTERN PIPE
8238166		3000561337		102-2	107-TF	REDMAN "OY" STATE #2	UNDES PECOS SLOPE-ABO	0.0	TRANSWESTERN PIPE
8238094		3001524073		103		SHERRELL "SR" COM #1	UND EAGLE CREEK ATOKA	0.0	TRANSWESTERN PIPE
8238098		3000561298		102-2	107-TF	SQUIRREL "SL" STATE #1	PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION									
-BEREA OIL AND GAS CORPORATION			RECEIVED:	06/11/82		JA: NY			
8238161	2572	3101315362	107-TF			CLAUDE HALLER UNIT #2	WILDCAT	2.0	COLUMBIA GAS TRAN
OKLAHOMA CORPORATION COMMISSION									
-AGOIL INC			RECEIVED:	06/10/82		JA: OK			
8238251	17399	3514722391	102-2			FENTON #1	WILDCAT (NO FIELD)	18.0	MARION PIPELINE C
-ANADARKO LAND & EXPLORATION CO			RECEIVED:	06/11/82		JA: OK			
8238183	15384	3514920184	103	107-TF		SALLASKA #1	COLONY	500.0	EL PASO NATURAL G
-APOLLO PRODUCTION LTD			RECEIVED:	06/11/82		JA: OK			
8238180	17404	3507323552	102-4	103		DORA #15-6	N E OKARCHE	357.0	SID RICHARDSON CA
-ATLAS OIL INC			RECEIVED:	06/10/82		JA: OK			
8238265	16737	3508321998	102-2			HOPKINS 1-34	WEST GUTHRIE	27.5	EASON OIL CO
-BOBBY J DARNELL			RECEIVED:	06/11/82		JA: OK			
8238186	14941	3508321832	103			YANCY # 2	N W GUTHRIE	36.5	EASON OIL CO
-CITIES SERVICE COMPANY			RECEIVED:	06/10/82		JA: OK			
8238257	14847	3502520489	103			COWDY A #2	N E SAMPSEL	66.0	PANHANDLE EASTERN
-CLEMENTS ENERGY INC			RECEIVED:	06/11/82		JA: OK			
8238184	14947	3510320970	103			DAY #1	N ORLANDO	292.0	AMINOIL USA INC
-COQUINA OIL CORPORATION			RECEIVED:	06/10/82		JA: OK			
8238245	14891	3510321409	103			HOFFMAN #1	UNDESIGNATED	73.0	ARCO OIL & GAS CO
-COTTON PETROLEUM CORPORATION			RECEIVED:	06/11/82		JA: OK			
8238179	18978	3505121178	107-DP			BAKER "A" #1	S E VERDEN	0.0	
-D & D PRODUCTION CO.			RECEIVED:	06/10/82		JA: OK			
8238243	14875	3511160928	103			BAILEY #1	MORRIS	6.0	PHILLIPS PETROLEU
-DAVIS OIL COMPANY			RECEIVED:	06/10/82		JA: OK			
8238250	17396	3507322930	102-2			WHITTROCK #1	TIPPERARY	5.0	PHILLIPS PETROLEU
-DYCO PETROLEUM CORPORATION			RECEIVED:	06/10/82		JA: OK			
8238254	14550	3512920291	103			ALLEN UNIT #1-34		15.0	TRANSWESTERN PIPE
8238255	14551	3512920306	103			BACHMAN UNIT #1-28	NOT DESIGNATED	15.0	TRANSWESTERN PIPE
-DYCO PETROLEUM CORPORATION			RECEIVED:	06/14/82		JA: OK			
8238168	88785	3512120213	103			SANDERS #1-22	ULAN SOUTH	160.0	ARKANSAS LOUISIAN
-EASON OIL COMPANY			RECEIVED:	06/10/82		JA: OK			
8238241	14865	3508720682	103			ISABELL SMITH #2-12		43.0	SUN GAS CO
-ECC OIL CO			RECEIVED:	06/11/82		JA: OK			
8238174	14636	3514721995	108			PEARSON #2 C NW/4 NW/4 20-25N-14E	OGLESBY GAS FIELD	15.4	OKAN GAS CO
-F C D OIL CORP			RECEIVED:	06/11/82		JA: OK			
8238187	14930	3507376412	103			CARLSON 1-5	SOONER TREND	73.0	CONOCO INC
-HANOVER MANAGEMENT CO			RECEIVED:	06/10/82		JA: OK			
8238252	14243	3515300000	103			KELSO #1		90.0	MICHIGAN-WISCONSI
-HARPER OIL COMPANY			RECEIVED:	06/10/82		JA: OK			
8238263	14878	3507323534	103			BODINE #2	E KINGFISHER	27.0	EXXON CORP
-HAZELWOOD PRODUCTION & EXPLORATION			RECEIVED:	06/11/82		JA: OK			
8238181	17360	3507122354	102-4			SINDELAR #1	DILWORTH	36.5	CITIES SERVICE GA
8238182	17359	3507122354	102-4			SINDELAR #1	DILWORTH	136.3	CITIES SERVICE GA
-INEXCO OIL COMPANY			RECEIVED:	06/11/82		JA: OK			
8238177	19065	3503920644	107-DP			FOURTNER #1-22	UNDESIGNATED	1000.0	PANHANDLE EASTERN
-JAMES W WISE			RECEIVED:	06/10/82		JA: OK			
8238262	14866	3511123165	103			KECK #1	EAST OKMULGEE	35.0	PHILLIPS PETROLEU
-JOHNSON-GIPSON OIL CO			RECEIVED:	06/10/82		JA: OK			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME		
8238260	14850	3512520929		103		LISA #1		
8238259	14849	3512520930		103		SUSAN #1		
-LILES OIL & GAS CO				RECEIVED:		06/10/82	JA: OK	
8238240	14798	3501722113		103		ROTHER #1		
-NATIONAL OIL COMPANY				RECEIVED:		06/10/82	JA: OK	
8238258	14848	3507322673		103		DICKERSON 673-65352		
-NFC PETROLEUM CORP				RECEIVED:		06/10/82	JA: OK	
8238246	14892	3512120478		103		CITY OF ASHLAND 2-5		
8238247	14893	3512100000		103		CUNNINGHAM 1-24		
-OKLA OIL & GAS ROYALTIES INC				RECEIVED:		06/11/82	JA: OK	
8238176	14144	3503320358		103		GLASSCOCK #1		
-PETRO-DAVIS INC				RECEIVED:		06/10/82	JA: OK	
8238239	14795	3508300000		103		CARMA #1		
-PHILLIPS PETROLEUM COMPANY				RECEIVED:		06/10/82	JA: OK	
8238253	14594	3501721974		103		COFFEY "A" #1		
8238241	14863	3515321250		103		HIGHFILL A #1		
-PORTS OF CALL OIL CO				RECEIVED:		06/10/82	JA: OK	
8238244	14887	3515321211		103		NELSON #21-1		
-SAMEDAN OIL CORPORATION				RECEIVED:		06/11/82	JA: OK	
8238178	19002	3504300000		107-PE		ENGLISH #1		
-SENECA OIL COMPANY				RECEIVED:		06/11/82	JA: OK	
8238179	14587	3501721968		103		LENA MC #F-32-		
-SOUTHWEST ENERGY DEVELOPMENT CO INC				RECEIVED:		06/11/82	JA: OK	
8238188	14912	3513321687		103		HYDE #1		
-SPECTRA ENERGY CORP				RECEIVED:		06/14/82	JA: OK	
8238159	09269	3504720579		103		MIESNER #1		
-THE WIL-MC OIL CORP				RECEIVED:		06/10/82	JA: OK	
8238242	14868	3510321303		103		FISHER #1		
8238256	14793	3505320785		103		HOLDEN #1		
-UNIT DRILLING & EXPLORATION CO				RECEIVED:		06/10/82	JA: OK	
8238264	14872	3504520961		103		BERRYMAN 2-28		
-W S WELL SERVICE				RECEIVED:		06/10/82	JA: OK	
8238248	14911	3513321598		103		RAINWATER B-1A		
-WILLIAM J ZUHONE JR				RECEIVED:		06/11/82	JA: OK	
8238185	14944	3507121618		103		MCGORGARY #1		
-WOODS PETROLEUM CORPORATION				RECEIVED:		06/10/82	JA: OK	
8238249	17390	3508320898		102-A	103	DAILEY #33-1		

PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES

-ADOBE OIL & GAS CORPORATION				RECEIVED:		06/11/82	JA: PA	
8238101	11725	3706326700		103		CAROLINE BORK #1		
-CABOT OIL & GAS CORP				RECEIVED:		06/11/82	JA: PA	
8238102	11806	3703921508		102-2		RICHARD YOUNKINS #1		
8238103	11805	3703921508		107-TF		RICHARD YOUNKINS #1		
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:		06/11/82	JA: PA	
8238109	11736	3704700000		108		EDITH C HEIDRICK WN-498		
8238105	11732	3706320825		108		FLORENCE BODEN #1 WN-522		
8238108	11735	3700500000		108		HARRY B HENDERSON #1 WN-562		
8238111	11738	3706320059		108		HARRY L GEORGE WN-551		
8238112	11739	3704720014		108		HARRY MASTERS WN-555		
8238106	11733	3703300000		108		JOHN HAYES #1 WN-465		
8238104	11731	3710500000		108		JOSEPH TOROK #1 WN-133		

FIELD NAME	PROD	PURCHASER
ST LOUIS	25.0	ARCO OIL & GAS CO
ST LOUIS	0.0	ARCO OIL & GAS CO
NORTH CONCHO	146.0	PHILLIPS PETROLEU
S REEDING	131.4	CONOCO INC
ASHLAND	62.2	OKLAHOMA GAS & EL
ASHLAND	998.0	OKLAHOMA GAS & EL
	18.0	LONE STAR GAS CO
	0.0	EASON OIL CO
WATONGA	0.0	
NORTH BOILING SPRINGS	0.0	
WOODWARD PROSPECT	136.0	PANHANDLE EASTERN
NOBSCOTT	600.0	OKLAHOMA GAS & EL
PIEDMONT	19.4	
	67.0	SEDCO GAS CO
SOONER TREND	100.0	GRACE PETROLEUM C
EAST LIBERTY	108.0	AMINOIL U S A INC
WAKITA	72.0	EL GRANDE PIPELIN
S E ARNETT	35.0	PANHANDLE EASTERN
	137.0	SEDCO GAS CO
CENTER OF SE/4 SE/4 -	9.2	KAY PIPELINE CORP
S DACOMA	73.0	PANHANDLE EASTERN
BRUSH VALLEY	22.0	COLUMBIA GAS TRAN
WAYNE	50.0	TENNESSEE GAS PIP
WAYNE	50.0	TENNESSEE GAS PIP
BENEZETTE	2.0	GENERAL SYSTEM PU
ARMSTRONG	17.0	GENERAL SYSTEM PU
SOUTH BEND	8.0	GENERAL SYSTEM PU
ARMSTRONG	21.0	GENERAL SYSTEM PU
HORTON	2.0	GENERAL SYSTEM PU
BRADY	9.0	GENERAL SYSTEM PU
ULYSSES	13.0	GENERAL SYSTEM PU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8238110	11737	3706300000		108		ORVILLE M WATSON WN-553	ARMSTRONG	14.0	GENERAL SYSTEM PU
8238107	11734	3704700000		108		STATE OF PA TR 3388 WN-396	BENEZETTE	15.0	GENERAL SYSTEM PU
-DOC-MCC SERVICE CO				RECEIVED:	06/11/82	JA: PA			
8238113	11747	3712921917		103		CHARLES M PETERSON 1554-1	EAST HUNTINGDON	30.0	TEXAS EASTERN TRA
8238114	11748	3712922014		103		JAMES G SCHENCK 1254-2	EAST HUNTINGDON	30.0	TEXAS EASTERN TRA
-DORSO ENERGY				RECEIVED:	06/11/82	JA: PA			
8238115	11682	3712922009		103		DONALD WILSON #1 #171	SALTSBURG	30.0	T W PHILLIPS GAS
-EARL M RICHARDS				RECEIVED:	06/11/82	JA: PA			
8238149	11786	3708520330		108		EDNA R SOWERS #1	BLANCO	0.0	APOLLO GAS CO
8238146	11780	3712900003		108		GEORGE #1	MARKEL	0.0	APOLLO GAS CO
8238147	11782	3708500000		108		KING #1	METEER	0.0	APOLLO GAS CO
8238150	11787	3712920042		108		MCCUTCHEON #1	WASHINGTON TOWNSHIP	1.8	APOLLO GAS CO
8238145	11779	3712900000		108		ROBERT GEORGE #2	MARKEL	0.0	APOLLO GAS CO
8238144	11778	3712900000		108		TOM MARTIN #1	NORTH WASHINGTON	0.0	APOLLO GAS CO
8238148	11783	3708500000		108		VERNON BOYER #1	BLANCO	1.8	APOLLO GAS CO
-G & G GAS INC				RECEIVED:	06/11/82	JA: PA			
8238118	11393	3703121015		103		H L SMITH #2	REDBANK	24.0	COLUMBIA GAS TRAN
-KEYSTONE ENERGY OIL & GAS PRODUCTIO				RECEIVED:	06/11/82	JA: PA			
8238119	11628	3706522365		103		BUFFINGTON #1	CLIFFORD BUFFINGTON	35.1	T W PHILLIPS GAS
8238120	11803	3706522319		103		BUFFINGTON #2	JOHN L BUFFINGTON	34.6	T W PHILLIPS GAS
8238121	11804	3706326681		103		SWASY #2	NORA D SWASY	83.1	COLUMBIA GAS TRAN
-MERIDIAN EXPLORATION CORP				RECEIVED:	06/11/82	JA: PA			
8238122	11629	3704921371	D	107-TF		D TROYER #581-1	WATERFORD	30.0	NATIONAL FUEL GAS
-MERIDIAN OIL & GAS ENT INC				RECEIVED:	06/11/82	JA: PA			
8238125	11746	3703920840		107-TF		FRANK W NEAL #1	CONNEAUT	7.5	NATL FUEL GAS DIS
8238123	11744	3703920839		107-TF		JOSEPH L VERGARA #1	BEAVER	10.0	NATL FUEL GAS DIS
8238124	11745	3703920844		107-TF		SELMA K HACKWORTH #1-A	CONNEAUT	15.0	NATL FUEL GAS DIS
-MID-EAST OIL CO				RECEIVED:	06/11/82	JA: PA			
8238126	11791	3706326617		103		DALE SHAFFER #2	CLYMER	13.0	T W PHILLIPS GAS
8238133	11800	3706522187		103		HARRY R HIBBARD #1	PUNXSUTAWNEY	17.0	CONSOLIDATED GAS
8238134	11801	3706522195		103		JAMES S FENNELL #1	VALIER	14.0	CONSOLIDATED GAS
8238128	11794	3706522250		103		LOUIS L HOETZLEIN #1	PUNXSUTAWNEY	14.0	T W PHILLIPS GAS
8238129	11795	3706522249		103		LOUIS L HOETZLEIN #2	PUNXSUTAWNEY	17.0	T W PHILLIPS GAS
8238135	11802	3706522175		103		RONALD YOUNG #1	REYNOLDSVILLE	15.0	CONSOLIDATED GAS
8238130	11796	3706522160		103		SAMUEL J ISHMAN #1	PUNXSUTAWNEY	15.0	CONSOLIDATED GAS
8238131	11797	3706522161		103		SAMUEL J ISHMAN #2	PUNXSUTAWNEY	15.0	CONSOLIDATED GAS
8238132	11798	3706522162		103		SAMUEL J ISHMAN #3	PUNXSUTAWNEY	15.0	CONSOLIDATED GAS
8238127	11793	3706325930		103		WAYNE W MCFARLAND #1	CLYMER	15.0	T W PHILLIPS GAS
-REA CROSS CO				RECEIVED:	06/11/82	JA: PA			
8238137	11587	3704921718		102-2		BROWDER/CODY #1	UNNAMED	15.0	NATIONAL FUEL GAS
8238139	11588	3704921718		107-TF		BROWDER/CODY #1	UNNAMED	15.0	NATIONAL FUEL GAS
8238138	11590	3704921699		102-2		KONDZIELSKI #1	UNNAMED	15.0	NATIONAL FUEL GAS
8238140	11589	3704921699		107-TF		KONDZIELSKI #1	UNNAMED	15.0	NATIONAL FUEL GAS
8238136	11585	3704921785		102-2		MORASKI/WEBSTER #1	UNNAMED	15.0	NATIONAL FUEL GAS
-RANUFF OIL & GAS				RECEIVED:	06/11/82	JA: PA			
8238141	11788	3712500000		108		BELLE KELSEY #1	AMWELL TOWNSHIP	3.0	CARNEGIE NATURAL
8238142	11789	3712500000		108		W L WINNETT #1	MORRIS TOWNSHIP	6.0	CARNEGIE NATURAL
8238143	11790	3712500000		108		W L WINNETT #2	AMWELL TOWNSHIP	1.0	CARNEGIE NATURAL
-UNION DRILLING INC				RECEIVED:	06/11/82	JA: PA			
8238151	11514	3706324947		108		ALBERT HARTMAN #1 0659	RAYNE TOWNSHIP	35.0	COLUMBIA GAS TRAN
8238152	11518	3706324747		108		EVA LONGWELL #1 0629	RAYNE TOWNSHIP	22.0	PEOPLES NATURAL G
8238153	11519	3706324742		108		MURRAY C BRAUGHLER #1 0624	RAYNE TOWNSHIP	14.0	COLUMBIA GAS TRAN
-WAINOCO OIL & GAS CO				RECEIVED:	06/11/82	JA: PA			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-WAINOCO OIL & GAS CO				RECEIVED:	06/11/82	JA: PA			
8238154	11520	3706324741		108		WILLIAM C BRAUGHLER #1 0625	RAYNE TOWNSHIP	14.0	COLUMBIA GAS TRAN
-WEST PENN OIL CO				RECEIVED:	06/11/82	JA: PA			
8238155	11805	3706326682		103		SWASY #3	NORA D SWASY	83.1	COLUMBIA GAS TRAN
-WILLIAM M HOOVER				RECEIVED:	06/11/82	JA: PA			
8238156	11806	3706326683		103		SWASY #4	NORA D SWASY	83.1	COLUMBIA GAS TRAN
-WILLIAM M HOOVER				RECEIVED:	06/11/82	JA: PA			
8238157	11807	3706326684		103		SWASY #5	NORA D SWASY	83.1	COLUMBIA GAS TRAN
-WILLIAM M HOOVER				RECEIVED:	06/11/82	JA: PA			
8238158	11808	3706326685		103		SWASY #6	NORA D SWASY	83.1	COLUMBIA GAS TRAN
-WILLIAM M HOOVER				RECEIVED:	06/11/82	JA: PA			
8238159	11809	3706326686		103		SWASY #7	NORA D SWASY	83.1	COLUMBIA GAS TRAN
-WILLIAM M HOOVER				RECEIVED:	06/11/82	JA: PA			
8238160	11810	3706326687		103		SWASY #8	NORA D SWASY	83.1	COLUMBIA GAS TRAN
-WILLIAM M HOOVER				RECEIVED:	06/11/82	JA: PA			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8238156	11602	3708520273		107-TF		CARL BURROWS #1 (MC-15)	GREENVILLE	0.0	TENNESSEE GAS PIP
8238157	11603	3708520230		107-TF		JOHN A BELL III #1 (MC-1)	GREENVILLE	0.0	TENNESSEE GAS PIP
8238154	11750	3708520244		102-2		JOHN A BELL III #2 (MC-8)	GREENVILLE	15.0	TENNESSEE GAS PIP
8238158	11751	3708520244		107-TF		JOHN A BELL III #2 (MC-8)	GREENVILLE	15.0	TENNESSEE GAS PIP
8238155	11600	3708520246		107-TF		MARVIN KLEINHANS #3 (MC-7)	GREENVILLE	0.0	TENNESSEE GAS PIP
-4-R INVESTMENT PARTNERSHIP				RECEIVED:	06/11/82	JA: PA			
8238116	11434	3704921575		102-2		GARY RENAUD #1	EDINBORO	25.0	NATIONAL FUEL GAS
8238117	11435	3704421575		107-TF		GARY RENAUD #1	EDINBORO	25.0	NATIONAL FUEL GAS
**********									
UTAH DIVISION OF OIL,GAS, & MINING									
**********									
-GEORGE P POST DBA POST PETROLEUM CO				RECEIVED:	06/11/82	JA: UT			
8238091	K-144-1	4304700000		103		UTE #1-19	BLUEBELL	0.0	GARY ENERGY CORP
**********									
WEST VIRGINIA DEPARTMENT OF MINES									
**********									
-ASHLAND EXPLORATION INC				RECEIVED:	06/11/82	JA: WV			
8238196		4701900459		107-DV		BEDFORD LAND CO #18 - 091802	PAINT CREEK	99.0	
-BEREA OIL AND GAS CORPORATION				RECEIVED:	06/14/82	JA: WV			
*8238436		4700121627		103		D GOODWIN #1	BARKER	36.0	CONSOLIDATED GAS
*8238435		4700121621		103		D P HANEY #1	VALLEY	51.0	CONSOLIDATED GAS
*8238425		4700121459		103		MCCLAIN #2	VALLEY	75.0	CONSOLIDATED GAS
-BRAXTON OIL AND GAS CORP				RECEIVED:	06/11/82	JA: WV			
8238207		4702103560		108		R J STOUT HEIRS #1	BURNSVILLE	10.0	CONSOLIDATED GAS
-CABOT OIL & GAS CORP				RECEIVED:	06/14/82	JA: WV			
8238426		4703903727		103		C LIVELY #1	JEFFERSON	15.0	TENNESSEE GAS PIP
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	06/11/82	JA: WV			
8238232		4700101601		102-2		HAYWARD D MARSH 12719	GLADE DISTRICT	20.0	GENERAL SYSTEM PU
8238231		4705101608		103		PAUL PICKENS 12697	ELK DISTRICT	201.0	GENERAL SYSTEM PU
8238221		4710900847		103		POCAHONTAS LAND I-22 12711	BARKERS RIDGE DISTRIC	20.0	GENERAL SYSTEM PU
8238222		4710900851		103		POCAHONTAS LAND I-27 12712	BARKERS RIDGE DISTRIC	41.0	GENERAL SYSTEM PU
8238230		4704103056		103		WALTER R SIMMONS 12701	FREEMANS CREEK DISTRI	8.0	GENERAL SYSTEM PU
-EASTERN AMERICAN ENERGY CORPORATION				RECEIVED:	06/14/82	JA: WV			
8238431		4702103048		108		A F PETERS #2	GLENVILLE	110.0	EQUITABLE GAS CO
8238417		4704103104		107-DV		ASPINALL #1	GLENVILLE	15.0	
8238440		4704100000		103		ASPINALL #1	GLENVILLE	15.0	
8238423		4702103379		108		C H MILES #1	GLENVILLE	75.0	EQUITABLE GAS CO
8238439		4704103107		103		COX #1	GLENVILLE	10.0	
8238448		4704103107		107-DV		COX #1	GLENVILLE	10.0	
8238422		4702103376		108		E D FULTON #7	GLENVILLE	110.0	EQUITABLE GAS CO
8238430		4702103374		108		G COLLINS #4	GLENVILLE	75.0	EQUITABLE GAS CO
8238424		4702103382		108		H L SIMMONS #3	GLENVILLE	80.0	EQUITABLE GAS CO
8238428		4702103540		108		J W KEITH #4	GLENVILLE	90.0	EQUITABLE GAS CO
8238441		4704103117		103		JACOB #1	GLENVILLE	20.0	
8238447		4704103117		107-DV		JACOB #1	GLENVILLE	20.0	
8238432		4702103012		108		L B BONNETT #1	GLENVILLE	70.0	EQUITABLE GAS CO
8238427		4702103910		108		L RADCLIFF #2	GLENVILLE	90.0	EQUITABLE GAS CO
8238433		4702102995		108		M E SNIDER #1	GLENVILLE	0.0	EQUITABLE GAS CO
8238420		4704103061		107-DV		MCLAUGHLIN #2	GLENVILLE	20.0	
8238421		4704103061		103		MCLAUGHLIN #2	GLENVILLE	20.0	
8238438		4704103106		103		MULLDOLY #5	GLENVILLE	30.0	
8238449		4704103106		107-DV		MULLDOLY #5	GLENVILLE	30.0	
8238434		4702102943		108		OPHA WOLFE #1	GLENVILLE	70.0	EQUITABLE GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8238437		4704103127		103		PIANTA #1	GLENVILLE	15.0	
8238446		4704103127		107-DV		PIANTA #1	GLENVILLE	15.0	
-FOX DRILLING CO INC				RECEIVED:	06/11/82	JA: WV			
8238236		4700101263		107-DV		C POE #D-1	BELINGTON	5.0	COLUMBIA GAS TRAN
8238269		4700101132		107-DV		C POE #1-A	BELINGTON FIELD	1.0	COLUMBIA GAS TRAN
8238210		4700101255		107-DV		C POE #1-C	BELINGTON	45.0	COLUMBIA GAS TRAN
8238227		4700101235		107-DV		E LOAR #1	BELINGTON	10.0	COLUMBIA GAS TRAN
8238211		4700101267		107-DV		H POLING #3	BELINGTON	15.0	COLUMBIA GAS TRAN
8238229		4700101122		107-DV		JONES #1	BELINGTON	20.0	COLUMBIA GAS TRAN
8238237		4700101221		107-DV		KITTLE #1	BELINGTON	15.0	COLUMBIA GAS TRAN
8238212		4700101313		107-DV		LANTZ #1	BELINGTON	10.0	COLUMBIA GAS TRAN
8238226		4700101336		107-DV		LANTZ #2	BELINGTON	20.0	COLUMBIA GAS TRAN
8238233		4700101205		107-DV		O HATHAWAY #1	BELINGTON	15.0	COLUMBIA GAS TRAN
8238234		4700101288		107-DV		O'NEAL #2	BELINGTON	30.0	COLUMBIA GAS TRAN
8238238		4700101230		107-DV		RANDOLPH #1	BELINGTON	5.0	COLUMBIA GAS TRAN
8238235		4700101280		107-DV		WAGNER #2	BELINGTON	10.0	COLUMBIA GAS TRAN
8238228		4700101220		107-DV		WILLSON #2	BELINGTON	25.0	COLUMBIA GAS TRAN
-INLAND EXPLORATION INC				RECEIVED:	06/11/82	JA: WV			
8238220		4707301225		107-DV		MOBEY #2-229		25.0	INLAND EXPLORATIO
-JAMES F SCOTT				RECEIVED:	06/11/82	JA: WV			
8238214		4703302444		108		JEWELL MAYHURST S-289	EAGLE DISTRICT	18.0	CONSOLIDATED GAS
8238213		4703302486		108		ROBERT DOUGLASS S-324	UNION	25.0	CONSOLIDATED GAS
8238215		4704102985		108		SARA WITTE S-336	HACKERS CREEK	36.0	CONSOLIDATED GAS
-JOHNSON EXPLORATION CO				RECEIVED:	06/11/82	JA: WV			
8238208		4708505358		103		E V COOKRO #2-N	MURPHY DISTRICT	19.0	CONSOLIDATED GAS
-KAISER ENERGY INC				RECEIVED:	06/11/82	JA: WV			
8238195		4703501617		107-DV		EDRA SIMMONS SUMMERS KEM #112	ELK/POCA	29.0	ROARING FORK GAS
8238197		4703501559		107-DV		ESTEL E SIMMONS KEM #80	ELK/POCA	36.5	ROARING FORK GAS
8238200		4703501592		107-DV		ESTEL E SIMMONS KEM #82	ELK/POCA	29.0	ROARING FORK GAS
8238203		4703501529		103		ESTEL SIMMONS KEM #46	ELK/POCA	22.0	ROARING FORK GAS
8238205		4707901063		107-DV		JOANN PAXTON SUMMERS KEM #124	MIDWAY EXTRA	29.2	ROARING FORK GAS
8238204		4703501606		107-DV		JOHN JOHNSTON KEM #128	ELK/POCA	29.0	ROARING FORK GAS
8238193		4703501607		107-DV		JOHN JOHNSTON KEM #129	ELK/POCA	29.0	ROARING FORK GAS
8238198		4703501568		107-DV		JOHN JOHNSTON KEM #81	ELK/POCA	36.5	ROARING FORK GAS
8238199		4703501569		107-DV		JOHN JOHNSTON KEM #87	ELK/POCA	36.5	ROARING FORK GAS
8238201		4707901060		107-DV		MICHAEL COREY KEM #125	MIDWAY EXTRA	27.0	ROARING FORK GAS
8238206		4707901038		107-DV		MICHAEL COREY KEM #99	MIDWAY EXTRA	36.5	ROARING FORK GAS
8238194		4707901066		107-DV		PAUL JACKSON KEM #140	MIDWAY EXTRA	29.0	ROARING FORK GAS
-KAISER ENERGY INC				RECEIVED:	06/14/82	JA: WV			
8238419		4707901033		107-DV		MICHAEL COREY KEM #69	MIDWAY EXTRA	27.0	ROARING FORK GAS
-KEITH CRIMFIELD				RECEIVED:	06/11/82	JA: WV			
8238219		4701302878		108		JOE CONLEY #3	CHLOE	5.0	CONSOLIDATED GAS
-PACIFIC STATES GAS & OIL INC				RECEIVED:	06/14/82	JA: WV			
8238445		4702102875		108		A C LYNCH #1	GLENVILLE	35.0	EQUITABLE GAS CO
8238429		4702102816		108		L DAVIS #2	GLENVILLE	32.0	EQUITABLE GAS CO
8238442		4702103214		108		O F WOLFE #1	GLENVILLE	33.4	EQUITABLE GAS CO
8238443		4702103036		108		R E HINEY #1	GLENVILLE	38.0	EQUITABLE GAS CO
8238444		4702102996		108		W P BRANNON #1	GLENVILLE	6.2	EQUITABLE GAS CO
-RUSSELL W JOHNSON JR				RECEIVED:	06/14/82	JA: WV			
8238418		4702103847		107-DV		DAVIDSON #1	BIG RUN OF LEADING CR	13.1	COLUMBIA GAS TRAN
-STONEWALL GAS CO INC				RECEIVED:	06/11/82	JA: WV			
8238225		4704900699		103		AMOS #2 88-S	MANNINGTON DISTRICT	11.0	
8238223		4703302668		103		CORDER #2-A 96-S	UNION DISTRICT	2.0	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8238440		4702102875		108		A C LYNCH #1	GLENVILLE	35.0	EQUITABLE GAS CO
8238429		4702102816		108		L DAVIS #2	GLENVILLE	32.0	EQUITABLE GAS CO
8238442		4702103214		108		O F WOLFE #1	GLENVILLE	33.4	EQUITABLE GAS CO
8238443		4702103036		108		R E HINEY #1	GLENVILLE	38.0	EQUITABLE GAS CO
8238444		4702102996		108		W P BRANNON #1	GLENVILLE	6.2	EQUITABLE GAS CO
-RUSSELL W JOHNSON JR				RECEIVED:	06/14/82	JA: WV			
8238418		4702103847		107-DV		DAVIDSON #1	BIG RUN OF LEADING CR	13.1	COLUMBIA GAS TRAN
-STONEWALL GAS CO INC				RECEIVED:	06/11/82	JA: WV			
8238225		4704900699		103		AMOS #2 88-S	MANNINGTON DISTRICT	11.0	
8238223		4703302668		103		CORDER #2-A 96-S	UNION DISTRICT	2.0	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8238224		4703302591		103		CUMBERLEDGE #1A 77-S
8238216		4704103089		103		RINEHART #1 84-S
-SWIFT ENERGY CO				RECEIVED:	06/11/82	JA: WV
8238192		4702103819		107-DV		CLARK #1
8238190		4702103808		107-DV		WELCH #1
8238189		4702103805		107-DV		WELCH #3
8238191		4702103810		107-DV		WELCH #5
-TEXAS INTERNATIONAL PET CORP				RECEIVED:	06/11/82	JA: WV
8238202		4706700576		103		FEDERAL COAL #38
-THE BENATTY CORPORATION				RECEIVED:	06/11/82	JA: WV
8238218		4708505322		107-DV		GOLDIN #2
-UNION DRILLING INC				RECEIVED:	06/11/82	JA: WV
8238217		4709701946		102-2		WILLIAM F OSBURN #2 1488
** BUREAU OF INDIAN AFFAIRS, OSAGE AGENCY, PAWHUSKA,OK						
-BROOKS OIL CO				RECEIVED:	06/14/82	JA: OK 8
8238308		3511300000		108		BLUESTEM #6
8238306		3511300000		108		DYCO #3
8238307		3511300000		108		MARSHALL #1
-DOAK-ASHER CORP				RECEIVED:	06/14/82	JA: OK 8
8238299		3511300000		103		BETTY 1-L
-MADEL & GUSSMAN				RECEIVED:	06/14/82	JA: OK 8
8238300		3511300000		103		CLAREMORE #1-A
8238301		3511300000		103		CLAREMORE #2-A
8238302		3511300000		103		CLAREMORE #3-A
8238303		3511300000		103		CLAREMORE #4-A
8238304		3511300000		103		CLAREMORE #5-A
-TAURUS OIL CORP				RECEIVED:	06/14/82	JA: OK 8
8238309		3511300000		103		EAST ADAMS RANCH 2A
8238310		3511300000		108		POTTER #1B
-THOR ENERGY CORP				RECEIVED:	06/14/82	JA: OK 8
8238298		3511300000		103		BURRIS 4-B
-TRACY OIL & GAS CO				RECEIVED:	06/14/82	JA: OK 8
8238305		3511300000		103		YARBOROUGH #1-B

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FIELD NAME	PROD	PURCHASER
UNION	25.0	
HACKERS CREEK DISTRIC	21.0	CONSOLIDATED GAS
GLENVILLE NORTH	50.0	
GLENVILLE NORTH	56.0	
GLENVILLE NORTH	50.0	
GLENVILLE NORTH	50.0	
TWENTY MILE CREEK	19.0	CABOT CORP
MURPHY DISTRICT	0.0	CONSOLIDATED GAS
BANKS DISTRICT	23.0	COLUMBIA GAS TRAN
	19.0	PHILLIPS PETROLEU
	18.0	PHILLIPS PETROLEU
	23.0	PHILLIPS PETROLEU
SOUTH BARNSDALL 330'	45.6	PHILLIPS PETROLEU
PENN CREEK	5.0	PHILLIPS PETROLEU
PENN CREEK	6.0	PHILLIPS PETROLEU
PENN CREEK	8.0	PHILLIPS PETROLEU
PENN CREEK	7.0	PHILLIPS PETROLEU
PENN CREEK	10.0	PHILLIPS PETROLEU
WILDCAT	82.0	
HICKORY CREEK LEASE	10.4	AJAX OIL & GAS CO
QUAPAW	50.3	CITIES SERVICE GA
MADELENE	65.0	PHILLIPS PETROLEU

OTHER PURCHASERS VOLUME NO :682

8238425	BROOKLYN UNION GAS CO
8238435	BROOKLYN UNION GAS CO
8238436	BROOKLYN UNION GAS CO

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19084 Filed 7-13-82; 8:45 am]

BILLING CODE 6717-01-C

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: July 2, 1982.

JD NO	JA DKT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
CALIFORNIA DEPARTMENT OF CONSERVATION								
-HAMILTON BROTHERS OIL CO			RECEIVED:	06/17/82	JA: CA			
8238536	82-[illegible]-0007	0[illegible]9520476	102-A		WINSHIP #1-15 U AND L	MAINE PRAIRIE GAS	495.0	PACIFIC GAS & ELC
LOUISIANA OFFICE OF CONSERVATION								
-AMERICAN QUASAR PETROLEUM CO			RECEIVED:	06/16/82	JA: LA			
8238498	81-2396	1711321077	102-A		FIRST NATIONAL FARMS #2	RICEVILLE	0.0	CONOCO INC
-BORDEN INC			RECEIVED:	06/16/82	JA: LA			
8238499	81-2608	1710121216	102-A		J J BAILEY III #1	BALDWIN	1440.0	
-FORMAN EXPLORATION COMPANY			RECEIVED:	06/16/82	JA: LA			
8238501	82-451	1709920902	102-A		S L 2810 #1	SIMON PASS	788.8	TEXAS GAS TRANSMI
-LGS EXPLORATION INC			RECEIVED:	06/16/82	JA: LA			
8238500	81-3091	1704720635	102-A		LGS FOLSE #1	LAUREL RIDGE	0.0	
-MAYNARD OIL COMPANY			RECEIVED:	06/16/82	JA: LA			
8238502	82-J298	17[illegible]4703[illegible]	102-A		STATE LEASE 8902 #1	WILLOW GLEN	547.5	SUGAR BOWL GAS CO
MISSISSIPPI OIL & GAS BOARD								
-LOUISIANA LAND & EXPLORATION CO			RECEIVED:	05/20/82	JA: MS			
8238456	4-82-480(2)	2301720024	102-E		LILLIAN P FARNED #1	BACON	135.0	TEXAS EASTERN TRA
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION								
-AMERICAN PENN ENERGY INC			RECEIVED:	06/15/82	JA: NY			
8238472	2691	31[illegible]1315538	107-TF		STATE REFORESTATION AREA #1296	WILDCAT	10.0	COLUMBIA GAS TRAN
8238477	2697	31[illegible]1315540	107-TF		STATE REFORESTATION AREA 2 #1290	WILDCAT	10.0	COLUMBIA GAS TRAN
8238474	2696	31[illegible]1315536	107-TF		STATE REFORESTATION AREA 2 #1291	WILDCAT	10.0	COLUMBIA GAS TRAN
8238475	2699	31[illegible]1315537	107-TF		STATE REFORESTATION AREA 2 #1294	WILDCAT	10.0	COLUMBIA GAS TRAN
8238476	2600	31[illegible]1315539	107-TF		STATE REFORESTATION AREA 2 #1295	WILDCAT	10.0	COLUMBIA GAS TRAN
-ARROWHEAD GAS PRODUCERS INC			RECEIVED:	06/15/82	JA: NY			
8238491	1656	31[illegible]1315828	107-TF		G NELSON #2	ELLICOTT	60.0	COLUMBIA GAS TRAN
8238492	1660	31[illegible]1315806	107-TF		G SALISBURY #1	GERRY	60.0	COLUMBIA GAS TRAN
8238493	1659	31[illegible]1315885	107-TF		R SWANSON #1	ELLICOTT	60.0	COLUMBIA GAS TRAN
-BEREA OIL AND GAS CORPORATION			RECEIVED:	06/15/82	JA: NY			
8238465	2704	31[illegible]1316[illegible]	107-TF		G F BOARDMAN UNIT #2	RIPLEY-MINA	25.0	COLUMBIA GAS TRAN
8238467	2590	3101316708	107-TF		L FORBES UNIT #2	GERRY	21.0	COLUMBIA GAS TRAN
8238467	2664	31[illegible]1316217	107-TF		N Y S REF AREA #10 - WELL #4	GERRY	30.0	COLUMBIA GAS TRAN
8238464	2668	3101315353	107-TF		N Y S REFORESTATION #10 - WELL #1	GERRY	10.0	COLUMBIA GAS TRAN
8238461	2671	3101315356	107-TF		N Y S REFORESTATION #10 - WELL #5	GERRY	10.0	COLUMBIA GAS TRAN
8238468	2672	31[illegible]1315357	107-TF		N Y S REFORESTATION #10 - WELL #6	GERRY	10.0	COLUMBIA GAS TRAN
8238466	2663	3101316259	107-TF		NEWTON BROTHERS #3	WILDCAT	20.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

JD NO	DK DAT	API NO	D SEC(1) SEC(2) WELL NAME	FIELD NAME	PROD	PURCHASER
8238462	2671	3101315355	107-TF NYS REFORESTATION AREA #10 WELL #3	GERRY	10.0	COLUMBIA GAS TRAN
8238463	2669	3101315354	107-TF NYS REFORESTATION AREA 10 WELL #2	GERRY	10.0	COLUMBIA GAS TRAN
8238494	2569	3101315360	107-TF ROBERT BARGER #1	WILDCAT	0.0	COLUMBIA GAS TRAN
8238490	2556	3101316063	107-TF T REARICK UNIT #2	GERRY	0.1	COLUMBIA GAS TRAN
-DESERT GAS EXPLORATION CO INC			RECEIVED: 06/15/82 JA: NY			
8238471	2979	3101312717	103 SZPAK #1	FREDONIA REEF	5.0	NATIONAL FUEL GAS
-ENVIROGAS INC			RECEIVED: 06/15/82 JA: NY			
8238495	2392	3101315284	107-TF D HITTL #2	LAKESHORE	18.0	NATIONAL FUEL GAS
8238472	2752	3101316059	107-TF O BROEME #1	WILDCAT	18.0	COLUMBIA GAS TRAN
8238496	2455	3101316572	107-TF S KURGAN #1	LAKESHORE	18.0	NATIONAL FUEL GAS
-OILMARK & CO INC			RECEIVED: 06/15/82 JA: NY			
8238468	2436	3101314474	107-TF DECK #1	LAKESHORE	20.0	COLUMBIA GAS TRAN
8238470	2426	3101316035	107-TF G WINCH #1	LAKESHORE	20.0	COLUMBIA GAS TRAN
8238469	2450	3101314628	107-TF SMITH #1	STEBBINS CORNERS	25.0	COLUMBIA GAS TRAN
-ROBERT D CHARLEBOIS			RECEIVED: 06/15/82 JA: NY			
8238483	1963	3101315266	107-TF WESTFIELD WATERSHED 31-013 15266	LAKESHORE	44.0	COLUMBIA GAS TRAN
8238489	1968	3101314785	107-TF WESTFIELD WATERSHED 31-013-14785	LAKESHORE	44.5	COLUMBIA GAS TRAN
8238488	1967	3101314806	107-TF WESTFIELD WATERSHED 31-013-14806	LAKESHORE	54.8	COLUMBIA GAS TRAN
8238487	1958	3101314899	107-TF WESTFIELD WATERSHED 31-013-14899	LAKESHORE	44.0	COLUMBIA GAS TRAN
8238484	1964	3101315038	107-TF WESTFIELD WATERSHED 31-013-15038	LAKESHORE	60.0	COLUMBIA GAS TRAN
8238485	1965	3101315193	107-TF WESTFIELD WATERSHED 31-013-15193	LAKESHORE	44.0	COLUMBIA GAS TRAN
8238486	1966	3101315247	107-TF WESTFIELD WATERSHED 31-013-15247	LAKESHORE	44.0	COLUMBIA GAS TRAN
-TEEPEE PETROLEUMS INC			RECEIVED: 06/15/82 JA: NY			
8238482	2655	3101315483	107-TF HOSTETTLER #1	MAYVILLE	18.0	COLUMBIA GAS TRAN
8238478	2654	3101315481	107-TF HOUGHTON #2	MAYVILLE	18.0	COLUMBIA GAS TRAN
8238480	2652	3101315478	107-TF KENNETH KOULH #1	MAYVILLE	18.0	COLUMBIA GAS TRAN
8238481	2651	3101315484	107-TF SMISTEK #1	MAYVILLE	18.0	COLUMBIA GAS TRAN
8238479	2653	3101314569	107-TF WM PARKER #2	MAYVILLE	18.0	COLUMBIA GAS TRAN
-TEMPLETON ENERGY INC			RECEIVED: 06/15/82 JA: NY			
8238458	3033	3101313768	107-TF A SWANSON UNIT #560	LAKESHORE	12.0	COLUMBIA GAS TRAN
8238456	3028	3101313763	107-TF MAYVILLE CONS CLUB UNIT #555	LAKESHORE	21.0	COLUMBIA GAS TRAN
8238457	3142	3101313782	107-TF P BECK UNIT #578	LAKESHORE	185.0	COLUMBIA GAS TRAN
8238459	3046	3101314547	107-TF R MANSFIELD UNIT #584	LAKESHORE	12.0	COLUMBIA GAS TRAN
OKLAHOMA CORPORATION COMMISSION						
-AMOCO PRODUCTION CO			RECEIVED: 06/16/82 JA: OK			
8238585	19157	3501521303	107-DP MCCLAIN UNIT #1	SPRINGER-BRITT	0.0	SOUTHERN NATURAL
-ANADARKO PRODUCTION COMPANY			RECEIVED: 06/14/82 JA: OK			
8238524	17460	3500722232	102-A JORMAN "B" #1	FLORIS	55.0	PANHANDLE EASTERN
-ANDOVER OIL COMPANY			RECEIVED: 06/16/82 JA: OK			
8238600	17523	35 1122791	102-2 103 ROTHER #3-2		180.0	DELHI GAS PIPELIN
-ARAPAHO PETROLEUM INCORPORATED			RECEIVED: 06/14/82 JA: OK			
8238527	14375	35 7322865	103 STORM 1-23	SOONER TREND	41.0	PHILLIPS PETROLEU
-B & H EXPLORATION CO			RECEIVED: 06/16/82 JA: OK			
8238615	14379	3514321371	102-2 COMEA #1	UNNAMED	2.3	DIAMOND S GAS SYS
-BEARD OIL COMPANY			RECEIVED: 06/16/82 JA: OK			
8238626	14936	3507322946	103 FRANCES #1	SOONER TREND-DOVER EA	40.0	PHILLIPS PETROLEU
8238627	14937	3507323040	103 HOBBS "A" #1	SOONER TREND-DOVER EA	50.0	CITIES SERVICE GA
-BETTIS BOYLE & STOVALL			RECEIVED: 06/16/82 JA: OK			
8238563	5326	3501500000	108 NANNIE RIGNEY #1	E CEMENT	13.7	OKLAHOMA NATURAL
-BILLINGS & PARRISH PRODUCTION CO			RECEIVED: 06/14/82 JA: OK			
8238525	13946	3503320502	103 PETTY #1	HULEN	25.0	LONE STAR GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8238526	13947	35[illegible]3320471		103		UNICE #2	BULEN	200.0	LONE STAR GAS CO
-BOGERT OIL CO				RECEIVED:	06/15/82	JA: OK			
8238555	14859	35[illegible]7321245		103		JAMES #1-26	SOONER TREND	30.0	EASON OIL CO
8238554	14858	35[illegible]7321245		103		JAMES #2-26	SOONER TREND	30.0	EASON OIL CO
-BOGERT OIL CO				RECEIVED:	06/16/82	JA: OK			
8238566	13876	35 7321243		103		CHLOUBER 5-16	SOONER TREND	300.0	PHILLIPS PETROLEU
-BRAXTON OIL AND GAS CORP				RECEIVED:	06/14/82	JA: OK			
8238539	14961	35[illegible]7122337		103		OKLAHOMA #1	EAST VERNON	10.0	CHASE GATHERING S
-BROWN & BORELLI INC				RECEIVED:	06/14/82	JA: OK			
8238534	13576	3507323103		103		ALIG #1	NORTH OKARCHE	164.3	CONOCO INC
8238521	14735	35[illegible]722131		103		KRUGER #36-1	S E RICHLAND	91.3	CONOCO INC
8238533	13575	3507322982		103		ONEILL #1	S W OF DOVER	58.4	PANHANDLE EASTERN
-C J CASSELMAN				RECEIVED:	06/14/82	JA: OK			
8238514	14879	3511123336		103		BELISLE #1B	MORRIS	0.0	
-C J CASSELMAN				RECEIVED:	06/15/82	JA: OK			
8238557	14878	3511123340		103		BELISLE #2B	MORRIS	18.3	
8238558	14880	3511123388		103		DONEGHY #1A	MORRIS	18.3	
8238559	14881	3511123389		103		DONEGHY #2A	MORRIS	18.3	PHILLIPS PETROLEU
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	06/14/82	JA: OK			
8238528	14552	3508300000		103		ABERDEEN #5	CASHION	19.0	CITIES SERVICE GA
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	06/16/82	JA: OK			
8238567	13878	3505900000		108		GONSER #3	LAVERNE	20.0	MICHIGAN WISCONSI
-CIMARRON EXPLORATION CO				RECEIVED:	06/14/82	JA: OK			
8238519	14797	3511721268		103		WARD #1-B	HALLETT	11.0	
-CITIES SERVICE COMPANY				RECEIVED:	06/16/82	JA: OK			
8238603	13149	3505121093		107-DP		MCKENNA "A" #1	WEST BRADLEY	75.0	
-CLARK RESOURCES INC				RECEIVED:	06/15/82	JA: OK			
*8238547	15533	3504722840		103		TABORSKY VANCE 11-3	SOONER TREND	57.0	PANHANDLE EASTERN
8238544	14948	3507323362		103		YEOMAN 19-1	SOONER TREND	104.0	CONOCO INC
-CLIFFORD RESOURCES INC				RECEIVED:	06/16/82	JA: OK			
8238628	14939	3509300000		103		AUDREY #1-2B	MENO	36.0	UNION OF TEXAS PE
-COTTON PETROLEUM CORPORATION				RECEIVED:	06/15/82	JA: OK			
8238550	17423	3501521230		102-2		VIOLA CONSTIEN #1	HINTON S W	200.0	
-DALCO PETROLEUM INC				RECEIVED:	06/16/82	JA: OK			
8238582	15004	3507322420		103		GARMS #1	SOONER TREND	91.3	CITIES SERVICE GA
8238581	15005	3507322480		103		HUGHES #1	SOONER TREND	91.3	CITIES SERVICE GA
8238583	15003	35[illegible]7322738		103		KEITH #1	SOONER TREND	91.3	CITIES SERVICE GA
8238562	15002	3507322416		103		KING #1	SOONER TREND	91.3	CITIES SERVICE GA
8238594	15001	3507322483		103		MAJOR #1	SOONER TREND	91.3	CITIES SERVICE GA
8238595	15000	3507322447		103		NANCY #1	SOONER TREND	91.3	CITIES SERVICE GA
8238586	14999	3507322477		103		NELLE #2	SOONER TREND	91.3	CITIES SERVICE GA
8238588	14997	3507322863		103		PAUL #1-A	SOONER TREND	91.3	DALCO PETROLEUM U
8238587	14998	3507322481		103		WALTER #1	SOONER TREND	0.0	CITIES SERVICE GA
-DAVIS OIL COMPANY				RECEIVED:	06/16/82	JA: OK			
8238592	15030	3509520395		103		O'BANION #1	MADILL	0.0	PIONEER GAS PROD
8238591	15029	3501721927		103		STROUD #1	KARNES	0.0	DELHI GAS PIPELIN
-DLB ENERGY CORP				RECEIVED:	06/16/82	JA: OK			
8238584	15034	3507323359		103		GAYLE #1	SOONER TREND	350.0	PHILLIPS PETROLEU
-EARLSBORO OIL AND GAS CO INC				RECEIVED:	06/15/82	JA: OK			
8238561	14895	35[illegible]9322256		103		GIFFORD #1-B	RINGWOOD	146.0	AMINOIL USA INC
8238560	14894	3516121188		103		PARKER #1-2	OAKDALE	110.0	AMINOIL USA INC
-EARLSBORO OIL AND GAS CO INC				RECEIVED:	06/16/82	JA: OK			
8238613	14895	3509322303		103		BOUDREAU #1-18	RINGWOOD	150.0	AMINOIL U S A INC

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8238627	14938	3509300000		103		AUDREY #1-2A	MENO	36.0	UNION OF TEXAS PE
-EASON OIL CO				RECEIVED:	06/16/82	JA: OK			
8238552	14857	3507321245		103		JAMES #1-26	SOONER TREND	30.0	EASON OIL CO
8238553	14856	3507321245		103		JAMES #2-26	SOONER TREND	30.0	EASON OIL CO
-EASON OIL CO				RECEIVED:	06/16/82	JA: OK			
8238565	13875	3507321243		103		CHLOUBER 5-16	SOONER TREND	300.0	PHILLIPS PETROLEU
-EDMISTON OIL CO INC				RECEIVED:	06/14/82	JA: OK			
8238538	14960	3507122337		103		OKLAHOMA #1	EAST VERNON	10.0	CHASE GATHERING S
-ENSERCH EXPLORATION INC				RECEIVED:	06/14/82	JA: OK			
8238535	14962	3511123337		103		BELISLE #1B	MORRIS	0.0	
-ENSERCH EXPLORATION INC				RECEIVED:	06/15/82	JA: OK			
8238556	14877	3511123340		103		BELISLE #2B	MORRIS	18.3	
8238560	14883	3511123388		103		DONEGHY #1A	MORRIS	18.3	
8238561	14882	3511123389		103		DONEGHY #2A	MORRIS	18.3	PHILLIPS PETROLEU
-ENSERCH EXPLORATION INC				RECEIVED:	06/14/82	JA: OK			
8238516	14878	3511123336		103		BELISLE #1B	MORRIS	0.0	
-ENSERCH EXPLORATION INC				RECEIVED:	06/15/82	JA: OK			
8238557	14876	3511123340		103		BELISLE #2B	MORRIS	18.3	
8238558	14884	3511123388		103		DONEGHY #1A	MORRIS	18.3	
8238559	14885	3511123389		103		DONEGHY #2A	MORRIS	18.3	PHILLIPS PETROLEU
-EXXON CORPORATION				RECEIVED:	06/14/82	JA: OK			
8238515	14876	3511123336		103		BELISLE #1B	MORRIS	0.0	
-EXXON CORPORATION				RECEIVED:	06/15/82	JA: OK			
8238555	14875	3511123340		103		BELISLE #2B	MORRIS	18.3	
8238562	14887	3511123388		103		DONEGHY #1A	MORRIS	18.3	
8238563	14888	3511123389		103		DONEGHY #2A	MORRIS	18.3	PHILLIPS PETROLEU
-FAIRWAY OIL COMPANY				RECEIVED:	06/16/82	JA: OK			
8238596	15031	3509520395		103		O'BANION #1	MADILL	0.0	PIONEER GAS PROD
8238590	15032	3501721927		103		STROUD #1	KARNES	0.0	DELHI GAS PIPELIN
-FAIRWAY OIL COMPANY				RECEIVED:	06/16/82	JA: OK			
8238585	15033	3507323359		103		GAYLE #1	SOONER TREND	350.0	PHILLIPS PETROLEU
-FIRST ENERGY CORP				RECEIVED:	06/15/82	JA: OK			
8238564	14893	3516121188		103		PARKER #1-2	OAKDALE	110.0	AMINOIL USA INC
-FIRST ENERGY CORP				RECEIVED:	06/16/82	JA: OK			
8238612	14896	3509322303		103		BOUDREAU #1-18	RINGWOOD	150.0	AMINOIL U S A INC

JD NO	JA DKT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-EL PASO NATURAL GAS COMPANY			RECEIVED:	06/16/82	JA: OK			
8236596	165 5	351492[illegible]	102-4 103		PARKS MELVIN #1	ELK CITY GRANITE WASH	306.0	EL PASO NATURAL G
-ENSERCH EXPLORATION INC			RECEIVED:	06/16/82	JA: OK			
8238587	14923	[illegible]	108		A G JOHNSON #1	BURNS FLAT	21.0	NATURAL GAS PIPEL
-EXXON CORPORATION			RECEIVED:	06/16/82	JA: OK			
8236572	19185	351292[illegible]518	107-DP		SAYRE RANCH "C" #1	REYDON S W (UPPER MOR	88.0	EL PASO NATURAL G
-FOREST OIL CORPORATION			RECEIVED:	06/16/82	JA: OK			
8236583	19178	351792[illegible]532	107-DP		ARMSTRONG #1	SOUTH CHEYENNE	700.0	EL PASO NATURAL G
-GETTY OIL COMPANY			RECEIVED:	06/14/82	JA: OK			
*8236508	14965	3513722773	103		MINGER #3 (HUNTON)	SHO-VEL-TUM	106.0	OKLAHOMA NATURAL
*8236507	14964	3513722773	103		MINGER #3 (SYCAMORE)	SHO-VEL-TUM	250.0	OKLAHOMA NATURAL
-GRAND RESOURCES INC			RECEIVED:	06/14/82	JA: OK			
8236532	12759	35 252 474	103		SPENCER #1-29	KEYES	300.0	PANHANDLE EASTERN
-HAHN PRODUCTION CO			RECEIVED:	06/16/82	JA: OK			
8236564	9139	35 7[illegible]	108		TAYLOR #1	SOONER TREND	10.0	CITIES SERVICE GA
-HAZELWOOD PRODUCTION & EXPLORATION			RECEIVED:	06/15/82	JA: OK			
8236552	17591	35 7121449	102-4 103		AVERY #1	DILWORTH	45.6	CITIES SERVICE GA
-HUNGERFORD OIL & GAS INC			RECEIVED:	06/14/82	JA: OK			
8236511	14947	35 4722256	103		BAKER #2	NORTHEAST ELKHORN	0.0	AMINOIL USA INC
-J L THOMAS ENGINEERING INC			RECEIVED:	06/15/82	JA: OK			
8236538	14917	35 932226[illegible]	103		STEVENS #1	SOONER TREND	63.0	PANHANDLE EASTERN
-JAKE L HAMON			RECEIVED:	06/15/82	JA: OK			
8236556	14869	35[illegible]722304	103		CASE #1	UNASSIGNED	124.0	PHILLIPS PETROLEU
-JET OIL COMPANY			RECEIVED:	06/14/82	JA: OK			
8236574	14992	35 722[illegible]44	103		SOVO #1	STERLING	451.0	CITIES SERVICE GA
-JOHN A TAYLOR			RECEIVED:	06/16/82	JA: OK			
8236593	15013	35 4921526	103		SMITH #1	GOLDEN TREND	0.0	WARREN PETROLEUM
-JONES & PELLOW OIL CO			RECEIVED:	06/14/82	JA: OK			
8236529	14836	35 19[illegible]1859	108		DRIVER 21-1	S E JOINER	4.0	AMINOIL USA INC
-JONES & PELLOW OIL CO			RECEIVED:	06/16/82	JA: OK			
8236610	14958	3515321282	108		CATLETT #1	CEDERDALE N E	4.0	NORTHERN NATURAL
8236564	14925	35 731[illegible]	108		CORBIN #1	SOONER TREND	15.0	CONOCO INC
8236570	14929	35 7321575	108		FRANKLIN MATTI #1	SOONER TREND	11.0	PHILLIPS PETROLEU
8236568	14927	35[illegible]700090	108		HAHN #1	DIBBLE NORTH	10.0	SUN OIL CO
8236609	14959	35 153[illegible]	108		HALL A #1	N E ALDEN	13.0	NATURAL GAS PIPEL
8236575	14935	35.452[illegible]30H	108		HAMAKER 26-1	GAGE	5.0	NORTHERN NATURAL
8236571	14930	35[illegible]321003	108		OLIVER WHARTON #1	RINGWOOD	6.0	AMINOIL USA INC
8236627	14957	35 [illegible]321464	108		PRICE 6-1	SW LAMBERT	14.0	AMINOIL USA INC
8236577	14933	35[illegible]1720247	108		ROBBERSON 10-3	MUSTANG	7.0	PARTNERSHIP PROPE
8236573	14932	35 1720341	108		ROBBERSON 10-6	MUSTANG	2.0	PARTNERSHIP PROPE
8236578	14941	35 1720243	108		ROBBERSON 33-1	MUSTANG	9.0	PARTNERSHIP PROPE
8236572	14931	35 731[illegible]08	108		SLOAN #1	SOONER TREND	14.0	CONOCO INC
8236576	14934	35.4529264	108		SUTTER #1	GAGE	16.9	NORTHERN NATURAL
-KAISER-FRANCIS OIL COMPANY			RECEIVED:	06/16/82	JA: OK			
8238579	14967	3515120545	108		JONES #1	WILDCAT	2.0	DELHI GAS PIPELIN
-LOGOS OIL INC			RECEIVED:	05/15/82	JA: OK			
8238545	14951	351[illegible]551	103		STAFFORD 1-A	NORTH PHAROAH	185.4	SWAB CORP
-LOGOS OIL INC			RECEIVED:	06/16/82	JA: OK			
8238614	14958	3510720547	103		MATTHEWS 1-A	PHAROAH	26.3	SWAB CORP
8238624	14957	351 72[illegible]	108		MATTHEWS 2-A	PHAROAH	7.5	SWAB CORP
8238605	14955	351[illegible]720552	103		MATTHEWS 4-A	PHAROAH	42.1	SWAB CORP
8238606	14954	3510720641	103		PHAROAH 1-A	PHAROAH	43.9	SWAB CORP
8238619	14953	3510720642	108		PHAROAH 2-A	PHAROAH	5.6	SWAB CORP

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-LUBELL OIL CO				RECEIVED:	06/16/82	JA: OK			
8238590	15014	3506321516		103		LUBELL #1-25 KEY	WILDCAT-YEAGER AREA	200.0	
-MAGIC CIRCLE ENERGY CORP				RECEIVED:	06/14/82	JA: OK			
8238520	14737	3509322134		103		NEWTON #2	CLEO SPRINGS	0.0	OKLAHOMA NATURAL
-MAJOR OIL CORP				RECEIVED:	06/16/82	JA: OK			
8238612	14876	3509322197		103		REA #2-18 LTD (REA-MARRS #1 LTD)	MENO	75.0	PIONEER GAS PRODU
-MARLIN OIL CORPORATION				RECEIVED:	06/14/82	JA: OK			
8238531	12356	3500700000		108		ADAMS #1	MOCHANE-LAVERNE	13.0	NORTHERN NATURAL
-NATURAL GAS ANADARKO INC				RECEIVED:	06/16/82	JA: OK			
8238601	17521	3500722211		102-4		MILLIKAN TRUST 2-24	MARMATON	90.0	MICHIGAN-WISCONSI
-OK-TEX OIL & GAS INC				RECEIVED:	06/15/82	JA: OK			
8238548	17322	3513723066		102-4	103	HANSON OK-TEX #1	SHO-VEL-TUM	182.0	MOBIL OIL CORP
-ONEOK EXPLORATION CO				RECEIVED:	06/14/82	JA: OK			
8238512	14943	3501700000		103		SCHEIN #1	NORTH YUKON	50.0	PHILLIPS PETROLEU
-P-T LTD #1				RECEIVED:	06/14/82	JA: OK			
8238510	14980	3504722764		103		KENNEDY 22-1	SOONER TREND	35.0	WELLHEAD ENTERPRI
-PETRO-DAVIS INC				RECEIVED:	06/16/82	JA: OK			
8238611	14873	3506300000		103		MARGIE #1		0.0	EASON OIL CO
-PETROMARK EXPLORATION INC				RECEIVED:	06/14/82	JA: OK			
*8238515	14812	3507321259		103		MCCANN 30-1	SOONER TREND	75.0	EXXON CO
8238516	14811	3509322360		103		ZORRO 16-2	RINGWOOD	75.0	CITIES SERVICE GA
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	06/14/82	JA: OK			
8238517	14809	3501521228		103		EAST BINGER UNIT #44-2	MARCHAND	0.0	OKLAHOMA NATURAL
-PHOENIX RESOURCES COMPANY				RECEIVED:	06/16/82	JA: OK			
8238620	14910	3509322149		103		BARNES 2-35	WOODWARD AREA	108.0	MICHIGAN WISCONSI
-R & R EXPLORATION CO INC				RECEIVED:	06/14/82	JA: OK			
8238518	14799	3515121163		103		BLISS #2-17 (UNASSIGNED)	NE LOVEDALE	90.0	EL GRANDE PIPE LI
-RALPH E PLOTNER OIL & GAS INVEST IN				RECEIVED:	06/14/82	JA: OK			
8238513	14899	3501722051		103		KREMEIER #1	WEST PIEDMONT	27.0	PHILLIPS PETROLEU
-RICKS EXPLORATION CO				RECEIVED:	06/14/82	JA: OK			
8238522	12144	3507322631		102-4		LOOSEN 32A	WEST OKARCHE	431.0	PHILLIPS PETROLEU
-RICKS EXPLORATION CO				RECEIVED:	06/15/82	JA: OK			
8238546	15123	3502720574		103		HANSMEYER #15-A	N W NORMAN	67.0	SUN GAS CO
-RICKS EXPLORATION CO				RECEIVED:	06/16/82	JA: OK			
8238589	15007	3515321239		103		BAIRD 27A	WEST SHARON	32.0	PHILLIPS PETROLEU
-SADDLEBACK OIL CO				RECEIVED:	06/15/82	JA: OK			
8238549	17346	3514700000		102-2		MOSES #2		18.0	MARION PIPELINE C
-SAMEDAN OIL CORPORATION				RECEIVED:	06/16/82	JA: OK			
8238618	14994	3501722089		103		CROWLEY #2	NO NAME	20.0	PHILLIPS PETROLEU
8238616	14996	3501721930		103		LORENZEN #1	NO NAME	140.0	PHILLIPS PETROLEU
8238617	14995	3501722066		103		MCDONALD #1-12	NO NAME	180.0	PHILLIPS PETROLEU
-SAMSON RESOURCES COMPANY				RECEIVED:	06/14/82	JA: OK			
8238523	13989	3507920413		102-4	103	BLACKMAN #1	POCOLA	346.8	ARKANSAS LOUISIAN
-SAMSON RESOURCES COMPANY				RECEIVED:	06/16/82	JA: OK			
8238597	16982	3512120896		102-4	103	BOARDWALK #1	SAVANNA	1186.2	ARKANSAS LOUISIAN
-SANCHEZ-OBRIEN OIL & GAS CORP				RECEIVED:	06/16/82	JA: OK			
8238574	14819	3510321225		103		BRIDAL #1 API NO 35 103 21225	N W PERRY (SANDY DOLO	500.0	ATLANTIC RICHFIEL
-SANTA FE ENERGY PRODUCTS CO				RECEIVED:	06/16/82	JA: OK			
8238598	17513	3512920564		102-2		CALVERT #1-23	E CHEYENNE	266.8	EL PASO NATURAL G
-SAXON OIL COMPANY				RECEIVED:	06/16/82	JA: OK			
8238565	11119	3503120676		107-DP		TEN BEARS #1		0.0	MICHIGAN-WISCONSI
-SOLO OIL INC				RECEIVED:	06/16/82	JA: OK			
8238599	17516	3511721416		102-2		AKERS #14-2	WEST SKEEDEE	75.0	COLORADO GAS COMP

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

JD NO	JA DKT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-SOUTHFORK OIL CO			RECEIVED: 06/15/82		JA: OK			
8238540	14932	3514321183	103		GAZALSKI #1	WILDCAT	38.3	PHILLIPS PETROLEU
8238539	14931	3514321243	103		GAZALSKI #2	WILDCAT	91.3	PHILLIPS PETROLEU
-ST JOE PETROLEUM (US) CORP			RECEIVED: 06/14/82		JA: OK			
8238506	14986	3510321424	103		MALZAHN #2	UNDESIGNATED	189.5	ARCO OIL & GAS CO
-SUNDANCE ENERGY CORP			RECEIVED: 06/16/82		JA: OK			
8238621	14914	3504721678	103		GUNGOLL #1	N E ENID	27.0	PANHANDLE EASTERN
-TENNECO OIL COMPANY			RECEIVED: 06/14/82		JA: OK			
8238505	14987	3508722148	103		RATZLAFF #3-8	DOMBEY	36.0	KANSAS NEBRASKA N
-TEXACO INC			RECEIVED: 06/16/82		JA: OK			
8238578	14986	3507100000	108		E B CORNEIL #1	BLACKWELL WEST	8.6	ARKANSAS LOUISIAN
-TEXAS INTERNATIONAL PET CORP			RECEIVED: 06/15/82		JA: OK			
8238551	19082	3504321382	107-DP		DEAN #1-A	WILDCAT	0.0	
-TEXLAND PETROLEUM INC			RECEIVED: 06/15/82		JA: OK			
8238537	17508	3512120827	102-4 103		STEVE SHIELDS #1	KIOWA SOUTHWEST	365.0	ARKANSAS LOUISIAN
-THE WIL-MC OIL CORP			RECEIVED: 06/15/82		JA: OK			
8238541	14903	3510320970	103		BEZDICEK #1	SOUTH LONE ELM	54.0	AMINOIL USA INC
8238542	14935	3510321451	103		GOTTSCHALK #1	SOUTH LONE ELM	18.0	AMINOIL USA INC
8238543	14936	3510321421	103		MILLER #2	EAST POLO	18.0	EL GRANDE PIPELIN
-UNIVERSAL RESOURCES CORPORATION			RECEIVED: 06/16/82		JA: OK			
8238622	14929	3509322219	103		KIRKENDALL 1-7		0.0	PHILLIPS PETROLEU
8238623	14940	3507323382	103		PAT 1-13		0.0	PHILLIPS PETROLEU
-W T FAIL			RECEIVED: 06/14/82		JA: OK			
8238535	14108	35-5920263	108		BLACKWELL #1	N E BUFFALO	6.4	
-WESSELY ENERGY CORPORATION			RECEIVED: 06/16/82		JA: OK			
8238624	14931	3509321184	138		FLAMING #1	DANE	8.0	DELHI GAS PIPELIN
8238625	14932	3504320636	108		SARKEYS #1	WEST WEBB	9.0	DELHI GAS PIPELIN
-WHEATLAND OIL CO			RECEIVED: 06/15/82		JA: OK			
8238553	14842	3504722500	103		WILMOT #1		1.1	ARCO OIL & GAS CO
-WORLD OIL INC			RECEIVED: 06/14/82		JA: OK			
8238530	13717	3511920727	108		MILLS #1	MARCH	18.0	SUN GAS CO
UTAH DIVISION OF OIL,GAS, & MINING								
-PAGE PETROLEUM INC			RECEIVED: 06/18/82		JA: UT			
8238655	K 142-2	43-[illegible]	103		UNIT #2-20C5	ALTAMONT	0.0	KOCH HYDROCARBON
WEST VIRGINIA DEPARTMENT OF MINES								
-ALLEGHENY & WESTERN ENERGY CORP			RECEIVED: 06/16/82		JA: WV			
8238646		4708703474	103		D S PAINTER #1	WALTON DISTRICT	0.0	COLUMBIA GAS TRAN
8238647		47-8703474	107-DV		D S PAINTER #1	WALTON DISTRICT	0.0	COLUMBIA GAS TRAN
8238648		4703903766	103		L ASHBY #1	POCA DISTRICT	0.0	ROARING FORK GAS
8238650		4703903766	107-DV		L ASHBY #1	POCA DISTRICT	0.0	ROARING FORK GAS
8238649		4703903774	103		L ASHBY #2	POCA DISTRICT	36.0	ROARING FORK GAS
8238651		4703903774	107-DV		L ASHBY #2	POCA DISTRICT	36.0	ROARING FORK GAS
-BORE INC			RECEIVED: 06/16/82		JA: WV			
8238644		47-7301301	107-DV		BARKWILL #1	ST MARYS	44.0	COLUMBIA GAS TRAN
-CARSON PETROLEUM CORP			RECEIVED: 06/17/82		JA: WV			
8238654		4702123426	108		FIDDLER #1	ELLIS RUN	35.0	CONSOLIDATED GAS
-CONSOLIDATED GAS SUPPLY CORPORATION			RECEIVED: 06/16/82		JA: WV			
8238639		4703302618	103		ERNEST E SAPP WN-12696	CLAY	1.7	GENERAL SYSTEM PU
8238641		4707903093	103		POCAHONTAS LAND CORP WN-12721	BARKERS RIDGE	7.3	GENERAL SYSTEM PU

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JD NO	JA DKT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8238640		4710900823	103		POCAHONTAS LAND CORP WN-12722	BARKERS RIDGE	9.3	GENERAL SYSTEM PU
8238641		4710900848	103		WN-12695	BARKERS RIDGE	2.2	GENERAL SYSTEM PU
-ENERGY UNLIMITED INC			RECEIVED:	06/16/82	JA: WV			
8238636		4710721153	103		BAYLES-CORBIN #3	UNION	5.0	CONSOLIDATED GAS
8238637		4710721154	103		BAYLES-CORBIN #4	UNION DISTRICT	5.0	CONSOLIDATED GAS
8238638		4707321211	103		C ROGERS #1	GRANT DISTRICT	5.0	CONSOLIDATED GAS
8238632		4707320920	103		J W ELLIOTT #2	GRANT	5.0	CONSOLIDATED GAS
8238631		4707320919	103		LAMBERT-ELLIOTT UNIT #1	GRANT	10.0	CONSOLIDATED GAS
8238633		4707320921	103		NORRIS #1	GRANT	4.0	CONSOLIDATED GAS
8238634		4707320974	103		ROBERT HARTLEBEN #1	GRANT	5.0	CONSOLIDATED GAS
8238635		4710721092	103		STEPHENS-ROBINSON UNIT #1	UNION DISTRICT	5.0	CONSOLIDATED GAS
-FMF OIL & GAS PROPERTIES			RECEIVED:	06/16/82	JA: WV			
8238653		47 8303394	102-4		ANDERSON #1	ROARING CREEK DISTRIC	36.3	COLUMBIA GAS TRAN
8238630		4708300395	102-4		RICOTILLI #1	ROARING CREEK	45.0	COLUMBIA GAS TRAN
-GULF OIL CORPORATION			RECEIVED:	06/16/82	JA: WV			
8238629		4704121244	108		BAILEY #1	VADIS	6.2	EQUITABLE GAS CO
8238643		4702103227	108		BAILEY "B" #1	WEST GLENVILLE	5.0	CONSOLIDATED GAS
-L & M PETROLEUM INC			RECEIVED:	06/16/82	JA: WV			
8238652		4707321226	107-DV		HIRAM HALL #2	UNION	12.0	COLUMBIA GAS TRAN
-THE BENATTY CORPORATION			RECEIVED:	06/16/82	JA: WV			
8238645		4708505322	103		GOLDIN #2	MURPHY DISTRICT	0.0	CONSOLIDATED GAS

OTHER PURCHASERS VOLUME NO :683

8238507 LONE STAR GAS CO
8238508 LONE STAR GAS CO
8238515 PANHANDLE EASTERN P L CO
8238547 UNION TEXAS NATURAL GAS CORP

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before July 29, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease

Section 107–DP: 15,000 feet or deeper
107–CB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation

Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–19085 Filed 7–13–82; 8:45 am]
BILLING CODE 6717–01–M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: July 2, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
OHIO DEPARTMENT OF NATURAL RESOURCES									
-AMERICAN WELL MANAGEMENT COMPANY			RECEIVED: 06/21/82 JA: OH						
8238657		3405922842	103			107-TF D O HALL #1	JACKSON	18.0	
-ATHA-RICHEY ENERGY GROUP INC			RECEIVED: 06/21/82 JA: OH						
8238661		3400922466	103			107-TF JAMES D HAYES "C" #1	STEWART	14.0	
-BEREA OIL AND GAS CORPORATION			RECEIVED: 06/21/82 JA: OH						
8238663		3415522079	103			107-TF R CALDWELL #2	HARTFORD	0.0	COLUMBIA GAS TRAN
-BILL BLAIR INCORPORATED			RECEIVED: 06/21/82 JA: OH						
8238664		3402920856	103			107-TF FRANK #3	HOMEWORTH	14.0	EAST OHIO GAS CO
8238665		3402920867	103			107-TF SANOR #2	HOMEWORTH	16.0	EAST OHIO GAS CO
8238666		3402920869	103			107-TF SANOR #4	HOMEWORTH	16.0	EAST OHIO GAS CO
-BKM PROSPECTING LTD			RECEIVED: 06/21/82 JA: OH						
8238662		3412122181	107-DV			RALPH BETTINGER #4	ELK	30.8	COLUMBIA GAS TRAN
-BLAZE OIL AND GAS INC			RECEIVED: 06/21/82 JA: OH						
8238667		3416922779	107-TF			A C D C (ST OF OH) #2	APPLE	24.6	COLUMBIA GAS TRAN
-BUCKHORN OIL COMPANY INC			RECEIVED: 06/21/82 JA: OH						
8238672		3407523582	103			107-TF CONNER #4	RICHLAND	20.3	COLUMBIA GAS TRAN
-COASTAL PETROLEUM CORP			RECEIVED: 06/21/82 JA: OH						
8238653		3410322942	107-TF			WESTERN RESERVE #2	WADSWORTH	9.0	COLUMBIA GAS TRAN
-COLUMBIA GAS TRANSMISSION CORP			RECEIVED: 06/21/82 JA: OH						
8238697		3400920009	108			ADAM RUTH SUTTON 706112	SOUTHERN DIST STE OF	1.8	COLUMBIA GAS TRAN
8238678		3400500023	108			AGNES L MCKINLEY 705828	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8238791		3410320333	108			ALBERT F MEYER 706889	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238744		3409300006	108			ALEX MARTIN 702045	NORTHERN DIST STE OF	1.8	COLUMBIA GAS TRAN
8238754		3409300028	108			ALVIN COGHLAN 703409	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238811		3410320312	108			AUDREY O BREWER 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238763		3409320150	108			BAKER FUNERAL HOME 706873	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238727		3407520066	108			BEATRICE STARNER 706772	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238844		3416721313	108			BERNARD P MURDOCK 706564	SOUTHERN DIST STE OF	0.7	COLUMBIA GAS TRAN
8238819		3411500549	108			C MARSHALL LOWE 705557	SOUTHERN DIST STE OF	0.3	COLUMBIA GAS TRAN
8238699		3403920299	108			CARL PENNINGTON 706636	SOUTHERN DIST STE OF	0.4	COLUMBIA GAS TRAN
8238731		3407520245	108			CAROL R STITZLEIN 706765	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238842		3416720655	108			CARROLL J BARRETT 702709	SOUTHERN DIST STE OF	0.2	COLUMBIA GAS TRAN
8238770		3410300019	108			CHARLES A WARNER 702980	NORTHERN DIST STE OF	0.5	COLUMBIA GAS TRAN
8238783		3410320058	108			CHARLES D GECKLER 705961	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8238835		3416300170	108			CHARLES KRUGER 701604	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238705		3405300033	108			CHARLES L HIVELY 703231	SOUTHERN DIST STE OF	0.9	COLUMBIA GAS TRAN
8238758		3409300054	108			CHESTER GIESLOCH 706088	NORTHERN DIST STE OF	0.8	COLUMBIA GAS TRAN
8238767		3410300016	108			CLARE JAMISON 700557	NORTHERN DIST STE OF	1.8	COLUMBIA GAS TRAN
8238858		3416923116	108			CLIFFORD D JOHNSON 705205	NORTHERN DIST STE OF	3.0	COLUMBIA GAS TRAN
8238676		3400500004	108			CLIFFORD FINK 700823	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238824		3412100596	108			CONSOLIDATION COAL 702357	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8238796		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238797		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238798		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238799		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238800		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238801		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238802		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238803		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238804		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238805		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238806		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238807		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238808		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238809		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238810		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238811		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238812		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238813		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238814		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238815		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238816		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238817		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238818		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238819		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238820		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238821		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238822		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238823		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238824		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238825		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238826		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238827		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238828		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238829		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238830		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238831		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238832		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238833		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238834		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238835		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238836		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238837		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238838		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238839		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238840		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238841		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238842		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238843		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238844		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238845		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
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8238847		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238848		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238849		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238850		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238851		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238852		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
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8238856		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238857		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
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8238859		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238860		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238861		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
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8238863		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
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8238867		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
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8238870		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
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8238876		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
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8238879		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238880		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238881		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238882		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
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8238884		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238885		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238886		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
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8238889		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238890		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238891		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238892		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
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8238894		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
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8238898		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238899		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238900		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238901		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238902		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
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8238904		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
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8238906		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238907		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238908		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238909		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238910		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238911		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238912		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238913		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238914		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238915		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238916		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238917		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238918		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238919		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238920		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238921		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238922		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238923		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238924		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238925		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238926		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238927		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238928		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238929		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238930		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238931		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238932		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238933		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238934		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238935		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238936		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238937		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238938		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238939		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238940		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238941		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238942		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238943		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238944		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238945		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238946		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238947		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238948		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238949		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238950		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238951		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238952		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238953		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238954		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238955		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238956		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238957		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238958		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238959		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238960		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238961		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238962		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238963		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238964		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238965		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238966		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238967		3410320312	108			CONSOLIDATION COAL 706122	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238968		3410320312	108			CONSOLIDATION COAL 706122

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8238723		3407520043		108		COYLA G ALLISON 706585	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238735		3407900276		108		CRESSIE BOOTE 703144	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8238782		3410320054		108		CYNTHIA S WILDMAN 703001	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238690		3400900516		108		D G JONES 705169	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238715		3407500390		108		DANIEL M KURTZ 703329	SOUTHERN DIST STE OF	0.6	COLUMBIA GAS TRAN
8238732		3407520248		108		DONALD L BRYSACZ 706875	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238769		3410300018		108		DONALD L FRANK 702652	NORTHERN DIST STE OF	0.6	COLUMBIA GAS TRAN
8238780		3410300017		108		DONALD W GOTTLICK 705806	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8238717		3407500482		108		DONALD W WEARY 705956	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8238733		3407500303		108		DOYLE F STITZLEIN 705855	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8238847		3416900075		108		DUANE KLINE 702943	NORTHERN DIST STE OF	1.0	
8238822		3411900384		108		DUNZWEILER DEYER INC 704839	SOUTHERN DIST STE OF	0.6	COLUMBIA GAS TRAN
8238713		3407500333		108		E D KINSEY 703179	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238805		3410500464		108		E E BREWER 705957	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238837		3416300349		108		EARL L MATTESON 705651	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238821		3411900334		108		EDWARD C LACY 702253	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238766		3410300815		108		EDWARD C SCHULTZ 706589	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238679		3400520046		108		ELDON E SIGRIST 706058	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8238712		3407500323		108		ELI D WENGERD 702482	SOUTHERN DIST STE OF	0.1	COLUMBIA GAS TRAN
8238804		3410500449		108		ELZA LARKINS ETAL 705938	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8238771		3410300020		108		EMMA GIGGS 702985	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238701		3403100184		108		ERNEST FRY 702912	SOUTHERN DIST STE OF	0.8	COLUMBIA GAS TRAN
8238806		3410500481		108		ESTHER DANIELL ETAL 705989	SOUTHERN DIST STE OF	3.0	COLUMBIA GAS TRAN
8238802		3410500441		108		ESTHER PRICE 705894	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238816		3411500428		108		ETHEL & ADDIE REMY 705170	SOUTHERN DIST STE OF	0.5	COLUMBIA GAS TRAN
8238683		3408900183		108		ETHEL L LAVELLE 702350	SOUTHERN DIST STE OF	0.8	COLUMBIA GAS TRAN
8238677		3400500006		108		ETHEL M AUSTIN 701935	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8238841		3416700785		108		ETSEL E THOMPSON 702538	NORTHERN DIST STE OF	0.8	COLUMBIA GAS TRAN
8238759		3409320099		108		EVELYN B BURRER 706393	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238740		3408300024		108		EVERETT M BECKLEY 705861	SOUTHERN DIST STE OF	0.4	COLUMBIA GAS TRAN
8238674		3408500302		108		FARMERS HOME ADM 705330	NORTHERNDIST STE OF 0	1.0	COLUMBIA GAS TRAN
8238719		3407500500		108		FLOYD WACHTEL ETAL 701533	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8238752		3409300016		108		FRANK MALACHOWSKI 705733	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238694		3400900630		108		GENEVRA GUENTHR ETAL 705759	SOUTHERN DIST STE OF	0.5	COLUMBIA GAS TRAN
8238810		3410500593		108		GEORGIA RARDIN ETAL	SOUTHERN DIST STE OF	3.0	COLUMBIA GAS TRAN
8238792		3410300537		108		GERL REALTY DEV CO 705884	NORTHERN DIST STE OF	9.0	COLUMBIA GAS TRAN
8238781		3410320024		108		GERL REALTY DEV CO 705918	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238673		3400500001		108		GLEN D CROSS 705043	NORTHERN DIST STE OF	1.8	COLUMBIA GAS TRAN
8238789		3410320323		108		GLEN D CROSS 706880	NORTHERN DIST STE OF	0.2	COLUMBIA GAS TRAN
8238777		3410300934		108		HAROLD A DEEKS ETAL 705195	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238787		3410320232		108		HARRY J KLEIN 706574	NORTHERN DIST STE OF	0.7	COLUMBIA GAS TRAN
8238730		3407520086		108		HARVEY D SNOW 706894	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238728		3407520067		108		HAZEL ASHER 706776	SOUTHERN DIST STE OF	0.7	COLUMBIA GAS TRAN
8238834		3416300163		108		HELEN M HOLCOMB 700813	SOUTHERN DIST STE OF	0.8	COLUMBIA GAS TRAN
8238818		3411500525		108		HENRY BANTA 705515	SOUTHERN DIST STE OF	0.6	COLUMBIA GAS TRAN
8238734		3407900275		108		HENRY E CAMINK ETAL 701787	SOUTHERN DIST STE OF	1.8	COLUMBIA GAS TRAN
8238827		3412700831		108		HENRY MILLER 705100	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238793		3410500811		108		HOMER H BANKS 700519	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238825		3412720238		108		HOMER R COTTERMAN 706795	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8238687		3400900501		108		HOWARD A JOHNSON 705000	SOUTHERN DIST STE OF	0.4	COLUMBIA GAS TRAN
8238775		3410300029		108		HOWARD MANDLEY ETAL 702387	NORTHERN DIST STE OF	0.3	COLUMBIA GAS TRAN
8238693		3400900584		108		HOWARD STOUT 705607	SOUTHERN DIST STE OF	0.6	COLUMBIA GAS TRAN
8238681		3400522066		108		HOYLAND B AUSTIN 706794	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN

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JD NO	JA DKT	API NO	D SEC(1) SEC(2)	WELL NAME	FIELD NAME	PROC	PURCHASER
8238680		3405520134	108	HOYLAND B AUSTIN 7	NORTHERN DIST STE OF	1.3	COLUMBIA GAS TRAN
8238807		3410500485	108	HUBERT M PRICE 701	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238799		3411500248	108	HUBERT M PRICE 705	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8238851		3416920197	108	IRMA R HINER 70697	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238702		3405500314	108	J D LAND CO 70556	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8238813		3410520086	108	J DILLON CRGSS ETA	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238786		3405900292	108	J O & B L MEHAFFEY	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8238703		3405900111	108	J RICHARD HOLMAN 7	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238765		3410300111	108	JACK L BARNES 7051	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8238785		3410320120	108	JACK L BARNES 7066	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238714		3407500366	108	JACOB J KEIM 7051	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238746		3405900008	108	JAMES COT CARPENTE	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238830		3416300023	108	JAMES D SPEER 70	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238796		3416502263	108	JAMES E GRUESER 70	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238798		3410500201	108	JAMES E LUCAS 7052	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8238845		3416900073	108	JAMES G EWING 7066	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238829		3416300112	108	JAMES H NIPLE 7007	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238795		3410500257	108	JAMES RANDALL NEAL	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238836		3409321102	108	JAMES SCHAFER ADM	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238718		3407500175	108	JANE BROWN ETAL 70	SOUTHERN DIST STE OF	6.5	COLUMBIA GAS TRAN
8238711		3407500202	108	JERRY UHL 70291	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238698		3400920254	108	JOE J C MILLER 702	NORTHERN DIST STE OF	6.6	COLUMBIA GAS TRAN
8238728		3416500502	108	JOHN H ROBINSON 70	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8238750		3409300010	108	JOHN J C MILLER 70	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238726		3407520061	108	JOHN LONTOR 70553	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238747		3409300009	108	JOSEPH L YODER 706	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238790		3411320331	108	JOSEPH MADAK ETAL	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238757		3409300032	108	JOY L DOWMAN 70668	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8238739		3400300010	108	JUNE PATTISON ETAL	SOUTHERN DIST STE OF	0.9	COLUMBIA GAS TRAN
8238695		3400900666	108	K NEIL STANTS ET AL	SOUTHERN DIST STE OF	0.4	COLUMBIA GAS TRAN
8238707		3405900427	108	KENNETH E COMAD 70	SOUTHERN DIST STE OF	4.0	COLUMBIA GAS TRAN
8238828		3411500681	108	KENNETH GEESE 7022	SOUTHERN DIST STE OF	3.0	COLUMBIA GAS TRAN
8238685		3400900491	108	KENNETH MESSERLROAD	SOUTHERN DIST STE OF	0.5	COLUMBIA GAS TRAN
8238784		3411323396	108	LEONARD A SMITH 70	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238692		3400900565	108	LEONARD J MECHLER	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238772		3410300024	108	LOIS M HAYES 70529	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238786		3419320192	108	MABEL L COLBURN 70	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8238704		3405302818	108	MACK GORDON JR 706	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238852		3416920227	108	MANNING C PRIEST 7	NORTHERN DIST STE OF	3.0	COLUMBIA GAS TRAN
8238799		3418503288	168	MARGARET GRUTER 706	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8238788		3418320311	108	MARGARET TITUS 705	NORTHERN DIST STE OF	0.2	COLUMBIA GAS TRAN
8238718		3407600499	108	MARIBY JOHNSON 706	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8238831		3416300031	108	MARION FRANK 70512	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238838		3416330428	198	MARVIN T ROWLAND 7	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238774		3410300027	108	MARY P VERKAMP 7212	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8238761		3409320184	108	MEDINA COUNTY HOME	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8238846		3416900674	108	METRO PARK DIST CO	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238675		3400600003	108	MICHAEL D SLATER 7	SOUTHERN DIST STE OF	6.5	COLUMBIA GAS TRAN
8238722		3407520024	108	MINA F KEENER 7056	SOUTHERN DIST STE OF	0.2	COLUMBIA GAS TRAN
8238741		3408700114	108	MRS WESLEY GUY ETA	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8238797		3410600274	168	MYLO CO 70571	SOUTHERN DIST STE OF	1.3	COLUMBIA GAS TRAN
8238736		3407900277	108	NORA JORDAN ETAL 7	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
				OHIO DIV OF FORESTR			

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JD NO	JA DKT	API NO	D SEC(1) SEC(2)	WELL NAME	FIELD NAME	PROC	PURCHASER

JD NO	JA JNT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8238682		3408903139		108		OLIVE V EDDY TRUSTEE 702378	SOUTHERN DIST STE OF	3.0	COLUMBIA GAS TRAN
8238696		3408900800		108		OLIVE V EDDY TRUSTEE 704860	SOUTHERN DIST STE OF	0.4	COLUMBIA GAS TRAN
8238684		3408900380		108		OLIVE V EDDY TRUSTEE 704969	SOUTHERN DIST STE OF	0.3	COLUMBIA GAS TRAN
8238808		3410500502		108		ORVILLE RHODES 706001	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8238742		3408920380		108		PAUL B BROWN 706635	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238817		3411500435		108		PAUL P SMITH 705199	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238745		3409300007		108		PUTT RICHARDS 702099	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238768		3410300017		108		QUILLIN BROS CONSTR 701571	NORTHERN DIST STE OF	0.8	COLUMBIA GAS TRAN
8238689		3400900511		108		RALPH L MCKINLEY 705283	SOUTHERN DIST STE OF	1.8	COLUMBIA GAS TRAN
8238832		3416300051		108		RAYMOND & ROY KRUGER 700584	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238709		3407300198		108		RAYMOND C AMERINE 700762	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238688		3400900505		108		REUBEN W YOUNG 705215	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238708		3405900433		108		RHODA PROUDFIT 702280	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8238749		3409300013		108		RICHARD FLOCKENZIER 705311	NORTHERN DIST STE OF	3.0	COLUMBIA GAS TRAN
8238738		3408300007		108		RICHARD HARSTINE 702764	SOUTHERN DIST STE OF	0.5	COLUMBIA GAS TRAN
8238748		3409300010		108		RICHARD MCCLAIN 702308	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238773		3410300026		108		RICHARD SHEEHAN ETAL 705248	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238833		3416300069		108		ROBERT B WILL AGENT 700597	SOUTHERN DIST STE OF	1.8	COLUMBIA GAS TRAN
8238788		3408921078		108		ROBERT DISHONG ETAL 705967	SOUTHERN DIST STE OF	0.6	COLUMBIA GAS TRAN
8238823		3411900554		108		ROBERT SEBAUGH TRUSTEE 705562	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238724		3407520058		108		ROBERTA BERNER AGT 706699	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8238716		3407500392		108		ROMAN A RABER 703311	SOUTHERN DIST STE OF	8.1	COLUMBIA GAS TRAN
8238776		3410300039		108		RONALD J FIFE 702528	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8238826		3412700638		108		ROSEMARY DODSON AGT 702238	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238843		3416721312		108		ROY M GOUDY 706568	SOUTHERN DIST STE OF	0.5	COLUMBIA GAS TRAN
8238808		3410500377		108		RUDA & FANNIE DURST 705591	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8238812		3410520038		108		RUTH L MCCOY ETAL 706142	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8238779		3410300040		108		SOUTHWEST CUYAHOGA 702416	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238764		3410300005		108		STANLEY D LEWIS 700866	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238737		3407900278		108		THEODORE R OGIER 705984	SOUTHERN DIST STE OF	1.3	COLUMBIA GAS TRAN
8238721		3407520009		108		THOMAS BERG 706154	SOUTHERN DIST STE OF	0.6	COLUMBIA GAS TRAN
8238762		3409320132		108		THOMAS M KELLY 706713	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8238809		3410500592		108		THORA RUTH 705038	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8238848		3416900076		108		TRIPLE E INVESTMENTS 703175	NORTHERN DIST STE OF	6.0	COLUMBIA GAS TRAN
8238755		3409300030		108		URBAN C KINZEL 705360	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238839		3416700077		108		URBAN J BAUER 703261	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238803		3410500442		108		VICTOR WOLFE ETAL 705910	SOUTHERN DIST STE OF	3.0	COLUMBIA GAS TRAN
8238751		3409300015		108		VIOLA GARRISON 705573	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238649		3416900084		108		W ROBERT GESSNER 704886	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238691		3408903547		108		WADE STORER 705372	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238725		3407520059		108		WALTER F MOSER 706704	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238729		3407520074		108		WALTER F MOSER 706793	SOUTHERN DIST STE OF	3.0	COLUMBIA GAS TRAN
8238756		3409300031		108		WALTER ZMUGINSKY ETAL 705405	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238743		3408922187		108		WARREN & HELEN SHAW 706859	SOUTHERN DIST STE OF	0.6	COLUMBIA GAS TRAN
8238814		3410520313		108		WARREN ELLIOTT 706871	SOUTHERN DIST STE OF	6.4	COLUMBIA GAS TRAN
8238753		3409300020		108		WEARNER ARMENAT 703136	NORTHERN DIST STE OF	3.0	COLUMBIA GAS TRAN
8238840		3416700557		108		WILBERT F OWENS 705819	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238686		3400900499		108		WILLIAM A CLUNN 704970	SOUTHERN DIST STE OF	6.8	COLUMBIA GAS TRAN
8238828		3412723625		108		WILLIAM BATES ETAL 701581	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238778		3410300035		108		WILLIAM SNYDER ETAL 705351	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8238801		3410500382		108		WILMA LE MAY ETAL 705643	SOUTHERN DIST STE OF	2.8	COLUMBIA GAS TRAN
8238815		3411500315		108		WOODROW FERRELL 702483	SOUTHERN DIST STE OF	6.6	COLUMBIA GAS TRAN

-CUYAHOGA EXPLORATION & DEVELOPMENT RECEIVED: 06/21/82 JA: OH

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8238854		3416727083		103		DELMAR HENDERSHOT #7	DALZELL	23.7	
-DOLPHA ANDERSON				RECEIVED:	06/21/82	JA: OH			
8238660		3416724064		108		MARGUERITE WOODRUFF #1	WATERTOWN	7.6	GAS TRANSPORT INC
8238658		3416723663		108		HOYER #1	BARLOW	6.0	GAS TRANSPORT INC
8238659		3416723935		108		WAYNE WOODRUFF #1	WATERTOWN	34.1	GAS TRANSPORT INC
-DOME DRILLING CO				RECEIVED:	06/21/82	JA: OH			
8238855		3416923089		103		FRANCHESTER #1	W SALEM	54.7	COLUMBIA GAS TRAN
-R GENE BRASEL DBA BRASEL & BRASEL				RECEIVED:	06/21/82	JA: OH			
8238671		3405320563		107-TF		DALE MULFORD #1	CHESHIRE	2.0	COLUMBIA GAS TRAN
8238670		3405320546		107-TF		HURST ARROWOOD #1	ADDISON	3.0	COLUMBIA GAS TRAN
8238669		3405320542		107-TF		JOSEPH D WILLS #1	CHESHIRE	2.0	COLUMBIA GAS TRAN
8238668		3405320488		107-TF		ROBERT J FREEMAN #1	CHESHIRE	1.0	COLUMBIA GAS TRAN

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before July 29, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PR: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–19088 Filed 7–13–82; 8:45 am]
BILLING CODE 6717–01–M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: July 2, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
OHIO DEPARTMENT OF NATURAL RESOURCES									
-BERMAN J SHAFER				RECEIVED:	06/21/82	JA: OH			
8239000		3407522998		107-TF		ALVIN BEACHY #1	PAINT	7.5	COLUMBIA GAS TRAN
8239012		3410322645		107-TF		BEATRICE BRYSON #1	WESTFIELD	7.5	COLUMBIA GAS TRAN
8239004		3410322349		107-TF		DALLAS THOMPSON #1	SPENCER	10.0	COLUMBIA GAS TRAN
8239010		3410322542		107-TF		E & M LARKEY #1	SPENCER	7.5	COLUMBIA GAS TRAN
8239002		3410322275		107-TF		JULIA DEWAR #1	SPENCER	83.0	COLUMBIA GAS TRAN
8239005		3410322350		107-TF		JULIA DEWAR #2	SPENCER	83.0	COLUMBIA GAS TRAN
8239007		3410322378		107-TF		JULIA DEWAR #3	SPENCER	83.0	COLUMBIA GAS TRAN
8239001		3410322211		107-TF		LOREN MANTZ #1	SPENCER	7.3	COLUMBIA GAS TRAN
8239003		3410322276		107-TF		LOREN MANTZ #2	SPENCER	26.0	COLUMBIA GAS TRAN
8239006		3410322351		107-TF		MEDINA SOD FARMS INC #1	WESTFIELD	25.0	COLUMBIA GAS TRAN
8239009		3410322541		107-TF		MEDINA SOD FARMS INC #2	WESTFIELD	25.0	COLUMBIA GAS TRAN
8239008		3410322540		107-TF		MEDINA SOD FARMS INC #3	WESTFIELD	25.0	COLUMBIA GAS TRAN
8238999		3407522495		107-TF		S & E KEIM #1	PAINT	7.5	COLUMBIA GAS TRAN
8239011		3410322546		107-TF		W & B JARVIS #1	WESTFIELD	7.5	COLUMBIA GAS TRAN
-CARL E SMITH PETROLEUM INC				RECEIVED:	06/21/82	JA: OH			
8239014		3410522102		107-DV		DIV OF FORESTRY STATE OF OHIO 227	OLIVE	16.0	COLUMBIA GAS TRAN
8239015		3410522149		107-DV		ELBERFELD FARM INC #232	ORANGE	20.0	COLUMBIA GAS TRAN
-CLARENCE SHERMAN				RECEIVED:	06/21/82	JA: OH			
8239013		3415723716		103	107-TF	RICHARD ZIMMERMAN #1-A	AUBURN	15.0	EAST OHIO GAS CO
-DONNELLY GAS & OIL CORP				RECEIVED:	06/21/82	JA: OH			
8238859		3405922497		108		FOURMONT #1 (WEBER #4)		14.0	NATIONAL PETROLEU
8238857		3405922448		108		HAZLETT #1		3.0	NATIONAL PETROLEU
8238858		3405922460		108		JONES #1		2.0	NATIONAL PETROLEU
8238860		3405922498		108		ROSE #1		3.0	NATIONAL PETROLEU
8238856		3405922167		108		WEBER #2		6.0	EAST OHIO GAS CO
-EDCO DRILLING & PRODUCING INC				RECEIVED:	06/21/82	JA: OH			
8238861		3407522243		108		RICHARDS SM-1A		18.0	COLUMBIA GAS TRAN
8238862		3416922107		108		ROLLASON UNIT MO-1A		18.0	COLUMBIA GAS TRAN
-FRANK W HOOVER PROD				RECEIVED:	06/21/82	JA: OH			
8238940		3416923231		103		DWAIN D MASSIE #2	NEW PITTSBURG	0.0	COLUMBIA GAS TRAN
-GASEARCH INC				RECEIVED:	06/21/82	JA: OH			
8238931		3415522084		103	107-TF	CARMEL #1	BRISTOL	20.0	AMERICAN ENERGY S
8238932		3415522085		103	107-TF	CARMEL #2	BRISTOL	20.0	AMERICAN ENERGY S
8238929		3413322853		103	107-TF	ENGLISH REALTY #1	HIRAM	20.0	AMERICAN ENERGY S
8238930		3413322854		103	107-TF	ENGLISH REALTY UNIT #2	HIRAM	20.0	AMERICAN ENERGY S
8238928		3413323631		103	107-TF	MORRIS-POLING #2A	SHARON	20.0	COLUMBIA GAS OF O
-GNC ENERGY CORP				RECEIVED:	06/21/82	JA: OH			
8238924		3411522597		103	107-TF	CHARLES & THEA NICHOLS #1	RINGGOLD	15.0	
8238925		3411522598		103	107-TF	CHARLES & THEA NICHOLS #2	RINGGOLD	15.0	
8238912		3411522492		107-TF		DAVID & EVELYN GERSPER #1	RINGGOLD	15.0	

JD NO JA DKT API NO D SEC(1) SEC(2) WELL NAME FIELD NAME PROD PURCHASER

JD NO	JA DKT	API NO	S	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8238920		3411522563		107-TF		DAVID & EVELYN GERSPER #2	UNION	15.0	
8238881		3411522374		107-TF		DAVID & PATRICIA SHANER #1	UNION	15.0	
8238911		3411522482		103	107-TF	DENVER & THERESA HAMBEL #1	RINGGOLD	0.0	
8238871		3411522135		107-TF		DON & CHARLOTTE SOUTHALL #1	MALTA	15.0	
8238868		3411522122		107-TF		DON & CHARLOTTE SOUTHALL #4	MALTA	15.0	
8238926		3411522614		107-TF		DON & LINDA DRAKE #1	RINGGOLD	15.0	
8238885		3411522391		107-TF		DON & LOUISE MURPHY #1	MALTA	15.0	
8238869		3411522132		107-TF		DON & SARAH ABER #1	MALTA	15.0	
8238922		3411522566		107-TF		EDGAR & WINIFRED DAVIS #1	UNION	15.0	
8238904		3411522439		103	107-TF	ELEANOR MASSEY #3	ROKEBY LOCK	15.0	
8238962		3411522437		107-TF		ELEANOR MASSEY ET AL #1	ROKEBY LOCK	15.0	
8238903		3411522438		107-TF		ELEANOR MASSEY ET AL #2	ROKEBY LOCK	15.0	
8238905		3411522440		103	107-TF	ELEANOR MASSEY ET AL #4	RINGGOLD	15.0	
8238906		3411522442		103	107-TF	ELEANOR MASSEY ET AL #6	ROKEBY LOCK	15.0	
8238907		3411522443		107-TF		ELEANOR MASSEY ET AL #7	RINGGOLD	15.0	
8238923		3411522567		107-TF		FRANCES ROSS #1	MALTA	15.0	
8238888		3411522414		103	107-TF	FRANK & ELLA HARRISON #1	RINGGOLD	15.0	
8238887		3411522405		103	107-TF	FRANK & ELLA HARRISON #3	RINGGOLD	15.0	
8238921		3411522564		107-TF		GEORGE & FLORENCE ECHELBARGER #1	MALTA	15.0	
8238919		3411522562		103	107-TF	GEORGE & OPAL MATSON #1	UNION	15.0	
8238896		3411522429		107-TF		GEORGE & ROSENE ZAROS #1	MALTA	15.0	
8238927		3411522617		107-TF		HAROLD DON & LINDA DRAKE "B" #1	RINGGOLD	15.0	
8238914		3411522530		103	107-TF	HAZEL W PARSONS #1	UNION	15.0	
8238915		3411522531		103	107-TF	HAZEL W PARSONS #2	UNION	15.0	
8238897		3411522432		103	107-TF	HERBERT & GLORIA SCOTT #1	RINGGOLD	15.0	
8238898		3411522433		107-TF		HERBERT & GLORIA SCOTT #2	RINGGOLD	15.0	
8238900		3411522435		107-TF		HERBERT & GLORIA SCOTT #4	RINGGOLD	15.0	
8238901		3411522436		107-TF		HERBERT & GLORIA SCOTT #5	RINGGOLD	15.0	
8238908		3411522461		107-TF		JAMES & JANICE MCCONKEY #6	UNION	15.0	
8238909		3411522462		107-TF		JAMES & JANICE MCCONKEY #7	RINGGOLD	15.0	
8238892		3411522425		107-TF		JAMES JANICE MARY MCCONKEY #2	UNION	15.0	
8238893		3411522426		107-TF		JAMES JANICE MARY MCCONKEY #3	UNION	15.0	
8238894		3411522427		103	107-TF	JAMES JANICE MARY MCCONKEY #4	ROKEBY LOCK	15.0	
8238870		3411522133		107-TF		JOHN & AILEEN CLEMENS #1	MALTA	15.0	
8238913		3411522529		107-TF		JONAS & BENA MILLER #1	MALTA	15.0	
8238910		3411522480		107-TF		JONAS & BENA MILLER 2	MALTA	15.0	
8238866		3411522120		107-TF		K D & MAXINE MORIN #3	MALTA	15.0	
8238865		3411522119		107-TF		K D & MAXINE MORIN #4	MALTA	15.0	
8238876		3411522195		107-TF		KENNEBEC INC (CHRISTIE) #1	MALTA	15.0	
8238877		3411522196		107-TF		KENNEBEC INC (CHRISTIE) #2	ROKEBY LOCK	15.0	
8238878		3411522197		107-TF		KENNEBEC INC (CHRISTIE) #3	MALTA	15.0	
8238886		3411522402		103	107-TF	M E/M L GLADDEN #2	RINGGOLD	15.0	
8238889		3411522422		107-TF		M L & CAROL GLADDEN "A" #1	UNION	15.0	
8238890		3411522423		107-TF		M L & CAROL GLADDEN "A" #2	UNION	15.0	
8238895		3411522428		107-TF		MARY MCCONKEY #5	UNION	15.0	
8238891		3411522424		107-TF		MCCONKEY JAMES JANICE & MARY #1	RINGGOLD	15.0	
8238916		3411522541		107-TF		RALPH W KENNEY #1	DEERFIELD	15.0	
8238883		3411522381		107-TF		RICHARD & DIANA ROSS #1	MORGAN	15.3	
8238918		3411522561		107-TF		RICHARD JR & HELEN FERGUSON #1	MALTA	15.0	
8238917		3411522543		107-TF		ROBERT & ADA BLACKBURN #2	MALTA	15.0	
8238882		3411522378		107-TF		ROBERT & ROSALIE BROCK #1	MALTA	15.0	
8238884		3411522382		107-TF		ROBERT & ROSALIE BROCK #2	MALTA	15.0	
8238899		3411522434		107-TF		SCOTT HERBERT & GLORIA #3	RINGGOLD	15.0	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8238880		3411522367		107-TF		SHIRLEY SANDS #1	UNION	15.0	
8238879		3411522363		107-TF		SHIRLEY SANDS #2	UNION	15.0	
8238874		3411522193		107-TF		WAYNE & DOROTHY RAY #1	MALTA	15.0	
8238867		3411522121		107-TF		WAYNE & DOROTHY RAY #4	MALTA	15.0	
8238872		3411522143		107-TF		WILBUR & EDITH WRIGHT #1	MALTA	15.0	
8238873		3411522144		107-TF		WILBUR & EDITH WRIGHT #4	MALTA	15.0	
8238863		3411522111		107-TF		WILLIAM & ELIZABETH BYLER #1	MALTA	15.0	
8238864		3411522112		107-TF		WILLIAM & ELIZABETH BYLER #3	MALTA	15.0	
8238875		3411522194		107-TF		WM & CARROLL MOORE ET AL #1	MALTA	15.0	
-HADDAD & BROOKS INC				RECEIVED:	06/21/82	JA: OH			
8239016		3416726959		103	107-TF	E MAYLE #1	WESLEY	30.0	
-HERALD OIL & GAS CO				RECEIVED:	06/21/82	JA: OH			
8238935		3410522355		107-TF		ALVIN WAGGONER #1	SCIPIO	0.0	COLUMBIA GAS TRAN
8238933		3410522201		107-TF		CARL NICHOLS #1	SALISBURY	0.0	COLUMBIA GAS TRAN
8238938		3410522402		107-TF		MARY ANNE WHITT DANNER #1	SHADE	0.0	COLUMBIA GAS TRAN
8238937		3410532368		107-TF		ROBERT ALKIRE #1	ALBANY	0.0	COLUMBIA GAS TRAN
8238934		3410522354		107-TF		ROGER BROWN #1	SALISBURY	0.0	COLUMBIA GAS TRAN
8238936		3410522366		107-TF		SHERMAN BASHAM #1	RUTLAND	0.0	COLUMBIA GAS TRAN
-HOPEWELL OIL AND GAS DEVELOPMENT CO				RECEIVED:	06/21/82	JA: OH			
8238942		3411924655		107-RT		E MOCK #1	SALT CREEK	6.0	NATIONAL GAS & OI
8238941		3411522217		107-TF		EARL CAMPBELL #1	DEERFIELD	12.0	COLUMBIA GAS TRAN
8238943		3411924656		107-RT		H SHEPPARD #1	NEWTON	10.0	NATIONAL GAS & OI
8238946		3411925175		107-TF		LARRY PAUL #1	WAYNE	6.0	NATIONAL GAS & OI
8238945		3411924679	D	107-RT		R RUCKER #1	NEWTON	15.0	NATIONAL GAS & OI
8238944		3411924677		103	107-RT	ROBERT HARROP #4	HARRISON	3.0	NATIONAL GAS & OI
-IRVIN PRODUCING COMPANY				RECEIVED:	06/21/82	JA: OH			
8238951		3412724860		108		GAXEL TOKIE #2		1.0	COLUMBIA GAS TRAN
8238952		3412724861		108		GAZEL TOKIE #3		1.0	COLUMBIA GAS TRAN
8238948		3412724515		108		WALTER PETTET #3		1.0	COLUMBIA GAS TRAN
8238947		3412724514		108		WALTER PETTET #4		1.0	COLUMBIA GAS TRAN
8238949		3412724516		108		WALTER PETTET #5		1.0	COLUMBIA GAS TRAN
8238950		3412724517		108		WALTER PETTET #6		1.0	COLUMBIA GAS TRAN
-JERRY MOORE INC				RECEIVED:	06/21/82	JA: OH			
8238977		3406722183		103		ROY BIRNEY #1	CADIZ	2.0	COLUMBIA GAS TRAN
-JOE L SCHRIMSHER				RECEIVED:	06/21/82	JA: OH			
8238998		3403123536		103	107-RT	ARCHIE WILLIAMSON #4	CLARK	20.0	COLUMBIA GAS TRAN
-K S T OIL & GAS CO INC				RECEIVED:	06/21/82	JA: OH			
8238957		3415320733		103	107-TF	BLOSSOM #1	NORTHAMPTON	0.0	EAST OHIO GAS CO
8238956		3415320677		103	107-TF	CARR-ARMINGTON #1	NORTHAMPTON	0.0	REPUBLIC STEEL CO
8238953		3413322243		103	107-TF	CRANO #1	EDINBURGH	0.0	
8238954		3413322244		103	107-TF	CRANO #2	EDINBURGH	0.0	
8238966		3415320986		103	107-TF	CROWN POINT #2	BATH	0.0	EAST OHIO GAS CO
8238964		3415320863		103	107-TF	CUNNINGHAM #4	HUDSON	0.0	
8238970		3415723516		103	107-TF	H BREYER #6	YORK	0.0	
8238955		3415320629		103	107-TF	J D & M E BELL #1	NORTHAMPTON	0.0	
8238969		3415723412		103	107-TF	MARY L WARNER #1	YORK	0.0	
8238958		3415320774		103	107-TF	QUICK #2	BOSTON	0.0	
8238959		3415320775		103	107-TF	QUICK-ARMINGTON #1	BOSTON	0.0	
8238961		3415320886		103	107-TF	REED #1	NORTHAMPTON	0.0	
8238965		3415320943		103	107-TF	REVERE SCHOOL #2	BATH	0.0	EAST OHIO GAS CO
8238963		3415320813		103	107-TF	SOMMERS #2	NORTHAMPTON	0.0	
8238962		3415320887		103	107-TF	SWAIN #2	NORTHAMPTON	0.0	
8238967		3415321046		103	107-TF	UNDERWOOD #3	NORTHAMPTON	0.0	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8238968		3415321086		103	107-TF	UNDERWOOD #4	NORTHAMPTON	0.0	
8238960		3415320703		103	107-TF	W MYERS #1	NORTHAMPTON	0.0	
				RECEIVED: 06/21/82 JA: OH					
-KENOIL									
8238971		3408322377		108		HARLEY FRAZEE 1		1.0	COLUMBIA GAS TRAN
				RECEIVED: 06/21/82 JA: OH					
-LEADER EQUITIES INC									
8238975		3411924658		108		H CASTOR #2		15.0	
8238974		3411924603		108		HATCHETT #1		15.0	
8238972		3411923877		108		ROSS #2		15.0	
8238973		3411924559		108		STEWART KLEIN #1		15.0	
				RECEIVED: 06/21/82 JA: OH					
-LOMAK PETROLEUM INC									
8238976		3405520343		107-TF		T HESS #1	BURTON	24.0	EAST OHIO GAS CO
				RECEIVED: 06/21/82 JA: OH					
-NEIL T TRAVES									
8239021		3410322574		103	107-TF	EMILY AND PATSY TRAVES #1	LODI	22.0	
				RECEIVED: 06/21/82 JA: OH					
-NEW FRONTIER EXPLORATION INC									
8238978		3405923232		107-TF		BERNICE TEDRICK #1	CAMBRIDGE	20.0	
8238979		3410322579		107-TF		J KOCSIS #2	WADSWORTH	18.0	AMERICAN ENERGY S
8238981		3416923120		107-TF		MAUER UNIT #1	WASHINGTON	0.0	AMERICAN ENERGY S
8238980		3415123664		107-TF		WATSON-LLOYD UNIT #1	WADSWORTH	23.0	
				RECEIVED: 06/21/82 JA: OH					
-NUCORP ENERGY COMPANY									
8238982		3400721349		103	107-TF	HATCHETTE #1	DENMARK	54.0	OHIO GAS CO
				RECEIVED: 06/21/82 JA: OH					
-OXFORD OIL CO									
8238983		3411522750		103	107-TF	ELDA HILL #1	DEAVERTOWN	11.0	
8238985		3411926091		103	107-TF	ILIFF CUNNINGHAM #1	NORWICH	10.0	
8238986		3411926249		103	107-TF	JAMES GRUNDY #1	SPRINGFIELD	11.0	
8238984		3411925960		103	107-TF	LEWIS CARR #1	CROOKSVILLE	10.0	
				RECEIVED: 06/21/82 JA: OH					
-PEPPER OIL CO									
8238989		3411925419		107-TF		DURST #1	NEWTON	6.0	COLUMBIA GAS TRAN
				RECEIVED: 06/21/82 JA: OH					
-PINE TOP ESTATES PARTNERSHIP									
8238990		3415321547		103	107-TF	R & N N MALOYAN #1	FAIRLAWN	25.5	EAST OHIO GAS CO
				RECEIVED: 06/21/82 JA: OH					
-POI ENERGY INC									
8238991		3400721649		103	107-TF	BONDS #1	NEW LYME	26.0	
8238992		3400721782		103	107-TF	M & M FULLER #1	WINDSOR	22.0	
8238993		3400721925		103	107-TF	MENSON #1	NEW LYME	20.0	EAST OHIO GAS CO
8238994		3413322670		103	107-TF	SPERRY #4	STREETSBORO	34.0	
				RECEIVED: 06/21/82 JA: OH					
-POWER RESOURCES INC									
8238995		3415723674		107-TF		CONNTTON LAND CO #4	WARREN	0.0	M B OPERATING CO
				RECEIVED: 06/21/82 JA: OH					
-PREMIER ENERGY CORP									
8238996		3416922416		107-TF		ALVIN STEINER #1	MILTON	8.0	EAST OHIO GAS CO
				RECEIVED: 06/21/82 JA: OH					
-RELIABLE EXPLORATION & DRILLING CO									
8238997		3411926797		103		USA CHRISTMAN-WELL #1	GRANDVIEW TOWNSHIP	500.0	
				RECEIVED: 06/21/82 JA: OH					
-TIGER OIL INC									
8239017		3411122848	D	107-TF		BRADFIELD #3	JACKSON	0.0	RIVER GAS CO
8239018		3416727138	D	107-TF		G LAUER #1	SALEM	0.0	COLUMBIA GAS TRAN
8239019		3416727140	D	107-TF		MARTHA SUDER #1	SALEM	6.0	COLUMBUS GAS TRAN
				RECEIVED: 06/21/82 JA: OH					
-TITAN ENERGY CORP									
8239028		3411522534		103	107-TF	PHILLIPS & MASEL JOHNSON #1	MEIGSVILLE	20.0	COLUMBIA GAS TRAN
				RECEIVED: 06/21/82 JA: OH					
-TOWNER PETROLEUM CO									
8239034		3406720520		103	107-TF	A CROSIER #1	GUERNSEY	0.0	TENNESSEE GAS PIP
8239030		3405923211		103	107-TF	A SMITH #1	EAST GUERNSEY	6.0	TENNESSEE GAS PIP
8239024		3405923092		103	107-TF	BLACKWOOD #5	EAST GUERNSEY	0.0	TENNESSEE GAS PIP
8239032		3405923213		103	107-TF	BLACKWOOD #7	EAST GUERNSEY	6.0	TENNESSEE GAS PIP
8239036		3406720530		103	107-TF	C CARPENTER/G MALLARNEE #1	FREEPORT	6.0	TENNESSEE GAS PIP
8239025		3405923130		103	107-TF	DEIOMA #2	GUERNSEY	6.0	TENNESSEE GAS PIP

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8239022		3402920849		103	107-TF	E COY #2	SALEM	0.0	COLUMBIA GAS OF O
8239027		3405923174		103	107-TF	E PORTER #1	GUERNSEY	0.0	TENNESSEE GAS PIP
8239033		3405923278		103	107-TF	GRAY/BRUBAKER/MCELWAIN #1	EAST GUERNSEY	0.0	TENNESSEE GAS PIP
8239037		3406720531		103	107-TF	HARVEY L & SHIRLEY DUNLAP #1	GUERNSEY	0.0	TENNESSEE GAS PIP
8239028		3405923175		103	107-TF	HAYES/SHEPPARD #1	GUERNSEY	0.0	TENNESSEE GAS PIP
8239039		3406720538		103	107-TF	HENRY & IRENE LUKAS #1	GUERNSEY	0.0	TENNESSEE GAS PIP
8239029		3405923197		103	107-TF	HYDE/HATFIELD #1	GUERNSEY	0.0	TENNESSEE GAS PIP
8239023		3402920851		103	107-TF	J COY #2	SALEM	0.0	COLUMBIA GAS OF O
8239038		3406720533		103	107-TF	O PLOTTS/A MURRAY #1	GUERNSEY	0.0	TENNESSEE GAS PIP
8239035		3406720529		103	107-TF	RAYMOND HOUSEHOLDER #1	GUERNSEY	0.0	TENNESSEE GAS PIP
8239026		3405923172		103	107-TF	SHEPPARD/FORD #1	GUERNSEY	0.0	TENNESSEE GAS PIP
8239031		3405923212		103	107-TF	V JOHNSON #1	EAST GUERNSEY	0.0	TENNESSEE GAS PIP
-UNIVERSAL MINERALS INC				RECEIVED:	06/21/82	JA: OH			
8239041		3416726930		103		CALDWELL #3	WARREN	0.5	
8239040		3416725759		103		WAGNER #1	WARREN	0.5	
-W H PATTON DRILLING CO				RECEIVED:	06/21/82	JA: OH			
8238988		3407523088	D	107-TF		ALLEN & MIRIAM CASEY #1	HARDY	4.5	
8238987		3407522900	D	107-TF		LILONEL & EILEEN DYE #1	HARDY	5.0	
-WILLIAM F HILL				RECEIVED:	06/21/82	JA: OH			
8238939		3407523712		103		ANNA WEAVER #1	PRAIRIE	0.0	
				-TF					

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before July 29, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–19087 Filed 7–13–82; 8:45 am]

BILLING CODE 6717–01–M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: July 8, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-A L SAUDER JR			RECEIVED:	06/17/82	JA: TX				
8239283	F-09-051778	4249700003	102-4			VAUGHT USA #1 (L-2) RRC #21769	AUDABON (6300)	8.0	NATURAL GAS PIPEL
-ADA OIL EXPLORATION CORP			RECEIVED:	06/17/82	JA: TX				
8239134	F-03-046567	4228700000	102-2			JOHN NEWMAN #4	GIDDINGS	18.5	PHILLIPS PETROLEU
-ADOBE OIL & GAS CORPORATION			RECEIVED:	06/17/82	JA: TX				
8239412	F-8A-052347	4244531052	103			CLARE #9	PRENTICE (6700)	11.0	AMOCO PRODUCTION
8239384	F-7B-052221	4213333738	102-4			SNEED "E" #2	MANGUM NORTH (3200)	47.0	ODESSA NATURAL CO
-AKERS AND FULTZ INC			RECEIVED:	06/17/82	JA: TX				
8239207	F-09-050309	4250335519	102-2			ANN PRICE #3 RRC #21903	PRICE (MARBLE FALLS C	360.0	LONE STAR GAS CO
-ALFRED C GLASSELL JR			RECEIVED:	06/17/82	JA: TX				
8239129	F-06-046065	4236500000	103	107-TF		DUNAWAY #8	CARTHAGE	365.0	ARKANSAS-LOUISIAN
-ALPS OIL CO			RECEIVED:	06/17/82	JA: TX				
8239288	F-08-051899	4210332823	103			M B MCKNIGHT "B" #5	SAND HILLS (MCKNIGHT)	23.7	WARREN PETROLEUM
-AMERICAN PETROFINA COMPANY OF TEXAS			RECEIVED:	06/17/82	JA: TX				
8239253	F-02-051355	4217500369	108			IDEUS UNIT #2	SLICK EAST (2-7600')	15.0	UNITED GAS PIPE L
-AMERICAN QUASAR PETROLEUM CO			RECEIVED:	06/17/82	JA: TX				
8239227	F-8A-050842	4244531027	103			RAMSEUR #1-92-L	SEC 92 BLK T D & W RR	8.0	
8239158	F-7C-048024	4243532537	103	107-TF		SHURLEY 1-36	SHURLEY RANCH (CANYON	6.0	EL PASO NATURAL G
-AMOCO PRODUCTION CO			RECEIVED:	06/17/82	JA: TX				
8239431	F-03-052432	4205131848	102-4			A B CHILDERS JR #1	CALDWELL(AUSTIN CHALK	36.3	FERGUSON CROSSING
8239321	F-8A-052038	4218930324	103			ANTON - IRISH CLEARFORK UNIT #435	ANTON-IRISH	6.2	PIONEER CORP
8239433	F-03-052431	4205131423	102-4			BOX-KELLY UNIT #1	CALDWELL (AUSTIN CHAL	56.0	FERGUSON CROSSING
8239159	F-06-048072	4220330788	103			CALDWELL GAS UNIT #2	WOODLAWN/TRAVIS PEAK/	184.0	EAST TEXAS INDUST
8239428	F-03-052423	4205131431	102-4			DON DILLON ET AL #1	STONE CITY(AUSTIN CHA	31.0	FERGUSON CROSSING
8239432	F-02-052433	4229731717	102-4			DUTY GAS UNIT #4	MAXINE EAST(10,600)	76.7	NATURAL GAS PIPEL
8239427	F-03-052422	4205131974	102-4			EDWARD VERWOLD #1	CALDWELL/AUSTIN CHALK	46.2	FERGUSON CROSSING
8239429	F-03-052430	4205132050	102-4			HAZEL J CHACHERE "A" #1	STONE CITY(AUSTIN CHA	47.1	FERGUSON CROSSING
-ANDERSON PETROLEUM INC			RECEIVED:	06/17/82	JA: TX				
8239116	F-7C-044463	4210533651	103	107-TF		AUSTIN C MILLSPAUGH "B" 2-18	OZONA (CANYON SAND)	56.0	ANDERSON PIPELINE
8239138	F-7C-046811	4210532173	108			CARSON MILLSPAUGH "A" 3-46	OZONA (CANYON SAND)	0.0	ANDERSON PIPELINE
8239141	F-7C-046830	4210531067	108			CRYSTELLE CHILDRESS "A" 2-6	OZONA (CANYON SAND)	6.0	ANDERSON PIPELINE
8239140	F-7C-046821	4210531991	108			ELMER HOOVER HATTON ESTATE "D" 1-12	OZONA (CANYON SAND)	0.0	ANDERSON PIPELINE
8239136	F-7C-046799	4210532178	108			IRA CARSON "C" 3-1	OZONA (CANYON SAND)	6.0	ANDERSON PIPELINE
8239137	F-7C-046809	4210531704	108			IRA CARSON "L" 2-46	OZONA (CANYON SAND)	6.0	ANDERSON PIPELINE
8239142	F-7C-046831	4210532337	108			LAURA HOOVER ESTATE "H" 2-40	OZONA (CANYON SAND)	0.0	ANDERSON PIPELINE
8239135	F-7C-046793	4210531920	108			MOODY MINERALS "A" 2-11	OZONA (CANYON SAND)	6.0	ANDERSON PIPELINE
8239139	F-7C-046817	4210532199	108			W K WARREN FOUNDATION 4-24	OZONA (CANYON SAND)	0.0	ANDERSON PIPELINE
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239123	F-04-045674	4221500000	102-4			J M MORIN #1	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
*8239372	F-8A-052160	4250132094	103			WILLARD UNIT #137-C	WASSON	36.0	COLTEXO CORP
*8239373	F-8A-052161	4250132068	103			WILLARD UNIT #155-C	WASSON	7.0	COLTEXO CORP

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239124	F-04-045675	4221500000	102-4			J M MORIN #2	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239125	F-04-045676	4221500000	102-4			J M MORIN #3	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239126	F-04-045677	4221500000	102-4			J M MORIN #4	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239127	F-04-045678	4221500000	102-4			J M MORIN #5	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239128	F-04-045679	4221500000	102-4			J M MORIN #6	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239122	F-04-045673	4221500000	102-4			J M MORIN #7	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239121	F-04-045672	4221500000	102-4			J M MORIN #8	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239120	F-04-045671	4221500000	102-4			J M MORIN #9	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239119	F-04-045670	4221500000	102-4			J M MORIN #10	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239118	F-04-045669	4221500000	102-4			J M MORIN #11	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239117	F-04-045668	4221500000	102-4			J M MORIN #12	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239115	F-04-045667	4221500000	102-4			J M MORIN #13	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239114	F-04-045666	4221500000	102-4			J M MORIN #14	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239113	F-04-045665	4221500000	102-4			J M MORIN #15	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239112	F-04-045664	4221500000	102-4			J M MORIN #16	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239111	F-04-045663	4221500000	102-4			J M MORIN #17	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239110	F-04-045662	4221500000	102-4			J M MORIN #18	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239109	F-04-045661	4221500000	102-4			J M MORIN #19	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239108	F-04-045660	4221500000	102-4			J M MORIN #20	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239107	F-04-045659	4221500000	102-4			J M MORIN #21	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239106	F-04-045658	4221500000	102-4			J M MORIN #22	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239105	F-04-045657	4221500000	102-4			J M MORIN #23	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239104	F-04-045656	4221500000	102-4			J M MORIN #24	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239103	F-04-045655	4221500000	102-4			J M MORIN #25	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239102	F-04-045654	4221500000	102-4			J M MORIN #26	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239101	F-04-045653	4221500000	102-4			J M MORIN #27	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239100	F-04-045652	4221500000	102-4			J M MORIN #28	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239099	F-04-045651	4221500000	102-4			J M MORIN #29	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239098	F-04-045650	4221500000	102-4			J M MORIN #30	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239097	F-04-045649	4221500000	102-4			J M MORIN #31	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239096	F-04-045648	4221500000	102-4			J M MORIN #32	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239095	F-04-045647	4221500000	102-4			J M MORIN #33	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239094	F-04-045646	4221500000	102-4			J M MORIN #34	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239093	F-04-045645	4221500000	102-4			J M MORIN #35	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239092	F-04-045644	4221500000	102-4			J M MORIN #36	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239091	F-04-045643	4221500000	102-4			J M MORIN #37	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239090	F-04-045642	4221500000	102-4			J M MORIN #38	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239089	F-04-045641	4221500000	102-4			J M MORIN #39	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239088	F-04-045640	4221500000	102-4			J M MORIN #40	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239087	F-04-045639	4221500000	102-4			J M MORIN #41	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239086	F-04-045638	4221500000	102-4			J M MORIN #42	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239085	F-04-045637	4221500000	102-4			J M MORIN #43	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239084	F-04-045636	4221500000	102-4			J M MORIN #44	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239083	F-04-045635	4221500000	102-4			J M MORIN #45	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239082	F-04-045634	4221500000	102-4			J M MORIN #46	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239081	F-04-045633	4221500000	102-4			J M MORIN #47	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239080	F-04-045632	4221500000	102-4			J M MORIN #48	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239079	F-04-045631	4221500000	102-4			J M MORIN #49	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239078	F-04-045630	4221500000	102-4			J M MORIN #50	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239077	F-04-045629	4221500000	102-4			J M MORIN #51	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239076	F-04-045628	4221500000	102-4			J M MORIN #52	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239075	F-04-045627	4221500000	102-4			J M MORIN #53	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239074	F-04-045626	4221500000	102-4			J M MORIN #54	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239073	F-04-045625	4221500000	102-4			J M MORIN #55	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239072	F-04-045624	4221500000	102-4			J M MORIN #56	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239071	F-04-045623	4221500000	102-4			J M MORIN #57	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239070	F-04-045622	4221500000	102-4			J M MORIN #58	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239069	F-04-045621	4221500000	102-4			J M MORIN #59	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239068	F-04-045620	4221500000	102-4			J M MORIN #60	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239067	F-04-045619	4221500000	102-4			J M MORIN #61	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239066	F-04-045618	4221500000	102-4			J M MORIN #62	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239065	F-04-045617	4221500000	102-4			J M MORIN #63	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239064	F-04-045616	4221500000	102-4			J M MORIN #64	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239063	F-04-045615	4221500000	102-4			J M MORIN #65	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239062	F-04-045614	4221500000	102-4			J M MORIN #66	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239061	F-04-045613	4221500000	102-4			J M MORIN #67	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239060	F-04-045612	4221500000	102-4			J M MORIN #68	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239059	F-04-045611	4221500000	102-4			J M MORIN #69	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239058	F-04-045610	4221500000	102-4			J M MORIN #70	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239057	F-04-045609	4221500000	102-4			J M MORIN #71	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239056	F-04-045608	4221500000	102-4			J M MORIN #72	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239055	F-04-045607	4221500000	102-4			J M MORIN #73	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239054	F-04-045606	4221500000	102-4			J M MORIN #74	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239053	F-04-045605	4221500000	102-4			J M MORIN #75	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239052	F-04-045604	4221500000	102-4			J M MORIN #76	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239051	F-04-045603	4221500000	102-4			J M MORIN #77	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239050	F-04-045602	4221500000	102-4			J M MORIN #78	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239049	F-04-045601	4221500000	102-4			J M MORIN #79	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239048	F-04-045600	4221500000	102-4			J M MORIN #80	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239047	F-04-045599	4221500000	102-4			J M MORIN #81	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239046	F-04-045598	4221500000	102-4			J M MORIN #82	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239045	F-04-045597	4221500000	102-4			J M MORIN #83	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239044	F-04-045596	4221500000	102-4			J M MORIN #84	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239043	F-04-045595	4221500000	102-4			J M MORIN #85	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239042	F-04-045594	4221500000	102-4			J M MORIN #86	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239041	F-04-045593	4221500000	102-4			J M MORIN #87	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239040	F-04-045592	4221500000	102-4			J M MORIN #88	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239039	F-04-045591	4221500000	102-4			J M MORIN #89	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239038	F-04-045590	4221500000	102-4			J M MORIN #90	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239037	F-04-045589	4221500000	102-4			J M MORIN #91	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239036	F-04-045588	4221500000	102-4			J M MORIN #92	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239035	F-04-045587	4221500000	102-4			J M MORIN #93	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239034	F-04-045586	4221500000	102-4			J M MORIN #94	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239033	F-04-045585	4221500000	102-4			J M MORIN #95	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239032	F-04-045584	4221500000	102-4			J M MORIN #96	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239031	F-04-045583	4221500000	102-4			J M MORIN #97	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239030	F-04-045582	4221500000	102-4			J M MORIN #98	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239029	F-04-045581	4221500000	102-4			J M MORIN #99	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/17/82	JA: TX				
8239028	F-04-045580	4221500000	102-4			J M MORIN #100	DONNA (MONTGOMERY)	24.0	TENNESSEE GAS PIP

JD NO	JA DKT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
*8239371	F-84-052154	4250132385	103		WILLARD UNIT #170-C	WASSON	12.0	COLTEXO CORP
-ARIES PETROLEUM INC			RECEIVED:	06/17/82	JA: TX			
8239365	F-78-052143	4205933386	102-4		F WINDHAM #1 (17947)	JESSICA (MISS)	54.0	UNION TEXAS PETRO
8239364	F-76-052142	4205933384	102-4		F WINDHAM #2 (17802)	POINDEXTER (CROSS PLA	15.0	UNION TEXAS PETRO
8239363	F-76-05214*	4205933385	102-4		F WINDHAM #3 (17802)	POINDEXTER (CROSS PLA	15.0	UNION TEXAS PETRO
8239362	F-76-052139	4205933514	102-4		F WINDHAM #4 (17802)	POINDEXTER (CROSS PLA	16.0	UNION TEXAS PETRO
8239361	F-77-052138	4205933514	102-4		F WINDHAM #5 (17802)	POINDEXTER (CROSS PLA	17.0	UNION TEXAS PETRO
8239360	F-75-052137	4205933587	102-4		F WINDHAM #6 (17802)	POINDEXTER (CROSS PLA	14.0	UNION TEXAS PETRO
8239359	F-78-052136	4205933516	102-4		F WINDHAM "A" #2 (18145)	POINDEXTER (CROSS PLA	15.0	UNION TEXAS PETRO
-ASPEN PETROLEUM INC			RECEIVED:	06/17/82	JA: TX			
8239319	F-10-052017	4217930873	103		BELL #1 04890	PANHANDLE GRAY COUNTY	72.0	NORTHERN NATURAL
8239318	F-10-052016	4217930871	103		BELL #2 04890	PANHANDLE GRAY COUNTY	72.0	NORTHERN NATURAL
8239343	F-10-052085	4217930886	103		JONES #3 04889	PANHANDLE GRAY COUNTY	72.0	NORTHERN NATURAL
8239344	F-10-052086	4217930887	103		JONES #4 04889	PANHANDLE GRAY COUNTY	72.0	NORTHERN NATURAL
8239345	F-10-052087	4217931051	103		JONES #5 04889	PANHANDLE GRAY COUNTY	72.0	NORTHERN NATURAL
8239346	F-10-052088	4217930966	103		JONES #6 04889	PANHANDLE GRAY COUNTY	72.0	NORTHERN NATURAL
8239317	F-10-052015	4217930945	103		SHEPHERD #1 05010	PANHANDLE GRAY COUNTY	72.0	NORTHERN NATURAL
8239316	F-10-052014	4217930946	103		SHEPHERD #2 05010	PANHANDLE GRAY COUNTY	72.0	NORTHERN NATURAL
8239315	F-10-052013	4206530924	103		SHEPHERD #3 05010	PANHANDLE GRAY COUNTY	72.0	NORTHERN NATURAL
8239314	F-10-052012	4206530925	103		SHEPHERD #4 05010	PANHANDLE GRAY COUNTY	72.0	NORTHERN NATURAL
-AUGUSTA OIL & GAS			RECEIVED:	06/17/82	JA: TX			
8239370	F-78-052157	4225332113	102-4		BAILEY #280 1-A (18317)	CULLERS & BAILEY (CAN	129.0	CONOCO INC
-B J BIERHART INC			RECEIVED:	06/17/82	JA: TX			
8239071	F-84-037703	4219134477	103		PALACIOS-CABALLERO GAS UNIT #1	BUENA SUERTE N (TINNE	73.0	VALLEY GAS TRANSM
-BANDERA ENERGY CO			RECEIVED:	06/17/82	JA: TX			
8239231	F-08-051118	4213500000	103		EDWARDS ESTATE 1-32	DOUBLE H (GRAYBURG)	3.6	PHILLIPS PETROLEU
-BASS ENTERPRISES PRODUCTION CO			RECEIVED:	06/17/82	JA: TX			
8239216	F-08-050527	4210931551	103		GEORGE FRASER "5" #1	GERALDINE (DELAWARE 9	21.9	
-BEACH OIL & GAS INC			RECEIVED:	06/17/82	JA: TX			
8239302	F-10-051976	4208730180	103		HAWKINS (5) #1 RRC ID #098545	PANHANDLE EAST	99.9	HI PLAINS NATURAL
8239299	F-10-051972	4208330925	103		LINKEY (106) #1 RRC ID#098546	PANHANDLE EAST	292.3	HI PLAINS NATURAL
8239303	F-10-051977	4208331001	103		LINKEY (106) #2 RRC ID #09854[illegible]	PANHANDLE EAST FIELD	17.5	HI PLAINS NATURAL
8239300	F-10-051973	4208330928	103		LINKEY (129) #1 RRC ID #098547	PANHANDLE EAST	2.6	HI PLAINS NATURAL
8239301	F-11-051975	4208330986	103		PAKAN (127) #1 RRC ID #098544	PANHANDLE EAST FIELD	15.3	HI PLAINS NATURAL
-BEAL OPERATING			RECEIVED:	06/17/82	JA: TX			
8239295	F-78-051966	4208332863	102-4		CARL STOUP #3 (098303)	STOUP (CAMP COLORADO)	14.0	ODESSA NATURAL CO
-BELCO PETROLEUM CORPORATION			RECEIVED:	06/17/82	JA: TX			
8239104	F-7C-04356[illegible]	4217922239	103		UNIVERSITY 4-13	INGHAM SUEENS	0.0	EL PASO NATURAL G
-BERRY BROTHERS PETROLEUM INC			RECEIVED:	06/17/82	JA: TX			
8239167	F-03-048527	4205130[illegible]	102-2		WENDLE* #1	GIDDINGS (AUSTIN CHAL	360.0	CLAJON GAS CO
-BERRY EXPLORATION CORP			RECEIVED:	06/17/82	JA: TX			
8239232	F-09-051125	4233730283	103		BASHE 1-171	CLINGINGSMITH (CADDO	26.0	J L DAVIS
-BLUESKY OIL & GAS INC			RECEIVED:	06/17/82	JA: TX			
8239145	F-03-047087	4214930703	102-2		ARNIM "K" UNIT #1	GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO
-BORDER EXPLORATION CO			RECEIVED:	06/17/82	JA: TX			
8239161	F-04-04R196	4221531191	102-4		YTURRIA #1	JEFFRESS W (VICKSBURG	985.0	VALERO TRANSMISSI
-BRAZOS PETROLEUM CO			RECEIVED:	06/17/82	JA: TX			
8239404	F-7C-052297	4258331875	103		SUGG #3	CALVIN (DEAN)	15.0	UNION TEXAS PETRO
-BRIDWELL OIL CO			RECEIVED:	06/17/82	JA: TX			
8239174	F-78-049[illegible]23	4213[illegible]0[illegible]	103		CHARLES SPICER #1	MANGUM SOUTH (V MARBL	36.0	ODESSA NATURAL GA
8239408	F-09-052312	4207731712	103		HALSELL "B" #8	AUSTIN-BRIXEY	16.0	CORONADO GAS SYST
8239418	F-09-052361	4223733969	103		RICHARDS RANCH #6	LUNA-MAG	16.8	TEXAS UTILITIES F
-BTA OIL PRODUCERS			RECEIVED:	06/17/82	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8239268	F-8A-851471	42115316260000		103		WELCH S E (SPRABERRY) UNIT #1-10	WELCH S E (SPRABERRY)	16.0	PHILLIPS PETROLEU
-C F LAWRENCE & ASSOC INC				RECEIVED:	06/17/82	JA: TX			
8239402	F-7C-852276	42105000000		103		TODD "O" #3	TODD S W (SAN ANDRES	0.0	APACHE GAS CORP
8239403	F-7C-852279	42105000000		103		TODD "P" #1	TODD W (SAN ANDRES)	0.0	APACHE GAS CORP
-CASSELL OIL CO				RECEIVED:	06/17/82	JA: TX			
8239060	F-7B-834386	42049318790000		102-4	103	MURDOCH #2	JETT (DUFFER)	82.1	ODESSA NATURAL CO
8239061	F-7B-834555	42049000000		102-4	103	QUAIL HOLLOW #2	JETT (DUFFER)	333.3	ODESSA NATURAL CO
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	06/17/82	JA: TX			
8239119	F-06-844931	42365000000		103	107-TF	CARTHAGE GAS UNIT 1 #4	CARTHAGE (COTTON VALL	0.0	TENNESSEE GAS PIP
8239068	F-06-837256	42365000000		103	107-TF	CARTHAGE GAS UNIT 6 #5	CARTHAGE	0.0	TENNESSEE GAS PIP
8239156	F-83-847969	42051000000		102-2	103	JOHN W HEINE #3	GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
-CHAPMAN OIL CO				RECEIVED:	06/17/82	JA: TX			
8239262	F-7B-851490	42059000000		102-4		WILLIE HENRY #1 (74760)	CLEAR CREEK (CADDO)	15.0	UNION TEXAS PETRO
-CHARLES HALE				RECEIVED:	06/17/82	JA: TX			
8239237	F-7B-851281	42059320770		103		LEDBETTER #1	CALLAHAN COUNTY REGUL	20.0	BENGAL GAS TRANSM
-CHARLES L WALKER				RECEIVED:	06/17/82	JA: TX			
8239407	F-08-852311	42003330390		103		FISHER "12" #3	SHAFTER LAKE (SAN AND	8.3	PHILLIPS PETROLEU
-CITIES SERVICE COMPANY				RECEIVED:	06/17/82	JA: TX			
8239252	F-04-851318	42489314380		103		CRITES "A" #2	MIDWAY SOUTH (FRIO DE	1445.0	VALERO TRANSMISSI
-CLARION RESOURCES INC				RECEIVED:	06/17/82	JA: TX			
8239187	F-7B-843954	42221000000		102-4	103	SOSEBEE A-1	WORLEY (STRAWN)	0.0	NORTHERN GAS PROD
8239188	F-7B-843959	42221305800		102-4	103	SOSEBEE B-1 RC #097751	WORLEY (STRAWN)	20.0	NORTHERN GAS PROD
-CLAYTON W WILLIAMS JR				RECEIVED:	06/17/82	JA: TX			
8239147	F-8B-847288	42475000000		103		SCOTT STATE #1-L	SCOTT (CHERRY CANYON)	0.0	TRANSWESTERN PIPE
-CLEAR FORK GAS CO				RECEIVED:	06/17/82	JA: TX			
8239172	F-7B-848936	42447322940		102-2		CARPENTER #3	THROCKMORTON COUNTY R	0.0	LONE STAR GAS CO
-CLEMENTS ENERGY INC				RECEIVED:	06/17/82	JA: TX			
8239291	F-08-851913	42495314510		103		VEST RANCH 5-1 #1	HOLLIJACK (STRAWN DET	136.0	PHILLIPS PETROLEU
-COATES ENERGY TRUST				RECEIVED:	06/17/82	JA: TX			
8239349	F-01-852095	42127322840		102-4		JOHN M MARSHALL #1 (RRC #07627)	BLAKEWAY (DIXON SAND)	33.0	VALERO TRANSMISSI
-COBRA OIL AND GAS CORPORATION				RECEIVED:	06/17/82	JA: TX			
8239229	F-09-851055	42077320860		103		W I HOLT "AB #4-C-5 (RRC #19427)	JOY N W (MARBLE FALLS	27.0	SANFORD P FAGADAU
8239230	F-09-851058	42007316460		103		W I HOLT "AB" #2-C-5 (RRC #19427)	JOY N W (MARBLE FALLS	27.0	SANFORD P FAGADAU
-COLUMBIA GAS DEVELOPMENT CORP				RECEIVED:	06/17/82	JA: TX			
8239264	F-83-851532	42051320980		102-2		FRANK KRISTOF #1	GIDDINGS (AUSTIN CHAL	33.0	FERGUSON CROSSING
-CONOCO INC				RECEIVED:	06/17/82	JA: TX			
8239313	F-08-852007	42495314720		103		BROWN ALTMAN #10 ID #07716	WEINER/COLBY/	1.0	PHILLIPS PETROLEU
8239312	F-7B-852006	42433314000		103		GUEST/CANYON SAND #50 ID #10855	GUEST/CANYON SAND/	11.3	CITIES SERVICE CO
-CONSOLIDATED OIL & GAS INC				RECEIVED:	06/17/82	JA: TX			
8239284	F-04-851828	42479320220		107-TF		D S MARTINEZ #1	LAREDO (NAVARRO)	142.0	VALERO TRANSMISSI
-COTTON PETROLEUM CORPORATION				RECEIVED:	06/17/82	JA: TX			
8239164	F-06-848428	42055301240		102-4		CONNER #1	RED LAND NORTH	0.0	UNITED GAS PIPELI
-DALECO RESOURCES				RECEIVED:	06/17/82	JA: TX			
8239117	F-83-844925	42051000000		102-2		ENGLEMAN #1	CALDWELL (AUSTIN CHAL	0.0	CLAJON GAS CO
8239118	F-83-844929	42051000000		102-2		LOEHR UNIT #1	GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO
-DANSON OIL CORPORATION				RECEIVED:	06/17/82	JA: TX			
8239220	F-03-850653	42199315880		102-4		KIRBY-SANTA FE #2-T	LONG STATION (181780)	368.0	HOUSTON PIPELINE
8239221	F-04-850655	42479331600		103		D S PETTY #4-2	DOS HERMANOS W (OLMOS	73.0	DELHI GAS PIPELIN
-DANIELS ENERGY CO				RECEIVED:	06/17/82	JA: TX			
8239268	F-10-851556	42179310890		103		RCKNIGHT	PANHANDLE GRAY	1.0	CABOT PIPELINE CO
-DANSON EXPLORATION INC				RECEIVED:	06/17/82	JA: TX			
8239188	F-03-849548	42245000000		102-4	103	BURRELL #2	HILDEBRANDT BAYOU S E	0.0	UNITED TEXAS TRAN
-DELTA DRILLING CO				RECEIVED:	06/17/82	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8239153	F-08-047730	4236500880		103		107-TF COOKE #3
-DELTA OIL & GAS CO				RECEIVED:	06/17/82	JA: TX
8239192	F-78-049671	4242900000		108		C W BROWN RRC #75734
8239219	F-78-050588	4242900000		108		P B STEPHENS 1-14 RRC #93056
-DESCO OIL CO				RECEIVED:	06/17/82	JA: TX
8239251	F-03-051296	4224531544		103		ROBERT BAUER #1 (ID NO PENDING)
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	06/17/82	JA: TX
8239043	F-10-0-05489	4234100000		108-ER		ANDERSON #1
8239411	F-10-052325	4229531085		103		HOLLENE PEERY "A" 374 #2
8239410	F-10-052324	4229531064		103		HUGH D BARTON 465 #2
8239155	F-10-047944	4229531000		103		JAY D BARTON "F" #1
8239409	F-10-052323	4229531068		103		PERCY E HILL 464 #2
-DISCOVERY OPERATING INC				RECEIVED:	06/17/82	JA: TX
8239168	F-8A-048624	4222732397		103		DOSIER #1
-DORCHESTER EXPLORATION INC				RECEIVED:	06/17/82	JA: TX
8239289	F-08-051901	4243131089		103		REYNOLDS 3
-DUNIGAN OPERATING CO INC				RECEIVED:	06/17/82	JA: TX
8239223	F-8A-050768	4207900000		108		MASTEN (63220) #3-A
8239222	F-8A-050767	4207900000		108		MASTEN (63220) #4
-EGAN-WILSON PETROLEUM INC				RECEIVED:	06/17/82	JA: TX
8239098	F-04-042879	4224900000		103		RENKEN UNIT #1
-ENERGY RESOURCES OIL & GAS CORP				RECEIVED:	06/17/82	JA: TX
8239381	F-8A-052218	4203330552		103		CLAYTON #1
-ENERGY-AGRI PRODUCTS INC				RECEIVED:	06/17/82	JA: TX
8239421	F-10-052482	4206500880		103		MONEY #2 (ID 085840)
-ENRE CORP				RECEIVED:	06/17/82	JA: TX
8239395	F-78-052257	4213333667		102-4		MITCHAM "G" #4 (16301)
-ENSERCH EXPLORATION INC				RECEIVED:	06/17/82	JA: TX
8239073	F-02-037873	4228531431		107-TF		ALBERT SMOLIK #2
8239072	F-02-037872	4228531457		107-TF		H A POHL #2
8239124	F-01-045730	4201300000		103		J L TOM "A" UNIT 3 #2-LT
-ENSOURCE INC				RECEIVED:	06/17/82	JA: TX
8239062	F-78-035814	4214330530		103		D P SWANNER "A" #1
8239102	F-7C-043085	4246100000		103		HALAMICEK "43" #2
8239101	F-7C-043078	4246131694		103		HALFF "47" #3
-ESTATE OF WM D MCBEE				RECEIVED:	06/17/82	JA: TX
8239273	F-06-051683	4245938586		103	107-TF	W E RAY GAS UNIT #1 WELL #2
-EXXON CORPORATION				RECEIVED:	06/17/82	JA: TX
8239255	F-03-051380	4201530500		103		A A SANDERS #13
8239419	F-03-052363	4205131379		102-2		BILLIE EHLERT #3
8239197	F-02-049937	4229732609		102-4		CHARLES L MCCASLIN #18F
8239417	F-03-052359	4207131201		103		GALVESTON BAY STATE "A" #183
8239200	F-08-049983	4210332673		103		J C TUBB A/C 1 249L
*8239331	F-04-052051	4227331366		103		K R ALAZAN 336 (86380)
*8239330	F-04-052050	4227331197		103		K R CHILTIPIN 57 (098019)
8239310	F-04-051990	4224700000		108		MRS A M K BASS "B" 2-F (075249)
8239292	F-04-051935	4224700000		108		MRS A M K BASS 33-T (091169)
*8239414	F-03-052356	4215731166		102-4		PECAN GROVE ASSOCIATES #2-U
*8239274	F-04-051632	4204730683		103		RJK JR TR BARROSA PAST 16-D #79068
8239294	F-03-051952	4228131339		103		WEBSTER FIELD UNIT #1323
-F WILLIAM CARR				RECEIVED:	06/17/82	JA: TX
8237069	F-02-037315	4229700000		108-ER		GEORGE WEST ESTATE NO 1
-FAGADAU ENERGY CORP				RECEIVED:	06/17/82	JA: TX

FIELD NAME	PROD	PURCHASER
CARTHAGE	0.0	UNITED GAS PIPE L
STEPHENS COUNTY REGUL	4.0	DELHI GAS PIPELIN
TULLOS (CADDO)	2.4	PETROLEUM CORP OF
BAUER RANCH (NODOSARI	365.0	MINNIE PIPELINE C
PANHANDLE WEST	8.0	NORTHERN NATURAL
LIPSCOMB SW	0.0	
HORSE CREEK NW	189.0	
LIPSCOMB	34.0	
HORSE CREEK NW (CLEVE	275.0	
ACKERLY (DEAN SAND)	18.9	TEXACO INC
CONGER (PENN)	222.7	ESPERANZA PIPELIN
LEVELLAND (SAN ANDRES	23.0	EL PASO NATURAL G
LEVELLAND (SAN ANDRES	23.0	EL PASO NATURAL G
DUNN (LOU ELLA)	45.0	TRUNKLINE GAS CO
LUCK POT (CANYON REEF	15.0	GETTY OIL CO
PANHANDLE CARSON	0.0	GETTY OIL CO
D R S (CONGL)	106.0	BENGAL GAS TRANSM
WORD N	2127.0	VALERO TRANSMISSI
WORD N	562.0	VALERO TRANSMISSI
FASHING	465.0	NATURAL GAS PIPEL
DIAZ (STRAWN)	8.0	SOUTHWESTERN GAS
SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
SPRABERRY (TREND AREA	8.0	PHILLIPS PETROLEU
ROSEWOOD (COTTON VALL	710.0	WESTERN GAS CORP
RACCOON BEND (MIOCENE	3.3	TEXAS SOUTHEASTER
GIDDINGS (AUSTIN CHAL	30.0	FERGUSON CROSSING
RAMIRENA SW (YEGUA 7	778.0	NATURAL GAS PIPEL
RED FISH REEF S (FRIO	365.0	HOUSTON PIPELINE
SAND HILLS (TUBB)	8.0	EL PASO NATURAL G
ALAZAN (I-83)	900.0	ARMCO STEEL CORP
LOBO SE (F-70)	58.0	ARMCO STEEL CORP
KELSEY DEEP (17-A SEG	12.0	TRUNKLINE GAS CO
KELSEY DEEP (22-E NW)	11.0	TRUNKLINE GAS CO
PECAN GROVE (7700)	200.0	ARMCO STEEL CORP
PITA NW (H-43)	300.0	ARMCO STEEL CORP
WEBSTER	128.0	HOUSTON PIPELINE
WEST GEORGE WEST (750	5.8	TEXAS EASTERN TRA

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8239311	F-09-051991	4207732433		103		SCALING RANCH "C" #1 RRC #22058	CASS (CADDO)	120.0	BLUEGROVE GASOLIN
-FAIR OIL CO				RECEIVED:	06/17/82	JA: TX			
8239236	F-06-051192	4249930998		102-4		J F JOHNSON EST UNIT #2 WELL #3	B-J (GLOYD)	72.0	ARKANSAS LOUISIAN
-FRANK CASS				RECEIVED:	06/17/82	JA: TX			
8239182	F-7C-049417	4243532597		103	107-TF	ALLISON-MIERS 1301 RRC #098340	SAWYER (CANYON)	300.0	EL PASO NATURAL G
8239181	F-7C-049387	4243532623		103	107-TF	ALLISON-MIERS 1302	SAWYER (CANYON)	300.0	EL PASO NATURAL G
8239180	F-7C-049331	4243532600		103	107-TF	ALLISON-MIERS 7901 RRC #098338	SAWYER (CANYON)	300.0	EL PASO NATURAL G
-G & A OPERATING CORP				RECEIVED:	06/17/82	JA: TX			
8239286	F-02-051880	4229700000		102-4		ROBERT E MATULA #1	MAXINE EAST (MATULA)	0.0	UNITED TEXAS TRAN
-G A HAWKINS				RECEIVED:	06/17/82	JA: TX			
8239396	F-09-052258	4250332769		108		SPIVEY #1 (077732)	YOUNG COUNTY REGULAR	18.0	SOUTHWESTERN GAS
-GENERAL PRODUCTION CORP				RECEIVED:	06/17/82	JA: TX			
8239115	F-03-044416	4205131867		103		EUGENE ARLEDGE "A" #1	WILLARD (NAVARRO)	0.0	FERGUSON CROSSING
-GETTY OIL COMPANY				RECEIVED:	06/17/82	JA: TX			
8239254	F-78-051368	4243331413		103		FLOWERS CANYON SAND UNIT #215	FLOWERS (CANYON SAND)	23.0	CITIES SERVICE CO
-GO OIL CORP				RECEIVED:	06/17/82	JA: TX			
8239176	F-78-049161	4236732028		102-4		MYERS #1 (ID NO 95869)	PEASTER SE (MARBLE FA	8.0	NATURAL GAS PIPEL
-GOLDKING PRODUCTION COMPANY				RECEIVED:	06/17/82	JA: TX			
8239052	F-04-030211	4235531646		103		MINZE-NAUMANN G U #1	ROBSTOWN (5300*)	217.0	HOUSTON PIPELINE
-GRACE PETROLEUM CORPORATION				RECEIVED:	06/17/82	JA: TX			
8239179	F-06-049895	4234730490		102-4		BEN IRWIN #1	GARRISON (PETTIT LO)	0.0	UNITED GAS PIPELI
-GULF OIL CORPORATION				RECEIVED:	06/17/82	JA: TX			
8239358	F-08-052101	4247532442		103		HUTCHINGS STOCK ASSN #1147	WARD-ESTES NORTH	29.0	CABOT CORP
8239099	F-10-042946	4221131298		107-DP		L P HUMPHREYS #3	MATHERS RANCH	0.0	TRANSWESTERN PIPE
8239351	F-10-052103	4239330832		103		MARION OSBORNE NO 4-28	RED DEER	898.0	TRANSWESTERN PIPE
8239269	F-09-051567	4223700000		108		NORTH RIGGS #1	BOONSVILLE BEND (CONG	15.0	SOUTHWESTERN GAS
8239424	F-7C-052417	4223531850		102-2		STATE "YK" #1	IRION 163 (ELLENBURGE	14.0	J L DAVIS
8239425	F-08-052418	4200333093		103		TRIPLE-N/GRAYBURG/CONS A15N	TRIPLE-N (GRAYBURG)	29.0	PHILLIPS PETROLEU
8239426	F-08-052419	4200333082		103		TRIPLE-N/GRAYBURG/CONS B70	TRIPLE-N (GRAYBURG)	29.0	PHILLIPS PETROLEU
-H L BROWN JR				RECEIVED:	06/17/82	JA: TX			
8239282	F-08-051728	4231700000		103		SLAUGHTER-TRICE #5	SULPHUR DRAW (DEAN 87	25.2	GETTY OIL CO
-H-N OIL CO				RECEIVED:	06/17/82	JA: TX			
8239166	F-04-048583	4248931576		102-4		E R & PARODA DEITCH #1	MORGAN (5940 FRIO)	8.0	UNITED GAS PIPELI
-HAMILTON BROTHERS OIL CO				RECEIVED:	06/17/82	JA: TX			
8239158	F-04-047351	4213135405		102-4		MARSHAL STATE #1	HERMANAS SIETE (14500	1825.0	VALERO TRANSMISSI
-HARRISON INTERESTS LTD				RECEIVED:	06/17/82	JA: TX			
8239233	F-7C-051125	4218533731		103	107-TF	JOHN W HENDERSON III "I" #24	OZONA (CANYON SAND)	48.0	INTRATEX GAS CO
-HILL INTERNATIONAL PRODUCTION CO				RECEIVED:	06/17/82	JA: TX			
8239089	F-06-041923	4248100000		103	107-TF	EUNICE B STEPHENS #4	OAK HILL (COTTON VALL	0.0	DELHI GAS PIPELIN
8239088	F-06-041921	4248100000		103	107-TF	JOHN G MINOR #3	OAK HILL (COTTON VALL	0.0	DELHI GAS PIPELIN
-HILL PRODUCTION CO				RECEIVED:	06/17/82	JA: TX			
8239078	F-06-037539	4248100000		102-4		COLEMAN HEIRS #1	REDUINE (TRAVIS PEAK)	64.0	DELHI GAS PIPELIN
-HINTON PRODUCTION COMPANY				RECEIVED:	06/17/82	JA: TX			
8239278	F-05-051578	4246730505		102-4		BOB LOHR #1	MARTINS MILL W (RODES	200.0	LONE STAR GAS CO
8239271	F-35-051579	4246730520		102-4		J W BASS #2	MARTINS MILL W (RODES	75.0	LONE STAR GAS CO
-HNG OIL COMPANY				RECEIVED:	06/17/82	JA: TX			
8239165	F-18-048485	4248300000		102-4	103	LEGG "7" #1	ALLISON BRITT (12356)	0.0	PALO DURO PIPELIN
8239151	F-04-047362	4247900000		103	107-TF	VAQUILLAS RANCH "1646" #1	CARR (LOBO)	0.0	HOUSTON PIPE LINE
-HOUSTON OIL & MINERALS CORPORATION				RECEIVED:	06/17/82	JA: TX			
8239169	F-08-048727	4231732393		103		NAIL D-11 #2	SPRABERRY (TREND AREA	0.0	ADOBE OIL & GAS C
-HUGHES & HUGHES				RECEIVED:	06/17/82	JA: TX			
8239085	F-04-041628	4247932960		102-4	107-TF	LINCOLN ESTATE #2 WELL	BELLE JEFFERS (6600)	75.0	HOUSTON PIPE LINE
-HUMBLE EXPLORATION CO INC				RECEIVED:	06/17/82	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8239105	F-03-063591	4214900000		102-2	103	GARDNER BOONE #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-HUNT OIL COMPANY				RECEIVED:	06/17/82	JA: TX			
8239234	F-7C-050182	4246131787		102-4		AMACKER-HALFF 81 #5	AMACKER-TIPPETT SW (W	130.0	EL PASO NATURAL G
8239205	F-7C-050197	4246131767		102-4		V T AMACKER 76 #4	AMACKER-TIPPETT SW (9	8.0	EL PASO NATURAL G
-INDEPENDENT EXPLORATION CO				RECEIVED:	06/17/82	JA: TX			
8239081	F-02-041401	4228531581		102-4		CARROLL-BELLINGER #2C	HOPE MIOCENE 2300	195.0	VALERO TRANSMISSI
8239080	F-02-041323	4228531535		102-4		SWANEY-BELLINGER #1-C	HOPE MIOCENE 2300	301.0	VALERO TRANSMISSI
-INDIAN WELLS OIL CO				RECEIVED:	06/17/82	JA: TX			
8239433	F-7C-052462	4210533972		103	107-TF	HENDERSON 6-1	OZONA (CANYON SAND)	6.0	NORTHERN NATURAL
8239226	F-7C-050797	4223531835		103		RICHEY #42A-5	PROEANDT (CANYON)	0.0	NORTHERN NATURAL
-J A WILBURN				RECEIVED:	06/17/82	JA: TX			
8239297	F-78-051968	4215131261		103		BALLENGER #1	CLAYTONVILLE (CANYON	15.0	TIPPERARY CORP
8239296	F-78-051967	4215131273		103		BALLENGER #2	CLAYTONVILLE (CANYON	17.0	TIPPERARY CORP
8239298	F-78-051969	4215131177		103		STUART "B" #1	CLAYTONVILLE (CANYON	12.0	TIPPERARY CORP
-J M LUTTRELL				RECEIVED:	06/17/82	JA: TX			
8239259	F-78-051460	4242900000		108		KLOH #1	CADDO MARBLES FALLS	6.0	LONE STAR GAS CO
8239258	F-78-051459	4242900000		108		TXL #1	STEPHENS	0.0	LONE STAR GAS CO
-JAMES M FORGOTSON				RECEIVED:	06/17/82	JA: TX			
8239144	F-06-047056	4248100000		102	107-TF	J R PEPPER G U BELL #3	OAK HILL (COTTON VALL	240.0	HYDROCARBON LTD
-JATAM INC				RECEIVED:	06/17/82	JA: TX			
8239265	F-7C-051540	4243131070		103		HICKS ETC KNIGHT (#1)	JAMESON (STRAWN)	48.0	SUN OIL CO
8239266	F-7C-051543	4243130973		103		JATAM INC KNIGHT-117 (#3)	JAMESON (STRAWN)	36.0	SUN OIL CO
8239267	F-7C-051544	4243130972		103		JATAM INC KNIGHT-117 (#4)	JAMESON (STRAWN)	38.0	SUN OIL CO
8239045	F-7C-024153	4243130838		103		WIGGINS-TOWNSEND KNIGHT "A" #1	JAMESON (STRAWN)	48.0	SUN OIL CO
-JOHN L COX				RECEIVED:	06/17/82	JA: TX			
8239132	F-7C-046151	4246131844		103		POWELL "29" #1	SPRABERRY (TREND AREA	10.0	MOBIL PRODUCING T
8239131	F-7C-046150	4246131853		103		POWELL "33" #3	SPRABERRY (TREND AREA	10.0	MOBIL PRODUCING T
8239185	F-7C-049468	4223531881		103		ROCKER B "EE" #1-X C6079	SPRABERRY (TREND	10.0	EL PASO NATURAL G
8239186	F-7C-049470	4238332172		103		ROCKER B "M" #21-X #04855	SPRABERRY (TREND AREA	10.0	EL PASO NATURAL G
8239228	F-7C-051339	4223531896		103		ROCKER B "X" #12-X &RC#05968	SPRABERRY (TREND AREA	10.0	EL PASO NATURAL G
8239184	F-7C-049467	4238332173		103		ROCKER B "X" #4-X #05960	SPRABERRY (TREND AREA	10.0	EL PASO NATURAL G
-JONES CO				RECEIVED:	06/17/82	JA: TX			
8239420	F-7B-052371	4242933202		102-4		BELL "14" #1 (098534)	LAKESIDE (CONGL 3960)	189.0	WARREN PETROLEUM
8239322	F-7B-052042	4241733634		103		COMPTON "35" #1 (C93647)	SHACKELFORD COUNTY RE	69.0	DELHI GAS PIPELIN
8239323	F-7B-052043	4241733080		102-4		COMPTON "64" #1 (15891)	MORAN W (ELLEN)	20.0	DELHI GAS PIPELIN
8239277	F-7B-051672	4241733951		102-4		MATTHEWS "13A" #1 (17430)	MATTHEWS (ELLEN)	6.0	DELHI GAS PIPELIN
8239278	F-7B-051673	4241733871		102-4		MATTHEWS "22" #2 (17404)	MATTHEWS (ELLEN)	1.0	DELHI GAS PIPELIN
8239279	F-7B-051675	4241733784		102-4		MATTHEWS "23" #4 (17396)	MATTHEWS (ELLEN)	7.0	DELHI GAS PIPELIN
8239324	F-7B-052044	4205932543		103		WILLIAMS "2976" #1 (16033)	CALLAHAN COUNTY REGUL	0.0	DELHI GAS PIPELIN
8239325	F-7B-052045	4205932715		103		WILLIAMS "2976" #2 (16033)	CALLAHAN COUNTY REGUL	0.0	DELHI GAS PIPELIN
8239326	F-7B-052046	4205932792		103		WILLIAMS "2976" #3 (16033)	CALLAHAN COUNTY REGUL	0.0	DELHI GAS PIPELIN
8239327	F-7B-052047	4205932855		103		WILLIAMS "2976" #4 (16033)	CALLAHAN COUNTY REGUL	0.0	DELHI GAS PIPELIN
8239328	F-7B-052048	4205933427		103		WILLIAMS "2976" #7 (16033)	CALLAHAN COUNTY REGUL	1.0	DELHI GAS PIPELIN
8239329	F-7B-052049	4205932690		103		WILLIAMS "2977" #1 (16105)	CALLAHAN COUNTY REGUL	1.0	DELHI GAS PIPELIN
-JOSEPH I ONEILL JR				RECEIVED:	06/17/82	JA: TX			
8239393	F-7C052249	4241300000		108		CASE #1 - 058937	CODY BELL (CANYON)	16.0	PRODUCERS GAS CO
8239392	F-7C-052248	4241300000		108		LUX & V #1 - C58762	CODY BELL (CANYON)	16.0	PRODUCERS GAS CO
-KERR-MCGEE CORPORATION				RECEIVED:	06/17/82	JA: TX			
8239191	F-7B-049854	4219231427		103		NORRIS 29-E7	HEMPHILL (GRANITE WAS	405.0	PIONEER NATURAL G
-L M YOUNG				RECEIVED:	06/17/82	JA: TX			
8239122	F-7B-045652	4204932793		102-4		R J GOODALL "A" #4	CHAMBERS (CONGL)	130.0	ODESSA NATURAL CO
8239093	F-7B-042375	4204930000		102-4		W R CHAMBERS #H-2	DALE (CADDO)	50.0	ODESSA NATURAL CO
8239091	F-7B-042273	4204930000		102-4		W R CHAMBERS #2	DALE (CADDO)	50.0	ODESSA NATURAL CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8239252	F-78-042314	4204900000		102-4		W R CHAMBERS #3
-L TEXAS INC				RECEIVED:	06/17/82	JA: TX
8239067	F-04-037205	4224731289		102-4	103	MESTENA OIL & GAS CO #J-2
-LARIAT OIL & GAS				RECEIVED:	06/17/82	JA: TX
8239217	F-78-050563	4236732182		102-4	103	GLENN #2 (098632)
-LEXINGTON EXPLORATION CO				RECEIVED:	06/17/82	JA: TX
*8239173	F-03-043017	4215731154		102-4		HOLTKAMP NO 1
-LHG RESOURCES INC				RECEIVED:	06/17/82	JA: TX
8239210	F-78-050381	4242933140		103		MORRIS #1
-MANGUM INC				RECEIVED:	06/17/82	JA: TX
8239044	F-02-021901	4202500000		108-ER		CLAUDE E HEARD #2
-MARALO INC				RECEIVED:	06/17/82	JA: TX
8239332	F-08-052055	4200333000		103		LARIO SLOAN #1
-MARATHON OIL COMPANY				RECEIVED:	06/17/82	JA: TX
8239369	F-03-052150	4232131220		103		OHIO-SUN UNIT #9-K
-MCCANN CORP				RECEIVED:	06/17/82	JA: TX
8239383	F-08-052220	4222732479		102-2	103	READ A-34 #1
-MCCORMICK OPERATING CO				RECEIVED:	06/17/82	JA: TX
8239195	F-06-049907	4240131322		103	107-TF	OVERTON #4
8239196	F-06-049908	4240131294		103	107-TF	STRONG #2
-MCMURREY PETROLEUM INC				RECEIVED:	06/17/82	JA: TX
8239103	F-05-043418	4246730508		102-4	103	S M SPRAGUE #1
-MEG PETROLEUM CORP				RECEIVED:	06/17/82	JA: TX
8239334	F-78052064	4223531902		102-2	103	ROCK PEN NORTH #3
-MERCURY EXPLORATION CO				RECEIVED:	06/17/82	JA: TX
8239240	F-78-051221	4205900000		102-4		LEON BARR #1
8239239	F-78-051222	4205932219		102-4		LEON BARR #2
8239238	F-78-051219	4205932647		102-4		LEON BARR #3
-MESQUITE PRODUCTION & EXPLORATION I				RECEIVED:	06/17/82	JA: TX
8239256	F-03-051436	4220131249		103		J S MELLINGER #1
-NEWBOURNE OIL COMPANY				RECEIVED:	06/17/82	JA: TX
8239290	F-08-051910	4210332733		103		COWDEN #3 RRC ID #26746
8239352	F-10-052107	4235731236		102-4		HARDY #9 RRC ID #04471
8239394	F-10-052256	4229531145		102-4	103	RADAR #2 RRC ID #05007
-NID-AMERICA PETROLEUM INC				RECEIVED:	06/17/82	JA: TX
8239194	F-8A-049863	4216532159		102-4	103	MELLINGER #1
-NILES PRODUCTION CO				RECEIVED:	06/17/82	JA: TX
8239249	F-09-051276	4223700000		102-4		M P MOEFLE #3 10#22651
-NITCHELL ENERGY CORPORATION				RECEIVED:	06/17/82	JA: TX
8239063	F-09-036047	4249731572		108-ER		ADELE CLOUGH #4 (87010)
8239243	F-09-051247	4223734188		102-4	103	B E BAKER "B" #1-T
8239378	F-09-052200	4223700000		108		BOYD HEIRS #1 #21066
8239379	F-09-052210	4249700000		108		E L DUKE #3 U-#33050 L-#33180
8239049	F-09-028584	4249700000		108-ER		EMMA MCCLURE #1 21458
8239054	F-78-031537	4242932317		103		FAMBRO "35" #3
8239106	F-7C-043848	4243531223		107-TF		GENINI 39 #1
8239342	F-78-052066	4214330151		102-2		HAZEL SHARP #1 #77443
8239056	F-09-031587	4249700000		108		J A DRYDEN #1 28636
8239055	F-09-031585	4249700000		108		NASH-BILLINGSLEY #1 28759
8239201	F-7C-045035	4245130842		102-4	103	O R MCWHORTER 218 #1
8239380	F-03-052212	4237300000		108		R CLAMON #1 #76246
8239048	F-09-027901	4249700000		108-ER		SAM KIKER #1 28713
-MOBIL PROD TEXAS & NEW MEXICO INC				RECEIVED:	06/17/82	JA: TX

FIELD NAME	PROL	PURCHASER
DALE (CADDO)	50.0	ODESSA NATURAL CO
DARON (4900)	0.0	
MOBY DICK (UPPER CONG	250.0	SOUTHWESTERN GAS
ROSENBERG (FRIO 5270)	275.0	UNITED GAS PIPELI
WEYLAND SE (DUFFER LI	255.5	WARREN PETROLEUM
HEARD RANCH (4500)	20.0	TRUNKLINE GAS CO
DEEP ROCK (PENN)	15.1	PHILLIPS PETROLEU
NORTH MARKHAM-NORTH B	151.0	TRANSCONTINENTAL
COAHOMA N (FUSSEL)	100.0	GETTY OIL CO
OAK HILL (COTTON VALL	380.0	HYDROCARBON TRANS
OAK HILL (COTTON VALL	425.0	HYDROCARBON TRANS
FRUITVALE EAST (RODES	200.0	UNITED GAS PIPELI
ROCK PEN (CANYON)	75.0	CRA INC
BARR & GARDNER	42.0	LONE STAR GAS CO
BARR & GARDNER	25.0	LONE STAR GAS CO
BARR & GARDNER	16.0	LONE STAR GAS CO
CYPRESS (COCKFIELD A)	365.0	TENNESSEE GAS PIP
CRANE (DEVONIAN)	32.0	PHILLIPS PETROLEU
HARDY (MORROW UPPER)	60.0	TRANSWESTERN PIPE
CARROLL (CLEVELAND)	34.0	TRANSWESTERN PIPE
G-M-K (BASAL YATES)	110.0	PIONEER CORP
ANTELOPE S E (MARBLE	66.0	SOUTHWESTERN GAS
BOONSVILLE (BEND CONG	500.0	NATURAL GAS PIPEL
MARYETTA SOUTHEAST (C	532.0	NATURAL GAS PIPEL
KRAMBERGER (ATOKA CON	9.8	NATURAL GAS PIPEL
LOWER-BOONSVILLE (BEN	12.0	NATURAL GAS PIPEL
BOONESVILLE (BEND CON	8.8	NATURAL GAS PIPEL
BRITTANY B E STRAWN (	190.8	
SHURLEY RANCH (CANYON	20.0	VALERO TRANSMISSI
TEXOLINE (MARBLE FALL	200.0	
BOONSVILLE (BEND CONG	12.0	NATURAL GAS PIPEL
BOONSVILLE (BEND CONG	12.0	NATURAL PIPELINE
KWB (STRAWN LOWER)	5.4	
HORTENSE/WOODBINE	8.1	HOUSTON PIPELINE
BOONSVILLE (BEND CONG	16.8	NATURAL GAS PIPEL

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROL	PURCHASER
8239386	F-1R-052225	4237133596		103		CHARLES B ATHEY C #6	COYANOSA N (DELAWARE)	0.7	EL PASO NATURAL G
8239385	F-03-052224	4239131227		108		HUBERT GRESSETT #1	RAYWOOD SOUTH (GRESSE	21.7	NATURAL GAS PIPEL
*8239387	F-04-052228	4224903469		108-SA		LAGLORIA GAS UNIT #36-L	LAGLORIA/BROOKS	19.1	NATURAL GAS PIPEL
-MONSANTO COMPANY				RECEIVED:	06/17/82	JA: TX			
8239042	F-10-002236	4219500000		108-ER		SANDERS #1 RRC #28396	HANSFORD (LOWER MORRO	15.0	NORTHERN NATURAL
-MONTERREY PETROLEUM CORP				RECEIVED:	06/17/82	JA: TX			
8239149	F-03-047314	4247330348		102-4		HARPER N WOOD #2	CHAPMAN (WILCOX 9890)	216.0	PRODUCER'S GAS CO
-MORAN EXPLORATION INC				RECEIVED:	06/17/82	JA: TX			
8239234	F-7C-051126	4238332026		103		UNIVERSITY "35" #1	(SPRABERRY) TREND	8.8	PHILLIPS PETROLEU
-MOSBACHER PRODUCTION CO				RECEIVED:	06/17/82	JA: TX			
8239382	F-03-052219	4235131643		102-2		SAM E FACHORN "B" #1	GIDDINGS (AUSTIN CHAL	42.0	CLAJON GAS CO
8239377	F-03-052189	4235131347		102-2		SAM N FACHORN #1	GIDDINGS (AUSTIN CHAL	38.8	CLAJON GAS CO
-MR OIL CO				RECEIVED:	06/17/82	JA: TX			
8239388	F-08-052232	4247532506		103		YATES-STATE #1 #27224	WARD SOUTH	8.0	
-MUELLER ENGINEERING CORP				RECEIVED:	06/17/82	JA: TX			
8239160	F-24-048112	4213100000		103		HOWARD & ROGER WRIGHT #1	CHARAMOUSCA W (2100)	144.0	VALERO TRANSMISSI
-NATIONAL OIL COMPANY				RECEIVED:	06/17/82	JA: TX			
8239171	F-04-048888	4221500000		102-4		SCHUSTER #1	SHEPHERD S (FRIO)	500.0	VALERO INTERSTATE
-NATURAL GAS ANADARKO INC				RECEIVED:	06/17/82	JA: TX			
8239187	F-10-049527	4235700000		103		NORMA 1-44	PSHIGODA N (DES MOINE	15.0	PHILLIPS PETROLEU
-O R CLARK				RECEIVED:	06/17/82	JA: TX			
8239130	F-09-046079	4223732745		103		BILL BIRDWELL #1	JACK COUNTY REGULAR	26.0	LONE STAR GAS CO
-OMNI OPERATING CO				RECEIVED:	06/17/82	JA: TX			
8239215	F-04-050525	4227331555		103		KING RANCH #A-1	KINGSVILLE FRIO 2618	8.0	TEXAS EASTERN GAS
-PALO PETROLEUM INC				RECEIVED:	06/17/82	JA: TX			
8239046	F-7C-026498	4238300000		103		PALO TOMMYE BOOTHE S #1	N E BARNHART (GRAYBUR	7.3	BIG LAKE GASOLINE
8239058	F-7B-025238	4213300000		102-4	103	PARNELL #1	WILDCAT	46.2	ODESSA NATURAL CO
-PARKER & PARSLEY INC				RECEIVED:	06/17/82	JA: TX			
8239212	F-08-E51463	4231732479		103		BLOCKER "A" #1	SPRABERRY (TREND AREA	15.0	PHILLIPS PETROLEU
8239213	F-08-050464	4232931057		103		EDITH DRAKE #1	SPRABERRY (TREND AREA	15.0	PHILLIPS PETROLEU
-PATLAND OIL CO				RECEIVED:	06/17/82	JA: TX			
8239224	F-10-051774	4249900000		102-4		LOVETT C I #1 9701	SPARTAN (FRIO SAND 56	200.0	TENNESSEE GAS PIP
-PEARSON-SIBERT OIL CO OF TEXAS				RECEIVED:	06/17/82	JA: TX			
8239389	F-7C-052237	4208130143		108		MILLICAN REEF UNIT #1-P	MILLICAN (STRAWN REEF	19.0	SUN EXPLORATION &
-PENNZOIL PRODUCING COMPANY				RECEIVED:	06/17/82	JA: TX			
8239086	F-04-041639	4236531304		103		CRENSHAW UNIT #2	BETHANY (TRAVIS PEAK)	6.0	UNITED GAS PIPE L
8239183	F-05-049421	4236531383		103	107-TF	FITE #5	CARTHAGE/COTTON VALLE	585.0	UNITED GAS PIPE L
-PETRO-SEARCH INC				RECEIVED:	06/17/82	JA: TX			
8239415	F-09-052357	4223733667		102-4		PURSLEY #1	PURSLEY (CADDO LIME)	22.0	SOUTHWESTERN GAS
8239416	F-09-052358	4223734409		102-4		PURSLEY #2	PURSLEY (CADDO LIME)	22.0	SOUTHWESTERN GAS
-PETROLEUM CORPORATION OF TEXAS				RECEIVED:	06/17/82	JA: TX			
8239272	F-09-051592	4223700000		108		E W HOOTEN #1	RISCH S E (CADDO CONG	16.4	CITIES SERVICE GA
8239190	F-09-049639	4223734047		103		T.H MARKS #1	HUNTER	73.0	
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	06/17/82	JA: TX			
8239356	F-10-052127	4242100000		108		BIVENS V #1	TEXAS HUGOTON	6.0	MICHIGAN WISCONSI
8239351	F-10-050122	4221131284		103		BOWERS C #2	WASHITA CREEK	6.0	NATURAL GAS PIPEL
8239357	F-10-052128	4223300000		108		LEA A #1	PANHANDLE HUTCHINSON	0.0	EL PASO NATURAL G
8239358	F-10-052129	4235700000		108		SWINK C #1	HORIZON CLEVELAND	6.0	
-PIONEER PRODUCTION CORPORATION				RECEIVED:	06/17/82	JA: TX			
8239391	F-10-052246	4206500000		108		BIVINS "A" #16-R	PANHANDLE WEST (RED C	6.0	WESTAR TRANSMISSI
8239157	F-10-047976	4248330954		102-2		BRITT #1-SR	ALLISON-BRITT	6.8	
8239390	F-10-052244	4229500000		108		J K MUGG ESTATE #1	MAMMOTH CREEK NORTH (	0.0	NORTHERN NATURAL
8239146	F-10-047140	4221100000		103		NORRIS #44-7	HEMPHILL FIELD	6.0	PIONEER CORP

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROL	PURCHASER
-POLK & PATTON INC				RECEIVED:	06/17/82	JA: TX			
8239154	F-03-047939	4205100000		102-2		MARSHALL OAKS UNIT #1	GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO
-QUINTANA PETROLEUM CORP				RECEIVED:	06/17/82	JA: TX			
8239320	F-02-052028	4239131508		103		MAUDE WILLIAMS "A" D-116	LAKE PASTURE (H-440 S	7.3	UNITED TEXAS TRAN
-R A W ENERGY CORP				RECEIVED:	06/17/82	JA: TX			
8239202		4236700000		102-4		SAVAGE #1-U	DICEY S	45.0	EMPIRE PIPELINE C
8239203	F-78-050078	4236700000		102-4		SAVAGE #1-U	DICEY S	45.0	EMPIRE PIPELINE C
-R LACY INC				RECEIVED:	06/17/82	JA: TX			
8239121	F-06-045603	4256531502		102-4		BROWN UNIT 1 WELL #5 RRC #N/A	CARTHAGE (TRAVIS PEAK	28.0	ARKANSAS LOUISIAN
-RAY TEMPLETON CO				RECEIVED:	06/17/82	JA: TX			
8239209	F-78-050346	4256332823		103		NOWAK #1 RRC E97882	LOWER NOWAK (BEND CON	156.6	SOUTHWESTERN GAS
-REO INDUSTRIES INC				RECEIVED:	06/17/82	JA: TX			
8239367	F-10-052147	4223300000		103		WHITTENBURG A 8-11	PANHANDLE HUTCHINSON	0.0	TRANS-PAN PIPELIN
8239366	F-10-052146	4223300000		103		WHITTENBURG A 8-9	PANHANDLE HUTCHINSON	27.0	TRANS-PAN PIPELIN
8239354	F-10-052120	4223300000		103		WHITTENBURG 1-17	PANHANDLE HUTCHINSON	72.0	TRANS-PAN PIPELIN
8239336	F-10-052066	4223300000		103		WHITTENBURG 2-8	PANHANDLE HUTCHINSON	72.0	TRANS-PAN PIPELIN
8239368	F-10-052148	4223300000		103		WHITTENBURG 3-25	PANHANDLE HUTCHINSON	72.0	TRANS-PAN PIPELIN
8239355	F-10-052122	4223300000		103		WHITTENBURG 5-17	PANHANDLE HUTCHINSON	72.0	TRANS-PAN PIPELIN
8239337	F-10-052067	4223300000		103		WHITTENBURG 5-19	PANHANDLE HUTCHINSON	72.0	TRANS-PAN PIPELIN
8239335	F-10-052065	4223300000		103		WHITTENBURG 5-29	PANHANDLE HUTCHINSON	72.0	TRANS-PAN PIPELIN
8239339	F-10-052069	4223300000		103		WHITTENBURG 9-1	PANHANDLE HUTCHINSON	0.0	TRANS-PAN PIPELIN
8239338	F-10-052068	4223300000		103		WHITTENBURG 9-4	PANHANDLE HUTCHINSON	72.0	TRANS-PAN PIPELIN
-REPUBLIC GAS GATHERING SYSTEMS INC				RECEIVED:	06/17/82	JA: TX			
8239078	F-78-040188	4213332440		103		W B WRIGHT #2	W B WRIGHT (CONGL)	18.0	LONE STAR GAS CO
-RIDGE OIL CO				RECEIVED:	06/17/82	JA: TX			
8239250	F-78-051294	4213333605		102-4	103	BARKER #1	RANGER (BLACK LIME WE	21.6	COMPRESSOR RENTAL
-RIO PETROLEUM INC				RECEIVED:	06/17/82	JA: TX			
8239179	F-10-049307	4217921841		103		PAMELA #2	PANHANDLE GRAY COUNTY	36.0	PIONEER NATURAL G
-ROMAC OIL CO INC				RECEIVED:	06/17/82	JA: TX			
8239284	F-78-051686	4244732892		103		GOBER #1-X	GOBER (MARBLE FALLS C	1.0	GREAT WESTERN GAS
-SAGE ENERGY CO				RECEIVED:	06/17/82	JA: TX			
8239214	F-03-050491	4235131525		102-0		LYONS #1 RRC #14968	GIDDINGS (AUSTIN CHAL	146.0	PHILLIPS PETROLEU
-SAMEDAN OIL CORPORATION				RECEIVED:	06/17/82	JA: TX			
8239143	F-03-046924	4222530380		102-4		SKIPPER #1	FORT TRINIDAD	175.0	SOUTH TEXAS GATHE
-SAMSON RESOURCES COMPANY				RECEIVED:	06/17/82	JA: TX			
8239127	F-06-045903	4241930348		102-4		C W DEAN #1	NORTH TIMPSON (TRAVIS	112.4	DELHI GAS PIPELIN
-SANTA FE ENERGY PRODUCTS CO				RECEIVED:	06/17/82	JA: TX			
8239285	F-03-051843	4205100000		102-2		JAMES LASTLY #6	GIDDINGS (AUSTIN-CHAL	0.0	FERGUSON CROSSING
-SAXON OIL COMPANY				RECEIVED:	06/17/82	JA: TX			
8239413	F-7C-052354	4246131873		103		BRUSENHAN #4	SPRABERRY (TREND AREA	25.9	MOBIL PROD TEXAS
8239293	F-08-051948	4231732474		103		HEALD #2	BREEDLOVE EAST (SPRAB	26.0	PHILLIPS PETROLEU
-SCANDRILL CO				RECEIVED:	06/17/82	JA: TX			
8239333	F-09-052059	4223734199		103		GEORGE KINDER #6	BRYSON EAST	31.0	TEXAS UTILITIES F
8239375	F-09-052184	4223734200		103		HENDERSON-BRIDWELL #18	BRYSON EAST	36.5	TEXAS UTILITIES F
8239376	F-09-052186	4223734203		103		HENDERSON-BRIDWELL #19	BRYSON EAST	36.5	TEXAS UTILITIES F
8239353	F-09-052113	4223734198		103		1ST STATE BANK #6	BRYSON EAST	20.1	TEXAS UTILITIES F
-SHAR-ALAN OIL CO				RECEIVED:	06/17/82	JA: TX			
8239128	F-03-046048	4231330327		103		HERBERT POSS #1	MADISONVILLE N E (DEX	6.0	LONE STAR GAS CO
-SHELL OIL CO				RECEIVED:	06/17/82	JA: TX			
8239398	F-09-052273	4218100000		108		BIG MINERAL CREEK/STRAWN 1 #416	BIG MINERAL CREEK (ST	1.0	UNION TEXAS PETRO
8239401	F-08-052275	4213500000		108		EAST HARPER UNIT #12	HARPER	0.1	PHILLIPS PETROLEU
8239399	F-8A-052273	4253100000		108		ROBERTS DORA NO 23	WASSON (WOLFCAMP)	1.0	SHELL OIL CO
8239400	F-08-052274	4213500000		108		TXL NORTH UNIT NO 420-L	TXL (TUBB)	2.4	SHELL OIL ET AL

JD NO	JA DKT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8239397	F-1[illegible]-052269	422950[illegible]	108		WHEAT #2-764	KIOWA CREEK (MORROW U	14.5	PHILLIPS PETROLEU
-SIOUX NATURAL GAS CORP			RECEIVED:	06/17/82	JA: TX			
8239148	F-7C-047221	4244330266	103		ALLISON "4-W" #1	ALLISON (DEVONIAN)	287.0	VALERO TRANSMISSI
-SOUTHEASTERN P/L CO & PRES ROY C			RECEIVED:	06/17/82	JA: TX			
8239125	F-03-045763	4248100000	103		A T LEVERIDGE UNIT #3-T	BERNARD EAST (8000')	85.0	TENNESSEE GAS PIP
-STOWERS OIL & GAS			RECEIVED:	06/17/82	JA: TX			
8239275	F-10-051663	4206531062	103		BEDNORZ #3 05031	PANHANDLE CARSON COUN	72.0	NORTHERN NATURAL
8239276	F-10-051664	4206531062	103		BEDNORZ #4 05031	PANHANDLE CARSON COUN	72.0	NORTHERN NATURAL
-SUN EXPLORATION & PRODUCTION CO			RECEIVED:	06/17/82	JA: TX			
8239152	F-8A-047497	4250132143	103		BENNETT RANCH UNIT #337	WASSON	9.0	SHELL OIL CO
8239307	F-09-051982	4232900000	108		CURTIS PRICE #1	AZALEA (DEVONIAN)	15.0	PHILLIPS PETROLEU
8239218	F-09-050569	4223700000	107-PE		DURHAM-F-GAS UNIT #1	BOONSVILLE (BEND CONG	258.0	LONE STAR GAS CO
8239328	F-[illegible]-051985	4221531181	103		J D JEFFRESS #14	JEFFRESS	926.8	
8239178	F-7C-049271	4238100000	108		JAMESON STRAWN SAND UNIT #7-27	JAMESON STRAWN	2.0	LONE STAR GAS CO
8239340	F-7B-052073	4255300000	108		L R SPIRES "C" #303	NENA LUCIA (STRAWN RE	10.0	LONE STAR GAS CO
8239257	F-04-051443	4242731507	103		MARRS MCLEAN #25	LOCKHART AREA	2.0	TENNESSEE GAS PIP
8239384	F-08-051978	4232900000	108		MCALISTER OHB #1	AZALEA (DEVONIAN)	18.0	PHILLIPS PETROLEU
8239341	F-02-052074	4246900000	108		MCFADDIN #1-16	MCFADDIN/2500	17.0	TENNESSEE GAS PIP
8239177	F-06-049251	4242300000	108		SHAMBURGER LAKE #20-1	SHAMBURGER LAKE	0.3	LONE STAR GAS CO
8239281	F-09-051692	4214300000	108		T P FEE #18 #2	X-RAY (MARBLE FALLS)	11.0	LONE STAR GAS CO
8239326	F-[illegible]-05198[illegible]	4210332630	103		UNIVERSITY "L" #10	DUNE	0.4	PHILLIPS PETROLEU
8239305	F-09-051978	4210332697	103		UNIVERSITY "L" #11	DUNE	0.4	PHILLIPS PETROLEU
-SUN OIL COMPANY (DELAWARE)			RECEIVED:	06/17/82	JA: TX			
8239053	F-08-030740	4213500000	108-ER		EAST GOLDSMITH SAN ANDRES NO 31-1	EAST GOLDSMITH (SAN A	0.3	PHILLIPS PETROLEU
8239097	F-04-042822	4242731450	102-4		I V MONTALVO -C- #42U	SUN NORTH (6310 VICKS	97.0	
8239087	F-08-041748	4249531212	103		S M HALLEY "B" #31	EMPEROR (HOLT)	68.3	NORTHERN NATURAL
-SUPERIOR OIL CO			RECEIVED:	06/17/82	JA: TX			
8239163	F-03-048361	4228731184	102-2 103		EDGMON-CAMERON #4	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
8239133	F-03-046532	4201530491	107-TF		IVY MUENCH GAS UNIT #1	NEW ULM (EDWARDS)	0.0	
8239193	F-03-049741	4228731152	102-2 103		C B FALKE #2	GIDDINGS (AUSTIN CHAL	8.0	
-T A O ENERGY			RECEIVED:	06/17/82	JA: TX			
8239183	F-19-0415[illegible]	4283733350	103		W L WOODWARD #A1	PERRIN S W (CONG 4850	0.0	LONE STAR GAS CO
-TENNECO OIL COMPANY			RECEIVED:	06/17/82	JA: TX			
8239198	F-10-049955	4239330858	103		MORRISON #3-8	CATS CREEK	185.0	TRANSWESTERN PIPE
8239199	F-10-049957	4239330821	103		MORRISON 2-8	CAT CREEK	399.6	TRANSWESTERN PIPE
-TEXACO INC			RECEIVED:	06/17/82	JA: TX			
8239242	F-8A-051231	4221933356	103		IRA P DELOACHE #25	LEVELLAND	52.6	AMOCO PRODUCTION
8239206	F-8A-050255	4221933362	103		IRA P DELOACHE #26	LEVELLAND	58.0	AMOCO PRODUCTION
8239241	F-8A-051224	4221933353	103		IRA P DELOACHE #29	LEVELLAND	47.8	AMOCO PRODUCTION
8239245	F-08-051261	4213500000	108		J E PARKER "A" #11	HARPER	1.9	PHILLIPS PETROLEU
8239244	F-08-051262	4213500000	108		J E PARKER "A" #12	HARPER	2.2	PHILLIPS PETROLEU
8239246	F-08-051268	4213500000	108		J E PARKER "A" #2	HARPER	3.1	PHILLIPS PETROLEU
8239247	F-08-051270	4213500000	108		J E PARKER "A" #5	HARPER	1.0	PHILLIPS PETROLEU
8239248	F-08-051272	4243131113	103		STERLING "A" FEE #4	CONGER (PENN)	330.4	VALERO TRANSMISSI
-TEXAS INTERNATIONAL PET CORP			RECEIVED:	06/17/82	JA: TX			
8239114	F-06-044299	4240100000	103 107-TF		A MINOR #1	DIRGIN (COTTON VALLEY	292.5	DELHI GAS PIPELIN
-THE DOW CHEMICAL COMPANY			RECEIVED:	06/17/82	JA: TX			
8239287	F-03-051894	4228531196	102-4		HEBERT BROUSSARD #7	GUM ISLAND N (7800)	66.0	
-THOMAS S WEST JR			RECEIVED:	06/17/82	JA: TX			
8239059	F-02-032140	4246900000	102-4		MAURICE R ADCOCK #2	TELFERNER N W (FRIO 3	186.0	TRUNKLINE GAS CO
8239057	F-02-032138	4246900000	102-4		MAURICE R ADCOCK #3	TELFERNER N (2050)	186.3	TRUNKLINE GAS CO
8239058	F-02-032139	4246900000	102-4		ROY C SCHERER #4	TELFERNER N (2050)	0.0	TRUNKLINE GAS CO
-THROCKMORTON GAS SYSTEMS			RECEIVED:	06/17/82	JA: TX			

JD NO	JA DET	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8239066	F-78-036898	4244732000	102-2		ALLEN #1 #16141	THROCKMORTON COUNTY R	0.0	WARREN PETROLEUM
8239065	F-78-036895	4244732316	102-2		ALLEN #5 #16141	THROCKMORTON COUNTY R	0.0	WARREN PETROLEUM
8239077	F-78-039949	4244732325	102-2		ALLEN #6 #16141	THROCKMORTON COUNTY R	0.0	WARREN PETROLEUM
8239064	F-78-036894	4244732352	102-2		ALLEN #7 #16141	THROCKMORTON COUNTY R	0.0	WARREN PETROLEUM
8239076	F-78-039946	4244732000	102-4		ALLEN #8	THROCKMORTON COUNTY R	0.0	WARREN PETROLEUM
8239112	F-78-044244	4244732569	102-2		CARPENTER WELL #1 (16996)	BURK-GREGORY (CADDO)	0.0	WARREN PETROLEUM
8239074	F-78-038910	4244700000	102-2		JOE SOMERVILLE #1 (16594)	THROCKMORTON COUNTY R	0.0	WARREN PETROLEUM
8239374	F-78-052182	4244732663	102-2		RICHARDS "H" WELL #7 (18060)	RICHARDS RANCH (CADDO	0.0	WARREN PETROLEUM
-TIPPERARY OIL AND GAS CORP			RECEIVED: 06/17/82 JA: TX					
8239211	F-11-053386	4216300000	103		MACE "A" 1	PEARSALL (AUSTIN CHAL	0.0	TIPPERARY CORP
8239113	F-03-044287	4216931193	103		UNGER #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-TOM F MARSH INC			RECEIVED: 06/17/82 JA: TX					
8239125	F-13-045368	4248330921	102-4		SHELTON #1-84	CANDICE (MORROW)	3.0	MICHIGAN WISCONSI
-TRANS CANADA ENTERPRISES OF TEXAS I			RECEIVED: 06/17/82 JA: TX					
8239082	F-36-041432	4248931609	102-4		J D PATRICK JR #3	TAFT NE (6850)	182.0	TEXAS EASTERN TRA
-TRANSCO EXPLORATION COMPANY			RECEIVED: 06/17/82 JA: TX					
8239208	F-35-051322	4248333484	102-4 107-TF		EDGAR STARK #1	WILDCAT (BIG SANDY CO	2.0	
-TXO PRODUCTION CORP			RECEIVED: 06/17/82 JA: TX					
8239095	F-36-042752	4248132226	102-2		GARCIA B-1	BANDERA (6400')	0.0	DELHI GAS PIPELIN
8239084	F-02-041627	4223931334	102-4		SCHAEFER B-1	MCDANIEL (3850')	0.0	TEXAS EASTERN TRA
8239162	F-03-048293	4216130693	103 107-TF		TERRY "C" #1	RED LAKE (BOSSIER SAN	0.0	
8239094	F-02-042451	4223931637	102-4		WATSON B-2	MORALES (4360')	0.0	DELHI GAS PIPELIN
-U S OPERATING INC			RECEIVED: 06/17/82 JA: TX					
8239126	F-03-045800	4205131855	102-2		CISSY #1 RRC ID N/A	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
8239170	F-03-048743	4205137003	102-2		SILVIA UNIT #1 RRC ID N/A	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-VAUGHN PETROLEUM INC			RECEIVED: 06/17/82 JA: TX					
8239235	F-78-051182	4235331266	102-4		BOYD EDNA 17973	J&J (CADDO)	0.0	PALO DURO PIPELIN
-VENUS OIL COMPANY			RECEIVED: 06/17/82 JA: TX					
8239189	F-03-049603	4203930000	102-4		MASTERSON UNIT	LAKE ALASKA (FRIO 924	0.0	VALERO TRANSMISSI
-W R EDWARDS JR			RECEIVED: 06/17/82 JA: TX					
8239347	F-10-052891	4234100000	103		LYNCH #2	PANHANDLE MOORE	295.0	DIAMOND SHAMROCK
8239348	F-10-052892	4234100000	103		WITHERSEE #2	PANHANDLE MOORE	97.0	DIAMOND SHAMROCK
-WAGNER & BROWN			RECEIVED: 06/17/82 JA: TX					
8239263	F-28-051529	4243130000	103		GLASS "A" #A-4	CONGER (PENN)	279.0	TEXAS UTILITIES F
8239309	F-28-051984	4243131091	103		HILDEBRAND #4620	CONGER (PENN)	51.0	TEXAS UTILITIES F
-WAINOCO OIL & GAS CO			RECEIVED: 06/17/82 JA: TX					
8239261	F-15-051480	4216130685	103 107-TF		EMERSON #1	CHENEYBORO (COTTON VA	45.0	LONE STAR GAS CO
-WALTER EXPLORATION INC			RECEIVED: 06/17/82 JA: TX					
8239275	F-78-039917	4236332120	108		ROYE #5 RRC ID NO 83882	RINGO (STRAWN)	24.0	LONE STAR GAS CO
-WARREN PETR CO A DIV OF GULF OIL CO			RECEIVED: 06/17/82 JA: TX					
8239422	F-08-052403	4210332834	103		P J LEA #123	LEA (SAN ANDRES)	7.5	EL PASO NATURAL G
8239423	F-08-052404	4210332835	103		P J LEA #124	LEA (SAN ANDRES)	6.5	EL PASO NATURAL G
-WATCO ENERGY INC			RECEIVED: 06/17/82 JA: TX					
8239110	F-70-044065	4239931860	102-4 103		CLYDE FLANAGAN #1	G V (JENNINGS)	46.0	ODESSA NATURAL CO
8239109	F-70-044059	4239932098	102-4 103		ROHMFELD #2	G V (JENNINGS)	45.6	ODESSA NATURAL CO
8239111	F-70-044061	4239932183	102-4 103		ROHMFELD #3	G V (JENNINGS)	47.8	ODESSA NATURAL CO
-WESSELY ENERGY CORPORATION			RECEIVED: 06/17/82 JA: TX					
8239090	F-05-042063	4234931734	103 107-TF		NICHOLSON #1 ( )	ROUNDHOUSE (HAYNESVIL	186.0	TEXAS UTILITIES F
-WESTSTAR OIL & GAS INC			RECEIVED: 06/17/82 JA: TX					
8239225	F-78-051778	#2 [illegible]	102-4		GRADY MCIVER #1-A	WESTSTAR (FRY)	200.0	LONE STAR GAS CO
-WILLIAM PERLMAN			RECEIVED: 06/17/82 JA: TX					
8239405	F-70-052308	4243532397	108		DAN CAUTHORN "114" #2 (91470)	NORTH CAUTHORN RANCH	0.0	EL PASO NATURAL G
8239406	F-70-052309	4243532120	108		GEORGE BROCKMAN "54" #3 (81757)	SAWYER (CANYON)	0.0	EL PASO HYDROCARB

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8239047	F-7C-027779	4243532063		107-TF		MACK CAUTHORN "130" #2	SHURLEY RANCH (CANYON	20.0	EL PASO NATURAL G
-WOOD MCSHANE & THAMS				RECEIVED:	06/17/82	JA: TX			
8239079	F-78-043447	4249531269		103		KEYSTONE CATTLE CO #3-C RRC #26628	KEYSTONE SW (SAN ANDR	467.2	PIONEER NATURAL G
-WOODS PETROLEUM CORP				RECEIVED:	06/17/82	JA: TX			
8239096	F-1?-042754	4221131351		102-4	103	BURTON #1-107	HOME RANCH S (MORROW	0.0	PIONEER CORP
-X8 ENERGY SERVICES INC				RECEIVED:	06/17/82	JA: TX			
8239100	F-01-043060	4216331939		103		ARTHUR HURT JR 1-B	PEARSALL (AUSTIN CHAL	0.0	TGP INC

OTHER PURCHASERS VOLUME NO :686

8239173 PANHANDLE EASTERN PIPELINE CO
8239274 E I DUPONT DE NEMOURS & CO INC
8239330 E I DUPONT DE NEMOURS & CO INC
8239331 E I DUPONT DE NEMOURS & CO INC
8239371 SHELL OIL CO
8239372 SHELL OIL CO
8239373 SHELL OIL CO
8239387 TRANSCONTINENTAL GAS P L CORP
8239414 E I DUPONT DE NEMOURS & CO INC

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before July 29, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1,000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–10062 Filed 7–13–82; 8:45 am]
BILLING CODE 6717–01–M

[Volume 687]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: July 8, 1982.

JD NO	JA DKT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION								
-ANADARKO PRODUCTION COMPANY			RECEIVED:	06/18/82	JA: KS			
8239467	K-81-0817	1518920219	108-ER		BUDDENBURG #2	PANOMA	0.0	PANHANDLE EASTERN
-CHAMPLIN PETROLEUM COMPANY			RECEIVED:	06/18/82	JA: KS			
8239437	K-79-0950	1507700000	108-ER		DAVIS RANCH D #1	AETNA	0.0	CITIES SERVICE GA
-CITIES SERVICE COMPANY			RECEIVED:	06/18/82	JA: KS			
8239468	K-81-0990	1506700000	108-ER		HAMPTON A #2		0.0	PANHANDLE EASTERN
-GRAHAM-MICHAELIS CORP			RECEIVED:	06/18/82	JA: KS			
8239436	K-79-0951	1505500000	108-ER		JOHNSON #1		0.0	NORTHERN NATURAL
-KAISER-FRANCIS OIL COMPANY			RECEIVED:	06/18/82	JA: KS			
8239434	K 81-0524	1511900000	108-ER		JOHANNSEN-BARRY #1	S W MCKINNEY	15.0	NORTHERN NATURAL
8239464	K 81-1166	1505520244	108-SA		SMITH #1	HUGOTON	19.0	KANSAS NEBRASKA N
-MULL DRILLING CO INC			RECEIVED:	06/18/82	JA: KS			
8239465	K-81-1056	1509720110	108-ER		EINSEL J #1	MARTIN NORTH	0.0	KANSAS NEBRASKA N
8239466	K-81-1058	1504720014	108-ER		ROBBINS #1	MARTIN NORTH	0.0	KANSAS NEBRASKA N
-ROBERT F WHITE			RECEIVED:	06/18/82	JA: KS			
8239438	K-79-1263	1511500000	108-SA		LINDAU #1		0.0	CITIES SERVICE GA
-TXO PRODUCTION CORP			RECEIVED:	06/21/82	JA: KS			
8239443	K-81-1149	1507720647	103		MCKAIG "A" #1 (TITE HOLE)	SULLIVAN EAST	182.5	DELHI CORP
8239444	K-81-1150	1507720684	103		MCKAIG "A" #2	SULLIVAN EAST	182.5	DELHI CORP
8239445	K-81-1194	1507720703	103		ROBINSON "G" #1	SULLIVAN	182.5	DELHI CORP
-WHITAKER ENTERPRISES INC			RECEIVED:	06/18/82	JA: KS			
8239435	K 81-0698	1511900000	108-ER		ADAMS #1-31		0.0	PANHANDLE EASTERN
LOUISIANA OFFICE OF CONSERVATION								
-BARTON OIL & GAS CO INC			RECEIVED:	06/21/82	JA: LA			
8239469	81-2480	1701120155	102-4		BOISE SOUTHERN #1	FIELDS	250.0	TRUNKLINE GAS CO
-LOUISIANA LAND & EXPLORATION CO			RECEIVED:	06/21/82	JA: LA			
8239472	81-2528	1710922083	102-4		LL&E FEE #1	HALTER ISLAND	182.0	UNITED GAS PIPELI
8239471	81-2529	1710922429	102-4		STATE LEASE 7812 #2	HALTER ISLAND	256.0	UNITED GAS PIPELI
-RIO BRAVO OIL CO INC			RECEIVED:	06/21/82	JA: LA			
8239470	81-2747	1710922430	102-4		MARIE A T MARMANDE #1	SOUTH SUNRISE	365.0	LOUISIANA INTRAST
-TEXACO INC			RECEIVED:	06/21/82	JA: LA			
8239473	81-1992	1770920257	102-4		SL 340 RABBIT ISLAND #200	RABBIT ISLAND	1934.8	KAISER ALUMINUM &
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS								
-AMOCO PRODUCTION CO			RECEIVED:	06/18/82	JA: NM			
8239442		3004509214	108		STEDJE GAS COM #1 (6TH FILING)	BASIN DAKOTA	18.0	EL PASO NATURAL G
-AMOCO PRODUCTION CO			RECEIVED:	06/21/82	JA: NM			
8239463		3004524734	103		GALLEGOS CANYON UNIT #212E (DAKOTA)	BASIN DAKOTA	15.1	EL PASO NATURAL G

JD NO	JA DAT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-EL PASO NATURAL GAS COMPANY				RECEIVED:	06/21/82	JA: NM			
8239458		3003921657		108		SAN JUAN 28-7 UNIT #256	BASIN-DAKOTA	16.0	EL PASO NATURAL G
-FLAG-REDFERN OIL CO				RECEIVED:	06/18/82	JA: NM			
8239439		3000520736		103		NUCKOLS "24" #1	TOM-TOM (SAN ANDRES)	6.2	NATURAL GAS PIPEL
8239441		3000520775		103		NUCKOLS "24" #2 S2C4242	TOM-TOM (SAN ANDRES)	8.3	NATURAL GAS PIPEL
-GREAT WESTERN DRILLING COMPANY				RECEIVED:	06/21/82	JA: NM			
8239512	NM-0165-B2	3000560884		102-2	107-TF	QUAIL FEDERAL #1	UNDESIGNATED	433.6	TRANSWESTERN PIPE
-HARVEY E YATES COMPANY				RECEIVED:	06/21/82	JA: NM			
8239457		3002527610		107-TF		RICHARDSON #1	UNDESIGNATED AUSTIN-M	0.0	EL PASO NATURAL G
-HNG OIL COMPANY				RECEIVED:	06/21/82	JA: NM			
8239455		3002527677		102-2		MADERA "32" #1	UNDESIGNATED MORROW	4270.5	TRANSWESTERN PIPE
-M R SCHALK				RECEIVED:	06/21/82	JA: NM			
8239461		3004525251		103		DANBURG GAS COM "B" #1E	BASIN DAKOTA	0.0	EL PASO NATURAL G
8239459		3004525251		103		HANCOCK GAS COM #1E	BASIN DAKOTA	0.0	EL PASO NATURAL G
8239460		3004525252		103		STATE GAS COM "BI" #1E	BASIN DAKOTA	0.0	EL PASO NATURAL G
-MARBOB ENERGY CORPORATION				RECEIVED:	06/21/82	JA: NM			
8239451		3001523743		103		NG PHILLIPS ST #29	ARTESIA QUEEN GRAYBUR	4.7	PHILLIPS PETROLEU
-MESA PETROLEUM CO				RECEIVED:	06/21/82	JA: NM			
8239456		3000561148		102-2	107-TF	MEADOWS COM #2	UNDESIGNATED ABO PECO	556.0	
-NORTHWEST PIPELINE CORPORATION				RECEIVED:	06/21/82	JA: NM			
8239447		3004525031		103		SAN JUAN 32-7 #27A	BLANCO MESAVERDE	126.6	NORTHWEST PIPELIN
8239448		3004525011		103		SAN JUAN 32-7 UNIT 27A PC	SO LOS PINOS PICTURED	2.8	NORTHWEST PIPELIN
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	06/21/82	JA: NM			
8239462		3002527420		103		E V GB/SA UNIT TR 1952 #003	VACUUM GB/SA	0.3	EL PASO NATURAL G
-STEVENS OPERATING CORP				RECEIVED:	06/21/82	JA: NM			
8239446		3000560648		103		O'BRIEN "F" #4	TWIN LAKES-SAN ANDRES	0.0	MAPCO PRODUCTION
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	06/18/82	JA: NM			
8239440		3004524851		103		FARMINGTON TOWNSITE COMM #1E	BASIN DAKOTA	155.0	EL PASO NATURAL G
-THRESHOLD DEVELOPMENT CO				RECEIVED:	06/21/82	JA: NM			
8239449		3001523920		103		CONOCO "7" STATE #5	E MILLMAN QUEEN GRAYB	66.8	CONOCO INC
-YATES PETROLEUM CORPORATION				RECEIVED:	06/21/82	JA: NM			
8239453		3000561430		102-2	107-TF	PAPALOTE "QI" STATE #4	PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8239452		3000561330		102-2	107-TF	ROWLAND "RN" ST #2	PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8239454		3000561397		102-2	107-TF	SKINK "SK" STATE #2	PECOS SLOPE-ABO GAS	0.0	TRANSWESTERN PIPE
8239450		3000561200		102-2		SNAKEWEED "SD" ST #1	PEGOS SLOPE ABO	0.0	TRANSWESTERN PIPE
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION									
-TEEPEE PETROLEUMS INC				RECEIVED:	06/18/82	JA: NY			
8239474	2650	3101314468	D	107-TF		BATTAGLIA-THOMAS #2	MAYVILLE	18.0	COLUMBIA GAS TRAN
OKLAHOMA CORPORATION COMMISSION									
-AN-SON CORPORATION				RECEIVED:	06/17/82	JA: OK			
8239598	17112	3503920588		102-2		NEIL #1-12	E MAMMON	0.0	
-APACHE CORPORATION				RECEIVED:	06/17/82	JA: OK			
8239599	17526	3514920143		102-4		CITY OF CLINTON 1-15		307.9	EL PASO NATURAL G
8239616	17527	3514920136		102-4		LEVERTON 1-14		82.0	EL PASO NATURAL G
-COTTON PETROLEUM CORPORATION				RECEIVED:	06/17/82	JA: OK			
8239625	19199	3505121229		107-DP		KOEHN B #2	S E VERDEN	0.0	UNITED GAS PIPELI
-DEAN CLARK				RECEIVED:	06/17/82	JA: OK			
8239606	14926	3511121521		103		EWELL 1-23	NUYAKA S/2 NE/4 SEC 2	36.0	PHILLIPS PETROLEU
-EL PASO NATURAL GAS COMPANY				RECEIVED:	06/17/82	JA: OK			

JD NO	JA DAT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-EL PASO NATURAL GAS COMPANY				RECEIVED:	06/21/82	JA: NM			
8239458		3003921657		108		SAN JUAN 28-7 UNIT #256	BASIN-DAKOTA	16.0	EL PASO NATURAL G
-FLAG-REDFERN OIL CO				RECEIVED:	06/18/82	JA: NM			
8239439		3000520736		103		NUCKOLS "24" #1	TOM-TOM (SAN ANDRES)	6.2	NATURAL GAS PIPEL
8239441		3000520775		103		NUCKOLS "24" #2 S2C4242	TOM-TOM (SAN ANDRES)	8.3	NATURAL GAS PIPEL
-GREAT WESTERN DRILLING COMPANY				RECEIVED:	06/21/82	JA: NM			
8239512	NM-0165-B2	3000560884		102-2	107-TF	QUAIL FEDERAL #1	UNDESIGNATED	433.6	TRANSWESTERN PIPE
-HARVEY E YATES COMPANY				RECEIVED:	06/21/82	JA: NM			
8239457		3002527610		107-TF		RICHARDSON #1	UNDESIGNATED AUSTIN-M	0.0	EL PASO NATURAL G
-HNG OIL COMPANY				RECEIVED:	06/21/82	JA: NM			
8239455		3002527677		102-2		MADERA "32" #1	UNDESIGNATED MORROW	4270.5	TRANSWESTERN PIPE
-M R SCHALK				RECEIVED:	06/21/82	JA: NM			
8239461		3004525251		103		DANBURG GAS COM "B" #1E	BASIN DAKOTA	0.0	EL PASO NATURAL G
8239459		3004525251		103		HANCOCK GAS COM #1E	BASIN DAKOTA	0.0	EL PASO NATURAL G
8239460		3004525252		103		STATE GAS COM "BI" #1E	BASIN DAKOTA	0.0	EL PASO NATURAL G
-MARBOB ENERGY CORPORATION				RECEIVED:	06/21/82	JA: NM			
8239451		3001523743		103		NG PHILLIPS ST #29	ARTESIA QUEEN GRAYBUR	4.7	PHILLIPS PETROLEU
-MESA PETROLEUM CO				RECEIVED:	06/21/82	JA: NM			
8239456		3000561148		102-2	107-TF	MEADOWS COM #2	UNDESIGNATED ABO PECO	556.0	
-NORTHWEST PIPELINE CORPORATION				RECEIVED:	06/21/82	JA: NM			
8239447		3004525031		103		SAN JUAN 32-7 #27A	BLANCO MESAVERDE	126.6	NORTHWEST PIPELIN
8239448		3004525011		103		SAN JUAN 32-7 UNIT 27A PC	SO LOS PINOS PICTURED	2.8	NORTHWEST PIPELIN
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	06/21/82	JA: NM			
8239462		3002527420		103		E V GB/SA UNIT TR 1952 #003	VACUUM GB/SA	0.3	EL PASO NATURAL G
-STEVENS OPERATING CORP				RECEIVED:	06/21/82	JA: NM			
8239446		3000560648		103		O'BRIEN "F" #4	TWIN LAKES-SAN ANDRES	0.0	MAPCO PRODUCTION
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	06/18/82	JA: NM			
8239440		3004524851		103		FARMINGTON TOWNSITE COMM #1E	BASIN DAKOTA	155.0	EL PASO NATURAL G
-THRESHOLD DEVELOPMENT CO				RECEIVED:	06/21/82	JA: NM			
8239449		3001523920		103		CONOCO "7" STATE #5	E MILLMAN QUEEN GRAYB	66.8	CONOCO INC
-YATES PETROLEUM CORPORATION				RECEIVED:	06/21/82	JA: NM			
8239453		3000561430		102-2	107-TF	PAPALOTE "QI" STATE #4	PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8239452		3000561330		102-2	107-TF	ROWLAND "RN" ST #2	PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8239454		3000561397		102-2	107-TF	SKINK "SK" STATE #2	PECOS SLOPE-ABO GAS	0.0	TRANSWESTERN PIPE
8239450		3000561200		102-2		SNAKEWEED "SD" ST #1	PEGOS SLOPE ABO	0.0	TRANSWESTERN PIPE
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION									
-TEEPEE PETROLEUMS INC				RECEIVED:	06/18/82	JA: NY			
8239474	2650	3101314468	D	107-TF		BATTAGLIA-THOMAS #2	MAYVILLE	18.0	COLUMBIA GAS TRAN
OKLAHOMA CORPORATION COMMISSION									
-AN-SON CORPORATION				RECEIVED:	06/17/82	JA: OK			
8239598	17112	3503920588		102-2		NEIL #1-12	E MAMMON	0.0	
-APACHE CORPORATION				RECEIVED:	06/17/82	JA: OK			
8239599	17526	3514920143		102-4		CITY OF CLINTON 1-15		307.9	EL PASO NATURAL G
8239616	17527	3514920136		102-4		LEVERTON 1-14		82.0	EL PASO NATURAL G
-COTTON PETROLEUM CORPORATION				RECEIVED:	06/17/82	JA: OK			
8239625	19199	3505121229		107-DP		KOEHN B #2	S E VERDEN	0.0	UNITED GAS PIPELI
-DEAN CLARK				RECEIVED:	06/17/82	JA: OK			
8239606	14926	3511121521		103		EWELL 1-23	NUYAKA S/2 NE/4 SEC 2	36.0	PHILLIPS PETROLEU
-EL PASO NATURAL GAS COMPANY				RECEIVED:	06/17/82	JA: OK			

JD NO	JA CNT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8239626	17903	3500920475		107-DP		GREEN #2	BERLIN NE/UPPER MORRO	365.0	EL PASO NATURAL G
-FUNK EXPLORATION INC				RECEIVED:	06/17/82	JA: OK			
8239618	13571	3500722123		102-A	103	JAMESON #1	S BALKO	6.0	NORTHERN NATURAL
-HARPER OIL COMPANY				RECEIVED:	06/17/82	JA: OK			
8239600	17530	3512920693		102-2		STICE 1	SOUTH WEST LEDDY	0.0	DELHI GAS PIPELIN
-HOLDEN ENERGY CORP				RECEIVED:	06/17/82	JA: OK			
8239618	17216	3500500000		102-A	103	LAND 21-1	WILDCAT	55.0	AMINOIL USA INC
-HUNGERFORD OIL & GAS INC				RECEIVED:	06/17/82	JA: OK			
8239607	14968	3500320567		103		MCCOLLUM #1	N RINGWOOD	40.2	AMINOIL USA INC
-JEDACO INC				RECEIVED:	06/17/82	JA: OK			
8239612	14093	3513700000		103		DOUGLAS #1	DEANER	50.0	PHILLIPS PETROLEU
-JIMMIE AUSTIN				RECEIVED:	06/17/82	JA: OK			
8239601	14792	3507300000		105		LLOYD HAWKINS #2	SOONER TREND	0.0	CONOCO INC
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	06/17/82	JA: OK			
8239615	14159	3504720748		108		DANIELS #1-31	E SPRING VALLEY	16.0	GRACE PETROLEUM C
8239614	14158	3504500000		108		JEROME BERRYMAN G #1	S PEEK	3.0	PANHANDLE EASTERN
-MARK GANER OIL & GAS				RECEIVED:	06/17/82	JA: OK			
8239627	13030	3507100000		108		BRAUNER #3		0.0	NEWKIRK GAS TRANS
8239628	13029	3507100000		108		BRAUNER #4		0.0	NEWKIRK GAS TRANS
8239609	12985	3507122102		108		DEBOARD #2	NORTH DILWORTH	0.0	NEWKIRK GAS TRANS
8239608	12984	3507122103		108		DEBOARD #3	NORTH DILWORTH	0.0	NEWKIRK GAS TRANS
8239629	12983	3507122214		108		TEXSTAR #24-A	NORTH DILWORTH	0.0	NEWKIRK GAS TRANS
8239619	12982	3507122215		108		TEXSTAR #24-B	NORTH DILWORTH	0.0	NEWKIRK GAS TRANS
8239621	12981	3507122252		108		TEXSTAR #24-C	NORTH DILWORTH	0.0	NEWKIRK GAS TRANS
8239622	12980	3507122253		108		TEXSTAR #24-D	NORTH DILWORTH	0.0	NEWKIRK GAS TRANS
-MARLIN OIL CORPORATION				RECEIVED:	06/17/82	JA: OK			
8239617	13877	3500721969		103		HILDERBRAND #1	MOCANE-LAVERNE	182.0	EL PASO NATURAL G
-RICKS EXPLORATION CO				RECEIVED:	06/17/82	JA: OK			
8239620	12892	3504321325		102-A		FRANCIS #3A	PUTMAN	109.0	MOBIL OIL CORP
8239611	14081	3504321328		102-A	103	LONE STAR 2A	S E TALOGA	476.0	
-SAKET PETROLEUM CO				RECEIVED:	06/17/82	JA: OK			
8239602	15315	3511122698		103		BULLARD #1		0.0	PHILLIPS PETROLEU
8239603	15316	3511100000		103		DODLEY #2		0.0	PHILLIPS PETROLEU
8239604	15017	3511100000		103		FRED #1		0.0	PHILLIPS PETROLEU
8239605	15018	3511123412		103		HICKMAN B-K		0.0	PHILLIPS PETROLEU
8239623	15719	3511100000		103		PRIEGEL #3		0.0	PHILLIPS PETROLEU
8239597	15020	3511100000		103		WATSON-LANGFORD #1		0.0	PHILLIPS PETROLEU
-TEXACO INC				RECEIVED:	06/17/82	JA: OK			
8239624	16164	3500520468		103		LENA B GREEN #4	ENVILLE S W	0.0	CIMARRON TRANSMIS
-WALKER CORP				RECEIVED:	06/17/82	JA: OK			
8239613	14141	3501721706		103		KING #2-1	YUKON	87.0	MOBIL OIL CORP

PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES

-AFTON HIMES GAS CO				RECEIVED:	06/21/82	JA: PA			
8239546	11660	3706522178		103		SUMMERVILLE #1	UNION TWP	9.0	
-ASHTOLA PRODUCTION CO				RECEIVED:	06/21/82	JA: PA			
8239548	11675	3705120282		102-B		DONALD C COTTOM #1	WALTERSBURG	50.0	
8239549	11740	3705120292		102-2		DONALD C COTTOM #2	WALTERSBURG	22.0	COLUMBIA GAS TRAN
8239547	11246	3705120230		102-2		LELAND E COLDREN #1	WALTERSBURG	10.0	
-CABOT OIL & GAS CORP				RECEIVED:	06/21/82	JA: PA			
8239551	11508	3703921457		102-2		CHARLES TURIK #1	WAYNE	50.0	TENNESSEE GAS PIP
8239553	11607	3703921457		107-TF		CHARLES TURIK #1	WAYNE	50.0	TENNESSEE GAS PIP

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8239550	117.9	37 8523225		102-2		WILLIAM HOSTETLER #1	FRENCH CREEK	50.0	TENNESSEE GAS PIP
8239552	117.3	37 8523223		107-TF		WILLIAM HOSTETLER #1	FRENCH CREEK	50.0	TENNESSEE GAS PIP
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	06/21/82	JA: PA			
8239554	9581	37 6521943		108		M GRACE NOERR WN-1773	MCCALMONT TOWNSHIP	3.3	GENERAL SYSTEM PU
8239555	9585	3706521937		108		WN-1771	MCCALMONT TOWNSHIP	0.2	GENERAL SYSTEM PU
-DOC-NCC SERVICE CO				RECEIVED:	06/21/82	JA: PA			
8239556	11859	3712922021		103		FRED W STREET JR 1229-2		30.0	TEXAS EASTERN TRA
-DORAN & ASSOCIATES INC				RECEIVED:	06/21/82	JA: PA			
8239557	11828	3706326660		103		ALLEN FLEMING #1 KA-106	UPPER DEVONIAN SANDS	30.0	COLUMBIA GAS TRAN
8239558	11829	3706326531		103		ELIZABETH COBLE #1 KA-105	UPPER DEVONIAN SANDS	30.0	COLUMBIA GAS TRAN
-EARL M RICHARDS				RECEIVED:	06/21/82	JA: PA			
8239590	11785	3700520089		108		CLARENCE BOYER #1	BLANCO	0.0	APOLLO GAS CO
8239589	11784	3705520364		108		GLENN BELL #1	BLANCO	0.0	APOLLO GAS CO
8239596	11641	3700521481		108		WILSON #1	SPRING CHURCH	0.0	APOLLO GAS CO
-FOX OIL & GAS INC				RECEIVED:	06/21/82	JA: PA			
8239560	11844	3706325977		102-2		BERRINGER #1 (129AC)	GREEN TOWNSHIP	25.5	COLUMBIA GAS TRAN
8239561	11839	3706325979		102-2		BERRINGER #2 (220AC)	GREEN TOWNSHIP	25.5	COLUMBIA GAS TRAN
8239575	11743	3712521183		108		C B WELCH #4	FALLOWFIELD	0.0	COLUMBIA GAS TRAN
8239559	11836	37 6326447		102-2		DOYLE SENSABAUGH #1	GREEN TOWNSHIP	25.5	COLUMBIA GAS TRAN
8239568	11840	3706326007		102-2		DOYLE SENSABAUGH #1	GREEN TOWNSHIP	25.5	COLUMBIA GAS TRAN
8239567	11845	3706325963	D	102-2		FRED GOLDEN #2	CHERRYHILL	25.5	COLUMBIA GAS TRAN
8239564	11841	3706325978		102-2		G & F BERRINGER #1	GREEN TOWNSHIP	25.5	COLUMBIA GAS TRAN
8239573	11741	3712521165		108		G A L CONSTRUCTION INC #3	FALLOWFIELD	0.0	COLUMBIA GAS TRAN
8239562	11838	3706326407		102-2		HARRY JONES #1	GREEN TOWNSHIP	25.5	COLUMBIA GAS TRAN
8239568	11837	3706326444		102-2		JOHN SHEFFO #1	GREEN TOWNSHIP	25.5	COLUMBIA GAS TRAN
8239563	11840	3706326030		102-2		M CHILENSKI #1	CHERRYHILL TOWNSHIP	25.5	COLUMBIA GAS TRAN
8239572	11851	3706324845		102-2		RICHARD HELLER #2	GREEN TOWNSHIP	25.5	COLUMBIA GAS TRAN
8239569	11847	3706325994		102-2		SCHROTH/STIFFLER #1	GREEN TOWNSHIP	25.5	COLUMBIA GAS TRAN
8239565	11842	3706325993		102-2		SCHROTH/STIFFLER #2	GREEN TOWNSHIP	25.5	COLUMBIA GAS TRAN
8239574	11742	3712521167		108		THOMAS E WILLIAMSON #3	FALLOWFIELD	0.0	COLUMBIA GAS TRAN
8239570	11848	3706325106		102-2		THOMAS PATTERSON	CHERRYHILL	25.5	COLUMBIA GAS TRAN
8239571	11849	3706325095		102-2		WILLIAM VASHINDER	GREEN	25.5	COLUMBIA GAS TRAN
-MERIDIAN EXPLORATION COMP				RECEIVED:	06/21/82	JA: PA			
8239577	11855	3703921376		102-2		D FERRIS #592-1	ROCKDALE	0.0	COLUMBIA GAS TRAN
8239580	11856	3703921376		107-TF		FERRIS #592-1	ROCKDALE	0.0	COLUMBIA GAS TRAN
8239576	11853	37.3921377		102-2		J MARZKA (WEDDELL) #594-1	ROCKDALE	0.0	COLUMBIA GAS TRAN
8239579	11854	3703921377		107-TF		J MARZKA (WEDDELL) #594-1	ROCKDALE	0.0	COLUMBIA GAS TRAN
-MERIDIAN OIL & GAS ENT INC				RECEIVED:	06/21/82	JA: PA			
8239578	11863	3703921464		103		W J HYDE SR #1	ROCKDALE	15.0	
8239581	11864	3703921464		107-TF		W J HYDE SR #1	ROCKDALE	15.0	
-MID-EAST OIL CO				RECEIVED:	06/21/82	JA: PA			
8239582	11792	3706326018		103		DALE SHAFFER #3	CLYMER	18.0	T W PHILLIPS GAS
-PENN PROJECTS LTD DRILLING PROGRAM				RECEIVED:	06/21/82	JA: PA			
8239584	11832	3712921929		103		BRUNOT CO INC #1	SALEM	25.0	
8239585	11833	3712921936		103		BRUNOT CO INC #2	SALEM	25.0	
-PHILLIPS PRODUCTION CO				RECEIVED:	06/21/82	JA: PA			
8239583	11852	3706326482		103		HAROLD E SMALL #1	MONTGOMERY	85.0	
-QUESTA PETROLEUM CO				RECEIVED:	06/21/82	JA: PA			
8239586	11834	3712921970		103		DAVID C HYSKELL #2	EAST HUNTINGDON	25.0	
8239587	11835	3712921978		103		R STONER	HEMPFIELD	25.0	
-REX-HIDE REALTY INC				RECEIVED:	06/21/82	JA: PA			
8239588	11830	3706326746		103		OSCAR T GOOD #1	WEST MAHONING	30.0	
-T W PHILLIPS GAS & OIL CO				RECEIVED:	06/21/82	JA: PA			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8239591	11787	3706326089		103		CLARENCE BOYER #1	BLANCO	0.0	APOLLO GAS CO
8239592	11786	3705520364		108		GLENN BELL #1	BLANCO	0.0	APOLLO GAS CO
8239597	11642	3700521481		108		WILSON #1	SPRING CHURCH	0.0	APOLLO GAS CO
-FOX OIL & GAS INC				RECEIVED:	06/21/82	JA: PA			
8239593	11845	3706325977		102-2		BERRINGER #1 (129AC)	GREEN TOWNSHIP	25.5	COLUMBIA GAS TRAN
8239594	11840	3706325979		102-2		BERRINGER #2 (220AC)	GREEN TOWNSHIP	25.5	COLUMBIA GAS TRAN
8239595	11744	3712521183		108		C B WELCH #4	FALLOWFIELD	0.0	COLUMBIA GAS TRAN
8239598	11837	37 6326447		102-2		DOYLE SENSABAUGH #1	GREEN TOWNSHIP	25.5	COLUMBIA GAS TRAN
8239599	11841	3706326007		102-2		DOYLE SENSABAUGH #1	GREEN TOWNSHIP	25.5	COLUMBIA GAS TRAN
8239600	11846	3706325963	D	102-2		FRED GOLDEN #2	CHERRYHILL	25.5	COLUMBIA GAS TRAN
8239601	11842	3706325978		102-2		G & F BERRINGER #1	GREEN TOWNSHIP	25.5	COLUMBIA GAS TRAN
8239602	11743	3712521165		108		G A L CONSTRUCTION INC #3	FALLOWFIELD	0.0	COLUMBIA GAS TRAN
8239603	11839	3706326407		102-2		HARRY JONES #1	GREEN TOWNSHIP	25.5	COLUMBIA GAS TRAN
8239604	11838	3706326444		102-2		JOHN SHEFFO #1	GREEN TOWNSHIP	25.5	COLUMBIA GAS TRAN
8239605	11841	3706326030		102-2		M CHILENSKI #1	CHERRYHILL TOWNSHIP	25.5	COLUMBIA GAS TRAN
8239606	11852	3706324845		102-2		RICHARD HELLER #2	GREEN TOWNSHIP	25.5	COLUMBIA GAS TRAN
8239607	11848	3706325994		102-2		SCHROTH/STIFFLER #1	GREEN TOWNSHIP	25.5	COLUMBIA GAS TRAN
8239608	11843	3706325993		102-2		SCHROTH/STIFFLER #2	GREEN TOWNSHIP	25.5	COLUMBIA GAS TRAN
8239609	11744	3712521167		108		THOMAS E WILLIAMSON #3	FALLOWFIELD	0.0	COLUMBIA GAS TRAN
8239610	11849	3706325106		102-2		THOMAS PATTERSON	CHERRYHILL	25.5	COLUMBIA GAS TRAN
8239611	11850	3706325095		102-2		WILLIAM VASHINDER	GREEN	25.5	COLUMBIA GAS TRAN
-MERIDIAN EXPLORATION COMP				RECEIVED:	06/21/82	JA: PA			
8239612	11857	3703921376		102-2		D FERRIS #592-1	ROCKDALE	0.0	COLUMBIA GAS TRAN
8239613	11858	3703921376		107-TF		FERRIS #592-1	ROCKDALE	0.0	COLUMBIA GAS TRAN
8239614	11859	37.3921377		102-2		J MARZKA (WEDDELL) #594-1	ROCKDALE	0.0	COLUMBIA GAS TRAN
8239615	11860	3703921377		107-TF		J MARZKA (WEDDELL) #594-1	ROCKDALE	0.0	COLUMBIA GAS TRAN
-MERIDIAN OIL & GAS ENT INC				RECEIVED:	06/21/82	JA: PA			
8239616	11865	3703921464		103		W J HYDE SR #1	ROCKDALE	15.0	
8239617	11866	3703921464		107-TF		W J HYDE SR #1	ROCKDALE	15.0	
-MID-EAST OIL CO				RECEIVED:	06/21/82	JA: PA			
8239618	11793	3706326018		103		DALE SHAFFER #3	CLYMER	18.0	T W PHILLIPS GAS
-PENN PROJECTS LTD DRILLING PROGRAM				RECEIVED:	06/21/82	JA: PA			
8239619	11831	3712921929		103		BRUNOT CO INC #1	SALEM	25.0	
8239620	11832	3712921936		103		BRUNOT CO INC #2	SALEM	25.0	
-PHILLIPS PRODUCTION CO				RECEIVED:	06/21/82	JA: PA			
8239621	11853	3706326482		103		HAROLD E SMALL #1	MONTGOMERY	85.0	
-QUESTA PETROLEUM CO				RECEIVED:	06/21/82	JA: PA			
8239622	11833	3712921970		103		DAVID C HYSKELL #2	EAST HUNTINGDON	25.0	
8239623	11834	3712921978		103		R STONER	HEMPFIELD	25.0	
-REX-HIDE REALTY INC				RECEIVED:	06/21/82	JA: PA			
8239624	11831	3706326746		103		OSCAR T GOOD #1	WEST MAHONING	30.0	
-T W PHILLIPS GAS & OIL CO				RECEIVED:	06/21/82	JA: PA			

JD NO	JA DKT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8239593	11862	37[illegible]53[illegible]	108		MARY M MILLER #1	ARMSTRONG	1.8	T W PHILLIPS GAS
8239592	11861	37 6320531	108		NILE E FULMER #2	ARMSTRONG	2.7	T W PHILLIPS GAS
-W G SHANER			RECEIVED:	06/21/82	JA: PA			
8239591	11857	3706522345	103		KUEPPER #1	WILLIAM J KUEPPER FAR	20.0	CONSOLIDATED GAS
-WAINOCO OIL & GAS CO			RECEIVED:	06/21/82	JA: PA			
8239594	11810	3708520292	102-2		HAROLD L PFAFF #1 (MC-24)	GREENVILLE	0.0	TENNESSEE GAS PIP
8239595	11809	3708520292	107-TF		HAROLD L PFAFF #1 (MC-24)	GREENVILLE	0.0	TENNESSEE GAS PIP
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, ALBUQUERQUE,NM								
-AMOCO PRODUCTION CO			RECEIVED:	06/21/82	JA: NM 4			
8239489	NM-1262-81	3001523604	102-4		FEDERAL BV #1	UND MORROW	693.5	TRANSWESTERN PIPE
8239491	NM-1310-81	3001523671	102-4		FEDERAL CC #1	UND MORROW	142.0	TRANSWESTERN PIPE
8239517	NM-0191-82	3001523939	102-4		FEDERAL CN COM #1	HAPPY VALLEY MORROW	1387.0	EL PASO NATURAL G
-ARCO OIL AND GAS COMPANY			RECEIVED:	06/21/82	JA: NM 4			
8239502	NM-0036-82	3002527374	102-4		CUSTER #1	UNDESIGNATED	2000.0	EL PASO NATURAL G
-DOME PETROLEUM CORP			RECEIVED:	06/21/82	JA: NM 4			
8239543	NM-0362-82	3004523301	108		FEDERAL 14-26-13 #1	WAW PICTURED CLIFF	5.3	EL PASO NATURAL G
-DUGAN PRODUCTION CORP			RECEIVED:	06/21/82	JA: NM 4			
8239495	NM-1626-81	3004522062	108		GEORGE WASHINGTON #2	WAW FRUITLAND PC	18.0	EL PASO NATURAL G
-EL PASO NATURAL GAS COMPANY			RECEIVED:	06/21/82	JA: NM 4			
8239500	NM-1816-81	3004523460	108		GRAMBLING #6	BLANCO/PICTURED CLIFF	22.0	EL PASO NATURAL G
8239539	NM-0356-82	3004506953	108		HOWELL #3	BLANCO - MESA VERDE	20.0	EL PASO NATURAL G
8239535	NM-0351-82	3004520531	108		HUERFANO UNIT #186	BASIN - DAKOTA	17.0	EL PASO NATURAL G
8239498	NM-1677-81	3004513259	108		LACKEY 4 #3	AZTEC - PICTURED CLIF	24.0	EL PASO NATURAL G
8239536	NM-0352-82	3004507220	108		LACKEY B #4 MV & CH	BLANCO-MESA VERDE/HAR	18.0	EL PASO NATURAL G
8239541	NM-0358-82	3004513208	108		MUDGE #20	BASIN - DAKOTA	19.0	EL PASO NATURAL G
8239486	NM 1329-81	3004524075	103		NEWBERRY #2A	BLANCO MESAVERDE	130.0	EL PASO NATURAL G
8239490	NM-1298-81	3004508643	108		RIDDLE A #5	BLANCO PICTURED CLIFF	22.1	EL PASO NATURAL G
8239532	NM-0232-82	3003921093	108		SAN JUAN 28-7 UNIT #242	BASIN DAKOTA	21.0	EL PASO NATURAL G
8239538	NM-0355-82	3003907642	108		SAN JUAN 29-7 UNIT #4	BLANCO - MESA VERDE	16.1	EL PASO NATURAL G
8239542	NM-0361-82	3003900000	108		SAN JUAN 29-7 UNIT #78	BLANCO - MESA VERDE	14.0	EL PASO NATURAL G
8239493	NM-1461-81	3003907484	108		SAN JUAN 29-7 UNIT #97	BLANCO - MESA VERDE	20.0	EL PASO NATURAL G
8239504	NM-0086-82	3003907484	108		SAN JUAN 29-7 UNIT #97	BLANCO - MESA VERDE	19.0	EL PASO NATURAL G
8239485	NM 0001-82PB	3003982387	108-PB		SAN JUAN 30-4 UNIT #33	BLANCO - MESAVERDE	25.0	EL PASO NATURAL G
8239537	NM-0354-82	3003907760	108		SAN JUAN 30-6 UNIT #46	BLANCO - MESA VERDE	11.0	EL PASO NATURAL G
8239540	NM-0357-82	3004509239	108		STEWART #3	BLANCO - MESA VERDE	19.0	EL PASO NATURAL G
-INTERNORTH INC			RECEIVED:	06/21/82	JA: NM 4			
8239499	NM-1721811[illegible]	3001523439	102-4 103		AZOTEA MESA FEDERAL #1	ROBINA DRAW (MORROW)	30.0	INTERNORTH INC
-JEROME P MCHUGH			RECEIVED:	06/21/82	JA: NM 4			
8239545	NM-0370-82	3004512[illegible]	108		HARDIE #1	BASIN DAKOTA	21.0	EL PASO NATURAL G
8239544	NM-0369-82	3004512181	108		HARDIE #4	BASIN DAKOTA	20.0	EL PASO NATURAL G
-M & W OF LOVINGTON INC			RECEIVED:	06/21/82	JA: NM 4			
8239515	NM-0175-82	3002522598	108		BUFFALO FEDERAL UN 11-L-35-18S-33E	CORBIN QUEEN SOUTH	5.2	CONOCO INC
8239516	NM-0176-82	3002522651	108		BUFFALO FEDERAL UN 13-G-34-18S-33E	CORBIN QUEEN SOUTH	6.3	CONOCO INC
8239513	NM-0172-82	3002521604	108		BUFFALO FEDERAL UN 7-E-34-18S-33E	CORBIN QUEEN SOUTH	2.4	CONOCO INC
8239514	NM-0173-82	3002521846	108		BUFFALO FEDERAL UN [illegible]H-34-18S-33E	CORBIN QUEEN SOUTH	1.4	CONOCO INC
-MESA PETROLEUM CO			RECEIVED:	06/21/82	JA: NM 4			
8239522	NM-[illegible]21782107	3000561217	102-2	107-TF	COYOTE FEDERAL #8	UNDESIGNATED ABO	434.0	TRANSWESTERN PIPE
8239527	NM-022282102	3000561228	102-2	107-TF	FOREMAN FEDERAL COM #3	UNDESIGNATED ABO	451.0	TRANSWESTERN PIPE
8239528	NM-022382102	3000561243	102-2	107-TF	HOBBS FEDERAL #2	UNDESIGNATED ABO	509.0	TRANSWESTERN PIPE
8239525	NM-[illegible]221821[illegible]	3[illegible]561219	102-2	107-TF	LODEWICK FEDERAL #3	UNDESIGNATED ABO	466.0	TRANSWESTERN PIPE
8239526	NM-022182102	3000561220	102-2	107-TF	SAVAGE FEDERAL #4	UNDESIGNATED ABO	477.0	TRANSWESTERN PIPE

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JD NO	JA DKT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PEDD	PURCHASER
8239539	NM-[illegible]225-82	3[illegible]1523680	102-2		SINK FEDERAL #2	DIAMOND MOUND MORROW	252.0	
8239529	NM-[illegible]22682107	3000561222	102-2	107-TF	STANCEL FEDERAL #5	UNDESIGNATED ABO	489.0	TRANSWESTERN PIPE
8239531	NM-[illegible]22682107	3000561223	102-2	107-TF	STANCEL FEDERAL #6	UNDESIGNATED ABO	707.0	TRANSWESTERN PIPE
-MONSANTO COMPANY			RECEIVED: 06/21/82 JA: NM 4					
8239534	NM-0276-82	3001521966	108		ALBERT FEDERAL #1	CEMETERY (MORROW)	2.0	TRANSWESTERN PIPE
8239533	NM-0275-82	3001521533	108		WAGNER FEDERAL #1	AVALON	6.3	EL PASO NATURAL G
-MTS LTD PARTNERSHIP			RECEIVED: 06/21/82 JA: NM 4					
8239524	NM-[illegible]21982107	3000561194	102-2	107-TF	CHARLOTTE FEDERAL #1	UNDESIGNATED ABO	347.0	TRANSWESTERN PIPE
8239523	NM-0218#2107	3[illegible]0561155	102-2	107-TF	GERRY FEDERAL #1	UNDESIGNATED ABO	483.0	TRANSWESTERN PIPE
-PERRY R BASS			RECEIVED: 06/21/82 JA: NM 4					
8239511	NM-016282102	3001523473	102-4		BIG EDDY UNIT #70	UNDESIGNATED	0.0	NATURAL GAS PIPEL
8239492	NM-1318611.2	3[illegible]1523365	102-4		BIG EDDY UNIT #79-Y	FENTON DRAW UPPER MO	572.0	NATURAL GAS PIPEL
8239497	NM165081-102	3001523629	102-4		BIG EDDY UNIT #85	MORROW	0.0	
8239488	NM 113481102	3001523578	102-4		BIG EDDY UNIT NO 82	SOUTH SALT LAKE MORRO	426.3	NATURAL GAS PIPEL
-POGO PRODUCING COMPANY			RECEIVED: 06/21/82 JA: NM 4					
8239509	NM-[illegible]123-82	3002527266	102-4		EBR FEDERAL #1	BOOTLEG RIDGE MORROW	185.0	LLANO INC
-READ & STEVENS INC			RECEIVED: 06/21/82 JA: NM 4					
8239508	NM-0092#2102	3000561038	102-4	103	HARRIS FEDERAL #6	BUFFALO VALLEY PENN	25.0	EL PASO NATURAL G
8239496	NM-1629-81	3000560781	102-4		HARRIS FEDERAL COM #4	BUFFALO VALLEY PENN	130.0	EL PASO NATURAL G
8239494	NM-1481-81	3000560798	102-4		HARRIS FEDERAL COM #5	BUFFALO VALLEY PENN	110.0	EL PASO NATURAL G
-STEVENS OPERATING CORP			RECEIVED: 06/21/82 JA: NM 4					
8239503	NM-[illegible]0448[illegible]102	3000561126	102-4	107-TF	SUN FEDERAL #2 (NMC2258)	WILDCAT	309.0	TRANSWESTERN PIPE
-YATES PETROLEUM CORPORATION			RECEIVED: 06/21/82 JA: NM 4					
8239487	NM 1127-81	3[illegible]1523678	102-4		EASTERN SHORE "OV" FEDERAL #1	WILDCAT	0.0	TRANSWESTERN PIPE
8239510	NM-0129-82	3000561120	102-2	107-TF	EVERETTE "OO" FEDERAL #3	WILDCAT ABO	0.0	TRANSWESTERN PIPE
8239507	NM-[illegible]091-82	3000561139	102-2	107-TF	GODFREY "MP" FEDERAL #5	WILDCAT ABO	0.0	TRANSWESTERN PIPE
8239506	NM-[illegible]090-82	3000561177	102-2	107-TF	GODFREY "MP" FEDERAL #6	WILDCAT ABO	0.0	TRANSWESTERN PIPE
8239521	NM-[illegible]213-82	3000561294	102-2	107-TF	LANGLEY "RJ" FEDERAL #2	UND ABO	0.0	TRANSWESTERN PIPE
8239519	NM-[illegible]211-82	3000561322	102-2	107-TF	RED ROCK "AB" FEDERAL #3	UND ABO	0.3	TRANSWESTERN PIPE
8239501	NM-1850-81	3[illegible]1523726	102-4		SCOUT "EH" FEDERAL #5	UND MORROW	0.0	TRANSWESTERN PIPE
8239518	NM-[illegible]210#2107	3000561264	102-2	107-TF	SOUTH ALKALI LK FEDERAL #3	WILDCAT ABO	0.3	TRANSWESTERN PIPE
8239520	NM-[illegible]21292107	3000561235	102-2	107-TF	THOMAS "LN" FEDERAL #4	UND ABO	0.0	TRANSWESTERN PIPE
8239515	NM [illegible]089621.2	3[illegible]561[illegible]	102-2	107-TF	THORPE "MI" FEDERAL #5	UND ABO	0.3	TRANSWESTERN PIPE
** BUREAU OF INDIAN AFFAIRS, OSAGE AGENCY, PAWHUSKA,OK								
-CRAIN & DEISENROTH			RECEIVED: 06/18/82 JA: OK 8					
8239477		3511300000	102-2		DAVIS 1A	WOOSTER DOME	6.0	PHILLIPS PETROLEU
8239478		3511300000	102-2		DAVIS 2A	WOOSTER DOME	4.0	PHILLIPS PETROLEU
8239479		3511300000	102-2		DAVIS 4A	WOOSTER DOME	9.0	PHILLIPS PETROLEU
-GREAT SOUTHWESTERN EXPLORATION INC			RECEIVED: 06/18/82 JA: OK 8					
8239484		3511300000	102-2		OTC 11[illegible]-75375	ROCK CREEK NELT-12-27	1.5	AJAX OIL & GAS CO
-J M GRAVES			RECEIVED: 06/18/82 JA: OK 8					
8239475		3511324780	102-4		ADRAN #1	WILDCAT-EAST OF FORAK	30.0	PHILLIPS PETROLEU
8239476		3511327120	102-4		ADRAN #2	WILDCAT-EAST OF FORAK	150.0	PHILLIPS PETROLEU
-NADEL & GUSSMAN			RECEIVED: 06/18/82 JA: OK 8					
8239480		3511300000	103		ROPER #1	PAXTON EAST	11.0	PHILLIPS PETROLEU
8239481		3511300000	103		ROPER #2	PAXTON EAST	9.0	PHILLIPS PETROLEU
8239482		3511300000	103		ROPER #3	PAXTON EAST	7.0	PHILLIPS PETROLEU
8239483		3511300000	103		VIVIAN #1	HAPPY HOLLOW NE	54.0	PHILLIPS PETROLEU

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Kenneth F. Plumb,

Secretary.

[Filed 7-19-82; 8:45 am]

BILLING CODE 6717-01-C

Western Area Power Administration

Fort Peck-Havre Proposed 230-kV Transmission Line, Montana; Draft Environmental Impact Statement Availability and Public Hearings

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of Availability and Public Hearings for Draft Environmental Impact Statement.

SUMMARY: Notice is hereby given that the Western Area Power Administration (Western), U.S. Department of Energy (DOE), has issued a draft environmental impact statement (DEIS) for the Fort Peck-Havre 230-kV transmission line in Montana, DOE/EIS-0090-D, and that public hearings on the DEIS have been scheduled. The DEIS was prepared pursuant to the National Environmental Policy Act of 1969 (NEPA); Council on Environmental Quality regulations, 40 CFR Parts 1500-1508; and DOE guidelines for compliance with NEPA, 45 FR 20694, as amended.

The DEIS addresses Western's proposal to construct and operate a 230-kV transmission line from Fort Peck to Havre, Montana, with three intermediate interconnecting substations. The line would be located in the counties of McCone, Valley, Phillips, Blaine, and Hill. The 230-kV transmission line would initially be operated at 161-kV and would replace and existing 161-kV transmission line. The existing line, which presently provides the only high-voltage transmission capability between Fort Peck and Havre, is inadequate by current design standards and in an advanced state of deterioration. The proposed action, which includes plans for abandonment of the existing transmission line, would provide electric service to current users of the existing transmission line, function as outlet for transferring hydropower from the Fort Peck powerplant of the Pick-Sloan Missouri Basic Program, and provide transmission capability for supplying Western's loads as well as a vital link in the State's interconnected transmission network. Alternatives considered include no action, energy conservation, alternative transmission systems and technologies, and the proposed action with routing and design alternatives. The major impacts from the proposed action would be the potential impacts of construction related siting activities on cultural resources and the impacts from the transmission line itself on visual resources, other land uses, and agricultural resources and practices.

The DEIS was prepared in compliance with DOE regulations, the Federal agency responsible for approval of the proposed action, and the Bureau of Land Management (BLM), the Federal agency responsible for granting rights-of-way across public lands. Western is the lead agency for the proposed action and the BLM is participating as a cooperating agency to fulfill the requirements of NEPA. During the planning stages of the DEIS, the State of Montana Department of Natural Resources and Conservation participated in a review capacity.

Copies of DEIS have been distributed for review and comment to appropriate Federal, State, local agencies and organizations, and individuals who are known to be interested in the projects. The DEIS has been distributed to and is available for public inspection at: (1) Valley, Phillips, Blaine, and Hill county planning offices and local libraries; (2) BLM offices in Glasgow, Malta, Havre, Lewistown, and Billings; (3) Montana State Departments of Natural Resources and Conservation, and State Lands; (4) Western offices in Fort Peck, Billings, and Denver; (5) and the DOE reading room, Forrestal Building, Washington, D.C. Copies of the DEIS will be distributed by Western to the public upon request.

DATE: Interested agencies, organizations, and individuals are encouraged to review the DEIS and comment in writing or orally at the public hearings on its adequacy, completeness, and accuracy. Written comments are due no later than 45 days from the publication date of the Environmental Protection Agency's "Notice of Availability" in the **Federal Register.** Comments received after that date may not be received in time to be considered in the subsequent decisionmaking process. Public hearings will be held as part of the DEIS review process and written as well as oral statements will be accepted. Persons will be called on in the order they sign in expressing their desire to speak and oral statements will be limited to a period of 10 minutes. The public hearings will be held as follows:

July 26, 1982, 7:30 p.m.–10 p.m., Courtroom of Valley County Courthouse, 3rd Avenue South Court Street, Glasgow, Montana

July 27, 1982, 7:30 p.m.–10 p.m., Legion Room in Malta City Hall, 30 South 2nd Street East, Malta, Montana

July 28, 1982, 7:30 p.m.–10 p.m., Small Gym at Harlem High School, Harlem, Montana

July 29, 1982, 7:30 p.m.–10 p.m., Ballroom in Student Union Building, Northern Montana College, Havre, Montana

ADDRESS: Use the following address for further information, copies of the DEIS, and to send comments: Mr. James D. Davies, Area Manager, Billings Area Office, Western Area Power Administration, P.O. Box EGY, Billings, MT 59101, (406) 657-6042.

Issued at Golden, Colorado, July 6, 1982.

Robert L. McPhail,

Administrator.

[FR Doc. 82-19032 Filed 7-13-82; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-50577; PH-FRL-2163-7]

Issuance of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each experimental use permit at the address below: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

275-EUP-31. Issuance. Abbott Laboratories, 14th and Sheridan Rd., North Chicago, IL 60064. This experimental use permit allows the use of 11,200 BIUs of the biological insecticide *Bacillus thuringiensis,* Berliner on forests to evaluate the control of spruce budworms and gypsy moths. A total of 2,450 acres are involved. The program is authorized only in the States of California, Connecticut, Delaware, Florida, Georgia, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, Texas, and Vermont. The experimental use permit is

effective from May 1, 1982 to May 1, 1983. A permanent exemption from the requirement of a tolerance for residues of the active ingredient in or on all growing crops has been established (40 CFR 180.1011). (Franklin Gee, PM 17, Rm 207, CM#2, (703–557–2690))

275–EUP–32. Issuance. Abbott Laboratories, 14th and Sheridan Rd., North Chicago, IL 60064. This experimental use permit allows the use of 16,000 BIUs of the biological insecticide *Bacillus thuringiensis*, Berliner on forests, shade trees, and shrubs to evaluate the control of spruce budworms and gypsy moths. A total of 4,000 acres are involved. The program is authorized only in the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, and Vermont. The experimental use permit is effective from May 1, 1982 to May 1, 1983. A permanent exemption from the requirement of a tolerance for residues of the active ingredient in or on all growing crops has been established (40 CFR 180.1011). (Franklin Gee, PM 17, Rm. 207, CM#2, (703–557–2690)).

38638–EUP–4. Extension. Albany International, 110 A St., Needham Heights, MA 02194. This experimental use permit allows the use of 132.6 pounds of the pheromone (*Z*)-11-hexadecenal on artichokes to evaluate the control of artichoke plume moths. A total of 1,500 acres are involved; the program is authorized only in the State of California. The experimental use permit is effective from May 1, 1982 to May 1, 1983. A permanent exemption from the requirement of a tolerance for residues of the active ingredient in or on artichokes has been established (40 CFR 180.1069). (Franklin Gee, PM 17, Rm. 207, CM#2, (703–557–2690))

241–EUP–96. Renewal. American Cyanimid Company, P.O. Box 400, Princeton, NJ 08540. This experimental use permit allows the use of 1,025 pounds of the herbicide pendimethalin on cotton and soybeans to evaluate the control of weeds. A total of 1,025 acres are involved. The program is authorized only in the States of Alabama, Arizona, Arkansas, California, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New York, North Carolina, Ohio, Tennessee, Texas, and Wisconsin. The permit was previously effective from March 18, 1981 to March 18, 1982. It is now effective from April 5, 1982 to April 5, 1983. Permanent tolerances for residues of the active ingredient in or on cottonseeed and soybeans have been established (40 CFR 180.361). (Robert Taylor, PM 25, Rm. 251, CM#2, (703–557–1800))

241–EUP–101. Issuance. American Cyanimid Company, P.O. Box 400, Princeton, NJ 08540. This experimental use permit allows the use of 140 pounds of the herbicide pendimethalin on winter wheat relay cropped to soybeans to evaluate the control of weeds. A total of 140 acres are involved; the program is authorized only in the States of Delaware, Illinois, Indiana, Kentucky, Maryland, Ohio, and Tennessee. The experimental use permit is effective from April 15, 1982 to April 15, 1984. Temporary tolerances for residues of the active ingredient in or on wheat grain and wheat straw, have been established. Permanent tolerances for residues of the activie ingredient in or on soybeans and soybean forage and hay have been established (40 CFR 180.361). (Robert Taylor, PM 25, Rm. 251, CM#2, (703–557–1800))

43382–EUP–1. Renewal. Biochem Products, P.O. Box 264, Montchanin, DE 19710. This experimental use permit allows the use of 1,500 pounds of the biological insecticide *Bacillus thuringiensis, israelensis* on water to evaluate the control of blackfly larvae. The program is authorized only in the States of Alabama, Arizona, Arkansas, California, Colorado, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Louisiana, Maryland, Massachusetts, Minnestoa, Mississippi, Missouri, New Hampshire, New Jersey, North Carolina, Ohio, South Carolina, Tennessee, Texas, Virginia, Washington, West Virginia, and the Territory of Puerto Rico. The permit was previously effective from July 21, 1980 to July 21, 1981. It is now effective from April 1, 1982 to April 1, 1983. The permit is being issued with the limitation that none of the material will enter the food chain. (Franklin Gee, PM 17, Rm. 207, CM#2, (703–557–2690))

239–EUP–99. Issuance. Chevron Chemical Company, 940 Hensley St., Richmond, CA 94804. This experimental use permit allows the use of 300 pounds of the insecticide acephate on avocados to evaluate the control of avocado leafrollers and omnivorous loopers. A total of 200 acres are involved; the program is authorized only in the State of California. The experimental use permit is effective from March 30, 1982 to March 30, 1983. A temporary tolerance for residues of the active ingredient in or on avocados has been established. (William Miller, PM 16, Rm. 211, CM#2, (703–557–2600))

100–EUP–68. Extension. Ciba-Geigy Corporation, P.O. Box 11422, Greensboro, NC 27409. This experimental use permit allows the use of 85,000 pounds of the insecticide chlordimeform in a tank mix with synthetic pyrethroids and oil on cotton to evaluate the control of bollworms and tobacco budworms. A total of 113,375 acres are involved; the program is authorized only in the States of Alabama, Arizona, Arkansas, Georgia, Louisiana, Mississippi, South Carolina, and Texas. The experimental use permit is effective from April 14, 1982 to April 14, 1983. Permanent tolerances for residues of the active ingredients in or on cottonseed have been established (40 CFR 180.285, 180.378, and 180.379). (Jay Ellenberger, PM 12, Rm. 202, CM#2, (703–557–2386))

100–EUP–70. Issuance. Ciba-Geigy Croporation, P.O. Box 11422, Greensboro, NC 27409. This experimental use permit allows the use of 2,088 pounds of the fungicide 1-[[2-(2,4-dichyloro-phenyl)-4-propyl-1,3-dioxolan-2-yl]methyl]-1*H*-1,2,4-triazole on pecans to evaluate the control of brown leaf spot, downy spot, fungal leaf scorch, liver spot, pecan scab, and vein spot. A total of 605 acres are involved. The program is authorized only in the States of Alabama, Arizona, Arkansas, Florida, Georgia, Louisiana, Mississippi, Missouri, New Mexico, Oklahoma, South Carolina and Texas. The experimental use permit is effective from April 9, 1982 to December 31, 1983. This permit is being issued with the limitation that all crops are destroyed or used for research purposes only. (Henry Jacoby, PM 21, Rm. 227, CM#2, (703–557–1900))

464–EUP–74. Issuance. Dow Chemical U.S.A., P.O. Box 1706, Midland, MI 48640. This experimental use permit allows the use of 2,400 pounds of the herbicide trichlopyr on forests to evaluate hardwood brush control and conifer tolerance through conifer release treatments. A total of 1,200 acres are involved; the program is authorized only in the States of Michigan, Minnesota, and Wisconsin. The experimental use permit is effective from July 15, 1982 to July 15, 1984. (Robert Taylor, PM 25, Rm. 251, CM#2, (703–557–1800))

1471–EUP–78. Issuance. Elanco Products Company, 740 South Alabama St., Indianapolis, IN 46285. This experimental use permit allows the use of 1,275 pounds of the herbicide tebuthiuron on sites being prepared for reforestation to evaluate the control of undesirable woody plant species. A total of 510 acres are involved. The program is authorized only in the States of Alabama, Arkansas, California, Florida, Georgia, Louisiana, Maine, Michigan, Minnesota, Mississippi, New

York, North Carolina, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, Washington, and Wisconsin. The experimental use permit is effective from April 19, 1982 to April 19, 1984. (Robert Taylor, PM 25, Rm. 251, CM#2, (703–557–1800))

21137–EUP–3. Extension. EM Industries, Inc., 5 Skyline Drive, Hawthorne, NY 10532. This experimental use permit allows the use of 41.1 pounds of the plant growth regulator chlorflurenol on cucumbers to evaluate its ability to induce seedless fruit in all-female cultivars of pickling cucumbers. A total of 1,115 acres are involved. The program is authorized only in the States of Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Maryland, Massachusetts, Michigan, Minnesota, New York, North Carolina, Ohio, South Carolina, Texas, and Wisconsin. The experimental use permit is effective from April 14, 1982 to April 14, 1983. A temporary tolerance for residues of the active ingredient in or on cucumbers has been established. (Robert Taylor, PM 25, Rm. 251, CM#2, (703–557–1800))

10182–EUP–6. Renewal. ICI Americas Inc., Wilmington, DE 19897. This experimental use permit allows the use of the remaining supply of the 3,840 pounds, that were originally authorized, of the insecticide permethrin of alfalfa, almonds, apples, beans (dry and snap), broccoli, Brussels sprouts, cabbage, cauliflower, celery, chrysanthemums, field corn, grapes, lettuce, peaches, peanuts, pears, peas (green), potatoes, soybeans, sunflowers, sweet corn, and tomatoes to evaluate the control of various insects. A total of 2,735 acres are involved. The program is authorized in the States of Alabama, Arizona, Arkansas, Califonria, Colorado, Florida, Georgia, Illinois, Indiana, Idaho, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, Nevada, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Rhode Island, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, and Wisconsin.

The permit was previously effective from April 7, 1980 to April 7, 1982. It is now effective from May 1, 1982 to May 1, 1984. This permit is being issued with the limitations that all crops are destroyed or used for research purposes only. (Franklin Gee, PM 17, Rm. 207, CM#2, (703–557–2690))

47302–EUP–1. Issuance. IPM Services, RD 1, Box 151, Locke, NY 13092. This experimental use permit allows the use of 1.3 pounds of the biological insecticide, polyhedral inclusion bodies of gypsy moth nucleopolyhedrosis virus, on forests to evaluate the control of gypsy moths. A total of 20 acres are involved; the program is authorized only in the State of New York. The experimental use permit is effective from May 1, 1982 to May 1, 1983. (Franklin Gee, PM 17, Rm. 207, CM#2, (703–557–2690))

3125–EUP–178. Issuance. Mobay Chemical Corporation, P.O. Box 4913, Kansas City, MO 64120. This experimental use permit allows the use of 3,075 pounds of the insecticide 4-(dimethylamino)-3-methylphenyl methylcarbamate (ester) on forests to evaluate the control of spruce budworms. A total of 24,000 acres are involved; the program is authorized only in the State of Maine. The experimental use permit is effective from May 4, 1982 to May 4, 1983. (Franklin Gee, PM 17, RM. 207, CM#2, (703–557–2690))

3125–EUP–179. Issuance. Mobay Chemical Corporation, P.O. Box 4913, Kansas City, MO 64120. This experimental use permit allows the use of 156.25 pounds of the insect growth regulator 2-chloro-N-[[[4-(trifluoromethoxy)phenyl]amino[carbonyl]benzamide on cotton to evaluate the control of boll weevils. A total of 500 acres are involved; the program is authorized only in the State of Arkansas. (Franklin Gee, PM 17, RM. 207, CM#2, (703–557–2690))

3125–EUP–180. Issuance. Mobay Chemical Corporation, P.O. Box 4913, Kansas City, MO 64120. This experimental use permit allows the use of 160 pounds of the insect growth regulator 2-chloro-N-[[[4-(trifluoromethoxy)phenyl]amino[carbonyl]benazmide on cotton to evaluate the control of boll weevils. A total of 500 acres are involved; the program is authorized only in the State of Arkansas. This permit and the one above are effective May 1, 1982 to May 1, 1983. The permits are being issued with the limitation that all treated crops are burned, plowed under, used as seed for planting, or used for research purposes only. The permits will use the same active ingredients but different formulations. (Franklin Gee, PM 17, Rm. 207, CM#2, (703–557–2690))

524–EUP–30. Extension. Monsanto Company, 1101 17th St., NW., Washington, DC 20036. This experimental use permit allows the use of 2,306 pounds of the herbicide butachlor on rice to evaluate the control of weeds. A total of 860 acres are involved; the program is authorized only in the States of Arkansas, Louisiana, Mississippi, Texas, and the Territory of Puerto Rico. The experimental use permit is effective from April 23, 1982, to April 23, 1983. Temporary tolerances for residues of the active ingredient in or on rice and rice straw have been established. A feed additive regulation for residues of the active ingredient in or on rice hulls, and rice bran has been established (21 CFR 561.55). (Robert Taylor, PM 25, Rm. 251, CM#2, (703–557–1800))

524–EUP–47. Extension. Monsanto Company, 1101 17th St., NW., Washington, DC 20036. This experimental use permit allows the use of 1,636 pounds of the herbicide glyphosate on apricots, cherries, peaches, plums, prunes, and nectarines to evaluate the control of weeds. A total of 2,000 acres are involved. The program is authorized in the States of Alabama, Arkansas, California, Georgia, Idaho, Illinois, Indiana, Michigan, Missouri, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, Tennessee, Utah, Virginia, Washington, West Virginia, and Wisconsin. The experimental use permit is effective from April 26, 1982 to April 26, 1983. Permanent tolerances for residues of the active ingredient in or on apricots, cherries, peaches, plums, prunes, and nectarines have been established (40 CFR 180.364). (Rebert Taylor, PM 25, Rm. 251, CM#2, (703–557–1800))

11273–EUP–23. Extension. Sandoz, Inc., 480 Camino Del Rio South, Suite 204, San Diego, CA 92108. This experimental use permit allows the use of 130 pounds of the larvicide codling moth granulosis virus on apples, pears, and walnuts to evaluate the control of codling moths. A total of 260 acres are involved; the program is authorized only in the States of California, Idaho, New York, Oregon, Pennsylvania, and Washington. The experimental use permit is effective from May 15, 1982 to May 15, 1984. A temporary exemption from the requirement of a tolerance for residues of the active ingredient in or on apples, pears, and walnuts has been established. (Franklin Gee, PM 17, Rm 207, CM#2, (703–557–2690))

11273–EUP–28. Issuance. Sandoz, Inc., 480 Camino Del Rio South, Suite 204, San Diego, CA 92108. This experimental use permit allows the use of 30.1 pounds of the biological insecticide *Bacillus thuringiensis* Berliner var. *israelensis* on non-drinking water to evaluate the control of blackfly larvae. A total of 104 acres are involved; the program is authorized only in the States of Idaho, Maine, New York, Pennsylvania, and West Virginia. The experimental use

permit is effective from April 19, 1982 to April 19, 1983. (Franklin Gee, PM 17, Rm. 207, CM#2, (703–557–2690))

11273–EUP–30. Issuance. Sandoz, Inc., 480 Camino Del Rio South, Suite 204, San Diego, CA 92108. This experimental use permit allows the use of 438 pounds of biological insecticide *Bacillus thuringiensis*, Berliner on forests to evaluate the control of spruce budworms and gypsy moths. A total of 7,950 acres are involved; the program is authorized only in the States of Maine, Michigan, Minnesota, New Jersey, New York, Pennsylvania, and Vermont. The experimental use permit is effective from April 12, 1982 to April 12, 1983. (Franklin Gee, PM 17, Rm. 207, CM#2, (703–557–2690))

46574–EUP–1. Issuance. Sierra Chemical Company, 1001 Yosemite Drive, Milpitas, CA 95035. This experimentral use permit allows the use of 6,080 pounds of the herbicide s–ethyl hexahydro–1H–azepine–1–carbothioate on rice to evaluate the control of barnyard grass (watergrass) (*Echinochloa* spp.). A total of 1,520 acres are involved; the program is authorized only in the States of Arkansas, California, and Louisiana. The experimental use permit is effective from April 6, 1982 to August 1, 1983. A tolerance for negligible residues of the active ingredient in or on rice and rice straw has been established (40 CFR 180.228). (Richard Mountfort, PM 23, Rm. 237, CM#2, (703–557–1830))

264–EUP–60. Issuance. Union Carbide Corporation, P.O. Box 12014, T.W. Alexander Dr., Research Triangle Park, NC 27709. This experimental use permit allows the use of 3,240 pounds of the insecticide thiodicarb on cotton and soybeans to evaluate the control of various insects. A total of 330 acres are involved; the program is authorized only in the States of Alabama, Arizona, Arkansas, California, Georgia, Indiana, Iowa, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Texas, and Virginia. The experimental use permit is effective from March 31, 1982 to March 31, 1983. Temporary tolerances for residues of the active ingredient in or on cottonseed and soybeans have been established. A feed additive regulation for residues of the active ingredient in or on cottonseed hulls and soybean hulls has been established (21 CFR 561.386). (Jay Ellenberger, PM 12, Rm. 202, CM#2, (703–557–2386))

264–EUP–61. Issuance. Union Carbide, P.O. Box 12014, T.W. Alexander Dr., Research Triangle Park, NC 27709. This experimental use permit allows the use of 931 pounds of the insecticide thiodicarb on cotton and soybeans to evaluate the control of various insects. A total of 170 acres are involved; the program is authorized only in the States of Alabama, Arizona, California, Louisiana, Mississippi, North Carolina, South Carolina, and Texas. The experimental use permit is effective from March 31, 1982 to March 31, 1983. Temporary tolerances for residues of the active ingredient in or on cottonseed and soybeans have been established. A feed additive regulation for residues of the active ingredient in or on cottonseed hulls and soybean hulls has been established (21 CFR 561.386). (Jay Ellenberger, PM 12, Rm. 202, CM#2, (703–557–2386))

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 92 Stat. 819, as amended, (7 U.S.C. 136))

Dated: June 28, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82–18478 Filed 7–13–82; 8:45 am]

BILLING CODE 6560–50–M

[PF–285; PH–FRL–2168–3]

Certain Companies; Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide and food additive petitions relating to the establishment and amendment of tolerances for residues of certain pesticide chemicals in or on certain raw commodities.

ADDRESS: Written comments to: Henry Jacoby, Product Manager (PM) 21, Registration Division, Office of Pesticide Programs (TS–767C), 401 M St., SW., Washington, DC 20460.

Written comments may be submitted while the petitions are pending before the Agency. The comments are to be identified by the document control number "[PF–285]" and the specific petition number. All written comments filed in response to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: PM 21, Henry Jacoby, (703–557–1900).

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received the following pesticide (PP) and food additive (FAP) petitions relating to the establishment and amendment of tolerances for residues of certain pesticide chemicals in or on certain commodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

PP 2F2595. In the **Federal Register** of January 13, 1982 (47 FR 1408), EPA announced that BASF Wyanette Corp., Agricultural Chemicals Division, 100 Cherry Hill Road, Parsippany, NJ 07054, had submitted PP 2F2595 proposing to amend 40 CFR 180.380 by establishing tolerances for residues of the fungicide 3-(3,5-dichlorophenyl)-5-ethenyl-5-methyl-2,4-oxazolidinedione and its metabolites containing the 3,5-dicloroaniline moiety in or on the raw agricultural commodity lettuce at 5.0 parts per million (ppm). BASF has amended the petition by increasing the tolerance level from 5.0 ppm to 10.0 ppm. The proposed analytical method for determining residues is by gas chromatography using an electron capture detector (Ni 63).

FAP 1H5311. Ciba-Geigy Corp., Agricultural Division, P.O. Box 11422, Greensboro, NC 27809. Proposes amending 21 CFR by establishing a regulation permitting the combined residues of the fungicide metalaxyl [*N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl)alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety, each expressed as metalaxyl, in or on the commodity dry hops at 2.0 ppm.

PP 1F2537. In the **Federal Register** of October 2, 1981 (46 FR 48755), EPA announced that Ciba-Geigy Corp., had sumitted PP 1F2537 proposing to amend 40 CFR 180 by establishing tolerances for the combined residues of the fungicide metalaxyl in or on the raw agricultural commodity hops at 0.2 ppm. Ciga-Geigy has amended the petition by increasing the tolerance level from 0.2 ppm to 0.5 ppm. The proposed analytical method for determining residues is by gas chromatography with an alkali flame ionization detector.

PP 2F2596. In the **Federal Register** of January 13, 1982 (47 FR 1408) EPA announced that Rhone-Poulenc Chemical Co. Agrochemical Div., PO Box 125, Black Horse Lane, Monmouth Junction, NJ 08852, had submitted PP 2F2596 proposing to amend 40 CFR 180 by establishing tolerances for the

combined residues of the fungicide [3-(3,5-dichlorophenyl)-*N*-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide] its isomer [3-(1-methylethyl)-*N*-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide], and its metabolite [3-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide] in or on the raw agricultural commodities apricots, cherries (sweet and sour), nectarines, peaches, and plums (fresh prunes) at 10 ppm. Rhone-Poulenc has amended the petition by increasing the tolerance levels for the raw commodities cherries (sweet and sour), nectarines, and peaches from 10.0 ppm to 20.0 ppm and deleting apricots and plums (fresh prunes). The proposed analytical method for determining residues is gas layer chromatography.

PP 2F2702. Rhone-Poulenc Chemical Corp. Proposes amending 40 CFR Part 180 by establishing an exemption from the requirement of a tolerance for the residues of fungicide fosetyl-AL [aluminum tris (*O*-ethyl phosphonate)] in or on the agricultural commodities pineapples and pineapple bran. The proposed analytical method for determining residues is with isotopically-labelled ethyl phosphorous acid as its aluminum salt by autoradiography, liquid scintillation counting, gas liquid chromatography and thin layer chromatography.

(Sec. 408(d)(1), 68 Stat. 512, (7 U.S.C. 136)), (Sec. 409(b)(5), 72 Stat. 1786, (21 U.S.C. 348))

Dated: June 28, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-18879 Filed 7-13-82; 8:45 am]

BILLING CODE 6560-50-M

[OPP-31036A; PH-FRL-2169-2]

Mobay Chemical Corp.; Approval of Application To Conditionally Register a Pesticide Product Involving a Changed Use Pattern

[PH-FRL 2169-2]

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has conditionally approved the application by the Mobay Chemical Corp. to register the insecticide Mesurol 75% Wettable Powder involving a changed use pattern pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: William Miller, Product Manager (PM) 16, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 211, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2600).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of May 5, 1980 (45 FR 29632) that the Mobay Chemical Corp., PO Box 4913, Kansas City, MO 64120, had submitted an application to amend registration of the insecticide Mesurol 75% Wettable Powder containing 75 percent of the active ingredient 3,5-dimethyl-4-(methylthio)phenyl methylcarbamate. The application proposed a changed use pattern of the product.

The application was approved on May 26, 1982 for general use for ground and aerial applications. The product was assigned EPA registration No. 3125-288.

A copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the product manager. The data and other scientific information used to support registration, except for the material specifically protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (92 Stat. 819; 7 U.S.C. 136), will be available for public inspection in accordance with section 3(c)(2) of FIFRA within 30 days after registration date. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), EPA, 401 M St., SW., Washington, DC 20460. Such requests should: (1) identify the product name and registration number and (2) specify the data or information desired.

(Sec. 3(c)(2) FIFRA, as amended)

Dated: July 1, 1982.

Louis P. True,

Acting Director, Office of Pesticide Programs.

[FR Doc. 82-18880 Filed 7-13-82; 8:45 am]

BILLING CODE 6560-50-M

[SA-FRL 2170-7]

Science Advisory Board, Environmental Engineering Committee; Open Meeting

Under Pub. L. 92-463, notice is hereby given that a two-day meeting of the Environmental Engineering Committee (EEC) of the Science Advisory Board will be held in Conference Room 3906-3908, U.S. Environmental Protection Agency, 401 "M" Street, SW., Washington, D.C., on July 30-31, 1982. The meeting will begin at 9:00 a.m. and last until 5:00 p.m. each day.

The purpose of the meeting will be to review technical support data pertaining to the proposed Effluent Guidelines for the Organic Chemicals and Plastics/Synthetic Fibers Industries. The meeting is a follow-on to one held on May 25, 1982, and will address the following main issues:

1. *Production of Analytical Data:* At the inception of the BAT study for the Organic Chemicals and Plastics/Synthetic Fibers Industries, no validated analytical methods existed (precision and accuracy defined) for the industry. An empirical approach to data collection and methods development was therefore used, which relied on the development of site-specific methodologies. The validity of the results was defined by use of spiked and duplicate samples, which constituted a QA/QC (quality assurance/quality control) program to establish the precision and accuracy of the methods. The entire analytical program will be reviewed.

2. *Relationship Between the Occurrence of Priority Pollutants and the Feedstock-Generic Chemical Process Combinations Used in the Industry:* The BAT study concluded, based on the examination of 176 products manufactured through 123 processes (100 organic chemical and 23 plastics), that priority pollutants are predictable either directly from five principal sources, or indirectly from feedstock-generic process combinations. The concept of predicting, industry-wide, the presence of priority pollutants based on generic similarities to those plants examined will be reviewed.

3. *The Performance of Treatment Technologies and the Validity of Treatment Process Models:* Empirical data from the literature and from industry have been used to determine the performance of control technologies, used alone or in combinations, in removing conventional and priority pollutants. Treatment performance models have also been developed. Review has been requested of model validity, and of the industry-wide applicability of selected treatment technologies, including the validity of the ranges of operating and design variables.

In the course of the meeting discussion is also anticipated on related material, such as the Chemical Manufacturers Association's Five-Plant Study.

The meeting is open to the public. Any member of the public wishing to participate or obtain further information about the meeting should contact Harry C. Torno, Executive Secretary, at (202)

382–2552, or Terry F. Yosie, Acting Director, Science Advisory Board, at (202) 382–4119 prior to close of business July 26, 1982.

EPA has recently instituted new visitor control procedures. In order to minimize any inconvenience, persons wishing to attend are requested to call Mrs. Dorothy M. Clark at (202) 382–2552, in order that they may be included on a roster that will be prepared for the building security guards. Attendees are also requested to enter the building at the West Tower entrance.

Terry F. Yosie,

Acting Director, Science Advisory Board.

July 8, 1982.

[FR Doc. 82–18052 Filed 7–13–82; 8:45 am]

BILLING CODE 6560–50–M

[OTS–140014; TSH–FRL 2171–4]

Premanufacture Notification; Disclosure of Confidential Business Information To Congress

AGENCY: Environemental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Subcommittee on Commerce, Transportation, and Tourism of the House Committee on Energy and Commerce has requested access to all information on premanufacture notices (PMNs) submitted under section 5(a) of the Toxic Substances Control At (TSCA). The Office of Technology Assessment (OTA) will be conducting a study of the PMNs for the Subcommittee. Employees of OTA and an OTA contractor will have direct access to the PMN information. Much of the PMN information has been claimed as confidential by the submitters.

DATE: This information will be provided to the Subcommittee no sooner than July 26, 1982.

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–509, 401 M St., SW., Washington, D.C. 20460, Toll-free: (800–424–9065), In Washington, D.C.: (554–1404), Outside the USA: (Operator 202–554–1404).

SUPPLEMENTARY INFORMATION: In a letter to EPA, the Chairman of the Subcommittee on Commerce, Transportation and Tourism of the House Committee on Energy and Commerce stated that the Subcommittee is conducting a review of TSCA premanufacture notice provisions. As part of that inquiry, the Chairman requested EPA to give OTA access to the PMNs. The PMN information which EPA will be providing the Subcommittee may contain confidential business informaiton. Manufacturers and importers have been given the opportuntiy to claim information confidential in the PMNs submitted to EPA under section 5(a) of TSCA and have made such claims. Pursuant to 40 CFR 2209(b), which applies to information submitted under TSCA by 40 CFR 2.306(h), EPA must provide confidential business information to a Congressional subcommittee in response to a written request by the chairman. Before providing the information, EPA is required by 40 CFR 2.209(b) to notify the submitters of the information at least ten days in advance of disclosure.

This is a notice under 40 CFR 2.209(b) to all manufacturers and importers who have submitted PMNs under section 5(a) of TSCA that EPA will provide the requested confidential business information to the Subcommittee and OTA no sooner than July 26, 1982. The Agnecy will identify any information that is subject to a confidentiality claim and will inform the Subcommittee of the provisions of section 14(d) of TSCA which set criminal penalties for unlawful disclosue of confidential business information under TSCA.

Dated: July 9, 1982.

Don R. Clay,

Acting Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 82–19151 Filed 7–13–82; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 80–765]

American Telephone & Telegraph Co.; Revisions to Tariff FCC No. 259, Wide Area Telecommunications Service (WATS)

Memorandum Opinion and Order

Adopted: July 1, 1982.

Released: July 7, 1982.

1. On June 16, 1982, the Bureau issued an order deferring the submission date for comments and proposals in phase two of the above-captioned proceeding from June 17, 1982 until July 19, 1982. See, *Memorandum Opinion and Order,* Mimeo No. 4629, released June 16, 1982. We had determined that the recent decision of the U.S. Court of Appeals for the District of Columbia in *Ad Hoc Telecommunications Users Committee* v. *FCC,* D.C. Cir. No. 80–1785 (June 11, 1982), warranted this temporary delay. After further consideration of the opinion in this case, we have decided to postpone the filing date for comments until thirty (30) days after the Commission has issued an order clarifying the effect of the Ad Hoc decision on phase two.

2. Accordingly, It is ordered, pursuant to delegated authority under § 0.291 of the Commission's Rules and Regulations, 47 CFR 0.291, that the comments and proposals of the American Telephone and Telegraph Company and other parties on the matters set for investigation are deferred as set forth above.

3. It is further ordered That this order shall be published in the **Federal Register.**

Federal Communications Commission.

Gary M. Epstein,

Chief, Common Carrier Bureau.

[FR Doc. 82–18977 Filed 7–13–82; 8:45 am]

BILLING CODE 6712–01–M

[BC Docket No. 82–362; File No. BPH–810421 AB et al.]

Busch Communications, Inc. et al.; Designating Applications for Consolidated Hearing on Stated Issues

In re Applications of Busch Communications, Inc., West Jordan, Utah, Req: 102.7 MHz, Channel 274C, 100Kw (H&V), 1036 feet, BC Docket No. 82–362, File No. BPH–810421AB; Brent T. Larson, West Jordan, Utah, Req: 102.7 MHz, Channel 274C, 100 kW (H&V), 1036 feet, BC Docket No. 82–363, File No. BPH–810813AD; Max L. Burdick, Jr., West Jordan, Utah, Req: 102.7 MHz, Channel 274C, 100 kW (H&V), 1036 feet, BC Docket No. 82–364, File No. BPH–810818AK; Vilma Marie Reyes, West Jordan, Utah, Req: 102.7 MHz, Channel 274C, 100 kW (H&V), 1036 feet, BC Docket No. 82–365, File No. BPH–810819AC; Public Service Broadcasting of West Jordan, Inc., West Jordan, Utah, Req: 102.7 MHz, Channel 275C, 100 kW (H&V), 1036 feet, BC Docket No. 82–366, File No. BPH–910918AJ; Walter P. Faber, Jr., Midvale, Utah, Req: 19207 MHz, Channel 274C, 100kW (H&V), 315 feet, BC Docket No. 82–367, File No. BPH–810819BE; Western Broadcasting Incorporated, West Jordan, Utah, Req: 102.7 MHz, Channel 274C, 100 kW (H&V), 276 feet, BC Docket No. 82–368, File No. BPH–810819BF; Mountain Media, Incorporated, West Jordan, Utah, Req: 102.7 MHz, Channel 274C, 100 kW (H&V), 1035 feet, BC Docket No. 82–369, File No. BPH–810819BL; K–106, Inc., West Jordan, Utah, Req: 102.7 MHz, Channel 274C, 100 kW (H&V), 1000 feet, BC Docket No. 82–370, File No. BPH–810819BO. For Construction Permit for New FM Station.

Hearing Designation Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: June 24, 1982.

Released: July 8, 1982.

1. The Commission, by the Chief, Broadcasting Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by Busch Communications, Inc. (Busch), Brent T. Larson, Max J. Burdick Jr., Velma Marie Reyes, Public Service Broadcasting of West Jordan, Inc. (Public Service), Walter P. Faber, Jr. (Faber), Western Broadcasting Incorporated (Western), Mountain Media, Incorporated, and K–106, Inc.

2. Applicants for new broadcast stations are required by § 73.3580(f) of the Commission's Rules to give local notice of the filing of their applications. We have no evidence that Brent T. Larson, Public Service Broadcasting of West Jordan, Inc., or Mountain Media, Incorporated published the required notice. To remedy this deficiency, all must publish local notice, if they have not already done so, and so inform the presiding Administrative Law Judge.

3. *Busch.* Section 73.1125 of the Commission's Rules requires that the main studio of an FM station be located within the city of license, but that in a showing of good cause the main studio may be located outside that community. Busch proposes to locate its main studio in Midvale, Utah. The applicant states that the proposed location, approximately ten blocks from West Jordan, is easily accessible. Under these circumstances, we believe that adequate justification has been provided for the proposed studio location.

4. *Public Service.* Analysis of the financial data submitted by Public Service reveals that $70,678 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment cash purchase	$13,000
Equipment down payment	5,269
Equipment payments (4 months)	7,052
Loan repayments (5 months)	4,250
Miscellaneous costs	9,200
Three months operating costs	32,857
Total	70,678

To meet its expenses, Public Service plans to rely on a pledge of $3,000 from principal Scott E. Putnam and a $30,000 loan from First Interstate Bank of Utah. The applicant has not complied with Paragraph 4(e), Section III, page 3 which requires provision of the personal guarantees required by the bank letter. Further, we note that even with the bank loan, Public Service would fall short of the amount required for construction and first quarter operations. A financial issue will be specified.

5. *Faber.* Analysis of the financial data submitted by Mr. Faber reveals that $180,701 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment down payment	$100,719
Equipment payments (4 months)	39,532
Miscellaneous costs	20,000
Three months operating costs	20,450
Total	180,701

Mr. Faber plans to finance construction and operation with an unspecified net available from a $200,000 loan from Mountain View Bank. The letter extending this line of credit fails to list the period of the loan and other terms of repayment. We therefore can make no determination as to the net available to meet the required expenses. A financial issue will be specified.

6. Public Service Broadcasting of West Jordan, Inc. has petitioned for leave to amend its application. The accompanying amendment was filed May 5, 1982; the last day for filing amendments as a matter of right was March 12, 1982. We find that good cause has been shown for the filing of the amendment under Section 1.65 of the Commission's Rules, and, accordingly, the amendment will be accepted for filing. However, under these circumstances it cannot be used to improve an applicant's comparative position. *Cypress Communications, Inc.*, 47 RR 2d 132 (1980). Therefore, any comparative advantage resulting from Public Service's amendment will be disallowed.

7. Since no determination has been reached that the antennas proposed by Faber, Western, and K–106 would not constitute a menance to air navigation, issues regarding these matters are required.

8. Faber and Western both propose locating their antennas atop the existing 195 feet AGL tower of KZZI(AM), West Jordan, Utah. Each proposes to increase the height of the KZZI structure to 450 feet AGL, which would constitute a major action pursuant to Section 1.1305 of the Commission's Rules. Only Faber has indicated that this proposal constitutes a major action and provided the narrative statement in accordance with Section 1.1311 of the Rules. While we might normally specify an issue against Western for its failure to do either, it is clear from the Faber narrative that a tower 450 feet AGL would not have a significant effect on the quality of the environment and, therefore, specifying an issue against Western in this instance would serve no practical purpose.

9. The respective proposals, although for different communities, would serve substantial areas in common. Consequently, in addition to determining, pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue will also be specified.

10. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

11. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the areas and populations which would receive primary aural service (1 mV/m or greater in the case of FM) from the proposed operations of the applicants and the availability of other primary service to such areas and populations.

2. To determine with respect to Public Service Boradcasting of West Jordan, Inc.:

(a) The source and availability of additional funds over and above the $3,000 indicated; and

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified to construct and operate the proposed station.

3. To determine with respect to Walter P. Faber, Jr:

(a) The source and availability of funds to meet his expected costs; and

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified to construct and operate the proposed station.

4. To determine whether there is a reasonable possibility that the tower height and location proposed by Walter P. Faber, Jr. would constitute a hazard to air navigation.

5. To determine whether there is a reasonable possibility that the tower

height and location proposed by Western Broadcasting Incorporated would constitute a hazard to air navigation.

6. To determine whether there is a reasonable possibility that the tower height and location proposed by K–106, Inc. would constitute a hazard to air navigation.

7. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service.

8. To determine, in the event it is concluded that a choice between the applications should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, best serve the public interest.

9. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which, if any, of the applications should be granted.

12. It is further ordered, That Brent T. Larson, Public Service Broadcasting of West Jordon, Inc., and Mountain Media, Incorporated shall inform the presiding Administrative Law Judge as to whether they have complied with the public notice requirements of Section 73.3580(f) of the Commission's Rules.

13. It is further ordered, That the Federal Aviation Administration is made a party to the proceeding.

14. It is further ordered, that the petition for leave to amend filed by Public Service Broadcasting of West Jordan, Inc. is granted, and the corresponding amendment is accpeted, but that no improvement in Public Service's comparative standing will be allowed.

15. It is further ordered, that to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

16. It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, § 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73. 3594(g) of the Rules.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 82–18978 Filed 7–13–82; 8:45 am]

BILLING CODE 6712–01–M

[Report No. 1364]

Petitions for Reconsideration of Actions in Rule Making Proceedings

July 8, 1982.

The following listings of petitions for reconsideration and applications for review filed in Commission rulemaking proceedings is published pursuant to CFR 1.429(e). Oppositions to such petitions for reconsideration and applications for review must be filed within 15 days after publication of this Public Notice in the **Federal Register.** Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of Section 73.202(b), Table of Assignments, FM Broadcast Stations. (Christiansted, and Frederiksted, Virgin Islands) (BC Docket No. 81–284, RM's 3696, 3822, 3827 & 3929)

Filed By: Lee M. Mitchell & Grier C. Raclin, Attorneys for CDI Communications WIVI Partnership, (WIVI–FM) on 5–18–82.

Subject: Amendment of Section 73.202(b), Table of Assignments, FM Broadcast Stations. (Devils Lake, North Dakota) (BC Docket No. 81–874, RM–3931)

Filed By: Harold A. Jahnke on 6–29–82.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82–18979 Filed 7–13–82; 8:45 am]

BILLING CODE 6712–01–M

[Report No. 1363]

Petitions for Reconsideration of Actions in Rule Making Proceedings [1]

July 7, 1982.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the **Federal Register.** Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Interconnection Arrangements Between and Among the Domestic and International Record Carriers. (CC Docket No. 82–122)

Filed By:

Steven A. Levy, Attorney for International Relay, Inc., on 6–2–82. Stanford B. Weinstein, Attorney for Graphnet, Inc., on 6–2–82. Lloyd D. Young, Attorney for TRT Telecommunications Corporation on 6–2–82.

Robert Michelson & Gary M. Fereno, Attorneys for Western Union International, Inc., on 6–2–82. Martin W. Bercovici, Attorney for Mobile Marine Radio, Inc., on 6–2–82.

Alexander P. Humphrey, for RCA Global Communications, Inc., on 6–2–82.

Roger P. Newell, Attorney for FTC Communications, Inc., on 6–2–82. Ian D. Volner & David M. Rickless, Attorneys for Consortium Communications International, Inc., on 6–2–82. Joseph J. Jacobs & John A. Ligon, Attorneys for ITT World Communications, Inc., on 6–2–82.

H. Richard Juhnke, Attorney for Western Union Telegraph Company on 6–3–82.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82–18980 Filed 7–13–82; 8:45 a.m]

BILLING CODE 6712–01–M

[Report No. 1362]

Petitions for Reconsideration of Actions in Rule Making Proceedings

July 7, 1982.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the **Federal Register.** Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of Parts 89, 91, 93 and 95 of the Commission's Rules and Regulations to Adopt New Practices and Procedures for Cooperative Use and Multiple Licensing of Stations in the Private Land Mobile Radio Services. (Docket No. 18921), RM's 1197, 1238 and 1330)

Filed By:

Charles A. Bader, President, Clara L. Bader, Accountant and Shirley L. Bader, Sec-Tres., for Communications Associates, Inc., on 5–13–82.

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[1] **Note.**—The above listings except for ITT World Communications, Inc., have been previously published in Report No. 1357, 47 FR 26024 and Report No. 1360, 47 FR 28133. In order to insure a uniform pleading cycle for oppositions and replies, they are being relisted.

David H. Richardson, President for Richardson Communications Company on 5–17–82.
John Clark, Owner for Clark Communications Company on 5–17–82.

Correction to Report No. 1357

In the previous Notice, Report No. 1357, released June 10, 1982, 47 FR 26024, we listed two separate petitions for reconsideration filed by General Electric Co. One of those two petitions was filed instead by 2-Way Systems, Inc and signed by its president Daniel J. Rooks.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82–18981 Filed 7–13–82; 8:45 am]
BILLING CODE 6712–01–M

Meeting of TIAG; Definitions and Rules Subcommittee

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the TIAG Definitions and Rules Subcommittee scheduled to meet on Tuesday, July 27, 1982. The meeting will be held at 9:30 a.m. in Meeting Room 856 of the Federal Communications Commission offices located at 1919 M Street, NW., Washington, D.C. and will be open to the public. The agenda is as follows:

I. General Administrative Matters.

II. Review of Minutes of Previous Meeting.

III. Discussion of Individual Assignments.

IV. Other Business.

V. Presentation of Oral Statements.

VI. Adjournment.

With prior approval of Subcommittee Chairman John Utzinger, oral statements, while not favored or encouraged, may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Utzinger (203/965–2830) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82–18982 Filed 7–13–82; 8:45 am]
BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–661–DR]

Connecticut; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Connecticut (FEMA–661–DR), dated June 14, 1982, and related determinations.

DATED: June 14, 1982.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0501.

NOTICE: Pursuant to the authority vested in the Director of the Federal Emergency Management Agency by the President under Executive Order 12148, effective July 15, 1979, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter of June 14, 1982, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Connecticut resulting from severe storms and flooding beginning on June 4, 1982, is of sufficient severity and magnitude to warrant a major disaster declaration under Pub. L. 93–288. I therefore declare that such a major disaster exists in the State of Connecticut.

In order to provide Federal assistance, you are herby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under PL 93–288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area except for technical assistance which will be funded at 100 percent.

The time period prescribed for the implementation of Section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of Federal Emergency Management Agency under Executive Order 12148, and delegated to me by the Director under the Federal Emergency Management Agency Delegation of Authority, I hereby appoint Mr. Arthur T. Doyle of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of Connecticut to have been affected adversely by this declared major disaster:

For Individual Assistance and Public Assistance: Fairfied, New Haven, New London and Middlesex Counties.

For Individual Assistance only: Hartford, Litchfied, Tolland and Windham Counties.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance. Billing Code 6718–02)

Lee M. Thomas,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 82–18935 Filed 7–13–82; 8:45 am]
BILLING CODE 6718–02–M

[FEMA–664–DR]

Florida; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Florida (FEMA–664–DR), dated July 7, 1982, and related determinations.

DATED: July 7, 1982.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0501.

Notice

Pursuant to the authority vested in the Director of the Federal Emergency Management Agency by the President under Executive Order 12148, effective July 15, 1979, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter of July 7, 1982, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Florida resulting from severe storms and flooding beginning on June 17, 1982, is of sufficient severity and magnitude to warrant a major disaster declaration under Pub. L. 93–288. I therefore declare that such a major disaster exists in the State of Florida.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93–288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area except for technical assistance which will be funded at 100 percent.

Pursuant to Section 408(b) of Pub. L. 93–288, you are authorized to advance to the State its 25 percent share of the individual and family grant program, to be repaid to the United States by the State when it is able to do so.

The time period prescribed for the implementation of Section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of Federal Emergency Management Agency under Executive Order 12148, and delegated to me by the Director under the Federal Emergency Management Agency Delegation of Authority, I hereby appoint Mr. Paul E. Hall of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of Florida to have been affected adversely by this declared major disaster:

DeSoto County for Individual Assistance and Public Assistance.

Hendry County for Individual Assistance only.

Sarasota and Manatee Counties for Public Assistance only.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance. Billing Code 6718–02)

Lee M. Thomas,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 82–18696 Filed 7–13–82; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL HOME LOAN BANK BOARD

Federal Savings and Loan Advisory Council; Meeting

July 9, 1982.

Pursuant to Section 10(a) of Pub. L. 92–463, entitled the Federal Advisory Committee Act, notice is hereby given to the Meeting of the Federal Savings and Loan Advisory Council on Monday, August 9; Tuesday, August 10; and Wednesday, August 11, 1982. The meeting will commence at 10:30 a.m., August 9; and at 9:00 a.m., August 10 and August 11. The meeting will be held at the Federal Home Loan Bank Board, 1700 G Street, NW, Washington, D.C., Bank Board Conference Room, Sixth Floor.

Monday, August 9:

10:30 a.m.
Opening of the Council Meeting; review of topics and subcommittee assignments
11:00 a.m.
Subcommittees begin deliberations
Savings Flows: In a Nonregulated Environment
Assets: Investment Opportunities in a New Environment
The FHLB District Banks: Advances, New Responsibilities
12:00 Noon
Lunch
1:30 p.m.
Subcommittees resume deliberations
4:00 p.m.
Subcommittees begin formulation of resolutions

Tuesday, August 10:

9:00 a.m.
Subcommittees complete work on resolutions
11:00 a.m.
Council initiates discussion and votes on proposed resolutions
12:00 Noon
Lunch
1:30 p.m.
Council resumes discussion and votes on resolutions

Wednesday, August 11, 1982:

9:00 a.m.
Presentation and discussion of resolutions to the Chairman and Board Members
10:30 a.m.
Adjourn

The meeting of the Federal Savings and Loan Advisory Council is open to the public.

Richard T. Pratt,

Chairman.

[FR Doc. 82–18704 Filed 7–13–82; 8:45 am]

BILLING CODE 6720–01–M

FEDERAL MARITIME COMMISSION

[Docket No. 82–35]

Agreement No. 10423 Between Philippines, Micronesia & Orient Navigation Co. and Matson Navigation Co.; Filing of Petition for Declaratory Order

Notice is given that a petition for declaratory order has been filed by Philippines, Micronesia & Orient Navigation Company (PMO) to clarify the jurisdiction of the Commission over Agreement No. 10423 between PMO and Matson Navigation Company. Petitioner seeks an order declaring that Commission jurisdiction does not extend to "contract carriage" contemplated under the Agreement.

Interested persons may inspect and obtain a copy of the petition at the Washington Office of the Federal Maritime Commission, 1100 L St., NW., Room 11101, or may inspect the petition at the Commission's Field Offices located at New York, New York; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Participation in this proceeding by persons not named in the petition will be permitted only upon grant of intervention pursuant to Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72).

Petitions to intervene shall be accompanied by intervenors complete reply in the matter. Such petitions and any replies to the petition for declaratory order shall be filed with the Secretary on or before August 6, 1982. An original and fifteen copies shall be submitted and a copy served on all parties. Replies shall contain the complete factual and legal presentation of the replying party as to the desired resolution of the petition for declaratory order.

Francis C. Hurney,

Secretary.

[FR Doc. 82–18966 Filed 7–13–82; 8:45 am]

BILLING CODE 6730–01–M

Inactive Tariffs—Bureau of Tariffs; Intent To Cancel

The foreign commerce files of the Federal Maritime Commission contain numerous tariffs which have been classified as inactive due to the absence of any tariff changes for a period of one year or longer; the Commission staff's inability to contact the tariff filers at the addresses shown on the tariffs; or the staff has been advised by the carrier or its agent that the tariffs no longer cover a common carrier service. The tariff publications of the following carriers fall into the inactive category:

AAA Foreign Freight Forwarders, FMC–1
A. Bottacchi, S.A. de Navegacion, FMC–6
ACP Midwest, Inc., FMC–1
Admiral Shipping Agency, FMC–1
AECL Corporation, FMC–1
A. J. Cunningham Packing Corp., FMC–1
Allied Despatchers, Ltd., FMC–1
Allpac International, FMC–1
Alltransport, Inc., FMC–15, 21
American Pacific Container Line, Inc., FMC–2, 3
American Shipping Company, Inc., FMC–2, 3
Ancha Shipping Company, Inc., FMC–1
Anchor Freight Consolidators, FMC–1, 2, 3
Ancora Shipping N.V., FMC–2
The Atcheson, Topeka & Santa Fe Railway Company, FMC–1

Atlantic Biscay Container Line, FMC–1, 2, 3
Balken Consolidators, Inc., FMC–1
The Bank Line, Ltd., FMC–2, 3
Barb Shipping Company, Inc., FMC–1
Barton Export Boxing Corp., FMC–1
Batavier Container Line, FMC–1
Bill White, Inc., FMC–1
Blue Star Line, Ltd., FMC–9, 14
Bocimar N.V., FMC–2
Canada-United Kingdom Frt Conference, Tariff #9
Canadian Continental Eastbound Frt Conference, FMC–5
Caribbean-American Transportation Co., Inc., FMC–1
Caribbean Freightcon, Inc., FMC–1
Caribbean Shipping, Ltd., FMC–6
Caribbean Shipping (Brazil Svc), Ltd., FMC–1, 2, 3
Certage Marine, FMC–1
Companhia Maritima Nacional, FMC–1
Comptoir Commercial Et Maritime S.A. (COMAR), FMC–1
Computerized Freight Management Corp., FMC–1
Confreight Marine Line, Inc., FMC–4, 5, 6, 7, 8, 9, 10, 11, 12
Consolidadora Del Caribe S.A., FMC–2
Consolidated Cargo Corp., FMC–1
Constellation Line, FMC–28, 30
Container Express, Inc., FMC–1
Container-Lloyd Intermodal Lines, FMC–23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43
Continental Canadian Westbound Frt Conference, Tariff "L"
Coast Line, FMC–28
Crescent Line, Inc., FMC–1
Crown Overseas Forwarders, FMC–5
Cylanco S.A., FMC–2
The Daiwa Navigation Co., Ltd., FMC–16, 19
Dart Container Line Co., Ltd., FMC–30, 34, 35, 38, 39
Distribution Services International, FMC–1
Double Eagle Shipping Company, Inc., FMC–2
E.D.S. Int'l Shipping Corp., FMC–4
EKL Line, FMC–1
Emery Ocean Freight, FMC–8
Empresa Naviera Santa S.A, FMC–1
Euro-Freight, Ltd, FMC–1
Evergreen Marine Corp., Ltd., FMC–47
Exporters Forwarding Co., Ltd., FMC–2
Far East Container, FMC–2, 3
First International Shipping Company, FMC–1
Five Continent Shipping Company, FMC–1
Flo Trin Lines, Inc., FMC–2, 3
Forest Lines, FMC–12, 14, 19
Foreign Trade Export Packing Company, FMC–2
G. A. Lopez, FMC–1
Galaxie Cargo Services, Ltd., FMC–1, 2
Gaymar Shipping Corp., FMC–1, 2
General Transportation Service, Inc., FMC–1
Genesis Shipping Corporation, Inc., FMC–1
C.S. Greene & Company, Inc., FMC–30, 31
Greene Container Transport, Inc., FMC–1
Gulf Ocean Lines, FMC–1, 2, 3
Gulf United Line, Ltd., FMC–1
Hands Across the Sea, Inc., FMC–1
Hansa Line, FMC–19, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31
Held-Tite, Inc., FMC–1
Herman Ludwig, Inc. (Mate Marine Air Trans. Exp.), FMC–3
J. F. Hillebrand Corp. of America, FMC–1
Hong Kong Globe, Ltd., FMC–1
Hop Kee Line, FMC–1
Houston Line, FMC–1
IDC, FMC–1
Imparca Express Line, FMC–1, 2, 3, 4
Independent Cargo Express, Inc., FMC–7, 10, 12, 13, 15
Indian President Lines, Ltd., FMC–1
Integrated Container Services, Inc., FMC–2
Intercontainer Transport Corp., FMC–2
Intercontinental Transport, FMC–34, 36, 37
Interflow (Tank Container System), Limited, FMC–1
Interford Corp., FMC–1
Intermodal Container, Inc., FMC–1
International Household Export, Inc., FMC–1
International Moving Consultants, FMC–1
International Navigation, Ltd., FMC–10
International Traffic & Terminal Service, Inc., FMC–1
Ivaran Lines, FMC–8
Japan/Korea-Atl & Gulf Frt Conference, FMC–1
Jasman, Inc., FMC–4, 5, 6
Jugooceanija Line, FMC–12
Kameroon Shipping Lines, Inc., FMC–1
Karlander (Australia) Pty., Ltd., FMC–23
Karlander Line, FMC–8
King Pak, Inc., FMC–1
Kirk Dale Shipping Company, Ltd., FMC–1
Kopak, Inc., FMC–1
Korea Express, Inc., FMC–5, 6
Korea Shipping Corp., FMC–7, 13, 18
Kyokuyo Company, Ltd., FMC–1
La Flor de Mayo Express, Inc., FMC–4
Lago Line S.A., FMC–1
Laser Cargo Services, Inc., FMC–1
Linea Maritima Centauro C.A., FMC–2
Lineas Agromar, Ltd., FMC–3
Logistical Services, Inc., FMC–1
Logistics, Inc., FMC–1
Lyons Transport, Inc., FMC–2, 3, 4, 5, 8, 9, 10, 11, 12
Marfret Container Line, FMC–2, 3
Maritimas Del Caribe Co., S. De R.L., FMC–1
Max Grünhut GMBH & Company, FMC–2
Mexican Line, FMC–56
Mini Line, FMC–3
Naviera Caprilles, FMC–1, 2
Naviera Colombiana, Ltd., FMC–1
Naviera Nicaraguense S.A. (NANICA), FMC–4
Naviera Peninsular, FMC–1
Servicios Navieros Ecuatorianos S.A., FMC–1
New World Shipping, Inc., FMC–1, 3
Omega Lines, FMC–1
Orient Overseas Line, FMC–75, 84, 86, 87, 88, 89, 91, 94, 95, 96, 110
Orion International, Inc., FMC–1
Overland Marine Transport, Inc., FMC–6
Overocean Transport Corp., FMC–2
Pacific European Container Service, FMC–2
Pacific Far East Line, FMC–91, 92
Pacific Marine Transport, Inc., FMC–2
Pan American Mail Lines, Inc., FMC–15
Pandair Freight, Inc., FMC–2
P & O Lines, FMC–11
Paper Transport Company, FMC–1
Pescadora Mavel, S.A., FMC–1
Pony Sea Lines S.A., FMC–2
Port Service, Inc., FMC–1, 2
Prudential Lines, Inc., FMC–39, 44, 45, 49, 51
Puritan International Corp., FMC–1, 2
Quast & Company, Inc. FMC–1
RHW, FMC–1
Rio Grande Marine Corp., FMC–3, 4
Road & Sea Transportation Services, Inc., FMC–1
Roco World Wide, Inc., FMC–1
Ro-Lo Pacific Line, FMC–3
Santo Domingo Express, Inc., FMC–1
Saudi-American World Logistics, FMC–1
SCAC Transport (USA), Inc., FMC–6, 9
Scan Pacific Line, FMC–3, 4, 5
Sea Com Charter Carrier, FMC–3, 4
Sea Mar Lines, Ltd., FMC–1
Sea Rail, FMC–2
Sea-Van Freight Services, Inc., FMC–1
Seaway Express Lines, FMC–6, 7
Shipping Time, Inc., FMC–1
Skinner Container Service, FMC–1
Skylift International Inc., FMC–1
Spanish Line Compania Transatlantica Espan, FMC–3, 36, 41, 42, 45
Spanish North America Line (Lineas Maritimas Valencianas), FMC–1
Suh Jin Shipping Company, Ltd., FMC–1
TC Container Corp., FMC–2
T E C Lines, Ltd., FMC–7
Target Lines, FMC–1
Taylor Corporation, Ltd., FMC–1
Trans Cargo Transport, FMC–1, 2, 3, 4
Trans-Freight, Inc., FMC–1
Trans-Global Shipping (Japan), Ltd., FMC–2
Transmodal Cargo Carrier International, Ltd., FMC–5
Transmodal Container Service, FMC–1
Transocean Marine, Inc., FMC–1
Transpac Container Freight, FMC–5, 6, 9, 11
Transpacific Express, Inc., FMC–2
Trans Sea Container Cargo, Inc., FMC–1
Tropicargo S.A., FMC–1
Tropic Reefer Lines, Ltd., FMC–1
Uiterwyk Lines (Lake), FMC–2
Uiterwyk Shipping Lines, FMC–8
United Intermodal Line, FMC–15, 39, 47
United States Lines, Inc., FMC–64, 116
United Lines, Inc., FMC–126, 137
Valley Express, Inc., FMC–1
Van-Cargo International, FMC–1
Van Gend & Loos, Inc., FMC–1, 2
Vanleigh Transport Corp., FMC–1
Vemsa Line, FMC–1
Waterside Ocean Navigation Company, Inc., FMC–1
World Freight, Ltd., FMC–1
World Shipping Agency & Brokerage, Inc., FMC–1
World Trade Transport, Inc., FMC–1
Yamashita-Shinnihon Steamship Company, Ltd., FMC–30, 34, 36, 38
Zim Container Service, FMC–21
Zim Israel Navigation Company, Ltd., FMC–28, 56

In active tariffs reflect inaccurate information to the shipping public and serve no useful purpose in the Commission's files. Accordingly, the Commission proposes to cancel the above listed tariffs in the absence of a showing of good cause as to why they should not be cancelled.

Now, Therefore it is ordered, That the above carriers advise the Director, Bureau of Tariffs at 1100 L Street, N.W., Washington, D.C. 20573, in writing within 30 days after the publication of this Order in the **Federal Register** of any reason why the Commission should not cancel inactive tariffs;

It is further ordered, That a copy of this Order be sent by certified mail to the last known address of the carriers listed herein;

It is further ordered, That the tariffs of all carriers named herein not responding to this Order will be cancelled.

It is further ordered, That this notice be published in the **Federal Register** and a copy thereof filed with any tariff cancelled pursuant to this notice.

By the Commission pursuant to authority delegated by section 9.04 of Commission Order No. 1 (Revised) dated November 12, 1981.

Daniel J. Connors,

Director, Bureau of Tariffs.

[FR Doc. 82-19069 Filed 7-13-82; 8:45 am]

BILLING CODE 6730-01-M

[Agreement No. 10308]

A Cooperative, Sailing and Rate Agreement; Cancellation

Filing Party: Mr. B. Bertrand, Compagnie Generale Maritime, Cedex 18, 92085 Paris La Defense.

Summary: On May 17, 1982, the Commission received notice from Compagnie Generale Maritime that they had informed Societe Navale et Commerciale Havraise Peninsularie, the other party to Agreement No. 10308, of their intention to terminate the Agreement. Accordingly, Agreement No. 10308 is cancelled effective May 17, 1982, the date the notice of cancellation was received by the Commission.

Dated: July 9, 1982.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82-19009 Filed 7-13-82; 8:45 am]

BILLING CODE 6730-01-M

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10327; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before August 3, 1982. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: T-4054.

Filing Party: Mr. Robert W. Goethe, Assistant Executive Director, Georgia Ports Authority, P.O. Box 2406, Savannah, Georgia 31402.

Summary: Agreement No. T-4054, between the Georgia Ports Authority (Authority) and Zim American-Israeli Shipping Corporation (Zim), provides for the Authority's one year lease to Zim, on an exclusive use basis, of certain paved premises within Container Central at Garden City Terminal according to a rental formula as mutually agreed. Premises are to be used for the storage and handling of Zim's container and cargo which move in ocean transportation.

Agreement No.: 9984-24.

Filing Party: J. P. McClusky, Chairman, South Atlantic-North Europe Rate Agreement, 17 Battery Place, New York, N.Y. 10004.

Summary: Agreement No. 9984-24 will modify the basic agreement of the South Atlantic-North Europe Rate Agreement by: (1) Deleting interior points in the United States from the agreement's scope of authorized service, and (2) restating in more detail existing authority to establish charges and other tariff conditions relating to the inland positioning and repositioning of empty containers by railroads in the United States. This modification amends a matter pending in Docket No. 82-3.

Agreement No.: 10261-11.

Filing Party: Marc J. Fink, Billig, Sher & Jones, P.C., Suite 300, 2033 K Street, NW., Washington, D.C. 20006.

Summary: Agreement No. 10261-11 modifies the basic agreement of the U.S. South Atlantic/Spanish, Portuguese, Moroccan and Mediterranean Rate Agreement by geographically sectionalizing the membership into four distinct trade groups, with autonomous rate-making authority vested in each group.

Dated: July 9, 1982.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82-19002 Filed 7-13-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated for the application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *First Railroad & Banking Company of Georgia,* Augusta, Georgia; to acquire 100 percent of the voting shares or assets of the successor by merger to First South Bankcorp., Columbus, Georgia. Comments on this application must be received not later than August 5, 1982.

Board of Governors of the Federal Reserve System, July 8, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-18969 Filed 7-13-82; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a

bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Security Bancorp, Inc.*, Southgate, Michigan; to acquire 100 percent of the voting shares or assets of the successor by consolidation to Security Bank St. Clair Shores, St. Clair Shores, Michigan. Comments on this application must be received not later than August 6, 1982.

Board of Governors of the Federal Reserve System, July 8, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-18980 Filed 7-13-82; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Southwest Florida Banks, Inc.*, Fort Myers, Florida; to acquire at least 80 percent of the voting shares or assets of Peoples Bank of Pasco County, Elfers, Florida. Comments on this application must be received not later than August 7, 1982.

2. *Bank of Florida Corporation*, St. Petersburg, Florida; to acquire 100 percent of the voting shares of Bank of Florida, N.A., Chiefland, Florida. Comments on this application must be received not later than August 7, 1982.

Board of Governors of the Federal Reserve System, July 9, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-18963 Filed 7-13-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Farmers State Corporation of Mentone*, Mentone, Indiana to become a bank holding company by acquiring 80 percent of the voting shares of Farmers State Bank, Mentone, Indiana. Comments on this application must be received not later than August 6, 1982.

B. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Gibbon Bancorporation, Inc.*, Gibbon, Minnesota; to become a bank holding company by acquiring 90 percent of the voting shares of Citizens State Bank of Gibbon, Gibbon, Minnesota. Comments on this application must be received not later than August 6, 1982.

Board of Governors of the Federal Reserve System, July 8, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-18958 Filed 7-13-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Colonial Bancshares*, Des Peres, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of The Colonial Bank, Des Peres, Missouri. Comments on this application must be received not later than August 7, 1982.

B. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *State Bank of Bottineau Holding Company*, Bottineau, North Dakota; to become a banking holding company by acquiring 95.68 percent of the voting shares of State Bank of Bottineau, Bottineau, North Dakota. Comments on this application must be received not later than August 7, 1982.

2. *Terry Banshares, Inc.*, Terry, Montana; to become a bank holding company by acquiring 80 percent or more of the voting shares of State Bank of Terry, Terry, Montana. Comments on this application must be received not later than August 7, 1982.

Board of Governors of the Federal Reserve System, July 9, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-18982 Filed 7-13-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than August 3, 1982.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President), 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Provident National Corporation,* Philadelphia, Pennsylvania (data processing activities throughout the United States): To engage, through its indirect subsidiary, L.S. Consulting Corp., in data processing activities to include the sale of computer software to banks and other financial institutions. Such computer software has been developed in conjunction with L.S. Consulting Corporation's approved management consulting activities for non-affiliated banks and includes traditional bank applications such as those to facilitate check processing and clearing, float management, asset/liability management and account profitability analysis. These activities would be conducted from offices in Wayne, Pennsylvania, serving clients located throughout the United States.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President), 701 East Byrd Street, Richmond, Virginia 23261:

1. *Southern Bancorporation, Inc.,* Greenville, South Carolina (consumer finance lender; Shawnee, Oklahoma): To engage through its subsidiary, World Acceptance Corporation, in making extensions of credit as a licensed consumer finance lender. These activities would be conducted from an office in Shawnee, Oklahoma, serving the city limits of Shawnee and other parts of Pottawatomie County within a ten mile radius of Shawnee.

C. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President), 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Suburban Bankshares, Inc.,* Lake Worth, Florida (lending and real estate appraisal activities; Florida): To engage through its subsidiary Suburban Mortgage Corporation, in servicing mortgage loans and acting as a mortgage broker or banker and appraising real estate, servicing the Lake Worth area and ultimately all of Palm Beach County, Florida. These activities will be conducted from an office located in Lake Worth, Florida.

D. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Assistant Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Commerce Bancshares, Inc.,* Kansas City, Missouri (financing activities; United States): To engage in commercial, consumer and mortgage financing activities by making and acquiring secured and unsecured loans and other extensions of credit such as would be made by a commercial finance, consumer finance or mortgage company. These activities would be conducted from offices in Kansas City, Missouri, serving Missouri, Kansas, Oklahoma, Iowa, Illinois, and Nebraska. Comments on this application must be received not later than July 29, 1982.

E. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Assistant Vice President), 400 South Akard Street, Dallas, Texas 75222:

1. *Commerce Southwest Inc.,* Dallas, Texas (credit life and credit accident and health insurance; Texas): To engage, through its subsidiary, Consumer Protection Life Insurance Company ("Company"), in underwriting credit life insurance and credit accident and health insurance which is directly related to extensions of credit by the Applicant or its subsidiaries. These activities will be conducted at offices of the Applicant's subsidiaries located in Addison, Texas; Carrollton, Texas; Dallas, Texas; Houston, Texas; Kaufman, Texas; McKinney, Texas; Richardson, Texas; and Sherman, Texas. Applicant proposes to engage in the same activities at Sulphur Springs and Tyler, Texas, if the Board approves Applicant's applications (not yet submitted) to acquire subsidiary banks in those cities. These offices will serve the entire State of Texas. The main administrative offices of the company are located in Dallas, Texas.

F. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President), 400 Sansome Street, San Francisco, California 94120:

1. *BankAmerica Corporation,* San Francisco, California (financing, servicing, and insurance activities; expansion of geographic scope; Mississippi and Louisiana): To continue to engage, through its indirect subsidiaries, FinanceAmerica Industrial Plan Inc. and FinanceAmerica Corporation, both Mississippi corporations, in the activities of making or acquiring for their own account loans and other extensions of credit such as would be made or acquired by a finance company, servicing loans and other extensions of credit, and offering credit-related life insurance, credit-related accident and health insurance and credit-related property insurance in the States of Mississippi and Louisiana. Such activities will include, but not be limited to, making consumer installment loans, purchasing installment sales contracts, making loans and other extensions of credit to small businesses, making loans and other extensions of credit secured by real and personal property, and offering credit-related life, credit-related accident and health, and credit-related property insurance directly related to extensions of credit made or acquired by both FinanceAmerica Industrial Plan Inc. and FinanceAmerica Corporation. The activities of both corporations will be conducted from an existing office located in Natchez, Mississippi, serving the entire States of Mississippi and Louisiana. Comments on this application must be received not later than July 29, 1982.

Board of Governors of the Federal Reserve System, July 9, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-18961 Filed 7-13-82; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Transportation and Public Utilities Service

Centralized Household Goods Traffic Management; Meeting

The GSA Centralized Household Goods Traffic Management Program was initiated on February 8, 1978. Since that time, the program has expanded and the number of carrier rate tenders filed monthly with the General Services Administration (GSA) has increased dramatically. In an attempt to improve efficiency, stabilize rates and reduce carrier overhead, the program was modified on April 20, 1982, with an implementation date of July 1, 1982.

The Office of Transportation and Travel Management, Transportation and Public Utilities Service, is making available to representatives of the household goods carrier industry, the household goods tariff bureaus, and other interested parties, an open forum to discuss their concerns and questions concerning the implementation of this modified program.

The meeting will be held in the GSA auditorium at 10:00 a.m. on July 28, 1982, at the General Services Administration, Regional Office Building, 7th and D Streets, SW., Washington, D.C. Reservations are not required.

If further information is desired contact Dan Carro, Chief, Transportation Programs Branch (202-275-6144).

Dated: July 2, 1982.

Allan W. Beres,

Commissioner, Transportation and Public Utilities Service.

[FR Doc. 82-18984 Filed 7-13-82; 8:45 am]

BILLING CODE 6820-AM-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Cardiology Advisory Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cardiology Advisory Committee, National Heart, Lung, and Blood Institute, October 4-5, 1982, National Institutes of Health, Building 31, Conference Room 8, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205.

The entire meeting will be open to the public from 8:30 a.m. to 5:00 p.m. Attendance by the public will be limited to space available. Topics for discussion will include a review of the research programs relevant to the Cardiology area, reports from subcommittees, and consideration of future needs and opportunities.

Ms. Terry Bellicha, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Room 4A21, Building 31, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496-4236, will provide summaries of the meeting and rosters of the Committee members.

Barbara Packard, M.D., Ph.D., Acting Associate Director for Cardiology, Division of Heart and Vascular Diseases, National Heart, Lung, and Blood Institute, Room 320, Federal Building, Bethesda, Maryland 20205, phone (301) 495-5421, will furnish substantive program information upon request.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health)

NIH Programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

Dated: July 8, 1982.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 82-18967 Filed 7-13-82; 8:45 am]

BILLING CODE 4140-01-M

Epilepsy Advisory Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Epilepsy Advisory Committee, National Institute of Neurological and Communicative Disorders and Stroke, October 4-6, 1982, Room B119, Federal Building, National Institutes of Health, Bethesda, Maryland.

The entire meeting will be open to the public from 9:00 a.m. to 5:00 p.m. to discuss research progress and research plans related to the Institute's epilepsy program. Attendance by the public will be limited to space available.

Dr. Roger J. Porter, Chief, Epilepsy Branch, Neurological Disorders Program, NINCDS (Federal Building, Room 114, National Institutes of Health, Bethesda, MD 20205; telephone 301/496-6691) will provide summaries of the meeting, rosters of the committee members, and substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.853, Neurological Disorders Program, National Institutes of Health)

NIH Programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular.

Dated: July 8, 1982.

Betty Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 82-18965 Filed 7-13-82; 8:45 am]

BILLING CODE 4140-01-M

Interagency Technical Committee's Working Group on Blood Resources and Blood Substitutes; Meeting

Notice is hereby given of the meeting of the Interagency Technical Committee's Working Group on Blood Resources and Blood Substitutes, sponsored by the National Heart, Lung, and Blood Institute, on September 16, 1982, from 9:00 a.m. to 12:30 p.m., Building 31, C Wing, Conference Room 6 at the National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20205.

The entire meeting will be open to the public. The IATC Working Group on Blood Resources and Blood Substitues is meeting to examine and coordinate federal research activities which concern human blood and its substitutes. Attendance by the public will be limited to space available.

For detailed program information, a list of meeting participants, and a meeting summary contact: Dr. David M. Robinson, Co-Chairman, IATC Working Group on Blood Resources and Blood Substitutes, National Heart, Lung, and Blood Institute, National Institutes of Health, Building 31, Room 5A03, 9000 Rockville Pike, Bethesda, MD 20205, 301-496-5031.

Dated: July 8, 1982.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 82-18966 Filed 7-13-82; 8:45 am]

BILLING CODE 4140-01-M

National Digestive Diseases Advisory Board; Amended Meeting

Notice is hereby given of the change in the meeting of the National Digestive Diseases Advisory Board on July 29-30, 1982, which was published in the **Federal Register** on June 14, 1982, 47 FR 25624.

The meeting, which was to convene at 1:00 p.m. and continue to 6:00 p.m. on July 29 has been changed to 8:30 a.m. to

12 noon. The meeting remains as scheduled, 8:30 a.m. to adjournment, on July 30. The location of the meeting remains the same, Conference Room 6, Building 31, C Wing, 6th Floor, Bethesda, Maryland.

The Subcommittees of the Board will meet on the afternoon of July 29. Further information, times and meeting locations of the Subcommittees will be announced at the Board meeting on July 29.

Dr. Ralph Bain, Executive Director, National Digestive Diseases Advisory Board, P.O. Box 30377, Bethesda, Maryland 20084, (301) 496–2232, will provide agenda and roster of the members. Summaries of the meeting may be obtained by contacting Carole A. Peters, Committee Management Office, NIADDK, National Institutes of Health, Room 9A46, Building 31, Bethesda, Maryland 20205, (301) 496–5765.

Dated: July 8, 1982.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 82-18864 Filed 7-13-82; 8:45 am]

BILLING CODE 4140-01-M

Office of the Secretary

Office of the General Counsel; Delegation of Authority To Certify True Copies

Under the authority delegated by the Secretary to the Assistant Secretary for Management and Budget (43 FR 58870) and redelegated to me by the Assistant Secretary for Management and Budget (44 FR 1473):

1. I hereby redelegate to the following the authority to certify true copies of any books, records, papers or other documents on file within the Department, or extracts from such, to certify that true copies are true copies of the entire file of the Department, to certify the complete original record, or to certify the nonexistence of records on file within the Department, and to cause the Seal of the Department to be affixed to such certifications.

These same officials are authorized to cause the Seal to be affixed to agreements, awards, citations, diplomas, and similar documents.

To whom delegated:
Deputy General Counsels.
Special Assistant to the General Counsel for Administration.
Communications Staff Assistant.
The Regional Attorneys.
Secretary to the General Counsel.
Secretary to the Deputy General Counsel for Program Review.
Assistant General Counsel, Business and Administrative Law Division.
Deputy Assistant General Counsel, Business and Administrative Law Division.
Secretary to the Assistant General Counsel, Business and Administrative Law Division.

The above redelegations supersede the redelegations made under previous authority (44 FR 33155 dated 6/8/79).

These authorities may not be redelegated.

Dated: July 8, 1982.

Juan A. del Real,

General Counsel.

[FR Doc. 82-18929 Filed 7-13-82; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Environment and Energy

[Docket No. NI-99]

Harbison New Community, Richland and Lexington Counties, S.C.; Finding of No Significant Impact

The Department of Housing and Urban Development (HUD) gives notice that a Finding of No Significant Impact (FONSI) has been made subsequent to the completion of an Environmental Assessment (EA) for the following project under programs as described in the appendix to this Notice: Harbison New Community, Richland and Lexington Counties, South Carolina. This Notice is required by the Council on Environmental Quality (CEQ) under its rules (40 CFR Parts 1500–1508) and implementing HUD regulations.

The lead agency, the New Community Development Corporation (NCDC) of HUD, has completed an EA for the proposed action of terminating HUD's involvement with the Project. It has been determined that there would be no significant environmental impact from the proposed action.

Interested individuals, governmental agencies, and private organizations are invited to comment on the FONSI. Pursuant to 40 CFR 1501.4(e)(2) of the CEQ regulations, the FONSI will be available for public review and comment for a thirty (30) day period, commencing with the appearance of the Notice in the **Federal Register**, before NCDC makes its final determination whether to prepare a SEIS and before NCDC may begin the proposed action.

Issued at Washington, D.C., July 8, 1982.

Francis G. Haas,

Deputy Director, Office of Environment and Energy.

Appendix

The New Community Development Corporation (NCDC) of the Department of Housing and Urban Development (HUD) gives notice that it has prepared a Finding of No Significant Impact as a result of an Environmental Assessment (EA) completed in May 1982. The EA will not be circulated as is normally the case for EIS's or SEIS's. It will remain available at NCDC, Room 7137, U.S. Department of HUD, Washington, D.C. 20410. Comments on the FONSI are invited for a period of thirty (30) days from interested agencies, organizations and the public.

Description. Harbison is a new community project approved in 1975 by the Department of Housing and Urban Development (HUD) under Title VII of the Housing and Urban Development Act of 1970 (the "Act"). It is located in Richland and Lexington Counties, South Carolina; in the northwestern quadrant of the Columbia metropolitan area. It was originaly perceived that the project was to create an new town of approximately 21,000 people, housed in 6,100 newly constructed dwelling units. Associated and integrated commercial, industrial, institutional, and recreational land use areas were also to be contained within the project. Build-out for this 1,739 acre development was to occur in 1995. Updated projections now estimate that the ultimate population of Harbison will be about 23,000 people.

NCDC completed a Supplement to the original EIS in 1981. It was written to comply with HUD environmental regulations that require an update of ongoing projects that have EIS's more than 5 years old. The proposed action for which that SEIS was drafted was the continued financial and planning assistance to the project. Since that time, the developer of the project has been found in default of the Project Agreement that he has with HUD because of the inability on the part of the developer to carry and maintain the debt service on the debentures of the guaranteed loan. Additionally, the developer has been unable to produce a salvage deal or a deed-in-lieu of foreclosure. Therefore, the General Manager of NCDC made the *bona fide* determination to acquire the assets of the project held under HUD's lien and requested that the Justice Department, on behalf of HUD, proceed toward foreclosure. The foreclosure complaint was filed in Columbia, South Carolina

on March 10, 1982. Negotiations for a work-out are continuing during the litigation.

Need. According to CBQ and HUD environmental regulations, an EA is prepared to determine whether or not a full impact statement of the proposed action is required. It has been the finding of the EA completed for this proposed action that there will be no significant impact to the environmental elements of the affected site area. Therefore, in accordance with the applicable regulations, a FONSI is prepared and a Notice to that affect is published in the **Federal Register** with the appropriate A–95 Clearinghouse notified.

Pursuant to 40 CFR 1501.4(e)(2) of the CEQ regulations, there will be thirty (30) day comment period before NCDC makes its final determination whether to prepare an SEIS and before it begins the proposed action.

Alternatives Discussed and Considered. Since NCDC has been charged with the responsibility to divest itself of involvement with the currently approved Title VII projects, the alternatives considered in the assessment were limited. The alternatives, including the proposed action, are:

A. Negotiated Work-Out Solution–Prior to foreclosure, HUD would agree to the sale of the assets of the developer (Harbison Development Corporation) to a new financially sound developer. No new HUD financial assistance would be given to the project, and development as a new community would continue without NCDC or Title VII involvement.

B. Acquire and Sell to a Single Buyer–HUD would continue litigation to foreclosure and acquire, and subsequent to acquisition, HUD would resell all of the project assets to a single private developer for continued development.

C. Acquire and Sell to Multiple Buyers–Same as B., except HUD would sell land on a parcel-by-parcel basis to a number of buyers.

Comments. Comments should be sent to : Mr. Edwin Baker, Evnironmental Clearance Officer, New Community Development Corporation, U.S. Department of Housing and Urban Development, 451 Seventh Street , SW., Washington, D.C. 20410. Commercial telephone number: (202) 755–6170. Comments should be received by August 13, 1982.

[FR Doc. 82–18038 Filed 7–13–82; 8:45 am]
BILLING CODE 4210–01–M

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. D–82–674]

Delegations of Authority; Revision and Update

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of delegation of authority.

SUMMARY: The Assistant Secretary for Housing-Federal Housing Commissioner is revising and updating the programmatic redelegations of authority setting forth responsibilities for programs and functions authorized by the various Housing Statutes, Executive Orders and Intergovernmental Agreements. This revision is necessitated by major reorganizational changes, effecting realignment of programmatic responsibility.

EFFECTIVE DATE: July 14, 1982.

FOR FURTHER INFORMATION CONTACT: Mildred E. Moore, Management Analysis and Services division, Office of Management, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755–8694. This is not a toll free number.

SUPPLEMENTARY INFORMATION: These redelegations of authority supersede all previously published programmatic redelegations of authority, for Headquarters, with respect to the powers and authorities to administer the Single Family Housing Programs and Mortgage Activities as described herein and with respect to powers and authorities to administer certain programs transferred from the abolished office of the Assistant Secretary for Neighborhoods, Voluntary associations and Consumer Protection to the Assistant Secretary for Housing-Federal Housing Commissioner. Since the revision involves only internal matters of agency management it does not require comment or public procedure. A withdrawal of the codified delegations presently contained at 24 CFR 200.50 through 200.129 and 24 CFR 1700.10 and 1700.80 through 1700.100 but which are superseded by this notice of delegation, has been prepared and will be published in the near future in the **Federal Register.**

Accordingly, the redelegations of authority for Headquarters Single Family Housing and Mortgagee Activities programmatic responsibilities and functions are revised to read as follows:

Deputy Assistant Secretary for Single Family Housing and Mortgagee Activities, et al.

Redelegations of Authority

Section A. Deputy Assistant Secretary for Single Family Housing and Mortgagee Activities. To the position of Deputy Assistant Secretary for Single Family Housing and Mortgagee Activities, there is redelegated authority of the Assistant Secretary for Housing-Federal Housing Commissioner with respect to the Single Family programs, and the authority with respect to Mortgagee Activities for both Single Family and Multifamily programs, of the following:

- Titles I, II, V, VI, VIII, IX, X of the National Housing Act (12 U.S.C. 1701 et seq.).
- Section 106(a) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x), for the provision of information and technical assistance.
- Sections 101(e) and 106(a)(1)(iii) and 106(a)(2) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701w and 1701x(a)(1)(iii) and (a)(2)) and Section 237(e) of the National Housing Act (12 U.S.C. 1715z–2(e)).
- Compensation of Condemnees under Sections 402 and 403 of the Housing and Urban Development Act of 1965 (42 U.S.C. 3073) and Title III of the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970 (Public Law 91–646, 84 Stat. 1904), and grants for relocation payments under Section 404 of the Housing and Urban Development Act of 1965 (42 U.S.C. 3074).
- Section 1004 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3371) with respect to the program of loan or grant assistance for housing in Alaska, except the authority to approve the statewide program prepared by the State of Alaska or any duly authorized agency or instrumentality.
- Delegation of authority under Article VII of the agreement between the Department of Defense and the Department of Housing and Urban Development dated June 8 and June 18, 1968, respectively (published at 24 FR 18031 (Nov. 7, 1969)) concerning Section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374): With respect to acquired properties to acquire title to, hold, manage, sell for cash or credit by taking a purchase money mortgage in the name of the Secretary of Housing and Urban Development and, in connection therewith to execute deeds of conveyance and all other instruments

necessary to fulfill the purposes of Section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) and to make any or all determinations and to take any or all further actions in connection with acquired properties which the Secretary of Defense is authorized to undertake pursuant to the provisions of the Act.

• The Interstate Land Sales Full Disclosure Act, Title XIV of the Housing and Urban Development Act of 1968, as amended (15 U.S.C. 1701, *et seq.*)

• The Real Estate Settlement Procedures Act of 1974, as amended (12 U.S.C. 2601, *et seq.*)

Specific responsibilities under these programs include the authority:

1. To approve and issue commitments and modifications of comitments for mortgage insurance, and to insure mortgages, under any 1-to-4 family housing program and the Title X Land Development program.

2. To approve and issue feasibility letters.

3. To approve application for and to make mortgage interest assistance payment to approve the amount of such payments to be recaptured by the Secretary to approve and execute releases and Satisfactions of mortgages and other lien given to secure repayment of such payments and for this purpose to accept the written statement of the mortgagee as to the amount of mortgage assistance paid.

4. To grant extensions of the time within which a mortgagee must take any action required by the 1-to-4 family and Title X regulations.

5. To approve the extension of construction contracts, change orders and advances for construction, planning and land acquisition under Title X.

6. To approve forbearance and recasting arrangements of insured mortgages.

7. To approve the acceptance of the assignment of mortgages to the Secretary, to take necessary action to preserve the security of, and to approve and execute releases, assignments, and Satisfaction of such mortgages and other liens.

8. To approve the acceptance of an offer of a deed-in-lieu of foreclosure.

9. To make repairs, alterations and improvements on acquired properties; to compromise and settle claims by or against HUD with respect to such properties; and to execute releases and other instruments required in connection with such compromise or settlement.

10. To approve offers to rent or purchase 1-to-4 family properties acquired in connection with HUD insurance claims and properties over which the Secretary has been granted custody or possession by another agency of the United States; to approve the terms of mortgages taken as security in connection with such sales; and to execute such contracts, leases, assignments, and instruments as may be necessary in the rental or sale of such properties, including deeds or other documents in connection with the conveyance of title.

11. To authorize refunds of fees.

12. To execute and administer procurement contracts pertaining to single family housing, and to make related determinations except determinations under Sections 302(c)(11) and (13) of the Federal Property and Administrative Services Act, as amended (41 U.S.C. 252(c)(11), (12) and (13), with respect to all contracts for goods and services for repair, construction, improvement, removal, demolition, alteration, maintenance, sales, debt collection services, and operation of acquired properties, including properties held by HUD as mortgagee in possession, and broker management services in connection with such properties, the publication of notices and advertisements in various media as deemed necessary for management, operation and disposition of acquired properties; and contracts for credit reports, and debt collection services with respect to assigned mortgages.

13. In connection with the sale, rental, maintenance, or management of acquired properties or properties of the United States over which the Secretary has been granted custody or possession by another agency of the United States or properties held as mortgagee in possession, to issue orders for the publication of notices and advertisements in various media as deemed necessary for management, operation and disposition of acquired properties.

14. To compromise and settle claims by or against tenants or former tenants of acquired properties, as well as properties held by HUD as mortgagee in possession, and execute releases or other instruments required in connection with such compromise or settlement.

15. To approve expenditures to correct or compensate for defects in Single Family properties sold by the Secretary to comply with any warranty provisions incorporated in the sales contract and for defects meeting requirements of Section 518 of the National Housing Act.

16. To endorse any checks or drafts in payment of insurance losses on which the United States of America is a payee.

17. To administer terms of regulatory agreements for condominiums, after final endorsement of the mortgage.

18. To make the high cost determinations for the Federal National Mortgage Association prescribed in Section 305(g) of the National Housing Act.

19. To execute the functions, powers, and duties authorized by Executive Order 10657 of February 14, 1956 (21 FR 1063, Feb. 16, 1956), as amended by Executive Order 10734 of October 17, 1957 (22 FR 8275, Oct. 22, 1957), and Executive Order 11105 of April 18, 1963 (28 FR 3909, Apr. 20, 1963), with respect to servicing mortgages and the disposition of certain properties at the Department of Energy communities of Oak Ridge, Tennessee, Richland, Washington, and Los Alamos, New Mexico, pursuant to the Atomic Energy Community Act of 1955, as amended (42 U.S.C. 2301) except the Secretary's power to make the finding required under Section 51 of the Act (42 U.S.C. 2341.)

20. To grant prior credit approval under Title I of the National Housing Act and regulations thereunder.

21. To approve or cancel the approval of financial institutions to make Title I property improvement and manufactered (mobile) home loans; to issue or cancel contracts of insurance with such institutions.

22. To determine eligibility of innovative improvements for Title I financing.

23. To approve or disapprove on matters other than liquidation of notes, the transfer of contracts and the rights and benefits accruing thereunder, between approved Title I financial institutions.

24. To determine noncompliance with statutes, rules, regulations, policies and procecures governing Title I property improvement and manufactured (mobile) home loan operations; and to direct remedial action with respect to any lender, dealer or contractor.

25. To execute documents necessary to transfer title in and to any debt, contract, claim, property, or security, and to execute compromise agreements.

26. To execute proofs of claim against bankrupt, insolvent or decedent estates, and to execute releases of obligations, including notes, judgments and other evidences of indebtedness, and to release liens of any sort held as security for such obligation, those areas where the obligation has been paid in full.

27. To serve as Chairperson of the Substantial Compliance Committee where regulation violations are discussed prior to payment or denial of Title I claims.

28. To take action necessary for the final disposition of "uncollectable"

defaulted Title I loans either through foreclosure, write-off, or legal action against the debtor or his/her estate.

29. To review yearly financial statements and recertifications of approved mortgagees.

30. To present cases to the Department's Mortgagee Review Board together with recommendations on the appropriate action to be taken against mortgagees.

31. To approve or disapprove financial institutions as approved mortgagees, to originate and/or hold insured mortgages and of firms or individuals as authorized agents of such approved mortgagees; and to establish performance standards and maintain surveillance over the activities of such institutions as they relate to the origination or servicing of insured mortgages.

32. To take necessary action to suspend or withdraw approval of approved mortgagees, loan correspondents or authorized agents at the request of the financial institution involved.

33. To serve as the Interstate Land Sales Administrator and administer the Interstate Land Sales Full Disclosure Act, Title XIV of the Housing and Urban Development Act of 1968, as amended, (15 U.S.C. 1701, *et seq.*).

34. To administer the Real Estate Settlement Procedures Act of 1974, as amended, (12 U.S.C. 2601, *et seq.*).

35. To administer the neighborhood housing counseling services program under sections 101(e) and 106(a)(1)(iii) and 106(a)(2) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701w and 1701x (a)(1)(iii) and (a)(2) and section 237(e) of the National Housing Act (12 U.S.C. 1715z–2(e)).

36. To provide administrative and supervisory guidance to the Contracting Office of the Office of Multifamily Financing and Preservation on procurement matters relating to single family housing.

37. To approve or deny requests from occupants of properties anticipated to be acquired by the Secretary to remain in occupancy upon acquisition of the properties by the Secretary.

38. To take any action authorized to be taken by any Office, Division or other organizational element within his jurisdiction.

Section B. Director and Deputy Director, Office of Single Family Housing. To the position of Director, Office of Single Family Housing and to the Deputy Director, Office of Single Family Housing there is redelegated the following authority:

1. To approve and issue commitments and modifications of commitments for mortgage insurance, and to insure mortgages, under any 1- to 4-family housing program and the Title X Land Development program.

2. To approve and issue SAMA letters.

3. To approve application for and to make mortgage interest assistance payments, to approve the amount of such payments to be recaptured by the Secretary, to approve and execute releases and Satisfactions of mortgages and other liens given to secure repayment of such payments and for this purpose to accept the written statement of the mortgagee as to the amount of mortgage assistance paid.

4. To grant extensions of the time within which a mortgagee must take any action required by the 1-to-4 family and Title X regulations.

5. To approve the extension of construction contracts, change orders and advances for construction, planning and land acquisition under Title X.

6. To approve forbearance and recasting arrangements of insured mortgages.

7. To approve the acceptance of the assignment of mortgages to the Secretary, to take necessary action to preserve the security of, and to approve and execute releases, assignments, and Satisfaction of such mortgages and other liens.

8. To approve the acceptance of an offer of a deed-in-lieu of foreclosure.

9. To make repairs, alterations and improvements on acquired properties; to compromise and settle claims by or against HUD with respect to such properties; and to execute releases and other instruments required in connection with such compromise or settlement.

10. To approve offers to rent or purchase 1-to-4 family properties acquired in connection with HUD insurance claims and properties over which the Secretary has been granted custody or possession by another agency of the United States; to approve the term so mortgages taken as security in connection with such sales; and to execute such contracts, leases, assignments, and instruments as may be necessary in the rental or sale of such properties, including deeds or other documents in connection with the conveyance of title.

11. To authorized refunds of fees.

12. To execute and administer procurement contracts pertaining to single family housing, and to make related determinations except determinations under Sections 302(c) (11) and (13) of the Federal Property and Administrative Services Act, as amended (41 U.S.C. 252(c) (11)(12) and (13), with respect to all contracts for goods and services for repair, construction, improvement, removal, demolition, alteration maintenance, sales, debt collection services and operation of acquired properties, including properties held by HUD as mortgagee in possession, and broker management services in connection with such properties, the publication of notices and advertisements in various media as deemed necessary for management, operation and disposition of acquired properties; and contracts for credit reports, and debt collection services with respect to assigned mortgages.

13. In connection with the sale, rental, maintenance, or management of acquired properties or properties of the United States over which the Secretary has been granted custody or possession by another agency of the United States or properties held as mortgagee in possession, to issue orders for the publication of notices and advertisements in various media as deemed necessary for management, operation and disposition of acquired properties.

14. To compromise and settle claims by or against tenants or former tenants of acquired properties, as well as properties held by HUD as mortgagee in possession, and execute releases or other instruments required in connection with such compromise or settlement.

15. To approve expenditures to correct or compensate for defects in Single Family properties sold by the Secretary to comply with any warranty provisions incorporated in the sales contract and for defects meeting the requirements of Section 518 of the National Housing Act.

16. To endorse any checks or drafts in payment of insurance losses on which the United States of America is a payee.

17. To administer terms of regulatory agreements for condominiums, after final endorsement of the mortgage.

18. To make the high cost determinations for the Federal National Mortgage Association prescribed in Section 305(g) of the National Housing Act.

19. To execute the functions, powers, and duties authorized by Executive Order 10657 of February 14, 1956 (21 FR 1063, Feb. 16, 1956), as amended by Executive Order 10734 of October 17, 1957 (22 FR 8275, Oct. 22, 1957), and Executive Order 11105 of April 16, 1963 (28 FR 3909, Apr. 20, 1963), with respect to servicing mortgages and the disposition of certain properties at the Department of Energy communities of Oak Ridge, Tenn., Richland, Wash., and Los Alamos, New Mexico, pursuant to the Atomic Energy Community Act of 1955, as amended (42 U.S.C. 2301) except the Secretary's power to make the

finding required under Section 51 of the Act (42 U.S.C. 2341).

20. To monitor the activities of approved mortgagees relative to the origination of insured mortgages.

21. To monitor the activities of approved mortgagees relative to the servicing of insured mortgages.

22. To administer neighborhood housing counseling services by providing or contracting for the provision of housing counseling to HUD housing consumers and to approve private and public organizations as counseling agencies to dispense such counseling services.

23. To administer the Real Estate Settlement Procedures Act (RESPA).

Section C. Director and Deputy Director, Office of Lender Certification. To the position of Director, Office of Lender Certification, and to the Deputy Director, Office of Lender Certification, there is redelegated the following authority:

1. To approve or disapprove financial institutions as approved mortgagees to originate and/or hold insured mortgages and of firms as authorized agents of such approved mortgagees; and to establish performance standards and maintain surveillance over the activities of such institutions as to their compliance with approval requirements.

2. To approve or cancel the approval of financial institutions to make Title I property improvement and manufactured (mobile) home loans.

3. To take necessary action to suspend or withdraw approval of approved mortgagees, Title I lenders, loan correspondents or authorized agent at the request of the financial institution involved.

4. To review yearly financial statements and recertifications of approved mortgagees and maintain the Institutional Master File.

5. To present cases to the Department's Mortgagee Review Board together with recommendations on the appropriate action to be taken against mortgagees.

Section D. Director and Deputy Director, Office of Title I Insured Loans; Director, Operations Division and Director, Compliance and Liquidation Division. To the position of Director, Office of Title I Insured Loans; Director, Operations Division; and to the Director, Compliance and Liquidation Division, there is redelegated the following authority:

1. To grant prior credit approval under Title I of the National Housing Act and regulations thereunder.

2. To determine eligibility of innovative improvements for Title I financing.

3. To approve or disapprove, on matters other than liquidation of notes, the transfer of contracts and the rights and benefits accruing thereunder between approved Title I and manufactured (mobile) home financial institutions.

4. To determine noncompliance with statutes, rules, regulations, policies and procedures governing Title I property improvement and manufactured (mobile) home loan operations; and to direct remedial action with respect to any lender, dealer or contractor.

5. To execute documents necessary to transfer title in and to any debt, contract, claim, property, or security, and to execute compromise agreements.

6. To execute proofs of claims against bankrupt, insolvent or decedent estates, and to execute releases of obligations, including notes, judgements and other evidences of indebtedness, and to release liens of any sort held as security for such obligation, in those areas where the obligation has been paid in full.

7. To present cases to the Substantial Compliance Committee together with recommendations for decisions on the payment of claims where regulations have been violated.

8. To Chair in the absence of the Deputy Assistant Secretary for Single Family Housing and Mortgagee Activities, the Substantial Compliance Committee where regulation violations are discussed prior to payment or denial of Title I claims.

9. To take action necessary for the final disposition of "uncollectable" defaulted Title I loans either through foreclosure, write-off, or legal action against the debtor or his/her estate.

10. To endorse any checks or drafts in payment of insurance losses on which the United States of America is a payee.

Section E. Deputy Interstate Land Sales Administrator and Director, Office of Interstate Land Sales Registration. To the position of Deputy Interstate Land Sales Administrator and Director, Office of Interstate Land Sales Registration there is redelegated the following authority:

1. All authority of the Interstate Land Sales Administrator to administer the program.

2. Authority to redelegate any of his authority to the Directors of the Divisions within the Office of Interstate Land Sales Registration.

Section F. Contracting Officer, Office of Multifamily Preservation and Sales. All duties and functions as set forth in paragraph 12 of Section A.

Section G. Conclusive evidence of authority. Any instrument or document executed in the name of the Secretary by an employee of the Department of Housing and Urban Development under the authority of this redelegation purporting to relinquish or transfer any right, title or interest in or to real or personal property shall be conclusive evidence of the authority of such employee to act for the Secretary in executing such instrument or document.

Section H. Authority excepted. There is excepted from the authority redelegated under Sections A through E, the power to:

1. Establish the rate of interest on Federal loans.

2. Issue notes or other obligations for purchase by the Secretary of the Treasury.

3. Exercise the powers under Section 402(a) of the Housing Act of 1950, as amended (12 U.S.C. 1749a(a)).

4. Sue and be sued.

5. Issue rules and regulations.

6. Exercise the authority to perform the technological aspects of experimental housing under Section 233 of the National Housing Act (12 U.S.C. 1715x) including determination of the technological acceptability of proposals and evaluation and dissemination of results.

Section I. Exercise of Redelegated Authority. Redelegations of Authority made under Sections A through F shall not be construed to modify or otherwise affect the outstanding authorities redelegated to the Regional and Field Offices.

Authority: Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); Secretary's authority to redelegate published at 36 FR 5005 (March 16, 1971); 36 FR 5007 (March 16, 1971); 41 FR 32635 (August 4, 1976); 41 FR 24755 (June 18, 1976);and 46 FR 57348 (November 23, 1981).

Dated: June 29, 1982.

Philip Abrams,

General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 82-18904 Filed 7-13-82; 8:45 am]
BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[M 53012]

Montana; Realty Action—Exchange

June 28, 1982.

AGENCY: Bureau of Land Management, Lewiston District Office, Interior.

ACTION: Notice of Realty Action M-53012—Exchange of public and private lands, Liberty County, Montana.

SUMMARY: The following described lands have been determined to be suitable for disposal of exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Principal Meridian

T. 29 N., R. 6 E.,
Sec. 15, Lot 6 and W½SE¼;
Sec. 17, Lot 7;
Sec. 20, E½NE¼;
Sec. 21, Lot 4 and S½N½, and N½SE¼
Sec. 22, NE¼, NE¼NW¼, S½NW¼ and N½S½; and
Sec. 23, Lots 2, 3 and S½NE¼ and NW¼.
Containing 1,242.40 acres of public lands.

In exchange for these lands, the United States Government will acquire the surface estate in the following described lands:

Principal Meridian

T. 36 N., R. 4 E.,
Sec. 13, NW¼NE¼ and W½; and
Sec. 24, NE¼NW¼.
T. 36 N., R. 5 E.,
Sec. 6, SE¼NE¼ and E½SE¼;
Sec. 7, E½;
Sec. 8, W½SW¼;
Sec. 17, W½W½;
Sec. 18, N½NE¼;
Sec. 19, Lots 2, 3, 4, 5 and 9, and SW¼SE¼; and
Sec. 20, Lot 2 and NW¼NW¼, S½NW¼, and MS–3380 and MS–3381.
Aggregating 1,719,90 acres of private lands.

DATES: For a period of 45 days from the date of first publication of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, Airport Road, Lewistown, Montana 59457. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of this department.

FOR FURTHER INFORMATION CONTACT: Information related to this exchange, including the environmental assessment and land report, is available for review at the Lewistown District Office, Airport Road, Lewistown, Montana 59457.

SUPPLEMENTARY INFORMATION: The purpose of the exchange is to acquire additional recreation land, wildlife habitat, and unique historical sites as well as legal access for the public to existing public lands. In return, lands suitable for agricultural purposes would be tranferred to private ownership. The exchange is consistent with the Bureau's planning, as well as local plans, and has been discussed with state and local officials. The public interest will be well served by making the exchange.

The exchange will be made subject to:

1. A reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States in accordance with 43 U.S.C. 945, for the lands being transferred out of Federal ownership.
2. The reservation to the United States of all minerals in the lands being transferred out of Federal ownership.
3. All valid existing rights (e.g., rights-of-way, easements, and leases of record).
4. Value equalization by cash payment or acreage adjustment.
5. The exchange must meet the requirements of 43 CFR 4110.4–2(b).

Michael J. Penfold,

State Director.

[FR Doc. 82–18953 Filed 7–13–82; 8:45 am]

BILLING CODE 4310–84–M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Application

Applicant: Dr. Howard Shellhammer, San Jose State University, San Jose, California 95192.

The applicant requests a permit to take up to 6 Salt marsh harvest mice (*Reithrodontomys raviventris*) for scientific purposes. The animals will be sacrificed for genetic studies to assess speciation.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, P.O. Box 3654, Arlington, VA 22203.

This application has been assigned file number PRT 2–9368. Interested persons may comment on this application on or before August 13, 1982, by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: July 9, 1982.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 82–18999 Filed 7–13–82; 8:45 am]

BILLING CODE 4310–55–M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Getty Oil Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 1953, Block 144, West Cameron Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: July 6, 1982.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82–18965 Filed 7–13–82; 8:45 am]

BILLING CODE 4310–31–M

Oil, Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Mobil Oil Exploration and Producing Southeast Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 0775, Block 131, Vermilion Area, offshore Louisiana.

The purpose of this Notice it to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978,

that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service Makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685]. Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: July 6, 1982.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82–18956 Filed 7–13–82; 8:45 am]

BILLING CODE 4310–31–M

Office of the Secretary

Alaska Land Use Council; Meeting

As required by the Alaska National Interest Lands Conservation Act, Pub. L. 96–487, dated December 2, 1980, section 1201, paragraph (h) the Alaska Land Use Council will meet August 13, 1982, at 9:00 a.m. at 1689 C Street, Room 107, in the South Kaloa Building, Anchorage, Alaska. The Agenda will include review and consideration of proposed public participation plan, management guidelines for wild and scenic rivers, and cooperative planning zones; status reports on Bristol Bay, Kantishna Hills/Dunkle Mine, Denali Scenic Highway, Alaska Land Bank, Cooperative Visitors Centers, Stikine River Access Studies and such other items as may come before the Council.

William P. Horn,

Deputy Under Secretary.

July 2, 1982.

[FR Doc. 82–18965 Filed 7–13–82; 8:45 am]

BILLING CODE 4310–10–M

Land Selections of Alaska Native Groups

Notice is hereby given that the Secretary of the Interior has issued Order Number 3083 dated June 17, 1982 regarding eligibility and land selections of Native Groups under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.). The Order waives certain non-statutory regulations and clarifies other regulations in 43 CFR 2653.6, and is published in its entirety below.

Additional information regarding the Order may be obtained from Beaumont McClure, Bureau of Land Management, U.S. Department of the Interior, Washington, D.C. 20240, telephone (202) 343–6511, or Regional Solicitor John M. Allen, U.S. Department of the Interior, 510 L Street, Suite 100, Anchorage, AK 99501–1977, telephone (907) 271–4131.

Dated: July 6, 1982.

Richard R. Hite,

Deputy Assistant Secretary of the Interior.

Order No. 3083

Subject: Eligibility and Land Selections of Native Groups under the Alaska Native Claims Settlement Act

Sec. 1 *Purpose.* This order waives certain non-statutory regulations and clarifies other regulations dealing with eligibility and land selections of Native groups under the Alaska Native Claims Settlement Act, 43 U.S.C. 1601 *et seq.* (1976) (ANCSA).

Sec. 2 *Authority.* The regulation at 43 CFR 2650.0–8 (1981) permits the Secretary to waive any non-statutory regulation implementing ANCSA.

Sec. 3 *Policy Decision.* A major objective of the Department is to expedite the implementation of the Alaska Native Claims Settlement Act. The waivers and clarifications herein are necessary in the interest of achieving the ultimate purpose of the statute with regard to Native groups.

Sec. 4 *Waiver of Regulations.* The following regulations or parts of regulations are hereby waived:

a. The phrase "since that date" in 43 CFR 2653.6(a)(5) (1981).

b. The clause "except it shall issue a certification of ineligibility when it is notified by the Bureau of Land Management that the land is unavailable or selection by such Native group" in 43 CFR 2653.6(a)(6) (1981).

c. The following sentence in 43 CFR 2653.6(b)(1) (1981): "Native groups will not receive land benefits unless the land which is occupied by their permanent structures used as dwelling houses is available, or in the case where such land is not State or Federally owned, the land which is contiguous to and immediately surrounds the land occupied by their permanent structures used as dwelling houses is available, and is not within a wildlife refuge or forest, pursuant to section 14(h) of the Act."

Sec. 5 *Clarifications.* The regulations regarding Native groups are also clarified in the following respects:

a. All facts required by 43 CFR 2653.6(a)(4) and (5) (1981), except for the fact of enrollment, are to be determined as of April 1, 1970.

b. For purposes of determining that the Native group constitutes a majority of the residents of the locality, as required in 43 CFR 2653.6(a)(4) (1981), I direct the Bureau of Indian Affairs to use all reasonable efforts to ascertain the actual residency on April 1, 1970, of all individuals in the locality. If all reasonable efforts fail to produce convincing evidence of actual residence of the members of the Native group, either at the group's locality or elsewhere, the fact that the Native individual is enrolled to the locality shall be used to presume residence.

c. In making the determinations concerning the eligibility of a group required in 43 CFR 2653.6(a)(5) (1981), the number of members of a group required to be actual residents at the location of the group on April 1, 1970, shall not be greater than the number of Natives required to comprise a majority of the residents of the locality.

Sec. 6 *Instructions.* I hereby direct the Bureau of Indian Affairs to review and complete investigations of all pending Native group applications, make the required determinations, and forward reports of those determinations to the Bureau of Land Management, all in accordance with the applicable regulations as modified and clarified by this order.

Sec. 7 *Findings.* I have determined and hereby find that this action is exempt from the requirements of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* (1976), as provided by section 910 of the Alaska National Interest Lands Conservation Act, Pub. L. No. 96–487, 94 Stat. 2371, 2447 (1980). I also find that this document is not a major regulatory proposal requiring preparation of a regulatory analysis under Executive Order 12291.

Sec. 8 *Applicability.* This order applies to all applications timely filed by Native groups under ANCSA.

Sec. 9 *Effective Date.* This order is effective immediately and will remain in effect until its conversion to the Departmental Manual. Such conversion will be completed within six months of the date of this order, at which time this order will be considered obsolete.

Dated: June 17, 1982.

James G. Watt,

Secretary of the Interior.

[FR Doc. 82–18957 Filed 7–13–82; 8:45 am]

BILLING CODE 4310–10–M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Decision-Notice; Finance Applications

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349,* 363 ICC 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seaonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: July 7, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce and Dowell.

Agatha L. Mergenovich,
Secretary.

MC–F–14882, filed June 21, 1982. MATSON TRUCK LINES, INC. (Matson) (P.O. Box 328, 1407 St. John Ave., Albert Lea, MN 56007)—CONTROL—SHURSON TRUCKING CO., INC., (Shurson) (c/o Curtis Gniffke, Route 3, Box 4, Hayward, WI 56043). Representative: Val M. Higgins, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402. Matson seeks authority to acquire control of Shurson through the purchase of all the issued and outstanding shares of stock of Shurson. Darryl E. Matson, Richard D. Matson, Quentin E. Matson, Gregory F. Matson, and Dale E. Matson, equal stockholders of Matson, also seek authority to acquire control of said rights and property through this transaction. Matson holds authority as both a common and contract carrier under MC–105007. The stockholders of Matson also own and control Ace Transportation Co., Inc., a passenger carrier in MC–124370. The authority to be controlled is contained in MC–143739 and sub-numbers thereunder, which authorize, generally, the transportation of *food and related products,* between points in AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MO, MS, MT, NE, NV, NM, NC, ND, OH, OK, OR, SC, SD, TN, TX, UT, WA, WI, WY, on the one hand, and, on the other, points in the U.S. (except AK and HI); *wood and lumber proudcts,* between points in Baxter and Izard Counties, AR, on the one hand, and, on the other, points in the U.S.; *general commodities* (with exceptions) between the facilities of Ralston Purina Co., in the U.S.; *pulp, paper and related products,* between points in Marinette, Brown, Oconto and Fon du Lac Counties, WI, on the one hand, and, on the other, points in IL, IN, IA, KS, MN, MI, MO, NE, ND, OH, and SD; and *chemicals and related products,* between the facilities of Monsanto Company and its subsidiaries at points in IL, IN, IA, MI, MN, MO, NE, ND, OH, SD, and WI, on the one hand, and, on the other, points in IL, IN, IA, MI, MN, MO, NE, ND, OH, SD, and WI.

Note.—TA has been filed.

MC–F–14878 and filed June 15, 1982. Applicant: GEORGE CLARK TRANSIT CO., P.O. Box 2385, Green Bay, WI 54306. Representative: Robert h. Walker, 915 Pennsylvania Building, 425 13th Street, NW., Washington, D.C. 20004 (202) 737–1030. GEORGE CLARK TRANSIT CO., P.O. Box 2385, Green Bay, WI 54306 seeks to purchase a portion of the operating rights of Leicht Transfer & Storage Co., P.O. Box 2385, Green Bay, WI 54306. No. MC–56270 (Sub-No. 3), *Cement products, clay products, rough lumber, logs, and pulpwood,* between Green Bay, WI, and points within 50 miles of Green Bay, on the one hand, and, on the other points in the Upper Peninsula of MI. Sub-4, *Cement,* from Green Bay and Manitowoc, WI, to points in the Upper Pensinula of MI. *Empty cement bags,* from points in the Upper Peninsula of MI to Green Bay and Manitowoc, WI. *Cement and empty cement bags,* between points in the Upper Peninsula of MI and between points in WI. Sub-8, *lime,* in bulk, over irregular routes, from Menominee, MI, to Green Bay, WI. Sub-9, *Inedible salt,* in bulk, from Green Bay, WI, to points in Alger, Baraga, Delta, Dickinson, Houghton, Iron, Kasweenaw, Marquette, Menominee, Ontonagon, and Gogebic Counties, MI. Sub-11, *Flyash and mineral filler,* in bulk and in containers, from Green Bay, WI, to points in the Upper Peninsula of MI. Sub-16, *Pig iron,* in dump vehicles, from Green Bay, WI, to points in Marquette, Menominee, and Dickinson Counties, MI. An application for temporary authority has been filed.

[FR Doc. 82–19042 Filed 7–13–82; 8:45 am]
BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of

any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP4–249

Decided: July 7, 1982.

By the Commission, Review Board No. 2, members Carleton, Fisher, and Williams.

MC 144757 (Sub-23), filed June 21, 1982. Applicant: DAKOTA PACIFIC TRANSPORT, INC., 3104 E. St. Patrick, Rapid City, SD 57701. Representative: J. Maurice Andren, 1734 Sheridan Lake Rd., Rapid City, SD 57701 (605) 343–4036. Transporting *General commodities* (except classes A and B explosives and household goods), between (1) Aredale, Cartersville, Dougherty, Kesley, Camp Dodge, and Johnston, IA; (2) Garden Plain, Beason, Burtonview, Hallville, Jenkins, Johnson Siding, Skelton, Argenta, and Oreana, IL; (3) Welch, Gloster, North St. Paul, Ely, Murray, Rivers, Robinson, Tower Junction, and Wahlsten, MN; (4) Haddam, Hollis, Morrowville, and Wayne, KS; (5) Lanham, NE; (6) Blanche, Blue Pond, Burgess, and Jamestown, AL; (7) Chelsea, Menlo, and Patton, GA; (8) Prine, FL; (9) Amsterdam, Berger, Hollister, and Rogerson, ID; (10) Williamsville, Glooming Grove, Vails Gate, Gardiner, New Paltz, Wallkill, Cherry Creek, Conwango, South Dayton, and Spring Valley, NY; (11) Konawa and Maud, OK; (12) Bainbridge, Summit, Bondclay, Lawco, Lisman, Pedro, Royersville, Superior, Crooksville, Fultonham, Glass Rock, Roseville, Roseville Mine, South Zanesville, Spangler, Bangs, Centerburg, Condit, Galena, Gambier, Howard, Milwood, Sunbury, Westerville, Farmersville, Ft. Jefferson, Ingomar, Lewisburg, Savona, and West Alexandria, OH; (13) Clinton, MI; (14) Deringer, Gowen Breaker, Export, Murraysville, Coilton, Keplers Mill, Tatamy, Walters (Lower Mill), Bowmanston, Cementon, Coplay, Hokendauqua, and Slatington, PA; (15) Ben Davis and Bridgeport, IN; and (16) Amenia, ND. Condition: Issuance of a certificate in this proceeding is conditioned upon applicant certifying to the Commission, prior to commencing operations, that all rail service has actually terminated at specified points. The certification should be sent to the Deputy Director, Section of Operating Rights, Interstate Commerce Commission, Washington, DC 20423.

MC 162657, filed June 25, 1982. Applicant: QUALITY COURIER SERVICE, 41 Maple Dr., P.O. Box 367, Stockholm, NJ 07450. Representative: James Garvin (same address as applicant) (201) 697–6162. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds between points in NY, NJ, CT and PA.

Volume No. OP5–145

Decided: July 7, 1982.

By the Commission, Review Board No. 3, members Krock, Joyce, and Dowell.

MC 130669 (Sub-1), filed June 10, 1982. Applicant: DONALD J. SWEENEY, d.b.a., D.J.S. ENTERPRISES, INC., 155 Baker Street, Manchester, NH 03103. Representative: Donald J. Sweeney, R.F.D. 2 New Road, Goffstown, NH 03045 (603) 497–2210. (1) Transporting, for or on behalf of the United States Government, *general commodities* (except household goods, hazardous or secret materials, and sensitive weapons and munitions) between points in the U.S. (except AK and HI), and (2) transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI) and (3) transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs) *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI), and (4) transportation for the United States Government of used household goods which transportation is incidental to a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI).

MC 136089 (Sub-10), filed June 28, 1982. Applicant: COIN DEVICES CORP., 1130 Chestnut St., Elizabeth, NJ 07207. Representative: Michael R. Werner, 241 Cedar Lane, Teaneck, NJ 07666 (201) 836–1144. Transporting *shipments weighing 100 pounds* or less if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 140159 (Sub-22), filed June 28, 1982. Applicant: C. L. FEATHER, INC., P.O. Box 1190, Altoona, PA 16601. Representative: Kevin W. Walsh, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222, 412–471–3300. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 161298 (Sub-1), filed June 28, 1982. Applicant: WILLIAM SPANG d.b.a. A. L. & S. TRANSPORT, 8700 Four Mile Rd.,

Franksville, WI 53126. Representative: Hughan R. H. Smith, 26 Kenwood Pl., Lawrence, MA 01841, 617–657–6071. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 162628, filed June 23, 1982. Applicant: NORMAN A. LEACH, d.b.a. LEACH TRANSPORTATION, INC., 1680 Dean Dairy Rd., Zephyrhills, FL 33599. Representative: Norman A. Leach (same address as applicant) (813) 782–7971). Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverage and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 162649, filed June 24, 1982. Applicant: RICHARD E. BOOKWALTER, d.b.a. R. E. BOOKWALTER & SONS TRUCKING, 1747 Smyers Dr., Benton Harbor, MI 49022. Representative: Richard E. Bookwalter (same address as applicant), 616–925–1751. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82–18948 Filed 7–13–82; 8:45 am]
BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

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Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commisson's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP4–250

Decided: July 7, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 30887 (Sub-228), filed June 22, 1982. Applicant: CENTRAL FREIGHT LINES INC., 5601 W. Waco Drive, P.O. Box 238, Waco, TX 76703. Representative: Paul D. Angenend, 1806 Rio Grande, P.O. Box 2207, Austin, TX 78768 (512) 476–6391. Transporting *general commodities* (except household goods and commodities in bulk), (1) between Paris and Arthur City, TX, over U.S. Hwy 271, serving all intermediate points, (2) between Garden Valley and Jamestown, TX, over Texas FM Road 1253, serving all intermediate points, (3) between Henderson and Panola, TX, over U.S. Hwy 79, serving all intermediate points, (4) between Mount Enterprise and Carthage, TX, over Texas Hwy 315, serving all intermediate points, (5) between Center and Milam, TX, over Texas Hwy 87, serving all intermediate points, (6) between Lufkin TX and the junction of Texas Hwy 103 and Texas Hwy 21, over Texas Hwy 103, serving all intermediate points, (7) between Zavalla and San Augustine, TX, over Texas Hwy 147, serving all intermediate points, (8) between Pineland TX and the junction of Texas Hwy 21 and FM Road 1196: From Pineland, over Texas FM Road 83 to Broaddus, then over Texas FM Road 1277 to the junction of Texas FM Road 1196, then over Texas FM Road 1196 to the junction of Texas Hwy 21, and return over the same routes serving all intermediate points, (9) between Rhome and Sunset TX: From Rhome, over Texas Hwy 114 to Bridgeport, TX, then over Texas Hwy 101 to Sunset and return over the same route, serving all intermediate points over the named route, (10) between Fort Worth, TX and the junction of Texas Hwy 199 and U.S. Hwy 281, over Texas Hwy 199, serving all intermediate points, (11) between Athens and Palestine, TX, over Texas Hwy 19, serving all intermediate points, (12) between Sulphur Springs, and Quitman, TX, over Texas Hwy 154, serving all intermediate points, (13) between the junction of Texas Hwy 36 and unmarked county road approximately two (2) miles south of Somerville, TX, and the Phillips Petroleum Plant, over unmarked county road, serving all intermediate points, (14) between Alto and San Augustine, TX, over Texas Hwy 21, serving all intermediate points, (15) between Kaufman and Canton, TX, over Texas Hwy 243, (16) serving Birthright, TX, as an off-route point in connection with the carrier's present authority over Texas Hwy 19 between Sulphur Springs and Paris, TX, (17) serving Choice, TX, as an off-route point in connection with the carrier's present authority over U.S. Hwy 96 between Center and San

Augustine, TX, (18) serving Marston and Monroe, TX, as off-route points in connection with the carrier's present authority over U.S. Hwy 59 between Cleveland and Lufkin, TX, (19) serving Newark, TX, as an off-route point in connection with the carrier's present authority over Texas Hwys 101 and 114 between Bowie and Fort Worth, TX, (20) serving Pine, TX, as an off-route point in connection with carrier's present authority over U.S. Hwy 271 between Pittsburgh and Gilmer, TX, (21) serving Scroggins, TX, as an off-route point in connection with the carrier's present authority over Texas Hwy 37 between Bogata and Winnsboro, TX, and (22) serving Time, TX, as an off-route point in connection with the carrier's present authority over Texas Hwy 87 between Center and Newton, TX.

Note.—Applicant states it intends to tack the authority herein with its presently authorized operations.

MC 34227 (Sub-27), filed June 25, 1982. Applicant: PACIFIC INLAND TRANSPORTATION COMPANY, 15910 E. Colfax Ave., Aurora, CO 80011. Representative: Steven K. Kuhlmann, 717–17th St., Ste 2600, Denver, CO 80202 (303) 892–6700. Transporting *such commodities* as are dealt by construction and home improvement centers, between Toledo, OH, Colorado Springs, CO and points in Crawford County, AR, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 42487 (Sub-1061), filed June 28, 1982. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208, (503) 226–4692. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Pine Mountain Corporation of Oakland, CA.

MC 123887 (Sub-16), filed June 25, 1982. Applicant: L. J. NAVY TRUCKING CO., 2300 Eighth Ave., Huntington, WV 25703. Representative: John M. Friedman, 2930 Putnam Ave., P.O. Box 426, Hurricane, WV 25526 (304) 562–3460. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Scioto and Lawrence Counties, OH, Greenup, Boyd and Lawrence Counties, KY, and Cabell, Wayne, Putnam and Kanawha Counties, WV, on the one hand, and, on the other, those points in the U.S. in and east of MN, NE, CO, OK, and TX.

MC 133607 (Sub-2), filed June 25, 1982. Applicant: DOSS MOVING AND STORAGE, INC., 400 Wilcox, Sierra Vista, AZ 85635. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, D.C. 20036 (202) 785–0024. Transporting *household goods,* between points in AZ, on the one hand, and, on the other, points in CA, NM, TX, NV, UT, CO, OK, AR, and LA.

MC 136087 (Sub-12), filed June 28, 1982. Applicant: J. C. TRUCKING, INC., 5085 Harlan St., Denver, CO 80212. Representative: Leslie R. Kehl, 1660 Lincoln St., Suite 1600, Denver, CO 80264 (303) 861–4028. Transporting *petroleum products,* between points in the U.S., under continuing contract(s) with Sweitzer Oil, Inc., of Gunnison, CO.

MC 139177 (Sub-9), filed June 28, 1982. Applicant: MAIERS TRANSPORT & WAREHOUSING CO., INC., 515 25th Ave. North, St. Cloud, MN 56301. Representative: Val M. Higgins, 1600 TCF Tower, 121 S. 8th St., Minneapolis, MN 55402 (612) 333–1341. Transporting (1) *pulp, paper* and *related products,* (2) *plastic products,* and (3) *lumber and wood products,* between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 144437 (Sub-6), filed June 25, 1982. Applicant: LARLEE LEASING, INC., 524 N. Wayne Ave., Cincinnati, OH 45215. Representative: Nort B. Flick, 2250 Beechmont Ave., Cincinnati, OH 45230 (513) 543–4831. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between those points in the U.S. in and east of WI, IL, KY, TN, and MS.

MC 152267 (Sub-2), filed June 28, 1982. Applicant: JET-REST TRANSPORTATION COMPANY, INC., SC Hwy 14, Greer, SC 29651. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328 (404) 256–4320. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Dillard Paper Company of Greensboro, NC.

MC 158307 (Sub-2), filed June 25, 1982. Applicant: WAYNE BROWN TRANSPORT, INC., 1109 Barlow St., W. Lafayette, IN 47906. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240 (317) 846–6653. Transporting *food and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Triple B Foods, Inc., of Dallas, TX.

MC 160987, filed June 29, 1982. Applicant: PIEDMONT MAINTENANCE COMPANY, d.b.a. THE PIEDMONT COMPANY, 1822 Wendell, Dalton, GA 30720. Representative: C. Jack Pearce, 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036 (202) 785–0048. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Cross Country Shippers Association of Simpsonville, SC.

MC 161907, filed June 25, 1982. Applicant: HELD BEEF INDUSTRIES T. C. INC., Stockyards Rd., West Fargo, ND 58078. Representative: Kyle Heidenreich (same address as applicant) (701) 282–9570. Transporting *meats, meat products and by byproducts, and articles distributed by meat packing houses,* and *dairy products,* and *such commodities* as are used by meat packers in the conduct of their business when destined to and for use by meat packers, between points in the U.S., under continuing contract(s) with Held Beef Industries, Inc., of West Fargo, ND.

MC 162667, filed June 25, 1982. Applicant: DANIEL E. MILLER, d.b.a. D. MILLER TRUCK SERVICE, INC., 1 Ranny Hill Rd., Roxbury, CT 06783. Representative: Daniel E. Miller (same address as applicant) 1 (203) 354–7243. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in MA, NY, RI, NJ, MD, VA, and CT.

MC 162687, filed June 25, 1982. Applicant: DISTHENE TRUCKING COMPANY, Dillwyn, VA 23936. Representative: Paul D. Collins, 7761 Lakeforest Dr., Richmond, VA 23235 (804) 745–0446. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between those points in the U.S. in and east of MN, IA, MO, AR, and LA.

MC 162707, filed June 28, 1982. Applicant: TRAFFIC DISPATCH, INC., 1739 North Shoop Ave., Wauseon, OH 43567. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW, Suite 1200, Washington, DC 20036 (202) 782–0024. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with D & M Transportation, of Toledo, OH.

MC 162717, filed June 28, 1982. Applicant: JUDGE MANNING HORSE TRANSPORTATION, INC., R.R. No. 2, Box 365, Pound Ridge, NY 10576. Representative: Irving Klein, Suite 7,

1205 Franklin Ave., Garden City, NY 11530. Transporting *livestock* other than ordinary, between points in the U.S. (except AK and HI).

Volume No. OP5–144

Decided: July 7, 1982.

By the Commission, Review Board No. 3 Members Krock, Joyce, and Dowell.

FF 608, filed June 25, 1982. Applicant: PACIFIC RELOCATING SERVICES, INC., 1415 West Torrance Boulevard, Torrance, CA 90501. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW, Suite 1200, Washington, DC 20036 (202) 785–0024. To operate as a *freight forwarder* arranging for the transportation of *household goods* between points in the U.S.

MC 105159 (Sub-50), filed June 28, 1982. Applicant: KNUDSEN TRUCKING, INC., 1320 West Main St., Red Wing, MN 55066. Representative: Stephen F. Grinnell, 1600 TCF Tower, 121 S. 18th St., Minneapolis, MN 55402, 612–333–1341. Transporting *food and related products,* between points in Madison County, KY, and WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 112699 (Sub-4), filed June 28, 1982. Applicant: TRIANGLE TRANSPORTATION CO., INC., 1611 Central Ave., N.W., East Grand Forks, MN 56721. Representative: Thomas J. Van Osdel, 15 Broadway Suite 502, Fargo, ND 58102, 701–235–4487. Transporting *passengers and their baggage, express and newspapers,* in the same vehicle with passengers, (1) between Duluth, MN and International Falls, MN, serving all intermediate points: From Duluth over U.S. Hwy 53 to International Falls, and return over the same route, and (2) between Duluth, MN, and the port of entry between the U.S. and Canada at or near Pigeon River, MN, serving all intermediate points: From Duluth over U.S. Hwy 61 to the port of entry between the U.S. and Canada at or near Pigeon River, and return over the same route

Note.—Applicant intends to tack the above authority with its existing authority in MC–112699 and subs thereto.

MC 115078 (Sub-12), filed June 28, 1982. Applicant: SINDALL TRANSPORT, INC., P.O. Box 165, New Holland, PA 17557. Representative: Jeremy Kahn, Suite 733, Investment Bldg., 1511 K St., N.W., Washington, DC 20005, 202–783–3525. Transporting *food and related products,* between points in the U.S. under continuing contract(s) with Zausner Foods Corp., of New Holland, PA.

MC 140288 (Sub-4), filed June 28, 1982. Applicant: J-GEM TRANSPORTATION, INC., 1418 17th St., Long Beach, CA 90813. Representative: Ensley Weimer, (same address as applicant) 213–283–6851. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Bearlping International, Inc. of Inglewood, CA.

MC 146589 (Sub-7), filed June 21, 1982. Applicant: REGIONAL TRANSPORTATION COMPANY, INC., 600 Secaucus Rd., Secaucus, NJ 07094. Representative: Herbert S. Zischkau, III, 7 Corporate Park Drive, Suite 109, White Plains, NY 10604 (914) 694–1414. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Progresso Quality Foods of Vineland, NJ.

MC 149308 (Sub-25), filed June 28, 1982. Applicant: VICTORY FREIGHTWAY SYSTEM, INC., P.O. Box P, Sellersburg, IN 47172. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, 317–846–6655. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI). Under continuing contract(s) with Rohm and Haas Company of Philadelphia, PA.

MC 151578 (Sub-1), filed June 28, 1982. Applicant: DEMEY TRANSPORT, INC., 1402 7th Ave. So., Denison, IA 51442. Representative: James M. Hodge, 3730 Ingersoll Ave., Des Moines, IA 50312, 515–274–4985. Transporting *fertilizer,* between those points in IA on and west of U.S. Hwy 65, on the one hand, and, on the other, points in MN, MO and NE.

MC 152109 (Sub-10), filed June 28, 1982. Applicant: KAIBAB TRANSPORTATION, INC., P.O. Box 20506, Phoenix, AZ 85036. Representative: Michael F. Morrone, 1150 17th St., NW., Suite 1000, Washington, DC 20036, 202–457–1124. Transporting (1) *paper and paper products,* and (2) *lumber and forest products* between points in the U.S. (except AK and HI), under continuing contract(s) with Southwest Forest Industries of Phoenix, AZ.

MC 153328 (Sub-20), filed June 21, 1982. Applicant: RED K TRANSPORT, INC., 2545 Peach Tree St., Cape Girardeau, MO 63701. Representative: John A. Friel, P.O. Box 99, Madison, IL 62060, (800) 851–3180. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 158859 (Sub-2), filed June 17, 1982. Applicant: O. DEAN TRANSPORTATION, INC., 406 W. Williamsburg Rd., Sandston, VA 23150. Representative: P. Owen Dean, (same address as applicant.) (804) 737–7838. Transporting *metal products* between points in CA, FL, GA, IN, KY, MD, MO, NC, NJ, NY, PA, SC, TN, TX, VA, WA, and WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 158859 (Sub-4), filed June 21, 1982. Applicant: O. DEAN TRANSPORTATION, INC., 406 W. Williamsburg Rd., Sandston, VA 23150. Representative: P. Owen Dean (same address as applicant), (804) 737–7838. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AL, AR, FL, GA, KY, MD, MS, NC, SC, TN, and VA, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Noland Company, of Newport News, VA.

MC 159329, filed June 22, 1982. Applicant: J. E. CASBEER d.b.a. JAY'S MOBILE HOME MOVERS, 173 College Way, Auburn, CA 95603. Representative: J. E. Casbeer (same address as applicant), (916) 885–5865. Transporting *portable or fabricated buildings* between points in Placer County, CA, on the one hand, and, on the other, points in AZ, NV, and OR.

MC 161339, filed June 28, 1982. Applicant: COMANCHE ROAD TRANSPORT LTD., 232 38th Ave. NE., Calgary, Alberta, Canada T2E 2M2. Representative: W. E. Seliski, 2 Commerce St. POB 8255, Missoula, MT 59807, 406–543–8369. Transporting in foreign commerce only, *dry bulk commodities,* between points on the international boundary line between the United States and Canada located in WA, ID, MT, ND, MN, and MI, on the one hand, and, on the other, points in WA, OR, CA, NV, ID, UT, WY, SD, MT, ND, MN, MI, and OH.

MC 162399, filed June 28, 1982. Applicant: WATERTOWN TRUCKING, INC., 640 Arsenal St., Watertown, MA 02172. Representative: Wesley S. Chused, 15 Court Sq., Boston, MA 02108, 617–742–3530. Transporting *petroleum, natural gas and their products,* between points in the U.S. (except AK and HI), under continuing contract(s) with BP Oil, Inc., of Cleveland, OH.

MC 162438, filed June 11, 1982. Applicant: CAS WALKER CASH STORES, INC., 119 Patton St., Knoxville, TN 37915. Representative: Henry T.

Ogle, 107 Main St., Knoxville, TN 37902, (615) 546–1111. Transporting *food and related products* between Knoxville, TN, on the one hand, and, on the other, points in GA and FL.

MC 162588, filed June 21, 1982. Applicant: HOLYOKE STREET RAILWAY COMPANY, 63 North Canal St., Holyoke, MA 01040. Representative: David M. Marshall, 101 State St., Suite 304, Springfield, MA 01103; 413–732–1136. Transporting *passengers and their baggage* in the same vehicle with passengers, in charter and special operations, beginning and ending at points in Hampden, Hampshire and Berkshire Counties, MA, and extending to points in the U.S. (except AK and HI).

MC 162668, filed June 25, 1982. Applicant: OLD DUTCH DISTRIBUTORS, INC., P.O. Box 1915, Blasdell, NY 14219. Representative: William J. Hirsch, 64 Niagara Street, Buffalo, NY 14202, 716–853–0200. Transporting *food and related products* between Cleveland and Cincinnati, OH, Philadelphia, PA, Buffalo, NY, Detroit, MI, and points in Chautauqua County, NY, Kent County, MI, Middlesex County, NJ, Greenville County, SC, and Summit County, OH, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, KS, MO, AR, and LA.

MC 162698, filed June 28, 1982. Applicant: ARTHUR VANDERLINDEN AND ROY VANDERLINDEN, d.b.a., PAR DISTRIBUTING COMPANY, 1616 West 4800 South, Taylorsville, UT 84107. Representative: Irene Warr, Ste. 280, 311 S. State St., Salt Lake City, UT 84111, 801–531–1300. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Sorenson Research Company of Salt Lake City, UT.

Agatha L. Mergenovich,

Secretary.

FR Doc. 82–18969 Filed 7–13–82; 8:45 am]
BILLING CODE 7035–01–M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Part 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

The following applications were filed in Region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St., Rm. 620, Philadelphia, PA 19106.

MC 86690 (Sub-II–8TA), filed June 28, 1982. Applicant: BOND TRANSFER CO., INC., 1301 Towson St., Baltimore, MD 21230. Representative: Leonard W. Smith III (same as applicant). *Contract irregular. Candy, confectionery, noi.* in ctns. Between points in DE, MD, NJ, NY, PA, VA, and the District of Columbia, under continuing contract with The Phoenix Candy Company, 170 34th Street, Brooklyn, NY for 270 days. Supporting shipper(s): Phoenix Candy Co., Inc., 170 34th St., Brooklyn, NY.

MC 152509 (Sub-II–38TA), filed June 29, 1982. Applicant: CONTRACT TRANSPORTATION SYSTEMS CO., 1370 Ontario St., Cleveland, OH 44101. Representative: J. L. Nedrich, (same address as applicant). Contract, irregular route, *general commodities,* with dedicated equipment, between all points in the United States (except AK & HI), under continuing contract(s) with National Automotive & Rubber Marketing, Inc. for 270 days. Supporting shipper: National Automotive & Rubber Marketing, Inc., 13303 Hart, Huntington Woods, MI 48070.

MC 162225 (Sub-II–2TA), filed June 28, 1982. Applicant: DAILY JUICE PRODUCTS, INC., 1 Daily Way, Verona, PA 15147. Representative: Jack L. Schiller, 123 60 83rd Ave., Kew Gardens, NY 11415. Contract, irregular: (1) *polyethylene and polystyrene containers* from Sandusky, OH and points in NJ, to the facilities of La Magna Cheese Company located at or near Verona, PA, (2) *cheese and dairy products* from the facilities of La Magna Cheese Company, located at or near Verona, PA to Detroit, MI; points in NJ; Rochester, NY; Cincinatti, OH and Charleston, WV, and (3) *cheese and dairy products* from Jacksonville, FL; Rockford, IL; Rochester, NY; and Green Bay and Spencer, WI, to the facilities of Dairyland Sales Company, at or near Pittsburgh, PA, under continuing contract(s) (1) and (2) above with La Magna Cheese Company of Verona, PA and in (3) above with Dairyland Sales Company of Pittsburgh, PA for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: La Magna Cheese Company, 1 La Magna Drive, Verona, PA and Dairyland Sales Company, 4700 Campbell Run Road, Pittsburgh, PA.

MC 119420 (Sub-II–1–TA), filed June 29, 1982. Applicant: FRED FAIRALL CONSTRUCTION COMPANY, 801 W. First St., Uhrichsville, OH 44683. Representative: John L. Alden, 1396 W. Fifth Ave., Columbus, OH 43212. *Clay products, and empty containers, skids, and boards* used in connection with the transportation of clay products, between Tuscarawas County, OH, on the one hand, and, on the other, points in NY State east of U.S. Highway 11 from the NY–PA state line to Watertown, NY, and north of NY Highway 12–F from Watertown to Black River Bay for 270 days. An underlying ETA seeking 120 days authority has been filed. Supporting shipper(s): Superior Clay, Corp.; Box 352, Uhrichsville, OH 44683.

MC 115181 (Sub-II–15TA), filed June 24, 1982. Applicant: HAROLD M. FELTY, INC.; R.D. #1, Box 148, Pine Grove, PA 17963. Representative: Lee E. High, P.O. Box 8551, Reading, PA 19603. *Clay Products,* from New Oxford, PA, to New York City, NY. An underlying ETA seeks 120 days authority. Supporting shipper: Glen-Gery Corporation, P.O. Box 1542, Reading, PA 19603.

MC 161495 (Sub-II–3–TA), filed July 1, 1982. Applicant: KEY TRANSPORT, INC., Rt 47 W, Sidney, OH 45365. Representative: John L. Alden, 1396 W. Fifth Ave., Columbus, OH 43212. *Contract:* Irregular: *Commodities dealt in by retail and wholesale food outlets,*

except commodities in bulk, from Owatonna, Chaska and Minneapolis, MN, and St. Louis and Hazelwood, MO, and Greenville, IL, to Ft. Wayne, IN and Xeniz, OH, under continuing contract(s) with Super Valu Stores, Inc. of Minneapolis, MN for 270 days. An ETA seeking 120 days authority has been filed. Supporting shipper(s): Super Valu Stores, Inc., P.O. Box 990, Minneapolis, MN 55440.

MC 162701 (Sub-II–1TA), filed June 28, 1982. Applicant: L.T.D. FREIGHT, INC., 1143 Skelp Level Rd., Downingtown, PA 19335. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 19335. *Articles of brass, bronze, copper or alloys thereof, and materials, equipment and supplies used in the manufacture and distribution thereof,* between Ansonia, CT; Buffalo, NY; Franklin and Louisville, KY and Kenosha, WI, on the one hand, and, on the other, points in U.S. in and east of WI, IL, KY, TN and MS. An underlying ETA seeks 120 days authority. Supporting shipper(s): Anaconda Industries, 2 Continental Tower, 1701 Gulf Rd., Rolling Meadows, IL 60008.

MC 129124 (Sub-II–15TA), filed June 28, 1982. Applicant: SAMUEL J. LANSBERRY, INC., P.O. Box 58, Woodland, PA 16881. Representative: John C. Fudesco, Suite 960, 1333 New Hampshire Avenue NW., Washington, D.C. 20036. *Commodities in bulk,* between points in IN and VA, on the one hand, and, on the other, points in NY, OH, PA, and WV. Supporting shipper(s): Corning Glass Works, Box 158, Corning, NY 14830.

MC 162643 (Sub-II–1TA), filed June 24, 1982. Applicant: PARRISH & LAWSON HAULING, INC., Rt. 1, Box 156 F, Goochland, VA 123063. Representative: Calvin F. Major, 200 W. Grace St., P.O. Box 5010, Richmond, VA 23220. Contract, irregular: *coal,* in bulk, in dump vehicles, from Muddlety, WV to Richmond, VA. An underlying ETA seeks 120 days authority. Supporting shipper(s): University of Richmond, Richmond, VA 23173.

MC 158129 (Sub-II–2TA), filed July 1, 1982. Applicant: REGAL TRANSPORTATION, INC., P.O. Box 310, Niles, OH 44446. Representative: A. Charles Tell, Baker & Hostetler, 100 E. Broad St., Columbus, OH 43215. Contract Irregular: *general commodities* (except commodities in bulk, household goods and Classes A and B explosives) between points in the U.S. (except AK and HI), under continuing contract(s) with Copperweld Corporation and its subsidiaries for 270 days. Supporting shipper: Copperweld Corporation, Two Oliver Plaza, Pittsburgh, PA 15222.

MC 138805 (Sub-II–6TA), filed June 24, 1982. Applicant: S&L SERVICES, INC., R.D. #1, Milton, PA 17847. Representative: Terrence D. Jones, 2033 K Street NW., Washington, D.C. 20006. (1) *Wax-treated corrugated produce containers* from Harrisonburg, VA to points in IN, OH, MI, MD, PA, DE, RI, NJ, NY, NH, ME, MA, VT, and CT; (2) *corrugated egg containers* from New Castle, DE to points in PA; and (3) *molded pulp egg cartons, trays, and flats* from Hammond and Griffith, IN to points in MD, PA, DE, RI, NJ, NY, NH, ME, MA, VT, and CT. An underlying ETA seeks 120 days authority. Supporting shipper: Bartlett's Egg Dispatch, Inc., 360 Merrimack St., Lawrence, MA 01843.

MC 146320 (Sub-II–6TA), filed June 28, 1982. Applicant: CHARLES A. STOECKLER, INC., 3 Spring St., Wilkes-Barre, PA 18702. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. *Sporting goods,* between Hartford County, CT, Johnson County, KS, Dauphin County, PA and Lackawanna County, PA, on the one hand, and, on the other, points in the U.S. (except AK & HI); *Housewares and materials, supplies and equipment used in the manufacture of housewares,* between Lackawanna County, PA, on the one hand, and, on the other, points in the U.S. (except AK & HI). An underlying ETA seeks 120 days authority. Supporting shipper(s): Scranton Lace Co., Scranton, PA; Simmons Gun Specialities, Inc., Olathe, KS; Jerry's Sport Centers, Inc., Olyphant, PA; Bonitz Brothers, Inc., Harrisburg, PA; Jerry's Sport Centers, NE, Hartford, CT.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–18947 Filed 7–13–82; 8:45 am]

BILLING CODE 7035–01–M

[Docket AB–167 (Sub- 285N]

Conrail Abandonment Between Pana and Paris, IL; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Pana (milepost 167.2) and Paris (milepost 93.0) in the Counties of Edgar, Coles, Moutrie, Shelby and Christian, IL, a total distance of 74.2 miles effective on March 11, 1982.

The net liquidation value of this line is $5,530,034. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–18943 Filed 7–13–82; 8:45 am]

BILLING CODE 7035–01–M

[Docket AB–43 (Sub-69)]

Illinois Central Gulf Railroad Company Abandonment Between Rantoul and Potomac, IL; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that the Commission, Review Board Number 2, has issued a certificate authorizing the Illinois Central Gulf Railroad Company to abandon its rail line between milepost 33.01 at Rantoul (excluding Rantoul) and milepost 52.36 at Potomac, a distance of 19.35 miles, in Champaign and Vermillion Counties, IL, subject to certain conditions. Since no investigation was instituted, the requirement of § 1121.38(b) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. The offer, as filed, shall contain information required pursuant to § 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–18944 Filed 7–13–82; 8:45 am]

BILLING CODE 7035–01–M

Chicago and North Western Transportation Company

[I.C.C. Order No. P-39]

Passenger Train Operation

It appearing, That the National Railroad Passenger Corporation (Amtrak) has established through passenger train service between Chicago, Illinois, and Oakland, California. The operation of these trains requires the use of the tracks and other facilities of Burlington Northern Railroad (BN). A portion of the BN tracks between Omaha, Nebraska, and Burlington, Iowa, are temporarily out of service because of a washout. An alternate route is available via Chicago and North Western Transportation Company between Omaha, Nebraska, and Chicago, Illinois.

It is the opinion of the Commission that the use of such alternate route is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

(a) Pursuant to the authority vested in me by order of the Commission decided April 29, 1982, and of the authority vested in the Commission by section 402(c) of the Rail Passenger Service Act of 1970 (45 U.S.C. 562(c)), Chicago and North Western Transportation Company (CNW) is directed to operate trains of the National Railroad Passenger Corporation (Amtrak) between a connection with Burlington Northern Railroad (BN) at Omaha, Nebraska, and Chicago, Illinois.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act of 1970, as amended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(d) *Effective date.* This order shall become effective at 4:00 a.m., July 3, 1982.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., July 9, 1982, unless otherwise modified, amended, or vacated by order of this Commission.

This order shall be served upon Chicago and North Western Transportation Company and upon the National Railroad Passenger Corporation (Amtrak), and a copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., July 3, 1982.

Interstate Commerce Commission.

John H. O'Brien,

Agent.

[FR Doc. 82-18946 Filed 7-13-82; 8:45 am]

BILLING CODE 7035-01-M

[I.C.C. Order P-40]

Passenger Train Operation

To: Chicago and North Western Transportation Company.

It appearing, That the National Railroad Passenger Corporation (Amtrak) has established through passenger train service between Chicago, Illinois, and Seattle, Washington. The operation of these trains requires the use of the tracks and other facilities of Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW). A portion of the MILW tracks between Wisconsin Dells, and Tomah, Wisconsin, are temporarily out of service because of a derailment. An alternate route is available via Chicago and North Western Transportation Company between Tunnel City and Milwaukee, Wisconsin.

It is the opinion of the Commission that the use of such alternate route is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

(a) Pursuant to the authority vested in me by order of the Commission served April 29, 1982, and of the authority vested in the Commission by section 402(c) of the Rail Passenger Service Act of 1970 (45 U.S.C. 562(c)), Chicago and North Western Transportation Company (CNW) is directed to operate trains of the National Railroad Passenger Corporation (Amtrack) between Tunnel City and Milwaukee, Wisconsin, in order to connect with Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW).

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act of 1970, as amended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(d) *Effective date.* This order shall become effective at 12:00 noon, July 4, 1982.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., July 9, 1982, unless otherwide modified, amended, or vacated by order of this Commission.

This order shall be served upon Chicago and North Western Transportation Company and upon the National Railroad Passenger Corporation (Amtrak), and a copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., July 4, 1982.

Interstate Commerce Commission.

John H. O'Brien,

Agent.

[FR Doc. 82-18945 Filed 7-13-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier; Temporary Authority Application

In FR Doc 82-16191 appearing at page 26032 in the issue of Wednesday, June 16, 1982 make the following correction:

On page 26032, column one paragraph three, MC 161801 (Sub-1-1TA), line nine, "Jersey City, NY" should be corrected to read "Jersey City, NJ."

BILLING CODE 1505-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-104]

Certain Card Data Imprinters and Components Thereof; Grant of Stipulated Motion of All Parties for Continued Suspension of Investigation

AGENCY: International Trade Commission.

ACTION: Grant of motion for continued suspension of investigation.

SUMMARY: Notice is hereby given that the Commission has granted a stipulated motion by complainants AM International, Inc., and Bartizan Corp., respondents National Business Systems, Inc. (Canada), and National Business Systems, Inc. (U.S.), and the Commission investigative attorney that the Commission continue its suspension of this investigation (Motion 104–189C).

AUTHORITY: The authority for the Commission's action is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and § 210.15 of the Commission's Rules of Practice and Procedure (19 CFR 210.15).

SUPPLEMENTARY INFORMATION: Upon receipt of a complaint filed by AM International, Inc., and Bartizan Corporation the Commission instituted investigation No. 337–TA–104 to determine whether there is a violation of section 337 of the Tariff Act of 1930 by reason of unfair methods of competition and unfair acts in the importation and sale of certain card data imprinters, alleged to infringe claim 7 of U.S. Letters Patent 3,272,120 and claim 12 of U.S. Letters Patent 3,340,800. Notice of the Commission's investigation was published at 46 FR 31094 (June 12, 1981).

On February 9, 1982, the Commission granted a motion by respondents National Business Systems, Inc. (Canada) and National Business Systems, Inc. (U.S.), for a limited suspension of the investigation until 10 days after completion of trial in United States district court litigation involving the patents that are at issue in this investigation. The present action of the Commission continues the suspension in effect until 10 days after the court rules on the matters at issue in the trial before it.

FOR FURTHER INFORMATION CONTACT: Michael P. Mabile, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0169.

Issued: July 2, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-19040 Filed 7-13-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 701-TA-182 (Preliminary)]

Certain Imported Unfinished Subway Cars and Parts Thereof To Be Delivered to the Metropolitan Transportation Authority of New York City

AGENCY: International Trade Commission.

ACTION: Institution of preliminary countervailing duty investigation and scheduling of a public conference to be held in connection with the investigation.

SUMMARY: The U.S. International Trade Commission hereby gives notice of the institution of an investigation to determine whether there is a reasonable indication that an industry in the United States is materially injured, or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of unfinished subway cars and parts thereof, to be delivered to the Metropolitan Transportation Authority of New York City, the purchase of which is alleged to be financed by the Export Development Corporation of Canada.

In making its determination for purposes of this preliminary investigation the Commission will examine information on unfinished rail vehicles and parts thereof provided for in part 6A of schedule 6 of the Tariff Schedules of the United States (TSUS).

EFFECTIVE DATE: June 24, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Reavis, Office of Investigations, U.S. International Trade Commission; telephone 202–523–0296.

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted in response to a petition filed June 24, 1982, on behalf of the Budd Company of Troy, Michigan. A copy of this petition is available for public inspection in the Office of the Secretary, U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. The Commission must make its determination in this investigation within 45 days after the date of the filing of the petition or by August 9, 1982 (19 CFR 207.17). Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission not later than July 21, 1982 (19 CFR 201.11). Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the notice. This investigation will be subject to the provisions of Part 207 of the Commission's Rules of Practice and Procedure (19 CFR Part 207, 47 FR 6190, February 10, 1982), particularly Subpart B thereof.

Service of documents.—The Secretary will compile a service list from the entries of appearance filed in this investigation. Any party submitting a document in connection with the investigation shall, in addition to complying with § 201.8 of the Commission's rules (19 CFR 201.8), serve a copy of each such document on all other parties to the investigation. Such service shall conform with the requirements set forth in § 201.16(b) of the rules (19 CFR 201.16(b)).

In addition to the foregoing, each document filed with the Commission in the course of this investigation must include a certificate of service setting forth the manner and date of such service. This certificate will be deemed proof of service of the document. Documents not accompanied by a certificate of service will not be accepted by the Secretary.

Written submissions.—Any person may submit to the Commission on or before July 23, 1982, a written statement of information pertinent to the subject matter of this investigation. A signed original and fourteen (14) copies of such statements must be submitted.

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference.—The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m., on July 21, 1982, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. Parties wishing to participate in the conference should contact the supervisory investigator for the investigation, Ms. Vera Libeau, telephone 202/523–0368, not later than July 16, 1982, to arrange for their appearance. Parties in support of the

imposition of countervailing duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR Part 207), and Part 201, subparts A through E (19 CFR Part 201), 47 FR 6182, February 10, 1982. Further information concerning the conduct of the conference will be provided by Ms. Libeau.

This notice is published pursuant to § 207.12 of the Commission's Rules of Practice and Procedure (19 CFR 207.12).

Issued: July 6, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-19042 Filed 7-13-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-110]

Certain Methods for Extruding Plastic Tubing; Termination of Respondent

AGENCY: International Trade Commission.

ACTION: Termination of investigation as to respondent Sue Trading Co.

SUMMARY: The Commission has terminated the above-captioned investigation as to respondent Sue Trading Co. (Sue) on the basis of representations contained in a motion to terminate filed by respondent Sue.

SUPPLEMENTARY INFORMATION: This investigation is being conducted under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and 19 U.S.C. 1337a and concerns alleged unfair trade practices in the importation and sale of certain extruded plastic tubing and reclosable plastic bags allegedly made by a process which, if practiced in the United States, would infringe patents owned by complainant Minigrip, Inc.

The motion to terminate was based generally on the grounds that Sue's involvement in this investigation is *de minimus*, that it has not imported reclosable plastic bags since 1976, that it has nothing further to contribute to this adjudication, that continued participation in the investigation will create undue hardship and expense to respondent, and that the termination of the respondent would not affect detrimentally the conclusion of this investigation.

The motion was opposed by the complainant and the Commission investigative attorney on the grounds that there is a conflict between the allegations of the complaint that Sue openly sells imported Taiwanese reclosable plastic bags and Sue's factual representation in its motion which should be resolved based on presentation of evidence at the trial. However, the trial has now been concluded and no evidence was offered to contradict Sue's representations. Complainant also filed no response to an order to show cause why Sue should not be terminated.

Copies of the Commission's Action and Order and all other non-confidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, Telephone 202-523-0161.

FOR FURTHER INFORMATION CONTACT: Eliza Patterson, Esq., Office of the General Counsel, Telephone 202-253-0460.

Issued: July 9, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-19044 Filed 7-13-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-108]

Certain Vacuum Bottles and Components Thereof; Termination of Respondent

AGENCY: International Trade Commission.

ACTION: Termination of investigation as to respondent Progressive International Corp.

SUMMARY: The Commission has terminated the above-captioned investigation as to respondent Progressive International Corp. (Progressive) on the basis of a joint motion filed by complainant Union Manufacturing Co., respondent Progressive, and the Commission investigative attorneys.

SUPPLEMENTARY INFORMATION: This investigation is being conducted under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and concerns alleged unfair trade practices in the importation into and sale in the United States of certain vacuum bottles and components thereof. The joint motion to terminate the investigation as to Progressive included affidavits by Kevin Wold, president of Progressive, and Derek A. Dibble, executive vice president of Union. In his affidavit, Mr. Wold stated that Progressive has not imported any vacuum bottles since service of the complaint, and Progressive has sold or otherwise disposed of all the bottles previously imported into the United States. Mr. Wold also stated that Progressive has agreed not to import or sell the allegedly infringing vacuum bottles in the United States, unless and until there is a final decision by the Commission or a court that the vacuum bottles do not infringe complainant's trademark. In his affidavit, Mr. Dibble agreed on behalf of Union to release Progressive from any and all claims for damages.

Copies of the Commission's Action and Order and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

FOR FURTHER INFORMATION CONTACT: William E. Perry, Esq., Office of the General Counsel, telephone 202-523-0359.

Issued: July 9, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-19045 Filed 7-13-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-111]

Certain Vacuum Cleaner Brush Rollers; Settlement Agreement, Recommended Termination of Party, and Request for Public Comments

AGENCY: International Trade Commission.

ACTION: Request for public comments on the recommended termination of respondent Hornleon Co., Ltd. (Hornleon), based on a settlement agreement.

SUMMARY: Notice is hereby given that the presiding officer in this investigation has recommended that the Commission grant the motion of complainant Scott & Fetzer Co. to terminate this investigation as to respondent Hornleon on the basis of a settlement agreement. Before taking final action on the motion, the Commission seeks written comments on the proposed termination from interested members of the public.

DEADLINE: All comments must be received on or before August 13, 1982.

SUPPLEMENTARY INFORMATION: The Commission is conducting investigation No. 337–TA–111 to determine whether there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation or sale of certain vacuum cleaner brush rollers, which are alleged to infringe claims 1 and 2 of U.S. Letters Patent 3,367,728.

On June 1, 1982, complainant Scott & Fetzer Co. filed a motion seeking termination of respondent Hornleon based on a settlement agreement. There is also pending before the Commission a motion to terminate the other respondent in this investigation, Vacuum Parts Unlimited, Inc. (Vacuum Parts), on the basis of a settlement agreement. See 47 FR 27150 (June 23, 1982). The granting of both motions would terminate the investigation as Vacuum Parts and Hornleon are the only respondents.

The presiding officer has recommended that respondent Hornleon be terminated as a respondent on the basis of a settlement agreement.

Under the settlement agreement, Hornleon warrants that it has ceased to export brush rollers to the United States. Furthermore, it agrees not to infringe U.S. Letters Patent 3,367,728, owned by Scott & Fetzer, in the future. In return, Scott & Fetzer has agreed not to institute proceedings in any other forum against Hornleon in connection with that firm's previous exportations of infringing brush rollers and has waived all rights against Hornleon with respect to any alleged infringement of U.S. Letters Patent 3,367,728.

All comments must conform to the requirements of § 201.8 of the Commission's rules (19 CFR 210.8) and must be addressed to the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

FOR FURTHER INFORMATION CONTACT: Lairold M. Street, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0124.

Issued: July 6, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82–19041 Filed 7–13–82; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–96 (Preliminary)]

Nitrocellulose From France

AGENCY: International Trade Commission.

ACTION: Institution of preliminary antidumping investigation and scheduling of a conference to be held in connection therewith.

SUMMARY: The U.S. International Trade Commission hereby gives notice of the institution of investigation NO. 731–TA–96 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from France of nitrocellulose,[1] provided for in item 445.25 of the Tariff Schedules of the United States, which are allegedly being sold in the United States at less than fair value (LTFV).

EFFECTIVE DATE: July 6, 1982.

FOR FURTHER INFORMATION CONTACT: Bill Schechter, Office of Investigation, U.S. International Trade Commission; telephone 202/523–0300.

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted following receipt of a petition filed by counsel for Hercules Inc., Wilmington, Delaware. The Commission must make its determination in this investigation within 45 days after the date of the filing of the petition, or by August 16, 1982 (19 CFR 207.17). This investigation will be subject to the provisions of part 207 of the Commission's Rules of Practice and Procedure (19 CFR Part 207, 44 FR 76457 and 47 FR 6190), and particularly subpart B thereof. A nonconfidential copy of the petition is available for public inspection during official working hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, telephone (202–523–0448).

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission not later than July 21, 1982 (19 CFR 201.11). Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the notice.

Written submissions.—Any person may submit to the Commission on or before July 30, 1982, a written statement of information pertinent to the subject matter of this investigation. A signed original and fourteen copies of such statements must be submitted.

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Service of documents.—The Secretary will compile a service list from the entries of appearance filed in this investigation. Any party submitting a document in connection with the investigation shall, in addition to complying with § 201.8 of the Commission's rules (19 CFR 201.8), serve a copy of each such document on all other parties to the investigation. Such service shall conform with the requirements set forth in § 201.16(b) of the rules (19 CFR 201.16(b)).

In addition to the foregoing, each document filed with the commission in the course of this investigation must include a certificate of service setting forth the manner and date of such service. This certificate will be deemed proof of service of the document. Documents not accompanied by a certificate of service will not be accepted by the Secretary.

Conference.—The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m., on July 27, 1982, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact the supervisory investigator for the investigation, John MacHatton, telephone 202/523–0439, not later than July 23, 1982, to arrange for their appearance. Parties in support of the imposition of antidumping duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

For further information concerning the conduct of this investigation rules and general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR Part 207), and part 201, subparts A through E (19 CFR Part 201), 47 FR 6182, February 19, 1982. Further information concerning the conduct of the conference will be provided by Mr. MacHatton.

This notice is published pursuant to § 207.12 of the Commission's Rules of Practice and Procedure (19 CFR 207.12).

Issued: July 7, 1982.

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[1] Also known as cellulose nitrate.

By order of the Commission.
Kenneth R. Mason,
Secretary.
[FR Doc. 82-19043 Filed 7-13-82; 8:45 am]
BILLING CODE 7020-02-M

NATIONAL CREDIT UNION ADMINISTRATION

Request for Comments on Corporate Federal Credit Union Chartering Guidelines

AGENCY: National Credit Union Administration.

ACTION: Request for comments on interim corporate Federal credit union chartering guidelines.

SUMMARY: The National Credit Union Administration is publishing a set of specific guidelines for corporate Federal credit union charter applications. The purpose of such guidelines is to establish the process that will be involved in determining the approval of the charter application. NCUA is requesting comments on the guidelines.

DATES: Comments must be received on or before September 7, 1982.

ADDRESS: Send comments to Rosemary Brady, Secretary, National Credit Union Administration, 1776 G Street, NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: Nicholas Veghts, Corporate Specialist, Department of Supervision and Examination. Telephone number (202) 357-1065.

SUPPLEMENTARY INFORMATION: When the National Credit Union Administration originally began chartering corporate Federal credit unions (CFCUs), the intent was to establish six regional CFCUs. In addition to the six regional CFCUs, the Administration also decided to charter several additional CFCUs to service individual states. This was done because of the concentration of credit unions in these states. Subsequently, the Administration allowed several states that had central credit unions serving both credit unions and natural person members to split the two fields of membership. The Administration permitted two associational groups to be chartered (one in 1977 and one in 1979) which created overlapping fields of membership in the corporate system. Since 1979, chartering activity has been rather limited. Schedule 1 shows the Administration's involvement in corporate credit union chartering activity since then. Currently, there are 17 CFCUs to service the 50 states.

In addition to the corporate credit unions chartered by the Administration, there are 26 state-chartered corporate centrals in the United States. Fourteen of these state-chartered corporate centrals are federally insured and insurance reviews are performed regularly by the Administration. Several of the state corporate centrals also service natural person members. Some of the fields of membership of CFCUs include states which already have a state-chartered corporate central. However, CFCUs have not actively solicited members in states where a corporate central already exists.

In chartering CFCUs, the intent was to provide credit unions with an institution that would be able to meet members' immediate liquidity needs, while at the same time providing a place for investments that would be competitive with other financial institutions in the marketplace. In the past few years, several corporate credit unions have not been able to provide the services for which they were chartered because of operational and/or financial problems which have developed. Experience has shown that some corporates have encountered problems because of their:

a. Limited potential membership with a small underlying asset base which has made it difficult for the corporate to grow and become competitive with other financial institutions;

b. Lack of management expertise in the area of investments and corporate lending; and,

c. Involvement with other organizations that has caused decisions to be made which were not in the best interests of the corporate credit union.

In addition to these types of problems, it is believed that because of the commercial nature of these institutions and because of the impact the failure of a CFCU could have on the credit unions it services, a set of specific chartering guidelines are needed to address corporate Federal credit union charter applications. The purpose of such guidelines is to establish the process that will be involved in determining the approval of the charter application. The guidelines have been developed in a manner which will cause the proposed CFCU to make a thorough investigation of its planned operation before submitting a charter application and will afford the National Credit Union Administration the opportunity to review on-site the information submitted by the proposed corporate credit union to support its application. The chartering guidelines are as follows:

I. When submitting a charter application, the proposed corporate credit union is responsible for providing information that details economic feasibility, operational plans for the initial 3 years of operation, and management ability. In this regard the NCUA Board will look for the following types of information:

A. Demonstration of economic feasibility of the proposed corporate credit union by such means as:

(1) Commitments from the proposed membership that will participate actively in the operation, including a list of subscribers and the amount of shares pledged;

(2) Development of pro forma balance sheets for the first 3 years of operation, including the assumptions to support the corporate credit union's economic development;

(3) Development of a detailed operating budget for the first year of operation, including the assumptions to support the corporate credit union's financial development; and,

(4) Review of local and national economic factors that will impact on the proposed membership and the development of the corporate credit union.

B. Description of the operational plans of the proposed corporate credit union for the first 3 years of operation by explaining such things as:

(1) The types of members who will be served;

(2) The services to be offered to the membership;

(3) How the services will be provided to the membership (location, staff, computer, etc.);

(4) The policies and procedures for all phases of operation, (membership, lending, investments, borrowing, budgetary process, safeguarding of assets, etc.); and,

(5) The phase-in plans to begin operation once the charter has been granted.

C. Demonstration of ability of the proposed management and officials to operate and control the affairs of the proposed corporate credit union through such means as evaluation of:

(1) Financial institution and/or business experience; and,

(2) Duties and responsibilities in the proposed corporate Federal credit union.

II. The charter application and the information described in Part I will then be forwarded to the appropriate regional office of the National Credit Union Administration for review. After the initial review by the regional office, an on-site meeting will be arranged by the regional office to review the charter application with the proposed officials and management. The main purpose of the meeting is to evaluate the adequacy of the information provided in the charter application and to discuss the

proposed corporate credit union's plans to begin operation should the charter be approved.

III. At the completion of the regional office review, the proposed corporate credit union will be informed by letter that either the charter application has been forwarded to the National Credit Union Administration Board (NCUA Board) for appropriate action or that the application cannot be forwarded until specific items are addressed and resolved.

The NCUA Board is not opposed to chartering additional CFCUs. The NCUA Board does believe, however, that the proposed CFCU must demonstrate that it has the capabilities to be an economically and operationally sound institution from its inception. The NCUA Board believes that compliance with the chartering guidelines will ensure that a proposed corporate credit union will be in a position to begin operations on a sound basis.

Because of the important role corporate credit unions now play in the credit union movement, the NCUA Board is requesting comments on the interim guidelines. In addition to receiving comments on the guidelines themselves, the NCUA Board believes that through the solicitation of public comment some other questions concerning corporate credit unions can be resolved. These questions are not predominantly regulatory issues but are concerns which are probably best resolved by the credit union community. For example:

1. Should there be a limitation on the number of corporate credit unions that are chartered?

2. Should a corporate charter be granted to a group which already has corporate service available?

3. If overlapping fields of membership are permitted, how should the competitive impact on existing corporates be determined and reviewed?

4. Should minimum values be established for numbers of members or asset base of potential members before a charter is granted?

The NCUA Board does not consider the questions listed above to be all inclusive and would consider any other recommendations concerning the chartering guidelines or the corporate credit union program.

By the National Credit Union Administration Board on July 7, 1982.

Rosemary Brady,

Secretary of the NCUA Board.

CORPORATE CREDIT UNION ACTIVITY

	1979	1980	1981	1982
1. Charter applications received	1		2	2
2. Charter applications approved	1			1
1979—ICU				
1982—Kentucky				
3. Insurance applications received	3	1		1
4. Insurance applications approved	3		1	1
1979—Oklahoma				
—Arizona				
—Iowa				
1981—First Carolina				
1982—Alabama				
5. Mergers		1		1
1980—Colorado/Wyoming				
1982—Southeast/Mississippi				
6. Liquidations				
7. Conversions (State to Federal)				
8. Conversions (Federal to State)				
1982—West Virginia				

[FR Doc. 82-19122 Filed 7-13-82; 8:45 am]

BILLING CODE 7535-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel; Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provision of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, NW., Washington, D.C. 20506.

1. Date: August 2, 1982
   Time: 9:00 a.m. to 5:30 p.m.
   Room: 314
   Program: This meeting will review Fellowships for Independent Study and Research applications in Philosophy, submitted to the Division of Fellowships and Seminars for projects beginning after June 1, 1983.

2. Date: August 4, 1982
   Time: 9:00 a.m. to 5:30 p.m.
   Room: 314
   Program: This meeting will review Fellowships for Independent Study and Research applications in Romance Languages, submitted to the Division of Fellowships and Seminars for projects beginning after June 1, 1983.

3. Date: August 6, 1982
   Time: 9:00 a.m. to 5:30 p.m.
   Room: 314
   Program: This meeting will review Fellowships for Independent Study and Research applications in Classical, Germanic, Slavic, and French Languages, submitted to the Division of Fellowships and Seminars for projects beginning after June 1, 1983.

4. Date: August 9, 1982
   Time: 9:00 a.m. to 5:30 p.m.
   Room: 314
   Program: This meeting will review Fellowships for College Teachers applications in Foreign Languages, submitted to the Division of Fellowships and Seminars for projects beginning after June 1, 1983.

5. Date: August 10, 1982
   Time: 9:00 a.m. to 5:30 p.m.
   Room: 314
   Program: This meeting will review Fellowships for Independent Study and Research applications in English Literature, submitted to the Division of Fellowships and Seminars for projects beginning after June 1, 1983.

6. Date: August 11, 1982
   Time: 9:00 a.m. to 5:30 p.m.
   Room: 314
   Program: This meeting will review Fellowships for Independent Study and Research applications in Music and Art, submitted to the Division of Fellowships and Seminars for projects beginning after June 1, 1983.

7. Date: August 12, 1982
   Time: 9:00 a.m. to 5:30 p.m.
   Room: 1023
   Program: This meeting will review Fellowships for Independent Study and Research applications in History II, submitted to the Division of Fellowships and Seminars for projects beginning after June 1, 1983.

8. Date: August 12, 1982
   Time: 9:00 a.m. to 5:30 p.m.
   Room: 314
   Program: This meeting will review Fellowships for College Teachers applications in American Literature, submitted to the Division of Fellowships and Seminars for projects beginning after June 1, 1983.

9. Date: August 13, 1982
   Time: 9:00 a.m. to 5:30 p.m.
   Room: 314
   Program: This meeting will review Fellowships for College Teachers applications in Social Sciences, submitted to the Division of Fellowships and Seminars, for projects beginning after June 1, 1983.

10. Date: August 16, 1982
    Time: 9:00 a.m. to 5:30 p.m.
    Room: 807
    Program: This meeting will review Fellowships for College Teachers applications in Political Science, submitted to the Division of Fellowships and Seminars, for projects beginning after June 1, 1983.

11. Date: August 16, 1982
    Time: 9:00 a.m. to 5:30 p.m.
    Room: 911
    Program: This meeting will review Fellowships for Independent Study and Research applications in Political Sciences, submitted to the Division of Fellowships and Seminars, for projects beginning after June 1, 1983.

12. Date: August 16, 1982

Time: 8:45 a.m. to 5:00 p.m.
Room: 314
Program: This meeting will review Fellowships for Independent Study and Research applications in American Literature, submitted to the Division of Fellowships and Seminars, for projects beginning after June 1, 1983.

13. Date: August 18, 1982
Time: 9:00 a.m. to 5:30 p.m.
Room: 314
Program: This meeting will review Fellowships for College Teachers applications in American History, submitted to the Division of Fellowships and Seminars, for projects beginning after June 1, 1983.

14. Date: August 19, 1982
Time: 9:00 a.m. to 5:30 p.m.
Room: 314
Program: This meeting will review Fellowships for Independent Study and Research applications in History to the Twentieth Century; and Latin American History, submitted to the Division of Fellowships and Seminars, for projects beginning after June 1, 1983.

15. Date: August 20, 1982
Time: 9:00 a.m. to 5:30 p.m.
Room: 314
Program: This meeting will review Fellowships for Independent Study and Research applications in Art and Architecture, submitted to the Division of Fellowships and Seminars, for projects beginning after June 1, 1983.

16. Date: August 20, 1982
Time: 9:00 a.m. to 5:30 p.m.
Room: 807
Program: This meeting will review Fellowships for College Teachers applications in Music, Art, Architecture and Dance, submitted to the Division of Fellowships and Seminars, for projects beginning after June 1, 1983.

17. Date: August 24, 1982
Time: 9:00 a.m. to 5:30 p.m.
Room: 314
Program: This meeting will review Fellowships for Independent Study and Research applications in 20th-Century U.S History, submitted to the Division of Fellowships and Seminars, for projects beginning after June 1, 1983.

18. Date: August 24, 1982
Time: 9:00 a.m. to 5:30 p.m.
Room: 807
Program: This meeting will review Fellowships for College Teachers applications in English Literature, submitted to the Division of Fellowships and Seminars, for projects beginning after June 1, 1983.

19. Date: August 25, 1982
Time: 9:00 a.m. to 5:30 p.m.
Room: 314
Program: This meeting will review Fellowships for College Teachers applications in European History, submitted to the Division of Fellowships and Seminars, for projects beginning after June 1, 1983.

20. Date: August 26, 1982
Time: 9:00 a.m. to 5:30 p.m.
Room: 314
Program: This meeting will review Fellowships for Independent Study and Research applications in History I, submitted to the Division of Fellowships and Seminars, for projects beginning after June 1, 1983.

21. Date: August 27, 1982
Time: 9:00 a.m. to 5:30 p.m.
Room: 314
Program: This meeting will review Fellowships for College Teachers applications in Religion and Philosophy, submitted to the Division of Fellowships and Seminars, for projects beginning after June 1, 1983.

22. Date: August 28, 1982
Time: 9:00 a.m. to 5:30 p.m.
Room: 314
Program: This meeting will review Fellowships for Independent Study and Research applications in Religious Studies, submitted to the Division of Fellowships and Seminars, for projects beginning after June 1, 1983.

The proposed meetings are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 724–0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 82-19884 Filed 7-13-82; 8:45 am]
BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

Abnormal Occurrence; Steam Generator Tube Rupture at R. E. Ginna Nuclear Power Plant

Section 208 of the Energy Reorganization Act of 1974, as amended, requires the NRC to disseminate information on abnormal occurrences (*i.e.*, unscheduled incidents or events which the Commission determines are significant from the standpoint of public health and safety). The following incident was determined to be an abnormal occurrence using the criteria in the Policy Statement on Abnormal Occurrences published in the **Federal Register** on February 24, 1977 (42 FR 10950). Example II.A.2 ("For Commercial Nuclear Power Plants") in Appendix A of the Policy Statement notes that major degradation of the primary coolant pressure boundary can be considered an abnormal occurrence. The following description of the incident also contains information on the remedial actions planned and taken.

Date and Place.—At 9:28 a.m. on January 25, 1982, the R. E. Ginna Nuclear Power Plant experienced a reactor trip as a result of a steam generator tube rupture. At 9:33 a.m., the operating staff at the plant notified the NRC Headquarters Operations Center of the event (via the Emergency Notification System phone). The R. E. Ginna plant utilizes a Westinghouse designed pressurized water reactor (PWR). The plant is owned and operated by Rochester Gas and Electric Corporation (the licensee) and is located in Wayne County, New York.

Nature and Probable Consequences.—Steam generator tubes in a pressurized water reactor are an integral part of the reactor coolant pressure boundary. The inner part of the tubes contain the reactor coolant fluid while the outer parts (or shell side) contain the feedwater which, when heated, becomes steam which is then piped to drive the turbine generators. Thus, the loss of integrity of steam generator tubes results in a breach of the primary-to-secondary system boundary.

Safety-margins are maintained through conservative design, inservice inspections, and administrative controls during operation such that if a steam generator tube leaks, the leakage can be detected rapidly and the reactor can be shut down safely. Periodic inspections are required to assure that defective steam generator tubes are detected and removed from service. When a tube is found to be defective or leaking,

integrity of the steam generator is restored by either plugging the tube at both ends or repaired by a sleeving process. The repair reduces the likelihood of rapid leaks developing or of defective tubes existing which could result in adverse safety consequences if they fail alone during normal operations or as a consequence of certain postulated accidents. In spite of these design and administrative controls, the complete rupture of a steam generator tube can happen and did occur at Ginna, and previously at Point Beach Unit 1, Surry Unit 2, and Prairie Island Unit 1. This is one of the design basis accidents considered in the NRC safety review of nuclear power plants.

Pressurized water reactor nuclear power plant licensees are required to have operational plans (including procedures, trained operation and support personnel, and other capabilities) to cope with a complete rupture of a steam generator tube and mitigate any radiological consequences. The R. E. Ginna operating and support staff mitigated the consequences of the January 25 event such that the radiological consequences were insignificant in terms of risk from any resultant on-site or off-site exposures.

Facility Response

A summary of the facility response during the incident is described in the Appendix. This section, and the following sections pertaining to radiological assessment, institutional response, and post-event activities, were generally extracted from NUREG–0909, "NRC Report on the January 25, 1982 Steam Generator Tube Rupture at R. E. Ginna Nuclear Power Plant," issued April 1982.

Radiological Assessment

The radiological consequences were assessed by the NRC from the estimated curies available for release from the reactor coolant system, the amount of activity transferred to the faulted steam generator, and the activity released to the environment as a function of time. Both airborne and liquid releases were estimated. Airborne release figures were then converted to projected off-site dose figures using conservative dispersion models based on existing weather conditions. On- and off-site radionuclide release and exposure measuring devices were also read and the results analyzed. The risk to the public and licensee personnel was then estimated.

In summary, most radionuclides released from Ginna were released during the first three hours of the event. During this period the wind was blowing toward the southeast. Snow and moist cold air caused a large fraction of the radioiodines and particulates released from Ginna to be deposited on the Ginna site rather than to remain airborne beyond the site boundary. Off-site releases during the event were estimated to be less than 25% of the limit for unrestricted areas. It is estimated that airborne releases to a licensee-controlled, unrestricted area (on-site, adjacent to Ginna Brookwood Training Center) exceeded 10 CFR 20 limits for average yearly airborne concentrations. However, all releases resulted in doses far less than 10 CFR Part 100 guidelines, which are established as the design basis for accident conditions.

With regard to occupational radiation exposures on the day of the event, some plant personnel incurred radiation doses in the course of performing routine duties and/or while responding to the event. The maximum recorded individual occupational radiation dose on the day of the event was 240 millirems as compared with the limits specified in 10 CFR Part 20 of 1250 millirems for a three-month period for radiation workers (or 3000 millirems under certain specified conditions).

The health risk to the maximally exposed individuals on-site and off-site from exposure to radioactive materials released at Ginna is considered to be much less than the risk from exposure to any of the major sources of radiation (e.g., medical exposure and natural background radiation) and within the same range as the risks from exposure to many of the other common sources of enhanced radiation exposure (e.g., from airline travel, natural gas heat, and television viewing).

It was estimated that a total of about 90 curies of noble gases were released, mostly from the steam jet-air ejector. About 0.4 curies of dose-equivalent I–131 (a total of about 5 curies of all isotopes of iodine), and about 1.3 curies of cobalt, molybdenum, barium, and cesium are estimated to have been released, mostly from the openings of the safety valve. About 25 curies of tritium may have been released, mostly from the safety valve openings with trace amounts from the air ejector.

The estimated figure for noble gases released is believed to be conservative due to the large volume of highly radioactive gases discovered in the faulted steam generator after the event. Unfortunately, these gases were removed from the generator before their curie content was accurately determined.

Institutional Response

Various organizations including the licensee, State and local governments, NRC, and other Federal agencies responded to the event at Ginna.

The licensee had primary responsibility for resolving the conditions that existed at the plant. Prescribed initial notifications to the NRC and to authorities of the State and local counties were completed very early in the event, and interaction throughout the event occurred among all the participants.

The Nuclear Regulatory Commission, using the resources of the Senior Resident Inspector, the Region I Base and Site Teams, and the Headquarters Executive and Analytical Teams, monitored the licensee's actions in response to the event to assure that these actions were correct and appropriate.

The State of New York and Wayne and Monroe Counties were promptly notified by the licensee. They responded by activating their Emergency Operations Centers and by sending representatives to the site. Monroe County also fielded off-site radiological monitoring teams and reported results back to the Emergency Operations Center throughout the day. Twice during the first day of the event, the Governor of New York was briefed by the Chairman of the NRC on the status of the event.

The Federal Emergency Management Agency (FEMA) was notified of the event by NRC. FEMA then coordinated the Federal agency nontechnical response, both from their Headquarters and from their Region II facility in New York City. Agencies contacted by FEMA were: The U.S. Department of Agriculture, the Department of Energy, the Coast Guard, the Department of Housing and Urban Development, the Department of Transportation, the National Oceanic and Atmospheric Administration, the Environmental Protection Agency, the General Services Administration, the Department of Health and Human Services, and the Department of Defense. Each of the agencies notified was prepared to respond in accordance with the responsibilities defined in the National Radiological Emergency Preparedness/Response Plan. FEMA also kept the White House advised of developments. News media interest was very high and the event received extensive coverage.

Post-Event Activities

After the plant was placed in cold shutdown, the licensee established conditions to support the identification of the ruptured tube in the affected steam generator. On January 31, the plant staff completed purging hydrogen

and other noncondensible gases which had accumulated in the B steam generator as a result of the reactor coolant system inleakage to the waste gas system. On February 1, the plant staff completed a reactor coolant system and B steam generator drain-down procedure. No major problems were encountered.

The licensee determined by a hydrostatic test that the ruptured tube was located at row 42, column 55 (R42C55) on the hot-leg side of the steam generator. Nondestructive examinations of this tube, including eddy-current, radial profilometry, fiber optics, and visual inspections showed that the rupture was about 4 inches long and 0.7 inches wide at its center. The rupture was centered at about 5 inches above the tubesheet. The rupture was fish-mouth-shaped pointed outward along tube column 55.

TV-optics examination inside the B steam generator identified damage to additional tubes that had been plugged previously because of eddy-current indications, leakage, or their proximity to other plugged tubes. In addition, a number of foreign objects were found and removed from the secondary side of the faulted steam generator. The most significant object found was approximately pie-shaped, roughly 4.18 inches wide by 6.31 inches long by 0.5 inches thick; the object had the same appearance and metallic characteristics as part of the steam generator downcomer flow resistance plate. The latter plate had been cut into pieces and reportedly had been removed during a steam generator modification in 1975. In addition, some previously plugged tubes displayed evidence of gross mechanical damage, and at least two of these tubes were fractured and found skewed between the tube bundle and the steam generator shell. Some small foreign objects were also found in the A steam generator.

A visual examination of the ruptured tube showed evidence of classical fretting wear with transverse scoring. There was also evidence of previous oxidized wear markings. The wall thickness at the rupture point was about 5% of the original thickness and the tube appeared ballooned at the rupture location.

Cause or Causes.—Based on extensive inspections, tests, and analyses, the licensee has postulated that a large foreign object in the steam generator initiated a sequence of events which eventually led to the tube rupture. Ineffective quality control practices during steam generator modifications in 1975 and subsequent modifications resulted in foreign objects falling (and remaining undetected) into the tubesheet in the downcomer region outside the periphery of the tube bundle. The postulated failure mechanism is that foreign objects, in conjunction with normal thermal and hydraulic loadings during steam generator operation, impacted on the outermost peripheral tubes causing damage. During a later inspection, these tubes were plugged based on eddy current indications and/or small leaks. However, foreign objects continued to damage the plugged tubes until eventually some collapsed and in some cases severed. These severed, plugged tubes damaged adjacent tubes, whether plugged or unplugged. These adjacent, damaged, unplugged tubes were, in turn, plugged as a result of eddy current indications or leaks. However, the damage mechanism continued to occur until some of these tubes also became severed. Eventually, tube R42C55 was damaged by an ajdacent tube which has been plugged previously and which subsequently severed. The wear on this tube occurred relatively uniformly over several inches of length such that local penetration of the wall and small leakage did not occur before the tube became sufficiently weakened to rupture.

Actions Taken To Prevent Recurrence

Licensee.—The licensee performed extensive evaulations of the tube rupture event. A report summarizing the sequence of events, operator actions, emergency procedures, equipment performance, radiological assessment, and recommendations for future actions was submitted to the NRC by letter dated April 13, 1982. A second report, covering the steam generator inspection, evaluation, and repair program was submitted to the NRC by letter dated April 20, 1982.

The licensee identified a number of actions to be taken, both prior and after restart of the plant, to upgrade equipment and procedure deficiencies identified in the evaluation of the event. Equipment upgrading included changes to the wide-range pressure instrumentation for the reactor coolant system, letdown system isolation, reactor coolant loop subcooling meter, and pressurizer PORV air control system. Procedure changes included clarifying action statements and their bases, clarifying when certain actions can be taken, and adding guidance to resolve other deficiencies identified in responding to the tube rupture event.

The licensee's steam generator evaluation program objectives were to determine the full extent of defects, determine the tube failure mechanism(s), restore the steam generator to a condition which is safe to operate, and to obtain NRC concurrence for return to power. The extent of defects was determined by extensive eddy current inspection of tubes and fiber optics, video and visual inspections of the secondary side. The failure analysis program consisted of metallurgical examinations, analyses, and testing of damaged tube samples removed from the B steam generator. The postulated failure mechanism, based on this program, is discussed under "Cause or Causes" above. The repair program included plugging the cold leg of the ruptured tube, removing metallurgical samples of selected tubes, removing structurally degraded tube sections, removing foreign objects from both steam generators, and performing a series of inspections and tests after repairs to assure that the steam generator would be ready for return to service. After plant restart, an intermediate outage would be scheduled later to perform another set of steam generator inspections to assure that the corrective actions taken to preclude further peripheral tube defects have been successful. In addition, the licensee has installed a loose parts monitoring system on both steam generators which will help assure that any loose objects are detected in the future.

NRC.—The NRC responded to the event by activating its Incident Response Centers in Headquarters and Region I, sending a Site Team to the plant site, and coordinating with the licensee on technical support matters and with other organizations on emergency preparedness and public information matters. After the event, a Task Force was formed to gather information, assess it, and prepare a report of factual information associated with the event. The report was issued in April 1982 and is designated NUREG-0909, "NRC Report on the January 25, 1982 Steam Generator Tube Rupture at R. E. Ginna Nuclear Power Plant." The report is available through the NRC/GPO Sales Program, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 for $8.50 per printed copy. The report provides the required data base for additional detailed analysis within the NRC which could lead to further actions. The report also contains a listing and discussion of the significant findings from the investigation of the event and associated response actions.

The NRC reviewed the licensee's evaluation of the event and the proposed corrective actions. After resolution was obtained, the NRC agreed with the licensee that the plant could be restarted and taken to full

power. The reactor achieved criticality on May 25, 1982. The NRC safety evaluation allowing the plant to restart was issued in May 1982 and is designated NUREG–0916, "Safety Evaluation Report Related to the Restart of R. E. Ginna Nuclear Power Plant." The report is also available through the NRC/GPO Sales Program for $8.50 per printed copy.

Appendix: Facility Response

The sequence of events for the steam generator tube rupture incident and the associated response actions during the incident are described below. Also described are assessments of the amount of fluid released from the faulted steam generator and possible adverse effects on the pressure vessel due to the temperature transient of the reactor coolant system. This Appendix was generally extracted from the previously referenced NUREG–0909.

Prior to the tube rupture, the plant was operating at 100% power with normal operating temperature and pressure. No indications of primary-to-secondary leakage existed. On January 25, 1982, at 9:25 a.m., multiple control room alarms alerted the operators to a reactor coolant system (RCS) rapid depressurization. The air ejector radiation monitor alarm indicated to them the existence of a steam generator tube rupture; other alarms indicated the rupture was probably in the B steam generator. The operators commenced manual actions including a rapid turbine power reduction and an increase in the number and speed of the operating charging pumps. At 9:28 a.m., the continuing reactor coolant system pressure drop resulted in an automatic reactor trip and an automatic safety injection actuation causing all three high pressure safety injection pumps to start. As a result of safety injection actuation, an automatic containment isolation occurred and the operating charging pumps automatically tripped. All safety systems operated as required. Both reactor coolant pumps were manually stopped and the operators then verified that natural circulation cooling had developed in both reactor coolant system loops. The pressurizer emptied and the reactor coolant system initial depressurization reached a minimum of about 1200 psig. Briefly, during the initial depressurization transient, a small steam bubble formed in the upper head during natural circulation. This bubble subsequently collapsed as safety injection flow refilled the reactor coolant system.

Initially, operators cooled down the plant by sending steam from both steam generators to the main condenser, while they confirmed the identity of the faulted steam generator. The B steam generator was isolated at about 9:40 a.m. and natural circulation in the B loop terminated shortly thereafter. Although all sources of feedwater to the B steam generator had been isolated, its water level continued to rise because of the flow through the tube rupture (break flow). At 9:55 a.m., the narrow-range water level indicator on the B steam generator went off-scale high and subsequently the B main steam line started to fill.

At 9:57 a.m., the safety injection actuation circuitry was reset to allow the resetting of the containment isolation system. After containment isolation was reset, instrument air to the containment and, therefore, control of the air-operated valves inside containment, was restored.

At 10:07 a.m., operators attempted to equalize the pressure differential between the reactor coolant system and the B steam generator to stop the flow through the tube rupture by opening a pressurizer power operated relief valve (PORV). This PORV was operated successfully three times. During its fourth operation, the valve opened on command but when the operator placed its controls in the closed position, the valve started to close then reopened and remained in the open position. When the operator noticed that the PORV had failed to close, he manually closed its block valve to prevent the further depressurization of the reactor coolant system and further loss of coolant out of the open PORV. During these operations, the pressurizer level had risen rapidly and the level instrument was now indicating off-scale high.

Operation of the pressurizer PORV resulted in the formation of steam bubbles in the reactor vessel upper head region and in the top of the tubes in the B steam generator. The size of the bubble in the reactor vessel upper head region was estimated to be about 300 ft^3. The total bubble volume in the steam generator tubes was smaller. The growth of these steam bubbles during the depressurization of the reactor coolant system, along with increased safety injection flow, had caused the rapid filling of the pressurizer. Natural circulation in the A loop and core cooling were not adversely affected by the existence of these bubbles.

A B steam generator Code safety valve lifted and closed three times as a result of continued break flow into the B steam generator; however, the safety valve may have leaked steam starting after the first lift. At 10:38 a.m., safety injection was terminated to prevent further safety valve lifts.

AT 10:40 a.m., the condensate system was shut down to prevent further radioactive contamination of the condensate storage tanks and the condensate demineralizers. The original contamination had resulted by the dumping of steam to the condenser from the faulted B steam generator earlier in the event. To continue the plant cooldown, the operators vented the A steam generator to atmosphere using its PORV.

At about 10:52 a.m., the rupture disc on the pressurizer relief tank (PRT) burst as a result of inventory additions from three sources. A letdown line relief was the major contributor, with the pressurizer PORV and reactor coolant pump seal return line relief also adding water to the pressurizer relief tank.

At 11:07 a.m., one safety injection pump was started to provide a buffer for the anticipated drop in reactor coolant system pressure that the plant staff expected to occur as a result of the restart of the A reactor coolant pump. Again, at 11:19 a.m., a B steam generator safety valve lifted and closed; however, by this time the steam line had flooded sufficiently to cause water rather than steam to be released. At about 11:21 a.m., the A reactor coolant pump was started. The resulting coolant flow cooled and collapsed any remaining steam bubbles in the reactor vessel upper head region and the B steam generator. At about 11:37 a.m., a fifth lift of the B steam generator safety valve occurred and the safety injection pump was stopped. The safety valve closed, but apparently continued to leak water at about 100 gpm.

At 11:52 a.m., the indicated pressurizer level returned onscale as a result of the continued break flow from the reactor coolant system into the B steam generator. Because pressurizer heaters were reenergized before the restart of the A reactor coolant pump, a steam bubble had been reestablished in the pressurizer. At 12:02 p.m., normal letdown from the reactor coolant system to the chemical and volume control system was reestablished. Because the B steam generator safety valve continued to leak, the tube rupture continued to drain the reactor coolant system to the B steam generator. The rate of decrease of pressurizer level resulting from the continued flow through the break prompted the operators to restart one safety injection pump. This was done at about 12:12 p.m. This pump was intermittently run to control pressurizer level until about 12:35 p.m. The B steam generator safety valve apparently

stopped leaking at about 12:25 p.m., so the safety injection pump was not needed to control pressurizer level after this point.

At 12:27 p.m., the reactor coolant system and B steam generator pressures equalized. The operators then maintained indicated reactor coolant system pressure about 25 psi below B steam generator pressure to promote backflow through the tube break. At 6:40 p.m., the B steam generator water level returned on-scale on the narrow-range indicator. The B steam generator was then cooled by a feed-and-bleed operation with auxiliary feedwater being intermittently supplied to the B steam generator while backflow through the break was allowed to continue.

At 7:00 a.m., January 26, the residual heat removal system was placed in operation. At 6:53 p.m. the same day, the licensee declared the plant to be in a cold shutdown condition.

The rate of flow through the ruptured tube was estimated by the NRC using mathematical models and known plant system characteristics. By these estimates, the highest flow rate through the break occurred very near the onset of the rupture and was calculated to be about 760 gpm. A mass balance algorithm indicated that about 117,000 pounds of steam and water were released from the B steam generator.

The indicated temperature transient of the reactor coolant system loops was reviewed by the NRC in an attempt to determine whether the reactor vessel had experienced a significant thermal shock during the event. Using the plant parameter data available and the information known about the design of the plant, the thermal behavior of the reactor coolant system while the safety injection pumps were operating and the reactor coolant pumps were stopped was modeled. The results of calculations based on the model paralleled closely the actual transient experienced. These calculations, and later analysis completed after NUREG–0909 was issued, indicate that a significant thermal shock did not occur during this event.

Dated at Washington D. C. this 9th day of July 1982.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 82–19007 Filed 7–13–82; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Fluid Dynamics; Meeting

The ACRS Subcommittee on Fluid Dynamics will hold a meeting on July 29 and 30, 1982 at the Holiday Inn, Park Center Plaza, 282 Almaden Blvd., San Jose, CA. The Subcommittee will discuss potential safety concerns raised by a former General Electric employee, Mr. John Humphrey regarding the BWR pressure suppression containment design. The discussion will focus on the Mark III containment.

In accordance with the procedures outlined in the **Federal Register** on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions which will be closed to protect proprietary information (Sunshine Act Exemption 4). One or more closed sessions may be necessary to discuss such information. To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Thursday, July 29, 1982.—8:30 a.m. until the conclusion of business

Friday, July 30, 1982.—8:30 a.m. until the conclusion of business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, General Electric, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Paul Boehnert (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EDT.

I have determined, in accordance with subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close portions of this meeting to public attendance to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: July 9, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82–19011 Filed 7–13–82; 8:45 am]

BILLING CODE 7590–01–M

Applications for Licenses To Import; Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application", please take notice that the Nuclear Regulatory Commission has received the following application for an import license. A copy of the application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C.

A request for a hearing or a petition for leave to intervene may be filed on or before August 13, 1982. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, U.S. Nuclear Regulatory Commission and the Executive Secretary, Department of State, Washington, D.C. 20520.

The table below lists the new major import application.

Dated this 8th day of July, at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Marvin R. Peterson,

Acting Assistant Director, Export/Import and International Safeguards Office of International Programs.

FEDERAL REGISTER (IMPORT)

Name of applicant, date of application, date received, application number	Material type	Material in kilograms		End-use	Country of destination
		Total element	Total isotope		
Transnuclear, June 30, 1982, June 30, 1982, ISNM82009.	0.91% enriched uranium	22,900.00	208.39	Enriched feed for toll enriching contract UES/EU/41	From France.

[FR Doc. 82-19008 Filed 7-13-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-443, 50-444]

Public Service Co. of New Hampshire (Seabrook Station, Units 1 and 2); Issuance of Director's Decision

On February 8, 1982, Mr. Robert Backus, on behalf of the Seacoast Anti-Pollution League filed a request under 10 CFR 2.206 for an order to show cause why Construction Permit Nos. CPPR-135 and CPPR-136 should not be suspended or revoked because of an alleged lack of financial qualification of the lead applicant, Public Service Company of New Hampshire.

Effective March 31, 1982, the Commission's regulations were amended to eliminate financial qualification requirements. In light of this, I have determined not to grant the request of Mr. Backus. The reasons for this decision are set forth in a "Director's Decision under 10 CFR 2.206", which is available for inspection in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555, and in the local public document room at the Exeter Public Library, Front Street, Exeter, New Hampshire 03883. A copy of the decision will also be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c).

Dated at Bethesda, Maryland this 6th day of July 1982.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82-19009 Filed 7-13-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-311]

Public Service Electric and Gas Co., Philadelphia Electric Co., Delmarva Power and Light Co., and Atlantic City Electric Co.; Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 9 to Facility Operating License No. DPR-75, issued to Public Service Electric and Gas Company, Philadelphia Electric Company, Delmarva Power and Light Company and Atlantic City Electric Company (The licensees), which revised the license of the Salem Nuclear Generating Station, Unit No. 2 (the facility) located in Salem County, New Jersey. The amendment is effective as of the date of issuance.

The amendment revises section 2.C.(25)(h)(v) to extend the implementation date for providing a capability to continuously sample and analyze gaseous effluents from June 1, 1982 until the first refueling outage.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rule and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated May 28, 1982, (2) Amendment No. 9 to License No. DPR-75, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Salem Free Public Library, 112 West Broadway, Salem, New Jersey. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 8th day of July 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Operating Reactors Branch #1, Division of Licensing.

[FR Doc. 82-19010 Filed 7-13-82; 8:45 am]
BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 18474; SR-MSRB-81-18]

Municipal Securities Rulemaking Board; Order Approving Amended Proposed Rule Change

February 8, 1982.

The Municipal Securities rulemaking Board (the "MSRB") Suite 507, 1150 Connecticut Avenue, NW., Washington, D.C. 20036, submitted on November 4, 1981, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to amend MSRB rule G-12 dealing with uniform practice. The MSRB submitted an amendment to the proposed rule change on December 17, 1981. Rule G-12 currently provides, among other things, for procedures and standards to be used in the comparison, clearance, and settlement of inter-dealer transactions in municipal securities, including the requirements for "good delivery." The proposed rule change provides that, in addition to the current "good delivery" requirements, securities delivered must be identical to those described in the inter-dealer confirmation with respect to specific descriptive details. Such details, for example, would include the issuer's name and the interest rate and maturity on the bond. The original proposal would have required securities to be identical as to their "in whole" call provisions. The amendment to the proposed rule change deletes the "in whole" requirement and requires that all securities delivered must be identical as to any applicable call provisions.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 18250, November 10, 1981) and by

publication in the **Federal Register** (46 FR 58528, November 17, 1981). Notice of the amended proposed rule change together with its terms of substance was also given by issuance of a Commission Release (Securities Exchange Act Release No. 18370, December 23, 1981) and by publication in the **Federal Register** (46 FR 63438, December 31, 1981). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB, and, in particular, the requirements of Section 15B, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change, as amended, be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-18975 Filed 7-13-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-18870; File No. SR PHLX 82-6]

Self-Regulatory Organizations; The Philadelphia Stock Exchange, Inc.; Proposed Rule Change

Relating to Trading by Registered Options Traders. Comments requested on or before August 4, 1982. Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on June 28, 1982, the Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would delete a provision in PHLX options rules which limit to three the number of registered options traders (ROT's) in a trading crowd who may establish or increase a position. It would provide, instead, for a discretionary ability to limit the number of ROT's in a trading crowd when such limitation would serve the interests of maintaining a fair and orderly market.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statements of the Purpose of, and Statutory Basis for the Proposed Rule Change

PHLX rules currently limit the number of ROT's in a trading crowd who may establish or increase a position. This provision, which is derived from a similar equity rule of the American Stock Exchange, Inc., has been part of PHLX rules since the beginning of its options program. Experience has shown that the rule is counter-productive since, in most cases, it is believed that the presence of ROT's in the trading crowd has a positive effect on the market for the particular option. The purpose of the proposed rule change is to delete the current provision and to provide in its place a temporary limitation in those rare instances when the market in the particular option would appear to justify it.

For example, the PHLX, in connection with a tender offer for an underlying security subject to options trading, recently experienced a heavy, but balanced influx of off-floor orders to buy or sell the particular option. In this situation, it appeared that the presence of ROT's who were establishing or increasing their positions served little, if any, market-making function, and the proposed rule change would provide a mechanism for temporarily restricting such ROT's.

The proposed rule change is consistent with section 6(b)(5) of the Act which provides, in part, that the rules of the exchange be designed to facilitate transactions in securities, perfect the mechanism of a free and open market, and protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No comments on this proposed rule change have been solicited or received from members.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

On or before August 28, 1982 or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. by order approve such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, NW., Washington, D.C. (450 5th Street, NW., Washington, D.C., after July 23, 1982). Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before August 4, 1982.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 6, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-18976 Filed 7-13-82; 8:45 am]

BILLING CODE 8010-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 135
Wednesday, July 14, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, July 23, 1982.

PLACE: 2033 K Street, NW., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–1026–82 Filed 7–12–82; 1:53 pm]

BILLING CODE 6351–01–M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:45 a.m. on Friday, July 9, 1982, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider a recommendation regarding the employment of staff for the Deposit Insurance National Bank of Oklahoma City, Oklahoma City, Oklahoma, and the liquidation office for Penn Square Bank, National Association, Oklahoma City, Oklahoma.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matterr on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting pursuant to subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

Dated: July 9, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1024–82 Filed 7–12–82; 11:15 am]

BILLING CODE 6714–01–M

3

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. No. 47, Page No.—None at this Time. Date Published—None at this Time.

PLACE: Board room, sixth floor, 1700 G Street, NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202–377–6679).

CHANGES IN THE MEETING: The first four items have been withdrawn and the following two items have been added to the open portion of the Bank Board meeting scheduled Thursday, July 15, 1982.

Public Notice and Protest
Holding Company Acquisition Delegations
Net Worth Amendments
Liquidity, New Inclusions
Net Worth Amendment
Liquidity Amendments

[No. 49, July 12, 1982]

[S–1025–82 Filed 7–12–82; 12:22 pm]

BILLING CODE 6720–01–M

4

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

MEETING: Task Force on Library and Information Services to Cultural Minorities.

DATE AND TIME:

Thursday, August 5, 1982, 9 a.m. until 5 p.m.
Friday, August 6, 1982, 9 a.m. until 4:30 p.m.

PLACE: Mayflower Hotel, 1127 Connecticut Ave., NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE DISCUSSED: Final Meeting of the Task Force Review and revision of Task Force Report.

CONTACT PERSON FOR MORE INFORMATION: Christina Carr Young, Research Associate (202) 653–6252.

July 6, 1982.

Toni Carbo Bearman,

Executive Director, National Commission on Libraries and Information Science.

[S–1023–82 Filed 7–12–82; 10:07 am]

BILLING CODE7527–01–M

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NUCLEAR REGULATORY COMMISSION

DATE: Thursday, July 15, 1982 (Revised).

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE DISCUSSED: Thursday, July 15:

10:00 a.m.:
Briefing on Staff Plan for Quality Assurance (public meeting) (as announced)
3:30 p.m.:
Affirmation/Discussion Session (public meeting) (items revised)
Affirmation and/or Discussion and Vote:
a. Part 10 CFR Part 50—Proposed Rule to Clarify Applicability of License Conditions and Technical Specifications in an Emergency
b. Requirements for Emergency Response Cability
c. S–3 Policy Statement
d. Draft Policy Statement on Treatment of Psychological Stress Contentions in Proceedings Other than TMI–1 Restart
e. Draft Immediate Effectiveness Order for San Onofre 2 and 3
f. TMI–1 Psychological Impacts—Litigatior Strategy and Response to Licensee's Motion
(Items c. and d., *postponed* from July 8)

ADDITIONAL INFORMATION: Monday, July 12—Discussion of Proposed Rulemaking—Accreditation of Qualification Testing Organization *postponed* to July 20.

On July 8 the Commission voted 4–0 (Commissioner Asselstine not present) to hold July 9 on short notice the

Discussion of Clinch River Breeder Reactor Schedule.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Walter Magee,
Office of the Secretary
July 9, 1982.
[S–1022–82 Filed 7–9–82; 4:14 pm]
BILLING CODE 7590–01–M

federal register

Wednesday
July 14, 1982

Part II

Office of Management and Budget

Budget Rescissions and Deferrals; Cumulative Report

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

July 1, 1982.

This report is submitted in fulfillment of the requirements of section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93–344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of July 1, 1982 of twenty-seven rescission proposals and 251 deferrals contained in the first fourteen messages of FY 1982. These messages were transmitted to the Congress on October 1, 20, 23, and 29, and November 6, and 13, 1981, January 22, February 8, and 19, March 18, April 23, May 18, June 3, and 23, 1982.

Rescissions (Table A and Attachment A)

Twenty-seven rescission proposals totaling $7,496.8 million are currently pending before the Congress. Table A summarizes the status of rescissions proposed by the President as of July 1, 1982 while Attachment A shows the history and status of each rescission proposed during FY 1982.

Deferral (Table B and Attachment B)

As of July 1, 1982, $2,586.4 million in 1982 budget authority was being deferred from obligation and another $2.1 million in 1982 obligations was being deferred from expenditure. Attachment B shows the history and status of each deferral reported during FY 1982.

Information From Special Messages

The special messages containing information on the rescissions and the deferrals covered by the cumulative report are printed in the **Federal Register** of:

Vol. 46, No. 194, FR p. 49793, Wednesday, October 7, 1981
Vol. 46, No. 206, FR p. 52289, Monday, October 26, 1981
Vol. 46, No. 210, FR p. 54259, Friday, October 30, 1981
Vol. 46, No. 212, FR p. 54691, Tuesday, November 3, 1981
Vol. 46, No. 218, FR p. 55905, Thursday, November 12, 1981
Vol. 46, No. 223, FR p. 57019, Thursday, November 19, 1981
Vol. 47, No. 18, FR p. 4021, Wednesday, January 27, 1982
Vol. 47, No. 28, FR p. 6193, Wednesday, February 10, 1982
Vol. 47, No. 37, FR p. 8145, Wednesday, February 24, 1982
Vol. 47, No. 57, FR p. 12751, Wednesday, March 24, 1982
Vol. 47, No. 82, FR p. 18301, Wednesday, April 28, 1982
Vol. 47, No. 100, FR p. 22483, Monday, May 24, 1982
Vol. 47, No. 110, FR p. 24992, Thursday, June 8, 1982
Vol. 47, No. 127, FR p. 28891, Thursday, July 1, 1982

David A. Stockman,
Director.

BILLING CODE 3110-01-M

TABLE A

STATUS OF 1982 RESCISSIONS

	Amount (In millions of dollars)
Rescissions proposed by the President	$ 7,584.9
Accepted by the Congress	-0-
Rejected by the Congress	88.2
Pending before the Congress	$ 7,496.7 a.

* *

TABLE B

STATUS OF 1982 DEFERRALS

	Amount (In millions of dollars)*
Deferrals proposed by the President	$ 8,138.9
Routine Executive releases (-$5,302.9 million) and adjustments ($46.9 million) through July 1, 1982.	-5,256.0
Overturned by the Congress	-294.3
Currently before the Congress	$ 2,588.5 b.

a. This amount includes $20.5 million in FY 1983 funds (R82-3).

b. This amount includes $2.1 million in outlays for a Department of the Treasury deferral (D82-23A).

* Detail does not add to total due to rounding.

Attachments

ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1982 — AS OF 07/06/82 14:30

AS OF JULY 1, 1982 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
FUNDS APPROPRIATED TO THE PRESIDENT							
International Development Assistance							
Functional development assistance program BA	R82- 4		8,129	2 8 82		8,129*	4 23 82
Sahel development program BA	R82- 5		2,500	2 8 82		2,500*	4 23 82
FUNDS APPROPRIATED TO THE PRESIDENT TOTAL BA			10,629			10,629	
DEPARTMENT OF AGRICULTURE							
Extension Service							
Extension service BA	R82- 6		2,000	2 8 82		2,000*	4 26 82
DEPARTMENT OF AGRICULTURE TOTAL BA			2,000			2,000	
DEPARTMENT OF COMMERCE							
National Oceanic and Atmospheric Administration							
Coastal zone management BA	R82- 7		12,000	2 8 82		12,000*	4 26 82
Coastal energy impact fund BA	R82- 8		7,000	2 8 82		7,000*	4 26 82
DEPARTMENT OF COMMERCE TOTAL BA			19,000			19,000	
DEPARTMENT OF DEFENSE - MILITARY							
Procurement							
Aircraft procurement, Air Force BA	R82- 1	65,700		10 23 81		65,700	12 14 81
Missile procurement, Air Force BA	R82- 2	22,500		10 23 81		22,500	12 14 81
DEPARTMENT OF DEFENSE - MILITARY TOTAL BA		88,200				88,200	
DEPARTMENT OF EDUCATION							
Office of Elementary and Secondary Education							
Compensatory education for the disadvantaged BA	R82- 9		411,933	2 8 82		411,933*	4 26 82
Special programs and populations BA	R82-10		65,600	2 8 82		65,600*	4 26 82
Indian education BA	R82-11		6,255	2 8 82		6,255*	4 26 82
Office of Special Education and Rehab. Services							
Education for the handicapped BA	R82-12		258,572	2 8 82		258,572*	4 26 82

ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1982

AS OF 07/06/82 14:30

AS OF JULY 1, 1982 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
Rehabilitation services and handicapped research							
BA	R82-13		91,171	2 8 82		91,171 *	4 26 82
Office of Vocational and Adult Education							
Vocational and adult education							
[illegible]	R82-14		105,741	2 8 82		105,741 *	4 26 [illegible]
Office of Postsecondary Education							
Student financial assistance							
[illegible]	R82-15		141,500	2 8 82		141,500 *	4 26 82
Higher and continuing education							
BA	R82-16		42,739	2 8 82		42,739 *	4 26 82
Office of Educational Research and Improvement							
Libraries							
BA	R82-17		22,110	2 8 82		22,110 *	4 26 82
Departmental management							
Educ res. & train. overseas (spec. for. curr.)							
[illegible]	R82-18		80	2 8 82		80 *	4 26 82
Office of Bilingual Educ & Minority Lang Affairs							
Bilingual education							
BA	R82-19		11,504	2 8 82		11,504 *	4 26 82
DEPARTMENT OF EDUCATION TOTAL BA			1,157,205			1,157,205	
DEPARTMENT OF ENERGY							
Energy Programs							
Energy conservation							
BA	R82-20		20,000	2 8 82		20,000*	4 26 82
DEPARTMENT OF ENERGY TOTAL BA			20,000			20,000	
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT							
Housing Programs							
Subsidized housing programs							
[illegible]	R82-21		9,399,789	2 8 82		5,999,780*	4 26 82
BA	R82-21A		-3,400,000	4 23 82			
Solar Energy and Energy Conservation Bank							
Assistance for solar and conserv. improvements							
BA	R82-22		21,850	2 8 82		21,850*	4 26 82
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TOTAL BA			6,021,639			6,021,639	
DEPARTMENT OF LABOR							
Mine Safety and Health Administration							
Salaries and expenses							
BA	R82-23		4,095	2 8 82		2,095*	4 26 82
[illegible]	R82-23A		-2,000	2 19 82			
DEPARTMENT OF LABOR TOTAL BA			2,095			2,095	

ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1982 — AS OF 07/06/82 14:30

AS OF JULY 1, 1982 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
DEPARTMENT OF TRANSPORTATION							
Federal Highway Administration							
Highway-related safety grants							
BA	R82-24		9,623	2 8 82		9,623*	4 26 82
DEPARTMENT OF TRANSPORTATION TOTAL BA			9,623			9,623	
OTHER INDEPENDENT AGENCIES							
Corporation for Public Broadcasting							
Public broadcasting fund							
BA	R82- 3		20,500a	11 6 81			
National Foundation on the Arts and Humanities							
Institute of Museum Services: Program operations							
BA	R82-25		10,877	2 8 82		10,877*	4 26 82
Office of Fed. Insp. for the Alaska Nat. Gas Sys.							
Salaries and expenses							
BA	R82-27		8,000	6 23 82			
Postal Service							
Payment to the Postal Service Fund							
BA	R82-26		215,230	3 18 82			
OTHER INDEPENDENT AGENCIES TOTAL BA			254,607			10,877	
TOTAL BA		88,200	7,496,798			7,341,268	

* This item is still under consideration by the Congress, but the amounts were made available upon expiration of the 45-day clock.

a. This is a proposal to rescind FY 1983 funds.

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1982 AS OF 07/07/82 08:14

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 7-1-82
EXECUTIVE OFFICE OF THE PRESIDENT									
White House Office									
Salaries and Expenses	BA	D82 27	366		10 20 81	-366			
Special Assistance to the President									
Salaries and Expenses	BA	D82- 28	28		10 20 81	-28			
Council of Economic Advisers									
Salaries and Expenses	BA	D82- 86	32		10 23 81	-32			
Council on Envir Quality & Office of Envir Qual									
Salaries and Expenses	BA	D82- 29	9		10 20 81	-9			
Office of Policy Development									
Salaries and Expenses	BA	D82- 30	45		10 20 81	-45			
National Security Council									
Salaries and Expenses	BA	D82- 31	62		10 20 81	-62			
Office of Administration									
Salaries and expenses	BA	D82 32	139		10 20 81	-139			
OMB, Office of Fed Procurement Policy									
Salaries and expenses	BA	D82- 33	24		10 20 81	-24			
Office of Science and Technology Policy									
Salaries and expenses	BA	D82- 34	30		10 20 81	30			
Office of the U S Trade Representative									
Salaries and expenses	BA	D82- 35	78		10 20 81	-78			
EXECUTIVE OFFICE OF THE PRESIDENT TOTAL	BA		813			-813			
FUNDS APPROPRIATED TO THE PRESIDENT									
Appalachian Regional Development Programs									
Appalachian regional development programs	BA	D82- 1	15,000		10 1 81				
	BA	D82- 1A		a	1 22 82				
	BA	D82- 1B		a	2 8 82				15,000
Disaster Relief									
Disaster relief	BA	D82 158	7,000		10 29 81	-7,000			
	BA	D82 159	138,000		10 29 81	-138,000			
International Security Assistance									
Foreign military credit sales	BA	D82-222	680,000		2 8 82	-680,000			
Economic support fund	BA	D82 219	1,756,980		1 22 82	1,681,330			72,650
Military assistance	BA	D82 223	129,512		2 8 82	-101,500			28,012
FUNDS APPROPRIATED TO THE PRESIDENT TOTAL	BA		2,726,492			-2,610,830			115,662
DEPARTMENT OF AGRICULTURE									
Office of the Secretary									
Office of the Secretary	BA	D82-1GO	29		10 29 81	-29			

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1982 — AS OF 07/07/82 09:14

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 7-1-82
Agricultural Research Service								
Agricultural research service BA	D82-161	1,813		10 29 81	-1,813			
Cooperative State Research Service								
Cooperative state research service BA	D82-162	2,790		10 29 81	-2,790			
Extension Service								
Extension service BA	D82 163	1,990		10 29 81	-1,990			
National Agricultural Library								
National agricultural library BA	D82-164	93		10 29 81	-93			
Statistical Reporting Service								
Statistical reporting service BA	D82-165	[illegible]		10 29 81	-198			
Agricultural Cooperative Service								
Agricultural cooperative service BA	D82-166	39		10 29 81	-39			
Office of Internat Cooperation and Development								
Scientific activities overseas BA	D82-167	700		10 29 81	-700			
Rural Electrification Administration								
Rural electr and telephone revolving fund BA	D82-169	49,368b		10 29 81	49,368			
Foreign Assistance Programs								
Expenses, P.L. 480 BA	D82- 36	25,696		10 20 81	-25,696			
Agricultural Stabilization & Conservation Service								
Dairy and beekeeper indemnity programs BA	D82- 88	28		10 23 81	-28			
Agricultural conservation BA	D82- 87	8,600		10 23 81	-8,600			
Emergency conservation program BA	D82-168	1,400		10 29 81	-1,400			
Farmers Home Administration								
Salaries and expenses BA	D82-171	526		10 29 81	-526			
Rural housing for domestic farm labor BA	D82 173	1,750		10 29 81	1,750			
BA	D82 224	10,728		2 8 82			10,728	
Mutual and self-help housing BA	D82-174	490		10 29 [illegible]	-490			
Rural water and waste disposal BA	D82-170	8,680		10 29 81	8,680			
Rural community fire protection grants BA	D82-172	490		10 29 81	-490			
Agricultural credit insurance fund BA	D82-175	1,316		10 29 [illegible]	1,316			
Rural development insurance fund BA	D82-176	21,000		10 29 81	21,000			
Soil Conservation Sevice								
Watershed and flood prevention operations CA	D82 89	8,926		10 23 81	8,926			
BA	D82-244	8,822		6 3 82			8,122	
Animal and Plant Health Inspection Service								
Animal and plant health inspection service BA	D82- 90	4,125		10 23 81	-4,125			
Buildings and facilities BA	D82-177	236		10 29 81	236			
Agricultural Marketing Service								
Payments to States and possessions BA	D82-178	210		10 29 81	-210			

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1982 AS OF 07/07/82 09:14

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST		AMOUNT TRANSMITTED SUBSEQUENT CHANGE		DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 7-1-82
Food and Nutrition Service											
Food program administration	BA	D82-209	487				11 6 81	487			
Child nutrition programs	BA	D82-210	472				11 6 81	-472			
Special supplemental food programs (WIC)	BA	D82 211	13,831				11 6 81	-13,831			
Forest Service											
State and private forestry	BA	D82- 92	776				10 23 81	-776			
	BA	D82-179	657				10 29 81	-657			
Agricultural research	BA	D82- 91	1,348				10 23 81	-1,348			
National forest system	BA	D82- 93	12,516				10 23 81	-12,516			
	BA	D82 180	1,059				10 29 81	1,059			
Construction and land acquisition	BA	D82- 94	6,693				10 23 81	6,693			
Timber salvage sales	BA	D82 2	6,721				10 1 81				
	BA	D82 2A			561		1 22 82				7,284
Range land improvements	BA	D82 96	109				10 23 81	109			
Acquisition of lands to complete land exchanges	BA	D82 95	6				10 23 81	6			
Expenses, brush disposal	BA	D82- 3	49,319				10 1 81				
	BA	D82- 3A			8		4 23 82			948	48,401
DEPARTMENT OF AGRICULTURE TOTAL	BA		254,068		561			-178,447		-948	75,235
DEPARTMENT OF COMMERCE											
General Administration											
Participation in U S expositions	BA	D82- 4	507				10 1 81	32			475
Bureau of the Census											
Periodic censuses and programs	BA	D82 225	1,015				2 8 82				
	BA	D82 225A			a		5 18 82				1,015
Economic and Statistical Analysis											
Salaries and expenses	BA	D82 97	420				10 23 81	420			
Economic Development Administration											
Economic development assistance programs	BA	D82 98	38,855				10 23 81	-38,855			
	BA	D82-245	2,800				6 3 82				2,800
Minority Business Development Agency											
Minority business development	BA	D82 99	857				10 23 81	857			
	BA	D82 226	5,000				2 8 82				
	BA	D82-226A			5,000		5 18 82				10,000
United States Travel Service											
Salaries and expenses	BA	D82 181	287				10 29 81	287			
National Oceanic and Atmospheric Administration											
Operations, research, and facilities	BA	D82 100	12,891				10 23 81	-12,891			
Construction	BA	D82 5	2,000				10 1 81				
	BA	D82- 5A			a		1 22 82				
	BA	D82 5B			a		5 18 82				2,000
National telecom and information Admin											
Salaries and expenses	BA	D82-101	277				10 23 81	-277			

ATTACHMENT B - STATUS OF DEFERRALS FISCAL YEAR 1982 AS OF 07/07/82 09.14

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 7-1-82
DEPARTMENT OF COMMERCE TOTAL BA			64,909	5,000		53,619			16,290
DEPARTMENT OF DEFENSE MILITARY									
Procurement									
Shipbuilding and conversion, Navy	BA	D82-227	1,275,000		2 8 82				1,275,000
Military Construction									
Military construction, all services	BA	D82- 6	38,837		10 1 81				
	BA	D82- 6A		14,101	1 22 82				
	BA	D82- 6B		714,785	2 8 82	-729,537		43,250	81,436
Family Housing, Defense									
Family housing, Defense	BA	D82- 7	1,992		10 1 81	-1,992			
DEPARTMENT OF DEFENSE-MILITARY TOTAL BA			1,315,829	728,886		-731,529		43,250	1,356,436
DEPARTMENT OF DEFENSE CIVIL									
Cemeterial Expenses, Army									
Salaries and expenses	BA	D82- 37	85		10 20 81	85			
Corps of Engineers									
General investigations	BA	D82- 38	2,068		10 20 81	2,068			
Construction, general	BA	D82 39	14,284		10 20 81	14,284			
General expenses	BA	D82- 40	370		10 20 81	370			
Special recreation use fees	BA	D82- 41	59		10 20 81	59			
Soldiers and Airmen s Home									
Operation and maintenance	BA	D82 42	63		10 20 81	63			
Wildlife Conservation, Military Reservations									
Wildlife conservation, all services	BA	D82 8	597		10 1 81	8		8	
	BA	D82- 8A		433	1 22 82	22			1,008
DEPARTMENT OF DEFENSE CIVIL TOTAL BA			17,526	433		16,959		8	1,008
DEPARTMENT OF ENERGY									
Energy Programs									
Fossil energy R&D	BA	D82-105	14,769		10 23 81	-14,769			
	BA	D82 236	44,883		[redacted] 18 82		44,883		
Fossil energy construction	BA	D82- 9	135,000		10 1 81		135,000		
Gen. science & research-plant & capital	BA	D82-102	1,682		10 23 81	1,682			
Energy supply R&D-operating expenses	BA	D82-103	49,393		10 23 81	49,393			
	BA	D82 228	4,000		[redacted] 8 82				4,000
	BA	D82-228A		a	3 18 82				
Energy supply R&D-plant and capital equip.	BA	D82 104	11,949		10 23 81	-11,949			
Energy conservation	BA	D82 106	11,007		10 23 81	11,007			
Strategic Petroleum Reserve	BA	D82- 10	8,000		10 1 81				
	BA	D82- 10A		52,860	2 [redacted] 82	8,000			52,860
Energy Information Administration	BA	D82-107	2,042		10 23 81	2,042			

ATTACHMENT B - STATUS OF DEFERRALS FISCAL YEAR 1982

AS OF 07/07/82 09 14

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 7-1-82
Economic regulation									
	BA	D82 108	2,436		10 23 81	2,436			
Federal Energy Regulatory Commission									
	BA	D82 109	490		10 23 81	490			
Geothermal resources development fund									
	BA	D82 110	18		10 23 81	18			
	BA	(000)							
DEPARTMENT OF ENERGY									
TOTAL	BA		288,669	52,860		-104,786	-179,883		56,860
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Health Services Administration									
Health Services									
	BA	D82- 11	1,508		10 1 81				1,508
Indian health services									
	BA	D82-212	10,950		11 6 81	-10,950			
Centers for Disease Control									
Preventive Health Services									
	BA	D82 213	791		11 6 81	791			
Alcohol, Drug Abuse & Mental Health Administration									
Construction & renovation, St Elizabeths Hospital									
	BA	D82- 12	11,500		10 1 81				
	PA	D82- 12A		a	1 22 82				11,500
Office of Assistant Secretary for Health									
Health services management									
	BA	D82 214	1,142		11 6 81	-1,142			
Special foreign currency program									
	BA	D82 13	7,000		10 1 81				
	BA	D82- 13A		a	1 22 82				7,000
Health Care Financing Administration									
Program management									
	BA	D82 215	420		11 6 81	-420			
Social Security Administration									
Refugee assistance									
	BA	D82 13	10,000		10 20 81	-10,000			
Cuban and Haitian entrants, reception & process									
	BA	D82 44	4,900		10 20 81	-4,900			
	BA	D82- 44A		a	1 22 82				
Cuban and Haitian entrants, domestic asst									
	BA	D82- 45	37,000		10 20 81				
	BA	D82- 45A		11,398	1 22 82	-48,398			
Limitation on administrative expenses									
	BA	D82-237	9,600		3 18 82				
	BA	D82 237A		a	5 18 82				9,600
Human Development Services									
Work incentives									
	BA	D82 216	10,523		11 6 81	-10,523			
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
TOTAL	BA		105,334	11,398		87,124			29,608
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT									
Housing Programs									
Subsidized housing programs									
	BA	D82 182	79,218		10 29 81	-79,218			
Payments for operation of low income housing									
	BA	D82-183	102,452		10 29 81	-102,452			
Housing for the elderly or handicapped									
	BA	D82 111	14,294		10 23 81	-14,294			

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1982 — AS OF 07/07/82 09:14

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 7-1-82
Solar Energy and Energy Conserv. Bank								
Assist. for solar and conserv. improvements BA	D82-184	3,500		10 29 81	-3,500			
Community Planning and Development								
Community development support assistance BA	D82-112	61,589		10 23 81	61,589			
Urban development action grants BA	D82-113	8,412		10 23 81	8,412			
Rehabilitation loan fund BA	D82 185	26,959		10 29 81	26,959			
Neighborhood, Vol Assoc & Consumer Prot								
Housing counseling assistance BA	D82- 46	207		10 20 81	207			
Policy Development and Research								
Research and technology BA	D82- 47	420		10 20 81	420			
Fair Housing and Equal Opportunity								
Fair housing assistance BA	D82- 48	96		10 20 81	96			
Management and Administration								
Salaries and expenses BA	D82-186	3,590		10 29 81	-3,590			
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TOTAL BA		300,737			-300,737			
DEPARTMENT OF THE INTERIOR								
Bureau of Land Management								
Acquisition, construction and maintenance BA	D82- 49	121		10 20 81	-121			
Range improvements BA	D82-114	237		10 23 81	-237			
Bureau of Reclamation								
Loan program BA	D82 115	792		10 23 81	-792			
Construction program BA	D82-116	4,603		10 23 81	-4,603			
General investigations BA	D82 117	914		10 23 81	914			
Operations and maintenance BA	D82-118	64		10 23 81	64			
General administrative expenses BA	D82-119	353		10 23 81	353			
Office of Water Research & Technology								
Salaries and expenses BA	D82-120	600		10 23 81	600			
U S. Fish and Wildlife Service								
Resource management BA	D82 121	5,815		10 23 81	-5,815			
Construction and anadromous fish BA	D82 50	392		10 20 81	-392			
BA	D82 246	600		6 3 82			600	
Land acquisition BA	D82-247	100		6 3 82			400	
National Park Service								
Urban park and recreation grants BA	D82-125	1,400		10 23 81	1,400			
BA	D82-238	858		3 18 82			858	
Operation of the National Park Service BA	D82-122	5,216		10 23 81	5,216			
John F Kennedy Center for the Performing Arts BA	D82-124	40		10 23 81	40			

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1982 AS OF 07/07/82 08:14

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 7-1-82
Construction									
	BA	D82-123	5,207		10 23 81	-5,207			
Land and water conservation fund									
	BA	D82-126	16,256		10 23 81	-16,256			
	BA	D82- 14	30,000		10 1 81				-
	BA	D82- 14A		a	2 8 82				30,000
	BA	D82-238	2,821		3 18 82				2,821
Historic preservation fund									
	BA	D82-218	108		11 13 81	108			
	BA	D82-240	781		3 18 82				781
Geological Survey									
Surveys, investigations and research									
	BA	D82- 51	9,019		10 20 81	-9,019			
Exploration of National Petroleum Res. in Alaska									
	BA	D82- 52	80		10 20 81	-80			
Payments from proceeds, sale of water									
	BA	D82- 15	45		10 1 81				45
Office of Surface Mining Reclam. and Enforcement									
Regulation and technology									
	BA	D82- 53	1,245		10 20 81	-1,245			
Bureau of Mines									
Drainage of anthracite mines									
	BA	D82- 16	991		10 1 81				
	BA	D82- 16A			2 8 82				991
Mines and minerals									
	BA	D82- 54	2,600		10 20 81	-2,600			
Bureau of Indian Affairs									
Operation of Indian programs									
	BA	D82-127	16,607		10 23 81	-16,607			
Construction									
	BA	D82-128	148		10 23 81	-148			
Office of Territorial Affairs									
Administration of territories									
	BA	D82- 55	2,439		10 20 81	-2,439			
Trust territory of the Pacific Islands									
	BA	D82- 56	2,068		10 20 81	-2,068			
Office of the Solicitor and Office of the Secy									
Departmental management									
	BA	D82 130	414		10 23 81	-414			
Construction management									
	BA	D82 251	3,613		6 23 82				3,613
Youth conservation corps									
	BA	D82-131	2,494		10 23 81	-2,494			
DEPARTMENT OF THE INTERIOR									
TOTAL	BA		119,650			-79,541			40,109
DEPARTMENT OF JUSTICE									
General Administration									
Salaries and expenses									
	BA	D82 187	250		10 29 81	250			
	BA	D82-188	196		10 29 81	196			
United States Parole Commission									
Salaries and expenses									
	BA	D82-189	60		10 29 81	-60			
Legal Activities									
Salaries and expenses, Antitrust Division									
	BA	D82 190	81		10 29 81	-81			
Salaries and expenses, Foreign Claims Settl									
	BA	D82-191	12		10 29 81	12			
Federal Prison System									
Buildings and facilities									
	BA	D82-192	1,922		10 29 81	-1,922			
	BA	D82- 17	2,700		10 1 81				
	BA	D82 17A		a	2 8 82				
	BA	D82 17B		a	5 18 82				2,700
Office of Justice Assist., Res., and Statistics									
Law enforcement assistance									
	BA	D82 193	10,729		10 29 81	-10,729			

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1982 AS OF 07/07/82 09:14

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DEPARTMENT OF JUSTICE									
TOTAL	BA		15,950			13,250			2,700
DEPARTMENT OF LABOR									
Employment and Training Administration									
Employment and training assistance									
	BA	D82-194	407,670		10 29 81	-407,670			
	BA	D82-229	88,543		2 8 82				88,543
	BA	D82-229A		140,544	6 3 82	-140,544			
	BA	D82- 18	49,881		10 1 81	-49,881			
Occupational Safety and Health Admin.									
Salaries and expenses									
	BA	D82-195	8,500		10 29 81	8,500			
DEPARTMENT OF LABOR									
TOTAL	BA		554,594	140,544		-606,595			88,543
DEPARTMENT OF STATE									
Administration of Foreign Affairs									
Emergencies in dipl. and consular service									
	BA	D82- 58	84		10 20 81	-84			
Acquis., oper. and main. of buildings abroad									
	BA	D82- 57	514		10 20 81	-514			
International Commissions									
Salaries and expenses									
	BA	D82- 59	80		10 20 81	-80			
Construction									
	BA	D82- 60	20		10 20 81	-20			
American sections, internat. commissions									
	BA	D82 61	25		10 20 81	-25			
Other									
Emergency refugee and migration assistance fund									
	BA	D82- 19	35,043		10 1 81				
	BA	D82- 19A		100	1 22 82	-2,000			33,143
Migration and refugee assistance									
	BA	D82-241	40,000		4 23 82				40,000
	BA	D82 242	10,000		4 23 82				10,000
U.S bilateral science and technology agreements									
	BA	D82-230	1,000		2 8 82				
	BA	D82-230A		1,000	4 23 82				2,000
DEPARTMENT OF STATE									
TOTAL	BA		86,766	1,100		-2,723			85,143
DEPARTMENT OF TRANSPORTATION									
Federal Aviation Administration									
Civil supersonic aircraft development termination									
	BA	D82- 20	3,446		10 1 81	-3,400			46
Facilities & equip (Airport & airway trust fund)									
	BA	D82- 21	185,783		10 1 81				
	BA	D82- 21A		164,730	1 22 82				350,513
Federal Railroad Administration									
Commuter rail transfer									
	BA	D82-243	37,500		4 23 82				37,500
Grants to National Railroad Passenger Corp.									
	BA	D82-217	93,400		11 6 81	-12,740	-80,660		
Maritime Administration									
Ship construction									
	BA	D82-231	10,000		2 8 82				10,000
Research and Special Programs Administration									
Research and special programs									
	BA	D82-220	1,050		1 22 82				1,050
DEPARTMENT OF TRANSPORTATION									
TOTAL	BA		331,179	164,730		-16,140	-80,660		399,109

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1982 AS OF 07/07/82 09:14

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 7-1-82
DEPARTMENT OF THE TREASURY									
Office of the Secretary									
International affairs	BA	D82 196	109		10 29 81	109			
Office of Revenue Sharing									
Salaries and expenses	BA	D82 197	26		10 29 81	26			
State and local government fiscal assistance fund	BA	D82- 22	109,738		10 1 81	-6,939		751	103,550
	O	D82- 23	6,287		10 1 81				
	O	D82- 23A		14,635	3 18 82	22,776		3,937	2,083
Federal Law Enforcement Training Center									
Construction	BA	D82- 24	1,200		10 1 81				4,200
Salaries and expenses	BA	D82-198	240		10 29 81	-240			
Bureau of Government Financial Operations									
New York City loan guarantee program	BA	D82-199	16		10 29 81	16			
Chrysler Corporation loan guarantee program	BA	D82 200	23		10 29 81	23			
Bureau of Alcohol, Tobacco and Firearms									
Salaries and expenses	BA	D82-201	1,039		10 29 81	1,039			
Bureau of the Mint									
Expansion and improvements	BA	D82-132	70c		10 23 81			70	
Internal Revenue Service									
Payment where energy credit exceeds liab for tax	BA	D82 202	8		10 29 81	8			
DEPARTMENT OF THE TREASURY	TOTAL BA		115,469			8,400		681	107,750
	TOTAL O		6,287	14,635		22,776		3,937	2,083
ENVIRONMENTAL PROTECTION AGENCY									
Research and development	BA	D82 133	1,889		10 23 81	1,889			
Abatement, control and compliance	BA	D82-134	8,062		10 23 81	8,062			
Buildings and facilities	BA	D82 135	69		10 23 81	69			
Hazardous substance response trust fund	BA	D82-136	3,360		10 23 81	3,360			
	BA	0000							
ENVIRONMENTAL PROTECTION AGENCY	TOTAL BA		13,380			13,380			
NATIONAL AERONAUTICS & SPACE ADMINISTRATION									
Construction of facilities	BA	D82-137	2,800		10 23 81	-2,800			
	BA	0000							
NATIONAL AERONAUTICS & SPACE ADMINISTRATION	TOTAL BA		2,800			-2,800			

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VETERANS ADMINISTRATION									
Medical and prosthetic research	BA	D82 138	2,583		10 23 81	-2,583			
Medical admin and misc. operating expenses	BA	D82 139	921		10 23 81	-921			
Construction, major projects	BA	D82-140	91,300		10 23 81		-33,800		57,500
	BA	D82-141	7,877		10 23 81	-7,877			
Construction, minor projects	BA	D82-142	907		10 23 81	-907			
	BA	0000							
VETERANS ADMINISTRATION TOTAL	BA		103,588			-12,288	-33,800		57,500
OTHER INDEPENDENT AGENCIES									
ACTION									
Operating expenses, domestic programs	BA	D82- 62	2,896		10 20 81	-2,896			
Administrative Conference of the U S									
Salaries and expenses	BA	D82-143	16		10 23 81	-16			
Advisory Committee on Federal Pay									
Salaries and expenses	BA	D82-144	4		10 23 81	-4			
Arms Control and Disarmament Agency									
Arms control and disarmament agency	BA	D82- 63	282		10 20 81	-282			
Board for International Broadcasting									
Salaries and expenses	BA	D82 64	252		10 20 81	-252			
Grants and expenses	BA	D82-248	915		6 3 82				915
Comm for the Purchase from the Blind									
Salaries and expenses	BA	D82- 65	10		10 20 81	-10			
District of Columbia									
Loans for capital outlay	BA	D82-232	38,832		2 8 82				38,832
Equal Employment Opportunity Commission									
Salaries and expenses	BA	D82-145	3,000		10 23 81	-3,000			
Federal Emergency Management Agency									
State and local assistance	BA	D82-205	1,814		10 29 81	1,814			
National flood insurance fund	BA	D82-203	7,140		10 29 81	-7,140			
	BA	D82 204	358,860		10 29 81	-358,860			
General Services Administration									
Consumer information center	BA	D82- 68	26		10 20 81	-26			
Nat Archives & Records Service operating	BA	D82- 66	140		10 20 81	-140			

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1982

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AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 7 1-82
Federal Property Resources Service-operating								
BA	D82- 67	748		10 20 81	-748			
Automated Data & Telecom Service-operating								
BA	D82-206	120		10 29 81	-120			
Advisory Commission on Intergovt. Relations								
Salaries and expenses								
BA	D82 69	10		10 20 81	-10			
Delaware River Basin Commission								
Salaries and expenses								
BA	D82- 70	2		10 20 81	-2			
Contribution to the Del River Basin Comm								
BA	D82- 71	4		10 20 81	-4			
Interstate Commission on the Potomac River Basin								
Contrib. to Interst Comm. on Potomac Riv Basin								
BA	D82- 72	1		10 20 81	-1			
Susquehanna River Basin Commission								
Salaries and expenses								
BA	D82 73	1		10 20 81	1			
Contrib to the Susquehanna River Basin Comm								
BA	D82- 74	1		10 20 81	-1			
International Communication Agency								
Salaries & expenses								
BA	D82- 75	4,680		10 20 81	-4,680			
Center for cul and tech exch. bet east & west								
BA	D82- 76	125		10 20 81	-125			
Special foreign currency program								
BA	D82 249	700		6 3 82				700
Interstate Commerce Commission								
Salaries and expenses								
BA	D82 146	648		10 23 81	-648			
Japan U S Friendship Commission								
Japan U S Friendship Commission trust fund								
BA	D82- 77	34		10 20 81	-34			
Marine Mammal Commission								
Salaries and expenses								
BA	D82- 78	11		10 20 81	-11			
National Capital Planning Commission								
Salaries and expenses								
BA	D82-207	19		10 29 81	-19			
National Foundation on the Arts & Humanities								
Nat endowment for the arts sal & expenses								
BA	D82 147	11,208		10 23 81	-11,208			
Nat. endowment for the human : sal. and expenses								
BA	D82-208	5,892		10 29 81	-5,892			
Nat endowment for the human.. matching grants								
BA	D82-148	2,628		10 23 81	-2,628			
National Mediation Board								
Salaries and expenses								
BA	D82 79	.58		10 20 81	58			
National Science Foundation.								
Research and related activities								
BA	D82- 80	19,924		10 20 81	19,924			
Scientific activities overseas								
BA	D82 81	59		10 20 81	-59			
Science and engineering educ activities								
BA	D82- 82	2,623		10 20 81	-2,623			
Neighborhood Reinvestment Corporation								
Payment to Neighborhood Reinvest. Corp								
BA	D82- 83	181		10 20 81	181			
Pennsylvania Avenue Development Corporation								
Salaries and expenses								
BA	D82 149	15		10 23 81	-15			
Public development								
BA	D82 150	239		10 23 81	239			

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Land acquisition and development fund										
	BA	D82-151	42			10 23 81	-42			
	BA	D82- 25	30,896			10 1 81	-10,000			20,896
	BA	D82- 25A			a	2 8 82				
Railroad Retirement Board										
Milwaukee railroad restructuring, administration										
	BA	D82 250	240			6 3 82				240
Selective Service System										
Salaries and expenses										
	BA	D82- 84	192			10 20 81	192			
Small Business Administration										
Salaries and expenses										
	BA	D82-152	3,137			10 23 81	-3,137			
Business loan and investment fund										
	BA	D82-233	2,500			2 8 82				
	BA	D82-233A		2,500		5 18 82				5,000
Surety bond guarantees revolving fund										
	BA	D82 154	373			10 23 81	-373			
	BA	D82-234	3,000			2 8 82				
	BA	D82 234A			a	6 3 82				3,000
Lease guarantees revolving fund										
	BA	D82-153	67			10 23 81	67			
Smithsonian Institution										
Museum programs and related research										
	BA	D82-155	231			10 23 81	-231			
Restoration and renovation of buildings										
	BA	D82 156	145			10 23 81	145			
Motor Carrier Ratemaking Study Commission										
Salaries and Expenses										
	BA	D82- 26	150			10 1 81				150
Pres Com. for the Study of Ethical Probs in Med										
Salaries and expenses										
	BA	D82 221	262			1 22 82				262
Tennessee Valley Authority										
Tennessee Valley Authority fund										
	BA	D82 157	2,321			10 23 81	2,321			
United States Railway Association										
Payments for purchase of Conrail securities										
	BA	D82 235	84,500			2 8 82				84,500
Water Resources Council										
Water resources planning										
	BA	D82 85	42			10 20 81	-42			
OTHER INDEPENDENT AGENCIES										
	TOTAL BA		592,216	2,500			-440,221			154,495
	TOTAL BA		7,009,970	1,108,012			-5,280,182	294,343	42,991	2,586,448
	TOTAL O		6,287	14,695			22,776		3,937	2,083

a. This report was transmitted solely to reflect technical adjustments to the previous report

b Off-budget

c This deferral was reported in error Funds for this budget account were not withheld

END OF REPORT

[FR Doc. 82-19140 Filed 7-13-82; 8:45 am]

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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Slip Laws

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federal register

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Administrative Conference of United States
Fish and Wildlife Service

Air Pollution Control
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Fisheries
Indian Affairs Bureau
National Oceanic and Atmospheric Administration

Flood Insurance
Federal Emergency Management Agency

Freedom of Information
National Capital Planning Commission

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Mortgage Insurance
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Determination Under Section 301 of the Trade Act of 1974

Memorandum for the United States Trade Representative

Pursuant to Section 301(a)(2) of the Trade Act of 1974 (19 U.S.C. 2411(a)(2)), I have determined that the action described below is an appropriate and feasible response to subsidy practices of the European Economic Community (EEC) and the Government of France with respect to the export of poultry, which are alleged to be inconsistent with the Agreement on the Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade (Subsidies Code). With a view toward eliminating or reducing the harmful effects of foreign subsidies on poultry exports, I am directing the Office of the United States Trade Representative (USTR) to complete expeditiously its examination of the relationship of subsidized Brazilian poultry exports to the problems U.S. poultry exporters face in competing with subsidized poultry exports in world markets, and to seek a resolution of these problems in the most effective manner, including, as appropriate, the pursuit of dispute settlement procedures of the Subsidies Code. I am further directing USTR to report on the status of efforts to resolve this issue no later than September 30, 1982.

Statement of Reasons

The Office of the United States Trade Representative initiated an investigation under Section 301 on October 28, 1981 (46 FR 54831) on the basis of a petition filed by the National Broiler Council, et al.

The petition sets forth three basic allegations: (1) EEC export subsidies violate Article 10:1 of the Subsidies Code in that the EEC, through such subsidies, has obtained more than an equitable share of world trade in whole chickens and has displaced U.S. whole chicken exports; (2) EEC export subsidies violate Article 10:3 of the Subsidies Code in that they result in prices for whole chickens materially below U.S. prices in specific markets; and (3) EEC export subsidies threaten serious prejudice to U.S. poultry interests in violation of Article 8 of the Subsidies Code. Serious prejudice is alleged to result from the recent expansion of both the product coverage of the EEC subsidy scheme to include chicken parts, turkey and turkey parts and of the geographic coverage to include exports to the entire world except the U.S. Serious prejudice is further alleged to result from failure of the EEC subsidy scheme to limit the level of the subsidy or to discourage excess production of poultry. The petitioner further alleges that the Government of France has provided export subsidies on poultry.

With the aid of subsidies the EEC has been able to capture large segments of the world market for whole chickens. For example, the EEC now accounts for 53 percent of total exports of whole chickens to the Middle East market. Brazil, which first entered this market in 1975, now accounts for 38 percent of total exports. The U.S., as an unsubsidized supplier, has only a 6 percent share.

The U.S. held consultations with the EEC under the Subsidies Code on February 16, 1982. That consultation did not result in a resolution of the U.S. complaint. During the consultations, the EEC claimed that its subsidies on whole chickens were necessary to enable it to compete against Brazilian exports. Therefore, in order to consider the validity of the EEC assertion and

the question of Brazilian poultry exports and their effect on U.S. exports, USTR postponed further action on the EEC case under the dispute settlement provisions of the Subsidies Code.

An initial examination has disclosed that Brazil is a major exporter of whole chickens and that both the production and export of Brazilian chickens are subsidized. In light of this information, the U.S. is seriously considering expanding the scope of the current proceeding to include Brazilian practices. USTR has requested consultations with Brazil on the matter and has requested, under provisions of the Subsidies Code, additional information relating to Brazilian subsidies. USTR is also utilizing the same provisions of the Subsidies Code to obtain further information about the EEC and French subsidies which was not supplied during the February consultations.

In light of the foregoing, I am directing USTR to complete expeditiously its examination of the nature and extent of Brazilian subsidized poultry exports and their effect on U.S. poultry exporters and to proceed in the most effective manner to resolve the problem facing U.S. poultry producers in competing against subsidized poultry in third country markets. I am further directing USTR to report to me on the status of efforts to resolve this issue no later than September 30, 1982. In taking this action I recognize that the ultimate disposition of this issue has been delayed beyond the time frame contemplated under Section 301. However, it is essential that the United States, before further pursuing its international rights in this matter, has developed and thoroughly examined all information relevant to the nature and extent of subsidized poultry exports on the world market.

This determination shall be published in the **Federal Register.**

Ronald Reagan

THE WHITE HOUSE,
Washington, July 12, 1982.

[FR Doc. 19424
Filed 7-14-82; 10:11 am]
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Rules and Regulations

Federal Register
Vol. 47, No. 136
Thursday, July 15, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

1 CFR Parts 302, 305 and 310

Recommendations of the Administrative Conference

AGENCY: Administrative Conference of the United States.

ACTION: Recommendations.

SUMMARY: The Administrative Conference of the United States, at its Twenty-fourth Plenary Session, adopted five recommendations and one statement of views. The Conference also adopted amendments to its bylaw provisions governing attendance and membership. The subjects of these Conference actions are described below. Recommendations of the Administrative Conference are published in full text in the **Federal Register** upon adoption. Complete lists of Recommendations, together with the texts of those Recommendations deemed to be of continuing general interest, are published in the Code of Federal Regulations (1 CFR 304.2(a)).

DATES: These recommendations and the statement were adopted June 17–18, 1982 and issued July 9, 1982.

FOR FURTHER INFORMATION CONTACT: Richard K. Berg, General Counsel (202–254–7065).

SUPPLEMENTARY INFORMATION: The Administrative Conference of the United States was established by the Administrative Conference Act, 5 U.S.C. 571–576. The Conference studies the efficiency, adequacy and fairness of the administrative procedures used by federal agencies in carrying out administrative programs, and makes recommendations for improvements to the agencies, collectively or individually, and to the President, Congress, and the Judicial Conference of the United States (5 U.S.C. 574(1)).

The Administrative Conference of the United States at its Twenty-fourth Plenary Session, held June 17–18, 1982, amended its bylaws to strengthen the obligations of attendance by members at plenary sessions and at meetings of its committees. In addition, the previous bylaw provision that not more than ten percent of the public members can be in service beyond three consecutive terms was replaced by a four-term limit for all public members. Finally, a new class of non-voting members, senior fellows, was established. Members who have served eight or more years and former Chairmen, are eligible for appointment as senior fellows.

The Conference also adopted five recommendations and one statement of views.

Recommendation 82–1: Exemption (b)(4) of the Freedom of Information Act calls on Congress to amend the definition of confidential business information to increase the scope of the protection from disclosure that that exemption affords, and to eliminate agency discretion to disclose such information, except where the agency finds that withholding the information would injure an overriding public interest. The recommendation also requests agencies to give advance notice of the possibility of disclosure to submitters, to establish procedures for handling FOIA requests and for considering submitter's views, and for improved rights to judicial review.

Recommendation 82–2: Resolving Disputes under Federal Grant Programs enlarges on prior Conference recommendations and sets out specific procedures for agencies to use in resolving disputes under Federal grant programs expeditiously and fairly.

Recommendation 82–3: Federal Venue Provisions Applicable to Suits against the Government recommends that Congress not amend the venue statutes to make the extent of local impact determinative of proper venue, but Congress should amend such statutes to require notice to attorneys general when actions have a particular impact on their states and to allow intervenors in actions to request transfers of venue. The Conference also recommends that Congress review existing "exclusive venue" statutes individually rather than enact a provision overriding all of them.

Several members of the Conference dissent from this recommendation, and express their support for pending legislation (S. 2419) that would establish "local impact" as relevant to venue decisions. One member concurs in part on somewhat different grounds. The texts of the separate statements appear following the recommendation.

Recommendation 82–4: Procedures for Negotiating Proposed Regulations deals with a new and interesting alternative method of developing regulatory programs—negotiations between all substantially affected interests, with a view to minimizing protracted adversary proceedings and litigation. This recommendation suggests procedures for conducting such negotiations, and commends their use to agencies when particular circumstances suggest a likelihood of success.

Recommendation 82–5: Federal Regulation of Cancer-causing Chemicals suggests a comprehensive set of techniques and procedures for use by several agencies involved in the regulation of carcinogens. The recommendations are categorized into the following subject areas: priority setting; interagency coordination; chemical selection and guidelines for testing and evaluation; advisory panels; generic rulemaking; quantitative assessment of risk, and public participation.

Finally, the statement, "Views of the Administrative Conference on Proposals Pending in Congress to Amend the Informal Rulemaking Provisions of the Administrative Procedure Act," presents the views of the body on several provisions of the pending omnibus regulatory reform bills, H.R. 746, the Regulatory Procedure Act of 1982, and S. 1080, the Regulatory Reform Act.

The transcript of the discussion of these recommendations is available for public inspection at the Conference's offices, at Suite 500, 2120 L Street, NW., Washington, D.C.

List of Subjects

1 CFR Part 302

Bylaws of the Administrative Conference.

1 CFR Part 305

Freedom of Information, Administrative practice and procedure.

grants administration, Venue, Regulatory negotiation, Cancer.

1 CFR Part 310

Administrative practice and procedure, Rulemaking.

PART 302—BYLAWS OF THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

§ 302.2 [Amended]

1. Paragraph (a)(2) of 1 CFR 302.2 is revised to read as follows:

(a) * * *

(2) Each member is expected to devote personal and conscientious attention to the work of the Conference and to attend plenary sessions and committee meetings regularly. When a member has failed to attend two consecutive Conference functions, either plenary sessions, committee meetings, or both, the Chairman shall inquire into the reasons for the non-attendance. If not satisfied by such reasons, the Chairman shall: (a) In the case of a Government member, with the approval of the Council, request the head of the appointing agency to designate a member who is able to devote the necessary attention; or (b) in the case of a non-Government member, with the approval of the Council, terminate the member's appointment, provided that where the Chairman proposes to remove a non-Government member, the member first shall be entitled to submit a written statement to the Council. The foregoing does not imply that satisfying minimum attendance standards constitutes full discharge of a member's responsibilities, nor does it foreclose action by the Chairman to stimulate the fulfillment of a member's obligations.

* * * * *

2. Paragraph (b) of 1 CFR 302.2 is revised to read as follows:

* * * * *

(b) *Terms of Non-Government Members.* The terms of non-Government members, who are appointed by the Chairman with the approval of the Council, shall terminate at 2-year intervals from June 30, 1970. No non-Government members, other than senior fellows, shall at any time be in continuous service beyond four full terms.

* * * * *

3. Section 302.2 of 1 CFR is further amended by the addition of a new paragraph (e), at the end of the existing section, to read as follows:

* * * * *

(e) *Senior Fellows.* The Chairman may, with the approval of the Council, appoint persons who have served as members of the Conference for eight or more years, or former Chairmen of the Conference, to the position of senior fellow. The terms of senior fellows shall terminate at 2-year intervals from June 30, 1970. Senior fellows shall have all the privileges of members, but may not vote.

§ 302.5 [Amended]

4. (a) Paragraph (a)(1) of 1 CFR 302.5 is amended by revising the first sentence in that paragraph to read as follows:

(a) * * *

(1) Non-Government members (including senior fellows) may be deemed to be special government employees within the meaning of 18 U.S.C. 202 and subject to the provisions of §§ 201–224 of Title 18 U.S.C., in accordance with their terms * * *.

* * * * *

(b) Paragraph (a) of 1 CFR 302.6 is revised to read as follows:

§ 302.6 [Amended]

(a) *Meetings.* All sessions of the Assembly shall be open to the public. Privileges of the floor, however, extend only to members of the Conference, to senior fellows, to liaison representatives, to consultants and staff members insofar as matters on which they have been engaged are under consideration, and to persons who, prior to the commencement of the meeting have obtained the approval of the Chairman and who speak with the unanimous consent of the Assembly.

* * * * *

PART 305—RECOMMENDATIONS OF THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

5. The table of contents to Part 305 of Title 1, CFR is amended to add the following new sections:

Sec.

305.82–1 Exemption (b)(4) of the Freedom of Information Act (Recommendation No. 82–1).
305.82–2 Resolving Disputes Under Federal Grant Programs (Recommendation No. 82–2).
305.82–3 Federal Venue Provisions Applicable to Suits Against the Government (Recommendation No. 82–3).
305.82–4 Procedures for Negotiating Proposed Regulations (Recommendation No. 82–4).
305.82–5 Federal Regulation of Cancer-causing Chemicals (Recommendation No. 82–5).

6. Section 305.82–1 is added to Part 305, as follows:

§ 305.82–1 Exemption (b)(4) of the Freedom Of Information Act (Recommendation No. 82–1).

The Freedom of Information Act (FOIA) allows public access to the records of federal agencies, whether such records are generated by the agencies or obtained by the agencies from other sources, including private individuals. Large numbers of FOIA requests are made by or on behalf of commercial interests seeking to utilize the government's processes to acquire information that has been prepared at the expese of private firms and individuals and submitted to the government as part of a study or pursuant to a regulatory requirement or other government information-gathering program. Often the privately submitted government records subject to FOIA disclosure contain information which will lose value to the submitter if it is disclosed. This availability of FOIA as a tool for low-cost commercial information-gathering—or, in some instances, industrial espionage—needs to be limited.

Exemption (b)(4) of FOIA permits agencies, as a matter of discretion, to withhold trade secrets and commercial or financial information obtained from a person which is privileged or confidential. Although FOIA contains procedural safeguards and a right of judicial review for requesters of agency records, the Act is silent regarding the rights of submitters of information whose legitimate interests may be impaired as a result of public disclosure of their information. Submitters are insecure about the degree of protection their information will receive when it is in the government's possession, and agency collection of private information may be hindered due to reluctance on the part of submitters to trust that the government will not disclose valuable documents.

While the Administrative Conference strongly endorses the FOIA concept of exposure of the government's activities, the disclosure of information created by private persons involves different values. Private needs and public access desires are in conflict in this limited area of FOIA disclosures. Congress should amend exemption (b)(4), both to insure that the private rights of submitters of information are adequately protected and to provide for a more efficient decision-making process within the government for disposing of claims regarding the applicability of exemption (b)(4).

Scope of the Exemption

Information deserving protected treatment under exemption (b)(4) has four characteristics. First, it is "private" information; the records in the government's possession were created by a "person" and submitted to the government, rather than generated internally within an agency.[1] The

[1] In an instance where one government agency submits analogous information to another agency, the information should be considered "private" for these purposes. A government entity that operates in a commercial, and perhaps highly competitive, marketplace will have interests of the same kind as if it were privately owned, and should receive similar protection.

information need not be "about" the submitter—an example is a submitter's analysis of market conditions in a market where the submitter does no business—but the information must be such that it is ordinarily considered to be the "property" of the submitter, i.e., except for the government's possession, the submitter has an exclusive right to dispose of the information.

Second, the information is, in the ordinary colloquial sense, "confidential". It is held by the government in confidence and is not already in the public domain as a result of lawful disclosure by the government or by others, nor is it required by law to be made public.

Third, the information will have value to the submitter that disclosure threatens to diminish. It should not be necessary for a submitter to prove that the value loss will be "substantial", or to demonstrate the precise manner in which persons receiving access to the information may use the information to cause injury to the submitter. Such requirements impose unreasonable burdens upon submitters, strain the capacity of the decision-making process, and do not produce predictable results. It should be enough that the submitter have a valuable interest in the information, and that disclosure may reasonably be expected to impair that interest. In this respect, due regard should be given both to the probability and to the magnitude of impairment; thus the greater the harm potentially resulting from disclosure, the less need a showing be made of the certainty of occurrence of the harm, and vice versa.

In addition to the traditional "commercial" and "financial" interests that may be jeopardized by the disclosure of confidential information, "business" information—a bit of commercially relevant information which alone appears insignificant but which, when combined with other bits, can reveal important business data—appropriately should come within exemption (b)(4). And "research" information, whether submitted by a commercial or non-commercial person, should be recognized to have value to the submitter and to be deserving of protection.

Fourth, the interests to be protected by (b)(4) must be "legitimate". The exemption should not be used to shield evidence of unlawful activities, fraud, waste, or government mismanagement. This condition is necessary to insure the availability of FOIA as an effective means of the public's oversight of government, while protecting those private interests that legitimately are not in the public domain.

Agencies currently have discretion, subject to the limitations of the Trade Secrets Act (18 U.S.C. 1905), to release a submitter's exempt (b)(4) information, even though disclosure might cause damage to the submitter. The Conference, believes, however, that valuable private information in the government's files should not be subject to release under FOIA, except where disclosure is necessary to prevent injury to an overriding public interest. This limited power of discretionary release should be exercised with caution, and agencies should conduct public interest inquiries only when a strong initial showing has been made that an adequate basis for discretionary disclosure is likely to exist.

Finally, the Conference proposes to clarify further the scope of agencies' discretion to disclose confidential information by amendment of the Trade Secrets Act to eliminate any potential conflict between the two acts and to establish FOIA as the statute controlling agency release of cofidential information to a requester.

The Decisionmaking Process

Selecting administrative and judicial processes that will provide both fair and efficient resolutions of particular controversies requires a careful examination of the institutional capabilities available for decision-making. A decision by the government whether to invoke exemption (b)(4) is not a typical agency program decision. In situations where a FOIA request involves contested (b)(4) information, agencies frequently act merely as stakeholders, and do not necessarily provide a proper forum for prompt and accurate decision-making. The matters to be decided often are outside the expertise of agency officials. For example, "impairment" of a protected interest could take the form of exposure of a secret manufacturing process, or it could be released of a consumer attitude survey that reveals the potential profitability of a new product, or it might involve disclosing the number of employees working on a particular assembly line where knowledge of the number could aid a competitor correctly to estimate manufacturing costs for the assembled product. Agency personnel most likely to be called upon to evaluate claims of exempt status will be program officials or FOIA officers, neither of which is likely to have a fundamental appreciation of the value of private information in the commercial marketplace.

The interests of requesters of information under FOIA, including possible (b)(4) information, have been and will continue to be best served by providing speedy informal agency action followed by a right of de novo judicial review of adverse agency decisions. Prudence and justice require that, when submitters become involved in a FOIA request, the procedures and standards of decision-making be the same as for cases involving requesters only.

Considering these factors, the Administrative Conference favors informal agency processes sufficient to prevent inadvertent releases of exempt material to a requester, to join the issues adequately, and, when feasible, to provide a prompt resolution of disputes, coupled with rights for both submitters and requesters to obtain de novo review in the district courts of adverse agency decisions regarding the applicability of exemption (b)(4) to requested information.

The Conference stresses the importance of considering agency procedures in tandem with the scope of judicial review. In this recommendation, the Conference has taken care to match an informal agency process—i.e., one that does not result in the creation of a detailed agency record—with an opportunity for de novo judicial review unlimited in its scope to consider the matters at issue.

However, different factors apply to an agency determination to disclose, on the ground of preventing harm to an overriding public interest, information that is unquestionably exempt under (b)(4). In such an instance, the required balancing of interests—harm caused by non-disclosure against harm caused by disclosure—is more likely to result in the creation of a reviewable record. Here an agency may consider the public use to which the information will be put, as claimed by the requester, as well as all potential private uses of all users of the information, once it is disclosed. Balancing the public's needs against individual costs in this fashion involves matters appropriately committed to an agency's determination, and the Conference recommends that the scope of judicial review of an agency decision to disclose exempt (b)(4) information be limited to whether the agency action is "arbitrary or capricious".

The Conference rejected, after careful consideration, the possibility of creating a new judicial cause of action that would permit requesters to bring suit to compel an agency to release exempt (b)(4) information. At present requesters have no right to compel disclosure of information falling within any of the FOIA exemptions, and a rule to the contrary regarding exemption (b)(4) would likely be accompanied by great confusion regarding the status of confidential information (a problem sought to be eliminated by this recommendation), and could well result in a flood of new FOIA litigation.

At the agency level, fundamental fairness requires that submitters be given notice of an intended agency release of their information whenever there is a reasonable possibility that the information is covered by exemption (b)(4). Such a notice requirement should be included within FOIA. Agency information gathering and handling procedures vary greatly, however, and the details of providing notice are more appropriately determined by individual agencies through the rulemaking process. Further, there is such a wide variation in the types of information subject to the exemption, and in the criteria appropriate to establish a claim of exempt status, that each agency should give individual consideration to techniques that will best facilitate its own disposition of determinations under the exemption.

The additional procedural protections recommended here will require that the statutory time limits in FOIA be adjusted accordingly, at least for documents involving the (b)(4) exemption. While the Conference makes no recommendation with respect to specific intervals of time, the interests of prompt agency response and government credibility will require that more realistic limits be set by Congress.

Nothing in this recommendation is intended to diminish the ability of requesters, whose rights are established independently under FOIA, to obtain access to non-exempt agency records. Requesters would remain entitled to disclosure of privately submitted agency records absent a determination that (b)(4)—or some other exemption—applies. Where an agency does not assert a claim of

exempt status for a submitter's information, the burden will be on the submitter to assert a right to exempt treatment, to demonstrate the applicability of the exemption, and to persuade the agency or judicial decision-maker that the information should not be disclosed.

RECOMMENDATION

A. Scope of the Exemption

1. Coverage. Congress should amend exemption (b)(4) of FOIA to provide that the exemption applies to confidential information submitted to the government by a person and for which disclosure may reasonably be expected to impair the legitimate commercial, financial, business, or research interests of that person. (This recommendation is not intended to affect other laws that control the disclosure of specific agency records.)

2. Discretion to Disclose. The Act should be amended to eliminate agency discretion to disclose exempt (b)(4) information to a requester, except that agencies should be permitted to disclose otherwise exempt (b)(4) information (i) when the submitter agrees to waive exempt status, or (ii) when the agency finds that to withhold the information would injure an overriding public interest. To eliminate confusion caused by the interrelation of FOIA and the Trade Secrets Act (18 U.S.C. 1905) Congress should amend the Trade Secrets Act to make clear that it does not authorize withholding under exemption (b)(3) of FOIA and does not inhibit discretionary disclosure of material under exemption (b)(4).

B. Agency Procedures

1. Notice. Congress should amend FOIA to require that, prior to a final agency decision to disclose to a requester information that may fall within exemption (b)(4), the agency provide the submitter with notice adequate to permit the submitter to object to the disclosure. This amendment should also require that agencies specify by rule those instances in which a submitter is entitled to notice, the rules to include, at a minimum, instances in which, for the particular information requested, the submitter (i) has made a prior claim of exempt (b)(4) status, or (ii) had submitted the information under a promise of confidentiality, of (b)(4) treatment, or of notice of a FOIA request. In addition, agencies should consider whether, in some instances, it would be appropriate routinely to give notice to submitters of all requests for the submitters' data, so that the agencies will always have the benefit of the submitters' opinions on the applicability of (b)(4).

2. Agency Information Handling Procedures. Agencies should encourage the use of pre-marking by submitters to aid in the identification of materials that may be subject to exemption (b)(4). Congress should amend FOIA to authorize each agency to determine, by rule, whether pre-marking should be made a pre-condition for notice of pending disclosure; such rules should be based on a consideration of the nature of information subject to (b)(4) as well as the characteristics of those who submit it. Agencies should investigate whether certain routinely collected categories of information may appropriately be designated by rule as ordinarily subject to disclosure without notice, or ordinarily subject to withholding under exemption (b)(4); an agency using categories established by rules must bear in mind that such rules, which may greatly facilitate the handling of large volumes of requests in some cases, cannot override the FOIA itself and must provide that, prior to making a final decision on disclosure, the agency will, upon specific request, review particular documents to determine their exempt status. Agencies that handle large volumes of requests for information likely to contain (b)(4) exempt material should consider establishing, by rule, the nature of substantiation that would ordinarily be required to support a claim of exempt (b)(4) status.

3. Determination of Exempt Status. Congress should amend FOIA to provide for written objections by a submitter in instances of contested (b)(4) determinations. In making determinations on the applicability of exemption (b)(4), agencies should use informal techniques, and should avoid utilizing time-consuming adversarial methods. During the decision-making process, agencies must be sensitive to the special problems of both submitters and requesters. Agency procedures must not disclose to a requester the basis of a claim of exempt status when disclosure of the basis itself would compromise the confidentiality of the information. On the other hand, agencies should bear in mind that a requester does not ordinarily have access to such information as may be necessary to challenge a submitter's claim of exempt status. In order to facilitate informal agency resolution of potential conflicts between requesters and submitters, agencies should provide that, whenever possible, a requester receive and be permitted to comment upon a submitter's written objections to release, and to be present at oral hearings, if any, on the subject, as long as this does not compromise the confidentiality of the information.

4. Discretionary Release of Exempt Information. Once information has been determined to be exempt under (b)(4), a FOIA requester desiring to obtain disclosure of the information on the ground that non-disclosure would injure an overriding public interest should bear a definite burden to demonstrate with specificity the basis for the request. A pro forma assertion of public injury due to non-disclosure should not be sufficient to trigger an agency inquiry. In considering whether to exercise its limited discretion to disclose otherwise exempt (b)(4) material, an agency appropriately may consider all potential uses to which the disclosed information may be put, and should balance any probable public harm in non-disclosure against probable harm to the submitter, the government, and others due to disclosure.

5. Final Decision to Disclose. Congress should amend FOIA to provide that a final agency decision to disclose information alleged by the submitter to be exempt under exemption (b)(4) be made by an agency official of a rank equivalent to that of the agency official authorized to deny a request for disclosure. Agencies should consider utilizing the same appeal process within the agency for submitter-contested cases as that used whenever a requester challenges a decision not to disclose.

6. Agency Implementation. Pending congressional enactment of the changes recommended herein, agencies should, to the extent permitted by law, immediately adopt all of the above proposals for improved agency procedures.

C. Judicial Review

1. Cause of Action. Congress should amend FOIA to provide that both submitters and requesters of a contested piece of (b)(4) information have a cause of action under FOIA, that each may intervene in suits brought by the other, and that opposing claims of submitter and requester can be resolved in a single forum.

2. Scope of Review. Congress should amend FOIA to provide that agency determinations regarding the applicability of exemption (b)(4) be subject to de novo consideration by the courts. Agency decisions to release exempt information to a requester, on the ground that non-disclosure would injure an overriding public interest, should be made reviewable at the instance of submitters of the information under the "arbitrary or capricious" standard in 5 U.S.C. 706(2)(A).

7. Section 305.82–2 is added to Part 305 as follows:

§ 305.82–2 Resolving Disputes Under Federal Grant Programs (Recommendation No. 82–2).

Federal grants to governments, public service institutions and other non-profit organizations have been conspicuous instruments of federal policy since the 1930s. During the past two decades the growth in the number of federal grant programs, and the level of resources distributed through grants, has evidenced the expanded influence of the federal government on the activities of these entities.

Ensuring proper conduct of federal assistance programs has assumed increasing importance as these extraordinarily varied programs have proliferated. Federal domestic grant spending, which now exceeds $100 billion annually, promotes major social goals. Grants, and the activities they assist, often are crucial to beneficiaries whom Congress intends to aid and to recipients who carry out program goals. For instance, over one-quarter of all expenditures by state and local governments now come from federal grants, and thousands of smaller institutions depend on these funds for their very existence.

Each of these grants represents an understanding on the part of the federal government and the grantee that is in the nature of a contractual commitment. The number and intensity of disputes over grants have risen in recent years, following both the increased reliance on federal grants by other institutions and a growing federal budget stringency that has decreased the generosity of federal funding and increased the rigor of audit review. These disputes run the gamut from those that involve nearly pure questions of federal policy and agency discretion to those that affect substantial grantee

expectations or involve particularized adverse determinations about individuals.

Disputes may arise initially over the making or withholding of a grant, the amount of funds committed, or the terms and conditions imposed. Once the grantee has undertaken the project, controversies may occur over what actions the grantee has been funded or authorized to take, the grantee's relationships with program beneficiaries, subgrantees, or subcontractors, and other incidents of ongoing project administration, including grantee compliance with the terms and conditions of the grant. Disputes may arise in the form of audit disallowances. Finally, an agency may choose to terminate or debar a grantee or refuse to provide continued funding based on the agency's belief about the adequacy of a grantee's performance of previous projects.

In prior recommendations, the Administrative Conference has called on all federal grantmaking agencies to adopt informal procedures for hearing and resolving complaints by the public that a recipient's administration of a grant fails to meet federal standards (Recommendations 71–9 and 74–2). While some agencies have carried out these recommendations, many still do not afford grantees or other persons affected by the operation of federal domestic grant programs any channels for impartial consideration of their complaints. Congress has provided few directives in this area, except as to a few agencies like the Departments of Education and Labor, and actual agency practices in handling grant disputes have varied considerably.

This recommendation goes beyond the Conference's prior statements to focus on the rights that agencies should provide to grantees and applicants for grant funds. Few agencies afforded grant recipients any substantial appeal rights until the mid-1970's; some still fail to do so. In recent years, several agencies have begun to create processes to resolve some types of disputes with grantees and certain types of grant applicants. Their experience indicates that these appeal procedures, while sometimes flawed, have been useful for protecting grantees' rights and for helping agencies to avert needless and troublesome litigation, improve oversight of significant administrative problems, ensure that policies are applied fairly and consistently, and make decisions on a rational, justifiable basis.

Given the importance of these programs, the nature of the interests involved, public policy factors, and considerations of fairness enunciated in recent constitutional decisions, the Administrative Conference believes that all grantmaking agencies should maintain procedures to hear appeals regarding certain kinds of agency actions. For example, grantees generally have a special interest in debarment, termination, suspension, or certain kinds of renewal or entitlement situations. Also, disputes regarding some expenditure disallowances arising from audits, or other cost and cost rate determinations, may be crucial to a grantee, requiring payback of large sums. Because of the potential significance of these types of action, and their relative infrequency, agencies should establish appeals procedures for them. On the other hand, thousands of applications for competitive discretionary grants are denied each year, and the imposition of any broad appeal hearing requirement for this type of action could be quite burdensome to some agencies.

While the variety and complexity of federal domestic grant programs (and grant disputes) ultimately renders uniform procedural prescriptions inappropriate, this recommendation sets forth some general considerations that agencies should find useful to guide them in assessing the adequacy of their present methods of resolving grant appeals. The Conference believes that an agency should have considerable latitude to tailor procedures to the characteristics of its programs and grantees, and in the great bulk of appeals agencies need not match the protections required in adjudications governed by the Administrative Procedure Act, 5 U.S.C. 554–557. The recommendation begins with, and centers on, the notion that informal action—including opportunities for conversations with relevent program officials and their superiors, mediation or ombudsman services, and similar devices—should form the core of the resolution process. Still, agencies should be aware that at least some disputes may arise, especially in post-award cases involving contested issues with substantial funds at stake, in which some kind of more formal agency review should be made available.

In making this recommendation, the Conference is aware that some agencies maintain appeal procedures which are more elaborate than those described below but provide equal or greater safeguards and protective measures. This recommendation is not intended to cast any doubt on the propriety of such procedures, or to assess the need therefor in light of specific programs or agency goals and concerns.

RECOMMENDATION

I. Scope and Intent of the Recommendations

The recommendations in Part II concern procedures for disputes involving domestic "grantees" and "vested applicants." A "grantee" may be a non-profit or community service organization, a unit of state or local government, a school, corporation or an individual who has executed a grant agreement or cooperative agreement with a federal agency. A "vested applicant" is one who is entitled by statute to receive funds, provided the applicant meets certain minimal requirements; or one who applies for a noncompetitive continuation grant, and has been designated in some manner as the service deliverer for a designated area or is operating within a designated multi-year project period. Part III deals with agency-level processes for handling complaints by disappointed applicants for discretionary grant funds. The procedures recommended herein are not intended to displace existing hearing mechanisms already required by law in some programs. They apply only to grant programs carried on primarily within the United States.

II. Complaints by Grantees and Vested Applicants

A. Informal Review and Dispute Resolution Procedures

1. Each federal grantmaking agency should provide informal procedures under which the agency may attempt to review and resolve complaints by grantees and vested applicants without resort to formal, adjudicatory procedures. The informal procedure could take several forms, including, for example, advance notice of adverse action and the reasons for the action, opportunity to meet with the federal officials involved in the dispute, review by another or higher-level agency official, or use of an ombudsman or mediator. Attempts to resolve disputes under these informal procedures should be pursued expeditiously by the agency within a definite time frame. Notwithstanding these time limits, a complainant's invocation of more formal appeal procedures should not prevent further efforts to settle, mediate, or otherwise resolve the dispute informally.

2. The existence of informal review procedures should be made known to affected grantees and vested applicants in the manner described in paragraphs 3 and 12, below. Agencies should encourage their program and decisional officials to resolve grievances informally, and provide training to improve their abilities to do so. In undertaking such training, agencies should work with those agencies that already have begun to make use of mediation and other conciliatory approaches, such as the Departmental Grant Appeals Board in the Department of Health and Human Services, and existing groups with expertise in these methods of dispute resolution.

B. Notice of Agency Action

3. Upon issuance of an agency decision which (if not appealed) represents final agency action, each grantmaking agency should provide prompt notice of its action to the affected grantee or vested applicant. If the action is adverse to a grantee or vested applicant, the agency's notice, at a minimum, should provide a brief statement of the legal or factual basis for the action; state the nature of any sanctions to be imposed; and describe any available appeal procedures, including applicable deadlines and the name and address of the agency official to be contacted in the initial stages of an appeal.

C. Administrative Appeal Procedures

4. Each federal grantmaking agency should provide the additional opportunity for some type of administrative appeal in at least certain kinds of grant-related disputes. This appeal may be conducted orally or in writing, depending on the nature of the dispute, and may be expedited where appropriate. In determining whether an administrative appeal should be afforded and the form of any such appeal for particular classes of disputes, agencies should consider the probable impact of the adverse action on the complainant, the importance of procedural safeguards to accurate decisionmaking in each class of dispute, the probable nature and complexity of the factual and legal issues, the financial and administrative

burden that would be imposed upon the agency, the need for a perception of the government's fairness in dealing with grantees and vested applicants, and the usefulness of appeal procedures to give feedback on administrative problems.

5. In light of the factors described in paragraph 4, each federal grantmaking agency should provide the opportunity for some kind of administrative appeal with regard to adverse actions involving:

a. The performance of an existing grant, including disputes involving debarment, termination, suspension, voiding of a grant agreement, cost disallowances, denials of cost authorizations, and cost rate determinations;

b. The denial of funding to applicants for entitlement grants, including disputes involving the applicant's eligibility, amount of funding to be received, and application of award criteria or pre-established review procedures; and

c. The denial of applications for noncompetitive continuation awards where the denial is for failure to comply with the terms of a previous award.

6. Where an opportunity for an administrative appeal is afforded, the agency should take into account the factors set forth in paragraph 4 and select from among the following forms of proceedings to provide the one most appropriate to the particular case:

a. Decision based on written submissions only;

b. Decision based on oral presentations;

c. Decision on written submissions plus an informal conference or oral presentation; or

d. Full evidentiary hearing.

Where a hearing or conference is useful to resolve certain issues, the agency may limit the hearing to those issues and treat remaining questions less formally. In addition, the agency should provide some form of discretionary expedited appeal process for disputes. In such proceedings, the agency may, for example, shorten time deadlines, curtail record requirements, or simplify procedures for oral or written presentations.

7. At a minimum, these administrative appeal procedures should afford grantees and vested applicants the following:

a. Written notice of the adverse decision (See paragraphs 3 and 12);

b. An impartial decisionmaker (for instance, a grant appeals board member, a high level agency official, a person from outside the agency, an administrative law judge, or certain other agency personnel from outside the program office), with authority to conduct the proceedings in a timely and orderly fashion;

c. Opportunity for the agency, complainant and any other parties to the appeal promptly to obtain information from each other, and to present and rebut significant evidence and arguments;

d. Development of a record sufficient to reflect accurately all significant factual submissions to the decisionmaker and provide a basis for a fair decision; and

e. Prompt issuance of a written decision stating briefly the underlying factual and legal basis.

8. Each federal grantmaking agency should determine in advance, and specify by rule or order, the scope of the authority delegated to the decisionmaker in administrative appeals. For example, agencies should specify in advance whether the decisionmaker has the authority to review the validity of agency regulations or the consistency of agency actions with governing statutes.

9. Agencies should accord finality to the appeal decision, unless further review is conducted promptly pursuant to narrowly drawn exceptions and in accordance with preestablished procedures, criteria and standards of review. If the decisionmaker is delegated, or asserts, authority to review the validity of agency regulations, the agency head should retain an option for prompt final review of the decision in accordance with applicable procedures.

10. Once these administrative appeal procedures are invoked, the decisionmaker should discourage all ex parte communications on the appeal unless the parties consent to such communications. Any ex parte communications that do occur should be disclosed promptly, and placed in the appeal record.

11. Agencies should encourage prompt decision of appeals by creating time limits or other guidelines for processing grant disputes, and should pay particular attention to resolving appeals over decisions regarding renewal and continuation grants in a timely manner. These timetables might be fixed generically or in accordance with the complexity of particular cases. Decisionmakers' compliance should be monitored by the agency pursuant to a regular caseload management system.

D. Public Notice

12. Grantmaking agencies should give advance notice and afford an opportunity for public comment in developing informal review and administrative appeal procedures. Agencies should ensure that available procedures are made known to grantees and vested applicants. Notice of such procedures should be published in the **Federal Register**, codified in the Code of Federal Regulations, and included in grant agreements and other appropriate documents, in addition to the individual notice described in paragraph 3.

13. Agencies should collect in a central location, and index, those written decisions made in administrative appeals. These decisions should be made available to the public except to the extent that their disclosure is prohibited by law. Whenever a grantee or vested applicant cites a previous written decision as a precedent for the agency to follow in its case, the agency should either do so, distinguish the two cases, or explain its reasons for not following the prior decision.

III. Complaints by Discretionary Grant Applicants

A. Informal Review Procedures

The Conference previously has called on agencies to develop criteria for judging discretionary grant applications and to adopt at least informal complaint mechanisms to ensure compliance with these criteria and other federal standards. (See Recommendations 71–9 and 74–2.) The Conference reiterates its belief that these procedures can benefit agency performance.

B. Public Notice

Each federal grantmaking agency should ensure that available informal review procedures and administrative appeal procedures are made known to grant applicants. Notice of such procedures should be published in the **Federal Register**, codified in the Code of Federal Regulations, and included in application materials and other appropriate documents. (See also Recommendations 71–4 and 71–9.)

IV. Implementation of Recommendation

Each federal grantmaking agency should, within one year of the adoption of this recommendation, report in writing to the Administrative Conference the steps the agency intends to take, consistent with the above guidelines, to improve its dispute resolution process.

8. Section 305.82–3 is added to Part 305 as follows:

§ 305.82–3 Federal Venue Provisions Applicable to Suits Against the Government (Recommendation No. 82–3).

(a) This recommendation responds to proposals to amend statutes that govern venue in actions against the United States, its agencies and its officials. It calls for two limited changes: (1) Amendment of the district court transfer provision, 28 U.S.C. 1404(a), to provide explicitly that intervenors may request a change of venue, and (2) addition of a provision requiring that, when an action against the Government is brought in the District Court for the District of Columbia that may have a particular impact on residents of one or more states, notice be given to the Attorney General of any such state. Otherwise, it urges rejection of proposals to make the extent of local impact determinative of proper venue.

(b) The present venue statute governing most district court actions against the United States, its officers, or agencies is 28 U.S.C. 1391(e). Section 1391(e) permits suit in any district in which (1) a defendant resides, (2) the cause of action arose, (3) real property involved in the action is situated, or (4) the plaintiff resides, if no real property is involved. Under 28 U.S.C. 1404(a) a district court may transfer any civil action to any other district where it might have been brought "[f]or the convenience of parties and witnesses, in the interest of justice * * *."

(c) The present venue requirements governing agency review proceedings in the courts of appeals are found in particular statutes, generally a section of the substantive statute under which the agency is acting. Most such statutes include the District of Columbia Circuit

as one of the available forums; some statutes designate that circuit as the exclusive forum.[3]

(d) Section 1391(e) applies to all sorts of actions, including actions for money damages. The concern of those making the current proposals is not with damage actions but with nonstatutory review proceedings, typically actions for declaratory judgments, injunctions or mandamus. More particularly their concern is with only some of those cases, often environmental cases, that involve projects, people or resources of particular states or regions.

(e) Those advocating modifications of the venue laws believe that too many of such "local" suits against the Government are heard in the courts of the District of Columbia and that the judges of those courts do not have the "feel" for local affairs that judges on the scene have. Proponents are mostly from the western states, and they emphasize how different are the arid, relatively undeveloped West and its problems from the East and its problems. They argue that the convenience of locally affected citizens and their perception that distant district judges are out of touch with local concerns should be important factors in determining venue. Therefore, they propose amending sections 1391 and 1404 to limit venue to the judicial district in which the residents would be most affected by the agency action or inaction that is the subject of the lawsuit. Similarly, they propose new statutory provisions governing court-of-appeals venue that would create new rights to obtain transfers to a circuit in which the impact of the suit is greater and would also eliminate all provisions for exclusive review in the District of Columbia Circuit.

(f) Across-the-board attempts to restrict the choice of forum presented by the current venue laws are unnecessary and unwise. The number of suits against the Government filed in the District of Columbia has not been disproportionate, and we believe that such suits have been transferred when appropriate. The current flexible venue statutes minimize threshold litigation, whereas the proposed modifications would involve costly preliminary determinations concerning the substantiality and location of impact. Many, probably most, of the cases with which the proposals are concerned are heard on agency records without the taking of testimony. Considerations of convenience to the parties (which in such cases really means counsel) and of the location of the agency record often favor venue in the District of Columbia. Changes of venue may be obtained under 28 U.S.C. 1404, which provides that transfers to an alternate forum may be obtained "for the convenience of parties and witnesses, in the interest of justice." Where the convenience of locally-based parties or witnesses is a significant consideration, or the interests of justice otherwise indicate that the case should be tried in the local jurisdiction, courts have appropriately permitted transfer. There is no suggestion that intervention is not allowed when requested. To ensure that affected persons are aware of suits filed in the District of Columbia, a simple notice requirement is all that is needed. Furthermore, to remove any doubt that intervenors may request a change of venue, explicit language to that effect can be added to 28 U.S.C. 1404.

(g) With respect to venue in the courts of appeals, the need for authoritative determinations on nationally applicable statutes or regulations may argue for exclusive review in the District of Columbia Circuit. (See Recommendation 76–4, "Judicial Review Under the Clean Air Act and Federal Water Pollution Control Act.") However, Congress should review all such existing provisions to decide on a statute-by-statute basis whether such exclusivity is warranted.

(h) There is no question that some proponents of changes in the venue laws believe that the place of hearing is likely to affect the outcome and believe further that courts of "local" districts will be more sympathetic than the courts of the District of Columbia to the local interests for which they profess to speak. No doubt, some of the opponents of such changes perceive an advantage to their interests in their ability to sue in the District of Columbia.

The Conference is aware from its consideration of the race-to-the-courthouse recommendation, No. 80–5, that lawyers do act on perceptions of advantage based on venue even within a single United States court system and a single body of federal law. The Conference cannot deny the existence or the importance of the perception of advantage to a party from the choice of one court over another. We suggest, however, that, to the extent that the concern of proponents is actually with the terms and construction of certain federal statutes, the proper objective should be the forthright amendment of the statutes, not manipulation of the law of venue in order to achieve more favorable construction.

Traditionally, one has been able to sue the Government at its seat. Indeed, it took the mandamus and venue statute of 1962, which added section 1391(e) to the Code, to provide a solid basis for suing the Government elsewhere. Perceived differences in the predilections of particular courts, which are likely to be transient if they exist at all, are not a reason for departing from our tradition.

There may be particular statutory contexts in which local considerations are so likely to predominate in a certain category of suits against the Government, that such suits should be heard in local districts. Thus, while this recommendation opposes across-the-board restrictions on venue choices, the Conference does not oppose the reexamination of the allowable venue of proceedings to review agency actions under particular statutes.

RECOMMENDATIONS

(1) Congress should not amend the statutes governing venue in district court actions against the United States, its agencies or its officials, 28 U.S.C. 1391(e), 1404(a), or the statute governing direct review of agency orders in the courts of appeals, 28 U.S.C. 2112(a), to make the extent of local impact determinative of proper venue.

(2) Congress should add a new subsection (g) to 28 U.S.C. 1391 to provide that plaintiffs filing actions in the United States District Court for the District of Columbia against the United States, its agencies or its officials that may have a particular impact on the residents of other districts be required to notify the attorneys general of the states containing such districts.

(3) Congress should amend the district court transfer provision, 28 U.S.C. 1404(a), to provide explicitly that intervenors may request a transfer.

(4) Congress should review existing statutes providing for review of federal agency orders or regulations exclusively in the District of Columbia Circuit to ensure that, in each statute, considerations of the need for authoritative determinations on nationally applicable requirements outweigh the benefits of providing litigants with a choice of forums for challenging agency action. Pending such a review, however, Congress should not enact legislation overriding all exclusive venue provisions.

[3] ACUS has previously addressed the advisability of direct review in the courts of appeals in Recommendation 75–8 ("the choice of forum for judicial review of administrative action"). Court-of-appeals venue provisions in the Clean Air Act and Federal Water Pollution Control Act were addressed in Recommendation 76–4 (national standards should be reviewed exclusively in the D.C. Circuit; rules affecting single states or facilities should be reviewed in the local circuit). "Races" to the courts of appeals were addressed in Recommendation 80–5.

Separate Statement of Members Barnes, C. M. Butler III, D'Agostino, Fowler, Hakola, Horowitz, Knapp, Matheson, Miller, Morris, Oliver, Pressly, Ross, Sasseville, Schmults, Loren A. Smith, Tidwell, Twine, Williamson, and Liaison Representative Fergenson

We oppose that portion of the recommendation which rejects local impact as a factor in determining proper venue. In our view, consideration of local impact is germane to determining the proper venue of a suit, and a motion to amend the recommendation to provide for the consideration of local impact in the transfer of venue statute (28 U.S.C. 1404(a)) failed at the plenary session by only two votes. While we disagree with the Conference's recommendation on this issue, we join in the Conference's endorsement of related legislation to require that notice be given to the attorney general of any state containing districts that may be impacted by pending litigation against the United States and to expand 28 U.S.C. 1404(a) to permit an intervenor to request a transfer.

Our belief that local impact ought to be a significant factor in locating federal litigation is grounded in the basic principle that justice is more likely to be achieved when its search is conducted close to the people most affected by the outcome of the proceedings. This is a vast country with people proud of the freedom that unites us, and possessed of a determined commitment to the uniqueness of where they live. The people in the West or the South do not want different law than the rest of the country; they do seek judgement by men and women who adjudicate as neighbors, who bring the wisdom of place and experience to their deliberations. Returning venue to judicial districts whose citizens are affected by litigation does not guarantee certain results; it does guarantee that affected citizens will more likely perceive the judicial process as fair and responsive to their interests.

During the debate supporters of the recommendation claimed to be disturbed at the renascent provincialism they linked with the venue changing proposals. We do not believe that the merit of the local impact issue should be obscured by dismissing its proponents as provincial or observing, as does the preamble, that those who favor venue changing legislation are from the "arid, relatively undeveloped West." Indeed, one could as easily speculate that those who would do all in their power to keep the locus of federal judicial decision making in the District of Columbia are motivated by "provincial" concerns such as protecting the turf of the D.C. bar which might be threatened by enactment of venue changing proposals. Rather, the issue as we see it is whether the people's opportunity to participate in and observe the litigation which will affect their lives deserves to be balanced against other interests of the parties. We think it does.

While the recommendation's preamble does not explore the substantive concerns raised above, it does hypothesize some consequences of venue changing proposals such as the possibility of added pre-trial expenses necessitated by additional venue challenges and an observation that any changes will not improve the present situation since most suits are transferred where appropriate. We disagree with these conclusions. Cases where venue did not coincide with substantial local impacts and of ones where transfer requests were denied are referred to in Senator Laxalt's and Linden Kettlewell's article "A Return to Traditional Considerations for Determining Venue," at pp. 17–18, *Venue At The Crossroads*, February 1982, National Legal Center for the Public Interest. Even an opponent of the pending S. 2419 to amend the basic venue statute—Nicholas C. Yost, also a contributor to *Venue At The Crossroads*—concedes that transfers from Washington to affected localities have been denied in some specific instances (*Id.* at p. 45).

It is also not readily apparent how venue challenges will prolong litigation or significantly increase costs. Normal pre-trial procedures can resolve venue challenges expeditiously and appeals to venue decisions must be made immediately and through writs of mandamus. Since decisions on venue under section 1404(a) are to the court's sound discretion, it would be most unusual to find many such decisions reversed.

Since the pending venue changing legislation seeks to strike a balance between considerations of substantial local impact and other "interests of justice," the recommendation's admonishment that "local impact" considerations not be determinative unfortunately fails to confront the present proposals or state of Congressional debate. In dissenting from the recommendation's failure to approve local impact as an appropriate consideration in establishing proper venue, we hope that Congress will proceed to favorable consideration of S. 2419 and the principles it advances. We believe, with the sponsors of S. 2419, that justice is well-served when it is conducted closest to those citizens substantially affected by the court's decision.

Separate Statement of R. Tenney Johnson

I join members Barnes, *et al.*, in dissenting from this recommendation as it is presently drafted, but for reasons that to some extent differ. While I agree that Congress should not amend the law to make local impact *determinative* of proper venue, I do not agree that a plaintiff should be required to notify attorneys general of states in which an action may have a particular impact. Such a requirement, because of its vague parameters, would quickly lead to giving notice to all fifty attorneys general in every case.

More importantly, I believe that local impact should be a *possible* basis for transfer of venue, just as the convenience of the parties or witnesses currently is a basis for, but not determinative of, such a transfer. In other words, the decision should still be left to the court's discretion, but the law should provide that consideration of the local nature of the action's impacts is appropriate in reaching a decision.

I cannot, on the other hand, explicitly endorse S. 2419's venue provision, since it would *prohibit* venue in the district where the defendant or plaintiff resides unless the action would substantially affect the residents of that district, and thus would not permit the balancing of local interests with other interests.

9. Section 305.82–4 is added to Part 305 as follows:

§ 305.82–4 Procedures for Negotiating Proposed Regulations (Recommendation No. 82–4).

The complexity of government regulation has increased greatly compared to that which existed when the Administrative procedure Act was enacted, and this complexity has been accompanied by a formalization of the rulemaking process beyond the brief, expeditious notice and comment procedures envisioned by section 553 of the APA. Procedures in addition to notice and comment may, in some instances, provide important safeguards against arbitrary or capricious decisions by agencies and help ensure that agencies develop sound factual bases for the exercise of the discretion entrusted them by Congress, but the increased formalization of the rulemaking process has also had adverse consequences. The participants, including the agency, tend to develop adversarial relationships with each other causing them to take extreme positions, to withhold information from one another, and to attack the legitimacy of opposing positions. Because of the adversarial relationships, participants often do not focus on creative solutions to problems, ranking of the issues involved in a rulemaking, or the important details involved in a rule. Extensive factual records are often developed beyond what is necessary. Long periods of delay result and participation in rulemaking proceedings can become needlessly expensive. Moreover, many participants perceive their roles in the rulemaking proceeding more as positioning themselves for the subsequent judicial review than as contributing to a solution on the merits at the administrative level. Finally, many participants remain dissatisfied with the policy judgments made at the outcome of rulemaking proceedings.

Participants in rulemaking rarely meet as a group with each other and with the agency to communicate their respective views so that each can react directly to the concerns and positions of the others in an effort to resolve conflicts. Experience indicates that if the parties in interest were to work together to negotiate the text of a proposed rule, they might be able in some circumstances to identify the major issues, gauge their importance to the respective parties, identify the information and data necessary to resolve the issues, and develop a rule that is acceptable to the respective interests, all within the contours of the substantive statute. For example, highly technical standards are negotiated that have extensive health, safety, and economic effects; lawsuits challenging rules are regularly settled by agreement on a negotiated rule; public law litigation involves sensitive negotiation over rule-like issues; and many environmental disputes and policies have been successfully negotiated. These experiences can be drawn upon in certain rulemaking contexts to provide procedures by which affected interests and the agency might participate directly in the development of the text of a proposed rule through negotiation and mediation.

The Federal Advisory Committee Act (FACA) has, however, dampened administrative enthusiasm for attempts to build on experience with successful negotiations. Without proposing a general revision of FACA, the Administrative Conference urges that Congress amend the Act to facilitate the use of the negotiating procedures contemplated in this recommendation.

The suggested procedures provide a mechanism by which the benefits of negotiation could be achieved while providing appropriate safeguards to ensure that affected interests have the opportunity to participate, that the resulting rule is within the discretion delegated by Congress, and that it is not arbitrary or capricious. The premise of the recommendation is that provision of opportunities and incentives to resolve issues during rulemaking, through negotiations, will result in an improved process and better rules. Such rules would likely be more acceptable to affected interests because of their participation in the negotiations. The purpose of this recommendation is to establish a supplemental rulemaking procedure that can be used in appropriate circumstances to permit the direct participation of affected interests in the development of proposed rules. This procedure should be viewed as experimental, and should be reviewed after it has been used a reasonable number of times.

RECOMMENDATION

1. Agencies should consider using regulatory negotiation, as described in this recommendation, as a means of drafting for agency consideration the text of a proposed regulation. A proposal to establish a regulatory negotiating group could be made either by the agency (for example, in an advance notice of proposed rulemaking) or by the suggestion of any interested person.

2. Congress should facilitate the regulatory negotiation process by passing legislation explicitly authorizing agencies to conduct rulemaking proceedings in the manner described in this recommendation. This authority, to the extent that it enlarges existing agency rulemaking authority, should be viewed as an experiment in improving rulemaking procedures. Accordingly, the legislation should contain a sunset provision. The legislation should provide substantial flexibility for agencies to adapt negotiation techniques to the circumstances of individual proceedings, as contemplated in this recommendation, free of the restrictions of the Federal Advisory Committee Act and any ex parte limitations. Legislation should provide that information tendered to such groups, operating in the manner proposed, should not be considered an agency record under the Freedom of Information Act.

3. In legislation authorizing regulatory negotiation, Congress should authorize agencies to designate a "convenor" to organize the negotiations in a particular proceeding. The convenor should be an individual, government agency, or private organization, neutral with respect to the regulatory policy issues under consideration. If the agency chooses an individual who is an employee of the agency itself, that person should not be associated with either the rulemaking or enforcement staff. The convenor would be responsible for (i) advising the agency as to whether, in a given proceeding, regulatory negotiation is feasible and is likely to be conducive to the fairer and more efficient conduct of the agency's regulatory program, and (ii) determining, in consultation with the agency, who should participate in the negotiations.

4. An agency considering use of regulatory negotiation should select and consult with a convenor at the earliest practicable time about the feasibility of its use. The convenor should conduct a preliminary inquiry to determine whether a regulatory negotiating group should be empanelled to develop a proposed rule relating to the particular topic. The convenor should consider the risks that negotiation procedures would increase the likelihood of a consensus proposal that would limit output, raise prices, restrict entry, or otherwise establish or support unreasonable restraints on competition. Other factors bearing on this decision include the following:

(a) The issues to be raised in the proceeding should be mature and ripe for decision. Ideally, there should be some deadline for issuing the rule, so that a decision on a rule is inevitable within a relatively fixed time frame. The agency may also impose a deadline on the negotiations.

(b) The resolution of issues should not be such as to require participants in negotiations to compromise their fundamental tenets, since it is unlikely that agreement will be reached in such circumstances. Rather, issues involving such fundamental tenets should already have been determined, or not be crucial to the resolution of the issues involved in writing the proposed regulation.

(c) The interests significantly affected should be such that individuals can be selected who will adequately represent those interests. Since negotiations cannot generally be conducted with a large number of participants, there should be a limited number of interests that will be significantly affected by the rule and therefore represented in the negotiations. A rule of thumb might be that negotiations should ordinarily involve no more than 15 participants.

(d) There should be a number of diverse issues that the participants can rank according to their own priorities and on which they might reach agreement by attempting to optimize the return to all the participants.

(e) No single interest should be able to dominate the negotiations. The agency's representative in the negotiations will not be deemed to possess this power solely by virtue of the agency's ultimate power to promulgate the final rule.

(f) The participants in the negotiations should be willing to negotiate in good faith to draft a proposed rule.

(g) The agency should be willing to designate an appropriate staff member to participate as the agency's representative, but the representative should make clear to the other participants that he or she cannot bind the agency.

5. If the convenor determines that regulatory negotiation would be appropriate, it would recommend this procedure to the agency. If the agency and the convenor agree that regulatory negotiation is appropriate, the convenor should be responsible for determining preliminarily the interests that will likely be substantially affected by a proposed rule, the individuals that will represent those interests in negotiations, the scope of issues to be addressed, and a schedule for completing the work. It will be important for potential participants to agree among themselves as to these matters, and their agreement can be facilitated by either the convenor or a possible participant conducting a preliminary inquiry among identified interests. Reasonable efforts should be made to secure a balanced group in which no interest has more than a third of the members and each representative is technically qualified to address the issues presented, or has access to qualified individuals.

6. The subject matter of the proposed regulation may be within the jurisdiction of an existing committee of a non-governmental standards writing organization that has procedures to ensure the fair representation of the respective interests and a process for determining whether the decision actually reflects a consensus among them. If such a committee exists and appears to enjoy the support and confidence of the affected interests, the convenor should consider recommending that negotiations be conducted under that committee's auspices instead of establishing an entirely new framework for negotiations. In such a case, the existing

committee could be regarded as a regulatory negotiation group for purposes of this recommendation. (Alternatively, the product of the committee could be used as the basis of a proposed regulation pursuant to Administrative Conference Recommendation 78–4.[3])

7. To ensure that the appropriate interests have been identified and have had the opportunity to be represented in the negotiating group, the agency should publish in the **Federal Register** a notice that it is contemplating developing a rule by negotiation and indicate in the notice the issues involved and the participants and interests already identified. If an additional person or interest petitions for membership or representation in the negotiating group, the convenor, in consultation with the agency, should determine (i) whether that interest would be substantially affected by the rule, (ii) if so, whether it would be represented by an individual already in the negotiating group, and (iii) whether, in any event, the petitioner should be added to the negotiating group, or whether interests can be consolidated and still provide adequate representation.

8. The agency should designate a senior official to represent it in the negotiations and should identify that official in the **Federal Register** notice.

9. It may be that, in particular proceedings, certain affected interests will require reimbursement for direct expenses to be able to participate at a level that will foster broadly-based, successful negotiations. Unlike intervenors, the negotiating group will be performing a function normally performed within the agency, and the agency should consider reimbursing the direct expenses of such participants. The agency should also provide financial or other support for the convenor and the negotiating group. Congress should clarify the authority of agencies to provide such financial resources.

10. The convenor and the agency might consider whether selection of a mediator is likely to facilitate the negotiation process. Where participants lack relevant negotiating experience, a mediator may be of significant help in making them comfortable with the process and in resolving impasses.

11. The goal of the negotiating group should be to arrive at a consensus on a proposed rule. Consensus in this context means that each interest represented in the negotiating group concurs in the result, unless all members of the group agree at the outset on another definition. Following consensus, the negotiating group should prepare a report to the agency containing its proposed rule and a concise general statement of its basis and purpose. The report should also describe the factual material on which the group relied in preparing its proposed regulation, for inclusion in the agency's record of the proceeding. The participants may, of course, be unable to reach a consensus on a proposed rule, and, in that event, they should identify in the report both the areas in which they are agreed and the areas in which consensus could not be achieved. This could serve to narrow the issues in dispute, identify information necessary to resolve issues, rank priorities, and identify potentially acceptable solutions.

12. The negotiating group should be authorized to close its meeting to the public only when necessary to protect confidential data or when, in the judgment of the participants, the likelihood of achieving consensus would be significantly enhanced.

13. The agency should publish the negotiated text of the proposed rule in its notice of proposed rulemaking. If the agency does not publish the negotiated text as a proposed rule, it should explain its reasons. The agency may wish to propose amendments or modifications to the negotiated proposed rule, but it should do so in such a manner that the public at large can identify the work of the agency and of the negotiating group.

14. The negotiating group should be afforded an opportunity to review any comments that are received in response to the notice of proposed rulemaking so that the participants can determine whether their recommendations should be modified. The final responsibility for issuing the rule would remain with the agency.

10. Section 305.82–5 is added to Part 305 as follows:

§ 305.82–5 Federal Regulations of Cancer-Causing Chemicals (Recommendation No. 82–5).

The following recommendations broadly address the procedures by which federal agencies identify, evaluate, and regulate substances that pose a potential risk of human cancer. For many years these regulatory activities have been among the most controversial engaged in by federal agencies. They implicate important health and economic values and attract the interest of groups throughout society. Some of the issues dealt with in these recommendations are not peculiar to the context of carcinogen regulation. The statutory procedures agencies follow in regulating human exposure to cancer hazards, for example, are applicable to many other environmental and health hazards. While these recommendations may thus have broader application or impact, they are based on an evaluation of agency performance in this context alone.

I. Priority Setting

Estimates of the number of chemicals that may pose a risk of human cancer describe a universe larger than government agencies can evaluate or regulate. Agency resources for scientific review and regulatory proceedings are shrinking, and the capacity of manufacturers and users of chemicals to implement costly controls is likewise limited. In these circumstances, attention should be concentrated on those chemicals that pose the greatest risks and can be controlled most economically. As agencies have increasingly recognized, accomplishing this objective requires establishment of priorities.

Priority setting should be part of any program directed at determining the health effects of chemicals, as well as of programs designed to establish exposure limits. Each regulatory agency should set its own priorities, but there is also value in interagency selection of candidates for regulation and, particularly, for further testing.

Although candidates for evaluation and regulation should be carefully selected, any ranking based on abstract criteria, however rational, will be vulnerable to new information about human exposure or health effects and to public concerns. Agencies should explain departures from established priorities, but should retain flexibility to respond to new problems.

Criteria for selecting candidates for regulation should include the extent of the hazard posed by a chemical—a function of its potency, the conditions of exposure, and the number of people exposed. The extent of the hazard can often be expressed in quantitative terms. Agencies should also consider the effectiveness and cost of alternative control measures as well as other effects of regulation. Estimates of the cost-effectiveness of regulating specific chemicals can be helpful in selecting priorities. Because of the complexity of these criteria and the continuing need to obtain additional information, selection of candidates for regulation will often be an iterative process.

Priority setting should be a public process which affords interested persons an opportunity to communicate their own views to the agency. Varied techniques exist short of rulemaking under the Administrative Procedure Act for providing such opportunities, including public meetings, use of expert advisory panels, and publication in the **Federal Register** of invitations to submit data and views. Under whatever system, preliminary rankings risk being misinterpreted as definitive judgments about the hazards of chemicals before manufacturers and users have had an opportunity to present evidence or arguments. Accordingly, agency announcements of priorities should make clear the tentative character of underlying scientific assessments and describe the

[3] Federal Agency Interaction with Private Standard-Setting Organizations in Health and Safety Regulation, 1978 ACUS Recommendations and Reports 13, 1 CFR 305.78–4.

opportunities for interested persons to supply contrary or confirmatory information.

Recommendation

1. To the extent compatible with other demands on their resources, agencies should establish and follow systems for ranking chemicals as candidates for scientific evaluation or regulation. Agencies should generally adhere to the priorities thus established, but must retain the flexibility to respond to new hazards or to public concerns about other chemicals.

2. Priority setting should be part of selecting chemicals (a) for further testing, (b) for intensive scientific and regulatory evaluation, and (c) for administrative action to limit or eliminate exposure.

3. To the extent allowed by law, priorities should be set by agencies with the objective of maximizing the net benefits to society of agency action. Thus, in setting priorities, the agency should consider the expected benefits and costs of various alternatives. Although the criteria for selecting chemicals for further testing may be different, the criteria for selecting chemicals for regulation should take account of the health hazards posed by chemicals, including the potency of the chemicals, levels of exposure, the number of people likely to be exposed, and the costs and cost-effectiveness of methods for controlling exposure, to the extent that these may be known.

4. Because agencies differ in their functions and their selection of candidates for evaluation and regulation must be coordinated with other agency programs, each agency should establish its own priorities. The several agencies responsible for regulating carcinogens should, however, periodically compare their rankings and, where feasible, coordinate their testing, evaluation, and regulatory efforts. Consultation with scientific, industrial, and public interest organizations should be encouraged.

5. Agency procedures for setting priorities should permit interested members of the public to submit information and views concerning specific candidates. Agencies should consider adopting priority-setting systems through rulemaking, but more informal methods are appropriate for ranking individual chemicals for evaluation and regulation. Any agency announcement that a product or chemical is a candidate for further evaluation or for regulation should explain both the bases of that assessment and its preliminary nature and should describe available procedures for confirming or negating its preliminary conclusions.

II. Interagency Coordination

Responsibility for regulating chemicals that pose a risk of human cancer is shared by several agencies, including most notably the Environmental Protection Agency (EPA), Occupational Safety and Health Administration (OSHA), Food and Drug Administration (FDA), and Consumer Product Safety Commission (CPSC). Only in recent years have these agencies attempted to coordinate their activities to assure consistency and enhance the benefits of regulation. While the agencies' criteria for identifying and evaluating potential carcinogens have in fact not been conflicting, their decisions have sometimes appeared difficult to reconcile, usually because of differences in legislation.

The creation of the Interagency Regulatory Liaison Group in 1977 rested on the premises that federal regulation of chemical carcinogens should proceed from common principles of scientific evaluation and should be coordinated administratively. While these premises remain valid, other mechanisms may be equally effective in assuring coordination. Opportunities for productive coordination exist in several areas: establishment of government-wide principles of scientific evaluation; agreement on test guidelines for toxicological experiments and other studies of health effects; ranking of chemicals for testing; and monitoring and enforcement of exposure controls.

The four agencies have on several recent occasions cooperated in the regulation of specific chemicals. They once assembled a central scientific working group to evaluate formaldehyde, a chemical of common interest, and they agreed on a common list of chemicals that were high priorities for coordinated regulation. Though diverse statutory procedures have sometimes discouraged joint administrative proceedings, opportunities at the preproposal stage for cooperation in evaluating health effects and performing economic analysis have not yet been fully exploited.

RECOMMENDATION

1. Interagency coordination in identifying, evaluating, and regulating potential human carcinogens should be encouraged. Effective coordination can reduce governmental costs, minimize inconsistency among the agencies, and better illuminate the economic costs of alternative control options.

2. Agencies should continue to cooperate in identifying chemicals for which further testing is needed to permit regulatory assessments. The National Toxicology Program should continue to elicit joint agency rankings of candidates for testing.

3. Regulatory agencies should collaborate with government scientific bodies, including the National Toxicology Program, National Institute of Environmental Health Sciences, and National Center for Toxicological Research, to obtain agreement on guidelines for the conduct and evaluation of toxicological tests. This effort need not result in public rulemaking to adopt test protocols, but scientists outside government should have an opportunity to contribute to the development of test guidelines. Cooperative guidelines should also be considered for short-term tests and epidemiological studies, but current guidelines should not discourage development of improved test methods.

4. To the extent permitted by statute, agencies responsible for regulating carcinogens should adhere to common criteria for evaluating and interpreting health effects data. Agencies should avoid inconsistency in their approaches to mixed scientific-policy issues, such as whether to assume a no-threshold model of carcinogenesis, whether to perform quantitative estimates of human risk, or whether to allow evidence that a chemical produces an increase in cancer in laboratory animals through mechanisms that do not suggest human risk.

5. Agencies responsible for regulating carcinogens should continue to explore joint evaluation of the potential health hazards of chemicals that are candiates for regulation by more than one agency, for instance, by use of a multi-agency advisory panel for any particular substance.

6. Agencies should explore other opportunities to collaborate before the initiation of formal administrative proceedings to regulate a chemical. These may include joint development of exposure estimates and joint preparation of economic analyses of alternative regulatory approaches.

7. Agencies should, after eliciting the views of interested persons, consider conducting joint administrative proceedings when they contemplate regulating the same chemical. Statutory diversity may, however, complicate or even preclude such proceedings.

III. Chemical Selection and Guidelines for Testing and Evaluation

The selection of chemicals for study, the design of protocols for laboratory experiments, and the establishment of

criteria for interpreting study results are important parts of the process for regulating substances that pose a risk of human cancer. These are essentially scientific functions which should not be dictated by narrow policy considerations. The important desiderate are scientific integrity and consistency.

At the same time, it remains true that much toxicological testing performed in the United States—by government laboratories and by or on behalf of private industry—is performed to aid regulatory decisionmaking. Numerous toxicological studies are performed to support marketing approval for food additives, pesticides, and pharmaceuticals. FDA and EPA have both conducted similar studies on substances within their regulatory jurisdiction. The agencies have also relied on studies commissioned by the National Cancer Institute. The NCI bioassay program has more recently fallen under the supervision of the National Toxicology Program, whose supervisory board includes representatives of the regulatory agencies. NTP currently accepts nominations of chemicals for testing from the agencies.

Under the auspices of the former Interagency Regulatory Liaison Group, the four agencies studied here (EPA, OSHA, FDA, and CPSC) actively sought agreement on joint protocols for toxicological testing and on criteria for evaluation of study results.

RECOMMENDATION

1. In conjunction with the National Toxicology Program and in consultation with scientific organizations outside government, regulatory agencies should continue efforts to develop consistent guidelines for toxicological testing. These test guidelines should reflect current scientific consensus but also awareness of the resource limitations that constrain both government and industry. The guidelines developed or espoused by the agencies should not be issued as formal regulations. Rulemaking would needlessly prolong the process of reaching agreement and formal regulations would limit the ability of agencies, producers, and testing laboratories to design protocols or adapt existing guidelines to new circumstances.

2. Agencies should adhere to similar test guidelines and similar criteria for interpreting test results. Any departure from common standards should be specifically and convincingly justified.

3. The National Toxicology Program should continue to encourage the participation of EPA, OSHA, FDA, and CPSC in its selection of chemicals for testing. It should be willing, on request, to assist agencies in their evaluation of study findings. The NTP special working group to evaluate the carcinogenicity of formaldehyde for all of the four regulatory agencies represents one promising experiment in the effort to assure consistency among the agencies.

IV. Advisory Panels

Assessment of the health risks posed by chemicals requires substantial information about their toxicity and about the conditions under which humans are exposed to them, as well as understanding of the techniques for obtaining such information. Techniques for toxicological evaluation, exposure estimation, and quantitative assessment of human risk increasingly demand state-of-the-art expertise. Evaluation of potential human carcinogens also requires impartiality in assessing the quality and interpreting the results of toxicological and epidemiological studies. In the scientific world, new research findings are customarily exposed to peer review before they become accepted as reliable. Increasingly, regulatory agencies have concluded that the data on which they rely, and the interpretations they give these data, should be subjected to peer review before becoming the bases for regulatory decisions.

Several proposals have recently been advanced to mandate and institutionalize this peer review function. Some of these proposals call for strict separation of risk assessment from the process of evaluating and selecting regulatory options. These proposals raise difficult issues respecting the design of procedures for administrative decisionmaking about chemical carcinogens. The function of assessing risk can be distinguished analytically from the choice of regulatory responses, but separating them in practice is more difficult. The close relationships among issues of toxicity, exposure, and the cost of controls makes the process of agency evaluation an interactive one. Accordingly, mechanisms for exposing agency judgments to peer review should be flexible enough to permit frequent interchange with agency policy makers.

One method that agencies have successfully used for institutionalizing peer review is consultation with expert advisory panels. These panels have taken several forms, ranging from informal working groups of agency scientists assigned to review a single chemical to standing committees of independent experts who advise on numerous candidates for regulation. Advisory panels can contribute objectivity as well as expertise to agency decisions. Their advice has sometimes prevented erroneous regulatory actions; more frequently, their role has been to illuminate complex issues and enhance the quality, and thus the credibility, of agency scientific analysis.

Advisory panels comprised in whole or in part of non-federal employees are governed by the Federal Advisory Committee Act (FACA), unless exempted by specific legislation. The FACA requires individual chartering and biennial reapproval and mandates practices that are designed to assure the balance, openness, and integrity of advisory committees. Most of these requirements are salutary, and the following recommendations endorse their observance by panels even where not formally subject to the FACA. Certain of the Act's provisions, however, have discouraged agencies from seeking outside peer review. The recommendations advanced here are intended to encourage agency resort to expert advisory panels without necessarily endorsing every requirement of the FACA. None of these recommendations should be construed as superseding either that Act, where applicable, or federal conflict of interest laws.

RECOMMENDATION

1. Peer review of experimental findings and scientific judgments is an important means of validating the technical bases of regulatory decisions concerning carcinogens. To the extent compatible with existing law, agencies should structure their decisional processes to incorporate mechanisms for scientific peer review.

2. Expert advisory panels represent one valuable means for obtaining scientific peer review of agency decisions. Advisory panels can provide information that will aid agencies in setting priorities, in evaluating scientific data prior to initiation of administrative proceedings, and in evaluating evidence submitted by interested persons during public proceedings.

3. The design, composition, and operation of an advisory panel should fit the function it is to perform; no uniform approach is optimal. A standing advisory panel, with responsibility for reviewing the scientific bases of major actions by a particular program, can contribute consistency in addition to expertise, and it provides a ready forum for agency consultation. To assure that the panel has access to relevant expertise, sub-units can be appointed to

evaluate specific chemicals or issues. An agency that lacks a standing advisory panel, however, should not forgo opportunities to create ad hoc panels to review the scientific bases of contemplated regulatory actions.

4. The role of an expert advisory panel may embrace evaluating data concerning the health effects of chemicals, interpreting those data and characterizing the chemicals' effects, and estimating the likely frequency of those effects under different exposure conditions. When an agency rejects an advisory panel's scientific judgment, it should explain the bases for that rejection. When an agency selects a regulatory approach whose bases appear inconsistent with a panel's advice, it should explain the legal, social, or other reasons that dictate or justify that choice.

5. Members of an expert advisory panel should be selected primarily for their expertise in relevant scientific fields. Qualified scientists, even if employed by the agency they are to advise, by other government agencies, or by commercial organizations, may appropriately be selected to serve on advisory panels. In the selection of panel members, attention should be given to assuring balance in scientific orientation and viewpoint. The organizational affiliations of all panel members should be a matter of public record. The financial holdings and relationships of potential panel members should be carefully screened by the appointing officials and periodically reviewed thereafter to prevent conflicts of interest. If a panel includes members who are not disinterested with respect to a particular substance, those members should not participate in the panel's discussions of that substance.

6. Advisory panels should be accessible for consultation by the appointing agency at frequent intervals and on short notice. Consultation should usually occur before any announcement of a plan to regulate a chemical. Even when the Federal Advisory Committee Act does not apply, many of its requirements represent appropriate guides for the operation of advisory panels. Referrals of issues to advisory panels and meetings of agency officials with panel members should be matters of public record. Advance public notice of panel meetings should be provided where practicable. Panels should meet in open session except when reviewing data that are entitled to confidential treatment or, unless restricted by statute, when the panel members vote to close their deliberations. All panel conclusions and recommendations should be reduced to writing and become a part of the material to be considered in any ensuing administrative proceeding.

7. Advisory panels established to evaluate scientific data for, and provide advice to, more than one agency may often be useful. Such panels can be particularly valuable in recommending chemicals for further study or testing. Where a chemical is of interest to more than one regulatory agency, a single advisory panel may be an efficient way of obtaining an independent assessment of its potential health effects. Interagency panels should be subject to the same restrictions as to composition, operation, and scope of responsibility as panels appointed to serve a single agency.

V. Generic Rulemaking

Agencies responsible for regulating potential carcinogens have attempted to develop and publish criteria for evaluating scientific data that underlie their decisions. These efforts have included informal statements of policy, proposed interpretative regulations, binding substantive standards, and interagency policy statements. The motives underlying these efforts to establish a framework for evaluating evidence concerning individual chemicals have been as diverse as the forms they have taken. One objective has been to obtain agreement among the agencies on the scientific criteria and policies that inform regulation of carcinogens. Another objective has been to improve understanding, among the public and within agency staffs, of the principles that guide agency decisions. Some agencies have also attempted to frame these principles as rules of decision in order to forestall repetitive disputes in proceedings to regulate individual chemicals.

The desirability of assuring agency adherence to common principles of scientific interpretation seems clear. Equally important is conformity of these principles with the best current understanding of the mechanisms of carcinogenesis, of toxicological and epidemiological research, and of quantitative risk assessment. Attempts to treat decisional guides as though they were binding substantive rules may conflict with the need to remain sensitive to developments in rapidly changing fields.

The efforts of individual agencies to establish criteria for identifying and evaluating potential human carcinogens have been criticized on several counts. In addition to disputing the content of agency judgments, industry critics have questioned the appropriateness of analytic frameworks that discourage individualized assessment of the capacity of chemicals to cause cancer. The duration of agency rulemaking proceedings suggests difficulty in obtaining scientific agreement in this area, but the controversy more often betrays disagreement over agency policy judgments rather than over their distillation of scientific consensus.

RECOMMENDATION

1. In appropriate cases generic rules legitimately may be the basis for summary administrative resolution of recurrent issues, provided they do not foreclose reexamination of scientific conclusions respecting carcinogenicity of particular substances. Agencies should proceed cautiously in using this technique because the complexity and uncertainty of the issues involved and continuing advances in scientific understanding of the mechanisms of human cancer impede development of binding general principles.

2. Agencies should be encouraged to develop systematic statements of the principles that they will apply in identifying, ranking, and evaluating chemicals that may pose a risk of human cancer. The systematizing process should ordinarily involve opportunity for submission of data and views by interested persons outside the agency. Whenever an agency expects to limit argument over principles that will guide decisions in proceedings to regulate individual chemicals, compliance with statutory requirements for rulemaking is essential before the principles are formulated.

3. Agency statements may appropriately address the design and interpretation of scientific studies, the measurement or estimation of human exposure, the performance of quantitative risk assessment, and the selection of regulatory responses. These statements should attempt to distinguish between elements that are intended to summarize current scientific consensus and others that represent policy judgments reached in the absence of consensus. Policy judgments are an inevitable component of regulatory decisions and, where similar issues arise recurrently, are appropriately resolved on a generic basis. But where scientific developments in the near term are likely to require modification, or where individual studies or chemicals are often likely to deviate from the "norm," they should not be framed as binding rules.

4. Many issues involved in identifying, evaluating and regulating potential carcinogens are common to all agencies

and should be resolved consistently. These issues range from the criteria for interpreting scientific studies to the selection of mathematical models for estimating human risk. Though scientific uncertainty surrounding many of these issues requires considerations of value and policy, disparate agency responses should be avoided or convincingly justified.

VI. Quantitative Assessment of Risk

Various pressures and incentives have encouraged regulatory agencies to explore methods for quantifying the risk of potential carcinogens. At the same time the use of quantitative risk assessment in making regulatory decisions has provoked fierce controversy. Industrial interests have generally urged agencies to regard quantification as an essential step in evaluating measures for controlling carcinogens. Consumer groups and labor unions, on the other hand, have cautioned against excessive reliance on techniques whose reliability remains uncertain. The agencies themselves have for some time had difficulty reaching consensus on the issue.

Criticism of quantitative risk assessment stems in part from doubts about its reliability. Reliance on animal models as qualitative predictors of human risk often may be unavoidable, and the further extraplolation from effects observed at high doses to the unmeasurable effects predicted at low doses compounds uncertainty. Critics also point to the wide range of risks at low doses predicted by different extrapolation models. A further criticism is that quantitative risk assessment can too easily be exploited to compute the dollar value implicitly assigned by regulators to human life.

Despite these criticisms, quantitative risk estimation has an appeal for both analysts and decisionmakers. Without some means of describing the magnitude of the health effects associated with exposure to a carcinogen an agency must find some other basis for deciding what controls to require. Legislation sometimes provides an answer. The Delaney Clause, for example, makes quantification of the risk of a carcinogenic food additive superfluous. Under any statute that permits or instructs the agency to weigh the costs against the health consequences of alternatives means of controlling exposure, however, a method to quantify risks has proved essential.

Quantitative risk assessment can help illuminate many of the choices that agencies confront in regulating carcinogens. Even with its uncertainties, the technique facilitates comparison of the risks posed by different substances, which can aid in establishing priorities for regulation. Similarly, quantitative risk assessment can illuminate the choice among diverse regulatory options. A common unit of measurement for evaluating the health benefits of different options can materially advance analysis of a multidimensional decision even if the measurements are unverifiable and the benefits are not converted into dollars.

RECOMMENDATION

1. Quantitative risk estimates can be valuable in setting priorities for regulation of carcinogens, comparing the human health consequences of alternative control measures, and in analyzing the costs and benefits of regulatory options. To the extent regulatory statutes allow and available data permit, agencies should attempt to estimate and describe the magnitude of the risk posed by prevailing levels of exposure to substances considered for regulation. Within the same constraints, agencies should also attempt to describe the size of the health benefits provided by measures required to reduce or eliminate human exposure.

2. Given the limitations of techniques for quantitative risk assessment and different statutory criteria for limiting or eliminating exposure, risk estimates ordinarily will be only one consideration. The weight accorded such estimates should reflect:

(a) The statutory criteria governing agency decisions;

(b) The adequacy of available data on carcinogenic potency and on the type, levels, and duration of human exposure; and

(c) The acceptance of the methods used to estimate future health effects.

3. Any description of the magnitude of the risk associated with prevailing exposures or of the estimated health benefits of exposure controls should explicitly identify:

(a) The toxicological, epidemiological, and exposure data on which it rests;

(b) The assumptions underlying any extrapolations from animals to man or from high to low exposure levels;

(c) Other assumptions about the behavior of the substance or about the characteristics of human exposure to it; and

(d) The range of uncertainty associated with the estimates.

4. Quantitative estimates of risk associated with exposure to a substance—particularly when expressed in terms of lives likely to be lost or cases of cancer likely to occur—have a power to captivate public and press attention. Such estimates should be accompanied by statements stressing their imprecision and uncertainty. When the available health effects data are seriously deficient or little is known about human exposures to a substance, the risk of misinterpretation may justify an agency decision not to attempt quantitative estimates of risk or health benefits.

VII. Public Participation

Several values are served by public participation in the regulatory process. Perhaps preeminent is the value of fairness to those who may be directly affected by government action. The "right to be heard" before government acts adversely to important private interests is well established in American administrative law. This is reflected in the Administrative Procedure Act and by most regulatory statutes.

A second purpose served by broad public participation in agency decisionmaking is avoidance of mistaken even though well intentioned judgments that rest on incomplete information. In the context of carcinogen regulation this value enjoys a high rank. Decisions concerning human exposure to potential carcinogens should rest on sound scientific and economic judgments. Estimates of risk and cost require information that agencies often lack, as well as analytical skills that are found in industry and many public interest organizations. Accordingly, agency procedures should facilitate participation by those in the private sector with relevant scientific and economic expertise.

A third important value served by public participation is balance. Agency decisions concerning environmental health hazards require government to take large chances with both human life and private business. Data are invariably inadequate and estimates of future consequences are problematical; these uncertainties simply complicate an already difficult task. Determining the appropriate level of human exposure to a substance reasonably found to cause cancer is fundamentally a normative exercise in which there are no experts. Because decisions are left to regulators with sometimes scant Congressional guidance, agency procedures should facilitate broad participation and vigorous debate to assure agency understanding of diverse viewpoints.

Finally, the opportunity to influence agency thinking, coupled with an awareness that agency procedures permit broad participation, contributes to the acceptability of agency decisions.

Public health or scientific interests may not have participated in the

regulatory process on equal footing with commercial interests. The extent to which this disparity, if it exists, is a function of lack of resources and whether it should be addressed through public funding of citizen participation are questions that transcend carcinogen regulation. The arguments for and against funding should be considered in the broader context.

RECOMMENDATION

1. In setting exposure limits for carcinogens, agencies ordinarily should follow procedures that assure opportunities for all affected interests, commercial and non-commercial alike, to submit information and views before final decisions are reached. Procedures may appropriately vary with the requirements of agency organic statutes, with the characteristics of the activity or products whose regulation is contemplated, and with the need for prompt action to limit exposure.

2. Agencies should encourage and facilitate the participation of independent experts in toxicology, epidemiology, risk and exposure estimation, and other relevant technical disciplines. A useful way of eliciting participation in the regulatory process by independent scientists is through the use of standing or ad hoc advisory panels.

3. Congress should refrain from imposing procedural requirements, such as section 701(e) of the Federal Food, Drug, and Cosmetic Act, which are so burdensome that agencies search for regulatory approaches that have the effect of precluding effective participation in their decisionmaking processes by affected interests.[4]

PART 310—MISCELLANEOUS STATEMENTS

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11. The table of contents of Part 310 of 1 CFR is amended to add the following new section:

Sec.
310.7 Views of the Administrative Conference on Proposals Pending in Congress to Amend the Informal Rulemaking Provisions of the Administrative Procedure Act.

12. Section 310.7 is added to Part 310 to read as follows:

[4] See also Administrative Conference Recommendation 71–7 (Rulemaking on a Record by the Food and Drug Administration), 2 ACUS Recommendations and Reports 42 (1973); and Recommendation 72–5 (Procedures for the Adoption of Rules of General Applicability), 2 ACUS Recommendations and Reports 66 (1973), 1 CFR 305.72–5.

§ 310.7 Views of the Administrative Conference on proposals pending in Congress to amend the informal rulemaking provisions of the Administrative Procedure Act.

The Administrative Conference has reviewed the major regulatory reform proposals pending in Congress: H.R. 746, the Regulatory Procedure Act of 1982, reported by the House Judiciary Committee on February 25, 1982, and S. 1080, the Regulatory Reform Act, passed by the Senate on March 24, 1982. These bills would substantially revise the provisions of the APA governing informal rulemaking, 5 U.S.C. 553. Our views on the following proposed revisions of section 553 are set forth below.

1. *Notice of proposed rulemaking.* The Conference believes the detailed notice requirements of amended section 553(b)(1)(F), in section 3 of the Senate bill, are unduly burdensome as general requirements in rulemaking.

The Conference recommends enactment of the provision in section 3 of the Senate bill that would amend section 553 to require publication of a new notice of proposed rulemaking and an opportunity for comment thereon, whenever the provisions of the rule the agency plans to adopt are so different from the provisions of the original proposal that the initial notice no longer fairly apprises the public of the issues ultimately to be resolved in the rulemaking.

2. *Opportunity to present comments.* The Conference has no objection to enactment of the provisions in the House and Senate bills that would establish a minimum comment period in rulemaking under section 553, provided that the "good cause" exception in section 553(b) is retained.

The Conference recommends that an opportunity for oral presentation of data and views should not be a mandatory requirement in rulemaking under section 553 even if the requirement is limited, as in the Senate and House bills, to "major" rulemakings. The Conference has recommended, in Recommendation 76–3, that in appropriate circumstances agencies should utilize oral presentations in informal rulemaking, but agencies should have discretion to decide when and to whom the presentations are made.

3. *Cross-examination.* The Conference recommends that Congress not enact the provisions in the Senate and House bills that would require cross-examination to be permitted in rulemaking under section 553, even though the bills would only require use of cross-examination as a "last resort" procedure. The Conference has previously recommended, in Recommendation 76–3, that agencies should give interested persons an opportunity to indicate issues of specific fact for which they contend cross-examination is appropriate, and that if cross-examination is permitted, it should be strictly limited as to subject and duration.

4. *The requirement of a rulemaking file.* The Conference recommends that Congress amend the APA to provide that, in rulemaking under section 553, an agency shall maintain a public rulemaking file beginning no later than the date on which the notice of proposed rulemaking is published. At a minimum, the agency should be required to place in the public rulemaking file, promptly upon receipt or production, the following materials: (1) All notices pertaining to the rulemaking, (2) copies, or where impractical a reference to or index of, all factual material upon which the agency substantially relied in formulating the proposed or final rule, unless the material is by law exempt from disclosure, (3) all written comments submitted by interested persons during the rulemaking, and (4) any other material required by statute or agency rule to be made public in connection with the rulemaking.

5. *Opportunity to comment on material in the rulemaking file.* The Senate bill provides that an agency may not substantially rely upon factual material that was not placed in the rulemaking file in time to afford the public an adequate opportunity to comment on the material. The Conference opposes enactment of a statutory provision to this effect because the practical effect of such an inflexible requirement would be to encourage nonsubstantive challenges to final agency rules. The Conference, however, does reaffirm the principle, stated in Recommendation 76–3, that agencies provide an appropriately limited additional opportunity to comment when material placed in the rulemaking file, including comments filed in the proceeding, presents new and important issues or serious conflicts of data.

6. *Statement of basis and purpose.* The Conference recommends enactment of the provisions in the House and Senate bills that would amend section 553 to add a requirement that the statement of basis and purpose accompanying a final agency rule include a response to all significant issues raised in the public comments received by the agency during the comment period established for the rulemaking.

Dated: July 9, 1982.

Richard K. Berg,

General Counsel.

[FR Doc. 82-19173 Filed 7-14-82; 8:45 am]

BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 699; Valencia Orange Reg. 698, Amdt. 1]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period July 16–22, 1982, and increases the quantity of such

oranges that may be so shipped during the period July 9–15, 1982. Such action is needed to provide for orderly marketing of fresh Valencia oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: This regulation becomes effective July 16, 1982, and the amendment is effective for the period July 9–15, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under Secretary's Memorandum 1512–1, and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona Valencia orange crop for the benefit of producers and will not substantially affect costs for the directly regulated handlers.

This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on February 5, 1982. The committee met again publicly on July 13, 1982, at Los Angeles, California, to consider the current and propective conditions of supply and demand and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for Valencia oranges is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of Valencia oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

List of subjects in 7 CFR Part 908

Agricultural Marketing Service, Marketing agreements and orders, California, Arizona, oranges (Valencia).

1. § 908.999 is added as follows:

§ 908.999 Valencia Orange Regulation 699.

The quantities of Valencia oranges grown in Arizona and California which may be handled during the period July 16, 1982, through July 22, 1982, are established as follows:

(a) District 1: 306,000 cartons;
(b) District 2: 344,000 cartons;
(c) District 3: Unlimited cartons.

2. Section 908.998 Valencia Orange Regulation 698 (47 FR 29817), is hereby amended to read:

§ 908.998 Valencia Orange Regulation 698.

* * * * *

(a) District 1: 329,000 cartons;
(b) District 2: 371,000 cartons;
(c) District 3: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: July 14, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82–19447 Filed 7–14–82; 11:35 am]

BILLING CODE 3410–02–M

DEPARTMENT OF ENERGY

10 CFR Part 317

[Docket No. ERA–R–81–11]

Priority Delivery of Coal Under Department of Defense Contracts; Removal of 10 CFR Part 317

AGENCY: Energy Department.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) hereby gives notice of the removal of 10 CFR Part 317 (Part 317), which established procedures implementing the coal supply allocation authority of section 101 of the Defense Production Act of 1950, 50 U.S.C. App. 2071 *et seq.* (DPA).

The removal is part of DOE's regulatory reform program and is based upon DOE's determination that (1) Part 317 would be of strictly limited usefulness in the event of an emergency requiring allocation of coal among users in the interest of national defense; and (2) that allocation of coal under Part 317 would be less effective than emergency ad hoc operations conducted directly under the DPA statutory provisions.

EFFECTIVE DATE: August 16, 1982.

FOR FURTHER INFORMATION CONTACT:

David A. Eaton, Office of Energy Contingency Planning, Office of Energy Emergencies—Environmental Protection, Safety, and Emergency Preparedness, Room GH–060, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252–2917.

Marya Rowan, Office of the General Counsel, Department of Energy, Room 6B–178, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252–2967.

The public file containing copies of all documents and supporting materials on this proceeding is available for inspection at the Office of Energy Contingency Planning, address given above.

SUPPLEMENTARY INFORMATION: Under the authority of section 101 of the DPA and Executive Order 11790 delegating the DPA presidential coal allocation authority to the Secretary of Energy, 39 FR 23185 (June 27, 1974), DOE can (1) issue priority ratings requiring DOD coal contractors and other defense-related coal contractors to meet their national defense contractual obligations before supplying their other customers; and, if necessary, mandate coal sales for defense purposes by firms who refuse to contract in accordance with a priority rating; (2) order the priority delivery of coal to defense contractors where such delivery is necessary to assure the performance of their contracts which have previously been given priority ratings by the Department of Commerce; and (3) allocate coal throughout the entire civilian market when certain conditions are met.

Part 317, entitled, "Priority Delivery of Coal Under Department of Defense Contracts", was designed to implement a portion of DOE's authority under section 101 of the DPA. However, the

Part established only the procedures for the priority supply of DOD coal requirements and did not implement the other section 101 authorities, including the authority to meet the coal supply requirements of non-DOD defense agencies and defense contractors. A situation requiring DOE's exercise of the other authorities would thus require recourse to ad hoc operations for coal allocation to parties other than DOD. Moreover, the DOD priority delivery procedures in Part 317 did not administratively enhance DOE's ability to act directly under the statute and Executive Order, without resort to the regulations. For these reasons, DOE, by notice of Janaury 11, 1982, proposed the removal of Part 317 and provided a thirty-day public comment period during which interested parties were invited to submit written comments on issues raised by the proposed action. (47 FR 1137). No comments were received. Accordingly, on the basis of the information contained in the record and having not been apprised of information that would persuade it to the contrary, DOE removes 10 CFR Part 317, effective August 16, 1982.

Procedural Matters

A. *NEPA Compliance.* DOE has determined that the removal of Part 317 does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of § 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA). Since DOE can act to promote the national defense, exercising its same authority under section 101 of the DPA regardless of the presence or absence of Part 317, the removal of Part 317 will have no impact upon DOE's exercise of the DPA authority, when such action is required. Therefore, an Environmental Impact Statement assessing the impact of alternatives to this proposal is not required.

B. *Executive Order No. 12291.* Section 3(b) of Executive Order No. 12291 directs each agency to initially determine whether an action it proposes constitutes a major rule.

DOE determined that the removal of Part 317 does not constitute a major rule as it does not result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs for prices for consumers; individual industries; Federal, state, or local government agencies; or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets (47 FR 1137, January 11, 1982).

In reaching this determination, DOE also considered that the procedures in Part 317 were not necessary to its authority or ability to take emergency coal allocation actions under § 101 of the DPA and Executive Order 11790, and that, accordingly, the removal of the Part would have no effect, either positive or negative, on any sector of the economy.

C. *Regulatory Flexibility Act.* The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires that an agency shall prepare a regulatory flexibility analysis with regard to a rule that will have a significant economic impact on a substantial number of small entities.

For the reasons discussed in paragraph B, above, DOE certified that the rule removing Part 317 would not have a significant economic impact on a substantial number of small entities (47 FR at 1136, January 11, 1982).

D. *Paperwork Reduction Act.* No data collection or reports are required as a result of this rulemaking; therefore, clearance of DOE's action by the Office of Management and Budget under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* is not required.

(Defense Production Act of 1950, 50 U.S.C. App. 2071 et seq.; Department of Energy Organization Act, Pub. L. 95-01, 42 U.S.C. 7101 et seq.; E.O. 11790, 29 FR 23185 (June 27, 1974); E.O. 12038, 43 FR 4957 (February 7, 1978))

Issued in Washington, D.C., June 30, 1982.

William A. Vaughan,

Assistant Secretary, Environmental Protection, Safety and Emergency Preparedness.

List of Subjects in 10 CFR Part 317

Administrative practice and procedure; coal allocation; Government contracts; Penalties; Reporting requirements; Strategic and critical material.

For the reasons set out in the preamble, Chapter II, Title 10 of the Code of Federal Regulations is amended by removing Part 317.

PART 317—PRIORITY DELIVERY OF COAL UNDER DEPARTMENT OF DEFENSE CONTRACTS [REMOVED]

[FR Doc. 82-19180 Filed 7-14-82; 8:45 am]
BILLING CODE 6450-01-M

10 CFR Part 710

Defense Programs; Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Significant Quantities of Special Nuclear Material

AGENCY: Energy Department.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is amending 10 CFR Part 710, entitled "Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Significant Quantities of Special Nuclear Material". DOE is amending Part 710 to simplify the criteria and to consolidate the two categories of the existing criteria into a single set of criteria.

The previous criteria set forth specific types of derogatory information that create a question as to an individual's eligibility for DOE access authorization. These criteria were divided into two categories. Category "A" derogatory information was such that if there were sufficient grounds to establish a reasonable belief as to the truth of one or more of the items in this category, these grounds shall be the basis for a recommendation by the DOE hearing officer for denying or revoking an individual's access authorization. Category "B" derogatory information was such that if there were sufficient grounds to establish a reasonable belief as to the truth of one or more of the items, the extent of activities falling within the category, the period in which such activities occurred, the length of time which has since elapsed, and the individual's attitudes and convictions shall be considered in determining whether the recommendation for denying or revoking an individual's access authorization will be adverse or favorable. Under the final rule, DOE is establishing a single set of criteria by which the DOE hearing officer will base his/her recommendation for an adverse or favorable determination of an individual's eligibility for DOE access authorization. The DOE hearing officer, under the final rule, will consider all the factors previously considered under Category "B".

EFFECTIVE DATE: August 16, 1982.

FOR FURTHER INFORMATION CONTACT:
Martin J. Dowd, Director, Division of Security, Office of Safeguards and Security, U.S. Department of Energy, Washington, DC 20545 (301/353-4642).

SUPPLEMENTARY INFORMATION:

A. Background

The DOE published its proposed rule in the **Federal Register** on January 20, 1982, 47 FR 2874. Public comments were invited on or before February 19, 1982. No public comments have been received.

B. Procedural Requirements

1. *Section 501 of the DOE Organization Act.* Under section 501(c) of the Department of Energy Organization Act, the DOE is not bound by the prior hearing requirements of subsections (b), (c) and (d) with respect to a regulation upon our determination that no substantial issue of fact or law exists and that the regulation is unlikely to have substantial impact on the Nation's economy or large numbers of individuals and businesses. Where it is determined that no substantial issue or impact exists, the regulation may be promulgated in accordance with section 553 of Title 5 U.S.C. The revision of the criteria at 10 CFR Part 710 raises no substantial issues of fact or law, and does not have a substantial impact on the Nation's economy or large numbers of individuals or businesses.

2. *Executive Order No. 12291.* It had been determined that this amendment is not a major rule subject to the requirements of the Executive Order No. 12291 (46 FR 13193, February 19, 1981) because it is not likely to result in an annual effect on the economy of more than $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or cause significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

3. *Regulatory Flexibility Act.* Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 601–612, DOE finds that sections 603 and 604 of the Act do not apply to this amendment because promulgation of the rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 10 CFR Part 710

Administrative practice and procedure, Classified information, Government contracts, Government employees, Nuclear materials.

Issued in Washington, DC on June 29, 1982.

Herman E. Roser,

Assistant Secretary for Defense Programs.

In consideration of the foregoing, Part 710 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below.

PART 710—CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO CLASSIFIED MATTER OR SIGNIFICANT QUANTITIES OF SPECIAL NUCLEAR MATERIAL

1. Section 710.10 is amended by revising paragraph (d) to read as follows:

§ 710.10 Application of the criteria.

* * * * *

(d) In resolving a question concerning the eligibility or continued eligibility of an individual for access authorization, the DOE Hearing Officer shall consider the extent of activities, the period in which such activities occurred, the length of time which has since elapsed, and the attitudes and convictions of the individual in determining whether the recommendation will be adverse or favorable.

2. Section 710.11 is revised to read as follows:

§ 710.11 Criteria.

Derogatory information included, but not limited to, those cases in which the individual has:

(a) Committed, prepared or attempted to commit, or aided, abetted or conspired with another to commit or attempt to commit any act of sabotage, espionage, treason, or sedition.

(b) Knowingly established or continued a sympathetic association with a saboteur, spy, traitor, seditionist, anarchist, or revolutionist, espionage agent, or representative of a foreign nation whose interests are inimical to the interests of the United States, or with any person advocating the use of force or violence to overthrow the Government of the United States by unconstitutional means.

(c) Knowingly held membership in or had a knowing affiliation with, or has taken action which evidences a sympathetic association with the intent of furthering the aims of, or adherence to, and active participation in any foreign or domestic organization, association, movement, group, or combination of persons which advocates or practices the commission of acts of force or violence to prevent others from exercising their rights under the Constitution or Laws of the United States or any state or subdivision thereof by unlawful means.

(d) Publicly or privately advocates, or participates in the activities of a group or organization, which has as its goal, revolution by force or violence to overthrow the Government of the United States or the alteration of the form of Government of the United States by unconstitutional means with the knowledge that it will further those goals.

(e) Parent(s), brother(s), sister(s), spouse, or offspring residing in a nation whose interests may be inimical to the interests of the United States, or in satellites or occupied areas thereof (to be evaluated in the light of the risk that pressure applied through such relatives could force the individual to act contrary to national security).

(f) Has deliberately misrepresented, falsified or omitted significant information from a Personnel Security Questionnaire, a personnel qualifications statement, or a personnel security interview.

(g) Has failed to protect classified information, or safeguard special nuclear material; or has willfully violated or disregarded security or safeguards regulations to a degree which would endanger the common defense and security or has intentionally disclosed classified information to a person unauthorized to receive such information.

(h) Has an illness or mental condition of a nature which in the opinion of competent medical authority causes, or may cause, significant defect in the judgment or reliability of the individual, or has refused to be examined by a psychiatrist.

(i) Has refused to testify before a Congressional Committee, Federal or state court, or Federal administrative body, regarding charges relevant to eligibility for DOE access authorization.

(j) Is a user of alcohol habitually to excess, or has been such without adequate evidence of rehabilitation or reformation.

(k) Has used, trafficked in, sold, transferred or possessed a drug or other substance listed in the schedule of Controlled Substances established pursuant to section 202 of the Controlled Substances Act of 1970 (such as amphetamines, barbiturates, narcotics, etc.) except as prescribed or administered by a physician licensed to dispense drugs in the practice of medicine, without adequate evidence of rehabilitation or reformation.

(l) Has engaged in any unusual conduct or is subject to any circumstances which tend to show that

the individual is not honest, reliable, or trustworthy, and there is no adequate evidence of rehabilitation or reformation; or which furnishes reason to believe that the individual may be subject to coercion, influence, or pressure which may cause the individual to act contrary to the best interests of the national security. Such conduct or circumstances include but are not limited to sexual activity, demonstrated financial irresponsibility or notoriously disgraceful conduct.

[FR Doc. 82-19153 Filed 7-14-82; 8:45 am]
BILLING CODE 6450-01-M

FEDERAL RESERVE SYSTEM

12 CFR Parts 207, 220, 221, and 224

Securities Credit Transactions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The List of OTC Margin Stocks[1] is comprised of stocks traded over-the-counter (OTC) that have been determined by the Board of Governors of the Federal Reserve System to be subject to margin requirements under certain Federal Reserve regulations. The List is published from time to time by the Board as a guide for lenders subject to the regulations and the general public. This document sets forth additions to or deletions from the previously published List and will serve to give notice to the public about the changed status of certain stocks. For the first time a two-week delay before the List becomes effective will be instituted. This action was requested by the public in connection with a recent proposal to change the criteria for inclusion on the List.

EFFECTIVE DATE: July 26, 1982.

FOR FURTHER INFORMATION CONTACT: Jamie Lenoci, Financial Analyst, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-2781.

SUPPLEMENTARY INFORMATION: Set forth below are stocks representing additions to or deletions from the Board's List of OTC Margin Stocks. A copy of the complete List incorporating these additions and deletions is also on file at the office of the Federal Register. This complete List supersedes the last complete List published on October 5, 1981 and includes amendments to that List, effective March 1, 1982 (see 46 FR 49577, October 7, 1981 and 47 FR 8988, March 3, 1982, respectively). The List, as amended, includes those stocks that the Board of Governors has found meet the criteria specified by the Board and thus have the degree of national investor interest, the depth and breadth of market, and the availability of information respecting the stock and its issuer to warrant incorporating such stocks within the requirements of Regulations G, T, U, and X. Copies of the complete up-to-date List may be obtained from any Federal Reserve Bank.

The requirements of 5 U.S.C. section 553 with respect to notice and public participation were not followed in connection with the issuance of this amendment due to the objective character of the criteria for inclusion on the List specified in 12 CFR 207.5 (d) and (e), 220.8 (h) and (i), and 221.4 (d) and (e). No additional useful information would be gained by public participation. The full requirements of 5 U.S.C. section 553 with respect to deferred effective date have not been followed in connection with the issuance of this amendment because the Board finds that it is in the public interest to facilitate investment and credit decisions based in whole or in part upon the composition of this List as soon as possible. The Board has responded to a recent request by the public and allowed a two-week delay before the List is effective.

List of Subjects in 12 CFR Part 207

Banks, Banking, Credit, Federal Reserve System, Margin, Margin requirements, Reporting requirements, Securities.

List of Subjects in 12 CFR Part 220

Banks, Banking, Brokers, Credit, Federal Reserve System, Margin, Margin requirements, Investments, Reporting requirements, Securities.

List of Subjects in 12 CFR Part 221

Banks, Banking, Credit, Federal Reserve System, Margin, Margin requirements, Reporting requirements, Securities.

Accordingly, pursuant to the authority of sections 7 and 23 of the Securities Exchange Act of 1934 (15 U.S.C. secs. 78g and 78w) and in accordance with § 207.2(f)(2) of Regulation G, § 220.2(e)(2) of Regulation T, and § 221.3(d)(2) of Regulation U, there are set forth below additions to and deletions from the Board's List:

Additions

Advanced Semiconductor Materials International N.V., Dfls $.03 par share
Alaska Pacific Bancorporation, No par common
American International Group Inc., $5.00 par cumulative convertible preferred
American Medical Affiliates, Inc., $.10 par common
American Trustee Inc., $1.00 par common
AMFESCO Industries Inc., $.10 par common
Application Engineering Corporation, $1.00 par common
Ask Computer Systems, Inc., No par common
Associated Communications Corporation, $2.50 par common
Bedford Computer Corporation, No par common
Big B., Inc., $.10 par common
Bluewater Oil & Gas Limited, No par capital
Bolt Technology Corporation, No par common
Branch Corporation, $2.50 par common
Canon Inc., American Depository Receipts for common stock (par value 50 yen)
Carolin Mines Ltd., No par common
Central Louisiana Electric Company, Inc., $4.00 par common
Cipher Data Products, Inc., No par common
David Jamison Carlyle Corporation, The, $.01 par common
David Minerals Ltd., No par common
Drew National Corporation, Class A, $5.00 par convertible preferred
Dunlap and Associates, Inc., $1.00 par common
Elron Electronics Industries Ltd., Preferred shares, Is 3 par value
Elscint Limited, Ordinary shares, Is .05 par value
Empire Airlines, Inc., $.40 par common
First Savings Association of Wisconsin, $1.00 par common
Fonar Corporation, $.001 par common
Gamma Biologicals, Inc., $.10 par common
Garcia's of Scottsdale, Inc., $.01 par common
Global Natural Resources PLC, $.01 par common
Great American Bancorp, No par common
Great Eastern Energy and Development Corporation, $.10 par common
Hei, Inc., $.05 par common
Health Care Fund, $1.00 par shares of beneficial interest
Heritage Bancorp (California), No par common
Home Depot, The, $.05 par common
Howard Bank, The (Burlington, VT), $5.00 par common
Hybritech Incorporated, No par common
Independence Bank Group, Inc. (Wisconsin), $8.33 ⅓ par common
Integrity Financial Group, Inc., The, $.01 par common
International Capital Equipment Limited, $.05 par common
International Game Technology, $.01 par common
Karcher, Carl Enterprises, Inc., No par common
Kenai Corporation, Warrants (expire 07-15-85)
Kloss Video Corporation, $.20 par common
Los Alamitos Race Course, $5.00 par capital
Louisville Gas and Electric Company, 7.45% cumulative preferred
Mathematica, Inc., $.10 par common
Mechanical Techonology, Inc., $1.00 par common
Metro Airlines, Inc., $.10 par common

[1] Filed as part of the original document.

Micro-Z Corp., $.001 par common
Moduline International, Inc., No par common
Monoclonal Antibodies, Inc., No par common
National Beryllia Corporation, $1.00 par common
New England Business Service, Inc., $1.00 par common
Nippon Electric Co., Ltd., American Depository Receipts for common stock (par value 50 yen)
North Atlantic Industries, Inc., $.10 par common
Odetics, Inc., $.10 par common
Old Stone Corporation, Series B, 12% preferred
Optel Corporation, $.01 par common
Pansophic Systems, Inc., No par common
Pentair, Inc., $1.00 par cumulative convertible preferred
Prab Robots, Inc., $.10 par common
Rehab, C. P. Corp., Warrants (expire 08-14-85)
SAB Harmon Industries, Inc., $.25 par common
SAL Cable Communications, Inc., $.01 par common
SI Handling Systems, Inc., $1.00 par common
Sage Drilling Company, Inc., $.01 par common
Scitex Corporation Ltd., Ordinary shares, Is $1.80 par value
Seagate Techonology, No par common
Sippican Ocean Systems, Inc., $1.00 par common
Softech, Inc., $.10 par common
Sonesta International Hotels Corporation, $.80 par common
Spang Industries Inc., $1.00 par common
Sterner Lighting Systems Incorporated, $.10 par common
Sun Banks of Florida, Inc., $4.375 cumulative convertible preferred
Sunlite Oil Company of Delaware, $1.00 par common
Systematics, Inc., $.025 par common
Texas Federal Savings and Loan Association, $.01 par common
Transworld Bank (California), $2.00 par common
Tull, J. M. Industries, Inc., $1.00 par common
Universal Health Services, Inc., Class B, $.01 par common
Vallen Corporation, $.50 par common
Vector Graphic, Inc., No par common
Westcoast Petroleum Ltd., $2.00 par common
Wilson Foods Corporation, $.50 par common

Deletions From List

Stocks Removed for Failing Continued Listing Requirements

Allied Van Lines, Inc., Class B, no par common
American Home Shield Corporation, $.01 par common
Baker Bros., Inc., $.10 par common
Computer Communications, Inc., $1.00 par common
FSC Corporation, $.01 par common, $.01 par convertible preferred
Gilman Services, Inc., $.10 par common
Helix Technology, Inc., $1.00 par common
Hibernia Bancshares Corporation, $6.25 par common
Key Energy Enterprises, Inc., $.10 par common
King International Corporation, $1.00 par common
Mini-Computer Systems, Inc., $.10 par common
Old Stone Corporation, $1.00 par cumulative convertible preferred
Oregon Trail Savings and Loan Association, $2.00 par common
Overmyer Corporation, No par common
Reserve Oil and Minerals Corporation, $1.00 par common
Security American Financial Enterprises, Inc., $1.00 par common
Solid State Technology Inc., $.01 par common
TPC Communications, $.01 par common

Stocks Removed for Listing on a National Securities Exchange or Being Involved in an Acquisition

All American Industries, Inc., $.10 par common
Altex Oil Corporation, $.01 par common
American Microsystems, Inc., $1.00 par common
Anacomp, Inc., $1.00 par common, 9.50% convertible subordinated debentures
Austin Bancshares Corporation, $1.00 par common
Avery Coal Co., Inc., $.10 par common
Berry Industries Corporation, $1.00 par common
Biomedical Reference Laboratories, Inc., $.10 par common
Bolar Pharmaceutical Co., Inc., $.01 par common
Cullinane Database Systems, Inc., $.10 par common
DSI Corporation, $.10⅔ par common
Datavision, Inc., $.01 par common
Fabri-Tek Inc., $.10 par common
First Artists Production Company, Ltd., $.10 par capital
First Colony Life Insurance Company, $1.00 par common
First Marine Banks, Inc., $1.00 par common
General Automotive Parts Corporation, No par common
Griffin Petroleum Corporation, No par common
Hardwicke Companies Incorporated, $1.00 par common
Heritage Communications, Inc., $.50 par common, No par convertible preferred
Informatics, Inc., $.15 par common
Jamaica Water Properties Inc., $.10 par common
Jhirmack Enterprises, Inc., $.10 par common
Keuffel & Esser Company, $1.00 par common
Lake Superior District Power Company, $10.00 par common
Lakewood Bank and Trust Company, $3.00 par common
Limited Stores, Inc., The, No par common
Luby's Cafeterias, Inc., $.32 par common
Magma Power Company, $.10 par common
Mallinckrodt, Inc., $1.00 par common
Medcom, Inc., $.10 par common
Midwestern Distribution, Inc., Class A, no par common
Phoenix Resources Company, Class B, $1.00 par common
Poly-Southfield Corporation, No par common
Preston State Bank (Dallas, TX), $2.50 par capital
Raychem Corporation, No par common
Roper Industries, Inc., $5.00 par common
Standard Logic, Inc., $.025 par common
Wespercorp, No par common
Worcester Bancorp, Inc., $1.00 par common

By order of the Board of Governors of the Federal Reserve System acting by its Director of the Division of Banking Supervision and Regulation pursuant to delegated authority (12 CFR 265.2(c)), July 6, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-[illegible] Filed 7-12-82; 10:01 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 81-NE-20; Amdt. 39-4417]

Airworthiness Directives; Pratt & Whitney Aircraft JT9D-20 Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts an Airworthiness Directive (AD) that requires installation of riveted segmented strengthening plates and improved attachment hardware on the rear face of the fan exit case front flange ("B" flange) on JT9D-20 engines installed in wing positions on DC-10-40 aircraft. This action is required to prevent separation of the fan case assembly from the front fan exit case, at the "B" flange attachment area, which can occur under certain aerodynamic loads following a fan blade fracture.

DATES: Effective date.—This amendment is effective on August 16, 1982. Compliance schedule.—As prescribed in the body of the AD.

ADDRESSES: The applicable Alert Service Bulletin may be obtained from Pratt & Whitney Aircraft, Division of United Technologies Corporation, 400 Main Street, East Hartford, Connecticut 06108.[1] A copy of the Alert Service Bulletin is contained in the Rules Docket, Office of the Regional Counsel, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Gordon Vertescher (ANE-141), Engine Certification Branch, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7347.

[1] Service Bulletin No. 5335 is filed as part of the original document.

SUPPLEMENTARY INFORMATION:

Prior Regulatory History

A proposal to amend Part 39 of the Federal Aviation Regulations (14 CFR Part 39) by adding a new AD applicable to Pratt & Whitney Aircraft JT9D–20 turbofan engines, which would require installation of riveted segmented strengthening plates and improved attachment hardware on the rear face of the fan exit case front flange, was published in the **Federal Register** on March 15, 1982 (47 FR 11034).

There have been seven fan blade failures on JT9D–20 engines resulting from arc burn, foreign object damage (FOD), and manufacturing defects. Each failure caused secondary damage to "B" flange and attachment hardware. "B" flange provides attachment of the fan case and front fan exit case. One fan blade failure resulted in separation of the nose cowl assembly and fan case from a wing engine. The fan case separated at "B" flange. Subsequent analysis of the capability of "B" flange indicates that under certain conditions "B" flange load capability becomes marginal for wing engines. As a consequence, it is the intent of the AD to require modification of the flange and fasteners to improve "B" flange capability under adverse conditions.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Comments were received from the National Transportation Safety Board (NTSB) and Northwest Orient Airlines (NWA). NTSB indicated that it supports the proposed action, which is consistent with its Safety Recommendation No. A–81–70. No adverse comments were received, and accordingly, the N.P.R.M. was adopted as proposed.

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, and Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

Pratt & Whitney Aircraft

Applies to all JT9D–20 engines installed in wing positions on DC–10–40 aircraft.

Compliance required on installed engines prior to March 31, 1984, unless already accomplished.

To preclude "B" flange separation under adverse conditions, rework fan exit case assembly, incorporate riveted segmented strengthening plates along with improved "B" flange attachment hardware, and reidentify components in accordance with Pratt & Whitney JT9D–20 Service Bulletin No. 5335, dated September 3, 1981, or later revision approved by the Chief, Engine Certification Branch, FAA, New England Region.

Note.—Rework, replacement, and addition of various airframe brackets are necessary to ensure compatibility with the flange modifications specified in Pratt & Whitney Aircraft Service Bulletin No. 5335.

All persons affected by this directive who have not already received the referenced service bulletin from the manufacturer may obtain copies upon request to Pratt & Whitney Aircraft, Division of United Technologies Corporation, 400 Main Street, East Hartford, Connecticut 06108. This document may also be examined at Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803. A historical file on this AD which includes the material in full is maintained by the FAA at the New England Region Office.

This amendment becomes effective on August 16, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not considered to be major under Executive Order 12291 or significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is certified that the rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act because the rule will affect only domestic air carriers using DC–10–40 aircraft in which the JT9D engines are installed in wing positions, none of which are small entities. Regulatory evaluation prepared for this document is contained in the public docket, and a copy may be obtained in writing to Federal Aviation Administration, Office of the Regional Counsel, Attn: Rules Docket No. 81–NE–20, 12 New England Executive Park, Burlington, Massachusetts.

Issued in Burlington, Massachusetts, on June 30, 1982.

John B. Roach,

Acting Director, New England Region.

[FR Doc. 82–18971 Filed 7–14–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 97

[Docket No. 23178; Amdt. No. 1220]

Standard Instrument Approach Procedures

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA–430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.00.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures and Airspace Branch (AFO–730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20

of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4 and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the Federal Register expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Index

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

* * * *Effective September 2, 1982*

Greeley, CO—Weld County Muni, VOR–A, Amdt. 5

Ames, IA—Ames Muni, VOR Rwy 31, Amdt. 6

Ft. Leonard Wood, MO—Forney AAF, VOR Rwy 14, Amdt. 2

Ft. Leonard Wood, MO—Forney AAF, VOR Rwy 32, Amdt. 2

Pittstown, NJ—Alexandria, VOR Rwy 8, Original

* * * *Effective August 19, 1982*

Siloam Springs, AR—Smith Field, VOR–A, Amdt. 6

Miami, FL—Miami Intl, VOR Rwy 12, Amdt. 26

Fort Leavenworth, KS—Sherman AAF, VOR–A, Amdt. 1

New Roads, LA—False River Air Park, VOR/DME–A, Amdt. 2

Dunkirk, NY—Dunkirk Muni, VOR Rwy 24, Amdt. 5

McAlester, OK—McAlester Muni, VOR/DME Rwy 19, Orig.

* * * *Effective June 29, 1982*

Lyons, KS—Lyons-Rice County Muni, VOR/DME–A, Amdt. 1

Barre-Montpelier, VT—Edward F. Knapp State, VOR Rwy 35, Amdt. 5, cancelled

* * * *Effective June 25, 1982*

Port Lavaca, TX—Calhoun County, VOR/DME–A, Amdt. 2

* * * *Effective June 22, 1982*

Maxton, NC—Laurinburg-Maxton, VOR/DME–A, Amdt. 4

Note.—The FAA published an amendment in Docket No. 23079, Amdt. No. 1218 to Part 97 of the Federal Aviation Regulations (Vol. 47 FR No. 114 page 25511; Dated June 14, 1982) under section 97.23 effective August 5, 1982, which is hereby amended as follows: Esterville, IA—Esterville Muni, VOR/DME–A, original, cancelled.

2. By amending § 97.25 SDF–LOC–LDA SIAPs identified as follows:

* * * *Effective September 2, 1982*

Ft. Leonard Wood, MO—Forney AAF, LOC, Rwy 14, Amdt. 3

Laconia, NH—Laconia Muni, LOC Rwy 6, Amdt. 5

Milwaukee, WI—General Mitchell Field, LOC Rwy 25L, Amdt. 6

* * * *Effective August 19, 1982*

Ontario, CA—Ontario Intl, LOC Rwy 26R, Original, cancelled

* * * *Effective August 5, 1982*

Indianapolis, IN—Indianapolis Intl, LOC BC RW 13, Amdt. 9, cancelled

Olathe, KS—Johnson County Executive, LOC Rwy 17, Amdt. 2

Middletown, PA—Harrisburg Intl Arpt-Olmsted Fld, LOC BC Rwy 31, Amdt. 5, cancelled

* * * *Effective June 22, 1982*

Maxton, NC—Laurinburg-Maxton, SDF Rwy 5, Amdt. 3

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

* * * *Effective September 2, 1982*

Milford, IA—Fuller, NDB Rwy 18, Amdt. 1

Monticello, IA—Monticello Muni, NDB–A, Amdt. 1

Spirit Lake, IA—Spirit Lake Muni, NDB Rwy 16, Amdt. 5

Spirit Lake, IA—Spirit Lake Muni, NDB Rwy 34, Amdt. 1

Colby, KS—Shalz Field, NDB Rwy 17, Amdt. 2

Ft. Leonard Wood, MO—Forney AAF, NDB Rwy 32, Amdt. 2

Laconia, NH—Laconia Muni, NDB Rwy 6, Amdt. 5

Bogalusa, LA—George R. Carr Memorial Air Fld., NDB Rwy 18, Orig.

Barre-Montpelier, VT—Edward F. Knapp State, NDB Rwy 35, Original

Melfa, VA—Accomack County, NDB Rwy 3, Amdt. 5

Milwaukee, WI—General Mitchell Field, NDB Rwy 1L/R, Amdt. 1

Milwaukee, WI—General Mitchell Field, NDB Rwy 7R, Amdt. 9

* * * *Effective August 19, 1982*

Heber Springs, AR—Heber Springs Muni, NDB–A, Amdt. 4

Sandersville, GA—Kaolin Field, NDB Rwy 12, Orig.

Fort Leavenworth, KS—Sherman AAF, NDB Rwy 33, Amdt. 1

Breckenbridge, TX—Stephens County, NDB–A, Amdt. 1

* * * *Effective August 5, 1982*

Olathe, KS—Johnson County Executive, NDB Rwy 17, Original

Springfield, MO—Springfield Regional, NDB Rwy 1, Amdt. 14

* * * *Effective June 29, 1982*

Lyons, KS—Lyons-Rice County Muni, NDB Rwy 17R, Amdt. 4

* * * *Effective June 28, 1982*

Athens, TN—McMinn County, NDB Rwy 20, Amdt. 3

* * * *Effective June 25, 1982*

Port Lavaca, TX—Calhoun County, NDB Rwy 14, Amdt. 2

* * * *Effective June 22, 1982*

Oakland, CA—Metropolitan Oakland Intl, NDB Rwy 27R, Amdt. 2

Maxton, NC—Laurinburg-Maxton, NDB Rwy 5, Amdt. 5

4. By amending § 97.29 ILS–MLS SIAPs identified as follows:

* * * *Effective September 2, 1982*

New York, NY—J. F. Kennedy Intl, ILS Rwy 4R, Amdt. 26

Milwaukee, WI—General Mitchell Field, ILS Rwy 1L, Amdt. 4

Milwaukee, WI—General Mitchell Field, ILS Rwy 7R, Amdt. 12

Milwaukee, WI—General Mitchell Field, ILS Rwy 19R, Amdt. 7

* * * *Effective August 19, 1982*

Ontario, CA—Ontario Intl, ILS Rwy 26R, Orig.

* * * *Effective August 5, 1982*

Indianapolis, IN—Indianapolis Intl, ILS Rwy 13, Original

Springfield, MO—Springfield Regional, ILS Rwy 1, Amdt. 14

Middletown, PA—Harrisburg Intl Arpt-Olmsted Fld, ILS Rwy 31, Original

* * * *Effective June 23, 1982*

Bellaire, MI—Antrim County, MLS Rwy 2 (Interim), Amdt. 4, cancelled

Note.—The FAA published an amendment in Docket No. 23142, Amdt. No. 1219 to Part 97 of the Federal Aviation Regulations (Vol. 47 FR No. 124 page 27852; Dated June 28, 1982) under section 97.29 effective August 5, 1982, which is hereby amended as follows: Bellaire, MI—Antrim County, MLS Rwy 2 (Interim) Amdt 5, cancelled.

5. By amending § 97.31 RADAR SIAPs identified as follows:

* * * *Effective September 2, 1982*

Ft. Leonard Wood, MO—Forney AAF, RADAR-1, Amdt. 2

* * * *Effective August 19, 1982*

Miami, FL—Miami Intl, RADAR-1, Amdt. 21

Harrisburg, PA—Capital City, RADAR-1, Amdt. 8

6. By amending § 97.33 RNAV SIAPs identified as follows:

. . . *Effective September 2, 1982*

Ames, IA—Ames Muni, RNAV Rwy 13, Amdt. 3

Ames, IA—Ames Muni, RNAV Rwy 31, Amdt. 3

. . . *Effective August 19, 1982*

Miami, FL—Miami Intl, RNAV Rwy 9L, Amdt. 8

Alma, MI—Gratiot Community, RNAV Rwy 27, Amdt. 4

Note.—The FAA published an amendment to Docket No. 23079, Amdt. No. 1218 to Part 97 of the Federal Aviation Regulations (Vol. 47 FR No. 114 page 25511; dated June 14, 1982) under section 97.33 effective August 5, 1982, which is hereby amended as follows: Manchester, NH—Manchester Airport-Grenier Industrial Airpark, RNAV Rwy 6 Amdt 1 is rescinded. RNAV Rwy 6 Original remains in effect.

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. The FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C. on July 2, 1982.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on December 31, 1981.

John M. Howard,

Acting Chief, Aircraft Programs Division.

[FR Doc. 82-18606 Filed 7-14-82; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket C-3092]

Onkyo U.S.A. Corp.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement requires a Ramsey, New Jersey manufacturer and seller of audio components to cease, among other things, attempting to fix the resale prices at which its products are advertised or sold, through coercion or otherwise. The firm is also barred from restricting the lawful use of its trademarks and brand names; seeking the identity of dealers who deviate from suggested resale prices; and disseminating suggested resale prices for a period of two years, unless such prices are accompanied by a specified disclosure statement. The order further requires the firm to send a copy of the order to all sales and advertising personnel and, for a three-year period, to mail to all present and future accounts a letter describing the order.

DATES: Complaint and order issued July 2, 1982.[1]

FOR FURTHER INFORMATION CONTACT: Judith D. Ford, Director, 9R, San Francisco Regional Office, Federal Trade Commission, 450 Golden Gate Ave., San Francisco, CA 94102. (415) 556-1270, or FTC/C, John Seesel, Washington, D.C. 20580. (202) 523-3484

SUPPLEMENTARY INFORMATION: On Friday, September 25, 1981, there was published in the **Federal Register**, 46 FR 47234, a proposed consent agreement with analysis In the Matter of Onkyo U.S.A. Corporation, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its modified order to cease and desist, as set forth below, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Coercing and Intimidating: § 13.350 Customers or prospective customers. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-20 Disclosures. Subpart—Cutting Off Supplies or Service: § 13.610 Cutting off supplies or service; § 13.635 Refusing sales to, or same terms and conditions. Subpart—Maintaining Resale Prices: § 13.1160 Refusal to sell; § 13.1165 Systems of espionage.

List of Subjects in 16 CFR Part 13

Audio components, Electronic products.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

United States of America

Before Federal Trade Commission

Commissioners: James C. Miller III, Chairman, David A. Clanton, Michael Pertschuk, Patricia P. Bailey

In the matter of Onkyo U.S.A. Corporation, a corporation; Docket No. C-3092, Decision and Order.

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the San Francisco Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act; and

The respondent, its attorneys, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in § 2.34 of its Rules, the Commission hereby issues its complaint,

[1] Copies of the Complaint and the Decision and Order filed with the original document.

makes the following jurisdictional findings and enters the following order:

1. Respondent Onkyo U.S.A. Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 200 Williams Drive, in the City of Ramsey, State of New Jersey.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

Order

For the purposes of this Order, the following definitions shall apply:

"Product" is defined as any audio component, including but not limited to any tuner, amplifier, tape deck, receiver, speaker, changer, turntable or headphone, or any related product, which is manufactured, offered for sale or sold by respondent Onkyo U.S.A. Corporation.

"Dealer" is defined as any person, partnership, corporation or firm which sells any product in the course of its business.

"Resale Price" is defined as any price, price floor, price ceiling, price range, or any mark-up, formula or margin of profit used by any dealer for pricing any product. Such term includes, but is not limited to, any retail price suggested or established by respondent, any customary resale price or the retail price in effect at any dealer.

It is ordered that respondent Onkyo U.S.A. Corporation, a corporation, its successors and assigns, and respondent's officers, agents, representatives and employees, directly or indirectly, or through any corporation, subsidiary, division or other device, in connection with the manufacture, advertising, offering for sale, sale or distribution of any product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

I

1. Fixing, establishing, controlling or maintaining, directly or indirectly, the resale price at which any dealer may advertise, promote, offer for sale or sell any product.

2. Requesting, requiring or coercing, directly or indirectly, any dealer to maintain, adopt or adhere to any resale price.

3. Requesting or requiring, directly or indirectly, any dealer to report the identity of any other dealer who deviates from any resale price; or acting on any reports or information so obtained by threatening, intimidating, coercing or terminating said dealer.

4. Requesting or requiring that any dealer refrain from or discontinue selling or advertising any product at any resale price.

5. Conducting any surveillance program to determine whether any dealer is advertising, offering for sale or selling any product at any resale price, where such surveillance program is conducted to fix, maintain, control or enforce the resale price at which any product is sold or advertised.

6. Terminating, coercing or taking any other action to restrict, prevent or limit the sale of any product by any dealer because of the resale price at which said dealer has sold or advertised, is selling or advertising, or is suspected of selling or advertising any product.

7. Taking any action to hinder or preclude the lawful use by any dealer of any of respondent's trademarks in conjunction with the sale or advertising of any product.

II

It is further ordered that respondent shall clearly and conspicuously state the following on each page of any list, advertising, book, catalogue or promotional material where respondent has suggested any resale price to any dealer: "The Resale Prices Quoted Herein Are Suggested Only. You Are Free To Determine Your Own Resale Prices."

III

It is further ordered that respondent shall:

1. Within thirty (30) days after service of this Order, mail under separate cover a copy of the enclosure set forth in the attached Exhibit A to each of its present accounts. An affidavit shall be sworn to by an official of respondent verifying that the attached Exhibit A was so mailed.

2. Mail under separate cover a copy of the enclosure set forth in the attached Exhibit A to any person, partnership, corporation or firm that becomes a new account within three (3) years after service of this Order.

IV

It is further ordered that respondent shall forthwith distribute a copy of this Order to all operating divisions of said corporation, and to present or future personnel, agents or representatives having sales, advertising or policy responsibilities with respect to the subject matter of this Order, and that respondent secure from each such person a signed statement acknowledging receipt of said Order.

V

It is further ordered that respondent notify the Commission at least thirty (30) days prior to any proposed change in respondent, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the Order.

VI

It is further ordered that respondent shall within sixty (60) days after service upon it of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order.

By direction of the Commission.

Issued: July 2, 1982.

Statement Regarding Modification of Consent Agreement With Onkyo U.S.A. Corporation

The Federal Trade Commission provisionally accepted and sought public comment on a consent agreement negotiated by its staff and Onkyo U.S.A. Corporation. That agreement was entered to settle proposed charges that Onkyo engaged in resale price maintenance in the sale of audio components. As originally presented to the Commission the proposed consent order contained a two-year ban on Onkyo's use of suggested resale prices, as well as a prohibition against Onkyo's restriction of dealers' prices. Upon final consideration the Commission has determined that the moratorium on suggested resale prices constitutes relief that is inappropriate under the circumstances of this particular case. Therefore, the Commission has removed the prohibition on the use of suggested resale prices from the order.[1] In modifying the proposed consent order in this fashion, the Commission continues to recognize that, in some circumstances, the use of suggested resale prices may serve procompetitive purposes. For example, suggested resale prices may be especially beneficial to manufacturers seeking to enter markets in which essential information about products—such as relative quality and value—is complex. Thus, the Commission will continue to evaluate the need for a ban on suggested resale prices as a remedy on a case-by-case basis.

In prohibiting Onkyo from restricting its dealers' prices, the Commission intends to prohibit only those actions that are aimed at maintaining specific resale prices (or maintaining prices within a particular range). However, the order does not preclude Onkyo from initially selecting its dealers and establishing performance criteria that are otherwise reasonable under the antitrust laws. The fact that a dealer who failed to live up to those criteria might also be a discounter would not necessarily preclude Onkyo from taking corrective action against the dealer, so long as the termination was undertaken for legitimate reasons related to those criteria and not as a means of coercing resale price maintenance.

Carol M. Thomas,

Secretary.

[FR Doc. 82-19194 Filed 7-14-82; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 157, 284, and 375

[Docket No. RM81-19-000]

Interstate Pipeline Certificates for Routine Transactions; Approval of Office of Management and Budget; Correction

Issued: July 2, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; correction Notice and Notice of Approval of Office of Management and Budget.

[1] Under the order, Onkyo will still be required clearly and conspicuously to label any suggested resale prices as such.

SUMMARY: This document makes technical corrections to the Final Rule regarding interstate pipeline certificates of routine transactions issued May 28, 1982, in Docket No. RM81-19-000 that appeared in the **Federal Register** on June 4, 1982 (47 FR 24254). In addition, this document gives notice that the Federal Energy Regulatory Commission (Commission) has received approval from the Office of Management and Budget (OMB) to collect the data required in the final rule. The approval is effective through June 30, 1985.

FOR FURTHER INFORMATION CONTACT: Barbara K. Christin, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION: The following technical corrections and additions are made in FR Doc. 82-15143, appearing on page 24254 of the issue of June 4, 1982.

1. In Part IV of the preamble, entitled Summary of the Rule (*Mimeo* page 61), at 47 FR 24265, the reference to "§ 375.302(a)" in the third column is corrected to read "§ 375.302(s)".

Appendix I [Amended]

2. The OMB control number is added parenthetically at the end of the regulations and before Appendix I in Subpart F of the Part 157 (*Mimeo* page 101), at 47 FR 24273, to read as follows: "(OMB Control Number 19020060.)"

§ 375.307 [Amended]

3. Paragraph (a) of § 375.307 (*Mimeo* page 110), at 47 FR 24274, is corrected to read as follows:

"(a) Pass upon the following types of uncontested applications or uncontested amendments to applications and impose appropriate conditions:"

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19203 Filed 7-14-82; 8:45 am]

BILLING CODE 6717-01-M

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18 CFR Part 281

[Docket Nos. RM79-400-000, RM79-40-002 through 012; Order No. 55-C]

Determination of Alternative Fuels for Essential Agricultural Users; Order Denying Rehearing

Issued: June 29, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order denying rehearing.

SUMMARY: On August 11, 1980, the Federal Energy Regulatory Commission (Commission) issued a final rule (45 FR 54733, August 18, 1980) implementing the alternative fuel test for essential agricultural users of natural gas under Title IV of the Natural Gas Policy Act of 1978. Eleven persons filed applications for rehearing or petitions for reconsideration of the final rule. The Commission denies the applications for rehearing and petitions for reconsideration because they raise no issues or present no data that were not fully considered by the Commission during development of the final rule or which, now having been considered, warrant modification of the final rule on rehearing.

FOR FURTHER INFORMATION CONTACT: Barbara K. Christin, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION:

I. Introduction

Curtailment plans of interstate natural gas pipelines establish priority-of-service categories that are used during periods of natural gas shortages. In times of shortage, the users of natural gas which are placed in lower priorities are the first to be curtailed and those in higher categories are curtailed last.

Section 401(a) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301-3432) (NGPA) provides that, in the curtailment plans of interstate natural gas pipelines, essential agricultural uses must be given a high priority status second only to certain other enumerated priority uses. In other words, in the event of a shortage of natural gas in the system, the pipeline must curtail service to all other classified users, except high priority users, before curtailing service to essential agricultural users. Inclusion in the priority afforded under section 401(a) is restricted by section 401(b) however. The curtailment priority status which section 401(a) provides essential agricultural uses is inapplicable if the Federal Energy Regulatory Commission (Commission), in consultation with the Secretary of Agriculture, determines that there is an alternative fuel that is economically practicable and reasonably available (the alternative fuel test). An essential agricultural use which is determined to have an alternative fuel that is economically practicable and reasonably available is placed in the lower curtailment priority that the use occupied prior to a certification by the Secretary of Agriculture that the use is an essential agricultural use.

On August 11, 1980, the Commission issued a final rule to implement section 401(b) of the NGPA (Order No. 55-B, 45 FR 54733, August 18, 1980). Like the interim rule promulgated for the 1978-79 winter heating season (44 FR 62484, October 31, 1979), the final rule provides that residual fuel oil [1] and coal are economically practicable and reasonably available alternative fuels for essential agricultural users which have fuel requirements in excess of 300 Mcf per day and which have the installed ability to use these alternative fuels. The Commission declined to exercise its discretion to determine No. 2 fuel oil and propane to be economically practicable alternative fuels.

II. Applications for Rehearing and Reconsideration

The Commission received timely applications for rehearing of the final rule from the American Bakers Association, The Brooklyn Union Gas Company, Distilled Spirits Council of the United States, The Fertilizer Institute, The Great Western Sugar Company, National Renderers Association, Inc., Petrochemical Energy Group, The Process Gas Consumers Group and the Georgia Industrial Group (filing jointly), and United Gas Pipeline Co.

On September 11, 1980, Mars, Inc. (Mars) filed a petition for reconsideration and The National Council of Farmer Cooperatives (NCFC) submitted a late application for rehearing. In this order, the Commission treats the late-filed application of NCFC as a petition for reconsideration and considers both petitions for reconsideration on the merits.

On October 8, 1980, the Commission granted rehearing of the final rule in this docket solely for the purpose of further consideration.

III. Discussion

A. *Economic Practicability.* Based on the record in this proceeding and the relevant legislative history, the Commission determined, in the final rule, that residual fuel oil and coal are reasonably available and economically practicable as alternative fuels under the terms of section 401(b) of the NGPA. The Commission, however, did not find that No. 2 fuel oil or propane were economically practicable alternatives for essential agricultural uses of natural gas.

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[1] Residual fuel oil means "Nos. 5 and 6 oil, Bunker C, and Navy Special as defined in the standard specification for fuel oils published by the American Society for Testing and Materials, ASTM, D396." 18 CFR 281.303(n).

In the final rule, the commission considered and rejected a suggestion submitted in response to the Notice of Proposed Rulemaking (45 FR 39283, June 10, 1980) that an alternative fuel should be determined to be economically practicable only if that fuel would cost the same as, or less than, natural gas. The Commission stated that such an economic practicability standard would render section 401(b) of the NGPA virtually meaningless, because, based on data in the record that showed all liquid fuels exceed natural gas in price, there would be no liquid fuels that would qualify as alternative fuels. In other words, the consequence of limiting economic practicability to price equivalency would be that no essential agricultural user that could use liquid fuels would be required to accept a priority lower than priority 2 when natural gas is less expensive than liquid fuels. The Commission believes that it may be appropriate under section 401(b) of the NGPA for some essential agricultural uses not to receive priority 2 status, even if curtailment leads to the consumption of fuels which cost more than natural gas. In the final rule, the Commission noted that reliance solely on a price comparison test would ignore other factors that affect the cost of food,[2] such as the number of days a user would be curtailed in times of a shortage.

Several applicants for rehearing allege, as they have previously, that the Commission erred in determining that residual fuel oil is economically practicable and in failing to use a simple comparison of fuel prices as a test for economic practicability. These applicants argue that the Congress, in 1978, anticipated that certain fuels would be declared economically practicable because the Congress expected natural gas prices to equal or exceed those of liquid fuels as a result of increased ceiling prices for first sale gas and the deregulation of some natural gas pricing categories after 1985. However, in 1979, OPEC increased the price of crude oil and, as a result, residual fuel oil now costs significantly more than gas. The applicants argue that the OPEC increase was unexpected and that the Congress did not anticipate the result. The Commission's rule is, therefore, viewed as inconsistent with congressional intent.

The Commission is not persuaded by this argument. The applicants provide no evidence that, in enacting section 401(b), the Congress assumed that oil prices would not increase faster than the price of natural gas. The contention that the Congress expected natural gas to exceed liquid fuels in cost and therefore intended the alternative fuel test to be based on a simple comparison of prices is unsupported. The Congress was certainly aware, in 1978, that the OPEC cartel had the capability to increase oil prices and had done so on prior occasions. There is no compelling reason to assume that the Congress enacted section 401(b) of the NGPA on the assumption that further oil price increases would not occur.

Some applicants also challenge the Commission's use of average annual fuel oil prices for 1979 as a basis for its decision to view residual fuel oil as an economically practicable alternative fuel. They argue that the use of average prices obscured the dramatic increase in fuel oil prices in that year which was evidenced by monthly increases in imported crude oil prices in 1979 and, especially, in January 1980. The applicants imply that such price increases made residual fuel oil economically impracticable as an alternative fuel. One applicant further notes that monthly increases in imported crude oil prices continued through June 1980.

The Commission has reviewed its use of average annual prices, including those for 1979. The use of average annual figures instead of the most recent monthly prices provides a better assessment of the likely economic results of finding residual fuel oil to be an economically practicable alternative, because average annual prices provide a more complete picture of long term trends than do monthly prices which may vary due to seasonal and other short-term price variability. For example, Form 423 data published by DOE for the first six months of 1980 (the time period noted by one applicant) indicate that No. 6 fuel oil prices tended to fluctuate and in June 1980 were 8 percent lower than in January 1980.[3] This confirms the Commission's original opinion that a decision on whether residual fuel oil is an economically practicable alternative need not be based on monthly data.

Applicants further criticize the Commission's analysis in the final rule insofar as the Commission relies on a comparison of the price of No. 6 fuel oil to the price of No. 2 fuel oil to demonstrate the economic practicability of No. 6 fuel oil. They argue that a determination that No. 6 fuel oil is an economically practicable alternative to natural gas could not have been made if the Commission had compared the price of No. 6 fuel oil to the price of natural gas, rather than that of No. 2 fuel oil.

It is inaccurate to imply that the Commission ignored all factors and price differentials other than the difference between the price of No. 2 fuel oil, the most expensive of the alternative liquid fuels, and No. 6 fuel oil. Appendix A to the final rule sets forth a comparison of prices and price differentials for gas and all the fuel alternatives considered by the Commission. As noted above and in the preamble to the final rule, the Commission considers that a comparison of natural gas and oil prices is not the only relevant factor upon which the Commission should make the alternative fuel determination under section 401 of the NGPA. By considering the relative prices of No. 6 and No. 2 fuel oils,[4] the likely rate of increase in their relative prices,[5] and projected levels of curtailment,[6] the Commission developed a picture of the economic consequences of using various alternative fuels that is more complete than an analysis that is predicated only on the relative proximity of natural gas and fuel oil prices.

Several applicants object to the Commission's decision that No. 2 fuel oil is not an economically practicable alternative to natural gas. They allege that there is no rational basis for not finding No. 2 fuel oil to be economically practicable, especially in view of the Commission's determination that low sulfur No. 6 fuel oil, a fuel which they claim costs about the same as No. 2 fuel oil, is economically practicable. In support of this argument, one applicant refers to the "unchallenged expert evidence" of its witness that the absolute price differential between No. 2 and low sulfur No. 6 fuel oils will be generally no greater than 15 percent in constant dollars.

The Commission believes that there is some uncertainty inherent in predicting future price differentials and that any analysis of future fuel oil prices is bound to be somewhat speculative. The testimony relied upon by the applicant does not, in the Commission's opinion, provide a sufficient basis for finding that No. 2 fuel oil is economically practicable. In addition, recent Form 423 data show that, for 1981, the absolute price differential between No. 2 and low sulfur No. 6 fuel oils was 22.5 percent.[7]

[2] As noted in the preamble to the final rule, the Conference Report states that the special priority for essential agricultural uses was established to "prevent unnecessary increases in the cost of food in this country." H.R. Rep. No. 95-1752, 95th Cong., 2d Sess. 114.

[3] *See* Appendix B to this order.

[4] 45 FR at 54730.

[5] *Id.*

[6] *Id.*

[7] *See* Appendix A to this order.

After analysis of the record, the relevant market factors, and the trends in reliable data, the Commission, in its discretion, made a policy decision that it continues to believe will fulfill the statutory purpose of section 401 of the NGPA to provide for orderly curtailment of natural gas service without unnecessarily increasing the cost of food or requiring essential agricultural users to switch to high cost alternative fuels. The applications for rehearing present no new facts or issues of law that warrant a change in the Commission's determination that residual fuel oil and coal are the only economically practicable alternative fuels to natural gas under section 401(b) of the NGPA.

B. *Reasonable Availability.* Several applicants challenge the determination in the final rule that residual fuel oil is reasonably available. In particular, one applicant challenges the determination by claiming that DOE predicts that oil supplies will continue to decline as prices escalate. Another applicant argues that residual fuel oil is not reasonably available because there has been a decline in residual fuel oil stocks.

From June 1980 through May 1981 residual fuel oil stocks were in the range considered normal by DOE. Although the residual fuel oil stocks declined from June 1981 through December 1981, they have nevertheless remained above the level considered to be a minimum operating inventory.[8] Therefore, the Commission is not persuaded to alter its determination in the final rule that residual fuel oil is, for the present, reasonably available to essential agricultural users with the capability to use it. As noted in the final rule, however, the Commission intends to reconsider that rule as circumstances require.

One applicant argues that the Commission's finding that residual fuel oil is reasonably available is inconsistent with Order No. 30–D [9] which extended the fuel oil displacement program. That program authorizes the transportation of natural gas for the purpose of encouraging large users to displace fuel oil with natural gas. In support of its argument, the applicant states that one result of finding residual fuel oil to be reasonably available is to foster the use of residual fuel oil in situations where natural gas otherwise would be used.

This argument misapprehends both the purpose of the fuel oil displacement program and the final rule. The final rule is part of a larger program to determine, in times of a shortage of natural gas supplies, which users will receive the limited supplies and which will be required to switch to alternative fuels. During such times, lower priority industrial and utility uses will be curtailed before higher priority uses, such as essential agricultural uses. On the other hand, the fuel oil displacement program is intended to displace fuel oil used by lower priority industrial and utility users with surplus supplies of natural gas, and interstate pipeline systems which are experiencing curtailments of natural gas will probably not be selling gas under the Order No. 30 program. As stated in Order No. 30–E, "it is unlikely that Order No. 30 sales will be made by systems experiencing a serious threat of curtailment." [10] The determination that residual fuel oil is reasonably available as an alternative to natural gas when natural gas is curtailed is not, therefore, inconsistent with the Commission's efforts to displace fuel oil in another context.

C. *Installed Capability.* The final regulations apply only to those facilities that have the installed capability to use the fuels determined by the Commission to be economically practicable and reasonably available.[11] Thus, there is no requirement that an essential agricultural user would be compelled by curtailment to rely on an alternative fuel if the user's facility did not have the capability to use that fuel. In other words, the final rule does not require that an essential agricultural user incur any conversion costs.

Some applicants, however, argue that an alternative fuel test should be based on a user's ability to convert its facilities to use fuels other than gas. Citing Opinion No. 92,[12] one applicant points out that the Commission has often recognized that, for larger volume fuel users, the cost of conversion to alternative fuels is relatively low.

The Commission has, in the context of establishing curtailment plans, concluded that it is relatively less expensive for large users to convert to alternative fuels than it is for small users to do so. However, the *relative* cost of conversion is irrelevant to the determination of what fuels are economically practicable within the meaning of section 401(b) of the NGPA. Under that section, the relevant consideration is whether an essential agricultural user should be required to bear the costs of conversion to an alternative fuel, thereby losing its priority 2 status. In the final rule, the Commission took the position that the cost of conversion, in fact, contributes to the cost of using an alternative fuel and stated that "imposition of conversion costs could cause unnecessary increases in food costs * * *." [13] It remains the Commission's view that requiring any essential agricultural user, whose facilities can burn only gas, to convert those facilities so they can burn fuels other than natural gas would therefore be inconsistent with the Congress' mandate that the alternative fuel test under section 401(b) may not include a requirement to switch to high cost alternatives.[14] Therefore, the Commission will continue its existing policy which does not require essential agricultural users to install alternative fuel capability.

D. *Small Customer Exemption.* The final rule exempts small users from application of an alternative fuel test. Small users are defined in § 281.302(a)(2) as users that have requested 300 Mcf per day or less in priority 2 entitlements. One applicant objects to the 300 Mcf per day cut-off for the exemption because it is said to apply in a manner that unfairly penalizes agricultural users that combine a number of natural gas end-uses in one facility. The applicant suggests that, as an alternative, the exemption limit should be 300 Mcf per day for each type of end-use within a facility.

The Commission declines to adopt the applicant's proposal. The Commission adopted the small customer exemption because it would have been administratively burdensome and impracticable to gather data on all essential agricultural users which request 300 Mcf or less per day in priority 2 entitlements. The 300 Mcf limitation per user was chosen by the Commission because it is consistent with the threshold for small users in many Commission curtailment plans.[15] The fact that some users fail to qualify does not make the exemption unfair. The applicant has furnished no data or information to support either its

[8] *See* Appendix C to this order.

[9] Order No. 30–D, Docket No. RM79–34 (issued August 15, 1980), 45 FR 56046 (August 22, 1980).

[10] Order No. 30–E, Docket No. RM79–34 (issued September 26, 1980), 45 FR 66784, 66785 (October 8, 1980).

[11] New boilers, *i.e.* those boilers put into service for the first time after August 29, 1979, that have a capacity in excess of 300 Mcf of natural gas per day, are presumed to have installed alternative fuel capability. This presumption does not apply to diesel engines or turbines designed to use distillate fuels as the only substitute for natural gas. 18 CFR 281.304(b).

[12] Docket No. RM78–4, *et al.* (issued August 4, 1980), 12 FERC paragraph 61,129.

[13] 45 FR at 54736.

[14] Conference Report, *supra* note 2, at 114.

[15] *See e.g.*, Opinion No. 98 Lehigh Portland Cement Co. v. Florida Gas Transmission Co., Docket No. RP75–79 (Phase II), October 10, 1980, at 21, *appeal pending sub. nom.* Cities of Lakeland, *et al.*, v. *FERC*, No. 81–5200, *et al.* (5th Cir.).

allegation of unfairness or its proposal for a different application of the 300 Mcf limit for the small customer exemption. The commission therefore will continue to apply the exemption limit to entire facilities.

E. *Other Issues.* Additional issues are raised in the applications for rehearing and the petitions for reconsideration. These issues were adequately considered by the Commission when it promulgated the final rule. The Commission believes reconsideration of these issues in this order is therefore unnecessary.

IV. Conclusion

The applications for rehearing and petitions for reconsideration raise no issues and present no data that were not fully considered by the Commission during development of the final rule or which, now having been considered, warrant modification of the final rule on rehearing. The Commission believes that the alternative fuel test established in the final rule is the product of an informed use of Commission discretion to determine the appropriate criteria for the operation of natural gas curtailments under Title IV of the NGPA. Accordingly, for the reasons discussed above, the Commission denies rehearing and reconsideration of the final rule.

The Commission Orders:

The applications for rehearing and petitions for reconsideration are denied.

By the Commission.

Kenneth F. Plumb,

Secretary.

Appendix A

COMPARISON OF SELECTED PRICE DATA, FPC FORM NO. 423 V. MONTHLY ENERGY REVIEW—1976–1981

Type of fuel	FPC form No. 423 price data [1]						Monthly energy review price data [2]					
	1976	1977	1978	1979	1980	1981 [3]	1976	1977	1978	1979	1980	1981 [3]
Fuel oil:						Cents per million Btu						
No. 2	235.1	254.3	271.9	402.1	569.9	706.9	226.4	257.3	268.2	403.1	575.8	716.0
Low sulfur No. 6	207.1	229.1	225.1	320.2	464.3	576.4	193.6	221.3	216.8	322.4	467.0	582.6
High sulfur No. 6	168.7	199.9	196.7	264.7	359.3	457.1	165.9	195.2	186.1	261.5	351.7	467.3
All No. 6	195.9	220.4	212.3	299.7	428.1	529.0	182.6	210.4	202.7	297.0	415.0	516.6
Coal:												
All grades	84.8	94.7	111.6	122.4	135.1	153.3	84.8	94.7	111.6	122.4	135.1	153.3
Natural gas	103.4	130.0	143.8	175.4	221.4	282.8	97.2	131.9	154.1	201.8	[3]247.8	[3]316.5
Actual Price Difference (Fuel Oil and Coal v. Natural Gas)												
Fuel oil:												
No. 2	131.7	134.3	128.1	226.7	348.5	423.5	129.2	125.4	114.1	201.3	329.0	399.5
Low sulfur No. 6	103.7	99.1	81.3	144.8	242.9	293.6	96.4	89.4	62.7	120.8	219.2	266.1
High sulfur No. 6	65.3	69.1	42.9	89.3	137.9	174.3	68.7	68.3	32.0	59.7	100.9	140.8
All No. 6	92.5	90.4	68.5	124.3	206.7	246.2	85.6	78.5	48.6	95.2	167.2	202.9
Coal:												
All grades	(18.6)	(35.3)	(32.2)	(53.0)	(86.3)	(129.5)	(12.4)	(37.2)	(42.5)	(79.4)	(112.7)	(163.2)
Price Difference Ratio [4] (Fuel Oil and Coal v. Natural Gas)												
						Ratio						
Fuel oil:												
No. 2	1.274	1.033	.891	1.292	1.574	1.498	1.329	.951	.740	.998	1.376	1.262
Low sulfur No. 6	1.003	.762	.566	.826	1.097	1.038	.992	.679	.407	.596	.885	.841
High sulfur No. 6	.632	.536	.296	.509	.623	.616	.707	.480	.208	.296	.419	.445
All No. 6	.895	.895	.476	.709	.934	.871	.881	.595	.315	.472	.675	.639
Coal:												
All grades	(.180)	(.272)	(.224)	(.302)	(.390)	(.458)	(.128)	(.282)	(.276)	(.393)	(.456)	(.516)

[1] As reported in DOE/EIA Energy Data Report entitled *Cost and Quality of Fuels for Electric Utility Plants* (Annual summary data 1976–1980) and Monthly Reports for January through December 1981. Note: All prices are delivered prices to steam electric plants. Prices paid for No. 6 fuel oil include prices paid for minor amounts of No. 4 and No. 5 fuel oil, crude and topped crude. Note: Low sulfur No. 6 has 1 percent sulfur content or less.

[2] Fuel oil prices are reported on FEA Form P302–M–1, "Petroleum Industry Monthly Report for Product Prices." Natural Gas Prices are those paid by industrial customers of major interstate pipeline companies as reported on FPC Form No. 11, "Natural Gas Pipeline Company Monthly Statement" from 1976 through 1979. Note: Gas prices paid by industrial customers to interstate pipeline companies are no longer reported in EIA's MER. The 1980 natural gas price was taken from the EIA report entitled *Mainline Natural Gas Sales to Industrial Users, 1980* (December 1981); the 1981 gas price is based on the percentage increase in natural gas prices paid by steam electric plants from 1980 to 1981.

[3] Preliminary estimate based on Monthly Form 423 and Monthly energy Review data.

[4] Mathematically the price difference ratio is P_2-P_1/P_1; Where P_2=the price of fuel oil or coal and P_1=the price of natural gas. The ratio indicates the percent difference between natural gas and alternate fuel prices. For example, during 1981, electric utilities reported (in FPC Form 423) that they paid 1.498 times more (149.8 percent) for No. 2 fuel oil then they paid for natural gas.

Appendix B

MONTHLY PRICES PAID BY STEAM ELECTRIC PLANTS FOR SELECTED FUELS DURING 1980

Type of fuel	Average 1979 prices	1980											
		Jan.	Feb.	Mar.	April	May	June						
Actual Delivered Prices Paid (Cents per MMBtu)													
Fuel oil:													
No. 2	402.0	561.6	573.3	584.9	572.3	553.7	552.3						
Low sulfur No. 6	320.2	453.3	466.1	454.6	435.5	444.3	440.5						
High sulfur No. 6	264.7	361.4	358.8	324.8	291.3	311.1	309.5						
All No. 6	299.7	423.5	429.7	411.0	394.9	402.1	392.7						
Coal (all grades)	122.4	128.7	129.9	130.1	133.8	133.3	135.1						
Natural Gas	175.4	194.8	203.9	207.9	204.0	212.0	209.3						
Actual Price Differential (Fuel Oil and Coal Less Natural Gas)													
Fuel oil:													
No. 2	226.6	366.8	369.4	377.0	368.3	341.7	343.0						
Low sulfur No. 6	144.8	258.5	262.2	246.5	231.5	232.3	231.2						
High sulfur No. 6	89.3	166.6	154.7	116.5	87.3	99.1	100.2						

MONTHLY PRICES PAID BY STEAM ELECTRIC PLANTS FOR SELECTED FUELS DURING 1980—Continued

Type of fuel	Average 1979 prices	1980											
		Jan.	Feb.	Mar.	April	May	June						
All No. 6	124.3	228.7	225.8	203.1	190.9	191.1	183.4						
Coal (all grades)	(53.0)	(66.1)	(74.0)	(77.8)	(70.2)	(78.7)	(74.2)						
Price Difference Ratio [1] (Fuel Oil and Coal v. Natural Gas)													
Fuel Oil:													
No. 2	1.292	1.697	1.612	1.613	1.605	1.612	1.539						
Low sulfur No. 6	.826	1.327	1.286	1.186	1.135	1.096	1.105						
High sulfur No. 6	.509	.855	.759	.560	.426	.467	.479						
All No. 6	.709	1.174	1.107	.977	.936	.901	.876						
Coal (all grades)	(.302)	(.339)	(.363)	(.374)	(.344)	(.371)	(.355)						

Source: FPC Form No. 423 as reported in DOE/EIA Energy Data Report entitled *Cost and Quality of Fuels for Electric Utility Plants*—Annual Summary Reports 1979 and 1980 and Monthly Reports for January through December 1980. *Note:* All prices are actual delivered prices to steam-electric plants. Prices paid for No. 6 fuel oil may include prices paid for minor amounts of No. 4 and No. 5 fuel oil, crude and topped crude.

[1] Mathematically the price difference ratio is $P_o - P_t \div P_t$; where P_o = the price of fuel oil or coal and P_t the price of natural gas.

BILLING CODE 6717-01-M

DOCKET NO. RM79-40-000, et al. APPENDIX C

STOCKS OF RESIDUAL FUEL OIL, U. S. TOTAL

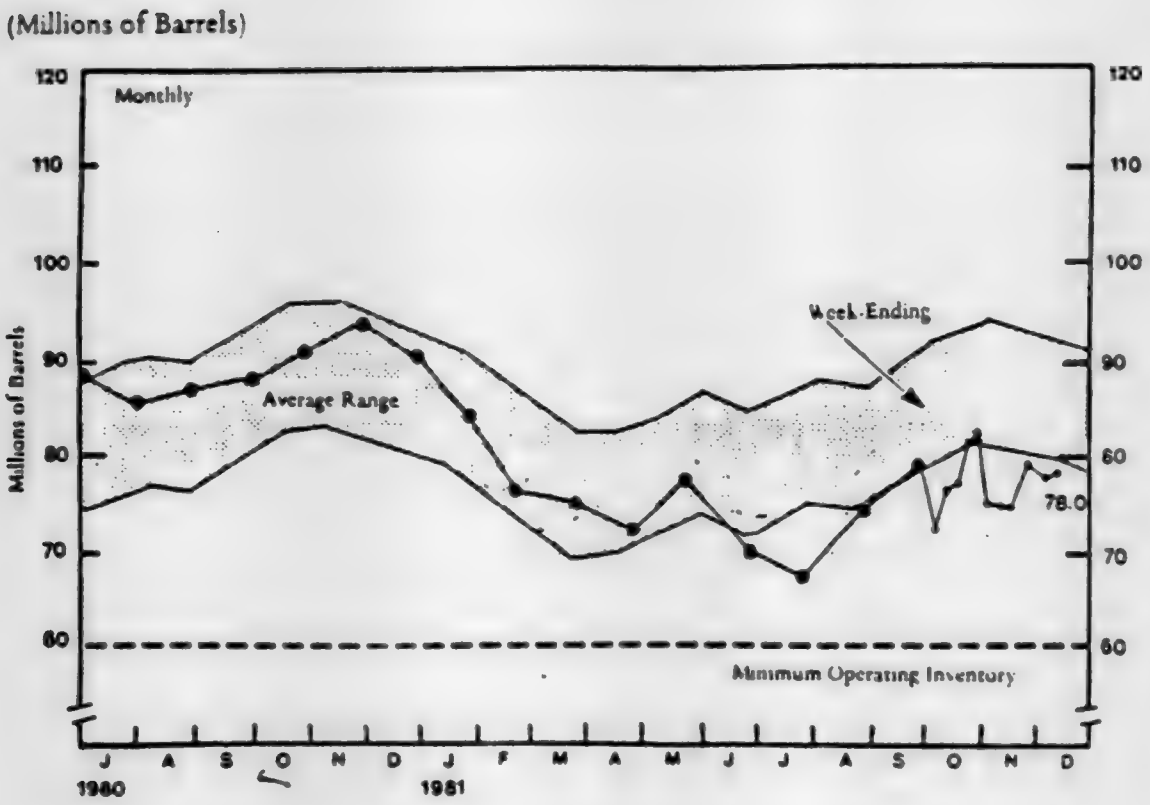

SOURCE: DOE/EIA Weekly Petroleum Status Report, December 18, 1981, at 13. "Minimum Operating Inventory" is defined by the National Petroleum Council as the minimum level required for routine operation. By their definition, runouts and shortages would occur if inventory levels fall below that level.

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BILLING CODE 6717-01-C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

Computing Primary Insurance Amounts; Reorganization of Subpart, and Changes in Computing Dropout Years for Workers Entitled to Disability Insurance Benefits

AGENCY: Social Security Administration, HHS.

ACTION: Final rules, with request for comments on specified rules.

SUMMARY: We are revising and reorganizing our rules on basic computations of primary insurance amounts under the Old-Age, Survivors, and Disability Insurance (OASDI) programs to make the rules clearer and easier to use. A worker's "primary insurance amount" is the basic figure we use to find the amount of his or her benefits, as well as those of his or her family. (Other rules affecting actual benefit amounts payable to individuals are in Subparts D and E.) Also, we are adding new rules on how to compute benefit computation dropout years for disabled workers. The authority for these new rules was added to the Social Security Act by the Social Security Disability Amendments of 1980 (Pub. L. 96–265).

EFFECTIVE DATE: These rules are effective upon publication in the **Federal Register**. However, in accordance with the law which the rules on the disability dropout reflect, the new rules on computing the dropout are effective for disabled workers who are first entitled to disability insurance benefits after June 1980, except that the rule on additional dropout years based on child care is applicable only for benefits payable for months after June 1981.

ADDRESSES: Send your written comments on the disability dropout for child care (§ 404.211(e)) to the Social Security Administration, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203, or deliver them to the Office of Regulations, Social Security Administration, 3–A–3 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Jack Schanberger, Room 3–B–4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594–6785.

SUPPLEMENTARY INFORMATION: In these revised and reorganized rules, we describe the two major methods of determining a worker's primary insurance amount; we also describe several special methods of determining primary insurance amounts and when and how we use these special methods. The rules include provisions for adjusting primary insurance amount automatically to keep up with rises in the cost of living. We also describe how a worker's primary insurance amount may be "recomputed" and "recalculated." Recomputations usually update a primary insurance amount to take into account earnings that were not used in an earlier computation. Recomputations never result in a decrease in a primary insurance amount. Recalculations may take into account a number of other factors and may result in either an increase or a decrease in a primary insurance amount.

We explain in the new rules how to compute the number of years of no or low earnings to be dropped out when computing the primary insurance amount for a disabled worker. We also explain that where this computation results in fewer than 3 dropout years, we can add 1 dropout year (up to a total of 3) for each year the worker met specified conditions for having had a child in his or her care; however, the total of regular dropout years and child care dropout year combined cannot exceed 3. Although the law provides that as many as 3 child care dropout years may be used, in actual practice no more than 2 can be dropped because of the combined effect of the number of elapsed years, the 1-for-5 dropout years (if any) and computation years required for computations to which the provision applies.

Revised and Reorganized Rules

On June 25, 1980, these revised rules were published in the **Federal Register** (45 FR 42847) as a Notice of Proposed Rulemaking. Later in this publication, we respond to the comments we received on the June 25 Notice. We are revising and reorganizing these complex rules as part of an effort to enhence the readability and understanding of our rules by the public.

On December 22, 1980, the new rule on computing the disability dropout was published in the **Federal Register** (45 FR 84086) as a Notice of Proposed Rulemaking. We received one favorable comment on the readability of the proposed regulations. We are incorporating this rule in this final regulation.

On January 8, 1981, a Notice of Proposal to Develop Regulations was published in the **Federal Register** (46 FR 2093) to announce a modification to the dropout provision to reflect requirements of the 1980 Amendments to the Social Security Act. This modification permits additional dropout years for a younger disabled worker who had no earnings because he or she was caring for a child. Since the modification does not go beyond the statutory mandates, in accordance with Section 553(b)(B) of the Administrative Procedure Act, we considered a Notice of Proposed Rulemaking to be unnecessary. Accordingly, we are now publishing the regulations as a final rule, but with a request for comments within 60 days after publication. This enables us to publish this entire Subpart which is current except for the provisions on minimum benefits and rounding of benefit amounts. To avoid further delay in this final regulation, the revised rules on these provisions, which were amended by Pub. L. 97–35 and by Pub. L. 97–123, will be issued in the near future as a Notice of Proposed Rulemaking. If necessary, we will respond in a future publication to any comments we receive on the rule for dropout years for disability insurance benefits based on child care.

Reorganization

We have reorganized this Subpart C to make it more readable. We have added subtitles to highlight important rules and make them easier to locate. The subpart is organized so that individuals can easily find the rules that apply to them without having to read the entire subpart.

We have moved the tables in the current §§ 404.223–404.227 to an appendix. Also, § 404.282, relating to "delayed retirement credits" has been removed from the revised subpart. We will continue to apply those rules though and they will be incorporated in Subpart E of Part 404.

Background

In the Social Security Amendments of 1977 (Pub. L. 95–216), Congress added to the Social Security Act a new method for computing the primary insurance amount. This change was necessary to eliminate an unintended result of the Social Security Amendments of 1972 whereby benefit rates were increasing too rapidly relative to past earnings for workers who would be eligible in the future. The increases would have meant

that future beneficiaries would receive benefits equal to or in excess of their preretirement earnings. Thus costs of the Old-Age, Survivors, and Disability Insurance programs were expected to rise rapidly in the 21st century. The 1977 Amendments substantially reduced both the expected costs and the long-range actuarial deficits that had been projected for these social security programs.

In the Social Security Disability Amendments of 1980 (Pub. L. 96–265), Congress provided a stricter and fairer method of computing the number of years of no or low earnings which can be dropped out when computing the primary insurance amount of a disabled worker. Now, we divide the elapsed years by 5 and disregard any fraction to get the number of dropout years, which in any event cannot exceed 5. Before the Amendments, 5 years of no or low earnings could be routinely dropped out of disability computations. This method allowed the young worker a higher proportion of dropout years to total years of earnings, and thereby resulted in a higher primary insurance amount than would have been computed for an older worker with a comparable wage history. This provision, which affects persons disabled before age 47, at least partially offsets an unwarranted advantage heretofore received by young workers.

To soften the effect of fewer dropout years for young disabled workers, Congress added a provision to permit additional dropout years for a young worker who had no earnings because he or she was caring for a child.

In § 404.211, we explain how to compute the number of dropout years for a worker who first becomes entitled to disability insurance benefits after June 1980.

Methods of Finding Primary Insurance Amounts—General

With some exceptions, the computation method contained in the 1977 legislation became effective for workers who in 1979 or later reach age 62, or who in 1979 or later become disabled or die before age 62. To prevent a sudden change in the rules from disadvantaging workers nearing age 62 at the time of enactment of the new method, the 1977 legislation retains the pre-1979 computation methods, with some modifications, as a guaranteed alternative to the new method for workers reaching age 62 before 1984. Of course, the pre-1979 methods still apply to workers who reached age 62, became disabled, or died before 1979.

Thus, several computation methods are current. In § 404.204, we first describe how we select the method (or methods) applicable to an individual, then we give directions to the proper rules for computing an individual's primary insurance amount.

Post-1978 Method of Finding Primary Insurance Amounts

As explained in §§ 404.210–404.212, the primary insurance amount of a worker who after 1978 reaches age 62, or after 1978 becomes disabled or dies before age 62 is computed under a new method which we call the "average-indexed-monthly-earnings" method. In these rules, we describe how we average a worker's earnings under social security over the period he or she can reasonably be expected to have worked under social security. We also describe how we use a benefit table to find the worker's primary insurance amount.

Pre-1979 Method of Finding Primary Insurance Amounts

As explained in §§ 404.220–404.222, the primary insurance amount of a worker who reached age 62, became disabled, or died before 1979 usually is computed under what we call the "average-monthly-wage" method. In these rules, we describe how we average a worker's earnings under social security over the period he or she can reasonably be expected to have worked under social security. We also describe how we use a benefit table to find the worker's primary insurance amount.

Guaranteed Alternative

Sections 404.230–404.233 contain the rules for putting into effect Congress' intent that people nearing age 62 at the time of enactment of the average-indexed-monthly-earnings method of finding primary insurance amounts should not be seriously disadvantaged under the new method. Under these rules, workers reaching age 62 after 1978 but before 1984 are guaranteed the higher of—

(a) Their primary insurance amount found under the average-indexed-monthly-earnings method; or

(b) Their primary insurance amount found under a modified average-monthly-wage method (including a primary insurance amount found under the "old-start" method described in §§ 404.240–404.242). For purposes of this method, primary insurance amounts are based on the December 1978 benefit table (see Appendix III), but individual benefits are increased by any automatic cost-of-living or *ad hoc* increases in primary insurance amounts effect in or after the year the worker reaches age 62. Earnings after the year the worker reaches age 61 cannot be used in the modified average-monthly-wage method.

The primary insurance amount computed in this way is the worker's "guaranteed alternative". If that primary insurance amount is higher than the worker's primary insurance amount found under the average-indexed-monthly-earnings method, we base the worker's benefits (and those of his or her family) on the guaranteed-alternative primary insurance amount.

Old-Start Primary Insurance Amounts

The law provides a special method for finding the primary insurance amount for a worker whose social security earnings were all or almost all before 1951. We call this method the "old-start" computation, and we explain it in § 404.241. We use this old-start method along with the average-indexed-monthly-earnings method and the average-monthly-wage method, as appropriate, to determine the highest PIA for a worker. As explained in § 404.242, we may use the primary insurance amount computed under the old-start method, with some modifications, as a "guaranteed alternative" for purposes of § 404.230.

Period of Disability—Special Rules

In §§ 404.250–404.252, we describe the special rules we use in computing primary insurance amounts for workers who were disabled (and got social security disability insurance benefits) and whose benefits were later terminated because they medically recovered or because they demonstrated an ability to engage in substantial gainful activity. When, after 1978, these workers die or become entitled to old-age insurance benefits or become re-entitled to disability insurance benefits, the rules we use for finding their primary insurance amounts depend on how long a time passed between the time they last got disability benefits and the time they die, become entitled to old-age insurance benefits, or become re-entitled to disability benefits. In general, these rules specify that if fewer than 12 months pass between the last month of entitlement to disability benefits and the month of death, entitlement to old-age insurance benefits, or reentitlement to disability benefits, the worker's primary insurance amount is at least as high as it was when he or she last got a benefit, increased by any automatic cost-of-living or *ad hoc* increases in primary insurance amounts effective since the last entitlement to benefits.

In general, if 12 months or more pass between these events, we compute a new primary insurance amount for the worker, although he or she is guaranteed a primary insurance amount at least as high as the previous one. However, when this period was 12 months or longer, the previous primary insurance amount is not increased by any automatic cost-of-living or *ad hoc* increases effective since he or she last got a monthly benefit.

Special Minimum Primary Insurance Amounts

Under an alternative method in the law for computing primary insurance amounts, a person who worked for many years at low wages is assured higher benefits then would otherwise be payable. If this method, described in §§ 404.260–404.261, results in a higher primary insurance amount than any other method for which the worker is eligible, we will use it as the basis for determining benefit amounts.

Cost-of-Living Increases

After a worker's primary insurance amount has been computed, it is automatically increased to keep up with rises in the cost of living. Sections 404.270–404.277 contain the rules for automatic cost-of-living increases in primary insurance amounts, including how the rise in the cost of living is measured, how we determine if an automatic increase is to be made, and other matters related to automatic cost-of-living increases.

Recomputations and Recalculations of Primary Insurance Amounts

Sections 404.280–404.287 contain the rules we use in determining when and how primary insurance amounts may be "recomputed". A recomputation is a new computation of the primary insurance amount to include earnings which could not be used in the first computation (or in an earlier recomputation). These rules show that a recomputation may be used only to increase a primary insurance amount, how we do recomputations automatically, and how a worker and his or her family (or his or her survivors) may request or waive a recomputation.

Section 404.290 contains the rules we use in determining when and how primary insurance amounts may be "recalculated". In a recalculation, we refigure an earlier computation to correct it or to include certain earnings not available earlier. A recalculation differs from a recomputation mainly in that a recalculation may result in either an increase or a decrease in a primary insurance amount, while recomputations never result in a decrease.

Appendices

The six appendices to Subpart C contain figures and formulas that are needed in finding primary insurance amounts. Appendix I contains "average of the total wages" figures, which we use to "index" a worker's earnings for purposes of finding his or her average indexed monthly earnings. Appendix II contains benefit formulas which we apply to a worker's average indexed monthly earnings to find his or her primary insurance amount. Appendix III contains the benefit table we use to find a worker's primary insurance amount from his or her average monthly wage. We use the figures in Appendix IV to find a worker's "years of coverage" for years after 1950 for the purpose of finding his or her special minimum primary insurance amount. Appendix V is a table for computing the special minimum primary insurance amount and the related maximum family benefits. Appendix VI is a table showing the percentage increases in primary insurance amounts since 1978.

The figures in the appendices are by law automatically adjusted each year and the law requires us to announce the changes by timely publication in the **Federal Register**. We always use the latest data from the **Federal Register**, which precedes our periodic updating of the appendices.

Deletion of Rarely Used Material

To simplify this subpart, we are deleting infrequently used material concerning two old-start computation methods, benefit tables, and methods of recomputation and recalculation. In each of these areas, we are retaining the latest and most frequently used material. When necessary to use provisions that were in the deleted material, we will refer instead to the Social Security Act and to our internal operating instructions. These reference sources are available for inspection at any social security office.

The Final Rules

We have made some minor technical corrections and additions to the rules which were published in the June 25, 1980, Notice of Proposed Rulemaking. In addition, we are including the rules on the new disability dropout provisions which were published on December 22, 1980, as an NPRM. We are also including the rules that permit additional dropout years in computing disability benefits for a young worker who had no earnings because he or she was providing the principal care for a child under age 3. We have also updated the appendices to show the 14.3 percent cost-of-living increase that took effect for June 1980, the 11.2 percent increase for June 1981, and other recent data needed to compute primary insurance amounts. Finally, we have made some clarifying changes as a result of comments from the public; these are discussed below.

We will publish in the near future the rules for the minimum benefit and rounding of benefit amounts, as provided in Pub. L. 97–35 and Pub. L. 97–123.

Comments on Notice of Proposed Rulemaking

In the Notices of Proposed Rulemaking, we allowed 60 days for interested persons to submit comments. We received comments from 3 people, including 2 who represent pension-consulting companies. As a result of these comments, we have made the following changes:

1. In § 404.212(c), we have added a statement that the primary insurance amount *plus* any applicable cost-of-living increase cannot be less than the $122 minimum primary insurance amount.

2. In the example in § 404.221, we have made two additions to remove any possibility that elapsed years will be confused with computation base years when deciding which years of earnings we use in the computation.

3. In § 404.261(a)(2), we have modified the second sentence to say that special minimum primary insurance amounts based on "only a few" rather than "less than 20" years of coverage are lower than the regular minimum benefit. The sentence, as written in the Notice of Proposed Rulemaking, was not accurate for all cases.

Regulatory Procedures

Executive Order 12291.—The new disability dropout provision will reduce disability program costs by about $76 million in FY 1982, increasing to a $261 million reduction by FY 1985. The provision for increasing the number of disability dropout years based on child care is expected to increase program costs by $5 million in FY 1982 and by $17 million in FY 1985. The regulations are not considered a major rule under Executive Order 12291 since the savings and costs described above result from statutory amendments which are effective whether or not regulations are issued, and are therefore not a "result" of these regulations.

Paperwork Reduction Act.—There are no new recordkeeping or reporting requirements requiring OMB clearance.

Regulatory Flexibility Act.—We certify that these regulations will not, if promulgated, have a significant economic impact on a substantial number of small entities because these regulations affect only individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act, is not required.

Accordingly, the revision of this subpart is adopted with several editorial and clarifying changes, as set forth below.

(Sections 205, 215, and 1102 of the Social Security Act, as amended; 53 Stat. 1368, as amended, 64 Stat. 506, as amended, 49 Stat. 647; 42 U.S.C. 405, 415, and 1302.)

(Catalog of Federal Domestic Assistance Programs No. 13.802, Social Security-Disability; 13.803, Social Security-Retirement Insurance; 13.805, Social Security-Survivors Insurance.)

List of Subjects in 20 CFR 404

Administrative practice and procedure, Death benefits, Disabled, Old-age, Survivors and Disability Insurance, Social Security Administration.

Dated: May 17, 1982.

John A. Svahn,

Commissioner of Social Security.

Approved: June 24, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

Subpart C of Part 404 of Chapter III of Title 20 of the Code of Federal Regulations is revised to read as follows:

Subpart C—Computing Primary Insurance Amounts

General

Sec.

404.201 Introduction.
404.202 Other regulations related to this subpart.
404.203 Definitions.
404.204 Methods of computing primary insurance amounts—general.

Average-Indexed-Monthly Earnings Method of Computing Primary Insurance Amounts

404.210 Average-indexed-monthly-earnings method.
404.211 Computing your average indexed monthly earnings.
404.212 Computing your primary insurance amount from your average indexed monthly earnings.

Average-Monthly-Wage Method of Computing Primary Insurance Amounts

404.220 Average-monthly-wage method.
404.221 Computing your average monthly wage.
404.222 Use of benefit table in finding your primary insurance amount from your average monthly wage.

Guaranteed Alternative for People Reaching Age 62 After 1978 but Before 1984

404.230 Guaranteed alternative.
404.231 Steps in computing your primary insurance amount under the guaranteed alternative—general.
404.232 Computing your average monthly wage.
404.233 Adjustment of your guaranteed alternative when you become entitled after age 62.

Old-Start Method of Computing Primary Insurance Amounts

404.240 Old-start method—general.
404.241 1977 simplified old-start method.
404.242 Use of old-start primary insurance amount as guaranteed alternative.

Special Computation Rules for People Who Had a Period of Disability

404.250 Special computation rules for people who had a period of disability.
404.251 Subsequent entitlement to benefits less than 12 months after entitlement to disability benefits ended.
404.252 Subsequent entitlement to benefits 12 months or more after entitlement to disability benefits ended.

Special Minimum Primary Insurance Amounts

404.260 Special minimum primary insurance amounts.
404.261 Computing your special minimum primary insurance amount.

Cost-of-Living Increases

404.270 Cost-of-living increases.
404.271 When automatic cost-of-living increases apply.
404.272 Use of Consumer Price Index to measure the rise in the cost of living.
404.273 When automatic cost-of-living increases are to be made.
404.274 Measuring the increase in the Consumer Price Index.
404.275 Amount of automatic cost-of-living increase.
404.276 Publication of notice of increase.
404.277 Automatic increases of "frozen" minimum primary insurance amount.

Recomputing Your Primary Insurance Amount

404.280 Recomputations.
404.281 Why your primary insurance amount may be recomputed.
404.282 Effective date of recomputations.
404.283 Recomputation under method other than that used to find your primary insurance amount.
404.284 Recomputations for people who reach age 62, or become disabled, or die before age 62 after 1978.
404.285 Recomputations performed automatically.
404.286 How to request an immediate recomputation.
404.287 Waiver of recomputation.

Recalculations of Primary Insurance Amounts

Sec.

404.290 Recalculations.

Appendices

Appendix I Average of the Total Wages for Years after 1950.
Appendix II Benefit Formulas Used with Average Indexed Monthly Earnings.
Appendix III Benefit Table.
Appendix IV Special Minimum Primary Insurance Amount; Earnings Needed for a Year of Coverage after 1950.
Appendix V Computing the Special Minimum Primary Insurance Amount and Related Maximum Family Benefits.
Appendix VI Percentage of Increases in Primary Insurance Amounts since 1978.

Authority: Secs. 205, 215, and 1102, Social Security Act, as amended; 53 Stat. 1368, as amended; 64 Stat. 506, as amended; 49 Stat. 647; 42 U.S.C. 405, 415 and 1302.

General

§ 404.201 Introduction.

In this subpart we describe how we compute your primary insurance amount, which is the first step in finding your monthly social security benefit amount. Your primary insurance amount is the basic figure we use in finding the monthly benefit actually payable to you and to members of your family. For example, if you retire at age 65 or become disabled, your monthly benefit is equal to your primary insurance amount. In other situations, your benefit does not equal your primary insurance amount. For example, if you become entitled to old-age benefits before you reach age 65, your benefit is less than your primary insurance amount, as described in §§ 404.410–404.413. Benefits payable to members of your family are a specified percentage of your primary insurance amount. (See subpart D.) We explain how we automatically increase your primary insurance amount to keep it up to date with rises in the cost of living. We also explain how and when we recompute your primary insurance amount and how and when we recalculate your primary insurance amount. We have organized this subpart as follows:

(a) In §§ 404.210–404.212, we describe the average-indexed-monthly-earnings method we use for computing primary insurance amounts of workers who after 1978 reach age 62, or become disabled or die before age 62;

(b) In §§ 404.220–404.222, we describe the average-monthly-wage method we use for computing primary insurance amounts of workers who reach age 62, become disabled, or die before 1979;

(c) In §§ 404.230–404.233, we describe the guaranteed alternative method of computing primary insurance amounts

that applies to people who reach age 62 after 1978 but before 1984;

(d) In §§ 404.240–404.242, we describe a method of computing primary insurance amounts (called the old-start method) for people who had all or substantially all their social security earnings before 1951;

(e) In §§ 404.250–404.252, we describe special rules we apply in computing primary insurance amounts of people who had a period of disability at some time in their lives;

(f) In §§ 404.260–404.261, we describe how we compute the special minimum primary insurance amount for long-term, low-paid workers;

(g) In §§ 404.270–404.277, we describe how we automatically adjust primary insurance amounts to take account of rises in the cost of living;

(h) In §§ 404.280–404.287, we describe how and when we recompute primary insurance amounts to take into account additional earnings;

(i) In § 404.290, we describe how and when we recalculate primary insurance amounts; and

(j) Appendices I–VI contain material such as figures and formulas that we use in finding a primary insurance amount under various circumstances.

§ 404.202 Other regulations related to this subpart.

This subpart is related to several others. In subpart B of this part, we describe how you become insured for social security benefits as a result of your work in covered employment. In subpart D, we discuss the different kinds of social security benefits available—old-age and disability benefits for you and benefits for your dependents and survivors—the amount of the benefits, and the requirements you and your family must meet to qualify for them; your work status, your age, the size of your family, and other factors may affect the amount of the benefits for you and your family. Rules relating to deductions, reductions, and nonpayment of benefits we describe in subpart E. In subpart F of this part, we describe what we do when a recalculation or recomputation of your primary insurance amount (as described in this subpart) results in our finding that you and your family have been overpaid or underpaid. In subparts G and H of this part, we tell how to apply for benefits and what evidence is needed to establish entitlement to them. In subpart J of this part, we describe how benefits are paid. Then in subparts I, K, N, and O of this part, we discuss your earnings that are taxable and creditable for social security purposes (and how we keep records of them), and deemed military wage credits which may be used in finding your primary insurance amount.

§ 404.203 Definitions.

(a) *General definitions.* As used in this subpart—

"*Ad hoc* increase in primary insurance amounts" means an increase in primary insurance amounts enacted by the Congress and signed into law by the President.

"Entitled" means that a person has applied for benefits and has proven his or her right to them for a given period of time.

"We," "us," or "our" means the Social Security Administration or the Department of Health and Human Services.

"You" or "your" means the insured worker who has applied for benefits or a deceased insured worker on whose social security earnings record someone else has applied.

(b) *Other definitions.* To make it easier to find them, we have placed other definitions in the sections of this subpart in which they are used.

§ 404.204 Methods of computing primary insurance amounts—general.

(a) *General.* We compute most workers' primary insurance amounts under one of two major methods. There are, in addition, several special methods of computing primary insurance amounts which we apply to some workers. Your primary insurance amount is the highest of all those computed under the methods for which you are eligible.

(b) *Major methods.* (1) If after 1978 you reach age 62, or become disabled or die before age 62, we compute your primary insurance amount under what we call the "average-indexed-monthly-earnings" method, which is described in §§ 404.210–404.212. The earliest of the three dates determines the computation method we use.

(2) If before 1979 you reached age 62, became disabled, or died, we compute your primary insurance amount under what we call the "average-monthly-wage" method, described in §§ 404.220–404.222.

(c) *Special methods.* (1) Your primary insurance amount, computed under any of the special methods for which you are eligible as described in this paragraph, may be substituted for your primary insurance amount computed under either major method described in paragraph (b) of this section.

(2) If you reach age 62 during the period 1979–1983, your primary insurance amount is guaranteed to be the highest of—

(i) The primary insurance amount we compute for you under the average-indexed-monthly-earnings method;

(ii) The primary insurance amount we compute for you under the average-monthly-wage method, as modified by the rules described in §§ 404.230–404.233; or

(iii) The primary insurance amount computed under what we call the "old-start" method; as described in §§ 404.240–404.242.

(3) If you had all or substantially all of your social security earnings before 1951, we will also compute your primary insurance amount under what we call the "old-start" method.

(4) We compute your primary insurance amount under the rules in §§ 404.250–404.252, if—

(i) You were disabled and received social security disability insurance benefits sometime in your life;

(ii) Your disability insurance benefits were terminated because of your recovery or because you engaged in substantial gainful activity; and

(iii) You are, after 1978, re-entitled to disability insurance benefits, or entitled to old-age insurance benefits, or have died.

(5) In some situations, we use what we call a "special minimum" computation, described in §§ 404.260–404.261, to find your primary insurance amount. Computations under this method reflect long-term, low-wage attachment to covered work.

Average-Indexed-Monthly Earnings Method of Computing Primary Insurance Amounts

§ 404.210 Average-indexed-monthly-earnings method.

(a) *Who is eligible for this method.* If after 1978, you reach age 62, or become disabled, or die before age 62, we will compute your primary insurance amount under the average-indexed-monthly-earnings method.

(b) *Steps in computing your primary insurance amount under the average-indexed-monthly-earnings method.* We follow these three major steps in computing your primary insurance amount:

(1) First, we find your "average indexed monthly earnings," as described in § 404.211;

(2) Second, we find the "benefit formula" in effect for the year you reach age 62, or become disabled, or die before age 62, as described in § 404.212; and

(3) Then, we apply that benefit formula to your average indexed monthly earnings to find your primary

insurance amount, as described in § 404.212.

(4) Next, we apply any automatic cost-of-living or *ad hoc* increases in primary insurance amounts that became effective in or after the year you reached age 62, unless you are receiving benefits based on the minimum primary insurance amount, in which case not all the increases may be applied, as described in § 404.277.

§ 404.211 Computing your average indexed monthly earnings.

(a) *General.* In this method, your social security earnings after 1950 are "indexed," as described in paragraph (d) of this section, then averaged over the period of time you can reasonably have been expected to have worked in employment or self-employment covered by social security. (Your earnings before 1951 are not used in finding your average indexed monthly earnings.)

(b) *Which earnings may be used in computing your average indexed monthly earnings.* (1) *Earnings.* In computing your average indexed monthly earnings, we use wages, compensation, self-employment income, and deemed military wage credits (see §§ 404.1340–404.1343) that are creditable to you for social security purposes for years after 1950.

(2) *Computation base years.* We use your earnings in your "computation base years" in finding your average indexed monthly earnings. All years after 1950 up to (but not including) the year you become entitled to old-age or disability insurance benefits, and through the year you die if you had not been entitled to old-age or disability benefits, are computation base years for you. The year you become entitled to benefits and following years may be used as computation base years in a recomputation if their use would result in a higher primary insurance amount. (See §§ 404.280–404.287.) However, years after the year you die may not be used as computation base years even if you have earnings credited to you in those years. Computation base years do not include years wholly within a period of disability unless your primary insurance amount would be higher by using the disability years. In such situations, we count all the years during the period of disability, even if you had no earnings in some of them.

(c) *Average of the total wages.* Before we compute your average indexed monthly earnings, we must first know the "average of the total wages" of all workers for each year from 1951 until the second year before you become eligible. "Average of the total wages (average wage)" means:

(1) For years after 1977, all remuneration reported as wages on Form W–2 to the Internal Revenue Service for all employees for income tax purposes, divided by the number of wage earners, except that for 1978 and 1979, we will use averages derived from data on wage amounts reported on IRS Forms 1040. The number of wage earners will be derived from the W–2 Forms attached to those Forms 1040. We will adjust those averages to make them comparable to the averages for 1951–1977. For years after 1977, the term includes remuneration for services not covered by social security and remuneration for covered employment in excess of that which is subject to FICA contributions.

(2) For the years 1951 through 1977, four times the amount of average taxable wages that were reported to the Social Security Administration for the first calendar quarter of each year for social security tax purposes. For years prior to 1973, these average wages are determined from a sampling of these reports.

(3) Average wages for 1951–1980 are shown in Appendix I; corresponding figures for 1981 and each later year will be published in the **Federal Register** on or before November 1 of the succeeding year.

(d) *Indexing your earnings.* (1) The first step in indexing your social security earnings is to find the relationship between—

(i) The average wage of all workers in the second year before you reach age 62, or become disabled, or die before age 62 (your "indexing year"); and

(ii) The average wage of all workers in each of your computation base years.

(2) To find the relationship, we divide the average wages for your indexing year, in turn, by the average wages for each year beginning with 1951 and ending with your indexing year. We use the quotients found in these divisions to index your earnings as described in paragraph (d)(3) of this section.

(3) The second step in indexing your social security earnings is to multiply the actual year-by-year dollar amounts of your earnings (up to the maximum amounts creditable, as explained in §§ 404.1047 and 404.1096 of this part) by the quotients found in paragraph (d)(2) of this section for each of those years. We round the results to the nearer penny. (The quotient for your indexing year is 1.0; this means that your earnings in that year are used in their actual dollar amount; any earnings after your indexing year that may be used in computing your average indexed monthly earnings are also used in their actual dollar amount.)

Example. Ms. A reaches age 62 in July 1979. Her year-by-year social security earnings since 1950 are as follows:

Year	Earnings
1951	$3,200
1952	3,400
1953	3,300
1954	3,600
1955	3,700
1956	3,700
1957	4,000
1958	4,200
1959	4,400
1960	4,500
1961	2,900
1962	2,200
1963	0
1964	0
1965	3,700
1966	4,500
1967	5,400
1968	6,200
1969	6,900
1970	7,300
1971	7,500
1972	7,800
1973	8,200
1974	9,000
1975	9,900
1976	11,100
1977	9,000
1978	11,000

Step 1

The first step in indexing Ms. A's earnings is to find the relationship between the general wage level in Ms. A's indexing year (1977) and the general wage level in each of the years 1951–1976. We refer to Apendix I for average wage figures, and perform the following computations:

Year	I. 1977 general wage level	II. Nationwide average of the total wages	III. Column I divided by column II equals relationship
1951	$9,779.44	$2,799.16	3.4937053
1952	9,779.44	2,973.32	3.2890641
1953	9,779.44	3,139.44	3.1150288
1954	9,779.44	3,155.64	3.0990354
1955	9,779.44	3,301.44	2.9621761
1956	9,779.44	3,522.36	2.7686287
1957	9,779.44	3,641.72	2.6853904
1958	9,779.44	3,673.80	2.6619413
1959	9,779.44	3,855.80	2.5362934
1960	9,779.44	4,007.12	2.4400159
1961	9,779.44	4,086.76	2.3929568
1962	9,779.44	4,291.40	2.2788481
1963	9,779.44	4,396.64	2.2242986
1964	9,779.44	4,576.32	2.1368559
1965	9,779.44	4,856.72	2.0081689
1966	9,779.44	4,936.36	1.9803012
1967	9,779.44	5,213.44	1.8758133
1968	9,779.44	5,571.76	1.7551787
1969	9,779.44	5,893.76	1.6592871
1970	9,779.44	6,186.24	1.5806375
1971	9,779.44	6,497.08	1.5052054
1972	9,779.44	7,133.80	1.3706599
1973	9,779.44	7,580.16	1.2901364
1974	9,779.44	8,030.76	1.2177478
1975	9,779.44	8,630.92	1.1330704
1976	9,779.44	9,226.48	1.0599318
1977	9,779.44	9,779.44	1.0000000

Step 2

After we have found these indexing quotients, we multiply Ms. A's actual year-by-year earnings by them to find her indexed earnings, as shown below:

Year	I. Actual earnings	II. Indexing quotient	III. Column I multiplied by column II equals indexed earnings
1951	$3 00	3.4927053	$11,179.86
1952	3 00	3.2890641	11,162.62
1953	3,400	3.1150269	10,279.59
1954	3,600	3.0990354	11,156.53
1955	3,700	2.9621741	10,960.04
1956	3,700	2.7685267	10,243.56
1957	4,000	2.6853904	10,741.56
1958	4,200	2.6615413	11,180.15
1959	4,900	2.5362934	11,159.69
1960	4,600	2.4405159	10,982.32
1961	2,900	2.3928568	6,700.28
1962	2,200	2.2766461	5,013.46
1963	0	2.2242966	0
1964	0	2.1368659	0
1965	3,700	2.0991889	7,766.92
1966	4,500	1.9803012	8,911.36
1967	5,400	1.8758133	10,129.39
1968	6,200	1.7551797	10,882.11
1969	6,900	1.6592871	11,449.06
1970	7,300	1.5806375	11,540.11
1971	7,500	1.5052054	11,289.04
1972	7,800	1.3708599	10,692.71
1973	8,200	1.2901364	10,579.12
1974	9,000	1.2177478	10,959.73
1975	9,900	1.1330704	11,217.40
1976	11,100	1.0599318	11,765.24
1977	9,900	1.0000000	9,900.00
1978	11,000	0	11,000.00

(e) *Number of years to be considered in finding your average indexed monthly earnings.* To find the number of years to be used in computing your average indexed monthly earnings—

(1) We count the years beginning with 1951, or (if later) the year you reach age 22, and ending with the earliest of the year before you reach age 62, become disabled, or die. Years wholly or partially within a period of disability (as defined in § 1501(b) of subpart P of this part) are not counted unless your primary insurance amount would be higher. In that case, we count all the years during the period of disability, even though you had no earnings in some of those years. These are your "elapsed years." From your elapsed years, we then subtract up to 5 years, the exact number depending on the kind of benefits to which you are entitled. You cannot, under this procedure, have fewer than 2 benefit computation years.

(2) For computing old-age insurance benefits and survivors insurance benefits, we subtract 5 from the number of your elapsed years. See paragraphs (e) (3) and (4) of this section for the dropout as applied to disability benefits. This is the number of your "benefit computation years;" we use the same number of your computation base years (see paragraph (b)(2) of this section) in computing your average indexed monthly earnings. For benefit computation years, we use the years with the highest amounts of earnings after indexing. They may include earnings from years that were not indexed, and must include years of no earnings. if you do not have sufficient years with earnings. You cannot have fewer than 2 benefit computation years.

(3) Where the worker is first entitled to disability insurance benefits (DIB) after June 1980, there is an exception to the usual 5 year dropout provision explained in paragraph (e)(2) of this section. (For entitlement before July 1980, we use the usual dropout.) We call this exception the "disability dropout." We divide the elapsed years by 5 and disregard any fraction. The result, which may not exceed 5, is the number of dropout years. We subtract that number from the number of elapsed years to get the number of benefit computation years, which may not be fewer than 2. After the worker dies, the disability dropout no longer applies and we use the basic 5 dropout years to compute benefits for survivors. We continue to apply the disability dropout when a person becomes entitled to old-age insurance benefits (OAIB), unless his or her entitlement to DIB ended at least 12 months before he or she became eligible for OAIB. For first DIB entitlement before July 1980, we use the rule in paragraph (e)(2) of this section.

(4) For benefits payable after June 1981, the disability dropout might be increased by the "child care dropout." If the number of disability dropout years is fewer than 3, we will drop out a benefit computation year for each benefit computation year that the worker meets the child care requirement and had no earnings, until the total of all dropout years is 3. The child care requirement for any year is that the worker must have been living with his or her child (or his or her spouse's child) substantially throughout any part of any calendar year that the child was alive and under age 3. In actual practice, no more than 2 child care years may be dropped, because of the combined effect of the number of elapsed years, 1-for-5 dropout years (if any), and the computation years required for the computation.

Example. Mrs. M., born August 4, 1953, became entitled to disability insurance benefits (DIB) beginning in July 1980 based on a disability which began January 15, 1980. In computing the DIB, we determined that the elapsed years are 1975 through 1979, the number of dropout years is 1 (5 elapsed years divided by 5), and the number of computation years is 4. We use Mrs. M's earnings in the years 1976 through 1979.

Mrs. M lived with her child, who was born in 1972, in all months of 1973 and 1974 and did not have any earnings in those years. We, therefore, recompute Mrs. M's DIB beginning with July 1, 1981 to give her the advantage of the child care dropout. To do this, we reduce the 4 computation years by 2 child care years to get 2 computation years.

(i) "Living with" means that you and the child ordinarily live in the same home and you exercise, or have the right to exercise, parental control. See § 404.366(c) for a further explanation.

(ii) "Substantially throughout any part of any calendar year" means that any period you were not living with the child during a calendar year did not exceed 3 months. If the child was either born or attained age 3 during the calendar year, the period of absence in the year cannot have exceeded the smaller period of 3 months, or one-half the time after the child's birth or before the child attained age 3.

(iii) "Earnings" means wages for services rendered and net earnings from self-employment minus any net loss for a taxable year. See § 404.429 for a further explanation.

(f) *Your average indexed monthly earnings.* After we have indexed your earnings and found your benefit computation years, we compute your average indexed monthly earnings by—

(1) Totalling your indexed earnings in your benefit computation years;

(2) Dividing the total by the number of months in your benefit computation years; and

(3) Rounding the quotient to the next lower whole dollar. if not already a multiple of $1.

Example. From the example in paragraph (d) of this section, we see that Ms. A reaches age 62 in 1979. Her elapsed years are 1951–1978 (28 years). We subtract 5 from her 28 elapsed years to find that we must use 23 benefit computation years. This means that we will use her 23 highest computation base years to find her average indexed monthly earnings. We exclude the 5 years 1961–1965 and total her indexed earnings for the remaining years, i.e., the benefit computation years (including her unindexed earnings in 1977 and 1978) and get $249,361.41. We then divide that amount by the 276 months in her 23 benefit computation years and find her average indexed monthly earnings to be $903.56, which is rounded down to $903.

§ 404.212 Computing your primary insurance amount from your average indexed monthly earnings.

(a) *General.* We compute your primary insurance amount under the average-indexed-monthly-earnings method by applying a "benefit formula" to your average indexed monthly earnings.

(b) *Benefit formula.* (1) We use the applicable benefit formula in Appendix II for the year you reach age 62, become disabled, or die whichever occurs first.

(2) The dollar amounts in the benefit formula are automatically increased each year for persons who attain age 62, or who become disabled or die before age 62 in that year, by the same percentage as the increase in the average of the total wages (see Appendix I).

(3) We will publish benefit formulas for years after 1979 in the **Federal Register** at the same time we publish the average of the total wage figures. We begin to use a new benefit formula as soon as it is applicable, even before we periodically update Appendix II.

(c) *Computing your primary insurance amount from the benefit formula.* We compute your primary insurance amount by applying the benefit formula to your average indexed monthly earnings, adding the results for each step of the formula, and rounding the total amount to the next higher multiple of $0.10 if it is not a multiple of $0.10. (However, your primary insurance amount under this method, plus any applicable cost-of-living increase to which you are entitled (see §§ 404.270–404.277), cannot be less than $122, which is the "minimum primary insurance amount.")

Example. As we computed in paragraphs (d) and (f) of § 404.211, Ms. A's average indexed monthly earnings (AIME) are $903. We find her primary insurance amount by first applying the 1979 benefit formula (see Appendix II) to her AIME as follows: 90 percent of the first $180 in her AIME ($162), plus 32 percent of the remaining $723 of her AIME ($231.36)=$393.36. This amount is then rounded to $393.40.

As we explain in § 404.271(d), we then apply the cost-of-living benefit increase (9.9 percent, effective June 1979) to $393.40 to find Ms. A's primary insurance amount of $432.40. We increase that amount by the 14.3 percent cost-of-living increase effective June 1980, and get $494.30, and by the 11.2 percent increase effective June 1981 to get $553.70. (However, we may compute under another method which will result in a higher primary insurance amount. See the *Example* in § 404.233(b).)

(d) *Adjustment of your primary insurance amount when entitlement to benefits occurs in a year after attainment of age 62, disability or death.* If you (or your survivors) do not become entitled to benefits in the same year you reach age 62, become disabled, or die before age 62, we compute your primary insurance amount by—

(1) Computing your average indexed monthly earnings as described in § 404.211;

(2) Applying to your average indexed monthly earnings the benefit formula for the year in which you reach age 62, or become disabled, or die before age 62; and

(3) Applying to the primary insurance amount all automatic cost-of-living and *ad hoc* increases in primary insurance amounts that have gone into effect in or after the year you reached age 62, became disabled, or died before age 62. (See § 404.277 for special rules on minimum benefits, and Appendix VI for a table of percentage increases in primary insurance amounts since December 1978. Increases in primary insurance amounts are published in the **Federal Register** and we periodically update Appendix VI.)

Average-Monthly-Wage Method of Computing Primary Insurance Amounts

§ 404.220 Average-monthly-wage method.

(a) *Who is eligible for this method.* You must before 1979, reach age 62, become disabled or die to be eligible for us to compute your primary insurance amount under the average-monthly-wage method. Also, as explained in § 404.230, if you reach age 62 after 1978 but before 1984, you are eligible to have your primary insurance amount computed under a modified average-monthly-wage method if it is to your advantage. Being eligible for either the average-monthly-wage method or the modified average-monthly-wage method does not preclude your eligibility under the "old-start" method described in §§ 404.240–404.242.

(b) *Steps in computing your primary insurance amount under the average-monthly-wage method.* We follow these three major steps in computing your primary insurance amount under the average-monthly-wage method:

(1) First, we find your average monthly wage, as described in § 404.221;

(2) Second, we look at the "benefit table" in Appendix III; and

(3) Then we find your primary insurance amount in the benefit table, as described in § 404.222.

(4) Finally, we apply any automatic cost-of-living or *ad hoc* increases that became effective in or after the year you reached age 62, or became disabled, or died before age 62, as explained in §§ 404.270–404.277.

§ 404.221 Computing your average monthly wage.

(a) *General.* Under the average-monthly-wage method, your social security earnings are averaged over the length of time you can reasonably have been expected to have worked under social security after 1950 (or after you reached age 21, if later).

(b) *Which of your earnings may be used in computing your average monthly wage.* (1) In computing your average monthly wage, we consider all the wages, compensation, self-employment income, and deemed military wage credits that are creditable to you for social security purposes. (The maximum amounts creditable are explained in §§ 404.1047 and 404.1096 of this part.)

(2) We use your earnings in your "computation base years" in computing your average monthly wage. All years after 1950 up to (but not including) the year you become entitled to old-age or disability insurance benefits, or through the year you die if you had not been entitled to old-age or disability benefits, are computation base years for you. Years after the year you die may not be used as computation base years even if you have earnings credited to you in them. However, years beginning with the year you become entitled to benefits may be used for benefits beginning with the following year if using them would give you a higher primary insurance amount. Years wholly within a period of disability are not computation base years unless your primary insurance amount would be higher if they were. In such situations, we count all the years during the period of disability, even if you had no earnings in some of them.

(c) *Number of years to be considered in computing your average monthly wage.* To find the number of years to be used in computing your average monthly wage—

(1) We count the years beginning with 1951 or (if later) the year you reached age 22 and ending with the year before you reached age 62, or became disabled, or died before age 62. Any part of a year—or years—in which you were disabled, as defined in § 404.1505, is not counted unless doing so would give you a higher average monthly wage. In that case, we count all the years during the period of disability, even if you had no earnings in some of those years. These are your "elapsed years." (If you are a male and you reached age 62 before 1975, see paragraph (c)(2) of this section for the rules on finding your elapsed years.)

(2) If you are a male and you reached age 62 in—

(i) 1972 or earlier, we count the years beginning with 1951 and ending with the year before you reached age 65, or became disabled or died before age 65 to find your elapsed years;

(ii) 1973, we count the years beginning with 1951 and ending with the year before you reached age 64, or became disabled or died before age 64 to find your elapsed years; or

(iii) 1974, we count the years beginning with 1951 and ending with the year before you reached age 63, became disabled, or died before age 63 to find your elapsed years.

(3) Then we subtract 5 from the number of your elapsed years. This is the number of your "benefit computation years"; we use the same number of your computation base years in computing your average monthly wage. For benefit computation years, we use the years with the highest amounts of earnings, but they may include years of no earnings. You cannot have fewer than 2 benefit computation years.

(d) *Your average monthly wage.* After we find your benefit computation years, we compute your average monthly wage by—

(1) Totalling your creditable earnings in your benefit computation years;

(2) Dividing the total by the number of months in your benefit computation years; and

(3) Rounding the quotient to the next lower whole dollar if not already a multiple of $1.

Example. Mr. B reaches age 62 and becomes entitled to old-age insurance benefits in August 1978. He had no social security earnings before 1951 and his year-by-year social security earnings after 1950 are as follows:

1951	$2,700
1952	2,700
1953	3,400
1954	3,100
1955	4,000
1956	4,100
1957	4,000
1958	4,200
1959	4,800
1960	4,800
1961	4,800
1962	4,800
1963	4,800
1964	1,500
1965	0
1966	0
1967	0
1968	3,100
1969	5,200
1970	7,100
1971	7,800
1972	8,600
1973	8,900
1974	9,700
1975	10,100
1976	10,800
1977	11,900

We first find Mr. B's elapsed years, which are the 27 years 1951–1977. We subtract 5 from his 27 elapsed years to find that we must use 22 benefit computation years in computing his average monthly wage. His computation base years are 1951–1977, which are the years after 1950 and prior to the year he became entitled. This means that we will use his 22 computation base years with the highest earnings to compute his average monthly wage. Thus, we exclude the years 1964–1967 and 1951.

We total his earnings in his benefit computation years and get $132,700. We then divide that amount by the 264 months in his 22 benefit computation years and find his average monthly wage to be $502.65, which is rounded down to $502.

(e) *"Deemed" average monthly wage for certain deceased veterans of World War II.* Certain deceased veterans of World War II are "deemed" to have an average monthly wage of $160 (see §§ 404.1340–404.1343 of this part) unless their actual average monthly wage, as found in the method described in paragraphs (a)–(d) of this section is higher.

§ 404.222 Use of benefit table in finding your primary insurance amount from your average monthly wage.

(a) *General.* We find your primary insurance amount under the average-monthly-wage method in the benefit table in Appendix III.

(b) *Finding your primary insurance amount from benefit table.* We find your average monthly wage in column III of the table. Your primary insurance amount appears on the same line in column IV (column II if you are entitled to benefits for any of the 12 months preceding the effective month in column IV).

Example. In the example in § 404.221(d), we computed Mr. B's average monthly wage to be $502. We refer to the December 1978 benefit table in Appendix III. Then we find his average monthly wage in column III of the table. Reading across, his primary insurance amount is on the same line in column IV and is $390.50. A 9.9 percent automatic cost-of-living benefit increase was effective for June 1979, increasing Mr. B's primary insurance amount to $429.20, as explained in §§ 404.270–404.277. Then, we increase the $429.20 by the 14.3 percent June 1980 cost-of-living benefit increase and get $490.60, and by the 11.2 percent June 1981 increase to get $549.50.

Guaranteed Alternative for People Reaching Age 62 After 1978 but Before 1984

§ 404.230 Guaranteed alternative.

(a) *General.* If you reach age 62 after 1978 but before 1984, we compute your primary insurance amount under a modified average-monthly-wage method as a "guaranteed alternative" to your primary insurance amount computed under the average-indexed-monthly-earnings method. We also compute your primary insurance amount under the old-start method (§§ 404.240–404.242) and under the special rules for a person who had a period of disability (§§ 404.250–404.252), if you are eligible. In §§ 404.231–404.233, we explain the average-monthly-wage method as the alternative to the average-indexed-monthly-earnings method.

(b) *Restrictions.* (1) To qualify for this guaranteed-alternative computation, you must have some creditable earnings before 1979.

(2) You or your survivors do not qualify for a guaranteed-alternative computation if you were eligible (you attained age 62, became disabled, or died before age 62) for social security benefits based on your own earnings at any time before 1979 unless—

(i) Those benefits were disability insurance benefits which were terminated because you recovered from your disability or you engaged in substantial gainful activity; and

(ii) You spent at least 12 months without being eligible for disability benefits again.

(3) This guaranteed alternative method applies only to old-age insurance benefits and to survivor benefits where the deceased worker reached the month of his or her 62nd birthday after 1978 but before 1984 and died after reaching age 62.

§ 404.231 Steps in computing your primary insurance amount under the guaranteed alternative—general.

If you reach age 62 after 1978 but before 1984, we follow three major steps in finding your guaranteed alternative:

(a) First, we compute your average monthly wage, as described in § 404.232;

(b) Second, we find the primary insurance amount that corresponds to your average monthly wage in the benefit table in Appendix III.

(c) Then we apply any automatic cost-of-living or *ad hoc* increases in primary insurance amounts that have become effective in or after the year you reached age 62.

§ 404.232 Computing your average monthly wage under the guaranteed alternative.

(a) *General.* With the exception described in paragraph (b) of this section, we follow the rules in § 404.221 to compute your average monthly wage.

(b) *Exception.* We do not use any year after the year you reach age 61 as a computation base year in computing your average monthly wage for purposes of the guaranteed alternative.

§ 404.233 Adjustment of your guaranteed alternative when you become entitled after age 62.

(a) If you do not become entitled to benefits at the time you reach age 62, we adjust the guaranteed alternative computed for you under § 404.232 as described in paragraph (b) of this section.

(b) To the primary insurance amount computed under the guaranteed alternative, we apply any automatic cost-of-living or *ad hoc* increases in primary insurance amounts that go into effect in the year you reach age 62 and

in years up through the year you become entitled to benefits. (See Appendix VI for a list of the percentage increases in primary insurance amounts since December 1978.)

Example

Mr. C reaches age 62 in January 1981 and becomes entitled to old-age insurance benefits in April 1981. He had no social security earnings before 1951 and his year-by-year social security earnings after 1950 are as follows:

1951	$3,600
1952	3,600
1953	3,600
1954	3,600
1955	4,200
1956	4,200
1957	4,200
1958	4,200
1959	4,800
1960	4,800
1961	4,800
1962	4,800
1963	4,800
1964	4,800
1965	4,800
1966	6,600
1967	6,600
1968	7,800
1969	7,800
1970	7,800
1971	7,800
1972	9,000
1973	10,800
1974	13,200
1975	14,100
1976	15,300
1977	16,500
1978	17,700
1979	22,900
1980	25,900
1981	29,700

Mr. C's elapsed years are the 30 years 1951 through 1980. We subtract 5 from his 30 elapsed years to find that we must use 25 benefit computation years in computing his average monthly wage. His computation base years are 1951 through 1980 which are years after 1950 up to the year he reached age 62. We will use his 25 computation base years with the highest earnings to compute his average monthly wage. Thus, we exclude the years 1951–1955. The year 1981 is not a base year for this computation.

We total his earnings in his benefit computation years and get $236,000. We then divide by the 300 months in his 25 benefit computation years, and find his average monthly wage to be $786.66 which is rounded down to $786.

The primary insurance amount in the benefit table in Appendix III that corresponds to Mr. C's average monthly wage is $521.70. The 9.9 percent and 14.3 percent cost of living increase for 1979 and 1980, respectively, are not applicable because Mr. C reached age 62 in 1981.

The average indexed monthly earnings method described in §§ 404.210–404.212 considers all of the earnings after 1950, including 1981 earnings which, in Mr. C's case cannot be used in the guaranteed alternative method. Mr. C's primary insurance amount under the average indexed earnings method is $548.40. Therefore, his benefit is based upon the $548.40 primary insurance amount. As in the guaranteed alternative method, Mr. C is not entitled to the cost of living increases for years before the year he reaches age 62.

"Old-Start" Method of Computing Primary Insurance Amounts

§ 404.240 Old-start method—general.

If you had all or substantially all your social security earnings before 1951, your primary insurance amount computed under the "1977 simplified old-start" method may be higher than any other primary insurance amount computed for you under any other method for which you are eligible. As explained in § 404.242, if you reach age 62 after 1978, your primary insurance amount computed under the old-start method is used, for purposes of the guaranteed alternative described in § 404.230, if the old-start primary insurance amount is higher than the one found under the average-monthly-wage method.

§ 404.241 1977 simplified old-start method.

(a) *Who is qualified.* To qualify for the old-start computation, you must meet the following conditions:

(1) Have one "quarter of coverage" (see § 404.101 of this part) before 1951;

(2) Have attained age 21 after 1936 and before 1950, *or* attained age 22 after 1950 and earned fewer than 6 quarters of coverage after 1950;

(3) Have not had a period of disability which began before 1951, unless it can be disregarded, as explained in § 404.320 of this part; and

(4) Have attained age 62, became disabled, or died, after April 1977.

(b) *Steps in old-start computation.* (1) First, we allocate your earnings during the period 1937–1950 as described in paragraph (c) of this section.

(2) Next, we compute your average monthly wage, as described in paragraph (d) of this section.

(3) Next, we apply the old-start formula to your average monthly wage, as described in paragraph (e)(1) of this section.

(4) Next, we apply certain increments to the amount computed in step (3), as described in paragraph (e)(2) of this section.

(5) Next, we find your primary insurance amount in the benefit table in Appendix III, as described in paragraph (f)(1) of this section.

(6) Then, we apply automatic cost-of-living or *ad hoc* increases in primary insurance amounts to the primary insurance amount found in step (5), as described in paragraph (f)(2) of this section.

(c) *Finding your computation base years under the old-start method.* (1) Instead of using your actual year-by-year earnings before 1951, we find your computation base years for 1937–1950 (and the amount of earnings for each of them) by allocating your total 1937–1950 earnings among the years before 1951 under the following procedure:

(i) If you reached age 21 before 1950 and your total 1937–1950 earnings *are not* more than $3,000 times the number of years after the year you reached age 20 and before 1951 (a maximum of 14 years), we allocate your earnings equally among those years, and those years are your computation base years before 1951.

(ii) If you reached age 21 before 1950 and your total 1937–1950 earnings *are* more than $3,000 times the number of years after the year you reached age 20 and before 1951, we allocate your earnings at the rate of $3,000 per year for each year after you reached age 20 and before 1951 up to a maximum of 14 years. We credit any remainder in reverse order to years before age 21 in $3,000 increments and any amount left over of less than $3,000 to the year before the earliest year to which we credited $3,000. No more than $42,000 may be credited in this way and to no more than 14 years. Those years are your computation base years before 1951.

(iii) If you reached age 21 in 1950 or later and your total pre-1951 earnings are $3,000 or less, we credit the total to the year you reached age 20 and that year is your pre-1951 computation base year.

(iv) If you reached age 21 in 1950 or later and your total pre-1951 earnings are more than $3,000, we credit $3,000 to the year you reached age 20 and credit the remainder to earlier years (or year) in blocks of $3,000 in reverse order. We credit any remainder of less than $3,000 to the year before the earliest year to which we had credited $3,000. No more than $42,000 may be credited in this way and to no more than 14 years. Those years are your computation base years before 1951.

(2)(i) All years after 1950 up to (but not including) the year you become entitled to old-age insurance or disability insurance benefits (or through the year you die if you had not become entitled to old-age or disability benefits) are also computation base years for you.

(ii) Years wholly within a period of disability are not computation base years unless your primary insurance amount would be higher if they were. In such situations, we count all the years during the period of disability, even if you had no earnings in some of them.

Example. Ms. D reaches age 62 in June 1979. Her total 1937–1950 social security earnings are $40,000 and she had social security earnings of $7,100 in 1978 and $6,300 in 1977. Since she reaches age 62 after 1978, we first compute her primary insurance amount under the average-indexed-monthly-earnings method (§§ 404.210–404.212). As of June 1981, it is $170.50, which is the minimum primary insurance amount applicable, because her average indexed monthly earnings of $50 would yield only $56.50 under the benefit formula. Ms. D reached age 62 after 1978 but before 1984 and her guaranteed alternative under the average-monthly-wage method as of June 1981 is $170.30, which is the minimum primary insurance amount based on average monthly wages of $48. (These amounts include the 9.9, the 14.3, and the 11.2 percent cost-of-living increases effective June 1979, June 1980, and June 1981 respectively.)

Ms. D is also eligible for the old-start method. We first allocate $3,000 of her 1937–1950 earnings to each of her 13 computation base years starting with the year she reached age 21 (1938) and ending with 1950. The remaining $1,000 is credited to the year she reached age 20. Ms. D, then, has 42 computation base years (14 before 1951 and 28 after 1950).

(d) *Computing your average monthly wage under the old-start method.* (1) First, we count your elapsed years, which are the years beginning with 1937 (or the year you reach 22, if later) and ending with the year before you reach age 62, or become disabled or die before age 62. (See § 404.211(e)(1) for the rule on how we treat years wholly or partially within a period of disability.)

(2) Next, we subtract 5 from the number of your elapsed years, and this is the number of computation years we must use. We then choose this number of your computation base years in which you had the highest earnings. These years are your benefit computation years. You must have at least 2 benefit computation years.

(3) Then we compute your average monthly wage by dividing your total creditable earnings in your benefit computation years by the number of months in these years and rounding the quotient to the next lower dollar if not already a multiple of $1.

(e) *Old-start computation formula.* We use the following formula to compute your primary insurance benefit, which we will convert to your primary insurance amount:

(1) We take 40 percent of the first $50 of your average monthly wage, plus 10 percent of the next $200 of your average monthly wage up to a total average monthly wage of $250. (We do not use more than $250 of your average monthly wage.)

(2) We increase the amount found in paragraph (e)(1) of this section by 1 percent for each $1,650 in your pre-1951 earnings, disregarding any remainder less than $1,650. We always increase the amount by at least 4 of these 1 percent increments but may not increase it by more than 14 of them.

(f) *Finding your primary insurance amount under the old-start method.* (1) In Column I of the benefit table in Appendix III we locate the amount (the primary insurance benefit) computed in paragraph (e) of this section and find the corresponding primary insurance amount on the same line in Column IV of the table.

(2) We increase that amount by any automatic cost-of-living or *ad hoc* increases in primary insurance amounts effective since the beginning of the year in which you reached age 62, or became disabled or died before age 62. (See §§ 404.270–404.277.)

Example. From the example in paragraph (c)(2) of this section, we see that Ms. D's elapsed years total 40 (number of years at ages 22 to 61, both inclusive). Her benefit computation years, therefore, must total 35. Since she has only 16 years of actual earnings, we must include 19 years of zero earnings in this old-start computation to reach the required 35 benefit computation years.

We next divide her total social security earnings ($53,400) by the 420 months in her benefit computation years and find her average monthly wage to be $127.

We apply the old-start computation formula to Ms. D's average monthly wage as follows: 40 percent of the first $50 of her average monthly wage ($20.00), plus 10 percent of the remaining $77 of her average monthly wage ($7.70), for a total of $27.70.

We then apply 14 1-percent increments to that amount, increasing it by $3.88 to $31.58. We find $31.58 in Column I of the December 1978 benefit table in Appendix III and find her primary insurance amount of $185.90 on the same line in Column IV. We apply the 9.9 percent automatic cost-of-living increase effective for June 1979 to $195.90 and get an old-start primary insurance amount of $215.30 which we then increase to $246.10 to reflect the 14.3 percent cost-of-living increase effective for June 1980, and to $273.70 to reflect the June 1981 increase. Since that primary insurance amount is higher than the $153.10 primary insurance amount computed under the average-monthly-wage method and the $153.30 primary insurance amount computed under the average-indexed-monthly-earnings method, we base Ms. D's benefits (and those of her family) on $215.30 (plus later cost-of-living increases), which is the highest primary insurance amount.

§ 404.242 Use of old-start primary insurance amount as guaranteed alternative.

If your primary insurance amount as computed under the old-start method is higher than your primary insurance amount computed under the average-monthly-wage method, your old-start primary insurance amount will serve as the guaranteed alternative to your primary insurance amount computed under the average-indexed-monthly-earnings method, as described in § 404.230. However, earnings that you have in or after the year you reach age 62, or become disabled or die before age 62 are not used in an old-start computation in this situation.

Special Computation Rules for People Who Had a Period of Disability

§ 404.250 Special computation rules for people who had a period of disability.

If you were disabled at some time in your life, received disability insurance benefits, and those benefits were terminated because you recovered from your disability or because you engaged in substantial gainful activity, special rules apply in computing your primary insurance amount when you become eligible after 1978 for old-age insurance benefits or if you become re-entitled to disability insurance benefits or die. (For purposes of §§ 404.250–404.252, we use the term "second entitlement" to refer to this situation.) There are two sets of rules:

(a) *Second entitlement within 12 months.* If 12 months or fewer pass between the last month for which you received a disability insurance benefit and your second entitlement, see the rules in § 404.251; and

(b) *Second entitlement after more than 12 months.* If more than 12 months pass between the last month for which you received a disability insurance benefit and your second entitlement, see the rules in § 404.252.

§ 404.251 Subsequent entitlement to benefits within 12 months after entitlement to disability benefits ended.

(a) *Disability before 1979; second entitlement after 1978.* In this situation, we compute your second-entitlement primary insurance amount by selecting the highest of the following:

(1) The primary insurance amount to which you were entitled when you last received a benefit, increased by any automatic cost-of-living or *ad hoc* increases in primary insurance amounts that took effect since then;

(2) The primary insurance amount resulting from a recomputation of your

primary insurance amount, if one is possible; or

(3) The primary insurance amount computed for you as of the time of your second entitlement under any method for which you are qualified at that time, including the average-indexed-monthly-earnings method if the previous period of disability is disregarded.

(b) *Disability and second entitlement after 1978.* In this situation, we compute your second-entitlement primary insurance amount by selecting the highest of the following:

(1) The primary insurance amount to which you were entitled when you last received a benefit, increased by any automatic cost-of-living or *ad hoc* increases in primary insurance amount that took effect since then;

(2) The primary insurance amount resulting from a recomputation of your primary insurance amount, if one is possible (this recomputation may be under the average-indexed-monthly-earnings method only); or

(3) The primary insurance amount computed for you as of the time of your second entitlement under any method (including an old-start method) for which you are qualifed at that time.

§ 404.252 Subsequent entitlement to benefits more than 12 months after entitlement to disability benefits ended.

In this situation, we compute your second-entitlement primary insurance amount by selecting the higher of the following:

(a) *New primary insurance amount.* The primary insurance amount computed as of the time of your second entitlement under any of the computation methods for which you qualify at the time of your second entitlement; or

(b) *Previous primary insurance amount.* The primary insurance amount to which you were entitled in the last month for which you were entitled to a disability insurance benefit.

Special Minimum Primary Insurance Amounts

§ 404.260 Special minimum primary insurance amounts.

Regardless of the method we use to compute your primary insurance amount, if the special minimum primary insurance amount described in § 404.261 is higher, then your benefits (and those of your dependents or survivors) will be based on the special minimum primary insurance amount. Special minimum primary insurance amounts are not based on a worker's average earnings, as are primary insurance amounts computed under other methods. Rather, the special minimum primary insurance amount is designed to provide higher benefits to people who worked for long periods in low-paid jobs covered by social security.

§ 404.261 Computing your special minimum primary insurance amount.

(a) *Years of coverage.* (1) The first step in computing your special minimum primary insurance amount is to find the number of your years of coverage, which is the sum of—

(i) The quotient found by dividing your total creditable social security earnings during the period 1937–1950 by $900, disregarding any fractional remainder; plus

(ii) The number of your computation base years after 1950 in which your social security earnings were at least the amounts shown in Appendix IV. ("Computation base years" mean the same here as in other computation methods discussed in this subpart.)

(2) You must have at least 11 years of coverage to qualify for a special minimum primary insurance amount computation. However, special minimum primary insurance amounts based on more than 10 years of coverage are usually lower than the regular minimum benefit, which is $170.30 beginning in June 1981. In these situations we base your benefits on the higher, regular primary insurance amount.

(b) *Computing your special minimum primary insurance amount.* (1) First, we subtract 10 from your years of coverage and multiply the remainder (at least 1 and no more than 20) by $11.50;

(2) Then we increase the amount found in paragraph (b)(1) of this section by any automatic cost-of-living or *ad hoc* increases that have become effective since December 1978 to find your special minimum primary insurance amount. See Appendix V for the applicable table, which includes the 9.9 percent cost-of-living increase that became effective June 1979, the 14.3 percent increase that became effective June 1980, and the 11.2 percent increase that became effective June 1981.

Example. Ms. F, who attained age 62 in January 1979, had $10,000 in total social security earnings before 1951 and her post-1950 earnings are as follows:

1951	$1,100
1952	950
1953	0
1954	1,000
1955	1,100
1956	1,200
1957	0
1958	1,300
1959	0
1960	1,300
1961	0
1962	1,400
1963	1,300
1964	0
1965	500
1966	700
1967	650
1968	900
1969	1,950
1970	2,100
1971	2,000
1972	1,500
1973	2,700
1974	2,100
1975	2,600
1976	3,050
1977	4,150
1978	0

Her primary insurance amount under the average-indexed-monthly-earnings method as of June 1981 is $240.40 (based on average indexed monthly earnings of $229). Her guaranteed-alternative primary insurance amount under the average-monthly-wage method as of June 1981 is $255.80 (based on average monthly wages of $131).

However, Ms. F has enough earnings before 1951 to allow her 11 years of coverage before 1951 ($10,000÷$900=11, plus a remainder, which we drop). She has sufficient earnings in 1951–52, 1954–56, 1958, 1960, 1962–63, 1969–71, 1973, and 1976–77 to have a year of coverage for each of those years. She thus has 15 years of coverage after 1950 and a total of 26 years of coverage. We subtract 10 from her years of coverage, multiply the remainder (16) by $11.50 and get $184.00. We then apply the June 1979, June 1980, and June 1981 automatic cost-of-living increases (9.9 percent, 14.3 percent, and 11.2 percent, respectively) to that amount to find her special minimum primary insurance amount of $2[illegible].30 effective June 1979, $231.30 effective June 1980, and $257.30 effective June 1981. (See Appendices V and VI.) Since her special minimum primary insurance amount is higher than the primary insurance amounts computed for her under the other methods described in this subpart for which she is eligible, her benefits (and those of her family) are based on the special minimum primary insurance amount.

Cost-of-Living Increases

§ 404.270 Cost-of-living increases.

Your primary insurance amount may be automatically increased each June so it keeps up with rises in the cost of living. These automatic increases also apply to other benefit amounts, as described in § 404.271.

§ 404.271 When automatic cost-of-living increases apply.

Besides increases in the primary insurance amounts of current

beneficiaries, automatic cost-of-living increases also apply to—

(a) The benefits of certain uninsured people age 72 and older (see § 404.374);

(b) The special minimum primary insurance amounts (described in §§ 404.260–404.261) of current and future beneficiaries;

(c) The primary insurance amounts of people who after 1978 become eligible for benefits or die before becoming eligible (beginning with June of the year they become eligible or die), although certain limitations are placed on the automatic adjustment of the frozen minimum primary insurance amount (as described in § 404.277); and

(d) The "maximum family benefit amounts" in Column V of the benefit table in Appendix III.

§ 404.272 Use of Consumer Price Index to measure the rise in the cost of living.

We use the revised Consumer Price Index (CPI) for urban wage earners and clerical workers, published by the Department of Labor, to measure rises in the cost of living for annual automatic-increase purposes.

§ 404.273 When automatic cost-of-living increases are to be made.

We make automatic cost-of-living increases when the CPI rises by 3 percent or more over a specified measuring period (see the rules in § 404.274).

§ 404.274 Measuring the increase in the Consumer Price Index.

(a) *General.* We measure the rise in the CPI during the applicable measuring period (described in paragraph (b) of this section) to determine the amount of automatic cost-of-living increases.

(b) *Measuring period.* (1) The measuring period we use for finding the amount of automatic cost-of-living increases—

(i) Begins with—

(A) The first calendar quarter of any year in which an automatic increase became effective; or

(B) Any calendar quarter in which an *ad hoc* benefit increase is effective; and

(ii) Ends with the first calendar quarter of the following year, but only if the CPI has increased by at least 3 percent since the beginning of the measuring period (if the CPI increase is less than 3 percent, we extend the measuring period to the first quarter of the next year, doing so repeatedly until the 3 percent level is reached).

(2) No automatic cost-of-living increase is possible for the calendar year that immediately follows a year in which an *ad hoc* increase took effect (or was passed by Congress and signed into law by the President). The measuring period for the next automatic cost-of-living increase—

(i) Begins with the calendar quarter in which the *ad hoc* increase took effect; and

(ii) Ends with the first calendar quarter of the second year after the year of the *ad hoc* increase, but only if the CPI has increased by at least 3 percent since the beginning of the measuring period. (If the CPI increase is less than 3 percent, we extend the measuring period to the first quarter of the next year, doing so repeatedly until the 3 percent level is reached.)

§ 404.275 Amount of automatic cost-of-living increase.

When the average of the CPI for the three months of the quarter ending the measuring period is at least 3 percent higher than the average of the CPI for the three months of the first quarter in the measuring period, an automatic cost-of-living increase is due. To compute the average of the CPI, the three monthly CPI figures (which are published to one decimal place) are added, and the total is divided by 3 and then rounded to the nearest 0.1. We apply the increase (rounded to the nearest one-tenth of one percent) to the amounts described in § 404.271. We round the resulting amounts to the next higher multiple of $0.10 if not already a multiple of $0.10.

Example. Mr. G's primary insurance amount in January 1979 is $200. The measurement for the June 1979 automatic cost-of-living increase is between the calendar quarter ending March 31, 1978, and the quarter which ends a year later. The average of the CPI for the 3 months of the calendar quarter ending March 31, 1979, is found to be 9.9 percent higher than the average of the CPI for the 3 months of the calendar quarter ending March 31, 1978. We increase Mr. G's primary insurance amount by 9.9 percent to $219.80 effective beginning with June 1979, by 14.3 percent to $251.30 effective with June 1980, and by 11.2 percent to $279.50 effective with June 1981. We will check CPI increases in each subsequent measuring period to determine cost-of-living increases.

§ 404.276 Publication of notice of increase.

When we determine that an automatic cost-of-living increase is due, we publish in the **Federal Register** within 45 days of the end of the measuring period used in finding the amount of the increase—

(a) The fact that an increase is due;

(b) The amount of the increase;

(c) The increased special minimum primary insurance amounts; and

(d) The range of increased maximum family benefits that corresponds to the range of increased special minimum primary insurance amounts.

§ 404.277 Automatic increases of "frozen" minimum primary insurance amount.

(a) *General.* There are special rules for automatic cost-of-living increases in the minimum primary insurance amount for people whose primary insurance amount is computed under the average-indexed-monthly-earnings method. The minimum primary insurance amount is "frozen," for people becoming eligible after 1978, at $122 (the least amount in the benefit table in effect in December 1978, rounded to the next higher $1.00. See Appendix III.). The frozen minimum is subject to automatic cost-of-living increases only in years in which you or your dependents or survivors are entitled to benefits.

(b) *Old-age insurance benefit based on frozen minimum primary insurance amount.* We apply automatic cost-of-living increases to your minimum primary insurance amount beginning with the earliest of—

(1) June of the year you become entitled to benefits and get at least a partial benefit; or

(2) June of the year you reach age 65 if you are entitled to benefits at or before age 65, regardless of whether you get at least a partial benefit; or

(3) June of the year you become entitled to benefits if that is not until after you reach age 65.

(c) *Survivor benefits based on minimum primary insurance amount either before or after the worker's entitlement to old-age insurance benefits.*

(1) We apply automatic cost-of-living increases to your minimum primary insurance amount for purposes of adjusting the benefits of your survivors—

(i) In June of any year in which your children, your surviving spouse caring for your children, or your parents are entitled to survivors benefits for at least one month; and

(ii) Beginning with June of the earlier of—

(A) The year your aged surviving spouse (as defined in §§ 404.335 and 404.336) becomes entitled to benefits and gets at least a partial benefit; or

(B) The year your surviving spouse is 65 or older and becomes entitled to benefits.

(2) Automatic cost-of-living increases are not applied to your minimum primary insurance amount in any year in which no survivor of yours is entitled to benefits on your social security record.

Recomputing Your Primary Insurance Amount

§ 404.280 Recomputations.

At times after you or your survivors become entitled to benefits, we will recompute your primary insurance amount if doing so will increase it. There is no limit on the number of times your primary insurance amount may be recomputed, and we do most recomputations automatically. In the following sections, we explain:

(1) Why a recomputation is made (§ 404.281),

(2) When a recomputation takes effect (§ 404.282),

(3) Methods of recomputing (§§ 404.283 and 404.284),

(4) Automatic recomputations (§ 404.285),

(5) Requesting a recomputation (§ 404.286), and

(6) Waiving a recomputation (§ 404.287).

§ 404.281 Why your primary insurance amount may be recomputed.

(a) *Earnings not included in earlier computation or recomputation.* The most common reason for recomputing your primary insurance amount is to include earnings of yours that were not used in the first computation or in an earlier recomputation, as described in paragraphs (c) through (e) of this section. These earnings will result in a revised average monthly wage or revised average indexed monthly earnings.

(b) *New computation method enacted.* If a new method of computing or recomputing primary insurance amounts is enacted into law and you are eligible to have your primary insurance amount recomputed under the new method, we will recompute it under the new method if doing so would increase your primary insurance amount.

(c) *Earnings in the year you reach age 62 or become disabled.* In the initial computation of your primary insurance amount, we do not use your earnings in the year you become entitled to old-age insurance benefits or become disabled. However, we can use those earnings (called "lag earnings") in a recomputation of your primary insurance amount. We recompute and begin paying you the higher benefits in the year after the year you become entitled to old-age benefits or become disabled.

(d) *Earnings not reported to us in time to use them in the computation of your primary insurance amount.* Because of the way reports of earnings are required to be submitted to us for years after 1977, the earnings you have in the year before you become entitled to old-age insurance benefits, or become disabled or in the year you die might not be reported to us in time to use them in computing your primary insurance amount. We recompute your primary insurance amount based on the new earnings information and begin paying you (or your survivors) the higher benefits based on the additional earnings, beginning with the month you became entitled or died.

(e) *Earnings after entitlement that are used in a recomputation.* Earnings that you have after you become entitled to benefits will be used in a recomputation of your primary insurance amount.

§ 404.282 Effective date of recomputations.

Most recomputations are effective beginning with January of the calendar year after the year in which the additional earnings used in the recomputation were paid. However, a recomputation to include earnings in the year of death (whether or not paid before death) is effective for the month of death.

§ 404.283 Recomputation under method other than that used to find your primary insurance amount.

In some cases, we may recompute your primary insurance amount under a computation method different from the method used in the computation (or earlier recomputation) of your primary insurance amount, if you are eligible for a computation or recomputation under the different method.

§ 404.284 Recomputations for people who reach age 62, or become disabled or die before age 62 after 1978.

(a) *General.* Years of your earnings after 1978 not used in the computation of your primary insurance amount (or in earlier recomputations) under the average-indexed-monthly-earnings method may be substituted for earlier years of your indexed earnings in a recomputation, but only under the average-indexed-monthly-earnings method.

(b) *Substituting actual dollar amounts in earnings for earlier years of indexed earnings.* When we recompute your primary insurance amount under the average-indexed-monthly earnings method, we use actual dollar amounts, i.e., no indexing, for earnings not included in the initial computation or earlier recomputation. These later earnings are substituted for earlier years of indexed or actual earnings that are lower.

(c) *Benefit formula used in recomputation.* The formula that was used in the first computation of your primary insurance amount is also used in recomputations of your primary insurance amount.

(d) *Your recomputed primary insurance amount.* We recompute your primary insurance amount by applying the benefit formula to your average indexed monthly earnings as revised to include additional earnings. See § 404.281. We then increase the recomputed PIA by the amounts of any automatic cost-of-living or *ad hoc* increases in primary insurance amounts that have become effective since you reached age 62, or became disabled or died before age 62.

(e) *Minimum increase in primary insurance amounts.* Your primary insurance amount may not be recomputed unless doing so would increase it by at least $1.

Example 1. Ms. A, whose primary insurance amount we computed to be $432.40 in June 1979 in §§ 404.210–404.212 (based on average indexed monthly earnings of $903), had earnings of $11,000 in 1979 which were not used in the initial computation of her primary insurance amount. We may recompute her primary insurance amount effective for January 1980. In this recomputation, her 1979 earnings may be substituted in their actual dollar amount for the lowest year of her indexed earnings that was used in the initial computation. In Ms. A's case, we substitute the $11,000 for her 1966 indexed earnings of $8,911.36. Her total indexed earnings are now $251,470.05 and her new average indexed monthly earnings are $911. We apply to Ms. A's new average indexed monthly earnings the same benefit formula we used in the initial computation. Doing so produces an amount of $396.00. An automatic cost-of-living increase of 9.9 percent was effective in June 1979. We increase the $396.00 amount by 9.9 percent to find Ms. A's recomputed primary insurance amount of $435.30. Later we increased the primary insurance amount to $497.60 to reflect the 14.3 percent cost-of-living increase beginning June 1980 and to $553.40 to reflect the 11.2 percent cost-of-living increase beginning June 1981.

Example 2. Mr. B, whose primary insurance amount we computed to be $429.20 (based on average monthly wages of $502) in June 1978 in §§ 404.220–404.222, had earnings of $12,000 in 1978 which were not used in the initial computation of his primary insurance amount. We may recompute his primary insurance amount effective for January 1979. In this recomputation, his 1978 earnings are substituted for the lowest year of earnings used in the initial computation ($2,700 in 1952). Mr. B's total earnings are now $142,000 and his new average monthly wage is $537.

We next find Mr. B's new average monthly wage in Column III of the December 1978 benefit table in Appendix III. Reading across, we find his recomputed primary insurance amount on the same line in Column IV, which is $407.70. We then apply the 9.9 percent, the 14.3 percent and the 11.2 percent automatic cost-of-living increases for June 1979, June

1980, and June 1981, respectively, to compute Mr. B's primary insurance amount of $569.60.

(f) *Guaranteed alternatives.* We may recompute your primary insurance amount by any of the following methods for which you qualify, if doing so would result in a higher amount than the one computed under the average-indexed-monthly-earnings method. Earnings in or after the year you reach age 62 cannot be used.

(1) If you reached age 62 after 1978 and before 1984, we may recompute to include earnings for years before the year you reached age 62 by using the guaranteed alternative (§ 404.231). We will increase the result by any cost-of-living or *ad hoc* increases in the primary insurance amounts that have become effective in and after the year you reached age 62.

(2) We will also recompute under the old-start guarantee (§ 404.242) and the prior-disability guarantee (§ 404.252) if you meet the requirements of either or both these methods.

§ 404.285 Recomputations performed automatically.

Each year, we examine the earnings record of every retired, disabled, and deceased worker to see if the worker's primary insurance amount may be recomputed under any of the methods we have described. When a recomputation is called for, we perform it automatically and begin paying the higher benefits based on your recomputed primary insurance amount for the earliest possible month that the recomputation can be effective. You do not have to request this service, although you may request a recomputation at an earlier date than one would otherwise be performed (see § 404.286). Doing so, however, does not allow your increased primary insurance amount to be effective any sooner than it would be under an automatic recomputation. You may also waive a recomputation if one would disadvantage you or your family (see § 404.287).

§ 404.286 How to request an immediate recomputation.

You may request that your primary insurance amount be recomputed sooner than it would be recomputed automatically. To do so, you must make the request in writing to us and provide acceptable evidence of your earnings not included in the first computation or earlier recomputation of your primary insurance amount. If doing so will increase your primary insurance amount, we will recompute it. However, we cannot begin paying higher benefits on the recomputed primary insurance amount any sooner than we could under an automatic recomputation, i.e., for January of the year following the year in which the earnings were paid or derived.

§ 404.287 Waiver of recomputation.

If you or your family would be disadvantaged in some way by a recomputation of your primary insurance amount, or you and every member of your family do not want your primary insurance amount to be recomputed for any other reason, you may waive (that is, give up your right to) a recomputation, but you must do so in writing. That you waive one recomputation, however, does not mean that you also waive future recomputations for which you might be eligible.

Recalculations of Primary Insurance Amounts

§ 404.290 Recalculations.

(a) Your primary insurance amount may be "recalculated" in certain instances. When we recalculate your primary amount, we refigure it under the same method we used in the first computation by taking into account—

(1) Earnings (including compensation for railroad service) incorrectly included or excluded in the first computation;

(2) Special deemed earnings credits including credits for military service (see Subpart N of this part) and for individuals interned during World War II (see Subpart K of this part), not available at the time of the first computation;

(3) Correction of clerical or mathematical errors; or

(4) Other miscellaneous changes in status.

(b) Unlike recomputations, which may only serve to increase your primary insurance amount, recalculations may serve to either increase or reduce it.

Appendices

The following appendices contain data that are needed in computing primary insurance amounts. Appendix I contains "average of the total wages" figures, which we use to "index" a worker's earnings for purposes of computing his or her average indexed monthly earnings. Appendix II contains benefit formulas which we apply to a worker's average indexed monthly earnings to find his or her primary insurance amount. Appendix III contains the benefit table we use to find a worker's primary insurance amount from his or her average monthly wage. We use the figures in Appendix IV to find your years of coverage for years after 1950 for purposes of your special minimum primary insurance amount. Appendix V contains the table for computing the special minimum primary insurance amount. Appendix VI is a table of the percentage increases in primary insurance amounts since 1978.

The figures in the appendices are by law automatically adjusted each year. We are required to announce the changes through timely publication in the **Federal Register**. We do not change every one of these figures, but instead provide new ones for each year that passes. We continue to use the old ones for various computation purposes, as the regulations show. Most of the new figures for these appendices are required by law to be published by November 1 of each year. The two exceptions to this date are the publication requirements for new data for Appendix V, "Computing the Special Minimum Primary Insurance Amount and Related Maximum Family Benefits," and Appendix VI, "Percentage of Increases in Primary Insurance Amounts After 1978." Notice of automatic cost-of-living increases in primary insurance amounts is required to be published within 45 days of the end of the applicable measuring period for the increase (see §§404.274 and 404.276). In effect, publication is required within 45 days of the end of the first calendar quarter of any year in which there is to be an automatic cost-of-living increase (that is, by May 15).

We begin to use the new data in computing primary insurance amounts as soon as required by law, even before we periodically update these appendices. If the data you need to find your primary insurance amount have not yet been included in the appendices, you may find the figures in the **Federal Register** on or about the dates specified.

Appendix I—Average of the Total Wages for Years after 1950

Explanation: We use these figures to index your social security earnings (as described in § 404.211) for purposes of computing your average indexed monthly earnings.

Calendar year	Average of the total wages
1951	$2,799.16
1952	2,973.32
1953	3,139.44
1954	3,155.64
1955	3,301.44
1956	3,532.36
1957	3,641.72
1958	3,673.80
1959	3,855.80
1960	4,007.12
1961	4,086.76
1962	4,291.40
1963	4,396.64
1964	4,576.32
1965	4,658.72
1966	4,938.36
1967	5,213.44
1968	5,571.76
1969	5,893.76
1970	6,186.24
1971	6,497.08
1972	7,133.80
1973	7,580.16
1974	8,030.76
1975	8,630.92
1976	9,226.48
1977	9,779.44
1978	10,556.03
1979	11,479.46
1980	12,513.46

Appendix II—Benefit Formulas Used With Average Indexed Monthly Earnings

As explained in § 404.212, we use one of the formulas below to compute your primary insurance amount from your average indexed monthly earnings (AIME). To select the appropriate formula, we find in the left-hand column the year after 1978 in which you reach age 62, or become disabled, or die before age 62. The benefit formula to be used in computing your primary insurance amount begins on the same line in the right-hand column. After we figure your amount for each step in the formula, we add the amounts and round the total upward to the nearest $0.10, (ten cents), if not already a multiple of $0.10.

BENEFIT FORMULAS

Year you reach age 62—[1]	Formula
1979	90 percent of the first $180 of AIME; plus 32 percent of the next $905 of AIME; plus 15 percent of AIME over $1,085.
1980	90 percent of the first $194 of AIME; plus 32 percent of the next $977 of AIME; plus 15 percent of AIME over $1,171.
1981	90 percent of the first $211 of AIME; plus 32 percent of the next $1,063 of AIME; plus 15 percent of AIME over $1,274.
1982	90 percent of the first $230 of AIME; plus 32 percent of the next $1,158 of AIME; plus 15 percent of AIME over $1,388.

[1]Or become disabled or die before age 62.

Appendix III.—Benefit Table

This benefit table shows primary insurance amounts and maximum family benefits in effect in December 1978 based on cost-of-living increases which became effective for June 1978. (See § 404.403 for information on maximum family benefits.) You will also be able to find primary insurance amounts for an individual whose entitlement began in the period June 1977 through May 1978.

To use this table, you must first compute the primary insurance benefit (column I) or the average monthly wage (column III), then move across the same line to either column II or column IV as appropriate. To determine increases in primary insurance amounts since December 1978, you should see Appendix VI. Appendix VI tells you, by year, the percentage of the increases. In applying each cost-of-living increase to primary insurance amounts, we round the increased primary insurance amount to the next higher multiple of $0.10 if not already a multiple of $0.10.

TABLE OF BENEFITS IN EFFECT IN DECEMBER 1978

I. Primary insurance benefit: If an individual's primary insurance benefit (as determined under § 404.241(e)) is—		II. Primary insurance amount effective June 1977: Or his or her primary insurance amount is—	III. Average monthly wage: Or his or her average monthly wage (as determined under § 404.221) is—		IV. Primary insurance amount effective June 1978: Then his or her primary insurance amount is—	V. Maximum family benefits: And the maximum amount of benefits payable on the basis of his or her wages and self-employment income is—
At least—	But not more than—		At least—	But not more than—		
	$16.20	$114.30		$75	$121.80	$182.70
$16.21	16.84	116.10	$7.7	78	123.70	185.60
16.85	17.60	118.80	79	80	126.60	189.90
17.61	18.40	121.00	81	81	128.90	193.50
18.41	19.24	123.10	82	83	131.20	196.80
19.25	20.00	125.80	84	85	134.00	201.00
20.01	20.64	128.10	86	87	136.50	204.80
20.65	21.28	130.10	88	89	138.60	207.90
21.29	21.88	132.70	90	90	141.40	212.10
21.89	22.28	135.00	91	92	143.80	215.70
22.29	22.68	137.20	93	94	146.20	219.20
22.69	23.08	139.40	95	96	148.50	222.80
23.09	23.44	142.00	97	97	151.30	227.00
23.45	23.76	144.30	98	99	153.70	230.60
23.77	24.20	147.10	100	101	156.70	235.10
24.21	24.60	149.20	102	102	158.90	238.50
24.61	25.00	151.70	103	104	161.80	242.40
25.01	25.48	154.50	105	106	164.60	246.90
25.49	25.92	157.00	107	107	167.30	251.00
25.93	26.40	159.40	108	109	169.80	254.90
26.41	26.94	161.90	110	113	172.50	258.80
26.95	27.45	164.20	114	118	174.90	262.40
27.47	28.00	166.70	119	122	177.60	266.50
28.01	28.68	169.30	123	127	180.40	270.60
28.69	29.25	171.80	128	132	183.00	274.60
29.26	29.68	174.10	133	136	185.50	278.30
29.69	30.36	176.50	137	141	188.00	282.10
30.37	30.92	179.10	142	146	190.80	286.20
30.93	31.36	181.70	147	150	193.60	290.40
31.37	32.00	183.90	151	155	195.90	293.90
32.01	32.60	186.50	156	160	198.70	298.10
32.60	33.20	189.00	161	164	201.30	302.00
33.21	33.88	191.40	165	169	203.90	305.90
33.89	34.50	194.00	170	174	206.70	310.10
34.51	35.00	196.30	175	178	209.10	313.70
35.01	35.60	198.90	179	183	211.90	318.00
35.61	36.40	201.30	184	188	214.40	321.70
36.41	37.08	203.90	189	193	217.20	326.00
37.09	37.80	206.40	194	197	219.90	329.90
37.81	38.20	208.80	198	202	222.40	333.60
38.21	39.12	211.50	203	207	225.30	338.0
39.13	39.68	214.00	208	211	228.00	342.00
39.69	40.33	216.00	212	216	230.10	345.20
40.34	41.12	218.70	217	221	233.00	349.50
41.13	41.76	221.20	222	225	235.60	353.40
41.77	42.44	223.90	226	230	238.50	357.80
42.45	43.20	226.30	231	235	241.10	361.70
43.21	43.76	229.10	236	239	244.00	366.10
43.77	44.44	231.20	240	244	246.30	371.10
44.45	44.88	233.50	245	249	248.70	376.80
44.89	45.60	236.40	250	253	251.80	384.90
		238.70	254	258	254.30	392.50
		240.80	259	263	256.50	400.00
		243.70	264	267	259.50	406.00
		246.10	268	272	262.10	413.70
		248.70	273	277	264.90	421.20

TABLE OF BENEFITS IN EFFECT IN DECEMBER 1978—Continued

I. Primary insurance benefit: If an individual's primary insurance benefit (as determined under § 404.241(e)) is—		II. Primary insurance amount effective June 1977: Or his or her primary insurance amount is—	III. Average monthly wage: Or his or her average monthly wage (as determined under § 404.221) is—		IV. Primary insurance amount effective June 1978: Then his or her primary insurance amount is—	V. Maximum family benefits: And the maximum amount of benefits payable on the basis of his or her wages and self-employment income is—
At least—	But not more than—		At least—	But not more than—		
		251.00	278	281	267.40	427.20
		253.50	282	286	270.00	434.90
		256.20	287	291	272.90	442.60
		258.30	292	295	275.10	448.50
		261.10	296	300	278.10	456.10
		263.50	301	305	280.70	463.80
		265.80	306	309	283.10	469.80
		268.50	310	314	286.00	477.40
		270.70	315	319	288.30	485.10
		273.20	320	323	291.00	491.10
		275.80	324	328	293.80	498.70
		278.10	329	333	296.20	506.20
		281.00	334	337	299.30	512.50
		283.00	338	342	301.40	519.90
		285.60	343	347	304.20	527.50
		288.30	348	351	307.10	533.60
		290.50	352	356	309.40	541.20
		293.30	357	361	312.40	548.80
		295.60	362	365	314.90	554.90
		297.90	366	370	317.30	562.50
		300.60	371	375	320.20	569.90
		303.10	376	379	322.90	576.30
		305.70	380	384	325.60	583.90
		307.90	385	389	328.00	591.30
		310.30	390	393	330.50	597.40
		313.00	394	398	333.40	605.10
		315.40	399	403	336.00	612.70
		318.20	404	407	338.90	618.60
		320.20	408	412	341.10	626.30
		322.50	413	417	343.50	633.80
		324.50	418	421	346.00	639.90
		327.40	422	426	348.70	647.50
		329.60	427	431	351.10	655.10
		331.60	432	436	353.20	662.70
		334.40	437	440	356.20	665.70
		336.50	441	445	358.40	669.70
		338.70	446	450	360.80	673.40
		341.30	451	454	363.50	676.30
		343.50	455	459	365.90	680.10
		345.80	460	464	368.30	683.80
		347.90	465	468	370.60	687.10
		350.70	469	473	373.50	690.80
		352.50	474	478	375.60	694.60
		354.90	479	482	378.00	697.70
		357.40	483	487	380.70	701.60
		359.70	488	492	383.10	705.40
		361.90	493	496	385.50	708.40
		364.50	497	501	388.20	712.10
		366.60	502	506	390.50	715.80
		368.90	507	510	392.90	719.00
		371.10	511	515	395.30	722.80
		373.70	516	520	398.00	726.70
		375.80	521	524	400.30	729.50
		378.10	525	529	402.70	733.30
		380.80	530	534	405.60	737.10
		382.80	535	538	407.70	740.20
		385.10	539	543	410.20	744.10
		387.60	544	548	412.80	747.80
		389.90	549	553	415.30	751.60
		392.10	554	556	417.60	753.90
		393.90	557	560	419.60	756.90
		396.10	561	563	421.90	759.30
		398.20	564	567	424.10	762.30
		400.40	568	570	426.50	764.50
		402.30	571	574	428.50	767.50
		404.40	575	577	430.70	769.90
		406.20	578	581	432.70	772.80
		408.40	582	584	435.00	775.20
		410.20	585	588	436.90	778.20
		412.60	589	591	439.50	780.50
		414.60	592	595	441.60	783.50
		416.70	596	598	443.80	785.90
		418.70	599	602	446.00	788.90
		420.70	603	606	448.10	791.10
		422.60	606	609	450.30	794.00
		424.90	610	612	452.60	796.50
		426.90	613	616	454.70	799.50
		428.90	617	620	456.80	802.50
		431.00	621	623	459.10	804.80
		433.00	624	627	461.20	807.90
		435.10	628	630	463.40	810.70
		437.10	631	634	465.60	814.70
		439.20	635	637	467.80	818.50

TABLE OF BENEFITS IN EFFECT IN DECEMBER 1978—Continued

I. Primary insurance benefit: If an individual's primary insurance benefit (as determined under § 404.241(e)) is—		II. Primary insurance amount effective June 1977: Or his or her primary insurance amount is—	III. Average monthly wage: Or his or her average monthly wage (as determined under § 404.221) is—		IV. Primary insurance amount effective June 1978: Then his or her primary insurance amount is—	V. Maximum family benefits: And the maximum amount of benefits payable on the basis of his or her wages and self-employment income is—
At least—	But not more than—		At least—	But not more than—		
		441.40	636	641	470.10	822.40
		443.20	642	644	472.10	826.10
		445.60	645	648	474.40	830.10
		447.40	649	652	476.50	833.70
		448.60	653	656	477.80	836.10
		449.90	657	660	479.20	838.40
		451.50	661	665	480.90	841.50
		453.10	666	670	482.60	844.50
		454.60	671	675	484.40	847.40
		456.40	676	680	486.10	850.50
		458.00	681	685	487.80	853.50
		459.80	686	690	489.70	856.40
		461.20	691	695	491.20	859.60
		462.80	696	700	492.90	862.60
		464.50	701	705	494.70	865.60
		466.10	706	710	496.40	868.60
		467.70	711	715	498.20	871.50
		469.40	716	720	500.00	874.60
		471.00	721	725	501.70	877.60
		472.60	726	730	503.40	880.70
		474.20	731	735	505.10	883.60
		475.90	736	740	506.90	886.70
		477.40	741	745	508.50	889.90
		478.90	746	750	510.10	892.70
		480.40	751	755	511.70	895.40
		481.80	756	760	513.20	897.80
		483.20	761	765	514.70	900.40
		484.50	766	770	516.00	903.00
		485.80	771	775	517.40	905.40
		487.20	776	780	518.90	907.90
		488.60	781	785	520.40	910.40
		489.80	786	790	521.70	912.90
		491.10	791	795	523.10	915.40
		492.50	796	800	524.60	918.00
		494.00	801	805	526.20	920.50
		495.30	806	810	527.50	923.00
		496.70	811	815	529.00	925.60
		498.00	816	820	530.40	928.00
		499.40	821	825	531.90	930.60
		500.70	826	830	533.30	933.10
		502.00	831	835	534.70	935.70
		503.30	836	840	536.10	938.10
		504.70	841	845	537.60	940.80
		506.00	846	850	538.90	943.00
		507.50	851	855	540.50	945.70
		508.80	856	860	541.90	948.10
		510.20	861	865	543.40	950.70
		511.50	866	870	544.80	953.20
		512.90	871	875	546.30	955.70
		514.10	876	880	547.60	958.20
		515.50	881	885	549.10	960.80
		516.80	886	890	550.40	963.20
		518.20	891	895	551.90	966.00
		519.60	896	900	553.40	968.30
		521.00	901	905	554.90	970.90
		522.30	906	910	556.30	973.50
		523.70	911	915	557.80	976.00
		525.10	916	920	559.30	978.30
		526.30	921	925	560.80	981.00
		527.60	926	930	561.90	983.40
		529.00	931	935	563.40	985.90
		530.40	936	940	564.90	988.50
		531.70	941	945	566.30	991.00
		533.00	946	950	567.70	993.50
		534.50	951	955	569.30	996.10
		535.90	956	960	570.80	998.60
		537.30	961	965	572.30	1001.00
		538.40	966	970	573.40	1003.60
		539.80	971	975	574.90	1006.20
		541.20	976	980	576.40	1008.50
		542.60	981	985	577.90	1011.10
		543.80	986	990	579.20	1013.60
		545.20	991	995	580.70	1016.20
		546.60	996	1000	582.20	1018.60
		547.80	1001	1005	583.50	1020.70
		548.90	1006	1010	584.80	1023.20
		550.20	1011	1015	586.00	1025.30
		551.50	1016	1020	587.40	1027.80
		552.60	1021	1025	588.60	1029.90
		553.80	1026	1030	589.80	1032.20
		555.10	1031	1035	591.20	1034.50
		556.20	1036	1040	592.40	1036.70
		557.50	1041	1045	593.80	1039.10

TABLE OF BENEFITS IN EFFECT IN DECEMBER 1978—Continued

I. Primary insurance benefit: If an individual's primary insurance benefit (as determined under § 404.241(e)) is—		II. Primary insurance amount effective June 1977: Or his or her primary insurance amount is—	III. Average monthly wage: Or his or her average monthly wage (as determined under § 404.221) is—		IV. Primary insurance amount effective June 1978: Then his or her primary insurance amount is—	V. Maximum family benefits: And the maximum amount of benefits payable on the basis of his or her wages and self-employment income is—
At least—	But not more than—		At least—	But not more than—		
		558.80	1046	1050	595.20	1041.30
		559.80	1051	1055	596.20	1043.40
		561.10	1056	1060	597.60	1045.90
		562.40	1061	1065	599.00	1048.00
		563.60	1066	1070	600.30	1050.50
		564.80	1071	1075	601.60	1052.60
		566.00	1076	1080	602.80	1054.90
		567.30	1081	1085	604.20	1057.10
		568.40	1086	1090	605.40	1059.40
		569.70	1091	1095	606.80	1061.70
		571.00	1096	1100	608.20	1064.00
		572.00	1101	1105	609.20	1066.10
		573.30	1106	1110	610.60	1068.50
		574.60	1111	1115	612.00	1070.70
		575.70	1116	1120	613.20	1073.10
		577.00	1121	1125	614.60	1075.30
		578.20	1126	1130	615.80	1077.60
		579.40	1131	1135	617.10	1079.70
		580.60	1136	1140	618.40	1082.20
		581.90	1141	1145	619.80	1084.40
		583.10	1146	1150	621.10	1086.70
		584.20	1151	1155	622.20	1088.80
		585.50	1156	1160	623.60	1091.10
		586.70	1161	1165	624.90	1093.40
		587.90	1166	1170	626.20	1095.80
		589.20	1171	1175	627.50	1098.00
		590.30	1176	1180	628.70	1100.20
		591.40	1181	1185	629.90	1102.20
		592.60	1186	1190	631.20	1104.30
		593.70	1191	1195	632.30	1106.50
		594.80	1196	1200	633.50	1108.60
		595.90	1201	1205	634.70	1110.60
		597.10	1206	1210	636.00	1112.90
		598.20	1211	1215	637.10	1114.90
		599.30	1216	1220	638.30	1117.00
		600.40	1221	1225	639.50	1119.00
		601.60	1226	1230	640.60	1121.20
		602.70	1231	1235	641.90	1123.20
		603.80	1236	1240	643.10	1125.40
		605.00	1241	1245	644.40	1127.50
		606.10	1246	1250	645.50	1129.60
		607.20	1251	1255	646.70	1131.60
		608.30	1256	1260	647.90	1133.80
		609.50	1261	1265	649.20	1135.90
		610.60	1266	1270	650.30	1138.00
		611.70	1271	1275	651.50	1140.00
		612.80	1276	1280	652.70	1142.20
		613.90	1281	1285	653.70	1144.10
		614.90	1286	1290	654.90	1146.10
		616.00	1291	1295	656.10	1148.00
		617.00	1296	1300	657.20	1150.00
		618.10	1301	1305	658.30	1152.00
		619.10	1306	1310	659.40	1154.00
		620.20	1311	1315	660.60	1155.90
		621.30	1316	1320	661.70	1157.90
		622.30	1321	1325	662.80	1159.80
		623.40	1326	1330	664.00	1161.90
		624.40	1331	1335	665.00	1163.80
		625.50	1336	1340	666.20	1165.80
		626.60	1341	1345	667.40	1167.70
		627.60	1346	1350	668.40	1169.70
		628.70	1351	1355	669.60	1171.70
		629.70	1356	1360	670.70	1173.70
		630.80	1361	1365	671.90	1175.60
		631.80	1366	1370	672.90	1177.70
		632.90	1371	1375	674.10	1179.60
		633.90	1376	1380	675.20	1181.60
		634.90	1381	1385	676.20	1183.40
		635.90	1386	1390	677.30	1185.30
		636.90	1391	1395	678.30	1187.10
		637.90	1396	1400	679.40	1189.00
		638.90	1401	1405	680.50	1190.80
		639.90	1406	1410	681.50	1192.70
		640.90	1411	1415	682.60	1194.60
		641.90	1416	1420	683.70	1196.50
		642.90	1421	1425	684.70	1198.30
		643.90	1426	1430	685.80	1200.20
		644.90	1431	1435	686.90	1202.00
		645.90	1436	1440	687.90	1203.90
		646.90	1441	1445	689.00	1205.70
		647.90	1446	1450	690.10	1207.70
		648.90	1451	1455	691.10	1209.50
		649.90	1456	1460	692.20	1211.40

TABLE OF BENEFITS IN EFFECT IN DECEMBER 1978—Continued

I. Primary insurance benefit: If an individual's primary insurance benefit (as determined under § 404.241(e)) is—		II. Primary insurance amount effective June 1977: Or his or her primary insurance amount is—	III. Average monthly wage: Or his or her average monthly wage (as determined under § 404.221) is—		IV. Primary insurance amount effective June 1979: Then his or her primary insurance amount is—	V. Maximum family benefits: And the maximum amount of benefits payable on the basis of his or her wages and self-employment income is—
At least—	But not more than—		At least—	But not more than—		
		650.90	1461	1465	683.30	1213.20
		651.90	1466	1470	684.30	1215.10
		652.90	1471	1475	685.40	1216.90

Appendix IV.—Special Minimum Primary Insurance Amount; Earnings Needed for a Year of Coverage After 1950

Minimum social security earnings to qualify for a year of coverage after 1950 for purposes of the special minimum primary insurance amount.

Years	Amount
1951–54	$900
1955–58	1,050
1959–65	1,200
1966–67	1,650
1968–71	1,950
1972	2,250
1973	2,700
1974	3,300
1975	3,525
1976	3,825
1977	4,125
1978	4,425
1979	4,725
1980	5,100
1981	5,550
1982	6,075

Note.—For 1951–78, the amounts shown are ¼ of the contribution and benefit base (see § 404.1048) in effect. For years after 1978, however, the amounts are ¼ of what the contribution and benefit base would have been if the 1977 social security amendments had not been enacted.

Appendix V—Computing the Special Minimum Primary Insurance Amount and Related Maximum Family Benefits

These tables are based on section 215(a)(1)(C)(i)(II) of the Social Security Act, as amended. They include the 9.9 percent cost-of-living increase which became effective June 1979, the 14.3 percent cost-of-living increase which became effective June 1980, and the 11.2 percent increase effective June 1981.

JUNE 1979

I. Years of coverage	II. Primary insurance amount	III. Maximum family benefit
11	$12.70	$19.10
12	25.30	38.00
13	38.00	57.00
14	50.60	75.90
15	63.20	94.90
16	75.90	113.90
17	88.50	132.80
18	101.20	151.80
19	113.80	170.70
20	126.40	189.60
21	139.10	208.70
22	151.70	227.60
23	164.40	246.60
24	177.00	265.50
25	189.60	284.50
26	202.30	303.50
27	214.90	322.40
28	227.50	341.30
29	240.20	360.30
30	252.80	379.20

JUNE 1980

I. Years of coverage	II. Primary insurance amount	III. Maximum family benefit
11	$14.60	$21.90
12	29.00	43.50
13	43.50	65.30
14	57.90	86.90
15	72.30	108.50
16	86.80	130.20
17	101.20	151.80
18	115.70	173.60

JUNE 1980—Continued

I. Years of coverage	II. Primary insurance amount	III. Maximum family benefit
19	130.10	195.20
20	144.50	216.80
21	159.00	238.60
22	173.40	260.20
23	188.00	282.00
24	202.40	303.60
25	216.80	325.20
26	231.30	347.00
27	245.70	368.60
28	260.10	390.20
29	274.60	411.90
30	289.00	433.50

JUNE 1981

I. Years of coverage	II. Primary insurance amount	III. Maximum family benefits
11	$16.30	$24.50
12	32.30	48.50
13	48.40	72.70
14	64.40	96.70
15	80.40	120.70
16	96.60	144.90
17	112.60	168.90
18	128.70	193.10
19	144.70	217.10
20	160.70	241.10
21	176.90	265.40
22	192.90	289.40
23	209.10	313.70
24	225.10	337.70
25	241.10	361.70
26	257.30	386.00
27	273.30	410.00
28	289.30	434.00
29	305.40	458.10
30	321.40	482.10

NOTE.—The amounts shown in the above table for years of coverage less than 19 are not payable for June 1981 through December 1981 because the corresponding values shown in column II are less than the $135.70 minimum primary insurance amount payable for that period. For months after December 1981, a special minimum primary insurance amount of $128.70 will be payable.

Appendix VI—Percentage of Increases in Primary Insurance Amounts Since 1978

Effective date	Percentage of increase	Kind of increase
6/79	9.9	Automatic.
6/80	14.3	Automatic.
6/81	11.2	Automatic.

[FR Doc. 82-19012 Filed 7-14-82; 8:45 am]
BILLING CODE 4190-11-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Parts 202a, 203, 204, 209, 211, 221, 228 and 235

[Docket No. R-82-979]

Mutual Mortgage Insurance and Rehabilitation Loans

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This rule requires mortgagees to pay the annual mortgage insurance premium (MIP) in installments due on or before the 10th of the month following the month in which payments are received from the mortgagors. The change would comply with § 530 of the National Housing Act. Under the rule mortgagees would not be relieved of the obligation to pay the annual premium should the borrower fail to make payments into the escrow account.

EFFECTIVE DATE: September 1, 1982.

FOR FURTHER INFORMATION CONTACT: Richard B. Buchheit, Director, Single Family Servicing Division, Office of Single Family Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-6680 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: A proposed rule governing the time of payment of MIP authorized by Section 530 of the National Housing Act, as

added by Section 320 of the Housing and Community Development Act of 1980, was published in the Federal Register for public comment on May 11, 1982 (Volume 47, Number 91, 20149–20159). Interested parties were given until June 10, 1982 to submit written comments. One hundred eleven public comments were received on the proposed rule. The majority of comments were received from savings and loan institutions. Other comments were received from investment bankers, mortgage companies, savings banks and trade associations. One comment was received from an individual.

DISCUSSION OF COMMENTS: All comments received were against the change. While several different issues were raised, one common criticism was contained in all comments. Lenders were unanimous in declaring that monthly remittances would greatly increase costs. Computer reprogramming, increased staffing, mailing and check writing costs were the most frequent items mentioned as expected to increase.

Several commentors requested a delay of two to three months in the implementation date. This is to allow for the designing, programming, and testing of a major systems change. It was pointed out that, in earlier discussions between HUD and the industry, HUD promised a minumum lead time of six months within which mortgagees could effect the changeover. Commentors pointed out that, if the implementation date remains at September 1, 1982, only half of the promised lead time will be available and they say that is not enough time.

Some lenders suggested that, as an alternative to monthly remittances, HUD should bill and collect MIP payments annually, in advance.

Other commentors doubted HUD's ability to handle monthly remittances in view of its performance in the past with respect to annual remittances and reconcilement.

Many commentors felt that, if monthly remittances will be required, it would cause them to consider disposing of their FHA-insured mortgages and withdrawing from further participation in FHA programs.

Still other lenders spoke of the additional paper work and costs (which would probably be passed on to the consumer) the revised system would require at a time when there is a Presidential mandate to reduce paper work and the burden of Government regulation.

Finally, commentors pointed out that the proposed rule imposes the new payment requirements with respect to mortgages already insured, whereas, in fairness, the new requirements should apply only to mortgages insured in the future.

The changes in the remittance requirements were brought about by Congressional action. Section 530 of the National Housing Act, as added by Section 320 of the Housing and Community Development Act of 1980 provided that the Secretary must require mortgage insurance premiums (MIP) to be remitted by mortgagees promptly upon their receipt from the borrower, except that the Secretary may approve an alternate method of remittance which would permit lenders to retain premiums for up to two years, provided interest was paid to the Secretary for the period of delay in remittance. This alternative method was considered but rejected by the Department. The report of the Committee on Banking, Finance and Urban Affairs of the House of Representatives (H.R. Rep. 96–979 96th Congress 2nd Session 60 (1980)), clearly indicates that it intended the alternate method to be temporary, pending implementation of the procedures for monthly collections. In enacting Section 530, Congress intended to remedy two problems. First, it wanted the FHA Insurance Funds to be credited with MIP payments on a more frequent basis than once a year, as is currently the case. The funds would thus receive the benefit of interest on the MIP payments by the mortgagor. Second, it intended to eliminate the financial advantages inuring to mortgagees under the present system, which allows mortgagees to hold premiums in escrow until remitted upon the annual billing.

The first policy consideration with respect to implementing Section 530 was to revert to advance collection of the annual MIP. This was the system in effect prior to August 5, 1957. The Office of General Counsel rendered an opinion that such procedures would not comply with the intent of the legislation. Under advance billing, mortgagees would continue to have the benefit of MIP collected monthly from the borrower but have to remit only once a year. Undoubtedly, Congress envisioned monthly remittance, and that fact is evidenced in the House Report mentioned above. The report clearly indicates that HUD is expected to develop a system capable of receiving monthly payments.

During the course of developing procedures to comply with the law, several other monthly remittance options were considered, but none came close to meeting HUD's desire for a system which would both minimize the financial and administrative impacts on the industry and address the Department's internal needs and problems. The procedures are the result of a careful analysis of all aspects of the problem and reflect ideas, comments and recommendations from industry organizations who have provided ongoing and valuable input on the system from the mortgagee's perspective. We have been sensitive to the problems of the industry in devising this system, and it is our belief that it is the one which impacts the least adversely on both mortgagees and HUD.

We recognize that added costs, to the extent that they may be generated by the imposition of these requirements, may well be passed on to consumers. It has not been possible, however, to determine the extent, if any, of these added costs or to assess their potential impact on the availability or cost of credit. Further, we believe that implementation of these procedures may well serve to produce an actual cost reduction, and that any added costs will be at least mitigated through the elimination of many of the past problems associated with the billing procedures employed by HUD.

The decision to implement the revised remittance system with the initial lump sum payment to be due on or before September 10, 1982, and monthly remittances starting October 10, 1982, is, as a practical matter irreversible. All internal operations at HUD are now geared for this system and to change the schedule at this time would do irreparable damage to orderly progress

in implementation. HUD did not, in fact, agree to any specific implementation schedule. The Department did agree to provide as much lead time as circumstances would permit, and recognized the industry's stated need for six months. In fact, the proposed rule and preliminary Mortgagee Letter were published approximately four months in advance of the effective date, which was the maximum time it was found possible to provide.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291 on Federal Regulations. Analysis of the rule indicates that it would not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local governmental agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. It is estimated that, at any given time, mortgagees hold in excess of $200 million in mortgage insurance premiums that have been collected from mortgagors but not remitted to HUD. Mortgagees would be required by the amendment to remit all such funds they hold by September 10, 1982. Thereafter, on a monthly basis, mortgagees would have to remit MIP payments promptly upon receipt from the borrower. These funds would be invested for the benefit of the Federal Government and would generate a cost avoidance of some $30 million each year. Mortgagees could be expected to be deprived of a like amount. The effect, therefore, would be below the $100 million threshold. Additional costs to the mortgage banking industry have not been estimated at this time because without a finalized system in place, the industry cannot calculate the final cost of converting computerized systems to the monthly remittances. Other costs, such as monthly recordkeeping and increased interest rates at which mortgagees will borrow funds once the MIP funds held in escrow are removed, likewise, cannot be predicted at this time. The initial front end cost for computer conversion may well exceed $100 million; however, the rule will not have an annual effect of that amount.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50 which implement 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, D.C. 20410.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities. A review of the universe of approved mortgagees indicates that only about three percent of them have assets of less than $10 million. These can be considered "small entities" for purposes of this regulation. The number of "small entities" affected, therefore, is not substantial. Further, HUD records indicate that smaller companies hold relatively few insured mortgages and tend to concentrate their business in the conventional mortgage market. Thus, even for those "small entities" affected, the impact is expected to be relatively insignificant.

This rule was not listed in the Department's Semiannual Agenda of Regulations published on August 17, 1981 (46 FR 41708), pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The following numbers identify the programs, as listed in the Catalog of Federal Domestic Assistance, that would be affected by the proposed regulation changes: 14.105, 14.108, 14.117, 14.118, 14.119, 14.120, 14.121, 14.122, 14.123, 14.133, 14.140, 14.152, 14.157, 14.161, 14.165.

In developing this final rule a number of technical changes were made in the text of the proposed rule. The language of § 203.265(b) of the proposed rule was changed to specify that the interest on any MIP which are remitted to the Commissioner more than 20 days after the payment date prescribed shall be at a rate set in conformity with the Treasury Fiscal Requirements Manual. Through an oversight amendment to Part 202a (relating to Title I mortgage insurance under Section 8 of the National Housing Act) were omitted and are added as paragraphs 18 and 19 of the final rule.

List of Subjects in 24 CFR

Part 203

Home improvement, Loan programs—Housing and community development, Mortgage insurance, Solar energy.

Part 202a

Mortgage insurance.

Part 203

Housing and community development, Mortgage insurance, Solar energy.

Part 204

Mortgage insurance.

Part 209

Mortgage insurance, War housing.

Part 211

Mortgage insurance, War housing.

Part 221

Condominiums, low and moderate income housing, Mortgage insurance, Displaced families, Single family housing, Projects, Cooperatives.

Part 228

Federally affected areas, Defense housing, Mortgage insurance, Single family housing.

Part 235

Condominiums, Cooperatives, Low and moderate income housing, Mortgage insurance, Homeownership, Grant programs—housing and community development.

223—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

Accordingly, Chapter II of 24 CFR is amended as follows:

§ 203.44 [Amended]

(1) In § 203.44(d), by changing the cross reference from § 203.307 to § 203.269.

(2) By revising §§ 203.260 through 203.270 to read as follows:

§ 203.260 Amount of mortgage insurance premium (MIP).

The mortgagee shall pay to the Commissioner an initial MIP in an amount equal to one-half of one percent of the average outstanding principal obligation of the mortgage for the first year of amortization. After payment of the initial MIP, the mortgagee shall pay to the Commissioner an amount equal to one-half of one percent of the average outstanding principal obligation of the mortgage for the 12-month period peceding each subsequent anniversary date of the beginning of amortization.

§ 203.261 Calculation of MIP.

The amount of any MIP shall be calculated in accordance with the original amortization provisions of the mortgage, without taking into account delinquent payments, prepayments, agreements to postpone payments, or agreements to recast the mortgage.

§ 203.262 Due date of MIP.

The full initial or annual MIP shall be due on the anniversary date of the beginning of amortization.

§ 203.263 Adjustment of initial MIP.

If the Mortgage Insurance Certificate was issued prior to the beginning of amortization, the initial MIP shall be adjusted to include an additional premium from the date of issuance of the Mortgage Insurance Certificate to the date of the beginning of amortization. If the Mortgage Insurance Certificate was issued in the second half of the amortization year, the initial MIP shall be adjusted to include only that part of the premium year from the date of the issuance of the Mortgage Insurance Certificate to the first anniversary date of the beginning of amortization.

§ 203.264 Payment of MIP.

(a) *Method of Payment.* The payment of any MIP under this subpart shall be made to the Commissioner by the mortgagee either in cash or debentures at par plus accrued interest.

(b) *Time of Payment.* Any portion of the MIP received by the mortgagee from the mortgagor on or after September 1, 1982 shall be paid to the Commissioner on or before the tenth day of the month following the month in which it was received, provided that the full initial or annual MIP shall be due on the anniversary date of the beginning of amortization end payable not later than ten days after such date even if not collected by the mortgagee from the mortgagor.

(c) *Payment of Outstanding MIP.* All MIP that have been collected by mortgagees from mortgagors prior to September 1, 1982, but not remitted pursuant to an annual HUD billing shall be remitted to the Commissioner not before September 1, 1982, but not later than September 10, 1982. All annual MIP bills received by mortgagees from HUD prior to September 1, 1982 shall be paid on their specified due dates.

§ 203.265 Mortgagee's Late Charge and Interest.

(a) MIP which are remitted to the Commissioner after the payment dates prescribed by §§ 203.262 and 203.264 shall include a late charge of four percent of the amount paid.

(b) In addition to the late charge provided in paragraph (a), the mortgagee shall pay interest on any MIP which are remitted to the Commissioner more than 20 days after the payment dates prescribed in § 203.264. Such interest rate shall be paid at a rate set in conformity with the Treasury Fiscal Requirements Manual.

§ 203.266 Period covered by MIP.

The initial MIP shall cover the period beginning with the date of the issuance of a Mortgage Insurance Certificate and ending on the next anniversary of the beginning of amortization. Subsequent premium payments shall cover the twelve-month period preceding each subsequent anniversary date.

§ 203.267 Duration of MIP.

The mortgagee shall pay MIP to the Commissioner until the deed to the Commissioner is filed for record or the contract of insurance is terminated.

§ 203.268 Pro rata payment of MIP.

(a) If the insurance contract is terminated before the due date of the initial MIP, the mortgagee shall pay a portion of the MIP prorated from the following dates to the date of termination:

(1) From the beginning of amortization if the Mortgage Insurance Certificate is issued in the first half of the amortization year, or

(2) From the date of the issuance of the Mortgage Insurance Certificate if the Certificate is issued at any time prior to the beginning of amortization or during the second half of the amortization year.

(b) If the insurance contract is terminated after the due date of the initial MIP, the mortgagee shall pay a portion of the current annual MIP prorated from the due date of the last annual MIP to the date of termination.

(c) A pro rata MIP shall not be due or payable where the mortgagee notifies the Commissioner that foreclosure or other action to acquire the property has been completed and that the property will not be conveyed to the Commissioner in exchange for insurance benefits. Any MIP due and paid after the institution of foreclosure or the date the property was otherwise acquired by the mortgagee will be refunded to the mortgagee upon receipt by the Commissioner of the notice from the mortgagee that the property will not be conveyed to the Commissioner.

§ 203.269 Open-end insurance charge.

The amount of any insured open-end advance shall be added to the average outstanding principal obligation of the mortgage for the purpose of determining the amount of MIP as provided in § 203.260 except that the initial additional charge shall be prorated to cover the period beginning with the first day of the month following the issuance of a certificate evidencing the insurance of the open-end advance and ending on the due date of the next MIP.

§ 203.270 MIP in federally impacted areas.

All of the provisions of § 203.260 shall apply to mortgages meeting the eligibility requirements of § 203.43e except that the amount of the premiums specified therein shall be calculated on the basis of one percent in lieu of one-half percent.

§ 203.275 through § 203.279 [Removed]

3. By removing §§ 203.275 through 203.279.

§ 203.305 through § 203.309 [Removed]

4. By removing §§ 203.305 through 203.309.

5. By revising § 203.443, to read as follows:

§ 203.443 Insurance premium.

All of the provisions of §§ 203.260 through 203.269 concerning mortgage insurance premiums, apply to loans insured under § 203.50.

§ 203.444 through 203.446 [Removed]

6. By removing §§ 203.444 through 203.456.

PART 204—COINSURANCE

§ 204.260a through § 204.268 [Removed]

7. By revising § 204.260 to read as follows:

§ 204.260 Mortgage insurance premiums for co-insured mortgages.

All of the provisions of §§ 203.260 through 203.269, concerning mortgage insurance premiums with respect to mortgages insured under 203(b) of the National Housing Act, apply to mortgages covering one- to four-family dwellings to be insured under 203(b) pursuant to the coinsurance authority of 244 of the National Housing Act.

8. By removing §§ 204.260a through 204.268.

PART 209—INDIVIDUAL HOMES; WAR HOUSING MORTGAGE INSURANCE (SEC. 603)

§ 209.51 [Amended]

9. By revising the cross-references in paragraph (a) of § 209.251 as follows:

(a)* * *

a. § 203.266 Due date of initial MIP is changed to read: § 203.262 Due date of MIP.

b. § 203.268 Adjustment of initial MIP is changed to read: § 203.263 Adjustment of initial MIP.

c. § 203.269 Pro rata payment of initial MIP is changed to read: § 203.268 Pro rata payment of MIP.

d. § 203.275 Amount of annual MIP is removed.

e. § 203.276 Due date of annual MIP is removed.
f. § 203.278 Pro rata payment of annual MIP is removed.
g. § 203.280 Amount of Mortgage Insurance Premium (MIP) is added.
* * * * *

10. By revising § 209.265 to read as follows:

§ 209.265 Amount of MIP.

After payment of the initial MIP and until the mortgage is paid in full or until an application for insurance benefits is received by the Commissioner or until the contract is otherwise terminated with the consent of the Commissioner, the mortgagee shall continue to pay annual MIP to the Commissioner. Annual MIP shall be paid as provided in § 203.264 and § 203.265 of this chapter. The MIP shall be paid in an amount equal to one-half percent of the average outstanding principal obligation for the 12-month period following the date on which the premium becomes payable.

PART 211—SINGLE FAMILY PROJECT LOANS; WAR HOUSING MORTGAGE INSURANCE (Sec. 611)

§ 211.25 [Amended]

11. By revising the cross references in paragraph (a) of § 211.251 as follows:
(a) * * *

a. § 203.266 Due date of initial MIP is changed to read: § 203.262 Due date of MIP.
b. § 203.268 Adjustment of initial MIP is changed to read: § 203.263 Adjustment of initial MIP.
c. § 203.269 Pro rata payment of initial MIP is changed to read: § 203.268 Pro rata payment of MIP.
d. § 203.275 Amount of annual MIP is removed.
e. § 203.276 Due date of annual MIP is removed.
f. § 203.278 Pro rata payment of annual MIP is removed.
g. § 203.280 Amount of Mortgage Insurance Premium (MIP) is added.
* * * * *

12. By revising § 211.265 to read as follows:

§ 211.265 Amount of MIP.

After payment of the initial MIP and until the mortgage is paid in full or until an application for insurance benefits is received by the Commissioner or until the contract is otherwise terminated with the consent of the Commissioner, the mortgagee shall continue to pay annual MIP to the Commissioner. Annual MIP shall be paid as provided in § 203.264 and § 203.265 of this chapter. The MIP shall be paid in an amount equal to one-half percent of the average outstanding principal obligation for the 12-month period following the date on which the premium becomes payable.

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

§ 211.251 [Amended]

13. By revising the cross references in paragraph (a) of § 221.251 as follows:
(a) * * *

a. § 203.260 Method of payment of MIP is changed to read: § 203.264 Payment of MIP.
b. § 203.265 Amount of initial MIP is changed to read: § 203.260 Amount of Mortgage Insurance Premium (MIP).
c. § 203.266 Due date of initial MIP is changed to read: § 203.262 Due date of MIP.
d. § 203.267 Period covered by initial MIP is changed to read: § 203.266 Period covered by MIP.
e. § 203.268 Adjustment of Initial MIP is changed to read: § 203.263 Adjustment of initial MIP.
f. § 203.269 Pro rata payment of initial MIP is changed to read: § 203.268 Pro rata payment of MIP.
g. § 203.275 Amount of annual MIP is removed.
h. § 203.276 Due date of annual MIP is removed.
i. § 203.277 Duration of annual MIP is changed to read: § 203.267 Duration of MIP.
j. § 203.278 Pro rata payment of MIP is removed.

PART 228—INDIVIDUAL RESIDENCES; NATIONAL DEFENSE HOUSING MORTGAGE INSURANCE (SEC. 903)

§ 228.251 [Amended]

14. By revising paragraph (a) of § 228.251 as follows:
(a) * * *

a. § 203.266 Due date of initial MIP is changed to read: § 203.262 Due date of MIP.
b. § 203.268 Adjustment of initial MIP is changed to read: § 203.263 Adjustment of initial MIP.
c. § 203.269 Pro rata payment of initial MIP is changed to read: § 203.268 Pro rata payment of MIP.
d. § 203.275 Amount of annual MIP is removed.
e. § 203.276 Due date of annual MIP is removed.
f. § 203.278 Pro rata payment of MIP is removed.
g. § 203.280 Amount of Mortgage Insurance Premium (MIP) is added.
* * * * *

15. By revising § 228.265 to read as follows:

§ 228.265 Amount of MIP.

After payment of the initial MIP and until the mortgage is paid in full or until an application for insurance benefits is received by the Commissioner or until the contract is otherwise terminated with the consent of the Commissioner, the mortgagee shall continue to pay annual MIP to the Commissioner. Annual MIP shall be paid as provided in § 203.264 and § 203.265 of this chapter. The MIP shall be paid in an amount equal to one-half percent of the average outstanding principal obligation for the 12-month period following the date on which the premium becomes payable.

PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

§ 235.201 [Amended]

16. By revising the cross-references in paragraph (a) of § 235.201 as follows:
(a) * * *

a. § 203.265 Amount of initial MIP is changed to read: § 203.260 Amount of Mortgage Insurance Premium (MIP).
b. § 203.268 Adjustment of initial MIP is removed.
c. § 203.275 Amount of annual MIP is removed.
d. § 203.305 Open-end advance subject to open-end charge is changed to read: § 203.269 Open-end insurance charge.
e. §§ 203.306 through 203.309 are removed.
* * * * *

§ 235.203 [Removed]

17. By deleting § 235.203.

§ 202a.251 [Amended]

18. By amending the cross-references in paragraph (a) of § 202a.251 as follows:
(a) * * *

a. § 203.266 Due date of initial MIP is changed to read: § 203.262 Due date of MIP.
b. § 203.268 Adjustment of initial MIP is changed to read: § 203.263 Adjustment of initial MIP.
c. § 203.269 Pro rata payment of initial MIP is changed to read: § 203.268 Pro rata payment of MIP.
d. § 203.275 Amount of annual MIP is removed.
e. § 203.276 Due date of annual MIP is removed.
f. § 203.278 Pro rata payment of annual MIP is removed.
g. § 203.280 Amount of Mortgage Insurance Premium (MIP) is added.

19. By revising § 202a.265 to read as follows:

§ 202a.265 Amount of MIP.

After payment of the initial MIP and until the mortgage is paid in full or until an application for insurance benefits is received by the Commissioner or until the contract is otherwise terminated with the consent of the Commissioner, the mortgagee shall continue to pay annual MIP to the Commissioner. Annual MIP shall be paid as provided in § 203.264 and § 203.265 of this chapter. The MIP shall be paid in an amount equal to one-half percent of the average outstanding principal obligation for the

12-month period following the date on which the premium becomes payable.

Authority: §§ 203(c) and 211 of the National Housing Act, as amended (12 U.S.C. 1701(d), 1715(b)).

Dated: July 9, 1982.

Philip Abrams,

General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 82-19112 Filed 7-14-82; 8:45 am]
BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 249

Off-Reservation Treaty Fishing

June 30, 1982.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: These regulations implement the 1982 treaty Indian fishing schedule for sockeye and pink salmon in treaty fishing areas located in waters coming under the Convention between the United States and Canada for the Protection, Preservation, and Extension of the Sockeye and Pink Salmon Fisheries of the Fraser River System.

EFFECTIVE DATE: July 15, 1982.

FOR FURTHER INFORMATION CONTACT: Robert D. Ringo, Fishery Management Biologist, Fisheries Assistance Office, U.S. Fish and Wildlife Service, 2625 Parkmont Lane, Bldg. A, Olympia, Washington 98502, telephone number (206) 753-9460.

SUPPLEMENTARY INFORMATION: The authority to issue rules and regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9). This final rule is published in exercise of rulemaking authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

The Bureau of Indian Affairs published a redesignation table for all parts of 25 CFR Chapter I in the Federal Register on March 30, 1982 (47 FR 13328). Therefore, 25 CFR Part 256 was renumbered as 25 CFR Part 249 and all references in this document to the part number are made accordingly.

The Department of the Interior is responsible for the supervision and management of Indian Affairs under 43 U.S.C. 1451 *et seq.*, 25 U.S.C. 2 and 9, and the Reorganization Plan No. 3 of 1950 (64 Stat. 1262), including the protection and implementation of off-reservation fishing rights secured by the Treaty of Point Elliott, 12 Stat. 927 (1859); Treaty with the Makah, 12 Stat. 939 (1859); and Treaty of Point No Point, 12 Stat. 933 (1859), as affirmed in *Washington* v. *Fishing Vessel Association*, 443 U.S. 658 1979). Such treaty Indian fisheries include a sockeye and pink salmon fishery in treaty fishing places in waters coming under the United States Convention with Canada respecting the sockeye and pink salmon fisheries of the Fraser River System.

On February 25, 1982, the International Pacific Salmon Fisheries Commission forwarded to the Governments of Canada and the United States, for the approval required by the Convention, the regulations applicable in Convention waters during the 1982 fishing season. On April 6, 1982, the United States, acting through the Department of State, approved the regulations except as to treaty Indians fishing in accordance with regulations promulgated by this Department providing for the exercise of fishing rights secured by the United States treaties. The International Pacific Salmon Fisheries Commission assumed control over United States Convention waters on June 20, 1982, and the Commission's fishing season in Convention waters begins on July 25, 1982. The instant regulations implement domestic law of the United States to provide treaty Indian tribes the full opportunity to harvest one-half of the United States' share of sockeye salmon in Convention waters in a manner consistent with the United States' obligations to Canada under the Fraser River Convention. The regulations are promulgated by the Department of the Interior to apply only to Indians exercising fishing rights secured to them by treaties with the United States. The all-citizen fisheries are regulated by 50 CFR Part 371, published by the Department of Commerce.

The United States has two primary obligations to Canada under the Fraser River Convention. The first such obligation is to assure the proper escapement of sockeye and pink salmon into the Fraser River. The second obligation is to assure the equal division of the catch between Canadian and United States fishermen fishing in the Convention waters. The United States also has treaty obligations to certain Northwest Indian tribes to assure that such tribes have the full opportunity to harvest one-half of the fish that pass through tribal usual and accustomed fishing areas.

As in the 1981 Fraser River Convention fishery, regulation of the treaty Indian fishery in 1982 will be consistent with fulfilling the United States' obligation to provide the treaty tribes full opportunity to catch one-half of the United States' share and to comply with the United States' obligations to Canada under the Convention. An analysis of data from past fishing seasons has shown that the treaty catch percentage decreases by a significant amount during the period when most of the fish are caught. Therefore, the 1982 fishing schedule (§ 249.17) has been structured to allow the treaty catch percentage to move above 50 percent to approximately 65 percent during the first part of the season in order that the treaty and non-treaty fisheries will each achieve their 50 percent allocation of the United States' share by the end of the season.

The fishing assistance provisions of § 249.15 have been revised in order to clarify who may and who may not participate in treaty Indian fishing under these regulations. The revision prohibits, with specific and limited exceptions, treaty Indians from participating in a treaty Indian fishery at any such time that persons who are not treaty Indians are aboard the fishing vessel or in contact with fishing gear operated from the fishing vessel. The definition for lawful gear (§ 249.12(i)) was changed to include round haul seines. The effective date of applicable provisions of the Washington Administrative Code (§ 249.12(s)) was updated to June 1, 1982. In additon, § 249.20 has been amended to exempt treaty Indians fishing in State Area 7B from the prohibitions of that section when such fishing is conducted pursuant to tribal regulations authorizing a chinook salmon fishery restricted to a seve.. (7) inch or greater mesh size.

The United States' action and these regulations implement the regulatory system which the United States has used since 1977 to meet its obligations both to Canada and to United States treaty Indians. The Supreme Court approved this regulatory system in *Washington* v. *Fishing Vessel Association*, 443 U.S. 658 (1979). This year, as in previous years, the affected treaty tribes will regulate their fisheries concurrently and in a manner consistent with the regulations of the Department.

In order to allow the affected tribes to exercise their treaty fishing rights in a timely manner, these regulations are issued on an emergency basis. Similarly, the Department of the Interior hereby and for good cause finds that the formal advance notice, public comment procedures, and delayed effectiveness procedures of 5 U.S.C. 553 are impracticable and contrary to the public

interest. These regulations are therefore effective immediately.

The Bureau of Indian Affairs has determined that this rule is not major within the terms of Executive Order 12291 and that it does not have a significant economic effect on a substantial number of small entitles within the terms of the Regulatory Flexibility Act.

An environmental assessment has been completed and it has been concluded that the implementation of a treaty Indian fishery by these regulations is not a major Federal action which would significantly affect the environment within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969.

The primary author of this document is Robert D. Ringo, Fishery Management Biologist, Fisheries Assistance Office, United States Fish and Wildlife Service, 2625 Parkmont Lane, Olympia, Washington 98502, telephone number (206) 753–9460.

List of Subjects in 25 CFR Part 249.

Fisheries, Fishing, Great Lakes, Indians, and Reporting requirements.

Certain sections and paragraphs of 25 CFR Part 249, Subpart B, are revised to read as follows:

PART 249—OFF-RESERVATION TREATY FISHING

Subpart B—Fraser River Convention Sockeye and Pink Salmon Fishery

1. Paragraphs (i) and (s) of § 249.12 are revised to read as follows:

§ 249.12 Definition of terms.

* * * * *

(i) Lawful gear means: any gill net, purse seine, reef net, troll line, beach seine, stake net, or round haul seine, as defined under Washington Administrative Code Chapter 220–16 and 200–47–301 through 304, or under tribal regulations.

* * * * *

(s) Washington Administrative Code means: Only those chapters and sections of the Washington Administrative Code that were in effect as of June 1, 1982.

* * * * *

2. Paragraph (b) of § 249.15 is revised to read as follows:

§ 249.15 Fishing assistance.

* * * * *

(b) Treaty Indians are prohibited from participating in a treaty Indian fishery under this subpart at any such time that persons who are not treaty Indians are aboard the fishing vessel or in contact with fishing gear operated from the fishing vessel, except for enforcement officers as defined in § 249.12(f), Northwest Indian Fish Commission approved or Federal biologists, and persons authorized to assist treaty Indians under § 249.15(a) of this subpart.

* * * * *

3. § 249.17 is revised to read as follows:

§ 249.17 Fishing seasons.

(a) No treaty Indian shall fish for sockeye salmon with nets in United States Convention waters (State Areas 4B, 5, and 6C) from June 20, 1982 to July 18, 1982, both dates inclusive, except for test fisheries in State Areas 4B and 5 from June 20, 1982 to July 17, 1982, if specifically authorized by emergency regulations issued under § 249.18 if this subpart.

(b) No treaty Indian shall fish for sockeye salmon with nets in United States Convention waters (State Areas 6, 6A, 7, 7A, 7B and 7D) from June 20, 1982 to July 24, 1982, both dates inclusive.

(c) No treaty Indian shall fish for sockeye salmon in United States Convention waters in State Areas 4B, 5 and 6C from:

(1) July 19, 1982 to July 24, 1982, both dates inclusive, except with lawful gear from 5:00 a.m. on Monday to 9:30 a.m. on Saturday.

(2) July 24, 1982 to July 30, 1982, both dates inclusive, except with lawful gear from 7:00 p.m. on Saturday to 9:30 a.m. on Friday.

(3) July 30, 1982 to August 6, 1982, both dates inclusive, except with lawful gear from 7:00 p.m. on Friday to 9:30 a.m. on Thursday.

(4) August 7, 1982 to August 13, 1982, both dates inclusive, except with lawful gear from 7:00 p.m. on Saturday to 9:30 a.m. on Friday.

(5) August 13, 1982 to August 20, 1982, both dates inclusive, except with lawful gear from 7:00 p.m. on Friday to 9:30 a.m. on Thursday.

(6) August 21, 1982 to August 27, 1982, both dates inclusive, except with lawful gear from 6:00 p.m. on Saturday to 9:00 a.m. on Friday.

(7) August 27, 1982 to September 3, 1982, both dates inclusive, except with lawful gear from 6:00 p.m. on Friday to 9:00 a.m. on Thursday.

(8) September 4, 1982 to September 10, 1982, both dates inclusive, except with lawful gear from 6:00 p.m. on Saturday to 9:00 a.m. on Friday.

(d) No treaty Indian shall fish for sockeye salmon in United States Convention waters in State Areas 6, 6A, 7, 7A, 7B and 7D from:

(1) July 25, 1982 to July 30, 1982, both dates inclusive, except with lawful gear from 5:00 a.m. on Sunday to 9:30 a.m. on Wednesday.

(2) July 30, 1982 to August 6, 1982, both dates inclusive, except with lawful gear from 7:00 p.m. on Friday to 9:30 p.m. on Monday.

(3) August 7, 1982 to August 13, 1982, both dates inclusive, except with lawful gear from 5:00 a.m. on Saturday to 9:30 a.m. on Tuesday.

(4) August 13, 1982 to August 20, 1982, both dates inclusive, except with lawful gear from 7:00 p.m. on Friday to 9:00 p.m. on Monday.

(5) August 21, 1982 to August 27, 1982, both dates inclusive, except with lawful gear from 5:00 a.m. on Saturday to 9:00 a.m. on Tuesday.

(6) August 27, 1982 to September 3, 1982, both dates inclusive, except with lawful gear from 6:00 p.m. on Friday to 9:00 p.m. on Monday.

(7) September 4, 1982 to September 10, 1982, both dates inclusive, except with lawful gear from 5:00 a.m. on Saturday to 9:00 a.m. on Tuesday.

(e) Notwithstanding the foregoing provisions, no treaty Indian shall fish for sockeye salmon in United States Convention waters lying westerly and northerly of a straight line drawn from Iverson's Dock on Point Roberts to Georgina Point Light at Active Pass, from August 29, 1982 to September 4, 1982, and from October 3, 1982 to October 9, 1982, all dates inclusive.

(f) Notwithstanding the foregoing provisions, no treaty Indian shall fish for sockeye salmon in United States Convention waters lying westerly and northerly of a straight line drawn from the low water range marker in Boundary Bay on the International Boundary across the east tip of Point Roberts to the East Point Light on Saturna Island from September 5, 1982 to October 2, 1982, both dates inclusive.

(g) The foregoing regulations shall not apply to the following United States Convention waters:

(1) State Areas 6B, 6D and 7C;

(2) Preserves previously established by the Director of Washington Department of Fisheries of the State of Washington for the protection and preservation of other species of food fish.

* * * * *

4. § 249.20 is revised to read as follows:

§ 249.20 Unlawful possession.

No treaty Indian shall possess sockeye or pink salmon on board a fishing vessel which is engaged in a fishery for other species in United States

Convention waters during the times Convention waters are closed to sockeye and pink salmon fishing by the regulations in this subpart, except that this prohibition will not apply after July 24, 1982, to any treaty Indian fishing pursuant to treaty tribe fishing regulations authorizing a chinook salmon fishery in State Area 7B, when such fishery is restricted to a seven inch or greater mesh size.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

June 30, 1982.

[FR Doc. 82-19335 Filed 7-14-82; 8:45 am]

BILLING CODE 4310-02-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2619

Valuation of Plan Benefits in Non-Multiemployer Plans; Amendment Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This amendment to the regulation on Valuation of Plan Benefits in Non-Multiemployer Plans contains the interest rates and factors for the period beginning August 1, 1982. The interest rates and factors are to be used to value benefits provided under terminating non-multiemployer pension plans covered by Title IV of the Employee Retirement Income Security Act of 1974, (the "Act").

The valuation of plan benefits is necessary because under section 4041 of the Act, the Pension Benefit Guaranty Corporation ("PBGC") and the plan administrator must determine whether a terminating pension plan has sufficient assets to pay all guaranteed benefits provided under the plan. If the assets are insufficient, the PBGC will pay the guaranteed benefits under the plan termination insurance program established under Title IV.

The interest rates and factors set forth in Appendix B to Part 2619 are adjusted periodically to reflect changes in financial and annuity markets. This amendment adopts the rates and factors applicable to plans that terminate on or after August 1, 1982, and enables the PBGC and plan administrators to value the benefits provided under those plans. These rates and factors will remain in effect until PBGC publishes an amendment revising them.

EFFECTIVE DATE: August 1, 1982.

FOR FURTHER INFORMATION CONTACT: Ms. Nina R. Hawes, Staff Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006, 202-254-3010.

SUPPLEMENTARY INFORMATION: On January 28, 1981, the Pension Benefit Guaranty Corporation (the "PBGC") issued a final regulation (46 FR 9492 *et seq.*) establishing the methods for valuing plan benefits of terminating non-multiemployer plans covered under Title IV of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001 *et seq.* (1976), *as amended by* the Multiemployer Pension Plan Amendments Act of 1980, Pub. L. No. 96-364, 94 Stat. 1208 (the "Act"). That regulation, 29 CFR Part 2610, was recodified as 29 CFR Part 2619 on June 24, 1981, effective June 29, 1981 (46 FR 32574). That regulation contains a number of formulas for valuing different types of benefits. In addition, Appendix B to the regulation sets forth the various interest rates and factors that are to be used in the formulas. Because these rates and factors are intended to reflect current conditions in the financial and annuity markets, it is necessary to update the rates and factors periodically.

When first published, Appendix B contained interest rates and factors to be used to value benefits in plans that terminated on or after September 2, 1974, but before October 1, 1975. Subsequently, the PBGC adopted additional rates and factors for valuing benefits in plans that terminated on or after October 1, 1975, but before February 1, 1982. (29 CFR Part 2619 (1981), 46 FR 36693, 46 FR 45761, 46 FR 50788, 46 FR 55958, 46 FR 61084, 47 FR 2313, 47 FR 6426).

On May 14, 1982, the PBGC last published rates for plans that terminate on or after June 1, 1982 (47 FR 20761). At this time, changes in the financial and annuity markets have necessitated an increase in the rates used by the PBGC to value benefits. Accordingly, this amendment changes the rates in Appendix B to add a set of interest rates and factors for plans that terminate on or after August 1, 1982. These rates and factors will remain if effect until such time as PBGC publishes another amendment which changes the rates.

As a rule, the rates will be in effect for at least one month. If the rates are to be changed, PBGC will publish an amendment in the Federal Register, normally by the 15th of the month prior to the month for which the new rates will be effective. If no change is to be made, no amendment will be published, and the current rates will remain in effect until further notice.

Because the Multiemployer Pension Plan Amendments Act of 1980 established a new insurance program for multiemployer plans, we note that the rates and factors contained in Appendix B to Part 2619 are applicable to non-multiemployer plans only.

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This determination is based on the need to determine and issue new interest rates and factors promptly, so that the rates can reflect, as accurately as possible, current market conditions. The PBGC has found that the public interest is best served by issuing the rates and factors on a prospective basis so that plans may be able to calculate the value of plan benefits before submitting a notice of intent to terminate. Also, plans will be able to predict employer liability more accurately prior to plan termination. Moreover, because of the need to provide immediate guidance for the valuation of benefits under plans that will terminate on or after August 1, 1982, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making the rates set forth in this amendment to the final regulation effective less than 30 days after publication.

The PBGC has determined that this is not a "major rule" under the criteria set forth in Executive Order 12291, February 17, 1981 (46 FR 13193) because it will not result in an annual effect on the economy of $100 million or more, a major increase in costs for consumers or individual industries, or significant adverse effects on competition, employment, investment, productivity, innovation or competition.

List of Subjects in 29 CFR Part 2619

Employee benefit plans, Pension insurance and Pensions.

PART 2619—VALUATION OF PLAN BENEFITS IN NONMULTIEMPLOYER PLANS

In consideration of the foregoing, Part 2619 of Chapter XXVI, Title 29, Code of Federal Regulations, is hereby amended as follows:

1. The authority citation for Part 2619 is as follows:

Authority: Secs. 4002(b)(3), 4041(b), 4044, 4062(b)(1)(A), Pub. L. 93-406, 88 Stat. 1004, 1020, 1025-27, 1029, (1974) as amended by Secs. 403(1), 403(d) and 402(a)(7), Pub. L. 96-364, 94 Stat. 1302, 1301, 1299, (1980) (29 U.S.C. 1302, 1341, 1344, 1362).

2. Rate Set 34 of Appendix B is revised and Rate Set 35 of Appendix B is added to read as follows:

Appendix B.—Interest Rates and Quantities Used To Value Immediate and Deferred Annuities

In the table that follows, the immediate annuity rate is used to value immediate annuities, to compute the quantity "C_x" for deferred annuities and to value both portions of a refund annuity. An interest rate of 5 percent shall be used to value death benefits other than the decreasing term insurance portion of a refund annuity. For deferred annuities, k_1, k_2, k_3, n_1, and n_2 are defined in § 2619.45.

Rate set	For plans with a valuation date—		Immediate Annuity rate	Deferred annuities				
	On or after	Before		k_1	k_2	k_3	n_1	n_2
34	5-1-82	8-1-82	10.75	1.1000	1.0675	1.0400	7	8
35	8-1-82		11.00	1.1025	1.0900	1.0400	7	8

Henry Rose,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 82-19199 Filed 7-14-82; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) to reflect that the Secretary of the Navy: (1) Has determined that USS *Baltimore* (SSN 704) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval submarine; and (2) has found that USS *Baltimore* (SSN 704) is a member of the SSN 688 class of ships, exemptions for which have previously been granted under 72 COLREGS, Rule 38. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: June 18, 1982.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, USN, Admiralty counsel, Office of the Judge Advocate General, 200 Stovall Street, Navy Department, Alexandria, Virginia 22332. Telephone Number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: This amendment to Part 706 provides notice that the Secretary of the Navy has certified that USS *Baltimore* (SSN 704) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Annex I, section 2(a)(i) regarding the height of the masthead light; Annex I, section 2 (k) regarding the height and relative positions of the anchor lights; and Annex I, section 3(b) regarding the location of the sidelights. Full compliance with the above-mentioned 72 COLREGS provisions would interfere with the special function of the ship. The Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that USS *Baltimore* (SSN 704) is a member of the SSN 688 class of ships for which certain exemptions, pursuant to 72 COLREGS Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of §706.3, are equally applicable to USS *Baltimore* (SSN 704).

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary and contrary to public interest since it is based on technical findings that the placement of lights on this ship in a manner differently from that prescribed herein will adversely affect the ship's ability to perform its military function.

List of Subjects in 32 CFR Part 706

Marine Safety, Navy Department, Navigation (water), and Vessels.

Accordingly, 32 CFR Part 706 is amended as follows:

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

§706.2 [Amended]

1. Table One of § 706.2 is amended to indicate certifications issued by the Secretary of the Navy by insertion of the following entry:

Vessel	Number	Distance in meters of forward masthead light below minimum required height, § 2(a)(i) Annex I
USS *Baltimore*	SSN 704	3.5

2. Table Three of § 706.2 is amended to indicate certifications issued by the Secretary of the Navy by inserting the following entry:

Vessel	Number	Masthead light, arc of visibility; Rule 21 (a)	Sidelights, arc of visibility; Rule 21 (b)	Stern light, arc of visibility; Rule 21 (c)	Sidelights, distance inboard of ship's sides in meters; § 3 (b), Annex I	Stern light, distance forward of stern in meters; Rule 21 (c)	Forward Anchor light, height above hull in meters; § 2 (k), Annex I	Anchor lights, relationship of aft light to forward light in meters; § 2 (k), Annex I
USS *Baltimore*	704	—	—	20M	4.2	6.1	3.5	1.7 below.

(Executive Order 11964; 33 U.S.C. 1605)

Date: June 18, 1982.

James F. Goodrich,

Acting Secretary of the Navy.

[FR Doc. 82-19198 Filed 7-14-82; 8:45 am]

BILLING CODE 3810-AE-M

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) to reflect that the Secretary of the Navy: (1) Has determined that USS *Stark* (FFG 31) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval frigate, and (2) has found that USS *Stark* (FFG 31) is a member of the FFG 7 class of ships, certain exemptions for which have been previously granted under 72 COLREGS Rule 38. The intended effect of this rule is to warn mariners in waters where the 72 COLREGS apply.

EFFECTIVE DATE: June 18, 1982.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, USN, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332. Telephone Number: (202) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in Executive Order 11964 and 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS *Stark* (FFG 31) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Rule 21(a) regarding the arc of visibility of its forward masthead light; Annex I, Section 2(a)(i), regarding the height above the hull of its forward masthead light; and Annex I, Section 3(b), regarding the horizontal relationship of its sidelights to its forward masthead light, without interfering with its special function as a Navy frigate. The Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that USS *Stark* (FFG 31) is a member of the FFG 7 class of ships for which certain exemptions, pursuant to 72 COLREGS Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of § 706.3, are equally applicable to this ship. Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary and contrary to public interest since it is based on technical findings that the placement of lights on this ship in a manner different from that prescribed herein will adversely affect the ship's ability to perform its military function.

List of Subjects in 32 CFR Part 706:

Marine Safety, Navy Department, Navigation (Water), and Vessels.

Accordingly, 32 CFR Part 706 is amended as follows:

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

§ 706.2 [Amended]

1. Table One of § 706.2 is amended as follows to indicate the certifications issued by the Secretary of the Navy:

Vessel	Number	Distance in meters of forward masthead light below minimum required height, § 2(a)(i) Annex I
•	•	•
USS *Stark*	FFG 31	1.8
•	•	•

2. Table Four of § 706.2 is amended by adding to the existing paragraph 8 the following vessel for which navigational light certifications are herewith issued by the Secretary of the Navy:

USS *Stark* (FFG 31)

3. Table four of § 706.2 is amended by adding to the existing paragraph 9 the following vessel for which navigational light certifications are herewith issued by the Secretary of the Navy:

Vessel	Number	Distance of sidelights forward of masthead lights in meters
•	•	•
USS *Stark*	FFG 31	2.75
•	•	•

(Executive Order 11964; 33 U.S.C. 1605)

Dated: June 18, 1982.

James F. Goodrich,

Acting Secretary of the Navy.

[FR Doc. 82-19187 Filed 7-14-82; 8:45 am]

BILLING CODE 3810-AE-M

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending *is* certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) to reflect that the Secretary of the Navy has determined that USS *Hercules* (PHM 2); USS *Aries* (PHM 5); and USS *Gemini* (PHM 6) are vessels of the Navy, which, due to their special construction and purposes, cannot comply fully with certain provisions of the 72 COLREGS without interfering with their special function as hydrofoil vessels. The intended effect of this rule is to warn mariners in waters where the 72 COLREGS apply of the different navigational light configurations of these vessels that are not in full compliance with the applicable requirement of the 72 COLREGS.

EFFECTIVE DATE: June 18, 1982.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, USN, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332. Telephone Number: (202) 325–9744.

SUPPLEMENTARY INFORMATION: This amendment to Part 706 provides notice that the Secretary of the Navy has certified that USS *Hercules* (PHM 2), USS *Aries* (PHM 5), and USS *Gemini* (PHM 6) are vessels of the Navy which, due to their special construction and purposes, cannot fully comply with the 72 COLREGS in the following particulars: Rule 23(a)(i) requiring that a power-driven vessel underway shall exhibit a masthead light forward; Rule 30(b) requiring a vessel of less than 50 meters in length, when at anchor, to exhibit an all-round light where it can be seen; Annex I, section 3(b) requiring that on vessels of 20 meters or more in length the sidelights shall not be placed in front of the forward masthead lights; Annex I, section 9(b) requiring that the all-round

anchor light be so located where it can best be seen, but need not be placed at an impracticable height above the hull.

Full compliance with the aforementioned 72 COLREGS provisions would interfere with certain special functions and features of these hydrofoil vessels as hereinafter described. Full compliance with Rule 23(a)(i) is not possible because hydrofoil vessels have limited space and on these vessels radar installations mounted just forward of the mainmast requiring unobstructed visibility precludes the placement of the masthead light further forward than its present position 3 meters aft of amidships on the mainmast. In addition, the added weight of a separate forward mast for the purposes of locating the masthead light forward of its present position would add additional topside weight to the vessels and, therefore, adversely affect the ability of these vessels to become foilborne while underway. Full compliance with Rule 30(b) and Annex I, section 9(b) is not possible because to display an all-round light anchor light where it can best be seen would require the addition of a structure stepped-out from the mainmast on which the light would be located. Such a stepped-out structure would also add significant topside weight to the vessel and, therefore, adversely affect the ability of these vessels to become foilborne while underway. Full compliance with Annex I, section 3(b) is not possible because these hydrofoil vessels must be refueled while underway and since the masthead light must be located on the mainmast, which is located 3 meters aft of amidships for reasons hereinbefore stated, locating the sidelights aft of the masthead light would severely interfere with the ability to refuel these vessels while underway. In addition, locating the sidelights aft of the masthead light would require the installation of a cantilevered structure extending outboard from the vessel and this additional structure would also add additional topside weight to the vessel and, therefore, adversely affect the ability of these vessels to become foil borne while underway. The Secretary of the Navy has certified that the aforementioned navigational lights are, therefore, located on these vessels in a manner that provides the closest possible compliance with the applicable 72 COLREGS.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on these vessels in a manner different from that prescribed herein will adversely affect the vessel's ability to perform its military function.

List of Subjects in 32 CFR Part 706:

Marine Safety, Navy Department, Navigation (Water), and Vessels.

Accordingly, 32 CFR Part 706 is amended as follows:

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR THE PREVENTION OF COLLISIONS AT SEA, 1972

§ 706.2 [Amended]

1. Table Two of § 706.2 is amended by adding the following naval vessels to the list of vessels therein to indicate the certifications issued herewith by the Secretary of the Navy:

Vessel	Number	Masthead lights distance fr stbd of keel in meters; Rule 21(a)	Forward anchor light, distance below flight dk in meters; § 2(k), Annex I	Forward anchor light, number of; Rule 30 (a)(i)	AFT anchor light, distance below flight dk in meters; Rule 21(e), Rule 30(a)(ii)	AFT anchor light, number of; Rule 30(a)(ii)	Side lights distance below flight dk in meters; § 2(g), Annex I	Side lights, distance forward of forward masthead light in meters; § 3(b), Annex I	Side lights, distance inboard of ship's sides in meters; § 3(b), Annex I
•	•	•	•	•	•	•	•		
USS *Hercules*	PHM 2								5.4
USS *Aries*	PHM 5								5.4
USS *Gemini*	PHM 6								5.4
•	•	•	•	•	•	•	•		

2. Table Four of § 706.2 is amended by adding to the existing paragraph 6 the following vessels for which navigational light certifications are herewith issued by the Secretary of the Navy:

6. The masthead light required by Rule 23(a)(i) is not located in the forepart of the vessel on the following ships:

* * * * *

USS *Hercules* (PHM 2)—3.0 meters aft of amidships

USS *Aries* (PHM 5)—3.0 meters aft of amidships

USS *Gemini* (PHM 6)—3.0 meters aft of amidships

3. Table Four of § 706.2 is amended by adding the following note numbered 21 which reflect navigational light certifications herewith issued by the Secretary of the Navy:

* * * * *

21. On USS *Hercules* (PHM 2), USS *Aries* (PHM 5), and USS *Gemini* (PHM 6), two lights are installed at the same level, one fore and one aft, high on the mast to provide the closest possible compliance to the all-round anchor light visibility required by Rule 30(b) and Annex I, section 9(b).

(Executive Order 11964, 33 U.S.C. 1605)

Dated: June 18, 1982.

James F. Goodrich,

Acting Secretary of the Navy.

[FR Doc. 82-19196 Filed 7-14-82; 8:45 am]

BILLING CODE 3810-AE-M

POSTAL SERVICE

39 CFR Part 10

International Express Mail Rates to State of Bahrain

AGENCY: Postal Service.

ACTION: Interim regulations with request for comments.

SUMMARY: Pursuant to an agreement with the postal administration of Bahrain, the Postal Service proposes to begin International Express Mail Service with Bahrain effective on August 16, 1982. The interim rate schedules are published below for comment.

EFFECTIVE DATE: August 16, 1982.

Comment Date: Comments must be received on or before August 14, 1982.

ADDRESS: Written comments should be directed to the General Manager, Rate Development Division, Rates and Classification Department, U.S. Postal Service, Washington, D.C. 20260. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in Room 8620, 475 L'Enfant Plaza West, SW., Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT:

J. Duane Redic, (202) 245-4414.

SUPPLEMENTARY INFORMATION: The International Mail Manual is incorporated by reference in the Federal Register, 39 CFR 10.1. Additions to the manual needed to introduce the new service are reproduced below. Accordingly, although 39 U.S.C. 407 does not require advance notice and opportunity for submission of comments on international rates and the provisions of the Administrative Procedure Act regarding proposed rulemaking (5 U.S.C. 533) do not apply (39 U.S.C. 410(a)), the Postal Service invites interested persons to submit written data, views, or arguments concerning the interim rates of postage for International Express Mail to Bahrain as shown below.

Because under the agreement with Bahrain Express Mail service to that country is scheduled to begin on August 16, 1982, the rates shown below are being adopted on an interim basis effective August 16, 1982.

In view of the considerations discussed above, the Postal Service hereby adopts the following interim revision of the International Mail Manual.

List of Subjects in 39 CFR Part 10

Postal Service, Foreign relations.

Table 7–1. International Express Mail Service—Summary Conditions

Service Offerings

In paragraph 1, Custom Designed Service, add "State of Bahrain," after "Australia,".

Weight Limits

Revise line 4 to read as follows:

4. State of Bahrain and Republic of Korea.	22 pounds.

Table 7–2. International Express Mail Service Standards (From International Exchange Office)

In Table 7–2, add after the line for Belgium a new line which reads "Bahrain, State of" in the "Country of Destination" column, "Second Day" in the "Custom Designed" column, and "Third Day" in the "On Demand" column.

Individual Country Listing

Add after the entry entitled "Parcel Post Bahrain (State of)" the following new entry:

International Express Mail (State of) Bahrain

Conditions for Mailing

Definition of Express Mail Service: See Table 7–1 and 494 for detailed characteristics.

Services Available:

Custom Designed
On Demand

Acceptable Items and Customs Declarations: Contents restricted to the following:

Items Containing

1. Non-dutiable business documents, Business letters, non-negotiable instruments, computer printouts, cancelled checks.
2. Microfilm, microfiche or samples or merchandise without commercial value.
3. Merchandise, advertising materials or any dutiable articles.

Customs Declaration Required

1. None. Endorse items clearly next to address label "Business Papers."
2. Form 2976, identify contents briefly, but completely.
3. Form 2966–A, identify completely and state whether import license (if required) is attached.

Postage Rates

CUSTOM DESIGNED SERVICE [1] [2]

Weight not over	Rate	Weight not over	Rate
Pounds:		Pounds:	
1	$26.00	11	$65.00
2	31.70	12	68.70
3	35.40	13	72.40
4	39.10	14	76.10
5	42.80	15	79.80
6	46.50	16	83.50
7	50.20	17	87.20
8	53.90	18	90.90
9	57.60	19	94.60
10	61.30	20	98.30
		21	102.00
		22	105.70

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

ON DEMAND SERVICE [3]

Weight not over	Rate	Weight not over	Rate
Pounds:		Pounds:	
1	$20.00	11	$57.00
2	23.70	12	60.70
3	27.40	13	64.40
4	31.10	14	68.10
5	34.80	15	71.80
6	38.50	16	75.50
7	42.20	17	79.20
8	45.90	18	82.90
9	49.60	19	86.60
10	53.30	20	90.30
		21	94.00
		22	97.70

[3] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

Areas Served: All points in Bahrain
Weight Limit: 22 lbs. (10 kg.)
Size Limit:
Minimum: 3½" x 5½".
Maximum: Greatest length 36 inches.
Greatest length and girth combined: 78 inches.

Service Standard From International Exchange Office: See Table 7–2.

An appropriate amendment to 39 CFR 10.3 to reflect these changes will be published when the final rule is adopted.

(39 U.S.C. 401, 404, 407)

Fred Eggleston,
Assistant General Counsel, Legislative Division.

[FR Doc. 82–19208 Filed 7–14–82; 8:45 am]
BILLING CODE 7710–12–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–6–FRL 2165–1]

Approval and Promulgation of Implementation Plans: Approval of Louisiana Compliance Schedules

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice approves Louisiana's request to revise its State Implementation Plan (SIP) to include Exxon Chemical Intermediates three compliance schedules at their Baton Rouge facility. These compliance schedules will allow Exxon Chemical to come into compliance with Regulation 22 for the control of hydrocarbon emissions. Two of the compliance schedule plans have been completed and are not discussed in this notice. The third compliance schedule will allow Exxon Chemical to install a vapor recovery system on five benzene tanks and an aromatics vapor recovery project on eight vents; final compliance is required on November 30, 1982. These three schedules are approved on the basis that Exxon's compliance plan meets the requirements of Louisiana's SIP for hydrocarbon controls at the affected facility.

DATE: This action is effective September 13, 1982 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Written comments should be addressed to John R. Hepola of the EPA Region 6 Air Programs Branch (address below). Copies of the materials submitted by Louisiana may be examined during normal business hours at the following locations:

Public Information Reference Unit,
Library Systems Branch,
Environmental Protection Agency, 401

M Street, S.W., Washington, D.C. 20460
Environmental Protection Agency, Air Branch, Region 6, 1201 Elm Street, Dallas, Texas 75270
Air Quality Division, Louisiana Air Control Commission, P.O. Box 44066, Baton Rouge, Louisiana 70804

FOR FURTHER INFORMATION CONTACT: John R. Hepola at the EPA Region 6 address above or call (214) 767-1518 (FTS 729-1518).

SUPPLEMENTARY INFORMATION: Section 110(a)(3)(A) of the Clean Air Act, amended 1977, directs the Administrator to approve revision of an implementation plan applicable to an air quality control region, if he determines the plan has been adopted by the State after reasonable notice and public hearing, and that it includes emission limitations, schedules, and timetables for compliance with such limitations and such other measures as may be necessary to insure attainment and maintenance of the applicable air quality standard. The regulation which EPA promulgated to implement this portion of the Air Act are set forth at 40 CFR Part 51.

The compliance schedules being approved today apply to Exxon Chemical Intermediates vent abatement project titled BELA-5 (completed in September, 1981), an aromatics floating roof project (completed in December, 1981), and an aromatics tank and vent vapor collection project (to be completed in November, 1982) located at their Baton Rouge, Louisiana facility. On September 25, 1980, the Louisiana Air Control Commission adopted, after adequate notice and public hearing, these three compliance schedules. The aromatics tank and vent vapor collection project compliance schedule will provide that Exxon will be in compliance with Louisiana Regulation 22 for the control of hydrocarbons by November 30, 1982.

Regulation 22 was approved by EPA on February 10, 1982 (at 47 FR 6015) as part of Louisiana's SIP to demonstrate attainment of the ozone National Ambient Air Quality Standard (NAAQS) by December 31, 1982. Exxon Chemical Intermediates will install an aromatics vapor recovery project on eight vents and a vapor collection system on five small benzene storage tanks at their Baton Rouge, Louisiana facility in order to meet the third compliance schedule.

The compliance schedules were submitted to EPA on October 23, 1980 by the Governor. EPA reviewed [1] the schedules and supporting documentation, and finds that the State's submittal of compliance schedules includes legally enforceable increments of progress, certification of a public hearing and requirements for a determination of final compliance by facility inspection. Based upon these findings, EPA is today approving these compliance schedules as a revision to the Louisiana State Implementation Plan.

EPA's review of the materials submitted has shown that it is a noncontroversial, nonmajor SIP revision. Because EPA does not anticipate that this rulemaking will generate adverse public comments, the compliance schedules for Exxon Chemical Intermediates are being approved today without a prior proposed rulemaking. The public should be advised that this action will be effective September 13, 1982. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and a subsequent notice will withdraw the final action and begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities. This action only approves a State action; it will impose no new regulatory requirements. In addition, this action only applies to one facility.

Under Executive Order 12291, EPA must judge whether a regulation is major and therefore subject to the requirements of a Regulatory Impact Analysis. This regulation is not major because it merely approves a state action. It imposes no regulatory requirements.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this final rulemaking is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today.

Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject to today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

This notice is issued under the authority of Section 110 of the Clean Air Act, as amended, 42 U.S.C. 7410.

[1] EPA Evaluation Report of Louisiana's request for variance for Exxon Chemical Company, dated June, 1982. This report is available for public inspection during normal business hours at the EPA libraries listed in the address section of the notice.

List of Subjects in 40 CFR Part 52

Air Pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: July 8, 1982.

Anne M. Gorsuch,
Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart T of Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended by adding paragraph (d).

§ 52.980 Compliance schedules.

* * * * *

(d) The compliance schedules below for Exxon Chemical Intermediates are approved as a revision to the plan pursuant to 51.[illegible] and 51.15 of this chapter. The regulations cited are an approved regulation of the State.

Source and location	Regulation	Final compliance date
Exxon Chemical Intermediates, Baton Rouge:		
A. BELA-5 vent abatement project.	22.8	Sept. 1, 1981.
B. Aromatics floating roof project.	22.3	Dec. 1, 1981.
C. Aromatics tank and vent vapor collection project.	22.3, 22.8	Nov. 30, 1982.

[FR Doc. 82-19186 Filed 7-14-82; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Parts 52 and 81

[A-8-FRL 2184-3]

Approval and Promulgation of State Implementation Plans; and Designation of Areas for Air Quality Planning Purposes; Revisions to the Montana Plan and Nonattainment Areas

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: EPA is approving two revisions to the Montana State Implementation Plan. These revisions, submitted on April 21, 1982, and April 22, 1982, modify the State's open burning regulation, and redesignate the Anaconda area from nonattainment to attainment for sulfur dioxide (SO_2).

DATES: This action will be effective on September 13, 1982 unless notice is received by August 16, 1982 that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the revision are available for public inspection between 8:00 a.m. and 4:00 p.m. Monday through Friday at the following offices:

Environmental Protection Agency, Montana Office, Federal Building, 301 S. Park, Helena, MT 59626
Environmental Protection Agency, Region VIII, Air Programs Branch, 1860 Lincoln Street, Denver, Colorado 80295
Environmental Protection Agency, Public Information Reference Unit, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460
The Office of the Federal Register, 110 L Street, N.W., Room 8401, Washington, D.C. 20408

FOR FURTHER INFORMATION CONTACT:
Tom Harris, Environmental Protection Agency, Montana Office, Federal Office Building, 301 S. Park, Helena, MT 59626, (406) 449–5486.

SUPPLEMENTARY INFORMATION:

Redesignation of Anaconda Area

The only significant source of sulfur dioxide (SO_2) in the Anaconda area was the Anaconda Company copper smelter. This plant ceased operation on July 1, 1980, and in October 1980, the Company publicly announced that it was permanently closing the smelter.

The State's request to redesignate the Anaconda area was accompanied by a set of ambient data for sulfur dioxide covering the period July 1, 1980, through May 19, 1981. The data were obtained from the State's Lincoln School site in Anaconda. The data show that the maximum 24-hour concentration measured during that period was 0.023 parts per million (ppm). This value is six times less than EPA's primary standard of 0.14 ppm for 24 hours. The mean of the monthly mean concentrations for the period is 0.005 ppm. Comparing this value to EPA's primary annual standard of 0.03 ppm, it is also lower by a factor of six.

The State discontinued SO_2 monitoring in Anaconda on May 20, 1981. On the basis of the data obtained between July 1980 and May 1981, the State concluded that there is little or no chance that any ambient air quality standards violations would be observed as a result of emissions from existing sources, and that the cost of operating the station for a continued period of time was not warranted. EPA agrees with this conclusion and is waiving the requirement ("Section 107, Redesignation Criteria", June 12, 1979, Richard Rhoads, Director, Control Programs Development Division), for four quarters of monitoring data.

Revision of Open Burning Regulation

The State has revised its open burning regulation. Under the revised regulation, minor open burners (as defined in the regulation), will not be required to get a permit for every open burn, but will be required to burn only during the months of March through August. Major burners will be required to employ Best Available Control Technology (as defined in the regulation).

These changes in the State's regulation are primarily procedural in nature and are expected to have little, if any, impact on existing air quality.

Action

EPA today is approving the revisions and the redesignation. The public is advised that this action will be effective 60 days from the date of this notice. However, if we receive written notice within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw this final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under Section 307(b)(1) of the Clean Air Act, petitions for review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements (See 307(b)(2)).

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects

40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, and Hydrocarbons.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas

(Sections 110 and 107 of the Clean Air Act (42 USC 7410 and 7404))

Dated: July 9, 1982.

Anne M. Gorsuch,
Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Montana was approved by the Director of the Federal Register on July 1, 1982.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS.

Title 40, Part 52 of the Code of Federal Regulations is amended as follows:

Subpart BB—Montana

1. In § 52.1370 paragraph (c)(11) is added as follows:

§ 52.1370 Identification of plan

* * * * *

(c) * * *

(11) On April 21, 1982, and April 22, 1982, Montana submitted revisions to the open burning regulation and redesignated the Anaconda area from nonattainment to attainment for sulfur dioxide (SO_2).

2. In § 52.1375 the table is amended as follows:

§ 52.1375 Attainment dates for national standards.

* * * * *

Air quality control region and nonattainment area	Pollutant						
	Particulate matter		Sulfur oxides		Nitrogen dioxide	Carbon monoxide	Ozone
	Primary	Secondary	Primary	Secondary			
Billings Intrastate:							
a. Yellowstone County	c	c	a	c	b	b	f
b. Billings	a	a	a	c	b	b	f
c. Laurel	c	c	a	c	b	b	f
d. Remainder AQCR	c	c	a	c	b	b	b
Great Falls Intrastate:							
a. Great Falls	a	a	c	c	b	b	b
b. Remainder AQCR	b	b	c	c	b	b	b
Helena Intrastate:							
a. Anaconda	b	b	h	h	b	b	b
b. East Helena	a	a	a	a	b	b	b
c. Butte	a	g	b	b	b	b	b
d. Remainder AQCR	b	b	b	b	b	b	b
Miles City Intrastate:							
a. Colstrip	a	g	b	b	b	b	b
b. Remainder AQCR	b	b	b	b	b	b	b
Missoula Intrastate:							
a. Missoula	a	a	b	b	b	b	b
b. Columbia Falls	a	a	b	b	b	b	b
c. Remainder AQCR	c	c	b	b	b	b	b

a. Air quality levels presently below primary standards or area is unclassifiable.
b. Air quality levels presently below secondary standards or area is unclassifiable.
c. July 1975.
d. May 31, 1977.

e. December 31, 1982.
f. Action on the SIP for this nonattainment area has been delayed.
g. Eighteen-month extension granted.
h. May 19, 1981.

Note.—Footnotes which are *italic* are prescribed by the Administrator because the plans do not provide a specific date, or the date provided is not acceptable.

Source.—Subject to plan requirements and attainment dates established under section 110(a)(2)(A) of the Act prior to the 1977 Clean Air Act Amendments remains obligated to comply with those requirements by the earlier deadlines. The earlier attainment dates are set out at 40 CFR 52.325 (1978).

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Title 40, Part 81 of the Code of Federal Regulations is amended to read as follows:

.In § 81.327 the Montana SO_2 table is amended as follows:

§ 81.327 Montana

* * * * *

Designated areas	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Laurel Area	X			
East Helena Area	X	X		
Anaconda Area				X
Rest of State				X

[FR Doc. 82-19189 Filed 7-14-82; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 435

Medicaid Program; Miscellaneous Corrections

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule, correction.

SUMMARY: This document corrects an error in a correction notice published on August 19, 1981 (46 FR 42067). That correction notice which contained miscellaneous corrections to the Medicaid regulations stated an incorrect effective date.

EFFECTIVE DATE: The correction published on August 19, 1981 became effective on September 29, 1978.

FOR FURTHER INFORMATION CONTACT: Julie Brown, (301) 594-9636.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to correct a correction notice that was published on August 19, 1981. That notice referred to Medicaid regulations at 42 CFR 435.831, which were published as final regulations on April 11, 1980 (45 FR 24878). The correction notice reinstated three subparagraphs that were inadvertently omitted from § 435.831(a) regarding eligibility determinations of medically needy individuals.

In the August 19, 1981 notice (46 FR 42067), we stated that the effective date of the regulations was September 29, 1979. That date should have been September 29, 1978.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Approved: July 7, 1982.

Robert F. Sermier,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 82-19000 Filed 7-14-82; 8:45 am]
BILLING CODE 4120-03-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base (100-year) flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Federal Emergency Management Agency, National Flood Insurance Program, (202) 287-0230, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR Part 67. An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Agency has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The final base (100-Year) flood elevations for selected location are:

FINAL BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Arkansas	Unincorporated areas of Ashley County (FEMA-6254)	Fountain Creek	Just upstream of Arkansas Highway 81	*162
		Snake Creek	Approximately 600 feet downstream of the gravel road that is located about 0.75 miles upstream of the confluence of Snake Creek Tributary 1.	*93
			Just upstream of the gravel road that is located about 0.61 miles upstream of the confluence Snake Creek Tributary 5.	*121
		Snake Creek Tributary 1	Just upstream of the gravel road that is located about 0.52 miles upstream of the confluence with Snake Creek.	*94
		Snake Creek Tributary 2	Just upstream of the gravel road that is located about 0.41 miles upstream of the confluence with Snake Creek.	*97
		Snake Creek Tributary 3	Just upstream of a county road that is located about 1.50 miles upstream of the confluence with Snake Creek.	*127
		Snake Creek Tributary 5	Approximately 200 feet upstream of Arkansas Highway 133.	*135
		Big Brushy Creek	Approximately 400 feet upstream of the Rock Island and Pacific Railroad.	*130
			Approximately 500 feet downstream of Arkansas Highway 133.	*136
		Self Branch	Approximately 400 feet upstream of Marais Saline Road.	*97
		Maxwell Creek	Just downstream of the asphalt road that is located about 1.45 miles upstream of the confluence with Big Brushy Creek.	*118
		Big Brushy Creek Tributary 1	Just upstream of the gravel road that is located about 0.44 miles upstream of the confluence with Big Brushy Creek.	*147
		Big Brushy Creek Tributary 2	Approximately 0.38 miles upstream of the confluence with Big Brushy Creek.	*134
		Big Brushy Creek Tributary 3	Approximately 400 feet downstream of the gravel road that is located about 1.04 miles upstream of the confluence with Big Brushy Creek.	*130
		Little Brushy Creek	Just upstream of Hancock Road	*106
			Just upstream of Arkansas Highway 133	*131
		Little Brushy Creek Tributary 1	Just upstream of Arkansas Highway 133	*135
		Little Brushy Creek Tributary 2	Just downstream of the asphalt road that is located about 0.43 miles upstream of the confluence with Little Brushy Creek.	*134
		Middle Fork, West Creek	Just upstream of U.S. Highway 82	*144
		Middle Fork Tributary	Just downstream of U.S. Highway 82	*147
		West Fork, West Creek	Just downstream of the asphalt road that is located 1,100 feet upstream of the confluence with Middle Fork West Creek.	*147
		East Fork, West Creek	Just upstream of U.S. Highway 82	*147
			Just upstream of Arkansas Highway 52	*170

Maps available for inspection at Ashley County Judge's Office, County Courthouse for Ashley, Hamburg, Arkansas 71646.

Arkansas	Unincorporated areas of Lonoke County (FEMA-6254)	Fourmile Creek	Just upstream of Arkansas Highway 319	*228
			Just upstream of Arkansas Highway 321	*243
			Just downstream of Arkansas Highway 5	*298
			Just upstream of Lonoke—Pulaski County Line	*313
		Magness Creek	Just upstream of County Road	*240
			Just upstream of County Line	*264
			Just upstream of Arkansas Highway 5	*309
		Hudson Branch Creek	Just upstream of County Road	*243
			Just upstream of Arkansas Highway 38	*262
			Just upstream of East Main Street	*267
		White Oak Branch	Just downstream of First Street	*253
			Just upstream of U.S. Highway 67, 167	*277
			Just upstream of Arkansas Highway 5	*287
		Bayou Two Prairie Near Cabot	Just upstream of First Street	*256
			Just upstream of Arkansas Highway 367	*266
			Just upstream of U.S. Highway 67, 167	*271
		Bayou Two Prairie Tributary Near Cabot	Just upstream of Arkansas Highway 89	*287
		North Bayou	Just upstream of Scroggins Street	*221
			Just upstream of Arkansas Highway 161	*224
		Bayou Two Prairie Near Carlisle	Just upstream of Arkansas Highway 13	*215
			Just upstream of U.S. Highway 70	*219
		Bayou Meto	Just upstream of U.S. Interstate 40	*239
			Just upstream of County Line	*245
		Bayou Two Prairie Near Lonoke	Just upstream of Arkansas Highway 31	*227
			Just upstream of the corporate limits	*226
		Pack Branch	Just upstream of Diamukes Avenue	*230

Maps available for inspection at the Lonoke County Judge's Office, County Courthouse, Lonoke, Arkansas 72001.

Arkansas	Unincorporated areas of Saline County (FEMA-6254)	Saline River	Just upstream of Highway 291	*252
			Just downstream of County Road 27	*254
			Just upstream of Chicago Rock Island and Pacific Railroad.	*261
			Just upstream of Interstate Highway 30	*286
		Alum Fork Saline River	Just downstream of County Road	*299
		Cedar Creek	Just downstream of County Road 195	*496
			Just upstream of County Road 59	*550

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just upstream of County Road	*506
			Just downstream of County Road	*566
		Middle Fork Saline River	Approximately 630 feet upstream of County Road 59	*505
			Approximately 300 feet downstream of County Road 59.	*504
			Approximately 950 feet downstream of County Road 57.	*481
		Mill Creek	Lake Cortez	*539
			Approximately 330 feet upstream of downstream County Limits.	*539
		North Fork Saline River	Approximately 1,300 feet upstream of State Highway 5	*350
		Hurricane Creek	Just upstream of Missouri Pacific Railroad	*350
			Just downstream of County Road 43	*356
			Just downstream of Interstate Highway Service Road	*371
			Just upstream of Interstate Highway Service Road	*373
		Fourch Creek	Just upstream of Cross Section A, At mile 22.54 above mouth, approximately 800 feet upstream of the location in alignment with County Road 83 extended.	*321
			Just upstream of County Line Road	*480
			Just upstream of County Road 35	*532
		Otter Creek	At Cross Section A just upstream of the corporate limits of Shannon Hills.	*319
			At County Road 37	*330
			Approximately 130 feet downstream of County Road 37.	*332
		Crooked Creek	Approximately 150 feet upstream of State Highway 111.	*316
			Approximately 250 feet downstream of Missouri Pacific Railroad.	*322
			Just downstream of County Road 612	*336
		Lorance and Dry Creek	Just upstream of the upstream crossing of U.S. Highways 65 and 167.	*248
			Approximately 400 feet downstream of County Road 215.	*306
			Just upstream of County Road 204 (Chicot Road)	*283
			Just downstream of County Road 31 (Shannon Hills Road).	*297

Maps available for inspection at Saline County Judge's Office, County Courthouse, Benton, Arkansas 72015.

Colorado	Lamar (city), Prowers County FEMA-6254	Arkansas River	Approximately 400 feet west of the intersection of Moyer Street and Fifth Street.	*3,615
		Willow Creek	Downstream side of the intersection of First Street and the channel.	*3,631
			Downstream side of the intersection of Woodland Lane and channel.	*3,651
			Intersection of southernmost corporate limits and channel.	*3,666

Maps available for inspection at City Surveyor's Office, 104 E. Parmenter, Lamar, Colorado.

Connecticut	Darien, town, Fairfield County (Docket No. FEMA-5195).	Long Island Sound	Five Mile River from confluence with Long Island Sound to approximately 960 feet north of Davis Lane extended.	*15
			Confluence of Five Mile River to Contentment Island Road extended.	*17
			Scotts Cove Shoreline from Contentment Island Road extended to East Osceola Drive extended.	*15
			Scotts Cove Shoreline from East Osceola Drive extended to Great Island.	*16
			Great Island to Hay Island	*17
			Hay Island to Holly Pond	*17
			Holly Pond entire shoreline from confluence of Noroton River to Brush Island Road extended.	*15

Maps available for inspection at the Office of Planning and Zoning, and Department of Public Works, Town Hall, 719 Boston Post Road, Darien, Connecticut.

Connecticut	Wilton, town Fairfield County (Docket No. FEMA-5124).	Norwalk River	Downstream corporate limits	*123
			Upstream P & E Bridge	*143
			Upstream Wolfpit Road	*158
			Confluence of Comstock Brook	*186
			Upstream U.S. Route 7 (First Crossing)	*208
			Upstream Cannon Road	*225
			Upstream Seely Road	*245
			Downstream Old Mill Road	*271
			Approximately 3,400' upstream of Old Mill Road	*303
			Approximately 420' downstream of Old U.S. Route 7	*334
			Upstream corporate limits	*344
		Comstock Brook	Confluence with Norwalk River	*186
		Upstream of Lovers Lane	*231	
			Upstream of Private Road	*263
			Downstream of Middlebrook Farm Road	*310
			Upstream of Nod Hill Road	*344
			Approximately 3,600' upstream Nod Hill Road	*362
			Approximately 7,150' upstream Nod Hill Road	*425

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		West Branch Saugatuck River	First Footbridge (Downstream)	*109
			Downstream Abandoned Bridge	*130
			Upstream State Route 53	*145
			Upstream corporate limits	*166
			Approximately 200' upstream of upstream corporate limits.	*181
		East Branch Silvermine River	Downstream corporate limits	*469
			Upstream Bald Hill Road	*516
			Downstream Snowberry Lane	*547
			Upstream corporate limits	*561
Maps available for inspection at the Town Clerk's Office, Town Hall, 236 Danbury Road, Wilton, Connecticut.				
Illinois	(Uninc.) Boone County (Docket No. FEMA-6254)	Kishwaukee River	About 4,100 feet downstream of Newburg Road	*729
			Just downstream of Stone Quarry Road	*755
			About 200 feet downstream of Poplar Grove Road	*763
			At County Line Road	*779
		North Kinnikinnick Creek	Just upstream of Chrysler Road	*826
			Just upstream of McCurry Road	*842
			Just upstream of Rockton Road	*862
			Just upstream of Free Church Road	*869
			Just upstream of Grade School Road	*931
		South Kinnikinnick Creek	About 2,200 feet upstream of Grade School Road	*932
			At downstream county boundary	*811
			About 100 feet downstream of Conservation Area Road.	*855
			About 200 feet upstream of North Boone School Road (near Caledonia Road).	*876
			About 800 feet upstream of Livingston School Road	*906
			Just downstream of North Boone School Road (upstream of Livingston School Road).	*917
		Beaver Creek	About 3,600 feet downstream of North Road	*735
			Just upstream of Riverside Road	*765
			Just upstream of Orth Road	*821
			Just downstream of Hunter Road	*896
		Mosquito Creek	At mouth	*767
			Just downstream of Reed's Crossing Road	*809
		Pecatonica Creek	About 300 feet downstream of Lawrence Road	*764
			Just upstream of Squaw Prairie Road	*776
			About 500 feet upstream of Woodstock Road	*788
		Coon Creek	At Chicago and North Western Railroad	*765
			About 5,500 feet upstream of Garden Prairie Road	*775
		Tributary A	At mouth	*753
			About 200 feet downstream of Chicago and North Western Railroad.	*758
			About 250 feet upstream of Chicago and North Western Railroad.	*767
			Just downstream of Interstate 90	*786
		Tributary D	At mouth	*816
			Just upstream of Orth Road	*821
			About 5,650 feet upstream of Orth Road	*845
Maps available for inspection at the City-County Planning Commission, Boone County Courthouse, Belvidere, Illinois.				
Illinois	(C) Lockport, Will County (Docket No. FEMA-6224)	Milne Creek	At mouth at Illinois and Michigan Canal	*580
			Just upstream of Jefferson Street	*607
			Just downstream of Division Street	*656
		Fiddyment Creek	Just downstream of State Street	*583
			Just downstream of Hamilton Street	*598
			About 0.31 mile upstream of Hamilton Street	*605
Maps available for inspection at the City Clerk's Office, City Hall, 222 East 9th Street, Lockport, Illinois.				
Illinois	(V) Plainfield, Will County (Docket No. FEMA-6224)	Du Page River	About 1.1 miles downstream of U.S. Route 30	*599
			About 200 feet downstream of State Route 59	*605
			About 1.2 miles upstream of confluence of East Norman Drain.	*612
		West Norman Drain	At mouth at Du Page River	*607
			Just upstream of Van Dyke Road	*614
			About 0.4 mile upstream of Elgin, Joliet and Eastern Railway (near Van Dyke Road).	*623
		Springhole Creek	About 100 feet upstream of Old Indian Boundary Line Road.	*606
			About 0.27 mile upstream of Old Indian Boundary Line Road.	*611
		East Norman Drain	Within corporate limits	*607
		Lily Cache Creek	Just upstream of Lockport Road	*598
			About 0.28 mile upstream of Lockport Road	*599
Maps available for inspection at the Clerk's Office, Village Hall, 1400 North Division Street, Plainfield, Illinois.				
Illinois	(V) Winslow, Stephenson County (Docket No. FEMA-6224).	Pecatonica River	Within corporate limits	*782
		Indian Creek	Within corporate limits	*782
Maps available for inspection at the Post Office, Winslow, Illinois.				
Iowa	(Uninc.) Black Hawk County (Docket No. FEMA-6224).	Crane Creek	About 1,000 feet downstream of Nesbit Road	*941
			About 300 feet upstream Pilot Grove Road	*952
		Elk Run Creek	About 900 feet downstream of South Elk Run Road	*843
			About 100 feet upstream of East Donald Street	*878

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Miller Creek	At mouth	*822
			About 0.50 mile upstream of Miller Creek Road	*829
		Poyner Creek	Just upstream of Gilbertville Road	*836
			Just downstream of Young Road	*845
		Cedar River	At downstream county boundary	*804
			At confluence of Poyner Creek	*828
			About 0.4 mile downstream of confluence of Beaver Creek.	*870
			About 3.0 miles upstream of West Cedar-Wapsi Road	*884
		West Fork Cedar River	At mouth	*879
			At upstream county boundary	*890
		Black Hawk Creek	About 4.3 miles downstream of Hudson Road	*871
			About 1,400 feet downstream of Zaneta Road	*893
			Just downstream of Grundy Road	*903
		Wolf Creek	At mouth	*814
			At La Porte City corporate limits	*815
		Shallow Flooding (overland flow from Wolf Creek).	Along Illinois Central Gulf Railroad (about 0.5 mile east of City of La Porte City corporate limits).	*815
			At intersection of Bishop Road and City of La Porte City corporate limits.	*820
Maps available for inspection at the County Zoning Administrator's Office, Russell-Lampson Building, Waterloo, Iowa.				
Iowa	(C) Neola, Pottawattamie County (Docket No. FEMA-6247).	Mosquito Creek	Just upstream of confluence with Neola Creek	*1,088
			About 100 feet downstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*1,095
			About 1,300 feet upstream of Front Street	*1,097
		Neola Creek	About 100 feet downstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*1,092
			About 1,400 feet upstream of Pearl Street	*1,100
Maps available for inspection at the City Hall, Neola, Iowa.				
Iowa	(C) Palo, Linn County (Docket No. FEMA-6224)	Cedar River	About 180 feet upstream of confluence of Dry Creek	*742
			About 1,100 feet downstream of confluence of Dry Creek.	*742
		Dry Creek	About 1,500 feet downstream of First Street	*742
			Just downstream of First Street	*744
			Just upstream of Chicago, Rock Island and Pacific Railroad.	*750
Maps available for inspection at the City Hall, Palo, Iowa.				
Kansas	(C) Galva, McPherson County (Docket No. FEMA-6224).	Galva Drain	About 500 feet downstream of McPherson Street	*1,535
			Just upstream of Main Street	*1,541
			Just upstream of Mulberry Street	*1,543
			About 1,250 feet upstream of Fourth Street	*1,545
Maps available for inspection at the City Hall, Galva, Kansas.				
Kansas	(C) Garfield, Pawnee County (Docket No. FEMA-6224).	Arkansas River Tributary (Garfield Drain).	About 1,700 feet upstream of Atchison, Topeka and Santa Fe Railway.	*2,071
			Just upstream of Pawnee Street	*2,072
			Just downstream of Sherman Street	*2,073
Maps available for inspection at the City Hall, Garfield, Kansas.				
Kansas	(Uninc.), Lyon County, (Docket No. FEMA-6224).	Neosho River	About 2.0 miles downstream of confluence with Dry Creek.	*1,073
			Just upstream of U.S. Highway 50	*1,100
			Just upstream of Burlingame Road	*1,111
			Just upstream of County Road 412	*1,136
			About 0.32 mile upstream of County Road 413	*1,164
		Cottonwood River	At mouth	*1,083
			At Kansas Turnpike	*1,123
		Dow Creek	At mouth	*1,117
			Just downstream of Highway 99	*1,128
			Just upstream of Highway 99	*1,130
		Eagle Creek	About 11,500 feet downstream of Highway 99	*1,157
			About 400 feet upstream of Highway 99	*1,174
			Just upstream of County Road (about 2,300 feet upstream of confluence of outlet from Olpe Lake).	*1,190
			About 900 feet upstream of County Road (about 6,550 feet upstream of confluence of outlet from Olpe Lake).	*1,193
		Peater Creek	Just downstream of County Road 412	*1,135
			About 3,800 feet upstream of Sycamore Street	*1,160
		Dry Creek	At mouth	*1,075
			Just downstream of Old U.S. Highway 50 (about 25,300 feet above mouth).	*1,092
			Just upstream of Old U.S. Highway 50 (about 25,300 feet above mouth).	*1,095
		Allen Creek	At Kansas Turnpike	*1,123
			About 25,000 feet upstream of Kansas Turnpike	*1,138
Maps available for inspection at the Lyon County Courthouse, Emporia, Kansas.				
Maryland	Charlestown, Town, Cecil County (Docket No. FEMA-6654).	Chesapeake Bay (Tidal) Flooding affecting Northeast River).	Entire shoreline within the Town of Charlestown	*12
Maps available for inspection at the Town Hall, Charlestown, Maryland.				

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Michigan	(Twp.), Comstock Kalamazoo County (Docket No. FEMA-6224).	Kalamazoo River	Just upstream of Sprinkle Road	*768
			Just downstream of of Morrow Lake Dam	*769
			Just upstream of Morrow Lake Dam	*776
			Just upstream of 35th Street bridge	*779
			At upstream corporate limits	*784
		Comstock Creek	Mouth at Kalamazoo River	*768
			About 140 feet downstream of East Michigan Avenue	*775
			Just downstream of dam near Conrail	*778
			Just upstream of dam near Conrail	*782
			About 100 feet downstream of Oran Avenue	*782
			About 40 feet upstream of Oran Avenue	*787
			Just upstream of dam near Oran Avenue	*810
			Just downstream of East Main Street	*824
Maps available for inspection at the Town Hall, 6138 King Highway, Comstock, Michigan.				
Michigan	(C), Lincoln Park Wayne County (Docket No. FEMA-6252).	South Branch Ecorse Creek	About 350 feet upstream Fort Street	*583
			About 700 feet upstream Hazel Avenue	*585
		North Branch Ecorse Creek	At confluence of South Branch Ecorse Creek	*578
			Just downstream Southfield Road	*581
			About 150 feet upstream Interstae 75	*587
			About 100 feet upstream Conrail	*590
			About 130 feet upstream Frank Avenue	*592
Maps available for inspection at the Clerk's Office, City Hall, 1355 Southfield Road, Lincoln Park, Michigan.				
Missouri	(C), Marthasville, Warren County (Docket No. FEMA-6247).	Tuque Creek Tributary	Just downstream of the Missouri, Kansas, Texas Railroad.	*495
			About 1050 feet upstream of No. 4 Street	*498
Maps available for inspection at the City Hall, P.O. Box 21, Marthasville, Missouri.				
Missouri	(C), Winfield, Lincoln County (Docket No. FEMA-6224).	Mississippi River	At Winfield	*446
		McLean Creek	About 0.5 mile downstream of Whiteside Street	*446
			About 0.34 mile upstream of State Highway 79	*453
Maps available for inspection at the City Hall, P.O. Box 155, Winfield, Missouri.				
New Jersey	Deptford, township, Gloucester County (Docket No. FEMA-6254).	Delaware River (Big Timber Creek and South Branch Big Timber Creek).	Downstream Corporate Limits	*10
			Almonesson Road	*10
			Approximately 5,000' upstream Almonesson Road	*11
			Upstream Lower Landing Road	*17
			Upstream Corporate Limits	*18
Maps available for inspection at the Municipal Building, 1011 Cooper Street, Deptford, New Jersey.				
New Jersey	Hoboken, city, Hudson County (Docket No. FEMA-6254).	Upper New York Bay	Entire shoreline of the Hudson River within the corporate limits.	*10
Maps available for inspection at the City Hall, Washington and First Streets, Hoboken, New Jersey.				
New Jersey	Somers Point, city, Atlantic County (Docket No. FEMA-6254).	Great Egg Harbor Bay	Shoreline within corporate limits	*9
Maps available for inspection at the Municipal Building, Shore Road, Somers Point, New Jersey.				
New Jersey	Stanhope, borough, Sussex County (Docket No. FEMA-6254).	Musconetcong River	Downstream Corporate Limits	*711
			Approximately 180 feet downstream of Interstate Route 181 and U.S. Route 206 connector.	*731
			Houdaille Road (upstream	*742
			Approximately 610 feet upstream of Houdaille Road	*751
			Approximately 1,600 feet upstream of Houdaille Road	*767
			Upstream of dam located upstream of abandoned railroad crossing downstream of Waterloo Road.	*788
			Approximately 550 feet upstream of Waterloo Road	*796
			Approximately 1,070 feet upstream of Waterloo Road	*811
			Downstream of dam located downstream of Furnace Street.	*824
			Furnace Street (upstream side)	*837
			Downstream of U.S. Route 206	*863
			Upstream of Lake Musconetcong Dam	*882
			Upstream Corporate Limits	*884
Maps available for inspection at the Municipal Building, 77 Main Street, Stanhope, New Jersey.				
New Jersey	Washington, township, Gloucester County (Docket No. FEMA-6254).	South Branch Big Timber Creek	Downstream corporate limits	*18
			Approximately 200' upstream West Church Street	*24
			Approximately 3,600' upstream of West Cliruch Street	*28
			Upstream side of Dam No. 2	*45
			Upstream side of Dam No. 3	*68
			Upstream side of Dam No. 4	*85
			Approximately 3,460' upstream of Atlantic City Expressway.	*98
			Upstream side of Redwood Street	*125
		Mantua Creek	Upstream of Delsea Drive	*57
			Approximately 1,500' downstream of Green Tree Road	*91
			Upstream of Fish Pond Road	*111
		Duffield Run	Downstream corporate limits	*74
			Downstream of Green Tree Road	*84

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately 1,320' upstream of Kandle Lake Dam	*105
Maps available for inspection at the Municipal Building, Trainersville, New Jersey.				
New York	Great Neck, village, Nassau County (Docket No. FEMA-8224).	Manhasset Bay	Shoreline from the Kings Point/Great Neck corporate limits to approximately 170 feet south of Vista Hill Road.	*16
			Shoreline from approximately 170 feet south of Vista Hill Road to the Great Neck/Kensington corporate limits.	*15
		Little Neck Bay	Shoreline from the Kings Point/Great Neck corporate limits to Old Pond Road.	*13
Maps available for inspection at the Municipal Building, 61 Baker Hill Road, Great Neck, New York.				
New York	Palatine Bridge, village, Montgomery County (Docket No. FEMA-8254).	Mohawk River	Downstream corporate limits	*300
			Upstream corporate limits	*302
Maps available for inspection at the Village Office, Route 5, Palatine Bridge, New York.				
New York	Piermont, village, Rockland County (Docket No. FEMA-8254).	Hudson River	Shoreline from approximately 0.18 mile north of Orchard Terrace (extended) to a point 0.64 mile southwest of Ferry Road (extended).	*10
Maps available for inspection at the Office of the Village Clerk, Village Hall, 478 Piermont Avenue, Piermont, New York.				
New York	Rockville Centre, village, Nassau County (Docket No. FEMA-8247).	Mill River	Entire shoreline within community	*7
Maps available for inspection at the Village Hall, One College Place, Rockville Centre, New York.				
New York	Russell Gardens, village, Nassau County (Docket No. FEMA-8254).	Russells Creek	Approximately 30 feet downstream of Clent Road	*74
			Approximately 265 feet upstream of Clent Road	*81
			Upstream corporate limits	*115
Maps available for inspection at the Village Hall, Six Tain Drive, Russell Gardens, New York.				
New York	Sag Harbor, village, Suffolk County (Docket No. FEMA-8254).	Sag Harbor Bay (Area of Little Northwest Creek).	From confluence with Sag Harbor Bay corporate limits	*10
		Sag Harbor Bay (Area of Sag Harbor Cove).	Shoreline from Bay Street to 400 feet south of extended Redwood Road.	*11
			Shoreline from 400 feet south of extended Redwood Road to confluence of Ligonee Brook.	*9
		Sag Harbor Bay (Area of Ligonee Brook).	Shoreline from confluence with Sag Harbor Cove to corporate limits.	*9
Maps available for inspection at the Village Hall, Main Street, Sag Harbor, New York.				
New York	The Branch, village, Suffolk County (Docket No. FEMA-8254).	Northeast Branch Nesequogue River.	Downstream corporate limits	*35
			Approximately 320 feet downstream of Hauppauge Road.	*40
			Upstream corporate limits	*46
Maps available for inspection at the residence of the Mayor, 10 Cambridge Street, Smithtown, New York.				
Ohio	(C), Sidney, Shelby County (Docket No. FEMA-8254)	Great Miami River	About 0.3 mile downstream of Chessie System	*964
			Just upstream of Gearhart Road	*937
			About 0.8 mile upstream of confluence of Tawawa Creek.	*947
		Tawawa Creek	About 0.27 mile upstream of Riverside Drive	*946
			Just upstream of Civic Park Road	*956
			About 0.66 mile upstream of Civic Park Road	*968
Maps available for inspection at the City Manager's Office, City Hall, 201 West Poplar Street, Sidney, Ohio.				
Oklahoma	City of Seminole, Seminole County, (FEMA 8243)	Wewoka Creek	Just upstream of Harvey Road	*855
			Just upstream of Ideal Street	*865
		Carter Creek	Just upstream of Strother Avenue	*861
			Just upstream of State Highway 9	*878
		Tributary No. 1 of Carter Creek	Just upstream of U.S. Highway 270	*860
		Tributary No. 2 of Carter Creek	Approximately 100 feet from the Corporate Limits	*872
		Tributary No. 3 of Carter Creek	Just upstream of Harvey Road	*897
		Magnolia Creek	Just upstream of Strother Avenue	*860
			Just upstream of State Highway 99	*868
		Tributary No. 1 of Magnolia Creek	Just upstream of State Highway 9	*875
			Just upstream of State Highway 99	*895
		Tributary No. 2 of Magnolia Creek	Just upstream of Unnamed Road	*877
		Tributary No. 3 of Magnolia Creek	Just upstream of Ideal Street	*888
		Tributary No. 1 of Tributary No. 3 of Magnolia Creek.	Just upstream of Good Hope	*907
Maps available for inspection at Department of Planning and Community Development, City Hall, Main and Evans Streets, Seminole, Oklahoma 74868.				
Pennsylvania	Kennett, Township, Chester County (Docket No. FEMA-8254).	Red Clay Creek	At the downstream corporate limits	*191
			At the confluence of East Branch Red Clay Creek	*204
		West Branch Red Clay Creek	At the confluence with East Branch Red Clay Creek	*204
			Approximately 1,800' upstream of Winding Lane	*217
			At Kaolin Road	*229
			At Private Road located approximately 3,850' upstream of Chandler Mill Road.	*244
			At Hillendale Road bridge	*256
			At Quarry Road	*265
			At West Cypress Street	*277

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		East Branch Red Clay Creek	At the upstream corporate limits	*286
			At the confluence with Red Clay Creek	*264
			At downstream side of Old Kennett Road	*224
			At upstream side of McFarland Road bridge	*241
			Approximately 500' upstream of Hillendale Road bridge.	*286
			At the downstream Kennett Square corporate limits	*293
			At the upstream Kennett Square corporate limits	*306
		Tributary 1	At the upstream corporate limits	*324
			At the downstream corporate limits	*209
			At Burnt Mill Road bridge	*222
			Approximately 2,500' upstream of Burnt Mill Road bridge.	*246
		Tributary 2	At the downstream corporate limits	*316
			At upstream side of Hadley Mill Road bridge	*328
			Approximately 1,300' upstream of Hadley Mill Road bridge.	*341
			At the upstream corporate limits	*360
Maps available for inspection at the Township Building, Kennett Square, Pennsylvania.				
Pennsylvania	Lewisberry, borough, York County (Docket No. FEMA-6181).	Bennett Run	Downstream Corporate Limits	*419
			Upstream Corporate Limits	*423
			Front Street (upstream)	*424
Maps available for inspection at the residence of the Borough Secretary, Mr. William O. Keener, 2nd and Lewis Streets, Lewisberry, Pennsylvania.				
Pennsylvania	Selinsgrove, borough, Snyder County (Docket No. FEMA-6254.	Susquehanna River	Downstream corporate limits (extended)	*434
			Upstream of CONRAIL crossing	*436
			Upstream corporate limits (extended)	*439
		Penns Creek	Downstream of downstream corporate limits	*433
			Upstream of upstream corporate limits	*434
		South Tributary	Downstream of Market Street at downstream corporate limits.	*433
			Upstream of Sandhill Road	*437
			Approximately 200 feet upstream of Abandoned Private Bridge.	*440
			Downstream of West Sassafrass Street	*451
Maps available for inspection at the Borough Office, Selinsgrove, Pennsylvania.				
Pennsylvania	Union, township Snyder County (Docket No. FEMA-6254.	Susquehanna River	Corporate Limits (extended)	*426
			Confluence with Silver Creek	*422
			Confluence with Penns Creek	*430
		Penns Creek	Confluence with the Susquehanna River	*430
			Upstream of U.S. Routes 11 and 15	*433
		Middle Creek	Confluence with Penns Creek	*433
			Upstream of dam	*441
			At Corporate Limits	*441
		Silver Creek	Confluence with the Susquehanna River	*422
			Approximately 70 feet upstream of Legislative Route 54015 (downstream crossing).	*462
			Approximately 80 feet upstream of Legislative Route 54018 (upstream crossing).	*529
			Approximately 80 feet upstream of Legislative Route 54071.	*554
			Approximately 100 feet downstream of Township Route 357 (extended).	*557
Maps available for inspection at the residence of the Union Township Secretary, R.D. 1, Port Treverton, Pennsylvania.				
Pennsylvania	York Springs, borough, Adams County (Docket No. FEMA-6254).	Tributary 1	Approximately 850' downstream of Latimore Street	*596
			Upstream of Latimore Street	*606
			Upstream corporate limits	*607
		Tributary 2	Confluence with Tributary 1	*606
			Downstream Main Street	*618
			Upstream corporate limits	*638
		Gardner Run	Downstream corporate limits	*586
			Approximately 800' upstream corporate limits	*588
Maps available for inspection at the Borough Office, York Springs, Pennsylvania.				
Tennessee	City of Dickson, Dickson County (FEMA-6254)	Jones Creek	Just upstream of Confluence of Jones Creek Tributary	*718
			Just upstream of Spring Street	*741
		Jones Creek Tributary	Just upstream of North Main Street (State Route 46)	*717
Maps available for inspection at City Hall, 202 South Main Street, Dickson, Tennessee 37055.				
Texas	City of Grapevine, Tarrant and Dallas Counties (FEMA-6343).	Bear Creek	Just upstream of Euless Grapevine Road	*537
			Just upstream of West Frontage Road (Highway 121)	*549
			Just upstream of Pool Road	*568
		Tributary BB-1	Just upstream of Glade Road	*525
		Tributary BB-2	Just downstream of Trigg Road	*548
		Tributary BB-3	At stream distance 1,500 feet from mouth	*548
		Tributary BB-5	Just upstream of Creekwood Drive	*564

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Denton Creek	At Unnamed Road	*473
			Just downstream of Grapevine Dam	*475
		Cottonwood Branch	Just upstream of Bethel Road	*532
			Just downstream of Wall Street	*556
Maps available for inspection at City Hall, Grapevine, Texas 76051.				
Texas	City of Montgomery, Montgomery County (FEMA-6254).	Town Creek	300 feet upstream of FM 149	*242
			Just downstream of the confluence with Town Creek Tributary.	*243
		Stewart Creek North	Just downstream of FM 149	*267
Maps available for inspection at City Hall, Montgomery, Texas 77356.				
Virginia	Saxis, town, Accomack County (Docket No. FEMA-6254).	Pocomoke Sound	Entire shoreline within community	*10
Maps available for inspection at the Town Office in the Fire House, Saxis, Virginia.				
West Virginia	Wellsburg, city, Brooke County (Docket No. FEMA-6254).	Ohio River	Downstream corporate limits	*666
			Upstream corporate limits	*667
Maps available for inspection at the City Hall, Seventh Street, Wellsburg, West Virginia.				

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: June 21, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-18705 Filed 7-14-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base (100-year) flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Federal Emergency Management Agency, National Flood Insurance Program, (202) 287–0230, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 67. An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Agency has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The final base (100-year) flood elevations for selected locations are:

FINAL BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). **Elevation in feet (MLLW).
Alaska	Dillingham (City), Bristol Bay Division, FEMA-6224	Nushagak Bay	100 feet southeast from the center of the intersection of State Hill Road and Dillingham Aleknagik Road.	**32
			700 feet south of the center of the intersection of C Street and Main Street.	**42
Maps available for inspection at City Hall, Dillingham, Alaska.				
Arizona	Apache Junction (City), Pinal County, FEMA-6224	Whiskey Wash	50 feet downstream from the center of East Superstition Boulevard.	*1,798
		Shallow Flooding Along U.S. Highway 60 and 89.	Center of East 4th Avenue, 230 feet west from its intersection with South Winchester Road.	*1,723
			Center of North Delaware Drive 100 feet north from its intersection with the center of U.S. Highway 60 and 89 (West Apache Trail).	*1,660
Maps available for inspection at Department of Public Works, 1001 North Idaho Road, Apache Junction, Arizona.				
Arkansas	Clarksville, City of Johnson County (FEMA-5736)	Spadra Creek (before levee overtopping).	Just downstream of Cherry Street	*378
		Spadra Creek (after levee overtopping).	Just upstream of Missouri-Pacific Railroad	*380
			At the intersection of Lester Street and Kennon Street	*385
			At the intersection of Dunlop Street and Sever Street	*389
		Tributary 1	Just upstream of Interstate Highway 40	*358
		Greenbriar Creek	Just upstream of the downstream crossing of Missouri-Pacific Railroad.	*390
			Just upstream of Cherry Street	*408
		Little Willett Branch	Just upstream of U.S. Highway 64	*395
			Just upstream of Quarter-Line Road	*389
Maps available for inspection at City Hall, Walnut Street, Clarksville, Arkansas 72830.				
California	Blue Lake (City), Humboldt County, FEMA-6243	Dave's Creek	20 feet downstream of intersection of Dave's Creek and Arcata and Mad River Railroad Spur.	*88
		Shallow Flooding	Intersection of Gety Street and Chartin Road	#1
		Mad River	700 feet downstream of intersection of Hatchery Road and Mad River.	*88
Maps available for inspection at City Clerk's Office, 111 Greenwood Avenue, Blue Lake, California.				
California	Grass Valley (City), Nevada County, FEMA-6243	Wolf Creek	100 feet upstream from confluence with Little Wolf Creek.	*2,315
			30 feet upstream from center of Railroad Avenue	*2,447
		South Fork-Wolf Creek	At intersection of Colfax East and St. Bennett Street	*2,434
		Little Wolf Creek	30 feet upstream from center of Freeman Lane	*2,358
			30 feet upstream from center of South Auburn Street	*2,411
Maps available for inspection at Department of Public Works, 125 East Main Street, Grass Valley, California.				
Colorado	Buena Vista (Town), Chafee County, FEMA-6061	Cottonwood Creek—North Branch	20 feet upstream from center of Arizona Street	*7,999
			25 feet upstream from center of James Street	*7,976
		Cottonwood Creek—Middle Branch Shallow Flooding.	At the intersection of James Street and Yale Place	*7,976
		Overland Flow Shallow Flooding	At the intersection of Gunnison Avenue and Main Street.	*7,968
		Cottonwood Creek—South Branch Shallow Flooding.	At the intersection of Pleasant Avenue and Mill Street	*7,965
Maps available for inspection at Town Hall, 210 E. Main, Buena Vista, Colorado.				
Colorado	Del Norte (Town), Rio Grande County, FEMA-6061	Rio Grande River	At intersection of Pine Street and First Street	*7,878
Maps available for inspection at Town Hall, 140 Spruce, Del Norte, Colorado.				
Colorado	Monte Vista (City), Rio Grande County, FEMA-6074	Rio Grande River	At intersection of Gunbarrel Road (U.S. Highway 285) and Rio Grande River.	*7,555
Maps available for inspection at City Manager's Office, 720 1st Avenue, Monte Vista, Colorado.				
Colorado	Salida (City), Chafee County, FEMA-6061	South Arkansas River	600 feet south from intersection of Palmer Street and U.S. Highway 50.	*7,040
Maps available for inspection at Land and Survey Inspector's Office, 284 E Street, Salida, Colorado.				
Connecticut	Meriden, City, New Haven County (Docket No. FEMA-6243).	Quinnipiac River	Downstream Corporate Limits	*72
			Upstream of Hanover Pond Dam	*91
			Upstream Corporate Limits	*106
		Sodom Brook	Confluence with Quinnipiac River	*91
			Coe Avenue (upstream side)	*105
			West Main Street (upstream side)	*120
			State Route 68 (upstream side)	*131
			Leonard Street (upstream side)	*139
			Approximately 3,560 feet upstream of Leonard Street	*163
		Harbor Brook	Confluence with Quinnipiac River	#*91
			Hanover Street (upstream side)	*114
			Cooper Street (upstream side)	*122
			Center Street (upstream side)	*136
			North Broad Street (upstream side)	*156
			Upstream of Westfield Road (downstream crossing)	*180

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). **Elevation in feet (MLLW).
			Confluence of Willow Brook and Spoon Shop Brook	*201
		Spoon Shop Brook	Confluence with Harbor Brook	*201
		ed	Upstream of Bee Street	*221
			Tumblebrook Road (upstream side)	*247
			Upstream of Maple Avenue	*274
			Upstream of Valley View Drive	*316
			Upstream of Birdsey Avenue	*369
		Willow Brook	Confluence with Harbor Brook	*201
			Upstream of State Route 15	*257
			East Main Street (upstream side)	*275
			East Road (upstream side)	*286
			Research Parkway (downstream side)	*290
		Crow Hollow Brook	Confluence with Sodom Brook	*100
			Downstream of Johnson Avenue	*140
			Upstream of West Main Street	*193
Maps available for inspection at the Engineering Department, City Hall, 142 East Main Street, Meriden, Connecticut.				
Connecticut	Ridgefield, Town, Fairfield County (Docket No. FEMA-6224).	Norwalk River	Downstream Corporate Limits	*344
			First crossing of downstream Corporate Limits	*370
			Second crossing of upstream Corporate Limits	*379
			Millers Pond Dam (upstream side)	*400
			Topstone Road (upstream side)	*416
			Stonehenge Road (upstream side)	*463
			Great Pond Road (upstream side)	*482
			State Route 35 (upstream side)	*510
			Great Hill Road (upstream side)	*531
			Downstream of Taylor Pond Dam	*563
		Titicus River	Downstream Corporate Limits	*496
			Ridgebury Road (upstream side)	*506
			Aspen Mill Road (upstream side)	*524
			Barlow Mountain Road (upstream side)	*574
			State Route 116 (upstream side)	*594
			Rampoo Road (upstream side)	*674
			Approximately 650 feet upstream from Overlook Drive	*685
		Ridgefield Brook	Taylor Pond Dam (upstream side)	*566
			State Route 35 (upstream side)	*573
			Approximately 6,200 feet upstream from Farmington Road.	*578
		Cooper Pond Brook	Confluence with Norwalk River	*350
			Candees Pond Dam (upstream side)	*359
			Stony Hill Road (upstream side)	*461
			Cooper Road (upstream side)	*536
			Cooper Hill Road (downstream side)	*552
			Approximately 1,165 feet upstream from Old Washington Road Ford.	*564
		East Branch Silvermine River	Downstream Corporate Limits	*561
			Downstream Crossing of Wilton Road East (upstream side).	*574
			Spectacle Lane (downstream side)	*584
Maps available for inspection at the Planning and Zoning Office, Ridgefield Town Hall, 400 Main Street, Ridgefield, Conndecticut.				
Florida	Belle Glade (City), Palm Beach County, FEMA-6246	Lake Okeechobee	Approximately 1000 feet west along State Highway 717 from its crossing of Herbert Hoover Dike.	*20
Maps available for inspection at City Hall, 110 SW Avenue E, Belle Glade, Florida.				
Florida	Boynton Beach (City), Palm Beach County, FEMA-6246.	Atlantic Ocean—Open Coast	Along the shoreline within the corporate limits	*10
		Atlantic Ocean—Lake Worth	Eastern end of Lake Street	*9
			Intersection of North Road and East Drive	*8
			Intersection of Shore Drive and Ocean Inlet Drive	*7
Maps available for inspection at Building Department, 200 N. Seacrest, Boynton Beach, Florida.				
Florida	Briny Breezes (Town), Palm Beach County, FEMA-6246.	Atlantic Ocean—Open Coast	Approximately 100 feet east of the intersection of Briny Breezes Boulevard and Old Ocean Boulevard.	*10
		Inland Flooding	Approximately 300 feet west along Cordova Avenue from its intersection with Old Ocean Boulevard.	*7
Maps available for inspection at Town Hall, 5000 N. Ocean Boulevard, Boynton Beach, Florida.				
Florida	Delray Beach (City), Palm Beach County, FEMA-6246.	Atlantic Ocean—Open Coast	Approximately 100 feet east of the intersection of State Road No. A1A and See Spray Avenue.	*10
		Atlantic Ocean—Intracoastal Waterway.	Eastern end of S.E. 4th Street	*8
		Inland Flooding	Western end of Lake Eden Way	*12
			Intersection of Lake Ida Road and Roosevelt Avenue	*12
			Intersection of Lindell Boulevard and Dotterel Drive	*12
Maps available for inspection at City Engineer's Office, 100 NW 1st Avenue, Delray Beach, Florida.				
Florida	Gulf Stream (Town), Palm Beach County, FEMA-6246.	Atlantic Ocean—Open Coast	Approximately 350 feet east of the intersection of North Ocean Boulevard and Golfview Drive.	*10
Maps available for inspection at Town Hall, 246 Sea Road, Gulf Stream, Florida.				

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). **Elevation in feet (M.L.W.)
Florida	Highland Beach (Town), Palm Beach County, FEMA-6246.	Atlantic Ocean—Open Coast	Approximately 300 feet east of the intersection of State Highway A1A and Highland Beach Drive.	*10
Maps available for inspection at Building Department, 3614 South Ocean Boulevard, Highland Beach, Florida.				
Florida	Indialantic (Town), Brevard County, FEMA-6246	Atlantic Ocean—Open Coast	Approximately 500 feet east from intersection of Watson Drive and State Highway A1A.	*9
			Approximately 250 feet northeast of intersection of Eleventh Avenue and Wave Crest Street.	*12
		Atlantic Ocean—Indian River	Intersection of Second Avenue and Riverside Drive	*6
			Intersection of South Riverside Drive and Orlando Boulevard.	*7
Maps available for inspection at Town Hall, 216 Fifth Avenue, Indialantic, Florida.				
Florida	Indian Harbour Beach (City), Brevard County, FEMA-6246.	Atlantic Ocean—Open Coast	Approximately 400 feet east from intersection of State Highway A1A and Banana River Drive.	*11
		Atlantic Ocean—Banana River	Intersection of Desoto Parkway and South Patrick Drive.	*6
			Intersection of Coconut Road and Banana River Drive	*6
			Intersection of Burns Boulevard and Mary Joyce Avenue.	*6
Maps available for inspection at Building Department, 2055 South Patrick Drive, Indian Harbour Beach, Florida.				
Florida	Indian River Shores (Town), Indian River County, FEMA-6246.	Atlantic Ocean—Open Coast	Approximately 200 feet east of the eastern end of Beachcomer Lane.	*9
		Atlantic Ocean—Indian River	Hole in Wall Island	*7
			Intersection of Johns Island Drive and Indian Harbor Road.	*6
			Intersection of Sabal Palm Lane and Sandpiper Point	*5
Maps available for inspection at Building Department, 6001 North A1A, Indian River Shores, Florida.				
Florida	Juno Beach (Town), Palm Beach County, FEMA-6246.	Atlantic Ocean—Open Coast	Eastern end of Atlantic Boulevard	*10
		Atlantic Ocean—Pelican Pond	Approximately 100 feet east of the intersection of Olympus Way and Ocean Drive.	*8
Maps available for inspection at Building Department, 841 Ocean Drive, Juno Beach, Florida.				
Florida	Jupiter (Town), Palm Beach County, FEMA-6246	Atlantic Ocean—Open Coast	Approximately 250 feet east of the intersection of Ocean Way and State Highway A1A.	*10
		Atlantic Ocean—Lake Worth Creek	Eastern end of Elsa Road	*7
			Clark Lane	*8
		Atlantic Ocean—Loxahatchee River.	Intersection of Kennedy Street and Loxahatchee Drive	*6
			Dolphin Circle	*6
			Northern end of Marlin Drive	*7
			Western end of Frazier Drive	*6
Maps available for inspection at Building Department, 210 South Perry Avenue, Jupiter, Florida.				
Florida	Jupiter Inlet Colony (Town), Palm Beach County, FEMA-6246.	Atlantic Ocean-Open Coast	Approximately 400 feet east of the intersection of Pirates Place and Ocean Drive.	*10
		Atlantic Ocean-Jupiter Sound	Northwest corner of the northernmost end of Lighthouse Drive.	*8
		Atlantic Ocean-Loxahatchee River	Approximately 200 feet southeast along Colony Road (extended) from its intersection with Lighthouse Drive.	*8
Maps available for inspection at Town Hall, 142 Beacon Lane, Jupiter, Florida.				
Florida	Lake Worth (City), Palm Beach County, FEMA-6246	Atlantic Ocean-Open Coast	Approximately 700 feet east of the intersection of State Highways A1A and 802.	*10
		Atlantic Ocean-Lake Worth	Intersection of Notre Dame Boulevard and Auburn Drive.	*9
			Intersection of N. 16th Avenue and Amherst Drive	*8
			Intersection of N. Lakeside Drive and N. 13th Avenue	*7
			Intersection of Golfview Street and S. 2nd Avenue	*8
			Intersection of S. 16th Avenue and S. Lakeside Drive	*7
Maps available for inspection at Building and Zoning Office, 7 N. Dixie Highway, Lake Worth, Florida.				
Florida	Malabar (Town), Brevard County, FEMA-6246	Atlantic Ocean—Indian River	Florida East Coast Railroad over Goat Creek	*7
			Approximately 200 feet east along Rocky Point Road from its intersection with U.S. Highway 1.	*8
Maps available for inspection at Town Hall, Route 514, Malabar Road, Malabar, Florida.				
Florida	Manalapan (Town), Palm Beach County, FEMA-6246	Atlantic Ocean-Open Coast	Ocean Boulevard at northernmost corporate limit	*10
		Atlantic Ocean-Lake Worth	Intersection of Lands End Road and Loggerhead Lane	*7
			Curlew Road	*8
Maps available for inspection at Town Offices, 600 S. Ocean Boulevard, Manalapan, Florida.				
Florida	Melbourne (City), Brevard County, FEMA-6246	Atlantic Ocean—Open Coast	Approximately 400 feet east from intersection of State Highway 518 and State Highway A1A.	*9

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). **Elevation in feet (M.L.W).
		Atlantic Ocean—Jupiter River	Approximately 1,200 feet east of intersection of U.S. Highway 1 and Post Road.	*8
			Eastern end of Masterson Street	*8
			Approximately 250 feet east along West Eau Gallie Boulevard from its intersection with Pineapple Avenue.	*7
			Intersection of South Patrick Drive and State Highway 518.	*8
			Intersection of Melbourne Avenue and Front Street	*8
		Atlantic Ocean—Eau Gallie River	Southern end of Houston Street	*6
		Atlantic Ocean—Crane Creek	Eastern side of the intersection of U.S. Highway 1 and Melbourne Avenue.	*7
Maps available for inspection at Engineering Office, 900 E. Strawbridge Avenue, Melbourne, Florida 32901.				
Florida	Melbourne Beach (Town), Brevard County, FEMA-6246.	Atlantic Ocean—Open Coast	Approximately 400 feet east of intersection of Ocean Avenue and Atlantic Street.	*12
			Approximately 350 feet east of intersection of Cherry Drive and Atlantic Street.	*8
		Atlantic Ocean—Indian River	Intersection of Flamingo Lane and Riverside Drive	*7
			Intersection of Sandy Key and Riverview Lane	*7
Maps available for inspection at Town Hall, 507 Ocean Avenue, Melbourne Beach, Florida.				
Florida	Ocean Ridge (Town), Palm Beach County FEMA-6246.	Atlantic Ocean—Open Coast	Approximately 150 feet east along Porter Street from its intersection with Old Ocean Boulevard.	*10
		Atlantic Ocean—Lake Worth	Intersection of Island Drive and Island Drive South	*7
Maps available for inspection at Town Hall, 6450 N. Ocean Boulevard, Ocean Ridge, Florida.				
Florida	Palm Beach (Town), Palm Beach County, FEMA-6246.	Atlantic Ocean—Open Coast	Eastern end of Wells Road	*10
		Atlantic Ocean—Lake Worth	Eastern end of Via Palma	*10
			Intersection of Lake Way and Mediterranean Road	*7
			Intersection of Sunset Avenue and Bradley Place	*7
			Approximately 1000 feet South along Island Drive from its intersection with Island Road.	*8
			Regents Park Road	*7
			Intersection of Ibis Way and State Highway A1A	*7
Maps available for inspection at Building and Zoning Department, 45 Coconut Row, Palm Beach, Florida.				
Florida	Palm Beach Shores (Town), Palm Beach County, FEMA-6246.	Atlantic Ocean—Open Coast and Lake Worth Inlet.	Approximately 500 feet east of the intersection of Ocean Avenue and Sandal Lane.	*10
			Southern side of the intersection of Atlantic Avenue and Inlet Way.	*7
		Atlantic Ocean—Lake Worth	Intersection of Edwards Lane and Lake Drive	*7
Maps available for inspection at Clerk's Office, 247 Edwards Lane, Palm Beach Shores, Florida.				
Florida	Riviera Beach (City), Palm Beach County, FEMA-6246.	Atlantic Ocean—Open Coast	Approximately 500 feet east of the intersection of Ocean and Beach Road.	*10
		Atlantic Ocean—Lake Worth	Intersection of Gulf Stream Way and State Highway A1A.	*7
			Intersection of Sugar Sands Boulevard and Lake Drive	*7
			Intersection of 37th Street and Shore Drive	*8
			Intersection of Old Slip Road and Avenue C	*7
		Inland Flooding	Intersection of 2nd Street and Avenue J	*17
			Intersection of 32nd Street and Avenue P	*17
			Intersection of Z Terrace and 28th Street	*13
Maps available for inspection at City Hall, 600 W. Blueheron Boulevard, Riviera Beach, Florida.				
Florida	Satellite Beach (City), Brevard County, FEMA-6246	Atlantic Ocean—Open Coast	Approximately 400 feet east of intersection of State Highway A1A and Jackson Avenue.	*11
			Approximately 350 feet east of intersection of State Highway A1A and Jackson Avenue.	*9
			Eastern end of Sunrise Avenue	*9
		Atlantic Ocean—Banana River	Intersection of South Patrick Drive and Roosevelt Avenue.	*8
			Intersection of Desoto Parkway and Kale Street	*8
Maps available for inspection at Building & Zoning Department, 510 Cinnamon Drive, Satellite Beach, Florida.				
Florida	South Palm Beach (Town), Palm Beach County, FEMA-6246.	Atlantic Ocean—Open Coast	From the shoreline inland for approximately 50 feet, entire length of the community.	*10
		Atlantic Ocean—Lake Worth	Ocean Boulevard	*7
Maps available for inspection at Town Clerk's Office, 3577 S. Ocean Boulevard, South Palm Beach, Florida.				
Florida	Tequesta (Village), Palm Beach County, FEMA-6246	Atlantic Ocean—Open Coast	From the shoreline inland for approximately 20 feet, entire length of community.	*10
		Atlantic Ocean—Jupiter Sound	Intersection of State Route A1A and an Unnamed Road in the northeastern portion of the community.	*8
		Atlantic Ocean—Loxahatchee River and North Fork Loxahatchee River.	Western end of River Drive	*6
			Approximately 400 feet east along Tequesta Drive form its intersection with Point Drive.	*7
Maps available for inspection at Building Department, 357 Tequesta Drive, Tequesta, Florida.				

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). **Elevation in feet (MLLW).
Indiana	(T) Andrews, Huntington County (Docket No. FEMA-6224).	Leon Creek	About 200 feet downstream of Norfolk and Western Railway.	*703
			About 150 feet upstream of McKeever Street	*715
			About 1,000 feet upstream of Main Street	*723
	Maps available for inspection at the Town Hall, 66 Main Street, Andrews, Indiana.			
Indiana	(T) Warren, Huntington County (Docket No. FEMA-6224).	Salamonie River	Just upstream of 900 South Road	*806
			About 2,000 feet upstream of 150 East Road	*815
	Maps available for inspection at the Town Hall, 2nd and Wayne Streets, Warren, Indiana.			
Minnesota	(C) Greenbush, Roseau County (Docket No. FEMA-6224).	South Branch Two Rivers	About 2,750 feet downstream of Main Street (at southern corporate limits).	*1,063
			About 2,000 feet upstream of State Highway 32 (at eastern corporate limits).	*1,066
	Maps available for inspection at City Hall, Greenbush, Minnesota.			
Minnesota	(C) Grygla, Marshall County (Docket No. FEMA-6224).	Mud River	At northwestern corporate limits	*1,174
			About 500 feet upstream of County Highway 54	*1,177
	Maps available for inspection at the City Hall, Grygla, Minnesota.			
Missouri	(C) Maplewood, St. Louis County (Docket No. FEMA-6163).	Deer Creek	About 700 feet downstream of St. Louis Belt and Terminal Railroad.	*432
			About 100 feet upstream of St. Louis Belt and Terminal Railroad.	*438
			About 100 feet downstream of Missouri Pacific Railroad.	*446
		Black Creek	At confluence of Black Creek	*450
			At confluence of Black Creek Tributary	*450
		Black Creek Tributary	About 2,000 feet upstream of Manchester Road	*450
			About 150 feet downstream of St. Louis Belt and Terminal Railroad.	*450
			Just upstream of St. Louis Belt and Terminal Railroad	*458
		Claytonia Creek	Just downstream of West Bruno Avenue	*464
			At confluence with Black Creek Tributary	*466
			Just downstream of West Bruno Avenue	*464
	Maps available for inspection at the City Hall, 7601 Manchester, Maplewood, Missouri.			
New Jersey	North Bergen, Township, Hudson County (Docket No. FEMA-6243).	Hudson River	Entire shoreline within North Bergen	*12
		Hackensack River	Along Conrail from eastern Corporate Limits to 66th Street (extended).	*8
			Along Conrail from 69th Street (extended) to Interstate Route No. 495.	*8
			Along Conrail from Interstate Route No. 495 to approximately 1,600 feet from intersection of Conrail and western Corporate Limits.	*5
	Maps available for inspection at the Municipal Building, 4233 Kennedy Boulevard, North Bergen, New Jersey.			
New Jersey	South Bound Brook, Borough, Somerset County (Docket No. FEMA-6243).	Raritan River	Downstream corporate limits	*31
			Upstream of Conrail	*33
			Upstream corporate limits	*37
	Maps available for inspection at the Municipal Building, 12 Main Street, South Bound Brook, New Jersey.			
New York	Cornwall, Town, Orange County (Docket No. FEMA-6243).	Moodna Creek	Confluence with Hudson River	*9
			Approximately 1,500† upstream of confluence with Hudson River.	*10
			Approximately 4,650† downstream of dam	*79
			Upstream of dam	*127
			Upstream of Albany Turnpike (State Route 32)	*188
			Approximately 5,000 feet upstream second dam	*195
			Approximately 1,660† downstream of Pleasant Hill Road.	*221
			Upstream of New York State Thruway	*234
			Approximately 1,740† downstream of Otterkill Road	*241
			Otterkill Road (downstream side)	*244
			Approximately 500 feet upstream Conrail	*252
			Approximately 5,800† upstream Conrail	*261
			Upstream Corporate Limits	*264
		Woodbury Creek	Confluence with Moodna Creek	*235
			Star Drive (upstream side)	*262
			Approximately 5,000† upstream Star Drive	*278
			Upstream Corporate Limits	*286
		Idlewild Creek	*Confluence with Moodna Creek	*10
			Academy Avenue (upstream side)	*153
			Main Street (upstream side)(upstream crossing)	*252

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). **Elevation in feet (MLLW).
			Approximately 3,020' upstream of Main Street (upstream crossing).	*287
		Hudson River	Entire shoreline within community	*6
Maps available for inspection at the Office of the Town Clerk and at the Public Library, Cornwall, New York.				
New York	Crawford, Town, Orange County (Docket No. FEMA-6243).	Shawangunk Kill	Downstream corporate limits	*292
			Upstream of Hardenburg Road	*316
			Upstream of dam	*331
			Upstream of dam at Crawford Road	*356
			Upstream of County Route 48	*380
			Upstream of Petticoate Lane	*404
			Upstream corporate limits	*420
Maps available for inspection at the Town Hall, Main Street, Pine Bush, New York.				
New York	Gardiner, Town, Ulster County (Docket No. FEMA-6243).	Wallkill River	*Downstream corporate limits	*196
			Confluence of Shawangunk Kill	*204
			Upstream corporate limits	*213
		Shawangunk	Confluence with Wallkill River	*204
			Downstream of Albany Post Road	*207
			Approximately 709† upstream of Albany Post Road	*213
Maps available for inspection at the Office of the Town Clerk, Gardiner, New York.				
New York	Marshall, Town, Oneida County (Docket No. FEMA-6197).	Big Creek	Confluence with Oriskany Creek	*739
			Upstream of California Road	*761
			Downstream of Shanley Road	*810
			Approximately 2,400' upstream of Shanley Road	*837
			Approximately 4,000' upstream of Shanley Road	*860
			Upstream of Gridley Paige Road	*923
			Upstream of Sally Road	*948
			Downstream of Bogen Road	*958
			Upstream of State Route 315	*978
			Approximately 2,000' upstream of State Route 315	*1,000
			Downstream of Sewage Treatment Plant Drive	*1,073
			Upstream Corporate Limits	*1,104
		Tributary A to Big Creek	Downstream Corporate Limits	*1,241
			Approximately 3,100' upstream of Corporate Limits	*1,298
		Tributary A-1 to Big Creek	Downstream Corporate Limits	*1,232
			Approximately 1,660' upstream of Corporate Limits	*1,241
		Lindsley Brook	Downstream Corporate Limits	*944
			Upstream of Private Road	*964
			Downstream of State Route 3	*989
			Approximately 2,150' upstream of State Route 3	*1,039
		Oriskany Creek	Corporate Limits	*727
			Downstream of State Route 315	*754
			Approximately 2,000' upstream of confluence of Weimans Brook.	*775
			Approximately 5,000' upstream of confluence of Weimans Brook.	*799
			Upstream of Burnham Road	*820
			Approximately 2,500' upstream of Burnham Road	*845
			Upstream of Van Hyning Road	*866
			Approximately 2,500' downstream of Koppers Co. Drive.	*890
			Upstream of Conrail Highlevel Bridge	*914
			Upstream Corporate Limits	*928
		Weimmans Brook	Confluence with Oriskany Brook	*760
			Approximately 2,200' upstream of confluence with Oriskany Creek.	*780
			Approximately 3,400' upstream of confluence with Oriskany Creek.	*799
			Downstream of Burnham Road	*831
			Approximately 1,400' upstream of Burnham Road	*852
			Approximately 2,400' upstream of Burnham Road	*871
			Approximately 4,200' upstream of Burnham Road	*908
Maps available for inspection at the Office of the Town Clerk located in the Music Museum, Deansboro, New York.				
New York	Moravia, Village, Cayuga County (Docket No. FEMA-6224).	Dry Creek	Confluence with Owasco Inlet	*734
			Upstream of Main Street	*751
			Upstream corporate limits	*766
		Mill Creek	Confluence with Owasco Inlet	*730
			Approximately 720' upstream of East Cayuga Street	*756
		Owasco Inlet	Downstream corporate limits extended	*725
			Upstream corporate limits extended	*738
Maps available for inspection at the Office of the Village Clerk, 22 Central Street, Moravia, New York.				
New York	New Paltz, Town, Ulster County (Docket No. FEMA-6152).	Wallkill River	Downstream corporate limits	*192
			State Route 299 bridge	*194
			Upstream corporate limits	*196
Maps available for inspection at the Meeting Room, Town Hall, One Veterans Drive, New Paltz, New York.				

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). **Elevation in feet (MLLW).
New York	Shawangunk, Town, Ulster County (Docket No. FEMA-6240).	Shawangunk Kill	Confluence of Dwaar Kill West	*290
			Upstream of Hardenburg Road	*318
			Downstream of Johns Estate Drive	*336
			Upstream of Johns Estate Drive	*340
			Corporate Limits	*362
		Verkeerder Kill	Confluence with Shawangunk Kill	*336
			Downstream of Ulsterville Road	*387
			Downstream of State Route 52	*413
			Approximately 6,300' upstream of State Route 52	*436
		Dwaar Kill West	Confluence with Shawangunk Kill	*290
			Upstream of Red Mills Road	*314
			Upstream of New Prospect Road/County Route 7	*348
			Upstream of Awosting Road	*400
		Wallkill River	Downstream Corporate Limits	*211
			Confluence of Dwaar Kill East	*234
			Upstream Corporate Limits	*262
		Dwaar Kill East	Confluence with Wallkill River	*234
			Upstream of Mud Tavern Road	*255
			Downstream of Bruyn Turnpike/County Route 18	*267
			Corporate Limits	*312
Maps available for inspection at the Town Hall, Central Avenue, Wallkill, New York.				
North Dakota	Spiritwood Lake City (City), Stutsman County, FEMA-6243.	Spiritwood Lake	Along shoreline at East Lake County Road	*1,450
Maps available for inspection at Fish & Game Headquarters, Spiritwood Lake City, North Dakota.				
Oregon	Washington County (Unincorporated Areas), FEMA-6224.	Tualatin River	105 feet upstream from center of Scharnberg Bridge	*130
			100 feet upstream from center of Minter Bridge Road	*146
			150 feet upstream from center of Tualatin Valley Highway (Old Highway 47) at Gaston.	*179
		Fanno Creek	Intersection of Southwest Nicol Road and Southwest Vermont Street.	*215
		Summer Creek	100 feet upstream from center of Southwest 135th Street.	*176
		Ash Creek	100 feet upstream from center of State Highway 217	*161
		Rock Creek	Intersection of Tualatin-Sherwood Road and Tonquin Road.	*135
		Cedar Creek	50 feet upstream from center of Edy Road	*148
		Butternut Creek	100 feet upstream from center of Southwest 209th Avenue.	*166
		Rock Creek (Near Hillsboro)	50 feet upstream from center of Northwest Rock Creek Boulevard.	*166
		Dawson Creek	50 feet downstream from center of Northwest Brookwood Avenue.	*147
		Beaverton Creek	Intersection of Southwest Terman Road and Southwest 141st Street.	*177
		Bronson Creek	100 feet upstream from center of West Union Road	*214
		Willow Creek	Intersection of Northwest 158th Avenue and Cornell Road.	*206
		Cedar Mill Creek	Intersection of Southwest Evergreen Street and Southwest 134th Avenue.	*203
		Johnson Creek	100 feet upstream from center of State Highway 208	*175
		Dairy Creek	300 feet upstream from center of Tualatin Valley Highway.	*150
		West Fork Dairy Creek	50 feet upstream from center of Wilson River Highway	*190
		McKay Creek	300 feet upstream from center of U.S. Highway 26	*167
		Council Creek	50 feet upstream from center of Martin Road	*161
		Gales Creek	Intersection of Tualatin Valley Highway and Stringtown Road.	*168
		Tualatin River Side Channel	Intersection of Buchanan Road and La Follett Road	*156
		Myberg Slough	300 feet upstream from center of Interstate Highway 5	*123
Maps available for inspection at Public Works Office, 150 N. 1st Avenue, Hillsboro, Oregon 97123.				
Pennsylvania	Dillsburg, Borough, York County (Docket No. FEMA-6163).	Dogwood Run	Affecting Tributary A at the downstream Corporate Limits.	*525
			Affecting Tributary A at the upstream Corporate Limits	*526
Maps available for inspection at the Borough Hall, Dillsburg, Pennsylvania.				
Tennessee	Town of Jonesboro, Washington County (FEMA-6243).	Little Limestone Creek	Just downstream of 3rd Avenue	*1,680
			Just downstream of North Cherokee Street	*1,685
			Just upstream of City Street	*1,742
		Tributary to Little Limestone Creek	Approximately 485 feet upstream of Sabine Lane	*1,694
			Just downstream of Bugabee Spring Road	*1,718
Maps available for inspection at Town Hall, Boone Street, Jonesboro, Tennessee 37659.				
Tennessee	Unincorporated Areas of Sullivan County (FEMA-6243).	Horse Creek	Just upstream of County Road	*1,195
			Just upstream of State Highway 93	*1,209
			Just upstream of County Road (Rock Springs)	*1,229
		Kendrick Creek	Just downstream of Rock Springs Road	*1,232
			Just downstream of Summerville Pike	*1,309

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). **Elevation in feet (MLLW).
			Just downstream of Moreland Drive	*1,309
			Just upstream of Kendrick Creek Road	*1,327
			Just upstream of Interstate Highway 81	*1,461
		Reedy Creek	Just upstream of Anderson Bridge (Bancroft Chapel Road).	*1,248
			Just upstream of U.S. Highway 11W (State Highway 1)	*1,262
			Just downstream of County Road (Barger Hollow Road).	*1,408
			Just upstream of State Highway 37	*1,813
			Just downstream of U.S. Highway 11	*1,864
		Fall Creek	Just upstream of Toy Holt Road	*1,327
			Just downstream of County Road (Green Road)	*1,449
		Beaver Creek	Just upstream of Mill Pace Dam	*1,406
			Just downstream of U.S. Highway 11E, 19, and 411 (Andrew Johnson Highway).	*1,442
			Just upstream of Speedway Entrance Road	*1,447
		Back Creek	Just approximately .04 mile to the limit of detailed study.	*1,448
		Whitetop Creek	Just approximately .02 mile to limit of detailed study	*1,480
		North Fork Holston Creek	Just upstream of Carters Valley Road	*1,204
		South Fork Holston River	Just upstream of State Highway 93 (John B. Dennis Bypass).	*1,197
			Just upstream of U.S. Highway 19	*1,207
		South Fork Holston River Sluice	Just upstream of Wilcox Drive	*1,187
			Just upstream of Eastman Drive	*1,192
Maps available for inspection at Sullivan County Courthouse, Main Street, Blountville, Tennessee 37617.				
Tennessee	Unincorporated Areas of Washington County (FEMA-8243).	Cobb Creek	Just downstream of Austin Spring Road (MO. 23)	*1,424
			Just upstream of Austin Spring Road (MO. 23)	*1,425
			Just downstream of Austin Spring Road (MI. 14)	*1,479
		Knob Creek	Just downstream of the sewage treatment plant	*1,421
			Just downstream of City Street	*1,455
			Just upstream of City Street	*1,457
		Cedar Creek	Just downstream of U.S. Highway 23	*1,360
			Just upstream of U.S. Highway 23	*1,367
			Just downstream of County Road (MI. 61)	*1,419
			Just upstream of County Road (MI. 61)	*1,423
		Sinking Creek	Just downstream of David Miller Rd.	*1,805
			Just upstream of David Miller Rd.	*1,807
			Just upstream of Sinking Creek Rd.	*1,810
		Brush Creek	Just downstream of Watauga Road	*1,425
			Just upstream of Watauga Road	*1,429
			Just downstream of Mill Dam	*1,471
			Just upstream of Mill Dam	*1,476
			Just downstream of Dalewood Drive	*1,507
			Just upstream of Dalewood Drive	*1,510
		Boones Creek	Just downstream of County Road	*1,421
			Just downstream of U.S. Highway 23	*1,454
			Just downstream of State Highway 157 Southbound Ramp.	*1,520
		Little Limestone Creek	Just downstream of David Crockett School Road	*1,625
			Just upstream of David Crockett School Road	*1,627
			Just downstream of Unnamed Subdivision Road	*1,630
			Just upstream of Unnamed Subdivision Road	*1,632
			Just downstream of U.S. Highway 34	*1,647
			Just upstream of U.S. Highway 34	*1,651
Maps available for inspection at State Planning Office, Boone Street, Jonesboro, Tennessee 37601.				
Texas	City of Canyon, Randall County (FEMA-8243)	Palo Duro Creek	Just downstream of Hunsley Hills Boulevard	*3,501
			Just upstream of Jynteewood Drive	*3,506
		Prairie Dog Town Fork of Red River (Tierra Blanca Creek).	Just upstream of State Highway 217	*3,464
Maps available for inspection at City Hall, 301 Sixteenth Street, Canyon, Texas 79015.				
Texas	City of Keller, Tarrant County (FEMA-8243)	Little Bear Creek	Just upstream of East corporate limits	*661
		Tributary LB-3	Approximately 660 feet upstream of confluence with Little Bear Creek.	*669
		Bear Creek	Approximately 200 feet upstream of east corporate limits.	*606
			Approximately 300 feet upstream of Keller Smithfield Road.	*646
			Just upstream of Whitley Road	*679
			Just upstream of State Highway 377	*683
		Tributary BB-9	Approximately 300 feet upstream of FM 1938	*618
		Tributary BB-10	Just downstream of Dana Drive	*686
		Tributary BB-11	Just downstream of J. T. Ohinger Road	*660
		Tributary BB-12	Just downstream of Pate Orr Drive	*661
Maps available for inspection at City Hall, Keller, Texas 76248.				

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). **Elevation in feet (NGLW).
Texas	Village of Lake Tanglewood, Randall County (FEMA-6243).	Prairie Dog Town Fork Red River	At County Road	*3,394
Maps available for inspection at Village Hall, Lake Tanglewood, Texas 79101.				
Texas	City of Point Comfort, Calhoun County (FEMA-6243)	Lavaca Bay	Along the Shore Line	*18
Maps available for inspection at City Hall, 100 Jones Street, Point Comfort, Texas 77978.				
Texas	Unincorporated Areas of Randall County (FEMA-6243).	Prairie Dog Town Fork of Red River.	Just upstream of Wildwood Drive	*3,417
			Just upstream of FM 1541	*3,443
		Tierra Blanca Creek	Just upstream of Hunsly Road	*3,484
			Just upstream of State Highway 217	*3,494
			Just upstream of U.S. Highway 87	*3,501
			Just upstream of FM 2590 (6th St.)	*3,519
		Palo Doro Creek	Just downstream of Topeka & Santa Fe Railway	*3,488
			Just upstream of U.S. Highways 60 and 87	*3,495
		Spring Draw	Just upstream of U.S. Highways 60 and 87 and Interstate 27.	*3,511
Maps available for inspection at Randall County Judge's Office, Randall County Courthouse, Canyon, Texas 79015.				
Virginia	Leesburg, Town, Loudoun County (Docket No. FEMA-6241).	Tuscarora Creek	Downstream Corporate Limits	*273
			State Route 643 (Sycolin Road) (upstream)	*296
			Harrison Street (upstream)	*302
			State Route 621 (Evergreen Mill Road) (upstream)	*312
		Town Branch	U.S. Business Route 15 (King Street) (upstream)	*324
			Confluence with Tuscarora Creek	*302
			Catoctin Circle (upstream)	*304
			U.S. Business Route 15 (King Street) (upstream)	*316
			Approximately 1,950 feet upstream from U.S. Business Route 15 (King Street).	*337
Maps available for inspection at the Town Hall, Leesburg, Virginia.				
West Virginia	Follansbee, City, Brooke County (Docket No. FEMA-6243).	Ohio River	Downstream corporate limits	*668
			Upstream corporate limits	*668
Maps available for inspection at the City Building, Follansbee, West Virginia.				
Wisconsin	(V) Johnson Creek, Jefferson County (Docket No. FEMA-6224).	Johnson Creek	About 0.64 mile downstream of Union Street	*792
			About 0.64 mile upstream of the Chicago and North Western Railroad.	*792
Maps available for inspection at the Office of the Village Clerk, Village Hall, 116 Milwaukee Street, Johnson Creek, Wisconsin.				

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 26, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: June 17, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-19798 Filed 7-14-82; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. 1–172]

Organization and Delegation of Powers and Duties; Review of Decisions of the Maritime Subsidy Board

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Final rule.

SUMMARY: DOT delegates to the General Counsel of the Department the authority to grant or deny requests for extension of time to file documents relating to review by the Secretary of Transportation of decisions of the Maritime Subsidy Board.

DATE: This amendment becomes effective June 30, 1982.

FOR FURTHER INFORMATION CONTACT: Robert I. Ross, Office of the General Counsel, (202) 426–4723.

SUPPLEMENTARY INFORMATION: Since this amendment relates to Departmental management, procedures, and practice, notice and comment on it are unnecessary and it may be made effective in fewer than thirty days after publication in the Federal Register.

Part 302 of Title 46, Code of Federal Regulations, sets forth procedures relating to Secretarial review of any decision, report, order, or action of the Maritime Subsidy Board. Petitioners for review sometimes seek extension of time to file, which, under the rules, must be granted or denied by the Secretary. Since this authority relates basically to the procedural aspects of legal proceedings, it is being delegated to the General Counsel of the Department, who in turn is redelegating the authority to the Assistant General Counsel for Environmental, Civil Rights, and General Law.

List of Subjects in 49 CFR Part 1:

Authority delegations (government agencies); Organization and functions (government agencies).

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

In consideration of the foregoing, Part 1 of the Title 49, Code of Federal Regulations, is amended by, in § 1.57, adding a new paragraph (p) at the end thereof to read as follows:

§ 1.57 Delegations to General Counsel.

The General Counsel is delegated authority to—

* * * * *

(p) Grant or deny petitions for extension of time to file a document under Part 202 of Title 46.

(Sec. 9(e), Department of Transportation Act, 49 USC 1657(e).)

Issued in Washington, D.C., on June 30, 1982.

Andrew L. Lewis, Jr.,

Secretary of Transportation.

[FR Doc. 82-18903 Filed 7-14-82; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 13, 16 and 17

Wildlife and Plants; Permit Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service hereby revises certain portions of Title 50 CFR which address permits for wildlife and plants. The revision contains three distinct segments: (1) Consolidation and simplification of permit requirements. Unnecessary or redundant sections are deleted as part of an ongoing effort to make permit procedures more understandable to the public. (2) Codification of the schedule of permit application fees for clarity. A $25 application fee is required for all permits, certificates, licenses and registrations except for certain nonstandard fees: import/export licenses—$50; marine mammal permits—$100; migratory bird and eagle permits—none. (3) Implementation of a formal appeals procedure. Permit applicants whose applications are denied and permittees whose permits are modified, suspended or revoked will be able to appeal a permit decision through a defined channel, enabling the Service to handle appeals consistently.

EFFECTIVE DATE: August 16, 1982.

ADDRESSES: Please address correspondence to the U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, P.O. Box 3654, Arlington, Virginia 22203. Information on this amendment is available for review during business hours of 7:45 a.m. to 4:15 p.m., Monday through Friday in Room 601, 1000 N. Glebe Road, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Mr. Larry LaRochelle, Staff Biologist, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, P.O. Box 3654, Arlington, Virginia 22203 (703/235–1903).

SUPPLEMENTARY INFORMATION: The Federal Wildlife Permit Office has been charged with reviewing and improving the Service's permit program. This is an ongoing project in addition to permit processing. Suggestions for improvements should be sent to the address above.

The Service published a Notice of Intent in the April 16, 1981 **Federal Register** (46 FR 22243) and a Proposed Rule on September 18, 1981 (46 FR 46361) in which it solicited comments on the proposal to consolidate and simplify permit requirements. Eight commenters responded: seven associated with zoological parks and aquariums, and a representative of the American Fur Industry. All supported the proposal to reduce unnecessary regulations and encouraged the Service to continue its efforts. However, several expressed concern about relaxing the requirements to the point where the resource is not adequately protected. The Service believes that these changes in fact enhance the protection of the resource by allowing the Service to focus its manpower on significant resource problems. After considering the comments offered, the Service, by this rulemaking, eliminates certain application and report requirements, codifies the permit application fee schedule and implements a formal appeal procedure.

Elimination of Unnecessary Requirements

Some of the regulatory requirements for permits have proved inadequate, unnecessary or unwieldy. Their modification will improve the permit system. These regulations are found in Parts 10 through 23 of 50 CFR.

Section 13.11 is revised to indicate that the application must be submitted in writing on a Federal Fish and Wildlife License/Permit Application (Form 3–200) or as otherwise specifically directed by the Service, updates Service addresses where applications should be forwarded and provides a realistic notice of the processing time for applications. Almost all applications now received by the Service are on the standard permit application (Form 3–200). The ones which are not are usually incomplete. This results in processing delays for the applicant and creates work for reviewers because the applicant must be contacted to provide the additional information. This extra effort lengthens processing time for all applications in the system. Much of this effort will be eliminated by requiring standard information in a standard format.

Current regulations require that applications must be submitted at least 30 days prior to the date the applicant wishes to begin the activity. Few applications submitted to the Federal Wildlife Permit Office meet this requirement. The regulation is revised to provide that most types of applications *should* be received at least 30 days prior to the desired effective date of the permit. Since there are statutory requirements that notice of receipt of applications for marine mammal and endangered species permits be published in the **Federal Register** and public comments invited for 30 days, applicants should allow 75 days for porcessing these types of applications. Novel or controversial applications almost always require more time than usual to process because they require the Service to implement new procedures to accommodate the request or assurance that complete and accurate information is available to the reviewing office.

Section 13.13 requires that applications be abandoned if incomplete after 60 days following notification of deficiencies. Applicants sometimes require more than 60 days to obtain certain information and request that their application remain active beyond that deadline. This could be accommodated under the revision.

Section 13.14 requires that any application submitted without the correct fee shall be returned. Many applications submitted with the incorrect fee are done so unknowingly. Revision of this section requires that permits not be issued until the proper fee is received, although processing may, at the discretion of the reviewing office, continue in the interim. Upon the suggestion of one commenter, this section will also contain a statement that the reviewing office must notify the applicant upon discovery that the proper fee has not been received.

Applications for injurious wildlife permits under Section 16.22 should be submitted to the Federal Wildlife Permit Office as indicated in the proposal. The name and address of the consignor or other person from whom the wildlife would be obtained has not proved to be

useful information in reviewing applications and is no longer required. Permittees who import injurious wildlife must complete a Wildlife Declaration (Form 3–177) at the port. The requirement to make a second report to the Director within 10 days is eliminated. The requirement to report the death of injurious wildlife to the Director is also eliminated because such wildlife is of concern only when alive.

Applicants for endangered and threatened species permits under Part 17 are required to provide redundant and often unnecessary information. This is eliminated by requiring them to provide details of only the activities sought to be authorized. Contracts, a statement of willingness to participate in cooperative breeding programs and a description of facilities are not always necessary to determine if a permit is justified. Such information would be included as details of the activity when relevant, but is not necessarily required of all applicants.

The requirements that reports for endangered and threatened species permits be submitted within 10 days of completion of the authorized activity and that all carcasses be preserved have proved unrealistic in many cases. Useful results are not always available within 10 days after completion of activities under scientific research permits. Permittees authorized to import or export such wildlife are required to complete a Wildlife Declaration (Form 3–177). A second report within 10 days is unnecessary. Some specimens are too large to readily preserve, or are collected under conditions which make successful preservation unlikely. Therefore this provision has been amended to require only reports of escapes of live wildlife. Other reporting requirements relevant to a particular permit will be specified in the permit.

Comments from both the Riverbanks Zoological Park and the Minnesota Zoological Garden addressed removal of a "statement of the applicant's willingness to participate in a cooperative breeding program, and to maintain or contribute data to a studbook." Both believed that requirement should remain in the regulations. There were no comments in support of removal. Since the Service and cooperating entities have a need to determine the breeding background of certain wildlife to determine its suitability for release to the wild, the provision will be retained.

Several commenters were concerned that there be access to information maintained by breeders of endangered and threatened species. The Federal Wildlife Permit Office maintains a list of persons registered to buy and sell exotic endangered and threatened wildlife captive-bred in the United States for the purpose of enhancement of propagation. The list includes names and addresses of registrants and the type of wildlife they may buy and sell. This list is available to the public.

The commercial importation of red, eastern gray and western gray kangaroos, and their parts and products, taken in accordance with management plans of Australian States is now allowed under a Special Rule found at 50 CFR 17.40(a) (46 FR 23929). There is no longer a need for importers to obtain economic hardship permits for these species from the Service. Therefore the provision which provides for economic hardship permits for these kangaroos is eliminated.

The Service publishes notice of receipt of endangered species applications and invites public comment for 30 days, as required by law. It also publishes notice of final actions taken on endangered species permit applications on a monthly basis. One party questioned the adequacy of such notices, particularly when an objection had been received to the issuance of the permit. Consequently, the Service explored several ways to obtain meaningful public comment without undue interference with the permit program.

One of the alternatives considered was that issuance of all endangered species permits be preceded by a notice of issuance in the **Federal Register**. A variation of this was that, because only a small number of applications elicit substantive comments, the Service would publish prior notice of issuance only when requested to do so on specific applications. These alternatives were rejected because (1) there is a question whether such a procedure is legally required, (2) publication would delay the effective date of the permit without necessarily providing for constructive input, and (3) it is not cost-effective to undertake additional publications.

The Service decided to adopt the following provision. Anyone who indicates in writing the reasons why the applicant might not meet the criteria for permit issuance may request that he be contacted by telephone, mail or other expedient means prior to issuance and be notified of the Service's intent to issue the permit over his objection. The Service will offer the commenter opportunity to provide additional information to substantiate his objection. The commenter will be allowed an additional ten days to respond except in those cases where the delay would jeopardize the specimen or purpose of the permit.

Fee Schedule

General statutory authority to charge fees for permits and certificates is found in 31 U.S.C. 483(a) which provides that any Federal agency may charge fees for services including permits and certificates to make these services "self-sustaining to the full extent possible." The Endangered Species Act of 1973, as amended (16 U.S.C. 1540(f)) authorizes the Secretary to "charge reasonable fees for expenses to the government connected with permits or certificates authorized by the Act including processing applications and reasonable inspection * * *" The Marine Mammal Protection Act of 1972 (16 U.S.C. 1374(g)) provides that the "Secretary shall establish and charge a reasonable fee for permits" issued pursuant to the Act.

The total cost of processing each application is not expected to be borne by the applicant. In many cases, this cost would be prohibitive and might have a negative effect on the resource. However, the Service believes a reasonable fee should be charged for most permit applications to help defray processing costs. Therefore, the revised fee schedule reflects a portion of the expenses incurred in processing an application. The fees are $25 for most applications, $50 for import/export licenses and $100 for marine mammal permit applications. Some permits do not require fees.

For convenience, required fees are shown below:

Type of permit and regulations	Fee
Importation at Non-designated Ports:	
Scientific (14.31)	$25
Deterioration prevention (14.32)	25
Economic hardship (14.33)	25
Import/Export License (14.93)	50
Feather Import Quota:	
Allocation (15.21)	25
Reallocation (15.24)	25
Injurious Wildlife (16.22)	25
Endangered Species:	
Captive-Bred Wildlife Registration (17.21)	25
Scientific or enhancement of propagation or survival (17.22)	25
Economic hardship (17.23)	25
Threatened Species:	
Scientific, enhancement of propagation or survival, education, zoological exhibition, economic hardship or special purpose, except as noted otherwise (17.32)	25
Special rules—mammals (17.40)	25
Special rules—birds (17.41)	25
Special rules—reptiles (17.42)	25
Special rules—fishes (17.44)	25
Special rules—insects (17.47)	25
Marine Mammal:	
Registered agent (18.23)	25
Scientific research and public display (18.31)	100
Convention on International Trade in Endangered Species (CITES) Permits and Certificates (23.15)	25

Sometimes an application for a particular transaction or series of

transactions requires more than one type of permit from the same issuing office. If the transaction can reasonably be accommodated under one consolidated permit, only one application fee will be charged. The issuing office will determine if such consolidation is feasible, and will charge the largest individual fee applicable.

Applications for renewal or substantive amendment of permits must be accompanied by the same fee that is charged for applications for new permits. The review process and incurred costs for renewals and substantive amendments are similar to those for new permits.

Since the application fee is charged to offset the costs of processing the application, it will not be returned in cases where the permit is issued or the application is denied or abandoned. However, the fee may be returned if an application is withdrawn prior to significant processing by the issuing office.

The only exception to the fee schedule is that any Federal, State or local government agency or an individual or institution under contract to such agency for the proposed activity is exempt.

The Riverbanks Zoological Park and the American Association of Zoological Parks and Aquariums commented that county agencies should be exempted from application fees as are Federal, State and local government agencies. The Service considers a county agency as a "local" government agency and therefore county agencies are exempt.

The Service recently instituted a procedure designed to simplify the issuance of CITES export and reexport permits to persons who make several shipments of this type over a given period of time. This procedure also makes it possible to issue permits at the point of export and in a much shorter time (often one day) than was previously the case. The applicant submits a request for a Letter of Authorization (LOA) to the Wildlife Permit Office and undergoes a form of "pre-clearance." There is no fee for the LOA, which is valid for two years and is renewable. Permits are issued at the time of export to cover each specific shipment and a processing fee is assessed for each permit at that time. This procedure is not mandatory, but most users have found it to be highly advantageous.

The American Fur Industry suggested that rather than pay a fee for each permit issued under the LOA system, that a single fee accompany the application for the LOA. The Service had considered this alternative during development of the LOA system, but decided that this alternative did not take into account a permittee's level of use and the subsequent cost of government services. It was not equitable on a nation-wide basis because of a great difference in numbers of shipments among exporters. This procedure might also be contrary to the Regulatory Flexibility Act in that it would impose a greater cost per shipment to small businesses, those which make one or two exports a year, than to the more frequent exporters. Therefore the Service did not adopt this suggestion. However the Service is considering allowing permittees to establish standing accounts for permits obtained under LOAs or to be periodically billed to save the cost of processing checks for each shipment.

Appeals Procedure

In this rulemaking, the Service establishes a clear and concise method for applicants or permittees to appeal actions taken by the Service in field offices, as well as in the Federal Wildlife Permit Office. This rule provides for an appeal to be submitted by the applicant or permittee to the office which issued the denial, modification, amendment or other action. Appeals will be decided by a Regional Director, in the case of actions taken by field offices, or by the Director, in the case of actions taken by the Federal Wildlife Permit Office. This action will be the final administrative decision of the Department.

Comments received on the proposed procedure were favorable and emphasized that the process be kept simple. The final rule differs somewhat from the proposal in that references to an Appeals Board have been deleted. The Service felt that the possible inconsistent use of appeals boards might constitute unequal treatment of appellants. The Regional Directors or the Director are free to utilize such staff assistance as necessary to consider any appeal, and may delegate the appeal decision as authorized, provided it is not delegated to the issuing office.

Experience in the Federal Wildlife Permit Office has shown that most appeals can be processed within the time frames described in the proposed rulemaking. On occasion, there are appeals which require additional time to obtain information critical to reaching a decision on the appeal. To make a decision without necessary information might not be fair to the person submitting the appeal.

The purpose of the appeals procedure is to establish a defined mechanism whereby an applicant or permittee may quickly get a fair review of a decision on his application or permit. The Service does not want to make time the controlling factor in reaching a decision, but does expect that the time frames described in this rulemaking will be adhered to. Therefore, the time frames described may be extended by the Service in special situations, but the person submitting the appeal must be informed in writing of the reasons for doing so. The final rule also differs editorially from the proposed rule in that the OMB clearance number for the information collection requirements has been inserted where appropriate.

This rulemaking was written by Larry LaRochelle, Staff Biologist, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1903).

Note.—The Department of the Interior has determined that this is not a major rule and does not require preparation of a regulatory analysis under Executive Order 12291. Further, the Department of the Interior has determined that the rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act. This determination is based upon the fact that the rulemaking will involve only minimal costs, *i.e.* the cost of permits, for small entities, while providing for less reporting requirements and simplifying permit processing. The information collection requirements associated with fish and wildlife permits covered by this rule have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned Clearance Number 1018–0022.

Regulations Revised

List of Subjects 50 CFR

Part 13

Administrative practices and procedures, Exports, Imports, Fish, Wildlife, Reporting requirements.

Part 16

Animal disease, Fish, Wildlife, Import, Freight, Transportation.

Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Parts 13, 16 and 17 of Title 50 Code of Federal Regulations are amended as follows:

PART 13—GENERAL PERMIT PROCEDURES

1. Add to Subpart A—Introduction, in the Table of Contents the following new section titles:

Subpart A—Introduction

* * * * * *

13.5 Information collection requirements.
* * * * * *
13.32 Appeal procedure.

2. In Subpart A—Introduction, revise the "authority" list following the Table of Contents to read as follows:

Authority: 16 U.S.C 42; sec. 4, Pub. L. 97–79, 95 Stat. 1074 (16 U.S.C. 3373); sec. 7, Pub. L. 97–79, 95 Stat. 1078 (16 U.S.C. 3376); sec. 3, Pub. L. 65–186, 40 Stat. 755 (16 U.S.C. 704); sec. 3(h)(3), Pub. L. 95–616, 92 Stat. 3112 (16 U.S.C. 712); sec. 2, 54 Stat. 251, as amended by sec. 9, Pub. L. 95–616, 92 Stat. 3114 (16 U.S.C. 668a); sec. 102, 76 Stat. 73 (19 U.S.C. 1202, "Schedule 1, Part 15D, Headnote 2(d), Tariff Schedules of the United States"; sec. 9(d), Pub. L. 93–205, 87 Stat. 893 (16 U.S.C. 1538(d); sec. 6(a)(1), Pub. L. 96–159, 93 Stat. 1228 (16 U.S.C. 1537a); E.O. 11911, 41 FR 15683, 3 CFR, 1976 Comp., p. 112; sec. 10, Pub. L. 93–205, 87 Stat. 890, as amended by secs. 2 and 3, Pub. L. 94–359, 90 Stat. 3760; sec. 7, Pub. L. 96–359, 90 Stat. 911 and 912; sec. 5, Pub. L. 95–632, 92 Stat. 3760; sec. 7, Pub. L. 96–159, 93 Stat. 1230 (16 U.S.C. 1539); sec. 11, Pub. L. 93–205, 87 Stat. 897, as amended by sec. 6(4), Pub. L. 95–632, 92 Stat. 3761 (16 U.S.C. 1540(b)(2)(f)); sec. 13(d), 86 Stat. 905, amending 85 Stat. 480 (16 U.S.C. 742j–1); Title I, sec. 112, Pub. L. 92–522, 86 Stat. 1042, as amended by Title II, sec. 201(e), Pub. L. 96–470, 94 Stat. 2241 (16 U.S.C. 1382); 65 Stat. 290 (31 U.S.C. 483(a)).

3. Add a new § 13.5 to read as follows:

§ 13.5 Information collection requirements.

The information collection requirements contained within this Part 13 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned Clearance Number 1018–0022. This information is being collected to provide information necessary to evaluate permit applications. This information will be used to review permit applications and make decisions, according to criteria established in various Federal wildlife conservation statutes and regulations, on the issuance, suspension, revocation or denial of permits. The obligation to respond is required to obtain or retain a permit.

Subpart B—Application for Permits

4. In § 13.11, paragraphs (a), (b), (c), and (d) are revised to read as follows:

§ 13.11 Procedure for obtaining a permit.

(a) *Forms.* Applications must be submitted in writing on a Federal Fish and Wildlife License/Permit Application (Form 3–200) or as otherwise specifically directed by the Service.

(b) *Forwarding instructions.* Applications for permits in the following categories should be forwarded to the issuing office indicated below.

(1) Migratory bird banding permits (50 CFR 21.22)—Bird Banding Laboratory, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Laurel, Maryland 20708. (Special application forms must be used for bird banding permits. They may be obtained by writing to the Bird Banding Laboratory).

(2) Exception to designated port (50 CFR Part 14), import/export license (50 CFR 14.93), migratory bird permit, other than banding (50 CFR Part 21) and Bald or Golden eagle permits (50 CFR Part 22)—Special Agent in Charge of the Law Enforcement District in which the applicant resides (see 50 CFR 10.22 for addresses and boundaries of the Law Enforcement Districts).

(3) Feather quota (50 CFR Part 15), injurious wildlife (50 CFR Part 16), endangered and threatened species (50 CFR Part 17), marine mammal (50 CFR Part 18) and permits and certificates for the Convention on International Trade in Endangered Species (CITES) (50 CFR Part 23)—U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, P.O. Box 3654, Arlington, Virginia 22203.

(c) *Time notice.* Applications for endangered species permits and marine mammal permits should be received by the Federal Wildlife Permit Office at least 75 calendar days prior to the desired effective date of the permit. Applications for other permits should be received by the issuing office at least 30 calendar days prior to the desired effective date. Although the Service will process all applications as quickly as possible, it cannot guarantee final action within such time frames.

(d) *Permit fees.* (1) Applications for permits, certificates, licenses and registrations, and for their renewal and amendment, must be accompanied by an application fee in the form of a check or money order made payable to "U.S. Fish and Wildlife Service." Application fees shall not be refunded if the permit is issued or if the application is denied or abandoned. The fee may be returned if an application is withdrawn prior to significant processing by the issuing office.

(2) Application fees shall be $25 unless specified in section (d)(4) as "Nonstandard." Where the regulations in this subchapter require more than one type of permit for a given transaction or series of transactions, the issuing office shall, wherever feasible, issue a single permit containing all the necessary authorizations, and charge a single application fee. In such a case the fee is the highest single permit fee applicable for the transaction. (For example, an application to import an animal which is a marine mammal and an endangered species requires permits under Parts 17 and 18 of this Subchapter. The processing of the application will be consolidated and one permit will be issued containing the necessary authorizations under Parts 17 and 18. The fee will be $100, which is the application fee for a marine mammal permit).

(3) A fee shall not be charged to any Federal, State or local government agency, nor to any individual or institution under contract to such agency for the proposed activities. The fee may be waived or reduced for public institutions (see 50 CFR 10.12). Proof of such status must accompany the application.

(4) *Nonstandard fees.*

Type of permit	Fee
Import/Export License (Section 14.93)	$50
Marine Mammal (Section 18.31)	100
Migratory Bird (Part 21)	None
Bald or Golden Eagles (Part 22)	None

(5) Section 13.13 is revised to read as follows:

§ 13.13 Abandoned applications.

Upon receipt of an incomplete or improperly executed application, the applicant shall be notified of the deficiency in the application. If the applicant fails to supply the deficient information, pay the requisite fee or otherwise fails to correct the deficiency within 60 days following the date of notification, the application shall be considered abandoned.

(6) Section 13.14 is revised to read as follows:

§ 13.14 Insufficient fee.

No permit shall be issued until the proper fee is received. The reviewing office shall notify the applicant upon discovery that the proper fee has not been received.

(7) Section 13.21 is amended by revising paragraphs (b)(1) and (d) as follows:

§ 13.21 Issuance of permits.
* * * * * *
(b) * * *

(1) The applicant has been assessed a civil penalty or convicted of any criminal provision of any statute or regulation relating to the activity for which the application is filed, if such assessment or conviction evidences a lack of responsibility.
* * * * * *

(d) The applicant shall be notified in writing of the denial of any application for a permit and the reasons therefor.

(8) Section 13.24 is revised by adding the following new sentences at the end thereof:

§ 13.24 Renewal of permit.

The Director's intent not to renew a permit or to renew it in substantially amended form shall be made known in writing to the permittee. The written notice shall contain the reasons for the Director's action and shall allow the permittee an opportunity, in writing or in person, to present reasons why the permit should be renewed or should not be substantially amended.

9. A new § 13.32 is added to read as follows:

§ 13.32 Appeal procedure.

(a) Any person in the following categories may appeal the Service's action:

(1) An applicant who has received written notice that his application has been denied;

(2) A permittee or applicant who has received written notice that a requested amendment of a term or condition of his permit has been denied;

(3) A permittee who has been notified that his permit has been recalled, amended on the Service's motion, revoked or suspended during its term;

(4) A permittee whose permit or amendment has been issued, but who has not been authorized to conduct part of the requested activity, or believes that modifications made to the requested activity are unacceptable.

(b) The appeal shall be submitted in writing to the office which took the action being appealed within 60 days of the date of notification of the action taken. It must address the reasons given for such action but may also contain new information or justification why the action in question should not be taken. Such further submissions shall not be considered a new application.

(c) A decision on the appeal shall be made within 30 days of receipt of the appeal and the issuing office shall notify the appellant in writing of its decision, and the reasons therefor.

(d) If the decision is not in favor of the appellant, the appeal file shall be forwarded by the issuing office to the Regional Director or Director as appropriate.

(e) The Regional Director or the Director may utilize such staff as necessary in assisting him to decide on the appeal. He may delegate this decision as authorized by Service procedure, provided that it may not be delegated to the issuing office. The appellant may offer arguments or additional evidence to the Regional Director or the Director, in writing or in person.

(f) The decision of the Regional Director or the Director shall be made within 60 days of receipt of appeals pursuant to paragraph (d) of this section and promptly communicated in writing to the appellant, along with the reasons therefor, except that the Regional Director or Director may extend the 60-day period for good cause notified in writing to the appellant.

(g) The decision of the Regional Director or the Director shall constitute the final administrative decision of the department.

10. Section 13.41 is revised to read as follows:

§ 13.41 Recall and amendment of permit during its term.

Except for marine mammal permits (See Part 18), all permits are issued subject to the condition that the Service reserves the right to recall and amend the provisions of a permit for just cause at any time during its term. Such amendments take effect on the date of notification, unless otherwise specified. Permittees shall be notified in writing of such intent and the reasons therefor not less than 30 days prior to the proposed date of such action and shall be allowed an opportunity, in writing or in person, to present reasons why the permit should not be recalled or amended.

PART 16—INJURIOUS WILDLIFE

Subpart C—Permits

11. In § 16.22, paragraphs (a) and (b)(3) are revised to read as set forth below, paragraph (b)(4) is removed and a new paragraph (d) is added.

§ 16.22 Injurious wildlife permits.

* * * * *

(a) *Application requirements.* Applications for permits to import or ship injurious wildlife for such purposes shall be submitted to the U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, P.O. Box 3654, Arlington, VA 22203. Each application must be submitted in writing on a Federal Fish and Wildlife License/Permit application (Form 3–200) provided by the Service and must include as an attachment all of the following information:

(1) The number of specimens and the common and scientific names (genus and species) of each species of live wildlife proposed to be imported or otherwise acquired, transported and possessed;

(2) The purpose of such importation or other acquisition, transportation and possession;

(3) The address of the premises where such live wildlife will be kept in captivity;

(4) A statement of the applicant's qualifications and previous experience in caring for and handling captive wildlife.

(b) * * *

(3) Permittees shall notify the nearest Special Agent-in-Charge (see § 10.22 of this chapter) by telephone or other expedient means within 24 hours following the escape of any wildlife imported or transported under authority of a permit issued under this section, or the escape of any progeny of such wildlife, unless otherwise specifically exempted by terms of the permit.

* * * * *

(d) The information collection requirements contained within this section have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned Clearance Number 1018–0022. This information is being collected to provide information necessary to evaluate permit applications. This information will be used to review permit applications and make decisions, according to criteria established in various Federal wildlife conservation statutes and regulations, on the issuance or denial of permits. The obligation to respond is required to obtain or retain a permit.

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Supbart C—Endangered Wildlife

12. In § 17.22, paragraphs (a) and (c) are revised to read as follows and a new paragraph (e) is added:

§ 17.22 Permits.

* * * * *

(a) *Application requirements.* Applications for permits under this section must be submitted to the U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, P.O. Box 3654, Arlington, Virginia 22203, by the person who wishes to engage in the activity prohibited by § 17.21. Each application must be submitted on an official application (Form 3–200) provided by the Service, and must include as an attachment, all of the following information:

* * * * *

(6) If the applicant seeks to have live wildlife covered by the permit, a complete description, including photographs or diagrams of the facilities to house and/or care for the wildlife and a résumé of the experience of those persons who will be caring for the wildlife.

(7) A full statement of the reasons why the applicant is justified in obtaining a permit including the details of the activities sought to be authorized by the permit.

(8) If the application is for the purpose of enhancement of propagation, a statement of the applicant's willingness to participate in a cooperative breeding program, and to maintain or contribute data to a studbook.

(9) The information collection requirements contained in this Section have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned Clearance Number 1018–0022. This information is being collected to provide information necessary to evaluate permit applications. This information will be used to review permit applications and make decisions, according to criteria established in various Federal wildlife conservation statutes and regulations, on the issuance or denial of permits. The obligation to respond is required to obtain or retain a permit.

* * * * *

(c) *Permit conditions.* In addition to the general conditions set forth in Part 13 of this subchapter, the escape of living wildlife covered by the permit shall be immediately reported to the Service office designated in the permit.

* * * * *

(e) *Objection to permit issuance.* (1) In regard to any notice of a permit application published in the **Federal Register**, any interested party that objects to the issuance, in whole or in part, of a permit, may, during the comment period specified in the notice, request notification of the final action to be taken on the application. A separate written request shall be made for each permit application. Such a request shall specify the Service's permit number of the application in question and state the reasons why that party believes the applicant does not meet the issuance criteria contained in §§ 13.21 and 17.22 or 17.23 of this Subchapter or other reasons why the permit should not be issued.

(2) If the Service decides to issue a permit contrary to objections received pursuant to paragraph (e)(1) of this, then the Service shall, at least ten days prior to issuance of the permit, make reasonable efforts to contact by telephone or other expedient means, any party who has made a request pursuant to paragraph (e)(1) of this section and inform that party of the issuance of the permit. However, the Service may reduce the time period or dispense with such notice, if it determines that time is of the essence and that delay in issuance of the permit would: (i) harm the specimen or population involved; or (ii) would unduly hinder the actions authorized under the permit.

(3) The Service will notify any party filing an objection and request for notice under paragraph (e)(1) of this section of the final action taken on the application, in writing. If the Service has reduced or dispensed with the notice period referred to in paragraph (e)(2) of this section, it will include its reasons therefor in such written notice.

Subpart D—Threatened Wildlife

13. In § 17.32, paragraphs (a), and (a)(6)–(a)(8) and (c) are revised and paragraph (a)(9) is added to read as follows:

§ 17.32 Permits—general.

(a) *Application requirements.* Applications for permits under this section must be submitted to the U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, P.O. Box 3654, Arlington, Virginia 22203, by the person who wishes to engage in the prohibited activity. Each application must be submitted on an official application (Form 3–200) provided by the Service, and must include, as an attachment, as much of the following information which relates to the purpose for which the appplicant is requesting a permit.

* * * * *

(6) If the applicant seeks to have live wildlife covered by the permit, a complete description, including photographs or diagrams of the facilities to house and/or care for the wildlife and a résumé of the experience of those persons who will be caring for the wildlife.

(7) A full statement of the reasons why the applicant is justified in obtaining a permit including the details of the activities sought to be authorized by the permit.

(8) If the application is for the purpose of enhancement of propagation, a statement of the applicant's willingness to participate in a cooperative breeding program, and to maintain or contribute data to a studbook.

(9) The information collection requirements contained in this section have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned Clearance Number 1018–0022. This information is being collected to provide information necessary to evaluate permit applications and make decisions, according to criteria established in various Federal Wildlife conservation statutes and regulations, on the issuance or denial of permits. The obligation to respond is required to obtain or retain a permit.

* * * * *

(c) *Permit conditions.* In addition to the general conditions set forth in Part 13 of this subchapter, every permit issued under this section shall be subject to the special condition that: (1) The escape of living wildlife covered by the permit shall be immediately reported to the Service office designated in the permit.

14. In Section 17.40, paragraph (a)(1)(i)(A) is revised and paragraph (a)(2) is removed to read as follows:

§ 17.40 Special rules—mammals.

(a) * * *

(1) * * *

(i) * * *

(A) Except as allowed in paragraph (a)(1)(i)(B) of this section, it shall be unlawful to import any such wildlife for commercial purposes.

* * * * *

(2) [Removed].

Dated: June 15, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82–19190 Filed 7–14–82; 8:45 am]

BILLING CODE 4310–55–M

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50 CFR Part 23

Export of Bobcat Taken in the 1981–82 Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of suspension of a certain rule.

SUMMARY: The Fish and Wildlife Service is suspending for 4 months the final rule published on October 24, 1981 (46 FR 50774) authorizing export, pursuant to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), of bobcat (*Lynx rufus*) taken during the 1981–82 season. This action is being taken to conform with a court injunction prohibiting the Service from authorizing the export of bobcats.

DATE: The suspension of the rule authorizing export of bobcats taken during the 1981–82 season is effective immediately upon publication. The rule will be suspended for a period of 4 months.

FOR FURTHER INFORMATION CONTACT: Dr. Richard L. Jachowski, Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (202) 653–5948.

SUPPLEMENTARY INFORMATION: On October 14, 1981, the Fish and Wildlife Service published a final rule (46 FR

50774) authorizing the export of bobcats and other species taken during the 1982–82 season. The effective date of the rule for bobcats was postponed for 60 days to allow the Service to seek vacation of an injunction issued by the United States District Court for the District of Columbia prohibiting the Service from authorizing export of bobcats until it promulgated new guidelines and made findings on the basis of those guidelines. Because the court then rejected the Service's motion to vacate the injunction, the Service remains under an injunction prohibiting it from authorizing the export of bobcats harvested on or after July 1, 1982.

The Service suspended the rule for another 6 months beginning January 12, 1982 (47 FR 1294), to allow time to analyze the court's decision and to take appropriate steps. Guidelines for export of bobcats in the 1982–83 season are being developed to satisfy court requirements. Therefore, the Service is suspending the rule authorizing the export of bobcats taken in the 1981–82 season for an additional 4 months, during which time final guidelines and export findings for the 1982–83 season will be developed and presented to the court. Another notice will then be published to announce whether or not bobcats taken in the 1981–82 season may be exported.

Notice of Suspended Regulation

PART 23—ENDANGERED SPECIES CONVENTION

§ 23.52 [Suspended in part]

The regulation at 50 CFR 23.52(e), Bobcat (*Lynx rufus*), 1981–82 Harvest, is suspended for 4 months.

Dated: June 16, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-19236 Filed 7-14-82; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 2712-127]

Ocean Salmon Fisheries Off the Coasts of California, Oregon, and Washington

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of inseason adjustment and closure.

SUMMARY: The Secretary of Commerce issues this notice to adjust the commercial coho quota, and to close the commercial season for all salmon species in the fishery conservation zone between Cape Falcon, Oregon, and the Oregon-California border (subareas C and D) on July 12, 1982. The Director, Northwest Region, National Marine Fisheries Service, has determined that the adjusted commercial quota of 458,000 coho salmon for these two subareas will be reached by that date. The quota is adjusted downward by 30,000 coho to allow for hooking mortality of coho during the season for all salmon species except coho which opens upon the closure of the all-salmon-species season. This action is to ensure that quotas for coho salmon are not exceeded in 1982.

EFFECTIVE DATES: Adjustment of coho quota and closure of the all-salmon-species season in subareas C and D to commercial salmon fishing is effective from 1200 hours Pacific Daylight Time (PDT), July 12, 1982, until 2400 hours, Pacific Standard Time December 31, 1982.

FOR FURTHER INFORMATION CONTACT: H.A. Larkins (Director, Northwest Region, National Marine Fisheries Service), 7600 Sand Point Way, BIN C15700, Seattle Washington 98115; telephone 206–527–6150.

SUPPLEMENTARY INFORMATION: Emergency regulations implementing a 1982 amendment to the fishery management plan (FMP) for the Commercial and Recreational Fisheries off the Coasts of Washington, Oregon, and California were published in the **Federal Register** (47 FR 21256) for the commercial fishery north of Cape Blanco, Oregon, and the coastwide recreational fisheries. These emergency regulations became effective on May 14, 1982, for a 45-day period and were extended for an additional 45 days, on June 28, through August 11, 1982 (47 FR 28105).

On June 1, 1982, the Secretary of Commerce (Secretary) implemented an emergency interim rule (47 FR 24134), under authority of section 305(e)(2) of the Magnuson Fishery Conservation and Management Act, to set in place management measures similar to those contained in a Secretarial Amendment to the FMP. These emergency regulations became effective on June 1, 1982, for a 45-day period.

The regulations specify at § 661.22(a)(2) that when the Director, Northwest Region, National Marine Fisheries Service (Regional Director), projects that a subarea quota will be reached by a certain date, the Secretary shall, by publishing a field order in the **Federal Register**, close the fishery as of the date the quota will be reached in that subarea.

The regulations also specify at § 661.22(b)(2) that the Regional Director is to estimate the number of coho salmon that will be hooked and released during the late commercial seasons for all salmon species except coho in subareas C and D (these seasons commence upon the closure of the seasons for all salmon species including coho). The Secretary, then, is to reduce the commercial coho quota for subareas C and D by publishing a field order in the **Federal Register**.

The coho quota specified in § 661.22(a)(1) for the commercial fishery in subareas C and D is 488,000 coho salmon. The quota is hereby adjusted downward to 458,000 to take into account estimated hooking mortality of coho during the all-salmon-species-except-coho seasons as provided for in § 661.22(b)(2). Based on the most recent catch data supplied by the California Department of Fish and Game (CDFG) and the Oregon Department of Fish and Wildlife (ODF&W), the commercial fishery in subareas C and D will reach the adjusted 458,000 coho salmon quota by July 12, 1982. The Secretary therefore issues this notice that the commercial season for all salmon species in subareas C and D will be closed effective 12 o'clock noon, PDT, July 12, 1982. This notice does not affect seasons for other subareas specified in the 1982 regulations. The commercial season for all-salmon-species except coho in subareas C and D will commence upon the closure of the all-salmon species season, and the recreational season will continue until the recreational quota is taken. Consultations were held with the Directors of CDFG and ODF&W regarding the approach of the season closure. On the basis of that consultation, the Regional Director determined that no basis exists for adjusting the quota for subareas C and D as provided for in § 661.22(b)(1), with respect to the contribution of private hatchery coho to established quotas.

As provided under § 661.22(c), all information and data relevant to this notice of closure have been compiled in aggregate form and are available for public review at the above address during normal working hours.

This action is taken under the authority of 50 CFR 661.22, and is taken in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fish, Fisheries, Fishing, Indians.

(16 U.S.C. 1801 et seq.)

Dated: July 12, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 82-19177 Filed 7-12-82; 3:44 pm]

BILLING CODE 3510-08-M

Proposed Rules

Federal Register
Vol. 47, No. 138
Thursday, July 15, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NATIONAL CAPITAL PLANNING COMMISSION

1 CFR Part 456

Freedom of Information Act Regulations

AGENCY: National Capital Planning Commission.

ACTION: Proposed rule.

SUMMARY: The Commission's Freedom of Information Act (FOIA) Regulations were last published in the **Federal Register** on May 16, 1975 (40 FR 21544) in the Notices Section. At its meeting on April 15, 1982, the Commission authorized publication of proposed amendments to its regulations to increase the Commission's fees for the production of materials, institute search fees, and establish a minimum fee, and to reflect the current Commission staff organization, official agency hours, and staff member principally responsible for FOIA matters. Since the Commission's FOIA regulations have not previously been published as regulations in the Code of Federal Regulations, the entire text of the regulations, including the amendments discussed above, are published for comment.

DATE: Comments must be submitted on or before August 16, 1982.

ADDRESS: Send comments to Daniel H. Shear, Secretary, National Capital Planning Commission, Washington, D.C. 20576.

FOR FURTHER INFORMATION CONTACT: Edward H. Rickels, Records Management Officer, National Capital Planning Commission, Room 1007, 1325 G Street, NW., Washington, D.C. 20576, telephone (202) 724–0209.

List of Subjects in 1 CFR Part 456

Freedom of information, Administrative practice and procedure (Government agencies).

Part 456 is added to 1 CFR to read as follows:

PART 456—NATIONAL CAPITAL PLANNING COMMISSION (FREEDOM OF INFORMATION ACT REGULATIONS)

Sec.
456.1 Introduction.
456.2 Organization.
456.3 Public access to information.

Authority: 5 U.S.C. 552.

§ 456.1 Introduction.

The following regulations implement the Freedom of Information Act, as amended, 5 U.S.C. 552 (hereinafter the "Act"), and provide procedures by which information may be obtained from the National Capital Planning Commission (hereinafter the "Commission"). Official records made available pursuant to the Act shall be furnished to members of the public as prescribed herein.

§ 456.2 Organization.

(a) The Commission is the central planning agency for the Federal Government in the National Capital. The Commission is composed of (1) ex-officio, the Secretary of the Interior, the Secretary of Defense, the Administrator of the General Services Administration, the Mayor of the District of Columbia, the Chairman of the Council of the District of Columbia, and the Chairman of the Committees on the District of Columbia of the Senate and the House of Representatives, or their alternates, and (2) five citizens, three of whom are appointed by the President, and two of whom are appointed by the Mayor of the District of Columbia.

(b) The Commission is assisted by a staff headed by an Executive Director. The staff is organized functionally as follows:

(1) Office of the Executive Director;
(2) Office of the General Counsel/Secretary to the Commission;
(3) Office of Administration;
(4) Office of Public Affairs;
(5) Planning and Programming Division;
(6) Review and Implementation Division; and
(7) Technical Services and Special Studies Division.

§ 456.3 Public access to information.

(a) *General policy.* It is the Commission's general policy to facilitate the broadest possible availability and dissemination of information to the public. The Commission's staff is available to assist the public in obtaining information formally by using the procedures herein or informally by discussions with the staff. The Commission's staff may, therefore, continue to furnish informally to the public information which, prior to the amendments to the Act contained in Pub. L. 93–502, enacted November 21, 1974 was customarily furnished in the regular performance of their duties, provided the staff do so in a manner not inconsistent with these regulations. In addition, to the extent permitted by other laws, the Commission will make available records which it is authorized to withhold under the Act when it determines that such disclosure is in the public interest.

(b) *Established place of obtaining information.* Information may be obtained only from the Commission's offices, which are located at 1325 G Street, NW., Washington, D.C. 20576. Its official hours are 8:00 A.M. to 6:00 P.M., Monday through Friday, excluding legal holidays.

(c) *Information sources within the Commission.* Requests for Commission publications, offered for sale or informal requests for general information on the Commission should be directed to the Office of Public Affairs. All formal requests for agency records pursuant to the Act must be directed to the Commission's Records Management Officer. Any request directed initially to the wrong information source will be correctly routed by the Commission's staff and the requesting party will be so notified. The ten-day time period within which the Commission is required to determine whether to comply with a request shall not begin to run until the request reaches, or with the exercise of due diligence should have reached, the appropriate information source.

(d) *Information routinely available.* The following types of information shall be routinely available (subject to the fee schedule, infra) for public dissemination without recourse to the Commission's formal information request procedures unless such information falls within one of the exemptions to agency disclosure listed in 5 U.S.C. 552(b):

(1) Correspondence between the Commission and the public;
(2) Executive Director's Recommendations;
(3) Committee Reports;

(4) Commission Memorandums of Actions; and

(5) Maps.

Requests for information, other than maps, shall be directed to the Commission's Record Management Officer; map requests shall be directed to the Office of Public Affairs.

(e) *Formal requests for information.* All formal requests for information pursuant to the Act shall be made in writing to the Commission's Records Management Officer. To expedite internal handling of such requests, the words "Freedom of Information Request" shall appear on the face of the envelope bearing such request. The request shall state that the request is made pursuant to the Freedom of Information Act; shall reasonably describe the information sought, including the date the Commission received or produced the requested information, if known; shall state, pursuant to the fee schedule set forth infra, the maximum fee the party making the request would be willing to pay for the duplication of the requested records without further approval; and shall, if possible, provide a telephone number at which the requesting party can be contacted to facilitate handling of the request.

(f) *Commission response to formal requests.* The Commission's Records Management Officer, upon request for information made in compliance with these regulations, shall determine within ten days (excepting Saturdays, Sundays, and legal holidays) after the receipt of any such request whether to comply with such request and shall immediately notify the person making such request of such determination and the reasons therefor and of the right of such person to appeal to the head of the agency any adverse determination. In unusual circumstances as specified infra, the ten-day time limit may be extended by written notice to the person making the request setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten working days. As used in this paragraph, "unusual circumstances" means, but only to the extent reasonably necessary to the proper processing of the particular request:

(1) The need to search for and collect the requested records from establishments that are separate from the Commission's offices;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.

(g) *Determination to grant request.* If the Commission's Records Management Officer makes a determination to grant a request in whole or in part, the person making such request will be so notified in writing. The notice shall also include a description of the information to be made available, a statement of the time when and the place where such information may be inspected or, alternatively, the procedure for duplication and delivery (by mail or other means) of the information to the requesting party and a statement of the total fees chargeable to the requesting person pursuant to the fee schedule infra.

(h) *Determination to deny request—appeal procedure.* If the Commission's Records Management Officer makes a determination to deny, in whole or in part, a request for information, he shall so notify the party making the request in writing. Any appeal of such determination shall be made in writing to the Chairman of the Commission and shall include a brief statement of the legal, factual, or other basis for the party's objection to the initial decision. The Chairman shall, within twenty days (excepting Saturdays, Sundays, and legal holidays) of the receipt of any such appeal determine whether to grant or deny the appeal and shall, immediately upon making his decision, give written notice of the decision to the party, including a brief statement of the reasons therefor.

(i) *Waiver.* Whenever a waiver of any of the procedures set forth herein would further the purpose of the Act by causing the public disclosure of nonconfidential information within the time period required by the Act, the Commission's Records Management Officer may, in the context of individual requests for information, waive any of the procedural requirements herein.

(j) *Schedule of fees.* (1) The Commission may charge the following fees for the production of information pursuant to the Act:

(i) Publications offered for sale—as marked.

(ii) Commission reports—$0.25/page.

(iii) Committee reports—$0.25/page.

(iv) Commission Memorandums of Actions—$0.25/page.

(v) Transcripts of Commission meetings and Committee meetings—$0.25/page.

(vi) Other records—$0.25/page.

(vii) Maps—microfile printout—$1.00/each; ozalid maps—$0.30/linear foot.

(viii) Manual record research—$2.50 per quarter hour if conducted by a clerical employee; $5.00 per quarter hour if conducted by a professional or managerial employee.

(2) The Commission keeps on file a limited quantity of back copies of Executive Director's Recommendations, Committee Reports, and Commission Memorandums of Actions. The Commission will first attempt to fill specific requests for these documents from its supply of back copies and until the supply is exhausted, the Commission will provide the documents at no charge. Once the supply is exhausted, the requested documents will be provided in accord with the fee schedule.

(3) The minimum fee for the production of information will be $2.00. The Commission's Records Management Officer may waive fees when less than $2.00 or when it is in the public interest to do so. Such a waiver will be in the public interest, for example, when in the determination of the Commission the request will not impose an undue burden or expense upon it and the request is: (i) From another Government organization, Federal, State or local; (ii) for the purpose of obtaining information primarily for the benefit of the general public rather than for the primary benefit of the requester, as will be the case with certain requests from news media and from organizations engaged in a nonprofit activity designed for public safety, health, welfare, or education; (iii) from employees and former employees seeking information from their own personnel records; (iv) from or on behalf of the defending party in connection with a proceeding against such party by the Federal Government; and (v) from a low-income person and the fee would impose a financial hardship.

(k) *Prior approval or advance deposit of fees.* (1) Where the fees anticipated to result from a request are substantially greater than the amount estimated in the written request, the person requesting the information shall be immediately notified of the estimated fees and his approval of such fees requested. Such person shall also be afforded the opportunity to revise his or her request to reduce the fees but satisfy his or her needs for information.

(2) The Commission's Records Management Officer may require that the person requesting information make

an advance deposit of the estimated fees.

(3) The dispatch of any such request for an estimated fee approval or advance deposit shall suspend, until a reply is received by the Commission's Records Management Officer, the period pursuant to 5 U.S.C. 552 and paragraph (f) of this section within which the Records Management Officer must respond to a written request for information.

(l) *Payment of fees.* Fees charged a person for the production of information must be paid in full prior to release of the information. In the event that the person is in arrears for previous requests to the Commission for information, no information will be provided for any subsequent requests until the arrears have been paid in full. Payment of fees shall be made by a personal check, postal money order or bank draft on a bank in the United States, made payable to the order of the Treasurer of the United States.

Daniel H. Shear,

Secretary.

July 12, 1982.

[FR Doc. 82-19154 Filed 7-14-82; 8:45 am]

BILLING CODE 7520-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 967

Celery Grown in Florida; Proposed Handling Regulation

AGENCY: Agricultrual Marketing Service. USDA.

ACTION: Proposed rule.

SUMMARY: This proposed regulation would establish the quantity of Florida celery to be marketed fresh during the 1982–83 season, with the objective of assuring adequate supplies and orderly marketing.

DATE: Comments due July 30, 1982.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077–S, U.S. Department of Agriculture, Washington D.C. 20250. Two copies of all written comments shall be submitted, and they will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250 (202) 447–2615. The Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from Mr. Porter.

SUPPLEMENTARY INFORMATION: *Paperwork Reduction Act.* Information collection requirements contained in this regulation (7 CFR Part 967) have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB #0581–0082.

This proposed rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "nonmajor" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably affect cost for the directly regulated handlers.

Marketing Agreement No. 149 and Order No. 967, both as amended, regulate the handling of celery grown in Florida. It is effecive under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Florida Celery Committee, established under the order, is responsible for local administration.

This notice is based upon the unanimous recommendations made by the committee at its public meeting in Orlando on June 9.

The committee recommended a Marketable Quantity of approximately 7.5 million crates of fresh celery for the 1982–83 season. This recommendation is based on the appraisal of the expected supply and prospective market demand.

The recommended Marketable Quantity is two-thirds more than the approximately 4.5 million crates expected to be marketed fresh during the current season ending July 31, 1982. Each producer registered pursuant to § 967.37(f) would have an allotment equal to 100 percent of his historical marketings. This recommendation provides the industry an opportunity to (1) produce to its fullest capacity for the benefit of the consumer, and (2) determine its actual or potential maximum production capacity.

As required by § 967.37(d)(1) a reserve of six percent of the 1981–82 total Base Quantities is authorized for new producers and for increases by existing producers, with the only application, for a 80,000 crate increase, being approved.

To maximize the benefits of orderly marketing the proposed regulation should become effective as early as possible in August, when the marketing year begins. Interested persons were given an opportunity to comment on the proposal at an open public meeting on June 9, where it was unanimously recommended by the committee. This proposal is similar to regulations in effect for past seasons. It is hereby determined that the period allowed for comments should be sufficient under these circumstances and will effectuate the declared policy of the act.

On the basis of all considerations it is further determined that this proposed regulation would tend to effectuate the declared policy of the act.

List of Subjects in 7 CFR Part 967

Marketing agreements and orders, Celery, Florida.

PART 967—CELERY GROWN IN FLORIDA

It is proposed that § 967.317 (46 FR 44977, September 9, 1981) be removed and a new § 967.318 be added as follows:

§ 967.318 Handling regulation; marketable quality; and uniform percentage for the 1981–82 season beginning August 1, 1982.

(a) The Marketable Quantity established under § 967.36(a) is 7,503,282 crates of celery.

(b) As provided in § 967.36(a), the Uniform Percentage shall be 100 percent.

(c) Pursuant to § 967.36(b), no handler shall handle any harvested celery unless it is within the Marketable Allotment of a producer who has a Base Quantity and such producer authorizes the first handler thereof to handle it.

(d) As required by § 967.37(d)(1) a reserve of six percent of the total Base Quantities is hereby authorized for (1) new producers and (2) increases for existing Base Quantity holders.

(e) Terms used herein shall have the same meaning as when used in the said marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: July 9, 1982.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-19193 Filed 7-14-82; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 430

[Docket No. CAS-Rm-76-110]

Energy Conservation Program for Consumer Products; Determination by Department of Justice That Department of Energy's Proposed Rule Not to Issue Mandatory Energy Efficiency Standards With Respect to Certain Home Appliances Will Not Have Any Adverse Effects on Competition

AGENCY: Office of Conservation and Renewable Energy, DOE.

ACTION: Publication of the Department of Justice determination.

SUMMARY: Today's notice publishes the Attorney General's determination of the impact of any lessening of competition likely to result from DOE's proposal not to issue mandatory energy efficiency standards with respect to certain home appliances. The Department of Justice does not believe DOE's proposed determination will have any adverse effects on competition in those markets.

FOR FURTHER INFORMATION CONTACT:
Michael J. McCabe, U.S. Department of Energy, Office of Conservation and Renewable Energy, Mail Station CE-113.1, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252-9127
Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC-33, Forrestal Building, 1000 Independence Avenue, SW., Washington D.C. 20585 (202) 252-9510

SUPPLEMENTARY INFORMATION:

Background

The Energy Policy and Conservation Act (EPCA) (Pub. L. 94-163), as amended by the National Energy Conservation Policy Act (NECPA) (Pub. L. 95-619), as a general matter, requires that the Department of Energy (DOE) prescribe an energy efficiency standard for each of certain major household appliances, unless it determines by rule that a standard will not result in significant conservation of energy, it is not technologically feasible, or is not economically justified.

In its April 2, 1982, notice in the **Federal Register**, DOE proposed the issuance of no mandatory efficiency standards for the following appliances: refrigerators and refrigerator-freezers; freezers; clothes dryers; water heaters; room air conditioners; kitchen ranges and ovens; central air conditioners; and furnaces. (47 FR 14424, April 2, 1982.) As part of the proposal, DOE tentatively concluded that energy efficiency standards for these appliances would not result in a significant conservation of energy or be economically justified.

By letter dated April 1, 1982, in accordance with Section 325(d)(5), of the Act, DOE requested the Attorney General's determination of the impact of any lessening of competition that is likely to result from DOE's proposal not to issue mandatory energy efficiency standards. DOE has received, by letter dated May 5, 1982, the determination of the Department of Justice. The text of the Justice Department letter is set out below.

Issued in Washington, D.C., June 29, 1982.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

May 5, 1982.

Honorable James Edwards,
Secretary of Energy, Washington, D.C. 20500

Dear Secretary Edwards: This is in response to a letter of April 1, 1982, from R. Tenney Johnson, General Counsel of the Department of Energy ("DOE"), requesting the Attorney General's determination, pursuant to 42 U.S.C. 6295(d)(5) (hereafter, "the statute"), of "the impact of any lessening of competition . . . that is likely to result from" DOE's determination not to issue mandatory energy efficiency standards with respect to certain home appliances.* 47 FR 14424 (April 2, 1982).

The import of DOE's determination is that the Federal government is declining to regulate this set of markets with respect to energy efficiency, leaving the development of energy-efficient appliances to consumers' and manufacturers' choices in the marketplace. The Department of Justice does not believe that this determination will have any adverse effects on competition in these markets.

Sincerely,

William F. Baxter,

Assistant Attorney General, Antitrust Division.

[FR Doc 82-19033 Filed 7-14-82; 8:45 am]

BILLING CODE 6450-01-M

*The appliances are refrigerators and refrigerator-freezers, freezers, clothes dryers, water heaters, room air conditioners, kitchen ranges and ovens, central air conditioners, and furnaces. In each case, DOE has specifically concluded that the burden of an efficiency standard would outweigh the benefits. 47 FR 14435-54 (April 2, 1982). This rulemaking determination, pursuant to 42 U.S.C. 6295(b)(2), would, once effective, appear to override permanently the Secretary's duty under 42 U.S.C. 6295(a) to prescribe standards for these appliances.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Summary Notice No. PR-82-8]

Petitions for Rulemaking; Summary of Petitions Received and Dispositions of Petitions Denied or Withdrawn

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of petitions for rulemaking and of dispositions of petitions denied or withdrawn.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and be received on or before, the dates shown in the summaries.

ADDRESSES: Send comments on the petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No.————, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:
The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C. on July 9, 1982.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR RULEMAKING

Docket No.	Petitioner	Description of the rule requested
22618	Air Transport Association	Description of petition: To amend Part 121 Appendix H for incremental implementation and approval of advanced simulators from Phase I through Phase III. There are substantial costs involved in obtaining approval through Phase III. An operator is required to transit from Phase I to Phase II and III at required times or else lose the authority granted in Phase I. The proposed amendment would continue any authority in the appropriate phases without regard to time constraints, would provide for additional authorities in the various phases, and eliminate some of the equipment capability requirements in the various phases. Regulations affected: 14 CFR Part 121 Appendix H

Note: This petition was previously published. The comment period is extended until Sept. 13, 1982 due to the implications on domestic and international operations.

PETITIONS FOR RULEMAKING: WITHDRAWN OR DENIED

Docket No.	Petitioner	Description and disposition of the rule requested
None this period.		

[FR Doc. 82-19181 Filed 7-14-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 21

[Docket No. 23123; Notice No. SC-82-2-CE]

Special Conditions: Beech C90 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed amendment to special conditions.

SUMMARY: This notice proposes to amend Special Conditions set forth in FAA letters to Beech Aircraft Corporation (Beech) dated January 21, February 15, and February 27, 1963, and May 5, 1965, to permit their application to the Beech Model C90A airplane as well as future derivative C90 airplanes. The FAA has determined that these special conditions originally developed for the Beech Model C90 airplane are also applicable to other Beech C90 series airplanes and the amendment will allow future Beech C90 derivative airplanes to be added to the type certificate without revising the special condition document.

DATE: Comments must be received on or before August 15, 1982.

ADDRESSES: Comments on this proposal may be mailed or delivered in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, ACE-7, ATTN: Rules Docket Clerk, Docket No. 23123, Room 1558, Federal Office Building, 601 East 12th Street, Kansas City, MO 64106. All comments must be marked: Docket No. 23123. Comments may be inspected in the Docket file between 7:30 am and 4:00 pm on weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: William L. Olson, Aerospace Engineer, Aircraft Certification Division, Federal Aviation Administration, 601 East 12th Street, Room 1659, Federal Office Building, Kansas City, MO 64106, Telephone: (816) 374-5688.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the proposed amendment to the special conditions by submitting such written data, views, or arguments as they desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed based on comments received. All comments submitted will be available both before and after the closing date in the Rules Docket for examination by interested persons.

Type Certification Basis

The certification basis for the Beech C90 series airplane is as follows: Part 3 of the Civil Air Regulations (CAR), effective May 15, 1956, through Amendment 3-2, effective August 12, 1957; Amendment 3-6, effective September 13, 1961; Amendment 3-7, § 3.705, effective May 3, 1962; Amendment 3-8, effective December 18, 1961; Part 23 of the Federal Aviation Regulations (FAR), Amendment 23-7 §§ 23.959, 23.1111 and 23.1563(a), effective September 14, 1969; Amendment 23-23 §§ 23.1385(c), 23.1387(a) and 23.1545, effective December 1, 1978; Special Conditions outlined in FAA letters to Beech dated January 21, February 15, and February 27, 1963, and May 5, 1965; Part 36 of the FAR, effective December 1, 1969, through Amendment 36-10; SFAR 27, effective February 1, 1974, through Amendment 27-4; and any other special conditions that may result from this proposed action.

Special Conditions may be issued and amended as necessary, as a part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.17(a)(1) of the FAR's do not contain adequate or appropriate safety standards because of novel or unusual design features of an airplane. Special conditions, as appropriate, are now issued after public notice in accordance with §§ 21.16 and 21.101(b)(2) of the FAR's and become part of the type certification basis in accordance with § 21.17(a)(2) of the FAR's.

Background

On September 14, 1980, Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201, submitted an application to amend Type Certificate (TC) No. 3A20 to add a new Model C90A airplane in the normal category. The Beech Model C90A airplane, a low wing, turbopropeller, pressurized airplane, is identical to the Beech Model C90 except

for its new engine cowling with an exhaust heated inlet lip, oil cooler intake and discharge isolated from engine intake and bypass passages, and the electrical power distribution system which is of the multiple bus type. Both the Model C90 and the C90A airplanes have a maximum gross weight of 9650 pounds and seats for no more than 10 occupants. Because the Beech Model C90 airplane design included novel and unusual features for an airplane type certificated under Part 3 of the CAR and the applicable airworthiness requirements did not contain adequate or appropriate safety standards at that time, special conditions were developed (as outlined in FAA letters to Beech dated January 21, February 15, and February 27, 1963, and May 5, 1965) to ensure a level of safety equivalent to that established in the regulations. These special conditions for type certification of the Beech Model C90 airplane are applicable to Beech Model C90A and other C90 series airplanes for the same novel or unusual features for which these special conditions were developed. Accordingly, this amendment proposes to extend the applicability status of Special Conditions outlined in FAA letters to Beech dated January 21, February 15, and February 27, 1963, and May 5, 1965, to all Beech C90 series airplanes, as appropriate, to Type Certificate No. 3A20 without revising the special condition documents. This does not preclude the application of later amendments under the provisions of §§ 21.101(b)(1) of the FAR's or the issuance of special conditions that may be necessary under the provisions of § 21.101(b)(2) of the FAR's for future C90 series airplanes.

List of Subjects in 14 CFR Parts 21 and 23

Aviation safety, Aircraft, Air transportation, and safety.

The Proposed Special Condition Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the FAA proposes to amend Special Conditions outlined in FAA letters to Beech dated January 21, February 15, and February 27, 1963, and May 5, 1965 for type certification of the Beech Model C90 airplane under Type Certificate No. 3A20 by amending its applicability to read as follows:

"Special Conditions for the type certification of Beech C90 series airplanes under Type Certificate No. 3A20."

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354, 1421, and 1423); section 6(c), Department of Transportation Act (49 (U.S.C.1655(c); Sections 11.28 and 11.29(b) of the Federal Aviation Regulations.)

Note.—This proposal will allow application of current technology to an existing type certificated airplane thereby increasing speed, improving cockpit layout, updating the electrical system and providing an improved airplane for use by the public. For this reason: The FAA has determined that it (1) involves a regulation which is not a major rule under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that the proposed amendment will not have a significant economic impact on a substantial number of small entities. If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket.

Issued in Kansas City, MO on June 29, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82-18905 Filed 7-14-82; 8:45 am]

BILLING CODE 4910-13-M

[Docket No. 23190]

14 CFR Part 67

Review of Medical Standards and Certification Procedures

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Announcement of a review of regulations.

SUMMARY: This notice announces the agency's Medical Standards and Certification Procedures Review and invites interested persons to submit comments for consideration during the review. This review results from comments submitted in response to a rulemaking action recently completed. It will be a complete review of the FAA's medical standards.

DATE: No comment closing date has been established.

ADDRESS: Comments or suggestions for this review may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-204), Docket No. 23190, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: William H. Hark, M.D., Aeromedical Standards Division, Office of Aviation Medicine, Associate Administrator for Aviation Standards, 800 Independence Avenue, SW., Washington, D.C. 20591, Telephone (202) 426-3802.

SUPPLEMENTARY INFORMATION:

Background

On February 8, 1982, the Administrator issued Amendment 67-11 (47 FR 16298; April 15, 1982) to Part 67 of the Federal Aviation Regulations (FAR). In the preamble to that amendment, the Administrator announced that, based on the substantive issues raised by commenters to the docket, the FAA would undertake a comprehensive review of the medical standards contained in Part 67 of the FAR. This notice is the agency's initial step toward implementing that review.

The review of the medical standards and certification procedures will be limited to the requirements in Part 67 of the FAR. Interested persons are invited to submit comments or suggestions, either on a specific section or sections, or to Part 67 in general. Comments should include the commenter's name, the FAR section(s) affected, and the title(s) of the section(s). Comments will not be answered individually but may be considered during future rulemaking actions. All comments received will be available for inspection in the FAA Rules Docket, Room 916, 800 Independence Avenue, SW., Washington, D.C., between 8:30 a.m. and 5 p.m. weekdays, except Federal holidays.

The FAA received a number of comments on the standards of Part 67 in response to the notice of proposed rulemaking that preceded Amendment 67-11 (Notice No. 80-24; 45 FR 80296; December 4, 1980). In its review of Part 67, the FAA will consider those comments, thus relieving the authors of the need to resubmit.

Persons interested in being placed on the mailing list for future rulemaking actions resulting from this review should request a copy of advisory Circular No. 11-2, Notice of proposed Rulemaking Distribution System, which describes the application procedure. The advisory circular may be obtained by writing to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center (APA-430), 800 Independence Avenue, S.W., Washington, D.C. 20591 or by calling (202) 426-8058.

Issued in Washington, D.C., on July 9, 1982.

H. L. Reighard,

Federal Air Surgeon.

[FR Doc. 82-19284 Filed 7-14-82; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-195-81]

Amortization of Rehabilitation Expenditures for Low-Income Housing; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations under section 167 of the Internal Revenue Code (Depreciation) relating to the amortization of rehabilitation expenditures for low-income housing.

The proposed regulations relate to amendments made to section 167(k) of the Internal Revenue Code of 1954 by section 3 of the Act of December 17, 1980, (Pub. L. 96-541) and section 264 of the Economic Recovery Tax Act of 1981, (Pub. L. 97-34), section 3 of the Act of December 17, 1980, extends the application of section 167(k) to rehabilitation expenditures incurred prior to January 1, 1984. Section 264 of the Economic Recovery Tax Act of 1981 in certain circumstances increases the maximum amount of rehabilitation expenditures which are properly amortizable over 60 months to $40,000.

DATES: Written comments and requests for a public hearing must be delivered or mailed by September 13, 1982. The amendment to the regulations is proposed to be effective with respect to rehabilitation expenditures incurred after December 31, 1980.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-195-81), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Harold T. Flanagan of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T, 202-566-3294).

SUPPLEMENTARY INFORMATION:

Background

This document contains a proposed amendment to the Income Tax Regulations (26 CFR Part 1) under section 167(k) of the Internal Revenue Code of 1954. This amendment to the regulations is proposed to be issued under the authority contained in section 7805 of the Internal Revenue Code (68A Stat. 917, 26 U.S.C. 7805).

General Rule

The proposed regulations relate to amendments made to section 167(k) of the Internal Revenue Code of 1954 by section 3 of the Act of December 17, 1980, (Pub. L. 96-541) and section 264 of the Economic Recovery Tax Act of 1981, (Pub. L. 97-34), section 3 of the Act of December 17, 1980, extends the application of section 167(k) to rehabilitation expenditures incurred prior to January 1, 1984. Section 264 of the Economic Recovery Tax Act of 1981 in certain circumstances increases the maximum amount of rehabilitation expenditures which are properly amortizable over 60 months to $40,000. In order for a taxpayer to be entitled to amortize the increased amount, the proposed regulations would require that the rehabilitation be conducted pursuant to a program which is certified by the Department of Housing and Urban Development, a State, or other political subdivision of the United States as providing rental housing for families or individuals of low or moderate income. Further, the program must provide that tenants demonstrating home ownership capabilities be entitled to purchase the dwelling units and that the taxpayer limit the income received from the leasing and the sale of such rehabilitated units. In determining the limit on the income which a taxpayer may earn with respect to such units, deductions under section 168 shall be deemed received under section 167 in accordance with provisions of section 167(a).

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideraton will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request made to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Regulatory Flexibility Act

Although this notice of proposed rulemaking solicits public comment, the Internal Revenue Service has concluded that the regulations proposed are interpretative and thus not subject to the notice and public procedure requirements of 5 U.S.C. 553. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Non-Application of Executive Order 12291

The Treasury Department has determined that this proposed regulation is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 28, 1982.

Drafting Information

The principal author of this proposed regulation is Harold T. Flanagan of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

List of Subjects in 26 CFR Part 1

Income taxes, Taxable income, Deductions, Exemptions, Depreciation, Low-income housing.

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Proposed amendment to the regulations

The proposed amendment to 26 CFR Part 1 is as follows:

§ 1.167 [Amended]

1. Section 1.167(k)-1 is amended by removing "January 1, 1982", and "December 31, 1981", each place that they appear in such section and inserting in lieu thereof "January 1, 1984", and "December 31, 1983", respectively.

2. Section 1.167(k)-2 is amended as follows:

1. Paragraph (a) is amended by removing "December 31, 1981", and inserting in lieu thereof "December 31, 1983".

2. Paragraph (c) is amended by revising the first sentence of subparagraph (1) thereof.

3. A new paragraph (f) is added immediately following paragraph (e). These new and revised provisions read as follows:

§ 1.167 (k)-2 Limitations.

* * * * *

(c) *Maximum amount.* (1) In general, the maximum amount of rehabilitation expenditures paid or incurred by the taxpayer with respect to any dwelling unit which may be taken into account under section 167(k) is $20,000 or $40,000 in the case of expenses paid or incurred in connection with a certified program

which satisfies the requirements of paragraph (f) of this section. * * *

* * * * *

(f) *Maximum amount for rehabilitation expenses incurred in connection with a certified program.* (1) In the case of expenditures paid or incurred after December 31, 1980, the maximum amount of rehabilitation expenditures which may be amortized pursuant to section 167(k) with respect to any dwelling unit is $40,000 but only if the other requirements of this paragraph (f) are satisfied.

(2) The rehabilitation of such dwelling unit must be conducted pursuant to a program that is certified as providing low-income rental housing (as defined in § 1.167(k)–3(b)) by the Department of Housing and Urban Development or by the government of a State or other political subdivision of the United States. The program must require the taxpayer to certify to such authority the amount of rehabilitation expenditures (as defined in § 1.167(k)–3(a)). For purposes of the foregoing, the program shall be deemed certified if such program is required by statue or by a contract with such authority to provide low-income rental housing, and such authority agrees to provide a direct or indirect benefit to the taxpayer in connection with such statute or agreement (*e.g.*, an agreement by the authority to repair neighborhood streets or to abate taxes).

(3) Each dwelling unit (as defined in § 1.167(k)–3(c)) must be the principal residence of a family or individual of low or moderate income (as defined in § 1.167(k)–3(b)).

(4) The program shall provide:

(i) That tenants demonstrating home ownership responsibility are entitled to purchase the dwelling units; and

(ii) That the sum of taxable income (as defined in section 63 and the regulations thereunder) from the rental of the dwelling unit and the amount realized (as provided in section 1001(b) and the regulations thereunder) from the sale or disposition of such dwelling unit, if sold, is reasonably expected not to be greater than an amount equal to:

(A) The taxpayer's adjusted basis (as provided by section 1016 and the regulations thereunder) without adjustment for deductions under section 167, reduced by

(B) The net tax benefit realized by the taxpayer from the rental of the dwelling unit.

The net tax benefit is the amount by which the taxpayer's federal income taxes are reduced as a result of deductions under section 167 for such unit, less the amount of tax properly attributable to the net rental income (rental income over deductions attributable to such unit). See section 167(a) for rules relating to the treatment of deductions under section 168 as received under section 167. The net tax benefit shall not be less than zero. In determining the net tax benefit to the taxpayer, net rental income and the deduction under section 167 shall be taken into account annually by multiplying the difference between such income and deduction (which may be less than zero) by the taxpayer's maximum marginal rate of tax on income (in the case of a partnership, the maximum marginal rate of tax imposed by section 1).

(5) The following examples illustrate the provisions of this paragraph (f):

Example (1). On January 1, 1983, A, who is subject to a 50 percent marginal tax rate, placed in service 25 substantially rehabilitated townhouses. The property was rehabilitated in connection with an agreement between City X and A as part of a program operated by City X which is intended to provide housing for low-income individuals. As part of the agreement, City X agreed to abate real property taxes on the rehabilitated property for 5 years and A agreed to certify the total expenditures for the rehabilitation of such housing units and to sell the units after 5 years to those tenants demonstrating home ownership responsibility. A purchased the 25 townhouses located in City X for $1 million. A also borrowed $40,000 per unit which is secured by a 13 percent mortgage on each townhouse. The borrowed money was used to rehabilitate the townhouses which have an adjusted basis of $80,000 each. After completing rehabilitation, A leases the townhouses to low-income individuals for a monthly rental of $460, an amount equal to interest on the mortgage, hazard insurance, and maintenance and operating expenses. As a result, A reasonably expected to have no taxable income from the rental of the townhouses. In 1988, A realizes $49,600 from the sale of the units to tenants who have complied with the terms of the lease for the previous 5 years. Each tenant assumes the unpaid balance of the mortgage on the unit. During the 5 year period that A leased the townhouses, A received a net tax benefit from each unit under section 168 of $10,400 and under section 167(k) of $20,000. Since A and the program meet the requirements of section 167(k)(2)(B) and this paragraph, the maximum amount which A may amortize pursuant to section 167(k) is $40,000 per unit.

Example (2). The facts are the same as in example (1), with the additional fact that the program does not require A to rebuild any dwelling unit unexpectedly destroyed. In 1985, a fire destroys one of the dwelling units. The insurance proceeds received by A from the insurer of the unit exceed the difference between A's adjusted basis (without adjustments for section 167) in such unit and the net tax benefit received by A by virtue of such unit. Although the destruction is a disposition within the meaning of section 167, in 1981 A did not reasonably expect that a fire would occur. Since the program provided for the limitation of income as required by paragraph (f) (4) and since the disposition could not be reasonably forseen by A or X, the provisions of section 167 (k) (2) (B) apply.

Example (3). The facts are the same as in example (1), except that after completing rehabilitation, A leases each townhouse to a low-income individual for a monthly rental of $620 which after expenses provides a taxable income of $160 per month. In 1988, A sells the units to tenants who have compiled with the terms of the lease for the previous 5 years for one dollar and the assumption of the mortgage on the unit. Since A and the program meet the requirements of section 167 (k) (2) (B) and this paragraph, the maximum amount which A may amortize pursuant to section 167 (k) is $40,000 per unit.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 82-19200 Filed 7-14-82; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 736, 760, 761, 762, 764, 765, and 769

Areas Unsuitable for Surface Coal Mining; Cancellation of Public Hearing on Proposed Rule to Amend 30 CFR Chapter VII, Subchapter F, Areas Unsuitable for Surface Coal Mining

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Cancellation of Public Hearing.

SUMMARY: The Office of Surface Mining (OSM) is announcing the cancellation of one of the public hearings scheduled on the proposed rule regarding area unsuitable for surface coal mining because no requests were received to testify at that hearing within the specified time period (3 working days before the date of the hearing). See 47 Federal Register 25278. The Director of the Office of Surface Mining has determined that no hearings are necessary and, in the interest of cost savings, is hereby cancelling the hearing which was scheduled for July 19, 1982, in Washington, D.C.

This notice cancels the public hearing but does not alter the comment period during which interested persons may submit written comments on the proposed rule.

DATES: The following hearing is cancelled.

The public hearing on the proposed rule amending 30 CFR Chapter VII, Subchapter F, scheduled for July 19, 1982, in Washington, D.C.

ADDRESS: Written comments should be mailed or hand delivered to: Carl C. Close, Special Assistant, Office of Surface Mining, U.S. Department of the Interior, Administrative Record (SPA–04), Room 5315, 1100 L Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Carl C. Close, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue NW., Washington, D.C. 20240; Telephone: (202) 343–4225.

SUPPLEMENTARY INFORMATION: On June 10, 1982, the Office of Surface Mining published a proposed rule in the **Federal Register** which would revise 30 CFR Chapter VII, Subchapter F, regulations governing areas unsuitable for surface coal mining. The proposed rule provided for two public hearings to be held to receive comments. It further provided that if no person indicated an intention to testify by 3 working days before the appropriate hearing date, that hearing would be canceled. As of 3 days before the hearing scheduled for Washington, D.C., no persons contacted OSM indicating that they wished to testify. Therefore, in the interest of cost savings, the Director of OSM is cancelling that hearing.

While there will be no public hearing in Washington, D.C., interested persons may still submit written comments on th proposed rule and also may testify at the public hearing to be held in Denver, Colorado on July 22. Written comments must be received on or before 4:00 p.m., on August 25, 1982, to be considered.

Dated: July 13, 1982.

William B. Schmidt,

Assistant Director, Program Operations and Inspection Office of Surface Mining.

[FR Doc. 82–19412 Filed 7–14–82; 9:43 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–4–FRL 2107–8]

Approval and Promulgation of Implementation Plans; Alabama: New Source Review for Nonattainment Areas

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to conditionally approve implementation plan revisions submitted by Alabama on March 31, 1981, to satisfy changes made by EPA in 40 CFR 51.18(j) (see the **Federal Register** of August 7, 1980, pp. 52743 ff.). Material necessary to satisfy the conditional approval must be submitted within 12 months from the date of EPA's conditional approval. The public is invited to submit written comments on this proposal.

DATE: To be considered, comments must be received on or before August 16, 1982.

ADDRESSES: Copies of the materials submitted by Alabama may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460
Library, Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365
Division of Air Pollution Control, Alabama Air Pollution Control Commission, 645 S. McDonough Street, Montgomery, Alabama 36130

FOR FURTHER INFORMATION CONTACT: Archie Lee of the Region IV Air Programs Branch at 404/881–3043 (FTS 257–3043).

SUPPLEMENTARY INFORMATION: Following notice and public hearing in conformity with 40 CFR 51.4, the Alabama Air Pollution Control Commission adopted changes in § 16.3.2 (Permits to Construct in or near Nonattainment Areas) of its Rules and Regulations. These changes, which are intended to meet the requirements of 40 CFR 51.18(j), as promulgated on August 7, 1980 (45 FR 52743 ff.), were submitted to EPA on March 31, 1981, for approval as implementation plan revisions. In the revisions proposetl today are definitions of "source," "potential to emit," "major source," "major modification" and other terms which have been changed to make them consistent with EPA's definitions. In addition several definitions have been added, including "net emissions increase," "significant," "actual emissions," and "commenced." Certain requirements formerly contained in EPA's Interpretative Ruling and included in Alabama's rules have been deleted. These requirements related to sources constructing or modifying in increments; applicability determinations based on increase in allowable emissions by specific hourly, daily or annual amounts; disallowing of credit for emission reduction elsewhere in a facility; and other similiar requirements. Finally, exemptions for sources obtaining permits prior to certain dates have been included.

During EPA's review of Alabama's plan revision, two issues arose regarding the approvability of Alabama's plan. Alabama's new source review regulations do not require that permit provisions be federally enforceable nor that offset credits for source shutdowns be limited to only replacement units. EPA is proposing to conditionally approve the Alabama submittal so that Alabama may revise the state regulations and submit any conforming amendments to their plan within 12 months from date of conditional approval. On February 22, 1982, EPA entered into a settlement agreement with industry petitioners in the Chemical Manufacturers Association litigation. In that agreement, EPA committed to propose regulatory changes regarding the above mentioned issues. As a result of these proposed new source review regulatory changes, conforming amendments may not be necessary. If the 12-month time period expires and EPA is in the process of revising the new source review requirements, but has not finalized the changes, the Administrator could extend the conditional approval data.

Action. EPA today proposes to conditionally approve these changes in the Alabama plan based on the state submitting any necessary conforming amendments within 12 months of the conditional approval. The public is invited to submit written comments on the proposal. After considering relevant comments received together with all other available information, the Agency will take final action.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA, and any EPA response, are available for public inspection at the location listed in the ADDRESSEES section.

(Sec. 110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502))

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: April 12, 1982.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 82–19183 Filed 7–14–82; 8:45 am]

BILLING CODE 6560–38–M

40 CFR Part 60

[AD-FRL-2171-7]

Standards of Performance for New Stationary Sources; VOC Fugitive Emission Sources; Synthetic Organic Chemical Manufacturing Industry; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period.

SUMMARY: EPA published a notice of the availability of an additional information document (AID) concerning fugitive emission sources of volatile organic compounds in the **Federal Register** on May 7, 1982 (47 FR 19724). The notice requested comments which were to be received by July 6, 1982. Commenters, however, have requested a 30-day extension of the comment period to evaluate further the AID. EPA considers this request reasonable and, accordingly, is delaying the end of the comment period until August 6, 1982.

DATES: *Comments.* Comments on the AID must be received by August 6, 1982.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (A-130), Attention: Docket No. A-79-32, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460.

Documents. EPA prepared the AID *[Fugitive Emission Sources of Organic Compounds—Additional Information on Emissions, Emission Reductions, and Costs,* EPA-450/3-82-020] to discuss changes in the technical basis to the background information document (BID) *[VOC Fugitive Emissions in the Synthetic Organic Chemical Manufacturing Industry—Background Information for Proposed Standards,* EPA-450/3-80-033a]. The BID and the AID may be obtained from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22161. Please refer to PB81-152167 for the BID and PB82-217126 for the AID.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Wyatt, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5578.

SUPPLEMENTARY INFORMATION: EPA proposed standards of performance on January 5, 1981 (46 FR 1136), for fugitive emission sources of volatile organic compounds (VOC) within the synthetic organic chemical manufacturing industry (SOCMI). On April 14, 1981 (46 FR 21789), EPA published a notice in the **Federal Register** that announced the availability of several technical reports completed by EPA's Office of Research and Development (ORD) after the standards were proposed. After EPA reviewed comments on the background information document (BID) published when the standards were proposed and the ORD reports, EPA decided to review the methodologies and data used in the BID to estimate the impacts (emissions, emission reductions and costs) of emission reduction techniques for fugitive emission sources. EPA presented its review of these methodologies and data in an additional information document (AID) and published a notice that announced the availability of the AID on May 7, 1982 (47 FR 19724).

EPA's review of the methodologies and data used in the BID concluded that, although the analysis presented in the BID was reasonably valid, some improvements could be made. Improvements in the methodologies and data used to estimate the impacts of emission reduction techniques were made primarily in emission rate estimates and emission reduction estimates. One of the improvements was the incorporation of leak detection and repair model (LDAR model) for estimating the impacts of a leak detection and repair program.

Commenters have requested an additional 30 days to review the adequacy and use of the LDAR model and to provide comments on it. In view of the fact that commenters want to comment on the use of the LDAR model, it is reasonable to provide additional time for review and comment on it. The comment period is being extended 30 days and, therefore, will close on August 6, 1982. This extension will allow the public adequate time for evaluating and commenting on the use of the LDAR model, as well as other aspects of the AID.

Dated: July 1, 1982.

Charles L. Elkins,

Acting Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 82-19186 Filed 7-14-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Parts 122, 123, and 124

[FRL 2171-3]

Consolidated Permit Regulations; Revision in Accordance With Settlement: Correction

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking: Correction.

SUMMARY: On Monday, June 14, 1982 the Environmental Protection Agency published a proposed rulemaking entitled Consolidated Permits Regulations; Revision in Accordance with Settlement, appearing at 47 FR 25546-25555. Administrative error resulted in the publication of conflicting dates for a public hearing which is scheduled to consider several of the proposed regulation changes as they relate to the Underground Injection Control (UIC) Program under the Safe Drinking Water Act.

On page 25547, at the bottom of the second column, the Supplementary Information Section, the date for the public hearing reading "July 27, 1982" should read "August 3, 1982." This is consistent with the correct date specified in the Dates paragraph on page 25546.

FOR FURTHER INFORMATION CONTACT: Karen Wardzinski, Office of General Counsel, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 755-0753.

Dated: July 2, 1982.

Frederic A. Eidsness, Jr.,

Assistant Administrator for Water.

[FR Doc. 82-19185 Filed 7-14-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 100 through 199

[Docket HM-177]

Trailer-on-Flatcar Transportation of Hazardous Materials

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Withdrawal of proposed rulemaking.

SUMMARY: Docket HM-177 is closed without issuance of a final rule. The notice establishing Docket HM-177 announced a public hearing and solicited comments, data and test results on Trailer-on-Flatcar (TOFC) securement and the effect of a high center of gravity on the safe transportation of hazardous materials in TOFC service. The presentations at the public hearing and the written comments to Docket HM-177 failed to document any adverse shipping experience or safety related problems

when transporting hazardous materials in TOFC service.

FOR FURTHER INFORMATION CONTACT: Hattie L. Mitchell, Standards Division, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Department of Transportation, Washington, DC 20590, (202) 426–2075.

SUPPLEMENTARY INFORMATION: On January 26, 1981, MTB published in the **Federal Register** a notice announcing a public hearing and soliciting comments, data, and test results on Trailer-on-Flatcar (TOFC) securement and the effect of a high center of gravity on the safe transportation of hazardous materials in TOFC service (46 FR 8055). In the Notice, MTB requested that commenters address certain specific factors in relation to TOFC operations, including semitrailers (vans) and freight containers mounted on a chassis.

The Notice was in response to comments concerning the securement and center of gravity effect that were received from the Association of American Railroads (AAR) under Docket HM–167 "Intermodal Portable Tanks," and AAR's petitions for reconsideration of the issuance and renewal of certain DOT exemptions authorizing portable tanks in TOFC service. In its comments addressing an application for exemption, AAR stated that it believed there was an increased risk associated with TOFC securements, i.e., the securement of the portable tank to the motor vehicle chassis and the securement of the motor vehicle chassis to the flatcar. In addition, AAR stated that "* * * the combined center of gravity for the flatcar, chassis, and container is approximately 139" and this grossly exceeds the 98" maximum center of gravity for freight cars allowed by paragraph 2.1.3, AAR Specification M–1002." AAR did not submit any calculations or test data to support its position. However, MTB felt that perhaps some of AAR's assertions had merit. Therefore, MTB prohibited TOFC service in the final rule in Docket HM–167 as an interim measure, and made TOFC service a separate new rulemaking action under Docket HM–177.

Three persons testified at the public hearing under Docket HM–177 which was held in Rosemont, Illinois on February 25, 1981. A representative of AAR stated that AAR took no exception to TOFC operations for intermodal portable tanks, retracting its previous position. The other two commenters did not present any technical information directly related to the factors listed in the Notice. Six written comments were received to the docket. In general, the commenters who addressed the factors listed in the Notice agreed that the combined center of gravity of a flatcar, chassis and portable tank does not exceed the 98" maximum specified for interchange service. Furthermore, the commenters indicated that they had no shipping experience that would indicate that "rock and roll" and double-interfacing securement systems presented any safety problem. No comments have been received since the April 2, 1981, closing date.

Subsequent to the public hearing, AAR submitted comments withdrawing its opposition to TOFC operations for intermodal portable tanks under Docket HM–177 and requested dismissal of the docket. After AAR withdrew its opposition, MTB could see no reason for not permitting TOFC service. An amendment subjecting TOFC service to the same approval requirement as required for container-on-flat car (COFC) service was published in the **Federal Register** under Docket HM–167 on April 30,1981 (46 FR 24185).

In view of the foregoing, MTB concludes that adoption of a formal standard to further limit or restrict hazardous materials transportation in TOFC service is not justified. Docket HM–177 is hereby terminated.

(49 U.S.C. 1803, 1804, 1808; 49 U.S.C. 1.53, App. A to Part 1 and paragraph (a)(4) of App. A to Part 106)

Issued in Washington, D.C. on July 8, 1982.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 82–19192 Filed 7–14–82; 8:45 am]

BILLING CODE 4910–60–M

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49 CFR Part 175

[Docket No. HM–166J; Notice No. 81–5]

Carriage of Tear Gas Devices Aboard Aircraft

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Withdrawal of proposed rulemaking.

SUMMARY: MTB is withdrawing the Notice of Proposed Rulemaking (Docket HM–166J, Notice No. 81–5) which was published August 10, 1981 (46 FR 40540). In Notice No. 81–5, it was proposed to relax the Hazardous Materials Regulations (HMR) to permit passengers and crewmembers to carry, in checked baggage aboard aircraft, small personal protection devices containing tear gases or pepper extracts. Written comments submitted in response to Notice No. 81–5 indicate the possibility of safety-related problems and operational problems for air carriers, if the proposed rulemaking were promulgated.

FOR FURTHER INFORMATION CONTACT: Edward T. Mazzullo, Standards Division, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Department of Transportation, 400 Seventh St. SW., Washington, D.C. (202) 426–2075.

SUPPLEMENTARY INFORMATION: In Notice No. 81–5, MTB proposed to provide regulatory relief to the traveling public with regard to the carriage aboard aircraft of personal protection devices containing tear gases. The proposed rule addressed tear gas devices which are subject to the HMR as irritating materials and also devices containing pepper extracts which, although they do not meet the definitions in 49 CFR 173.380 for irritating materials, are subject to the HMR when charged with compressed gases. The proposal was based on problems encountered at airport security screening points where many tear gas devices are discovered being carried by passengers who, in many instances, are not aware that the HMR prohibit the transportation of tear gases, including devices, on passenger-carrying aircraft. The proposed rule would permit a traveler to carry one device, capacity not to exceed two fluid ounces, in his checked baggage if the device were packaged so as to prevent accidental activation. The means by which the device would be packaged was not specified. Carriage in checked baggage was specified in order to preclude commercial shipments and to preclude carriage by a traveler on his person, or in carry-on baggage, in the passenger compartment of an aircraft.

Twelve commenters representing businesses, associations, and individuals responded to the request for comments in Notice No. 81–5. Seven of these commenters supported the rulemaking as proposed, indicating a need for the rulemaking but offering no substantive comment. One commenter indicated that carriage of tear gas devices should be limited to carriage in baggage compartments which are inaccessible to passengers during flight and where, in the event of an accidental release, irritating materials would not affect crewmembers. One commenter suggested that carriage of the devices should be limited to "sealed" cargo compartments because none of the tear gas devices are leak free. One manufacturer of the devices indicates that deficient components can result in leakage. This commenter opposed the proposed rulemaking claiming that poor

handling, improper packaging by a passenger, use of soft luggage, or deficient device components could result in a significant mid-flight release with uncertain results. Both the Air Transport Association of America (ATA) and the International Air Transport Association (IATA) criticized the proposal both because of the safety issue and because of operational problems which the proposal would pose for air carriers. The substance of these comments are reprinted as follows.

ATA:

The Air Transport Association's Restricted Articles Board (RAB), a group of U.S. air carrier representatives from the fields of engineering, chemistry, cargo services, training and safety, take this opportunity to respond to DOT–MTB, R&SPA Notice of Proposed Rulemaking re HM–166J—Carriage of Tear Gas Devices Aboard Aircraft, contained in the Federal Register, Vol. 46, No. 153, dated August 10, 1981. (FR 40540–40541).

The majority of respondents initially suggest that the carriage of any irritant in a passenger's baggage is certainly not recommended. Obviously, it is difficult to determine what a passenger places in "checked" baggage, even though through various means passengers are "warned" against the carriage of any form of hazardous materials in any baggage or on their person.

One member responded totally in opposition to such a proposed relaxation in regulations, which in their opinion, appears to be created only due to the fact that the present regulatory requirement is practically unenforceable.

Another member posed the question, "Does such an amendment to the regulations by its permissiveness create a problem in the future; that is, would this action inadvertently recognize future chemical compositions in such devices which could present a far greater hazard that (sic.) that which is presently indicated?" In this connection, it was felt that most such devices, present or future, would not carry much more advice than a "trade name."

An air carrier potential operational problem, which the new relaxation could create is suggested in the following scenario:

Passengers departing on flights at any given airport will check their baggage other than "carry on" items prior to the "security inspection" points. If a "protection device" is to be discovered, it will be at the time of this inspection. Upon being advised that such device can only be carried in "checked" baggage, rather than forfeit the device, most passengers would request the air carrier to retrieve their baggage so they can stow the device in "checked" baggage.

A number of such individual requests on any given flight could definitely produce additional logistics problems, and add another burden to the workload of the departure operation.

It also appears that these substances do not dissipate as would vapor from carbon dioxide solid, if a release were contained in a cargo bin. Thus, upon discovery of such a condition when unloading an aircraft, a "force air flow procedure" to evacuate the vapor residue would have to be instituted, requiring at least ten minutes. This now adds an additional burden in the workload of an unloading operation.

We would also like to provide the following additional points for your consideration and investigation:

—Exposure to certain of these compounds can produce violent skin reactions to humans;
—Exposure of certain animals to such as CS and mace will cause such violent reaction that animals will scratch and tear at themselves until they bleed to death. (Air carriers do not have the possibility of separating animals from all baggage);
—A great percentage of manufactured luggage today is "soft" luggage, which indents and reshapes easily;
—Depending on the manufacturer of these devices, locking mechanisms are not necessarily "positive" locking devices;
—Depending on the manufacturer of these devices, certain of the pressure vessels themselves will evidently leak at sea level on a hot day.

In conclusion, though not preferring the allowance of these substances on aircraft at all, the members do feel that the "lesser of evils" is the containment (sic.) of these devices in baggage in cargo bins rather than in cabin areas.

IATA:

The International Air Transport Association (IATA) is the trade association of 112 Member airlines worldwide. On behalf if its Members, IATA wishes to make the following comments on the DOT–MTB, R&SPA Notice of Proposed Rulemaking, HM–166J—Carriage of Tear Gas Devices Aboard Aircraft. IATA fully supports the comments which have been submitted by the Air Transport Association of America, and hereby submits the following additional comments.

The proposal to allow tear gas personal protection devices in passengers (sic.) checked baggage is absolutely unacceptable for the following reasons:

1. The IATA Restricted Articles Regulations are presently accepted in many countries as the basic rules concerning the transport of dangerous goods. In the Regulations, tear gas devices are "not acceptable" on passenger aircraft. Even if the U.S. regulations concerning carriage of tear gas devices are relaxed, passengers participating in international travel will encounter difficulties when boarding a flight from the U.S. to a country where such devices are still not allowed.

For example, in the United Kingdom the carriage of any type of tear gas device on passenger aircraft, either as carry-on or checked baggage, is prohibited by law (Ref. Article 41 of UK Air Navigation Order 1980). Also, possession of such devices is illegal in the UK under Section 5 of the 1968 Firearms Act, where they are defined as "munition of war/prohibited weapon". Also, in Canada under Section 88 of the Criminal Code, Prohibited Weapons Order Number 1, tear gas devices are considered to be weapons and persons are therefore prohibited from possessing them. Thus, if U.S. DOT regulations permitted the carriage of tear gas security devices by passengers in checked baggage, it would cause serious problems for passengers with such devices, travelling to the UK and Canada, who would probably not be aware of the laws of those countries.

2. The airlines have no practical means to control observance of the proposed limitations on quantity and required packaging of the devices in passengers' checked baggage. Some personal protection devices have a higher concentration of tear gas substances than others, and it would be difficult for passengers or airline staff to determine the amount, as many of them *only* have a brand name, and not a detailed description of the content. The ICAO Technical Instructions on dangerous goods which will come into effect on 1st January 1983, contain stringent packaging requirements for tear gas devices, to prevent accidental activation, and containment of the gas in case of accidental activation. Yet the proposed rule simply requires that "The device is packaged in a manner which will prevent its accidental activation". Who will determine this, the passenger or the airline? In most cases, the airline will not even know that such a device is in checked baggage. We doubt that any passenger would know what packaging is required to "prevent its accidental activation".

3. If the U.S. DOT were to permit the carriage of tear gas devices, it would be difficult to inform passengers of the limitation on capacity of the container and packaging requirements. There are already so many U.S. Government notices required in passengers' tickets, and at airports, that the majority of passengers do not read them. Even if the DOT were to require a notice regarding the tear gas devices to be posted at airports, at that stage it is too late for the passenger to do anything about it, even if he does have such a device in his baggage. Most passengers will simply keep quiet, suspecting that the airline will confiscate the device because it does not meet requirements.

Most tear gas security devices are carried by passengers in their hand baggage. If they are discovered by security search personnel, it is normally too late for the passenger to get the device into his checked baggage, which has already been checked. It is understood that hundreds of such devices are discovered daily by security search personnel at each large U.S. airport. Therefore, the IATA Members would find it unacceptable if the DOT regulations were permit the devices in checked baggage, as it would be physically impossible to get all of them into the checked baggage of the passengers.

For these reasons, the Members of IATA are opposed to the proposed amendments to the Hazardous Materials Regulations.

In response to the above comments, MTB offers the following. First, checked baggage is not normally accessible to passengers on commercial aircraft. It is normally stowed in inaccessible cargo compartments which have little or no interchange of air with passenger cabins. In the event of release of an

irritating material from a device of such size and packaged in the manner prescribed in the proposed rule, MTB believes that there would be little or no hazard posed to persons, animals or property. However, in the absence of historical shipping data or other evidence, MTB only has conjecture to counter allegations of possibly significant hazards. Second, MTB agrees that the proposed rule could pose operational problems for air carriers, at least for that period of time during which the traveling public becomes familiar with the new provisions. Information is not available to determine either the cost of this operational burden, in terms of delays and deteriorated customer relations, or the relative value of the benefits which would accure to air travelers.

The President's Executive Order on Federal Regulation, E.O. 12291, requires, among other things, that new regulations not be established unless there is "adequate information concerning the need for and consequences of" the regulation, and unless "the potential benefits to society from the regulation outweigh the potential costs to society." MTB does not believe there is adequate information available concerning the consequences of the proposed rule nor can MTB establish that societal benefits arising from the proposed regulation would outweigh societal costs.

Based on the comments received, the conclusions reached and the recommendation of the FAA, the Notice of Proposed Rulemaking, Notice No. 81–5, is withdawn and Docket No. HM–166J is hereby terminated without further action.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A to Part 1 and paragraph (a)(4) of App. A to Part 106)

Issued in Washington, D.C. on July 8, 1982.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 82–19191 Filed 7–14–82; 8:45 am]

BILLING CODE 4910–60–M

Notices

Federal Register
Vol. 47, No. 136
Thursday, July 15, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

CIVIL AERONAUTICS BOARD

Announcement of Approval of Reporting Forms by the Office of Management and Budget Under the Paperwork Reduction Act (44 U.S.C. 35)

On June 16, 1982, the Office of Management and Budget approved the extension of the following reporting forms:

Schedule 291–A—Balance Sheet; Schedule 291–B—Statement of Operations; and Schedule 291–C—Summary of Traffic and Capacity Statistics (all filed pursuant to section 291.42 of the Economic Regulations) extended to June 30, 1983 under OMB No. 3024–0023.

Form 380–B—Statement of Charter Operator and Direct Air Carrier; Form 380–C—Statement of Charter Operator and Surety Company; and Form 380–D—Statement of Charter Operator, Direct Air Carrier and Depository Bank (all filed pursuant to section 380.50 of the Special Regulations) extended to June 30, 1985 under OMB No. 3024–0029.

Robin A. Caldwell,
Chief, Information Management Division, Office of Comptroller.
July 9, 1982.

[FR Doc. 82-19211 Filed 7-14-82; 8:45 am]
BILLING CODE 6320-01-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations; Week Ended July 9, 1982

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings (see 14 CFR 302.1701 et. seq.)

Date filed	Docket No.	Description
July 6, 1982	32089 35755	Compania de Aviacion "Faucett," S.A., c/o John D. Lane, Hedrick and Lane, 1211 Connecticut Ave., N.W., Washington, D.C. 20036. Second Amendment to the Application of Compania de Aviacion "Faucett," S.A. further amends its application for renewal to request authority: "to engage in scheduled foreign air transportation with respect to persons, property and mail between terminal points in Peru (Iquitos, Lima and Talara), the intermediate point Panama City, Panama and the terminal points Miami, Florida and/or New York, New York." Faucett proposes to conduct an average of seven (7) round trip flights weekly between terminal points in Peru and terminal points in the United States. Answers may be filed by August 3, 1982.
July 8, 1982	[illegible]	Trans-Air-Link Corporation, c/o Harry A. Bowen, Esq., Bowen & Atkins, Suite 350, 2020 K Street, N.W., Washington, D.C. 20006. Application of Trans-Air-Link Corporation requests the Board pursuant to Section 401(d)(3) of the Act and Part 201 of the Board's Economic Regulations for a certificate of public convenience and necessity to engage in interstate and overseas charter air transportation of persons, property, and mail as follows: a. Between any point in any State of the United States, or the District of Columbia, or any territory or possession of the United States, and any other point in any State of the United States, or the District of Columbia, or any territory or possession of the United States; b. Authority to engage in all cargo operation between points within the United States and its possessions. Conforming Applications, Motions to modify scope, and Answers may be filed by August 5, 1982.
Do.	40819	Trans-Air-Link Corporation, c/o Harry A. Bowen, Esq., Bowen & Atkin, Suite 350, 2020 K Street, N.W., Washington, D.C. 20006. Application of Trans-Air-Link Corporation requests the Board pursuant to Section 401(d)(3) of the Act and Part 201 of the Board's Economic Regulations for a certificate of public convenience and necessity to engage in charter air transportation of persons, property, and mail as follows: a. Between any point in any State of the United States, or the District of Columbia, or any territory or possession of the United States, and i. Any point in Canada; ii. Any point in Mexico; iii. Any point in Australia, Indonesia, or Asia, as far west as longitude 70 degrees east via a transpacific routing; iv. Any point in Jamaica, the Baheme Islands, Bermuda, Haiti, the Dominican Republic, Puerto Rico, the Virgin Islands, Trinidad, Aruba, the Leeward and Windward Islands, and any other place located in the Gulf of Mexico or the Caribbean Sea; v. Any point in Central or South America.

Date filed	Docket No.	Description
		b. Between any point in any State of the District of Columbia, or any territory or possession of the United States and any other point in Greenland, Iceland, the Azores, Europe, Africa, and Asia as far east as (and including) India.
		Conforming Applications, Motions to modify scope, and Answers may be filed by August 5, 1982.
July 9, 1982	40831	Arrow Airways, Inc., c/o Lawrence D. Wasko, Esq., Seamon, Wasko & Ozment, 1211 Connecticut Avenue, N.W., Suite 300, Washington, D.C. 20036.
		Application of Arrow Airways, Inc. requests the Board pursuant to Section 401 of the Act for the issuance or amendment of a certificate of public convenience and necessity authorizing it to engage in foreign air transportation of persons, property, and mail between Denver, Colorado and London, United Kingdom and points beyond.
		Conforming Applications, Motions to modify scope and Answers may be filed by August 6, 1982.
Do	40832	International Air Associates, Inc., c/o Harry A. Bowen, Esq., Bowen & Atkin, Suite 350, 2020 K Street, N.W., Washington, D.C. 20006.
		Application of International Air Associates, Inc. requests the Board pursuant to Section 401(d)(3) of the Act and Part 201 of the Board's Economic Regulations for a certificate of public convenience and necessity to engage in interstate and overseas charter air transportation of persons, property, and mail as follows:
		a. Between any point in any State of the United States, or the District of Columbia, or any territory or possession of the United States, and any other point in any State of the United States, or the District of Columbia, or any territory or possession of the United States;
		b. Authority to engage in all cargo operations between points within the United States and its possessions.
		Conforming Applications, Motions to modify scope and Answers may be filed by August 6, 1982.
Do	40833	International Air Associates, Inc., c/o Harry A. Bowen, Esq., Bowen & Atkin, Suite 350, 2020 K Street, N.W., Washington, D.C. 20006.
		Application of International Air Associates, Inc. requests the Board pursuant to Section 401(d)(3) of the Act and Part 201 of the Board's Economic Regulations for a certificate of public convenience and necessity authorizing it to engage in foreign charter air transportation of property as follows:
		a. Between any point in any State of the United States, or the District of Columbia, or any territory or possession of the United States, and (1) Any point in Canada; (2) Any point in Mexico; (3) Any point in Jamaica, the Bahamas Islands, Bermuda, Haiti, the Dominican Republic, Trinidad, Aruba, the Leeward and Windward Islands and any other foreign place in the Gulf of Mexico and the Caribbean Sea; and (4) Any point in Central or South America.
		Conforming Applications, Motions to modify scope and Answers may be filed by August 6, 1982.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 82-19212 Filed 7-14-82; 8:45 am]
BILLING CODE 6320-01-M

[Docket 40828]

Central Zone-Caracas/Maracaibo, Venezuela Service Case; Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge John M. Vittone. Future communications should be addressed to him.

Dated at Washington, D.C., July 12, 1982.

Elias C. Rodriguez,
Chief Administrative Law Judge.

[FR Doc. 82-19213 Filed 7-14-82; 8:45 am]
BILLING CODE 6320-01-M

Commuter Fitness Determination

The Board is proposing to find the following carriers fit, willing and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that aircraft used in this service conform to applicable safety standards.

Order	Applicant	Response date
82-7-16	Custom Aviation, Inc	July 27, 1982.
82-7-25	Gull Air, Inc	July 29, 1982.
82-7-26	Colorado Air Freight Express	July 29, 1982.

All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed in Attachment A of the respective orders and file response or additional data for Order 82-7-26 with the Special Authorities Division, Room 915, and for Orders 82-7-16 and 82-7-25 with the Essential Air Services Division, Room 921, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

The complete text of the orders is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request to the above address.

FOR FURTHER INFORMATION CONTACT: For Order 82-7-16: Barbara Pfeiffer, (202) 673-5354; for Order 82-7-25: Mr. John McCamant (202) 673-5350, and for Order 82-7-26: Ms. Anne W. Stockvis, (202) 673-5088, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, Washington, D.C. 20428.

By the Civil Aeronautics Board: June 9, 1982.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 82-19215 Filed 7-14-82; 8:45 am]
BILLING CODE 6320-01-M

[Docket 40827]

Dallas/Ft. Worth-London Case; Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge William A. Kane, Jr. Future communications should be addressed to him.

Dated at Washington, D.C., July 12, 1982.

Elias C. Rodriguez,
Chief Administrative Law Judge.

[FR Doc. 82-19214 Filed 7-14-82; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

South Atlantic Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The South Atlantic Fishery Management Council, established by section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265), will meet to discuss the decision process of the Snapper-Grouper Fishery Management Plan (FMP); review the Billfish FMP; update progress of the Swordfish FMP; discuss the status of other FMP activities and discuss other management and administrative matters as necessary.

DATES: The public meetings will convene on Monday, August 23, 1982, at approximately 1 p.m., and adjourn on Thursday, August 26, 1982, at approximately noon.

ADDRESS: The public meetings will take place at the Council's Headquarters Office, One Southpark Circle, Suite 306, Charleston, South Carolina.

FOR FURTHER INFORMATION CONTACT: South Atlantic Fishery Management Council, One Southpark Circle—Suite 306, Charleston, South Carolina 29407, Telephone: (803) 571–4366.

Dated: July 12, 1982.

Jack L. Falls,

Chief, Administrative Support Staff, National Marine Fisheries Service.

[FR Doc. 82–19210 Filed 7–14–82; 8:45 am]

BILLING CODE 3510–22–M

National Technical Information Service

Grant of Limited Exclusive Patent License

Notice is hereby given that the National Technical Information Service (NTIS), U.S. Department of Commerce, granted to Albany International Corporation an exclusive right in the United States and certain foreign countries for the manufacture, use and sale of the products embodied in U.S. Patent Application Serial Number 252,992 (filed April 10, 1981) "Device for Insect Control," for a term of seven years from date of issuance of a valid claim.

This exclusive license granted by NTIS is a royalty-bearing license for a term not to exceed fourteen (14) years from the effective date of license agreement. The license may be revoked in accordance with 41 CFR 191–4.104.5.

Dated: July 9, 1982.

Douglas J. Campion,

Acting Program Manager.

[FR Doc. 82–19228 Filed 7–14–82; 8:45 am]

BILLING CODE 3510–04–M

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Technical and licensing information on specific inventions may be obtained by writing to: Office of Government Inventions and Patents, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151.

Please cite the number and title of inventions of interest.

Douglas J. Campion,

Office of Government Inventions and Patents, National Technical Information Service, U.S. Department of Commerce.

SN 6–047,172 (Patent 4,329,368)
Process for Preservation of Stored Wood Chips
Department of Agriculture

SN 6–054,926 (Patent 4,328,343)
Cobalt-Catalyzed One-Step Synthesis of Annulated Pyrideines
Department of Health and Human Services

SN 6–160,753 (Patent 4,327,710)
Additives in Resaled Erythrocytes for Disseminating Chemicals via the Circulatory System
Department of Agriculture

SN 6–165,336 (Patent 4,328,309)
Method for Producing Tripdiolide Triptolide and Celastrol
Department of Health and Human Services

SN 6–213,446 (Patent 4,328,901)
Multilayer Pressure Vent for Explosion Proof Enclosures
Department of Interior

SN 6–266,462
Histamine Photoaffinity Analog: Specific Irreversible Antagonism of Histamine Receptors by Photoaffinity Actuated Compounds
Department of Health and Human Services

SN 6–288,260 (Patent 4,329,337)
Turkey Semen Extender
Department of Agriculture

SN 6–346,314
Three-Element Antenna
Department of Commerce

SN 6–348,575
Device for Measurement of the Spectral Width of Nearly Monochromatic Sources of Radiant Energy
Department of Commerce

SN 6–348,576
Stabilization Mechanism for Optical Interferometer
Department of Commerce

SN 6–148,491 (Patent 4,324,661)
Apparatus and Method for Continuous Countercurrent Extaction and Particle Seperation
Department of Health and Human Services

SN 6–247,684 (Patent 4,327,233)
Method for Producting Carbocyclic Compounds from Cyclic Sulfide
Department of Commerce

SN 6–140,380 (Patent 4,330,090)
Method for Wrought and Cast Aluminum Separation
Department of the Interior

SN 6–160,752 (Patent 4,330,443)
Dry Chemical Process for Grafting Acrylic and Methyl Acrylic Ester and Amide Monomers onto Starch-containing Materials
Department of Agriculture

SN 6–266,225 (Patent 4,330,509)
Seperation of Zirconium and Uranium
Department of Interior

SN 6–284,088
Highly Potent 6-Keto-Morphinans Belonging to the 14-Hydroxy-Series and Preparation
Department of Health and Human Services

SN 6–284,089
6-Keto-Morphinan Analgesics
Department of Health and Human Services

SN 6–351,588
Method for the Identification and Purification of Human Lung Tumor-Associated Antigens (HLTAA) and Clinical Detection and Determination of these Antigens
Department of Health and Human Services

SN 6–259,786
Inhibition of Neural Decline with Aging
Department of Health and Human Services

SN 6–329,590
Comentitious Dental Compositions which do not Inhibit Polymerization
Department of Health and Human Services

[FR Doc. 82–19232 Filed 7–14–82; 8:45 am]

BILLING CODE 3510–04–M

DEPARTMENT OF DEFENSE

Department of the Army

Reactivation and Development Plans for Parks Reserve Forces Training Area; Filing of Environmental Impact Statement

The Army, on 7 July 1982, provided the Environmental Protection Agency a Draft Environmental Impact Statement (DEIS) concerning the reactivation and development of the Parks Reserve Forces Training Area, California. The DEIS evaluates the environmental impacts associated with (1) the reactivation of Parks Reserve Forces Training Area, and (2) the development of operations associated with the training area. Copies of the statement are being forwarded to concerned Federal, State, and local agencies. Interested organizations or individuals may obtain copies for the cost of publication from the Commander, Presidio of San Francisco, ATTN: AFZM–FE–EQ (Mr. Maciejewicz), San Francisco, California 94129.

In the Washington area, copies may be seen during normal duty hours in the Construction Management Office, Office of the Chief of Army Reserve, Room 3D369, Pentagon, Washington, D.C. 20310; telephone (202) 697–2753

Lewis D. Walker,

Deputy for Environment, Safety and Occupational Health OASA (IL&FM).

July 7, 1982.

[FR Doc. 82–19231 Filed 7–14–82; 8:45 am]

BILLING CODE 3710–08–M

Defense Criminal Investigative Service

Privacy Act of 1974; Establishment of Systems of Records

AGENCY: Defense Criminal Investigative Service, DOD.

ACTION: Establishment of systems of records.

SUMMARY: The newly chartered Defense Criminal Investigative Service (DCIS) purposes to establish six system of records that will be subject to the Privacy Act of 1974. As the DCIS is a criminal investigative agency two of its systems of records will be exempt from certain provisions of the Privacy Act. The notices for the six systems are set forth below.

DATES: These systems will become effective on August 16, 1982.

ADDRESSES: Address any comments to the System Manager identified for the particular system in the notice for that system.

FOR FURTHER INFORMATION CONTACT: Mr. William G. Dupree, Deputy Director for Operations Defense Criminal Investigative Services, Building B, Room D490, Cameron Station Alexandria, VA 22314. Telephone: 202/274–5360.

SUPPLEMENTARY INFORMATION: In the **Federal Register** for May 25, 1982 (47 FR 22530) the Department of Defense published as a final rule the charter for the Defense Criminal Investigative Service, a new criminal investigative element of the Department. Subsequently on June 22, 1982 at 47 FR 26857, the Defense Criminal Investigative Service published its proposed rules implementing the Privacy Act of 1974, Title 5 United States Code section 552a (Pub. L. 93–579; 44 stat. 1896, *et seq.*). Included in these rules is a proposal to exempt two of the agency's systems of records from certain provisions of the Privacy Act under the provisions of 5 U.S.C. 552a(j)(2). These systems are identified as CIS–04, entitled: "Case Control System" and CIS–06, entitled: "Investigative Files." The notices for these two are set forth below. In addition the Defense Criminal Investigative Service proposed to establish four non-exempt systems as well.

New systems reports as required by 5 U.S.C. 552a(o) were submitted for these six systems as indicated.

System ID and date of report

CIS–01, June 2, 1982
CIS–02, June 2, 1982
CIS–03, June 2, 1982
CIS–04, June 3, 1982
CIS–05, June 2, 1982
CIS–06, June 8, 1982

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

CIS–01

SYSTEM NAME:

Privacy and Freedom of Information Act Requests

SYSTEM LOCATION:

Defense Criminal Investigative Service (DCIS), Building 8, Room D490, Cameron Station, Alexandria, VA 22314.

CATEGORIES OF INDIVIDUAL COVERED BY THE SYSTEM:

Individuals who have submitted requests under 5 USC or 5 USC 552a.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of all correspondence with requesters or pertaining to requests for information released or withheld; summaries, and logs of actions taken regarding requests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pursuant to the authority contained in the National Security Act of 1947, 10 U.S.C. 133d, the Secretary of Defense has issued DoD Directive 5105.50, April 28, 1982, creating the Defense Criminal Investigative Service as a separate agency of the Department of Defense under his direction. This directive charges the Director, DCIS, with the responsibility of maintaining all necessary and appropriate records. See also 5 U.S.C. 552, the Freedom of Information Act and 5 U.S.C. 552a the Privacy Act of 1974.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES FOR SUCH USES:

These records are maintained to permit responses to individual requests; to document actions taken for agency use in processing subsequent requests, appeals, or litigation; to provide a basis for reports required by the statutes and their implementing directives; and to correct and amend investigative or other records.

Records are used by DCIS personnel and action officers of other agencies when coordination or referral is necessary for the purposes listed above. DCIS case controllers may have access when release of information may have an impact on investigative activities, or where investigative activities is necessary to verify assertions of the requestor or to obtain permission for release of identified sources.

POLICIES AND PRACTICES FOR STORING, RETRIEVING ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

Records are stored in file folders, retrieved by the name of the subject of the request, and are maintained in security containers accessible only to personnel who have a need to know in the course of their official duties. A log entry is made and a file folder established upon receipt of each request. Copies of key documents or summaries are retained for as long as released material is retained. Records are destroyed as classified waste.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director of Management System, DCIS, P.O. Box 9290, Alexandria, VA 22304.

NOTIFICATION PROCEDURES:

Requests should be addressed to the System Manager. The full data involving any earlier request should be included. DCIS may be visited at Cameron Station between 9 am and 3 pm, Monday through Friday. A check of personal identification will be required of all visitors making inquiry for personal records.

RECORD ACCESS PROCEDURES:

Access may be obtained from the System Manager.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information in this system is obtained from requestors, from other federal agencies with collateral interest in the request, and from records which were the subject of requests.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

CIS–02

SYSTEM NAME:

Applicant Records.

SYSTEM LOCATION:

Defense Criminal Investigative Service (DCIS), Building 8, Room D490, Cameron Station, Alexandria, VA 22314.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for positions with the DCIS who have submitted paperwork directly to DCIS.

CATEGORIES OF RECORDS IN THE SYSTEM:

Temporary record of applicants' stated interest in and qualifications for employment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pursuant to the authority contained in the National Security Act of 1947, 10 U.S.C. 133d, the Secretary of Defense has issued DoD Directive 5105.50, April 28, 1982, creating the Defense Criminal Investigative Service as a separate agency of the Department of Defense under his direction. This directive charges the Director, DCIS, with the responsibility of maintaining all necessary and appropriate records. See also the Federal Personnel Manual, Chapters 332 and 333.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES.

Records are used to identify applicants and determine their eligibility for positions with DCIS. Information and records may be disclosed to other agencies for verification. DCIS supervisors with an established need for information an accredited investigators use in the information in the applicant process.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

Records are stored in files or looseleaf binders and are filed alphabetically by last name of the applicant. Records are maintained in files accessible only to authorized personnel with clear need to know in the course of their official duties. The binding is locked after duty hours and has security guards. Records are temporary and are destroyed when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director of Manager Systems, DCIS, P.O. Box 9290, Alexandria, VA 22304.

NOTIFICATION PROCEDURES:

Information may be obtained from the System Manager.

RECORD ACCESS PROCEDURES:

Requests should be addressed to the System Manager. Written requests should contain the full name of the individual, the current address and telephone number. Visits are limited to the hours of 9 am and 3 pm during business days. Personal visits to Cameron Station office will require identification by some form of photographic identification.

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Subject individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

CIS-03

SYSTEM NAME:

Personnel Locator Cards.

SYSTEM LOCATION:

Defense Criminal Investigation Service (DCIS), Building 8, Room D490, Cameron Station, Alexandria, VA 22314.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Personnel assigned or attached to DCIS.

CATEGORIES OF RECORDS IN THE SYSTEM:

Locator cards reflecting names and locations of DCIS employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pursuant to the authority contained in the National Security Act of 1974, 10 U.S.C. 133d, the Secretary of Defense has issued DoD Directive 5105.50, April 28, 1982, creating the Defense Criminal Investigative Service as a separate agency of the Department of Defense under his direction. This directive charges the Director, DCIS, with the responsibility of maintaining all necessary and appropriate records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records are used to maintain a locator system of all personnel assigned to DCIS. Used by administrative personnel and supervisors in the HQ DCIS and field units to determine current assignment of DCIS personnel, to aid in distributing communications addressed to individuals; and to make and verify entries in required personnel rosters, directories, and listings subject to certain restrictions placed on the information by the individuals concerned.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

Stored in paper form. Filed alphabetically by last name. Records are stored in security containers or locked file cabinets, accessible only to authorized personnel with a need to know the information in the course of their official duties. Retained in the active file until departure of the individual, when they are placed in the inactive file and destroyed after one year.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director of Management System, DCIS, P.O. Box 9290, Alexandria, VA 22304.

NOTIFICATION PROCEDURES:

Information may be obtained from the System Manager.

RECORD ACCESS PROCEDURES:

Access to this system may be obtained from the System Manager.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting and appealing determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

The individual on whom the records pertain.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

CIS-04

SYSTEM NAME:

Case Control System.

SYSTEM LOCATION:

Defense Criminal Investigative Service (DCIS), Building 8, Room D490, Cameron Station, Alexandria, VA 22314.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any person or activity the subject of an ongoing or recently completed DCIS investigation.

CATEGORIES OF RECORDS IN THE SYSTEM:

The file is composed of records of investigations which are being or have been conducted by DCIS. Records contain the name or other personal identifying information on the investigated individuals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pursuant to the authority contained in the National Security Act of 1947, 10 U.S.C. 133d, the Secretary of Defense has issued DoD Directive 5105.50, April 28, 1982, creating the Defense Criminal Investigative Service as a separate agency of the Department of Defense under his direction. This directive charges the Director, DCIS, with the responsibility of maintaining all necessary and appropriate records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The file contains open and closed case listings used in case management, to produce statistical reports, and to control local aspects of the investigation.

Users are the DCIS case control officers, the Director, DCIS, and the DCIS Associate Director of Management Systems.

Used to determine the existence, location, and status of cases, to control workload and prepare statistical reports, and to inform federal agencies or requesters of investigations regarding the status of on-going investigations.

This system maintained by DCIS is part of the Defense Investigative Service system, identified as V5–04, "Defense Case Control System (DCCS)."

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

Files are retained in paper form and are accessed through the case control number, military service number, Social Security Number, or by the name of the individual concerned.

Files maintained in locked cabinets accessible only to those with a need to know in the course of official duties. Records are retained for one year after case is closed and are disposed as classified waste.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director of Management System, DCIS, P.O. Box 9290, Alexandria, VA 22304.

NOTIFICATION PROCEDURES:

Information may be obtained from the System Manager. Requester should provide the full name of the subject company or individual, and all maiden or alias names under which the file may be maintained. Personal identifiers which should be included are date and place of birth, Social Security Number, and the last four digits any former military service numbers.

The office at Cameron Station may be visited from 9 am to 3 pm, during normal workdays. Requesters should bring documentary proof of identity which contain photographs.

RECORD ACCESS PROCEDURES:

Contact the System Manager.

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are available from the System Manager.

RECORD SOURCE CATEGORIES:

DCIS Case Control Centers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

In accordance with subsection (j)(2) of the Act, certain information contained in this system of case control records may be exempted from the provisions of subsections (c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G–H–1), (e)(5), (e)(8), (f), and (g). This exemption will allow DCIS to conduct effective investigations into alleged unlawful activity or crime conducive situations. (See DCIS Regulation 5400.11).

CIS–05

SYSTEM NAME:

Security Records.

SYSTEM LOCATION:

Defense Criminal Investigative Service (DCIS), Building 6, Room D490, Cameron Station, Alexandria, VA 22314.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current DCIS employees and former employees who have terminated in the past 12 months.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's certificate of security clearance, security briefing statement, SCI access records, certificates of clearance from other agencies, Defense Central Index of Investigations check results, summaries of advance information, debriefing statements, and similar related documents varying in certain cases. Sufficient individual identifying data to confirm identities is also contained in this system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pursuant to the authority contained in the National Security Act of 1947, 10 U.S.C. 133d, the Secretary of Defense has issued DoD Directive 5105.50, April 28, 1962, creating the Defense Criminal Investigative Service as a separate agency of the Department of Defense under his direction. This directive charges the Director, DCIS, with the responsibility of maintaining all necessary and appropriate records. See also "DoD Directive 5200.1, "Department of Defense Information Security Program."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Files are used to provide a basis for granting security clearance and access to provide information as to degree of security clearances for individuals attending official activities of other offices concerning classified matters, and to provide security clearance information to other governmental offices where change of employment is being considered.

In the event that records maintained in this system indicate a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant Records in the system may be referred as a routine use to the appropriate agency charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

A record from this system may be disclosed as a routine use to a federal, state, or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, or other benefit.

Users include the Director, DCIS; the DCIS Security Officer, all supervisors but only for confirming clearance information; and security officials of other DoD elements or governmental agencies when required for clearance verification or preemployment consideration.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

Individual files are established when first assigned to the DCIS. Clearance certificates are filed when received. Storage is by paper in file folders, which are filed alphabetically by last name. Records are maintained in locked containers in areas accessible only to authorized personnel who have a need to know in the connection with their official duties. Records are maintained for the period of time an individual is assigned to DCIS and for one year afterwards. Disposal is as classified waste.

SYSTEMS MANAGER(S) AND ADDRESS:

Security Officer, DCIS, P.O. Box 9290, Alexandria, VA 22304.

NOTIFICATION PROCEDURES:

Information may be obtained from the System Manager.

RECORD ACCESS PROCEDURES:

Access to records may be obtained at any time. Requests should be addressed to Defense Criminal Investigative

Service, P.O. Box 9290, Alexandria, VA 22304. Written requests for information should contain the full name of the individual, current address and telephone number. Visits to the Cameron Station office are limited to the hours of 9 am to 3 pm, on duty days. For personal visits, a check of personal identification documents will be conducted.

CONTESTING RECORD PROCEDURES:

The DCIS rules for contesting record contents and appealing initial determinations may be obtained from System Manager.

RECORD SOURCE CATEGORIES:

Application and related forms are from the individual concerned. Summaries of information come from the background investigations of the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

CIS-06

SYSTEM NAME:

Investigative Files.

SYSTEM LOCATION:

Defense Criminal Investigative Service (DCIS), a component of the Assistant to the Secretary of Defense (Review and Oversight) (ATSD(R&O)), Cameron Station, Alexandria, VA 22314, has primary control over the system.

Regional field offices, resident agencies, and various DCIS headquarters staff elements originate and have temporary control over portions of the records.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DoD civilian personnel; members of the Armed Forces of the United States, reserve components, and National Guard units; DoD contractors; individuals residing on, having authorized official access to, or contracting or operating any business or other functions at any DoD installation or facility; and individuals not affiliated with the Department of Defense when their activities have directly threatened the functions, property or personnel of the Department of Defense, or they have threatened any other high ranking government personnel who are provided protective service mandated by the Secretary of Defense, or they have engaged in, or are alleged to engage in criminal acts on DoD installations or directed at the DoD, its personnel or property.

CATEGORIES OF RECORDS IN THE SYSTEM:

Official Reports of Investigation (ROIs) including any attachments, prepared by DCIS or other DoD federal, state, or local official investigative activities;

DCIS Information Summary Reports (ISRs) which record unsolicited information of criminal nature received by DCIS concerning a person or incident which is of direct interest to other DoD Components or federal agencies;

Case control documents which are not included in the ROIs but which serve as the basis of investigation or which guide and facilitate investigative activities, including documents providing the data to open, direct, conduct, transfer and close cases;

DCIS file administration and management documents accounting for disclosure, control, and access to a file; and

Grand Jury information not contained in case files, agent notes, fingerprint cards, duplicate files at the local level and other miscellaneous documents supporting the criminal investigation file to include court documents and on occasion reports of administrative proceedings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pursuant to the authority contained in the National Security Act of 1947, 10 U.S.C. 133d, the Secretary of Defense has issued DoD Directive 5105.50, April 28, 1982, creating the Defense Criminal Investigative Service (DCIS) as a separate agency of the Department of Defense under his direction. This directive charges the Director, DCIS, with the responsibility of maintaining all necessary and appropriate records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Criminal investigative information is collected at the request of appropriate DoD officials or agencies to identify offenders, to provide facts and evidence upon which to base prosecution, to effect corrective administrative action and to recover money and property which has been wrongfully appropriated. Information contained in ISRs is disseminated to interested DoD Components and other federal agencies. Criminal information is collected during reciprocal investigations conducted for other DoD and federal investigative elements (or in limited instances, for local or state law enforcement agencies) for maintenance and use by the requesting activity.

Users of DCIS criminal investigative information include: DCIS personnel in the course of their official duties; other accredited DoD investigative components, DoD agencies, elements of the military departments designated by the departments and representatives of the Secretary of Defense and the Joint Chiefs of Staff; accredited federal criminal and civil law enforcement agencies; other accredited federal agencies conducting investigations to evaluate suitability for employment or access to classified information; congressional committees; and the Government Accounting Office.

DCIS investigative records are used: in criminal law enforcement investigations including statutory violations; counterintelligence, as well as counterespionage and counterterrorist activities and other security matters; to assist the appropriate agency charged with the responsibility for investigating or prosecuting violations of laws, rules, regulations or orders; to provide information in judicial or adjudicative proceedings including litigation or in accordance with a court order; to make statistical evaluations of DCIS investigative activities; to respond to Freedom of Information Act access requests; to determine loyalty, suitability, eligibility, and general trustworthiness of individuals for access to classified information and government facilities, for entry into, retention in and for personnel actions in the Armed Forces, and for federal agencies in connection with hiring, retention, issuance of security clearance, or of other benefit by the requesting agency; to provide information pertinent to the protection of persons under the provisions of 18 U.S.C. 3056; to provide information in response to Inspector General, Equal Employment, or other complaint investigations and congressional inquiries; to obtain relevant information from federal, state, local or foreign agencies to obtain employment records, if necessary, from business enterprises; and to obtain information relevant to the on-going investigations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

Records are stored in file folders, on microfilm, and supplementary index cards. Investigations are centrally retrievable through the Defense Investigative Service (DIS) Case Control System (DCCS), V5–04, or the Defense Central Index of Investigations (DCII), V5–02, record systems managed by DIS. All DCIS records are maintained and stored at Cameron Station, Alexandria,

VA. They are maintained and stored in locked safes and are accessible only to authorized personnel who have a need to know in conjunction with their official duties. Recipients of investigative information are responsible for safeguarding the information while temporarily in their custody in accordance with guidelines provided by DCIS.

RETENTION AND DISPOSAL:

Retention of closed DCIS criminal investigative files is authorized for 25 years, except they may be offered to the National Archives after 15 years. Fraud Prevention surveys are maintained for 10 years. Generally, ISRs are retained only 60 days. Partial duplicate records are retained for one year. All files are destroyed as if they contain classified information.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director of Investigative Operations, DCIS, P.O. Box 9290, Alexandria, VA 22304.

NOTIFICATION PROCEDURES:

Requests should be addressed to the system manager. The full name, date, and place of birth and social security number of the subject individual, and any pertinent data concerning the topic of the criminal investigation are necessary for retrieval of information. The requester's signature should be notarized. More information may be required.

RECORDS ACCESS PROCEDURES:

Access by mail may be obtained through the System Manager. Visitors may obtain access during the hours from 9 am to 3 pm at Building 8, Room D490, Cameron Station, Alexandria, VA. Visitors should be prepared to identify themselves with some identification media containing a recent photograph.

CONTESTING ACCESS PROCEDURES:

DCIS rules for contesting and appealing initial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Subjects and suspects of DCIS investigations.

Interview of witnesses, victims, and confidential sources.

All types of records and information maintained by all levels of government, private industry, and non-profit organizations.

Any other type of record deemed necessary to complete the DCIS criminal investigation.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The parts of system of records which falls within the scope of 5 U.S.C. 552a(j)(2), are exempt from certain provisions of sections (c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f) and (g) of Title 5 of the United States Cde. (See DCIS Regulation 5400.11).

[FR Doc. 82-19152 Filed 7-14-82; 8:45 am]

BILLING CODE 3810-01-M

Department of the Navy

Notice of Performance Review Board Membership

Pursuant to 5 U.S.C. 4314(c)(4), the Department of the Navy (DoN) announces the appointment of members to the DoN's numerous Senior Executive Service (SES) Performance Review Boards. The purpose of the Boards is to provide fair and impartial review of the Senior Executive Service performance appraisals prepared by the senior executive's immediate and second level supervisors; to make recommendations to the Secretary of the Navy regarding acceptance or modification of the performance rating, transfer, reassignment, or removal from the SES of any senior executive whose performance is considered to be unsatisfactory; and to make nominations for financial performance awards. Composition of particular Boards will be determined on an ad hoc basis from among those individuals listed below.

Department of the Navy—Performance Review Board Membership

Mr. H. Andrews
Dr. J. E. Andrews
Mr. E. P. Angrist
Mr. O. R. Ashe
Mr. J. M. Bachkosky
Mr. D. C. Bailey
RADM J. A. Baldwin, Jr., USN
Dr. D. F. Barbe
RADM E. Barrineau, USN
Mr. A. V. Bernard
Dr. A. E. Beutel
RADM R. G. Bird, USN
Mr. J. A. Bizup
Dr. H. L. Blood
Mr. M. T. Brodsky
Mr. R. S. Buffum
Mr. F. J. Burchfield
RADM J. B. Busey, USN
Mr. G. A. Cann
RADM L. C. Chambers, USN
Mr. C. H. Clark
Mr. E. T. Comstock
Mr. W. H. Cone
Mr. R. H. Conn
RADM D. L. Cooper, USN
Dr. E. D. Cooper
Mr. C. B. Cox
Mr. J. L. Crone
Dr. T. F. Curry
RADM L. C. Curtis, USN
Dr. T. Coffey
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Mr. J. R. Denney
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Dr. A. J. DiMascio
Mr. A. R. DiTrapani
Mr. H. L. Dixson
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Mr. E. C. Grayson, Jr.
RADM W. A. Gureck, USN
Mr. R. L. Haas
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Mr. K. B. Hancock
Mr. B. W. Hays
Mr. J. S. Herrington
Mr. J. Heyl
Mr. R. M. Hillyer
Mr. A. W. Himes
RADM T. J. Hughes, USN
Dr. T. A. Jacobs
RADM R. D. Johnson, USN
Mr. R. V. Johnson
Dr. G. B. Joiner
RADM J. P. Jones, Jr., USN
Mr. G. E. Keightley
Mr. W. W. Kinkead
RADM L. S. Kollmorgen, USN
Mr. V. S. Kupelian
Dr. A. F. Kwitnieski
Mr. J. H. Lannen
Mr. K. I. Lichti
BGEN A. Lukeman, USMC
Mr. J. F. Lynch
Mr. J. A. MacMillan
Mr. W. E. Marshall
Mr. C. C. McClelland
CAPT J. A. McMorris, II, USN
Ms. D. M. Meletzke
Mr. E. L. Messere
Mr. R. E. Metrey
RADM R. A. Miller, USN
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Mr. G. D. Minter
RADM J. B. Mooney, Jr., USN
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CAPT J. B. Morris, USN
Mr. H. J. Nathan
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Mr. H. M. Nordenberg
Mr. H. O'Neill
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Mr. P. M. Palermo
Mr. F. A. Phelps
CAPT G. T. Phelps, USN
Mr. A. S. Prince
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Mr. E. A. Pyatt
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Mr. W. G. Rae
Mr. R. D. Ramirez
Ms. L. G. Ratto
Mr. J. L. Reed
Mr. D. W. Rehorst
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COMO M. V. Ricketts, USN
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Mr. R. R. Rojas
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RADM J. S. Sansone, USN
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Mr. O. L. Talbot
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Dr. B. Wald
Mr. V. J. Walls
COMO J. C. Weaver, USN
RADM J. H. Webber, USN
Mr. A. R. Weiss
RADM H. N. Wellman, USN
Mr. D. J. Wilcox
Mr. H. J. Wilcox
Mr. W. J. Wilken
RADM J. B. Wilkinson, USN
RADM A. D. Williams, USN
Mr. R. S. Winokur
Mr. J. B. Zimmerman
Dr. T. G. Berlincourt
Dr. J. O. Dimmock
Dr. A. M. Diness
RADM D. M. Jackson, USN
RADM J. D. Beecher, USN
RADM J. C. McArthur, USN
Mr. J. W. Hardman
Mr. J. P. Banko
Mr. H. L. Fleck
Mr. N. Kobitz
Mr. W. M. Hewitt
Mr. R. J. Cauley
Mr. E. T. Kinney
Mr. W. T. Sansone

FOR ADDITIONAL INFORMATION CONTACT:
Mr. Vincent J. Prantl, Executive Personnel Section (OP–142D), Office of the Chief of Naval Operations, Department of the Navy, Washington, D.C. 20350, Telephone No. (202) 694–5760.

F. N. Ottie,
Lieutenant Commander, JAGC, U.S. Navy
Alternate Federal Register Liaison Officer.

[FR Doc. 82–19051 Filed 7–14–82; 8:45 am]
BILLING CODE 3810–AE–M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Proposed Near-Term Resource Policy; Request for Public Comments

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of Proposed Near-Term Resource Policy; Request for Public Comments.

SUMMARY: BPA is developing a policy which will serve as a guide for resource decisions to be made in the immediate future. These decisions will include conservation programs, the development of the small renewable resource acquisition program, development of financial assistance programs, and other resource development and acquisition decisions. The proposed policy was formulated following extensive analyses of the current and projected power loads and the resources available to meet them. The context for considering this policy includes the forecasted near-term (through the late 1980's) surpluses of firm power, deficits in later years, and uncertainty regarding future loads and resources. The detailed supporting analyses are available from the Public Involvement Coordinator.

DATES: Written comments on the proposed policy must be submitted to the Public Involvement Coordinator, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212, on or before August 16, 1982. Additionally, interested persons are invited to provide oral comments at a public comment forum on July 28, 1982, at 7:30 p.m., in the BPA Auditorium, 1002 NE. Holladay, Portland, Oregon. Registration begins at 7 p.m.

FOR FURTHER INFORMATION CONTACT:
Ms. Donna L. Geiger, Public Involvement Coordinator, P.O. Box 12999, Portland, Oregon 97212, 503–230–3478. Oregon callers may use the toll-free number 800–452–8429; callers in California, Idaho, Montana, Nevada, Utah, Wyoming, and Washington may use 800–547–6048.
Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97208, 503–230–4551.
Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Street, Eugene, Oregon 97401, 503–345–0311.
Mr. Ronald H. Wilkerson, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509–456–2518.
Mr. Gordon H. Brandenburger, Kalispell District Manager, P.O. Box 758, Kalispell, Montana 59901, 406–755–6202.
Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509–662–4377, extension 379.
Mr. Richard D. Casad, Puget Sound Area Manager, 415 First Avenue North, Room 250, Seattle, Washington 98109, 206–442–4130.
Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509–525–5500, extension 701.
Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208–523–2706.

SUPPLEMENTARY INFORMATION:

I. Introduction

This presents the near-term resource policy which will guide the Bonneville Power Administration (BPA) for the immediate future regarding conservation programs, the development of the small renewable resource acquisition program, development of financial assistance programs, and other resource development and acquisition decisions. A number of decisions have already been made based on analyses similar to those used in developing this proposed policy. These decisions have included consideration of the level of conservation activity to be undertaken in FY 1983 and FY 1984, amounts to be budgeted for conservation in FY 1984, and amounts to be included for research, development, and demonstration and preconstruction assistance funding in BPA's 1982 rate case.

Future resource decisions will include consideration of the policy and objectives outlined in this document. Ultimately, decisions will be made weighing these and other factors and reflecting BPA's judgment consistent with its responsibility to provide electric power to the region on a prudent and businesslike basis.

The near-term resource policy is dynamic and will be modified as better information becomes available. BPA wants interested parties to help refine the policy which BPA will use in planning near-term resource activities, and is consulting with regional officials, leaders in the field of electric power generation and management.

conservation and renewable energy experts, and concerned individuals. The Northwest Regional Power Planning Council's (Regional Council's) regional plan, due to be completed in April 1983, should contain substantial additional information and will provide guidance in developing comprehensive long-term policies.

The policy was formulated following analyses of the current and projected power loads and the resources available to meet them. The context for this policy includes the forecasted near-term (through the late 1980's) surpluses of firm power, deficits in later years, and uncertainty regarding future loads and resources. The analyses were performed in real terms, i.e., the effects of general price inflation have been removed. Thus, actual (nominal) costs may exceed the levelized constant dollar figures in the early years.

Following is a statement of BPA's near-term resource policy, including specific principles related to conservation and other resources. A discussion of the information and analyses upon which the policy is based follows in section IV.

II. Near-Term Resource Policy

This section presents the general policy which will guide BPA's resource acquisition activities in the near-term, including provisions specific to conservation and generating resources. In addition to the general policy is a discussion of BPA's intent in certain program areas.

A. General Resource Policy

In general, BPA will focus its resource acquisition efforts at this time on cost-effective resources that will minimize the BPA cash flow requirements in excess of the incremental revenue which BPA receives from surplus power sales and that will minimize adverse environmental impacts. To be considered for acquisition, a resource which begins to produce power or savings before 1985 must have the following characteristics:

1. (a) A levelized monetary cost of approximately 35 mills/kWh in constant 1982 dollars, including transmission, waste disposal, and end-of-cycle costs (conservation will be given a 10 percent cost advantage); and

(b) The bulk of its power or savings produced in the forecasted deficit periods; and

(c) Several years required to realize full resource potential; or

2. A delay or loss to the region on a long-term basis would result in an increased total system cost associated with the resources used to meet forecasted loads.

The above conditions apply to all acquisition activity. The analysis suggests additional policy elements for the following specific areas.

3. *Conservation.* (a) Existing conservation programs will continue at current levels with new programs initiated consistent with the General Resource Policy.

(b) Programs and projects will be developed to test delivery and financing options so as to have mechanisms in place for delivering targeted conservation by the late 1980's.

4. *Generating Resources.* BPA may acquire resources in the near-term under one of the following arrangements:

(a) An acquisition under which BPA takes delivery of power beginning in the late 1980's or later.

(b) A long-term acquisition under which delivery of power would begin in the early to mid-1980's where nominal cost, during the surplus period, is not substantially in excess of incremental revenues which could be recovered from surplus power sales.

(c) Purchase of an option to acquire a resource, to be exercised when needed to serve BPA loads, at a contractually established price.

B. Program Areas

1. *Small Renewable Resources Program.* The potential power supply represented by small renewable resources will be realized through the actions of many individual project sponsors. To evaluate all of the potential projects efficiently, BPA will formulate a single program to facilitate acquisition of these resources. It is likely that a period of several years will be required to realize targeted levels of output. Therefore, BPA will:

(a) Formulate program specifics during fiscal year 1983; and

(b) Prior to a full-scale program, seek a limited number of acquisitions, consistent with the General Resource Policy, to test program procedures for compliance with the Pacific Northwest Electric Power Planning and Conservation Act (Regional Act) and the National Environmental Policy Act, and to develop the contractual procedures necessary for later general application.

2. *Preconstruction Funding Guarantee Program.* The preconstruction assistance program will be formulated in FY 1983 and FY 1984 with initial levels of activity sufficient to test program procedures consistent with the requirements of the Regional Act. Such a program would enable eligible sponsors to perform preconstruction studies for resources which would not otherwise have had the opportunity to be developed. This is consistent with the Regional Council's desire to develop options for future resource acquisitions.

3. *Investigation and Assessment of Resources.* Experimental, developmental, demonstration, or pilot projects of a type which have potential for providing cost-effective service to the region will be targeted for funding. Resource assessment activities will continue to develop and update information on costs, availability, reliability, and environmental effects of various resource types. This would include both conventional generating and conservation resources and resource types not commercially available or which have not penetrated the commercial market. BPA will conduct demonstration projects to determine the cost-effectiveness of conservation measures and direct-application renewable energy resources.

4. *Billing Credits.* Emphasis will be placed on developing this program to support activities that are consistent with the General Resource Policy. However, BPA's billing credits policy is being developed in a separate process that will guide the granting of individual billing credits.

III. Policy Objectives Statement

The near-term resource policy objectives are:

1. To acquire sufficient cost-effective resources to meet the Administrator's obligations;

2. To acquire resources in accordance with the priority scheme as established in the Regional Act;

3. To promote a climate which will encourage the availability of high priority resources;

4. To emphasize resources which are compatible with the regional electric power system;

5. To emphasize resources which have acceptable environmental impacts, and which are consistent with BPA's obligation to consider the protection, mitigation, and enhancement of fish and wildlife;

6. To take actions which preserve the Regional Council's options when developing the regional plan;

7. To increase the flexibility and diversity of the region's electric power system in order to accommodate changing load and resource conditions;

8. To provide the opportunity for an orderly development of policy, program, and staff to prepare BPA and the region for future resource decisions;

9. To maintain the fiscal integrity of BPA and the region as a whole; and

10. To bring greater stability and predictability to BPA's rate structure and resource decisions.

IV. Basis for Near-Term Resource Policy

To develop a near-term resource policy, BPA considered factors which affect the potential cost-effectiveness of resources. Since no single analytical tool or measure of cost currently available can capture the full range of considerations necessary to make an informed decision regarding the cost-effectiveness of a resource, BPA used a levelized energy cost calculation and a least-cost resource mix analysis. This analysis is a quantitative estimation of new resources that can meet the region's needs at the least total system cost over the planning period.

Other more qualitative factors considered include the priority scheme in Section 4(e)(1) of the Regional Act, nonpriceable environmental costs and benefits, and the objective of providing flexibility in the development of new resources as one means of dealing with uncertainty.

A. Analysis of Least-Cost Resource Mix

1. *Future Demand for Power.* The appropriateness of any near-term resource decision depends, in large part, on the rate at which the demand for power grows in the future. In recognition of the uncertainty surrounding load forecasting, BPA considered a range of future growth rates in developing this resource policy. The three forecasts considered were BPA's low, base, and high forecasts with growth rates of 0.8 percent, 1.7 percent, and 2.5 percent respectively for the period 1982 to 2000.

2. *Surpluses and Deficits Without New Resources.* Potential future surpluses and deficits of firm power were predicted by subtracting the output of resources which are existing, under construction, or otherwise committed in the region, from the forecasted demand for power. Existing and committed resources include the hydroelectric power system; existing thermal power plants; ongoing conservation programs to which BPA is committed; and existing contracts with utilities outside of this region. Resources which are not already under construction or committed to were not included in estimates of potential surpluses and deficits.

Potential surpluses and deficits are a measure of the timing and magnitude of the need for new resources. Figure 1 shows the projected surpluses and deficits using the scenarios of BPA's low, base and high load forecasts. A worst-case scenario was also considered, using the high load forecast and assuming that the Washington Public Power Supply System nuclear plants No. 1 and No. 3 are not completed. As Figure 1 shows, these load/resource scenarios give a wide range of potential surpluses and deficits. If the BPA base forecast is realized and no new resources are added, firm energy deficits would begin in 1989–90, and would increase to nearly 4000 average megawatts by the year 2000. Under the worst-case scenario, significant deficits would begin in 1986–87, and increase to over 9000 average megawatts by the year 2000. Under the low growth forecast, no firm deficits would be expected through the year 2000. These potential power surpluses and deficits form the basic context for BPA's near-term resource decisions.

Figure 1

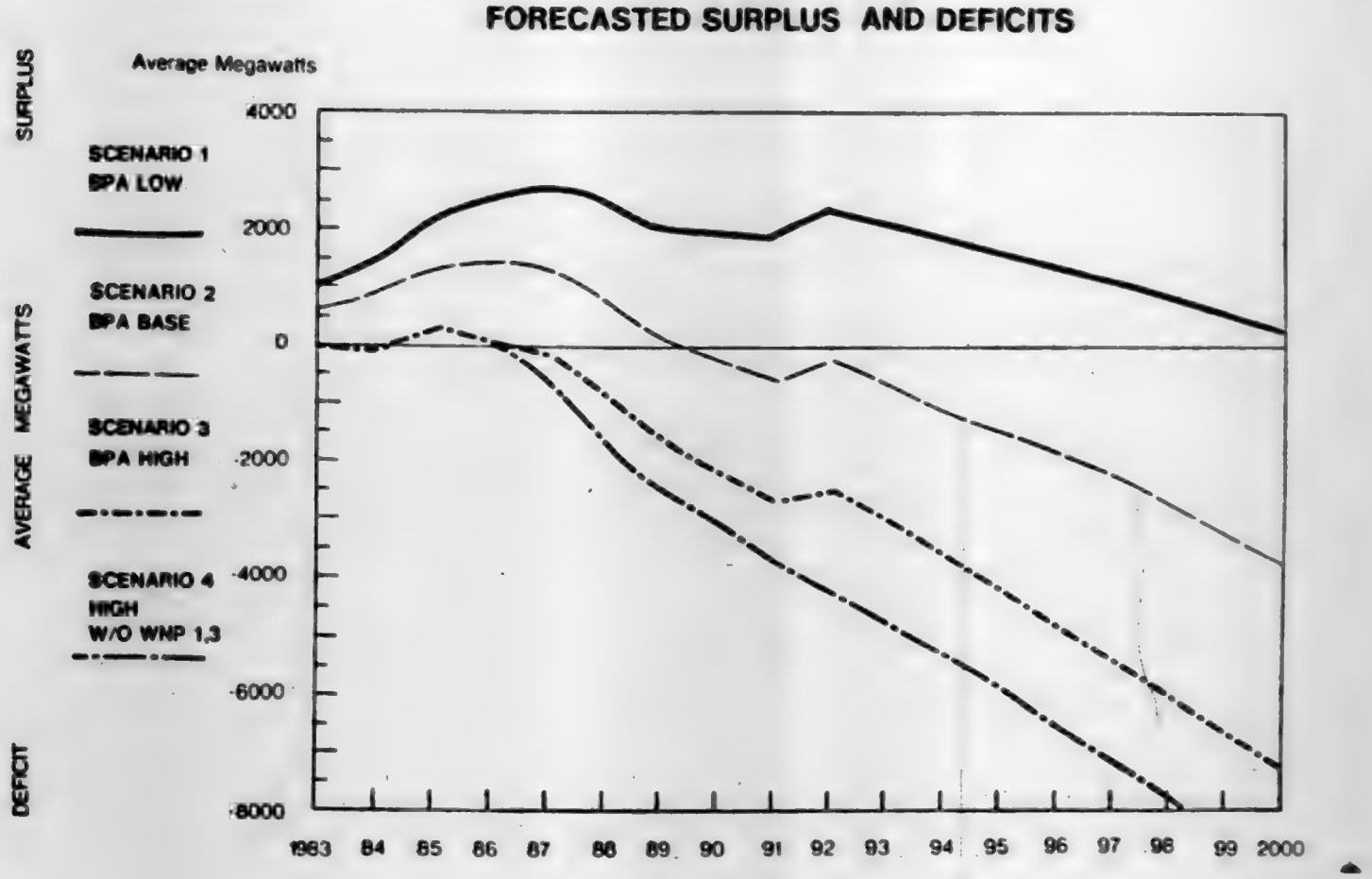

3. *Evaluation of Resource Mixes.* A wide variety of potential resources was forecasted to be available to BPA and the region to meet future loads. The first step in the resource mix analysis was to compile information on the costs, amount available, and other characteristics of these resources, including new conservation programs. Next, the expected value of additional energy during the forecasted period of surplus was estimated based on the export sales value and the value of displacing the operation of high cost resources in the region. This information was then used to formulate and evaluate a large number of possible mixes of resources under each of the load/resource scenarios described above.

Sufficient resources, including new conservation, were included in each resource mix to meet forecasted average annual firm energy and January peak demand over a 20-year time frame. The resource mixes have different levels of emphasis on new conservation, renewable, and conventional thermal resources. The costs of each resource mix were estimated for each year of the 20-year study period, and the costs were discounted back to a present value. This present value of resource costs was the standard for economic comparison of alternative resources mixes.

Factors included in formulating potential resource mixes and estimating their costs and reliability were the impacts of new resources on the costs of operating existing resources, hydrosystem generation under varying water conditions, impacts on transmission and distribution systems, and the integration of new resources on a seasonal and hourly basis. The costs of transmission and distribution, fuel costs, and end-of-cycle costs were included in resource costs. Transmission line loss savings and the 10 percent advantage mandated by the Regional Act were included for conservation costs. The data for many variables which were quantified are still preliminary and entail significant uncertainty. Sensitivity analysis was used to assess how stable the least-cost mix analysis was when key data and assumptions were changed. The results derived from this analysis are preliminary.

Although the best available data and analytical tools were used, a number of variables remained which could only be partially factored into the analysis and which have an important bearing on least-cost mix studies. Intensive efforts at developing improved data on potential resources and improved power system modeling capability are now being conducted by BPA, the Regional Council, the region's utilities, and other groups in the region. These efforts are expected to yield a much improved capability to formulate and evaluate resource mixes in the near future. BPA intends to use this improved evaluation capability, as it becomes available, to analyze future resource decisions.

4. *Conclusions from the Least-Cost Resource Mix Analysis.* Three general conclusions emerged from the analysis of least-cost resource mixes.

(a) Given the assumptions on which the analysis was based, new generating resources do not need to be brought on-line to meet load growth until around 1987 under Scenario 3 and 4, until around 1993 under Scenario 2 (BPA Base Forecast), or until after the year 2000 under Scenario 1 (see Figure 1). This conclusion does not necessarily apply to resources that are already under construction, however, because the incremental costs of deferring project completion dates were not factored into the analysis.

(b) Acquiring resources in the near-term can reduce the present value of total system costs if the savings or power generation has the following characteristics:

(i) Levelized costs of approximately 35 mills/kWh in constant 1982 dollars;

(ii) The bulk of the savings or power is produced in the forecasted deficit period; and

(iii) Ramping in to targeted resource levels. This is characteristic of the power or savings of most resources acquired via a program rather than on a site-specific basis. This means that although some power or savings is obtained from the first day of program implementation, targeted levels may not be realized for a number of years.

(c) The cost ceiling for new generation and conservation will rise from the 35-mills/kWh level in real terms as new resources are brought on later in the 1980's to meet loads in the forecasted deficit period.

B. Other Factors Considered in Developing the Near-term Resource Policy

In making decisions about specific resources and in future analyses of resource mixes, BPA will consider a number of additional factors. To the extent that these factors have identifiable dollar costs, they will be included in the least-cost resource mix analysis.

1. *Regional Act Requirements.* Requirements established by the Regional Act are a critical element of any resource development decision. Included among these are:

(a) The resource priorities established by Section 4.(e)(1);

(b) The responsibilities mandated by Section 4.(e)(2) item (C) to protect, mitigate, and enhance fish and wildlife and authority under Section 6.(a)(2)( ) to acquire resources for the fish and wildlife purposes;

(c) The special emphasis given by Section 6.(b)(5) to acquire conservation and renewable resources installed b residential or small commercial consumers to reduce load;

(d) Resources that are compatible with the existing regional electric power system as directed in Section 4.(e)(2) item (B); and

(e) Other criteria which may be set forth in the regional plan.

2. *Environmental Issues.* Individual resources must be assessed to determine their particular effect on environmental quality and, hence, whether the resource is suitable to meet the Administrator's obligations. To the extent that these effects can be priced, they will be included in the least-cost mix analysis. Additional effects which can be expressed in numbers (quantified) but not in dollars (priced) will also be taken into account before a final resource cost-effectiveness decision is made. Furthermore, the Regional Act in Section 4.(e)(2) and the National Environmental Policy Act require that environmental considerations be explicitly factored into the overall resource decisions. Action on any resource, therefore, must be made with the most complete information available to the Administrator concerning the effect on the human and physical environment from the resource development.

3. *Lost Opportunities.* If a resource can reasonably be delayed without losing it to the region or significantly increasing its real costs, then this may be the appropriate action. If this is not possible, consideration will be given to acquiring the resource during surplus periods if this would prove cost-effective.

4. *Flexibility.* Increasing system flexibility is desirable to minimize costs incurred when realized resource availability or loads vary from those projected.

5. *Isolated Load Center Advantages.* Most load center production considerations, such as delaying the need to upgrade service to an area or minimizing transmission/distribution losses, will be priceable and included in the least-cost mix analysis.

6. *Diversity and Continuity.* Two factors which also are considered important in the development of

resources are developing a system which is not overly dependent on any one resource type, and maintaining continuity in resource development programs to assure power will be available when needed.

Issued in Portland, Oregon, July 8, 1982.

Edward Sienkiewicz,

Acting Administrator.

[FR Doc. 82-19176 Filed 7-14-82; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

U-Tex Oil Co.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to U-Tex Oil Company (U-Tex) of Murray, Utah. This Proposed Remedial Order charges U-Tex with pricing violations in the amount of $502,833.21 connected with the sale of crude oil at prices in excess of those permitted by 10 CFR 212, Subpart D during the time period October 1, 1975 through April 30, 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from James A. Martin, Deputy Director, Crude and NGL Audit & Litigation Support Group, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, or by calling (214) 767-7401. Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 12th and Pennsylvina Ave. NW., Washington, D.C. 20461, in accordance with 10 CFR 206.193.

Issued in Dallas, Texas, on the 16th day of June 1982.

James A. Martin,

Deputy Director, Crude and NGL Audit and Litigation Support Group, Economic Regulatory Administration.

[FR Doc. 82-19251 Filed 7-14-82; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration Presurvey Consultation Program

AGENCY: Energy Information Administration, DOE.

ACTION: Republication of Request for Comments on Proposed Revision to the Annual Survey of Domestic Oil and Gas Reserves, Form EIA-23.

SUMMARY: This is a reissuance of a previous **Federal Register** Notice published July 8, 1982, in 47 FR 29701. The proposed revised Form and Instructions had been inadvertently omitted from the earlier Notice and are included in this reissued request for comment.

At this time, the EIA requests comments on the revised Annual Survey of Domestic Oil and Gas Reserves, Form EIA-23. It is described in the Supplementary Information section of this Notice. Interested parties are asked to review the Form and its instructions and provide comments to the information contact described below.

EFFECTIVE: 30-day comment period begins with the date of this notice.

FOR FURTHER INFORMATION CONTACT: Ted L. Madison, Reserves and Production Branch; Energy Information Administration, Federal Building, Mail Stop 4430; 12th Street and Pennsylvania Avenue, N.W.; Washington, D.C. 20461 (202) 633-9896.

SUPPLEMENTARY INFORMATION: The EIA has the responsibility to develop credible and verifiable estimates of crude oil, natural gas, and natural gas liquids reserves and production. For survey years 1977 through 1981 these data were obtained from selected oil and gas well operators by utilizing the Form EIA-23.

Revisions are now proposed for the Form EIA-23 prior to collection of data for survey year 1982. These revisions reflect an effort to reduce the reporting burden of EIA-23 respondents through the elimination of redundant schedules and the utilization of a more space-efficient form format. The proposed changes would affect only Category I and Category II (large and intermediate sized) oil and gas well operators who file EIA-23. The version of the Form utilized by Category III (small) operators is already designed for minimum reporting burden and is not proposed to be revised. Therefore, Category III operators would be unaffected by these changes. No new data elements are proposed in this revision, although the relocation of some data elements may make them appear to be new. The gas commitment status data remains as collected in past surveys and would be reported on the proposed Schedule B.

Notable proposed changes are as follows:

- The Part 1 (Summary) schedules would be eliminated for Category I and II operators.
- Schedule 1 would be eliminated. However, natural gas commitment status data would still be collected on a separate schedule.
- Rather than using two different schedules, Category I and II operators would utilize a common schedule to report reserves and production on a field-level basis. Schedule 2 would be eliminated, with Schedule 3 modified for use by Category I *and* Category II operators.
- Reserves data for four fields would be entered on one revised Schedule 3, rather than a single field per schedule as is now the case.

Printed below is a draft revised Form EIA-23 with instructions, along with a suggested format for providing comments. This format specifies areas of particular interest to the DOE and also provides opportunity for reviewers to comment on issues of concern to them. The use of this format is not required, but it will facilitate DOE's ability to address comments in a timely manner. Please review the revised Form and send your comments within 30 days of this notice to the above address.

Issued in Washington, D.C., July 9, 1982.

Yvonne M. Bishop,

Director, Statistical Standards Energy Information Administration.

BILLING CODE 6450-01-M

U.S. Department of Energy

Energy Information Administration
Office of Oil and Gas

ANNUAL SURVEY OF DOMESTIC OIL AND GAS RESERVES
FORM EIA-23

REPORT YEAR 1982

Category I and II Operator Package

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FOR INFORMATION OR ASSISTANCE, CONTACT THE
EIA-23 COORDINATOR AT (405) 360-1971.

GENERAL INFORMATION

GENERAL INFORMATION

A. PURPOSE

The Energy Information Administration (EIA) of the Department of Energy (DOE) seeks, with Form EIA-23, to gather and summarize credible and timely data regarding proved reserves and production of crude oil, natural gas, lease condensate and other related matters. Reporting of the data requested on Form EIA-23 is mandatory pursuant to the Federal Energy Administration Act of 1974 (FEAA, Public Law 93-275) and the Department of Energy Organization Act of 1977 (DOEOA, Public Law 95-91). Among other things, DOE will use the resulting information to develop national and regional estimates of proved reserves of domestic crude oil, natural gas, and natural gas liquids, and to facilitate national energy policy decisions.

This survey segregates operators into three categories, according to the annual production of hydrocarbons from wells which they operated on December 31 of the report year. *Proved reserve estimates are required from the Category II and III operators only if such data exist in company records.* The Category I operators must provide proved reserves estimates.

EIA will follow this survey with efforts to validate the data, assessing the meaningfulness and accuracy of the resulting information. Respondents may encounter two principal activities included in this validation:

- Government personnel will make or supervise independent reserve estimates on a sample basis, and
- a sample of operators will be visited to confirm the data submitted.

EIA recognizes that the judgment of geologists and petroleum engineers is required in the reserve estimation process, and that as a result, proved reserves are estimates rather than precise quantitative measurements.

B. WHO MUST SUBMIT FORM EIA-23

Each operator of domestic oil and/or gas wells as of December 31 of the report year has filing requirements as described in Section C below. (See following box for the definition of an operator as used in these instructions and forms.) The terms "the report year" or "current report year" in these instructions and the Form refer to the period January 1, 1982 thru December 31, 1982, inclusively. The term "prior report year" refers to the period January 1, 1981 thru December 31, 1981, inclusively.

If you were not an operator then (perhaps a former operator or solely a working or royalty interest owner), you should submit only the Cover Page which immediately follows the Glossary, so that EIA can remove your name from its active operator identification list.

Note that each operating affiliate (whose production places it in Category I or II as described in Section C) of a parent company must file its own Form EIA-23. The parent company must file only if it is an operator itself. If you have an affiliate or parent who should have received this form instead of or in addition to you, notify EIA by contacting the EIA-23 Coordinator at (405) 360-1971.

An OPERATOR is:

The person responsible for the management and day-to-day operation of one or more crude oil and/or natural gas wells on December 31 of the report year. The operator is generally a working interest owner or a company under contract to the working interest owner(s). Wells included are those which have proved reserves of crude oil, natural gas, and/or [illegible] estimate in the reservoirs associated with them, whether or not they are producing. Wells abandoned during the report year are also to be considered "operated" on December 31.

Note that as defined above, day-to-day *physical* operation of a well or wells does not alone qualify a person as the operator. Physical operation may occasionally be divorced from operatorship, such as in the instance of manipulation of swing wells by a gas pipeline company representative, or the manipulation and maintenance of wells located on an offshore platform by the platform manager. While the operator's own personnel usually perform such duties, the key factor is that the operator is the person who makes management decisions regarding the well(s) in question on behalf of the owner(s). Such decisions might include, for example, deciding what flow rates can be sustained without reservoir damage; deciding whether well(s) should be shut-in, worked over, or abandoned; whether additional or replacement wells should be drilled into a reservoir; whether a waterflood program should be initiated; or whether additional or different production equipment should be installed. If in a particular instance you are not certain whether you are the operator, contact the EIA-23 Coordinator at (405) 360-1971 for assistance in making this determination.

GENERAL INFORMATION (Continued)

C. WHAT MUST BE SUBMITTED

Filing requirements are based on operator category. Your operator category is determined from the following table. Production refers to the total report year production from all domestic oil and/or gas wells you operated on December 31 of the report year, including wells abandoned during the year.

Your Operator Category is.....	Category I	Category II
If your report year production of either crude oil or natural gas equals or exceeds:	1,500 MBbls of oil or 15,000 MMcf of gas	400 MBbls of oil or 2,000 MMcf of gas (and BOTH were less than Category I levels)
If your operated production is less than both of the Category II lower limits, you are a Category III operator and need only submit a brief summary report. Contact the EIA-23 Coordinator at (405) 360-1971 to obtain the necessary summary form and instructions.		

Category I and Category II operators are both required to submit one completed set of:

Cover Page/Attestation
Schedule(s) A — "Operated Proved Reserves, Production, and Related Data by Field"
Schedule(s) B — "Commitment Status of Proved Natural Gas Reserves, by State and Subdivision" (if needed)
Schedule(s) C — "Footnotes" (if needed)

NOTE

Category II (and Category III) operators are required to report proved reserves data only for those properties for which estimates exist in company records. To the extent that Category II (and Category III) operators do not have proved reserve estimates associated with one or more specific properties, they must separate their production data according to production from properties for which proved reserves have been estimated, and production from properties for which proved reserves have not been estimated. (See Part I of the Specific Instructions for more information on filing requirements.)

D. WHEN AND WHERE TO SUBMIT

The completed survey must be submitted on or before April 30, 1983, for report year 1982.

Completed forms should be submitted to:

U.S. Department of Energy
Box OK
Norman, OK 73070

For information concerning requests for extension of time to file Form EIA-23, contact the EIA-23 Extension Coordinator at the above address or call (405) 360-1971.

E. RECORDKEEPING REQUIREMENTS

All records necessary to reconstruct the data reported on this form must be kept for a period of three (3) years from the filing due date at the reporting site.

F. SANCTIONS

Failure to make information requested on Form EIA-23 available to the Secretary of Energy or failure to allow the DOE to verify the accuracy of the information submitted shall be subject to penalties as provided in Section 13 (i), of the Federal Energy Administration Act of 1974 (FEAA, P.L. 93-275) as amended.

GENERAL INFORMATION (Continued)

GENERAL INFORMATION (Continued)

G. CONFIDENTIALITY

In accordance with Section 14 of the FEAA, in responding to specific requests received from members of the public, data collected on this form will be held confidential to the extent that they are protected by the Trade Secrets Act, 18 U.S.C. §1905, or are determined by the DOE to be within the exemption for trade secrets and confidential commercial information as specified in the Freedom of Information Act (5 USC Section 552(b)(4)).

In accordance with the cited statutes and other applicable authority, the information must be made available, upon request, to the Congress or any Committee of Congress, and to the General Accounting Office.

GENERAL INSTRUCTIONS

H. REPORTING STANDARDS

1. Operated and Ownership Reporting Bases

All data on Schedule A (field-level reserves and production balances) are to be reported on an 8/8ths or Total Operated Basis. Schedule B data (gas commitment status) are required to be reported on a Gross Working Interest Ownership Basis.

When reporting on a *Total Operated Basis*, production and reserve changes data are required for the full report year, even though the operator of the wells on December 31 may not have operated those wells for the entire year. Conversely, wells operated by another company on December 31 are not to be included.

EXAMPLES:

Total Operated Basis

- Of the total 8/8ths interest, respondent's share is 50 percent and the associated royalty share is 6.25 percent. Respondent operates property. Respondent reports 100 percent of proved reserves and production.
- Of the total 8/8ths interest, respondent's share is zero but he operates the property. Respondent reports 100 percent of proved reserves and production.

When reporting on a *Gross Working Interest Ownership Basis*, the respondent reports what he owned at the end of the report year. This information is reported *whether or not* the property was operated by the respondent. Gross working interest is sometimes known also as expense interest.

Under this reporting concept, total reserves for a given property equal the sum of the reserves attributable to all the gross working interests in that property. Thus the respondent reports his company's share plus its associated share of royalty and overriding royalty interests. If the respondent's only interest in a particular property is royalty interest or overriding royalty interest, then he should not include such property in his Gross Working Interest Ownership Basis computations.

The respondent must include data in his ownership report for properties owned by affiliated companies if *both* of the following conditions are satisfied:

a. the respondent operates the subject property for his affiliate, *and*

b. the affiliate is a nonoperator or a Category III operator and therefore not required to file Schedules A, B, or C.

EXAMPLES:

Gross Working Interest Ownership Basis

- Of the total 8/8ths interest, respondent's share is 40 percent and associated royalty shares account for 14.5 percent. Respondent does not operate property. Respondent reports 54.5 percent of proved reserves and production.
- Of the total 8/8ths interest, respondent has a royalty share of 10 percent. The working and associated royalty shares of other parties total 90 percent. Respondent does not operate property. Respondent does not report data for this property. (See also definitions in the Glossary.)

It is recognized your "Reserves, End of Prior Report Year" reported on Schedule A for the current report year may differ from those reported as end of year reserves in the prior year's survey. This situation frequently occurs when:

- operated properties are acquired during the year (from a previous operator),

- operated properties are disposed of during the year (to a subsequent operator),
- there is a reclassification of gas types, and,
- a Category II operator has reserves estimates for the current survey but estimates were not available for the prior year's survey.

2. States and Geographic Subdivisions

The determination of which state or geographic subdivision within which to report proved reserves and production data is based on the location of the reservoir(s) containing the oil and/or gas. If a field overlaps two or more states or subdivisions, the proved reserves data must be subdivided into the appropriate geographic components. Offshore proved reserves data are required separately for the state and federal domains. If a field lies on or between disputed boundaries, include all data in the State Offshore area, and note this fact in a footnote on Schedule C.

3. Proved Reserves

Oil and gas reserves may be considered "proved" if they are economically producible as determined by a flow test or actual production (tested proved reserves), or by well log or core analysis only (untested proved reserves).

4. Report Year Production

Production data are required from all operators. If the actual report year production data are not available at the time the Form EIA-23 is prepared, estimate production. Note that amended schedules are not required to correct preliminary production data. Production data reported in the prior report year survey may have been subsequently revised or corrected, thereby altering the end of the prior report year's reserves estimates. The change in the end of the prior report year reserves due to this factor should be accounted for as a "revision increase" or "revision decrease" in the current survey.

5. Crude Oil

All crude oil volumes are to be reported in thousands of stock tank barrels (MBbls) (42 U.S. gallons per barrel) at atmospheric pressure, corrected to 60 degrees Fahrenheit and excluding basic sediment and water.

6. Natural Gas

All natural gas volumes are to be reported in millions of cubic feet (MMcf) at 14.73 PSIA and 60 degrees Fahrenheit. It is recognized that the operator in many instances has no knowledge of the ultimate reduction of the gas stream, produced from his properties, which may result from further downstream processing. The operator is requested to report volumes of natural gas which remain after processing through lease and field separation facilities.

The EIA obtains data from gas processing plants separately. Gas volumes reported on Form EIA-23 are not to be corrected for liquids removed by these plants. If you do not know if a field facility through which your gas is processed is currently reporting data to EIA or not, contact the EIA-23 Coordinator at (405) 360-1971, to obtain a list of those plants which report.

Operators must segregate most natural gas data into associated-dissolved and nonassociated gas entries. If the classification of gas type for a given reservoir should change from one to the other for any reason, the respondent should record all data according to the latest classification of gas type.

7. Lease Condensate

All lease condensate volumes are to be reported in thousands of stock tank barrels (MBbls) (42 U.S. gallons per barrel, at atmospheric pressure and 60 degrees Fahrenheit.)

8. Schedule Preparation Standards

a. Negative and Positive Volumes

All data are to be entered as whole number integers without plus (+) or minus (-) symbols. By definition, decreases in proved reserves are accounted for either as "Production" or "Revision Decreases," and are entered without the minus symbol.

An unusual situation may occur when a field is injected with natural gas produced from another field for pressure maintenence. The resultant increase in proved gas reserves is considered as due to "negative production". If this negative production during the year exceeds production outflow, then the net production is negative and is to be reported using a preceding minus (-) symbol.

GENERAL INSTRUCTIONS (Continued)

b. *Rounding*

When rounding liquid volumes, round 500 barrels and above up to "1" MBbl, and less than 500 barrels down to "0". For gas volumes, round 500 Mcf and above up to "1" MMcf, and less than 500 Mcf down to "0" MMcf.

EXAMPLES:

For Liquids, report:	7,500 barrels	as:	8 MBbls
	467 barrels	as:	0 MBbls
For Gases, report:	8,500,000 cubic feet	as:	9 MMcf
	10,459,000 cubic feet	as:	10 MMcf

c. *Collation of Filings*

Prior to submission, completed forms must be assembled and paginated consecutively *within each schedule* in the following order:

First Page	Cover Page
Page 1, 2, 3, etc.	Schedule(s) A by state, then subdivision within applicable states, in the same sequence as shown in the Location Code list of the Glossary. For multiple field entries, list field names alphabetically within each subdivision, or within each state not having subdivisions. The last Schedule A is to contain the National summary total for all reported fields.
Page 1, 2, 3, etc.	Schedule(s) B...(if needed) Same as Schedule A procedure.
Page 1, 2, 3, etc.	Schedule(s) C...(if needed) Ascending order of Schedule Letter, then Page Number as listed in data entry Columns (A) and (B) of Schedule C, respectively.

NOTE

Do not staple or bind your filing.

d. *Reproduction*

If mechanically reproduced forms are submitted in lieu of originals, they must have been clearly reproduced, must be of identical format and scale (within 3 percent overall dimension) to the provided forms and must have been accurately aligned during the reproduction process. Computer printouts on other than an exact duplicate of the forms provided are not acceptable.

A computer generated magnetic tape of the requested EIA-23 data will be acceptable, if it conforms to certain specifications concerning physical characteristics and data layouts. However, a hard copy of the EIA-23 filing with the proper attestation must also be provided. For information concerning tape specifications, contact the EIA-23 Coordinator at (405) 360-1971.

e. *Character Set*

Responses must be typed or printed in black ink. If you are writing the response by hand, print and use all capital letters. Long hand is unacceptable. The form was designed to be completed using a 10-pitch (Standard Pica) typewriter (identical to a standard IBM train, if you are printing your response by computer) although a 12-pitch machine can be used.

SPECIFIC INSTRUCTIONS

I. OPERATOR IDENTIFICATION AND DETAILED REPORT

Numbers in parentheses immediately following item, subitem, or column titles indicate the maximum number of spaces available for the data.

The terms "the report year" or "current report year" in these instructions and the Form refer to the period January 1, 1982 thru December 31, 1982, inclusively. The term "prior report year" refers to the period January 1, 1981 thru December 31, 1981, inclusively.

SPECIFIC INSTRUCTIONS (Continued)

1. COVER PAGE/ATTESTATION — Operator Identification

Item Instructions:

Item 1: "Were you an operator . . ." — *Check the appropriate box.*

Item 2: This item is for DOE use only.

Items 3 thru 10: Identification — Name, Address, City, State, ZIP Code, EIN Number, Name of Contact Person, Telephone Number. You are required to enter those items which are incorrect or missing from the affixed label.
Enter the legal name and address of the operator. Use standard state abbreviations found in the Glossary. If a foreign address, enter city, local equivalent of state name, (e.g., province), and country on the second address line.
(8) EIN Number — Enter the operating firm's IRS Employer Identification Number (EIN) if it has one. If the operator does not have an EIN, enter the social security number of the attestor and check the box.
(9) Name of Contact Person — This person should be familiar with the data provided, and will be the person to whom inquiries will be directed, if necessary.

Items 11 thru 17: Parent Company Identification — Name, Address, City, State, ZIP Code. Enter the legal name and address of the parent company, if any, which exercises ultimate control over the respondent. Example: You are Company A, which takes direction from Company B, which in turn takes direction from Company C. Report Company C as the parent company, rather than Company B. (17) Parent Company EIN Number — Enter the EIN number of the parent company, if any.

Item 18: Enter the total number of pages (including the Cover Page/Attestation but excluding any transmittal letters) of your filing.

Items 19 thru 22: Attestation — Enter name and title of the individual designated by the respondent company to sign the certification, and the date of the signing. This report must be sworn to or affirmed by a responsible officer or the officer responsible for regulatory filings.

2. SCHEDULE A — "Operated Proved Reserves, Production and Related Data by Field"

All proved reserves, production and reserve changes data on Schedule A are to be reported on a Total Operated Basis (See TOTAL OPERATED BASIS in the Glossary), for each field in which the respondent operated oil and/or gas wells on December 31 of the report year, including abandonments during the report year.

National totals for each data item are required for all fields reported on Schedule A. This information is to be entered in the last unused field data block of the Schedule A filing. See the end of these Schedule A instructions for further information on reporting national summary totals.

SECTION 1.0: Operator and Report Identification Data
This information is to be reported on each Schedule A submitted.

Item Instructions:

Item 1.1: Operator I.D. Code (6) — Copy into this space the six-digit operator code entered on the Cover Page/Attestation. If no code has been assigned to you, leave this space blank.

Item 1.2: Operator Name (35) — Enter the first 35 characters of the operator name from the Cover Page/Attestation. If the name exceeds 35 characters, do not abbreviate, but simply truncate the extra characters from the right.

Item 1.3: Original (1) — Enter an 'X' if this is the first submission of this schedule for the report year. Otherwise, leave blank.

Item 1.4: Amended (1) — Enter an 'X' if this schedule amends a previously submitted schedule. Otherwise, leave blank.

Item 1.5: Page (4) — Enter the current page number in this schedule series.

SECTION 2.0: Field Data (Operated Basis)
The field data blocks, items 2.1 through 2.4, are utilized by both the Category I and Category II respondents to report their production and proved reserves on the field-level. Category I (large) operators MAY NOT use subitem 6 (production from reserves not estimated) for any data entry.

SPECIFIC INSTRUCTIONS (Continued)

NOTE

All Category II operators are required to complete subitems 1, 2, 3 and 5. Subitem 7 must also be completed if this information is available.
Category II operators who have reserve estimates should complete Columns (a) through (f), subitems 14 through 17, as appropriate.
Category II operators who do not have proved reserve estimates should use subitem 6, Columns (a) through (d), to report field production data. In the event that the operator has partial reserve estimates for a given field, use subitem 6 to report production for that portion for which no reserve estimates are available, and subitems 14 through 17 to report available reserve and associated production data for the remaining part of the field. See also the end of these Schedule A instructions for information on how to report national summary totals.

Item Instructions for Field Data Blocks:

Items 2.1 thru 2.4:

Subitem 1: State Abbreviation (2) – Enter the two-character alphabetic abbreviation of the state to which data reported for this field pertain. For offshore fields, use the abbreviation of the adjacent state. (See LOCATION CODES in the Glossary.)

Subitem 2: Subdivision Code (2) – Enter the two-digit code of the appropriate geographic subdivision to which data reported for this field pertain; leave blank if not applicable. (See LOCATION CODES in the Glossary.)

Subitem 3: County Code (3) – For onshore areas, enter the three-digit numeric code for the county or parish in which the field is located. If the field is located in more than one county, enter the code of the county which contains the largest lease acreage, overlying proved reserves, which you operate. This county code should match the Federal Information Processing Standards (FIPS) code for that particular county or parish. For offshore areas, leave this subitem blank. (See COUNTY CODES in Section B of the Glossary for sources of FIPS codes.)

Subitem 4: Field Code (6) – This space is provided for future use. A unified field coding system is currently being developed, but has not yet been implemented.

Subitem 5: Field Name (26) Enter the name of the field to which data entered in this data block item pertain. If this is a new field discovery, indicate such fact in a footnote on Schedule C. (See FIELD NAMING CONVENTIONS in the Glossary.)

Subitem 6: Report Year Production From Properties For Which Reserves Were Not Estimated (10) – This subitem is for use ONLY by Category II operators.

Subitem 7: Indicated Additional Reserves of Crude Oil (10) – Enter the estimated volumes of crude oil which may become available through the application of improved recovery techniques. (See INDICATED ADDITIONAL RESERVES OF CRUDE OIL in the Glossary.)

Subitem 8: Footnote (1) – Enter an 'X' if there is further explanatory information pertaining to data for this field contained on Schedule C, Footnotes. Leave blank if there is no footnote information.

Subitem 9: OCS Block Number (6) – For offshore fields, enter the block number, if it exists, of that offshore block which contains your largest lease acreage, overlying proved reserves. This block number need not be identical to the block number appearing in the field name. If two blocks have equal proved acreage, enter the number of the block having the earliest lease date; arbitrarily choose one block number if multiple answers are still possible given these selection rules. Leave blank if OCS block number is not applicable.

Subitem 10: Federal Lease Number (10) –

Offshore fields: Enter the numeric portion of the OCS lease number (excluding the initial letter) which is associated with the block number reported in subitem 9. Exclude hyphens.

Onshore fields: Enter the numeric portion of the Federal lease number (excluding the initial letter) of that lease which contains your largest lease acreage, overlying proved reserves. If two leases have equal proved lease acreage, enter the number of the lease having the earliest lease date; arbitrarily choose one lease number if multiple answers are still possible given these selection rules. Leave blank if Federal lease number is not applicable.

SPECIFIC INSTRUCTIONS (Continued)

Subitem 11: Water Depth (5) – For an offshore field, enter the depth of water (from mean sea level to seabed) over the field, in feet. Leave blank if an onshore field.

Subitem 12: Field Discovery Year (4) – Enter the calendar year in which the field was discovered. Footnote on Schedule C and check subitem 8 if this represents a change from a previously reported discovery year for this field. Enter 'NA' if not known. (See FIELD DISCOVERY YEAR in the Glossary.)

Subitem 13: Number of Reservoirs in Field (4) – Enter the number of reservoirs in which you operate in this field. This reservoir count should include any reservoirs having Indicated Additional Reserves of Crude Oil, or which were abandoned during the report year due to proved reserve depletion.

Subitem 14: Crude Oil (MBbls)
and
Subitem 15: Associated-Dissolved Gas (MMcf)
and
Subitem 16: Nonassociated Gas (MMcf)
and
Subitem 17: Lease Condensate (MBbls).

Column (A): Reserves, End of Prior Report Year (10) – Enter the volumes of proved reserves at the end of the previous report year. Enter a zero (0) for a new field. (See PROVED RESERVES OF CRUDE OIL, PROVED RESERVES OF LEASE CONDENSATE and PROVED RESERVES OF NATURAL GAS in the Glossary; also, Section H, REPORTING STANDARDS, in the general instructions.)

Column (B): Revision Increases (10) – Enter the positive (+) changes to 'Reserves, End of Prior Report Year' attributable to upward revisions made during the report year. Enter a zero (0) for a new field or if there were no revisions. Explain any revision in excess of 2,500 MBbls of liquid or 15,000 MMcf of gas in a footnote on Schedule C and check subitem 8. To the extent that reserves are revised upward due to implementation of secondary or tertiary recovery techniques, such revisions should be indicated by volume and by recovery method in a Schedule C footnote. Also, separately indicate the volume of any upward revisions due to the transfer of reserves previously reported as 'Indicated Additional Reserves of Crude Oil'. (See REVISIONS in the Glossary.)

Column (C): Revision Decreases (10) – Enter the negative (-) changes to 'Reserves, End of Prior Report Year' attributable to downward revisions made during the report year. Do not enter a minus sign, entries in this column are assumed to be negative. Enter a zero (0) for a new field or if there were no revisions. Explain any revision in excess of 2,500 MBbls of liquid or 15,000 MMcf of gas in a footnote on Schedule C and check subitem 8. (See REVISIONS in the Glossary.)

Column (D): Extensions (10) – Enter the increases to 'Reserves, End of Prior Report Year' attributable to extensions made during the current report year. Enter a zero (0) for a new field or if there were no extensions. (See EXTENSIONS in the Glossary.)

Column (E): New Field Discoveries (10) – If the field was discovered during the report year, enter the estimated initial volumes of proved reserves attributable thereto (before reducing it by production during the report year, if any.) Enter a zero (0) if this is not a new field. (See NEW DISCOVERIES in the Glossary.)

Column (F): New Reservoirs in Old Fields (10) – If this is an old field and any new reservoir discoveries were made in it during the report year, enter the estimated initial volumes attributable thereto, (before reducing it by production during the report year, if any.) Enter a zero (0) if this is not an old field or if there were no new reservoirs discovered in it. (See NEW FIELD, NEW RESERVOIR, NEW RESERVOIR DISCOVERIES IN OLD FIELDS and OLD FIELD in the Glossary.)

Column (G): Report Year Production (10) – Enter the volumes produced from the field during the report year. Enter a zero (0) if there was no production from the field. (See PRODUCTION, CRUDE OIL, PRODUCTION, LEASE CONDENSATE and PRODUCTION, NATURAL GAS in the Glossary.)

SPECIFIC INSTRUCTIONS (Continued)

Column (H): Reserves, End of Report Year (10) – Enter the volumes of proved reserves at the end of the report year. Enter a zero (0) if the field is depleted. This item should be the algebraic sum of Columns, (a)+(b)+(d)+(e)+(f), less Columns (c) and (g).

Column (I): Nonproducing Reserves (10) – Enter the estimated volumes of proved reserves in the field which were in nonproducing status at the end of the report year. Enter a zero (0) if there were none. (See NONPRODUCING RESERVOIRS in the Glossary.)

NATIONAL TOTALS

After all fields in which you operate have been reported on Schedule A, sum each volumetric data element in which you have reported volumes for any field. This generates national totals for each of the subitems 6, 7, and 14 through 17. Enter these national totals in the appropriate subitem locations of the first unused field data block, items 2.1 through 2.4. Enter "ZZ" in subitem 1, State Abbreviation, and "NATIONAL TOTALS" in subitem 4, Field Name, to identify these data as national summary totals.

3. SCHEDULE B – "Commitment Status of Proved Natural Gas Reserves, by State and Subdivision"

SECTION 1.0: Operator and Report Identification Data
This information is to be reported on each Schedule B submitted.

Item Instructions:

Item 1.1: Operator I.D. Code (6) – Copy into this space the six-digit operator code entered on the Cover Page/Attestation. If no code has been assigned to you, leave this space blank.

Item 1.2: Operator Name (35) – Enter the first 35 characters of the operator name from the Cover Page /Attestation. If the name exceeds 35 characters, do not abbreviate, but simply truncate the extra characters from the right.

Item 1.3: Original (1) – Enter an 'X' if this is the first submission of this schedule for the report year. Otherwise, leave blank.

Item 1.4: Amended (1) – Enter an 'X' if this schedule amends a previously submitted schedule. Otherwise, leave blank.

Item 1.5: Page (4) – Enter the current page number in this schedule series.

SECTION 2.0: Commitment Status of Proved Natural Gas Reserves (Ownership Basis)
Report in this section the total proved reserves of natural gas on a Gross Working Interest Ownership Basis, according to the commitment status of the reserves. (See COMMITMENT STATUS OF PROVED NATURAL GAS RESERVES in the Glossary.)

Item Instructions:

Items 2.1 thru 2.3:

Subitem 1: State Abbreviation (2) – Enter the two-character alphabetic abbreviation of the state to which data reported for this field pertain. For offshore fields, use the abbreviation of the adjacent state. (See LOCATION CODES in the Glossary.)

Subitem 2: Subdivision Code (2) – Enter the two-digit code of the appropriate geographic subdivision to which data reported for this field pertain; leave blank if not applicable. (See LOCATION CODES in the Glossary.)

Subitem 3: Footnote (1) – Enter an 'X' if there is further explanatory information pertaining to data for this field contained on Schedule C, Footnotes. Leave blank if there is no footnote information.

Subitem 4: Interstate Contracts – Enter in Columns (A) thru (G), the proved natural gas reserves as of December 31 of the report year committed for sale under interstate contracts. (See INTERSTATE CONTRACTS in the Glossary.)

Subitem 5: Intrastate Contracts – Enter in Columns (A) thru (G), the proved natural gas reserves as of December 31 of the report year, committed for sale under intrastate contracts. (See INTRASTATE CONTRACTS in the Glossary.)

SPECIFIC INSTRUCTIONS (Continued)

The subcategories for these columns are:

Columns (A) and (B): For Resale, Long Term (10) – Enter the volumes of proved reserves of natural gas committed for resale to pipelines or distributors, respectively, under "long term" contracts. (See INTERSTATE CONTRACT, INTRASTATE CONTRACT, INTERSTATE PIPELINE, INTRASTATE PIPELINE and LOCAL DISTRIBUTION COMPANY in the Glossary.)

Columns (C) and (D): For Resale, Short Term (10) – Enter the volumes of proved reserves of natural gas committed for resale to pipelines or distributors, respectively, under "short term" contracts. (See INTERSTATE CONTRACT, INTRASTATE CONTRACT, INTERSTATE PIPELINE, INTRASTATE PIPELINE and LOCAL DISTRIBUTION COMPANY in the Glossary.)

Column (E): Direct Sale, Industrial (10) – Enter the volumes of proved reserves of natural gas contractually committed to industrial end-users. (See COMMITMENT STATUS: Direct Sale in the Glossary.)

Column (F): Direct Sale, Other (10) – Enter the volume of proved reserves of natural gas contractually committed to end-users other than industrial end-users. (See COMMITMENT STATUS, Direct Sale in the Glossary.)

Column (G): Warranty (10) – Enter the volumes of proved reserves committed under warranty contracts. Report only the volume of proved reserves held for fulfillment of warranty gas sales contracts as of the end of the report year. Do not report contract sales volumes. In a footnote on Schedule C, indicate the volume of proved reserves that may yet need to be dedicated to fulfill the terms of this type of contract. (See COMMITMENT STATUS, Warranty in the Glossary.)

Subitem 6: Other (10) – Enter, in Columns (A) thru (D), the volumes of proved natural gas reserves committed for uses other than sale, or uncommitted, as of December 31, of the report year.

The subcategories for these columns are:

Column (A): Company Use, Feedstock (10) – Enter the estimated volume of proved reserves committed for use as feedstock in plants owned by you. (See FEEDSTOCK in the Glossary.)

Column (B): Company Use, Fuel (10) – Enter the estimated volume of proved reserves committed for use as fuel in your operations. (See FUEL USE in the Glossary.)

Column (C): Other Committed (10) – Enter the estimated volume of proved reserves committed under any other arrangement. Specify details in a footnote on Schedule C.

Column (D): Uncommitted (10) – Enter the estimated volume of proved reserves uncommitted as of December 31, of the report year.

Subitem 7: Commitment Status of Nonproducing Natural Gas Reserves – Report in this subitem the total proved reserves of natural gas in nonproducing reservoirs according to the following commitment status categories.

Column (A): Committed Interstate (10) – Enter the volumes of nonproducing proved natural gas reserves committed under interstate contracts.

Column (B): Committed Intrastate (10) – Enter the volumes of nonproducing proved natural gas reserves committed under any arrangement, company use or commitment, other than interstate contracts.

Column (C): Uncommitted (10) – Enter the volumes of nonproducing proved natural gas reserves not committed under any arrangement.

4. SCHEDULE C – "Footnotes"

At a minimum, submit footnotes in clarification of reported data items when required to do so by the instructions for the applicable schedule. Additionally, you may footnote any other reported item if this will enhance its clarity.

SECTION 1.0: Operator and Report Identification Data
This information is to be reported for each Schedule C submitted.

Item Instructions:

Item 1.1: Operator I.D. Code (6) – Copy into this space the six-digit operator code entered on the Cover Page/Attestation. If no code has been assigned to you, leave this space blank.

SPECIFIC INSTRUCTIONS (Continued)

SPECIFIC INSTRUCTIONS (Continued)

Item 1.2: Operator Name (35) – Enter the first 35 characters of the operator name from the Cover Page/Attestation. If the name exceeds 35 characters, do not abbreviate, but simply truncate the extra characters from the right.

Item 1.3: Original (1) – Enter an 'X' if this is the first submission of this schedule for the report year. Otherwise, leave blank.

Item 1.4: Amended (1) – Enter an 'X' if this schedule amends a previously submitted schedule. Otherwise, leave blank.

Item 1.5: Page (4) – Enter the current page number in this schedule series.

SECTION 2.0: Footnote Data

Use all lines on each Schedule C page before using additional pages. Columns (a) thru (e) must be filled in only for the first line of each footnote.

Column (a): Schedule Letter (5) – Enter the schedule number referenced by the footnote which starts on this line.

Column (b): Page Number (5) – Enter the page number that is referenced by this footnote.

Column (c): Item Number (5) – Enter the item number that is referenced by this footnote.

Column (d): Subitem Number (5) –
Enter the subitem number (1 thru 17) that is referenced by this footnote. Leave blank if not applicable.

Column (e): Column Designation (5) – Enter the column designation (alphabetic character) that is referenced by this footnote, if applicable. Otherwise leave blank.

Column (f): Sequence Number (5) – Enter the line number of this line of the footnote. Begin with '1' and increase this number one unit with each successive line of the footnote. Always revert to '1' with each new footnote.

Column (g): Notation (75) – Enter the text of the footnote, using as many lines as necessary.

FORM EIA-23

GLOSSARY AND CODES

The definitions contained herein have been formulated with reference to the particular purposes to be served by Form EIA-23. They are not necessarily synonymous with the same or similar terms as used in DOE regulations, and are not to be construed as definitions applicable for any purpose other than for the collection and reporting of data on Form EIA-23.

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AFFILIATED (ASSOCIATED) COMPANY — An "affili-

b. *Direct Sale – Other* — Includes

possession, direct or indirect, of the power to

J. Definitions

AFFILIATED (ASSOCIATED) COMPANY — An "affiliate" of, or a person "affiliated" with, a specific person is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified. (See PERSON and CONTROL.)

COMMITMENT STATUS OF PROVED NATURAL GAS RESERVES — Applies to those proved reserves committed to a customer or other recipient under terms of a gas purchase contract, by advance payment agreements or by some other contractual arrangements, or set aside for the respondent's own use. Proved reserves not so committed are classified as "uncommitted". Commitment status for purposes of this form is not necessarily the same as the terms "committed" or "dedicated" as defined in Section 2(18)(a) of the Natural Gas Policy Act of 1978 (NGPA, Public Law 95-621).

Commitment Categories

1. *For Resale:* Proved natural gas reserves committed for sale to natural gas pipeline or distribution utilities for resale purposes.
2. *Direct Sale:* Direct sales are sales made to an end-user, as follows:
   a. *Direct Sale — Industrial* — Includes sales to industrial end-users, sales to other producers, sales to electric utilities, and sales to industrial users that involve transportation of gas by interstate pipelines under FPC Order No. 533 and under FERC Order Nos. 2, 27, 30 and 30-A to the extent that the respondent has knowledge of such arrangements. (See INTERSTATE PIPELINE.)
   b. *Direct Sale — Other* — Includes sales to end-users other than industrial customers, to gas processing plants where the ultimate disposition of the gas is unknown to the respondent, and to local distribution companies who deliver to residential and commercial customers to the extent that the respondent has knowledge of such arrangements. (See LOCAL DISTRIBUTION COMPANY.)
3. *Warranty:* Proved natural gas reserves committed through gas sales agreements wherein the seller warrants that an amount of gas will be available to meet the contracted commitments over the life of the contract.
4. *Company Use:* Proved natural gas reserves committed for use as feedstock in respondent-owned plants or as fuel in respondent's operations. (See FEEDSTOCK and FUEL USE.)
5. *Other Committed:* Proved natural gas reserves committed under any arrangements other than (1), (2), (3), or (4) above (e.g., gas taken in-kind by a royalty owner; vented and flared gas).
6. *Uncommitted:* Proved natural gas reserves that have not been committed by the respondent, including those reserves under negotiation or option as of December 31 of the report year.

CONTROL — The term "control" (including the terms "controlling", "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise. (See PERSON.)

CORRECTIONS — See *REVISIONS*

CRUDE OIL — A mixture of hydrocarbons that exists in the liquid phase in natural underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities. Crude oil may also include:

1. Small amounts of hydrocarbons that exist in the gaseous phase in natural underground reservoirs but are liquid at atmospheric pressure after being recovered from oil well (casinghead) gas in lease separators, and that subsequently are commingled with the crude stream without being separately measured; and
2. Small amounts of nonhydrocarbons produced with the oil.

NOTE: When a State regulatory agency specifies a definition of crude oil which differs from that set forth above, the State definition is to be followed and its use footnoted on Schedule C.

EXTENSIONS — The reserves credited to a reservoir because of enlargement of its proved area. Normally the ultimate size of newly discovered fields, or newly discovered reservoirs in old fields, is determined by wells drilled in years subsequent to discovery. When such wells add to the proved area of a previously discovered reservoir, the increase in proved reserves is classified as an extension.

FEEDSTOCK – Natural gas used as a raw material for its nonfuel chemical properties in creating an end product.

FIELD – An area consisting of a single reservoir or multiple reservoirs all grouped on, or related to, the same individual geological structural feature and/or stratigraphic condition. There may be two or more reservoirs in a field which are separated vertically by intervening impervious strata, or laterally by local geologic barriers, or by both.

FIELD AREA – A geographic area encompassing two or more pools that have a common gathering and metering system, the reserves of which are reported as a single unit. This concept applies primarily to the Appalachian region. (See POOL.)

FIELD DISCOVERY YEAR – The calendar year in which a field was first recognized as containing economically recoverable accumulations of oil and/or gas.

FIELD SEPARATION FACILITY – A surface installation designed to recover lease condensate from a produced natural gas stream, frequently originating from more than one lease.

FUEL USE – All natural gas used by the respondent, other than for feedstock, which was produced by the respondent and not purchased from other producers.

GAS PROCESSING PLANT – A surface installation designed to achieve the recovery of natural gas liquids from a stream of produced natural gas which may or may not have been processed, in whole or in part, through lease or field separation facilities, and to control the quality of the natural gas to be marketed. Some gas processing plants are additionally designed to recover propane, butanes, natural gasoline or other products.

GROSS WORKING INTEREST OWNERSHIP – Gross working interest ownership is the respondent's working interest in a given property plus the proportionate share of any royalty interest, including overriding royalty interest, associated with the working interest. (See definitions of WORKING INTEREST and ROYALTY (INCLUDING OVERRIDING ROYALTY) INTERESTS in the GLOSSARY, and examples in the GENERAL INSTRUCTIONS, p. 3.)

INDICATED ADDITIONAL RESERVES OF CRUDE OIL – Quantities of crude oil (other than proved reserves) which may become economically recoverable from existing productive reservoirs through the application of improved recovery techniques using current technology.

These recovery techniques may:

1) already be installed in the reservoir, but their effects are not yet known to the degree necessary to classify the additional reserves as proved, or

2) be installed in another similar reservoir, where the results of that installation can be used to estimate the indicated additional reserves.

Indicated additional reserves are not included in proved reserves due to their uncertain economic recoverability. When economic recoverability is demonstrated, the indicated additional reserves must be transferred to proved reserves as positive revisions.

INTERSTATE CONTRACTS – Interstate contracts commit gas for sale to interstate pipelines as defined in Sec. 2(15) of the Natural Gas Policy Act of 1978 (NGPA, Public Law 95-621), and to any other party located outside the State in which the reserves are located. They also include any gas reserves ultimately destined for the interstate market under Section 312 of the NGPA, to the extent that the respondent has knowledge of such arrangements. Long term contracts are those of more than two years duration; short term contracts are those of two years duration or less. (See INTERSTATE PIPELINE.)

INTRASTATE CONTRACTS – Intrastate contracts commit gas for sale to intrastate pipelines as defined in Sec. 2(16) of the Natural Gas Policy Act of 1978 (NGPA, Public Law 95-621), and to any other party located within the State in which the reserves are located. Long term contracts are those of more than two years duration; short term contracts are those of two years duration or less. (See INTRASTATE PIPELINE.)

INTERSTATE PIPELINE – The term "interstate pipeline" means any person engaged in natural gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act.

INTRASTATE PIPELINE – The term "intrastate pipeline" means any person engaged in natural gas transportation (not including gathering) which is not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act (other than any such pipeline which is not subject to the jurisdiction of the Commission solely by reason of Section 1(c) of the Natural Gas Act).

LEASE CONDENSATE – A mixture consisting primarily of pentanes and heavier hydrocarbons which is recovered as a liquid from natural gas in lease or field separation facilities, exclusive of products recovered at natural gas processing plants or facilities the output of which is reported on Form EIA-64, "Natural Gas Liquids Operations Report." (See Natural Gas Liquids.)

LEASE SEPARATOR – A lease separator is a facility installed at the surface for the

NATURAL GAS, WET AFTER LEASE SEPARATION– The volume of natural gas remaining after removal of lease condensate in lease and/or field separation facilities, if any, and

or not they are producing. Wells abandoned during the report year are also to be considered

LEASE SEPARATOR – A lease separator is a facility installed at the surface for the purpose of (a) separating gases from produced crude oil and water at the temperature and pressure conditions of the separator, and/or (b) separating gases from that portion of the produced natural gas stream which liquefies at the temperature and pressure conditions of the separator.

LOCAL DISTRIBUTION COMPANY – The term "local distribution company" means any person, other than any interstate pipeline or any intrastate pipeline, engaged in the transportation, or local distribution, of natural gas and the sale of natural gas for ultimate consumption. This includes persons not subject to the jurisdiction of the Federal Energy Regulatory Commission by reason of Section 1(c) of the Natural Gas Act.

NATURAL GAS – A mixture of hydrocarbon compounds and small quantities of various nonhydrocarbons existing in the gaseous phase or in solution with crude oil in natural underground reservoirs at reservoir conditions. The principal hydrocarbons usually contained in the mixture are methane, ethane, propane, butanes and pentanes. Typical nonhydrocarbon gases which may be present in reservoir natural gas are carbon dioxide, helium, hydrogen sulfide and nitrogen. Under reservoir conditions, natural gas and the liquefiable portions thereof occur either in a single gaseous phase in the reservoir or in solution with crude oil, and are not distinguishable at the time as separate substances. (See NATURAL GAS, NONASSOCIATED AND NATURAL GAS, ASSOCIATED-DISSOLVED.)

NATURAL GAS, ASSOCIATED-DISSOLVED – The combined volume of natural gas which occurs in crude oil reservoirs either as free gas (associated) or as gas in solution with crude oil (dissolved).

NATURAL GAS, WET AFTER LEASE SEPARATION– The volume of natural gas remaining after removal of lease condensate in lease and/or field separation facilities, if any, and after exclusion of nonhydrocarbon gases where they occur in sufficient quantity to render the gas unmarketable. (See LEASE CONDENSATE, LEASE SEPARATOR, FIELD SEPARATION FACILITY.)

NATURAL GAS, NONASSOCIATED – Natural gas not in contact with significant quantities of crude oil in a reservoir.

NEW FIELD – A field discovered during the report year.

NEW FIELD DISCOVERIES – The volumes of proved reserves of crude oil and/or natural gas discovered in new fields during the report year.

NEW RESERVOIR – A reservoir discovered during the report year.

NEW RESERVOIR DISCOVERIES IN OLD FIELDS – The volumes of proved reserves of crude oil and/or natural gas discovered during the report year in new reservoir(s) located in old fields.

NONPRODUCING RESERVOIRS – Reservoirs in which proved oil and/or gas reserves have been identified, but which did not produce during the last 3 months of the report year regardless of the availability and/or operation of production, gathering, or transportation facilities.

OLD FIELD – A field discovered prior to the report year.

OPERATOR – The person responsible for the management and day-to-day operation of one or more crude oil and/or natural gas wells as of December 31 of the report year. The operator is generally a working interest owner or a company under contract to the working interest owner(s). Wells included are those which have proved reserves of crude oil, natural gas, and/or lease condensate in the reservoirs associated with them, whether or not they are producing. Wells abandoned during the report year are also to be considered "operated" as of December 31. (See PERSON, PROVED RESERVES OF CRUDE OIL, PROVED RESERVES OF NATURAL GAS, PROVED RESERVES OF LEASE CONDENSATE, REPORT YEAR, AND RESERVOIR.)

OWNERSHIP – See GROSS WORKING INTEREST OWNERSHIP BASIS.

PARENT COMPANY – The parent company of a business entity is an affiliated company which exercises ultimate control over that entity, either directly or indirectly through one or more intermediaries. (See AFFILIATED (ASSOCIATED) COMPANY and CONTROL.)

PERSON – An individual, a corporation, a partnership, an association, a joint-stock company, a business trust, or an unincorporated organization.

POOL – In general, a reservoir. In certain situations a pool may consist of more than one reservoir. (See FIELD AREA.)

PRODUCTION, CRUDE OIL – The volumes of crude oil which are extracted from oil reservoirs during the report year. These volumes are determined through measurement of the volumes delivered from lease storage tanks, or at the point of custody transfer, with adjustment for (1) net differences between opening and closing lease inventories, and for (2) basic sediment and water. Oil used on the lease is to be considered production.

PRODUCTION, LEASE CONDENSATE – The volume of lease condensate produced during the report year. Lease condensate volumes include only those volumes recovered from lease or field separation facilities. (See definition of LEASE CONDENSATE.)

PRODUCTION, NATURAL GAS – The volume of natural gas withdrawn from reservoirs during the report year less (1) the volume returned to such reservoirs in cycling, repressuring of oil reservoirs and conservation operations; less (2) shrinkage resulting from the removal of lease condensate; and less (3) nonhydrocarbon gases where they occur in sufficient quantity to render the gas unmarketable. Volumes of gas withdrawn from gas storage reservoirs and native gas which has been transferred to the storage category are not considered production.

PROVED RESERVES OF CRUDE OIL – Proved reserves of crude oil as of December 31 of the report year are the estimated quantities of all liquids defined as crude oil, which geological and engineering data demonstrate with reasonable certainty to be recoverable in future years from known reservoirs under existing economic and operating conditions.

Reservoirs are considered proved if economic producibility is supported by actual production or conclusive formation test (drill stem or wire line), or if economic producibility is supported by core analyses and/or electric or other log interpretations. The area of an oil reservoir considered proved includes (1) that portion delineated by drilling and defined by gas-oil and/or oil-water contacts, if any; and (2) the immediately adjoining portions not yet drilled, but which can be reasonably judged as economically productive on the basis of available geological and engineering data. In the absence of information of fluid contacts, the lowest known structural occurrence of hydrocarbons controls the lower proved limit of the reservoir.

Volumes of crude oil placed in underground storage are not to be considered proved reserves.

Reserves of crude oil which can be produced economically through application of improved recovery techniques (such as fluid injection) are included in the "proved" classification when successful testing by a pilot project, or the operation of an installed program in the reservoir, provides support for the engineering analysis on which the project or program was based.

Estimates of proved crude oil reserves do not include the following: (1) oil that may become available from known reservoirs but is reported separately as "indicated additional reserves"; (2) natural gas liquids (including condensate); (3) oil, the recovery of which is subject to reasonable doubt because of uncertainty as to geology, reservoir characteristics, or economic factors; (4) oil that may occur in undrilled prospects; and (5) oil that may be recovered from oil shales, coal, gilsonite and other such sources. It is not necessary that production, gathering or transportation facilities be installed or operative for a reservoir to be considered proved.

PROVED RESERVES OF LEASE CONDENSATE – Proved reserves of lease condensate as of December 31 of the report year are the volumes of lease condensate expected to be recovered in future years in conjunction with the production of proved reserves of natural gas as of December 31 of the report year, based on the recovery efficiency of lease and/or field separation facilities installed as of December 31 of the report year. (See LEASE CONDENSATE and PROVED RESERVES OF NATURAL GAS.)

PROVED RESERVES OF NATURAL GAS – Proved reserves of natural gas as of December 31 of the report year are the estimated quantities which analysis of geological and engineering data demonstrate with reasonable certainty to be recoverable in future years from known reservoirs under existing economic and operating conditions.

Reservoirs are considered proved if economic producibility is supported by actual production or conclusive formation test (drill stem or wire line), or if economic producibility is supported by core analyses and/or electric or other log interpretations.

The area of a gas reservoir considered proved includes (1) that portion delineated by drilling and defined by gas-oil and/or gas-water contacts, if any; and (2) the immediately adjoining portions not yet drilled, but which can be reasonably judged as economically productive on the basis of available geological and engineering data. In the absence of information on fluid contacts, the lowest known structural occurrence of hydrocarbons controls the lower proved limit of the reservoir.

Volumes of natural gas placed in underground storage are not to be considered proved reserves.

For natural gas an appropriate reduction in the reservoir gas volume is made to cover the removal of the liquefiable portions of the gas in lease and/or field separation facilities and the exclusion of nonhydrocarbon gases where they occur in sufficient quantity to render the gas unmarketable.

It is not necessary that production, gathering or transportation facilities be installed or operative for a reservoir to be considered proved. It is to be assumed that compression will be initiated if and when economically justified.

REPORT YEAR – The calendar year to which data reported herein pertain; the current report year is shown on the Cover Page.

RESERVES – See PROVED RESERVES.

RESERVE CHANGES – Positive and negative revisions, extensions, new reservoir discoveries in old fields, and new field discoveries, which occurred during the report year.

SUBSIDIARY COMPANY – A company which is controlled through the ownership of voting stock, or a corporate joint venture in which a corporation is owned by a small

RESERVE CHANGES — Positive and negative revisions, extensions, new reservoir discoveries in old fields, and new field discoveries, which occurred during the report year.

RESERVOIR — A porous and permeable underground formation containing an individual and separate natural accumulation of producible hydrocarbons (oil and/or gas) which is confined by impermeable rock or water barriers and is characterized by a single natural pressure system.

REVISIONS—Changes to prior year-end proved reserves estimates, either positive or negative, resulting from new information other than an increase in proved acreage (extension), correction of prior report year arithmetical or clerical errors, or adjustment of reported prior-year production volumes. Revisions for a given report year also include increases of proved reserves associated with the installation of improved recovery techniques or equipment.

ROYALTY (INCLUDING OVERRIDING ROYALTY) INTERESTS — These interests entitle their owner(s) to a share of the mineral production from a property or to a share of the proceeds therefrom. They do not contain the rights and obligations of operating the property, and normally do not bear any of the costs of exploration, development and operation of the property.

SUBDIVISION — A prescribed portion of a given State or other geographical region defined herein for statistical reporting purposes. (See State Abbreviation and Subdivision Codes, p. of this Glossary.)

SUBSIDIARY COMPANY — A company which is controlled through the ownership of voting stock, or a corporate joint venture in which a corporation is owned by a small group of businesses as a separate and specific business or project for the mutual benefit of the members of the group. (See CONTROL.)

TOTAL OPERATED BASIS — The total reserves or production associated with the wells operated by an individual operator. This is also commonly known as the "gross operated" or "8/8ths" basis.

WORKING INTEREST — A working interest permits the owner(s) to explore, develop and operate a property. The working interest owner(s) bear(s) the costs of exploration, development and operation of the property, and in return is (are) entitled to a share of the mineral production from the property or to a share of the proceeds therefrom.

K. LOCATION CODES and MAPS

Wherever applicable, the following codes are those specified in the Federal Information Processing Standards (FIPS).

1. State Abbreviation and Geographic Subdivision Codes

(State Abbreviation Used In: Schedule A, Subitem 1 of Items 2.1 through 2.4; Schedule B, Subitem 1 of Items 2.1 through 2.3).

(Subdivision Code Used In: Schedule A, Subitem 2 of Items 2.1 through 2.4; Schedule B, Subitem 2 of Items 2.1 through 2.3).

State Name and Geographic Subdivisions*	State Abbreviation	Subdivision Code
Atlantic Coast - Federal Offshore	AC	00
Alaska - South Federal Offshore	AK	00
Alaska - South State Offshore**	AK	05
Alaska - South Onshore	AK	10
Alaska - North Onshore and Offshore***	AK	50
Alabama - Onshore	AL	Blank
Alabama - State Offshore**	AL	05
Arkansas	AR	Blank
Arizona	AZ	Blank
California - Federal Offshore	CA	00
California - State Offshore**	CA	05
California - San Joaquin Basin Onshore	CA	10
California - Coastal Region Onshore	CA	50
California - Los Angeles Basin Onshore	CA	90
Colorado	CO	Blank
Connecticut	CT	Blank
District of Columbia	DC	Blank
Delaware	DE	Blank
Florida - Onshore	FL	Blank
Florida - State Offshore**	FL	05
Georgia	GA	Blank
Hawaii	HI	Blank
Iowa	IA	Blank
Idaho	ID	Blank
Illinois	IL	Blank
Indiana	IN	Blank
Kansas	KS	Blank
Kentucky	KY	Blank
Louisiana - South Federal Offshore	LA	00
Louisiana - South State Offshore**	LA	06
Louisiana - South Onshore	LA	10
Louisiana - North	LA	50
Massachusetts	MA	Blank
Maryland	MD	Blank
Maine	ME	Blank
Michigan	MI	Blank
Minnesota	MN	Blank
Missouri	MO	Blank
Mississippi - Onshore	MS	Blank
Mississippi - State Offshore**	MS	05
Montana	MT	Blank
North Carolina	NC	Blank
North Dakota	ND	Blank
Nebraska	NE	Blank
New Hampshire	NH	Blank
New Jersey	NJ	Blank
New Mexico - East	NM	10
New Mexico - West	NM	50
Nevada	NV	Blank
New York	NY	Blank
Gulf of Mexico - Other Federal Offshore****	OG	00
Ohio	OH	Blank
Oklahoma	OK	Blank
Pacific Coast - Other Federal Offshore****	OP	00
Oregon	OR	Blank
Pennsylvania	PA	Blank
Rhode Island	RI	Blank
South Carolina	SC	Blank
South Dakota	SD	Blank
Tennessee	TN	Blank
Texas - Federal Offshore	TX	00
Texas - State Offshore**	TX	05
Texas - Railroad Commission District 1	TX	10
Texas - Railroad Commission District 2 Onshore	TX	20
Texas - Railroad Commission District 3 Onshore	TX	30
Texas - Railroad Commission District 4 Onshore	TX	40
Texas - Railroad Commission District 5	TX	50
Texas - Railroad Commission District 6	TX	60
Texas - Railroad Commission District 7B	TX	70
Texas - Railroad Commission District 7C	TX	75
Texas - Railroad Commission District 8	TX	80
Texas - Railroad Commission District 8A	TX	85
Texas - Railroad Commission District 9	TX	90
Texas - Railroad Commission District 10	TX	95
Utah	UT	Blank
Virginia	VA	Blank
Vermont	VT	Blank
Washington	WA	Blank
Wisconsin	WI	Blank
West Virginia	WV	Blank
Wyoming	WY	Blank
National Totals	ZZ	Blank

*Refer to maps on pages for subdivision boundaries in the States of Alaska, California, Louisiana, New Mexico, and Texas, respectively.

**If you are not certain whether an offshore field lies in the Federal or the State domain, assume that it lies in the State domain and indicate this in a footnote on Schedule 4.

***Includes both State and Federal domain.

****Gulf of Mexico – Other Federal Offshore includes areas adjacent to Mississippi, Alabama and Florida only. Pacific Coast – Other Federal Offshore includes areas adjacent to Oregon and Washington only.

COUNTY CODES

Used In: Schedule A, Items 2.1- 2.4 Subitem 3

County codes, Parish codes (in Louisiana), and Census Division codes (in Alaska), used in the completion of Schedule A, may be found in FIPS Publication 6-3, available at most municipal and college libraries. FIPS county codes may also be found in the *Commercial Atlas and Marketing Guide*, Rand McNally and Company, Chicago. The EIA-23 Coordinator can be contacted at (405) 360-1971 for assistance with FIPS codes.

2. *SUBDIVISION MAPS (See next five pages.)*

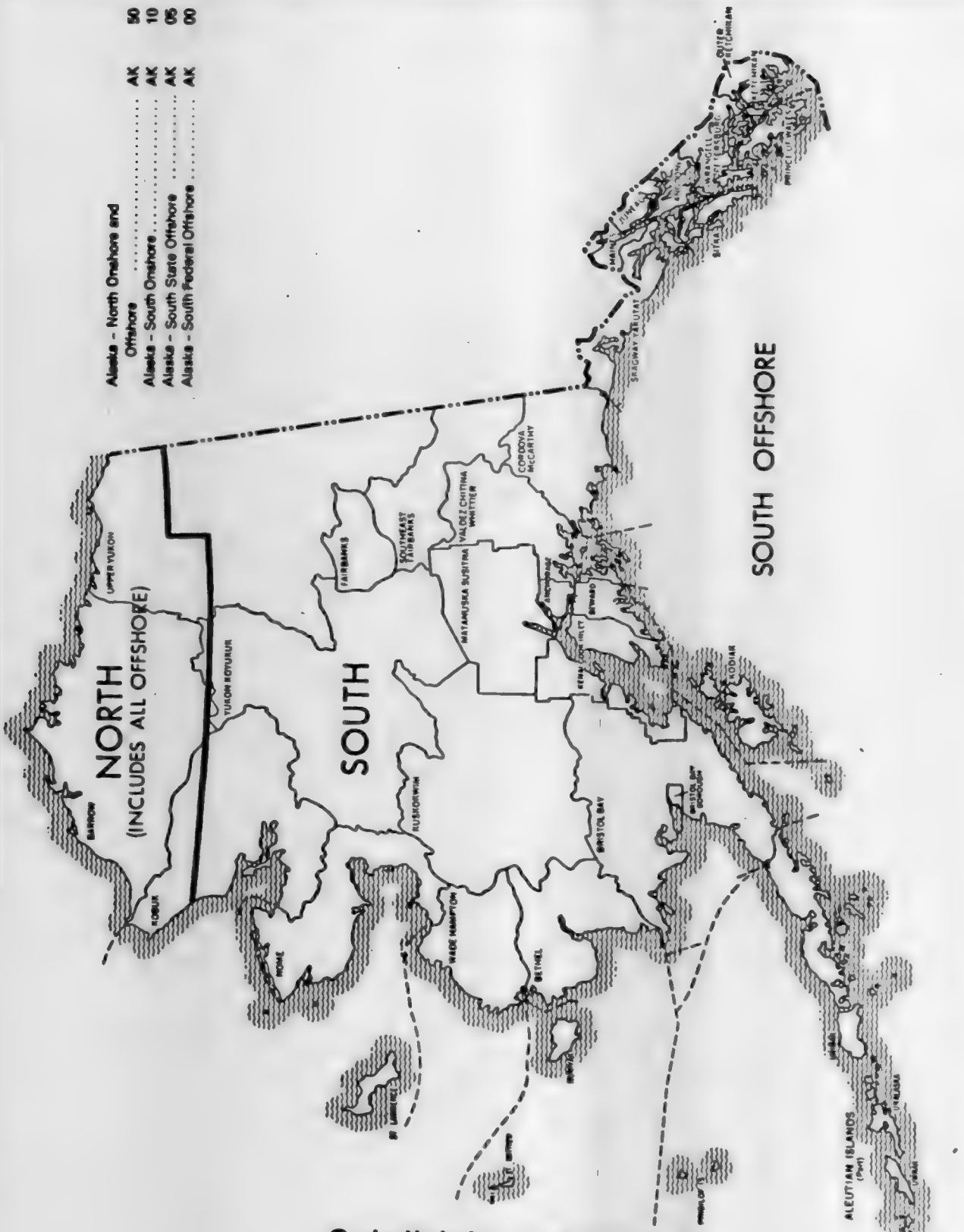

Subdivisions of Alaska

Subdivisions of California

Page 22

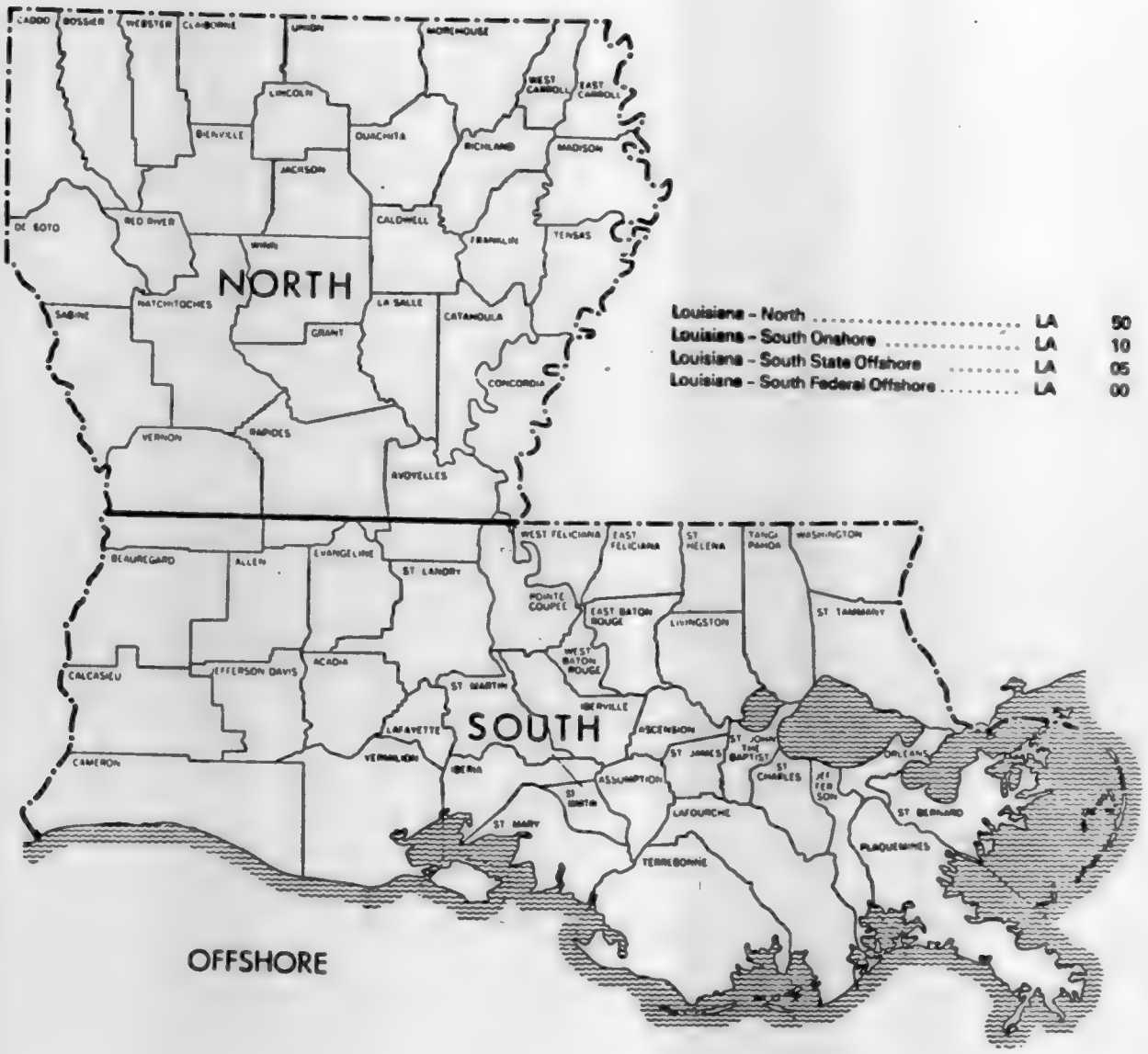

Subdivisions of Louisiana

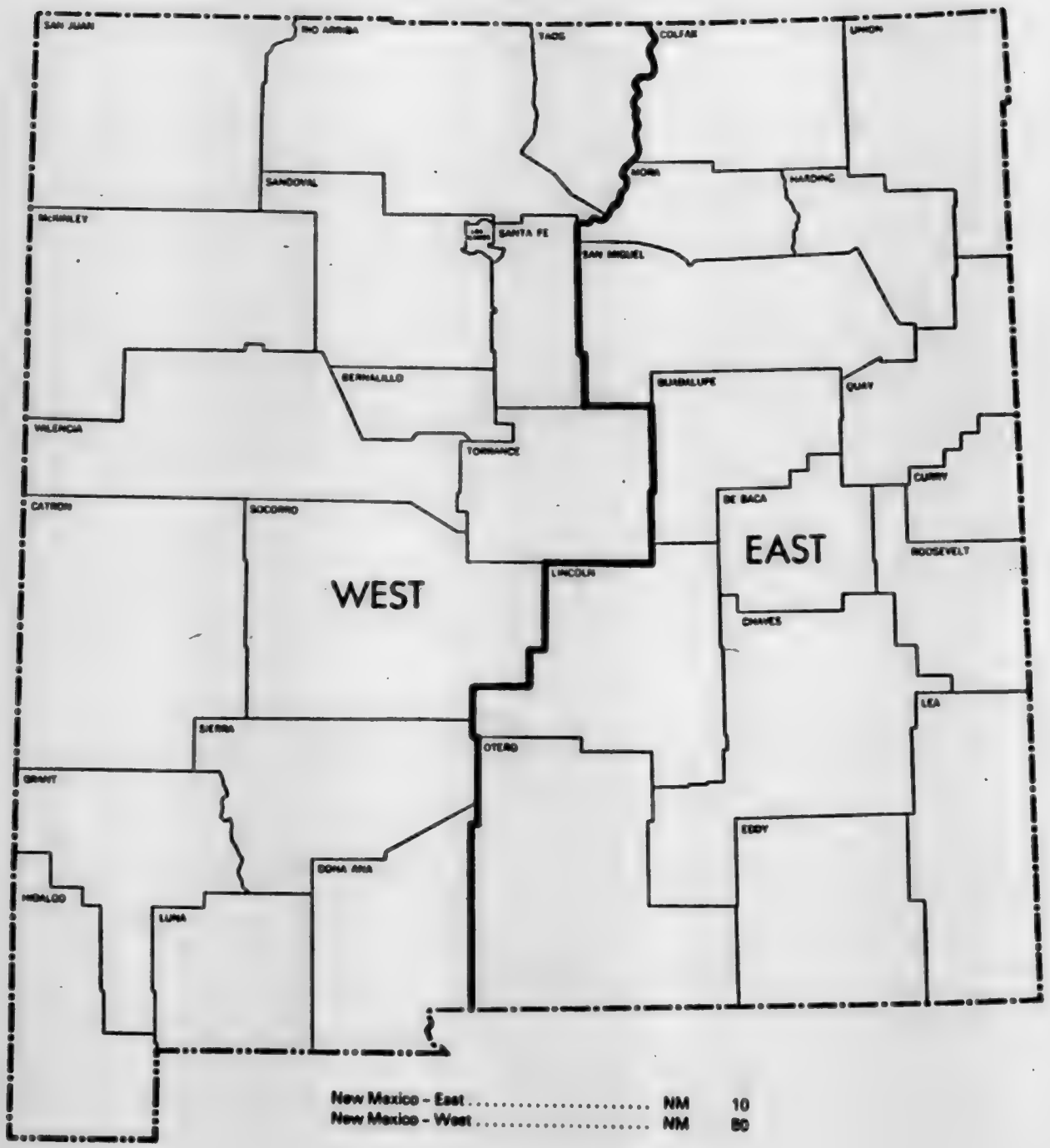

New Mexico - East	NM	10
New Mexico - West	NM	80

Subdivisions of New Mexico

Texas - Railroad Commission District 1	TX	10
Texas - Railroad Commission District 2 Onshore	TX	20
Texas - Railroad Commission District 3 Onshore	TX	30
Texas - Railroad Commission District 4 Onshore	TX	40
Texas - Railroad Commission District 5	TX	50
Texas - Railroad Commission District 6	TX	60
Texas - Railroad Commission District 7B	TX	70
Texas - Railroad Commission District 7C	TX	75
Texas - Railroad Commission District 8	TX	80
Texas - Railroad Commission District 8A	TX	85
Texas - Railroad Commission District 9	TX	90
Texas - Railroad Commission District 10	TX	95
Texas - State Offshore	TX	05
Texas - Federal Offshore	TX	00

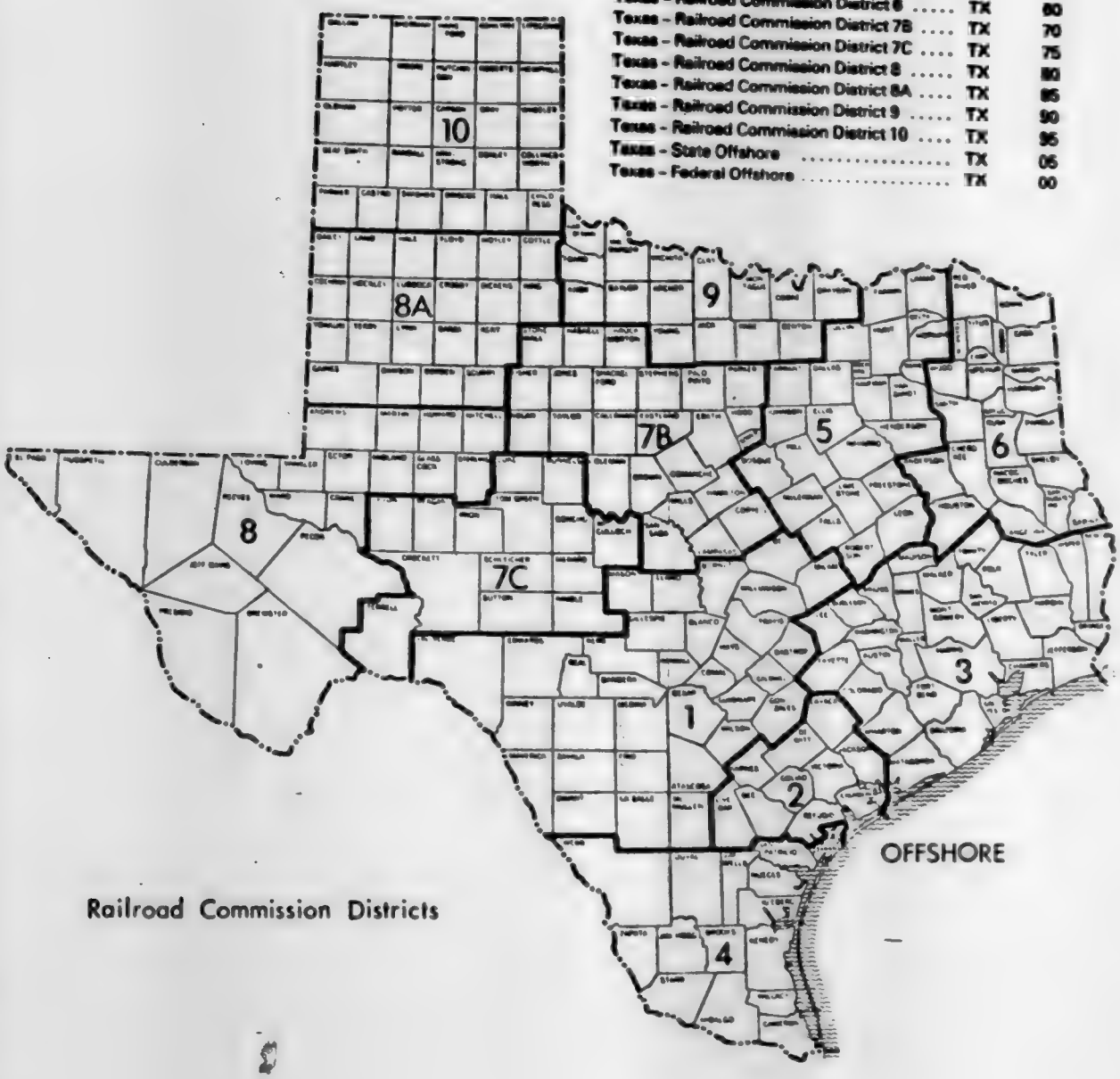

Railroad Commission Districts

Subdivisions of Texas

L. Field Naming Conventions

1. FIELDS

In most instances, field names will reflect the conventions imposed by State oil and gas regulatory agencies. In the absence of such authority, field names which have come into general acceptance in an area may be used. In the Appalachian Region field area names may be used.

Exceptions occur for names of fields located in Texas and New Mexico, in which States the regulatory agencies consider distinct geologic reservoirs to be "fields". For example, in Texas, Parker (Pennsylvanian) and Parker (Wolfcamp) are considered separate fields by the State. In actuality, Parker is the name of the geologic field and Pennsylvanian and Wolfcamp are the names of the geologic reservoirs in the field (by Texas Railroad Commission convention, the geologic reservoir name appears in parentheses after the geologic field name). For the purpose of reporting field names on Schedule A of Form EIA-23, the geologic field name only will be used. In the example above, "PARKER" would be entered as the Field Name, Subitem 5, in a field data block of Schedule A.

Offshore field names usually (but not always) consist of a basic offshore area name and block number specified by the U.S. Geological Survey. Example: East Cameron South Addition Block 265. If offshore area names must be abbreviated to fit within the 26 characters allowed, the following standard abbreviations should be used:

NORTH	N	NORTH ADDITION	NA
SOUTH	S	SOUTH ADDITION	SA
EAST	E	EAST ADDITION	EA
WEST	W	WEST ADDITION	WA
BLOCK	BLK	SOUTH EXTENSION	SX
ISLAND	IS	EAST EXTENSION	EX

For example, High Island East Addition South Extension Block A-375 would be abbreviated as follows: HIGH IS EA SX BLK A-375.

Lease names *are not acceptable* in lieu of geologic field names.

U.S. DEPARTMENT OF ENERGY
Box OK

Form Approved

U.S. DEPARTMENT OF ENERGY
Box OK
Norman, Oklahoma 73070

Form Approved
OMB No.
(Expires

ANNUAL SURVEY OF DOMESTIC OIL AND GAS RESERVES
REPORT YEAR: 1982

This report is mandatory under Public Laws 93-275 and 95-91. Failure to comply may result in criminal fines, civil penalties and other sanctions as provided by law. See Instructions for Confidentiality Statement.

COVER PAGE

IDENTIFICATION

1. Were you an operator *(see definition of operator, p. 1)* of one or more oil or gas wells on December 31, of the report year?
(1) ☐ No . . . *Complete only items 3 thru 10 and the Attestation below and return this page to the address given in the instructions*
(2) ☐ Yes . . . *Complete the enclosed forms and return them to the address given in the instructions*

2. I.D. Code FOR DOE USE ONLY

If label is incorrect or information is missing or no label is given, enter correct information below.

3. Name

4. Address

5. City | 6. State | 7. Zip Code

8. EIN Number | Check if Attestor's Social Security Number ☐

9. Name of Contact Person

10. Telephone Number
Area Code ( ) _____ - _____

PARENT COMPANY IDENTIFICATION

11. Is there a parent company which exercises ultimate control over the respondent?
(1) ☐ No . . . *Skip to 18 thru 22*
(2) ☐ Yes . . . *Answer 12 thru 22*

12. Name

13. Address

14. City | 15. State | 16. Zip Code

17. Parent Company EIN Number

18. What is the total number of pages (including this cover page) submitted in this filing?

ATTESTATION

(This report must be attested to by a responsible official of the company.)
I hereby swear or affirm that I have read the report and am familiar with its contents, and that to the best of my knowledge, information, and belief the information provided and appended is true and complete.

19. Name of Attestor | 20. Signature

21. Title | 22. Date

Title 18 USC 1001 makes it a criminal offense for any person knowingly and willingly to make to any Agency or Department of the United States any false, fictitious or fraudulent statements as to any matter within its jurisdiction.

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21.

ANNUAL SURVEY OF DOMESTIC OIL AND GAS RESERVES

SCHEDULE A – OPERATED PROVED RESERVES, PRODUCTION, AND RELATED DATA BY FIELD

(Report all liquid volumes in thousands of barrels [MBbls]; gas volumes in millions of cubic feet [MMcf] at 60° F and 14.73 psia.)

1.0 OPERATOR AND REPORT IDENTIFICATION DATA

1.1 Operator I.D. Code	1.2 Operator Name	Report Date	1.3 Original	1.4 Amended	1.5 Page	FOR DOE USE ONLY
		12 31 82				

2.0 FIELD DATA (OPERATED BASIS)

2.1

1. State Abbr.	2. Subdiv. Code	3. County Code	4. Field Code	5. Field Name	6. Report Year PRODUCTION From Properties For Which RESERVES Were NOT ESTIMATED: (a) CRUDE OIL (MBbls)	(b) ASSOC DISSOLVED GAS (MMcf)	(c) NONASSOCIATED GAS (MMcf)	(d) LEASE CON DENSATE (MBbls)	7. INDICATED ADDITIONAL RESERVES OF CRUDE OIL (MBbls)	8. FOOT NOTE

9. OCS BLOCK NUMBER	10. FEDERAL LEASE NUMBER	11. WATER DEPTH	12. FIELD DISCOVERY YEAR	13. NUMBER OF RESERVOIRS IN FIELD

TYPE HYDROCARBON	(a) RESERVES, END OF PRIOR REPORT YR	(b) REVISION INCREASES	(c) REVISION DECREASES	(d) EXTENSIONS	(e) NEW FIELD DISCOVERIES	(f) NEW RESERVOIRS IN OLD FIELDS	(g) REPORT YEAR PRODUCTION	(h) RESERVES, END OF REPORT YR	(i) NONPRODUCING RESERVES
14 CRUDE OIL (MBbls)									
15 ASSOCIATED DISSOLVED GAS (MMcf)									
16 NONASSOCIATED GAS (MMcf)									
17 LEASE CONDENSATE (MBbls)									

2.2

1. State Abbr.	2. Subdiv. Code	3. County Code	4. Field Code	5. Field Name	6. Report Year PRODUCTION From Properties For Which RESERVES Were NOT ESTIMATED: (a) CRUDE OIL (MBbls)	(b) ASSOC DISSOLVED GAS (MMcf)	(c) NONASSOCIATED GAS (MMcf)	(d) LEASE CON DENSATE (MBbls)	7. INDICATED ADDITIONAL RESERVES OF CRUDE OIL (MBbls)	8. FOOT NOTE

9. OCS BLOCK NUMBER	10. FEDERAL LEASE NUMBER	11. WATER DEPTH	12. FIELD DISCOVERY YEAR	13. NUMBER OF RESERVOIRS IN FIELD

TYPE HYDROCARBON	(a) RESERVES, END OF PRIOR REPORT YR	(b) REVISION INCREASES	(c) REVISION DECREASES	(d) EXTENSIONS	(e) NEW FIELD DISCOVERIES	(f) NEW RESERVOIRS IN OLD FIELDS	(g) REPORT YEAR PRODUCTION	(h) RESERVES, END OF REPORT YR	(i) NONPRODUCING RESERVES
14. CRUDE OIL (MBbls)									
15. ASSOCIATED DISSOLVED GAS (MMcf)									
16. NONASSOCIATED GAS (MMcf)									
17. LEASE CONDENSATE (MBbls)									

2.3

1. State Abbr.	2. Subdiv. Code	3. County Code	4. Field Code	5. Field Name	6. Report Year PRODUCTION From Properties For Which RESERVES Were NOT ESTIMATED: (a) CRUDE OIL (MBbls)	(b) ASSOC DISSOLVED GAS (MMcf)	(c) NONASSOCIATED GAS (MMcf)	(d) LEASE CON DENSATE (MBbls)	7. INDICATED ADDITIONAL RESERVES OF CRUDE OIL (MBbls)	8. FOOT NOTE

9. OCS BLOCK NUMBER	10. FEDERAL LEASE NUMBER	11. WATER DEPTH	12. FIELD DISCOVERY YEAR	13. NUMBER OF RESERVOIRS IN FIELD

TYPE HYDROCARBON	(a) RESERVES, END OF PRIOR REPORT YR	(b) REVISION INCREASES	(c) REVISION DECREASES	(d) EXTENSIONS	(e) NEW FIELD DISCOVERIES	(f) NEW RESERVOIRS IN OLD FIELDS	(g) REPORT YEAR PRODUCTION	(h) RESERVES, END OF REPORT YR	(i) NONPRODUCING RESERVES
14 CRUDE OIL (MBbls)									
15 ASSOCIATED DISSOLVED GAS (MMcf)									
16 NONASSOCIATED GAS (MMcf)									
17 LEASE CONDENSATE (MBbls)									

2.4

1. State Abbr.	2. Subdiv. Code	3. County Code	4. Field Code	5. Field Name	6. Report Year PRODUCTION From Properties For Which RESERVES Were NOT ESTIMATED: (a) CRUDE OIL (MBbls)	(b) ASSOC DISSOLVED GAS (MMcf)	(c) NONASSOCIATED GAS (MMcf)	(d) LEASE CON DENSATE (MBbls)	7. INDICATED ADDITIONAL RESERVES OF CRUDE OIL (MBbls)	8. FOOT NOTE

9. OCS BLOCK NUMBER	10. FEDERAL LEASE NUMBER	11. WATER DEPTH	12. FIELD DISCOVERY YEAR	13. NUMBER OF RESERVOIRS IN FIELD

TYPE HYDROCARBON	(a) RESERVES, END OF PRIOR REPORT YR	(b) REVISION INCREASES	(c) REVISION DECREASES	(d) EXTENSIONS	(e) NEW FIELD DISCOVERIES	(f) NEW RESERVOIRS IN OLD FIELDS	(g) REPORT YEAR PRODUCTION	(h) RESERVES, END OF REPORT YR	(i) NONPRODUCING RESERVES
14 CRUDE OIL (MBbls)									
15 ASSOCIATED DISSOLVED GAS (MMcf)									
16 NONASSOCIATED GAS (MMcf)									
17 LEASE CONDENSATE (MBbls)									

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ANNUAL SURVEY OF DOMESTIC OIL AND GAS RESERVES

ANNUAL SURVEY OF DOMESTIC OIL AND GAS RESERVES

SCHEDULE B – COMMITMENT STATUS OF PROVED NATURAL GAS RESERVES

(Report all volumes of crude oil and lease condensate in thousands of barrels (MBbls). Natural gas is to be reported in millions of cubic feet (MMcf) at 60°F and 14.73 psia.)

1.0 OPERATOR AND REPORT IDENTIFICATION DATA

1.1 Operator I.D. Code	1.2 Operator Name	Report Date	1.3 Original	1.4 Amended	1.5 Page	FOR DOE USE ONLY
		12,31,82				

2.0 COMMITMENT STATUS OF PROVED NATURAL GAS RESERVES (OWNERSHIP BASIS)

2.1

(1) State Abbrev.	(2) Subdiv. Code	(3) Footnote

	FOR RESALE				DIRECT SALE		
	LONG TERM		SHORT TERM				
	(a) Pipeline	(b) Distributor	(c) Pipeline	(d) Distributor	(e) Industrial	(f) Other	(g) Warranty
(4) Interstate Contracts (MMcf)							
(5) Intrastate Contracts (MMcf)							

	COMPANY USE		Other Committed (c)	Uncommitted (d)
	(a) Feedstock	(b) Fuel		
(6) Other (MMcf)				

(7) Commitment Status of Non-producing Natural Gas Reserves (MMcf)	Committed Interstate (a)	Committed Intrastate (b)	Uncommitted (c)

2.2

(1) State Abbrev.	(2) Subdiv. Code	(3) Footnote

	FOR RESALE				DIRECT SALE		
	LONG TERM		SHORT TERM				
	(a) Pipeline	(b) Distributor	(c) Pipeline	(d) Distributor	(e) Industrial	(f) Other	(g) Warranty
(4) Interstate Contracts (MMcf)							
(5) Intrastate Contracts (MMcf)							

	COMPANY USE		Other Committed (c)	Uncommitted (d)
	(a) Feedstock	(b) Fuel		
(6) Other (MMcf)				

(7) Commitment Status of Non-producing Natural Gas Reserves (MMcf)	Committed Interstate (a)	Committed Intrastate (b)	Uncommitted (c)

2.3

(1) State Abbrev.	(2) Subdiv. Code	(3) Footnote

	FOR RESALE				DIRECT SALE		
	LONG TERM		SHORT TERM				
	(a) Pipeline	(b) Distributor	(c) Pipeline	(d) Distributor	(e) Industrial	(f) Other	(g) Warranty
(4) Interstate Contracts (MMcf)							
(5) Intrastate Contracts (MMcf)							

	COMPANY USE		Other Committed (c)	Uncommitted (d)
	(a) Feedstock	(b) Fuel		
(6) Other (MMcf)				

(7) Commitment Status of Non-producing Natural Gas Reserves (MMcf)	Committed Interstate (a)	Committed Intrastate (b)	Uncommitted (c)

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ANNUAL SURVEY OF DOMESTIC OIL AND GAS RESERVES

SCHEDULE C – FOOTNOTES

1.0 OPERATOR AND REPORT IDENTIFICATION DATA						
1.1 Operator I.D. Code	1.2 Operator Name	Report Date 12, 31, 82	1.3 Original	1.4 Amended	1.5 Page	FOR DOE USE ONLY

2.0 FOOTNOTE DATA

Schedule Letter (a)	Page Number (b)	Item Number (c)	Subitem Number (d)	Column Designation (e)	Sequence Number (f)	Notation (g)

Comment Format

The following is the suggested format for providing comments on the revised Form EIR–23, "Annual Survey of Domestic Oil and Gas Reserves."

1. What is the basis of your interest in this annual survey of oil and gas reserves (e.g., are you a potential respondent, consultant, oil and gas analyst, corporate planner, etc.)?

2. Do the instructions provide enough information to enable you to complete the Form and are the instructions sufficiently clear? If not, which instructions require further clarification?

3. Should additional items be defined? Please list, if any.

4. Is the Form layout easy to follow and understand? What changes would you suggest to improve the clarity of the Form while retaining identical information content?

5. Given a choice, would you or your organization prefer to retain the current Form or adopt the proposed revision?

6. If you or your firm were a respondent to past Form EIA–23 surveys: (a) What is your estimate of the one-time cost and personnel hours necessary to accommodate the revised Form in your response procedures? (b) What is your estimate of the on-going cost and personnel hours necessary to respond to the entire Form on a continuing annual basis? (c) What is your estimate of the on-going cost and personnel hours required in providing *only* the gas commitment data collected on Schedule B?

[FR Doc. 82–19049 Filed 7–14–82; 8:45 am]
BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Volume 688]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: July 9, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
ARKANSAS OIL & GAS COMMISSION									
-ARKANSAS LOUISIANA GAS CO		RECEIVED:	06/23/82		JA: AR				
8239688		0311510106	103			CROTTS #2	ROSS	700.0	ARKANSAS LOUISIAN
8239701		0307110223	103			TICE #1-15-C	CLARKSVILLE	500.0	ARKANSAS LOUISIAN
8239702		0307110220	103			TICE #1-15-T	CLARKSVILLE	900.0	ARKANSAS LOUISIAN
-ARKLA EXPLORATION COMPANY		RECEIVED:	06/23/82		JA: AR				
8239630		0313110193	103			KERSEY #1-C	BONANZA	500.0	ARKANSAS LOUISIAN
8239631		0313110193	103			KERSEY #1-T	BONANZA	500.0	ARKANSAS LOUISIAN
8239632		0313110153	103			MISSOURI IMPORVEMENT #1-33-C	BONANZA	545.0	ARKANSAS LOUISIAN
8239633		0313110153	103			MISSOURI IMPROVEMENT #1-33-T	BONANZA	730.0	ARKANSAS LOUISIAN
8239716		0304710197	103			PRICE #1	PETER PENDER	308.0	ARKANSAS LOUISIAN
8239718		0304710176	102-5			TURNER #1-T	PETER PENDER	438.0	ARKANSAS LOUISIAN
8239717		0304710176	103			TURNER #1-3-C	PETER PENDER	100.0	ARKANSAS LOUISIAN
-ART MACHIN & ASSOCIATES INC		RECEIVED:	06/23/82		JA: AR				
8239736		0302710738	103			T S GRAYSON #3	RED ROCK	7.0	UNITED GAS PIPE L
-B J BROWN		RECEIVED:	06/23/82		JA: AR				
8239670		0338300080	103			PRICE BROWN #1 26780	CHISMVILLE	30.0	ARKANSAS LOUISIAN
-BRADHAM OIL CO		RECEIVED:	06/23/82		JA: AR				
8239732		0302710929	103			THREADGILL #7	VILLAGE	182.5	ARKANSAS LOUISIAN
-CHARLES E MCRAY DBA MCRAY AND ASSOC		RECEIVED:	06/23/82		JA: AR				
8239719		0304710203	103			SWISS FAMILY VINEYARDS #2-27C	OZARK FIELD	65.0	ARKANSAS WESTERN
8239720		0304710203	103			SWISS FAMILY VINEYARDS #2-27T	OZARK FIELD	240.0	ARKANSAS WESTERN
-COTTON PETROLEUM CORPORATION		RECEIVED:	06/23/82		JA: AR				
8239733		0302710787	103			MODISETTE #1	N HAYNESVILLE	368.0	ARKANSAS LOUISIAN
8239734		0302710751	103			SMITH ESTATE #1	N HAYNESVILLE	360.0	ARKANSAS-LOUISIAN
-DIAMOND SHAMROCK CORPORATION		RECEIVED:	06/23/82		JA: AR				
8239634		0313110195	103			WENDALL CARRUTH #1	EWING	65.0	
-EXXON CORPORATION		RECEIVED:	06/23/82		JA: AR				
8239672		0308310083	103			CHISMVILLE GAS UNIT 2 #1L	CHISMVILLE	223.0	
8239671		0308310083	103			CHISMVILLE GAS UNIT 2 #1U	CHISMVILLE	1372.0	
8239635		0313110189	103			YADON GAS UNIT 1-C	BOONEVILLE	686.0	
8239636		0313110189	103			YADON GAS UNIT 1-T	BOONEVILLE	98.0	
-GETTY OIL COMPANY		RECEIVED:	06/23/82		JA: AR				
8239673		0308310052	103			HOLLAND 3-1	CHISMVILLE	73.0	ARKANSAS LOUISIAN
-GULF OIL CORPORATION		RECEIVED:	06/23/82		JA: AR				
8239703		0307110188	103			EUREKA BRICK & TILE #2-3	SPADRA	143.0	ARKANSAS LOUISIAN
-HADSON OHIO OIL COMPANY		RECEIVED:	06/23/82		JA: AR				
8239669		0312700000	103			BETHEL ESTATE #1-5	MANSFIELD	75.0	ARKANSAS LOUISIAN
8239704		0307110189	103			GARRETT 1-1	SPADRA	88.0	ARKANSAS LOUISIAN
-HADSON PETROLEUM CORP		RECEIVED:	06/23/82		JA: AR				
8239647		0313110216	103			PENDERGRASS #1-12C	EWING	275.0	ARKANSAS LOUISIAN
8239648		0313110216	103			PENDERGRASS 1-12T	EWING	275.0	ARKANSAS LOUISIAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8239649		0308310087		103		WHITECOTTON #1-32
-HAWKINS OIL & GAS INC				RECEIVED:	06/23/82	JA: AR
8239675		0308310047		103		TRICKETT #1-9-C
8239676		0308310047		103		TRICKETT #1-9-T
-JIM L HANNA DBA HANNA	OIL AND GAS C			RECEIVED:	06/23/82	JA: AR
8239637		0313110201		103		AIRPORT '81 #1-C
8239638		0313110201		103		AIRPORT '81 NO 1-T
8239646		0313110116		103		C W SCOTT #1
8239639		0313110159		103		CARSON #1
8239642		0313110214		103		EVELYN "G" #1-C
8239643		0313110214		103		EVELYN "G" #1-T
8239644		0313110211		103		LANIE LEE #1-C
8239645		0313110211		103		LANIE LEE #1-T
8239640		0313110183		103		MARY CATHERINE #1-C
8239641		0313110183		103		MARY CATHERINE #1-T
8239674		0308310073		103		PIGEON CREEK #1-T
-JOHN C OXLEY				RECEIVED:	06/23/82	JA: AR
8239650		0313110131		103		BAKER #1 - C
-JOHN D CARUTHERS JR				RECEIVED:	06/23/82	JA: AR
8239694		0307310776		103		BURTON #1
8239695		0307310737		103		DUTY #1
-MORAN EXPLORATION INC				RECEIVED:	06/23/82	JA: AR
8239681		0311510066		103		CARPENTER #1-10
-NORTHWEST MINERALS INC				RECEIVED:	06/23/82	JA: AR
8239666		0314310048		103		BONNIE LAMBETH #1
8239668		0314310069		103		E C WARREN #2
8239667		0314310058		103		SAM THURMAN #1
8239665		0314310004		103		TYSON FOODS #1
8239664		0314310045		103		VAN DEUSEN #1
-SANTA FE ENERGY PRODUCTS CO				RECEIVED:	06/23/82	JA: AR
8239677		0308310081		103		KREMERS #1-28
-SAWYER ENERGY INC				RECEIVED:	06/23/82	JA: AR
8239663		0309110277		103		LYELL-HAYDON #1
-SEECO INC				RECEIVED:	06/23/82	JA: AR
8239739		0303310073		103		ALEXANDER 5-34-C
8239741		0303310073		103		ALEXANDER 5-34-LT
8239740		0303310073		103		ALEXANDER 5-34-UT
8239705		0307110228		103		CAREY #1-4
8239707		0307110251		103		FARRINGTON #1-32-C
8239706		0307110251		103		FARRINGTON #1-32-T
8239708		0307110208		103		HARKREADER #2-14
8239723		0304710194		103		HIGGINS #1-24
8239724		0304710188		103		HILLARD-HOLT #1-8-C
8239725		0304710188		103		HILLARD-HOLT #1-8-T
8239726		0304710213		103		HOUSE #1-1-C
8239727		0304710213		103		HOUSE #1-1-T
8239728		0304710199		103		MING #1-30
8239729		0304710201		103		OZARK TOWNSITE #1-36-C
8239730		0304710201		103		OZARK TOWNSITE #1-36T
8239742		0303310068		103		SWARM 1-4
8239710		0307110263		103		WHARTON #1-31
8239731		0304710173		103		WILLIAMS #2-33
-STEPHENS PRODUCTION COMPANY				RECEIVED:	06/23/82	JA: AR

FIELD NAME	PROD	PURCHASER
DELAWARE	100.0	ARKANSAS LOUISIAN
CHISMVILLE	26.0	ARKANSAS LOUISIAN
CHISMVILLE	76.0	ARKANSAS LOUISIAN
MASSARD	300.0	
MASSARD	700.0	
GRAGG	0.0	ARKANSAS LOUISIAN
GRAGG	270.0	ARKANSAS LOUISIAN
GRAGG	180.0	
GRAGG	84.0	
GREGG	15.0	
GRAGG	300.0	
GREGG	300.0	
GRAGG	300.0	
BOONEVILLE	0.0	
EWING	365.0	ARKANSAS OKLAHOMA
CORNISH BRANCH	22.0	CRYSTAL OIL CO
CORNISH BRANCH	22.0	CRYSTAL OIL CO
KNOXVILLE	0.0	
HAZEL VALLEY	15.0	ARKANSAS WESTERN
HAZEL VALLEY	38.0	ARKANSAS WESTERN
HAZEL VALLEY	18.0	ARKANSAS WESTERN
HAZEL VALLEY	0.0	ARKANSAS WESTERN
HAZEL VALLEY FIELD	50.0	
PRAIRIE VIEW	59.0	
FOUKE	545.0	TEXAS EASTERN TRA
DYER	250.0	
DYER	200.0	
DYER	25.0	
OZONE	175.0	ARKANSAS WESTERN
OZONE	0.0	ARKANSAS WESTERN
OZONE	0.0	ARKANSAS WESTERN
UNION CITY	549.0	
ROCK CREEK	28.0	ARKANSAS WESTERN
ALTUS	0.0	ARKANSAS WESTERN
ALTUS	75.0	ARKANSAS WESTERN
CECIL	0.0	ARKANSAS WESTERN
CECIL	0.0	ARKANSAS WESTERN
WHITE OAK	75.0	ARKANSAS WESTERN
WHITE OAK	65.0	ARKANSAS WESTERN
WHITE OAK	100.0	ARKANSAS WESTERN
DYER	85.0	
BATSON	0.0	ARKANSAS WESTERN
CECIL	60.0	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8239651		0313110188		103		ARNOLD BARTLETT #1	EXCELSIOR	182.5	
8239747		0303310080		103		B M LINCOLN #2 UT	HOLLIS LAKE	225.0	ARKANSAS LOUISIAN
8239746		0303310080		103		B M LINCOLN #2-C	HOLLIS LAKE	365.0	ARKANSAS LOUISIAN
8239748		0303310080		103		B M LINCOLN #2-LT	HOLLIS LAKE	456.0	ARKANSAS LOUISIAN
8239744		0303310087		103		GREIG ESTATE #4-T	HOLLIS LAKE	450.0	ARKANSAS LOUISIAN
8239743		0303310087		103		GREIG ESTATE #4C	HOLLIS LAKE	150.0	ARKANSAS LOUISIAN
8239652		0313110213		103		J W SMITH #1-36	EXCELSIOR	0.0	
8239709		0307110215		103		KAUFFELD #1-34	BATSON	100.0	ARKANSAS WESTERN
8239749		0303310088		103		ROBBINS-FINE #3	EWING	182.5	
8239653		0313110198		103		ROBERT WALLACE #1	EXCELSIOR	365.0	
8239745		0303310069		103		VIVIAN DENT #2	KIBLER WILLIAMS	365.0	ARKANSAS OKLAHOMA
-T L JAMES & COMPANY INC				RECEIVED:	06/23/82	JA: AR			
8239735		0313911417		103		FREEMAN #1 SERIAL #26,808	TUBAL FIELD	73.0	ARKANSAS LOUISIAN
-TEXAS OIL & GAS CORP				RECEIVED:	06/23/82	JA: AR			
8239696		0307310562		103		A S BARNETT #1	CORNISH BRANCH	14.0	CRYSTAL OIL CO
8239697		0307310599		103		A S BARNETT #2	CORNISH BRANCH	10.0	CRYSTAL OIL CO
8239698		0307310654		103		BOLINGER #1	CORNISH BRANCH	3.0	CRYSTAL OIL CO
8239699		0307310705		103		BOLINGER "A" #1	CORNISH BRANCH	10.0	CRYSTAL OIL CO
8239700		0307310663		103		CORNISH #1	CORNISH BRANCH	44.0	CRYSTAL OIL CO
8239654		0313110163		103		HEWETT #1	EWING	75.0	ARKANSAS LOUISIAN
8239655		0313110155		103		INGRAM #1	EWING	150.0	ARKANSAS LOUISIAN
8239656		0313110192		103		JEFFREY "A" #1-C	MASSARD	275.0	
8239657		0313110192		103		JEFFREY "A" #1-T	MASSARD	75.0	
8239715		0307110206		103		KING #1	CLARKSVILLE	300.0	ARKANSAS LOUISIAN
8239711		0307110206		103		KING #1-C	CLARKSVILLE	500.0	ARKANSAS LOUISIAN
8239712		0307110206		103		KING #1-T	CLARKSVILLE	500.0	ARKANSAS LOUISIAN
8239721		0314710186		103		MCDONALD "D" #2	VESTA	300.0	
8239658		0313110280		103		WARD "J" #1	MASSARD	18.0	
8239659		0313110185		103		WOODS "C" #1	BONANZA	180.0	
8239722		0304710198		103		YOUNG "K" #1	AETNA	1400.0	
8239713		0307110229		103		ZINC #1-C	SPADRA	157.0	
8239714		0307110229		103		ZINC #1-T	SPADRA	157.0	
-THOMAS C MUELLER				RECEIVED:	06/23/82	JA: AR			
8239682		0311510095		103		B M HUGGINS #1-3	DOVER	70.0	
-TOWNER PETROLEUM CO				RECEIVED:	06/23/82	JA: AR			
8239661		0313110190		103		HINKLE #28-1	GRAGG	0.0	ARKANSAS LOUISIAN
8239684		0311510098		103		NORDIN #6-1-T	KNOXVILLE	0.0	ARKANSAS LOUISIAN
8239683		0311510098		103		NORDIN 6-1-C	KNOXVILLE	102.0	ARKANSAS LOUISIAN
8239685		0311510119		103		SHULL #18-1-C	DOVER	0.0	ARKANSAS LOUISIAN
8239686		0311510119		103		SHULL #18-1-T	DOVER	0.0	ARKANSAS LOUISIAN
8239662		0313110168		103		SMITH #32-1	MASSARD	166.0	ARKANSAS OKLAHOMA
8239679		0308310077		103		WHITE #1-1-T	CHISMVILLE	0.0	ARKANSAS LOUISIAN
8239678		0308310077		103		WHITE #1-1C	CHISMVILLE	0.0	ARKANSAS LOUISIAN
8239687		0311510110		103		WORLEY #11-1-C	KNOXVILLE	0.0	ARKANSAS LOUISIAN
8239688		0311510110		103		WORLEY #11-1-T	KNOXVILLE	0.0	ARKANSAS LOUISIAN
-TRICO DRILLING COMPANY INC				RECEIVED:	06/23/82	JA: AR			
8239689		0311510127		103		HUTSON #1	KNOXVILLE	545.0	ARKANSAS LOUISIAN
8239690		0311510124		103		WHORTON #1	KNOXVILLE	273.0	ARKANSAS LOUISIAN
-TXO PRODUCTION CORP				RECEIVED:	06/23/82	JA: AR			
8239660		0313110210		103		HAMILTON "C" #1	URSULA	185.0	
-UNIT DRILLING & EXPLORATION CO				RECEIVED:	06/23/82	JA: AR			
8239691		0311510099		103		MARTIN #2	KNOXVILLE	182.0	ARKANSAS LOUISIAN
-WEISER-BROWN OIL COMPANY				RECEIVED:	06/23/82	JA: AR			

JD.NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8239737		0302710865		103		CRUMPLER #3	VILLAGE	150.0	ARKANSAS LOUISIAN
8239738		0302710910		103		WALTERS #1	VILLAGE	180.0	ARKANSAS LOUISIAN
-WHITMAR EXPLORATION CO				RECEIVED:	06/23/82	JA: AR			
8239692		0311510116		103		ORVILLE JOHNSON #1-7	KNOXVILLE	300.0	ARKANSAS LOUISIAN
8239693		0311510115		103		RENTFRO #1-28	DOVER	200.0	ARKANSAS LOUISIAN
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MISSISSIPPI OIL & GAS BOARD									
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-LOUISIANA LAND & EXPLORATION CO				RECEIVED:	01/04/82	JA: MS			
8239772	104-81527(4)	2309520321		102-2		C P COGGIN #1	COMPENNA CREEK	422.0	TEXAS EASTERN TRA
8239770	104-81527(2)	2309520318		102-2		H J MURFF #2	COMPENNA CREEK	410.0	TEXAS EASTERN TRA
8239771	104-81527(3)	2309520322		102-2		H J MURFF #3	COMPENNA CREEK	84.0	TEXAS EASTERN TRA
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MONTANA BOARD OF OIL & GAS CONSERVATION									
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-ADOBE OIL & GAS CORPORATION				RECEIVED:	06/24/82	JA: MT			
8239820	6-81-117	2510121991		102-2		FLAGE #1-8	WILDCAT	54.0	
8239816	6-81-118	2510121920		102-2		PETERSON #1	WILDCAT	54.0	
8239817	6-81-119	2510121992		102-2		SNUFFER #1-8	WILDCAT	54.0	
-BWAB INC				RECEIVED:	06/24/82	JA: MT			
8239819	7-81-125	2508321475		102-2		HENDERSON #4-22	CANAL	7.5	MONTANA DAKOTA UT
8239822	7-81-124	2508321345		102-2		JENSEN #21-43	SIDNEY	7.5	MONTANA DAKOTA UT
-FARMERS UNION CENTRAL EXCHANGE INC				RECEIVED:	06/24/82	JA: MT			
8239824	6-81-120	2509121290		102-2		HJORT 3-3	RESERVE SOUTH	36.0	TRUE OIL CO
8239825	6-81-121	2509121291		102-2		LAND 9-20	MEDICINE LAKE WEST	35.0	TRUE OIL CO
-SOUTHLAND ROYALTY CO				RECEIVED:	06/24/82	JA: MT			
8239818	7-81-123	2508321411		102-4		ALICE PREVOST #2-30	THREE BUTTES	4.0	MGPC INC
8239821	7-81-122	2508321446		102-4		ULRIC PREVOST #1-25	THREE BUTTES	3.0	MGPC INC
-TOPAZ OIL & GAS INC				RECEIVED:	06/24/82	JA: MT			
8239823	7-81-126	2507121734		103		TOPAZ OIL & GAS INC #1 CONLON	BOWDOIN	36.0	MONTANA DAKOTA UT
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NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION									
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-AMERICAN PENN ENERGY INC				RECEIVED:	06/23/82	JA: NY			
8239780	3448	3102917034		103		GRUPP UNIT #1 (1526)	EVANS	0.0	NATIONAL FUEL GAS
8239779	3452	3102917044		103		GRUPP UNIT #2 (1527)	EVANS	10.0	NATIONAL FUEL GAS
-ANGELA P HOPKINS				RECEIVED:	06/23/82	JA: NY			
8239782	3160	3101316688		103		HOPKINS-CARL HALL #DM4152	LAKESHORE	0.0	NATIONAL FUEL GAS
-BEREA OIL AND GAS CORPORATION				RECEIVED:	06/23/82	JA: NY			
8239777	3465	3101316383		103		H PERSONS #1	RIPLEY-MINA	22.0	COLUMBIA GAS TRAN
8239776	3463	3101316510		103		N REED #4	RIPLEY-MINA	22.0	COLUMBIA GAS TRAN
8239814	2786	3101316867		107-TF		W JOSEPHSON #1	GERRY	15.4	COLUMBIA GAS TRAN
8239815	2785	3101316867		103		W JOSEPHSON #1	GERRY	15.4	COLUMBIA GAS TRAN
-CHAUTAUQUA ENERGY INC				RECEIVED:	06/23/82	JA: NY			
8239809	2802	3101315867		107-TF		HAMMER MILL #1	LAKESHORE	12.0	COLUMBIA GAS TRAN
8239810	2803	3101315868		107-TF		HAMMERMILL #2	LAKESHORE	12.0	COLUMBIA GAS TRAN
8239811	2804	3101315984		107-TF		W HARRIS #1	MEDINA - LAKE PLAIN	22.0	NATIONAL FUEL GAS
-CHAUTAUQUA NATURAL GAS CO INC				RECEIVED:	06/23/82	JA: NY			
8239808	2823	3101315457		107-TF		COLGROVE WARNER #1-A	LAKESHORE	20.0	COLUMBIA GAS TRAN
-CONSOLIDATED EXPLORATION & GATHERIN				RECEIVED:	06/23/82	JA: NY			
8239800	2491	3102916212		102-2		DISTEFANO UNIT #1	EDEN - EVANS	15.0	SCG GAS QUEST INC
8239799	2490	3102916301		102-2		LINDSAY UNIT #1	EDEN - EVANS	15.0	SCG GAS QUEST INC
-CUMBERLAND OIL CORP				RECEIVED:	06/23/82	JA: NY			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8239797	2815	3101316836		107-TF		LYLE SAGER #2	LAKESHORE	8.0	NATIONAL FUEL GAS
8239795	2797	3101316939		107-TF		RICHTER #6	LAKESHORE	20.0	NATIONAL FUEL GAS
-J B C CORP				RECEIVED:	06/23/82	JA: NY			
8239794		3101316430		107-TF		SELLSTROM & BARGAR #3	LAKE SHORE	12.0	NATIONAL FUEL GAS
-J M RESOURCES				RECEIVED:	06/23/82	JA: NY			
8239796	2798	3101314326		107-TF		LEPP #4	LAKESHORE	11.0	NATIONAL FUEL GAS
-KEYSTONE ENERGY OIL & GAS PRODUCTIO				RECEIVED:	06/23/82	JA: NY			
8239804	3492	3100916964		103		ALLEN #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8239801	3490	3100916417		103		CARLTON & JOAN STONE #2	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8239807	3476	3100916420		103		EVANS #2	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8239774	3479	3100916412		103		EVANS #3	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8239806	3470	3100916411		103		GOOCHEE #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8239805	3472	3100916406		103		GOOCHEE #2	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8239775	3480	3100916405		103		NAMLIK #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8239773	3474	3100915375		103		STONE #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8239802	3480	3100916864		103		WICK #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8239803	3484	3100916425		103		WILLIAMS #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
-MAYNARD OIL COMPANY				RECEIVED:	06/23/82	JA: NY			
8239778	3462	3102917251		103		BOLDT #1 #02418	BOLDT #1	0.0	NATIONAL FUEL GAS
-RICHARDSON PETROLEUM CORP				RECEIVED:	06/23/82	JA: NY			
8239783	3238	3100316856		103		HESELTON #15	INDEPENDENCE	10.0	NATIONAL FUEL GAS
-SHARON RESOURCES INC				RECEIVED:	06/23/82	JA: NY			
8239789	1445	3112115783		102-2		A CODD #1	SHELDON	10.5	COLUMBIA GAS TRAN
8239793	1438	3112115387		102-2		BARTZ #1	SHELDON	17.5	COLUMBIA GAS TRAN
8239786	1447	3112115852		102-2		G METZGER ET AL #1	SHELDON	12.0	COLUMBIA GAS TRAN
8239788	1446	3112115735		102-2		N PERRY #1	SHELDON	28.0	COLUMBIA GAS TRAN
8239791	1440	3112115386		102-2		OCHAL #1	SHELDON	14.0	COLUMBIA GAS TRAN
8239785	1442	3112115691		102-2		R KIRSCH #1	SHELDON	15.0	COLUMBIA GAS TRAN
8239787	1437	3112115384		102-2		REISDORF #1	SHELDON	10.5	COLUMBIA GAS TRAN
8239790	1444	3112115769		102-2		ROBERT PINGREY #1	SHELDON	15.5	COLUMBIA GAS TRAN
8239792	1439	3112115385		102-2		W KIRSCH #1	SHELDON	11.0	COLUMBIA GAS TRAN
-SHAWNEE EXPLORATION INC				RECEIVED:	06/23/82	JA: NY			
8239798	1578	3102916447		102-2		GERNATT UNIT #1	BRANT	15.0	SCG GAS QUEST INC
-UNIVERSAL RESOURCES HOLDINGS INC				RECEIVED:	06/23/82	JA: NY			
8239812	2780	3101316897		107-TF		OPTIMIST CLUB #1	GERRY	20.0	COLUMBIA GAS TRAN
8239813	2792	3101316896		107-TF		R WILCOX #1	GERRY	20.0	COLUMBIA GAS TRAN
-US ENERGY DEVELOPMENT CORP				RECEIVED:	06/23/82	JA: NY			
8239781	3166	3101315682		103		EDWARD TERRY #1	GERRY	20.0	COLUMBIA GAS TRAN
-VEIL RESOURCES				RECEIVED:	06/23/82	JA: NY			
8239784	3370	3102915658		103		JULIANA #2	HAMBURG	10.0	NATIONAL FUEL GAS

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WEST VIRGINIA DEPARTMENT OF MINES

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-CABOT OIL & GAS CORP			RECEIVED:	06/24/82	JA: WV			
8239895	4703901775	107-DV		BERRY HILLS 1-1115	JEFFERSON	0.0	TENNESSEE GAS PIP
8239875	4700500924	107-DV		CASSINGHAM #13-255	SCOTT	2.1	TENNESSEE GAS PIP
8239897	4709900869	107-DV		CLYDE MILLER 1-873	STONEWALL	2.0	TENNESSEE GAS PIP
8239862	4704301405	107-DV		F F STARCHER 14-1210	HARTS CREEK	6.8	TENNESSEE GAS PIP
8239861	4704301409	107-DV		F F STARCHER 15-1218	HARTS CREEK	0.0	TENNESSEE GAS PIP
8239865	4704301110	107-DV		F F STARCHER 4-877	HARTS CREEK	5.8	TENNESSEE GAS PIP
8239867	4704500166	107-DV		FANNIE WHITE 1-738	CHAPMANVILLE	2.5	TENNESSEE GAS PIP
8239899	4709901288	107-DV		HOARD BALDWIN 59-1101	STONEWALL	0.0	TENNESSEE GAS PIP
8239898	4709901273	107-DV		HOARD-BALDWIN 56-1094	STONEWALL	0.0	TENNESSEE GAS PIP

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER	
8239864		4704301168		107-DV		ISLAND CREEK 14-925	HARTS CREEK	5.8	TENNESSEE	GAS PIP
8239863		4704301171		107-DV		ISLAND CREEK 15-926	HARTS CREEK	1.8	TENNESSEE	GAS PIP
8239876		4704500009		107-DV		LAWSON HEIRS "B" 3-1181	CHAPMANVILLE	3.2	TENNESSEE	GAS PIP
8239881		4700500842		107-DV		LENNING ESTATE 2-315	PEYTONA	0.3	TENNESSEE	GAS PIP
8239882		4700500505		107-DV		LENNING ESTATE 6-615	PEYTONA	2.5	TENNESSEE	GAS PIP
8239873		4700501009		107-DV		LITTLE COAL B 8-306	SCOTT	18.7	TENNESSEE	GAS PIP
8239872		4700500673		107-DV		LITTLE COAL 29-688	WASHINGTON	0.0	TENNESSEE	GAS PIP
8239871		4700500675		107-DP		LITTLE COAL 31-690	SCOTT	8.0	TENNESSEE	GAS PIP
8239869		4700500676		107-DV		LITTLE COAL 32-691	WASHINGTON	3.6	TENNESSEE	GAS PIP
8239874		4700500808		107-DV		LITTLE COAL 38-778	WASHINGTON	4.3	TENNESSEE	GAS PIP
8239870		4700500809		107-DV		LITTLE COAL 39-779	WASHINGTON	2.8	TENNESSEE	GAS PIP
8239857		4704300954		107-DV		PATTIE PORTER 8-810	LAUREL HILL	9.1	TENNESSEE	GAS PIP
8239883		4700500371		107-DV		PEYTONA COAL LAND #31-474	SHERMAN	16.9	TENNESSEE	GAS PIP
8239880		4700500847		107-DV		PEYTONA COAL 16-323	SHERMAN	3.0	TENNESSEE	GAS PIP
8239879		4700500851		107-DV		PEYTONA COAL 17-336	SHERMAN	4.5	TENNESSEE	GAS PIP
8239877		4700500875		107-DP		PEYTONA COAL 18-354	SHERMAN	7.1	TENNESSEE	GAS PIP
8239878		4700500862		107-DP		PEYTONA COAL 19-373	SHERMAN	24.8	TENNESSEE	GAS PIP
8239868		4709900359		107-DV		R & T P MAYNARD 1-708	GRANT	7.2	TENNESSEE	GAS PIP
8239859		4709900417		107-DV		R & T P MAYNARD 2-739	GRANT	11.2	TENNESSEE	GAS PIP
8239858		4709900485		107-DV		R & T P MAYNARD 6-760	GRANT	2.1	TENNESSEE	GAS PIP
8239896		4703901895		107-DV		ROSA LAWSON 1-1049	WASHINGTON	12.7	TENNESSEE	GAS PIP
8239894		4704301186		107-DV		ROY L MALLORY 1-956	WASHINGTON	0.0	TENNESSEE	GAS PIP
8239866		4704300895		107-DV		STEIN & MCCOMAS 2-752	HARTS CREEK	6.5	TENNESSEE	GAS PIP
8239884		4705902044		107-DV		V VANDELINDE 1-396	SCOTT	0.7	TENNESSEE	GAS PIP
8239868		4704300183		107-DV		W M ADKINS 1-450	JEFFERSON	0.0	TENNESSEE	GAS PIP
8239885		4709900043		107-DV		WILSON COAL #8-525	LINCOLN	6.2	TENNESSEE	GAS PIP
8239892		4709900341		107-DV		WILSON COAL 37-695	GRANT	2.3	TENNESSEE	GAS PIP
8239893		4709900342		107-DV		WILSON COAL 38-696	GRANT	9.0	TENNESSEE	GAS PIP
8239891		4709900490		107-DV		WILSON COAL 45-766	GRANT	45.5	TENNESSEE	GAS PIP
8239890		4709900561		107-DV		WILSON COAL 48-772	LINCOLN	4.3	TENNESSEE	GAS PIP
8239889		4709900598		107-DV		WILSON COAL 58-782	LINCOLN	17.5	TENNESSEE	GAS PIP
8239888		4709900961		107-DV		WILSON COAL 72-923	LINCOLN	10.0	TENNESSEE	GAS PIP
8239887		4709901274		107-DV		WILSON COAL 76-936	LINCOLN	3.5	TENNESSEE	GAS PIP
8239886		4709901498		107-DV		WILSON COAL 87-1196	LINCOLN	20.5	TENNESSEE	GAS PIP

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** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, DENVER,CO

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-AMERICAN RESOURCES MANAGEMENT CORP RECEIVED: 06/22/82 JA: CO 1

8239765	CD0147-82	0510307302	108		GOVERNMENT #1	1092 FNL 1059 FWL SEC	16.6	WESTERN SLOPE		

-COSEKA RESOURCES (USA) LIMITED RECEIVED: 06/22/82 JA: CO 1

8239768	CD0076-82	0510308713	107-TF		FEDERAL #15-30-4-103	WILDCAT	24.3	SOUTHWEST GAS COR		

-EQUITY OIL COMPANY RECEIVED: 06/22/82 JA: CO 1

8239767	CD0058-82	0510300000	107-TF		SULPHUR CREEK #1	RIO BLANCO UNIT	76.0	COLORADO INTERSTA		

-GETTY OIL COMPANY RECEIVED: 06/22/82 JA: CO 1

8239762	CD0183-82	0506706276	107-TF		UTE "E" #2	IGNACIO BLANCO MESAVE	75.0	NORTHWEST PIPELIN		
8239761	CD0185-82	0506706413	107-TF		UTE "E" #4	IGNACIO BLANCO DAKOTA	90.0	NORTHWEST PIPELIN		

-MESA PETROLEUM CO RECEIVED: 06/22/82 JA: CO 1

8239764	CD0370-81	0512506568	102-2		ECKLEY FEDERAL 1 #1	ECKLEY	734.0	CITIES SERVICE GA		
8239763	CD0369-81	0512506566	102-2		FEDERAL 6 #1	ECKLEY	710.0	CITIES SERVICE GA		

-MONSANTO COMPANY RECEIVED: 06/22/82 JA: CO 1

8239769	CD0174-82	0506705280	108		UTE #1	IGNACIO BLANCO	2.4	PEOPLES NATURAL G		

-NORTHWEST PIPELINE CORPORATION RECEIVED: 06/22/82 JA: CO 1

8239751	CD0091-82PB	0506700000	108-PB		COLORADO 32-8 #2	MESAVERDE	0.0	NORTHWEST PIPELIN		

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8239755	CD0198-82PB	0506700080		108-PB		COLORADO 32-8 #2	IGNACIO BLANCO MESAVE	0.0	NORTHWEST PIPELIN
-TWIN ARROW INC				RECEIVED:	06/22/82	JA: CO 1			
8239756	CD0189-81	0510308593		103		C & K 2-14	CATHEDRAL	0.0	NORTHWEST PIPELIN
8239752	CD0193-81	0510308233		103		CONTINENTAL 2-9	CATHEDRAL	0.0	NORTHWEST PIPELIN
8239759	CD0243-81	0510308215		107-TF		CONTINENTAL 3-29	CATHEDRAL	0.0	NORTHWEST PIPELIN
8239754	CD0194-81	0510308567		103		COORS 2-15X	CATHEDRAL	0.0	NORTHWEST PIPELIN
8239758	CD0129-82	0510308823		107-TF		COORS 3-11	CATHEDRAL	0.0	NORTHWEST PIPELIN
8239753	CD0128-82	0510308673		107-TF		COORS 8-22	CATHEDRAL	0.0	NORTHWEST PIPELIN
8239757	CD0166-82	0510308682		107-TF		TERRA 1-27X	CATHEDRAL	0.0	NORTHWEST PIPELIN
-COTTON PETROLEUM CORPORATION				RECEIVED:	06/22/82	JA: UT 1			
8239766	UD0422-81	4304730709		107-TF		LOVE UNIT 81-10	WILDCAT	356.0	MESA PIPELINE
-GETTY OIL COMPANY				RECEIVED:	06/22/82	JA: UT 1			
8239768	UD0299-81	4398705056		108		PETERS POINT #3	PETERS POINT	18.0	UINTA PIPELINE CO
-ODEGARD RESOURCES INC				RECEIVED:	06/22/82	JA: UT 1			
8239758	UD 0163-82	4301930853		103		WESTWATER UNIT #3	WESTWATER	125.0	NORTHWEST PIPELIN
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, CASPER,WY									
-MIDLANDS GAS CORPORATION				RECEIVED:	06/24/82	JA: MT 5			
8239829	M473-1	2507121264		108		FEDERAL 1 1742	WILDCAT	22.0	KANSAS-NEBRASKA N
8239830	M 475-1	2507121484		108		FEDERAL 1 2161	WILDCAT	22.0	KANSAS-NEBRASKA N
8239828	M472-1	2507121262		108		FEDERAL 1 2251	WILDCAT	22.0	KANSAS-NEBRASKA N
8239836	M 525-1	2507121667		108		FEDERAL 1 2812	UNNAMED	22.0	KANSAS-NEBRASKA N
8239837	M 524-1	2507121668		108		FEDERAL 1 3412	UNNAMED	22.0	KANSAS-NEBRASKA N
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	06/24/82	JA: MT 5			
8239839	M 527-1	2510121822		103		FEDERAL PUBCO A #13-35	ARCH APEX - BOW ISLAN	100.0	MONTANA POWER CO
-BUAB INC				RECEIVED:	06/24/82	JA: ND 5			
8239848	ND 552-1	3305300002		102-2		BN #11-31	MONDAK	10.0	MONTANA DAKOTA UT
-GULF OIL CORPORATION				RECEIVED:	06/24/82	JA: ND 5			
8239846	ND 545-1	3305301242		102-2		BOB CREEK FEDERAL 1-13-3B	LONE BUTTE	9.0	
8239845	ND 544-1	3305301229		102-2		MONMON BUTTE FEDERAL 1-25-3C	LONE BUTTE	286.0	
-TENNECO OIL COMPANY				RECEIVED:	06/24/82	JA: ND 5			
8239856	ND 561-1	3300700635		102-2		MOHALE 1-35	BIG STICK	28.0	WESTERN GAS PROCE
-AMOCO PRODUCTION CO				RECEIVED:	06/24/82	JA: WY 5			
8239854	W 559-1	4900720675		102-2		COAL GULCH UNIT "J" #1	COAL GULCH - MESAVERD	104.0	CITIES SERVICE GA
8239855	W 568-1	4900720675		107-TF		COAL GULCH UNIT "J" #1	COAL GULCH-MESAVERDE	184.0	CITIES SERVICE GA
-AMADARKO PRODUCTION COMPANY				RECEIVED:	06/24/82	JA: WY 5			
8239847	W 546-1	4903721462		102-4		PINE CANYON FEDERAL "A" 1-2	PINE CANYON	145.0	PANHANDLE EASTERN
-BELCO PETROLEUM CORPORATION				RECEIVED:	06/24/82	JA: WY 5			
8239842	W 536-1	4903529618		102-4		CHAMBERS FEDERAL 2-17	STAR CORRAL	0.0	NORTHWEST PIPELIN
-CHEVRON U S A INC				RECEIVED:	06/24/82	JA: WY 5			
8239833	W 496-1	4904120302		102-4		PAINTER RESERVOIR UNIT 12-6A	PAINTER RESERVOIR	187.0	NORTHERN NATURAL
8239834	W 497-1	4904127600		102-4		PAINTER RESERVOIR UNIT 23-6A	PAINTER RESERVOIR	237.0	NORTHERN NATURAL
8239832	W 495-1	4904120231		102-4		PAINTER RESERVOIR UNIT 24-30B	PAINTER RESERVOIR	2281.0	NORTHERN NATURAL
8239831	W 494-1	4904120334		102-4		PAINTER RESERVOIR UNIT 32-6A	PAINTER RESERVOIR	447.0	NORTHERN NATURAL
8239835	W 498-1	4904120387		102-4		PAINTER RESERVOIR UNIT 33-30B	PAINTER RESERVOIR	298.0	NORTHERN NATURAL
-CITIES SERVICE COMPANY				RECEIVED:	06/24/82	JA: WY 5			
8239853	W 558-1	4900525804		103		FEDERAL "S" #1	BRIDGE DRAW	8.7	
-DIETRICH RESOURCES CORP				RECEIVED:	06/24/82	JA: WY 5			
8239849	W 554-1	4903721743		103		FEDERAL B-34	HIAWATHA-SUGAR LOAF	0.0	MOUNTAIN FUEL SUP
-DOUBLE EAGLE PETROLEUM & MINING CO				RECEIVED:	06/24/82	JA: WY 5			
8239852	W 557-1	4902521333		102-4		DOUBLE EAGLE GRAHAM UNIT #2 FEDERAL	FRENCHIE DRAW	200.0	KANSAS NEBRASKA N
-EXXON CORPORATION				RECEIVED:	06/24/82	JA: WY 5			

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8239844	W 543-1	4903520596		107-DP		LAKE RIDGE UNIT #1	WILDCAT	877.0	
-HPC INC				RECEIVED:	06/24/82	JA: WY 5			
*8239843	W 542-1	4903721685		102-2		TRITON UNIT #2	TRITON	440.0	PANHANDLE EASTERN
-RESOURCES INVESTMENT CORPORATION				RECEIVED:	06/24/82	JA: WY 5			
8239827	W412-1	4904521549		102-4		BRUCE FEDERAL #1-4	WEST TODD	22.6	PHILLIPS PETROLEU
8239826	W411-1	4904521542		102-4		CITIES FEDERAL #1-8	WEST TODD	32.5	PHILLIPS PETROLEU
-SNYDER OIL CO				RECEIVED:	06/24/82	JA: WY 5			
8239851	W 556-1	4900720695		107-TF		MARATHON FEDERAL 1C-32-15-92	BLUE GAP	150.0	NORTHWEST PIPELIN
8239850	W 555-1	4907720691		107-TF		SANTA FE FEDERAL 1A-29-14-92	ROBBERS GULCH	140.0	NORTHWEST PIPELIN
8239836	W 515-1	4900720694		107-TF		SOCO PUCKETT FEDERAL 1C-11-14-92	ROBBERS GULCH FIELD	140.0	NORTHWEST PIPELIN
-TOM BROWN INC				RECEIVED:	06/24/82	JA: WY 5			
8239841	W 529-1	4901321221		102-4		TRIBAL # 24-23	MUDDY RIDGE	383.2	MONTANA DAKOTA UT
8239840	W 528-1	4901321220		102-4		TRIBAL # 30-21	MUDDY RIDGE	635.1	MONTANA-DAKOTA UT

OTHER PURCHASERS VOLUME NO :688

8239843 MICHIGAN WISCONSIN P L CO

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before July 30, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–19108 Filed 7–14–82; 8:45 am]
BILLING CODE 6717–01–M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: July 9, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
LOUISIANA OFFICE OF CONSERVATION									
-AMERICAN QUASAR PETROLEUM CO			RECEIVED:	06/24/82	JA: LA				
8239927	82-0388	1711321077	103			FIRST NATIONAL FARMS #2	RICEVILLE	0.0	CONOCO INC
-AMOCO PRODUCTION CO			RECEIVED:	06/24/82	JA: LA				
8239913	82-0613	1702321314	103			MIAMI CORPORATION #33	SOUTH PECAN LAKE	365.0	COLUMBIA GAS TRAN
8240014	82-2081	1706320055	107-DP			NORA KING ET AL #1 16,780 TUSC RA	LOCKHART CROSSING	3650.0	SOUTHERN NATURAL
8240013	82-2083	1707720220	107-DP			REX CALLICOTT #1	SOUTH RAVENSWOOD	300.0	COLUMBIA GAS TRAN
8240015	82-2098	1703121323	107-TF			W M POLLOCK #1	BENSON	547.0	SOUTHERN NATURAL
-BENGAL OIL & GAS INC			RECEIVED:	06/24/82	JA: LA				
8239972	82-0533	1707321847	103			MYHRE #3	MONROE	18.0	UNITED GAS PIPE L
8239978	82-0534	1707321848	103			MYHRE #5	MONROE	18.0	UNITED GAS PIPELI
-BETHLAN PRODUCTION CORP			RECEIVED:	06/24/82	JA: LA				
8239940	82-0967	1707321646	108			EAST OUACHITA RECREATION DIST #3	MONROE GAS FIELD	6.1	UNITED GAS PIPE L
8239939	82-0968	1707321651	108			EAST OUACHITA RECREATION DIST #4	MONROE GAS	6.1	UNITED GAS PIPE L
8239915	82-0950	1707321551	108			GRANT A #1	MONROE GAS FIELD	10.0	GAS TRANSPORTATIO
8239916	82-0951	1707321552	108			GRANT A #2	MONROE GAS FIELD	14.5	GAS TRANSPORTATIO
8239917	82-0952	1707321553	108			GRANT A #3	MONROE GAS FIELD	14.5	GAS TRANSPORTATIO
8239918	82-0953	1707321570	108			GRANT A #5	MONROE GAS FIELD	5.2	GAS TRANSPORTATIO
8239980	82-0954	1707321571	108			GRANT A #6	MONROE GAS FIELD	16.1	GAS TRANSPORTATIO
8239991	82-0858	1706721681	103			J 2 RANCH B #3	MONROE GAS FIELD	47.5	GEORGIA PACIFIC C
8239992	82-0859	1706721682	103			J 2 RANCH B #4	MONROE GAS FIELD	38.3	GEORGIA PACIFIC C
8239981	82-0955	1707321389	108			JEFFERSON ESTATE #1	MONROE GAS FIELD	20.5	MID LOUISIANA GAS
8239902	82-0956	1707321399	108			OUACHITA PARISH SCHOOL BOARD #1	MONROE GAS FIELD	18.8	UNITED GAS PIPE L
-BLUE CREEK RESOURCES INC			RECEIVED:	06/24/82	JA: LA				
8239914	82-0638	1703121398	103			JAMES MCMULLEN & W G WEMPLE #1	RED RIVER BULL BAYOU	100.0	LOUISIANA INTRAST
-CHEVRON U S A INC			RECEIVED:	06/24/82	JA: LA				
8240017	82-2818	1707720275	107-DP			J V ROUGON #1 19100 TUSC RA SUX	PROFIT ISLAND	960.0	TEXAS EASTERN GAS
8240016	82-2817	1707720274	107-DP			J V ROUGON #2 19100 TUSC RA SUFF	PROFIT ISLAND	3342.0	TEXAS EASTERN TRA
8239936	82-2979	1707720273	107-DP			W WRIGHT #2 19800 TUSC RB SUD	FALSE RIVER	3821.0	TEXAS EASTERN GAS
-CONOCO INC			RECEIVED:	06/24/82	JA: LA				
8239933	82-0628	1709920891	103			CONOCO FEE A #28	ST MARTINVILLE	11.0	INTRASTATE PIPELI
-DAVIS OIL COMPANY			RECEIVED:	06/24/82	JA: LA				
8239935	82-2829	1710121258	107-DP			SL 5097 #4	LITTLE BAY	0.0	TEXAS EASTERN TRA
-EXCHANGE OIL & GAS CORPORATION			RECEIVED:	06/24/82	JA: LA				
8239982	82-2998	1770520113	107-DP			STATE LEASE 3763 #12	VERMILION BLOCK 16	365.0	TRANSCONTINENTAL
-FRANKS & PETROFUNDS INC			RECEIVED:	06/24/82	JA: LA				
8240011	82-1421	1701320128	107-TF			SMELLY #1 HOSS SU N	DRISCOLL	385.0	UNITED GAS PIPE L
-GAS TRANSPORTATION CORPORATION			RECEIVED:	06/24/82	JA: LA				
8239996	82-0700	1707321734	108			COLEMAN #1	MONROE GAS FIELD	0.0	INTERNATIONAL MIN
-GETTY OIL COMPANY			RECEIVED:	06/24/82	JA: LA				
8239932	82-0629	1700120739	103			GUENO #1	BRANCH	310.0	MONTEREY PIPELINE
-GLEN D LOE			RECEIVED:	06/24/82	JA: LA				

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8239998	82-2996	1712720995		102-A		LOUISIANA PACIFIC X #2 SN 170474	WILDCAT (UNNAMED)	50.0	LOUISIANA INTRAST
-HADDOX PETROLEUM CORP				RECEIVED:	06/24/82	JA: LA			
8240001	82-0935	1711121454		108		MEDLIN #1	MONROE	3.1	IMC PIPELINE CO I
-HERBST RESOURCES INC				RECEIVED:	06/24/82	JA: LA			
8239950	82-0685	1707323186		108		MILLER #3	MONROE GAS ROCK	8.0	MID LOUISIANA GAS
8239947	82-0686	1707320713		108		MILLER #5	MONROE GAS ROCK	383.0	IMC PIPELINE CO I
8239946	82-0687	1707320717		108		MILLER #7	MONROE GAS ROCK	8.0	MID LOUISIANA GAS
-HOGAN EXPLORATION INC				RECEIVED:	06/24/82	JA: LA			
8239979	82-0635	1702120747		103		MANVILLE 774 #1	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-INC EXPLORATION COMPANY				RECEIVED:	06/24/82	JA: LA			
8239975	82-0542	1707321855		103		MYHRE #5	MONROE	18.0	UNITED GAS PIPELI
8239989	82-0888	1706721663		108		TENSAS DELTA #F-339	MONROE	4.0	IMC PIPELINE CO I
8239985	82-0889	1706721658		108		TENSAS DELTA #F-340	MONROE	6.0	GEORGIA PACIFIC C
8239984	82-0890	1706721659		108		TENSAS DELTA #F-341	MONROE	6.0	GEORGIA PACIFIC C
8239928	82-0891	1706721657		108		TENSAS DELTA #F-343	MONROE	7.0	IMC PIPELINE CO I
-JIM V HADDOX				RECEIVED:	06/24/82	JA: LA			
8239988	82-0934	1711121426		108		SIMPSON #1	MONROE	3.2	IMC PIPELINE CO I
-JOHN O CLAY EXPLORATION INC				RECEIVED:	06/24/82	JA: LA			
8239910	82-0862	1702120587		103		L DUNN #1 VUA	BANKS SPRINGS	55.0	LOUISIANA INTRAST
-KERR-MCGEE CORPORATION				RECEIVED:	06/24/82	JA: LA			
8239911	82-0644	1772620224		103		S L 1997 #14	BRETON SOUND BLOCK 20	431.0	SOUTHERN NATURAL
-L & L ENERGYS INC				RECEIVED:	06/24/82	JA: LA			
8239977	82-0538	1701722274		108		MUSLOW #6 SERIAL 156168	CADDO PINE ISLAND	0.0	UNITED GAS PIPELI
8239976	82-0537	1701722188		108		MUSLOW #7 SERIAL #155089	CADDO PINE ISLAND	0.0	UNITED GAS PIPELI
-LANKFORD & NANCE				RECEIVED:	06/24/82	JA: LA			
8240006	82-0964	1711123188		108		ARRANT #1	MONROE	13.0	TEXAS GAS TRANSMI
8239971	82-0565	1711123233		108		FROST #11	MONROE	5.0	TEXAS GAS TRANSMI
8240005	82-0965	1711123216		108		FROST #13	MONROE	12.0	TEXAS GAS TRANSMI
8240008	82-0963	1711123160		108		HAILE #3	MONROE	14.0	TEXAS GAS TRANSMI
8239974	82-0555	1711123161		108		HAILE #5	MONROE	10.0	TEXAS GAS TRANSMI
8240004	82-0966	1711123277		108		IRMA HAILE #1	MONROE	14.0	TEXAS GAS TRANSMI
-LINVILLE NATURAL GAS CO INC				RECEIVED:	06/24/82	JA: LA			
8239985	82-0912	1711100994		108		HUMBLE UNIT #2	MONROE	3.0	IMC PIPELINE CO I
8239983	82-0913	1711100525		108		HUMBLE UNIT #5	MONROE	4.0	IMC PIPELINE CO I
8239986	82-0896	1711100515		108		LINVILLE SCHOOL #1	MONROE	7.0	IMC PIPELINE CO I
8239986	82-0897	1711121331		108		RABUN #1	MONROE	2.0	IMC PIPELINE CO I
-MAGIC CIRCLE ENERGY CORP				RECEIVED:	06/24/82	JA: LA			
8239981	82-2997	1712120130		107-DP		JAMES B DAIGLE #2 SN 173935	FALSE RIVER	730.0	SUGAR BOWL GAS CO
-MARSHALL EXPLORATION INC				RECEIVED:	06/24/82	JA: LA			
8239908	82-0485	1703121248		103		ATKINS #1	LOGANSPORT	1095.0	TENNESSEE GAS PIP
8239926	82-0325	1703121242		103		CONNIE ALLEN #1	LOGANSPORT	110.0	SOUTHERN NATURAL
8239951	82-0681	1703121210		103		HARRISON #3 U HOSS RA SUS	BELLE BOWER	375.0	ARKANSAS LOUISIAN
8239948	82-0682	1703121210		103		HARRISON #3-D	BELLE BOWER	60.0	ARKANSAS LOUISIAN
8239949	82-0683	1703121384		103		HORN #7	LOGANSPORT	87.0	SOUTHERN NATURAL
8239919	82-0399	1703120719		103		RAMSEY #5	LOGANSPORT	38.0	TENNESSEE GAS PIP
8239920	82-0404	1703121373		103		STELL #1	LOGANSPORT	78.0	SOUTHERN NATURAL
8240010	82-0275	1703121230		103		WOODROW HORN #1	LOGANSPORT	365.0	SOUTHERN NATURAL
-MID LOUISIANA GAS COMPANY				RECEIVED:	06/24/82	JA: LA			
8239987	82-0932	1707321434		108		GTC-MLGC FEE GAS #14	MONROE GAS FIELD	14.8	MID LOUISIANA GAS
8240012	82-1508	1707300000		108		MLGC FEE GAS #102	MONROE GAS FIELD	35.6	MID LOUISIANA GAS
8239943	82-0686	1711123399		103		MLGC FEE GAS #1103	MONROE GAS FIELD	25.5	MID LOUISIANA GAS
8239989	82-0607	1711123400		103		MLGC FEE GAS #1104	MONROE GAS FIELD	27.3	MID LOUISIANA GAS
8239941	82-0931	1707321433		108		MLGC FEE GAS #13	MONROE GAS FIELD	14.8	MID LOUISIANA GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8239978	82-0539	1701722275		108		MUSLOW #8 SERIAL 156169	CADDO PINE ISLAND	0.0	UNITED GAS PIPELI
-MARTIN EXPLORATION MANAGEMENT CO				RECEIVED:	06/24/82	JA: LA			
8239992	82-0893	1706721660		108		TENSAS DELTA #F-342	MONROE	6.0	GEORGIA PACIFIC C
-MCCORMICK OIL & GAS CORP				RECEIVED:	06/24/82	JA: LA			
8239997	82-2995	1712720994		102-A		LOUISIANA PACIFIC X #1 SN 170473	WILDCAT (UNNAMED)	50.0	LOUISIANA INTRAST
-MCMORAN EXPLORATION CO				RECEIVED:	06/24/82	JA: LA			
8239996	82-2994	1712720993		102-A		LOUISIANA PACIFIC X #3 SN 170475	WILDCAT (UNNAMED)	50.0	LOUISIANA INTRAST
-MEMCO GAS INDUSTRIES INC				RECEIVED:	06/24/82	JA: LA			
8239909	82-0484	1703121247		103		ATKINS #2	LOGANSPORT	1095.0	TENNESSEE GAS PIP
8239927	82-0324	1703121241		103		CONNIE ALLEN #2	LOGANSPORT	110.0	SOUTHERN NATURAL
8239952	82-0680	1703121209		103		HARRISON #2 U HOSS RA SUS	BELLE BOWER	375.0	ARKANSAS LOUISIAN
8239953	82-0679	1703121208		103		HARRISON #4 U HOSS RA SUS	BELLE BOWER	60.0	ARKANSAS LOUISIAN
8239945	82-0684	1703121385		103		HORN #8	LOGANSPORT	87.0	SOUTHERN NATURAL
8239921	82-0398	1703120718		103		RAMSEY #6	LOGANSPORT	38.0	TENNESSEE GAS PIP
8239922	82-0403	1703121372		103		STELL #2	LOGANSPORT	78.0	SOUTHERN NATURAL
8240011	82-0276	1703121231		103		WOODROW HORN #2	LOGANSPORT	365.0	SOUTHERN NATURAL
-MID LOUISIANA GAS COMPANY				RECEIVED:	06/24/82	JA: LA			
8239990	82-0933	1707321435		108		GTC-MLGC FEE GAS #15	MONROE GAS FIELD	14.8	MID LOUISIANA GAS
8240013	82-1509	1707300000		108		MLGC FEE GAS #103	MONROE GAS FIELD	35.6	MID LOUISIANA GAS
8239942	82-0685	1711123398		103		MLGC FEE GAS #1102	MONROE GAS FIELD	25.5	MID LOUISIANA GAS
8239940	82-0608	1711123401		103		MLGC FEE GAS #1105	MONROE GAS FIELD	27.3	MID LOUISIANA GAS
8239938	82-0930	1707321432		108		MLGC FEE GAS #16	MONROE GAS FIELD	14.8	MID LOUISIANA GAS
-MOBIL EXPLORATION & PRODUCING US				RECEIVED:	06/24/82	JA: LA			
8239994	82-2993	1712720992		102-A		LOUISIANA PACIFIC X #4 SN 170476	WILDCAT (UNNAMED)	50.0	LOUISIANA INTRAST
-MOORE & MOORE				RECEIVED:	06/24/82	JA: LA			
8239980	82-0636	1702120746		103		MANVILLE 774 #2	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-NEARBURG EXPLORATION COMPANY				RECEIVED:	06/24/82	JA: LA			
8239974	82-0541	1707321854		103		MYHRE #6	MONROE	18.0	UNITED GAS PIPELI
-NEW ORLEANS PETROLEUM CORP				RECEIVED:	06/24/82	JA: LA			
8239991	82-0892	1706721661		108		TENSAS DELTA #F-344	MONROE	6.0	GEORGIA PACIFIC C
-NORTHWOOD ENERGY CORP				RECEIVED:	06/24/82	JA: LA			
8239993	82-2992	1712720991		102-A		LOUISIANA PACIFIC X #5 SN 170477	WILDCAT (UNNAMED)	50.0	LOUISIANA INTRAST
-OXY USA INC				RECEIVED:	06/24/82	JA: LA			
8239982	82-0637	1702120745		103		MANVILLE 774 #3	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PENNZOIL EXPLORATION & PRODUCTION				RECEIVED:	06/24/82	JA: LA			
8239981	82-0638	1702120744		103		MANVILLE 774 #4	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PETROLEUM EXPLORATION INC				RECEIVED:	06/24/82	JA: LA			
8239987	82-0639	1702120743		103		MANVILLE 774 #5	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239985	82-0640	1702120742		103		MANVILLE 774 #6	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239984	82-0641	1702120741		103		MANVILLE 774 #7	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239983	82-0642	1702120740		103		MANVILLE 774 #8	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239982	82-0643	1702120739		103		MANVILLE 774 #9	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239981	82-0644	1702120738		103		MANVILLE 774 #10	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239980	82-0645	1702120737		103		MANVILLE 774 #11	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239979	82-0646	1702120736		103		MANVILLE 774 #12	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239978	82-0647	1702120735		103		MANVILLE 774 #13	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239977	82-0648	1702120734		103		MANVILLE 774 #14	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239976	82-0649	1702120733		103		MANVILLE 774 #15	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239975	82-0650	1702120732		103		MANVILLE 774 #16	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239974	82-0651	1702120731		103		MANVILLE 774 #17	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239973	82-0652	1702120730		103		MANVILLE 774 #18	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239972	82-0653	1702120729		103		MANVILLE 774 #19	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239971	82-0654	1702120728		103		MANVILLE 774 #20	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239970	82-0655	1702120727		103		MANVILLE 774 #21	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239969	82-0656	1702120726		103		MANVILLE 774 #22	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239968	82-0657	1702120725		103		MANVILLE 774 #23	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239967	82-0658	1702120724		103		MANVILLE 774 #24	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239966	82-0659	1702120723		103		MANVILLE 774 #25	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239965	82-0660	1702120722		103		MANVILLE 774 #26	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239964	82-0661	1702120721		103		MANVILLE 774 #27	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239963	82-0662	1702120720		103		MANVILLE 774 #28	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239962	82-0663	1702120719		103		MANVILLE 774 #29	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239961	82-0664	1702120718		103		MANVILLE 774 #30	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239960	82-0665	1702120717		103		MANVILLE 774 #31	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239959	82-0666	1702120716		103		MANVILLE 774 #32	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239958	82-0667	1702120715		103		MANVILLE 774 #33	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239957	82-0668	1702120714		103		MANVILLE 774 #34	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239956	82-0669	1702120713		103		MANVILLE 774 #35	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239955	82-0670	1702120712		103		MANVILLE 774 #36	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239954	82-0671	1702120711		103		MANVILLE 774 #37	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239953	82-0672	1702120710		103		MANVILLE 774 #38	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239952	82-0673	1702120709		103		MANVILLE 774 #39	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239951	82-0674	1702120708		103		MANVILLE 774 #40	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239950	82-0675	1702120707		103		MANVILLE 774 #41	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239949	82-0676	1702120706		103		MANVILLE 774 #42	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239948	82-0677	1702120705		103		MANVILLE 774 #43	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239947	82-0678	1702120704		103		MANVILLE 774 #44	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239946	82-0679	1702120703		103		MANVILLE 774 #45	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239945	82-0680	1702120702		103		MANVILLE 774 #46	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239944	82-0681	1702120701		103		MANVILLE 774 #47	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239943	82-0682	1702120700		103		MANVILLE 774 #48	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239942	82-0683	1702120699		103		MANVILLE 774 #49	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239941	82-0684	1702120698		103		MANVILLE 774 #50	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239940	82-0685	1702120697		103		MANVILLE 774 #51	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239939	82-0686	1702120696		103		MANVILLE 774 #52	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239938	82-0687	1702120695		103		MANVILLE 774 #53	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239937	82-0688	1702120694		103		MANVILLE 774 #54	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239936	82-0689	1702120693		103		MANVILLE 774 #55	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239935	82-0690	1702120692		103		MANVILLE 774 #56	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239934	82-0691	1702120691		103		MANVILLE 774 #57	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239933	82-0692	1702120690		103		MANVILLE 774 #58	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239932	82-0693	1702120689		103		MANVILLE 774 #59	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239931	82-0694	1702120688		103		MANVILLE 774 #60	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239930	82-0695	1702120687		103		MANVILLE 774 #61	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239929	82-0696	1702120686		103		MANVILLE 774 #62	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239928	82-0697	1702120685		103		MANVILLE 774 #63	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239927	82-0698	1702120684		103		MANVILLE 774 #64	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239926	82-0699	1702120683		103		MANVILLE 774 #65	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239925	82-0700	1702120682		103		MANVILLE 774 #66	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239924	82-0701	1702120681		103		MANVILLE 774 #67	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239923	82-0702	1702120680		103		MANVILLE 774 #68	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239922	82-0703	1702120679		103		MANVILLE 774 #69	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239921	82-0704	1702120678		103		MANVILLE 774 #70	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239920	82-0705	1702120677		103		MANVILLE 774 #71	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239919	82-0706	1702120676		103		MANVILLE 774 #72	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239918	82-0707	1702120675		103		MANVILLE 774 #73	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239917	82-0708	1702120674		103		MANVILLE 774 #74	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239916	82-0709	1702120673		103		MANVILLE 774 #75	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239915	82-0710	1702120672		103		MANVILLE 774 #76	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239914	82-0711	1702120671		103		MANVILLE 774 #77	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239913	82-0712	1702120670		103		MANVILLE 774 #78	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239912	82-0713	1702120669		103		MANVILLE 774 #79	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239911	82-0714	1702120668		103		MANVILLE 774 #80	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239910	82-0715	1702120667		103		MANVILLE 774 #81	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239909	82-0716	1702120666		103		MANVILLE 774 #82	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239908	82-0717	1702120665		103		MANVILLE 774 #83	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239907	82-0718	1702120664		103		MANVILLE 774 #84	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239906	82-0719	1702120663		103		MANVILLE 774 #85	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239905	82-0720	1702120662		103		MANVILLE 774 #86	SARDIS CHURCH	35.0	UNITED GAS PIPELI
-PRIDE OIL & GAS PROPERTIES				RECEIVED:	06/24/82	JA: LA			
8239904	82-0721	1

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8239958	82-0933	1707321435		108		MLGC FEE GAS #15	MONROE GAS FIELD	14.8	MID LOUISIANA GAS
				RECEIVED: 06/24/82 JA: LA					
-MIDWAY PRODUCTION CO XIV									
8239998	82-0758	1707321819		108		THIBEAUX #1	MONROE	18.8	PETRO-LEWIS CORP
				RECEIVED: 06/24/82 JA: LA					
-NOE & WOODS									
8239944	82-0689	1711123494		103		FANNIE MAILE #2	MONROE GAS	8.8	DEVON CORP
8239945	82-0688	1711123491		103		UNION A #10	MONROE GAS	8.8	DEVON CORP
				RECEIVED: 06/24/82 JA: LA					
-PHILLIPS PETROLEUM COMPANY									
8239942	82-0916	1701320305		108		BAKER P #1 HOSS B SUMM	WEST BRYCELAND	6.0	LA GAS INTRASTATE
8239924	82-0917	1701300243		108		WALKER C #2 HILL SUZ	ADA	2.0	SOUTHWESTERN ELEC
8239923	82-0918	1701300014		108		WOODARD "C" #1 PET SUJ	ADA	17.0	SOUTHWESTERN ELEC
				RECEIVED: 06/24/82 JA: LA					
-PRIMOS PRODUCTION CO									
8239986	82-0884	1711123300		103		PETRO LEWIS CLARK ET AL #1	MONROE	14.4	PETRO LEWIS FUNDS
8239978	82-0592	1711122966		103		PETRO LEWIS FROST LUMBER #54	MONROE	14.4	PETRO LEWIS FUNDS
8239969	82-0593	1711122994		103		PETRO LEWIS FROST LUMBER #55	MONROE	13.3	PETRO LEWIS FUNDS
8239968	82-0594	1711122995		103		PETRO LEWIS FROST LUMBER #56	MONROE	10.3	PETRO LEWIS FUNDS
8240019	82-0595	1711123051		103		PETRO LEWIS FROST LUMBER #60	MONROE	14.4	PETRO LEWIS FUNDS
8239965	82-0671	1711123036		103		PETRO LEWIS FROST LUMBER #68	MONROE	14.4	PETRO LEWIS FUNDS
8239954	82-0675	1711123123		103		PETRO LEWIS FROST LUMBER #73	MONROE	14.4	PETRO LEWIS FUNDS
8239953	82-0676	1711123124		103		PETRO LEWIS FROST LUMBER #74	MONROE	14.3	PETRO LEWIS FUNDS
8239952	82-0677	1711123198		103		PETRO LEWIS FROST LUMBER #77	MONROE	12.3	PETRO LEWIS FUNDS
8239957	82-0885	1711123395		103		PETRO LEWIS J J WARD #1	MONROE	18.3	PETRO LEWIS FUNDS
8239907	82-0882	1711123177		103		PETRO LEWIS M F BROWN ET AL #2	MONROE	13.3	PETRO LEWIS FUNDS
8239968	82-0585	1711122918		103		PETRO LEWIS UNION POWER #17	MONROE	0.0	PETRO-LEWIS FUNDS
8239959	82-0586	1711122941		103		PETRO LEWIS UNION POWER #18	MONROE	14.4	PETRO LEWIS FUNDS
8239964	82-0672	1711123096		103		PETRO-LEWIS FROST LUMBER #69	MONROE	14.4	PETRO LEWIS FUNDS
8239962	82-0673	1711123097		103		PETRO-LEWIS FROST LUMBER #70	MONROE	14.4	PETRO LEWIS FUNDS
8239963	82-0674	1711123098		103		PETRO-LEWIS FROST LUMBER #71	MONROE	12.3	PETRO LEWIS FUNDS
8240018	82-0583	1711122939		103		PETRO-LEWIS M F BROWN #1	MONROE	13.3	PETRO-LEWIS FUNDS
8239961	82-0584	1711122940		108		PETRO-LEWIS UNION POWER #15	MONROE	16.4	PETRO-LEWIS FUNDS
8240083	82-0883	1711123210		103		PETRO-LEWIS UNION POWER #16	MONROE	28.5	PETRO LEWIS FUNDS
8239993	82-0879	1711123140		103		PETRO-LEWIS UNION POWER #29	MONROE	15.4	PETRO-LEWIS FUNDS
8239994	82-0880	1711123142		103		PETRO-LEWIS UNION PRODUCING #3	MONROE	12.3	PETRO-LEWIS FUNDS
						PETRO-LEWIS UNION PRODUCING #5	MONROE	6.2	PETRO-LEWIS FUNDS
-QUINTANA PETROLEUM CORP				RECEIVED: 06/24/82 JA: LA					
8239938	82-2980	1710121278		107-DP		MARYLAND CO #11 MA-7 RA SUA	GARDEN CITY	1825.0	UNITED GAS PIPE L
				RECEIVED: 06/24/82 JA: LA					
-SHELL OIL CO									
8239912	82-0418	1710922274		103		SOUTH HOUMA PETERS #10 SER #168076	SOUTH HOUMA	6.0	UNITED GAS PIPE L
				RECEIVED: 06/24/82 JA: LA					
-SIERRA INDUSTRIES INC									
8239980	82-0633	1731215340		103		RASCOE 1 173994	RED RIVER BULL BAYOU	146.0	LOUISIANA INTRAST
				RECEIVED: 06/24/82 JA: LA					
-SUCCESS OIL & GAS CO INC									
8240002	82-0860	1711106462		108		JACK T BIRD #1	MONROE	1.0	INC PIPELINE CO I
				RECEIVED: 06/24/82 JA: LA					
-TENNECO OIL COMPANY									
8239937	82-2828	1710922538		107-DP		DENNIS CENAC #14	LAKE BARRE	700.0	TENNESSEE GAS PIP
				RECEIVED: 06/24/82 JA: LA					
-TEXACO INC									
8239967	82-1172	1701722848		102-4	103	D L GISH 1 CV RB SUH	CADDO-PINE ISLAND	164.0	ARKANSAS LOUISIAN
8239955	82-0640	1710922307		103		DGL U-12 72 DGL EE RU SU	DOG LAKE	49.0	TEXAS GAS TRANSMI
8240007	82-1170	1701722899		102-4	103	EDNA HAYGOOD 1 HOSS RB SUC	CADDO-PINE ISLAND	786.0	ARKANSAS LOUISIAN
8239997	82-1166	1701722661		102-4	103	FENNER 1 CV RB SUA	CADDO-PINE ISLAND	440.0	ARKANSAS LOUISIAN
8239925	82-0284	1710922353		107-DP		LB U45 #5 VU 45	LAKE BARRE	376.0	
8239931	82-0630	1705721735		103		LL&E #321 142 RC2 VUA	LEEVILLE	103.0	KAISER ALUMINUM &
8239934	82-0626	1708920358		103		LL&E PARADIS #91	PARADIS	473.0	COLUMBIA GAS TRAN
8239930	82-0632	1702321497		103		MIAMI CORP FEE 2	SECOND BAYOU	316.0	KAISER ALUMINUM &
8239929	82-0631	1702321497		103		MIAMI CORP FEE 2-D	SECOND BAYOU	1825.0	KAISER ALUMINUM &

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8239966	82-0664	1710121046		103		SL 1819 #5-D-ALT 10700 RA SUB	SWEET BAY LAKE	290.0	KAISER ALUMINUM &
8239999	82-3000	1710922413		107-DP		SL 188 CAILLOU ISLAND #697	CAILLOU ISLAND	912.0	
8239983	82-2999	1710922422		107-DP		SL 188 LL&E U3 #18 VUD	CAILLOU ISLAND	879.0	TRANSCONTINENTAL
8239922	82-1167	1701722812		102-A	103	W V LUNN 1 HOSS RB SUB	CADDO-PINE ISLAND	475.0	ARKANSAS LOUISIAN
-THOMAS AITKEN INC				RECEIVED:	06/24/82	JA: LA			
8239921	82-0949	1711101180		108		G L NORMAN #1	MONROE	1.5	HADDOX PETROLEUM
-UNION TEXAS PETROLEUM				RECEIVED:	06/24/82	JA: LA			
8240008	82-0268	1706120249		103		SINGLETON 18 #1	TERRYVILLE SEC 18 T19	730.0	LOUISIANA GAS PUR
8240009	82-0269	1706120273		103		UCV RA SUN DOWLING 20 #1-D	TERRYVILLE (UPPER COT	730.0	SUGAR BOWL GAS CO
8239995	82-0730	1706120276		102-A		W D WALLACE 17 #1 LCV RA SUD	TERRYVILLE SEC 17 T 1	730.0	SUGAR BOWL GAS CO
-WELLS-BATTELSTEIN OIL & GAS INC				RECEIVED:	06/24/82	JA: LA			
8239973	82-0550	1711123441		103		W W NOLAN #3	MONROE	25.0	WEST MONROE GAS C
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NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION									
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-AMERICAN PENN ENERGY INC				RECEIVED:	06/24/82	JA: NY			
8240025	3447	3102916971		103		GREENE UNITE #3 (1525)	EVANS	10.0	NATIONAL FUEL GAS
-BEREA OIL AND GAS CORPORATION				RECEIVED:	06/24/82	JA: NY			
8240033	2389	3101316628		102-2		A WINTON #3	WILDCAT	47.0	COLUMBIA GAS TRAN
8240027	2525	3101316064		107-TF		GRANT BROCKWAY #1	GERRY	130.0	COLUMBIA GAS TRAN
8240035	2482	3101316727		102-2		HENDRICKSON #1	WILDCAT	40.0	COLUMBIA GAS TRAN
8240029	2658	3101316787		107-TF		L FORBES UNIT #1	GERRY	1.0	COLUMBIA GAS TRAN
8240028	2527	3101316065		107-TF		N WILSON #1	GERRY	123.0	COLUMBIA GAS TRAN
8240037	2376	3101316256		102-2		N Y S CHAUT REF AREA #1 - WELL #2	WILDCAT	0.4	COLUMBIA GAS TRAN
-CONSOLIDATED EXPLORATION & GATHERIN				RECEIVED:	06/24/82	JA: NY			
8240053	2494	3102916211		102-2		BRZEZICKI UNIT #1	EDEN - EVANS	15.0	SCG GAS QUEST INC
8240052	2488	3102916372		102-2		LAMB UNIT #1	EDEN - EVANS	15.0	SCG GAS QUEST INC
8240050	2487	3102916291		102-2		RIEFLER UNIT - #1	EDEN-EVANS	15.0	SCG GAS QUEST INC
-ENVIROGAS INC				RECEIVED:	06/24/82	JA: NY			
8240031	2859	3101315459		107-TF		J BOWEN #1	LAKESHORE	18.0	COLUMBIA GAS TRAN
8240049	2517	3101316082		102-2		J LEGTERS #3	CLYMER	18.0	COLUMBIA GAS TRAN
8240020	2861	3101316621		107-TF		J NORDLAND #3	WILDCAT	18.0	NATIONAL FUEL GAS
8240021	2863	3101316712		107-TF		N Y S REF AREA #5/WELL #22	LAKESHORE	18.0	COLUMBIA GAS TRAN
8240022	2865	3101316713		107-TF		N Y S REF AREA #5/WELL #23	LAKESHORE	18.0	COLUMBIA GAS TRAN
-J B C CORP				RECEIVED:	06/24/82	JA: NY			
8240023	2855	3101316429		107-TF		SELLSTROM & BARGAR #2	LAKE SHORE	12.0	NATIONAL FUEL GAS
-KEYSTONE ENERGY OIL & GAS PRODUCTIO				RECEIVED:	06/24/82	JA: NY			
8240026	3482	3100916415		103		EVANS #4	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8240024	3486	3100916418		103		EVANS #5	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
-LENAPE RESOURCES CORP				RECEIVED:	06/24/82	JA: NY			
*8240042	2398	3105116107		102-2		J J WADSWORTH #4 LRC #56	FINNEGAN HILL	20.0	NEW JERSEY NATURA
*8240036	2397	3105116108		102-2		J J WADSWORTH #5 LRC #57	FINNEGAN HILL	20.0	NEW JERSEY NATURA
*8240039	2396	3105116109		102-2		J J WADSWORTH #6 LRC #58	FINNEGAN HILL	20.0	NEW JERSEY NATURA
*8240038	2395	3105116114		102-2		J J WADSWORTH #7 LRC #59	FINNEGAN HILL	20.0	NEW JERSEY NATURA
*8240034	2515	3105116105		102-2		L L CALLAN #1 LRC #61	FINNEGAN HILL	20.0	NEW JERSEY NATURA
*8240041	2393	3105116106		102-2		L L CALLAN #2 LRC #62	FINNEGAN HILL	20.0	NEW JERSEY NATURA
*8240040	2394	3105116104		102-2		T P LINDER #1 LRC #60	FINNEGAN HILL	20.0	NEW JERSEY NATURA
-NORD/MONTARA PETROLEUM CO				RECEIVED:	06/24/82	JA: NY			
8240051	2324	3112116330		102-2		REISDORF UNIT #1	JAVA MEDINA	15.0	COLUMBIA GAS TRAN
-OXFORD EXPLORATION COMPANY				RECEIVED:	06/24/82	JA: NY			
8240046	1264	3112115460		102-2		HOLLISTER #1	PERRY	44.0	COLUMBIA GAS TRAN
8240047	1266	3112115615		102-2		O'CONNELL #1	PERRY	73.0	COLUMBIA GAS TRAN
8240048	1265	3112115569		102-2		WHEELER #1	PERRY	146.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-P & S DRILLING INC			RECEIVED:	06/24/82	JA: NY				
8240044	1295	3102915490		102-2		BUFFALO CREEK #1	BUFFALO CREEK	20.0	NATIONAL FUEL GAS
8240045	1475	3102915825		102-2		BUFFALO CREEK #2	BUFFALO CREEK	12.0	NATIONAL FUEL GAS
8240043	2307	3102915249		102-2		MARR-SERENA #1	BUFFALO CREEK	21.9	NATIONAL FUEL GAS
-TRAHAN PETROLEUM INC			RECEIVED:	06/24/82	JA: NY				
8240038	2360	3101315581		102-2		MARVIN WELLMAN #3	WILDCAT	36.0	COLUMBIA GAS TRAN
8240032	2362	3101312512		102-2		MILTON WOOLLEY-NY #43 31-013-12512	LEON	36.0	COLUMBIA GAS TRAN
********** OKLAHOMA CORPORATION COMMISSION **********									
-ADVANCE ENERGY SYSTEMS INC			RECEIVED:	06/23/82	JA: OK				
8240077	15094	3514300000		103		SOUTH SIVADON G1		0.0	PHILLIPS PETROLEU
-ANDOVER OIL COMPANY			RECEIVED:	06/23/82	JA: OK				
8240059	17273	3531722137		102-A		REESE #18-1		180.0	PHILLIPS PETROLEU
8240084	15104	3504321252		103		VANDERWORK #6-1		0.0	DELHI GAS PIPELIN
-BANCO OIL & GAS INC			RECEIVED:	06/23/82	JA: OK				
8240083	14628	3504520766		103		LONG #1	S SALON	51.0	DELHI GAS PIPELIN
-BOBBY J DARNELL			RECEIVED:	06/23/82	JA: OK				
8240089	14973	3508320905		103		NEW CONTINENTAL PETROLEUM INC #18	W MULHALL	4.3	EASON OIL CO
-CONOCO INC			RECEIVED:	06/23/82	JA: OK				
8240076	19309	3514920168		107-DP		KIDD "13" #1	FT COBB FIELD	292.0	
-CORE OIL & GAS CORP			RECEIVED:	06/23/82	JA: OK				
8240074	13204	3515321158		102-A		EZRA #1	VICI NE	397.0	NORTHERN NATURAL
-COTTON PETROLEUM CORPORATION			RECEIVED:	06/23/82	JA: OK				
8240057	17945	3501521345		102-2		KIMBLE #1-4	S W HINTON	0.0	
-DAVIS OIL COMPANY			RECEIVED:	06/23/82	JA: OK				
8240090	15080	3501121571		103		FRANK #1	RAMING	0.0	TRANSOK PIPELINE
8240088	14904	3508320854		103		STURGEON #1	HELENA	0.0	PANHANDLE EASTERN
-ESTORIL PRODUCING CORP			RECEIVED:	06/23/82	JA: OK				
8240060	17127	3512521393		102-2	103	SCOTT #1	NE TECUMSEH	54.7	BETHEL GAS CO
8240061	17126	3512521271		102-2	103	TANTON #1	NE TECUMSEH	36.5	BETHEL GAS CO
-FLINT & ASSOCIATES			RECEIVED:	06/23/82	JA: OK				
8240086	14427	3510720979		103		SOUTHLAND #1	GREGORY	146.0	PUBLIC SERVICE CO
-HINKLE ENGINEERING INC			RECEIVED:	06/23/82	JA: OK				
8240082	15087	3511921711		103		FINNELL-LAFON #1-6	ORLANDO	50.0	EASON OIL CO
-KAISER-FRANCIS OIL COMPANY			RECEIVED:	06/23/82	JA: OK				
8240073	86331	3513900000		108		C M REYNOLDS #1	HUGOTON FIELD	16.0	CITIES SERVICE GA
-L & T OIL & GAS INC			RECEIVED:	06/23/82	JA: OK				
8240067	15088	3507323332		103		HOLLAND "32" #3	SOONER TREND	27.0	CONOCO INC
-MCFARLAND ENERGY INC			RECEIVED:	06/23/82	JA: OK				
8240070	15093	3506321458		103		MEADOWS 1-31	NORTH FUHRMAN	0.0	PUBLIC SERVICE CO
-NATURAL GAS ANADARKO INC			RECEIVED:	06/23/82	JA: OK				
8240058	17342	3500722239		102-2		DICK 1-2	SOUTH BALKO	250.0	TRANSWESTERN PIPE
-P-T LTD 81			RECEIVED:	06/23/82	JA: OK				
8240078	15097	3509322344		103		OTT 9-1	SOONER TREND	35.0	WELLHEAD ENTERPRI
-PETRO-LEWIS CORPORATION			RECEIVED:	06/23/82	JA: OK			0.0	
8240091	9445	3507300000		108-ER		IVEN 13 #1	W OKARCHE	250.0	ONG WESTERN INC
-PHILLIPS PETROLEUM COMPANY			RECEIVED:	06/23/82	JA: OK				
8240066	13312	3501721686		103		CONNELLY TRUST "A" #1	NO NAME	10.0	AMINOIL USA INC
-SAMEDAN OIL CORPORATION			RECEIVED:	06/23/82	JA: OK				
8240063	17965	3508520539		102-2		BANKS #2-8		18.3	UNITED GAS PIPELI
-SERVICE DRILLING CO			RECEIVED:	06/23/82	JA: OK				
8240054	17948	3506122434		102-2		BIGGER #1-7A			

VOLUME 689 PAGE 008

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8240056	17946	3506120474		102-2		BRYAN #1-8		183.0	UNITED GAS PIPELI
8240055	17947	3506120457		102-2		CALLOWAY #1-8		183.0	UNITED GAS PIPELI
8240075	17949	3506100000		102-2		LILLARD #1-8		183.0	UNITED GAS PIPELI
-SHELL OIL CO				RECEIVED:	06/23/82	JA: OK			
8240064	17923	3505100000		102-4		SHELL ELLIS #1-35	TABLER NE	1934.0	
-STANTON PETROLEUM CO				RECEIVED:	06/23/82	JA: OK			
8240087	14796	3511921743		103		DORA KELLY #1		14.0	COLORADO GAS COMP
-SUNDANCE ENERGY CORP				RECEIVED:	06/23/82	JA: OK			
8240068	15089	3504722048		103		BEGGS #2	N E ENID	246.0	CHAMPLIN PETROLEU
-TXO PRODUCTION CORP				RECEIVED:	06/23/82	JA: OK			
8240062	15110	3507920432		103		KELLY-MOORE #1	WILDCAT	238.0	
8240085	15109	3504321261		103		PERCY "C" #1	NW NORSCOT	109.0	
-YAB INC				RECEIVED:	06/23/82	JA: OK			
8240072	00004	3510700000		108		NAZZARENA-HOLT #5	SECTION 6-10N-12E	10.0	PHILLIPS PETROLEU
-YIERSEN & COCHRAN				RECEIVED:	06/23/82	JA: OK			
8240081	15101	3504722773		103		CHARLES TABORSKY #2	SOONER TREND	70.0	EXXON CORP
8240079	15099	3504722883		103		JAMES TABORSKY #2	SOONER TREND	70.0	EXXON CORP
8240080	15100	3501121664		103		TRIBAL #3-32	WATONGA TREND	72.0	DELHI GAS PIPELIN
-WHITMAR EXPLORATION CO				RECEIVED:	06/23/82	JA: OK			
8240065	17553	3506120455		102-3		SADDLEBACK #1-15	SOUTH MCCURTAIN	8.0	ARKANSAS LOUISIAN
-WILLIAM C PRATT				RECEIVED:	06/23/82	JA: OK			
8240071	15095	3511700000		103		PAXTON #1-A	HARAMEC	186.0	COLORADO GAS COMP
-WOODS PETROLEUM CORPORATION				RECEIVED:	06/23/82	JA: OK			
8240069	19220	3503920635		107-DP		STRATTON FARMS #36-1	TURKEY CREEK	47.0	EL PASO NATURAL G

OTHER PURCHASERS VOLUME NO :689

8240034 ELIZABETHTOWN GAS CO
8240036 ELIZABETHTOWN GAS CO
8240038 ELIZABETHTOWN GAS CO
8240039 ELIZABETHTOWN GAS CO
8240040 ELIZABETHTOWN GAS CO
8240041 ELIZABETHTOWN GAS CO
8240042 ELIZABETHTOWN GAS CO

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before July 30, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19169 Filed 7-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-515-000]

American Electric Power Service Corp., and Carolina Power and Light Co.; Order Accepting Rate for Filing, Acknowledging Intervention, and Establishing Hearing Procedures

Issued: July 9, 1982.

On May 11, 1982, Carolina Power and Light Company (CP&L) and the American Electric Power Service Corporation (AEP), on behalf of Appalachian Power Company (APC), submitted for filing increases in their interchange demand charges for short and limited-term power from $1.05 to $1.25/kW/week and from $5.50 to $6.50/kW/month, respectively.[1] The same rate levels were previously accepted for filing as they apply to AEP by letter dated November 10, 1981, in Docket No. ER81-774-000, and were accepted as to APC by letter dated March 23, 1982, in Docket No. ER82-296-000. CP&L is currently proposing these rates for the first time.

Notice of the filing was issued on May 19, 1982, with responses due on or before June 4, 1982. The Public Service Commission of West Virginia filed a timely notice of intervention in which it requested a hearing. The West Virginia Commission expresses concern that APC is not maximizing its revenues from non-firm interchange services under the proposed rates. The intervenor appears to be suggesting that inadequate revenues from such sales (and correspondingly inadequate revenue credits to the cost of service applicable to APC's firm customers) would be detrimental to firm service customers in West Virginia.

On June 18, 1982, APC filed a response to PSCWV's notice of intervention. It notes that the rates involved here are under voluntary service schedules between APC and CP&L and are reciprocal in nature so that at a given time a party may be either a seller or a buyer of one or more of the available interchange services. Rates must be such, according to APC to induce both suppliers and purchasers to use these services. It states that additional increases in the rates would lessen its ability to compete for sales in the interchange market. APC states that a hearing is therefore unnecessary.

Discussion

The timely filed notice of intervention is sufficient to initiate the West Virginia Commission's participation in this proceeding.

As noted above, rates identical to those currently proposed were previously accepted for filing as to APC. As applied to both APC and CP&L, our preliminary review suggests that the short and limited-term charges provide a fair contribution to the capital costs otherwise borne by the firm service customers. No challenge has been raised with respect to CP&L's rates filing and the intervenor commission, in challenging APC's proposed rate, has not requested suspension. Inasmuch as the West Virginia Commission is essentially suggesting the need for yet a further increase in APC's proposed rates, any relief found to be warranted would be prospective in effect; thus, suspension and a refund obligation are inappropriate. Nonetheless, we believe that the West Virginia Commission should be provided an opportunity to pursue its claims. Accordingly, we shall accept the rates for filing to become effective, without suspension, and we shall initiate a hearing concerning the justness and reasonableness of the rates filed on behalf of APC.

AEP requests that the Commission waive the notice requirements and permit a May 1, 1982 effective date for the revised rates. It states that the proposed rate is on file with respect to other bilateral agreements, and that this service is being provided to other customers at the proposed rate. Neither CP&L nor the West Virginia Commission objects to the waiver and the only challenge to APC's proposed rates consists of an argument that these rates, which are higher than those currently in effect, may nonetheless not be cost-compensatory. Under these circumstances, we find that good cause exists for waiver of notice and we shall permit a May 1, 1982 effective date.

The Commission orders:

(A) AEP's request for waiver of the notice requirements is hereby granted for good cause shown.

(B) The rates filed in this docket by CP&L and by AEP, on behalf of APC, are hereby accepted for filing, to become effective on May 1, 1982, without suspension.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of APC's short- and limited-term rates.

(D) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days of the date of this order, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss) as provided in this

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[1] Rate Schedule Designations:

(1) *Appalachian Power Company* Supplement No. 12 to Rate Schedule FPC No. 24 (Supersedes Supplement No. 11).

(2) *Carolina Power & Light Company* Supplement No. 7 to Rate Schedule FPC No. 44 (Supersedes Supplement No. 6 and Concurs (1) above).

Commission's Rules of Practice and Procedure.

(E) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19184 Filed 7-14-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-160-000]

Centel Corp.; Order Granting Motion To Collect Interim Rates Pending Commission Action on Settlement Proposal

Issued: July 9, 1982.

On June 4, 1982, Centel Corporation (formerly Central Telephone and Utilities Corporation) filed a joint motion with its intervenor customers seeking Commission approval to permit Centel to bill its customers, starting June 1, 1982, at rates based on a settlement of the proceeding in this docket. The joint motion indicates that a settlement in principle has been reached and seeks waiver of applicable notice requirements. The motion also provides for a potential surcharge for Centel to collect the difference between its originally filed rates and the lower settlement rates in the event that a settlement agreement is not finalized by June 15, 1982, or if the settlement is not approved by the Commission. For the reasons stated below, we shall grant the motion.

Centel filed its originally proposed rates on December 18, 1981. By order issued on February 16, 1982, 18 FERC ¶61,132, the Commission accepted the proposed rates for filing (as modified by summary disposition), suspended them until February 18, 1982, and ordered a hearing. Settlement negotiations among the parties have since resulted in a settlement in principle and Centel states that a formal settlement agreement will be filed in the near future.

The joint motion is designed to make the lower settlement rates immediately available and to minimize Centel's potential refund liability. As noted, if the settlement is not approved, the joint motion seeks authorization for Centel to collect, over a period of time equivalent to the period of time that the settlement rates were in effect, a surcharge (also subject to refund) designed to enable Centel to recover the difference between revenues collected under the settlement rates and the revenues that would have been collected under the filed rates for the period of time when the settlement rates were in effect. The requested surcharge also would include interest (subject to refund) to be computed in accordance with section 35.19a of the Commission's regulations. The affected customers have joined in all aspects of the motion and the Commission staff is said to concur in the parties' requests. Under the circumstances, we believe that the public interest will be served by granting the joint motion.

Pursuant to sections 35.1(e), 35.11, and 35.17(b) of the Commission's regulations, we find that good cause exists to permit the collection of the settlement rates (subject to refund) as of June 1, 1982,[1] until such time as the Commission acts on the settlement agreement to be filed by Centel. This order, however, shall be without prejudice to our subsequent determination on the merits of the proposed settlement.

The Commission orders:

(A) The motion filed by Centel and the intervenors on June 4, 1982, requesting permission for Centel to collect reduced settlement rates in lieu of its originally filed rates is hereby granted.

(B) Good cause having been shown, Centel is hereby authorized, pursuant to sections 35.1(e), 35.11, and 35.17(b) of the Commission's regulations, to collect, subject to refund, the settlement rates reflected in the joint motion from June 1,1982, until final Commission action on the settlement. In the event that the settlement is not approved, the provisions of the joint motion shall apply as to rates for the interim period.

(C) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19185 Filed 7-14-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-375-000]

Gulf States Utilities Co.; Order Accepting for Filing and Suspending Rates, Granting Intervention, Denying Motions To Reject, Granting Summary Disposition in Part, Granting Waiver in Part, and Establishing Hearing and Price Squeeze Procedures

Issued: July 9, 1982.

On March 10, 1982, as completed on May 10, 1982,[1] Gulf States Utilities Company (GSU) tendered for filing revised rates for service to its rural electric cooperative and wholesale municipal customers.[2] GSU also has applied for permission to include construction work in progress (CWIP) in rate base prospectively. The proposed rates would result in increased revenues of approximately $33.3 million (exclusive of CWIP) and $63.7 million (including CWIP) based on the calendar 1982 test year. GSU requests waiver of the notice requirements and an effective date of May 9, 1982, 60 days after the original submittal.

GSU also proposes to modify its fuel adjustment clause to recover (1) capacity charges paid to cogenerators and small power producers, and (2) capacity-related costs associated with economy energy purchases.

Notice of GSU's filing was issued on March 16, 1982, with comments due on or before April 1, 1982. On April 1, 1982, the Sam Rayburn Municipal Power Agency (SRMPA) and the City of College Station, Texas (College Station) each filed a petition to intervene, protest, and motions for partial summary rejection and phasing. SRMPA and College Station request summary rejection of GSU's proposed demand ratchet and GSU's proposed fuel adjustment clause. SRMPA and College Station request a five month suspension, raising nine cost of service issues, and request that GSU's CWIP application be considered in a separate phase of the proceeding.

Also on April 1, 1982, the Towns of Abbeville, Kaplan, Gueydan, Rayne, Welsh, Plaquemine, new Roads, and St. Martinsville, Louisiana, and the Towns of Kirbyville, Newton, and Caldwell, Texas, each filed a petition to intervene, protest, request for rejection or a five month suspension and hearing. On April 2, 1982, the Town of Erath, Louisiana (hereinafter referred to, together with the aforementioned petitioners, as the Municipal Customers), filed a similar pleading. The Municipal Customers request rejection of the filing, claiming that GSU did not provide sufficient information to comply with § 35.13(h) of the Commission's regulations, that GSU's proposal to recover capacity charges paid to cogenerators and small power producers and capacity-related costs associated with future economy energy purchases through its fuel adjustment clause violates § 35.14 of the Commission's regulations, and that the proposed fuel adjustment clause is algebraically defective. Alternatively,

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[1] According to the motion, bills for service rendered on or after June 1, 1982 will not be issued until July 6, 1982.

[1] By letter dated April 22, 1982, the company was advised that its original tender was deficient.

[2] *See* Attachment A for customers and rate schedule designation.

the Municipal Customers request a five month suspension and summary rejection of GSU's proposed demand ratchet. Additionally, the Municipal Customers raise various other cost of service issues and allege price squeeze. The Municipal Customers further request that GSU's CWIP application be phased, and considered only after a final Commission determination of the other issues raised.

Sam Rayburn G&T, Inc. (SRG&T) filed a timely petition to intervene and motion for summary disposition on April 1, 1982. SRG&T requests summary disposition of GSU's failure to synchronize interest expense, GSU's treatment of a cancelled nuclear unit as plant held for future use, and GSU's proposed demand ratchet. SRG&T also requests a five month suspension, raising a number of cost of service issues.

On April 1, 1982, Brazos Electric Power Corporation, Inc. (Brazos) petitioned to intervene, protested, and requested initiation of price squeeze procedures and a maximum suspension. In support of its requests, Brazos also raises a variety of cost of service issues.

On April 1, 1982, Cajun Electric Power Corporation, Inc. (Cajun) filed a petition to intervene, protest, request for rejection or suspension, and motion for summary disposition. Like the Municipal Customers, Cajun requests rejection of GSU's filing, claiming non-compliance with § 35.13 of the regulations, that GSU's proposed fuel adjustment clause violates section 35.14 of the regulations, and that the fuel clause is algebraically defective. Alternatively, Cajun requests that GSU be ordered to supplement its filing to comply with §§ 35.13 and 35.14 and requests summary rejection of GSU's failure to synchronize interest expense, GSU's inclusion of short-term debt in its capital structure, and GSU's proposed demand ratchet. Additionally, Cajun requests that GSU's CWIP application be phased and considered after a final Commission determination of the other issues raised.

On April 1, 1982, the City of Lafayette, Louisiana (Lafayette) filed a protest, petition to intervene, motion to reject, request for issuance of deficiency letter and/or request for a five month suspension of the transmission rate increase. Lafayette requests rejection of GSU's filing, summary rejection of GSU's proposal to charge transmission customers for losses, or issuance of a deficiency letter. Lafayette also requests summary rejection of GSU's inclusion of transmission facilities below 138 kV in the rate for Lafayette on the grounds that such inclusion is discriminatory. Additionally, Lafayette requests that acceptance of the filing be conditioned on GSU's assurance that it does not provide for double recovery of transmission costs.

On April 19, 1982, GSU answered the various pleadings. GSU opposes rejection, the requests for summary disposition, and the requests for a five month suspension. Additionally, GSU requests that the Commission rule that price squeeze is not an issue in this proceeding, and requests that a separate hearing on its CWIP application be held immediately after the receipt of evidence on the other hand. GSU indicates that its CWIP request is based on the Commission's pending CWIP rulemaking rather than the existing standards set forth in section 2.16 of the regulations.

On April 27, 1982, Leroy E. Swift filed a letter noting that GSU is the main power supplier to the Sam Houston Electric Cooperative, Inc. (SHECO) and that electric bills are of some concern to the rural customers of SHECO. Mr. Swift requests that the Commission consider GSU's wholesale rate filing very carefully.

On May 12, 1982, Congressman Bill Patman submitted a letter on behalf of the City of Caldwell, Texas, noting that the requested rate increase would create a heavy financial burden on fixed and low income residents of Caldwell, and protesting GSU's request for inclusion of CWIP in rate base. Congressman Patman requests a five month suspension of the non-CWIP rates and rejection of GSU's CWIP application.

On May 20, 1982, Lafayette filed a letter claiming that the additional information filed by GSU on May 10, 1982, in response to the earlier deficiency letter, did not cure the deficiencies alleged by Lafayette in its petition to intervene with respect to the transmission rate schedules. Lafayette requests the issuance of a further deficiency letter of rejection of the filing.

By letter dated May 24, 1982, GSU requested that the Commission disregard Lafayette's letter of May 20, 1982. Alternatively, GSU requests consideration of its responses to Lafayette's contentions contained in GSU's answer filed on April 19, 1982, and claims that Lafayette's contention as to the possibility of a double billing is an issue for hearing rather than a basis for rejection of conditional acceptance of the filing.

On May 25, 1982, Brazos and Lafayette filed responses to GSU's request for wavier of the notice requirements. Brazos opposes waiver on the grounds that such waiver would constitute retroactive ratemaking. Lafayette again claims that GSU has not cured deficiencies in its transmission rate filing and that the proposed transmission rates are substantially excessive.

On June 4, 1982, GSU filed a letter in further support of its request for waiver of notice, noting that its Nelson Nuclear Unit No. 6 was placed in commercial operation on May 31, 1982, and that as a result, if the rates are not allowed to become effective as requested, GSU's customers will immediately realize the benefit of substantial fuel cost savings without the concurrent obligation of contributing to associated units costs.

On June 4, 1982, Cajun filed a supplement to its petition to intervene and response to GSU's further submittals. Cajun reaffirms its position with respect to its request for rejection or summary disposition and a five month suspension. Additionally, Cajun opposes GSU's request for waiver of the notice requirements, arguing retroactive ratemaking and the absence of good cause for waiver.

Discussion

The Commission finds that participation in this proceeding by the petitioners is in the public interest. Furthermore, given the early stages of the proceeding, the interest of the Town of Erath as an affected customer, and the fact that its petition was only one day late, we find that good cause exists to permit that customer to intervene out of time. Accordingly, each of the petitions to intervene will be granted.

Having considered the pleadings, as well as GSU's submittals, we find that the proposed rates should not be summarily rejected inasmuch as the submittal, as supplemented by GSU's filing on May 10, 1982, substantially complies with the Commission's filing requirements.[3]

As to Lafayette's contentions with respect to the transmission rate schedules, we believe the more appropriate course, in light of the fact that the existing billing provisions and rate designs have not been altered, is to consider these matters on the basis of an evidentiary hearing. Accordingly, we shall deny Lafayette's motion to reject.

We shall also deny the requests for summary rejection of GSU's demand ratchet and inclusion of a revolving line of credit in its capital structure. Since the demand ratchet has not changed from GSU's prior rates and because the notes comprising the contested debt obligation do not become payable until

[3] *See Municipal Light Boards of Reading and Wakefield, Massachusetts* v. *FPC*, 450 F. 2d 1341 (D.C. Cir. 1971).

1986, we believe that these matters should be addressed at hearing.

Concerning the Municipal Customers' and Cajun's contentions with respect to GSU's request to recover capacity charges paid to cogenerators and small power producers through the fuel adjustment clause, we find that GSU has not shown good cause for waiver of § 35.14 of the Commission's regulations and that the company's proposal may result in excess collections. Accordingly, GSU will be ordered to file a revised fuel adjustment clause, consistent with this order, without prejudice to the company's opportunity to show at hearing good cause for the requested fuel clause treatment.[4]

GSU also seeks permission to recover capacity-related costs associated with future economy energy purchases through its fuel adjustment clause. A similar proposal was previously made to the Commission by Florida Power & Light Company (FP&L). In considering that prior request, we noted that:

> Arguably * * * where energy is purchased on an economic dispatch basis and demand costs are being incurred solely to reduce energy costs (that is, the purchase is unnecessary with respect to adequacy of reserves), such purchases would not be inconsistent with the intent of section 35.14.[5]

We note that GSU is proposing to recover these capacity-related costs through the fuel clause only where such power is purchased solely for purposes of reducing energy costs and where the total cost per kilowatt hour is below GSU's incremental fuel cost. Although this would represent a departure from the letter of the Commission's regulations, those regulations were established in a very different economic environment in which capacity costs were rarely incurred for reasons other than meeting reserve requirements. It was therefore found to be appropriate to deny automatic passthrough of capacity costs in the fuel clause. Where, however, as here, the capacity costs are incurred solely to reduce the overall energy cost, we believe that it is appropriate and desirable to allow such a passthrough and to thereby encourage more economical power purchases which benefit the customers as well as the company. We therefore find good cause to waive the requirements of § 35.14 and to permit Gulf States to pass such costs through its fuel clause, without filing each time. The fuel costs so collected shall be subject to refund pending a hearing on the questions of the computation, oversight, and operation of this particular fuel clause. However, we reiterate our current view that a passthrough of capacity costs, incurred solely to reduce energy costs as described above, is in the public interest.

We note that GSU's proposed fuel clause, unlike the typical clause, includes a separate base cost for demand charges associated with economy energy purchases. However, as pointed out by the intervenors, the adjustment mechanism is designed in such way that it would reflect only increases in economy transaction demand costs above the level reflected in the test period base. In order to assure that the clause operates equitably, we shall direct GSU to modify its proposed fuel adjustment clause so that demand costs are also reflected in billings when, as a result of economy energy purchases, demand costs are lower than those inluced in the fuel included base.

We note that GSU has not synchronized the interest expense used in the income tax calculation with the interest portion of the claimed rate of return. The company, however, indicated in its answer to the petitions to intervene that it would agree to refile its rates reflecting a synchronized interest deduction. Commission policy and practice have consistently required the computation of the long-term debt cost component of the interest expense tax deduction as the product of a utility's allocated rate base and the weighted cost of long-term debt.[6] Accordingly, we shall require GSU to file revised rates consistent with such Commission precedent.

The Commission also notes that GSU has included in its rate base costs relating to the cancelled Blue Hills Nuclear Project and that its present construction program, which extends through the early 1990's, does not include construction of a generating plant at the Blue Hills site. Commission Order No. 420 (January 7, 1971) permits only the cost of land held for future use to be included in rate base in the absence of a definite plan. Accordingly, consistent with Order No. 420 and established Commission precedent precluding rate base inclusion of cancelled plant,[7] GSU, in refiling its rates, will be required to reduce its rate base by the amount of the non-land property related to the cancelled Blue Hills Nuclear Project.

In addition, GSU's filing does not comply with § 35.25 of the Commission's regulations and Order No. 144–A in that GSU has failed to normalize all timing differences required therein. Therefore, we shall also require GSU to revise its rates and cost of service statements to reflect tax normalization procedures consistent with Order No. 144–A and § 35.25 of the regulations.[8] Such cost data should clearly indicate how and to what extent GSU has reflected Accelerated Cost Recovery System tax depreciation deductions and normalizations in its cost of service.

The Commission recently initiated a rulemaking proceeding concerning the standards for including CWIP in rate base.[9] In order to maintain the *status quo ante* pending further Commission action and to avoid any prejudice to rate case participants, the Commission has since set for hearing several CWIP applications but has phased that issue to follow the rulemaking proceeding.[10] Since GSU states that it does not seek CWIP on the basis of financial distress, but on the basis of the proposed rulemaking, we conclude that this approach is particularly appropriate in the instant case. Accordingly, the Commission will phase consideration of GSU's CWIP application, to be considered at the conclusion of the rulemaking proceeding.

Our preliminary examination of the filing and the pleadings indicates that GSU's proposed non-CWIP rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the proposed non-CWIP rates for filing, as modified by summary disposition, and we shall suspend them as ordered below.

We recently addressed the Commission's suspension policy in *West Texas Utilities Company*, Docket No. ER82–23–000 (February 26, 1982). As explained there, where our preliminary review suggests that increased rates may be unjust and unreasonable, but may not be substantially excessive as

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[4] *See Florida Power & Light Company*, Docket No. ER81–588–000 (September 2, 1981).

[5] *Id.*

[6] *See Public Service Company of New Mexico*, Opinion No. 133, 17 FERC ¶ 61,123 (1981); *Union Electric Company*, Opinion No. 94, 12 FERC ¶ 61,239 (1980); *Alabama Power Company*, Docket No. E–8851, Opinion No. 84 (August 1, 1979).

[7] *E.g., New England Power Company*, Opinion No. 49 (July 19, 1979).

[8] *See Wisconsin Electric Power Company*, Docket No. ER82–347–000 (April 13, 1982).

[9] *Construction Work in Progress For Public Utilities*, Docket No. RM81–36, *Notice of Proposed Rulemaking*, (July 27, 1981).

[10] *See, e.g., El Paso Electric Company*, Docket No. ER81–426–000 (June 30, 1981); *Central Power and Light Company*, Docket No. ER81–367–000 (July 27, 1981).

described in *West Texas,* we shall suspend the rates for one day. Because our preliminary examination indicates that GSU's non-CWIP rates, as modified consistent with this order, may not yield excessive revenues, we shall suspend those rates for only one day. However, we are unable to conclude that good cause exists to waive the notice requirements, particularly in view of the substantial deficiencies in GSU's original submittal and the absence of customer concurrence. Accordingly, we shall deny GSU's request for waiver of the notice requirements and suspend the non-CWIP rates for one day from sixty days after completion of the filing to become effective, as modified, on July 11, 1982, subject to refund.

In light of the price squeeze allegations raised by the intervenors, we shall institute price squeeze procedures and phase those proceedings in accordance with Commission policy and practice established in *Arkansas Power and Light Company,* Docket No. ER79–339 (August 6, 1979).

The Commission orders:

(A) The motions to reject GSU's filing are hereby denied.

(B) The requests for summary rejection of GSU's proposed demand ratchet and inclusion of a revolving line of credit in its capital structure are hereby denied.

(C) GSU's request to recover through its fuel adjustment clause capacity charges paid to cogenerators and small power producers is rejected without prejudice as noted in the body of this order. GSU shall file, within thirty (30) days of the date of this order, a revised fuel adjustment clause reflecting this determination, and revised rates and cost statements reflecting the summary dispositions set forth in Paragraphs (E)–(G) below,

(D) Waiver of § 35.14 is hereby granted for good cause shown to permit GSU to collect, subject to refund, the capacity cost component of purchased power where (1) the total cost of energy and demand is less than the company's incremental cost of energy, and (2) demand costs are being incurred solely to reduce energy costs. GSU's revised fuel adjustment clause should also reflect decreases in the demand portion of purchased power costs incurred solely to reduce energy costs as well as increases in such costs.

(E) GSU's calculation of the interest expense tax deduction is summarily rejected. Computation of the long-term debt cost component of the interest expense tax deduction as the product of GSU's allocated rate base and the weighted cost of long-term debt shall be reflected in GSU' revised filing.

(F) GSU's inclusion in its rate base of non-land costs relating to the cancelled Blue Hills Nuclear Project is summarily rejected. This determination shall also be reflected in GSU's revised filing.

(G) Summary disposition is hereby ordered with respect to GSU's failure to reflect full tax normalization of all timing differences as required by Order No. 144–A. GSU's revised rates and cost of service statements shall conform fully to the Commission's normalization requirements. Such cost data shall clearly indicate how and to what extent GSU has reflected Accelerated Cost Recovery System tax depreciation deductions and normalizations in its cost of service.

(H) GSU's application for authorization to include CWIP in rate base is hereby phased so that the application will be heard subsequent to Commission action in Docket No. RM81–38.

(I) GSU's request for waiver of the notice requirements is hereby denied.

(J) GSU's non-CWIP rates, as modified to conform to this order, are hereby accepted for filing and suspended for one day from 60 days after completion of the filing to become effective, subject to refund, on July 11, 1982.

(K) Pursuant to the authority contained in the subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the DOE Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of GSU's rates.

(L) The petitioners are hereby permitted to intervene in this proceeding subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act; *Provided, however,* that participation by such intervenors shall be limited to the matters set forth in their petitions to intervene; and *provided, further,* that the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any order of the Commission in this proceeding.

(M) The Commission staff shall serve top sheets in this proceeding on or before July 26, 1982.

(N) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motion to consolidate or sever and motions to dismiss) as provided for in the Commission's Rules of Practice and Procedure.

(O) We hereby order initiation of price squeeze procedures and further order that the proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The presiding judge may order a change in this schedule for good cause. The price squeeze portion of this case shall be governed by the procedures set forth in § 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(P) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

ATTACHMENT A.—GULF STATES UTILITIES CO., RATE SCHEDULE DESIGNATIONS, DOCKET NO. ER82-375-000

Designation	Other party	Description
(1) Supplement No. 14 to Rate Schedule FPC No. 104	Cajun Electric Power Cooperative, Inc	Amendments to Agreement.
(2) Supplement No. 15 to Rate Schedule FPC No. 104 (Supersedes Supplement No. 9)	do	Rate Schedule—WSD.
(3) Supplement No. 3 to Supplement No. 6 to Rate Schedule FPC No. 108 (Supersedes Supplement No. 2 to Supplement No. 6).	City of Lafayette	Rate Schedule LTS-GSU.
(4) Supplement No. 3 to Supplement No. 6 to Rate Schedule FPC No. 109 (Supersedes Supplement No. 2 to Supplement No. 6).	City of Plaquimine	Rate Schedule LTS-GSU.
(5) Supplement No. 9 to Rate Schedule FPC No. 110	Kirbyville Light and Power Company	Amendments to Agreement.
(6) Supplement No. 10 to Rate Schedule FPC No. 110 (Supersedes Supplement No. 8)	do	Rate Schedule WSD.
(7) Supplement No. 11 to Rate Schedule FPC No. 110	do	Rate Schedule WSA.
(8) Supplement No. 9 to Rate Schedule FPC No. 111	Town of Gueydan	Amendments to Agreement.
(9) Supplement No. 10 to Rate Schedule FPC No. 111 (Supersedes Supplement No. 8)	do	Rate Schedule WSD.
(10) Supplement No. 11 to Rate Schedule FPC No. 111	do	Rate Schedule WSA.
(11) Supplement No. 6 to Rate Schedule FPC No. 112	City of Caldwell	Amendments to Agreement.
(12) Supplement No. 7 to Rate Schedule FPC No. 112 (Supersedes Supplement No. 5)	do	Rate Schedule WSD.
(13) Supplement No. 9 to Rate Schedule FPC No. 113	Town of Kaplan	Amendments to Agreement.
(14) Supplement No. 10 to Rate Schedule FPC No. 113 (Supersedes Supplement No. 8)	do	Rate Schedule WSD.
(15) Supplement No. 11 to Rate Schedule FPC No. 113	do	Rate Schedule WSA.
(16) Supplement No. 9 to Rate Schedule FPC No. 114	Town of Welsh	Amendments to Agreement.
(17) Supplement No. 10 to Rate Schedule FPC No. 114 (Supersedes Supplement No. 8)	do	Rate Schedule WST.
(18) Supplement No. 11 to Rate Schedule FPC No. 114	do	Rate Schedule WSA.
(19) Supplement No. 7 to Rate Schedule FPC No. 115	City of Newton	Amendments to Agreement.
(20) Supplement No. 8 to Rate Schedule FPC No. 115 (Supersedes Supplement No. 6)	do	Rate Schedule WSD.
(21) Supplement No. 7 to Rate Schedule FPC No. 116	Houston County Electric Coop., Inc	Amendments to Agreement.
(22) Supplement No. 8 to Rate Schedule FPC No. 116 (Supersedes Supplement No. 6)	do	Rate Schedule WSD.
(23) Supplement No. 8 to Rate Schedule FPC No. 117	Town of Abbeville	Amendments to Agreement.
(24) Supplement No. 9 to Rate Schedule FPC No. 117 (Supersedes Supplement No. 7)	do	Rate Schedule WSD.
(25) Supplement No. 10 to Rate Schedule FPC No. 117	do	Rate Schedule WSA.
(26) Supplement No. 9 to Rate Schedule FPC No. 118	Town of St. Martinville	Amendments to Agreement.
(27) Supplement No. 10 to Rate Schedule FPC No. 118 (Supersedes Supplement No. 8)	do	Rate Schedule WSD.
(28) Supplement No. 11 to Rate Schedule FPC No. 118	do	Rate Schedule WSA.
(29) Supplement No. 5 to Rate Schedule FPC No. 120	Town of Erath	Amendments to Agreement.
(30) Supplement No. 6 to Rate Schedule FPC No. 120 (Supersedes Supplement No. 4)	do	Rate Schedule WSD.
(31) Supplement No. 4 to Rate Schedule FPC No. 123	City of College Station	Amendments to Agreement.
(32) Supplement No. 5 to Rate Schedule FPC No. 123 (Supersedes Supplement No. 3)	do	Rate Schedule WST.
(33) Supplement No. 4 to Rate Schedule FPC No. 125	Town of New Roads	Amendments to Agreement.
(34) Supplement No. 5 to Rate Schedule FPC No. 125 (Supersedes Supplement No. 3)	do	Rate Schedule WSD.
(35) Supplement No. 8 to Rate Schedule FERC No. 126	Brazos Electric Power Coop., Inc	Amendments to Agreement.
(36) Supplement No. 9 to Rate Schedule FERC No. 126 (Supersedes Supplement No. 1)	do	Rate Schedule WSD.
(37) Supplement No. 10 to Rate Schedule FERC No. 126	do	Rate Schedule WST.
(38) Supplement No. 3 to Rate Schedule FERC No. 127	Town of Rayne	Amendments to Agreement.
(39) Supplement No. 4 to Rate Schedule FERC No. 127 (Supersedes Supplement No. 1)	do	Rate Schedule WST.
(40) Supplement No. 5 to Rate Schedule FERC No. 127 (Supersedes Supplement No. 2)	Town of Rayne	Rate Schedule WSA.
(41) Supplement No. 11 to Rate Schedule FERC No. 128	Cajun Electric Power Coop., Inc	Amendments to Agreement.
(42) Supplement No. 12 to Rate Schedule FERC No. 128 (Supersedes Supplement No. 1 to Supplement No. 7 as Supplemented).	do	Rate Schedule CSTS-GSU.
(43) Supplement No. 13 to Rate Schedule FERC No. 128 (Supersedes Supplement No. 1 to Supplement No. 8 as Supplemented).	do	Rate Schedule CTS-GSU.
(44) Supplement No. 14 to Rate Schedule FERC No. 128 (Supersedes Supplement No. 1 to Supplement No. 8 as Supplemented).	do	Rate Schedule CITS-GSU.
(45) Supplement No. 1 to Supplement No. 4 to Rate Schedule FERC No. 129	Sam Rayburn Dam Electric Coop., Inc. (City of Liberty).	Amendments to Agreement.
(46) Supplement No. 2 to Supplement No. 4 to Rate Schedule FERC No. 129	do	Rate Schedule WST.
(47) Supplement No. 5 to Rate Schedule FERC No. 129	Sam Rayburn Dam Electric Coop., Inc	Amendments to Agreement.
(48) Supplement No. 6 to Rate Schedule FERC No. 129	do	Rate Schedule WSD.
(49) Supplement No. 7 to Rate Schedule FERC No. 130	do	Rate Schedule WST.
(50) Supplement No. 3 to Rate Schedule FERC No. 130	do	Amendments to Agreement.
(51) Supplement No. 4 to Rate Schedule FERC No. 130	do	Rate Schedule SRTS-GSU.
(52) Supplement No. 5 to Rate Schedule FERC No. 130	do	Rate Schedule SRSTS-GSU.
(53) Supplement No. 3 to Rate Schedule FERC No. 134	Town of Plaquemine	Amendments to Agreement.
(54) Supplement No. 4 to Rate Schedule FERC No. 134 (Supersedes Rate Schedule WSM).	do	Rate Schedule WST.
(55) Supplement No. 5 to Rate Schedule FERC No. 134 (Supersedes Supplement No. 2)	do	Rate Schedule WSB.

[FR Doc. 82-19166 Filed 7-14-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-79-000]

Ohio Edison Co.; Order Granting Motion To Collect Interim Rates

Issued: July 9, 1982.

On June 9, 1982, Ohio Edison Company (Ohio Edison) filed a unilateral motion seeking Commission authorization to impose interim rates [1] lower than the rates it proposed in its November 9, 1981 filing in this docket.[2] These interim rates are proposed to become effective, subject to refund, as of June 9, 1982.[3] Ohio Edison requests the interim rates in order to reduce its potential refund obligation which will accrue during the period between June 9, 1982, and the date of final Commission acceptance of Ohio Edison's ultimate "compliance filing" in this proceeding. Ohio Edison further requests permission to collect the interim rates without prejudice to its ability (1) to continue to seek the full amount of the increase reflected in the originally filed rates, and (2) to conform its rates to a future initial decision in the cost of service phase of this proceeding, by increasing the interim rates, consistent with such an initial decision, up to levels originally

[1] *See* Attachment A for rate schedule designations.

[2] The November 1, 1981 filing involved a rate increase applicable to Ohio Edison's contract for service with the City of Oberlin, Ohio, and increased rates applicable to its contracts for partial requirements service to twenty other municipal wholesale customers. The proposed rates would produce approximately $61 million in annual revenues for the 12 months ending December 31, 1982.

[3] By order issued January 8, 1982, in this docket, the Commission suspendded the originally filed rates for five months to become effective on June 9, 1982, subject to refund.

permitted to become effective on June 9, 1982, by the Commission's January 8, 1982 order. Any future increase in the proposed interim rate levels would be prospective only and subject to refund pending final Commission action in this docket.

Under the circumstances, we believe that the public interest will be served by granting the motion. Although the offer to impose interim rates has been made unilaterally by Ohio Edison, it appears that the proposal will provide immediate benefits by reducing rates to the affected customers and limiting the company's potential refund liability. Furthermore, we perceive no potential detriment to Ohio Edison's customers inasmuch as *any* future increase from the interim rate level (whether to conform to an initial decision or to the Commission's ultimate decision in this case) will become effective prospectively only. While the company has reserved the option of attempting to justify its full rate increase proposal, it has further agreed not to increase the interim rate level retroactively in any event; thus, no possibility of a subsequent surcharge exists.

Pursuant to §§ 35.1(e) and 35.11 of the Commission's regulations, we find that good cause exists to permit the collection of the interim rates (subject to refund) as of June 9, 1982. This order, however, shall be without prejudice to our subsequent determination on the merits of Ohio Edison's rates.

The Commission orders:

(A) The motion filed by Ohio Edison Company on June 9, 1982, requsting permission for Ohio Edison to collect proposed interim rates, is hereby granted.

(B) Good cause having been shown, Ohio Edison is hereby authorized, pursuant to §§ 35.1(e) and 35.11 of the Commission's regulations, to collect, subject to refund, the proposed rates reflected in its motion of June 9, 1982, as of June 9, 1982. The interim rate may subsequently be increased prospectively as explained in the body of this order.

(C) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

OHIO EDISON CO., INTERIM RATES, DOCKET NO. ER82-79-000

[Rate Schedule Designations]

Designation	Description
FERC Electric Tariff, Original Volume No. 1:	
(1) 4th Revised Sheet No. 18 (Supersedes 3rd Revised Sheet No. 18).	Municipal Resale Service Partial Requirements—Sheet 1 of 4; Sheet 2 of 4.
(2) 4th Revised Sheet No. 19 (Supersedes 3rd Revised Sheet No. 19).	Sheet 3 of 4.
(3) 4th Revised Sheet No. 20 (Supersedes 3rd Revised Sheet No. 20).	Sheet 3 of 4.
(4) 4th Revised Sheet No. 21 (Supersedes 3rd Revised Sheet No. 21).	Sheet 4 of 4.
(5) Supplement No. 6 to Rate Schedule FPC No. 140 (Supersedes Supplement No. 5).	City of Oberlin Rate Schedule—(Sheets 1-3).

[FR Doc. 82-19167 Filed 7-14-82; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59090B; TSH-FRL-2171-1]

Substituted Benzene; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA received an application for a test marketing exemption (TM-82-22) under section 5 of the Toxic Substances Control Act (TSCA) on May 25, 1982. Notice of receipt of the application was published in the **Federal Register** of June 4, 1982 (47 FR 24407). EPA has granted the exemption.

EFFECTIVE DATE: This exemption is effective on July 2, 1982.

FOR FURTHER INFORMATION CONTACT: Anna Coutlakis, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-221, 401 M St., SW., Washington, D.C. 20460 (202-755-0190).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with section 5(d) and any applicable requirements of section 5(b). Section 5(d)(1) defines the contents of a PMN and section 5(b) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemptions", contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirements of section 5(a) or section 5(b), and to permit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under section 5(h)(6) the Agency must publish a notice of this disposition in the **Federal Register.** If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

On May 25, 1982, EPA received an application for an exemption from the requirements of sections 5(a) and 5(b) of TSCA to manufacture a new chemical substance for test marketing purposes. The application was assigned test marketing exemption number TM-82-22. The company claimed its identity, the specific chemical identity, the specific use, environmental release and disposal, exposure and production volume of the new substance as confidential business information. The generic name of the new substance is substituted benzene, and it will be used as an intermediate in the manufacture of another chemical. The test marketing period is not to exceed 1 year. A notice published in the **Federal Register** of June 4, 1982 (47 FR 24407) announced receipt of this application and requested comment on the appropriateness of granting the exemption. The Agency did not receive any comments concerning the application.

EPA has established that the test marketing of the substance described in TM-82-22, under the conditions set out in the application, will not present any unreasonable risk of injury to health or the environment. The health concerns for the TME substance are low. There are moderate environmental concerns based on structurally similar chemicals that produce detrimental ecological effects. However, these concerns are mitigated for reasons which the company is claiming as confidential business information.

This test marketing exemption is granted based on the facts and information obtained and reviewed, but is subject to all conditions set out in the exemption application and, in particular, those enumerated below.

1. This exemption is granted solely to this manufacturer.

2. The production volume of the new substance may not exceed that described in the test marketing exemption application.

3. The test marketing activity approved in this notice is limited to a period of 1 year commencing on the date of signature of this notice by the Assistant Administrator for Pesticides and Toxic Substances.

4. The number of workers exposed to the new chemical should not exceed that specified in the application, and the duration of exposure should not exceed that specified.

The Agency reserves the right to rescind its decision to grant this exemption should any new information come to its attention which casts significant doubt on the Agency's conclusion that the test marketing of this substance under the conditions specified in the application will not present an unreasonable risk of injury to human health or the environment.

Dated: July 2, 1982.

John A. Todhunter,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 82-19148 Filed 7-14-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59090A; TSH-FRL-2171-2]]

Substituted Benzene Compound; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA received an application for a test marketing exemption (TM-82-21) under section 5 of the Toxic Substances Control Act (TSCA) on May 24, 1982. Notice of receipt of the application was published in the **Federal Register** of June 4, 1982 (47 FR 24407). EPA has granted the exemption.

EFFECTIVE DATE: This exemption is effective on July 2, 1982.

FOR FURTHER INFORMATION CONTACT: Anna Coutlakis, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-221, 401 M St., SW., Washington, DC 20460 (202-755-9190).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with section 5(d) and any applicable requirements of section 5(b). Section 5(d)(1) defines the contents of a PMN and section 5(b) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemptions", contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirements of section 5(a) or section 5(b), and to permit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under section 5(h)(6) the Agency must publish a notice of this disposition in the **Federal Register**. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

On May 24, 1982, EPA received an application for an exemption from the requirements of sections 5(a) and 5(b) of TSCA to manufacture a new chemical substance for test marketing purposes. The application was assigned test marketing exemption number TM-82-21. The company claimed its identity, the specific chemical identity, the specific use, environmental release and disposal, exposure and production volume of the new substance as confidential business information. The generic name of the new substance is substituted benzene compound, and it will be used as in intermediate in the manufacture of another chemical. The test marketing period is not to exceed 1 year. A notice published in the **Federal Register** of June 4, 1982 (47 FR 24407) announced receipt of this application and requested comment on the appropriateness of granting the exemption. The Agency did not receive any comments concerning the application.

EPA has established that the test marketing of the substance described in TM-82-21, under the conditions set out in the application, will not present any unreasonable risk of injury to health or the environment. There are moderate health concerns for the TME substance. However, any risks to workers would be mitigated since manufacture will take place under controlled conditions resulting in low exposure.

EPA has environmental concerns based on the similarity to other chemicals that produce adverse effects to many environmental species. However, these concerns are mitigated for reasons which the company is claiming as confidential business information.

This test marketing exemption is granted based on the facts and information obtained and reviewed, but is subject to all conditions set out in the exemption application and, in particular, those enumerated below.

1. This exemption is grantd solely to this manufacturer.

2. The production volume of the new substance may not exceed that described in the test marketing exemption application.

3. The test marketing activity approved in this notice is limited to a period of 1 year commencing on the date of signature of this notice by the Assistant Administrator for Pesticides and Toxic Substances.

4. The number of workers exposed to the new chemical should not exceed that specified in the application, and the duration of exposure should not exceed that specified.

5. Manufacturing procedures outlined in the application must be followed.

The Agency reserves the right to rescind its decision to grant this exemption should any new information come to its attention which casts significant doubt on the Agency's conclusion that the test marketing of this substance under the conditions specified in the application will not present an unreasonable risk of injury to human health or the environment.

Dated: July 2, 1982.

John A. Todhunter,

Assistant Administrator for Pesticides and Toxic Substances.

FR Doc. 82-19147 Filed 7-14-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[Docket No. FEMA-REP-5-MI-3]

The Michigan Emergency Preparedness Plan Site-Specific to the Palisades Nuclear Power Station

ACTION: Certification of FEMA Findings and Determination

In accordance with FEMA Rule 44 CFR 350 (proposed) on February 26, 1981, the State of Michigan submitted its plans relating to the Palisades Nuclear

Power Station to the Director of FEMA Region V for review and approval. The Regional Director forwarded his evaluation to the Associate Director for State and Local Programs and Support in accordance with § 350.11 of the proposed Rule. Included in this evaluation were a review of the State and local plans around the Palisades facility; an evaluation of the exercise conducted on December 9, 1980, in accordance with § 350.9; and a report of the public meeting held on December 10, 1980, to discuss the site specific aspects of the State and local plans in accordance with § 350.10 of the proposed Rule. In the latest Palisades joint exercise conducted on February 23, 1982, it was demonstrated that the remaining outstanding deficiencies were corrected with the exception of the prompt alerting and notification systems.

Based on the evaluation by the Regional Director and the review by the FEMA Headquarters staff, I find and determine that, subject to the condition stated below, the State and local plans and preparedness for the Palisades Nuclear Power Station are adequate to protect the health and safety of the public living in the vicinity of the station. The plans and preparedness are assessed as providing reasonable assurance that appropriate protective measures can and will be taken off-site in the event of a radiological emergency and are capable of being implemented. The condition for the above approval is that the adequacy of the public alerting and notification system already installed and operational must be verified as meeting the standards set forth in Appendix 3 of the Nuclear Regulatory Commission (NRC)/FEMA Criteria of NUREG–0654/FEMA–REP–1, Revision 1.

FEMA will continue to review the status of plans and preparedness of the state and localities associated with the Palisades Nuclear Power Station in accordance with Section 350.13 of the proposed Rule.

For further details with respect to this action, refer to Docket File FEMA–REP–5–MI–3 maintained by the Regional Director, FEMA Region V at the Federal Center, Battle Creek, Michigan 49016.

Dated: July 2, 1982.

For the Federal Emergency Management Agency.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-19155 Filed 7-14-82; 8:45 am]

BILLING CODE 6718-01-M

[Docket No. FEMA-REP-6-TX-1]

Texas; Radiological Emergency Preparedness Plans

AGENCY: Federal Emergency Management Agency.

ACTION: Notice of receipt of plans.

SUMMARY: This is a notice that the State of Texas has submitted Radiological Emergency Preparedness Plans to the Federal Emergency Management Agency, Region VI for review and approval. These plans consist of the basic Texas State Emergency Management Plan, the Texas Department of Health's Annex L, the Bureau of Radiation Control's Appendix 7 and the local government plans for Hood and Somervell Counties.

DATE PLANS RECEIVED: June 17, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Stephens, Regional Director, FEMA Region VI, Federal Center, Denton, Texas 76201—(817) 387–5811.

NOTICE: This provides notice in accordance with 44 CFR Part 350.8 of the FEMA Proposed Rule, "Review and Approval of State and Local Radiological Emergency Plans and Preparedness," 44 FR 42341, that the Federal Emergency Management Agency, Region VI Office, received on June 17, 1982, from the State of Texas, Radiological Emergency Preparedness Plans for the State of Texas.

These plans include the basic Texas State Emergency Management Plan, the Texas Department of Health's Annex L, the Bureau of Radiation Control's Appendix 7 entitled Radiological Emergency Response, Tab 1, entitled, "Fixed Nuclear Facility Accidents," Chapter 1 entitled, "Comanche Peak Steam Electric Station (CPSES)," along with Hood and Somervell County Emergency Operations Plans. Copies of these plans are available for review and copying at the FEMA Region VI Office. Copies will be made available upon request in accordance with the fee schedule for FEMA Freedom of Information Act requests. This schedule which covers exemptions from the fee, is set forth in subpart C of 44 CFR Part 5. Reproduction fees are $0.10 a page for this document. There are approximately 688 pages in the documents, excluding procedures. (As the cost will be over $25.00, the fee is to be paid in advance.)

Comments regarding the plans may be submitted in writing to Mr. Jerry Stephens, Regional Director, at the above address within thirty days.

FEMA Proposed Regulation 44 CFR 350.10 calls for a Public Meeting in advance of FEMA approval of a plan. A Public Meeting will be conducted in Hood and/or Somervell County in advance of FEMA approval of the plan.

R. Dell Greer,

Acting Regional Director.

June 21, 1982.

[FR Doc. 82-19170 Filed 7-14-82; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Cleveland** (Harry W. Huning, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *First Bancorporation of Ohio,* Akron, Ohio; to acquire 100 percent of the voting shares or assets of The Twinsburg Banking Company, Twinsburg, Ohio. Comments on this application must be received not later than August 8, 1982.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Missouri Banks, Inc.,* Manchester, Missouri; to acquire 100 percent of the voting shares or assets of First Missouri Bank, N.A., St. Louis County, Missouri, a *de novo* bank. Comments on this application must be received not later than August 8, 1982.

Board of Governors of the Federal Reserve System, July 9, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-19109 Filed 7-14-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Notice of Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comments on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated for each application.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Chemical New York Corporation,* New York, New York (financing and insurance activities; Texas): To engage through its subsidiary, Sunamerica Corporation, in generating and servicing loans and other extensions of credit; making or acquiring loans to consumers; acquiring installment contracts from retail sellers covering the time sales of goods and related services; making or acquiring loans and other extensions of credit to businesses; making or acquiring extensions of credit secured by personal property lease contracts; acting as an agent for the sale of credit related life and accident and health term insurance and mortgage life, mortgage disability, and property and casualty insurance directly related to its extensions of credit. These activities would be conducted from offices in Irving, Texas, serving the state of Texas. Comments on this application must be received not later than August 7, 1982.

2. *Citicorp,* New York, New York (consumer finance and credit-related insurance activities; California): To expand the service areas of four offices of Citicorp Person-to-Person Financial Center, Inc. The previously approved activities of these offices are as follows: the making or acquiring of loans and other extensions of credit, secured or unsecured for consumer and other purposes; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the purchasing and servicing for its own account of sales finance contracts; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of credit related property and casualty insurance protecting real and personal property subject to a security agreement with Citicorp Person-to-Person Financial Center, Inc. and to the extent permissible under applicable state insurance laws and regulations; the sale of consumer oriented financial management courses; and the servicing, for any person, of loans and other extensions of credit. The proposed expanded service areas of all four offices for their previously approved activities shall be comprised of the entire state of California. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc. The aforementioned activities will be conducted from offices in Chula Vista, Escondido, San Diego, and El Cajon, California. Comments on this application must be received not later than August 7, 1982.

3. *Citicorp,* New York, New York (consumer finance and credit-related insurance activities; California) To expand the service area of an existing office of Citicorp Person-to-Person Financial Center, Inc., located in San Diego, California. The previously approved activities of the office are as follows: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the extensions of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of credit related property and casualty insurance protecting real and personal property subject to a security agreement with Citicorp Person-to-Person Financial Center, Inc., and to the extent permissible under applicable state insurance laws and regulations; the sale of consumer oriented financial management courses; and the servicing, for any person, of loans and other extensions of credit. The proposed expanded service area for the previously approved activities shall be comprised of the entire State of California. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc. Comments on this application must be received not later than August 7, 1982.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Olsson's Inc.,* Ronan, Montana (financing activities; Montana): To engage in making loans to its stockholders. This activity would be conducted from an office in Ronan, Montana, serving Lake County, Montana. Comments on this application must be received not later than August 7, 1982.

Board of Governors of the Federal Reserve System, July 9, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-19104 Filed 7-14-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing

the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Cleveland** (Harry W. Huning, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Commercial Bancshares, Inc.*, West Liberty, Kentucky; to become a bank holding company by acquiring at least 80.8 percent of the voting shares of Commercial Bank, West Liberty, Kentucky. Comments on this application must be received not later than August 3, 1982.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *F.C.B., Inc., Alachua, Florida;* to become a bank holding company by acquiring at least 80 percent of the voting shares of First National Bank of Alachua, Alachua, Florida. Comments on this application must be received not later than August 3, 1982.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Treynor Bancshares, Inc.*, Treynor, Iowa; to become a bank holding company by acquiring at least 87 percent of the voting shares of Treynor State Bank, Treynor, Iowa. Comments on this application must be received not later than August 5, 1982.

D. *Federal Reserve Bank of St. Louis* (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Salem Arkansas Bancshares Corporation*, Salem, Arkansas; to become a bank holding company by acquiring 84 percent of the voting shares of Bank of Salem, Salem, Arkansas. Comments on this application must be received not later than August 5, 1982.

E. **Federal Reserve Bank of Minneapolis** (Lester G. Gable, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Security Bancshares, Inc.*, Dunseith, North Dakota; to become a bank holding company by acquiring 100 percent of the shares of Security State Bank, Dunseith, North Dakota. Comments on this application must be received not later than August 5, 1982.

F. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Celeste Bancshares, Inc.*, Celeste, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Celeste, Celeste, Texas. Comments on this application must be received not later than August 5, 1982.

G. **Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551**

1. *Sonny Wright*, on behalf of a corporation to be formed pursuant to the laws of the State of Florida, Miami, Florida; to become a bank holding company by acquiring 95 percent of the voting shares of Peoples National Bank of Commerce, Miami, Florida. This application may be inspected at the Federal Reserve Bank of Atlanta. Comments on this application must be received not later than August 5, 1982.

Board of Governors of the Federal Reserve System, July 9, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-19062 Filed 7-14-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for the application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 3003:

1. *F. C. B. Holding Company*, Orlando, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Florida Center Bank, Orlando, Florida. Comments on this application must be received not later than August 6, 1982.

2. *PAB Bankshares, Inc.*, Valdosta, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of The Park Avenue Bank, Valdosta, Georgia. Comments on this application must be received not later than August 6, 1982.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Farmers & Merchants Bancshares, Inc.*, Beach, North Dakota to become a bank holding company by acquiring at least 89.1 percent of the voting shares of Farmers & Merchants Bank, Beach, North Dakota. Comments on this application must be received not later than August 6, 1982.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Cripple Creek Bancorporation, Inc.*, Cripple Creek, Colorado; to become a bank holding company by acquiring 80 percent or more of the voting shares of Bank of Cripple Creek, Cripple Creek, Colorado. Comments on this application must be received not later than August 6, 1982.

2. *Lexington Bancshares, Inc.*, Lexington, Nebraska; to become a bank holding company by acquiring at least 90 percent of the voting shares of Lexington State Bank and Trust Company, Lexington, Nebraska. Comments on this application must be received not later than August 6, 1982.

3. *Worland Holding Company*, Worland, Wyoming; to become a bank holding company by acquiring 95 percent of the voting shares of The First National Bank in Worland, Worland, Wyoming. Comments on this application must be received not later than August 6, 1982.

D. **Secretary, Board of Governors of the Federal Reserve System**, Washington, D.C. 20551:

1. *Canton Bancshares, Inc.*, Canton, South Dakota; to become a bank holding company by acquiring 80 percent or more of the voting shares of First American Bank, Canton, South Dakota. This application may be inspected at the Federal Reserve Bank of Minneapolis. Comments on this application must be received not later than August 6, 1982.

Board of Governors of the Federal Reserve System, July 9, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-19107 Filed 7-14-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Notice of Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in

an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated for each application.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

Correction

1. *Citicorp*, New York, New York (consumer finance and credit-related insurance activities; Florida): This notice corrects a previous Federal Register document (FR Doc. 82–17593) published on page 28458 of the issue for Wednesday June 30, 1982. Applicant also proposes to engage in the activity of extensions of credit to individuals secured by liens on residential or non-residential real estate and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans.

Correction

2. *Citicorp*, New York, New York (consumer finance and credit-related insurance activities; Oklahoma): This notice corrects a previous Federal Register document (FR Doc. 82–17593) published on page 28458 of the issue for Wednesday June 30, 1982. Applicant proposes to engage in the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required.

B. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Security Pacific Corporation*, Los Angeles, California (finance and credit life and credit accident and health insurance activities; Pennsylvania): To engage through its subsidiaries, Security Pacific Consumer Discount Company and Security Pacific Finance Corp., in making or acquiring for its own account or for the account of others, loans and extensions of credit, including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a consumer finance company, and acting as broker or agent for the sale of credit life and credit accident and health insurance. These activities would be conducted from offices of Security Pacific Consumer Discount Company and Security Pacific Finance Corp. located in Pittsburgh, Pennsylvania, serving the State of Pennsylvania and would constitute a relocation of existing offices of Security Pacific Consumer Discount Company and Security Pacific Finance Corp. which are currently located in Coraopolis, Pennsylvania. Comments on this application must be received not later than August 7, 1982.

Board of Governors of the Federal Reserve System, July 9, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82–19106 Filed 7–14–82; 8:45 am]

BILLING CODE 6210–01–M

Tekamah Agency Co.; Proposed Acquisition of Wagner Data Center, Inc.

Tekamah Agency Company, Tekamah, Nebraska, has applied, pursuant to section 4(c)(8)) of the Bank Holding Company Act (12 U.S.C. 1842(c)(8) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Wagner Data Center, Inc., Schuyler, Nebraska.

Applicant states that the proposed subsidiary would engage in data processing activities. These activities would be performed from offices of Applicant's subsidiary in Schuyler, Nebraska, and the geographic areas to be served are Schuyler, Colfax County, Nebraska. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received no later than August 7, 1982.

Board of Governors of the Federal Reserve System, July 9, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82–19105 Filed 7–14–82; 8:45 am]

BILLING CODE 6210–01–M

[Docket No. R–0375]

Regulation Y; Bank Holding Companies and Change in Bank Control; Futures Commission Merchant Activities

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Withdrawal of proposal.

SUMMARY: The Board of Governors of the Federal Reserve System has decided not to amend Regulation Y so as to include certain futures commission merchant activities on the list of permissible bank holding company activities.

EFFECTIVE DATE: July 9, 1982.

FOR FURTHER INFORMATION CONTACT: Paul R. Schweitzer, Director, Nonbank Activities, (202/452–2918), Division of Research and Statistics; Sidney M. Susman, Assistant Director, (202/452–2818), Division of Banking Supervision and Regulation; Carl V. Howard, Senior Counsel, (202/452–3786), Legal Division;

Board of Governors of the Federal Reserve System.

SUPPLEMENTARY INFORMATION: By notice published in the **Federal Register** on December 10, 1981 (46 FR 60503 (1981)), the Board Requested comment, in connection with an application filed by J. P. Morgan & Co. Incorporated, New York, New York ("Morgan"), pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's regulation Y (12 CFR 225.4(b)(2)), on whether to add to the list of activities that the Board has determined to be closely related to banking or managing or controlling banks (12 CFR 225.4(a)) the activity of engaging as a futures commission merchant (an "FCM") in the execution and clearance on major commodity exchanges of futures contracts covering bullion, foreign exchange, U.S. Government securities, and money market instruments.

List of Subjects in 12 CFR Part 225

Banks, banking; Holding companies; Reporting requirements; Securities.

By Order dated July 1, 1982, the Board approved Morgan's application to engage in the proposed FCM activities. In connection with its action on Morgan's application, the Board decided not to add these activities to the list of permissible bank holding company activities in the Board's Regulation Y at this time, but to proceed with applications in this area on a case-by-case basis.

By order of the Board of Governors, effective July 9, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-19178 Filed 7-14-82; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Early Termination of the Waiting Period of the Premerger Notification Rules; Philip Morris, Inc.

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Philip Morris, Inc. is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all voting securities of Southern Gold Citrus Products, Inc. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: June 21, 1982.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580; (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-19169 Filed 7-14-82; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

[Intervention Notice 149]

The New England Telephone & Telegraph Co. and The Commonwealth of Massachusetts Department of Public Utilities; Proposed Intervention in Telecommunications Rate Increase Proceeding

The General Services Administration seeks to intervene in a proceeding before The Commonwealth of Massachusetts Department of Public Utilities concerning the application of the The New England Telephone and Telegraph Company for revisions in intrastate Private Line rates. GSA represents the interests of the executive agencies of the U.S. Government as users of telecommunications services.

Persons desiring to make inquiries to GSA concerning this case should submit them in writing to Charles V. Curcio, Assistant General Counsel, Automated Data & Telecommunications Service, General Services Administration, Washington, D.C. (mailing address: General Services Administration (LX), 18th and F Streets NW., Washington, D.C. 20405, telephone 202-566-1156, on or before August 16, 1982, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Sec. 201(a)(4), Federal Property and Administrative Services Act, 40 U.S.C. 481(a)(4))

Dated: July 8, 1982.

Frank J. Carr,

Commissioner, Automated Data and Telecommunications Service.

[FR Doc. 82-19233 Filed 7-14-82; 8:45 am]

BILLING CODE 6820-25-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Assistant Secretary for Health

Departmental Decision To Apply Pub. L. 96-517 to Inventions Made Under Grants and Contracts Funded Prior to July 1, 1981

Notice is hereby given of the Department's decision to make Pub. L. 96-517 applicable to inventions made in performance of grants and contracts initially funded prior to July 1, 1981.

The new patent law gives nonprofit organizations and small business firms a first option to take ownership of inventions developed under Department of Health and Human Services grants, contracts, and cooperative agreements, initially funded *after* July 1, 1981. OMB Bulletin 81-22, superseded by Circular A-124, gives the Department the option of applying the new law to inventions made after July 1, 1981, in the performance of grants, contracts, and cooperative agreements initially funded *before* July 1, 1981.

Accordingly, the provisions of Pub. L. 96-517 are to be applied to all inventions made after July 1, 1981, in performance of Department grants, contracts, and cooperative agreements irrespective of the date of the funding agreement.

Dated: July 9, 1982.

(5 U.S.C. 301; 42 U.S.C. 241)

James F. Dickson III,

Acting Assistant Secretary for Health.

[FR Doc. 82-19132 Filed 7-14-82; 8:45 am]

BILLING CODE 4110-12-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-8104, et al.]

Alaska; Final Allocations Pursuant to Section 12(b) and Section 12(c) of the Alaska Native Claims Settlement Act

Sections 12(b) and 12(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1601, 1611) (ANCSA), contain certain formulas to be used in allocating acreage to 11 of the 12 regional corporations. (The regional corporation for Southeast is excluded from the Sec. 12(b) and Sec. 12(c) allocations.)

Section 12(b) requires the Secretary to allocate to the 11 regions the difference between 22 million acres and the total Sec. 12(a) village entitlement. The allocation among the regional corporations is based on the number of Natives enrolled to each region.

Section 12(c) entitlement is based on the acreage allocation pursuant to Secs. 12(a), 12(b) and 16 and the geographic size of each region. A decision was issued on February 2, 1977, which finalized the regional land boundaries and size of each of the eleven regions for the purpose of determining Sec. 12(c) allocations.

The decision of January 19, 1977, as amended by the decision of October 31, 1978, finalized the number of Natives enrolled to each region. (**Federal Register**, Vol. 42, No. 22, pages 6419 to 6432 and **Federal Register**, Vol. 43, No. 221, page 53062). These decisions also finalized village eligibility and Sec. 12(a) entitlement. Eleven villages filed litigation concerning village eligibility. The litigation has been resolved thus enabling the final Sec. 12(b) and Sec. 12(c) entitlements to be determined.

The following table shows the final Sec. 12(b) and 12(c) entitlements[1] for each region:

	Sec. 12(a) entitlement [1]	Sec. 12(b) entitlement	Sec. 12(c) entitlement
AHTNA, Inc	[illegible]	[illegible]	[illegible]
The Aleut Corp	1,221,120	[illegible]	0
Arctic Slope Regional Corp	[illegible]	[illegible]	4,011,729.72
Bering Straits Native Corp	1,820,160	[illegible]	0
Bristol Bay Native Corp	2,718,720	[illegible]	0
Calista Corp	5,644,800	570,131.93	0
Chugach Natives, Inc	[illegible]	[illegible]	[illegible]
Cook Inlet Region, Inc	[illegible]	[illegible]	1,324,472.71

[1] The actual acreage conveyed may be different from the final entitlement because of special legislation, exchanges, etc.

	Sec. 12(a) entitlement [1]	Sec. 12(b) entitlement	Sec. 12(c) entitlement
Doyon, Ltd	3,248,640	392,018.71	8,356,571.96
Koniag Inc., Regional Native Corp	922,920	116,755.63	0
NANA Regional Corp	1,198,080	206,362.46	746,130.59

[1] Total Sec. 12(a) entitlement for each region is listed for informational purposes only.

This decision is being published once in the **Federal Register.**

Should you disagree with the final allocations given by this decision you may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E as revised.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until August 16, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, a copy of the notice of appeal must be served on each of the regional corporations listed in attachment 1.

Curtis V. McVee,
State Director.

Attachment No. 1

AHTNA, Inc., Drawer G, Copper Center, Alaska 99573
The Aleut Corporation, 2550 Denali Street, Anchorage, Alaska 99503
Arctic Slope Regional Corporation, P.O. Box 129, Barrow, Alaska 99723
Bering Straits Native Corporation, P.O. Box 1008, Nome, Alaska 99752
Bristol Bay Native Corporation, P.O. Box 198, Dillingham, Alaska 99576
Calista Corporation, 516 Denali Street, Anchorage, Alaska 99501
Chugach Natives, Inc., 903 West Northern Lights Blvd., Anchorage, Alaska 99503
Cook Inlet Region, Inc., P.O. Drawer 4–N, Anchorage, Alaska 99509
Doyon, Limited, Land Department, Doyon Building, 201 First Avenue, Fairbanks, Alaska 99701
Koniag, Inc., P.O. Box 746, Kodiak, Alaska 99615
NANA Regional Corporation, P.O. Box 49, Kotzebue, Alaska 99752

[FR Doc. 82-19175 Filed 7-14-82; 8:45 am]
BILLING CODE 4310-03-M

[ES 11109]

Coal Lease Offering by Sealed Bid

Department of the Interior, Bureau of Land Management, Eastern States Office, 350 South Pickett Street, Alexandria, Virginia 22304. Notice is hereby given that certain coal resources in the land described below in Gallatin County, Illinois will be offered for competitive lease by sealed bid followed by oral bids which shall begin at the level of the highest sealed bid in $5.00 increments in accordance with the provisions of the Mineral Leasing Act of 1920 (41 Stat. 437), as amended, and the Department of Energy Organization Act of August 4, 1977 (91 Stat. 565, 42 U.S.C. 7101). Pursuant to the regulations of 43 CFR 3422.3–1, only those submitting sealed bids may offer oral bids, and ⅛ of the total bonus bid must be tendered at the time of sale. The sale will be held at 2:00 p.m. July 30, 1982, at the Conference Room of the Eastern States Office. All bids must be submitted to BLM, Eastern States Offices, 350 South Pickett Street, Alexandria, Virginia, 22304. No bids received after July 30, 1982 will be considered.

Coal Offered

The coal resource to be offered is to be mined underground from the Harrisburg No. 5 seam in the following lands located in Shawnee National Forest, Gallatin County, Illinois.

T. 10 S., R. 9 E., 3rd Principal Meridian
Gallatin County, Illinois
Section 13, W½E½, E½W½, W½SW¼;
Section 14, SE¼NE¼;
Section 21, SW¼SE¼, E½SE¼;
Section 23, NW¼SW¼;
Section 27, SW¼NE¼, W½NW¼NE¼, that part of the NW¼ and the NE¼SW¼ lying north and east of the Saline River;
Section 28, NE¼NE¼.
Containing 845.51 acres.

Resources have been calculated for underground mining. Recoverable reserves are estimated to be 1,816,000 tons. The coal should average 12,368 Btu/lb., 10.16 percent ash, moisture content of 6.83 percent, and sulfur content of approximately 2.69 percent.

The minimum sealed bid shall be $25.00 or more per acre.

Jeff O. Holdren,
Chief, Division of Lands and Minerals Operations.

[FR Doc. 82-19039 Filed 7-14-82; 8:45 am]
BILLING CODE 4310-84-M

[OR 11304]

Oregon; Partial Termination of Proposed Withdrawal and Reservation of Lands

Correction

In FR Doc. 82-10371, appearing on page 16420, in the issue of Friday, April 16, 1982, and corrected at page 22161, in the issue of Tuesday, May 25, 1982, the first line of Section 15 should read: "Sec. 15, NE¼, E½NW¼, E½W½NW¼, and ".

BILLING CODE 1505-01-M

Land Exchange Proposal and Comment Period

July 9, 1982.

ACTION: Notice of Land Exchange Proposal and Comment Period (M-55145).

SUMMARY: Notice is hereby given that B-6, Inc. of Billings, Montana has proposed to exchange deeded lands in Custer and Rosebud counties for public lands in Custer County. This exchange, if consumated, will be for surface rights only, subsurface rights will remain with the present owners. The proposal was filed pursuant to section 206 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2756; 43 U.S.C. 1716) and the Exchange Regulations contained in 43 CFR Part 2200.

The subject lands are located approximately 30 miles northwest of Miles City, Montana. One section of public land is approximately 40 miles east of Miles City.

The public lands involved are:

T. 12 N., R. 45 E.,
Sec. 14, W½ NW¼, SW¼, S½SE¼;
Sec. 22, W½W½;
Sec. 24, N½;
Sec. 26, W½.
T. 12 N., R. 46 E.,
Sec. 30, lots 1, 2, 3, 4, E½, E½NW¼, SE¼SW¼.
T. 8 N., R. 52 E.,
Sec. 30, lots 1, 2, 3, 4, E½, E½W½.

in exchange for the following described deeded land:

T. 12 N., R. 44 E.,
Sec. 12, all.
T. 12 N., R. 45 E.,
Sec. 6, lots 1, 2, 3, 4, 5, 6, 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 7, lots 1, 2, 3, 4, E½, E½W½;
Sec. 8, S½;
Sec. 18, NE¼, N½SE¼, SE¼SE¼.

The purpose of this notice is to inform the public of the proposed exchange.

Comment Period: Any interested persons desiring to express their views or furnish any information about this proposal should contact the District Manager, Bureau of Land Management, P.O. Box 940, Miles City, Montana 59301. All comments should be in writing within 30 days after the date of this publication.

Ray Brubaker,
District Manager.

[FR Doc. 82-19136 Filed 7-13-82; 8:45 am]
BILLING CODE 4310-84-M

Miles City District Grazing Advisory Board Meeting

July 8, 1982.

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Miles City District Grazing Advisory Board will be held August 18, 1982. The meeting will begin at 10:00 a.m. in the conference room at the Miles City District, Bureau of Land Management Office, Highway 10-12 at Garyowen Road, Miles City, Montana.

The agenda is as follows:

1. Range Maintenance Survey Response.
2. Fiscal Year 1983 Range Budget.
3. Current Resource Management Programs Affecting Range.

The meeting is open to the public. The public may make oral statements before the Grazing Advisory Board or file written statements for the board's consideration. Depending upon the number or persons wishing to make an oral statement, a per person time limit may be established.

Summary minutes of the meeting will be maintained in the Bureau of Land Management District Office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

For further information contact District Manager, Miles City District, Bureau of Land Management, P.O. Box 940, Miles City, Montana 59301.

Ray Brubaker,
District Manager.

[FR Doc. 82-19135 Filed 7-14-82; 8:45 am]
BILLING CODE 4310-84-M

[M 55077]

Montana; Realty Action; Modified Competitive Sale of Public Land in Carter County, Montana

July 7, 1982.

The following described lands have been examined and identified as suitable for disposal by sale pursuant to Sec. 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713 (1976), at no less than the fair market value:

Principal Meridian
T. 2 S., R. 62 E.,
Sec. 18, SW¼NE¼SE¼SW¼, N½N½SE¼.
The area described contains 42.50 acres.

The land will be offered for sale by sealed bid utilizing modified competitive bidding procedures. Long Pine Hereford Ranches, Inc., c/o George Blair, the owner of the surrounding private land and the proposed designated bidder, will be offered the right to meet the highest bid. Refusal or failure to meet the highest bid shall constitute a waiver of such bidding provisions.

The subject land is located 14 miles south of Mill Iron, Montana, and 3 miles west of the South Dakota state line. The land is isolated, with no legal access, is unusable by the general public, and is difficult and uneconomic to manage as part of the public lands system. The subject land has no unique values and has historically been used for livestock grazing. The sale, if consummated, will resolve this unauthorized use.

The proposed sale is consistent with the Bureau's planning system and Carter County government officials have been notified of the proposed sale. Since the land has a low resource value, the transfer of the tract into private ownership will benefit the public interest and provide for better land management.

The terms and conditions applicable to the sale are as follows:

1. All minerals will be reserved to the United States together with the right to explore, prospect for, mine, and remove them under applicable law and regulations;

2. A right-of-way for ditches and canals will be reserved to the United States; and

3. The sale of these lands will be subject to all valid existing rights and reservations of record.

Detailed information concerning the sale, including the planning documents, environmental assessment, and the record of public discussions, is available for review at the Miles City District Office, west of Miles City, P.O. Box 940, Miles City, Montana 59301.

The bid opening for the modified competitive sale of the above-described public land in Carter County, Montana, will be held at the Montana State Office, 222 North 32nd Street, Billings, Montana, on Wednesday, October 6, 1982, at 10 a.m.

Bidding Information and Instructions

Bidder Qualifications: The Federal Land Policy and Management Act requires that bidders be U.S. citizens or, in the case of a corporation, subject to the laws of any state or the U.S. A State, State instrumentality or political subdivision submitting a bid must be authorized to hold property. Any other entity submitting a bid must be legally capable of conveying and holding lands or interests therein under the laws of the State of Montana.

Bids must be made by the principal or his agent.

Bid Standards: No bid will be accepted for less than the appraised value of $4,250 and bids must include all of the land identified in this sale notice.

Method of Bidding: The land will be sold by sealed bid only. Bids delivered or sent by mail will be considered only if received by the Bureau of Land Management, 222 North 32nd Street, P.O. Box 30157, Billings, Montana 59107, prior to 10 a.m. on October 6, 1982. Each bid must be in a sealed envelope accompanied by a certified check, postal money order, bank draft, or cashier's check made payable to the Bureau of Land Management for not less than one-fifth of the amount of the bid. The sealed bid envelope must be marked in the lower left-hand corner as follows:

Public Land Sale M 55077

October 6, 1982

If two or more envelopes containing valid bids of the same amount are received, the determination of which is to be considered the highest bid shall be by drawing. The drawing, if required, shall be held immediately following the opening of the sealed bids. The highest qualifying sealed bid shall then be publicly declared.

Modified Bidding: For a period of 30 days following the date of the sale, Long Pine Hereford Ranches, Inc., c/o Mr. George Blair, the owner of the private land surrounding the sale parcels, will be offered the right to meet the highest bid. If he meets the highest bid, the land will be sold to him, and the other bid will be returned. His refusal to meet the highest bid shall constitute a waiver of such bidding provisions.

Final Details: Once a high bid is accepted, the successful bidder shall submit the remainder of the full bid price within the time period designated by the authorized officer. Failure to submit the required amount within the allotted time will result in cancellation of the sale and the deposit will be forfeited.

All bids will be either returned, accepted, or rejected within 60 days of the sale date.

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, P.O. Box 940, Miles City, Montana 59301. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become a final determination of the Department of the Interior.

Bill D. Noble,

Acting State Director.

[FR Doc. 82-19139 Filed 7-14-82; 8:45 am]

BILLING CODE 4310-84-M

Realty Action; Noncompetitive Sale of Public Lands in Socorro County, New Mexico

June 25, 1982.

The following lands have been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713), at current market value to the purchasers shown.

Legal Description, Acreage, and Purchaser; New Mexico Principal Meridian, New Mexico:

T. 1 S., R. 1 W., NMPM

Section 24: Lot 16, containing 2.70 acres; Fabiola, Robert and William Rawlins, 1020 Los Arboles NW, Albuquerque, New Mexico 87107.

T. 1 S., R. 1 W., NMPM

Section 23: Lot 38, containing 1.25 acres; Mary Ann Ulibarri, 3911 Alta Monte NE. Albuquerque, New Mexico 87110.

T. 1 S., R. 1 W., NMPM

Section 35: Lot 13, containing .003 acre; Bobby Ray McKinley, P.O. Box 57, Socorro, New Mexico 87801.

T. 2 S., R. 1 W., NMPM

Section 13: Portions of Lots 17, 18, and 47 of the February 1980 survey, containing approximately 1.09 acres; Gerald S. O'Neal, Box 1366, Socorro, New Mexico 87801.

T. 1 S., R. 1 W., NMPM

Section 22: Lot 2, containing .34 acre;
Section 23: Lot 26 containing .71 acre, Lot 27, containing .21 acre; Michael S. Sarracino, 801 Caine NW, Socorro, New Mexico 87801.

T. 1 S., R. 1 W., NMPM

Section 13: Lot 11, containing 4.71 acres; Middle Rio Grande Conservancy District, 1930 2nd SW, Albuquerque, New Mexico 87102.

T. 2 S., R. 1 W., NMPM

Section 2: Lot 42, containing 1.57 acres; Emile Kiehne and Sons, Inc., P.O. Box 167, Reserve, New Mexico 87830.

T. 2 S., R. 1 W., NMPM

Section 2: Lot 27, containing .13 acre; Rex and Sheila Gardner, P.O. Box 41, Lemitar, New Mexico 87823.

T. 2 S., R. 1 W., NMPM

Section 2: Portion of Tract 39 of the February 1980 survey, containing approximately .57 acre; William and Charlene West, Jr., General Delivery, Lemitar, New Mexico 87823.

T. 2 S., R. 1 W., NMPM

Section 2: Portion of Tract 39 of the February 1980 survey, containing approximately .08 acre; Frank Chavez, Jr., P.O. Box 943, Socorro, New Mexico 87801.

The above described lands are being offered as direct non-competitive sales to the purchasers, who are the current occupants of the lands.

The sales are consistent with the Bureau's land use planning. The public interest will best be served by granting patents to current occupants of the lands. The current use is the highest and best use for the lands. The lands will not be offered for sale for at least 60 days after the date of this notice.

Patents, when issued, will be subject to existing access road rights-of-way and easements and to the following:

The patents will be issued recognizing that they lie within a floodplain and as such the patentees or their successors will be limited by section 3(d) of Executive Order 11988 of May 24, 1977 from seeking compensation from the United States or its agencies in the event existing or future facilities on the patents are damaged by floods.

Reservations to the United States will be made in the patents as follows:

1. A right-of-way thereon for ditches or canals constructed by authority of the United States.

2. All the geothermal steam and associated geothermal resources as to land so patented, and to it, or persons

authorized by it, the right to prospect for, mine and remove such deposits, upon compliance with the conditions and subject to the provisions and limitations of the Act of December 24, 1970 (94 Stat. 1566).

3. All mineral deposits in the land so patented, and to it, or persons authorized by it, the right to prospect, mine and remove such deposits from the same under applicable law.

Detailed information concerning the sales is available for review at the Bureau of Land Management, Socorro District Office, 198 Neel Avenue, Socorro, New Mexico.

For a period of 45 days, interested parties may submit comments to the District Manager of the Socorro District. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

The required payment, at fair market value, shall then be requested of the purchasers. The payment is in accordance with 43 CFR 1822.1–2.

July 6, 1982.

Edward C. Roberts,

Acting District Manager.

[FR Doc. 82-19137 Filed 7-14-82; 8:45 am]

BILLING CODE 4310-84-M

[M 53205-B(SD)]

South Dakota; Classification of Public Lands for State Indemnity Selection

July 9, 1982.

1. Notice of a proposal to classify certain public lands in Custer, Harding, Jackson, Lawrence, Lyman, and Perkins Counties, South Dakota, for State Indemnity Selection pursuant to an application filed by South Dakota's Commissioner of School and Public Lands was published in the **Federal Register** as FR Doc. 82–6700 appearing on pages 10914 and 10915 in the issue of Friday, March 12, 1982. The notice was also distributed to governmental officials and those individuals and corporations using or having a possible interest in disposal of the lands. Comments on the proposal were considered to be neither supportive nor nonsupportive of the classification.

2. The lands included in the notice were examined and found suitable for transfer to the State under the provisions of sections 2275 and 2276 of the Revised Statutes as amended, 43 U.S.C. 851, 852 (1976) subject to the limitation of the States selection entitlement. Accordingly they are hereby classified for that purpose pursuant to Sec. 7 of the Act of June 28, 1934, as amended, 43 U.S.C. 315(f)(1976).

3. The lands included in this classification are described as follows:

Black Hills Meridian

T. 4 N., R. 3 E.,
Sec. 5, Tract 43.
T. 18 N., R. 7 E.,
Sec. 17, S½N½ and NW¼SW¼;
Sec. 19, NE¼NE¼;
Sec. 20, NW¼NW¼;
Sec. 22, SW¼NW¼.
T. 20 N., R. 7 E.,
Sec. 1, Lot 2.
T. 20 N., R. 10 E.,
Sec. 5, Lot 4;
Sec. 35, NE¼NW¼.
T. 17 N., R. 11 E.,
Sec. 6, Lot 5.
T. 20 N., R. 11 E.,
Sec. 25, NW¼SE¼;
Sec. 34, SE¼SE¼.
T. 14 N., R. 12 E.,
Sec. 14, NE¼SE¼;
Sec. 19, SE¼NE¼ and NE¼SE¼;
Sec. 24, SW¼SE¼.
T. 15 N., R. 12 E.,
Sec. 25, W½SW¼;
Sec. 26, NW¼SE¼;
Sec. 35, E½SE¼.
T. 16 N., R. 12 E.,
Sec. 4, NW¼SE¼.
T. 16 N., R. 13 E.,
Sec. 35, SW¼SW¼.
T. 17 N., R. 13 E.,
Sec. 35, NW¼NW¼.
T. 16 N., R. 14 E.,
Sec. 13, NE¼NE¼;
Sec. 34, NW¼NE¼;
Sec. 35, NE¼SE¼.
T. 16 N., R. 15 E.,
Sec. 3, SE¼SW¼.
T. 19 N., R. 17 E.,
Sec. 2, Lots 1 and 2;
Sec. 10, NW¼SW¼ and SW¼SE¼.
T. 2 S., R. 17 E.,
Sec. 29, E½W½NE¼ and W½SE¼NW¼.
T. 3 S., R. 7 E.,
Sec. 2, Lot 3.
T. 4 S., R. 7 E.,
Sec. 34, NE¼SE¼.
T. 4 S., R. 8 E.,
Sec. 26, SE¼NE¼.
T. 3 S., R. 22 E.,
Sec. 12, E½NE¼;
Sec. 17, SW¼NW¼;
Sec. 29, NW¼NW¼.
T. 2 S., R. 23 E.,
Sec. 33, S½SE¼.
T. 3 S., R. 23 E.,
Sec. 2, SE¼SW¼;
Sec. 3, SE¼SE¼.
T. 2 S., R. 24 E.,
Sec. 25, S½SE¼.
Total—1,901.25 Acres.

Fifth Principal Meridian

T. 103 N., R. 73 W.,
Sec. 5, Lot 1 and S½NE¼.
T. 104 N., R. 73 W.,
Sec. 32, SE¼SE¼.
T. 103 N., R. 75 W.,
Sec. 22, Lot 4.
Total—188.70 acres.
Total M 53205–B(SD)—2,089.95 acres.

4. This classification meets the disposal criteria set forth in Title 43 of the Code of Federal Regulation, Part 2400. The lands are difficult and uneconomic to manage as part of the Public lands. They are not essential to any Bureau of Land Management project and are not required by any other Federal Agency. Transfer of these lands to the State will help fulfill the Federal Government's common school land grant to the State and constitute a public purpose use of the land.

5. Much of the lands is under grazing and/or oil and gas leases; the NE¼NE¼ of Section 13, T. 16 N., R. 14 E., B.H.M. contains an authorized range improvement reservoir and fence. The notice mentioned in paragraph 1 identified the authorized uses and specific tracts.

(a) The lands encumbered by grazing leases will not be certified to the State until 2 years has lapsed after the grazing lessee is notified that the lease will be canceled unless the lessee unconditionally waives the prior notification.

(b) A right-of-way for ditches and canals constructed by the authority of the United States pursuant to the Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945, will be reserved in the lands in the Black Hills Meridian.

(c) Minerals will be transfered to the State. Oil and Gas leases in effect on the lands at the time of transfer will remain in full force and effect for the term of the leases. Lessees shall have the right to use so much of the surface of said lands as is required for operations under said leases without compensation to the State or its assignees for damages resulting from proper operations for the duration, and any authorized extension of the leases in accordance with Sec. 29 of the Act of February 25, 1920, 41 Stat. 347, 30 U.S.C. 186 and the Act of March 4, 1933, 47 Stat. 1570, 30 U.S.C. 124.

If all the lands in an oil and gas lease are certified to the State, the State will succeed to the position of the United States under the lease, subject, however, to all obligations of the United States. No loss of lessees's rights will occur.

6. The grant of lands which will be made to the State is subject to the following terms and limitations required by Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d–2000d–5.

(1) The grantee or its successor in interest shall comply with the terms and provisions of Title VI and requirements of the rules of the Secretary that the lands conveyed are used for the purpose granted, or for another purpose

involving the provisions of similar services or benefits.

(2) In the event of a violation by the grantee or successor in interest, the United States has the right to seek enforcement of the requirements of Title VI and the terms of the rules of the Secretary pursuant to Title VI.

(3) Upon request of the Secretary, the grantee agrees to post and maintain, on the property conveyed by this document, signs or posters bearing information concerning the applicability of Title VI to the area of facility granted. The posting on conveyed property is limited to areas of general visibility by the public.

(4) The terms and limitations contained in paragraphs (1) through (3) shall constitute a covenant running with the land, binding on the grantee and its successor in interest, for the period for which the land described in this list is used for the purpose intended by the grant, or for another purpose involving the provision of similar services or benefits.

7. The State of South Dakota shall inventory selected lands for archeological and historical sites prior to disposal or authorization of surface disturbing activities. Significant sites shall be protected or mitigated as determined by the South Dakota State Historic Preservation Officer.

8. Information concerning this classification may be obtained from the State Director, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107, telephone 406–657–6291.

9. For a period of 30 days from the date of publication in the **Federal Register**, this classification shall be subject to exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR 2461.3 and 2462.3. Interested parties may submit comments to the Secretary of the Interior, LLM 320, Washington, D.C. 20240.

Bill D. Noble,

Acting State Director.

[FR Doc. 82–19138 Filed 7–14–82; 8:45 am]

BILLING CODE 4310–84–M

[OR 3051]

Oregon; Termination of Classification for Multiple Use Management

1. By order of the Oregon State Director, Bureau of Land Management, which was published in the **Federal Register** on August 1, 1968 (33 FR 10950), 341,700.00 acres of public lands under the jurisdiction of the Bureau of Land Management were classified for multiple use management pursuant to the Classification and Multiple Use Act of September 19, 19764 (43 U.S.C. 1411–18) and the regulations in 43 CFR 2460. The lands are located in Wallowa and Baker Counties, Oregon.

2. Pursuant to 43 CFR 2461.3(c)(2), the classification is terminated in its entirety upon publication of this notice in the **Federal Register**.

3. At 9:30 a.m., on August 20, 1982 subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands involved will be open to operation of the public land laws. All valid applications received at or prior to 9:30 a.m., on August 20, 1982 shall be considered as simultaneously filed at that time. Subject to the provisions of existing withdrawals, the lands have been and continue to be open to operation of the mining laws and minerals leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: July 7, 1982.

Paul M. Vetterick,

Associate State Director.

[FR Doc. 82–19218 Filed 7–14–82; 8:45 am]

BILLING CODE 4310–84–M

Underground Coal Mine, Savery, Wyo.; Intent To Prepare an Environmental Impact Statement and Hold Public Meetings

AGENCY: Rawlins District, Bureau of Land Management, Department of the Interior.

ACTION: Prepare an environmental impact statement (EIS) and hold public scoping meetings for the Savery Preference Right Lease Application (PRLA) and the potential for coal development resulting from these PRLA's near Savery, in south central Wyoming.

SUMMARY: This EIS will analyze the impacts of developing an underground coal mine near Savery, Wyoming and also present the effects of a Bureau of Land Management (BLM) proposal to direct local development away from the Savery area. Specifically, BLM proposes that if it is determined that the applicant for the PRLA's is entitled to a coal lease, BLM will attempt to exchange the applicant's rights for coal bidding right's, minerals of equal value, or other equal-valued exchanges, or any other means available which would direct development away from the Savery area.

For additional information, contact Gene Kolkman, Bureau of Land Management, Rawlins District Office, Rawlins Wyoming (307) 324–7171.

Issues and Concerns: Environmental analyses conducted to date indicate the potential for significant environmental impacts and land use conflicts with BLM planning and state of Wyoming water development planning.

The environmental impacts include:

1. Between 8,000 and 9,000 people residing in the Little Snake River Valley where, presently, about 600 people live.

2. Directing population growth toward southern Carbon County, Wyoming and away from the existing population centers in the area, which conflicts with BLM planning.

3. Commercial and residential development and construction on crucial deer and elk winter ranges and on threatened and endangered species habitat.

4. The creation of a boom town which would be dependent on a single industry—coal—with a life expectancy of 30 to 40 years.

5. Construction of either a 40 to 60 mile railroad line or an electric generating facility supplemented by a highway system, into an area presently free of such disturbances.

6. Potentially significant impacts to both surface water and groundwater systems.

The public is encouraged to present their ideas on these issues as well as other issues and concerns which will be considered in the preparation of this EIS.

DATES: Public scoping meetings will be held in Rawlins and Baggs, Wyoming sometime during the first week of August 1982. Public notices in local newspapers and press releases will announce the specific locations, dates, and times of the public scoping meetings.

ADDRESS: Information and materials providing a description of the proposed action and alternatives are available for review at: Bureau of Land Management, Rawlins District Office, 1300 3rd Street, P.O. Box 670, Rawlins, WY 82301. Any person wishing to submit any issues, suggestions, or alternatives to the proposed action, should send them to the office listed above no later than August 6, 1982.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, ATTN: Gene Kolkman, Rawlins District Office,

P.O. Box 670, Rawlins, WY 82301; Telephone: 307/324-7171.

David J. Walter,

District Manager.

[FR Doc. 82-19225 Filed 7-14-82; 8:45 am]

BILLING CODE 4310-84-M

Area of Critical Environmental Concern/Research Natural Area Designation—Northern California Coast Range Preserve

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Public lands within the Northern California Coast Range Preserve are designated an Area of Critical Environmental Concern under authority of 43 CFR Part 1601 and a Research Natural Area under authority of 43 CFR Part 8223. The designated area encompasses 3,400 acres and is north of Branscomb, California, and generally northwest of Cahto Peak in Mendocino County.

The Northern California Coast Range Preserve is cooperatively managed by The Nature Conservancy and the Bureau of Land Management. Conservancy-owned lands within the Preserve total 3,900 acres.

The primary objective of preserve management is preservation of the undisturbed natural ecosystems included in the Preserve. Environmental education, research, and day-use recreation are permitted uses considered compatible with the primary objective. Incompatible uses that are prohibited include timber harvest, grazing, hunting, fishing, and off-road vehicle use. The public lands are designated closed to off-road vehicle use under authority of 43 CFR Part 8342.

ADDRESSES: A management plan has been prepared for the Preserve and is available for inspection at the Ukiah District Office, Bureau of Land Management, 555 Leslie Street, Ukiah, California 95482.

FOR FURTHER INFORMATION CONTACT: Stanley R. Whitmarsh, Recreation Planner, Bureau of Land Management, Ukiah District Office, 555 Leslie Street, P.O. Box 940, Ukiah, California, Telephone (707) 462-3873.

Dated: July 2, 1982.

Edwin G. Katlas,

Acting District Manager.

[FR Doc. 82-19226 Filed 7-14-82; 8:45 am]

BILLING CODE 4310-84-M

[U-50722]

Emergency Coal Lease Offering by Sealed Bid

U.S. Department of the Interior, Bureau of Land Management, Utah State Office, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111. Notice is hereby given that at 1:30 p.m. MDT August 13, 1982, certain coal resources in the lands hereinafter described in Carbon County, Utah will be offered for competitive lease by sealed bid of $2750.00 per acre or more to the qualified bidder submitting the highest bonus bid in accordance with the provisions of the Mineral Leasing Act of 1920 (41 Stat. 437), as amended, and the Department of Energy Organization Act of August 4, 1977 (91 Stat. 565, 42 U.S.C. 7101). However, no bid will be accepted for less than fair market value as determined by the authorized officer.

The sale will be held in the 13th floor Conference Room of the University Club Building at 1:30 p.m. MDT August 13, 1982. At that time the sealed bids will be opened and read. No bids received after 1:00 p.m. MDT, August 13, 1982, will be considered.

Coal offered: The coal reserves to be offered consists of all seams available for underground mining in the following described land located approximately eleven miles east of Helper, Utah:

T. 13 S., R. 11 E., SLM, Utah.
Sec. 12, W½E½, E½W½;
Sec. 13, NW¼NE¼, NE¼NW¼.
Containing 400.00 acres

The estimated total recoverable underground reserves are 3,700,000 tons. The coal quality is as follows: Btu—12,500 per lb; Sulfur—approximately .5 percent and Ash—from 8 to 10 percent. The coal is located in two seams the Rock Canyon and the Gilson and is expected to average 10 and 5 feet thick respectively.

A lease issued as a result of this offering will provide for payment of an annual rental of $3 per acre or fraction thereof and a royalty to the United States.

Notice Availability: Bidding instructions are included in the Detailed Statement of the Lease Sale. A copy of the Statement and of the proposed coal lease are available at the Bureau of Land Management, Utah State Office, University Club Building, Salt Lake City Utah 84111. All case file documents and written comments submitted by the public on Fair Market Value or royalty rates, except those portions identified as proprietary by the commentator and meeting exemptions stated in the Freedom of Information Act, are available for public inspection in Room 1400, University Club Building.

Jens C. Jensen,

Chief, Division of Operations.

[FR Doc. 82-19227 Filed 7-14-82; 8:45 am]

BILLING CODE 4310-84-M

Worland District Grazing Advisory Board; Meeting

Notice is hereby given, in accordance with Pub. L. 92-463, that a meeting of the Worland District Grazing Advisory Board will be held August 17, 1982. The meeting will consist of a field trip and tour of the Big Trails and Castle Gardens AMPs in the Washakie Resource Area.

The field trip will begin at the District Office, 1700 Robertson Avenue, Worland, Wyoming, at 9:00 a.m., August 17, 1982. Participants should bring their own lunch. The purpose of the tour is to observe allotment conditions, range improvements, and review the grazing systems. BLM personnel will also demonstrate past and present studies and monitoring procedures. The tour will end at approximately 5:00 p.m.

Paul M. Andrews,

District Manager.

[FR Doc. 82-19229 Filed 7-14-82; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Migratory Bird Hunting; Meetings

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meetings.

SUMMARY: This notice announces that representatives of the U.S. Fish and Wildlife Service will be in attendance at meetings of the Atlantic, Mississippi, Central, and Pacific Flyway Councils at the following times and locations.

DATES:

July 29-30, 1982—Atlantic Flyway Council, 8:30 a.m.

July 28-30, 1982—Mississippi Flyway Council, 9 a.m. and 8:30 a.m., respectively.

July 28-29, 1982—Central Flyway Council, 10:30 a.m. and 8 a.m., respectively.

July 28, 1982—Pacific Flyway Council, 1 p.m.

ADDRESSES: Council meetings will be held at the following locations: Atlantic Flyway Council, Charleston Sheraton, Charleston, SC.; Mississippi Flyway Council, Quality Inn, Mobile, AL.; Central Flyway Council, Four Seasons Motor Inn, Colorado Springs, CO.;

Pacific Flyway Council, Sahara Hilton, Reno, NV.

FOR FURTHER INFORMATION CONTACT: John P. Rogers, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240, telephone AC 202–254–3207.

SUPPLEMENTARY INFORMATION: Flyway Councils are organizations of State conservation agencies which cooperate with the U.S. Fish and Wildlife Service and the Canadian Wildlife Service in migratory bird management and research programs. Although the U.S. Fish and Wildlife Service is not a member of these councils, it will be represented at the above meetings to facilitate discussions of various migratory bird management and research programs, many of which are conducted jointly with the Service.

Dated: July 12, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-19142 Filed 7-14-82; 8:45 am]

BILLING CODE 4310-55-M

Geological Survey

Outer Continental Shelf (OCS) Oil and Gas Information Program; Availability of Alaska Index—Second Edition

SUMMARY: The second edition of the Alaska Index to the Alaska OCS leasing regions has been published by the Minerals Management Service in cooperation with the Geological Survey, U.S. Department of the Interior.

The index follows the format of the first edition, and is a continuum of relevant lease sale data in the Alaska OCS region. This edition of the Alaska Index covers the period December 1980 to November 1981. Indexes are published annually.

The standard format presents detailed information on OCS mineral leasing activities and on the current 5-year OCS oil and gas leasing schedule process. Ongoing support programs of the Minerals Management Service, the Bureau of Land Management, and the Geological Survey are described along with information on State involvement in the leasing process. Appendixes include a directory of State and Federal OCS-related contacts, Federal depository libraries, and other general OCS-related information.

Future editions of the Alaska Index and other regional indexes will require significant revision due to the process changes in the Proposed Final 5-Year OCS Oil and Gas Leasing Schedule. Also, the programs, plans, and other relevant OCS lease sale information of the Bureau of Land Management and Geological Survey will have to be changed to reflect those functions applicable to the newly formed Minerals Management Service.

EFFECTIVE DATE: June 28, 1982.

ADDRESS: Copies of the Index may be obtained from the Office of OCS Information, Minerals Management Service, 12203 Sunrise Valley Drive, Reston, Virginia 22091.

FOR FURTHER INFORMATION CONTACT: David A. Nystrom, Chief, Office of OCS Information, Minerals Management Service, 12203 Sunrise Valley Drive, Reston, Virginia 22091 (703) 860–7166.

Robert L. Rioux,

Acting Associate Director for Offshore Minerals Management.

[FR Doc. 82-19237 Filed 7-14-82; 8:45 am]

BILLING CODE 4310-31-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Texaco U.S.A.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: This Notice announces that Texaco U.S.A., Unit Operator of the Eugene Island Block 205 Federal Unit Agreement No. 14–08–0001–8854, submitted on July 7, 1982, a proposed supplemental plan of development/production describing the activities it proposes to conduct on the Eugene Island Block 205 Federal Unit.

The purpose of this notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837–4720, ext. 228.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in development and production plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: July 9, 1982.

John L. Rankin,

Acting Minerals Management, Gulf of Mexico OCS Region.

[FR Doc. 82-19160 Filed 7-14-82; 8:45 am]

BILLING CODE 4310-31-M

Outer Continental Shelf Advisory Board; Gulf of Mexico Regional Technical Working Group; Meeting

This notice is issued in accordance with provisions of the Federal Advisory Committee Act, Pub. L. 92–463. A meeting of the Outer Continental Shelf Advisory Board's Gulf of Mexico Regional Technical Working Group will be held August 24–26, 1982, in New Orleans, Louisiana. The agenda of the meeting is as follows:

August 24

8:00–9:00 a.m.: Registration
9:00–12:00 a.m.:
- A. Introduction to Information Transfer Meeting
- B. Streamlining and Update on Minerals Management Service
- C. Regional Studies Program Overview and Update
- D. Impact Statement Overview and Update

1:30–5:00 p.m.: Concurrent Sessions (Oil Spill Model; Southwest Florida Eco-systems; Offshore Fishing; Fates and Effects; Coastal Studies; Coastal Mapping)

August 25

8:00–12:00 a.m.: Concurrent Sessions (Physical Oceanography; Cultural Resources; Southwest Florida Topographic Features; Offshore Fishing; Oxygen Depletion on the OCS; Marine Studies)

1:30–5:00 p.m.: Concurrent Sessions (Physical Oceanography; Cultural Resources; Biological Stipulations; Fates and Effects; Marine Studies; Marine Mapping)

August 26

8:00–12:00 a.m.: General Summary Session of Information Transfer Meeting

1:30–5:00 p.m.:
- A. Comments on Draft Regional EIS, Proposed Sales No. 72/74/79
- B. Scoping for Proposed Sales No. 81/84
- C. New Business

The meeting will be held at the Royal Orleans Hotel, 621 St. Louis Street, New Orleans, Louisiana. All sessions are open to the public and interested persons may make oral or written presentations upon request. Such requests should be made not later than August 20 to Sydney H. Verinder, Gulf

of Mexico OCS Region, Minerals Management Service, 500 Camp Street, Suite 841, New Orleans, Louisiana 70130, telephone number (504) 589–6541.

A taped transcript of all general sessions and complete summary minutes of the meeting will be available for public inspection at the above address not later than 60 days after the meeting.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service.

July 9, 1982.

[FR Doc. 82–19161 Filed 7–14–82; 8:45 am]
BILLING CODE 4310–84–M

National Park Service

General Management Plan; Santa Monica Mountains National Recreation Area

Pursuant to section 102(2)(c) of the National Environmental Policy Act, the Department of the Interior has prepared a final environmental impact statement and a general management plan for Santa Monica Mountains National Recreation Area. Copies of the final plan and record of decision are available at the following locations:

National Park Service, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240;

Santa Monica Mountains National Recreation Area, 22900 Ventura Blvd., Suite 140, Woodland Hills, CA 91364; and

National Park Service, Western Regional Office, 450 Golden Gate Avenue, San Francisco, California 94102.

The record of decision follows this notice.

Dated: July 6, 1982.

Howard H. Chapman,

Regional Director, National Park Service, Western Region.

National Park Service, Western Region, Santa Monica Mountains National Recreation Area; Record of Decision, General Management Plan

I. The Decision

The National Park Service has adopted a final General Management Plan (GMP) for the 150,000 acre Santa Monica Mountains National Recreation Area located in the city of Los Angeles and the counties of Los Angeles and Ventura, California. The plan provides the general direction for management and a conceptual framework for visitor use. It will guide National Park Service actions and relationships with other agencies and landowners for the next ten years.

The GMP is the result of information and comments gathered through field reconnaissance, literature review, and numerous meetings with agencies, organizations, and individuals with interest in the Santa Monica Mountains. Many of the proposed actions will require further levels of planning and environmental documentation before they can be implemented.

The final GMP and final Environmental Impact Statement was released to the public on May 7, 1982.

The major components of the plan are:

A. *Land Classification.* The land classification system recommends appropriate management strategies, goals and uses from a National Park Service viewpoint for all lands within the boundary based upon resource characteristics and sensitivities. Classes range from Research Natural Areas where uses are restricted with a maximum emphasis on preservation of resources, to Development and Urban Landscape Areas where a wide variety of uses and development is appropriate. Much of the mountains (50 percent) is classified as Scenic and Resource Oriented Recreation Area where protection of views and rural landscapes are emphasized but where a variety of recreational and rural residential uses are also appropriate.

B. *Cooperative Planning.* National Park Service involvement in land management and use within the recreation area through a partnership with agencies and landowners is a central theme in the plan. Cooperative planning with others is a basic management strategy. This area, because of an existing variety of ownerships and uses provides the opportunity to work with others in a combined effort to meet overall objectives of maintaining the scenic and rural character of the mountains, encouraging sound land use practices, and providing services and recreation opportunities for visitors, while at the same time protecting private property rights.

The plan encourages National Park Service cooperation with: Private enterprise to provide necessary services and recreation development, private landowners to practice land stewardship, agencies to increase visitor services to the public, and volunteers to aid in recreational development and maintenance.

C. *Resources Management.* General goals are identified that will mitigate unacceptable resource impact, perpetuate natural diversity, and preserve human cultural history. Resource issues and research needs are identified that are being further defined in more specific resource management plans.

D. *Visitor Use and Development.* New visitor programs and facilities that are of interest to a wide variety of people of many cultural backgrounds are proposed. Thirty-one new activity sites are proposed at locations throughout the recreation area. Most of the visitor use will be concentrated at these activity sites which are accessible from all parts of the region and are located in physically suitable locations of flat or rolling terrain. New activity sites will provide additional opportunities for picnicking, group camping, access to water for fishing, and staging for back country areas as well as many new activities such as cultural interpretation, special events, skill-building, and outdoor education.

Some proposed activity sites will be developed by the National Park Service while others will be developed by private enterprise or by the National Park Service in cooperation with other agencies or groups.

A system of trails and camps is planned that will provide access to and use of the back country. The system will include hiking and equestrian trails as well as bike routes that will connect major features in the area to peripheral residential and trail head access points.

E. *Transportation.* A proposed public transportation system will allow people to get to and circulate within the recreation area. Plans include extension of the existing bus service network, shuttle service from outlying parking, subscription service, and ferry service to existing piers.

F. *Scenic Roads and Corridors.* Mulholland Drive and Highway is identified as a unique scenic and recreational resource which can be protected through cooperation with other agencies and citizens interested in proptection of its scenic values.

II. Alternative Considered

Two alternatives to the proposed action were considered:

A. *Present Action Alternative.* The direction established by National Park Service management since establishment in 1978 would continue under this alternative with no major recreational development that might affect the environment. However, visitor programs, minor site improvements, and limited development to provide for unstructured recreation would take place with the emphasis on trails and self-initiated visitor activities.

B. *No Action Alternative.* The National Park Service management role defined in Pub. L. 95–625 would be

withdrawn under this alternative. National Park Service management, visitor services, planning, and acquisition would all be curtailed. There would be no federal involvement in or influence of public or private uses in the mountains.

The cumulative environmental effects of alternative A are the lowest when a comparison is made of the proposed action and the two alternatives. Alternative A (present action) would result in few impacts on natural and cultural resources associated with facility development, which will occur when the proposed action is implemented. However, neither of the alternatives were selected as proposals because they do not fulfull the intent of the enabling legislation of permitting the National Park Service to carry out its mandate to preserve and develop the area for recreational use by a wide range of visitors.

When a comparison of the proposed action and the two alternatives are made as to their effectiveness in meeting the management objectives of the area, the proposed action is highly effective, Alternative A (present action) is moderately effective, and Alternative B (no action) is ineffective.

III. Mitigating Measures

The following mitigating measures are discussed in the environmental impact statement and will avoid and minimize environmental harm in implementing the proposed action:

Limitation of construction activities to previously disturbed areas whenever possible will substantially reduce impact on natural vegetation and soils. Removal of vegetation will be avoided whenever possible during construction.

Measures to be taken to mitigate effects of visitor use on vegetataion and soils will include monitoring resources to detect unacceptable degradation, rotation of use areas, restrictive signing, and installation of physical barriers.

The locations of many important plant and animal species and their habitats are only generally known. Therefore, all new construction or provisions for new activities will be preceded by site-specific surveys to confirm that no disturbance of special status plant or animal species or areas of special natural value will occur as a result of the plan.

Non-potable water needs will be met whenever possible with reclaimed water to reduce potable water consumption.

Future disturbance to cultural resources will be avoided by site-specific survey of all areas proposed for recreational development by NPS. Any project that may affect cultural resources that are on, or that are determined eligible for, the National Register will be submitted for consultation under the regulations of the Advisory Council on Historical Preservation. Knowledge of archeological sites will be kept confidential.

Potential for fire and its destructive impacts will be mitigated by closure or restricted use of activity site during periods of extreme fire danger, extensive seasonal fire awareness and fire prevention contacts with visitors, seasonal maintenance of fire suppression first attack.

The potential for conflicts between visitors and residents will be mitigated by additional patrol, buffers to separate visitor use areas from residential areas, and publication and interpretative programs that promote a knowledge of and a respect for private property.

Implementation of a transportation system will mitigate impacts related to traffic congestion, air pollution, and parking and access problems. Proposal will be implemented in compliance with applicable laws, executive orders, regulation and agreements.

IV. Implementing the Decision

Detailed action plans will be prepared using the GMP as a basis. Decisions will be refined to make them site specific. Action plans will include nataural and cultural resources management plans, development concept plans and comprehensive designs for visitor use and administrative areas, an interpretive prospectus to guide visitor programs and services, and specific plans for trail alignment. All action plans will be made available for public review prior to implementation.

Dated: July 6, 1982.

Howard H. Chapman,

Regional Director, Western Region.

[FR Doc. 82-19223 Filed 7-14-82; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those

where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OP2-146

Decided: July 7, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 52793 (Sub-96), filed June 28, 1982. Applicant: BERKINS VAN LINES CO., 333 South Center St., Hillside, IL 60162. Representative: David A. Gallagher, (same address as applicant) 312-547-2184. Transporting *household goods,* between points in the U.S. (except AK and HI), under continuing contract(s) with Ernst and Whinney, of Cleveland, OH.

MC 52793 (Sub-97), filed June 28, 1982. Applicant: BEKINS VAN LINES CO., 333 South Center St., Hillside, IL 60162. Representative: David A. Gallagher (same address as applicant), 312-547-2184. Transporting *household goods,* between points in the U.S. (except AK and HI), under continuing contract(s) with Republic Steel Corporation, of Cleveland, OH.

MC 136873 (Sub-3), filed June 29, 1982. Applicant: ARTHUR HAEFNER, Box 214-A, R.D. No. 1 Pittston, PA 18643. Representative: Joseph A. Keating Jr., 121 S. Main St., Taylor, PA 18517, 717-344-8030. Transporting *household cleaning and laundry supplies, disinfectants, and household chemicals,* between points in Lackawanna County, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 146062 (Sub-5), filed June 25, 1982. Applicant: J. C. HAULING CO., P.O. Box 12, Millstadt, IL 62260. Representative: Joseph E. Rebman, 314 N. Broadway, Suite, St. Louis, MO 63102, 314-421-0845. Transporting *ores and minerals and clay, concrete, glass or stone products,* between points in Madison County, IL, and Ste. Genevieve County, MO.

MC 151193 (Sub-28), filed June 25, 1982. Applicant: PAULS TRUCKING CORPORATION, 288 Homestead Ave., Avenel, NJ 07001. Representative: Michael A. Beam, (same address as applicant) 201-499-3869. Transporting *such commodities* as are dealt in by supermarkets, drug stores, and retail department stores, between points in the U.S., under continuing contract(s) with Contract Packaging Corporation, of Totowa, NJ.

MC 157703 (Sub-1), filed June 25, 1982. Applicant: PACIFIC MIDWEST, INC., 5041 Woodcrest Rd., White Bear Lake, MN 55110. Representative: Robert P. Sack, P.O. Box 21-307, Eagan, MN 55121, 612-457-6889. Transporting *food and related products,* between points in NV and CA, on the one hand, and, on the other, Chicago, IL, and points in SD, NE, IA, MN, WI, MO, and KS.

MC 158583 (Sub-1), filed April 26, 1982. Applicant: RICHARDS BROS. TRANSPORT, LTD., Route 4, Box 293, Fort Atkinson, WI 53538. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719 (608) 273-1003. Transporting *petroleum, chemicals and related products,* in bulk, between points in the U.S. (except AK and HI), under continuing contract(s) with Lien LP Gas Corp., of Illinois, of Loves Park, IL, and Lien Oil Co., of Janesville, WI.

MC 160202 (Sub-1), filed April 26, 1982. Applicant: SAFETY MOVING & STORAGE, INC., 3817 Fitzgerald Road, Louisville, KY 40216. Representative: George M. Catlett, Suite 700-702, McClure Building, Frankfort, KY 40601 (502) 227-7384. Transporting *food and related products,* between Louisville, KY, on the one hand, and, on the other, points in Floyd, Jefferson, Washington, Harrison, and Clark Counties, IN.

MC 160403 (Sub-3), filed June 24, 1982. Applicant: TRANS WEST SYSTEMS, INC., P.O. Box 2618, Pocatello, ID 83201. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, 208-343-3071. Transporting *general commodities* (except classes A and B explosives, commodities in bulk and household goods), between points in ID, MT and UT, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA and WY.

Volume No. OP4-251

Decided: July 9, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 143696 (Sub-27), filed July 2, 1982. Applicant: AMERICAN INDUSTRIAL TRANSPORTATION, INC., P.O. Box 1416, Hwy 259 South, Henderson, TX 75652. Representative: Hugh T. Matthews, 555 Griffin Square, Suite 850, Dallas, TX 75202 (214) 742-9175. Transporting (1) *commodities which because of size or weight require the use of special handling or equipment,* (2) *metal products,* (3) *machinery,* and (4) *Mercer commodities,* between points in the U.S. (except HI).

MC 143776 (Sub-54), filed June 30, 1982. Applicant: C.D.B., INCORPORATED, 155 Spaulding Ave., SE., Grand Rapids, MI 49506. Representative: C. Michael Tubbs (same address as applicant), (800) 253-9527. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with American Biltrite, Incorporated, of Lawrenceville, NJ

MC 146336 (Sub-27), filed July 2, 1982. Applicant: WESTERN TRANSPORTATION SYSTEMS, INC., 1609 109th St., Grand Prairie, TX 75050. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245, (214) 358-3341. Transporting *general commodities* (except classed A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with NCH Corporation, of Irving, TX.

MC 148976 (Sub-5), filed July 2, 1982. Applicant: H & W TRANSFER AND CARTAGE SERVICE, INC., 611 South Main St., Cedartown, GA 30125. Representative: Bruce E. Mitchell, 3390 Peachtree Rd., N.E. Suite 520, Atlanta, GA 30326 (404) 262-7855. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between point in Floyd County, GA, on the one hand, and, on the other, point in the U.S. (except AK and HI).

MC 162426, filed July 2, 1982. Applicant: W. W. TRUCKING COMPANY, Hwy 574, Dover, FL 33527. Representative: Roger A. Kirschenbaum, Suite 520, 3390 Peachtree Rd., N.E., Atlanta, GA 30326 (404) 262-7855. Transporting *foodstuffs,* between points in Hillsborough County, FL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162786, filed July 1, 1982. Applicant: DUTCHESS COUNTY BUS CENTER, INC., d.b.a. MOUNTAIN VIEW TOURS, Rt. 9W, West Coxsackie, NY 12192. Representative: Samule B. Zinder, 98 Cutter Mill Rd., Great Neck, NY 11021, (516) 482-0881. To operate as a *broker,* at Poughkeepsie, Albany, West Coxsackie, and Saugerties, NY, in interstate or foreign commerce, in arranging for the transportation of *passsengers and their baggage,* between points in the U.S.

MC 162776, filed July 1, 1982. Applicant: DMi TRUCKING, INC., State Rd. 64, P.O. Box 129, Huntingburg, IN 47542. Representative: Edward G. Bazelon, 29 S. La Salle St., Chicago, IL 60603, (312) 236-9375. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with DMi Furniture Inc., of Huntingburg, IN: Schnadig Corporation; Sweetheart Cup Corporation and Northwest Cone Company, Divisions of Maryland Cup Corporation, all of Chicago, IL.

MC 162746, filed July 1, 1982. Applicant: CLOCK ONE TRANSPORT, Route 1, Perryville, MO 63775. Representative: Kenneth L. Walker (Same address as applicant) (314) 547–8150. Transporting *liquefied petroleum gas and anhydrous ammonia,* between points in IL and MO.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–19129 Filed 7–14–82; 8:45 am]
BILLING CODE 7035–01–M

[Revised I.C.C. Order No. 82 Under Service Order No. 1344]

Rail Carriers; Michigan Interstate Railway Co.; Rerouting Traffic

Service Date: July, 1, 1982.

To: Michigan Interstate Railway Company; Green Bay and Western Railroad Company; Chicago and North Western Transportation Company, and Soo Line Railroad Company.

In the opinion of J. Warren McFarland, Agent, the Ann Arbor Railroad System (Michigan Interstate Railway Company—Operator) is unable to transport traffic via the car ferry between Kewaunee and Manitowoc, Wisconsin, and Frankfort, Michigan, due to the termination of its Designated operations for the State of Michigan. As this matter is considered to be outside the scope of a single railroad as provided by Ex Parte No. 376, this action by the Commission is necessary. This order is revised to reflect the resumption of services between Ann Arbor and Frankfort, Michigan.

It is ordered:

(a) *Rerouting traffic.* The Ann Arbor Railroad System (AA) (Michigan Interstate Railway Company—Operator) being unable to transport promptly all traffic via the car ferry between Kewaunee and Manitowoc, Wisconsin, and Frankfort, Michigan, due to the termination of its Designated operations between those points (See AA Embargo 2–82, Amendment 4, 7/2/82), that line and its named connections are authorized to reroute any traffic routed via the points indicated. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. All traffic accepted for movement via this routing must be rerouted in accordance with this order and will not be subject to diversion or other charges beyond those covered by paragraph (d) of this order. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided for under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even through no contracts, agreements or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntary agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 12:01 a.m., July 9, 1982.

(g) *Expiration date.* This order shall expire at 11:59 p.m., August 31, 1982, unless otherwise modified, amended or vacated.

This order shall be served upon the Association of American Railroads, Transportation Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., July 6, 1982.
Interstate Commerce Commission

J. Warren McFarland,

Agent.

[FR Doc. 82–19127 Filed 7–14–82; 8:45 am]
BILLING CODE 7035–01–M

[Docket AB–19 (Sub-58)]

Baltimore and Ohio Railroad Co. Abandonment—In Fayette, Greene and Montgomery Counties, OH; Findings

The Commission has found that the public convenience and necessity warrants Baltimore and Ohio Railroad Company to abandon its 41.28 mile rail line extending from railroad milepost 0.00 to railroad milepost 0.83 near Tates Point, on the Dayton Cut-off, and from railroad milepost 2.55 near Tates Point to milepost 43.00 near Luray in Fayette, Greene and Montgomery Counties, OH. A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1121.38.

Agatha L. Mergenovich,

Secretary.

[FR Doc.82–19200 Filed 7–14–82; 8:45 am]
BILLING CODE 7035–01–M

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Actuarial Examinations Advisory Committee; Invitation for Membership on Advisory Committee

The Joint Board for the Enrollment of Actuaries (Joint Board), established under the Employee Retirement Income Security Act of 1974 (ERISA), is responsible for the enrollment of individuals who wish to perform actuarial services under ERISA. The Joint Board has established an Advisory Committee on Actuarial Examinations (Advisory Committee) to assist in its examination duties mandated by ERISA. The term of the current Advisory Committee will expire in 1982 and the Joint Board proposes to renew such Advisory Committee's charter for a further two year period. This notice describes the Advisory Committee and

invites applications from those interested in serving on it.

1. *General.* To qualify for enrollment to perform actuarial services under ERISA, an applicant must have requisite pension actuarial experience and must satisfy knowledge requirements as provided in the Joint Board's regulations. The knowledge requirements may be satisfied by successful completion of Joint Board examinations in basic actuarial mathematics and methodology and in actuarial mathematics and methodology relating to pension plans. An individual also may meet the examination requirements by successful completion of actuarial organization examinations which the Joint Board has determined cover the same subject areas, have at least a comparable level of difficulty, and require at least the same competence as its examinations.

The Joint Board, in cooperation with the Society of Actuaries and the American Society of Pension Actuaries, jointly administer examinations which are acceptable to the Joint Board for enrollment purposes, and which are acceptable to those actuarial organizations as part of their respective examination programs.

2. *Purpose.* The Advisory Committee plays an integral role in the examination program by assisting the Joint Board in offering examinations which will enable examination candidates to demonstrate the knowledge necessary to qualify for enrollment. The purpose of the Advisory Committee, as renewed, will remain that of assisting the Joint Board in fulfilling this responsibility. The Advisory Committee will discuss the philosophy of such examinations, will review topics appropriately covered in them, and will make recommendations relative thereto. It also will recommend to the Joint Board proposed examination questions. The Joint Board will maintain liaison with the Advisory Committee in this process to ensure that its views of examination content are understood.

3. *Function.* The manner in which the Advisory Committee functions in preparing examination questions is intertwined with the jointly administered examination program. Under that program, the participating actuarial organizations draft questions and submit them to the Advisory Committee for its consideration. After review of the draft questions, the Advisory Committee selects appropriate questions, modifies them as it deems desirable and then prepares one or more drafts of actuarial examinations to be recommended to the Joint Board. (In addition to revisions of the draft questions, it may be necessary for the Advisory Committee to originate questions of its own and include them in what is recommended.)

4. *Membership.* The Joint Board will take steps to ensure maximum practicable representation on the Advisory Committee of points of view regarding the Joint Board's actuarial examinations extant in the community of actuaries. In this regard, appointment will be made from the actuarial community at large and from nominees provided by the actuarial organizations. Since the members of the actuarial organizations comprise a large segment of the actuarial profession, this appointive process ensures expression of a broad spectrum of viewpoints. All members of the Advisory Committee will be expected to act in the public interest; that is, to produce examinations which will help ensure a level of competence among those who will be accorded enrollment to perform actuarial services under ERISA.

Membership normally will be limited to actuaries previously enrolled by the Joint Board. However, individuals having academic or other special qualifications of particular value for the Advisory Committee's work also will be considered for membership. The Advisory Committee will be comprised of not more than twelve members.

The Advisory Committee will meet about six times a year. Advisory Committee members should be prepared to devote from 100 to 150 hours, including meeting time, to the work of the Advisory Committee over the course of a year. Members will be reimbursed for travel, meals and lodging expenses incurred, in accordance with applicable government regulations, in attending Advisory Committee meetings.

Actuaries interested in serving on the Advisory Committee should express their interest and fully state their qualifications in a letter addressed to: Joint Board for the Enrollment of Actuaries, c/o U.S. Department of the Treasury, Washington, D.C. 20220.

The deadline for accepting applications is September 10, 1982.

Dated: July 9, 1982.

Leslie S. Shapiro,

Executive Director, Joint Board for the Enrollment of Actuaries.

[FR Doc. 82-19196 Filed 7-14-82; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF JUSTICE

Proposed Final Consent Judgment In Action To Enjoin Prohibited Construction Under Clean Air Act

In accordance with Departmental Policy, 28 CFR section 50.7, notice is hereby given that a proposed final (consent) judgment in *United States* v. *Carolina Stalite Company*, Civil Action No. C-80-367-S, was lodged with the United States District Court for the Middle District of North Carolina on June 30, 1982. The proposed decree requires the Carolina Stalite Company to pay a civil penalty for alleged unlawful construction prior to receipt of a prevention of significant deterioration of air quality permit pursuant to Section 165 of the Clean Air Act, 42 U.S.C. 7401, 7475, at its facility in Gold Hill, Rowan County, North Carolina.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the proposed judgment. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *United States* v. *Carolina Stalite Company, D.J. Ref. 90-5-2-1-371.*

The proposed consent decree may be examined at the Region IV office of the United States Environmental Protection Agency, Enforcement Division, 345 Courtland Street, NE., Atlanta Groegia, 30365; and at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 1515, Ninth and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice.

Anthony C. Liotta,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 82-19172 Filed 7-14-82; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Earth Sciences Subcommittees; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting.

Name: Advisory Committee for Earth Sciences (Stratigraphy and Paleontology, Environmental Geosciences, Crustal Structure and Tectonics, Seismology and Deep Earth Structure, Experimental and Theoretical Geophysics, Petrogenesis and Mineral Resources, Mantle Geochemistry, and Experimental and Theoretical and Geochemistry Subcommittees).

Date and Time: August 11, 12 and 13, 1982; 8:30 a.m. to 5:00 p.m. each day.

Place: The National Science Foundation, Room 642, 1800 G Street, NW., Washington, D.C. 20550.

Type of Meeting: Closed.

Contact Person: Dr. Robin Brett, Division Director, Earth Sciences, Room 602, National Science Foundation, Washington, D.C. 20550; Telephone: (202) 357–7958.

Purpose of Committee: To provide advice and recommendations concerning support for research in Earth Sciences.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 522b(c), Government in the Sunshine Act.

Authority: This determination was made by the Committee Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

July 12, 1982.

[FR Doc. 82–19157 Filed 7–14–82; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Policy Research and Analysis and Science Resources Studies; Scientific and Engineering Personnel Ad Hoc Review Group; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Scientific and Engineering Personnel Ad Hoc Review Group of the Advisory Committee for Policy and Research and Analysis and Science Resources Studies.

Place: Room 540, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Date: Tuesday and Wednesday, August 3–4, 1982.

Time: 10:00 a.m.—5:00 p.m. (Tuesday, August 3); 9:00 a.m.—3:30 p.m. (Wednesday, August 4).

Type of Meeting: Open.

Contact Person: Dr. Charles Dickens, Senior Study Director, Division of Science Resources Studies, Room L–611, National Science Foundation, Washington, D.C. 20550; Telephone: (202) 634–4787.

Summary Minutes: May be obtained from the contact person, Dr. Dickens, at the above address.

Purpose of Group: To review scientific and engineering personnel data collection and analysis programs within the Division of Science Resources Studies and to provide guidance on program activities.

Agenda: Tuesday, August 3, 1982:

10:00—10:45 a.m.:
General Session: Organization of Review Group

10:15—12 noon:
Plenary Session: Overview of Data on Utilization of Scientific and Engineering Personnel

1:30—3:30 p.m.:
Overview of Data of Supply of New Scientific and Engineering Personnel

3:30—5:00 p.m.:
Presentation on Balances in Supply and Demand for Scientific and Engineering Personnel

Wednesday, August 4, 1982:

9:00—10:00 a.m.:
Special Issues Involving Data on Scientific and Engineering Personnel

10:00—12 noon:
Discussion of National Science Foundation's Scientific and Engineering Personnel Data Collection Activities

1:30—3:30 p.m.:
Discussion of Report of Review Group

3:30 p.m.:
Adjournment

M. Rebecca Winkler,

Committee Management Coordinator.

July 12, 1982.

[FR Doc. 82–19158 Filed 7–14–82; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Environmental Biology; Oversight Committee; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Oversight Committee of the Advisory Panel for Environmental Biology.

Date and Time: August 16 and 17, 1982, 8:30 a.m. to 5:00 p.m. each day.

Place: Room 1141, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.

Type of Meeting: Closed.

Contact Person: Dr. W. Franklin Harris, Deputy Division Director, Environmental Biology, Room 1140, National Science Foundation, Washington, D.C. 20550, (202) 357–7332.

Purpose of Executive Committee: To provide advice and recommendations concerning support of research in ecosystem studies.

Agenda: Review and comparison of declined proposals (and supporting documentation) with successful awards under the Ecosystem Studies Program.

Reason for Closing: The Oversight Committee will be reviewing grants and declinations which contain the names of applicants, institutions and principal investigators and privileged information contained in declined proposals. This session will also include a review of the peer review documentation pertaining to the applicants. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: July 12, 1982.

M. Rebecca Winkler,

Committee Management Coordinator.

FR Doc. 82–19159 Filed 7–14–82; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Reports, Recommendations, Responses; Availability

Reports Issued:

Highway Accident Report—Herman Duvall Tractor-Pole Semitrailer/S.L.&B Academy, Inc. Schoolbus Collision, U.S. Route 45, near Waynesboro, Mississippi, October 12, 1981 (NTSB–HAR–82–2).

Railroad Accident Report—Head-on Collision of Boston & Maine Corporation Extra 1731 East and Massachusetts Bay Transportation Authority Train No. 570, on Former Boston & Maine Corporation Tracks, Beverly, Massachusetts, August 11, 1981 (NTSB–RAR–82–1).

Railroad Accident Report—Rear-end Collision of New York City Transit Authority Subway Trains 142NL and 132NL, Brooklyn, New York, July 3, 1981 (NTSB–RAR–82–2).

Marine Accident Report—Collision of Washington State Ferry M/V KLAHOWYA and Liberian Freighter SANKO GRAIN, Seattle Harbor, Washington, January 13, 1981 (NTSB–MAR–82–4).

Recommendations to:

U.S. Coast Guard, Jun. 30, M–82–32 through –34: Regarding the Inland Navigation Rules Act of 1980: Publish interpretive rulings so that river towboat operators will know when to apply the narrow channel rule; establish an informational and enforcement program about Rule 34(e) on the western rivers to promote the use of the bend signal; publish an interpretive ruling of Rule 34(h) to clarify situations wherein sounding whistle signals is considered permissive, rather than obligatory. *Jul. 8, M–82–35:* Require that all U.S. mobile offshore drilling units that operate in waters where hypothermia can greatly reduce an individual's survival time carry an exposure suit for each person on board, similar to that required by 46 CFR 94.41–5(c).

Ocean Drilling & Exploration Company, Jul. 8, M–82–36: Provide all your mobile offshore drilling units that operate in waters where hypothermia can greatly reduce an individual's survival time with exposure suits for each person on board, similar to that required by 46 CFR 94.41–5(c).

International Association of Drilling Contractors, Jul. 8, M–82–37: Recommend to its members that they provide exposure suits for each person on board mobile offshore drilling units which operate in waters where hypothermia can greatly reduce an individual's survival time, similar to that required by 46 CFR 94.41–5(c).

Recommendation Responses from:

Federal Aviation Administration, Jun. 28, A–80–53 through –55: Corrective actions completed or planned include airworthiness directives which require as airplane modifications the installation of two-speed primary pitch trim actuator, trim-in-motion aural warning, master pitch axis interrupt switch, overspeed warning redesign, control-wheel markings/placards, autopilot redesign, and other appropriate corrective action to specific models; FAA personnel visited pilot schools, pilot examiners involved in certification of Learjet pilots, and air taxi operations using Learjet airplanes to discuss Learjet operation; Learjet has been holding turbojet seminars nationwide; airplane flight manuals were revised on February 5, 1982, to incorporate a procedure which involves extending the landing gear when V_{MO}/M_{MO} is inadvertently exceeded. *Jun. 28, A–82–1:* Issued Change 59 to FAA Order 8340.1A on May 19, 1982, transmitting Maintenance Bulletin 25–40 to alert field inspectors of problems experienced with service cart restraining and latching mechanisms, and to insure that operators have adequate maintenance/inspection procedures for the carts. *Jun. 28, A–82–32 and –33:* May supersede several existing airworthiness directives (AD) with one or more Notice of Proposed Rulemaking AD's to establish a coordinated wing structure program; manufacturer will issue new service instructions and FAA will issue a corresponding General Aviation Airworthiness Alert requesting reports of defects found. *Jun. 28, A–82–28 through –29:* Is reviewing the flight training curricula of FAA-approved Part 141 pilot schools in the Southern Region to ensure that adequate safety procedures and practices relative to utility category flight operations are in effect, and is recommending similar action in other regions; do not agree that the recommended action is appropriate since it would mandate a minimum spin entry altitude which is not appropriate for all spin maneuvers. *Jun. 30, A–78–29:* Analysis concludes that benefits derived from implementing this recommendation would not likely offset equipment and maintenance costs. *Jul. 1, A–81–144:* Investigation of the problem has revealed no substantive information that would warrant the issuance of an airworthiness directive. *Jul. 2, A–80–51 and –52:* On Mar. 10, 1982, issued Change 27 to FAA Handbook 8440.5A transmitting Operations Bulletin No. 82–1, Need for an Alternate Airport for IFR Operations into High Altitude Airports. *Jul. 2, A–82–40 and –41:* On Apr. 27, 1982, issued emergency telegraphic Airworthiness Directive T82–09–53 requiring immediate installation of the improved design main rotor swashplate drive link assembly to prevent possible failure of the original design drive links due to excessive bearing clearance and to possible rapid crack progression. *Jul. 6, A–81–131:* Instructed staff to amend the appropriate Master Mimimum Equipment Lists by specifying 15 flight-hours for domestic flights and 25 flight-hours for international flights as a limit to repair or replace inoperative items of the public address system. *Jul. 6, A–82–31:* Recommended action which, in effect, was taken over a year ago by the FAA and the manufacturer has resulted in a significant reduction in service difficulties. *Jul. 6, A–82–38 and –39:* Is evaluating public comments received about proposed FAA Advisory Circular 25.903X; is studying what research might be initiated to reduce the uncontained engine failure hazard. *Jul. 6, A–82–43:* A safety problem related to second-in-command currency has not been evident; operational practices plus current requirements in training and checking provide adequate recent experience. *Jul. 6, A–81–30 and –31:* Plans to issue an advisory circular emphasizing the safety hazards of poorly maintained exhaust systems on single-engine airplanes. *Jul. 8, A–80–132, –137, and –138:* Does not believe it necessary to analyze and evaluate the technical and operational feasibility of requiring air traffic control to provide separation between aircraft and severe meteorological conditions because current procedures are adequate; the application of the recommendation to new production airplanes would result in significant, costly airplane redesign and a thorough safety benefits vs. cost analysis would be required; is evaluating comments received on priority of duties and expects to complete required changes and revised procedures by September.

Federal Highway Administration, Jun. 28, H–80–16 through –20: Will issue an Advance Notice of Proposed Rulemaking to obtain available data from the public; reports from the Management Information System of the Bureau of Motor Carrier Safety regarding noncompliance will be delayed until 1983 because of current resource constraints; the recommended evaluation would not be cost-effective or practical.

National Highway Traffic Safety Administration, Jul. 1, H–81–26: Limited resources require NHTSA to focus its efforts on high payoff areas such as safety belt use and reducing driving while intoxicated; is not convinced that it can economically identify any "uniform guidance" for drivers for situations which are not uniform, such as when and where fog will cover a highway. *Jul. 1, H–80–14:* Planning a Driver License Compact Implementation Project to encourage the States to adopt the "one-license" concept.

Research and Special Programs Administration (DOT), Jun. 25, P–74–1: Does not believe it feasible to attempt to mandate by regulation a precise set of protective measures which pipeline operators must take to ensure their facilities from the risk of possible damage due to blasting in the vicinity; has included in the final rule in Docket PS 59, "Damage Prevention Program," required steps that an operator must take whenever blasting operations might affect the pipeline.

Metropolitan Dade County, Florida, Transportation Administration, Jun. 30, R–82–25: Opening between cars will be restricted to 8 inches, the threshold plate opening will be restricted to 4 inches, and passenger passage between cars will be prohibited except in emergencies.

National Society of Professional Engineers, Jul. 1. P–82–28: Will consider information for articles in CONSULTING ENGINEER magazine.

Columbia Gas Transmission Corp., Jun. 30. P–82–13 through–15: Is considering recommendations, and where changes will assure greater safety, will implement such changes into procedures.

American Road & Transportation Builders Assoc., Jul. 6, P–82–29: Will advise its contractor members as recommended.

Note.—Reports may be ordered from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, for a fee covering the cost of printing, mailing, handling, and maintenance. For information on reports call 703–487–4650 and to order subscriptions to reports call 703–487–4630. Single copies of recommendation letters (identified by recommendation number) and response letters are free on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Date: July 15, 1982.

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

[FR Doc. 82–18983 Filed 7–14–82; 8:45 am]

BILLING CODE 4910–58–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–237 and 50–249]

Commonwealth Edison Co. (Dresden Station, Units 2 and 3), (Spent Fuel Pool Modification); Hearing Date Changes

July 9, 1982.

In response to a motion by the NRC Staff, for good cause shown without objection of the parties the date of the hearing, in which evidence will be taken in regard to the purport of the Supplementary Safety Evaluation Report, has been changed from 10:00 a.m. Tuesday, July 13, 1982 to 10:00 a.m. Tuesday, July 20, 1982. The rescheduled sessions will take place in the Nuclear Regulatory Commission Hearing Room, Room No. 550 in the East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland.

By mail, dated May 28, 1982, the NRC Staff served the parties in this case with a Supplementary Safety Evaluation Report. The Report attempts to resolve the issue as to whether or not the spent fuel pool floors can withstand the loads which could be imposed by the new high density fuel rocks during a seismic event. Evidence relevant to this issue

will be heard at the hearing, notice of which is given above.

The public is invited to attend. No personal appearances will be heard at this hearing. However, written statements, relevant to the issue in question, will be accepted and will ride with the record.

Dated and issued at Bethesda, Maryland this 9th day of July, 1982.

For the Atomic Safety and Licensing Board.

John F. Wolf, Chairman,

Administrative Judge.

[FR Doc. 82-19216 Filed 7-14-82; 8:45 am]

BILLING CODE 7590-01-M

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: Extension.

2. The title of the information collection: State Agreement Program.

3. The form number if applicable: Not applicable.

4. How often the collection is required: Semiannually, on occasion.

5. Who will be required or asked to report: NRC Agreement State governments.

6. An estimate of the number of responses: 52.

7. An estimate of the total number of hours needed annually to complete the requirement or request: 10,000.

8. An indication of whether section 3504(h), Pub. L. 96-511 applies: Not applicable.

9. Abstract: As part of the NRC cooperative post-agreement program with the States (section 274(g) of the Atomic Energy Act of 1954, as amended) information on licensing and inspection practices, and on incidents, and other technical and statistical information is exchanged.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555.

Comments and questions should be directed to the OMB reviewer Gwendolyn W. Pla, (202) 395-6880.

NRC Clearance Officer is R. Stephen Scott, (301) 492-8585.

Dated at Bethesda, Maryland this 9th day of July 1982.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Acting Director, Office of Administration.

[FR Doc. 82-19217 Filed 7-14-82; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 12531; 811-3109]

Bank Equity Trust Fund, Inc.; Filing of Application for an Order Pursuant To Section 8(f) of the Act Declaring That Applicant Has Ceased To Be an Investment Company

Notice is hereby given that Bank Equity Trust Fund, Inc. ("Applicant") 2777 Allen Parkway, Houston, Texas 77019, an open-end diversified management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on April 1, 1982, pursuant to Section 8(f) of the Act, for an order declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant was organized as a corporation under the laws of the State of Texas, and registered under the Act on November 6, 1980. The initial public offering of its shares was made on April 1, 1981. Applicant states that on August 13, 1981, its Board of Directors approved a resolution recommending the liquidation and dissolution of Applicant, and directing that the question of dissolution and a plan for liquidation be submitted to Applicant's shareholders, who approved the dissolution and liquidation plan on August 20, 1981, by means of a unanimous written consent. Applicant states that on August 31, 1981, it distributed all of its assets, amounting to $100,000 in cash, pro rata to its shareholders.

Applicant states that as of the date of filing of the application it had no assets and was not engaged nor did it propose to engage in any business activity other than that necessary for the winding-up of its affairs, that it has no outstanding liabilities, that it is not a party to any litigation or administrative proceeding, that it has no security holders, and that it filed Articles of Dissolution with the Secretary of State of the State of Texas, who issued a Certificate of Dissolution on September 17, 1981.

Section 8(f) of the Act provides, in part, that when the Commission upon application finds that a registered investment company has ceased to be an investment company, it shall so declare by order and, upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than August 2, 1982, at 5:30 p.m., submit to the Commssion in writing, a request for a hearing on the application accompanied by a statement as to the nature of his or her interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he or she may request that he or she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponement thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-19116 Filed 7-14-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12530; 811-3110]

Bank Fixed-Income Trust Fund, Inc.; Filing of Application for an Order Pursuant to Section 8(f) of the Act Declaring That Applicant Has Ceased To Be an Investment Company

Notice is hereby given that Bank Fixed-Income Trust Fund, Inc. ("Applicant"), 2777 Allen Parkway, Houston, Texas 77019, an open-end diversified management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on April 1,

1982, pursuant to section 8(f) of the Act, for an order declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant was organized as a corporation under the laws of the State of Texas, and registered under the Act on November 8, 1980. The initial public offering of its shares was made on April 1, 1981. Applicant states that on August 13, 1981, its Board of Directors approved a resolution recommending the liquidation and dissolution of Applicant, and directing that the question of dissolution and a plan for liquidation be submitted to Applicant's shareholders, who approved the dissolution and liquidation plan on August 20, 1981, by means of a unanimous written consent. Applicant states that on August 31, 1981, it distributed all of Applicant's assets, amounting to $100,000 in cash, pro rata to its shareholders.

Applicant states that as of the date of filing of the application it had no assets and was not engaged nor did it propose to engage in any business activity other than that necessary for the winding-up of its affairs, that it has no outstanding liabilities, that it is not a party to any litigation or administrative proceeding, that it has no securityholders, and that it filed Articles or Dissolution with the Secretary of State of the State of Texas, who issued a Certificate of Dissolution on September 17, 1981.

Section 8(f) of the Act provides, in part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and, upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than August 2, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his or her interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he or she may request that he or she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter ordered a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A Fitzsimmons,

Secretary.

[Release No. 22567; 70-6436]

The Columbia Gas System, Inc., Changes in Terms of Revolving Credit Agreement and Terms of Unsecured Notes Evidencing Borrowings Thereunder

The Columbia Gas System, Inc. ("Columbia"), 20 Montchanin Road Wilmington, Delaware 19807, a registered holding company, has filed with this Commission a post-effective amendment to its declaration in this proceeding pursuant to Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50(a)(5) promulgated thereunder.

By order dated May 1, 1980 (HCAR No. 21546) in this proceeding, the Commission authorized Columbia to borrow up to $200,000,000 pursuant to a Revolving Credit and Term Loan Agreement with a group of eight commercial banks. The loans would be evidenced by the issuance by Columbia of unsecured subordinated promissory notes bearing interest based on the fluctuating Prime Commercial Lending Rate of Morgan Guaranty Trust Company of New York. Columbia agreed to pay certain fees.

By post-effective amendment filed in this proceeding, Columbia is seeking to amend its authorization. It seeks to increase the amount which can be borrowed to $300,000,000, to increase the term of that facility to ten years and one day, and to provide Columbia with an optional rate structure which will significantly reduce interest costs over the life of the facility and reduce substantially the fees to be paid.

Interest on the notes will be computed according to the following rate options to be selected by Columbia for the time periods indicated:

Option 1

Years 1–6: Prime Rate (Fluctuating)
Years 7—10: Prime Rate (Fluctuating) × 102%

Option 2

Years 1–4: 3- or 6-month LIBOR [1] + ⅜%
Years 5–7: 3- or 6-month LIBOR [1] + ½%
Years 8–10: 3- or 6-month LIBOR [1] + ⅝%

Option 3

Years 1–4: 30, 60 or 90-day C.D. [2] + ½%
Years 5–7: 30, 60 or 90-day C.D. [2] + ⅝%
Years 8–10: 30, 60 or 90-day C.D. [2] + ¾%

At current rates, Columbia's effective cost of money under the new agreement would be reduced from 16.83% to 15.08%. Based on the $180,000,000 currently outstanding under the existing agreement, Columbia would realize an annual interest cost reduction of approximately $3,150,000. Columbia would pay a fee of ⅜% per annum times the unused portion of the facility.

During the first six years, the amount to be borrowed under the notes may be repaid and reborrowed at any time in whole or in part, to the extent that the aggregate outstanding amount any one time does not exceed $300,000,000. At the end of six years, any borrowings outstanding will be converted to a four year and one day term loan. The term loan would be repaid in sixteen quarterly installments during the last four years of the new facility.

The extended maturity of the facility will have the effect of subjecting the notes to a charter provision limiting unsecured debt to 20% of capitalization rather than the charter provision applicable to unsecured debt maturing in ten years or less which is limited to 10% of capitalization. Both charter provisions are operative so long as there is preferred stock outstanding.

The net proceeds from the issue of the notes will be added to the general funds of Columbia which, together with the funds then available and funds thereafter generated from operations, will be used to satisfy the demands upon such general funds.

Columbia requests an exception from the competitive bidding requirements of Rule 50(b) pursuant to Rule 50(a)(5).

The declaration as amended by the post-effective amendment and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to

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[1] London Inter-Bank Offered Rate, reserve adjusted.

[2] Agent's dealer bid rate on Certificates of Deposit adjusted for reservers and Federal Deposit Insurance Corporation charges.

comment or request a hearing should submit their views in writing by July 29, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date the declaration, as amended by the post-effective amendment, or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-19125 Filed 7-14-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12533; 811-256]

Equitec Fund, Inc.; Filing of Application for an Order Pursuant to Section 8(f) of the Act Declaring That Applicant Has Ceased To Be an Investment Company

Notice is hereby given that Equitec Fund, Inc. ("Applicant") 3732 Mt. Diablo Blvd. Layafette, California 94549, an openend, diversified, management company registered under the Investment Company Act of 1940 (the "Act") filed an applications on May 17, 1982, pursuant to Section 8(f) of the Act, for an order declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application states that the Applicant commenced its initial public offering on April 12, 1977. Applicant states that it is in the process of filing a Certificate of Winding Up and Dissolution with the Secretary of State of the State of California. Applicant states that its Board of Directors approved a formal Plan of Dissolution on February 18, 1982, which was approved by 59.1% of the shares outstanding on the record date, February 9, 1982, at an annual meeting of shareholders on March 26, 1982. Applicant states that on the same date its Board of Directors approved a Certificate of Election to Wind Up and Dissolve Applicant.

Applicant states that distribution to its securityholders totaling $921,976 were made pursuant to the Plan of Dissolution. Applicant further states that no assets have been retained by Applicant, and that it has no remaining outstanding debts or other liabilities. At the time of filing its application, Applicant has no remaining securityholders. Applicant states that it is not a party to any litigation or administrative proceedings, nor is Applicant engaged in any business activities other than those necessary for the winding-up of its affairs.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and that, upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than August 2, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter ordered a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A Fitzsimmons,

Secretary.

[FR Doc. 82-19116 Filed 7-14-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12532; 81-853]

Insurors Mutual Fund, Inc.; Filing of Application Pursuant to Section 8(f) of the Act and Rule 8f-1 Thereunder for an Order Declaring That Company Has Ceased To Be an Investment Company

Notice is hereby given that Insurors Mutual Fund, Inc. ("Applicant") 733 North Van Buren Street Milwaukee, Wisconsin 53202, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on February 25, 1982, for an order of the Commission, pursuant to Section 8(f) of the Act and Rule 8f-1 thereunder, declaring that Applicant has ceased to be an investment company as defined by the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it was incorporated under the General Business Corporation Law of the State of Wisconsin on August 26, 1958, and that it registered under the Act on November 12, 1958, and filed a registration statement pursuant to Section 8(b) of the Act on February 3, 1959. Applicant states that it has never filed any registration statement with respect to its securities pursuant to the Securities Act of 1933 (the "1933 Act"). Applicant states further that pursuant to an order, dated November 29, 1965, granted by the Commission pursuant to Section 6(c) of the Act, the Commission exempted Applicant from the provisions of, among other sections of the Act, Sections 24(d) and 22(d) of the Act which, in general, prohibit the sale of a registered investment company's securities if not registered under the 1933 Act. Applicant represents that pursuant to the foregoing order, since April 1, 1959, when Applicant first offered its shares for sale, Applicant has offered and sold its shares only to Wisconsin town mutual insurance companies (organized and doing business in the State of Wisconsin) in reliance upon the exemption from registration provided in Section 3(a)(11) of the 1933 Act.

Applicant states that it has taken all steps necessary to terminate its existence under the Wisconsin General Business Corporation Law through the filing of Articles of Dissolution with the Secretary of State of the State of Wisconsin on December 28, 1981, and the recording thereof with the Register of Deeds for Milwaukee County, Wisconsin on December 29, 1981.

Applicant states further that during the last 18 months prior to filing of the application, it has not transferred any of its assets to a separate trust the beneficiaries of which were shareholders of Applicant. Applicant's shareholders approved the dissolution and liquidation of Applicant pursuant to a Plan of Complete Dissolution and Liquidation (the "Plan") at a special meeting its shareholders held on December 8, 1981.

Following such approval of the Plan, Applicant proceeded to wind-up its affairs by selling its portfolio securities and other assets. Applicant realized a total of $1,537,110.36 from the sale of its portfolio securities and other assets all of which have been distributed on a pro rata basis (at the rate of $74,124 per share) to the Applicant's shareholders of record on December 8, 1981.

Applicant states further that as of the date of application, it has retained $15,000 in cash which it is holding for the purposes of paying the costs and expenses incurred in connection with its liquidation (i.e., legal and accounting fees, the cost of the special meeting of shareholders, filing fees, etc.) Applicant maintains that the entire amount so retained has been or will be applied for the purposes indicated and have not, and will not be, invested in any securities. Applicant states that if the amount which it has retained is in excess of the amount required to pay the costs and expenses of its liquidation, it will distribute such excess to its shareholders in accordance with the provisions of the Wisconsin General Business Corporation Law. Except for the costs and expenses incurred in connection with its liquidation, Applicant maintains that it is not indebted to any party, nor does it have any outstanding liabilities. It is further maintained that Applicant is not a party to any litigation or administrative proceedings and that as of the date of the application, there are no shareholders or any other holders of securities of the Applicant. Finally, it is represented that Applicant is not now engaged, nor does it intend to engage, in any business activities other than those necessary to wind-up its affairs.

Section 8(f) of the Act, and Rule 8f-1 thereunder, provide, in relevant part, that when the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and that upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than August 2, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and the postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-19117 Filed 7-14-82; 8:45 am]

BILLING CODE 8010-11-M

[Release No. 22568; 31777]

James River Corporation of Virginia and James River-Berlin Gorham, Inc.; Application for Exemption Pursuant to Section 3(a)(3)

James River Corporation of Virginia ("James River"), Tredegar Street, Richmond, Virginia 23217, a Virginia corporation, and its wholly-owned subsidiary James River-Berlin Gorham, Inc. ("JRBG"), a Delaware corporation, have filed with this Commission an application and amendments thereto pursuant to the Public Utility Holding Company Act of 1935 ("Act") requesting an order of exemption under Section 3(a)(3). All interested persons are referred to the amended application, which is summarized below, for a description of applicants and a statement of the basis upon which the exemption is sought.

James River is engaged, directly and through subsidiaries, in the manufacture and sale of specialty papers, packaging papers, paperboard and cartons, pulp and other wood products. It has plants at various locations in the United States. At April 25, 1982, James River reported consolidated assets of $478,115,680 and for its fiscal year then ended consolidated revenues of $775,472,681 and net income of $22,352,805.

In 1980 James River acquired the paper business of Brown Company ("Brown") through a series of merger transactions. Included in the acquisition were a Brown subsidiary known as BBC, Inc., and its wholly-owned subsidiary Brown-New Hampshire, Inc., which owned and operated certain electric generation and transmission facilities. Following the merger the name of BBC, Inc. was changed to James River-Berlin Gorham, Inc. and the name of Brown-New Hampshire, Inc., was changed to James River-New Hampshire Electric, Inc. ("JRNH"). JRBG owns all the voting securities of JRNH, which now owns and operates the utility facilities.

JRBG is engaged in the manufacture and sale of paper and other wood products. Its plants are located at Berlin and Gorham, New Hampshire. At April 25, 1982, JRBG reported assets of $104,887,376 and for its fiscal year then ended revenues of $133,417,308 and net income of $11,583,582. JRNH owns and operates thermal and hydro-electric generation facilities in Berlin, Gorham and Shelburne, New Hampshire, having an aggregate rate capacity of approximately 47 MW, and related transmission facilities. The facilities are operated by JRNH to supply power to JRBG's pulp and paper mills. The output of JRNH is supplemented by purchasing electricity from Public Service Company of New Hampshire ("PSNH"). To reduce the cost of purchased power, JRNH, generally on Sundays and holidays, delivers and sells to PSNH energy not required by JRBG for its operations. In calendar year 1981 JRNH produced 283,169,100 kwh, bought 66,315,400 kwh, and sold 3,711,400 kwh to PSNH at a price of $143,417. The sales to PSNH constitute JRNH's only income other than reimbursement of expenses incurred in providing power to JRBG.

James River and JRBG request an order of exemption pursuant to Section 3(a)(3) of the Act. That section provides that the Commission shall exempt a holding company if "such holding company is only incidentally a holding company, being primarily engaged" in non-utility businesses, and (1) not deriving a material part of its income from public-utility subsidiaries or (2) deriving a material part of its income from public-utility subsidiaries if substantially all of the outstanding

securities of such companies are owned by such holding company.

The application and amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by August 5, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date the application, as amended or as it may be further amended, may be granted.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-19126 Filed 7-14-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12534 Q; 812-5207]

Money Express Reserve Fund; Filing of Application for Order Pursuant to Section 6(c) of the Act Exempting Applicant From the Provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 Thereunder

Notice is hereby given that Money Express Reserve Fund ("Applicant"), #6 The Commons, 3512 Silverside Road, Wilmington, Delaware 19803, a no-load, open-end, diversified, management investment company, registered under the Investment Company Act of 1940 (the "Act"), filed an application on June 8, 1982, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant to calculate its net asset value per share based on the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that its investment objective is to seek current income, liquidity, and stability of principal. Applicant states further that the securities purchased by it will have remaining maturities of one year or less (although securities subject to repurchase agreements may bear longer maturities). Applicant represents that it will invest exclusively in obligations issued or guaranteed by the U.S. Government, its agencies or instrumentalities.

Applicant states in its preliminary prospectus, dated June 8, 1982, that Provident Institutional Management Corporation ("PIMC"), a wholly-owned subsidiary of Provident National Bank of Philadelphia ("Provident") serves as Applicant's investment adviser. PIMC is engaged in the business of providing investment advisory services to investment companies and receives a fee from Applicant computed daily and paid monthly at an annual rate of .25% of Applicant's net assets. Applicant states further that Provident receives fees for acting as custodian and transfer agent.

Applicant asserts in its preliminary prospectus that its shares are sold exclusively to Winters National Bank and Trust Co. ("Winters National") and its affiliated and correspondent banks acting in a fiduciary, advisory, custodial or other similar capacity on behalf of their customers. Applicant further asserts that Winters National and its affiliated and correspondent banks may charge their customer accounts for services provided in connection with the purchase and redemption of Applicant's shares. Applicant's shares are represented to be sold and redeemed by Shearson/American Express Inc. ("Shearson"), a wholly-owned subsidiary of the American Express Company. The Boston Company Advisors, Inc. ("Boston Advisors"), an indirect subsidiary of Shearson, serves as the Applicant's administrator. Boston Advisors receives a fee for its services as administrator computed daily and paid monthly at an annual rate of .25% of the Applicant's net assets. The application states that Applicant will not invest in securities issued or guaranteed by Provident, Winters National or their affiliated entities. Counsel for PIMC has opined that the activities of PIMC as Applicant's investment adviser will not violate any federal banking laws or regulations.

In pertinent part, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c-1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Rule 2a-4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 states further that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and other securities and assets shall be valued at fair value as determined in good faith by an investment company's board of directors.

The Commission has expressed its view that, among other things, (1) Rule 2a-4 under the Act requires portfolio instruments of "money market" funds which have more than 60 days remaining to maturity be valued with reference to market factors and (2) it would be inconsistent, generally, with the provisions of Rule 2a-4 for a "money market" or similar fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

The Commission is authorized by Section 6(c) of the Act to exempt, *inter alia*, any "security or transaction, or any class or classes of . . . securities, or transactions" from any provision of the Act or any rule thereunder, "if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of [the Act]."

In support of the relief requested, Applicant expresses its belief that its shareholders would be unfairly treated if it were forced to price its portfolio instruments in a manner which would produce artificial price or yield volatility for instruments which Applicant expects to hold until maturity. Applicant expresses its view that potential shareholders are not concerned with the theoretical differences which might occur between the yield achieved through market pricing and the yield computed on the basis of amortized cost. On the other hand, Applicant believes that such potential shareholders are vitally concerned that

(1) the net asset value of their interests remain stable; and (2) that the daily net income declared on their investment be steady and not exhibit the volatility which can occur when changes in market prices cause changes in yield on a daily or weekly basis.

By maintaining its portfolio of short-term, Federally-issued or guaranteed obligations, Applicant believes that it will be possible to provide the required stability to individuals and institutional investors. Applicant has determined that maintaining an average maturity of 120 days or less will accomplish the aims of its investors by reducing the risk of significant volatility in the value of portfolio instruments and at the same time producing a yield commensurate with those available in the market in which Applicant is investing.

Applicant agrees that the following conditions may be imposed in any order of the Commission granting the requested relief:

1. In supervising Applicant's operations and in delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's Trustees undertake—as a particular responsibility within the overall duty of care owed to shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by Applicant's Trustees shall be the following:

(a) Review by the Trustees, as they deem appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's $1.00 amortized cost price per share, and the maintenance of records of such review. To fulfill this obligation, Applicant will use actual quotations or estimates of market value reflecting current market conditions chosen by its Trustees in the exercise of their discretion to be appropriate indicators of value which may include, among others, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

(b) In the event that such deviation from Applicant's $1.00 amortized cost price per share exceeds ½ of 1%, a requirement that the Trustees will promptly consider what action, if any, should be initiated.

(c) Where the Trustees believe that the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, they shall take such action as they deem appropriate to eliminate or to reduce to the greatest extent reasonably practicable such dilution or unfair results, which action may include: redemption of shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten Applicant's average portfolio maturity; reducing or withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; *provided*, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, except for instruments subject to repurchase agreements providing for settlement within one year after Applicant's purchase of the instrument, nor (b) maintain a dollar-weighted average portfolio maturity that exceeds 120 days. In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

4. Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition (1) above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the Trustees' considerations and actions taken in connection with the discharge of their responsibilities, as set forth above. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act as though such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those U.S. dollar-denominated instruments which the Trustees determine present minimal credit risks, and which are of high quality as determined by any major rating service or, in the case of any instrument that is not rated, are of comparable quality as determined by the Trustees.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to condition 2(c) above was taken during the preceding fiscal quarter, and, if any action was taken, Applicant will describe the nature and circumstances of such action.

Prior to adopting the amortized cost method of valuation, Applicant's Trustees will determine in good faith that in light of the characteristics described above, including the conditions to which Applicant must adhere as set forth in any order of the Commission, absent unusual or extraordinary circumstances, the amortized cost method of valuing portfolio securities will reflect the fair value of such securities.

Notice is further given that any interested person may, not later than August 2, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-19120 Filed 7-14-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18875; File No. SR-MSRB-82-9]

Filing and Immediate Effectiveness of Proposed Rule Change by Municipal Securities Rulemaking Board

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), notice is hereby given that on June 21, 1982, the Municipal Securities Rulemaking Board ("MSRB"), Suite 507, 1150 Connecticut Ave., N.W., Washington, D.C. 20036, filed with the Securities and Exchange Commission the proposed rule change described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change is an interpretation of MSRB Rule G–17 which prohibits deceptive, dishonest or unfair practices by a broker, dealer or municipal securities dealer. Pursuant to the interpretation, the distribution of initial "when, as, and if issued" transaction confirmations ("WAII confirmations") prior to the award date of a competitive new municipal security issue or the execution date of the bond purchase agreement of a negotiated new municipal security issue ("trade date") would be deemed to be an unfair or misleading practice. The MSRB states that WAII confirmations are used to confirm orders placed with a municipal securities dealer during the pre-sale portion of the underwriting period. Such pre-sale orders are expressions of the purchaser's firm intent to purchase new issue municipal securities which have certain characteristics at a stated price when they become pre-sale orders cannot be considered as executed until the trade date, the mailing of a WAII confirmation before the trade date is misleading because it suggests that orders actually have been filled. The MSRB further states, however, that the interpretation does not invalidate the practice of soliciting and accepting pre-sale orders or alter the requirement of MSRB Rule G–12 that WAII confirmations of inter-dealer transactions be sent out within two business days of the trade date.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 under the Act. The Commission, however, may abrogate summarily the proposed rule change any time within 60 days of the filing if it appears to the Commission that such acton is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of publication in the Federal Register. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR–MSRB–82–9.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available at the MSRB's office.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–19121 Filed 7–14–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 12536; 812–5174]

National Cash Reserves Filing of Application for an Order Pursuant to Section 6(c) of the Act Exempting Applicant From the Provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 Thereunder

Notice is hereby given that National Cash Reserves, Inc. ("Applicant"), 605 Third Avenue, New York, New York 10158, registered under the Investment Company Act of 1940, ("Act") as an open-end, diversified, management investment company, filed an application on April 19, 1982, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder, to the extent necessary to permit Applicant to value its portfolio securities using the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a "money market" fund and is organized as a Maryland corporation. Applicant represents that a registration statement was filed on its behalf on February 22, 1982, but is not yet effective. Applicant states that its investment objective is to obtain high current income to the extent consistent with liquidity and safety of capital. Applicant further states that it will invest in short-term marketable obligations of United States banks and other United States financial institutions, high quality commercial paper, short-term corporate obligations, obligations guaranteed as to principal and interest by the United States Government (or its agencies or instrumentalities) and in repurchase agreements fully secured or collateralized by such obligations.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c–1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security.

Rule 2a–4 adopted under the Act provides, as here relevant, that the current net asset value of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 further provides that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair market value as determined in good faith by an investment company's board of directors. Prior to the filing of the application, the Commission expressed its view that, among other things: (1) Rule 2a–4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments with over 60-day maturities

on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Section 6(c) of the Act provides, in part, that the Commission may, upon application, conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Appliant requests an exemption from the provisions of Section 2(a)(41) of the Act, and Reules 2a–4 and 22c–1 thereunder, to the extent necessary to permit the Applicant to use the amortized cost method of valuing portfolio securities. Applicant represents that its board of directors has determined that, absent unusual circumstances, amortized cost value represents fair value of its portfolios securities. It is represented that the Applicant's board of directors also believes that the proposal would benefit its shareholders by assuring them the convenience of a stable price of $1.00 for each of their shares, together with the protection against dilution and excessive risk in the form of conditions involving procedures for review by the Applicant's board of directors and requirements as to the quality of the Applicant's portfolio investments.

Applicant has agreed that each of the following may be made a condition to the granting of the exemptive relief requested:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, the board of directors of Applicant undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purposes of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of directors of the Applicant shall be the following:

(a) Review by the board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from the $1.00 amortized cost price per share, and the maintenance of records of such review.[1]

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of directors will promptly consider what action, if any, should be initiated.

(c) Where the board of directors believes the extent of any deviation from the $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten the average maturity of portfolio instruments; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1 above, and will record, maintain and preserve for a period of not less than six years (the first two years in an easily accesible place) a written record of its board of directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be attained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which its board of directors determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by its board of directors.

6. Applicant shall include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to condition 2(c) was taken during the preceding fiscal quarter, and, if any action was taken, shall describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than August 2, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–19123 Filed 7–14–82; 8:45 am]

BILLING CODE 8010–01–M

[1] To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its board of directors in the exercise of its discretion to be appropriate indicators of value which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

[Release No. 12537; 812-5177]

Oppenheimer Fund, Inc., et al.; Filing of Application for an Order Pursuant to Section 6(c) of the Act Exempting Applicants From Section 2(a)(19) of the Act and Pursuant to Section 10(f) of the Act Exempting Certain Transactions From the Provisions of Section 10(f) of the Act

In the Matter of Oppenheimer Fund, Inc., Oppenheimer Option Income Fund, Inc., Oppenheimer A.I.M. Fund, Inc., Oppenheimer Time Fund, Inc., Oppenheimer Special Fund, Inc., Oppenheimer Tax-Free Bond Fund, Inc., Oppenheimer Money Market Fund, Inc., Oppenheimer Directors Fund, Inc., Oppenheimer Target Fund, Inc., Oppenheimer Money Trust, Oppenheimer Management Corporation, and Oppenheimer Investor Services, Inc., 2 Broadway, New York, New York 10004.

Notice is hereby given that Oppenheimer Fund, Inc., Oppenheimer Option Income Fund, Inc., Oppenheimer A.I.M, Fund, Inc., Oppenheimer Time Fund, Inc, Oppenheimer Special Fund, Inc., Oppenheimer Tax-Free Bond Fund, Inc., Oppenheimer Money Market Fund, Inc., Oppenheimer Directors Fund, Inc., Oppenheimer Target Fund, Inc., and Oppenheimer Money Trust (collectively, "Funds"), each of which is registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company; and Oppenheimer Management Corporation ("OMC"), and Oppenheimer Investor Services, Inc. ("OIS"), the Funds' investment adviser and principal underwriter, respectively, filed an application on April 23, 1982, for an order of the Commission pursuant to Section 6(c) of the Act, declaring that Kenneth A. Randall, a director, trustee, or prospective director or trustee of the Funds and of other funds which may be organized and managed by OMC in the future ("Additional Funds"), shall not be deemed an "interested person", within the meaning of Section 2(a)(19) of the Act, of the Funds, of any Additional Funds, or of OMC or OIS, solely by reason of his present or Mutual Casualty Company ("Lumbermens"), the parent company of Kemper, American Motorists Insurance Corporation prospective status as a director of Kemper Corporation ("Kemper"), Lumbermens Mutual Casualty Company ("Lumbermens"), the parent company of Kemper, American Motorists Insurance Corporation ("American Motorists"), a wholly-owned subsidiary of Kemper, American Manufacturers Mutual Insurance Company ("American Manufacturers"), a mutual company associated with Kemper, Federal Kemper Life Assurance Company ("Federal Kemper Life"), a wholly-owned subsidiary of Kemper, or Fidelity Life Association ("Fidelity Life"), a mutual life company associated with Kemper (Kemper, Lumbermens, American Motorists, and American Manufacturers are hereinafter referred to collectively as the "Kemper Companies"); and pursuant to Section 10(f) of the Act exempting Applicants from the provisions of Section 10(f) to permit the Funds and any Additional Funds to purchase securities in which Blunt, Ellis & Loewi Incorporated ("Blunt") and/or Bateman Eichler, Hill Richards Inc. ("Bateman"), registered broker-dealers of which Mr. Randall may be deemed an affiliated person, participate as principal underwriters. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Applicants state that Mr. Randall is a nominee for re-election as a director of the Kemper Companies and that he has been nominated for election as a director of Federal Kemper Life and Fidelity Life. It is further stated that Kemper Financial Services, Inc. ("KFS"), a wholly-owned subsidiary of Kemper, and Investors Brokerage Services, Inc. ("IBS"), a wholly-owned subsidiary of KFS, are broker-dealers registered under the Securities Exchange Act of 1934 ("Exchange Act"). Applicants represent that KFS and IBS are registered under the Exchange Act principally because of their functions with respect to the underwriting and distribution of mutual fund shares and annuities. It is further represented that KFS has no public brokerage customers and that IBS conducts a small brokerage business for employees of the Kemper organization.

Applicants further state that Kemper and Loewi Financial Companies, Ltd. ("Loewi") are parties to a merger agreement pursuant to which Blunt, a registered broker-dealer which is a wholly-owned subsidiary of Loewi, are expected to become direct and indirect wholly-owned subsidiaries, respectively, of Kemper. In addition, it is stated that Lumbermens is a party to an agreement under which Bateman, also a registered broker-dealer, is expected to become a subsidiary of Lumbermens (KFS, IBS, Blunt, Bateman and any other broker-dealers which may in the future be acquired by any of the Kemper Companies are hereinafter referred to collectively as the "Broker-Dealers"). Applicants state that Blunt and Bateman are regional broker-dealers engaged in a full-line brokerage business.

Sections 2(a)(19)(A)(v) and 2(a)(19)(B)(v) of the Act, in pertinent part, define the term "interested person," when used with respect to an investment company, its investment adviser, or its principal underwriter, to include "any broker or dealer registered under the Securities Exchange Act of 1934 or any affiliated person of such broker or dealer." Section 2(a)(3) of the Act, in pertinent part, defines an affiliated person of another person as any director of such other person, or any person controlling, controlled by, or under common control with, such other person. Section 2(a)(9) of the Act defines "control" as the power to exercise a controlling influence over the management or policies of a company unless such power is solely the result of an official position with such company.

As a director of Kemper, Mr. Randall would be merely an affiliated person of an affiliated person of KFS, a registered broker-dealer, and an affiliated person of an affiliated person of an affiliated person of IBS, a registered broker-dealer. Applicants assert, moreover, that Mr. Randall does not exercise a controlling influence over the management or policies of any Broker-Dealer, and would not do so upon the acquisition of Loewi by Kemper or the acquisition of Bateman by Lumbermens. In this regard, it is further stated that Mr. Randall does not and will not participate in the day-to-day operations of Lumbermens, Kemper, KFS, or IBS, and is not and will not be an officer of Lumbermens, Kemper, or of any of their subsidiaries, or of any Broker-Dealer.

Applicants note that Section 2(a)(9) of the Act provides that any person who does not beneficially own more than 25% of the voting securities of a company shall be presumed not to control such company, and that Mr. Randall owns only 400 of the 13,249,000 shares of Kemper common stock outstanding, and that he does not beneficially own any voting securities of Lumbermens. Applicants state, therefore, that while it may be contended that intermediate entities should be disregarded for purposes of determining whether a person is an affiliated person of another person within the meaning of the Act, Applicants believe that such an interpretation would be inappropriate in this instance in view of the lack of control or influence which Mr. Randall exercises over the Broker-Dealers.

Applicants further submit that Mr. Randall is not and will not be under common control with any of the Broker-

Dealers, asserting that such would be the case only if he were controlled by Lumbermens or Kemper and that, in fact, he is not controlled by either of these companies. It is stated also that the only compensation which Mr. Randall receives from Lumbermens or Kemper, or from any of the Kemper Companies, are ordinary directors fees (i.e., fees which are the same as those paid to all other directors). Applicants note further that Section 2(a)(9) of the Act expressly provides that a natural person shall be presumed not to be a controlled person. In view of the foregoing factors, Applicants submit that it would be misleading to shareholders and unfair to Mr. Randall to identify him as an interested director of the Funds or any Additional Fund since such a designation implies the existence of an actual or potential conflict of interest which, Applicants assert, does not and would not in fact exist.

As additional grounds for the granting of the exemption requested from Section 2(a)(19), Applicants undertake that, if the order hereby requested is issued, so long as Mr. Randall is a director or trustee of any of the Funds or of any Additional Fund, none of the Funds or Additional Funds will knowingly effect transactions with or through any of the Broker-Dealers—other than Blunt or Bateman—provided that OIS may enter into dealer agreements with any of the Broker-Dealers relating to the distribution of shares of any of the Funds or any Additional Funds. Applicants submit that it would be detrimental to the interests of the Funds and Additional Funds to prohibit OIS from effectuating arrangements for the distribution of shares of the Funds or of any Additional Fund with any of the Broker-Dealers. Applicants further state, that they do not believe it would be appropriate to impose as a condition to granting the order applied for herein that the Funds or any Additional Funds not effect securities transactions with Blunt or Bateman. In this regard, Applicants have applied for an exemption from Section 10(f) of the Act, which prohibits, in pertinent part, a registered investment company "from knowingly purchas[ing] . . . during the existence of any underwriting or selling syndicate, any security a principal underwriter of which is a . . . person of which any . . . director [of the registered investment company] . . . is an affiliated person." Section 10(f) of the Act further provides that the Commission by rules or regulations upon its own motion, or by order upon application may conditionally or unconditionally, exempt any transaction or classes of transactions from the restrictions contained therein to the extent such exemption is consistent with the protection of investors.

With respect to their request for exemption from the provisions of Section 10(f), Applicants express their opinion that Blunt and Bateman are important factors in the broker-dealer community and significant resources for broker-dealer services. It is further stated that the Funds consider it not to be in their best interests, and believe that it would not be in the best interests of any Additional Funds to foreclose the possibility of dealing with these important resources. In addition, Applicants further undertake that, as a condition to the order requested, Mr. Randall will not vote on, or participate in board discussions with regard to, the allocation of any portfolio brokerage by the Funds or any Additional Funds, the selection of broker-dealers with which the Funds or any Additional Funds effect portfolio transactions as principal, the purchase, during the existence of any underwriting or selling syndicate, of any security with respect to which Blunt or Bateman is a principal underwriter, or on matters involving any relationship between the Funds, any Additional Funds, and any Broker-Dealers; provided, however, that for the purpose of determining the number of votes of interested as well as non-interested directors/trustees required to take action on any such matter, Mr. Randall will be counted as a director/trustee in determining the total number of directors/trustees, and will be counted as a non-interested director/trustee in determining the total number of non-interested directors/trustees; and provided further, that nothing set forth above is intended to limit or prohibit Mr. Randall from acting upon any matters relating to the approval or continuation of investment advisory or principal underwriting contracts.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is hereby given that any interested person may, not later than July 28, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his/her interest, the reasons for such request, and the issues, if any, of fact or law proposed to controverted, or he/she may request that he/she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advise as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-19124 Filed 7-14-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18876; File No. SR-PCC-82-3]

Filing and Immediate Effectiveness of Proposed Rule Change by Pacific Clearing Corporation

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on June 17, 1982, the Pacific Clearing Corporation ("PCC") filed with the Securities and Exhange Commission the proposed rule change as described herein. The Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change modifies in several respects an existing form contract ("Contract I") that sets forth several of the respective rights and obligations of PCC and users of PCC's Securities Collection Division ("SCD").[1]

[1] SCD facilitates the delivery of securities against payment between two PCC participants or between a PCC participant and a non-participant.

First, the proposal eliminates from Contract I the requirement that a user of the SCD Pledgeholder Program [2] have its bank execute a contract ("Contract II") with PCC establishing the respective rights and obligations of PCC and the bank regarding that program. PCC has eliminated Contract II because it believies that its only obligation to such banks is to pay them according to the SCD user's instructions. Second, the proposed rule change amends Contract I by (i) stating that it is binding upon successors in interest or assigns and legal representatives of PCC and the SCD user; and (ii) requiring an SCD applicant corporation or partnership to execute that contract before a notary public on approporation or partnership to execute that contract before a notary public on appropriate attestation forms provided in the rule change.

PCC believes that the porposed rule change is consistent with Section 17A(b)(F) of the Act in that the proposal promotes the prompt and accurate clearance and settlement of securities transactions and fosters cooperation and coordination with persons engaged in the clearance and settlement of securities transactions.

The foregong change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguents concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-PCC-82-3.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating tod the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-19119 Filed 7-14-82; 8:45 am]

BILLING CODE 8010-01-M

[2]The SCD Pledgeholder Program allows a seller of securities, who is delivery them through SCD, to obtain a loan from a bank secured by the proceeds of the sale. Upon receipt of the proceeds of the sale through SCD and upon the seller's instruction, SCD pays the proceeds to the bank, rather than to the seller.

[Release No. 12525; 812-5128]

Massachusetts Mutual Variable Annuity Fund 4, et al.; Application

July 7, 1982.

In the matter of Massachusetts Mutual Variable Annuity Fund 4, Massachusetts Mutual Variable Annuity Separate Account 2 and Massachusetts Mutual Life Insurance Company, 1295 State Street, Springfield, MA 01111 (812-5128).

Notice is hereby given that Massachusetts Mutual LIfe Insurance Company ("Mass Mutual"), a mutual life insurance company organized under the laws of Massachusetts, and two separate investment accounts of Mass Mutual, Massachusetts Mutual Variable Annuity Fund 4, the name of which is to be changed to Massachusetts Mutual Variable Annuity Separate Account 1 ("Account 1") and Massachusetts Mutual Variable Annuity Separate Account 2 ("Account 2"), filed an application on March 2, 1982, and an amendment thereto on June 28, 1982, pursuant to Section 6(c) of the Investment Company Act of 1940 (the "Act") for an order of the Commission exempting Accounts 1 and 2 and Mass Mutual (herein collectively referred to as the "Applicants") from certain provisions of Sections 2(a)(32), 2(a)(35), 22(c), 22(e), 26(a), 27(c)(1), 27(c)(2) and 27(d) of the Act and Rule 22c-1 thereunder and pursuant to Section 11 of the Act approving certain offers of exchange. All interested persons are referred to the application on file with the Commission for a statement of the facts and representations contained therein, which are summarized below.

Background

Applicants state that Accounts 1 and 2 will be used for the purpose of investing purchase payments received under certain variable annuity contracts (the "Contracts"). Account 1 is used in connection with retirement plans which qualify for special Federal income tax treatment; Account 2, in connection with non-tax-qualified arrangements. Accounts 1 and 2 are registered under the Act as unit investment trusts and each has three divisions which invest in shares of three open-end, diversified management investment companies organized by Mass Mutual (the "Funds"). Shares of the Funds are held by Mass Mutual as custodian for Accounts 1 and 2 on an open-account basis and are not represented by stock certificates.

At any time prior to the maturity date of a Contract, the contractowner may direct that purchase payments minus any applicable premium taxes be applied to purchase accumulation units in one of more divisions of the separate account pursuant to which the Contract has been issued. Under the Contracts, all or part of the accumulation units in any division of a separate account may be cancelled and the value thereof used to purchase accumulation units in any other division of that separate account. Thus, owners of contracts will, up to 30 days prior to the maturity date of their Contract, be able to choose as their underlying investment medium a Fund having different investment objectives from their previously selected Fund. Any transfer will be made at the value of an accumulation unit in that division on the date of transfer. No charge or expense will be deducted in connection with such transfers. Such transfers will be made at the written direction of the contractowner and will be effective as of the valuation date which is on, or next follows, the date the written direction is received by mail at the home office of Mass Mutual, except that if the written direction is received otherwise than by mail it will be effective as of the first valuation time after receipt.

Applicants state that purchase payments under the Contracts will be subject to deductions only for any then applicable premium taxes imposed by some states and governmental entities, which presently range from 0% to 2.5%, except when and as permitted by state law, Mass Mutual postpones computation and deduction until the maturity date of the Contract. Applicants state that there are four types of charges which Mass Mutual may assess against the Contracts: (1) An asset charge for mortality and expense risks assumed by Mass Mutual; (2) an administrative charge for administrative expenses of Mass Mutual in connection

with the Contracts; (3) a deduction for premium taxes, if any, payable by Mass Mutual in connection with the Contracts, and (4) a contingent deferred sales charge.

Applicants state that Mass Mutual makes a daily deduction in computing the value of accumulation units and annuity units in Accounts 1 and 2 at the annual rate of 1.25% of the value of the Accounts which is designed to compensate Mass Mutual for assuming the mortality and expense risks under the Contracts. It is estimated that .45% is to compensate Mass Mutual for the mortality risks, and that .80% is to compensate Mass Mutual for the expense risks that the administrative charge will be inadequate to provide for Mass Mutual's administrative expense related to the issuance and maintenance of the Contracts and that the contingent deferred sales charges will be inadequate to cover all expenses for commissions, sales literature and related costs which are borne by Mass Mutual's general account surplus in distributing the Contracts ("distribution expenses").

Applicants state that an annual administrative charge of $30 (which may be increased by Mass Mutual to not more than $50) will be deducted by Mass Mutual from the accumulated value of each Contract to reimburse Mass Mutual for administrative expenses relating to the issuance and maintenance of the Contract. This administrative charge is deducted on the anniversary date of each Contract, upon maturity, and upon payment of the value of the Contract on other than the anniversary date because of a full redemption or death of the variable annuitant prior to maturity if the death benefit paid at that time is the accumulated value of the Contract. The administrative charge is designed only to reimburse Mass Mutual for such expenses and Mass Mutual does not expect to recover from this charge any amount in excess of accumulated expenses.

Applicants state that redemptions may result in the imposition of a contingent deferred sales charge except that no such charge is made in connection with a surrender of a Contract within 10 days after its delivery to a contractowner or if the proceeds are transferred to another division of the applicable separate account. Furthermore, no contingent deferred sales charge is applied upon the redemption of any unpaid payments certain after the maturity date of a Contract, to the death benefit provided in the Contract payable upon the death of the variable annuitant before the maturity date of the Contract, or to amounts applied at maturity to acquire variable annuity payments. Amounts applied at maturity to a lump sum payment or to acquire a fixed monthly annuity, however, are considered to involve a redemption and may be subject to a contingent deferred sales charge as provided below.

Applicants state that the contingent deferred sales charge is assessed as a percentage of the amount redeemed, taken as a lump sum payment at maturity or applied to acquire a fixed monthly annuity. The following description is applicable whether the amount is taken in cash or applied to acquire a fixed monthly annuity. Mass Mutual represents that it will always process the redemption request so that accumulation units with the lowest applicable sales charge percentage will be redeemed first.

Generally, accumulation units purchased with the first $3,000 of cumulative purchase payments under the Contract are subject to a charge of 11% of the value of the accumulation units if they are redeemed in the same contract year in which they were purchased, reducing 1% each contract year to 0% if they are redeemed in a contract year ending eleven or more years after the contract year in which they were purchased. Accumulation units purchased with comulative purchase payments in excess of $3,000 but not more than $35,000 are subject to a charge of 5% of the value of the accumulation units if they are redeemed in the same contract year in which they were purchased, reducing 1% each contract year to 0% if they redeemed in contract year ending five or more years after the contract year in which they were purchased. Accumulation units purchased with cumulative purchase payments in excess of $35,000 may be redeemed at any time without the imposition of any sales charge.

There are two limits on sales charges imposed under the Contracts. First, beginning with the fifth contract year, 10% of the number of accumulation units in each division of the applicable separate account on the last day of the preceding contract year may be redeemed at any time during the contract year without the imposition of any sales charge. This 10% "free corridor" is noncumulative in that any unused balance at the end of the contract year is not carried over into the following Contract year. However, each contract year after the fifth contract year generates a new free corridor equal to 10% of the number of accumulation units in each division under the Contract on the last day of the preceding Contract year. Applicants state that the application of the 10% "free corridor" does not change the order in which accumulation units are redeemed; it simply eliminates any sales charge that would otherwise be made. Second, the total contingent deferred sales charge deducted in connection with redemptions under a Contract will never exceed 8.5% of the cumulative purchase payments made under the Contract; the sales charge applicable to the current redemption would be reduced by the amount of the excess.

For the purpose of determining the applicable charge upon the subsequent redemption of accumulation units acquired in a transfer from another division, such accumulation units will be deemed to have been aquired in the contract year and with the cumulative purchase payment used to purchase the original accumulation units. In addition, a proportionate part of the 10% free corridor is transferred. The contingent deferred sales charge will not be assessed against any accumulation units which have been purchased with proceeds payable in a lump sum prior to or at maturity under fixed-dollar life insurance, or variable or fixed-dollar annuity contracts issued by Mass Mutual where the proceeds were not subject to a surrender charge.

Approvals for Offers of Exchange

Section 11(a) of the Act provides that it shall be unlawful for any registered open-end company, or any principal underwriter for such a company, to make, or cause to be made, an offer to the holder of a security of such company, or of any other open-end investment company, to exchange his security for a security of the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to an approved by the Commission. Section 11(c) provides that, irrespective of the basis for the exchange, the provisions of subsection (a) shall be applicable to any type of offer to exchange the securities of registered unit investment trusts for the securities of any other investment company.

Applicants request Commission approval under Section 11 to permit transfers among divisions of the Accounts, as described above. Applicants also request approval under Section 11 to permit the exchange of other contracts issued by Account 1 and of variable annuity contacts which

depend on the investment performance of Massachusetts Mutual Variable Annuity Fund 1 ("Annuity Fund 1") for the Contracts offered by Account 1 and to permit the exchange of variable annuity contracts which depend on the investment performance of Massachusetts Mutual Variable Annuity Fund 2 ("Annuity Fund 2") for the Contracts offered by Account 2. Annuity Funds 1 and 2 are registered unit investment trusts, all assets of which are invested in one of the Funds. Aunnity Fund 1 issues contracts for use in connection with retirement plans which qualify for special Federal income tax treatment. Annuity Fund 2 issues contracts for use in connection with non-tax-qualified arrangements. Applicants state that the purpose of providing for such exchanges is to provide contractholders flexibility in choosing the investment medium or form of contract they believe desirable.

Such exchanges would be made by applying the proceeds of the surrendered contract to purchase accumulation units in Accounts 1 and 2 at their accumulation unit value detemined as of the valuation date which is on, or next follows, the date the written exchange direction is received by mail at the home office of Mass Mutual, except that if the exchange direction is delivered otherwise than by mail, it will be effective as of the first valuation time after receipt. No charges or deductions will be made with respect to such exchanges. Applicants state that since such surrendered contracts were sold with an initial sales charge deducted from purchase payments, the accumulation units purchased in such exchanges with any such proceeds payable in a lump sum prior to or at maturity will not be subject to the contingent deferred sales charges otherwise generally applicable to the Contracts as described below. Such exchanges will not be actively solicited by the Applicants and will be made at the unilateral request of the contractowner.

Exemptive Relief Requests

As here relevant, section 27(c)(2) of the Act prohibits the issuer of a periodic payment plan certificate and any depositor or underwriter for such issuer from selling such periodic payment plan certificates unless, among other things, the proceeds of all payments (other than any sales charge) are deposited with a qualified bank acting as trustee or custodian and held under an indenture or agreement containing the provisions required by sections 26(a)(2) and 26(a)(3) of the Act. Section 26(a)(2)(C) provides that the custodian or trustee may collect from income, and, if necessary, the corpus of the trust, fees for services theretofore performed and reimbursement for expenses theretofore incurred, except that no payment to the depositor or principal underwriter shall be allowed the custodian or trustee as an expense except as a fee, not exceeding such reasonable amount as the Commission may prescribe, for performing bookkeeping or other administrative services. Applicants request exemption from sections 26(a)(2)(C) and 27(c)(2) to the extent necessary to permit deduction of the asset charge, administrative charge, premium taxes, and contingent deferred sales charges described above.

Section 2(a)(32) of the Act defines a redeemable security as any security under the terms of which the holder is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof. Section 27(c)(1) of the Act requires that any periodic payment plan certificate be a redeemable security. Section 27(d) of the Act, in pertinent part, requires that the holder of a periodic payment plan certificate be able to surrender the certificate under certain circumstances for his account value plus the recovery of certain front-end sales charges. Applicants assert that the imposition of the contingent deferred sales charge on certain redemptions does not violate the provisions of sections 2(a)(32), 27(c)(1) and 27(d) of the Act and request exemptions from those provisions to the extent necessary or appropriate to permit the offer and sale of the Contracts with the contingent deferred sales charge described above.

Section 2(a)(35) of the Act defines "sales load" as the difference between the price of a security to the public and that portion of the proceeds from its sale which is received and invested, less any portion of such difference deducted for trustee's or custodian's fees, insurance premiums, issue taxes, or administrative expenses or fees which are not properly chargeable to sales or promotional activities. Applicants submit that the proposed pricing structure of the Contract is consistent with the intent of the definition of sales load contained in the Act and request an exemption from section 2(a)(35) to the extent necessary to permit the Applicants to effectuate that proposed pricing structure.

Rule 22c–1, promulgated pursuant to section 22(c) of the Act, prohibits a registered investment company issuing redeemable securities, such as the Contracts, from selling, redeeming or repurchasing any such security except at a price based on the current net asset value of such security. Applicants submit that the imposition of a contingent deferred sales charge does not in effect result in receipt by the contractowner of a price less than current net asset value and respectfully request an exemption from section 22(c) and Rule 22d–1 to the extent necessary to permit the offer and sale of the Contracts with the contingent deferred sales charge described above.

Applicants also submit that the imposition of the administrative charge where there is a full redemption of a Contract on other than its anniversary date does not violate sections 2(a)(32), 22(c), 27(c)(1) or 27(d) of the Act or Rule 22c–1 thereunder. However in order to avoid the possibility of the applicability of these sections and rule, Applicants request exemptions therefrom to the extent necessary to permit the offer and sale of the Contracts with the administrative charge as described above.

As noted previously, Rule 22c–1, promulgated pursuant to section 22(c) of the Act, prohibits a registered investment company issuing a redeemable security, a person designated in such company's prospectus as authorized to consummate transactions in any such security, and a principal underwriter of, or dealer in, any such security from selling, redeeming or repurchasing any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or repurchase or of an order to purchase or sell such security.

Applicants request an exemption from section 22(c) and Rule 22c–1 so as to permit the application of purchase payments received under the Contracts, as well as the determination of death benefits and redemption values under the Contracts, to be based on valuations as of the close of the New York Stock Exchange (the "Exchange") on the date the purchase payment, request for redemption or notice of death is received, regardless of whether such receipt on that day was before or after the close of the Exchange, provided that the purchase payment, request for redemption, or notice of death is received by mail. If received otherwise than by mail, the valuation as of the close of the Exchange next occurring after receipt would be applicable.

As noted above, sections 26(a) and 27(c)(2) of the Act, in substance, prohibit a depositor of or principal underwriter for a registered unit investment trust from selling any periodic payment plan

certificate issued by such a trust unless the certificate is issued pursuant to a trust indenture, agreement of custodianship or other instrument which provides (1) that the securities and other property of the trust shall be held by a custodian or trustee which is a qualified bank; (2) that the custodian or trustee shall not resign until either the trust has been liquidated or a qualified successor custodian or trustee has been appointed; and (3) that a record be kept of the interest of each holder of a security, and that security holders be notified as to any substitution of underlying securities.

Applicants request an exemption from the provisions of Sections 26(a) and 27(c)(2) to the extent necessary to permit (1) Mass Mutual itself to hold the property and assets of Accounts 1 and 2 in custody for safekeeping, rather than under an agreement of trust with a bank; and (2) the share of the Funds in which the assets of Accounts 1 and 2 are invested to be held by Mass Mutual on an open: account basis rather than to require the holding of physical share certificates.

The State of Texas in 1967 directed the governing boards of all Texas institutions of higher education to make available to their faculty members and Optional Retirement Program ("ORP") as an alternative to the existing Teachers Retirement System. The ORP was originally codified as Subchapter G of Chapter 51 of the Texas Education Code. Effective September 1, 1981, Subchapter G of Chapter 51 was repealed and Title 110B of the Texas Revised Civil Statutes, Public Retirement Systems, was enacted. Section 36.105 of Chapter 36 of Title 110B of the Texas Revised Civil Statutes provides that the benefits of an annuity purchased under the ORP are available only if the participant terminates participation in the program by death, retirement or termination of employment in all institutions of higher education.

Sections 27(c)(1) and 27(d) of the Act are summarized above. Section 22(e) of the Act provides that no registered investment company shall suspend the right of redemption or postpone the date of payment or satisfaction upon redemption of any redeemable security in accordance with its terms for more than seven days after the tender of such security to the company or its agent designated for that purpose for redemption except in certain prescribed circumstances.

Applicants assert that absent the requested relief, participants in the ORP will be denied an opportunity to select, through the purchase of a Contract issued by Account 1, a funding medium for their retirement benefits which is one of the funding media specifically provided in the Texas statute for such purpose. Applicants thus request exemptions for the provisions of Sections 22(e), 27(c)(1) and 27(d) of the Act to the extent necessary to permit compliance with Texas law as it pertains to redemption values under Contracts issued by Account 1 to participants in the ORP.

Applicants submit that they will ensure that appropriate disclosure is made to persons who consider participation in the ORP, informing them of the restriction on the availability of redemption values under Contracts to be issued to them. This disclosure will take the form of an appropriate reference in the prospectus of Account 1 to the restrictions on redemption of these Contracts, as well as requiring each participant, as part of a determination that the sale of these Contracts is suitable for the participant, to sign a statement indicating the he is aware that these restrictions will be placed on his Contract when it is issued. In addition, Mass Mutual will review all sales literature that is to be used in conjunction with the sale of these Contracts to ensure that the restrictions on redemptions to be placed on these Contracts are disclosed and will instruct the sales people involved in soliciting in this market specifically to bring this restriction to the attention of the potential participants.

Section 6(c)

Section 6(c) of the Act authorizes the Commission to exempt any person, security or transaction or any class or classes of persons, securities or transactions, from the provisions of the Act and rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested party may, not later than July 30, 1982 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, and order disposing of the application will be issued as of course following July 30, 1982 unless the Commission thereafter orders a hearing upon request or upon the Commission's motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing, if ordered, and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–19144 Filed 7–14–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 22572; 70–6748]

National Fuel Gas Co., et al.; Proposal To Make Loans to Transfered Employees

July 9, 1982.

In the matter of National Fuel Gas Co., 30 Rockefeller Plaza, New York, New York 10112; National Fuel Gas Supply Co., 308 Seneca Street, Oil City, Pennsylvania 16301; Penn-York Energy Corp., 10 Lafayette Square, Buffalo, New York 14203; National Fuel Gas Distribution Corp., 10 Lafayette Square, Buffalo, New York 14203; and Seneca Resources Corp., 333 Clay Street, Houston, Texas 77002 (70–6748).

National Fuel Gas Company ("National"), a registered holding company, and National Fuel Gas Distribution Corporation, National Fuel Gas Supply Corporation, Penn-York Energy Corporation and Seneca Resources Corporation, subsidiaries of National (collectively referred to herein with National as the "System Companies" or "Applicants") have filed an application, and an amendment thereto, with this Commission pursuant to the Sections 9(a) and 10 of the Public Utility Holding Company Act of 1935 ("Act") and applicable rules promulgated thereunder.

Applicants request authority to make loans to supervisory employees pursuant to a transfer reimbursement policy adopted in 1981 by the System Companies, a copy of which has been filed with this Commission. In light of current adverse market conditions and the timing problems inherent in the expeditious sale of a transferred employee's residence, the policy, in

addition to reimbursements for a variety of relocation expenses, provides for the making of loans, on a discretionary basis, in an amount not to exceed an employee's equity in the home being sold. Each loan would be evidenced by an interest-free demand note to be repaid within thirty (30) days of the sale of the residence or upon demand by the System Company.

Applicants assert that the authority to issue these loans pursuant to the official transfer policy and without prior case-by-case Commisson approval will enhance their ability to make timely and effective personnel decisions for the benefit of overall system operations. Detrimental costs to the interest of investors and consumers will increase without such authority. It is noted that no employee loan policy exists other than for transferred employees and at any one time the total amount of such employee loans has not exceeded $350,000.

Applicants propose that loans to employees under the transfer policy be reported on an annual basis as part of the Form U5S reporting requirement. All proposed changes in the transfer policy would be submitted by letter to the Commission not less than sixty (60) days prior to their effective date. If the Commission within the sixty (60) day period notifies applicants that a question exists as to whether any proposed change is consistent with provisions of the Act or of any rule, regulation or order thereunder, the proposed change will not become effective unless and until the Applicants have filed with the Commission an appropriate declaration or application regarding the proposed change and the Commission has permitted the declaration to become effective or has approved the application.

The application and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by August 4, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants at the addresses specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date the application, as amended or as it may be further amended, may be granted.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-19146 Filed 7-14-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12529; 811-674]

North River Securities Co., Inc.; Filing of Application

July 8, 1982.

In the matter of North River Securities Co., Inc., 595 Madison Avenue, New York, New York 10022 (811-674).

Notice is hereby given that North River Securities Co., Inc. ("Applicant"), a New York corporation registered under the Investment Company Act of 1940 ("Act"), through its successor North Oceanic Securities Co., Inc. ("North Oceanic") filed an application on May 25, 1982, requesting an order of the Commission pursuant to Section 8(f) of the Act declaring that Applicant, a closed-end management investment company, has ceased to be an investment company, as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Applicant was organized on January 10, 1952, and was registered under the Act on April 11, 1955. Applicant represents that pursuant to a Plan of Merger approved by its Board of Directors in accordance with Section 905 of the New York Business Corporation Law, Applicant on May 21, 1982 merged into North Oceanic, a New York corporation incorporated on October 5, 1981. Applicant states that on the date immediately preceding the date of the merger of Applicant into North Oceanic (the "Merger"), North Oceanic owned approximately 97% of the outstanding common stock of Applicant. Applicant further states that under the terms of the Merger, the shareholders of Applicant (other than North Oceanic) are to receive cash representing the fair value of their shares ($15.11) and do not have any interest in North Oceanic, the surviving corporation.

According to the application, North Oceanic is not subject to the registration requirements of the Act by virtue of Section 3(c)(1) thereof because its outstanding securities are beneficially owned by fewer than 100 persons and it does not propose to make a public offering of its securities. Applicant avers that following its merger into North Oceanic, it no longer had independent legal existence under the laws of the State of New York.

Section 8(f) of the Act provides, in part, that when the Commission upon application finds that a registered investment company has ceased to be an investment company, it shall so declare by order and, upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is hereby given that any interested person may, not later than August 2, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his/her interest, the reasons for such request, and the issues, if any, of fact or law proposed to controverted, or he/she may request that he/she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personnally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-19145 Filed 7-14-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12524; 812-5140]

Prudential Insurance Company of America; Application

July 7, 1982.

In the matter of The Prudential Insurance Company of America, the Prudential Variable Contract Account-10, and The Prudential Variable Contract Account-11, Prudential Plaza, Newark, NJ 07101 (812-5140).

Notice is hereby given that The Prudential Insurance Company of America ("Prudential"), a mutual life insurance company organized under the laws of New Jersey, The Prudential Variable Contract Account-10 ("VCA–10") and the Prudential Variable Contract Account–11 ("VCA–11") (collectively the "Accounts"), two separate accounts of Prudential registered under the Investment Company Act of 1940 ("Act") as open-end, management investment companies (sometimes referred to as "Applicants"), filed an application on March 19, 1982, and an amendment thereto on July 6, 1982, for an order of the Securities and Exchange Commission pursuant to Section 6(c) of the Act granting exemptions, to the extent requested, from Sections 2(a)(32), 2(a)(35), 15(a), 16(a), 22(c), 22(d), 26(a), 27(c)(1), 27(c)(2), 27(d) and 32(a) of the Act and Rule 22c–1 thereunder. All interested persons are referred to the application on file with the Commission for a statement of the facts and representations contained therein which are summarized below.

Background

According to the application, the Accounts were established on January 12, 1982, as separate accounts of Prudential for the purpose of funding certain variable accumulation contracts ("Contracts"). Prudential is the investment manager for the Accounts and may be deemed to be the principal underwriter of the Contracts. Applicants assert that the Contracts will be issued in connection with certain tax-benefited retirement arrangements. Amounts accumulated in these Accounts may be used in order to purchase the fixed-dollar annuity available under the Contracts. The Contracts do not provide for a variable annuity.

Two Contracts will be offered. One provides for the investment of contributions in VCA–10. The other provides for the investment of contributions in VCA–11. The Contracts ordinarily will be issued to employers ("Contract-holders") who will make contributions under them on behalf of their employees ("Participants"). Contributions may also be made for Participants under a companion fixed-dollar annuity contract ("companion contract"). A Contract-holder's "Program" will consist of one or more of the Contracts funded through the Accounts and the companion contract, as the Contract-holder may elect. Applicants state that Participants will designate how contributions made on their behalf will be allocated among the contracts that comprise the Contract-holder's Program. This allocation may be changed from time to time by the Participants by notifying Prudential. Prudential will establish an accumulation account in the name of a Participant in each Account in which he invests. The value of an accumulation account in VCA–10 or VCA–11, as the case may be, will vary with the investment results of that Account.

Applicants declare that no sales charge will be deduted from any contribution when it is made. A deferred sales charge may be assessed, however, when a contribution is withdrawn. The deferred sales charge will be imposed only upon contributions withdrawn by the Participants during the first 15 years of his participation in a Program. For Participants covered by a tax-deferred annuity or a Keogh Plan, the deferred sales charge will be 7% upon contributions withdrawn during the first two years of participation, 6% during the next three years, 4% during the next five years, and 3% during the eleventh through fifteenth yeers. For Participants covered by an individual retirement annuity or an eligible deferred compensation plan, the charge will be one percentage point lower in each time bracket.

Applicants assert that withdrawals will be deemed to be made up of contributions until all of a Participant's contributions to an Account have been withdrawn. Transfers of contributions among the Accounts and the companion contract will be treated as withdrawals of contributions from the Account from which the transfer is made, but no deferred sales load will be imposed upon them. They will, however, be treated as contributions to the Account to which the transfer is made for purposes of determining the deferred sales load, if any, upon subsequent withdrawals from that Account

Applicants state, as noted above that under the Contracts, amounts may be transferred from VCA–10 or VCA–11 without the imposition of a deferred sales charge; that a Participant's accumulation account in VCA–10 or VCA–11 may be maintained for his beneficiary in the event the Participant dies before that account is cancelled and although the beneficiary may make withdrawals from the Account just as the Participant could, no deferred sales charge will be imposed upon any withdrawal by a beneficiary; and that no deferred sales charge will be imposed upon any withdrawal by a Participant who has been in a Program for three years to purchase the fixed-dollar annuity available under the Contracts. Applicants further assert that no deferred sales charge will be made upon the cancellation by Prudential of inactive, small-balance accounts, and tha there will be no deferred sales charge upon withdrawals received as one-sum cash payments in lieu of annuities where the first monthly annuity payment would be less than the minimum specified in the Contract and where the withdrawal is made after the Participant has been in a Program for three years, and that no deferred sales charge will be imposed upon withdrawals made to effectuate transfers to an accumulation account established for the same Participant under a Contract to another employer.

Applicants state that an annual account charge for administrative expenses will be made against each Participant's accumulation accounts under a Program. This charge will not exceed $20 for any calendar year and may be divided among the Participant's accumulation accounts in VCA–10, VCA–11 and under a companion contract. The charge will be made on the last business day of each calendar year or upon the withdrawal in full of all of a Participant's accumulation accounts under a Program. Also, a daily deduction will be made against each Participant's accumulation accounts in VCA–10 and VCA–11, computed at an effective annual rate of 1.00%. This deduction is made up of 0.25% (¼ of 1%) for investment management services and 0.75% (¾ of 1%) for administrative expenses not covered by the annual account charge. The deferred sales and annual account charges may be changed by Prudential after a Contract has been in effect for two years. The daily deduction for administrative expenses may be changed by Prudential after a Contract has been in effect for five years. Prudential performs the administrative functions for the Accounts. Applicants state that any premium or other taxes imposed by a state or other governmental entity will be deducted from a Participant's accumulation account in VCA–10 or VCA–11 on the date an annuity is purchased.

Applicants state that if the distribution expenses incurred by Prudential in connection with the sale of the Contracts exceed the revenues it realizes from the imposition of the deferred sales charge, the difference will be met out of Prudential's unassigned surplus, which will include the profit it will realize from the charges for investment management services to VCA–10 or VCA–11. The application asserts that the profit Prudential expects to derive from these charges is reasonable, legitimate and not

excessive. The application states that if the actual mortality of annuitants is greater than that assumed in constructing the schedule of annuity rates used in determining the amount of fixed-dollar annuities that are purchased with funds withdrawn from VCA–10 and VCA–11 under the Contracts, the resulting gains will also be added to Prudential's surplus. The application further states that Prudential has represented to the other applicants that those gains will also be reasonable, legitimate and not excessive, and that, when combined with the profits to be derived from the charges for investment management services, are expected to exceed the amount, if any, by which distribution expenses in connection with the Contracts exceed collections of deferred sales charges over the long term.

Exemptive Relief Requested

Section 2(a)(35) of the Act defines "sales load" as the difference between the price of a security to the public and that portion of the proceeds from its sale which is received and invested, less any portion of such difference deducted for trustee's or custodian's fees, insurance premiums, issue taxes, or administrative expenses or fees which are not properly chargeable to sales or promotional activities. Applicants request an exemption from the provisions of Section 2(a)(35) to the extent deemed necessary to permit them to impose the deferred sales charge.

Section 2(a)(32) of the Act defines a "redeemable security" as any security under the terms of which the holder is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof. Section 27(d) of the Act requires that the holder of a periodic payment plan certificate be able to surrender that certificate within a specified time and receive the value of his account and any sales charges in excess of a certain percentage. The Application states that the Contracts may be deemed to be periodic payment plan certificates as defined in Section 2(a)(27) of the Act. Applicants request an exemption from the definition of redeemable security in Section 2(a)(32) and from the requirements of Section 27(d) to the extent deemed necessary to permit them to impose the deferred sales charge.

Section 22(c) of the Act and Rule 22c–1 thereunder prohibit a registered investment company issuing redeemable securities from selling, redeeming, or repurchasing any such security except at a price based on the current net asset value of the security. Applicants assert that the imposition of the deferred sales charge does not violate either of these provisions because the payment received by a Participant will be based on the current net asset value of his accumulation account. However, in order to avoid any uncertainty, Applicants request an exemption from the provisions of Section 22(c) and Rule 22c–1 to the extent necessary to permit them to impose the deferred sale charge.

Section 27(c)(1) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor or underwriter of such company, to sell any such certificate unless it is a redeemable security. Applicants submit that the imposition of a deferred sales charge does not restrict redemption within the meaning of Section 27(c)(1), but in order to avoid any uncertainty, they request an exemption from the provisions of Section 27(c)(1) to the extent deemed necessary to permit them to impose the deferred sales charge.

Section 27(c)(2) of the Act provides that an investment company may not offer periodic payment plan certificates unless, among other things, the proceeds of all payments (other than the sales load) on such certificates are deposited with a trustee or custodian having the qualifications prescribed in Section 26(a)(1) and are held by that trustee or custodian under an indenture or agreement containing, in substance, the provisions required by Section 26(a)(2). Section 26(a)(2)(C) provides that no payments to the depositor of, or principal underwriter for, a registered unit investment trust (or any affiliated person or agent of such depositor or principal underwriter) shall be allowed the trustee or custodian as an expense except for payment of a fee, not exceeding such reasonable amount as the Commission may prescribe as compensation for performing bookkeeping and other administrative services of a character normally perormed by the trustee or custodian. Applicants request an exemption from the provisions of Sections 26(a) and 27(c)(2) to the extent deemed necessary to permit them to impose the deferred sales charge. Furthermore, Applicants request an exemption from Sections 27(c)(2) and 26(a) to the extent deemed necessary to permit the deduction by and the payment to Prudential of (1) the daily asset and annual account charges for administrative expenses, (2) any applicable premium taxes, and (3) the fee for investment management services, as described above.

Since, according to Applicants, the full annual account charge will be deducted from a Participant's accumulation account in VCA–10 or VCA–11 if the Participant makes a full withdrawal of all of his accumulation accounts, *i.e.*, those that may be maintained for him in both Accounts and under a companion contract, Applicants request an exemption from the provisions of Sections 2(a)(32), 22(c), 27(c)(1), and 27(d) of the Act and Rule 22c–1 thereunder to the extent deemed necessary to permit the deduction of the annual account charge in such circumstances.

Section 22(d) of the Act provides in relevant part that no registered investment company or principal underwriter thereof shall sell any redeemable security to the public except at a public offering price described in the prospectus. Applicants request an exemption from the provisions of Section 22(d) to the extent necessary to permit Applicants not to impose the deferred sales charge in circumstances described above. Applicants argue that their proposals will not unfairly discriminate against any person. They claim that the withdrawals upon which no deferred sales charge will be imposed are properly distinguishable and are made under circumstances in which it would be inequitable to assess a sales charge.

Section 15(a) of the Act provides that no person is permitted to serve or act as investment adviser of a registered investment company pursuant to a written contract which, among other things, has been approved by a vote of a majority of the outstanding voting securities of such registered company. Section 16(a) of the Act provides that no person shall serve as a director of a registered investment company unless elected to that office by the holders of the outstanding voting securities of such company at an annual or a special meeting duly called for that purpose. Section 32(a)(2) of the Act provides that is shall be unlawful for a registered management company to file with the Commission any financial statement signed or certified by an independent public accountant unless the selection of such accountant shall have been submitted for ratification or rejection at the annual meeting next succeeding the selection of such accountant by the board of directors.

Each of the Accounts is under the general supervision of a committee ("Committee") comprised of five members ("Members") initially selected by Prudential. Under the respective rules and regulations of the Accounts, the first annual meeting of Participants in the respective Accounts is to be held

on the second Thursday of September of each year after 1982 or on any other day of any year as may be determined by the Account's Committee. Applicants represent that the initial meeting of an Account's Participants will be held no later than September 8, 1983. At each annual meeting, according to Applicants, vote will be taken on the election of Members of the Committees, the approval of an investment management agreement between Prudential and each of the Accounts, and the ratification of the selection of the independent public accountant for each of the Accounts. Although Prudential will provide the initial capital for each of the Separate Accounts, it has no voting rights in respect thereof.

Applicants request exemption from the requirements of Sections 15(a), 16(a) and 32(a)(2) of the Act so that each of the Accounts may operate without such election, approval and ratification by persons having voting rights until action with respect to those matters is taken at an initial meeting of Participants in the respective Accounts to be held no later than September 8, 1983.

Section 6(c)

Section 6(c) of the Act authorises the Commission to exempt any person, security or transaction or any class or classes of persons, securities or transactions, from the provisions of the Act and rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice if further given that any interested party may, not later than July 30, 1982 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he many request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following July 30, 1982 unless the Commission thereafter orders a hearing upon request or upon the Commission's motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing, if ordered, and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–19143 Filed 7–14–82; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[License No. 10/10–0168]

C. H. Capital Corp.; Surrender of License

Notice is hereby given that, pursuant to Section 107.105 of the Small Business Administration (SBA) Rules and Regulations governing Small Business Investment Companies (13 CFR 107.105 (1982)), C. H. Capital Corporation, 11201 S.E. 8th, Suite 163, Bellevue, Washington 98004, incorporated under the laws of the State of Washington, has surrendered its License No. 10/10–0168, issued by the SBA on September 12, 1979.

C. H. Capital Corporation, has complied with all conditions set forth by SBA for surrender of its license. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the above-cited Regulation, the license of C. H. Capital Corporation is hereby accepted and it is no longer licensed to operate as a Small Business Investment Company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 9, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82–19220 Filed 7–14–82; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area No. 2053]

New Jersey; Declaration of Disaster Loan Area

The Township of Berkley, in the County of Ocean, in the State of New Jersey constitutes a disaster area as a result of damage caused by a tornado which occurred on June 29, 1982. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on September 6, 1982, and for economic injury until the close of business on April 8, 1983, at the address below: U.S. Small Business Administration, Peter W. Rodino, Jr. Office Building, 970 Broad Street, Room 1435–D, Newark, New Jersey 07102, or other locally announced locations.

	Percent
Homeowners with credit available elsewhere	15%
Homeowners without credit available elsewhere	7%
Businesses with credit available elsewhere	15%
Businesses without credit available elsewhere	8
Businesses (EIDL) without credit available elsewhere	8
Other (non-profit organizations including charitable and religious organizations)	11%

It should be noted that assistance for agriculture enterprises is the primary responsibility of the Farmers Home Administration as specified in Pub. L. 96–302.

Information on recent statutory changes (Pub. L. 97–35, approved August 13, 1981) is available at the above-mentioned office.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: July 8, 1982.

James C. Sanders,

Administrator.

[FR Doc. 82–19219 Filed 7–14–82; 8:45 am]

BILLING CODE 8025–01–M

[License No. 01/01–0320]

RIHT Capital Corp.; Issuance of License

On April 6, 1982, a Notice was published in the **Federal Register** (47 FR 14822) stating that an application had been filed by RIHT Capital Corporation, One Hospital Trust Plaza, Providence, Rhode Island 02903, with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (SBIC's) under the provisions of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business April 21, 1982, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, the SBA issued License No. 01/01–0320 to RIHT Capital Corporation, to operate as an SBIC.

(Catalog of Federal Domestic Assistance Program No. 59.001, Small Business Investment Companies)

Dated: July 9, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-19221 Filed 7-14-82; 8:45 am]

BILLING CODE 8025-01-M

Privacy Act of 1974; Proposed Revision of Systems of Records

AGENCY: Small Business Administration (SBA).

ACTION: Notice of Revision of Systems of Records.

SUMMARY: It is intended that the Systems of Records maintained by SBA be amended by this publication.

DATES: Comments must be received on or before August 16, 1982.

FOR FURTHER INFORMATION CONTACT:

Bernard Kulik, Deputy Associate Administrator for Disaster Assistance, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to add a new system to the Agency's Systems of Records.

NOTICE: Proposed new system of records.

In 41 FR 41647, and in a notice of proposed new systems in 42 FR 12108, the Small Business Administration published notices of systems of records in compliance with The Privacy Act of 1974 (Pub. L. 93-579, 5 U.S.C. 552a(o)).

Notice is hereby given that SBA has submitted a proposed addition to the systems of records pursuant to guidelines of the Office of Management and Budget regarding the preparation and submission of reports by Federal Agencies of their intention to establish or alter systems of records as required by The Privacy Act of 1974.

Any person interested in commenting on the following proposed additional system may do so by submitting comments in writing to Administrator, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416. Comments must be submitted on or before August 16, 1982.

Dated: July 8, 1982.

James C. Sanders,

Administrator.

SBA-450

SYSTEM NAME:

Temporary Disaster Employees

SYSTEM LOCATION:

Disaster Assistance Division, Small Business Administration, 1441 L Street, NW., Washington, D.C.

CATEGORIES OF RECORDS IN THE SYSTEM:

Temporary employees of the Disaster Assistance Division. These records contain name, address, telephone number where person can be reached, grade, specialty, date of and reason for termination, and summary of supervisor's evaluation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 15 U.S.C. 634(b)(6), 44 U.S.C. 101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records will be used by Disaster Area Directors and personnel officers assigned to each Disaster Area to verify previous employment history when a former employee is considered for reemployment.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

These records will be maintained in card files.

RETRIEVABILITY:

These records will be filed alphabetical by the individual's last name.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosures.

RETENTION AND DISPOSAL:

Records are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Associate Administrator, For Disaster Assistance, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to the manager listed above.

RECORD ACCESS PROCEDURE:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the system manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Disaster Area Directors.

[FR Doc. 82-19130 Filed 7-14-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Intent To Prepare an Environmental Impact Statement on Runway 15-33 Extension at Barnstable Municipal Airport, Hyannis, Massachusetts, and Notice of Scoping Meeting

The Federal Aviation Administration, New England Region, and the Barnstable Airport Commission, acting as joint lead agencies, intend to prepare a Federal Environmental Impact Statement/State Environmental Impact Report on: Runway 15-33 extension, with a parallel taxiway; an Instrument Landing System (ILS); and a Medium Intensity Approach Lighting System (MALSR), at Barnstable Municipal Airport, Hyannis, Massachusetts. It is also proposed to acquire land interests in approximately 25 acres for meeting the clearance criteria and runway approach protection. Alternative runway lengths ranging between no extension to a maximum of 1,650 foot extension of Runway 15 will be evaluated.

A joint Federal and State Scoping Meeting will be held on Tuesday, August 17, 1982, at 2 p.m. at the Public Hearing Room, Barnstable Town Hall, South Street, Hyannis, Massachusetts. The meeting will be held to identify the significant issues related to the proposed development and consider a scope of work to address those issues to this EIS. As a part of the follow up scoping process, the study team members will be available from 5 p.m. to 8 p.m. on the same day and at the same place to further discuss the relevant issues with the interested persons. All interested agencies, organizations, and persons are invited to attend and provide input and comments to finalize the scope of work.

Inquiries about the proposed action should be directed to: M. Ashraf Jan, Environmental Specialist, FAA, Airports Division, 12 New England Executive Park, Burlington, MA 01803, Telephone No. (617) 273–7233.

Dated: July 1, 1982.

Vincent A. Scarano,

Chief, Planning and Programming Branch, Airports Division.

[FR Doc. 82-19050 Filed 7-14-82; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement: Bernalillo County, New Mexico

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a Supplement to a Draft Environmental Impact Statement will be prepared for a proposed highway project in Bernalillo County, New Mexico.

FOR FURTHER INFORMATION CONTACT: Dewey O. Lonsberry, Program Development Engineer, Federal Highway Administration, 117 U.S. Courthouse, Santa Fe, New Mexico 87501, Telephone: (505) 988–6136; Donald Lepic, Technical Services Engineer, New Mexico State Highway Department, P.O. Box 1149, Santa Fe, New Mexico 87503, Telephone: (505) 983–0554; or James Milton, Transportation Planner, Transportation Department, City of Albuquerque, P.O. Box 1293, Albuquerque, New Mexico 87103, Telephone: (505) 766–4700.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the New Mexico State Highway Department and the City of Albuquerque, Transportation Department, will prepare a Supplemental Environmental Impact Statement (EIS) on a proposal to extend Juan Tabo Boulevard south to Wagon Train Drive in Albuquerque, New Mexico. Three alternate routes connecting Wagon Train Drive to Juan Tabo Boulevard and the no build alternate have already been addressed in a draft Environmental Impact Statement (New Mexico Project Number: M–4065(3)), released for public review and comment August 25, 1981. The Supplement to the Draft Environmental Impact Statement is required to address the location and impacts of a new route proposed by an interested party, at a public hearing held September 30, 1981.

The new route, which is approximately 0.85 miles in length, begins at the intersection of Wagon Train Drive at Via Posada, extends northwesterly across the Tijeras Arroyo, and terminates at Juan Tabo Boulevard, south of La Puerta Avenue. Improvements in the corridor are considered necessary to provide adequate capacity for existing and projected traffic demands, avert future congestion, and accommodate in-fill development of approximately 900 acres of undeveloped land.

No formal scoping meeting is planned at this time. A public hearing will be scheduled upon completion of the Draft Supplemental Environmental Impact Statement. A public notice will be given of the time and place of the hearing. The draft Supplemental Environmental Impact Statement will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to this proposal are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposal and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued on: July 2, 1982.

Dewey O. Lonsberry,

Program Development Engineer Santa Fe, New Mexico.

[FR Doc. 82-19089 Filed 7-14-82; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement Nashville, Davidson County, Tenn.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed project in Nashville, Davidson County, Tennessee.

FOR FURTHER INFORMATION CONTACT: Mr. E. G. Oakley, Division Administrator, Federal highway Administration, Federal Building, U.S. Courthouse, 801 Broadway, Suite A–926, Nashville, Tennessee 37203, telephone (615) 251–5394.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the Tennessee Department of Transportation will prepare an environmental impact statement (EIS) on a proposal to construct the proposed Briley Parkway in Davidson County, Tennessee. The proposed improvement would involve the construction of a new four-lane highway including a new bridge over the Cumberland River. The proposed project begins at the existing intersection of Briley Parkway and Centennial Boulevard and extends north crossing the Cumberland River at stream mile 182. After crossing the Cumberland River, the proposed traverses the northwestern section of Davidson County. The proposed project ends at Knight Road. Depending on the alternative selected, the proposed improvement would have a length of approximately 6.2 miles to 8.9 miles. Improvements are considered necessary to provide for the existing and project traffic demand.

Alternatives under consideration include (1) taking no action; (2) mass transit; (3) transportation system management; (4) constructing a four-lane limited access roadway on new location.

Three public meetings have been held in Nashville, two meetings in 1978 and one meeting in 1982. Letters describing the proposed action and soliciting comments were sent to appropriate Federal, State, and local agencies on October 22, 1981. These activities are providing input regarding the scope of the EIS. A corridor public hearing and a design public hearing will be held.

To insure that the full range of issues related to this proposed action are addressed and that all significant issues are identified, comments and suggestions are invited from all interested parties. Comments and suggestions concerning the proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of Circular No. A–95 regarding State and local clearinghouse review of Federal and Federally assisted programs and projects apply to this program)

Issued July 8, 1982.

Eward G. Oakley,

Division Administration, Tennessee Division, Nashville, Tennessee.

[FR Doc. 82-19134 Filed 7-14-82; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

[Docket No. IP81-22; Notice 2]

General Motors Corp.; Grant of Petition for Inconsequential Noncompliance

This notice grants the petition by General Motors Corp. ("GM") of Warren, Michigan to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for a noncompliance with 49 CFR 571.101–80, Motor Vehicle Safety Standard No. 101–80, *Controls and Displays.* The basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on November 18, 1981, and an opportunity afforded for comment (46 FR 56296).

Paragraph S5.2.1 and Table I of Standard No. 101–80 require that a hand-operated control, combining windshield wiping and washing functions on any motor vehicle manufactured on or after September 1, 1980, be identified with the appropriate International Standards Organization (ISO) symbol.

GM has produced about 140 Brigadier trucks since September 1, 1980, in which the combination control was identified by the wiping symbol only; omitted were the dashed lines indicating a jet of water. GM did not say whether identification has been provided also through use of the optional wording permitted by Standard No. 101–80, but it argued that the noncompliance is inconsequential because a dual function control is commonly used on motor vehicles. Further, the function of the control is explained in the Operator's Manual.

No comments were received in response to the notice.

The agency believes that the professional drivers who operate these heavy duty vehicles will recognize the function of the control without any difficulty as it is the only control provided for the wipe/wash functions. Failure to provide the washing portion of the wipe/wash symbol is therefore deemed to be inconsequential as it relates to motor vehicle safety.

Accordingly, it is found that petitioner has met its burden of persuasion, and its petition is hereby granted.

The engineer and attorney responsible for this notice are John Carson and Taylor Vinson, respectively.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on July 7, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 82-18797 Filed 7-14-82; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. IP81-19; Notice 2]

General Motors Corp.; Grant of Petitions for Inconsequential Noncompliance

This notice grants the petition by General Motors Corp. of Warren, Michigan to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for two noncompliances with 49 CFR 571.101–80, Motor Vehicle Safety Standard 101–80, *Controls and Displays.* The basis of the petition was that the noncompliances are inconsequential as they relate to motor vehicle safety.

Notice of the petition was published on October 29, 1981, and an opportunity afforded for comment (46 FR 53576).

Paragraph § 5.2.1 and Table I of Standard No. 101–80 require that a rear defroster control, on any passenger car manufactured on or after September 1, 1980, be identified with the appropriate International Standards Organization (ISO) symbol. At its option, the manufacturer may also provide the identifying words "Rear Def." Use of an identifying word was mandatory before September 1, 1980, and no symbols were allowed.

General Motors has produced over 4,600 of its Oldsmobile 88 and 98 models since September 1, 1980, in which the rear defroster control was identified only by the words "Rear Def", complaint with Standard No. 101, but noncomplaint with Standard No. 101–80. General Motors argued that use of the previously acceptable wording creates no safety hazard as it is readily understandable by the public, and more likely to be understood at this point than by use of the symbol alone.

In over 115,000 1981 Chevrolets, the symbol has been provided but the word identification of the rear defogging control, instead of "Rear Defog" or "Rear Def" has appeared as "R/Defog" or "R.Defog." General Motors argued that the identification is readily understandable.

No comments were received in response to the notice.

The agency concurs with petitioner's conclusion that failure to use the required symbol on the Oldsmobile defroster control is inconsequential as it relates to motor vehicle safety; the words used were previously required, and are readily understood and should not cause confusion. Similarly, usage of the letter "R" rather than "Rear" should not create confusion, and may also be considered to have an inconsequential effect.

Accordingly, it is found that petitioner has met its burden of persuasion that the noncompliances herein described are inconsequential as they relate to motor vehicle safety, and its petition is hereby granted.

The engineer and attorney responsible for this notice are John Carson and Taylor Vison, respectively.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on July 7, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 82-18798 Filed 7-14-82; 8:45 am]

BILLING CODE 4910-59-M

Federal Aviation Administration

Random Drawing To Determine Air Carrier Priority Sequence for Certain Temporary Airport Arrival Slots

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Public Drawing.

PURPOSE OF MEETING: The Federal Aviation Administration announces a public drawing to determine the priority sequence of requests by air carriers for temporary arrival slots at airports at which Braniff International Airways, Inc. (Braniff) had been allocated arrival slots (Braniff slots). The arrival slots in the draw include previously awarded Braniff slots which have been returned by air carriers and slots previously awarded on an emergency basis but not converted to temporary slots as a result of the draw held May 27, 1982. Carriers must be prepared to utilize slots

allocated under this draw effective August 29 or they will lose the slot and all parties are put on notice that the award of these slots may be revoked upon 24-hour notice. The public is invited to observe the drawing.

DATE: July 14, 1982, 10:00 a.m.

PLACE: FAA Auditorium, 3rd floor, 800 Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. Harvey B. Safeer, Director, Office of Aviation Policy and Plans, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, (202) 426–3331.

Drawing Procedures

Interested parties are invited to observe the drawing. Slots included in the draw are those temporary Braniff slots which have been returned by air carriers and slots previously awarded on an emergency basis but not converted to temporary slots. In accordance with SFAR No. 44–4, the following procedures and conditions are applicable to the Braniff slots previously allocated to Braniff (identified in the table of Available Braniff Arrival Slots set forth below):

1. If capacity is not available for all air carrier requests submitted to the FAA Associate Administrator for Policy and International Affairs (API–1) in accordance with the July 2, 1982, telegraphic message to air carriers from API–1, priority consideration will be given in accordance with the random draw procedures set forth below:

(a) The order in which capacity will be allocated to each carrier will be determined by random draw. If additonal capacity still remains after each carrier has been allocated slots, the allocation sequence will be repeated based upon the order previously established by random draw. The allocation sequence will be repeated until all available or requested new/additional capacity is allocated at each airport.

(b) The allocation of slots by the FAA under the random draw system will reflect the carriers hourly preference at each of the airports as submitted to API–1 in accordance with the July 2, 1982, telegraphic message. First preference will be awarded where available. When not available, the next available hourly preference will be allocated.

(c) A random draw will be held for each of the airports (identified in the table set forth below) at which Braniff slots are available for temporary allocation.

(d) At an airport with 10 or fewer available slots, no carrier will receive more than 2 slots each time it comes up in the allocation sequence. At an airport with more than 11 slots no carrier will receive more than 3 slots each time it comes up in the allocation sequence. In no event will a carrier receive more slots at any airport than it requested.

(3) For the purpose of this slot allocation, O'Hare-Midway; DFW-Love; and Houston Intercontinental-Hobby shall be treated as a single airport. A slot allocated at one of these airports may be used at the other airport.

2. Slots are temporary creations of FAA emergency regulations and do not confer on any carrier a long-term right. Slots can be taken away from any carrier in accordance with the terms of any applicable regulation. The slots allocated under this drawing and slots allocated under SFAR No. 44–4 will be for a period of up to 60 days from August 29, 1982, and may be cancelled by the FAA at the end of the 60-day period or during that period upon 24-hour notice. The temporary approval of these slots may be extended at the discretion of the Administrator.

3. Carrier must be prepared to utilize all arrival slots allocated in this drawing beginning on August 29, 1982 or they will be returned to the FAA for reallocation. All emergency Braniff slots held by air carriers must be returned by August 29, 1982. All parties are put on notice that the Civil Aeronautics Board has requested an opportunity to review the need to continue certain of the emergency allocations. In addition, Muse Air Corporation (Docket No. 23188) has filed a petition for exemption with the FAA to allow them to continue to utilize emergency allocations. A summary of the petition will be published in the **Federal Register** on July 13 and July 15 with comments due on July 19, 1982. As a result of these actions, a number of slots in the lottery *may* not be allocated.

4. No new/additional flight requests for changes will be accepted by the FAA in a submittal made for this drawing.

5. "Braniff" slots are not subject to transfer or exchange, except in exchange for other "Braniff" slots. Any exchanges or transfers must comply with previously established procedures. All future schedule submissions to the FAA shall separately identify these slots as temporary "Braniff" slots as identified by the designator "DS".

6. No person shall operate an air carrier flight unless approval for the operation has been received in writing prior to the flight from API–1.

AVAILABLE BRANIFF AIRPORT ARRIVAL SLOTS

Arrival airport	Hour available in GMT time	Number of slots available
Austin, Texas (AUS)	0000	
	0200	1
		1
	1800	1
	2200	1
Amarillo, Texas (AMA)	2000	
	2300	1
		1
Chicago O'Hare, Illinois (ORD) or Chicago Midway (MDW)	0000	
	0100	1
		1
	1400	1
	1700	2
	2000	1
	2300	1
	2100	1
Corpus Christi, Texas (CRP)	0000	
	1900	1
		1
Dallas/Ft. Worth, Texas (DFW) or Dallas Love (DAL)	0000	
	0200	
	0300	1
		1
		1
	1100	1
	1300	2
	1400	2
	1500	1
	1600	2
	1700	3
	1800	2
	1900	2
	2000	2
	2100	1
	2300	2
Denver, Colorado (DEN)	0400	
	1400	
	2200	1
		1
		1
Des Moines, Iowa (DSM)	0400	1
Ft. Lauderdale, Florida (FLL)	0500	1
Harlingen, Texas (HRL)	1700	
	2100	2
		1
Houston, Intercontinental, Texas (IAH) or Houston Hobby (HOU)	0300	
	0400	
	1200	
	1500	2
		1
		1
		2
	1600	1
	2200	1
	2300	1
Kansas City, Missouri (MCI)	0000	
	0200	
	1200	2
		1
		1
	1600	1
	1800	1
	2000	1
	2100	1
	2200	1
	2300	2
LaGuardia, New York (LGA)	0200	
	1400	1
		1
	2100	1
Las Vegas (LAS)	0500	1

AVAILABLE BRANIFF AIRPORT ARRIVAL SLOTS—Continued

Arrival airport	Hour available in 24hr time	Number of slots available
	2200	1
Memphis, Tennessee (MEM)	1300	
	1600	3
		1
	2100	1
Miami, Florida (MIA)	0000	1
	0400	1
	1500	1
	2000	1
Midland/Odessa, Texas (MAF)	0200	
	1500	1
		1
	2000	1
Minneapolis/St. Paul, Minnesota (MSP)		
	1700	
	1800	
	1900	2
		1
		1
	2100	1
Nashville, Tennessee (BNA)	2200	1
Newark, New Jersey (EWR)	0300	1
New Orleans, Louisiana (MSY)	0200	
	0400	
	1300	1
		1
		1
	2000	1
JF Kennedy, New York (JFK)	2200	1
Oklahoma City, Oklahoma (OKC)		
	0200	
	1300	1
		1
Omaha, Nebraska (OMA)	0100	
	1300	1
		1
	1400	1
	1900	1
	1932	1
	2100	1
Orlando, Florida (MCO)	1403	
	1500	1
		1
	1700	1
Philadelphia, Pennsylvania (PHL)	0200	1
Portland, Oregon (PDX)	3406	
	2300	1
		1
San Antonio, Texas (SAT)	0300	
	1300	1
		1
	1800	1
	2200	1
Seattle, Washington (SEA)	0200	
	1400	1
		1
	1600	1
	1900	1
	2300	1
Tampa, Florida (TPA)	0000	1
Tulsa, Oklahoma (TUL)	0000	
	0100	1
		1
	0200	2
	1300	2
	1400	2
	1800	1
	2100	1
	2300	1
Wichita, Kansas (ICT)	0000	
	0200	1
		1
	1400	1
	1500	1
	1700	2
	1800	1
	2000	1

(Secs. 307, 313(a), and 601, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c))

Issued in Washington, D.C., on July 13, 1982.

Thomas P. Messier,

Acting Associate Administrator for Policy and International Aviation.

[FR Doc. 82-19413 Filed 7-14-82; 9:43 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TREASURY

Public Information Collection Requirements Submitted to OMB for Review

During the period July 2 through July 8, 1982, the Department of Treasury submitted the following public information collection requirements to OMB, for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634-2179. Comments regarding these information collections should be addressed to the Treasury Reports Management Officer, Information Resources Management Division, Room 309, 1625 I St. N.W., Washington, D.C. 20220; *and* to the OMB reviewer listed at the end of each entry.

Date Submitted: July 6, 1982.

Submitting Bureau: Alcohol, Tobacco and Firearms.

OMB Number: 1512-0131.

Form Number: ATF F 4706 (5400.14).

Type of Submission: Extension.

Title: License (18 U.S.C. Chapter 40, Explosives).

Purpose: License contains a renewal application by which the explosives permittees apply for their new licenses. Form requires the explosives business to answer yes or no to 10 specific questions, which ATF uses to determine the license's eligibility to continue to engage in the explosives business.

OMB Reviewer: Suzann Evinger (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

* * * * *

Date Submitted: July 6, 1982.

Submitting Bureau: Alcohol, Tobacco and Firearms.

OMB Number: 1512-0132.

Form Number: ATF F 4708 (5400.15).

Type of Submission: Revision.

Title: Permit (18 U.S.C. Chapter 40, Explosives).

Purpose: Permit contains a renewal application by which the explosives permittees apply for their new permits. Form requires the explosives business to answer yes or no to 10 specific questions, which ATF uses to determine the permittee eligibility to continue to engage in the explosives business.

OMB Reviewer: Suzann Evinger (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

* * * * *

Date Submitted: July 8, 1982.

Submitting Bureau: U.S. Customs Service.

OMB Number: 1515-0053.

Form Number: CF 3299.

Type of Submission: Extension.

Title: Declaration of Free Entry of Unaccompanied Articles.

Purpose: Form serves as a declaration for residents, non-residents and military personnel who are attempting to enter their personal and household goods free of duty. This form is applicable for tools of trade and professional books as well.

OMB Reviewer: Suzann Evinger (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

* * * * *

Date Submitted: July 6, 1982.

Submitting Bureau: Internal Revenue Service.

OMB Number: N/A (new submission).

Form Number: FO-673.

Type of Submission: New.

Title: Statement for Claiming Benefits Provided by Section 911 of the Internal Revenue Code.

Purpose: Form is completed by a citizen or resident of the United States and furnished to his or her employer, so the employer can exclude from income tax withholding all or part of the wages paid the citizen or resident for services performed outside the U.S..

OMB Reviewer: Michael Abrahams, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date Submitted: July 6, 1982.

Submitting Bureau: Internal Revenue Service.

OMB Number: 1545-0393.

Form Number: Letters 109C and 109SC.

Type of Submission: Extension.

Title: Duplicate of Refund Return Requested.

Purpose: If a taxpayer contacts the IRS regarding the non-receipt of a refund and a return cannot be found, letter 109C is sent requesting the taxpayer to file another return. Any refund can then be made after the return is processed.

OMB Reviewer: Michael Abrahams, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date Submitted: July 6, 1982.

Submitting Bureau: Internal Revenue Service.

OMB Number: N/A (new submission).

Form Number: FO–6881.

Type of Submission: New.

Title: HBCU Skills and Expertise Survey.

Purpose: This form will be sent to the faculty of historically Black colleges and universities (HBCU's). Those returning form will be placed on a list of possible vendors to the Internal Revenue Service. They will be considered along with other vendors wishing to contract with the IRS.

OMB Reviewer: Michael Abrahams, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Joy Tucker,

Departmental Reports Management Officer.

July 9, 1982.

[FR Doc. 82–19133 Filed 7–14–82; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

Customs Service

[067570]

Receipt of Domestic Interested Party Petition Concerning Classification of Chinaware

AGENCY: Customs Service, Treasury.

ACTION: Notice of extension of time for comment.

SUMMARY: This notice extends the period of time within which interested members of the public may submit written comments with respect to a notice of receipt of a domestic interested party petition concerning the classification of certain chinaware. A document inviting the public to comment on the petition was published in the **Federal Register** on May 13, 1982 (47 FR 20719). Comments were to have been received on or before July 12, 1982. A request has been received to extend the period for the submission of comments claiming that additional time is needed to submit thorough comments on the classification issue. Customs believes that the request has merit. Accordingly, the period of time for the submission of written comments is extended to August 13, 1982.

DATES: Comments must be received on or before August 13, 1982.

ADDRESS: Written comments (preferably in triplicate) may be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Thomas J. Lindmeier, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–5727).

Dated: July 12, 1982.

John P. Simpson,

Director, Officer of Regulations and Rulings.

[FR Doc. 82–19156 Filed 7–14–82; 8:45 am]

BILLING CODE 4820–02–M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 136
Thursday, July 15, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

COMMISSION ON CIVIL RIGHTS

PLACE: Room 512, 1121 Vermont Avenue, NW., Washington, D.C.

DATE AND TIME: Monday, July 12, 1982, 9:30 a.m.–12 noon, 1:30–4 p.m.

STATUS OF MEETING: Open to the public.

MATTERS TO BE CONSIDERED:

I. Approval of Agenda
II. Approval of Minutes of Last Meeting
III. Review of FY 1984 Budget Package
IV. Review of the report *Greater Baltimore Commitment*
V. Review of the report *Providing Services to Minority Elderly: New Programs, Old Problems*—Part II
VI. State Advisory Committee Recharters
  A. Alabama
  B. Indiana
  C. Minnesota
  D. Mississippi
  E. Rhode Island
VII. Action re: Joint Advisory Committee report entitled *Voting Rights in Alabama, Georgia, Mississippi, and South Carolina*
VIII. California Advisory Committee report entitled *Access to Political Representations: Legislative Reapportionment in California*
IX. California Advisory Committee report entitled *Statement on the State Role in School Desegregation*
X. Nebraska Advisory Committee report entitled *Police-Community Relations in Omaha*
XI. New Jersey Advisory Committee report entitled *Bigotry and Violence in New Jersey*
XII. New York Advisory Committee report entitled *Equal Employment Opportunity in New York City: The Challenge of the 1980's*
XIII. Wisconsin Advisory Committee report entitled *Falling through the Cracks: An Assessment of Bilingual Education in Wisconsin*
XIV. Wyoming Advisory Committee report entitled *Corporate Reactions to Workplace Conditions in Wyoming*
XV. Civil Rights Developments in the Southern Region
XVI. Staff Director's Report
  A. Status of Funds
  B. Personnel Report
  C. Office Director's Report

PERSON TO CONTACT FOR FURTHER INFORMATION: Barbara Brooks, Press and Communications Division, (202) 254–6697.

[S–1033–82 Filed 7–13–82; 3:10 pm]

BILLING CODE 6335–01–M

2

FEDERAL COMMUNICATIONS COMMISSION

Closed Commission Meeting, Wednesday, July 21, 1982 Following Oral Argument

The Commission will hold a closed meeting Wednesday, July 21, 1982, for the purpose of issuing instructions to the staff following scheduled oral arguments on Exceptions to Supplemental Initial Decision in the City of New York Municipal Broadcasting System and WCCO Radio, Inc. AM radio proceeding (Docket Nos. 11227, 17588, 19403) and Exceptions to Initial Decision in the WIOO, Inc. comparative renewal proceeding for station WIOO–AM, Carlisle, Pennsylvania (Docket Nos. 21506–21507).

Oral Argument in the case of City of New York Municipal Broadcasting System and WCCO Radio, Inc. AM radio proceedings (Docket Nos. 11227, 17588, 19403) is scheduled to start at 9:30 a.m.

The parties are to present oral argument as follows:

WCCO—30 minutes
WNYC—30 minutes
State of Minnesota—5 minutes
Aircraft Owners and Pilots Association and National Business Aircraft Association—10 minutes
FCC Broadcast Bureau—20 minutes

Oral Argument in the case of WIOO, Inc. comparative renewal proceeding for station WIOO–AM, Carlisle, Pennsylvania (Docket Nos. 21506–21507) is scheduled to start at 11:05 a.m.

The parties are to present oral argument as follows:

Carlisle Broadcasting Associates—20 minutes
Chief, Broadcast Bureau—20 minutes
WIOO, Inc.—20 minutes

The closed meeting will take place in Room 856 at the same address after the conclusion of the oral arguments. This meeting is closed to the public because of the disposition of adjudicatory proceedings (See 47 CFR 0.603(j)).

The following persons are expected to attend:

Commissioners and their Assistants
General Counsel and members of his staff
Managing Director and members of his staff
Chief, Office of Public Affairs and members of his staff

Action by the Commission July 1, 1982. Commissioners Fowler, Chairman; Quello, Washburn, Fogarty, Jones, Dawson and Rivera voting to consider these matters in closed session.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: July 12, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S–1032–82 Filed 7–13–82; 3:01 pm]

BILLING CODE 6712–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, July 12, 1982, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of United American Bank in Hamilton County, Chattanooga, Tennessee, for consent to merge, under its charter and title, with City Bank and Trust, East Ridge, Tennessee, and to establish the three

offices of City Bank and Trust as branches of the resultant bank.
Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:
Case No. 45,272–NR: United States National Bank, San Diego, California
Case No. 46,001–L: Banco Economias, San German, Puerto Rico
Memorandum re; Corporation policy regarding leave-without-pay for the purpose of obtaining an advanced degree or taking a sabbatical to teach or study in a job-related area.

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to the public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B) and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

Dated: July 12, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1036–82 Filed 7–13–82; 3:17 pm]

BILLING CODE 6714–01–M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, July 12, 1982, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, second by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:
Case No. 45,284–L: Franklin National Bank, New York, New York
Case No. 45,286–L: American City Bank & Trust Company, National Association, Milwaukee, Wisconsin
Case No. 45,287–SR: Farmers Bank of Petersburg, Petersburg, Kentucky
Case No. 45,292: The Greenwich Savings Bank, New York, New York
Case No. 45,303–L: Banco Credito y Ahorro Ponceno, Ponce, Puerto Rico
Case No. 45,306–L: Banco Credito y Ahorro Ponceno, Ponce, Puerto Rico
Case No. 46,007–L: Banco Credito y Ahorro Ponceno, Ponce, Puerto Rico
Memorandum and Resolution re: First State Bank of Northern California, San Leandro, California
Recommendation with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:
Gibbs, Roper, Loots and Williams, Milwaukee, Wisconsin, in connection with the liquidation of American City Bank and Trust Company, National Association, Milwaukee, Wisconsin.

By the same majority vote, the Board further determined that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: July 12, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1037–82 Filed 7–13–82; 3:17 pm]

BILLING CODE 6714–01–M

5

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, July 20, 1982 at 10 a.m.

PLACE: 1325 K Street, NW., Washington D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:
Compliance. Litigation. Audits. Personnel.

* * * * *

DATE AND TIME: Thursday, July 22, 1982 at 10 a.m.

PLACE: 1325 K Street, NW., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings
Correction and approval of minutes
Advisory opinion 1982–44: Anthony S. Harrington, Democratic National Committee, and Mark Braden, Republican National Committee
Planning for the 1984 Presidential election cycle debt settlement procedures
Appropriations and budget: June 1982 Budget Execution Report
Routine Administrative matters

PERSON TO CONTACT FOR INFORMATION:
Mr. Fred Eiland, Public Information Officer; Telephone: 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission.

[S–1038–82 Filed 7–13–82; 3:16 pm]

BILLING CODE 6715–01–M

6

FEDERAL RESERVE SYSTEM

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 29623, Wednesday, July 7, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Monday, July 12, 1982.

CHANGES IN THE MEETING: Addition of the following closed item(s) to the meeting:

1. Draft statement to be presented to the Subcommittee on Consumer Affairs and Coinage of the House Committee on Banking, Finance and Urban Affairs, regarding H.R. 6124, a bill to extend the Credit Control Act.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: July 12, 1982.

James McAfee,

Associate Secretary of the Board.

[S–1031–82 Filed 7–13–82; 10:41 am]

BILLING CODE 6210–01–M

7

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10 a.m., Wednesday, July 21, 1982.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignment, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

James McAfee,

Associate Secretary of the Board.

[S–1039–82 Filed 7–13–82; 3:48 pm]

BILLING CODE 6210–01–M

8

FEDERAL TRADE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 29761, July 8, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2 p.m., July 12, 1982.

CHANGES IN THE AGENDA: Federal Trade Commission cancelled its open meeting scheduled for July 12, 1982. The meeting has been rescheduled for Wednesday, July 21, 1982, at 2:00 p.m.

[S-1029-82 Filed 7-13-82; 10:00 am]

BILLING CODE 6750-01-M

9

FEDERAL TRADE COMMISSION

TIME AND DATE: 2 p.m., **Tuesday**, July 20, 1982.

PLACE: Room 532, (open), Room 540 (closed) Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the Public.

MATTERS TO BE CONSIDERED: Portions Open to Public:

(1) Oral Argument in General Foods Corporation, Docket 9085.

Portions closed to the Public:

(2) Executive Session to follow Oral Argument in General Foods Corporation, Docket 9085.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Information: (202) 523-1892; Recorded Message: (202) 523-3806.

[S-1029-82 Filed 7-13-82; 10:00 am]

BILLING CODE 6750-01-M

10

FEDERAL TRADE COMMISSION

TIME AND DATE: 10 a.m., Wednesday, July 28, 1982.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

STATUS: Open.

MATTER TO BE CONSIDERED: Consideration of the Final Promulgation of the Funeral Rule.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Information: (202) 523-1892; Recorded Message: (202) 523-3806.

[S-1030-82 Filed 7-13-82; 10:00 am]

BILLING CODE 6750-01-M

11

INTERNATIONAL TRADE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 29761, July 8, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2:30 p.m., Tuesday, July 13, 1982.

CHANGES IN THE MEETING: Emergency action to close a portion of the meeting originally announced as open to the public.

Pursuant to the specific exemptions of 5 U.S.C. 552b(c)(4) and in conformity with 19 CFR 201.36(b)(4), Commissioners Eckes, Stern, Calhoun, Frank, and Haggart voted by action jacket SE-82-09 to hold a portion of the discussion with respect to item No. 5 (Investigation 751-TA-6 (Birch Three-Fly Doorskins from Japan)—briefing and vote) in closed session.

Commissioners Eckes, Stern, Calhoun, Frank, and Haggart determined, pursuant to 19 CFR 201.37(b) that Commission business requires the change in the determination of the Commission to open or close this portion of the meeting and directed the issuance of this notice at the earliest practicable time.

The Commissioners, Their assistants, the Secretary of the Commission, and recording secretaries will attend the closed session. Certain staff members who are responsible for the agenda item will also be present.

PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-1027-82 Filed 7-12-82; 4:44 pm]

BILLING CODE 7020-02-M

12

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

DATE AND TIME: July 21, 1982 at 9 a.m., July 22, 1982 at 9 a.m.

PLACE: The Portland Hilton, Pavilion Room, 921 SW Sixth Avenue, Portland, Oregon.

MATTERS TO BE CONSIDERED:

- Staff briefing on Fish and Wildlife Program.
- Status Report—Draft final report on Conservation and Resources Assessment.
- Status Report—Draft final report on the Quantification of Environmental Costs.
- Status Report—Draft final report on energy demand forecasting models.
- Council business.

CONTACT PERSON FOR MORE INFORMATION: Ms. Bess Wong (503) 222-5161.

Edward Sheets,
Executive Director.

[S-1038-82 Filed 7-13-82; 3:23 pm]

BILLING CODE 0000-00-M

13

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1294]

TIME AND DATE: 7 p.m. (EDT), Tuesday, July 20, 1982.

PLACE: Cleveland State Community College Auditorium, Normal Chapel Road, Cleveland, Tennessee.

STATUS: Open.

ACTION ITEMS:

A—Project Authorization

1. Project Authorization No. 3461.3—Amendment to project authorization for modification of the urea unit in Muscle Shoals, Alabama.
2. Project Authorization No. 3821—Replacement of unit process computer hardware and software at Browns Ferry Nuclear Plant.

B—Purchase Awards

1. Requisition 62—Term coal for Paradise Steam Plant.
2. Negotiation 34-192975—Indefinite quantity term contract for repair services of field services engineers, technicians, and rental of equipment for various fossil plants and power service shops.

C—Power Items

* 1. Amendment to agreement among City Service Company, Tennessee Chemical Company and TVA relating to automatic assignment and transfer of power contract from Tennessee Chemical to Cities Service.
2. Delegation of authority to execute and administer certain uranium loan agreements.

D—Personnel Items

1. Renewal of personal services contract with ITT Grinnell Corporation, Providence, Rhode Island, for services in connection with the design of onsite pipe supports for the Bellefonte Nuclear Plant, requested by the Office of Engineering Design and Construction.

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*Item approved by individual Board members. This would give formal ratification of the Board's action.

F—Unclassified

1. Modification to agreement with Office of Surface Mining covering arrangements for TVA to evaluate, on a cost reimbursable basis, certain requirements developed under the Surface Mine Control and Reclamation Act involving hydrology and sedimentology of surfaced-mined lands.
2. Proposed amendments to the terms and conditions of the voluntary retirement savings and investment plan for members of the TVA Retirement System.

CONTACT PERSON FOR MORE INFORMATION: Cravan H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245–0101.

Dated: July 13, 1982.

[S–1034–82 Filed 7–13–82: 3:01 pm]

BILLING CODE 8120–01–M

federal register

Thursday
July 15, 1982

Part II

Department of Health and Human Services

Office of Human Development Services

Foster Care Maintenance Assistance and Adoption Assistance; Child Welfare Services

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

45 CFR Parts 1355, 1356, 1357, and 1392

Foster Care Maintenance Assistance and Adoption Assistance; Child Welfare Services

AGENCY: Office of Human Development Services (OHDS), HHS.

ACTION: Final regulations.

SUMMARY: The Department is issuing this final regulation to implement the fiscal requirements under two Social Security Act titles—the new title IV–E program, Federal Payments for Foster Care and Adoption Assistance, and the title IV–B program, Child Welfare Services. These regulations implement Pub. L. 96–272, the "Adoption Assistance and Child Welfare Act of 1980." This regulation will provide the fundamental requirements for receipt and expenditure of Federal financial participation under these programs. At the same time, programmatic material is being published elsewhere in this issue as a second Notice of Proposed Rulemaking to replace the original proposal published December 31, 1980.

EFFECTIVE DATE: August 16, 1982, except §§ 1356.60 and 1357.30 which contain information collection requirements which are under review at OMB.

FOR FURTHER INFORMATION CONTACT: Frank Ferro, Associate Chief, Children's Bureau, P.O. Box 1182, Washington, D.C. 20013, (202) 755–7418.

SUPPLEMENTARY INFORMATION:

I. Background

The Child Welfare Services Program has been a part of the Social Security Act since the Act's inception. In 1966 Congress transferred the program to title IV, Part B of the Act (Sec. 420–425 of the Act). Historically, title IV–B has provided Federal grants to States to establish, extend and strengthen child welfare services. Under this program, services are available to all children, including the handicapped, homeless, neglected and dependent.

The Adoption Assistance and Child Welfare Act of 1980 (Pub. L. 96–272) was enacted on June 17, 1980. Pub. L. 96–272 establishes a new program, the title IV–E program, which will replace by October 1, 1982, the current title IV–A foster care program in the States. In addition, the law makes changes in the IV–B child welfare services program and creates links between the two programs with numerous program and fiscal incentives.

The impetus behind the passage of Pub. L. 96–272 was the belief of Congress and most State child welfare administrators, supported by extensive research, that the public child welfare system responsible for serving dependent and neglected children, youth and families had become a receiving or holding system for children living away from parents. Congress envisioned in the Act a system that also helps families remain together by assisting parents in carrying out their roles and responsibilities and provides alternative permanent placement for those children who cannot return to their own homes. Studies showed that thousands of children were stranded in the public foster care system with little hope of being reunited with their families or having a permanent home through adoption or other permanency planning, thereby causing harm to the children and high costs to the States. Other findings included:

- The number of children in foster care had increased during the last decade while the length of stay in substitute care has also increased.
- Caseloads are large in the social service field and caseworkers are often unable to provide full and appropriate services to children in care and to their families.
- Many children in foster care could have been cared for in their own homes if homemaker, day care or other services had been available.
- Home based services and adoptive care are the most cost beneficial forms of care.

II. Notice of Proposed Rulemaking

Following publication of the Notice of Proposed Rulemaking (NPRM) in the **Federal Register** on December 31, 1980 (45 FR 86817–86850), and the Department mailed 25,000 copies of the NPRM to individuals, organizations, and public agencies. In January, 1981 hearings were held in each of the ten HHS regions. In addition to the presentation of formal testimony, these hearings included sessions of open discussion between the public and Federal staff familiar with the law and the proposed regulations. Verbatim transcripts were taken of all testimony and discussion at the ten public regional meetings and later analysed.

During the 75-day comment period after publication of the NPRM, approximately 450 comments in addition to the testimony and discussion from the regional hearings were received. These comments varied greatly in both length and detail. Although there were differing views concerning the proposed regulation, there was broad based support for the law and its proposed reforms.

Of the comments received, approximately 20 percent dealt with the fiscal provisions. Most of these coments sought clarification of the various allotment options and a broader definition of allowable costs for FFP purposes. In addition, commenters asked that the fiscal regulations be rearranged so that the various provisions would be more easily discernable.

In response to these comments, the Department has broken up the fiscal provisions for title IV–E into several separate sections. In regard to the substantive comments, these are addressed in the section by section portion of this preamble. Overall, however, we have not made many fundamental changes to the principles articulated in the NPRM of December 31, 1980.

III. Changes Made in the Code of Federal Regulations

This final regulation removes certain provisions in 45 CFR Part 1392 which currently contains requirements for the title IV–B program and the title IV–A program of services in the Territories. The IV–A services program was abolished by the Omnibus Budget Reconciliation Act of 1981 which made the Territories eligible for funding under the Social Services Block Grant program.

In addition, this final regulation creates three new parts (1355, 1356, and 1357) in Subchapter G (The Administration for Children, Youth, and Families, Foster Care and Adoption Assistance; Child Welfare Services), which eventually will contain all requirements for the titles IV–B and IV–E programs. A second NPRM is being published concurrently that addresses other provisions of Pub. L. 96–272.

IV. Section by Section Discussion of Final Regulation

The regulation published here includes the following sections: in Part 1355, "General," § 1355.30, "Other applicable regulations"; in Part 1356, "Requirements Applicable to Title IV–E", § 1356.60, "Fiscal requirements (title IV–E)"; § 1356.65, "State allotment (title IV–E)"; and § 1356.70, "Transfer of funds from Title IV–E to Title IV–B"; and in Part 1357, "Requirements Applicable to Title IV–B", § 1357.30, "Fiscal requirements (title IV–B)".

PART 1355—GENERAL

Section 1355.30, Other applicable regulations.

Section 1355.30 contains the provisions covering Departmental policy and procedures applicable to both title IV–E and title IV–B. These sections of general applicability were originally listed in §§ 1356.80(d) and 1357.50(f) of the December 31, 1980 NPRM. They include regulations implementing Departmental policy and procedures which are generally applicable to all grants and are particularly relevant to programs with FFP in State expenditures. In addition, they are applicable to programs under the Social Security Act (the Act), including the foster care program under title IV–A (section 408 of the Act). No comments were received on the applicability of this section except to suggest that 45 CFR Part 74 be cited and that the cost allocation regulation that detailed the requirements for Social Security Act programs (45 CFR 205.150) be made applicable. We have cross-referenced that section. In addition, 45 CFR Part 95 contains other requirements applicable to these programs, for example, time limits on claims. Section 1355.30, therefore, cross-references that Part.

PART 1356—REQUIREMENTS APPLICABLE TO TITLE IV–E

In the NPRM, all the title IV–E fiscal requirements were published in § 1356.80(a), (b), and (c). The final regulation separates the fiscal requirements into sections related to expenditures under title IV–E (new § 1356.60), foster care allotment limitations (new § 1356.65) and transfer of funds from title IV–E to IV–B (new § 1356.70). The separation causes no substantive changes, but results in greater clarity in understanding and referencing the regulation.

Paragraph (a) in NPRM § 1356.80 has been modified in new § 1356.60 to make reference only to the provisions of the Act. In the first NPRM, the provisions of the proposed rule on foster care and adoption assistance were cross-referenced as requirements. In the second NPRM, also being published today, the proposed rule in its modified form are again cross-referenced. When the second NPRM is made final, paragraph (a) will be amended to include the regulatory as well as statutory references.

There were a number of comments on § 1356.80(b) of the NPRM that were related to federal matching funds for training. Most of the commenters requested that States be mandated to provide training to staff of voluntary, non-profit agencies, to require that staff have professional social work degrees and to set standards in the regulations.

Under title IV–E, the Department provides funds to State agencies under a grant. The State then determines which persons shall be provided training and seeks FFP in allowable expenditures. Therefore, no change has been made in this provision.

However, upon review, we have determined that the Act in § 474(a)(3)(A) limits reimbursement of expenditures at 75 percent to "training * * * of personnel employed or preparing for employment by the State agency or the local agency administering the State plan in the political subdivision." Therefore, training for foster and adoptive parents and staff of licensed or approved child care institutions is reimbursable as an administrative cost at a 50 percent rate under paragraph (c) of § 1356.60, but not as training reimbursable under paragraph (b) of that section.

The Department received many comments concerning paragraph (c) of § 1356.80 of the NPRM. Nearly all of the comments disagreed with the proposed prohibition on reimbursement of administrative costs for social services provided to the child, family or foster family which include counseling or treatment to ameliorate or remedy personal problems, behaviors or home conditions (now in sub-paragraph (3) of § 1356.60(c)). Commenters recommended that these costs be reimbursable, and suggested that reimbursement would encourage development and use of these services and foster the achievement of the goals of title I of Pub. L. 96–272, the Adoption Assistance and Child Welfare Act of 1980. Also, commenters praised the list of allowable costs (examples) under sub-paragraph (2) of § 1356.60(c).

We agree that treatment—oriented services, such as helping families be reunited or finding new permanent homes for children, are vital to the goals of Pub. L. 96–272. However, concurrently with the enactment of title IV–E, Congress enacted a revised title IV–B (Child Welfare Services Program) which provides for the delivery of these social services. In addition, title XX of the Act, now the Social Services Block Grant, provides funds to States for services. Because other sources of Federal funds are available for the provision of these services, the Department has prohibited reimbursement from title IV–E funds for treatment-oriented services as inconsistent with the statutory concept of maintenance expenditures. Funds for those purposes are the major focus of the services programs. Therefore, the final regulation continues the NPRM requirement by prohibiting FFP under title IV–E for treatment-oriented services.

We received a few comments suggesting clarification of the cost allocation provisions. We have done so by our reference to 45 CFR 205.150 in § 1355.30 and have eliminated a duplicative reference in this final section.

A few commenters asked that we make clear to which program costs might be charged. They referred to both the introductory portion of § 1356.60(c), which said that costs might be claimed under this or other programs, and the examples of allowable costs listed in sub-paragraph (c)(1) of the first NPRM. Therefore, sub-paragraph (c)(1) of § 1356.60 of this final rule lists administrative costs deemed allowable under title IV–E and not reimbursable under any other Federal program. (States may support them by using State and local funds.) Sub-paragraph (c)(2) lists the remaining examples of allowable administrative costs. Together, they list the same activities previously listed as allowable under sub-paragraph (c)(1) in the NPRM. The NPRM also contained a statement of other programs to which costs might be charged. That statement has been deleted. As some commenters correctly pointed out, the State's approved cost allocation plan is the proper document under which multiprogram costs are distributed to particular programs.

The provisions of the NPRM related to State foster care allotments under title IV–E (§ 1356.60(e)(1–5)), have been made a separate section in the final regulation (§ 1356.65). There were few comments on these provisions.

Section 1356.60(e)(1)(iii)(E)(*2*) stated that disputes between the Secretary and the State over the amount of State claims from the base year used for computing allotments (Fiscal Year 1978) be considered final after a final decision has been made by the Department. A few commenters suggested that the disputes be considered final only after judicial proceedings, if any, are completed. The Act and legislative history simply require that the base be recalculated after the dispute is resolved.

This provision has been restated (in § 1356.65(a)(3)(v)(A)(*4*)) as it was in the NPRM. The dispute will be considered final for purposes of recalculation of a State's allotment after it is settled by the Department. This provides States with ample opportunity to have the dispute reviewed and reconsidered. If the

recalculation awaited final court action, disputes might not be finally resolved for several years.

Section 1356.70 of the regulation contains the provisions related to possible transfer of funds from title IV–E to title IV–B when the funds needed for foster care are less than the State's foster care allotment. There were only two significant sets of comments. Several persons pointed out that the provisions of the NPRM did not state the option (in § 474(c)(2) of the Act) that a State might transfer funds even if the Congress has not appropriated the "trigger amount" for title IV–B that make the allotment limitations mandatory. Paragraph (3) of § 1356.70(a) now provides that a State may make the transfer under this condition.

The other comments on this set of provisions relate to the date by which a State must apply for transfer of funds and the requirements for jointly planning the use of funds by the State and the Administration for Children, Youth and Families (ACYF). The proposed rules required application by no later than the end of the third quarter of the fiscal year in which they will be obligated. Commenters wanted more time to calculate expenditures for the fiscal year. Commenters also felt that there would not be enough time to plan jointly the use of these transferred funds.

The date for submission of the transfer request has multiple purposes: it must leave sufficient time for joint Federal-State planning for the use of the funds transferred from title IV–E to title IV–B; it should enable a State to have made a significant proportion of its expenditures for the year so that it may make a reasonable estimate of funds needed for foster care for the entire year; and it must leave time for the State to obligate the transferred funds under title IV–B requirements.

To balance these needs, we have modified the provision. We have moved the date to August 15th. In addition, the regulation gives the Commissioner (ACYF) the authority to change the date if special circumstances exist. Examples of special circumstances might include a delay in the Federal appropriations process that would make the amount of funds available to States uncertain or a judicial decision that strongly affects the use of the funds. To be fair and equitable to States, the Department will generally apply this authority uniformly to all States, rather than on a State-by-State basis, unless the judicial decision is applicable only to the circumstances in a given State.

Section 1357.30, Fiscal Requirements (Title IV–B)

This final regulation also includes the fiscal requirements for title IV–B. These requirements were published in the December 31, 1980 NPRM under section 1357.50. They are published here as § 1357.30.

There were few comments on this section and there have been only a few minor changes. First, as discussed above, we have moved the cross-references to general regulations from § 1357.50(f) to section 1355.30.

Second, we have made some requirements briefer, without changing their substance. Specifically, the provisions related to the allotments to States (§ 1357.30(b) of the final regulation) and the payments to States (§ 1357.30(c)) cross reference the relevant sections of the Act (section 421 and section 423 (a) and (b), respectively) rather than restating the requirements from the Act.

Third, in response to comments, we have clarified some of the other sections. New paragraph (a) of § 1357.30 makes clear that all of the requirements of that section apply to funds transferred to title IV–B from title IV–E or title IV–A foster care. In effect, the transferred funds assume the character of title IV–B funds once they are awarded under title IV–B. Paragraph (d) of § 1357.30 states that Part 74 applies to non-compliance by a State under title IV–B. Paragraph (e) indicates which provisions of the Act and regulation apply to Federal financial participation. Paragraph (g) further clarifies the process for reallotment of funds, including reallotment of funds subject to the conditions under section 427 of the Act. Paragraphs (h) and (i) are restatements of regulatory provisions formerly located in 45 CFR 1392.77 and 1392.78 and establish the time period during which funds must be obligated and expended.

Commenters to the NPRM raised a few questions related to these provisions. First, several comments recommended that we expand the definition of allowable costs to include such items as accreditation of facilities, runaway youth up to age 21 (limited to age 18 in the NPRM), and various voluntary or private sector costs. In paragraph (e) of § 1357.30, we have listed the provisions of the Act (particularly section 425, the definition) which govern the costs which may be claimed under title IV–B. Thus, we have replaced a long list of twenty allowable costs with the broad definition under the Act.

Commenters were also concerned with the maintenance of effort provision of the NPRM (§ 1357.50(h)). The NPRM proposed that maintenance of effort include State and local appropriated funds for public child welfare services, including the State match for child welfare expenditures made under the title XX plan and State child welfare expenditures not matching Federal funds. While a few commenters supported the proposed provision, most commenters, especially the States, recommended a narrower interpretation of the statutory provision. They recommended that maintenance of effort be more narrowly defined to include only State and local funds matching title IV–B funds (in FY 1979).

In the House bill, section 423(d) included all Federal, State and local expenditures under titles IV–B and XX of the Act. In the Act, as enacted, the provision excluded Federal title XX expenditures from the maintenance of effort level of expenditures. We have decided that the State should not and does not have to include expenditures other than those State expenditures from State and local appropriated funds made under the title IV–B program for FY 1979 in calculating the level of child welfare expenditures that must be maintained.

V. Impact Analysis

a. *Executive Order 12291.* The Secretary has determined, in accordance with Executive Order 12291, that this final regulation does not constitute a major rule because it will not: have an annual effect on the economy of $100 million or more; result in a major increase in costs or process for consumers, any industries, any governmental agency or any geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or import markets. To the contrary, this final regulation will provide latitude to the States in implementing the provisions of the law and impose no significant burdens on States.

b. *Regulatory Flexibility Act.* Regulatory Flexibility Act of 1980, Pub. L. 96–354, requires that an agency prepare a regulatory flexibility analysis for a proposed rule, or a final rule issued after a proposal, if a rule would have a significant economic impact on a substantial number of small businesses, small nonprofit organizations, or small governmental jurisdictions. However, this requirement does not apply to final

rules for which a proposed rule was published before January 1, 1981 (section 4 of the Regulatory Flexibility Act). Because the proposed rule that preceded this final rule was published earlier, an analysis is not required under the Regulatory Flexibility Act.

c. *Recordkeeping and Reporting Requirements.* Under the Paperwork Reduction Act of 1980, the Department is required to submit to the Office of Management and Budget for approval any information collection or reporting requirements. This final regulation contains the following requirements:

(a) § 1356.60 Fiscal Requirements (title IV–E).

(b) § 1357.30 Fiscal Requirements (title IV–B).

Use of fiscal forms in these sections will be required. They are:

- Quarterly Estimate of Expenditures for Foster Care and Adoption Assistance (IV–E–1), OMB No. 0980–0130, expires September 30, 1982;
- Quarterly Statement of Expenditures, for Foster Care and Adoption Assistance (IV–E–2), OMB No. 0980–0131, expires September 30, 1982;
- Annual Budget Request for Title IV–B Funds, OMB No. 0989–0047, expires September 30, 1982.

Section 427(a)(2)(A) of the Act (Statewide Information System) and the Annual Summary of Child Welfare Services (Title IV–B) are also subject to the approval of OMB under the Paperwork Reduction Act of 1980. The Department will submit a clearance request for section 427(a)(2)(A) (Statewide Information System) to OMB. In addition, the Annual Summary of Child Welfare Services will *not* be required until OMB has approved its use.

VI. List of Subjects in 45 CFR

45 CFR Part 1355

Information (Confidentiality).

45 CFR Part 1356

Adoption assistance, Administrative costs, Administrative practice and procedure, Administrative reviews, Allotments to States, Case plan, Case review system, Contracts (Agreements), Definitions, Dispositional hearings, Fair hearings, Federal financial participation, Foster care allotments, Foster care maintenance payments, Medicaid, Preplacement preventive services, Reunification services, Social services, Statewide information system, State plans, Title IV–E, Training, Voluntary placements.

45 CFR Part 1357

Child welfare services, Federal financial participation, Foster care, Grants-in-Aid program, Indians, Inventory, Preplacement preventive services, Reunification services, State plan, Training.

45 CFR Part 1392

Aid to Families with Dependent Children, Child welfare, Grant programs–social programs, Guam, Northern Mariana Islands, Puerto Rico, Virgin Islands, Volunteers.

(Catalog of Federal Domestic Assistance Program Nos. 13.658, Foster Care Maintenance, 13.659, Adoption Assistance and 13.645, Child Welfare Services-State Grants)

Dated: April 22, 1982.

Dorcas R. Hardy,

Assistant Secretary for Human Services.

Approved: May 17, 1982.

Richard S. Schweiker,

Secretary for Health and Human Services.

For the reasons set forth in the Preamble, 45 CFR Chapter XIII is amended as follows:

1. New Parts 1355, 1356 and 1357 are added to read as follows:

PART 1355—GENERAL

Authority: Adoption Assistance and Child Welfare Act of 1980, Pub. L. 96–272, 42 U.S.C. 670 et seq., 94 Stat. 501, 42 U.S.C. 620, 94 Stat. 516 et seq., Section 1102 of the Social Security Act, as amended, 42 U.S.C. 1302.

§ 1355.30 Other applicable regulations.

The procedures and requirements in the following sections of 45 CFR shall apply to all programs funded under the provisions of these regulations and titles IV–E and IV–B of the Social Security Act (the Act)—

(a) Part 16, Department Grant Appeals Process;

(b) Part 74, Administration of Grants, except that Subpart I, Financial Reporting Requirements, shall not apply. The Commissioner for Children, Youth and Families (the Commissioner), shall provide forms and instructions for financial reporting.

(c) Part 95, General Administration—Grant Programs (Public Assistance and Medical Assistance).

(d) Section 201.5, Grants (except that ACYF shall supply appropriate forms and instructions).

(e) Section 201.6, Withholding/Reduction of FFP.

(f) Section 201.7, Judicial review.

(g) Section 201.15, Deferral.

(h) Section 201.66, Repayment of Federal funds in installments.

(i) Section 204.1, Submittal of State plans for Governor's review.

(j) Section 205.5, Plan amendments.

(k) Section 205.10, Hearings.

(l) Section 205.50, Safeguarding information.

(m) Section 205.100, Single State agency.

(n) Section 205.101, Organization for administration.

(o) Section 205.150, Cost allocation plans.

PART 1356—REQUIREMENTS APPLICABLE TO TITLE IV–E

Sec.

1356.60 Fiscal requirements (title IV–E).
1356.65 State foster care allotment (title IV–E).
1356.70 Transfer of funds from title IV–E to title IV–B.

Authority: Adoption Assistance and Child Welfare Act of 1980, Pub. L. 96–272, 42 U.S.C. 670 et seq., 94 Stat. 501, 42 U.S.C. 620, 94 Stat. 516 et seq., Section 1102 of the Social Security Act, as amended, 42 U.S.C. 1302.

§ 1356.60 Fiscal requirements (title IV–E).

(a) *Federal matching funds for foster care maintenance and adoption assistance.* (1) Effective October 1, 1980, Federal financial participation (FFP) is available to States under an approved title IV–E State plan for allowable costs in expenditures for:

(i) Foster care maintenance payments as defined in sections 475(4) of the Act, made in accordance with section 472 of the Act (including, for purposes of determining eligibility of the child under sections 402 and 406(a) or 407 of the Act, the governing regulations) and section 102(d) of Pub. L. 96–272, the Adoption Assistance and Child Welfare Act of 1980;

(ii) Adoption assistance payments made in accordance with section 473 of the Act.

(2) Federal financial participation is available at the rate of the Federal medical assistance percentage as defined in section 1905(b) of the Act, Definitions, and pertinent regulations as promulgated by the Secretary, or his designee.

(b) *Federal matching funds for State and local training for foster care and adoption assistance under title IV–E.* (1) Federal financial participation is available at the rate of seventy-five percent (75%) in the costs of training personnel employed or preparing for employment by the State or local agency administering the plan.

(2) All training activities and costs funded under title IV–E shall be included in the State agency's training plan for title IV–B.

(3) Short and long term training at educational institutions and in-service training may be provided in accordance

with the provisions of §§ 235.63 through 235.66(a) of this title.

(c) *Federal matching funds for other State and local administrative expenditures for foster care and adoption assistance under title IV–E.* Federal financial participation is available at the rate of fifty percent (50%) for administrative expenditures necessary for the proper and efficient administration of the title IV–E State plan. The State's cost allocation plan shall identify which costs are allocated and claimed under this program.

(1) The determination and redetermination of eligibility, fair hearings and appeals, rate setting and other costs directly related only to the administration of the foster care program under this Part are deemed allowable administrative costs under this paragraph. They may not be claimed under any other section or Federal program.

(2) The following are examples of allowable administrative costs necessary for the administration of the foster care program:

(i) Referral to services;

(ii) Preparation for and participation in judicial determinations;

(iii) Placement of the child;

(iv) Development of the case plan;

(v) Case reviews;

(vi) Case management and supervision;

(vii) Recruitment and licensing of foster homes and institutions;

(viii) Rate setting; and

(ix) A proportionate share of related agency overhead.

(3) Allowable administrative costs do not include the costs of social services provided to the child, the child's family or foster family which provide counseling or treatment to ameliorate or remedy personal problems, behaviors or home conditions.

(4) Funds expended with respect to nonrecurring costs of adoption proceedings for children on behalf of whom adoption assistance is provided under the State plan may not be reimbursed as administrative costs under IV–E.

(5) Foster and adoptive parents, and staff of licensed or approved child care insititutions providing foster care under this Part shall be eligible for short-term training at the initiation of or during their provision of care. FFP directly related to such training shall be limited to travel and per diem.

§ 1356.65 State foster care allotment (title IV–E).

The State allotment for foster care under this Part of Fiscal Years 1981 through 1984 shall be the greater amount as determined under paragraph (a) or (b) of this section; or, at the option of the State, under paragraph (c) of this section. This determination is made without regard to the allotment for any prior fiscal year except as specified under paragraph (c)(3) of this section. The State need not select the same option each year. The allotment is a single dollar amount, limiting Federal funds reimbursed to a State for foster care payments and related administrative expenditures (including training).

(a) The first method provides for the calculation of the base amount and adjustments for each fiscal year as follows:

(1) For purposes of determining allotments for later years, for Fiscal Year 1980, the State's allotment is the base amount increased by 21.2%.

(2) For each of the Fiscal Years 1981 through 1984, the allotment for the State shall be an amount equal to the State's allotment for the preceding fiscal year, increased or decreased by twice the change (but not more than 10%) in the percentage of the Consumer Price Index, prepared by the U.S. Department of Labor, and used to determine the cost of living adjustments for Social Security benefits under section 215(i) of the Act, Cost of Living Increases in Benefits. For this calculation, second quarter data of the preceding fiscal year shall be compared to those for the second quarter of the second preceding fiscal year. The arithmetic mean for the three months of the second quarter shall be used to establish the Consumer Price Index for this quarter.

(3) The base amount in paragraph (a)(1) is calculated using the following formula: Maintenance payments plus attributable administrative expenditures plus attributable training expenditures. For the purposes of this formula:

(i) *Maintenance payments* are determined by:

(A) The amount of Federal funds that have been or may be paid on behalf of allowable claims for foster care maintenance payments for FY 1978 submitted to DHHS in accordance with Sectioin 306 of Pub. L. 96–272 (94 Stat. 530); and

(B) The amount of Federal funds that would have been paid for allowable claims on behalf of children meeting all requirements of Section 408 of the Act for FY 1978 except that the State, on a Statewide basis, did not make such payments under State law, regulation or policy solely because the foster care was provided by a relative(s) of a child.

(ii) *Attributable administrative expenditures* means State expenditures for Fiscal Year 1978 attributable to the performance of activities required under Section 408 of the Act for children for whom maintenance payments are included under paragraphs (a)(3)(i) (A) and (B) of this section, regardless of whether payment for the administrative expenditures might have been made under Section 403 of the Act. Expenditures which may be included are limited to costs of conducting for those children: eligibility determination and redetermination, quality control, fair hearings and appeals, agency activities in judicial determination, placement, case review, case management and supervision, rate-setting, recruitment of foster care homes and institutions, licensing and a proportionate share of general related agency overhead. The amount of these expenditures is determined by one of the following three methods:

(A) By actual administrative expenditures attributable to the provision of foster care maintenance payments for Fiscal Year 1978, multiplied by 50%, if a State submits a report of these expenditures which is satisfactory to the Secretary and which is supported by documentation;

(B) By an amount determined by the following formula:

(*1*) The State's total AFDC administrative expenditures for Fiscal Year 1978 divided by the State's average monthly number of AFDC cases in fiscal year 1978;

(*2*) The result of step (*1*) multiplied by 50%;

(*3*) The product of step (*2*) multiplied by the average monthly number of AFDC-Foster Care cases in Fiscal Year 1978; or

(*C*) By an amount determined as follows:

(*1*) The State's administrative expenditures (as stated in § 1356.60(c)) of this Part attributable to foster care maintenance payments made under title IV–E or IV–A during a period of three or more calendar months of Fiscal Year 1981 divided by the number of months in the period;

(*2*) The result of (*1*) reduced to the comparable Fiscal Year 1978 amount by use of the Implicit Price Deflator for State and Local Government Purchases (issued by the U.S. Department of Commerce);

(*3*) The result of (*2*) multiplied by the ratio of the average monthly number of AFDC-Foster Care cases in Fiscal Year 1978 compared to the comparable number of cases for the period used in (*1*);

(*4*) The product in (*3*) multiplied by 12 (for an annual amount); and

(5) The product in (4) multiplied by 50 percent (the FFP rate in administrative expenditures).

(6) The data in paragraph (1) need not have been paid or claimed under Section 403 or 474 of the Act. They must have been reported to the Regional Program Director, ACYF no later than 30 days after the end of Fiscal Year 1981 in accordance with instructions from the Commissioner.

(iii) *Attributable Training Expenditures* are determined by:

(A) Actual training expenditures attributable to the provision of foster care maintenance payments for FY 1978, multiplied by 75%, if a State submits a report of these expenditures which is satisfactory to the Secretary and supported by documentation; or

(B) An amount determined by the following formula:

(1) The State's total AFDC training expenditurs for FY 1978 divided by the State's average monthly number of AFDC cases in FY 1978;

(2) The result of (1) multiplied by 75%;

(3) The product of (2) multiplied by the average monthly number of AFDC-Foster Care cases in FY 1978.

(iv) *Sources of data and documentation.* (A) All claims must be submitted on forms provided by the Secretary and in accordance with the constraints of Section 306 of Pub. L. 96-272 (94 Stat. 530).

(B) All reports to establish the claims which would have been allowable under paragraph

(a) (3)(i)(B), (3)(ii)(A) or

(a) (3)(iii)(A) of this section must have been submitted on forms provided by the secretary within forty-five (45) days after the end of the second quarter of FY 1981.

(v) *Disputed claims or reports.* (A) Only the following claims or reports in which DHHS and a State have a dispute will be included in the base amount:

(1) For maintenance payments, the claims submitted to DHHS in accordance with section 306 of Pub. L. 96-272, and the reports submitted to DHHS on expeditures and reported numbers of children under paragraph (3)(i)(B) of this section;

(2) For attributable administrative expenditures, the dollar amount reported to DHHS in accordance with paragraph (a)(3)(ii)(A);

(3) For attributable training expenditures, the dollar amount reported to DHHS in accordance with paragraph (a)(3)(iii)(A);

(4) Any claims or reported data in which a State and the Secretary have a dispute will be included in the base amount until the beginning of the fiscal year after the fiscal year in which the dispute is finally resolved by the Department. Allotments for fiscal years after solution of the dispute will be computed using the revised base amount.

(b) Under the second method, the allotment for the State equals an amount which bears the same ratio to $100 million as the under age 18 population of that State bears to the under age 18 population of the fifty States and the District of Columbia.

(c) Eligible States may select that their allotment be calculated by a third method.

(1) A State may *not* exercise this option unless: (i) In FY 1978, the percentage of the average monthly number of children in the State under age 18 who received AFDC-foster care maintenance payments under title IV-A of the Act as a proportion of all children under age 18 in the State was less than the corresponding national percentage for the 50 States and the District of Columbia;

(ii) Beginning in FY 1982, the percentage of the State's average monthly number of children under age 18 who received foster care maintenance payments during the Fiscal Year under title IV-A or IV-E of the Act compared to the State's total number of children under age 18 during the Fiscal Year has not exceeded the corresponding national percentage of the 50 States and the District of Columbia during Fiscal Year 1978.

(2) Under this method, the allotment is calculated as follows: (i) The base amount is determined by applying the provisions of paragraph (a)(3) of this section.

(ii) If for any of the fiscal years 1981-1984, the average monthly number of children receiving foster care maintenance payments in the State under title IV-A or IV-E of the Act exceeds the average monthly number of such children in the State for FY 1978, the base amount for that fiscal year shall be further increased by the percentage of increase in the State's foster care maintenance payment average monthly caseload for that Fiscal Year under title IV-A or IV-E of the Act over its comparable caseload under title IV-A for Fiscal Year 1978. This percentage increase may not exceed: for FY 1981—33.1%; FY 1982—46.4%; FY 1983—61.1%; and FY 1984—77.2%.

(iii) Increases or decreases in the base amount for each fiscal year are made in accordance with paragraphs (a)(1) and (2) of this section.

(3) If the State no longer meets the conditions for exercising the State option provided in paragraph (c)(1) of this section, but selected this option for the determination of its allotment for the preceding fiscal year, the allotment for the preceding fiscal year shall be used for the purpose of determining allotments for subsequent fiscal years through Fiscal Year 1984.

(4) For the purpose of establishing the average monthly number of children receiving foster care maintenance payments under title IV-A of the Act in Fiscal Year 1978 under this section, children who except for their placement with related persons would have received foster care under Section 408 of the Act shall be included even though they did not receive foster care maintenance payments.

(5) for purposes of this allotment, in the event that there is a dispute between a State and the Secretary as to the number of such children (with respect to whom foster care maintenance payments were not made) for any fiscal year, then until the beginning of the fiscal year immediately following the fiscal year in which the dispute is finally resolved by DHHS, determinations under the foregoing subparagraphs shall be made on the basis of the number of such children claimed by the State.

(6) Interim allotments for each fiscal year shall be issued by the Secretary, or his designee, for States eligible under this option (paragraph (c)(1)) not later than six months after the beginning of the fiscal year. The interim allotments shall be based on the most satisfactory data then available. The final allotment shall be issued not later than nine months after the end of that fiscal year and shall be based on the most recent satisfactory data then available.

(d) The limitation on available funds imposed by the allotment will be effective only if:

(1) The appropriation under Section 420 of the Act for that fiscal year equals or exceeds the following amounts: for Fiscal Year 1981—$163,550,000; 1982—$220,000,000; and for Fiscal Years 1983 and 1984—$266,000,000; and

(2) With respect to each of the Fiscal Years 1982-1984, the appropriation for title IV-B under Section 420 of the Act has been made before the beginning of the Fiscal Year to which the limitation applies.

(e) The State shall select the method for determining its allotment no later than forty-five (45) days after the end of the second quarter of the applicable (Federal) fiscal year.

§ 1356.70 Transfer of funds from title IV-E to title IV-B.

(a)(1) Funds available to the State within the foster care allotment for title IV-E which the State does not for foster

care purposes under title IV–E may be transferred to title IV–B and claimed by the State as reimbursement under that program only if the State has selected an allotment described under paragraph (a) or (b) of § 1356.65.

(2) If the limitation imposed by the allotment calculated under paragraph (a) or (b) of § 1356.65 is in effect, the amount of funds that a State may transfer to and claim under title IV–B is limited by the amount of funds not needed for foster care under title IV–E.

(3) If the limitation imposed by the allotment calculated under paragraphs (a) or (b) of § 1356.65 is *not* in effect, the amount of funds that a State may transfer to and claim under title IV–B is further limited to the total amount of funds which, when added to the funds received under sections 420 and 424 of the Act for that Fiscal Year, would not exceed the State's share of the amounts listed in paragraph (d)(1) of § 1356.65.

(b) If the amount transferred to title IV–B, when added to the IV–B allotment, exceeds the amount which would be allotted to the State under title IV–B if the appropriation for title IV–B equaled $141 million, the State may transfer funds under paragraph (a) of this section only if it has met the requirements of section 427(a) of the Act.

(c) If the appropriation for each of any two consecutive fiscal years under Section 420 of the Act equalled $266,000,000, the State may transfer funds under paragraph (a) of this section only if it has met the requirements of section 427(b) of the Act.

(d) If the total reimbursement to the State for expenditures under title IV–B (including transferred funds) equalled the State's share of $266,000,000 for each of two fiscal years in which the limitation under this section did *not* apply, the State may transfer funds under paragraph (a) of this section in any succeeding year only if it has met the requirements of section 427(b) of the Act.

(e) *Amount that may be transferred from title IV–E to title IV–B.* (1) The amount of funds that a State may transfer from title IV–E to title IV–B is:

(i) For any year in which the limitation specified under § 1356.65 is in effect, the amount by which the State's title IV–E foster care allotment exceeds the FFP in State expenditures needed for foster care maintenance payments and administrative expenditures, including training expenditures; and

(ii) For any year in which the limitations specified in § 1356.65 is *not* in effect, the amount determined under subparagraph (i), above, is further limited to the amount which when added to the amount the State receives under Section 420 of the Act (including any reallotted funds) does not exceed the amount of the State's allotment under Section 420 of the Act which would have been in effect if the amount described under Section 474(b)(2)(A) of the Act had been appropriated.

(2) Transferred funds must be used to reimburse expenditures under title IV–B (as defined under the regulations applicable to that program) for the same fiscal year for which they were originally available.

(i) The State shall apply for approval of transfer of these funds to the Regional ACYF office no later than August 15th, unless the Commissioner shall set a different date for all States because of special circumstances.

(ii) The procedures for application for funds and plans under title IV–B, including joint planning, shall apply to these funds.

(3) A State shall operate its foster care program under its State plan continuously throughout the time the plan is in effect, regardless of whether or not it has transferred funds under this section.

PART 1357—REQUIREMENTS APPLICABLE TO TITLE IV–B

Authority: Adoption Assistance and Child Welfare Act of 1980, Pub. L. 96–272, 42 U.S.C. 670 et seq., 94 Stat. 501, 42 U.S.C. 620, 94 Stat. 516 et seq., Section 1102 of the Social Security Act, as amended, 42 U.S.C. 1302.

§ 1357.30 Fiscal requirements (title IV–B).

(a) The requirements of this section shall apply to all funds allotted or reallotted to States under title IV–B and to all funds not needed for foster care which are transferred from title IV–A or title IV–E and awarded to States under title IV–B.

(b) Allotments for each State shall be determined in accordance with section 421 of the Act.

(c) Payments to States shall be made in accordance with section 423 of the Act.

(d) In the event of a State's failure to comply with the terms of the grant under title IV–B and with the regulations listed in § 1355.30, the provisions of §§ 74.113 through 74.115 of this title shall apply.

(e) Federal financial participation is available only if costs are incurred in implementing sections 422, 423, and 425 and, when applicable, section 427 of the Act, and in accordance with the grants administration requirements of 45 CFR Part 74 except that—(1) Non-public third party in-kind contributions may not be used to meet the requirements of the non-Federal share of the costs of programs funded under this Part.

(2) The total of Federal funds used for the following purposes under title IV–B may not exceed an amount equal to the FY 1979 Federal payment under title IV–B:

(i) Child day care necessary solely because of the employment, or training to prepare for employment, of a parent or other relative with whom the child involved is living, plus;

(ii) Foster care maintenance payments, plus;

(iii) Adoption assistance payments.

(3) Notwithstanding paragraph (e)(2) of this section, State expenditures required to match the title IV–B allotment may include foster care maintenance expenditures in any amount.

(4) Funds awarded under title IV–B may not be used for the purchase, construction, or other capital costs for child care facilities.

(f) *Maintenance of Effort.* (1) A State may not receive an amount of Federal funds under title IV–B in excess of the Federal payment made in FY 1979 under title IV–B unless the State's total expenditure of State and local appropriated funds for child welfare services under title IV–B of the Act is equal to or greater than the total of the State's expenditure from State and local appropriated funds used for similar covered services and programs under title IV–B in FY 1979.

(2) In computing a State's level of expenditures under this section in FY 1979 and any subsequent fiscal year, the following costs shall not be included—

(i) Expenditures and costs for child day care necessary to support the employment of a parent or other relative;

(ii) Foster care maintenance payments; and

(iii) Adoption assistance payments.

(3) A State applying for an amount of Federal funds under title IV–B greater than the amount of title IV–B funds received by that State in FY 1979 shall certify:

(i) The amount of their expenditure in FY 1979 for child welfare services as described in paragraphs (1) and (2) of this section, and

(ii) The amount of State and local funds that have been appropriated and are available for child welfare services as described in paragraphs (f)(1) and (2) of this section for the fiscal year for which application for funds is being made.

Records verifying the required certification shall be maintained by the State and made available to the

Secretary as necessary to confirm compliance with this section.

(g) *Reallotment.* (1) When a State certifies to the Commissioner that funds available to that State under its title IV–B allotment will not be required for carrying out that State's plan, those funds shall be available for reallotment to other States.

(2) When a State, after receiving notice from the Commissioner of the availability of funds, does *not* certify by a date fixed by the Commissioner that it will be able to obligate during the fiscal year all of the funds available to it under its title IV–B allotment, those funds shall be available for reallotment to other States.

(3) The Commissioner may reallot available funds to another State when he determines that—

(i) The requesting State's plan requires funds in excess of the State's original allotment; and

(ii) The State will be able to obligate the additional funds during the current fiscal year.

(4) To be eligible to receive funds under the reallotment provisions of this paragraph, the State shall submit an application by the date and in the form prescribed by the Commissioner.

(h) *Fiscal year of expenditures.* An expenditure under an annual budget will be charged to the FY in which the obligation was incurred (the year the Federal funds were awarded). Such budgets and expenditure reports as are required by the Commissioner will be prepared on this basis. For the purposes of this section and this paragraph, "obligation" means only bonafide encumberances or commitments which are supported by contracts or other evidence of liability consistent with State purchasing procedures.

(i) *Liquidation of obligations.* All obligations of the State agency incurred in carrying out the annual budget must be liquidated within 2 years or the period within which claims must be filed under title IV–B, whichever is earlier.

PART 1392—SERVICE PROGRAMS FOR FAMILIES AND CHILDREN; TITLE IV, PARTS A AND B OF THE SOCIAL SECURITY ACT

2. Sections of 45 CFR Part 1392—Service Programs for Families and Children; Title IV, Parts A and B of the Social Security Act are amended as follows:

§§ 1392.60 through 1392.66 [Removed]

(a) In Part 1392, Subpart C, §§ 1392.60 through 1392.66 are removed.

§ 1392.71 [Amended] and §§ 1392.72 through 1392.84 [Removed]

(b) In Part 1392, Subpart D, §§ 1392.71(c) and 1392.72 through 1392.84 are removed.

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federal register

Thursday
July 15, 1982

Part III

Department of Health and Human Services

Office of Human Development Services

Foster Care Maintenance Assistance, Adoption Assistance, and Child Welfare Services

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

45 CFR Parts 1355, 1356, 1357, and 1392

Foster Care Maintenance Assistance, Adoption Assistance, and Child Welfare Services

AGENCY: Office of Human Development Services (OHDS), HHS.

ACTION: Second Notice of Proposed Rulemaking

SUMMARY: The Department is issuing this notice of proposed rulemaking to govern the new title IV-E program, Federal Payments for Foster Care and Adoption Assistance, and to govern the title IV-B program, Child Welfare Services, of the Social Security Act, contained in Pub. L. 96–272, the Adoption Assistance and Child Welfare Act of 1980. This proposed regulation would provide the basic programmatic requirements under titles IV-E and IV-B. The earlier version of this notice of proposed rulemaking, published on December 31, 1980, is herewith withdrawn. The Department is also concurrently publishing elsewhere in this issue the fiscal requirements for titles IV-E and IV-B as a final regulation.

DATES: Comments must be received on or before September 13, 1982.

ADDRESS: Send written comments to Frank Ferro, Associate Chief, Children's Bureau, P.O. Box 1182, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Frank Ferro, Associate Chief, Children's Bureau, P.O. Box 1182, Washington, D.C. 20013, (202) 755–7418.

SUPPLEMENTARY INFORMATION:

I. Background

The Child Welfare Services Program has been a part of the Social Security Act since the Act's inception. In 1968 Congress transferred the program to title IV, Part B of the Act (Sec. 420–425 of the Act). Historically, title IV-B has provided Federal grants to States to establish, extend and strengthen child welfare services. Under this program, services are available to all children, including the handicapped, homeless, neglected and dependent.

The Adoption Assistance and Child Welfare Act of 1980 (Pub. L. 96–272) was enacted on June 17, 1980. In addition to amending title IV-B, Pub. L. 96–272 establishes a new program, the title IV-E program, Federal Payments for Foster Care and Adoption Assistance, which will replace by October 1, 1982, the current title IV-A foster care program in the States. The law creates links between the two programs with numerous program and fiscal incentives.

The impetus behind the passage of Pub. L. 96–272 was the belief of Congress and most State child welfare administrators, supported by extensive research, that the public child welfare system responsible for serving dependent and neglected children, youth and families had become a receiving or holding system for children living away from parents. Congress envisioned in the Act a system that also helps families remain together by assisting parents in carrying out their roles and responsibilities and provides alternative permanent placement for those children who cannot return to their own homes. Studies showed that thousands of children were stranded in the public foster care system with little hope of being reunited with their families or having a permanent home through adoption or other permanency planning, thereby causing harm to the children and high costs to the States. Other findings included:

- The number of children in foster care had increased during the last decade while the length of stay in substitute care has also increased.
- Caseloads are large in the social service field and case workers are often unable to provide full and appropriate services to children in care and to their families.
- Many children in foster care could have been cared for in their own homes if homemaker, day care or other services had been available.
- Home based services and adoptive care are the most cost beneficial forms of care.

II. Content and Purpose of Pub. L. 96–272

The passage and enactment into law of Pub. L. 96–272 demonstrates a Congressional concern and commitment to provide financial assistance and technical consultation to States to make changes in their child welfare services systems. To reduce the number of children entering foster care, the law places emphasis on the use of preplacement preventive services to help solve or alleviate the family problems that would otherwise result in the child's removal from the home. To reduce the number of children already in the foster care system, the law requires States to undertake several initiatives.

A State must enact a law by October 1, 1982, establishing annual goals for reducing the number of children funded under the title IV–E program who remain in foster care over 24 months. If a State is to receive Federal financial participation (FFP) in foster care maintenance payments under title IV–E after October 1, 1983, it must provide services to facilitate the reunification of foster children with their families. To ensure that children do not remain adrift in the foster care system, a State must implement case plan and case review procedures that periodically assess the appropriateness of the child's placement and reevaluate the services provided to assist the child and the family. To encourage family reunification, a State must attempt to place a child in close proximity to the family and in the least restrictive (most family like) setting. Finally, for those children who cannot be reunited with their families and who have "special needs," financial assistance will be available to families adopting these children. In short, the new law rests on three pillars:

Prevention of unnecessary separation of the child from the parents;

Improved quality of care and services to children and their families; and

Permanency through reunification with parents or through adoption or other permanency planning.

Title IV–E Program

The law creates a new program under title IV–E of the Social Security Act. The IV–E program closely parallels the foster care program currently provided under title IV–A, the Aid to Families with Dependent Children program. In addition, the title IV–E program also makes available Federal financial participation (FFP) in adoption assistance payments for children with "special needs." Federal matching funds for adoption assistance payments are not available under title IV–A. It also provides, for the first time, Federal matching funds for children voluntarily placed in foster care.

Beginning October 1, 1982, the title IV–E program will replace the IV–A foster care program. Until September 30, 1982 a State may operate its foster care programs under either title IV–E or IV–A. If a State chooses to continue under the title IV–A program, the State must meet the title IV–A requirements as amended by Pub. L. 96–272. Although the Federal agency responsibility for the administration of the title IV–A foster care program is now with the Office of Human Development Services, the essential application and financial management procedures for title IV–A will not be altered.

For purposes of briefly summarizing the title IV–E provisions of Pub. L. 96–272, the law may be divided into the

following general areas: State Plan Requirements; Foster Care Maintenance Payment Program; Children Voluntarily Placed in Foster Care; and the Adoption Assistance Program.

State Plan Requirements: The State plan requirements contained in section 471 of the Act include many requirements applicable to AFDC State plans under title IV–A such as a system of fair hearings and provisions to restrict the use or disclosure of information concerning individuals assisted under the State plan.

Sections 471(a)(16) and 475 of the Act strengthen the requirements for case plans and case reviews for children in foster care. Effective October 1, 1983, State plans must provide that reasonable efforts are made to prevent removal of the child from his or her home prior to foster care placement and that reasonable efforts are made to enable the child to return home (sec. 471(a)(15) of the Act). Also effective October 1, 1983, the agency must show in the child's case plan that reasonable efforts had been made to prevent removal of the child from his home in order for the child to receive title IV–E assistance payments (sec. 472(a)(1) of the Act).

Foster Care Maintenance Payments Program: Title IV–E authorizes FFP in foster care maintenance for all children currently eligible for AFDC–FC funds under title IV–A. Under title IV–A, Federal AFDC–FC payments are funds available for maintenance payments for a child otherwise eligible for AFDC payments, who is placed in a foster home or nonprofit private child care institution. Eligibility for FFP under title IV–E also includes children in public child care institutions which accommodate no more than 25 children. When this law was written, it included the requirement that children receiving foster care maintenance payments under title IV–E are deemed, for purposes of titles XIX and XX, to be dependent children as defined in title IV–A. This meant that such children would be eligible for Medicaid (title XIX) and social services under the title XX program then in effect (sec. 472(d) of the Act). Title XX was amended in August 1981 by Pub. L. 97–35, the Omnibus Budget Reconciliation Act, to create a new social services block grant program (SSBG). Eligibility for social services under the SSBG is at State option.

In the past, Federal matching funds for AFDC–FC payments have been available to States on an open-ended, entitlement basis. Under Pub. L. 96–272 and under the amended title IV–A foster care program, there is a ceiling on foster care FFP funds for each fiscal year 1982 to 1984, if the appropriations for title IV–B child welfare services are made by Congress in advance of the fiscal year and if they equal or exceed specified amounts: $163.55M for fiscal year 1981, $220M for fiscal year 1982, and $266M for each of fiscal years 1983 and 1984 (sec. 474(b)(1) and (2) of the Act). Federal funds made available to a State under its title IV–E foster care allotment ceiling, which are not needed for this program's foster care maintenance expenditures, may be transferred to the child welfare services program under title IV–B (at a 75 percent matching rate), under certain conditions (Sec. 474(c) of the Act). Section 474(c)(4)(a) of the Act provides that no State may increase its title IV–B funds by a transfer of title IV–E or IV–A funds beyond its share of $141M until it has implemented the protections required by section 427(a) of the Act. Section 102(a)(2)(B) of Pub. L. 96–272 makes the same requirement applicable to transfers of funds under title IV–A. This new Notice of Proposed Rulemaking (NPRM) clarifies that the transfer requirements are different when the "trigger" amounts in fiscal years 1981–84 are not reached. The statute applies the ceiling and transfer provisions equally to foster care under title IV–E and IV–A. Under the old law, States received Federal matching for AFDC payments (including AFDC–FC payments) on the basis of either the AFDC formula (used by only four States) or the Medicaid matching formula. All FFP for foster care maintenance payments and adoption assistance payments under the title IV–E program are determined using the Medicaid matching formula (Sec. 474(a)(1) and (2) of the Act).

Children Voluntarily Placed in Foster Care: In the past, Federal AFDC matching funds were not available for children placed in foster care without a judicial determination. Section 102 of Pub. L 96–272 temporarily amends title IV–E to authorize FFP in expenditures made after September 30, 1980 and before October 1, 1983 (and under title IV–A, expenditures made after September 30, 1979, and before October 1, 1982) for foster care maintenance payments with respect to an eligible child removed from home under a voluntary placement agreement. FFP is available only for expenditures made on behalf of voluntarily placed children after the State has implemented the protections and procedures mandated by section 427(b) of the Act.

Adoption Assistance Program: Pub. L. 96–272 provides for FFP in State adoption assistance payments (sec. 473 of the Act). There was no such authority prior to Pub. L. 96–272. States participating in the title IV–E program are required to establish a program of adoption assistance payments (sec. 471(a)(1) of the Act). FFP in adoption assistance payments is available for those eligible children adopted on or after June 17, 1980 if a valid adoption assistance agreement has been made. However, for those children adopted on or after June 17, 1980 but prior to the effective date of the State's title IV–E plan, FFP for these payments will be available only from the effective date of the State plan. FFP for adoption assistance is available for a child with "Special Needs" who is eligible for SSI, AFDC, or foster care maintenance payments under title IV–E.

An adoption assistance agreement is required for each child and is defined in section 475(3) of the Act. Children receiving adoption assistance payments under title IV–E are considered to be receiving AFDC and therefore eligible for Medicaid (as categorically needy) (sec. 473(b) of the Act). They may also be eligible for social services under the SSBG as determined by the State. FFP for adoption assistance payments is available for children under age 18 or age 21 under certain circumstances) on an open-ended entitlement basis and is based on the Medicaid matching formula (sec. 474(a)(2) of the Act).

Title IV–B Child Welfare Services Program

Pub. L. 96–272 also amended title IV–B of the Act to consolidate, restate and in some instances modify the existing Child Welfare Services program. Historically, title IV–B has provided Federal grants to establish, extend and strengthen child welfare services in the States. Grants are made to State agencies on the basis of a plan developed jointly by the Administration for Children, Youth and Families' (ACYF) Children's Bureau and the State agency. The amended Act reaffirms this partnership between the Federal and State governments for the provision of child welfare services by the State.

Under title IV–B, formula grants are allocated to the States for providing and improving child welfare services to children and families in need of services (sec. 1357.20(b)). There are no income based eligibility requirements under title IV–B.

In recent years States have used approximately 70 to 80% of title IV–B funds for foster care maintenance payments. Other services which have been provided include adoption, day care and protective services to abused and neglected children.

The Act contains sections which include a list of the title IV–B State plan requirements, the method of computing and making and realloting IV–B payments, the requirements for a State to be eligible for its proportionate share of payments above 141 million dollars, and language permitting the Department to make grants directly to Indian tribal organizations. The last two sections are significant new additions to title IV–B and will be discussed more extensively later in this preamble.

III. Notice of Proposed Rulemaking, December 31, 1980

Following publication of the Notice of Proposed Rulemaking (NPRM) in the **Federal Register** on December 31, 1980 (45 FR 86817–86850), the Department mailed 25,000 copies of that NPRM to individuals, organizations and public agencies. In January, 1981, hearings were held in each of the ten HHS regions. In addition to the presentation of formal testimony, these hearings included sessions of open discussion between the public and Federal staff. Verbatim transcripts were taken of all testimony and discussion at the ten public regional meetings and later analyzed.

During the 75-day comment period after publication of the first NPRM, approximately 450 comments in addition to the testimony and discussion from the regional hearings were received. These comments varied greatly in both length and detail. Although there were differing views concerning the proposed regulation, there was broad based support for the law and its proposed reforms.

The commenters included public interest organizations, professional groups, State agencies, municipal agencies, universities and individual respondents. Some written comments were very brief and general; others were detailed, section-by-section analyses of the regulations. Many respondents suggested specific regulatory language for their recommended changes.

Many comments supported detailed requirements and explicit regulatory expectations as essential to bring about the changes envisioned in the law. Most advocacy organizations that commented on costs believed that the increased authorization in the law provided States with adequate funds to implement the regulation. Some noted the cost savings contemplated in the law and the regulation would result from reducing the number of children placed in extended institutional care and the cost benefits of permanency planning (reunification with families and adoption) when compared with long-term foster care placement.

Other respondents, including twenty-nine State agencies that either administer directly or supervise the administration of child welfare service programs, prepared detailed analyses of the NPRM offering support for some sections and detailed criticism of other sections. In general, however, State agencies objected to the numerous specific requirements in the December 31, 1980 NPRM. States recommended regulatory language that adhered closely to the law, increased State flexibility and programmatic discretion, and limited the Federal role to those activities specifically provided for in the law. State agencies were also concerned that specific requirements would impose costs that would add additional pressure to already overextended State budgets.

IV. Approach to Writing the Second Notice of Proposed Rulemaking

In reviewing the initial NPRM, we concluded that substantial revisions are appropriate. In addition to certain deficiencies noted in comments, the proposed regulations contained a number of provisions that, we now believe, would unduly limit State flexibility or impose unjustifiable costs. The proposal has therefore been thoroughly evaluated and revised and inappropriate provisions have been eliminated.

Given the magnitude of these changes and expressed public interest in this regulation, the Department is withdrawing the NPRM published on December 31, 1980, and is proposing these revised rules. The Department believes it beneficial and essential to obtain new comment on this revised proposal before publishing a final regulation. The comment period will extend for 60 days. Comments submitted in response to the withdrawn NPRM will not be considered in the development of the final rule.

The revised NPRM references the law wherever possible, deletes most language in the NPRM that repeated statutory requirements, and removes many of the detailed and specific requirements contained in the NPRM. The Department has added regulatory requirements only in those areas where clarification or specificity is needed to carry out the intent of the law.

In this effort the Department has been aided by the wording of the law which in many sections is precise, explicit and unusually detailed. We believe these stated requirements clearly reflect Congressional intent and make further clarification or regulation unnecessary. In other areas, statutory language suggests Congress chose to leave discretion to the Secretary. The Secretary has used this discretion to permit States flexibility in implementing these sections of the statute.

In writing this proposed regulation, HHS has also made every effort to be sensitive to State practice by incorporating State recommendations wherever possible. Overall our purpose has been to prepare a regulation that produces the desired changes while adhering closely to the law and allowing flexibility in the means of producing the changes required by the law.

V. Section by Section Discussion of the NPRM

a. Part 1355—This Part applies to both the title IV–E and the IV–B programs. In this section we are proposing two definitions that clarify the law. We are defining the term "detention" in the context of the definition of "child care institution" in section 472(c)(2) of the Act to differentiate among child caring institutions eligible for foster care maintenance payments. Our purpose is to make clear that detention facilities are not eligible child caring institutions under this program.

We are defining "foster family home" (sec. 472(c)(1) of the Act) to make clear that foster homes licensed or approved by the responsible tribal authority(ies) meet the definition of a foster family home.

The passage of the Social Services Block Grant (SSBG) necessitates a clarification of the single State agency requirement under title IV–B. Prior to the passage of the SSBG legislation, the State agency designated to administer the title XX program was required to administer (or supervise the administration of) the title IV–B program. The SSBG does not require the designation of a single State agency to administer the block grant. This second NPRM, therefore, leaves to the State the decision on program organization regarding which State agenc(ies) shall administer the programs under title IV–E, IV–B and SSBG. It should be noted, however, that the statutory requirement of a single State agency to operate both the title IV–E and title IV–B programs was not affected by the SSBG legislation and remains unchanged (sec. 471(a)(2) of the Act and § 1355.21(a)).

In § 1355.21(b), the Department has included the regulatory provision to implement section 471(a)(8). In addition to the confidentially requirements of this section, the Department has concluded that it is necessary to provide for restricted access to the records of title

IV–B service recipients. It is clear from the intent of Pub. L. 96–272 that the programs under titles IV–E and IV–B are to be closely related and interactive. Therefore, it would defeat the intent of the confidentiality provisions of title IV–E, which is the maintenance title, if sensitive information were inappropriately accessible through the files of the complementary service title, title IV–B. Hence, the Department has chosen to impose the confidentiality requirement on title IV–B as well as title IV–E.

b. Part 1356–Requirements applicable to title IV–E.

Section 471 of the Act and § 1356.20 of this proposed regulation contain the statutory and regulatory provisions regarding State plan requirements for title IV–E.

Passage of the SSBG made two additional changes affecting the title IV–E program. Section 472(d) of the Act (sec. 472(h), as amended) extends title XIX and title XX eligibility to title IV–E eligible children. However, the SSBG which replaced the former title XX program grants to each State the authority to determine both the services to be provided and the eligibility criteria for service recipients. Since section 472(h) deems children receiving title IV–E foster care payments to be children receiving AFDC payments, title IV–E children can receive social services only if States choose to provide these services to AFDC children or in some other way extend eligibility to these children (e.g., by explicitly covering children receiving title IV–E payments). Given this change, foster care recipients maintain their title XIX eligibility, as section 472(h) of the Act mandates, but the States have discretion to determine what services, if any, will be available under the SSBG.

Pub. L. 97–35 (SSBG) also changed section 471(a)(10) of the Act. Section 2353(s) rescinded the Federal Day Care Requirements and required that day care provided with Federal matching funds must meet applicable State and local rather than Federal standards. However, an erroneous cross-reference in section 2353(r) provides that the standards in effect in the State with respect to child day care services under title XX will apply to foster family homes and child care institutions receiving title IV–B or IV–E funds. The Department has offered a technical amendment which will delete this erroneous cross-reference and provide that States must designate a State authority responsible for establishing and maintaining standards for the safety and health of children in foster homes and institutions. This will carry out the intent of the original cross-reference to section 2003(d)(1)(F) of the former title XX program.

Section 1356.20(c) provides that the title IV–E State plans shall be submitted consistent with the procedures contained in 45 CFR 201.3. The content of the State plan must meet the requirements of section 471(a) of the Act and may be submitted in a format determined by the State.

Consistent with the Department's effort to reduce the paperwork and reporting burden of these regulations, States may submit their original title IV–E State plan document once and amend it as needed or required. The State plan need not be submitted annually. Only the changes or amendments need be submitted.

In § 1356.21, we have set forth the additional foster care maintenance requirements that States have to meet in implementing the State plan. Consistent with our new approach to writing this regulation, we have not repeated the requirements of the law and have proposed provisions only in those areas where we believe clarification would be beneficial to States or individuals or where regulation is necessary to carry out the intent of the law.

Section 1356.21 (b) and (c) propose additional requirements to implement the case review system. This section proposes that the initial case plan covering all of the essential elements be developed within a reasonable time period, to be established by the State, but in no event longer than 60 days, starting at the time the agency assumes responsbility for providing services or placing the child. The Department received comments recommending both specific and open-ended time periods. We believe this provision will permit States the needed flexibility to develop a responsible time period to attend to the child's needs and provide adequate time for the agency and the family to assess the situation, set goals, identify needed services, and estimate a date when reunification is to take place or an alternate plan undertaken. In addition, this provision is consistent with the statutorily mandated six month periodic reviews. The first and subsequent reviews will primarily focus on the needs of the child and family and the services provided. The 60 day limit is designed to ensure that each child will have a case plan and that the plan will be the standard against which the review will measure progress and the need for changes. The NPRM through a cross reference to section 475(1) of the Act also proposes that the case plan include a discussion of the appropriateness of the services that have been provided to the child under the case plan. This information will provide accountability for the child's movement within the foster care system and for the outcome of the services provided. Moreover, the Department is requiring the State agency to develop policy materials and instructions for use by State and local staff in making the decisions about the appropriateness and necessity for the foster care placement of the child. This provision is intended to ensure that the placement decision-making process, so vital to the child's future, is objectively and consistently applied and responsive to the child's needs.

With regard to the dispositional hearing (§ 1356.21(d)), the initial hearing must take place no later than eighteen months after the original placement. The NPRM proposes that subsequent dispositional hearings be held within a reasonable time period thereafter rather than annually as the first NPRM had proposed. The State is permitted the flexibility to define a reasonable time period.

Section 1356.21(e) of this NPRM specifies that States must make "reasonable efforts" to prevent placement or to reunify the family in accordance with section 471(a)(15) of the Act. This proposed regulation defines reasonable efforts as the State having services systems in place that meet the requirements of section 427 (a)(2)(C) and (b)(3) of the Act. A discussion of these services provided to the child and family must be included in the case plan in accordance with the case plan requirements.

Section 1356.21(f) of this NPRM implements section 471(a)(14) of the Act. This NPRM accommodates the comments and recommendations of many States to the first NPRM by permitting States to incorporate the required goals into State law either by statute or by administrative regulation provided that such regulations have the force and effect of law in the State.

Section 1356.21(g) implements section 471(a)(11) of the Act. This NPRM provides that each State must conduct a review of the foster care maintenance payments, adoption assistance and State foster care standards within reasonable time periods to be established by the State. As with many other provisions in the Act that use the term "periodic," the Department has chosen to give States the latitude to specify a reasonable time period that is in accordance with the intent of the Act. This NPRM does not require public involvement in the review process. However, public involvement is strongly

recommended as a benefit to the State and affected constituencies.

Commenters requested clarification with regard to the periodic review in section 475(6) of the Act. The Act states that an administrative review panel must include at least one person who is not directly responsible for the case management or the delivery of services to the child and parent(s) who are subjects of the review. Commenters were concerned that the wording of the earlier NPRM raised new questions. This NPRM references the wording of the statute. This individual who is outside of the direct line of supervision must not be the worker, that worker's supervisor, or persons at other levels of supervision or administration who could directly influence the placement of the child. This provision does not exclude these agency personnel from being a part of the review panel. However, at least one other member who is not in that direct line of influence and who can provide a point of view independent of those in line authority must be a member of the review panel.

The State agency has responsibility for establishing its own review system, according to its own needs and resources. The proposed regulation does not prescribe how a State is to do this, as limitations on the time of agency staff and volunteers will determine the number of panels that must be appointed to review the State agency's cases.

Provisions implementing voluntary placements are contained in § 1356.30. Section 102(a)(1) of Pub. L. 96–272 amends section 472 of the Act by providing for FFP in the costs of foster care maintenance payments for children voluntarily placed in foster care under a voluntary placement agreement. This provision applies to expenditures for voluntary placements made after September 30, 1980, and before October 1, 1983 under the title IV–E program, and for voluntary placements made under the title IV–A(FC) program after September 30, 1979 and before October 1, 1982.

The provision in the Act for FFP for voluntary foster care placements is a significant departure from the earlier title IV–A foster care program in which only placements resulting from judicial orders were considered eligible for FFP. Federal financial participation in the cost of voluntary foster care placements is available when the title IV–E plan requirements are met and all the provisions contained in section 427(b) of the Act are in place and operating in the State.

Participation by the State in this new program is optional. Therefore, the statutory requirements regarding the voluntary placement program in section 472 of the Act, as amended, become State plan requirements only if a State elects to participate in this program.

To implement the provision for voluntary placement, we have added provisions in § 1356.30. Section 1356.30(b) clarifies that FFP is available for foster care maintenance expenditures only within the first 180 days after the *original* voluntary foster care placement unless there has been a judicial determination within the 180 day period that continued voluntary placement is in the best interest of the child. The first NPRM did not make clear that the term "placement" meant original placement.

The first NPRM also proposed that in order to request return of a child placed under a voluntary agreement, parents had to give written notice to the agency at least five working days in advance. Section 1356.30(c) of this NPRM deletes that requirement and provides that each State establish and maintain a uniform procedure for revocation consistent with its own State law. The Department believes that each State should be given the flexibility to develop requirements best suited to its circumstances.

Section 1356.40 proposes to implement section 473 of the Act which contains the statutory requirements for the Adoption Assistance Program. For the first time, Federal financial participation is available to provide adoption assistance for children with "special needs." The substantial costs of providing proper care for children with special needs has been a significant hindrance to the adoption of thousands of AFDC-foster care children.

The requirements for the adoption assistance program are proposed in § 1356.40 of the NPRM. The Department has incorporated the view of many who recommended that a completed adoption assistance agreement must include the amount of assistance and services to be provided, the duration of the agreement, and an eligibility clause for services provided under title XIX (§ 1356.40(b)). Payments are conditioned upon the signing of the agreement prior to or at the time of the interlocutory or final decree of adoption.

In response to comments on the first NPRM questioning whether a means test should be applied, § 1356.40(d) makes clear, based on the legislative history, that there shall be no income eligibility requirement (means test) for prospective adoptive parents in determining eligibility for adoption assistance payments. However, section 473(a)(2) of the Act requires that the amount of the adoption assistance payment be determined in part by the circumstances of the adopting parents.

Section 475(3) of the Act requires that adoption assistance agreements contain a provision protecting the interests of the child when the adoptive family moves to another State. For agreements entered into on or after October 1, 1983, the adoption assistance agreement shall remain in effect regardless of the State of residence of the adoptive parent(s) and the child. If the needed services specified in the agreement are not available in the State to which the family moves, the State making the adoption assistance payment remains financially responsible for providing the services (§ 1356.40(e)).

The proposed rule also provides that a State may place a child under an adoption assistance agreement with adoptive parents who reside in another State. In this event, all of the requirements of § 1356.40 would apply.

Commenters to the December 31, 1980 NPRM made suggestions as to when adoption assistance payments should begin. Congress specified that adoption assistance payments were to begin at the time of adoption. However, if an interlocutory decree granting the prospective adoptive parent(s) guardianship or legal custody pending a final decree of adoption is issued, payments may begin at that time. The intent of Congress was to ensure that these children have the additional procedural safeguards provided by a judical determination. The option of having assistance begin at placement for adoption was rejected as contrary to Congressional intent to subsidize only actual adoptions.

The earlier NPRM required promotion of the adoption assistance program. This NPRM modifies that provison. The Department believes that States are best equipped to decide how to promote the program. Therefore, the Department has maintained the general promotion requirement while eliminating the specificity on how this should be done. The Department has chosen this modified approach in the belief that a primary intent of Pub. L. 96–272 is to move children out of foster care and into permanent arrangements. This requirement is intended to move toward that end while giving the States flexibility on how it should be implemented.

The basis and procedure by which the Department would, if necessary, withhold funds based on non-compliance with the State plan are stated in § 1356.50. The proposed regulation adopts present Department-

wide procedures (45 CFR Part 213) for handling non-compliance actions.

Paragraph (a) of this section has been added to clarify what requirements must be met to be in compliance with the State plan. However, it is anticipated that the Department will not use this authority unless and until other less formal methods of ensuring compliance with the approved title IV–E State plan requirements have been exhausted.

The sections of the regulation pertaining to the title IV–E fiscal requirements (§§ 1356.30, 1356.60, 1356.65, 1356.70) are being published as a final regulation, and are not included in this NPRM. The final regulation is published concurrently with this NPRM and should be read in close conjunction with this NPRM to understand fully both regulations. There is one exception: Section 1356.60(a), Federal matching funds for foster care maintenance and adoption assistance payments, is being published as a final rule with references only to the statutory provisions. In this NPRM, the provisions of the proposed rule are also referenced.

c. Part 1357—Child Welfare Services

Section 1357.10(c) of this regulation proposes several definitions. Commenters to the first NPRM indicated some confusion about the meaning of "child welfare services" as it relates to many provisions in this proposed regulation. The statutory definition (sec. 425(a)(1)) of "child welfare services" is comprehensive and the Department has interpreted it to include all public social services directed toward the accomplishment of the stated objectives. This interpretation is supported by both the legislative history and the intent of the Pub. L. 96–272. It is clear from the history which gave rise to this definition that Congress intended the approach to child welfare services to be comprehensive and coordinated. The links between the title IV–B and IV–E programs found in Pub. L. 96–272 are but simple examples of this clear intent. This means that the definition is *not* limited to only those services funded under title IV–B as some commenters to the first NPRM suggested. Consequently, we propose that the State must use this definition (sec. 425(a)(1)) to meet the statutory requirements that the State plan "* * * contain a description of the services provided * * *" and "* * * contain a description of the steps which the State will take to provide child welfare services and to make progress in * * *" (sec. 422(b)(6)).

This proposed regulation (§ 1357.15(a)(2)) requires a description of all child welfare services to be provided, the geographic areas in which they are available and what is being done to expand, improve and strengthen those services or provide new ones. All child welfare services that come under the definition contained in the law are to be described regardless of funding source.

In order to provide greater flexibility in planning, we have proposed in § 1357.15 (b) and (d) to allow States to submit their plans in a form determined by them and to remain in effect for one, two or three year periods. Although the Department previously published "Guidelines for Development of State Child Welfare Services Plans," on January 6, 1981, the States are free to use whatever format they choose for their title IV–B State plan. These guidelines are advisory and are intended only as an aid to the States.

Section 422 of the Act contains the State plan requirements for title IV–B. Included in proposed § 1357.15 are requirements which cross reference and incorporate other sections of the Act. In commenting on the earlier NPRM, some State agencies requested clarification of their responsibilties for joint planning under the title IV–B if they were participating in the Department's Consolidated Plan Demonstration Project, or the Office of Human Development Services' Plan Simplification Project. States participating in these projects must comply with the requirement of joint planning.

In addition to the foregoing requirements, the Department is including another title IV–B State plan requirement regarding the implementation of preplacement preventive and reunification services. The Department is requiring that the State specify in its title IV–B State plan which preplacement preventive and reunification services are available. To aid in the development of these services programs, the Department has included in the NPRM a list of examples from which the States are free to choose any, all or none (§ 1357.15(e)). (Additional discussion of these services programs is found in the section 427 portion of the preamble.)

Section 1357.20 contains the requirements of the Child Abuse Prevention and Treatment Act of 1974, as amended, 42 U.S.C. 5103(b)(3) (Pub. L. 93–247) that apply to title IV–B. These requirements must be met if a State chooses to fund any child abuse and neglect programs and projects under title IV–B of the Act.

The Department has chosen to include these provisions in this proposed regulation so that all title IV–B requirements may be located in the same Part of the Code of Federal Regulations, Part 1357. In addition, the Department proposes to delete Part 1392 which presently contains these requirements.

Section 1357.25 implements section 427 of the Act. To help finance the services required and to encourage changes in the foster care system, Congress provided that a State must establish certain protections and procedures. Section 427 of the Act establishes these requirements which apply to several fiscal activities.

To be eligible:

(1) for title IV–B funds in excess of its proportionate share of $141 million (sec. 427(a)), or

(2) to transfer funds not needed for foster care under title IV–A or IV–E to title IV–B for use in the provision of child welfare services in an amount which, together with the States' IV–B allotment would exceed its share of $141 million (sec. 474(c)(4)(A)), a State must meet the following conditions of section 427(a):

1. it must have conducted an inventory of all children who have been in foster care in the State for six months or more and made certain determinations as to the appropriateness and necessity of the placement; and

2. it must have implemented and be operating—

A. a statewide information system for every child in foster care; and

B. a case review system for each child in foster care; and

C. a service program designed to reunify families or achieve other permanent placement.

The Department received many comments on the requirements for the inventory and Statewide information system. Many organizations supported the provisions of the first NPRM or suggested more detailed requirements. Others recommended revising the final regulation to permit States greater flexibility in implementing the statutory provisions. The Department supports the latter approach and revised this NPRM to reference the language of the law. The Department believes this approach will minimize burden and costs imposed on the States without significantly affecting the expected outcomes.

To meet the provisions of section 427(a) of the Act, the Department proposes to require the States to collect and maintain information (inventory and Statewide information system, § 1357.25(b)) only for those children under the care and responsibility of the State's titles IV–E (or IV–A(FC)) and IV–B agency(ies). States are free to include additional children in either the inventory or the Statewide information

system at their option. The scope of the inventory and statewide information system requirements stated above are based in large part upon the findings of the 1977 National Study of children in foster care. That study, and the resulting determination that there were approximately 500,000 children in foster care, limited its investigation to those children under the responsibility of the State agencies described above.

The first NPRM prescribed the required elements in the inventory and Statewide information system. In this second NPRM, we have proposed to limit the nature of the Statewide information system to the requirements specified in the Act (sec. 427(a)(2)(A)). For the nature and content of the inventory required by section 427(a)(1) of the Act, the statutory language is sufficiently specific to require only a cross-reference in this proposed regulation.

States must meet the conditions in section 427(a) and implement and operate a program of preplacement preventive services (sec. 427(b)(3)) in order to:

1. avoid reduction of its funds to the level of Fiscal Year 1979, if title IV–B appropriations reach $266 million for two consecutive years (427(b) of the Act); or

2. receive Federal financial participation under titles IV–A or IV–E for foster care maintenance payments made on behalf of children placed pursuant to a voluntary placement agreement (section 102 of Pub. L. 96–272); or

3. transfer funds not needed for foster care under title IV–E or title IV–A to title IV–B for use in the provision of child welfare services, when appropriations under title IV–B have equaled or exceed $266 million for two consecutive years (section 474(c)(4)(B)); or when the State has claimed reimbursement under title IV–B in a sum equal to or exceeding its share of $266 million for two consecutive years (section 474(c)(4)(C)).

The Department also proposes to leave the decision on the nature and content of the reunification and preplacement preventive services programs to States.

One way States may meet the reunification requirement is by ensuring that reunification services are available and provided to children and families in need by specifying the services available, developing appropriate procedures and instructions for staff, and determining services delivery in relevant cases.

Section 427(a)(2)(C) also requires that a service program designed to help children be placed for adoption or legal guardianship be implemented and operating in each State. As with reunification services and all child welfare services, these adoption services must be available to children and families in need of these services.

The sections of the regulation setting forth the title IV–B fiscal requirements (§§ 1355.30 and 1357.30) are being published as a final regulation and, therefore, are not included in this proposed rule. They are being published concurrently with this NPRM and should be read in close conjunction with the NPRM to fully understand both. The reasons for publishing the fiscal sections as a final rule and discussion of those sections are contained in the preamble to the final regulation.

Section 1357.40 of this regulation implements section 428 of the Act which gives the Secretary discretion to decide whether a program of direct grants to Indian tribal organizations (ITO) should be established, which Indian tribal organizations should be eligible to receive funds directly and under what circumstances direct payments should be made available.

The Department believes that direct funding of Indian tribes will strengthen the tribal child welfare services programs consistent with the goals and requirements of Pub. L. 96–272. In the legislative history to Pub. L. 96–272 (Congressional Record, June 13, 1980, S. 6944), Senator Cranston indicated that direct funding was included in the legislation because jurisdictional and other problems sometimes caused Indian communities to be left out of social service programs funded through State agencies. This NPRM proposes to permit Indian tribal organizations meeting the eligibility requirements to apply directly to the Federal government for their share of the State title IV–B funds. The Department believes in self-determination for Indian tribes consistent with a direct government to government relationship. This principle is affirmed by the Indian Self-Determination Act (Pub. L. 93–638) and other Federal programs.

However, the Department recognizes that many tribal organizations may choose not to apply for direct funding for various reasons. For example, the tribal organization may consider the money available too small to warrant application; the tribal organization may have established a cooperative relationship with the State; or the tribal organization may determine that fewer services are available under direct grants than under a State's regular title IV–B program. However, if a direct grant is made to an Indian tribal organization, States will not be relieved of their responsibility under other Federal programs and under the Constitution to serve Indians in a non-discriminatory manner.

The substance of the requirements in this NPRM are consistent with those imposed upon the States. In determining which Indian tribal organizations will be eligible for direct funding, the Department has decided to make the option of applying for direct funding available to those Indian tribal organizations which have contracted under Pub. L. 93–638 (Indian Self-Determination Act) for child welfare services provided under 25 U.S.C. 13 (25 CFR Part 20) and are located in States with approved title IV–B State Plans. This NPRM addresses the concern expressed about the lack of services to Indians by permitting direct funding to Indian tribal organizations that have established the need for child welfare services and have taken advantage of the opportunity for direct management and operation of a tribal child welfare services program. Under this approach, direct grants will be added to existing, ongoing Indian child welfare programs operated by the tribal organizations. The title IV–E funds are intended to be linked to the other major Indian Federal social services program, will support Indian self-determination, and will complement the provisions of the Indian Child Welfare Act of 1978 (Pub. L. 95–608). This is important since title IV–B funds alone are insufficient for an Indian tribal organization to establish and operate a basic child welfare services program. Aggregating funds from different Federal sources to intensify their impact is consistent with the thrust of the title IV–B law which promotes progressive, comprehensive, quality child welfare services to children and families.

The Department considered other options for determining tribal eligibility to receive direct grants. One option, relating eligibility to a minimum number of children in each tribe, was rejected as arbitrary and lacking in programmatic justification. A second option established eligibility criteria based on management capability and adherence to specific title IV–B requirements. This option was rejected as duplicative of the developmental and capacity-building resources currently available through other programs such as title II of the Indian Child Welfare Act (Pub. L. 95–608) and the Native American Programs Act of 1974 (Pub. L. 93–644, as amended).

In determining the amount of direct funding that would be available to an Indian tribal organization eligible under this provision, the Secretary will apply a

formula similar to the one used to calculate State allotments under title IV–B. This formula takes into consideration the Indian tribe's resident population under 21 and its per capita income.

Because current per capita income figures for Indian tribes are not available, and most Indian tribes would have very low per capita income similar to the Territories, a maximum allotment percentage of 70.0 per centum, the same per centum used for the title IV–B allotments of the Territories, has been used.

For the balance of a State's population, excluding tribal population, the per capita income is estimated to be slightly higher than the State's average per capita income for the entire population.

Using these allotment percentages to calculate an Indian tribal organization's allotment results in an amount which bears approximately the same ratio to the total State's title IV–B allotment as the product of 1.5 times the proportion of the Indian tribe's resident population under 21 bears to the State's total population under 21. Other funding allocation options were considered and rejected as unsupportable by the intent of the law.

In the first NPRM, the Department had proposed to begin direct funding in the first quarter of Fiscal Year 1982. Implementation of this provision must await publication of the final rule and the statutory waiting period which is thirty days following publication of the final regulation.

Each eligible Indian tribal organization or consortium applying for a direct title IV–B grant will be required to submit a child welfare services plan that has been developed jointly by Federal and Indian tribal organization representatives. Although the requirements in the jointly developed plan for Indian tribal organizations will differ slightly from the requirements in the State plan, the tribal organization's plan will foster the service improvements envisioned in, and consistent with, the requirements in the law.

The plan which can be in effect for two or three years, must meet the requirements of sections 422(a) and 422 (b)(2) through (b)(8) of the Act as well as this regulation. However, as with the States, the format of the plan will be left to the discretion of the Indian tribal organizations. In addition to the jointly developed plan, each tribal organization applying for a direct grant must submit an annual operating budget on forms and in a manner prescribed by the Secretary.

If eligible Indian tribal organizations that apply for direct funds wish to receive their share of additional title IV–B funds above $141 million, they must meet the requirements under section 427 of the Act. The requirements under IV–B and additionally those related to eligibility for funds above $141 million are discussed more fully under the title IV–B section of this preamble.

In reviewing the first NPRM comments for this section, two general procedural issues were raised. First, how is the State to interact with the tribal organization? Second, since the direct grant funds are to come from a State's allocation, how is the State to be kept informed?

In response to these issues, the Department looked carefully at the earlier NPRM and the comments. To resolve the information flow problem between States and the tribal entities, three new provisions have been added to the NPRM. First, when an Indian tribal organization submits its jointly developed plan, it shall notify the State title IV–B agency. If the State title IV–B agency requests a copy of the ITO's title IV–B plan, the ITO shall provide such. Second, the State(s) shall provide a copy of its title IV–B State plan to the ITO upon request. Third, upon the Department's approval of a direct grant, the Department will promptly notify the affected State(s).

VI. Changes Made in the Code of Federal Regulations

This proposed regulation would remove Part 1392 of this title, which currently contains requirements for the title IV–B program and the title IV–A program of services to the territories. The title IV–A services program was abolished by the Omnibus Budget Reconciliation Act of 1981. Services are now funded in the Territories under the SSBG. In addition, this proposed regulation would amend the three new parts (Parts 1355, 1356 and 1357) in Subchapter G (The Administration for Children, Youth and Families, Foster Care and Adoption Assistance; Child Welfare Services), created by the final regulation.

The Department is publishing a final regulation for the fiscal sections implementing Pub. L. 96–272 concurrently with this regulation. The Department will also publish separately a regulation concerning Medicaid eligibility for children receiving foster care maintenance and adoption assistance payments under the title IV–E program.

VII. Impact Analysis

a. Executive Order 12291.—The Secretary has determined, in accordance with Executive Order 12291, that this proposed rule does not constitute a major rule because it will not: have an annual effect on the economy of $100 million or more; result in a major increase in costs or process for consumers, any industries, any governmental agency or any geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or import markets.

b. Regulatory Flexibility Act.—The Regulatory Flexibility Act of 1980, Pub. L. 96–354, requires that an agency prepare a regulatory flexibility analysis for a proposed or final rule if the rule would have a significant economic impact on a substantial number of "small entities," i.e. small businesses, small non-profit organizations, or small governmental jurisdictions.

Although actual delivery of services may be provided in some circumstances by proprietary, public and not-for-profit agencies or organizations under contract to the State agency, the responsibility for meeting the requirements of these regulations is on the State agencies, which are not "small entities" within the meaning of the Act. This proposed rule will impose no significant burdens on States or other affected parties and will provide flexibility to States in implementing the provisions of the Act. For these reasons, the Secretary hereby certifies that these regulations will not have a significant impact on a substantial number of small entities.

c. Recordkeeping and Reporting Requirements.—Under the Paperwork Reduction Act of 1980, the Department is required to submit to the Office of Management and Budget for approval of any information collection or reporting requirements. This proposed regulation contains the following such requirements:

(a) §1356.20. State Plan Document and Submission Requirements (IV–E)

(b) §1357.15. Child Welfare Services State Plan Requirements and Submittal (IV–B)

(c) §1357.40(c) & (d). Title IV–B State Plan Requirements (for Indian Tribes and Tribal Organizations)

In addition, section 427(a)(2)(A) of the Act (Statewide Information System) is also subject to the approval of OMB under the Paperwork Reduction Act of 1980.

Clearance packages for the Statewide Information System and these three sections of the regulations requiring development of State plans will be submitted to OMB for approval. Since the requirements in these regulations are no more comprehensive than the legislation, the Department will not require specific formats for the State plans. Therefore, the reporting burden will be minimal.

The requirements of section 476(a) and (b) of the Act (Technical Assistance; Data collection and Evaluation), which were included in the earlier NPRM at § 1356.30(i), have been deleted from this NPRM. If the Department determines that specific reporting and recordkeeping requirements to implement this section are necessary at some future date, such requirements will be submitted to OMB for approval at that time.

Further, in order to meet the very specific and detailed requirements of Pub. L. 96–272 States must maintain a variety of records and documents. Examples of these requirements are: an inventory of all children in foster care in the State for the preceding six months (sec. 427(a)(1)); a case plan for each child (sec. 471(a) and 475(5)); other records needed to establish a basis for FFP; and verification that the State has met the requirements for additional payments (sec. 427(a) and (b)). The Department does not plan to mandate detailed requirements on how these records must be maintained (other than the general requirements of 45 CFR Part 74), but States will be required to produce evidence that they are following the provisions of the statute during on-site monitoring or auditing by the Department.

VIII. List of Subjects in 45 CFR

Part 1355

Information (Confidentiality).

Part 1356

Adoption assistance, Administrative costs, Administrative practice and procedure, Administrative reviews, Allotments to States, Case plan, Case review system, Contracts (Agreements), Definitions, Dispositional hearings, Federal financial participation, Foster care allotments, Foster Care maintenance payments Medicaid, Preplacement preventive services, Reunification services, Social services, Statewide information system, State plans, Training, Voluntary placements

Part 1357

Child welfare services, Federal financial participation, Foster care, Grants-in-Aid program, Indians, Inventory, Preplacement preventive services, Reunification services, State plan, Training.

Part 1392

Aid to Families with Dependent Children, Child welfare, Grant program–social programs, Guam, Northern Mariana Islands, Puerto Rico, Virgin Islands, Volunteers.

(Catalog of Federal Domestic Assistance Program No. 13.645, Child Welfare Services—State Grants, 13.658, Foster Care Maintenance, and 13.659, and Adoption assistance)

Dated: April 2, 1982.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

Approved: May 17, 1982.

Richard S. Schweiker,

Secretary for Health and Human Services.

45 CFR Chapter XIII is proposed to be amended for the reasons set forth in the preamble as follows:

PART 1355—GENERAL

1. Part 1355 is amended by adding §§ 1355.10, 1355.20 and 1355.21 to read as follows:

§ 1355.10 Scope.

Part 1355 applies to State programs and the requirements for Federal financial participation under titles IV–E and IV–B of the Social Security Act, as amended.

§ 1355.20 Definitions.

(a) Unless otherwise specified, the following terms as they appear in Parts 1355, 1356 and 1357 of this title are defined as follows—

Act means the Social Security Act, as amended.

ACYF means Administration for Children, Youth and Families, Office of Human Development Services, U.S. Department of Health and Human Services.

Child abuse and Neglect means the definition contained in 45 CFR 1340.1–2(b), Child Abuse and Neglect Prevention and Treatment Program.

Commissioner means the Commissioner for Children, Youth and Families (ACYF), Office of Human Development Services, U.S. Department of Health and Human Services.

Detention in the context of the definition of child care institution in section 472(c)(2) of the act means the care of a youth determined to be delinquent who requires secure custody in a physical restricting facility pending court disposition, execution of a court order or after commitment.

Foster family home means the home of an individual or family licensed or approved by the State licensing or approval authority(ies) (or with respect to foster family homes on or near Indian reservations, by the tribal licensing or approval authority(ies)), that provides 24-hour out-of-home care for children. The term may include group homes if they are licensed or approved by the State as foster homes.

State means the 50 States, the District of Columbia, and, except in §§ 1356.65 and 1356.70, the Commonwealth of Puerto Rico, Guam, the Virgin Islands and the Commonwealth of the Northern Mariana Islands.

State agency means the State agency administering or supervising the adminstration of the title IV–E and title IV–B State plans. For purposes of this defintion, State agency shall include a local agency if it is administering the State plan on behalf of the State agency under an agreement which is till in effect.

(b) Unless otherwise specified, the definitions contained in section 475 of the Act shall apply to all programs under titles IV–E and IV–B of the Act.

§ 1355.21 State plan requirements for titles IV–E and IV–B.

(a) The State plan for titles IV–E and IV–B shall designate a single State agency to administer both the State's programs under titles IV–E and IV–B of the Act.

(b) The State plans for titles IV–E and IV–B shall both provide for safeguards on the use and disclosure of information which meet the requirements contained in section 471(a)(8) of the Act.

(c) The State plans for titles IV–E and IV–B shall provide for compliance with the Department's regulations listed in § 1355.30.

PART 1356—REQUIREMENTS APPLICABLE TO TITLE IV–E

2. Part 1356 is amended by adding §§ 1356.10, 1356.20, 1356.21, 1356.30, 1356.40 and 1356.50 to read as follows:

§ 1356.10 Scope.

This regulation applies to State programs for foster care maintenance payments, adoption assistance payments and related administrative and training expenditures under title IV–E of the Act.

§ 1356.20 State plan document and submission requirements.

(a) To be in compliance with the State plan requirements and to be eligible to receive Federal financial participation (FFP) in the costs of foster care

maintenance payments and adoption assistance under this Part, a State shall have a State plan approved by the Secretary that meets the requirements of this section and section 471(a) of the Act. The title IV–E State plan shall be submitted to the appropriate Regional Program Director, ACYF, in a form determined by the State.

(b) If a State chooses to claim FFP for voluntary foster care placements, the State shall meet the requirements of paragraph (a) of this section and section 102 of Pub. L. 96–272, the Adoption Assistance and Child Welfare Act of 1980, as it amends section 472 of the Act.

(c) The procedures in 45 CFR 201.3, Approval of the State Plans and Amendments, shall apply to submission of title IV–E State plans with the following exceptions:

(1) Substitute "Commissioner, ACYF" for "Administrator", "Regional Program Director, ACYF" for "Regional Commissioner" or "Regional Medicaid Director" whenever they appear; and

(2) Substitute "45 days" wherever "90 days" appears.

(d) Once the title IV–E State plan has been submitted and approved, it shall remain in effect until amendments are required. An amendment is required if there is any significant and relevant change in the information or assurances in the plan, or the organization, policies or operations described in the plan.

§ 1356.21 Foster care maintenance payments program implementation requirements.

(a) To implement the foster care maintenance payments program provisions of the title IV–E State plan and to be eligible to receive Federal financial participation for foster care maintenance payments under this Part, a State shall meet the requirements of this section, and sections 472, 475(1), 475(4), 475(5), and 475(6) of the Act.

(b) In meeting the requirements of sections 475(1) and 475(5)(A) of the Act, the case plan for each child shall:

(1) Be developed within a reasonable period, to be established by the State, but in no event later than 60 days starting at the time the State agency, or local agency, assumes responsibility for providing services or placing the child; and

(2) Include a discussion of how the plan is designed to achieve a placement in the least restrictive (most family-like) setting available and in close proximity to the home of the parent(s), consistent with the best interests and special needs of the child; and

(3) After October 1, 1983, include a description of the services offered or provided and the reasonable efforts made to help the child remain with his family or to return home.

(c) In meeting the requirements of section 471(a)(16), each State's case review system shall meet the requirements of sections 475(5)(B) and 475(6) of the Act and shall include the case plan required under paragraph (b) of this section. In meeting the case plan requirement of this paragraph, the State agency shall promulgate policy materials and instructions for use by State and local staff to determine the appropriateness of and necessity for the foster care placement of the child.

(d) In meeting the requirements of section 475(5)(C) of the Act, the dispositional hearing shall take place within 18 months of the date of the original foster care placement and within reasonable time periods thereafter, at intervals to be established by the State.

(e) In meeting the "reasonable efforts" requirements of § 1356.21(b)(3) and section 471(a)(15) of the Act, the State shall meet the requirements of sections 427(a)(2)(c) and 427(b)(3) of the Act.

(f) The specific foster care goals required under section 471(a)(14) of the Act shall be incorporated into State law by statute or administrative regulation provided such administrative regulation has the force of law.

(g) In meeting the requirements of section 471(a)(11) of the Act, the State shall periodically review, at intervals to be established by the State:

(1) The amount of the payment made for foster care maintenance and adoption assistance to assure their continued appropriateness; and

(2) The licensing or approval standards for child care institutions and foster family homes (including group homes).

§ 1356.30 Implementation requirements for children voluntarily placed in foster care.

(a) As a condition of receipt of Federal financial participation (FFP) in foster care maintenance payments for a dependent child removed from his home under a voluntary placement agreement, the State shall meet the requirements of section 472 of the Act (as amended by section 102(a) of Pub. L. 96–272) and section 102(d) of Pub. L. 96–272, the Adoption Assistance and Child Welfare Act of 1980, and the requirements of this section.

(b) Federal financial participation is available only for foster care maintenance expenditures made within the first 180 days after the date of the original voluntary foster care placement unless there has been a judicial determination by a court of competent jurisdiction within the first 180 days of the date of that original placement to the effect that the continued voluntary placement is in the best interests of the child.

(c) The State agency shall establish and maintain a uniform procedure or system, consistent with State law, for revocation by the parent(s) of a voluntary placement agreement and return of the child.

§ 1356.40 Adoption assistance program: Administrative requirements to implement section 473 of the Act.

(a) To implement the adoption assistance program provisions of the title IV–E State plan and to be eligible for Federal financial participation in adoption assistance payments under this Part, the State shall meet the requirements of this section and sections 471(a), 473 and 475 of the Act.

(b) The adoption assistance agreement shall meet the requirements of section 475(3) of the Act and shall:

(1) Be signed and in effect at the time of or prior to the interlocutory decree or at the time of or prior to the final decree of adoption. A copy of the signed agreement shall be given to each party; and

(2) Specify its duration; and

(3) Specify the amount of assistance and other services to be provided and, for purposes of eligibility under title XIX of the Act, specify that the child is eligible for medicaid services; and

(4) Specify, with respect to agreements entered into on or after October 1, 1983, that the agreement shall remain in effect if a family changes its State of residence.

(c) For purposes of implementing section 473 of the Act, *interlocutory decree* means a court order granting legal custody or guardianship to the adoptive petitioners prior to the final decree of adoption.

(d) There shall be no income eligibility requirement (means test) for the prospective adoptive parent(s) in determining eligibility for adoption assistance payments.

(e) In the event an adoptive family moves from one State to another State, the family may apply for social services on behalf of the adoptive child in the new State of residence. However, for agreements entered into on or after October 1, 1983, if a needed service(s) specified in the adoption assistance agreement is not available in the new State of residence, the State making the original adoption assistance payment remains financially responsible for providing the specified service(s).

(f) A State may make an adoption assistance agreement with adopting parent(s) who reside in another State. If so, all provisions of this section shall apply.

(g) The State agency shall actively seek ways to promote the adoption assistance program.

§ 1356.50 Withholding of funds for non-compliance with the approved title IV–E State plan.

(a) To be in compliance with the title IV–E State plan requirements, a State shall meet the requirements of the Act and §§ 1356.20, 1356.21 and 1356.40 of this Part.

(b) To be in compliance with the title IV–E State plan requirements, a State that chooses to claim FFP for voluntary placements shall meet the requirements of the Act, § 1356.30 and paragraph (a) of this section; and

(c) For purposes of this section, the provisions of 45 CFR Part 213, Practice and Procedure for Hearings to States on Conformity of Public Assistance Plans to Federal Requirements, shall apply.

3. In Part 1356, § 1356.60 is amended by revising paragraph (a)(1) to read as follows:

§ 1356.60 Fiscal requirements (title IV–E).

(a) *Federal matching funds for foster care maintenance and adoption assistance payments* (1) Effective October 1, 1980, Federal financial participation (FFP) is available to States under an approved title IV–E State plan for allowable costs in expenditures for:

(i) Foster care maintenance payments as defined in section 475(4) of the Act, made in accordance with sections 1356.20 through 1356.30 of this Part, section 472 of the Act and section 102(d) of Pub. L. 96–272, the Adoption Assistance and Child Welfare Act of 1980;

(ii) Adoption assistance payments made in accordance with §§ 1356.20, 1356.30(d) and 1356.40 of this Part and sections 473 and 475(3) of the Act.

* * * * *

PART 1357 REQUIREMENTS APPLICABLE TO TITLE IV–B

4. Part 1357 is amended by adding §§ 1357.10, 1357.15, 1357.20, 1357.25, and 1357.40 to read as follows:

§ 1357.10 Scope and definitions.

(a) *Scope*—This Part applies to State programs for child welfare services (including related administrative expenditures) under title IV–B of the Act.

(b) Child welfare services under title IV–B State plan shall be available on the basis of need for services and shall not be denied on the basis of financial need or legal residence.

(c) *Definitions*

Child Welfare Services means the definition contained in section 425(a)(1) of the Act, regardless of the funding source of such services.

Child Welfare Services Plan (CWSP) means the document developed through joint planning which describes the State agency's total child welfare services program, including services, program deficiencies, plans for program improvement and allocation of resources by type of service.

Joint Planning means State and Federal review and analysis of the State's child welfare services, including analysis of the service needs of children and their families, selection of unmet service needs that will be addressed in a plan for program improvement, and development of goals and objectives to enhance the capability of the State in providing child welfare services. (For purposes of § 1357.40, Direct Payments to Indian Tribal Organizations, substitute "Indian Tribal Organization" for "State" wherever State appears.)

§ 1357.15 Child welfare services State plan requirements and submittal.

(a) In order to be eligible for Federal financial participation (FFP) under this Part and title IV–B of the Act, a State shall have a Child Welfare Services State Plan (CWSP) which:

(1) Meets the requirements of sections 422(a) and (b) of the Act; and

(2) In meeting the requirements of section 422(b)(5) of the Act, the State plan shall contain a description of all child welfare services provided to children and their families in the State and specify by political subdivision the geographic areas where these services will be available.

(b) In implementing the requirements of this section and sections 427(a)(2)(C) and 427(b)(3) of the Act, the State shall specify, in its title IV–B State plan, which preplacement preventive and reunification services are available to children and families in need.

(1) The services specified may include: twenty-four hour emergency caretaker, and homemaker services; day care; crisis counseling; individual and family counseling; emergency shelters; procedures and arrangements for access to available emergency financial assistance; arrangements for the provision of temporary child care to provide respite to the family for a brief period, as part of a plan for preventing children's removal from home; other services which the agency identifies as necessary and appropriate such as home-based family services, self-help groups, provision of, or arrangements for, mental health, drug and alcohol abuse counseling, and vocational counseling or vocational rehabilitation.

(c) The State plan shall be written in a form determined by the State.

(d) The jointly developed State plan shall be submitted to the Regional Program Director (RPD), ACYF. The RPD will notify the State when the State plan meets all the requirements of the Act.

(e) A State shall indicate in the State plan document whether the plan will remain in effect for one, two or three fiscal years.

§ 1357.20 Child abuse and neglect programs.

The State agency shall assure that, with regard to any child abuse and neglect programs or projects funded under title IV–B of the Act, the requirements of paragraph (3) of section 4(b) of the Child Abuse Prevention and Treatment Act of 1974, as amended, 42 U.S.C. Sec. 5103(b)(3) (Pub. L. 93–247), are met.

§ 1357.25 Requirements for eligibility for additional payments.

(a) For any fiscal year after FY 1979 in which a sum in excess of $141,000,000 is appropriated under Section 420 of the Act, a State shall not be eligible for payment of an amount greater than the amount for which it would be eligible if the appropriation were equal to $141,000,000 unless the State shall comply with the requirements of Section 427(a) of the Act; and

(b) In meeting the requirements of the inventory and statewide information system under section 427(a)(1) and (2)(A) of the Act, the inventory and statewide information system shall be required to include only those children under the care and responsibility of the State title IV–B, IV–E or IV–A(FC) agencies, and other agencies with which these agencies have agreements for provision of foster care.

(c) If, for each of any two consecutive fiscal years after FY 1979, there is appropriated under Section 420 of the Act a sum equal to or greater than $266,000,000, a State's allotment amount for any fiscal year after two such consecutive fiscal years shall be reduced to an amount equal to what the allotment amount would have been for FY 1979 unless the State has implemented the requirements of Section 427(b) of the Act.

§ 1357.40 Direct payments to Indian Tribal Organizations.

(a) *Who may apply for direct funding.* Any Indian tribal organization (ITO) that meet the definitions in section

428(c) of the Act, or any consortium or other group of eligible tribal organizations authorized by the membership of the tribes to act for them is eligible to apply for direct funding if:

(1) The Indian tribe (or tribes comprising the ITO) has contracted under the Indian Self-Determination Act to provide those child welfare services formerly provided by the Secretary of the Interior; and

(2) The Indian tribal organization, consortium or group has a plan for child welfare service that is jointly developed by the Indian tribal organization and the Secretary of HHS, or his designee.

(b) *Joint planning.* For purposes of this section, Joint Planning means ITO and Federal review and analysis of the ITO's child welfare services including analysis of the service needs of children and their families, selection of unmet service needs that will be addressed in a plan for program impovement of goals and objectives to enhance the capability of the ITO in providing child welfare services.

(c) *Title IV–B plan requirements.* The Indian Tribal Organization's title IV–B plan shall meet all of the requirements of section 422(a) and 422(b) (2) through (8) of the Act. (For purposes provision, substitute "Indian tribe" for "State", "ITO" for "State (or local) agency," and "chief legal officer" for "Attorney General" wherever they appear) and shall include:

(1) The name of the ITO;

(2) A brief description of the ITO;

(3) A brief description of the legal and organizational relationship of the tribal organization to the Indians in the area to be served;

(4) A statement of the legal responsibility, if any, for children who are in foster care on the reservation and placed for adoption;

(5) A description of tribal jurisdiction in civil and criminal matters, existence or nonexistence of a tribal court and the type of court and codes, if any;

(6) An identification of the standards for foster family homes and institutional care and day care;

(7) The ITO's political subdivisions, if any;

(8) Whether the tribal organization is controlled, sanctioned or chartered by the governing body of Indians to be served and if so, documentation of that fact;

(9) Any limitations on authorities granted the ITO;

(10) The tribal resolution(s) authorizing it to apply for direct title IV–B grant under this Part;

(11) In the plan document, whether the plan is to remain in effect for one, two or three fiscal years.

(d) *Submittal of the title IV–B services plan and annual budget request.* (1) The ITO's title IV–B Annual Budget Request shall be submitted, in a form and manner prescribed by the Secretary, or his designee, to the appropriate Regional Program Director, ACYF.

(2) The title IV–B services plan shall be submitted to the appropriate Regional Program Director, ACYF, in a form, determined by the ITO, which meets all of the requirements of paragraph (c) of this section.

(3) Upon submission to the appropriate ACYF Regional office of a jointly developed plan, the ITO shall promptly notify the affected State(s)' title IV–B agency of the submission. For purposes of coordination, the ITO shall provide a copy of its plan to the State(s) upon request. The State IV–B agency shall provide a copy of its title IV–B State plan to the ITO upon request.

(e) *Coordination of services.* In meeting the requirements of section 422(b)(2) of the Act, the Indian tribal organization's plan shall assure coordination of services with other Federal, State or tribal programs to ensure maximum availability and utilization of resources that promote and enhance the welfare of children, youth and families served under title IV–B.

(f) *Requirements for eligibility for additional payments.* (1) For any fiscal year after fiscal year 1979 in which a sum in excess of $141,000,000 is appropriated under Section 420 of the Act, a tribe shall not be eligible for payment of an amount greater than the amount for which it would be eligible if the appropriation were equal to $141,000,000 unless the Indian tribal organization has implemented the requirements of section 427(a) of the Act. Substitute "Indian tribe" for "State", "Indian tribal organization" for "State agency", and "tribal geographic area" for "Statewide" wherever these words occur in section 427(a) of the Act.

(2) If, for each of any two consecutive fiscal years after fiscal year 1979, there is appropriated under Section 420 of the Act a sum equal to or greater than $286,000,000, a tribe's allotment amount for any fiscal year after those two consecutive fiscal years shall be reduced to an amount equal to what the the allotment amount would have been for fiscal year 1979 unless the Indian tribal organization has implemented the requirements of section 427(b) of the Act. Substitute "Indian tribe" for "State" and "ITO" for "State agency", and "tribal geographic area" for "Statewide" wherever these words occur in section 427(b) of the Act.

(g) *Grants: General.* (1) Grants may be made to eligible Indian tribal organizations in a State which has a jointly developed Child Welfare Services Plan under title IV–B of the Act.

(2) Federal funds made available for a direct grant to an eligible ITO shall be paid by the Secretary, or his designee, from the title IV–B allotment for the State in which the ITO is located. Should a direct grant be approved, DHHS shall promptly notify the State(s) affected.

(3) If an eligible Indian tribal organization includes population from more than one State, a proportionate amount of the grant will be paid from each State's allotment.

(4) The receipt of title IV–B funds shall be in addition to and not a substitute for funds otherwise previously expended by the Indian tribal organization for child welfare services.

(5) The Indian tribal organization shall adhere to the requirements in § 1357.30. Substitute "Indian tribe" for "State", "Indian tribal organization" for "State agency," wherever they appear.

PART 1392—SERVICE PROGRAMS FOR FAMILIES AND CHILDREN [REMOVED]

5. Chapter XIII is further amended by removing Part 1392 from subchapter J. Subchapter J is reserved as follows:

SUBCHAPTER J [RESERVED]

Authority: Adoption Assistance and Child Welfare Act of 1980, Pub. L. 96–272, 42 U.S.C. 670 et seq., 94 Stat. 501, 42 U.S.C. 620 et seq., 94 Stat. 516 et seq., Section 1102 of the Social Security Act, as amended, 42 U.S.C. 1302.

[FR Doc. 82-19131 Filed 7-14-82; 8:45 am]

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Thursday
July 15, 1982

Part IV

Department of Transportation

Federal Aviation Administration

Flightcrew Requirements for Part 91, Subpart D, Operations of Aircraft Certificated Under SFAR 41

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 21727; Amdt. No. 91-180]

Flightcrew Requirements for Part 91, Subpart D, Operations of Aircraft Certificated Under SFAR 41

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment permits operation of large airplanes certificated under Special Federal Aviation Regulation 41 with one pilot instead of two if the airplane is found safe for operation with one pilot, when operating under Subpart D of Part 91 of the Federal Aviation Regulations. This amendment relieves operators of an economic burden that does not have a commensurate safety benefit. Consequently, the relief afforded by this rule is fully consistent with the President's regulatory policies and Executive Order 12291. The rule change is in response to a petition for rulemaking submitted by the General Aviation Manufacturers Association (GAMA).

EFFECTIVE DATE: July 15, 1982.

FOR FURTHER INFORMATION CONTACT: Frank M. Jamison, Jr., Project Development Branch, General Aviation and Commercial Division, Office of Flight Operations, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone (202) 426-8150.

SUPPLEMENTARY INFORMATION:

Notice of Proposed Rulemaking

This amendment is based on Notice of Proposed Rulemaking No. 82-2 (47 FR 4092; January 28, 1982). All interested persons were given an opportunity to participate in the making of this amendment, and due consideration was given to all matters presented. This amendment and the reason for its adoption are the same as those stated in Notice 82-2.

Background of This Rulemaking Proceeding

Section 91.213(a)(1), as adopted by Amendment 91-101 (37 FR 14758; July 25, 1972), provides that no person may operate a large airplane without a pilot who is designated as second in command of that airplane.

Current airworthiness standards exist for two basic designation of airplanes: Part 23 for small (12,500 pounds or less) airplanes having nine or fewer passenger seats and Part 25 for transport category airplanes. Commuter airlines and air taxi operations in the United States, which have grown substantially in recent years, have demonstrated a need for airplanes which are not fully in the transport category but exceed the size limitations of Part 23. Certain small multiengine airplanes weighing under 12,500 pounds maximum certificated takeoff weight (MCTW) are so designed that they can be readily increased in size and maximum takeoff weight. Thus, they can fill the void between Part 23 and Part 25 airplanes.

Special Federal Aviation Regulation No. 41 (SFAR 41) was adopted on September 7, 1979, to allow certain Part 23 airplanes to be adapted to fill the void without requiring them to meet the standards of transport category airplanes. SFAR 41 allows the certification and operation, with appropriate restrictions and limitations, of small, propeller-driven multiengine airplanes at a maximum takeoff weight exceeding 12,500 pounds. The airplanes may also be configured with more than 10 passenger seats. It requires that the basic type of each airplane must have been originally type certificated in accordance with Part 23 prior to October 17, 1979.

The rules applicable to air taxi and commercial operators (Part 135), including commuter airlines, were amended to allow the operation of airplanes certificated under SFAR 41. Experience has indicated that since the adoption of SFAR 41, operations of these airplanes are routinely conducted under Part 91 in addition to Part 135.

Section 1(c) of SFAR 41 requires, in pertinent part, that an airplane certificated under paragraph (b) of section 1 is considered to be a small airplane for the purpose of Parts 21, 23, 36, 121, 135, and 139 and a large airplane for the purpose of Parts 61 and 91. The combined effect of SFAR 41 and § 91.213(a)(1) prohibited the operation under Part 91 of SFAR 41 airplanes with only one pilot when airplanes of the same basic design and configuration which have been certificated under Part 23 can be operated with one pilot. This has caused an apparent financial burden on Part 91 operators of airplanes certificated under SFAR 41.

Petition for Rulemaking by the General Aviation Manufacturers Association

On May 22, 1981, GAMA petitioned the FAA to amend the Federal Aviation Regulations to allow operation of certain airplanes certificated under SFAR 41 with one pilot. The petition states that this will reduce the burden on the public by allowing airplanes to operate with one pilot during certain flights if those airplanes have been found safe for operation with one pilot. This would include operations such as maintenance flight testing, relocation of airplanes, executive use, and demonstration flights, all of which may be conducted under Part 91. Two pilots would continue to be required for air taxi operations conducted under Part 135 when airplanes with 10 or more passenger seats are used. The petitioner points out that the requirement for two pilots to be used for all operations imposes an economic burden without a commensurate safety benefit.

On January 6, 1982, the FAA issued a notice of proposed rulemaking (Notice 82-2) in response to GAMA's petition. The notice proposed to amend § 91.213(a)(1) to allow an airplane certificated under SFAR 41 to be operated without a second-in-command pilot if the airplane is certificated for operation with one pilot. The notice was published in the **Federal Register** on January 28, 1982. The closing date for comments was March 29, 1982.

Discussion of Comments

The FAA received 15 public comments in response to Notice 82-2; 11 commenters fully support the proposal; 2 commenters support the proposal with reservations; and 2 commenters oppose the proposal.

Eight commenters state, in essence, that the rule change will relieve operators of an undue economic burden in the conduct of nonrevenue operations of the aircraft in question without compromising safety.

Comments from two prominent aviation-oriented organizations support the proposal but with reservations. One of these organizations recommends that an additional paragraph be added to make it clear that the operating rules in effect for a particular flight shall dictate the minimum required crew complement for that flight. This commenter states that such a caveat is necessary for avoiding any misconception that may develop as the result of a misinterpretation of the intent of § 91.213(a)(1), by alerting the operator that single-pilot operation is not authorized on the basis of type certificate data alone. The FAA appreciates the concern that motivated this recommendation; it would be inappropriate, however, to incorporate the caveat in § 91.213 as it would be redundant. This is because it is only when an aircraft is being operated under Subpart D of Part 91 that the rules contained therein apply. The applicability rules in § 91.181(a)

explicitly state that the operating rules of Subpart D do not apply to airplanes when they are required to be operated under Part 121, 123, 125, 129, 135, or 137 of the Federal Aviation Regulations.

An airline pilot's union supports the proposed rule but with certain restrictions, that is, limit single pilot operations to visual flight rules (VFR) conditions and to only when no passengers are being carried. This commenter contends that "carriage of additional persons, unless they were operationally required, could easily constitute an unnecessary and unwarranted distraction to the pilot and must not be allowed." Adoption of either of these recommendations would impose limitations, the stringency of which could not be justified. The FAA considers the pilot workload in SFAR 41 airplanes affected by this amendment to be no more demanding than that in many makes and models of airplanes certificated under Part 23 to which Subpart D of Part 91 does not apply.

Two commenters, the aviation coordinator of an institution of higher learning and a private individual, oppose the proposed rule change. The former commenter argues that in the interest of safety, no large airplanes (having an MCTW of more than 12,500 pounds) should be excepted from the requirements for a second-in-command pilot. The FAA does not agree that all airplanes with an MCTW of more than 12,500 pounds are necessarily more demanding than airplanes weighing less. The latter commenter gives reasons why he considers two specific makes and models of airplanes certificated under SFAR 41 should require two pilots at all times. The commenter provides no documentation to support his position. This commenter also states that he believes one of the models carries 15 passengers which "appears to me to be too many people for a one-pilot operation." This comment, in effect, implies objection to operations of certain airplanes that were certificated under Part 23 that are capable of carrying 15 passengers with only one pilot. The record indicates, however, that such aircraft are being operated safely with one pilot.

Description of the Amendment

As proposed in Notice 82-2, the FAA is amending Part 91 to allow certain SFAR 41 airplanes to be operated under Part 91 with one pilot. This is accomplished by amending § 91.213(a)(1) to exclude SFAR 41 airplanes from the requirement that all large airplanes must operate with a second in command. That section currently requires two pilots for all large airplanes, that is, those airplanes weighing over 12,500 pounds MCTW. Maintenance and pilot certification requirements of Part 91 operations will remain unchanged.

Under the amendment, the determination that single-pilot operation can be safely permitted will have to be made a part of the certification basis for the airplane if not already established. The approval, if granted, will appear in the type certificate data for the appropriate make and model airplane. However, the operating rules in effect for a particular flight will still dictate the minimum required crew complement for that flight.

This amendment provides an acceptable level of safety for affected operations while imposing the least amount of regulatory control consistent with maintaining flight safety. The amendment will reduce a burden on aircraft operators by eliminating the cost of a second pilot without compromising safety. Since the benefits outweigh the costs, this amendment is consistent with Executive Order 12291, signed by the President on February 17, 1981. As a result, the FAA is amending § 91.213(a)(1) to allow SFAR 41 airplanes to be operated without a pilot who is designated as second in command.

This amendment responds to an industry petition for relief from a current regulation. No formal benefit-cost analysis was completed with respect to the amendment. A regulatory evaluation was conducted for this action to assess the cost and economic impact. The FAA has determined that there are no apparent direct or indirect (nonindustry) costs associated with granting the petition. The FAA agrees with GAMA's statements as to benefits. Therefore, it is apparent that benefits outweigh any costs associated with changing the present regulation.

Index

List of Subjects in 14 CFR Part 91

Air carriers, Aviation safety, Safety, Aircraft, Aircraft pilots.

Adoption of the Amendment

PART 91—GENERAL OPERATING AND FLIGHT RULES

Accordingly, § 91.213(a)(1) of the Federal Aviation Regulations (14 CFR 91.213(a)(1)) is amended as follows:

§ 91.213 Second-in-command requirements.

(a) * * *

(1) A large airplane, except that a person may operate an airplane certificated under SFAR 41 without a pilot who is designated as second in command if that airplane is certificated for operation with one pilot.

* * * * *

(Secs. 313(a), 601, 603, and 604 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423, and 1424), and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this amendment relaxes requirements and allows more flexibility to affected operators since it permits operation of certain SFAR 41 aircraft with one pilot instead of two if the airplane is found safe for operation with one pilot. For these operations, operators have a cost saving and no increased economic burden. There are no apparent direct or indirect (nonindustry) costs associated with the amendment. Therefore, it has been determined that this is not a major regulation under Executive Order 12291 or significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11043; February 26, 1979). This amendment allows operators of SFAR 41 aircraft, some of whom are small entities, to minimally reduce costs by operating aircraft under certain conditions with one pilot instead of two. Therefore, I certify that under the criteria of the Regulatory Flexibility Act, the amendment will not have a significant economic impact on a substantial number of small entities. A copy of the regulatory evaluation prepared for this amendment may be obtained by contacting the person identified under the caption FOR FURTHER INFORMATION CONTACT.

Issued in Washington, D.C., on June 11, 1982.

J. Lynn Helms,

Administrator.

[FR Doc. 82-19182 Filed 7-14-82; 8:45 am]

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federal register

Thursday
July 15, 1982

Part V

Department of Health and Human Services

Public Health Service

Revision of Health Service Area Boundaries; Interim Regulation

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 122

Revision of Health Service Area Boundaries; Interim Regulation

AGENCY: Public Health Service, HHS.

ACTION: Interim regulation.

SUMMARY: This notice sets forth interim rules establishing criteria, procedures and requirements for the revision of existing health service area boundaries under section 1511(b)(4) of the Public Health Service Act, as amended by the Health Planning and Resources Development Amendments of 1979, Pub. L. 96–79. Interested persons are invited to submit written comments and suggestions concerning these interim rules.

EFFECTIVE DATE: These regulations are effective on July 15, 1982. to be considered comments must be received on or before September 13, 1982.

ADDRESS: Interested persons may submit written comments on these interim regulations to: William R. Berry, Acting Director, Bureau of Health Planning, 3700 East-West Highway, Room 6–22, Hyattsville, Maryland 20782. The comments will be available for public inspection at the above address between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Charlotte Pascoe, Chief, Agency Management Branch, Division of Planning Assistance and Assessment, Bureau of Health Planning, 3700 East-West Highway, Room 6–27, Hyattsville, Maryland 20782 (301) 436–6720.

SUPPLEMENTARY INFORMATION: Title XV of the Public Health Service Act ("the Act") established a national system for State and local health planning. The Act authorizes financial assistance for the implementation of the national health planning program. The initial step in accomplishing these goals was the establishment of health service areas throughout the country to facilitate effective planning on an areawide level (section 1511 of the Act). Following the establishment of these areas, the Secretary was authorized to enter into agreements with eligible entities for their designation as health systems agencies for the designated health service areas.

The initial designation of health service areas for the Nation was accomplished with publication of a **Federal Register** notice on September 2, 1975. Since September 1975, five revisions of health service area boundaries have occurred under the authority of section 1511(b)(4) of the Act.[1]

Before the enactment of the Health Planning and Resources Development Amendments of 1979 (Pub. L. 96–79), section 1511(b)(4) required the Secretary to review on a continuing basis and at the request of Governors or health systems agencies, the appropriateness of the boundaries of health service areas. It authorized the secretary to revise the boundaries only if the established health service area no longer met the requirements of the statute (at section 1511(a)). Reviews and revisions of health service area boundaries under this authority have been conducted in accordance with the Guidelines for the Redesignation of Health Service Areas, published in the **Federal Register** on September 16, 1976, 41 FR 39432–4 (the "1976 Guidelines").

Pub. L. 96–79 revised section 1511(b)(4) in two major ways: first, it deleted the requirement that the Secretary review the appropriateness of health service areas on a continuing basis. The Act now authorizes the Secretary to review the appropriateness of health service area boundaries at his own initiative. The Secretary must still make this review at the request of any Governor or health systems agency. Second, and more importantly, the amendments authorize the revision of health service area boundaries *either* if the area no longer meets statutory requirements *or* if a new area would meet these requirements "in a significantly more appropriate manner in terms of the efficiency and effectiveness of health planning efforts". The effect of the latter amendment is to permit more discretion on the part of the Department in determining whether boundaries may be revised. Previously, the fact that a new area might be substantially superior for the effective conduct of health planning was an insufficient basis for revision unless the Secretary could also conclude that the original area *no longer met* the requirements of section 1511(a).

In addition to the above changes, section 1511(b)(4) was also amended to specify that for each proposed revision of the boundaries of a health service area, the Secretary must give notice and the opportunity for a hearing to all interested persons. Furthermore, section 1511(b)(4) no longer requires consultation with agencies funded under section 314(a) and (b) of the Act, and regional medical programs established under Title IX of the Act, since these agencies are no longer in existence.

Finally, section 104(b) of Pub. L. 96–79 requires the secretary to issue regulations setting forth criteria for the revision of health service area boundaries under section 1511(b)(4).

Changing circumstances since the passage of Public Law 96–79 will result in an increased number of proposed health service area redesignations. The Administration has recommended that Federal funding of health planning be decreased and ultimately terminated. The Administration's proposal calls for this phase out to be completed by Fiscal Year 1983. Under the present continuing resolution, Congress has authorized $37.7 million for local health planning. Due to these budget constraints, we expect to receive redesignation requests from Governors to consolidate health service areas, thereby conserving scarce resources. Additionally, the Department expects that the Federal designation and funding of some HSAs will be terminated in the next several months. In the conference report accompanying the Omnibus Budget Reconciliation Act of 1981, Congress recognized that the amount of funding authorized for local health planning would be insufficient to sustain all the statutory obligations placed on HSAs, and further, expressed the view that the Secretary should not continue the designation agreement of an HSA in an area where funding would be inadequate to support an effective HSA. As HSAs phase out due to reduced Federal funding over the next several months, the Department may wish to redesignate uncovered health service areas into existing HSAs.

Finally, the Omnibus Budget Reconciliation Act amended section 1536 of the Public Health Service Act to provide that, upon the request of any Governor accompanied by his certification that his State is willing and able to carry out the purposes of Title XV without HSAs in the State, HSAs and health service areas in that State will be eliminated. In the case of an interstate area partially located in such a State, the effect of a section 1536 election by a Governor will be to strip away the portion of the area falling within the section 1536 State. The remaining portion of such an interstate area—i.e., the portion outside the section 1536 State—may or may not be appropriate under the criteria of section 1511(a) to stand alone as a separate health service area. It may be that the section 1511(a) criteria can best be met

[1] See the following **Federal Register** notices: December 13, 1976, pp. 54228–9, Vol. 41, No. 240 and correction notice on December 17, 1976, p. 55242, Vol. 42, No. 133; April 11, 1977, p. 18904, Vol. 42, No. 69; June 30, 1977, p. 33381, Vol. 42, No. 126; July 14, 1978, pp. 30364–6, Vol. 43, No. 136; and July 18, 1978, pp. 30698–9, Vol. 43, No. 136.

by consolidating the truncated portion with an adjoining health service area in the non-section 1536 State, or by otherwise adjusting health service area boundaries to accommodate the new situation. In any case, the original interstate health service area as designated pursuant to section 1511(a) will have ceased to exist, and new area boundaries will need to be drawn in accordance with section 1511(b)(4) if the non-section 1536 portion of the area is to continue to be served by an HSA.

These regulations establish the procedures and criteria for the review and revision of the boundaries of health service areas under the amended section 1511(b)(4), and are based on three main considerations. First, the Secretary has concluded that because the statutory requirements for health service areas (at section 1511(a) of the Act) were not changed by the 1979 Amendments, sections D and E of the 1976 Guidelines, which were based on those requirements, should continue to be used as the basis for determining whether an area should be revised because it no longer meets statutory requirements. These redesignation guidelines were derived from the health service area designation guidelines used to establish the existing health service area boundaries, and Sections D and E are appended to this regulation. Some of the factors to be considered under Sections D and E include (1) whether or not the existing area is appropriate for health planning; (2) whether the existing area contains at least one specialty center; (3) whether the area meets the population requirements of section 1511(a)(3); (4) whether health service areas are appropriately coordinated with areas designated for Professional Standards Review Organizations, existing regional planning areas, and State planning and administrative areas; (5) whether the area as established recognizes the difference in needs of metropolitan and nonmetropolitan areas and takes into account any economic or geographic barrier to the receipt of services in nonmetropolitan areas; and (6) whether each relevant Standard Metropolitan Statistical Area is contained within a single health service area.

Second, the Secretary is also using Sections D and E to determine if a new area would meet the statutory requirements in a significantly more appropriate manner, because (1) the guidelines already contain criteria suitable for that purpose, and (2) the development of new criteria would be unnecessarily disruptive during this period of transition in the Federal health planning program.

Sections D and E of the 1976 Guidelines establish specific considerations for determining whether a health service area meets the statutory requirements of section 1511(a). It is the obligation of the Governor or health systems agency requesting a revision of a health service area boundary to provide evidence based on these considerations that the proposed health service area will meet the statutory requirements in a significantly more appropriate manner. The Secretary will then make a determination based on this application and will notify the applicant of the decision and the reasoning behind it.

Similarly, when the Secretary proposes to revise a health service area upon his own initiative, the Secretary will apply the considerations to determine the extent to which a different health service area would meet the statutory requirements of section 1511(a) in a significantly more appropriate manner than the existing one.

By necessity, this approach provides the Secretary with considerable latitude, since the wide variety of health service areas in the country preclude a rigid, checklist approach to such a determination.

There are no cost implications as a result of these rules, since they primarily confirm by regulation criteria for revision of health service area boundaries which have been used for a number of years. The actual procedures for review and revision of health service area boundaries are, for the most part, taken directly from the statute, and impose no regulatory burden. Therefore, the Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities, and a Regulatory Flexibility Analysis under the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) is not required. Further, since these regulations do not meet any criteria for a major regulation under Executive Order 12291, a regulatory impact analysis is not required.

It is estimated that there will be a limited number of requests for revision of health service area boundaries since under the Administration's proposal the time frame for Federal funding of HSAs is only through FY 82. Although we expect more redesignation requests than in previous years (there have been five revisions since 1975), it is still anticipated that there will be fewer than 10 requests. For this reason, OMB clearance of the reporting requirements at § 122.704 of the regulations is not required.

The Secretary has determined that for this regulation a Notice of Proposed Rulemaking would be unnecessary, impractical and contrary to the public interest, and that good cause therefore exists for making these regulations effective on the date of publication in the **Federal Register**. With lower levels of Federal funding for HSAs in FY 1983 there is an urgent need for final area redesignation regulations to be in place so that health service areas can be consolidated, thereby enabling agencies to conserve scarce resources, and ensuring that areas in which HSAs' designation and funding have been terminated will not be left uncovered. In addition, the regulations, are taken directly from (1) amended section 1511(b)(4) of the Act; and (2) the 1976 Guidelines. The Guidelines, although not subject to public comment at the time of their adoption in 1976, have been operational for a number of years and have not been controversial. We also note that the adoption of interim final regulations does not preclude the public from submitting comments. Although the regulations are issued in final form and are effective immediately, the Department can take action to amend the regulations if comments are received which warrant revisions.

List of Subjects in 42 CFR Part 122

Health planning, Health care.

Accordingly, a new Subpart H is added to Part 122 of Title 42 of the Code of Federal Regulations, as set forth below.

Dated: May 21, 1982.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

Approved: June 25, 1982.

Richard S. Schweiker,

Secretary.

PART 122—HEALTH SYSTEMS AGENCIES

* * * * *

Subpart H—Revision of Health Service Area Boundaries

Sec.

122.701 Purpose.
122.702 General.
122.703 Initiation of review.
122.704 Request.
122.705 Criteria.
122.706 Notification.
Appendix—Sections D and E of the Area Redesignation Guidelines.

Authority: Sec. 215 of the PHS Act, 58 Stat. 690, as amended by 63 Stat. 35 (42 U.S.C. 216);

sec. 1511(b) of PHS Act, 88 Stat. 2229 (42 U.S.C. 300–1(b)(4)).

Subpart H—Revision of Health Service Area Boundaries

§ 122.701 Purpose.

Section 1511 of the Public Health Service Act requires the Secretary to establish health service areas throughout the United States. Section 1511(b)(4) directs the Secretary to review the appropriateness of these area boundaries upon his own initiative or at the request of a Governor or a health systems agency and under certain circumstances, to revise those boundaries. The purpose of these regulations is to set forth the procedures and criteria which apply to the revision of health service area boundaries under section 1511(b)(4) of the Public Health Service Act.

§ 122.702 General.

Any health service area boundary may be revised if, following the review of the appropriateness of that area boundary, the Secretary determines that (1) the boundary no longer meets the requirements of section 1511(a) of the Act, or (2) the proposed revised boundary would meet the requirements of that section in a significantly more appropriate manner in terms of the efficiency and effectiveness of health planning efforts. In making this determination, the Secretary will follow the procedures under § 122.706 and apply the criteria under § 122.705.

§ 122.703 Initiation of Review.

An area boundary may be revised by the Secretary upon the Secretary's own initiative or at the request of a Governor or health systems agency whose respective State or health service area is affected by the proposed revision.

§ 122.704 Request.

(a) Any Governor or agency requesting revision of a health service area boundary must consult with the following individuals and entities and must submit to the Secretary with the request written evidence of these consultations, together with any comments received from these individuals and entities:

(1) The Governor(s) of the State(s) and the Statewide Health Coordinating Council(s) (SHCC(s)) which would be affected by the revision;

(2) The chief executive officer or agency of each political subdivision within the State(s) or area which would be affected by the revision;

(3) The health systems agency(s) which would be affected by the revision.

(b) In addition, any request made under this paragraph must also include:

(1) A description of the proposed new area boundaries and a discussion of the reasons supporting the proposal;

(2) A description of the effect of the proposed revision on area population, the State and local health planning structure (particularly, the effect on agency governing body composition and funding), and on the relationship between the proposed revised area boundaries and areas for substate planning and development districts under OMB Circular A–95; and

(3) Evidence satisfactory to the Secretary that either of the requirements of § 122.702 is satisfied. This evidence must at least include a description of the advantages and disadvantages of the proposed revision, with particular emphasis upon whether the proposed revision would in any way disrupt the State or local health planning activities.

§ 122.705 Criteria.

In determining whether either of the requirements of § 122.702 is satisfied, the Secretary will apply Sections D and E of the area redesignation guidelines (41 FR 39433, September 15, 1976), which are set forth in Appendix A of these regulations.

§ 122.706 Revisions.

Following the application of the criteria set forth in Appendix A, the Secretary will determine whether to revise an area boundary. Provided that—

(a) In the case of a review initiated by the Secretary, no boundary may be revised unless the Secretary has consulted with the individuals and entities listed in § 122.704(a);

(b) In the case of any proposed revision, the Secretary will publish a notice of the proposed revision and give any interested person an opportunity for a hearing.

(c) No revision which would comprise an entire State will be made without the prior consent of the Governor of that State.

§ 122.707 Notification.

Written notification of the Secretary's decision under § 122.706 will be provided to the Governor, the SHCC and the HSA affected by the revision. In addition, the Secretary will publish this decision in the **Federal Register.**

Appendix A—Health Service Area Redesignation—Sections D and E

(Published in the **Federal Register** on September 15, 1976 (41 FR 39433–4))

D. Redesignation Statutory Requirements

There are six substantive requirements enumerated in section 1511 of the Public Health Service Act that health service areas must meet.

1. With respect to population, section 1511(a)(3) of the Act requires:

"The area, upon its establishment, shall have a population of not less than five hundred thousand or more than three million; except that—

"(A) The population of an area may be more than three million if the area includes a standard metropolitan statistical area (as determined by the Office of Management and Budget) with a population of more than three million, and

"(B) The population of an area may—

"(i) Be less than five hundred thousand if the area comprises an entire State which has a population of less than five hundred thousand, or

"(ii) Be less than—

"(I) Five hundred thousand (but no less than two hundred thousand) in unusual circumstances (as determined by the Secretary),

"(II) Two hundred thousand in highly unusual circumstances (as determined by the Secretary);

"If the Governor of each State in which the area is located determines, with the approval of the Secretary, that the area meets the other requirements of this subsection."

This specific minimum-maximum population requirement was adopted from the House bill (H.R. 16204) by the Conferees. With respect to it, the House Committee Report (No. 93–1382, p. 52) stated that "The 500,000 people minimum reflects the experience that effective health planning can be conducted only with an adequate base of population and health resources to sustain a planning process."

While waivers of the minimum 500,000 population requirement may be allowed, the Committee noted in its Report that it did not intend that "waivers in either 'unusual' or 'highly unusual' circumstances be used frequently."

As regards waivers, it should be noted that a request to establish a single, Statewide health service area in a State with a population of less than 500,000 does not require a waiver, nor does the designation of a proposed area encompassing an SMSA with a population in excess of 3 million require one.

With respect to the latter, a designated health service area which includes an SMSA over 3 million may include territory in addition to the SMSA itself. On the other hand, while several SMSAs may be included in the same health service area, indeed frequently should be, the combined populations in the area may not exceed 3 million (unless one of the SMSAs has a population over 3 million).

The latest available annual population estimate from the Department of Commerce, which is available for all States and counties nationally, must be used in computing populations for purposes of area redesignation.

2. As regards SMSAs, section 1511(a) of the Act requires that—

"Each standard metropolitan statistical area shall be entirely within the boundaries of one health service area, except that if the Governor of each State in which a standard metropolitan statistical area is located determines, with the approval of the Secretary, that in order to meet the other requirements of this subsection a health service area should contain only part of the standard metropolitan statistical area than such statistical area shall not be required to be entirely within the boundaries of such health service area."

The House Committee Report (p. 53) states that "While health service areas should generally be larger than standard metropolitan statistical areas, the Committee has recognized SMSAs as useful delineations of our major metropolitan areas and feels very strongly that health service areas should not divide the SMSAs. Since SMSAs often cross State boundaries because metropolitan areas often do, the Committee intends that when a major metropolitan area straddles a State boundary its service area will also cross the State boundary. While provision is made for waiving this requirement with the approval of the Secretary, it is anticipated that the waiver will be granted rarely * * *." As regards this requirement, unless the Governor of each of the two or more States in which an SMSA is located requests that it be waived, the Secretary will not entertain the waiver request to split the SMSA.

3. Insofar as the geography of the area is concerned, section 1511(a)(1) requires that—

"The area shall be a geographic region appropriate for the effective planning and development of health services, determined on the basis of factors including population and the availability of resources to provide all necessary health services for residents of the area."

A number of factors or considerations are relevant to this general requirement. They include but are not necessarily limited to the following:

a. Time, distance, and cost factors in relation to health care services and facilities within a region that in effect constitute significant economic and/or geographic barriers to obtaining care.

b. Functional economic areas (as defined by the Bureau of Economic Analysis, U.S. Department of Commerce).

c. State boundaries (except in the case of inter-State SMSAs) and those of local political subdivisions. Many funding and other decisions of State and local general-purpose governments are highly relevant to health planning, resource development, and regulatory activities. Moreover, such governments frequently provide services and operate facilities as well as pay for care.

d. Health services utilization and referral patterns.

e. Special population characteristics that have a distinct area dimension (e.g., Indians residing on reservations or other land areas held in trust).

f. Involvement of major prepayment plans (e.g., Blue Cross) and health maintenance organizations (HMOs).

The area, moreover, should have health facilities, manpower, and other resources adequate to provide its residents with a comprehensive range of primary and secondary health care services. It is not required, nor necessarily desirable that all highly specialized tertiary care services (e.g., burn care, cardiac surgery, kidney transplantation) be available within the area itself, though.

4. As regards nonmetropolitan areas, section 1511(a) of the Act requires—

"The boundaries of a health service area shall be established so that, in the planning and development of health services to be offered within the health service area, any economic or geographic barrier to the receipt of such services in nonmetropolitan areas is taken into account. The boundaries of health service areas shall be established so as to recognize the differences in health planning and health services development needs between nonmetropolitan and metropolitan areas."

This requirement reflects Congressional concern that nonmetropolitan areas be assured fair and equitable treatment in both the designation and redesignation of areas. It has the effect of moderating the requirements relative to population of and the range of health services and facilities in nonmetropolitan areas. The floor debate in the House in this connection is particularly relevant. For example, it was noted by Representative Alexander that health service areas in nonmetropolitan regions with "a limited range of tertiary services could properly be established with one of their health resource development objectives being increasing the range of tertiary services offered * * *" and Representative Roy observed that "While the Committee is serious about the use of 500,000 as the minimum population for health service areas, it is well within reason that the exception provided for in (the Act) * * * be applied when necessary to overcome travel time, geographic and/or economic barriers to receipt of health services in nonmetropolitan areas."

For purposes of this requirement, "nonmetropolitan areas" are defined as those areas lying outside SMSAs, and "metropolitan areas" as those within SMSAs. (By this definition about 30 percent of the U.S. population resided in nonmetropolitan areas, with 70 percent living in metropolitan areas in 1970.)

5. With respect to specialty centers, section 1511(a) states that—

"To the extent practicable, the area shall include at least one center for the provision of highly specialized health services."

The House Committee Report (p. 52) noted that this requirement "reflects the desire that the health service areas provide a self-contained, comprehensive and complete range of health services such that an individual residing in the area would rarely if ever have to leave it in order to obtain needed medical care."

The presence of a medical school, university health science center, and/or affiliated teaching, or other hospital(s) offering specialized services for patients with cancer, heart disease, kidney disease, and stroke, and the like, generally would be considered to satisfy this requirement. As noted above, however, it is not required that each area necessarily have available all of the highly specialized and more sophisticated services (e.g., major burn and trauma center). Moreover, it is recognized that some areas will not include a medical school and/or major teaching hospital. The following are among the considerations or factors to be taken into account in those instances:

a. The number and range of residency programs offered by the hospitals in the area.

b. The distances separating major medical centers and/or other highly specialized facilities. If these are great, requiring considerable travel time and cost, this would be a mitigating factor.

c. The existence of long-standing well-established referral patterns or formalized linkages with one or more major medical centers outside the area.

6. Insofar as the boundaries of other areas are concerned, section 1511(a)(4) states that—

"To the maximum extent feasible, the boundaries of the area shall be appropriately coordinated with the boundaries of areas designated under section 1152 of the Social Security Act for Professional Standards Review Organizations, existing regional planning areas, and State planning and administrative areas."

Since it is recognized that the boundaries of areas defined for different purposes cannot all be identical, the criteria for both designation and redesignation of health service areas do not require that the boundaries be identical with those for PSRO areas, regional planning areas, or State planning administrative areas.

In order to insure close coordination between the health service areas and local health systems agencies being established by this legislation and other State, regional and local health and health-related planning and administrative areas and agencies, it is important that the former—

a. Be congruent insofar as possible with one or several State planning and development districts as defined for purposes of OMB Circular A–95.

b. In the case of PSROs, to the extent practicable, (a) either a single health service area encompasses one or more PSRO areas in their entirety, or (b) several health service areas collectively encompass a single PSRO area.

c. Generally not divide locally established, functioning, and recognized COG areas (i.e., the jurisdictional areas of councils of government, regional planning agencies or development districts).

d. Follow the boundaries of local political subdivisions of general-purpose governments (e.g., counties, incorporated cities, parishes in Louisiana, townships in New England).

E. Waivers

The Act does provide that (1) the minimum 500,000 population requirement and/or (2) the requirement that an SMSA not be divided or split, may be waived for specific health service areas with the approval of the Secretary.

All waiver requests will be reviewed and assessed as to whether or not they meet the

other requirements specified, particularly that which requires that the area "be a geographic region appropriate for the effective planning and development of health services * * *"

Therefore, requested waivers for areas with populations of less than 500,000, but more than 200,000 will be reviewed in terms of the following more specific factors:

1. Geography, including the size of the area, its natural isolation, and any major geographical barriers.

2. Population, including the extent to which it deviates from the 500,000 minimum, rate of growth in recent years, and/or low density.

3. Whether it essentially is a functional economic area (as defined by the U.S. Department of Commerce).

4. How well the area is linked to (or separated from) other areas by transportation and communication networks.

5. Whether there is a comprehensive range of primary and secondary health services within the area to meet the needs of its residents.

6. Extent to which the area is consistent with other official districts and State and county boundaries.

7. Evidence that the area has previously demonstrated a health planning capacity and community base of financial support.

8. Whether the comments of local governments, providers, the general population and others contain evidence that the area indeed is one appropriate for the effective planning and development of health services.

Requested waivers for areas with populations of less than 200,000 will be reviewed in terms of the factors enumerated above and must, in addition, meet one or more of the following criteria:

1. Have an area of 10,000 square miles or more with an average population density of less than 10 persons per square mile.

2. Be congruent with a functional economic area. (One of the functional characteristics of those areas is, that they combine labor market and labor supply, the place of work and the place of residence of the labor force. Each of the areas approaches self-sufficiency with regard to resident industries which include general and convenience retail and wholesale trade activities.)

3. By virtue of its geography and natural or physical barriers, be significantly isolated from other areas.

Waiver requests proposing an area that would split or divide an SMSA will be reviewed against the following more specific factors as well as the other requirements set forth in the Act:

1. In the case of inter-State SMSAs, the degree to which their populations are overwhelmingly in one State with only a small fraction in the other State (or States).

2. In the case of inter-State SMSAs, whether the health service area proposed is a single, statewide area for a State that otherwise might have to request a waiver to the minimum population requirement.

3. Whether the comments of local governments, providers, the general population and others contain evidence that the area indeed is one appropriate for the effective planning and development of health services.

[FR Doc. 82-19234 Filed 7-14-82; 8:45 am]

BILLING CODE 4160-15-M

federal register

Thursday
July 15, 1982

Part VI

Department of Transportation

Federal Aviation Administration

Petitions for Exemption; Summary and Disposition and Correction

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-82-12]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Document published in Volume 47 FR, July 13, 1982 on page No. 30347 in connection with Muse Air Petition was published with an incorrect comment date ("July 23, 1982"). The correct date for comments should be "July 19, 1982."

DATE: Comments on the Muse Air Petition must identify the petition docket number involved and must be received on or before: July 19, 1982.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. 23188, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on July 13, 1982.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
23188	Muse Air Corporation	SFAR 44-4	To request an exemption from SFAR 44-4 to allow them to continue to utilize 4 Braniff slots at Tulsa, 3 at Midland/Odessa and 8 at Dallas which were granted to Muse under the emergency allocation of Braniff slots. Petitioner states that the request is in the public interest and is necessary for the survival of Muse Air.

[FR Doc. 82-19274 Filed 7-14-82; 8:45 am]

BILLING CODE 4910-13-M

[Summary Notice No. PE-82-12]

Petitions for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

Note.—This document originally appeared in the **Federal Register** for Tuesday, July 13, 1982. It is reprinted in this issue to meet requirements for publication on the Monday/Thursday schedule assigned to the Federal Aviation Administration.

AGENCY: Federal Aviation Administration, (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before July 23, 1982.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on July 9, 1982.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

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23188	Muse Air Corporation	SFAR 44-4	To request an exemption from SFAR 44-4 to allow them to continue to utilize 4 Braniff slots at Tulsa, 3 at Midland/Odessa and 8 at Dallas which were granted to Muse under the emergency allocation of Braniff slots. Petitioner states that the request is in the public interest and is necessary for the survival of Muse Air.

DISPOSITIONS OF PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
None this period.			

[FR Doc. 82-19053 Filed 7-12-82; 10:22 am]

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

List of Public Laws

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

H.R. 6451 / Pub. L. 97–214 Military Construction Codification Act. (July 12, 1982; 96 Stat. 153) Price: $3.25.

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federal register

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Title 3—

The President

Executive Order 12372 of July 14, 1982

Intergovernmental Review of Federal Programs

By the authority vested in me as President by the Constitution and laws of the United States of America, including Section 401(a) of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(a)) and Section 301 of Title 3 of the United States Code, and in order to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for the State and local government coordination and review of proposed Federal financial assistance and direct Federal development, it is hereby ordered as follows:

Section 1. Federal agencies shall provide opportunities for consultation by elected officials of those State and local governments that would provide the non-Federal funds for, or that would be directly affected by, proposed Federal financial assistance or direct Federal development.

Sec. 2. To the extent the States, in consultation with local general purpose governments, and local special purpose governments they consider appropriate, develop their own processes or refine existing processes for State and local elected officials to review and coordinate proposed Federal financial assistance and direct Federal development, the Federal agencies shall, to the extent permitted by law:

(a) Utilize the State process to determine official views of State and local elected officials.

(b) Communicate with State and local elected officials as early in the program planning cycle as is reasonably feasible to explain specific plans and actions.

(c) Make efforts to accommodate State and local elected officials' concerns with proposed Federal financial assistance and direct Federal development that are communicated through the designated State process. For those cases where the concerns cannot be accommodated, Federal officials shall explain the bases for their decision in a timely manner.

(d) Allow the States to simplify and consolidate existing Federally required State plan submissions. Where State planning and budgeting systems are sufficient and where permitted by law, the substitution of State plans for Federally required State plans shall be encouraged by the agencies.

(e) Seek the coordination of views of affected State and local elected officials in one State with those of another State when proposed Federal financial assistance or direct Federal development has an impact on interstate metropolitan urban centers or other interstate areas. Existing interstate mechanisms that are redesignated as part of the State process may be used for this purpose.

(f) Support State and local governments by discouraging the reauthorization or creation of any planning organization which is Federally-funded, which has a Federally-prescribed membership, which is established for a limited purpose, and which is not adequately representative of, or accountable to, State or local elected officials.

Sec. 3. (a) The State process referred to in Section 2 shall include those where States delegate, in specific instances, to local elected officials the review, coordination, and communication with Federal agencies.

(b) At the discretion of the State and local elected officials, the State process may exclude certain Federal programs from review and comment.

Sec. 4. The Office of Management and Budget (OMB) shall maintain a list of official State entities designated by the States to review and coordinate proposed Federal financial assistance and direct Federal development. The Office of Management and Budget shall disseminate such lists to the Federal agencies.

Sec. 5. (a) Agencies shall propose rules and regulations governing the formulation, evaluation, and review of proposed Federal financial assistance and direct Federal development pursuant to this Order, to be submitted to the Office of Management and Budget for approval.

(b) The rules and regulations which result from the process indicated in Section 5(a) above shall replace any current rules and regulations and become effective April 30, 1983.

Sec. 6. The Director of the Office of Management and Budget is authorized to prescribe such rules and regulations, if any, as he deems appropriate for the effective implementation and administration of this Order and the Intergovernmental Cooperation Act of 1968. The Director is also authorized to exercise the authority vested in the President by Section 401(a) of that Act (42 U.S.C. 4231(a)), in a manner consistent with this Order.

Sec. 7. The Memorandum of November 8, 1968, is terminated (33 *Fed. Reg.* 16487, November 13, 1968). The Director of the Office of Management and Budget shall revoke OMB Circular A–95, which was issued pursuant to that Memorandum. However, Federal agencies shall continue to comply with the rules and regulations issued pursuant to that Memorandum, including those issued by the Office of Management and Budget, until new rules and regulations have been issued in accord with this Order.

Sec. 8. The Director of the Office of Management and Budget shall report to the President within two years on Federal agency compliance with this Order. The views of State and local elected officials on their experiences with these policies, along with any suggestions for improvement, will be included in the Director's report.

Ronald Reagan

THE WHITE HOUSE,
July 14, 1982.

[FR Doc. 82-19472
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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 890

Federal Employees Health Benefits Program

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing revised regulations to require that the employee pay his/her contribution, and the Government pay its contribution, to cover the cost of enrollment in the Federal Employees Health Benefits (FEHB) program for each pay period during which the employee's enrollment continues, whether the employee is in pay status or nonpay status. OPM has been enjoined from implementing current interim regulations on this subject. Under previous regulations, neither employees nor the Government were required to make their respective contributions during periods of nonpay status even though the health insurance remained in effect. These regulations will help reduce FEHB premium rates.

EFFECTIVE DATE: The first day of the first pay period beginning on or after August 16, 1982.

FOR FURTHER INFORMATION CONTACT: John Landers, (202) 632–4634.

SUPPLEMENTARY INFORMATION: On November 10, 1981, OPM issued interim regulations (46 FR 55503) which, effective January 1982, eliminated the previous regulatory provisions for free FEHB coverage during periods of nonpay status. On February 26, 1982, OPM was enjoined from implementing the interim regulations by court order. *National Federation of Federal Employees, Local 1836,* v. *Devine,* C.A. No. 82–203 (D.D.C. February 26, 1982). The Government did not appeal the court order and the interim regulations are not being implemented.

On April 13, 1982, OPM issued proposed regulations (47 FR 15996) to require FEHB premium payments (shared by employees and the Government) for all periods during which an enrollment continues, whether the employee is in pay status or in nonpay status. The proposed regulations are now being issued as a final rule. During the 30-day comment period allowed on the proposed regulations, OPM received comments from agencies, FEHB carriers, labor organizations and individuals. All comments, including comments on the previous interim regulations, were considered in developing the final rule. The final rule incorporates four changes from the proposed regulations. These changes do not alter the basic nature of the regulations and are needed to provide uniform terminology in the health benefits regulations and to facilitate equitable implementation of the regulations. The changes are the result of OPM staff analysis of the comments on the proposed regulations.

First, the proposed regulations stated, in § 890.303(e)(2), that "cooperative work-study program" employees are allowed to continue health benefits under certain circumstances for more than 12 months of continuous nonpay status. The terminology used to describe these employees should be changed to conform to the terminology used to describe the same employees under the coverage section of Part 890, § 890.102(c)(2). The wording in § 890.303(e)(2), therefore, is amended to refer to this type of employee as one who is "employed under an OPM approved career-related work-study program * * *"

Second, the final rule deletes § 890.304(a)(1)(i) of the regulations, which provides for termination of an FEHB enrollment at the end of the pay period in which an employee is furloughed by reason of reduction in force. This provision is repealed to provide more equitable treatment of employees furloughed under a reduction in force in light of the fact that under the new rule the FEHB program will receive full payment of the premiums due for each period during which an enrollment continues.

Under § 890.304(a)(4) of the proposed regulations an employee's health benefits enrollment would terminate on the 365th day of continuous nonpay status. This provision was taken from the regulations in effect before issuance of the interim regulations, which provided for free coverage during nonpay status. Because the new regulations require premium payments for each pay period in which an enrollment continues, and because the full premium is required for any pay period in which the employee is covered, this provision is amended to state, in part, that the enrollment terminates at the end of the pay period which includes the 365th day of continuous nonpay status.

Under § 890.502(b) of the proposed regulations, an employee is deemed to consent to have the full amount of an indebtedness for past-due health benefits premiums withheld from future salary as an indebtedness due the United States. This provision for constructive consent was limited to withholding from salary because the Comptroller General has held that a withholding from salary which is not permitted under 5 U.S.C. 5514 (such as this indebtedness) may not generally be made without consent of the employee. The fourth change incorporated into the final rule amends this provision to state that the employee is deemed to consent to have the full amount of the indebtedness withheld from future salary "or from any other monies owed to the employee by the Federal Government." This provision is added to clarify that the employee's personal consent is not needed for a setoff from, for example, a final payment of accrued leave or a refund of civil service retirement deductions. OPM's guidance on implementation will furnish agencies wih a method for providing employees an opportunity to question any recovery action before it takes place, including the correctness of the amount of the indebtedness, and to arrange for reasonable installment withholdings from salary, if available, taking into consideration the employee's individual circumstances.

Some commenters on the proposed regulations indicated that agencies should have a protracted amount of time to publicize and implement the new regulations before they become effective. The 1982 FEHB premium rates

were established under the assumption that the interim regulations eliminating most free coverage during nonpay status would eliminate the need for most of the rate loading used to cover the cost of the previous free coverage. Because of the court injunction against implementation of the interim regulations, there now exists a situation in which free nonpay status coverage is being provided without a corresponding loading of the rates to cover the cost of that free coverage. Therefore, the FEHB program is currently receiving less in premiums than expected, and this loss needs to be offset beginning as soon as practicable by implementation of the new regulations.

In order to lessen the burden of implementation of the new rules, OPM's guidance to agencies will include a general notification letter for employees and other specific instructions and clarification. The general notice is intended to simplify the agencies' need to inform employees generally and especially those employees who are immediately affected. Agencies are urged to inform all employees (using a hand-out provided by OPM) of the new requirements in advance of their effective date so that employees who will be incurring an indebtedness under the new rule will be informed that they would have to cancel their enrollment in order to avoid accumulation of a debt to the United States. Agencies do not need to wait until their individual processing systems under the new rule have been completed before distributing this information to employees. OPM guidance will also include specific instructions and pattern notices to be used by agencies in the recovery of an indebtedness for past-due health benefits premiums. We believe that these steps to aid agencies in implementation of the new rules and the fact that the new requirement for payment of premiums for each pay period in which coverage continues is simple to understand will lessen the agencies' processing burden.

Some commenters suggested that the new regulations will be excessively costly to implement. OPM believes that this is most unlikely. As a general rule, an employee who is placed in a nonpay status will return to duty. If there is an indebtedness for past-due health benefits upon return to duty, a simple procedure will allow the agency to make automatic salary withholdings from salary to settle the debt. In any event, OPM will monitor this aspect of the new regulations as implementation becomes a reality.

Some commenters stated that the new regulations will constitute a hardship for employees in nonpay status. To the contrary, the new rule is designed to provide an equitable and understandable method of paying for health insurance, and expressly provides a method for delaying employees' payments during nonpay status until the employee is once again receiving an income. Thus, in recognition of hardship circumstances, and in view of the difficulty and costliness of determining whether a valid hardship exists in any particular case, employees' FEHB premium payments will not be required *during* nonpay status. Employees who prefer not to accumulate an indebtedness during nonpay status may make payments before returning to pay status.

Some commenters stated that seasonal tobacco inspectors/graders at the Agricultural Marketing Service, U.S.D.A., should be excluded from the new regulations. The cost of their services is paid by imposition of user fees on tobacco producers. The user fee includes the cost of fringe benefits, and is intended to offset the Government's cost of providing the services of these workers. We find no basis for exempting these employees from the requirement that they pay the employee share of the cost of health benefits, just as any other employee must pay. The employee share is not an expense to the Government for providing this service, just as it is not an expense to the Government for any other category of employees.

Some commenters suggested that the delay in receipt of premiums in the case of employees covered during nonpay status might constitute a hardship for health benefits carriers. OPM does not now know the extent of any problem which the delay may create, but we do acknowledge this possibility. This aspect of the new regulations will be analyzed as they are implemented to determine whether any provision should be made to assure prompt payment of premiums.

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

I certify that, within the scope of the Regulatory Flexibility Act, this regulation will not have a significant economic impact on a substantial number of small entities because impact is limited to a small percentage of Federal employees dispersed throughout the country, who will now be required to pay for health insurance which was previously provided free during periods of nonpay status.

List of Subjects in 5 CFR Part 890

Administrative practice and procedure, Claims, Government employees, Health insurance, Retirement.

Office of Personnel Management.
Donald J. Devine,
Director.

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

Accordingly, the Office of Personnel Management amends Part 890 of Title 5, Code of Federal Regulations, as follows:

1. In Subpart C, § 890.303(e) is revised to read as follows:

§ 890.303 Continuation of enrollment.

* * * * *

(e) *In nonpay status.* (1) Except as otherwise provided by law, the enrollment of an employee continues while he/she is in nonpay status for up to 365 days. The 365 days' nonpay status may be continuous or broken by periods of less than 4 consecutive months in pay status. If an employee has at least 4 consecutive months in pay status after a period of nonpay status he/she is entitled to begin the 365 days' continuation of enrollment anew. For the purposes of this paragraph, 4 consecutive months in pay status means any 4-month period during which the employee is in pay status for at least part of each pay period.

(2) However, in the case of an employee who is employed under an OPM approved career-related work-study program under Schedule B of at least one year's duration and who is expected to be in a pay status during not less than one-third of the total period of time from the date of the first appointment to the completion of the work-study program, his/her enrollment continues while he/she is in nonpay status so long as he/she is participating in the work-study program.

* * * * *

2. In Subpart C, paragraphs (a)(1) and (a)(4) of § 890.304 are revised to read as follows:

§ 890.304 Termination of enrollment.

(a) * * *

(1) The last day of the pay period in which he/she is separated from the service other than by retirement under

conditions entitling him/her to continue his/her enrollment.

* * * * *

(4) The last day of the pay period which includes the day on which the continuation of enrollment under § 890.303(e) expires, or, if he/she is not entitled to any further continuation because he/she has not had 4 consecutive months of pay status since exhausting his/her 365 days' continuation of coverage in nonpay status, the last day of his/her last pay period in pay status.

* * * * *

3. In Subpart E, § 890.501(e) is revised to read as follows:

§ 890.501 Government contributions.

* * * * *

(e) The employing office shall make a contribution for an employee for each pay period during which the enrollment continues.

* * * * *

4. In Subpart E, the heading of § 890.502 and paragraph (b) of that section are revised to read as follows:

§ 890.502 Employee withholdings and contributions.

* * * * *

(b) An employee or annuitant is responsible for payment of the employee share of the cost of enrollment for every pay period during which the enrollment continues. In each pay period for which health benefits withholdings are not made but during which the enrollment of an employee or annuitant continues, he/she will incur an indebtedness due the United States in the amount of the proper employee withholdings required for that pay period. The employing office shall establish a method for accepting direct payment for the indebtedness from the indvidual before initiation of a recovery action. An individual who incurs an indebtedness under this paragraph is deemed to consent to have the full amount of the indebtedness withheld from future salary, or from any other monies owed to the employee by the Federal Government, as an indebtedness due the United States. If the indebtedness cannot be withheld in full from salary, it may be recovered from other sources normally available to the employing office for the recovery of an indebtedness due the United States.

* * * * *

(5 U.S.C. 8913)

[FR Doc. 82-19410 Filed 7-15-82; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 28

Revision of User Fees for Cotton Classification Service to Producers

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rulemaking.

SUMMARY: This action will revise the user fees for cotton classification services to producers as required by the Omnibus Budget Reconciliation Act of 1981. The Omnibus Budget Reconciliation Act (95 Stat. 357) contains amendments to the Cotton Statistics and Estimates Act of 1927 (7 U.S.C. 471–476) which direct the Secretary of Agriculture to provide cotton classification services to producers and recover, as nearly as practicable, the costs of providing such services including administrative and supervisory costs through the imposition of a user fee. An overall increase in the fees is necessary to recover the projected costs of services to producers for the 1982 cotton crop.

DATES: Effective date: July 15, 1982. Comment date: USDA will accept public comments on this amendment until September 14, 1982.

ADDRESS: Comments may be addressed to Loyd R. Frazier, Chief, Marketing Services Branch, AMS, USDA, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Loyd R. Frazier, (202) 447–2147.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under the USDA procedure established in accordance with Executive Order 12291 of February 17, 1981, and has been classified "non-major" as it does not meet the criteria contained therein for major regulatory actions. William T. Manley, Deputy Administrator for Marketing Program Operations, Agricultural Marketing Service (AMS), has determined that this action will not have a significant impact on a substantial number of small business entities as (i) cotton classification services will continue to be provided to producers; (ii) the revised fees will be imposed upon the producers who receive the services; and (iii) cotton classification is not mandatory.

The Omnibus Budget Reconciliation Act of 1981 (95 Stat. 357) amended section 3a of the Cotton Statistics and Estimates Act, 7 U.S.C. 473a, to require that user fees shall be charged for the classification of producer cotton for fiscal years 1982, 1983 and 1984. This legislation directed the Secretary to set the user fee at a level that when combined with the proceeds from the sale of samples submitted for classification would recover, as nearly as practicable, the cost of the service provided, including the administrative and supervisory costs. The Secretary was also directed to take necessary action to insure that the Government cotton classification system continues to operate to provide an official quality description for the United States cotton crop. The fee for classification of producers cotton was set at 60 cents per sample (46 FR 48113–48115).

The classification fee to producers is being increased from the initial charge of 60 cents to 67 cents per sample. The increase in the fee is necessary due to the following conditions: (1) Operating costs for providing classification services to producers have increased. A 4.8 percent increase in salaries as well as increases in expenditures for rent, utilities, communications, supplies and materials have had a significant impact on these costs; (2) anticipated volume of cotton to be classed in FY 1983 is substantially below FY 1982 classings. The classing cost per sample is determined largely by the volume of classings since a large percentage of operational costs are fixed. Fixed costs include full-time salaries, building rents, utilities and equipment which cannot be adjusted in years of reduced cotton production and smaller classing volumes. Classings in fiscal year 1983 are estimated at 12.0 million samples compared with classings of 14.8 million in fiscal year 1982. Recent adverse weather conditions in the Southwestern growing region have further reduced the 1982 crop. The extent of this damage cannot be fully assessed at this time; (3) A smaller volume of baled loose samples which are sold and used to defray a portion of the classing costs.

In setting the fee, there are a number of cost and revenue projections which must be made at this time on the basis of limited information. These include: (1) The size of the 1982 cotton crop, (2) the percentage of the 1982 crop for which classification service will be requested, (3) the volume of baled samples to be sold and the price to be received therefor, and (4) the ability to collect classing fees. In recognition of these uncertainties, and adjustment in the per sample classing fee could become necessary during the year.

The fee for issuance of a new memorandum of classification at the request of the owner of the cotton for the business convenience of the owner without the reclassification of such cotton is being increased from $1.80 to

$1.90 per sheet due to increased costs of providing this service.

The fee for a review classification is being increased from $1.00 to $1.05 per sample. In order to avoid a policy that could encourage the unnecessary mutilation of cotton bale packaging by repeated resampling of bales when multiple classifications are desired, the Department will return the samples submitted for review classification if the producer so requests. To defray the costs of handling and returning these samples and to account for the loss in revenue which would have defrayed a portion of the costs of the review classification if the samples had been sold as baled loose cotton, a fee of 25 cents per sample will be charged for those samples returned at the request of the producer. This provision adheres to the policy of the Joint Cotton Industry's Bale Packaging Committee which represents all segments of the United States cotton industry and was formed to promote the improved condition and hence the marketability of United States cotton bales as they pass through marketing channels.

Since the harvesting of the 1983 cotton crop will begin in mid or late July, it is necessary to implement these revisions in fees on July 15, 1982 to insure that uniform fees are paid by all participating growers during the 1982 cotton season. Accordingly, William T. Manley, Deputy Administrator for Marketing Program Operations (AMS), has determined that the existing situation warrants this revision be made effective no later than July 15, 1982.

For the foregoing reasons it is hereby found, pursuant to the administrative procedure provisions of 5 U.S.C. 553, that, for good cause, prior notice and public procedure on this revision are impracticable, unnecessary and contrary to the public interest, and good cause exists for making the amendments effective on July 15, 1982. The Department will, however, accept public comments concerning these amendments until, and will consider revising these amendments should such comments demonstrate a need therefor.

List of Subjects in 7 CFR Part 28

Cotton, Cotton linters, Market news, Grades, Samples, Standards, Staples, Testing.

Accordingly, 7 CFR Part 28 is amended as follows:

PART 28—COTTON CLASSING, TESTING, AND STANDARDS

1. Section 28.909 is amended by revising paragraph (b) to read as follows:

§ 28.909 Costs.

* * * * *

(b) The Division will periodically bill producers or the agents designated by the producers for the cost of classification. The cost for cotton classification service to producers is 67 cents per sample.

2. Section 28.910 is amended by revising paragraph (b) to read as follows:

Classification

§ 28.910 Classification of samples and issuance of memoranda.

* * * * *

(b) Upon the request of an owner of cotton for which classification memoranda have been issued under this subpart, a new memorandum shall be issued for the business convenience of such owner without the reclassification of the cotton. Such rewritten memorandum shall bear the date of its issuance and the date or inclusive dates of the original classification. The fee for a new memorandum shall be $1.90 per sheet.

3. Section 28.911 is revised to read as follows:

§ 28.911 Review classification.

A producer may request one review classification for each bale of eligible cotton. The fee for review classification is $1.05 per sample. Samples for review classification must be drawn by gins or warehouses licensed pursuant to §§ 28.20–28.22, or by employees of the United States Department of Agriculture. Each sample for review classification shall be taken, handled, and submitted according to § 28.908 and to supplemental instructions issued by the Director or an authorized representative of the Director. Costs incident to sampling, tagging, identification, containers, and shipment for samples for review classification shall be assumed by the producer. After classification the samples shall become the property of the Government unless the producer requests the return of the samples. The proceeds of the sale of samples that become Government property shall be used to defray the costs of providing the services under this subpart. Producers who request return of their samples after classing will pay a fee of 25 cents per sample in addition to the fee established above in this section.

(Sec. 10, 42 Stat. 1519, sec. 3c, 50 Stat. 62; 7 U.S.C. 61, 473c, and sec. 155, 95 Stat. 357, unless otherwise noted)

Dated: July 14, 1982.

John Ford,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 82-19478 Filed 7-15-82; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 910

[Lemon Reg. 368]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period July 18–24, 1982. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: July 18, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona lemon crop for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

This final rule is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on July 7, 1981. The

committee met again publicly on July 13, 1982, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

Section 910.668 is added as follows:

§ 910.668 Lemon regulation 368.

The quantity of lemons grown in California and Arizona which may be handled during the period July 18, 1982, through July 24, 1982, is established at 280,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: July 15, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82–19556 Filed 7–15–82; 12:39 pm]

BILLING CODE 3410–02–M

Rural Electrification Administration

7 CFR Part 1701

Public Information; Appendix A—REA Bulletins Specification for Expanded Dielectric Coaxial Cable, PE–84

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: REA hereby amends Appendix A—REA Bulletins by revising REA Bulletin 345–84, REA Specification for Expanded Dielectric Coaxial Cable, PE–84, to include two additional cable sizes and to require lower attenuation values for all sizes of coaxial cable. The large diversity of population densities served by REA borrowers makes a larger selection of cable desirable, and technology has advanced to where low-loss cables are readily available. By making these changes, cable will be available to permit REA borrowers to more cost effectively design systems.

EFFECTIVE DATE: July 9, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph M. Flanigan, Director, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 382–8663. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: REA regulations are issued pursuant to the Rural Electrification Act as amended (7 U.S.C. 901 et seq.). This final action has been reviewed in accordance with Executive Order 12291, Federal Regulation. This action will not (1) have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) result in significant adverse effects on competition, employment, investment or productivity and therefore has been determined to be "not major." This action does not fall within the scope of the Regulatory Flexibility Act and is not subject to OMB Circular A–95 review. This program is listed in the Catalog of Federal Domestic Assistance as 10.853—Community Antenna Television Loans and Loan Guarantees, and 10.851—Rural Telephone Loans and Loan Guarantees.

Background

There have been significant advances in technology since the last issuance of this document, and a wider selection of cable sizes was considered desirable for system design considerations. The existing document is not applicable to much of the new technology and restricts cable availability so that its continuation would have forced REA borrowers to use outmoded less cost-effective technology. If the existing specification was withdrawn rather than revised there would be no REA specification which manufacturers would be required to meet. Unacceptable equipment could be sold to REA borrowers which would result in the loss of system effectiveness and a threat to REA loan security. As a result, revision of the document along the proposed lines was considered to be in the best interest of the program.

A Notice of Proposed Rulemaking was published in the **Federal Register** on March 9, 1982, Volume 47, Number 46, pages 10057 and 10058. However, no public comments were received in response to the notice.

7 CFR Part 1701, Appendix A—REA Bulletins, is hereby amended by revising REA Bulletin 345–84, REA Specification for Expanded Dielectric Coaxial Cable, PE–84.

List of Subjects in 7 CFR Part 1701

Loan programs—communications, Telecommunications, Telephone.

Dated: July 9, 1982.

Jack Van Mark,

Acting Administrator.

[FR Doc. 82–19200 Filed 7–15–82; 8:45 am]

BILLING CODE 3410–15–M

FEDERAL RESERVE SYSTEM

12 CFR Part 225

Bank Holding Companies and Change in Bank Control; Statement of Policy on Nonvoting Equity Investments by Bank Holding Companies

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Policy statement.

SUMMARY: In recent months, a number of bank holding companies have made substantial equity investments in banks or bank holding companies located in states other than the home state of the investing bank holding company and have entered into various merger or asset acquisition agreements with these companies or banks that are to be consummated in the event interstate banking is permitted. These investments are accompanied by rights to a substantial amount of the voting shares of the acquiree bank holding company or its subsidiary bank(s). Because of the evident interest in such investments or agreements and because they raise major questions under the Bank Holding Company Act, the Board has issued this statement to provide guidance regarding the consistency of such agreements with the Act.

DATE: July 8, 1982.

FOR FURTHER INFORMATION CONTACT: James V. Mattingly, Jr., Associate General Counsel (202/452–3430) or Kathleen O'Day, Senior Attorney (202/452–3786) or Scott Alvarez, Attorney (202/452–3583) Legal Division, Board of

Governors of the Federal Reserve System, Washington, D.C. 20551.

List of Subjects in 12 CFR Part 225

Banks, Banking, Federal Reserve System, Holding companies, Securities.

Pursuant to its authority under the Bank Holding Company Act (12 U.S.C. 1841 *et seq.*) and section 225.2 of Regulation Y (12 CFR § 225.2), the Board has amended 12 CFR Part 225 by adding a new § 225.143 to read:

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

§ 225.143 Policy statement on nonvoting equity investments by bank holding companies.

(a) *Introduction.*

(1) In recent months, a number of bank holding companies have made substantial equity investments in a bank or bank holding company (the "acquiree") located in states other than the home state of the investing company through acquisition of preferred stock or nonvoting common shares of the acquiree. Because of the evident interest in these types of investments and because they raise substantial questions under the Bank Holding Company Act (the "Act"), the Board believes it is appropriate to provide guidance regarding the consistency of such arrangements with the Act.

(2) This statement sets out the Board's concerns with these investments, the considerations the Board will take into account in determining whether the investments are consistent with the Act, and the general scope of arrangements to be avoided by bank holding companies. The Board recognizes that the complexity of legitimate business arrangements precludes rigid rules designed to cover all situations and that decisions regarding the existence or absence of control in any particular case must take into account the effect of the combination of provisions and covenants in the agreement as a whole and the particular facts and circumstances of each case. Nevertheless, the Board believes that the factors outlined in this statement provide a framework for guiding bank holding companies in complying with the requirements of the Act.

(b) *Statutory and Regulatory Provisions.*

(1) Under section 3(a) of the Act, a bank holding company may not acquire direct or indirect ownership or control of more than 5 per cent of the voting shares of a bank without the Board's prior approval. (12 U.S.C. 1842(a)(3)). In addition, this section of the Act provides that a bank holding company may not, without the Board's prior approval, acquire control of a bank: that is, in the words of the statute, "for any action to be taken that causes a bank to become a subsidiary of a bank holding company." (12 U.S.C. 1842(a)(2)). Under the Act, a bank is a subsidiary of a bank holding company if:

(i) The company directly or indirectly owns, controls, or holds with power to vote 25 per cent or more of the voting shares of the bank;

(ii) The company controls in any manner the election of a majority of the board of directors of the bank; or

(iii) The Board determines, after notice and opportunity for hearing, that the company has the power, directly or indirectly, to exercise a controlling influence over the management or policies of the bank. (12 U.S.C. 1841(d)).

(2) In intrastate situations, the Board may approve bank holding company acquisitions of additional banking subsidiaries. However, where the acquiree is located outside the home state of the investing bank holding company, section 3(d) of the Act prevents the Board from approving any application that will permit a bank holding company to "acquire, directly or indirectly, any voting shares of, interest in, or all or substantially all of the assets of any additional bank." (12 U.S.C. 1842(d)(1)).

(c) *Review of Agreements.*

(1) In apparent expectation of statutory changes that might make interstate banking permissible, bank holding companies have sought to make substantial equity investments in other bank holding companies across state lines, but without obtaining more than 5 per cent of the voting shares or control of the acquiree. These investments involve a combination of the following arrangements:

(i) Options on, warrants for, or rights to convert nonvoting shares into substantial blocks of voting securities of the acquiree bank holding company or its subsidiary bank(s);

(ii) Merger or asset acquisition agreements with the out-of-state bank or bank holding company that are to be consummated in the event interstate banking is permitted;

(iii) Provisions that limit or restrict major policies, operations or decisions of the acquiree; and

(iv) Provisions that make acquisition of the acquiree or its subsidiary bank(s) by a third party either impossible or economically impracticable.

The various warrants, options, and rights are not exercisable by the investing bank holding company unless interstate banking is permitted, but may be transferred by the investor either immediately or after the passage of a period of time or upon the occurrence of certain events.

(2) After a careful review of a number of these agreements, the Board believes that investments in nonvoting stock, absent other arrangements, can be consistent with the Act. Some of the agreements reviewed appear consistent with the Act since they are limited to investments of relatively moderate size in nonvoting equity that may become voting equity only if interstate banking is authorized.

(3) However, other agreements reviewed by the Board raise substantial problems of consistency with the control provisions of the Act because the investors, uncertain whether or when interstate banking may be authorized, have evidently sought to assure the soundness of their investments, prevent takeovers by others, and allow for sale of their options, warrants, or rights to a person of the investor's choice in the event a third party obtains control of the acquiree or the investor otherwise becomes dissatisfied with its investment. Since the Act precludes the investors from protecting their investments through ownership or use of voting shares or other exercise of control, the investors have substituted contractual agreements for rights normally achieved through voting shares.

(4) For example, various covenants in certain of the agreements seek to assure the continuing soundness of the investment by substantially limiting the discretion of the acquiree's management over major policies and decisions, including restrictions on entering into new banking activities without the investor's approval and requirements for extensive consultations with the investor on financial matters. By their terms, these covenants suggest control by the investing company over the management and policies of the acquiree.

(5) Similarly, certain of the agreements deprive the acquiree bank holding company, by covenant or because of an option, of the right to sell, transfer, or encumber a majority or all of the voting shares of its subsidiary bank(s) with the aim of maintaining the integrity of the investment and preventing takeovers by others. These long-term restrictions on voting shares fall within the presumption in the Board's Regulation Y that attributes control of shares to any company that enters into any agreement placing long-term restrictions on the rights of a

holder of voting securities. [12 CFR 225.2(b)(4)).

(6) Finally, investors wish to reserve the right to sell their options, warrants or rights to a person of their choice to prevent being locked into what may become an unwanted investment. The Board has taken the position that the ability to control the ultimate disposition of voting shares to a person of the investor's choice and to secure the economic benefits therefrom indicates control of the shares under the Act.[1] Moreover, the ability to transfer rights to large blocks of voting shares, even if nonvoting in the hands of the investing company, may result in such a substantial position of leverage over the management of the acquiree as to involve a structure that inevitably results in control prohibited by the Act.

(d) *Provisions That Avoid Control.*

(1) In the context of any particular agreement, provisions of the type described above may be acceptable if combined with other provisions that serve to preclude control. The Board believes that such agreements will not be consistent with the Act unless provisions are included that will preserve management's discretion over the policies and decisions of the acquiree and avoid control of voting shares.

(2) As a first step towards avoiding control, covenants in any agreement should leave management free to conduct banking and permissible nonbanking activities. Another step to avoid control is the right of the acquiree to "call" the equity investment and options or warrants to assure that covenants that may become inhibiting can be avoided by the acquiree. This right makes such investments or agreements more like a loan in which the borrower has a right to escape covenants and avoid the lender's influence by prepaying the loan.

(3) A measure to avoid problems of control arising through the investor's control over the ultimate disposition of rights to substantial amounts of voting shares of the acquiree would be a provision granting the acquiree a right of first refusal before warrants, options or other rights may be sold and requiring a public and dispersed distribution of these rights if the right of first refusal is not exercised.

(4) In this connection, the Board believes that agreements that involve rights to less than 25 percent of the voting shares, with a requirement for a dispersed public distribution in the event of sale, have a much greater prospect of achieving consistency with the Act than agreements involving a greater percentage. This guideline is drawn by analogy from the provision in the Act that ownership of 25 percent or more of the voting securities of a bank constitutes control of the bank.

(5) The Board expects that one effect of this guideline would be to hold down the size of the nonvoting equity investment by the investing company relative to the acquiree's total equity, thus avoiding the potential for control because the investor holds a very large proportion of the acquiree's total equity. Observance of the 25 percent guideline will also make provisions in agreements providing for a right of first refusal or a public and widely dispersed offering of rights to the acquiree's shares more practical and realistic.

(6) Finally, certain arrangements should clearly be avoided regardless of other provisions in the agreement that are designed to avoid control. These are:

(i) Agreements that enable the investing bank holding company (or its designee) to direct in any manner the voting of more than 5 per cent of the voting shares of the acquiree;

(ii) Agreements whereby the investing company has the right to direct the acquiree's use of the proceeds of an equity investment by the investing company to effect certain actions, such as the purchase and redemption of the acquiree's voting shares; and

(iii) The acquisition of more than 5 per cent of the voting shares of the acquiree that "simultaneously" with their acquisition by the investing company become nonvoting shares, remain nonvoting shares while held by the investor, and revert to voting shares when transferred to a third party.

(e) *Review by the Board.* This statement does not constitute the exclusive scope of the Board's concerns, nor are the considerations with respect to control outlined in this statement an exhaustive catalog of permissible or impermissible arrangements. The Board has instructed its staff to review agreements of the kind discussed in this statement and to bring to the Board's attention those that raise problems of consistency with the Act. In this regard, companies are requested to notify the Board of the terms of such proposed merger or asset acquisition agreements or nonvoting equity investments prior to their execution or consummation.

[1] *See* Board letter dated March 18, 1982, to C. A. Cavendes, Sociedad Financiera.

Board of Governors of the Federal Reserve System, July 8, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-18275 Filed 7-15-82; 8:45 am]

BILLING CODE 6210-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230 and 240

[Release Nos. 33-6413; 34-18842; 35-22547; IC-12504; FR-2; File No. S7-906]

Instructions for the Presentation and Preparation of Pro Forma Financial Information and Requirements for Financial Statements of Businesses Acquired or To Be Acquired

Correction

In FR Doc. 82-18570, beginning on page 29832 in the issue of Friday, July 9, 1982, the following corrections should be made:

1. On page 29840, in the first column, the first line of the paragraph designated "15." should read, "By revising paragraph (t)(1) of the" and the paragraph designation "(t) * * *" should be inserted between the paragraph designated "(1)" and the five stars that precede it.

2. On page 29841, in the third column, the first line of the paragraph designated "21." should read, "By revising paragraph (r)(1) of the" and the paragraph designation "(r) * * *" should be inserted between the paragraph designated "(1)" and the five stars that precede it.

BILLING CODE 8505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 520 and 522

New Animal Drugs; Change of Sponsor; Wendt Laboratories, Inc.

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for phenylbutazone tablet and injection products from Western Serum Co. to Wendt Laboratories, Inc. Western Serum Co. filed supplemental new animal drug applications (NADA's) that provide for this change.

EFFECTIVE DATE: July 16, 1982.

FOR FURTHER INFORMATION CONTACT: John R. Markus, Bureau of Veterinary Medicine (HFV–104), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4313.

SUPPLEMENTARY INFORMATION: Western Serum Co. filed supplements to its NADA 048–646 for phenylbutazone injection and NADA 048–647 for phenylbutazone tablets. The supplements request that as of February 6, 1982, all of the firm's rights in the NADA's be reassigned to Wendt Laboratories, Inc., 100 Nancy Dr., Belle Plaine, MN 56011.

The supplements for the change of sponsor are approved, and the regulations are amended to reflect the approval.

Under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367 December 23, 1977;), the intercorporate transfer of an NADA is a category I change that does not require reevaluation of the safety and effectiveness data in the parent application.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects

21 CFR Part 520

Animal drugs, Oral use.

21 CFR Part 522

Animal drugs, Injectable.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 520 and 522 are amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 520.1720a [Amended]

1. In § 520.1720a *Phenylbutazone tablets and boluses*, paragraph (b)(5), by removing "011398" and inserting in its place "015579".

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 522.1720 [Amended]

2. In § 522.1720 *Phenylbutazone injection*, paragraph (b)(2), by removing "011398" and inserting in its place "015579".

Effective date. This amendment is effective July 16, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: July 7, 1982.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 82–18037 Filed 7–15–82; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Parts 606, 610, and 640

[Docket No. 79N–0316]

Source Plasma (Human); Dating Period and Reduction of Record Retention Requirements

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the biologics regulations by prescribing a 10-year dating period for Source Plasma (Human) and requiring the expiration date on the label for Source Plasma (Human). These amendments will reduce recordkeeping retention while ensuring the safety, purity, and efficacy of the final products.

DATES: Effective August 16, 1982, labeling requirements shall become effective January 12, 1983.

FOR FURTHER INFORMATION CONTACT: Steven F. Falter, National Center for Drugs and Biologics (HFB–620), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301–443–1306.

SUPPLEMENTARY INFORMATION: Source Plasma (Human) is a licensed biological product defined as the fluid portion of human blood collected by plasmapheresis and intended as source material for further manufacturing into injectable and noninjectable products. In the **Federal Register** of April 29, 1980 (45 FR 28359), FDA proposed to amend the biologic regulations to prescribe a 10-year dating period for Source Plasma (Human). Consistent with this action, FDA also proposed to amend §606.120 (21 CFR 606.120) and §640.70 (21 CFR 640.70) to require an expiration date on Source Plasma (Human) labels. In accordance with existing § 606.160(d) (21 CFR 606.160(d)), records pertaining to a product having a 10-year dating period must be retained for 10 years and 6 months. (These recordkeeping requirements have been approved by the Office of Management and Budget (OMB) under approval number 0910–0116.) Under current regulations, Source Plasma (Human) has no specific dating period and, therefore, manufacturing records must be retained indefinitely. Four letters of comment were received in response to the proposed rule, two of which expressed total agreement with the proposal. The remaining comments and FDA's response follow:

1. One comment asked if the proposed rules are applicable to all Source Plasma (Human), both that intended for use in manufacturing injectable products and that intended for use in manufacturing noninjectable products. Because of the value of plasma intended for use in manufacturing noninjectable products, the comment recommended that the rules not apply to such source plasma.

The agency does not believe that these regulations will jeopardize the value and marketability of plasma intended for use in manufacturing noninjectable products. The purposes of these regulations, to provide for a record retention period of 10 years and 6 months and to encourage the timely fractionation of the plasma into individual products, apply equally to all Source Plasma (Human), regardless of the intended use. FDA believes that 10 years is ample time to fractionate even the most rare or valuable source materials. To accommodate special circumstances an exemption from the 10-year dating period may be applied for in the form of an amendment to the product license under § 610.53(b) (21 CFR 610.53(b)).

2. One comment on proposed § 606.120(b)(5) requested that it be amended to provide for a 10-year dating period for unlicensed recovered human plasma in addition to Source Plasma (Human) and consequently a 10 year and 6 month record retention period.

Providing a dating period for recovered human plasma is beyond the scope of this rulemaking. The agency is currently reviewing all aspects of regulating unlicensed recovered human plasma, including a review of recordkeeping requirements. Upon completion of this review, FDA will take the necessary actions to ensure the safe, effective, and efficient utilization of this valuable source material.

3. One comment on proposed § 640.70(a)(6) requested that the collection date, instead of the expiration date, should continue to be required on the container label to serve as a means of identifying the plasma unit. The comment suggested that a cautionary

statement be added to the label stating that the product should not be used longer than 10 years after the stated collection date.

The agency rejects this comment. The required inclusion of the expiration date on the Source Plasma (Human) label is consistent with the labeling requirements for all other licensed biological products. The expiration date may be used, as the collection date has been used in the past, as part of the means of identifying individual units of plasma. FDA sees no advantage to retaining the collection date and including an additional cautionary statement on the label.

4. For clarification, FDA notes that for some long-dated final products (e.g., albumin), the records pertaining to the Source Plasma (Human) used in deriving the product may be destroyed before the expiration date of the final product. In the experience of FDA, there has been no instance where it was necessary to consult records concerning source material for a plasma derivative after such an extended period of time; therefore, records concerning Source Plasma (Human) may be destroyed after 10 years and 6 months, even though final products derived from the plasma may remain on the market.

The economic impact of this rule has been assessed in accordance with Executive Order 12291. The agency has determined that the rule will have no adverse effect on manufacturers or users of Source Plasma (Human). A dating period for the product is being established largely with the intent of reducing the recordkeeping burden associated with the product. The agency is not aware of the existence of any aged plasma which would become outdated with the establishment of the dating period. In the future, certain plasma may be exempted from the dating period if it is found necessary to retain the plasma beyond the expiration date. Manufacturers will be required to revise their product labels for Source Plasma (Human); however, currently approved labeling remaining at the effective date for the new labeling provisions may be modified to meet the new requirements. Thus, no additional expense resulting from outdated labeling need be incurred. Therefore, the agency concludes that the rule does not warrant designation as a major rule under any of the criteria specified under section 1(b) of Executive Order 12291. The requirement for a regulatory flexibility analysis under the Regulatory Flexibility Act does not apply to this final rule because the proposed rule was issued prior to January 1, 1981, and is therefore exempt.

List of Subjects

21 CFR Part 607

Blood; Laboratories.

21 CFR Part 610

Biologics; Labeling.

21 CFR Part 640

Blood.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 701, 52 Stat. 1040–1042 as amended, 1050–1051 as amended, 1055–1056 as amended (21 U.S.C. 321, 352, 371)) and the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Subchapter F in Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

PART 606—CURRENT GOOD MANUFACTURING PRACTICES FOR BLOOD AND BLOOD COMPONENTS

1. In Part 606, by revising § 606.120(b)(5) to read as follows:

§ 606.120 Labeling.

* * * * *

(b) * * *

(5) The expiration date, including the day and year, and if it is a factor, the hour; or in the case of recovered plasma for further manufacture, the date of collection.

* * * * *

PART 610—GENERAL BIOLOGICAL PRODUCTS STANDARDS

2. In Part 610, § 610.53(a) is amended by revising the item "Source Plasma (Human)" to read as follows:

§ 610.53 Dating periods for specific products.

(a) * * *

Source Plasma (Human)...	Ten years. Section 610.51 does not apply.

* * * * *

PART 640—ADDITIONAL STANDARDS FOR HUMAN BLOOD AND BLOOD PRODUCTS

3. In Part 640, by revising § 640.70(a)(6) read as follows:

§ 640.70 Labeling.

(a) * * *

(6) The expiration date of the plasma. If plasma intended for manufacturing into noninjectable products is pooled from two or more donors the expiration date is determined from the collection date of the oldest unit in the pool, and the pooling records shall show the collection date for each unit constituting the pool.

* * * * *

Effective dates. This regulation becomes effective on August 16, 1982. On or after this date, all Source Plasma (Human) licensed under section 351 of the Public Health Service Act (42 U.S.C. 262), including that already received in interstate commerce, shall have a dating period of 10 years from the date of collection. Labeling requirements shall become effective January 12, 1983. On or after January 12, 1983, no person may initially introduce or initially deliver for introduction into interstate commerce any licensed biological product to which the regulations apply, unless the product's labeling complies with the requirements set forth in the regulations.

(Secs. 201, 502, 701, 52 Stat. 1040–1042 as amended, 52 Stat. 1050–1051 as amended, 1055–1056 as amended (21 U.S.C. 321, 352, 371); sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262))

Dated: June 7, 1982.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 82-19179 Filed 7-15-82; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissoner

24 CFR Parts 805, 860, 861, and 865

[Docket No. R-82-976]

Gross Rent; Public Housing Program

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of effective date for interim rule.

SUMMARY: This document announces the effective date for the interm rule concerning gross rent payable by families under the Public Housing Program published in the **Federal Register** on May 4, 1982 (47 FR 19120) which sets forth regulatory changes to implement recent statutory amendments affecting the amount of rent which families participating in the Public Housing Program will be required to pay. The effective date provision of the rule stated that the rule would become effective upon expiration of the first

period of 30 calendar days of continuous session of Congress after publication, subject to waiver, and announced that future notice of the effectiveness of the rule would be published in the **Federal Register**. The period of 30 calendar days of continuous session of Congress following publication expired during June 1982. This document provides notice that the effective date for the interim rule is August 1, 1982.

DATE: The effective date for the interim rule published May 4, 1982 at 47 FR 19120 is August 1, 1982.

FOR FURTHER INFORMATION CONTACT: John J. Knapp, General Counsel, Department of Housing and Urban Development, Room 10214, 451 Seventh Street, SW., Washington, D.C. 20410. Telephone No. (202) 755–7244. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: On May 11, 1982, H. J. Res. 480 was introduced in the House of Representatives. This joint resolution proposed the disapproval of certain rules prescribed by the Secretary of Housing and Urban Development, including the interim rule dscribed in this document. On May 28, 1982, the Committee on Banking, Finance and Urban Affairs voted to report out the Resolution, which was thereupon filed with the Clerk of the House on June 2, 1982.

Section 7(o)(3) of the Department of Housing and Urban Development Act, 42, U.S.C. 3535(o)(3), provides that no HUD rule or regulation may become effective until after the first period of 30 calendar days of continuous session of Congress which occurs after the day on which such rule or regulation is published, and that, if within that 30-day period, either the Banking, Housing, and Urban Affairs Committee of the Senate or the Banking, Finance and Urban Affairs Committee of the House of Representatives reports out a joint resolution of disapproval or other legislation which is intended to invalidate the rule or regulation, the rule or regulation shall not become effective for a period of 90 calendar days from the date of Committee action.

The Department of Justice, both before and after passage of section 7(o)(3) of the Department of Housing and Urban Development Act in 1978, advised the Secretary of Housing and Urban Development that the triggering mechanism for the additional 90-day waiting period contained in Section 7(o)(3) is unconstitutional because it purports to allow Congress, by action of its Committees, to impose legally binding requirements on the Executive Branch. The Secretary, in proposing an amendment to strike out the second sentence of section 7(o)(3), advised the Speaker of the House and the President of the Senate on March 19, 1979, that the Department of Justice had advised that the further waiting period provision is unconstitutional and, therefore, could not impose a binding requirement on the Department.

Apart from the constitutional issue, invocation of section 7(o)(3) to delay the effective date of this interim rule is contrary to the stated intent of the legislative review process established by section 7(o) of the Department of Housing and Urban Development Act. Legislative history surrounding the enactment of section 7(o) emphasized that the disapproval procedure was intended to be utilized only when a Committee believed that a Departmental regulation violated the intent of Congress as expressed in specific enacted legislation (see, *e.g.*, the Conference Report on the 1978 legislation). In this instance, the objection of the House Committee would appear to be that the interim rule would implement an explicit statutory directive which is not supported by a majority of the Committee's membership. The interim rule implements an increase in tenant contribution to rent from 25% to 30% of adjusted income, as directed by section 322 of the Housing and Community Development Amendments of 1981. That provision was not contained in the 1981 legislation as reported by the House Banking Committee, but was included in the bill reported by the Senate Banking Committee and approved by the Senate, was added to the House legislation by floor amendment, and was adopted in Conference. In 1982, the House Banking Committee has reported a bill which would, in essence, reverse the 1981 enactment; no similar provision is contained in the 1982 authorizing legislation reported by the Senate. While the Committee's report accompanying the resolution of disapproval seeks to base the Committee's action on disapproval of the manner of phase-in of the increase as prescribed by the regulation, it is apparent from the record of the Committee mark-up session that intent to delay any implementation of the statute was the prime motivating factor. (Compare H. Rep. No. 97–590 and the Minority Views attached thereto; see also the floor statement by the sole dissenting Majority member at 128 Cong. Rec. H 3123.)

Under some circumstances the Secretary may deem it appropriate, as a matter of comity between the Executive and Legislative Branches, to delay implementation of a rule which a Committee of Congress has voted to disapprove, notwithstanding the opinion of the Executive Branch that the action of disapproval has no binding effect as a constitutional matter. (Compare, for example, the notice of delayed implementation of a separate, unrelated rule disapproved by Committee action, FR Doc. 82–19110 published elsewhere in this issue.) In this instance, however, the Secretary has determined that his obligation to implement the duly enacted statutory directives makes such comity inappropriate.

DATE: The effective date for the interim rule published May 4, 1982 at 47 FR 19120 is August 1, 1982.

FOR FURTHER INFORMATION CONTACT: John J. Knapp, General Counsel, Department of Housing and Urban Development, Room 10214, 451 Seventh Street, SW., Washington, D.C. 20410. Telephone No. (202) 755–7244. This is not a toll-free number.

Date: July 9, 1982.

Philip Abrams,

General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 82-19111 Filed 7-15-82; 8:45 am]

BILLING CODE 4210-27-M

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24 CFR Part 885

[Docket No. R–82–982]

Housing for the Elderly or Handicapped; Amendments To Implement Cost Savings Procedure

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of deferred effective date for interim rule.

SUMMARY: This document announces that the effective date for the interim rule concerning cost saving procedures in housing for the elderly and handicapped published in the **Federal Register** on May 11, 1982 (47 FR 20113) has been deferred until such time, not earlier than September 1, 1982, as may be specified by further notice published in the **Federal Register**. The interim rule was published originally to become effective on June 22, 1982. The House Committee on Banking, Finance and Urban Affairs voted to disapprove this rule under Section 7(o)(3) of the Department of Housing and Urban Development Act. The Secretary of Housing and Urban Development (HUD) has determined, as a matter of comity between the Executive and Legislative

Branches, to delay the effectiveness of this rule.

EFFECTIVE DATE: The specification previously published of June 22, 1982, as the effective date for the interim rule published on May 11, 1982 (47 FR 20113) is withdrawn. The effective date of the interim rule is deferred until such date, not earlier than September 1, 1982, as may be specified by further notice published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: John J. Knapp, General Counsel, Department of Housing and Urban Development, Room 10214, 451 Seventh Street, S.W., Washington, D.C. 20410. Telephone no. (202) 755–7244. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: On May 19, 1982, H. J. Res. 488 was introduced in the House of Representatives. This joint resolution proposed the disapproval of the above-captioned rule. On May 26, 1982, the Committee on Banking, Finance and Urban Affairs voted to report out the Resolution, which was thereupon filed with the Clerk of the House on June 2, 1982.

Section 7(o)(3) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(o)(3), provides that no HUD rule or reguation may become effective until after the first period of 30 calendar days of continuous session of Congress which occurs after the day on which such rule or regulation is published, and that, if within that 30-day period, either the Banking, Housing, and Urban Affiars Committee of the Senate or the Banking, Finance and Urban Affairs Committee of the House of Representatives reports out a joint resolution of disapproval or other legislation which is intended to invalidate the rule or regulation, the rule or regulation shall not become effective for a period of 90 calendar days from the date of Committee action.

The Department of Justice, both before and after passage of Section 7(o)(3) of the Department of Housing and Urban Development Act in 1978, advised the Secretary of Housing and Urban Development that the triggering mechanism for the additional 90-day waiting period contained in Section 7(o)(3) is unconstitutional because it purports to allow Congress, by action of its Committees, to impose legally binding requirements on the Executive Branch. The Secretary, in proposing an amendment to strike out the second sentence of Section 7(o)(3), advised the Speaker of the House and the President of the Senate on March 19, 1979, that the Department of Justice had advised that the further waiting period provision is unconstitutional and, therefore, could not impose a binding requirement on the Department.

Under some circumstances the Secretary may deem it appropriate, as a matter of comity between the Executive and Legislative Branches, to delay implementation of a rule which a Committee of Congress has voted to disapprove, notwithstanding the opinion of the Executive Branch that the action of disapproval has no binding effect as a constitutional matter. In this instance, the interim rule would implement certain administrative policy determinations intended to effect cost savings in the Section 202 program providing direct loans to nonprofit sponsors for housing for the elderly and handicapped. In order to avoid disruption of the process of applications for FY 1982 funding consideration that is now underway, the Secretary has determined to defer effectiveness of the interim rule until not earlier than expiration of the 90-day period following the reporting out of the Committee's resolution.

Dated: July 9, 1982.

Philip Abrams,

General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 82–19110 Filed 7–15–82; 8:45 am]

BILLING CODE 4210–27–M

Office of the Secretary

24 CFR Part 888

[Docket No. R–82–922]

Section 8 Housing Assistance Payments Program—Financing Adjustment for Fair Market Rents

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of effective date for interim rule.

SUMMARY: This document announces the effective date for the interim rule published in the **Federal Register** on May 25, 1982 (47 FR 22520) which amended the financing adjustment rules for calculating Fair Market Rents to (1) increase the ceiling on interest rates from 12 percent to 14 percent, (2) extend the deadline for start of construction from June 1, 1982 to August 1, 1982, (3) permit use of the financing adjustment in connection with property disposition projects sold by HUD and (4) permit projects funded in fiscal year 1982 to use the financing adjustment. The effective date provision of the rule stated that the rule would become effective upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, subject to waiver, and announced that future notice of the effectiveness of the rule would be published in the **Federal Register.**

Thirty calendar days of continuous session of Congress have expired since the rule was published.

DATE: The effective date for the interim rule published May 25, 1982, at 47 FR 22520, is July 16, 1982.

FOR FURTHER INFORMATION CONTACT: Grady J. Norris, Assistant General Counsel for Regulations, Department of Housing and Urban Development, Room 10278, 451 7th Street, S.W., Washington, D.C. 20410, Telephone No. (202) 755–7055. This is not a toll-free number.

Dated: July 14, 1982.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 82–19420 Filed 7–15–82; 8:45 am]

BILLING CODE 4210–27–M

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24 CFR Part 889

[Docket No. R–82–975]

Gross Family Contribution; Section 8 Housing Assistance Payments Program

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of effective date for interim rule.

SUMMARY: This document announces the effective date for the interim rule on gross family contributions under Section 8 housing assistance payments program published in the **Federal Register** on May 4, 1982 (47 FR 19128) which sets forth regulatory changes to implement recent statutory amendments affecting the amount of rent which families participating in the Section 8 Program will be required to pay. The effective date provision of the rule stated that the rule would become effective upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, subject to waiver, and announced that future notice of the effectiveness of the rule would be published in the **Federal Register.** The period of 30 calendar days of continuous session of Congress following publication expired during June 1982. This document provides notice that the effective date for the interim rule is August 1, 1982.

DATE: The effective date for the interim rule published May 4, 1982 at 47 FR 19128 is August 1, 1982.

FOR FURTHER INFORMATION CONTACT: John J. Knapp, General Counsel, Department of Housing and Urban Development, Room 10214, 451 Seventh Street, S.W., Washington, D.C. 20410. Telephone No. (202) 755–7244. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: On May 11, 1982, H.J. Res. 480 was introduced in the House of Representatives. This joint resolution proposed the disapproval of certain rules prescribed by the Secretary of Housing and Urban Development, including the interim rule described in this document. On May 26, 1982, the Committee on Banking, Finance and Urban Affairs voted to report out the Resolution, which was thereupon filed with the Clerk of the House on June 2, 1982.

Section 7(o)(3) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(o)(3), provides that no HUD rule or regulation may become effective until after the first period of 30 calendar days of continuous session of Congress which occurs after the day on which such rule or regulation is published, and that, if within that 30-day period, either the Banking, Housing, and Urban Affairs Committee of the Senate or the Banking, Finance and Urban Affairs Committee of the House of Representatives reports out a joint resolution of disapproval or other legislation which is intended to invalidate the rule or regulation, the rule or regulation shall not become effective for a period of 90 calendar days from the date of Committee action.

The Department of Justice, both before and after passage of Section 7(o)(3) of the Department of Housing and Urban Development Act in 1978, advised the Secretary of Housing and Urban Development that the triggering mechanism for the additional 90-day waiting period contained in Section 7(o)(3) is unconstitutional because it purports to allow Congress, by action of its Committees, to impose legally binding requirements on the Executive Branch. The Secretary, in proposing an amendment to strike out the second sentence of Section 7(o)(3), advised the Speaker of the House and the President of the Senate on March 19, 1979, that the Department of Justice had advised that the further waiting period provision is unconstitutional and, therefore, could not impose a binding requirement on the Department.

Apart from the constitutional issue, invocation of Section 7(o)(3) to delay the effective date of this interim rule is contrary to the stated intent of the legislative review process established by Section 7(o) of the Department of Housing and Urban Development Act. Legislative history surrounding the enactment of Section 7(o) emphasized that the disapproval procedure was intended to be utilized only when a Committee believed that a Departmental regulation violated the intent of Congress as expressed in specific enacted legislation (see, *e.g.*, the Conference Report on the 1978 legislation). In this instance, the objection of the House Committee would appear to be that the interim rule would implement an explicit statutory directive which is not supported by a majority of the Committee's membership. The interim rule implements an increase in tenant contribution to rent from 25% to 30% of adjusted income, as directed by Section 322 of the Housing and Community Development Amendments of 1981. That provision was not contained in the 1981 legislation as reported by the House Banking Committee, but was included in the bill reported by the Senate Banking Committee and approved by the Senate, was added to the House legislation by floor amendment, and was adopted in Conference. In 1982, the House Banking Committee has reported a bill which would, in essence, reverse the 1981 enactment; no similar provision is contained in the 1982 authorizing legislation reported by the Senate. While the Committee's report accompanying the resolution of disapproval seeks to base the Committee's action on disapproval of the manner of phase-in of the increase as prescribed by the regulation, it is apparent from the record of the Committee mark-up session that intent to delay any implementation of the statute was the prime motivating factor. (Compare H. Rep. No. 97–590 and the Minority Views attached thereto; see also the floor statement by the sole dissenting Majority member at 128 Cong. Rec. H 3123.)

Under some circumstances the Secretary may deem it appropriate, as a matter of comity between the Executive and Legislative Branches, to delay implementation of a rule which a Committee of Congress has voted to disapprove, notwithstanding the opinion of the Executive Branch that the action of disapproval has no binding effect as a constitutional matter. (Compare, for example, the notice of delayed implementation of a separate, unrelated rule disapproved by Committee action, FR Doc. 82–19110 published elsewhere in this issue. In this instance, however, the Secretary has determined that his obligation to implement the duly enacted statutory directives makes such comity inappropriate.

Dated: July 9, 1982.

Philip Abrams,

General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 19109 Filed 7–15–82; 8:45 am]

BILLING CODE 4210–77–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL-2083-8]

Arizona State Implementation Plan Revision

Correction

In FR Doc. 82–9822, at page 15579, in the issue of Monday, April 12, 1982, on page 15580, last column, in the regulatory text, correct § 52.120(c)(44)(i)(3) by inserting the number "25" after the existing "25" in the second line.

BILLING CODE 1505–01–M

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40 CFR Parts 52 and 81

[A–5–FRL 2140–4]

Approval and Promulgation of Implementation Plans Designation of Areas for Air Quality Planning Purposes; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: EPA today is publishing rulemaking pursuant to Part D of the Clean Air Act (CAA) on certain revisions to the Indiana State Implementation Plan (SIP) for total suspended particulate (TSP) and is publishing rulemaking pursuant to Section 110 on other general provisions within the State's plan.

In this notice EPA is specifying those portions of the revisions to the Indiana SIP which it is approving, conditionally approving, or deferring action.

EPA is taking this action pursuant to Part D of the Clean Air Act. Part D of the Act requires each state to revise its SIP to meet specific requirements for the areas designated as nonattainment.

This revision is expected to have a favorable impact of Indiana's ambient air quality. Additionally, this revision is expected to have a favorable impact on the air quality of the States adjoining Indiana's nonattainment area.

EFFECTIVE DATE: This final rulemaking is effective as of July 16, 1982.

ADDRESSES: Copies of the SIP revision, public comments on the notice of proposed rulemaking and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Robert B. Miller at (312) 886-6031 before visiting the Region V Office).

Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460

Indiana Air Pollution Control Division, Indiana State Board of Health, 1330 West Michigan Street, Indianapolis, Indiana 46206

Copies of the State material regarding 40 CFR Part 52 is available for inspection at: The Federal Register Office, 1100 L Street NW., Room 8401, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Robert B. Miller, Air Programs Branch, Environmental Protection Agency, Region V, Chicago, Illinois 60604 (312) 886-6031.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 8962) and on October 5, 1978 (43 FR 45993), pursuant to the requirements of section 107 of the CAA, EPA designated parts of eleven counties in Indiana as nonattainment for the TSP National Ambient Air Quality Standards (NAAQS). These designated nonattainment areas were in Clark, Dearborn, Dubois, Howard, Lake, LaPorte, Marion, St. Joseph, Vanderburgh, Vigo, and Wayne Counties. On May 21, 1980, the State of Indiana requested that LaPorte County be redesignated from primary nonattainment to attainment. EPA approved this request on September 25, 1981 (46 FR 47220). Similarly, on November 2, 1981 (46 FR 54340) EPA designated the TSP nonattainment portion of Wayne County as unclassifiable.

Part D of the Act requires each state to revise its SIP to meet specific requirements for the areas designated as nonattainment. These SIP revisions must demonstrate attainment of the primary TSP NAAQS as expeditiously as practicable, but no later than December 31, 1982. If attainment of the NAAQS by December 31, 1982 cannot be demonstrated for an area designated as nonattainment for TSP, an acceptable alternative SIP for that area must include provisions for applying reasonably available control technology (RACT) to stationary sources of particulate emissions and studying the nature and extent of the nontraditional particulate sources in the area. The study would then be used in designing a control strategy for such sources. The requirements for an approvable Part D SIP are further described in a **Federal Register** notice published April 4, 1979 (44 FR 20372). Supplements to the April 4, 1979 notice were published on July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), and November 23, 1979 (44 FR 67182).

On June 26, 1979, pursuant to Part D of the CAA, the State of Indiana submitted to EPA a proposed control strategy and regulations for TSP. EPA reviewed Indiana's submittal and proposed rulemaking on March 27, 1980 (45 FR 20432). Since March 27, 1980, Indiana has submitted new control strategies and regulations for TSP that have substantially modified many of those proposed at that time. Based on these new submittals, EPA reproposed rulemaking action on the Indiana Part D TSP implementation plan (March 3, 1982, 47 FR 9019). This proposal superceded all actions proposed in the March 27, 1980 notice for TSP except for Knauf Fiberglass. At the request of the State, on April 16, 1982, the public comment period was extended until May 7, 1982 (47 FR 16361).

In addition, on July 3, 1980 (45 FR 45314), EPA proposed rulemaking for the portion of the Indiana Part D SIP pertaining to particulate emissions from iron and steel process sources. The action was reproposed for coke batteries in the State of Indiana by EPA on June 1, 1982 (47 FR 23773) and is still relevant. Accordingly, the adequacy of the Indiana Part D TSP SIP as it applies to coke batteries will not be addressed in this notice.

In this notice EPA is specifying those portions of the revisions to the Indiana SIP which it is approving, conditionally approving, or deferring action.

EPA is approving a portion of the SIP on the condition that the State corrects the deficiencies by a specified date. A date originally committed to by the State was proposed in the March 3, 1982 notice and was modified in response to the State's public comment. EPA will follow the procedures described below when determining if the requirements of conditional approval have been met:

1. When the State submits the required additional regulations, EPA will publish a notice in the **Federal Register** announcing receipt and availability of the material for public comment. The notice will also announce that the conditional approval is continuing pending EPA's final action on the submission.

2. EPA will evaluate the State's submission and public comment on the submission to determine if noted deficiencies have been fully corrected. After review is complete, a **Federal Register** notice will either fully approve the plan if all conditions have been met, or withdraw the conditional approval and disapprove the plan. If the plan is disapproved, the Section 110(a)(2)(I) restrictions on construction will be in effect.

3. If the State fails to submit the required materials according to the negotiated schedule, EPA will publish a **Federal Register** notice shortly after the expiration of the time limit for submission. The notice will announce that the conditional approval is withdrawn, the SIP is disapproved, and Section 110(a)(2)(I) restrictions on growth are in effect.

The table below summarizes the regulations considered in today's rulemaking on the Indiana Part D TSP SIP [1] and other general provisions and EPA's action on them:

[1] Indiana's revised opacity regulation, 325 IAC Article 5, the comments received in response to EPA's proposed disapproval of this regulation, the Howard County TSP redesignation request, and the SIP Strategy for Lake County will be addressed in subsequent notices.

Regulation	Date of submittal	Action
325 IAC 1.1-3 Vigo County Redesignation	May 20, 1981	Approval.
325 IAC 6-1 Particulate Emission Limitations for Nonattainment Areas	June 26, 1979	Approval.
Section 4 Compliance Time Schedules	October 6, 1980	Approval.
Section 2(e) Foundry Melt Processes	October 6, 1980	Approval.
325 IAC 6-1-6 Dearborn County Amendments	October 6, 1980	Approval.
	August 10, 1981	
325 IAC 6-1-9 Dubois County	October 6, 1980	Approval.
325 IAC 6-1-12 Marion County Amendments	February 11, 1980	Approval.
	October 20, 1981	

Regulation	Date of submittal	Action
325 IAC 6-1-13 Vigo County Amendments	January 29, 1981 October 28, 1981 and May 7, 1982	Approval, except defer action on coke battery emission limitations.
325 IAC 6-1-14 Wayne County Amendments	October 6, 1980 January 29, 1981	Approval.
325 IAC 6-1-15 Howard County	January 29, 1981	Approval of emission limitations, defer action on overall plan.
325 IAC 6-1-16 Vanderburgh County Amendments	January 29, 1981 October 28, 1981	Approval.
325 IAC 6-1-17 Clark County	July 8, 1981	Approval.
325 IAC 6-1-18 St. Joseph County	July 8, 1981	Approval.
325 IAC 6-3 Particulate Emission Limitations for Process Operations	October 6, 1980	Approval.
Codification of Air Pollution Control Board Regulations	October 6, 1980	Approval.
Schedule for development of Industrial Fugitive Dust Regulations (325 IAC 6-5).	November 25, 1981 and May 7, 1982	Conditional Approval (Regulation is necessary for approvable Part D TSP SIP in Clark, Dearborn, Dubois, Howard, Marion, St. Joseph, Vanderburgh, and Vigo Counties).
Schedule for Nontraditional Dust Studies	January 29, 1981	Approval.

The following sections of the notice discuss the Indiana Part D TSP SIP and EPA's responses to the applicable comments received in response to its March 3, 1982 notice of proposed rulemaking.

Control Strategy Evaluation of the Indiana Part D SIP for TSP

The Indiana Part D SIP for TSP contains monitored air quality data trend analyses, point and area source emission inventories, meteoroloical data summaries, summaries of annual and short-term dispersion modeling studies, air pollution control regulations, economic and energy impact analyses, and reasonable further progress schedules. Indiana used dispersion modeling to develop a TSP control strategy to demonstrate attainment in all nonattainment counties. On January 29, 1981, the State submitted an "Indiana State Implementation Plan TSP Control Strategy Summary" which identified the State rule promulgation date, technical support document title and date, date of formal submittal to EPA, future amendments, and the basis of the TSP Part D SIP strategy for each nonattainment county. The January 29, 1981 strategy summary stated that the strategies for Lake,[2] Marion, and Vigo Counties demonstrated primary attainment and that the strategies for Clark, Dearborn, Dubois, Howard, St. Joseph, Vanderburgh, and Wayne [3] Counties applied RACT but do not show attainment.

Section 172(b)(2) of the CAA requires the implementation of reasonably available control measures as expeditiously as practicable. EPA has defined RACT as the lowest emission limit that is reasonably available considering technical and economic feasibility. It may require technology that has been applied to similar, but not necessarily identical source categories. In the nonattainment area control strategies, RACT may mean more restrictive limitations than that required by the existing SIP regulations (i.e. the existing SIP is not stringent enough to attain the standards) and generally no less restrictive than status quo (no removal of existing particulate control equipment). It is not intended that extensive research and development be conducted before a given control technology can be applied to a source, but it does mean that in the case where an emission limitation for a source is less stringent than a state-set generic RACT level, it should be documented on a case-by-case basis.

Indiana has defined general RACT standards for power plants and industrial boilers, foundries, grain elevators and terminals, asphalt plants, incinerators and painting operations. These general RACT levels, along with other information such as the existing degree of control, were used to set source specific limitations for certain sources in the Indiana nonattainment counties. These are codified at 325 IAC 6-1-8 through 6-1-18. In addition, the Indiana RACT strategy includes visible emission regulations [4] and a commitment by the State to develop industrial fugitive dust regulations.

The Indiana Part D SIP gives a number of sources, in counties where the strategy relies on RACT plus nontraditional particulate matter studies, emission limitations that are less stringent than RACT as defined by Indiana for that type of source. Given that these sources have annual emissions of less than 100 tons per year and/or are located in secondary nonattainment areas, EPA is approving these emission limitations as RACT for these sources.

As a final part of the TSP strategy, the State submitted a schedule to complete and implement nontraditional particulate mater studies.

EPA has reviewed the TSP control strategies and regulations submited by Indiana and the comments received in response to EPA's notice of proposed rulemaking. A summary of EPA's findings is set forth below. A more detailed discussion of EPA's evaluation can be found both in the Indiana TSP SIP Technical Support Documents on file at the addresses above and in the March 3, 1982 notice of proposed rulemaking.

Nontraditional Particulate Matter Studies

Part D SIP control strategies that do not demonstrate attainment, despite the application of RACT for the emission sources, must contain a commitment to study the nature and extent of nontraditional particulate sources. On January 29, 1981 the State formally committed itself to perform a nontraditional particulate matter study and to develop a strategy and regulations to control nontraditional sources for Marion, Dubois, Clark, Wayne, Dearborn, St. Joseph, Howard, and Vanderburgh Counties. The study will include the analysis of hi-vol filters, the identification of the sources which have contributed to the filter loading, a review of fugitive dust control demonstration projects, and the development of control strategies. EPA reviewed the schedule of activities submitted by the State and found it to be approvable. However, the Indiana Part D TSP SIP remained deficient in this area because there was no commitment from State to conduct nontraditional particulate matter studies in Vigo County. Accordingly, EPA proposed to approve the nontraditional fugitive dust studies portion of the Indiana Part D TSP SIP with the understanding that the State would commit to conduct nontraditional particulate matter studies in Vigo County. On May 7, 1982, the State responded to EPA's March 3, 1982 notice

[2] As stated previously, the Lake County TSP strategy will not be addressed in this notice.

[3] As stated previously, EPA has recently changed Wayne County's attainment status to unclassifiable.

[4] EPA is deferring action at this time on Indiana's revised opacity regulation, 325 IAC 5-1. EPA accepts the currently approved SIP opacity regulation, APC 3; as RACT for Indiana and will continue to enforce it until EPA approves a revised opacity regulation for Indiana.

of proposed rulemaking by committing to perform such a study in Vigo County and rescinded its commitment for Wayne County. The State's commitments are discussed later in this notice in EPA's analyses of the individual counties' strategies.

Visible Emission Limitations

Visible emission regulations are an integral portion of RACT for TSP sources and are a required component of a SIP for TSP pursuant to 40 CFR 51.19(c). The visible emission limitations submitted by the State on October 6, 1980, 325 IAC 5–1, apply to all particulate sources throughout the State. EPA reviewed the regulation and found that it could not be approved for several reasons, including its relaxation of the existing 40% opacity SIP limit for intermittent sources in nonattainment areas. Therefore, EPA proposed to disapprove it in its March 3, 1982 notice.

The State in its response to the notice of proposed rulemaking offered clarifications on several of the approvability issues and agreed to work out a rule that will be acceptable to EPA, as long as the rule contains reasonable limitations. EPA accepts the State's commitment as evidence of good faith and, therefore, is deferring action on 325 IAC 5–1 at this time. EPA anticipates working closely with the State in the development of a revised, approvable regulation. If a regulation is developed which satisfies the approvability issues listed in the March 3, 1982 notice of proposed rulemaking, EPA anticipates that the State will withdraw its present regulation and EPA will propose the new regulation for action. If the State does not develop a revised regulation, EPA will go forward with its proposed disapproval action on the State's existing regulation, 325 IAC 5–1.

In the interim, SIP regulation APC 3, as federally approved on October 28, 1975 (40 FR 50033), will remain effective and enforceable statewide in attainment, nonattainment, and unclassified areas. EPA believes that the federally approved regulation APC 3 represents RACT for all sources, including iron and steel sources.

Schedule for Development of Rule 325 IAC 6–5, Industrial Fugitive Dust Rule

An integral portion of RACT for TSP sources in nonattainment areas is industrial fugitive dust regulations. These regulations are necessary in all nonattainment areas where the Part D TSP control strategy is based on RACT and further studies of nontraditional sources and, in fact, are generally necessary to demonstrate attainment where the Part D TSP strategy is based on a modeled attainment demonstration.

On January 29, 1981, the State formally submitted a schedule for the development, adoption, promulgation, and submittal of its regulation to implement RACT on industrial fugitive emission sources (325 IAC 6–5) by November 15, 1981. On November 25, 1981 the State revised its projected submittal date to April 1982. In the State's May 7, 1982 response to EPA's notice of proposed rulemaking, it now commits itself to submit these regulations, adopted and promulgated, by July 31, 1982. EPA has reviewed this revised schedule, finds the State is on schedule for meeting the revised submittal date (Indiana's Environmental Management Board adopted the regulations on May 21, 1982), and is approving the revised schedule. EPA will propose rulemaking on these regulations upon their submittal by the State.

At this time the Indiana TSP SIP is still deficient, however, in that there are presently no approvable industrial fugitive dust RACT regulations in effect in any of the nonattainment TSP counties covered by this notice. EPA is approving the Indiana Part D SIP for TSP in Clark, Dearborn, Dubois, Marion (partial), St. Joseph, Vanderburgh, and Vigo Counties on the condition that Indiana submits its approvable industrial fugitive dust regulations by July 31, 1982. Sources in primary nonattainment areas must implement these regulations by December 31, 1982.

It should be noted that the present regulations do not contain any short-term emission limits for some mineral aggregate operations and grain terminal operations that are specifically listed in 325 IAC 6–1–8, Dearborn County; 325 IAC 6–1–9, Dubois County; and 325 IAC 6–1–15, Howard County. EPA proposed to approve the Indiana TSP regulations for the counties where these sources are located with the understanding that the State would include, in its industrial fugitive dust regulations, requirements for the major sources which presently do not have short term emission limits. The State commented in its May 7, 1982 letter that major sources in nonattainment areas, including these non-stack sources, will be subject to its new industrial fugitive dust rule, 325 IAC 6–5, which is to be submitted to EPA by July 31, 1982. Non-major sources will continue to be subject to the requirements of Indiana's existing fugitive dust rule, 325 IAC 6–4. Therefore, EPA is approving the TSP regulations with the understanding that major non-stack sources in these nonattainment areas will be covered by Indiana's new industrial fugitive regulation. All fugitive sources, of course, continue to be subject to the SIP opacity regulation.

325 IAC 6–1, Particulate Emissions for Nonattainment Areas

The TSP regulations in 325 IAC 6–1 submitted by the State on June 28, 1979, as amended on October 6, 1980, apply to particulate sources in nonattainment areas. The regulation contains general emission limitations (Section 2), test methods (Section 3), compliance timetables (Section 4) and other general provisions (Sections 5 and 6). The general emission limitations in Section 2 are applicable to all sources that are not specifically listed in the appendix to the rule [8] and that have either the potential before controls to emit 100 tons or more of TSP per year or have actual emissions of 10 tons or more of TSP per year. Specific RACT based emission limitations are given for fuel combustion steam generators, asphalt concrete plants, grain elevators, foundries, glass container manufacturing, mineral aggregate operations and general sources.

EPA evaluated the provisions of 325 IAC 6–1, Sections 1 through 6, and found them to be generally approvable. Accordingly, EPA proposed to approve 325 IAC 6–1 Sections 1 through 6, with three exceptions. Below are the exceptions, the State's response to them, and EPA's final action on them.

1. Section 2 (d)(1)(A) which regulates grain elevators is expressed in terms of "0.03 grams per dry standard cubic foot." "0.03 grams" should be expressed in terms of "0.03 grains." In the State's May 7, 1982 response to EPA's notice of proposed rulemaking, it committed itself to correct the error. EPA approves Section 2(d)(1)(A) with the understanding that the State will correct the typographical error.

2. Section 2(d)(2)(C) regulates the percent opacity from affected grain elevators as determined pursuant to 325 IAC 5–1. Because EPA is deferring action on 325 IAC 5–1, EPA will approve Section 2(d)(2)(c) with the understanding that it will rely on the federally approved regulation APC 3 to determine percent opacity from affected grain elevators. The State concurred with this approach to federal enforcement of Section 2(d)(2)(C) in its May 7, 1982 letter.

3. Section 3 specifies that the test methods to determine compliance with

[8] The appendix to 325 IAC 6–1 (325 IAC 6–1–6 thru 325 IAC 6–1–15) contains source specific regulations for most sources in each nonattainment county. These regulations are discussed later in this notice.

the regulation shall be conducted in accordance with the procedures set forth in Methods 1–5, Appendix A of 40 CFR Part 60, or other procedures approved by the Indiana Air Pollution Control (IAPCB). This section does not contain provisions to determine compliance with short term emission limits for process fugitive sources which do not vent through a stack, i.e., grain elevators and mineral aggregate operations. Section 3 also does not require other test procedures approved by the IAPCB to be submitted to EPA as a SIP revision. EPA proposed to approve Section 3 with the understanding that 1) alternative test methods approved by the IAPCB will be submitted to EPA as SIP revisions and 2) during the public comment period the State would clarify the intent of this section for non-stack sources and indicate the method that will be used to determine compliance for non-stack sources.

The State in its May 7, 1982 letter stated it is willing to submit alternate test methods to EPA on a case-by-case basis as SIP revisions. It also stated that it does not intend to enforce the numerical emission limits for nonstack sources contained in its plan, because the limits were only included in the strategies to facilitate modeling. It does intend, however, to enforce compliance by requiring good housekeeping practices at grain elevators as specified in 325 IAC 6–1, by requiring compliance with the fugitive dust provisions in 325 IAC 6–4, and, after adoption by the State, require compliance with the industrial fugitive dust provisions in 325 IAC 6–5.

EPA finds the State's response acceptable and is approving Section 3. EPA notes, however, that while the State may use its discretion as to the emission limits it enforces, all emission limits approved by EPA as a part of the SIP may be enforced against applicable sources. Also, in addition to the methods mentioned by Indiana, opacity is an essential method for determining compliance for nonstack sources and will be utilized by EPA in determining compliance.

325 IAC 6–1–17 Clark County (Primary Nonattainment), 325 IAC 6–1–18 St. Joseph County (Secondary Nonattainment), 325 IAC 6–1–16 Vanderburgh County (Secondary Nonattainment)

On the dates referenced in the summary table at the beginning of this notice, the State submitted the control strategies and regulations for the nonattainment portions of Clark, St. Joseph, and Vanderburgh Counties. In the January 29, 1981 strategy summary, Indiana stated that its Part D SIP TSP strategies for these counties do not show attainment, but do apply RACT and the commitment to perform the necessary nontraditional particulate matter studies. EPA reviewed the technical support and regulations and agreed that the emission limitations for the Clark, St. Joseph, and Vanderburgh County sources represent RACT. Accordingly, EPA proposed to approve the source specific emission regulations 325 IAC 6–1–17, 325 IAC 6–1–18, and 325 IAC 6–1–16 for Clark, St. Joseph, and Vanderburgh Counties. EPA also proposed approval of the Part D TSP SIP strategy for these three counties conditioned on the submittal of approvable industrial fugitive dust regulations by April 1982.

The State responded in its May 7, 1982 letter that it now anticipates submittal of its industrial fugitive dust regulations by July 31, 1982, its nontraditional fugitive dust study for Clark and Vanderburgh Counties by November 15, 1982, and its nontraditional fugitive dust study for St. Joseph County by March 1986 [6]. The State has committed itself to attain the secondary NAAQS in areas such as St. Joseph County before December 31, 1989. Therefore, EPA finds the State's commitments acceptable because it should provide for attainment of the standards by December 31, 1989. Based on the present regulations in place and the State's commitment to conduct nontraditional fugitive emission studies, EPA approves the strategies for Clark, Vanderburgh, and St. Joseph Counties, including 325 IAC 6–1–17, 6–1–18, and 6–1–16, on the condition that the State submit its industrial source fugitive dust regulation to EPA by July 31, 1982.

325 IAC 6–1–8 Dearborn County (Primary Nonattainment) and 325 IAC 6–1–9 Dubois County (Primary Nonattainment)

On the dates referenced in the table at the beginning of this notice, the State submitted the control strategies and regulations for the nonattainment portions of Dearborn and Dubois Counties. In the January 29, 1981 strategy summary, Indiana stated that its Part D SIP strategies for these Counties do not show attainment, but do apply RACT and the commitment to perform the necessary nontraditional particulate matter studies. EPA reviewed the technical support and regulations and proposed that the emission limitations for the Dearborn and Dubois County sources represent RACT with the exception of those sources with no short term emission limitations.[7] EPA proposed to approve the remainder of 325 IAC 6–1–8 and 325 IAC 6–1–9 for Dearborn and Dubois.

In its May 7, 1982 letter, the State committed itself to submit its industrial fugitive dust regulations by July 31, 1982 and its nontraditional fugitive dust studies for Dearborn and Dubois Counties to EPA by November 15, 1982. Indiana stated that the industrial fugitive dust regulations would cover these major sources without short term emission limits. Indiana's commitment is approvable. Based on the present regulations in place and the State's commitment to conduct nontraditional fugitive emission studies, EPA is conditionally approving the Dearborn and Dubois County strategies, including 325 IAC 6–1–8 and 325 IAC 6–1–9. Approval of the Part D SIP strategy for these two counties is conditioned on the submittal of approvable industrial fugitive dust regulations by July 31, 1982. These industrial fugitive dust regulations must cover all major sources without short term emission limits.

325 IAC 6–1–15 Howard County (Secondary Nonattainment)

On January 29, 1981 the State submitted the control strategies and regulations for the nonattainment portions of Howard County. In the strategy summary, Indiana stated that its Part D SIP strategy for this County does not show attainment, but does apply RACT and the commitment to perform the necessary nontraditional particulate matter studies. EPA reviewed the technical support and regulations and proposed that the emission limitations for the Howard County sources represent RACT with the exception of those sources with no short term emission limitations.[8] EPA proposed to approve the remainder of the plan, including 325 IAC 6–1–15, for Howard County.

Indiana's May 7, 1982 letter notified EPA that the State anticipated requesting redesignation of Howard County to attainment based on 8 quarters of ambient data. It, therefore, rescinded its commitment to perform a nontraditional fugitive dust study in Howard County. It requested that EPA redesignate Howard County to attainment on May 21, 1982. This request is currently under EPA review.

[6] St. Joseph County Health Department has committed itself to submit its nontraditional fugitive dust study to the State by December 31, 1985.

[7] EPA's proposed rulemaking action for these types of sources is discussed under Industrial fugitive dust regulations.

As discussed previously, EPA may only approve a RACT further studies Part D SIP strategy if the State commits itself to perform a nontraditional fugitive dust study in the area in question. If an area is redesignated as attainment no such study is necessary. EPA, therefore, today is approving the Howard County emission regulations in 325 IAC 6–1–15, but is deferring action at this time on the Part D Howard County plan as a whole. If EPA ultimately does approve the redesignation request, no Part D plan is needed. If the redesignation can not be approved, then the State must renew its commitment to submit a nontraditional fugitive dust study and approvable industrial fugitive dust regulations for Howard County. The industrial fugitive dust regulation must cover the major sources that have no short term emission limits. The TSP growth restrictions of Section 110(a)(2)(I) are not in effect in Howard County, because the area is designated nonattainment for only the secondary NAAQS.

325 IAC 6–1–12 Marion County (Primary Nonattainment)

On February 11, 1980 and October 28, 1981 the State submitted the control strategy and regulations for the nonattainment portions of Marion County. In January 29, 1981 strategy summary Indiana stated that its Part D SIP strategy for Marion County demonstrated attainment of the primary TSP standards.

Indiana performed a dispersion modeling analysis which projects that a significant reduction in ambient TSP concentrations will occur by the application of at least RACT to major point sources. The remaining TSP reductions are projected to come from the control of area source emissions through a proposed residential open burning ban. EPA reviewed the Marion County TSP analysis and found a number of technical deficiencies within the modeling methodology. These are listed in the March 3, 1982 notice of proposed rulemaking.

However, because the Marion County strategy met the requirements of a RACT plus further studies conditionally approvable Part D SIP, EPA proposed to approve the Marion County plan, including 325 IAC 6–1–12, (except for those portions of the regulations which apply to RACT for the iron and steel process sources, i.e., coke batteries) as a RACT plus further studies plan. EPA's proposed action on the Part D SIP strategy for Marion County was conditioned on the submittal of approvable industrial fugitive dust regulations. EPA also gave the State the option of submitting an approvable modeled attainment demonstration.

In the State's May 7, 1982 response to EPA's notice of proposed rulemaking, the State informed EPA that it believed that further justification of the modeling would serve no useful purpose at this time and recommended that EPA take final action on Marion County, as proposed. Further, on April 16, 1982 it submitted Marion County specific open burning regulations. EPA will rulemake on the Marion County open burning regulations in a future **Federal Register** notice.

The State committed itself to submit a nontraditional fugitive dust study to EPA by November 15, 1982 and to submit an industrial fugitive dust regulation to EPA by July 31, 1982. With the exception of EPA's determination of whether the emission limits on Marion County's coke batteries constitute RACT, EPA finds that the Marion County Part D plan is conditionally approvable. EPA is conditionally approving the Marion County plan, including 325 IAC 6–1–12, except for its coke battery regulations. The condition is based on the State's submittal of its industrial fugitive dust regulations to EPA by July 31, 1982. If EPA ultimately finds that the coke battery emission limits constitute RACT, EPA will conditionally approve the complete Marion County Part D plan in a future **Federal Register** notice. The conditional approval of the complete Part D plan will lift the growth restrictions of Section 110 (a)(2)(I). Finally, EPA approved certain source specific emission limitations for Indiana Farm Bureau Cooperative on February 3, 1982 (47 FR 4991), and today's rulemaking does not affect these limitations.

325 IAC 6–1–13 Vigo County (Primary Nonattainment)

On January 29, 1981 and October 28, 1981, the State submitted the control strategy and regulations for the nonattainment portions of Vigo County. In its submission, Indiana stated that its Part D SIP strategy for Vigo County demonstrated attainment of the primary particulate standard. On May 26, 1981, Indiana requested that portions of Vigo County be redesignated attainment for TSP. This redesignation request is addressed later in this notice.

Indiana submitted a dispersion modeling analysis for Vigo County which was prepared by the Wabash Valley Environmental Association (WVEA) in corporation with the Indiana Air Pollution Control Division and the Vigo County Air Pollution Control Division. EPA reviewed the Vigo County TSP analysis and found a number of technical deficiencies within the modeling methodology which were listed in the March 3, 1982 notice of proposed rulemaking.

EPA reviewed the Vigo County technical support and regulations and concurred that the emission limitations for sources in Vigo County other than coke batteries represent RACT. Therefore, EPA proposed in its March 3, 1982 notice of proposed rulemaking conditional approval of the Vigo County plan (325 IAC 6–1–13), with the exception of those regulations which deal with RACT emission limits for iron and steel sources, i.e. coke batteries. This conditional approval would be based on RACT plus nontraditional particulate matter studies rather than a rigorous attainment demonstration. Additionally, the State in the public comment period would have to commit itself to apply the industrial fugitive dust regulations and to perform a nontraditional fugitive dust study in Vigo County. EPA noted that, alternatively, the State could resubmit the Vigo County modeled attainment demonstration with the necessary corrections and corresponding regulations.

In the Indiana May 7, 1982 response to EPA's notice of proposed rulemaking, the State commented that it does not believe further justification of the modeling would serve any useful purpose at this time and recommended EPA approve the Vigo County plan based on RACT and further studies. The State also committed itself to submit a nontraditional fugitive dust study for Vigo County by November 15, 1982 and to include Vigo County in its industrial fugitive dust regulation, 325 IAC 6–5.

EPA elsewhere in this **Federal Register** notice is redesignating a portion of Vigo County attainment for TSP where before it was designated primary nonattainment. There are no coke batteries in the area in Vigo County which is still designated nonattainment, and therefore, EPA's future action on these regulations will not affect the Vigo County Part D plan. EPA is conditionally approving the Vigo County plan, including 325 IAC 6–1–13, with the exception of the coke battery regulations and is conditionally approving the total Part D plan. EPA is approving them on the condition that the State submit its industrial fugitive dust regulations to EPA by July 31, 1982 and on the understanding that the State will submit to EPA the nontraditional fugitive study for Vigo County by November 15, 1982. EPA's conditional approval of the Part D plan today

removes the Section 110(a)(2)(I) TSP growth restrictions from Vigo County.

325 IAC 6-1-14 Wayne County

On October 6, 1980 the State submitted the control strategy and regulations for the nonattainment portions of Wayne County. Amendments to the regulations and technical support document were submitted on January 29, 1981. On January 29, 1981, Indiana stated that its Part D SIP strategy for Wayne County does not show attainment, but does apply RACT and the commitment to perform the necessary nontraditional particulate matter studies. On November 20, 1980, Indiana requested that Wayne County be redesignated attainment for TSP based on the rural fugitive dust policy. EPA redesignated the nonattainment portions of Wayne County to unclassified on November 2, 1981 (46 FR 54340) based on uncertainties in the monitored data.

EPA reviewed the Wayne County technical support and regulations and agrees that the emission limitations for the Wayne County sources represent RACT.

Accordingly, EPA proposed to approve the control strategy and regulations for Wayne County. Because EPA had redesignated Wayne County from nonattainment to unclassified, the submittal of approvable industrial fugitive dust regulations for Wayne County was not a condition of EPA's approval in this notice.

The State responded in its May 7, 1982 letter that because the County no longer contains a nonattainment area, the State no longer commits to perform a nontraditional fugitive dust study in Wayne County. EPA agrees that a nontraditional fugitive dust study for Wayne County is not required at this time and approves the Wayne County particulate strategy, including 325 IAC 6-1-14.

General Provisions

The State has submitted a number of other provisions to be included in the SIP that are not specifically required by Part D of the CAA. These provisions are addressed below.

Codification of the Indiana Air Pollution Control Board Regulations

On October 6, 1980 the State submitted a recodification of the IAPCB Rules and Regulations to replace Indiana's June 26, 1979 SIP submittal Appendix 8.1, which set forth the previous IAPCB regulations. The codification places the regulations into an organized framework that is consistent with the Indiana Administrative Code. This action codifies the Air Pollution Control Regulations APC 1 through APC 23 into 325 IAC 1.1-12 as set forth below:

New codification	Name	Former No.
325 IAC 1.1-1	Definitions	APC 1.
325 IAC 1.1-2	Ambient air quality standards.	APC 14.
325 IAC 1.1-3	Nonattainment/ attainment/ unclassifiable designations.	APC 22.
325 IAC 1.1-4	Episode levels and actions.	APC 12.
325 IAC 1.1-5	Malfunctions	APC 11.
325 IAC 1.1-6	Stack height provisions.	Part of APC 13, APC 23.
325 IAC 1.1-7	Miscellaneous provisions.	Part APC 13, APC 15, APC 23.
325 IAC 2-1	Permit, PSD, emission offset.	APC 19.
325 IAC 3-1	Continuous monitoring of emissions.	APC 8.
325 IAC 4-1	Open burning limitations.	APC 2.
325 IAC 4-2	Incinerator limitations.	APC 7.
325 IAC 5-1	Visible emission limitations.	APC 3.
325 IAC 6-1	Particulate emissions for nonattainment areas.	APC 23.
325 IAC 6-1-8 [1]	Dearborn County	APC 23, appendix A.
325 IAC 6-1-9 [1]	Dubois County	Do.
325 IAC 6-1-10 [1]	Lake County TSP point source strategy.	Do.
325 IAC 6-1-11 [1]	Lake County fugitive emission strategy.	Do.
325 IAC 6-1-12 [1]	Marion County	Do.
325 IAC 6-1-13 [1]	Vigo County	Do.
325 IAC 6-1-14 [1]	Wayne County	Do.
325 IAC 6-1-15 [1]	Howard County	Do.
325 IAC 6-1-16 [1]	Vanderburgh County.	Do.
325 IAC 6-1-17 [2]	Clark County	Do.
325 IAC 6-1-18 [2]	St. Joseph County	Do.
325 IAC 6-2	Particulate emission limitations for indirect heating sources.	APC 4R.
325 IAC 6-3	Particulate emission limitations for process operations.	APC 5.
325 IAC 6-4	Maximum allowable fugitive dust.	APC 20.
325 IAC 7-1	Sulfur dioxide emission limitations.	APC 13.
325 IAC 7-1-6	SO_2 emission limitations for LaPorte, Lake, Marion, and Vigo County.	APC 13, Appendix A.
325 IAC 8-1	Volatile organic compound emission limitations.	APC 15.
325 IAC 9-1	Carbon monoxide emission limitations.	APC 16.
325 IAC 10-1	Nitrogen oxide emission limitations.	APC 17.
325 IAC 11-1	Particulate emission limitations for certain counties.	APC 6.
325 IAC 11-2	Sulfuric acid plants	APC 10.
325 IAC 11-3	Coke oven batteries.	APC 9.
325 IAC 11-4	Fiber glass insulation manufacturing.	Part of APC 23.
325 IAC 12-1-18	New source performance standards.	Part of APC 23, APC 13, APC 3.

[1] October 6, 1980 Codification Numbers changed by letter dated January 29, 1981.

[2] Codification numbers assigned by letter dated March 18, 1981.

EPA proposed to approve the recodification of the IAPCB Regulations from APC 1 through APC 23 to 325 IAC 1.1 through 325 IAC 12.18. It should be noted that this proposed approval was directed specifically to the codification numbering system change, not to the substance within each of the codified rules. No comments were received and EPA is approving the codification change.

325 IAC 6-3 Particulate Emission Limitations for Process Operations (APC 5)

The October 6, 1980 submittal which recodified APC 5 to 325 IAC 6-3 also included a change to the process operation emission limitations. Section 2 of the rule has specific emission limitations for cement kilns and catalytic cracking units which commenced operation prior to December 6, 1968. Section 2(c) is a process weight table which has general applicability for all process sources. Although EPA presumed that the applicable rule for catalytic cracking units or cement kilns which commenced operation after December 6, 1968 is the process weight table in Section 2(c), it is not specifically stated in the regulation. EPA proposed to approve this revision to 325 IAC 6-3 provided that the State during the public comment period confirm that catalytic cracking units or cement kilns which commenced operation after December 6, 1968 are subject to the process weight table in Section 2(c). The State so confirmed in its May 7, 1982 letter, and EPA is approving 325 IAC 6-3.

325 IAC 1.1-3 Redesignation of Vigo County for TSP

On May 26, 1981, the State submitted Rule 325 IAC 1.1-3, Vigo County TSP Nonattainment Area Designation, with technical support documentation and requested that EPA redefine the primary TSP nonattainment designation boundaries in Vigo County. The State requested that Honey Creek, Fayette, Lost Creek, Otter Creek, and Sugar Creek Townships be redesignated from primary nonattainment to attainment, leaving only Harrison Township designated as primary nonattainment in Vigo County. The State submitted a modeling analysis and eight quarters of representative quality assured monitoring data showing no violations of the NAAQS for TSP in the area requested to be redesignated. Due to numerous deficiencies (See Vigo County Part D SIP discussion in the March 3, 1982 notice of proposed rulemaking), the

modeling data cannot be used to support the redesignation request.

However, the monitoring data submitted by the State indicate that Harrison Township is the only township which is nonattainment and the remaining five townships can be properly reclassified as attainment. Therefore, on March 3, 1982 EPA proposed to redesignate Honey Creek, Fayette, Lost Creek, Otter Creek, and Sugar Creek Townships as attainment of the primary and secondary NAAQS for TSP. Harrison Township would remain designated as primary nonattainment of the NAAQS for TSP.

During the public comment period, Indiana requested EPA on March 12, 1982 to further redefine the boundaries of the nonattainment area from all of Harrison Township to the area within 0.5 kilometers of the CAAP Monitoring Station, SAROAD 15–4080–014–F01, where the nonattainment was recorded. This site is located at Universal Transverse Mercator (UTM) Coordinates Zone 16 East 464.52 North 4369.21 or between US 41 and Lafayette Avenue in the Indiana State University Parking Lot 23. The Vigo County Air Pollution Control requested the same 0.5 kilometer nonattainment boundaries. EPA concurs with the commentors that a 0.5 kilometer boundary is consistent with EPA monitoring guidelines and is appropriate in Vigo County. EPA today is redesignating Harrison, Honey Creek, Fayette, Lost Creek, Otter Creek, and Sugar Creek Townships, except for a 0.5 kilometer radius area around the CAAP Monitoring Station in Harrison Township, as attainment for TSP. The 0.5 kilometer radius circle in Harrison Township remains primary nonattainment.

Other Comments

Three commentors and the State commented on EPA's proposed disapproval of Indiana's opacity regulation, 325 IAC 5–1. As stated earlier, EPA is currently deferring action on this regulation and will respond to the comments on the opacity regulation when it takes further action on Indiana's opacity plan.

The State of Connecticut commended Indiana for establishing open burning regulations in Marion County. It commented that Connecticut has State-wide open burning regulations and suggested that Indiana adopt State-wide regulations as well.

Indiana does have a State-wide open burning regulation for some types of sources, 325 IAC 4–1. The Marion County open burning regulations expand the State-wide regulation. EPA is currently reviewing the Marion County open burning regulations and will rulemake on it in the future.

EPA's conditional approval today of the Part D TSP plans for Clark, Dearborn, Dubois, and Vigo Counties will remove the TSP growth restrictions of Section 110(a)(2)(I) from these Counties at this time. As discussed earlier in this notice, if the State does not meet its commitment to submit approvable industrial fugitive dust regulations for these Counties by July 31, 1982, the restrictions will be reinstated. Although EPA is approving most of the TSP emission limits in Marion County today, the growth restrictions remain in effect until EPA approves the complete Marion County plan, including the coke battery rule. As to the remaining primary TSP nonattainment County, Lake, EPA will propose rulemaking on it upon EPA's receipt of a complete plan. The Section 110(a)(2)(I) restrictions do not apply to secondary nonattainment counties, i.e., Howard, St. Joseph, and Vanderburgh. EPA's deferral of action on Indiana's opacity regulation does not affect the approvability of the plans as a whole because the SIP currently contains an opacity regulation, APC 3, as approved October 28, 1975. EPA has determined that this regulation constitutes RACT for opacity for all sources within Indiana's nonattainment areas and, therefore, meets the Part D requirement for RACT in nonattainment areas.

40 CFR Part 52 lists the applicable deadlines for each state for attaining ambient standards (attainment dates) required by Section 110(a)(2)(A) of the Act. For each nonattainment area where a revised plan provides attainment by the deadline required by Section 172(a) of the Act, the new deadlines are being substituted on the attainment date charts. These dates in Indiana are generally December 31, 1982 for attaining the primary TSP standards and December 31, 1989 for attaining the secondary TSP standard. The attainment dates under Section 110(a)(2)(A) approved by EPA earlier will be referenced in a footnote to the charts. Sources subject to SIP requirements and deadlines established under Section 110(a)(2)(A) remain obligated to comply with those requirements, as well as with Part D Section 172 plan requirements.

The measures approved today will be in addition to, and not in lieu of, existing SIP regulations. The present emission control regulations for any source will remain applicable and enforceable to prevent a source from operating without controls, or under less stringent controls, while it is moving toward compliance with the new regulations or, if it chooses, challenging the new regulations. In some instances, the present emission control regulations contained in the federally approved SIP are different from the regulations currently being enforced by the State. In these situations, the present federally-approved SIP will remain applicable and enforceable until there is compliance with the newly promulgated and federally-approved regulations. Failure of a source to meet applicable pre-existing regulations will result in appropriate enforcement action, including assessment of noncompliance penalties. Furthermore, if there is any instance of delay or lapse in the applicability of the new regulations, because of a court order or for any other reason, the pre-existing regulations will be applicable and enforceable.

The only exception to this rule is in cases where there is a conflict between the requirements of the new regulations and the requirements of the existing regulations such that it would be impossible for a source to comply with the pre-existing SIP while moving toward compliance with the new regulations. In these situations, the State may exempt a source from compliance with the preexisting regulations. Any exemption granted will be reviewed and acted on by EPA.

This final rulemaking becomes effective on the date it is published. EPA has determined that good cause exists for making these revisions immediately effective and deviating from the requirement of 5 U.S.C. Section 553(d) (the Administrative Procedures Act) that substantive rules be published thirty days before their effective date. By making this final rulemaking immediately effective, some of the restrictions on industrial growth contained in section 110(a)(2)(I) of the CAA will be lifted from the State of Indiana. These restrictions are imposed for failure to have a State Implementation Plan which meets the requirements of Part D after the final date for SIP approval specified in the Act. EPA has determined that the Indiana TSP SIP for Clark, Dearborn, Dubois, and Vigo Counties meets the requirements of Part D. Therefore, it would be contrary to the public interest to continue the restrictions on industrial growth in these areas for thirty days after the publication of this notice.

Under Executive Order 12291 (Order), EPA must judge whether a regulation is "Major" and, therefore, subject to the requirements of a Regulatory Impact Analysis. Today's action does not constitute a Major regulation because it primarily approves or conditionally

approves provisions adopted by the State and submitted to EPA. Where EPA is deferring action on certain provisions, existing approved regulations will remain in effect. This action will remove the restrictions on industrial growth contained in Section 110(a)(2)(I) of the CAA for TSP for the areas in Indiana covered by this action. This regulation was submitted to the Office of Management and Budget (OMB) for review as required by the Order.

Pursuant to the provisions of 5 U.S.C. Section 605(b) I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities. This action approves, conditionally approves and defers rulemaking on State actions. For approval and/or conditional approval it imposes no new requirements beyond those which the State has already imposed. For deferrals, the sources will remain subject to the applicable provisions of the Indiana TSP plan. Thus, no additional requirements will be imposed on these sources.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

List of Subjects in 40 CFR Part 52

Environmental Protection Agency, Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

List of Subjects in 40 CFR Part 81

Environmental Protection Agency, Air pollution control, National parks, Wilderness areas.

Incorporation by reference of the State Implementation Plan for the State of Indiana was approved by the Director of the Federal Register on July 1, 1982.

(Secs. 107, 110 and 172 of the Clean Air Act, as amended)

Dated: July 7, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40 of the Code of Federal Regulations, Chapter I, Parts 52 and 81 are amended as follows:

1. Section 52.770 is amended by adding new paragraphs (c)(34) and (c)(35) and reserving (c)(36) as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(34) On June 26, 1979, the Governor of Indiana submitted general TSP RACT emisson limits for nonattainment areas. These regulations were amended and recodified as 325 IAC 6–1 and resubmitted on October 6, 1980. On October 6, 1980, the State submitted a revised TSP regulation for process sources, 325 IAC 6–3; a source specific Dearborn County strategy (amendments were submitted on August 10, 1981), 325 IAC 6–1–8; a source specific Dubois County strategy, 325 IAC 6–1–9; and a source specific Wayne County strategy (amendments were submitted on January 29, 1981), 325 IAC 6–1–14. On February 11, 1980, Indiana submitted a source specific Marion County strategy (amendments were submitted on October 28, 1981), 325 IAC 6–1–12. EPA is deferring rulemaking at this time on the coke battery emission limitations in the Marion County strategy. On January 29, 1981, the State submitted a source specific Vigo County strategy (ammendments were submitted on October 28, 1981 and May 7, 1982), 325 IAC 6–1–13; a source specific Howard County strategy, 325 IAC 6–1–15; and a source specific Vanderburgh County strategy (amendments were submitted on October 28, 1981), 325 IAC 6–1–16. EPA is deferring rulemaking at this time on the coke battery emission limitations in the Vigo County strategy and on whether the Howard County strategy currently contains all the elements required by the Clean Air Act. On July 8, 1981, the State submitted a source specific Clark County strategy, 325 IAC 6–1–17, and a source specific St. Joseph County strategy, 325 IAC 6–1–18. On January 29, 1981 and May 7, 1982, the State submitted additional information and commitments.

(35) On October 6, 1980, Indiana submitted its regulations as recodified. Amendments were submitted on January 29, 1981 and March 18, 1981. EPA's approval is directed specifically to the codification numbering system change, not to the substance within each of the codified rules.

(36) [Reserved]

* * * * *

2. Section 52.773 is amended by adding new paragraph (g) as follows.

§ 52.773 Approval status.

* * * * *

(g) The administrator finds that the total suspended particulate strategies for Clark, Dearborn, Dubois, St. Joseph, Vanderburgh, and Vigo Counties satisfy all the requirements of Part D, Title I of the Clean Air Act except as noted below.

* * * * *

3. Section 52.776 is amended by adding new paragraph (e) as follows:

§ 52.776 Control strategy: particulate matter.

* * * * *

(e) Part D—Conditional Approval—The complete Indiana plan for Clark, Dearborn, Dubois, Marion (except for coke batteries), St. Joseph, Vanderburgh, and Vigo Counties is approved provided that the following condition is satisfied:

(1) The Part D Plan must contain Industrial Fugitive Dust Regulations. The State must submit these by July 31, 1982.

* * * * *

4. The particulate matter column and the key in Section 52.783(a) is amended, as follows: (The remainder of the Section does not change, i.e., the AQCR, SO_2, NO_2, CO, and O_3 columns, the preamble, and the notes)

§ 52.783 Attainment dates for national standards.

* * * * *

(a) * * *

* * * * *

POLLUTANT

Air quality control region	Particulate matter	
	Primary	Secondary
East Central Indiana Intrastate (AQCR 78):		
a. Primary and Secondary	n	n
b. Remainder of AQCR	a	a
Evansville (Indiana)-Owensboro, Henderson (Kentucky) Interstate (AQCR 77):		
a. Primary and Secondary	l	o
b. Remainder of AQCR	a	a
Louisville Interstate (AQCR 76):		
a. Primary and Secondary	h	o
b. Remainder of AQCR	a	a
Metropolitan Chicago Interstate (Indiana-Illinois) (AQCR 67):		
a. Primary and Secondary	h	c
b. Remainder of AQCR	a	c
Metropolitan Cincinnati Interstate (AQCR 79):		
a. Primary and Secondary	h	c
b. Remainder of AQCR	a	a
Metropolitan Indianapolis Interstate (AQCR 80):		
a. Primary and Secondary	h	o
b. Remainder of AQCR	a	a
Northeast Indiana Intrastate (AQCR 81):		
a. Primary and Secondary	l	l
b. Remainder of AQCR	a	a
South Bend-Elkhart (Indiana) Benton Harbor (Michigan) Interstate (AQCR 82):		
a. Primary and Secondary	l	c
b. Remainder of AQCR	a	a
Southern Indiana Intrastate (AQCR 83):		
a. Primary and Secondary	h	o
b. Remainder of AQCR	a	a
Wabash Valley Intrastate (AQCR 84):		
a. Primary and Secondary	h	o
b. Remainder of AQCR	a	a

a. July 1975.
b. Five years from plan approval or promulgation.
c. Eighteen-month extension granted.
d. Air quality levels presently below the primary standards.
e. Air quality levels presently below the secondary standards.
f. Thirteen-month extension granted.
g. Transportation and/or land use control strategy to be submitted no later than April 15, 1973.
h. December 31, 1982.
i. December 31, 1985.
j. December 31, 1987.
k. May 31, 1975.
l. None designated.
m. Attainment date will be specified in the future.
n. November 2, 1981.
o. December 31, 1989.

* * * * *

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

5. Section 81.315 is amended by changing the Vigo County TSP designation as follows:

§ 81.315 Indiana.

* * * * *

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Indiana—TSP				
Vigo County:				
The area within a 0.5 kilometers radius circle centered at UTM Coordinates Zone 16 East 464.52 km North 4369.21 km.	X			
The remainder of Vigo County			X	

[FR Doc. 82-19150 Filed 7-15-82; 8:45 am]

BILLING CODE 6712-01-M

COUNCIL ON ENVIRONMENTAL QUALITY

40 CFR Part 1510

National Oil and Hazardous Substances Pollution Contingency Plan

Cross Reference: For a document issued by the Environmental Protection Agency regarding the transfer of Council on Environmental Quality regulations in 40 CFR Chapter V, Part 1510, to the Environmental Protection Agency, 40 CFR Chapter I, Part 300, See FR Doc. 82-19141 in Part V of this issue. Refer to the table of contents under Environmental Protection Agency to determine the appropriate page number.

BILLING CODE 3125-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6278

[M-40685]

Montana; Partial Revocation of Various Orders Designating Public Water Reserve No. 107

Correction

In FR Doc. 82-16991, published at page 27078, on Wednesday, June 23, 1982, on page 27079, in the first column, in the sixth line from the top "T. 26 S., R. 23 E.," should be corrected to read "T. 9 S., R. 23 E.,"

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 80-520; RM-3358, RM-3795, and RM-3796]

FM Broadcast Station in Aguada, Arecibo, Cidra, Lajas, Manati, Mayaguez, Quebradillas, Utuado, and Cabo Rojo, Puerto Rico; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action denies a joint petition for rule making to change three existing FM stations in Puerto Rico (WRFE, Aguado; WREI, Quebradillas; and WBRQ, Cidra) from Class A to Class B channels; to make a new Class A assignment (Channel 249A, Lajas); and to require four existing Class B stations to change their channels (WNIK, Arecibo; WMLD, Manati; WIOA, Mayaguez; and WERR, Utuado). Instead the action grants an assignment of Class B Channel 279 to Lajas, Puerto Rico. This channel can also be applied for at Cabo Rojo pursuant to the "15 mile rule," Section 73.203(b) of the Commission's Rules, as requested by David Ortiz Radio Corp. through the filing of a counterproposal for Cabo Rojo.

DATE: Effective August 31, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Philip S. Cross, Broadcast Bureau, (202) 632-5414.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: June 29, 1982.
Released: July 6, 1982.

By the Assistant Chief, Policy and Rules Division:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Aguada, Arecibo, Cidra, Lajas, Manati, Mayaguez, Quebradillas, Utuado and Cabo Rojo,[1] Puerto Rico) BC Docket No. 80-520, RM-3358, RM-3795, RM-3796.

1. The Commission has before it the *Notice of Proposed Rule Making*, 45 FR 58624, published September 4, 1980, in response to a joint petition for rule making which proposed to change three existing FM stations in Puerto Rico from Class A to Class B channels and to make a new Class A assignment for which one of the petitioners would apply.

2. The joint petition was filed by the following: (collectively referred to hereinafter as "petitioners"): Aurio Matos, licensee of FM Station WRFE, Aguada ("WRFE"); Arzuaga & Davilla Associates, licensee of FM Station WREI, Quebradillas ("WREI"); Radio Musical, Inc., licensee of FM Station WBRQ, Cidra ("WBRQ"); Enrique Leon, prospective applicant for a new FM channel at Lajas ("Leon").

3. Petitioners request the following assignments: Channel 281 for 288A at Aguada (WRFE); Channel 248 for 249A at Cidra (WBRQ); Channel 245 for 252A at Quebradillas (WREI); and Channel 249A (new) at Lajas.

4. To make such new assignments possible, petitioners propose that the channel of four existing Puerto Rico FM stations also be changed as follows: Channel 251 for 293 at Arecibo (Station WNIK); Channel 293 for 245 at Manati (Station WMLD); Channel 291 for 248 at Mayaguez (Station WIOA); and Channel 279 for 281 at Utuado (Station WERR).

5. Petitioners have agreed to reimburse those stations for the costs of the changes.

6. The licensees of the stations involved in the involuntary substitutions of their channels (paragraph 4, *supra*) were ordered to show cause why their licenses should not be modified as

[1] This community has been added to the caption.

proposed by petitioners in the event that petitioners prevailed herein. Each of the said licensees requested a hearing pursuant to Section 1.87 of our Rules and Section 316 of the Communications Act of 1934, as amended, before modification of its license.

7. In the *Notice of Proposed Rule Making*, we held that an adequate public interest basis for the proposals had not been fully established, particularly where such a major reshuffling of operating facilities was contemplated. We added that, rather than outright dismissal of the petition as urged by the opponents, further discussion seemed appropriate in order to afford adequate opportunity for ascertaining the public interest factors.

8. The following comments, counterproposals, and reply comments were received:

Comments: Petitioners; Radio Americas Corporation, licensee of Station WIOA, Mayaguez ("WIOA"); Guyama Broadcasting Company, Inc., licensee of Station WXRF–FM, Guyama ("WXRF"); Radio Redentor, Inc. licensee of Station WERR(FM), Utuado ("WERR"); Portorican American Broadcasting Co., Inc., licensee of Station WOQI(FM), Ponce ("WOQI"); Arecibo Radio Corporation, Inc., licensee of Station WNIK–FM, Arecibo, ("WNIK"); Arecibo Broadcasting Corporation, licensee of Station WMLD(FM), Manati ("WMLD"); and Radio Oriental, Inc.

Comments and counterproposal: David Ortiz Radio Corporation, licensee of Station WEKO(AM), Cabo Rojo ("WEKO").

Supplement to comments: Petitioners; WEKO.

Reply Comments: Petitioners; WXRF; WERR; WIOA; WNIK; WMLD; and George M. Arroyo, President of Radio Musical, Inc.

9. In support of their proposal, petitioners claim, generally, that it would remedy the inability of their stations to serve their own "municipios," dramatically improve their present service, provide a greatly expanded service over a wide area of Puerto Rico, create a new Class A station, eliminate a present short-spacing between two FM stations and better enable the stations to compete with existing Class B stations.

10. The opponents responded to the *Notice* by asserting that petitioners failed to meet their burden of setting forth sufficient public interest factors favoring the proposal; to submit any engineering or other data showing that the stations do not adequately serve their communities of license; to show that any alleged lack of coverage could not be remedied by translators or improved station facilities; and to show that there is any need for the proposed expansion of service across the island of Puerto Rico. The opposition also contends that the proposal would prohibit at least two of the present Class B stations from improving their facilities. We shall treat the issues in more detail in the following paragraphs.

Inability To Serve Community of License

11. Petitioners state that their present Class A stations cannot provide adequate service to their respective "municipios" due to poor reception in low-lying areas. Terrain profile engineering data and graphs were submitted with petitioners' comments "to demonstrate the inherent problems facing petitioners." The engineering study included a tabulation of the radials, extending a distance of ten miles from the transmitter site, and a calculated correction factor for each station (WBRQ, WRFE and WREI) to show the roughness of terrain.[2]

12. Petitioners contend that the roughness of terrain in Puerto Rico has long been a problem with respect to FM reception. They state that the "special terrain" situation was a fundamental reason for the general exception made in 1964 of permitting existing Class B stations to operate with a power up to 25 kilowatts at 2,000 feet antenna height above average terrain (HAAT) (whereas mainland U.S. Class B stations were permitted 1.6 kilowatts at 2,000 feet HAAT), *Fourth Report and Order*, FCC 64–919, 3 RR 2d 1571 (1964). Petitioners complain that no similar relief has been given for Class A stations.[3]

13. WIOA's comments (in which WMLD and WERR join) claim that petitioners had failed to provide any engineering data to back up their assertion that parts of their service areas are shadowed or otherwise receive an inadequate signal. WXRF concurs that petitioners "in some as yet undemonstrated manner" claim their three Class A stations do not provide adequate technical coverage and that none provides an adequate signal for its municipio. WXRF asserts that the claim is in direct contradiction of the showings made by each in its application [4] requesting authorization for the presently existing station; that in each case specific representations were made to the Commission that the station had line-of-site transmitter location, provided the required minimum signal strength to the community of license and in all other respects complied with the Commission's technical rules. On that basis WXRF raises questions of misrepresentation and character qualifications on the part of those petitioners.

"Municipios"

14. The claim of the petitioners that they cannot adequately serve their respective "municipios" was questioned in our *Notice of Proposed Rule Making*. The basic question is what constitutes the community of license, the "municipio" or the "pueblo" (town). We stated that, with respect to the "municipio," petitioners are "neither obligated nor entitled to serve them," if comparable to U.S. mainland counties.

15. Petitioners assert that the community of license in Puerto Rico should be the "municipio." They state that the "municipio" is not comparable to a U.S. mainland country. They claim that the "municipio" is the basic and smallest local governmental unit in Puerto Rico, similar to a town or city on the U.S. mainland. Petitioners state that a "municipio" is composed of one "pueblo" or town, which bears the same name as the "municipio" and is the seat of government of the "municipio;" that a "municipio" has not only a "pueblo" but also other groupings of "barrios" and villages. Most of the population of a "municipio" lives outside the "pueblo," with petitioners showing that 64 percent to 78 percent of the population in their respective "municipios" live outside the "pueblo," *e.g.*, in Aguada the population of the "pueblo" is 1,590 and, of the "municipio," 13,372. Petitioners contend that consideration of their "municipios" as the licensed community would be proper and reasonable.

16. WIOA, joined by WMLD and WERR, notes that the question of what is the community of license in Puerto Rico has been specifically addressed and settled previously by the Commission. WIOA cites *WSTE–TV, Inc.* (FCC 79–821, December 13, 1979), where the Commission was faced with another claim of inadequate "municipio" coverage and there determined that:

> The geographical unit 'municipio' corresponds to a county in the United States; a municipio is to be distinguished from a 'pueblo' (town) which is the seat of government of the municipio and, in most instances, bears the same name as the

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[2] Petitioners' engineering study was not in compliance with prescribed Commission procedures (see paragraph 53 *infra*).

[3] In this regard, a proceeding is pending (BC Docket No. 81–421) which proposes to permit increased antenna height (to 1,100 feet) for Class A stations to remedy the "special terrain" coverage problems.

[4] WRFE, File No. BPH–6187; WREI, File No. BPH–7773; and WBRQ, File No. BPH–8827 (WXRF Exhibit A).

municipio. It is the boundaries of the pueblo, rather than the municipio * * * which are relevant to the Commission's principal city coverage requirements. (*WSTE*, paragraph 20.)

WIOA adds that while the "municipio" is the basic equivalent of a mainland county, the "municipio" is of much less significance, inasmuch as virtually all governmental functions are directly controlled from San Juan, *e.g.*, schools, police, capital expenditures and taxing functions.

Use of Optimum Facilities and Translators

17. In our *Notice of Proposed Rule Making*, we stated that "petitioners should consider whether improved operating facilities or other measures would produce their desired results." Opponents of the proposal contend that petitioners could remedy any claimed, but still not proved, coverage deficiencies by improving their presently authorized operating facilities or by using translators as provided by the FCC rules. WXRF states that petitioners have been operating their stations with less than optimum facilities. For example, WXRF notes that Station WREI operates with an antenna height above average terrain of minus 40 feet and that great improvement in coverage could be obtained by increasing the tower height to the allowed 300 feet above average terrain. WXRF also points out that Station WBRQ chose to move its antenna site farther from its city of license (Cidra) than the original site. Thus coverage of Cidra could be improved by returning to a site closer to Cidra. WXRF urges petitioners to provide service to the areas allegedly not receiving adequate signals by using one or more FM translator stations. This approach is said to be eminently more sensible than the wholesale disruption of FM service throughout Puerto Rico proposed by petitioners.

18. WIOA states that petitioners have made no showing that any of its stations is operating at maximium permissible output or that coverage could not be improved through improved facilities. WIOA asserts that even if portions of petitioners communities of license were not properly served because of terrain problems the Commission's preferred solution is for the licensee to install boosters or translators to provide a signal to the affected area in accordance with § 74.1231 of our rules. WIOA states that it would be premature on the Commission's part to order the complex and totally unwarranted changes in allocations requested without first satisfying itself that petitioners cannot solve their claimed coverage problems by this simple expedient. WIOA reasons that the use of translators would be far less costly and vastly less disruptive of existing services than the creation of three new antenna sites, plus the changing of frequencies for four other stations.

19. WNIK argues that petitioners have dismissed out of hand the less disruptive alternatives such as utilizing translators or alternative sites. WNIK declares that petitioners do not state how many translators would be required, nor could the number, if one had been provided, be verified because the specific areas where reception difficulties are said to occur have never been identified. WNIK states that, likewise with alternative sites, petitioners offer only the broad generalization that there are none from which improved coverage could be obtained; and that alternative sites were considered only with regard to improving the over-all coverage and not with regard to improving coverage in their communities of license, which petitioners claim is a problem.

20. Petitioners respond that WREI, pursuant to a long-standing agreement with Station WPRM, San Juan, cannot exceed its present 90 foot tower height because of a short spacing problem. Petitioners claim that the terrain around Cidra makes it impossible for WBRQ to improve coverage of the city merely by a change of antenna site. With respect to translators, petitioners contend that they would be utterly useless; that their permitted power of 1 watt is hardly adequate; that many translators and frequencies would be required to avoid terrain problems. Thus petitioners believe that the translator option should be rejected as impractical, costly and confusing to FM listeners. Petitioners also point out that translators are "secondary services" and could be terminated when a need for the frequencies arose elsewhere. Petitioners conclude that Class B stations are the only option available to them.

Competitive Equality

21. Petitioners have claimed that they are at a competitive disadvantage with the Class B stations on the Island. We stated in our *Notice of Proposed Rule Making* that petitioners sought or acquired their Class A stations with full knowledge that Puerto Rico's FM assignments are primarily Class B operations (the Island has 31 Class B assignments and 5 Class A assignments); and that to now raise complaints as to the unfairness of the allocation scheme is inappropriate. Petitioners responded that their competitive disadvantage is a reality of the Puerto Rico market and deserves comment. Petitioners claim that their situation is tantamount to intermixture of Class A and Class B stations in various markets. Petitioners declare that Class B stations are not distant competitors, but that some have transmitter sites which overpower the service provided by petitioners' Class A stations. Certain of the Class B stations, have transmitter sites extremely close to petitioners' sites, *e.g.*, Station WIOA's transmitter site is only 200 feet from the site of Station WRFE. Petitioners complain that all three of its stations are faced with the reality that Class B competitors place a signal over petitioners' service areas and municipios which is superior to petitioners' signals. Petitioners claim that time buyers and advertising agencies avoid Class A stations. Naturally, the petitioners lament that they do not receive any regional or island-wide advertising.

22. WXRF asserts that "the Commission has already properly rejected petitioners' *private interest* arguments regarding equalization for competition" in paragraph 6 of the *Notice of Proposed Rule Making*. WNIK declares that petitioners mischaracterize the Commission's policy concerning intermixture of Class A and B stations; that the Commission's policy is intended to prevent the assignment of Class B or C channels to communities having only Class A's, and not the reverse as indicated by petitioners.

Public Interest Considerations

23. Fundamental to this proceeding is the matter of whether there is an adequate public interest basis for petitioners' proposals, particularly where such a major reshuffling of existing facilities is involved. Petitioners urge that their proposals should be adopted in view of their "overall positive public interest attributes." Petitioners state that their "proposed new stations will provide expanded service reaching many more persons." The Engineering Statement submitted with the petition shows the following increases in service:

	Population	Area (square miles)
WFRE, Aguada:		
Present 1 mV/m	253,325	304
Proposed 1 mV/m	400,648	725
Gain	148,323	421
Percentage of gain	58.5	139
WREI, Quebradillas:		
Present 1 mV/m	82,067	122
Proposed 1 mV/m	1,531,925	2,551
Gain	1,449,838	2,429
Percentage of gain	2,367	1,991
WBRQ, Cidra:		
Present 1 mV/m	747,312	616

	Population	Area (square miles)
Proposed 1 mV/m	2,088,545	2,158
Gain	1,344,233	1,543
Percentage of gain	180	251

24. Petitioners also claim that certain areas of Puerto Rico would receive at least one additional primary service and that other areas would receive two additional primary services.

25. Petitioners state that the Commission has long enabled and expected licensees to improve service whenever possible. The Commission is said to have encouraged licensees to seek facilities that utilized frequencies efficiently to provide the public with maximum feasible service. Petitioners conclude that the proposal herein is totally consistent with that Commission policy. Citing *Clear Channel Assignments,* 47 RR 2d 1099 (1980).

A. New Class A Assignment At Lajas

26. Petitioners further contend that an additional public interest consideration is its proposal for a new Class A assignment at Lajas. The proposal would give Lajas its first local FM service. Lajas is located at the southwestern end of Puerto Rico. The town of Lajas has population of 3,391, and the municipio has a population of 16,545. Petitioner, Enrique Leon, has stated he will make application for a new station on the channel if it is so assigned.

B. Expanded Coverage by WOQI

27. Another public interest consideration as stated by petitioners is that of making possible the expanded coverage proposed by FM Station WOQI, Channel 227, Ponce, Puerto Rico. WOQI previously sought to improve its coverage by changing its transmitter location to a mountain-top site 10.5 miles from Ponce. The application (ARN 781108AE) contained a request for waiver of a short-spacing restriction to the site of WERR. The waiver was denied, and the application was returned. A petition for reconsideration has since been denied. WOQI filed comments herein supporting petitioners' proposal, since the assignment of Channel 279 to Utuada (WERR) instead of 281 would eliminate the present 15 mile restriction between WOQI's proposed site and the WERR transmitter site. WOQI made a showing in its application that operation from the new site would serve a population in excess of two million in an area of 3,023 miles.

Adverse Public Interest Considerations

28. Opponents declare that petitioners have failed to meet their burden in showing that the proposal would serve the public interest. They state, that, to the contrary, the proposal is inimical to the public interest.

29. The opponents point to the *Notice* where the Bureau decided to initiate further proceedings despite the material failing of the petitioners' prior showing in order to provide additional data in support of its proposal. They further assert that the Commission observed in its *Notice* that petitioners' "* * * complaints of inadequate signals are unclear * * *" and that [p]etitioners' private interest in increased service areas is obvious and requires no discussion here. WIOA contends that "[w]here, as here, there is a total absence of any *public* interest showing, it can only be concluded that the 'private interest' noted by the Commission is the *sole* rationale for the petitioners' 'complaints' and that, accordingly, the complaint and proposed resolution must be flatly rejected." WXRF in particular notes that the Island of Puerto Rico is small (113 miles long, 41 miles wide) with 31 Class B and 5 Class A FM stations, and more than 50 AM stations. WXRF states that it is obvious "all parts of the island already receive an abundance of aural broadcast services" and thus "it is clear why no need for additional service from petitioners' proposed Class B operations has or can be shown." WXRF concludes that the proposal must be denied as contrary to the public interest.

De Facto Reallocation Of Licenses

30. WIOA charges that the proposed modifications to Class B channels constitute a *de facto* reallocation of licenses. WIOA points out that in each case, petitioners' station would move further from its city of license onto higher ground from which their signals would reach significantly larger communities. The Commission no longer considers this issue in the context of a rule making proceeding in view of the action taken in BC Docket No. 80–130, *Second Report and Order,* 47 FR 26624, published June 21, 1982.

Effect On Planned Improvements Of Existing Class B Stations

31. WXRF and WNIK contend that the forced changes in their channels would jeopardize plans to improve their facilities. WXRF has pending before the Commission an application to change transmitter site and increase antenna height above average terrain from minus 240 feet to 1,994 feet (File No. 791231 AJ). Petitioners' proposal to change the channel of WMLD, Manati, would, WXRF states, cause the WXRF proposal to be short spaced, and, accordingly action on the proposal of WXRF has been deferred pending resolution of this rule making proceeding. WXRF states that it would be contrary to the public interest to restrict existing Class B stations from improving their facilities to the maximum permitted under FCC rules (effective radiated power of 25 kW and antenna height above average terrain of 2,000 feet) solely because of the major reshuffling of FM channels to accommodate the purely private interests of petitioners. WXRF asserts that if the petitioners' proposal is granted the Commission should take one of three alternative steps specified by WXRF. The three alternatives are: (1) Condition the use of Channel 293 by WMLD on not involving short spacing with WXRF's proposed locations; (2) waive § 72.207 to permit short spacing of approximately 4 miles; or (3) permit WXRF to exchange frequencies with Station WDOY, Fajardo.

32. WNIK also states that it proposes to improve its facilities by moving its transmitter to a site which it has obtained in the mountains south of Arecibo. The move would enable WNIK to increase its antenna height above average terrain from minus 170 feet to 596 feet. WNIK states that the area within its 1 mV/m contour would be increased from 311.2 square miles to 2,105 square miles; and the population served would be increased to 1,717,427. WNIK states that if it were forced to change channels, relocation to the newly-acquired site or virtually any other site would be foreclosed.

33. WMLD asserts that it has been considering for some time a change in transmitter site in order to improve the coverage of its service area. WMLD contends that the proposed frequency change would prevent it from accomplishing that purpose because "impermissible interference" would result.

34. Petitioners contend that there are suitable alternate transmitter site locations available for all three stations (WXRF, WNIK, and WMLD) to improve their facilities. Petitioners state that the failure of those stations to come forward with applications for improved facilities before this rule making proceeding was initiated should cause the Commission to ignore these planned changes.

35. In reply comments, WXRF and WNIK charge that the alternate sites offered by petitioners are not suitable.

Programming Confusion

36. WERR claims that petitioners' proposal would cause it "particularized harm." WERR states that it is a noncommercial station devoted exclusively to high-quality religious programming throughout western Puerto Rico. WERR's channel would be taken over by petitioners' WRFE, which also has a religious programming format but as a commercial station. WERR asserts that WFRE is proposing, in essence, to "inherit" the religious programming audience built by WERR. WERR states that it exists entirely through direct listener contributions. It contends that listeners will assume that WERR has changed its call letters and gone commercial, with the concomitant certainty that listener contributions will diminish or terminate entirely. WERR states that it has expended considerable time and money in promoting its presence at 104.1 MHz on the dial.

37. Petitioners contend that the channel change for WERR from 104.1 to 103.7 MHz would be insignificant to the average listener. Petitioner states that the audience of WERR would not be inherited by WFRE since, with the exception of the northeastern part of the island, the two stations would cover totally different areas. Petitioner further states that to avoid the problem WFRE could delay changing channels for a sufficient time to give WERR time to notify its listeners of its new dial position.

WMLD Unfavorable Dial Position

38. WMLD claims that it would suffer irreparable harm by the forced move "from its present position at the center of the FM dial (96.9 MHz) to the furthest fringe (106.5 MHz)." WMLD states that it has operated on its present channel for seven years, and that its listening public identifies the station with 96.9 MHz; that to move WMLD to the end of the dial will confuse present listeners and make it unlikely for WMLD to attract additional listners in the already very crowded FM dial. WMLD asserts that the economic harm it would suffer would not be offset by any counterbalancing benefit to the public.

39. Petitioners reply that the move is not significant and, accordingly, does not provide a substantive basis for WMLD's argument.

Counterproposals

40. David Ortiz Radio Corporation ("Ortiz"), licensee of AM Station WEKO, Cabo Rojo, Puerto Rico, filed comments and a counterproposal to assign Class B Channel 279 to Cabo Rojo rather than as a substitute at Utuado as proposed by petitioners. In petitioners' proposal, WERR, Utuado, is one of the four existing stations that would be required to change channels. WERR operates on Channel 281 and would be required to switch to Channel 279.

41. Ortiz submits that petitioners have failed to show adequate public interest justification for their proposal and that the goal of improving radio service on the Island could be best achieved by rejection of that proposal in favor of permitting the Class B stations (WXRF, WNIK, and WMLD) to maximize their facilities. Ortiz submits that its own proposal would accommodate such maximization and obviate the disruption of service inherent in petitioners' proposal.

42. Ortiz notes that petitioners' proposal would assign a new Class A channel to Lajas whereas its proposal would assign a superior Class B channel to Cabo Rojo. Each of the communities is in the southwest corner of Puerto Rico.

43. Ortiz states that its proposed assignment complies with all Commission rules and requirements. It would not require the deletion or substitution of any other channels. If the channel is assigned to Cabo Rojo, Ortiz states that it will file an application to operate thereon.

44. Ortiz relates that between 1960 and 1970 the pueblo, or town, of Cabo Rojo more than doubled in population, from 3,086 to 7,181. During the same period, Ortiz states, the municipio, "the Puerto Rican equivalent of a county," increased from 24,868 to 26,060.

45. Ortiz gives the following data concerning Cabo Rojo: Most of the labor force depends upon construction and agriculture. Manufacturing and government are the other leading categories of employers. Many of the residents make a living from fishing. A tourist industry has developed around the area's fine beaches. Cabo Rojo has one AM station, WEKO, and the only existing FM assignment for Cabo Rojo, Channel 221A, is used by Station WGIT in Hormigueros in the adjoining municipio.

46. Petitioners claim that the counterproposal for Cabo Rojo is an inefficient use of spectrum space. Petitioners state that their proposal would allow the Class A stations to improve their facilities as well as provide a first FM service to Lajas. Also, petitioners say that their proposal offers an opportunity for WOQI to increase its service area.

47. Petitioners point out that Cabo Rojo has one local aural service (WEKO(AM)) whereas Lajas has no local aural service. An application for an AM station in Lajas is presently being contested. Petitioners declare that the Ortiz engineering exhibit shows severe site restrictions which do not allow for reasonable heights to accomplish wide area coverage. The lack of height, petitioners say, would restrict coverage on land while the rest of the signal would be wasted over the ocean west of Cabo Rojo. Petitioners submit an engineering exhibit to show that Channel 272A could be assigned to Cabo Rojo, instead.

48. A separate counterproposal to assign Channel 248 to San Lorenzo, Puerto Rico, filed by Radio Oriental, Inc. ("Oriental"), was subsequently withdrawn.

Conclusion

49. The threshold issues before us are twofold: (1) The petitioners' contention that their Class A facilities cannot adequately serve their communities of license; and (2) the public interest factors supporting a grant or denial of petitioners' proposal.

50. Petitioners claim that the municipio should be considered their community of license. The Commission rejected such a claim in *WSTE–TV, Inc.* We stated that a municipio corresponds to a county in the United States and is to be distinguished from a pueblo, or town. In particular, the Commission stated, it is the boundaries of the pueblo, rather than the municipio * * * which are relevant to the Commission's principal city coverage requirements."

51. Petitioners take the position that the Commission's statement in *WSTE–TV* was not a substantive determination and was "no more than a correction of the geographical references made by WAPA–TV, which had, in that case, labeled the 'municipio' as part of the 'town/pueblo'." We must reject the contention. Our holding has consistently been that principal city coverage requirements are relevant to the pueblo and not the municipio. We further stated in *Southwestern Broadcasting Corp.*, 38 RR 2d 39, 40 and n. 1 (1976):

> It should be noted that if we were to license broadcast stations to communities in Puerto Rico on the basis of a municipio, as suggested in the petition, almost no broadcast station in Puerto Rico would provide the required principal-city service to the community of license. By U.S. Census definition, a municipio corresponds to a county on the U.S. mainland. Counties, as such, are geographically too extensive to qualify as licensed communities for broadcast stations within the meaning of Section 307(b) of the Communications Act.

Petitioners have submitted no factual data nor persuasively made arguments which would cause us to reverse our holdings.

52. Petitioners urge that they should be permitted to improve coverage of their municipios, but that is a different matter from what constitutes a community of license and whether it can be adequately served pursuant to the requirements of our rules.

53. Of primary importance, petitioners have failed to demonstrate that their Class A stations do not meet the community coverage requirements of our rules. Petitioners have failed to identify any specific areas and populations within their respective 1 mV/m contours which experience the alleged shadowing because of terrain. Petitioners rely upon data submitted in their Engineering Statement, Tables I, II and III, showing terrain roughness factors and correction factors. Those data neither show the foregoing nor do they comply with the acceptable mode of measurements, *i.e.*, the F(50, 50) and F(50, 10) curves pursuant to §§ 73.313 and 73.333 of our rules.

54. Moreover, petitioners' allegation that their Class A facilities cannot properly serve their communities of license is not consistent with representations in their respective applications for the present facilities that their stations met all the Commission's technical requirements including those of principal city coverage.

55. Since petitioners have failed to demonstrate that their Class A facilities cannot properly serve their communities of license, the matter of petitioners improving coverage of those communities by use of optimum facilities or translators is not of sufficient weight to overcome their impact on planned improvements for existing Stations WXRF, WNIK and WMLD. We have not favored such improvements of existing stations where as a result the opportunity for a new station would be foreclosed. See *Lockhart, Texas*, 81 F.C.C. 2d 171 (1980); *Falmouth, Massachusetts*, Mimeo No. 003900, released October 15, 1981. However, this policy has not been extended to a situation like the present one where one group of stations (Class B) plans improvements through site relocations while another group of stations (Class A) plans improvements through an upgrading in their class of channel and in some cases a change in transmitter location. To support such a finding, petitioners should have provided a comparative analysis demonstrating that the Class A stations' improvements are of greater public benefit than those proposed for the existing Class B stations. Petitioners have not undertaken any such study. Thus we have no basis for concluding that there is a greater need for the services to be provided under petitioners' proposal.

56. Opponents charge that petitioners' proposal would severely disrupt existing FM service in Puerto Rico solely to further their own ends. WIOA asserts that the Commission has previously rejected a proposal similar to the instant petition and cites *Broadcast Good Music! Committee, Third Report, Memorandum Opinion and Order*, 49 F.C.C. 2d 1270. There, the Commission dismissed a proposal to shuffle six operating FM stations and one FM allocation in Georgia and Mississippi in order to add a seventh FM station to Atlanta. The new station would have provided classical music to the Atlanta area. Proponents argued that Atlanta was without a classical music station, the need for which they considered self-evident.

57. The Commission did not disagree with the beneficial effect but found other considerations more important and stated at 1274:

> This would be an unprecedented reshuffling of the FM stations of the sort which the Commission avoided in establishing the FM Table of Assignments. No sound reason has been advanced why such action should be taken, and we must refrain in the absence of an overwhelming public interest consideration. Indeed, if anything, the public interest strongly militates against the changes of channel assignments of six operating stations scattered over a wide area to make a single channel assignment to a city which has a sufficient amount of FM service and an abundance of aural service generally.

WIOA adds that, while the Atlanta proposal involved more changes than the instant proposal, the difference is one of degree and not of kind; and that the Commission's standards for this type of case are the correct ones, dictating a rejection of the instant proposal.

58. Petitioners take the position that the Commission's refusal to grant the *Broadcast Good Music!* proposal was based upon circumstances not extant in this case and cannot be compared to the present situation. For example, petitioners state, no public interest showing at all was made for the proposed changes and it was merely presumed that a classical format was in the public interest. Petitioners reason that the Commission will not allocate FM channels merely on the basis of format, since format is easily changed, nor will it allocate channels without a substantial public interest showing. Petitioners state that equally as important to the final decision was the fact that Atlanta already had 6 local stations, each having clear coverage of Atlanta, its community of license. Petitioners conclude that their proposal is vastly different; that it is based upon a showing of urgent need in the public interest.

59. While there are differences in the *Atlanta* case and this case, we do find relevance in citing that proceeding to demonstrate that there is a point at which it is necessary to take a closer look at the benefits resulting from the substitutions. We believe we have reached that point here, particularly where each of the affected licensees has objected and requested a hearing. The *Atlanta* case provides a frame of reference for the approach to be taken where a major reshuffling of channels is proposed. As we have discussed before, we cannot find that the gain area is in such need of service that it would be worthwhile to undertake further steps including a hearing in order to grant the proposal.

60. Petitioners were afforded an opportunity to augment the record here as to public interest factors which would warrant a grant of their proposal. We must agree with the opponents that petitioners have submitted only a reiteration of their original showing, except for the WOQI matter. However, we have reviewed the entire showing and taken a further look at its merits. We find that petitioners have failed to support adequately their case with respect to inability to serve their communities of license or that a grant of the proposal would serve the public interest, convenience and necessity.

61. Moreover we note that the four Class B stations which were ordered to show cause regarding a change in their frequencies have all asserted their hearing rights under Section 316 of the Communications Act of 1934, as amended. We could not modify these licenses without a hearing because the usual procedure of changing the frequency at the license expiration date (see *Transcontinent Television Corp.* v. *FCC*, 308 F 2d 339 (D.C. Cir. 1962) would delay the modification until 1989.

62. We do recognize merit, however, in providing a first FM service to Lajas and we note that Channel 279 which has been proposed for assignment to Cabo Rojo (with a 6.6 mile site restriction) could also be assigned to Lajas (with an 8.8 mile site restriction) without any other changes. Therefore we shall undertake a comparative analysis of the two communities.

63. First as for local service Cabo Rojo has a fulltime AM station while Lajas has no local aural service. An application for a first fulltime AM station is presently in hearing. We need not place weight on the pendency of an AM station at Lajas since the channel allocation is not crucial to the actual licensing of a station. The assignment of Channel 279 to either Lajas or Cabo Rojo is subject to the provisions of Section 73.203(b) of the Commission's Rules, the 15 mile rule. The two communities are within 15 miles and neither has an FM assignment. Thus it does not matter where the assignment is made for licensing purposes since all Cabo Rojo applicants can apply for a Lajas channel assignment and vice versa. In view of that fact we have not undertaken a comparative analysis of the communities nor have we asked for additional filings pertaining to this question. From an allocations standpoint, we have chosen Lajas as the community to designate for the assignment on the basis that it has no local aural service at present. The place of assignment, however, as we have stated should have no bearing on the place to be licensed should other cities within 15 miles such as Cabo Rojo, be specified.

64. The petitioners herein have complained that the Commission in 1964 amended its rules to permit Puerto Rican Class B stations to operate with increased effective radiated power and antenna height above average terrain, but have provided no similar relief for Class A stations. Petitioners' attention is invited to the fact that the Commission is nearing completion of a rule making proceeding in which it has proposed to allow Class A stations in Puerto Rico and the Virgin Islands to operate with increased facilities, *i.e.*, 3 kW effective radiated power at antenna heights of 1,100 feet above average terrain (BC Docket No. 81–421). The licensees of the three Class A stations should look to that proceeding as a means for resolving their coverage problems.

65. Authority for the action herein is contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§0.204(b) and 0.281 of the Commission's Rules.

66. In view of the foregoing, It is ordered, that the petition for rule making filed by Aurio Matos, Arzuaga and Davilla Associates, Radio Musical, Inc. and Enrique Leon, "petitioners" herein, is denied.

67. It is further ordered, that, effective August 31, 1982, § 73.202(b) of the Commission's rules, the FM Table of Assignments is amended with respect to the following community:

City	Channel No.
Lajas, Puerto Rico	279

68. It is further ordered, that this proceeding is terminated.

69. For further information concerning the above, contact Philip S. Cross, Broadcast Bureau, (202) 632–5414.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Martin Blumenthal,

Assistant Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82–19333 Filed 7–15–82; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[BC Docket No. 82–60; RM–3979 and RM–4028]

FM Broadcast Station in Brooklyn and Grinnell, Iowa; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 257A to Brooklyn, Iowa, in response to a petition filed by Mitchell Broadcasting Company, instead of to Grinnell, Iowa, as requested by Pamela R. White. The assigned channel could provide a first FM service to Brooklyn.

DATE: Effective August 31, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order—Proceeding Terminated

Adopted: June 28, 1982.

Released: July 6, 1982.

By the Chief, Policy and Rules Division:

Division:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Brooklyn and Grinnell, Iowa), BC Docket No. 82–60 RM–3979 RM–4028.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 47 FR 6903, published February 17, 1982, proposing the assignment of Channel 257A to either Brooklyn or Grinnell, Iowa. The *Notice* was issued in response to petitions filed by Mitchell Broadcasting Company ("Mitchell") (petitioner) [1] and by Pamela R. White ("White") (petitioner), respectively. Both petitioners filed supporting comments, restating their intention to apply for Channel 257A if assigned to the Community requested. Both petitioners also filed reply comments. We also received letters in support of the Grinnell proposal from residents of the area.

2. Brooklyn (population 1,509) [2], in Poweshiek County (population 19,306), is located approximately 96 kilometers (60 miles) west of Des Moines, Iowa. It is without local broadcast service. Grinnell (population 8,868), in Poweshiek County, is located approximately 72 kilometers (45 miles) east of Des Moines. It is served by daytime-only AM Station KGRN and noncommercial FM Station KDIC (Channel 203).

3. In comments, Mitchell submits that an FM assignment to Brooklyn would bring about a more equitable distribution of radio service than an FM assignment to Grinnell. A Grinnell station would provide service to an area containing several communities which already have local service. On the other hand, a Brooklyn station would not serve any community which currently has local service, with the possible exception of Grinnell. Therefore, based on the service provided to unserved communities, its population and promise of future growth, Mitchell Broadcasting asserts that a first FM assignment to Brooklyn is warranted.

4. White Comments that while neither Grinnell nor Brooklyn have local FM service, Grinnell has a greater need and would offer more support for an FM station. Although both communities are located in Poweshiek County, Grinnell has more than 5½ times the population of Brooklyn and would be expected to have more businesses and community services. White also notes that neither of Grinnell's two radio stations operates fulltime. The AM station operates daytime-only, and the FM educational station is not obligated to serve the needs of the entire community nor is it required to maintain minimum hours nor operate during the summer or school vacation periods which it does not do.

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[1] Mitchell Broadcasting is the licensee of AM Station KGRN, Grinnell, Iowa.

[2] Population figures are taken from the 1980 U.S. Census.

Thus, White claims that Grinnell's needs for emergency and other information are not met after sunset.

5. In response, Mitchell disagrees with White's assertion that Brooklyn is of insufficient size to warrant an FM assignment. For example, White is said to be co-owner of Station KQYB in Spring Grove, Minnesota, which has a smaller population than Brooklyn and under White's assumption could not adequately support a station. With regard to KGRN being a daytime-only station, Mitchell states that KGRN is in the process of applying for unlimited time facilities. Additionally, Grinnell has a CATV system with a local access channel, operated by the Grinnell newspaper, which should be considered local service. Finally, Mitchell refers to its engineering statement which reveals potential airspace problems limiting the site of a transmitter east of Grinnell where the site must be to avoid a short-spacing. The Grinnell Municipal Airport is said to severely limit the availability of sites east of Grinnell. According to Mitchell, a Brooklyn assignment presents no such obstacles.

6. White responds that the Commission must choose between assigning Channel 257A to Grinnell (pop. 8,868) or Brooklyn (pop. 1,509). White claims that Mitchell has dramatized the number of community services and other facilities available to Brooklyn, as an examination of the facts shows the services to be less than alleged. White notes that Mitchell has not submitted an application for unlimited time operation for Station KGRN. As Mitchell does not explain the delay, White urges that the Commission not presume that KGRN will be licensed for fulltime operation. While Mitchell asserts that a Brooklyn station will provide service to communities up to 24 miles away, White argues that no engineering data was provided to substantiate its claim. As the Commission is aware, the predicted contour of a Class A FM station does not extend 24 miles from the transmitter. According to White, the data provided with regard to Grinnell clearly indicates that Channel 257A should be assigned to that community.

7. After consideration of the proposal and comments filed in response to the *Notice*, we have concluded that Channel 257A should be assigned to Brooklyn, Iowa. No other channels are available for assignment to either community. Our priorities favor a first local FM service to a community. Here we have taken into consideration the AM station at Grinnell (KGRN) although it is currently limited to daytime operation. From this viewpoint we believe and it has been our policy to give each community at least one local service. On that basis we must prefer Brooklyn for the assignment even though it is the smaller community. See *Stevenson, Alabama, et al.*, 35 R.R. 2d 605 (1975), *recons. den.*, Mimeo No. 64632, released May 10, 1976, and *Wiggins and Lumberton, Miss.*, 50 R.R. 2d 32 (1981). To do otherwise would mean Brooklyn would be foreclosed from any local service, while Grinnell would have two commercial and one noncommercial stations.

8. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's rules, it is ordered that, effective August 31, 1982, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended with respect to the following community:

City	Channel No.
Brooklyn, Iowa	257A

9. It is further ordered, that this proceeding is terminated.

10. For further information concerning the above, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 Stat., as amended, 1068, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division Broadcast Bureau.

[FR Doc. 82-19341 Filed 7-15-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-145; RM-4030]

FM Broadcast Station in Phillipsburg, Kansas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action substitutes Class C Channel 223 for Channel 221A at Phillipsburg, Kansas, in response to a petition filed by Northwest Enterprises.

DATE: Effective September 7, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order—Proceeding Terminated

Adopted: July 2, 1982.

Released: July 9, 1982.

By the Chief, Policy and Rules Division:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Phillipsburg, Kansas), BC Docket No. 82-145 RM-4030.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 47 F.R. 11906, published March 19, 1982, which invited comments on two alternative proposals for an FM assignment at Phillipsburg, Kansas. The *Notice* was issued in response to a petition filed by Northwest Enterprises ("petitioner").

Option I. Substitute Channel 223 for Channel 221A.

Option II. Substitute Channel 237A for Channel 221A and assign Channel 223.

Comments in support of Option I were filed by the petitioner, restating its interest in the Class C channel. Bengel Broadcasting ("Bengel") [1] submitted comments opposing both proposals, to which petitioner responded. Bengel also filed reply comments.

2. Bengel comments that the need for a Class C assignment at Phillipsburg is questionable and cannot be demonstrated. Bengel contends that two Class A channels at Phillipsburg would better serve the public interest. Nonetheless, should the Commission decide that the need exists for a Class C allocation at Phillipsburg, it will amend its pending application to specify the Class C channel made available as a result of this proceeding. Bengel further suggests as an alternative proposal in the absence of an expression by the petitioner to apply for a Class A channel, that the Commission should assign two Class C channels (Channels 223 and 245).[2]

3. Petitioner in response disagrees with Bengel's allegations regarding the need for a Class C assignment at Phillipsburg. Petitioner argues that based on Bengel's unwillingness to continue to pursue its pending application for Channel 221A if a Class

[1] Bengel Broadcasting is an applicant for Channel 221A at Phillipsburg (File No. 810922A) and the licensee of Station KKAN(AM), Phillipsburg, Kansas.

[2] According to Bengel, a Channel 245 assignment at Phillipsburg would require a 35 mile site restriction to the south, providing a 70 dBu signal over Phillipsburg is operated with 75 kW at 300 feet.

C channel is assigned, two options are still available to the Commission: (1) Substitute a Class C channel for the Class A channel as proposed; or (2) follow Bengel's suggestion and assign two Class C channels to Phillipsburg. Petitioner points out that it has no objection to a second Class C channel, but intends to apply for Channel 223, if assigned.

4. The information submitted by the petitioner and Bengel, in response to the *Notice*, focused on the issues of appropriate class of channel and economic stability.[3] In the *Notice* we stated that Option II was proposed to permit the applicant for Channel 221A or any other interested party desirous of operating a Class A facility at Phillipsburg, the opportunity to do so. We now have no such interest in Option II. The *Notice* also invited optional proposals. As an alternate proposal, Bengel suggested assigning Channel 245 to Phillipsburg as a second Class C facility. However, our analysis indicates that that channel is not available due to short-spacing to Stations KSRD, Seward, Nebraska, KELN, North Platte, Nebraska, and KANS, Larned, Kansas. We have been unable to find any other Class C channels available for assignment to Phillipsburg on a drop-in basis. Thus, our only alternative is to grant or deny Option I.

5. After consideration of the proposals and comments in this proceeding, we are convinced that Option I (substitution of Channel 223 for Channel 221A) would best serve the public interest. We do not regard the alternate proposal to assign two Class A channels to Phillipsburg as a viable option since there has been no expression of interest in operating two Class A channels. We find that there are no other options available for which there is interest. We note that the Class C assignment could provide substantial first and second nighttime aural service.

6. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's rules, it is ordered, that effective September 7, 1982, the FM Table of Assignments, § 73.202(b) of the rules, is amended with respect to the community listed below:

City	Channel No.
Phillipsburg, Kans.	223

7. It is further ordered, that this proceeding is terminated.

8. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division Broadcast Bureau.

[FR Doc. 82-19340 Filed 7-15-82; 8:45 am]

BILLING CODE 6712-01-M

[3] The Commission on May 20, 1982, adopted a *Second Report and Order* in BC Docket No. 80-130, 47 FR 26624, published June 21, 1982, revising the FM assignment policies. In accordance with the newly developed policies, it is no longer necessary to consider these issues except where conflicting assignment proposals are involved.

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47 CFR Part 73

[BC Docket No. 81-737; RM-3882]

FM Broadcast Station in Montevideo, Olivia, and Ortonville, Minnesota; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Class C FM Channel 268 to Ortonville, Minnesota, in response to a petition filed by C.G.N. Corporation. The proposal would provide FM service to previously unserved rural areas.

DATE: Effective August 31, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: June 29, 1982.

Released: July 8, 1982.

By the Chief, Policy and Rules Division:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Montevideo, Olivia, and Ortonville, Minnesota), BC Docket No. 81-737, RM-3882.

1. Before the Commission is the *Notice of Proposed Rule Making*, 46 FR 53471, published October 29, 1981, proposing three alternative assignment plans looking toward the assignment of a Class C channel to Ortonville, Minnesota, with related channel substitutions at Olivia or Montevideo, Minnesota, as follows:

Plan I—substitute Channel 268 for Channel 292A at Ortonville, Minnesota, with a 24.6 mile site restriction.

Plan II—substitute Channel 221A for Channel 269A at Olivia, Minnesota, and substitute Channel 268 for Channel 292A at Ortonville, with no site restriction.

Plan III—substitute Channel 224A for Channel 288A at Montevideo, Minnesota, and substitute Channel 287 for Channel 292A at Ortonville.

This proposal was made in response to a petition filed by C.G.N. Corporation ("petitioner"), seeking the assignment of Class C Channel 268 to Ortonville. In response to the *Notice*, petitioner filed comments in support of Plans I or II, and reaffirmed its intention to apply for the channel, if assigned. Comments were also received from Olivia Broadcasting Company ("OBC"),[1] Tri-State Broadcasting Company ("Tri-State"),[2] and Maynard Meyer ("Meyer").[3] Informal comments were received from Ingstad Broadcasting, Inc. ("Ingstad"),[4] and Western Minnesota Stereo, Inc. ("Western").[5] OBC, Tri-State and Meyer each filed reply comments.

Background

2. Ortonville (population 2,550),[6] seat of Big Stone County (population 7,941), is located on the Minnesota-South Dakota border approximately 248 kilometers (155 miles) west of Minneapolis, Minnesota. A portion of Ortonville is also located in Lac Qui Parle County (population 10,592). Ortonville is presently served by daytime-only AM Station KDIO, and FM Channel 292A (application pending).

3. As reflected in the *Notice* in support of the assignment of a wide-coverage area Class C channel to Ortonville, petitioner stated that Channel 292A has been assigned to the city since the inception of the Table of Assignments but never activated.[7] Petitioner claimed

[1] OBC is the applicant for Class A Channel 269A in Olivia, Minnesota, (File No. 811105AJ).

[2] Tri-State has filed an application for Class A Channel 292A at Ortonville, Minnesota (File No. 811209AL).

[3] An application for Channel 221A at Madison has been filed on behalf of Meyer's Corporation, Lac Qui Parle Broadcasting Company, Inc. (BC Docket No. 81-372; File No. 820104AA).

[4] Ingstad's comments were late filed and have not been considered.

[5] Western is the permittee on Channel 288A in Montevideo, Minnesota. Although its comments were late-filed, no prejudice will result from their acceptance since the parties were served, and they have no significant relevance to our ultimate resolution of this proceeding.

[6] Population figures are derived from the 1980 U.S. Census, Advance Reports.

[7] The *Notice* indicated that should we ultimately decide to assign a Class C channel to Ortonville, we proposed to delete the current Class A assignment (Channel 292A) since it then appeared that there was no interest in the facility.

that a Class C channel at Ortonville would serve the largely rural population of Big Stone, Traverse, and Lac Qui Parle Counties in western Minnesota.

4. From the outset petitioner recognized that if Channel 268 were assigned to Ortonville as a "drop-in", it would require a site restriction of approximately 25 miles northwest to prevent short-spacing to the assignment of Channel 269A in Olivia, Minnesota.[8] Therefore, petitioner suggested that Channel 244A be substituted for Channel 269A at Olivia in order to lessen the site restriction. OBC opposed this aspect of the proposal, stating that such substitution would impose a site restriction approximately eight miles from Olivia. This, it claimed, was not suitable for a Class A assignment. Petitioner disputed OBC's claim, declaring that the only short-spacing with regard to Olivia would result from the assignment of Channel 244A to North Mankato, Minnesota (BC Docket No. 80-517). Petitioner claimed that the latter assignment would require a site restriction approximating 1.03 miles instead of 8.0. Regardless, petitioner concluded that while the Olivia substitution would achieve a desirable reduction in the Ortonville site restriction, it was not imperative to the assignment of Channel 268 to that community.

5. As indicated in the *Notice*, the assignment of Channel 268 to Ortonville would cause preclusion to occur on Channels 266, 267, 268 and 269A. Petitioner stated that with the exception of Wheaton, Minnesota, all communities with a population in excess of 1,000 that lie within the precluded area either have existing assignments or have other channels available for assignment. Additionally, petitioner noted that Wheaton will be able to receive the signal of Channel 268 at Ortonville.

6. The *Notice* also requested petitioner to supply a *Roanoke Rapids*[9] study to demonstrate the areas and populations which would receive a first and second FM service from the proposed Ortonville assignment. This data was requested since the Commission does not normally assign high-powered Class C channels to communities the size of Ortonville unless it can be established that substantial unserved and underserved populations will receive service from the proposed operation.

7. The *Notice* set forth three assignment plans which would permit the allocation of a Class C channel to Ortonville. The first plan would assign Channel 268 to Ortonville as a "drop-in." However, as noted earlier, this proposal requires a site restriction of 24.6 miles northwest of the community to avoid short-spacing to Channel 269A in Olivia. To avoid this site restriction, Plan II would substitute Channel 221A [10] for Channel 269A at Olivia. This plan would require a site restriction of only 4.0 miles east to comply with the minimum distance separation requirements on the co-channel at Madison, Minnesota. Plan III proposes to substitute Channel 224A for Channel 288A at Montevideo, Minnesota, in order to permit the assignment of Channel 287 to Ortonville with a lesser site restriction (approximately 11.3 miles west of the community). With respect to Plan III, we stated in the *Notice* that if this proposal were adopted, the two applicants for Channel 288A in Montevideo would be permitted to amend their applications to specify the newly-assigned channel.

8. A number of submissions were filed in response to the plans proposed in the *Notice*. Petitioner indicated its support for either Plan I or II, with preference given to Plan I. Likewise, it noted its opposition to Plan III. Petitioner also requested that the Commission not delete the existing Class A allocation to Ortonville despite the resulting intermixture, since an application for its use had been filed by Tri-State. In support of the intermixture, petitioner cited *Woodward, Oklahoma*, 46 FR 56793, published November 19, 1981, wherein the Commission permitted such intermixture on the basis of substantial first and second FM service that would be provided to surrounding areas by the Class C assignment.

9. Petitioner submitted a *Roanoke Rapids* study based on Plan I since that proposal, according to its engineer, would serve a greater white area and population than would Plan II. Although Plan II would allow more flexibility in site selection, petitioner stated that Plan I can achieve the necessary 70 dBu signal over Ortonville, by utilizing a tower 700 feet HAAT, operating with 100 kW ERP. Based on its engineering study, petitioner claims that this proposed facility could provide a first FM service to 26,292 persons residing in an area of 12,867 square miles, and a second FM service to 16,826 persons within an area of 2,715 square miles, either representing a first or second FM service to more than 99% of the population in the proposed 60 dBu service area. Petitioner concludes that if either Plan I or II were ultimately adopted, it would promptly file an application for a permit to construct and operate a Class C FM station at Ortonville.

10. In opposition comments, OBC states that it has an application pending for Channel 269A at Olivia, Minnesota, for which it proposes to use an existing two-way radio tower located approximately 2.5 miles from Olivia. OBC states that this existing tower already has FAA approval and would not require an environmental impact study. If Option II is adopted, OBC claims that the consequent site restriction attached thereto would not permit its use of this transmitter site. Further, OBC asserts that its attempts to locate land in the restricted area, as required by Plan II, have proved unsuccessful. In sum OBC asserts that it has no objection to the adoption of either Plan I or III, but that adoption of Plan II would effectively serve to deprive Olivia of its only station.

11. The comments of Tri-State, applicant for the Class A facility in Ortonville, asserted its belief that a Class C channel should not be assigned to Ortonville since the community receives numerous FM signals from area stations. Further, Tri-State requests that the Commission retain the present allocation of Channel 292A to Ortonville. In this regard, it notes that if its application for that channel is granted, it will proceed with construction regardless of whether the Commission determines to allocate a Class C channel to Ortonville.

12. Meyer's comments oppose Plan II insofar as it proposes to substitute Channel 221A for Channel 269A at Olivia. Its concern stems from the Commission's recent allocation of Channel 221A to Madison, Minnesota (BC Docket 81-372), as noted *supra*. Meyer states that since the two communities are less than 65 miles apart, the assignment would not comply with the minimum distance separation requirements.

13. In reply comments, OBC again reiterates its preference for Plan I, stating that such proposal would not disturb existing assignments in other communities, nor would it impose a

[8] Section 73.207(a) of the Commission's Rules requires a minimum distance separation of 105 miles between first adjacent Class A and Class C channels. The distance between Olivia and Ortonville is approximately 90 miles.

[9] 9 FCC 2d 672 (1967).

[10] As noted *supra*, petitioner suggested that Channel 244A be substituted for Channel 269A at Olivia. However, a staff analysis revealed that such substitution would require a site restriction of approximately 7.4 miles. At that distance, it was questionable whether a station could provide a 70 dBu signal over the entire community as required by § 73.315(a) of the Commission's Rules. Therefore, we proposed to substitute Channel 221A in lieu of 244A, since it requires a lesser site restriction.

severe site restriction on the channel presently assigned to Olivia. OBC asserts that if Plan II is adopted, it might prevent the Olivia channel from ever being used and thus deny the opportunity for its first local aural broadcast service.

14. Tri-State's reply comments dispute petitioner's engineering showing as to the number of FM services available to Ortonville. It states that petitioner failed to include an existing station at Fergus Falls (Channel 243); applications for new stations at Madison (Channel 221A) and Ortonville (Channel 292A); a proposal for a new Class C allocation at Sisseton, South Dakota (BC Docket No. 82–4; RM–3974); and an allocation at Milbank, South Dakota (Channel 282). It adds that if all the available FM services are considered, the Ortonville Class C proposal would provide a first service to only 221 persons in an area of 42 square miles. However, it notes that if the Sisseton proposal were excluded, the Ortonville Class C would provide a first service to 10,543 persons residing in an area of 1,203 square miles. Tri-State adds that the Commission should make a determination between the allocation proposals for a Class C station at either Ortonville or Sisseton since each proposal would serve to duplicate first and second service areas.

15. Tri-State notes that the petitioner's proposed Ortonville site, approximately 26 miles northwest of the community, would provide the best showing of a first service area. Additionally, it claims that petitioner's technical proposal (100 kW ERP with an antenna 700 feet) (HAAT), would be very costly for this small market. It suggests that the cost factor for such proposed facilities may serve to exclude other potential applicants, thereby depriving the public of a choice of good applicants.

16. Tri-State advises that its engineering exhibit is based only on Plan I, and therefore it has disregarded any comments with respect to Plan II or III. It further notes that because of the site restriction imposed under Plan I and its effect on the proposed allocation at Sisseton, perhaps the Commission's policy of allocating Class A channels to small towns is correct. Therefore, it concludes, since Ortonville is a small rural area which currently has a Class A allocation, that channel should be retained and the proposal to allocate a Class C channel to Ortonville should be denied.

17. In reply comments with respect to Plan II, Meyer reiterates his earlier concern and states that his corporation has filed an application for a construction permit on Channel 221A in Madison. He urges that if Channel 221A is assigned to Olivia, extreme care should be taken in selecting a transmitter site which is not a considerable distance from the community.

18. Western's informal comments are directed to Plan III. Western is now the permittee for Channel 288A in Montevideo and thus would be affected if Channel 224A is substituted for Channel 288A to accommodate the assignment of Channel 287 at Ortonville. It urges that if the Commission adopts Plan III, such action be conditioned upon petitioner's reimbursement to the eventual licensee of all reasonable and necessary expenses it will incur as a result of the substitution.

Conclusions

19. In response to Tri-State's assertion that a Class C channel should not be assigned to Ortonville due to the number of other FM services available to the community, the same argument could be made with respect to the Class A allocation. However, while the availability of reception services has been cited by the Commission as justification for denying a channel assignment in comparative cases, we are aware of no situation in which a channel assignment was denied to a community solely on the basis of reception services received in that community from other nearby stations. A channel is assigned to a specific community to broadcast programs meeting that community's special needs and interests. No station owing a primary obligation to another locality is expected to provide the equivalent of such service. See, *Clinton, Louisiana,* 45 RR 2d 1587–88 (1979). Therefore, the signals received in Ortonville from stations licensed to other communities cannot be considered as substitutes for local service, and the reception of these signals does not provide a basis for denying the assignment herein.

20. Tri-State claims that petitioner failed to include in its *Roanoke Rapids* study the proposal for a Class C allocation at Sisseton, South Dakota (BC Docket No. 82–4; RM–3974). However, petitioner was correct in omitting that community from its study since *Roanoke Rapids* data is based on existing assignments. However, the Sisseton channel has since been assigned (adopted May 21, 1982) and we have, on our own, considered the impact of that assignment.

21. However, Tri-State is correct in noting that petitioner neglected to include existing Class C Station KJJK, Fergus Falls, in its study, as well as the Class A allocation at Ortonville (Channel 292A), and a Class C allocation at Milbank, South Dakota (Channel 282). A staff analysis reveals that when these areas are taken into consideration, they would reduce somewhat the extent of petitioner's first and second service showings. According to our analysis, based on the 1980 U.S. Census figures, petitioner's proposal would serve approximately 6,600 persons in the white area, and approximately 1,700 persons residing in the grey area. Thus, its proposal will still provide a substantial amount of service to persons residing in previously unserved rural areas.

22. Additionally, since it has been shown that all precluded communities except Wheaton, Minnesota, have existing assignments or other channels available, we believe the preclusion impact is insignificant. We find that Wheaton is not of sufficient size to warrant our reserving a channel there for future use at the expense of another location where demand is present. See, *Effingham, Illinois,* 48 RR 2d 165 (1980); *Sonora, California,* 46 FR 48200, published October 1, 1981.

23. With respect to Tri-State's claim that the cost of the proposed facilities for Channel 288 may effectively exclude other potential applicants and deprive the community of a choice of applicants, we note that there are cost factors involved in the other alternatives. The Montevideo station would be entitled to reimbursement for the frequency change and the Olivia applicant would have to find a new site in order to use the new frequency proposed there. Nevertheless, we believe that the provision of a first local service to Ortonville and of a needed wide coverage area service justifies the assignment even if the potential number of applicants may be diminished.

24. We are not deleting the existing Class A assignment to Ortonville since an application for its use has been filed by Tri-State, as noted earlier. Consequently, by retaining the Class A and adopting any one of the plans, intermixture will result. See, *Plymouth, New Hampshire, et al.,* 29 RR 2d 1377 (1974). According to its comments, Tri-State appears to be willing to operate a Class A facility in spite of the possible competitive disadvantage. Therefore, intermixture will not pose an obstacle to grant of the proposal herein. See, *Show Low, Arizona,* 49 RR 2d 1605 (1981).

25. Although a community of Ortonville's size is not generally assigned a Class C facility, from the information submitted by petitioner, it

appears that even considering the recent Sisseton, S.D., assignment, the Class C assignment would nevertheless provide some first service to persons in sparsely populated rural areas which the Class A facility would not serve. Therefore, the proposal is justified. See, *Cobleskill, New York*, 48 RR 2d 1406 (1981).

26. Since we have determined that a Class C assignment is warranted, we now turn to the issue of whether the 24.6 mile site restriction necessitates the adoption of one of the other two proposals. Either the Olivia or the Montevideo substitution involves needless changes which in the Olivia case could make an alternative site unavailable for the new channel. Petitioner has indicated that land in the restricted transmitter site area is available for an Ortonville station. Therefore, we have no objection to the imposition of a site restriction. It also appears that the site restriction places the transmitter in an area where coverage of unserved and underserved areas would be greater.

27. In view of the above considerations, we find that the public interest would benefit from the assignment of Channel 268 to Ortonville. We have also determined in paragraph 24, *supra*, that the Class A channel (292A) should be retained.

28. Accordingly, pursuant to the authority contained in §§ 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's rules, it is ordered, that effective August 31, 1982, the FM Table of Assignments, § 73.202(b) of the rules, is amended with regard to Ortonville, Minnesota, as follows:

City	Channel No.
Ortonville, Minn.	[illegible] 292A

29. It is further ordered, that this proceeding is terminated.

30. For further information concerning the above, contact Nancy V. Joyner, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Martin Blumenthal,

Assistant Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-19343 Filed 7-15-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 81-881; RM-3435 and RM-4053]

FM Broadcast Station in Washington and Wilmington, North Carolina; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns FM Channel 252A to Washington, North Carolina, in response to a proposal filed by Pamlico Broadcasting Company. The assignment could provide Washington with its second FM service. It also denies the conflicting proposal of Genesis Communications, Incorporated to assign Class C Channel 253 to Wilmington, North Carolina, as that community's fourth FM service.

DATE: Effective August 31, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order

(Proceeding Terminated)

Adopted: June 28, 1982.

Released: July 7, 1982.

By the Chief, Policy and Rules Division.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Washington and Wilmington,[1] North Carolina) BC Docket No. 81–881, RM–3435, RM–4053.

1. Before the Commission is a *Notice of Proposed Rule Making*, 46 FR 67875, published December 29, 1981, proposing the assignment of FM Channel 252A to Washington, North Carolina, as that community's second FM assignment, in response to a petition filed by Pamlico Broadcasting Company ("Petitioner"). A counterproposal [2] was filed by Genesis Communications, Inc. ("Genesis") seeking the assignment of Class C Channel 253 to Wilmington, North Carolina, as that community's fourth FM allocation. Comments opposing the Washington proposal were filed by Genesis.[3] Reply comments were filed by the following: River Broadcasting Co. of North Carolina, Ltd. ("River"), licensee of co-owned Stations WVBS (AM–FM), Burgaw, North Carolina; WKLM Radio, Inc. ("WKLM"), licensee of AM Station WKLM, Wilmington; and Village Radio of Wilmington, Inc. ("Village"), licensee of FM Station WWQQ, Wilmington. Additionally, supporting comments were filed by the petitioner in which it reaffirmed its intention to apply for Channel 252A, if assigned as proposed.

2. These petitions were filed prior to the Commission's adoption of the *Second Report and Order* in BC Docket No. 80–130 regarding *Revisions of FM Assignment Policies and Procedures*, 47 FR 26624, published June 2, 1982, which eliminated many of the previous policy considerations such as preclusion and intermixture. In order to make a § 307(b) determination, we shall evaluate the proposals under the comparative factors set forth in the *Second Report and Order* in addition to the traditional comparative criteria that has been developed through case law.

3. Washington (population 8,418),[4] the seat of Beaufort County (population 40,266), is located approximately 145 kilometers (90 miles) east of Raleigh, North Carolina. It is served by daytime AM Station WEEW as well as by co-owned Stations WITN (AM) and WITN–FM (Channel 227). Channel 252A can be assigned with a site restriction approximately 8.0 kilometers (4.8 miles) southwest of the community to avoid short-spacing to Station WWDR (Channel 252A), Murfreesboro, North Carolina, in conformity with § 73.207(a) of the Commission's rules.

4. Wilmington (population 44,000), the seat of New Hanover County (population 103,471), is located approximately 184 kilometers (115 miles) south-southwest of Raleigh, North Carolina. It is served by daytime AM Station WKLM, full-time AM Stations WGNI, WWQQ and WWIL, and by FM Stations WAAV (Channel 274), WWQQ–FM (Channel 265A), and WHSL (Channel 247). Additionally, Channel 260 is assigned to Wilmington although it is presently being used at Burgaw, North Carolina, pursuant to § 73.203(b) of the Commission's Rules. A Wilmington assignment would require a

[1] This community has been added to the caption.

[2] Genesis' proposal was filed on January 20, 1982. Although styled as a petition for rule making, a closer examination determined that its petition conflicted with the proposed assignment of Channel 252A to Washington (RM–3435), since the distance between the two communities is 98 miles, whereas a separation of 105 miles is required between a Class A and first adjacent Class C channel.

[3] In addition, a letter of support for the assignment of Channel 252A to Washington, North Carolina, was received from Ninety-Eight Broadcasting Company. This letter was received too late to be considered as comments.

[4] Population figures are derived from the preliminary 1980 U.S. Census Reports.

site restriction approximately 23 miles northeast of the community to avoid short-spacing to Station WQTR (Channel 253), Whiteville, North Carolina.

5. In justification of its proposal, petitioner stated that Washington is the largest city in Beaufort County. Further, it noted that although Beaufort County is largely agrarian, approximately 23% of its workforce is employed by manufacturing industries, which are experiencing a substantial economic expansion, ranking fifth among the 100 counties in North Carolina in investment by existing industries during a five-year period ending 1977. Additionally, it indicated that in 1978, Washington experienced retail sales of $147,200,000.00, a 10.8% increase over 1977, and that such sales have nearly tripled in the past decade. Also, petitioner notes that Washington voters have approved a bond issue to finance a proposed annexation which will double the size of the community and thereby increase its population by nearly 3,000 persons. According to petitioner, this latter factor, as well as the degree of economic expansion in the area have intensified the need for an additional FM broadcast station in Washington.

6. Genesis states that Wilmington has experienced a substantial increase in major industries, which it claims has formed the basis of a broad economic structure. Additionally, it indicates that during the past decade, construction of housing units increased approximately 38% in New Hanover County. Further, it claims that gross retail sales in the County increased approximately 71% during the period 1975–1981. In support of its petition, Genesis states that Wilmington's economic indicators, in totality, demonstrate an increasingly strong financial base which can support an additional station in the community.

7. In further justification of its proposal, Genesis states that New Hanover County experienced an increase in population between 1970–1980 of approximately 25%, and that if Channel 253 is assigned to Wilmington, it would serve a greater number of individuals than would the assignment of Channel 252A to Washington. To further this point, it set forth the ratio of population per station for the two proposals as follows: *Washington*—based on present county population of 40,266 with three current services represents a ratio of one station for every 13,422 persons. If Channel 252A is assigned, Genesis states that the ratio is diluted to one station for every 10,066 persons. On the other hand, it indicates that if Channel 253 were assigned to Wilmington, the ratio would be one station for every 12,933 persons.

8. In reply comments, River, WKLM and Village all opposed Genesis' proposal to assign Channel 253 to Wilmington. River and WKLM specifically advocate assigning Channel 252A to Washington instead.

9. More specifically, River opposes an additional Class C assignment to Wilmington on the basis of the Commission's population guidelines, which were in effect at the time its comments were filed, with respect to distribution of channels according to a given community size. However, these considerations are now moot in view of the recent adoption of the *Second Report and Order*, as noted *supra*.

10. Village's opposition to the Wilmington proposal is premised on the resultant intermixture such assignment would create, as well as its economic impact. Again, we note that adoption of the *Second Report and Order* referred to above eliminates these considerations at the rule making level.

11. WKLM advises that in order to accommodate the Wilmington proposal, a substantial site restriction northeast of the community would have to be imposed to comply with § 73.207(a) to avoid short-spacing to a third adjacent Class C channel in Whiteville, North Carolina. Also, according to WKLM, a transmitter located within the restricted site area would require an antenna elevation of considerable height in order to afford city-grade service over all of Wilmington, as required by § 73.315(a) of the Commission's rules. Further, WKLM asserts that the restricted area is so near three Federal airways that the required antenna height necessary to provide city-grade coverage to Wilmington could not be constructed without aeronautical conflicts.

12. Additionally, WKLM correctly notes that if Channel 253 were assigned to Wilmington, it could not be applied for at a nearby community under § 73.203(b), the "15-mile rule." This restriction results from the fact that Channel 260, assigned to Wilmington, was previously removed for use by Station WPJC(FM), Burgaw, North Carolina, and § 73.203(b) prohibits the removal of more than one channel from a community listed in the Table of Assignments.

13. On a comparative basis, we do not view the traditional criteria such as population growth (both communities have declined in population in the last decade), relative sizes of the communities or reception of other services to be of sufficient importance here since the most important factor of availability of local broadcast service provides a clear choice. As we noted before, Washington has three local services (provided by daytime-only Station WEEW and co-owned Stations WITN (AM) and WITN–FM), and Wilmington has seven local services comprised of AM Stations WKLM, WGNI, WWQQ and WWIL, in addition to FM Stations WAAV, WWQQ and WHSL. An additonal Washington assignment could provide a full-time competitive outlet in the community, and a second nighttime voice for the expression of diversified programming since we do not view the co-owned stations to be in the same competitive relationship as stations of different owners. We do not find a greater need for additional service at Wilmington. We believe this determination is consistent with the mandate of sec. 307(b) of the Communications Act of 1934, as amended, to provide a fair, efficient, and equitable distribution of radio services among the various communities, and is in accord with our assignment priorities as set forth in the *Second Report and Order* regarding *Revision of FM Assignment Policies and Procedures, supra*, and with traditional assignment principles.[5]

14. Another factor in our deliberations involves the site at which Genesis proposes to locate its transmitter. According to WKLM, that site is restricted to 500 foot AGL F.A.A. antenna height limitation. A staff engineering study reveals that in order to place a 70 dBu signal over Wilmington, an antenna approximately 650 feet HAAT must be utilized. In order to obtain this, the site would have to be further removed from Wilmington. Moving its site to an area where the transmitter might theoretically be located would require an antenna height of approximately 1500 feet HAAT in order to cover Wilmington. As noted by WKLM, an antenna tower of such height could be quite costly since the land is

[5] See, *Anamosa and Iowa City, Iowa*, 46 F.C.C. 2d 520, 524–525 (1974); *Springdale, Arkansas and Washburn, Missouri*, 46 FR 1628, published March 12, 1981.

flat. Generally, we would need some indication that a party is willing to go to the expense involved in constructing such a tall antenna.

15. Although areas appear to be available for the Wilmington proposal, assuming a suitable antenna height is employed, we are not convinced that a Wilmington Channel 253 station would be able to comply with the technical requirements of § 73.315(a) regarding city-grade coverage, nor that it could comply with applicable F.A.A. constraints. Therefore, from a technical standpoint, we find that Genesis' proposal fails to provide a sufficient basis for adoption.

16. Accordingly pursuant to the authority contained in Secs. 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's Rules, it is ordered, that effective August 31, 1982, the FM Table of Assignments, § 73.202(b) of the rules, is amended with regard to Washington, North Carolina, as follows:

City	Channel No.
Washington, N.C.	227, 252A

17. It is further ordered, that the petition of Genesis Communications, Incorporated (RM–4053) to assign Class C FM Channel 253 to Wilmington, North Carolina, is denied.

18. It is further ordered, that this proceeding is terminated.

19. For further information concerning the above, contact Nancy V. Joyner, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82–19342 Filed 7–15–82; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 2712–126]

Ocean Salmon Fisheries off the Coasts of California, Oregon, and Washington

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Emergency interim rule; extension of effective date.

SUMMARY: An emergency interim rule is in effect through July 15, 1982, which amends on an interim basis the regulations for the ocean salmon fisheries off the coasts of Washington, Oregon and California. The emergency interim rule contains management measures similar to those contained in a Secretarial Amendment which was approved by the Assistant Administrator for Fisheries, NOAA, on May 26, 1982. NOAA extends this rule for an additional 45 days to prevent overfishing, to allow more salmon to survive the ocean fisheries and reach the Indian subsistence fisheries in internal waters, and to achieve spawning escapement requirements.

DATES: Interim rule is effective on July 16, 1982, and remains effective through August 29, 1982.

FOR FURTHER INFORMATION CONTACT: H. A. Larkins (Regional Director, NMFS) 206–527–6150; or A. W. Ford (Regional Director, NMFS) 213–548–2575.

SUPPLEMENTARY INFORMATION: A Secretarial Amendment to the fishery management plan (FMP) for the Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon, and California was approved by the Assistant Administrator for Fisheries, NOAA, on May 26, 1982. The Secretarial Amendment provides management measures to replace the disapproved portion of the 1982 FMP amendment prepared by the Pacific Fishery Management Council (see 47 FR 21256, May 18, 1982). This Secretarial Amendment generally establishes seasons and gear restrictions for the commercial ocean salmon fisheries south of Cape Blanco, Oregon. On June 1, 1982, NOAA implemented an emergency interim rule (47 FR 24134), under the authority of section 305(e)(2) of the Magnuson Fishery Conservation and Management Act, to effect management measures similar to the measures contained in the Secretarial Amendment.

That emergency rule was to be effective during the period June 1, 1982, through July 15, 1982; the preamble stated that the emergency rule "may be extended for a second 45-day period." The preamble to the emergency interim rule also discusses the background and objectives of the Secretarial Amendment, management measures selected, and the classification of the rulemaking.

On July 2, 1982 (47 FR 28971), NOAA proposed rules to implement the Secretarial Amendment.

This action extends the emergency interim rule for a second 45-day period, from July 16, 1982, through August 29, 1982, to continue management of the fisheries. At the end of this period, the regulations which this emergency interim rule temporarily amended (see 46 FR 44989, September 9, 1981; 46 FR 45960, September 16, 1981; 47 FR 4275, January 29, 1982) will again be in effect unless replaced by other rules.

The NOAA Administrator determined that this rule is not major under Executive Order 12291 (E.O. 12291).

List of Subjects in 50 CFR Part 661

Fish, Fisheries, Fishing, Indians.

(16 U.S.C. 1801 *et seq.*)

Dated: July 13, 1982.

William H. Stevenson,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 82–19344 Filed 7–14–82; 11:00 am]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 47, No. 137
Friday, July 16, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 551

Pay Administration (General) and Federal Pay Administration Under the Fair Labor Standards Act; Computing Fractional Hours of Overtime Work

Correction

In FR Doc. 82–18029 appearing on page 28962 in the issue of Friday, July 2, 1982, make the following correction:

On page 28964, column one, paragraph (a) of § 551.412 contained errors and should have read as follows:

§ 551.412 Preparatory or concluding activities.

(a) A preparatory or concluding activity that is closely related to the principal activity(s) and is indispensable to its performance is an integral part of the principal activity(s). If the total time spent in that activity(s) is more than ten minutes per day, it is part of the workday and it shall be considered hours of work. Conversely, if the total time spent in that activity(s) is ten minutes or less per day, it is not a part of the workday and it shall be disregarded.

(b)* * *

BILLING CODE 1505-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 27, 28, and 61

Cotton and Cottonseed; Revision in Fees

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rulemaking.

SUMMARY: A revision in fees is proposed due to the increased costs of providing cotton classing, cotton linters grading and related services, and supervision of cottonseed grading.

DATE: Comments by September 14, 1982.

ADDRESS: Comments may be mailed to Loyd R. Frazier, Chief, Marketing Services Branch, Cotton Division, AMS, USDA, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Loyd R. Frazier, (202) 447–2147.

SUPPLEMENTARY INFORMATION: This proposal has been reviewed under the USDA procedure established in accordance with Executive Order 12291 of February 17, 1981 and has been classified "non-major" as it does not meet the criteria contained therein for major regulatory actions. William T. Manley, Deputy Administrator for Marketing Programs Operations, has determined that this action will not have a significant impact on a substantial number of small business entities because (i) use of the services is voluntary; and (ii) further, if there is any impact, the Secretary is required by statute to make the services available and to recover the costs of the services from the users of the services. Since all of these services are directly related to the marketing of cotton, it is desirable that all fee increases have a uniform effective date. An effective date of October 1, 1982, the beginning of Fiscal Year 1983, is proposed.

The United States Cotton Standards Act (7 U.S.C. 51–65), United States Cotton Futures Act (7 U.S.C. 15b), and Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627) authorize the Secretary of Agriculture to provide cotton classing, cotton linters grading and related services and supervision of cottonseed grading to the public on a fee basis. The Secretary is further directed to set such fees for these services as will allow USDA to recover the costs of providing the services.

The services provided include cotton classing, cotton linters grading and cottonseed grading supervision. Due to increases of USDA costs in providing these services since the last adjustment in fees on October 1, 1981 (46 FR 48111–48113), an average increase in fees of about 5 percent is proposed.

Many factors are considered in calculating the cost of providing services. Increases in personnel costs have had the most significant impact on these costs. Federal salaries have increased 4.8 percent since October 1, 1981. Some increases in expenditures for rent, utilities, and communications have also occurred during that period.

These increases, along with increased costs for supplies and materials, are responsible for an overall increase in the costs of providing services of approximately 5 percent.

List of Subjects

7 CFR Part 27

Classification, Cotton, Micronaire, Samples;

7 CFR Part 28

Cotton Linters, Grades, Staples;

7 CFR Part 61

Cottonseed, Chemists, and Grades.

Therefore the following amendments are proposed:

PART 27—COTTON CLASSIFICATION UNDER COTTON FUTURES LEGISLATION

1. Section 27.80 is amended by revising paragraphs (a), (b), (d), (e), (f), (g), and (h) to read as follows:

§ 27.80 Fees; classification, Micronaire, and supervision.

For services rendered by the Cotton Division pursuant to this subpart, whether the cotton involved is tenderable or not, the person requesting the services shall pay fees as follows:

(a) Initial classification and certification—95 cents per bale.

(b) Review classification and certification—$1.15 per bale.

* * * * *

(d) Combination service—$2.10 per bale. (Initial classification, review classification, and Micronaire determination covered by the same request and only the review classification and Micronaire determination results certified on cotton class certificates.)

(e) Supervision, by a supervisor of cotton inspection, of the inspection, weighing, or sampling of cotton when any two or more of these operations are performed together.—$1.15 per bale.

(f) Supervision, by a supervisor of cotton inspection, of the inspection, weighing, or sampling of cotton when any one of these operations is performed individually—$1.15 per bale.

(g) Supervision, by a supervisor of cotton inspection, of transfers of cotton to a different delivery point, including issuance of new cotton class certificates

in substitution for prior certificates—$2.20 per bale.

(h) Supervision, by a supervisor of cotton inspection, of transfers of cotton to a different warehouse at the same delivery point, including issuance of new cotton class certificates in substitution for prior certificates—$1.50 per bale.

* * * * *

(80 Stat. 1841–1846; (7 U.S.C. 15b))

PART 28—COTTON CLASSING, TESTING, AND STANDARDS

2. Section 28.116 is amended by revising paragraph (a) to read as follows:

§ 28.116 Amounts of fees for classification; exemption.

(a) For the classification of any cotton or samples, the person requesting the services shall pay a fee, as follows, subject to the additional fee provided in paragraph (c) of this Section:

(1) Grade, staple, and micronaire reading—$1.05 per sample.

(2) Grade and staple only—90 cents per sample.

(3) Grade only or staple only—65 cents per sample.

(4) Micronaire reading only—20 cents per sample.

* * * * *

3. Section 28.117, 28.120, 28.122, 28.148, and 28.149 are revised to read as follows:

§ 28.117 Fee for new memorandum or certificate.

For each new memorandum or certificate issued in substitution for a prior memorandum or certificate at the request of the holder thereof, on account of the breaking or splitting of the lot of cotton covered thereby or otherwise for his business convenience, the person requesting such substitution shall pay a fee of $1.90 per sheet.

§ 28.120 Expenses to be borne by party requesting classification.

For any samples submitted for Form A or Form D determinations, the expenses of inspection and sampling, the preparation of the samples, and the delivery of such samples to the classification room or other place specifically designated for the purpose by the Director shall be borne by the party requesting the classification. For samples submitted for Form C determininations, the party requesting the classification shall pay the fees prescribed in this subpart and, in addition, a fee of $14.65 per hour, or each portion thereof, plus the necessary traveling expenses and subsistence, or per diem in lieu of subsistence, incurred on account of such request, in accordance with the fiscal regulations of the Department applicable to the Division employee supervising the sampling.

§ 28.122 Fee for practical classing examination.

The fee for the complete practical classing examination for cotton or cotton linters shall be $95. Any applicant who passes both parts of the examination may be issued a certificate indicating this accomplishment. Any person who passes one part of the examination, either grade or staple, and fails to pass the other part may be reexamined for that part that was failed. The fee for this partial reexamination is $52.

§ 28.148 Fees and costs; classification; reviews; other.

The fee for the classification, comparison, or review of linters with respect to grade, staple, and character or any of these qualities shall be at the rate of 95 cents for each bale or sample involved. The provisions of §§ 28.115 through 28.126 relating to other fees and costs shall, so far as applicable apply to services performed with respect to linters.

§ 28.149 Fees and costs; Form C determination.

For samples submitted for Form C determination, the party requesting the classification shall pay the fees prescribed in this subpart and, in addition, a fee of $14.65 per hour, or each portion thereof, plus the necessary traveling expenses and subsistence, or per diem in lieu of subsistence, incurred on account of such request, in accordance with the fiscal regulations of the Department applicable to the Division employee supervising the sampling.

(Sec. 10, 42 Stat. 1519; 7 U.S.C. 61, unless otherwise noted)

4. Section 28.184 is revised to read as follows:

§ 28.184 Cotton linters; general.

Requests for the classification or comparison of cotton linters pursuant to this subpart and the samples involved shall be submitted to the Cotton Division. All samples classed shall be on the basis of the official cotton linters standards of the United States. The fee for classification or comparison and the issuance of a memorandum showing the results of such classification or comparison shall be 95 cents per sample.

(Sec. 205, 60 stat. 1090, as amended; 7 U.S.C. 1624.)

PART 61—COTTONSEED SOLD OR OFFERED FOR SALE FOR CRUSHING PURPOSES (INSPECTION SAMPLING AND CERTIFICATION)

5. Sections 61.43, 61.44, 61.45, and 61.46 are revised to read as follows:

§ 61.43 Fee for sampler's license.

In the examination of an applicant for a license to sample and certificate official samples of cottonseed the fee shall be $15, but no additional charge shall be made for the issuance of a license. For each renewal of a sampler's license the fee shall be $13.

§ 61.44 Fee for chemist's license.

For the examination of an applicant for a license as a chemist to analyze and certificate the grade of cottonseed the fee shall be $300, but no additional charge shall be made for the issuance of a license. For each renewal of a chemist's license the fee shall be $100.

§ 61.45 Fee for certificates to be paid by licensee to Service.

To cover in part the cost of administering the regulations in this part each licensed cottonseed chemist shall pay to the Service $1.15 for each certificate of the grade of cottonseed issued by him. Upon receipt of a statement from the Service each month showing the number of certificates issued by the licensee, such licensee will forward the appropriate remittance in the form of a check, draft, or money order payable to the "Agricultural Marketing Service Service, USDA."

§ 61.46 Fees for the review of grading of cottonseed.

For the review of the grading of any lot of cottonseed, the fee shall be $39. Remittance to cover such fee, in the form of a check, draft, or money order payable to the "Agricultural Marketing Service, USDA" shall accompany each application for review. Of each such fee collected, $13 shall be disbursed to each of the two licensed chemists designated to make reanalysis of such seed.

* * * * *

(Sections 203 and 205, 60 Stat. 1087 and 1090, as amended; 7 U.S.C. 1622–1624)

Dated: July 12, 1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-19824 Filed 7-15-82; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 46

Increase of License Fees Under the Perishable Agricultural Commodities Act and Clarification of Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service proposes to increase its fee for licenses issued under the Perishable Agricultural Commodities Act from the current $150 basic fee, plus $50 for each branch in excess of nine with a maximum fee of $1,000 to a $180 basic fee, plus $72 for each branch in excess of nine with a maximum fee of $1,200. The license fees recovered thru this program are used to defray all program costs except those for certain legal services.

The regulation relating to license requirements for dealers who purchase potatoes for processing is also being revised to reflect a statutory amendment.

DATE: Written comments must be received on or before September 10, 1982.

ADDRESS: Written comments should be sent to: Michael D. Price, Regulatory Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Michael D. Price (202) 447–4180.

SUPPLEMENTARY INFORMATION: These proposed actions have been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and have not been classified as major because they do not meet any of the criteria identified under the Executive Order. These actions will not have an annual effect on the economy of $100 million or more nor will they have a major increase in costs of prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions. These actions will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign based enterprises in domestic or export markets. This rule has also been reviewed with regard to the requirements of Pub. L. 96–354. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that these proposed rules do not have a significant economic impact on a substantial number of entities.

The Perishable Agricultural Commodities Act (PACA) was enacted by Congress, in 1930, to curb abuses in the marketing of perishable agricultural commodities in interstate and foreign commerce. The Act establishes a code of fair trade and provides for the enforcement of contracts. The law is enforced through a system of licensing. Commission merchants, dealers and brokers are required to be licensed. The license fees recovered thru this program are used to defray all program costs except those for certain legal services.

License Fee

The PACA program, except for costs of certain legal services, is funded thru license fees. In 1980, it was determined that the reserve fund was being seriously depleted and that program costs would exceed income, thus, jeopardizing service to the fruit and vegetable industry. On December 22, 1981, the statutory ceiling on license fees was amended by Pub. L. 97–98 to authorize the establishment of fee levels that would permit sufficient revenues to cover operational costs for at least four years. The present level is $150 basic fee, plus $50 for each branch in excess of nine with a $1,000 ceiling. The proposed increase to a $180 basic fee, plus $72 for each branch in excess of nine with a $1,200 ceiling is expected to provide sufficient funds to cover operational costs thru fiscal year 1983. The proposed increase is substantially below the new statutory ceiling of $300, $150, and $3,000 respectively.

Dealer

The term dealer defines persons engaged in the business of buying or selling produce in wholesale or jobbing quantities in commerce who are subject to license. However, there has been a specific exemption for persons buying produce for canning and/or processing within the State where grown, whether or not the canned or processed product is to be shipped in interstate or foreign commerce, unless such product is frozen or packed in ice, or consists of cherries in brine. On November 1, 1978, that exemption was removed by Pub. L. 95–562, for persons buying potatoes for processing within the State where grown. The change became effective January 1, 1982. These persons are now subject to license as dealers. Persons who purchase commodities *other than potatoes* as defined under the exemption are still not subject to license for those transactions.

List of Subjects in 7 CFR Part 46

Administrative practice and procedure, Perishable Commodities Act.

PART 46—REGULATIONS (OTHER THAN RULES OF PRACTICE) UNDER THE PERISHABLE AGRICULTURAL COMMODITIES ACT, 1930

It is proposed that 7 CFR 46.2 and 46.6 be amended as follows:

1. 7 CFR 46.2 is amended by revising paragraph (m)(3) and adding paragraph (m)(4).

§ 46.2 [Amended]

* * * * *

(m) "Dealer" means any person engaged in the business of buying or selling in wholesale or jobbing quantities in commerce and includes:

* * * * *

(3) Growers who market produce grown by others.

(4) The term "dealer" does not include persons buying produce, other than potatoes, for canning and/or processing within the State where grown, whether or not the canned or processed product is to be shipped in interstate or foreign commerce, unless such product is frozen, or packed in ice, or consists of cherries in brine.

* * * * *

2. 7 CFR § 46.6 is revised to read as follows:

§ 46.6 License fee.

The annual license fee is one hundred and eighty (180) dollars plus seventy-two (72) dollars for each branch or additional business facility operated by the applicant exceeding nine. In no case, shall the aggregate annual fees paid by any applicant exceed one thousand two-hundred (1,200) dollars. The Director may require that the fee be submitted in the form of a money order, bank draft, cashier's check, or certified check made payable to Agricultural Marketing Service. Authorized representatives of the Division may accept fees and issue receipts therefor.

Done at Washington, D.C. on July 12, 1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82–19408 Filed 7–15–82; 8:45 am]

BILLING CODE 3410–02–M

Food and Nutrition Service

7 CFR Parts 210, 220, and 245

Child Nutrition Regulatory Review Task Force Recommendations

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the National School Lunch and School Breakfast Program regulations and the regulations on determining eligibility for free and reduced price meals and free milk in schools to implement a series of recommendations of the Child Nutrition Regulatory Review Task Force. The Task Force included members from FNS National and Regional Offices, State and local school food service officials and the public. It was the goal of this Task Force to: (1) Increase State and local flexibility in Program administration; (2) reduce Program administrative complexities; (3) reduce Program costs; and (4) eliminate fraud, waste, and abuse. The Department is proposing this rule to facilitate program administration for States and School Food Authorities.

DATES: To be assured of consideration, comments must be postmarked no later than September 14, 1982.

ADDRESS: Comments should be sent to Stanley C. Garnett, Branch Chief, Policy and Program Development Branch, School Programs Division, USDA, Food and Nutrition Service, Alexandria, Virginia 22302. All written submissions will be available for public inspection in Room 509, 3101 Park Center Drive, Alexandria, Virginia 22302, during regular business hours (8:30 a.m. to 5:00 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Stanley C. Garnett at the address listed above or call (703) 756–3620.

SUPPLEMENTARY INFORMATION:

Classification.—This proposed rule has been reviewed under Executive Order 12291 and has been classified as "not major" because it does not meet any of the three criteria identified in the Executive Order. The rule will not have an annual effect on the economy of $100 million or more; it is expected to decrease administrative costs by providing States and School Food Authorities with more flexibility in administering the National School Lunch and School Breakfast Programs; and it is not expected to have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or foreign export markets.

This proposed rule has been reviewed with regard to the requirements of Public Law 96–354, the Regulatory Flexibility Act. The Administrator of the Food and Nutrition Service has certified that this proposed rule does not have a significant economic impact on a substantial number of small entities. This rule is expected to simplify the regulatory requirements in the administration of the School Lunch and School Breakfast Programs. In addition, this rule will reduce the reporting and recordkeeping burden facing local and State agencies.

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the reporting and recordkeeping requirements contained in this proposed rule will be submitted to the Office of Management and Budget (OMB) for approval. They are not effective until OMB approval has been obtained.

Background

Food Service Management Companies

On December 29, 1978, the Department published a final rule (43 FR 60861) which imposed requirements upon School Food Authorities (SFAs) entering into contractural agreements with commericial enterprises for the preparation and service of program meals. That rule was developed to increase the regulatory control over contracting due to the increase in the number of School Food Authorities contracting with food service management companies.

The Child Nutrition Regulatory Review Task Force recommended a reduction in the regulatory requirements for SFA's contracting with food service management companies; elimination of the requirement to monitor at least 20 percent of the SFA's contracting with food service management companies; and elimination of the requirement that an Advisory Board assist food service management companies in menu planning. The Task Force also recommended that the School Breakfast Program regulations be amended to make the food service management company requirements consistent with those for the School Lunch Program. Since monitoring requirements and procedures are adequately covered in AIMS, and student and parent involvement are addressed elsewhere in Program regulations, the Department has accepted these recommendations and proposes to simplify the requirements for SFA's contracting with food service management companies.

Procurement Standards

The procurement standards are proposed to be revised to implement the Department's Uniform Federal Assistance Regulations—Part 3015 [46 FR 55636, November 10, 1981) which prescribe Department-wide policies and standards for administration of grants and cooperative agreements. To date, for each of the school programs the Department issued individual program regulations on the administration of grants and cooperative agreements.

Such regulations created duplication and complexity in the management of Federal assistance provided by USDA. Therefore, the Child Nutrition Regulatory Review Task Force recommended adoption of Part 3015 for all programs. Additionally, Public Law 95–224, "The Federal Grant and Cooperative Agreement Act of 1977", and the implementing guidance and study issued by OMB emphasized the need for uniform policy and standardization of guidance for all assistance programs.

Technical Changes

The Child Nutrition Regulatory Review Task Force also recommended some changes in the administrative requirements of the National School Lunch and School Breakfast Programs regulations and in the regulations on Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools. Those Task Force Recommendations were:

- Delete the Federal requirement for parent and community involvement in the School Lunch Program.
- Allow State agencies to define poor management, but continue State agency and FNSRO involvement in correcting poor management problems;
- Rewrite portions of the regulations to eliminate unnecessary provisions and redundant language, e.g. maintenance of Storage Facilities; and
- Delete the provision of the Breakfast Program regulations which requires commodity assistance based upon the number of breakfasts served to children. While the Department continues to believe it is important to involve parents in the program, and recommends such involvement, this proposal shifts the responsibility for the determining the need and extent of parental involvement to the local level, which is in a better position to make such decisions. In addition, the deletion of the requirement to maintain necessary facilities for storing and preparing food does not reflect the lack of importance of the maintenance of such facilities. However, since this area is already covered by local health and sanitation requirements, it is not necessary in a Federal regulation.

In regard to use of commodities in the breakfast program, although schools no longer earn commodities based on School Breakfast Program participation, schools may use commodities earned on the basis of lunch participation and

bonus commodities in preparing breakfasts under the School Breakfast Program.

List of Subjects

7 CFR Part 210

Food assistance programs, National School Lunch Program, Grant programs—social programs, Nutrition, Children, Reporting and recordkeeping requirements, Surplus agricultural commodities.

7 CFR Part 220

Food assistance programs, School Breakfast Program, Grant programs—social programs, Nutrition, Children, Reporting and recordkeeping requirements.

7 CFR Part 245

Food assistance programs, Grant programs—social programs, National School Lunch Program, School Breakfast Program, Special Milk Program, and Reporting and recordkeeping requirements.

Accordingly, Parts 210, 220 and 245 are proposed to be amended as follows:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

§ 210.8 [Amended]

1. In § 210.8, paragraph (b) is amended by removing the words "and extent of the need for Program payments." and placing a period after the word "Program.".

2. In § 210.8, paragraphs (c) and (e)(12) are removed and reserved.

3. In § 210.8, paragraph (e)(7) is revised to read as follows:

§ 210.8 Requirements for participation.

* * * * *

(e) * * *

(7) Claim reimbursement at the assigned rates only for lunches served in accordance with the agreement;

* * * * *

§ 210.8a [Amended]

4. In § 210.8a, paragraph (a) is amended by removing the fourth and fifth sentences; paragraphs (b), (c), and (e) are removed, and paragraphs (d) and (f) are redesignated as paragraphs (b) and (c), respectively.

5. In § 210.9a, paragraphs (c), (d), and (e) are removed, and the first sentence in paragraph (a) is revised to read as follows:

§ 210.9a Student, parent, and community involvement.

(a) School Food Authorities shall promote activities to involve children in the Program for the purpose of diminishing the waste of food. * * *

* * * * *

6. In § 210.9a, paragraph (b) is amended by inserting the word "parents," after the phrase "to involve the" and before the word "school."

§ 210.14 [Amended]

7. In § 210.14, paragraph (c) is removed and reserved.

8. In § 210.14, paragraph (f) is amended by removing the remainder of the paragraph after the first sentence.

§ 210.19 [Amended]

9. In § 210.19, the title "Miscellaneous provisions." is revised to read "Grant closeout procedures."

10. In § 210.19, paragraph (a) the title "Grant closeout procedures." is removed.

11. In § 210.19, paragraph (a)(1) the first sentence is removed.

12. In § 210.19, paragraph (a)(2) the title *"Grant closeout report."* is revised to read *"Submission of reports."* and the second sentence is amended by removing the words "Food Service Equipment Assistance Program and" and the word "Programs." and a period is inserted after the word "Funds."

13. In § 210.19, paragraphs (a)(3) and (a)(4) are removed.

§§ 210.8 and 210.19 [Amended]

14. In § 210.19, paragraph (b) is redesignated as § 210.8, paragraph (f).

15. In § 210.19, a new paragraph (b) is added after paragraph (a)(2) to read as follows:

§ 210.19 Grant closeout procedures.

* * * * *

(b) *Final closeout procedures.* FNS and the State agency shall comply with the requirements of 7 CFR Part 3015, Uniform Federal Assistance Regulations, Subpart N, § 3015.124 *Termination* when grants to State agencies are terminated.

* * * * *

16. Section 210.19a is revised to read as follows:

§ 210.19a Procurement standards.

(a) *Requirements.* State agencies and School Food Authorities administered by State agencies shall comply with the requirements of the Office of Management and Budget (OMB) Circular A–102 and the Department's Uniform Federal Assistance Regulations, 7 CFR Part 3015, Subpart S (46 FR 55658) concerning the procurement of supplies, food, equipment and other services with Program funds. These requirements are adopted by FNS to ensure that such materials and services are obtained for the Program efficiently and economically and in compliance with applicable Federal law and Executive Orders.

(b) *Contractual Responsibilities.* The standards contained in A–102 and 7 CFR Part 3015 do not relieve the State agency, School Food Authority, or FNSRO, as applicable, of any contractual responsibilities under its contract. The State agency, School Food Authority, or FNSRO, as applicable, is the responsible authority, without recourse to FNS, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in connection with the Program. This includes, but is not limited to: source evaluation, protests, disputes, claims, or other matters of a contractual nature. Matters concerning violation of law are to be referred to the local, State or Federal authority that has proper jurisdiction.

(c) *Procurement Procedure.* The State agency, School Food Authority, or FNSRO, as applicable, may use their own procurement procedures which reflect applicable State and local laws and regulations, provided that procurements made with Program funds adhere to the standards set forth in OMB Circular A–102 and 7 CFR Part 3015.

PART 220—SCHOOL BREAKFAST PROGRAM

§ 220.7 [Amended]

1. In § 220.7, paragraphs (d) and (e)(11) are removed and reserved.

2. In § 220.7, paragraph (e)(6) is revised to read as follows:

§ 220.7 Requirements for participation.

* * * * *

(e) * * *;

(6) Claim reimbursement at the assigned rates only for breakfasts served in accordance with the agreement;

* * * * *

3. Part 220 is amended by adding a new § 220.7a after § 220.7 to read as follows:

§ 220.7a Food service management companies.

The food service management company requirements for the Program shall be in accordance with 7 CFR Part 210, § 210.8a, Food service management companies.

4. In § 220.13, paragraph (h) is revised to read as follows:

§ 220.13 Special responsibilities of State agencies.

* * * * *

(h) *Food service management companies.* Each State agency, or FNSRO, where applicable, shall annually review each contract between any School Food Authority and a food service management company to ensure compliance with all the provisions and standards set forth in § 220.7a.

* * * * *

5. § 220.16 is revised to read as follows:

§ 220.16 Procurement standards.

(a) *Requirements.* State agencies and School Food Authorities administered by State agencies shall comply with the requirements of the Office of Management and Budget (OMB) Circular A–102 and the Department's Uniform Federal Assistance Regulations, 7 CFR Part 3015, Subpart S (46 FR 55658) concerning the procurement of supplies, food, equipment and other services with Program funds. These requirements are adopted by FNS to ensure that such materials and services are obtained for the Program efficiently and economically and in compliance with applicable Federal law and Executive Orders.

(b) *Contractual Responsibilities.* The standards contained in A–102 and 7 CFR Part 3015, do not relieve the State agency, School Food Authority, or FNSRO, as applicable, of any contractual responsibilities under its contract. The State agency, School Food Authority, or FNSRO, as applicable, is the responsible authority, without recourse to FNS, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in connection with the Program. This includes, but is not limited to: source evaluation, protests, disputes, claims, or other matters of a contractual nature. Matters concerning violation of law are to be referred to the local, State or Federal authority that has proper jurisdiction.

(c) *Procurement Procedure.* The State agency, School Food Authority, or FNSRO, as applicable, may use their own procurement procedures which reflect applicable State and local laws and regulations, provided that procurements made with Program funds adhere to the standards set forth in OMB Circular A–102 and 7 CFR Part 3015.

§§ 220.7 and 220.18 [Amended]

6. In § 220.18, paragraph (c) is redesignated as paragraph (f) of § 220.7 and § 220.18 is reserved.

7. Section 220.20 is revised to read as follows:

§ 220.20 Grant closeout procedures.

(a)(1) *General.* State agencies shall submit final grant closeout reports for each fiscal year or part thereof that the State agency administered the Program. All obligations shall be liquidated before final closure of a fiscal year grant. Obligations shall be reported for the fiscal year in which they occur.

(2) *Submission of reports.* State agencies shall submit to FNS, within 150 days after the end of any fiscal year, final fiscal year closeout reports (FNS–10's and SF–269). FNS shall not be responsible for reimbursing unpaid obligations reported later than 150 days after the close of the fiscal year in which they were incurred except for those obligations incurred under the State Administrative Expense Funds.

(b) *Final closeout procedures.* FNS and the State Agency shall comply with the requirements of 7 CFR Part 3015, Uniform Federal Assistance Regulations, Subpart N, § 3015.124 *Termination* when grants to State Agencies are terminated.

PART 245—DETERMINING ELIGIBILITY FOR FREE AND REDUCED PRICE MEALS AND FREE MILK IN SCHOOLS

1. In § 245.5, paragraph (b) is revised to read as follows:

§ 245.5 Public announcement of the eligibility criteria.

* * * * *

(b) Copies of the public release shall be made available upon request to any interested persons. Any subsequent changes in school's eligibility criteria during the school year shall be publicly announced in the same manner as the original criteria were announced.

(Pub. L. 79–396, 60 Stat. 231 (42 U.S.C. 1751); Pub. L. 89–642, 80 Stat. 885–890 (42 US.C. 1773); Pub. L. 91–248, 84 Stat. 207 (42 U.S.C. 1759))

Dated: July 12, 1982.

Samuel J. Cornelius,

Administrator, Food and Nutrition Service.

[FR Doc. 82–19020 Filed 7–15–82; 8:45 am]

BILLING CODE 3410–30–M

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7 CFR Part 282

[Amdt. No. 218]

Food Stamp Program; Expanded Cash-Out Demonstration Project

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rulemaking establishes procedures for conducting a demonstation project involving the payment of cash, in lieu of food stamps, to specific categories of eligible food stamp households. This demonstration is expected to produce cost savings and is authorized by Subsection 17(b)(1) of the Food Stamp Act of 1977, as amended. States and their local counterpart agencies wishing to participate in the project are encouraged to submit contract proposals for project sponsorship in accordance with the Request for Proposal (RFP) which is available from FNS.

DATES: Comments on the proposed rulemaking must be received on or before August 16, 1982 to be assured of consideration. Applications for project sponsorship must be submitted in accordance with the RFP requirements.

ADDRESS: Comments should be submitted to Claire Lipsman, Director, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia; 22302. All written comments will be open to public inspection at the offices of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) at Room 716, 3101 Park Center Drive, Alexandria, Virginia. Copies of the RFP are available from Robert Dickson, Contracting Officer, Room 903, at the same address.

FOR FURTHER INFORMATION CONTACT: Questions regarding this demonstration should be directed to Ms. Lipsman at the above address or by telephone at (703) 756–3414. Mr. Dickson can be reached by telephone at (703) 756–3250.

SUPPLEMENTARY INFORMATION:

Classification

This proposed action has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512–1, and has been classified not major because the provisions will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, industries, Federal, State or local governments, or geographical regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. These provisions will not significantly raise the Food Stamp Program's total benefit and administrative expenses. It is anticipated that the operation of these projects will demonstrate the feasibility

of future administrative cost savings in the Food Stamp Program. The project evaluation will determine the extent of the savings. Because these provisions deal only with the administration of the Food Stamp Program, they will not affect industry or trade in any substantive manner.

Regulatory Flexibility Act

This proposed action has also been reviewed with regard to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, September 19, 1980). The Administrator, Food and Nutrition Service, has certified that the action does not have a singificant economic impact on a substantial number of small entities. The rule would establish procedures under which State and local agencies would operate Expanded Cash-out Demonstration Projects. These projects are expected to demonstrate the feasibility of future administrative cost savings in the Food Stamp Program. As participation is voluntary and some additional administrative funding will be forthcoming, there should be no significant adverse impact on the workload, staffing needs, or paperwork of particpating State or county agencies.

Public Participation

In order to expedite the implementation of this demonstration project, Mr. Samuel J. Cornelius, Administrator of the Food and Nutrition Service, has established a 30 day comment period on the proposed regulations. Concurrently with the comment period entities which desire to be project sponsors may submit their applications. If significant changes are made in project regulations as a result of public comment, applicants for project sponsorship will be given an opportunity to either modify their applications (based on the final rules) or withdraw their applications. A longer comment period would significantly delay the selection process and thus hinder the exploration of the cost-saving features of cash-out for a larger segment of the food stamp population. The interests of Congress, FNS, and interested States would be best served by enabling project operator selection and implementation to occur as soon as possible.

Paperwork Reduction Act

This proposed regulation does not contain any reporting or recordkeeping requirements that come under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

Introduction

Section 17(b)(1) of the 1977 Food Stamp Act (Pub. L. 95–113) established the Department of Agriculture's authority to undertake demonstration projects for purposes of improving benefit delivery or the efficiency of program administration. That same legislation authorized the Department to conduct a demonstration involving the payment of cash, instead of coupons, to households comprised solely of supplementary security income (SSI) recipients or persons 65 years of age or older. Congress believed that such a demonstration might improve the participation rates of eligible elderly and disabled households. (Participation rates for these categories of households were estimated at 40–50 percent of eligibles.) (See The House Committee on Agriculture Report on the Food Stamp Act of 1977, House Report No. 95–464, 95th Congress, 1st Session, p. 97–101.) This demonstration, known operationally as the SSI/Elderly Cash-Out Demonstraton Project, began in April 1980 at eight sites across the country. Evaluation of the project focused on three major areas: (1) participation impact; (2) dietary and food expenditure impact; and (3) administrative costs.

Since 1977, there has been increased interest in learning about the impact of cash-out on other segments of the food stamp eligible population. As a result of these interests, in the 1981 Farm Bill (Public Law 97–98, 95 Stat. 1282, December 21, 1981) Congress amended Section 17(b)(1) of the Food Stamp Act in two ways. First, Congress allowed those State agencies operating an SSI/Elderly Cash-Out Demonstration on October 1, 1981, to continue those projects until September 30, 1985. Second, the Department was authorized to undertake an expanded version of the original cash-out demonstration to include not only those households in the original demonstration but also "mixed households" having at least one member receiving either aid to families with dependent children (AFDC) under Part A of Title IV of the Social Security Act or supplemental security income SSI) benefits under Title XVI of the Social Security Act.

The new language of Subsection 17(b)(1) also allows the Secretary to test a simplified method of determining household benefits. While some sites will be issuing cash in the amount of the household's normal food stamp allotment, other sites will issue cash equal to an average allotment amount based primarily on household size. Sites choosing to issue average allotments by household size will be able to streamline both administration and benefit issuance.

The 1977 Food Stamp Act had allowed the Secretary to grant waivers necessary for the operation of demonstration projects. The waiver authority was limited in that no project could be undertaken which would have the effect of lowering or further restricting the established income or resource standards or benefit levels. This restriction was intended to protect the eligibility and allotment levels of participant households. With respect to demonstration projects testing the use of average allotments, the 1981 Farm Bill removed this restriction from the Secretary's waiver authority. However, even though the waiver restriction has been removed, the Department wishes to ensure that such a demonstration project feature does not have a serious adverse effect on participants. To achieve this, average allotment levels will have to be constructed to consider factors other than household size, i.e., category of aid, income and allowable deductions. The project will be operated in a maximum of 16 sites for up to 15 months.

Subsection 17(f) of the Food Stamp Act of 1977, as amended, added by the 1981 Farm Bill, authorizes the Department to conduct a Simplified Application Demonstration Project. This project involves the use of simplified food stamp application procedures for recipients of certain types of categorical aid. To allow the testing of a wide range of program changes, in some sites operating a Simplified Application Demonstration Project, benefits may be issued in the form of cash. Proposed regulations for this demonstration will be published in the **Federal Register** shortly.

List of Subjects in 7 CFR Part 282

Food stamps, Government contracts, Grant programs—social programs, Research.

Accordingly, the Department proposes that 7 CFR Part 282 be amended as follows:

PART 282—DEMONSTRATION, RESEARCH, AND EVALUATION PROJECTS

In Part 282, a new § 282.20 is added to read as follows:

§ 282.20 Expanded cash-out demonstration project.

(a) *Purpose.* This section establishes procedures under which the Expanded Cash-Out Demonstration Project shall operate. This project is authorized by

Subsection 17(b)(1) of the Food Stamp Act of 1977, as amended. Under this project, households consisting entirely of members 65 years of age or older and households containing at least one member receiving aid to families with dependent children (AFDC) under Part A of Title IV of the Social Security Act or supplemental security income (SSI) benefits under Title XVI of the Social Security Act may be provided with cash instead of food stamp coupons. In some sites, the cash benefit will be equal to the food stamp allotment the household would otherwise receive. In other sites, the cash benefit will be an average allotment amount based on household size, category of aid, income, and other such factors. The purpose of the Expanded Cash-Out Project is to determine the impact of providing cash, instead of food stamps, on administrative costs, participation, and household food expenditures. The project will also examine the impact of providing average allotments instead of normally determined allotments. The project will be operated for up to fifteen months.

(b) *Effect of project on normal program requirements.* Subsection 17(b)(1) of the 1977 Food Stamp Act, as amended, establishes certain project requirements which, for the purposes of the project, override normal requirements contained in other sections of the Act. For the purpose of operating the Expended Cash-Out Demonstration Project, the following provisions of the Act shall be deemed modified or inapplicable.

(1) The definition of a food stamp allotment (Subsection 3(a) of the law) is modified to the extent that benefits will be provided in the form of cash.

(2) Because subsection 17(b)(1) provides for average allotments, subsection 8(a) of the Act, related to the value of allotments, shall be inapplicable in those sites which provide average allotments.

(c) *Regulatory requirements.* All current Food Stamp Program regulations, except where inconsistent with any rules governing this project, shall be in force during the operation of this project.

(d) *Areas of operation.* The Expanded Cash-Out Demonstration Project will be operated in no more than sixteen sites. The selection of these sites will be made by the Department based on proposals submitted in response to the Request for Proposal (RFP) by State and local welfare agencies wishing to participate in the project.

(e) *Project eligible households.* Each sponsoring agency shall decide which of the following categories of households will be eligible to participate in the project:

(1) Households all of whose members are 65 years of age or older;

(2) Households all of whose members receive AFDC benefits;

(3) Households all of whose members receive SSI benefits;

(4) Households all of whose members receive either AFDC or SSI benefits (multiple benefit households); and/or

(5) Households containing at least one member receiving AFDC and/or SSI benefits (mixed households).

(f) *Household participation and notification.* (1) All certified project eligible households residing in the selected project sites shall receive cash representing the value of their allotment. The State agency shall provide these households with a notice, prior to project inauguration, informing them that during the course of the project they will receive their food stamp benefits in the form of cash instead of coupons. In sites that provide average allotments, this notice will provide specific information on the value of the newly computed benefit and the formula used to calculate the benefit. This notice shall meet the requirements of a notice of adverse action, as set forth in § 273.13(a)(2).

(2) Newly applying project eligible households shall have their eligibility for food stamps determined according to standard program rules. The State agency shall also inform newly applying project eligible households that their benefits will be provided in the form of cash during the course of the project.

(3) In the month prior to the last month of project operation, the State agency shall notify all project participants of the termination of the project, the reinstitution of coupon issuance and, in areas where average allotments are used, the requirement that the household be recertified.

(g) *Benefit determination.* Benefit levels for project eligible households shall be determined in one of two ways, depending on the project design approved for each site:

(1) Standard procedures for calculating allotments, as prescribed in § 273.10(e), shall be used to determine each household's benefit level; or

(2) Project sponsors shall develop average allotments, by household size, for those categories of households which they designate as project eligible, and assign allotments on the basis of these average allotment tables.

(i) Subcategories of households and corresponding average allotments shall be developed, as appropriate, to consider the presence or absence of either earned income or an elderly or disabled household member.

(ii) The methodology to be used in developing average allotments shall be determined by the sponsoring agency, but shall be subject to FNS approval. The allotment level for each category and subcategory, by household size, shall be no less than the average allotment would have been were the project not in operation.

(iii) FNS may require sponsors to revise average allotments during the course of the project to reflect changes in areas such as Thrifty Food Plan levels, the benefit reduction rate, or benefit levels in AFDC or SSI.

(h) *Delivery of benefits.* Project participants shall be provided with program benefits by the State or local agency in the form of cash in accordance with the benefit delivery standards, and, where appropriate, expedited service standards afforded all other Food Stamp Program participants.

(1) Cash benefits shall be issued based on the benefit entitlement of each project eligible household.

(2) Check mailings, if used, shall be conducted in accordance with procedures established for the mail issuance of public assistance checks. The State agency shall provide project participants whose checks are lost or stolen in the mail with an opportunity to receive a replacement check. Check replacement shall be conducted in accordance with regulatory procedures governing coupons lost in the mail. Controls shall be applied to safeguard against repeated replacements in individual cases and an alternative delivery system used after two consecutive reports of nondelivery.

(i) *Quality control.* The State agency shall be responsible for handling households correctly classified for participation under the rules of this demonstration in accordance with the provisions of § 275.11(g) for quality control purposes. FNS has determined that the use of average allotments significantly modifies current procedures for determining allotments. Therefore, these cases will be excluded from the State's active and negative case error rates and the cumulative allotment error rate. The State's error rates will be based on the reviews of cases not included in such a demonstration project. Demonstration cases in sites issuing cash allotments based on standard program rules will not be excluded from the State's error rates.

(j) *Funding.* Sponsoring agencies shall be reimbursed at the usual rate of 50 percent for allowable costs associated

with administration of the demonstration projects which exceed the normal costs of program operations.

(k) *Monitoring and evaluation.* FNS shall establish procedures for monitoring sponsoring agencies' operation and administration of the Expanded Cash-Out Demonstration Project. The evaluation of the project shall be conducted by an independent contractor. The sponsoring agency shall, upon reasonable notification, provide the evaluation contractor with access to all information pertaining to project operations.

(91 Stat. 958 (7 U.S.C. 2011–2029); and Sec. 1330 of Public Law 97–98, 95 Stat. 1290 (7 U.S.C. 2026))

Dated: July 12, 1982.

Samuel J. Cornelius,

Administrator.

[FR Doc. 82–19302 Filed 7–15–82; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 1030

[Marketing Agreements and Orders; Milk]

Milk in the Chicago Regional Marketing Area; Temporary Revision of Shipping Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed temporary revision of rule.

SUMMARY: This notice invites written comments on a proposal that the supply plant shipping requirements under the Chicago Regional milk order be decreased temporarily for the months of September through December 1982. This action was requested by cooperative associations representing a majority of producers supplying the market to prevent uneconomic shipments of milk from the production area to distributing plants.

DATE: Comments are due on or before August 2, 1982.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, Room 1077 South Building, United States Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–7311.

SUPPLEMENTARY INFORMATION: It has been determined that this action is not a major rule under the criteria set forth in Executive Order 12291.

Also, it has been determined that the potential need for adjusting certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register.** However, this would not permit completion of the procedure in time to give interested parties timely notice that supply plant shipping requirements for September 1982 would be modified. The initial request for the action was received on June 28, 1982.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to assure that the market would be adequately supplied with milk for fluid use with a smaller proportion of milk shipments from pool supply plants.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the provisions of § 1030.7(b)(5) of the order, the temporary revision of certain provisions of the order regulating the handling of milk in the Chicago Regional marketing area is being considered for the months of September through December 1982.

All persons who desire to submit written data, views or arguments in connection with the proposed revision should file the same with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250 not later than August 2, 1982. Please submit two copies of the document filed. The period for filing views is being somewhat limited to enable the timely consideration of this matter since the proposed action would be applicable to milk shipments made during September. Further, the proposed change provides some reduction of pooling standards and will not require extensive preparation or substantial alteration in the method of operation for handlers.

All written submission made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The provisions proposed to be revised are the supply plant shipping percentages set forth in § 1030.7(b) that are applicable during the months of September through December 1982. Currently, the minimum shipping percentage of total producer receipts for pool supply plants and units of supply plants is 30 percent, 35 percent, 35 percent and 25 percent for September, October, November and December, respectively. In response to a public hearing held March 30, 1982, at Madison, Wisconsin, the Department issued a recommended decision on June 30, 1982, to amend the Chicago Regional order to permanently reduce by 5 percentage points the minimum shipping percentage for each month of September through December. It has been requested that the minimum percentages be reduced temporarily by an additional 10 percentage points for each month of September through December 1982.

Pursuant to the provisions of § 1030.7(b)(5) the supply plant shipping percentages set forth in § 1030.7(b) may be increased or decreased by up to 10 percentage points during the months of September through March to encourage additional milk shipments to pool distributing plants or to prevent uneconomic shipments.

The cooperative associations requesting the temporary revision indicate that their producer receipts for the September through December 1982 period will continue to be at a high level and be approximately the same as the similar period in 1981. They contend that with the high levels of milk supply in the market less milk will be needed to be delivered from supply plants to distributing (bottling) plants. The cooperatives ask that the shipping requirements be reduced 10 percentage points for each of the months of September, October, November and December 1982 on a temporary basis from the level the cooperative requested at the March 30 public hearing.

Also, the cooperatives said that with the possible curtailment of fluid sales by a Chicago pool distributing plant, the ability of a supply plant unit to pool its milk receipts in the coming months of September through December may be affected adversely.

Because of the continued high level of milk supply in the market, it may be appropriate to reduce the pool supply plant shipping percentages for these months. The proposed reduction in shipping percentages could prevent uneconomic movements of milk. Also, the reduction could assure that producers who have been regularly associated with the fluid market can continue to share in the pool proceeds of the market.

List of Subjects In 7 CFR Part 1030

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on July 13, 1982.

Joel L. Blum,

Acting Director, Dairy Division.

[FR Doc. 82-19301 Filed 7-15-82; 8:45 am]

BILLING CODE 3410-02-M

Rural Electrification Administration

7 CFR Part 1701

Public Information; Appendix A—REA Bulletins REA Specification for Filled Buried Service Wire, PE-86

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: REA proposes to amend Appendix A—REA Bulletins by issuing a new REA Bulletin 345-86, REA Specification for Filled Buried Service Wire, PE-86. This new specification will cover a two-pair 22 AWG filled core armored single jacket wire for use as a service drop in lengths not to exceed 500 feet (150 m).

REA, in its constant effort to provide the best, most cost-effective telecommunications for rural America has developed a specification for improved drop wire. This action will allow REA borrowers to take advantage of current wire technology while conserving petroleum raw materials. The improved wire will provide equivalent service at reduced costs.

DATE: Public comments must be received by REA no later than September 14, 1982.

ADDRESS: Submit written comments to Joseph M. Flanigan, Director, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Harry M. Hutson, Chief, Outside Plant Branch, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1342, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 382-8667. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to amend Appendix A—REA Bulletins by issuing a new REA Bulletin 345-86, REA Specification for Filled Buried Service Wire, PE-86. This proposed action has been reviewed in accordance with Executive Order 12291, Federal Regulation. The action will not (1) have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) result in significant adverse effects on competition, employment, investment or productivity and therefore has been determined to be "not major." This action does not fall within the scope of the Regulatory Flexibility Act and is not subject to OMB Circular A-95 review. This program is listed in the Catalog of Federal Domestic Assistance as 10.851—Rural Telephone Loans and Loan Guarantees.

Copies of the draft bulletin are available upon request from the address indicated above. All written submissions made pursuant to this action will be made available for public inspection during regular business hours, above address.

List of Subjects in 7 CFR Part 1701

Loan programs—communications, Telecommunications, Telephone.

Dated: July 9, 1982.

Jack Van Mark,

Acting Administrator.

[FR Doc. 82-19208 Filed 7-15-82; 8:45 am]

BILLING CODE 3410-15-M

Animal and Plant Health Inspection Service

9 CFR Parts 112 and 113

[Docket No. 82-018]

Viruses, Serums, Toxins, and Analogous Products; Revision of Autogenous Biologics Requirements

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would revise the requirements for autogenous biologics. As proposed, the amendments would remove restrictions on these products to permit recommendations for use in herds or flocks other than the one from which the organisms were isolated. Samples furnished for Veterinary Services testing would be increased for serials authorized to be prepared in large quantities. This reflects current practice for serials exceeding stated size limits. The time for initiating preparation of a product would be increased to 12 months from date of isolation. Maximum expiration date would be increased to 18 months from harvest. Observation periods for purity and safety tests would be increased to correspond to other licensed products, although shipment would continue to be permitted before tests are concluded.

DATE: Comments must be received on or before September 14, 1982.

ADDRESS: Interested parties are invited to submit written data, views, or arguments regarding the proposed regulations to: Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 828-A, Federal Building, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Dr. R. J. Price, Senior Staff Veterinarian, Veterinary Biologics Staff, USDA, APHIS, VS, Room 827, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8245.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512-1 to implement Executive Order 12291 and has been classified as a "Nonmajor Rule."

The proposed rule would not have a significant effect on the economy and would not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign based enterprises, in domestic or export markets. These revisions would reduce regulatory requirements.

Additionally, Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action would not result in an adverse economic impact on a substantial number of small entities. Small entities are defined as independently owned firms not dominant in the field of veterinary biologics manufacturing. This action would result in a beneficial effect to all licensed producers by enabling production of larger serials to be used over larger geographical areas.

Current regulations restrict the volume of a serial of an autogenous biologic to 100,000 doses for poultry and 1,000 doses for other animals (9 CFR 113.98). The regulations also state that autogenous biologics must be made

using isolates from the herd or flock in which the biologic will be used and prohibit label recommendations for use of the product in a herd or flock which is different from the one where the isolates were obtained (9 CFR 113.98 and 112.7).

This proposal would amend the above requirements by providing a mechanism for allowing the use of autogenous biologics in herds or flocks which are different from those where the isolate was obtained. It would also delete the prohibition against labels recommending such use in different herds or flocks. The reason for the proposed amendment is that experience has shown that organisms from one herd or flock can be effectively used to prepare autogenous biologics to combat the diseases at other locations.

In conjunction with the proposed amendment making provision for the use of autogenous biologics in other herds or flocks, the 100,000 and 1,000 dose limitation for autogenous biologics would be deleted since more doses might be needed if the product is used at additional locations. For similar reasons, this amendment proposes to extend the expiration dating of autogenous biologics from 6 months to 18 months. The maximum period permitted for use of a culture would also be extended from the current period of 30 days to 12 months since such longer period would be necessary if cultures are used to make product to be used at more than one location.

Finally in light of the other changes being proposed, this amendment would add a provision in 9 CFR 113.3 of the regulations which would specifically provide for the sampling of autogenous biologics other than bacterins. This proposal would also reduce the number of samples required if a serial of autogenous vaccine does not exceed 50 containers.

Lists of Subjects in 9 CFR Parts 112 and 113

Animal biologics, Exports, Imports, Labeling, Packaging and containers, Transportation.

PART 112—PACKAGING AND LABELING

Section 112.7(g) would be revised to read:

§ 112.7 Special additional requirements.

* * * * *

(g) In the case of autogeneous biologics, labels shall include the recommended dose, the number of repeat doses, if any, and the interval recommended between doses; *Provided,* That, the label shall not show:

(1) The identity of the herd or flock from which the culture was isolated; or

(2) The name(s) of the person(s) responsible for making the isolations.

* * * * *

PART 113—STANDARD REQUIREMENTS

Section 113.3(b) (2) and (10) would be revised to read:

§ 113.3 Sampling of biological products.

* * * * *

(b) * * *

(2) *Bacterins and bacterin-toxoids.* (i) Twelve samples of single-fraction bacterins and bacterin-toxoids.

(ii) Thirteen samples of double-fraction bacterins and bacterin-toxoids.

(iii) Fourteen samples of triple-fraction bacterins and bacterin-toxoids.

(iv) Fifteen samples of bacterins and bacterin-toxoids containing more than three fractions.

* * * * *

(10) *Autogenous biologics.* Two samples from each serial of autogenous biologics shall be selected; *Provided,* That, if the serial exceeds 50 containers, 12 samples shall be selected.

* * * * *

Section 113.98 (a) (2), (b), and (c) would be revised to read:

§ 113.98 Autogenous biologics

(a) * * *

(2) Under normal circumstances, isolates from one herd or flock shall not be used to prepare an autogenous biologic for another herd or flock. However, the Deputy Administrator may authorize preparation of an autogenous biologic for use in adjacent herds or flocks which are considered to be at risk. The Deputy Administrator may authorize preparation of an autogenous biologic for use in other herds or flocks (not adjacent) which he considers to be at risk, with written concurrence from proper State authorities.

* * * * *

(b) Unless otherwise authorized by the Deputy Administrator, each serial of an autogenous biologic shall be subject to the following restrictions:

(1) Autogenous biologics shall be prepared for emergency use only. Organisms shall not be used for production more than 12 months from isolation.

(2) The expiration date shall not exceed 18 months from harvest.

(c) *Testing Requirements.* Final container samples of completed product from each serial and subserial shall be tested for purity as prescribed in § 113.26, and for safety as prescribed in § 113.33(b) or § 113.38 except that:

(1) Serials which are satisfactory after the third day observation of purity test cultures and safety test animals may be released for shipment to the customer and the tests continued throughout the required period; and

(2) Serials released on the basis of satisfactory results of third day observations shall be immediately recalled if evidence of contamination occurs in test cultures or if any of the safety test animals sicken or die during the observation period.

All written submissions made pursuant to this notice will be made available for public inspection at the address listed in this document during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 12.7(b)).

Done at Washington, D.C. this 12th day of July 1982.

R. L. Rissler,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 82-19207 Filed 7-15-82; 8:45 am]

BILLING CODE 3410-34-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230 and 270

[Release Nos. 33-6415, IC-12542, S7-938]

Examination of Issues Presented by Investment Policies of Money Market Funds That Relate the Purchase of Securities Issued by Financial Institutions to Sales of Fund Shares to Customers of Those Institutions

AGENCY: Securities and Exchange Commission.

ACTION: Publication of issues to be considered at hearings and order of hearing.

SUMMARY: The Commission today published (1) a list of issues to be considered at public hearings concerning investment policies of money market funds that relate the purchase of securities issued by financial institutions to sales of fund shares to customers of those institutions, and (2) an order that specifies procedures for the hearings. The schedule of appearances will be announced by the Commission shortly before the hearings commence.

DATE: Hearings will commence on September 20, 1982, at 10:00 a.m.

ADDRESS: Hearings will be held in Room 1C40 of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

Any written submissions not prepared in connection with an oral presentation should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549 and should refer to File No. S7–938.

All witnesses desiring to make oral presentations should submit copies of their prepared statements to the Commission. Such materials should be directed to the attention of either Jane A. Kanter or Sandra M. Molley, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

All written submissions, including the written texts submitted in connection with oral presentations and transcripts of such oral presentations, will be available for public inspection at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Jane A. Kanter, Special Counsel (202–272–2107), Susan P. Hart, Attorney (202–272–2098), or Sandra M. Molley, Law Clerk (202–272–7317), Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The public hearings that are scheduled to commence on September 20, 1982, are for the purpose of giving the Commission the benefit of the views of interested members of the public concerning money market funds' investment policies that relate the purchase of securities issued by financial institutions to sales of fund shares to customers of those institutions. As discussed below, a money market fund has requested acceleration of the effective date of its registration statement which discloses its intention to implement an investment policy that would involve purchase by the fund of certificates of deposit of certain banks and other financial institutions in amounts that approximated the value of shares sold to customers of those institutions. At least one other fund has filed a registration statement describing a similar policy. Two other funds now disclose in their prospectuses that they intend to implement, if permitted by the Commission, a policy of giving preference in portfolio selections to securities of financial institutions whose customers purchase fund shares. The Commission considers it appropriate to defer its determination of whether to declare effective the registration statement of any investment company proposing to implement such a policy until such time as it has had the benefit of a public hearing on the legal and policy issues involved.

Visa Money Fund, Inc.

The request for acceleration currently before the Commission is that of Visa Money Fund, Inc. ("Visa Fund" or "Fund"), which has also requested that its representatives be permitted to make an oral presentation on the matter directly to the Commission. Visa Fund is registered as a no-load, open-end, diversified management investment company that will invest in short-term money market instruments, primarily certificates of deposit having 14-day maturities. Visa Fund proposes to make its shares available through banks and other financial institutions ("participating institutions") and to implement an investment policy whereby it would purchase certificates of deposit issued by the participating institutions. Visa Fund's registration statement states:

> This investment policy is designed to result in the Fund's holding certificates of deposit issued by banks and other financial institutions which typically do not receive deposits from money market funds, thus supplying monies to institutions which serve a broad range of local communities.

Visa Fund will invest in short-term money market securities, primarily certificates of deposit having 14-day maturities, issued daily by financial institutions which are members of Visa U.S.A., Inc.,[1] or Visa International Service Association (collectively referred to as "Visa Institutions"), provided that such institutions have assets of more than $300 million and meet Visa Fund's credit worthiness criteria. If a Visa Institution met these tests, Visa Fund would invest in its certificates of deposit in an amount that closely approximated the value of Visa Fund shares purchaed by customers of that institution.[2] A Visa Institution that did not meet these tests could, nevertheless, take advantage of Visa Fund's reciprocal investment policy by designating as its correspondent a Visa Institution that did satisfy these tests.[3] When customers supplied money to a participating institution for the purchase of Visa Fund shares, the institution would not have to transmit those funds to Visa Fund (although it would have the option of doing so). Instead, the institution could immediately issue and transmit its certificate of deposit in the amount of its customers' orders. Such certificates of deposit would bear an interest rate equal to the 30-Day Composite Rate for Primary Certificates of Deposit that is made available by the Federal Reserve Bank of New York.

Persons desiring more information regarding Visa Fund are invited to examine its registration statement (File No. 2–74889), available at the Commission's public reference room.

The Commission's Decision To Hold Hearings

The Commission's procedures do not provide for an opportunity for registrants or other interested persons to be heard on the question of whether a specific registration statement should be declared effective, and, while it appears to be within the Commission's authority to provide such an opportunity, the Commission is not doing so in this instance. The Commission believes, however, for the reasons set forth below, that it is appropriate to hold public hearings relating to the general issues presented by an investment policy of the type Visa Fund proposes to follow before making a determination whether to declare effective the registration statement of Visa Fund or any other investment company with an investment policy presenting similar issues.

The principal reason for holding public hearings on this matter is that the Commission's decision on the investment policy in question is one that might have a significant effect on the development of the money market fund industry. The Commission is not aware of any registered investment company now operating that relates its selection of port-folio securities to sales of fund shares. If Visa Fund goes forward with the implementation of this policy, it is

[1] Visa U.S.A., Inc., is a membership organization comprising over 12,000 United States financial institutions, including commercial banks, mutual savings banks, savings and loan associations, and credit unions.

[2] In addition to the size and credit worthiness tests, Visa Fund has a $10 million insurance policy which allows the Fund to indemnify shareholders against losses of principal in excess of $500,000 per year due to failure of a Visa Institution to redeem its certificates of deposit or other deposit obligations upon maturity.

[3] In situations in which Visa Fund cannot purchase certificates of deposit from Visa institutions whose customers purchase fund shares, or Visa institutions designated as correspondents, then Visa Fund will invest in (1) issues of, or guaranteed by the U.S. Government, its agencies or instrumentalities, and (2) repurchase agreements with respect to such issues.

possible that similar policies will become widespread in the industry. The Commission wishes to consider the extent to which such a development would be likely to occur and the effect, if any, that such a development could have on the interests of investors in money market funds.

Second, the element of reciprocity present in an investment policy that relates fund portfolio investments to sales of fund shares raises significant legal and policy questions under the Investment Company Act of 1940 ("1940 Act") (15 U.S.C. 80a–1—80a–64).

Third, in addition to Visa Fund's request to be heard with respect to acceleration of the effective date of its registration statement, a substantial number of persons have come forward to give the Commission their views on this matter, and some of these persons have also requested that the Commission conduct a hearing on the matter. Both supporting and opposing views have been expressed. In all cases, however, it appears that the issue of central interest to the commentators has been the Fund's policy calling for sales-related investment in certificates of deposit issued by participating institutions.

Fourth, the Commission wishes to offer interested persons an opportunity to present their views as to whether an arrangement such as that proposed by Visa Fund raises questions under the banking laws, whether such an arrangement would benefit the public by providing funds to local and regional banks, and to what extent the Commission should consider such matters in carrying out its responsibilities under the securities laws.

In light of the foregoing, the Commission has decided to hold public hearings to explore the legal and policy implications of the implementation by a money market fund of a sales-related investment policy and to receive the comments of all interested parties in the context of a public proceeding. This proceeding will provide those persons who have chosen to express their views on the matter to the Commission with a forum for making their views known as a matter of record. In this connection, the Commission is including in the public comment file relating to this proceeding, all third party letters received by it expressing views on Visa Fund's registration statement. Such views will not have to resubmitted in order to be considered by the Commission.

Persons interested in testifying or furnishing a written submission for the record should consult the procedural instructions contained under the heading "Procedures" at the conclusion of this release. During the period prior to the commencement of the hearings, interested investors, issuers, and members of the securities or banking industries may wish to form groups to organize and prepare their presentations.

Issues To Be Considered at the Hearings

General: Is it consistent with the purposes, policies, and provisions of the 1940 Act for a money market fund to follow an investment policy relating the purchase of securities issued by financial institutions to sales of fund shares to customers of those institutions (hereinafter referred to as a "Sales-Related Investment Policy")?

A. Questions under Section 36(a) of the 1940 Act [15 U.S.C. 80a–35(a)]

1. Would persons having fiduciary duties to the fund recognized by Section 36(a) of the 1940 Act breach those duties by permitting the fund to employ a Sales-Related Investment Policy?

2. Would such persons be deemed to have properly discharged their fiduciary duties to a fund if such a Sales-Related Investment Policy had been approved by the board of directors and by shareholders?

3. To what extent would the question of whether any such fiduciary duties have been properly discharged be affected by the nature and extent of prospectus disclosure of a Sales-Related Investment Policy?

B. Questions Under Section 17(d) of the 1940 Act [15 U.S.C. 80a–17(d)]

1. Would implementation of a Sales-Related Investment Policy involve participation in a joint enterprise or a joint arrangement between the fund and its affiliated persons, principal underwriter, or affiliated persons thereof within the meaning of Section 17(d) of the 1940 Act or Rule 17d–1 thereunder (17 CFR 270.17d–1)?

2. If so, are there conditions under which the Commission could properly issue an order pursuant to Rule 17d–1 permitting the use of such a policy? Should the Commission consider such a fund's expected rate of return in determining whether to grant such approval?

3. To what extent should the Commission consider prospectus disclosure of a Sales-Related Investment Policy in deciding whether to grant an application under Section 17(d) and Rule 17d-1 thereunder permitting the use of such a policy?

C. Questions under section 12(d)(3) of the 1940 Act [15 U.S.C. 80a-12(d)(3)]

1. Would a financial institution that made shares of a fund that had a Sales Related Investment Policy available to its customers be an underwriter of such shares within the meaning of Section 2(a)(40) of the 1940 Act (15 U.S.C. 80a-2(a)(40))?

2. If so, would the provisions of Section 12(d)(3) of the 1940 Act that makes it unlawful for a registered investment company to purchase any security issued by or other interest in the business of a person who is engaged in the business of underwriting prohibit the fund from purchasing certificates of deposit or other securities from such a financial institution?

3. If the financial institutions involved are deemed to be underwriters, would Rule 12d–1 under the 1940 Act (17 CFR 270.12d–) nonetheless permit the fund to purchase their securities, or would purchases made pursuant to a Sales-Related Investment Policy be deemed purchases not "solely for investment purposes"? If the exemption provided in Rule 12d–1 is not available, are there conditions under which the Commission could properly issue an order pursuant to Section 6(c) of the 1940 Act (15 U.S.C. 80a–6(c)) permitting the use of such a policy?

4. To what extent should the Commission consider prospectus disclosure of a Sales-Related Investment Policy in deciding whether to issue an order pursuant to Section 6(c) permitting the use of such a policy?

D. Other issues under the Securities Laws

Does a Sales-Related Investment Policy present issues under any other provisions of the 1940 Act or the securities laws generally?

E. Legal and Policy Questions Involving Banks

1. What, if any, questions does the use by a fund of a Sales-Related Investment Policy raise under the Glass-Steagall Act or other banking laws and regulations, and to what extent should the Commission consider such matters in carrying out its responsibilities under the securities laws?

2. What, if any, public benefit would be provided by a fund's use of a Sales-Related Investment Policy?

3. What, if any, public detriment would result from a fund's use of a Sales-Related Investment Policy?

Procedures

A. Written Submissions

Interested persons are invited to submit their views on the foregoing questions in writing by August 25, 1982. Written submissions should be made in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549 and refer to File No. S7–938.

B. Oral Presentations

Any interested person desiring to make an oral presentation of his views at the hearings is requested to write or call Jane A. Kanter (202–272–2107), Susan P. Hart (202–272–2098) or Sandra M. Molley (202–272–7317), Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, not later than August 25, 1982. The hearings will begin at 10 a.m. on September 20, 1982 and will be held in Room 1C40 at the above address.

It has been tentatively determined to limit oral statements to 30 minutes each plus such further time as may be necessary to answer questions. Depending upon the number of persons requesting to be heard, appearances may be more limited. Additional time may be granted at the discretion of the hearing officer upon written request timely submitted with copies of the witness's prepared statement. All witnesses shall be required to submit 25 copies of their prepared statements at least 5 business days in advance of their scheduled date of appearance.

It is requested that persons making oral statements be prepared to respond to specific inquires from the Commission and its staff. Any person may submit in writing to the hearing officer questions that he wishes to have directed to a particular witness or group of witnesses, but the hearing officer will determine in his sole discretion whether, or to what extent, to direct those questions to any witnesses.

The Commission has designated Joel H. Goldberg, Richard W. Grant, Anthony A. Vertuno, and Edward F. Greene or his designee as hearing officers. The hearings will be conducted for the Commission by the Division of Investment Management.

IV. Statutory Authority

The public hearing has been ordered by the Commission pursuant to sections 6(a), 8(a), 10(a), 19(a) and 21 of the Securities Act of 1933 [15 U.S.C. 77f(a), 77h(a), 77j(a), 77s(a), 77u]. Section 41 of the Investment Company Act of 1940 (15 U.S.C. 40) and rule 21 of the Commission's Rules of Practice (17 CFR 201.21).

By the Commission.

List of Subjects

17 CFR Part 230

Reporting requirements, Securities.

17 CFR Part 270

Investment companies, Reporting requirements, Securities.

George A. Fitzsimmons,

Secretary.

July 9, 1982.

[FR Doc. 82–19295 Filed 7–15–82; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 299

[Docket No. 81N–0263]

Designated Names; Revocation of List of Official Names of Drugs

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to revoke the existing list of official names of drugs designated by the agency. Nonproprietary drug names adopted by the U.S. Adopted Name (USAN) Council will serve as "established names" under section 502(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(e)) unless FDA designates an official name for a drug because it finds the USAN to be unduly complex or not useful. This action will make it unnecessary for FDA to publish routinely as official names those names of drugs adopted by the USAN Council, and it will not affect the availability to the public of current information on acceptable "established names" of drugs.

DATE: Comments by September 14, 1982.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–32, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Ed Farha, National Center for Drugs and Biologics (HFD–30), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6490.

SUPPLEMENTARY INFORMATION: Section 502(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(e)) requires that the label of a drug product bear its "established name," if there is one, to the exclusion of any other nonproprietary name (except the applicable systematic chemical name or chemical formula). The term "established name" is defined in the same sections (1) an official name designated by the agency under section 508 of the act (21 U.S.C. 358), or (2) if an official name has not been designated, then the offical title of a drug recognized in an official compendium, or (3) if neither (1) nor (2) applies, then the common or usual name of a drug.

Thus, an official name designated by the agency is the "established name" for purposes of the labeling requirements in section 502(e) of the act. The Commissioner of Food and Drugs has the authority under section 508 of the act to designate an official name of a drug. Exercising this authority is not mandatory, but is to be done if deemed necessary or desirable in the interest of usefulness and simplicity. Under this authority the agency began publishing in 1967 official names of drugs in Title 21 of the Code of Federal Regulations. This list, which has been updated periodically as new official names have been designated, currently comprises over 450 official names of drugs. The agency has selected these names almost entirely from those names adopted by the USAN Council, although the agency's policy has been to omit the word for the salt, ester, or other chemical combinations when publishing this list.

The USAN Council was established in 1964 to provide a systematic method for selecting and assigning scientifically acceptable nonproprietary names for drugs. The three organizations that sponsor the USAN program—the American Medical Association, the U.S. Pharmacopeial Convention, and the American Pharmaceutical Association—do so through representation on the USAN Council. In addition, FDA has been represented on the Council since 1967, and has voting power in the Council's selection of drug names.

The USAN Council becomes involved very early in the selection of a nonproprietary drug name. A request to the USAN Council to establish a U.S. Adopted Name (USAN) originates usually from a manufacturer who has developed a substance of potential therapeutic utility to the point where there is a distinct possibility of its being marketed in the United States. Occasionally, the initiative is taken by the USAN Council in the form of a request to parties interested in a substance for which a nonproprietary name appears to be lacking. For a

substance that is regarded as an "Investigational New Drug" under the act, the process of selecting a USAN is usually initiated by the manufacturer during the period of investigation when the substance is under clinical study, so that the adoption of the USAN will be complete by the time the relevant new drug application (NDA) is filed.

Once general agreement by the Council has been reached on a name, the name is published in the Trademark Bulletin of the Pharmaceutical Manufacturers Association as a "Proposed USAN." This informs interested persons of the Council's intention to adopt the name, and serves as an invitation for comments or objections. If no objections are received, the tentatively adopted USAN is then submitted for consideration to several cooperating agencies, including the World Health Organization, the British Pharmacopeia Commission, the Nordic Pharmacopeia Council, as well as the United States Pharmacopeia and the National Formulary, and FDA. If no objections are raised, adoption is considered final and the USAN is published in the "New Names" section of the *Journal of the American Medical Assocation*, copies of which are distributed widely to the American pharmaceutical press.

A cumulative list of drug names which have been selected and released by the USAN Council since June 15, 1961 is published yearly by the U.S. Pharmacopeial Convention, Inc., as the *USAN and the USP Dictionary of Drug Names*. Copies of this publication may be obtained from the U.S. Pharmacopeial Convention, Inc., 12601 Twinbrook Parkway, Rockville, MD 20852.

Because of the skill and expertise the USAN Council has shown in deriving useful nonproprietary names for drugs, the wide publicity each USAN quickly receives, and because the drug names which FDA has designated in the past as official names have been almost identical to those in USAN, the agency believes that FDA's routine publication of these official names is duplicative and unnecessary. Therefore, the agency proposes to stop routinely publishing official names of drugs. It would instead publish official names only in those instances specifically listed in section 508(c) of the act as appropriate for such action: (1) When the USAN or other official or common or usual name is unduly complex or not useful; (2) when two or more official names have been applied to a single drug, or to two or more drugs which are substantially identical in strength, quality, and purity; or (3) when no official name has been applied for a medically useful drug.

The effect of the proposal would be that unless FDA takes positive action by publishing an official name under section 508 of the act, a drug name adopted by the USAN Council will be the drug's "established name." For a compendial drug, a USAN will be the "established name" because it will likely be the name recognized in the compendia. For noncompendial drugs, a USAN will be the "established name" because it is likely to be the drug's common and usual name because of the Council's early involvement in the selection of a drug name, the manner in which a proposed USAN is extensively reviewed by cooperating agenices, including the FDA and the USP, and the wide publicity a USAN quickly receives after being officially adopted.

Accordingly, the agency proposes to revoke the existing list of official names in § 299.20 *Drugs; official names* (21 CFR 299.20). The section will serve as the locus, in the future, if needed, for only those official names of drugs for which the agency determines the drug name is unduly complex or otherwise unuseful, or for the other reasons listed in section 508(c) of the act. For such cases, FDA will designate an official name under section 508(a) of the act and in turn, publish it in § 299.20, as it has done in the past.

The agency believes that this policy is consistent with the intent of section 508(a) of the act, which provides the Commissioner with discretionary authority to designate an official name of a drug when deemed desirable in the interest of usefulness and simplicity. Further, revoking the list in § 299.20 will eliminate the need for FDA to update periodically the list of official drug names. Current information on acceptable "established names" of drugs will continue to be readily available to the general public through the *USAN and the USP Dictionary of Drug Names*, which is republished annually.

A proposal was published in the **Federal Register** of September 13, 1977 (42 FR 45938) to update the list of official names of drugs to reflect changes in chemical structure and the addition of new official names. Therefore, pending final determination of this action to revoke the list of designated official names in § 299.20, no further action will be taken on the September 13, 1977 proposal.

The agency has determined pursuant to 21 CFR 25.24(b)(12) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA has carefully analyzed the regulatory impact and regulatory flexibility of the proposed regulation in accordance with Executive Order 12291 and the Regulatory Flexibility Act (Pub. L. 96-354). The agency has determined that the proposed regulation would not affect the availability to the public of current information on acceptable established names of drugs. Further, it would not result in any significant increase in cost for obtaining this information. Information concerning established names of drugs would be available in the *USAN and the USP Dictionary of Drug Names* instead of the Code of Federal Regulations. *The USAN and the USP Dictionary of Drug Names* are republished annually and can be found in most medical libraries. Most interested persons needing this information, however, would probably already possess a current copy of this volume because it has been widely used in the past as a reliable and up-to-date source for nonproprietary names of drugs. This is particularly true of drug manufacturers from whom a request to the USAN Council to designate a drug name normally originates. For these reasons, therefore, the agency has determined that the proposed rule is not a "major rule" as defined in Executive Order 12291. Further, the agency certifies that the proposed rule, if implemented, will not have a significant impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act.

List of Subjects in 21 CFR Part 299

Drugs, Official names.

PART 299—DRUGS: OFFICIAL NAMES AND ESTABLISHED NAMES

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 301, 501, 502, 505, 508, 701(a), 52 Stat. 1042–1043 as amended, 1049–1053 as amended, 1055 (21 U.S.C. 331, 351, 352, 355, 358, 371(a))) and under 21 CFR 5.11 (see 47 FR 16010; April 14, 1982), it is proposed that Part 299 be amended as follows:

1. In § 299.4 by revising the second sentence of paragraph (d) and by adding new paragraphs (e) and (f), to read as follows:

§ 299.4 Established names for drugs.

* * * * *

(d) * * * In addition, the Food and Drug Administration agrees with the "Guiding Principles for Coining U.S.

Adopted Names for Drugs," published in the *USAN and the USP Dictionary of Drug Names.* * * *

(e) The Food and Drug Administration will not routinely designate official names under section 508 of the act. As a result, the established name under section 502(e) of the act will ordinarily be either (1) the compendial name of the drug, or (2) if there is no compendial name, the common and usual name of the drug. Interested persons, in the absence of the designation of an official name in § 299.20 of this chapter, may rely on as the established name for any drug the name listed in the *USAN and the USP Dictionary of Drug Names.* The Food and Drug Administration, however, will continue to publish official names under the provisions of section 508 of the act when it is determined that (i) the USAN or other official or common or usual name is unduly complex or is not useful for any other reason, (ii) when two or more official names have been applied to a single drug, or to two or more drugs which are identical in chemical structure and pharmacological action and which are substantially identical in strength, quality, and purity, or (iii) when no such name has been applied to a medically useful drug. Any official name published under section 508 of the act will, or course, be the established name of the drug.

(f) A cumulative list of U.S. adopted names selected and released since June 15, 1961, is published yearly by the U.S. Pharmacopeial Convention, Inc., as the *USAN and the USP Dictionary of Drug Names.* Copies may be purchased from: U.S. Pharmacopeial Convention, Inc., 12601 Twinbrook Parkway, Rockville, MD 20852.

§ 299.20 [Removed and reserved]

2. By removing § 299.20 *Drugs; official names* and designating it "[Reserved]."

Interested persons may, on or before September 14, 1982, submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 13, 1982.
Arthur Hull Hayes, Jr.,
Commissioner of Food and Drugs.

Dated: June 24, 1982.
Richard S. Schweiker,
Secretary of Health and Human Services.

[FR Doc. 82–19346 Filed 7–15–82; 8:45 am]
BILLING CODE 4110–01–M

DEPARTMENT OF LABOR

Wage and Hour Division, Employment Standards Administration

29 CFR Part 519

Employment of Full-Time Students at Subminimum Wages

AGENCY: Wage and Hour Division, ESA, Labor.

ACTION: Notice of proposed rulemaking.

SUMMARY: The regulations governing the employment of full-time students at subminimum wages currently limit the effective period of a certificate authorizing such employment to a period of not more than one year. Consequently, employers are required to submit renewal applications annually in order to retain the authority to pay full-time students at subminimum wages. In order to alleviate the burden this requirement places on employers and to permit greater flexibility in fixing the duration of these certificates, the Department proposes to amend the regulations to allow for certification periods of a longer duration, which will be determined at the discretion of the Administrator of the Wage and Hour Division. This change will not affect any other terms or conditions of employment under the regulations.

Interested persons are invited to submit written comments on this proposal.

DATE: Comments should be received on or before August 16, 1982.

ADDRESS: Send written comments to William M. Otter, Administrator, Wage and Hour Division, Employment Standards Administration, Room S–3502, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: James L. Valin, director, Division of Minimum Wage and Hour Standards, Wage and hour Division, U.S. Department Labor, Washington, D.C. 20210, (202) 523–7043. This is not a toll-free number

SUPPLEMENTARY INFORMATION:

Classification

This rule is not classified as a "major rule" under Executive Order 12291 on Federal Regulation, because it is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal. State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, no regulatory impact analysis is required.

Furthermore, the Department believes that amendment of 29 CFR Part 519 will have no "significant economic impact * * * upon a substantial number of * * * small [business] entities" within the meaning of section 3(a) of the Regulatory Flexibility Act, Pub. L. No. 96–354, 91 Stat. 1164, 5 U.S.C. 605(b). The Secretary has certified to the Chief Counsel for Advocacy of the Small Business Administration to this effect.

This conclusion is based upon all information presently available to the Department. Accordingly, no initial regulatory flexibility analysis is required.

Background

Section 14(b) of the Fair Labor Standards Act provides that the Secretary of Labor "shall by special certificate issued under a regulation or order provide * * * for the employment [at subminimum wages] of full-time students * * * in retail or service establishments." This section also provides for such employment in agriculture and institutions of higher education.

Pursuant to this authority, the Secretary has issued regulations, published as Part 519 of Title 29 of the Code of Federal Regulations. Part 519 in §§ 519.6(a) and 519.16(a) provides that "A full-time student certificate will not be issued for a period longer than one year." The administrative burden upon employers of full-time students resulting from annual certificate renewals is not required by the statute. Although this requirement has been a part of the regulations for 20 years, the Department has no evidence to conclude that limiting the effective period of a certificate to one year has in any way led to greater compliance with the terms and conditions of the statute or the

regulations. Nor has the requirement for annual renewal, in itself, helped to insure that the section 14(b) partial exemption from the minimum wage "will not create a substantial probability of reducing the full-time employment opportunities" of persons other than those employed under special certificates as required by the statute.

List of Subjects in 29 CFR Part 519

Agriculture, Colleges and universities, Minimum wages, Students, Retail, Wage and Hour Division.

PART 519—EMPLOYMENT OF FULL-TIME STUDENTS AT SUBMINIMUM WAGES

§ 519.6 [Amended]

§ 519.16 [Amended]

Accordingly, the following action is proposed: 29 CFR 519.6(a) and 519.16(a) are amended by removing the first two sentences of each subsection and substituting the following in lieu thereof: "A full-time student certificate shall be effective for a period to be designated by the Administrator or his authorized representative. A certificate will not be issued retroactively."

This document was prepared under the direction and control of William M. Otter, Administrator, Wage and Hour Division, U.S. Department of Labor.

Signed at Washington, D.C., this 12th day of July, 1982.

Robert B. Collyer,

Deputy Under Secretary for Employment Standards.

William M. Otter,

Administrator, Wage and Hour Division.

Regulatory Flexibility Act Certification:

I, Raymond J. Donovan, Secretary of Labor, hereby certify, pursuant to 5 U.S.C. 605(b), that the proposed amendment of 29 CFR Part 519, Employment of Full-Time Students at Subminimum Wages regulations, will not have significant economic impact on a substantial number of small entities. This conclusion is based upon all information available to the Department.

Dated: July 1, 1982.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 82-19317 Filed 7-15-82; 8:45 am]
BILLING CODE 4510-27-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 9

Mining and Mining Claims; Petition for Rulemaking and Request for Comments; Extension of Comment Period

AGENCY: National Park Service, Interior.

ACTION: Extension of the comment period.

SUMMARY: On June 1, 1982 (47 FR 23768) the National Park Service published a notice of petition, received from American Borate Co., Cyprus Industrial Minerals, Pfizer, Inc., and U.S. Borax, to amend the regulations governing mining activities on patented and valid unpatented mining claims within units of the National Park System. This notice extends the comment period on that petition for rulemaking.

DATES: Written comments will be accepted until August 10, 1982.

ADDRESS: Comments should be addressed to: Associate Director, Management and Operations, National Park Service, 18th and C Streets, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Willis Kriz, Land Resources Division, National Park Service, Telephone (202) 523–5252.

SUPPLEMENTARY INFORMATION: On June 1, 1982, the National Park Service published a petition for rulemaking and request for comments on the regulations governing mining activities within units of the National Park System. The petitioners noted in their submission that the four-year moratorium on surface disturbance expired on September 28, 1980, and has not been renewed or extended. This rendered obsolete portions of 36 CFR Part 9, Subpart A. The Department agrees some changes are required because the moratorium has expired. The petitioners also submitted numerous specific amendments to the existing regulations, which were published in full. They maintain the amendments better balance the need to protect valid existing rights and efficient resource production with the need to protect park values.

Several individuals and organizations have requested an additional period of time in which to comment. Because of the interest expressed in the petition for rulemaking and to ensure maximum public involvement, the Service is extending the comment period until August 10, 1982.

Dated: July 12, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-19310 Filed 7-15-82; 8:45 am]
BILLING CODE 4310-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 2162-5]

Illinois; Approval and Promulgation of Implementation Plans

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: EPA is proposing rulemaking on a revision to the Illinois State Implementation Plan (SIP) for Sulfur Dioxide (SO_2). The revision pertains to SO_2 Emission Limits for Solid Fuel Combustion Sources within Major Metropolitan Areas (MMAs) other than Chicago, Peoria and St. Louis (Illinois portion.) EPA's action is based upon a revision request which was submitted by the State to satisfy the requirements of Part D of the Clean Air Act (Act).

DATE: Comments on this revision and on the proposed EPA action must be received by August 16, 1982.

ADDRESSES: Copies of the SIP revision are available at the following addresses for review. (It is recommended that you telephone Randolph O. Cano at (312) 886–6635 before visiting the Region V Office.)

Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Illinois Environmental Protection Agency, Division of Air Pollution Control, 2200 Churchill Road, Springfield, Illinois 62706

Comments on this proposed rule should be addressed to: (Please submit an original and thirteen copies if possible.)

Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Air Programs Branch, Region V, Environmental Protection Agency Chicago, Illinois, (312) 886–6035.

SUPPLEMENTARY INFORMATION: On July 29, 1981, the State submitted a May 8, 1981 Illinois Pollution Control Board (IPCB) Final Order (R78–14) as a proposed revision to the Illinois SIP. This final Order repeals Rule 204(c)(1)(D) and amends Rule 204(h) to delete reference to Rule 204(c)(1)(D). Rule 204(c)(1)(D) was incorporated into the Illinois SIP on May 3, 1972 (37 FR

10862) as IPCB Rule 204(c)(B)(ii). This action also incorporated Rule 204(h).

Rule 204(c)(1)(D) requires existing solid fuel combustion sources within MMA's other than the Chicago, Peoria and St. Louis (Illinois portion) MMA's to meet a 1.8 lbs SO_2/MMBTU emission limit, if any Illinois Environmental Protection Agency (IEPA) monitor within the MMA records an annual arithmetic average SO_2 level greater than 60 $\mu g/M^3$ (0.02 ppm) for any year ending prior to May 30, 1976 or 45 $\mu g/M^3$ (0.015 ppm) for any year ending after May 30, 1976.

Rule 204(h) contains a compliance date for Rule 204(c)(1)(D) of three years from the date upon which the IPCB promulgates an Order of Compliance under the provisions of Rule 204(c)(1)(D). Rule 204(c)(1)(D) was promulgated in order to protect a 60 $\mu g/M^3$ annual average secondary National Ambient Air Quality Standard (NAAQS); this standard was subsequently withdrawn.

At the IPCB hearings, the following facts were presented in support of the deletion of these rules. Rule 204(c)(1)(D) has never been implemented since it was promulgated in April 1972. This rule was designed to protect a NAAQS which no longer exists. IEPA, in the event of a potential SO_2 problem in any MMA, could bring about necessary changes more expeditiously without resorting to using this rule since this rule requires at least three years to produce a new emission limit.

EPA proposes to approve the deletion of these rules from the Illinois SIP since it is not necessary to assure attainment and maintenance of the SO_2 NAAQS. All interested parties are invited to comment on the proposed SIP revision and EPA's proposed approval of it. Comments should be submitted to the address listed in front of this notice. Public comments received on or before August 16, 1982, will be considered in EPA's final rulemaking on this proposed SIP revision. All public comments received will be available for inspection at Region V Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

Under 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides.

(Secs. 110, 172 and 301(a), Clean Air Act, as amended (42 U.S.C. 7410, 7502 and 7601(a))

Dated: June 22, 1982.

Alan Levin,

Acting Regional Administrator.

[FR Doc. 82-19290 Filed 7-15-82; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 60

[AD-FRL-2145-3]

Standards of Performance for New Stationary Sources; Alternative Sampling Procedures for Sulfuric Acid Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The purpose of this action is to propose an alternative procedure for determining the SO_2 or sulfuric acid mist emission rate based on measurements of O_2 and SO_2 or acid mist concentrations in the plant exhaust.

These revisions would apply to all sources subject to the standards of performance for sulfuric acid plants.

DATE: *Comments.* Comments must be received on or before September 14, 1982.

Public Hearing. A public hearing will be held, if requested. Persons wishing to request a public hearing must contact EPA by August 16, 1982. If a hearing is requested, an announcement of the date and place will appear in a separate **Federal Register** notice.

ADDRESS: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (A-130), Attention: Docket Number A-82-03, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

Public Hearing. Persons wishing to present oral testimony should notify Mrs. Naomi Durkee, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5578.

Docket. Docket No. A-82-03, containing materials relevant to this rulemaking, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Roger Shigehara, Emmission Measurement Branch (MD-19), Emission Standards and Engineering Division, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-2237.

SUPPLEMENTARY INFORMATION: Subpart H of 40 CFT Part 60 contains standards of performance for the sulfuric acid manufacturing plant industry including sulfur dioxide (SO_2) and sulfuric acid mist emission rate limits and continuous monitoring requirements. Data from emission measurement tests and continuous monitoring systems must be converted from units of SO_2 or sulfuric acid mist concentrations to the units of the standard in kg per metric ton of acid produced (lb per short ton). The present procedure for this conversion requires the measurement of the inlet SO_2 to the plant converter and the calculation of a production rate factor in kg per metric ton per ppm (lb per short ton per ppm) for each 8-hour period.

The proposed revisions allow the source to measure O_2 concentrations in the exhaust gas as an alternative to measurements of SO_2 inlet concentrations and process production rates in obtaining SO_2 or sulfuric acid mist emission rates from sulfuric acid plants. The procedure is applicable for plants that oxidize elemental sulfur or oxidize ore that contains elemental sulfur. The procedure does not apply to plants which use spent acid or use gas streams containing hydrogen sulfide in the production of acid.

The alternative procedure is based on a sulfur mass balance determination of the sulfuric acid production progress. It is accurate to the accuracy level of the measurements. The revision is appropriate for the applicable plants as it provides a means of reducing the testing requirements without loss of emissions data.

These revisions would apply to all sources subject to the standards of performance for sulfuric acid plants. This rulemaking would not impose and additional emission measurement requirements on any facilities. Rather, the rulemaking would simply revise the emission measurement calculation procedures allowing an alternative to procedures that would apply irrespective of this rulemaking.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

(Sec. 111, 114, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7411, 7414, and 7601(a))

Dated: July 7, 1982.

Anne M. Gorsuch,

Administrator.

Lists of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroluem, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal, Zinc.

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

It is proposed that Subpart H of 40 CFR Part 60 be amended as follows:

1. By adding a paragraph (d) to § 60.84 as follows:

§ 60.84 Emission monitoring.

* * * * *

(d) Alternatively, a source that processes elemental sulfur or an ore that contains elemental sulfur may use the following continuous emission monitoring approach and calculation procedures in determining SO_2 emissions rates in terms of the standard. Continuous emission monitoring of SO_2, O_2, and CO_2 (if required) shall be installed, calibrated, maintained, and operated by the owner or operator according to this procedure in Performance Specifications 2 and 3. This calibration procedure and span value for this SO_2 monitor shall be as specified in paragraph (b) of this section. This span value for CO_2 (if required) shall be 10 percent and for O_2 shall be 20.9 percent (air). A conversion factor based on process rate data is not necessary. Calculate the SO_2 emission rate as follows:

$$E_{sos} = C_{os}\, S \frac{1}{0.263 - 0.0126(O_2) - A(CO_2)}$$

Where:

E_{sos} = SO_2 emission rate, kg/t acid (1b/ton acid).

E_{sos} = SO_2 concentration, kg/dscm (1b/dscf) (see Table below).

S = Acid production rate factor.
- = 368 dscm/t acid for metric units.
- = 11800 dscf/ton acid for English units.

O_2 = O_2 concentration, percent.

A = Auxiliary fuel factor.
- = 0.00 for no fuel.
- = 0.0226 for methane.
- = 0.0217 for natural gas.
- = 0.0196 for propane.
- = 0.0172 for #2 oil.
- = 0.0161 for #6 oil.
- = 0.0148 for coal.
- = 0.0126 for coke.

CO_2 = CO_2 concentration, percent.

Note.—It is necessary in some cases to convert measured concentration units to other units for these calculations:

Use the following Table for such conversions:

From—	To—	Multiply by—
g/scm	kg/scm	10^{-3}
mg/scm	kg/scm	10^{-6}
ppm(SO_2)	kg/scm	2.660×10^{-6}
ppm(SO_2)	lb/scf	1.660×10^{-7}

2. By adding a paragraph (e) to § 60.85 as follows:

§ 60.85 Test methods and procedures.

* * * * *

(e) Alternatively, a source that processes elemental sulfur or an ore that contains elemental sulfur may use the SO_2, acid mist, O_2, and CO_2 (if required) measurement data in determining SO_2 and acid mist emission rates in terms of the standard. Data from the reference method tests as specified in (a) of this part are required; that is, Method 8 for SO_2 and acid mist and Method 3 for O_2 and CO_2. No determinations of production rate or total gas flow rate are necessary. Calculate the SO_2 and acid mist emission rate as described in § 60.84(d) substituting the acid mist concentration for C_{SOS} as appropriate.

[FR Doc. 82-19408 Filed 7-15-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 433

Medicaid Program; Interest on Disputed Medicaid Claims

Correction

In FR Doc. 82-18194, appearing at page 29275, in the issue of Tuesday, July 6, 1982, make the following changes:

On page 29276, in the second column, the middle of the column, the equation should read:

"$4.035 divided by 91 × 365 divided by $95.965 = 16.185 (true discount rate)".

On page 29277, in the second column, change the Part Heading to read "PART 433—STATE FISCAL ADMINISTRATION".

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 82-358; RM-4057]

FM Broadcast Station in Anchorage and Wasilla, Alaska; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign Channel 289 to Wasilla, Alaska, as its first FM channel assignment and substitute Channel 285A for Channel 288A at Anchorage, Alaska, in response to a request from Snow Peak Corporation. The license for Station KNIK-FM at Anchorage is proposed to be modified to specify the substitute channel.

DATES: Comments must be filed on or before August 16, 1982, and reply comments on or before August 31, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Phil Cross, Broadcast Bureau, (202) 632-5414.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making and Order To Show Cause

Adopted: June 28, 1982.

Released: July 7, 1982.

By the Chief, Policy and Rules Division.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Anchorage and Wasilla, Alaska); BC Docket No. 82-358, RM-4057.

1. Snow Peak Corporation ("petitioner") requests that FM Class C Channel 289 be assigned to Wasilla, Alaska, as its first FM channel assignment. This proposal would require the substitution of Channel 285A for Channel 288A at Anchorage, Alaska. Petitioner further requests that the license of Station KNIK-FM on Channel 288A be so modified.

2. Petitioner submitted demographic and preclusion data in support of a Class C assignment which is no longer considered in FM assignment cases in accordance with the action taken in the

Second Report and Order (BC Docket 80–130) 47 FR 26624, published June 21, 1982.

3. Petitioner affirms that it would reimburse the licensee of Station KNIK–FM for reasonable costs incident to the modification of its facilities to Channel 285A. We are herein issuing an *Order to Show Cause* to the licensee of Station KNIK to permit the substituition of channels. The petitioner also states that, if the licensee of Station KNIK–FM declined to modify its operation, other alternative channel changes could be made.

4. The Commission believes that the provision of a first FM service to Wasilla warrants our proposing an amendment to the FM Table of Assignments, § 73.202(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Anchorage, Alaska	263, 267, 271, *276A, 281, 288A, 293, 298.	263, 267, 271, *276A, 281, 285A, 293, and [illegible].
Wasilla, Alaska		[illegible].

5. It is ordered, That pursuant to section 316(a) of the Communications Act of 1934, as amended, Station KNIX, Anchorage, Alaska, shall show cause why its license should not be modified to specify operation on Channel 285A, as proposed herein instead of the present Channel 288A.

6. Pursuant to § 1.87 of the Commission's Rules, the licensee of Station KNIX may, not later than August 31, 1982, request that a hearing be held on the proposed modification. If the right to request a hearing is waived, Station KNIX may, not later than August 31, 1982, file a written statement showing with particularity why its license should not be modified as proposed in the *Order to Show Cause*. In this case, the Commission may call on the licensee of Station KNIX to furnish additional information, designate the matter for hearing, or issue, without further proceedings, an Order modifying the license as provided in the *Order to Show Cause*. If the right to request a hearing is waived and no written statement is filed by the date referred to above, the licensee of Station KNIX, will be deemed to have consented to the modification as shown in the *Order to Show Cause* and a final Order will be issued by the Commission, if the above-mentioned channel modification is ultimately found to be in the public interest.

7. The Commission's authority to institute rule making proceedings, showings required, cut-off precedures and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before August 16, 1982, and reply comments on or before August 31, 1982, and are advised to read the Appendix for the proper procedures.

9. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

10. It is further ordered, That the Secretary of the Commission shall send a copy of this *Notice and Order to Show Cause* by Certified Mail, Return Receipt Requested, to Northern Television, Inc., licensee of Station KNIX, P.O. Box 2200, Anchorage, Alaska, 99501, the party to whom the *Order to Show Cause* is addressed.

11. For further information concerning this proceeding, contact Phil S. Cross, Broadcast Bureau, (202) 632–5414. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 134, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) and 0.204(b) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions

by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 82-19035 Filed 7-15-82; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-361; RM-4093]

FM Broadcast Station in Muskogee, Oklahoma; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule..

SUMMARY: This action proposes the assignment of Class C Channel 246 to Muskogee, Oklahoma, in response to a petition filed by Parrish Broadcasting Systems, Inc. The proposed assignment could provide Muskogee with its second FM service.

DATES: Comments must be filed on or before August 16, 1982, and reply comments on or before August 31, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

Adopted: June 28, 1982.

Released: July 6, 1982.

By the Chief, Policy and Rules Division.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Muskogee, Oklahoma); BC Docket No. 82-361, RM-4093.

1. A petition for rule making was filed March 26, 1982, by Parrish Broadcasting Systems, Inc. ("petitioner") proposing the assignment of Class C FM Channel 246 to Muskogee, Oklahoma, as that community's second FM assignment. Petitioner states that it will apply for the channel, if assigned. [1] The assignment can be made in compliance with the Commission's minimum distance separation requirements.

2. The proposed assignment of Channel 246 to Muskogee will require a transmitter site restriction of 30 miles south of the city [2] due to Station KMRJ, Pittsburg, Kansas, and KMOD-FM and KRAV, Tulsa, Oklahoma.

3. In view of the fact that the proposal could provide a second local FM broadcast service to Muskogee, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Muskogee, Oklahoma	225	246, 295

4. The Commission's authority to institute rule making proceedings showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before August 16, 1982, and reply comments on or before August 31, 1982, and are advised to read the Appendix for the proper procedures.

6. The Commission's authority to institute rulemaking proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before August 16, 1982, and reply comments on or before August 31, 1982, and are advised to read the Appendix for the proper procedures.

[1] Petitioner submitted demographic, economic, and engineering data. However, in view of the action taken in the *Second Report and Order* in BC Docket No. 80-130, 47 FR 26624, published June 21, 1982, this information is no longer required.

[2] Petitioner states that a transmitter located this far from the community can provide a 70 dBu signal over Muskogee.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rulemaking proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rulemaking to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rulemaking is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rulemaking other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former

pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice,* they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanid by a certificate of service (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 82-19038 Filed 7-15-82; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-357; RM-4103]

FM Broadcast Station in Terrell Hills, Texas; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action herein proposes the substitution of Class C FM Channel 294 for Channel 292A at Terrell Hills, Texas, and modification of the Class A license for Station KESI (FM), in response to a petition filed by S I T Broadcasting Corporation. The assignment could provide Terrell Hills with a first Class C FM station.

DATES: Comments must be filed on or before August 16, 1982, and reply comments must be filed on or before August 31, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

Adopted: June 28, 1982.

Released: July 7, 1982.

By the Chief, Policy and Rules Division.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Terrell Hills, Texas); BC Docket No. 82-357, RM-4103.

1. A petition for rule making has been filed by S I T Broadcasting Corporation ("petitioner"), licensee of FM Station KESI (Channel 292A) in Terrell Hills, Texas. Petitioner seeks the substitution of Class C Channel 294 for Channel 292A and modification of its license to specify operation on the Class C channel. Alternatively, petitioner proposes that Channel 292A be deleted from Terrell Hills and Channel 294 assigned to San Antonio, Texas.

2. Terrell Hills, in Bexar County, is located entirely within the urbanized area of San Antonio. It is served by full-time AM Station KCCW and FM Station KESI (Channel 292A).

3. Although petitioner submitted demographic and preclusion information in support of its petition, that information is no longer considered in view of the Commission's recent adoption of the *Second Report and Order* in Bl Docket No. 80-130, regarding *Revisions of FM Assignment Policies and Procedures,* 47 Fed. Reg. 26624, published June 21, 1982.

4. In justification for its proposal, petitioner states that the predominance of nine Class C stations in San Antonio has effectively precluded its successful Class A existence. Petitioner asserts that since acquiring KESI earlier this year, the station has experienced a continuous diminution of its financial viability. Therefore, it claims that in light of the plethora of Class C stations in San Antonio, it finds the proposed substitution necessary to enable its station to become competitive with those high-power stations.

5. In support of its alternative proposal for a San Antonio assignment, petitioner cites the Commission's action in *Marco, Florida, et al.,* 54 F.C.C. 2d 1145 (1975), aff'd 39 R.R. 2d 887 (1977), as justifying a modification of license to specify a new city. In that case, the Commission granted a requested to modify insofar as the channel of operation was concerned, but did not likewise modify the station's city of license on the newly assigned channel, as requesed herein. The Commission granted a request to delete a Class A channel at Atlantic Beach, Florida, to accommodate a new Class C assignment at Jacksonville. The license of the Atlantic Beach Class A station was modified to specify operation on the newly-assigned Class C channel at Jacksonville, but the license continued to specify Atlantic Beach consistent with the provisions of § 73.203(b) of the Commission's Rules, the "15-mile" rule. Additionally, the Commission therein stated that is could consider the modification of Atlantic Beach station's city of license to specify Jacksonville in the future, in connection with the filing of an application to change location.

6. As in *Marco, supra,* we could assign the Class C channel to San Antonio and modify Station KESI's license to specify the Class C channel, but Terrell Hills would remain as its city of license under the "15-mile" rule. However, we do not understand petitioner to request a San Antonio assignment without also a modification of license to specify San Antonio. That result would open the channel for competing applications at San Antonio involving the risk of a comparative application proceeding to determine which applicant would best serve the public interest. See, *Ashbacker Radio* v. *F.C.C.,* 326 U.S. 327 (1945); *Riverside and Santa Ana, California,* 65

F.C.C. 2d 920 (1977), *recons. den.* 68 F.C.C. 2d 557 (1978).

7. We do not believe petitioner intended to face such risk factors when it proposed the alternative assignment to San Antonio. Rather, as we interpret petitioner's request, its desire is to achieve a Class C assignment for its station at Terrell Hills in order to be more competitive with the San Antonio Class C stations. Petitioner may wish to clarify its request on this issue by filing a counterproposal to that effect.

8. Petitioner's engineering showing, as noted earlier, indicates that a Class C channel at Terrell Hills would expand its present service contour to a substantial area and population. Accordingly, we shall propose the substitution of channels at Terrell Hills and the modification of Station KESI's license to specify operation on Channel 294 in lieu of Channel 292A in Terrell Hills, Texas. However, in conformity with Commission precedent, as expressed in *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976), should another interest in the assignment be shown, the proposed modification could not be made and the channel, if assigned, would be open to competing applications.

9. An *Order to Show Cause* to the petitioner is not required since consent to the modification of its license is indicated by its request for the Class C channel.

10. A site restriction approximately 17 miles south of Terrell Hills is required to accommodate this proposal to avoid short-spacing to Station KMFM (Channel 241) in San Antonio and the unused assignment of Channel 292A in Gonzales, Texas.

11. The Commission must obtain approval by the Mexican Government to the proposed assignment since Terrell Hills is located within 320 kilometers (199 miles) of the common border.

12. In consideration of the above, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Terrell Hills, Texas	292A	294

13. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

14. Interested parties may file comments on or before August 16, 1982, and reply comments on or before August 31, 1982, and are advised to read the Appendix for the proper procedures.

1. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

16. For further information concerning this proceeding, contact Nancy V. Joyner, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested

parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-19336 Filed 7-15-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-356; RM-4106]

FM Broadcast Station in Anson, Texas; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign Channel 276A to Anson, Texas, as its first commercial FM channel in response to a request from Lilly Amador.

DATES: Comments must be filed on or before August 16, 1982, and reply comments on or before August 31, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Phil Cross, Broadcast Bureau, (202) 632-5414.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

Adopted: June 28, 1982.

Released: July 6, 1982.

By the Chief, Policy and Rules Division:

In the matter of Amendment of § 73.202(b) Table of Assignments, FM Broadcast Stations (Anson, Texas); BC Docket No. 82-356, RM-4106.

1. Lilly Amador ("petitioner") requests that the FM Table of Assignments be amended to add Channel 232A as the first local broadcast service in Anson, Texas. The request was submitted as a counterproposal in BC Docket No. 81-779, RM-3870, which proposed the assignment of Channel 232A to Abilene, Texas. To avoid a conflict with that proceeding, we have substituted Channel 276A for consideration herein. Petitioner states that she would submit an application for a construction permit to build a new station if the channel is assigned to Anson.

2. In view of the fact that the proposed FM channel assignment would provide for a first local broadcast service to Anson, Texas, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's Rules as follows:

City	Channel No.	
	Present	Proposed
Anson, Texas		276a

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.— A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

4. Interested parties may file comments on or before August 16, 1982, and reply comments on or before August 31, 1982, and are advised to read the Appendix for the proper procedures.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, §73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Philip S. Cross, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in section 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showing Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed.

Such comment and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 82-19337 Filed 7-15-82; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-360; RM-4115]

TV Broadcast Station in Fajardo, Puerto Rico; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of UHF Television Channel 34 to Fajardo, Puerto Rico, as its second commercial television assignment in response to a petition filed by Michael L. Carter and Hector Nicolau.

DATES: Comments must be filed on or before August 16, 1982, and reply comments on or before August 31, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television.

Notice of Proposed Rule Making

Adopted: June 28, 1982.

Released: July 6, 1982.

By the Chief, Policy and Rules Division.

In the matter of Amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Fajardo, Puerto Rico); BC Docket No. 82-360, RM-4115.

1. The Commission herein considers a petition for rule making filed May 7, 1982, by Michael L. Carter and Hector Nicolau ("petitioners"), seeking the assignment of UHF Television Channel 34 to Fajardo, Puerto Rico. Petioners expressed an interest in applying for the channel, if assigned.

2. Fajardo (population 18,249)[1] is in the municipio of Fajardo, population 23,032.[2] The town of Fajardo, Puerto Rico, is located on the northeast coast of Puerto Rico, approximately 48 kilometers (30 miles) east-southeast of San Juan, Puerto Rico. Also, according to petitioners, there are two television channels allocated to Fajardo, neither of which is on the air. VHF Channel 13 has a pending construction permit, and UHF Channel* 40, reserved for noncommercial educational use, is not currently being utilized. Fajardo is served by one AM and one FM radio station and by a daily newpaper. Also, there is some television penetration from television stations based in San Juan, and in St. Thomas and St. Croix, Virgin Islands.

We are told by petitioners that Fajardo is a vital, growing shoreline town deserving of, and capable of supporting an additional television service. With regard to Fajardo's government, it has a Superior Court, legal services office, and has regional offices of the Puerto Rico Electrical and Water authorities. Petitioners set forth other demographic information which demonstrates a need for an additional channel.

4. The Commission finds that it would be in the public interest to seek comments on the proposal to amend the Television Table of Assignments (§ 73.606(b) of the Rules) with regard to the city of Fajardo, Puerto Rico, as follows:

City	Channel No.	
	Present	Proposed
Fajardo,Puerto Rico	13+, *40	13+, 34, *40

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before August 16, 1982, and reply comments on or before August 31, 1982, and are advised to read the Appendix for the proper procedures.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules,* 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer

[1] This figure is taken from the 1970 U.S. Census.

[2] Petitioner indicates that the 1980 population of the municipio is 32,011.

whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 82-19389 Filed 7-15-82; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 94

[PR Docket No. 82-373; RM-3887; and RM 3994; FCC 82-303]

Amendment of the "Grandfathering" Provisions for Transmitter and Antenna Standards in Private Operational-Fixed Services

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes that the FCC permit all transmitting equipment (including antennas) authorized in the Private Operational-Fixed Microwave Radio Service before July 1, 1976 to be continued in use indefinitely, provided that the equipment does not cause harmful interference to other private microwave systems. The purpose of this proposal is to ease licensee burdens.

DATE: Comment must be received on or before August 16, 1982 and reply comments must be received on or before August 31, 1982.

FOR FURTHER INFORMATION CONTACT: Fred Day, Private Radio Bureau, (202) 632-6497.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 94

Private operational-fixed microwave radio service communications equipment.

Notice of Proposed Rulemaking

Adopted: July 1, 1982.

Released: July 9, 1982.

By the Commission.

In the matter of amendment of the "grandfathering" provisions for transmitter and antenna standards in Part 94; PR DOCKET 82-373, RM-3887, RM-3994.

1. The Commission has received three petitions for rulemaking requesting relief from certain technical standards in Part 94, Private Operational-Fixed Microwave Service,[1] adopted in Docket No. 19869,[2] which established tighter interference criteria for private microwave systems. The petition were filed by the Association of American Railroads (AAR), The Central Committee on Telecommunications of the American Petroleum Institute (API) and the Southern Railway System (SRS). The petitions request that the "grandfather" provisions in Part 94, which apply to microwave systems licensed prior to adoption of the Part 94 technical standards, be extended or modified. Under the temporary "grandfather" provisions now contained in Part 94, such systems must comply with the new technical standards by August 1, 1985.

Background

2. In Docket No. 19869, we established a separate radio service, the Private Operational-Fixed Microwave Radio Service (OFS), to standardize and consolidate the rules for fixed private operations in the microwave spectrum above 952 MHz. At that time, we recognized the growing demand for private microwave facilities and incorporated into the new rules provisions designed to increase usage of the existing private spectrum by reducing the level of interference between microwave systems. Specifically, under Subpart C of Part 94, we adopted technical standards setting out more stringent frequency tolerances for transmitters and limitations on maximum effective radiated power and on radiation patterns for directional antennas.

3. Regarding radiation patterns for antennas, we established two sets of standards. Category A standards apply to antennas operating in areas with a high concentration of microwave stations and provide for antennas with high-front-to-back discrimination ratios, which can be particularly effective in permitting more systems to operate in these areas. Category B standards afford acceptable performance in areas with lower concentations of microwave stations and are permitted until the growth of microwave stations in an area would necessitate upgrading systems to category A standards. In Public Notice 64123, issued on April 28, 1976, we listed

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[1] Part 94 of the Commission's rules governs the licensing and operation of private operational-fixed microwave systems, including control and fixed relay, in frequency bands at 928-929 MHz and above 952 MHz. The radio stations in these systems are licensed by the Commission as Operational-Fixed Stations, which are fixed stations not open to public correspondence, operated by and for the sole use of those persons or agencies operating their own radiocommunication facilities (§ 94.3 of the Commission's rules). Eligibility in Part 94 is limited to persons qualified for licensing in a radio service under either Part 81, Stations on Land in the Maritime Service and Alaska-Public Fixed Stations; Part 87, Aviation Services; or Part 90, Private Land Mobile Radio Services (§ 94.5 of the Commission's rules).

[2] Rules to Establish a Private Operational-Fixed Microwave Radio Service (Part 94), *Report and Order*, Docket No. 19869, 52 FCC 2d 894 (1975).

the areas that are considered congested and which thus require Category A antennas. The new directional antenna standards apply to periscope antennas[3] as well as all other types of antennas. This requirement prevents, for all practical purposes, the use of periscope antennas after July 31, 1985, since no satisfactory method has been developed to ascertain the radiation pattern envelope of periscope antennas. Ascertaining the radiation pattern envelope is an essential step in determining whether transmitting antennas meet the new technical standards.

4. When adopting the new rules, we provided for "grandfathering" provisions under which existing systems not meeting these new technical standards could continue operating until August 1, 1985. This date provided for a ten-year period from the effective date of the new rules during which existing systems were to be modified to conform to the new technical standards. We felt that this period would allow licensees to maximize the use-potential of their then existing systems and yet set a reasonable future date for all systems to conform to the state-of-the-art technical standards, which were intended to improve spectrum efficiency. Under the rules, any equipment used in modifying or expanding these "grandfathered" systems had to conform to the new rules.

The Petitions

5. All three of the petitioners complained of the heavy financial costs that would be necessary to convert existing systems to the new standards. SRS stated that the total cost of upgrading their system to conform to the new technical standards would be $18 million, of which $7.5 million represents the cost of replacing periscope antennas. AAR stated that, based on a survey of eighteen railroads, it would cost an estimated $40 million for the railroad industry as a whole to comply. API said that the cost to twenty-eight petroleum and natural gas companies who were surveyed would be $34 million. All petitioners indicated that the offsetting benefits to these costs are insignificant since the antennas and transmitters to be replaced do not currently interfere with any present systems and are unlikely to interfere with any future systems.

6. All three petitioners requested relief from the technical standards. SRS requested that systems utilizing periscope antennas be allowed to operate indefinitely along paths not located in congested microwave areas. In the alternative, SRS requested that the period of compliance be extended to August 1, 2010. If neither request could be granted, the SRS asked for a waiver of Section 94.61 of the Commission's rules to allow continued operation of its periscope antennas located in noncongested areas past the present date of compliance, August 1, 1985.

7. AAR requested that the rules be amended to allow microwave systems authorized before adoption of the new technical standards to operate indefinitely under the previous technical standards unless they caused interference to stations which were in compliance with the new standards. (Section 94.92(a) of the Commission's rules and regulations details the technical standards which were in effect before Part 94 was adopted.) In that case, the nonconforming systems would also be required to comply with the new standards. AAR also requested that we re-examine our methodology and the criteria for arriving at the list of areas considered to be congested and, if appropriate, issue a revised list.[4]

8. Similarly, API requested an extension of the "grandfather" provisions to allow the continued use of nonconforming transmitters and antennas, both parabolic and periscope, except where it can be demonstrated on a case-by-case basis that continued use of nonconforming transmitters and antennas would significantly degrade the performance of either existing or new systems beyond the degradation which would result from equipment fully complying with Part 94 technical standards. In addition, API recommended that the Commission establish criteria for pre-1976 installed antennas which would specify the minimum diameter of parabolic antennas determined to be "conditionally acceptable" for each frequency band. According to API's petition, when it can be demonstrated that changing a "conditionally acceptable" antenna to one which fully complies with the Part 94 standards would result in substantially less interference to an existing or proposed system, the "conditionally acceptable" antenna would have to be replaced. The criteria for "conditionally acceptable" parabolic antennas recommended by API are as follows:

MINIMUM DIAMETER OF "CONDITIONALLY ACCEPTABLE" PARABOLIC ANTENNAS

Frequency	Category B (feet)	Category A (feet)
952 to 960	4	6
1850 to 1990	6	8
2130 to 2690	6	8
6525 to 6875	6	8
12,200 to 12,700	4	6

This table of criteria for "conditionally acceptable" parabolic antennas is suggested as a replacement for the list published by the Commission of pre-1976 antennas which we considered to comply with the Category A and Category B antenna standards. API recommended the use of specific criteria, expressed in terms of minimum diameter, because it believes that it would be impossible to compile a totally conclusive list of older antenna models which would be considered "conditionally acceptable." API also proposed a new method of determining frequency congestion which would redefine the areas designated as congested in the microwave bands. API's proposal would reduce the areas where Category A antennas are required. API believes that the criteria used by the Commission in defining the congested areas could be refined by simulation techniques and by revising the assumed radiation pattern of an antenna to more closely approximate the actual antenna radiation patterns. To this end API has provided the Commission with a mathematical model for determining congestion in the microwave frequency bands. The model was developed by Compucon, Inc. of Dallas, Texas, and, in the view of API, provides a more refined method for (1) determining microwave frequency congestion, (2) stipulating antenna requirements, and (3) demonstrating the effect in congested areas of changing from Category B to Category A antennas. The model involves the use of a computer program designed to calculate a "Congestion Level Index" (CLI) for a given area by taking into consideration frequency usage levels, more realistic antenna patterns, off-axis discrimination and propagation models, etc. (A detailed explanation of the mathematical model developed by Compucon is contained in the official

[3] A periscope antenna uses a passive reflector to deflect radiation from or to a directional transmitting and/or receiving antenna which is orientated vertically or near vertically.

[4] In its petition for rulemaking, AAR urged that its petition and SRS's petition be considered together since they are consistent with each other. We are adopting this recommendation and also including API's petition, which is consistent with the other two petitions. Both AAR's petition and API's petition have been placed on public notice; SRS's petition was not placed on public notice since we had not yet decided whether to grant some relief to SRS by waiver or through a more lengthy rulemaking proceeding when we received the other petitions. Moreover, we are not placing SRS's petition for rulemaking on public notice since it would serve no useful purpose.

Commission records for this docket. Persons wish to examine Compucon's suggested methodology may either consult the official docket records in Room 239, 1919 M St. NW., Washington, D.C. or visit the Rules Branch, Land Mobile and Microwave Division, Room 5126, 2025 M St. NW., Washington, D.C. Copies of the mathematical model may also be obtained by contacting the Downtown Copy Center, 1114 21st St., NW., Washington, D.C. 20037, telephone (202) 452-1422.)

9. In response to AAR's petition, the Utilities Telecommunications Council (UTC) and M/A-COM Laboratories (M/A-COM) filed comments. The UTC supported AAR's petition but raised questions regarding the procedures that would be used to permit nonconforming equipment and antennas. UTC urged the adoption of virtually self-executing procedures that would address interference and similar problems inherent in the continued use of nonconforming equipment. UTC is concerned that the licensing of new systems which comply with existing technical standards might be delayed because of the existence of nonconforming systems. They further stated that any burden should be placed on the licensees with nonconforming systems. M/A-COM stated similar concerns, especially regarding the possibility that new applicants could be denied access to spectrum while existing licensees disputed whether their nonconforming systems would interfere with the new system.

10. In response to API's petition, UTC and the Satellite Television Corporation (STC) filed comments. UTC generally supported API's petition. STC, however, objected to it. STC believes that increased spectrum efficiency is necessary at this time due to the spectrum requirements associated with new technologies and services and with the possible displacement of licensees from the 12 GHz band because of the direct broadcast satellite service. They opposed the Commission initiating a rulemaking proceeding which would permit continued use of spectrally inefficient transmitters and antennas. In addition, STC believed that any separate rulemaking regarding technical standards is inappropriate considering the Commission's present intention to initiate a proceeding to establish rules for use of higher OFS bands and to re-examine the rules governing use of lower OFS bands. Finally, STC expressed concern that the burden would be shifted to licensees using conforming equipment to prove that the performance of their system would be degraded by an existing nonconforming system beyond the degradation that would be caused if the existing system used conforming equipment.

Proposal

11. After considering these petitions and the comments submitted thereon, we believe that there is substantial merit in the proposal to "grandfather" nonconforming equipment and antennas indefinitely so long as undue interference is not imposed upon a conforming system. We wish to emphasize that this finding is motivated solely by our desire to prevent the premature and wasteful scrapping of equipment in environments where continued use of that equipment will not impair the operation of other microwave systems. We note that, under our proposal, the technical standards detailed in Section 94.92(a) of our Rules and Regulations would continue to apply to transmitting equipment authorized between July 20, 1961 and July 1, 1976. Many of the microwave systems utilizing nonconforming equipment are in remote areas, and no benefit would be gained by making them conform to the new technical standards if they are not interfering with another system. It is still our goal to use the Part 94 technical standards to promote the overall utility and efficiency of the private microwave frequencies.

12. We are concerned about appropriate procedures to follow when a conforming system is to be built near a nonconforming system. As three of the commenters indicated, the burden to prove interference would seem to rest on the licensee of the new system. This seems unavoidable since only the designer and builder of the new system would have the information such as site locations, antenna azimuths, etc., necessary to determine whether interference will exist and to what degree. Moreover, it is easier to prove the existence of interference rather than its non-existence. In view of this, we are proposing to adopt the following procedure:

We will allow an applicant who plans to construct a new station or modify an existing station to plan its system using interference calculations which assume that all systems in the area, whether "grandfathered" or not, are using conforming equipment and antennas. Then, if a nonconforming system in the vicinity of the new or modified, conforming system were found to interfere with the new system and such interference would not result if conforming equipment were in use, the nonconforming system will have to be modified to prevent interference. The licensee of the new system will be required to give notice of the possible interference to both the licensee of the nonconforming system and the Commission. The licensee of the nonconforming system will be given six months to substitute conforming equipment and antennas that do not interfere. The proposed rules are set forth in the appendix.

13. This proposal will have no adverse impact on DBS systems which may be authorized pursuant to our action on June 23, 1982 in Gen. Docket 80-603. If any nonconforming equipment used by Private Operational-Fixed licensees operating at 12 GHz causes interference to DBS systems during the five-year period in which the Operational-Fixed Service has co-primary status with DBS, nonconforming OFS equipment will have to be upgraded to comply with the current Part 94 technical standards. In this time period, a complaint from a DBS licensee is equivalent to a complaint from another tetrestrial user. After the five-year period, of course, OFS licensees will be required to avoid all interference to DBS service areas, relocating, if necessary, to other authorized frequency bands.

14. Regarding the new method proposed by API for determining congested areas, it has the same objective in mind as the method adopted by the Commission in its 1976 Public Notice. In that Public Notice, the Commission listed areas of the country which, because of high frequency usage levels, required additional standards for microwave system planning and operation. While both techniques for determining congested areas compute a maximum number of frequencies which can be assigned within a given geographical area, the CLI method appears to compute a maximum frequency usage level which is more near optimum than the 1976 techniques. In addition, the CLI method relates the level of microwave usage in an area to the probability of being blocked on the assignment of a frequency on a microwave path through simulation. By relating the percentage of the maximum microwave frequency usage in an area and the probability of being blocked on an attempt at assignment of a frequency, it is possible to establish a percentage of maximum usage which defines congestion in a given area.

15. In our efforts to promote efficient frequency utilization, we are always interested in in proved frequency assignment techniques. Therefore, we are inviting comments regarding the merit of the methodology recommended by API for computing congested areas,

as explained in the materials which appear in the official docket records for this proceeding. Additionally, we request comments on API's plan for applying minimum diameter standards to pre-1976 parabolic antennas to determine which antennas could be considered "conditionally acceptable."

Regulatory Flexibility Act of 1980; Initial Analysis

16. *Reason for action:* This proceeding is in response to petitions for rulemaking which request relaxation of the August 1, 1985 deadline for complying with the transmitter and antenna technical standards of Part 94.

17. *The objectives:* The Commission desires comments on its proposal to permit licensees in the Private Operational-Fixed Microwave Radio Service to continue using equipment authorized prior to July 1, 1976 in situations where such equipment does not cause harmful interference to other authorized stations.

18. *Legal basis:* The action proposed is in furtherance of Sections 4(i), 303(f), and 303(r) of the Communications Act of 1933, as amended, which empower the Commission to make such rules and regulations, not inconsistent with law, as may be necessary in the execution of its functions.

19. *Description, potential impact, and number of small entities affected:* The aim of this proposed rule is to alleviate, to the extent possible, the financial burden which Part 94 imposes upon private operational-fixed licensees, both large and small entities alike. We seek to relax burdensome technical standards in situations where the granting of exceptions to these technical standards will not subject other licensees to harmful interference. Implementation of the proposed rules would, therefore, provide relief to licensees, rather than impose any burden of either an administrative or financial nature. The Commission is unable to determine with any reasonable degree of accuracy the number of small entities which might be affected by the rule changes proposed, but any such effect would be beneficial.

20. *Recording, record-keeping, and other compliance requirements:* No additional requirements would be imposed if the proposed rule changes are adopted.

21. *Federal rules which overlap, duplicate, or conflict with these proposed rules:* None.

22. *Any significant alternatives minimizing impact on small entities and consistent with the stated objective:* None.

23. We encourage all interested parties to respond to this Notice since such information as they may provide often forms the basis for further Commission action. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who initiates an oral *ex parte* presentation addressing matters not fully covered in any previously filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's Rules, 47 CFR 1.1231.

24. Authority for issuance of the Notice is contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 4(i) and 303(r). Pursuant to procedures set out in §1.415 of the Commission's Rules and Regulations, 47 CFR 1.415, interested persons may file comments on or before: August 16, 1982 and reply comments on or before: August 31, 1982. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into account information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

25. In accordance with the provisions of §1.419 of the Commission's rules and regulations, 47 CFR 1.419, formal participants shall file an original and five (5) copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and eleven (11) copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one (1) copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters located at 1919 M Street, NW, Washington, DC.

26. For further information concerning procedures to follow with respect to this rulemaking proceeding, contact Fred Day, FCC, Private Radio Bureau, Land Mobile and Microwave Division, Washington, D.C. 20554, telephone (202) 634–2443. A summary of the Commission's procedures governing *ex parte* contacts in rulemaking proceedings is available from the Commission's Consumer Assistance and Information Division, Room 258, 1919 M St., N.W., Washington, D.C. 20554, (202) 632–7000.

(Secs. 4, 303; 48 Stat., as amended 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 94—PRIVATE OPERATIONAL—FIXED MICROWAVE SERVICE

Chapter I, Part 94 of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

1. Section 94.61(a) is amended by revising paragraph (a) to read as follows:

§ 94.61 Applicability.

(a) The technical standards of this subpart shall govern the issuance of authorizations for new stations and changes in authorized stations as specified in § 94.45. Except as provided for in § 94.65, licensees of transmitting equipment (including antennas) authorized prior to July 1, 1976, including their successors or assigns in business, will be permitted to utilize such equipment indefinitely, in accordance with the standards indicated in § 94.92, provided that the operation of this equipment does not cause interference to another station or system in excess of the levels specified in § 94.63.

* * * * *

2. Section 94.63 is amended by adding a new paragraph (f) to read as follows:

§ 94.63 Interference protection criteria for operational-fixed stations.

* * * * *

(f) Effective August 1, 1985, when a proposed new station will receive interference in excess of the levels specified in this section as a result of an existing licensee's use of nonconforming equipment authorized under § 94.61(a), or when an existing station, as a result of a proposed modification to its facility, will receive interference resulting from such equipment *and* the interference would not result if the interfering station's equipment complied with current technical standards, the nonconforming licensee shall be required to take whatever measures are necessary to alleviate the interference. In such cases, if the engineering analysis performed in accordance with § 94.15(b) demonstrates that (1) the proposed new station or the station proposed to be modified will receive interference from a nonconforming station in excess of the levels specified in this section, and (2) the interference would be alleviated if the nonconforming equipment were replaced with equipment complying with the technical standards of this subpart, the licensee (or prospective licensee) of the station which would receive interference shall provide written notice to both the nonconforming licensee and the Commission of the potential interference.

The nonconforming licensee shall make all equipment changes necessary to conform to the current technical standards within 180 days from the date on which the Commission grants the application submitted for a new station or for midification to an existing station. If a nonconforming licensee, having received notice from the Commission of the need to upgrade its equipment, shall fail to make all necessary changes within the specified period of time, the Commission may require the nonconforming licensee to suspend operation until the necessary changes are completed.

3. Section 94.77 is amended by deleting the second sentence in the first paragraph and adding a new clause to read as follows:

§ 94.77 Interference to geo-stationary satellites.

* * * Stations authorized prior to July 1, 1976 which exceed the power levels in subparagraphs (a) and (b) of this section are permitted to operate indefinitely, provided that the operation of such stations does not result in harmful interference to reception in the bands 2655–2690 MHz and 12,500–12,700 MHz on board geo-stationary space stations in the fixed satellite service.

* * * * *

[FR Doc. 82-19900 Filed 7-15-82; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Review of Special Rule on the American Alligator

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Advanced notice of proposed rulemaking.

SUMMARY: The Service hereby notifies all parties of its intent to review Special Rule 50 CFR 17.42(a) on the American alligator to determine whether changes are appropriate. All parties are invited to submit pertinent written comments.

DATE: Comments on this notice must be received by August 16, 1982.

ADDRESS: Please address correspondence to the U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, P.O. Box 3654, Arlington, Virginia 22203. Information on this notice is available for review during the hours of 7:45 a.m. to 4:00 p.m., Monday through Friday in Room 601, 1000 N. Glebe Road, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: Mr. Larry LaRochelle, Staff Biologist, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, P.O. Box 3654, Arlington, Virginia 22203 (703/235–1903).

SUPPLEMENTARY INFORMATION: It is the intent of the Service, upon its own motion as well as that of certain Federal, State and private parties, to review the Special Rule 50 CFR 17.42(a) on commercial activities with the hides, meat, and parts of American alligators including for example, present prohibitions on export of meat and parts other than hides, need for serially numbering each tag applied to hides, need for a Federal permit to kill alligators legally held under State Alligator Farmer permits, use of data collected from reports required of permittees as well as other aspects of this rule in order to determine whether to revise or revoke certain probibitions and procedures. The purpose of this notice is to give interested parties an opportunity to submit comments and suggestions on the changes outlined above or alternatives thereto, before the issuance of any notice of proposed rulemaking. Also, the Service hereby requests information on environmental and economic impacts, as well as any effects on small entities (including small businesses, small organizations and small governmental jurisdictions) that would result from the changes outlined above. Similar information on possible alternatives to the changes is also requested. This information will aid the Service in complying with the requirements of the National Environmental Policy Act, Executive Order 12291 on Federal Regulation and the Regulatory Flexibililty Act.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Dated: July 1, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-19252 Filed 7-15-82; 8:45 am]
BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 47, No. 137
Friday, July 16, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Proposed Determinations With Regard to the 1983 Upland Cotton Program

AGENCY: Agricultural Stabilization and Conservation Service, USDA

ACTION: Proposed determinations.

SUMMARY: The Secretary of Agriculture proposes to make the following determinations with respect to the 1983 crop of upland cotton: (a) The loan rate for Strict Low Middling (SLM) one-and-one-sixteenth-inch cotton, micronaire 3.5 through 4.9, at average location in the U.S.; (b) the established (target) price; (c) the national program acreage (NPA); (d) whether a voluntary reduction percentage should be proclaimed and, if so, the amount of such percentage reduction; (e) whether an acreage reduction program (ARP) should be established and, if so, the percentage of such reduction; (f) whether a land diversion program should be estabished and, if so, the extent of such diversion and the level of payment; and (g) the loan level for seed cotton. These determinations are being made in accordance with the provisions of Section 103(g) of the Agricultural Act of 1949, as added by the Agriculture and Food Act of 1981 (hereinafter referred to as the "Act").

DATE: Comments must be received on or before September 13, 1982, in order to be assured of consideration.

ADDRESS: Dr. Howard Williams, Director, Analysis Division, USDA–ASCS, Room 3741 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Charles V. Cunningham, Acting Deputy Director, Analysis Division, USDA–ASCS, P.O. Box 2415, Washington, D.C. 20013, or call (202) 447–7954. The Draft Impact Analysis describing the options considered in developing these proposed determinations and the impact of implementing each option is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been designated as "major". These determinations have been designated as "major" because they are expected to affect the supply and price of upland cotton during the 1983/84 marketing year, which will, in turn, impact upon producers, processors, exporters, and consumers of cotton and cotton products.

The titles and numbers of the federal assistance programs that this notice applies to are: TITLE—Cotton Production Stabilization; number 10.052 and TITLE—Commodity Loans and Purchases; number 10.051, as found in the Catalog of Federal Domestic Assistance.

These actions will not have a significant impact specifically on area and community development. Therefore, a review as established by OMB Circular A–95 was not used to assure that units of local Government are informed of these actions.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since there is no requirement that a notice of proposed rulemaking be published with respect to the subject matter of these determinations in accordance with 5 U.S.C. 553 or any other provisions of law.

The following proposed program determinations with respect to the 1983-crop of upland cotton are to be made by the Secretary:

Proposed Determinations

A. Loan Rate for Upland Cotton

Section 103(g)(1) of the Act requires the Secretary to determine and announce the loan rate for the 1983 crop by November 1, 1982. The loan rate must reflect for Strict Low Middling one-and-one-sixteenth inch upland cotton (micronaire 3.5 through 4.9) at average location in the United States the smaller of (1) 85 percent of the average price (weighted by market and month) quoted in the designated United States spot markets for Strict Low Middling one-and-one-sixteenth inch cotton during three years of the five-year period ending July 31 in the year in which the loan level is announced, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period (hereinafter referred to as the "spot market calculation"), or (2) 90 percent of the average, for the fifteen-week period beginning July 1 of the year in which the loan level is announced, of the five lowest-priced growths of the growths quoted for Middling one-and-three-thirty-seconds-inch cotton, C.I.F. Northern Europe (adjusted downward by the average difference during the period April 15 through October 15 of the year in which the loan rate is announced between such average Northern Europe price quotations and the quotations in the designated United States spot markets for Strict Low Middling one-and-one-sixteenth-inch cotton (micronaire 3.5 through 4.9)) (hereinafter referred to as the "Northern European calculation"). The loan rate cannot be less than 55 cents per pound. Further, if the Northern European calculation results in a price which is less than the price derived from the spot market calculation, the Secretary may increase the loan level to such level as the Secretary deems appropriate, but not in excess of the level which is determined based upon the spot market calculation.

The spot market calculation cannot be completed until after August 1, 1982. Based upon quotations through April 1982, the spot market calculation is as follows:

(1) Weighted average spot market prices for Strict Low Middling one-and-one-sixteenth-inch upland cotton, micronaire 3.5 through 4.9:

August 1977 through July 1978—51.15 cents
August 1978 through July 1979—61.01 cents
August 1979 through July 1980—68.87 cents
August 1980 through July 1981—83.77 cents
August 1981 through April 1982[1]—57.01 cents

(2) Average of the five years, excluding the highest and lowest years: 61.01 + 68.87 + 57.01 = 62.30 cents.

[1] Not complete.

(3) Loan rate based on U.S. spot market calculations through April 1982: 62.30×.85=52.96 cents.

Since the spot market calculation is less than the statutory minimum, the loan rate would be established at the minimum level of 55 cents per pound, which is 2.08 cents per pound less than the 1982 loan rate. The decline results from the fact that the 1976–77 spot market average of 71.59 cents per pound has been dropped from the calculation and the 1981–82 average through April of 57.01 cents per pound has been added to the calculation.

The Northern European calculation cannot be performed at this time since the Act provides that the calculation must be based upon market quotations through October 15, 1982. However, since the spot market calculation results in a loan rate that is less than the minimum level of 55 cents per pound, the Northern European calculation is not likely to affect the final loan rate determination. If the Northern European calculation is less than the spot market calculation, the resulting calculation will also be below the minimum and the loan rate will still be 55 cents per pound. If the Northern European calculation is more than the spot market calculation, it will not be used to determine the loan rate.

Comments on the upland cotton loan rate, along with supporting data, are requested from interested persons.

B. The Established (Target) Price

Section 103(g)(3) of the Act provides that the established price for 1983-crop upland cotton shall not be less than the higher of (i) 76.0 cents per pound plus any adjustments for changes in production costs or (ii) 120 percent of the loan level determined in accordance with section 103(g)(1) of the Act. The Act provides that the minimum price of 76.0 cents per pound may be adjusted in such manner as the Secretary determines to be appropriate to reflect any change in (1) the average adjusted cost of production per acre for the two crop years immediately preceding the year for which the determination is made (1981–1982) from (2) the average adjusted cost of production per acre for the two crop years immediately preceding the year previous to the one for which the determination is made (1980–1981). The adjusted cost of production for each of such years may be determined by the Secretary on the basis of such information as the Secretary finds necessary and appropriate for the purpose and may include variable costs, machinery ownership costs, and general farm overhead costs, allocated to the crops involved on the basis of the proportion of the value of the total production derived from each crop.

Comments are requested on the level of the established (target price) for the 1983 crop of upland cotton.

C. National Program Acreage

Section 103(g)(5) of the Act requires the Secretary to announce a national program acreage (NPA) for the 1983 crop by November 1, 1982. Such NPA may, however, be revised for the purpose of determining the allocation factor if the Secretary determines it necessary based upon the latest information. Any revision shall be announced as soon as it has been made. The NPA shall be the number of harvested acres the Secretary determines necessary, based on the estimated weighted national average of the farm program payment yields for the 1983 crop, to produce the estimated quantity (less imports) that will be utilized domestically and for export during the 1983–84 marketing year. The Secretary may make such adjustments in the NPA as he determines necessary, taking into consideration the estimated carryover supply, to provide for an adequate but not excessive total supply of cotton for the 1983–84 marketing year. In no event shall the national program acreage be less than 10 million acres. If an acreage reduction program is established for the 1983 crop of upland cotton, the NPA determination will not be applicable.

A carryover of 4.5 million bales is generally considered to provide an adequate, but not excessive, supply. If required, the likely national program acreage for the 1983 crop of upland cotton is estimated to be:

(a) Estimated domestic consumption, 1983–84 (480 lb. net wt. bales)	6,200,000
(b) Plus estimated exports, 1983–84 (480 lb. net wt. bales)	7,800,000
(c) Minus estimated imports, 1983–84 (480 lb. net wt. bales)	10,000
(d) Minus adjustment to bring stocks to desired level (480 lb. net wt. bales) [1]	1,200,000
(e) Times 480 lbs. per bale	6,043,200,000
(f) Divided by estimated national average of farm program yield (lbs./acre)	500
(g) Equals 1983 National Program Acreage (acres)	12,086,400

[1]The 1983 beginning stock level is estimated to be 5.7 million bales. Therefore, the stock adjustment is 5.7 million bales minus 4.5 million bales equals 1.2 million bales.

A NPA was not announced for the 1982 crop of upland cotton since an acreage reduction program was implemented for such crop.

Comments from interested persons on the NPA and the appropriate stock adjustment for the 1983 crop of upland cotton, along with appropriate supporting data, are requested.

D. Voluntary Reduction Percentage

Section 103(g)(7) of the Act provides that the 1983 individual farm program acreages of upland cotton shall not be further reduced by application of an allocation factor if producers reduce the acreage of cotton planted for harvest on the farm from the acreage base established for the farm by at least the percentage recommended by the Secretary in the announcement of the national program acreage. If an acreage reduction program is implemented for the 1983 crop of upland cotton, the voluntary reduction percentage shall not be applicable to such crop. If required, the likely national recommended reduction percentage for the 1983-crop of cotton would be:

(a) 1983 estimated upland cotton acreage base	15,300,000
(b) Minus 1983 NPA	12,086,400
(c) Equals reduction needed from acreage base	3,213,600
(d) Divided by 1983 upland cotton acreage base	15,300,000
(e) Equals 1983 crop reduction percentage	21 percent

Comments from interested persons with respect to the voluntary reduction percentage, if any, are requested.

E. Whether an Acreage Reduction Program (ARP) Should Be Established and, if so, the Percentage of Such Reduction

Section 103(g)(9)(A) of the Act provides that the Secretary may establish a limitation on the acreage planted to upland cotton if the Secretary determines that the total supply of upland cotton will, in the absence of such limitation, be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. Such limitation shall be achieved by applying a uniform percentage reduction to the acreage base for each cotton-producing farm. Producers who knowingly produce cotton in excess of the permitted cotton acreage shall be ineligible for cotton loans and payments with respect to that farm. The acreage base for any farm for the purpose of determining any reduction required to be made for any year shall be the acreage planted on the farm to upland cotton for harvest in the immediately preceding year or, at the discretion of the Secretary, the average acreage planted to upland cotton for harvest in the two crop years immediately preceding the year for which the determination is made. For the purpose of determining the acreage base, the acreage planted to upland cotton for harvest shall include any

acreage which producers were prevented from planting to cotton or other nonconserving crop because of a natural disaster or other condition beyond the control of the producers. The Secretary may make adjustments to reflect crop-rotation practices and other factors as the Secretary determines necessary to establish a fair and equitable base. A number of acres on the farm determined by dividing (a) the product obtained by multiplying the number of acres required to be withdrawn from the production of upland cotton times the number of acres actually planted to upland cotton, by (b) the number of acres authorized to be planted to upland cotton in accordance with the acreage limitation established by the Secretary shall be devoted to approved conservation uses in accordance with regulations issued by the Secretary. If an acreage limitation is in effect for any crop, the national program acreage, program allocation factor, and voluntary reduction provisions of section 103(g) of the Act are not applicable to such crop. The individual farm program acreage shall be the acreage planted on the farm to upland cotton for harvest within the permitted upland cotton acreage established for the farm under the acreage reduction program.

The need for an acreage reduction program for upland cotton will depend on production and use of the 1982 crop. Total production is projected to be 12.4 million bales under average weather conditions, down approximately 20 percent from the near-record 1981 crop. However, the carrying from the 1981 crop is expected to be 6.4 million bales.

Thus, the total supply would be 18.8 million bales. Domestic use is projected at 5.7 million bales, up from an estimated 5.2 million bales in 1981–82. Exports are projected at 7.5 million bales, up from the 6.8 million bales estimated to be exported in 1981–82. Ending stocks for 1982–83 are projected at 5.7 million bales given the above supply and use. This amount is well in excess of the 4.5 million bales of upland cotton which is generally considered to be a desirable carryover.

It is estimated that 14.0 million acres would be planted and 13.2 million acres would be harvested without an acreage reduction program. With a yield of 495 pounds per harvested acre, 1983 crop production would be 13.6 million bales. This level of production, plus estimated imports of 10 thousand bales plus estimated beginning stocks of 5.7 million bales, would equal a total supply of cotton for 1983–84 of 19.3 million bales.

Domestic use is expected to increase to 6.2 million bales from 5.7 million and exports are projected to increase from 7.5 million to 7.6 million bales. Total estimated use, therefore, is expected to be 13.8 million bales.

By subtracting total estimated use of 13.8 million bales from the total estimated supply, it is estimated that ending stocks would be about 5.6 million bales. This amount is considered excessive when compared to the 4.5 million bale carryover generally considered desirable.

The above outlook suggests that an acreage reduction program will be needed for the 1983–84 crop. However, changes in worldwide weather and economic conditions could materially affect this outlook.

Options under consideration at this time include (1) No ARP, (2) a 15 percent ARP, and (3) a 20 percent ARP.

Comments on the need for an acreage reduction program and the desirable percentage reduction, if any, are requested from interested persons.

F. Whether a Land Diversion Program Should Be Established and, if so, the Extent of Such Diversion and the Level of Payments

Section 103(g)(9)(B) of the Act provides that the Secretary may make land diversion payments to producers of upland cotton, whether or not an acreage limitation for upland cotton is in effect, if the Secretary determines that such land diversion payments are necessary to assist in adjusting the total national acreage to desirable goals. Such land diversion payments shall be made to producers who devote to conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with producers. The amounts payable to producers under land diversion contracts may be determined through the submission of bide for such contracts by producers in such manner as the Secretry may prescribe or through such other means as the Secretry determines appropriate. In the past, land diversion payments have been made based upon an offer rate system (*i.e.*, specific rate per pound times the farm program payment yield.)

If land diversion payments are determined to be necessary for the 1983 crop of upland cotton, such payments will likely be based on an offer rate system. Diversion payment options under consideration include: (1) a 15 percent ARP with a 5 percent land diversion program (LDP); (2) a 20 percent ARP with a 5 percent LDP; and (3) a 20 percent ARP with a 10 percent LDP.

Interested persons are encouraged to address the need for a land diversion program either in lieu of, or in conjunction with, an acreage reduction program, and the appropriate terms and conditions.

G. Loan Level for Upland Seed Cotton

Section 103(g)(18) of the Act provides that in order to assist producers in the orderly ginning and marketing of their cotton production, the Secretary shall make recourse loans available to such producers on seed cotton in accordance with authority vested in the Secretary under the Commodity Credit Corporation Charter Act. Consideration is being given to the level at which loans should be made available for seed cotton under the 1983 program. The loan level which is presently being considered for seed cotton is 100 percent of the loan level which is applicable for that location for lint cotton adjusted to a lint basis.

Comments from interested persons are requested on the appropriate loan level for seed cotton and the method of adjustment to a lint basis for the purpose of determining loan value.

Consideration will be given to any data, views and recommendations that may be received relating to the above items.

(Secs. 4, 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); Secs. 103, 401, 63 Stat. 1051, as amended (7 U.S.C. 1421, 1444))

Signed at Washington, D.C. on July 9, 1982.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

FR Doc. 82-18972 Filed 7-15-82; 8:45 am]

BILLING CODE 3410-05-M

Animal and Plant Health Inspection Service

[Docket No. 82-068]

General Conference Committee of the National Poultry Improvement Plan Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of a meeting of the General Conference Committee of the National Poultry Improvement Plan.

SUMMARY: The purpose of this document is to give notice of a meeting of the general conference committee of the National Poultry Improvement Plan (NPIP), subject to the approval of the renewal of the committee's charter by the Secretary of Agriculture and the administrator of the General Services Administration.

PLACE, DATE, AND TIME OF MEETING: Park Hilton Hotel, 6th Avenue and Seneca Streets, Seattle, Washington, August 2, 1982 (9 a.m.—5 p.m.), August 3 and 4, 1982 (9 a.m.—4 p.m.), and August 5, 1982 (8 a.m.—12 noon). The sessions on August 3, 4, and 5, 1982, will include the delegates to the biennial National Plan Conference, who represent State officials and poultry industry personnel from the 47 cooperating States.

SUPPLEMENTARY INFORMATION: The General Conference Committee of the NPIP was established via Secretary's Memorandum No. 1891, Revised July 29, 1980. The purpose of the Committee is to make recommendations to the Department relative to the successful operation of the NPIP. The purpose of this meeting of the Committee is to advise the Department concerning adoption of recomendations proposed by industry, State, and Federal agencies for amendments to the NPIP provisions.

Proposed changes to be considered include alternatives to fumigation as a means of sanitizing hatching eggs and hatchery equipment, required banding at blood testing time for certain classes of poultry, and "sanitizing" of poultry litter prior to removal from the poultry house. Three new Mycoplasma control programs are being proposed for egg- and meat-type started poultry and a *Mycoplasma synoviae* blood testing and classification program will be considered for turkey breeding flocks. A change in the size of sample and frequency of testing breeding turkeys for *M. gallisepticum* will also be on the agenda. It is also proposed that primary chicken breeding stock with no previous *M. gallisepticum* status have a 100 percent test for two generations before the flock can qualify on a sample test. Procedures are being recommended for diagnostic laboratories to follow when they are conducting various tests which lead to an official Mycoplasma classification of a flock. In addition, a number of recommendations are being made which would provide additional service to the poultry industry and the Official State Agencies.

The meeting will be open to the public. Written statements concerning matters to be taken up by the committee may be filed with the committee before or at the time of the meeting.

Further information concerning the agenda for the meeting and proposed changes to be considered may be obtained from, and written statment may be forwarded to Mr. R. D. Schar, Senior Coordinator, National Poultry Improvement Plan, APHIS, VS, Bldg. 263, BARC-East, Beltsville, MD 20704, 301–344–2227.

Dated: July 15, 1982.

Gerald J. Pichtner,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 82-19019 Filed 7-15-82; 10:01 am]

BILLING CODE 3410-34-M

Food and Nutrition Service

Food Stamp Program; Demonstration Project; Alternative Methods of Delivering Benefits

AGENCY: Food and Nutrition Service, USDA.

ACTION: Cancellation of notice of intent.

SUMMARY: The Department hereby cancels its solicitation of proposals for alternative benefit delivery systems, announced in the **Federal Register** Notice of Intent of May 29, 1981 (46 FR 28885–28888).

EFFECTIVE DATE: July 16, 1982.

FOR FURTHER INFORMATION CONTACT: Marilyn Carpenter, Chief, Program Research and Analysis Branch, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, United States Department of Agriculture, Alexandria, Virginia. 22302.

SUPPLEMENTARY INFORMATION: Subsequent to publication of the May 29, 1981, Notice of Intent, the Department decided to limit its alternative issuance research efforts, at this time, to demonstrations involving electronic benefit transfer EBT-type systems. This alternative method involves retail food stores directly. It eliminates paper food stamps and "Authorization to Participate" Cards, and relies instead, on a computerized system. The computerized system would allow a household to obtain food products by presenting a credit type card (intelligent card, smart card, computer card, chip-in-card) at a retail food store.

Restricting consideration to EBT shifts the focus of the solicitation toward private vendors, and away from the funding of State and local agencies. The Department is, therefore, cancelling the invitation to such agencies and will proceed with an alternate approach.

Private vendors in related areas of technology will be asked, in the near future, to provide the Department with proposals to design, develop and test EBT-type systems of benefit issuance. This solicitation will be announced in the Commerce Business Daily, rather than the **Federal Register**. Such vendors will be expected to obtain the cooperation of State and/or local agencies to provide the testing environment. To facilitate this task, the Department will share with interested vendors a list of States and localities which have expressed interest in sponsoring EBT demonstrations. Interested States and localities should contact the Program Development Division at the above address to have their areas added to that list. The name and phone number of a contact person should be included.

It should be noted that despite refocusing this solicitation on EBT systems, the Department continues to be interested in pursuing other types of alternatives or improvements to current systems. States are encouraged to explore alternatives to or innovations in the current system, such as modifications or improvements in food coupons, and other possible paper alternatives. FNS will be happy to work with individual State agencies that want to test some of these systems and to assist in identifying needed waivers.

Such activity will be supported by FNS as part of State administrative operations on the same basis as States are supported now. However, if future circumstances warrant, the agency may initiate a formal solicitation targeted towards non-EBT types of alternative issuance systems.

(91 Stat. 958)(7 U.S.C. 2011–2029)

(Catalog of Federal Domestic Assistance Program No. 10.551 Food Stamps)

Dated: July 12, 1982.

Samuel J. Cornelius,

Administrator.

[FR Doc. 82-19128 Filed 7-15-82; 8:45 am]

BILLING CODE 3410-30-M

Rural Electrification Administration

Alabama Electric Cooperative; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, the Council on Environmental Quality Guidelines (40 CFR Part 1500), and REA Bulletin 20–21:320–21, Environmental Policies and Procedures, has made a Finding of No Significant Impact with respect to proposed financing assistance to Alabama Electric Cooperative, (AEC) of Andalusia, Alabama, for the construction of the Gantt Hydro Power Plant Capacity Expansion (Gantt Project) in Covington County, Alabama.

FOR FURTHER INFORMATION CONTACT:

REA's Finding of No Significant Impact and Environmental Assessment (EA) and AEC's Borrower's Environmental Report (BER) may be reviewed in the Office of the Director, Power Supply Division, Room 0230, South Agriculture Bldg., Rural Electrification Administration, Washington, D.C. 20250, telephone (202) 382–1400, or at the office of Alabama Electric Cooperative, P.O. Box 550, Andalusia, Alabama 36420, telephone (205) 222–2571, during regular business hours.

SUPPLEMENTARY INFORMATION: REA, in connection with a request for financing assistance from AEC, reviewed AEC's BER and determined that it is an accurate assessment of the environmental aspects of the Gantt Project.

The Gantt Project will increase the capacity of the Gantt hydroelectric plant from 2100 kW to 3110 kW by replacing and rehabilitating existing turbines and associated equipment. Based upon the BER, REA prepared an EA and concluded that the proposed financing assistance would not be a major Federal action significantly affecting the quality of the human environment.

The Gantt Project will not affect prime farmlands, threatened or endangered species or known cultural resources. Wetlands and floodplains adjacent to the Gantt Project will be temporarily affected during drawdowns. The drawdowns are unavoidable, but will be timed so that adverse effects will be minimized. In REA's judgment, construction, operation and maintenance of the Gantt Project will not cause any unacceptable environmental impacts.

Alternatives examined include the Gantt Project, no action and alternate unit sizes. REA determined that the Gantt Project is an acceptable alternative because it will meet AEC's needs with minimal environmental impact.

(This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees)

Dated: July 8, 1982.

Jack Van Mark,

Acting Administrator.

[FR Doc. 82–19222 Filed 7–15–82; 8:45 am]

BILLING CODE 3410–15–M

Soil Conservation Service

Pond Run Watershed, West Virginia

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Supplemental Watershed Work Plan No. 2, Pond Run Watershed, Wood County, West Virginia.

FOR FURTHER INFORMATION CONTACT:

William D. Goddard, Acting State Conservationist, Soil, Conservation Service, 75 High Street, Room 301, Morgantown, West Virginia 26505, telephone 304 291–4151.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, William D. Goddard, Acting State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for flood control along a small unnamed tributary of Pond Run. The planned works of improvement include 3,500 feet of channel work.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting William D. Goddard.

No administrative action on implementation of the proposal will be taken until August 16, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

[FR Doc. 82–19230 Filed 7–15–82; 8:45 am]

BILLING CODE 3410–16–M

Summit Subwatershed, Rock Creek Watershed, Idaho; Finding of No Significant Impact

AGENCY: Soil Conservation Service,USDA.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT:

Mr. Amos I. Garrison, Jr., State Conservationist, Room 345, 304 North 8th Street, Boise, Idaho 83702, telephone 208–334–1601.

SUPPLEMENTARY INFORMATION: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Summit Subv-atershed, Rock Creek Watershed, Power County, Idaho.

The environmental assessment of this federally assisted action indicates that the measure will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Amos I. Garrison, Jr., State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this action.

The project concerns a plan for land treatment to maintain or increase agricultural production, to reduce sediment damage, to improve water quality, and to protect the quality of the land resource. The planned works of improvement include conservation practices such as conservation tillage systems, permanent vegetation, and terraces.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Amos I. Garrison, Jr. The FONSI has been sent to various Federal, State and local agencies, and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse

review of Federal and federally assisted programs and projects is applicable)

Dated: July 6, 1982.

John L. Hopkins,

Acting State Conservationist.

[FR Doc. 82-19186 Filed 7-15-82; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

Order Concerning Mail Rates

Order 82-7-45, July 12, 1982, Docket 37294, establishes final domestic service mail rates for the last half of calendar year 1982 at the same level as proposed in Order 82-6-96.

Copies of the order are available from the CAB Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-19208 Filed 7-15-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40328]

Central Zone-Caracas/Maracaibo Venezuela Service Case; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-titled matter is assigned to be held on July 23, 1982, at 10:00 a.m. (local time), in Room 1003, Hearing Room A, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and prospective party and six copies to the Judge of (1) proposed statements of issues; (2) proposed stipulations; (3) proposed requests for information and for evidence; (4) statements of positions; (5) proposed procedural dates. The Bureau of International Aviation will circulate its material on or before July 16, 1982, and the other parties on or before July 21, 1982.[1] The submissions of the other parties shall be limited to points on which they differ with the Bureau of International Aviation, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

[1] July 16 and July 21 are delivery dates and not mailing dates.

Dated at Washington, D.C., July 12, 1982.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 82-19209 Filed 7-15-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40827]

Dallas/Fort Worth-London Case; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-titled matter is assigned to be held on July 28, 1982, at 10:00 a.m. (local time), in Room 1003, Hearing Room A, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and prospective party and six copies to the Judge of (1) proposed statements of issues; (2) proposed stipulations; (3) proposed requests for information and for evidence; (4) statements of positions; and (5) proposed procedural dates. The Bureau of International Aviation will circulate its material on or before July 16, 1982, and the other parties on or before July 21, 1982. The submissions of the other parties shall be limited to points on which they differ with the Bureau of International Aviation, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., July 12, 1982.

William A. Kane, Jr.,

Administrative Law Judge.

[FR Doc. 82-19207 Filed 7-15-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40462]

Sea Coast Airways Fitness Investigation; Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference and hearing in the above-entitled proceeding are assigned to be held on July 27, 1982, at 10 a.m. (local time), Room 1027, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., July 13, 1982.

Ronnie A. Yoder,

Administrative Law Judge.

[FR Doc. 82-19208 Filed 7-15-82; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Tennessee Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Tennessee Advisory Committee to the Commission will convene at 9:00a and will end at 1:00p, on July 30, 1982, at the Ramada Inn, in the Caucus Room, Capitol Hill 1/840 James Robertson Parkway, Nashville, Tennessee, 37203. The purpose of the meeting is for subcommittee reports on Meharry Medical College; police-community relations in Nashville; efforts to meet with the Tennessee Governor Regarding block grant programs; follow-up to recently released affirmative action report and discuss program plans for Fiscal Year 1983.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mattie Crossley, 351 Fay Avenue, Memphis, Tennessee, 38109 (910) 276-4461 or the Southern Regional Office, Citizens Trust Bank Building, 75 Piedmont Avenue, North East, Room 362, Atlanta, Georgia, 30303 (404) 221-4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 12, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-19249 Filed 7-15-82; 8:45 a.m.]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Anhydrous Sodium Metasilicate From France; Preliminary Results of Administrative Review of Antidumping Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping duty order.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping duty order on anhydrous sodium metasilicate from France. The review covers the only known exporter of this merchandise to the United States, Rhone-Poulenc, S.A., and the period June 1, 1981 through December 31, 1981. There were no known shipments of this

merchandise to the United States during the period and there are no known unliquidated entries.

As a result of the review, the Department has preliminarily determined to require cash deposits of estimated duty on future entries equal to the calculated margins on the last known shipments. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: July 16, 1982.

FOR FURTHER INFORMATION CONTACT: Valerie Newkirk or William Matthews, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–3601).

SUPPLEMENTARY INFORMATION:

Background

On April 12, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 15620) the final results of its first administrative review of the antidumping duty order on anhydrous sodium metasilicate ("ASM") from France (46 FR 1667–8, January 7, 1981) and announced its intent to conduct the next administrative review by the end of January 1983. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

The review covers imports of anhydrous sodium metasilicate, a crystalline silicate (NA_2SiO_3) which is alkaline and readily soluble in water. Applications include waste paper de-inking, ore flotation, bleach stabilization, clay processing, medium or heavy duty cleaning, and compounding into other detergent formulations. ASM is currently classifiable under item 421.3400 of the Tariff Schedules of the United States Annotated (TSUSA).

The only known exporter of French ASM to the United States is Rhone-Poulenc, S.A. The review covers the period June 1, 1981 through December 31, 1981. There were no known shipments to the United States during this period and there are no known unliquidated entries.

In the absence of actual sales, the respondent requested an adjustment to the present rate of cash deposit of estimated antidumping duties, to be based on a *statement of intent* to offer for sale. A statement of intent to offer for sale, however, is an insufficient basis under the applicable law for calculation of United States price or foreign market value.

Preliminary Results of the Review

It is the Department's policy in cases of no shipment by particular firms to use the most recent rate calculated for those firms as the deposit rate. The Department has preliminarily determined not to adjust the present rate of cash deposit of estimated dumping duties, in the absence of shipments during the period of review. Therefore, as provided for in § 353.48(b) of the Commerce Regulations, we preliminarily determine that a cash deposit of estimated dumping duties of 60%, based upon the last known shipments by Rhone-Poulenc, S.A., shall be required on any shipments of French ASM entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results on or before August 16, 1982 and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday thereafter. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

July 12, 1982.

[FR Doc. 82–19293 Filed 7–15–82; 8:45 am]

BILLING CODE 3510–25–M

Pig Iron From East Germany; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On May 11, 1982 the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on pig iron from East Germany. The review covered the only known exporter of pig iron from East Germany to the United States and the time period from October 1, 1980 through September 30, 1981.

There were no known shipments of this merchandise to the United States during the period and there are no known unliquidated entries.

Interested parties were given an opportunity to submit oral or written comments on these preliminary results. We received no comments.

EFFECTIVE DATE: July 16, 1982.

FOR FURTHER INFORMATION CONTACT: Dennis U. Askey or David R. Chapman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–2923).

SUPPLEMENTARY INFORMATION:

Background

On October 29, 1968 a dumping finding with respect to pig iron from East Germany was published in the **Federal Register** as Treasury Decision 68–263 (33 FR 15904). On May 11, 1982 the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 20172) the preliminary results of its second administrative review of the finding. The Department has now completed that review.

Scope of the Review

Imports covered by the review are shipments of pig iron, which is used in steel production and in the iron foundry industry for making iron castings such as pipe, automobile castings, and machinery parts. Pig iron is currently classifiable under item numbers 606.1300 and 606.1500 of the Tariff Schedules of the United States Annotated (TSUSA).

The review covers the only known exporter of pig iron from East Germany to the United States, Deutsche Stahl-Metall, and the period October 1, 1980 through September 30, 1981.

Final Results of the Review

Interested parties were invited to comment on the preliminary results. The Department received no written comments or requests for disclosure or a hearing. Therefore, the final results of our review are the same as those presented in the preliminary results of review. There were no known shipments to the United States during this period and there are no known unliquidated entries.

As provided for by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the most recent margin calculated for the firm shall be required on all shipments of pig iron from East Germany entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

Deutsche Stahl-Metall failed to respond to our questionnaire for the review period. The most recent margin calculated for Deutsche Stahl-Metall is the rate of 70 percent calculated during the original fair value investigation. This rate shall remain in effect until publication of the final results of our next administrative review. The Department intends to conduct the next administrative review by the end of September 1983. The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information in the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

July 12, 1982.

[FR Doc. 82-19292 Filed 7-15-82; 8:45 am]

BILLING CODE 3510-25-M

American Museum of Natural History; Decisions on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No.: 82-00032. Applicant: American Museum of Natural History, Center Park W. at 79th Street, New York, NY 10024. Article: Imax Projection System. Manufacturer: Imax Systems Corporation, Canada. Intended use of article: See Notice on page 60045 in the **Federal Register** of December 8, 1981.

Comments: No comments have been received with respect to this application. Decision: Application denied. Because the article possesses no scientific value for the purposes for which it is intended, a prima facie case is not presented upon which to base a finding of scientific equivalency. Reasons: Item 851.60 of the Tariff Schedules of the United States (TSUS) provides, *inter alia,* for duty-free treatment with respect to "Articles entered for the use of any nonprofit institution, whether public or private, established for educational or scientific purposes * * * if no instrument or apparatus of *equivalent scientific value for the purposes for which the instrument or apparatus is intended to be used* is being manufactured in the United States" (Italics supplied). The law provides that the Secretary of Commerce, whose authority has been delegated to this office, is to determine "whether an instrument or apparatus of equivalent scientific value to such (the foreign) article, for the purposes for which the instrument or apparatus is intended to be used, is being manufactured in the United States" (headnote 6(c), Schedule 8, Part 4, TSUS). In order to make the determination of scientific equivalency, it is clear that some scientific use for the foreign article, whether educational or research, must be intended. Although the foreign article falls within the tariff items eligible for duty-free entry consideration, it is intended to be used for permanent exhibition within a museum. In connection with this use, the National Bureau of Standards (NBS) advises in a memorandum dated March 19, 1982, that the foreign article does not qualify for duty-free entry under Pub. L. 89-651 (item 851.60, TSUS) because it is not related to scientific research or science-oriented educational purposes but is an article for permanent exhibition within the museum (i.e., it is not a tool actually used in research such as a microscope, a telescope or a spectrometer). In view of the intended use of the article and the above stated requirements of Pub. L. 89-651, the Department cannot make the finding on scientific equivalency upon which duty-free entry must be conditioned. Therefore, the application is denied.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-19324 Filed 7-15-82; 8:45 am]

BILLING CODE 3510-25-M

Geophysical Institute; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No.: 82-00085. Applicant: Geophysical Institute, University of Alaska, Fairbanks, AK 99701. Article: EM 38 Shallow Sounding Magnetic Induction Tool. Manufacturer: Geonics Ltd., Canada. Intended use of article: See Notice on page 9259 in the **Federal Register** of March 4, 1982.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (April 18, 1980). Reasons: This application is a resubmission of Docket Number 81-00033 which was denied without prejudice to resubmission on July 15, 1981 for informational deficiencies. The National Bureau of Standards advises in its memorandum dated June 3, 1982 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use which was available at the time the foreign article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the foreign article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-19323 Filed 7-15-82; 8:45 am

BILLING CODE 3510-25-M

Leather Wearing Apparel From Uruguay; Termination of Suspension Agreement and Issuance of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of termination of suspension agreement and issuance of countervailing duty order.

SUMMARY: The Department of Commerce has reviewed the agreement

to suspend the countervailing duty investigation on leather wearing apparel from Uruguay and has determined that the suspension agreement no longer meets the statutory requirements for suspension. Therefore, the Department is terminating the suspension agreement and issuing a countervailing duty order with regard to this merchandise.

EFFECTIVE DATE: July 16, 1982.

FOR FURTHER INFORMATION CONTACT: Patricia W. Stroup or Richard W. Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202, 377–3691/2786).

SUPPLEMENTARY INFORMATION:

Background

On March 16, 1981, the Department of Commerce ("the Department") published in the Federal Register (46 FR 16921) a notice of suspension of countervailing duty investigation regarding imports of leather wearing apparel from Uruguay. In that notice, we stated that the Government of Uruguay had agreed to eliminate completely any net subsidy on exports to the United States, in accordance with section 704(b) of the Tariff Act of 1930 ("the Tariff Act").

On March 11, 1981, the Government of Uruguay requested that the investigation be continued. As a result of this request both the Department and the International Trade Commission ("the ITC") continued the respective investigations.

On March 30, 1981, we published a notice of final affirmative countervailing duty determination in the Federal Register (46 FR 19288). In that notice we stated that the Government of Uruguay had provided subsidies, as defined in section 701 of the Tariff Act, to manufacturers, producers and exporters of leather wearing apparel.

On May 22, 1981, the ITC published (46 FR 28044) its determination that an industry in the United States was being threatended with material injury by reason of the importation of the subsidized merchandise. On the basis of these two final affirmative determinations, the suspension agreement remained in effect, in accordance with section 704(g) of the Tariff Act.

Scope of the Review

The merchandise covered by this review is leather wearing apparel and parts and pieces thereof, currently classifiable under items 791.7620, 791.7640, and 791.7660 of the Tariff Schedules of the United States Annotated.

Analysis of Programs

Under the terms of the suspension agreement, the Government of Uruguay agreed to "eliminate completely" the subsidy which we had determined to exist. The subsidy was comprised of benefits from three programs. These programs were: The rebate of both direct and indirect taxes under the "Reintegro" program, an income tax forgiveness program, and an additional benefit conferred by virtue of the Government of Uruguay's not collecting 1980 social security taxes from the leather wearing apparel industry.

In accordance with its commitment, the Government of Uruguay issued a decree imposing export taxes on all leather wearing apparel exported to the United States on or after June 16, 1981 (the date by which it had agreed to eliminate all such subsidies). The rates of the export taxes in the decree were based on the total net subsidy amounts which we had found during our investigation for the three programs.

(1) *Rebates under the Reintegro Program.* Under the Reintegro program, exporters must apply for and receive certificates in order to receive the rebates. The decree delegated the responsibility for collecting the export taxes to the Banco de la Republica Oriental del Uruguay ("the central bank"), an independent banking institution which is also responsible for issuing the Reintegro certificates. The Government of Uruguay had anticipated that the central bank would be able to collect the export taxes at the time exporters applied for their Reintegro certificates. However, since the tax rate was higher than the Reintegro amount, the exporters ceased applying for these certificates. Therefore, no Reintegro certificates were issued on or after June 16, 1981 for exports of leather wearing apparel to the United States. Additionally, the Government of Uruguay in January 1982 forbade any further issuance of these certificates on shipments of leather wearing apparel destined for the United States. As the Reintegro accounted for the preponderance of the benefits conferred on such merchandise, eliminating the issuance of these certificates has resulted in the elimination of well over 95 percent of the total subsidy amount.

(2) *Uncollected Social Security Taxes.* For purposes of the suspension agreement, we determined that the Government of Uruguay intended to collect the 1980 social security taxes that the leather wearing apparel industry had not paid, and the uncollected taxes therefore should be treated as an interest-free loan. The amount of the principal of such a loan is not countervailable as long as it continues to be considered an outstanding debt. However, in the notice of final affirmative countervailing duty determination we had included in our net subsidy calculation an amount equal to the interest which would have been charged for such a loan, using for the comparable commercial rate the prime rate of interest available in Uruguay at the time. The Government of Uruguay included this latter amount in the export taxes it subsequently imposed via the central bank. As mentioned, when the central bank stopped receiving applications for Reintegro certificates, its ability to collect export taxes (and the component for the interest subsidy) ceased.

With regard to the uncollected taxes themselves (the principal), the Uruguayan Department of Taxation sent repeated notices to all the firms involved, even though such retroactive collection of taxes is not provided for under Uruguayan law. Since 1980, a substantial number of the affected firms have disappeared due to export decline. Some firms have merged and a significant number have filed for bankruptcy. For these reasons, the Government of Uruguay determined that it would be unable to collect the 1980 social security taxes and, on May 11, 1982, the government officially notified the Department that it had ceased in its attempts to collect these taxes from the leather wearing apparel industry.

Because the Government of Uruguay will not be able to collect these taxes, the Department no longer considers these taxes to be a loan. We now consider the uncollected taxes to be a grant to the leather wearing apparel industry bestowed by the Government of Uruguay on May 11, 1982, the date it officially declared these taxes uncollectable.

Thus, the benefits to leather wearing apparel exports under this program are the total amount of the uncollected taxes and the uncollected interest which would have been due from June 16, 1981, the date by which the Government of Uruguay had agreed to eliminate all subsidies, to May 11, 1982.

At the time of the original investigation, we had determined that the amount of the uncollected social security taxes was 2 percent of the f.o.b. value of the merchandise. However, there was a clerical error in the calculation. We have corrected this error and found that the actual amount of the social security taxes during 1980 was 2.37 percent of the f.o.b. value of the merchandise. This error caused a

corresponding error in the calculation of interest due on the unpaid social security tax amount. This amount should have been 0.48 percent, not the 0.41 percent published in our final affirmative determination.

(3) *Income Tax Forgiveness.* We determined that the amount of the benefit to exports of leather wearing apparel from this program includes all income taxes forgiven from the date by which the Government of Uruguay had agreed to eliminate all such subsidies (june 16, 1981), to the date the income tax forgiveness program ended (December 31, 1981). The amount of the benefit conferred under this program was determined at the time of the investigation to be 0.02 percent of the f.o.b. value of the merchandise. We have determined that there were no residual benefits from this program since the only merchandise which received any benefits from the income tax forgiveness program was that merchandise exported from Uruguay on or after June 16, 1981, through December 31, 1981.

Determination

The Government of Uruguay requested, and was afforded, the opportunity to renegotiate the terms of the agreement. However, the statutes requires that, in order for a suspension agreement to remain in force, the subsidy amount must be eliminated completely. As the Government of Uruguay started that it would be unable to accomplish this, there were no grounds for satisfactorily altering or amending the agreement.

Thus, while the Government of Uruguay has fulfilled the majority of its commitments in the agreement, the government has been unable to "eliminate completely" the total net subsidy. The Department therefore determines that the suspension agreement between the Department and the Government of Uruguay with regard to leather wearing apparel exports to the United States no longer meets the criteria of section 704(b) of the Tariff Act and therefore terminates the suspension agreement.

Since a final affirmative countervailing duty determination has been reached, since the ITC has determined that an industry in the United States is threatened with material injury, and since the suspension agreement is terminated, the Department issues this countervailing duty order with regard to shipments of leather wearing apparel exported from Uruguay on or after June 16, 1981. The estimated net amounts of the subsidies on this merchandise are 0.50 percent of the f.o.b. value for shipments exported during the period June 16, 1981, through December 31, 1981, 0.48 percent for shipments exported during the period January 1, 1982, through May 11, 1982, and 2.37 percent for all shipments exported on or after May 12, 1982.

The Department shall notify the U.S. Customs Service to suspend liquidation of shipments of leather wearing apparel from Uruguay exported on or before June 16, 1981, and entered, or withdrawn from warehouse, for consumption on or after April 17, 1982. The Department will also notify the Customs Service to collect cash deposits of estimated countervailing duties in the amount of 2.37 percent of the f.o.b. value of the merchandise on all shipments exported from Uruguay on or after May 12, 1982, and entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit rate shall remain in effect until publication of the final results of the Department's administrative review of the order under section 751 of the Tariff Act. The Department intends to conduct an administrative review by the 1983 anniversary date of publication of this notice.

Concurrent with the publication of this notice, the Department is notifying the petitioner, interested parties who were parties to the investigation, and the International Trade Commission of our actions, in accordance with section 704(i)(1)(D) of the Tariff Act.

This notice is published in accordance with section 706(a) of the Tariff Act (19 U.S.C. 1671e(a)) and § 355.32 of the Commerce Regulations (19 CFR 355.32).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

July 12, 1982.

[FR Doc. 82-19297 Filed 7-15-82; 8:45 am]

BILLING CODE 3510-25-M

[A-588-056]

Melamine in Crystal Form From Japan; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on melamine in crystal form from Japan. The review covers the five known exporters of this merchandise to the United States and the period February 1, 1981 through January 31, 1982. There were no known shipments of this merchandise to the United States during the period and there are no known unliquidated entries.

As a result of the review the Department has preliminarily determined to require cash deposits of estimated antidumping duties equal to the margins calculated on the last known shipments. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: July 16, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph A. Fargo or Robert Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, (202-377-5255).

SUPPLEMENTARY INFORMATION:

Background

On May 28, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 23507) the final results of its administrative review of the antidumping finding on melamine in crystal form from Japan (42 FR 6866, February 2, 1977) and announced its intent to conduct the next administrative review by the end of February 1983. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

The review covers imports of melamine in crystal form, a fine white crystalline powder used to manufacture melamine formalydehyde resins. Melamine in crystal form is currently classifiable under item 425.1020 of the Tariff Schedules of the United States Annotated (TSUSA).

C. Itoh & Co., Ltd., Mitsui Toatsu Chemicals, Inc., Nichimen Co., Ltd., Nissan Chemical Industries, Ltd., and Nosawa & Co., Ltd. are the five known exporters of Japanese melamine in crystal form to the United States. This review covers the period February 1, 1981 through January 31, 1981. There were no known shipments to the United States during the period and there are no known unliquidated entries.

Preliminary Results of the Review

As a result of our review, we have determined cash deposit rates for estimated antidumping duties on the basis of the margins on the last known shipments. Those margins are:

Firm	Time period	Margin (percent)
C. Itoh & Co., Ltd	02/01/81-01/31/82	[1]60
Mitsui Toatsu Chemicals, Inc	02/01/81-01/31/82	[1]70.22
Nichimen Co., Ltd	02/01/81-01/31/82	[1]60
Nissan Chemical Industries, Ltd	02/01/81-01/31/82	[1]60
Nosawa & Co., Ltd	02/01/81-01/31/82	[1]60

[1] No shipments during the period.

Interested parties may submit written comments on these preliminary results on or before August 16, 1982 and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday thereafter. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

As provided for in § 353.48(b) of the Commerce Regulations, cash deposits of estimated antidumping duties in the amounts listed above shall be required on all shipments of Japanese melamine in crystal form from these firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

July 12, 1982.

[FR Doc. 82-19294 Filed 7-15-82; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

Revision to Federal Information Processing Standard 32, Character Sets for Optical Character Recognition (OCR)

Correction

In FR Doc. 82-17218 appearing on page 27579 in the issue of Friday, June 25, 1982, make the following corrections:

1. On page 27580, first column, there should have been a blank line labeled "Date" beneath the heading "**Federal Information Processing Standards Publication 32-1**".

2. Also on page 27580, in the third column, under "**SPECIAL INFORMATION**", paragraph b. was published incorrectly, and paragraph c. was inadvertently omitted. They should have read as follows:

b. The addition of three monetary shapes and the deletion of four punctuation characters of OCR-B, as reflected in American National Standard X3.49-1975.

c. The inclusion of a special character set, E-13B MICR (read optically), based on the specifications of American National Standard X3.2-1970 (R1976). This is a special set normally used in conjunction with MICR installations.

Implementation * * *

BILLING CODE 1505-01-M

National Voluntary Laboratory Accreditation Program (NVLAP); Quarterly Report (April 1-June 30, 1982)

AGENCY: National Bureau of Standards, Commerce.

ACTION: Publication of the NVLAP quarterly report.

SUMMARY: The National Bureau of Standards (NBS) announces accreditation actions for the second quarter of 1982. In addition, the status of all NVLAP laboratory accreditation programs (LAPs) is summarized.

FOR FURTHER INFORMATION CONTACT: Mr. John W. Locke, Manager, Laboratory Accreditation, National Bureau of Standards, TECH B06, Washington, DC 20234, (301) 921-2427. Those interested in using the services of a NVLAP accredited laboratory may obtain the latest copy of the list of test methods for which it is accredited either from the laboratory itself or from Mr. Locke at the address given above. Also available from Mr. Locke is a complete listing of NVLAP accredited laboratories with a corresponding list of the test methods for which each is accredited.

SUPPLEMENTARY INFORMATION:

Background

This report has been prepared in accordance with sections 7a.17(a), 7b.17(a), and 7c.17(a) of the National Voluntary Laboratory Accreditation Program (NVLAP) Procedures (15 CFR Parts 7a, 7b, and 7c). In addition, to fulfill NVLAP requirements for monthly reporting of accreditation actions, notice of actions taken under NVLAP for the month of June is included in this report.

NVLAP accreditation does not relieve the laboratories from the necessity of observing and complying with existing Federal, State, and local statutes, ordinances, and regulations that may be applicable to their operations, including consumer protection and antitrust laws.

Accreditation is granted for a period of one year. All laboratories will have one of four anniversary dates, January 1, April 1, July 1, or October 1. All accreditation actions will be made during the month preceding each anniversary date. However, before it expires, accreditation may be terminated at the request of the laboratory or may be revoked due to violation of the accreditation criteria or other conditions of the laboratory's accreditation. The criteria are described in sections 7a.19-7a.30 of the NVLAP Procedures (46 FR 37034-37036, dated July 17, 1981).

New Accreditations Granted

Six laboratories were newly accredited during June 1982. The name and address of each laboratory and the test methods for which one year accreditation was granted are listed below. In each case accreditation is granted on July 1, 1982 and expires on June 30, 1983.

FOX & ASSOCIATES OF ARIZONA, INC.

[Attn: Ronald L. Pruett, 3301 E. Madison Street, Phoenix, AZ 85034, phone: (612) 244-8197]

NVLAP code	Designation	Short title
02/M01	ASTM C31	Making and Curing Concrete Test Specimens in the Field.
02/M03	ASTM C172	Sampling Fresh Concrete.
02/P01	ASTM C143	Slump of Portland Cement Concrete.
02/W01	ASTM C138	Unit Weight, Yield, and Air Content (Gravimetric) of Concrete.
02/A01	ASTM C231	Air Content of Freshly Mixed Concrete by the Pressure Method.
02/S01	ASTM C39	Compressive Strength of Cylindrical Concrete Specimens.
02/A02	ASTM C173	Air Content of Freshly Mixed Concrete by the Volumetric Method.

HARDING-LAWSON ASSOCIATES

[Attn: James E. Nichols, 940 Matley Lane, Reno, NV 89502, phone: (702) 329-6123]

NVLAP code	Designation	Short title
02/M01	ASTM C31	Making and Curing Concrete Test Specimens in the Field.
02/M03	ASTM C172	Sampling Fresh Concrete.
02/P01	ASTM C143	Slump of Portland Cement Concrete.
02/W01	ASTM C138	Unit Weight, Yield, and Air Content (Gravimetric) of Concrete.
02/A01	ASTM C231	Air Content of Freshly Mixed Concrete by the Pressure Method.
02/S01	ASTM C39	Compressive Strength of Cylindrical Concrete Specimens.

LINCOLN-DEVORE TESTING LABORATORY, INC.

[Attn: George D. Morris, 1000 West Fillmore Street, Colorado Springs, CO 80907, phone: (303) 632-3583]

NVLAP code	Designation	Short title
02/M01	ASTM C31	Making and Curing Concrete Test Specimens in the Field.
02/M03	ASTM C172	Sampling Fresh Concrete.
02/P01	ASTM C143	Slump of Portland Cement Concrete.
02/W01	ASTM C138	Unit Weight, Yield, and Air Content (Gravimetric) of Concrete.
02/A01	ASTM C231	Air Content of Freshly Mixed Concrete by the Pressure Method.
02/S01	ASTM C39	Compressive Strength of Cylindrical Concrete Specimens.

SALEM CARPET LABORATORY

[Attn: Michael A. Corbin, P.O. Box 160, Chatsworth, GA 30705, phone: (404) 695-4663]

NVLAP code	Designation	Short title
03/C01	AATCC 16E	Colorfastness to Light (Xenon Arc).
03/C02	AATCC 8	Colorfastness to Crocking.
03/D01	ASTM D418	Methods of Testing Woven and Tufted Pile Floor Coverings. Pile Weight—Uncoated (Para. 10-19). Pile Weight—Coated (Para. 20-29) as modified by UM 44C. Pile Thickness—(Para. 30-36). Tuft Height—(Para. 37-45) as modified by UM 44C.
03/D02	DDD-C-95A	Shrinkage
03/S01	ASTM D1335	Tuft Bind of Floor Coverings
	Federal Test Method Standard 191-5100.	Textile Test Method—Breaking Strength.
	Standard 191-5950.	Textile Test Method—Delamination.
03/F03	DoC FF1-70	Methenamine Pill Test.

UNION ROCK AND MATERIALS CORP.

[Attn: Ronald Keefer, P.O. Box 8007, Phoenix, AZ 85066, phone: (603) 276-4211]

NVLAP code	Designation	Short title
02/M01	ASTM C31	Making and Curing Concrete Test Specimens in the Field.
02/M03	ASTM C172	Sampling Fresh Concrete.
02/P01	ASTM C143	Slump of Portland Cement Concrete.
02/W01	ASTM C138	Unit Weight, Yield, and Air Content (Gravimetric) of Concrete.
02/A01	ASTM C231	Air Content of Freshly Mixed Concrete by the Pressure Method.
02/S01	ASTM C39	Compressive Strength of Cylindrical Concrete Specimens.

UNITED STATES GYPSUM COMPANY

[Attn: William Porter, 700 N. U.S. Highway 45, Libertyville, IL 60048, phone: (312) 362-9797]

NVLAP code	Designation	Short title
01/T06	ASTM C518	Thermal Transmission Properties; Heat Flow Meter.

Accreditation for Additional Test Methods

One previously accredited laboratory, Geoscience Ltd., 410 South Cedros Avenue, Solana Beach, CA 92075 added a test method *ASTM C236, Thermal Conductance; Guarded Hot Box* to their list of accredited test methods.

Terminated Accreditation

Accreditation under the Carpet LAP for Mohasco Corp., Physical Testing Laboratory, Amsterdam, NY was voluntarily terminated by the company on June 11, 1982, because the laboratory was transferred to Dublin, GA. It is anticipated that the company will apply for accreditation for the reestablished laboratory.

Technical Micronics Control Inc., Huntsville, Alabama voluntarily terminated its accreditation for test method *ASTM C177, (NVLAP Code 01/T01) Thermal Transmission Properties; Low-Temperature Guarded Hot Plate* effective June 24, 1982. Accreditation for the remainder of its list of accredited test methods continues in effect.

Discontinued Test Methods

ASTM C355 (NVLAP Code 01/D10) Standard Test Methods for Water Vapor Transmission of Thick Materials was officially withdrawn by ASTM Committee C16 as of April 1, 1982. This method was replaced with *ASTM E96, Standard Test Methods for Water Vapor Transmission of Materials.* ASTM E96 is already a part of the Thermal Insulation LAP as NVLAP Code 01/V04. Accordingly, accreditation for ASTM C335 will no longer be offered.

List of Laboratories Whose Accreditations Were Renewed During the Second Quarter of 1982

The accreditation of the following laboratories was renewed during the second quarter of 1982, for one or more test methods available under NVLAP. Each laboratory received a certificate of accreditation and a corresponding list of test methods for which each is accredited. Anyone who wishes to know which test methods each laboratory is accredited for should contact the laboratory directly or Mr. Locke.

Pittsburgh Testing Laboratory, 850 Popular Street, Pittsburgh, PA 15220.

STS Consultants, Ltd., 111 Pfingsten Road, Northbrook, IL 60062.

Insulation LAP Status

The LAP for thermal insulation materials has 56 test methods for which accreditation may be granted. Forty laboratories are currently accredited to perform one or more of these test methods.

Concrete LAP Status

The LAP for freshly mixed field concrete has two groups of test methods and one optional test method for which accreditation can be granted. Forty-nine laboratories are currently accredited under the Concrete LAP.

Carpet LAP Status

The LAP for carpet has 12 test methods for which accreditation may be granted. Twenty four laboratories are currently accredited for one or more of these test methods.

LAPs Under Development

Stove LAP—The formal establishment of a Laboratory Accreditation Program (LAP) for Solid Fuel Room Heaters (Stove LAP) was announced on April 20, 1982 in the **Federal Register** (47 FR 16823-16827). Several laboratories have already applied for accreditation under this LAP. On-site assessments and proficiency testing are expected to begin in late summer. Laboratories interested in future participation should request application packages from Mr. Locke.

Acoustics LAP—Copies of the minutes of the Acoustics LAP workshops held at NBS earlier this year were sent to nearly 200 people for comments and suggestions. Included with the minutes were appendices which identify the elements that are critical to the proper performance of each test method in the Acoustics LAP. Comments on the minutes and appendices were received and analyzed. Those that were acceptable were incorporated in the NVLAP documents. A request was received from the Motor Vehicles Manufacturers Association to include in the Acoustics LAP ten additional noise emission test methods for motor vehicles. These test methods are being evaluated by NVLAP and will be included in the program if appropriate. A **Federal Register** announcement of the Acoustics LAP test methods for which laboratories can request accreditation is planned for the third quarter of this year.

Dosimetry LAP—Information gathered from the workshop, which was held at the National Bureau of Standards on April 12 and 13, 1982, will

be used to establish a uniform basis for the determination of each processor's compliance with NVLAP criteria. In response to a request for nominations of individuals with professional credentials in personnel dosimetry processing to serve as NVLAP assessors, over 70 individuals have been nominated. These nominees will be contacted to ascertain their interest in serving as assessors prior to the formal selection process. Progress continues on a "Request for Proposal" (RFP) to obtain the services of a testing laboratory to conduct the proficiency testing aspect of this LAP. The RFP should be available to offerors in the third quarter of this year.

Electromagnetic Calibration Services LAP—A final finding of need for a LAP which will be offered to laboratories who provide electromagnetic calibration services was published on January 14, 1982. A public workshop to discuss the technical requirements for this LAP was held on July 1–2, 1982. An analysis of workshop comments is in progress. A notice announcing the formal establishment of this LAP is expected in the fourth quarter of this year.

Windows and Doors LAP—On January 21, 1982 a notice was published in the **Federal Register** (47 FR 3025–3026) announcing a request from the Department of Housing and Urban Development (HUD) to establish a Laboratory Accreditation Program (LAP) for window and door products. HUD in a letter to NBS dated May 12, 1982, withdrew its request so that other interested parties could act as proponents of the proposed program. The notice announcing the HUD decision was published in the **Federal Register** (47 FR 23509–23510) dated May 28, 1982.

As a result of the HUD decision, NBS has received a letter from a private testing laboratory requesting that NBS establish a LAP covering those testing laboratories that test window and door products.

A preliminary finding of need for this program requesting comments to ascertain the overall support for the proposed LAP is being developed and will be published in a **Federal Register** notice during the third quarter of this year.

Date: July 13, 1982.

Raymond G. Kammer,

Acting Director, National Bureau of Standards.

[FR Doc. 82-19283 Filed 7-15-82; 8:45 am]

BILLING CODE 3510-13-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting Import Restrain Levels for Certain Cotton Textile Products From India

July 13, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Granting an increase of 7,741 dozen for swing in cotton trousers in Category 347/348, produced or manufactured in India and exported during the agreement year which began on January 1, 1981, increasing the level from 121,024 dozen to 128,765 dozen. The amount is being deducted from the level for Category 338/339/340 (shirts and blouses), reducing that level from 1,034,738 dozen to 1,026,997 dozen. This adjustment applies to both visaed merchandise and merchandise certified with the elephant shaped certification.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926), and May 13, 1982 (47 FR 20654))

SUMMARY: The Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of December 30, 1977, as amended, between the Governments of the United States and India provides for percentage increases in certain categories (swing). Pursuant to the terms of the bilateral agreement, and at the request of the Government of India, the import restraint level established for Category 347/348 is being increased and the level for Category 338/339/340 is being decreased for the twelve-month period which began on January 1, 1982 and extends through December 31, 1982.

EFFECTIVE DATE: July 19, 1982.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-4212).

SUPPLEMENTARY INFORMATION: On December 18, 1981 a letter dated December 15, 1981 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs was published in the **Federal Register** (46 FR 61685), which established import restraint levels for certain specified categories of cotton, wool, and man-made fiber textile products, produced or manufactured in India and exported to the United States during the twelve-month period which began on January 1, 1982 and extends through December 31, 1982.

In accordance with the terms of the bilateral agreement and at the request of the Government of India, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs in the letter published below to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 347/348 and 338/339/340, produced or manufactured in India, in excess of the designated adjusted levels of restraint, during the twelve-month period which began on January 1, 1982.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

July 13, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: On December 18, 1981, the Chairman of the Committee for the Implementation of Textile Agreements directed you to prohibit entry for consumption, or withdrawal from warehouse for consumption, during the twelve-month period beginning on January 1, 1982 and extending through December 31, 1982 of cotton, wool, and man-made fiber textile products in certain specified categories, produced or manufactured in India, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the arrangement regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of December 30, 1977, as amended, between the Governments of the United States and India; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed, effective on July 19, 1982 to amend the twelve-month levels of restraint established for cotton textile products in Categories 347/348 and 338/339/340, whether

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of December 30, 1977, as amended, between the Governments of the United States and India, which provide, in part, that: (1) within the aggregate, group limits may be exceeded by designated percentages; (2) specific limits may be exceeded by various percentages subject to various provisions of the agreement; (3) consultation levels may be increased upon agreement between the two governments; and (4) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

accompanied by a visa or an elephant shaped certification, to the following:

Category	Amended 12-mo. level of restraint [1] (dozens)
347/348	128,765
338/339/340	1,026,997

[1] The levels of restraint have not been adjusted to account for any imports after December 31, 1981.

The actions taken with respect to the Government of India and with respect to imports of cotton textile products from India have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necesssary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-19322 Filed 7-15-82; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of the Army

National Board for the Promotion of Rifle Practice, Executive Committee; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act Pub. L. 92-463, announcement is made of the following committee meeting:

Name of committee: Executive Committee of the National Board for the Promotion of Rifle Practice (NBPRP)
Date of meeting: August 8, 1982.
Place: Camp Perry, Ohio
Time: 0900 hours

Proposed Agenda

1. Recommendations on Board appointments and terms.
2. Appointment Procedures and Terms of Service for Board.
3. NBPRP Support for Development of Automatic Target System.
4. Junior Shooters Sponsored by DCM to US International Championships.
5. Competitive Shooting Program for Carbines.
6. Presentation by Mr. Krenzke.
7. NBPRP/DCM Support for Biathlon.

This meeting is open to the public.

Note.—This is the continuation of a two part meeting, the first of which was conducted in Washington, D.C. The above agenda items are remaining from the July 2, 1982 meeting.

Wilson R. Rutherford III,

LTC, GS, Military Assistant.

[FR Doc. 82-19288 Filed 7-15-82; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

Advisory Panel on Financing Elementary and Secondary Education; Meeting

AGENCY: Advisory Panel on Financing Elementary and Secondary Education, Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Advisory Panel on Financing Elementary and Secondary Education. It also describes the functions of the Panel. Notice of this meeting is required under the Federal Advisory Committee Act, Section 10(a)(2). This document is intended to notify the general public of its opportunity to attend.

DATE: August 3 and 4, 1982, from 8:00 a.m. to 4:00 p.m.

ADDRESS: Room 330, Brown Building, 1200 19th Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Will S. Myers, Executive Director, Advisory Panel on Financing Elementary and Secondary Education, P.O. Box 19125, Washington, D.C., 20036, (202) 653-6278.

SUPPLEMENTARY INFORMATION: The Advisory Panel on Financing Elementary and Secondary Education is established under Section 1203, Title XII of the Education Amendments of 1978 (Pub. L. 95-561). The Panel provides the Secretary and the Congress with advice and counsel concerning public policies on raising and distributing revenues to support elementary and secondary education. The Advisory Panel also provides periodic advice to the Secretary concerning the conduct of studies authorized by Section 1203. The Advisory Panel is scheduled to report its findings and recommendations to the President and the Congress December 31, 1982.

The Agenda for the meeting will include the following items:

1. Official greeting.
2. Review of legislation and discussion of statutory responsibilities.
3. Briefing and discussion of scope and content of school finance studies.
4. Discussion of topics for inclusion in Panel's report to Congress.
5. Schedule of future meetings.
6. Staff personnel.

A portion of the Panel meeting will be closed if necessary on August 3, 1982 from 2:00 p.m. to 4:00 p.m. to discuss the position of Executive Director. The meeting will be closed under the authority of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. Appendix I) and under exemptions (2) and (6) of Section 552b(c) of the Government in the Sunshine Act (Pub. L. 94-409; 5 U.S.C. 552b(c) (2) and (6)). Discussion of the position will include consideration of the qualifications and fitness of the incumbent and others and may touch upon matters which would constitute an invasion of privacy if conducted in an open meeting.

A record of the proceedings including a summary of the closed session which are informative to the public consistent with the policy of 5 U.S.C. 552b(c) shall be available for public inspection at the offices of the Advisory Panel on Financing Elementary and Secondary Education located at 1200 19th Street, N.W., Room 725, Washington, D.C. within 14 days following the session.

Signed at Washington, D.C. on July 12, 1982.

Will S. Myers,

Executive Director, Advisory Panel on Financing Elementary and Secondary Education.

[FR Doc. 82-19304 Filed 7-15-82; 8:45 am]

BILLING CODE 4000-01-M

Office of Postsecondary Education

Supplemental Funds Program for Cooperative Education; Application Notice for New Applications for Fiscal Year 1982

Applications are invited for the award of certain unused College Work-Study Program funds for the support of programs of Cooperative Education.

Authority for this program is contained in section 442(d) of the Higher Education Act of 1965, as amended by section 433 of Pub. L. 96-374 (42 U.S.C. 2752(d)).

Closing Date for Transmittal of Applications

Applications for supplemental funds for the support of programs of Cooperative Education must be mailed or hand-delivered by August 20, 1982.

Applications Delivered by Mail

An application sent by mail must be addressed to the U.S. Department of Education, Office of Postsecondary Education, Division of Institutional and State Incentive Programs, Cooperative

Education Branch, Attention: 84.055E, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of maling:

(1) A private metered postmark, or

(2) A mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand

An application that is hand-delivered must be taken to the Cooperative Education Branch, U.S. Department of Education, (Room 3053, ROB–3), 7th and D Streets, S.W., Washington, D.C.

The Cooperative Education Branch will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Available Funds

Section 442(d) of Title IV–C of the Higher Education Act of 1965, as amended, requires the Secretary to give preference in reallotting the first 50 percent of unused College Work-Study Program funds as supplemental funds to eligible institutions of higher education for use in initiating, improving, and expanding programs of Cooperative Education administered in accordance with the regulations implementing Title VIII of the Act.

The Secretary, however, will not have the report of the unused College Work-Study Program funds available for reallotment until mid-August.

These funds must be reallotted on or before September 30, 1982.

Each eligible institution of higher education submitting an application will receive a proportionate share of the available funds, except as noted below, based on the ratio of the number of full-time and full-time-equivalent students assisted under its program of cooperative education between the period July 1, 1981, through June 30, 1982, to the number of those types of students assisted in programs of cooperative education in all eligible institutions. Using the above mentioned formula, the Secretary will not issue a grant to an eligible institution if the institution will receive a grant of less than $500.

Application Forms

Application forms and program information packages are expected to be mailed to institutions of higher education by July 20, 1982. They may also be obtained after July 20, 1982, from the Cooperative Education Branch, U.S. Department of Education (Room 3053, Regional Office Building 3), 7th and D Streets, S.W., Washington, D.C. 20202. Telephone: (202) 245–2146.

Applicable Regulations

The following regulations apply to project supported with supplemental funds:

(a) Regulations governing the Supplemental Funds Program for Cooperative Education (34 CFR Part 636), published in the **Federal Register** on May 3, 1982.

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 75 and 77, formerly 45 CFR Part 100a and 45 CFR Part 100c).

Further Information

For further information, contact Mr. Morris L. Brown, Chief, Cooperative Education Branch, Division of Institutional and State Incentive Programs, Office of Institutional Support Programs, U.S. Department of Education, 400 Maryland Avenue, S.W., (Room 3053, ROB–3), Washington, D.C. 20202. Telephone: (202) 245–2146.

(20 U.S.C. 1133, 42 U.S.C. 2752(d))

Dated: July 6, 1982.

Thomas P. Melady,

Assistant Secretary for Postsecondary Education.

[FR Doc. 82-19289 Filed 7-15-82; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Action on Consent Order With Getty Oil Co.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Adoption of proposed consent order as final.

SUMMARY: The Department of Energy (DOE) hereby gives the notice required by 10 CFR 205.199J that it has adopted the Consent Order with Getty Oil Company ("Getty"), executed on April 28, 1982 and published for comment in 47 FR 20347 on May 12, 1982, as a final order of DOE. The Consent Order resolves all issues not resolved by previous Consent Orders, except for those matters explicitly excluded, relating to Getty's compliance with the DOE Petroleum Price and Allocation Regulations for the period January 1, 1973 through January 27, 1981. To remedy any violations that may have occurred during the period, Getty has agreed to make payments totalling $3,050,000 to the U.S. Treasury.

As required by the regulation cited above, DOE received comments on the Consent Order for a period of not less than 30 days following publication of the notice cited above. Eleven comments were received by June 11, 1982, the thirtieth day following publication of the notice of the proposed Consent Order. DOE has considered all comments received and determined that the Consent Order should be made final without modification. The Consent Order was made effective as a final order of the DOE on June 25, 1982, by actual notice to Getty.

FOR FURTHER INFORMATION CONTACT: Leslie Wm. Adams, Deputy Solicitor, Economic Regulatory Administration, Department of Energy, RG–30, 1200 Pennsylvania Avenue, N.W, Washington, D.C. 20461, Phone: (202) 633–9165.

Copies of the Consent Order may be received free of charge by written request to: Getty Consent Order Request, Department of Energy, RG–30, Room 5109, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20461.

Copies may also be obtained in person at the same address or at the Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue, SW., Room IE–190, Washington, D.C.

SUPPLEMENTARY INFORMATION:

The Consent Order

On May 12, 1982, DOE published notice in the **Federal Register** at page 20347 announcing the execution of a proposed Consent Order between Getty and DOE. In compliance with DOE Regulations, that notice and a subsequent press release summarized the Consent Order and the facts behind it. The notice and press release also

gave instructions for obtaining copies of the Consent Order.

The proposed Consent Order can be summarized as follows:

1. The Consent Order marks the conclusion of the Economic Regulatory Administration (ERA) audit of compliance by Getty and Mohawk Petroleum with the Federal Petroleum price and allocation regulations, including the entitlements and mandatory oil import programs, for the period January 1, 1973 through January 27, 1981.

2. Within fifteen (15) days after the effective date of this Consent Order, Getty shall remit $3,050,000 to the United States Treasury to be deposited as miscellaneous receipts.

3. The Consent Order settles all matters arising from Getty's sales of covered products during the settlement period with certain exceptions relating to *Getty Oil Company* v. *DOE*, Civ. No. 77-434 (D. Del.) and Getty's obligations under DOE's entitlements program.

4. The Consent Order also provides details concerning enforcement of the provisions of the Consent Order itself. These provisions address Getty's obligation under DOE recordkeeping regulations and DOE's obligation to maintain the confidentiality required by law of proprietary data received from Getty. The Consent Order provides that Getty has waived its right to an administrative appeal or judicial review of the Consent Order. The Consent Order does not constitute an admission by Getty nor a finding by DOE of a violation of any Federal petroleum price and allocation statutes or regulations.

Comments Received

As noted above, DOE received a total of 11 comments on the proposed Getty Consent Order. Comments were submitted by the States of North Carolina, Vermont, California, New York, and Connecticut, a retailer of petroleum products, the National Oil Jobber's Council, a law firm representing Commonwealth Oil Refining Company, Inc. and Energy Cooperative, Inc., the Association of American Railroads and the National Council of Farmer Cooperatives. DOE has considered all comments and determined that the Consent Order should be made final without modification. The significant points raised by the comments are discussed below.

Nearly all the comments questioned the appropriateness of depositing the $3,050,000 payment in the U.S. Treasury as miscellaneous receipts, citing *Citronelle-Mobile Gathering Inc.* v. *Edwards*, 669 F.2d 717 (TECA 1982).

Consistent with the decision in *Citronelle*, DOE seeks to provide refunds to those persons who may have borne the burden of an alleged regulatory violation. This is not possible or practical in all cases. In those instances where direct refunds are not possible, DOE seeks some form of restitution to ameliorate any injury that may have occurred. The issues resolved by this Consent Order did not permit identification of injured parties. The issues raised concerned improper certification of crude oil and improperly calculated recoveries of costs.

Payment to the Treasury is an appropriate remedy in this case. This is not a situation where these monies can be attributed to identifiable injured parties. Because of the operation of the refiner price rules, it is impossible to determine who ultimately bore the burden of the alleged overcharges. Accordingly, payment to the Treasury provides a satisfactory remedy in an amount DOE believes is sufficient in light of the issues raised.

Comments received from the states suggested that refunds should be made to them to fund various energy related programs. However, none of the states provided any evidence of injury to support their claims that they are entitled to these funds. While a program of allocating funds to states may be appropriate in some instances, there is no *requirement* that such a program be adopted. Of course to the extent those states determine that they have been injured, they may proceed against Getty independently.

Some of the comments stated positions that are not applicable to this Consent Order. Getty is not accused of an entitlements violation, nor was there an issue regarding sales of covered products to jobbers. The claim of the petroleum products retailer is not substantiated by the issues resolved by this Consent Order; he was not identified by the audit as having been injured.

Several comments suggested that a petition to the Office of Hearings and Appeals (OHA) under Subpart V of the Regulations (10 CFR Part 205, Subpart V) for the implementation of special refund procedures was required in this case. Contrary to these assertions, the use of Subpart V is not mandated by the Regulations.

Having considered all comments received, we determined that the proposed Consent Order with Getty should be made final without modification. The Consent Order was made final and effective by providing written notice to that effect to Getty on June 25, 1982.

Issued in Washington, D.C. June 25, 1982.

Milton C. Lorenz,

Special Counsel, Economic Regulatory Administration.

[FR Doc. 82-19244 Filed 7-15-82; 8:45 am]

BILLING CODE 6450-01-M

[ERA Case No. S 146-3804-03-82]

Virginia Electric & Power Co.; Powerplant and Industrial Fuel Use Act of 1978; Intention To Proceed With Prohibition Order Proceedings

In the matter of Virginia Electric and Power Co., Richmond, Virginia.

The Economic Regulatory Administration [ERA] of the Department of Energy (DOE) hereby gives notice of its intention to proceed with the pending Prohibition Order proceedings relating to a powerplant owned by Virginia Electric and Power Company of Richmond, Virginia (VEPCO), located near Dumfries, Virginia, and identified as Possum Point No. 3.

Pursuant to former section 301(b) and section 701(b) of the Powerplant and Industrial Fuel Use Act of 1978, 42 USC 8301 *et seq.* (FUA or the Act), a proposed prohibition order for Possum Point No. 3 was issued by ERA on May 16, 1980, and published in the **Federal Register** on May 22, 1980 (45 FR 34346).

The Omnibus Budget Reconciliation Act of 1981, Pub. L. 97-35 (OBRA), which became law on August 13, 1981, amended Title III of FUA in several important respects, including the limitation of DOE's unilateral authority to issue orders prohibiting the use of petroleum and natural gas or certain mixtures including these fuels as a primary energy source in an existing electric powerplant. Under former section 301, DOE could order the involuntary conversion of such powerplants. On October 1, 1981, ERA issued final rules pursuant to OBRA (46 FR 48118), providing procedures whereby an existing powerplant issued a proposed prohibition order under former section 301 (b) or (c) of FUA as of August 13, 1981, the date of enactment of OBRA, could elect to continue the current prohibition order proceeding under the provisions of former section 301. In accordance with the procedures provided, VEPCO, on November 23, 1981, notified ERA of its election to have Possum Point No. 3 remain subject to former section 301(b) of FUA and thus become an "electing powerplant" as defined in 10 CFR 500.2.

The prohibition order procedures for facilities electing continued coverage under former section 301 are found at 10 CFR 501.31, 501.33, 501.51, and 504.7.

Description of Prohibition Order Proceedings for Electing Powerplants

In accordance with 10 CFR 501.51, the proposed prohibition order commenced an initial public comment period, during which period VEPCO was given an opportunity to challenge ERA's initial finding that Possum Point No. 3 has or previously had the technical capability to burn an alternate fuel (coal) as a primary energy source. VEPCO chose not to do so. The utility must also have identified, during this period, any exemptions for which the powerplant may qualify, but need not have submitted evidence attempting to demonstrate entitlement to an exemption.

The publication of this Notice of Intention to Proceed commences a second three-month period during which VEPCO may present evidence to demonstrate that the powerplant would qualify for an exemption, which would constitute a defense to the issuance of a final prohibition order.

Subsequent to the end of the second three-month period ERA will, if it intends to issue a final prohibition order, prepare and publish a notice of availability of a Tentative Staff Analysis concerning the findings ERA must make prior to issuance of a final prohibition order. Those findings, which are required by former section 301(b) of FUA, are: (1) That the powerplant has the technical capability to use coal or another alternate fuel as a primary energy source, or it could have such capability without (A) substantial physical modification of the powerplant or (B) substantial reduction in the rated capacity of the powerplant; and (2) that it is financially feasible for the powerplant to use coal or another alternate fuel as its primary energy source.

The provisions of section 701(d) of FUA and 10 CFR 501.33(b) afford any interested person an opportunity to request a public hearing on the proposed prohibition order. Interested persons wishing a hearing must make their request, in writing no later than 45 days after publication of the Notice of Availability of the Tentative Staff Analysis. If a hearing is requested, the hearing will be held in accordance with Subpart C of 10 CFR Part 501. Under 10 CFR 501.31(b) interested persons may also submit written comments during this 45 day period.

After the hearing and comment period closes, ERA shall determine whether a final prohibition order will be issued based upon ERA's review of the entire administrative record. Any final prohibition order, together with a summary of the basis therefor, will be published in the **Federal Register**. Such order shall not take effect earlier than sixty days after publication.

Comments and Written Submissions Received on Proposed Prohibition Order

During the initial comment period, comments on the proposed prohibition order were received from VEPCO. These comments indicate that VEPCO believes that ERA can make the findings necessary to issue a final order for Possum Point No. 3, that the unit was designed to burn coal and had burned coal in the past and that the capability to burn coal could be restored without substantial physical modification or significant derating. VEPCO also anticipates that the conversion of this unit would be financially feasible. VEPCO's comments are based on the assumption that the only major capital expenditure associated with the conversion would be the acquisition and installation of a new electrostatic precipitator.

During this period, neither VEPCO nor any other interested persons submitted any information contrary to ERA's initial finding that Possum Point No. 3 has or previously had the technical capability to burn an alternate fuel (coal) as a primary energy source.

In accordance with 10 CFR 501.51(a), VEPCO also submitted evidence relating to the other findings that ERA is required to make under former section 201(b) of FUA, and identified, in their response dated August 18, 1980, those exemptions for which Possum Point No. 3 may qualify. The temporary exemptions authorized by section 311 of the Act, which VEPCO identified are: (1) Site limitations; (2) inability to comply with applicable environmental requirements; (3) public interest and (4) reliability of service. In addition, VEPCO identified the following permanent exemptions for which Possum Point No. 3 may qualify, as authorized by section 312 of the Act: (1) Site limitations; (2) inability to comply with applicable environmental requirements, and (3) state or local requirements.

FOR FURTHER INFORMATION CONTACT:

Loren Farrar, Fuels Conversion Division, Economic Regulatory Administration, Department of Energy, Forestal Building, Room GA–093, Washington, D.C. 20585, (202) 252–4811.

Marya Rowan, Office of General Counsel, Department of Energy, Forrestal Building, Room 6B–178, Washington, D.C. 20585, (202) 252–2967.

Issued in Washington, D.C., July 9, 1982.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82–19246 Filed 7–15–82; 8:45 am]

BILLING CODE 6450–01–M

Burton Hawks, Inc.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Burton Hawks, Inc. (Burton Hawks) of Casper, Wyoming. This Proposed Remedial Order charges Burton Hawks with pricing violations in the amount of $366,034.45 connected with the sale of crude oil at prices in excess of those permitted by 10 CFR Part 212, Subpart D during the time period February 1, 1976 through December 31, 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from James A. Martin, Deputy Director, Crude and NGL Audit & Litigation Support Group, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, or by calling (214) 767–7401. Within fifteen (15) days of publication of this notice (on or before July 31, 1982), any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 12th & Pennsylvania Ave NW., Room 3428, Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas, on the 7th day of July 1982.

James A. Martin,

Deputy Director, Crude and NGL Audit and Litigation Support Group, Economic Regulatory Administration.

[FR Doc. 82–19245 Filed 7–15–82; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. ER82–630–000]

Central Illinois Light Co.; Filing

July 12, 1982.

The filing company submits the following:

Take notice that on June 28, 1982, Central Illinois Light Company (CILCO) tendered for filing an Interconnection Agreement between CILCO and Illinois Power Company (New Interconnection Agreement) dated June 1, 1982.

CILCO states that the New Interconnection Agreement is intended

to replace entirely the presently effective interconnection agreement between CILCO and Illinois Power Company (Illinois Power) which is designated as CILCO's Rate Schedule FERC. No. 14, with supplements, and Illinois Power's Rate Schedule No. 63, with supplements. The New Interconnection Agreement contains proposed reciprocal service schedules for Limited Term Power, Emergency Energy, Economy Energy, Short Term Power, Maintenance Power and General Purpose Energy. Also included in the New Interconnection Agreement is a service schedule designed to bring the other service schedules into compliance with FERC Order No. 84 whenever "energy being supplied from one party to the other is being purchased from a third party".

CILCO has requested that the New Interconnection Agreement be given an effective date of September 1, 1982 in accordance with the stated intent of the two parties.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 20, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19380 Filed 7-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-120-000]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

July 12, 1982.

Take notice that on July 1, 1982, Columbia Gas Transmission Corporation (Columbia) tendered for filing certain revised tariff sheets to Original Volume No. 1 and Original Volume 2 of its FERC Gas Tariff. Columbia states that all tariff sheets being tendered herein bear an issue date of July 1, 1982 and an effective date of August 1, 1982.

Certain of the revised tariff sheets relate to a general rate increase by the company. Columbia states that while the subject tariff sheets would increase revenues from jurisdictional sales and services by $518,925,773, the increase on cost to the ultimate consumer is approximately $329,000,000, since the filing reflects the inclusion of Green Springs synthetic gas volumes which heretofore have been purchased directly by the vast majority of Columbia's wholesale customers from Columbia LNG Corporation (Columbia LNG). Columbia further states that the above additional revenue is necessary to offset a revenue deficiency of approximately the same amount, based upon a cost of service for the test period twelve months ended March 31, 1982, as adjusted, and as measured from the company's current collection level of rates, exclusive of surcharges and the GRI funding unit. Columbia states that the increased rates are required because of the inclusion of the aforesaid synthetic gas volumes anticipated to be purchased from Columbia LNG; the pricing of Columbia's old gas production at the company's base average commodity rate of purchased gas cost; an increase in the cost of transportation of gas by others; increases in materials and labor expense; an increase in rate base; an increase in the company's overall rate of return; and other cost changes more fully explained in the filing.

In addition, certain of the tendered tariff sheets relate to a proposed tracking provision associated with transportation and compression of gas by others (excluding Columbia Gulf). Also filed were tariff sheets reflecting a change to the unit of sales method of reflecting changes in the cost of gas under the PGA provisions of the company's tariff.

Copies of the filing were served by the company upon each of its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.18 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before July 20, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants prties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19381 Filed 7-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-119-000]

Columbia Gulf Transmission Co.; Proposed Changes in FERC Gas Tariff

July 9, 1982.

Take notice that Columbia Gulf Transmission Company (Columbia Gulf), on July 1, 1982, tendered for filing proposed changes to its FERC Gas Tariff as follows:

Original Volume No. 1

Twenty-eighth Revised Sheet No. 7
First Revised Sheet No. 29

Original Volume No. 2

Ninth Revised Sheet No. 72
Ninth Revised Sheet No. 73
Sixth Revised Sheet No. 92
Sixth Revised Sheet No. 93
Sixth Revised Sheet No. 126
Seventh Revised Sheet No. 145
Seventh Revised Sheet No. 146
Sixth Revised Sheet No. 263
Fifth Revised Sheet No. 320
Fifth Revised Sheet No. 337
Fifth Revised Sheet No. 386
Fifth Revised Sheet No. 387
Fourth Revised Sheet No. 416
Fourth Revised Sheet No. 417
Fifth Revised Sheet No. 440
Fifth Revised Sheet No. 484
Fifth Revised Sheet No. 493
Fifth Revised Sheet No. 567
Fifth Revised Sheet No. 596
Fourth Revised Sheet No. 628
Third Revised Sheet No. 663
Third Revised Sheet No. 677
Third Revised Sheet No. 702
Fourth Revised Sheet No. 710
Fourth Revised Sheet No. 810
Fourth Revised Sheet No. 821
Fourth Revised Sheet No. 848
Fourth Revised Sheet No. 849
Third Revised Sheet No. 937
Third Revised Sheet No. 1052
Third Revised Sheet No. 1097
Third Revised Sheet No. 1149
Third Revised Sheet No. 1150
Second Revised Sheet No. 1194
Second Revised Sheet No. 1195
Second Revised Sheet No. 1223
Second Revised Sheet No. 1253
First Revised Sheet No. 1268
First Revised Sheet No. 1302
First Revised Sheet No. 1303
First Revised Sheet No. 1338
First Revised Sheet No. 1339

The revised tariff sheets proposed to become effective August 1, 1982, reflect

an increase in Columbia Gulf's revenue of $22,929,469 based on a cost of service for the test period twelve months ended March 31, 1982, as adjusted, compared with revenue based upon its current collection rates. Columbia Gulf further states that the increased rates are required because of increases in labor and materials expense; an increase in the company's overall rate of return; and other cost changes more fully explained in the filing.

Copies of this filing are also being mailed to each of Columbia Gulf's jurisdictional customers, as well as to each of Columbia Gas Transmission Corporation's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before *July 20, 1982*. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of Columbia Gulf's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-19382 Filed 7-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP75-104-028 and RP81-18-004]

High Island Offshore System; Tariff Revision

July 12, 1982.

Take notice that on June 29, 1982, High Island Offshore System (HIOS) tendered for filing the tariff sheets listed on the attached Appendix A to Volume Nos. 1 and 2 of its F.E.R.C. Gas Tariff.

HIOS states that the tariff sheets listed on Appendix A are being filed as a result of the resolution of two HIOS proceedings. The first proceeding is HIOS' rate case in Docket No. RP81-18. By order issued June 3, 1982, the commission approved a Stipulation and Agreement (Stipulation) in that proceeding. The second proceeding involves HIOS's Petition to Amend its Certificate of Public Convenience and Necessity, filed August 21, 1979, to increase the firm certificated capacity of the HIOS system. The increase in firm certificated capacity was authorized by Commission orders dated July 29, 1981, and March 29, 1982, in Docket Nos. CP75-104, *et al.* The latter order in that docket, *inter alia,* aproved a Stipulation and Agreement (Agreement) with respect to the capacity allocation issue which had been litigated in that proceeding.

Specifically, HIOS states that the revised tariff sheets included in this filing reflect: (1) The revision of HIOS' rates to reflect HIOS' increased capacity authorized by the Commission in Docket No. CP75-104-013 in compliance with HIOS' Stipulation in Docket No. RP81-18-001; (2) the revision of each respective HIOS Shipper's Currently Effective Contract Demand to reflect the allocation of HIOS' increased firm capacity agreed upon in the approved Agreement in Docket No. CP75-104-013; (3) the modification of HIOS' Rate schedule I (Interruptible Overrun Transporation Service) to reflect the use of the volumes specified in Article IV of the Agreement in Docket No. CP75-104-013 as the basis for the allocation of Interruptible Overrun Transportation Service among those Shippers desiring such service; (4) the modification of Section 2.2 of all transportation agreements in compliance with Article V of the aforementioned Agreement; and (5) the modification of the Exhibit A of each respective Shipper's Transportation Agreement to reflect (a) the Shipper's respective revised Currently Effective Contract Demand, and (b) the allocation of each respective Shipper's revised Currently Effective Contract Demand among such Shipper's Points of Receipt in accordance with said Shipper's instructions to HIOS.

HIOS requests that the tariff sheets listed on Appendix A attached hereto be made effective as of June 1, 1982, the date upon which the increased firm service commenced.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 20, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

Appendix A

Original Volume No. 1

Sixth Revised Sheet No. 4
Sixth Revised Sheet No. 6
Second Revised Sheet No. 7
Third Revised Sheet No. 8

Original Volume No. 2

First Revised Sheet Nos. 6, 7, 30, 31, 54, 55, 78, 79, 102, 103, 127, 126, 151, 152, 176, 177, 201, 202, 226, 227, 251, 252, 276, 277, 301, 302, 327, 328, 352, 353, 377 and 378

Revised Exhibit A to Rate Schedule T-1, consisting of Fifth Revised Sheet No. 25, Third Revised Sheet No. 25A, First Revised Sheet No. 25B and Original Sheet No. 25C

Revised Exhibit A to Rate Schedule T-2, consisting of Fourth Revised Sheet No. 49, Second Revised Sheet No. 49A, and Original Sheet No. 49B

Revised Exhibit A to Rate Schedule T-3, consisting of Sixth Revised Sheet No. 73 and Second Revised Sheet No. 73A

Revised Exhibit A to Rate Schedule T-4, consisting of Fifth Revised Sheet No. 97 and Original Sheet Nos. 97A and 97B

Revised Exhibit A to Rate Schedule T-5, consisting of Fourth Revised Sheet No. 121, Second Revised Sheet No. 121A and Original Sheet Nos. 121B and 121C

Revised Exhibit A to Rate Schedule T-6, consisting of Third Revised Sheet No. 146

Revised Exhibit A to Rate Schedule T-7, consisting of Seventh Revised Sheet No. 171 and First Revised Sheet No. 171A

Revised Exhibit A to Rate Schedule T-8, consisting of Third Revised Sheet No. 196

Revised Exhibit A to Rate Schedule T-9, consisting of Fourth Revised Sheet No. 221 and Original Sheet No. 221A

Revised Exhibit A to Rate Schedule T-10, consisting of Third Revised Sheet No. 246

Revised Exhibit A to Rate Schedule T-11, consisting of Third Revised Sheet No. 271 and Original Sheet No. 271A

Revised Exhibit A to Rate Schedule T-12, consisting of Fifth Revised Sheet No. 296 and Original Sheet No. 296A

Revised Exhibit A to Rate Schedule T-13, consisting of Third Revised Sheet No. 322 and Original Sheet No. 322A

Revised Exhibit A to Rate Schedule T-14, consisting of Third Revised Sheet No. 347

[FR Doc. 82-19383 Filed 7-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-628-000]

Kansas City Power & Light Company; Cancellation

July 12, 1982.

The filing Company submits the following:

Take notice that Kansas City Power & Light Company (KCPL) on June 28, 1982, tendered for filing a Notice of Cancellation of its Service Schedule F-

MPA for Transmission and Subtransmission Service under the Municipal Participation Agreement, FPC No. 56, as supplemented, to be effective June 30, 1982. KCPL states that the Service Schedule is applicable to KCPL's transmission service to the City of Independence, Missouri (City).

KCPL requests an effective date of June 30, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the City and upon the Missouri Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 20, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19384 Filed 7-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-2-15-000 (PGA82-2)(IPR82-2-2)]

Mid Louisiana Gas Co.; Proposed Change in Rates

July 12, 1982.

Take notice that Mid Louisiana Gas Company (Mid Louisiana) on July 1, 1982, tendered for filing as a part of First Revised Volume No. 1 of its FERC Gas Tariff, Forty-Fourth Revised Sheet No. 3a and Sixth Revised Sheet No. 3c to become effective August 1, 1982. Mid Louisiana also tendered for filing as a part of First Revised Volume No. 1 of its FERC Gas Tariff, Alternate Forty-Fourth Revised Sheet No. 3a to become effective August 2, 1982.

Mid Louisiana states that the purpose of the filing of Forty-Fourth Revised Sheet No. 3a is to reflect a Purchased Gas Cost Current Adjustment, a Purchased Gas Cost Surcharge and a Transportation Cost Adjustment resulting in a rate after current adjustment of 415.80¢.

Mid Louisiana states that the purpose of the filing of Alternate Forty-Four Revised Sheet No. 3a is to reflect a change in the pricing of Mid Louisiana's pre-1978 production from cost of service to prices allowed under the NGPA, and a change in the Base Tariff Rate eliminating production cost of service, resulting in a rate after adjustments of 449.42¢. The filing is being made in accordance with Section 19 of Mid Louisiana's FERC Gas Tariff, and the Purchased Gas Cost Current Adjustment reflects rates payable to Mid Louisiana's suppliers during the period August 1, 1982 through January 31, 1983.

Copies of the filing have been mailed to Mid Louisiana's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 20, 1982.

Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19385 Filed 7-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-118-000]

Mid Louisiana Gas Co.; Proposed Change in FERC Gas Tariff

July 12, 1982.

Take notice that Mid Louisiana Gas Company (Mid Louisiana) on July 1, 1982, tendered for filing as part of First Revised Volume No. 1 of its FERC Gas Tariff Forty-Third Revised Sheet No. 3a.

Mid Louisiana states that the purpose of the filing is to reflect an increase in rate schedules G-1, SG-1 and I-1 from 403.26¢ to 448.66¢ per Mcf based on operations for the twelve months ended March 31, 1982, as adjusted. Mid Louisiana has requested that the proposed tariff sheet become effective August 1, 1982; however, pursuant to a Commission order issued April 29, 1982, and Mid Louisiana's statement on intent of Docket No. RP80-113, Mid Louisiana requests that the Commission suspend the proposed tariff sheet for five months so that it will become effective January 1, 1983.

Mid Louisiana states that the principal reasons for the proposed increase are: (1) A decline in sales volumes from 31,941,000 Mcf used in designing the underlying base rates to 27,907,000 Mcf reflected in this filing, a decline of 12.6%; (2) the cost of connecting and having transported to Mid Louisiana's system new sources of gas supply to replace declining volumes from existing sources; (3) increases in employee payroll and benefit program costs; and (4) other cost increases net of decreases occurring during the last two years resulting from inflationary economic conditions.

Copies of the filing have been served on interested customers and state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 20, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19386 Filed 7-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3849-001]

Jorges Sanchez; Surrender of Preliminary Permit

July 13, 1982.

Take notice that Jorges Sanchez (JS), Permittee for the proposed Structure 65-B Project No. 3849, has requested that its preliminary permit be terminated. The preliminary permit was issued on May 21, 1981, and would have expired on November 1, 1982. The project would have been located at the South Florida Water Management District's Structure 65-B on the Kissimmee River near Okeechobee County, Florida. JS cites that the project is not economically feasible for development due to extremely low head, turbine size limitations, and high civil costs.

JS filed its request on May 28, 1982, and the surrender of its permit for

Project No. 3849 has been deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19375 Filed 7-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3850-001]

Jorges Sanchez; Surrender of Preliminary Permit

July 13, 1982.

Take notice that Jorges Sanchez (JS), Permittee for the proposed Structure 65-C Project No. 3850, has requested that its preliminary permit be terminated. The preliminary permit was issued on May 29, 1981, and would have expired on November 1, 1982. The project would have been located at the South Florida Water Management District's Structure 65-C on the Kissimmee River near Okeechobee County, Florida. JS cites that the project is not economically feasible for development due to extremely low head, turbine size limitations, and high civil costs.

JS filed its request on May 28, 1982, and the surrender of its permit for Project No. 3850 has been deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19370 Filed 7-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1859-001]

R. C. Somers; Application

July 13, 1982.

The filing individual submits the following:

Take notice that on June 28, 1982, R. C. Somers filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Senior Vice President, Ohio Valley Tramsmission Corporation

Senior Vice President, Louisville Gas & Electric Company

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 2, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19377 Filed 7-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2011-000]

P. C. Smither, Jr.; Application

July 13, 1982.

The filing individual submits the following:

Take notice that on June 28, 1982, P. C. Smither, Jr. filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Vice President, Ohio Valley Tramsmission Corporation

Vice President, Louisville Gas & Electric Company

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 2, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19378 Filed 7-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-118-000]

Union Camp Corp.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

July 13, 1982.

On April 19, 1982, Union Camp Corp., P.O. Box 326, Montgomery, Alabama 36101, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility is located in Autauga County, Alabama. The primary energy sources of the facility are biomass in the forms of pulping liquors, bark and woodwaste, as well as coal, natural gas and Fuel Oil #6. The electric power production capacity of the facility is 60 megawatts. Steam is used in process at varying pressures and temperatures at a rate of .92 million lbs/hr. Installation of the most recent additions to the facility began in July 1978. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed on or before August 16, 1982 and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19379 Filed 7-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6211-000]

Alaska Industrial Power Corp.; Application for Preliminary Permit

July 12, 1982.

Take notice that Alaska Industrial Power Corporation (Applicant) filed on April 9, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for Project No. 6211 to be known as the Thomas Bay Project located on Cascade Creek in the Tongass National Forest near Petersburg, Alaska. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Robert J. Martin, Jr., 3441 Meander Way, Juneau, Alaska 99801.

Project Description.—The proposed project would consist of: (1) Swan Lake with a natural water surface elevation at 1,515 feet and a surface area of 572 acres; (2) a lake tap; (3) a 7-foot-diameter, 13,000-foot-long power tunnel; (4) a powerhouse at tidewater containing four 8,500-kW generating units producing 170,000 MWh of energy

annually; and (5) 12 miles of 69-kV transmission line and 5 miles of 69-kV underwater cable connecting the powerhouse to the electrical system at the City of Petersburg. Applicant would transmit project energy via proposed and existing transmission lines from Petersburg to a U.S. Borax Company mining development southeast of Ketchikan.

Proposed Scope of Studies under Permit.—A preliminary permit, if issued, does not authorize construction. During the term of the permit Applicant would conduct studies to determine the economic, financial, environmental, and engineering feasibility of the project. Applicant estimates that its studies would cost $2.1 million.

Competing Applications.—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before September 17, 1982, the competing application itself or a notice of intent to file such an application [see: 18 CFR § 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before September 17, 1982, and should specify the type of application forthcoming. Applications for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR § 4.30 et. seq. or § 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than November 16, 1982.

Agency Comments.—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene.—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules and Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 17, 1982.

Filing and Service of Responsive Documents.—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc 82–19393 Filed 7–15–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER82–635–000.

Central Hudson Gas & Electric Corp; Rate Filing

July 13, 1982.

The filing Company submits the following:

Take notice that on July 1, 1982, Central Hudson Gas & Electric Corporation (Central Hudson) tendered for filing its development of actual costs for 1981 related to transmission service provided from the Roseton Generating Plant to Consolidated Edison Company of New York, Inc. (Con Edison) and Nigara Mohawk Power Corporation (Niagara Mohawk) in accordance with the provisions of its Rate Schedule FERC No. 42.

The actual costs for 1981 amounted to $1.2792 per Mw.-day to Con Edison and $4.3408 per Mw.-day to Nagara Mohawk and are the basis on which charges for 1982 have been estimated.

Central Hudson requests waiver on the notice requirements set forth in 18 CFR 35.11 of the Regulations to permit charges to become effective January 1, 1982 as agreed by the parties.

Central Hudson states that a copy of its filing was served on Con Edison, Nagara Mohawl, and the State of New York Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 in accordance with 18 CFR 1.8, 1.10. All such petitions or protests should be filed on or before July 28, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–19353 Filed 7–15–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER82–636–000]

Central Hudson Gas & Electric Corp.; Rate Filing

July 13, 1982

The filing Company submits the following:

Take notice that on July 1, 1982, Central Hudson Gas & Electric Corporation (Central Hudson) tendered for filing its development of actual costs for 1981 related to substation service provided to Consolidated Edison Company of New York, Inc. (Con Edison) in accordance with the Provisions of its Rate Schedule FERC No. 43.

Central Hudson indicates that the actual costs for 1981 amounted to $323,360 and will be the basis on which estimated charges for 1982 will be billed.

Central Hudson requests waiver of the notice requirements set forth in 18 CFR 35.11 of the Regulations to permit charges to become effective January 1, 1982 as agreed by the parties.

Central Hudson states that a copy of its filing was served on Con Edison and the State of New York Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 in accordance with 18 CFR 1.8, 1.10. All such petitions or protests should be filed on or before July 28, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to

become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19354 Filed 7-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP80-145-000 and RP80-146-000]

Columbia Gulf Transmission Co.; Notice Changing Date of Settlement Conference

July 13, 1982.

Take notice that on August 24, 1982, at 10:00 a.m., possibly extending to August 25, 1982, there will be a settlement conference on liquids and liquefiables in this proceeding. The conference previously scheduled for August 3, 1982 is cancelled. On the day of the conference, the conference room number will be posted by 9:00 a.m. on the second floor bulletin board of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene in this matter by order of the Commission, attendance will not be deemed to authorize intervention as a party in these proceedings.

All parties will be expected to come fully prepared to discuss the merits of the issues arising in these proceedings and to make commitments with respect to such issues and to any offers of settlement or stipulation discussed at the conference.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19366 Filed 7-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-115-000]

Consolidated Gas Supply Corp.; Proposed Changes in Rates and Charges

July 9, 1982.

Take notice that Consolidated Gas Supply Corporation (Consolidated), pursuant to Section 4 of the Natural Gas Act and Section 154.63 of the Commission's Regulations, filed on June 30, 1982, proposed changes to its FERC Gas Tariff, Third Revised Volume No. 1 to become effective on August 1, 1982.

The proposed rate changes would increase Consolidated's revenues from jurisdictional sales and services by $35.5 million based on the twelve months ended March 31, 1982, adjusted for known and measurable changes through December 31, 1982.

Consolidated states that increased rates are necessary to recover increases in operation and maintenance expenses, transportation costs, taxes, and the cost of money. The rate change also reflects a decrease in sales. The rates are based on an overall rate of return of 14.24% and an equity return of 18%.

Consolidated states that the cost of gas was computed using the base costs of gas per unit of sales reflected on Consolidated's Substitute Twenty-Ninth Revised Sheet No. 16, operation of which was suspended by the Commission until August 1, 1982, by order issued on April 30, 1982, in Docket No. RP82-64-000. Said tariff sheet treats old and new pipeline production produced after January 1, 1982, in accordance with the decision of the U.S. Court of Appeals for the Fifth Circuit in *Mid-Louisiana Gas Co. v. FERC,* 664 F. 2d 530 (1981).

Consolidated represents that Statement P will be filed within fifteen days of the filing. It states that it served copies of its filing upon its jurisdictional customers as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 20, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to bcecome a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-19365 Filed 7-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-632-000]

Consumers Power Co.; Filing

July 13, 1982.

The filing Company submits the following:

Take notice that Consumers Power Company on June 30, 1982, tendered for filing the Pere Marquette Interconnection Facilities Agreement Between Consumers Power Company and Wolverine Electric Cooperative, Inc.

The Pere Marquette Interconnection Facilities Agreement is one of eight facilites agreements related to a coordinated operating agreement between Consumers Power Company, on the one hand, and Wolverine Electric Cooperative, Inc., Northern Michigan Electric Cooperative, Inc., the City of Grand Haven, Michigan, the City of Traverse City, Michigan and the City of Zeeland, Michigan, on the other hand. The said coordinated operating agreement and the other seven related facilities agreements were accepted for filing by letter of February 16, 1982 in Docket No. ER82-181-000.

Consumers Power states that copies of the filing were served on Wolverine Electric Cooperative, Inc., Northern Michigan Electric Cooperative, Inc., the City of Grand Haven, Michigan, the City of Traverse City, Michigan, the City of Zeeland, Michigan and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street, NE, Washington, DC 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 30, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19356 Filed 7-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3882-001]

Continental Hydro Corp.; Surrender of Preliminary Permit

July 13, 1982.

Take notice that Continental Hydro Corporation, Permittee for the Platoro Dam Project No. 3882 located on the Conejos River in Conejos County, Colorado has requested that its preliminary permit be terminated. The preliminary permit was issued on July 6, 1981, and would have expired January 1, 1983.

Continental Hydro Corporation states that engineering evaluations have determined that the site is not

economically feasible for hydroelectric development.

Continental Hydro Corporation's request was dated June 22, 1982. The surrender of the permit for Project No. 3882 is in the public interest and is accepted as of the date of issuance of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19366 Filed 7-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-633-000]

Detroit Edison Co.; Filing

July 13, 1982.

The filing Company submits the following:

Take notice that the Detroit Edison Company (Detroit) on July 1, 1982, tendered for filing a new schedule, Amendment No. 6 to an Operating Agreement dated March 1, 1966 among Consumers Power Company, Detroit and the Toledo Edison Company. This Operating Agreement is designated Detroit Edison Company Rate Schedule FERC No. 11.

Amendment No. 6 provides for the sale of 650 MW by Detroit for delivery to the Toledo Edison Company. This new service is identified as Specific Capacity Power which will be delivered from the effective date through December 31, 1990. Specific Capacity Power is intended for ultimate delivery to General Public Utilities Corporation via the Cleveland Electric Illuminating Company.

Detroit requests an effective date on the date that an agreement is made among the Central Area Power Coordinating Group for the purchase and sale and said power.

Copies of the filing were served upon Consumers Power Company, the Cleveland Electric Illuminating Company, General Public Utilities Corporation, the Toledo Edison Company, and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 28, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19357 Filed 7-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3198-001]

Eastern Iowa Light and Power Cooperative; Surrender of Preliminary Permit

July 13, 1982.

Take notice that Eastern Iowa Light and Power Cooperative, Permittee for the Lock and Dam No. 18 on the Mississippi River Project No. 3198, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 3198 was issued on October 2, 1980, and would have expired on October 1, 1982. The project would have been located on the Mississippi River in the State of Iowa.

Permittee stated that it had encountered circumstances which render it unable to continue to develop the project.

Eastern Iowa Light and Power Cooperative filed the request for surrender of Project No. 3198 on June 10, 1982, and the surrender of the preliminary permit for Project No. 3198 has been deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19358 Filed 7-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3196-001]

Eastern Iowa Light and Power Cooperative; Surrender of Preliminary Permit

July 13, 1982.

Take notice that Eastern Iowa Light and Power Cooperative, Permittee for the Lock and Dam No. 13 on the Mississippi River Project No. 3196, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 3196 was issued on October 2, 1980, and would have expired on October 1, 1982. The project would have been located on the Mississippi River in the State of Iowa.

Permittee stated that it had encountered circumstances which render it unable to continue to develop the project.

Eastern Iowa Light and Power Cooperative filed the request for surrender of Project No. 3196 on June 10, 1982, and the surrender of the preliminary permit for Project No. 3196 has been deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19370 Filed 7-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3197-001]

Eastern Iowa Light and Power Cooperative; Surrender of Preliminary Permit

July 13, 1982.

Take notice that Eastern Iowa Light and Power Cooperative, Permittee for the Lock and Dam No. 17 on the Mississippi River Project No 3197, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 3197 was issued on October 2, 1980, and would have expired on October 1, 1982. The project would have been located on the Mississippi River in the State of Iowa.

Permittee stated that it had encountered circumstances which render it unable to continue to develop the project.

Eastern Iowa Light and Power Cooperative filed the request for surrender of Project No. 3197 on June 10, 1982, and the surrender of the preliminary permit for Project No. 3197 has been deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19371 Filed 7-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-159-000]

Elba Hydroelectric Company, Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

July 13, 1982.

On June 21, 1982, Elba Hydroelectric Company, Inc., filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The proposed hydroelectric facility will be located on the Pea River in Coffee County, Alabama. The electric power production capacity of the facility will be 1,800 kilowatts. No other small power production facility owned by Elba Hydroelectric and using hydroelectric power as its primary energy source, is located within one mile

of the proposed facility. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed by August 16, 1982 and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19360 Filed 7-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2013-000]

Karl Eller; Application

July 13, 1982.

The filing individual submits the following:

Take notice that on July 2, 1982, Karl Eller filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director, Arizona Public Service Company

Director, Southwest Forest Industries, Inc.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy, Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 4, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19372 Filed 7-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-161-001]

Energenics Systems, Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

July 13, 1982.

On June 28, 1982, Energenics Systems, Inc., 1717 K Street, N.W., Suite 706, Washington, D.C. 20006, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The hydroelectric small power production facility will be located on the Eltopia Branch Canal near Eltopia in Franklin County, Washington. The electric power production capacity of the facility will be 682 kilowatts. There are no other small power production facilities within one mile of the site which are owned by the Applicant and use hydroelectric power as the primary energy source. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed by August 16, 1982 and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19359 Filed 7-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1713-001]

W. W. Hancock, Jr.; Application

July 13, 1982.

The filing individual submits the following:

Take notice that on June 28, 1982, W. W. Hancock, Jr. filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Senior Vice President, Secretary and Director, Louisville Gas & Electric Company

Senior Vice President and Secretary, Ohio Valley Transmission Corporation

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 2, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc 82-19361 Filed 7-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2009-000]

John Hart, Jr.; Application

July 13, 1982.

The filing individual submits the following:

Take notice that on June 28, 1982, John Hart, Jr. filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President, Ohio Valley Transmission Corporation

Vice President, Louisville Gas & Electric Company

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Section, 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on

or before August 2, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc 82-19362 Filed 7-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6411-000]

James Thompson and Co., Inc.; Application for Preliminary Permit

July 12, 1982.

Take notice that James Thompson and Co., Inc. (Applicant) filed on June 8, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for Project No. 6411 to be known as the James Thompson Dam Project located on the Hoosic River in the Towns of Pittstown and Schagticoke, Rensselaer County, New York. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Robert B. Judell, 1133 Avenue of the Americas, New York, New York 10036.

Project Description—The proposed project would utilize the existing dam owned by the Pleasant Valley Mill Holding Corporation and would consist of: (1) a concrete gravity dam about 300 feet long and 14 feet high having spillway crest elevation 293.4 feet m.s.l.; (2) a reservoir having a surface area of about 20 acres and a storage capacity of about 185 acre-feet at normal maximum surface elevation 293.4 feet m.s.l.; (3) a gated canal on the left (south) bank; (4) a new powerhouse containing two new generating units having a total rated capacity of 1,200 kW; (5) a new switchyard; (6) a new 200-foot-long 4.8-kV transmission line; (7) a tailrace; and (8) appurtenant facilities. Project energy would be used by Applicant at the James Thompson Mill or would be sold to Niagara Mohawk Power Corporation. Applicant estimates the annual generation would average about 4.5 GWh.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 16 months, during which time it would prepare studies of the hydrological, engineering, economic, environmental, and legal aspects of the project. Depending upon the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $25,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before October 19, 1982, the competing application itself [see: 18 CFR § 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before September 20, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR § 4.30 et seq. or § 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 20, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19401 Filed 7-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6442-000]

Kelley, Ravenscroft and Chenoweth; Application for Preliminary Permit

July 12, 1982.

Take notice that Lester Kelley, Vernon Ravenscroft and Helen Chenoweth (Applicants) filed on June 17, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for Project No. 6442 to be known as the Whitehorse Rapids Hydro Project located on Johnson Creek, within the Boise National Forest in Valley County, Idaho. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Consulting Associates, Inc., Post Office Box 893, Boise, Idaho 83701.

Project Description—The proposed project would consist of: (1) a streamside intake structure utilizing a natural pool at elevation 5,680 feet; (2) a penstock 42 inches in diameter by 6,200 feet long; (3) a powerhouse containing a turbine generator with 984–kW capacity and 5.618–GWh average annual output; and (4) a transmission line 650 feet long. The intended market for project output is the Idaho Power Company.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The applicant seeks issuance of a preliminary permit for a term of 24 months, during which engineering, economic and environmental studies will be conducted to ascertain project feasibility and to support application for a license to construct and operate the project. The estimated cost of permit activities is $62,500.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before September 20, 1982, the competing application itself,

or a notice of intent to file such an application [see: 18 CFR § 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before September 20, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR § 4.30 et seq. or §4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than November 19, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 20, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–19306 Filed 7–15–82; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 3902–001]

Liberty County and the Town of Chester, Montana; Surrender of Preliminary Permit

July 13, 1982.

Take notice that Liberty County and the Town of Chester, Montana, Permittee for the proposed Tiber Dam Project No. 3902 has requested that its preliminary permit be terminated. The permit was issued on November 3, 1981, and would have expired October 31, 1983. The project would have been located on the Marias River in Liberty County, Montana. The Permittee stated that the request to surrender the permit for Project No. 3902 was made to avoid a conflict with the Lake Elwell license application, whose applicants will have a proprietary interest in the project.

The Permittee filed its request on June 15, 1982, and the surrender of the preliminary permit for Project No. 3902 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–19373 Filed 7–15–82; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 4792–000]

Mac Hydro-Power Company, Inc.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

July 12, 1982.

Take notice that on February 23, 1982, Mac Hydro-Power Company, Inc. (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. §§ 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 4792) would be located on Aikens Creek near Orleans in Humboldt County, California. The proposed project would affect U.S. lands in the Six Rivers National Forest. Correspondence with the Applicant should be directed to: Mr. H. L. "Pete" Childers, President, Mac Hydro-Power Company, Inc., 2515 Gross Valley-Highway, P.O. Box 5193, Auburn, California 95603.

Project Description—The proposed project would consist of: (1) a 3-foot-high diversion structure; (2) a 24-inch-diameter, 50-foot-long conduit; (3) a 40-foot-long, 6-foot-wide and 4-foot-deep stilling basin; (4) a 2,600-foot-long low pressure conduit; (5) a 24-inch-diameter, 400-foot-long penstock; (6) a powerhouse with a total installed capacity of 400 kW; and (7) a 300-foot-long, 12.5-kV transmission line. The applicant estimates that the average annual energy output would be 1.6 million kWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the California Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before August 27, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely

notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR § 4.33(b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR § 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 27, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc 82-19007 Filed 7-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1715-000]

H. N. McGinnis; Application

July 13, 1982.

The filing individual submits the following:

Take notice that on June 28, 1982, H. N. McGinnis filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Senior Vice President, Louisville Gas & Electric Company

Senior Vice President, Ohio Valley Transmission Corporation

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy, Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 2, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19383 Filed 7-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-164-000

Merced Irrigation District—Fairfield; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

July 13, 1982.

On June 24, 1982, Merced Irrigation District, P.O. Box 2288, Merced, California 95344, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The proposed hydroelectric small power production facility will be located on the Merced Irrigation District's aqueduct between Fairfield and LeGrand Canals in Merced County, California. The electric power production capacity of the facility will be 900 kilowatts. The Applicant does not own any other small power production facility located within one mile of the proposed facility which uses the same energy source. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed by August 16, 1982 and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19384 Filed 7-19-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-165-000

Merced Irrigation District—Main; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

July 13, 1982.

On June 24, 1982, Merced Irrigation District, P.O. Box 2288, Merced, California 95344, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The proposed hydroelectric small power production facility will be located on the Merced Irrigation District's aqueduct between Main and Canal Creek Canals in Merced County, California. The electric power production capacity of the facility will be 900 kilowatts. The Applicant does not own any other small power production facility located within one mile of the proposed facility which uses the same energy source. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed by August 16, 1982 and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

with the Commission and are available for public insepction.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19365 Filed 7-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-117-000]

Midwestern Gas Transmission Co.; Filing of Changes in Rates

July 9, 1982.

Take notice that on July 1, 1982, Midwestern Gas Transmission Company (Midwestern) tendered for filing changes in its FERC Gas Tariff to be effective on August 1, 1982, consisting of the following revised tariff sheets:

Original Volume No. 1

Fourth Revised Sheet No. 5
Fifth Revised Sheet No. 6
Alternate Fourth Revised Sheet No. 5

Original Volume No. 2

Second Revised Sheet Nos. 62L and 64F
Third Revised Sheet No. 62K
Sixth Revised Sheet No. 37
Alternate Second Revised Sheet Nos. 62L and 64F
Alternate Third Revised Sheet No. 62K

The changes would increase non-gas revenues from jurisdictional sales and services by $10,444,000 for the Southern System and $3,060,000 for the Northern System, based on the test period consisting of the twelve months ended March 31, 1982, adjusted for known and measurable changes through December 31, 1982.

Midwestern states that the changed rates are required to reflect (1) a decline in sales and transportation volumes, (2) an increase in rate of return, and (3) changes in the cost of materials, supplies, wages and services, taxes, and other costs required to operate and maintain its pipeline systems. Due to a dramatic decline in sales and transportation volumes, Midwestern has requested a shortened suspension period or, in the alternative, that an interim rate increase be made effective during the suspension period.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 20, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-19387 Filed 7-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-631-000]

Northern States Power Co.; Filing

July 13, 1982.

The filing Company submits the following:

Take notice that Northern States Power Company, (NSP) on June 29, 1982, tendered for filing Supplement No. 1, dated June 17, 1982, to the Interconnection and Interchange Agreement, dated May 5, 1978, with Dairyland Power Cooperative.

Supplement No. 1 amends Exhibits A and B of the Interconnection and Interchange Agreement to reflect removals and changes in existing Interconnections and the addition of new Interconnections.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 26, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19374 Filed 7-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP81-388-007]

Northwest Alaskan Pipeline Co.; Filing Tariff Sheets and Initial Rate Schedules

July 9, 1982.

Take notice that on *July 1, 1982,* Northwest Alaskan Pipeline Company ("Northwest Alaskan") submitted for filing the following tariff sheets to its FERC Gas Tariff, Original Volume No. 2.

Tariff sheets	Effective date
Second revised sheet No. 5	Aug. 15, 1982.
First revised sheet No. 2	Aug. 15, 1982.
First revised sheet No. 3	Aug. 15, 1982.
Original sheet Nos. 100-192 (rate schedule X-1).	Aug. 15, 1982.
Original sheet Nos. 200-292 (rate schedule X-2).	Aug. 15, 1982.
Original sheet Nos. 300-392 (rate schedule X-3).	Aug. 15, 1982.
First revised sheet No. 412A (rate schedule X-4).	Aug. 15, 1982.
First revised sheet No. 470A (rate schedule X-4).	Aug. 15, 1982.
Third revised sheet No. 5	Sept. 1, 1982.

Northwest Alaskan also submitted for filing, a statement of Nature, Reason, and Basis for the Initial Rate Schedules.

Northwest Alaskan states that this tariff is being filed pursuant to the Commission's Findings and Order Issuing Certificate of Public Convenience and Necessity Authorizing the Importation of Natural Gas, ordering paragraph A, subparagraph (e), issued April 28, 1980, in Docket No. CP78-123 *et al.* and Section 153.8 and 154 of the Commission's Rules and Regulations. Northwest Alaskan proposes that the tariff sheets become effective on the dates indicated hereinabove.

Northwest Alaskan will sell gas to its customers at the initial rate of $4.94223 which is comprised of the currently approved Canadian border price of $4.93546 per MMBtu plus an initial Administrative Cost Component of $0.00677.

Northwest Alaskan states that a copy of this filing, in accordance with the requirements of Section 1.17 of the Commission's Rules of Practice and Procedure, have been served upon Northern, Panhandle, and United and all parties of record in Docket No. CP81-388.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the FERC in accordance with Seciton 1.8 and 1.10 of the Commission's Rules of Practice and Procedures. All such petitions or protests should be filed on or before July 20, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-19368 Filed 7-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-634-000]

Pacific Power & Light Co.; Filing

July 13, 1982.

The filing Company submits the following:

Take Notice that Pacific Power & Light Company (Pacific) on July 1, 1982, tendered for filing, in accordance with Section 35.13 of the Commission's Regulations, an application for an increase in rates for service to:

Supplement No.	Agreement	Pacific Power & Light Co. FPC rate schedule Nos.
3	Cheyenne Light, Fuel & Power Co. (Cheyenne)	106
3	Town of Torrington, Wyo. (Torrington)	125
3	Montana-Dakota Utilities Co. (MDU)	125
3	City of Powell, Wyo. (Powell)	119
1	Town of Basin, Wyo. (Basin)	120
3	Town of Deaver, Wyo. (Deaver)	121
2	Sviler Light & Power, Inc. (Sviler)	122

The proposed changes would increase revenues from jurisdictional sales and service by $976,254 based on the 12-month period ending December 31, 1981.

The proposed changes have been filed to partially recover the cost of Pacific's investment, operating expenses and capital costs.

Copies of the filing were served upon all parties hereto and a copy of the proposed revision and comparative billing information were served on the Public Service Commission, the State of Wyoming.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 28, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19306 Filed 7-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6379-000]

City of Rochester, New York; Application for Preliminary Permit

July 12, 1982.

Take notice that the City of Rochester, New York (Applicant) filed on May 28, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for Project No. 6379 to be known as the Rochester Upper Falls Project located on the Genesee River in Monroe County, New York. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Peter Korn, City Manager, City of Rochester, City Hall, 30 Church St., Rochester, New York 14614.

Project Description—The proposed project would consist of: (1) an existing concrete dam varying in height from 10 to 12 feet and 300 feet long built to maintain the Natural Falls; (2) a reservoir with surface area of 100 acre-feet and water surface elevation of 483 feet m.s.l. and having negligible storage; (3) a new intake; (4) a new penstock 12 feet in diameter and 400 feet long; (5) a new powerhouse with two units having a total generating capacity of 12,000 kW; (6) a new tailrace; (7) a new 320-foot-long, 115-kV transmission lines; and (8) appurtenant facilities. The Applicant estimates the annual average energy would be 16 GWh. The existing project facilities are owned by Rochester Gas & Electric Corp., Conrail, Monalk Reality Inc., New York State Department of Transportation, and the City of Rochester.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months, during which time the Applicant would perform studies to determine the feasibility of the project. Depending upon the outcome of the studies the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates cost of the studies under the permit would be $550,000.

Competing Applications—This application was filed as a competing application to Long Lake Energy Corporation's application for Project No. 5807 filed on December 27, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations [see: 18 CFR § 4.30 et. seq. or § 4.101 et. seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 13, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB, at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19304 Filed 7-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1422-000]

Peter Ronald; Application

July 13, 1982.

The filing individual submits the following:

Take notice that on June 28, 1982, Peter Ronald filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Senior Vice President, Treasurer and Director—Louisville Gas & Electric Co.
Senior Vice President, and Treasurer—Ohio Valley Transmission Corp.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 2, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19367 Filed 7-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-155-000]

City of San Diego; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

July 13, 1982.

On June 7, 1982, the City of San Diego, c/o Mr. James Mueller, Metro II Project Manager, 1222 First Avenue, MS #401, San Diego, California 92101, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility is under construction in San Diego, California. The primary energy source of the facility will be primary-sewage digester gas. Natural gas will provide up to 10 percent of total fuel input to the facility. The electric power production capacity of the facility will be 2,700 kilowatts. Waste heat will be recovered at a rate of 3 million Btu/hr. and used to heat sewage digesters. Installation of the facility began in 1982. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed by August 16, 1982 and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19355 Filed 7-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6416-000]

Shasta Land Management Consultants; Application for Preliminary Permit

July 12, 1982.

Take notice that Shasta Land Management Consultants (Applicant) filed on June 10, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6416 to be known as the Dubakella Power Project located on the Dubakella Creek in Trinity County near Wildwood, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Shasta Land Management Consultants, 1036 Yuba Street, P.O. Box 4226, Redding, California 96099.

Project Description—The proposed project would consist of: (1) a 6-foot-high natural rock and concrete diversion structure; (2) an 11,000-foot-long, 36-inch-diameter diversion conduit; (3) a 3,800-foot-long, 30-inch diameter penstock; (4) a powerhouse to contain one impulse-type, turbine-generating unit with a rated capacity of 2 MW operating under a head of 600 feet; and (5) a 2.5-mile-long, 12.5-kV transmission line to connect to an existing Pacific Gas and Electric Company line. The estimated average annual energy production is 4.9 million kWhs. The project would be located within the boundaries of the Trinity National Forest.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks a 36-month permit to study the feasibility of constructing and operating the project. No new roads would be required to conduct the studies.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before September 20, 1982, the competing application itself, or a notice of intent to file such an aplication [see 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before September 20, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than November 19, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 20, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION","COMPETING APPLICATION", "PROTEST", or

"PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. 825 North Capitol Street, NE., A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19098 Filed 7-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6420-000]

Sweetwater Ranch Co.; Application for Preliminary Permit

July 12, 1982.

Take notice that Sweetwater Ranch Company (Applicant) filed on June 14, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for Project No. 6420 to be known as the Sweetwater Ranch Power Project located on Sweetwater Creek within the Toiyabe National Forest in Lyon County, Nevada. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Bruce S. Jones, 600 South Lake Avenue, Suite 405, Pasadena, California 91106.

Project Description—The proposed project would consist of: (1) a 3-foot-high diversion structure on Sweetwater Creek forming; (2) a small pond with a surface area of 2,500 square feet at elevation 7,140 feet (mean sea level); (3) a 9,000-foot-long, 10-inch-diameter pipe; (4) a powerhouse containing a single generating unit with a rated capacity of 95 kW; and (5) appurtenant facilities.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested a 36-month permit to prepare a definitive project report including preliminary designs, results of environmental, and economic feasibility studies. The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with the Federal, State, and local agencies, preparing a license application, conducting final field surveys, and preparing designs is estimated by the Applicant to be $7,500.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before September 20, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR § 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before September 20, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR § 4.30 et seq. or § 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminiary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than November 19, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests or petitions to intervene must be received on or before September 20, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Apringer, Chief, Applications Branch, Division of Hydropower Licens ng, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19099 Filed 7-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-2-17-000]

Texas Eastern T ansmission Corp.; Proposed Chan(es in FERC Gas Tariff

July 12, 1982.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on July 1, 1982 tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following sheets:

Sixty-second Revised Sheet No. 14
Sixty-second Revised Sheet No. 14A
Sixty-second Revised Sheet No. 14B
Sixty-second Revised Sheet No. 14C
Sixty-second Revised Sheet No. 14D
Sixth Revised Sheet No. 14E

These sheets are being issued pursuant to provisions of the General Terms and Conditions of Texas Eastern's FERC Gas Tariff contained in Section 12.4, Demand Charge Adjustment Commodity Surcharge; Section 23, Purchased Gas Cost Adjustment and Section 27, Electric Power Cost (EPC) Adjustment. These sheets are also being issued pursuant to Article XI, Staten Island LNG Facility, of the Stipulation and Agreement in Docket No. RP78-67 approved by Commission Order issued April 4, 1980.

The changes proposed consist of:

(1) Changes in the DCA Commodity Surcharges pursuant to Section 12.4, mentioned above;

(2) A PGA increase of $.002/dth in the demand component of rates and $.4061/dth in the commodity component based on increases in the projected cost of gas purchased from producer and pipeline suppliers offset by a decrease in the Account 191 balance as of May 31, 1982 pursuant to Section 23;

(3) A special surcharge of 3.01¢/dth designed to recover over the 12-month period, August 1, 1982 through July 31, 1983,

approximately $28 million in retroactive payments to producers reflecting the implementation of Order Nos. 93 and 93-A for the period December 1, 1978 through March 31, 1982. Of the $28 million, Texas Eastern has already made payments to producers totalling approximately $12.6 million;

(4) Projected Incremental Pricing Surcharges for the period August, 1982 through January, 1983 pursuant to Section 23;

(5) Increases in rates for sales and transportation services pursuant to Section 27 to reflect the projected annual increase in electric power cost incurred in the operation of transmission compressor stations with electric motor prime movers and to reflect the EPC surcharge which is designed to clear the latest balance in the Deferred EPC Account of May 31, 1982; and

(6) An increase in the Rate Schedule SS rates to reflect the increase in actual costs incurred in operating and maintaining the Staten Island LNG Facility for the twelve month period ended February 28, 1982, pursuant to the provisions of Article XI of the RP78-87 Stipulation and Agreement.

Also pursuant to Article XI of the RP78-87 Stipulation and Agreement, Texas Eastern reports that on December 31, 1981 Texas Eastern settled the property damage action against Dow Chemical Corporation regarding the Staten Island LNG facility. In accordance with an informal settlement referred to in the testimony of Gordon L. Jennings in Docket No. CP74-122-005, et al., Texas Eastern will apply 55% of the net proceeds from such settlement as a reduction to the unamortized portion of 55% of the net investment in the Staten Island LNG facility, as reflected on the attached Schedule No. 12.

The proposed effective date of the above tariff sheets is August 1, 1982.

Texas Eastern respectfully requests waiver of any regulations that the Commission may deem necessary to accept the above tariff sheets to be effective on August 1, 1982.

In addition, Texas Eastern tendered for filing as a part of its FERC Gas Tariff, Fourth Revised Volume No. 1, six copies of each of the following sheets:

Revised Sixty-second Revised Sheet No. 14
Revised Sixty-second Revised Sheet No. 14A
Revised Sixty-second Revised Sheet No. 14B
Revised Sixty-second Revised Sheet No. 14C
Revised Sixty-second Revised Sheet No. 14D

These Revised Sixty-second Revised Sheets reflect an increase over the Sixty-second Revised Sheets in the demand component of rates equal to $1.347/dth and in the commodity component equal to $.1020/dth. This increase in rates is based on a proposed increase in the rates of one of Texas Eastern's major pipeline suppliers, United Gas Pipe Line Company (UGPL), to be effective on October 1, 1982 in Docket No. RP82-57. The purpose of UGPL's increase in Docket No. RP82-57 is to reflect costs to be incurred by UGPL in acquiring Canadian gas through the Northern Border Pipeline Company (Northern Border) system.

The Commission has previously granted special tracking privileges to the Northern Border participants including UGPL, by order dated April 28, 1980, which provides that UGPL may make the increases attributable to Northern Border effective on the date the Northern Border gas starts flowing. By this filing, Texas Eastern requests the same special tracking privilege to permit it to reflect in its rates the Northern Border costs which UGPL will flow through to Texas Eastern projected to begin October 1, 1982. Texas Eastern requests that the Commission allow the October 1, 1982 effective date as requested, but in the event UGPL delays the increase past October 1, 1982, then Texas Eastern proposes a corresponding delay in its request for an October 1, 1982 effective date.

Under the normal operation of Texas Eastern's PGA provision, Texas Eastern would defer such Northern Border costs, approximately $50 million, for the period October 1, 1982 through January 31, 1983, into its PGA deferred account and collection of such deferred costs would not be completed until January 31, 1984. Carrying charges at the rate prescribed by the Commission's regulations would be accrued against such deferred costs and be charged to Texas Eastern's customers.

Texas Eastern's proposal will enable Texas Eastern to track the Northern Border costs on a current basis and will protect Texas Eastern's customers from the effects of a later inflated unit rate and the carrying costs associated with the Northern Border costs which would be deferred. Due to the magnitude of the projected amounts which would have to be deferred, Texas Eastern believes the special tracking request to be appropriate and in the best interest of all parties. Therefore Texas Eastern respectfully requests waiver of any of the requirements of Texas Eastern's FERC Gas Tariff and any of the Commission's Rules and Regulations necessary to permit Revised Sixty-second Revised Sheet Nos. 14, 14A-14D to be made effective on October 1, 1982, or such other date as UGPL may make its Northern Border tracking increase effective, coincident with the effectiveness of UGPL's flow through of Northern Border costs to Texas Eastern.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 20, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19400 Filed 7-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP81-130-000]

Transwestern Pipeline Co.; Settlement Conference

July 12, 1982.

Take notice that settlement conference in the above-captioned docket will commence at 10:00 a.m., on July 23, 1982. The conference will be held at the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Customers and other interested persons will be permitted to attend but if such persons have not previously been permitted to intervene by order of the Commission, attendance will not be deemed to authorize intervention as a party in this proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19398 Filed 7-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP78-58-021]

Valero Interstate Transmission Co. (Formerly South Texas Natural Gas Gathering Co.); Rate Schedule Filing

July 12, 1982.

Take notice that on June 30, 1982, Valero Interstate Transmission Company ("Vitco") filed pursuant to the terms of the August 3, 1979 order of the Federal Energy Regulatory Commission ("Commission") in *South Texas Natural Gas Gathering Company*, Docket No. RP78-58, in Supplement No. 38 to Vitco's Rate Schedule No. 1 a notice of change in rate for the transporation of gas for Natural Gas Pipeline Company of America and in Supplement No. 3 to each of Vitco's Rate Schedule Nos. 10,

11, 12, and 13 and a notice of change in rate for the transportation of liquefiable hydrocarbons for Shell Oil Company, Conoco, Inc., Tenneco Oil Company and Shell Oil Company, respectively. Under the terms of the settlement approved by the Commission on August 3, 1979, in Docket No. RP78–58 Vitco proposes to increase effective on August 3, 1982 the above transportation rates from 5.072¢ per Mcf at 14.65 psia. (5.10¢ per Mcf at 14.73 psia) to 5.321¢ per Mcf at 14.65 psia (5.35¢ per Mcf at 14.73 psia).

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 20, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19080 Filed 7-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6364-000]

Ralph Wagner; Application for Preliminary Permit

July 12, 1982.

Take notice that Ralph Wagner (Applicant) filed on May 24, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for Project No. 6364 to be known as the Papoose Lake Power Project located on Papoose Lake in San Bernardino County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Ralph Wagner, 337 State Highway 173, P.O. Box 13, Lake Arrowhead, California 92352.

Project Description—The proposed project would consist of: (1) an existing 210-foot-high Lake Arrowhead earth-fill dam owned by San Bernardino County; (2) Papoose Lake which has a gross storage capacity of 1,970 acre-feet, and a surface area of 31-acres; (3) a 5-inch-diameter, 1000-foot-long penstock; (4) a generating unit with a rated capacity of 14.5 kW; and (5) appurtenant facilities. The Applicant estimates a 127,000 kWh average annual energy production.

Purposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested a 36-month permit to prepare a definitive project report including preliminary designs, and geological, environmental, and economic feasibility studies. The cost for forementioned activities along with preparation of an environmental impact report, obtaining agreements with Federal, State and local agencies, and preparing a license application is estimated by the Applicant to be $8,500.00. Power would be sold to Southern California Edison Company.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before October 19, 1982, the competing application itself (see: 18 CFR § 4.30 et seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before September 20, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR § 4.30 et seq. or § 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 20, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19082 Filed 7-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6467-000]

Washington County Water Conservancy District; Application for Preliminary Permit

July 12, 1982.

Take notice that Washington County Water Conservancy District (Applicant) filed on June 25, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6467 to be known as the Virgin River Project located on the Virgin River in Washington County, Utah. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Rudger McArthur, 175 East 200 North, St. George, Utah 847.0.

Project Description—The proposed project would consist of: (1) a new 200-foot-long, 10-foot-high concrete diversion dam; (2) a 10 acre head-pond at elevation 3,580 feet M.S.L.; (3) a new 36,000-foot-long diversion canal; (4) a new headgate and 1,000-foot-long, 60-inch diameter penstock; (5) a new powerhouse containing turbine generators with a total rated capacity of 2,700 kW; (6) a tailrace channel; (7) a ¼ mile long transmission line; and (8) appurtenant facilities. The project would be located on lands under the control of the Bureau of Land Management. The proposed project would generate up to 18,290,000 kWh annually for use of the Applicant's customers.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 2 years, during which time it would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, geotechnical investigations in the vicinity of the dam axis and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimated the cost of the studies under the permit would be $150,000.

Competing Applications—This application was filed as a competing application of Dixie Escalante Rural Electric Association's application for Project No. 4610 filed on October 13, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et. seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 13, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", "COMPETING APPLICATIONS", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19306 Filed 7-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-629-000]

Washington Water Power Co.; Filing

July 12, 1982.

The filing Company submits the following:

Take notice that on June 28, 1982, the Washington Water Power Company (WWP) tendered for filing a report issued by Bonneville Power Administration (Bonneville) containing their average system cost for WWP's Washington jurisdiction. WWP states that this filing is required under Exhibit C, Section V(A) of the Residential Purchase and Sale Agreement (Agreement)—Contract No. DE-MS79-81BP90606, between this Company and Bonneville.

WWP requests that the report be accepted for filing with the Commission and that the average system cost of 15.309 mills per kilowatt-hour contained therein be accepted for sales of energy to Bonneville under the Agreement in the State of Washington.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 20, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19301 Filed 7-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-2-61-000]

West Lake Arthur Corp.; Change in Rates

July 12, 1982.

Take notice that West Lake Arthur Corporation (WLAC), on June 28, 1982 tendered for filing Second Revised Sheet No. 4A of its FERC Gas Tariff, Original Volume No. 1. The tariff sheet was filed pursuant to the Purchased Gas Cost Adjustment provision contained in Section 15 of WLAC's tariff.

Copies of the filing were served upon WLAC's jurisdictional customer and interested state regulatory commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 20, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19302 Filed 7-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6387-000]

Western Hydro Electric, Inc., Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

July 12, 1982.

Take notice that on June 1, 1982, Western Hydro Electric, Inc. (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. §§ 2705, and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 6387) would be located on Willame Creek within

Gifford Pinchot National Forest in Lewis County, Washington. Correspondence with the Applicant should be directed to: Donald J. White, Western Hydro Electric, Inc., Commercial Security Bank Building, Suite 600, 50 South Main Street, Salt Lake City, Utah 84144.

Project Description—The proposed project would consist of: (1) a 5-foot-high concrete diversion structure at elevation 1520 feet; (2) a 30-inch-diameter diversion pipeline 11,800 feet long; (3) a 24-inch-diameter penstock 800 feet long; (4) a powerhouse containing a turbine generator with a 782-kW capacity and 4.04-GWH average annual output; and (5) a tailrace at elevation 1035 feet.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit for license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Washington State Departments of Fisheries and Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before August 30, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR § 4.33(b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR § 4.33(a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 30, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19404 Filed 7-15-82; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Cases Filed; Week of June 11 Through June 18, 1982

During the week of June 11 through June 18, 1982, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

July 12, 1982.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of June 11 through June 18, 1982]

Date	Name and location of applicant	Case No.	Type of submission
6/14/82	State of Connecticut, Hartford, Connecticut	HEE-0032	Exception to the Energy Conservation Program.
If granted: The State of Connecticut would receive an exception from the provisions of 10 CFR Part 455, the Institutional Conservation Program, regarding administrative grant expenses for Cycle IV.			
6/14/82	State of Maine, Augusta, Maine	HEE-0033	Exception to the Energy Conservation Program.
If granted: The State of Maine would receive an exception from the provisions of 10 CFR Part 455, the Energy Conservation Program, regarding administrative grant expenses under Cycle IV.			
6/14/82	The 341 Tract Unit of the Citronelle Field, Mobile, Alabama.	HEX-0031	Supplemental Order.
If granted: The 341 Tract Unit of the Citronelle Field would receive an extension of time to enable it to determine the revenues attributable to the Unit's tertiary crude oil production.			
6/16/82	Bracewell & Patterson, Washington, D.C.	HFA-0083	Appeal of an Information Request Denial.
If granted: The April 29, 1982 Information Request Denial issued by the Disclosure Officer of the Office of Special Counsel would be rescinded, and Bracewell & Patterson would receive access to certain DOE information.			

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of June 11 through June 18, 1982]

Date	Name and location of applicant	Case No.	Type of submission
6/16/82	Sonat, Inc., Washington, D.C.	HRD-0058, HRH-0058	Request for Evidentiary Hearing & Motion for Discovery.
If granted: An evidentiary hearing would be convened and discovery would be granted to Sonat, Inc. in connection with the Statement of Objections submitted in response to the March 11, 1982 Proposed Remedial Order (Case No. HRO-0039) issued to Sonat, Inc. by the Economic Regulatory Administration.			
6/16/82	True Oil Company, Casper, Wyoming	HRX-0032	Supplemental Order.
If granted: The Office of Hearings and Appeals would issue a decision and order with respect to two documents claimed by the Economic Regulatory Administration to be privileged in regard to True Oil Company's Statement of Objections to a Proposed Remedial Order (Case No. DRO-0268).			
6/17/82	Ginsburg, Feldman, Weil and Bress, Washington, D.C.	HFA-0084	Appeal of an Information Request Denial.
If granted: The may 18, 1982 Information Request Denial issued by the Dallas Regional Director of the Economic Regulatory Administration would be rescinded, and Ginsburg, Feldman, Weil and Bress would receive access to DOE's audits of Allison Drilling Company and Ladd Petroleum Corporation.			
6/18/82	New York State Energy Office, Albany, New York	HEG-0017 and HES-0017	Petition for Special Redress and Request for Stay.
If granted: The Office of Hearings and Appeals would implement refund procedures for funds covered under the June 1, 1982 Consent Order executed by Permian Corporation and the Economic Regulatory Administration.			

NOTICE OF OBJECTION RECEIVED

[Week of June 1 to June 18, 1982]

Date	Name and location of objector	Case No.
6/14/82	Golden Eagle Refining Company, Washington, D.C.	BEE-1313.

REFUND APPLICATIONS RECEIVED

[Week of June 11 to June 18, 1982]

Date and name of refund proceeding/name of refund applicant	Case No.
June 14, 1982:	
Pennzoil/Vortex Oil & Gas Co., Inc.	RF10-31.
Pennzoil/Geo. W. Wolf Jr., Inc	RF10-32.
OKC Corp./Commonwealth Oil Co., Inc	RF13-2.
Pennzoil/Commonwealth Oil Co., Inc	RF10-33.
Pennzoil/Monarch Oils Co., Inc	RF10-34.
Pennzoil/Burch Thomas, Inc	RF10-35.
Pennzoil/Perrine Oils	RF10-36.
Pennzoil/Windham Gas & Oil Co	RF10-37.
Pennzoil/Gulf Oil Corp	RF10-38.
Pennzoil/Chamlin Petroleum	RF10-39.
June 15, 1982:	
Pennzoil/Petroleum Electronics & Cook Enterprises	RF10-40.
Pennzoil/Oerther Brothers	RF10-41.
Pennzoil/Maybee Gas & Oil Co	RF10-42.
Pennzoil/Standard Oil Co. of Indiana	RF10-43.
Pennzoil/Commonwealth of Pennsylvania	RF10-44.
June 16, 1982:	
Anadarko/Farmland Industries	RF12-2.
Anderson Butane/Buckeye Gas Products Co	RF14-1.
Pennzoil/R-K Oil Co	RF10-45.
Pennzoil/Purvis Brothers, Inc	RF10-46.
Pennzoil/White Petroleum, Inc	RF10-47.
Pennzoil/Enterprise Products Co	RF10-48.
June 17, 1982:	
Pennzoil/Precision Fastening	RF10-49.
Pennzoil/Schaible Oil Co	RF10-50.
Pennzoil/Guttman Oil Co	RF10-51.
June 18, 1982:	
OKC Corp./Missouri Pacific Railroad	RF13-3.
OKC Corp./Sooner Transport Corp	RF13-4.

[FR Doc. 82-19295 Filed 7-15-82; 8:45 am]

BILLING CODE 6450-01-M

Office of the Secretary

Preliminary Clean-up Activity at Vicinity Properties Contaminated by Tailings From the Former Vitro Rare Metals Plant, Canonsburg, Pennsylvania; Finding of No Significant Impact

The Department of Energy has prepared an environmental assessment (EA) on the proposed preliminary clean-up activity at the vicinity properties contaminated by tailings from the former Vitro Rare Metals Plant, Canonsburg, Pennsylvania. This EA encompasses all of the vicinity properties associated with the former Vitro Rare Metals Plant and was prepared to ensure that environmental factors are considered in the Department's proposed preliminary clean-up activity.

On May 11, 1981, the Department issued a Notice of Intent announcing its plans to prepare an environmental impact statement (EIS) on a remedial action program in Canonsburg involving the permanent disposition of uranium mill tailings located on the former Vitro Rare Metals Plant and on the vicinity properties. Scoping meetings on the EIS were held on June 3 and 4, 1981. The proposed action, which is the subject of this notice, is a preliminary activity involving the decontamination of the vicinity properties and the movement of contaminated material to the former Vitro Rare Metals Plant for temporary storage, prior to the initiation of remedial action as described in the Notice of Intent. This proposed preliminary clean-up activity on the vicinity properties will not limit the choice of reasonable alternatives for the remedial action project in Canonsburg.

Based on the EA, which is available to the public on request, the Department of Energy has determined that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* Therefore, no environmental impact statement is required.

The proposed action is to remove a total of approximately 9,200 cubic yards of radioactively contaminated materials from about 100 properties in the vicinity of the former Vitro Rare Metals Plant, and to return the contaminated materials to the Vitro Plant site for temporary storage. Decontamination of the vicinity properties may include wiping, chipping, and sandblasting, and in some cases may require excavation and removal of contaminated soils. After decontamination, the vicinity properties will be restored to their pre-clean-up appearance.

There are no significant environmental impacts anticipated as a result of the proposed action. The vicinity properties are located in an urban environment. Consequently, impacts to biota would be minimal. Environmental impacts, e.g., dust created by the excavation and replacement of soils, noise associated with the equipment used in the decontamination effort, and interruption of traffic near the work site, are anticipated to be temporary and typical of other construction type projects. No endangered species, historic structures or cultural resources will be affected.

Since the preliminary clean-up activities are corrective in nature, the existing radiation environment at the vicinity properties will be improved. Current levels of radiation (gamma radiation levels which range up to 670 microroentgens per hour at one meter heights indoors) will be reduced to levels of about 3.6 microroentgens per hour above background (background levels in the Canonsburg area are 11 microroentgens per hour). The resulting level is well within the level of 20 microroentgens above background per hour proposed in the interim clean-up standards issued by the Environmental Protection Agency (**Federal Register**, April 22, 1980).

As described in the EA, under normal conditions exposures to workers involved in the clean-up of the properties, to truck drivers transporting the materials to the temporary disposal

site, and to members of the general public near the vicinity properties and along the transportation routes, will be well within the radiation standards specified in Chapter XI of DOE Order 5480.1A.

In the event of an accident (worst case assumed to be a 20-ton truck overturning and spilling its entire load), workers involved in the clean-up would be the maximally exposed individuals. An estimated two hours would be required to complete the clean-up. During this period, each individual worker would receive a total dose of less than 0.5 millirems.

Alternatives to the proposed action considered in the EA include: (1) No action; and, (2) in-place radiation control.

Single copies of the EA are available from: Richard H. Campbell, Uranium Mill Tailings Project Office, Albuquerque Operations Office, Department of Energy, P.O. Box 5400, Albuquerque, NM 87115.

FOR FURTHER INFORMATION CONTACT: Robert H. Strickler, EP–362, Office of Environmental Compliance, U.S. Department of Energy, Room 4G–057 Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–4610.

Date issued: July 6, 1982.

William A. Vaughan,

Assistant Secretary, Environmental Protection, Safety and Emergency Preparedness.

[FR Doc. 19247– Filed 7–15–82; 8:45 am]

BILLING CODE 6450–01–M

Office of Assistant Secretary for International Affairs

International Atomic Energy Agreements, Civil Uses; Proposed Subsequent Arrangement, European Atomic Energy Community

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the following sale: Contract Number S–EU–735, to Amersham International Ltd., the United Kingdom, 250,000 curies of tritium, for use in the manufacture of labelled compounds, neutron sources, starter switches, electronic valves, and for various research uses.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than July 31, 1982.

For the Department of Energy.

Dated: July 12, 1982.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 82–19248 Filed 7–15–82; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–2172–3]

Availability of Environmental Impact Statements Filed July 6 Through July 9, 1982

RESPONSIBLE AGENCY: Office of Federal Activities, General Information 382–5075 or 382–5076.

Corps of Engineers:
- EIS No. 820453, Draft, COE, GA, Bellville Point Navigational Improvements, McIntosh County, Due: Aug. 30, 1982
- EIS No. 820459, Draft, COE, HI, Wailua River Hydropower Project, Island of Kauai, Kauai County, Due: Aug. 30, 1982
- EIS No. 820449, Final, COE, CO, Taylor Draw Dam and Reservoir, Permit, White River, Rio Blanco County, Due: Aug. 16, 1982
- EIS No. 820450, Final, COE, GU, Asan Village Flood Control Study, Asan, Territory of Guam, Due: Aug. 16, 1982

Department of Energy:
- EIS No. 820466, Final, DOE, CA, Lawrence Livermore/Sandia Laboratories Site Development, Alameda County, Due: Aug. 16, 1982
- EIS No. 820462, Final, DOE, NY, Liquid Radioactive Waste Storage, Western NY Nuclear Service Center, Due: Aug. 16, 1982

Department of Interior:
- EIS No. 820464, Final, BLM, CA, Willow Creek Unit Livestock Grazing Management Plan, Lassen County, Due: Aug. 16, 1982

Department of Transportation:
- EIS No. 820456, Draft, FHW, NB, Gothenburg/NB–47 Viaduct Construction, Gothenburg, Dawson County, Due: Aug. 30, 1982
- EIS No. 820457, Draft, FHW, NB, Harrison, Street, Giles Road and I–80 Upgrading and Construction, Due: Aug. 30, 1982
- EIS No. 820461, Draft, FHW, ND, Washington Street Corridor Improvements, Bismarck, Burleigh County, Due: Sept. 1, 1982
- EIS No. 820448, Final, FHW, CO, North Washington and 38th St Reconstruction, Lawrence/Larimer to I–70, Due: Aug. 16, 1982
- EIS No. 820465, Final, FHW, PA, I–70/LR–1071, Section 50 Relocation, Due: Aug. 16, 1982

Federal Energy Regulatory Commission:
- EIS No. 820460, Draft, FRC, SEV, CT, MA, NH, NJ, NY, PA, Tennessee/Boundary Looping Project, Certificate, Due: Aug. 30, 1982

Department of Housing and Urban Development:
- EIS No. 820455, Final, HUD, UT, Willow Heights Development, Mortgage Insurance, Emery County, Due: Aug. 16, 1982

Department of Defense, Army:
- EIS No. 820452, Draft, USA, CA, Parks Reserve Forces Training Area, Reactivation, Due: Aug. 30, 1982

Department of Defense, Air Force:
- EIS No. 820467, Suppl, UAF, OH, Rickenbacker ANGB, Noise Analysis, Franklin and Pickaway Counties, Due: Aug. 30, 1982

Department of Agriculture:
- EIS No. 820458, Draft, AFS, CO, San Juan National Forest, Land and Resource Management Plan, Due: Oct. 16, 1982
- EIS No. 820454, Final, AFS, WV, WV–150/ Highland Scenic Highway Extension, Monongahela National Forest, Due: Aug. 16, 1982
- EIS No. 820463, Final, REA, CO, Hayden-Blue River 345 kV Transmission Line, Grand, Routt & Summit Counties, Due: Aug. 16, 1982

Amended Notices:
- EIS No. 820402, Draft, MMS, SEV, ATL, 1983 OCS Oil/Gas Lease Sale #76 Offshore Mid-Atlantic States, Due: Sept. 20, 1982 [1]
- EIS No. 820425, Draft, BLM, CA, Clear Lake Resource Area, Wilderness Study, Napa, Lake and Yolo Counties, Due: Sept. 1, 1982 [2]

Dated: July 13, 1982.

Paul C. Cahill,

Director, Office of Federal Activities.

[FR Doc. 82–19305 Filed 7–15–82; 8:45 am]

BILLING CODE 6560–50–M

[1] Published FR June 25, 1982—review extended.

[2] Published FR July 2, 1982—review extended.

[OPTS-51442, TSH-FRL 2171-5]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979(44 FR 28558) and November 7, 1980 (45 FR 74378). This notice annonces receipt of seven PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 82-481; September 30, 1982
PMN 82-482, 82-483, 82-484 & 82-485; October 4, 1982
PMN 82-486 & 82-487, October 5, 1982
Written comments by:
PMN 82-481; August 31, 1982
PMN 82-482, 82-483, 82-484 82-485, September 4, 1982
PMN 82-486 & 82-487, September 5, 1982

ADDRESS: Written comments, identified by the document control number "[OPTS-51422]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, DC 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branchy, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, DC 20460, (202-382-3729)..

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-condifidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the public reading room E-107.

PMN 82-481

Manufacturer: Confidential.
Chemical. (G) Blocked urethane polymer.
Use/Production. (G) Open use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure: Confidential.
Environmental Release/Disposal. Confidential. Disposal by incineration and landfill.

PMN 82-482

Importer. Henley and Company.
Chemical. (G) Acetal of polyvinylalcohol.
Use/import. (S) Paper coating. Import range: No data submitted.
Toxicity Data. Acute oral: >15 g/kg; Skin irritation: Non-irritant.
Exposure: No data submitted.
Environmental Release/Disposal. No data submitted.

PMN 82-483

Manufacturer: Ashland Chemical Company.
Chemical. (G) Polymer of acrylic acid and acrylic esters.
Use/Production. (G) Pressure sensitive adhesive. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure: Manufacture: a total of 3 workers, up to 5 hrs/da, up to 15 day/yr.
Environmental Release/Disposal. Disposal by approved landfill.

PMN 82-484

Manufacturer: Confidential.
Chemical. (G) Phosphorodithioic acid, dialkyl ester, amine salt.
Use/Production. (G) Processing aid. Prod. Range: Confidential.
Toxicity Data. No data submitted.
Exposure: Confidential.
Environmental Release/Disposal. Confidential.

PMN 82-485

Importer. Confidential.
Chemical. (G) Chlorotriazine modified copper phthalocyanine, sodium salt.
Use/Import. (S) Dye for fibers and fabrics. Import range: 400-7,500 kg/yr.
Toxicity Data. Acute oral: >5 g/kg; Acute dermal: >200 mg/kg; Skin irritation: Non-irritant; Eye irritation: Non-irritant.
Exposure: Processing: dermal and inhalation, a total of 3 workers, up to 3 hrs/da, up to 100 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air with 100-1,000 kg/yr to water. Disposal by publicly owned treatment works (POTW), incineration and approved landfill.

PMN 82-486

Manufacturer: Confidential.
Chemical. (G) Alkyl phosphate ester.
Use/Production. (S) To be incorporated into a polymer. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure: Processing: dermal, inhalation and eye, a total of 6 workers, up to 1 hr/da, up to 40 da/yr.
Environmental Release/Disposal. No release. Disposal by approved landfill.

PMN 82-487

Importer. Confidential.
Chemical. (G) Copolymer of an alkenoic acid derivative, substituted and unsubstituted vinyl aromatic compounds and a substituted alkene.
Use/Import. (G) Contained use. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure: Occular, dermal and inhalation, up to 5 da/wk.
Environmental Release/Disposal. Less than 10 kg/yr released to air.

Dated: July 12, 1982.

Woodson W. Bercaw,

Acting Director, Management Supprt Division.

[FR Doc. 82-19149 Filed 7-15-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF ENERGY

Western Area Power Administration

Pick-Sloan Missouri Basin Program; Notice of a Rate Order

Correction

In FR Doc. 82-18088, appearing at page 28992 in the issue of Friday, July 2, 1982, make the following change:

On page 28993, first column, last line, "different locations from January 18", should appear after "These meetings were conducted at four" and before "through January 21, 1982.", which appears on the first line of the middle column.

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

[A-6-FRL-2172-2]

Delegation of Additional Authority to the State of Oklahoma for Prevention of Significant Deterioration (PSD)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Information notice.

SUMMARY: EPA, Region 6, has delegated the authority under the Prevention of Significant Deterioration (PSD) program for source inspections and compliance reviews to the Oklahoma State Department of Health (OSDH). The OSDH is now authorized to conduct

PSD source inspections and compliance reviews.

EFFECTIVE DATE: April 26, 1982.

ADDRESS: Copies of the amendment to the State-EPA agreement for delegation of additional authority are available for public inspection at the Air Branch, Environmental Protection Agency, Region 6, First International Building, 28th Floor, 1201 Elm Street, Dallas, Texas 75270.

FOR FURTHER INFORMATION CONTACT: William H. Taylor, Jr., Air Branch, address above (214) 767–1594.

SUPPLEMENTARY INFORMATION: On July 16, 1981, EPA, Region 6, delegated to the OSDH the authority for technical and administrative review of the PSD program. An information notice of this delegation was published in the **Federal Register** on February 17, 1982. The OSDH has been delegated additional PSD responsibility for performing PSD inspections of and reviewing PSD compliance reports for located in the State of Oklahoma. Pursuant to 40 CFR 52.21, EPA, Region 6, delegated this additional PSD authority to the State of Oklahoma for performing source inspections and reviewing compliance reports on April 26, 1982.

Effective immediately, all of the information related to PSD source inspections and compliance reports for sources located in the State of Oklahoma should be submitted to the State agency at the following address: Oklahoma State Department of Health, Northeast Tenth and Stonewall, Oklahoma City, Oklahoma 73105.

(Secs. 101 and 301 of the Clean Air Act, as amended (42 U.S.C. 7401 and 7601))

Dated: July 2, 1982.

Frances E. Phillips,

Acting Regional Administrator.

[FR Doc. 82-19-287 Filed 7-15-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

International Telegraph and Telephone Consultative Committee (CCITT); Study Group A of the U.S. Organization; Meeting

July 12, 1982.

The Department of State announces that Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on July 28, 1982 at 10:00 a.m. in Room 856 of the Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. This Study Group deals with U.S. Government aspects of international telegram and telephone operations and tariffs.

The Study Group will discuss international telecommunications questions relating to telegraph, telex, new record services, data transmission and leased channel services in order to develop U.S. positions to be taken at upcoming international Study Group I and III meetings.

Members of the general public may attend the meeting and join in the discussion subject to the instruction of the Chairman. Admittance of public members will be limited to the seating available. Requests for further information should be directed to Earl S. Barbely, Conference Staff, Federal Communications Commission, Washington, D.C., telephone (202) 632–3214.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-19281 Filed 7-15-82; 8:45 am]

BILLING CODE 6712-01-M

1983 World Administrative Radio Conference for Mobile Telecommunication; Agenda

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: The Commission, by this action, presents to the public the Agenda of the 1983 World Administrative Radio Conference (WARC) for Mobile Telecommunications, and the FCC recommended U.S. Proposals for that conference to be sent to the Department of State with a request that they be sent as the formal U.S. input to that WARC. These FCC recommended U.S. proposals were developed as a result of four notices of inquiry over a two and one-half year period. Some of the key issues to be addressed at the conference and for which the FCC included in its recommended proposals include:

—The Future Global Maritime Distress and Safety System;
—Aeronautical matters and Interconnection with the Maritime Mobile Service;
—HF Radiotelephone Channel Spacing and the Use of the Shared Bands at 4000–4063 and 8100–8195 kHz;
—Coast Station Watch on Distress Frequencies;
—Aeronautical Exemption Clause; and
—Frequencies at VHF for the FGMDSS.

While the recommended U.S. proposals are to modify the international Radio Regulations, which does not involve FCC Rules and Regulations, changes to those Rules could occur later through domestic rulemaking as a result of conference decisions.

ADDRESS: Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Lawrence M. Palmer, Office of Science and Technology, International Staff, Federal Communications Commission, 2025 M Street, N.W. Room 7002, Washington, D.C. (202) 653–8102.

SUPPLEMENTARY INFORMATION:

Adopted: June 23, 1982.

Released: July 2, 1982.

Purpose

In the matter of an inquiry relating to preparation for an international telecommunication union world administrative radio conference for the mobile services; Gen. Docket No. 80–184; Report and Order (Proceeding Terminated).

1. The Commission is issuing this Report and Order as a means of informing the public on the Agenda, venue, and length of the 1983 International Telecommunication Union (ITU) World Administrative Radio Conference (WARC) for Mobile Telecommunications, and to present the FCC recommended U.S. Proposals that are being forwarded to the Department of State with a request that they be utilized as the basis for formal U.S. input to that WARC.[1] Since these proposals represent the combined efforts of the Commission and the Executive Branch, the National Telecommunications and Information Administration (NTIA) is expected to make similar recommendations to the Department of State.

Report and Order Presentation

2. In this Report and Order we will outline the significant items and events that were pertinent to the conference preparation process. This will include such things as the preparatory schedule, conference Agenda, Notice of Inquiry history, and domestic and international preparation. We will summarize the comments and reply comments received in response to the most recent Notice of Inquiry in this proceeding. We will also address several key issues, and review a few of the recommended U.S. Proposals that are different from the earlier draft proposals. The introductory portion of the recommended U.S. Proposals (Appendix 2) contains the rationale for

[1] The Agenda is attached as Appendix 1; the recommended U.S. Proposals are contained in Appendix 2.

the proposals themselves; it is, therefore, not necessary to treat them in great depth in the introductory portion of this Report and Order.

Background

A. Mobile WARC Schedule, Agenda and Notice of Inquiry History

3. The need for a Mobile WARC was recognized by the 1979 WARC when it recommended (Recommendation No. 12 as clarified by Resolution No. 202) that a Mobile Services WARC be held. The need for a WARC resulted primarily from the fact that the 1979 WARC could not revise the international Radio Regulations in the specialized mobile services categories.[2] Shortly after the U.S. Delegation returned from the 1979 WARC, the FCC started its preparation for the Mobile WARC with the release of a Notice of Inquiry in May, 1980.[3] That Notice, released in advance of any formal WARC Agenda, solicited comments on various matters affecting the mobile services.

4. In May, 1980, the ITU Administrative Council proposed to ITU member countries that a Mobile WARC of limited scope and duration be held in Geneva, Switzerland, for three weeks, three days, beginning March 2, 1982. (See, however, paragraph 11.) The proposed Agenda for the WARC was confined primarily to matters relating to distress and safety.[4] The Second Notice of Inquiry, [5] released in October, 1980, indicated that the necessary number of member countries had agreed to the holding of a Mobile WARC. In that Notice, we provided a schedule of events and meeting dates pertinent to the Mobile WARC, both national [6] and international, reviewed a few of the issues, and presented some initial proposals.

5. An Order [7] was released in November, 1980, that extended the date for comments and reply comments in the Second Notice of Inquiry, and which also indicated that certain papers that had recently been approved by the twenty-second session (September–October, 1980) of the Inter-Governmental Maritime Consultative Organization (IMCO) could have a significant impact on our preparation process. Accordingly, that Order indicated that portions of those IMCO papers were extracted and placed in this proceeding. Comments were requested.[8]

6. The Third Notice of Inquiry was released in the spring of 1981.[9] It presented the U.S. preliminary views for the 1982 Mobile WARC in the form of proposals to modify the international Radio Regulations. These proposals covered broad areas within the Radio Regulations affecting the Mobile Services, including the future global maritime distress and safety system (FGMDSS) [10] as developed by IMCO, navigational warnings, aeronautical matters, satellite provisions, radars and transponders, notification and registration procedures. Once again we examined and failed to see a need to establish any industry advisory groups, but indicated that we would continue discussions with representatives from the Department of State regarding formation of the U.S. Delegation.[11]

7. The Fourth and last notice in this proceeding was released early in 1982.[12] That Notice presented the U.S. draft proposals, which had been coordinated with NTIA. We indicated that the comments received in response to the Fourth Notice would serve as the basis for Commission coordination with NTIA in modifying any of the draft proposals, attached to that Notice as Appendix 1.[13] We also indicated that this would serve as the basis for the formulation of the recommended U.S. proposals to and positions at the WARC.[14]

8. In the Fourth Notice, we indicated that the date of the WARC had been changed to 1983, as a result of decisions taken by the 36th Session (May–June, 1981) of the ITU Administrative Council (See, however, paragraph 11.) and that the Agenda had not changed. We also went on to say that the one year delay would permit a more thorough set of U.S. proposals to be developed for consideration by the WARC. We further indicated that proposals from ITU member countries have been requested by the ITU Secretary-General to be in Geneva at the end of May, 1982.

9. Our Fourth Notice also pointed out that a separate and distinct Mobile WARC, originally planned for 1986, was now moved to 1988. We went on to indicate that we expect that this separate Mobile WARC, while not yet having an agenda, would probably have a broad mandate.[15] In recognition of this separate 1988 WARC, many of our recommended U.S. Proposals, in Appendix 2, request that conference to finalize dates of implementation and to adopt standards and operational procedures.

10. The Fourth Notice presented the coordinated U.S. draft proposals for the 1983 Mobile WARC.[16] These proposals addressed almost all of the matters before the 1983 conference, either through proposed changes to the Radio Regulations, or textual material expressing our views. Some of the major issues addressed were: (1) Our continued support for the FGMDSS; (2) obtaining a frequency at MF for navigational warnings; (3) interim usage for the 4 and 8 MHz shared bands; (4) provisions for aircraft to communicate with ships in emergency situations; (5) updating the aeronautical provisions reflecting the current practices employed by that service; and (6) provisions for EPIRB's operating at VHF.

11. The 37th Session of the ITU Administrative Council (April–May, 1982) decided, for budgetary reasons, to request agreement from the ITU administrations to shorten the conference to a duration of three weeks. (See Appendix 1.) We fully anticipate that this will be accepted. Thus, barring unforeseen complications, the 1983 Mobile WARC will be held from February 28 through March 18, 1983.

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[2] Several other specialized WARC's are also planned. See FCC Public Notice, July 13, 1981, Mimeo No. 002139.

[3] Adopted April 24; released May 15, 1980; 45 FR 35418. Chief Scientist Order, FCC 32267, of June 6, 1980 extended the dates for comments and reply comments.

[4] The Agenda was attached to the Order, previously cited.

[5] Adopted October 21, 1980; released October 31 1980; 45 FR 73792.

[6] As a result of several comments, and taking into account the extensive preparation process underway in the U.S., it was decided not to establish any additional advisory groups.

[7] Chief Scientist Order, Adopted November 18, 1980; released November 19, 1980; FCC 01792.

[8] FCC News Release, 01921, of November 21, 1980, announcing the Order, also gave an FCC point of contact to obtain a copy of the IMCO extracts.

[9] Adopted April 9, 1981; released April 20, 1981; 46 FR 23988.

[10] Paragraph 7., Third Notice, indicated that the FGMDSS requirements had been released to the public in the IMCO Safety of Life at Sea (SOLAS) proceeding, Sixth Notice of Inquiry, Docket No. 20274, 46 FR 15602.

[11] Paragraph 13., Third Notice.

[12] Fourth Notice of Inquiry, FCC 81–573, Adopted December 17, 1981, released January 8, 1982, 47 FR 1022.

[13] Fourth Notice, paragraph 1.

[14] A U.S. Coast Guard request for an extension of time to file reply comments was not accepted. See Chief Scientist Denial of Request to Extend Reply Comments Period, Adopted March 2, 1982; released March 4, 1982. See, however, [20].

[15] While it is too early to begin formal preparation for that planned 1988 Mobile WARC, our initial thoughts would be to begin our preparation process sometime after the results of the 1983 WARC are known, or when the conference agenda is known or anticipated. At that time we would expect to attempt to establish U.S. objectives and goals, set priorities, review the need for advisory committees, and lay the groundwork for our preparation for the 1988 conference. While we are not requesting comments on these ideas now, parties should bear in mind these thoughts as they review the recommended U.S. Proposals in Appendix 2.

[16] Footnote 2 to the Fourth Notice indicated two areas of disagreement between the FCC and the NTIA. See, however, paragraphs 31. and 32. of this Report and Order.

B. U.S. Preparatory Structure

12. As indicated in the previous section, some parties have requested over the past two years that we establish an industry advisory committee; we have not done so. While we recognize that a committee of this type could have benefit, we also believe that for this very specialized WARC, there was sufficient and in-depth analysis available in the U.S. in several fora.[17] These included: 1) The Radio Technical Commission for Marine Services (RTCM), Special Committee No. 76 (SC–76); 2) the International Radio Consultative Committee (CCIR) Study Group 8 (SG–8); 3) the U.S. Safety of Life at Sea (SOLAS) Working Group on Radiocommunications for the Inter-Governmental Maritime Consultative Organization (IMCO); and 4) the U.S. preparation for the International Civil Aviation Organization (ICAO), Communications Divisional (COM/DIV) Meeting.

13. As we have mentioned several times in this proceeding, and at paragraph 1. herewith, our proposals have been coordinated with the Executive Branch agencies.[18] This coordination has primarily taken place in the NTIA, Interdepartment Radio Advisory Committee (IRAC), Ad Hoc 175 forum.

C. International Meetings

14. In the *Second Notice* we outlined a schedule of events showing when various international meetings pertinent to our preparation process would take place.[19] The listed meetings included: A) IMCO Sessions of the IMCO Sub-Committee on Radiocommunications; B) Interim, Final, and Special Meetings of the CCIR SG–8; and C) ICAO COM/DIV meeting. All of these meetings have been attended by various government and private sector personnel concerned with preparation for the 1983 Mobile WARC.

15. Other international meetings that were part of our preparation process included various bilateral and multi-lateral discussions between the U.S. and other administrations, either in the U.S., or abroad. More formalized meetings have also taken place in the Inter-American Telecommunications Conference (CITEL), and other fora. We expect that meetings of these types will continue until the 1983 Mobile WARC convenes.

16. More important, however, is the fact that the results of all of these meetings have been taken into account in the preparation of the recommended U.S. Proposals. While we have not followed exactly the ideas expressed by the international communities, we have attemped to accommodate their thoughts, consistent with U.S. policies and priorities.

Comments/Reply Comments Received in Response to Fourth Notice

17. In response to the Fourth Notice, we received comments from several parties. Aeronautical Radio, Inc., (ARINC), and the Air Transport Association of America (ATA) generally supported the U.S. draft proposals contained in that Notice relating to distress and safety and aeronautical matters in which they have an interest. ARINC and ATA, however, indicated that certain items shown in the Fourth Notice differed from the Third Notice. They then made several proposals reflecting their views.

18. The Central Committee on Telecommunications of the American Petroleum Institute (Central Committee) in its comments supported the general direction and substance of our proposals in what they believed were the major issues before the 1983 Mobile WARC. They then went on to endorse more specifically a few of these issues or, in other cases, pointed out what they believe are some of the limitations not addressed by the proposals in the Fourth Notice.

19. American Telephone and Telegraph Company (AT&T), in its comments, addressed certain maritime matters, including HF radiotelephone channel spacing, use of the shared bands at 4 and 8 MHz, and distress watches by coast stations. The American Waterways Operators, Inc. (AWO), also addressed marine matters, but only in the VHF band. They suggested certain changes and pointed out what they believe are certain inconsistencies between the domestic and the proposed international rules.

20. The Association of American Railroads (AAR) also addressed, in its comments, the VHF band. They indicated their concerns regarding retention of the Regulations that permit land mobile use in the band.

21. Mobile Marine Radio, Inc., (MMR) addressed several maritime matters in its comments. These included HF radiotelephone channel spacing, use of the shared bands at 4 and 8 MHz, and distress watches by coast stations.

22. The Radio Technical Commission for Marine Services (RTCM) fully supported all of the draft proposals attached to the Fourth Notice, except for a few specific areas. Two of these areas included the use of the shared band at 4 MHz and narrow band direct-printing (NBDP) frequencies for the FGMDSS at VHF.

23. RCA Global Communications, Inc. (RCA Globecom) addressed two matters in its comments. These were distress watches by coast stations, and frequencies at HF for narrow-band direct-printing purposes.

24. Only the U.S. Coast Guard submitted reply comments.[20] These reply comments concerned distress watches by coast stations commented upon by AT&T, MMR, and RCA Globecom.

25. All of the foregoing comments and reply comments were reviewed and considered in depth in the development of the attached recommended U.S. Proposals. Thus, while we may not further mention specific comments when addressing an issue, they were nevertheless, fully considered.

Key Issues

26. Throughout our proceeding, there have been several issues that have received significant attention. These issues will also occupy a major portion of the WARC deliberations. Some of these issues will be examined in the next few paragraphs, along with those proposals that have changed from the Fourth Notice.

A. Future Global Maritime Distress and Safety System (FGMDSS)

27. Our recommended U.S. Proposals, in Appendix 2, continue our earlier support for incorporation of the IMCO developed FGMDSS [21] into the ITU Radio Regulations. During this proceeding we have received no comments in opposition to the FGMDSS. Our recommended U.S. Proposals provide the frequency support for the FGMDSS to be progressively developed and implemented over the next several years. These proposals take into account the results of the IMCO Sub-Committee on Radiocommunications meetings, the CCIR SG–8 meetings and the ICAO COM/DIV meeting. Finally, while we have changed slightly from the Fourth Notice in the presentation of the regulatory proposals, we have continued to maintain the existing Radio Regulations concerning the present distress and safety system.

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[17] Second Notice, paragraphs 17. through 19. provides more details on our thinking in this matter.

[18] See, for example, Second Notice, paragraph 19.

[19] Second Notice, paragraph 5.

[20] Although these reply comments were received on March 4, 1982, and the reply comment deadline was March 1, 1982, we believe that the Coast Guard views are important to this preparation process, and they are hereby accepted as part of this proceeding.

[21] IMCO matters affecting domestic concerns, including the FGMDSS, have been addressed in a separate proceeding; see Seventh Notice of Inquiry, Docket No. 20274, mimeo 30428, adopted November 24, 1981, released December 10, 1981.

B. Aeronautical Matters and Inter-Connection With the Maritime Mobile Service

28. Throughout this proceeding, we have consistently attempted to develop proposals affecting the aeronautical community that would bring into line the ITU Regulations reflecting the actual practices in that service. Some of these changes were required as a result of actions by the 1979 WARC; others were proposed by parties making comments, or by ICAO. Our proposals also reflect our belief that provisions in the ITU Radio Regulations are necessary in order to permit the aeronautical mobile service to contact the maritime mobile service. The conditions under which these communications can take place must also be indicated in the Radio Regulations; adoption of our proposals would accomplish this.

C. HF Radiotelephone Channel Spacing and the Use of the Shared Bands at 4000–4063 and 8100–8195 kHz

29. Throughout our preparatory process we have pointed out the advantages and disadvantages in proposing to change the HF radiotelephone channel spacing in the existing maritime mobile bands from 3.1 kHz to 3.0 kHz. While the existing technical standards and equipments in use would permit a change to 3.0 kHz, many smaller vessels would have to change crystals, with a resultant total outlay of funds far in excess of the frequency spectrum gain, e.g., at 4 kHz, the gain of 2.6 kHz would not even provide one additional channel. We believe, however, that planning for the 1988 WARC should be based on 3.0 kHz, when it will probably be possible to examine all of the Maritime Mobile bands and several additional channels might be obtained.

30. Concerning use of the shared bands at 4000–4063 and 8100–8195 kHz, we are proposing to use these spectrum portions in a cross-band mode for duplex radiotelephone, which we believe has the highest priority of need. This idea will encourage maritime use of the bands, and provide data to the planned 1988 WARC, so that appropriate allocation or regulatory decisions may be made.

31. Other proposals made concerning these two shared bands include the use of the 8 MHz for narrow-band direct-printing coast and ship use, simplex voice channels at 8 MHz, and coast station use of the 4 MHz band. This latter matter was not agreed to by the NTIA in the Fourth Notice. The attached recommended U.S. Proposals would internationally permit coast stations at 4 MHz on a non-interference basis only, in recognition of the conference Agenda, and the need to share this allocation with the fixed service. We have, however, concluded an agreement with NTIA to provide more useful accommodation domestically for the maritime service in the band.

D. Coast Station Watch on Distress Frequencies

32. In the *Fourth Notice* we proposed to modify a few of the Radio Regulations relating to coast station watchkeeping on distress frequencies in response to comments to the Third Notice. The Fourth Notice indicated that these proposals had not been agreed to by NTIA.[22] In response to the Fourth Notice draft proposals we received comments from AT&T, MMR, and RCA Globecom,[23] which advocated the removal of the distress and safety watch requirements for public coast stations; and opposing reply comments from the U.S. Coast Guard.

33. NTIA previously addressed the subject of removing the distress and safety watch requirements for public coast stations,[24] and recently stated in a letter to the FCC that "such action would be consistent with the principle of deregulation of high seas public coast station operations—we continue to support the principle of such deregulation. However, it should be clear that our position has been and continues to be, that such action cannot occur without appropriate concurrent action being taken to assure that the Coast Guard is vested with complete statutory authority (and associated budgetary support) to assume any and all distress watches which might be abandoned by the public coast stations". The U.S. Coast Guard in their reply comments urged the Commission to reconsider its proposals concerning the deletion of "public correspondence stations" in those provisions of the Radio Regulations that prescribe coast station responsibility for keeping watch on the maritime distress, safety and calling frequencies.

34. The NTIA letter [25] and the USCG in their reply comments, further state in support of their opposition to the Commission's proposal that:

—The existing regulations permit the Commission to exempt public cost stations from radio watch requirements, as was done in recent Commission proceedings, on the distress frequencies 2182 kHz and 156.8 MHz; [26]

—In line with the Administration's policy to effect economies in coast of government and possible changes to the future role and mission of the U.S. Coast Guard, they are not prepared to accept the economic burden of a newly imposed or implied responsibility which results from deletion of the phrase "public correspondence station".

—Deletion of "public correspondence stations" from the watch regulations would likely encounter stiff opposition at the conference because foreign administrations rely heavily on this type of station to provide an effective distress watch system, consequently, they "lend great importance to the precise wording of the existing provisions";

35. We are proposing to maintain the reference to public correspondence stations in the pertinent regulations as requested by the U.S. Coast Guard and NTIA. The ADD RR 3042.1 which we proposed in the Fourth Notice is unchanged to permit public coast stations to be exempted from a mandatory watch on 500 kHz in cases where an equivalent distress watch is provided by another station. In RR 3048 we are proposing to delete the word all in the 2182 kHz watch provision, and in ADD RR 3052.1 to indicate that the same type of exemption would apply for 500 kHz. We are further proposing that the watch on 4125 kHz, 6215.5 kHz, and 156.8 MHz be made mandatory, so long as the station forms an essential part of the coverage area for distress purposes.

36. The changes we have proposed satisfy the concerns of the U.S. Coast Guard and NTIA. At the same time, they will permit the Commission, in consonance with the international Radio Regulations, to exempt public coast stations from a mandatory watch on distress frequencies when this is

[22] Fourth Notice, paragraph 45.

[23] Mobile Marine Radio, Inc. (MMR); RCA Global Communications, Inc. (RCA Globecom); and American Telephone and Telegraph Co. (AT&T).

[24] Report to the Congress of the United States, A Study of Maritime Public Coast Station Operations, Services and Industry, FCC, December 1979.

[25] Bernard J. Wunder, Jr., The Assistant Secretary for Communications and Information, United States Department of Commerce letter to the Chairman, FCC, dated December 18, 1981.

[26] The requirement for both conditions to be met, "coast stations open to public correspondence and which form an essential part of the coverage of the area for distress purposes", permits administrations to exempt a coast station from a distress watch when, for example, another station such as a U.S. Coast Guard station provides an equivalent distress watch. See Report and Order, PR Docket No. 80–145, 46 FR 10155, released January 23, 1981. See also, Report and Order, PR Docket No. 79–68, 71 FCC 2d 171, released September 22, 1980.

deemed to be in the public interest and an equivalent distress watch is stood by another station such as the U.S. Coast Guard.

E. Aeronautical Exemption Clause

37. We are proposing changes to Chapter X that will permit the aeronautical community in coordination with administrations to conclude special arrangements in accordance with Article 31 of the ITU Convention. This, we believe, meets the needs of this service, and at the same time retains within the ITU framework the basic foundation for regulating telecommunications.

F. Frequencies at VHF for the FGMDSS

38. In the Fourth Notice draft proposals, we modified RR Appendix 18 indicating certain frequencies at VHF to satisfy some of the IMCO-stated requirements for use in the FGMDSS. We proposed channel 6 for the voice distress traffic requirement, and channel 70 for the DSC distress alerting function. We did not, however, make a proposal for the NBDP distress traffic frequency.

39. After a review of all the considerations and comments, we are now continuing the proposal for use of channel 6 for the voice distress SAR traffic portion of FGMDSS. We are now proposing that channel 76 be set aside exclusively for the DSC distress alerting function. For the NBDP distress and safety traffic requirement we are proposing that channel 70 be used, with an indication that up until February 1, 1990, this channel may also be used for other NBDP requirements. These other uses would have to give priority to stations using the channel for distress and safety traffic.

Method of Presentation of Proposals

40. In the recommended U.S. Proposals, Appendix 2, we use the ITU prescribed format for the presentation of the changes. The recommended U.S. Proposals are based on the 1982 Edition of the ITU Radio Regulations.

Conclusion

41. The 1983 WARC for Mobile Telecommunications will be held in Geneva from February 28 through March 18, 1983, with an Agenda as shown in Appendix 1. The recommended U.S. Proposals for that conference are shown in Appendix 2. NTIA is expected to make similar recommendations.

42. In developing these proposals, consideration has been given to the views submitted by the public. Four Notices of Inquiry have been issued. Coordination between the FCC and the Executive Branch agencies has taken place. The recommended U.S. Proposals in Appendix 2 are to modify the international Radio Regulations, which does not involve Commission Rules and Regulations, noting that changes to our Rules may occur later through domestic rulemaking as a result of conference decisions.

43. This proceeding has served as the vehicle by which a major portion of the attached proposals were developed and refined to their present state. The recommended U.S. Proposals in Appendix 2 are being forwarded to the Department of State and are expected to constitute the basis for the formal proposals of the United States of America to be submitted by the Department of State to the ITU for consideration by the 1983 World Administrative Radio Conference for Mobile Telecommunications.

44. This Report and Order is adopted pursuant to Section 4(i) of the Communications Act of 1934, as amended. It is ordered that this proceeding is hereby terminated.

45. Point of contact on this matter is Mr. Lawrence M. Palmer, International Staff, Office of Science and Technology, at telephone number (202) 653–8102.

Note.—Due to the continuing effort to minimize publishing costs, neither of the two Appendices of this Report and Order (Appendix 1: "Resolution No. 853"; Appendix 2: "Proposals of the USA to the World Administrative Radio Conference for the Mobile Services—Geneva, 1983") will be printed herein. However, copies of the complete document may be obtained from any of the distribution centers listed in the FCC Office of Public Affairs, Room 202, 1919 M St. NW., Washington, D.C. 20554 (202) 254–7674. Also, a copy is available for inspection in the FCC Library, Room 639, and the FCC Dockets Branch, Room 239, both located at 1919 M St., NW.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-19334 Filed 7-15-82; 8:45 am]

BILLING CODE 6712-01-M

[FCC 82-292; Docket Nos. 82-336 etc., File Nos. BRH-1148 DR]

Memorandum Opinion and Order United Broadcasting Co. of Eastern Maryland, Inc. et al.; Designating Application for Consolidated Hearing on Stated Issues

Adopted: June 23, 1982.

Released: July 8, 1982.

In re Applications of United Broadcasting Company of Eastern Maryland, Inc., BC Docket No. 82–336, File Nos. BRH–1148 and BRH–810602UW. (Has: 92.3 MHz Channel 222 10kw, 560 feet) For Renewal of License of Station WYS(FM), Baltimore, Maryland, SRW, INC. Baltimore, Maryland, BC Docket NO. 82–337, File No. BPH–810723AD, Req: 92.3 MHz, Channel 222 50kW, 390 feet, Belvedere Broadcasting Corporation, Baltimore, Maryland, BC Docket NO. 82–338, File No. BPH–810723AC, Req: 92.3 MHz, Channel 222 50kW, 197 feet For Construction Permits.

1. The Commission has under consideration the license renewal application, as supplemented, of United Broadcasting Company of Eastern Maryland, Inc. (UBCEM) for Station WYST(FM) in Baltimore, Maryland, and timely filed construction permit applications by SRW, Inc. (SRW) and Belvedere Broadcasting Corporation (Belvedere). Because the applications are mutually exclusive, they must be designated for a comparative hearing.

2. *UBCEM.* According to its 1981 supplemental renewal application for Station WYST(FM), UBCEM is wholly owned by United Broadcasting Company (United). Until recently, United was wholly owned by Richard Eaton.[1]

3. Over the past several years, the Commission has denied or revoked four of United's licenses.[2] Recently, in *United*

[1] On April 16, 1981, the Circuit Court for Montgomery County, Maryland, appointed Suburban Trust Company to act as temporary guardian of the property of Richard Eaton. As a result of this appointment, applications were filed with the Commission on May 18, 1981, for consent to the involuntary tranfser of control of United and its various licensee subsidiaries. On June 1, 1981, Richard Eaton died, and his property was transferred, pursuant to the terms of his will, to his Personal Representatives, Suburban Trust Company and Dennison L. Mitchell. As a result of this transfer, and prior to any Commission action on the May 18, 1981, applications, new applications for consent to the involuntary transfer of control of United and its various licensee subsidiaries to Richard Eaton's Personal Representatives were filed on July 1, 1981. On August 24, 1981, the Commission granted simultaneously both the May 18 and July 1, 1981, applications, with the result that control of United and its various licensee subsidiaries has been transferred to Suburban Trust Company and Dennison L. Mitchell, Personal Representatives.

[2] *United Television Co.*, 46 FCC 2d 698 (1974) (WFAN–TV) and *United Television of New Hampshire*, 46 FCC 2d 702 (1974) (WMET), *aff'd* 514 F.2d 279 (D.C. Cir. 1975); *United Broadcasting of Florida, Inc.*, 55 FCC 2d 832 (1975), *recon. denied* 60 FCC 2d 616 (1976) (WFAB); *United Television Co.*, 55 FCC 2d 416 (1975), *recon. denied* 59 FCC 2d 663 (1976), *aff'd sub nom. United Broadcasting Co.* v. *FCC*, 569 F.2d 699 (D.C. Cir. 1977), *cert. denied* 434 U.S. 1076 (1978) (WOOK (AM)).

In the first two decisions, we revoked two of United's television stations because they had been dark for more than two years, therby depriving viewers of service over those frequencies. In the latter two, we denied two radio station renewals, finding that United was unfit to operate those broadcast facilities.

Broadcasting Co. (WOOK(FM)), 86 FCC 2d 452 (1981), the Commission held that these prior adverse determinations reflected a pattern of serious misbehavior by United and thereby raised a *prima facie* question about its qualifications to operate WOOK(FM). In designating a qualifications issue, we noted that, although we lacked sufficient evidence to determine whether Richard Eaton was personally responsible for United's misconduct, even if Eaton were removed from United's ownership, a serious question would still remain regarding the soundness and reliability of the licensee's operations. *Id.* at 458 n.24.

4. In designating these applications for hearing, we are again confronted with the question whether United's past misconduct should reflect adversely on UBCEM's qualifications to remain the licensee of WYST(FM). Our decision is that it is unnecessary to add to a basic qualifications issue to this proceeding at this time.[3] The question of which individuals were responsible for United's prior misconduct is being explored fully in the WOOK(FM) proceeding. After the Administrative Law Judge issues an initial decision in WOOK(FM), the parties to this proceeding may then argue to the Administrative Law Judge whether issues should be added to consider the significance that the findings there have on UBCEM's qualifications. A final determination as to WYST(FM)'s qualifications will therefore be conditioned on the outcome of the WOOK(FM) proceeding. Whether Richard Eaton's death has any effect on the resolution of any qualification issue, or the addition of any issues, is a matter, of course, for the Administrative Law Judge to decide initially.

5. Except as limited by our discussion above, a review of UCBEM's license renewal application indicates that it is qualified to be a Commission licensee. In the interest of administrative efficiency, we believe that the Chief Administrative Law Judge should assign this matter to the same judge currently presiding in the WOOK(FM) proceeding.

6. *SRW.* It appears that $400,580 will be required to construct its proposed station and operate it for three months. In order to meet that requirement, each of its three principals is to loan the corporation a *pro rata* share of the funds. Their agreement, however, states that the "terms and conditions of any such loans will be determined when the FCC grants the application . . . referred to above." Since the agreement fails to state the terms of repayment and the security required, or otherwise indicate that none will be required, it cannot be accepted. In addition, the financial statements of two of the principals, Richard Rynd and Paul H. Weinstein, do not show sufficient liquid assets to meet their share of the commitment.[4] An appropriate financial issue will be specified. Otherwise, a review of SRW's application indicates that it is qualified to be a licensee.

7. *Belvedere.* Applicant estimates that it will require $283,001 to construct its proposed station and operate it for three months. In order to meet that requirement, Belvedere proposes to rely upon its own assets. However, Belvedere's balance sheet was not dated within 90 days of the date of the application. Moreover, it does not show sufficient liquid assets to effectuate its proposal. Belvedere does not demonstrate that its accounts receivable can be relied upon to provide a readily available source of funds, and it has not properly described or shown the ready marketability of its other non-cash assets. Accordingly, an appropriate financial issue will be specified.

8. Applicants for new broadcast stations are required by Section 73.3580(f) of the Commission's Rules to give local public notice of the filing of their applications. We have no evidence that Belvedere published the required notice. To remedy this deficiency, Belvedere must publish local notice of its application, if it has not already done so, and so inform the presiding Adminstrative Law Judge. Except as set forth herein, Belvedere appears to be qualified to be a licensee.

9. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications of United Broadcasting Company of Eastern Maryland, Inc., SRW, Inc. and Belvedere Broadcasting Corporation are designated for consolidated hearing, at a time and place to be specified in a subsequent Order, upon the following issues: [5]

1. To determine, with respect to SRW, Inc.: (a) The source and availability of sufficient funds to meet anticipated costs; and (b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

2. To determine, with respect to Belvedere Broadcasting Corporation: (a) The source and availability of sufficient funds to meet anticipated costs; and (b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

3. To determine which of the proposals would, on a comparative basis, best serve the public interest.

4. To determine in light of the evidence adduced pursuant to the foregoing issues, which of the applications, if any, should be granted.

10. It is further ordered, That Belvedere shall inform the presiding Administrative Law Judge as to whether it has complied with the public notice requirements of § 73.3580(f) of the Commission's rules.

11. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

12. It is further ordered, That the applicants herein shall pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give local notice of the hearing (either individually, or if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

13. It is further ordered, That this case be assigned to the same Administrative Law Judge presently presiding in the United Broadcasting Co. (WOOK(FM)) proceeding.

14. It is further ordered, That the Secretary of the Commission shall send, by Certified Mail—Return Receipt Requested, a copy of this Memorandum Opinion and Order to each of the parties named herein.

Federal Communications Commmission.

William J. Tricarico,

Secretary.

(FR Doc. 82-19236 Filed 7-15-82; 8:45 am)

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[3] See our similar decisions in *Intercontinental Radio, Inc.*, 89 FCC 2d 819 (1981), *Tele-Broadcasters of California, Inc.*, FCC 82-18, released February 1, 1982, and *Montgomery County Broadcast Company, Inc.*, FCC 82-302, released May 17, 1982.

[4] Both have failed to demonstrate that their real and personal property can be relied upon to provide a readily available source of funds. In addition, both have not properly described or shown the ready marketability of their other non-cash assets.

[5] Our determination that UBCEM possesses the basic qualifications to remain a Commission licensee is conditioned upon the outcome of the WOOK(FM) proceeding. See paragraphs 2–4, *supra*.

[FCC 82-295; Docket Nos. 82-343 and 82-344; File Nos. BR-250 and BP-810403 AG]

United Broadcasting Co. of New York, Inc., and Osborne Communications Corp.; Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: June 23, 1982.

Released: July 8, 1982.

In re applications of United Broadcasting Company of New York, Inc., New York, New York (Has: 1380 kHz, 5kW–L, DA–2), for renewal of License of Station WBNX(AM), New York, New York and Osborne Communications Corporation, New York, New York (Req: 1380 kHz, 5kW–L, DA–2), for construction permit.

1. The Commission has before it for consideration the above-captioned license renewal application of United Broadcasting Company of New York, Inc. (United-NY) for AM Station WBNX, New York, New York, and a mutually exclusive application for the same frequency filed by Osborne Communications Corporation (Osborne) on April 3, 1981.

2. *Procedural Matters.* By way of background, WBNX has been operated for more than 50 years, on a share-time basis with AM Station WAWZ, Zarephath, New Jersey, licensed to Pillar of Fire (Pillar). On April 1, 1977, however, due to its inability to establish a mutually agreeable share-time operating schedule with United-NY, Pillar filed a petition to designate the renewal applications of both stations for hearing upon oral argument, as permitted under § 73.1715(b) of the Commission's rules. Following the filing of United-NY's 1978 supplemental renewal application, Pillar filed an application, on April 28, 1978, mutually exclusive with WBNX's renewal, to modify the status of WAWZ from a share-time station to an unlimited-time station. On February 2, 1981, United-NY again filed a supplemental renewal application. Osborne then submitted a construction permit application on April 3, 1981, specifying WBNX/s facilities.[1]

3. United-NY filed a motion to dismiss Osborne's application on June 22, 1981. It contends that, under § 73.3516(e) of the rules (the "cut-off" rule), the filing of WAWZ's application for unlimited-time operation established a May 1, 1978, cut-off date for the filing of applications mutually exclusive with WBNX's renewal. Since Osborne's application was filed after that date and was unaccompanied by a request for a waiver of the cut-off rule, it asserts, it should be dismissed.

4. More particularly, United-NY argues, the Commission has in the past strictly applied its cut-off rules, granting waivers only for the most compelling reasons even where applications were filed shortly after the cut-off date. The complementary effect of this policy, it asserts, has been to confer a protected status on pending renewal applications and timely filed competing applications when the cut-off date arrives. Yet, it states, Osborne has offered nothing to justify its three year delay in filing its application. Indeed, it believes, Osborne should have filed its application during an earlier renewal period since the difficulties encountered by United Broadcasting Company and the requirements of the cut-off rule are matters of public knowledge. Furthermore, were the Commission to allow Osborne to file its untimely application, it contends, we would be inviting interminable processing delays. The fact that their applications were not designated for comparative hearing should not be significant, United-NY believes, in view of a prior Commission ruling that the cut-off rules will not be waived merely because a comparative hearing will be held in any event.

5. Osborne's opposition first asserts that the motion to dismiss should be disregarded because it was itself untimely filed. To the extent United-NY intended to challenge the Commission's action in accepting Osborne's applicaton,[2] it argues, it should have done so either by petition for reconsideration or application for review, pursuant to Sections 1.106 and 1.115 of the rules. Those rules, it states, require challenges in the nature of the instant motion to dismiss to be filed within 30 days of the date of release of the public notice announcing the action in question, in this case by June 15, 1981. Since the motion cannot be properly characterized as a petition to deny and parties are expected to exercise diligence in protecting their rights, Osborne reasons, United-NY must be deemed to have waived its rights by its failure to object to Osborne's application by June 15, 1981.

6. Moreover, Osborne asserts, Commission acceptance of its application would, in fact, be consistent with both the language in § 73.3516(e) and policies established in decisions construing that rule. § 73.3516(e), it points out, specifically permits mutually exclusive applications to be filed up to three months after the filing of a renewal application. Thus, its application is consistent with the rule, it insists, as it was filed one month before the 1981 renewal "window" closed. In addition, it claims, *Carlisle Broadcasting Associates,* 59 FCC 2d 885 (1976) (*"Carlisle"*) establishes a policy that where a renewal application is deferred, as in this case, the "window" for competing applicants opens every three years, triggered by the required filing of supplemental renewal applications, except where the renewal application has been designated for hearing. Finally, Osborne contends, the public interest warrants Commission acceptance and consideration of its application as it would provide the Commission with a meaningful choice of applicants. For example, it argues, doubts concerning the qualifications of United Broadcasting Company, Inc. to remain a licensee necessarily raise the same questions about United-NY's qualifications to operate WBNX in the public interest.[3]

7. In its reply to Osborne, United–NY contends that its motion to dismiss was timely-filed. Unied-NY argues that Commission acceptance of Osborne's application cannot be considered an "action" for which review by means of petitions for reconsideration or applications for review is available. The Commission's rules, it notes, do not specify a date by which motions to dismiss applications accepted for filing must be submitted. Thus conceivably, it asserts, they can be filed any time prior to a Commission action granting an application or designating it for hearing. In any event, it contends, § 73.3584 (a) and (c) of the Commission's rules (governing petitions to deny) contemplate that any pleading which questions a construction permit application's acceptability will be deemed timely if filed on or before the cut-off date for petitions to deny. Since that date was June 22, 1981, the date on which the motion to dismiss was filed, United–NY claims, it must be considered timely.

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[1] On February 24, 1982, Pillar requested that its mutually exclusive application for unlimited-time operation be dismissed. It has reached an agreement providing for the assignment of the assets and authorization of WAWZ to Osborne, if Osborne prevails in the comparative hearing. Accordingly, the staff dismissed the application by letter on April 30, 1982. In addition, there is on file a proposed Share Time Agreement between Pillar and United-NY. On April 30, 1982, Pillar informed the Commission that it had exercised its right under one of the agreement's provisions and terminated the proposed Share Time Agreement. United-NY has filed a pleading opposing Pillar's action.

[2] *Public Notice,* Report No. B–16 (May 15, 1981).

[3] *United Broadcasting Co., Inc. (WOOK(FM)),* 86 FCC 2d 452 (1981).

8. Furthermore, Osborne's application must be considered inconsistent with the cut-off rules, United-NY asserts, in that it rests on a mistaken and overly broad reading of the *Carlisle* decision and conflicts with policies articulated in other decisions applying the cut-off rules. Although *Carlisle* involved a mutually exclusive construction permit application submitted within three months after the filing of a supplemental renewal application by a deferred licensee, the decision can be distinguished from the present case, it contends, since no competing application had been filed during a previous renewal "window." More directly on point, it believes, is *Bronco Broadcasting Co., Inc.*, 50 FCC 2d 529 (1974), *recon. denied* 52 FCC 2d 836 (1975), *aff'd* 58 FCC 2d 909 (1976) (*"Bronco"*), where a mutually exclusive application accompanied by a request for waiver of the cut-off rules was tendered some six months after the cut-off date. The Commission denied the request and returned the application, it notes, holding that circumstances less compelling than the ones involved here precluded a finding of "good cause" for waiver. According to United-NY, Commission consideration of Osborne's application is inconsistent with *Bronco*, permitting an application filed three years late to be deemed acceptable, while rejecting as untimely applications only months late. It perceives no meaningful difference between *Bronco* and the present case and believes disparate treatment would be illogical and arbitrary. In sum, United-NY argues, applicants for new facilities who acquire cut-off status are not subject to further competing applications simply because the Commission delays in designating the applications for hearing.

9. The issue here is whether the timely submission of Pillar's application for unlimited-time operation effectively precluded the filing of further competing applications in subsequent renewal periods, even though Pillar's application was not designated for comparative hearing with United-NY's application for renewal of license before the next renewal period arrived.[4] This question was recently addressed by the Commission in *In re Faith Center, Inc. (KHOF(FM))*, 89 FCC 2d 1054 (1982). There the Commission concluded that the filing of an application mutually exclusive with a renewal application does not bar the filing of additional mutually exclusive applications during subsequent renewal periods where the original applications have not been set for hearing.[5]

10. In explaining its decision in *In re Faith Center, Inc. (KHOF(FM))*, the Commission stated that, although the cut-off rules are designed to avoid serious disruptions to the processing of applications[6] by providing the Commission, renewal applicants and mutually exclusive applicants with a date by which the identity of the participants in a comparative hearing will be determined,[7] acceptance of additional applications in subsequent renewal "windows" is not disruptive where the hearing process has not commenced. Moreover, it noted, in the absence of some strong countervailing consideration, such as where there exists a need to inaugurate a new broadcast service or where applications have already been designated for hearing,[8] the public interest in a broader choice of applicants normally prevails.

11. Although United-NY claims a "protected status" by virtue of the timely filing of the Pillar application, that status is one simply conferred as a complementary effect of the operation of rules designed to insure that applications can be processed without interruptions or the necessity of reprocessing.[9] It has never been construed to invest a property interest of any kind in an applicant merely because of the passing of a particular date and does not insulate renewal or mutually exclusive applicants from further competing applications filed during any appropriate "window" three years later.[10]

12. As to the argument that our decision to accept Osborne's application disadvantages United-NY at hearing due to the fact that Osborne's application was more recently filed, any such unfairness will be minimized by the operation of § 73.3522(a)(2) of the rules, which permits amendments as a matter of right by the date specified in the public notice announcing acceptance for filing of the last filed mutually exclusive application, *i.e.*, June 22, 1981. United-NY, we recognize, did not file any amendments during the allowable period after notification that Osborne's application was accepted for filing. However, since the question as to the timeliness of Osborne's application had not been resolved at the time the motion to dismiss was filed, the Commission will accept amendments as of right in this case for an additional thirty days after release of this Order. This right to amend is in addition to the right to amend to cure deficiencies first raised in the designation order, provided by § 73.3522(b)(2) of the rules.[11]

13. *The Competing Applications.* Applicant Osborne is qualified to construct and operate as it proposes. An examination of United-NY's license renewal application indicates that, except as limited by the following discussion, it too is qualified to be a Commission licensee.

14. Information in its 1981 supplemental renewal application for WBNX indicates that United-NY is a subsidiary of United Broadcasting Co., Inc. ("United"), which until very recently was wholly-owned by Richard Eaton.[12]

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[4] Questions concerning the timeliness of the motion to dismiss need not be addressed as they are mooted by the Commission's decision on the merits. The questions concerning United Broadcasting Company's qualifications will be handled consistent with the Commission's recent decisions in *Intercontinental Radio, Inc. (KSOL(FM))*, 86 FCC 2d 819 (1981) and *Tele-Broadcasters of California, Inc. (KALI)*, FCC 82-18, released February 1, 1982. (See, *infra*, at paragraph 16.)

[5] The circumstances in *In re Faith Center, Inc. (KHOF(FM))* are similar to those involved in the present case. At issue in *In re Faith Center, Inc. (KHOF(FM))* were the 1977 license renewal application of Faith Center, Inc. for FM radio Station KHOF in Los Angeles, California and the mutually exclusive construction permit application of Inspiration Media of Southern California, Inc., timely-filed on October 31, 1977. The applications had not been designated for hearing when Coronado Broadcasting of Southern California, Inc. filed its mutually exclusive construction permit application on November 3, 1980, during the 1980 renewal "window."

[6] *Report and Order (Docket No. 20205)*, 53 FCC 2d 1089 (1975); *Carlisle Broadcasting Associates, supra*, 59 FCC 2d at 888.

[7] *Notice of Proposed Rule Making (Docket No. 18495)*, 16 FCC 2d 858 (1969); *Carlisle Broadcasting Associates, supra*, 59 FCC 2d at 886.

[8] *In re Faith Center, Inc. (KHOF(FM))*, *supra*, (citing *Alabama Citizens for Responsive Televisions*, 53 FCC 2d 457 (1975)).

[9] *Bronco Broadcasting Company, Inc., supra*, 58 FCC 2d at 911.

[10] *In re Faith Center, Inc. (KHOF(FM))*, *supra*.

[11] On November 12, 1981, United Broadcasting Company, Inc. filed a "Petition to Dismiss or for Other Relief" on behalf of itself and six of its subsidiaries. United requests the dismissal, for abuse of process, of six applicants (Osborne, District Broadcasting Company, San Mateo Broadcasting Co., Life Broadcasting Co., Inc., SRW, Inc., and Community Airwaves, Inc.) who are represented by the same counsel and have mutually exclusive applications pending against United renewal applications. It contends that these parties have filed pleadings with the Commission and the Court of Appeals which improperly argue the merits of the question of United's qualifications. These comments, United believes, are intended to create an "indelible impression in the minds of the Commission and the Court" that United is unqualified to hold these licenses. However, Commission consideration of license qualifications is based solely upon evidence adduced at hearing and appropriate legal precedents, utilizing the procedures set forth in the Commission's rules and regulations. These procedures provide United with the right to participate at all stages of the adjudicatory process. Thus, its claim of prejudice is without basis and the petition will be denied.

[12] On April 16, 1981, the Circuit Court for Montgomery County, Maryland, appointed Suburban Trust Company to act as temporary

Over the past several years, the Commission has denied or revoked four of United's licenses.[13] Recently, in *United Broadcasting Co., Inc. (WOOK(FM))*, 86 FCC 2d 452 (1981), the Commission held that these prior adverse determinations reflected a pattern of serious misbehavior by United and thereby raised a *prima facie* question about its qualifications to operate WOOK(FM). In designating a qualifications issue, we noted that, although we lacked sufficient evidence to determine whether Richard Eaton was personally responsible for United's misconduct, a serious question would still remain regarding the soundness and reliability of the licensee's operations, even if Eaton was removed from United's ownership. 86 FCC 2d at 458, n. 24.

15. In designating these applications for hearing, the Commission is confronted with the question whether United's past misconduct should reflect adversely on its qualifications to remain a licensee of WBNX. Our decision is that it is unnecessary to add a basic qualification issue to this proceeding at this time.[14] The question of which individuals were responsible for United's prior misconduct is being fully explored in the WOOK(FM) proceeding. After the Administrative Law Judge issues an initial decision in WOOK(FM), the parties to this proceeding may then argue to the Administrative Law Judge whether issues should be added to consider the significance that the findings there have on United-NY's qualifications. A final determination as to WBNX's qualifications will therefore be conditioned on the outcome of the WOOK(FM) proceeding. Whether Richard Eaton's death has any effect on the resolution of any qualification issue, or the addition of any issues, is a matter, of course, for the Administrative Law Judge to decide initially. In the interest of administrative efficiency, we believe that the Chief Administrative Law Judge should assign this matter to the same judge currently presiding in the WOOK(FM) proceeding.

16. Accordingly, *It is ordered*, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications of United Broadcasting Company of New York, Inc. and Osborne Communications Corporation are designated for consolidated hearing, at a time and place to be specified in a subsequent Order, upon the following issues: [15]

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issue which of the applications should be granted.

17. It is further ordered, That the Motion to Dismiss Osborne Communications Corporation's application, filed by United Broadcasting Company of New York, Inc. is denied.

18. It is further ordered, That, the Petition to Dismiss or for Other Relief filed by United Broadcasting Company, Inc. is denied.

19. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

20. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give local notice of the hearing (either individually or, if feasible and consistent with the rules, jointly) within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

21. It is further ordered, That this case shall be assigned to the same Administrative Law Judge presently presiding in the United Broadcasting Co., Inc. (WOOK(FM)) proceeding.

22. It is further ordered, That the Secretary shall send, by Certified Mail-Return Receipt Requested, a copy of this Memorandum Opinion and Order to each of the parties named herein.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-19259 Filed 7-15-82; 8:45 am]

BILLING CODE 6712-01-M

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guardian of the property of Richard Eaton. As a result of this appointment, applications were filed with the Commission on May 18, 1981, for consent to the involuntary transfer of control of United and its various licensee subsidiaries. On June 1, 1981, Richard Eaton died, and his property was transferred, pursuant to the terms of his will to his Personal Representatives (Suburban Trust Company and Dennis L. Mitchell). As a result of this transfer, and prior to any Commission action on the May 8, 1981 applications, new applications for consent to the involuntary transfer of control of United and its various licensee subsidiaries to Richard Eaton's Personal Representatives were filed on July 1, 1981. On August 24, 1981 the Commission granted simultaneously both the May 18 and July 1, 1981, applications, with the result that control of United and its various licensee subsidiaries has been transferred to Suburban Trust Company and Dennis L. Mitchell, Personal Representatives.

[13] *United Television Co.*, 46 FCC 2d 696 (1974); *United Television of New Hampshire*, 46 FCC 2d 702 (1974), *aff'd* 514 F. 2d 279 (D.C. Cir. 1975); *United Broadcasting of Florida, Inc.*, 55 FCC 2d 832 (1975), *recon. denied* 60 FCC 2d 816 (1976); *United Television Co.*, 55 FCC 2d 416 (1975), *recon. denied* 59 FCC 2d 663 (1976), *aff'd sub nom. United Broadcasting Co.* v. *FCC*, 569 F. 2d 699 (D.C. Cir. 1977), *cert. denied* 434 U.S. 1076 (1978).

In the first two decisions, we revoked two of United's television stations because they had been dark for more than two years, thereby depriving viewers of service over those frequencies. In the latter two, we denied two radio station renewals, finding that United was unfit to operate those broadcast facilities.

[14] See similar decisions in *Intercontinental Radio, Inc., supra*, and *Tele-Broadcasters of California, Inc., supra*.

[15] Our determination that United-NY possesses the basic qualifications to remain a Commission licensee is conditioned upon the outcome of the WOOK(FM) proceeding.

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Notice of Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been detemined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration or resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in

writing and received by the appropriate Federal Reserve Bank not later than the date indicated for each application.

A. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *BankAmerica Corporation,* San Francisco, California (industrial loan company, financing, servicing, and insurance activities; Minnesota): To engage through its indirect subsidiary, FinanceAmerica Plan, Inc., a Minnesota corporation (whose name will be changed to FinanceAmerica Thrift Corporation), in the additional activities of acting as an industrial loan company under the Minnesota Industrial Loan and Thrift Company Act, and to continue to engage in the activities of making or acquiring for its own account loans and other extensions of credit such as are made or acquired by a finance or industrial loan company, servicing loans and other extensions of credit, and offering credit-related life, credit-related accident and health, and credit-related property insurance in the State of Minnesota. Such activities will include, but not be limited to, issuing investment certificates (intrastate only), making consumer installment loans, purchasing installment sales finance contracts, making loans and other extensions of credit to small businesses, making loans secured by real and personal property and offering credit-related life insurance, credit-related accident and health insurance, and credit-related property insurance in connection with extensions of credit made or acquired by FinanceAmerica Plan, Inc. These activities will be conducted from three existing offices located in Columbia Heights, Minneapolis and St. Paul, Minnesota, serving the State of Minnesota. Comments on this application must be received not later than August 11, 1982.

2. *Orbanco Financial Services Corporation,* Portland, Oregon (commercial financing, servicing loans, leasing; California and Arizona): To engage through its subsidiary, Northwest Acceptance Corporation, in the following activities: making or acquiring loans or other extensions of credit as would be made or acquired by a commercial finance company; leasing personal property in accordance with 12 CFR 225.4(a)(6); and servicing loans or participations in loans and other extensions of credit. These activities would be conducted from an office in Newport Beach, California, serving the States of California and Arizona. Comments on this application must be received not later than August 11, 1982.

3. *U.S. Bancorp,* Portland, Oregon (consumer finance and insurance activities; Wyoming): To engage through its subsidiary, U.S. Bancorp Financial, Inc., in the making, acquiring and servicing of loans and other extensions of credit either secured or unsecured for its own account or for the account of others, including the making of consumer installment loans, purchasing consumer installment and real estate sales finance contracts and evidences of debt and making consumer home equity loans secured by real estate, making industrial loans, and acting as insurance agent with regard to credit life and disability insurance, directly related to extensions of credit by U.S. Bancorp Financial, Inc. These activities would be conducted from an office in Casper, Wyoming. Serving Casper, Wyoming and all of Natrona County, Wyoming. Comments on this application must be received not later than August 11, 1982.

Board of Governors of the Federal Reseve System, July 12, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-19239 Filed 7-15-82; 8:45 am]

BILLING CODE 6210-01-M

Citibank International; Establishment of U.S. Branch of a Corporation Organized Under Section 25(a) of the Federal Reserve Act

Citibank International, Miami, Florida, a corporation organized under section 25(a) of the Federal Reserve Act, has applied for the Board's approval under § 211.4(c)(1) of the Board's Regulation K (12 CFR 211.4(c)(1)), to establish a *de novo* branch at the Honolulu Airport, Honolulu, Hawaii. Citibank International operates as a subsidiary of Citibank, New York, New York.

The factors that are to be considered in acting on this application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than August 11, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of act that are in dispute, and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 12, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-19240 Filed 7-15-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and sumarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Hardee Banking Corporation,* Wauchula, Florida; to become a bank holding company by acquiring 80 percent or more of the voting shares of First National Bank of Wauchula, Wauchula, Florida. Comments on this application must be received not later than August 11, 1982.

B. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First LaPorte Financial Corp.,* LaPorte, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank and Trust Company of LaPorte, LaPorte, Indiana. Comments on this application must be received not later than August 11, 1982.

C. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Midcon Holding, Inc.,* St. Louis, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of Belleville National Bank, Belleville, Illinois, through a merger with Mid-Continent Bancshares,

Inc., Belleville, Illinois. Comments on this application must be received not later than August 11, 1982.

D. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First National Bancshares of Winfield, Inc.,* Winfield, Kansas; to become a bank holding company by acquiring 80 percent of the voting shares of the First National Bank of Winfield, Winfield, Kansas. Comments on this application must be received not later than August 11, 1982.

2. *First National Bankshares of Gunnison, Inc.,* Gunnison, Colorado; to become a bank holding company by acquiring 80 percent of the voting shares of First National Bank of Gunnison, Gunnison, Colorado. Comments on this application must be received not later than August 11, 1982.

Board of Governors of the Federal Reserve System, July 12, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-19242 Filed 7-15-82; 8:45 am]

BILLING CODE 6210-01-M

General Bancshares Corp., Acquisition of Bank

General Bancshares Corporation, St. Louis, Missouri, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge through its wholly-owned subsidiary, Midcon Holding, Inc., with Mid-Continent Bancshares, Inc., Belleville, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

General Bancshares Corporation, St. Louis, Missouri, is also engaged in the following nonbank activities: performing data processing services to its subsidiary bank, and nonaffiliated banks and savings and loans. In addition to the factors considered under section 3 of the Act (banking factors), the Board will consider the proposal in the light of the company's nonbanking activities and the provisions and prohibitions in section 4 of the Act (12 U.S.C 1843).

The application may be inspected at the offices of the Board of Governors of the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than August 11, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 12, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-19241 Filed 7-15-82; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Early Termination of the Waiting Period of the Premerger Notification Rules; Alghanim Industries, Inc.

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Alghanim Industries, Inc. is granted early termination of the waiting period provided by law and the permerger notification rules with respect to the proposed acquisition of all assets of Jobbers Supply Co., The General Automotive Supply Co. and Womwell Automotive Supply Company. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: June 24, 1982.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premeger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requiries that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-19281 Filed 7-15-82; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules; Chesebrough-Pond's, Inc.

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Chesebrough-Pond's, Inc. is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all voting securities of Prince Manufacturing, Inc. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: June 25, 1982.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-19279 Filed 7-15-82; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules; F. Hoffman-LaRoche & Co., Ltd.

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: F. Hoffman-LaRoche & Co., Ltd. is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all voting securities of Agrigenetics Corporation.

The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: June 23, 1982.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580, (202) 523–3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-19280 Filed 7-15-82; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules; Tultex Corp.

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Tultex Corporation is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all voting securities of Washington Mills Company. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by The Washington Group, Inc. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: June 23, 1982.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202) 523–3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General Advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-19279 Filed 7-15-82; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Medicare Program; Revised Market Basket Inflation Rates for Provider Cost Limits

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: General notice.

SUMMARY: In 1979 and 1980 we published in the **Federal Register** schedules of limits on Medicare payments for hospitals, skilled nursing facilities, and home health agencies for specific cost reporting periods. In developing and applying those limits, we used projected rates of inflation to account for anticipated increased in the prices of goods and services that these health care providers normally purchase. Because we recognized that the actual rate of increase for a year might be significantly higher than our projection, we also stated that we would make a retroactive adjustment if increases greater than a certain percentage threshold showed that it was necessary. Since we have determined that this percentage level was exceeded for some years, we are setting forth in this notice the necessary revisions. Medicare intermediaries will make these revisions and notify the affected providers.

EFFECTIVE DATE: Hospitals: Cost reporting periods beginning on or after August 1, 1979, and before July 1, 1980.

Skilled Nursing Facilities: Cost reporting periods beginning on or after October 1, 1979, and before October 1, 1980.

Home Health Agencies: Cost reporting periods beginning on or after July 1, 1980, and before July 1, 1981.

FOR FURTHER INFORMATION CONTACT: Carl Slutter, 301–594–9344.

SUPPLEMENTARY INFORMATION:

Background

Section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)), as amended by section 223 (Limitation on Coverage of Costs) of Pub. L. 92–603, the Social Security Amendments of 1972, authorizes the Secretary to set prospective limits on the costs that are reimbursed under Medicare. These limits may be applied to direct or indirect overall costs or to costs incurred for specific items or services furnished by a Medicare provider (that is, a hospital, skilled nursing facility, or home health agency), and may be based on estimates of the cost necessary in the efficient delivery of needed health services. The regulations implementing this authority are set forth at 42 CFR 405.460.

Under this authority, we have published schedules of limits on hospital inpatient general routine service costs annually from 1974 through 1978, and schedules of limits on hospital inpatient general routine operating costs, home health agency (HHA) per visit costs, and skilled nursing facility (SNF) inpatient routine service costs annually since 1979.

In developing each schedule of limits, we obtained actual cost data from Medicare cost reports. We adjusted these data to account for inflation occurring between the midpoints of the cost reporting periods included in the data collection and the midpoint of the first cost reporting period to which the limits apply. We also provided an adjustment that permits the published limits to be increased for later cost reporting periods, in recognition of projected inflation for those periods.

Market Basket Index

Beginning in 1979, we made adjustment to the cost limits to account for inflation by using a "market basket" index to reflect overall rates of increase in costs for each type of provider. These market basket indexes were first published in the following schedules of cost limits:

Hospitals—44 FR 31808, published June 1, 1979. Effective for cost reporting periods beginning on or after July 1, 1979, and before July 1, 1980.

SNFs—44 FR 51542, published August 31, 1979. Effective for cost reporting

periods beginning on or after October 1, 1979, and before October 1, 1980.

HHAs—45 FR 38014, published June 5, 1980. Cost reporting periods beginning on or after July 1, 1980, and before July 1, 1981.

We developed the hospital market basket by identifying the most commonly used categories of hospital routine operating expenses, and weighting these categories according to the estimated proportion of hospital routine operating costs attributable to each category. We then obtained historical and projected rates of increase in the resource prices for each market basket category. Based on the rate of increase for each category and the weight assigned to each category, we developed the market basket index factors that we used to project the overall rates of increase in hospital inpatient general routine operating expenses for periods after June 30, 1979.

The categories we used are based on those currently used by the American Hospital Association (AHA) in its analysis of costs, by the U.S. Department of Commerce in publishing price indexes by industry, and by HCFA in its cost reports. For further discussion of the weights for each category and the derivation of the hospital market basket index, see the notice published in the **Federal Register** on June 1, 1979.

The SNF market basket index is comprised of the most commonly used categories of SNF routine service expenses. The categories we are using are primarily based on those which were used by the National Center for Health Statistics in its National Nursing Home Surveys. For further discussion of the weights and derivation of the skilled nursing facility market basket, see the August 31, 1979, notice.

We developed the HHA market basket by identifying (through analysis of Medicare cost reports and other available home health industry surveys) nine major categories of costs specifically related to home health expenses and weighting these categories according to the estimated proportion of total HHA costs attributable to each category. For further discussion of the weights and derivation of the home health market basket, see the notice published in the **Federal Register** on June 5, 1980.

Because of the time needed to assemble and analyze the data to show the actual rate of increase in the market basket categories, the actual rate of increase of the costs represented by a market basket index for a calendar year ordinarily is not available until after the end of the first quarter of the next calendar year. Therefore, in developing the limits to be included in the notices listed above, we used projected rates of increase in the market basket indices for calendar years 1979 and 1980.

Because we recognized the possibility that the actual rate of increase for a year might be significantly higher than our projected rate, we also provided for a retroactive adjustment to the limits if the actual rate exceeded our projection by more than a specified tolerance factor. In the notices listed above, we stated that if the actual rate of increase in the market basket index for a particular year exceeded the projected rate of increase by more than .25 of 1 percentage point for that year, HCFA would publish the actual rate in the **Federal Register**, and the intermediaries would use that rate to adjust each provider's cost limit retroactively at final settlement of the cost report.

The actual rate of increase in the market basket index for calendar year 1980 for hospitals and HHAs was 11.7 percent, and 10.2 percent for SNFs. We projected the rate of increase for hospitals to be 8.9 percent, 10.2 percent for HHAs, and 8.7 percent for SNFs. Because the actual rates exceeded the projected rates by more than our tolerance level, the limits for hospitals (for cost reporting periods beginning on or after August 1, 1979, and before July 1, 1980), for HHAs (for cost reporting periods beginning on or after July 1, 1980 and before July 1, 1981) and for SNFs (for cost reporting periods beginning on or after October 1, 1979 and before October 1, 1980) must be revised to reflect the actual rate.

Hospitals—Revised Adjustment Factors for Cost Reporting Periods Beginning on or After August 1, 1979, and Before July 1, 1980

In applying the hospital market basket index, we used a projected 1979 rate in setting limits for the cost reporting period beginning July 1, 1979, which has a midpoint of December 31, 1979. We used the projected 1980 rate to adjust the limits for hospital cost reporting periods beginning or after August 1, 1979, because the midpoints of those periods would fall in calendar year 1980.

We estimated the calendar year 1979 increase at 8.9 percent for hospitals. Since the final 1979 routine operating cost market basket rate was 9.1 percent, it did not exceed our estimate by an amount greater than .25 of 1 percent. Therefore, no adjustment to the limits for the cost reporting period beginning July 1, 1979 is necessary.

We have now obtained the actual rate of increase in the hospital market basket index for calendar year 1980. This rate is 11.7 percent. Since this actual rate exceeds our projected rate of increase for 1980 (8.9 percent) by more than our tolerance factor, adjustments to the limits for certain cost reporting periods covered by the June 1, 1979 notice are needed. The limit amounts published in the notice for periods beginning on July 1, 1979, remain correct because they reflect a market basket adjustment for inflation only through December 31, 1979, the mid-point of the first period covered by the limits, and the final 1979 routine operating cost market basket rate was within the established tolerance. However, the cost reporting year adjustment for the period must be revised to reflect the change in the market basket rate of increase for months in calendar year 1980. The periods affected are those beginning on or after August 1, 1979 and before July 1, 1980, since the midpoints of those periods fall in calendar year 1980. We do not need to revise the rate of increase for periods beginning July 1, 1980, or later because these periods are governed by a subsequent schedule of cost limits published June 20 1980 (45 FR 41868), and effective for periods beginning on or after July 1, 1980. This schedule incorporated a projected 1980 market basket rate of 11.7 percent, which equals the actual rate for 1980.

In Table I below, we have set forth revised cost reporting year adjustment factors that are based on the actual 1980 market basket rate. In settling hospital cost reports for 12-month cost reporting periods beginning on or after August 1, 1979, but before July 1, 1980, intermediaries will use limits based on these factors, rather than on the adjustment factors specified in the 1979 notice. If a hospital's cost report has been settled using limits calculated under the 1979 notice, and the hospital exceeded its cost limit, the hospital should contact its fiscal intermediary and request a recalculation of its limit using the revised adjustment factor from the table below, and a revision of the amount paid to reflect the new limit.

The revised adjustment factors set forth below apply only to 12-month cost reporting periods. If a hospital uses a cost reporting period that is other than 12 months long, a special calculation of the adjustment factor must be made. This calculation is needed because the routine operating cost market basket inflation rates set forth below are computed to the midpoint of an assumed 12-month reporting period. For cost reporting periods other than 12 months, the calculation must be done specifically for the midpoint of the particular cost reporting period. The hospital's

intermediary will obtain special adjustment factors for these periods from HCFA.

TABLE I—COST REPORTING YEAR ADJUSTMENT FACTORS [1]

If the hospital cost reporting period begins—	The adjustment factor is—
Aug. 1, 1979	1.00975
Sept. 1, 1979	1.01950
Oct. 1, 1979	1.02925
Nov. 1, 1979	1.03900
Dec. 1, 1979	1.04875
Jan. 1, 1980	1.05850
Feb. 1, 1980	1.06825
Mar. 1, 1980	1.07800
Apr. 1, 1980	1.08775
May 1, 1980	1.09750
June 1, 1980	1.10725

[1]Based on actual hospital routine market basket rate of 11.7 percent for 1980.

Example of Application

Hospital A's cost reporting period began January 1, 1980. The basic group limit for hospital A's group was $90. Computation of Revised Group Limit:

Group Limit—$90
Adjustment Factor from Table 1—1.05850
Revised basic group limit applicable to hospital A for cost reporting period beginning January 1, 1980 is $95.27

Hospital Cost Reporting Periods Not Affected

We wish to note that the use of an actual rather than projected hospital market basket rate for 1980 does not require any adjustment of the hospital cost limits for a cost reporting period that began on July 1, 1979, or in the limits for periods beginning on or after July 1, 1980. This is true for the following reasons.

1. *Cost Reporting Period Beginning July 1, 1979.* As explained earlier in this notice, the cost reporting period that began on July 1, 1979 has a midpoint of December 31, 1979. Therefore, we used the annualized market basket rate for the last half of 1979 to set the limits for this period. In setting these limits, we used a projected hospital market basket rate of 8.9 percent; the actual rate was 9.1 percent. Since the actual hospital rate did not exceed the projected rate by more than .25 of 1 percent, no adjustment to the limits for the cost reporting period that began on July 1, 1979, will be made.

2. *Cost Reporting Period Beginning July 1, 1980.* As explained in the notice published on June 20, 1980 (45 FR 41868), we used a projected 1980 hospital market basket rate of 11.7 percent in developing the limits for this period. Since this projected 1980 rate is the same as the actual rate for 1980, the hospital cost limits for this cost reporting period need not be adjusted.

3. *Cost Reporting Periods Beginning on or After August 1, 1980.* The hospital cost limits for cost reporting periods beginning on or after August 1, 1980, and before July 1, 1981, are based on a projected market basket rate for 1981 of 10.6 pecent. The limits for cost reporting periods beginning on or after August 1, 1981, and before July 1, 1982, are based on a projected 1982 hospital market basket rate of 9.5 percent. If the final hospital rate for either year is at least .3 of 1 percent above the projected rate, we will update the appropriate adjustment factors and advise the Medicare intermediaries to use the actual market basket rate to adjust each hospital's cost limit at the time of final cost settlement. (The figure has been changed to .3 of 1 percent because the program we receive from Data Resources, Inc. that we use to calculate the hospital market basket increases specifies that the market basket price changes are rounded to the nearest tenth.)

Skilled Nursing Facilities—Revised Schedule of Cost Limits for Cost Reporting Periods Beginning on or After October 1, 1979, and Before October 1, 1980

In the August 31, 1979 notice setting forth SNF cost limits, we estimated the rate of increase in the skilled nursing facility market basket at 10.3 percent for 1979 and 8.7 percent for 1980. The final rate for 1979 was 9.4 percent. The final 1980 SNF market basket rate was 10.2 percent. Presently, we are projecting that the 1981 rate of increase will be 10.2 percent, which is the same as the final rate for 1980. Therefore, even though some cost reporting periods affected will not end until sometime in 1981, we do not believe we will need to make any further adjustment in the limits published in 1979, since the actual rate for 1981 will probably be within the specified tolerance.

The October 1, 1979 cost limits are based on costs inflated through March 31, 1980, the midpoint of the first 12-month cost reporting period to which the limits apply. Since the actual 1980 SNF market basket of 10.2 percent exceeds our projected rate of increase of 8.7 percent by more than .25 of 1 percent the schedule of limits published in Tables I and II of the August 31, 1979 **Federal Register** (44 FR 51542) will be increased. Also revised year end adjustment factors will be used.

In tables II and III below, we have set forth the revised schedule of cost limits that incorporate the actual 1980 market basket rate and which apply to cost reporting periods beginning on or after October 1, 1979, but before October 1, 1980. We also include in table IV revised cost reporting year-end adjustment factors to account for those SNFs that have cost reporting periods that straddle portions of two calendar years.

The Medicare intermediaries will, at the time of final settlement, increase the limits to the level specified in the tables below. If a SNF cost report for one of these periods has been settled under limits calculated under the 1979 notice, and the SNF exceeded its limit, the SNF should contact its fiscal intermediary and request a recalculation of the limit using the revise schedule from the tables below, and a revision of the amount reimbursed to reflect the new limit.

For a SNF with a cost reporting period other than 12 months in duration, a special calculation must be made. This calculation is necessary because the SNF market basket inflation rates are computed to the midpoint of an assumed 12-month reporting period. For cost reporting periods other than 12 months, the calculation must be done specifically to the midpoint of the particular cost reporting period. The Medicare intermediary will obtain special adjustment factors for these periods from HCFA.

TABLE II.—GROUP LIMITS FOR HOSPITAL-BASED SNF'S

Location	Group limit	Labor portion (62.21 pct)	Non-labor portion (37.79 pct)
SMSA	90.79	56.48	34.31
Non-SMSA	66.71	41.50	25.21

TABLE III.—GROUP LIMITS FOR FREESTANDING SNF'S

Location	Group limit	Labor portion (62.21 pct)	Non-labor portion (37.79 pct)
SMSA	48.56	30.21	18.35
Non-SMSA	39.53	24.59	14.94

TABLE IV.—REVISED YEAR-END ADJUSTMENT FACTORS

If the SNF cost report period begins	The adjustment factor is—
Nov. 1, 1979	1.00950
Dec. 1, 1979	1.01700
Jan. 1, 1980	1.02500
Feb. 1, 1980	1.03400
Mar. 1, 1980	1.04250
Apr. 1, 1980	1.05100
May 1, 1980	1.05950
June 1, 1980	1.06800
July 1, 1980	1.07650
Aug. 1, 1980	1.08500
Sept. 1, 1980	1.09350

Home Health Agencies—Revised Schedule of Cost Limits for Cost Reporting Periods Beginning on or After July 1, 1980, and Before July 1, 1981

In the June 5, 1980 schedule of HHA cost limits, we estimated the rate of increase in the HHA market basket at 10.2 percent and 9.9 percent, respectively for 1980 and 1981. The final 1980 HHA market basket rate is 11.7 percent. However, the actual rate for 1981 will not be available until the second quarter of 1982.

The July 1 1980 HHA cost limits are based on cost inflated through December 31, 1980, the midpoint of the first 12 month cost reporting period to which the limits apply. Since the actual 1980 HHA market basket of 11.7 percent exceeds our projected rate of increase of 10.2 percent by more than .25 of 1 percent, we are revising the schedule of limits published in Tables I and II of the June 5, 1980 **Federal Register** (45 FR 38019).

In tables V and VI below, we have set forth the revised schedule of basic cost limits that incorporate the actual 1980 market basket rate and which apply to cost reporting periods beginning on or after July 1, 1980, but before July 1, 1981. The Medicare intermediaries will, at the time of final settlement, increase the cost per visit limits that would otherwise apply to the HHA to the level specified in the tables below. If a HHA's cost report for one of these periods has been settled under limits calculated under the 1980 notice, and the HHA exceeded its limit, the HHA should contact its fiscal intermediary and request a recalculation of the HHA's limit using the revised schedule from the table below, and a revision of the amount paid to reflect the new limit. All other adjustments to the limits (that is, year-end increase factors) remain the same and should be used to compute individual HHA limits.

For an HHA with a cost reporting period other than 12 months in duration, a special calculation must be made. This calculation is necessary because the HHA market basket inflation rates are computed to the midpoint of an assumed 12-month reporting period. For cost reporting periods other than 12 months, the calculation must be done specifically to the midpoint of the particular cost reporting period. The Medicare intermediary will obtain special adjustment factors for these periods from HCFA.

TABLE V.—JULY 1, 1980, PER VISIT LIMITS FOR PROVIDER-BASED HOME HEALTH AGENCIES [1]

Type of visit	Limit for SMSA location	Labor portion (69.78 pct)	Non-labor portion (30.22 pct)
Skilled nuring care	54.54	38.06	16.48
Physical therapy	48.19	33.63	14.56
Speech pathology	47.84	33.38	14.46
Occupational therapy	50.28	35.09	15.19
Medical social services	54.91	38.32	16.59
Home health aide	47.68	33.27	14.41
NON-SMSA location			
Skilled nursing care	47.55	33.18	14.37
Physical therapy	46.68	32.57	14.11
Speech pathology	(2)	(2)	(2)
Occupational therapy	(2)	(2)	(2)
Medical social services	(2)	(2)	(2)
Home health aide	43.24	30.17	13.07

[1] Based on a final HHA market basket inflation rate of 11.7 percent for 1980.
[2] Insufficient data—Use basic service limits for free-standing non-SMSA agencies.

TABLE VI.—JULY 1, 1980 PER VISIT LIMITS FOR FREE-STANDING HOME HEALTH AGENCIES [1]

Type of visit	Limit for SMSA location	Labor portion (69.78 pct)	Non-labor portion (30.22 pct)
Skilled nursing care	42.96	29.98	12.98
Physical therapy	42.71	29.80	12.91
Speech pathology	44.34	30.94	13.40
Occupational therapy	45.55	31.78	13.77
Medical social services	49.12	34.28	14.84
Home health aide	32.48	22.66	9.82
Non-SMSA location			
Skilled nursing care	45.05	31.44	13.61
Physical therapy	43.60	34.86	15.10
Speech pathology	48.68	33.97	14.71
Occupational therapy	57.89	40.26	17.43
Medical social services	43.75	30.53	13.22
Home health aide	31.70	22.12	9.58

[1] Based on a final HHA market basket inflation rate of 11.7 percent for 1980.

HHA Cost Reporting Periods Beginning on or after August 1, 1980. The year end adjustment factor for HHA cost reporting periods beginning on or after August 1, 1980, and before July 1, 1981, are based on a projected market basket rate for 1981 of 9.9 percent. The final 1981 HHA market basket rate of increase will not be available until the close of the first quarter of 1982. Therefore, we cannot presently determine whether revised year-end adjustment factors will be required for providers with cost reporting periods beginning on or after August 1, 1980. If appropriate, these factors will be updated and the Medicare intermediaries will be advised to use the actual rate to adjust each HHA's cost limit at the time of final cost settlement.

(Sec. 1102, 1814(b), 1861(v)(1), 1866(a) and 1871 of the Social Security Act; 42 U.S.C. 1302, 1395f(b), 1395x(v)(1), 1395cc(a) and 1395hh)

(Catalog of Federal Domestic Assistance Program No. 13.733, Medicare—Hospital Insurance)

Dated: June 3, 1982.
Carolyne K. Davis,
Administrator, Health Care Financing Administration.
Approved: June 24, 1982.
Richard S. Schweiker,
Secretary.

[FR Doc. 82-19286 Filed 7-15-82; 8:45 am]
BILLING CODE 4120-03-M

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on July 9.

Public Health Service

National Institutes of Health

Subject: Telephone Survey of Physicians to Determine Awareness of National Institutes of Health Consensus Development Program—Phase 2 Total Hip Joint Replacement—NEW.

Respondents: Physicians.

Subject: Epidemiologic Case-control Study of Soft-tissue, Sarcoma, Hodgkin's Disease, and Non-Hodgkin's Lymphoma in Kansas—NEW.

Respondents: Individuals.

Subject: Evaluation of the Impact of the Coronary Prevention Risk Factor Trial and the Multiple Risk Factor Trial—NEW.

Repondents: Physicians.

Subject: Study of Mesothelioma and Employment—NEW.

Respondents: Individuals and households.

OMB Desk Officer Richard Eisinger.

Social Security Adminstration

Subject: Monthly Statistical Report on Recipients and Payments Under State Administered Assistance Programs for Aged, Blind and Disabled Recipients (SSA-9741)—EXTENSION.

Respondents: State or local governments.

Subject: Claims for Payment of Vocational Rehabilitation Services—NEW.

Respondents: State or local governments/businesses or other institutions.

OMB Desk Officer: Milo Sunderhauf.

Health Care Financing Administration

Subject: Request for Redetermination of Medicare Part A Benefits (HCFA–2649)—EXTENSION/NO CHANGES.

Respondents: Individuals and businesses.

OMB Desk Officer: Fay S. Iudicello.

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202–245–6511.

Written comments and recommendations for the proposed information collections should be sent directly to both the HHS Reports Clearance Officer and the appropriate OMB Desk Officer designated above at the following addresses:

J. J. Strnad, HHS Reports Clearance Officer, Hubert H. Humphrey Building, Room 524–F, Washington, D.C. 20201.

OMB Reports Management Branch, New Executive Office Building, room 3208, Washington, D.C. 20503, Attn: (name of OMB Desk Officer).

Date: July 9, 1982.

Dale W. Sopper,

Assistant Secretary for Management and Budget.

[FR Doc. 82–19285 filed 7–15–82; 8:45 am]

BILLING CODE 4150–04–M

Social Security Administration

Income Maintenance Demonstrations; Urban Error Prone Profile Demonstration; Availability of Grants

The Commissioner of Social Security gives notice of availability of fiscal year (FY) 1982 funds for an income maintenance demonstration grant related to Title IV–A of the Social Security Act. The grant is authorized under Section 1115(a) of the Social Security Act. The closing date for receipt of all applications is August 13, 1982.

Project Purpose

The Demonstration project is intended to demonstrate the use of an urban error prone profile system to improve administration and to reduce errors in connection with eligibility determinations and redeterminations.

Project

This announcement is for one project as follows:

Urban Error Prone Profile Demonstration—SSA–82–1.

This project provides for the development of statistical error prone profiles which assign high or low error probabilities for AFDC cases. Error prone profiles are to be developed for a large metropolitan area. The profiles are to be used to improve administration and to reduce errors in connection with eligibiliy determinations and redeterminations. An evaluation with control groups is required for this project. This would entail a true random experiment between control and experiment groups (e.g., different offices or randomly selected cases). It is anticipated that there will be one (1) project for a two-year period. For the initial year, the grant will be up to $130,000 in special Federal project funds which may be matched with $130,000 in regular Federal funds. An equal amount is anticipated for the second year. The initial grant award will be funded for 12 months and a successive 12-month grant will also be funded depending upon the availability of funds and satisfactory performance.

Unsolicited Projects Initiated by States

Applicants may also submit proposals for projects requiring special Federal project funds other than the one specifically identified in this announcement but which are relevant to the AFDC program. These applications will be designated as nonpriority due to fund limitations, but they will also be subject to the panel review process. A limited number of projects may be approved pending available funds and will compete with other nonpriority projects. Grant awards would be made in September 1982. Criteria for judging these projects are identified below.

Eligible Applicants

Section 1115(a) Grants. Only Title IV–A State agencies may apply for grants under Section 1115(a) authority.

The Application Process

1. *Availability of application forms.* Application Kits which contain the prescribed application forms and supplemental descriptive project development information are available from: Social Security Administration, Division of Contracts and Grants Management, OMBP, Grants Management Branch, First Floor, Dogwood West Building, 1848 Gwynn Oak Avenue, Baltimore, Maryland 21207, Telephone: (301) 594–0284, Lawrence H. Pullen, Chief, Grants Management Branch.

2. *Additional Information.* For questions concerning project development, please contact Dr. Howard Iams, Division of Family Assistance Studies, Social Security Administration, Washington, D.C., Telephone (202) 245–9657.

3. *Application submission.* To be considered for a Section 1115(a) grant, all applications must be submitted on standard forms provided by the Division of Contracts and Grants Management. The application shall be executed by an individual authorized to act for the applicant agency and to assume for the agency the obligations imposed by the terms and conditions of the grant.

As part of the project title (page 1 of the application Form SSA–96, item 7) the applicant must clearly indicate whether the application submitted is in response to this announcement and must reference the unique project identifier (SSA–82–1) if the application is for the urban error profile demonstration.

4. *Grantee share of the project costs.* Special Federal project funds received under Section 1115(a) are available to be used as the single State agency matching funds to obtain regular Federal funds. State agencies conducting Section 1115 projects are expected to contribute some of the project costs for each year the project is funded. Generally, five (5) percent of the total cost is considered acceptable. No grant will be awarded which will cover 100 percent of project costs.

5. *Application consideration.* Applications are initially screened for relevance to SSA's interest in demonstrating urban error prone profiles (or other AFDC program goals if an unsolicited project). Irrelevant applications are returned to the applicant. Relevant applications are reviewed and evaluated by a review panel of not less than three experts. Written assessments of each application is made by the review panel.

6. *Application approval.* Following approval of an application selected for funding, a financial assistance award will be issued within limits of Federal funds available. The grant award will be issued in September 1982. The official award document is the Notice of Grant Award. It provides the amount of funds awarded, the purpose of the award, the terms and conditions of the award, the budget period for which support is given, the total project period for which support is contemplated, and the total grantee financial participation.

Criteria for Review and Evaluation of Applications

Solicited and unsolicited applications will be reviewed and evaluated against the following criteria:

1. *Demonstration Design.* Responsiveness to the specified nature of the project and the required technical approach to be used (if applicable). (15 points)

2. *Knowledge.* Knowledge of the field, and literature. (20 points.)

3. *Reasonableness.* Reasonableness of the proposal. Does it make sense? Can it be done? Is the work-hour effort and types of workerpower to complete the project reasonable? (10 points)

4. *Experience.* Prior experience in the branch of technology or field involved. (20 points)

5. *Relevance.* Relevance of proposal to this grant's purposes. (15 points)

6. *Personnel, Budget, and Facilities.* Availability and competence of personnel. Completeness and adequacy of the budget presentation for the project. Are costs reasonable considering the anticipated tasks? Availability of necessary facilities, equipment, convenient location, etc. (10 points)

7. *Utilization.* Probability of implementation possibilities—national State, or local, etc. (10 points)

Projects which require waivers of Section 402 of the Social Security Act must list the required waivers by subsection of the Social Security Act, discuss the implications of granting the waivers and state the effect on beneficiaries participating in the project.

Closing Dates and Times

The closing date for receipt of applications in response to this announcement will be Friday, August 13, 1982.

Applications may be mailed or hand delivered to: Social Security Administration, Division of Contracts and Grants Management, OMBP, Grants Management Branch, First Floor, Dogwood West Building, 1848 Gwynn Oak Avenue, Baltimore, Maryland 21207.

Applications must be received by the Division of Contracts and Grants Management, Grants Management Branch, by the above closing date. Hand delivered applications are accepted during normal working hours of 8:30 a.m. to 5:00 p.m., Monday through Friday.

An application will be considered to be received on time if sent by first class mail (express, registered, or certified mail) no later than the closing date, as evidenced by a legible U.S. Postal Service postmark. Private metered postmarks will not be considered acceptable as proof of timely mailing. Applications submitted by any other means except by first class mail through the U.S. Postal Service shall be considered as acceptable only if physically received at the above address before close of business on or before the deadline date.

Applications which are not received on time will not be considered for funding.

A–95 Notification Process. These programs are not covered by the requirements of OMB Circular A–95.

(Catalog of Federal Domestic Assistance Program No. 13.812—Assistance Payments—Research/Demonstrations)

Dated: July 12, 1982.

John A. Svahn,

Commissioner of Social Security.

[FR Doc. 82–19294 Filed 7–15–82; 8:45 am]

BILLING CODE 4190–11–M

Social Security Administration, Office of Refugee Resettlement

Grant Announcement; Corrections

Correction Notice: Volume 47, No. 128, Friday, July 2, 1982; Annoucement of Availability of Grant Funds for (1) Demonstration Projects to Involve Community and Corporate Business Leadership Effectively in Refugee Job Development and Job Placement Programs, p. 29008; and (2) Technical Assistance to Mutual Assistance Associations in Business Development and Business Management, p. 29011.

Section IV, entitled *A–95 Notification Process* should in each notice read:

"Applications submitted in response to this notice are subject to review by State and areawide clearinghouses under the procedures outlined in Part I of Office of Management and Budget (OMB) Circular No. A–95."

Phillip N. Hawkes,

Director, Office of Refugee Resettlement, Social Security Administration, Human Services.

July 12, 1982.

[FR Doc. 82–19310 Filed 7–15–82; 8:45 am]

BILLING CODE 4190–11–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Draft Supplemental Environmental Impact Statement for the Prototype Oil Shale Leasing Program

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of availability of the draft environmental impact statement for public review.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, notice is given that the BLM has prepared a draft supplemental environmental impact statement (EIS) to consider the leasing of up to two additional tracts of federal oil shale reserves under the prototype leasing program. Both proposed tracts lie in Rio Blanco County, Colorado.

DATES: Written comments on the draft supplemental EIS will be accepted on or before Tuesday, September 7, 1982. Public hearings to accept written comments and to receive testimony will be held:

Tuesday, August 24, 1982 at 2:00 p.m. at the Ramada Inn Foothills in Denver, Colorado;

Wednesday, August 25, 1982 at 7:00 p.m. at the Fairfield Center, 200 Main Street, Meeker, Colorado; and

Thursday, August 26, 1982 at 7:00 p.m. at the Ramada Inn, Grand Junction, Colorado.

ADDRESSES: Written comments should be sent to: EIS Team Leader, White River Resource Area, Bureau of Land Management, P.O. Box 928, Meeker, Colorado 81641.

Single copies of the draft supplemental EIS may be obtained from the address above and from:

Bureau of Land Management, Craig District Office, P.O. Box 248, 455 Emerson Street, Craig, Colorado 81625.

Bureau of Land Management, Colorado State Office, 1037 20th Street, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT: John Singlaub, EIS Team Leader, White River Resource Area, Bureau of Land Management, P.O. Box 928, Meeker, Colorado 81641, (303) 878–3601.

SUPPLEMENTARY INFORMATION: In 1973, the BLM issued the Final EIS for the Prototype Oil Shale Leasing Program. Following completion of that EIS, six prototype oil shale tracts were offered by BLM for lease. Four of the six tracts were leased: two in Utah and two in Colorado.

The BLM is now considering completion of the leasing phase of the prototype program in order to expand the range of technologies available.

The draft supplemental EIS analyzes the environmental and socioeconomic impacts that would result from the leasing and development of up to two proposed additional prototype oil shale tracts, both lying in Rio Blanco County, Colorado. In addition, the EIS analyzes the cumulative regional environmental and socioeconomic impacts of three levels of production using three distinct oil shale technologies.

Public comments on the draft supplemental EIS are being sought before preparing the final supplemental EIS and should be sent to the EIS Team Leader at the address above. All comments on the draft EIS, whether written or oral, which are received by September 7, 1982, will receive equal

consideration in the preparation of the final EIS.

A series of public hearings have been scheduled to accept written and/or oral comments on the draft statement. The public hearings are described above.

Those individuals wishing to testify at the public hearings should notify, in writing, the EIS Team Leader at the address listed above by Thursday, August 19, 1982. This notification should identify the organization that is being represented (if speaking for an organization), which hearing the speaker wishes to testify at, and should be signed by the individual who will be testifying. The cutoff date is necessary so that a witness list can be prepared on the day before the first public hearing.

Only one witness will be allowed to represent the views of a single organization. However, if a member of an organization wishes to speak as a private citizen, the testimony will be permitted. Speakers will be heard in the order set forth on the witness list. After the last listed speaker has been heard, if time permits, any person present who wishes to testify may do so.

At the public hearings on the draft EIS, oral testimony of ten minutes duration will be accepted from each witness in lieu of, or in addition to, any written comments. The complete text of prepared remarks should be filed at the hearing and will be included as part of the hearing record regardless of whether or not the speaker completes those remarks in the allotted ten minutes.

Copies of the draft EIS are available for inspection at the following locations:

Bureau of Land Management, Public Affairs, Interior Building, 18th and C Streets, N.W., Washington, D.C. 20240.

Bureau of Land Management, Colorado State Office, 1037 20th Street, Denver, Colorado 80202.

Bureau of Land Management, Craig District Office, P.O. Box 248, 455 Emerson Street, Craig, Colorado 81625.

Bureau of Land Management, White River Resource Area, P.O. Box 928, Meeker, Colorado 81641.

Dated: July 2, 1982.

Bob Moore,

Bureau of Land Management, Associate Colorado State Director.

[FR Doc. 82-18970 Filed 7-15-82; 8:45 am]

BILLING CODE 4310-84-M

[M 55149]

Montana; Realty Action—Exchange

Correction

In FR Doc. 82-15149 appearing on page 24451 in the issue of Friday, June 4, 1982, make the following correction:

On page 24451, bottom of the first column, "Sec. 33, E½SE¼ and SW¼" should have read "Sec. 33, E½SW¼ and SE¼".

BILLING CODE 1505-01-M

[UT-910-4310-84]

Utah; Call for Expression of Interest for Combined Hydrocarbon Leasing/ Notice of Intent To Conduct a Planning Amendment

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Call for expression of interest for combined hydrocarbon (tar sands) leasing and notice of intent to conduct a planning amendment.

FOR FURTHER INFORMATION CONTACT: Ronald Bolander or Earl Hindley, Utah State Office, BLM, 136 East South East Temple, Salt Lake City, Utah 84111, Telephone (801) 524-4257.

DATE: Responses to this notice will be accepted until August 31, 1982.

ADDRESS: Responses should be sent to State Director (U-930), Bureau of Land Management, University Club Building, 136 South Temple, Salt Lake City, Utah 84111. Proprietary data should be sent to Donald C. Alvord, District Supervisor for Resource Evaluation, 1745 West 1700 South, Room 2070, Salt Lake City, Utah 84104.

SUMMARY: This twofold notice is to first announce a call for expressions of interest for possible combined hydrocarbon leasing within certain special tar sand areas in Utah. Expressions of Interest may be made for areas of leasing interest or for identification of areas which should not be leased. Expressions of leasing will not be accepted on lands (1) currently under an oil and gas lease, (2) within Capital Reef or Canyonlands National Parks, (3) where known oil shale placer claims exist, (4) where mineral patent applications are known to exist, and (5) within the Ashley National Forest. The data received from this call will be used along with existing information to delineate tracts which would be considered for possible competitive leasing.

The second purpose of this notice is to announce BLM's intent to conduct a statewide planning amendment/ environmental impact statement to consider combined hydrocarbon leasing in several planning areas in Utah.

SUPPLEMENTARY INFORMATION:

A. Call for Expressions of Interest

This is to advise all interested parties that the official call for expressions of interest in Federal combined hydrocarbon leasing is now in effect for possible competitive leasing sales beginning in May, 1984. Expressions of interest will be accepted for lands not currently under an oil and gas lease where the Federal Government owns the tar sand deposits in the following special tar sand areas:

Special tar sand area	BLM resource area
Asphalt Ridge—White Rocks	Diamond Mountain.
Pariette	Diamond Mountain.
Argyle Canyon	Diamond Mountain.
Sunnyside	Diamond Mountain and Price River.
San Rafael Swell	San Rafael.
Tar Sand Triangle	Henry Mountain.
Circle Cliffs	Escalante.
White Canyon	San Juan.

A call for expressions of interest in the P.R. Springs, Hill Creek and Raven Ridge—Rimrock special tar sand areas will be made at a later date.

Maps which indicate the areas open for expressions of interest may be obtained by contacting Ronald Bolander or Earl Hindley in the BLM Utah State Office at the location indicated above. If oil shale placer claims or mineral patent applications are found on expressed areas these tracts will be deleted from leasing consideration.

This call for expressions of interest is the first step in the planning process which will lead to a planning amendment/EIS to consider site specific tract analysis and cumulative impacts of various leasing alternatives.

A major purpose of this call for expressions of interest is to integrate potential lessees' data with the process of delineating the logical tracts which will be considered prior to a lease sale. The BLM hopes to gain sufficient information from this call, as well as from its own site specific analyses, to identify areas which should not be leased as well as areas in which data are of sufficient detail to ultimately make a fair market value determination on specific tracts. It is important to note that availability of data will be an important factor in delineating tracts most likely to receive consideration for leasing.

An expression of leasing interest is not an application. The size and/or location of a proposed tract as indicated by an expression of interest may be

modified or changed if there is sufficient reason to do so. Examples of the types of concerns that may make such action necessary include: the competitive nature of the tract, access needs, mining efficiency, future development potential, resource conservation, State preferences, and environmental concerns.

Leases on or encompassing lands within the Glen Canyon National Recreation Area will be subject to agency specific surface and public protection requirements which conform to National Park Service Legislative mandates.

Those wishing to express areas of leasing interest should include the following data:

1. *Location*—Delineations should be made on a map suitable with a scale not less than ½ inch to the mile and accompanying narrative description.
2. *Extraction Technology*—List the primary and alternative technological development preferences on a general basis (not a detailed plan).
3. *Quality and Quantity*—Estimates of the quality and quantity of the tar sand resource and economic value within the expression area.
4. *Projected Production.*
5. *Transportation Needs*—Include existing and proposed facilities (i.e., pipelines, roads, etc.).
6. *Projected Impacts*—Include anticipated environmental and socio-economic impacts and anticipated mitigating measures.
7. *Other Pertinent Information.*

Data which are considered proprietary should be submitted directly to: Donald C. Alvord, District Supervisor for Resource Evaluation, 1745 West 1700 South, Room 2070, Salt Lake City, Utah 84104, any propriety data submitted to MMS at the above address will be held confidential.

For those wishing to express interest in non-development areas the following information should be included:

1. *Location*—Delineations should be made on suitable map with a scale not less than ¼ inch to the mile accompanied with a narrative description.
2. *Reasons for Non-development.*
3. *Other Pertinent Information.*

B. Notice of Intent To Conduct Planning Amendment

In accordance with 43 CFR 1601.3, notice is given that the Bureau of Land Management intends to complete a planning amendment and environmental impact statement to consider combined hydrocarbon (tar sand) leasing in several districts in Utah. The amendment/EIS will consider site specific tract analysis and a cumulative impact analysis of various leasing combinations.

One amendment/EIS will be completed combining leasing proposals in the following districts and resource areas:

Cedar City District, Escalante R.A.
Richfield District, Henry Mountain R.A.
Moab District, San Juan R.A., Price River R.A., San Rafael R.A.
Vernal District, Diamond Mountain R.A.

The general issues related to combined hydrocarbon leasing which have been identified at this time include: (1) Impacts to natural resource values, (2) impacts to the social and economic structures to local communities, and (3) impacts to wilderness values.

Disciplines to be represented on the interdisciplinary teams preparing the amendment/EIS may be range, minerals, wildlife, archaeology, land use planning, socio-economics, hydrology, recreation and wilderness.

Public input is invited to identify additional issues related to the combined hydrocarbon leasing amendment. Comments will be accepted until August 31, 1982. Other public participation activities will be conducted in accordance with 43 CFR Part 1601. Dates, times, and locations will be announced through local media and mailings to interested parties.

Documents relative to the planning amendment/EIS process may be reviewed at any of the following district offices during regular office hours.

Cedar City District, 1579 North Main Street, Cedar City, Utah 84720.
Richfield District, 150 East 900 North, Richfield, Utah 84701.
Moab District, 125 West Second South Main, Moab, Utah 84532.
Vernal District, 170 South 500 East, Vernal, Utah 84078.

Dated: July 6, 1982.

Roland G. Robison,

State Director.

[FR Doc. 82-19001 Filed 7-15-82; 8:45 am]
BILLING CODE 4310-84-M

Bureau of Reclamation

Upper Colorado Region; Non-Federal Power Sharing Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of meeting.

SUMMARY: The Bureau of Reclamation announces a public information meeting on ways non-Federal developers can share in the construction and use of two proposed Federal power projects—Diamond Fork near Spanish Fork, Utah; and Ridgway, near Ridgway, Colo.

DATE: The meeting will be held at 10 a.m., Tuesday, July 20, 1982.

ADDRESS: The meeting will be held in the Harvest Room of the Hilton Hotel in Salt Lake City, Utah.

FOR FURTHER INFORMATION CONTACT: Upper Colorado Regional Power Supervisor Arlo Allen at (801) 524–5299, or Team Leader Maryin Hein at (801) 524–5289. Media inquiries should contact Upper Colorado Regional Public Affairs Officer Kathy Lovelace at (801) 524–5403.

SUPPLEMENTARY INFORMATION: The Diamond Fork powerplant facility will have an anticipated capacity of over 1,000 megawatts, while Ridgway is expected to have 4.2 megawatts. The public information meeting is being held to discuss some of the alternative ways non-Federal developers can join with the Bureau of Reclamation and jointly develop each project. There is great flexibility in considering proposals, with the sole exception that the new generating units would be integral parts of water resource development projects and therefore, must be operated to meet the overall multi-purpose needs.

Clifford Barrett,

Regional Director.

July 6, 1982.

[FR Doc. 19174 Filed 7-15-82; 8:45 am]
BILLING CODE 4310-09-M

Bureau of Land Management

Roseburg Timber Management Draft Environmental Impact Statement; Public Hearing

A public hearing will be held August 18, 1982 to accept oral testimony and/or submission of written comments regarding the adequacy of the Roseburg Timber Management Draft Environmental Impact Statement.

The hearing will be in the Roseburg District auditorium, 777 NW Garden Valley Blvd., Roseburg, OR 97470 at 2 p.m. and 7 p.m.

The EIS has been assigned control number 820406 by EPA, Office of Federal Activities, and the BLM Notice of Availability was published in the **Federal Register** on June 24, 1982, page 27413.

Dated: July 8, 1982.

Robert A. Smith,

Acting District Manager.

[FR Doc. 82-19256 Filed 7-15-82; 8:45 am]
BILLING CODE 4310-84-M

Salt Lake District, Utah; District Grazing Advisory Board Meeting

July 9, 1982.

AGENCY: Bureau of Land Management, Salt Lake District, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given in accordance with Public Law 92–463 that a meeting of the Salt Lake District Grazing Advisory Board will be held on August 11, 1982. The meeting will begin at 10:00 a.m. at the BLM Conference Room at 2370 South 2300 West, Salt Lake City, Utah 84119. The purpose of the meeting will be to give advice and recommendation on the expenditure of FY–83's Range Improvement monies. The meeting is open to the public. Interested persons may make oral statements at 10:00 a.m. on August 11, 1982 at the BLM office, or file written statements for the board's consideration. Anyone wishing to make oral statements must notify the District Manager, 2370 South 2300 West, Salt Lake City, Utah 84119 by August 3, 1982. The District Manager may establish a time limit for each person.

John H. Stephenson,

Acting District Manager.

[FR Doc. 82–10256 Filed 7–15–82; 8:45 am]

BILLING CODE 4310–84–M

[W–055790, W–055807, and W–057669]

Wyoming; Notice of Termination of Proposed Withdrawal and Reservation of Lands

Notice of Bureau of Reclamation applications, W–055790, W–055807 and W–057669, for withdrawal and reservation of lands for reservoir purposes and development under reclamation law in connection with the Flaming Gorge Unit—Colorado River Storage Project, was published as FR Doc. No. 59–6905, on page 6788 of the issue for August 20, 1959. The applicant agency has cancelled its applications in their entirety affecting the following described lands.

Sixth Principal Meridian, Wyoming

T. 17 N., R. 106 W.,
- Sec. 4, lot 1;
- Sec. 6, lots 8 to 24, inclusive, (all);
- Sec. 8, W½ of lot 3, lot 4;
- Sec. 20, lots 1, 2, 4, 5, and the S½ of lot 3;
- Sec. 30, lots 5, 6, 9, to 13, inclusive, 16, 17, and the W½ of lot 7, NE¼NE¼;
- Sec. 32, W½W½NW¼, NW¼SW¼.

T. 12 N., R. 107 W.,
- Sec. 18, lots 6, 7, 8, SE¼NW¼, E½SW¼;
- Sec. 19, lots 6 to 10, inclusive, E½NW¼, NW¼SW¼.

T. 13 N., R. 107 W.,
- Sec. 6, lots 3 to 7, inclusive, SE¼NW¼, E½SW¼;
- Sec. 7, lots 1 to 4, inclusive, E½W½;
- Sec. 18, lots 1 to 4, inclusive, E½W½;
- Sec. 19, lots 1 to 4, inclusive, E½, E½W½ (all);
- Sec. 30, lots 1 to 4, inclusive, E½, E½W½ (all);
- Sec. 31, lots 1 to 4, inclusive.

T. 14 N., R. 107 W.,
- Sec. 18, lots 1 to 4, inclusive, E½W½;
- Sec. 19, lots 1 to 4, inclusive;
- Sec. 31, lots 1 to 4, inclusive, E½, E½W½.

T. 15 N., R. 107 W.,
- Sec. 4, W½ of lot 3, lot 4, N½SW¼NW¼, NW¼SE¼NW¼;
- Sec. 8, NE¼NE¼, E½NW¼NE¼.

T. 16 N., R. 107 W.,
- Sec. 2, lot 8, W½SW¼;
- Sec. 10, lots 1 to 7, inclusive, SW¼SE¼;
- Sec. 12, lot 1, S½NW¼SW¼;
- Sec. 14, lots 1 to 6, inclusive, W½NE¼, N½NW¼, E½SE¼NW¼, E½E½SE¼;
- Sec. 22, lots 1 to 8, inclusive, N½NE¼, NE¼NW¼, SE¼SE¼;
- Sec. 26, W½W½NE¼NE¼, NW¼NE¼, N½NW¼;
- Sec. 30, S½S½SE¼;
- Sec. 32, lots 1 to 6, inclusive, SE¼NE¼;
- Sec. 34, lots 1 to 3, inclusive, N½NW¼NE¼, SW¼NW¼NE¼, SE¼NW¼, N½NW¼S W¼.

T. 17 N., R. 107 W.,
- Sec. 24, E½E½.

T. 12 N., R. 108 W.,
- Sec. 1, W½W½W½;
- Sec. 2, lots 1 to 16, inclusive, S½NE¼, SE¼NE¼, N½SE¼;
- Sec. 3, lots 5 to 9, inclusive, W½NE¼, W½, W½SE¼, SE¼SE¼;
- Sec. 4, N½, N½S½;
- Sec. 5, NE¼;
- Sec. 10, lots 1, 2, 3, N½, SW¼, N½SE¼;
- Sec. 11, lots 1 to 9, inclusive, NW¼, NE¼SE¼, S½SE¼;
- Sec. 12, W½W½W½;
- Sec. 13, S½N½, W½NW¼NW¼, S½;
- Sec. 14, lot 1, N½, N½SW¼, SE¼SW¼, SE¼;
- Sec. 15, lots 1 to 10, inclusive, SE¼NE¼, W½NW¼, SW¼;
- Sec. 19, lot 9, 10, E½SW¼;
- Sec. 20, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
- Sec. 21, All;
- Sec. 22, lots 5 to 14, inclusive, N½NW¼;
- Sec. 23, lots 5, 6, 7, E½, E½W½, SW¼SW¼;
- Sec. 24, lot 5, N½, SW¼, N½SE¼, SW¼SE¼;
- Sec. 25, lots 1, 2, 3;
- Sec. 26, lots 1 to 4, inclusive;
- Sec. 28, lots 1 to 4, inclusive;
- Sec. 29, lots 1 to 4, inclusive;
- Sec. 30, lots 1 to 4, inclusive.

T. 13 N., R. 108 W.,
- Sec. 1, lots 1 to 4, inclusive, S½N½, S½ (all);
- Sec. 2, lots 1 to 10, inclusive, SW¼NW¼, SW¼ (all);
- Sec. 3, lots 1 to 4, inclusive, S½N½, S½ (all);
- Sec. 4, lots 1 to 4, inclusive, S½N½, SE¼;
- Sec. 9, NE¼;
- Sec. 10, All;
- Sec. 11, lots 1 to 5, inclusive, W½, W½SE¼, SE¼SE¼;
- Sec. 12, lots 1 to 7, inclusive, NE¼, N½NW¼, SW¼SW¼;
- Sec. 13, lots 1, 4, 5, 6, 7, 8, N½NW¼, SW¼NW¼, NW¼SW¼, SW¼SE¼, E½SE¼;
- Sec. 14, all;
- Sec. 15, all;
- Sec. 21, E½;
- Sec. 22, all;
- Sec. 23, lots 1, 2, 5, 6, NW¼NE¼, NW¼, W½SW¼, SE¼SE¼;
- Sec. 24, NE¼, SE¼NW¼, S½;
- Sec. 25, lot 1, lots 4 to 9, inclusive, N½N½, SE¼NE¼, SW¼SW¼, SE¼SE¼;
- Sec. 26, lots 2, 3, 4, 5, 7, 8, 9, 10, W½NW¼, NW¼SW¼, S½S½;
- Sec. 27, all;
- Sec. 28, E½;
- Sec. 32, SE¼;
- Sec. 33, E½, SW¼;
- Sec. 34, lot 1, N½, SW¼, W½SE¼, NE¼SE¼ (all);
- Sec. 35, lots 1 to 8, inclusive, NW¼NE¼, NW¼, NW¼SW¼, S½SE¼.

T. 14 N., R. 108 W.,
- Sec. 1, lot 5, S½N½, N½NW¼, SE¼NW¼, SE¼;
- Sec. 2, lots 3 to 8, inclusive, S½N½, SW¼SW¼;
- Sec. 3, lots 1 to 7, inclusive, S½NE¼, SW¼SW¼, E½SW¼, SE¼;
- Sec. 4, lots 1 to 13, inclusive, SW¼NE¼, S½NW¼;
- Sec. 5, lots 1 to 7, inclusive, E½ of lot 8, S½NE¼, E½SE¼NW¼, E½NE¼SW¼;
- Sec. 6, lots 1 and 2;
- Sec. 8, lots 1 to 3, inclusive, SW¼NE¼, NW¼, S½;
- Sec. 9, lots 1 to 9, inclusive, NE¼, NE¼NW¼, SW¼SW¼;
- Sec. 10, lots 1 to 8, inclusive, NW¼NE¼, N½NW¼, SW¼NW¼, S½SE¼, NE¼SE¼;
- Sec. 11, lots 1 to 5, inclusive, SW¼;
- Sec. 12, lots 1, 4, 5, 8, 9, NE¼, E½SE¼;
- Sec. 13, lots, 1, 2, 4, 5, E½, SW¼NW¼, E½SW¼;
- Sec. 14, lots 3, 4, W½;
- Sec. 15, all;
- Sec. 16, N½;
- Sec. 17 N½;
- Sec. 22, all;
- Sec. 23, lot 1, SW¼NE¼, W½, W½SE¼, SE¼SE¼;
- Sec. 24, lots 2, 3, 4, 8, E½, E½NW¼;
- Sec. 25, lots 1, 5, 6, 7, E½NE¼, SE¼SW¼, SW¼;
- Sec. 26, lots 3 to 8, inclusive, N½;
- Sec. 27, all;
- Sec. 33, S½;
- Sec. 34, all;
- Sec. 35, lots 1 to 8, inclusive, NE¼.

T. 15 N., R. 108 W.,
- Sec. 2, lots 1 to 4, inclusive, S½N½, S½ (all);
- Sec. 4, lots 1 to 4, inclusive, S½N½, S½ (all);
- Sec. 10, E½NE¼, N½NE¼SE¼;
- Sec. 12, lots 1 to 8, inclusive, E½NE¼, SW¼NE¼, SW¼SW¼, E½SE¼;
- Sec. 14, E½, E½W½, W½SW¼;
- Sec. 22, lots 1, 2, N½NE¼, NW¼, W½SW¼;
- Sec. 24, lots 2, 3, 4, SE¼NW¼, SW¼;
- Sec. 26, lots 1, 3, 4, 5, W½NW¼, S½;
- Sec. 27, lot 7, SE¼SW¼;
- Sec. 28, lots 1, 2, NE¼, SW¼, W½SE¼, NE¼SE¼;
- Sec. 30, lots 2, 3, 4, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
- Sec. 31, E½;
- Sec. 32, all;
- Sec. 33, lots 1, 2, 4, W½;
- Sec. 34, lots 1, 2, 3, N½, E½SW¼, SE¼.

T. 16 N., R. 108 W.,

Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, W½SW¼, SE¼;
Sec. 8, W½, W½SE¼;
Sec. 16, N½;
Sec. 18, lot 1, N½NE¼;
Sec. 20, E½, E½E½W½;
Sec. 22, W½E½E½, W½, S½S½SE¼;
Sec. 26, W½;
Sec. 28, E½;
Sec. 34, all.
T. 17 N., R. 108 W.,
Sec. 32, all.
T. 12 N., R. 109 W.,
Sec. 20, lot 10;
Sec. 24, lots 1 and 2, lots 5 to 8, inclusive, E½SE¼;
Sec. 25, lots 1, 2.
T. 16 N., R. 109 W.,
Sec. 12, S½S½SE¼

The areas described aggregate 50,112.64 acreas in Sweetwater County, Wyoming.

Therefore, pursuant to the regulations contained in 43 CFR 2310.2–1, such lands, at 10 a.m. on August 16, 1982, will be relieved of the segregative affect of the above mentioned applications.

The lands are within the Flaming Gorge National Recreation Area established by Pub. L. 90–540 of October 1, 1968 and are subject to the provisions of said law.

Maxwell T. Lieurance,

State Director.

[FR Doc. 82–19257 Filed 7–15–82; 8:45 am]

BILLING CODE 4310–84–M

Fish and Wildlife Service

Louisiana; Application; Natural Gas Pipeline Right-of-Way

Notice is hereby given that under Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185) as amended by Pub. L. 93–153, Texas Gas Transmission Corporation has applied for a 12¾ inch natural gas pipeline right-of-way that will cross the following lands:

Louisiana Meridian

T. 12 S., R. 4. W.,

Sec. 20.

This pipeline will convey natural gas across one quarter mile of the Lacassine National Wildlife Refuge, Cameron Parish, Louisiana.

The purpose of this notice is to inform the public that the United States Fish and Wildlife Service will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so within thirty (30) days and send their name and address to the Regional Director, United States Fish and Wildlife Service, 75 Spring Street, S.W., Atlanta, Georgia 30303–3376.

Dated: July 7, 1982.

Walter O. Stieglitz,

Acting Regional Director.

[FR Doc. 82–19411 Filed 7–15–82; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

California Desert District; Chuckwalla Valley Dune Thicket Area of Critical Environmental Concern (ACEC)

AGENCY: Bureau of Land Management, Interior.

ACTION: Partial Closure of ACEC to Vehicle Use.

SUMMARY: The closure is being implemented to protect significant and sensitive wildlife values from inadvertent damage caused by vehicle use. The authorities for the management plan's vehicle closure are 43 CFR 80000.0–6, 8340, 8341, 8342, 8364, the Federal Land Policy and Management Act of 1976, the National Environmental Policy Act of 1969, and the Sikes Act of 1974. The area affected by this designation is the Chuckwalla Valley Dune Thicket ACEC. The ACEC contains approximately 2000 acres of BLM managed public land in Riverside County, California. The designation is a result of a management plan for the ACEC which included public involvement. The ACEC management plan was developed following the guidelines established for the area in the California Desert Conservation Area Plan.

DATE: Effective September 1, 1982.

ADDRESS: Send inquiries to Area Manager, Indio Resource Area, 3623 H101 Canyon Crest Drive, Riverside, California 92507. The ACEC Management Plan and public comments received will be available for public review at the above address from 8:00 a.m.–4:15 p.m. on regular working days.

FOR FURTHER INFORMATION CONTACT: Faye J. Davis at the above address or (714) 351–6663.

Under the authority provided in the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), E.O. 11644 (Use of Off Road Vehicles on Public Lands), and the Sikes Act of 1974.

Vehicle Use

1. Vehicles will not be allowed in the dune system or adjacent thicket. The area will be clearly signed. A map of the closed area is available for review at the Indio Resource Area Office, 3623 H–101 Canyon Crest Drive, Riverside, California. Copies of the map are available upon request from the same address.

2. Access in the ACEC outside of the dune system and thicket will be allowed only on existing roads.

The purpose of these regulations is to minimize conflicts between vehicle use in the area and protection and enhancement of wildlife values. The public lands within the ACEC will remain open to other resource uses not in conflict with the objectives of the ACEC management plan. Administrative access by vehicle into areas closed to vehicle access for BLM personnel, BLM contractors, licensees, permittees, lessees, and all other Federal, State and County employees is allowed when on official duty and when cleared beforehand by the authorized officer. Permission to enter areas closed to vehicular use by other people is subject to approval by the authorized officer.

Effective Date: September 1, 1982.

Signed at Riverside, California on July 6, 1982.

Gerald E. Hillier,

District Manager, California Desert District, Bureau of Land Management.

[FR Doc. 82–19405 Filed 7–15–82; 8:45 am]

BILLING CODE 4310–84–M

Minerals Management Service

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Atlantic Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of availability of environmental documents prepared for OCS mineral exploration proposals on the Atlantic OCS.

SUMMARY: The Minerals Management Service (MMS) in accordance with Federal regulations (40 CFR 1501.4 and 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related environmental assessments (EA's) and findings of no significant impact (FONSI's), prepared by the MMS for the following oil and gas exploration activities proposed on the Atlantic OCS. This listing includes all proposals for lease operations for which environmental documents were prepared by the Atlantic OCS Region in the 3-month period preceding this Notice.

Operator/activity	Location	FONSI date
Tenneco/Unit Exploration Plann.	OCS Blocks 598, 599, 642 & 643 (103 miles East of Atlantic City, N.J., Mid-Atlantic).	5/05/82
Mobil/Exploration Plan.	OCS Blocks 267, 310, 311, 353, 354 & 397 (115 miles E.S.E. of Nantucket Island, MA., North Atlantic).	5/26/82
Tenneco/ Exploration Plan.	OCS Block 172 (105 miles E.S.E. of Nantucket Island, MA., North Atlantic).	6/17/82
Chevron/ Exploration Plan.	OCS Block 510 (42 miles E.N.E. of Cape Hatteras, N.C., South Atlantic).	7/09/82

Persons interested in reviewing environmental documents for the proposals listed above or obtaining information about EA's and FONSI's prepared for activities on the Atlantic OCS are encouraged to contact the appropriate offices in the Atlantic OCS Region.

FOR FURTHER INFORMATION CONTACT:
Deputy Minerals Manager, Offshore Field Operations, Atlantic OCS Region, Minerals Management Service, Tyson's Beltway Office Centre, Suite 601, 1951 Kidwell Drive, Vienna, Virginia 22180, (703) 285–2169, FTS–8–285–2169.
District Supervisor, North Atlantic District, Atlantic OCS Region, Minerals Management Service, Mary Dunn Road, Barnstable Municipal Airport/East Ramp, Hyannis, Massachusetts 02601, (617) 771–8506.
District Supervisor, Mid-Atlantic District, Atlantic OCS Region, Minerals Management Service, Mainland Professional Plaza, 515 Tilton Road, Northfield, New Jersey 08225, (609) 641–7966, FTS–8–483–4311.

FOR COPIES CONTACT: Records Management Section, Minerals Management Service, Tyson's Beltway Office Centre, Suite 601, 1951 Kidwell Drive, Vienna, Virginia 22180, (703) 285–2191, FTS–8–285–2191.

There will be a charge for the reproduction of these documents.

SUPPLEMENTARY INFORMATION: The Minerals Management Service prepares EA's and FONSI's for proposals which relate to exploration for oil and gas resources on the Atlantic OCS. The EA's examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. EA's are used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA 102(2)(C). A FONSI is prepared in those instances where the MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

This notice constitutes the public notice of availability of environmental documents required under the NEPA regulations.

Richard B. Krahl,
Acting Minerals Manager, Atlantic OCS Region.

[FR Doc. 82–19282 Filed 7–15–82; 8:45 am]
BILLING CODE 4310–MR–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–167 (Sub–156N)]

Conrail Abandonment Between Rives Jct and Eaton Rapids, MI; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Rives Jct and Eaton in the Counties of Eaton, Jackson and Ingham, MI, a total distance of 14.3 miles effective on June 11, 1982.

The Commission has decided that the net liquidation value of this line is $302,520. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line is shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82–19287 Filed 7–15–82; 8:45 am]
BILLING CODE 7035–01–M

[Docket No. AB–167 (Sub–216N)]

Conrail Abandonment Between North Tonawanda and the End of the Line in Niagara County, NY; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between North Tonawanda and the end of the line in the County of Niagara, NY, a total distance of 1.5 miles effective on June 11, 1982.

The Commission has decided that the net liquidation value of this line is $23,540.[1] If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82–19286 Filed 7–15–82; 8:45 am]
BILLING CODE 7035–01–M

[Docket No. AB–167 (Sub–108N)]

Conrail Abandonment Between Frankstown and Williamsburg, PA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Frankstown and Williamsburg in the County of Blair, PA, a total distance of 10.9 miles effective on June 8, 1982.

The Commission has decided that the net liquidation value of this line is $466,707. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82–19285 Filed 7–15–82; 8:45 am]
BILLING CODE 7035–01–M

[Docket AB–167 (Sub–227N)]

Conrail Abandonment in Dowingtown, PA; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line in Dowington between milepost 0.4 and milepost 0.8 in the County of Chester, PA, a total distance of 0.4 miles effective on June 23, 1982.

The Commission has decided that the net liquidation value of this line is

[1] Since Conrail holds no interest in the land underlying the right-of-way, the purchase price reflects net salvage value only.

$46,328. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-19284 Filed 7-15-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-297N)]

Conrail Abandonment Between Brook and Bedford, PA, and Bedford and Mr. Dallas, PA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon (1) 32.4 miles of its rail line known as the Bedford Secondary Track and (2) 6.9 miles of its line known as the Mt. Dallas Secondary Track, located in Blaine and Bedford Counties, PA, effective on June 18, 1982.

The net liquidation value of this line is $739,968. If within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-19283 Filed 7-15-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Air Products and Chemicals, Inc., Box 538, Allentown, Pennsylvania 18105.

2. Wholly-owned subsidiaries which will participate in the operations, and States of incorporation: (i) Air Products Transportation Company, Delaware. (ii) Catalytic Enterprises Limited, Dominion of Canada.

1. Parent corporation and address of principal office: Ashland Oil, Inc., 1000 Ashland Drive, Russell, KY 41114.

2. Wholly-owned subsidiaries which will participate in the operations and states of incorporation:

Subsidiary	Jurisdiction of incorporation
Ashland-Breckinridge, Inc	Delaware.
Ashland Chemical, Inc	Do.
Ashland Development, Inc	Do.
Ashland Ethanol, Inc	Do.
Ashland Oil and Transportation Co	Kentucky.
Ashland Petroleum, Inc	Delaware.
Ashland Pipe Line Co	Ohio.
Ashland Synthetic Fuels, Inc	Delaware.
Eastates Petroleum Company, Inc	Do.
Eastern Seaboard Petroleum Co., Inc	Florida.
Inland Towing Co	Delaware.
Lexington Pipe Line Co	Do.
Mid-Valley Supply Co	Kentucky.
Southern Oil Company of New York, Inc	New York.
Tri-State Marketing Services, Inc	Delaware.
Valvoline Oil Co	Ohio.
APAC-Alabama, Inc	Delaware.
APAC-Arkansas, Inc	Do.
APAC-Carolina, Inc	Do.
APAC-Georgia, Inc	Do.
APAC, Inc	Do.
APAC-Kansas, Inc	Do.
APAC-Mississippi, Inc	Do.
APAC-Tennessee, Inc	Do.
APAC-Texas, Inc	Do.
APAC-Virginia, Inc	Do.
MacAsphalt, Inc	Do.
MacDougald Construction, Inc	Georgia.
Magaw Construction, Inc	Indiana.
Magaw Hot Mix, Inc	Do.
Muncie Paving Asphalt, Inc	Do.
Reg X Condor, Inc	Delaware.
Scurlock Oil Co	Do.
TAP-CO, Inc	North Carolina.
United States Filter Corp.	Delaware.
Algonquin Pipe Line Co	Illinois.
Ohio River Pipe Line Co	Delaware.
Owensboro-Ashland Co	Do.
SOCO Pipeline Co	Texas.
Transport Supply Co., Inc	Do.
Blanton Marine Corp	Do.

1. Parent corporation and address of principal office: Bienenfeld Glass Corporation (Il. Corp.), 4161 South Morgan, Chicago, IL 60609.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

A. Macor Inc. (IL. Corp.), 801 North State St., Elgin, IL 60120

B. Macor Cabinetry Inc. (IL. Corp.), 801 North State St., Elgin, IL 60120

C. Macor Arch. Products (IL. Corp.), 801 North State St., Elgin, IL 60120

D. BIG Shop (IL. Corp.), 1020 North McLean, Elgin, IL 60120

E. Macor Great Lakes Inc. (Wisc. Corp.), 325 Industrial Park Rd., Deerfield, Wisc. 53531

1. The parent corporation is: James River Corporation, Tredegar Street, P.O. Box 2218, Richmond VA 23217.

2. The wholly-owned subsidiaries which will participate in the operations are as follows:

Riverside Transportation, Inc. (formerly Riverside Trucking, Co.), 802 Holly Springs Rd., Richmond VA 23224

James River Paper Co., Tredegar St., P.O. Box 2218, Richmond, Virginia 23217

James River—Rochester, Inc., Adams Division, 115 Howland Ave., Adams, Massachusetts 01220

James River—Rochester, Inc., Rochester Division, 340 Mill St., Rochester, Michigan 48663

Riegel Products Corp., Franchtown Road, Milford, New Jersey 08848

Curtis Paper Co., Paper Mill Road, Newark, Delaware Mill, Newark, Delaware 19711

Peninsular Paper Co., Ypsilanti, Michigan Mill, 100 North Huron, Ypsilanti, Michigan 48197

James River—Fitchburg, Inc., Old Princeton Road, Fitchburg, Massachusetts 01220

*James River—Massachusetts, Inc., 701 Westminster St., Fitchburg, Massachusetts 01420

*James River—Graphics, Inc., 28 Gaylord St., South Hadley, Massachusetts 01075

James River—Otis, Inc., P.O. Box 10, Jay, Maine 04239

James River—KVP, Inc., Island Ave., Parchment, Michigan 49008

James River—Patapar, Inc., 7900 N. Radcliff St., P.O. Box 230, Bristol, Pennsylvania 19007

* James River Board and Carton Co., 243 East Paterson St., Kalamazoo, Michigan 49007

James River—Berlin/Gorham, Inc., 650 Main St., Berlin, New Hampshire 03570

James River—New Hampshire Electric, Inc., 650 Main St., Berlin, New Hampshire 03570

Paterson Services Co., 243 East Paterson St., Kalamazoo, Michigan 47007

Industrial Leaseholds, Inc., 243 East Paterson St., Kalamazoo, Michigan 47007

James River—Gilco, Inc., 28740 Glenwood, Perrysburg, Ohio 43551

Minerva Wax Paper Co., 310 Grant Blvd., Minerva, Ohio 44657

* James River—Dixie/Northern, Inc., P.O. Box 2260, Greenwich, Connecticut 06830

The above subsidiaries indicated by an asterisk (*) each have truck fleets of their own. James River—Dixie/Northern, Inc. has truck fleets operating in Neenah, Wisconsin; Darlington, South Carolina and Fort Smith, Arkansas. Also, James River—Dixie/Northern, Inc. has a private truck fleet division operating under the name of Bigbee Xpress in Meridian, Mississippi. Compensated intercorporate hauling

operations will be performed by and between the subsidiaries of James River Corporation.

1. Parent corporation and address of principal office: Northland Woodplex Inc., 5550 Hinman Road, Lockport, New York 14094.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Pontiac Industries, Inc., 5550 Hinman Road, Lockport, New York 14094
(b) Mohawk Forest Industries, Inc., Rt. No. 3, Hunt, New York 14846
(c) Bio Thermo Utilities, Inc., 5550 Hinman Road, Lockport, New York 14094

1. Parent corporation and address of principal office: The Sherwin-Williams Company, 101 Prospect Avenue, Cleveland, Ohio 44115.

2. Wholly-owned subsidiary which will participate in the operations, and State(s) of Incorporation:

(i) Contract Transportation Systems Co., a Delaware corporation
(ii) Gray Drug Fair, an Ohio Corporation
(iii) Marshall Drug Co. an Ohio Corporation
(iv) Gray Drug, Inc., an Ohio corporation
(v) GDF, Inc., a Maryland Corporation
(vi) Drug Fair, Inc., a Maryland Corporation
(vii) Drug Way, Inc., a Virginia Corporation
(viii) Drug Fair of Pennsylvania, a Pennsylvania Corporation

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-19286 Filed 7-15-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OP1-116

Decided: July 6, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 82841 (Sub-326), filed June 14, 1982. Applicant: HUNT TRANSPORTATION, INC., 10070 I St., Omaha, NE 68127. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NE 68106, (402) 392-1220. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contracts(s) with The Bendix Corp., Aerospace-Electronics Group, of Arlington, VA, Bendix Air Tansport Avionics Div., and Bendix General Aviation Avionics Div., both of Fort Lauderdale, FL, Bendix Aircraft Brake & Strut Div., Bendix Energy Controls Div., Bendix Automotive Control Systems Group, Bendix Brake & Steering Div., and Bendix Bicycle & Ignition Components Div., all five of South Bend, IN, Bendix Communication Div., of Baltimore, MD, Bendix Electric Power Div., of Eatontown, NJ, Bendix Electrical Components Div., and Bendix Engine Products Div., both of Sidney, NY, Bendix Electrodynamics Div., of North Hollywood, CA, Continental Controls Corp., of San Diego, CA, Bendix Energy, Environment & Technology Office, of Englewood, CO, Bendix Environmental & Process Instruments Div., of Lewisburg, WV, Bendix Field Engineering Corp., Bendix Advanced Technology Center, and Bendix Process Technology Development Center, all three of Columbia, MD, Bendix Flight Systems Division, Bendix Guidance Systems Div., and Bendix Test Systems Div., all three of Teterboro, NJ, Instruments & Life Support Operations, Bendix Flight Systems Div., of Davenport, IA, Bendix Fluid Power Div., of Utica, NY, Courter, Inc., of Boyne City, MI, Mishawaka Operations, Bendix Guidance Systems Div., of Mishawaka, IN, Bendix Kansas City Div., of Kansas City, MO, Bendix Oceanics Div., of Sylmar, CA, The Bendix Corp. Automotive Group, Bendix Transportation Management Corp., Bendix Trucking Services Div., Bendix Manufacturing Systems Div., and Bendix Robotics, all five of Southfield, MI, Bendix Automotive Proving Grounds, of New Carlisle, IN, Bendix Hydraulics Div., of St. Joseph, MI, Toledo Stamping & Manufacturing Co., of Toledo, OH, and the Dubuque Div., of Dubuque, IA, Bendix Diesel Engine Controls, of Oak Park, MI, Bendix Engine Controls Div., of Newport News, VA, Bendix Engine Controls Div. (Sales Office), and Bendix Test Service Operations, both of Troy, MI, Bendix Friction Materials Div., of Troy, NY, Tennessee Plant Bendix Friction Materials Div., of Cleveland, TN, Bendix Heavy Vehicle Systems Group, of Elyria, OH, Fram Corp., of Providence, RI, Bendix Autolite Corp., of

Fostoria, OH, Bendix Automotive Aftermarket Operations, of Jackson, TN, The Bendix Corp., Bendix Warner & Swasey Finance Corp., and Midwest Machine & Tool Company, all three of Cleveland, OH, Bendix Abrasives Div., of Westfield, MA, Bendix Automation & Measurement Div., of Dayton, OH, Bendix Industrial Controls Div., of Detroit, MI, Bendix Industrial Group, of Solon, OH, Bendix Industrial Tools Div., of South Beloit, IL, Chicago Facility, Bendix Industrial Tools Div., of Chicago, IL, Bendix Machine Tool Corp., and Drillunit, Inc., both of Warren, MI, Texas Pipe Bending Co., of Houston, TX, and Warner & Swasey's Manchester Div., of Akron, OH, Gradall Div., of New Philadelphia, OH, G.A. Gray Div., of Cincinnati, OH, Grinding Machine Div., of Worcester, MA, MSC Div., of Nashville, TN, Sterling Castings Div., of Wellington, OH, Textile Machine Div., of Bessemer City, NC, Haskell-Dawes Plant Textile Machine Div., of Philadelphia, PA, Turbo Plan, of Gastonia, NC, Turning Machine Div., of Cleveland, OH, and Wiedemann Div., of King of Prussia, PA.

MC 102520 (Sub-7), filed June 28, 1982. Applicant: RIC's TRANSFER COMPANY, INC., d.b.a. RIC's TRANSFER AND 20th CENTURY DELIVERY, 3300 6th Ave. S., Seattle, WA 98134. Representative: Jim Pitzer, 15 S. Grady Way, Suite 321, Renton, WA 98055–3273, (206) 235–1111. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in WA, OR, and ID.

MC 147631 (Sub-3), filed June 25, 1982. Applicant: FRED L. WILLIAMS, d.b.a. TAOS INTERSTATE EXPRESS, P.O. Box 282, Alamosa, CO 81101. Representative: Fred L. Williams (same address as applicant). Over regular routes, transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), (1) between Costilla, NM, and Amalia, NM, over NM Hwy 196, (2) between Questa, NM, and Red River, NM, over NM Hwy 38, and (3) between Alamosa, CO, and junction U.S. Hwy 64 and NM Hwy 3, from Alamosa, CO, over U.S. Hwy 285 to junction U.S. Hwy 64, then over U.S. Hwy 64 to junction NM Hwy 3 and return over the same route, serving all intermediate points in routes (1) through (3) above.

Note.—Applicant intends to tack this authority with its existing authority.

MC 150700 (Sub-8), filed June 28, 1982 Applicant: OLIN WOOTEN TRANSPORT CO., INC., P.O. Box 731, Hazelhurst, GA 31539. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202, (904) 632–2300. Transporting *General commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in FL, GA, SC, NC, VA, MD, DE, NJ, NY, CT, PA, OH, WV, TN, KY, IN, IL, AL, MS, LA, and TX.

MC 154380 (Sub-1), filed June 21, 1982. Applicant: INTERMARK EXPRESS CORPORATION, 437 Broad Avenue, Palisades Park, NJ 07650. Representative: James A. Russo, P.O. Box 9005, Paramus, NJ 07652, (201) 265–3250. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in NY and NJ, on the one hand, and, on the other, points in MA, NH, RI, and CT.

MC 161531, filed June 29, 1982. Applicant: POWDER RIVER TRANSPORTATION SERVICES, INC., P.O. Box 2578, Gillette, WY 82716. Representative: Lawrence E. Lindeman, P.C., 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751–2441. Transporting *passengers and their baggage*, in the same vehicle with passengers, in charter and special operations, beginning and ending at points in WY and extending to points in the U.S. (except HI). CONDITION: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to team 1, Room 6358.

MC 162690, filed June 28, 1982. Applicant: W & R TRUCKING, 1305 Carlton Drive, Springdale, AR 72764. Representative: George Spencer, 7 North Block, Fayetteville, AR 72701, (501) 442–0585. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Ozark Truck Brokers, Inc., of Springdale, AR.

Volume No. OP2–148

Decided: July 8, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 119192 (Sub-20), filed June 25, 1982. Applicant: EASTERN DELIVERY SERVICE, INC., 80 Central Ave., Bridgeport, CT 06607. Representative: Gerald A. Joseloff, 410 Asylum St., Hartford, CT 06103, 203–728–0700. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with J. C. Penney Company, Inc., of Langhorn, PA.

MC 162712, filed June 25, 1982. Applicant: ARNOLD M. SCHILAM, d.b.a. AMS TRUCKING, P.O. Box 5278–71, Santa Ana, CA 92704. Representative: Arnold M. Schilam, (Same as applicant), (714) 835–0575. Transporting *spas and hot tubs and accessories and components needed for installation* of the foregoing commodities, between points in CA, on the one hand, and, on the other points in the U.S. (except AK and HI).

Volume No. OP3–106

Decided: July 12, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 48374 (Sub-11), filed July 1, 1982. Applicant: FERNSTROM STORAGE AND VAN COMPANY, Rosemont, IL 60666. Representative: Andrew R. Clark, 1600 TCF Tower, Minneapolis, MN 55402, (612) 333–1341. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. under continuing contract(s) with Stacy-Taylor, Inc. of Lenior, NC.

MC 73665 (Sub-1), filed July 1, 1982. Applicant: HUGH F. GANNON TRUCKING, INC., 510 N. Front St., Philadelphia, PA 19123. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 19113, (215) 365–5141. Transporting *pulp, paper and related products, rubber and plastic products,* and *metal products,* between points in DE, MD, NJ, NY, PA, and DC.

MC 115495 (Sub-42), filed June 1, 1982, previously published in the **Federal Register** issue of June 22, 1982. Applicant: UNITED PARCEL SERVICE, INC., 3755 East Main St., Room 112, St. Charles, IL 60174. Representative: Everett Hutchinson, 1150 Connecticut Ave., NW., Washington, DC 20036. Transporting *general commodities* (except those of unusual value, commodities in bulk, classes A and B explosives, household goods as defined by the Commission, and those requiring special equipment), between points in AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, SC, SD, TN, TX, UT, WA, WI, WY, PA, WV, and VA, restricted to the following condition: No service shall be rendered in the transportation of any package or article weighing more than 50 pounds of exceeding 108 inches in length and girth combined and each package or article

shall be considered as a separate and distinct shipment.

Note.—Applicant states the sole purpose of this application is to consolidate applicant's present authority at Certificate No. MC–115495 Subs 37 and 41X into one simplified certificate. No additional authority is sought by this application states the applicant and the applicant will voluntarily surrender for revocation its present certificates concurrently with the issuance of the new simplified certificate. The purpose of this republication is to correctly state applicant's existing commodity description.

MC 120184 (Sub-16), filed July 1, 1982. Applicant: PEP LINES TRUCKING CO., 32600 Dequindre Rd., Warren, MI 48092. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114, (216) 566–5639. Transporting *metals, metal products, and scrap metals,* between points in the U.S., under continuing contract(s) with Bohn Metal Division of Gulf & Western Manufacturing Co., of Southfield, MI.

MC 123395 (Sub-1), filed June 30, 1982. Applicant: J. W. DOUGLASS, 23 Trip St., P.O. Box "K" South Station, Fall River, MA 02724. Representative: Russell B. Curnett, 826 Orleans Rd., P.O. Box 366, Harwich, MA 02645, (617) 432–0907. Transporting (1) *highway construction materials,* between points in CT, MA, and RI, and, (2) *lime, magnesium lime,* and *limestone,* between Canaan, CT, and points in Berkshire County, MA, on the one hand, and, on the other, points in CT, MA, and RI.

MC 128685 (Sub-42), filed June 1, 1982, and previously noticed in the **Federal Register** issue of June 22, 1982. Applicant: DIXON BROS., INC., P.O. Drawer 8, Newcastle, WY 82701. Representative: Jerome Anderson, 100 Transwestern I, Billings, MT 59101, (406) 248–2611. Transporting *metal products,* between points in CO, SD, NE, KS, OK, MN, IA, MO, IL, MI, IN, UT and WY, on the one hand, and, on the other, points in MT, ND, WY, SD, NE, IA, CO and NM.

Note.—The purpose of this republication is to correctly reflect the territorial description.

MC 135634 (Sub-12), filed July 6, 1982. Applicant: J. M. HANEY COMPANY, INC., 4754 Mahoning Ave., Youngstown, OH 44515. Representative: Robert J. Gill, First Commercial Bank Bldg., 410 Cortez Rd. W., Bradenton, FL 33507, (813) 758–4153. Transporting *metal products, non-metallic strappings and building insulation materials,* between points in Mahoning County, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 136844 (Sub-8), filed July 1, 1982. Applicant: HENRY BRISTOL, d.b.a. B & B TRANSPORT & LEASE, P.O. Box 677, Palatine, IL 60067. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 234–0301. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 144485 (Sub-4), filed July 6, 1982. Applicant: WEST COAST DISTRIBUTING CO., INC., 539 N. 170th Place, Seattle, WA 98133. Representative: Henry C. Winters, 12600 S.E. 38th, Suite 200, Bellevue WA 98006, (206) 644–2100. Transporting *paper and paper products,* between points in the U.S., under continuing contract(s) with Everett Pad & Paper Co., Inc., of Everett, WA.

MC 147544 (Sub-2), filed July 1, 1982. Applicant: CARL E. MEDLIN d.b.a. MEDLIN TRUCKING, 5890 S. Wood Sorrel Dr., Littleton, CO 80123. Representative: Charles M. Williams, 1600 Sherman St., No. 665, Denver, CO 80203, (303) 839–5856. Transporting *general commodities* (except commodities in bulk, classes A and B explosives, and household goods), between points in PA, NJ, NY, MA, CO, NE, and KS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 147824 (Sub-2), filed July 2, 1982. Applicant: COBB FROZEN TRANSPORT, INC., 4524 Salida Blvd., Salida, CA 95368. Representative: Robert Fuller, 13215 E. Penn St., Suite 90602, Whittier, CA 90602, (213) 945–3002. Transporting *canned and preserved foodstuffs,* between points in the U.S. (except AK and HI), under continuing contract(s) with M. Polaner, Inc., of Roseland, NJ.

MC 155224, filed July 7, 1982. Applicant: STEINFELD'S PRODUCTS COMPANY, 10001 N. Rivergate Blvd., Portland, OR 97203. Representative: Earle V. White, 2400 S. W. Fourth Ave., Portland, OR 97201, (503) 226–6491. Transporting *food and related products,* between points in CA, OR and WA.

MC 158105 (Sub-1), filed July 6, 1982. Applicant: TIPTON TRUCKING COMPANY, INC., 25 South Heald St., Wilmington, DE 19801. Representative: David E. Fox, 1629 K St., N.W., Suite 801, Washington, D.C. 20006, (202) 293–3150. Transporting (1) *lumber and wood products,* between points in the U.S., under continuing contract(s) with (a) Poore Lumber Co., Inc., of Troy, VA, (b) Directway Sales, Inc., of Cheltendham, PA, (c) Commonwealth Wood Preservers, Inc., of Newport News, VA, (d) Edward J. Moran Lumber Corp., of Bryn Mawr, PA, and (e) Germain Timber Co., of Keswick, VA, and (2) *fuel,* between points in the U.S., under continuing contract(s) with Anthony Oil, of Middletown, DE.

MC 159025, filed June 30, 1982. Applicant: JAMES F. MOSBY, d.b.a. PDQ TRUCKING, 1601 Symphony Lane, P.O. Box 10437, Midwest City, OK 73140. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154, (405) 424–3301. Transporting (1) *metal products,* and (2) *machinery,* between points in OK, on the one hand, and, on the other, points in U.S. (except AK and HI).

MC 160625 (Sub-1), filed July 2, 1982. Applicant: THE W. H. FAY COMPANY, 3020 Quigley Ave., Cleveland, OH 44113. Representative: Frank Sgro, (same address as applicant), (216) 861–4232. Transporting *general comodities* (except classes A and B explosives, household goods and commodities in bulk), between points in OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162784, filed July 2, 1982. Applicant: FIRMINO D. SOUSA, 53 Norfolk St., Fall River, MA 02720. Representative: Russell B. Curnett, 826 Orleans Rd., P.O. Box 366, Harwich, MA 02645, (617) 432–0907. Transporting *passengers and their baggage,* in special and charter operations, between points in MA and RI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162795, filed July 6, 1982. Applicant: WILLIAM P. DALTON, d.b.a. DALTON TRUCKING, P.O. Box 20, Centerton, IN 46116. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6655. Transporting *food and related products,* between Indianapolis, IN, on the one hand, and, on the other, points in MI, KY, OH, TN, WV, IL, and PA.

MC 162805, filed July 6, 1982. Applicant: ROBERT P. BOCKO, d.b.a. WEYER TRUCKING, 14921 McCallum N.E., Alliance, OH 44601. Representative: Edward P. Bocko, P.O. Box 496, Mineral Ridge, OH 44440, (216) 652–2789. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Fibrex, Inc., of Alliance, OH.

MC 162835, filed July 6, 1982. Applicant: T. R. SNOW TRUCKING, 16574 Dillion Ave., Visalia, CA 93277. Representative: Tex R. Snow, P.O. Box 1970, Lake Oswego, OR 97034, (209) 747–0670. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, WY and

TX, under continuing contract(s) with Cascade West Materials, Inc. of Lake Oswego, OR.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-19273 Filed 7-15-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested only on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract". Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OP1-117

Decided: July 6, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 162661, filed June 28, 1982. Applicant: FILLMORE ASSOCIATES, 1310 Warwick Drive, Lutherville, MD 21093. Representative: James T. Darby, 1021 Irving Avenue, Colonial Beach, VA 22443, (804) 224-0773. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 162670, filed June 25, 1982. Applicant: LOUISIANA TRAFFIC BROKERS, INC., 2138 Woodale Suite NO. 15, Baton Rouga, LA 70808. Representative: Thomas R. Lipscomb (same address as applicant), (504) 927-5712. As a *broker* of *General commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 162721, filed June 28, 1982. Applicant: UNIVERSAL MAIL DELIVERY SERVICE, 925 W. Hyde Park Blvd., Inglewood, CA 90302. Representative: Bernard Reznick (same address as applicant), (213) 673-0803. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

Volume No. OP2-145

Decided: July 7, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 162272, filed June 1, 1982. Applicant: BURSHEM FREIGHT SERVICE, Box 321, Ellendale, MN 56026. Representative: Gary W. Burshem (same as applicant), (507) 684-3041. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 162273, filed June 1, 1982. Applicant: THRU STATES FREIGHT LINES, INC., 515 Gardner Ave., Brooklyn, NY 11222. Representative: Lawrence A. Rigano (same as applicant), (212) 388-2300. As a broker of *general commodities (except household goods), between points in the U.S. (except AK and HI).*

Volume No. OP2-147

Decided: July 8, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 135283 (Sub-75) filed June 21, 1982. Applicant: GRAND ISLAND EXPRESS, INC., 432 South Stuhr Rd., P.O. Box 2122, Grand Island, NE 68802. Representative: Lloyd A. Mettenbrink (same address as applicant), 308-384-8555. Transporting *general commodities* (except classes A and B explosives, household good and commodities in bulk), between Irvington, NE, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—The purpose of this application is to substitute motor carrier service for abandoned rail service.

MC 161202 (Sub-1), filed June 28, 1982 Applicant: FLINT T.B.A., INC., P. O. Box 1335, Industrial Air Park, Bainbridge, GA 31717. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202, 904-632-2300. Transporting for or on behalf of the United States Government, *general commodities* (except household goods, hazardous or secret materials and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 162583, filed June 21, 1982. Applicant: FREIGHT SERVICE COMPANY, 4343 South Pulaski, Chicago, IL 60632. Representative: Martin J. Warren (Same address as applicant), (312) 254-6945. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 162602, filed June 22, 1982. Applicant: HOWARD DIETZLER, d.b.a. DIETZLER REFRIGERATED TRANSPORT, R. R. 3 Box 199, Ellsworth,

WI 54011. Representative: Howard Dietzler (same as applicant), (715) 594–3168. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 162672, filed June 28, 1982. Applicant: JOHN P. NAYLOR AND PAUL DIJULIO, d.b.a. WESTERN DISTRIBUTION SERVICES, INC., 8809 S. 190th, Kent, WA 98031. Representative: John P. Naylor (same address as applicant), 206–251–5980. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP3–109

Decided: July 9, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 147114, filed June 30, 1982. Applicant: ARTHUR YORK, d.b.a. GARDEN STATE EXPRESS, 143 Engle St., Englewood, NJ 07631. Representative: Arthur York (same address as applicant), (201) 837–4483. Transporting, for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 157204 (Sub-3), filed June 30, 1982. Applicant: SUR-WAY TRANSPORT, INC., 1506 Radium Springs Rd., Albany, GA 31705. Representative: James J. Glass (same address as applicant) (912) 436–1688. Transporting, for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 159474 (Sub-3), filed July 1, 1982. Applicant: U.S. EXPRESS, INC., P.O. Box 9652, Little Rock, AR 72219. Representative: Stephen F. Grinnell, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402, (612) 333–1341. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods. hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 162754, filed July 1, 1982. Applicant: AERONAUTICS COURIER EXPRESS, INC., 161 Prescott St., Boston, MA 12128. Representative: Arthur Piken, 95–25 Queens Blvd., Rego Park, NY 11374, (212) 275–1000. Transporting, *shipments weighing 100 pounds* or less if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 162774, filed July 1, 1982. Applicant: STEEL AWAY TRANSPORTATION, INC., 1900 Hamilton Ave., Cleveland, OH 44114. Representative: Arthur E. Gogol, 7723 Greenwich Rd., Lodi, OH 44254, (216) 948–2531. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 162785, filed July 1, 1982. Applicant: EAGLE COURIER, LTD., 231 West Huron St., Chicago, IL 60610. Representative: Albert A. Andrin, 180 North La Salle St., Chicago, IL 60601, (312) 332–5106. Transporting *shipments weighing 100 pounds or less,* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 162834, filed July 6, 1982. Applicant: JAMES E. CHAMBERS d.b.a. T. A. D. SERVICES, 35023 16th Ave., South, Suite 14, Federal Way, WA 98003. Representative: James E. Chambers (same address as applicant), (206) 838–0839. As a *broker of general commodities* (except household goods), between points in the U.S.

Volume No. OP4–252

Decided: July 9, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 160046, (Sub-1), filed July 1, 1982. Applicant: MICHAEL R. IRVIN d.b.a IRVIN TRANSFER P.O. Box 506, Shelby, MT 59474. Representative: W. E. Seliski, 2,Commerce St., P.O. 8255, Missoula, MT 59807, (406) 543–8369. Transporting, for or on behalf of the United States Government *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 162766, filed July 1, 1982. Applicant: RUSSELL S. HRON, Box 50 A, Aladdin Rd., Colesville, WA 99114. Representative: Charles E. Dye, Swan Lake Village, Saddle Ridge No. 832, Portage, WI 53901, (608) 742–3579. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).*

Agatha L. Mergenovich,

Secretary.

[FR Doc. 19272 Filed 7–15–82; 8:45 am]

BILLING CODE 7035–01–M

[Permanent Authority Volume 115]

Motor Carriers; Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of petitions for leave to intervene must be filed with the Commission within 30 days after the date of this **Federal Register** notice. Such pleadings shall comply with 49 CFR 1100.252 addressing specifically the issue(s) indicated as the purpose for republication.

MC 147021 (Sub-9), (republication), filed March 5, 1982, published in the **Federal Register** April 8, 1982, and republished this issue. Applicant: C. SUMMERS, INC., 112 Spruce St., Elizabethville, PA 17023. Representative: Daniel W. Krane, P.O. Box E, Shiremanstown, PA 17011. A decision by the Commission, Review Board No. 2, decided June 23, 1982, served July 6, 1982, finds that applicant is authorized to operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *food and related products,* between Kankakee County, IL, Tarrant County, TX, Hamilton County, TN, Dade County, FL, Douglas County, NE, Hudson County, NJ, and Suffolk County, MA, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), (2) *rubber and plastic products,* (a) between York and Westmoreland Counties, PA, and New Hanover County, NC, and St. Louis, MO, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), and (b) between points in York County, PA, on the one hand, and, on the other, points in Dane County, WI, (3) *such commodities as are dealt in or used by chain grocery and food business houses,* between those points in the United States in and east of Minnesota, Iowa, Nebraska, Kansas, Oklahoma, and Texas, (4) *general commodities* (except classes A and B explosives, household goods, and

commodities in bulk), between points in Northumberland County, PA, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), and (5) *chemicals and related products* (except classes A and B explosives and radioactive material), between the District of Columbia, Lycoming County, PA, and Lake County, OH, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). Applicant is fit, willing, and able properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is to indicate the origin points in (1) and (2) in geographical terms.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-19271 Filed 7-15-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-6 (Sub-116)]

Rail Carriers; Burlington Northern Railroad Co.—Abandonment in LaSalle County, IL; Notice of Findings

The Commission has issued a certificate authorizing the Burlington Northern Railroad Company to abandon its 6.51 mile rail line between Earlville, IL (milepost 7.21) and Baker, IL (milepost 13.72) in LaSalle County, IL. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Mr. Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be resubmitted within this 10 day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1121.38.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-19270 Filed 7-15-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket 29980]

Rail Carriers; S. M. Pinsly Co.—Control—Pioneer Valley Railroad Co.; Notice of Exemption

July 12, 1982.

Petitioner S. M. Pinsly Company (Pinsly) is a holding company now controlling three Class III railroads subject to the Commission's jurisdiction. These are the Clermont & Concord Railway Company (Clermont), the Greenville & Northern Railway Company (Greenville), and the Frankfort & Cincinnati Railroad Company (Frankfort).

Pursuant to an order dated May 27, 1982, the Federal Railroad Administration (FRA) ordered the transfer of Conrail's Holyoke and Florence Secondary branch lines in the State of Massachusetts to Pinsly. This was done pursuant to the provisions of Section 305(g) of the Regional Rail Reorganization Act of 1973 (3-R Act), added by section 1155 of the Northeast Rail Service Act of 1981 (NERSA).

Pinsly intends to operate the two former Conrail lines through Pioneer Valley Railroad Company (Pioneer), a wholly-owned subsidiary. Pioneer will provide freight service as a common carrier.

By letter filed June 23, 1982, Pinsly has given notice that the proposed transaction is exempt under 49 CFR 1111.2(d)(2).

The transaction whereby Pinsly will obtain control of Pioneer is a transaction which is an acquisition of a nonconnecting carrier or one of its lines where the railroads would not connect with each other or any railroads in their corporate family.[1] Thus, it is an exempted transaction pursuant to 49 CFR 1111.2(d)(2). See *Railroad Consolidation Procedures*, 366 I.C.C. 75, 94 (1982).

As a condition to the use of this exemption, any employees affected by this transaction shall be protected pursuant to *New York Dock Ry.—Control—Brooklyn Eastern Dis.*, 360 I.C.C. 60 (1989). This will satisfy the statutory requirements of 49 U.S.C. 10505(g)(2).

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-19269 Filed 7-15-82; 8:45 am]

BILLING CODE 7035-01-M

[1] I am taking official notice of the *Official Railway Guide* indicating that Pioneer, Clermont, Greeville, and Frankfort's lines do not connect with each other.

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 82-17616, at page 28466, in the issue of Wednesday, June 30, 1982, on page 28470, in the middle column, first full paragaph, first line, correct "MC16245" to read "MC162452".

BILLING CODE 1505-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-12,881]

Jafree Shirt Co., Inc., Wytheville, Virginia; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 31, 1981 in response to a worker petition received on July 31, 1981 which was filed on behalf of workers at Jafree Shirt Company, Incorporated, Wytheville, Virginia.

The petitioner requested withdrawal of the petition. On the basis of this request, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 8th day of July 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-19330 Filed 7-15-82; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-12,727]

Oxwall Tool Co., Oxford, New Jersey, Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation (TA-W-12,727) was initiated on May 29, 1981 in response to a petition received on May 22, 1981 which was filed on behalf of workers at Oxwall Tool Company, Oxford, New Jersey. The workers produce hand tools.

The petitioning worker, Mr. Roland Bakonyi, requested in a letter that the petition be withdrawn. on the basis of this request, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 8th day of July 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-19329 Filed 7-15-82; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-12,846]

Port Huron Brass Foundry Co., Marysville, Michigan; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 20, 1981 in response to a worker petition received on July 15, 1981 which was filed on behalf of workers at Port Huron Brass Foundry Company, Marysville, Michigan.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, D.C. this 8th day of July 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-19332 Filed 7-15-82; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-12,870 and 12,872]

Roller Bearing Co. of America, Aiken, South Carolina, and Hartsville, South Carolina; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 31, 1981 in response to a worker petition received on July 14, 1981 which was filed by the United Auto Workers on behalf of workers at the Roller Bearing Company of America, Aiken, South Carolina and Hartsville, South Carolina.

Section 221(a) of the Trade Act of 1974 states that a petition for certification of eligibility to apply for adjustment assistance may be file with the Secretary of Labor by a group of workers or by their certified or recognized union or other duly authorized representive. During the course of the investigation, it was established that the United Auto Workers is not an authorized representative of the workers at the Aiken, South Carolina or Hartsville, South Carolina plants of the Roller Bearing Company of America. Consequently, the investigations have been terminated.

Signed at Washington, D.C. this 8th day of July 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-19331 Filed 7-15-82; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-12,789]

Royal Dorchester, Inc., Millville, New Jersey; Termination of Investigation

Pursuant of Section 221 of the Trade Act of 1974, an investigation was initiated on June 22, 1981 in response to a worker petition received on June 18, 1981 which was filed on behalf of workers at Royal Dorchester, Inc., Millville, New Jersey.

The petitioner has requested that the petition be withdrawn. Consquently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, D.C. this 8th day of July 1982

Marvin M. Fooks

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-19328 Filed] 7-15-82; 8:45 am]

BILLING CODE 4510-30-M

Occupational Safety and Health Administration

Indiana State Standards; Approval

1. *Background:* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator), under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4), will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On March 6, 1974, notice was published in the **Federal Register** (39 FR 8611) of the approval of the Indiana plan and the adoption of Subpart Z to Part 1952 containing the decision.

Access to Employee Medical Records

The Indiana plan provides for the adoption of Federal standards as State standards after a public hearing. By letter dated January 20, 1981, from the Commissioner, Indiana Division of Labor, to the Regional Administrator, Occupational Safety and Health Administration, and incorporated as part of the plan, the State submitted a State standard comparable to: 29 CFR 1910.20, Agency Practice and Procedure Concerning IOSHA Access to Employee Medical Records, as published in the **Federal Register** (45 FR 35277), dated May 23, 1980. This stndard, which is contained in the Indiana Occupational Safety and Health Standard, was promulgated after public comment was requested September 25, 1981, by a notice published in a newspaper of general circulation within the State. A public hearing was held October 30, 1981, at which time the standard was adopted. The Attorney General approved its legality on December 17, 1981, the Governor approved it on January 15, 1982, it was filed with the Secretary of State on January 20, 1982, and it was registered with the Legislative Council on January 20, 1982, pursuant to the Indiana Administrative Adjudication Act.

Corrections to Access to Employee Medical Records

The Indiana plan provides for the adoption of Federal standards as State standards after public hearing. By letter dated January 20, 1982, from the Commissioner, Indiana Division of Labor, to the Regional Administrator, Occupational Safety and Health Administration, and incorporated as part of the plan, the State submitted a State standard comparable to: 29 CFR 1910.20, Corrections to Access to Employee Medical Records, as published in the **Federal Register** (45 FR 54333), dated August 15, 1980. This standard, which is contained in the Indiana Occupational Safety and Health Standard, was promulgated after public comment was requested on September 25, 1981, by a notice published in a newspaper of general circulation within the State. A public hearing was held October 30, 1981 at which time the standard was adopted. The Attorney General approved its legality on December 17, 1981, the Governor approved it on January 15, 1982, it was filed with the Secretary of State on January 20, 1982, and it was registered with the Legislative Council on January 20, 1982, pursuant to the Indiana Administrative Adjudication Act.

Electrical Standards

The Indiana plan provides for the adoption of Federal standards as State standards after public hearing. By letter dated January 20, 1982, from the Commissioner, Indiana Division of Labor, to the Regional Administrator, Occupational Safety and Health

Administration, and incorporated as part of the plan, the State submitted a State standard comparable to: 29 CFR 1910.301, Subpart S, Electrical Standards as published in the **Federal Register** (46 FR 4034) August 7, 1981. This standard, which is contained in the Indiana Occupational Safety and Health Standard, was promulgated after public comment was requested on October 16, 1981 by a notice published in a newspaper of general circulation within the State. A public hearing was held December 4, 1981, at which time the standard was adopted. The Attorney General approved its legality on December 29, 1981, the Governor approved it on January 15, 1982, it was filed with the Secretary of State on January 20, 1982, and it was registered with the Legislative Council on January 20, 1982, pursuant to the Indiana Administrative Adjudication Act.

Occupational Noise Exposure

The Indiana plan provides for the adoption of Federal standards as State standards after public hearing. By letter dated January 20, 1982, from the Commissioner, Indiana Division of Labor, to the Regional Administrator, Occupational Safety and Health Administration, and incorporated as part of the plan, the State submitted a State standard comparable to: 29 CFR 1910.95 Occupational Noise Exposure, as published in the **Federal Register** (46 FR 4078) January 16, 1981. This standard, which is contained in the Indiana Occupational Safety and Health Standard, was promulgated after public comment was requested on October 28, 1981, by a notice published in a newspaper of general circulation within the State. A public hearing was held December 4, 1981, at which time the standard was adopted. The Attorney General approved its legality on December 29, 1981, the Governor approved it on January 15, 1982, it was filed with the Secretary of State on January 20, 1982 and it was registered with the Legislative Council on January 20, 1982, pursuant to the Indiana Administrative Adjudication Act.

The Indiana plan provides for the adoption of Federal standards as State standards after public hearing. By letter dated January 20, 1982, from the Commissioner, Indiana Division of Labor, to the Regional Administrator, Occupational Safety and Health Administration, and incorporated as part of the plan, the State submitted a State standard comparable to: 29 CFR (46 FR 42622), August 21, 1981. This standard, which is contained in the Indiana Occupational Safety and Health Standard, was promulgated after public comment was requested on October 28, 1981, by a notice published in a newspaper of general circulation within the State. A public hearing was held December 4, 1981, at which time the standard was adopted. The Attorney General approved its legality on December 29, 1981, the Governor approved it on January 15, 1982, it was filed with the Secretary of State on January 20, 1982, and it was registered with the Legislative Council on January 20, 1982, pursuant to the Indiana Administrative Adjudication Act.

Corrections to Noise Occupational Noise Exposure

The Indiana plan provides for the adoption of Federal standards as State standards after public hearing. By letter dated January 20, 1982, from the Commissioner, Indiana Division of Labor, to the Regional Administrator, Occupational Safety and Health Administration, and incorporated as part of the plan, the State submitted a State standard comparable to: 29 CFR 1910.95 Corrections to Occupational Noise Exposure, as published in the **Federal Register** (46 FR 45333), September 11, 1981. This standard, which is contained in the Indiana Occupational Safety and Health Standard, was promulgated after public comment was requested on October 28, 1981, by a notice published in a newspaper of general circulation within the State. A public hearing was held December 4, 1981, at which time the standard was adopted. The Attorney General approved its legality on December 29, 1981, the Governor approved it on January 15, 1982, it was filed with the Secretary of State on January 20, 1982, and it was registered with the Legislative Council on January 20, 1982, pursuant to the Indiana Administrative Adjudication Act.

2. *Decision:* Having reviewed the State submissions in comparison with the Federal standards it has been determined that the State standards are identical to the Federal standards and accordingly should be approved.

3. *Location of Supplement for Inspection and Copying:* A copy of the Indiana standard supplements along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, 230 South Dearborn Street, Chicago, Illinois 60604; State of Indiana, Division of Labor, 1013 State Office Building, Indianapolis, Indiana 46204; and the Office of the Directorate of Federal Compliance and State Programs, U.S. Department of Labor—OSHA, Room N3619, 200 Constitution Avenue, NW., Washington, D.C. 20210.

4. *Public Participation:* Under § 1953.2(c) of this Chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with the applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplements to the Indiana State plan as proposed changes and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards and are therefore deemed to be at least as effective.

2. The standards were adopted in accordance with the procedural requirements of the State law and further participation would be unnecessary.

This decision is effective July 16, 1982.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Chicago, Illinois, this 21st day of April 1982.

Alan C. McMillan,

Regional Administrator.

[FR Doc. 82–19327 Filed 7–15–82; 8:45 am]

BILLING CODE 4510-26-M

[V–82–5]

Lenox China, Inc.; Application for Variance; Interim Order

AGENCY: Occupational Safety and Health Administration, Labor.

ACTIONS: Notice of application for variance and interim order; and grant of interim order.

SUMMARY: This notice announces the application of Lenox China, Inc. for variance and interim order pending a decision on the application for variance from the standards prescribed in 29 CFR 1910.1025 concerning lead.

It also announces the granting of an interim order until a decision is rendered on the application for variance. This interim order was originally granted by letter on June 11, 1982.

DATES: The effective date of the interim order is June 11, 1982. The last date for interested persons to submit comments is August 16, 1982. The last date for affected employers and employees to request a hearing on the application is August 16, 1982.

ADDRESSES: Send comments or requests for hearing to: Office of Variance Determination, Occupational Safety and

Health Administration, U.S. Department of Labor, Third Street and Constitution Avenue, NW., Room N–3662, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Mr. James J. Concannon, Director, Office of Variance Determination at the above address; Telephone: (202) 523–7182, or the following Regional and Area Offices:

U.S. Department of Labor—OSHA, 1515 Broadway (1 Astor Plaza), Room 3445, New York, New York 10036; Telephone: (212) 944–3426

U.S. Department of Labor—OSHA, 2101 Ferry Avenue, Room 4003, Camden, New Jersey 08104; Telephone: (609) 757–5181

Notice of Application

Notice is hereby given that Lenox China, Inc., Pomona, New Jersey 08240, has made application pursuant to Section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for variance, and interim order pending a decision on the application for variance, from certain paragraphs of 29 CFR 1910.1025 concerning Lead.

The address of the place of employment that is affected by the application is: Lenox China Manufacturing Facility, Pomona, New Jersey 08240.

The applicant certifies that employees who would be affected by the variance have been notified of the application by giving copies of them to their authorized employee representatives, and by posting copies at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

Regarding the merits of the application, the applicant contends that the method it proposes will provide a place of employment as safe as those required by § 1910.1025 which contains regulations concerning Lead.

The applicant's facility manufactures glazed fine china dinnerware. The source of exposure to lead is the glaze, and the processes in which lead exposure occurs are those involved in the preparation of glaze, the application of glaze to the ware, and the handling of glazed ware prior to firing.

The applicant states that the glaze contains ceramic frits which are specially developed and prepared low solubility lead-bearing compounds in glass form. These frits, in either granular or flake form, are blended with certain non lead-bearing minerals and ground to specification to produce glaze.

The applicant further states that the glaze is transported in liquid form to the Glaze Department where it is applied to the ware by dipping or spraying. Dipping and some spraying are hand operations because of the great variety of sizes and shapes produced in very limited quantities. These operations are labor intensive and mechanization is virtually impossible.

Of the 1200 hourly employees at Pomona, 120 have some exposure to lead and these employees participate in a blood lead monitoring program. This program is as old as the plant itself, dating from 1954. Hourly and salaried employees assigned to the Glaze Department are tested twice a year while those who are assigned to support activities and adjacent operations are tested at least once a year, according to the applicant.

In November 1978, when OSHA published the present lead standard, Lenox China's blood leads, according to the applicant, were well within prescribed limits, but air lead levels in the Glaze Department were not, i.e., not at or below 50 $\mu g/m^3$.

Since that date, the Company stated that it has been their policy, to achieve full compliance with the lead standard if at all possible and regardless of cost. In keeping with this policy, the applicant states that 59 engineering projects have been implemented, a 6 point preventive maintenance program instituted, and extensive training and housekeeping programs adopted.

However, as of this date according to the applicant, while the Company has been able to further reduce blood leads, it has not yet been able to achieve compliance with the 50 $\mu g/m^3$ PEL in the Glaze Department, nor is there any assurance that it will even be able to do so.

However, according to the applicant, if as requested in the application for permanent variance, the analytical procedures for determining a low solubility inorganic lead compound developed by the British Ceramic Research Association and found in Appendix 2 of the Approved Code of Practice; Control of Lead at Work, of the British Health and Safety Commission, were used in lieu of the OSHA required test procedure, it is estimated that approximately 57 percent fewer employees of those presenlty exposed to air levels of lead determined to be greater than the PEL, would be considered exposed.

The applicant states that investigations of lead poisoning in the British Pottery Industry date back to the late 19th century when Sir Thomas Thorpe initiated his research into the development of low solubility lead frits and glazes. His efforts and the efforts of others since have produced commercially available low solubility frits and conversion to these frits has totally eliminated lead poisoning as an industrial disease. This fact is well documented in Britain, the United States and elsewhere.

According to the applicant, the Company has been working with its suppliers, since 1972, to convert to fritted glazes. They intensified their efforts starting in 1978 and have now completed their conversion program. The results have been dramatic. In January of this year, blood leads averaged 19 micrograms (144 samples), down 44% from July of 1980. The benefits of this conversion are obvious, according to the applicant.

But the lead standard, the applicant states, unlike comparable regulations in Britain, fails to distinguish between high solubility lead-bearing compounds and low solubility fritted lead-bearing compounds. Whereas the British Ceramic Research Association air lead test procedure prescribes 0.07N hydrochloric acid as the test dissolvent (vis-a-vis the human digestive system), the NIOSH test procedure prescribes hot concentrated nitric acid which destroys the glass structure of the fritted glaze and bears little or no resemblance to the human digestive system.

The Company states that hot concentrated nitric acid is a totally inappropriate test solvent now that it has completed its conversion program. It is indiscriminate in that it treats high and low solubility compounds pretty much alike and it ignores what is probably the greatest single contribution that the world of ceramic research has made to mankind.

By failing to distinguish between high solubility lead-bearing compounds and low solubility fritted lead-bearing compounds, the applicant asserts, the lead standard fails to provide a vital incentive which would encourage frit producers to intensify their efforts to further reduce solubility to make the work place even safer in the future, in which event Lenox China and its employees would be co-beneficiaries.

Specifically, the applicant requests variance from that aspect of the lead standard which requires determination of lead in air values based on total lead. The applicant proposes the use of test procedures used by the British Health and Safety Commission in Appendix 2 of Control of Lead at Work: Regulations and Approved Code of Practice, for defining a low solubility inorganic compound, for the determination of lead in air.

All interested persons, including employers and employees who believe they would be affected by the grant or denial of the application for variance are invited to submit written data, views, and arguments relating to the application no later than August 16, 1982, in conformance with the requirements of CFR 29 1905.15. Submission of written comments and requests for a hearing should be in quadruplicate, and must be addressed to the Office of Variance Determination at the above address.

Grant of Interim Order

The applicant also requested an interim order to be effective until a decision is made on the application for variance.

Based upon a preliminary review of the data which the applicant submitted and in light of OSHA's present in-dept review of the lead standard, an investigation of the analytical test procedure for determining a low solubility inorganic lead compound as developed by the British Ceramic Research Association and detailed in Appendix 2 of the British Health and Safety Commission Consultive Document; Control of Lead at Work: Regulations and Approved Code of Practice, appears to be in order. During the time necessary to conduct this investigation, OSHA has determined that an interim order from the lead standard should be issued. Therefore, it is ordered, pursuant to the authority in Section 6(d) of the Occupational Safety and Health Act of 1970, in 29 CFR 1905.11(c), and in Secretary of Labor's Order No. 8–76 (41 FR 25059) that Lenox China, Inc. is hereby subject to the following conditions in lieu of complying with § 1910.1025(e)(2) which requires that respirators shall be utilized where engineering and work practice controls do not reduce employee exposure to lead to or below the permissible exposure limit (PEL) of 50 micrograms per cubic meter of air (50 $\mu g/m^3$) averaged over an 8-hour period.

The applicant shall comply with all provisions of the lead standard from which variance has not been requested and granted.

(1) Respiratory protection, as required by 29 CFR 1910.1025(e)(2), need not be worn where the concentration of lead in air (as determined by the presently required procedure) is at or less than 150 micrograms per cubic meter of air (150 $\mu g/m^3$) averaged over an 8-hour period, provided:

(a) All employees who will be affected by this grant in interim order shall have blood lead monitoring conducted at least every two months; and,

(b) Blood lead values for these employees remain below 40 micrograms per 100 grams of whole blood (40 $\mu g/100g$).

(2) Records shall be maintained for all work areas where this interim order applies and sent to the Office of Variance Determination every six months for the following:

(a) Each employee exposed to airborne lead, identified by some form of coding, and specifying his occupation, number of hours per week of lead exposure, location by department, and blood lead values (including value for sample analyzed prior to issuance of this grant of interim order), and the number of hours per week respirators were worn, if any;

(b) Airborne lead concentrations for location of each employee identified in (2)(a) above; and,

(c) Identification of lead-bearing compounds used, dates of use, and percentage of soluble lead for each product (as determined by split-sample analysis using both the BCRA and the OSHA required test procedures).

(3) The employer shall provide appropriate respiratory protection to any employee who may desire to use it at airborne concentrations of lead greater than 50 micrograms per cubic meter of air.

(4) Any employee whose blood lead value has increased by at least 10 micrograms per 100 grams of whole blood (10 $\mu g/100g$) from one sampling to another shall be retested immediately, even though the higher level is below 40 $\mu g/100g$. If the retest confirms this increase, the employer shall investigate to determine the cause.

(5) The employer shall agree to allow OSHA to inspect its premises in connection with this variance application and this interim order.

(6) The employer shall comply with all provisions in this grant of interim order and, in addition, shall not be relieved from compliance with all other applicable provisions of the standard for Occupational Exposure to Lead.

Lenox China, Inc. shall give notice of this grant of interim order to employees affected thereby by the same means required to be used to inform them of the application for variance. This interim order has been in effect since June 11, 1982. The Assistant Secretary may revoke this interim order at any time if the applicant does not comply with any requirement of the interim order or the relevant standard; or if other information indicates that revocation of the interim order is warranted.

Unless revoked, the interim order will remain in effect until a decision is made on the application for variance.

Signed at Washington, D.C. this 10th day of July 1982.

Mark D. Cowan,

Deputy Assistant Secretary of Labor.

[FR Doc. 82–19300 Filed 7–15–82; 8:45 am]

BILLING CODE 4510-26-M

National Advisory Committee on Occupational Safety and Health; Appointment of Members

Notice is hereby given that appointments have been made to fill the vacancies on the National Advisory Committee on Occupational Safety and Health (NACOSH) created by the expiration of the terms of six members on June 30, 1982.

New members appointed to the Committee are:

Mr. Frank R. Barnako, Public Representative
Dr. Sidney Shindell, Public Representative
Mr. Russell B. Swanson, Public Representative
Mr. Tom Baker, Management Representative
Mr. A. Bennett Hill, Labor Representative
Mr. Ronald H. Davis, Safety Representative.

The members selected on the basis of their experience and competence in the field of occupational safety and health.

The full membership of the Committee and the categories represented are as follows:

Public
Frank R. Barnako, Chairman of the Board, National Safety Council
Joyce C. Hearn, Representative, South Carolina Legislature
Dr. Sidney Shindell, Chairman, Department of Preventive Medicine, The Medical College of Wisconsin
Russell B. Swanson, Commissioner, Minnesota Department of Labor and Industry

Management
Tom Baker, President, Electric Company
Dr. Bruce W. Karrh, Medical Director, E.I. duPont deNemours and Co., Inc.

Labor
A. Bennett Hill, Director of Safety, International Union of Operating Engineers
George H.R. Taylor, Director, Department of Occupational Safety and Health, AFL–CIO

Safety
B. Gawain Bonner, Director, Safety and Health, Tenneco, Inc.
Ronald H. Davis, Vice President, Industrial Relations, Carolina Steel Corporation

Health
Dr. Marcus H. Key, Professor of Occupational Medicine, The University of Texas Health Science Center

Dr. Richard P. Miethke, Medical Director, Delco Electronic Division, GMC

The newly appointed members will serve two year terms expiring on June 30, 1984. The remaining members are serving the second year of a two year term ending on June 30, 1983.

The National Advisory Committee was established under Section 7(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) to advise the Secretary of Labor and the Secretary of Health and Human Services on matters relating to the administration of the Act.

For additional information contact: Clarence Page, Excecutive Secretary, NACOSH, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room N3635, Washington, D.C. 20210.

Signed at Washington this 13th day of July 1982.

John W. Ready,

Acting Assistant Secretary.

[FR Doc. 82-19346 Filed 7-15-82; 8:45 am]

BILLING CODE 4510-26-M

Advisory Committee on Construction Safety and Health; Appointment of Members

Notice is hereby given that appointments have been made to fill the vacancies on the Advisory Committee on Construction Safety and Health (ACCSH) created by the expiration of the terms of fifteen members on June 30, 1982.

New members appointed to the Committee are:

Employee Representative

James Lapping, Director of Safety and Health, Building and Construction Trades, Department—AFL–CIO

Employer Representatives

W. Brock Carter, Safety Counselling, Inc.

Leonard E. Dodson, Executive Vice President and Secretary, Olson Construction Company

V. Sherwood Kelly, Corporate Safety Director, J.A. Jones Construction Co.

Paul V. Voinovich, George S. Voinovich, Inc.

State Representatives

Larry Etchechury, Division of Occupational Safety and Health, Industrial Commission of Arizona

Donald G. Wiseman, Principal Safety Engineer, Nevada Department of Industrial Relations

Federal Representative

Dr. James Oppold, Division of Safety Research, National Institute on Occupational Safety and Health

Members reappointed to the Committee are:

Employee Representatives

Joe A. Adam, Department of Safety and Health, United Association of Journeymen and Apprentices of the PLumbing and Pipe Fitting Industry

Robert E. P. Cooney, General Vice President, International Association of Bridge Structural and Ornamental Iron Workers

Roy Steinfurth, Administrator, Health Hazard Programs, International Association of Heat and Frost Insulators and Asbestors Workers

George E. Smith, Safety Department, International Brotherhood of Electrical Workers

Employer Representative

James Pakenham, Safety Manager, Ebasco Services, Inc.

Public Representatives

H. Edgar Lore, Labor Relations Consultant

Dr. Jack L. Mickle, Professor of Civil Engineering, Iowa State University

The members were selected on the basis of their experience and competence in the field of occupational safety and health in construction. Each of these members has been appointed for a term which will end on June 30, 1984.

The Advisory Committee on Construction Safety and Health was established under section 107(e)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and section 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656).

For additional information contact: Ken Hunt, Committee Management Officer, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N3635, Washington, D.C. 20210.

Signed at Washington this 13th day of July 1982.

[FR Doc. 19349 Filed 7-15-82; 8:45 am]

BILLING CODE 4510-26-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (82-40)]

Intent To Grant An Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant an exclusive patent license.

SUMMARY: NASA hereby gives notice of intent to grant to Foster Grant Corporation, Leominster, Massachusetts, a limited, exclusive, royalty-bearing, revocable license to practice the invention described in U.S. Patent No. 4,137,365 and Canadian Patent No. 1,077,787 for an "Oxygen Post-Treatment of Plastic Surfaces Coated with Plasma Polymerized Silicon-Containing Monomers" which issued to the Administrator of the National Aeronautics and Space Administration on behalf on the United States of America. The proposed exclusive license will be for a limited number of years and will contain appropriate terms and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR Part 1245, Subpart 2. NASA will negotiate the final terms and conditions and grant the exclusive license unless, within 60 days of the date of this Notice, the Director of Patent Licensing receives written objections to the grant, together with supporting documentations. The Director of Patent Licensing will review all written responses to the Notice and then recommend to the Assistant General Counsel for Patent Matters whether to grant the exclusive license.

DATE: Comments to this notice must be received by September 14, 1982.

ADDRESS: National Aeronautics and Space Administration, Code GP–4, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT: Mr. John G. Mannix, Director of Patent Licensing, (202) 755–3954.

Dated: July 9, 1982.

S. Neil Hosenball,

General Counsel.

[FR Doc. 82-19243 Filed 7-15-82; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL SCIENCE FOUNDATION

Conference on New Strategies For the Future For Intergovernmental Programs; Meeting

The National Science Foundation announces a meeting of representatives of the State and local government,

academic, research, and business communities to assist the Intergovernmental Programs as it develops new strategies for the future. Also in attendance will be NSF's Intergovernmental Programs staff and representatives of NSF management.

Although this *ad hoc* discussion does not constitute a meeting of an "advisory committee" as that term is defined in section 3 of the Federal Advisory Committee Act (PL 92–463), the meeting will be open to public attendance and observation.

The meeting will be held on Monday, July 26, 1982 from 9:00 a.m. to 5:00 p.m. and on Tuesday, July 27, 1982 from 9:00 a.m. to 1:00 p.m. at the O'Hare Hilton Hotel in Chicago, Illinois.

For additional information, please contact Mr. Edward T. Kelly, Director, Intergovernmental Programs, Division of Intergovernmental and Public Service Science and Technology, National Science Foundation, Room 1144, 1800 G Street NW., Washington, DC 20550. Telephone: 357–7560.

Edward T. Kelly,

Director, Intergovernmental Programs.

July 12, 1982.

[FR Doc. 82–19250 Filed 7–15–82; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Reliability and Probabilistic Assessment; Meeting

The ACRS Subcommittee on Reliability and Probabilistic Assessment will hold a meeting on August 6, 1982, Room 1046, at 1717 H Street, NW, Washington, D.C. The Subcommittee will discuss the draft NRC Staff Action Plan for implementing the Commission's proposed safety goals.

In accordance with the procedures outlined in the **Federal Register** on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Tuesday, August 6, 1982—8:30 a.m. until the conclusion of business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding the topics to be discussed.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Staff Engineer, Mr. J. Michael Griesmeyer (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., e.d.t. The Designated Federal Employee for this meeting is Mr. Gary Quittschreiber.

Dated: July 12, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82–19314 Filed 7–15–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–219]

GPU Nuclear Corp. and Jersey Central Power & Light Co.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 62 to Provisional Operating License No. DPR–16, issued to GPU Nuclear Corporation and Jersey Central Power & Light Company (the licensees), which revised the Technical Specifications for operation of the Oyster Creek Nuclear Generating Station (the facility) located in Ocean County, New Jersey. The amendment is effective as of its date of issuance.

The amendment authorizes changes to the limiting setpoints for five electramatic relief values for the Reactor Coolant System.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) and environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated August 27, 1981, (2) Amendment No. 62 to License No. DPR–16, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington D.C., and the Local Public Document Room, 101 Washington Street, Toms River, New Jersey 08753. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 12th day of July 1982.

For the Nuclear Regulatory Commission.

Paul W. O'Connor,

Acting Chief, Operating Reactors Branch #5, Division of Licensing.

[FR Doc. 82–19311 Filed 7–15–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–336]

Northeast Nuclear Energy Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 79 to Facility Operating License No. DPR–65, issued to Northeast Nuclear Energy Company, the Connecticut Light and Power Company, the Hartford Electric Light Company, and the Western Massachusetts Electric Company (the licensee), which revised Technical Specifications for operation of the Millstone Nuclear Power Station, Unit No. 2 (the facility) located in the Town of Waterford, Connecticut. The amendment is effective upon issuance.

This amendment reduces the design reactor coolant flow rate from 370,000 to 362,600 gpm (2 percent reduction) and compensates for this reduction by reducing the allowable total planar and total integrated radial peaking factors by 2 percent. These changes are desirable to improve plant reliability by compensating for reduced reactor

coolant flow after plugging 704 steam generator tubes earlier this year.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated June 18, 1982 (2) Amendment No. 79 to License No. DPR–65, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Waterford Public Library, Rope Ferry Road, Waterford, Connecticut. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 2nd day of July 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch #3, Division of Licensing.

[FR Doc. 82–19312 Filed 7–15–82; 8:45 am]

BILLING CODE 7590–01–M

[Dockets 50–443 and 50–444]

Public Service Company of New Hampshire, et al., Seabrook Station, Units 1 and 2; Issuance of Amendments to Construction Permits

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 5 to Construction Permit Nos. CPPR–135 and CPPR–136. The amendments add Washington Electric Cooperative, Inc. and reflect a transfer of ownership interest from Commonwealth Electric Company (formerly New Bedford Gas and Edison Light Company) to Canal Electric Company for the Seabrook Station, Units 1 and 2 (the facilities), located in Rockingham County, New Hampshire. The amendments are effective as of their date of issuance.

The applications for the amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter 1, which are set forth in the amendments. The Commission has also concluded that the amendments involve actions which are insignificant from the standpoint of environmental impact and that, pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and an environmental impact appraisal need not be prepared in connection with the issuance of the amendments. Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

For further details with respect to this action, see (1) the applications for amendments, dated May 13 and December 16, 1981, and a supplemental letter dated October 8, 1981; (2) Amendments No. 5 to Construction Permit Nos. CPPR–135 and CPPR–136 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection in the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Exeter Public Library, Front Street, Exeter, New Hampshire 03833. Items 2 and 3 may be requested by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 23 day of June 1982.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 82–19313 Filed 7–15–82; 8:45 am]

BILLING CODE 7590–01–M

Applications for Licenses To Export Nuclear Facilities or Materials

Correction

In FR Doc. 82–17565 appearing at page 28184 in the issue of Tuesday, June 29, 1982, make the following changes:

1. On page 28184, middle column, first full paragraph, third line, "June 29, 1982" should read "July 29, 1982".

2. On page 28184, in the table, first column, last entry, "XSNMO1971." should read "XSNMO1972."

BILLING CODE 1505–01–M

OFFICE OF PERSONNEL MANAGEMENT

Proposed Extension of Forms for OMB Review

AGENCY: Office of Personnel Management.

ACTION: Notice of proposed extension of forms submitted to OMB for clearance.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980, this notice announces a proposed extension of forms which collect information from the public. Standard Form 85, Data for Nonsensitive or Noncritical-Sensitive Positions, and Standard Form 86, Security Investigations Data for Sensitive Positions, are completed by applicants for Federal positions throughout the Government. OPM uses the information to conduct investigations required by Executive Order 10450, Security Requirements for Government Employment, issued April 27, 1953, or various public laws. For copies of this proposal, call John F. Weld, Agency Clearance Officer, on (202) 632–7720.

DATES: Comments on this proposal should be received on or before July 26, 1982.

ADDRESSES: Send or deliver comments to:

John P. Weld, Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E Street, NW., Room 6H28, Washington, D.C. 20415; and

Frank Reeder, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and budget, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT:

John F. Weld, (202) 632–7720.

Office of Personnel Management.

Donald J. Devine,

Director.

[FR Doc. 82–19409 Filed 7–15–82; 8:45 am]

BILLING CODE 6325–01–M

OFFICE OF UNITED STATES TRADE REPRESENTATIVE

Public Hearings

SUMMARY: The purpose of this notice is (1) to announce the acceptance for review of petitions to modify the list of articles eligible to receive duty-free treatment under the Generalized System

of Preferences (GSP) (2) to announce the timetable for public hearings to consider petitions accepted for review; and (3) to announce that the list of articles herein is to be sent by the United States Trade Representative to the United States International Trade Commission with respect to designating articles as eligible for GSP.

I. Acceptance of Petitions for Review

Notice is hereby given of acceptance for review of petitions requesting modification of the list of articles eligible to receive duty-free treatment under the GSP, as provided for in Title V of the Trade Act of 1974 (19 U.S.C. 2461–2465). These petitions were submitted, and will be reviewed, pursuant to regulations codified at 15 CFR Part 2007.

1. Requests for "Graduation" of Countries

As part of this and future product reviews, a special effort will be made to include on the GSP list products of interest to low income beneficiary countries, including certain agricultural and handicraft articles. In addition, requests to add products to or remove them from the list of articles eligible for GSP duty-free treatment will be evaluated in accordance with the "graduation" policy. In considering GSP eligibility for products, limitations on GSP benefits will be considered for the more economically advanced beneficiary developing countries in specific products where it is determined that they have demonstrated international competitiveness. This approach will help to ensure that a greater share of GSP benefits is reserved for less competitive beneficiaries. Three criteria will be taken into account when any such "graduation" action is considered: the development level of individual beneficiary countries, their competitive position in the product concerned and the overall economic interests of the United States. The GSP Subcommittee will review information for the relevant United States industry as enumerated in 15 CFR 2007.1(5) when considering the removal of any beneficiary developing country from GSP eligibility with respect to a specific designated product or from proposed GSP eligibility with respect to a petition requesting the designation of an item.

Product designations announced at the conclusion of the review process, therefore, may be made on a differential basis. This means that certain beneficiary developing countries may not be designated for GSP benefits on certain products even though those countries are not excluded under the competitive need provisions set forth in section 504(c)(1) of the Trade Act of 1974, as amended. It also is possible to withdraw GSP treatment from certain beneficiary developing countries rather than remove the product entirely from GSP coverage. The competitive need limitations of the program will continue to apply to countries remaining eligible for GSP treatment with respect to particular products.

The implementation of this policy is designed to provide increased opportunities for less developed, less competitive beneficiary developing countries to benefit from GSP duty-free treatment. In accordance with U.S. trade policy toward developing countries this action is designed also to promote continued graduation of more advanced developing countries from GSP benefits in products where they have demonstrated competitiveness. Over time, such action should provide a more balanced distribution of GSP benefits among developing countries by helping to shift more of the program's benefits to the less competitive developing countries.

For additional information on this policy, refer to the Report to the Congress on the First Five Years' Operation of the U.S. Generalized System of Preferences (GSP), transmitted by the President of the United States on April 17, 1980. A copy is available for inspection at the GSP Information Center, Office of the United States Trade Representative, 600 Seventeenth Street, NW., Room 316, Washington, D.C. 20506. Information also can be obtained by calling the GSP Information Center at (202) 395–6971.

2. Information Subject to Public Inspection

Information submitted in connection with the hearings will be subject to public inspection by appointment with the staff of the GSP Information Center, except for information granted "business confidential" status pursuant to 15 CFR 2003.6 and 15 CFR 2006.10. Parties submitting briefs or statements containing confidential information must indicate clearly on the cover page of each of the twenty copies submitted and on each page within the document, where appropriate, that confidential material is included. Non-confidential summaries of all confidential material must be submitted in twenty copies, in English, at the same time that confidential submissions are filed.

3. Communications

All communications with regard to these hearings should be addressed to: GSP Subcommittee, Office of the United States Trade Representative, 600 Seventeenth Street, NW., Room 316, Washington, D.C. 20506. The telephone number of the Secretary of the GSP Subcommittee is (202) 395–6971. Questions may also be directed to any member of the staff of the GSP Information Center.

Acceptance for review of the petitions listed herein does not indicate any opinion with respect to a disposition on the merits of the petitions. Acceptance indicates only that the listed petitions have been found to be eligible for review by the GSP Subcommittee and the TPSC, and that such reviews will take place.

II. Deadline for Receipt of Requests To Participate in the Public Hearings

The GSP Subcommittee of the Trade Policy Staff Committee invites submissions in support of or in opposition to any petition contained in this notice. All such submissions should conform to 15 CFR Part 2007, particularly §§ 2007.0, 2007.1(1), 2007.1(2), and 2007.1(3).

Requests to present oral testimony in connection with public hearings should be accompanied by twenty copies, in English, of all written briefs or statements and should be received by the Chairman of the GSP Subcommittee not later than the close of business Thursday, September 23, 1982. Oral testimony before the GSP Subcommittee will be limited to five minute presentations that summarize or supplement information contained in briefs or statements submitted for the record. Post-hearing briefs or statements will be accepted if submitted in twenty copies in English within one week after the close of the hearings (but in no case later than close of business Friday, October 15, 1982) and rebuttal briefs should be submitted in twenty copies, in English, by close of business Friday, October 29, 1982.

Parties not wishing to appear may submit written briefs or statements in twenty copies, in English, in connection with articles under consideration in the public hearings, provided that such submissions are filed on October 15 and conform with the regulations cited above.

Hearings will begin at 9:00 a.m. on Monday, October 4, in the hearing room of the U.S. International Trade Commission (701 E Street, N.W.) Washington, D.C. and will continue on that and subsequent days until all witnesses have been heard.

The hearings will be open to the public and transcripts of the hearings will be made available for public

inspection or purchase from the reporting company.

III. List of Articles Which May Be Considered for Designation as Eligible Articles for Purposes of the GSP and on Which the United States International Trade Commission Will Be Asked To Provide Advice

1. In conformity with section 502(a) and 131(a) of the Trade Act of 1974 as amended (19 U.S.C. 2463(a) and 2151(a)), notice is hereby given that the articles listed herein may be considered for designation as eligible articles for purposes of the GSP.

An article which is determined to be import sensitive in the context of the GSP cannot be designated as an eligible article. Recommendations with respect to the eligibility of any listed article will be made after public hearings have been held and advice has been received from the U.S. International Trade Commission on the probable effects of GSP designation on industries producing like or directly competitive articles and on consumers.

2. Advice of the United States International Trade Commission. On behalf of the President and in accordance with sections 503(a) and 131(a) of the Trade Act of 1974 as amended, the U.S. International Trade Commission is being furnished with a list of the articles published herein for the purpose of securing from the Commission its advice on the probable economic effect on United States industries producing like or directly competitive articles, and on consumers, of the designation of such articles as eligible articles for purposes of the GSP.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

BILLING CODE 3190-01-M

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
		[The bracketed language in this list has been included only to clarify the scope of the numbered items which are being considered, and such language is not itself intended to describe articles which are under consideration.]	
		A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences.	
		Fish prepared or preserved in any manner, in oil, in airtight containers:	
		Sardines:	
82-1	112.54	Valued not over 18 cents per pound (including weight of immediate container)	Andean Group 2/, Government of Chile
		Valued over 23 but not over 30 cents per pound (including weight of immediate container):	
		Neither skinned nor boned:	
82-2	112.71	Smoked	do.
82-3	112.73	Not smoked	do.
82-4	112.74	Skinned or boned	do.
		Valued over 30 cents per pound (including weight of immediate container):	
		Neither skinned nor boned:	
		Smoked:	
82-5	112.79	Valued 45 cents or more per pound in tin-plate containers or 50 cents or more per pound in other containers	do.
82-6	112.80	Other	do.
		Milled grain products:	
		Not fit for human consumption:	
		Wheat:	
82-7	131.75pt.	Bran	do.
		Vegetables fresh, chilled, or frozen (but not reduced in size nor otherwise prepared or preserved):	
		[Products provided for in item numbers 135.10 through 137.66]	
		Other:	
		[Brussels sprouts; chayote (sechium edule); fiddlehead ferns; jicamas, fresh or chilled; parsnips; water chestnuts, frozen; yams and sweet potatoes]	

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).
2/ Petitions submitted on behalf of five member countries--Bolivia, Colombia, Ecuador, Peru, and Venezuela.

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Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
A.	Petitions to add products to the list of eligible articles for the Generalized System of Preferences (con.)		
		Vegetables fresh, chilled, or frozen, etc. (con.):	
		Other:	
		Other:	
		Fresh or chilled:	
		[Asparagus; broccoli]	
82-8	137.9575	Other	Government of Jamaica
	or	or	
	137.9575pt.	Pumpkins	do.
	or	or	
	137.9575pt.	Breadfruit	do.
		Other edible nuts, shelled or not shelled, blanched, or otherwise prepared or preserved:	
		Not shelled:	
82-9	145.26	Pistache	Government of Turkey
		Berries, fresh, or prepared or preserved:	
		Frozen:	
82-10	146.74	Raspberries	Government of Chile
		Cherries, fresh, or prepared or preserved:	
		Fresh:	
82-11	146.90	Not in airtight containers or watertight containers	do.
		[Dried; in brine; frozen]	
82-12	146.99	Otherwise prepared or preserved	do.
		Figs, fresh, or prepared or preserved:	
		[Fresh or in brine]	
		Dried:	
82-13	147.51	In immediate containers weighing with their contents over 1 pound each	Government of Turkey
82-14	147.53	Other	do.
82-15	147.54	Otherwise prepared or preserved	do.
		Grapes, fresh, or prepared or preserved:	
		Fresh (in bulk, or in crates, barrels or other packages):	
		Other than hothouse:	
82-16	147.61	If entered during the period from February 15 to March 31, inclusive, in any year	Andean Group 2/, Government of Colombia
		[If entered during the period from April 1 to June 30, inclusive, in any year]	

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

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Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences (con.)			
		Grapes, fresh, or prepared or preserved (con.): Fresh (in bulk, or in crates, etc.) (con.): Other than hothouse (con.):	
82-17	147.64	If entered at any other time	Andean Group 2/, Government of Colombia
		Olives, fresh, or prepared or preserved: In brine, whether or not pitted or stuffed: Not ripe and not pitted or stuffed: [Not green in color and not packed in airtight containers of glass, metal, or glass and metal]	
82-18	148.44	Other	Shan Olives, Ltd. (Hazayith), Israel, Government of Morocco
		Pears, fresh, or prepared or preserved: Fresh or in brine:	
82-19	148.81	If entered during the period from April 1 to June 30, inclusive, in any year	Government of Chile, Government of Uruguay
		Plums, prunes, and prunelles, fresh, or prepared or preserved: Fresh:	
82-20	149.18	If entered during the period from January 1 to May 31, inclusive in any year	Government of Chile
82-21	149.28	[In brine; dried] Otherwise prepared or preserved	do.
		Fruit pastes and fruit pulps: [Apricot; cashew apple, mamey colorado, sapodilla, soursop and sweet sop]	
82-22	152.50	Fig	Government of Turkey
		[Guava; mango; tamarind; orange; papaya; banana and plantain; pear]	
		Other:	
82-23	152.8140pt.	Quince and apple	Government of Uruguay

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).
2/ Petitions submitted on behalf of five member countries--Bolivia, Colombia, Ecuador, Peru, and Venezuela.

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Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
A.	Petitions to add products to the list of eligible articles for the Generalized System of Preferences (con.)		
		All jellies, jams, marmalades, and fruit butters:	
82-24	153.06pt.	Mulberry	Government of Honduras
82-25	153.20	Papaya	Andean Group 2/, Government of Honduras
		Basil:	
		[Crude or not manufactured]	
82-26	161.05	Other	Government of Egypt
		Hops, hop extract, and lupulin:	
82-27	192.25	Hops	Hmezad Export-Import and Koprodukt Novi Sad, Yugoslavia
		Wool:	
		Aleppo, Arabian, Bagdad, Black Spanish, Chinese, Cordova, Cyprus, Donskoi, East Indian, Ecuadorean, Egyptian, Georgian, Haslock, Iceland, Kerry, Manchurian, Mongolian, Oporto, Persian, Pyrenean, Sardinian, Scotch Blackface, Sistan, Smyrna, Sudan, Syrian, Thibetan, Turkestan, Valparaiso, and Welsh Mountain Wool; similar wool not improved by the admixture of merino or English blood; and other wool of whatever blood or origin not finer than 40s; all the foregoing:	
		In the grease or washed:	
82-28	306.11	Not sorted	Government of Chile
		Waste of wool or hair and advanced waste of wool or hair:	
		Noils, whether or not advanced:	
82-29	307.08	Advanced	Government of Egypt
		Belting and belts, for machinery, of textile fibers or of such fibers and rubber or plastics:	
		[V-belts]	
		Other:	
		Of vegetable fibers, or of such fibers and rubber or plastics:	
82-30	358.06	In part of rubber or plastics	Andean Group 2/, Government of Colombia
82-31	358.14	Of man-made fibers	Andean Group 2/, Government of Colombia
		Floor covering underlays:	
		[Over 50 percent by weight of wool]	
82-32	361.85	Other	Government of Egypt

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).
2/ Petitions submitted on behalf of five member countries--Bolivia, Colombia, Ecuador, Peru, and Venezuela.

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Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences (con.)			
		Articles not specially provided for, of textile materials:	
		[Lace or net articles, whether or not ornamented, and other articles ornamented]	
		Other articles not ornamented:	
		Of man-made fibers:	
		[Knit (except pile or tufted construction)]	
		Pile or tufted construction:	
82-33	389.50pt.	Fasteners consisting of two mating knit or woven textile strips	Government of Uruguay
		Other:	
		[Artificial flowers]	
		Other:	
82-34	389.6265pt.	Fasteners consisting of two mating knit or woven textile strips	do.
		Cyclic organic chemical products in any physical form having a benzenoid, quinoid, or modified benzenoid structure, not provided for in subpart A or C of part 1 of schedule 4 of the Tariff Schedules of the United States:	
		[Articles provided for in items 402.00 thru 403.32]	
		Other:	
		Alcohols, phenols, ethers (including epoxides and acetals), aldehydes, ketones, alcohol peroxides, ether peroxides, ketone peroxides, and their derivatives:	
82-35	403.28pt.	α-Naphthols	Makteshim Chemical Works Ltd., Israel
		Carboxylic acids, anhydrides, halides, acyl peroxides, peroxyacids, and their derivatives:	
		Other:	
		Carboxylic acids with alcohol, phenol, aldehyde, or ketone function and other single or complex oxygen-function carboxylic acids and their anhydrides, halides, peroxides, and peracids, and their halogenated, sulfonated, nitrated, or nitrosated derivatives:	
82-36	404.44pt.	p-Hydroxybenzoic acid	Makteshim Chemical Works Ltd., Israel

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

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Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
A.		Petitions to add products to the list of eligible articles for the Generalized System of Preferences (con.)	
		Cyclic organic chemical products, etc. (con.): Other (con.): Carboxylic acids, anhydrides, etc. (con.): Other (con.): Carboxylic acids with alcohol, phenol, etc. (con.):	
82-37	404.46pt.	Methylparaben; and propylparaben	Makteshim Chemical Works Ltd., Israel
		Amides and their derivatives: Other:	
82-38	405.32pt.	N-Acetylsulfanilyl chloride	Government of Korea
		All other products, by whatever name known, not provided for in subpart A or C of part 1, schedule 4 of the Tariff Schedules of the United States including acyclic organic chemical products, which are obtained, derived, or manufactured in whole or in part from any of the cyclic products having a benzenoid, quinoid, or modified benzenoid structure provided for in the foregoing provisions of subpart B or in subpart A of part 1 of schedule 4 of the Tariff Schedules of the United States:	
82-39	406.81	Cyclohexane	Andean Group 2/
		Products suitable for medicinal use, and drugs: Obtained, derived, or manufactured in whole or in part from any product provided for in subpart A or B of part 1 of schedule 4 of the Tariff Schedules of the United States: Drugs:	
82-40	411.24	Sulfamethazine	Pliva of Zagreb, Yugoslavia
82-41	411.28pt.	Sulfamerazine	do.
		Other: Anti-infective agents: Anti-infective sulfonamides:	
82-42	411.80	Sulfathiazole and sulfathiazole, sodium	do.
		Other:	
82-43	411.84pt.	Sulfadimidine, sodium; sulfamethoxazole; and sulfisoxazole	do.

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).
2/ Petitions submitted on behalf of five member countries--Bolivia, Colombia, Ecuador, Peru, and Venezuela.

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Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences (con.)			
		Products suitable for medicinal use, etc. (con.): Obtained, derived, or manufactured in whole or in part, etc. (con.): Drugs (con.): Other (con.): Anti-infective agents (con.): Anti-infective sulfonamides (con.): Other (con.):	
82-44	411.84pt.	Sodium sulfacetamide; sulfanilamide; sulfaguniоxaline; and tolbutamide	Government of Romania
		Anti-infective agents, not specially provided for: Other:	
82-45	411.94pt.	Mandelic acid	Conray Chemicals, New York, NY
		Other:	
82-46	412.68pt.	Hydrochlorothiazide	Pliva of Zagreb, Yugoslavia
		Alcohols, polyhydric (including glycols, polyglycols, diols, and polyols), and esters, ethers, and ether-esters and substituted derivatives of any of the foregoing: Glycerine:	
82-47	428.38	Refined	Andean Group 2/, Government of Colombia
		Articles chiefly used in the household or elsewhere for preparing, serving, or storing food or beverages, or food or beverage ingredients; smokers' articles, household articles, and art and ornamental articles, all the foregoing not specially provided for: [Glassware provided for in items 546.11 thru 546.25] Glassware, other than the foregoing, colored prior to solidification, and characterized by random distribution of numerous bubbles, seeds, or stones, throughout the mass of the glass:	
82-48	546.3540pt.	Hand-blown votives	Glass Products, Inc., Dallas, TX

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).
2/ Petitions submitted on behalf of five member countries--Bolivia, Colombia, Ecuador, Peru, and Venezuela.

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Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
A.		Petitions to add products to the list of eligible articles for the Generalized System of Preferences (con.)	
		Articles chiefly used in the household, etc. (con.): [Glassware, other than the foregoing, pressed and toughened (specially tempered), chiefly used for preparing, serving, or storing food or beverages, or food or beverage ingredients]	
		Other glassware:	
		Other:	
		Valued over $0.30 but not over $3 each:	
82-49	546.6060pt.	Hand-blown votives	Glass Products, Inc., Dallas, TX
		Locks and padlocks (whether key, combination, or electrically operated), luggage frames incorporating locks, all the foregoing, and parts thereof, of base metal; lock keys:	
		Padlocks:	
		Not of cylinder or pin tumbler construction:	
82-50	646.80	Not over 1.5 inches in width	Government of India
		Of cylinder or pin tumbler construction:	
82-51	646.83	Not over 1.5 inches in width	do.
82-52	646.84	Over 1.5 but not over 2.5 inches in width	do.
		Electrical capacitors, fixed or variable:	
		Fixed capacitors:	
		Ceramic:	
		Multilayer:	
82-53	685.8013	Axial leads	AVX Ceramics, Myrtle Beach, SC
82-54	685.8016	Radial leads	do.
82-55	685.8017	Chips	do.
		Other footwear:	
		[Of wood]	
		Other:	
82-56	700.90	Disposable footwear, designed for one-time use	Government of Haiti
		Gloves of rubber or plastics:	
		[Seamless]	
		[With textile fabric fourchettes or sidewalls; or with the outer surface thereof (except as to applied cuffs, if any) wholly of plastics, and the seams of which are heat sealed and not sewn or stitched]	
82-57	705.86	Other	Government of Thailand

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

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Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
		B. Petitions to remove products from the list of eligible articles for the Generalized System of Tariff Preferences.	
		Mixtures in whole or in part of any of the products provided for in subpart B of part 1 of schedule 4 of the Tariff Schedules of the United States: [Solvents which contain over 25 percent by weight of any of the products provided for in this subpart]	
		Other:	
82-58	407.16pt.	Mixtures of Toluene-2,4-diisocyanate and Toluene-2,6-diisocyanate	Ad Hoc Group of Domestic TDI Producers, New York, NY
		Copper compounds:	
82-59	418.78pt.	Hydroxide	Kocide Chemical Corporation, Houston, TX
		Nitrogenous compounds:	
82-60	425.22pt.	1,1'-Azobisformamide	Uniroyal Chemical, Naugatuck, CT
		Bolts, nuts, studs and studding, screws, and washers (including bolts and their nuts imported in the same shipment, and assembled bolts or screws and washers, with or without nuts); screw eyes, screw hooks and screw rings; turnbuckles; all the foregoing not described in the foregoing provisions of subpart D of part 3 of schedule 6 of the Tariff Schedules of the United States, of base metal:	
		Of iron or steel:	
82-61	646.54	Bolts and bolts and their nuts imported in the same shipment	United States Fastener Manufacturing Group, Washington, DC
82-62	646.56	Nuts	do.

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

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Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
	C. Petitions to remove duty-free status from a beneficiary developing country for a product on the list of eligible articles for the Generalized System of Preferences.2/		
82-63	167.05 (Mexico)	Ale, porter, stout, and beer	United States Brewers Association, Inc., Washington, DC
		Plywood, whether or not face finished: Not face finished, or face finished with a clear or transparent material which does not obscure the grain, texture, or markings of the face ply:	
82-64	240.14 (Taiwan)	With a face ply of birch (Betula spp.)	Patat Plywood Corporation, Rockmart, GA
		Polysaccharides, rare saccharides, and their polyhydric alcohols: [Lactose; levulose; salicine] Other:	
82-65	493.6820 (Republic of Korea, Mexico)	Sorbitol	Pfizer, Inc., New York, NY
		Vises and clamps (except parts of, or accessories for, machine tools): Vises: [Pipe; woodworking]	
82-66	649.3716 (Taiwan)	Other	Wilton Corporation, Des Plaines, IL
		Articles not specially provided for of a type used for household, table, or kitchen use; toilet and sanitary wares; all the foregoing and parts thereof, of metal: Articles, wares, and parts, of base metal, not coated or plated with precious metal: Of copper: [Of brass] Other:	
82-67	654.0525 (Republic of Korea, Portugal, Taiwan)	Cooking and kitchen ware	American Trading and Production Company, Baltimore, MD

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).
2/ The country or countries named are those beneficiary developing countries specified by the petitioner. While the Trade Policy Staff Committee's (TPSC) review will focus on those countries, the TPSC reserves the right to address removal of GSP status for countries other than those specified by the petitioner.

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Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
		C. Petitions to remove duty-free status from a beneficiary developing country for a product on the list of eligible articles for the Generalized System of Preferences (con)2/	
		Generators, motors, motor-generators, converters (rotary or static), transformers, rectifiers and rectifying apparatus, and inductors; all the foregoing which are electrical goods, and parts thereof;	
		Transformers:	
		Rated at less than 1 kva:	
82-68	682.0520 (Hong Kong)	Rated at less than 40 va	France, Fairview, TN
		Bombs, grenades, torpedoes, mines, guided weapons and missiles and similar munitions of war, and parts thereof; ammunition, and parts thereof:	
		Cartridges and empty cartridge shells:	
		Containing a projectile:	
		For rifles or pistols:	
		[.22 caliber]	
82-69	730.9035 (Republic of Korea)	Other	Sporting Arms and Ammunition Manufacturers Institute, Washington, DC
		Tires, and tubes for tires, of rubber or plastics:	
		Tubes:	
		[Bicycle; designed for tires provided for in item 772.50]	
82-70	772.60 (Republic of Korea)	Other	Rubber Manufacturers Association, Washington, DC United Rubber, Cork, Linoleum and Plastic Workers of America, East Gadsden, AL

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).
2/ The country or countries named are those beneficiary developing countries specified by the petitioner. While the Trade Policy Staff Committee's (TPSC) review will focus on those countries, the TPSC reserves the right to address removal of GSP status for countries other than those specified by the petitioner.

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Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
	D. Petitions to determine an eligible article as not like or directly competitive with any article produced in the United States on January 3, 1975, in order to avoid loss of GSP duty-free treatment under the provisions of section 504(c)(1)(B) of the Trade Act of 1974.		
		Other spirits, and preparations in chief value of distilled spirits, fit for use as beverages or for beverage purposes:	
		Spirits:	
82-71	169.46pt.	Mescal, in containers each holding not over 1 gallon	Barton Brands, Ltd., Chicago, IL Capital Importers, Los Angeles, CA, Government of Mexico
		Furniture, and parts thereof, not specially provided for:	
		Of unspun fibrous vegetable materials:	
82-72	727.12pt.	Of buri	Government of the Philippines

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

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BILLING CODE 3190-01-C

PENSION BENEFIT GUARANTY CORPORATION

Exemption From Bond Escrow and Sale-Contract Requirements Relating to Sale of Assets by an Employer; Philadelphia National League Club and the Phillies

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of exemption.

SUMMARY: The Pension Benefit Guaranty Corporation has granted the Philadelphia National League Club and The Phillies an exemption from the bond/escrow and sale-contract requirements of section 4204(a)(1)(B) and (C) of the Employee Retirement Income Security Act of 1974, as amended. A notice of the request for exemption from these requirements was published on February 26, 1982 (47 FR 8440). The effect of this notice is to advise the public of the decision on the exemption request.

ADDRESS: The request for an exemption and the PBGC response to the request are available for public inspection at the PBGC Public Affairs Office, Suite 7100, 2020 K Street, NW., Washington, D.C. 20006, between the hours of 9:00 a.m. and 4:00 p.m. A copy of these documents may be obtained by mail from the PBGC Disclosure Officer (160) at the above address.

FOR FURTHER INFORMATION CONTACT: James M. Graham, Office of the Executive Director, Policy and Planning (140), 2020 K Street, NW., Washington, D.C. 20006; (202) 254–4862.

SUPPLEMENTARY INFORMATION:

Background

Section 4204(a)(1) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), 29 U.S.C. 1384, provides that the sale of assets of an employer that contributes to a multiemployer pension plan will not constitute a complete or partial withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser post a bond or deposit money in escrow for five plan years after the sale. Another condition is that the sales agreement provide that the seller will be secondarily liable for its withdrawal liability if the purchaser withdraw as within the first five plan years after the sale and fails to pay withdrawal liability.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant individual or class variances or exemptions from the purchaser's bond/escrow and sale-contract requirements of section 4204(a)(1)(B) and (C). Under § 2643.3(a) of the PBGC's regulation on procedures for variances for sales of assets (46 FR 46127, September 17, 1981), the PBGC shall approve a request for a variance or exemption if it determines that approval of the request is warranted, in that it—

(1) Would more effectively or equitably carry out the purposes of Title IV of the Act; and

(2) Would not significantly increase the risk of financial loss to the plan.

The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions.

Section 4204(c) and § 2643.3(b) of the regulation require the PBGC to publish a notice of the pendency of a request for a variance or an exemption in the **Federal Register**, and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

Decision

On February 26, 1982 (47 FR 8440), the PBGC published a notice of the pendency of a joint request from the seller, the Philadelphia National League Club (the "Club") and the purchaser, The Phillies ("Phillies"), a limited partnership, (collectively referred to as the "Parties") for an exemption from the requirements of section 4204(a)(1)(B) and (C) of ERISA. No comments were received in response to the notice.

The Club was a participating employer in the Major League Baseball Players Benefit Plan (the "Plan"), which is established and maintained pursuant to a collective bargaining agreement between the 26 professional major league baseball teams and the Major League Baseball Players Association.

The major league clubs have established the Major League's Central Fund (the "Central Fund") pursuant to the "Major League Agreement in re Major League's Central Fund." Under this Agreement, the revenues to fund the Plan for all participating employers are received by the Office of the Commissioner of Baseball and are then remitted on behalf of the clubs in satisfaction of their pension liability arising under the Plan's funding agreement. In addition, other expenditures on behalf of all 26 clubs are made from the Central Fund. The monies in the Fund are derived directly from gate receipts from All-Star games and radio and television rights to certain other events.

The major league clubs are currently obligated to contribute the sum of $15,500,000 per year to cover both pension and welfare benefits; approximately $13 million of which is remitted to the pension plan for the current plan year. Each major league club is responsible for 1/26 of that amount. In 1980, the Central Fund paid $500,000 as pension contributions to the Plan on behalf of the Club.

Payment of employer contributions is made directly to the Plan from the Central Fund and the revenue of the Fund comes directly from certain gate receipts and radio and television rights. A change in team ownership has no direct effect on the Plan's funding and does not create any risk to the plan that there will be difficulty in collecting Plan contributions.

Based on the facts of this case and the representations and statements made in connection with the request for exemption, PBGC has determined that an exemption under section 4204(c) would more effectively or equitably carry out the purposes of Title IV of ERISA and would not significantly increase the risk of financial loss to the plan. Therefore, PBGC has granted the Parties' request for an exemption from the bond/escrow and sale-contract requirements. The granting of an exemption or variance from the requirements of section 4204(a)(1) (B) and (C) does not constitute a finding by PBGC that the transaction satisfies the other requirements of section 4204(a)(1). The determination of whether the transaction satisfies such other requirements is a determination to be made by the plan sponsor.

Issued at Washington, D.C. on this 1st day of July 1982.

Edwin M. Jones,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 82-19267 Filed 7-15-82; 8:45 am]

BILLING CODE 7708-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 03/02-0273]

Inverness Capital Corp.; Filing of Application for Transfer of Control and Ownership of Licensed Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.701 of the Regulations governing small business investment companies (13 CFR 107.701 (1982)) for the transfer of control and ownership of Inverness

Capital Corporation, 424 N. Washington Street, Alexandria, Virginia 22314.

Inverness was licensed on October 1, 1969. Its present combined paid-in capital and paid-in surplus (private capital) is $1,364,778. The proposed transfer of control and ownership is subject to and contingent upon approval by SBA.

Old Port Company, which is located at the same address as Inverness, owns about 80 percent of the licensee and is the only ten or more percent shareholder. The name of the licensee will remain the same. Inverness will be moved to Tennessee and be located at Suite 1205, 210 25th Avenue, North, Nashville, Tennessee 37203.

The proposed officers, directors and stockholders are:

Floyd W. Kephart, Jr., 640 Timber Lane, Nashville, Tenn. 37215—President, Director

Ronald H. Bice, Jr., 4004 Lake Parkway, Hermitage, Tenn. 37076—Treasurer, Secretary.

Joaquin de Navasques, 210 25th Avenue, North, Nashville, Tenn. 37203—Director

Ms. Kirsten P. Murchison, 3857 So. Versailles, Dallas, Texas 75209—Director

Capital Communications and Management Corporation, 210 25th Avenue, North, Nashville, Tenn. 37203—100 percent

Capital Communications and Management Corporation is a holding company formed to purchase the stock of Inverness from Old Port and the other less than ten percent shareholders. Mr. Navasques owns all of the stock of Capital Communications and Management Corporation.

Matters involved in SBA's consideration of the application include the general business reputation and character of the new owner and the probability of successful operation of Inverness under the new control and ownership arrangement (including adequate profitability and financial soundness) in accordance with the Act and Regulations.

Notice is hereby given that any interested persons may, not later than August 2, 1982, submit to SBA, in writing, any relevant comments on the transfer of control and ownership. Any such comments should be addressed to the Associate Administrator for Finance & Investment, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this Notice shall be published by the transferee in newspapers of general circulation in Nashville, Tennessee and Alexandria, Virginia.

(Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies)

Dated: July 12, 1982.

Edwin T. Holloway,

Associate Administrator for Finance and Investment.

[FR Doc. 82-19316 Filed 7-15-82; 8:45 am]

BILLING CODE 8025-01-M

[License No. 03/03-0146]

James River Capital Associates; Filing of an Application for Approval of a Conflict of Interest Transaction

Notice is hereby given that James River Capital Associates (Licensee) 9 South 12th Street, Richmond, Virginia 23219, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act), has filed an application pursuant to Section 107.1004 of the Regulations governing small business investment companies (13 CFR 107.1004 (1982)) for an exemption from the provisions of the conflict of interest regulation.

This exemption, if granted will permit the Licensee to provide financing of $170,000 to La Vogue Holdings, Inc. (La Vogue), 451 East Belt Boulevard, Richmond, Virginia 23224.

Mr. James B. Farinbolt, Jr., President of the Licensee, is also a director and 43.5 percent shareholder of La Vogue.

Pursuant to Paragraph (f) of the definition of "Associate of a Licensee" in § 107.3 of the SBA Regulations, La Vogue is considered to be an associate of the Licensee. As such, the transaction will require an exemption from the provisions of § 107.1004(b)(1) of the Regulations.

Notice is hereby given that any person may, no later than August 2, 1982, sumbit to the Small Business Administration, in writing, relevant comments on the proposed transaction. Any such communications should be addressed to the Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in Richmond, Virginia.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 12, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-19315 Filed 7-15-82; 8:45 am]

BILLING CODE 8025-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 137
Friday, July 16, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10 a.m., July 20, 1982.

PLACE: 2033 K Street, NW., Washington, D.C., fifth floor hearing room.

STATUS: Partially open and closed.

MATTERS TO BE CONSIDERED: Budget Categories, Plans, Programs and Priorities.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1050-82 Filed 7-14-82; 3:40 pm]

BILLING CODE 6351-01-M

2

FEDERAL HOME LOAN BANK BOARD

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 30351, Tuesday, July 13, 1982.

DATE: Thursday, July 15, 1982.

PLACE: Board room, fifth floor, 1700 G Street NW., Washington, D.C.

TIME: 10:00 a.m.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6679).

CHANGES IN THE MEETING: The following item has been withdrawn from the open portion of the Bank Board meeting scheduled Thursday, July 15, 1982:

Liquidity Amendments
[No. 50, July 14, 1982]

[S-1044-82 Filed 7-14-82; 11:44 am]

BILLING CODE 6720-01-M

3

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., July 21, 1982.

PLACE: Hearing Room One, 1100 L Street, NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Report on Notation Items disposed of during June 1982.
2. Report of the Secretary on times shortened for submitting comments on section 15 agreements pursuant to delegated authority during June 1982.
3. Report of the Secretary on Applications for Admission to Practice approved during June 1982, pursuant to delegated authority.
4. Agreement No. 5600-34: Modification of the Marseilles North Atlantic U.S.A. Freight Conference to revise voting requirements on intermodal rate matters.
5. Special Docket No. 919: Application of Pacific Westbound Conference on Behalf of Korea Marine Transport Co., Ltd. for the Benefit of Mitsui and Company (USA) Inc.—Consideration of the record.

Portions closed to the public:

1. Docket No. 79-2: Agreement No. 10293 and Docket No. 79-3: Agreement No. 10295—Appeal of denial of petition to intervene of the Government of Colombia.
2. Docket No. 81-57: Tractors & Farm Equipment Ltd. v. Waterman Steamship Corp. and Cosmos Shipping Company, Ltd.—Consideration of the record.
3. Docket No. 81-10: Sea-Land Service, Inc., Trailer Marine Transport Corporation; Gulf-Caribbean Marine Lines, Inc., Puerto Rico Maritime Shipping Authority—Proposed General Rate Increases in the Puerto Rico and Virgin Islands Trades—Consideration of petition of PRMSA for relief; motion of PRMSA to file reply; request of PRMSA for oral argument; and petition of Department of Transportation to intervene.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523-5725.

[S-1041-82 Filed 7-13-82; 4:45 pm]

BILLING CODE 6730-01-M

4

INTERNATIONAL TRADE COMMISSION

[USITC SE-82-27]

TIME AND DATE: 2:30 p.m., Tuesday, July 27, 1982.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary:
a. Textile spinning frames (Docket No. 849).
b. Panel inserts (Inv. 377-TA-99)—possible institution of a second investigation.
5. Investigations 701-TA-179/181 (Certain Steel Products from Brazil)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

[S-1040-82 Filed 7-13-82; 4:14 pm]

BILLING CODE 7020-02-M

5

POSTAL RATE COMMISSION

TIME AND DATE: 2 p.m., Tuesday, July 20, 1982.

PLACE: Conference Room, Room 500, 2000 L Street, NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: [Closed pursuant to 5 U.S.C. 552b(c)(10)]:

Warshawsky and Company v. Postal Rate Commission and Board of Governors, USPS [Suit filed 3-26-82 in United States District Court for the Northern District of Illinous—Docket No. 82C1895.)

CONTACT PERSON FOR MORE INFORMATION: Dennis Watson, Information Officer, Postal Rate Commission, Room 500, 2000 L Street, NW., Washington, D.C. 20268, Telephone (202) 254-5614.

[S-1049-82 Filed 7-14-82; 3:16 pm]

BILLING CODE 7715-01-M

6

POSTAL SERVICE

.(Board of Governors)

Vote to Close Meeting

On July 6, 1982, the Board of Governors of the United States Postal Service unanimously voted to close to public observation a portion of the meeting of the Board to be held on September 9. The meeting is expected to be attended by the following persons: Governors Hardesty, Babcock, Camp, Hughes, Jenkins, McKean, and Sullivan; Postmaster General Bolger; Deputy Postmaster General Benson; Secretary of the Board Cox; Counsel to the Governors Califano; Assistant Postmaster General Cummings; and

Executive Assistant to the Postmaster General Coughlin.

The portion of the Board meeting to be closed will consist of a discussion of Postal Service strategic planning.

The Board is of the opinion that public access to this discussion would be likely to disclose information in connection with future collective bargaining and information that will become involved in future rate litigation.

Accordingly, the Board of Governors has determined that, pursuant to section 552b(c)(3) of title 5, United States Code, and § 7.3(c) of Title 39, Code of Federal Regulations, this portion of the meeting is exempt from the opening meeting requirement of the Government in the Sunshine Act (5 U.S.C. 552(b)), because it is likely to disclose information in connection with proceedings under chapter 36 of Title 39 (having to do with postal ratemaking, mail classification, and changes in postal services), which is specifically exempted from disclosure by section 410(c)(4) of title 39, United States Code. The Board determined further that, pursuant to section 552b(c)(10) of title 5 and § 7.3(j) of Title 39, Code of Federal Regulations, the discussion is exempt because it is likely to specifically concern the participation of the Postal Service in a civil action or proceeding or the litigation of a particular case involving a determination on the record after opportunity for a hearing. It also determined, pursuant to section 552b(c)(9)(B) and § 7.3(i) of Title 39, Code of Federal Regulations, that the discussion is exempt because premature disclosure of information to be discussed would be likely significantly to frustrate implementation of future action in regard to future collective bargaining. The Board further determined that the public interest does not require that the Board's discussion of this matter be open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, and § 7.6(a) of Title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the portion of the meeting to be closed may properly be closed to public observation, pursuant to sections 552b(c)(3), (9)(B) and (10) of title 5 and sections 410(c)(3) and (4) of Title 39, United States Code, and § 7.3(c), (i), and (j) of Title 39, Code of Federal Regulations.

Louis A. Cox,

Secretary.

[S–1043–82 Filed 7–14–82; 10:12 am]

BILLING CODE 7710–12–M

federal register

Friday
July 16, 1982

Part II

Department of Health and Human Services

Food and Drug Administration

Anesthesiology Devices; General Provisions and Classification of 134 Devices

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 868

[Docket No. 78N-1648]

Anesthesiology Devices; General Provisions and Classification of 134 Devices

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule regarding general provisions applicable to the classification of anesthesiology devices. The final rule also includes the classification of 134 of these devices. The preamble to this rule responds to comments received on the proposals regarding classification of anesthesiology devices. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: August 16, 1982.

FOR FURTHER INFORMATION CONTACT: David S. Shindell, Bureau of Medical Devices (HFK-430), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 2, 1979 (44 FR 63292-63426), FDA published proposed regulations containing general provisions applicable to the classification of anesthesiology devices and individual proposed regulations to classify 149 anesthesiology devices into one or more of three regulatory classes: class I (general controls), class II (performance standards), and class III (premarket approval). Of the 149 anesthesiology devices subject to proposals, FDA is classifying 134; 21 devices into class I, 105 devices into class II, 7 devices into class III, and 1 device into either class II or class III, depending upon the intended use of the device. For the reasons described below, final regulations for 15 anesthesiology devices will not be published at this time.

Classification of medical devices in commercial distribution is required by the Medical Devices Amendments of 1976 (Pub. L. 94-295) (the amendments) to the Federal Food, Drug, and Comestic Act (the act) (21 U.S.C. 301-392). The effect of classifying a device into class I is to require that the device continue to meet only the general controls applicable to all devices. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. For a class III device not considered a new drug before the amendments and that either was in commercial distribution before May 28, 1976, or in substantially equivalent on or before February 28, 1985, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. For a class III device previously considered a new drug, the requirement of having premarket approval is already in effect. See section 520(1) of the act (21 U.S.C. 360j(1)).

The preamble to the general provisions regulation described the development of the general provisions and the proposed regulations classifying anesthesiology devices and the activities of the Anesthesiology Device Section of the Respiratory and Nervous System Devices Panel (formerly the Anesthesiology Device Classification Panel), and FDA advisory committee that makes recommendations to FDA concerning the classification of anesthesiology devices. FDA provided a period of 60 days for interested persons to submit written comments on these proposals. The comments received and FDA's responses to comments are discussed below.

Change in Format of Final Rules for Classification of Devices

To reduce printing costs, FDA is publishing as one final regulation the general provisions and classification of 134 anesthesiology devices. Formerly, a separate final classification regulation was published in the Federal Register for each generic type of device. The docket number used to identify each of the proposed classification regulations continues to be used in this final regulation to identify each generic type of device.

Exemptions for Class I Devices

FDA proposed to exempt 11 anesthesiology devices from certain requirements of the good manufacturing practice (GMP) regulation in Part 820 (21 CFR Part 820). The 11 devices are the manual algesimeter (Docket No. 78N-1649), the uncalibrated breathing system collection bottle (Docket No. 78N-1665), the stethoscope head (Docket No. 78N-1690), the switching valve (Ploss) (Docket No. 78N-1691), the blow bottle (Docket No. 78N-1726), the posture chair for cardiac and pulmonary treatment (Docket No. 78N-1738), the ether hook (Docket No. 78N-1743), the rebreathing device (Docket No. 78N-1767), the cuff spreader (Docket No. 78N-1775), the cardiopulmonary emergency cart (Docket No. 78N-1798), and the nose clip (Docket No. 78N-1799). The agency is publishing in this final rule the classification of 10 of these 11 devices; the final rule for 1 device (Docket No. 78N-1665) was published with the final rule classifying general hospital and personal use devices (Docket No. 78N-1357). The final rule for each of these devices exempts the device from all of the GMP requirements with the exception of §§ 820.180 and 820.198 relating to records and complaint files. The agency has determined that exemption of devices from §§ 820.180 and 820.198 of the GMP regulation would not be in the public interest. Moreover, compliance with these sections is not unduly burdensome for device manufacturers. The complaint file requirements of § 820.198 ensure that device manufacturers have adequate systems for complaint investigation and followup. The general requirements concerning records in § 820.180 ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, can determine whether the manufacturer's corrective actions are adequate, and can determine whether an exemption from other sections of the GMP regulation, if one has been granted, is still appropriate.

FDA has prepared guidelines on the procedures that should be followed by persons who wish to submit petitions for exemption or variance from the device GMP regulation. These petitions may be submitted in accordance with provisions of section 520(f)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(f)(2)). The agency announced the availability of the guidelines in a notice published in the Federal Register of Friday, January 11, 1980 (45 FR 3671).

Devices That Have Both Medical and Nonmedical Uses

FDA has clarified several regulations classifying products that have both medical and nonmedical uses. FDA will regulate a multipurpose product as a medical device if it is intended for a medical purpose, i.e., for "use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease," or "to affect the structure or any function of the body." (Section 201(h) of the act (21 U.S.C. 321(h)).) FDA will determine the intended use of a product based upon the expressions of the person legally

responsible for its labeling and by the circumstances surrounding its distribution. The most important factors the agency will consider in determining the intended use of a particular product are the labeling, advertising, and other representations accompanying the product. Products that have medical uses only are clearly intended for medical purposes and, therefore, will be regulated as medical devices whether or not medical claims are made for them.

Relationship Between the Device Names in the Device Registration and Listing Codes and the Device Names in Classification Regulations

Some manufacturers have become accustomed to identifying a device by its registration and listing name and three-letter code used for purposes of device listing under section 510 of the act (21 U.S.C. 360). However, FDA is still making changes in the names and identifications of generic types of devices in the classification regulations for all devices for which final regulations have not been published. Because FDA has not used the present device registration and listing names in the proposed and final classification regulations, FDA has prepared an index of names of generic types of medical devices used in classification regulations to aid a manufacturer in matching its device with the proper classification regulation. The index shows the device registration and listing product code for each device reviewed by a classification panel and the corresponding name of the generic type of device and classification panel in which the device classification will be published in the **Federal Register**. The agency announced the availability of this index in the **Federal Register** of March 6, 1979 (44 FR 12269). If necessary, this index will be updated and the availability of the revised index will be reannounced in the **Federal Register**. FDA believes that, because this index is available, it is unnecessary to include or cross-reference the present device registration and listing name and product code in the classification regulations. In the future, following publication of most of the device classification regulations, the agency will revise and reissue the device registration and listing product code, so the device names to be used for registration and listing correspond to the device names in the final device classification regulations.

Final Regulations Not Published at This Time

The Anesthesiology Device Section of the Respiratory and Nervous System Devices Panel made recommendations for, and FDA proposed classification of, 149 anesthesiology devices. After publishing the proposals, the agency determined not to publish at this time final regulations on 15 devices, for the reasons described below. A separate notice withdrawing these proposed regulations will be, or has been, published in the **Federal Register**.

1. FDA proposed that the nonindwelling blood carbon monoxide analyzer (44 FR 63303) be classified into class II. After publishing the proposal to classify the device as part of the anesthesiology device classification proceeding, the agency determined that the device is the same generic type of device as the carbon monoxide test system that the Clinical Toxicology Device Section of the Clinical Chemistry and Hematology Devices Panel recommends be classified into class II. The agency has determined that the generic type of device will be the carbon monoxide test system and its classification regulation will be published in the **Federal Register** with clinical chemistry and clinical toxicology devices.

Any comments submitted by the public and other parts of the administrative record for the anesthesiology proposal will be included in the administrative record for the carbon monoxide test system (Docket No. 78N–2503).

2. FDA proposed that the following three devices be classified into class II: the nonindwelling blood carbon dioxide (PCO_2) analyzer (44 FR 63307), the nonindwelling blood hydrogen ion (pH) concentration analyzer (44 FR 63309), and the nonindwelling oxygen partial pressure (PO_2) analyzer (44 FR 63311). After publishing the proposals to classify the three devices as part of the anesthesiology device classification proceeding, the agency determined that the three devices are the same generic type of device as the blood gases (PCO_2, PO_2) and blood pH test system that the Clinical Chemistry Device Section of the Clinical Chemistry and Hematology Devices Panel recommends be classified into class II. The agency has determined that the generic type of device will be the blood gases (PCO_2, PO_2) and blood pH test system, and its classification regulation will be published in the **Federal Register** with clinical chemistry and clinical toxicology devices. Any comments submitted by the public and other parts of the administrative record for the three anesthesiology proposals will be included in the administrative record for the blood gases (PCO_2, PO_2) and blood pH test system (Docket No. 78N–2305).

3. FDA proposed that the nonindwelling blood nitrogen partial pressure (PN_2) analyzer be classified into class II (44 FR 63309). After publishing the proposal as part of the anesthesiology device classification proceeding (Docket No. 78N–1661), the agency determined that the device was not in commercial distribution before May 28, 1976, the enactment date of the amendments. Because the device was not in commercial distribution, it is classified into class III by statute as provided in section 513(f) of the act (21 U.S.C. 360c), without agency publication of a classification regulation for the device.

4. FDA proposed that both the gas cylinder (44 FR 63421) and the gas cylinder holder (44 FR 63422) be classified into class II. After publishing the two proposals as part of the anesthesiology device classification proceeding, the agency determined that the two products are not medical devices. Thus, it is inappropriate to classify them. When a gas cylinder contains a gas, such as oxygen, that is intended for inhalation, the product is a drug.

5. FDA proposed that the calibrated breathing system collection bottle be classified into class II (44 FR 63312), the uncalibrated breathing system collection bottle be classified into class I (44 FR 63313) and the water-seal thoracic drainage system be classified into class II (44 FR 63371). After publishing the proposals to classify the three devices as part of the anesthesiology device classification proceeding, the agency determined that the three devices are included in another generic type of device, the vacuum-powered body fluid suction apparatus. A final regulation classifying into class II the vacuum-powered body fluid suction apparatus was published in the **Federal Register** of October 21, 1980 (45 FR 69729) with general hospital and personal use devices. Any comments submitted by the public and other parts of the administrative record for the three anesthesiology proposals will be included in the administrative record for the vacuum-powered body fluid suction apparatus (Docket No. 78N–1357).

6. FDA proposed that the automatic catheter flushing device be classified into class II (44 FR 63380). After publishing the proposal to classify the device as part of the anesthesiology device classification proceeding, the agency determined that the device is the same generic type of device as the cardiovascular continuous flush

catheter. On February 5, 1980, the agency published in the Federal Register (45 FR 7910), a final regulation classifying the cardiovascular continuous flush catheter into class II (Docket No. 78N–1414). Therefore, the agency has determined that the anesthesiology automatic catheter flushing device has already been classified into class II, following opportunity for public comment.

7. FDA proposed that the blood transfusion microfilter be classified into class II (44 FR 63406). After publishing the proposal to classify the device as part of the anesthesiology device classification proceeding, the agency determined that the device is included in another generic type of device, the intravascular administration set. FDA published in the Federal Register of August 24, 1979 (44 FR 49888), a proposal to classify the intravascular administration set into class II. A final regulation classifying the intravascular administration set was published in the Federal Register (45 FR 69702) with general hospital and personal use devices. Any comments submitted by the public and other parts of the administrative record for the anesthesiology proposal will be included in the administrative record for the intravasuclar administration set (Docket No. 78N–1309).

8. FDA proposed that both the hyperthermia device (44 FR 63378) and the hypothermia device (44 FR 63379) be classified into class II. After publishing the proposals to classify the two devices as part of the anesthesiology device classification proceeding, the agency determined that the two devices are included in another generic type of device, the cardiovascular thermal regulating system. On February 5, 1980, the agency published in the Federal Register (45 FR 7971) a final regulation classifying the thermal regulating system into class II (Docket No. 78N–1547).

9. FDA proposed that the nonindwelling blood oxyhemoglobin concentration analyzer be classified into class II (44 FR 63305). No comments were received on the proposal. After publishing the proposal to classify the device as part of the anesthesiology device classification proceeding, the agency determined that the device is part of another generic type of device, the whole blood hemoglobin assays. FDA published in the Federal Register of September 11, 1979 (44 FR 53019), a proposal to classify the whole blood hemoglobin assays into class II. A final regulation classifying the whole blood hemoglobin assays into class II was published in the Federal Register (45 FR 60622) with hematology and pathology devices (Docket No. 78N–1896). The administrative record for the anesthesiology proposal will be included in the administrative record for the whole blood hemoglobin assays. Therefore, the agency has determined that the anesthesiology nonindwelling blood oxyhemoglobin concentration anylyzer device has already been classified into class II, following opportunity for public comment.

Cigarette Filters

In the preamble to the proposed regulation setting forth general provisions for the proposed classification of anesthesiology devices, published in the Federal Register of November 2, 1979 (44 FR 63292–63299), FDA stated that the Anesthesiology Device Section of the Respiratory and Nervous System Devices Panel had recommended that attached and detached cigarette filters be classified into class III (premarket approval), that a citizen petition had been filed by Action on Smoking and Health (ASH) concerning cigarette filters, and that FDA was not at that time issuing a proposed classification regulation for cigarette filters. ASH's citizen petition (Docket No. 78P–0338/CP) had requested that FDA recognize jurisdiction over cigarette filters as medical "devices" as defined in section 201(h) of the act (21 U.S.C. 321(h)). On November 25, 1980, FDA issued a letter responding to the petition. FDA concluded that attached cigarette filters, as customarily marketed, are not devices and that some, but not all, detached cigarette filters are devices. FDA is preparing a proposed classification regulation for detached cigarette filters that are medical devices and intends to publish it in a separate notice.

Order Issued in Response to a Reclassification Petition on an Anesthesiology Device

In addition to classifying commercially marketed preamendment devices, FDA also announces its decisions on reclassification petitions for devices first marketed after the enactment date of the amendments. Postamendments devices that are not substantially equivalent to devices marketed before the amendments are classified by statute into class III by action of section 513(f)(1) of the act without FDA rulemaking. In response to a petition received by FDA under section 513(f)(2) of the act and 21 CFR Part 860 of the regulations, FDA may reclassify a new device into class I or class II. The agency has received one such petition concerning an anesthesiology device. FDA is announcing the agency's decision on the petition. FDA also is issuing a final regulation that describes the agency's reclassification of the device that was the subject of the petition.

Petition 77P–0398; § 868.5895, Docket No. 78N–1787; Continuous Ventilator

On October 24, 1977, FDA received petition 77P–0398 under section 513(f) of the act requesting that the agency reclassify the petitioner's "O.H.C. ventilator" from class III to class II. In the Federal Register (43 FR 12379) of March 24, 1978, FDA published the recommendation of the Anesthesiology Device Section of the Respiratory and Nervous System Devices Panel that the device be reclassified from class III to class II. The agency provided a period of 30 days for interested persons to submit written comments on the recommendation. No comments were received. FDA agreed with the panel's recommendation that the device be reclassified. In accordance with section 523(f)(c)(i) of the act and 21 CFR 860.134(b)(6) of the regulations, FDA approved the petition and, by order in the form of a letter dated April 25, 1978 and sent to the petitioner, reclassified the device from class III to class II.

FDA advises that the O.H.C. ventilator reclassified into class II in response to the petition is included in the generic type of device in this final rule identified § 868.5895 Continuous ventilator (Docket No. 78N–1787). Accordingly, FDA announces the agency's decision on reclassification petition 77P–0398 as provided in 21 CFR 860.134(b)(7).

Changes in Classification in Final Regulations

Based on the comments received or upon consideration of additional information, FDA has changed the classifications of several devices in the final regulations from those classifications originally proposed. Changes in classification were made in each of the following regulations with respect to all or some devices subject to the regulation: Cutaneous oxygen monitor (Docket No. 78N–1700), oxygen mask (Docket No. 78N–1757), breathing mouthpiece (Docket No. 78N–1761), and autotransfusion apparatus (Docket No. 78N–1782). FDA does not believe that it is necessary to issue a new proposal concerning these changes. The purpose of publishing a proposal and soliciting comments is to enable the agency to determine whether its proposed classification of a device is correct.

After reviewing the comments submitted on a proposal, the agency may be persuaded that its proposed classification is incorrect. Persons interested in the classification process should therefore anticipate that in a final regulation a device may be placed in a class different from the one originally proposed. This possibility was specifically identified in the proposed general provisions for anesthesiology devices (see 44 FR 63292; November 2, 1979). Persons who disagree with a final classification for a device may petition for reclassification of the device under Subpart C of Part 860 (21 CFR Part 860). Occasionally, FDA has made minor changes in the names or identifications of devices to clarify the final regulation. Additionally, the agency is adding an explanation in § 868.1 that references in Part 868 to other regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21 unless otherwise noted.

Changes in Device Advisory Committee Names

On April 28, 1978, the agency terminated all of the device classification panels, then reestablished them under new names and with a new structure. FDA published notices of these changes in the Federal Register of May 19, 1978 (43 FR 21666, 21667, and 21668) and May 26, 1978 (43 FR 22672 and 22673). The Anesthesiology Device Classification Panel was terminated, and its functions are now conducted by the Anesthesiology Device Section of the Respiratory and Nervous System Devices Panel.

Classification Regulations Published To Date

The following table shows the current structure of the advisory committees involved with the classification of medical devices and a list of all proposed and final classification regulations published to date:

Panel and section name	Publication date in FEDERAL REGISTER
Circulatory Systems Devices Panel.	Mar. 9, 1979, 44 FR 13284–13434 (proposals); Feb. 5, 1980, 45 FR 7904–7971 (final regulations).
Clinical Chemistry and Hematology Devices Panel:	
Clinical chemistry device section.	Feb. 2, 1982; 47 FR 4802–4929 (proposals).
Clinical toxicology device section.	Feb. 2, 1982; 47 FR 4802–4929 (proposals).
Hematology and pathology device section.	Sept. 11, 1979, 44 FR 52950–53063 (proposals); Sept. 12, 1980, 45 FR 60576–60651 (final regulations).
General Medical Devices Panel:	
General hospital and personal use device section.	Aug. 24, 1979, 44 FR 49844–49954 (proposals); Oct. 21, 1980, 45 FR 69678–69737 (final regulations).
Gastroenterology-urology device section.	Jan. 23, 1981, 46 FR 7562–7641 (proposals).
Immunology and Microbiology Devices Panel:	
Immunology device section.	Apr. 22, 1980, 45 FR 27204–27359 (proposals).
Microbiology device section.	Apr. 22, 1980, 45 FR 27204–27359 (proposals).
Obstetrics-Gynecology and Radiologic Devices Panel:	
Obstetrics-gynecology device section.	Apr. 3, 1979, 44 FR 19884–19971 (proposals); Feb. 26, 1980, 45 FR 12682–12720 (final regulations).
Radiology device section.	Jan. 29, 1982, 47 FR 4406–4451 (proposals).
Ophthalmic, Ear, Nose, and Throat, and Dental Devices Panel:	
Ophthalmic device section.	Jan. 26, 1982, 47 FR 3684–3749 (proposals).
Ear, nose, and throat device section.	Jan. 22, 1982, 47 FR 3286–3329 (proposals).
Dental device section.	Dec. 30, 1980, 45 FR 85962–86165 (proposals).
Respiratory and Nervous System Devices Panel:	
Anesthesiology device section.	Nov. 2, 1979, 44 FR 63292–63426 (proposals); July 10, 1982 (final regulations).
Neurological device section.	Nov. 23, 1978, 43 FR 54640–55732 (proposals); Sept. 4, 1979, 44 FR 51726–51778 (final regulations).
Surgical and Rehabilitation Devices Panel:	
Physical medicine device section.	Aug. 28, 1979, 44 FR 50458–50537 (proposals).
Orthopedic device section.	
General and plastic surgery device section.	Jan. 19, 1982, 47 FR 2810–2953 (proposals).

List of Anesthesiology Devices and an Identification of Those Proposed Classification Regulations That Received Public Comment

The following is a list of anesthesiology devices being classified in this final regulation. The list shows the section of the Code of Federal Regulations under which the device classification is being codified, the docket number of the classification regulation, the classification of each device, and an identification (yes or no) of whether public comments were received on the proposed classification regulation. If no comments were received, the classification of the device is being adopted as proposed.

Section	Device	Docket No.	Class	Comments
	Subpart B—Diagnostic Devices			
868.1030	Manual algesimeter	78N–1649	I	Nn.
868.1040	Powered algesimeter	78N–1650	II	No.
868.1075	Argon gas analyzer	78N–1651	II	Yes.
868.1100	Arterial blood sampling kit	78N–1652	II	No.
868.1120	Indwelling blood oxyhemoglobin concentration analyzer	78N–1654	III	No.
868.1150	Indwelling blood carbon dioxide partial pressure (PCO_2) analyzer	78N–1657	III	No.
868.1170	Indwelling blood hydrogen ion concentration (pH) analyzer	78N–1659	III	No.
868.1200	Indwelling blood oxygen partial pressure (PO_2) analyzer	78N–1662	III	No.
868.1400	Carbon dioxide gas analyzer	78N–1666	II	Yes.
868.1430	Carbon monoxide gas analyzer	78N–1667	II	Yes.
868.1500	Enflurane gas analyzer	78N–1668	II	Yes.
868.1575	Gas collection vessel	78N–1669	II	No.
868.1620	Halothane gas analyzer	78N–1670	II	Yes.
868.1640	Helium gas analyzer	78N–1671	II	Yes.
868.1670	Neon gas analyzer	78N–1672	II	Yes.
868.1690	Nitrogen gas analyzer	78N–1673	II	Yes.
868.1700	Nitrous oxide gas analyzer	78N–1674	II	Yes.
868.1720	Oxygen gas analyzer	78N–1675	II	Yes.
868.1730	Oxygen uptake computer	78N–1676	II	No.
868.1750	Pressure plethysmograph	78N–1677	II	No.
868.1760	Volume plethysmograph	78N–1678	II	No.
868.1780	Inspiratory airway pressure meter	78N–1679	II	No.
868.1800	Rhinoanemometer	78N–1680	II	No.
868.1840	Diagnostic spirometer	78N–1681	II	Yes.
868.1850	Monitoring spirometer	78N–1682	II	No.
868.1860	Peak-flow meter for spirometry	78N–1683	II	No.
868.1870	Gas volume calibrator	78N–1684	II	Yes.
868.1880	Pulmonary-function data calculator	78N–1685	II	No.
868.1890	Predictive pulmonary-function value calculator	78N–1686	II	No.
868.1900	Diagnostic pulmonary-function interpretation calculator	78N–1687	II	No.
868.1910	Esophageal stethoscope	78N–1688	I	No.

Section	Device	Docket No.	Class	Comments
868.1920	Esophageal stethoscope with electrical conductors	78N-1689	II	No.
868.1930	Stethoscope head	78N-1690	I	No.
868.1965	Switching valve (piuss)	78N-1691	I	No.
868.1975	Water vapor analyzer	78N-1692	II	Yes.
	Subpart C—Monitoring Devices			
868.2025	Ultrasonic air embolism monitor	78N-1693	II	No.
868.2300	Bourdon gauge flowmeter	78N-1694	II	No.
868.2320	Uncompensated thorpe tube flowmeter	78N-1695	II	No.
868.2340	Compensated thorpe tube flowmeter	78N-1696	II	No.
868.2350	Gas calibration flowmeter	78N-1697	II	Yes.
868.2375	Breathing frequency monitor	78N-1698	II	No.
868.2450	Lung water monitor	78N-1699	III	No.
868.2500	Cutaneous oxygen monitor	78N-1700	II, III	Yes.
868.2550	Pneumotachometer	78N-1702	II	No.
868.2600	Airway pressure monitor	78N-1703	II	No.
868.2610	Gas pressure gauge	78N-1704	II	Yes.
868.2620	Gas pressure calibrator	78N-1705	II	Yes.
868.2700	Pressure regulator	78N-1706	II	Yes.
868.2775	Electrical peripheral nerve stimulator	78N-1707	II	No.
868.2875	Differential pressure transducer	78N-1708	II	Yes.
868.2885	Gas flow transducer	78N-1709	II	Yes.
868.2900	Gas pressure transducer	78N-1710	II	Yes.
	Subparts D-E [Reserved]			
	Subpart F—Therapeutic Devices			
868.5090	Emergency airway needle	78N-1714	II	No.
868.5100	Nasopharyngeal airway	78N-1715	II	Yes.
868.5110	Oropharyngeal airway	78N-1716	II	No.
868.5120	Anesthesia conduction catheter	78N-1717	II	No.
868.5130	Anesthesia conduction filter	78N-1718	II	No.
868.5140	Anesthesia conduction kit	78N-1719	II	No.
868.5150	Anesthesia conduction needle	78N-1720	II	No.
868.5160	Gas machines for anesthesia or analgesia	78N-1721	II	Yes.
868.5170	Laryngotracheal topical anesthesia applicator	78N-1722	II	No.
868.5180	Rocking bed	78N-1723	II	No.
868.5220	Blow bottle	78N-1726	I	No.
868.5240	Anesthesia breathing circuit	78N-1727	II	No.
868.5250	Breathing circuit circulator	78N-1728	II	No.
868.5260	Breathing circuit bacterial filter	78N-1729	II	No.
868.5270	Breathing system heater	78N-1730	II	No.
868.5280	Breathing tube support	78N-1731	I	Yes.
868.5300	Carbon dioxide absorbent	78N-1732	II	Yes.
868.5310	Carbon dioxide absorber	78N-1733	II	No.
868.5320	Reservoir bag	78N-1734	II	No.
868.5330	Breathing gas mixer	78N-1735	II	No.
868.5340	Nasal oxygen cannula	78N-1736	I	Yes.
868.5350	Nasal oxygen catheter	78N-1737	I	Yes.
868.5365	Posture chair for cardiac or pulmonary treatment	78N-1738	I	No.
868.5375	Heat and moisture condenser (artificial nose)	78N-1739	II	No.
868.5400	Electroanesthesia apparatus	78N-1741	III	No.
868.5420	Ether hook	78N-1743	I	No.
868.5430	Gas-scavenging apparatus	78N-1744	II	Yes.
868.5440	Portable oxygen generator	78N-1745	II	No.
868.5450	Respiratory gas humidifier	78N-1746	II	No.
868.5460	Therapeutic humidifier for home use	78N-1747	II	Yes.
868.5470	Hyperbaric chamber	78N-1748	II	No.
868.5530	Flexible laryngoscope	78N-1752	II	No.
868.5540	Rigid laryngoscope	78N-1753	II	No.
868.5550	Anesthetic gas mask	78N-1754	II	No.
868.5560	Gas mask head strap	78N-1755	I	Yes.
868.5570	Nonrebreathing mask	78N-1756	II	No.
868.5580	Oxygen mask	78N-1757	II	Yes.
868.5590	Scavenging mask	78N-1758	II	No.
868.5600	Venturi mask	78N-1759	II	No.
868.5610	Membrane lung for long-term pulmonary support	78N-1760	III	No.
868.5620	Breathing mouthpiece	78N-1761	I	Yes.
868.5630	Nebulizer	78N-1762	II	No.
868.5640	Medicinal nonventilatory nebulizer (atomizer)	78N-1763	I	No.
868.5650	Esophageal obturator	78N-1764	II	No.
868.5655	Portable liquid oxygen unit	78N-1765	II	No.
868.5665	Powered percussor	78N-1766	II	No.
868.5675	Rebreathing device	78N-1767	I	No.
868.5690	Incentive spirometer	78N-1768	II	Yes.
868.5700	Nonpowered oxygen tent	78N-1769	I	No.
868.5710	Electrically powered oxygen tent	78N-1770	II	Yes.
868.5720	Bronchial tube	78N-1771	II	No.
868.5730	Tracheal tube	78N-1772	II	Yes.
868.5740	Tracheal/bronchial differential ventilation tube	78N-1773	II	Yes.
868.5750	Inflatable tracheal tube cuff	78N-1774	II	No.
868.5760	Cuff spreader	78N-1775	I	Yes.
868.5770	Tracheal tube fixation device	78N-1776	II	No.
868.5780	Tube introduction forceps	78N-1777	II	No.
868.5790	Tracheal tube stylet	78N-1778	II	No.
868.5810	Airway connector	78N-1780	II	No.
868.5820	Dental protector	78N-1781	II	No.
868.5830	Autotransfusion apparatus	78N-1782	II	Yes.
868.5860	Pressure tubing and accessories	78N-1784	II	No.
868.5870	Nonrebreathing valve	78N-1785	II	Yes.
868.5880	Anesthetic vaporizer	78N-1786	II	Yes.
868.5895	Continuous ventilator	78N-1787	II	No.
868.5905	Noncontinuous ventilator (IPPB)	78N-1788	II	No.

Section	Device	Docket No.	Class	Comments
868.5915	Manual emergency ventilator	78N-1788	II	No.
868.5925	Powered emergency ventilator	78N-1790	II	No.
868.5935	External negative pressure ventilator	78N-1791	II	No.
868.5955	Intermittent mandatory ventilation attachment	78N-1793	II	No.
868.5965	Positive end expiratory pressure breathing attachment	78N-1794	II	No.
868.5975	Ventilator tubing	78N-1795	II	No.
868.5995	Tee drain (water trap)	78N-1796	II	No.
	Subpart G—Miscellaneous			
868.6100	Anesthetic cabinet, table, or tray	78N-1797	I	No.
868.6175	Cardiopulmonary emergency cart	78N-1798	I	No.
868.6225	Nose clip	78N-1799	I	No.
868.6250	Portable air compressor	78N-1800	II	No.
868.6400	Calibration gas	78N-1805	II	Yes.
868.6700	Anesthesia stool	78N-1806	I	No.
868.6810	Tracheobronchial suction catheter	78N-1810	I	No.
868.6820	Patient position support	78N-1807	II	No.
880.6960	Medical gas yoke assembly	78N-1808	II	Yes.

Summaries of Comments and FDA's Responses to Comments

FDA is responding to specific comments received on 42 of the proposed regulations for anesthesiology devices and to several general comments as follows:

1. FDA received two general comments regarding the classification process and the classification proposals for anesthesiology devices.

a. A comment objected to the publication of final rules for anesthesiology devices at this time. The comment recommended that the publication of these rules await completion of rulemaking that specifies the requirements for good manufacturing practices (GMP).

FDA rejects the comment. FDA published in the Federal Register of July 21, 1978, a final regulation establishing good manufacturing practice for the manufacture, packing, storage, and installation of medical devices. See Part 820 of the regulations (21 CFR Part 820).

b. A comment also expressed concern that the risks to health listed in each proposed classification regulation might lead to a standard requirement for all devices reflecting the risks to health described by the Panel.

FDA rejects the comment. The anesthesiology regulations only classify devices into class I, class II, or class III. Classification regulations do not require that devices by labeled to warn of, or marketed in a way that eliminates, the risks to health stated in the proposals.

Therefore, FDA is proceeding with the publication of the final regulation classifying anesthesiology devices.

2. Section 868.1075; Docket No. 78N-1651; Argon gas analyzer.

FDA published in the Federal Register (44 FR 63302) a proposed regulation to classify argon gas analyzers into class II.

Two comments were received on the proposal. The comments stated that many types of nonindwelling analyzers are manufactured and sold for commercial, laboratory, or calibration applications including use in a hospital laboratory. The comments suggested that general use analyzers are not medical devices because there is no direct contact with the patient and recommended that the proposed classification not apply to these devices.

FDA disagrees with the comments. The regulation classifies only argon gas analyzers that are intended for medical purposes and that, therefore, are medical devices. Direct patient contact is not a legal prerequisite to the regulation of a product as a medical device. No comments have been received that disagreed with classifying the argon gas analyzers that are medical devices into class II. Accordingly, the proposed regulation is being adopted with only a minor change.

3. Section 868.1400; Docket No. 78N-1666; Carbon dioxide gas analyzer.

FDA published in the Federal Register (44 FR 63314) a proposed regulation to classify carbon dioxide gas analyzers into class II.

Two comments were received on the proposal. The comments stated that many types of nonindwelling analyzers are manufactured and sold for commercial, laboratory, or calibration applications including use in a hospital laboratory. The comments suggested that general use analyzers are not medical devices because there is no direct contact with the patient and recommended that the proposed classification not apply to these devices.

FDA disagrees with the comments. The regulation classifies only carbon dioxide gas analyzers that are intended for medical purposes and that, therefore, are medical devices. Direct patient contact is not a legal prerequisite to the regulation of a product as a medical device. No comments have been received that disagreed with classifying carbon dioxide gas analyzers that are medical devices into class II. Accordingly, the proposed regulation is being adopted with only a minor change.

4. Section 868.1430; Docket No. 78N-1667; Carbon monoxide gas analyzer.

FDA published in the Federal Register (44 FR 63315) a proposed regulation to classify carbon monoxide gas analyzers into class II.

Two comments were received on the proposal. The comments stated that many types of nonindwelling analyzers are manufactured and sold for commercial, laboratory, or calibration applications including use in a hospital laboratory. The comments suggested that general use analyzers are not medical devices because there is no direct contact with the patient and recommended that the proposed classification not apply to these devices.

FDA disagrees with the comments. The regulation classifies only carbon monoxide gas analyzers that are intended for medical purposes and that, therefore, are medical devices. Direct patient contact is not a legal prerequisite to the regulation of a product as a medical device. No comments have been received that disagreed with classifying carbon monoxide gas analyzers that are medical devices into class II. Accordingly, the proposed regulation is being adopted with only a minor change.

5. Section 868.1500; Docket No. 78N-1668; Enflurane gas analyzer.

FDA published in the Federal Register (44 FR 63316) a proposed regulation to classify enflurane gas analyzers into class II.

Two comments were received on the proposal. The comments stated that many types of nonindwelling analyzers are manufactured and sold for commercial, laboratory, or calibration applications including use in a hospital laboratory. The comments suggested that general use analyzers are not medical devices because there is no

direct contact with the patient and recommended that the proposed classification not apply to these devices.

FDA disagrees with the comments. The regulation classifies only enflurane gas analyzers that are intended for medical purposes and that, therefore, are medical devices. Direct patient contact is not a legal prerequisite to the regulation of a product as a medical device. No comments have been received that disagreed with classifying enflurane gas analyzers that are medical devices into class II. Accordingly, the proposed regulation is being adopted with only a minor change.

6. Section 868.1620; Docket No. 78N–1670; Halothane gas analyzer.

FDA published in the **Federal Register** (44 FR 63317) a proposed regulation to classify halothane gas analyzers into class II.

Two comments were received on the proposal. The comments stated that many types of nonindwelling analyzers are manufactured and sold for commercial, laboratory, or calibration applications including use in a hospital laboratory. The comments suggested that general use analyzers are not medical devices because there is no direct contact with the patient and recommended that the proposed classification not apply to these devices.

FDA disagrees with the comments. The regulation classifies only halothane gas analyzers intended for medical purposes and that, therefore, are medical devices. Direct patient contact is not a legal prerequisite to the regulation of a product as a medical device. No comments have been received that disagreed with classifying halothane gas analyzers that are medical devices into class II. Accordingly, the proposed regulation is being adopted with only a minor change.

7. Section 868.1640; Docket No. 78N–1671; Helium gas analyzer.

FDA published in the **Federal Register** (44 FR 63318) a proposed regulation to classify helium gas analyzers into class II.

Two comments were received on the proposal. The comments stated that many types of nonindwelling analyzers are manufactured and sold for commercial, laboratory, or calibration applications including use in a hospital laboratory. The comments suggested that general use analyzers are not medical devices because there is no direct contact with the patient and recommended that the proposed classification not apply to these devices.

FDA disagrees with the comments. The regulation classifies only helium gas analyzers that are intended for medical purposes and that, therefore, are medical devices. Direct patient contact is not a legal prerequisite to the regulation of a product as a medical device. No comments have been received that disagreed with classifying helium gas analyzers that are medical devices into class II. Accordingly, the proposed regulation is being adopted with only a minor change.

8. Section 868.1670; Docket No. 78N–1672; Neon gas analyzer.

FDA published in the **Federal Register** (44 FR 63319) a proposed regulation to classify neon gas analyzers into class II.

Two comments were received on the proposal. The comments stated that many types of nonindwelling analyzers are manufactured and sold for commercial, laboratory, or calibration applications including use in a hospital laboratory. The comments suggested that general use analyzers are not medical devices because there is no direct contact with the patient and recommended that the proposed classification not apply to these devices.

FDA disagrees with the comments. The regulation classifies only neon gas analyzers that are intended for medical purposes and that, therefore, are medical devices. Direct patient contact is not a legal prerequisite to the regulation of a product as a medical device. No comments have been received that disagreed with classifying neon gas analyzers that are medical devices into class II. Accordingly, the proposed regulation is being adopted with only a minor change.

9. Section 868.1690; Docket No. 78N–1673; Nitrogen gas analyzer.

FDA published in the **Federal Register** (44 FR 63319) a proposed regulation to classify nitrogen gas analyzers into class II.

Two comments were received on the proposal. The comments stated that many types of nonindwelling analyzers are manufactured and sold for commercial, laboratory, or calibration applications including use in a hospital laboratory. The comments suggested that general use analyzers are not medical devices because there is no direct contact with the patient and recommended that the proposed classification not apply to these devices.

FDA disagrees with the comments. The regulation classified only nitrogen gas analyzers that are intended for medical purposes and that, therefore, are medical devices. Direct patient contact is not a legal prerequisite to the regulation of a product as a medical device. No comments have been received that disagreed with classifying nitrogen gas analyzers that are medical devices into class II. Accordingly, the proposed regulation is being adopted with only minor changes.

10. Section 868.1700; Docket No. 78N–1674; Nitrous oxide gas analyzer.

FDA published in the **Federal Register** (44 FR 63320) a proposed regulation to classify nitrous oxide gas analyzers into class II.

Two comments were received on the proposal. The comments stated that many types of nonindwelling analyzers are manufactured and sold for commercial, laboratory, or calibration applications including use in a hospital laboratory. The comments suggested that general use analyzers are not medical devices because there is no direct contact with the patient and recommended that the proposed classification not apply to these devices.

FDA disagrees with the comments. The regulation classifies only nitrous oxide gas analyzers that are intended for medical purposes and that, therefore, are medical devices. Direct patient contact is not a legal prerequisite to the regulation of a product as a medical device. No comments have been received that disagreed with classifying nitrous oxide gas analyzers that are medical devices into class II. Accordingly, the proposed regulation is being adopted with only a minor change.

11. Section 868.1720; Docket No. 78N–1675; Oxygen gas analyzer.

FDA published in the **Federal Register** (44 FR 63321) a proposed regulation to classify oxygen gas analyzers into class II.

Two comments were received on the proposal. The comments stated that many types of nonindwelling analyzers are manufactured and sold for commercial, laboratory, or calibration applications including use in a hospital laboratory. The comments suggested that general use analyzers are not medical devices because there is no direct contact with the patient and recommended that the proposed classification not apply to these devices.

FDA disagrees with the comments. The regulation classifies only oxygen gas analyzers that are intended for medical purposes and that, therefore, are medical devices. Direct patient contact is not a legal prerequisite to the regulation of a product as a medical device. No comments have been received that disagreed with classifying oxygen gas analyzers that are medical devices into class II. Accordingly, the proposed regulation is being adopted with only a minor change.

12. Section 868.1840; Docket No. 78N–1681; Diagnostic spirometer.

FDA published in the **Federal Register** (44 FR 63326) a proposed regulation to

classify diagnostic spirometers into class II.

One comment was received on the proposal. The comment suggested that diagnostic spirometers intended to be used in routine clinical practice do not require the same level of performance accuracy as those devices that are intended to be used in epidemiologic and research studies. The comment suggested specific performance requirements for office spirometers.

FDA agrees that devices intended to be used in different circumstances may require different levels of accuracy. FDA believes that performance standards for diagnostic spirometers should include only those performance requirements that are necessary to assure the safety and effectiveness of the device. No comments were received that disagreed with classifying diagnostic spirometers into class II. Accordingly, the proposed regulation is being adopted with minor editorial changes only.

13. Section 868.1870; Docket No. 78N-1684; Gas volume calibrator.

FDA published in the **Federal Register** (44 FR 63328) a proposed regulation to classify gas volume calibrators into class II.

Two comments were received on the proposal. The comments stated that many types of gas volume calibrators are manufactured and sold for commercial, laboratory, or calibration applications including use in a hospital laboratory. The comments suggested that general use calibrators are not medical devices because there is no direct contact with the patient and recommended that the proposed classification not apply to these devices.

FDA disagrees with the comments. The regulation classifies only gas volume calibrators that are intended for medical purposes and that, therefore, are medical devices. Direct patient contact is not a legal prerequisite to the regulation of a product as a medical device. No comments have been received that disagreed with classifying gas volume calibrators that are medical devices into class II. Accordingly, the proposed regulation is being adopted with only a clarifying change.

14. Section 868.1975; Docket No. 78N-1692; Water vapor analyzer.

FDA published in the **Federal Register** (44 FR 63335) a proposed regulation to classify water vapor analyzers into class II.

Two comments were received on the proposal. The comments stated that many types of nonindwelling analyzers are manufactured and sold for commercial, laboratory, or calibration applications including use in a hospital laboratory. The comments suggested that general use analyzers are not medical devices because there is no direct contact with the patient and recommended that the proposed classification not apply to the devices.

FDA disagrees with the comments. The regulation classifies only water vapor analyzers intended for medical purposes and that, therefore, are medical devices. Direct patient contact is not a legal prerequisite to the regulation of a product as a medical device. No comments have been received that disagreed with classifying water vapor analyzers that are medical devices into class II. Accordingly, the proposed regulation is being adopted with only a minor change.

15. Section 868.2350; Docket No. 78N-1697; Gas calibration flowmeter.

FDA published in the **Federal Register** (44 FR 63339) a proposed regulation to classify gas calibration flowmeters into class II.

Three comments were received on the proposal. The comments stated that gas calibration flowmeters are not medical devices because the devices are used in industrial applications as well as in hospital laboratories. The comments pointed out that the devices never come into direct contact with patients and suggested that FDA not classify these devices.

FDA disagrees with the comments. The regulation classifies only gas calibration flowmeters that are intended for medical purposes and that, therefore, are medical devices. Direct patient contact is not a legal prerequisite to the regulation of a product as a medical device. Medical purposes include claibration of other medical devices, or measurement of medical gas flow, when performed in health care facilities. Accordingly, the proposed regulation is being adopted with only a clarifying change.

16. Section 868.2500; Docket No. 78N-1700; Cutaneous oxygen monitor.

FDA published in the **Federal Register** (44 FR 63341) a proposed regulation to classify cutaneous oxygen monitors into class II.

Three comments were received on the proposal. All three comments agreed with the proposal to classify cutaneous oxygen monitors into class II. One comment noted that the primary application of the device has been for monitoring newborn infants. Another comment stated that the device is also useful for monitoring patients in the operating room and in surgical intensive care.

On January 21, 1980, FDA held a public meeting of the Anesthesiology Device Section of the Respiratory and Nervous System Devices Panel for discussion of the comments received on the proposal to classify this device. The discussion focused on the questions whether the device should be classified into class II for all indications as proposed, or whether the device should be classified into class II for some indications and class III for others. Also present at the meeting were representatives of companies that manufacture the device who supported the proposal to classify the device into class II and who stated that sufficient information exists to develop a performance standard for the device. During the meeting, the Panel members reconsidered their recommendation respecting the classification of the device. Recent reports have indicated that cutaneous oxygen monitors may vary widely in performance depending on the conditions of use. Some of the devices may produce inaccurate readings when used in the presence of certain anesthetics in the operating room. Virtually all of the data on this device have been on monitoring of newborn infants, and very little data are available for other uses, such as monitoring patients during surgery.

FDA has carefully considered the comments, available information, and the Panel's recommendation that the device be classified into class II, as proposed, when it is intended for use in monitoring infant patients who are not under gas anesthesia and into class III for other uses. The Panel's recommendation was based on its belief that the device has been shown to be safe and effective for use in monitoring infant patients who are not under gas anesthesia, but has not been shown to be safe and effective for other uses.

Based on the findings above, FDA is classifying the device into class II when it is intended for use in monitoring infant patients who are not under gas anesthesia and into class III when the device is intended for other uses. The device is purported or represented for a use (monitoring oxygen tension) that is of substantial importance in preventing impairment of human health. The use of the device for noninfant patients or for any patient while under gas anesthesia, presents a potential unreasonable risk of illness or injury to the patient, because of the variability of the data obtained. There is insufficient information, including clinical data, available to determine that general controls will provide reasonable assurance of the safety and effectiveness of the device or to establish a standard that assures the safety and effectiveness of the device when it is intended for these purposes. This conclusion, which differs from the

tentative judgment contained in the proposed regulation, is prompted by FDA's belief that the device is still undergoing development which will show whether it may be safely and effectively used for these applications. FDA is issuing a final regulation to classify the cutaneous oxygen monitor into class II when it is intended for use in monitoring infants who are not under gas anesthesia. FDA has decided that there is sufficient data to show that the device is both safe and effective when used for this purpose. Therefore, premarket approval is not necessary for cutaneous oxygen monitors when intended for this purpose and a performance standard will provide reasonable assurance of the safety and effectiveness of the device when intended for this purpose.

Accordingly, FDA is adopting the proposed regulation for cutaneous oxygen monitors with a change in the classification, in that the device is in class II for use in monitoring infants who are not under gas anesthesia and in class III for all other uses. For the reasons discussed above in "Changes in Classification in Final Regulations," FDA has decided that it is unnecessary to issue a new proposal concerning this decision. Persons who disagree with this decision may petition for reclassification of this device under Subpart C of Part 860.

17. Section 868.2610; Docket No. 78N–1704; Gas pressure gauge.

FDA published in the **Federal Register** (44 FR 63344) a proposed regulation to classify gas pressure gauges into class II.

Four comments were received on the proposal.

a. One comment disagreed with classifying gas pressure gauges into class II and recommended that the devices be classified into class I instead. The comment stated that general controls are sufficient to control the risks to health presented by the device.

FDA disagrees with the comment. FDA has determined that gas pressure gauges should be classified into class II so that a performance standard may be issued that assures that the device accurately measures the pressure of respiratory gases. General controls will not provide reasonable assurance of the safety and effectiveness of the device.

b. Three comments stated that gas pressure gauges are not medical devices and should not be classified. One comment stated that the identification of the device should be changed to more clearly define the intended use of the device.

FDA partially agrees with the comments. FDA agrees that the identification of the device should be stated more clearly and is making minor changes to the regulation to make it clear that the classification applies to those devices intended for medical purposes, i.e., use in a medical gas delivery system. Accordingly, the proposed regulation is being adopted with these changes.

18. Section 868.2620; Docket No. 78N–1705; Gas pressure calibrator.

FDA published in the **Federal Register** (44 FR 63345) a proposed regulation to classify gas pressure calibrators into class II.

Two comments were received on the proposal. The comments stated that many types of gas pressure calibrators are manufactured and sold for commercial, industrial, or laboratory applications, including use in a hospital laboratory. The comments suggested that the devices are not medical devices because there is no direct contact with the patient and recommended that the proposed classification not apply to such devices.

FDA disagrees with the comments. The regulation classifies only gas pressure calibrators that are intended for medical purposes and that, therefore, are medical devices. Direct patient contact is not a legal prerequisite to the regulation of a product as a medical device. Accordingly, the proposed regulation is being adopted with only a minor clarifying change.

19. Section 868.2700; Docket No. 78N–1706; Pressure regulator.

FDA published in the **Federal Register** (44 FR 63346) a proposed regulation to classify pressure regulators into class II.

Two comments were received on the proposal. The comments suggested that the device name and identification in the proposed regulation for pressure regulators be changed to make it clear that the regulation does not apply to those regulators intended or promoted for commercial, industrial, and aviation applications.

FDA agrees with the comments and is making minor changes in the identification of the device to make it clear that the rule applies only to those devices intended to be used for medical purposes. Accordingly, the proposed regulation is being adopted with these changes.

20. Section 868.2675; Docket No. 78N–1708; Differential pressure transducer.

FDA published in the **Federal Register** (44 FR 63348) a proposed regulation to classify differential pressure transducers into class II.

Two comments were received on the proposal. The comments stated that many types of differential pressure transducers are manufactured and sold for commercial, industrial, or laboratory applications, including use in a hospital laboratory. The comments suggested that general use transducers are not medical devices when there is no direct contact with the patient and recommended that the proposed classification not apply to these devices.

FDA disagrees with the comments. The regulation classifies only differential pressure transducers intended for medical purposes and that, therefore, are medical devices. Direct patient contact is not a legal prerequisite to the regulation of a product as a medical device. Accordingly, the proposed regulation is being adopted without change.

21. Section 868.2885; Docket No. 78N–1709; Gas flow transducer.

FDA published in the **Federal Register** (44 FR 63349) a proposed regulation to classify gas flow transducers into class II.

Two comments were received on the proposal. The comments stated that many types of gas flow transducers are munufactured and sold for commerical, industrial, or laboratory applications, including use in a hospital laboratory. The comments suggested that these general use transducers are not medical devices when there is no direct contact with the patient and recommended that the proposed classification not apply to these devices.

FDA disagrees with the comments. The regulation classifies only gas flow transducers that are intended for medical purposes and that, therefore, are medical devices. Direct patient contact is not a legal prerequisite to the regulation of a product as a medical device. Accordingly, the proposed regulation is being adopted with only a minor clarifying change.

22. Section 868.2900; Docket No. 78N–1710; Gas pressure transducer.

FDA published in the **Federal Register** (44 FR 63349) a proposed regulation to classify gas pressure transducers into class II.

Two comments were received on the proposal. The comments stated that many gas pressure transducers are manufactured and sold for commercial, industrial, or laboratory applications, including use in a hospital laboratory. The comments suggested that these general use transducers are not medical devices when there is no direct contact with the patient and recommended that the proposed classification not apply to these devices.

FDA disagrees with the comments. The regulation classifies only gas pressure transducers that are intended for medical purposes and that, therefore,

are medical devices. Direct patient contact is not a legal prerequisite to the regulation of a product as a medical device. Accordingly, the proposed regulation is being adopted with only a minor clarifying change.

23. Section 868.5100; Docket No. 78N-1715; Nasopharyngeal airway.

FDA published in the Federal Register (44 FR 63351) a proposed regulation to classify nasopharyngeal airways into class II.

Two comments were received on the proposal. The comments objected to the Panel's identification, in its recommendation, of infection as a risk to health presented by the device because of concern that FDA may adopt a standard requirement that all nasopharyngeal airways be labeled and marketed as sterile.

FDA disagrees with the comments. The proposed regulation only classifies the device into class II. It does not contain a requirement that all nasopharyngeal airways be labeled and marketed as sterile. The need for such a requirement will be considered in any proceeding to establish a standard for the device. Accordingly, the proposed regulation is being adopted with only a minor change.

24. Section 868.5160; Docket No. 78N-1721; Gas machine for anesthesia or analgesia.

FDA published in the Federal Register (44 FR 63356) a proposed regulation to classify anesthesia gas machines into class II.

Six comments were received on the proposal. The comments disagreed with the inclusion of analgesia machines used in dentistry with the generic category of anesthesia gas machines. The comments asked that FDA establish a separate generic category for conscious sedation dental equipment and that these devices be reviewed by the Dental Device Classification Panel. The comments also asked that these devices be classified into class I.

On January 21, 1980, FDA held a public meeting of the Anesthesiology Device Section of the Respiratory and Nervous System Devices Panel for discussion of the comments received on the proposal. The Panel recommended that FDA create a separate generic category for gas machines for analgesia, that gas machines for analgesia remain in class II, and that the final regulation for the device be published with the anesthesiology devices. FDA agrees with the Panel recommendation and is publishing a separate final regulation within § 868.5160 that classifies gas machines for analgesia into class II. The proposed regulation for gas machines for anesthesia is being adopted with minor modifications reflecting the separation of the gas machines for analgesia. The agency advises that a premixed nitrous oxide-oxygen product is regarded as a new drug requiring an approved new drug application (21 CFR Part 314—New Drug Applications) prior to marketing.

25. Section 868.5280; Docket No. 78N-1731; Breathing tube support.

FDA published in the Federal Register (44 FR 63363) a proposed regulation to classify breathing tube supports into class I.

One comment was received on the proposal. The comment disagreed with the proposal to classify breathing tube supports into class I. The comment noted that FDA proposed that breathing tubes be classified into class II and suggested that breathing tube supports also be classified into class II because the two devices are connected together.

FDA disagrees with the comment. There is no requirement that two devices be classified into the same regulatory category simply because they are used together. For the reasons given in the proposal, FDA is classifying breathing tube supports into class I. Accordingly, the regulation is being adopted with only a minor clarifying change.

26. Section 868.5300; Docket No. 78N-1732; Carbon dioxide absorbent.

FDA published in the Federal Register (44 FR 63364) a proposed regulation to classify carbon dioxide absorbents into class II.

Two comments were received on the proposal. The comments disagreed with the Panel's recommendation that cross infection of carbon dioxide absorbents is a risk to health and asserted that the device is not designed to be sterilized or disinfected.

FDA believes that the risks of cross infection result from improper maintenance of the equipment. However, the regulation does not require that the absorbent be sterilized or disinfected. Accordingly, the proposed regulation is being adopted with only a minor clarifying change.

27. Section 868.5340; Docket No. 78N-1736; Nasal oxygen cannula.

FDA published in the Federal Register (44 FR 63367) a proposed regulation to classify nasal oxygen cannulae into class I.

Three comments were received on the proposal.

a. One comment disagreed with the proposal to classify nasal oxygen cannulae into class I and recommended that the device be classified into class II. The comment stated that performance standards for nasal oxygen cannulae are needed to provide the user with information necessary for specifying accuracy requirements for the metering equipment on some regulators and oxygen concentrators.

FDA disagrees with the comment. FDA believes that the safety and effectiveness of these devices can be adequately controlled by general controls. It is the responsibility of medical personnel to choose compatible equipment when constructing a system for patient therapy. Moreover, FDA has authority under sections 502 and 701(a) of the act (21 U.S.C. 352 and 371(a)) to require special labeling for any device, including a class I device. Thus, classification into class I does not preclude the establishment of special labeling requirements for nasal oxygen cannulae, should FDA decide that these requirements are needed.

b. Two comments objected to the Panel's identification, in its recommendation, of infection as a risk to health presented by the device, because of concern that FDA may adopt a standard requirement that all nasal oxygen cannulae be labeled and marketed as sterile.

FDA disagrees with the comments. The proposed regulation only classifies these devices into class I. It does not contain a requirement that all nasal oxygen cannulae be labeled and marketed as sterile. Accordingly, the proposed regulation is being adopted with only a minor editorial change.

28. Section 868.5350; Docket No. 78N-1737; Nasal oxygen catheter.

FDA published in the Federal Register (44 FR 63368) a proposed regulation to classify nasal oxygen catheters into class I.

One comment was received on the proposal. The comment disagreed with the proposal to classify nasal oxygen catheters into class I and recommended that the device be classified into class II. The comment stated that performance standards for nasal oxygen catheters are needed to provide the user with information necessary for specifying accuracy requirements for the metering equipment on some regulators and oxygen concentrators.

FDA disagrees with the comment. FDA believes that the safety and effectiveness of this device can be adequately controlled by general controls. It is the responsibility of medical personnel to choose compatible equipment when constructing a system for patient therapy. Moreover, FDA has authority under sections 502 and 701(a) of the act (21 U.S.C. 352 and 371(a)) to require special labeling for any device, including a class I device. Thus, classification into class I does not preclude the establishment of special

labeling requirements for nasal oxygen catheters, should FDA decide that these requirements are needed. Accordingly, the proposed regulation is being adopted with only minor editorial changes.

29. Section 868.5430; Docket No. 78N–1744; Gas-scavenging apparatus.

FDA published in the **Federal Register** (44 FR 63374) a proposed regulation to classify gas-scavenging apparatus into class II.

One comment was received on the proposal. The comment stated that the gas scavenging apparatus is used only to scavenge nitrous oxide that is used by dentists. The comment suggested that FDA refer the issue of the classification of the device to the Dental Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, to obtain its recommendation.

FDA disagrees with the comment. Gas scavenging devices are used to collect many types of anesthetic or analgesic gases used by various medical specialties and are not limited to dental use. It was appropriate for FDA to have obtained a recommendation from the Anesthesiology Device Section of the Respiratory and Nervous System Devices Panel, and it is unnecessary to obtain another recommendation from the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel. Accordingly, the proposed regulation is being adopted with only minor editorial changes.

30. Section 868.5460; Docket No. 78N–1747; Therapeutic humidifier for home use.

FDA published in the **Federal Register** (44 FR 63376) a proposed regulation to classify therapeutic humidifiers for home use into class II.

Four comments were received on the proposal. The comments expressed concern that the proposed rule might be interpreted to apply to all home humidifiers, including those that are part of home central air conditioning and heating systems. The comments suggested that FDA clearly state in the final rule for therapeutic humidifiers for home use that the classification applies only to those devices for which manufacturers make health or medical claims.

FDA believes that in the proposed regulation the identification of therapeutic humidifiers for home use clearly states that the proposed classification applies solely to those humidifiers that are intended to be used for medical purposes, such as respiratory therapy. FDA does not believe that humidifiers that are designed to be used with central air conditioning or heating systems in a home are medical devices unless they are intended for medical purposes, as discussed earlier in this preamble. FDA is clarifying the name and identification of the device to show the regulation applies only to those devices intended for medical purposes.

31. Section 868.5560; Docket No. 78N–1755; Gas mask head strap.

FDA published in the **Federal Register** (44 FR 63383) a proposed regulation to classify gas mask head straps into class I.

One comment was received on the proposal. The comment disagreed with the proposal to classify gas mask head straps into class I. The comment noted that FDA proposed that anesthesia gas masks be classified into class II and suggested that gas mask head straps also be classified into class II because the two devices are connected together.

FDA disagrees with the comment. There is no requirement that two devices be classified into the same regulatory category simply because they are used together. For the reasons given in the proposal, FDA is classifying gas mask head straps into class I. Accordingly, the regulation is being adopted with only a minor editorial change.

32. Section 868.5580; Docket No. 78N–1757; Oxygen mask.

FDA published in the **Federal Register** (44 FR 63384) a proposed regulation to classify oxygen masks into class I.

Three comments were received on the proposal.

a. Two comments objected to the Panel's identification, in its recommendation, of infection as a risk to health presented by the device because of concern that FDA may require all oxygen masks to be labeled and marketed as sterile.

FDA disagrees with the comments. The proposed regulation only classifies the device into class I. It does not contain a requirement that oxygen masks be labeled and marketed as sterile.

b. One comment disagreed with the proposal to classify the device into class I and recommended that it be classified in class II. The comment noted that manufacturers do not always use the same designations for oxygen mask sizes (e.g., small, medium, and large). Thus, a patient may receive a poorly fitting oxygen mask in an emergency situation if the user mistakenly assumes that oxygen mask sizes are uniform from manufacturer to manufacturer. The comment stated that a performance standard that assures uniformity of oxygen mask sizes is necessary to avoid this risk to the patient.

On January 21, 1980, FDA held a public meeting of the Anesthesiology Device Section of the Respiratory and Nervous System Devices Panel to discuss the comment. The Panel recommended that FDA classify oxygen masks into class II because it agreed that lack of uniformity of mask sizes is a hazard that cannot be controlled by general controls. The Panel recommended that the development of a performance standard for oxygen masks be a low priority. FDA has considered the comment and the Panel's revised recommendation, and is classifying oxygen masks into class II rather than class I as proposed. For the reasons discussed above in "Changes in Classification in Final Regulations," FDA does not believe that it is necessary to issue a new proposal concerning this decision. Persons who disagree with classifying oxygen masks in class II may petition for reclassification of the device under Subpart C of Part 860 (21 CFR Part 860).

For clarification purposes, FDA has amended the identification of oxygen masks to indicate that the device may also be placed over a patient's tracheostomy, and that it can be used to administer aerosols. Accordingly, the proposed regulation is being adopted with the changes noted.

33. Section 868.5620; Docket No. 78N–1761; Breathing mouthpiece.

FDA published in the **Federal Register** (44 FR 63388) a proposed regulation to classify breathing mouthpieces into class II.

One comment was received on the proposal. The comment disagreed with the proposal to classify breathing mouthpieces into class II and suggested that the device be classified into class I. The comment stated that general controls will provide sufficient control over the risks to health presented by this device.

On January 21, 1980, FDA held a public meeting of the Anesthesiology Device Section of the Respiratory and Nervous System Devices Panel to discuss the comment. The Panel recommended that FDA classify breathing mouthpieces into class I because the hazards to health presented by this device can be adequately controlled by general controls. The Panel also recommended that there be no exemptions for manufacturers of this device. FDA has considered the comment and the Panel's revised recommendation, and is classifying breathing mouthpieces into class I with no exemptions, rather than class II as proposed. For the reasons discussed above in "Changes in Classification of Final Regulations," FDA does not believe that it is necessary to issue a new proposal concerning this decision.

Persons who disagree with classifying breathing mouthpieces in class I may petition for reclassification of the device under Subpart C of Part 860 (21 CFR Part 860). Accordingly, the proposed regulation is being adopted with this change in classification and minor editorial changes.

34. Section 868.5690; Docket No. 78N-1768; Incentive spirometer.

FDA published in the Federal Register (44 FR 63394) a proposed regulation to classify incentive spirometers into class II.

Two comments were received on the proposal. The comments disagreed with the proposal to classify the device into class II and recommended that it be classified into class I. The comments noted that an incentive spirometer is intended to be used as a breathing exerciser to aid a patient in improving ventilation by indicating the patient's breathing volume or flow. The comments stated that volume and flow readings that are indicated on an incentive spirometer are not intended to be accurate enough for diagnostic or monitoring purposes.

FDA disagrees with the comments. The flow and volume indications obtained from an incentive spirometer may be used to measure a patient's progress in improving ventilation and should be reasonably accurate and reproducible. FDA agrees that an incentive spirometer need not be as accurate as a diagnostic spirometer. However, FDA believes that general controls are not sufficient to control the accuracy of the device and that a performance standard is necessary to provide assurance of the safety and effectiveness of the device. Accordingly, the proposed regulation is being adopted with only minor changes.

35. Section 868.5710; Docket No. 78N-1770; Electrically powered oxygen tent.

FDA published in the Federal Register (44 FR 63395) a proposed regulation to classify electrically powered oxygen tents into class II.

One comment was received on the proposal. The comment agreed with the proposal to classify electrically powered oxygen tents into class II but stated that the reasons the Panel gave for recommending the device be classified into class II do not apply to all devices that are being marketed.

FDA agrees with the comment. FDA believes that the reasons given by the Panel for the recommendation to classify the device in class II are valid for electrically powered oxygen tents as a generic group but these reasons may not always apply to every device that is marketed. Accordingly, the proposed regulation is being adopted with only minor editorial changes.

36. Section 868.5730; Docket No. 78N-1772; Tracheal tube.

FDA published in the Federal Register (44 FR 63397) a proposed regulation to classify tracheal tubes into class II.

Two comments were received on the proposal. The comments objected to the Panel's identification, in its recommendation, of infection as a risk to health presented by tracheal tubes because of concern that FDA may adopt a standard requirement that all tracheal tubes be labeled and marketed as sterile.

FDA disagrees with the comments. The proposed regulation only classifies the devices into class II. It does not contain a requirement that all tracheal tubes be labeled and marketed as sterile. The need for such a requirement will be considered in any proceeding to establish a standard for the device. Accordingly, the proposed regulation is being adopted without change.

37. Section 868.5740; Docket No. 78N-1773; Tracheal/bronchial differential ventilation tube.

FDA published in the Federal Register (44 FR 63398) a proposed regulation to classify tracheal/bronchial differential ventilation tubes into class II.

Two comments were received on the proposal. The comments objected to the Panel's identification, in its recommendation, of infection as a risk to health presented by tracheal/bronchial differential ventilation tubes because of concern that FDA may adopt a standard requirement that all tracheal/bronchial differential ventilation tubes be labeled and marketed as sterile.

FDA disagrees with the comments. The proposed regulation only classifies these devices into class II. It does not contain a requirement that all tracheal/bronchial differential ventilation tubes be labeled and marketed as sterile. The need for such a requirement will be considered in any proceeding to establish a standard for the device. Accordingly, the proposed regulation is being adopted with only a minor change.

38. Section 868.5760; Docket No. 78N-1775; Cuff spreader.

FDA published in the Federal Register (44 FR 63400) a proposed regulation to classify cuff spreader into class I.

Two comments were received on the proposal. The comments stated that a cuff spreader is not a medical device because it is used only to facilitate the assembly of a tracheal tube cuff on a tracheal or tracheostomy tube.

FDA disagrees with the comments. Cuff spreaders are clearly medical devices because they are intended for a medical purpose, i.e., to install tracheal tube cuffs on tracheal tubes or tracheostomy tubes for use on a patient. Accordingly, the proposed regulation is being adopted without change.

39. Section 868.5830; Docket No. 78N-1782; Autotransfusion apparatus.

FDA published in the Federal Register (44 FR 63405) a proposed regulation to classify Autotransfusion apparatus into class III.

Nine comments were received on the proposal. The comments disagreed with the proposal to classify the autotransfusion apparatus into class III. The comments recommended that the device be classified into class II because the devices in use have been shown to be safe and effective. The comments stated that a draft standard for autotransfusion devices has been written. The comments also pointed out that the proposed identification of autotransfusion apparatus describes only one type of device despite the fact that there are several devices on the market.

On January 21, 1980, FDA held a public meeting of the Anesthesiology Device Section of the Respiratory and Nervous System Devices Panel to consider the comments on the proposal. At the meeting, several users of autotransfusion apparatus described their experiences with some of the autotransfusion devices that are being marketed. All of these users stated that the devices are safe and effective and asked that the Panel recommend that the device be classified into class II rather than class III. It was reported that virtually all problems that have been reported have been associated with one particular type of the device that is not now marketed. Participants in the meeting also discussed the standard for these devices being developed by a committee of The Association for the Advancement of Medical Instrumentation (AAMI). The chairperson of this committee stated that a standard for these devices was nearly completed and that it was expected to be balloted later that year. The Panel recommended that autotransfusion apparatus be classified into class II rather than class III as proposed. The Panel believes that there is now sufficient information available to develop a performance standard that will provide reasonable assurance of the safety and effectiveness of the device. The critical issue is whether a standard can provide reasonable assurance of the safety and effectiveness of autotransfusion devices. FDA has carefully considered the comments, available information, and the Panel's

recommendation and is classifying autotransfusion apparatus into class II, rather than class III as proposed. FDA also is changing the identification of the device in the final rule to clarify that the regulation applies to all autotransfusion devices. The agency encourages the AAMI committee to complete the development of the standard for this device as quickly as possible. FDA will closely monitor the progress of the standard. If the agency believes that the standard being developed does not provide reasonable assurance of the safety and effectiveness of the device, it may at a later date reconsider the classification of the device into class II.

Accordingly, the final regulation is being changed as described above. For the reasons discussed above in "Changes in Classification of Final Regulations," FDA does not believe that it is necessary to issue a new proposal concerning this decision. Persons who disagree with classifying autotransfusion apparatus in class II may petition for reclassification of the device under Subpart C of Part 860 (21 CFR Part 860).

40. Section 868.5870; Docket No. 78N–1785; Nonrebreathing valve.

FDA published in the **Federal Register** (44 FR 63407) a proposed regulation to classify nonrebreathing valves into class II.

One comment was received on the proposal. The comment objected to the proposal to classify nonrebreathing valves into class II and recommended that the device be classified into class I. The comment stated that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device, when the device is not used in a life support situation. The comment also agreed that the proposed classification regulation made no distinction between the risks to health presented by a nonrebreathing valve when it is used in a life supporting system and those present when it is used in a system that is not a life supporting system.

FDA disagrees with the comment. FDA believes that a performance standard is necessary to assure that nonrebreathing valves are safe and effective. FDA agrees that the consequences of a valve failure may be more severe when the valve is used in a life supporting system. However, the types of valve failure cited in the proposed classification regulation are applicable regardless of the type of system in which the valve is used. Accordingly, the proposed regulation is being adopted with only a minor change.

41. Section 868.5880; Docket No. 78N–1786; Anesthetic vaporizer.

FDA published in the **Federal Register** (44 FR 63408) a proposed regulation to classify anesthetic vaporizers into class II.

Three comments were received on the proposal. The comments expressed concern that the proposed rule might lead FDA to adopt a standard requirement that all anesthetic vaporizers be labeled and marketed as sterile or sterilizable. The comments suggested that FDA remove any references to sterilization from the final rule.

FDA disagrees with the comments. The proposed regulation only classifies the devices into class II. The regulation does not contain a requirement that all anesthetic vaporizers be labeled or marketed as sterile. The need for such a requirement will be considered in any proceeding to establish a standard for the device. Accordingly, the proposed regulation is being adopted without change.

42. Section 868.6400; Docket No. 78N–1805; Calibration gas.

FDA published in the **Federal Register** (44 FR 63423) a proposed regulation to classify calibration gases into class II.

Three comments were received on the proposal.

a. A comment disagreed with the proposal to classify calibration gases into class II and stated that the risks to health presented by the device can be controlled by classifying it into class I.

FDA disagrees with the comment. The device is used to calibrate other medical devices and must provide a gas concentration that is precise. FDA believes that general controls will not provide reasonable assurance that the gas concentration provided by the device is accurate and believes that a performance standard is necessary to provide this assurance.

b. One comment agreed with the proposal to classify the device into class II. Another comment did not disagree with the proposal, but suggested that FDA more clearly identify the function of calibration gases so that it is clear that nonmedical products are excluded.

FDA agrees with the comments. The agency is making minor changes in the identification of the device so that it is clear that the regulation applies only to those calibration gases intended to be used for medical purposes. Accordingly, the proposed regulation is being adopted with these changes.

43. Section 868.6885; Docket No. 78N–1808; Medical gas yoke assembly.

FDA published in the **Federal Register** (44 FR 63426) a proposed regulation to classify medical gas yoke assemblies into class II.

Three comments were received on the proposal. The comments noted that the filter used with a medical gas yoke assembly is an optional piece of equipment intended ony to protect the apparatus from particle contamination and is not intended to prevent contamination of the breathing system or patient infection.

The agency agrees with the comments and is making minor changes in the language used in the identification of medical gas yoke assemblies to clarify that the filter is a particulate filter. Accordingly, the proposed regulation is being adopted with these changes.

List of Subjects in 21 CFR Part 868

Anesthesiology devices; Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Chapter I of Title 21 of the Code of Federal Regulations is amended by adding new Part 868, to read as follows:

PART 868—ANESTHESIOLOGY DEVICES

Subpart A—General Provisions

Sec.

868.1 Scope.

Subpart B—Diagnostic Devices

868.1030 Manual algesimeter.
868.1040 Powered algesimeter.
868.1075 Argon gas analyzer.
868.1100 Arterial blood sampling kit.
868.1120 Indwelling blood oxyhemoglobin concentration analyzer.
868.1150 Indwelling blood carbon dioxide partial pressure (P_{CO_2}) analyzer.
868.1170 Indwelling blood hydrogen ion concentration (pH) analyzer.
868.1200 Indwelling blood oxygen partial pressure (P_{O_2}) analyzer.
868.1400 Carbon dioxide gas analyzer.
868.1430 Carbon monoxide gas analyzer.
868.1500 Enflurane gas analyzer.
868.1575 Gas collection vessel.
868.1620 Halothane gas analyzer.
868.1640 Helium gas analyzer.
868.1670 Neon gas analyzer.
868.1690 Nitrogen gas analyzer.
868.1700 Nitrous oxide gas analyzer.
868.1720 Oxygen gas analyzer.
868.1730 Oxygen uptake computer.
868.1750 Pressure plethysmograph.
868.1760 Volume plethysmograph.
868.1780 Inspiratory airway pressure meter.
868.1800 Rhinoanemometer.
868.1840 Diagnostic spirometer.
868.1850 Monitoring spirometer.
868.1860 Peak-flow meter for spirometry.
868.1870 Gas volume calibrator.
868.1880 Pulmonary-function data calculator.

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868.1890 Predictive pulmonary-function value calculator.
868.1900 Diagnostic pulmonary-function interpretation calculator.
868.1910 Esophageal stethoscope.
868.1920 Esophageal stethoscope with electrical conductors.
868.1930 Stethoscope head.
868.1965 Switching valve (ploss).
868.1975 Water vapor analyzer.

Subpart C—Monitoring Devices

868.2025 Ultrasonic air embolism monitor.
868.2300 Bourdon gauge flowmeter.
868.2320 Uncompensated thorpe tube flowmeter.
868.2340 Compensated thorpe tube flowmeter.
868.2350 Gas calibration flowmeter.
868.2375 Breathing frequency monitor.
868.2450 Lung water monitor.
868.2500 Cutaneous oxygen monitor.
868.2550 Pneumotachometer.
868.2600 Airway pressure monitor.
868.2610 Gas pressure gauge.
868.2620 Gas pressure calibrator.
868.2700 Pressure regulator.
868.2775 Electrical peripheral nerve stimulator.
868.2875 Differential pressure transducer.
868.2885 Gas flow transducer.
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Subpart F—Therapeutic Devices

868.5090 Emergency airway needle.
868.5100 Nasopharyngeal airway.
868.5110 Oropharyngeal airway.
868.5120 Anesthesia conduction catheter.
868.5130 Anesthesia conduction filter.
868.5140 Anesthesia conduction kit.
868.5150 Anesthesia conduction needle.
868.5160 Gas machine for anesthesia or analgesia.
868.5170 Laryngotracheal topical anesthesia applicator.
868.5180 Rocking bed.
868.5220 Blow bottle.
868.5240 Anesthesia breathing circuit.
868.5250 Breathing circuit circulator.
868.5260 Breathing circuit bacterial filter.
868.5270 Breathing system heater.
868.5280 Breathing tube support.
868.5300 Carbon dioxide absorbent.
868.5310 Carbon dioxide absorber.
868.5320 Reservoir bag.
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868.5340 Nasal oxygen cannula.
868.5350 Nasal oxygen catheter.
868.5365 Posture chair for cardiac or pulmonary treatment.
868.5375 Heat and moisture condenser (artificial nose).
868.5400 Electroanesthesia apparatus.
868.5420 Ether hook.
868.5430 Gas-scavenging apparatus.
868.5440 Portable oxygen generator.
868.5450 Respiratory gas humidifier.
868.5460 Therapeutic humidifier for home use.
868.5470 Hyperbaric chamber.
868.5530 Flexible laryngoscope.
868.5540 Rigid laryngoscope.
868.5550 Anesthetic gas mask.
868.5560 Gas mask head strap.
868.5570 Nonrebreathing mask.
868.5580 Oxygen mask.
868.5590 Scavenging mask.
868.5600 Venturi mask.
868.5610 Membrane lung for long-term pulmonary support.
868.5620 Breathing mouthpiece.
868.5630 Nebulizer.
868.5640 Medicinal nonventilatory nebulizer (atomizer).
868.5650 Esophageal obturator.
868.5655 Portable liquid oxygen unit.
868.5665 Powered percussor.
868.5675 Rebreathing device.
868.5690 Incentive spirometer.
868.5700 Nonpowered oxygen tent.
868.5710 Electrically powered oxygen tent.
868.5720 Bronchial tube.
868.5730 Tracheal tube.
868.5740 Tracheal/bronchial differential ventilation tube.
868.5750 Inflatable tracheal tube cuff.
868.5760 Cuff spreader.
868.5770 Tracheal tube fixation device.
868.5780 Tube introduction forceps.
868.5790 Tracheal tube stylet.
868.5810 Airway connector.
868.5820 Dental protector.
868.5830 Autotransfusion apparatus.
868.5860 Pressure tubing and accessories.
868.5870 Nonrebreathing valve.
868.5880 Anesthetic vaporizer.
868.5895 Continuous ventilator.
868.5905 Noncontinuous ventilator (IPPB).
868.5915 Manual emergency ventilator.
868.5925 Powered emergency ventilator.
868.5935 External negative pressure ventilator.
868.5955 Intermittent mandatory ventilation attachment.
868.5965 Positive end expiratory pressure breathing attachment.
868.5975 Ventilator tubing.
868.5995 Tee drain (water trap).

Subpart G—Miscellaneous

868.6100 Anesthetic cabinet, table, or tray.
868.6175 Cardiopulmonary emergency cart.
868.6225 Nose clip.
868.6250 Portable air compressor.
868.6400 Calibration gas.
868.6700 Anesthesia stool.
868.6810 Tracheobronchial suction catheter.
868.6820 Patient position support.
868.6885 Medical gas yoke assembly.

Authority: Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).

Subpart A—General Provisions

§ 868.1 Scope.

(a) This part sets forth the classification of anesthesiology devices intended for human use that are in commercial distribution.

(b) The identification of a device in a regulation in this part is not a precise description of every device that is, or will be, subject to the regulation. A manufacturer who submits a premarket notification submission for a device under Part 807 may not show merely that the device is accurately described by the section title and identification provisions of a regulation in this part, but shall state why the device is substantially equivalent to other devices, as required by § 807.87.

(c) To avoid duplicative listings, an anesthesiology device that has two or more types of uses (e.g., used both as a diagnostic device and as a therapeutic device) is listed in a subpart representing one use of the device, rather than in two or more subparts.

(b) References in this part to regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21 unless otherwise noted.

Subpart B—Diagnostic Devices

§ 868.1030 Manual algesimeter.

(a) *Identification.* A manual algesimeter is a mechanical device intended to determine a patient's sensitivity to pain after administration of an anesthetic agent, e.g., by pricking with a sharp point.

(b) *Classification.* Class I (general controls). The device is exempt from the good manufacturing practice regulation in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

§ 868.1040 Powered algesimeter.

(a) *Identification.* A powered algesimeter is a device using electrical stimulation intended to determine a patient's sensitivity to pain after administration of an anesthetic agent.

(b) *Classification.* Class II (performance standards).

§ 868.1075 Argon gas analyzer.

(a) *Identification.* An argon gas analyzer is a device intended to measure the concentration of argon in a gas mixture to aid in determining the patient's ventilatory status. The device may use techniques such as mass spectrometry or thermal conductivity.

(b) *Classification.* Class II (performance standards).

§ 868.1100 Arterial blood sampling kit.

(a) *Identification.* An arterial blood sampling kit is a device, in kit form, used to obtain arterial blood samples from a patient for blood gas determinations. The kit may include a syringe, needle, cork, and heparin.

(b) *Classification.* Class II (performance standards).

§ 868.1120 Indwelling blood oxyhemoglobin concentration analyzer.

(a) *Identification.* An indwelling blood oxyhemoglobin concentration analyzer is a photoelectric device used to measure, in vivo, the oxygen-carrying capacity of hemoglobin in blood to aid

in determining the patient's physiological status.

(b) *Classification.* Class III (premarket approval).

§ 868.1150 Indwelling blood carbon dioxide partial pressure (P_{CO2}) analyzer.

(a) *Identification.* An indwelling blood carbon dioxide partial pressure P_{CO2} analyzer is a device that consists of a catheter-tip P_{CO2} transducer (e.g., P_{CO2} electrode) and that is used to measure, in vivo, the partial pressure of carbon dioxide in blood to aid in determining the patient's circulatory, ventilatory, and metabolic status.

(b) *Classification.* Class III (premarket approval).

§ 868.1170 Indwelling blood hydrogen ion concentration (pH) analyzer.

(a) *Identification.* An indwelling blood hydrogen ion concentration (pH) analyzer is a device that consists of a catheter-tip pH electrode and that is used to measure, in vivo, the hydrogen ion concentration (pH) in blood to aid in determining the patient's acid-base balance.

(b) *Classification.* Class III (premarket approval).

§ 868.1200 Indwelling blood oxygen partial pressure P_{O2} analyzer.

(a) *Identification.* An indwelling blood oxygen partial pressure (P_{O2}) analyzer is a device that consists of a catheter-tip P_{O2} transducer (e.g., P_{O2} electrode) and that is used to measure, in vivo, the partial pressure of oxygen in blood to aid in determining the patient's circulatory, ventilatory, and metabolic status.

(b) *Classification.* Class III (premarket approval).

§ 868.1400 Carbon dioxide gas analyzer.

(a) *Identification.* A carbon dioxide gas analyzer is a device intended to measure the concentration of carbon dioxide in a gas mixture to aid in determining the patient's ventilatory, circulatory, and metabolic status. The device may use techniques such as chemical titration, absorption of infrared radiation, gas chromatography, or mass spectrometry.

(b) *Classification.* Class II (performance standards).

§ 868.1430 Carbon monoxide gas analyzer.

(a) *Identification.* A carbon monoxide gas analyzer is a device intended to measure the concentration of carbon monoxide in a gas mixture to aid in determining the patient's ventilatory status. The device may use techniques such as infrared absorption or gas chromatography.

(b) *Classification.* Class II (performance standards).

§ 868.1500 Enflurane gas analyzer.

(a) *Identification.* An enflurane gas analyzer is a device intended to measure the concentration of enflurane anesthetic in a gas mixture.

(b) *Classification.* Class II (performance standards).

§ 868.1575 Gas collection vessel.

(a) *Identification.* A gas collection vessel is a container-like device intended to collect a patient's exhaled gases for subsequent analysis. It does not include a sampling pump.

(b) *Classification.* Class II (performance standards).

§ 868.1620 Halothane gas analyzer.

(a) *Identification.* A halothane gas analyzer is a device intended to measure the concentration of halothane anesthetic in a gas mixture. The device may use techniques such as mass spectrometry or absorption of infrared or ultraviolet radiation.

(b) *Classification.* Class II (performance standards).

§ 868.1640 Helium gas analyzer.

(a) *Identification.* A helium gas analyzer is a device intended to measure the concentration of helium in a gas mixture during pulmonary function testing. The device may use techniques such as thermal conductivity, gas chromatography, or mass spectrometry.

(b) *Classification.* Class II (performance standards).

§ 868.1670 Neon gas analyzer.

(a) *Identification.* A neon gas analyzer is a device intended to measure the concentration of neon in a gas mixture exhaled by a patient. The device may use techniques such as mass spectrometry or thermal conductivity.

(b) *Classification.* Class II (performance standards).

§ 868.1690 Nitrogen gas analyzer.

(a) *Identification.* A nitrogen gas analyzer is a device intended to measure the concentration of nitrogen in respiratory gases to aid in determining a patient's ventilatory status. The device may use techniques such as gas chromatography or mass spectrometry.

(b) *Classification.* Class II (performance standards).

§ 868.1700 Nitrous oxide gas analyzer.

(a) *Identification.* A nitrous oxide gas analyzer is a device intended to measure the concentration of nitrous oxide anesthetic in a gas mixture. The device may use techniques such as infrared absorption or mass spectrometry.

(b) *Classification.* Class II (performance standards).

§ 868.1720 Oxygen gas analyzer.

(a) *Identification.* An oxygen gas analyzer is a device intended to measure the concentration of oxygen in respiratory gases by techniques such as mass spectrometry, polarography, thermal conductivity, or gas chromatography. This generic type of device also includes paramagnetic analyzers.

(b) *Classification.* Class II (performance standards).

§ 868.1730 Oxygen uptake computer.

(a) *Identification.* An oxygen uptake computer is a device intended to compute the amount of oxygen consumed by a patient and may include components for determining expired gas volume and composition.

(b) *Classification.* Class II (performance standards).

§ 868.1750 Pressure plethysmograph.

(a) *Identification.* A pressure plethysmograph is a device used to determine a patient's airway resistance and lung volumes by measuring pressure changes while the patient is in an airtight box.

(b) *Classification.* Class II (performance standards).

§ 868.1760 Volume plethysmograph.

(a) *Identification.* A volume plethysmograph is an airtight box, in which a patient sits, that is used to determine the patient's lung volume changes.

(b) *Classification.* Class II (performance standards).

§ 868.1780 Inspiratory airway pressure meter.

(a) *Identification.* An inspiratory airway pressure meter is a device used to measure the amount of pressure produced in a patient's airway during maximal inspiration.

(b) *Classification.* Class II (performance standards).

§ 868.1800 Rhinoanemometer.

(a) *Identification.* A rhinoanemometer is a device used to quantify the amount of nasal congestion by measuring the airflow through, and differential pressure across, a patient's nasal passages.

(b) *Classification.* Class II (performance standards).

§ 868.1840 Diagnostic spirometer.

(a) *Identification.* A diagnostic spirometer is a device used in pulmonary function testing to measure the volume of gas moving in or out of a patient's lungs.

(b) *Classification.* Class II (performance standards).

§ 868.1850 Monitoring spirometer.

(a) *Identification.* A monitoring spirometer is a device used to measure continuously a patient's tidal volume (volume of gas inhaled by the patient during each respiration cycle) or minute volume (the tidal volume multiplied by the rate of respiration for 1 minute) for the evaluation of the patient's ventilatory status.

(b) *Classification.* Class II (performance standards).

§ 868.1860 Peak-flow meter for spirometry.

(a) *Identification.* A peak-flow meter for spirometry is a device used to measure a patient's maximum ventilatory flow rate.

(b) *Classification.* Class II (performance standards).

§ 868.1870 Gas volume calibrator.

(a) *Identification.* A gas volume calibrator is a device that is intended for medical purposes and that is used to calibrate the output of gas volume measurement instruments by delivering a known gas volume.

(b) *Classification.* Class II (performance standards).

§ 868.1880 Pulmonary-function data calculator.

(a) *Identification.* A pulmonary-function data calculator is a device used to calculate pulmonary-function values based on actual physical data obtained during pulmonary-function testing.

(b) *Classification.* Class II (performance standards).

§ 868.1890 Predictive pulmonary-function value calculator.

(a) *Identification.* A predictive pulmonary-function value calculator is a device used to calculate normal pulmonary-function values based on empirical equations.

(b) *Classification.* Class II (performance standards).

§ 868.1900 Diagnostic pulmonary-function interpretation calculator.

(a) *Identification.* A diagnostic pulmonary-function interpretation calculator is a device that interprets pulmonary study data to determine clinical significance of pulmonary-function values.

(b) *Classification.* Class II (performance standards).

§ 868.1910 Esophageal stethoscope.

(a) *Identification.* An esophageal stethoscope is a nonpowered device that is inserted into a patient's esophagus to enable the user to listen to heart and breath sounds.

(b) *Classification.* Class I (general controls).

§ 868.1920 Esophageal stethoscope with electrical conductors.

(a) *Identification.* An esophageal stethoscope with electrical conductors is a device that is inserted into the esophagus to listen to a patient's heart and breath sounds and to monitor electrophysiological signals. The device may also incorporate a thermistor for temperature measurement.

(b) *Classification.* Class II (performance standards).

§ 868.1930 Stethoscope head.

(a) *Identification.* A stethoscope head is a weighted chest piece used during anesthesia to listen to a patient's heart, breath, and other physiological sounds.

(b) *Classification.* Class I (general controls).

§ 868.1965 Switching valve (ploss).

(a) *Identification.* A switching valve (ploss) is a three-way valve located between a stethoscope placed over the heart, a blood pressure cuff, and an earpiece. The valve allows the user to eliminate one sound channel and listen only to a patient's heart or korotkoff (blood pressure) sounds through the other channel.

(b) *Classification.* Class I (general controls). The device is exempt from the good manufacturing practice regulation in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

§ 868.1975 Water vapor analyzer.

(a) *Identification.* A water vapor analyzer is a device intended to measure the concentration of water vapor in a patient's expired gases by using techniques such as mass spectrometry.

(b) *Classification.* Class II (performance standards).

Subpart C—Monitoring Devices

§ 868.2025 Ultrasonic air embolism monitor.

(a) *Identification.* An ultrasonic air embolism monitor is a device used to detect air bubbles in a patient's blood stream. It may use Doppler or other ultrasonic principles.

(b) *Classification.* Class II (performance standards).

§ 868.2300 Bourdon gauge flowmeter.

(a) *Identification.* A bourdon gauge flowmeter is a device intended for medical purposes that is used in conjunction with respiratory equipment to sense gas pressure. The device is calibrated to indicate gas flow rate when the outflow is open to the atmosphere.

(b) *Classification.* Class II (performance standards).

§ 868.2320 Uncompensated thorpe tube flowmeter.

(a) *Identification.* An uncompensated thorpe tube flowmeter is a device intended for medical purposes that is used to indicate and control gas flow rate accurately. The device includes a vertically mounted tube and is calibrated when the outlet of the flowmeter is open to the atmosphere.

(b) *Classification.* Class II (performance standards).

§ 868.2340 Compensated thorpe tube flowmeter.

(a) *Identification.* A compensated thorpe tube flowmeter is a device intended for medical purposes that is used to control and measure gas flow rate accurately. The device includes a vertically mounted tube, with the outlet of the flowmeter calibrated to a reference pressure.

(b) *Classification.* Class II (performance standards).

§ 868.2350 Gas calibration flowmeter.

(a) *Identification.* A gas calibration flowmeter is a device intended for medical purposes that is used to calibrate flowmeters and accurately measure gas flow.

(b) *Classification.* Class II (performance standards).

§ 868.2375 Breathing frequency monitor.

(a) *Identification.* A breathing (ventilatory) frequency monitor is a device intended to measure or monitor a patient's respiratory rate. The device may provide an audible or visible alarm when the respiratory rate is outside predetermined limits.

(b) *Classification.* Class II (performance standards).

§ 868.2450 Lung water monitor.

(a) *Identification.* A lung water monitor is a device used to monitor the trend of fluid volume changes in a patient's lung by measuring changes in thoracic electrical impedance

(resistance to alternating current) by means of electrodes placed on the patient's chest.

(b) *Classification.* Class III (premarket approval).

§ 868.2500 Cutaneous oxygen monitor.

(a) *Cutaneous oxygen monitor for an infant patient who is not under gas anesthesia*—(1) *Identification.* A cutaneous oxygen monitor for an infant patient who is not under gas anesthesia is a device that uses a noninvasive sensor (e.g., a Clark-type polarographic electrode) placed on the patient's skin and that is intended to monitor relative changes in the cutaneous oxygen tension in an infant patient who is not under gas anesthesia.

(2) *Classification.* Class II (performance standards).

(b) *Cutaneous oxygen monitor for all other uses*—(1) *Identification.* A cutaneous oxygen monitor for all other uses is a device that uses a noninvasive sensor (e.g., a Clark-type polarographic electrode) placed on the patient's skin and that is intended to monitor relative changes in the cutaneous oxygen tension in a noninfant patient or in any patient, including an infant, who is under gas anesthesia.

(2) *Classification.* Class III (premarket approval).

§ 868.2550 Pneumotachometer.

(a) *Identification.* A pneumotachometer is a device intended for medical purposes that is used to determine gas flow by measuring the pressure differential across a known resistance. The device may use a set of capillaries or a metal screen for the resistive element.

(b) *Classification.* Class II (performance standards).

§ 868.2600 Airway pressure monitor.

(a) *Identification.* An airway pressure monitor is a device used to measure the pressure in a patient's upper airway. The device may include a pressure gauge and an alarm.

(b) *Classification.* Class II (performance standards).

§ 868.2610 Gas pressure gauge.

(a) *Identification.* A gas pressure gauge (e.g., bourdon tube pressure gauge) is a device intended for medical purposes that is used to measure gas pressure in a medical gas delivery system.

(b) *Classification.* Class II (performance standards).

§ 868.2620 Gas pressure calibrator.

(a) *Identification.* A gas pressure calibrator is a device intended for medical purposes that is used to calibrate pressure-measuring instruments by generating a known gas pressure.

(b) *Classification.* Class II (performance standards).

§ 868.2700 Pressure regulator.

(a) *Identification.* A pressure regulator is a device, often called a pressure-reducing valve, that is intended for medical purposes and that is used to convert a medical gas pressure from a high variable pressure to a lower, more constant working pressure. This device includes mechanical oxygen regulators.

(b) *Classification.* Class II (performance standards).

§ 868.2775 Electrical peripheral nerve stimulator.

(a) *Identification.* An electrical peripheral nerve stimulator (neuromuscular blockade monitor) is a device used to apply an electrical current to a patient to test the level of pharmacological effect of anesthetic drugs and gases.

(b) *Classification.* Class II (performance standards).

§ 868.2875 Differential pressure transducer.

(a) *Identification.* A differential pressure transducer is a two-chambered device intended for medical purposes that is often used during pulmonary function testing. It generates an electrical signal for subsequent display or processing that is proportional to the difference in gas pressures in the two chambers.

(b) *Classification.* Class II (performance standards).

§ 868.2885 Gas flow transducer.

(a) *Identification.* A gas flow transducer is a device intended for medical purposes that is used to convert gas flow rate into an electrical signal for subsequent display or processing.

(b) *Classification.* Class II (performance standards).

§ 868.2900 Gas pressure transducer.

(a) *Identification.* A gas pressure transducer is a device intended for medical purposes that is used to convert gas pressure into an electrical signal for subsequent display or processing.

(b) *Classification.* Class II (performance standards).

Subparts D–E—[Reserved]

Subpart F—Therapeutic Devices

§ 868.5090 Emergency airway needle.

(a) *Identification.* An emergency airway needle is a device intended to puncture a patient's cricothyroid membrane to provide an emergency airway during upper airway obstruction.

(b) *Classification.* Class II (performance standards).

§ 868.5100 Nasopharyngeal airway.

(a) *Identification.* A nasopharyngeal airway is a device used to aid breathing by means of a tube inserted into a patient's pharynx through the nose to provide a patent airway.

(b) *Classification.* Class II (performance standards).

§ 868.5110 Oropharyngeal airway.

(a) *Identification.* An oropharyngeal airway is a device inserted into a patient's pharynx through the mouth to provide a patent airway.

(b) *Classification.* Class II (performance standards).

§ 868.5120 Anesthesia conduction catheter.

(a) *Identification.* An anesthesia conduction catheter is a flexible tubular device used to inject local anesthetics into a patient and to provide continuous regional anesthesia.

(b) *Classification.* Class II (performance standards).

§ 868.5130 Anesthesia conduction filter.

(a) *Identification.* An anesthesia conduction filter is a microporous filter used while administering to a patient injections of local anesthetics to minimize particulate (foreign material) contamination of the injected fluid.

(b) *Classification.* Class II (performance standards).

§ 868.5140 Anesthesia conduction kit.

(a) *Identification.* An anesthesia conduction kit is a device used to administer to a patient conduction, regional, or local anesthesia. The device may contain syringes, needles, and drugs.

(b) *Classification.* Class II (performance standards).

§ 868.5150 Anesthesia conduction needle.

(a) *Identification.* An anesthesia conduction needle is a device used to inject local anesthetics into a patient to provide regional anesthesia.

(b) *Classification.* Class II (performance standards).

§ 868.5160 Gas machine for anesthesia or analgesia.

(a) *Gas machine for anesthesia*—(1) *Identification.* A gas machine for anesthesia is a device used to administer to a patient continuously or intermittently, a general inhalation anesthetic and to maintain a patient's ventilation. The device may include a

gas flowmeter, vaporizer, ventilator, breathing circuit with bag, and emergency air supply.

(2) *Classification.* Class II (performance standards).

(b) *Gas machine for analgesia*—(1) *Identification.* A gas machine for analgesia is a device used to administer to a patient an analgesic agent, such as a nitrous oxide-oxygen mixture (maximum concentration of 70 percent nitrous oxide).

(2) *Classification.* Class II (performance standards).

§ 868.5170 Laryngotracheal topical anesthesia applicator.

(a) *Identification.* A laryngotracheal topical anesthesia applicator is a device used to apply topical anesthetics to a patient's laryngotracheal area.

(b) *Classification.* Class II (performance standards).

§ 868.5180 Rocking bed.

(a) *Identification.* A rocking bed is a device intended for temporary use to help patient ventilation (breathing) by repeatedly tilting the patient, thereby using the weight of the abdominal contents to move the diaphragm.

(b) *Classification.* Class II (performance standards).

§ 868.5220 Blow bottle.

(a) *Identification.* A blow bottle is a device that is intended for medical purposes to induce a forced expiration from a patient. The patient blows into the device to move a column of water from one bottle to another.

(b) *Classification.* Class I (general controls). If the device is not labeled or otherwise represented as sterile, it is exempt from the good manufacturing practice regulation in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

§ 868.5240 Anesthesia breathing circuit.

(a) *Identification.* An anesthesia breathing circuit is a device that is intended to administer medical gases to a patient during anesthesia. It provides both an inhalation and exhalation route and may include a connector, adaptor, and Y-piece.

(b) *Classification.* Class II (performance standards).

§ 868.5250 Breathing circuit circulator.

(a) *Identification.* A breathing circuit circulator is a turbine device that is attached to a closed breathing circuit and that is intended to circulate anesthetic gases continuously by maintaining the unidirectional valves in an open position and reducing mechanical dead space and resistance in the breathing circuit.

(b) *Classification.* Class II (performance standards).

§ 868.5260 Breathing circuit bacterial filter.

(a) *Identification.* A breathing circuit bacterial filter is a device that is intended to remove microbiological and particulate matter from the gases in the breathing circuit.

(b) *Classification.* Class II (performance standards).

§ 868.5270 Breathing system heater.

(a) *Identification.* A breathing system heater is a device that is intended to warm breathing gases before they enter a patient's airway. The device may include a temperature controller.

(b) *Classification.* Class II (performance standards).

§ 868.5280 Breathing tube support.

(a) *Identification.* A breathing tube support is a device that is intended to support and anchor a patient's breathing tube(s).

(b) *Classification.* Class I (general controls).

§ 868.5300 Carbon dioxide absorbent.

(a) *Identification.* A carbon dioxide absorbent is a device intended for medical purposes that consists of an absorbent material (e.g., soda lime) that is intended to remove carbon dioxide from the gases in the breathing circuit.

(b) *Classification.* Class II (performance standards).

§ 868.5310 Carbon dioxide absorber.

(a) *Identification.* A carbon dioxide absorber is a device that is intended for medical purposes and that is used in a breathing circuit as a container for carbon dioxide absorbent. It may include a canister and water drain.

(b) *Classification.* Class II (performance standards).

§ 868.5320 Reservoir bag.

(a) *Identification.* A reservoir bag is a device, usually made of conductive rubber, intended for use in a breathing circuit as a reservoir for breathing gas and to assist, control, or monitor a patient's ventilation.

(b) *Classification.* Class II (performance standards).

§ 868.5330 Breathing gas mixer.

(a) *Identification.* A breathing gas mixer is a device intended for use in conjunction with a respiratory support apparatus to control the mixing of gases that are to be breathed by a patient.

(b) *Classification.* Class II (performance standards).

§ 868.5340 Nasal oxygen cannula.

(a) *Identification.* A nasal oxygen cannula is a two-pronged device used to administer oxygen to a patient through both nostrils.

(b) *Classification.* Class I (general controls).

§ 868.5350 Nasal oxygen catheter.

(a) *Identification.* A nasal oxygen catheter is a device intended to be inserted through a patient's nostril to administer oxygen.

(b) *Classification.* Class I (general controls).

§ 868.5365 Posture chair for cardiac or pulmonary treatment.

(a) *Identification.* A posture chair for cardiac or pulmonary treatment is a device intended to assist in the rehabilitation and mobilization of patients with chronic heart or lung disease.

(b) *Classification.* Class I (general controls).

§ 868.5375 Heat and moisture condenser (artificial nose).

(a) *Identification.* A heat and moisture condenser (artificial nose) is a device intended to be positioned over a tracheotomy (a surgically created opening in the throat) or tracheal tube (a tube inserted into the trachea) to warm and humidify gases breathed in by a patient.

(b) *Classification.* Class II (performance standards).

§ 868.5400 Electroanesthesia apparatus.

(a) *Identification.* An electroanesthesia apparatus is a device used for the induction and maintenance of anesthesia during surgical procedures by means of an alternating or pulsed electric current that is passed through electrodes fixed to a patient's head.

(b) *Classification.* Class III (premarket approval).

§ 868.5420 Ether hook.

(a) *Identification.* An ether hook is a device that fits inside a patient's mouth and that is intended to deliver vaporized ether.

(b) *Classification.* Class I (general controls). If the device is not labeled or otherwise represented as sterile, it is exempt from the good manufacturing practice regulation in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

§ 868.5430 Gas-scavenging apparatus.

(a) *Identification.* A gas-scavenging apparatus is a device intended to collect

excess anesthetic, analgesic, or trace gases or vapors from a patient's breathing system, ventilator, or extracorporeal pump-oxygenator, and to conduct these gases out of the area by means of an exhaust system.

(b) *Classification.* Class II (performance standards).

§ 868.5440 Portable oxygen generator.

(a) *Identification.* A portable oxygen generator is a device that is intended to release oxygen for respiratory therapy by means of either a chemical reaction or physical means (e.g., a molecular sieve).

(b) *Classification.* Class II (performance standards).

§ 868.5450 Respiratory gas humidifier.

(a) *Identification.* A respiratory gas humidifier is a device that is intended to add moisture to, and sometimes to warm, the breathing gases for administration to a patient. Cascade, gas, heated, and prefilled humidifiers are included in this generic type of device.

(b) *Classification.* Class II (performance standards).

§ 868.5460 Therapeutic humidifier for home use.

(a) *Identification.* A therapeutic humidifier for home use is a device that adds water vapor to breathing gases and that is intended for respiratory therapy or other medical purposes. The vapor produced by the device pervades the area surrounding the patient, who breaths the vapor during normal respiration.

(b) *Classification.* Class II (performance standards).

§ 868.5470 Hyperbaric chamber.

(a) *Identification.* A hyperbaric chamber is a device that is intended to increase the environmental oxygen pressure to promote the movement of oxygen from the environment to a patient's tissue by means of pressurization that is greater than atmospheric pressure. This device does not include topical oxygen chambers for extremities (§ 878.5650).

(b) *Classification.* Class II (performance standards).

§ 868.5570 Nonrebreathing mask.

(a) *Identification.* A nonrebreathing mask is a device fitting over a patient's face to administer oxygen. It utilizes one-way valves to prevent the patient from rebreathing previously exhaled gases.

(b) *Classification.* Class II (performance standards).

§ 868.5580 Oxygen mask.

(a) *Identification.* An oxygen mask is a device placed over a patient's nose, mouth, or tracheostomy to administer oxygen or aerosols.

(b) *Classification.* Class II (performance standards).

§ 868.5590 Scavenging mask.

(a) *Identification.* A scavenging mask is a device positioned over a patient's nose to deliver anesthetic or analgesic gases to the upper airway and to remove excess and exhaled gas. It is usually used during dentistry.

(b) *Classification.* Class II (performance standards).

§ 868.5600 Venturi mask.

(a) *Identification.* A venturi mask is a device containing an air-oxygen mixing mechanism that dilutes 100 percent oxygen to a predetermined concentration and delivers the mixed gases to a patient.

(b) *Classification.* Class II (performance standards).

§ 868.5610 Membrane lung for long-term pulmonary support.

(a) *Identification.* A membrane lung for long-term pulmonary support is a device used to provide to a patient extracorporeal blood oxygenation for longer than 24 hours.

(b) *Classification.* Class III (premarket approval).

§ 868.5620 Breathing mouthpiece.

(a) *Identification.* A breathing mouthpiece is a rigid device that is inserted into a patient's mouth and that connects with diagnostic or therapeutic respiratory devices.

(b) *Classification.* Class I (general controls).

§ 868.5630 Nebulizer.

(a) *Identification.* A nebulizer is a device intended to spray liquids in aerosol form into gases that are delivered directly to the patient for breathing. Heated, ultrasonic, gas, venturi, and refillable nebulizers are included in this generic type of device.

(b) *Classification.* Class II (performance standards).

§ 868.5640 Medicinal nonventilatory nebulizer (atomizer).

(a) *Identification.* A medicinal nonventilatory nebulizer (atomizer) is a device that is intended to spray liquid medication in aerosol form into the air that a patient will breathe.

(b) *Classification.* Class I (general controls).

§ 868.5650 Esophageal obturator.

(a) *Identification.* An esophageal obturator is a device inserted through a patient's mouth to aid ventilation of the patient during emergency resuscitation by occluding (blocking) the esophagus, thereby permitting positive pressure ventilation through the trachea. The device consists of a closed-end semirigid esophageal tube that is attached to a face mask.

(b) *Classification.* Class II (performance standards).

§ 868.5655 Portable liquid oxygen unit.

(a) *Identification.* A portable liquid oxygen unit is a portable, thermally insulated container of liquid oxygen that is intended to supplement gases to be inhaled by a patient, is sometimes accompanied by tubing and an oxygen mask. An empty portable liquid oxygen unit is a device, while the oxygen contained therein is a drug.

(b) *Classification.* Class II (performance standards).

§ 868.5665 Powered percussor.

(a) *Identification.* A powered percussor is a device that is intended to transmit vibration through a patient's chest wall to aid in freeing mucus deposits in the lung in order to improve bronchial drainage and that may be powered by electricity or compressed gas.

(b) *Classification.* Class II (performance standards).

§ 868.5675 Rebreathing device.

(a) *Identification.* A rebreathing device is a device that enables a patient to rebreathe exhaled gases. It may be used in conjunction with pulmonary function testing or for increasing minute ventilation.

(b) *Classification.* Class I (general controls). If the device is not labeled or otherwise represented as sterile, it is exempt from the good manufacturing practice regulation in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

§ 868.5690 Incentive spirometer.

(a) *Identification.* An incentive spirometer is a device that indicates a patient's breathing volume or flow and that provides an incentive to the patient to improve his or her ventilation.

(b) *Classification.* Class II (performance standards).

§ 868.5700 Nonpowered oxygen tent.

(a) *Identification.* A nonpowered oxygen tent is a device that encloses a patient's head and upper body to

contain oxygen delivered to the patient for breathing. This generic type of device includes infant oxygen hoods.

(b) *Classification.* Class I (general controls).

§ 868.5710 Electrically powered oxygen tent.

(a) *Identification.* An electrically powered oxygen tent is a device that encloses a patient's head and, by means of an electrically powered unit, administers breathing oxygen and controls the temperature and humidity of the breathing gases. This generic type device includes the pediatric aerosol tent.

(b) *Classification.* Class II (performance standards).

§ 868.5720 Bronchial tube.

(a) *Identification.* A bronchial tube is a device used to differentially intubate a patient's bronchus (one of the two main branches of the trachea leading directly to the lung) in order to isolate a portion of lung distal to the tube.

(b) *Classification.* Class II (performance standards).

§ 868.5730 Tracheal tube.

(a) *Identification.* A tracheal tube is a device inserted into a patient's trachea via the nose or mouth and used to maintain an open airway.

(b) *Classification.* Class II (performance standards).

§ 868.5740 Tracheal/bronchial differential ventilation tube.

(a) *Identification.* A tracheal/bronchial differential ventilation tube is a device used to isolate the left or the right lung of a patient for anesthesia or pulmonary function testing.

(b) *Classification.* Class II (performance standards).

§ 868.5750 Inflatable tracheal tube cuff.

(a) *Identification.* An inflatable tracheal tube cuff is a device used to provide an airtight seal between a tracheal tube and a patient's trachea.

(b) *Classification.* Class II (performance standards).

§ 868.5760 Cuff spreader.

(a) *Identification.* A cuff spreader is a device used to install tracheal tube cuffs on tracheal or tracheostomy tubes.

(b) *Classification.* Class I (general controls). If the device is not labeled or otherwise represented as sterile, it is exempt from the good manufacturing practice regulation in Part 820 with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

§ 868.5770 Tracheal tube fixation device.

(a) *Identification.* A tracheal tube fixation device is a device used to hold a tracheal tube in place, usually by means of straps or pinch rings.

(b) *Classification.* Class II (performance standards).

§ 868.5780 Tube introduction forceps.

(a) *Identification.* Tube introduction forceps (e.g., Magill forceps) are a right-angled device used to grasp a tracheal tube and place it in a patient's trachea.

(b) *Classification.* Class II (performance standards).

§ 868.5790 Tracheal tube stylet.

(a) *Identification.* A tracheal tube stylet is a device used temporarily to make rigid a flexible tracheal tube to aid its insertion into a patient.

(b) *Classification.* Class II (performance standards).

§ 868.5810 Airway connector.

(a) *Identification.* An airway connector is a device intended to connect a breathing gas source to a tracheal tube, tracheostomy tube, or mask.

(b) *Classification.* Class II (performance standards).

§ 868.5820 Dental protector.

(a) *Identification.* A dental protector is a device intended to protect a patient's teeth during manipulative procedures within a patient's oral cavity.

(b) *Classification.* Class II (performance standards).

§ 868.5830 Autotransfusion apparatus.

(a) *Identification.* An autotransfusion apparatus is a device used to collect and reinfuse the blood lost by a patient due to surgery or trauma.

(b) *Classification.* Class II (performance standards).

§ 868.5860 Pressure tubing and accessories.

(a) *Identification.* Pressure tubing and accessories are flexible or rigid devices intended to deliver pressurized medical gases.

(b) *Classification.* Class II (performance standards).

§ 868.5870 Nonrebreathing valve.

(a) *Identification.* A nonrebreathing valve is a one-way valve that directs breathing gas flow to the patient and vents exhaled gases into the atmosphere.

(b) *Classification.* Class II (performance standards).

§ 868.5880 Anesthetic vaporizer.

(a) *Identification.* An anesthetic vaporizer is a device used to vaporize liquid anesthetic and deliver a controlled amount of the vapor to the patient.

(b) *Classification.* Class II (performance standards).

§ 868.5895 Continuous ventilator.

(a) *Identification.* A continuous ventilator (respirator) is a device intended to mechanically control or assist patient breathing by delivering a predetermined percentage of oxygen in the breathing gas. Adult, pediatric, and neonatal ventilators are included in this generic type of device.

(b) *Classification.* Class II (performance standards).

§ 868.5905 Noncontinuous ventilator (IPPB).

(a) *Identification.* A noncontinuous ventilator (intermittent positive pressure breathing-IPPB) is a device intended to deliver intermittently an aerosol to a patient's lungs or to assist a patient's breathing.

(b) *Classification.* Class II (performance standards).

§ 868.5915 Manual emergency ventilator.

(a) *Identification.* A manual emergency ventilator is a device, usually incorporating a bag and valve, intended to provide emergency respiratory support by means of a face mask or a tube inserted into a patient's airway.

(b) *Classification.* Class II (performance standards).

§ 868.5925 Powered emergency ventilator.

(a) *Identification.* A powered emergency ventilator is a demand valve or inhalator intended to provide emergency respiratory support by means of a face mask or a tube inserted into a patient's airway.

(b) *Classification.* Class II (performance standards).

§ 868.5935 External negative pressure ventilator.

(a) *Identification.* An external negative pressure ventilator (e.g., iron lung, cuirass) is a device chamber that is intended to support a patient's ventilation by alternately applying and releasing external negative pressure over the diaphragm and upper trunk of the patient.

(b) *Classification.* Class II (performance standards).

§ 868.5955 Intermittent mandatory ventilation attachment.

(a) *Identification.* An intermittent mandatory ventilation (IMV) attachment

is a device attached to a mechanical ventilator that allows spontaneous breathing by a patient while providing mechanical ventilation at a preset rate.

(b) *Classification.* Class II (performance standards).

§ 868.5965 Positive end expiratory pressure breathing attachment.

(a) *Identification.* A positive end expiratory pressure (PEEP) breathing attachment is a device attached to a ventilator that is used to elevate pressure in a patient's lungs above atmospheric pressure at the end of exhalation.

(b) *Classification.* Class II (performance standards).

§ 868.5975 Ventilator tubing.

(a) *Identification.* Ventilator tubing is a device intended for use as a conduit for gases between a ventilator and a patient during ventilation of the patient.

(b) *Classification.* Class II (performance standards).

§ 868.5995 Tee drain (water trap).

(a) *Identification.* A tee drain (water trap) is a device intended to trap and drain water that collects in ventilator tubing during respiratory therapy, thereby preventing an increase in breathing resistance.

(b) *Classification.* Class II (perfomance standards).

Subpart G—Miscellaneous

§ 868.6100 Anesthetic cabinet, table, or tray.

(a) *Identification.* An anesthetic cabinet, table, or tray is a device intended to store anesthetic equipment and drugs. The device is usually constructed to eliminate build-up of static electrical charges.

(b) *Classification.* Class I (general controls).

§ 868.6175 Cardiopulmonary emergency cart.

(a) *Identification.* A cardiopulmonary emergency cart is a device intended to store and transport resuscitation supplies for emergency treatment. The device does not include any equipment used in cardiopulmonary resuscitation.

(b) *Classification.* Class I (general controls). The device is exempt from the good manufacturing practice regulation in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

§ 868.6225 Nose clip.

(a) *Identification.* A nose clip is a device intended to close a patient's external nares (nostrils) during diagnostic or therapeutic procedures.

(b) *Classification.* Class I (general controls). The device is exempt from the good manufacturing practice regulation in Part 820 with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

§ 868.6250 Portable air compressor.

(a) *Identification.* A portable air compressor is a device intended to provide compressed air for medical purposes, e.g., to drive ventilators and other respiratory devices.

(b) *Classification.* Class II (performance standards).

§ 868.6400 Calibration gas.

(a) *Identification.* A calibration gas is a device consisting of a container of gas of known concentration intended to calibrate medical gas concentration measurement devices.

(b) *Classification.* Class II (performance standards).

§ 868.6700 Anesthesia stool.

(a) *Identification.* An anesthesia stool is a device intended for use as a stool for the anesthesiologist in the operating room.

(b) *Classification.* Class I (general controls).

§ 868.6810 Tracheobronchial suction catheter.

(a) *Identification.* A tracheobronchial suction catheter is a device used to aspirate liquids or semisolids from a patient's upper airway.

(b) *Classification.* Class I (general controls).

§ 868.6820 Patient position support.

(a) *Identification.* A patient position support is a device intended to maintain the position of an anesthetized patient during surgery.

(b) *Classification.* Class II (performance standards).

§ 868.6885 Medical gas yoke assembly.

(a) *Identification.* A medical gas yoke assembly is a device intended to connect medical gas cylinders to regulators or needle valves to supply gases for anesthesia or respiratory therapy. The device may include a particulate filter.

(b) *Classification.* Class II (performance standards).

The Food and Drug Administration has carefully analyzed the economic effects of this final rule in accordance with section 3(g)(1) of Executive Order 12291, and it has been determined that the final rule does not constitute a major rule as defined in section 1(b) of the Executive Order. Rules classifying devices into class I generally maintain the status quo: These devices are now subject to only the general controls provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351, 352, 360, 360f, 360h, 360i, and 360j) and under the final rule, would remain subject only to such controls either in their entirety or with certain exemptions. Devices classified into class II would also remain subject only to the general controls provisions of the act unless and until an applicable performance standard were established. Similarly, devices classified into class III remain subject only to the general controls provisions of the act until an additional regulation is promulgated pursuant to section 515(b) of the act (21 U.S.C. 360e(b)) requiring that such devices have in effect approved applications for premarket approval. In accordance with section 501(f)(2)(B) of the act (21 U.S.C. 351(f)(2)(B)), devices classified by regulation into class III may remain in commercial distribution without an approved premarket approval application for 30 months following the effective date of classification of the device into class III, or for 90 days following the promulgation of a regulation under section 515(b) of the act (21 U.S.C. 360e(b)), whichever occurs later. In sum, device classification rules are not major rules. The requirement for a regulatory flexibility analysis under the Regulatory Flexibility Act does not apply to this final rule because the proposed rules on which it is based were issued prior to January 1, 1981, and are therefore exempt.

Effective date. This regulation is effective August 16, 1982.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: June 24, 1982.

Mark Novitch,

Acting Commissioner of Food and Drugs.

FR Doc. 82-18941 Filed 7-15-82; 8:45 am]

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federal register

Friday
July 16, 1982

Part III

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

District of Columbia: DC81-3030	June 5, 1981.
Illinois: Il82-2033	May 14, 1982.
Kentucky:	
KY81-1281KY81-1282	Aug. 28, 1981.
KY81-1283	Sept. 4, 1981.
New York:	
NY81-3003	Jan. 23, 1981.
NY80-3054	Sept. 5, 1980.
Pennsylvania: PA82-3007	Feb. 26, 1981.
Ohio:	
OH82-2035	May 7, 1982.
OH82-2037	May 21, 1982.
Tennessee: TN81-1202	May 1, 1981.

Supersedeas Decision to General Wage Determination Decision

The number of the decision being superseded and its date of publication in the **Federal Register** is listed with the State. Supersedeas decision number is in parentheses following the number of the decision being superseded.

California: CA81-5132 (CA82-5112)	July 10, 1981.

Signed at Washington, D.C., this 9th day of July 1982.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

DECISION NO. DC81-3040 - MOD. #13
(46 FR 30290 - June 5, 1981)
DISTRICT OF COLUMBIA; MARYLAND-MONTGOMERY AND PRINCE GEORGES; D.C. TRAINING SCHOOL; VIRGINIA - INDEPENDENT CITY OF ALEXANDRIA, ARLINGTON AND FAIRFAX

CHANGE:

	Basic Hourly Rates	Fringe Benefits
IRONWORKERS		
Structural, ornamental and chain link fence	15.11	2.835
TRUCK DRIVERS		
Boom Trucks	11.31	1.59
Small dump, water sprinkler, grease and oil	11.02	1.59
Flat, pick-up hauling materials, small euclids, dump over 8 wheels	11.14	1.59
Trailers, low boys, tractor pulls	11.38	1.59
Helpers	10.84	1.59
Carryalls, large Euclids, euclid water sprinklers, tunnel work underground and pay haulers	11.50	1.59
Mechanics	11.20	1.59
Greasers, tiremen, runners	11.02	1.59

DECISION NO. IL82-2033 - MOD. #1
(47 FR 20984 - May 14, 1982)
DuPage, Grundy, Kane, Kendall, Lake, McHenry, & Will Counties, Illinois

CHANGE:

	Basic Hourly Rates	Fringe Benefits
Electricians:		
DuPage Co.	$17.65	$4.06

DECISION #KY81-1281 - Mod. #1
(46 FR 43616 - August 28, 1981)
Various Counties (Locality #2), Kentucky

CHANGE:

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS: HIGHWAY CONSTRUCTION -		
CLASS A	$12.87	$ 2.13
CLASS B	10.45	2.13
CLASS C	10.83	2.13
CLASS D	10.19	2.13

DECISION #KY81-1282 - Mod. #1
(46 FR 43618 - August 28, 1981)
Various Counties (Locality #3), Kentucky

CHANGE:

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS: HIGHWAY CONSTRUCTION -		
CLASS A	$12.87	$ 2.13
CLASS B	10.45	2.13
CLASS C	10.83	2.13
CLASS D	10.19	2.13

DECISION #KY81-1283 - Mod. #1
(46 FR 44628 - September 4, 1981)
Various Counties (Locality #1), Kentucky

CHANGE:

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS: HIGHWAY CONSTRUCTION -		
CLASS A	$12.87	$ 2.13
CLASS B	10.45	2.13
CLASS C	10.83	2.13
CLASS D	10.19	2.13

DECISION NO. NY81-3003 - MOD. #4
(46 FR 7737 - January 23, 1981)
ORANGE COUNTY, NEW YORK

CHANGE:

	Basic Hourly Rates	Fringe Benefits
LABORERS, BUILDING (TOTAL PROJECT PRICE $200,000 AND OVER) Common Laborers, Mason Tenders, Mortar Mixers, Hod Carriers, Scaffold Builders, Concrete Men, Vibrator men, poured gypsun, Roof work, wrecking, walking power buggy men, Landscaper, Chipping Hammer (air or electric 1" and under)	11.80	2.90
Asphalt men, Pipelayers, Air or Electric Jackhammer, Powdermen, Gunnite, Sandblasting, Air Trac, Barmen, Chain Saw, Riding Power Buggy, Vibro, Barco, Joy Tamper or similar, Joy or Jib Drills, Walk Behind Roller, Wagon Drill, All Fork Lifts Grade, Pipe, Concrete Clearing, Black Top, Drill, Paving etc., Blaster, Form Setter, Burner (acetylene torch), Ingersoll-Rand, Heavy Duty Crawler Type HCM2, Drill Machines or Equivalent, All wrecking work fifty feet or more above	12.05	2.90
(TOTAL PROJECT PRICE UNDER $200,000) Common Laborers, Mason Tenders, Mortar Mixers, Hod Carriers, Scaffold Builders, Concrete men, Vibrator men, poured gypsun, Roof work, wrecking, walking power buggy men, Landscaper, Chipping Hammer (air or electric 1" and under)	10.62	2.90
Asphalt men, Pipelayers, Air or Electric Jackhammer, Powdermen, Gunnite, Sandblasting, Air Trac, Barmen, Chain Saw, Riding Power Buggy, Vibro, Barco, Joy Tamper or similar, Joy or Jib Drills, Walk Behind Roller, Wagon Drill, All Fork Lifts Grade, Pipe, Concrete Clearing, Black Top, Drill, Paving etc., Blaster, Form Setter, Burner (acetylene torch), Ingersoll-Rand, Heavy Duty Crawler Type HCM2, Drill Machines or Equivalent, All wrecking work fifty feet or more above	10.85	2.90
HEAVY & HIGHWAY CONSTRUCTION		
LABORERS:		
GROUP I	12.35	2.90
GROUP II	12.60	2.90
GROUP III	13.00	2.90

DECISION NO. NY80-3054 - MOD. #3
(45 FR 59104 - Sept. 5, 1980)
JEFFERSON COUNTY, NY

CHANGE:

	Basic Hourly Rates	Fringe Benefits
BUILDING CONSTRUCTION		
BRICKLAYERS, CEMENT MASONS, PLASTERERS & TILE SETTERS	15.54	1.81

MODIFICATION Page 3

DECISION NO. PA82-3007 - MOD. #4 (47 FR 8529 - February 26, 1982) BUCKS, CHESTER, DELAWARE, MONTGOMERY & PHILADELPHIA COUNTIES, PENNSYLVANIA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BRICKLAYERS:		
New Residential Under 4 Stories	13.47	2.57
Zone 3	14.11	2.11
ELECTRICIANS		
Zone 1		
Residential up to and including 4 stories	16.00	.67+ 11%
Zone 6		
Commercial	16.00	2.69+ 3%
Zone 7		
Commercial	14.55	1.84+3%
GLAZIERS		
Zone 2	12.79	1.465
IRONWORKERS		
Zone 3		
Structural & Ornamental	16.75	4.30
Reinforcing	15.64	4.75
IRONWORKERS:		
Rigger, Machinery Mover	16.36	3.20
LABORERS:		
Class 1	12.05	2.25
Class 2	12.15	2.25
Class 3	12.20	2.25
Class 4	12.35	2.25
Class 5	12.45	2.25
Class 6	11.99	2.25
MARBLE SETTERS	13.20	2.97
PAINTERS		
ZONE 3		
Brush	12.15	2.25
Steel & Spray	13.20	2.25
Roller	12.15	2.25
PILEDRIVERMEN	13.67	5.31+f
ROOFERS:		
Residential structure of not more than 4 stories re-roofing		
Zone 1	12.50	1.90
SHEET METAL WORKERS		
Zone 1 (Commercial)	17.81	4.04
SOFT FLOOR LAYERS	12.63	4.71
STEAMFITTERS		
Zone 2	17.86	3.00
STONEMASONS		
Zone 1	13.20	2.97
TERRAZZO WORKERS	12.86	3.10

DECISION NO. OH82-2035 - MOD. #2 (47 FR 19893 - May 7, 1982) Statewide, Ohio	Basic Hourly Rates	Fringe Benefits
Change:		
Ironworkers:		
Ashtabula (NE ¼) Co.	$15.30	$3.62

DECISION NO. OH82-2037 - MOD. #1 (47 FR 22307 - May 21, 1982) Ashtabula, Cuyahoga, Lake, Lorain, Portage, Stark, & Summit Counties, Ohio		
Change:		
Ironworkers:		
Ashtabula (NE ¼) Co.	15.50	3.62

DECISION NO. TN81-1202 - MOD. #7 (46 FR 24886 - May 1, 1981) SHELBY COUNTY, TENNESSEE	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BRICKLAYERS	14.90	1.68
CARPENTERS, PILEDRIVERMEN, AND SOFT FLOOR LAYERS	13.63	2.20
ELECTRICIANS	17.48	1.45+ 3.55%
IRONWORKERS	14.40	1.73
LABORERS:		
GROUP 1	9.535	1.00
GROUP 2	9.635	1.00
GROUP 3	9.685	1.00
GROUP 4	9.885	1.00
GROUP 5	10.085	1.00
MARBLE TILE & TERRAZZO FINISHERS	6.40	
PAINTERS:		
Brush	13.075	1.55
Spray	13.325	1.55
SPRINKLER FITTERS	14.57	2.83

SUPERSEDEAS DECISION

STATE: California
COUNTIES: Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solnao, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, and Yuba

DECISION NUMBER: CA82-5112 DATE: Date of Publication

Supersedes Decision No. CA81-5132 dated July 10, 1981, in 46 FR 35860
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories), Heavy and Highway Projects and Dredging

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$22.36	$2.81
BOILERMAKERS	20.01	3.59
BRICKLAYERS; Stonemasons:		
Area 1	17.79	4.51
Area 2	19.05	2.95
Area 3	17.35	3.05
Area 4	16.28	4.29
Area 5	15.18	3.27
Area 6	16.35	3.50
Area 7	17.47	3.80
Area 8	15.74	3.46
BRICK TENDERS:		
Area 1	14.73	3.05
Area 2	13.12	4.95
Area 3	14.73	3.05
Area 4	14.73	3.05
Area 5	12.39	5.40
Area 6	14.26	3.10
CARPENTERS:		
Area 1:		
Carpenters; Millwrights Hardwood Floorlayers; Shinglers; Power Saw Operator; Steel Scaffold Erector and Steel Shoring; Saw Filers	15.95	6.225
Area 2:		
Carpenters Hardwood Floorlayers; Shinglers; Power Saw Operators; Steel Scaffold Erector and Steel Shoring; Saw Filers	17.10 / 16.02 / 16.20	6.225 / 6.225 / 6.225
CEMENT MASONS:		
Cement Masons	15.60	5.48
Mastic; Magensite; All Composition Masons	15.85	5.48
Men working from Swinging or slip form scaffold	15.55	5.48
COMMUNICATION TECHNICIAN	$12.85	$3.07
DIVERS:		
Divers	33.89	6.225
Stand-by-divers	18.05	6.225
DRYWALL INSTALLERS	17.18	6.195
ELECTRICIANS:		
Area 1:		
Electricians	22.56	5.98
Cable Splicers	21.89	4.94
Area 2:		
Electricians	14.15	4.94
Cable Splicers	15.57	4.99
Area 3:		
Electricians	21.13	3.95
Cable Splicers	23.24	4.02
Area 4:		
Electricians	19.10	4.68
Cable Splicers	17.91	3.60
Area 5:		
Electricians; Technicians	19.81	4.88
Cable Splicers	22.29	4.97
Area 6:		
Electricians	23.81	5.29
Cable Splicers	25.81	5.35
Area 7:		
Electricians	17.08	5.41
Cable Splicers	18.45	5.45
Area 8:		
Electricians	17.90	3.95
Cable Splicers	19.69	4.00
Area 9:		
Electricians	21.83	4.46
Cable Splicers	22.94	4.49
Area 10:		
Electricians	17.57	3.72
Cable Splicers	19.33	3.78
Area 11:		
Electricians	19.66	6.86
Cable Splicers	23.12	6.93

	Basic Hourly Rates	Fringe Benefits
ELECTRICIANS: (Cont'd)		
Area 12:		
Electricians	$19.57	$4.68
Cable Splicers	22.02	4.75
Area 13:		
Electricians	21.20	6.19
Cable Splicers	23.85	6.27
Area 14:		
Electricians	22.51	4.84
Cable Splicers	25.80	5.02
Area 15:		
Electricians	21.00	6.05
Cable Splicers	23.63	6.13
ELEVATOR CONSTRUCTORS	24.22	2.47+a
ELEVATOR CONSTRUCTORS' HELPERS	16.95	2.47+a
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	12.11	
GLAZIERS:		
Area 1	19.56	4.40
Area 2	15.88	6.32
Area 3	14.50	3.90
Area 4	12.84	1.95
IRONWORKERS:		
Fence Erectors	14.88	6.83
Reinforcing, Ornamental, and Structural	15.75	6.83
LATHERS:		
Area 1	17.43	3.63
Area 2	12.35	2.17
Area 3	13.70	1.49
Area 4	16.71	3.08
Area 5	15.43	2.95
Area 6	15.93	4.90
Area 7	16.12	4.15
Area 8	16.46	1.86
Area 9	11.85	.01
Area 10	11.92	4.84
LINE CONSTRUCTION:		
Area 1:		
Groundman	16.51	4.50
Line Equipment Operators	19.81	4.59
Linemen	22.01	4.66
Cable Splicers	24.01	4.72
Area 2:		
Groundman	10.32	2.01
Headgroundman (Chipper); Powdermen; Jackhammermen	10.99	2.03
Line Equipment Man	12.57	2.09
Linemen Polesprayer; Heavy Line Equipment Men	14.59	2.66
Tree Trimmer	13.17	2.72
Cable Splicers	16.15	2.81

	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION: (Cont'd):		
Area 3:		
Groundmen	$17.08	$3.92
Linemen; Line Equipment Operators	17.90	3.95
Area 4:		
Groundmen	14.86	4.69
Line Equipment Operators	17.83	4.77
Linemen	19.81	4.83
Area 5:		
Linemen	15.47	3.25
Cable Splicers	17.02	3.30
Area 6:		
Groundmen	14.87	5.32
Linemen; Technicians	19.82	6.70
Cable Splicers	22.27	6.78
Area 7:		
Groundman and Truck Driver	14.68	4.53
Linemen	19.57	4.68
Cable Splicers	22.01	4.75
Area 8:		
Groundmen	13.02	3.45
Linemen; Equipment Operators	16.28	3.55
Cable Splicers	17.91	3.60
Area 9:		
Groundmen	13.19	2.61
Linemen	22.56	5.98
Line Equipment Operators	14.84	3.68
Area 10:		
Grounmen	14.88	5.27
Equipment Operators	16.74	5.33
Linemen	18.60	5.40
Cable Splicers	20.46	5.46
Area 11:		
Groundmen	13.21	3.41
Line Equipment Operators	13.99	3.45
Linemen	15.54	3.50
Cable Splicers	17.48	3.55
Area 12:		
Groundmen	13.66	5.31
Linemen	17.08	5.41
Cable Splicers	18.45	5.45
Area 13:		
Groundmen	19.45	4.84
Linemen; Technicians	22.91	4.94
Cable Splicers	25.86	5.92

	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION: (Cont'd)		
Area 14:		
Groundmen	$18.02	$5.09
Linemen; Line Equipment Operators	21.20	6.19
Cable Splicers	23.85	6.27
MARBLE SETTERS	15.62	6.32
PAINTERS:		
Area 1:		
Brush	13.39	4.60
Spray	14.14	4.60
Sheetrock; Taper; Swing; Stage; Scaffold; Sandblaster Structural Steel	13.79	4.60
Area 2:		
Brush; Roller	15.22	1.59
Area 3:		
Brush	13.65	4.22
Hazardous coating Spray; Sandblasting; Taping	14.65	4.22
Area 4:		
Brush	14.15	4.22
Tapers	20.06	3.83
Area 5:		
Brush	20.86	3.83
Spray; Paperhanger; Tapers	15.93	1.47
Area 6:		
Brush	16.43	1.47
Spray; Sandblasting; Steam Cleaning	18.51	5.03
Drywall Finisher	19.01	5.03
Brush (exterior stage) 5, 6, and 7 story buildings; Erected steel over 50 feet	9.31	5.03
Area 7:		
Brush; Pot Tenders; Rollers	19.66	5.03
Spray; Sandblaster; Structural Steel; Swing Stage; Tapers	9.80	1.35
Area 8:		
Brush	10.30	1.35
Spray	18.62	5.03
Spray (coating) and Paperhangers	19.13	5.03
Tapers (paint)	19.37	5.03
	19.42	5.03

	Basic Hourly Rates	Fringe Benefits
PAINTERS: (Cont'd)		
Area 9:		
Brush	$10.83	$1.67
Spray; Sandblasters; Structural Steel: Swing Stage; Tapers; Paperhangers	11.08	1.67
Parking Lot Striping Work and/or Highway Markers:		
Area 10:		
Traffic Delineating Device Applicator	12.42	1.55+b
Wheel Stop Installer; Traffic Surface Sandblaster; Striper	11.96	1.55+b
Slurry Seal Operation:		
Mixer Operator	11.96	1.55+b
Squeegee Man	10.60	1.55+b
Applicator Operator	10.60	1.55+b
Shuttleman	10.60	1.55+b
Top Man	8.91	1.55+b
Area 11:		
Traffic Delineating Device Applicator; Wheel stop Installer; Traffic Surface Sandblaster	12.37	1.55+b
Striper	13.57	1.55+b
Slurry Seal Operation:		
Mixer Operator	12.37	1.55+b
Squeegee Man	10.60	1.55+b
Applicator Operator	10.60	1.55+b
Top Man	8.91	1.55+b
PLASTERERS:		
Area 1	15.77	4.43
Area 2	18.14	5.80
Area 3	14.21	5.09
Area 4	15.93	4.39
Area 5	14.97	3.57
Area 6	13.85	5.40
Area 7	15.06	2.61
Area 8	13.95	6.65
PLASTERERS' TENDERS:		
Area 1	13.62	5.05
Area 2	15.16	4.45
Area 3	13.84	5.45
Area 4	13.71	4.45
Area 5	13.27	4.45
Area 6	13.82	4.45
Area 7	17.50	4.05
Area 8	16.15	3.10
Area 9	13.75	4.45
Area 10	14.95	2.70

	Basic Hourly Rates	Fringe Benefits
PLUMBERS:		
Area 1	$22.67	$5.18
Area 2	22.33	5.84
PLUMBERS; Steamfitters:		
Area 1	19.62	4.61
Area 2	20.34	2.43
Area 3	22.34	9.37
Area 4	17.90	5.09
Area 5	22.42	5.51
Area 6	14.32	8.30
Area 7	21.17	6.80
Area 8	21.39	5.72
ROOFERS:		
Area 1:		
Roofers	15.25	5.87
Mastic Workers; Kettlemen (2 kettles w/o pumps)	15.50	5.87
Bitumastic; Enamelers; Pipewrappers; Coal Tar Built up	17.25	5.87
Area 2:		
Roofers (slate, tile composition and built up)	16.85	2.59
Area 3:		
Roofers	14.51	2.42
Area 4:		
Roofers	13.05	2.40
Area 5:		
Roofers	15.00	6.14
Mastic Workers; Kettlemen (2 kettles w/o pumps)	15.25	6.14
Bitumastic; Enamelers; Pipewrappers; Coal Tar Pitch	17.00	6.14
Area 6:		
Roofers	10.32	1.15
Area 7:		
Roofers	16.85	2.90
Area 8:		
Roofers	15.50	5.79
Mastic Workers; Kettlemen (2 kettles w/o pumps)	15.75	5.79
Bitumastic; Enamelers; Pipewrappers; Coal Tar	17.50	5.79
Area 9:		
Roofers (slate, tile and composition)	14.30	5.99
Enameler and Pitch	16.30	5.99
Area 10:		
Roofers; Kettlemen (1 kettle)	16.36	3.99

	Basic Hourly Rates	Fringe Benefits
SHEET METAL WORKERS:		
Area 1	$22.90	$4.12
Area 2	17.93	4.25
Area 3	16.51	3.94
Area 4	18.05	4.02
Area 5	19.26	4.47
Area 6	17.80	3.56
Area 7	19.52	3.90
Area 8	13.74	2.78
Area 9	22.06	4.92
Area 10	22.16	4.70
Area 11	19.36	4.06
Area 12	21.73	4.67
SOFT FLOOR LAYERS:		
Area 1	17.31	2.85
Area 2	13.74	.90
Area 3	19.19	3.64
Area 4	11.96	2.27
Area 5	16.16	4.49
SPRINKLER FITTERS:		
Area 1	22.77	4.99
Area 2	20.03	2.43
STEAMFITTERS:		
Area 1	23.80	4.13
TERRAZZO WORKERS:		
Area 1	15.62	2.90
Area 2	16.28	4.29
Area 3	14.45	2.95
TILE SETTERS:		
Area 1	16.75	5.99
Area 2	18.02	3.05
Area 3	14.60	2.54
Area 4	16.73	3.43
MARBLE & TILE FINISHERS:		
Area 1	14.25	3.88
Area 2	11.90	1.90
LABORERS:		
Group 1	14.53	4.95
Group 1(a)	14.755	4.95
Group 1(b)	15.03	4.95
Group 1(c)	14.58	4.95
Group 1(d)	14.78	4.95
Group 1(e)	15.08	4.95
Group 1(f)	15.115	4.95
Group 1(g)	14.73	4.95
Group 2	14.38	4.95
Group 3	14.28	4.95

	Basic Hourly Rates	Fringe Benefits
LABORERS: (Cont'd)		
Gunnite:		
Group 1	$14.99	$4.95
Group 2	14.38	4.95
Group 3	14.28	4.95
Tunnel and Shaft Work:		
Group 1	16.24	4.95
Group 2	15.84	4.95
Group 3	15.60	4.95
Group 4	15.45	4.95
Wrecking Work:		
Group 1	14.53	4.95
Group 2	14.38	4.95
Group 3	14.28	4.95
Housemoving:		
Group 1	14.53	4.95
POWER EQUIPMENT OPERATORS:		
DREDGING - SCHEDULE I		
CLAMSHELL & DIPPER DREDGING (new Construction)		
Group 1:		
Area 1	14.05	8.56
Area 2	15.22	8.56
Area 3	15.57	8.56
Area 4	15.91	8.56
Group 2:		
Area 1	16.17	8.56
Area 2	17.44	8.56
Area 3	17.79	8.56
Area 4	18.16	8.56
Group 3:		
Area 1	16.75	8.56
Area 2	18.01	8.56
Area 3	18.37	8.56
Area 4	18.73	8.56
Group 4:		
Area 1	17.73	8.56
Area 2	19.00	8.56
Area 3	19.35	8.56
Area 4	19.71	8.56
Group 4-A:		
Area 1	19.23	8.56
Area 2	20.52	8.56
Area 3	20.92	8.56
Area 4	21.28	8.56

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS: (Cont'd): - SCHEDULE II:		
HYDRAULIC SUCTION DREDGING AND ALL OTHER CLAMSHELL AND DIPPER DREDGING:		
Group A-1:		
Area 1	$14.03	$8.56
Area 2	15.20	8.56
Area 3	15.54	8.56
Area 4	15.89	8.56
Group A-2:		
Area 1	15.30	8.56
Area 2	16.52	8.56
Area 3	16.89	8.56
Area 4	17.24	8.56
Group A-3:		
Area 1	16.14	8.56
Area 2	17.41	8.56
Area 3	17.78	8.56
Area 4	18.14	8.56
Group A-4:		
Area 1	17.30	8.56
Area 2	18.58	8.56
Area 3	18.93	8.56
Area 4	19.29	8.56
TOW BOATS - (Dredging): Work on self-propelled vessels (except skiffs powered by outboard motors) engaged in towing vessels and water borne craft or in the transportation by water or personnel, materials, equipment and supplies:		
Deckhand/Mechanics	10.86	3.37
Operater Mechanic/ Watch Engineer	13.17	3.86
TOW BOATS: Work on self-propelled vessels):		
Boat Operators	12.17	3.86
POWER EQUIPMENT OPERATORS: PILEDRIVING:		
Group 1	14.04	8.75
Group 1A	14.50	8.75
Group 1B	14.77	8.75
Group 2A	14.77	8.75
Group 2B	15.50	8.75
Group 2C	15.78	8.75
Group 2D	15.98	8.75
Group 3	16.18	8.75
Group 3A	16.76	8.75
Group 4	17.49	8.75
Group 5	17.73	8.75
Group 6	19.15	8.75

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS: (Cont'd): - SCHEDULE III:		
Group 1	$14.04	$8.75
Group 1A	14.50	8.75
Group 1B	14.77	8.75
Group 2A	14.77	8.75
Group 2B	15.50	8.75
Group 2C	15.78	8.75
Group 2D	15.98	8.75
Group 3	16.18	8.75
Group 3A	16.76	8.75
Group 4	17.49	8.75
Group 5	17.73	8.75
Group 6	19.15	8.75
POWER EQUIPMENT OPERATORS: (Cont'd): - SCHEDULE IV:		
Group 1	14.04	8.75
Group 1A	14.50	8.75
Group 1B	14.77	8.75
Group 2A	14.77	8.75
Group 2B	15.50	8.75
Group 2C	15.78	8.75
Group 2D	15.98	8.75
Group 3	16.18	8.75
Group 3A	16.76	8.75
Group 4	17.49	8.75
Group 5	17.73	8.75
Group 6	19.15	8.75
POWER EQUIPMENT OPERATORS: (Cont'd): - SCHEDULE V:		
Group 1	14.04	8.75
Group 1A	14.50	8.75
Group 1B	14.77	8.75
Group 2A	14.77	8.75
Group 2B	15.50	8.75
Group 2C	15.78	8.75
Group 2D	15.98	8.75
Group 3	16.18	8.75
Group 3A	16.76	8.75
Group 4	17.49	8.75
Group 5	17.73	8.75
Group 6	19.15	8.75

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS: (Cont'd): - SCHEDULE VI:		
Group 1	$14.04	$8.75
Group 1A	14.50	8.75
Group 1B	14.77	8.75
Group 2A	14.77	8.75
Group 2B	15.50	8.75
Group 2C	15.78	8.75
Group 2D	15.98	8.75
Group 3	16.18	8.75
Group 3A	16.76	8.75
Group 4	17.49	8.75
Group 5	17.73	8.75
Group 6	19.15	8.75
POWER EQUIPMENT OPERATORS: (Cont'd): - SCHEDULE VII:		
Group 1	14.04	8.75
Group 1A	14.50	8.75
Group 1B	14.77	8.75
Group 2A	14.77	8.75
Group 2B	15.50	8.75
Group 2C	15.78	8.75
Group 2D	15.98	8.75
Group 3	16.18	8.75
Group 3A	16.76	8.75
Group 4	17.49	8.75
Group 5	17.73	8.75
Group 6	19.15	8.75
POWER EQUIPMENT OPERATORS: (Cont'd): - SCHEDULE VIII:		
Group 1	14.04	8.75
Group 1A	14.50	8.75
Group 1B	14.77	8.75
Group 2A	14.77	8.75
Group 2B	15.50	8.75
Group 2C	15.78	8.75
Group 2D	15.98	8.75
Group 3	16.18	8.75
Group 3A	16.76	8.75
Group 4	17.49	8.75
Group 5	17.73	8.75
Group 6	19.15	8.75

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS: (Cont'd)-STEEL ERECTION:		
Group 1	$14.67	$5.75
Group 2	15.17	5.75
Group 3	16.55	5.75
Group 4	16.73	5.75
Group 4A	17.15	5.75
Group 5	17.82	5.75
Group 6	18.39	5.75
Group 7	18.80	5.75
Group 8	19.19	5.75
Group 9	20.59	5.75
POWER EQUIPMENT OPERATORS:		
Group 1:		
Area 1	13.98	5.75
Area 2	15.98	5.75
Group 2:		
Area 1	14.44	5.75
Area 2	16.44	5.75
Group 3:		
Area 1	14.72	5.75
Area 2	16.72	5.75
Group 4:		
Area 1	15.44	5.75
Area 2	17.44	5.75
Group 5:		
Area 1	15.72	5.75
Area 2	17.72	5.75
Group 6:		
Area 1	15.92	5.75
Area 2	17.92	5.75
Group 7:		
Area 1	16.12	5.75
Area 2	18.12	5.75
Group 8:		
Area 1	16.70	5.75
Area 2	18.70	5.75
Group 9:		
Area 1	16.99	5.75
Area 2	18.99	5.75
Group 10:		
Area 1	17.28	5.75
Area 2	19.28	5.75
Group 10-A:		
Area 1	17.44	5.75
Area 2	19.44	5.75
Group 11:		
Area 1	17.67	5.75
Area 2	19.67	5.75
Group 11-A:		
Area 1	19.19	5.75
Area 2	21.19	5.75

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS: (Cont'd)		
Group 11-B:		
Area 1	$19.56	$5.75
Area 2	21.56	5.75
Group 11-C:		
Area 1	19.98	5.75
Area 2	21.98	5.75
TRUCK DRIVERS:		
Group 1	14.20	5.39
Group 2	14.37	5.39
Group 3	14.30	5.39
Group 4	14.31	5.39
Group 5	14.32	5.39
Group 6	14.33	5.39
Group 7	14.35	5.39
Group 8	14.37	5.39
Group 9	14.38	5.39
Group 10	14.40	5.39
Group 11	14.41	5.39
Group 12	14.45	5.39
Group 13	14.46	5.39
Group 14	14.47	5.39
Group 15	14.50	5.39
Group 16	14.51	5.39
Group 17	14.52	5.39
Group 18	14.54	5.39
Group 19	14.55	5.39
Group 20	14.56	5.39
Group 21	14.56	5.39
Group 22	14.64	5.39
Group 23	14.56	5.39
Group 24	14.74	5.39
Group 25	14.75	5.39
Group 26	14.75	5.39
Group 27	14.78	5.39
Group 28	14.80	5.39
Group 29	14.84	5.39
Group 30	14.85	5.39
Group 31	14.88	5.39
Group 32	14.94	5.39
Group 33	14.87	5.39
Group 34	15.09	5.39
Group 35	15.19	5.39
Group 36	15.24	5.39
Group 37	15.39	5.39
Group 38	15.54	5.39

AREA DESCRIPTIONS

BRICKLAYERS; Stonemasons:
Area 1: Del Norte, Humboldt, Lake, Marin, Mendocino, Napa, San Francisco, San Mateo, Siskiyou, Solano, Sonoma, and Trinity Counties
Area 2: Alameda and Contra Costa Counties
Area 3: Fresno, Kings, Madera, Mariposa, and Merced Counties
Area 4: Butte, Colusa, El Dorado, Glenn, Lassen, Modoc, Nevada, Placer, Plumas, Sacramento, Shasta, Sierra, Sutter, Tehama, Yolo, and Yuba Counties
Area 5: Monterey and Santa Cruz Counties
Area 6: San Benito and Santa Clara Counties
Area 7: Alpine, Amador, Calaveras, San Joaquin, Stanislaus, and Tuolumne Counties
Area 8: Tulare County

BRICK TENDERS:
Area 1: Amador, El Dorado, Nevada, Placer, Sacramento, and Yolo Counties
Area 2: San Francisco and San Mateo Counties
Area 3: Fresno, Kings, Madera, and Tulare Counties
Area 4: Remaining Counties
Area 5: Alameda and Contra Costa Counties
Area 6: San Benito, Santa Clara, and Santa Cruz Counties

CARPENTERS:
Area 1: Alameda, Contra Costa, Marin, Monterey, Napa, San Benito, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solona, and Sonoma
Area 2: Alpine, Amador, Butte, Calaveras, Colusa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Mariposa, Mendocino, Merced, Modoc, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, and Yuba

ELECTRICIANS:
Area 1: Alameda County
Area 2: Amador, Colusa, Sacramento, Sutter, Yolo, and Yuba Counties; Alpine, El Dorado, Nevada, Placer, and Sierra Counties (those portions west of the Sierra Mountain Watershed)
Area 3: Lassen and Plumas Counties; those portions of Alpine, El Dorado, Nevada, Placer and Sierra Counties lying east of the Main Watershed divide
Area 4: Butte, Glenn, Modoc, Shasta, Siskiyou, Tehama, and Trinity Counties
Area 5: Calaveras and San Joaquin Counties
Area 6: Contra Costa County
Area 7: Del Norte and Humboldt Counties
Area 8: Fresno, Kings, Madera, and Tulare Counties
Area 9: Lake, Marin, Mendocino, and Sonoma Counties
Area 10: Mariposa, Merced, Stanislaus, and Tuolumne Counties
Area 11: Monterey County, San Benito and Santa Cruz Counties
Area 12: Napa and Solano Counties
Area 13: Santa Clara County
Area 14: San Francisco County
Area 15: San Mateo County

AREA DESCRIPTIONS (Cont'd)

GLAZIERS:
Area 1: Alameda and Contra Costa Counties; Mendocino County (southern half from north of Ft. Bragg); Monterey, Napa, San Benito, San Francisco, San Mateo, Santa Clara, and Santa Cruz Counties; Solano County (S.W. from east of Fairfield); and Sonoma County
Area 2: Alpine, Amador, Butte, Calaveras, El Dorado, and Mariposa Counties; Merced County (north of the City of Livingston); Modoc, Nevada, Placer, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Stanislaus, Sutter, Tehama, Tuolumne, Yolo, and Yuba Counties
Area 3: Fresno, Madera, Merced, Kings, and Tulare Counties
Area 4: Del Norte and Humboldt Counties

LATHERS:
Area 1: Alameda and Contra Costa Counties
Area 2: Butte, Colusa, Glenn, and Humboldt Counties; Lake County (that portion from Lakeport up to the Lake County Line); Nevada, Placer, Plumas, Shasta, Sierra, Tehama, and Trinity Counties
Area 3: Calaveras and San Joaquin Counties
Area 4: Lake County (from City of Lakeport down to the Lake County Line); Marin, Mendocino, and Sonoma Counties
Area 5: Monterey, and Santa Cruz Counties
Area 6: San Francisco and San Mateo Counties
Area 7: Santa Clara County
Area 8: Fresno, Kings, Madera, and Tulare Counties
Area 9: Mariposa, Merced, Stanislaus, and Tuolumne Counties
Area 10: Amador, El Dorado, Sacramento, and Yolo Counties

LINE CONSTRUCTION:
Area 1: Contra Costa County
Area 2: Del Norte, Modoc, and Siskiyou Counties
Area 3: Fresno, Kings, Madera, and Tulare Counties
Area 4: Calaveras and San Joaquin Counties
Area 5: Mariposa, Merced, Stanislaus, and Tuolumne Counties
Area 6: Monterey, San Benito, and Santa Cruz Counties
Area 7: Napa and Solano Counties
Area 8: Butte, Glenn, Lassen, Plumas, Shasta, Tehama, and Trinity Counties
Area 9: Alameda County
Area 10: Amador, Colusa, Sacramento, Sutter, Yolo, and Yuba Counties; Alpine, El Dorado, Nevada, Placer, and Sierra Counties (those portions west of the Main Sierra Mountain Watershed)
Area 11: San Mateo County
Area 12: Humboldt County
Area 13: San Francisco county
Area 14: San Clara County

AREA DESCRIPTIONS (Cont'd)

PAINTERS:
Area 1: Alpine, Amador, Calaveras, and San Joaquin Counties
Area 2: Fresno, Kings, Madera, and Tulare Counties
Area 3: Mariposa, Merced, Stanislaus, and Tuolumne Counties
Area 4: Monterey, San Benito, San Mateo, Santa Clara, and Santa Cruz Counties (excluding portions of Counties in the Lake Tahoe Area)
Area 5: Lassen County (that portion that lies eastward of Highway #395, northward to and including Honey Lake); Lake Tahoe Area
Area 6: Lake, Marin, Mendocino, San Francisco, and Sonoma Counties
Area 7: Butte, Colusa, and Glenn Counties; Lassen County (excluding the extreme SE corner); Modoc, Plumas, Shasta, Siskiyou, Sutter, Tehama, Trinity, and Yuba Counties
Area 8: Alameda, Contra Costa, El Dorado, Napa, Nevada, Solano, Sacramento, Sierra, Placer, and Yolo Counties (excluding portions of Counties in the Lake Tahoe Area)
Area 9: Del Norte and Humboldt Counties
Area 10: Fresno, Kings, and Tulare Counties
Area 12: Remaining Counties

PLASTERERS:
Area 1: Alameda and Contra Costa Counties
Area 2: San Francisco and San Mateo Counties
Area 3: Alpine, Amador, Butte, Calaveras, Colusa, El Dorado, Glenn, Lassen, Modoc, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Sutter, Tehama, Trinity, Yolo, and Yuba Counties
Area 4: Del Norte, Humboldt, Lake, Marin, Mendocino, Napa, Solano, and Sonoma Counties
Area 5: San Benito, Santa Clara, and Santa Cruz Counties
Area 6: Fresno, Kings, Madera, and Tulare Counties
Area 7: Monterey County
Area 8: Mariposa, Merced, Stanislaus, and Tuolumne Counties

PLASTERERS' TENDERS:
Area 1: Alameda and Contra Costa Counties
Area 2: Fresno, Kings, Madera, and Tulare Counties
Area 3: San Francisco and San Mateo Counties
Area 4: Alpine, Amador, El Dorado, Nevada, Placer, Sacramento, Sierra and Yolo Counties
Area 5: Calaveras and San Joaquin Counties
Area 6: Marin County
Area 7: Monterey County
Area 8: San Benito, Santa Clara and Santa Cruz Counties
Area 9: Solano County
Area 10: Napa County

PLUMBERS:
Area 1: Alameda County
Area 2: Contra Costa County

AREA DESCRIPTIONS (Cont'd)

AREA DESCRIPTIONS (Cont'd)

PLUMBERS; Steamfitters:
Area 1: Amador County (northern half); Sacramento, Yolo, El Dorado, Nevada, Placer, and Sierra counties (excluding Lake Tahoe Area)
Area 2: Lake Tahoe Area
Area 3: Marin, Mendocino, San Francisco, and Sonoma Counties
Area 4: Alpine County; Amador County (southern portion); Butte, Calaveras, Colusa, Fresno, Glenn, Kings, Lassen, Madera, Mariposa, Merced, Modoc, Monterey, Plumas, San Joaquin, Santa Cruz, Shasta, Sierra, Siskiyou, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, and Yuba Counties
Area 5: Lake, Napa, and Solano Counties
Area 6: Del Norte and Humboldt Counties
Area 7: San Benito and Santa Clara Counties
Area 8: San Mateo County

ROOFERS:
Area 1: Alameda and Contra Costa Counties
Area 2: Alpine, Calaveras, Mariposa, Merced, San Joaquin, Stanislaus, and Tuolumne Counties
Area 3: Butte, Colusa, El Dorado, Glenn, Lassen, Modoc, Placer, Plumas, Shasta, Sierra, Siskiyou, Sutter, Tehama, Trinity, and Yuba Counties
Area 4: Fresno, Kings, Madera, and Tulare Counties
Area 5: Lake, Marin, Mendocino, Napa, Solano, and Sonoma Counties
Area 6: Del Norte and Humboldt Counties
Area 7: Monterey and Santa Cruz Counties
Area 8: San Francisco and San Mateo Counties
Area 9: Amador, Sacramento, and Yolo Counties
Area 10: San Benito and Santa Clara Counties

SHEET METAL WORKERS:
Area 1: Alameda, Contra Costa, Napa, and Solano Counties
Area 2: Alpine, Calaveras, and San Joaquin Counties
Area 3: Amador, Butte, Colusa, El Dorado, Glenn, Modoc, Plumas, Sacramento, Shasta, Sierra, Siskiyou, Sutter, Tehama, Yolo, and Yuba Counties
Area 4: Mariposa, Merced, Stanislaus, and Tuolumne Counties
Area 5: Monterey and San Benito Counties
Area 6: Del Norte, Humboldt, and Trinity Counties
Area 7: San Mateo County
Area 8: Fresno, Kings, Madera, and Tulare Counties
Area 9: San Francisco County
Area 10: Marin, Mendocino, Sonoma, and Lake Counties
Area 11: Santa Cruz County
Area 12: Santa Clara County

SOFT FLOOR LAYERS:
Area 1: Alpine, Amador, Butte, Calaveras, Colusa, El Dorado, Glenn, and Lassen Counties (excluding Honey Lake Area); Merced County (east of San Joaquin River); Plumas, San Joaquin, Shasta, Sacramento, Stanislaus, Sutter, Tehama, Trinity, Tuolumne, Yolo, and Yuba Counties; El Dorado, Nevada, Placer, and Sierra Counties (those portions excluding Lake Tahoe Area)

AREA DESCRIPTIONS (Cont'd)

SOFT FLOOR LAYERS: (Cont'd)
Area 2: Honey Lake Area and Lake Tahoe Area
Area 3: Lake, Marin, Mendocino, Merced, Monterey, San Francisco, San Benito, San Mateo, Santa Clara, Santa Cruz, and Sonoma Counties
Area 4: Del Norte and Humboldt Counties
Area 5: Alameda, Contra Costa, Napa, and Solano Counties

SPRINKLER FITTERS:
Area 1: Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma Counties
Area 2: Remaining Counties

STEAMFITTERS:
Area 1: Alameda and Contra Costa Counties

TERRAZZO WORKERS:
Area 1: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Napa, San Francisco, San Mateo, Siskiyou, Solano, Sonoma, and Trinity Counties
Area 2: Butte, Colusa, El Dorado, Glenn, Lassen, Modoc, Nevada, Placer, Plumas, Sacramento, Shasta, Sierra, Sutter, Tehama, Yolo, and Yuba Counties
Area 3: San Benito and Santa Clara Counties

TILE SETTERS:
Area 1: Alameda, Butte, Colusa, Contra Costa, Del Norte, El Dorado, Glenn, Humboldt, Lake, Lassen, Marin, Mendocino, Modoc, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Mateo, Santa Clara, Shasta, Sierra, Siskiyou, Solano, Sonoma, Sutter, Tehama, Trinity, Yolo, and Yuba Counties
Area 2: Alpine, Amador, Calaveras, San Joaquin, Stanislaus, and Tuolumne Counties
Area 3: Fresno, Kings, Madera, Mariposa, Merced, and Tulare Counties
Area 4: Monterey and Santa Cruz Counties

MARBLE and TILE FINISHERS:
Area 1: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, San Francisco, San Mateo, Santa Clara, Santa Cruz, Siskiyou, Sonoma, Solano, and Trinity Counties
Area 2: Alpine, Amador, Butte, Calaveras, Colusa, El Dorado, Glenn, Lassen, Modoc, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Stanislaus, Sutter, Tehama, Yolo, and Yuba Counties

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day;
D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. Employer contributes 8% of basic hourly rate for over 5 years' service, and 6% of basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F
b. Employer contributes $.32 per hour to Holiday Fund plus $.22 per hour to Vacation Fund for the first year of employment; 1 year but less than 5 years $.42 per hour to Vacation Fund; 5 years but less than 10 years $.60 per hour to Vacation Fund; over 10 years $.80 per hour to Vacation Fund

LABORERS

Group 1: Asphalt Ironers and Rakers; Asphalt Spreader Boxes (all types); Barko, Wacker and similar type Tampers; Buggymobile; Chainsaw, Faller, Logloader and Bucker; Compactors or all types; Concrete and Magnesite Mixer, 1/2 yd. and under; Concrete Pan Work; Concrete Saw; Concrete Sander; Cribber and/or Shoring; Cut Granite Curb Setter; Form Raisers; Slip Forms; Green Cutters, Headerboardmen, Hubsetters, Aligners; Jackhammer Operators; Jacking of pipe over 12 inches; Jackson and similar type Compactors; Kettlemen, Potmen and Men applying asphalt, lay-kold, creosote, lime, caustic and similar type materials; Lagging, Sheeting, Whaling, Bracing, Trenchjacking, hand-guided Lagging Hammer; Magnesite, Epoxyresin, Fiberglass, Mastic Workers (wet or dry); Perma Curbs; Precast-manhole Setters; Cast-in-place Manhole Form Setters; Pressure Pipe Tester; Pavement Breakers and Spaders, including Tool Grinder; Pipelayers, Caulkers, Banders, Pipewrappers, Conduit Layers, Plastic Pipelayers; Post Hole Diggers, air, gas, and electric; Power Broom Sweepers; Power Tampers of all types (except as shown in Group 2); Ram Set Gun and Stud Gun; Riprap-stonepaver and Rock-slinger, including placing of sacked concrete and/or sand (wet or dry); Rotary Scarifier, multiple Head Concrete Chipper; Davis Trencher, 300 or similar type (and all small Trenchers); Roto and Ditch Witch; Roto-tiller; Sandblasters, Potman, Gunman, Nozzleman; Signalling and Rigging; Tank Cleaners; Tree Climbers; Vibra-screed, Bull Float in connection with Laborers' work; Vibrators; Dri-pak-it Machine; High Pressure Blow Pipe (1¼" or over, 100 lbs. pressure and over); Hydro Seeder and similar type; Laser Beam in connection with Laborers' work

Group 1(a): Joy Drill Model TWM-2A; Gardener-Denver Model DH143 and similar type drills; Track Drillers; Jack Leg Drillers; Diamond Drillers; Wagon Drillers; Mechanical Drillers, all types regardless of type or method of power; Multiple Unit Drills; Blasters and Powdermen; all work of loading, placing and blasting of all power and explosives of whatever type regardless of method used for such loading and placing; High Scalers (including drilling of same); Tree Topper; Bit Grinder

LABORERS (Cont'd)

Group 1(b): Sewer Cleaners receive an additional $4.00 per day, $5.00 per day on recently active large diameter sewers or sewer manholes

Group 1(c): Burning and Welding in connection with Laborers' work

Group 1(d): Repair Trackmen and Road Beds (cut and cover work of subway after the temporary cover has been placed)

Group 1(e): Laborers on general construction work on or in Bell Hole Footings and Shaft

Group 1(f): Wire Winding Machine in Connection with Guniting or Shotcrete - Aligner

Group 1(g): Contra Costa County Only: Pipelayers, Caulkers, Banders, Pipewrappers, Conduit Layers and Plastic Pipelayers; Pressure Pipe Tester, no joint pipe and stripping of same, including repair of Voids, Precast Manhole Setters, Cast-in-place Manhole Form Setters

Group 2: Asphalt Shovelers; Cement Dumpers and handling dry cement or gypsum; Choke-setter and Digger (clearing work); Concrete Bucket Dumper and Chuteman; Concrete Chipping and Grinding; Concrete Laborers (wet or dry); Chuck Tender; High Pressure Nozzleman, Adductors; Groutcrew; Hydraulic Monitor (over 100 lbs. pressure); Loading and unloading, carrying and hauling of all rods and materials for use in reinforcing concrete construction; Pittsburgh Chipper and similar type Brush Shredders; Sloper; Singlefoot, hand held, Pneumatic Tamper; All pneumatic, air, gas and electric tools not listed in Groups 1 through 1(f); Jacking of Pipe under 12 inches

Group 3: All Cleanup work of debris, grounds and buildings including but not limited to street cleaners; Cleaning and washing windows; Construction Laborers including bridge and general Laborers; Dumpman; Load Spotter; Fire Watcher; Street Cleaners; Gardeners, Horticultural and Landscape Laborers; Jetting; Limbers; Brush Loaders; Pilers, Maintenance Landscape Laborers on new construction; Maintenance, Repair Trackmen and Road beds; Streetcar and Railroad Construction Track Laborers; Temporary air and water lines, Victaulic or similar; Tool Room Attendent; Fence Erectors; Guardrail Erectors; Pavement Markers (button setters)

LABORERS (Cont'd)

POWER EQUIPMENT OPERATORS

LABORERS (Cont'd)
GUNNITE

Group 1: Nozzleman (Including Gunman, Potman); Rodmen; Groundman

Group 2: Reboundman

Group 3: General Laborers

(TUNNEL and SHAFT WORK)

Group 1: Diamond Driller; Groundman; Gunite and Shotcrete Nozzlemen; Rodmen; Shaft Work and raise (below actual or excavated ground level)

Group 2: Bit Grinder; Blaster; Drillers, Powderman-heading; Cherry Pickermen - where car is lifted; Concrete Finisher in Tunnel; Concrete Screed Man; Grout Pumpman and Potman; Gunite and Shotcrete Gunmen and Potmen; Headermen; High Pressure Nozzleman; Miners - Tunnel, including Top and Bottom Man on Shaft and Raise work; Nipper Nozzleman on slick line; Sandblaster-potman (work assignment interchangeable) Steel Form Raisers and Setters; Timberman, Retimberman - wood or steel or substitute materials therefore; Tugger

Group 3: Cabletender; Chucktender; Powderman - Primer House; Vibratormen, Pavement Breakers

Group 4: Bull Gang - Muckers, Trackmen; Concrete Crew - includes rodding and spreading; Dumpmen (any method); Grout Graw Reboundmen; Swamper

(WRECKING WORK)

Group 1: Skilled Wrecker (removing and salvaging of sash, windows, doors, plumbing and electric fixtures)

Group 2: Semi-skilled Wrecker (salvaging or other building materials)

Group 3: General Laborer (includes all cleanup work, loading, lumber, loading and burning of debris)

(HOUSEMOVING)

Group 1: Skilled Housemover

POWER EQUIPMENT OPERATORS
DREDGING

AREA DEFINITIONS FOR SCHEDULES I and II

Four centers designated: City Halls of Oakland, San Francisco, Sacramento and Stockton, California
Area 1: Up to 20 road miles from said Centers
Area 2: More than 20 road miles to and including 30 road miles from said Centers
Area 3: Outside of 30 road miles from said Centers
Area 4: An area extending 25 road miles from shoreline of Lake Tahoe

SCHEDULE I
CLAMSHELL and DIPPER DERDGING (New Construction)

Group 1: Bargeman; Deckhand; Fireman; Oiler

Group 2: Deck Engineers; Deck Mate

Group 3: Welder; Mechanic Welder; Watch Engineer

Group 4: Clamshell Operator (up to and including 7 cu. yds. M.R.C.)(Long Boom Pay)

Group 4-A: Clamshell Operator (over 7 cu. yds. M.R.C.)(Long Boom Pay)

SCHEDULE II
HYDRAULIC SUCTION DREDGING and all Other CLAMSHELL and DIPPER DREDGING

Group A-1: Bargeman; Deckhand; Leveehand; Fireman; Oiler

Group A-2: Winchman (stern winch on Dredge); Deck Engineer

Group A-3: Watch Engineer; Welder; Welder Mechanic; Deckmate; Booster Pump Operator (Mud Cat)

Group A-4: Leverman; Clamshell Operator

PILEDRIVING

Group 1: Assistant to Engineer (Fireman, Oiler, Deckhand)

Group 1A: Compressor Operator

Group 1B: Assistant to Engineer (Truck Crane Oiler)

Group 2A: Tugger Hoist Operator (Hoisting material only)

Group 2B: Forklift Operator

POWER EQUIPMENT OPERATORS (Cont'd)
PILEDRIVING (Cont'd)

Group 2C: Compressor Operator (over 2); Generators; Pumps (over 4); Welding Machines (powered by other than electricity)

Group 2D: A-Frames

Group 3: Deck Engineer (Deck Engineer Operator required when deck engine is used); Self-propelled Boom-type lifting device (center mount) (10 ton capacity or less M.R.C.)

Group 3A: Heavy Duty Repairman and/or Welder

Group 4: Operating Engineer in lieu of Assistant to Engineer tending boiler or compressor attached to Crane Piledriver; Operator of Piledriving Rigs, Skid or Floating and Derrick Barges (Assistant to Engineer required); Operator of diesel or gasoline power Crane Piledriver (without boiler) up to and including 1 cu. yd. rating (Assistant to Engineer required); Self-propelled Boom-type lifting device (center mount) (over 10 tons up to and including 25 tons); Truck Crane Operator (up to and including 25 tons) (hoisting material only) (Assistant to Engineer required)

Group 5: Operator of diesel or gasoline powered Crane Piledriver (without boiler) over 1 cu. yd. rating (Assistant to Engineer required); Operator of Crane (with steam, flash boiler, pump or compressor attached) (Group (4) Engineer required); Operator of steam powered Crawler or Universal type Driver (Raymond or similar) (Assistant to Engineer required) Truck Crane Operator (over 25 tons) (hoisting material or performing Piledriving work) (Assistant to Engineer required); Self-propelled Boom-type lifting device (center mount) (over 25 tons) (Assistant to Engineer required)

Group 6: Cranes (over 125 tons) (Assistant to Engineer required)

STEEL ERECTION

Group 1: Assistant to Engineer (Oiler)

Group 2: Compressor Operator, Generator, gasoline or diesel driven (100 K.W. or over) (structural steel or tank construction only)

Group 3: Compressors, Generators and/or Welding Machines or combination (2 to 6) (over 6 additional Engineers required) (structural steel or tank erection only)

Group 4: Heavy Duty Repairman, Tractor Operator

Group 4A: Combination Heavy Duty Repairman and/or Welder

POWER EQUIPMENT OPERATORS (Cont'd)
STEEL ERECTION (Cont'd)

Group 5: Boom Truck or Dual Purpose A-Frame Truck; Boom Cat; Chicago Boom; Crawler Cranes and Truck Cranes (15 tons M.R.C. or less) (Assistant to Engineer required); Self-propelled Boom type lifting device (center mount) (10 ton capacity or less M.R.C.); Single drum Hoist; Tugger Hoist

Group 6: Cary Lift, Campbell or similar; Crawler Cranes and Truck Cranes (over 15 tons M.R.C.) (Assistant to Engineer required); Derricks (2 operators when swing engine remote from hoist); Gantry Rider (or similar equipment); Highline Cableway (Signalman required); Self-propelled Boom-type lifting device (center mount) (over 10 tons up to and including 25 tons); Tower Cranes Mobile including rail mounted (Assistant to Engineer required); Tower Cranes, Universal Liebher and similar types (in the erection, dismantling and moving of equipment there shall be an additional Operating Engineer)

Group 7: Self-propelled Boom-type lifting device (center mount) (over 25 tons) (Assistant to Engineer required)

Group 8: Cranes (over 125 tons) (Assistant to Engineer required)

Group 9: Helicopter Operator

AREAS I and II

Group 1: Assistants to Engineers (Brakeman; Fireman; Heavy Duty Repairman Tender; Oiler; Deckhand; Signalman; Switchman; Tar Pot Fireman); Partsman (heavy duty repair shop parts room)

Group 2: Compressor Operator; Concrete Mixer (up to and including 1 yard); Conveyor Belt Operator (tunnel); Fireman Hot Plant; Hydraulic; Monitor; Mechanical Conveyor (handling building materials); Mixer Box Operator (concrete plant); Pump Operator; Spreader Boxman (with screeds); Tar Pot Fireman (power agitated)

Group 3: Box Operator (bunker); Helicopter Radioman (Signalman); Motorman; Locomotive (30 tons or under); Oiler; Ross Carrier (construction job site); Rotomist Operator; Screedman (except asphaltic concrete paving); Self-propelled, automatically applied concrete curing machine (on streets, highways, airports and canals); Trenching Machine (maximum digging capacity 5 ft. depth); Tugger Hoist, single drum; Truck Crane Oiler; Boiler Tender

Group 4: Ballast Jack Tamper; Ballast Regulation; Ballast Tamper Multi-purpose; Boxman (asphalt plant); Elevator Operator (inside); Fork Lift or Lumber Stacker (construction job site); Line Master; Material Hoist (1 drum); Shuttlecar; Tie Spacer; Towermobile

POWER EQUIPMENT OPERATORS (Cont'd)

POWER EQUIPMENT OPERATORS (Cont'd)

POWER EQUIPMENT OPERATORS (Cont'd)
AREAS I and II (Cont'd)

Group 5: Compressor Operator (over 2); Concrete Mixers (over 1 yard); Concrete Pumps of Pumpcrete Guns; Generators; Grouting Machine; Pressweld (air operated); Pumps (over 1); Welding Machines (powered other than by electricity)

Group 6: BLH Lima Road Pactor or similar; Boom Truck or Dual Purpose A-Frame Truck; Concrete Batch Plants (wet or dry); Concrete Saws (self-propelled unit) on streets, highways, airports and canals; Drilling and Boring Machinery, vertical and horizontal (not to apply to Waterliners, Wagon Drills or Jackhammers); Gradesetter, Grade Checker (mechanical or other-wise); Highline Cableway Signalman; Locomotives (steam of over 30 tons); Maginnis Internal Full Slab Vibrator (on airports, highways, canals and warehouses); Mechanical Finishers (concrete) (Clary, Johnson, Bidwell Bridge Deck or similar types); Mechanical Burm, Curb and/or Curb and Gutter Machine, concrete or asphalt; Portable Crusher; Post Driver (M-1500 and similar); Power Jumbo Operator (setting slip forms, etc. in tunnels); Roller (except Asphalt); Screedman (Barber-Greene and similar)(asphaltic concrete paving); Self-propelled Compactor (single engine); Self-propelled Pipeline Wrapping Machine, Perault, CRC, or similar types); Slip Forms Pumps (lifting device for concrete forms); Small Rubber Tired Tractor; Surface Heater; Self-propelled Power Sweeper; Self-propelled Tape Machine; Auger-type drilling equipment, up to and including 30 ft. depth digging capacity M.R.C.

Group 7: Concrete Conveyor or Concrete Pump, Truck or equipment mounted (boom length to apply); Concrete Conveyor, building site; Deck Engineers; Dual Drum Mixer; Fuller Kenyon Pump and similar types; Gantry Rider (or similar); Hydra-hammer (or similar); Material Hoist (2 or more drums); Mechanical Finishers or Spreader Machine (asphalt, Barber-Greene and similar); Mine or Shaft Hoist; Mixermobile; Pavement Breaker with or without Compressor Combination; Pipe Bending Machine (pipelines only); Pipe Cleaning Machine (tractor propelled and supported); Pipe Wrapping Machine (tractor propelled and supported); Refrigeration Plant; Roller Operator (finish asphalt); Self-propelled boom type lifting device (center mount) (10 tons or less M.R.C.); Self-propelled Elevating Grader Plane; Slusher Operator; Small Tractor (with boom) Soil Tester; Truck type Loader; Welding Machines (Gasoline or diesel)

Group 8: Armor-Coater (or similar); Asphalt Plant Engineer; Cast-in-place Pipe Laying Machine; Combination Slusher and Motor Operator; Concrete Batch Plant (multiple units); Dozer; Heading Shield Operator; Heavy Duty Repairman and/or Welder; Ken Seal Machine (or similar); Kolman Loader; Loader (up to 2 yards); Mechanical Trench Shield; Portable Crushing and Screening Plants; Puch Cat; Rubber Tired Earth-moving Equipment (up to and including 45 cu. yards "struck" M.R.C.) Euclids, T-Pulls, DW-10, 20, 21, and similar; Rubber Tired Dozer; Self-propelled Compactor with Dozer; Sheepfoot; Timber Skidder (rubber tired or similar equipment); Tractor drawn Scraper; Tractor (Trenching Machine; Tri-batch Paver; Tunnel Mole Boring Machine; Welder; Woods-mixer (and other similar Pugmill equipment)

POWER EQUIPMENT OPERATORS (Cont'd)
AREAS I and II (Cont'd)

Group 9: Canal Finger Drain Digger; Chicago Boom; Combination Mixer and Compressor (Gunite); Combination Slurry Mixer and/or Cleaner; Highline Cableway (5 tons and under); Lull Hi-lift or similar (20 ft. or over); Mucking Machine (rubber tired, rail or track type); Tractor (with boom) (D-6 or larger and similar)

Group 10: Boom-type Backfilling Machine; Bridge Crane; Cary-lift (or similar); Chemical Grouting Machine, truck mounted); Combination Backhoe and Loader (up to and including 1/2 cu. yd. M.R.C.); Derrick (2 operators required when swing engine remote from Hoist); Derrick Barges (except excavation work); Do-mor Loader; Adams Ele-grader; Elevating Grader; Heavy Duty Rotary Drill Rig (including Caisson Foundation work and Euclid Loader and similar type; Robbins type drills); Koehring Skooper (or similar); Lift Slab Machine; (Vagtborg and similar types); Loader (2 yds. up to and including 4 yds.); Locomotive, 100 tons (single or multiple units); Multiple Engine Earthmoving Machine (Euclids, Dozers, etc.)(no tandem scraper); Pre-stress Wire Wrapping Machine; Reservoir-debris Tug (self-propelled floating); Rubber-tired Scraper, self-loading (paddle wheels, etc.); Shuttle Cat (reclaim station); Single engine Scraper over 45 yds.; Soil Stabilizer (P & H or equal); Sub-grader (Gurrier or other automatic type); Tractor, Compressor Drill Combination; Track Laying type Earth Moving Machine (single engine with tandem scrapers); Train loading station; Trenching Machine, multi-engine with sliping attachment, Jeffco or similar; Vacuum Cooling Plant; Whirley Crane (up to and including 25 tons)

Group 10-A: Backhoe (hydraulic)(up to and including 1 cu. yd. M.R.C.); Backhoe (cable)(up to and including 1 cu. yd. M.R.C.); Combination Backhoe and Loader (over 3/4 cu. yd. M.R.C.); Continuous Flight Tie Back Auger (crane attached/separate controls); Cranes not over 25 tons, Hammerhead and Gantry; Gradalls (up to and including 1 cu. yd.); Power Blade Operator (single engine); Power Shovels, Clamshells, Draglines (up to and including 1 cu. yd. M.R.C)(Long Boom pay); Rubber-tired Scraper, self-loading (Paddle Wheel, twin engine); Self-propelled Boom-type lifting device (center mount) (over 10 tons up to and including 25 tons); CMI Dual Lane Auto Grader SP-30 or similar

POWER EQUIPMENT OPERATORS (Cont'd)
AREAS I and II (Cont'd)

Group 11: Automatic Concrete Slip-form Paver (Gradesetter, Screedman); Automatic Railroad Car Dumper; Canal Trimmer with ditching attachments; Cary Lift, Campbell or similar, Continuous Flight Tie Back Auger (Crane attached, single controls); Cranes (over 25 tons up to and including 125 tons); Drott Travelift 650-A-1 or similar (45 ton or over); Euclid Loader when controlled from the Pullcat; Highline Cableway (over 5 tons); Loader (over 4 cu. yds., up to and including 12 cu. yds.); Miller Formless M-900 Slope Paver or similar (grade Setter required); Multiple Engine Scraper (when used as Push Pull); Power Blade Operator (multi-engine); Power Shovels, Clamshells, Draglines, Backhoes, Gradalls (over 1 cu. yd. and up to and including 7 cu. yds. M.R.C., Long Boom Pay); Rubber-tired Earthmoving Machines (multiple propulsion power units and two or more Scrapers) (up to and including 75 cu. yds. struck M.R.C.); Self-propelled Compactor (with multiple propulsion power unit); Blob or similar; Self-propelled Boom-type lifting device (center mount) (over 25 tons M.R.C.); Single engine Rubber-tired Earthmoving Machines (with Tandem Scrapers); Slip-form Paver (concrete or asphalt) (Screedman required); Tandem Cats; Tower Cranes Mobile (including rail mounted); Trencher (pulling attached shield); Tower Cranes, Universal Liebher and similar types (in the erection, dismantling and moving of equipment); Wheel Excavator (up to and including 750 cu. yds. per hour); Whirley Crane (over 25 tons); Multi-earthmoving Equipment (up to and including seventy-five (75) cu. yds. "struck" M.R.C.); Truck mounted Hydraulic Crane when remote control equipped (over 10 tons up to and including 25 tons)

Group 11A: Band Wagons (in conjunction with wheel excavator); Cranes (over 125 tons); Loader (over 12 cu. yds., up to and including 18 cu. yds.); Power Shovels, Clamshells, Backhoes, Gradalls, and Draglines (over 7 cu. yds. M.R.C.); Rubber-tired Multi-purpose Earth Moving Machines (2 units over 75 cu. yds. "struck" M.R.C.); Wheel Excavator (over 750 cu. yds. per hour)

Group 11B: Loader (over 18 yds.)

Group 11C: Operator of Helicopter (when used in erection work); Remote controlled earthmoving equipment

TRUCK DRIVERS

Group 1: Bulk Cement Spreader (w/wo Auger, under 4 yards water level); Bus or Manhaul Driver; Concrete Pump Machine; Concrete Pump Truck (when Flat Rack Truck is used appropriate Flat Rack rate shall apply); Dump (under 4 yds. water level); Dumpcrete Truck (under 4 yds. water level); Dumpster (under 4 yds. water level); Escort or Pilot Car Driver; Nipper Truck (when Flat Rack Truck is used appropriate Flat Rack rate shall apply); Pickups; Skids (Debris Box, under 4 yds. water level); Team Drivers; Trucks (Dry Pre-batch Concrete Mix, under 4 yds. water level); Warehousemen

Group 2: Teamster Oiler and/or Greaser and/or Service Man

TRUCK DRIVERS (Cont'd)

Group 3: Bulk Cement Spreader (w/wo auger, 4 yd. and under 6 yds. water level); Dump (4 yds. and under 6 yds. water level); Dumpcrete (4 yds. and under 6 yds. water level); Dumpster (4 yds. and under 6 yds. water level); Skids (Debris Box, 4 yds. and under 6 yds. water level); Single Unit Flat Rack (2 axle unit); Industrial Lift Truck (mechanical Tailgate); Trucks (Dry Pre-batch Concrete Mix, 4 yds. and under 6 yds. water level)

Group 4: Jetting Truck and Water Truck (under 2,500 gallons)

Group 5: Road Oil Trucks or Boot Man

Group 6: Lift Jitneys, Fork Lift

Group 7: Transit Mix, Agitator (under 6 yards)

Group 8: Fuel and/or Grease Truck Driver or Fuelman

Group 9: Vacuum Truck, under 3,500 gallons

Group 10: Scissor Truck; single unit Flat Rack (2 axle unit); Industrial Lift Truck (mechanical tailgate); Small rubber tired tractor (when used within Teamsters' jurisdiction)

Group 11: Jetting Truck and Water Trucks, 2,500 gallons, under 4,000 gallons

Group 12: Combination Winch Truck with Hoist; Transit Mix Agitator (6 yards and under 8 yards)

Group 13: Vacuum Truck, 3,500 gallons and under 5,500 gallons

Group 14: Rubber-tired Muck Car (not self-loaded)

Group 15: Bulk Cement Spreader (w/wo auger, 6 yds. and under 8 yds. water level); Dump (6 yds. and under 8 yds. water level); Dumpcrete (6 yds. and under 8 yds. water level); Dumpster (6 yds. and under 8 yds. water level); Skids (Debris Box, 6 yds. and under 8 yds. water level); Trucks (Dry Pre-batch Concrete Mix, 6 yds. and under 8 yds. water level)

Group 16: A-Frame, Winch Truck; Buggymobile; Jetting and Water Truck (4,000 gallons and under 5,000 gallons); Rubber tired Jumbo

Group 17: Heavy Duty Transport (high bed)

Group 18: Ross Hyster and similar straddle Carrier

Group 19: Transit Mix Agitator (8 yds. through 10 yds.)

Group 20: Vacuum Truck (5,500 gallons and 7,500 gallons)

Group 21: Jetting Truck and Water Truck (5,000 gallons and under 7,000 gallons)

Group 22: Combination Bootman and Road Oiler

TRUCK DRIVERS (Cont'd)

TRUCK DRIVERS (Cont'd)

TRUCK DRIVERS (Cont'd)

Group 23: Transit Mix Agitator (over 10 yds. through 12 yds.)

Group 24: Bulk Cement Spreader (w/wo auger, 8 yds. and including 12 yds. water level); Dump (8 yds. and including 12 yds. water level); Dumpcrete (8 yds. and including 12 yds. water level); Self-propelled Street Sweeper with self-contained refuse bin; Skids (Debris Box, 8 yds. and including 12 yds. water level); Snow Go and/or Snow Plow; Truck (Dry Pre-batch Concrete Mix, 8 yds. and including 12 yds. water level and including 12 yds. water level)

Group 25: Heavy Duty Transport (Gooseneck Lowbed)

Group 26: Transit Mix Agitator (over 12 yds. through 17 yds.)

Group 27: Ammonia Nitrate Distributor Driver and Mixer; Bulk Cement Spreader (w/wo auger, over 12 yds. and including 18 yds. water level); Dump (over 12 yds. and including 18 yds. water level); Dumpcrete (over 12 yds. and including 18 yds. water level); Dumpster (over 12 yds. and including 18 yds. water level); Truck (Dry Pre-batch Concrete Mix, over 12 yds. and including 18 yds. water level)

Group 28: Double Gooseneck (7 or more axles); Heavy Duty Transport Tiller Man

Group 29: P. B. or similar type self-loading truck

Group 30: Transit Mix Agitator (over 14 yds. through 16 yds.)

Group 31: Bulk Cement Spreader (w/wo auger, over 18 yds. and including 24 yds. water level); Combination Dump and Dump Trailer; Dump (over 18 yds. and including 24 yds. water level); Dumpcrete (over 18 yds. and including 24 yds. water level); Dumpster (over 18 yds. and including 24 yds. water level); Skid (Debris Box, over 18 yds. and including 24 yds. water level); Transit Mix Agitator over 12 yds. through 16 yds.); Trucks (Dry Pre-batch Concrete Mix, over 17 yds. and including 24 yds. water level)

Group 32: Bulk Cement Spreader (w/wo auger, over 24 yds. and including 35 yds. water level); Dump (over 24 yds. and including 35 yds. water level); Dumpcrete (over 24 yds. and including 35 yds. water level); Dumpster (over 24 yds. and including 35 yds. water level); DW 10's, 20's, 21's and other similar Cat type, Terra Cobra, LeTournapulls, Tournarocker, Euclid and similar type equipment when pulling Fuel and/or Grease Tank Trailers or other misc. trailers; Skids (Debris Box, over 24 yds. and including 35 yds. water level); Trucks (Dry Pre-batch Concrete Mix, over 24 yds. and including 35 yds. water level)

Group 33: Truck Repairman

TRUCK DRIVERS (Cont'd)

Group 34: Bulk Cement Spreader (w/wo auger, over 35 yds. and including 50 yds. water level); Dump (over 35 yds. and including 40 yds. water level); Dumpcrete (over 35 yds. and including 50 yds. water level); Dumpster (over 35 yds. and including 50 yds. water level); Skids (Debris Box, over 35 yds. and including 50 yds. water level); Trucks (Dry Pre-batch Concrete Mix, over 35 yds. and including 50 yds. water level)

Group 35: DW 10's, 20's, 21's and other similar Cat type, Terra Cobra, LeTournapulls, Tournarocker, Euclid and similar type equipment while pulling Aqua/Pak or water tank trailers

Group 36: Bulk Cement Spreader (w/wo auger, over 50 yds. and under 65 yds. water level); Dump (over 50 yds. and under 65 yds. water level); Dumpcrete (over 50 yds. and under 65 yds. water level); Dumpster (over 50 yds. and under 65 yds. water level); Helicopter Pilot (when transporting men or materials); Skids (Debris Box, over 50 yds. and under 65 yds. water level); Trucks (Dry Pre-batch Concrete Mix, over 50 yds. and under 65 yds. water level)

Group 37: Bulk Cement Spreader (w/wo auger, over 65 yds. and including 80 yds. water level); Dump (65 yds. and including 80 yds. water level); Dumpcrete (over 65 yds. and including 80 yds. water level); Dumpster (over 65 yds. and including 80 yds. water level); Skids (Debris Box, 65 yds. and including 80 yds. water level); Trucks (Dry Pre-batch Concrete Mix, 65 yds. and including 80 yds. water level)

Group 38: Bulk Cement Spreader (w/wo auger, over 80 yds. and including 95 yds. water level); Dump (over 80 yds. and including 95 yds. water level); Dumpcrete (over 80 yds. and including 95 yds. water level); Dumpster (over 80 yds. and including 95 yds. water level); Skids (Debris Box, over 80 yds. and including 95 yds. water level); Trucks (Dry Pre-batch Concrete Mix, over 80 yds. and including 95 yds. water level)

AREA DESCRIPTIONS
FOR
POWER EQUIPMENT OPERATORS
AREAS I and II

**AREA I: All areas included in the description defined below which is based upon Township and Range Lines of Areas I and II.

Commencing in the Pacific Ocean on the extension of the Southerly line of Township 19S.
Thence Easterly along the Southerly line of Township 19S, crossing the Mt. Diablo Meridian to the S.W. corner of township 19S, range 6E, Mt. Diablo Base Line and Meridian,
Thence Southerly to the S.W. corner of township 20S, range 6E,
Thence Easterly to the S.W. corner of township 20S, range 13E,
Thence Southerly to the S.W. corner of township 21S, range 13E,
Thence Easterly to the S.W. corner of township 21S, range 17E,
Thence Southerly to the S.W. corner of township 22S, range 17E,
Thence Easterly to the S.E. corner of township 22S, range 17E,
Thence Southerly to the S.W. corner of township 23S, range 18E,
Thence Easterly to the S.E. corner of township 23S, range 18E,
Thence Southerly to the S.W. corner of township 24S, range 19E, falling on the Southerly Line of Kings County, thence Easterly along the Southerly Boundary of Kings County and the Southerly Boundary of Tulare County, to the S.E. corner of township 24S, range 29E,
Thence Northerly to the N.E. corner of township 21S, range 29E,
Thence Westerly to the N.W. corner of township 21S, range 29E,
Thence Northerly to the N.E. corner of township 13S, range 28E,
Thence Westerly to the N.W. corner of township 13S, range 28E,
Thence Northerly to the N.E. corner of township 11S, range 27E,
Thence Westerly to the N.W. corner of township 11S, range 27E,
Thence Northerly to the N.E. corner of township 10S, range 26E,
Thence Westerly to the N.W. corner of township 10S, range 26E,
Thence Northerly to the N.E. corner of township 9S, range 25E,
Thence Westerly to the N.W. corner of township 9S, range 25E,
Thence Northerly to the N.E. corner of township 8S, range 24E,
Thence Westerly to the N.W. corner of township 8S, range 24E,
Thence Northerly to the N.E. corner of township 6S, range 23E,
Thence Westerly to the S.E. corner of township 5S, range 19E,
Thence Northerly to the S.E. corner of township 5S, range 19E,
Thence Westerly to the N.W. corner of township 5S, range 19E,
Thence Northerly to the N.E. corner of township 3S, range 18E,
Thence Westerly to the N.W. corner of township 3S, range 18E,
Thence Northerly to the N.E. corner of township 2S, range 17E,
Thence Westerly to the N.W. corner of township 2S, range 17E,

AREA DESCRIPTIONS (Cont'd)
For
POWER EQUIPMENT OPERATORS
AREAS I and II

AREA I: (Cont'd)

Thence Northerly crossing the Mt. Diablo Baseline to the N.E. corner of township 2N, range 16E,
Thence Westerly to the N.W. corner of township 2N, range 16E,
Thence Northerly to the N.E. corner of township 3N, range 15E,
Thence Westerly to the N.E. corner of township 3N, range 15E,
Thence Northerly to the N.E. corner of township 4N, range 14E,
Thence Westerly to the N.W. corner of township 4N, range 14E,
Thence Northerly to the N.E. corner of township 5N, range 13E,
Thence Westerly to the N.E. corner of township 5N, range 13E,
Thence Northerly to the N.E. corner of township 10N, range 12E,
Thence Easterly to the S.E. corner of township 11N, range 14E,
Thence Northerly to the N.E. corner of township 11N, range 14E,
Thence Westerly to the N.E. corner of township 11N, range 10E,
Thence Northerly to the N.E. corner of township 15N, range 10E,
Thence Easterly to the S.E. corner of township 16N, range 11E,
Thence Northerly to the N.E. corner of township 16N, range 11E,
Thence Easterly to the S.E. corner of township 17N, range 14E,
Thence Southerly to the S.W. corner of township 14N, range 14E,
Thence Easterly to the S.E. corner of township 14N, range 15E,
Thence Southerly to the S.W. corner of township 13N, range 16E,
Thence Easterly to the S.E. corner of township 13N, range 16E,
Thence Southerly to the S.W. corner of township 12N, range 17E,
Thence Easterly along the Southern Line to township 12N to the Eastern Boundary of the State of California,
to the State of California to the N.E. corner of township 17N, range 18E,
Thence Westerly to the N.W. corner of township 17N, range 11E,
Thence Northerly to the N.E. corner of township 20N, range 10E,
Thence Westerly to the N.W. corner of township 20N, range 20E,
Thence Northerly to the N.E. corner of township 21N, range 9E,
Thence Westerly to the N.W. corner of township 21N, range 9E,
Thence Northerly to the N.E. corner of township 22N, range 8E,
Thence Westerly to the N.W. corner of township 27N, range 8E,
Thence Northerly to the S.W. corner of township 27N, range 8E,
Thence Easterly to the S.E. corner of township 27N, range 8E,
Thence Northerly to the N.E. corner of township 28N, range 8E,
Thence Westerly to the N.W. corner of township 28N, range 7E,
Thence Northerly to the N.E. corner of township 30N, range 6E,
Thence Westerly to the N.W. corner of township 30N, range 1E,
Thence Northerly along the Mt. Diablo Meridian to the N.E. corner of township 34N, range 1W,
Thence Westerly to the N.W. corner of township 34N, range 6W,
Thence Southerly to the N.E. corner of township 32N, range 7W,
Theneca Westerly to the N.W. corner of township 32N, range 7W,
Thence Southerly to the S.W. corner of township 30N, range 7W,
Thence Easterly to the S.E. corner of township 30N, range 7W,

AREA DESCRIPTIONS (Cont'd)
For

AREA DESCRIPTIONS
For

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AREA DESCRIPTIONS (Cont'd)
For
POWER EQUIPMENT OPERATORS
AREAS I and II

AREA 1: (Cont'd)

Thence Southerly to the S.W. corner of township 16N, range 6W,
Thence Easterly to the S.E. corner of township 16N, range 6W,
Thence Southerly to the S.W. corner of township 14N, range 5W,
Thence Westerly to the S.E. corner of township 14N, range 7W,
Thence Northerly to the N.E. corner of township 14N, range 7W,
Thence Westerly to the N.W. corner of township 14N, range 7W,
Thence Northerly to the N.E. corner of township 15N, range 8W,
Thence Westerly to the S.E. corner of township 16N, range 12W,
Thence Northerly to the N.E. corner of township 16N, range 12W,
Thence Westerly to the N.W. corner of township 16N, range 12W,
Thence Northerly to the N.E. corner of township 18N, range 12W,
Thence Westerly to the N.W. corner of township 18N, range 14W,
Thence Southerly to the S.W. corner of township 18N, range 14W,
Thence Easterly to the S.E. corner of township 18N, range 14W,
Thence Southerly to the S.W. corner of township 16N, range 13W,
Thence Westerly to the N.W. corner of township 15N, range 14W,
Thence Southerly to the S.W. corner of township 14N, range 14W,
Thence Easterly to the S.E. corner of township 14N, range 14W,
Thence Southerly to the S.W. corner of township 13N, range 13W,
Thence Easterly to the S.E. corner of township 13N, range 13W,
Thence Southerly to the S.W. corner of township 11N, range 12W,
Thence Easterly to the S.E. corner of township 11N, range 12W,
Thence Southerly along the Eastern line to range 12W, to the Pacific Ocean excluding that portion of Northern California within Santa Clara County included within the folloiwng lines:
Commencing at the N.W. corner of township 6S, range 3E, Mt. Diablo Baseline and Meridian:
Thence in a Southerly direction to the S.W. corner of township 7S, range 3E,
Thence in a Easterly direction to the S.E. corner of township 7S, range 4E,
Thence in a Northerly direction to the N.E. corner of township 6S, range 4E,
Thence in a Westerly direction to the N.W. corner of township 6S, range 3E, to the point of beginning which portion is a part of Area 2.

AREA 1: also includes that portion of Northern California within the following lines:
Commencing in the Pacific Ocean on an extension of the Southerly line to township 2N; Humboldt Baseline and Meridian:
Thence Easterly along the Southerly line of township 2N, to the S.W. corner of township 2N, range 1W,
Thence Southerly to the S.W. corner of township 1N, range 1W,

[FR Doc. 82-19035 Filed 7-15-82; 8:45 am]
BILLING CODE 4510-27-C

AREA DESCRIPTIONS
For
POWER EQUIPMENT OPERATORS
AREAS I and II

AREA 1: (Cont'd)

Thence Easterly along the Humboldt Baseline to the S.W. corner of township 1N, range 2E,
Thence Southerly to the S.W. corner of township 2S, range 2E,
Thence Easterly to the S.E. corner of township 2S, range 2E,
Thence Southerly to the S.W. corner of township 4S, range 3E,
Thence Easterly to the S.E. corner of township 4S, range 3E,
Thence Northerly to the N.E. corner of township 2S, range 3E,
Tehnce Westerly to the N.W. corner of township 2S, range 3E,
Thence Northerly crossing the Humboldt Baseline to the S.W. corner of township 1N, range 3E,
Thence Easterly along the Humboldt Baseline to the S.E. corner of township 1N, range 3E,
Thence Northerly to the N.E. corner of township 9N, range 3E,
Thence Westerly to the N.W. corner of township 9N, range 2E,
Thence Northerly to the N.E. corner of township 10N, range 1E,
Thence Westerly along the Northerly line to township 10N, into the Pacific Ocean.

AREA I; Also includes that portion of Northern California included within the following lines:
Commencing at the Northerly boundary of the State of California at the N.W. corner of township 48N, range 7W, Mt. Diablo Baseline and Meridian:
Thence Southerly to the S.W. corner of township 44N, range 7W,
Thence Easterly to the S.E. corner of township 44N, range 7W,
Thence Southerly to the S.W. corner of township 43N, range 6W,
Thence Easterly to the S.E. corner of township 43N, range 5W,
Thence Northerly to the N.E. corner of township 48N, range 5W, on the Northerly boundary of the State of California,
Thence Westerly along the Northerly boundary of the State of California to the point of beginning.

AREA II: All areas not included within AREA I as defined.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

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Friday
July 16, 1982

Part IV

Federal Communications Commission

Frequency Allocation for Aural Broadcast STL and Intercity Relay Stations

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 74 and 94

[Gen. Docket 82-335; RM-2697; RM-3246; Docket Nos. 19130 and 19494]

Frequency Allocation for Aural Broadcast STL and Intercity Relay Stations

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Communications Commission proposes to allocate the 2130–2150 MHz and 2180–2200 bands to Aural Broadcast STL and Intercity Relay Stations to be shared on a primary basis with Private Operational-fixed stations. Because of an accelerated growth of radio services in the past ten years, the currently allocated band, 947–952 MHz, has become saturated in most metropolitan areas. The allocation proposed would provide necessary spectrum to alleviate this problem.

DATES: Comments must be submitted on or before August 23, 1982. Reply comments must be submitted on or before September 7, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Melvin Murray, Office of Science and Technology, Spectrum Management Division, Spectrum Utilization Branch, Washington, D.C. 20554; (202) 653–8168; Room 7312.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR

Part 2

Frequency allocation.

Part 74

Aural broadcast STL and Intercity relay stations.

Part 94

Private operational-fixed microwave stations.

In the Matters of amendment of Parts 2, 21, 74, and 94 of the Commission's Rules and Regulations to Expand the Frequencies Available for use by Aural Broadcast STL and Intercity Relay stations, Gen. Docket No. 82–335; amendment of Parts 2, 21, 74, and 90 of the Commission's Rules and Regulations to Make Available to Aural Broadcast STL and Intercity Relay Stations the 942–947 MHz Band on a Primary Basis, RM–2697; amendment of Parts 2 and 74 of the Commission's Rules to permit broadcast aural studio-transmitter links to operate on a secondary, non-interfering basis in unassigned UHF television channels, RM–3246; amendment of Parts 2 and 74 of the Commission's Rules to permit Aural Broadcast STL operations in the band 2150–2160 MHz and to accommodate STL, Intercity Relay Stations and certain low power broadcast auxiliary stations within the frequency band 947–952 MHz, Docket No. 19130; and amendment of Parts 2 and 74 of the Commission's Rules to permit Aural Broadcast STL operations in the band 2110–2113 MHz, Docket No. 19494.

Adopted: June 23, 1982.
Released: July 2, 1982.

Introduction

1. In 1970 the Commission adopted *a First Report and Order and Second Notice of Inquiry* in Docket No. 18262 which, among other things, ordered a reduction in the band available for use by studio-to-transmitter links (STL), inter-city relay, and certain low-power broadcast auxiliary stations from 942–952 MHZ to 947–952 MHz and reallocated the lower 5 MHz to the land mobile services [1] (Aural Broadcast STL and Intercity Relay Stations are authorized under Subpart E of Part 74 of the Commission's Rules and Regulations). In taking the aforementioned action the Commission recognized that while the band was lightly used at that time, some congestion had developed in the Los Angeles area. It therefore stated its inteition to initiate a rulemaking with respect to additional spectrum space for aural broadcast STL's in the 2150–2160 MHz band. To this end, the Commission adopted a combined Notice of Proposed Rulemaking (NRPM) and Notice of Inquiry (NOI) in Docket 19130 in 1971.[2] In the interim, Aural broadcast STL and Intercity Relay Stations (hereinafter referred to as ABSTL/ICR) holding a valid license in the 942–947 MHZ band as of July 10, 1970, were permitted continued renewal of their licenses on a secondary basis to land mobile under the provisions of Footnote NG64.[3] In essence, with that action the band allocated for ABSTL/ICR stations became 947–952 MHz.

2. Because of interest to preserve the 2150–2160 MHz band for omnidirectional common carrier usage (i.e., the Multipoint Distribution Service (MDS)), the proposal to share the band, 2150–2160 MHz, with ABSTL/ICR stations was withdrawn in a subsequent *Further Notice.*[4] This *Further Notice* proposed the use of frequencies between 2110 and 2113 MHz solely for STL's serving AM or FM broadcast stations in ten of the larger cities where frequency requirements for such stations appeared greatest. At the time of this proposal the band 2110–2113 MHz was allocated to: (1) Stations in the Point-to-Point Microwave Radio Service (Subpart I of Part 21), (2) control and repeater stations in the Domestic Public Land Mobile Radio Service (Subpart G of Part 22) and, (3) stations in the International Fixed Public Radio Communication Services located south of [illegible]° 30′ north latitude in the State of Florida and U.S. possessions in the Caribbean area. However, in 1972 there were no assignments to stations in the latter two categories in the 2110–2113 MHz band segment. Moreover, stations in the Point-to-Point Microwave Radio Service, which were generally few in number and operating primarily in rural areas, were to be required to shift frequencies where such operations would serve to preclude shared STL usage.

3. In response to this *Further Notice,* comments were received from broadcast interests, broadcast equipment manufacturers, and common carriers. Although pleased with the Commission's initiation of action to provide spectrum relief in certain metropolitan areas, "broadcast interests" urged the Commission to take cognizance of future needs for additional spectrum in markets other than those proposed and permit Intercity Relay operations in the 2110–2113 MHz band. Broadcast equipment manufacturers had similar views and suggested that the frequency tolerance specification be tightened. In opposing statements, common carrier interests stated that any sharing with ABSTL/ICR would unduly limit their future capability to furnish telecommunications to the public in the major metropolitan areas.

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[1] The 942–947 MHz band is part of a land mobile reserve band that the Commission created under Docket No. 18262 *See Second Report and Order,* 46 FCC 2d 752 (1974) and the *Memorandum Opinion and Order,* released on 51 FCC 2d 945, (1975) (both in Docket 18262) to allow new land mobile services or unexpected growth in existing services to be accommodated.

[2] *Notice of Proposed Rule Making and Notice of Inquiry* in Docket No. 19130, 36 FR 1425 (January 29, 1971).

[3] NG 64 states that Broadcast Auxiliary stations licensed as of July 10, 1970, may continue to so operate in the frequency band 942–947 MHz pending a decision as to their disposition through a future rule making proceeding.

[4] *Further Notice of Proposed Rule Making* in Docket No. 19130 and Docket No. 19494, 37 FR 8555 (April 28, 1972).

Current Status of the 2110–2113 MHz Band

4. The 2110–2113 MHz band is a segment of the 2110–2130 MHz band. The 2110–2130 MHz band is paired with the 2160–2180 MHz band for duplex operation and both these bands are allocated to the Fixed services. Common carrier stations in the Point-to-Point Microwave Radio Service operating in these bands are located principally in the rural areas of the far western states and Alaska. These stations are used to relay telephone messages along so-called "skinny" or "light-haul" routes. In the major urban areas there is a heavy concentration of control and repeater stations operating in conjunction with land mobile base stations. Because there is a significantly large number of stations now operating in the 2110–2113 MHz band in both rural and urban areas, we feel the complexities involved in any contemplated sharing arrangement would outweigh any derived benefits. Accordingly, we feel the proposal set forth in Docket No. 19130 and 19494 is no longer viable and propose that it be terminated.

Petition for Rulemaking (RM–2697) National Association of Broadcasters (NAB)

5. In April 1976, the National Association of Broadcasters (NAB) submitted a petition for rule making requesting the reallocation of the 942–947 MHz band from land mobile services to ABSTL/ICR. It claimed that a rapid increase in the number of ABSTL/ICR's since 1973 had caused a saturation of the 947–952 MHz band in major urban areas. NAB further claimed there would be an increase in demand for frequencies if and when the Commission authorizes standards to implement AM stereo. It also felt that there is no immediate need for the use of the 942–947 MHz band (which is paired with 897–902 MHz band) by land mobile services.

Comments in Support

6. Comments received supporting the petition represent broadcast interests that cite the congestion and impossibility of relocating ABSTL/ICR stations from 942–947 MHz to 947–952 MHz. NBC documented its efforts in New York City, Chicago, and San Francisco; it has not been able to relocate such stations due to interference from ABSTL/ICR stations operating on every available channel in the 947–952 MHz band. Southern Broadcasting Company indicated that all channels are assigned in the Houston and Dallas/Ft. Worth metropolitan areas. It pointed out that on several channels there are two and three licensees operating. To alleviate interference problems, attempts are made to change frequencies of existing stations and/or to try alternate paths from a studio-to-transmitter location. Minnesota Public Radio, Inc. (MPR) indicated that Minneapolis/St. Paul is another market where every available channel is in use. Many broadcasters in need of channels are making proposals to existing licensees to operate co-channel.

Comments in Opposition

7. Opposing statements, representing land mobile interests, indicated that although the spectrum under question (i.e. 942–947 MHz) had been placed in a reserve status, it did not necessarily follow that there was a lack of need by the land mobile community. Reference to support this claim was made to the Private Land Mobile Advisory Committee Report for the 1979 World Administrative Radio Conference (WARC). It reported that since 1950 there had been a 43-fold increase in private land mobile systems despite severe frequently availability restraints during most of this time. The committee forecasted at least a 5.5 growth factor by the year 2000, part of which could be accommodated within the 806–947 MHz allocation. An additional allocation would be required probably by 1990, when according to the committee, the existing allocations become fully utilized in the major urban areas. AT&T, in comments submitted in 1976, stated that "the actions in Docket No. 18262 were designed as a comprehensive overall plan for developing new and improved land mobile services, and, more importantly, insuring that there would be adequate spectrum in the future."

Petition for Rule Making (RM–3246) Moseley Associates, Inc.

8. In November 1978, Moseley Associates, Inc. of Goleta, California submitted a Petition for Rulemaking (RM–3246) to permit ABSTL/ICR operation on unassigned UHF–TV channels on a secondary, non-interfering basis. Moseley suggested that assignments for this secondary service could be limited to UHF channels 50–59 (i.e., 686–746 MHz). In general, the majority of comments received from broadcast interests representing various AM and FM radio stations were in favor of this Petition. Those opposed represented UHF–TV interests.

Comments in Support

9. Comments in support of Moseley's Petition pointed to problems of frequency congestion in the allocated 947–952 MHz band. (It is further noted that there are approximately 400 licensees operating in the 942–947 MHz band pursuant to conditions set out in Footnote NG64). A number of the parties responding indicated their inability to install desired facilities due to complete saturation of the band in their locality. KUSC–FM, licensed to the University of Southern California, operates an STL under special temporary authorization in the 942–947 MHz band in the Los Angeles area. It indicated that there is extreme frequency congestion throughout the Los Angeles basin making it impossible for any broadcast station to obtain frequencies for STL usage. The National Broadcasting Company, Inc. (NBC) pointed out its difficulty in trying to obtain STL's for its stations in Los Angeles, San Francisco, Chicago, and New York City due to similar frequency congestion problems. Golden West Broadcast, Inc. also cited extreme difficulty in obtaining aural broadcast studio-transmitter links in Los Angeles, San Francisco, Seattle, and Detroit.

10. A number of other broadcasters expressed their intentions to begin stereophonic operations over their AM broadcast facilities once the Commission approves a system. However, due to the shortage of frequencies for STL's, they support the Moseley Petition which would make available the UHF–TV spectrum for STL usage and urge other alternatives for STL service be explored in a rule making proceeding.

11. The National Public Radio network (NPR) indicated that it was designing a multiple channel, multiple uplink satellite interconnection system. It claims that this system will significantly increase public radio's need for additional aural broadcast intercity relay and STL facilities. In a number of cases, the satellite receiving equipment is to be located several miles from the radio broadcast station to be served to avoid interference with other radio services. Because there are few, if any, available frequencies for inter-city links, NPR plans to install cable to link these facilities. It claims the costs for installation and maintenance of such links are far greater than the costs for a comparable STL system. NPR member station, KUSC-FM, licensed by the University of Southern California, which is to be interconnected with the NPR satellite system, supports the allocation

proposed by Moseley. NPR concurred and recommended the reallocation of 942–947 MHz to ABSTL/ICR and that the Commission study the feasibility of sharing bands with other users, in particular, above 2 GHz.

Comments in Opposition

12. Comments filed in opposition to Moseley's Petition include the Association of Maximum Service Telecasters, Inc. (MST) and the Public Broadcasting Service (PBS). PBS stated that "the Moseley proposal should not be adopted because: (a) there is no surplus of spectrum in the UHF–TV band and the demand for new television frequencies is on the increase; (b) television stations and STL's are not suitable candidates for assignment in the same band, because the demand for both rises steeply as the size of a market increases, thereby making it unlikely that the needs of both services can be met; and (c) the concept of secondary service on a non-interfering basis is unrealistic where the service involved is a vital link whose termination involves cutting off broadcast service to the public."

13. MST calls the proposal unfeasible and claims Moseley failed to take into account certain UHF–TV "taboos" necessary for interference protection. In particular, it contends that if UHF–TV channels 50–59 were used on a secondary basis for ABSTL/ICR, image interference to television stations operating on channels 35–45 would occur. It further suggests that phase-compensated land lines or common carriers should be more fully used as an alternative by broadcasters. In addition, MST claims Moseley did not support its assertion that demand for spectrum for ABSTL/ICR would increase if rules are adopted to permit AM stereo.

Moseley's Reply Comments

14. In its reply statement Moseley Associates, Inc. (Moseley) addressed the comments filed in opposition to its Petition. In response to the assertion that it failed to take into account the UHF "taboos," Moseley stated that the taboos listed in Table IV, Section 73.698, are not applicable when comparing UHF and aural STL services. Aural STL service employs low effective radiated power while significantly higher levels of power are used by UHF–TV stations. Also, ABSTL/ICR operation is a fixed point-to-point service.

15. Moseley suggested downgrading the mileage separations, if the Commission were to decide to maintain the taboo concept in such a sharing between television stations and ABSTL/ICR. It recommended a scaling factor of 1/32 since the typical power difference between ABSTL/ICR and TV transmitters can be estimated at about 30 dB. With regard to co-channel and adjacent channel restrictions, Moseley recommended the requirements established in formerly designated Sections 89.123, 91.114, and 93.114 be applied to ABSTL/ICR stations when the azimuth of the major lobe of the ABSTL/ICR signal is directed toward the co-channel or adjacent channel television station.

16. With respect to proposing that ABSTL/ICR be secondary, Moseley stated that ABSTL/ICR equipment is designed in such a manner that its frequency can be moved typically 40–50 MHz in the field in case interference is experienced on any particular channel due to new stations that might be allowed if there were a change in the Allocation Table, Section 73.606(b). Consequently, Moseley did not agree that the termination of operation of a specific channel by reason of its secondary status would interrupt programming or place a financial burden on the broadcast station. Moseley contended that high-quality land line circuits are extremely difficult to obtain and are not a viable alternative to an allocation.

Discussion of Petitions

17. Although the NAB petition has basis for consideration, we believe the 942–947 MHz band should remain as it is, presently allocated to the land mobile services. This band was placed into a reserve status, as part of the 928–947 MHz band, in Docket No. 18262 to provide for the future needs of the growing land mobile services through the year 2000. As these needs are still evolving, we do not believe it would be meritorious nor in the greater public interest to reconsider this decision. Accordingly, we believe this petition (RM–2697) should be denied and so propose. We do not propose to grant NAB's request regarding the 942–947 MHz band, but we do propose to satisfy its request for additional spectrum.

18. With respect to Moseley's Petition, we note that the initiation of the Low Power Television service has added an additional element to the question of sharing unassigned UHF–TV channels.[5] Both the technical and regulatory aspects of such sharing require more information before we can reach a conclusion. The proposal we are making today is expected to meet the perceived needs for Aural STL and ICR circuits. Accordingly, we are deferring a decision on Moseley's Petition until we have completed the present proceeding.

Current Status of ABSTL/ICR

19. Based on a study made of the Broadcast Bureau's records there are about 2500 ABSTL/ICR stations operating in the 942–952 MHz band. Of that number, about 400 stations operate on a secondary basis under Footnote NG 64 in the 942–947 MHz segment. Since 1972, growth in the number of authoriztions has escalated. It appears to have paralleled the growth in number of FM stations. As a consequence of such growth, at the present time frequency saturation problems prevail in the following metropolitan areas: Los Angeles, San Francisco, Chicago, New York, Philadelphia, Miami, New Orleans, Pittsburgh, St. Louis, Milwaukee, Phoenix, Dallas-Ft. Worth, Cleveland, Boise, Las Vegas, Houston, Albuquerque, Boston, Denver, and San Juan. In these cities all available ten channels are fully occupied. Some frequency reuse is taking place, but generally it is not possible since most ABSTL/ICR transmission paths converge at a singular site of high altitude. As an example, in Los Angeles, most FM broadcast stations have as their common transmitting site Mt. Wilson. Consequently, in Los Angeles all channels in the ABSTL/ICR 947–952 MHz band, as well as the 942–947 MHz segment, are used by FM stations to relay programming to this site, thereby precluding any frequency reuse.

20. In light of the evidence of current usage and projected future growth of this service, we believe an additional allocation is warranted to alleviate the saturation problem existing in the metropolitan areas mentioned, as well as to provide for future growth. Moreover, we are concerned that those stations operating in the 942–947 MHz band under the provisions of Footnote NG 64 be relocated in an expedient manner.

Proposed Allocation

21. In a separate rule making proceeding, we have proposed a dedicated band in the 18 GHz range for ABSTL/ICR stations and similar users.[6] Realistically, it would be several years before this band could be used if the allocation is adopted as proposed.[7]

[5] The Commission recently adopted rules establishing the Low Power Television Service (LPTV). See *Report and Order* in BC Docket No. 78–253, 47 FR 21468 (May 18, 1982).

[6] See Further Notice of Proposed Rule Making in Gen. Docket No. 79–188 adopted August 4, 1981, 46 FR 45635 (September 14, 1981).

[7] Due to the higher frequency band and corresponding lack of technical development therein, it is estimated that several years would

Accordingly, it has become essential that we look at other bands lower in the frequency spectrum to meet the immediate need. Ideally, we would again like to propose an allocation that would be exclusively dedicated to ABSTL/ICR. However, such an allocation could necessitate the relocation of a significant number of stations to other frequency bands. This is not usually possible or practical in the lower frequency ranges as the spectrum allocated there is used extensively and any change could cause economic hardship for many.

22. Alternatively then, consideration is given to sharing with an existing service. Taking into account a study of several factors including technical suitability, available technology, costs, propagational performance, etc., we have come to conclude that the paired bands 2130–2150 MHz and 2180–2200 MHz would afford ABSTL/ICR stations with an optimal allocation. At the present time these bands are allocated to stations in the Private Operational-Fixed Microwave Service under Part 94 of the Commission's Rules. Each band currently supports approximately 1,500 licensed frequency assignments. The assignments are clustered in the following regions: Middle-Atlantic states, Texas, Louisiana, Gulf of Mexico off-shore oil rigs and California. Even though there is heavy usage in these areas, our analyses show that these bands can accommodate many additional users. This is possible because the fixed point-to-point transmission paths required by ABSTL/ICR stations generally do not coincide with those utilized by private operational-fixed stations. Accordingly, as set forth in the Appendix, we are proposing that the 2130–2150 MHz and 2180–2200 MHz bands be made available also for use by ABSTL/ICR stations.

23. We anticipate that this proposed allocation will provide sufficient spectrum for relocating those stations presently operating under the provisions of Footnote NG64. Accordingly, we further propose that Footnote NG 64 be revised to indicate that ABSTL/ICR stations will be permitted continued operation only until a date to be fixed as five years from the adoption of the rules herein proposed.

Technical Considerations

24. Since the proposed bands for allocation are established for use by operational-fixed stations under Part 94 we believe it appropriate to propose an extension of the technical standards under Subpart C of Part 94 to also cover the technical operation of ABSTL/ICR stations in the 2130–2150 MHz and 2180–2200 MHz bands. These proposed standards appear in the attached Appendix. As these bands have been designated for duplex operation and because AB/ST is generally a one-way transmission service, we propose assigning channels for ABSTL/ICR usage alternatively and in sequence between the lower and upper frequency bands beginning with the lowest frequency in each band. As example, the first channel to be assigned would be 2130.8 MHz designated 1–A; the second to be assigned would be 2180.8 MHz, designated 1–B; the third to be assigned would be 2131.6 MHz, designated 2–A; etc.

25. Although the maximum channel bandwidth for the 2130–2150 MHz and 2180–2200 MHz bands is 800 kHz, we propose that ABSTL/ICR stations be limited to 500 kHz as is presently allowed under § 74.535. Since the path lengths of ABSTL/ICR stations are generally not greater than 30 kilometers we believe that proposing a power limit of 12 watts would be adequate for this range. This is set forth in proposed Section 74.534. The antenna limitations as set out under § 94.75 would be extended to ABSTL/ICR under this proposal and accordingly appear in revised § 74.536. As the FCC cannot undertake frequency coordination, the procedures delineated in Part 94 (viz. §§ 94.15 and 94.63) are further being proposed to include ABSTL/ICR stations. These rules are set forth under § 74.504 and 74.505 and Part 94.

26. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceedings. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written summary of that presentation, on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, Section 1.1231 of the Commission's Rules.

27. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et seq*, the Commission issues the following initial regulatory flexibility analysis:

I. *Reason for action*—The proposed allocation will accommodate the relocation of ABSTL/ICR stations operating under the provision of Footnote NG 64 in the 942–947 MHz band. Footnote NG 64 permits ABSTL/ICR stations licensed as of July 10, 1970, to continue through a future rule making proceeding. At the present time the 942–947 MHz band is allocated to land mobile reserve.

II. *The objective*—The Commission desires to relocate approximately 400 ABSTL/ICR stations operating in the 942–947 MHz band under the provision of Footnote NG 64 to allow that band to be allocated from land mobile reserve to land mobile.

III. *Legal basis*—The legal basis for the FCC to allocate spectrum is contained in 47 U.S.C. 303(c).

IV. *Entities affected; nature of economic impact; significant alternatives*—As mentioned, approximately 400 licensees of ABSTL/ICR stations would be required to vacate the 942–947 MHz band and relocate to the 2130–2150 MHz/2180–2200 MHz bands, or the 947–952 MHz band if channels are available there, within 5 years of the actual costs of rules in this docket. It is not certain what the actual costs of engineering and equipment might be for each affected licensee. However, it is certain that costs could be significantly greater to relocate to the 2130–2150 MHz/2180–2200 MHz bands compared to relocating to the 947–952 MHz band. Moreover, the requirement that private operational-fixed and ABSTL/ICR stations in the 2130–2150 MHz/2180–2200 MHz bands must coordinate their operations could also impose further costs. Affected parties are invited to submit comments on the economic impact of such relocation.

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elapse before operational equipment would be ready for this service in the 18 GHz range.

At this time, we cannot perceive any significant alternative scheme that would enable the affected licensees to avoid their proposed relocation. However, we invite the affected parties to comment on this point.

V. *Recording recordkeeping and other compliance requirements*—As mentioned in the text, license holders of ABSTL/ICR stations operating in the 942–947 MHz band, upon adoption of these proposed rules, will not be granted renewal of their licenses beyond a date of 5 years from the adoption of the rules. After such time, only channels in the bands allocated for use by ABSTL/ICR stations would be available for assignment.

28. Authority for issuance of this Notice is contained in Section 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r). Pursuant to procedures set out in § 1.415 of the Rules and Regulations, 47 CFR 1.415, interested persons may file comments on or before August 23, 1982, and reply comments on or before September 7, 1982. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into account information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

29. In accordance with the provisions of § 1.419 of the rules and regulations, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting 1 copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

30. As required by section 603 of the Regulatory Flexibility Act, the FCC has prepared an initial regulatory flexibility analysis (IRFA) of the expected impact of these proposed policies and rules on small entities. The IRFA is set forth in paragraph 27. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the Notice, but they must have a separate and distinct heading designating them as responses to the regulatory flexibility analysis. The Secretary shall cause a copy of this Notice, including the initial regulatory flexibility analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act (Pub. L. 96–354, Stat. 1164, U.S.C. et. seq.).

31. For further information concerning this document contact Mel Murray at (202) 653–8168.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William Tricarico,

Secretary.

Appendix

It is proposed to amend Parts 2, 74, and 94 of Chapter I of Title 47 of the Code of Federal Regulations to read as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

A. Part 2 is amended as follows:

§ 2.106 [Amended]

1. In § 2.106, the Table of Frequency Allocations is revised for the bands 2130–2150 MHz and 2180–2200 MHz by adding Aural broadcast STL and intercity relay under column 9, class of station.

Band (MHz)	Service	Class of station	Frequency (MHz)	Nature of services of stations
(7)	(8)	(9)	(10)	(11)
•	•	•	•	•
2130–2150	Fixed	Operational fixed		
(NG10)		International Control		
(NG25)		Aural broadcast STL and intercity relay		
•	•	•	•	•
2180–2200	Fixed	Operational fixed		
(NG10)		International Control		
(NG25)		Aural broadcast STL and intercity relay		

2. Footnote NG64 is revised to read as follows:

Broadcast auxiliary stations licensed as of July 10, 1970, to operate in the frequency band 942–947 MHz may continue to operate only until (date to be inserted is five years after the adoption of these rules).

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

B. Part 74 is amended as follows:

1. Section 74.502, paragraphs (b) and (c) are revised and paragraphs (d) and (e) are added to read as follows:

§ 74.502 Frequency assignment.

(a) * * *

(b) The frequency bands 2130–2150 MHz and 2180–2200 MHz are available for assignment to aural broadcast STL and intercity relay stations and are shared on a co-primary basis with stations in the private operational-fixed microwave service under Part 94 of the Commission's Rules. For assignment to Aural broadcast STL and intercity relay stations, each of the following frequencies is the center frequency of a channel with its corresponding channel designation.

2130–2150 MHz band		2180–2200 MHz band	
Center frequency (MHz)	Designated channel	Center frequency (MHz)	Designated channel
2130.8	1–A	2180.8	1–B
2131.6	2–A	2181.6	2–B
2132.4	3–A	2182.4	3–B
2133.2	4–A	2183.2	4–B
2134.0	5–A	2184.0	5–B
2134.8	6–A	2184.8	6–B
2135.6	7–A	2185.6	7–B
2136.4	8–A	2186.4	8–B
2137.2	9–A	2187.2	9–B
2138.0	10–A	2188.0	10–B
2138.8	11–A	2188.8	11–B
2139.6	12–A	2189.6	12–B
2140.4	13–A	2190.4	13–B
2141.2	14–A	2191.2	14–B
2142.0	15–A	2192.0	15–B
2142.8	16–A	2192.8	16–B
2143.6	17–A	2193.6	17–B
2144.4	18–A	2194.4	18–B
2145.2	19–A	2195.2	19–B
2146.0	20–A	2196.0	20–B
2146.8	21–A	2196.8	21–B
2147.6	22–A	2197.6	22–B
2148.4	23–A	2198.4	23–B
2149.2	24–A	2199.2	24–B

(c) A single broadcast station licensee will normally be limited to the assignment of one 500 kHz channel between the same point of origin and destination. If the circuit carries only one aural program channel, the center frequency of the channel will be assigned. If a single licensee requires more than one aural program channel between the same point of origin and destination, more than one transmitter may be authorized to operate within a single 500 kHz channel, employing

carrier frequencies above and below the center frequency listed in this paragraph. Where such assignments are made the operating frequencies selected shall be such that the unmodulated carrier frequency plus or minus the sum of M+D does not extend beyond the upper or lower channel edge. M is the maximum modulating frequency and D is the maximum excursion of the carrier from the unmodulated carrier frequency due to modulation. Under these circumstances, the operating frequencies of the unmodulated carriers shall be maintained within .001 percent of the assigned frequencies.

(d) The use of the frequencies listed in paragraphs (a) and (b) of this section by aural broadcast intercity relay stations is subject to the condition that no harmful interference is caused to other classes of stations operating in accordance with the Table of Frequency Allocations contained in § 2.106 of this chapter.

(e) Any aural broadcast STL or intercity relay station for which there was outstanding a valid construction permit or license on April 16, 1958, specifying operation on any frequency between 890 MHz and 942 MHz, may continue to be operated on such frequencies for the remainder of the term specified in such authorization and may, upon appropriate application therefor, be granted a renewal of such license, subject to the condition that no harmful interference shall be caused to the radiolocation service operating in the band 890–942 MHz and subject to the further condition that the licensee must accept any interference which may be caused by the operation of radiolocation stations in the band 890–942 MHz and industrial, scientific, and medical (ISM) equipment in the band 890–940 MHz.

2. A new § 74.504 is added to read as follows:

§ 74.504 Policy governing the assignment of frequencies in the 2130–2150 MHz and 2180–2200 MHz band.

(a) All applicants for new or modified stations shall make an engineering analysis of the potential interference between the proposed facilities and previously authorized facilities and pending applications. The applicant shall include as supplemental information with the application: (1) A certification that, based upon frequency engineering analysis, the potential interference shall not exceed that prescribed by the interference criteria in § 74.505 or Part 94; or (2) if the potential interference is to exceed that prescribed by § 74.505 or Part 94, a statement to the effect that all parties affected have agreed to accept the higher level of interference. In either case, the applicant shall furnish the names of the licensees and the call signs of the stations which were considered in conducting the engineering analysis. Further, applicants and licensees will be expected to cooperate promptly and fully in the exchange of technical information necessary to performing frequency engineering analysis and, in the event of technical differences, cooperate in resolving these differences.

(b) As these two bands are designated for duplex operation in the Private Operational-Fixed Service, assignment of channels for Aural broadcast STL and intercity relay stations are made alternately and in sequence between the lower and upper frequency bands beginning with the lowest frequency in each band. As example, the first channel to be assigned would be 2130.8 MHz, designated 1–A; the second to be assigned would be 2180.8 MHz, designated 1–B; the third to be assigned would be 2131.6 MHz, designated 2–A; etc.

3. A new § 74.505 is added to read as follows:

§ 74.505 Interference protection criteria for stations operating in the 2130–2150 MHz and 2180–2200 MHz bands.

(a) Before filing an application for new or modified facilities under this part the applicant must perform a frequency engineering analysis to assure that the proposed facilities will not cause interference to existing or previously applied-for stations in the Private Operational-Fixed Microwave Service of a magnitude greater than that specified in the criteria set forth in paragraph (b) of this section unless otherwise agreed to in accordance with § 74.504 or similar provisions under Part 94.

(b) The interference protection criteria for aural broadcast STL and intercity relay stations are as follows:

(1) In analog systems employing frequency modulated radio that is modulated by a standard monaural or stereo multiplex signal, the allowable interference level per exposure shall not exceed the levels which would apply to long-haul or short-haul FM–FDM systems having a 600–1200 voice channel capacity as follows:

(i) To long-haul analog systems, employing frequency modulated radio and frequency division multiplexing to provide multiple voice channels, the allowable interference level per exposure:

(A) Due to co-channel sideband-to-sideband interference shall not exceed 5 pwp0;[1]

(B) Due to co-channel carrier-beat interference shall not exceed 50 pwp0.

(ii) To short-haul analog systems employing frequency modulated radio and frequency division multiplexing to provide multiple voice channels, the allowable interference level per exposure:

(A) Due to co-channel sideband-to-sideband interference shall not exceed 25 pwp0.

(B) Due to co-channel carrier-beat interference shall not exceed 50 pwp0.

(c) In addition to the requirements of paragraph (b) of this Section the adjacent channel interference protection criteria to be afforded, regardless of system length, or type of modulation, multiplexing, or frequency band, shall be such that the interfering signal shall not produce more than 1.0 dB degradation of the practical threshold of the protected receiver.

(d) Applying the Criteria: (1) The criteria specified in paragraphs (b) and (c) of this section shall be applied by calculating the ratio in dB between the desired (carrier) signal and the undesired (interfering) signal (C/I ratio) appearing at the input to the receiver under investigation (victim receiver).

(2) The development of the C/I ratios from the criteria and the methods employed to perform path calculations shall follow generally acceptable good engineering practices. Procedures as may be developed by the Electronics Industries Association (EIA), the Institute of Electrical and Electronics Engineers (IEEE), the American National Standards Institute (ANSI) or any other recognized authority will be acceptable to the Commission.

(3) Except where the applicant does not wish to develop the carrier to interference ratio, the applicant shall, in the absence of criteria or a developed C/I ratio, employ the following C/I protection ratios:

(i) Co-channel interference: Both sideband and carrier-beat, applicable to all bands; the existing or previously authorized system shall be afforded a carrier to interfering signal protection ratio of at least 90 dB.

(ii) Adjacent channel interference: Applicable to all bands; the existing or previously authorized system shall be afforded a carrier to interfering signal protection ratio of at least 56 dB.

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[1] Picowatts (pwp0) of absolute noise power, psophometrically weighted, appearing in an equivalent voice band channel of 300–3400 Hz.

4. Section 74.534 is revised to read as follows:

§ 74.534 Power limitations.

(a) For operation in the 947–952 MHz band:

Aural broadcast STL and intercity relay stations will be licensed with a power output not in excess of that necessary to render satisfactory service. The license for these stations will specify the maximum authorized power. The operating power shall not be greater than necessary to carry on the service and in no event more than 5 percent above the maximum power specified. Engineering standards have not been established for these stations. The efficiency factor for the last radio stage of transmitters employed will be subject to individual determination but shall be in general agreement with values normally employed for similar equipment operated within the frequency range authorized.

(b) For operation in the 2130–2150 MHz and 2180–2200 MHz bands:

On any authorized frequency, the average power delivered to an antenna shall be the minimum amount of power necessary to carry out the communications desired. Application of this principle shall include, but not limited to requiring a licensee who replaces one or more of his antennas with larger antennas to reduce his antenna input power by an amount appropriate to compensate for the increased primary lobe gain of the replacement antenna(s). In no event shall the average effective radiated power (ERP) as referenced to an isotropic radiator, exceed the value specified below. Further, the output power of a transmitter on any authorized frequency shall not exceed 12 watts.

5. Section 74.536 is revised to read as follows:

§ 74.536 Directional antenna required.

(a) For operation in the 947–952 MHz band:

Each aural broadcast STL and intercity relay station is required to employ a directional antenna. Considering one kilowatt of radiated power as a standard for comparative purposes, such antenna shall provide a free space field strength at one mile of not less than 435 mv/m in the main lobe of radiation toward the receiver and not more than 20 percent of the maximum value in any azimuth 30 degrees or more off the line to the receiver. Where more than one antenna is authorized for use with a single station, the radiation pattern of each shall be in accordance with the foregoing requirement.

(b) For operation in the 2130–2150 MHz and 2180–2200 MHz bands:

In these bands the directional antenna shall meet the performance standards indicated in the following table:

Category	Maximum beamwidth to 3dB points (included angle in degrees)	Antenna standards: minimum radiation suppression at angle in degrees from centerline of main beam in decibels—						
		5 to 10	10 to 15	15 to 20	20 to 30	30 to 100	100 to 140	140 to 180
A	5.0	12	18	22	25	29	33	36
B	8.0	5	18	20	20	25	29	36

NOTE.—Stations in this service must employ an antenna that meets the performance standards for category A, except that, in areas not subject to frequency congestion antennas meeting standards for category B may be employed. Note, however, that the Commission may require the use of a high performance antenna where interference problems can be resolved by the use of such antennas.

(c) Applicants shall request, and authorization for stations in this service will specify, the polarization of each transmitted signal. Periscope antenna systems or passive repeaters are not permitted. The polarization should be expressed as either horizontal, vertical, or as an angle from vertical. Antenna polarizations of horizontal and vertical should be denoted by the abbreviations (H) and (V), respectively. For antennas using linear polarizations other than horizontal or vertical, the polarization should be stated in degrees measured from the vertical, with angles between 0° and +90° denoting the on-coming electric field vector displacement in a counterclockwise direction, and angles between 0° and −90° denoting the oncoming electric field vector displacement in a clockwise direction. In the event polarization diversity is authorized, the two polarizations must be separated by 90°. Antennas employing other than linearly polarized feed systems will not be authorized.

6. A new § 74.550 is added to appear under the existing heading entitled *Equipment* to read as follows:

§ 74.550 Type acceptance.

Type acceptance is required by the Commission for all Aural broadcast STL and intercity relay station transmitters employed in the 2130–2150 and 2180–2200 MHz bands. Requirements for obtaining type acceptance are contained in Subpart J of Part 2 of this Chapter.

7. Section 74.561 is revised to read as follows:

§ 74.561 Frequency tolerance.

The licensee of each aural broadcast STL and intercity relay station shall maintain the operating frequency of the station within plus or minus 0.001 percent of the assigned frequency.

PART 94—PRIVATE OPERATIONAL-FIXED MICROWAVE SERVICE

C. Part 94 is amended as follows:

1. In § 94.61(b) a new footnote to be numbered 22 is added to the table entitled *Frequency Band (MHz)* at frequencies, 2130–2150 and 2180–2200 to read as follows:

§ 94.61 Applicability.

* * * * *

(b) Frequencies in the following bands are available for assignment to stations in the Private Operational-Fixed Microwave Service:

FREQUENCY BAND (MHz)	
2130–2150	(22), (32)
2180–2200	(22), (32)

[32] Frequencies in this band are shared with Aural Broadcast STL and Intercity Relay Stations. (Part 74)

2. Section 94.63, paragraph (a) is revised to read as follows:

§ 94.63 Interference protection criteria for operational-fixed stations.

(a) Before filing an application for new or modified facilities under this part the applicant must perform a frequency engineering analysis to assure that the proposed facilities will not cause interference to existing or previously applied-for stations in this service of a magnitude greater than that specified in the criteria set forth in paragraph (b) of this section, unless otherwise agreed to in accordance with § 94.15(b). In addition, when the proposed facilities are to be operated in the bands 18,630–19,040 MHz, 21,200–21,800 MHz, 22,400–23,000 MHz, 31,000–31,200 MHz, or 38,600–40,000 MHz, applicants shall follow the prior coordination procedure specified in § 21.100(d) of this chapter as regards stations in the Domestic Public Radio Services and when the proposed facilities are to be operated in the bands 2655–2690 MHz or 12,500–12,700 MHz, applications shall also follow the procedures in ¶ 21.706(c) and (d) and the technical standards and requirements of Part 25 of this chapter as regards licensees in the Communication-Satellite Service. (See also § 94.77) Also, when the proposed facilities are to be operated in the bands 2130–2150 MHz and 2180–2200 MHz applicants must perform a frequency engineering analysis to assure the proposed facilities will not cause interference to existing or previously applied for Aural Broadcast

STL and Intercity Relay Stations (Subpart E of Part 74).

* * * * *

3. In § 94.65, paragraph (c) is revised to read as follows:

§ 94.65 Frequencies.

* * * * *

(c) 2130–2150 MHz; 2180–2200 MHz. These bands are shared with Aural Broadcast STL and Intercity Relay Stations on a co-primary basis (Subpart E of Part 94). Such stations are regularly authorized for one-way transmission between fixed points.

800 kHz Maximum Bandwidth, Unless Noted

[Paired frequencies]

2130–2150 MHz transmit (or receive)	2180–2200 MHz receive (or transmit)
2130.8	2180.8
2131.6	[1]2181.6
2132.4	2182.4
2133.2	[1]2183.2
2134.0	2184.0
2134.8	[1]2184.8
2135.6	2185.6
2136.4	[1]2186.4
2137.2	2187.2
2138.0	[1]2188.0
2138.8	2188.8
2139.6	[1]2189.6
2140.4	2190.4
2141.2	[1]2191.2
2142.0	2192.0
2142.8	[1]2192.8
2143.6	2193.6
2144.4	[1]2194.4
2145.2	2195.2
2146.0	[1]2196.0
2146.8	2196.8
2147.6	[1]2197.6
2148.4	2198.4
2149.2	2199.2

[1] Consideration will be given on a case-by-case basis to assigning these frequency pairs to systems employing 1600 kHz bandwidth transmissions.

[FR Doc. 82-19101 Filed 7-15-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Parts 2, 74, and 94

[Gen. Docket 82-335; RM-2697; RM-3246; Docket Nos. 19130 and 19494]

Frequency Allocation for Aural Broadcast STL and Intercity Relay Stations; Correction

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; correction.

SUMMARY: The Commission's Notice of Proposed Rule Making (published elsewhere in this issue) is corrected to clarify that the frequency 947.0 MHz would not be available for assignment nor would stations be allowed continued operation on 947.0 MHz after 5 years from the adoption of the proposed rules. The Notice proposed that Aural broadcast STL and Intercity Relay (ABSTL/ICR) stations operating in the 942–947 MHz band be permitted to continue operation only until a date of 5 years from the adoption of the proposed rules. If these rules are adopted, then the stations affected by this action would have to relocate to either the 947–952 MHz band or the proposed bands 2130–2150 MHz and 2180–2200 MHz.

FOR FURTHER INFORMATION CONTACT: Mel Murray, Office of Science and Technology, Spectrum Management Division, Spectrum Utilization Branch, Washington, D.C. 20554, (202) 653–8168.

In the matters of amendment of Parts 2, 21, 74, and 94 of the Commission's Rules and Regulations to Expand the Frequencies Available for Use by Aural Broadcast STL and Intercity Relay Stations, Gen. Docket No. 82–335; amendment of Parts 2, 21, 74, and 90 of the Commission's Rules and Regulations to Make Available to Aural Broadcast STL and Intercity Relay Stations the 942–947 MHz Band on a Primary Basis, RM–2697; amendment of Parts 2 and 74 of the Commission's Rules to permit broadcast aural studio-transmitter links to operate on a secondary, non-interfering basis in unassigned UHF television channels, RM–3246; amendment of Parts 2 and 74 of the Commission's Rules to permit Aural Broadcast STL operations in the band 2150–2160 MHz and to accommodate STL, Intercity Relay Stations and certain low power broadcast auxiliary stations within the frequency band 947–952 MHz, Docket No. 19130; and amendment of Parts 2 and 74 of the Commission's Rules to permit Aural Broadcast STL operations in the band 2110–2113 MHz, Docket No. 19494.

Erratum

Released: July 2, 1982.

The Commission's notice of proposed rule making, FCC 82–287, released July 2, 1982, is corrected as follows:

1. The reference Notice proposes an allocation in the 2130–2150 MHz and 2180–2200 MHz bands for use by Aural broadcast STL and Intercity Relay (ABSTL/ICR) stations. Concomitant with this proposal, ABSTL/ICR stations currently operating on frequencies in the 942–947 MHz band under the provision of Footnote NG 64 would not be permitted continued operation after a date of five years from the adoption of the proposed rules.

2. Because § 74.502(a) currently provides for the assignment of ABSTL/ICR stations on the frequency of 947.0 MHz with a 500 kHz bandwidth, the Notice should have clarified that this frequency accordingly must be proposed for deletion.

3. For clarification then, a note is proposed for addition to § 74.502(a) to read as follows:

* * * * *

§ 74.502 Frequency assignment.

(a) The frequency band 947–952 MHz is divided into ten 500 kHz channels for assignment to aural broadcast STL and intercity relay stations. Each of the following frequencies is the center frequency of a channel.

(MHz)	(MHz)
947.0	949.5
947.5	950.0
948.0	950.5
948.5	951.0
949.0	951.5

Note.—This frequency will not be available for assignment after (date to be inserted is 5 years from the adoption of rules in this docket). Stations on this frequency may continue operation only until (date to be inserted is 5 years from the adoption of rules in this docket).

* * * * *

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-19276 Filed 7-15-82; 8:45 am]

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federal register

Friday
July 16, 1982

Part V

Environmental Protection Agency

National Oil and Hazardous Substances Contingency Plan

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[SWH-FRL 2163-4]

National Oil and Hazardous Substances Contingency Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: Pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) and Executive Order 12316, the Environmental Protection Agency is promulgating revisions to the National Contingency Plan (NCP) for oil and hazardous substances. The revised NCP effectuates the new responsibilities and powers created by CERCLA. CERCLA provides that actions taken in response to releases of hazardous substances shall, to the greatest extent possible, be in accordance with the revised NCP. Section 311 of the Clean Water Act provides that actions taken to remove oil discharges shall, to the greatest extent possible, be in accordance with the NCP. The revised NCP, promulgated today, shall be applicable to response actions taken pursuant to CERCLA and section 311 of the Clean Water Act.

DATES: The promulgation date for the revised National Contingency Plan shall be July 16, 1982. Under section 305 of CERCLA, this revised Plan cannot take effect until Congress has had at least sixty "calendar days of continuous session" from the date of promulgation in which to review the Plan. Since the actual length of this review period may be affected by Congressional action, it is not possible at this time to specify a date on which this revised Plan will become effective. Therefore, EPA will publish a notice in the Federal Register at the end of the review period announcing the effective date of this revised Plan.

ADDRESSES: The public docket for the revised National Contingency Plan is located in Room S-396, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: Sylvia Lowrance, Office of Emergency and Remedial Response (WH-548), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, Phone (202) 382-2203.

SUPPLEMENTARY INFORMATION:

I. Introduction

Pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. 96-510 ("CERCLA" or "the Act") and Executive Order 12316, the Environmental Protection Agency ("EPA" or "the Agency"), on March 12, 1982, proposed revisions to the National Contingency Plan (NCP) (47 FR 10972). The supplementary information section of the March 12 proposal discussed in detail the statutory basis of the NCP and the nature and purpose of the proposed revisions. (See 47 FR 10972 through 10978.) The Agency allowed the public forty-five days to submit comments on the proposed revisions. The Agency received 146 comments totalling over 1,000 pages in length on the proposed revisions.

Today, the Agency is promulgating revisions to the NCP. In preparing the revisions to the Plan, the Agency has carefully considered all of the public comments submitted on the proposed revisions. The Agency has made many modifications to the proposed revisions in response to the public comments.

In developing the proposed revisions to the Plan, the Agency's primary concerns were to ensure that the revised Plan met the statutory requirements of CERCLA and section 311 of the Clean Water Act (CWA), and that it established an effective response program. The Agency reviewed the public comments and incorporated suggested changes where appropriate.

All significant comments and the Agency's response to those comments are discussed below. EPA believes that the revised Plan includes all of the expanded CERCLA response authorities and adequately meets each of the statutory requirements of CERCLA and section 311 of the CWA. In meeting these requirements, EPA has also sought to ensure that the Plan does not contain unnecessarily rigid or cumbersome provisions, or provisions that are beyond the statutory mandate. EPA did not believe it was necessary to expand upon the national response organization and procedures established by Subparts A through D, nor upon the procedures for responding to oil discharges in the existing Plan. Experience has shown the national response organization and the oil discharge procedures to be efficient and effective methods for responding to environmental emergencies. It would be counter-productive to abandon established and workable procedures. Therefore, EPA has left the response structure of the existing Plan generally intact so that the proven national and regional response structure may be used for the expanded hazardous substance response authorities of CERCLA.

Section II of this preamble explains how the revised NCP meets the statutory requirements of section 105 of CERCLA and related provisions of section 311 of the CWA. The preamble to the proposed revisions discussed the revisions in relation to each of the subparts of the Plan and not with respect to how each statutory requirement was satisfied (47 FR 10972 through 10978). To ensure that it is clear how the revised Plan addresses each of the statutory requirements, Section II discusses in detail those provisions of the Plan that implement each of the statutory requirements.

Sections III, IV, V, and VI of this preamble address the major issues raised in the public comments. The sections summarize the significant comments submitted on each of these issues and the Agency's response to these comments. Section VII addresses additional comments that related to specific provisions in Subparts A through H of the Plan. Section VIII addresses any remaining general comments.

II. Statutory Requirements for the NCP

The following is a section-by-section analysis of each component required by section 105 of the CERCLA and related provisions of section 311 of the CWA, and a description of how the Plan meets each requirement.

1. *Section 105(1)—Methods for discovering and investigating facilities at which hazardous substances have been disposed of or otherwise come to be located.*

(a) *Discovery.* Section 300.63 of the Plan lists five methods by which a release or facility can be discovered. The major tools for discovery are those provided by Congress in CERCLA. Section 103(a) of CERCLA requires persons in charge of facilities or vessels to notify the National Response Center (NRC) as soon as they have knowledge of releases into the environment of hazardous substances in amounts equal to or greater than reportable quantities determined pursuant to section 102 of CERCLA. Section 103(c) of CERCLA requires persons to notify EPA of the existence of certain hazardous waste treatment, storage, and disposal facilities. EPA published guidance with respect to this requirement on April 15, 1981 (46 FR 22144). In addition, section 104(e) of CERCLA provides investigatory authority which may lead to discovery of a release by an investigating official. Section 300.63

further provides for discovery of releases through inventory efforts (e.g. section 3012 of the Resource Conservation and Recovery Act (RCRA)) and reports required by Federal or State permits. The Plan lists existing requirements for reporting releases and authorities for discovering releases, and complements these methods by referencing other sources of discovery, including random inventories and incidental observations.

EPA believes that the methods discussed above are adequate to discover most releases. The Agency's experience has shown these methods to be effective. When implementing the section 103(c) notification requirements, EPA received 11,000 reports of facilities where hazardous wastes are or had been potentially treated, stored or disposed. Moreover, since enactment of CERCLA, persons have been required to immediately report to the National Response Center (NRC) hazardous substance releases that exceed reportable quantities. The reports which are required by these sections cover most releases for which EPA and the United States Coast Guard (USCG) are delegated response authority under section 104 of CERCLA.

(b) *Investigation.* For investigating releases, the Plan sets forth a three-step process: (1) Initial investigation to determine the nature of the release (§ 300.64); (2) screening to determine whether the release warrants immediate response or further investigation (§ 300.64(a) and (c) and 300.65); and (3) further investigation for non-emergency releases which may warrant Federal action (§§ 300.66, 300.67(d) and (e), and 300.68(e) through (i)).

Section 300.64 of the Plan details the initial steps to be undertaken in investigating a reported release through a preliminary assessment. The assessment can be adapted to address the specific nature of a particular release. For example, a release that could cause immediate and significant harm to human health, welfare or the environment should be assessed much more rapidly than a release in which the risk of harm is less acute and immediate. Flexibility in the initial investigation process is provided for in § 300.64(a)(1) through (4) which sets forth a methodology for an initial evaluation of the release based on readily available data. In the case of hazardous waste management facilities, § 300.64(b) provides for the gathering of additional data when more time is available. The distinctions between §300.64(a) and (b) recognize that, in responding to most CERCLA releases, additional information may be necessary beyond that required to respond in classic spill situations under section 311 of the CWA. Thus, in order to implement CERCLA effectively, EPA has added the additional components of § 300.64(b). EPA considered and decided against adding greater detail to the requirements in this section because the scope of the assessment is most appropriately determined by the conditions of the release.

After the preliminary assessment, the Plan provides for either terminating investigation activities under the conditions detailed in § 300.64(c), taking an immediate removal pursuant to § 300.65 or continuing investigatory activities of non-emergency releases as discussed in § 300.66. The Plan allows for the three methods by which investigatory activities may be continued: through use of investigatory authorities provided in section 104(b) of CERCLA; through use of entry and investigatory authorities allowed under section 104(e) of CERCLA (see § 300.66(c)(1)); and through inspection of the release as detailed in § 300.66(c)(2).

The investigatory methodology described above and included in the Plan provides EPA with sufficient discretion to undertake the necessary investigatory activities as determined by the nature of the release in a manner consistent with the statute. In developing the investigatory methodology, the Agency relied upon experience gained under the section 311 program for investigating releases, which has proven to be very effective. The authorities are designed to provide response personnel with a detailed framework for investigation of releases, while still providing them with enough flexibility to tailor assessments to particular release conditions.

2. *Section 105(2)—Methods for evaluating, including analyses of relative costs, and remedying any releases from facilities which pose substantial danger to the public health or the environment.*

(a) *Evaluation.* The investigation activities explained above are the first step contained in the Plan for evaluating a release. Once investigatory activities are completed, the Plan establishes an evaluation scheme based on the type of release under consideration. The basic premise supporting the evaluation scheme is that the less imminent the threat, the greater the time available for the evaluation process.

For releases requiring immediate removal (i.e., emergency response), § 300.65 of the Plan provides for the initiation of response action without delay based upon the determination during the preliminary assessment that an emergency situation requires immediate response action (see §§ 300.64(a) and 300.65(a)). For releases that may require planned removal (i.e., short-term but not emergency response), § 300.67 provides for evaluation of the release by the State requesting the removal. The evaluation must include the information required by §300.67(b) of the Plan. The evaluation of candidates for planned removal continues as EPA applies the factors in § 300.67 to determine whether the release should, in fact, be funded as a planned removal.

The most extensive evaluations are those required for releases which potentially require remedial action (i.e., long-term response) and thus are candidates for inclusion on the National Priorities List. After the inspection has been completed (see § 300.66(b) and (c)), releases may be ranked pursuant to the Hazard Ranking System. This ranking system provides for a more detailed evaluation of the particular threats presented by the release and determines placement on the National Priorities List. (The Hazard Ranking System is contained in Appendix A and is explained in section V(A) below). Evaluation activities continue even after the release is included on the National Priorities List. Because of the complexity of releases that may require long-term remedial response, and the need to assure that remedies will adequately mitigate the threat from individual releases, § 300.68(f) through (i) provides for both investigation and study prior to undertaking a remedial response. Both of these steps include a final evaluation of the release and potential remedies based on factors enumerated in § 300.68(g) through (j).

EPA believes that the methods for evaluating releases discussed above and included in the Plan provide the most effective evaluation approach for dealing with widely varying threats posed by releases. Where the threat is immediate, evaluation actions are limited in order that rapid response can be taken. As the threats become less immediate, the Plan allows more extensive evaluation.

(b) *Methods for evaluating relative costs.* In the area of cost evaluation, EPA again bases the level of evaluation on the immediacy of the threat. First, for immediate removals, cost evaluation is limited to the statutory threshold of six months or $1 million unless an emergency continues (see § 300.65(d)). Thus, once the Agency determines that an immediate removal is necessary, the Plan vests in the lead agency the

authority to take whatever action the lead agency deems necessary to abate the emergency. In an emergency, it is not possible to require detailed cost evaluation because of the critical need to act as rapidly as possible.

In the case of a planned removal, the Plan provides for additional cost evaluation requirements. Section 300.67(a)(1) includes cost-savings as one of the criteria for taking a planned removal. Moreover, the nature of the response itself provides for cost-savings by allowing preventative actions. Finally, like immediate removal, § 300.67(e) imposes the statutory limits of six months of $1 million on the action. Thus, the Plan maintains stringent limitations on the costs of planned removal actions which must be included in the planning of the project.

The remedial response category provides for extensive cost evaluation. From the time the proposed extent of a remedial action is determined pursuant to §300.68(e), the costs of the remedial alternatives are considered. First, after alternatives are initially developed as provided in § 300.68(g), the Plan requires analysis of the cost of each alternative relative to the other alternatives under consideration (see §300.68(h)). On the basis of this analysis of comparative costs and other factors, the Plan calls for an assessment of the various alternatives in order to eliminate those that are more expensive but that do not provide significantly greater health or environmental protection. For the remaining alternatives, the Plan then requires (§300.68(i)) that costs be examined in detail for each individual alternative. This entails extensive evaluation of the costs of each remedial alternative to facilitate comparison of feasible alternatives. This analysis is used to make the final judgment on the appropriate remedial alternative based on costs and the other factors required by § 300.68(j).

(c) *Methods for remedying releases.* Section 300.70 contains a lengthy, although not exhaustive, list of methods for remedying releases. This list provides information on those methods of remedying releases which are considered appropriate and demonstrated methods. In addition, EPA has developed a technical handbook which can be utilized along with this section of the NCP to provide more technical information on the circumstances and types of releases in which these methods may be successfully employed. The manual is entitled "Handbook for Remedial Action at Waste Disposal Sites" and is available from Environmental Protection Agency, Office of Research and Development, Municipal Environmental Research Laboratory, Solid and Hazardous Waste Research Division, Cincinnati, Ohio 45268.

2. *Section 105(3)—Methods and criteria for determining the appropriate extent of removal, remedy, and other measures authorized by CERCLA.*

Sections 300.65(c) and 300.67(d) establish the procedures by which the appropriate extent of removal is determined. For this limited response category, EPA has determined that the appropriate extent of action is the abatement of the threat that required the initiation of a removal action. Therefore, in the case of immediate removal, EPA has limited the extent of removal to abatement of the immediate and significant risk (see § 300.65 (a) and (c)). Likewise in the case of planned removals, the Plan limits the extent of the action to abatement of the problem posed by the presence of factors listed in § 300.67(c).

EPA believes that this type of *a priori* procedure for limiting removal actions is necessary because removal response is statutorily a more limited action than remedial response. Removal actions are intended to eliminate the threat which precipitated the action. These responses may not fully abate the threat caused by a release. However, without such limitations, an inordinate share of the Fund might be spent on completing removal actions at releases which pose a less significant threat than other releases which have been placed on the National Priorities List. Moreover, if removal actions were not limited in scope, projects might continue until reaching the statutory limitation of six months or $1 million, without having achieved any tangible or specified clean-up objectives.

Section 300.68 of the Plan establishes methods and criteria for determining the appropriate extent of remedy. Remedial response involves long-term actions to mitigate threats primarily from hazardous waste management facilities. This section of Subpart F is one of the most extensive sections of the Plan. The Agency has far less experience with remedial actions than with removal actions. Under the removal program in section 311 of the CWA, EPA gained a great deal of experience in undertaking short-term clean-up actions, primarily in response to spills of oil. However, CERCLA created remedial action as a new type of response. In order to assure that response personnel have adequate guidance to follow when investigating, planning, and implementing remedial response, EPA has provided a detailed systematic procedure for determining the appropriate extent of remedy in Subpart F. The procedure is structured in a step-by-step format which requires a series of analyses and judgments based upon criteria enumerated in the Plan. The methodology set forth in § 300.68 includes:

(1) An initial scoping of the project based on criteria in § 300.68(e) to determine the type or types of remedial action that may be necessary. (Remedial response is categorized as initial, source control, or off-site remedial action.)

(2) A remedial investigation to determine the precise nature and extent of the problem and to assure that the remedial evaluation was accurate (see § 300.68(f)).

(3) Development of alternatives based on the type or types of remedial action necessary (see § 300.68(g)).

(4) An initial screening of the alternatives based on economic, engineering and environmental criteria specifically enumerated in § 300.68(h)(1), (2), and (3). This step requires a decision, based on the criteria, to eliminate certain alternatives because: (a) The alternative requires an expenditure of money far in excess of other alternatives (without providing substantially greater public health or environmental benefit) (§ 300.68(h)(1)); (b) the alternative has significant adverse environmental impacts or fails to effectively contribute to the protection of public health, welfare or the environment (§ 300.68(h)(2)); and (c) the alternative is not feasible from an engineering perspective (§ 300.68(h)(3)).

(5) Detailed analysis of remaining alternatives based on components specifically referenced in § 300.68(i)(2).

(6) The lead agency's determination of the appropriate extent of remedy, based upon its selection of the alternative which meets the standard of § 300.67(j) (i.e., "the lowest cost alternative which effectively mitigates and minimizes damage to and provides adequate protection of public health, welfare and the environment").

EPA believes that this process provides a sound basis for determining the appropriate extent of remedy, particularly given the limited experience in remedying hazardous substance releases. This process allows for the selection of the appropriate remedies developed through careful study and inquiry without requiring a rigid selection process which would preclude the flexibility needed to incorporate our expanding knowledge and experience in developing remedies. Significant issues concerning the Agency's selection of the

appropriate extent of response are discussed in Section III of this preamble.

4. *Section 105(4)—Appropriate roles and responsibilities for the Federal, State, and local governments and for interstate and non-governmental entities in effectuating the Plan.*

EPA has developed an entire subpart and numerous other provisions of the Plan to assure efficient and effective coordination of all participants in response to oil discharges and hazardous substance releases. These provisions of the Plan are largely based on extensive experience gained under the section 311 response program.

The following sections of the Plan address Federal agency involvement:

(1) Section 300.21—specifies responsibilities delegated to each Federal agency under Executive Orders 11735 and 12316.

(2) Section 300.22—encourages all Federal agencies to coordinate activities through the National Response Team (NRT) and Regional Response Team (RRT) structure and with affected private and public entities and to make facilities and resources available for response actions.

(3) Section 300.23—identifies those Federal agencies which are members of the NRT and which may be called upon by response personnel for assistance; encourages use of regional contingency plans to specify roles relevant to the subject area; requests that Federal agencies appoint members to participate in the national response structure; and specifically enumerates the new responsibilities for hazardous substance response among EPA, USCG, the Department of Health and Human Services (HHS), the Department of Defense (DOD), and the Federal Emergency Management Agency (FEMA).

State and local roles and responsibilities are specified in § 300.24, which requests that each State participate in RRTs; gives States authority to fully participate (and vote) on the RRT; encourages local governments to participate in RRT activities; encourages States to use enforcement authorities; and encourages States to take the lead on CERCLA responses by entering into agreements with the Federal government. In addition, a new § 300.62 has been added which addresses the State role in taking remedial response and the States' responsibilities when doing so. A more thorough discussion of the State role is contained in Section IV of this preamble.

Roles of private entities are specified in § 300.25, which encourages and stresses the critical importance of private commitments for assisting in response, and requests that private entities assume specific responsibilities in the appropriate regional or local contingency plans. This section also contains information on the safe and effective use of volunteers in response actions.

Subpart C further specifies the roles that each of these groups can play in the national response structure—Federal agencies through their participation in the NRT (§ 300.32(a)); and Federal agencies, States, and localities through their participation in the RRT (§ 300.32(b)). Within this national framework, Subpart C further discusses the role of the on-scene coordinator (OSC) in coordinating with States, the private sector and other Federal entities. For example, § 300.33(b) requires the OSC to notify States and Federal agencies when they are affected or when their expertise is requested in a response action. While the Plan contains the critical framework for national roles and responsibilities, regional and local plans are designed to specify how these roles and responsibilities will be carried out in light of particular regional and local capabilities and needs.

5. *Section 105(5)—Provision for identification, procurement, maintenance, and storage of response equipment and supplies.*

The requirements of CERCLA section 105(5) are satisfied in several sections of the Plan, briefly summarized here. The NRT evaluates equipment readiness and coordination, and makes recommendations as to the appropriate equipping and protection of response teams (§ 300.32(a)). The NRT also coordinates the supply of equipment and personnel to the affected region in the event of a response action (§ 300.34(h)). The RRTs consider equipment readiness and similar issues in their continuing reviews of regional and local responses (§ 300.32(b)(6)). The role of the RRTs in requesting and coordinating assistance and provision of resources from Federal, State, and local government agencies and from private parties in the event of a release (§ 300.34(f)) bears directly on the requirements of CERCLA section 105(5). Section 300.34 of the Plan also provides for the use of the National Strike Force and Strike Teams which make available specialized containment and removal equipment, emergency task forces managed by USCG OSCs who have the capability to deploy equipment, and the Emergency Response Team (ERT) of the EPA which can provide access to specialized decontamination equipment. The Plan also devotes a separate section, § 300.37—Response Equipment, to the Spill Clean-up Inventory system which is available for obtaining rapid information on the location of response and support equipment.

In addition to these provisions in the Plan which insure access to response equipment and supplies, Subpart D emphasizes the importance of the development of Federal regional plans for each standard Federal region, and of Federal local plans wherever practicable. Included in these plans should be information on all useful facilities and resources available from all sources that can be employed in the event of a release (§§ 300.42(a) and 300.43(a)). The Plan does not discuss in great detail the precise division of responsibility assigned to all levels of government because the amount and type of resources available will vary among regions, as will the need for particular types of resources. In addition, it is possible that different levels of government will take more active roles in planning and carrying out response activities. Accordingly, the Plan provides that responsibilities in the identification, procurement, maintenance, or storage of equipment and supplies shall be assigned at this level through the development of Federal regional and Federal local plans.

6. *Section 105(6)—A method for and assignment of responsibility for reporting the existence of such facilities which may be located on federally owned or controlled properties and any releases of hazardous substances from such facilities.*

Section 300.23(d) sets forth responsibilities of all Federal agencies for reporting the releases of hazardous substances and discharges of oil from facilities or vessels which are under their jurisdiction or control. The reporting procedures in § 300.23(d) are in accordance with CERCLA section 103 and Subparts E and F of the Plan. Specifically, in Subpart E, § 300.51(b), reports of discharges are directed to the NRC or the nearest USCG or EPA office. If not previously reported to the responsible OSC, all reports are required to be relayed promptly to the NRC. Subpart F, § 300.63(b), reiterates the statutory requirement of CERCLA section 103(a) for immediate notification of the NRC by the person in charge of a vessel or facility as soon as he has knowledge of a release from the vessel or facility of a hazardous substance in an amount equal to or greater than the reportable quantity, established pursuant to section 102 of CERCLA. Any releases that have not been previously reported should also be promptly

reported to the NRC. Thus, the Plan both assigns responsibility to the Federal agencies involved and provides the method by which such reporting is to be accomplished.

7. Section 105(7)—Means of assuring that the remedial action measures are cost-effective over the period of potential exposure to hazardous substances of contaminated materials.

EPA has devoted a great deal of attention to developing a process that will insure the cost-effectiveness of remedial action measures. There are several aspects of this process which should be noted. First, the Plan limits the extent of evaluation and investigation activities if the release does not present complex technical problems or requires rapid response. Section 300.68(d) and (e) focuses investigation activities and development of alternatives on the problems presenting the greatest need. Second, the Plan emphasizes the systematic development of remedial alternatives (including, where appropriate, the alternative of taking no action) which forms the basis for examining cost-effectiveness. Third, the initial screening of remedial action alternatives to eliminate those with extremely high costs that do not offer significantly greater protection further safeguards the process against unnecessary expenditures. Fourth, the remaining viable alternatives must be evaluated in terms of their costs, the level of protection that they provide, their reliability in providing that level of protection, and the ability to implement the remedy after considering technical, environmental, legal, and administrative constraints (§ 300.68(i)).

EPA notes that, in both the initial screening and the detailed analysis of alternatives, the costs of alternatives must be compared over time and must include operation and maintenance costs (§ 300.68(h)(1) and (i)(2)(ii)). This ensures that the statutory requirement for consideration of the duration of costs is satisfied. Finally, EPA has included in § 300.68(j) an explicit statement that the extent of remedy to be selected for each site will be the cost-effective remedial alternative. Thus, EPA has both established the procedures for arriving at a cost-effective remedial action and provided a decision rule for selection of cost-effective remedies in order to fulfill the statutory requirement.

8. Section 105(8)—Criteria for determining priorities among releases or threatened releases and, based upon this criteria, a list of national priorities.

EPA has included as Appendix A to the Plan a Hazard Ranking System (HRS) which, together with the administrative system established in § 300.66, constitutes the criteria and methods EPA is using to establish national priorities for remedial action. The Agency presented a detailed discussion of the development and components of the HRS in the preamble to the proposed revisions (see 47 FR 10975 through 10978). Additionally, a discussion of the significant public comments on the HRS and the National Priorities List and EPA's response to those comments is presented in Section V of this preamble. EPA is deferring publication of the National Priorities List at this time. It will be included as Appendix B to this Plan. Accordingly, this Appendix is reserved.

9. Section 105(9)—Specified roles for private organizations and entities in preparation for response and in responding to releases of hazardous substances, including identification of appropriate qualifications and capacity thereof.

Section 300.25 specifies the roles of volunteers, industry groups, and academic organizations in response actions. This section stresses the important role of these groups in providing scientific and technical information needed in devising clean-up strategies as well as the assistance role of volunteers in response. As discussed in subsection 4 above, coordination of these entities is achieved through the national and regional response structure. It is critical that private entities be coordinated closely with governmental entities to assure efficient response actions. Therefore, the Plan calls for specific commitments of resources by private entities in § 300.25, and for detailing these specific commitments in regional and local plans. EPA believes these plans are the appropriate mechanisms to list those private resources that are nearby, applicable to local conditions, and readily available.

10. Section 105 also requires that the Plan specify procedures, techniques, materials, equipment, and methods to be employed in identifying, removing, or remedying releases of hazardous substances comparable to those required under section 311(c)(2) (F) and (G) and (j)(1) of CWA.

Section 311(c)(2)(G) of the CWA requires that the Plan include a schedule specifying dispersants or other chemicals, if any, that may be used in removing oil or hazardous substances from water. Subpart H of the Plan establishes procedures for authorizing the use of dispersants and other chemicals for removing oil discharges or releases of hazardous substances. Subpart H vests authority in the OSC to authorize use of any dispersant or other chemical to move an oil discharge if such dispersant or chemical is on EPA's Acceptance List developed under Annex X of the existing Plan. Use of dispersants and chemicals not on EPA's list may be authorized by the Administrator or her designee. Section VII(H) of this preamble contains a further discussion of this issue.

The remaining provisions of sections 311(c)(2)(F) and (j)(1) of the CWA require development of procedures that have comparable provisions in section 105 of CERCLA and have been discussed above. With regard to comparable provisions for the removing and remedying of hazardous substance releases, § 300.70—Methods of Remedying Releases, details the types of techniques that may be considered in remedial actions. Furthermore, both § 300.65—Immediate Removal, and § 300.67—Planned Removal, contain information on the types of techniques and measures which may be used for removal action for hazardous substance releases.

III. Comments on Determining the Appropriate Extent of Response

The Agency received many comments on the Plan's provisions in Subpart F relating to the determination of the appropriate extent of response. Most of the comments focused on the provisions for determining the appropriate extent of remedy. While some commenters supported the process established in § 300.68 for selecting a remedy, many commenters criticized the Plan for not explicitly requiring consideration of State and Federal health and environmental standards in development of remedies. Similar comments stated that the Plan should include specific levels of clean-up that must be attained with any remedy.

EPA developed the methodology for determining the appropriate extent of remedy based on the recognition that experience in developing remedies for hazardous waste sites is limited. Moreover, each hazardous waste site has unique characteristics which merit individual attention. Often the unique characteristics of sites will represent factors that have never been dealt with before. These considerations led EPA to develop a methodology which would provide structured and reasoned decision-making while still allowing the flexibility to deal with unique and unforeseen characteristics. EPA believes the system included in § 300.68 of the NCP accomplishes these goals.

A. Environmental Standards

The system does not explicitly require that environmental standards be used in determining the appropriate extent of remedy. However, § 300.68 does specify "environmental effects and welfare concerns" as one of the criteria to be considered in determining the appropriate extent of remedy. In some cases, this would allow EPA to consider applicable standards in selecting the appropriate remedy. It must be noted, however, that circumstances will frequently arise in which there are no clearly applicable standards. For instance, acceptable levels of hazardous substances in soil are not established, and there are no generally accepted levels for many other hazardous substances in other media. Even where there are standards for a particular substance, they may not be applicable to the conditions surrounding the release. Therefore, if the Plan included a rigid requirement that standards be met, it would obscure the real issue in many cases of how to adequately protect public health.

EPA cannot develop new standards for the hundreds of substances it will be confronted with in response actions. Not only is the requisite legal authority lacking in CERCLA, but such a task would also be enormous, costly and time-consuming, and would unduly hamper the clean-up of releases, which is CERCLA's primary mandate. Therefore, EPA has developed a system for decision-making which has as its primary feature a reasoned process that contains a series of checks throughout to ensure that the decision-making process produces an effective remedy. The methodology emphasizes cost-effective, environmentally sound remedies which are feasible and reliable from an engineering standpoint.

B. Cost Effectiveness

Several commenters argued that the process for selecting a remedy placed too much emphasis on cost.

Although cost does play an important role in selection of remedies, it does not take precedence over protection of public health, welfare and the environment. First, the initial scoping of a project provided for in § 300.68(e) does not involve any consideration of cost other than requesting Fund financing for the work. The primary consideration at this stage is defining the nature of the problem requiring remedy. As alternatives for remedying the release are developed under § 300.68(g), again the primary emphasis is on the techniques available to clean up, not on cost.

Cost considerations are first addressed when alternatives are initially screened in § 300.68(h). This cost analysis is required by section 105(2) of CERCLA. EPA has modified § 300.68(h)(1) to clarify that alternatives cannot be rejected on the basis of cost alone, since any clean-up alternative would be more costly in simple dollar terms than a no action alternative. Alternatives may be rejected for cost reasons at this stage, but only if they do not provide substantially greater public health or environmental benefit. This section requires that in order for alternatives to be given further consideration they must be technically and environmentally sound and must effectively contribute to protection of public health, welfare and the environment. For the alternatives that remain after the initial screening, a detailed analysis is required of their cost, engineering feasibility, and environmental, welfare and public health effectiveness.

Some of the commenters' concern as to the extent of the Plan's emphasis on environmental and public health protection could be the result of an inadvertent omission in the **Federal Register** of one of the factors requiring analysis in § 300.68(i). Section 300.68(i)(2)(iv) requires comparative assessment of alternatives in terms of their effectiveness in minimizing and mitigating the health or environmental problem. This assessment is essential, along with consideration of cost and engineering reliability, in making the decision required by § 300.68(j). The final decision on the appropriate alternative is based on cost-effectiveness; it selects the lowest cost alternative which effectively mitigates and minimizes damage to and provides adequate protection of public health, welfare and the environment (§ 300.68(j)). EPA notes that this series of analyses and check points explicitly requires remedies that provide the requisite protection of public health while still meeting statutory requirements for analysis of costs and cost-effectiveness. Cost alone may not control these decisions.

IV. Comments on the Role of States in Implementing the Plan.

Several commenters stated that the Plan generally failed to adequately identify the roles of State and local governments. Other more specific comments on the role of States included: (1) That States should be allowed to designate OSCs and participate fully in the national response structure; (2) that the Plan should allow greater State participation in decision-making regarding the need for and extent of CERCLA-funded response; (3) that the Plan should specify procedures for entering into contracts or cooperative agreements; and (4) disagreement with the requirement that States share in response costs other than those costs specified in section 104(c)(4) of CERCLA.

EPA agrees with commenters that the States should play a large role in the Superfund program. Subpart B of the Plan provides extensive detail as to States' participation in response actions (see discussion in Section II(4) above). To the extent States are willing and capable, the Plan allows States to participate fully in the national response structure. In addition to the specific provisions cited in section II(4) of this preamble, the Plan also encourages State involvement and delineates State roles in the following provisions.

(1) Section 300.25(b)—encourages use of technical and scientific information generated by States.

(2) Section 300.25(c)—encourages State officials to coordinate volunteers pursuant to local plans.

(3) Section 300.32(a)(7)(iv)—allows NRT to develop procedures to improve coordination with States.

(4) Section 300.32(b)—includes States on RRTs.

(5) Section 300.32(b)(2)—allows State membership in RRT and allows additional State representatives as observers.

(6) Section 300.32(b)(5)—encourages States to participate actively in RRT activities and designate individuals to assist in development of Federal regional and Federal local plans, and to serve as the contact point for coordinating response with local governments.

(7) Section 300.32(b)(6)(vii)—requires RRT to include in reports to NRT efforts taken to improve State and local coordination.

(8) Section 300.33(b)(3)—requires the OSC to coordinate response efforts with appropriate State agencies.

(9) Section 300.33(b)(5)—requires OSC to notify States of possible discharges or releases.

(10) Section 300.34(d)(3)—requires the SSC to assist OSC in responding to State requests for assistance.

(11) Section 300.34(f)(6)—gives the States participating in the RRT the same status as any Federal member of the RRT.

(12) Section 300.36(c)—requires the NRC to advise States of notices of discharges or releases.

(13) Section 300.42(a)—requires RRTs to work with States in developing regional plans.

(14) Section 300.43—specifies that local plans should provide for coordination with the State.

(15) Section 300.55(a)(5)—provides for OSC to determine whether State has capability and an agreement in place to undertake oil discharge response, in lieu of Federal lead response being taken.

(16) Section 300.57(b)—requires the State representative to the RRT and DOI to arrange for use of volunteers for waterfowl affected by oil discharges.

(17) Section 300.58(f)(4)—allows States to be reimbursed for oil removal pursuant to 33 CFR Part 153.

(18) Section 300.61(c)—encourages State participation in response actions.

(19) Section 300.63(b)—requires the NRC to notify the State when notices of releases are received pursuant to section 103(a) of CERCLA.

(20) Section 300.66(c)(1)—requires State officials responsible for providing Fund-financed response to coordinate with those responsible for enforcement activities.

(21) Section 300.66(d)—establishes a system by which States can submit candidates for the Nation Priorites List.

(22) Section 300.81(b)—requires OSC to consult with affected States before authorizing use of dispersants of other chemicals.

In addition to these numerous provisions, to respond to commenter's concerns, EPA has added a new § 300.62 which specifically outlines the manner in which States may enter into contracts and cooperative agreements for response actions pursuant to CERCLA. EPA believes that State participation and cooperation are crucial to undertaking response actions. Therefore, under this section, States are encouraged to undertake response actions. The extent of activities that a State will be authorized to undertake will be specified in the cooperative agreement or contract. EPA cannot specify in the Plan all authorities which a State will exercise because the specific content of each agreement or contract will be determined by the nature of the response action to be taken, the extent of State capabilities, and the extent to which the State wishes to have responsibility for the response. Section 300.62(d) sets forth commitments which the State must provide prior to remedial design activity. Section 300.62 also authorizes contracts or cooperative agreements for undertaking removal action.

EPA agrees with commenters that States should be able to designate OSCs and act as full partners in the response structure. Providing that statutory and administrative requirements are met by States, the Plan permits and, in fact, encourage States to take the lead on response actions pursuant to a contract or cooperative agreement. In order to clarify that an OSC may be a State official whose scope of authority is specified in the cooperative agreement, EPA has modified the definition of "On-Scene Coordinator" in § 300.6. Moreover, to clarify that a "lead agency" may be a State acting pursuant to the terms of a contract or cooperative agreement, EPA has modified the definition of lead agency in § 300.6 as well. These modifications are discussed at greater length in section VII(A) of this preamble.

Finally, many of the comments questioned provisions included in the Guidance for Entering into Cooperative Agreements. EPA notes that this guidance was published the day before the NCP was proposed. The guidance is not a part of this Plan, and thus a discussion of the provisions in that guidance is not appropriate to a discussion of the provisions of this Plan. However, one issue which was raised in this context also affects the Plan. The issue is whether the statute allows EPA to require cost-sharing by States when it is not explicitly set forth in the statute. In the Plan, this issue is relevant to section § 300.67(b)(4) which requires States to share costs of planned removals.

CERCLA section 104(c) requires that no remedial actions be provided pursuant to section 104 of CERCLA unless the State in which the release occurs first enters into a contract or cooperative agreement providing assurances that (1) The State will assure all future maintenance of the removal and remedial action; (2) the State will assure availability of an acceptable hazardous waste disposal facility, if necessary; and (3) that the State will pay either 10 per cent of the cost of the remedial action (including all future maintenance) or, in the case of a facility that was owned at the time of disposal of hazardous substances therein by the State or political subdivision thereof, at least 50 per cent of any sums expended in response to a release at such a facility. The statute is silent with respect to State cost-sharing for removal actions at privately-owned sites. EPA will require that States requesting Fund-financed removals enter into an appropiate cooperative agreement or contract. EPA's general grant regulations provide that grantees and those receiving Federal assistance through a cooperative agreement must share project costs except as otherwise provide by law (see 40 CFR 30.720(a)). Where, as here, the statute is silent as to cost-sharing on certain response actions, EPA can require the States carrying out such actions to contribute at least 5 per cent of the cost of the action. Pursuant to its grant regulations, EPA has decided to require that States pay 10 per cent of planned removal costs at privately-owned sites. The same requirement shall apply to planned removals provided pursuant to a State/EPA contract. The type of legal instrument (i.e., cooperative agreement or contract) used in authorizing the planned removal should not affect the State's share of the cost and, therefore, both arrangements will require a 10 per cent State cost share.

V. Comments on the Hazard Ranking System and the National Priorities List

The preamble to the proposed revisions included a detailed discussion of the Hazard Ranking System (HRS) and the National Priorities List (NPL) (47 FR 10975 through 10977). The Agency received extensive comments on the HRS and NPL. Many of the comments supported the basic structure of the HRS and EPA's proposed development of the NPL. Others made suggestions for general and specific modifications. The Agency has adopted many of the suggested comments and they are discussed below. The HRS is included as Appendix A to the revised Plan. In the preamble to the proposed revisions, the Agency explained why it was deferring publication of the NPL (47 FR 10977). Now that the HRS is finalized, the Agency has requested that the States submit their priority rankings applying the HRS. After the Agency receives the State submissions, it will develop the NPL and propose that list for public comment. When promulgated, the NPL will be Appendix B to the revised Plan.

The Agency has included a very lengthy and, at times, quite technical discussion in response to the comments on the HRS and NPL. The Agency believes that this extensive discussion is necessary in order to respond to all of the significant public comments which often addressed very technical aspects of the HRS. Many of the comments questioned the data requirements of the HRS with a frequent criticism being that the HRS failed to accurately distinguish between the degree of hazard presented at different releases; the result being that the HRS might give high scores to releases that otherwise should not be included on the NPL.

The role and importance of the HRS and NPL must be kept in perspective.

the NPL, which will include at least 400 releases, is merely the first step in considering a release for Fund-financed remedial response. If a release is included on the NPL but a later remedial investigation discloses the hazard to be less significant than originally thought to be, a decision may be made not to provide Fund-financed remedial response. Similarly, the NPL will be reviewed periodically and a release can be added if more extensive data indicate a more significant hazard at the release.

A. Hazard Ranking System

1. *Overview of the Hazard Ranking System.* As discussed in the preamble to the proposed revisions (47 FR 10975), the HRS is designed to estimate the potential hazard presented by releases or threatened releases of hazardous substances, pollutants and contaminants. Application of the HRS to data from an observed or potential release will enable the Agency to calculate a "score" or estimate of the risk from such release. The HRS score for each release will be used in determining the placement of the release on the NPL.

The calculation of the HRS score for a release analyzes the five potential "pathways" of exposure of the human population or a sensitive environment. Each release or potential release is analyzed for exposure from (1) ground water, (2) surface water, (3) air, (4) direct contact, and (5) fire and explosion. A score will be developed for each of the first three "pathways." Pathways (4) and (5) are used to identify emergency situations that require removal action and, therefore, are not considered in calculating the HRS score.

For each "pathway," the HRS analyzes three categories of "factors" that are designed to encompass most aspects of the likelihood of exposure to a hazardous substance through a release and the magnitude or degree of harm from such exposure. The three categories of "factors" analyzed for each of the three "pathways" reflect: (1) The existence or likelihood of a release, (2) the characteristics of the hazardous substances that have been or may be released, and (3) the population or sensitive environment that is threatened. In the HRS, the first category of factors includes three subsets of factors, one for an "observed" release and, as an alternative when no release has been observed, two for assessing the likelihood of a release, designated as "route" and "containment" factors. For purposes of discussion, they will all be considered as part of the first of the three categories of factors. Each of the three categories may have a number of separate "factors" that will each receive a numerical value according to a set scale for each factor. For example, under category (2), factors that would be analyzed and given numerical values would include the toxicity, persistence, and quantity of the hazardous substance.

After numerical values are assigned to each factor, the HRS uses mathematical formulas, chosen to reflect the relative importance and interrelationships of the various factors to calculate a final score. Those formulas combine the numerical values of all "factors" in a category, then combine the three categories within each "pathway," and finally, combine the three pathway scores to yield a final score for the release or potential release. Therefore, the HRS score represents, for each release or potential release, an analysis of the probability and magnitude of harm to the human population or sensitive environment from exposure to hazardous substances as a result of contamination of ground water, surface water, or air.

2. *Response to Comments.* Commenters generally supported the HRS in its structure of "pathways" and "factor" categories, and the mathematical calculations for approximating the relative potential hazard. Thus, the HRS as promulgated today remains fundamentally the same as the proposed HRS. However, commenters did raise significant issues and suggest changes that are addressed below. General comments and responses are contained in subsection (a). Specific comments on the three "factor" categories are arranged according to each category and are addressed in subsection (b).

(a) *Response to General Comments.* (1) *Cost and Availability of Information.* Several commenters maintained that the data required by the HRS to score releases can be very expensive and will slow the remedial action process for many releases. Other commenters argued that some of the data required would not be available. Other commenters suggested that more factors should be considered or that existing factors should be considered in a higher level of detail.

As these conflicting comments indicate, the amount of information to be collected must be balanced against the cost and time required to obtain that information. EPA anticipates that several thousand releases may eventually be evaluated for inclusion on the NPL. The number and type of factors in the HRS must be consistent with the costs of data collection, the large number of releases, and the resources available for implementing the program. The Agency's experience with the Interim Priorities List indicates that the HRS data requirements, after some adjustments, are adequate without being unduly burdensome or costly.

EPA agrees that some of the data required by the proposed HRS may not be readily available. In developing the HRS, the Agency has excluded a number of factors, such as "bioaccumulation," because sufficient information is not currently available. The Agency believes that adequate information exists or can be obtained for each of the remaining factors in the three "factor" categories in the HRS.

Some commenters suggested that such non-technical factors as political concerns, community and socio-economic interests, and previous response actions should be included in the HRS.

The Agency has not included such non-technical considerations in the HRS. Section 105(8)(A) of CERCLA requires the establishment of priorities in light of the relative potential hazard to public health, welfare and the environment, and the HRS is designed to estimate this relative hazard, rather than assess the above subjective factors. However, the Agency may consider community interests and socio-economic factors in determining the appropriate remedial action for releases once they are included on the NPL.

The Agency does not believe that previous response actions should be taken into account in scoring a release. The HRS makes clear that releases are scored on the basis of conditions that existed prior to any response actions. Allowing partial response to affect the score would be a disincentive for public agencies to undertake any clean-up action because Federal funding for full-scale clean-up might not be available. In addition, if responsible parties have undertaken partial or temporary clean-up actions prior to scoring, releases might be excluded from the NPL without sufficient consideration of the need for further action or permanent remedy.

A number of commenters maintained that the HRS promotes the listing of releases with known quantified data, to the detriment of releases where analysis has not been performed.

As discussed above, EPA has tried to minimize the information required for the HRS, so that releases which have not been extensively investigated are not eliminated from the system. However, the HRS does include minimum data requirements. The

alternative would be to score releases on the basis of inadequate information, or to wait until extensive information has been generated for every release. It would be difficult to develop a system that provides a meaningful comparison between releases where information has been collected and releases where little is known. The requirement of section 105(8)(A) of CERCLA to list national priorities will not be met if EPA waits until extensive information has been generated for all releases. Releases for which the minimum data required for HRS scoring do not exist can also be addressed in revisions of the NPL, after adequate information has been collected for these releases.

Some commenters expressed concern that some of the scientific literature referenced in the HRS had not been subject to rigorous peer review.

The scientific literature referenced in the HRS was taken from scientific literature available for public review and scrutiny. In addition, the rating factors have been reviewed by the States, the EPA regional offices and the general public as part of the rulemaking. In developing the HRS, the Agency evaluated additional scientific literature and selected that literature that it believed to be the most appropriate and scientifically sound.

(2) *Pathways.* One commenter suggested that the HRS should be designed so that releases with scores for a particular "pathway" (i.e., ground water, surface water, or air) that exceed a designated threshold are automatically given higher placement on the NPL, or are subject to further analysis.

The Agency believes that the HRS is adequately designed to accommodate situations where a release has a high potential for contamination through a single pathway. The scoring formula of the HRS ensures that if only one pathway is rated with a high score, the HRS score could still be sufficiently high that the release could be included among the highest priorities. Using a designated threshold, as suggested by this comment, would also accomplish this objective. However, EPA does not believe this is necessary and the existing process for aggregating all factors to obtain the score for a relase more accurately reflects the situation at a particular release.

One commenter objected because the HRS gives equal consideration to the air, surface water, and ground water pathways, arguing that ground water contamination has broader implications, is more costly and difficult to clean up, and lasts much longer.

Under the revised HRS, the highest possible score, representing worst case incidents, is the same for each pathway. The Agency does not believe that it can discriminate between the very serious hazard resulting from contamination of ground water or any other pathway.

(3) *Other comments.* Several commenters pointed out that the HRS is not adequate to serve as the basis for making management decisions concerning Fund expenditures for remedial action.

The HRS is designed to rank releases on the basis of hazards presented by each release. However, the HRS is not the sole tool for making Fund management decisions. Decisions concerning Fund expenditures for particular projects are also based on further technical information derived from remedial investigations and cost estimates based on feasibility studies and state assurances (see section 300.67). All of this information must be compiled before a decision can be made that a release on the NPL warrants Fund-financed remedial action.

A number of commenters objected because the HRS was not published in the **Federal Register**. Some argued that the HRS was therefore unavailable for public review and comment.

Section 300.65(d) of the proposed NCP specifically referenced the HRS as the basis for the detailed methods and criteria for ranking hazardous substance releases. The Agency included an address where the HRS could be obtained upon request and solicited comment on the HRS. The substantial comment submitted on the HRS refutes any argument that it was unavailable for public review and comment.

Some commenters objected to what they termed premature publicity on releases when the releases are being analyzed and compared for inclusion on the NPL.

The Agency agrees that premature publicity should be avoided when possible. The process of ranking and selecting releases necessarily involves some degree of publicity because the States are encouraged to involve the public in their selection process. Publicity is also, to some extent, unavoidable because the NPL will be proposed in the **Federal Register** prior to final promulgation.

Some commenters were concerned that the HRS could be manipulated to place certain releases in a higher priority position than justified.

The Agency has instituted a training program for EPA regional offices and States designed to ensure proper application of the HRS, and developed a quality assurance program to review the scoring of releases prior to preparing the NPL. These measures, together with the intent to propose the NPL for comment, are intended to minimize any inconsistencies in scoring or attempts to manipulate the HRS.

(b) *Response to Comments on the Three "Factor" Categories.* (1) *Category 1: Observed Releases or Likelihood of Threatened Releases.* Several commenters asserted that the approach to assigning single scores to "observed" releases is inappropriate because the frequency and quantity of releases are not considered. Commenters argued that a one-time or minor release would be treated as equivalent to a frequent chronic source of release.

The score for an observed release indicates that the likelihood of a release is 100%. The fact that some substances have been released is a good indication that substances at the site can escape and increases the likelihood of a more substantial subsequent release. Data on frequency and quantity of an actual observed release, and data necessary to determine that a release is a minor occurrence rather than a frequent problem, would require standardized long-term monitoring to establish representative concentrations. This would add inordinately to the cost and time needed to score releases. The extent of the release is more appropriately considered during subsequent investigations.

Several commenters stated that releases should not be treated as observed releases if they are within regulatory limits. For example, air emission rates should be compared to emission rates permitted for operating facilities.

The Agency believes that permitted releases of pollutants are not analogous to uncontrolled releases of hazardous substances. First, the actual pattern of nonpermitted releases generally will not be regular or predictable and the observed release used for scoring may be followed by more substantial releases. Continuous or frequent monitoring would be necessary to establish the long-term level of release. Second, emission or effluent limits do not necessarily represent levels which cause no harm to the public health or the environment. These limitations are frequently established on the basis of economic impacts or achievability. Therefore, releases are treated as observed releases whenever hazardous substances, pollutants or contaminants have escaped from a facility.

One commenter suggested that the existence of a release should be measured in the aquifer of concern.

EPA agrees with this comment and has clarified the directions in section 3.5 of the revised HRS, concerning "Targets for the Ground Water Migration Route." The same "aquifer of concern" must be used for all rating factors, so that if a release is observed in any specific aquifer, this aquifer must be used to identify "target" populations as well.

Several commenters argued that qualitative evidence of release, such as objectionable taste in water, should not be equated with quantitative evidence of release, such as measured presence of substances.

The HRS now requires more conclusive evidence to demonstrate the existence of an observed release. Generally, only analytical measurements are acceptable as evidence of an observed release. Qualitative evidence of releases justifies a score for an observed release only if there is conclusive evidence to confirm that a release has occurred at the facility.

Several commenters suggested that the HRS should give greater consideration to the mobility of hazardous substances. A few commenters specifically suggested that the lack of mobility of heavy metals in soil should be taken into account in estimating the likelihood of release.

The HRS considers mobility by assessing the physical state (i.e., whether liquid, gas or solid) of the hazardous substance and assigning the highest value for liquid substances and the lowest value for solid substances. This factor is now considered under the HRS's designation of "route" factor, designed to estimate the likelihood of a release. The Agency does not believe that it is feasible to include other factors reflecting mobility in the HRS. The level of scientific understanding of the transport and fate of hazardous substances in the environment is not adequately developed to justify estimates of the likelihood of a release without an expensive and extensive data collection effort. For example, to determine the mobility of metals at a particular facility, extensive data collection and analyses of the soils and leachate are necessary. EPA believes that these analyses would add inordinately to the cost and time required to collect data, without significantly improving the ability of the HRS to predict the likelihood of release. Other factors which might affect mobility, such as solubility and volatility, have been deleted from the HRS because of insufficient information, and because the information that is available applies only to pure compounds not normally found at hazardous waste releases.

A few commenters objected to designating as "liquid" the physical state of liquids in wastewater treatment ponds regulated by NPDES permits or by RCRA.

The Agency has determined that spills and one-time or continuous accidental releases of untreated or partially treated substances from these facilities may be addressed under CERCLA. Higher values are assigned to liquids because they are more likely to migrate from the facility. If releases from such facilities are scored, there is no reason not to treat liquid hazardous substances as "liquids." If the substance is well controlled because the facility is well operated, the release will receive a low numerical value for the "containment" factors.

Some commenters objected because the HRS does not include geochemical removal mechanisms, such as sorption and coprecipitation, that remove metals and radiochemical pollutants from migrating ground water.

EPA believes that the data base regarding these mechanisms is not sufficiently broad to warrant inclusion in the HRS. If it is shown that these mechanisms will prevent migration of substances at a facility, this fact will be taken into account in determining the need for response action at a particular release.

Some commenters argued that the HRS should provide for scoring the potential for a release to the air.

The HRS has not been changed in this respect. There must be an observed release, rather than a potential release, in the air pathway. Definitive characteristics could not be established for air migration because existing data bases were inadequate. Air releases must currently exist, must be measured, and must not be caused by disturbances from investigations.

One commenter suggested that gases not be considered under the ground water pathway.

EPA disagrees because many gases are soluble in water and therefore may migrate to ground water with leachate from a facility.

Finally, the HRS now provides that, in determining net precipitation to identify the potential for leachate generation at a facility, seasonal rather than annual data may be used when available. In some regions of the country, seasonally heavy rainfall may increase the likelihood of leachate generation, even if net precipitation is low when measured on an annual basis.

(2) *Category 2: "Waste" Characteristics.* Most of the comments on the waste characteristics category of the HRS concerned two issues: toxicity and persistence, and quantity of hazardous substances. (The HRS uses the term "hazardous waste" and "waste characteristics." These terms encompass all hazardous substances that are covered by CERCLA section 101(14) and allow for including those substances meeting the definition of pollutant or contaminant in section 104(a)(2).)

(i) *Toxicity and Persistence.* Some commenters argued that the range of numerical values (generally zero to three) that can be assigned to a factor is too narrow to realistically rate relative toxicity because of the differences among the many substances.

In developing the HRS, EPA reviewed many rating schemes and determined that rating schemes using high, medium and low ratings function in a satisfactory manner for the purposes of the HRS. Releases will be scored on a large number of factors and distinctions among releases will emerge after consideration of all factors.

A number of commenters disagreed with the use of the Sax rating system for chronic effects. They suggested that the HRS rate only acute toxicity because of the lack of recognized authority on chronic toxicity effects. In addition, some commenters suggested that values derived from acute toxicity tests should be applied to identify and classify toxicity values for the HRS.

The Agency believes that the HRS appropriately considers chronic effects. Most exposures to hazardous substances via air and water exist at low levels and extend over a long period. In addition, most projected health effects are chronic. These effects may contribute significantly to the potential hazard of releases to public health and the environment. An in-depth search was made of the scientific literature and state-developed systems to find alternative methods of incorporating acute and chronic toxic effects in the HRS. No system has been identified as a suitable alternative to the rating system developed by Sax. Alternative scoring methods suggested by commenters have been carefully studied and ruled out for reasons including inapplicability, complexity, and expense of application. Exclusive reliance on acute toxicity testing is not appropriate because a system is needed for both acute and chronic values.

Some commenters maintained that the score for the factor evaluating the degree of hazard of substances at a release should not be based on a

substance that is present only in miniscule quantities.

The HRS provides that the score for the factor evaluating the degree of hazard of substances at a release, rated by toxicity and persistence, is based on the most hazardous substance at the release. The HRS has been revised so that if information is available on the amount of the substance present, the hazardous substance used to evaluate the degree of hazard must be present at levels at least equal to the reportable quantities established under section 102 of CERCLA.

Some commenters objected to the fact that the HRS determines degree of hazard by scoring the most hazardous substance that is not adequately contained. Thus, a facility with waste containing only a small proportion of an extremely hazardous substance could score the same for degree of hazard as a facility with waste containing a very high proportion of that substance.

The Agency does not believe that it is possible to require a detailed analysis of the relative proportion of different types of hazardous substances at a facility without inordinate expense and delay. Representing the hazards at facilities on the basis of the most hazardous single compound present will generally provide an adequate evaluation of the relative hazards.

A number of commenters argued that concentration of hazardous substances should be considered in rating toxicity, so that the toxicity of a substance is measured at the point where impacts on human health or the environment actually occur.

The Agency's position is that concentration data on long- or short-term levels are frequently unavailable, controversial, and costly to obtain. Experience in sampling and monitoring programs has shown that actual measurements at different locations of a release may vary considerably. The determination of a representative concentration would require repetitive or continuous monitoring over a long period of time, using the same protocols at all releases to generate comparable data. In addition, the points of human contact vary for each release or potential release. The HRS does assign lower values to target populations that are further from the release; however, EPA does not believe that it is necessary to expend a large portion of the Fund to collect data simply to determine precisely the relative potential risk of a release on a national scale.

Several commenters proposed that a bioaccumulation factor should be added to reflect the fact that some chemicals are stored and accumulated in body tissue.

EPA has investigated the use of bioaccumulation and found that there is no measure of bioaccumulation potential with readily available data that would enable EPA to inlcude this factor in the HRS.

Finally, the HRS now combines toxicity and persistence in a matrix, and the scale has been changed so that their combined value equals zero when toxicity equals zero, regardless of persistence. The change was made for simplicity and to facilitate application of the HRS.

(ii) *Hazardous Substance Quantity.* A number of commenters argued that hazardous substance or "waste" quantity should be part of the assessment of the nature of the substance and that treating quantity as a separate category serves to bias the HRS so that large quantities of low hazard substances score high.

The Agency agrees with this comment. Accordingly, quantity has been changed into an additive factor under "Waste Characteristics," thus reducing its significance to the overall score. In addition, the HRS instructions have been clarified to specifically exclude contaminated soil and water from determinations of hazardous substance quantity.

A number of commenters stated that the HRS is designed to address those releases which have 2,000 or more drums of hazardous substances.

The Agency has changed the HRS so that it no longer requires any minimum quantity of hazardous substances, unless the substances are not present in reportable quantities.

Some commenters maintained that the quantity of substances used to rate the waste quantity factor should be calculatd by multiplying the concentration of hazardous substances by the total quantity of hazardous and nonhazardous substances at the facility. Some suggested that, if the concentration of hazardous and nonhazardous substances at a facility is known, then the waste quantity factor should be determined by only the quantity of hazardous substances at the facility.

The Agency believes any method to identify actual quantities of hazardous substances at a facility must take into account the fact that nearly all substances contain some portion of non-hazardous materials. The Agency has considered several alternative methods and has been unable to develop an internally consistent approach for comparing pure hazardous substance quantity at facilities where definitive information is available with hazardous substance quantity at facilities where such information is not available. Therefore, the HRS remains unchanged and waste quantity is calculated according to the total amount of substances at a facility.

(3) *Category 3: "Target" Population and Sensitive Environment That Is Threatened.* The "target" category consists of factors for estimating the magnitude of the threat to affected populations or sensitive environments potentially exposed to the release. Comments generally addressed three areas: exposure from contaminated ground water, use of water resources, and the sensitive environmental factor.

(i) *Exposure from Contaminated Ground Water.* The method for determining the population potentially exposed to ground water contamination is to estimate the number of people living within a three-mile radius. Some commenters maintained that the actual population that is potentially exposed should be identified where information exists to show that these estimates do not reflect the actual exposed population. They also argued that the HRS should allow consideration of hydrogeologic information on ground water flow direction and natural in-place geologic barriers between shallow and deep aquifers.

The population within a three-mile radius of the facility is still considered the potentially exposed population under the revised HRS. Determining the extent of population actually exposed or threatened by using ground water flow information is generally not practicable. In many instances the information is not available, and in others the flow direction varies. Even where there is extensive knowledge of geohydrology, interpretation is nearly always subject to dispute. Requiring a precise measure of the affected population would add inordinately to the time and expense of applying the HRS. Provisions for limiting the area of concern based on flow are not included in the HRS, because of the lack of reliable data on direction of flow and because the direction of flow frequently varies. The HRS does require that the same aquifer used to identify a release must be used in determining the potentially exposed population. In addition, geohydrological data on known aquifer interruptions may be used to show that potential targets which are located within three miles do not draw from the affected aquifer.

Some commenters objected on the basis that the three-mile radius is excessive in comparison to the area

designated by EPA under the underground injection progam.

The area of review in the Safe Drinking Water Act's Underground Injection Control (UIC) program, however, refers to that area within which existing wells, because of increased formation pressure caused by injection activity, might allow the movement of fluids between formations. It does not refer to any estimate of how far contaminants may travel. The three-mile radius used in the HRS is based on EPA's experience that, in most cases currently under investigation, contaminants can migrant to at least this distance. It should be noted that no commenters disagreed with the selection of three miles for technical or scientific reasons.

Some commenters asserted that, when determining the nearest well, it is not appropriate to assume that houses or buildings near a facility have wells that draw from the aquifer of concern.

The Agency agrees and has changed the text under "Populations Served by Groundwater" (Appendix A, section 3.5) to require more definitive evidence of ground water use. People within three miles who do not use water from the aquifer of concern are not to be counted.

A number of commenters suggested that the HRS should consider the dilution of contaminants by the environmental media since it is the concentration at the probable point of exposure that is of concern.

The HRS has been designed to consider environmental dilution of released hazardous substances by lowering the score of populations potentially exposed as their distance from the hazardous substance increases. A sophisticated analysis of attenuation would require information that is not readily available for most of the releases that should be considered for the NPL.

Finally, the HRS now combines the distance to the nearest well and the population served by ground water into a matrix to provide greater discrimination of scores. The combined value equals zero when either the population served equals zero or the distance to the nearest well is greater then three miles (see Appendix A, section 3.5).

(ii) *Use of Water Resources.* Some commenters maintained that, when considering an aquifer of concern, the HRS should distinguish between aquifers in use, not used, or unusable.

Section 3.5 of the HRS addressing "Targets for Ground Water Use" has been changed, so that points are not assigned for aquifers that are unusable for reasons such as extreme salinity or extremely low yield.

Some commenters felt that the HRS should contain a provision for considering industrial use of ground or surface water which may affect the extent of exposure.

The Agency agrees and has elevated the value for water used for commercial food processing. Though less hazardous than direct consumption of drinking water, this use warrants a higher value than provided in the previous version of the HRS.

A number of commenters suggested that the HRS ratings should consider future use of resources.

The Agency considered ways of addressing future uses, but was unable to develop or identify a mechanism to objectively measure future use. The Agency concluded that attempting to assign numerical values to future uses would be too speculative.

Several commenters asserted that food chain exposure to hazardous substances should be considered in the HRS.

While the food chain is not treated as a separate pathway of exposure, food chain contamination is specifically addressed in rating factors for water use, land use, and the target population exposed to potentially contaminated water through irrigation.

(iii) *Sensitive Environment Factor: The Distance to a Sensitive Environment.* Category 3 includes a factor for assigning a numerical value based on the distance from a hazardous substance release to a sensitive environment, such as wetlands or the critical habitats of endangered species.

Some commenters maintained that the factor assessing the distance from a release to a critical habitat of an endangered species should assess the distance to the "range" of an endangered species, not just the critical habitat. Other commenters suggested that national wildlife refuges should be added to the environmental factor in addition to critical habitats.

The Agency believes that the concept of "range" for endangered species is much too broad to be used in the HRS. The majority of potential exposures of endangered species within their range would be temporary in nature and would likely have little effect on their safety. The Agency has modified the environmental factor to include national wildlife refuges as a sensitive environment.

Several commenters proposed that the environmental factor representing the distance to a wetland should be refined to differentiate between wetlands along streams at high flow conditions and streams at stagnant flow conditions.

The Agency has not made this change because of the difficulties in predicting the transport and fate of hazardous substances and estimating the potential damage based on stream flow rates.

Some commenters argued that flood plains should not be equated with critical habitats in the sensitive environment factor.

EPA agrees because flood plains may accommodate a wide range of activities instead of, or in addition to, serving as critical habitats. The reference to flood plains has been deleted from the sensitive environment factor.

A number of commenters objected to the fact that the HRS assigns the highest score for the factor "distance to a sensitive environment" when a facility is within ¼ mile of federal reserved lands, regardless of how well the facility is constructed. The commenters suggested that this provision reduces the availability of such areas for new facility siting.

The HRS is not used to rank prospective sites for future hazardous waste disposal facilities. Any facility located in such an area that is well constructed and maintained will rank very low due to other factors in the HRS.

Some commenters suggested that a sensitive environment factor should be added to the list of potential targets of ground water contamination. The HRS only includes the sensitive environment as a factor for the surface water and air pathways.

When contaminated ground water is released or flows into surface water, it is considered under the surface water pathway. The Agency is unaware of any serious impacts on sensitive environments due exclusively to ground water pollution. As a result, it is not necessary to add a separate rating factor under the ground water pathway, since sensitive environments are addressed under the surface water pathway.

Finally, a general comment made by several commenters was that there are inconsistencies in the methods used to assign numerical values to the different factors.

The Agency believes that the conditions represented by rating factors in the HRS are not equally important in the evaluation of a hazardous situation. Accordingly, the rating factor scales are intentionally different and multipliers have been chosen based on professional judgment and experience concerning the relative importance of each factor. The selection of scales and multipliers has been confirmed by the consistency of

scores with the perceived hazard at releases.

B. National Priorities List

The most significant comments on the provisions governing the NPL (§ 300.66 (d) and (e)) requested: (1) Clarification of criteria used for including releases on the NPL; (2) explanation of the relation of the NPL to remedial actions; (3) inclusion of procedures for adding and deleting releases from the NPL; (4) deletion of the requirement for State assurances at the time the releases are submitted to EPA; and (5) clarification of provisions for adding State top priority releases to the NPL. The following sections discuss these comments and explain the Agency's changes in response to these comments.

1. *Criteria for Including Releases on the NPL.* Some commenters indicated that it is not clear whether the Plan provided that inclusion (ranking) of a release or "site" on the NPL would be based on the purely "mathematical" factors included in the HRS, or whether other factors will also be considered.

The HRS was developed pursuant to section 105(8)(A) of CERCLA. This section provides for development of criteria and priorities based on relative risk or danger to public health or welfare or the environment, taking into account the following considerations: (1) The population at risk, (2) the hazard potential of hazardous substances at such facilities, (3) the potential for contamination of drinking water supplies, (4) the potential for direct human contact, (5) the potential for destruction of sensitive ecosystems, (6) State preparedness to assure State costs and responsibilities, and (7) other appropriate factors. The HRS was designed to take into account only those aspects of the above considerations (generally, considerations (1) through (5)) that reflect the risk of harm existing at releases and that can be quantified for inclusion in a mathematical model. Once an HRS score has been assigned, the additional factors referenced in section 105(8)(A) will be considered in selecting releases for the NPL, and in selecting releases from the NPL for Fund-financed remedial actions. This process is set forth in Subpart F of the NCP.

Other commenters argued that releases which may present the sufficient degree of risk to be placed on the NPL should nonetheless be excluded if CERCLA does not authorize Fund-financed response. One example is the provision in section 111(e)(3) precluding use of Fund money for remedial action with respect to "federally owned facilities."

The Agency has decided that where available data indicates that active Federal facilities are the source of a release (either inside or outside the facility), these facilities will not be included on the NPL.

2. *Role of the HRS in Selecting Releases from the NPL for Remedial Action.* Many commenters maintained that the HRS does not provide sufficient detail to distinguish among releases for the purpose of deciding when to take remedial action, and therefore all releases on the NPL should be equally eligible for remedial action. Several others stated that, all other factors being equal, releases with a high HRS score should be given a higher priority for remedial action.

The NPL identifies releases that are eligible for remedial action and the relative risk as calculated by the HRS. The actual selection of sites for remedial action depends not only on relative risk but also on the availability of cost-sharing and other State assurances, the existence and status of responsible parties, the status of enforcement actions, and other considerations included in Subpart F of the Plan. In addition, remedial investigations or feasibility studies might produce more precise information that affects the urgency of remedial action. The Agency will therefore not necessarily respond to releases in order of their HRS scores.

3. *Adding and Deleting Releases from the NPL.* Several commenters suggested that the Plan should explicitly provide that the NPL will be updated at least annually as required by CERCLA section 105(8)(B). Other commenters suggested that the Plan should explain the process by which a release can be removed from or added to the NPL after the initial publication of the NPL. Specific grounds suggested by commenters for deleting releases from the List included: (1) The existence of a Federal agreement for clean-up by private parties; (2) a more sophisticated assessment of risk; and (3) voluntary remedial actions that may reduce the release's NPL ranking.

EPA has added to the NCP a provision (§ 300.66(e)(7)), stating that EPA will revise the NPL at least annually. The criteria for adding releases to the NPL are the same criteria for including releases on the initial List. Additions will be made consistent with the process in § 300.66(e) for developing the initial List. The Agency has not included criteria for deleting releases from the List. At this time, EPA did not believe that it had the necessary experience to establish a procedure in the Plan for removing releases from the List. In guidance issued on June 28, 1982, EPA indicated conditions when it might remove releases from the NPL. If, after EPA and the States acquire experience in working with the NPL, it becomes necessary to establish such a procedure in the Plan, EPA will propose the necessary modifications.

4. *State Assurances.* Section 300.65(e) of the proposed revisions to the NCP required States, when submitting releases for inclusion in the NPL, to indicate in a letter of intent either their ability to make the assurances for cost-sharing, future maintenance, and disposal site availability as required by section 104(c)(3) of CERCLA, or their intention to make those assurances at the appropriate time. Many States objected to the requirement to make assurances at this early stage in the process. They argued that States are in no position to make these assurances when submitting releases for inclusion on the NPL, because the appropriate extent of remedy, the types and amounts of wastes that require off-site disposal and the amounts of money needed to fulfill these assurances are uncertain. States also argued that they should not be required to provide assurances at a stage when EPA has not committed to providing funds for remedial action on a site.

EPA has reconsidered this requirement in light of the public comments and has decided to eliminate the requirement for assurances when releases are submitted for inclusion on the NPL. There will be sufficient time before remedial actions are initiated for the States to provide the necessary assurances.

5. *State Priority Submissions.* Several commenters suggested that EPA should clarify the provision for States to identify their top priority release. One commenter requested that EPA explicitly acknowledge that the State's top priority release need not be the top ranked under the HRS.

Section 300.66(d)(3) provides that each State may designate a release as the State's highest priority release by certifying that the release presents the greatest danger to public health, welfare and the environment among known releases in the State. The State's highest priority release does not have to be the State's highest ranked release under the HRS.

One commenter indicated that releases should be included on the NPL at the initiative of States, and that EPA should include releases only after consultation and general agreement with the States.

The great majority of the releases considered for inclusion on the NPL will

be at the initiative of the States. EPA has the authority, however, to add releases where necessary to assure that the NPL reflects, to the extent possible, the releases presenting the greatest risk or danger to public health, welfare and the environment. Section 300.66(e)(1) provides that States' priorities will be reviewed and consolidated by EPA into the NPL, and that EPA may add, in consultation with the States, any additional priority releases known to EPA.

VI. Comments Regarding Planned Removal

In the preamble to the proposed revisions, EPA explained its reasons for delineating two categories of removal actions—"immediate" and "planned" (47 FR 10975). This delineation was intended to specify those circumstances when the Agency believed it would be appropriate for the Fund to finance a removal action. The delineation neither authorized response actions beyond the statutory definitions of removal, nor improperly restricted the types of removal actions authorized by the Act.

Many commenters felt that the proposed description of planned removals was confusing and not adequately explained. Other commenters expressed concern that the criteria for taking a planned removal were too broad or undefined and did not adequately differentiate planned removal from immediate removal or remedial action. In order to more clearly delineate those situations in which planned removals may be taken and the purposes for which this category of response is intended, EPA has modified § 300.67.

Section 300.67(a)(1) allows for planned removals when the conditions for terminating an immediate removal exist, yet a substantial cost savings can be realized by completing the action and not demobilizing equipment and resources. EPA believes that such response flexibility is needed to ensure the effective use of Fund money and to achieve the greatest amount of protection of public health and the environment with the funds available. This category will be used to respond to releases at which a small amount of work is necessary to complete clean-up at a release, thus avoiding the high costs of demobilizing equipment only to mobilize again for a continued response. In addition, § 300.67(a)(2) allows action at a release that is not on the National Priorities List and that does not meet the criteria for an immediate removal, yet poses a risk to public health or the environment that requires action before the release could be added to the National Priorities List for remedial action.

Some commenters questioned whether planned removals were needed at all, or whether the statutory categories of removal and remedial action could suffice.

Immediate removals are intended for response to situations of immediate and significant harm to human life or health or the environment; these are emergency situations which require rapid immediate response. Other situations also exist which require an expedited response, but not an immediate one. In these situations, more deliberation can be given to planning the response action. The statutory category removal action covers both of these situations. By making this distinction between immediate and expedited response, the Plan provides for better management of the Fund.

Section 300.67(b) requires that any request for a planned removal be made by the State governor or his or her designee. This request must include relevant information about the release and assurances for cost-sharing. Many commenters questioned EPA's proposal to require State cost-sharing for planned removal actions. Commenters felt that States would not have sufficient funds to meet these requirements; that such a requirement would delay response action unnecessarily; and that CERCLA did not authorize requiring State cost-sharing for removal actions.

EPA has chosen to require cost-sharing for planned removals, in exercise of its discretion under the statute and EPA grant regulations (discussed in Section IV above), for a number of reasons. First, such cost-sharing provides evidence that the State is committed to removal action at the site in question, and has made the determination that action is needed to prevent a significant risk to public health or the environment. Second, the statute provides for and encourages an active State role in selecting the releases that require response and in sharing the costs of response. This requirement contributes to effectuating the State role under CERCLA. The NCP section on planned removals provides for both aspects of this role. Planned removals will only be undertaken if the State governor or his designee requests such action. Therefore, the Plan now gives the States a high degree of flexibility in selecting their own sites for receiving Federal money. The request for planned removal, however, must be accompanied by a plan for the removal action and by assurance that the State will help in the funding of the action.

Finally, although situations appropriate for planned removals require expedited action, EPA believes that there will be sufficient time before taking a planned removal to arrange for cost-sharing with the affected State without causing delay in response.

Several commenters noted that it would be contradictory to require a State to submit a planned removal site for the National Priorities List, since there would be no point in listing a release as a priority after it had been cleaned up.

EPA has consequently eliminated this requirement. Other commenters noted that the provisions of § 300.66 of the proposal were inconsistent at several points; for example, in requiring a planned removal action to minimize and mitigate damages without relying on future response actions, while also emphasizing actions which are consistent with any subsequent remedial activities. EPA has therefore eliminated these provisions. EPA has also eliminated from this section the requirement that pollution reports be submitted, since the requirement that OSCs submit these reports is already included in Subpart C.

To fulfill the mandate of CERCLA section 105(3), EPA has added considerable detail to the section on planned removals pertaining to the appropriate extent of planned removal action. The Plan now delineates the types of situations in which planned removal action may be appropriate (§ 300.67(a)), the criteria for taking planned removal action (§ 300.67 (a) and (c)), and the criteria for terminating a planned removal action (§ 300.67(d)). The Plan reiterates the statutory limitation in CERCLA on the time period and dollar expenditure allowed for removal action except under certain specified conditions.

VII. Comments and Modifications Relating to Individual Subparts

This section responds to additional comments (not discussed above) and explains other changes made to each subpart of the Plan as a result of comments.

A. Subpart A

Several commenters noted that § 300.3 of Subpart A merely repeated the statutory requirements for the NCP's content. Other commenters suggested that, instead of this repetition, the Plan should clearly delineate its coverage.

EPA agrees and has replaced the list of statutory requirements in the Plan with a new § 300.3(a) which specifies the scope of Federal response

authorities under Section 311 of the CWA and under CERCLA. In addition, EPA has added a new paragraph (b) to this section which summarizes the scope of the Plan's provisions. This summary more accurately reflects the coverage of the Plan.

Many commenters suggested modifications to the definitions in § 300.6. In most cases, the suggested modifications pertained to definitions that were taken directly from the Clean Water Act or CERCLA, and modification was deemed unnecessary.

Several commenters noted that it was unclear that the definition of "size class of discharges" in § 300.6 referred only to discharges of oil. EPA has modified the definition by changing the undefined term "pollution" to "oil discharges" and stating explicitly that it means discharges of oil only. It is noted that the term "discharge," as used in the Plan, applies only to oil.

Other commenters suggested that the Plan establish size classes for releases of hazardous substances. Most of the commenters were concerned that reporting requirements under CERCLA were too stringent and could lead to reporting of insignificant releases.

EPA does not believe it is appropriate to establish in the Plan general size classes for releases of hazardous substances, since the quantity of a hazardous substance is not always indicative of its toxicity. Small quantities of one hazardous substance may be more toxic and present a more significant threat to human health than greater quantities of other hazardous substances. CERCLA establishes reporting requirements for releases of hazardous substances and authorizes EPA to establish specific reportable quantities for releases of all hazardous substances. Until such time as EPA develops regulations revising reportable quantities, section 102(b) of CERCLA assigns a reportable quantity of one pound to substances defined as hazardous by section 101(14) of CERCLA, with the exception of those substances for which reportable quantities have been established pursuant to section 311(b)(4) of the Clean Water Act. For the above stated reasons, the Agency believes that it is neither appropriate nor necessary to establish size classes of releases for hazardous substances in the Plan. Definition of reportable quantities is not a requirement of section 105 of CERCLA. Rather, the Agency has initiated separate proceedings to address this matter as required by section 102 of CERCLA.

A few commenters noted that the definition of "coastal zone" contained in the Plan differs from that under the Coastal Zone Management Act (CZMA) and questioned whether it should be consistent. The definition included in the Plan specifies that it is to be used only "for the purpose of this Plan." This term is used in the Plan for the sole purpose of distinguishing between EPA and USCG jurisdictional areas for response activities. Accordingly, it need not be consistent with the CZMA definition.

One significant modification to Subpart A is in response to comments that specific decision-making responsibilities in the Plan should be clarified. Commenters noted that the use of the terms "lead agency" and "on-scene coordinator" (OSC) referred only to Federal officials, to the exclusion of State officials, and that the term "lead agency" was unclear. EPA has modified the definitions of "lead agency" and "OSC" to provide that both may include a State agency or official acting pursuant to the terms and authorities granted through a contract or cooperative agreement with the Federal government. This modification acknowledges the important role States may exercise in response actions. The term "lead agency" refers to the Federal or State official that provides the OSC. "Lead agency" is used because several agencies are granted the authorities that will be exercised by the "lead agency" under the Plan. These authorities often extend beyond the authority of an OSC.

To further delineate the responsibilities of OSCs, the final revised Plan includes a provision for designation of a "responsible official" to exercise OSC authority in certain situations. The new term "responsible official" refers to those individuals responsible for undertaking planned removals or remedial actions under CERCLA. The definition includes State officials if the State is granted this authority pursuant to a contract or cooperative agreement. EPA added this term to clarify that, in the case of planned removal or remedial actions, the official in charge may not always be called an OSC. In such long-term actions, the official in charge could be an OSC, but is more likely to be another official of the Federal or State government. Accordingly, this official is defined as a "responsible official" and is given the authorities and responsibilities assigned to OSCs.

Finally, commenters suggested that it was inappropriate to require that volunteers be recruited and trained by the response authority. This provision is simply intended to require that volunteers be competent for the actions for which they are being utilized. EPA has clarified this provision by deleting the words "recruited" and "trained" from the definition of volunteer in § 300.6 and has clarified § 300.25(c) pertaining to volunteers. This modification is discussed below.

B. Subpart B

Subpart B delineates the responsibilities and roles that all levels of government and private entities may play in response activities. Several commenters suggested that § 300.21 detail the delegations given to the various Federal agencies in Executive Orders 12316 and 11735. In addition, several commenters suggested that Subpart B should include an outline of the specific responsibilities and capabilities of Federal agencies under the Plan. A few commenters suggested that additional material on the roles of HHS and FEMA would be appropriate, since they have new response authority under CERCLA.

EPA does not believe it is necessary to include details from Executive Orders 12316 and 11735. Both are referenced in § 300.21 and are readily available to the public. Details from Executive Order 11735 were not repeated in the existing Plan, and experience indicates that there was no misunderstanding resulting from their absence in the Plan. EPA notes that where delegations are germane to the Plan, they are stated in the appropriate context, as in the division of responsibilities between EPA and USCG in response actions noted in § 300.33(a).

In addition, EPA finds it unnecessary to specifically list all the responsibilities and capabilities each agency has to bring to bear in a response action. Responsibilities and capabilities are subject to constant change by statutory modifications and reorganizations and, because of resource constraints, capabilities will vary. EPA believes the Plan appropriately delineates the responsibilities that each agency should fulfill in the context of the national response structure and the potential capabilities of each agency. EPA agrees, however, that the roles of FEMA, HHS and DOD deserve special mention in the Plan. Unlike the section 311 program, in which response authority was vested only in the USCG and EPA, Executive Order 12316 grants certain response authorities to FEMA, HHS and DOD. EPA has added an explanation of the division of responsibilities between EPA, USCG, FEMA, HHS and DOD in a new § 300.23(e).

Section 300.22 of Subpart B requires that, where appropriate, discharges of radioactive materials will be handled

pursuant to the appropriate Federal radiological plan. EPA recognizes that many such incidents may not be covered by authorities under CERCLA or the CWA. The precise extent of response authority under CERCLA has not been determined. Accordingly, any clean-up activity under CERCLA of radioactive releases will be determined on a case-by-case basis. Federal authorities for responding to radiological incidents fall within the purview of several agencies. To assure that the Federal government adequately coordinates these authorities, there are several existing mechanisms and others under development. For radioactive releases from commercial nuclear power plants, Federal emergency response is coordinated by FEMA and the NRC through the National Radiological Emergency Preparedness/Response Plan for Commercial Nuclear Power Plant Accidents (Master Plan), 45 FR 84910. For radioactive releases not associated with commercial nuclear power plants, the Federal radiological assessment and monitoring is coordinated by DOE under the Interagency Radiological Assistance Plan (IRAP). FEMA is preparing a comprehensive Federal plan that will encompass all types of radiological incidents that may require a Federal response. It will include incidents or accidents at commercial nuclear power plants. The tentative title for the new Federal plan is the Federal Radiological Emergency Response Plan (FRERP). The IRAP has been revised and updated by DOE and will soon be republished as the Federal Radiological Monitoring and Assessment Plan (FRMAP). The FRMAP will be incorporated into the FRERP to establish the latter as one single Federal response plan for any type of significant radiological emergency.

Several commenters suggested that § 300.22 (a) through (c), relating to coordination of Federal agency activities, should include the mandatory "shall" rather than "should."

EPA disagrees and notes again that Federal agency responsibilities will vary due to statutory and budgetary constraints beyond the control of EPA as author of the Plan. EPA cannot impose obligations upon these agencies which they may not be able to fulfill. The Plan must be flexible enough to accommodate these changing conditions. Agency budgets and missions are modified annually. Moreover, Interagency Agreements, Memoranda of Understanding, and guidance documents are the appropriate mechanisms for detailed descriptions of tasks each agency will perform.

Several commenters stated that the thresholds contained in § 300.22(d) did not include a "substantial" threat of release as required by statute.

Section 300.22(d)(2) refers to enforcement authority under section 106(a) of CERCLA, rather than response authority under section 104(a) of CERCLA. Section 106(a) of CERCLA does not require a "substantial" threat as does section 104. Due to this difference, no change is necessary.

One commenter objected to the fact that § 300.22(d)(2) allowed the NRT to recommend that EPA or USCG exercise its enforcement authorities, since the NRT is not delegated such authority. EPA agrees and has deleted this provision.

A few commenters questioned the wording of § 300.22(e) stating that it gives a great deal of authority to the government to coordinate private behavior and that terms such as "pollution" and "large" quantity of oil were not defined. This provision is taken directly from section 311(b)(2)(A) of the Clean Water Act. In this section, Congress did not define the referenced terms. In situations requiring the exercise of this authority, decisions must necessarily be subjective since they are based on the unique circumstances surrounding each situation.

Many commenters stated that it was unclear which agencies were "participating" agencies under § 300.23 (a) and (c). EPA has clarified this by deleting the term "participating" agencies in § 300.23 and noting instead that the agencies are the "Federal" agencies listed in paragraph (b) of the same section. The agencies listed in paragraph (b) are the current members of the National Response Team. EPA has deleted HUD and SBA from this list since they are not current members.

One commenter suggested it was preferable to put the requirement that Federal agencies provide representation to the NRT and RRT and assist in formulating regional and local plans in section 300.23(c), in order to include agency responsibilities to the NRT and RRTs in one place. EPA agrees and has added this requirement in § 300.23(c)(3).

To avoid duplication in the Plan, EPA has deleted the second sentence of § 300.24 (d), (e) and (f) and instead added a cross-reference to the new § 300.62 (discussed in section IV above) which more comprehensively outlines the State role under CERCLA.

Some commenters requested State participation in the Regional Response Team be greater and that it be mandatory. Other commenters questioned whether State participation in RRT activities was a reimburseable cost.

Section 300.24 does allow States full membership on the RRT. This membership is not mandatory, however, since States should have the discretion to participate or not participate given State needs and resources. The issue of which costs are eligible is not one that the Plan resolves. Rather, the extent to which costs will be reimbursed shall be specified in individual cooperative agreements with States. Another commenter noted that §§ 300.24(a) and 300.32(b)(2) were contradictory in that § 300.32 allows local governments to fully participate in RRT activities while § 300.24(a) makes local participation contingent upon approval of the State representative. EPA agrees that these sections are inconsistent and has modified § 300.32(b)(2) to provide that only States have the same status as Federal members (i.e. voting members), leaving local participation subject to the provisions of § 300.24(a).

Other commenters stated that the provisions of § 300.24(c) potentially created duplicative State programs and unnecessarily encouraged States to take response and enforcement actions. EPA disagrees. This section merely recognizes that many States have active response and enforcement programs which are in no way pre-empted by CERCLA. Where such programs exist, EPA encourages their use. This section recognizes that such programs and the Federal program are important complements to one another. One commenter stated that the Plan should not indicate a preference for State enforcement action over Federal action. EPA agrees and notes that § 300.24(c) encourages State enforcement but does not indicate a preference over Federal enforcement action.

Other commenters objected to the use of the term "potentially" in referring to responsible parties in § 300.24(c) and elsewhere in the Plan.

EPA used this term in response to comments on earlier drafts of the Plan which raised objections to calling all involved parties responsible until enough evidence was gathered for the Agency to determine that they are responsible. Since this is often a time-consuming process, EPA has used the term "potentially" responsible.

A few commenters questioned whether the Plan adequately specified those actions that would be eligible for Federal funding.

Subpart F establishes criteria upon which decisions as to eligibility for Federal funding will be based. The

eligibility of particular actions will be decided on a case-by-case basis using these factors. The Plan cannot ensure funding approval for specific actions since current demands for response and expected future demands exceed available funds.

Many commenters were confused as to the provisions in § 300.25 (d) through (f). Several questioned when the Fund will be used to pay for private party clean-up, and whether the section prohibits the taking of remedial action by any person who does not have prior approval. Moreover, commenters stated that § 300.25(e) of the proposal implied that anyone who does not intend to seek Fund reimbursement needs no prior approval. Others questioned whether there should be any prior approval requirements.

In response to these concerns, EPA has substantially modified § 300.25 (d) through (f). Paragraphs (e) and (f) of the proposal have been eliminated and paragraph (d) has been rewritten to require that persons who intend to undertake response actions, and seek reimbursement from the Fund, must obtain preauthorization in order for the response action to be considered consistent with the Plan for purposes of section 111(a)(2) of CERCLA. This provision does not apply to the Federal government or to a State or other person acting pursuant to a contract or cooperative agreement.

Section 111(a)(2) of CERCLA allows payment of claims for response costs incurred by "any other person" as a result of carrying out the NCP, *provided* that such costs are approved under the Plan and certified by the responsible Federal official. Section 300.25(d) provides the mechanism for approval of such costs under the NCP. This mechanism is through notice to the Administrator or her designee and submission of an application for prior approval (preauthorization) of the action.

This preauthorization process allows EPA to better manage Fund money, and helps ensure that private response is conducted in an environmentally sound manner. Further, the preauthorization process gives persons who wish to submit response claims a method to assure themselves that their costs will meet the approval component of section 111(a)(2). EPA is developing procedures for processing such claims pursuant to section 112 of CERCLA.

The provision requiring that private response actions be preauthorized is included in the Plan to ensure that Fund money is spent in a cost-effective and environmentally sound manner, regardless of the party taking the action. In the case of those operating pursuant to a contract or cooperative agreement, EPA can assure consistency with the NCP through the agreement. In the case of the Federal government taking Fund-financed action, consistency with the Plan is assured through internal agency approval procedures. Section 300.25(d) imposes a similar advance approval requirement on those wishing to bring a claim against the Fund for response costs in accordance with section 111(a)2). Section 300.25(d) does not apply to private parties who undertake response actions, but do not intend to seek reimbursement from the Fund.

C. Subpart C

Subpart C establishes the national and regional response structure and explains the role of government and private entities in the response structure.

Several commenters requested further detail in § 300.32(a) on the responsibilities and authorities of the NRT. EPA believes this section adequately details the role of the NRT as the national organization for coordinating Federal response to major pollution incidents and developing recommended actions for national response policies. Roles and responsibilities of the NRT during response actions are detailed in § 300.34 (f) and (g). One commenter noted that, while the Plan allows the NRT to make recommendations on training, equipping, and protecting response teams and coordination of governmental and private entities, section 105 requires that such provisions be specified in the Plan. EPA notes that the Plan does specify these components throughout Subparts B and C. The provision regarding the NRT is intended to allow the body to recommend improvements or modifications in these areas, based on its collective expertise.

Some commenters objected to deletion of material from the existing Plan relating to by-laws of the NRT. EPA eliminated these provisions because they were considered "ministerial" and neither necessary nor appropriate in the Plan. Section 300.32(a) allows the NRT to adopt such by-laws as it deems necessary to its operations. Other commenters suggested making provision in the Plan that NRT meetings be open to the public. Again, such a provision is not appropriate in this Plan, since some meetings may be public and others may require executive session. It is more efficient for the NRT to provide for these decisions in its own procedures.

Several commenters asked how membership on the NRT is determined and suggested that the Plan provide for State membership on the RRT. EPA has clarified the membership process by adding a sentence to § 300.32(a)(1) which provides that agencies may request membership on the NRT by forwarding such requests to the chairman. States are not permitted to be members of the NRT; participation is limited to members with a national presence. The RRT is the appropriate coordinative body for States. The NRT likewise restricts Federal agency members to those with a national presence. For example, the Tennessee Valley Authority is a Federal entity that is very active in response activities. It is a member only of the RRT, however, because its activities are limited to a single geographic area.

Several commenters pointed out that the provisions of § 300.32(a)(7)(i) were confusing since they implied that the NRT responds only to nationally significant releases. EPA has clarified this section by providing that the NRT maintains national readiness to respond to incidents which are beyond regional capability. This provision clarifies that the NRT role is complementary to that of the RRT.

Other commenters maintained that the Plan vested broad and unspecified discretionary authorities in the NRT and RRTs. These commenters believed that certain responsibilities vested in the NRT and RRTs should be specified in the Plan. EPA disagrees. The Plan provides the NRT and RRTs with the authority they require to act as effective coordinating bodies. Their activities are not exclusive of the Plan; rather, they are complementary to the Plan. For example, the NRT is empowered to develop procedures for ensuring coordination of response activities among the various levels of government and private entities (§ 300.32(a)(7)(iv)). This authority obviously does not preempt the rest of Subparts B and C which also provide for such coordination. This section is simply one of the many provisions in these subparts to assure such coordination.

Several commenters were confused over the role of State and local governments on the Regional Response Teams. EPA has clarified § 300.32(b) to provide that States may be voting members on the RRT, while local representatives may participate in meetings in a non-voting capacity. The reason for allowing only one vote per State is to assure efficiency of RRT operations. Allowing an unlimited number of representatives from a single State to vote would distort the fairness of representation on the RRT. This would result in an unwieldy and unfair

voting system, which could be biased toward whoever had the most people in attendance. It should be noted that voting is rarely necessary within either the NRT or RRTs since members usually achieve consensus.

Another commenter suggested that the Plan specify those agencies that compose the Regional Response Team. Such specification is not appropriate to the national Plan, since participating agencies may vary from region to region. Therefore, specification is left to the regional plans.

Several commenters suggested that qualifications for various response personnel mentioned in Subpart C (OSC, SSC, etc.) be included in the Plan. EPA believes that the Plan is an inappropriate place to specify personnel qualifications. Depending on the area covered, qualifications may vary and they are more appropriately considered in the hiring process, not through regulation.

Section 300.33 of the Plan discusses the division of responsibilities, roles and coordinating activities that should be used in a response. Section 300.33(a) specifies the geographic division of response authority between EPA and the USCG. Because commenters noted that, within the USCG/EPA division, DOD has authority for response to releases from its own facilities, EPA has inserted this exception in § 300.33(a).

Many commenters urged that the Plan clearly state that the OSC is responsible for response operations, that others at the scene are under the direction of the OSC, and that the OSC must not be unduly hampered by officials not at the scene. Section 300.33(b) of the Plan clearly specifies that it is the OSC that directs on-scene operations. That is, the OSC is the official in charge of directing on-scene operations. The OSC's authority is subject only to other response authorities delegated under Executive Order 12316. Otherwise, the OSC directs all activities during a response action. The special assistance authorized by Subpart C (i.e., the SSC, ERT and strike forces) includes entities which may be called upon by the OSC to assist in response operations. EPA is sensitive to the fact that response should not be unduly delayed while awaiting approvals or concurrence by officials who are removed from the scene.

Section 300.33(b) (1) through (10) provides a checklist of OSC responsibilities during a response. This list is complementary to responsibilities in Subparts E and F and serves primarily to assure appropriate coordination by the OSC. One commenter suggested adding to § 300.33(b)(6) a requirement that the OSC notify FEMA of situations potentially requiring evacuation, temporary housing, or permanent relocation. EPA agrees and has added this requirement and consolidated § 300.33(b) (6) and (9) into a single paragraph. In addition, in order to assure that the notifications for which an OSC has responsibility are stated in one place, EPA has added a sentence to § 300.33(b)(7) noting that the OSC may call upon HHS for advice in the worker health and safety area and included a new paragraph (9) requiring notification of affected Federal land managing agencies. Several commenters stated that in § 300.33(b), the OSC also should be required to notify State and local agencies. EPA does not believe this notification is necessary since the Plan already provides for the National Response Center to notify the Governor of the affected State or his or her designee of discharges or releases. Other State and local agencies should arrange to be notified through their State's mechanisms.

A few commenters suggested that the Emergency Response Team (ERT) responsibilities cited in § 300.33(d) of the proposal be expanded and that only the OSC be allowed to request the support of the ERT. EPA does not believe expansion of ERT responsibilities is necessary, since those detailed in the Plan are broad examples of the types of services the ERT provides. Although the OSC is the primary requester of ERT services, the ERT also may be needed for response activities by others. EPA believes this flexbility should be preserved in the Plan. Another commenter stated that the Plan leaves to the ERT decisions which should be made in the Plan. EPA notes that nowhere in § 300.34(c) does the Plan require decision making by the ERT—it simply outlines ERT expertise which can be called upon.

Several commenters questioned how the RRT decides whether or not to activate. Some of these commenters were concerned that the RRT should not become involved in response operations without approval of the OSC. The Regional Response Team is activated when the criteria in § 300.34(f) are met. It is not necessary for the RRT to receive OSC concurrence to activate. Instead, the chairman of the RRT makes the decision as to whether the RRT should be activated (often on the basis of a request from a State representative). In the majority of cases, the chairman is from the same agency as the OSC, and, in fact, can be the OSC's supervisor. Therefore, there should be no disagreement as to the need to activate the RRT. Imposition of formal OSC concurrence requirements are unnecessary and inappropriate.

Section 300.34(f)(5)(iv) allows the RRT to suggest replacement of the OSC. A few commenters suggested that private parties also be allowed to do so. Certainly, the Plan does not preclude such a request; however, it is inappropriate to encourage such requests in the Plan, especially since the OSC will often be involved in situations where private parties have failed to clean up properly. Requests for replacement of OSCs should not occur every time a responsible party disagrees with the OSC action.

Several commenters noted that proposed § 300.36(c) did not clearly state the CERCLA and CWA requirements for reporting discharges and releases. Accordingly, EPA has clarified the Plan to note that reports of discharges or releases of oil and hazardous substances above reportable quantities should be made in accordance with 33 CFR Part 153, and section 103(a) of CERCLA. In addition, EPA has eliminated § 300.35(d) regarding pollution reports since the same requirement appears elsewhere in the Plan. A few commenters requested that § 300.36 of the proposal note that the Spill Clean-up Inventory System (SKIM) is also available to private parties. EPA agrees and has noted this availability in § 300.37.

D. Subpart D

Subpart D establishes requirements for Federal regional contingency plans and Federal local contingency plans. Several commenters requested that additional detail be added to the NCP regarding the required content of these plans. EPA does not believe additional material is necessary. First, in the case of regional plans, § 300.42 (a), (b) and (c) outlines the components that should be included in such plans, and explicitly states that regional plans will follow the format of the NCP to the extent possible. This provides guidance to the regions on the topics which should be covered in their plans. Further detail could result in an unduly rigid mechanistic formula for developing regional plans. EPA recognizes that each region will have distinct needs in developing such plans and has provided the flexibility to allow these plans to be tailored to regional needs. These plans are required to be developed by RRTs in consultation with States.

In the case of Federal local plans (§ 300.43), EPA has deleted the requirement that they follow the format of the national Plan. Several

commenters pointed out that this section gave inadequate attention to local needs and conditions. By deleting the requirement that Federal local plans should follow the NCP, EPA is providing greater flexibility for local plans to be developed in accordance with provisions in § 300.43(a) and to be adequately coordinated with existing local response structures.

Finally, several commenters questioned why the Plan did not require State and local contingency planning by State and local governments. EPA strongly encourages all levels of government to undertake such planning; however, EPA believes it is only appropriate for the NCP to specify mandatory planning by Federal entities.

Several commenters suggested that the Plan require adoption of State and local plans when they accomplish the same purposes as the Federal regional or Federal local plan. Such a requirement is unnecessary in this Plan. First, regional plans cover Federal regions which cross State boundaries, thus State plans would not be appropriate as regional plans. Second, both Federal regional and Federal local plans outline how Federal entities will coordinate with State and local governments. Local and State plans generally deal with coordination of State and local entities. Because of these differences, such a requirement would, in most cases, simply pose an additional burden of examining and determining that such Plans are not appropriate. It should be noted, however, that nothing in this Plan precludes drawing upon State and local plans where they are appropriate.

Conversely, other suggested that State plans be required to conform to the NCP. EPA does not believe that such a requirement is appropriate to the national Plan since States should be free to tailor State plans to particular State needs. This would not, however, preclude EPA from requiring State planning as a condition for receipt of Federal funds.

E. Subpart E

Subpart E establishes procedures for responding to discharges of oil pursuant to section 311 of the Clean Water Act. This section reflects the experience gained in oil removal under that program and remains largely unchanged from the existing Plan. Like Subpart F, this subpart includes phases of response, beginning with discovery of discharges under § 300.51, and continuing through documentation for cost recovery actions in § 300.54. In addition, § 300.55 contains a summary of actions the OSC should take upon being notified of a discharge of oil; § 300.56 details requirements for pollution reports, which are reports submitted on removal actions; § 300.57 details special considerations for safety of personnel and waterfowl conservation which must be considered during removal action; and § 300.58 details funding requriements for oil removal.

EPA received very few comments on this Subpart. Most comments generally favored EPA's decision not to make any significant changes to the procedures in the existing Plan for responding to oil discharges. The comments and modifications to Subpart E are discussed below.

Some commenters noted that Subpart E did not clearly differentiate between the requirements for persons "in charge" and "responsible parties" under section 311 of the CWA. EPA has clarified this distinction in two provisions. First, § 300.51(a)(1) has been modified to clarify that notification requirements in case of oil spills under section 311(b)(5) apply to all persons "in charge," not "responsible parties." Second, similar clarification has been made to § 300.55(a)(4) where "responsible party" has been changed to a "discharger or other person."

One commenter noted that § 300.58 did not adequately discuss all sources of funding available for oil response actions. EPA agrees and has modified § 300.58(c) to more clearly differentiate between oil related funds, including the oil pollution fund authorized by section 311(k) of the CWA; the fund authorized by the Deepwater Port Act; the fund authorized by the Outer Continental Shelf Lands Act; and the fund authorized by the Trans-Alaska Pipeline Authorization Act.

F. Subpart F

Subpart F is the major new section of the NCP. It establishes the management system under which response to hazardous substances will be undertaken. Although most of Subpart F applies to Fund-financed response, it should be noted that § 300.68 (e) through (j) also applies to clean-up by responsible parties. Subpart F establishes seven phases of response, from discovery through various levels of response to documentation of response for cost recovery purposes. The phases are designed to give response personnel a decisionmaking framework for undertaking response action. All of the phases need not be undertaken. For example, Phase III—Immediate Removal, will not be necessary at all releases, nor will all releases be eligible for such funding.

Several commenters stated that the process established in Subpart F appears to contemplate a lengthy planning process. One commenter suggested that the Plan include deadlines for particular actions. Another suggested that planning be minimized.

EPA believes that the response steps established in Subpart F assure that Fund money is spent in the most judicious manner on the most severe problems by providing several check points for taking further action. Such checks are necessary, since at each step in the planning process new information may become available showing that the problem is not as severe as anticipated or that it is, in fact, more severe than anticipated. The inclusion of such check points does not cause delay or lengthy planning. Subpart F allows the planning to be tailored to the complexity of the problem presented.

Many commenters suggested that, throughout Subpart F, the term "release" should explicitly include "substantial threat of release" under section 104(a) of CERCLA. EPA notes that the Plan's definition of "release" (see § 300.6) incorporates this term in order to avoid repeating the phrase. Where the Plan refers to section 106 of CERCLA in which enforcement authority does not include "substantial threat" but merely a threat posing imminent and substantial endangerment, the Plan notes this through reference to section 106 of CERCLA. The same scheme has been used with regard to discharges of oil.

Section 300.61 sets forth basic hazardous substance response authorities and policies. Several commenters questioned the adequacy of § 300.61(c)(3) and pointed out that it is important to keep the public informed and to include them in the decision-making process. Specific comments included: (1) Strong advocacy of greater emphasis on public participation; (2) that the Plan places unlimited and unquestioned authority in the hands of the lead agency and NRT; (3) that there should be some procedure to enable the public to understand the protection they are being provided; and (4) that the Plan should include specific procedural requirements for public information and consultation.

EPA agrees that it is important to be sensitive to the needs of communities affected by hazardous substance releases and has incorporated this in § 300.61(c)(3). EPA has devoted substantial effort toward developing an effective community relations program which has been implemented through guidance documents. In order to indicate

that the Agency has issued guidance in this area, EPA has added in § 300.61(c)(3) that it is necessary to be sensitive to local concerns "in accordance with applicable guidance." The guidance provides for development of community relations programs on a site-by-site basis.

EPA has added a new § 300.62 on the State role under CERCLA. EPA decided to add this new section to emphasize the ability of States to undertake responsibility for much of the response detailed in Subpart F. This new section is discussed at length in Section IV of this Preamble.

Section 300.63 of Subpart F is the first step in any response. It details the methods by which releases are discovered, and therefore, the methods by which response personnel became aware of potential problems. This section is required by section 105(1) of CERCLA. The provisions of this section are discussed at length in Section II of this preamble. A few specific comments on this section are noted here. Several commenters noted that § 300.62(b) of the proposal was unclear as to the notification requirements for reporting releases to the NRC. EPA has clarified this provision in a new § 300.63(b) by detailing the requirements for notification and noting that reporting requirements under section 103(a) of CERCLA arise when a reportable quantity is released. Another commenter pointed out that States may not want to be notified in the case of minor releases pursuant to proposed § 300.62. EPA notes that this is a statutory requirement of section 103 of CERCLA.

Section 300.64 of the Plan establishes the procedures for performing a preliminary assessment of releases. This assessment is generally based on readily available information and is tailored to the particular type of release (i.e., emergency or long-term). In situations requiring emergency action pursuant to § 300.65, this initial investigation and evaluation will be short. In the case of slower, long-term releases, this step will be more extensive and is the first step for investigating and evaluating the problems posed by the release. The content of this section is discussed generally in Section II above. Additional comments are noted below.

Several commenters said that the Plan was not specific enough regarding the appropriate extent of a preliminary assessment and that the assessment procedures were not adequate for evaluating a release. Others requested that such assessments be eliminated since assessments can be very time consuming and costly.

EPA believes that § 300.64 is sufficiently detailed. The preliminary assessment is for screening purposes only—it is not the final evaluation for determining whether remedial action is needed. Requirements for a more detailed preliminary assessment would interfere with and delay the decision making process at this stage of the response. For example, a less severe release where information is readily available would allow an expedited assessment. More serious releases with little information available would require an extended assessment. For this reason, EPA has included the methods which may be employed to undertake an assessment, while the lead agency reserves the discretion to tailor the assessment to the factors pertaining to the individual release. EPA further notes that the assessment is just the first step in evaluating a release. It is used to screen out those releases which may not merit a Federal response. For example, EPA's experience indicates that the vast majority of classic spills are responded to by private parties or State or local governments, making further Federal involvement unnecessary or very limited. The assessment also allows the lead agency to quickly move into Phase III and take emergency action, if necessary; to determine that the release requires further evaluation under Phase IV, through a site inspection, and perhaps investigation; or to determine that it does not require Fund-financed response. This preliminary assessment assures that limited Fund money is available to respond to the most significant releases.

Other commenters questioned the need for a site visit during Phase II. A site visit will be made only in those situations in which additional information is needed (§ 300.64(b)) to allow the lead agency to make an informed decision on the appropriate response to the release.

One commenter pointed out that § 300.63(b) would have prohibited a site visit if sophisticated safety equipment was needed, thus prohibiting a visit even if such equipment was available. EPA agrees that this provision could be better worded and has replaced this requirement with: "* * * if conditions are such that it may be performed safely." This modification allows such visits to be taken when safety equipment is readily available, while still assuring the safety of response personnel going on or near the release.

A few commenters questioned how EPA will determine whether further response is required, i.e., whether certain levels of contamination will be responded to while others will not. During the preliminary assessment, one cannot determine with certainty the degree of contamination. For this reason, EPA has included the factors of § 300.64(c) for the lead agency to use in determining when no further action is necessary. Amount of contamination alone is not the sole determining factor. The other factors of § 300.64(c) must be considered as well.

Section 300.65 establishes criteria for undertaking immediate removals (i.e., emergency response). Several commenters contended that the criteria for taking immediate removal needed to be more detailed. The Plan gives several examples of the types of situations requiring emergency action as well as a threshold for taking such action (see § 300.65(a)). EPA does not believe that further detail is appropriate. The Agency has listed as examples those situations that will clearly require emergency response. For those situations that are not specifically listed, application of the criteria contained in § 300.65(a) will determine whether emergency removal is necessary. EPA believes that this format provides the flexibility required for effective response to a wide range of emergencies.

Several commenters pointed out that the statutory requirement of § 104(c)(3) of CERCLA for limiting response to six months or $1 million was omitted from the section on Immediate Removal. EPA agrees that the statutory requirement should be reiterated in the Plan and has accordingly added a new paragraph (d).

Several commenters suggested that a substantial amount of decisionmaking authority should be delegated to OSCs in order that response not be delayed pending consultation with officials not at the site. Another commenter suggested requiring OSC consultation with EPA Headquarters to assure consistency of Fund expenditures. Moreover, one commenter suggested that the Plan allow OSCs to spend up to $500,000 on removal actions. EPA agrees that response personnel must be able to address classic emergency situations in a timely manner, and believes that § 300.65 facilitates timely response. EPA does not believe, however, that delegations of spending authority should be included in the Plan, since such delegations are often subject to modifications. Internal agency approval processes for EPA personnel to expend funds are neither appropriate to the Plan nor required by section 105 of CERCLA. Instead, § 300.65 contains the methods and criteria for determining whether the problem should be addressed as an emergency, leaving administrative

funding procedures to Agency guidance and directives.

Section 300.66—Phase IV provides for continuing evaluation of releases through investigation and inspection of the release, and details the procedure for using the Hazard Ranking System and compiling the National Priorities List. Section II of this preamble discusses investigation and inspection activities and Section V discusses the establishment of the National Priorities List.

Section 300.67—Phase V sets forth the criteria for undertaking planned removal actions. A discussion of comments related to planned removal provisions in the Plan is included in Section VI above.

Section 300.68—Phase VI provides methods and criteria for undertaking remedial action and for determining the appropriate extent of remedy. A full discussion of the criteria and methods for determining the appropriate extent of remedy and the comments on these criteria and methods is set forth in Sections II and III of this preamble.

Section 300.69—Phase VII requires response personnel to maintain and collect information during all response actions for potential use in cost recovery. This section of proposed revisions is unchanged except for the addition to paragraph (b) of the provision that information and reports on response actions must be forwarded by response personnel only when taking Fund-financed action. This modification clarifies that Federal agencies, such as DOD, that take remedial action using their own funds need not forward such reports to the RRC or NRT.

Section 300.70 sets forth methods for remedying releases in accordance with section 105 of CERCLA. A discussion of this provision is included in Section II of this preamble. Several comments were received suggesting minor modifications and additions to this section. The Agency has incorporated those modifications and additions that included appropriate methods for remedying releases and covered by a category already listed that were not already included in the methods listed in § 300.70

Section 300.71 establishes requirements for worker health and safety. This section was proposed as § 300.70 and detailed worker health and safety considerations, eligible and noneligible costs, and methods for obtaining funding under the Disaster Relief Act. EPA has deleted the eligible and noneligible costs section of the proposal. Several commenters found the section vague and confusing. Since it is difficult to discern cost components that are eligible or noneligible from broad categories which are outlined in the proposal, EPA is deleting this section. EPA notes that delineation of eligible and noneligible costs in the Plan is not a requirement of section 105 of CERCLA. Eligible costs are specifically defined in State contracts or cooperative agreements and other guidance (such as OMB circulars and EPA grant regulations).

Proposed § 300.70(a) (now section 300.71) has been modified to clarify that response personnel must comply with applicable OSHA regulations. EPA has deleted the requirement that OSCs submit safety reports to the work group established pursuant to section 301(f) of CERCLA. The work group has nearly completed its study and recommendations; thus, it is unnecessary for OSCs to submit safety reports for the group's consideration.

G. Subpart G

Section 111(b)(1) of CERCLA provides that damages for injury to, destruction of, or loss of natural resources resulting from a release of hazardous substance, for purposes of CERCLA and section 311(f) (4) and (5) of the CWA, will be assessed by Federal officials designated by the President under the National Contingency Plan. If further provides that designated officials will act as trustees for purposes of section 111 of CERCLA and section 311(f)(5) of the CWA.

Section 111(b) of CERCLA allows claims to be asserted against the Superfund for (1) claims asserted and compensable but unsatisfied under section 311 of the CWA which are modified by section 304 of CERCLA; and (2) other claims resulting from a release or threat of release of a hazardous substance from a vessel or facility for injury to, destruction of, or loss of natural resources, including cost for damage assessment. Such claims may be asserted only by the President, acting as trustee, for natural resources over which the United States has sovereign rights, or natural resources within the territory or the fishery conservation zone to the extent they are managed or protected by the United States, or by any State for natural resources within the boundary of that State belonging to, managed by, controlled by, or appertaining to the State.

Section 107(f) of CERCLA provides that the President or authorized representative of a State will act on behalf of the public as trustee to recover for damages to natural resources pursuant to section 107 of CERCLA.

Subpart G implements these provisions, pursuant to Executive Order 12316, by designating those Federal trustees who will act on behalf of the President in assessing damages, bringing claims, and recovering damages for natural resources under these provisions of CERCLA. A few commenters were concerned that Subpart G did not adequately note the purposes for which trustees are appointed. EPA has clarified this by noting in section 300.72 that Subpart G is limited to the purposes of CERCLA. To clarify that States are also given authority to undertake such actions, EPA has added a new § 300.73 that provides that States are trustees for resources within the States' boundaries, belonging to, managed by, controlled by, or appertaining to the State. In addition, EPA has added a new subsection in § 300.72. Section 300.72(a) designates trustees for land subject to the management or protection of a Federal land managing agency and § 300.72(b) designates trustees for fixed or non-fixed resources subject to the management or protection of a Federal agency. These subsections are intended to clarify trusteeship responsibility for these individual resources. Subsequent sections have been renumbered accordingly.

In addition, EPA has also modified § 300.72(c) to clarify that in subsection (c), where affected resources are subject to the respective statutory authorities and jurisdictions of both DOI and DOC in the geographical areas identified in this subsection, they will act as co-trustees. In order to facilitate more efficient and effective exercise of Federal trusteeship responsibilities, the DOC and DOI, as part of the co-trusteeship responsibility for waters subject to tidal influence and for contiguous upland areas where a pollution incident may affect resources under the authorities of both agencies, are encouraged to enter, as soon as practicable, into a Memorandum of Understanding which will delineate the respective trusteeship responsibilities of each agency in these areas. Co-trusteeship will not apply to a resource(s) for which either agency has sole management or protective responsibility. In these cases, the agency having that responsibility will act as sole Federal trustee. EPA has also added a provision to § 300.74 which encourages that, in cases where trustees have concurrent jurisdiction, the trustees coordinate their activities. The term "natural resources," as defined by CERCLA, is extremely broad. The term includes both fixed and non-fixed resources. It is, therefore, possible that trusteeship responsibilities will overlap. Since natural resource assessment, damage assessment, and restoration

planning generally will need to be performed and restoration plans developed on a geographic basis, it is important that trustees coordinate efforts.

H. Subpart H

The proposed Subpart H replaced Annex X of the previous Plan and provided for a case-by-case authorization by the Administrator or her designee of the use of dispersants or other chemicals in treating oil discharges or hazardous substance releases. The Agency explained in the preamble to the proposed revisions (47 FR 10978) that it was eliminating the detailed testing procedures of Annex X in order to simplify the process for authorizing the use of dispersants and other chemicals. Testing procedures and a process for authorizing use of dispersants and other chemicals would be developed as the Agency gained greater knowledge on this subject.

Many commenters objected to the proposed Subpart H. Most commenters urged that the decision making authority should not be with the Administrator or a designee in Headquarters but rather should be with the OSC in order to enable rapid decision making. Several other commenters suggested that the Plan should include testing procedures to enable the Agency to develop a list of acceptable dispersants and other chemicals that could be used as a guide in decision making. Finally, some commenters stated that Subpart H should provide for involvement of the affected State in the decision making process.

In response to these comments, EPA has made the following changes to Subpart H. First, the proposed text of § 300.81(b) has been deleted as being unnecessary and, in its place, provision has been made for OSCs to authorize the use of dispersants or other chemicals. The OSC may authorize the use of dispersants or other chemicals to treat discharges of oil, if such dispersants or other chemicals are on EPA's Acceptance List developed pursuant to the testing and acceptance procedures of the previous Plan. There are three important limitations in this authorization. First, it applies only to discharges of oil and not to releases of hazardous substances. OSCs have much greater experience in responding to discharges of oil than releases of hazardous substances into water. Additionally, most of the dispersants or other chemicals on EPA's Acceptance List are for use primarily in treating discharges of oil. The second limitation is that OSCs may only authorize use of dispersants or other chemicals on EPA's Acceptance List. That list includes twenty-eight products tested and found acceptable for their intended purposes pursuant to Annex X of the previous Plan. While EPA believes that the procedures in former Annex X need modification to simplify the testing requirements, EPA also believes that the decisions to include those twenty-eight products on the list were sound and that they can be used in an environmentally safe manner under the proper conditions and directions. Finally, the Agency, in § 300.81(b), has specifically provided that the affected State will be consulted regarding the use of any dispersant or other chemicals in the waters of such State. The OSC must also obtain the concurrence of the EPA representative to the Regional Response Team.

For those dispersants and other chemicals not on EPA's Acceptance List, § 300.81(c) continues to provide that the Administrator or her designee may authorize use of such products for discharges of oil or releases of hazardous substances. This provision ensures that any product may be authorized for use if it is determined that such product can be used safely in the waters into which the oil has been discharged or the hazardous substances released.

Subpart H, at this time, does not include testing procedures and a process for designation dispersants or other chemicals as acceptable for use. However, the Agency is developing new testing procedures and will propose those procedures and an approval process for public comment in the near future. The time constraints for promulgating the final revisions precluded completion of development of new testing procedures in time for including them in this publication.

VIII. Other Comments

This section discusses additional issues raised by comments which were generally applicable to the Plan or a particular subpart, or which were outside the scope of the NCP.

Several commenters objected to language in the Plan that used the term "should" in lieu of "shall." In some instances, EPA agreed with the comments and has modified the language. Each of these modifications is noted in the discussion above of the individual subparts. However, EPA believes that, in the remaining cases, use of the term "should" is preferable for several reasons. First, EPA sought, in revising the Plan, to provide a document that would allow the Federal government, or States acting under contracts or cooperative agreements, the flexibility to design response actions to the particular needs of individual releases. Use of the term "shall" would impose upon response personnel the duty to routinely perform certain actions regardless of site-specific exigencies, thus inhibiting timely and effective response. Second, response personnel have many mandatory statutory requirements that they must meet prior to or during a response. Where there is a mandatory statutory requirement, the Plan specifies those requirements as mandatory. However, if the Plan were to make all other requirements mandatory (such as notification of all other Federal agencies, all individual State agencies, and all involved parties) response personnel would be faced with an enormous administrative burden that would severely hamper their ability to perform their primary objective of timely and effective response. Finally, in the new CERCLA response program, there is, to date, little experience in responding to releases from hazardous waste sites. EPA has made mandatory these provisions relating to activities that experience has shown to be necessary at all hazardous waste sites, or which are required by statutes. EPA has provided discretion for other activities that may be appropriate. This allows the OSC or responsible official to make the decision, based on the particular site conditions, that an action is or is not appropriate.

Other commenters questioned whether permits would be required for CERCLA sites. EPA also believes this is an issue beyond the scope of the NCP. This issue will be resolved in conjunction with those EPA programs that affect CERCLA actions.

Several commenters asked what criteria EPA would use in determining whether a release poses an "imminent and substantial endangerment." This term has limited usage in CERCLA, and it pertains exclusively to response authority thresholds for Fund-financed response to pollutants and contaminants under section 104(a) of CERCLA and to the threshold for enforcement actions under section 106 of CERCLA. Section 106 is not implemented through the Plan. The term is a legal term of art which the courts have interpreted through a series of cases, and thus, is beyond the scope of the NCP.

Many commenters questioned how clean-up of Federal facilities would be addressed. EPA is currently developing guidance on this issue. Since the issue requires agreement among Federal agencies as to their respective clean-up obligations, EPA believes that the issue should be resolved in guidance, or

through Memoranda of Understanding, rather than through the Plan.

Several commenters objected to the deletion of Annex VI of the previous Plan which contained sampling procedures. Suggestions included: (1) That, if deleted, a manual should thoroughly cover sampling; and (2) that a separate section should specify basic elements of a site assessment, including reference to sampling and test protocols. The Plan does specify the basic elements for site assessments in sections 300.64 and 300.66. However, EPA does not believe it is necessary to include technical sampling guidance in the Plan and notes that sampling procedures are not required by section 105 of CERCLA. However, EPA agrees that sampling procedures are important in assessing sites and, accordingly, has begun preparation of a sampling manual.

One commenter suggested that Subpart F should provide for restoration of natural resources. The statute does not require that the Plan address resource restoration, other than that which is incidental to the actual response operation. The appropriate place for addressing the restoration phase is through the damage assessment regulations and claims procedures required by sections 301 and 112 of CERCLA.

A few commenters noted that treatment of oil and hazardous substances as separate entities in the Plan makes it difficult to report and fund incidents involving both oil and hazardous substances. EPA will coordinate such incidents on a case-by-case basis. The statutory authorities (and, therefore, funding and response requirements) for the two types of materials are distinct. Reporting of discharges or releases should not pose a problem since both are reported to one central telephone number.

Several commenters raised issues regarding CERCLA enforcement efforts. Enforcement efforts are not addressed by the NCP. Guidelines for use of enforcement authorities have been published in a separate document at 47 FR 20664 (May 13, 1982).

IX. Regulatory Impact Analysis; Regulatory Flexibility Act

An analysis of the economic impacts of the revisions to the NCP was conducted to determine whether the revised NCP is a major rule under Executive Order 12291 and, therefore, required the preparation of a Regulatory Impact Analysis. EPA concluded that the revised Plan is a major rule because it is likely to result in an annual effect on the economy of $100 million or more. The Regulatory Impact Analysis is available for inspection at Room S–398, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. This regulation was reviewed by the Office of Management and Budget.

As required by the Regulatory Flexibility Act of 1980, the Agency has reviewed the impact of the revised NCP on small entities. EPA certifies that the NCP will not have a significant impact on a substantial number of small entities. Aside from the level of clean-up required by responsible parties, the NCP does not address enforcement actions. However, the Regulatory Impact Analysis recognizes that some enforcement actions (including cost recovery actions) taken against parties responsible for hazardous substance releases at sites that are identified on the National Priorities List after it is published. Therefore, some of these costs have been included in assessing the total impact of the NCP. Moreover, it is a matter of Agency discretion whether or not to proceed with enforcement actions against small entities which may be significantly affected by such actions. Therefore, there are no *necessary* adverse impacts on small entities directly associated with the NCP.

As part of the Regulatory Impact Analysis of the revised NCP, EPA estimated that some 60 small firms might be adversely affected by enforcement actions associated with the NCP. This estimate is based on the relative proportions of small firms to other size firms within affected industries, and is not reflective of actual responsibilities of small firms for particular hazardous substance releases. The Agency is consequently not committed to taking this number of enforcement actions against small firms, nor limited to this figure. Nevertheless, EPA estimates that this would result in far less than 20 percent of the total number of small firms experiencing adverse effects. In general, parties responsible for hazardous substance releases may be found across a full range of industries and SIC codes. No small organizations will be adversely affected by the revised NCP, nor is there any likelihood of significant impacts on a substantial number of small municipalities as a result of enforcement actions associated with the NCP. Interested parties are referred to the details of the analysis, which is available for inspection at Room S–398, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

List of Subjects in 40 CFR Part 300

Air pollution control, Chemicals, Hazardous materials Intergovernmental relations, National resources, Occupational safety and health, Oil pollution, Reporting and record keeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

Dated: July 8, 1982.

Anne M. Gorsuch,

Administrator.

Part 1510, Title 40 of the Code of Federal Regulations is redesignated as Part 300 in a new Subchapter J of chapter I and revised to read as follows:

PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

Subchapter J—Superfund Programs

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300.81 General.
Appendix A—Uncontrolled Hazardous Waste Site Ranking System; a users manual.

Authority: Sec. 105, Pub. L. 96–510, 94 Stat. 2764, 42 U.S.C. 9605 and sec. 311(c)(2), Pub. L. 92–500, as amended; 86 Stat. 865, 33 U.S.C. 1321(c)(2); Executive Order 12316, 47 FR 42237 (August 20, 1981); Executive Order 11735, 38 FR 21243 (August 1973).

Subpart A—Introduction

§ 300.1 Purpose and objectives.

The purpose of the National Oil and Hazardous Substances Pollution Contingency Plan (Plan) is to effectuate the response powers and responsibilities created by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERLA) and the authorities established by section 311 of the Clean Water Act (CWA), as amended.

§ 300.2 Authority.

The Plan is required by section 105 of CERCLA, 42 U.S.C. 9605, and by section 311(c)(2) of the CWA, as amended, 33 U.S.C. 1321(c)(2). In Executive Order 12316 (46 FR 42237) the President delegated to the Environmental Protection Agency the responsibility for the amendment of the NCP and all of the other functions vested in the President by section 105 of CERCLA. Amendments to the NCP shall be coordinated with members of the National Response Team prior to publication for notice and comment. Amendments shall also be coordinated with the Federal Emergency Management Agency and the Nuclear Regulatory Commission in order to avoid inconsistent or duplicative requirements in the emergency planning responsibilities of those agencies.

§ 300.3 Scope.

(a) The Plan applies to all Federal agencies and is in effect for:

(1) The navigable waters of the United States and adjoining shorelines, for the contiguous zone, and the high seas beyond the contiguous zone in connection with activities under the Outer Continental Shelf Lands Act or the Deep Water Port Act of 1974, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976). (See sections 311(b)(1) and 502(7) of the Clean Water Act.)

(2) Releases or substantial threats of releases of hazardous substances into the environment, and releases or substantial threats of releases of pollutants or contaminants which may present an imminent and substantial danger to public health or welfare.

(b) The Plan provides for efficient, coordinated and effective response to discharges of oil and releases of hazardous substances, pollutants and contaminants in accordance with the authorities of CERCLA and the CWA. It provides for:

(1) Division and specification of responsibilities among the Federal, State and local governments in response actions, and appropriate roles for private entities.

(2) The national response organization that may be brought to bear in response actions, including description of the organization, response personnel and resources that are available to respond.

(3) The establishment of requirements for Federal regional and Federal local contingency plans, and encouragement of pre-planning for response by other levels of government.

(4) Procedures for undertaking removal operations pursuant to section 311 of the Clean Water Act.

(5) Procedures for undertaking response operations pursuant to CERCLA.

(6) Designation of trustees for natural resources for purposes of CERCLA.

(7) National policies and procedures for the use of dispersants and other chemcials in removal and response actions.

(c) In implementing this Plan, consideration shall be given to the Joint Canada/U.S. Contingency Plan; the U.S./Mexico Joint Contingency Plan and international assistance plans and agreements, security regulations and responsibilities based on international agreements, Federal statutes and executive orders. Actions taken pursuant to this Plan shall conform to the provisions of international joint contingency Plans, where they are applicable. The Department of State should be consulted prior to taking any action which may affect its activities.

§ 300.4 Application.

The Plan is applicable to response taken pursuant to the authorities under CERCLA and section 311 of the CWA.

§ 300.5 Abbreviations.

(a) Department and Agency Title Abbreviations.

DOC—Department of Commerce
DOD—Department of Defense
DOE—Department of Energy
DOI—Department of the Interior
DOJ—Department of Justice
DOL—Department of Labor
DOS—Department of State
DOT—Department of Transportation
EPA—Environmental Protection Agency
FEMA—Federal Emergency Management Agency
HHS—Department of Health and Human Services
NIOSH—National Institute for Occupational Safety and Health
NOAA—National Oceanic and Atmospheric Administration
OSHA—Occupational Safety and Health Administration
USCG—U.S. Coast Guard
USDA—U.S. Department of Agriculture

(b) Operational Title Abbreviations.

ERT—Environmental Response Team
FCO—Federal Coordinating Officer
NRC—National Response Center
NRT—National Response Team
NSF—National Strike Force
OSC—On-Scene Coordinator.
PAAT—Public Affairs Assist Team
PIAT—Public Information Assist Team
RRC—Regional Response Center
RRT—Regional Response Team
SSC—Scientific Support Coordinator

§ 300.6 Definitions.

Terms not defined in this section have the meaning given by CERCLA or the CWA.

Claim, as defined by section 101(4) of CERCLA, means a demand in writing for a sum certain.

Claimant, as defined by section 101(5) of CERCLA, means any person who presents a claim for compensation under CERCLA.

Coastal zone, as defined for the purpose of this Plan, means all U.S. waters subject to the tide, U.S. waters of the Great Lakes, specified ports and harbors on the inland rivers, waters of the contiguous zone, other waters of the high seas subject to this Plan, and the land surface or land substrata, ground waters, and ambient air proximal to those waters. The term coastal zone delineates an area of Federal responsibility for response action. Precise boundaries are determined by EPA/USCG agreements and identified in Federal regional contingency plans.

Contiguous zone means the zone of the high seas, established by the United

States under Article 24 of the Convention on the Territorial Sea and Contiguous Zone, which is contiguous to the territorial sea and which extends nine miles seaward from the outer limit of the territorial sea.

Discharge, as defined by section 311(a)(2) of CWA, includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping of oil. For purposes of this Plan, discharge shall also mean substantial threat of discharge.

Drinking water supply, as defined by section 101(7) of CERCLA, means any raw or finished water source that is or may be used by a public water system (as defined in the Safe Drinking Water Act) or as drinking water by one or more individuals.

Environment, as defined by section 101(8) of CERCLA, means (a) the navigable waters of the United States, the waters of the contiguous zone, and the ocean waters of which the natural resources are under the exclusive management authority of the U.S. under the Fishery Conservation and Management Act of 1976, and (b) any other surface water, ground water, drinking water supply, land surface and subsurface strata, or ambient air within the United States or under the jurisdiction of the United States.

Facility, as defined by section 101(9) of CERCLA, means (a) any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft, or (b) any site or area where a hazardous substance has been deposited, stored, disposed of or placed, or otherwise come to be located; but does not include any consumer product in consumer use or any vessel.

Federally permitted release, as defined by section 101(10) of CERCLA, means (a) discharges in compliance with a permit under section 402 of the Federal Water Pollution Control Act; (b) discharges resulting from circumstances identified and reviewed and made part of the public record with respect to a permit issued or modified under section 402 of the Federal Water Pollution Control Act and subject to a condition of such permit; (c) continuous or anticipated intermittent discharges from a point source, identified in a permit or permit application under section 402 of the Federal Water Pollution Control Act, which are caused by events occurring within the scope of relevant operating or treatment systems; (d) discharges in compliance with a legally enforceable permit under section 404 of the Federal Water Pollution Control Act; (e) releases in compliance with a legally enforceable final permit issued pursuant to section 3005 (a) through (d) of the Solid Waste Disposal Act from a hazardous waste treatment, storage, or disposal facility when such permit specifically identifies the hazardous substances and makes such substances subject to a standard of practice, control procedure or bioassay limitation or condition, or other control on the hazardous substances in such releases; (f) any release in compliance with a legally enforceable permit issued under section 102 or section 103 of the Marine Protection, Research and Sanctuaries Act of 1972; (g) any injection of fluids authorized under Federal underground injection control programs or State programs submitted for Federal approval (and not disapproved by the Administrator of EPA) pursuant to part C of the Safe Drinking Water Act; (h) any emission into the air subject to a permit or control regulation under section 111, section 112, title 1 part C, title 1 part D, or State implementation plans submitted in accordance with Section 110 of the Clean Air Act (and not disapproved by the Administrator of EPA), including any schedule or waiver granted, promulgated, or approved under these sections; (i) any injection of fluids or other materials authorized under applicable State law (1) for the purpose of stimulating or treating wells for the production of crude oil, natural gas, or water, (2) for the purpose of secondary, tertiary, or other enhanced recovery of crude oil or natural gas, or (3) which are brought to the surface in conjunction with the production of crude oil or natural gas and which are reinjected; (j) the introduction of any pollutant into a publicly-owned treatment works when such pollutant is specified in and in compliance with applicable pretreatment standards of section 307 (b) or (c) of the CWA and enforceable requirements in a pretreatment program submitted by a State or municipality for Federal approval under section 402 of such Act, and (k) any release of source, special nuclear, or by-product material, as those terms are defined in the Atomic Energy Act of 1954, in compliance with a legally enforceable license, permit, regulation, or order issue pursuant to the Atomic Energy Act of 1954.

Fund or Trust Fund means the Hazardous Substance Response Trust Fund established by section 221 of CERCLA.

Ground water, as defined by section 101(12) of CERCLA, means water in a saturated zone or stratum beneath the surface of land or water.

Hazardous substance, as defined by section 101(14) of CERCLA, means (a) any substance designated pursuant to section 311(b)(2)(A) of the CWA; (b) any element, compound, mixture, solution, or substance designated pursuant to section 102 of CERCLA; (c) any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by Act of Congress); (d) any toxic pollutant listed under section 307(a) of the CWA; (e) any hazardous air pollutant listed under section 112 of the Clean Air Act; and (f) any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to section 7 of the Toxic Substances Control Act. The terms do not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs (a) through (f) of this paragraph, and the term does not include natural gas, natural gas liquids, liquified natural gas or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas).

Inland zone means the environment inland of the coastal zone excluding the Great Lakes and specified ports and harbors of inland rivers. The term inland zone delineates the area of Federal responsibility for response action. Precise boundaries are determined by EPA/USCG agreement and identified in Federal regional contingency plans.

Lead agency means the Federal agency (or State agency operating pursuant to a contract or cooperative agreement executed pursuant to section 104(d)(1) of CERCLA) that provides the on-scene coordinator or the responsible official.

Natural Resources, as defined by section 101(16) of CERCLA, means land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of fishery conservation zones established by the Fishery Conservation and Management Act of 1976), any State or local government or any foreign government.

Offshore facility, as defined by section 101(17) of CERCLA and section 311(a)(11) of the CWA, means any facility of any kind located in, on, or under any of the navigable waters of the U.S. and any facility of any kind which

is subject to the jurisdiction of the U.S. and is located in, on, or under any other waters, other than a vessel or a public vessel.

Oil, as defined by section 311(a)(1) of CWA, means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil.

Oil pollution fund means the fund established by section 311(k) of the CWA.

Onshore facility, (a) as defined by section 101(18) of CERCLA means any facility (including, but not limited to, motor vehicles and rolling stock) of any kind located in, on, or under any land or non-navigable waters within the United States; and (b) as defined by section 311(a)(10) of CWA means any facility (including, but not limited to, motor vehicles and rolling stock) of any kind located in, on, or under any land within the United States other than submerged land.

On-Scene Coordinator means the Federal official predesignated by the EPA or the USCG (or a State official acting pursuant to a contract or cooperative agreement executed pursuant to section 104(d)(1) of CERCLA) to coordinate and direct Federal responses under this Plan; provided, however, that with respect to releases from DOD facilities or vessels, the OSC shall be designated by DOD.

Person, as defined by section 101(21) of CERCLA, means an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, U.S. Government, State, municipality, commission, political subdivision of a State, or any interstate body.

Plan means the National Oil and Hazardous Substances Pollution Contingency Plan published under section 311(c) of the CWA and revised pursuant to section 105 of CERCLA.

Pollutant or contaminant, as defined by section 104(a)(2) of CERCLA, shall include, but not be limited to, any element, substance, compound, or mixture, including disease causing agents, which after release into the environment and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingesting through food chains, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunctions in reproduction) or physical deformation, in such organisms or their offspring. The term does not include petroleum, including crude oil and any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under section 101(14)(A) through (F) of CERCLA, nor does it include natural gas, liquified natural gas, or synthetic gas of pipeline quality (or mixtures of natural gas and synthetic gas).

Release, as defined by section 101(22) of CERCLA, means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, but excludes (a) any release which results in exposure to persons solely within a workplace, with respect to a claim which such persons may assert against the employer of such persons; (b) emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine; (c) release of source, by-product or special nuclear material from a nuclear incident, as those terms are defined in the Atomic Energy Act of 1954, if such release is subject to requirements with respect to financial protection established by the Nuclear Regulatory Commission under section 170 of such act, or, for the purposes of section 104 of CERCLA or any other response action, any release of source, by-product, or special nuclear material from any processing site designated under section 102(a)(1) or 302(a) of the Uranium Mill Tailings Radiation Control Act of 1978; and (d) the normal application of fertilizer. For the purposes of this Plan, release also means substantial threat of release.

Remove or removal, as defined by section 311(a)(8) of CWA refers to removal of oil or hazardous substances from the water and shorelines or the taking of such other actions as may be necessary to minimize or mitigate damage to the public health or welfare. As defined by section 101(23) of CERCLA, remove or removal means the clean-up or removal of released hazardous substances from the environment; such actions as may be necessary taken in the event of the threat of release of hazardous substances into the environment; such actions as may be necessary to monitor, assess, and evaluate the release or threat of release of hazardous substances; the disposal of removed material; or the taking or such other actions as may be necessary to prevent, minimize, or mitigate damage to the public health or welfare or the environment, which may otherwise result from such release or threat of release. The term includes, in addition, without being limited to, security fencing or other measures to limit access, provision of alternative water supplies, temporary evacuation and housing of threatened individuals not otherwise provided for, action taken under section 104(b) of CERCLA, and any emergency assistance which may be provided under the Disaster Relief Act of 1974.

Remedy or remedial action, as defined by section 101(24) of CERCLA, means those actions consistent with permanent remedy taken instead of, or in addition to, removal action in the event of a release or threatened release of a hazardous substance into the environment, to prevent or minimize the release of hazardous substances so that they do not migrate to cause substantial danger to present or future public health or welfare or the environment. The term includes, but is not limited to, such actions at the location of the release as storage, confinement, perimeter protection using dikes, trenches, or ditches, clay cover, neutralization, clean-up of released hazardous substances or contaminated materials recycling or reuse, diversion, destruction, segregation or reactive wastes, dredging or excavations, repair or replacement of leaking containers, collection of leachate and runoff, onsite treatment or incineration, provision of alternative water supplies, and any monitoring reasonably required to assure that such actions protect the public health and welfare and the environment. The term includes the costs of permanent relocation of residents and businesses and community facilities where the President determines that, alone or in combination with other measures, such relocation is more cost-effective than and environmentally preferable to the transportation, storage, treatment, destruction, or secure disposition offsite of hazardous substances or may otherwise be necessary to protect the public health or welfare. The term does not include offsite transport of hazardous substances, or the storage, treatment, destruction, or secure disposition offsite of such hazardous substances or contaminated materials unless the President determines that such actions (a) are more cost-effective than other remedial actions; (b) will create new capacity to manage in compliance with subtitle C of the Solid Waste Disposal Act, hazardous substances in addition to those located at the affected facility; or (c) are necessary to protect public health or welfare or the environment from a present or potential risk which may be created by further exposure to the continued presence of such substances or materials.

Respond or response, as defined by section 101(25) of CERCLA, means remove, removal, remedy, or remedial action.

Responsible official refers to the Federal offical (or State official acting pursuant to a contract or cooperative agreement executed pursuant to section 104(d)(1) of CERCLA), assigned by the lead agency, responsible for coordinating planned removals, remedial actions and related activities under Subpart F of this plan. Where reference is made to the responsibilities and authorities of an OSC, those responsibilities and authorities also apply to a responsible official.

Size classes of discharges refers to the following size classes of oil discharges which are provided as guidance to the OSC and serve as the criteria for the actions delineated in Subpart E. They are not meant to imply associated degrees of hazard to public health or welfare, nor are they a measure of environmental damage. Any oil discharge that poses a substantial threat to the public health or welfare or results in critical public concern shall be classified as a major discharge regardless of the following quantitative measures:

(a) *Minor discharge* means a discharge to the inland waters of less than 1,000 gallons of oil or a discharge to the coastal waters of less than 10,000 gallons of oil.

(b) *Medium discharge* means a discharge of 1,000 to 10,000 gallons of oil to the inland waters or a discharge of 10,000 to 100,000 gallons of oil to the coastal waters.

(c) *Major discharge* means a discharge of more than 10,000 gallons of oil to the inland waters or more than 100,000 gallons of oil to the coastal waters.

Trustee means any Federal natural resources management agency designated in Subpart G of this plan, and any State agency which may prosecute claims for damages under section 107(f) of CERCLA.

United States, as defined by section 311(2)(5) of CWA, refers to the States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands. As defined by section 101(27) of CERCLA, United States and State include the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, The Commonwealth of the Northern Marianas and any other territory or possession over which the U.S. has jurisdiction.

Volunteer means any individual accepted to perform services by a Federal agency which has authority to accept volunteer services (example: see 16 U.S.C. 742f(c)). A volunteer is subject to the provisions of the authorizing statute, and § 300.25 of this Plan.

Subpart B—Responsibility

§ 300.21 Duties of President delegated to Federal agencies.

(a) In Executive Order 11735 and Executive Order 12316 the President delegated certain functions and responsibilities vested in him by the CWA and CERCLA, respectively. Responsibilities so delegated shall be responsibilities of Federal agencies under this Plan unless:

(1) Responsibility is redelegated pursuant to section 8(f) of Executive Order 12316, or

(2) Executive Order 11735 or Executive Order 12316 is amended or revoked.

§ 300.22 Coordination among and by Federal agencies.

(a) Federal agencies should coordinate their planning and response activities through the mechanisms described in Subpart C of this Plan and other means as may be appropriate.

(b) Federal agencies should coordinate planning and response action with affected State and local government and private entities.

(c) Federal agencies with facilities or other resources which may be useful in a Federal response situation should make those facilities or resources available consistent with agency capabilities and authorities.

(d) When the Administrator of EPA or the Secretary of the Department in which the Coast Guard is operating determines:

(1) That there is an imminent and substantial threat to the public health or welfare because of a discharge of oil from any offshore of onshore facility; or

(2) That there may be an imminent and substantial endangerment to the public health or welfare of the environment because of a release or threatened release of a hazardous substance, from a facility; he/she may request the Attorney General to secure the relief necessary to abate the threat. The action described here is in addition to any actions taken by a State or local government for the same purpose.

(e) In accordance with section 311(d) of CWA, whenever a marine disaster in or upon the navigable waters of the United States has created a substantial threat of a pollution hazard to the public health or welfare, because of a discharge or an imminent discharge from a vessel of large quantities of oil or hazardous substances designated pursuant to section 311(b)(2)(A) of CWA, the United States may:

(1) Coordinate and direct all public and private efforts to abate the threat;

(2) Summarily remove and, if necessary, destroy the vessel by whatever means are available without regard to any provisions of law governing the employment of personnel or the expenditure of appropriated funds. The authority for these actions has been delegated under Executive Order 11735 to the Administrator of EPA and the Secretary of the Department in which the Coast Guard is operating, respectively, for the waters for which each designates the OSC under this Plan.

(f) Response actions to remove discharges originating from the Outer Continental Shelf Lands Act operations shall be in accordance with this Plan.

(g) Where appropriate, discharges of radioactive materials shall be handled pursuant to the appropriate federal radiological plans.

§ 300.23 Other assistance by Federal agencies.

(a) Each of the Federal agencies listed in paragraph (b) of this section has duties established by statute, executive order, or Presidential directive which may be relevant to Federal response action following or in prevention of a discharge of oil or a release of a hazardous substance, pollutant or contaminant. These duties may also be relevant to the rehabilitation, restoration, and replacement of damaged or lost natural resources. Federal regional contingency plans should call upon agencies to carry out these duties in a coordinated manner.

(b) The following Federal agencies may be called upon by an OSC during the planning or implementation of a response to provide assistance in their respective areas of expertise, consistent with their capabilities and legal authorities:

(1) Department of Agriculture.
(2) Department of Commerce.
(3) Department of Defense.
(4) Department of Energy.
(5) Federal Emergency Management Agency.
(6) Department of Health and Human Services.
(7) Department of the Interior.
(8) Department of Justice.
(9) Department of Labor.
(10) Department of State.
(11) Department of Transportation.
(12) Environmental Protection Agency.

(c) In addition to their general responsibilities under paragraph (a) of this section Federal agencies should:

(1) Make necessary information available to the NRT, RRTs, and OSCs.

(2) Inform the NRT and RRTs (consistent with national security considerations) of changes in the availability of resources that would affect the operations of the Plan.

(3) Provide representative as necessary to the NRT and RRTs and assist RRTs and OSCs in formulating Federal regional and Federal local contingency plans.

(d) All Federal agencies are responsible for reporting releases of hazardous substances and discharges of oil from facilities or vessels which are under their jurisdiction or control in accordance with section 103 of CERCLA, and Subparts E and F of this Plan.

(e) Executive Order 12316 delegates to the USCG and EPA all authorities under sections 104 (a) and (b) and 101(24) of CERCLA subject to the following:

(1) HHS is delegated all authorities under section 104(b) of CERCLA relating to a determination that illness, disease or complaints thereof may be attributable to exposure to a hazardous substance, pollutant or contaminant. (In addition, section 104(i) of CERCLA calls upon HHS to: establish appropriate disease/exposure registries; conduct appropriate health surveys and studies; develop and provide appropriate testing for exposed individuals; develop, maintain and provide information on health effects of toxic substances; and maintain a list of areas restricted or closed because of toxic substance contamination.)

(2) FEMA is delegated the authorities vested in the President by section 104(a) of CERCLA to the extent they require permanent relocation of residents, businesses, and community facilities or temporary evacuation and housing of threatened individuals not otherwise provided for. (FEMA is also delegated authority under section 101(24) of CERCLA to the extent they require a determination by the President that "permanent relocaton of residents and businesses and community facilities" is included within the terms "remedy" and "remedial action" as defined in section 101(24) of CERCLA.)

(3) DOD is delegated all authority of section 104 (a) and (b) of CERCLA with respect to releases from DOD facilities or vessels, including vessels owned or bareboat chartered and operated.

(f) If the situation is beyond the capability of State and local governments and the statutory authority of Federal agencies, the President, acting upon a request by the Governor, may declare a major disaster or emergency and appoint a Federal Coordinating Officer to assume responsibility for direction and control of the Federal response.

§ 300.24 State and local participation.

(a) Each State governor is requested to assign an office or agency to represent the State on the appropriate RRT. Local governments are invited to participate in activities on the appropriate RRT as may be provided by State law or arranged by the State's representative. The State's representative may participate fully in all facets of activities of the appropriate RRT and is encouraged to designate the element of the State government that will direct State supervised response operations.

(b) State and local government agencies are encouraged to include contingency planning for response, consistent with this Plan and Regional Contingency Plans, in all emergency and disaster planning.

(c) States are encouraged to use State authorities to compel potentially responsible parties to undertake response actions, or to themselves undertake response actions which are not eligible for Federal funding.

(d) States may enter into contracts or cooperative agreements pursuant to section 104(c)(3) and (d) of CERCLA or section 311(c)(2)(H) of the CWA, as appropriate, to undertake actions authorized under Subparts E and F of this Plan. Requirements for entering into these agreements are included in §§ 300.58 and 300.62 of this Plan.

§ 300.25 Non-Government participation.

(a) Industry groups, academic organizations, and others are encouraged to commit resources for response operations. Specific commitments should be listed in Federal regional and Federal local contingency plans.

(b) It is particularly important to use the valuable technical and scientific information generated by the non-government local community along with those from Federal and State government to assist the OSC in devising clean-up strategies where effective standard techniques are unavailable, and to ensure that pertinent research will be undertaken to meet national needs.

(c) Federal local contingency plans should establish procedures to allow for well-organized, worthwhile, and safe use of volunteers. Local plans should provide for the direction of volunteers by the OSC, or by other Federal, State or local officials knowledgeable in contingency operations and capable of providing leadership. Local plans also should identify specific areas in which volunteers can be used, such as beach surveillance, logistical support, and bird and wildlife treatment. Unless specifically requested by the OSC, volunteers generally should not be used for physical removal or remedial activities. If, in the judgement of the OSC or an appropriate participating agency, dangerous conditions exist, volunteers shall be restricted from on-scene operations.

(d) If any person other than the Federal government or a State or person operating under contract or cooperative agreement with the United States, takes response action and intends to seek reimbursement from the Fund, such actions to be in conformity with this Plan for purposes of section 111(a)(2) of CERCLA may only be undertaken if such person notifies the Administrator of EPA or his/her designee prior to taking such action and receives prior approval to take such action.

Subpart C—Organization.

§ 300.31 Organizational concepts.

Three fundamental kinds of activity are performed pursuant to the Plan: planning and coordination, operations at the scene of a discharge and/or release, and communications. The organizational elements created to perform these activities are discussed below in the context of their roles in these activities.

§ 300.32 Planning and coordination.

(a) National planning and coordination is accomplished through the National Response Team (NRT).

(1) The NRT consists of representatives from the agencies named in § 300.23. Each agency shall designate a member to the team and sufficient alternates to ensure representation, as agency resources permit. Other agencies may request membership on the NRT by forwarding such requests to the chairman of the NRT.

(2) Except for periods of activation because of a response action, the representative of EPA shall be the chairman and the representative of USCG shall be the vice chairman of the NRT. The vice chairman shall maintain records of NRT activities along with national, regional, and local plans for response actions. When the NRT is activated for response action, the chairman shall be the representative of the Federal lead agency.

(3) While the NRT desires to achieve a consensus on all matters brought before it, certain matters may prove unresolvable by this means. In such cases, each cabinet, department or agency serving as a participating agency on the NRT may be accorded one vote in NRT proceedings.

(4) The NRT may establish such by-laws and committees as it deems appropriate to further the purposes for which it is established.

(5) When the NRT is not activated for a response action, it shall serve as a standing committee to evaluate methods of responding to discharges or releases, to recommend needed changes in the response organization and to recommend revisions to this Plan.

(6) The NRT may consider and make recommendations to appropriate agencies on the training, equipping and protection of response teams and necessary research, development, demonstration, and evaluation to improve response capabilities.

(7) Direct planning and preparedness responsibilities of the NRT include:

(i) Maintaining national readiness to respond to a major discharge of oil or release of a hazardous substance or pollutant or contaminant which is beyond regional capabilities;

(ii) Monitoring incoming reports from all RRTs and activating when necessary;

(iii) Reviewing regional responses to oil discharges and hazardous substance releases, including an evaluation of equipment readiness and coordination among responsible public agencies and private organizations; and

(iv) Developing procedures to ensure the coordination of Federal, State, and local governments and private response to oil discharges and releases of hazardous substances, pollutants or contaminants.

(8) The NRT may consider matters referred to it for settlement by an RRT.

(b) The RRT serves as the regional body for planning and preparedness actions before a response action is taken and for coordination and advice during such action. The RRT consists of regional representatives of the participating agencies and representatives of State governments (and local governments as agreed upon with States).

(1) Except when the RRT is activated for a removal incident, the representatives of EPA and USCG shall act as co-chairmen.

(2) Each participating agency should designate one member and at least one alternate member to the RRT. Participating States may also designate one member and at least one alternate member to the Team. All agencies and States may also provide additional representatives as observers to meetings of the RRT.

(3) RRT members should designate representatives from their agencies to work with OSCs in developing Federal local contingency plans, providing for the use of agency resources, and in responding to discharges and releases (see § 300.43).

(4) Federal regional and Federal local plans should adequately provide the OSC with assistance from the Federal agencies commensurate with agencies' resources, capabilities, and responsibilities within the region. During a response action, the members of the RRT should seek to make available the resources of their agencies to the OSC as specified in the Federal regional and Federal local contingency plans.

(5) Affected States are encouraged to participate actively in all RRT activities (see § 300.24(a)), to designate representatives to work with the RRT and OSCs in developing Federal regional and Federal local plans, to plan for and make available State resources, and to serve as the contact point for coordination of response with local government agencies whether or not represented on the RRT.

(6) The RRT serves as a standing committee to recommend changes in the regional response organization as needed, to revise the regional plan as needed, and to evaluate the preparedness of the agencies and the effectiveness of local plans for the Federal response to discharges and releases. The RRT should:

(i) Make continuing review of regional and local responses to discharges or releases, considering available legal remedies, equipment readiness and coordination among responsible public agencies and private organizations.

(ii) Based on observations of response operations, recommend revisions of the National Contingency Plan to the NRT.

(iii) Consider and recommend necessary changes based on continuing review of response actions in the region.

(iv) Review OSC actions to help ensure that Federal regional and Federal local contingency plans are developed satisfactorily.

(v) Be prepared to respond to major discharges or releases outside the region.

(vi) Meet at least semi-annually to review response actions carried out during the preceding period, and consider changes in Federal regional and Federal local contingency plans.

(vii) Provide letter reports on their activities to the NRT twice a year, no later than January 31 and July 31. At a minimum, reports should summarize recent activities, organizational changes, operational concerns, and efforts to improve State and local conditions.

(c) The OSC is responsible for developing any Federal local contingency plans for the Federal response in the area of the OSC's responsibility. This may be accomplished in cooperation with the RRT and designated State and local representatives (see § 300.43). Boundaries for Federal local contingency plans shall coincide with those agreed upon between EPA, DOD and the USCG (subject to Executive Order 12316) to determine OSC areas of responsibility and should be clearly indicated in the regional contingency plan. Where practicable, consideration should be given to jurisdictional boundaries established by State and local plans.

(d) Scientific support for the development of regional and local plans is organized by appropriate agencies to provide special expertise and assistance. Generally, the Scientific Support Coordinator (SSC) for plans encompassing the coastal area will be provided by NOAA, and the SSC for the inland area will be provided by EPA or DOI. This delineation of responsibility may be modified within a region by agreement between DOC, DOI, and EPA representatives to the RRT. SSCs may be obtained from other agencies if determined to be appropriate by the RRT.

§ 300.33 Response operations.

(a) EPA and USCG shall designate OSCs for all areas in each region provided, however, that DOD shall designate OSCs for releases from DOD facilities and vessels. DOD will be the immediate removal response authority with respect to incidents involving DOD military weapons and munitions. Immediate removal actions involving nuclear weapons should be conducted in accordance with the joint Department of Defense, Department of Energy, and Federal Emergency Management Agency Agreement for Response to Nuclear Incidents and Nuclear Weapons Significant Incidents, of January 8, 1981. The USCG will furnish or provide OSCs for oil discharges and for the immediate removal of hazardous substances, pollutants, or contaminants into or threatening the coastal zone except that the USCG will not provide predesignated OSCs for discharges and releases from hazardous waste management facilities or in similarly chronic incidents. EPA shall furnish or provide OSCs for oil discharges and hazardous substance releases into or

threatening the inland zone and, unless otherwise agreed, for all planned removals and remedial actions.

(b) The OSC directs Federal Fund-financed response efforts and coordinates all other Federal efforts at the scene of a discharge or release subject to Executive Order 12316. As part of the planning and preparation for response, the OSCs shall be predesignated by the regional or district head of the lead agency.

(1) The first official from an agency with responsibility under this plan to arrive at the scene of the discharge or release should coordinate activities under this Plan until the OSC arrives.

(2) The OSC shall, to the extent practicable under the circumstances, collect pertinent facts about the discharge or release, such as its source and cause; the existence of potentially responsible parties; the nature, amount, and location of discharged or released materials; the probable direction and time of travel of discharged or released materials; the pathways to human exposure; potential impact on human health, welfare and safety; the potential impact on natural resources and property which may be affected; priorities for protecting human health, welfare and the environment; and appropriate cost documentation.

(3) The OSC shall direct response operations (see Subparts E and F for descriptive details). The OSC's effort shall be coordinated with other appropriate Federal, State, local and private response agencies.

(4) The OSC shall consult regularly with the RRT in carrying out this Plan and will keep the RRT informed of activities under this Plan.

(5) The OSC shall advise the appropriate State agency (as agreed upon with each State) as promptly as possible of reported discharges and releases.

(6) The OSC shall evaluate incoming information and immediately advise FEMA of potential major disaster situations. In the event of a major disaster or emergency, under the Disaster Relief Act of 1974 (Pub. L. 93-288), the OSC will coordinate any response activities with the Federal Coordinating Officer designated by the President. In addition, the OSC should notify FEMA of situations potentially requiring evacuation, temporary housing, and permanent relocation.

(7) In those instances where a possible public health emergency exists, the OSC should notify the HHS representative to the RRT. Throughout response actions, the OSC may call upon the HHS representative for assistance in determining public health threats and for advice on worker health and safety problems.

(8) All Federal agencies should plan for emergencies and develop procedures for dealing with oil discharges and releases of hazardous substances (designated under section 311(b)(2) of the CWA) from vessels and facilities under their jurisdiction. All Federal agencies, therefore, are responsible for designating the offices that can coordinate response to such incidents in accordance with this Plan and applicable Federal regulations and guidelines. If, in the opinion of the OSC, the responsible Federal agency does not act promptly or take appropriate action to respond to a discharge or release caused by a facility or vessels under its jurisdiction, the OSC in charge of area where the discharge or release occurs may conduct appropriate response activities. With respect to discharges or releases from Department of Defense (DOD) facilities and vessels, the OSC shall be furnished by the DOD.

(9) The OSC should advise the affected land managing agency and trustees of natural resources, as promptly as possible, of releases and discharges affecting Federal resources under its jurisdiction.

(10) The OSC is responsible for addressing worker health and safety concerns at a response scene, in accordance with §§ 300.57 and 300.71 of this Plan.

(11) The OSC shall submit pollution reports to the RRC and appropriate agencies as significant developments occur during removal actions.

§ 300.34 Special Forces and Teams.

(a) The National Strike Force (NSF) consists of the Strike Teams established by the USCG on the Atlantic, Pacific and Gulf coasts and includes emergency task forces to provide assistance to the OSC.

(1) The Strike Teams can provide communication support, advice and assistance for oil and hazardous substances removal. These teams also have knowledge of ship salvage, damage control, and diving. Additionally, they are equipped with specialized containment and removal equipment, and have rapid transportation available. When possible, the Strike Teams will train the emergency task forces and assist in the development of regional and local contingency plans.

(2) The OSC may request assistance from the Strike Teams. Requests for a team may be made directly to the Commanding Officer of the appropriate team, the USCG member of the RRT, the appropriate USCG Area Commander, or the Commandant of the USCG through the NRC.

(b) Each USCG OSC manages emergency task forces trained to evaluate, monitor, and supervise pollution responses. Additionally, they have limited "initial aid" response capability to deploy equipment prior to the arrival of a clean-up contractor, or other response personnel.

(c)(1) The Emergency Response Team (ERT) is established by EPA in accordance with its disaster and emergency responsibilities. The ERT includes expertise in biology, chemistry, hydrology, geology and engineering.

(2) It can provide access to special de-contamination equipment for chemical releases and advice to the OSC in hazard evaluation; risk assessment; multimedia sampling and analysis program; on-site safety, including development and implementation plans; clean-up techniques and priorities; water supply de-contamination and protection; application of dispersants; environmental assessment; degree of clean-up required; and disposal of contaminated material.

(3) The ERT also provides both introductory and intermediate level training courses to prepare response personnel.

(4) OSC or RRT requests for ERT support should be made to the EPA representative on the RRT; the EPA Headquarters, Director, Office of Emergency and Remedial Response; or the appropriate EPA regional emergency coordinator.

(d) When requested by the OSC, the SSC shall serve as a member of the OSC's staff and assist the OSC in fulfilling responsibilities in support of response actions. The extent and nature of SSC involvement in the operational mode shall be determined by the OSC. The SSC may:

(1) Coordinate response from the scientific community to OSC requests for assistance and to requests from the OSC, as appropriate, for performance of environmental assessment.

(2) Serve as the principal liaison for scientific advice from the scientific community to the OSC. The SSC shall ensure that differing scientific views within the scientific community are communicated to the OSC in a timely manner.

(3) The SSC will assist in responding to requests for assistance from State and Federal agencies regarding scientific studies and environmental assessments. Details on provision of access to scientific support shall be included in regional contingency plans.

(e) The USCG Public Information Assist Team (PIAT) and the EPA Public Affairs Assist Team (PAAT) may help OSCs and regional or district offices meet the demands for public information and participation during major responses. Requests for these teams may be made through the NRC.

(f)(1) The RRT should be activated by the Chairman as an emergency response team when a discharge or release:

(i) Exceeds the response capability available to the OSC in the place where it occurs;

(ii) Transects regional boundaries; or

(iii) May pose a substantial threat to the public health, welfare or to the environment, or to regionally significant amounts of property. Regional contingency plans shall specify detailed criteria for activation of RRTs.

(2) When the RRT is activated for an immediate removal action, the chairman shall be the representative of the lead agency. When the RRT is activated for a Fund-financed planned removal or remedial action, the chairman shall be the representative of EPA.

(3) The RRT may be activated during any pollution emergency by a request from any RRT representative to the chairman of the Team. Request for RRT activation shall later be confirmed in writing. Each representative, or an appropriate alternate, should be notified immediately when the RRT is activated.

(4) During prolonged removal or remedial action, the RRT may not need to be activated or may need to be activated only in a limited sense, or have available only those members of the RRT who are directly affected or can provide direct response assistance.

(5) When the RRT is activated for a discharge or release, agency representatives shall meet at the call of the chairman and may:

(i) Monitor and evaluate reports from the OSC. The RRT may advise the OSC on the duration and extent of Federal response and may recommend to the OSC specific actions to respond to the discharge or release.

(ii) Request other Federal, State or local government, or private agencies to provide resources under their existing authorities to respond to a discharge or release or to monitor response operations.

(iii) Help the OSC prepare information releases for the public and for communication with the NRT.

(iv) If the circumstances warrant, advise the regional or district head of the agency providing the OSC that a different OSC should be designated.

(v) Submit Pollution Reports (POLREPS) to the NRC as significant developments occur.

(6) When the RRT is activated, affected States may participate in all RRT deliberations. State government representatives participating in the RRT have the same status as any Federal member of the RRT.

(7) The RRT can be deactivated by agreement between the EPA and USCG team members. The time of deactivation should be included in the POLREPS.

(g) The NRT should be activated as an emergency response team when an oil discharge or hazardous substance release:

(1) Exceeds the response capability of the region in which it occurs;

(2) Transects regional boundaries;

(3) Involves significant population hazards or national policy issues, substantial amounts of property, or substantial threats to natural resources; or

(4) Is requested by any NRT member.

(h) When activated for a response action, the NRT shall meet at the call of the chairman and may:

(1) Monitor and evaluate reports from the OSC. The NRT may recommend to the OSC, through the RRT, actions to combat the discharge or release.

(2) Request other Federal, State and local governments, or private agencies, to provide resources under their existing authorities to combat a discharge or release or to monitor response operations.

(3) Coordinate the supply of equipment, personnel, or technical advice to the affected region from other regions or districts.

§ 300.35 Multi-regional responses.

(a) If a discharge or release moves from the area covered by one Federal local or Federal regional contingency plan into another area, the authority for removal or response actions should likewise shift. If a discharge or release or substantial threat of discharge or release affects areas covered by two or more regional plans, the response mechanisms of both may be activated. In this case, removal or response actions of all regions concerned shall be fully coordinated as detailed in the regional plans.

(b) There shall be only one OSC at any time during the course of a response operation. Should a discharge or release affect two or more areas, the EPA, DOD and USCG, as appropriate, shall give prime consideration to the area vulnerable to the greatest damage. The RRT shall designate the OSC if EPA, DOD and USCG members are unable to agree on the designation. The NRT shall designate the OSC if members of one RRT or two adjacent RRTs are unable to agree on the designation.

(c) Where the USCG has provided the OSC for emergency response to a release from hazardous waste management facilities located in the coastal zone, the responsibility for response action shall shift to EPA, in accordance with EPA/USCG agreements.

§ 300.36 Communications.

(a) The NRC is the national communications center for activities related to response actions. It is located at USCG Headquarters in Washington, D.C. The NRC receives and relays notices of discharges or releases to the appropriate OSC, disseminates OSC and RRT reports to the NRT when appropriate, and provides facilities for the NRT to use in coordinating a national response action when required.

(b) The Commandant, USCG, will provide the necessary communications, plotting facilities, and equipment for the NRC.

(c) Notice of an oil discharge or a release of a hazardous substance in an amount equal to or greater than the reportable quantity must be made immediately in accordance with 33 CFR Part 153, Subpart B and section 103(a) of CERCLA, respectively. Notification shall be made to the NRC Duty Officer, HQ USCG, Washington, D.C. telephone (800) 424–8802 (or current local telephone number). All notices of discharges or releases received at the NRC shall be relayed immediately by telephone to the OSC and State.

(d) The RRC provides facilities and personnel for communications, information storage, and other requirements for coordinating response. Each regional plan will specify the location for the RRC.

§ 300.37 Response equipment.

The Spill Cleanup Inventory (SKIM) system is available to help OSCs and RRTs and private parties gain rapid information as to the location of response and support equipment. This inventory is accessible through the NRC and USCG's OSCs. The inventory includes private and commercial equipment, as well as government resources. The RRTs and OSCs shall ensure that data in the system are current and accurate. The USCG is responsible for maintaining and updating the system with RRT and OSC input.

Subpart D—Plans.

§ 300.41 Regional and local plans.

(a) In addition to the National Contingency Plan (NCP), a Federal regional plan shall be developed for

each standard Federal region and, where practicable, a Federal local plan shall be developed.

(b) These plans will be available for inspection at EPA regional offices or USCG district offices. Addresses and telephone numbers for these offices may be found in the United States Government Manual (issued annually) or in local telephone directories.

§ 300.42 Regional contingency plans.

(a) The RRTs, working with the States, shall develop Federal regional plans for each standard Federal region. The purpose of these plans is coordination of a timely, effective response by various Federal agencies and other organizations to discharges of oil and releases of hazardous substances, pollutants and contaminants in order to protect public health, welfare and the environment. Regional contingency plans should include information on all useful facilities and resources in the region, from government, commercial, academic and other sources. To the greatest extent possible, regional plans will follow the format of the National Contingency Plan.

(b) SSCs shall organize and coordinate the contributions of scientists of each region to the response activities of the OSC and RRT to the greatest extent possible. SSCs, with advice from RRT members, shall also develop the parts of the regional plan that relate to scientific support.

(c) Regional plans shall contain lines of demarcation between the inland and coastal zones, as mutually agreed upon by USCG and EPA.

§ 300.43 Local contingency plans.

(a) Each OSC shall maintain a Federal local plan for response in his or her area of responsibility, where practicable. In areas in which the USCG provides the OSC, such plans shall be developed in all cases. The plan should provide for a well-coordinated response that is integrated and compatible with the pollution response, fire, emergency and disaster plansof local, State and other non-Federal entities. The plan should identify the probable locations of discharges or releases, the available resources to respond to multi-media incidents, where such resources can be obtained, waste disposal methods and facilities consistent with local and State plans developed under the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.), and a local structure for responding to discharges or releases.

(b) While the OSC is responsible for developing Federal local plans, a successful planning effort will depend upon the full cooperation of all the agencies' representatives and the development of local capabilities to respond to discharges or releases. Particular attention should be given, during the planning process, to developing a multi-agency local response team for coordinating on-scene efforts. The RRT should ensure proper liaison between the OSC and local representatives.

Subpart E—Operational Response Phases for Oil Removal

§ 300.51 Phase I—Discovery and notification.

(a) A discharge of oil may be discovered through:

(1) A report submitted by the person in charge of the vessel or facility in accordance with statutory requirements;

(2) Deliberate search by patrols; and

(3) Random or incidental observation by government agencies or the public.

(b) Reports of discharges should be made to the NRC or the nearest USCG or EPA office. All reports shall be promptly relayed to the NRC if not previously reported to the responsible OSC. Federal regional and Federal local plans shall provide for prompt reporting to the NRC, RRC, and appropriate State agency (as agreed upon with the State).

(c) Upon receipt of a notification of discharge, the NRC shall promptly notify the OSC. The OSC shall proceed with the following phases as outlined in Federal regional and Federal local plans.

§ 300.52 Phase II—Preliminary assessment and initiation of action.

(a) The OSC for a particular area is responsible for promptly initiating preliminary assessment.

(b) The preliminary assessment shall be conducted using available information, supplemented where necessary and possible by an on-scene inspection. The OSC shall undertake actions to:

(1) Evaluate the magnitude and severity of the discharge or threat to public health and welfare and the environment;

(2) Assess the feasibility of removal;

(3) Determine the existence of potential responsible parties; and

(4) Ensure that jurisdiction exists for undertaking additional response actions.

(c) The OSC, in consultation with legal authorities when appropriate, shall make a reasonable effort to have the discharger voluntarily and promptly perform removal actions. The OSC shall ensure adequate surveillance over whatever actions are initiated. If effective actions are not being taken to eliminate the threat, or if removal is not being properly done, the OSC shall so advise the responsible party. If the responsible party does not take proper removal actions, or is unknown, or is otherwise unavailable, the OSC shall, pursuant to section 311(c)(1) of the CWA, determine whether authority for a Federal response exists, and, if so, take appropriate response actions. Where practicable, continuing efforts should be made to encourage response by responsible parties.

(d) The OSC should ensure that the trustees of affected natural resources are notified, in order that the trustees may initiate appropriate actions when natural resources have been or are likely to be damaged (see Subpart G).

§ 300.53 Phase III—Containment, countermeasures, clean-up, and disposal.

(a) Defensive actions should begin as soon as possible to prevent, minimize, or mitigate damage to the public health or welfare or the environment. Actions may include: analyzing water samples to determine the source and spread of the oil; controlling the source of discharge; measuring and sampling; damage control or salvage operations; placement of physical barriers to deter the spread of the oil or to protect endangered species; control of the water discharged from upstream impoundment; and the use of chemicals and other materials in accordance with Subpart H, to restrain the spread of the oil and mitigate its effects.

(b) Appropriate actions should be taken to recover the oil or mitigate its effects. Of the numerous chemical physical methods that may be used, the chosen methods should be the most consistent with protecting the public health and welfare and the environment. Sinking agents shall not be used.

(c) Oil and contaminated materials recovered in clean-up operations shall be disposed of in accordance with Federal regional and Federal local contingency plans.

§ 300.54 Phase IV—Documentation and cost recovery.

(a) Documentation shall be collected and maintained to support all actions taken under the CWA and to form the basis for cost recovery. In general, documentation should be sufficient to prove the source and circumstances of the incident, the responsible party or parties, and impact and potential impacts to the public health and welfare and the environment. When appropriate, documentation should also be collected for scientific understanding of the environment and for the research and development of improved response

methods and technology. Damages to private citizens (including loss of earnings) are not addressed by this Plan. Evidentiary and cost documentation procedures and requirements are specified in the USCG Marine Safety Manual (Commandant Instruction M16000.3) and 33 CFR Part 153.

(b) The OSC shall ensure the necessary collection and safeguarding of information, samples, and reports. Samples and information must be gathered expeditiously during the response to ensure an accurate record of the impacts incurred. Documentation materials shall be made available to the trustees of affected natural resources where practicable.

(c) Information and reports obtained by the EPA or USCG OSC shall be transmitted to the appropriate offices responsible for follow-up actions.

§ 300.55 General pattern of response.

(a) When the OSC receives a report of a discharge, actions normally should be taken in the following sequence:

(1) Immediately notify the RRT and NRC when the reported discharge is an actual or potential major discharge.

(2) Investigate the report to determine pertinent information such as the threat posed to public health or welfare, or the environment, the type and quantity of polluting material, and the source of the discharge.

(3) Officially classify the size of the discharge and determine the course of action to be followed.

(4) Determine whether a discharger or other person is properly carrying out removal. Removal is being done properly when:

(i) The clean-up is fully sufficient to minimize or mitigate damage to the public welfare (removal efforts are "improper" to the extent that Federal efforts are necessary to prevent further damage).

(ii) The removal efforts are in accordance with applicable regulations and guidelines, including this Plan.

(5) Determine whether a State or political subdivision has the capability to carry out response actions and a contract or cooperative agreement has been established with the appropriate fund administrator for this purpose.

(6) Notify the RRT (including the affected State), SSC, and the trustees of affected natural resources in accordance with the applicable regional plan.

(b) The preliminary inquiry will probably show that the situation falls into one of five classes. These classes and the appropriate response to each are outlined below:

(1) If the investigation shows that no discharge exists, the case shall be considered a false alarm and should be closed.

(2) If the investigation shows a minor discharge with the responsible party taking proper removal action, contact should be established with the party. The removal action should be monitored to ensure continued proper action.

(3) If the investigation shows a minor discharge with improper removal action being taken, the following measures shall be taken:

(i) An immediate effort should be made to stop further pollution.

(ii) The responsible party shall be advised of what action will be so considered appropriate.

(iii) If the responsible party does not properly respond, he shall be notified of his potential liability for Federal response performed under the CWA. This liability includes all costs of removal and may include the costs of assessing and restoring damaged natural resources and other actual or necessary costs of a Federal response.

(iv) The OSC shall notify appropriate State and local officials, keep the RRT advised and initiate Phase III operations as conditions warrant.

(v) Information shall be collected for possible recovery of response costs in accordance with § 300.54.

(4) When the investigation shows that an actual or potential medium oil discharge exists, the OSC shall follow the same general procedures as for a minor discharge. If appropriate, the OSC shall recommend activation of the RRT.

(5) When the investigation shows an actual or potential major oil discharge, the OSC shall follow the same procedures as for minor and medium discharges.

§ 300.56 Pollution reports.

(a) Within 60 days after the conclusion of a major discharge or when requested by the RRT, the EPA or USCG OSC shall submit to the RRT a complete report on the response operation and the actions taken. The OSC shall at the same time send a copy of the report to the NRT. The RRT shall review the OSC's report and prepare an endorsement to the NRT for review. This shall be accomplished within 30 days after the report has been received.

(b) The OSC's report shall accurately record the situation as it developed, the actions taken, the resources committed and the problems encountered. The OSC's recommendations are a source for new procedures and policy.

(c) The format for the OSC's report shall be as follows:

(1) Summary of Events—A chronological narrative of all events, including:

(i) The cause of the discharge;

(ii) The initial situation;

(iii) Efforts to obtain response by responsible parties;

(iv) The organization of the response;

(v) The resources committed;

(vi) The location (water body, State, city, latitude and longitude) of the oil discharge and an indication of whether the discharge was in connection with activities regulated under the Outer Continental Shelf Lands Act (OCSLA), the Trans-Alaska Pipeline Authority Act or Deepwater Port Act; or whether it might have or actually did affect natural resources managed or protected by the U.S.;

(vii) Comments on Federal or State efforts to replace or restore damaged natural resources and damage assessment activities; and

(viii) Details of any threat abatement actions taken under section 311 (c) or (d) of the CWA.

(2) Effectiveness of Removal Actions—A candid and thorough analysis of the effectiveness of removal actions taken by:

(i) The responsible party;

(ii) State and local forces;

(iii) Federal agencies and special forces; and

(iv) (If applicable) contractors, private groups and volunteers.

(3) Problems Encountered—A list of problems affecting response with particular attention to problems of intergovernmental coordination.

(4) Recommendations—OSC recommendations, including at a minimum:

(i) Means to prevent a recurrence of the discharge;

(ii) Improvement of response actions;

(iii) Any recommended changes in the National Contingency Plan or Federal regional plan.

§ 300.57 Special considerations.

(a) *Safety of Personnel*—The OSC should be aware of threats to human health and safety and shall ensure that persons entering the response area use proper precautions, procedures, and equipment and that they possess proper training. Federal local plans shall identify sources of information on anticipated hazards, precautions, and requirements to protect personnel during response operations. Names and phone numbers of people with relevant information shall be included. Responsibility for the safety of all Federal employees rests with the heads of their agencies. Accordingly, each Federal employee on the scene must be apprised of and conform with OSHA regulations and other deemed necessary

by the OSC. All private contractors who are working on-site must conform to applicable provisions of the Occupational Safety and Health Act and standards deemed necessary by the OSC.

(b) *Waterfowl Conservation*—The DOI representative and the State liaison to the RRT shall arrange for the coordination of professional and volunteer groups permitted and trained to participate in waterfowl dispersal, collection, cleaning, rehabilitation and recovery activities (consistent with 16 U.S.C. 703–712 and applicable State laws). Federal regional and Federal local plans will, to the extent practicable, identify organizations or institutions that are permitted to participate in such activities and operate such facilities. Waterfowl conservation activities will normally be included in Phase III response actions (§ 300.53 of this subpart).

§ 300.58 Funding.

(a) If the person responsible for the discharge does not act promptly or take proper removal actions, or if the person responsible for the discharge is unknown, Federal discharge removal actions may begin under section 311(c)(1) of the CWA. The discharger, if known, is liable for the costs of Federal removal in accordance with section 311(f) of the CWA and other Federal laws.

(b) Actions undertaken by the participating agencies in response to pollution shall be carried out under existing programs and authorities when available. This Plan intends that Federal agencies will make resources available, expend funds, or participate in response to oil discharges under their existing authority. Authority to expend resources will be in accordance with agencies' basic statutes and, if required, through interagency agreements. Specific interagency reimbursement agreements may be signed when necessary to ensure that the Federal resources will be available for a timely response to a discharge of oil. The ultimate decision as to the appropriateness of expending funds rests with the agency that is held accountable for such expenditures.

(c) The OSC shall exercise sufficient control over removal operations to be able to certify that reimbursement from the following funds is appropriate:

(1) The oil pollution fund, administered by the Commandant, USCG, has been established pursuant to section 311(k) of the CWA. Regulations governing the administration and use of the fund are contained in 33 CFR Part 153.

(2) The fund authorized by the Deepwater Port Act is administered by the Commandant, USCG. Governing regulations are contained in 33 CFR Parts 136 and 150.

(3) The fund authorized by the Outer Continental Shelf Lands Act, as amended, is administered by the Commandant, USCG. Governing regulations are contained in 33 CFR Parts 136 and 150.

(4) The fund authorized by the Trans-Alaska Pipeline Authorization Act is administered by a Board of Trustees under the purview of the Secretary of the Interior. Governing regulations are contained in 43 CFR Part 29.

(d) Response actions other than removal, such as scientific investigations not in support of removal actions or law enforcement, shall be provided by the agency with legal responsibility for those specific actions.

(e) The funding of a response to a discharge from a Federally operated or supervised facility or vessel is the responsibility of the operating or supervising agency.

(f) The following agencies have funds available for certain discharge removal actions:

(1) EPA may provide funds to begin timely discharge removal actions when the OSC is an EPA representative.

(2) The USCG pollution control efforts are funded under "operating expenses." These funds are used in accordance with agency directives.

(3) The Department of Defense has two specific sources of funds which may be applicable to an oil discharge under appropriate circumstances. (This does not consider military resources which might be made available under specific conditions.)

(i) Funds required for removal of a sunken vessel or similar obstruction of navigation are available to the Corps of Engineers through Civil Works Appropriations, Operations and Maintenance, General.

(ii) The U.S. Navy may conduct salvage operations contingent on defense operational commitments, when funded by the requesting agency. Such funding may be requested on a direct cite basis.

(4) Pursuant to section 311(c)(2)(H) of the CWA, the State or States affected by a discharge of oil, may act where necessary to remove such discharge and may, pursuant to 33 CFR Part 153, be reimbursed from the pollution revolving fund for the reasonable costs incurred in such a removal.

(i) Removal by a State is necessary within the meaning of section 311(c)(2)(H) of the CWA when the OSC determines that the owner or operator of the vessel, onshore facility, or offshore facility from which the discharge occurs does not effect removal properly, or is unknown, and that:

(A) State action is required to minimize or mitigate significant damage to the public health or welfare which Federal action cannot minimize or mitigate, or

(B) Removal or partial removal can be done by the State at a cost which is less than or not significantly greater than the cost which would be incurred by the Federal departments or agencies.

(ii) State removal actions must be in compliance with this Plan in order to qualify for reimbursement.

(iii) State removal actions are considered to be Phase III actions, under the same definitions applicable to Federal agencies.

(iv) Actions taken by local governments in support of Federal discharge removal operations are considered to be actions of the State for purposes of this section. Federal regional and Federal local plans shall show what funds and resources are available from participating agencies under various conditions and cost arrangements. Interagency agreements may be necessary to specify when reimbursement is required.

Subpart F—Hazardous Substance Response

§ 300.61 General.

(a) This subpart establishes methods and criteria for determining the appropriate extent of response authorized by CERCLA when any hazardous substance is released or there is a substantial threat of such a release into the environment, or there is a release or substantial threat of a release into the environment of any pollutant or contaminant which may present an imminent and substantial danger to the public health or welfare.

(b) Section 104(a)(1) of CERCLA authorizes removal or remedial action unless it is determined that such removal or remedial action will be done properly by the owner or operator of the vessel or facility from which the release or threat of release emanates, or by any other responsible party.

(c) In determining the need for and in planning or undertaking Fund-financed action, response personnel should, to the extent practicable, consider the following:

(1) Encourage State participation in response actions (see § 300.63).

(2) Conserve Fund monies by encouraging private party clean-up.

(3) Be sensitive to local community concerns (in accordance with applicable guidance).

(4) Rely on established technology when feasible and cost-effective.

(5) Encourage the participation and sharing of technology by industry and other experts.

§ 300.62 State role.

(a) States are encouraged to undertake actions authorized under this subpart. Section 104(d)(1) of CERCLA authorizes EPA to enter into contracts or cooperative agreements with the State to take response actions authorized under CERCLA, when EPA determines that the State has the capability to undertake such actions.

(b) EPA will provide assistance from the Fund to States pursuant to a contract or cooperative agreement. The agreement can authorize States to undertake most actions specified in this Subpart.

(c)(1) Pursuant to section 104(c)(3) of CERCLA, before any Fund-financed remedial action may be taken, the affected State(s) must enter into a contract or cooperative agreement with the Federal government.

(2) Included in such contract or cooperative agreement must be assurances by the State consistent with requirements of section 104(c)(3) of CERCLA.

(d) Prior to remedial design activity, the State must make a firm commitment, through either a cooperative agreement or a new or amended State contract, to provide funding for remedial implementation by:

(1) Authorizing the reduction of a State credit to cover its share of costs;

(2) Identifying currently available funds earmarked for remedial implementation; or

(3) Submitting a plan with milestones for obtaining necessary funds.

(e) State credits allowed under section 104(c)(3) of CERCLA must be documented on a site-specific basis for State out-of pocket, non-Federal eligible response costs between January 1, 1978, and December 11, 1980. Prior to remedial investigation activity at a site, the State must submit its estimate of these costs as a part of the pre-application package when a cooperative agreement is used, or as a part of the State contract. State credits will be applied against State cost shares for Federally-funded remedial actions. A State cannot be reimbursed from the Fund for credit in excess of its matching share.

(f) Pursuant to section 104(c)(2) of CERCLA, prior to determining any appropriate remedial action, EPA shall consult with the affected State or States.

§ 300.63 Phase I—Discovery or notification.

(a) A release may be discovered through:

(1) Notification in accordance with sections 103(a) or (c) of CERCLA;

(2) Investigation by government authorities conducted in accordance with section 104(e) of CERCLA or other statutory authority;

(3) Notification of a release by a Federal or State permit holder when required by its permit;

(4) Inventory efforts or random or incidental observation by government agencies or the public;

(5) Other sources.

(b) If not reported previously, a release should be promptly reported to the NRC. Section 103(a) of CERCLA requires any person in charge of a vessel or facility to immediately notify the NRC as soon as he has knowledge of a release (other than a federally permitted release) of a hazardous substance from such vessel or facility in an amount equal to or greater than the reportable quantity determined pursuant to section 102(b) of CERCLA. The NRC shall convey the notification expeditiously to appropriate government agencies, and in the case of notices received pursuant to section 103(a), the NRC shall also notify the Governor of any affected State.

(c) Upon receipt of a notification of a release, the NRC shall promptly notify the appropriate OSC.

§ 300.64 Phase II—Preliminary assessment.

(a) A preliminary assessment of a release identified for possible CERCLA response should be undertaken by the lead agency. If the reported release potentially requires immediate removal, the preliminary assessment should be done as promptly as possible. Other releases shall be assessed as soon as practicable. The lead agency should base its assessment on readily available information. This assessment may include:

(1) Evaluation of the magnitude of the hazard;

(2) Identification of the source and nature of the release;

(3) Determination of the existence of a non-Federal party or parties ready, willing, and able to undertake a proper response; and

(4) Evaluation of factors necessary to make the determination of whether immediate removal is necessary.

(b) A preliminary assessment of releases from hazardous waste management facilities may include collection or review of data such as site management practices, information from generators, photographs, analysis of historical photographs, literature searches, and personal interviews conducted as appropriate. In addition, a perimeter (off-site) inspection may be necessary to determine the potential for a release. Finally, if more information is needed, a site visit may be performed, if conditions are such that it may be performed safely.

(c) A preliminary assessment should be terminated when the OSC determines:

(1) There is no release;

(2) The source is neither a vessel nor a facility;

(3) The release involves neither a hazardous substance, nor a pollutant or contaminant that may pose an imminent and substantial danger to public health or welfare;

(4) The amount released does not warrant Federal response;

(5) A party responsible for the release, or any other person, is providing appropriate response, and on-scene monitoring by the government is not recommended or approved by the lead agency; or

(6) The assessment is completed.

§ 300.65 Phase III—Immediate removal.

(a) In determining the appropriate extent of action to be taken at a given release, the lead agency shall first review the preliminary assessment to determine if immediate removal action is appropriate. Immediate removal action shall be deemed appropriate in those cases in which the lead agency determines that the initiation of immediate removal action will prevent or mitigate immediate and significant risk of harm to human life or health or to the environment from such situations as:

(1) Human, animal, or food chain exposure to acutely toxic substances;

(2) Contamination of a drinking water supply;

(3) Fire and/or explosion; or

(4) Similarly acute situations.

(b) If the lead agency determines that immediate removal is appropriate, defensive actions should begin as soon as possible to prevent or mitigate danger to the public health, welfare, or the environment. Actions may include, but are not limited to:

(1) Collecting and analyzing samples to determine the source and dispersion of the hazardous substance and documenting those samples for possible evidentiary use.

(2) Providing alternative water supplies.

(3) Installing security fencing or other measures to limit access.

(4) Controlling the source of release.

(5) Measuring and sampling.

(6) Moving hazardous substances off-site for storage, destruction, treatment, or disposal provided that the substances are moved to a facility that is in compliance with subtitle C of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.

(7) Placing physical barriers to deter the spread of the release.

(8) Controlling the water discharge from an upstream impoundment.

(9) Recommending to appropriate authorities the evacuation of threatened individuals.

(10 Using chemicals and other materials in accordance with Subpart H to restrain the spread of the substance and to mitigate its effects.

(11) Executing damage control or salvage operations.

(c) Immediate removal actions are complete when, in the opinion of the lead agency, the criteria in subsection (a) of § 300.65 are no longer met and any contaminated waste materials transported off-site have been treated or disposed of properly.

(d) Immediate removal action shall be terminated after $1 million has been obligated for the action or six months have elapsed from the date of initial response to a release or threatened release unless it is determined that:

(1) Continued response actions are immediately required to prevent, limit or mitigate an emergency;

(2) There is an immediate risk to public health or welfare or the environment; and

(3) Such assistance will not otherwise be provided on a timely basis.

(e) If the lead agency determines that the release still may require planned removal or remedial action, the lead agency or a State may initiate, either simultaneously or sequentially, Phase IV or V as appropriate.

§ 300.66 Phase IV—Evaluation and determination of appropriate response—planned removal and remedial action.

(a) The purpose of this phase is to determine the appropriate action when the preliminary assessment indicates that further response may be necessary or when the OSC requests and the lead agency concurs that further response should follow an immediate removal action.

(b) As soon as practicable, an inspection will be undertaken to assess the nature and extent of the release and to assist in determining its priority for Fund-financed response.

(c)(1) Pursuant to section 104 (b) and (e) of CERCLA, the responsible official may undertake investigations, monitoring, surveys, testing and other information gathering as appropriate. These efforts shall be undertaken jointly by the Federal or State officials responsible for providing Fund-financed response and those responsible for enforcing legal requirements.

(2) A major objective of an inspection is to determine if there is any immediate danger to persons living or working near the facility. In general, the collection of samples should be minimized during inspection activities; however, situations in which there is an apparent risk to the public should be treated as exceptions to that practice. Examples of apparent risk include use of nearby wells for drinking water, citizen complaints of unusual taste or odor in drinking water, or chemical odors or unusual health problems in the vicinity of the release. Under those circumstances, a sampling protocol should be developed for the inspection to allow for the earliest possible detection of any human exposure to hazardous substances. The site inspection may also address:

(i) Determining the need for immediate removal action;

(ii) Assessing amounts, types and location of hazardous substances stored;

(iii) Assessing potential for substances to migrate from areas where they were originally located;

(iv) Determining or documenting immediate threats to the public or environment.

(d) *Methods for Establishing Priorities.* (1) States that wish to submit candidates for the National Priorities List must use the Hazard Ranking System (included in Appendix A) to rank the releases.

(2) EPA will notify States at least thirty days prior to the deadline for submitting candidate releases for the National Priorities List or any subsequent revisions.

(3) Each State may designate a facility as the State's highest priority release by certifying, in writing signed by the Governor or the Governor's designee, that the facility presents the greatest danger to public health, welfare or the environment among known facilities in the State.

(e) *National Priorities List.* (1) Compiling the National Priorities List—EPA Regional Office will review State hazard rankings to ensure uniform application of the Hazard Ranking System and may add, in consultation with the States, any additional priority releases known to EPA. The States' priorities will be reviewed and consolidated by EPA Headquarters into a National Priorities List pursuant to section 105(8) of CERCLA. To the extent practicable, each State's designated top priority facility will be included among the one hundred highest priority facilities.

(2) No facilities presently owned by the Federal Government will be included on the National Priorities List.

(3) EPA will submit the recommended National Priorities List to the NRT for review and comment.

(4) EPA will publish a proposed National Priorities List for public comment.

(5) The National Priorities List is presented in Appendix B.

(6) Ranking of Releases—Similar hazard ranking scores assigned to releases cannot accurately differentiate among risks represented by the releases. Thus, in order to avoid misleading the public that real differences in risk exist, similar scores may be grouped on the National Priorities List.

(7) EPA will revise and publish the National Priorities List at least once annually. In addition, revisions will give notice of the deletion (if any) of releases previously listed.

§ 300.67 Phase V—Planned removal.

(a) Planned removal may be undertaken pursuant to a contract or cooperative agreement when the lead agency determines that:

(1) There would be a substantial cost savings by continuing a response action with the equipment and resources mobilized for an immediate removal action taken pursuant to § 300.64, but terminate pursuant to § 300.64(c); or

(2) The public and/or environment will be at risk from exposure to hazardous substances if response is delayed at a release not on the National Priorities List.

(b) Planned removal must be requested by the Governor of the affected State or his designee. Requests must include:

(1) A description of the nature and extent of the release;

(2) A description of actions taken or underway at the site;

(3) A description of the proposed planned removal; and

(4) Assurances that the State will pay at least 10 percent of the costs of the action, including all future maintenance, or at least 50 percent or such greater amount as EPA may determine appropriate, taking into account the degree of responsibility of the State or political subdivision, of any sums expended in response to a release at a facility that was owned at the time of any disposal of hazardous substances therein by the State or a political subdivision thereof.

(c) Among the factors that EPA will use to determine whether a planned removal is appropriate under § 300.67(a)(2) are the following:

(1) Actual or potential direct contact with hazardous substances by nearby population;

(2) Contaminated drinking water at the tap;

(3) Hazardous substances in drums, barrels, tanks, or other bulk storage containers, that are known to pose a serious threat to public health or the environment;

(4) Highly contaminated soils largely at or near surface, posing a serious threat to public health or the environment;

(5) Serious threat of fire or explosion; or

(6) Weather conditions that may cause substances to migrate and pose a serious threat to public health or the environment.

(d) Planned removal actions shall be terminated when the lead agency determines that the risk to the public health or the environment has been abated. In making this determination, the lead agency shall consider whether the factors listed in § 300.66(c) continue to apply to the release and whether any contaminated waste materials transported off-site have been treated or disposed of properly.

(e) Unless the EPA finds that (1) continued response actions are immediately required to prevent, limit or mitigate an emergency, (2) there is an immediate risk to public health or welfare or the environment, and (3) such assistance will not otherwise be provided on a timely basis, obligations from the Fund, other than those authorized by section 104(b) of CERCLA, shall not continue after $1 million has been obligated for response actions or six months has elapsed from the date of initial response to the release.

§ 300.68 Phase VI—Remedial action.

(a) Remedial actions taken pursuant to this section (other than responses at Federal facilities) are those responses to releases on the National Priorities List that are consistent with permanent remedy to prevent or mitigate the migration of a release of hazardous substances into the environment.

(b) States are encouraged to undertake Fund-financed remedial actions in accordance with § 300.62 of this Plan.

(c) As an alternative or in addition to Fund-financed remedial action, the lead agency may seek, through voluntary agreement or administrative or judicial process, to have those persons responsible for the release clean up in a manner that effectively mitigates and minimizes damage to, and provides adequate protection of, public health, welfare, and the environment. The lead agency shall evaluate the adequacy of clean-up proposals submitted by responsible parties or determine the level of clean-up to be sought through enforcement efforts, by consideration of the factors discussed in paragraphs (e) through (j) of this section. The lead agency will not, however, apply the cost balancing considerations discussed in paragraph (k) of this section to determine the appropriate extent of responsible party clean-up.

(d)(1) The lead agency, in cooperation with State(s), will examine available information and determine, based on the factors in paragraph (g) of this section, the type or types of remedial response that may be needed to remedy the release. This scoping will serve as the basis for requesting funding for a remedial investigation and feasibility study:

(i) In the case of initial remedial measures, a single request may be made by a State for funding the remedial investigation, feasibility study, design and implementation, in order that such measures may be expedited while continuing the remainder of the remedial planning process.

(ii) In the case of source control or off-site remedial action, the initial funding request should be for the remedial investigation and feasibility study. Requests for funding of design and implementation should be made after the completion of the feasibility study.

(2) As a remedial investigation progresses, the project may be modified if the lead agency determines that, based on the factors in 300.68(e), such modifications would be appropriate.

(e) In determining the appropriate extent of remedial action, the following factors should be used to determine the type or types of remedial action that may be appropriate:

(1) In some instances, initial remedial measures can and should begin before final selection of an appropriate remedial action if such measures are determined to be feasible and necessary to limit exposure or threat of exposure to a significant health or environmental hazard and if such measures are cost-effective. Compliance with § 300.67(b) is a prerequisite to taking initial remedial measures. The following factors should be used in determining whether initial remedial measures are appropriate:

(i) Actual or potential direct contact with hazardous substances by nearby population. (Measures might include fences and other security precautions.)

(ii) Absence of an effective drainage control system (with an emphasis on run-on control). (Measures might include drainage ditches.)

(iii) Contaminated drinking water at the tap. (Measures might include the temporary provision of an alternative water supply.)

(iv) Hazardous substances in drums, barrels, tanks, or other bulk storage containers, above surface posing a serious threat to public health or the environment. (Measures might include transport of drums off-site.)

(v) Highly contaminated soils largely at or near surface, posing a serious threat to public health or the environment. (Measures might include temporary capping or removal of highly contaminated soils from drainage areas.)

(vi) Serious threat of fire or explosion or other serious threat to public health or the environment. (Measures might include security or drum removal.)

(vii) Weather conditions that may cause substances to migrate and to pose a serious threat to public health or the environment. (Measures might include stabilization of berms, dikes or impoundments.)

(2) Source control remedial actions may be appropriate if a substantial concentration of hazardous substances remain at or near the area where they were originally located and inadequate barriers exist to retard migration of substances into the environment. Source control remedial actions may not be appropriate if most substances have migrated from the area where originally located or if the lead agency determines that the substances are adequately contained. Source control remedial actions may include alternatives to contain the hazardous substances where they are located or eliminate potential contamination by transporting the hazardous substances to a new location. The following criteria should be assessed in determining whether and what type of source control remedial actions should be considered:

(i) The extent to which substances pose a danger to public health, welfare, or the environment. Factors which should be considered in assessing this danger include:

(A) Population at risk;

(B) Amount and form of the substance present;

(C) Hazardous properties of the substances;

(D) Hydrogeological factors (e.g. soil permeability depth to saturated zone, hydrologic gradients, proximity to a drinking water aquifer); and

(E) Climate (rainfall, etc.).

(ii) The extent to which substances have migrated or are contained by either natural or man-made barriers.

(iii) The experiences and approaches used in similar situations by State and Federal agencies and private parties.

(iv) Environmental effects and welfare concerns.

(3) In some situations it may be appropriate to take action (referred to as offsite remedial actions) to minimize and mitigate the migration of hazardous substances and the effects of such migration. These actions may be taken when the lead agency determines that source control remedial actions may not effectively mitigate and minimize the threat and there is a significant threat to public health, welfare, or the environment. These situations typically will result from contamination that has migrated beyond the area where the hazardous substances were originally located. Offsite measures may include provision of permanent alternative water supplies, management of a drinking water aquifer plume or treatment of drinking water aquifers. The following criteria should be used in determining whether and what type of offsite remedial actions should be considered:

(i) Contribution of the contamination to an air, land or water pollution problem.

(ii) The extent to which the substances have migrated or are expected to migrate from the area of their original location and whether continued migration may pose a danger to public health, welfare or environment.

(iii) The extent to which natural or man-made barriers currently contain the hazardous substances and the adequacy of the barriers.

(iv) The factors listed in paragraph (e)(2)(i) of this section.

(v) The experiences and approaches used in similar situations by State and Federal agencies and private parties.

(iv) Environmental effects and welfare concerns.

(f) A remedial investigation should be undertaken by the lead agency (or responsible party if the responsible party will be developing a clean-up proposal) to determine the nature and extent of the problem presented by the release. This includes sampling and monitoring, as necessary, and includes the gathering of sufficient information to determine the necessity for and proposed extent of remedial action. During the remedial investigation, the original scoping of the project may be modified based on the factors in § 300.68(e). Part of the remedial investigation involves assessing whether the threat can be mitigated and minimized by controlling the source of the contamination at or near the area where the hazardous substances were originally located (source control remedial actions) or whether additional actions will be necessary because the hazardous substances have migrated from the area of their original location (offsite remedial actions).

(g) *Development of Alternatives.* A limited number of alternatives should be developed for either source control or offsite remedial actions (or both) depending upon the type of response that has been identified under paragraphs (e) and (f) of this section as being appropriate. One alternative may be a no-action alternative. No-action alternatives are appropriate, for example, when response action may cause a greater environmental or health danger than no action. These alternatives should be developed based upon the assessment conducted under paragraphs (e) and (f) of this section and reflect the types of source control or offsite remedial actions determined to be appropriate under paragraphs (e) and (f) of this section.

(h) *Initial Screening of Alternatives.* The alternatives developed under paragraph (g) of this section will be subjected to an initial screening to narrow the list of potential remedial actions for further detailed analysis. Three broad criteria should be used in the initial screening of alternatives:

(1) *Cost.* For each alternative, the cost of installing or implementing the remedial action must be considered, including operation and maintenance costs. An alternative that far exceeds (e.g. by an order of magnitude) the costs of other alternatives evaluated and that does not provide substantially greater public health or environmental benefit should usually be excluded from further consideration.

(2) *Effects of the Alternative.* The effects of each alternative should be evaluated in two ways: (i) Whether the alternative itself or its implementation has any adverse environmental effects; and (ii) for source control remedial actions, whether the alternative is likely to achieve adequate control of source material, or for offsite remedial actions, whether the alternative is likely to effectively mitigate and minimize the threat of harm to public health, welfare or the environment. If an alternative has significant adverse effects, it should be excluded from further consideration. Only those alternatives that effectively contribute to protection of public health, welfare, or the environment should be considered further.

(3) *Acceptable Engineering Practices.* Alternatives must be feasible for the location and conditions of the release, applicable to the problem, and represent a reliable means of addressing the problem.

(i) *Detailed Analysis of Alternatives.*

(1) A more detailed evaluation will be conducted of the limited number of alternatives that remain after the initial screening in paragraph (h).

(2) The detailed analysis of each alternative should include:

(A) Refinement and specification of alternatives in detail, with emphasis on use of established technology;

(B) Detailed cost estimation, including distribution of costs over time;

(C) Evaluation in terms of engineering implementation, or constructability;

(D) An assessment of each alternative in terms of the extent to which it is expected to effectively mitigate and minimize damage to, and provide adequate protection of, public health, welfare, and the environment, relative to the other alternatives analyzed; and

(E) An analysis of any adverse environmental impacts, methods for mitigating these impacts, and costs of mitigation.

(3) In performing the detailed analysis of alternatives, it may be necessary to gather additional data in order to complete the analysis.

(j) The appropriate extent of remedy shall be determined by the lead agency's selection of the remedial alternative which the agency determines is cost-effective (i.e. the lowest cost alternative that is technologically feasible and reliable and which effectively mitigates and minimizes damage to and provides adequate protection of public health, welfare, or the environment).

(k) Section 104(c)(4) of CERCLA requires that the need for protection of public health, welfare and the environment at the facility under consideration be balanced against the amount of money available in the Fund to respond to other sites which present or may present a threat to public health or welfare or the environment, taking into consideration the need for immediate action. Accordingly, in determining the appropriate extent of remedy for Fund-financed response, the lead agency also must consider the need to respond to other releases with Fund monies.

§ 300.69 Phase VII—Documentation and cost recovery.

(a) During all phases, documentation shall be collected and maintained to support all actions taken under this Plan, and to form the basis for cost recovery. In general, documentation should be sufficient to provide the

source and circumstances of the condition, the identity of responsible parties, accurate accounting of Federal costs incurred, and impacts and potential impacts to the public health, welfare and environment.

(b) The information and reports obtained by the lead agency for Fund-financed response action should be transmitted to the RRC. Copies can then be forwarded to the NRT, members of the RRT, and others as appropriate.

§ 300.70 Methods of remedying releases.

(a) The following section lists methods for remedying releases that may be considered by the lead agency in taking response action. This list of methods should not be considered inclusive of all possible methods of remedying releases.

(b) *Engineering Methods for On-Site Actions.*—(1)(i) *Air emissions control*—The control of volatile gaseous compounds should address both lateral movement and atmospheric emissions. Before gas migration controls can be properly installed, field measurements to determine gas concentrations, pressures, and soil permeabilities should be used to establish optimum design for control. In addition, the types of hazardous substances present, the depth to which they extend, the nature of the gas and the subsurface geology of the release area should, if possible, be determined. Typical emission control techniques include the following:

(A) Pipe vents;
(B) Trench vents;
(C) Gas barriers;
(D) Gas collection systems;
(E) Overpacking.

(ii) *Surface water controls*—These are remedial techniques designed to reduce waste infiltration and to control runoff at release areas. They also serve to reduce erosion and to stabilize the surface of covered sites. These types of control technologies are usually implemented in conjunction with other types of controls such as the elimination of ground water infiltration and/or waste stabilization, etc. Technologies applicable to surface water control include the following:

(A) Surface seals;
(B) Surface water diversion and collection systems:
(*1*) Dikes and berms;
(*2*) Ditches, diversions, waterways;
(*3*) Chutes and downpipes;
(*4*) Levees;
(*5*) Seepage basins and ditches;
(*6*) Sedimentation basins and ponds;
(*7*) Terraces and benches.
(C) Grading;
(D) Revegetation.

(iii) *Ground water controls*—Ground water pollution is a particularly serious problem because, once an aquifer has been contaminated, the resource cannot usually be cleaned without the expenditure of great time, effort and resources. Techniques that can be applied to the problem with varying degrees of success are as follows:

(A) Impermeable barriers:
(*1*) Slurry walls;
(*2*) Grout curtains;
(*3*) Sheet pilings.
(B) Permeable treatment beds;
(C) Ground water pumping:
(*1*) Water table adjustment;
(*2*) Plume containment.
(D) Leachate control—Leachate control systems are applicable to control of surface seeps and seepage of leachate to ground water. Leachate collection systems consist of a series of drains which intercept the leachate and channel it to a sump, wetwell, treatment system, or appropriate surface discharge point. Technologies applicable to leachate control include the following:
(*1*) Subsurface drains;
(*2*) Drainage ditches;
(*3*) Liners.

(iv) *Contaminated water and sewer lines*—Sanitary sewers and municipal water mains located down gradient from hazardous waste disposal sites may become contaminated by infiltration of leachate or polluted ground water through cracks, ruptures, or poorly sealed joints in piping. Technologies applicable to the control of such contamination to water and sewer lines include:

(A) Grouting;
(B) Pipe relining and sleeving;
(C) Sewer relocation.

(2) *Treatment technologies.* (i) *Gaseous emissions treatment*—Gases from waste disposal sites frequently contain malodorous and toxic substances, and thus require treatment before release to the atmosphere. There are two basic types of gas treatment systems:

(A) Vapor phase adsorption;
(B) Thermal oxidation.

(ii) *Direct waste treatment methods*—In most cases, these techniques can be considered long-term permanent solutions. Many of these direct treatment methods are not fully developed and the applications and process reliability are not well demonstrated. Use of these techniques for waste treatment may require considerable pilot plant work. Technologies applicable to the direct treatment of wastes are:

(A) Biological methods:
(*1*) Treatment via modified conventional wastewater treatment techniques;
(*2*) Anaerobic, aerated and facultative lagoons;
(*3*) Supported growth biological reactors.
(B) Chemical methods:
(*1*) Chlorination;
(*2*) Precipitation, flocculation, sedimentation;
(*3*) Neutralization;
(*4*) Equalization;
(*5*) Chemical oxidation.
(C) Physical methods:
(*1*) Air stripping;
(*2*) Carbon absorption;
(*3*) Ion exchange;
(*4*) Reverse osmosis;
(*5*) Permeable bed treatment;
(*6*) Wet air oxidation;
(*7*) Incineration.

(iii) *Contaminated soils and sediments*—In some cases where it can be shown to be cost-effective, contaminated sediments and soils will be treated on the site. Technologies available include:

(A) Incineration;
(B) Wet air oxidation;
(C) Solidification;
(D) Encapsulation;
(E) In situ treatment:
(*1*) Solution mining, (soil washing or soil flushing);
(*2*) Neutralization/detoxification;
(*3*) Microbiological degradation.

(c) *Offsite Transport for Storage, Treatment, Destruction or Secure Disposition.*—(1) *General*—Offsite transport or storage, treatment, destruction, or secure disposition offsite may be provided in cases where EPA determines that such actions:

(i) Are more cost-effective than other forms of remedial actions;

(ii) Will create new capacity to manage, in compliance with Subtitle C of the Solid Waste Disposal Act, hazardous substances in addition to those located at the affected facility; or

(iii) Are necessary to protect public health, welfare, or the environment from a present or potential risk which may be created by further exposure to the continued presence of such substances or materials.

(2) *Contaminated soils and sediments may be removed from the site.* Technologies used to remove contaminated sediments on soils include:

(i) Excavation;
(ii) Hydraulic dredging;
(iii) Mechanical dredging.

(d) *Provision of Alternative Water Supplies*—Alternative water supplies can be provided in several ways:

(1) Provision of individual treatment units;
(2) Provision of water distribution system;
(3) Provision of new wells in a new location or deeper wells;
(4) Provision of cisterns;
(5) Provision of bottled or treated water;
(6) Provision of upgraded treatment for existing distribution systems.

(e) *Relocation*—Permanent relocation of residents, businesses, and community facilities may be provided where it is determined that human health is in danger and that, alone or in combination with other measures, relocation would be cost-effective and environmentally preferable to other remedial response. Temporary relocation may also be taken in appropriate circumstances.

§ 300.71 Worker health and safety.

Lead agency personnel should be aware of hazards, due to a release of hazardous substances, to human health and safety and exercise great caution in allowing civilian or government personnel into an affected area until the nature of the release has been ascertained. Accordingly, the OSC or responsible official must conform to applicable OSHA requirements and other guidance. All private contractors who are working at the scene of a release must conform to applicable provisions of the Occupational Safety and Health Act and any other requirements deemed necessary by the lead agency.

Subpart G—Trustees for Natural Resources.

§ 300.72 Designation of Federal trustees.

When natural resources are lost or damaged as a result of a discharge of oil or release of a hazardous substance, the following officials are designated to act as Federal trustees pursuant to section 111(h)(1) of CERCLA for purposes of sections 111(h)(1), 111(b) and 107(f) of CERCLA:

(a)(1) *Natural Resource Loss.* Damage to resources of any kind located on, over or under land subject to the management or protection of a Federal land managing agency, other than land or resources in or under United States waters that are navigable by deep draft vessels, including waters of the contiguous zone and parts of the high seas to which the National Contingency Plan is applicable and other waters subject to tidal influence.

(2) *Trustee.* The head of the Federal land managing agency, or the head of any other single entity designated by it to act as trustee for a specific resource.

(b)(1) *Natural Resource Loss.* Damage to fixed or non-fixed resources subject to the management or protection of a Federal agency, other than land in resources in or under United States waters that are navigable by deep draft vessels, including waters of the contiguous zone and parts of the high seas to which the National Contingency Plan is applicable and other waters subject to tidal influence.

(2) *Trustee.* The head of the Federal agency authorized to manage or protect these resources by statute, or the head of any other single entity designated by it to act as trustee for a specific resource.

(c)(1) *Natural Resource Loss.* Damage to resource of any kind subject to the management or protection of a Federal agency and lying in or under United States waters that are navigable by deep draft vessels, including waters of the contiguous zone and parts of the high seas to which the National Contingency Plan is applicable and other waters subject to tidal influence, and upland areas serving as habitat for marine mammals and other species subject to the protective jurisdiction of NOAA.

(2) *Trustee.* The Secretary of Commerce or the head of any other single Federal entity designated by it to act as trustee for a specific resource; provided, however, that where resources are subject to the statutory authorities and jurisdictions of the Secretaries of the Departments of Commerce or the Interior, they shall act as co-trustees.

(d)(1) *Natural Resource Loss.* Damages to natural resources protected by treaty (or other authority pertaining to Native American tribes) or located on lands held by the United States in trust for Native American communities or individuals.

(2) *Trustee.* The Secretary of the Department of the Interior, or the head of any other single Federal entity designated by it to act as trustee for specific resources.

§ 300.73 State trustees.

Pursuant to section 111(h)(1) of CERCLA and for purposes of sections 111(h)(1), 111(b) and 107(f) of CERCLA, States may act as trustee for damage to resources within the boundary of a State belonging to, managed by, controlled by, or appertaining to such State.

§ 300.74 Responsibilities of trustees.

(a) The Federal trustees for natural resources shall be responsible for assessing damages to the resources in accordance with regulations promulgated under section 301(c) of CERCLA, seeking recovery for the losses from the person responsible or from the Fund, and devising and carrying out restoration, rehabilitation and replacement plans pursuant to CERCLA.

(b) Where there are multiple trustees, because of co-existing or contiguous natural resources or concurrent jurisdictions, they shall coordinate and cooperate in carrying out these responsibilities.

Subpart H—Use of Dispersants and Other Chemicals

§ 300.81 General.

(a) Section 311(c)(2)(G) of the Clean Water Act requires that EPA prepare a schedule of dispersants and other chemicals, if any, that may be used in carrying out the plan.

(b) The OSC, with the concurrence of the EPA representative to the RRT and in consultation with the States, may authorize the use of dispersants and other chemicals on oil spills; provided, however, that such dispersants and other chemicals must be on the list of accepted dispersants prepared by EPA.

(c) In the case of dispersants and other chemicals not included on the list of accepted dispersants, EPA will continue to authorize use on a case-by-case basis. Case-by-case approvals will be made by the Administrator or her designee.

Appendix A—Uncontrolled Hazardous Waste Site Ranking Sustem; A Users Manual

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1.0 Introduction

The Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) (Pub. L. 96–510) requires the President to identify the 400 facilities in the nation warranting the highest priority for remedial action. In order to set the priorities, CERCLA requires that criteria be established based on relative risk or danger, taking into account the population at risk; the hazardous potential of the substances at a facility; the potential for contamination of drinking water supplies, for direct human contact, and for destruction of sensitive ecosystems; and other appropriate factors.

This document describes the Hazard Ranking System (HRS) to be used in evaluating the relative potential of uncontrolled hazardous substance facilities to cause health or safety problems, or ecological or environmental damage. Detailed instructions for using the HRS are given in the following sections. Uniform application of the ranking system in each State will permit EPA to identify those releases of hazardous substances that pose the greatest hazard to humans or the environment. However, the HRS by itself cannot establish priorities for the allocation of funds for remedial action. The HRS is a means for applying uniform technical judgment regarding the potential hazards presented by a facility relative to other facilities. It does not address the feasibility, desirability, or degree of cleanup required. Neither does it deal with the readiness or ability of a State to carry out such remedial action as may be indicated, or to meet other conditions prescribed in CERCLA.

The HRS assigns three scores to a hazardous facility:

- S_M reflects the potential for harm to humans or the environment from migration of a hazardous substance away from the facility by routes involving ground water, surface water, or air. It is a composite of separate scores for each of the three routes.
- S_{FE} reflects the potential for harm from substances that can explode or cause fires.
- S_{DC} reflects the potential for harm from direct contact with hazardous substances at the facility (i.e., no migration need be involved).

The score for each hazard mode (migration, fire and explosion and direct contact) or route is obtained by considering a set of factors that characterize the potential of the facility to cause harm (Table 1). Each factor is assigned a numerical value (on a scale of 0 to 3, 5 or 8) according to prescribed guidelines. This value is then multiplied by a weighting factor yielding the factor score. The factor scores are then combined: scores within a factor category are added; then the total scores for each factor category are multiplied together to develop a score for ground water, surface water, air, fire and explosion, and direct contact.

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TABLE 1

TABLE 1

COMPREHENSIVE LIST TO RATING FACTORS

HAZARD MODE	FACTOR CATEGORY	FACTORS		
		GROUND WATER ROUTE	SURFACE WATER ROUTE	AIR ROUTE
Migration	Route Characteristics	• Depth to Aquifer of Concern • Net Precipitation • Permeability of Unsaturated Zone • Physical State	• Facility Slope and Intervening Terrain • One-Year 24-Hour Rainfall • Distance to Nearest Surface Water • Physical State	
	Containment	• Containment	• Containment	
	Waste Characteristics	• Toxicity/Persistence • Hazardous Waste Quantity	• Toxicity/Persistence • Hazardous Waste Quantity	• Reactivity/Incompatibility • Toxicity • Hazardous Waste Quantity
	Targets	• Ground Water Use • Distance to Nearest Well/ Population Served	• Surface Water Use • Distance to Sensitive Environment • Population Served/Distance to Water Intake Downstream	• Land Use • Population Within 4-Mile Radius • Distance to Sensitive Environment
Fire and Explosion	Containment	• Containment		
	Waste Characteristics	• Direct Evidence • Ignitability • Reactivity • Incompatibility • Hazardous Waste Quantity		
	Targets	• Distance to Nearest Population • Distance to Nearest Building • Distance to Nearest Sensitive Environment • Land Use • Population Within 2-Mile Radius • Number of Buildings Within 2-Mile Radius		
Direct Contact	Observed Incident	• Observed Incident		
	Accessibility	• Accessibility of Hazardous Substances		
	Containment	• Containment		
	Toxicity	• Toxicity		
	Targets	• Population Within 1-Mile Radius • Distance to Critical Habitat		

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In computing S_{FE} or S_{DC}, or an individual migration route score, the product of its factor category scores is divided by the maximum possible score, and the resulting ratio is multiplied by 100. The last step puts all scores on a scale of 0 to 100.

S_M is a composite of the scores for the three possible migration routes:

$$S_M = \frac{1}{1.73}\sqrt{S_{gw}^2 + S_{sw}^2 + S_a^2}$$

where:
S_{gw} = ground water route score
S_{sw} = surface water route score
S_a = air route score

The effect of this means of combining the route scores is to emphasize the primary (highest scoring) route in aggregating route scores while giving some additional consideration to the secondary or tertiary routes if they score high. The factor 1/1.73 is used simply for the purpose of reducing S_M scores to a 100-point scale.

The HRS does not quantify the probability of harm from a facility or the magnitude of the harm that could result, although the factors have been selected in order to approximate both those elements of risk. It is a procedure for ranking facilities in terms of the potential threat they pose by describing:

- The manner in which the hazardous substances are contained,
- The route by which they would be released,
- The characteristics and amount of the harmful substances, and
- The likely targets.

The multiplicative combination of factor category scores is an approximation of the more rigorous approach in which one would express the hazard posed by a facility as the product of the probability of a harmful occurrence and the magnitude of the potential damage.

The ranking of facilities nationally for remedial action will be based primarily on S_M. S_{FE} and S_{DC} may be used to identify facilities requiring emergency attention.

2.0 Using the Hazard Ranking System—General Considerations

Use of the HRS requires considerable information about the facility, its surroundings, the hazardous substances present, and the geological character of the area down to the aquifers that may be at risk.

Figure 1 illustrates a format for recording general information regarding the facility being evaluated. It can also serve as a cover sheet for the work sheets used in the evaluation.

Where there are no data for a factor, it should be assigned a value of zero. However, if a factor with no data is the only factor in a category (e.g., containment), then the factor is given a score of 1. If data are lacking for more than one factor in connection with the evaluation of either S_{gw}, S_{sw}, S_a, S_{FE}, or S_{DC}, that route score is set at zero.

The following sections give detailed instructions and guidance for rating a facility. Each section begins with a work sheet designed to conform to the sequence of steps required to perform the rating. Guidance for evaluating each of the factors then follows. Using the guidance provided, attempt to assign a score for each of the three possible migration routes. Bear in mind that if data are missing for more than one factor in connection with the evaluation of a route, then you must set that route score at 0 (i.e., there is no need to assign scores to factors in a route that will be set at 0).

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Facility name: _____

Location: _____

EPA Region: _____

Person(s) in charge of the facility: _____

_____

_____

Name of Reviewer: _____ Date: _____

General description of the facility:

(For example: landfill, surface impoundment, pile, container; types of hazardous substances; location of the facility; contamination route of major concern; types of information needed for rating; agency action, etc.)

_____

_____

_____

_____

_____

_____

_____

_____

Scores: S_M = (S_{gw} = S_{sw} = S_a =)

S_{FE} =

S_{DC} =

FIGURE 1
HRS COVER SHEET

BILLING CODE 6560-50-C

3.0 Ground Water Migration Route

3.1 *Observed Release.* If there is direct evidence of release of a substance of concern from a facility to ground water, enter a score of 45 on line 1 of the work sheet for the ground water route (Figure 2); then you need not evaluate route characteristics and containment factors (lines 2 and 3). Direct evidence of release must be analytical. If a contaminant is measured (regardless of frequency) in ground water or in a well in the vicinity of the facility at a significantly (in terms of demonstrating that a release has occurred, not in terms of potential effects) higher level than the background level, then quantitative evidence exists, and a release has been observed. Qualitative evidence of release (e.g., an oily or otherwise objectionable taste or smell in well water) constitutes direct evidence only if it can be confirmed that it results from a release at the facility in question. If a release has been observed, proceed to "3.4 *Waste Characteristics*" to continue scoring. If direct evidence is lacking, enter a value of 0 on line 1 and continue the scoring procedure by evaluating *Route Characteristics.*

3.2 *Route Characteristics. Depth to aquifer of concern* is measured vertically from the lowest point of the hazardous substances to the highest seasonal level of the saturated zone of the aquifer of concern (Figure 3). This factor is one indicator of the ease with which a pollutant from the facility could migrate to ground water. Assign a value as follows:

Distance (feet)	Assigned value
>150	0
76 to 150	1
21 to 75	2
0 to 20	3

Net precipitation (precipitation minus evaporation) indicates the potential for leachate generation at the facility. Net seasonal rainfall (seasonal rainfall minus seasonal evaporation) data may be used if available. If net precipitation is not measured in the region in which the facility is located, calculate it by subtracting the mean annual lake evaporation for the region (obtained from Figure 4) from the normal annual precipitation for the region (obtained from Figure 5). EPA Regional Offices will have maps for areas outside the continental U.S. Assign a value as follows:

Net precipitation (inches)	Assigned value
<−10	0
−10 to +5	1
+5 to +15	2
>+15	3

Permeability of unsaturated zone (or intervening geological formations) is an indicator of the speed at which a contaminant could migrate from a facility. Assign a value from Table 2.

TABLE 2.—PERMEABILITY OF GEOLOGIC MATERIALS[1]

Type of material	Approximate range of hydraulic conductivity	Assigned value
Clay, compact till, shale; unfractured metamorphic and igneous rocks.	$<10^{-7}$ cm/sec	0
Silt, loess, silty clays, silty loams, clay loams; less permeable limestone, dolomites, and sandstone; moderately permeable till.	$<10^{-5}>10^{-7}$ cm/sec	1
Fine sand and silty sand; sandy loams; loamy sands; moderately permeable limestone, dolomites, and sandstone (no karst); moderately fractured igneous and metamorphic rocks, some coarse till.	$<10^{-3}>10^{-5}$ cm/sec	2
Gravel, sand; highly fractured igneous and metamorphic rocks; permeable basalt and lavas; karst limestone and dolomite.	$>10^{-3}$ cm/sec	3

[1] Derived from: Davis, S. N., *Porosity and Permeability of Natural Materials in Flow-Through Porous Media,* R.J.M. DeWest ed., Academic Press, New York, 1969; Freeze, R.A. and J.A. Cherry, *Groundwater,* Prentice-Hall, Inc., New York, 1979.

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Ground Water Route Work Sheet						
Rating Factor	Assigned Value (Circle One)	Multi-plier	Score	Max. Score	Ref. (Section)	
1 Observed Release	0 45	1		45	3.1	
If observed release is given a score of 45, proceed to line 4. If observed release is given a score of 0, proceed to line 2.						
2 Route Characteristics					3.2	
Depth to Aquifer of Concern	0 1 2 3	2		6		
Net Precipitation	0 1 2 3	1		3		
Permeability of the Unsaturated Zone	0 1 2 3	1		3		
Physical State	0 1 2 3	1		3		
Total Route Characteristics Score				15		
3 Containment	0 1 2 3	1		3	3.3	
4 Waste Characteristics					3.4	
Toxicity/Persistence	0 3 6 9 12 15 18	1		18		
Hazardous Waste Quantity	0 1 2 3 4 5 6 7 8	1		8		
Total Waste Characteristics Score				26		
5 Targets					3.5	
Ground Water Use	0 1 2 3	3		9		
Distance to Nearest Well/Population Served	0 4 6 8 10 12 16 18 20 24 30 32 35 40	1		40		
Total Targets Score				49		
6 If line 1 is 45, multiply 1 x 4 x 5 If line 1 is 0, multiply 2 x 3 x 4 x 5				57,330		
7 Divide line 6 by 57,330 and multiply by 100		S_{gw} =				

FIGURE 2
GROUND WATER ROUTE WORK SHEET

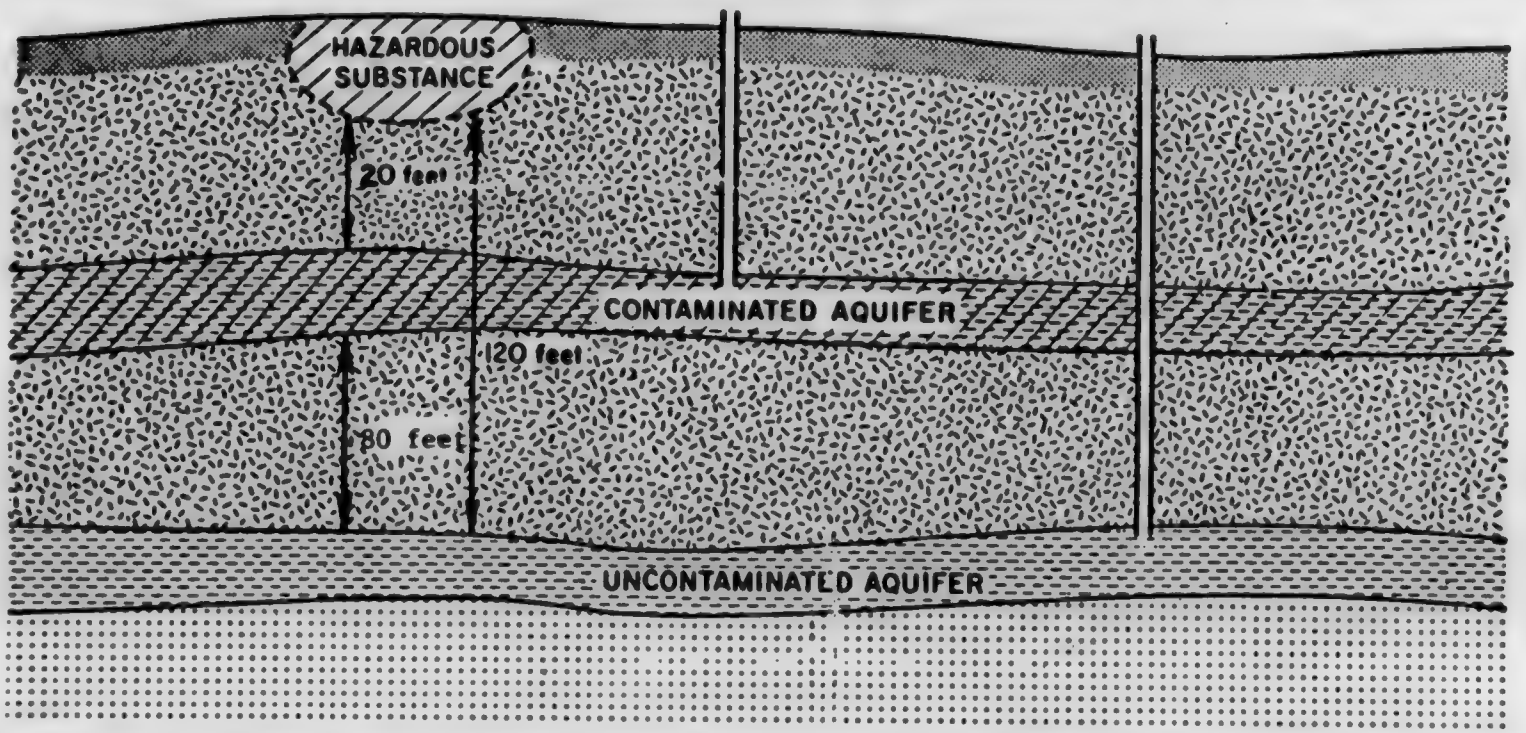

*Treat target and route characteristics factors consistently. For example, if the upper aquifer is the aquifer of concern, then the "depth to aquifer of concern" is 20 feet and the "population served" is 5 persons. If the lower aquifer is "of concern", the "depth" is 120 feet (assuming no known contamination below the indicated "hazardous substance") and the "population" is 5000 persons. If the upper aquifer is contaminated and the lower aquifer is "of concern", the "depth" would be 80 feet (vertical distance between hazardous substance and aquifer of concern) and the population would be 5000 persons.

FIGURE 3

Depth to Aquifer of Concern

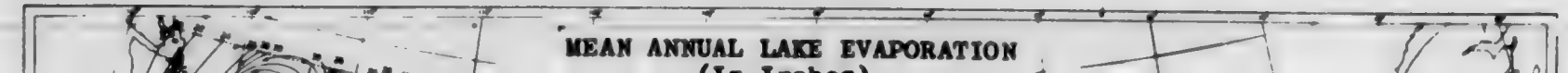

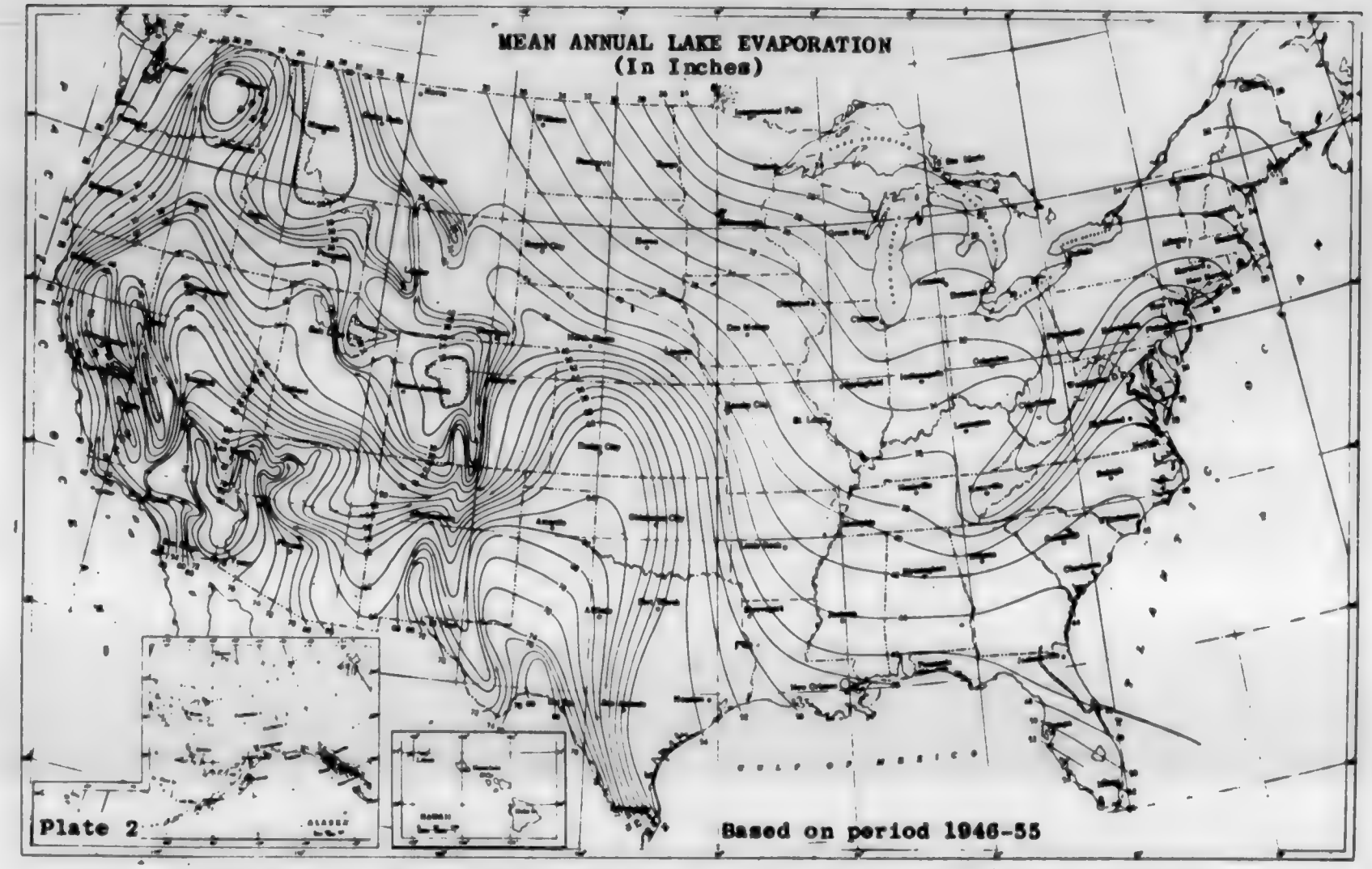

Source: Climatic Atlas of the United States, U.S. Department of Commerce, National Climatic Center, Ashville, N.C., 1979.

Figure 4

Mean Annual Lake Evaporation (In Inches)

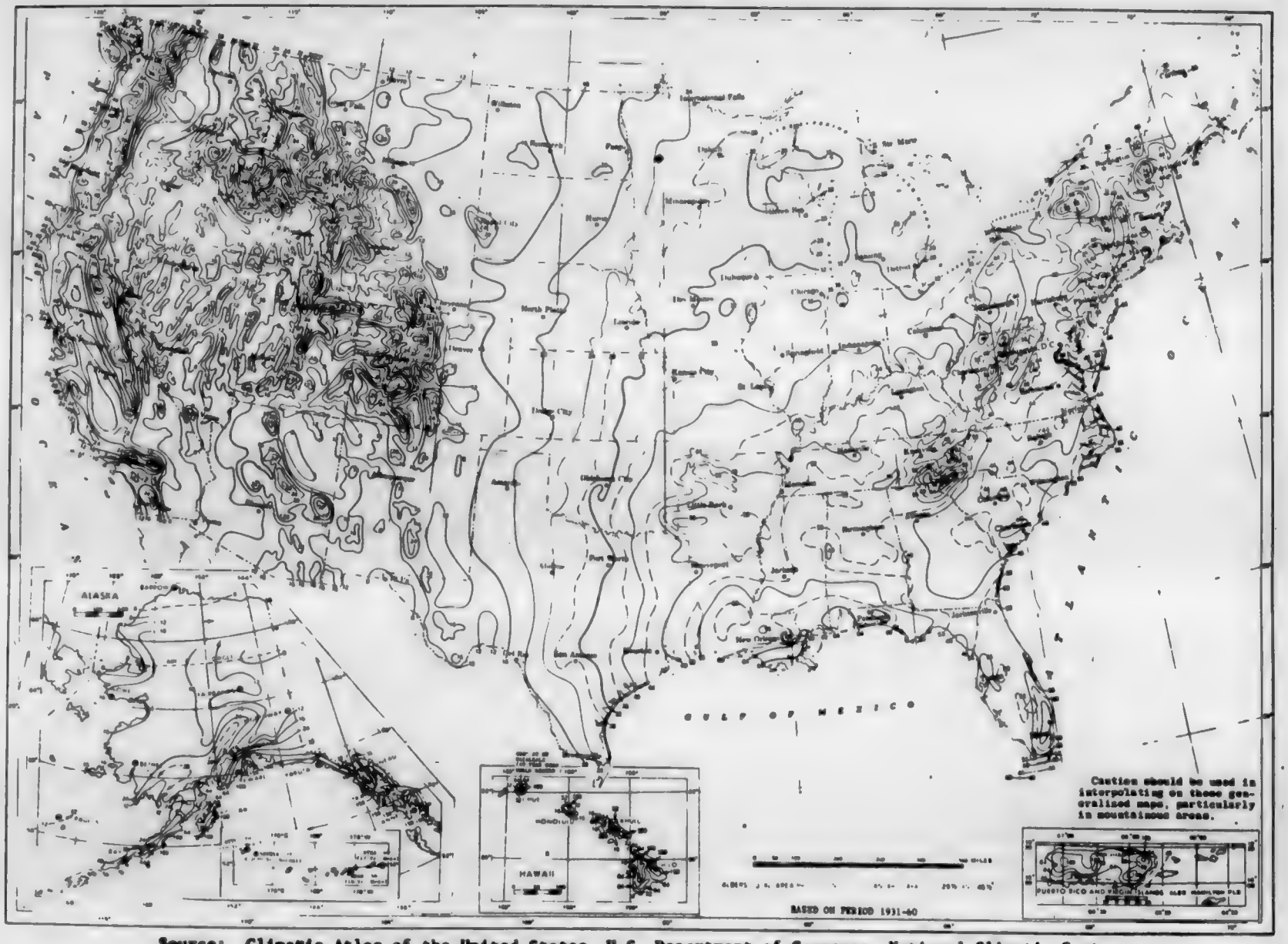

Source: Climatic Atlas of the United States, U.S. Department of Commerce, National Climatic Center, Ashville, N.C., 1979.

Figure 5

Normal Annual Total Precipitation (inches)

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Physical state refers to the state of the hazardous substances at the time of disposal, except that gases generated by the hazardous substances in a disposal area should be considered in rating this factor. Each of the hazardous substances being evaluated is assigned a value as follows:

Physical state	Assigned value
Solid, consolidated or stabilized	0
Solid, unconsolidated or unstabilized	1
Powder or fine material	2
Liquid, sludge or gas	3

3.3 *Containment*

Containment is a measure of the natural or artificial means that have been used to minimize or prevent a contaminant from entering ground water. Examples include liners, leachate collection systems, and sealed containers. In assigning a value to this rating factor (Table 3), consider all ways in which hazardous substances are stored or disposed at the facility. If the facility involves more than one method of storage or disposal, assign the highest from among all applicable values (e.g., if a landfill has a containment value of 1, and, at the same location, a surface impoundment has a value of 2, assign containment a value of 2).

TABLE 3.—CONTAINMENT VALUE FOR GROUND WATER ROUTE

Assign containment a value of 0 if: (1) all the hazardous substances at the facility are underlain by an essentially non permeable surface (natural or artificial) and adequate leachate collection systems and diversion systems are present; or (2) there is no ground water in the vicinity. The value "0" does not indicate no risk. Rather, it indicates a significantly lower relative risk when compared with more serious sites on a national level. Otherwise, evaluate the containment for each of the different means of storage or disposal at the facility, using the following guidance.

	Assigned value
A. Surface Impoundment	
Sound run-on diversion structure, essentially non permeable liner (natural or artificial) compatible with the waste, and adequate leachate collection system	0
Essentially non permeable compatible liner with no leachate collection system; or inadequate freeboard	1
Potentially unsound run-on diversion structure; or moderately permeable compatible liner	2
Unsound run-on diversion structure; no liner; or incompatible liner	3
B. Containers	
Containers sealed and in sound condition, adequate liner, and adequate leachate collection system	0
Containers sealed and in sound condition, no liner or moderately permeable liner	1
Containers leaking, moderately permeable liner	2
Containers leaking and no liner or incompatible liner	3
C. Piles	
Piles uncovered and waste stabilized; or piles covered, waste unstabilized, and essentially non permeable liner	0
Piles uncovered, waste unstabilized, moderately permeable liner, and leachate collection system	1
Piles uncovered, waste unstabilized, moderately permeable liner, and no leachate collection system	2
Piles uncovered, waste unstabilized, and no liner	3

TABLE 3.—CONTAINMENT VALUE FOR GROUND WATER ROUTE—Continued

Assign containment a value of 0 if: (1) all the hazardous substances at the facility are underlain by an essentially non permeable surface (natural or artificial) and adequate leachate collection systems and diversion systems are present; or (2) there is no ground water in the vicinity. The value "0" does not indicate no risk. Rather, it indicates a significantly lower relative risk when compared with more serious sites on a national level. Otherwise, evaluate the containment for each of the different means of storage or disposal at the facility, using the following guidance.

	Assigned value
D. Landfill	
Essentially non permeable liner, liner compatible with waste, and adequate leachate collection system	0
Essentially non permeable compatible liner, no leachate collection system, and landfill surface precludes ponding	1
Moderately permeable, compatible liner, and landfill surface precludes ponding	2
No liner or incompatible liner; moderately permeable compatible liner; landfill surface encourages ponding; no run-on control	3

3.4 *Waste Characteristics.* In determining a waste characteristics score, evaluate the most hazardous substances at the facility that could migrate (i.e., if scored, containment is not equal to zero) to ground water. Take the substance with the highest score as representative of the potential hazard due to waste characteristics. Note that the substance that may have been observed in the release category can differ from the substance used in rating waste characteristics. Where the total inventory of substances in a facility is known, only those present in amounts greater than the reportable quantity (see CERCLA Section 102 for definition) may be evaluated.

Toxicity and Persistence have been combined in the matrix below because of their important relationship. To determine the overall value for this combined factor, evaluate each factor individually as discussed below. Match the individual values assigned with the values in the matrix for the combined rating factor. Evaluate several of the most hazardous substances at the facility independently and enter only the highest score in the matrix on the work sheet.

Value for toxicity	Value for persistence			
	0	1	2	3
0	0	0	0	0
1	3	6	9	12
2	6	9	12	15
3	9	12	15	18

Persistence of each hazardous substance is evaluated on its biodegradability as follows:

Substance	Assigned value
Easily biodegradable compounds	0
Straight chain hydrocarbons	1
Substituted and other ring compounds	2
Metals, polycyclic compounds and halogenated hydrocarbons	3

More specific information is given in Tables 4 and 5.

Toxicity of each hazardous substance being evaluated is given a value using the rating scheme of Sax (Table 6) or the National Fire Protection Association (NFPA) (Table 7) and the following guidance:

Toxicity	Assigned value
Sax level 0 or NFPA level 0	0
Sax level 1 or NFPA level 1	1
Sax level 2 or NFPA level 2	2
Sax level 3 or NFPA level 3 or 4	3

Table 4 presents values for some common compounds.

Hazardous waste quantity includes all hazardous substances at a facility (as received) except that with a containment value of 0. Do not include amounts of contaminated soil or water; in such cases, the amount of contaminating hazardous substance may be estimated.

On occasion, it may be necessary to convert data to a common unit to combine them. In such cases, 1 ton=1 cubic yard=4 drums and for the purposes of converting bulk storage, 1 drum=50 gallons. Assign a value as follows:

Tons in cubic yards	Number of drums	Assigned value
0	0	0
1–10	1–40	1
11–62	41–250	2
63–125	251–500	3
126–250	501–1,000	4
251–625	1,001–2,500	5
626–1,250	2,501–5,000	6
1,251–2,500	5,001–10,000	7
>2,500	>10,000	8

TABLE 4.—WASTE CHARACTERISTICS VALUES FOR SOME COMMON CHEMICALS

Chemical/Compound	Toxicity[1]	Persistence[2]	Ignitability[3]	Reactivity[4]
Acetaldehyde	3	0	3	2
Acetic Acid	3	0	2	1
Acetone	2	0	3	0
Aldrin	3	3	1	0
Ammonia, Anhydrous	3	0	1	0
Aniline	3	1	2	0
Benzene	3	1	3	0
Carbon Tetrachloride	3	3	0	0
Chlordane	3	3	*0	*0
Chlorobenzene	2	2	3	0
Chloroform	3	3	0	0
Cresol-O	3	1	2	0
Cresol-M&P	3	1	1	0
Cyclohexane	2	2	3	0
Endrin	3	3	1	0
Ethyl Benzene	2	1	3	0
Formaldehyde	3	0	2	0
Formic Acid	3	0	2	0
Hydrochloric Acid	3	0	0	0
Isopropyl Ether	3	1	3	1
Lindane	3	3	1	0
Methane	1	1	3	0
Methyl Ethyl Ketone	2	0	3	0
Methyl Parathion in Xylene Solution	3	ΔO	3	2
Naphthalene	2	1	2	0
Nitric Acid	3	0	0	0
Parathion	3	ΔO	1	2
PCB	3	3	ΔO	ΔO
Petroleum, Kerosene (Fuel Oil No. 1)	3	1	2	0
Phenol	3	1	2	0
Sulfuric Acid	3	0	0	2
Toluene	2	1	3	0

TABLE 4.—WASTE CHARACTERISTICS VALUES FOR SOME COMMON CHEMICALS—Continued

Chemical/Compound	Toxicity[1]	Persistance[2]	Ignitability[3]	Reactivity[4]
Trichlorobenzene	2	3	1	0
α-Trichloroethane	2	2	1	0
Xylene	2	1	3	0

[1] Sax, N. I., *Dangerous Properties of Industrial Materials*, Van Nostrand Rheinhold Co., New York, 4th ed., 1975. The highest rating listed under each chemical is used.
[2] JRB Associates, Inc., *Methodology for Rating the Hazard Potential of Waste Disposal Sites*, May 5, 1980.
[3] National Fire Protection Association, National Fire Codes, Vol 13, No. 49, 1977.
* Professional judgment based on information contained in the U.S. Coast Guard CHRIS Hazardous Chemical Data, 1978.
Δ Professional judgment based on existing literature.

TABLE 5.—PERSISTENCE (BIODEGRADABILITY) OF SOME ORGANIC COMPOUNDS*

Value=3 Highly Persistent Compounds

aldrin	heptachlor
benzopyrene	heptachlor epoxide
benzothiazole	1,2,3,4,5,7,7-heptachloronorbornene
benzothiophene	hexachlorobenzene
benzyl butyl phythalate	hexachloro-1,3-butadiene
bromochlorobenzene	hexachlorocyclohexane
bromoform butanal	hexachloroethane
bromophenyl phynlyl ether	methyl benzothiazole
chlordane	pentachlorodiphenyl
chlorohydroxy benzophenone	pentachlorophenol
bis-chloroisopropyl ether	1,1,3,3-tetrachloroacetone
m-chloronitrobenzene	tetrachlorophenyl
DDE	thiomethylbenzothiazole
DDT	trichlorobenzene
dibromobenzene	trichlorobiphenyl
dibutyl phthalate	trichlorofluoromethane
1,4-dichlorobenzene	2,4,6-trichlorophenol
dichlorodifluoroethane	triphenyl phosphate
dieldrin	bromodichloromethane
diethyl phthalate	bromoform
di(2-ethylhexyl)phthalate	carbon tetrachloride
dihexyl phthalate	chloroform
di-isobutyl phthalate	chlorodibromomethane
dimethyl phthalate	dibromochloroethane
4,6-dinitro-2-aminophenol	tetrachloroethane
dipropyl phythalate	1,1,2-trichloroethane
endrin	

Value=2 Persistent Compounds

acenaphthylene	cis-2-ethyl-4-methyl-1,3-dioxolane
atrazine	trans-2-ethyl-4-methyl-1,3-dioxolane
(diethyl) atrazine	guiacol
barbital	2-hydroxyadipunitrile
borneol	isophorone
bromobenzene	indene
camphor	isoborneol
chlorobenzene	isoprophenyl-r-isopropyl benzene
1,2-bis-chloroethoxy ethane	2-methoxy biphenyl
b-chloroethyl methyl ether	methyl biphenyl
chloromethyl ether	methyl chloride
chloromethyl ethyl ether	methylindene
3-chloropyridine	methylene chloride
di-t-butyl-p-benzoquinone	nitrobenzene
dichloroethyl ether	nitrobenzene
dihyrocarvone	1,1,2-trichloroethylene
dimethyl sulfoxide	trimethyl-trioxo-hexahydro-triazine isomer
2,6-dinitrotoluene	

Value=1 Somewhat Persistent Compounds

acetylene dichloride	1,2-dimethoxy benzene
behenic acid, methyl ester	1,3-dimethyl naphthalene
benzene	1,4-dimethyl phenol
benzene sulfonic acid	dioctyl adipate
butyl benzene	n-decane
butyl bromide	ethyl benzene
e-caprolactam	2-ethyl-n-hexine
carbon disulfide	o-ethyltoluene
o-cresol	isodecane
decane	isoprophyl benzene
1,2-dichloroethane	

TABLE 5.—PERSISTENCE (BIODEGRADABILITY) OF SOME ORGANIC COMPOUNDS*—Continued

limonene	octane
methyl ester of lignoceric acid	octyl chloride
methane	pentane
2-methyl-5-ethyl-pyridine	phenyl benzoate
methyl naphthalene	phthalic anhydride
methyl palmitate	propylbenzene
methyl phenyl carbinol	1-terpineol
methyl stearate	toluene
naphthalene	vinyl benzene
nonane	xylene

Value=0 Nonpersistent Compounds

acetaldehyde	methyl benzoate
acetic acid	3-methyl butanol
acetone	methyl ethyl ketone
acetophenone	2-methylpropanol
benzoic acid	octadecane
di-isobutyl carbinol	pentadecane
docosane	pentanol
eicosane	propanol
ethanol	propylamine
ethylamine	tetradecane
hexadecane	n-tridecane
methanol	n-undecane

* JRB Associates, Inc., *Methodology for Rating the Hazard Potential for Waste Disposal Sites*, May 5, 1980.

TABLE 6.—SAX TOXICITY RATINGS

0=No Toxicity* (None)**

This designation is given to materials which fall into one of the following categories:
(a) Materials which cause no harm under any conditions of normal use.
(b) Materials which produce toxic effects on humans only under the most unusual conditions or by overwhelming dosage.

1=Slight Toxicity*(Low)**

(a) *Acute local.* Materials which on single exposures lasting seconds, minutes, or hours cause only slight effects on the skin or mucous membranes regardless of the extent of the exposure.
(b) *Acute systemic.* Materials which can be absorbed into the body by inhalation, ingestion, or through the skin and which produce only slight effects following single exposures lasting seconds, minutes, or hours, or following ingestion of a single dose regardless of the quantity absorbed or the extent of exposure.
(c) *Chronic local.* Materials which on continuous or repeated exposures extending over periods of days, months, or years cause only slight and usually reversible harm to the skin or mucous membranes. The extent of exposure may be great or small.
(d) *Chronic systemic.* Materials which can be absorbed into the body by inhalation, ingestion, or through the skin and which produce only slightly usually reversible effects extending over days, months, or years. The extent of the exposure may be great or small.
In general, those substances classified as having "slight toxicity" produce changes in the human body which are readily reversible and which will disappear following termination of exposure, either with or without medical treatment.

2=Moderate Toxicity* (Med)**

(a) *Acute local.* Materials which on single exposure lasting seconds, minutes, or hours cause moderate effects on the skin or mucous membranes. These effects may be the result of intense exposure for a matter of seconds or moderate exposure for a matter of hours.
(b) *Acute systemic.* Materials which can be absorbed into the body by inhalation, ingestion, or through the skin and produce moderate effects following single exposures lasting seconds, minutes, or hours, or following ingestion of a single dose.

TABLE 6.—SAX TOXICITY RATINGS—Continued

(c) *Chronic local.* Materials which on continuous or repeated exposures extending over periods of days, months, or years cause moderate harm to the skin or mucous membranes.
(d) *Chronic systemic.* Materials which can be absorbed into the body by inhalation, ingestion, or through the skin and which produce moderate effects following continuous or repeated exposures extending over periods of days, months, or years.
Those substances classified as having "moderate toxicity" may produce irreversible as well as reversible changes in the human body. These changes are not of such severity as to threaten life or to produce serious physical impairment.

3=Severe Toxicity* (High)**

(a) *Acute local.* Materials which on single exposure lasting seconds or minutes cause injury to skin or mucous membranes of sufficient severity to threaten life or to cause permanent physical impairment or disfigurement.
(b) *Acute systemic.* Materials which can be absorbed into the body by inhalation, ingestion, or through the skin and which can cause injury of sufficient severity to threaten life following a single exposure lasting seconds, minutes, or hours, or following ingestion of a single dose.
(c) *Chronic local.* Materials which on continuous or repeated exposures extending over periods of days, months, or years can cause injury to skin or mucous membranes of sufficient severity to threaten life or cause permanent impairment, which disfigurement, or irreversible change.
(d) *Chronic systemic.* Materials which can be absorbed into the body by inhalation, ingestion or through the skin and which can cause death or serious physical impairment following continuous or repeated exposures to small amounts extending over periods of days, months, or years.

*Sax, N. I., Dangerous Properties of Industrial Materials, Van Nostrand Rheinhold Co., New York, New York, 4th edition, 1975.
**Sax, N. I., Dangerous Properties of Industrial Materials, Van Nostrand Rheinhold Co., New York, New York, 5th edition, 1979.

TABLE 7.—NFPA TOXICITY RATINGS*

0 Materials which on exposure under fire conditions would offer no health hazard beyond that of ordinary combustible material.
1 Materials only slightly hazardous to health. It may be desirable to wear self-contained breathing apparatus.
2 Materials hazardous to health, but areas may be entered freely with self-contained breathing apparatus.
3 Materials extremely hazardous to health, but areas may be entered with extreme care. Full protective clothing, including self-contained breathing apparatus, rubber gloves, boots and bands around legs, arms and waist should be provided. No skin surface should be exposed.
4 A few whiffs of the gas or vapor could cause death, or the gas, vapor, or liquid could be fatal on penetrating the fire fighters' normal full protective clothing which is designed for resistance to heat. For most chemicals having a Health 4 rating, the normal full protective clothing available to the average fire department will not provide adequate protection against skin contact with these materials. Only special protective clothing designed to protect against the specific hazard should be worn.

*National Fire Protection Association. *National Fire Codes*, Vol. 13, No. 49, 1977.

3.5 *Targets. Ground water use* indicates the nature of the use made of ground water drawn from the aquifer of concern within 3 miles of the hazardous substance, including the geographical extent of the measurable concentration in the aquifer. Assign a value using the following guidance:

Ground water use	Assigned value
Unusable (e.g., extremely saline aquifer, extremely low yield, etc.)	0
Commercial, industrial or irrigation and another water source presently available; not used, but usable	1
Drinking water with municipal water from alternate unthreatened sources presently available (i.e., minimal hookup requirements); or commercial, industrial or irrigation with no other water source presently available	2
Drinking water; no municipal water from alternate unthreatened sources presently available	3

Distance to nearest well and population served have been combined in the matrix below to better reflect the important relationship between the distance of a population from hazardous substances and the size of the population served by ground water that might be contaminated by those substances. To determine the overall value for this combined factor, score each individually as discussed below. Match the individual values assigned with the values in the matrix for the total score.

Value for population served	Value for distance to nearest well				
	0	1	2	3	4
0	0	0	0	0	0
1	0	4	8	8	10
2	0	8	12	16	20
3	0	12	18	24	30
4	0	16	24	32	35
5	0	20	30	35	40

Distance to nearest well is measured from the hazardous substance (not the facility boundary) to the nearest well that draws water from the aquifer of concern. If the actual distance to the nearest well is unknown, use the distance between the hazardous substance and the nearest occupied building not served by a public water supply (e.g., a farmhouse). If a discontinuity in the aquifer occurs between the hazardous substance and all wells, give this factor a score of 0, except where it can be shown that the contaminant is likely to migrate beyond the discontinuity. Figure 6 illustrates how the distance should be measured. Assign a value using the following guidance:

Distance	Assigned value
>3 miles	0
2 to 3 miles	1
1 to 2 miles	2
2001 feet to 1 mile	3
<2000 feet	4

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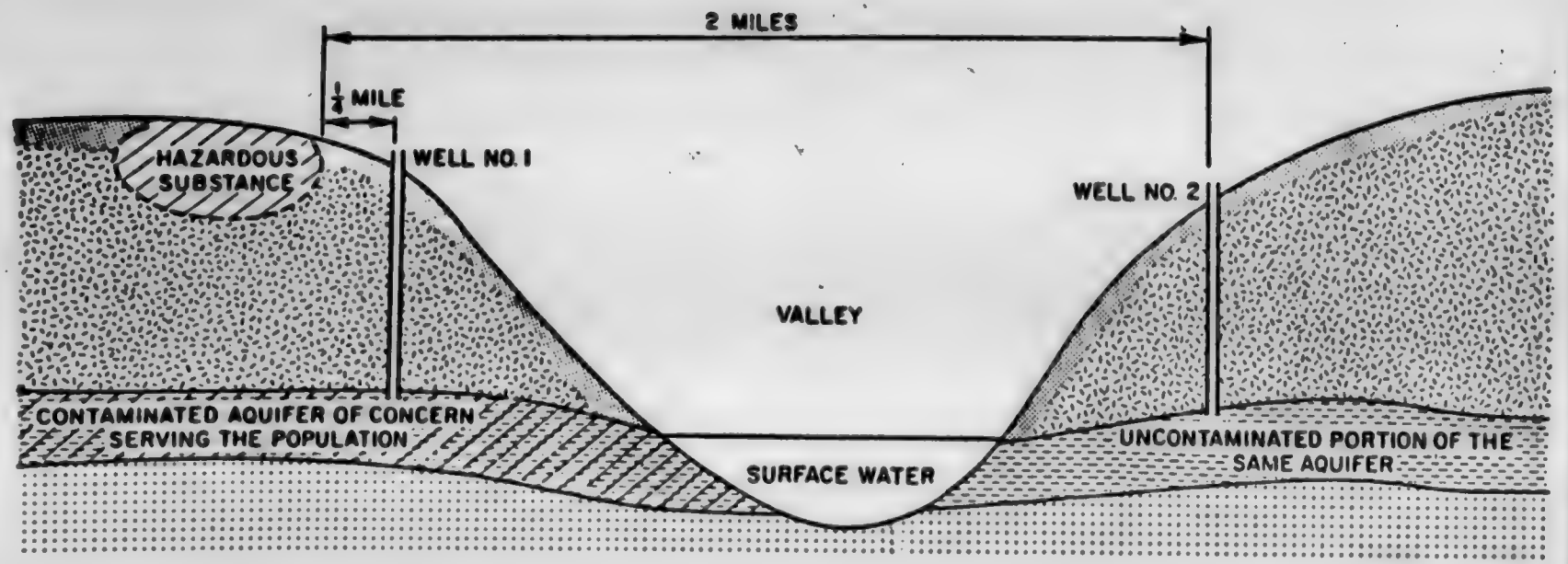

In the situation depicted above, the distance between the hazardous substance and the nearest well (No. 1) is ¼ mile. If well No. 1 did not exist, the distance to well No. 2 would be immaterial since there is a discontinuity in the aquifer (surface water) between it and the hazardous substance. Under such circumstances, the factor score would be "0". However, if it could be demonstrated that the contaminent had bridged the discontinuity, then the distance to the nearest well would be 2 miles (assuming well No. 1 does not exist).

FIGURE 6

Distance to Nearest Well

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Population served by ground water is an indicator of the population at risk, which includes residents as well as others who would regularly use the water such as workers in factories or offices and students. Include employees in restaurants, motels, or campgrounds but exclude customers and travelers passing through the area in autos, buses, or trains. If aerial photography is used, and residents are known to use ground water, assume each dwelling unit has 3.6 residents. Where ground water is used for irrigation, convert to population by assuming 1.5 persons per acre of irrigated land. The well or wells of concern must be within three miles of the hazardous substances, including the area of known aquifer contamination, but the "population served" need not be. Likewise, people within three miles who do not use water from the aquifer of concern are not to be counted. Assign a value as follows:

Population	Assigned value
0	0
1 to 100	1
101 to 1,000	2
1,001 to 3,000	3
3,001 to 10,000	4
>10,000	5

4.0 Surface Water Route

4.1 *Observed Release.* Direct evidence of release to surface water must be quantitative evidence that the facility is releasing contaminants into surface water. Quantitative evidence could be the measurement of levels of contaminants from a facility in surface water, either at the facility or downhill from it, that represents a significant (in terms of demonstrating that a release has occurred, not in terms of potential effects) increase over background levels. If direct evidence of release has been obtained (regardless of frequency), enter a value of 45 on line 1 of the work sheet (Figure 7) and omit the evaluation of the route characteristics and containment factors. If direct evidence of release is lacking, enter a value of 0 on line 1 and continue with the scoring procedure.

4.2. *Route Characteristics. Facility slope and intervening terrain* are indicators of the potential for contaminated runoff or spills at a facility to be transported to surface water. The facility slope is an indicator of the potential for runoff or spills to leave the facility. Intervening terrain refers to the average slope of the shortest path which would be followed by runoff between the facility boundary and the nearest downhill surface water. This rating factor can be assessed using topographic maps. Table 8 shows values assigned to various facility conditions.

One-year 24-hour rainfall (obtained from Figure 8) indicates the potential for area storms to cause surface water contamination as a result of runoff, erosion, or flow over dikes. Assign a value as follows:

Amount of rainfall (inches)	Assigned value
<1.0	0
1.0 to 2.0	1
2.1 to 3.0	2
>3.0	3

TABLE 8.—VALUES FOR FACILITY SLOPE AND INTERVENING TERRAIN

Facility slope	Intervening terrain				
	Terrain average slope				Site in surface basin, lake, or water
	<3 pct[1]	3 to 5 pct	5 to 8 pct	>8 pct	
Facility is closed basin	0	1	2	0	1
Facility has average slope (<3 pct)	0	1	1	1	1
Average slope (3 to 5 pct)	0	1	2	2	3
Average slope (5 to 8 pct)	0	2	2	3	3
Average slope (>8 pct)	0	2	3	3	3

[1] Terrain average slope <3 pct; or site separated from water body by areas of higher elevation.

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Surface Water Route Work Sheet

	Rating Factor	Assigned Value (Circle One)	Multi-plier	Score	Max. Score	Ref. (Section)
1	Observed Release	0 45	1		45	4.1
	If observed release is given a value of 45, proceed to line 4. If observed release is given a value of 0, proceed to line 2.					
2	Route Characteristics					4.2
	Facility Slope and Intervening Terrain	0 1 2 3	1		3	
	1-yr. 24-hr. Rainfall	0 1 2 3	1		3	
	Distance to Nearest Surface Water	0 1 2 3	2		6	
	Physical State	0 1 2 3	1		3	
	Total Route Characteristics Score				15	
3	Containment	0 1 2 3	1		3	4.3
4	Waste Characteristics					4.4
	Toxicity/Persistence	0 3 6 9 12 15 18	1		18	
	Hazardous Waste Quantity	0 1 2 3 4 5 6 7 8	1		8	
	Total Waste Characteristics Score				26	
5	Targets					4.5
	Surface Water Use	0 1 2 3	3		9	
	Distance to a Sensitive Environment	0 1 2 3	2		6	
	Population Served/Distance to Water Intake Downstream	0 4 5 8 10 / 12 16 18 20 / 24 30 32 35 40	1		40	
	Total Targets Score				55	
6	If line 1 is 45, multiply 1 x 4 x 5 If line 1 is 0, multiply 2 x 3 x 4 x 5				64,350	
7	Divide line 6 by 64,350 and multiply by 100	S_{sw} =				

FIGURE 7
SURFACE WATER ROUTE WORK SHEET

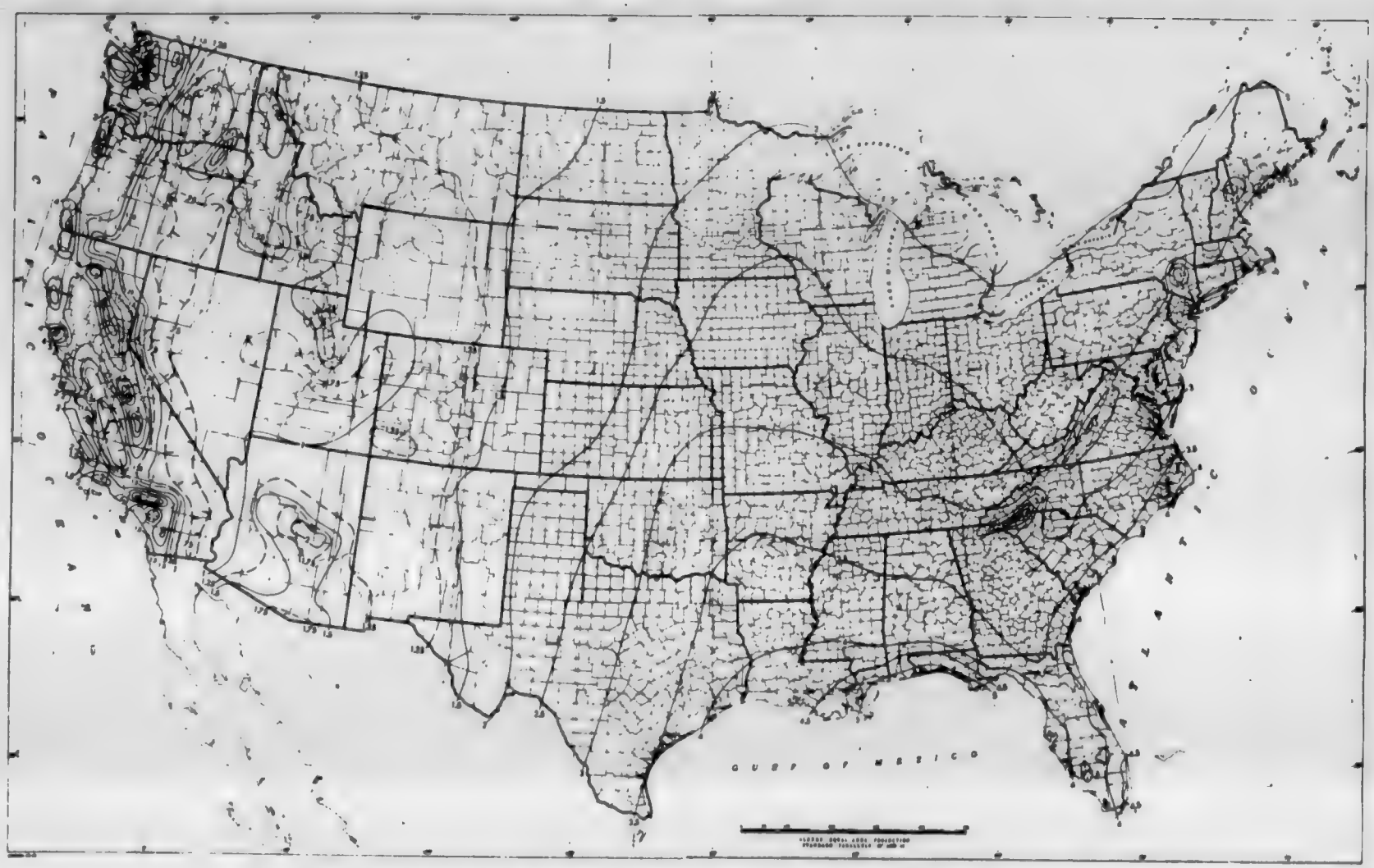

Source: Rainfall Frequency Atlas of the United States, Technical Paper No. 40, U.S. Department of Commerce, U.S. Government Printing Office, Washington, D.C., 1963.

Figure 8

1-Year 24-Hour Rainfall (Inches)

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Distance to the nearest surface water is the shortest distance from the hazardous substance, (not the facility or property boundary) to the nearest downhill body of surface water (e.g., lake or stream) that is on the course that runoff can be expected to follow and that at least occasionally contains water. Do not include man-made ditches which do not connect with other surface water bodies. In areas having less than 20 inches of normal annual precipitation (see Figure 5), consider intermittent streams. This factor indicates the potential for pollutants flowing overland and into surface water bodies. Assign a value as follows:

Distance	Assigned value
>2 miles	0
1 to 2 miles	1
1000 feet to 1 mile	2
<1000 feet	3

Physical state is assigned a value using the procedures in Section 3.2.

4.3 *Containment. Containment* is a measure of the means that have been taken to minimize the likelihood of a contaminant entering surface water either at the facility or beyond the facility boundary. Examples of containment are diversion structures and the use of sealed containers. If more than one type of containment is used at a facility, evaluate each separately (Table 9) and assign the highest score.

TABLE 9.—CONTAINMENT VALUES FOR SURFACE WATER ROUTE

Assign containment a value of 0 if: (1) all the waste at the site is surrounded by diversion structures that are in sound condition and adequate to contain all runoff, spills, or leaks from the waste; or (2) intervening terrain precludes runoff from entering surface water. Otherwise, evaluate the containment for each of the different means of storage or disposal at the site and assign a value as follows:

	Assigned value
A. Surface Impoundment	
Sound diking or diversion structure, adequate freeboard, and no erosion evident	0
Sound diking or diversion structure, but inadequate freeboard	1
Diking not leaking, but potentially unsound	2
Diking unsound, leaking, or in danger of collapse	3
B. Containers	
Containers sealed, in sound condition, and surrounded by sound diversion or containment system	0
Containers sealed and in sound condition, but not surrounded by sound diversion or containment system	1
Containers leaking and diversion or containment structures potentially unsound	2
Containers leaking, and no diversion or containment structures or diversion structures leaking or in danger of collapse	3
C. Waste Piles	
Piles are covered and surrounded by sound diversion or containment system	0
Piles covered, wastes unconsolidated, diversion or containment system not adequate	1
Piles not covered, wastes unconsolidated, and diversion or containment system potentially unsound	2
Piles not covered, wastes unconsolidated, and no diversion or containment or diversion system leaking or in danger or collapse	3

TABLE 9.—CONTAINMENT VALUES FOR SURFACE WATER ROUTE—Continued

Assign containment a value of 0 if: (1) all the waste at the site is surrounded by diversion structures that are in sound condition and adequate to contain all runoff, spills, or leaks from the waste; or (2) intervening terrain precludes runoff from entering surface water. Otherwise, evaluate the containment for each of the different means of storage or disposal at the site and assign a value as follows:

	Assigned value
D. Landfill	
Landfill slope precludes runoff, landfill surrounded by sound diversion system, or landfill has adequate cover material	0
Landfill not adequately covered and diversion system sound	1
Landfill not covered and diversion system potentially unsound	2
Landfill not covered and no diversion system present, or diversion system unsound	3

4.4 *Waste Characteristics.* Evaluate waste characteristics for the surface water route with the procedures described in Section 3.4 for the ground water route.

4.5 *Targets. Surface water use* brings into the rating process the use being made of surface water downstream from the facility. The use or uses of interest are those associated with water taken from surface waters within a distance of three miles from the location of the hazardous substance. Assign a value as follows:

Surface water use (fresh or salt water)	Assigned value
Not currently used	0
Commercial or industrial	1
Irrigation, economically important resources (e.g., shellfish), commercial food preparation, or recreation (e.g., fishing, boating, swimming)	2
Drinking Water	3

Distance to a senstitive environment refers to the distance from the hazardous substance (not the facility boundary) to an area containing an important biological resource or to a fragile natural setting that could suffer an especially severe impact from pollution. Table 10 provides guidance on assigning a value to this rating factor.

TABLE 10—VALUES FOR SENSITIVE ENVIRONMENT (SURFACE WATER)

Assigned value—	0	1	2	3
Distance to Wetlands[1] (5 acre minimum)				
Coastal	>2 miles	1 to 2 miles	½ to 1 mile	<½ mile.
Fresh Water	>1 mile	¼ to 1 mile	100 feet to ¼ mile	<100 feet.
Distance to Critical Habitat (of endangered species)[2]	>1 mile	¼ to 1 mile	½ to ¼ mile	<½ mile.

[1] Wetland is defined by EPA in the Code of Federal Regulations 40 CFR Part 230, Appendix A, 1980.
[2] Endangered species are designated by the U.S. Fish and Wildlife Service.

Population served by surface water with water intake within 3 miles downstream from facility (or 1 mile in static surface water such as a lake) is a rough indicator of the potential hazard exposure of the nearby population served by potentially contaminated surface water. Measure the distance from the probable point of entry to surface water following the surface water (stream miles). The population includes residents as well as others who would regularly use the water such as workers in factories or offices and students. Include employees in restaurants, motels, or campgrounds but exclude customers and travelers passing through the area in autos, buses and trains. The distance is measured from the hazardous substance, including observations in stream or sediment samples, regardless of facility boundaries. Where only residential houses can be counted (e.g., from an aerial photograph), and residents are known to be using surface water, assume 3.8 individuals per dwelling unit. Where surface water is used for irrigation, convert to population by assuming 1.5 persons per acre of land irrigated. Assign a value as follows:

Population	Distance to surface water				
	>3 miles	2–3 miles	1–2 miles	200'–1 mile	0–2,000 feet
0	0	0	0	0	0
1–100	0	4	5	8	10
101–1,000	0	8	12	18	20
1,001–3,000	0	12	18	24	30
3,001–10,000	0	16	24	32	35
>10,000	0	20	30	35	40

5.0 *Air Route*

5.1 *Observed Release.* The only acceptable evidence of release for the air route is data that show levels of a contaminant at or in the vicinity of the facility that significantly exceed background levels, regardless of the frequency of occurrence. If such evidence exists, enter a value of 45 on line 1 of the work sheet (Figure 9); if not, assign line 1 a 0 value and then $S_a=0$. Record the date, location, and the sampling protocol for monitoring data on the work sheet. Data based on transitory conditions due to facility disturbance by investigative personnel are not acceptable.

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Air Route Work Sheet					
Rating Factor	Assigned Value (Circle One)	Multiplier	Score	Max. Score	Ref. (Section)
1 Observed Release	0 45	1		45	5.1
Date and Location:					
Sampling Protocol:					
If line 1 is 0, the S_a = 0. Enter on line 5. If line 1 is 45, then proceed to line 2.					
2 Waste Characteristics					5.2
Reactivity and Incompatibility	0 1 2 3	1		3	
Toxicity	0 1 2 3	3		9	
Hazardous Waste Quantity	0 1 2 3 4 5 6 7 8	1		8	
	Total Waste Characteristics Score			20	
3 Targets					5.3
Population Within 4-Mile Radius	0 9 12 15 18 21 24 27 30	1		30	
Distance to Sensitive Environment	0 1 2 3	2		6	
Land Use	0 1 2 3	1		3	
	Total Targets Score			39	
4 Multiply 1 x 2 x 3				35,100	
5 Divide line 4 by 35,100 and multiply by 100		S_a =			

FIGURE 9
AIR ROUTE WORK SHEET

BILLING CODE 6560-50-C

5.2 *Waste Characteristics.* The hazardous substance that was observed for scoring the release category may be different from the substance used to score waste characteristics.

Reactivity and incompatibility, measures of the potential for sudden releases of concentrated air pollutants, are evaluated independently, and the highest value for either is recorded on the work sheet.

Reactivity provides a measure of the fire/explosion threat at a facility. Assign a value based on the reactivity classification used by NFPA (see Table 11). Reactivity ratings for a number of common compounds are given in Table 4.

TABLE 11.—NFPA REACTIVITY RATINGS

NFPA level	Assigned value
0 Materials which are normally stable even under fire exposure conditions and which are not reactive with water	0
1 Materials which in themselves are normally stable but which may become unstable at elevated temperatures and pressures or which may react with water with some release of energy but not violently	1
2 Materials which in themselves are normally unstable and readily undergo violent chemical change but do not detonate. Includes materials which can undergo chemical change with rapid release of energy at normal temperatures and pressures or which can undergo violent chemical change at elevated temperatures and pressures. Also includes those materials which may react violently with water or which may form potentially explosive mixtures with water	2
3 Materials which in themselves are capable of detonation or of explosive decomposition or of explosive reaction but which requires a strong initiating source or which must be heated under confinement before initiation. Includes materials which are sensitive to thermal or mechanical shock at elevated temperatures and pressures or which react explosively with water without requiring heat or confinement	3
4 Materials which in themselves are readily capable of detonation or of explosive decomposition or explosive reaction at normal temperatures and pressures. Includes materials which are sensitive to mechanical or localized thermal shock	3

TABLE 12.—INCOMPATIBLE MATERIALS

In the lists below, the mixing of a Group A material with a Group B material may have the potential consequence as noted.

Group 1–A	Group 1–B
Acetylene sludge	Acid sludge.
Alkaline caustic liquids	Acid and water.
Alkaline cleaner	Battery acid.
Alkaline corrosive liquids	Chemical cleaners.
Alkaline corrosive battery fluid	Electrolyte acid.
Caustic wastewater	Etching acid liquid or solvent.
Lime sludge and other corrosive alkalies.	Pickling liquor and other corrosive acids.
Lime wastewater	Spent acid.
Lime and water	Spent mixed acid.
Spent caustic	Spent sulfuric acid.

Potential consequences: Heat generation; violent reaction.

Group 2–A	Group 2–B
Aluminum	Any waste in Group 1–A or 1–B.
Beryllium	
Calcium	
Lithium	
Potassium	
Sodium	
Zinc powder	
Other reactive metals and metal hydrides.	

Potential consequences: Fire or explosion; generation of flammable hydrogen gas.

Group 3–A	Group 3–B
Alcohols	Any concentrated waste in Groups 1–A or 1–B.
Water	Calcium.
	Lithium.
	Metal hydrides.
	Potassium.
	SO_2Cl_2, $SOCl_2$, PCl_3, CH_3SiCl_3.
	Other water-reactive waste.

Potential consequences: Fire, explosion, or heat generation; generation of flammable or toxic gases.

Group 4–A	Group 4–B
Alcohols	Concentrated Group 1–A or 1–B wastes.
Aldehydes	Group 2–A wastes.
Halogenated hydrocarbons	
Nitrated hydrocarbons	
Unsaturated hydrocarbons	
Other reactive organic compounds and solvents.	

Potential consequences: Fire, explosion, or violent reaction.

Group 5–A	Group 5–B
Spent cyanide and sulfide solutions.	Group 1–B wastes.

Potential consequences: Generation of toxic hydrogen cyanide or hydrogen sulfide gas.

Group 6–A	Group 6–B
Chlorates	Acetic acid and other organic acids.
Chlorine	Concentrated mineral acids.
Chlorites	Group 2–A wastes.
Chromic acid	Group 4–A wastes.
Hypochlorites	Other flammable and combustible wastes.
Nitrates	
Nitric acid, fuming	
Perchlorates	
Permanganates	
Peroxides	
Other strong oxidizers	

Potential consequences: Fire, explosion, or violent reaction.

Source: Hazardous Waste Management Law, Regulations, and Guidelines for the Handling of Hazardous Waste. California Department of Health, Sacramento, California, February 1975.

Incompatibility provides a measure of the increased hazard when hazardous substances are mixed under uncontrolled conditions, leading to production of heat, pressure, fire, explosion, violent reaction, toxic dusts, mists, fumes or gases, or flammable fumes or gases. Table 12 provides examples of incompatible combinations of materials.

Land use indicates the nature and level of human activity in the vicinity of a facility. Assign highest applicable value from Table 13.

6.0 Computing the Migration Hazard Mode Score, S_M.

To compute S_M, complete the work sheet (Figure 10) using the values of S_{gw}, S_{sw} and S_a obtained from the previous sections.

7.0 Fire and Explosion

Compute a score for the fire and explosion hazard mode, S_{FE}, when either a state or local fire marshal has certified that the facility presents a significant fire or explosion threat to the public or to sensitive environments or there is a demonstrated fire and explosion threat based on field observations (e.g., combustable gas indicator readings). Document the threat.

7.1 Containment. Containment is an indicator of the measures that have been taken to minimize or prevent hazardous substances at the facility from catching fire or exploding. Normally it will be given a value of 3 on the work sheet (Figure 11). If no hazardous substances that are individually ignitable or explosive are present and those that may be hazardous in combination are segregated and isolated so that they cannot come together to form incompatible mixtures, assign this factor a value of 1.

7.2 Waste Characteristics. Direct evidence of ignitability or explosion potential may exist in the form of measurements with appropriate instruments. If so, assign this factor a value of 3; if not, assign a value of 0.

Additional information can be obtained from *A Method for Determining the Compatibility of Hazardous Wastes,* H. K. Hatayama, *et al.,* EPA–600/2–80–076 (1980). Assign a value using the following guidance:

Incompatibility	Assigned value
No incompatible substances are present	0
Present but do not pose a hazard	1
Present and may pose a future hazard	2
Present and posing an immediate hazard	3

Toxicity should be rated for the most toxic of the substances that can reasonably be expected to be transported away from the facility via the air route. Using the information given in Tables 4, 6, and 7, assign values as follows:

Toxicity	Assigned value
Sax level 0 or NFPA level 0	0
Sax level 1 or NFPA level 1	1
Sax level 2 or NFPA level 2	2
Sax level 3 or NFPA levels 3 or 4	3

Hazardous Waste Quantity

Assign hazardous waste quantity a value as described in Section 3.4.

5.3 *Targets. Population within a four-mile radius* is an indicator of the population which may be harmed should hazardous substances be released to the air.

The distance is measured from the location of the hazardous substances, not from the facility boundary. The population to be counted includes persons residing within the

four-mile radius as well as transients such as workers in factories, offices, restaurants, motels, or students. It excludes travelers passing through the area. If aerial photography is used in making the count, assume 3.8 individuals per dwelling unit. Select the highest value for this rating factor as follows:

DISTANCE TO POPULATION FROM HAZARDOUS SUBSTANCE

Population	0–¼ miles	0–½ mile	0–¾ mile	0–1 mile
0	9	9	9	9
1 to 100	9	12	15	18
101 to 1,000	12	15	18	21
1,001 to 3,000	15	18	21	24
3,001 to 10,000	18	21	24	27
More than 10,000	21	24	27	30

Distance to sensitive environment is an indicator of the likelihood that a region that contains important biological resources or that is a fragile natural setting would suffer serious damage if hazardous substances were to be released from the facility. Assign a value from Table 10.

Land use indicates the nature and level of human activity in the vicinity of a facility. Assign highest applicable value from Table 13.

6.0 Computing the Migration Hazard Mode Score, S_M

To compute S_M, complete the work sheet (Figure 10) using the values of S_{gw}, S_{sw} and S_a obtained from the previous sections.

7.0 Fire and Explosion

Compute a score for the fire and explosion hazard mode, S_{FE}, when either a state or local fire marshall has certified that the facility presents a significant fire or explosion threat to the public or to sensitive environments or there is a demonstrated fire and explosion threat based on field observations (e.g., combustible gas indicator readings). Document the threat.

7.1 Containment. Containment is an indicator of the measures that have been taken to minimize or prevent hazardous substances at the facility from catching fire or exploding. Normally it will be given a value of 3 on the work sheet (Figure 11). If no hazardous substances that are individually ignitable or explosive are present and those that may be hazardous in combination are segregated and isolated so that they cannot come together to form incompatible mixtures, assign this factor a value of 1.

7.2 Waste Characteristics. Direct evidence of ignitability or explosion potential may exist in the form of measurements with appropriate instruments. If so, assign this factor a value of 3; if not, assign a value of 0.

TABLE 13.—VALUES FOR LAND USE (AIR ROUTE)

Assigned value =	0	1	2	3
Distance to Commercial-Industrial	>1 mile	½ to 1 mile	¼ to ½ mile	<¼ mile.
Distance to National/State Parks, Forests, Wildlife Reserves, and Residential Areas.	>2 miles	1 to 2 miles	½ to 1 mile	<½ mile.
Distance to Agricultural Lands (in Production within 5 years):				
Ag land	>1 mile	½ to 1 mile	¼ to ½ mile	<¼ mile.
Prime Ag Land [1]	>2 miles	1 to 2 miles	½ to 1 mile	<½ mile.
Distance to Historic/Landmark Sites (National Register of Historic Places and National Natural Landmarks).				Within view of site or if site is subject to significant impacts.

[1] Defined in the Code of Federal Regulations, 7 CFR 657.5, 1981.

	s	s^2
Groundwater Route Score (S_{gw})		
Surface Water Route Score (S_{sw})		
Air Route Score (S_a)		
$S_{gw}^2 + S_{sw}^2 + S_a^2$		
$\sqrt{S_{gw}^2 + S_{sw}^2 + S_a^2}$		
$\sqrt{S_{gw}^2 + S_{sw}^2 + S_a^2} / 1.73 = S_M =$		

FIGURE 10
WORKSHEET FOR COMPUTING S_M

Fire and Explosion Work Sheet				
Rating Factor	Assigned Value (Circle One)	Multiplier	Score	Max. Score	Ref. (Section)
1 Containment	1 3	1		3	7.1
2 Waste Characteristics					7.2
Direct Evidence	0 3	1		3	
Ignitability	0 1 2 3	1		3	
Reactivity	0 1 2 3	1		3	
Incompatibility	0 1 2 3	1		3	
Hazardous Waste Quantity	0 1 2 3 4 5 6 7 8	1		8	
Total Waste Characteristics Score				20	
3 Targets					7.3
Distance to Nearest Population	0 1 2 3 4 5	1		5	
Distance to Nearest Building	0 1 2 3	1		3	
Distance to Sensitive Environment	0 1 2 3	1		3	
Land Use	0 1 2 3	1		3	
Population Within 2-Mile Radius	0 1 2 3 4 5	1		5	
Buildings Within 2-Mile Radius	0 1 2 3 4 5	1		5	
Total Targets Score				24	
4 Multiply 1 x 2 x 3				1,440	
5 Divide line 4 by 1,440 and multiply by 100		S_{FE} =			

FIGURE 11
FIRE AND EXPLOSION WORK SHEET

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Ignitability is an indicator of the threat of fire at a facility and the accompanying potential for release of air contaminants. Assign this rating factor a value based on the NFPA classification scheme (Table 14). Table 4 gives values for a number of common compounds. Assign values as follows:

Ignitability	Assigned value
Flashpoint > 200°F, or NFPA level 0	0
Flashpoint 140°F to 200°F or NFPA level 1	1
Flashpoint 80°F to 140°F or NFPA level 2	2
Flashpoint < 80°F or NFPA levels 3 or 4	3

Reactivity. Assign values as in Section 5.2.

Incompatibility. Assign values as in Section 5.2.

Hazardous Waste Quantity. Assign values as in Section 3.4.

TABLE 14.—NFPA IGNITABILITY LEVELS AND ASSIGNED VALUES

NFPA level	Assigned value
4 Very flammable gases, very volatile flammable liquids, and materials that in the form of dusts or mists readily form explosive mixtures when dispersed in air	3
3 Liquids which can be ignited under all normal temperature conditions. Any materials that ignites spontaneously at normal temperatures in air	
2 Liquids which must be moderately heated before ignition will occur and solids that readily give off flammable vapors	2
1 Materials that must be preheated before ignition can occur. Most combustible solids have a flammability rating of 1	1
0 Materials that will not burn	0

7.3 *Targets. Distance to nearest population* is the distance from the hazardous substance to the nearest building or area in which one or more persons are likely to be located either for residential, educational, business, occupational, or recreational purposes. It is an indicator of the potential for harm to humans from fire and explosion. The building or area need not be off-site. Assign values as follows:

Distance	Assigned value
>2 miles	0
1 mile to 2 mile	1
½ mile to 1 miles	2
201 feet to ½ mile	3
51 feet to 200 feet	4
0 to 50 feet	5

Distance to nearest building is an indicator of the potential for property damage as a result of fire or explosion. Assign a value as follows:

Distance	Assigned value
>½ mile	0
201 feet to ½ mile	1
51 feet to 200 feet	2
0 to 50 feet	3

Distance to nearest sensitive environment is measured from the hazardous substances, not from the facility boundary. It is an indicator of potential harm to a sensitive environment from fire or explosion at the facility. Select the highest value using the guidance provided in Table 15 *except* assign a value of 3 where fire could be expected to spread to a sensitive environment even though that environment is more than 100 feet from the hazardous substance.

TABLE 15.—VALUES FOR SENSITIVE ENVIRONMENTS (FIRE AND EXPLOSION)

Assigned value=	0	1	2	3
Distance to Wetlands[1]	>100 feet			<100 feet.
Distance to Critical Habitat[2]	>½ mile	1000 feet to ½ mile	100 to 1000 feet	<100 feet.

[1]Wetland is defined by EPA in the Code of Federal Regulations 40 CFR Part 230, Appendix A, 1980.
[2]Designated by the U.S. Fish and Wildlife Service.

Land Use. Assign values as in Section 5.3.

Population within two-mile radius (measured from the location of the hazardous substance, not from the facility boundary) is a rough indicator of the population at risk in the event of fire or explosion at a facility. The population to be counted includes those residing within the two mile radius as well as people regularly in the vicinity such as workers in factories, offices, or students. It does not include travelers passing through the area. If aerial photography is used in making the count, assume 3.8 individuals per dwelling. Assign values as follows:

Population	Assigned value
0	0
1 to 100	1
101 to 1,000	2
1,001 to 3,000	3
3,001 to 10,000	4
>10,000	5

Number of buildings within two mile radius (measured from the hazardous substance, not from the facility boundary) is a rough indicator of the property damage that could result from fire and explosion at a facility. Assign values to this factor as follows:

Number of buildings	Assigned value
0	0
1 to 26	1
27 to 260	2
261 to 790	3
791 to 2600	4
>2600	5

8.0 *Direct Contact.* The direct contact hazard mode refers to the potential for injury by direct contact with hazardous substances at the facility.

8.1 *Observed Incident.* If there is a confirmed instance in which contact with hazardous substances at a facility has caused injury, illness, or death to humans or domestic or wild animals, enter a value of 45 on line 1 of the work sheet (Figure 12) and proceed to line 4 (toxicity). Document the incident giving the date, location and pertinent details. If no such instance is known, enter "0" on line 1 and proceed to line 2.

8.2 *Accessibility. Accessibility to hazardous substance* refers to the measures taken to limit access by humans or animals to hazardous substances. Assign a value using the following guidance:

Barrier	Assigned value
A 24-hour surveillance system (e.g., television monitoring or surveillance by guards or facility personnel) which continuously monitors and controls entry onto the facility; or an artificial or natural barrier (e.g., a fence combined with a cliff), which completely surrounds the facility; and a means to control entry, at all times, through the gates or other entrances to the facility (e.g., an attendant, television monitors, locked entrances, or controlled roadway access to the facility)	0
Security guard, but no barrier	1
A barrier, but no separate means to control entry	2
Barriers do not completely surround the facility	3

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Direct Contact Work Sheet

	Rating Factor	Assigned Value (Circle One)	Multi-plier	Score	Max. Score	Ref. (Section)
1	Observed Incident	0 45	1		45	8.1
	If line 1 is 45, proceed to line 4 If line 1 is 0, proceed to line 2					
2	Accessibility	0 1 2 3	1		3	8.2
3	Containment	0 15	1		15	8.3
4	Waste Characteristics Toxicity	0 1 2 3	5		15	8.4
5	Targets					8.5
	Population Within a 1-Mile Radius	0 1 2 3 4 5	4		20	
	Distance to a Critical Habitat	0 1 2 3	4		12	
	Total Targets Score				32	
6	If line 1 is 45, multiply 1 x 4 x 5 If line 1 is 0, multiply 2 x 3 x 4 x 5				21,600	
7	Divide line 6 by 21,600 and multiply by 100		S_{DC} =			

FIGURE 12
DIRECT CONTACT WORK SHEET

BILLING CODE 6560-50-C

8.3 *Containment. Containment* indicates whether the hazardous substance itself is accessible to direct contact. For example, if the hazardous substance at the facility is in surface impoundments, containers (sealed or unsealed), piles, tanks, or landfills with a cover depth of less than 2 feet, or has been spilled on the ground or other surfaces easily contacted (e.g., the bottom of shallow pond or creek), assign this rating factor a value of 15. Otherwise, assign a value of 0.

8.4 *Waste Characteristics. Toxicity.* Assign a value as in Section 3.4.

8.5 *Targets. Population within one-mile radius* is a rough indicator of the population that could be involved in direct contact incidents at an uncontrolled facility. Assign a value as follows:

Population	Assigned value
0	0
1 to 100	1
101 to 1,000	2
1,001 to 3,000	3
3,001 to 10,000	4
>10,000	5

Distance to a critical habitat (of an endangered species) is a rough measure of the probability of harm to members of an endangered species by direct contact with hazardous substance. Assign a value as follows:

Distance	Assigned value
<1 mile	5
½ to 1 mile	1
¼ to ½ mile	2
>¼ mile	3

[FR Doc. 82-19141 Filed 7-15-82; 8:45 am]
BILLING CODE 6560-50-M

federal register

Friday
July 16, 1982

Part VI

Department of Justice

Bureau of Prisons

Control, Custody, Care Treatment, and Instruction of Inmates; Final and Proposed Rules

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Parts 503 and 524

Control, Custody, Care, Treatment and Instruction of Inmates

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: This document contains Bureau of Prisons rules relating to the control, custody, care, treatment, and instruction of inmates. Included is the final rule on Youth Corrections Act (YCA) Institutions and Programs. This document also updates the list of Bureau of Prisons institutions, redesignating two existing institutions and designating one new institution

The rule on YCA institutions establishes procedures to ensure that offenders committed under provisions of the Youth Corrections Act are housed separate from other inmates. The rule also establishes procedures to ensure that the YCA inmate is afforded treatment, as required by 18 U.S.C. 5011.

EFFECTIVE DATE: The effective dates for the amendments to list of Bureau of Prisons Institutions are (1) Federal Correctional Institution, Seagoville, Texas—December 7, 1981 and (2) Metropolitan Correctional Center, Miami, Florida and Metropolitan Correctional Center, Tucson, Arizona—February 18, 1982. The effective date for the rule on Youth Corrections Act (YCA) Institutions and Programs is July 16, 1982.

ADDRESS: Office of General Counsel, Bureau of Prisons, Room 760, 320 1st Street, NW., Washington, D.C. 20534.

FOR FURTHER INFORMATION CONTACT: Mike Pearlman, Office of General Counsel, Bureau of Prisons, phone 202–724–3062.

SUPPLEMENTARY INFORMATION: In this document the Bureau of Prisons is publishing its final rule on Youth Corrections Act (YCA) institutions under the revised title of Youth Corrections Act (YCA) Institutions and Programs. This subject was published in the **Federal Register** as a proposed rule January 26, 1982 (at 47 FR 3752 et seq.). Interested persons were invited to submit comments on the proposed rule. Members of the public may submit further comments concerning the final rule on YCA institutions by writing the previously cited address. These comments will be considered but will receive no further response in the **Federal Register.**

Recent Federal court rulings have held that persons committed under the provisions of the Youth Corrections Act are to be housed separate from other inmates. These rulings did not consider the Bureau of Prisons previously established "YCA Units" to meet the statutory requirements of the Youth Corrections Act. Accordingly, the Bureau of Prisons developed a plan for separating YCA offenders from other inmates. This plan has been subject to the review of, and approval by, several federal courts. The plan calls for the establishment of "all-YCA" institutions and the development of an individualized treatment program for each YCA inmate housed within the YCA institution.

At this time, three institutions—FCI, Morgantown; FCI, Petersburg; and FCI, Englewood—have been designated to house YCA inmates. The final rule on YCA institutions establishes the necessary framework for each of these institutions to operate its YCA program. For this reason, the Bureau of Prisons finds good cause under 5 U.S.C. 553(d)(3) of the Administrative Procedure Act to implement this rule on YCA institutions without a 30-day delay in its effective date.

Amendments to the list of Bureau of Prisons institutions, published in the **Federal Register** May 1, 1981 (at 46 FR 24698), and amended in the **Federal Register** December 4, 1981 (at 46 FR 59507) reflect the redesignation of the Federal Prison Camp, Seagoville, Texas as the Federal Correctional Institution, Seagoville, Texas, the redesignation of the Federal Correctional Institution, Miami, Florida, as the Metropolitan Correctional Center, Miami, Florida, and the designation of a new Metropolitan Correctional Center at Tucson, Arizona. A consolidated list of all Bureau of Prisons institutions and their designation was published as a Notice in the **Federal Register** March 5, 1982 (at 47 FR 9754).

The list of Bureau of Prison institutions, to which this present document makes amendments, is included in Title 28 CFR for informational purposes. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date as pertains to this information has been determined inapplicable.

The Bureau of Prisons has determined that these rules are not major rules for the purpose of E.O. 12291. The Bureau of Prisons has determined that E.O. 12291 does not apply to these rules since the rules involve agency management. After review of the law and the regulations, the Director, Bureau of Prisons has certified that these rules, for the purpose of the Regulatory Flexibility Act (Pub. L. 96–354), do not have a significant impact on a substantial number of small entities.

Summary of Changes

Part 503—Bureau of Prisons Central Office, Regional Offices, Institutions, and Staff Training Centers

1. *Section 503.3*—Section 503.3(h) is revised to read "MCC, 15801 S.W. 137th Avenue, Miami, Florida 33177."

2. *Section 503.5*—Section 503.5(f) is revised to read "FCI, Seagoville, Texas 75159."

3. *Section 503.6*—A new § 503.6(i) is added to read "MCC, P.O. Box 22080, Tucson, Arizona 85734."

The amendments to Part 503 provide the Bureau of Prisons with the necessary facilities in both Arizona and Florida to detain unsentenced prisoners, as well as to confine those individuals with only a short sentence to serve. The redesignation of the institution at Seagoville, Texas is made to reflect the type of inmate population that the Seagoville institution is intended to serve.

Part 524—Subpart C—Youth Corrections Act (YCA) Institutions and Programs

1. *Section 524.20*—The word "only" is deleted from § 524.20 as the reference to 18 U.S.C. 5011 clearly expresses the Bureau's intent.

2. *Section 524.21*—The proposed rule's definition of YCA inmate did not sufficiently address the status of an inmate with both a YCA and an adult sentence. Therefore, the Bureau of Prisons, in § 524.21(a)–(f), has expanded its definition of a YCA inmate. The final rule meets the intent of a comment that it is the sentencing court which determines when a person is to be treated as a YCA inmate. As revised, the final rule is consistent with the action of the U.S. Supreme Court in *Ralston v. Robinson* (70 L.Ed. 2d 345). The final rule states that an inmate sentenced under the provisions of the Youth Corrections Act who also has a concurrent or consecutive adult sentence, whether state or federal, is ordinarily considered a YCA inmate, absent a court determination to the contrary. An exception to this provision is the inmate who has a concurrent adult federal sentence that exceeds the release date on the inmate's YCA sentence. When this occurs, the inmate is considered an adult offender. The final rule now includes as a YCA inmate the person confined under the provisions of 18 U.S.C. 3401(g).

Because of the expanded YCA definitions, proposed § 524.21(c)–(d) becomes final § 524.21(g)–(h). Final § 524.21(g) now states that upon the authorization of the court imposing the § 5010(e) study, that study can be conducted in a non-YCA setting. This provision allows the study to be done within a closer proximity to the court and, possibly, to the inmate's area of residence. The last sentence of proposed § 524.21(d) was extraneous and is deleted from the final rule.

3. *Section 524.22*—§ 524.22 has been reworded. Its intent is unchanged.

4. *Section 524.23*—The first sentence of § 524.23 is reworded to state that the Warden is to ensure that each committed YCA inmate is "scheduled for" (rather than "involved in") the three phases of the inmate's YCA program.

5. *Section 524.24*—The clarifying phrase "(subject to modifications or suggestions by the court)" is added to the first paragraph of § 524.24. In § 524.24(a), the phrase "newly committed offender" is substituted for "new arrival". In § 524.24(c), the qualifying phrase, "Absent exceptional circumstances," is added. This section also states that the inmate is "ordinarily" notified of the initial classification meeting 48 hours prior to the inmate's scheduled appearance before the unit team. In § 524.24(d), the extraneous phrase "and a recommendation to the Parole Commission" is deleted. The Bureau of Prisons' report sent to the U.S. Parole Commission does not ordinarily recommend when an inmate should be released, but does estimate the amount of time required for the inmate to achieve program goals.

We do not agree with a commenter to § 524.24 who states "there is nothing new here", that the "provisions outlined here are merely a rehashing of the usual program and regime that federal prisoners, both YCA and adult, are presently subjected." Nor do we consider it necessary for this entire provision to be "rewritten to take into account the Bureau's obligation under the statute * * * to provide specialized treatment for youthful offenders". Section 524.24(d) clearly recognizes the need for specialized treatment with its language "specify the inmate's individualized correctional goals, the programs in which the inmate will participate to attain these goals, and an estimation of the time needed to reach these goals." These aspects, particularly within the structure of an all-YCA institution do not constitute a "rehashing of the usual program." Obviously there will be a similarity of program offerings, because education, vocational training, counseling needs, etc. are not limited solely to either adult or youth offenders.

6. *Section 524.25*—Revised § 524.25 states that each YCA inmate is ordinarily to be exposed to unit-based, institution-based, and community-based programs. The Warden's approval is required for any exceptions to the requirements of the treatment phase. A written record of the reasons for exception is to be placed in the inmate central file. While it should seldom be necessary to use this provision, the Warden should have the authority to exclude participation where warranted, for example, where a YCA inmate has encountered significant disciplinary infractions, the nature of which militate against that inmate's participation in scheduled community trips. Section 524.25(b)(1) is reworded to recognize that unit-based activities are designed to promote self-improvement. Section 524.25(c) states that the inmate is "ordinarily" notified of the 90-day review at least 48 hours prior to the inmate's scheduled appearance before the unit team. Section 524.25(d) is revised to require the establishment of incentives to motivate YCA inmates and to encourage program completion. A commenter correctly states that the phrase "community-based programs" in § 524.25(b)(3) includes temporary release programs (for example, furloughs). In respect to the commenter's reference to 18 U.S.C. 5011, and the "essential varieties of treatment" to which that section refers, the Bureau addresses 18 U.S.C. 5011 in § 524.24(d) as part of the initial assessment of the inmate, as well as in the Bureau's internal staff instructions on establishment of a treatment program.

7. *Section 524.26*—Section 524.26(a) is revised to read that an inmate within 6 months of a release date is ordinarily assigned to a pre-release program. Section 524.26(b) deletes the extraneous word "expected". Placements in a halfway house are made pursuant to current Bureau policy and, as suggested in the proposed rule, at the Warden's discretion.

8. *Section 524.27*—Section 524.27(a)(2) substitutes "General Educational Development (GED)" for "Adult Secondary Education (ASE)". The GED program can assist the inmate in obtaining a high school equivalency certificate and/or a high school diploma. We do not consider it appropriate for § 524.27 to include a commenter's suggestion that the final rule include specific mention of (1) tele-communication instruction as an acceptable delivery system and (2) the Bureau of Prisons accepting pilot programs for schools of education to become involved in institutional instruction below the post-secondary level. The Bureau of Prisons has previously, and continues at the present time, to accept student interns. Entities wishing to establish an internship program or to propose specific educational programs are invited to submit their proposal to the Bureau of Prisons.

A commenter objects to reference in § 524.27(b) that the Bureau provide apprenticeship programs such as "baking, cooking, painting and stationery engineering". The commenter's "hope" was that these examples will not become the norm, as they "seem to focus solely on vocations that can assist staff in maintaining and operating the facilities and not on teaching skills that are marketable upon release." We strongly disagree with this comment. Apprenticeship programs must be approved by the Department of Labor's Bureau of Apprenticeship and Training. The existence of a specific apprenticeship program and its training requirements are not predicated on institutional need, but rather on the job market. While the list provided in § 524.27(b)(2) was not intended to be inclusive (the Bureau of Prisons presently offers over 270 apprenticeship programs in 76 different trades), skills such as baking, cooking, painting, and stationery engineering are considered fully marketable upon release.

Section 524.27(c) is reworded to state that UNICOR is expected to operate apprenticeship training programs.

9. *Section 524.28*—In response to comment, revised § 524.28 recognizes that the Bureau of Prisons may forward a progress report to the U.S. Parole Commission upon a determination by the inmate's unit team and concurrence of the Warden that that inmate has made significant progress (ordinarily indicated by completion of the program plan). In response to another aspect of this comment, the Bureau of Prisons does consult with the U.S. Parole Commission in the implementation of the YCA.

10. *Section 524.30*—The final rule substitutes the more appropriate phrase "non-YCA setting" for "non-YCA institution". The term "halfway house" is deleted from § 524.30(a) as this setting is included within the term "community treatment center". Section 524.30(b) substitutes the phrase "assigned YCA institution" for "present YCA institution". Section 524.30(c) is new and allows for a YCA inmate to be confined in a Bureau of Prisons hospital or in any other hospital as necessary for

emergency medical (including psychiatric) treatment. Proposed § 524.30(c)–(d) becomes final § 524.30(d)–(e). Section 524.30(d) deletes the overly broad phrase "at all times". The Bureau of Prisons expects, however, YCA inmates on "holdover" status ordinarily to be kept physically separated from non-YCA inmates.

A commenter suggests that § 524.30(b) will allow YCA prisoners to be "comingled" with adult prisoners for long periods, and suggests, at a minimum, that separate YCA housing units be established at those facilities specified in subsection (b). Establishment of YCA Units is not practicable, as recent court rulings have held that such units do not meet the intent of the YCA statute. In respect to the commenter's concern that § 524.30(b) will result in the mixing of YCA and adult offenders for long periods, internal staff instructions clearly state that such treatment is "temporary". The Director will seek the concurrence of the sentencing judge when the YCA inmate is considered a "chronic" medical case, requiring placement in a non-YCA setting throughout the YCA sentence.

We disagree with a comment to § 524.30(d) that the phrase "compelling reasons" is a catch-all provision that leaves "staff and director totally free to make exceptions despite the statute and the cases". Except as specifically provided in the rule on YCA inmates, only the Director, Bureau of Prisons may authorize a YCA inmate's placement in a non-YCA setting. Prior to giving approval, the Director will contact the sentencing judge and request the judge's concurrence on the transfer. The Bureau considers these provisions to clearly meet the intent of the Youth Corrections Act.

List of Subjects

28 CFR Part 503

Organization and functions.

List of Subjects

28 CFR Part 524

Prisoners.

Conclusion

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(q), 28 CFR Chapter V is amended as set forth below.

Dated: July 12, 1982.

Gerald M. Farkas,

Acting Director, Bureau of Prisons.

A. Subchapter A—General Management and Administration

In Subchapter A, Part 503 is amended as follows:

PART 503—BUREAU OF PRISONS CENTRAL OFFICE, REGIONAL OFFICES, INSTITUTIONS, AND STAFF TRAINING CENTERS

The authority citation for Part 503 reads as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4003, 4042, 4081, 4082, 5006–5024, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99; Bureau of Prisons Notice published on March 5, 1982 (47 FR 9754).

1. In § 503.3, paragraph (h) is revised to read as follows:

§ 503.3 Bureau of Prisons Southeast Regional Office.

* * * * *

(h) MCC, 15801 S.W. 137th Avenue, Miami, Florida 33177.

* * * * *

2. In § 503.5, paragraph (f) is revised to read as follows:

§ 503.5 Bureau of Prisons South Central Regional Office.

* * * * *

(f) FCI, Seagoville, Texas 75159.

* * * * *

3. In § 503.6, a new paragraph (i) is added to read as follows:

§ 503.6 Bureau of Prisons Western Regional Office.

* * * * *

(i) MCC, P.O. Box 22080 Tucson, Arizona 85734.

B. Subchapter B—Inmate Admission, Classification, and Transfer

In Part 524, Subpart C is added to read as follows:

PART 524—CLASSIFICATION OF INMATES

Subpart C—Youth Corrections Act (YCA) Institutions and Programs

Sec.

524.20 Purpose and scope.
524.21 Definitions.
524.22 Designation of a YCA institution.
524.23 YCA program.
524.24 Classification.
524.25 Treatment.
524.26 Pre-release.
524.27 Educational and work-oriented programs.
524.28 Conditional release (parole).
524.29 Parole violators.
524.30 Exceptions.

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 5005–5026, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

Subpart C—Youth Corrections Act (YCA) Institutions and Programs

§ 524.20 Purpose and scope.

The Director, Bureau of Prisons has designated selected federal institutions to house those persons committed under the provisions of the Federal Youth Corrections Act (YCA). 18 U.S.C. 5011 of this Act states "Insofar as practical, such institutions * * * shall be used only for treatment of committed youth offenders, and such youth offenders shall be segregated from other offenders * * *." The Warden at each YCA institution shall ensure that a three-phase program, comprised of a classification, a treatment, and a pre-release phase, is developed for every YCA commitment. Designated Bureau of Prisons staff (ordinarily the Warden) may authorize an inmate committed under the Youth Corrections Act to be housed with non-YCA inmates only under conditions specified in this rule. Further exceptions to the requirements of this rule for commitment of YCA inmates shall be made only upon written approval of the Director, Bureau of Prisons.

§ 524.21 Definitions.

(a) For purpose of this rule, an inmate confined under the provisions of 18 U.S.C. 5010(b), (c), or (e), or 18 U.S.C. 3401(g), who is not also sentenced to a concurrent or consecutive adult term, whether state or federal, shall be considered a YCA inmate.

(b) For purposes of this rule, an inmate confined under the provisions of 18 U.S.C. 5010(b) who also has a state or federal sentence, either concurrent or consecutive, shall be considered a YCA inmate, if the offense (or offenses) on which the 5010(b) commitment is based carries maximum penalties for adults of less than 6 years.

(c) For purposes of this rule, an inmate confined under the provisions of 18 U.S.C. 5010(b), (c), or (e), who also has a concurrent or consecutive state sentence, shall be considered a YCA inmate, provided the Bureau of Prisons considers the inmate a good candidate for treatment under the provisions of the Youth Corrections Act. Where the Bureau of Prisons believes that the inmate is not a good candidate for treatment under the provisions of the Youth Corrections Act, the Warden shall forward Bureau of Prisons justification for its position to the sentencing YCA court and request that court's

determination on the inmate's YCA status.

(d) For purposes of this rule, an inmate confined under the provisions of 18 U.S.C. 5010(b), (c), or (e), who also has a concurrent or consecutive sentence under the provisions of 18 U.S.C. 3401, shall be considered a YCA inmate. Where the Bureau of Prisons believes that the inmate is not a good candidate for treatment under the provisions of the Youth Corrections Act, the Warden shall forward Bureau of Prisons justification for its position to the sentencing YCA court and request that court's determination on the inmate's YCA status.

(e) For purposes of this rule, an inmate confined under the provisions of 18 U.S.C. 5010(b), (c), or (e), who also has a concurrent adult federal sentence, shall be considered an adult offender when the concurrent adult sentence exceeds the release date on the inmate's YCA sentence. Except as specified in paragraph (b) of this section, where the inmate has a concurrent adult sentence shorter than the release date on the inmate's YCA sentence, the Warden shall contact the sentencing judge for a determination on the inmate's YCA status.

(f) For purposes of this rule, an inmate confined under the provisions of 18 U.S.C. 5010(b), (c), or (e) shall be considered an adult offender when that inmate has a consecutive adult federal sentence, provided the court that imposes the consecutive adult sentence states that, in the court's opinion, YCA treatment will not be of further benefit to the inmate, or provides a statement of similar import. Absent this determination by the court, the inmate is to be considered a YCA inmate.

(g) Study Cases—YCA inmates who are committed for a period of study, under 18 U.S.C. 5010(e). With the authorization of the court imposing the section 5010(e) study, the section 5010(e) study can be conducted in a non-YCA setting.

(h) Committed Youth Offenders—YCA inmates who are sentenced under 18 U.S.C. 5010(b) or (c).

§ 524.22 Designation of a YCA institution.

Appropriate staff in the Regional Office shall designate a YCA inmate to a YCA institution at the time of the YCA inmate's initial commitment.

§ 524.23 YCA program.

Each Warden of a YCA institution is to ensure that each committed youth offender is scheduled for a three-phase program, to include a classification, a treatment, and a pre-release phase (See §§ 524.24–28). The program is to incorporate a graduated release concept to specifically address the return to the inmate of increasing levels of liberty and personal responsibility. In accordance with policy guidelines, the inmate is to be advised of the earliest possible date when consideration may be given to possible reductions in custody level. The graduated release concept is also to focus on the earliest date when the inmate's Unit Team will consider the inmate for town trips (for purpose of attending a neaby social or sports event), work and/or study release, and furloughs. The inmate is to be advised that for these steps toward release to occur, the inmate will be required to maintain a level of behavior which complies with Bureau of Prisons rules and institution guidelines.

§ 524.24 Classification.

This phase shall include an inmate orientation period, a system for unit assignment, and the development of an individualized program plan incorporating the graduated release concept. Except for those inmates returned as committed youth offenders subsequent to a section 5010(e) study, YCA inmates are to participate in a classification procedure prior to the development of their individualized program plans. YCA inmates who were returned by the court as committed youth offenders subsequent to a section 5010(e) study may be placed immediately into their assigned units and begin the individualized program outlined in the report submitted to the court (subject to modifications or suggestions by the court).

(a) *Orioentation*—During the classification period, an inmate is expected to participate in general orientation activities to become familiar with the overall operations of the institution and the types of programs available. Staff shall schedule the inmate for a variety of other activities, including medical and dental examination, and psychological, educational and vocational screening. In addition, each unit shall develop its own orientation program to introduce the newly committed offender to the specific programs within the inmate's assigned unit.

(b) *Unit Assignment*—The Warden shall develop procedures to systematically assign newly admitted inmates to unit living quarters.

(c) *Initial Classification*—Absent exceptional circumstances, within four weeks of the committed inmate's arrival at the designated YCA institution, the Unit Team shall meet with that inmate for purpose of initial classification and program assignment. Staff shall ordinarily notify the inmate of this meeting at least 48 hours prior to the inmate's scheduled appearance before the Unit Team. An inmate may waive in writing the requirement of 48 hours notice. The inmate is expected to attend, and to participate in, the initial classification meeting. If the inmate refuses to appear, staff shall document in the record of the meeting the inmate's refusal to appear and, if known, the reasons for refusal.

(d) *Program Plan*—The Unit Team shall prepare a staff evaluation which summarizes the inmate's needs and outlines the program plan developed jointly with the inmate. The program plan shall specify the inmate's individualized correctional goals, the programs in which the inmate will participate to attain these goals, and an estimation of the time needed to reach these goals. The Unit Team in their evaluation shall explicitly address and document their decision as to whether the YCA inmates' needs can best be met in the presently assigned institution, in another YCA institution, in a community program, or in some other setting as specified in 18 U.S.C. 5011.

§ 524.25 Treatment.

Each YCA inmate is ordinarily to be exposed to unit-based, institution-based, and community-based programs. Each YCA inmate shall be provided periodic reviews during this phase. The treatment phase begins when the inmate attends the programs and activities described in the program plan and ends approximately six months prior to the inmate's anticipated release date. Exceptions to the requirements of the treatment phase must be approved by the Warden, with a written record of the reasons for exclusion placed in the inmate central file.

(a) *Program Structure*—Each inmate in a YCA institution shall be assigned program involvement in accordance with the inmate's needs. The "program day" shall consist of morning, afternoon, and evening time periods, during which the inmate shall be scheduled for self-improvement, work, and leisure-time activities. The inmate shall be expected to comply with the program plan. The inmate's refusal to participate may result in disciplinary action.

(b) *Programs*—Program activities consist of those conducted within the unit, those conducted at centralized locations within the institution, and those conducted within the community. Eacy YCA institution shall offer programs in each of these three areas.

(1) *Unit-Based Programs*—This includes those activities designed to

promote self-improvement and to enhance staff/inmate and inmate-to-inmate relationships, as well as ensure the orderly running of the unit. Examples of unit-based programs include unit business and information sharing meetings, individual and group counseling sessions, leisure-time and recreation activities, daily sanitation details, periodic drug surveillance, and group and individual psychotherapy.

(2) *Institution-Based Programs*—This includes activities conducted at a centralized location within the institution and includes self-improvement, educational and work-oriented programs (see § 524.27), physical recreation and other leisure-time activities. Examples of institution-based programs include religious services and related study groups, community volunteer programs, music and drama clubs, and ethnic groups.

(3) *Community-Based Programs*—This includes those activities designed to help re-orient the inmate to a successful return to free society living. The activities may be similar to institutional activities, with the primary difference being the community location. Examples of specific activities which may be found only in the community include enrollment in a community vocational training program, an institutional choir that sings at churches, lectures by selected inmates to school groups and community organizations concerning crime, drugs, etc.

(c) *Reclassification*—Staff shall conduct periodic reviews of the inmate's program plan and shall modify the plan in accord with the level of progress shown. Each YCA inmate shall be afforded a review at least once each 90 days and shall have a formal progress report prepared at least yearly summarizing the inmate's level of achievement. Staff shall ordinarily notify the inmate of the 90-day review at least 48 hours prior to the inmate's scheduled appearance before the Unit Team. An inmate may waive in writing the requirement of 48 hours notice. The inmate is expected to attend and to participate in the review. If the inmate refuses to appear, staff shall document in the record of the meeting the inmate's refusal to appear and, if known, the reasons for refusal. Each review shall be documented and the results placed in the inmate central file.

(d) *Incentives*—Staff shall establish incentives to motivate YCA inmates and to encourage program completion. Examples of such incentives which may be used are special recognition, ceremonies, awards, and "vacation days".

§ 524.26 Pre-release.

The YCA inmate shall enter the pre-release phase approximately six months prior to release. The pre-release phase is ordinarily divided into two portions: A pre-release program in the institution and a stay at a halfway house.

(a) Each YCA institution shall develop a formal pre-release program. Inmates who are within six months of a release date shall ordinarily be assigned to this program. The pre-release program shall focus on the types of problems the inmate may face upon return to the community, such as re-establishing family relationships, managing a household, finding and keeping a job, and developing a successful life style. In addition, the pre-release program may include visits from prospective employers who describe what they look for in a job applicant and from former inmates who have demonstrated a successful post-release community adjustment for at least one year.

(b) Halfway House—A YCA inmate released from a YCA institution is ordinarily placed in a halfway house, to ease community transition. Such placements are pursuant to current Bureau guidelines, and at the Warden's discretion. Exceptions to halfway house placement are approved by the Warden, with a written record of the reasons for exclusion placed in the inmate central file.

§ 524.27 Educational and work-oriented programs.

Each YCA institution shall offer the following types of educational and work-oriented programs:

(a) *Academic Education*—Programs in this area are to include the following.

(1) *Adult Basic Education (ABE)*—designed to assist the inmate whose academic skills are below the sixth grade level.

(2) *General Educational Development (GED)*—designed to assist the inmate in preparation for obtaining a high school equivalency certificate and/or a high school diploma.

(3) *Adult Continuing Education (ACE)*—designed to assist the inmate who wishes to continue to expand or to "brush up" in a specific educational area, such as English as a second language.

(4) *Postsecondary Education (PSE)*—designed to assist the inmate who desires to take accredited courses above the high school level. These courses may be in either the educational or vocational area.

(5) *Social Education (SE)*—designed to assist the inmate in the inmate's adjustment. These programs concern personal growth, increased ability to cope with problems such as stress, self-image, alcoholism, and responsibilities as a parent.

(b) *Occupational Education*—Programs in this area are to focus on helping the inmate acquire or improve upon marketable skills. Each YCA institution shall offer at least three training areas, in such skills as automotive repair, computer programming, welding, heating, and air conditioning. Within the occupational education area, each YCA institution shall also offer at least two approved apprenticeship programs, such as baking, cooking, painting, and stationary engineering.

(c) *Work-Oriented Programs*—Programs in this area include Federal Prison Industries (UNICOR) and institutional maintenance and service details. UNICOR is expected to operate apprenticeship training programs. Eligibility for an industrial placement requires the recommendation of the Unit Team and an indication that the inmate is either functioning at least at a 6.0 grade level (as shown by the Stanford Achievement Test), or is presently participating in an ABE program with progress towards attaining a 6.0 grade level. The inmate who works full time in an industrial assignment must possess at least a 6.0 grade level.

§ 524.28 Conditional release (parole).

The U.S. Parole Commission is the releasing authority for all YCA inmates. Upon request of the U.S. Parole Commission or upon a determination by the inmate's Unit Team and concurrence of the Warden that the inmate has made significant progress (ordinarily indicated by completion of the program plan), the Bureau of Prisons shall provide the U.S. Parole Commission with a progress report on the YCA inmate. When institutional staff wish to notify the Parole Commission of a special post-release need of the inmate, the Unit Team shall either make notation of this need in the progress report or may submit a separate report bringing the post-release need to the attention of the U.S. Parole Commission.

§ 524.29 Parole violators.

A YCA inmate whose conditional release is revoked by the U.S. Parole Commission shall ordinarily enter the Bureau of Prisons three-phase program for YCA inmates as described in this rule.

§ 524.30 Exceptions.

A YCA inmate may be considered for transfer to a non-YCA setting under the following conditions.

(a) A YCA inmate may be housed within the general population of a community treatment center or work release facility, and may work with non-YCA's at a factory, office, or other workplace in the community during the pre-release phase of treatment.

(b) A YCA inmate may be confined at the Medical Center for Federal Prisoners, Springfield, Missouri, or at the Federal Correctional Institution, Butner, North Carolina, or at the Federal Correctional Institution, Lexington, Kentucky, as necessary for the duration of special medical or mental health treatment not available within the inmate's assigned YCA institution.

(c) A YCA inmate may be confined in a Bureau of Prisons hospital or in any other hospital as necessary for emergency medical (including psychiatric) treatment.

(d) A YCA inmate may be confined temporarily in a non-YCA setting on "holdover" status (en route to another institution). The YCA inmate who is confined temporarily on "holdover" status is to be physically separated from non-YCA inmates.

(e) A YCA inmate, upon approval of the Director, Bureau of Prisons, may be confined in a non-YCA setting for other compelling reasons.

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DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 544

Control, Custody, Care, Treatment, and Instruction of Inmates

AGENCY: Bureau of Prisons, Justice.

ACTION: Proposed rule.

SUMMARY: The Bureau of Prisons is proposing to amend its final rule on Education Tests: Minimum Standards for the Administration, Interpretation, and Use at all Bureau of Prisons Institutions. The proposed amendments are primarily intended to help implement the Bureau of Prisons final rule on Adult Basic Education (ABE) Program, published in the **Federal Register** May 20, 1982 (at 47 FR 22006–07).

DATE: Comments must be received on or before August 16, 1982.

ADDRESS: Office of General Counsel, Bureau of Prisons, Room 760, 320 1st Street NW., Washington, D.C. 20534. Comments received will be available for examination by interested persons at the above address.

FOR FURTHER INFORMATION CONTACT: Mike Pearlman, Office of General Counsel, Bureau of Prisons, phone 202/724–3062.

SUPPLEMENTARY INFORMATION: Pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons, in 28 CFR 0.96(q), notice is hereby given that the Bureau of Prisons intends to publish in the **Federal Register** a proposed amendment to its rule on Education Tests: Minimum Standards for the Administration, Interpretation, and Use at all Bureau of Prisons Institutions. The final rule on this subject was published in the **Federal Register** May 20, 1980 (at 45 FR 33939). The present amendment republishes this rule in its entirety. The primary intent of this revision is to more effectively implement the Bureau of Prisons final rule on its Adult Basic Education (ABE) Program, published in the **Federal Register** May 20, 1982 (at 47 FR 22006–07). The proposed amendment on minimum standards for education tests includes a provision that an inmate who has not taken the SAT within the last two years and whose previous SAT scores in the Reading, Mathematics, and Language subtests were below the 6.0 academic grade level shall be required to take the Stanford Achievement Test (SAT) or, if a non-English speaking inmate, other standardized academic test. The final rule on the ABE program requires that an inmate who cannot read, write, or do mathematics at the 6.0 academic grade level shall be required to attend an adult basic education program for a minimum of 90 calendar days. The SAT is the means ordinarily used to determine the inmate's academic grade level. The present revision to the rule on minimum standards for education tests is intended to recognize this fact. The proposed rule also states that an inmate who refuses to take the SAT (or other standardized test) will be required to attend an adult basic education program for a minimum of 90 calendar days.

The amended rule on minimum standards for education tests no longer specifically excludes Community Treatment Centers, Detention Centers, and Metropolitan Correctional Centers. The education tests are ordinarily to be given as specified in the rule, regardless of where the inmate is housed. The amended rule also deletes the phrase "within one month of arrival". The rule's intent, however, continues to be for the inmate to receive the specified tests as soon as practicable after arrival.

The Bureau of Prisons has determined that this rule is not a major rule for the purpose of E.O. 12291. The Bureau of Prisons has determined that E.O. 12291 does not apply to this set of rulemaking since the rule involves agency management. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96–354) does not have a significant impact on a substantial number of small entities.

Interested persons may participate in this proposed rulemaking by submitting data, views, or arguments in writing to the Bureau of Prisons, Room 760, 320 1st Street, NW., Washington, DC. 20534. Comments received on or before August 16, 1982 will be considered before final action is taken. The proposed rule may be changed in light of the comments received. No oral hearings are contemplated.

List of Subjects in 28 CFR Part 544

Prisoners, Education, Libraries, Recreation.

In consideration of the foregoing, it is proposed to amend 28 CFR, Chapter V as follows: In Subchapter C, remove existing Subpart B and add a new Subpart B to Part 544 to read as follows:

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

* * * * *

PART 544—EDUCATION

Subpart B—Minimum Standards for the Administration, Interpretation, and Use of Education Tests

Sec.

544.10 Purpose and scope.
544.11 Refusal to take the Stanford Achievement or other standardized test.

Authority. 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

Subpart B—Minimum Standards for the Administration, Interpretation, and use of Education Tests.

§ 544.10 Purpose and scope.

The Bureau of Prisons administers appropriate educational tests to inmates confined within it institutions.

(a) Staff shall administer the Stanford Achievement Test (SAT) to an inmate who meets the following criteria.

(1) A newly committed inmate with a sentence of more than one year shall be required to take the SAT. For the non-English speaking inmate, another appropriate standardized test may be used to determine the inmate's current level of academic achievement. The Warden may also approve the administration of an SAT to a newly committed inmate who is serving a sentence of one year or less when test results are required for program placement and other purposes.

(2) An inmate who has not taken the SAT within the last two years (verified by the Supervisor of Education or designee) and whose previous SAT scores in the Reading, Mathematics, and Language subtest were below the 6.0 academic grade level shall be required to take the SAT or, for the non-English speaking inmate, other standardized test.

(b) Staff may administer other appropriate aptitude and achievement tests, as needed, to measure specific achievement or aptitude.

(c) Staff may not allow inmates to administer, score, or interpret tests which are the subject of this rule. Staff may not assign the clerical handling of such tests to an inmate.

§ 544.11 Refusal to take the Stanford Achievement or other standardized test.

An inmate who refuses to take the SAT test (or other standardized test) necessary to determine if the inmate has achieved a test score equivalent to the 6.0 academic grade level shall be required to attend an adult basic education program (ABE) for a minimum of 90 calendar days (see Part 544, Supbart H).

Dated: July 12, 1982.

Gerald M. Farkas,

Acting Director, Bureau of Prisons.

[FR Doc. 82–19271 Filed 7–15–82; 8:45 am]

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federal register

Friday
July 16, 1982

Part VII

Department of Labor

Wage and Hour Division

Fair Labor Standards Act; Child Labor Regulation No. 3; Employment of 14- and 15-Year-Olds; Proposed Rule

DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Part 570

Fair Labor Standards Act; Child Labor Regulation No. 3; Employment of 14- and 15-Year-Olds

AGENCY: Wage and Hour Division, Labor.

ACTION: Proposed rule.

SUMMARY: The Administrator of the Wage and Hour Division is proposing revisions of Child Labor Regulation No. 3. Regulation 3, issued under the authority of section 3(1) of the Fair Labor Standards Act, provides for the permissible employment of minors 14 and 15 years of age in occupations other than manufacturing and mining during periods which will not interfere with their schooling and under conditions which will not interfere with their health or well-being. The proposed revisions are issued as the result of the experience of the Wage and Hour Division in administering and enforcing this regulation, requests received by the Administrator recommending these changes, and studies initiated by the Administrator concerning employment standards appropriate for 14 and 15-year-old employees. Some substantive revisions in the permissible occupations and the hours and time standards are proposed, and the entire regulation is presented in a new format to clarify how the regulation applies.

DATE: Written comments in triplicate must be received on or before August 16, 1982.

ADDRESS: Comments should be addressed to William M. Otter, Administrator, Wage and Hour Division, Attention: Gordon L. Claucherty, Room S–3030, Frances Perkins Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Gordon L. Claucherty, Wage and Hour Division, Room S–3030, Frances Perkins Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, telephone 202–523–7478.

SUPPLEMENTARY INFORMATION: Section 3(1) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 203(1)) authorizes the Secretary of Labor to provide by regulation for the employment of young workers 14 and 15 years of age in suitable occupations other than manufacturing or mining and during periods and under conditions which will not interfere with their schooling or with their health and well-being. Under this authority, Child Labor Regulation No. 3 was first issued on October 21, 1938. Although there have been a number of revisions of this regulation since that time, this proposed revision is the most comprehensive.

Regulation No. 3 contains a provision under which interested person may recommend changes in the regulation. That provision, 29 CFR 570.38, provides that:

> Any person wishing a revision of any of the terms of this subpart may submit in writing to the Secretary of Labor a petition setting forth the changes desired and the reasons for proposing them. If, after consideration of the petition, the Secretary of Labor believes that reasonable cause for amendment of the subpart is set forth, he shall either schedule a hearing with due notice to interested parties, or shall make other provision for affording interested parties and opportunity to be heard.

The Administrator of the Wage and Hour Division, as the representative of the Secretary, has received many hundreds of petitions and recommendations for changes in this regulation. The Administrator has considered these recommendations, and believes that a reasonable cause for the revisions set forth in this proposal has been presented. The proposed revision restates the regulation, provides some substantive changes, and presents a new format to clarify the application of the regulation.

Manufacturing and Mining Occupations

The Fair Labor Standards Act specifically prohibits the employment of 14 and 15-year-old employees in manufacturing and mining occupations. The prohibitions against employment (such as food vending, message delivery and clean-up work) performed in work areas and work places where manufacturing or mining takes place would be retained in the proposed revision, in order to provide adequate protection against the hazards of equipment, environment and inadequate supervision.

Processing Occupations

The present regulation contains a general prohibition against employment in processing occupations but makes specific exceptions. The proposed revision would achieve the same effect within the new format, including permitting certain kinds of employment in workrooms and work places where processing takes place. For example, the regulation, as revised, would no longer prohibit messenger work that involves going into a food processing plant and would permit employment as a sales clerk in a shoe repair shop.

Laundering Occupations

Laundering occupations are presently prohibited as processing. However, some laundering jobs (such as folding and sorting) will be permitted provided they are performed on clean laundry in rooms where no laundry machinery is operated. Employment in self-service laundries will also be permitted. On the basis of the Department's experience with such employment, recommendations from a variety of sources that it be permitted, and resulting review and study, the Administrator has determined that this employment will not interfere with the health and well-being of 14 and 15-year-olds so employed. The requirement that the permitted duties be performed on clean laundry eliminates exposure to health hazards.

Cooking and Baking

The proposed revision would permit employment in occupations involving cooking and baking except those involving the handling of hot grease (140° F), working over an open flame, and cooking with containers under pressure which have no safety valves. These proposed standards are based on investigatory experience of the Department and supported by recommendations of interested persons with experience and knowledge in the field. The review and study by the Administrator included visits to many fast food service establishments and studies of the blueprint plans of the kitchens of such establishments. The temperature of 140° F. was selected since this has been established as the temperature at which a first degree burn can occur.

Impact of Hazardous Orders

Occupations which have been declared hazardous for 16 and 17-year-old youngsters are also prohibited for 14 and 15 year olds. In order to provide clarity, a sentence has been added explaining that the provisions in some of the hazardous orders which permit apprenticeship and student-learner exemptions for young persons 16 and 17 years of age do not apply to the 14 and 15-year-old group. Furthermore, the proposal deletes, as superfluous, the specific references in the present regulation prohibiting employment in occupations involving the operation or tending of hoisting apparatus and prohibiting the operation of motor vehicles. These occupations are already covered within Hazardous Occupations Orders Nos. 7 and 2, respectively.

Dry Cleaning Occupations

The proposed revision would continue the prohibition of employment in occupations in connection with dry cleaning. The revision would make an exception for employment in office and sales work in dry cleaning establishments, and would limit such employment to workplaces where no cleaning machinery is used. Thus, employment in areas where exposure to fumes might be harmful is prohibited for this age group.

Transportation Occupations

The basic prohibition of employment in connection with transportation of persons or property is continued. The trucking industry has recommended that the regulation which presently permits car cleaning, washing and polishing be extended to permit the exterior cleaning, washing, or polishing of trucks and buses and the interior cleaning of passenger vehicles, adding the proviso "while they are not in motion." On the basis of the Department's experience with such employment, the industry recommendation and resulting review and study, the Administrator has determined that employment limited to washing, etc., the exteriors of trucks and buses, while permitting washing, etc., the interior and exterior of passenger cars will not interfere with the health and well-being of 14- and 15-year-olds.

Warehousing and Storage

The proposed revision would eliminate the general prohibition against employment in occupations in connection with warehousing and storage. Employment would be permitted in many occupations in these establishments, including those warehousing and storage operations found in wholesale and mail order houses, such as sales and office work, tag and ticket work in tobacco warehouses (formerly permitted by interpretation), and stock clerk type hand operations such as order-filling, marking, packaging and shelving. Occupations in warehousing and storage which are considered harmful for 14- and 15-year-olds would be prohibited by other provisions of the regulation. For example, the processing provision would continue to prohibit the preparation of food products (such as barbecued chicken, pizza pies, etc.) in warehouses. The operation of power-driven woodworking machinery and meat processing machinery found in some warehouses would continue to be prohibited by Hazardous Occupations Orders Nos. 5 and 10 and the power-driven machinery prohibition in the regulation. Hazardous Occupations Order No. 7 and/or the power-driven machinery prohibition would continue to cover the operation of forklifts, electric hand jacks and conveyors.

Communications and Public Utilities

The proposed revision would omit the general prohibition against employment in occupations in connection with communications and public utilities. A review has indicated that employment in occupations such as switchboard operator work, teletype operator work, record turntable operator work, meter reader, and clean-up work in offices and salesrooms (presently prohibited) would not interfere with the health and well-being of 14- and 15-year-old minors. Other sections of the proposed regulation would provide adequate protection against those activities related to communications and public utilities which are unsuitable such as the installation of telephone lines or the connection of gas lines.

Construction and Demolition

The proposed revision would reword the general prohibition against employment in occupations in connection with construction or demolition to insure that construction activities related to communications and public utilities continue to be prohibited. A new exception would permit young workers to participate in surveying operations which take place prior to other activities at the construction site. Several sources urged that this activity be permitted for 14- and 15-year-old employees. The Department's experience indicates that surveying operations which take place prior to excavation would not expose youngsters in this age group to harm.

Boiler Rooms and Engine Rooms

The proposed revision would prohibit employment in occupations requiring the performance of any duties in boiler rooms or engine rooms, wherever located. Under the present regulation these occupations are prohibited only in retail, food service and gasoline service establishments.

Power-Driven Machinery Occupations

The proposed revision would extend the present prohibition of employment in occupations involving the operation of power-driven machinery to occupations involving setting-up, adjusting, cleaning, oiling and repairing such machinery (including loading and unloading goods to and from conveyors) wherever located. The proposed regulation would eliminate the present distinction with respect to employment in these occupations in retail and food service establishments. However, employment in occupations involving the operation or tending of specified power-driven machines would be permitted, including the operation of window-shade cutter machines, key cutting machines and self-service washing machines and dryers. Also permitted would be the operation of automatic data processing equipment.

Ladders and Scaffolds

The proposed regulation would provide more definite standards for employment involving window washing or the use of ladders or scaffolding, wherever located. Outside window cleaning would be prohibited above the grade-level floor whether or not it is done from window sills; and work requiring the performance of duties from ladders and like devices would be prohibited only at heights in excess of 6 feet. These changes, which are based on experience gained by the Department, have been made in order to achieve a more uniform application of the standards and to better define the prohibitions.

Messenger Work

The proposal would prohibit messenger work requiring the operation of a motorized vehicle, but permit errand and delivery work by foot, non-motorized bicyle, public transportation, or as a passenger in an enclosed passenger vehicle for employees of any place of business. This provision represents a clarification of the present standard and provides for consistent application.

Waiver Provision

A totally new provision in this proposal would permit individual applications for a waiver of the restrictions in the regulations concerning occupations and hours of employment. This would assure that the regulation would not be applied in unforeseeable situations so as to prohibit suitable employment. This proposed revision is based on the Department's experience with a similar provision in work experience and career exploration programs (WECEP). It is also based on the experience of State authorities under similar provisions. According to information reported to the Administrator, varying the State child labor requirements on an individual basis has not interfered with the health and well-being or opportunities for schooling of 14 and 15-year-old employees.

Hours of Work

Although the proposed regulation would continue the prohibition against employment during school hours and the limitations of 8 hours a day and 40 hours a week in any week when school is not in session, it would increase and extend the permissible periods of work during days and weeks when school is in session. The maximum daily hours of employment when school is in session would be increased from 3 hours to 4 hours and the maximum weekly hours when school is in session would be increased from 18 hours to 24 hours. The proposal would permit 14 and 15-year-old minors to work up to a maximum of 36 hours during any week when school is in session for only a portion of the week due to holidays and vacation periods. The proposal would also extend the closing hours from 7 p.m. to 9 p.m. generally, and to 10 p.m. on any day during the summer months or preceding a non-school day. The Department has received recommendations for these changes in the hours standards in hundreds of letters, and in conferences and meetings with employers, educators, and State child labor officials. The Department's study of the data received, including experience under similar standards established by many States, led to the conclusion that such changes would not interfere with the schooling or with the health and well-being of 14 and 15-year-old employees.

The WECEP provisions would be amended to delete, as no longer necessary, the variation for the employment of enrollees for a maximum of 23 hours a week during weeks when school is in session. The proposed 24 hours standard for all 14 and 15-year-olds would be applicable to such enrollees.

Classification

The proposed revision restates the regulation, provides some substantive changes, and presents a new format to clarify the application of the regulation. Therefore, this rule is not classified as a "major rule" under Executive Order 12291 on Federal Regulations, because it is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign based enterprises in domestic or export markets. Accordingly, no regulatory impact analysis is required.

Regulatory Flexibility Act

The proposed revision must also consider the Regulatory Flexibility Act of 1980, Pub. L. 96–354, 91 Stat. 1164, 5 U.S.C. 601 *et seq.* This Act requires agencies to prepare regulatory flexibility analyses and to develop flexible alternatives whenever possible in drafting regulations that will have "a significant economic impact on a substantial number of small entities."

Child Labor Regulation No. 3 issued under Section 3(1) of the Fair Labor Standards Act sets employment standards for young workers 14 and 15 years of age in suitable occupations other than manufacturing and mining. These include hourly limits on employment and requires conditions which will not interfere with their schooling or their health and well-being.

The current rule restricts the employment of 14 and 15 year olds to 18 hours a week during the school term and 40 hours weekly during the summer months. Today's proposal would raise the limit to 24 hours a week when school is in session, but retain the current maximum of 40 hours weekly during non-school weeks. The proposal would also permit a maximum of 36 hours during any week when school is in session for only a portion of the week due to holidays and vacation periods.

The proposed regulation would also revise those permissible occupations for minors to include, for example, cooking or baking under certain conditions; the operation or tending of specified power-driven machinery such as office machines, automatic data processing equipment, and self-service washing machines; clerk and sales jobs in dry cleaning establishments; and some public utility jobs such as switchboard operator work.

According to Bureau of Labor Statistics (BLS) reports, there were approximately 915,000 teenagers aged 14 and 15 working in 1981. Only about 6 percent of this age group worked full-time (presumably during the summer months); the rest held part-time employment (under 34 hours a week). The precise number of establishments employing these minors cannot be determined with available data; however, the BLS data show that 4.6 million employees under 20 years of age in 1980 worked in 989,000 establishments. This implies an average 4.65 teenagers (under 20 years of age) per establishment. Applying this proportion to the 915,000 employed minors aged 14 and 15 would result in an estimate of 197,000 establishments employing minors. This estimate represents about 7 percent of the 2.78 million establishments covered by FLSA requirements. The actual number of establishments may be higher to the extent that the distribution of minors among establishments is more uniform than that found for teenagers under 20 years of age.

While the industry distribution of these establishments is unknown, they are most likely concentrated in the retail and service trades. The interest shown by the fast food and amusement park industries in revision of the hours provision of the child labor regulations supports this view. These industries are comprised overwhelmingly of small businesses. Data from the 1979 *County Business Patterns* published by the Census Bureau show 92 percent of the eating establishments and 86 percent of the amusement parks with under 50 employees. The proposed revisions in permissible occupations likewise impact the food service industry as well as other small business industries like laundry and dry cleaning services, car washes, shoe repair stores, and computer and data processing services, among others. Overall, 66 percent of retail establishments and 44 percent of service establishments employ fewer than 50 workers. We may therefore conclude that many of the estimated 197,000 establishments employing minors are small firms.

While a substantial number of small entities would be affected by today's proposal, we do not believe the impact will be significant for several reasons. First, this age group in 1981 represented only a small proportion of total employment in private non-farm establishments (less than 1.5 percent). The proposed revisions in permissible occupations could increase the employment of part-time workers aged 14 and 15, but even a doubling of their employment would represent only a small fraction of the total workforce. Moreover, there be few savings in wages or other compensation by employing these employees, except those related to increased use of part-time employees to meet peak business loads. However, the employer's choice of the mix between part-time and full-time employees is largely influenced by business and market factors, rather than by child labor regulations. Of course, there will be savings in terms of improved work scheduling and other factors affecting firms' productivity. Second, with respect to the hours standards, BLS data indicate that minors were employed an average 12.11 hours per week in 1981, which is well below

the current limit. Assuming that all teenagers presently worked at the maximum hours allowed, average weekly hours would be 23.5 hours for this age group. Since weekly hours of employment for most minors are well under the current FLSA ceilings, the proposed rule should have only a small impact on hours of employment for most establishments. For these reasons, the Department believes that today's proposal will not have significant impact on a substantial number of small entities.

Drafting Information

This document was prepared under the direction and control of Herbert J. Cohen, Deputy Administrator, Wage and Hour Division, U.S. Department of Labor.

List of Subjects in 29 CFR Part 570

Child labor, Government, Intergovernmental relations, Child labor occupations, Minimum age.

For the reasons set out in the preamble, Part 570 of Chapter V, Title 29 of the Code of Federal Regulations is proposed to be amended as follows:

PART 570—CHILD LABOR REGULATIONS, ORDERS, AND STATEMENTS OF INTERPRETATION

1. The Table of Contents for Part 570 is amended by substituting the following entry for Subpart C (§§ 570.31—570.38) in place of the current entry, to read as follows:

* * * * *

Subpart C—Employment of Minors 14 and 15 Years of Age (Child Labor Reg. 3)

Sec.
570.31 Determination and effect of this subpart.
570.32 [Reserved]
570.33 Occupations.
570.34 [Reserved]
570.35 Periods and conditions of employment.
570.35a Work experience and career exploration programs.
570.35b Variations of occupations and hours.
570.36 Certificates of age; effect.
570.37 Effect on other laws.
570.38 Revision of this subpart.

* * * * *

2. Sections 570.31 through 570.38, which constitute Subpart C, are revised to read as follows:

Subpart C—Employment of Minors 14 and 15 Years of Age (Child Labor Reg. 3)

Authority: Sec. 3, 52 Stat. 1060, as amended (29 U.S.C. 203).

§ 570.31 Determination and effect of this subpart.

This regulation is issued under section 3(1) of the Fair Labor Standards Act and sets the standards for the employment of 14 and 15-year-old minors. It has been determined that employment in the occupations for the periods and under the conditions specified in this regulation does not interfere with the schooling or with the health and well-being of 14 and 15-year-old minors and, therefore, that it is not "oppressive child labor" within the meaning of the Act.

§ 570.32 [Reserved]

§ 570.33 Occupations.

Fourteen and 15-year-old workers may be employed in all occupations *other than* the following:

(a) Manufacturing, mining or processing occupations including occupations requiring the performance of duties in workrooms or workplaces where goods are manufactured or mined. (Processing is an operation during the course of which goods undergo a change in form or substance). This prohibition shall not extend to:

(1) Laundering occupations performed on clean laundry outside rooms where laundry machinery is operated;

(2) Employment in self-service laundries requiring the operation or tending of machines listed in paragraph (f)(5) of this section.

(3) Office and sales work in dry cleaning establishments which does not require the performance of duties in workplaces where cleaning machinery is used.

(4) Employment in retail stores; or

(5) Employment in food service establishments which does not require handling hot (140° F.) grease (before or after cooking but not including immersing foods in grease or tending cooking foods), working over an open flame (not contained in such way as to prevent the flame from igniting clothing), and cooking with containers under pressure which have no safety valve.

(b) Occupations which the Secretary of Labor, under section 3(1) of the Act, finds and declares to be particularly hazardous for the employment of minors 16 and 17 years of age or detrimental to their health or well-being. Apprenticeship and student-learner exemptions contained in various Hazardous Occupations Orders are not available to minor employees 14 and 15 years of age.

(c) Occupations in connection with transportation of persons or property by rail, air, water, pipeline, highway or other means. This prohibition shall not extend to employment in:

(1) Sales or office (including ticket office) work when not performed on transportation media; or

(2) Dispensing fuel or oil in cars and trucks; exterior cleaning, washing or polishing by hand of cars, trucks and buses, and interior cleaning of passenger vehicles while vehicle is not in motion; or courtesy services, such as checking oil level or washing windshields.

(d) Occupations in connection with construction activities including those construction activities related to communications and public utilities (including repair and structural maintenance) and demolition. This prohibition shall not extend to employment in:

(1) Sales or office work when not performed at the actual construction or demolition site; or

(2) Surveying occupations performed prior to commencement of any other activity at the construction site.

(e) Occupations requiring the performance of any duties in boiler rooms or engine rooms.

(f) Occupations which involve the operation, tending, setting-up, adjusting, cleaning, oiling or repair of power-driven machinery (including loading and unloading goods to and from conveyors). This prohibition shall not extend to the operation or tending of:

(1) Office machines; automatic data processing equipment;

(2) Dishwashers, dumb-waiters, household-type appliances such as but not limited to toasters, popcorn poppers, milk-shake blenders, and coffee grinders;

(3) Vacuum cleaners, waxers, buffers and polishers;

(4) Cash registers, ticketing machines, window-shade cutters and key cutting machines;

(5) Self-service washing machines (household type) and dryers.

(g) Outside window cleaning above the grade-level floor.

(h) Occupations requiring the performance of any duties from scaffolds, ladders or other similar devices at heights in excess of 6 feet.

(i) Messenger work requiring the operation of a motorized vehicle. This prohibition shall not extend to errand and delivery work by foot, non-motorized bicycle, public transportation, or as a passenger in an enclosed passenger vehicle.

§ 570.34 [Reserved]

§ 570.35 Periods and conditions of employment.

Employment in any of the occupations to which this subpart applies shall be confined to the following periods:

(a) Outside school hours;

(b) Not more than 40 hours in any one week when school is not in session;

(c) Not more than 24 hours in any one calendar week when school is in session for 5 days;

(d) Not more than 36 hours in any one calendar week when school is in session for only a portion of the week due to holidays or vacation periods, actual hours to be determined by subtracting from 40, four hours for each regular school day that school is in session;

(e) Not more than 8 hours in any one day when school is not in session;

(f) Not more than 4 hours in any one day when school is in session;

(g) Between 7 a.m. and 9 p.m. in any one day, except during the summer (June 1 through Labor Day) and on any day preceding a non-school day when the evening hour will be 10 p.m.

§ 570.35a Work experience and career exploration programs.

(a) This section varies some provisions of this subpart for the employment of minors 14 and 15 years of age who are enrolled in a school-supervised and school-administered work-experience and career exploration program (WECEP) which meets the requirements of paragraph (b) of this section. Employment under such program must be in the occupations permitted under paragraph (c) of this section and for the periods and under the conditions specified in paragraph (d) of this section. With these safeguards, this employment is found not to interfere with the schooling of the minors or with their health and well-being and therefore is not considered to be oppressive child labor.

(b) (1) A school-supervised and school-administered work-experience and career exploration program shall meet the educational standards established and approved by the State Educational Agency in the respective State.

(2) The State Educational Agency shall file with the Administrator a letter of application for approval of a State program as one not interfering with schooling or with the health and well-being of the minors involved and therefore not constituting oppressive child labor. The application must include information concerning the criteria listed in paragraph (b)(3) of this section. The Administrator shall approve the application, or give prompt notice of any denial and the reasons for denial.

(3) The following criteria shall be used to consider applications:

(i) *Eligibility.* Any student aged 14 or 15 years who authoritative local school personnel identify as being able to benefit from the program shall be eligible to participate.

(ii) *Credits.* Students shall receive school credits for both in-school related instruction and on-the-job experience.

(iii) *Size.* Each program unit shall be a reasonable size. A unit of 12 to 25 students to one teacher-coordinator would be generally considered reasonable. Whether other sizes are reasonable would depend upon individual facts and circumstances.

(iv) *Instructional schedule.* There shall be (a) allotted time for the required classroom instruction in those subjects necessary for graduation under the State's standards and (b) regularly scheduled classroom periods of instruction devoted to job-related and to employability skill instruction.

(v) *Teacher-coordinator.* Each program unit shall be under the supervision of a school official who will be designated for the purpose of the program as a teacher-coordinator. The teacher-coordinator will generally supervise the program, coordinate the work and education aspects of the program, and make regularly scheduled visits to the work stations.

(vi) *Written training agreement.* No student shall participate in the work aspect of the program until a written training agreement has been signed by the teacher-coordinator, the employer and the student. The agreement shall also be signed or otherwise consented to by the student's parent or guardian.

(vii) *Other provisions.* An applicant may also submit for the Administrator's consideration any other provisions of the program which ensure that the employment permitted under this section will not interfere with the schooling of the minors or with their health and well-being.

(4) Every State Educational Agency having students in a program approved under this section shall comply with the following:

(i) *Permissible occupations.* No student shall be assigned to work in any occupation other than one permitted under paragraph (c) of this section.

(ii) *Records and reports.* The names and addresses of enrollees in each unit shall be kept at the State Educational Agency office. A copy of the written training agreement for each student participating in the program shall be kept in the State Educational Agency office or in the local educational office. The records required by this paragraph shall be kept for a period of 3 years from the date of enrollment in the program and shall be made available for inspection or transcription to the representatives of the Administrator.

(c) Employment of minors enrolled in a program approved under this section shall be permitted in all occupations except the following:

(1) Manufacturing and mining.

(2) Occupations declared to be hazardous for the employment of minors between 16 and 18 years of age in Subpart E of this part (§§ 570.50–570.68), and occupations in agriculture declared to be hazardous for employment of minors below the age of 16 in Subpart E–1 of this part (§§ 570.70–570.72).

(3) Occupations other than those permitted under § 570.33, except after approval of a variation in individual cases or classes of cases by the Administrator after notice to interested persons and opportunity to be heard. No variation may be granted for (c)(1) or (2) above. Any variation which applies generally shall be published as an amendment to this subpart. Applications for approval of a variation may be included with the application for approval of the WECEP program, or filed specifically under § 570.38, but will be processed under § 570.38.

(d) Employment of minors enrolled in a program approved under this section shall be confined to the periods and conditions of employment set forth in § 570.35 of this subpart except that such employment, or any portion of it, may be performed during school hours. Insofar as this section is inconsistent with any provision of § 570.35, this section shall be controlling.

(e) The employment of a minor enrolled in a program under this section must not have the effect of displacing a worker employed in the establishment of the employer.

(f) Programs shall be in force and effect for a period of two (2) school years from the date of their approval by the Administrator. A new application for approval must be filed at the end of that period. Failure to meet the requirements of this section may result in withdrawal of approval.

§ 570.35b Variations of occupations and hours.

This section permits variations of some provisions of this subpart for the employment of minors 14 and 15 years of age. Employment in occupations not permitted under § 570.33 and for periods of time other than those permitted under § 570.35 may be permitted after approval

of a variation in individual cases or classes of cases by the Administrator after notice to interested persons and opportunity to be heard. Any variation which applies generally shall be published as an amendment to this subpart. Applications for approval may be filed specifically under § 570.38 and shall be processed under that section.

§ 570.36 Certificates of age; effect.

The employment of any minor in any of the occupations to which this subpart applies, if confined to the periods specified in § 570.35, will not be considered oppressive child labor within the meaning of the Act if the employer has on file an unexpired certificate certifying that the minor is at least 14 years of age. This certificate must be issued in substantially the same manner as provided in Subpart B of this part relating to certificates of age (§§ 570.5–570.12).

§ 570.37 Effect on other laws.

No provision of this subpart shall under any circumstances justify noncompliance with the wage and hour provisions of the Act or with the provisions of any other Federal or State law or municipal ordinance establishing more restrictive standards than those established under this subpart.

§ 570.38 Revision of this subpart.

Any person wishing a revision of any of the terms of this subpart may submit a written petition to the Secretary setting forth the changes desired and the reasons for proposing them. If, after consideration of the petition, the Secretary believes that reasonable cause for amendment of the subpart has been shown, the Secretary shall either schedule a hearing with proper notice to interested persons, or otherwise provide interested persons an opportunity to be heard.

Signed at Washington, D.C., this 12th day of July 1982.

William M. Otter,

Administrator, Wage and Hour Division.

Regulatory Flexibility Act Certification

I, Raymond J. Donovan, Secretary of Labor, hereby certify, pursuant to 5 U.S.C. 605(b), that the proposed amendment of 29 CFR 570, Subpart C, Employment of Minors 14 and 15 Years of Age, will not have significant economic impact on a substantial number of small business entities. This conclusion is based upon all information available to the Department.

Dated: July 12, 1982.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 18321 Filed 7-15-82; 8:45 a.m.]
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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
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DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

List of Public Laws

Last Listing July 15, 1982

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (phone 202–275–3030).

H.R. 6196/Pub. L. 97-215 Passed over veto—July 13, 1982 (Vetoed—message dated July 8, 1982, Vol. 18, No. 27 WCPD) To amend the manufacturing clause of the copyright law. (July 13, 1982; 96 Stat. 178) Price: $1.75.

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Pages 31261-31370

Federal Register

Monday
July 19, 1982

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Coast Guard

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Natural Gas
Federal Energy Regulatory Commission

Sunshine Act
Pacific Northwest Electric Power and Conservation Planning Council

Vessels
Coast Guard

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 82-ASO-34]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points

Alteration of Control Zone, Fort Stewart, Georgia

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters the Fort Stewart, Georgia, Control Zone by deleting the listing of specific effective hours and including in the description a provision that will permit use of the FAA's Notice to Airmen (NOTAM) system and the Airport/Facility Directory (A/FD) to publicize the hours during which the Control Zone is effective.

DATES: Effective 0901 G.m.t., September 2, 1982.

Comments must be received on or before August 2, 1982.

ADDRESSES: Send comments on the rule in triplicate to: Federal Aviation Administration, Chief, Airspace and Procedures Branch, ASO–530, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763–7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763–7646.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves altering the description of the Fort Stewart, Georgia, Control Zone to provide a more effective method of publicizing effective hours and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to add a provision to the description of the Fort Stewart Control Zone which will permit notification of changes in effective hours through use of the Notice to Airmen (NOTAM) system. After issuance of appropriate NOTAM's, the effective hours of the Control Zone will thereafter be listed in the Airport/Facility Directory (A/FD). If future aeronautical activities indicate a change in effective hours is necessary, such changes could be publicized in a rapid and effective manner to airspace users. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3 dated January 29, 1982. Under the circumstances presented, the FAA concludes that there is a need for a regulation to amend the description of the Fort Stewart, Georgia, Control Zone, to permit use of the FAA NOTAM system for publication of effective hours. Therefore, I find that notice or public procedure under 5 U.S.C. 553(b) is impracticable and that good cause exists for making this amendment effective in less than 45 days after its publication in the **Federal Register**.

List of Subjects in 14 CFR Part 71

Aviation Safety, Airspace, Control Zone.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 G.m.t., September 2, 1982, as follows:

Fort Stewart, GA [Amended]

By deleting the words, ". . . This control zone is effective from 0700 to 2300 hours, local time, daily . . .," and substituting for them the words, " . . . This control zone is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory . . .".

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on July 8, 1982.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 82-19417 Filed 7-16-82; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 82-ASO-33]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Control Zone, Alma, Georgia

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment corrects a deficiency in the description of the Alma, Georgia, Control Zone and adds a provision for publication of effective hours through use of the FAA Notice to Airmen system. No change in airspace is intended by this action.

DATES: Effective 0901 G.m.t., September 2, 1982.

Comments must be received on or before August 2, 1982.

ADDRESSES: Send comments on the rule in triplicate to: Federal Aviation Administration, Chief, Airspace and Procedures Branch, ASO-530, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves editorial changes to correct a deficiency in the description of the control zone and adds a provision which permits publication of effective hours and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the description of the Alma, Georgia, Control Zone to correct an error that has gone undetected for several years and to provide a means for publication of effective hours in the Airport/Facility Directory. In 1975, the control zone was amended by deleting an arrival extension northwest of the airport. That amendment failed to properly redescribe the control zone and this rule will correct that deficiency. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982. Under the circumstances presented, the FAA concludes that there is a need for a regulation to properly describe the Alma, Georgia, Control Zone and provide a provison for publication of control zone effective hours. If future aeronautical activities indicate a change in effective hours is necessary, the notice of such change would be publicized through use of this provision. Therefore, I find that notice or public procedure under 5 U.S.C. 553(b) is impracticable and unnecessary and that good cause exists for making this amendment effective in less than 45 days after its publication in the Federal Register.

List of Subjects in 14 CFR Part 71

Aviation Safety, Airspace, Control Zone.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 G.m.t., September 2, 1982, as follows:

Alma, GA [Revised]

Within a 5-mile radius of Bacon County Airport (Lat. 31°32'17"N., Long. 82°30'33"W.); within 3 miles each side of Alma VORTAC 146° radial, extending from the 5-mile radius zone to 8.5 miles southeast of the VORTAC. This control zone is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on July 8, 1982.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 82-19421 Filed 7-16-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ASO-30]

Alteration of Transition Area, Indianola, Mississippi

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters the Indianola, Mississippi, transition area by correcting the description of an arrival area extension to coincide with a change to the NDB RWY 35 instrument approach procedure. No significant change in airspace is intended.

DATES: Effective 0901 G.m.t., September 2, 1982.

Comments must be received on of before July 31, 1982.

ADDRESSES: Send comments on the rule in triplicate to: Federal Aviation Administration, Attn: Chief, Airspace and Procedures Branch, ASO-530, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves correcting the description of an arrival area extension

due to realignment of the NDB RWY 35 final approach course from 191° true to 189° true and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the description of the Indianola, Mississippi, transition area by realigning the arrival area extension for the NDB RWY 35 instrument approach procedure which serves Indianola Municipal Airport. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982. Under the circumstances presented, the FAA concludes that there is a need for a regulation to alter the transition area so that the arrival area extension is aligned properly with the NDB Runway 35 final approach course. Therefore, I find that notice or public procedure under 5 U.S.C. 553(b) is unnecessary and impracticable and that good cause exists for making this amendment effective in less than 45 days after its publication in the **Federal Register**.

List of Subjects in 14 CFR Part 71

Aviation Safety, Airspace, Transition Area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 G.m.t., September 2, 1982, as follows:

Indianola, Mississippi [Amended]

By deleting ". . . 191° . . ." and substituting ". . . 189° . . ." therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on July 9, 1982.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 82-19422 Filed 7-16-82; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-105 (Texas—11 Addition II) Order No. 241]

High-Cost Gas Produced From Tight Formations, Texas; Final Rule

Issued July 8, 1982.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Railroad Commission of Texas that an additional area of the Wilcox Formation be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective July 8, 1982.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or Walter Lawson, (202) 357-8556.

High-Cost Gas Produced from Tight Formations Docket No. RM79-76-105 (Texas—11 Addition II).

The Commission hereby amends § 271.703(d) of its regulations to include an additional area of the Wilcox Formation, located in Webb County, Texas, as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation, issued April 2, 1982 (47 FR 15355, April 9, 1982),[1] based on a recommendation by the Railroad Commission of Texas (Texas) in accordance with § 271.703(c) that an additional area of the Wilcox Formation in the West Cole Field be designated as a tight formation in § 271.703(d).

Evidence submitted by Texas supports the assertion that the additional area of the Wilcox Formation in the West Cole Field meets the guidelines contained in § 271.703(c)(2). The Commission hereby adopts the Texas recommendation.

This amendment shall become effective immediately. The Commission has found that the public interest dictates that new natural gas supplies be developed on an expedited basis, and, therefore, incentive prices should be made available as soon as possible. The need to make incentive prices immediately available establishes good cause to waive the thirty-day publication period.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Title 18, Code of Federal Regulations, is amended as set forth below, effective July 8, 1982. By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—CEILING PRICES

Section 271.703(d)(63) is amended by adding subparagraph (iii) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

[1] Comments on the proposed rule were invited and one comment in support of Texas' recommendation was received. No party requested a public hearing and no hearing was held.

(63) Wilcox Formation in Texas. RM79-76 (Texas—11)

* * * * *

(iii) *West Cole Field—(A) Delineation of formation.* The Wilcox Formation in the area of the West Cole Field, Webb County, Texas, is located approximately 36 miles east of the city of Laredo, Texas, and is within a 2.5 mile radius around the Forest Oil Corporation No. 1 Rosa V. de Benavides well.

(B) *Depth.* The top of the Wilcox Formation, West Cole Field, is at approximately 9,135 feet and extends to 10,315 feet (log depths) resulting in a total thickness of 1,180 feet.

[FR Doc. 82-19352 Filed 7-16-82; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 80-147]

Drawbridge Operation Regulations; Gulf Intracoastal Waterway, Houma Navigation Canal, Bayou La Carpe and Bayou Terrebonne, Louisiana

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

SUMMARY: At the request of the Terrebonne Parish Police Jury, the Coast Guard is changing the regulations governing the East Park Avenue, East Main Street and Bayou Dularge bridges over the Gulf Intracoastal Waterway, mile 57.6, 57.7 and 59.9 respectively; the State Highway 661 bridge over the Houma Navigational Canal, mile 36.0; the State Highway 661 Bridge over Bayou La Carpe, mile 7.5; and, the Daigleville bridge over Bayou Terrebonne, mile 35.5.

The six drawbridges are in Houma, Louisiana, and presently are required to open on signal at any time. The change will require that Monday through Friday except holidays, the draws need not open for the passage of vessels from 7:00 a.m. to 8:30 a.m. and from 4:30 p.m. to 6:00 p.m. This action is being taken to relieve overland traffic congestion during peak morning and afternoon vehicular traffic periods, while still providing for the reasonable needs of navigation.

EFFECTIVE DATE: This amendment is effective on August 18, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph Irico, Chief, Bridge Administration Branch, Eighth Coast Guard District, Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana 70130, (504) 589-2965.

SUPPLEMENTARY INFORMATION: On 24 November 1980, the Coast Guard published a proposed rule (45 FR 77458) concerning this amendment. The Eighth Coast Guard District also published this proposal as a Public Notice dated 3 December 1980. Interested persons were given until 29 December 1980 and 2 January 1981, respectively, to submit comments on the proposed change which took the form of two options: Option 1 allowed the draws of the bridges to remain closed from 7:00 to 8:30 a.m. and 4:30 to 6:00 p.m., Monday through Friday except holidays. Option 2 divided the foregoing closure in the morning and afternoon into two 45 minute intervals, separated by an opening of the draws not to exceed 10 minutes to pass waiting navigation.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are Joseph Irico, Project Manager, District Operations Division, and Steve Crawford, General Attorney, District Legal Office.

Background

The six bridges are low level structures, except Bayou Dularge which is a semi-high rise with 40 feet of vertical clearance in the closed position. Together with the Houma tunnel, they operate as an integrated overland transportation system. A closure to vehicular traffic of one or more of the bridges during peak traffic periods interrupts the system and further overburdens the other crossings.

Waterway activity (largely barge tows) on the four waterways in the vicinity of the six bridges has remained basically unchanged, judging from the relatively constant number of bridge openings for the past five years for each bridge. In order of activity, the yearly openings were 20,500 for the East Main and East Park bridges over the Gulf Intracoastal Waterway, 15,000 for State Highway 661 bridge over Houma Navigation Canal, 7,500 for Bayou Dularge bridge (semi-high rise) over the Gulf Intracoastal Waterway, 5,000 for State Highway 661 bridge over Bayou La Carpe and 2,400 for Daigleville bridge over Bayou Terrebonne. East Park and East Main, the key bridges, are in such close proximity to each other that they can be considered as one bridge location.

Temporary closures of the bridges have been authorized on ten past occasions to relieve overland traffic congestion, when the East Main Street bridge was inoperative and unavailable for vehicular use because of a vessel collision. These closures of 1½ hours each in the morning and afternoon, Monday through Friday, are the equivalent of Option 1 of the proposed rule being adopted as the final rule, and have been in effect intermittently between April 1977 and April 1981, for a total of 252 days.

Discussion of Comments

A total of 214 comments were received of which 189 supported the bridge closures and 25 were in opposition. Of those in support, 25 expressed preference for the Option 1 closure while 164 expressed none. The reason given for this preference was that the 10 minute opening between the two-45 minute closures under Option 2 would be difficult to enforce in the face of any waiting navigation. This reason was echoed by some of the 25 comments in opposition, although fundamentally opposed to either option. The 25 comments opposed were from members of the long haul barge towing industry, in contrast to the comments from local navigational interests in support of a closure. Those opposed addressed five areas of concern, with a basic focus on the closures of the side by side low level East Main and East Park bridges and to a lesser extent the semi-high rise Dularge bridge, over the Gulf Intracoastal Waterway. These areas of concern are: (1) delays to vessels (2) congestion and safety of the waterway (3) side effects on vehicular operations (4) high rise bridges as an alternative (5) setting of precedence for other bridges.

In analyzing the concerns, as discussed below, the experience with the 252 days of temporary closures was taken into account for all bridges, except Daigleville where insufficient information existed. However, this does not materially affect the analysis as this bridge is opened infrequently. Based on this analysis, the comments expressed while having certain validity are not considered significant enough to outweigh the benefits to overland traffic during peak traffic periods. It is felt that this change in bridge operations will not unreasonably impact the commercial users of the waterway.

Data developed during two past occasions of temporary closures of 1½ hours each in the morning and afternoon, Monday through Friday, indicate that the daily average number of barge tows delayed at the bridges was about 14 tows during one occasion of 39 days and about 17 tows during another occasion of 41 days. Taking the latter occasion, about nine tows out of the 17 were delayed at the location of the East Main and East Park bridges and less than one tow at the Dularge bridge. Assuming a uniform arrival rate at the bridges throughout each 1½ hour

closure, the average delay time per tow was 45 minutes. The number of delayed tows should decrease as mariners become accustomed to the scheduled closures and adjust their travel times to avoid them. Moreover, considering all factors having a time delay on long haul tows such as adverse weather, navigational lockages, tides and currents, the estimated 45 minute average delay time does not appear to be a significant factor in the overall transportation time.

It is possible for waiting vessels to cause waterway congestion and safety hazards. However, there is no evidence from the past temporary closures to suggest that the waiting vessels experienced problems in finding docking room or posed problems in safety, while waiting for the bridges to open. Moreover, there also is no evidence to suggest that the waiting vessels once released caused congestion of the waterway, interfered with normal traffic pattern, or impacted the Corps of Engineers lock operations at Harvey, Algiers or Berwick, Louisiana.

Data obtained on traffic counts indicate that a daily average of 10821 vehicles cross the bridges during the combined morning and afternoon closure periods of three hours, Monday through Friday. During this same time, were the bridges not opened to pass navigation on demand, an additional daily average of 3073 vehicles could cross the bridges, the number of vehicles now theoretically being delayed. Correspondingly, for East Main and East Park in combination, 5466 vehicles cross these bridges while an additional 2463 vehicles could cross. Vehicular traffic has been increasing and can be expected to increase in the Houma area, while navigational traffic has remained basically unchanged during the past five years, as evidenced by the relatively constant number of bridge openings.

A side effect expressed was that the closure of the bridges to navigation during peak traffic hours shifts the burden of the eventual navigational opening to overland traffic at a later point in time. This is true but at that time the traffic is below the peak level. The Houma Populace, the Houma City Government and the Terrebonne Parish Government have not objected to the burden shift to a different point in time, obviously preferring preferential treatment for the peak hour traffic. Information obtained during the temporary closures shows that upon opening of the bridges to pass waiting navigation, vehicular traffic was delayed, on daily average, 11 minutes in both the morning and afternoon with the extreme of 18 minutes at the East Main and East Park location.

To facilitate vessel movement and to minimize the opening time to pass waiting navigation, a light and/or sound signal will be installed on at least the East Main, East Park and Houma Navigation Canal bridges to give a 10 minute advance notice of the scheduled opening. This notice will allow waiting vessels to make the necessary preparations to be underway as soon as the bridges are opened.

Another side effect expressed was that all bridges will open simultaneously at the end of the scheduled closure, leaving no cross waterway access for emergency vehicles. This is not considered a problem as the Houma tunnel provides such access and, if necessary, a given bridge can be closed at any time, by regulation for the crossing of an emergency vehicle.

The Louisiana Department of Transportation and Development is in the process of developing a master traffic plan for the Houma area. Part of this plan includes the authorized replacement of the East Main and East Park bridges with high level fixed span structures. As an alternative to the East Park replacement, this bridge may be left as is but the crossing converted to neighborhood traffic only. Upon completion of the work for these two bridges, the Coast Guard anticipates the modification or revocation of these bridge closures.

Requests for bridge closures at other waterway locations during peak vehicular traffic periods are considered on an individual basis with each one judged on its own merits.

This final regulation previously has been determined to be non major under Executive Order 12291 and also to be nonsignificant under the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 22 May 1980). The final regulation previously has been certified under § 605(b) of the Regulatory Flexibility Act (94 Stat. 1164) at 45 FR 77458 (24 November 1980). No information has been received to change those determinations and certifications.

List of Subjects in 33 CFR Part 117

Bridges.

PART 33—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by adding a new § 117.537 to read as follows:

§ 117.537 Gulf Intracoastal Waterway, Houma Navigation Canal, Bayou La Carpe, and Bayou Terrebonne, Houma, LA

The draws of the bridges across the Gulf Intracoastal Waterway at East Park Avenue, mile 57.6, East Main Street, mile 57.7, and Bayou Dularge, mile 59.9; the Houma Navigation Canal at State Highway 661, mile 36.0; Bayou La Carpe at State Highway 661, mile 7.5; and Bayou Terrebonne at Daigleville, mile 35.5, need not open for the passage of vessels Monday through Friday except holidays, from 7 a.m. to 8:30 a.m. and 4:30 p.m. to 6 p.m. At all other times, the draws shall open promptly on signal.

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: June 29, 1982.

W. H. Stewart,

Rear Admiral, U.S. Coast Guard, Commander. Eighth Coast Guard District.

[FR Doc. 82–19253 Filed 7–16–82; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF EDUCATION

34 CFR Parts 632, 633, and 635

Cooperative Education Program; Corrections

AGENCY: Department of Education.

ACTION: Final regulations; corrections.

SUMMARY: This document makes technical corrections in the final regulations for the Cooperative Education Program.

FOR FURTHER INFORMATION CONTACT: Morris L. Brown, Chief, Cooperative Education Branch, Division of Institutional and State Incentive Programs, Office of Institutional Support Programs, U.S. Department of Education, 400 Maryland Avenue, SW., (Room 3053, ROB–3), Washington, D.C. 20202. Telephone: (202) 245–9849.

SUPPLEMENTARY INFORMATION: On April 21, 1982, the Secretary published final regulations for this program in the Federal Register at 47 FR, 17252–17262. This document corrects several technical errors that were made in those regulations.

Executive Order 12291

These regulations have been reviewed by the Department in accordance with Executive Order 12291. They are classified as non-major regulations

because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. These regulations are minor technical amendments.

List of Subjects in 34 CFR, Parts 632, 633, and 635

Colleges and universities, Education, Grant programs—education, Manpower training, Student aid, Students, Teachers.

(Catalog of Federal Domestic Assistance Numbers 84.055A, Cooperative Education—Administration; 84.055B, Cooperative Education—Demonstration and Exploration; 84.055D, Cooperative Education—Training)

Dated: July 13, 1982.

Daniel Oliver,

General Counsel.

The Secretary amends Parts 632, 633, and 635 of Title 34 of the Code of Federal Regulations as follows:

PART 632—COOPERATIVE EDUCATION PROGRAM—ADMINISTRATION PROJECTS

§ 632.30 [Amended]

1. In § 632.30, the reference in paragraph (g)(2)(iii) to "(b)(2)(i) and (ii)" is revised to read "(g)(2)(i) and (ii)."

PART 633—COOPERATIVE EDUCATION PROGRAM—DEMONSTRATION AND EXPLORATION PROJECTS

§ 633.30 [Amended]

2. In § 633.30, the reference in paragraph (d)(2)(iii) to "(b)(2)(i) and (ii)" is revised to read "(d)(2)(i) and (ii)."

§ 633.31 [Amended]

3. In § 633.31 the reference in paragraph (c)(2)(iii) to "(b)(2)(i) and (ii)" is revised to read "(c)(2)(i) and (ii)."

PART 635—COOPERATIVE EDUCATION PROGRAM—TRAINING PROJECTS

§ 635.30 [Amended]

4. In § 635.30, the reference in paragraph (f)(2)(iii) to "(b)(2)(i) and (ii)" is revised to read "(f)(2)(i) and (ii)."

[FR Doc. 82-19613 Filed 7-16-82; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 151

[CGD 80-001]

Unmanned Barges Carrying Certain Bulk Dangerous Cargoes; Partial Deferral of Effective Date

AGENCY: Coast Guard, DOT.

ACTION: Final rule; partial deferral of effective date.

SUMMARY: On December 31, 1981 (46 FR 63274), the Coast Guard issued a regulation titled "Unmanned Barges Carrying Certain Bulk Dangerous Cargoes". The regulation was effective February 1, 1982; however, in cases where more stringent carriage requirements were being imposed, the effective date was to be December 31, 1982. As a result of concerns expressed by the Towing Safety Advisory Committee the effective date for the requirement for restricted gauging for Benzene Hydrocarbon mixtures is beind delayed. Implementing restrictive gauging by December 31, 1982 would have disrupted barge operations be requiring the scheduling of shipyard periods solely for this purpose. This action will allow the installation of restrictive gauging to be accomplished during the first required drydocking subsequent to December 31, 1982 when cargo tanks are gas free.

EFFECTIVE DATE: For the regulation published at 46 FR 63274 (December 31, 1981), the effective dates are: February 1, 1982. To alleviate hardships in those cases where more stringent carriage requirements are imposed, the effective date is December 31, 1982 except that restrictive gauging for Benzene mixtures containing 10% or more Benzene, shall be effective at the next required drydocking after December 31, 1982 when cargo tanks are gas free.

FOR FURTHER INFORMATION CONTACT: Joseph J. Jakabcin, Office of Merchant Marine Safety (G–MTH–6), Room 1402, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. (202–426–6262).

List of Subjects in 46 CFR Part 151

Hazardous Materials Transportation, Marine Safety.

Dated: July 9, 1982.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 82-19667 Filed 7-16-82; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[Gen. Docket No. 81-461; RM-3793; FCC 82-301]

Request of General Electric Company To Exempt Medical Diagnostic Equipment From the Commission's Rules

AGENCY: Federal Communications Commission.

ACTION: Report & Order in Gen. Docket 81–461.

SUMMARY: This Order establishes an exemption for certain electronic medical equipment from FCC regulations designed to minimize radio interference caused by devices that employ digital circuitry. The costs of testing for compliance with specific emissions limits would be severe and most medical equipment has characteristics which inherently reduce the likelihood of interference. The Commission in this action amends the rules to relieve the compliance burden.

DATES: Order becomes effective August 16, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mr. Julius P. Knapp, Office of Science and Technology, RF Devices Branch, Washington, D.C. 20554, (202) 653–8247, Room 8302.

List of Subjects in 47 CFR Part 15

Computer technology, Reporting requirements.

In the matter of request of General Electric Company to exempt medical diagnostic equipment from Subpart J of Part 15 of the Rules of the Federal Communications Commission Gen. Docket 81–461 RM–3797.

Adopted: July 1, 1982.

Released: July 9, 1982.

1. The Commission adopted a *Notice of Proposed Rule Making* (NPRM) [1] in the above captioned proceeding on July 16, 1981, in response to a petition filed by General Electric Co.[2] The *NPRM* proposed an exemption from the FCC computing device rules Part 15 Subpart J for medical computing devices marketed for use in hospital facilities designed for more than 10 inpatients. Medical computing devices used outside of

[1] *Notice of Proposed Rule Making* in Docket 81–461 adopted July 16, 1981, released August 28, 1981, 46 FR 44790, September 8, 1981.

[2] General Electric petition filed November 5, 1980 was assigned number RM–3797 and placed on public notice November 25, 1980.

hospitals were proposed to be subject to the same requirements as other computing equipment. The *NPRM* also suggested a revision of Section 15.805 to provide alternative language for the interim label requirement for computing devices.[3]

2. Fifteen parties filed comments in response to the *NPRM:* 8 manufacturers, 5 trade associations, 1 broadcaster, and 1 government agency. Three parties filed reply comments: 1 manufacturer and 2 trade associations. A list of the commenters is given in Appendix A. For the reasons given herein we are extending the proposed exemption for medical computing devices to include specialized medical computing devices (generally used at the direction of or under the supervision of the licensed health care practitioner) whether used in a patient's home or in a health care facility.

Background

3. The Commission's requirements for computing devices were adopted in the proceeding in FCC Docket No. 20780.[4] These rules, set forth in Part 15 Subpart J, are designed to minimize the probability of interference to radio and television reception caused by devices which employ digital circuitry. The regulations are necessarily broad because digital circuitry is not only found in computers but also increasingly in a wide array of commonplace devices such as electronic watches, toy games, electronic organs, etc.[5] Many, if not most, contemporary medical diagnostic devices, employ digital circuitry and therefore are subject to the computing device regulations. General Electric Co. filed a petition seeking an exemption from the computing device rules for medical equipment, noting that the Commission had already found exemptions to be appropriate for computing devices used in transportation vehicles, industrial controls, test equipment and appliances.[6,7] Exempted equipment is subject only to the general proscription against causing interference set forth in Section 15.803.

Comments Filed in Response to the NPRM

4. The comments give some insight into what kinds of medical equipment would be subject to the FCC rules absent an exemption: arrythmia and various other patient monitors, computerized tomography devices (CAT scanners), pacemakers, X-ray equipment, nuclear imaging devices, dental equipment, blood analyzers, radiation therapy machines, etc. This apparatus is used in a variety of locations such as hospitals, clinics, physicians and dentists' offices, laboratories, nursing homes, emergency vehicles, and health stations. Many of these devices, such as CAT scanners, are produced in low quantities; GE indicates 10–100 units per mode. The National Electrical Manufacturers Association (NEMA), which represents 64 manufactures of medical products, estimates that there are less than 10,000 medical diagnostic devices made each year, and about 8,000 to 10,000 dental X-ray machines. The machines are costly; according to Adac Laboratories, a manufacturer of medical equipment, such machines typically cost over $50,000.

5. Many of the comments emphasized and amplified upon the reasons given in the *Notice* as to why an exemption would be appropriate. The various arguments can be summarized as follows:

a. There have been no reports of radio interference caused by medical devices.[8]

b. Medical equipment must be designed for reliable operation in the electromagnetically noisy environment present in hospitals. The same measures that are designed to protect the equipment from outside radio signals tend to keep internally generated spurious emissions from being radiated (e.g. shielded cabinets).

c. Because of Food and Drug Administration record keeping requirements, and short product distribution chains, medical products known to cause interference can readily be located and modified, if necessary.

d. The characteristics of many medical devices are such that radio emissions measurements would be extraordinarily expensive; Phillips estimates between $10,000 and $100,000 per unit. Some apparatus is very large and requires special power systems and other facilities, which makes testing on an open field impractical. Testing on-site in a hospital is also not feasible due to intervening walls and high ambient noise levels. Additionally, such tests would disrupt hospital activities. The high costs of the tests would be distributed over low product volumes, markedly affecting the cost of each unit to the purchaser.

e. Hospitals, clinics, and physician's office buildings are often required by local building codes to provide shielding to suppress ionizing radiation (e.g. X-ray). This same shielding is to some extent effective against transmission of radio energy. (However, the Bureau of Medical Devices refers to an article on building attenuation as the basis for their view that the shielding is quite limited.)[9] Hospitals and clinics are typically separated from other spectrum users by a considerable distance which further minimizes the likelihood of interference.

f. Medical equipment receives regular maintenance.

6. With the exception of the Association of Maximum Service Telecasters (AMST), who have some reservations, discussed in paragraph 9 below, the commenters are unanimous in their support of the proposed exemption, but call attention to the need to extend it to all medical computing equipment. Several parties strongly emphasize that an exemption only for hospital equipment will be of no benefit because identical products are used in hospitals, clinics, doctor's offices and a variety of other locations. The Commission's proposal to exempt only hospital equipment was based in part upon a statement made by General Electric in their petition for rulemaking, that 95% of all medical devices are installed in hospitals and clinics. GE, and many others, indicate that the Commission misconstrued GE's comment to mean that there are separate product lines for hospitals.

7. According to HIMA, no medical devices are marketed for exclusive use in hospitals. Phillips, Abbott, GE and others add that no company has independent lines of products, one for hospitals and one for private practices. Further, it would not be practical to set up separate manufacturing, testing, marketing, labelling and distribution

[3] The Commission had earlier waived the interim labelling requirement of Section 15.805 for medical devices during the pendency of this proceeding. *Order Waiving Section 15.805 for Medical Devices*, adopted December 4, 1980, released December 11, 1980, 45 FR 83504, December 19, 1980.

[4] *First Report and Order* in Docket 20780, adopted September 18, 1979, released October 11, 1979, 79 FCC 2d (1979), 44 FR 59530, October 16, 1979. *Order Granting in Part Reconsideration* in Docket 20780, adopted March 27, 1980, released April 9, 1980, 79 FCC 2d 67 (1980), 45 FR 24154, April 9, 1980.

[5] The definition of a computing device is given in Section 15.4(n).

[6] See footnote 2, above.

[7] See § 15.801(c) for the specific language of the exemptions.

[8] There are, however, numerous documented cases of radio emissions from one medical equipment disrupting the operation of another medical device. It is our understanding that the Food and Drug Administration, Bureau of Medical Devices is compiling a bibliography of such reported cases.

[9] Smith, Albert A., Jr., "Attenuation of Electric and Magnetic Fields by Buildings." *IEEE Transactions on Electromagnetic Compatibility*, Vol. EMC–20, No. 3, August 1978, pp. 411–8.

systems for exempt and non-exempt devices. Spacelabs, Abbott, AMA, Phillips, GE, HIMA and NEMA all recommend, with minor variations, that the language of the exemption be changed from that in the *Notice* to exempt medical devices which are used in a health care facility by or under the direct supervision of a licensed health care practitioner.

8. The Association of Maximum Service Telecasters, Inc., (AMST) an organization of about 250 television broadcast stations, does not specifically oppose the proposed exemption, but suggests that it rests on poor support. The lack of interference complaints, according to AMST, is due to television viewers not knowing the source of the interference. AMST argues that

> * * * the Commission cannot turn its back on its important responsibility to protect authorized communications services against interference. If the proposed exemption is adopted, it should automatically terminate after a short period of time, designed to give adequate time but strong incentive to the industry to gather hard evidence on the actual distribution of medical devices among various locations and on the actual levels of r.f. signals emitted from the devices.[10]

In their reply comments, GE, HIMA, and NEMA all indicate that AMST's concerns are unfounded. NEMA counters that "* * * to accept AMST's argument requires the medical devices industry to justify the exemption by proving, in effect, that its devices *are not* the cause of interference that is, in any event, not being traced to them. To prove such a proposition is an impossible task." [11]

9. The commenters were divided on how to treat equipment intended for use in the home. NEMA, GTE, Spacelabs and Adac indicate that they endorse the approach of retaining regulation over those "mass produced" medical devices widely marketed for use in the home and understand the Commission's concern in this area. On the other hand, HIMA contends that the exemption should similarly apply to medical computing devices marketed for use in the home, pending further study. HIMA specifically mentions kidney dialysis machines as an example of a device that may be used at home where cost of FCC compliance would substantially add to the device's already staggering cost.

10. Insofar as whether physician's offices should be considered a Class A or Class B environment there was general agreement that they should be Class A.[12] Siemens argues that medical office buildings, even though they may be in residential areas, must usually meet special zoning requirements. HIMA adds that local fire safety and health codes frequently establish special construction requirements for medical buildings.

11. Several parties commented on the proposed alternative interim label. The current interim label requirement is set out in Section 15.805, and applies to certain computers which are not required to be tested for compliance until October 1, 1983. The label warns the purchaser/user that the computing device has not been tested to show compliance with the FCC Rules and is likely to cause unacceptable interference which the purchaser/user may be required to correct. The *NPRM* suggested an alternative text for the interim label to cover the situation where the product has in fact been tested and found not to comply. GTE and Phillips point to inconsistencies between the current and proposed alternative label (e.g. 'may cause' interference vs. 'is likely' to cause interference). Phillips goes on to say that the interim label may cause confusion and alarm (the misplaced concerns of patients), and favors deletion of all requirements for an interim label. HIMA presents much the same argument.

12. NEMA states that it is unaware of any circumstances, either in terms of an immediate or pending interference problem or in terms of unique design criteria, which could justify the relatively short ten month transition to compliance proposed in the *Notice*, for medical devices which remain subject to the rules. The transition should, NEMA says, mirror the two-year/four-year transition adopted in Docket 20780 and reflected in Sections 15.814 and 15.834. In other words, from the time rules are adopted manufacturers should have two years before new models would have to comply; current models could be produced for four years, and thereafter only compliant versions could be made. All equipment manufactured before the compliance deadlines should be grandfathered. Phillips puts forward a similar compliance schedule.

Commission Decision

13. Granting a limited exemption for medical equipment appears to be justified, particularly in view of the many factors which minimize the likelihood of interference, and in view of the high costs of compliance. The exemption we are adopting is broadened from the *Notice* as recommended by the commenters, to exempt specialized medical equipment such as that used at the direction of or under the supervision of a licensed health care practitioner. We feel that certain specialized medical equipment which might be used at home, such as kidney dialysis machines, present similar grounds for exemption. Thus, we have included language in the exemption to indicate that it applies to specialized equipment whether it is used in patients' homes or in a health care facility. AMST's concerns about this exemption and spurious emissions in general are noted, but on the basis of the information we have seen up to date it appears that the interference risk will be minimal. We presently see no specific reason to set a time for termination of the exemption.

14. Equipment which is mass produced and distributed through retail channels to the general public presents a signficiant risk of interference for which the computing device regulations provide a cost effective means of control. The types of devices expected to proliferate are in evidence in a recent news item in Technology magazine which states "Americans increasingly doctor themselves, booming the sale of electronic medical devices and related software * * * Look for electronic diagnostic tools—thermometers, blood pressure machines, pulse-rate monitors * * *—that can be hooked into the user's home computer." [13] We have seen advertised for general sale devices such as exercise (heart rate) monitors and blood pressure 'computers'. Coin operated versions of digital heart rate monitors and blood pressure gauges can now be found at shopping centers and other locations. These devices can be expected to employ much the same type of digital circuitry which we have found to emit radio energy capable of causing interference to radio and TV reception. The high product volumes involved increase the risk of interference.

15. Unlike the situation pertaining to specialized medical equipment used in a health care facility, there are no factors which tend to mitigate the possibility of interference caused by medical devices sold to the general public, nor do these devices present similar compelling grounds for exemption. They are likely to be used in uncontrolled environments and be nearby to other spectrum users;

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[10] AMST comments, p. 2.

[11] NEMA comments, p. 8.

[12] The definitions of a Class A or Class B computing device are given in Section 15.4, items (o) and (p), respectively. Basically, Class A is equipment intended for use in business or commercial environments; Class B is equipment intended for residential use. Separate requirements are set for each category in Part 15 Subpart J.

[13] "Electronic Diagnostics", *Technology*, Vol. 2, No. 1, January/February 1982, p. 7 Published bimonthly by Technology Information Corp., 2200 Central Ave./Suite F, Boulder, CO 80301.

they can be tested easily and at low cost; they could not easily be traced by the manufacturer should a problem develop; and the individual cost of each device is not especially high. The small cost of compliance can be distributed over high product volumes. Moreover, the compliance burden is minimal—the manufacturer himself determines compliance with the FCC limits.[14] Accordingly, those few medical devices not exempted are being made subject to the same requirements as other computing devices.

16. The question of whether doctors' offices are a Class A or B environment is moot for purposes of this proceeding since medical devices used in a doctor's office are exempted; however, we will consider doctor's offices and clinics to be Class A for nonmedical computing devices, such as computers used for bookkeeping and other recordkeeping purposes. We must emphasize that the exemption does not apply to computers used in a doctor's office or hospital for recordkeeping or other purposes not directly involved in medical treatment.

17. For those medical devices not exempted, compliance will be mandatory for all devices manufactured after October 1, 1983. We feel that this should be an adequate period of time since the Commission's intent with regard to devices distributed to the general public was in evidence in the *Notice*. The NEMA and Phillips arguments to allow 2 years from the time action is taken in this docket for compliance of first production, and 4 years for all production, appear to be premised on the need to test or modify large complex medical systems. Such systems are exempted as a result of the action we are taking herein, so this argument is made moot.

18. In the *Notice* we had proposed to provide an alternative wording for the interim label required for all computers that do not require verification until October 1, 1983. We have decided not to go ahead with this proposal since it appears that any general change in this requirement at this time may only cause confusion with little benefit.[15] [16] More specifically with respect to medical computing equipment, concerns were expressed about the unfavorable implication to the patient from this requirement. To allay these concerns we are exempting medical computing equipment both from the interim label and from the information to the user requirements.

Final Regulatory Analysis

19. Pursuant to 5 USC 601 et seq. an Initial Regulatory Flexibility Analysis was incorporated in paragraph 17 of the *Notice of Proposed Rule Making*. In paragraph 20 of this *Notice*, written comments on this Analysis were solicited with the same filing deadlines as comments on the rest of the *Notice*. No comments were received specifically concerned with the Initial Regulatory Flexibility Analysis (IRFA) in the *Notice* but some parties in making comments on the necessity of this rule change for manufacturers in general, as addressed above, pointed out that the relief which would be granted by this rule amendment is especially important for small manufacturers, because they can least afford the costs of compliance. The Final Regulatory Analysis follows:

I

Need for and objective of rule. Under the current regulatory structure for computing devices, compliance would be especially costly were these regulations to be applied to most medical devices. There being no substantial arguments to the contrary, we are exempting most medical equipment from the computing device rules.

II

Summary of issues raised in comments on Initial Analysis. As mentioned above, no specific comments on the IRFA were received. Phillips and HIMA indicate that the exemption as proposed would be burdensome to small manufacturers, but that if it is broadened, the burden on small businesses will be substantially alleviated. The exemption we are adopting is in line with the broad scope generally suggested in the comments. This exemption relieves record keeping, labelling, and testing requirements for the vast majority of medical device manufacturers, whether a small business or large.

III

Significant alternatives. The regulations adopted herein respond to a petition from a major manufacturer of medical equipment, which was overwhelmingly supported. The requested relief is granted. The comments received in this proceeding requested additional relief for products marketed in retail stores or for home use. This additional relief is granted in part to the extent that medical devices will not require an interim compliance label. Additionally, the exemption is extended to cover specialized medical equipment used in a patient's home.

Ordering Clauses

20. Pursuant to the above and under the authority of Sections 4(i), 302 and 303(r) of the Communications Act of 1934, as amended, Part 2 is amended as set out in Appendix B of this Order.

21. It is ordered that this amendment shall become effective on August 16, 1982.

22. It is further ordered that this proceeding is terminated.

23. For further information contact Mr. Julius P. Knapp, Office of Science and Technology, telephone 202–653–8247.

(Secs. 4, 303, 48 stat., as amended 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission

William J. Tricarico,

Secretary.

Appendix A

I

The following parties filed comments in response to the Notice of Proposed Rule Making in Docket 81–461:

Abbott Laboratories
Adac Laboratories
American College of Radiology
American Dental Trade Association
American Medical Association (AMA)
Association of Maximum Service Telecasters, Inc. (AMST)
Bureau of Medical Devices
CBS Inc.
General Electric Co.
GTE Services Corp.
Health Industry Manufacturers Association (HIMA)
Medtronic, Inc.
Phillips Medical Systems, Inc.
Siemens Corp.
Spacelabs, Inc.

II

Reply comments were received from:

General Electric Co.
Health Industry Manufacturers Association [HIMA]
National Electrical Manufacturers Association (NEMA)

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[14] Only verification will be required for non exempt medical devices. Verification is an equipment authorization procedure where the manufacturer makes measurements, or has measurements made, on his product to insure that it complies. Additionally, there are labelling and record retention requirements. The verification procedure is set forth in Part 2 Subpart J.

[15] The interim label requirement of § 15.805 became effective for devices manufactured after January 1, 1981. By October 1, 1983, almost all computers are scheduled to be in compliance and the interim label requirement will become obsolete.

[16] It should be pointed out that if a manufacturer feels that the language of the interim label is inappropriate for a given product, the Chief Scientist has been granted delegated authority to permit alternative language as he feels the circumstances warrant. Authority delegated to Chief Scientist in *Order Clarifying the Rules* in Docket 20780, adopted March 11, 1981, 46 FR 21760, April 14, 1981.

Appendix B

PART 15—RADIO FREQUENCY DEVICES

1. Section 15.801 is amended by adding a new paragraph (c)(5) as follows:

§ 15.801 Scope of this subpart.

* * * * *

(c) * * *

(5) Specialized medical computing devices (generally used at the direction of or under the supervision of a licensed health care practitioner) whether used in a patient's home or a health care facility. Non-specialized medical devices marketed through retail channels for use by the general public are not exempted. This exemption also does not apply to computers used for record keeping or any purpose not directly concerned with medical treatment.

* * * * *

2. Section 15.805 is amended by adding a new paragraph (c) to read as follows:

§ 15.805 Interim labelling and information requirements for non-complying devices.

* * * * *

(c) Computing devices used for medical purposes are excepted from the interim labelling and information requirements of this Section.

3. Section 15.814 is amended by adding a new paragraph (e) to read as follows:

§ 15.814 Class A computing device: Verification requirement.

* * * * *

(e) All Class A medical computing devices not exempted under § 15.801(c)(5), manufactured after October 1, 1983, shall be verified for compliance with the requirements for a Class A computing device prior to marketing pursuant to Subpart I of Part 2 of this Chapter. These devices are excepted from the requirement of paragraph (a) of this section.

4. Section 15.834 is amended by adding a new paragraph (j) to read as follows:

§ 15.834 Class B Computing Device: Compliance Requirement.

* * * * *

(j) A Class B medical computing device not exempted under § 15.801(c)(5), manufactured after October 1, 1983, shall be verified for compliance with the requirements for a Class B computing device prior to marketing pursuant to Subpart I of Part 2 of this Chapter. Medical devices are excepted from the requirement of paragraph (b) of this section.

[FR Doc. 82-19803 Filed 7-15-82; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 61

[FCC 82-264; CC Docket No. 82-122]

Interconnection Arrangements Between and Among Domestic and International Record Carriers; Adoption and Enforcement of Interim Guidelines

AGENCY: Federal Communications Commission.

ACTION: Adoption and enforcement of interim guidelines.

SUMMARY: This Order rejects tariff revisions filed by domestic and international record carriers which purported to comply with interconnection guidelines established by the Commission to implement the Record Carrier Competition Act of 1981. It also resolves a number of technical issues. The filings by the carriers failed to comply with the guidelines and the carriers failed to agree completely on the technical issues. Parties are directed to file tariffs with specific prescribed language replacing erroneous provisions and implementing the technical issue conclusions. The interconnection establishes a "universal" network for both domestic and international record communications.

DATES: Tariff revisions to be filed by June 16 and July 12, 1982.

ADDRESS: Federal Communications Commission, 1919 M Street NW, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Daniel Grosh, Common Carrier Bureau (202) 632-6917

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 61

Communications common carriers, Tariffs.

In the matter of Interconnection arrangements between and among the domestic and international record carriers CC Docket No. 82-122: FTC Communications, Inc. (Transmittal Nos. 118, 119, 120), ITT World Communications Inc. (Transmittal Nos. 2429, 2430, 2431), RCA Global Communications, Inc. (Transmittal Nos. 4820, 4821, 4822), TRT Telecommunications Corp. (Transmittal Nos. 1008, 1009, 1010), Western Union International, Inc. (Transmittal No. 1582) and Western Union Telegraph Co. (Transmittal Nos. 7890, 7892); Memorandum Opinion and Order.

Adopted: June 10, 1982.

Released: June 11, 1982.

1. We consider at this time the above-captioned tariff revisions filed by certain record carriers purportedly establishing the interconnection arrangements prescribed by our *Interim Order* issued in Docket No. 82-122.[1] This *Order* was adopted by the Commission under authority of the Record Carrier Competition Act of 1981 (RCCA) P.L. 97-130, 95 Stat 1687.[2] For the reasons set forth below, we conclude that none of these filings conforms to the requirements of the *Interim Order* and thus we reject them. Further, in order to resolve this matter promptly, we shall prescribe herein, in accordance with the authority granted by the RCCA, certain specific tariff terms which we believe are needed to implement the *Interim Order* and the legislative goals of the RCCA.[3]

I. Background

2. The RCCA supersedes the prior Section 222 of the Communications Act, and *inter alia* it eliminates the previous statutory bar to the provision of international record services by Western Union. It also directs the Commission to require U.S. record carriers to make available to each other, upon reasonable request, full interconnection with any of their facilities used to provide record communications service. To secure such interconnection the RCCA required the Commission to preside over interconnection negotiations between the major U.S. domestic carrier (Western Union) and the primary existing international record carriers (IRCs).[4] The Act indicated that if the

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[1] Interconnection Arrangements Between and Among the Domestic and International Record Carriers, FCC 82-158, 47 FR 18883, released April 6, 1982.

[2] The revisions filed by the international carriers also purportedly unbundle the rates, terms and conditions for their domestic component of service from their international component of service as required by the *Interim Order*.

[3] The Commission has before it numerous petitions seeking rejection or alternatively suspension and investigation of some of the proposed revisions and the replies by the carriers. A list of these pleadings is set forth in Appendix A to this order. We also have before us a request by International Relay Inc. (IRI) for leave to file an otherwise unauthorized response to the reply of ITT World Communications Inc. As a matter of discretion we will grant IRI's request and accept its response. Such acceptance will not delay this proceeding.

[4] FTC Communications, Inc. (FTC), ITT World Communications Inc. (ITT), RCA Global Communications, Inc. (RCA), TRT Telecommunications Corporation (TRT) and Western Union International, Inc. (WUI) are the primary existing IRCs.

carriers failed to reach a lawful agreement within ninety days, the Commission was required to establish "a just, fair, reasonable, and nondiscriminatory [interconnection] agreement." [5] No agreement was reached and on April 8, 1982, concurrent with the ninetieth day after the initial intercarrier meeting, the Commission entered the *Interim Order* referred to earlier (FCC 82–158) which prescribed temporary interconnection arrangements and established a timetable for implementing these arrangements.

3. The *Interim Order* construed the RCCA as requiring each carrier which provides both domestic and international record communications services, and which has a significant share of the market for such services, to operate as if its domestic and international offerings were separate, and to interconnect with other carriers in a manner which is equal in type and quality to the interconnection between its separate domestic and international segments. Interconnection with other carriers is also to be made available at the same rates and upon the same terms and conditions. The *Interim Order* prescribed that a carrier provide equal interconnection except in cases involving expensive system modification, technological impossibility or equipment unavailability, or unreasonable degradation of service. In those cases, generally equal or comparable interconnection was permitted.

4. For wholly domestic interconnected record traffic, the *Interim Order* adopted the carriers' view that the carrier on whose network the call was initiated would be the originating carrier. The originating carrier is responsible for setting forth the tariff rate, billing customers, and making an equitable allocation of revenues with the terminating carrier, i.e., the carrier on whose network the called party was located.

5. The Commission determined that the existing arrangement for handling interconnected international inbound transmission was reasonable and worth continuing. Under these arrangements, the U.S. international carrier hands off the call to a U.S. domestic carrier for delivery. The international carrier receives a payout from the foreign correspondent and compensates the domestic carrier. The *Interim Order* incorporated these arrangements into the prescription. In the case of outbound international calls, however, the carriers could not agree on which carrier (domestic or international) would perform the functions of the originating carrier. The *Interim Order* assigned this role to the international carrier. The international carrier is therefore responsible for tariffing through rates, billing the customer for through service, and compensating the domestic carrier for use of its network.

6. The RCCA also calls for the establishment of a nondiscriminatory formula for the equitable allocation of revenues derived from interconnection. To the extent possible, this allocation is to be based upon costs. The IRCs argued that there are substantial savings to Western Union in providing carrier-to-carrier interconnection, while Western Union countered that there are no significant savings. Without finally resolving this question, the Commission prescribed an interim 15% discount from a domestic carrier's publicly tariffed intra-network domestic rate which would apply to the performance of interconnected terminating functions on inter-network domestic calls or for the domestic component of outbound or inbound international calls. The Commission emphasized, however, that this prescription would not prejudge any action that may be taken in any existing or future phases of CC Docket No. 78–97, an ongoing investigation of WU's rate of return and rate structures for telex and TWX services.

7. The RCCA also sought to overcome the difficulties experienced by new carriers in obtaining operating agreements with foreign administrations. It required the tariffing of transiting arrangements for outbound international record services and a pro rata traffic distribution for inbound international record services. The *Interim Order* construed these provisions to require that were IRCs interconnect to handle outbound transiting telex traffic, the originating outbound IRC without an operating agreement would pay the transiting carrier for such transiting arrangement an amount equal to ½ the domestic carrier's charge + ½ of the difference between the transiting carrier's international component after the foreign payout has been subtracting + the foreign payout. In no case, however, may the originating international carrier's share remaining under the formula (i.e., ½ the domestic carrier's charge + ½ the international carrier's charge after the foreign payout has been subtracted) be less than the amount of domestic component charge, which the originating outbound international carrier must pay the domestic carrier. For inbound international record traffic, the Commission prescribed that an originating outbound carrier lacking a foreign agreement would be allocated revenues based upon the same pro rata share of inbound traffic as it delivered for outbound carriage. This allocation would be calculated on a country-by-country, service-by-service basis. The allocation of revenues between originating and transiting IRCs would generally follow the arrangement prescribed for outbound traffic.

8. The *Interim Order* did not require specific tariff language to implement these decisions. Rather, it specified that the carriers must file tariffs in conformity with its terms within 20 days, with the effective date of the tariffs to be no later than 15 days after filing. Thereafter, the Common Carrier Bureau also replied to requests for clarification where that seemed appropriate.[6] After the Bureau granted the carriers a brief extension of time in which to file, Western Union and the IRCs filed new and/or revised domestic, international and interconnection tariffs to become effective May 17, 1982. These tariffs have all been deferred by the Bureau to June 20, 1982 in order to enable the Commission to address the numerous petitions to suspend and reject and to prescribe, as required, the tariff provisions needed to implement the *Interim Order* and the mandate of the RCCA.[7]

9. Our analysis of these filings shows that the tariff filings of the IRCs have in substantial respects violated the intent and the explicit language of the *Interim Order*. We discuss these violations in detail below. Generally, the IRCs have either misread, or at best, misinterpreted the *Interim Order*.

10. For example, the tariffs neglect to provide pricing information such as the total end-to-end international charge for all points. In addition, only one IRC has accurately reflected the 15% discount of the domestic charge, while the others have rounded the charge up ¼ of a cent. Virtually all the tariffs are ambiguous and unclear in describing the timing factor for calls. The tariffs for outbound international transit traffic do not reflect the correct formula, and all the tariffs lack provisions for inbound international pro rata traffic (except for

[5] Section 222(c)(3)(B)(i), 47 U.S.C. § 222(c)(3)(B)(i).

[6] Letter of Chief, Common Carrier Bureau to Western Union and IRCs, dated April 27, 1982.

[7] We have considered all of the many arguments raised by the carriers' petitions to suspend and reject. Because of the large number of contentions raised, and because of the brief time available, we have limited discussion in this Order to those arguments found to be most important or to have merit under the *Interim Order*. Arguments which we do not address were found to be without merit or mooted by other arguments.

one carrier which filed provisions inconsistent with the *Interim Order*). Moreover, all have made the error of defining "authorized carrier" as one providing telex service rather than any traditional non-voice record communications service. There are other problems as well, including numerous textual errors and ambiguous language which could allow the carriers to interpret their tariffs in conflicting ways.

11. Because the tariff violations of the *Interim Order* are so pervasive, we are rejecting all of the above-captioned IRC filings. Rejection is warranted if provisions are "so patently a nullity, as a matter of substantive law, that administrative efficiency and justice are furthered by obviating any docket at the threshold." [8] It is particularly appropriate in cases such as this, where a prior Commission decision has required specific tariff provisions, and the filed language fails to comply. As we discuss in detail below, we are here prescribing specific tariff language which record carriers will be required to use and explicit directions which they will be required to follow in filing their interconnection and customer tariffs.

12. Western Union's interconnection tariffs do generally comply with the *Interim Order*, but there are some errors to be corrected. We specify these problems below and also reject the tariff in order to assure that these corrections are made. Western Union may refile with these modifications.

II. Discussion

A. Format of the Tariffs

13. In paragraph 127 of the *Interim Order*, we required those record carriers providing both international and domestic service to set forth in a clear and concise manner the domestic charge for each interconnected domestic carrier, the international charge, and the total end-to-end charge in their public tariffs.[9] This requirement is intended to facilitate public understanding of rates and charges for international record services. While all of the record carriers have set forth their domestic and international component charges separately, *none* has shown total end-to-end charges for international service. Moreover, the charges listed are dispersed throughout the tariff, making it difficult for subscribers readily to ascertain the applicable rates. We find these provisions unclear[10] and will require each of these carriers to file their charges in the following prescribed format. Each carrier will be expected to file a four column table. In the first column the overseas points it serves should be listed. The appropriate domestic charge component, the international charge component, and total end-to-end charges should be set forth in the second, third, and fourth columns respectively.[11]

14. The Commission also required each of the international record carriers to set forth in its public tariffs the domestic charges for each interconnected domestic carrier (*Interim Order* para. 127). This requirement was intended to facilitate fair and equal access to an IRC's network by subscribers of other record carriers. As Western Union points out in its petitions, several of the IRCs have referenced the wrong domestic tariffs of other record carriers. In addition, in conflict with our *Interim Order* WUI has proposed that its own domestic rate be applicable to all other record carriers. We find these proposed tariff provisions to be unlawful.[12] To avoid further confusion, we shall prescribe the following statement which each IRC must include in its tariff immediately after the table of its own charges:

Subscribers to service offered by other record carriers may initiate an international telex transmission on the other carrier's network and designate the Company as the international record carrier over whose facilities the transmission will be routed. In these instances, the Company will bill the customer and collect the appropriate total end-to-end charge. The other record carriers' charge for the domestic component, as shown in the following tariffs,[13] shall apply in lieu of the Company's domestic charge. [14]

Other Common Carriers and Tariffs [15]

FTC Communications, Inc.—Tariff F.C.C. No. 21
Graphnet, Inc.—Tariff F.C.C. No. 4
ITT World Communications Inc.—Tariff F.C.C. No. 69
The Western Union Telegraph Company—Tariff F.C.C. No. 286 and 287
RCA Global Communications, Inc.—Tariff F.C.C. No. 102
TRT Telecommunications, Inc.—Tariff F.C.C. No. 75
Western Union International, Inc.—Tariff F.C.C. No. 24

15. A further difficulty we perceive with the format of the proposed tariff revisions is that all of the IRCs (except FTC which is not required to unbundle) have filed revisions to their public international tariffs indicating that the rates contained there also apply to the domestic portion of an international call for which the subscriber has selected another IRC. The *Interim Order*, however, requires that the international carrier selected by the subscriber will be solely responsible for tariffing and billing both the international and the domestic component of the end-to-end international charge and will file such charges in its public tariff. Under this regime, a domestic carrier providing interconnection would file the rates for its domestic component in its interconnection tariff only and would receive payment from the IRC for such domestic component. The proposed provisions, on the other hand, could be interpreted as allowing for a double billing for the same service and are therefore found to be unlawful.[16] However, the tariff regulations of the carrier whose facilities are used by subscribers to access other international carriers would apply, and thus each carrier including (FTC) shall place the following language in its public domestic tariff:

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[8] Municipal Light Boards v. FPC, 450 F.2d 1341, 1346 (D.C. Cir. 1971), *cert. denied*, 405 U.S. 989 (1972); AT&T, 67 FCC 2d 1134, 1157 (1978), *aff'd sub nom.*, ABC v. FCC, 663 F.2d 133, 138 (D.C. Cir. 1980).

[9] These carriers are ITT, RCA, TRT, and WUI. FTC is exempted from this requirement because it does not possess a significant share of the record communications services market. See *Interim Order* at para. 80.

[10] ITT-Tariff F.C.C. No. 12 §§ D 3 and D 4; RCA-Tariff F.C.C. No. 90 §§ 3.2.2 and 3.3, TRT-Tariff F.C.C. No. 64 §§ E.1.a and E.2; and WUI-Tariff F.C.C. No. 5 §§ 5.2 and 5.3.

[11] The columns should be headed "Overseas Point"; "Domestic Component"; International Component" and "Total End-to-End Charge." Those carriers electing to use the allowed conversion factor of 1.3 in computing the billing minutes of the domestic component, (see *Interim Order* at para. 125 and discussion below,) should specify the rate and indicate in a footnote to "Domestic Component" column that "The Domestic Component is based upon a conversion factor of 1.3 which equates international minutes to domestic minutes.

[12] FTC Tariff F.C.C. No. 10—D2.1; ITT Tariff F.C.C. No. 12—¶C13.13 and D 3; RCA Tariff F.C.C. No. 90 ¶3.8.1 and Tariff F.C.C. No. 102—¶4.5.1; TRT Tariff F.C.C. No. 64—¶E.1.b and E.1.c.; WUI Tariff F.C.C. No. 5—¶5.2.

[13] Obviously, ITT, RCA, TRT and WUI need not list their own domestic tariffs in this section since their own domestic charges are shown separately within each tariff.

[14] In FTC's tariff, the term "in lieu of the Company's domestic charge" should be replaced with "in addition to the charges specified in Column (b) of Section D.2."

[15] Since we are rejecting the interconnection tariffs of RCA, FTC, TRT, WUI and Western Union, we have shown the next consecutive tariff number available for each of these carriers to file revisions consistent with this *Order*.

[16] ITT Tariff F.C.C. No. 12—Section A—¶D2 and D3; RCAG Tariff F.C.C. No. 90—Section 1.4; TRT Tariff F.C.C. No. 64—Section A-4¶s 2 and 3; WUI Tariff F.C.C. No. 5—Section 5.2 and Tariff F.C.C. No. 22—Sections 1.2 and 5.3.3.

Facilities furnished under this tariff may be interconnected for non-voice record services provided by international record carriers. The regulations contained herein apply to the domestic component of such interconnection.

B. The Discount Factor

16. In the *Interim Order*, the Commission prescribed that a 15% discount from a carrier's publicly tariffed intra-network domestic rate would apply to all carriers for the provision of interconnected service: either the terminating portion of a domestic call or the domestic component of an inbound or outbound international call (*Interim Order*, paragraph 93). Since FTC, ITT, RCA and WUI each charge $.35 per minute for their intra-netwok domestic calls, the appropriate discounted rate is $.2975 per minute. However, these carriers have chosen to "round up" this rate to $.30 per minute purportedly for ease of billing. We cannot accept this explanation. On the contrary, we believe these carriers should have no problem in programming their computers to bill the lower rate. Significantly, neither Western Union nor TRT have rounded up domestic rates. Because of the millions of minutes involved the proposed "rounding up" will substantially increase rates to the public. For example, in the first half of 1981, there were 77 million minutes of outbound telex and the seemingly innocuous one-quarter of one cent "round up" would have meant additional annual charges to the public of between $250,000 and one-half million dollars. Thus, the "rounding up" provisions in the FTC, ITT, RCA and WUI tariffs are inconsistent with the *Interim Order* and we therefore prescribe that these carriers file the specified $.2975 per minute rate.[17] [18]

C. Timing of Transmission

17. The IRCs currently begin timing the domestic portion of an international call when the connection is made overseas to the called party. Western Union, on the other hand, times its domestic portion when the call is connected at an IRC office. The count of domestic minutes therefore includes minutes for incomplete international calls as well as set-up times for completed calls. As a result, the number of domestic minutes associated with international calling is significantly greater than the number of international minutes. In our *Interim Order* we gave the domestic carrier the option of charging for the domestic component of an international call: (1) based upon international minutes or (2) based upon an imputed count of domestic minutes derived by multiplying international minutes by the 1.3 factor prescribed in the *Interim Order*.[19] Thus, a domestic carrier may elect to receive payment for the carriage of domestic component traffic based upon a count of international minutes x 1.3 x the discounted domestic charge.

18. None of the IRC tariff filings succeeded in clearly defining the use of the 1.3 factor. In general, we could not even discern from their tariffs whether or not changes for the domestic components were intended to be based upon international minutes or upon imputed domestic minutes utilizing the prescribed conversion factor.

19. Western Union's tariffs did show a clear election in favor of imputed domestic minutes and did use the 1.3 factor properly. Western Union's tariffs state:

The total number of outbound international minutes of usage recorded for the month reported to the Company by an IRC is multiplied by a factor of 1.3 to determine the total number of domestic minutes for billing purposes.

The difficulty here is that Western Union's tariffs do not provide a specific minute charge for international service. As already noted, a Western Union subscriber placing an international call over the facilities of an IRC must refer to Western Union's interconnection tariff to ascertain the charge for the domestic component. In order that the charge be clear to the subscriber, we believe it necessary that a specific per minute charge be stated in the interconnection tariff. To accomplish this, we determine the applicable provisions of Western Union's and the IRC's tarriffs to be unlawful, [20] and in place of these provisions prescribe the following language which they must file in the rate section of each of their domestic interconnection tariffs:

The charge for the domestic component of an interconnected outbound international call where the subscriber chooses another international record carrier is $.[21]

The basis of billing each international record carrier for the Company's handling of outbound international calls is computed by taking the total number of outbound international billed minutes of usage recorded for the month and reported to the Company by each international record carrier and multiplying by the Company's domestic component.

20. Moreover, since the compensation for the domestic component is either based upon or derived from international minutes, it is essential that international carriers promptly report them to the domestic carrier for billing. Therefore we will require each of the domestic carriers to set forth in domestic interconnection tariffs the following provisions:

Other record carriers interconnecting with the Company for the provision of their international telex service are responsible for providing the Company, within 20 days following the end of each month, a record of the total number of billed international minutes of usage resulting from all outbound interconnected traffic transferred by the Company to each of these other record carriers during that month.

D. Transiting

21. The *Interim Order*, at para. 101, requires the IRCs to provide outbound transiting service to those carriers lacking operating agreements, and it prescribes an arrangement for this service with a formula for the division of the end-to-end charge. Under this formula, the originating outbound IRC will first pay the transiting IRC an amount equal to the payout to the foreign administration. Additionally, it would pay the transiting IRC ½ of the initiating domestic carrier's rate plus ½ of the transiting IRC's international rate after subtracting the amount of the foreign payout. We also provided that in no case would the originating IRC (i.e., the international carrier without an

[17] FTC Tariff F.C.C. Nos. 16 and 20—Sections D2, D3 and D4; ITT Tariff F.C.C. No. 12—Section D3, and Tariff F.C.C. No. 60—Sections D4 and D5; RCA Tariff F.C.C. No. 90—Section 3.2.2 and Tariff F.C.C. No. 102—Sections 4.4.2, 4.4.3, 4.5.2 and 4.5.3; WUI Tariff F.C.C. No. 5—Section 5.2 and Tariff F.C.C. No. 23 Section 4.2 and 4.3. Of course, the carriers may also choose to alter their domestic rates, but they may not violate the 15 percent discount prescription by rounding.

[18] We will allow the carriers to round their charges to four significant figures.

[19] Our prescription of a 1.3 conversion factor in para. 125 of the *Interim Order* was based on information submitted in ITT World Communications Inc., 73 FCC 2d 709, 714 (1979). This factor was chosen as a best estimate at this time for equating international and domestic minutes. However, if this 1.3 factor multiplied by the international minutes does not equal the domestic minutes actually counted by the domestic carrier, then, we would expect the domestic carrier to file revised tariffs with support information to reflect the appropriate factor which would equate these international and domestic minutes. In view of the extended period of the statutory notice, the Bureau should consider waiver of the Rules, if requested, to effectuate changes in a timely fashion.

[20] FTC—Tariff F.C.C. No. 16 Section 2.1, FTC—Tariff F.C.C. No. 20 Section 9.03, ITT—Tariff F.C.C. No. 12 Section 5.01, ITT—Tariff F.C.C. No. 60 Section 7.04, RCA—Tariff F.C.C. No. 90, Section 2.6.1, RCA—Tariff F.C.C. No. 102 Section 3.8.3 Section 4.5.2, TRT—Tariff F.C.C. No. 64 Section 2, WUI—Tariff F.C.C. No. 5 Section 4.42, WUI—Tariff F.C.C. No. 23, Section 3.7.3, WU Tariff F.C.C. Nos. 279 and 280 Section 4.5.1.

[21] If the carrier elects to use the prescribed conversion factor of 1.3, a footnote should be inserted in the tariff stating that "The domestic component is based upon a conversion factor of 1.3 which equates international minutes to domestic minutes."

operating agreement) be left under the formula with less than the domestic portion of the charge which the originating IRC would be responsible for paying. Notwithstanding these instructions, no IRC, except RCA, filed provisions which would have left the carrier requesting interconnection with no less than the domestic charge.[32] There are other problems as well. TRT has used a definition of a foreign payout which differs from that in the *Interim Order*,[33] and ITT, WUI and RCA do not clearly specify the appropriate domestic component. Consequently, we determine that these tariff provision sections dealing with transiting are unlawful.[34] In their place we are prescribing the following language which the international carriers are required to place in the rate section of their interconnection tariffs:

The Company will provide use of its international component to overseas points listed in the Company's public Tariff(s) F.C.C. No(s). —— for use by other international record carriers requiring transiting, except in those cases where the Company's service is furnished by transiting other U.S. international carriers. The payment for the Company's international component for use by other international carriers requiring transiting is based on the following formula:

Company's charge = ½ Domestic Component Charge + ½ International Component Charge after the Foreign Payout has been subtracted + Foreign Payout.

The Company's charge is reduced in those situations where the amount remaining under the formula, [i.e., ½ domestic charge + ½ international charge after the foreign payout has been subtracted], and allocated to the international carrier requiring the transiting, i.e., the originating outbound international carrier, is less than the domestic carrier's charge for the domestic component. In these cases, the Company's charge will be reduced so that the amount allocated under the formula to the international carrier requiring transiting is no less than the charge for the domestic component.

For the purpose of this formula:

The domestic component charges are those contained in the domestic interconnection tariff of the record carrier on whose domestic network the call initiates. (This may not necessarily be the carrier requiring transit facilities.)

The international component charges are those contained in the Company's Tariff F.C.C. No. —— for offering international telex service to the public. (Note: These charges do not contain the domestic component.)

The foreign payout is the amount paid to the overseas administration(s) in accordance with settlement arrangements as reported to the Federal Communications Commission under Section 43.53 of the Commission's Rules.

E. Pro Rata Traffic

22. In order to ensure that carriers who lack operating agreements with foreign administrations can participate in the provision of inbound record communications services, Section 222(c)(1)(A)(ii) of the RCCA requires a pro rata allocation of such traffic. The *Interim Order* at paras 108–14 prescribes a formula for the pro rata allocation of inbound traffic based on the volume of outbound traffic a carrier transits through an IRC. Under this formula the pro rata share of inbound traffic received by international record carriers lacking a foreign agreement would be determined by the percentage of its outbound traffic delivered for transiting to the total outbound traffic of the transiting carrier. This allocation is to be calculated on a country-by-country, service-by-service (telex, TWX, telegram, etc.) basis. Except for TRT, the IRCs have simply ignored this requirement. Moreover, TRT's formula fails to comply with our prescription because the pro rata share is based in part upon overall industry traffic. This is clearly contrary to the requirements of the *Interim Order*. Accordingly, we find TRT's proposed provision unlawful,[35] and hereby require all of the IRCs to place the following language in their interconnection tariffs:[36]

The Company will allocate a portion of its inbound international telex traffic to other international record carriers that utilize the Company's international component for transiting outbound international telex calls. The amount of inbound traffic to be allocated to each of these carriers will be based on a pro rata share of that carrier's outbound transiting telex traffic in relation to the Company's total outbound telex traffic. For this purpose, the inbound allocation will be made in minutes on a country-by-country basis.

An example of this allocation is as follows:

Carrier A delivers 100 minutes of outbound telex traffic to the Company for transiting to Country X. The Company's total number of outbound telex minutes, including Carrier A's minutes to Country X, is 1000 minutes.

100÷1,000=10 percent of the outbound telex traffic to Country X is Carrier A's share.

The Company receives 50 minutes of inbound telex traffic from Country X. Carrier A's share of these minutes is 10%. 10% of 50 minutes is 5 minutes.

After determining the inbound traffic allocated to the other international carrier, the Company will retain one-half of the revenue payout received from the overseas administration for these minutes. The other half of the payout will be paid to the carrier entitled to pro rata distribution. However, the amount retained by the Company will be reduced where one half of the foreign payout is less than the domestic carrier's charge for the domestic component. In these cases, the Company's share will be reduced so that the amount allocated to the other international record carrier is no less than the charge for the domestic component.

To implement this pro rata allocation, the Company will route all telex traffic destined to subscribers of the international carrier entitled to receive a pro rata allocation to that carrier and pay the carrier its share of the inbound retention as described in the preceding paragraphs. If any additional allocation of traffic is required to satisfy the pro rata allocation, the Company will effectuate delivery of this traffic directly to the domestic carrier capable of effecting delivery of such traffic, pay that domestic carrier, and pay the international carrier entitled to a pro rata distribution its share of the inbound retention less the charge for the domestic component.

The Company will calculate quarterly for each country subject to a transiting agreement: the total outbound minutes, the total inbound minutes, and the outbound minutes generated by each originating international carrier. Based on this information, the Company will then calculate the number of pro rata inbound minutes to which each carrier is entitled. The Company will then allocate these pro rata inbound minutes to each carrier in the following quarter.[37]

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[32] RCA for its part does include language concerning this proviso, but the language is inconsistent with the intent of our *Interim Order*. Specifically, RCA's tariff provides that the transiting charge would be based on the originating outbound IRC's domestic rate and that the minimum guaranteed in the proviso would be based on that carrier's domestic rate reduced by fifteen percent. However, it is possible that the interconnecting carrier may not be providing the domestic segment and may not provide domestic service at all. Therefore, the proviso should be based on the actual domestic rate of the carrier providing the domestic segment, not on the domestic rate of the originating outbound IRC. RCA also states that the domestic segment would be based on the 1.3 factor; however, some interconnected domestic carriers may elect not to be compensated on the basis of this factor and may simply use an international minute count.

[33] Instead of using the actual payout to the foreign administration, TRT would use a composite payout where it uses more than one route to a particular overseas destination. This composite would be based on TRT's use of the various routes for traffic to the destination. The provision is unclear as to whether the composite is weighted to reflect the volume of traffic per route and could apparently assign payouts to particular carriers which differ from those incurred for the carriers' actual traffic.

[34] FTC—Tariff F.C.C. No. 20 Section D 5, ITT—Tariff F.C.C. No. 69 Section D 7, D 8, RCA—Tariff F.C.C. No. 102 Section 4.5.4, 4.5.5, TRT—Tariff F.C.C. No. 74 Sections 4.2.2.1 and 4.2.2.2, WUI—Tariff F.C.C. No. 23 Section 4.5, 4.6.

[35] Section 4.2.3 of TRT Tariff F.C.C. No. 74.

[36] It should be noted that the service-by-service requirement also means that IRCs must allocate traffic in relation to that handed-off for that service. For example, telex-to-telex is to be allocated separate and apart from TWX-to-telex.

[37] If there are any disputes concerning these counts, we expect that they can generally be resolved by reference to the official reports filed by the carriers under Section 43.61 of our Rules, 47 CFR § 43.61.

F. Miscellaneous Provisions

23. The record carriers have uniformly defined "other common carriers" in their tariff proposals as those authorized to provide telex service. IRI points out that this definition could improperly exclude from interconnection carriers which provide variations of telex service. We agree. The RCCA defines record communications services broadly to include telegraph, telex and similar record services. 47 U.S.C. § 222(a)(3) (1981). Moreover, limiting interconnection to telex could have the undesirable effect of restricting the provision or development of other carrier services. We therefore direct that the definition of other common carriers in the interconnection tariffs be replaced by language defining such carriers as providers of "non-voice record communications service" without limitation to telex service.[28]

24. ITT argues in this regard that IRI, a carrier authorized by this Commission to provide international record services, is not entitled to interconnection because it has not itself filed an interconnection tariff. However, the RCCA by no means compels such a result, requiring only that interconnection be provided upon reasonable request.[29] Moreover, the interconnection filing requirements imposed by the *Interim Order* run only to the five leading IRCs and Western Union. Thus, as matters now stand, IRI is not required to file an interconnection tariff, but is entitled to interconnection under other carriers' tariffs.[30]

25. Some of the IRCs have proposed tariff provisions which provide for privately negotiated interconnection agreements or reciprocal arrangements. Thus, RCA's proposed interconnection tariff setting forth the rates and terms for terminating the domestic portion of a wholly domestic call provides for either a $.10 terminating charge if this charge is reciprocated, or a $.30 terminating charge if there is no reciprocation.[31] FTC, WUI, TRT, and ITT have filed several provisions relating to mutual agreements and reciprocal treatment.[32] As a separate matter, TRT has appended its 1981 contract with Western Union relating to guaranteed routing of traffic by Western Union to TRT.[33] ITT and RCA have retained in their existing interconnection tariffs provisos for mutually agreed upon arrangements with other carriers.[34]

26. Because one of the main purposes of the RCCA is to encourage open entry in the record communications market, we required that all interconnection arrangements be tariffed so as to assist in assuring that all carriers are treated on a nondiscriminatory basis in obtaining desired service. Privately negotiated arrangements or other provisions at odds with these prescribed provisions are no longer acceptable. We have prescribed in this Order the specific terms for interconnection that must be set forth in the carriers' tariffs. Thus, to the extent that existing or proposed tariff provisions (see footnotes 31–34) are in conflict with this prescribed language they must be removed.[35]

27. The RCCA does not require pro rata sharing of inbound return traffic if the overseas administration allows its customers "the option to specify the international record carrier which will provide such record communications service." 47 U.S.C. 222(c)(1)(A)(ii)(II). In our view, for this provision to apply a foreign administration must allow its subscribers to select *any* U.S. international carrier, including those who do not have operating agreements with it, so as to insure that all U.S. carriers have an equal opportunity to receive inbound traffic. While TRT would invoke this provision to exclude several countries from the inbound pro rata provision (TRT Tariff F.C.C. 74 Section 4.2.3.1), it has not shown that the administrations of the countries listed allow their customers to select any U.S. international carriers, including those who do not have operating agreements. Consequently, we find TRT's provision unlawful. Should any IRC seek to exclude a country from the pro rata allocation for inbound traffic under the RCCA it must demonstrate that the foreign administration allows its subscribers the opportunity to select *any* U.S. international carrier.

28. For outbound transiting, all IRCs, except RCA, have either listed, or have referenced other tariffs which list, the points to which they will provide service. We think that such a listing of points served is important for tariff clarity and ease of implementation. Therefore, all IRCs, including RCA, are hereby required to reference or to list the appropriate countries or locations for transiting.

29. Under Section 222(c)(1)(B) of the RCCA, the Commission is required to treat the primary existing IRCs as separate domestic and international carriers for purposes of interconnection.[36] To implement this requirement, the Commission ordered each of these IRCs to show in its international tariff its own domestic charge, as well as to reference the domestic charges for each interconnected domestic carrier. In order to insure fair and equal access we intended by this prescription to include separate domestic charges, not only for

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[28] Accordingly, the following sections in the carriers' proposed tariff provisions are rejected: FTC—Tariff F.C.C. No. 19—Section A2. FTC—Tariff F.C.C. No. 20—Section A5, Section 1.01, Section C 5.06, Section D5. ITT—Tariff F.C.C. No. 12 Section on "Definitin of Terms"—Other Common Carrier Section A—1st paragraph page 5A. Section A—2nd paragraph 5B, ITT—Tariff F.C.C. No. 69 Section A, Section B2, Section B5, Section C 1.01, Section 5.04, Section D8, RCA—Tariff F.C.C. 102—Section 1.1, 2.3, 2.1.1., and B.5.4., TRT—Tariff F.C.C. No. 04—Section C5. TRT—Tariff F.C.C. No. 74—Section 1.2, 2.3, and 3.5.4, WUI—Tariff F.C.C. No. 5—Section 2.7, WUI—Tariff F.C.C. No. 222—Section 2.4, 2.5 and 4.8.4, WUI—Tariff F.C.C. No. 23, Section 1, 2.2, 2.4, 3.2.1., 3.5.4, and 4.8. WU—Tariff F.C.C. No. 279 and 280—Title Page, Section 1—International Record Carrier and Network Interconnection Arrangements, 2.1, 3.2 and 5.1.1, WU—Tariff F.C.C. No. 281 and 282—Title Page, Section 1—Network Interconnect Arrangements and Other Common Carrier, 2.1, and 3.1, WU—Tariff F.C.C. No. 340—Title Page, Section 1.8, 1.7, and 3.2, 4.1(f)(4), 4.1(f)(5), and 5.1 WU—Tariff F.C.C. No. 256—Title Page, Section 1.5, 1.8, 2.1, 3.2, 5.6.9, 6.1.1(d), 6.1.4(A)(ii).

[29] 47 U.S.C. § 222(c)(1)(i).

[30] Although IRI is under no compulsion to file a separate interconnection tariff, we suggest it do so in order that other carriers will know the terms and conditions for interconnection. In any event, IRI would be required to revise its public tariffs to reflect interconnection from other record carriers and the billing and charging of the total international call.

[31] RCA Tariff F.C.C. No. 102 Section 4.4.2. This provision was filed notwithstanding a letter interpretation by the Common Carrier Bureau dated April 23, 1982 that such a provision would be outside the scope of the *Interim Order*.

[32] FTC Tariff FCC No. 20 §§ B.3; 3.01; 3.02; 5.05; 6.01; WUI Tariff FCC No. 5 Section 4.55; WUI—Tariff F.C.C. No. 23 §§ 1 and 3.5.3; WUI Tariff F.C.C. No. 22, Section 4.8.4 TRT—Tariff F.C.C. No. 74 Section 3.2.1 ITT Tariff FCC No. 69 Section A.

[33] TRT—Tariff F.C.C. No. 74 § 4.3.

[34] ITT—Tariff No. 69 Section 5.03 and RCA Tariff F.C.C. No. 102 §§ 3.2.1 and 3.5.3.

[35] With respect to TRT's inclusion of its May, 1980 agreement with Western Union for international telex transiting facilities, we recognize that the RCCA grandfathers "any otherwise lawful contract relating to the distribution of outbound international record traffic between any domestic record carrier and any international record carrier if such contract was entered into before June 23, 1981." RCCA, § 4 (1981). However, in *ITT World Communications, Inc. v. F.C.C.*, 635 F. 2d 45 (2d Cir. 1980), the court prescribed that Western Union could not continue to provide telex interconnection pursuant to contracts such as the TRT arrangement, and it directed the Commission to enter an order to that effect. The Commission complied with this mandate in *Western Union Telegraph Co.*, 84 F.C.C. 2d 150 (1980). Since the Commission remains subject to the mandate of the Second Circuit, and we have no record from which to determine whether we should modify or reverse our 1980 Order in compliance with that mandate, we will reject the inclusion of the contract in TRT's tariff for the present. We express no view on the ultimate lawfulness or enforceability of the contract pending development of a proper record.

[36] Any record carrier which "does not have a significant share of the market for record communications services" is exempt from this requirement. We have previously determined that FTC falls within this exemption.

record services, but for all domestic facilities that are provided by the IRCs for access, including Inward WATS. However, none of the IRCs have complied because their tariffs do not indicate the method of charging for these facilities when provided by them. To eliminate this deficiency, we direct the IRCs to reference or state separately charges for all domestic facilities (both record and non-record) provided by the IRCs to allow access to their international services.[37]

30. There is yet another complication in achieving the unbundling requirements imposed by the RCCA. While the carriers would unbundle their rates for the contiguous 48 states and Hawaii on the one hand, and international points on the other, the tariff proposals would continue to treat Puerto Rico, the U.S. Virgin Islands, American Samoa and Guam as international points. However, under Section 3(g) of the Communications Act, 47 U.S.C. § 153(g), the term "United States" means the States, territories, and possessions. Section 222(a)(1)(A) refers to international record communications services between points of entry into or exit from the United States and points outside the United States. In light of these definitions, we will treat the U.S. Virgin Islands, American Samoa and Guam as domestic points for purposes of our unbundling prescription. In the interim, Puerto Rico is treated as an international point as discussed in the technical section, Section III following. Consequently, we direct the record carriers to unbundle the domestic and international components of service to these domestic points as well.[38] For purposes of originating or terminating calls to or from these domestic locations, the interim prescription for wholly domestic service will apply.

31. With respect to Alaska, the international carriers maintain an additional charge of $.55 for calls originating in Alaska and transiting Western Union's network. However, because Western Union has proposed to reduce its interconnection charge to $.384 per minute, the international carriers are required to pass through this reduction to customers in Alaska. Interim Order at para. 93. Thus, the IRCs are ordered to replace their $.55 rate with a reference to Western Union's interconnection tariff. Additionally, since Western Union is now the only carrier interconnecting with Alascom, Inc. for telex, we will require Western Union to file interconnection rates and regulations for other carriers that want to originate or terminate domestic traffic with Alaska.

32. Finally, Western Union has proposed tariff revisions establishing the specific technical criteria for interconnection. The IRCs for their part, have filed general provisions dealing with technical interconnection. We reject those provisions which are inconsistent with our technical arrangements prescribed below.[39] The *Interim Order* did not prescribe technical arrangements for interconnection among the carriers. Rather, it simply allowed the carriers to negotiate these matters and file with this Commission any arrangements not inconsistent with the *Interim Order* with us.

III. Technical and Technical-Related Issues

A. Procedural Discussion

33. In paragraph 127 of the *Interim Order*, we acknowledged that there may have been outstanding technical matters which warranted further discussion among the carriers in view of our resolution in the Order of policy issues. We allowed the carriers fifteen days from the release date to arrive at and to submit any needed additional technical arrangements themselves, provided that they were not inconsistent with the *Interim Order*. Such discussions proceeded, and were attended by Commission personnel, but they generally were not fruitful.

34. On May 13, 1982, the Common Carrier Bureau released an order directing the record carriers to submit information by May 20, 1982. This order stated:

> In order that we may assess the continuing desirability of such negotiations under the Commission's *aegis*, and to permit us to assess the need for and scope of further discharge of our responsibilities under the Record Carrier Competition Act of 1981 and the Communications Act, the above-listed carriers are directed to submit in writing to the Commission, by close of business May 20, 1982, the following information: (a) a brief description of each technical issue which was outstanding upon release of the Interim Order which related to interim interconnection arrangements between and among record carriers; (b) a description of the resolution of each such technical issue which has been resolved through negotiation; and (c) the proposed resolution of each such technical issue which remains unresolved.[40]

35. Meetings were then held on May 18, May 24, May 26, and May 27, 1982, at which agreement was reached by the parties on a number of technical issues which were identified in the May 20 written submissions.

36. A member of our staff presided at each of these meetings, and the procedure adopted was that language resolving each technical issue which was resolved by agreement was reduced to writing (after open oral editing by the parties to create language which unanimously was accepted by all participants) and was distributed to the participants.[41]

37. In our view, it is abundantly clear from the language and the legislative

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[37] In a related matter, FTC, and RCA have included tariff provisions which do not indicate the method of charging for customer access at greater than telex speed. FTC Tariff F.C.C. No. 16 § C15.13 and RCAG Tariff F.C.C. No. 90 §§ 2.8.1(b) and 2.8.5. In addition, ITT's tariff simply states without further explanation that a customer may access its system at the customer's own expense. ITT Tariff FCC No. 12 13.01(b). We find all these provisions unclear and in violation of 47 CFR § 61.55(f) since they do not specify the charges for such access. Thus, we order them withdrawn.

[38] Under 47 U.S.C. 153(f), the term foreign means foreign points and mobile stations. (i.e. ships at sea.) Under this definition, Canada, Mexico and mobile stations are treated as international points for purposes of unbundling the domestic and international components. Consequently, Western Union and the international carriers who serve these points must unbundle the domestic and international components of charges for these points. For transiting purposes, our prescription for outbound and inbound transiting will apply to Canada and Mexico. However, since no foreign administrations are involved in mobile stations, no transiting is required in service to mobile stations.

[39] FTCC—Tariff F.C.C. No. 20 Section C–5.01, 5.03, 5.05, 6.01, ITT—Tariff F.C.C. No. 69 Sections C–5.01, 5.03, RCA—Tariff F.C.C. No. 102 Sections 3.2.1, 3.5.1, 3.5.3, TRT—Tariff F.C.C. No. 74 Sections 3.2.1, 3.2.3, 3.2.4, WUI—Tariff F.C.C. No. 23 Sections 3.5.1, 3.5.3, WU—Tariff F.C.C. Nos. 279 and 280 Sections 3.2, 4.3, 4.4.3, 4.4.4, 4.4.7, 4.4.8, Tariff F.C.C. Nos. 281 and 282, Sections 3.2, 4.3, 4.4.3, 4.4.4, 4.4.7, 4.4.8, 4.4.9.

[40] *Order*, Mimeo #CC4023, released May 13, 1982. The "above-listed" carriers referred to were FTC, ITT, RCA, TRT, WUI and Western Union. In addition, other carriers participating in the negotiations were encouraged, but not ordered, to make submissions to the extent they thought the same useful. All such carriers (i.e., CCI, Graphnet, and IRI) made submissions. It is thus clear that the carriers were on notice that their written submissions would aid us in establishing interconnection arrangements, that subsequent meetings were to be under Commission auspices, and that such meetings too would aid us in arriving at an order prescribing suitable technical interconnection arrangements.

[41] For issues which were resolved during the May 18 meeting which preceded the May 20 written submissions, such agreed-upon language was attached or referenced in the parties' submissions. For issues resolved during the May 24, May 26 and May 27 meetings, written submissions were not received from the participants. No further procedural opportunity was provided the participants to make such submissions in view of the urgency of proceeding to decision herein. However, the staff has associated a memorandum with the docket file in Docket No. CC 82–122 which memorializes this subsequently agreed-upon language.

history of the RCCA that Congress intended that interim arrangements either be agreed to by the carriers, or failing that, that they be prescribed by the Commission expeditiously. It might be noted that the Commission is specially authorized in § 222(c)(3), if the carriers fail to resolve interconnection issues by a carrier agreement, to issue "an interim or final order" to which the carriers will be bound, and to do so within ninety days. Obviously, Congress intended that procedures be employed which are conducive to expedition, as the Communications Act otherwise does not specifically address "interim" orders, nor special ninety day time limitations for prescriptive orders. In view of this, we believe that we are specially authorized by the RCCA to employ such procedures as are necessary (in lieu of traditional notice and comment rulemaking) to arrive expeditiously at reasonable, practical, and feasible technical arrangements for interconnection.[42]

38. In sum, we are required by the RCCA to prescribe carrier-to-carrier interconnection procedures expeditiously. We are employing the results of the several meetings under our auspices to establish interim arrangements which are technically feasible, practical and workable. Since the carriers did not establish a carrier agreement of their own during the initial period after the RCCA was adopted, a formal carrier agreement at this point is not required. The meetings resulted in "agreement" on particular issues, and, in the sound exercise of our discretion to prescribe interim interconnection arrangements, we are prescribing the agreed-upon arrangements for the individual issues which were so resolved. Although the parties were not required to sign, and did not sign, formal carrier-to-carrier agreements, this is not significant in the context of this proceeding. What is required are arrangements which can work, and the parties' limited agreement at the meetings that their interim resolution of outstanding technical issues is feasible convinces us that reliance upon such agreement is not misplaced.

B. Technical Issues Resolved by Agreement

39. In this section of this order, we describe and adopt as our prescription on such issues technical language agreed to by the participants at the May 18, 24, 26 and 27, 1982 meetings.

40. In its April 30, 1982 Transmittal No. 7890, Western Union briefly described its proposed methods of interconnecting for domestic and international services. Domestic interconnection is generally to proceed at Western Union's four Digital Exchange System (DES) switches using INTERCOMMPLANT signaling. However, modifications are required at these switches, and such interconnection initially will be made available solely at the New York DES (with the remaining sites to be phased in as equipment is installed and made operative). Also, the other carriers must themselves modify signaling protocols from "type B" to INTERCOMMPLANT signaling, and Western Union's tariffs contain language authorizing continued use of "type B" until November 13, 1982. Western Union has historically connected with the IRCs for international service on a different basis, and it contemplates no immediate change in the existing arrangements.[43]

41. Western Union's interconnection tariff filings gave rise to a number of issues, including: the period for transition to INTERCOMMPLANT signaling; the anticipated period during which sites other than New York (the initial site) will be available; routing of traffic among the four DES sites (once all four sites are operative for domestic interconnection); retries; physical interconnection criteria; and Western Union's ability to cut off service if a carrier does not convert to such signaling by the date specified in Western Union's tariff. Also, the last issue, relating to Western Union's remedies in the event of tariff violations, more generally was addressed in the context of Western Union's (and other carriers') ability reasonably to modify facilities and to cut off service to another carrier if it does not make conforming modifications to its own facilities.[44] Other issues which arose included: blocking, including non-blocking of access to Western Union's "FYI" service; transitional procedures to assure adequate service quality; unidirectional trunks; and traffic forecasting. The foregoing issues were resolved as follows:

a. *Conversion to INTERCOMMPLANT Signaling:* Carriers have agreed to use best efforts, in good faith, to convert to INTERCOMMPLANT signaling; they have stated their ability to do so by the end of 1982. Western Union has agreed to modify its tariffs to publish a January 29, 1983 date for such conversion, thereby providing an additional period beyond that which presently appears required to ensure that such conversion will not be unnecessarily delayed.

b. *Availability of Domestic Interconnection at the Four DES Sites:* It is understood that TDM [time division multiplexing] facilities will be available at the three DES sites other than New York by August 1, 1982. The second site to be made available will be San Francisco, and it is anticipated that

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[42] Although the meetings which were held under the Commission's *aegis* and presided over by a member of our staff did not follow traditional notice and comment rulemaking procedures, they provided "interested persons an opportunity to participate . . . through the submission of . . . views or arguments" within the meaning of the rulemaking provisions of the Administrative Procedure Act, 5 U.S.C. § 553(c). The 1947 *Attorney General's Manual on the Administrative Procedure Act*, in discussing rulemaking procedures under Section 4(b) of the original APA, which has not materially been changed in its present codification in 5 U.S.C. § 553(c), states that rulemaking procedures may take the following forms:

". . . informal hearings (with or without a stenographic transcript), conferences, consultation with industry committees, submission of written views, or any combination of these."

Thus, reliance upon meetings such as those which were held on May 18, 24, 26 and 27 as a substitute for traditional (time-consuming) written comment procedures is clearly permissible under the APA, and is consistent with our broad authority to order our proceedings under Section 4(j) of the Communications Act, 47 U.S.C. § 154(j). See, *Vermont Yankee Nuclear Power v. Natural Resources Defense Council*, —U.S.—, 98 S.Ct. 1197, 1202 (1978); *F.C.C. v. Schreiber*, 381 U.S. 279, 290 (1965). See also, *Common Carrier Interconnection Rules*, 72 F.C.C. 2d 330, 341 (1979), a case in which such abbreviated rulemaking procedures were employed without the special imperatives of the RCCA. In any event, because the procedures followed substantially complied with the notice and comment objectives of the APA, and because of the clear congressional intent underlying the RCCA, we believe that conformity with traditional procedures is unnecessary and contrary to the public interest. See, 5 U.S.C. § 553(b).

[43] At such time as Western Union may be authorized to provide international services, it appears that it contemplates interconnection of Western Union's international facilities with its domestic network at the four DES sites as well. Several of the other carriers in their May 20 filings sought immediate interconnection at the four DES sites for their international traffic, rather than the existing arrangements, and at the meetings Western Union claimed the possibility that existing Western Union (and IRC) equipment which implements current arrangements would be obsolsted. No agreement was reached on this issue, and we believe that it need not be addressed unless and until Western Union itself seeks to employ different interconnection arrangements for its own international services than it provides other international carriers. In sum, we believe that an adequate opportunity exists for the carriers to comment on this issue if it is not susceptible to resolution by agreement, and that it need not be addressed further in the context of the interim procedures which we are prescribing herein.

[44] Western Union's proposed tariffs reserved the right to modify facilities on 180 days' notice to other carriers. Several IRCs argued in their written filings that such a provision would grant Western Union excessive discretion. It was observed during discussion on this point at the meetings that Western Union's discretion is not absolute in any event as remedies are available to other carriers under the Act should Western Union (or any other carrier) unreasonably deny interconnection.

service will be available on or around July 15, 1982.

c. *Routing of Traffic:* (1) For calls complete on Western Union's domestic network, Western Union will accept calls through an alternate routing schedule intended to spread the load from all carriers among the sites. (2) The following transition period arrangements will apply during the period for transition to INTERCOMMPLANT signaling [i.e., until January 29, 1983 under item a. above]: for calls completed on another record carrier's domestic network, Western Union will route each call to the first point of available domestic interconnection.[45] (3) Any rearrangements which might ultimately occur upon termination of the arrangements specified in item c.(2) will appropriately be phased to ensure no degradation of service. Furthermore, WU has agreed to provide at least 60 days notice to the FCC (and to affected carriers) of proposed changes in the arrangements specified in item c.(2) to enable an informed resolution of any controversies which might be created by such changes.

d. *Retries.* Retries shall be limited in two groups such that the average number of retries in each such category shall be no greater than two in the first category and one in the second category. The first category includes "NC", "OCC", "absent" and "busy pulse" conditions; the second category includes "NP", "NA", "NCH", "RTO", "NCN" and "DER".[46]

e. *Physical Interconnection Criteria.* For additional telex-to-other carrier connections at existing sites, interconnection shall be on an analog or TDM basis. If, after the passage of six months from the placing of a TDM link in service, 50% or less of its capacity is needed to satisfy grade P.01 service for the entire trunk bundle with which it is a part, the requesting carrier shall be responsible retroactively for the cost of both ends of the TDM at a rate to be specified in the other carrier's tariff, until such time as this utilization exceeds 50% of the link's capacity.[47]

f. *Modification of Facilities.* Carriers shall publish in their tariffs a "rule of reason" governing modification of facilities which is patterned generally after Section 68.110(b) of the Commission's Rules, 47 C.F.R. § 68.110(b).[48]

g. *Blocking.* (1) WU will block "100"; if another carrier interconnects on the same bundle international and domestic traffic, it will block "910–999–1212." (2) Directory assistance will not be blocked for the time being, although this may create anomalies. For the future, carriers will examine the institution of charged directory assistance to eliminate such anomalies. (3) International carriers will not block inbound international calls destined to any domestic record carrier network. (4) WU will permit access to its "FYI" information service provided that a mechanism is established to compensate Western Union the same per minute charge (in addition to common carrier service charges) for this service which is charged its own customers.[49]

h. *Service Quality.* All carriers acknowledge that: (1) telex interconnection will be available at less than four sites prior to August 1, 1982, and initially solely at New York; (2) traffic must appropriately be limited to the channel capacity available at each site through each interconnect; and (3) routing by office code and/or trunk reservation procedures will be employed in the interim period to assure an adequate grade of service in traffic between carriers at each site.

i. *Unidirectional Trunks.* Western Union will modify its tariffs to "grandfather" all existing bidirectional international telex interconnection arrangements.

j. *Traffic Forecasting.* Each carrier, on request by another carrier, will provide eighteen month traffic forecasts for projected utilization of the requesting carrier's interconnection facilities, in six month segments, to be updated at six month intervals upon request, regardless of whether the involved carriers' tariffs so specify.

We hereby adopt these agreements and prescribe them as binding upon all affected carriers.

42. In addition to the preceding issues which were agreed upon by the carriers, we here require that each record carrier publish in its public tariffs the appropriate access code for other record carriers. As we recognized in *Development of Formula for Distribution of International Telex Traffic*, CC Docket No. 80–639, FCC 81–522, released Nov. 12, 1981:

> [T]hese [access] codes effectively constitute the IRCs' 'business address' for telex customers * * * . The possible effects of preferential or discriminatory changes in these codes, favoring particular IRCs or services is thus more apparent—and immediate—than other behavior which would less directly affect customer routing instructions * * *. [T]he access codes are only the most obvious mechanism open to potential abuse. [footnotes omitted]

43. A second group of issues was resolved to permit interim arrangements for service to points outside of the continental United States, including foreign points (Canada and Mexico), states (Hawaii and Alaska), U.S. territories or possessions (Guam, American Samoa and the U.S. Virgin Islands), and the Commonwealth of

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[45] The "first point" is the first point of domestic interconnection reached by WU's internal network switching hierarchy under its alternate routing procedures. It is not the closest point as such, however it statistically tends to be biased towards the closest point because the network selects direct routing as its first choice.

[46] These designations refer to the following forms of incompleted calls: "NC" (no circuit); "OCC" (occupied, i.e. a form of busy signal); "absent" (no response by the terminal); "busy pulse" (a form of busy signal returned by electro-mechanical switching facilities); "NP" (no party, i.e. no terminal at the called number); "NA" (not allowed, i.e. an invalid dialed number or dialing to a number which is blocked); "NCH" (number changed); "RTO" (register time out, i.e. insufficient selection digits dialed within a time-out interval); "NCN" (number cancelled); and "DER" (literally, "deranged", i.e. a trouble signal).

[47] We understand this to mean that if, at the end of the six month period, the TDM is not appropriately utilized, the requesting carrier will be responsible for the cost of both ends of the TDM for the six month period, and for whatever additional period passes until the link is appropriately utilized.

[48] Section 68.110(b) of our Rules uses terms such as "telephone company", "customer's terminal equipment" and "terminal equipment", which are inapplicable here, and it references other terminal equipment interconnection rules in Part 68 of our Rules which similarly are inapplicable. However, the *principles* of the rule are appropriate in these circumstances. Accordingly, we hereby prescribe that all record carriers include in their interconnection tariffs the following language which is patterned after Section 68.110(b):

"The Company may make changes in its communications facilities, equipment, operations or procedures, where such action is reasonably required in the operation of its business. If such changes can reasonably be expected to render any interconnected carrier's facilities incompatible with the Company's communications facilities, or require modification or alteration of an interconnected carrier's facilities, or otherwise materially affect the use or performance of an interconnected carrier's facilities, each such interconnected carrier shall be given adequate notice in writing, to allow such carrier an opportunity to maintain uninterrupted service."

We reach no conclusion on whether additional language which was distributed by the carriers during the course of the meetings, involving a disclaimer of responsibility for changes, may be included, nor on the legal effect of any such language.

[49] "FYI" (For Your Information) is a non-tariffed information service over which subscribers may receive "live wire" news reports and the like. Western Union maintained that it was under no legal obligation to provide such an offering to other carriers on an interconnected basis, and that it was voluntarily agreeing to do so to minimize disputes. The IRCs noted that overseas subscribers today have access to FYI (although it is not clear whether they are specifically paying for such access), and that it was their position that such service should continue; several went so far as to argue that § 214(a) discontinuance authority (for this non-tariffed offering) would be required for discontinuance. In view of Western Union's voluntary offering of access to FYI, we need not address such claims.

Puerto Rico. Certain points were previously specially classified as "domestic" and "international" under provisions of § 222(a)(5)–(6) of the Act which were repealed (except for Hawaii, special treatment of which ended prior to enactment of the RCCA). With the repeal of the former § 222(a)(5)–(6) provisions, classification of the non-continental U.S. points as "domestic" or "foreign" is controlled by Sections 3(e), 3(f) and 3(g) of the Act. However, as a practical matter, notwithstanding any reclassification of such points as a consequence of adoption of the RCCA, service arrangements and physical facilities remain in place as previously.[50]

44. At the meetings, the parties discussed at length implementation of transitional procedures to assure interconnection of facilities to permit interconnected service to these points. We previously have addressed certain aspects of the principles which are applicable to service with non-continental U.S. points; here we address the physical interconnection arrangements which will be pursued in the interim. It was agreed by the parties that such points should be treated as follows:

a. *Hawaii.* Hawaii shall be treated as a domestic point for interconnection.

b. *Alaska.* (1) For outbound traffic to Alaska, U.S. carriers will bring traffic to WU facilities on the same basis as they bring domestic traffic, and will provide WU with total billable minutes and numbers of calls. (2) For inbound traffic from Alaska, whatever inbound dialing is permitted in Alaska via WU to other carriers will not be blocked.

c. *Puerto Rico.* Where the Puerto Rico Communications Authority is not the carrier within Puerto Rico involved in the calls, Puerto Rico shall be treated as if it were an international point under the assumption that a foreign PTT and a U.S. carrier is involved, with 50/50 settlement, and the *Interim Order's* treatment of interconnected service to foreign points shall be applied under this assumption. Where the Puerto Rico Communications Authority is the carrier within Puerto Rico involved in the calls, the U.S. carriers will develop appropriate technical and rate arrangements to meet the goals of the RCCA.[51]

d. *Guam, American Samoa, and the U.S. Virgin Islands.* Guam, American Samoa, and the U.S. Virgin Islands are domestic points and are subject to domestic interconnection, however they presently are served by international record carriers. In view of this, arrangements will be developed expeditiously to implement domestic interconnection to these points by all involved record carriers and their affiliates.

e. *Canada and Mexico.* (1) For outbound traffic to Canada and Mexico, U.S. carriers will bring traffic to WU on the same basis as they bring domestic traffic, and will provide WU with total billable minutes and numbers of calls; such outbound traffic will be interconnected at WU's DES and EDS facilities, and not at the TWKD facility in San Francisco nor the TWM–2 in Atlanta. (2) For inbound traffic from Canada and Mexico, whatever inbound dialing is permitted in Canada or Mexico via WU to other carriers will not be blocked. (3) U.S. international record carriers will not send international inbound traffic to Canada or Mexico via these interconnections. (4) Arrangements will be developed expeditiously to implement international interconnection to these points by all involved record carriers and their affiliates.

We hereby adopt these further agreements and prescribe them as binding upon all affected carriers.

C. Unresolved Issues.

45. Finally, discussion was held on a number of issues which were not fully resolved by the carriers, including: access to store-and-forward services; 110 baud/ASCII access to TWX; "bearer circuits"; single-stage access to international services provided by WU; and high-speed access to international services by WU. In a tentative decision which is being released contemporaneously with this order, the Chief, Common Carrier Bureau tentatively resolves the outstanding store-and-forward and TWX access issues. We hereby delegate authority to the Chief, Common Carrier Bureau expeditiously to resolve these issues by issuance of a final or interim order. The remaining issues are not relevant to the interim arrangements which are addressed in this Order, and will be considered, as appropriate, in the future.

IV. Conclusions

46. The *Interim Order* expressed our expectation that the record carriers would implement the interim prescription by thereafter filing suitable tariffs. As explained, the tariffs which were filed fall far short of the mark. For that reason, we have in this Order specified the provisions which must be revised or removed and specific language which must be substituted. We are also deeply concerned that this proceeding has extended well beyond the ninety days envisioned by Congress, and we therefore direct that revised tariffs in conformity with this Order be filed on or before June 16, 1982, to be effective on June 20, 1982. Should any carrier fail to comply with this Order, we are prepared fully to implement the enforcement and forfeiture provisions of the Communications Act, including institution of appropriate proceedings under Sections 401(b) and 406, and forfeiture under Sections 202(c), 203(e), 205(b), 503 and 504. We specifically caution all carriers that, under the provisions of Section 416(c) of the Act, it is their duty "to observe and comply" with effective Commission orders. Finally, at this time we are only prescribing provisions associated with interconnection of telex and TWX services. Telex and TWX are the largest and most profitable international and domestic record carrier services, and the concerns of the parties to this proceeding have related almost entirely to these services. We have no real evidence before us at this time upon which we could base prescriptive tariff language for services such as telegram, cablegram and Mailgram. We are hopeful that any interconnection problems for such services can be resolved without further intervention on our part. If this is not the case, and if we receive complaints concerning the

[50] For example, while Canada and Mexico were previously deemed "domestic" points under the repealed provisions of § 222(a)(5), and they are now "foreign" within the clear meaning of Section 3(f) of the Communications Act, service to such points has long been integrated with Western Union's domestic network. We conclude that although Western Union is not at this time specifically authorized to provide international services under the RCCA, Congress intended in the RCCA to provide the public with additional new options, and not to cause temporary discontinuance of existing services. Thus, we regard Western Union's previously-received authority to provide service to Canada and Mexico as currently effective. On the other hand, we seek to minimize the inconsistencies of the *status quo* with the literal terms of the RCCA.

[51] Section 3(g) of the Act defines the United States as meaning the "States and Territories, the District of Columbia, and the possessions of the United States." It is unclear whether Puerto Rico, which has "Commonwealth" status, falls within the "territories" or "possessions" language. Two cases arising under the Communications Act involving the government-owned telephone company have treated Puerto Rico no differently than other domestic points are treated. In both cases the government-owned Puerto Rican telephone company argued that the Puerto Rican government, in controlling the company so as to prohibit interconnection of customer-owned equipment, did so as a "state" within the meaning of the exemptions from FCC authority of Sections 2(b) and 221(b) of the Act. See, *Puerto Rico Tel. Co.* v. *F.C.C.*, 553 F.2d 694, 696 (1st Cir. 1977); *Comtronics, Inc.* v. *Puerto Rico Tel. Co.*, 553 F.2d 701, 704 (1st Cir. 1977). Moreover, these decisions concluded that interconnection under the Act was to be available in Puerto Rico in the same manner as in other U.S. points. Obviously, Puerto Rico could not have argued a "state" regulatory exemption if it were a "foreign" point within the meaning of Section 3(f). However, there are cases in non-communications contexts which have treated Puerto Rico differently than "possessions" and "territories" of the United States are treated. In view of this uncertainty, we will permit the carriers' agreed-upon arrangements to proceed, but we reserve the right to determine the ultimate classification of Puerto Rico as "domestic" or "foreign", and to treat Puerto Rico service accordingly, particularly in view of the rate integration policies which we have adopted for analogous telephone services.

carriers' tariffs for such services, we will act expeditiously.[52]

47. Accordingly, it is hereby ordered, pursuant to Sections 4(i), 4(j), 201, 202, 203, 205 and 222 of the Communications Act of 1934 as amended, That tariff provisions originally filed under the above-captioned transmittals, and subsequent related modifications, filed by Western Union Telegraph Company, RCA Global Communications, Inc., Western Union International, Inc., FTC Communications, Inc., TRT Telecommunications Corp., and ITT World Communications, Inc. ARE REJECTED.

48. It is further ordered, pursuant to Sections 4(i), 4(j), 201, 202, 203, 205, 222 and 416(c) of the Communications Act of 1934 as amended, That Western Union Telegraph Company, RCA Global Communications, Inc., Western Union International, Inc., FTC Communications, Inc., TRT Telecommunications Corp., and ITT World Communications, Inc. SHALL FILE TARIFF REVISIONS CONSISTENT WITH THIS ORDER, on or before June 16, 1982, to become effective June 20, 1982.

49. It is further ordered, pursuant to Sections 4(i), 4(j), 201, 202, 203, 205, 222 and 416(c) of the Communications Act of 1934 as amended, That Western Union Telegraph Company, RCA Global Communications, Inc., Western Union International, Inc., FTC Communications, Inc., TRT Telecommunications Corp., and ITT World Communications, Inc. shall file tariff revisions relating to our prescription for tariffing of service to American Samoa, Guam, the U.S. Virgin Islands, Canada, and Mexico, no later than thirty-one days from release of this Order, to become effective on fifteen days' notice.

50. It is further ordered, that Sections 61.58, 61.59 and 61.74 of the Commission's Rules ARE WAIVED TO THE EXTENT NECESSARY to permit the filing of tariffs implementing the prescriptive provisions, the specific prescribed language, the clarification language and necessary interim charges as set forth in this Order.[53]

51. It is further ordered, that the filing of data required by Section 61.38 of the Commission's Rules for filings necessary to implement this Order IS DEFERRED until such time as it may be required by the Chief, Common Carrier Bureau.

52. It is further ordered, that the Petitions to Reject and/or to Suspend and Investigate, which are listed in Appendix A to this Order, ARE GRANTED IN PART, to the extent previously indicated, and are otherwise DENIED.

53. It is further ordered, that the public interest as expressed in the RCCA and the Communications Act requires that THIS ORDER BE EFFECTIVE IMMEDIATELY upon actual notice to the affected carriers.

54. It is further ordered, that this Order be printed in the **Federal Register.**

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

Party

Graphnet, Inc.
- Petition to Reject Transmittals Nos. 2431 of ITT; 4820 and 4821 of RCA; 1582 of WUI; and 120 of FTC.

International Relay, Inc.
- Petition to Reject, or, in the Alternative to Suspend Transmittal Nos. 2429, 2430, 2431 of ITT.
- Letter of Reply to ITT.

ITT World Communications, Inc.
- Petition for Partial Rejection of Transmittal No. 120 of FTC.
- Petition for Partial Rejection and Contingent Petition for Suspension of Transmittal No. 7890 of Western Union.

RCA Global Communications, Inc.
- Petition to Suspend and Modify Transmittal No. 7890 of Western Union.
- Petition for Rejection and Suspension of Transmittal No. 7892 of Western Union.
- Replies to Petitions for Rejection.

TRT Telecommunications Corp.
- Letter concerning Western Union Transmittals, Reply to Petition to Reject or Suspend.

Western Union International, Inc.
- Petition for Rejection of Transmittal No. 120 of FTC.
- Petition to Reject or Suspend Transmittal No. 1008 of TRT.
- Petition to Reject Transmittal Nos. 7890 and 7892 of Western Union.

Western Union Telegraph Co.
- Petitions to Reject Transmittal Nos. 118 and 120 of FTC; 2430 and 2431 of ITT; 4820, 4821 and 4822 of RCA; 1008 and 1010 of TRT; and 1582 of WUI.

Appendix B

Examples of how transiting charge should be computed. The formula developed in section D is as follows: Transiting Carrier's Charge = ½ Domestic Component Charge + ½ International Component Charge after the Foreign Payout has been subtracted + Foreign Payout.

Example 1

Assume that an originating IRC requires the international component of another IRC for transiting an outbound international telex call. Assume further that:

1. The domestic component charge contained in the domestic interconnection tariff of the carrier on whose network the call initiates = $.3868 per minute.
2. The transiting carrier's international component charge contained in its public tariff = $2.03 per minute.
3. Foreign Payout = $1.00 per minute.

Under the formula the payment by the originating international record carrier to the transiting carrier for a one minute call would be:

½(.3868) + ½(2.03 − 1.00) + 1.00
= .1934 + .515 + 1.00
= 1.7084 per minute to the transiting carrier

Example 2

Assume that an originating IRC requires the international component of another IRC for transiting an outbound international telex call. Assume further that:

1. The domestic component charge contained in the domestic interconnection tariff of the carrier on whose network the call initiates = $.3868 per minute.
2. The transiting carrier's international component charge contained in its public tariff = $1.93 per minute.
3. Foreign Payout = $1.81 per minute.

Under the formula the payment by the originating international record carrier to the transiting carrier for a one minute call would be:

½(.3868) + ½ (1.93 − 1.81) + 1.81
= .1934 + .06 + 1.81
= 2.0634 per minute to the transiting carrier

However, under the formula, the transiting carrier's charge is reduced in those situations where the amount remaining under the formula, i.e., ½ domestic charge + ½ international charge after the foreign payout has been subtracted, is less than the domestic carrier's charge for the domestic component. In these cases, the transiting carrier's charge is reduced so that the amount allocated under the formula to the originating outbound international carrier requiring transiting is no less than the charge for the domestic component. In this example, the amount remaining under the formula assigned to the originating carrier is only $.2534 (½ domestic component (.1934) + ½ International component (.06)) or $.1334 less than the domestic charge ($.3868 − $.2534). Consequently, the originating carrier's share must be increased by $.1334 and the transiting carrier's share must be reduced by $.1334. The transiting

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[52] Graphnet was not specifically required in the *Interim Order* to file an interconnection tariff, nevertheless it has filed a tariff which it claims is in compliance with the *Interim Order*. We have received petitions against Graphnet's tariff. Without addressing the merits of these petitions, we grant Graphnet special permission to withdraw the filed tariff. Graphnet may then substitute a new filing in light of this Order. If such a new filing raises no new issues, we hereby grant to Graphnet appropriate rule waivers to permit it to file upon the same conditions as apply to the other carriers. Alternatively, if Graphnet chooses to retain its presently filed tariff, we will require deferral of the currently specified effective date for the full statutory period, in order to consider the tariff and the petitions against it. In any event, Graphnet is also required to file revised public tariffs as is explained in footnote 30.

[53] As is set forth in the *Interim Order*, we have also prescribed that complete traffic and financial records be maintained in order that a full accounting may occur upon final resolution in Phase II of CC Docket No. 78-97. *Interim Order*, n. 33.

carrier's share is therefore reduced to $.1200 ($.2534—1334) and the total payment under the formula to the transiting carrier is $.1200+$1.81 (the foreign payment) or $1.9300.

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. 1-173]

Organization and Delegation of Powers and Duties; Correction

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: DOT corrects citations of two recent delegations to the Commandant of the Coast Guard.

DATE: This amendment becomes effective July 19, 1982.

FOR FURTHER INFORMATION CONTACT:
Robert I. Ross, Office of the General Counsel, (202) 426-4723.

SUPPLEMENTARY INFORMATION: Since this amendment relates to Departmental management, procedures, and practice, notice and comment on it are unnecessary and it may be made effective in fewer than thirty days after publication in the **Federal Register.**

Recently, DOT delegated to the Commandant of the Coast Guard functions vested in the Secretary by the Act to Prevent Pollution from Ships (October 21, 1980; Pub. L. 96-478; 94 Stat. 2297) and the Deep Seabed Hard Mineral Resources Act (June 28, 1980; Pub. L. 96-283; 94 Stat. 553). Both of these citations were incorrectly designated as paragraph (ff) in 49 CFR 1.46. The purpose of this amendment is to correct those errors by designating one as (hh) and the other as (ii).

List of subjects in 49 CFR Part 1

Authority delegations (government agencies); Organization and functions (government agencies); Transportation Department.

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

In consideration of the foregoing, Part 1 of Title 49, Code of Federal Regulations, is amended by adding at the end of § 1.46 new paragraphs (hh) and (ii), to read as follows:

§ 1.46 Delegations to Commandant of the Coast Guard.

The Commandant of the Coast Guard is delegated authority to—

* * * * *

(hh) Carry out the functions vested in the Secretary by the Act to Prevent Pollution from Ships (October 21, 1980; Pub. L. 96-478; 94 Stat. 2297) except section 10(b) and (c) and except as limited by § 1.47(n), § 1.52(c), and § 1.66(u) of this title.

(ii) Carry out the functions vested in the Secretary by the Deep Seabed Hard Mineral Resources Act (June 21, 1980; Pub. L. 96-283; 94 Stat. 553), except Section 118.

(Sec. 9(e), Department of Transportation Act, 49 U.S.C. 1657(e); 49 CFR 1.57 (l))

Issued in Washington, DC, on July 9, 1982.

John M. Fowler,
General Counsel.

[FR Doc. 82-19316 Filed 7-16-82; 8:45 am]
BILLING CODE 4910-62-M

Interstate Commerce Commission

49 CFR Part 1137

[Ex Parte No. MC-142 (Sub-2)]

Freight Forwarder Restrictions

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: The Commission is amending its restriction removal rules, specifically Title 49 CFR Part 1137, to enable freight forwarders to remove operating restrictions from their permits pursuant to the procedures promulgated in Ex Parte No. MC-142 (Sub-No. 1), *Removal of restrictions From Authorities of Motor Carriers of Property,* 132 M.C.C. 374 (1980) (45 FR 86747, December 31, 1980). Application of the restriction removal rules will enable freight forwarders to provide a more efficient and economical service to a greater segment of the shipping public and will promote competition and foster intermodalism, as contemplated by the National Transportation Policy (49 U.S.C. 10101).

EFFECTIVE DATE: These rules become effective on July 19, 1982.

ADDRESS: The **Federal Register** publication does not contain the text of the rulemaking decision. Copies of the full decision may be purchased by calling toll free: 800-424-5403 (289-4357 in the DC Metro area) or by writing TS InfoSystems, Room 2227, 12th and Constitution Avenue, NW., Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:
Robin K. Williams, (202) 275-7697
or
Howell I. Sporn, (202) 275-7691.

SUPPLEMENTARY INFORMATION: Following its recommendation in the appellate decision, No. FF-416 (Sub-No. 2)X, *Imperial Carriers, Inc.—Commodity and Territorial Broadening* (not printed) served November 30, 1981, the Commission instituted this proceeding by issuing a notice of proposed rulemaking [47 FR 8801 (March 2, 1982)] to consider whether the restriction removal rules should be amended to afford freight forwarders access to the expeditious procedures for reformations of authority as contemplated by 49 U.S.C. 10922(h)(B)(i). After evaluating the comments received, the entire Commission, by a decision of June 18, 1982, determined that the restriction removal rules should be made applicable to freight forwarders. The Commission concluded that such action will promote intermodalism, as well as economical and efficient transportation, and will enable freight forwarders to provide service to a greater segment of the shipping public.

Adoption of Rules

The Commission has adopted the revised rules as set forth in the appendix below.

(49 U.S.C. 10321 and 10922(h) and 5 U.S.C. 553)

List of Subjects in 49 CFR Part 1137

Motor carriers, Freight forwarders.

Decided: June 18, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham, Sterrett, Andre, and Simmons.

Agatha L. Mergenovich,
Secretary.

PART 1137—REMOVAL OF RESTRICTIONS FROM AUTHORITIES OF MOTOR CARRIERS OF PROPERTY AND FREIGHT FORWARDERS

Title 49 CFR Part 1137, is amended as follows:

In 49 CFR Part 1137—Removal of Restrictions From Authorities of Motor Carriers of Property and Freight Forwarders, the introductory text of § 1137.1 is revised to read as follows:

§ 1137.1 Purpose.

These regulations govern applications filed by motor carriers of property and freight forwarders seeking to remove operating restrictions from their certificates or permits in order to:

* * * * *

[FR Doc. 82-19317 Filed 7-16-82; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Final Frameworks for Selecting Open Season Dates for Hunting Migratory Game Birds in Alaska, Puerto Rico, and the Virgin Islands for the 1982–83 Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final Rule.

SUMMARY: This rule prescribes final frameworks (i.e. the outside limits for dates and times when shooting may begin and end, and the number of birds that may be taken and possessed) from which wildlife conservation agency officials in Alaska, Puerto Rico, and the Virgin Islands may select season dates for hunting certain migratory birds during the 1982–83 season. Selected season dates will then be transmitted to the U.S. Fish and Wildlife Service (hereinafter the Service) for publication in the **Federal Register** as amendments to §§ 20.101 and 20.102 of 50 CFR 20.

DATES: Effective on July 19, 1982. Season selections due from Alaska, Puerto Rico, and the Virgin Islands by July 30, 1982.

ADDRESS: Season selections from Alaska, Puerto Rico, and the Virgin Islands to Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Public documents may be inspected in the Service's Office of Migratory Bird Management, Room 525–B, 1717 H Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: John P. Rogers, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, Tel. AC 202, 254–3207.

SUPPLEMENTARY INFORMATION: On April 19, 1982, the Service published for public comment in the **Federal Register** (47 FR 16718) a proposal to amend 50 CFR 20, with a comment period ending June 23, 1982. That document dealt with the establishment of seasons, limits, and shooting hours for migratory game birds under §§ 20.101 through 20.107 of Subpart K of 50 CFR 20, including frameworks for Alaska, Puerto Rico, and the Virgin Islands. A supplemental proposed rulemaking appeared in the **Federal Register** on June 15, 1982 (47 FR 25922) and another on July 12, 1982 (47 FR 30162); however, they contained no information relevant to Alaska, Puerto Rico, and the Virgin Islands. This final rulemaking is the fourth in a series of proposed and final rulemaking documents for migratory bird hunting regulations and deals specifically with final frameworks for the 1982–83 season from which wildlife conservation agency officials in Alaska, Puerto Rico, and the Virgin Islands may select season dates for hunting certain migratory game birds in Alaska, Puerto Rico, and the Virgin Islands. These regulations contain no information collections subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980.

Public Hearing

A public hearing was held in Washington, D.C., on June 23, 1982, as announced in the **Federal Register** dated April 19, 1982 (47 FR 16718), and proposed hunting regulations for Alaska, Puerto Rico, and the Virgin Islands were discussed. The public was invited to participate in the hearing and/or submit written statements. None of the comments received at the public hearing related to these three areas.

Review of Comments on Proposed Rulemaking

Interested persons were given until June 23, 1982, to comment on the April 19 proposed rulemaking. They were also invited to participate in the June 23 public hearing. Only 2 comments were received on the proposed regulations frameworks for Alaska, Puerto Rico, and the Virgin Islands. The Alaska Department of Fish and Game concurred with the Service's proposed frameworks for Alaska.

The Virgin Islands Division of Fish and Wildlife proposed that the Service's frameworks provide for a season opening prior to September 1 for Zenaida doves (*Zenaida aurita*). Excerpts from the request follow:

> Some of the objectives of the bird hunting regulations are clearly not being met for the game bird hunter in this area. For example, there is not a sufficient opportunity for Virgin Islands hunters to harvest an adequate portion of this migratory species.
>
> 1. The limits of harvest set by the current game hunting laws favor bird populations inasmuch as their levels of population maintenance exceed harvest quotas yielding an incompatible balance.
>
> 2. Equitable hunting opportunities are not available to Virgin Islands hunters under the current regulatory regime despite the species' seasonal abundance, migratory habits and distributional patterns.
>
> 3. Virgin Islands dove hunters have not benefited from the proposed hunting regulations since the 1960–1975 era when hunting dates were set by local authority.
>
> Response. The Virgin Islands has previously requested that dove hunting there be permitted prior to September 1, and has supplied information in support of the request. This matter was discussed in the **Federal Register** dated July 13, 1981, at 46 FR 36057. At that time it was noted, on the basis of legal interpretations provided to the U.S. Fish and Wildlife Service and made available to authorities in the Virgin Islands, that the provisions of the 1916 migratory bird treaty between the United States and Canada, and the Migratory Bird Treaty Act, prohibit hunting seasons opening prior to September 1 in the Virgin Islands. Copies of these legal interpretations may be obtained upon request from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

NEPA Consideration

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75–54)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the **Federal Register** on June 13, 1975 (40 FR 25241). In addition, several environmental assessments have been prepared on specific matters which serve to supplement the material in the Final Environmental Statement. Copies of these documents are available from the Service.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act." and ". . . by taking such action necessary to insure that any action authorized, funded, or carried out . . . is not likely to jeopardize the continued existence of such endangered and threatened species or result in the destruction or modification of habitat of such species . . . which is determined to be critical."

The Service initiated Section 7 consultation under the Endangered Species Act for the proposed hunting season frameworks.

On July 1, 1982, Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, concluded:

> Therefore, it is my biological opinion that your action, as proposed, is not likely to jeopardize the continued existence of the above listed species or result in the destruction or adverse modification of the American peregrine falcon, whooping crane, or Everglade kite Critical Habitat.

As in the past, hunting regulations this year are designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species. Examples of such consideration include closures of designated areas in Puerto Rico for the Puerto Rican plain pigeon (*Columbia inornata wetmorei*) and the Puerto Rican parrot (*Amazona vittata*) and in Alaska for the Aleutian Canada goose (*Branta canadensis leucopareia*).

The Service's biological opinion resulting from its consultation under Section 7 is considered a public document and is available for inspection in or available from the Office of Endangered Species and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Regulatory Flexibility Act and Executive Order 12291

In the **Federal Register** dated April 19, 1982 (at 47 FR 16722) the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act and the Executive Order. These included preparing a Determination of Effects and an updated Final Regulatory Impact Analysis, and publication of a summary of the latter. These regulations have been determined to be major under Executive Order 12291 and they have significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act. This determination is detailed in the aforementioned documents which are available upon request from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Memorandum of Law

In the **Federal Register** dated April 19, 1982 (at 47 FR 16722), the Service stated that it planned to publish its Memorandum of Law for the 1982–83 migratory bird hunting regulations with its first final rulemaking.

Memorandum of Law. Section 4 of Executive Order 12291 requires that certain determinations be made before any final major rule may be approved. Section 4(a) specifies that the regulation must be clearly within the authority of law and consistent with congressional intent, and that a memorandum of law be provided to support that determination. Also, the agency must state that the factual conclusions upon which the law is based have substantial support in the agency record and that full attention has been given to public comments in general, and to comments of persons directly affected by the rule in particular.

The development of the annual migratory bird hunting regulations is provided for under Section 3 of the Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 701–711). Such regulations have been promulgated annually since 1918. They appear in 50 CFR Part 20, Subpart K. Congressional support for the development of these rules and ancillary activities involved in their development are reflected in the U.S. Fish and Wildlife Service's budget. Among these activities are biological surveys, hunter activity and harvest surveys, research investigations, law enforcement, and administrative costs associated with the development and publication of the proposed and final rules. Many other Service activities, such as the acquisition and management of habitats for migratory birds, indirectly assist in maintaining the migratory bird resource at levels which allow reasonable sport hunting harvest.

In developing its annual hunting rules for 1982–83, the Service has published two proposed rules for public comment and conducted one public hearing to facilitate public input into the rulemaking process. Five additional proposed and final rulemakings, and another public hearing, are included in the remaining schedule for establishing the annual hunting regulations for 1982–83. Dozens of public comments summarized and responded to in **Federal Registers** listed in the preamble of this document describe the Service's consideration of the impacts of its proposed rules on the public. Many of these comments originated from affected State conservation agencies, while others were submitted by the affected public. In general, the comments strongly supported the Service's initial or supplementary regulatory proposals. Comments which do not support proposed Service action have been adequately addressed. Additional public comments are invited and will be addressed in subsequent **Federal Register** documents. The complete administrative record, including copies of public comments, is available for inspection at the Office of Migratory Bird Management.

Consequently, the Department has determined that it has fulfilled requirements of Section 4 of Executive Order 12291 and the Migratory Bird Treaty Act in developing the 1982–83 migratory bird hunting regulations which are adequately supported by the Service's records.

Regulations Promulgation

The rulemaking process for migratory bird hunting must, by its nature, operate under severe time constraints. However, the Service is of the view that every attempt should be made to give the public the greatest possible opportunity to comment on the regulations. Thus, when the proposed rulemaking was published April 19, 1982, the Service established what it believed was the longest period possible for public comment. In doing this, the Service recognized that at the period's close, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the Service is of the opinion that the governments of Alaska, Puerto Rico, and the Virgin Islands would have insufficient time to select their season dates, shooting hours, and limits; to communicate those selections to the Service; and finally establish and publicize the necessary regulations and procedures to implement their decisions.

Therefore, the Service, under authority of the Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 701–711), prescribes final frameworks setting forth the species to be hunted, the daily bag and possession limits, the shooting hours, the season lengths, the earliest opening and latest closing season dates, and special closures, from which officials of the Alaska Department of Fish and Game, Puerto Rico Department of Natural Resources, and the Virgin Islands Department of Conservation and Cultural Affairs may select open season dates. Upon receipt of season selections from Alaska, Puerto Rico, and the Virgin Islands officials, the Service will publish in the **Federal Register** final rulemaking amending 50 CFR 20.101 and 20.102 to reflect seasons, limits, and shooting hours for these areas for the 1982–83 season.

The Service therefore finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act and these frameworks will, therefore, take effect immediately upon publication.

Authorship

The primary author of this proposed rulemaking is Henry M. Reeves, Office of Migratory Bird Management, working under the direction of John P. Rogers, Chief, AC 202–254–3207.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Transportation, Wildlife.

Final Frameworks for Selecting Open Season Dates for Hunting Migratory Birds in Alaska, 1982–1983

Outside Dates: Between September 1, 1982, and January 26, 1983, Alaska may select seasons on waterfowl, snipe, and cranes, subject to the following limitations:

Shooting hours: One-half hour before sunrise to sunset daily.

Hunting Seasons

Ducks, geese, and brant—107 consecutive days in the Pribilof and Aleutian Islands, except Unimak Island; 107 days in the Kodiak (State game management unit 8) area and the season may be split without penalty; 107 consecutive days in the remainder of Alaska, including Unimak Island. Exception: The season is closed on Canada geese from Unimak Pass westward in the Aleutian Island chain.

Snipe and sandhill cranes—An open season concurrent with the duck season.

Daily Bag and Possession Limits

Ducks—Except as noted, a basic daily bag limit of 7 and a possession limit of 21 ducks. Daily bag and possession limits in the North Zone are 10 and 30, and in the Gulf Coast Zone they are 8 and 24, respectively. In addition to the basic limit, there is a daily bag limit of 15 and possession limit of 30 scoter, eider, oldsquaw, harlequin, and American and red-breasted mergansers, singly or in the aggregate of these species.

Geese—A basic daily bag limit of 6 and a possession limit of 12, of which not more than 4 daily and 8 in possession may be white-fronted or Canada geese, singly or in the aggregate of these species. In addition to the basic limit, there is a daily bag limit of 6 and a possession limit of 12 Emperor geese.

Brant—A daily bag limit of 4 and a possession limit of 8.

Common snipe—A daily bag limit of 8 and a possession limit of 16.

Sandhill cranes—A daily bag limit of 2 and a possession limit of 4.

Final Frameworks for Selecting Open Season Dates for Hunting Migratory Birds in Puerto Rico, 1982–83

Shooting hours: Between one-half hour before sunrise and sunset daily.

Doves and Pigeons

Outside Dates: Puerto Rico may select hunting seasons between September 1, 1982, and January 15, 1983, as follows:

Hunting Seasons: Not more than 60 days for Zenaida, mourning, and white-winged doves, and scaly-naped pigeons.

Daily Bag and Possession Limits: Not to exceed 10 doves of the species named herein, singly or in the aggregate, and not to exceed 5 scaly-naped pigeons.

Closed Areas

Municipality of Culebra and Desecheo Island—closed under Commonwealth regulations.

Mona Island—closed in order to protect the reduced population of white-crowned pigeon (*Columba leucocephala*), known locally as "Paloma cabeciblanca."

El Verde Closure Area—consisting of those areas of the municipalities of Rio Grande and Loiza delineated as follows: (1) all lands between Routes 956 on the west and 186 on the east, from Route 3 on the north to the juncture of Routes 956 and 186 (Km 13.2) in the south; (2) all lands between Routes 186 and 966 from the juncture of 186 and 966 on the north, to the Caribbean National Forest Boundary on the south; (3) all lands lying west of Route 186 for one (1) kilometer from the juncture of Routes 186 and 956 south to Km 6 on Route 186; (4) all lands within Km 14 and Km 6 on the west and the Caribbean National Forest Boundary on the east; and (5) all lands within the Caribbean National Forest Boundary whether private or public. The purpose of this closure is to afford protection to the Puerto Rican parrot (*Amazona vittata*) presently listed as an endangered species under the Endangered Species Act of 1973.

Cidra Municipality and Adjacent Areas consisting of all of Cidra Municipality and portions of Aguas Buenas, Caguas, Cayey, and Comerio Municipalities as encompassed within the following boundary: beginning on Highway 172 as it leaves the Municipality of Cidra on the west edge, north to Highway 156, east on Highway 156 to Highway 1, south on Highway 1 to Highway 765, south on Highway 765 to Highway 763, south on Highway 763 to the Rio Guavate, west along Rio Guavate to Highway 1, southwest on Highway 1 to Highway 14, west on Highway 14 to Highway 729, north on Highway 729 to Cidra Municipality, and westerly, northerly, and easterly along the Cidra Municipality boundary to the point of beginning. The purpose of this closure is to protect the Puerto Rican plain pigeon (*Columba inornata wetmorei*), locally known as "Paloma Sabanera," which is known to be present in the above locale in small numbers and which is presently listed as an endangered species under the Endangered Species Act of 1973.

Ducks, Coots, Gallinules, and Snipe

Outside Dates: Between December 1, 1982, and January 31, 1983, Puerto Rico may select hunting seasons as follows:

Hunting Seasons: Not more than 55 consecutive days may be selected for hunting ducks, coots, common gallinules, and common snipe.

Daily Bag and Possession Limits

Ducks—Not to exceed 4 daily or 8 in possession, except that the season is closed on the ruddy duck (*Oxyura jamaicensis*); the Bahama pintail (*Anas bahamensis*); West Indian whistling (tree) duck (*Dendrocygna arborea*); fulvous whistling (tree) duck (*Dendrocygna bicolor*), and the masked duck (*Oxyura dominica*), which are protected by the Commonwealth of Puerto Rico.

Coots—Not to exceed 6 daily and 12 in possession.

Common gallinules—Not to exceed 6 daily and 12 in possession, except that the season is closed on purple gallinules (*Porphyrula martinica*).

Common snipe—Not to exceed 6 daily and 12 in possession.

Closed Areas: No open season for ducks, coots, gallinules, and snipe is prescribed in the Municipality of Culebra and on Desecheo Island.

Final Framework for Selecting Open Season Dates for Hunting Migratory Birds in the Virgin Islands, 1982–83

Shooting Hours: Between one-half hour before sunrise and sunset daily.

Doves and Pigeons

Outside Dates: The Virgin Islands may select hunting seasons between September 1, 1982, and January 15, 1983, as follows.

Hunting Seasons: Not more than 60 days for Zenaida doves and scaly-naped pigeons throughout the Virgin Islands.

Daily Bag and Possession Limits: Not to exceed 10 Zenaida doves and 5 scaly-naped pigeons.

Closed Seasons: No open season is prescribed for ground or quail doves, or other pigeons in the Virgin Islands.

Local Names for Certain Birds

Zenaida dove (*Zenaida aurita*)—mountain dove.

Bridled quail dove (*Geotrygon mystacea*)— Barbary dove, partridge (protected).

Ground dove (*Columbina passerina*)—stone dove, tobacco dove, rola, tortolita (protected).

Scaly-naped pigeon (*Columba squamosa*)—red-necked pigeon, scaled pigeon.

Ducks

Outside Dates: Between December 1, 1982, and January 31, 1983, the Virgin

Islands may select a duck hunting season as follows.

Hunting Seasons: Not more than 55 consecutive days may be selected for hunting ducks.

Daily Bag and Possession Limits: Not to exceed 4 daily and 8 in possession, except that the season is closed on the ruddy duck (*Oxyura jamaicensis*); the Bahama pintail (*Anas bahamensis*); West Indian whistling (tree) duck (*Dendrocygna arborea*); fulvous whistling (tree) duck (*Dendrocygna bicolor*), and the masked duck (*Oxyura dominica*).

Dated: July 1, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-19464 Filed 7-16-82; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 47, No. 138
Monday, July 19, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

10 CFR Part 1605

Proposed Council Open Meetings Procedures; Extension of Comment Time

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Proposed rule; extension of comment time.

SUMMARY: The Council proposed procedures regarding open meetings under the Government in the Sunshine Act (Pub. L. 94–409) in the **Federal Register** of May 24, 1982 (47 FR 22368) and requested written comment. The Council hereby extends that comment period to August 16, 1982 in order to allow additional comments and consultation.

DATES: Comments must be in writing and physically received at the address set forth below before 5:00 p.m. (Pacific Time) Monday, August 16, 1982.

ADDRESSES: Send comments to: James F. Fell, General Counsel, Northwest Power Planning Council, 700 SW. Taylor, Suite 200, Portland, Oregon 97205.

FOR FURTHER INFORMATION CONTACT: James F. Fell, General Counsel, Northwest Power Planning Council, (503), 222–5161.

SUPPLEMENTARY INFORMATION: By passage of the Pacific Northwest Electric Power Planning and Conservation Act, Pub. L. 96–501, 94 Stat. 2697, 16 U.S.C. 839, et seq. (the "Northwest Power Act"), Congress provided for the establishment of the Pacific Northwest Electric Power and Conseration Planning Council (the "Council"), a regional agency composed of two gubernatorial appointees each from the states of Idaho, Montana, Oregon and Washington. Congress provided in section 4(a)(4) of the Northwest Power Act that with respect to "open meetings, the Federal laws applicable to open meetings in the case of the Federal Energy Regulatory Commission shall apply to the Council to the extent appropriate." The procedures to be used by the Council were adopted from Federal Energy Regulatory Commission open meetings procedures.

List of Subjects in 10 CFR Part 1605

Sunshine Act.

(Sec. 4, Pub. L. 96–501 (16 U.S.C. 839b))

Dated: July 9, 1982.

Edward Sheets,

Executive Director.

[FR Doc. 82–19428 Filed 7–16–82; 8:45 am]

BILLING CODE 0000–00–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. 12337; Notice No. SC–82–1–CE]

Special Conditions; Beech 200, 300, and 1900 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Extension of comment period.

SUMMARY: This notice extends the period for the submission of public comments relating to Notice SC–82–1–CE (47 FR 24596, 24597) June 7, 1982 which was to close on July 8, 1982. That notice proposed to amend Special Conditions No. 23–47–CE–5 presently applicable to Beech 200 series airplanes, to permit them to include new Beech 300 and 1900 airplanes as well as future 300 and 1900 derivative airplanes. The extension is in response to a petition from the Air Line Pilots Association (ALPS) whose members may be affected by the proposed rulemaking. ALPA stated that more time is needed to solicit information from their members and to prepare comments to the proposal. The FAA has determined that it would be in the public interest to extend the comment period in accordance with ALPA's request.

DATE: Comments must be received on or before August 8, 1982.

ADDRESSES: Comments on Notice No. SC–82–1–CE may be mailed or delivered in duplicate to: Federal Aviation Administration, Office of Regional Counsel, ACE–7, ATTN: Rules Docket Clerk, Docket No. 12337, Room 1558, Federal Office Building, 601 East 12th Street, Kansas City, Missouri 64106. All comments must be marked: Docket No. 12337. Comments may be inspected in the docket file between 7:30 a.m. and 4:00 p.m. on weekdays except Federal holidays.

FOR FURTHER INFORMATION CONTACT: William L. Olson, Aerospace Engineer, Regulations and Policy Office, Federal Aviation Administration, Room 1659B, Federal Office Building, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–5688.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in amendment of these special conditions by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received during or before the closing date for comments will be considered by the Administrator before taking action on these proposals. The proposals contained in this notice may be changed based on comments received. All comments submitted will be available both before and after the closing date in the Rules Docket for examination by interested persons.

Background

Notice No. SC–82–1–CE was published in the **Federal Register** on June 7, 1982 (47 FR 24596). This was in response to Beech Aircraft Corporation's application to amend Type Certificate (TC) No. A24CE to add new 300 and 1900 Series airplanes in the normal category. The Beech Series 200 are pressurized low wing twin-turbopropeller airplanes, which in the normal category, are limited to 12,500 pounds maximum gross weight and to seats for no more than 15 occupants. Beech Models 300, 300C, 300CT, 300T, 1900, and 1900C are derivative airplanes of the 200 Series. The above models have increased weight limitations and/or increased seating capacity limitations in accordance with SFAR 41. Because the original Beech Model 200 airplane design included novel and unusual

features for an airplane type certificated under Part 23 of the FARs and the applicable airworthiness requirements did not contain adequate or appropriate safety standards at that time, Special Conditions No. 23–47–CE–5 were developed for the Beech 200 airplane to ensure a level of safety equivalent to that provided by Part 23 of the FAR. Notice No. SC–82–1–SC proposed to extend the applicability status of Special Conditions No. 23–47–CE–5 to Beech 300 and 1900 Series airplanes, as appropriate to Type Certificate A24CE without revising the special condition documents.

On June 18, 1982, ALPA petitioned for a 30 day extension of the comment period for Notice No. SC–82–1–CE. In its petition, ALPA cited the need for additional time to request and receive information from the field to prepare what it believes will be substantive comments on the notice.

The FAA has reviewed this petition and has determined that extending the comment period as requested would afford the petitioner as well as other interested persons additional time to furnish comments that should be considered in determining whether final rule making is appropriate and, if so, the opportunity to participate in the development of these final rules.

List of Subjects in 14 CFR Parts 21 and 23

Aviation safety, Aircraft, Air transportation, and Safety.

Extension of Comment Period

In consideration of the ALPA petition, the FAA concludes that extending the comment period for an additional 30 days would serve the public interest. Accordingly, the comment period for Notice SC–82–1–CE is extended. The comment period will close on August 8, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354, 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); §§ 11.28 and 11.29(b) of the Federal Aviation Regulations (14 CFR 11.28 and 11.29(b))

Note.—This document extends the comment period on a notice of proposed rulemaking. Therefore, I certify that this document is not a major rule under Executive Order 12291 or significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and that it will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, MO, on July 6, 1982.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 82-19416 Filed 7-16-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82–ASW–41]

Proposed Revision of Transition Area: Marksville, LA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes revision of a transition area at Marksville, LA. The intended effect of the proposed action is to provide adequate controlled airspace for aircraft executing a revised instrument approach procedure to the Marksville Municipal Airport. This action is necessary to provide protection for aircraft executing a revised instrument approach procedure based on the Marksville Nondirectional Radio Beacon (NDB) (latitude 31°05'39" N., longitude 92°04'17" W.).

DATE: Comments must be received on or before August 18, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8 a.m and 4:3 p.m. The FAA Rules Docket is located in the Office of the Regional Council, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: James L. Owens, Airspace and Procedures Branch, ASW–536, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Forth Worth, TX 76101; telephone: (817) 624–4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

Federal Aviation Regulation Part 71, Subpart G 71.181 as republished in Advisory Circular AC 70–3 dated January 29, 1982, contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Revision of the transition area at Marksville, LA, will necessitate an amendment to this subpart. This amendment will be required at Marksville, LA, since there is a proposed change in IFR procedures to the Marksville Municipal Airport.

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. (Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.) Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82–ASW–41." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Forth Worth, TX 76101, or by calling (817) 624–4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

List of Subjects in 14 CFR Part 71

Control zones and/or transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Marksville, LA Revised

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Marksville NDB (latitude 31°05'39" N., longitude 92°04'17" W.) and within 3 miles each side of a 224° bearing from the Marksville NDB extending from the 5-mile radius area to 8 miles southwest of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c))

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on June 29, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82-19413 Filed 7-16-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ASW-42]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points

Proposed Revision of Transition Area: Opelousas, LA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes revision of a transition area at Opelousas, LA. The intended effect of the proposed action is to provide adequate controlled airspace for aircraft executing a new instrument approach procedure to the St. Landry Parish Airport. This action is necessary to provide protection for aircraft executing approaches based on an instrument landing system (ILS) and nondirectional radio beacon (NDB) (latitude 30°39'19" N., longitude 92°05'54" W.).

DATES: Comments must be received within 30 days after publication of this notice in the **Federal Register.**

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8 a.m. and 4:30 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: James L. Owens, Airspace and Procedures Branch, ASW-536, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

Federal Aviation Regulation Part 71, Subpart G 71.181 as republished in Advisory Circular AC 70-3 dated January 29, 1982, contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Revision of the transition area at Opelousas, LA, will necessitate an amendment to this subpart. This amendment will be required at Opelousas, LA, since there is a proposed change in IFR procedures to the St. Landry Parish Airport.

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. (Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.) Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82-ASW-42." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Forth Worth, TX 76101, or by calling (817) 624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

List of Subjects in 14 CFR Part 71

Control zones and/or transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Opelousas, LA [Revised]

* * * and within 1.5 miles each side of the ILS localizer course extending from the 5-mile radius area to 6.5 miles north of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c))

Note:—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX on June 30, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82-19419 Filed 7-16-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 82-ASO-32]

Proposed Alteration of Control Zone, Miami, Florida (International Airport)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Miami, Florida, (International Airport) Control Zone by (1) deleting reference to three arrival extensions, (2) deleting reference to a navigational aid which is being relocated, (3) increasing the size of the basic control zone and (4) deleting reference to the airport name in the title of the control zone.

DATES: Comments must be received on or before: August 13, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Chief, Airspace and Procedures Branch, ASO-530, P.O. Box 20636, Atlanta, Georgia 30320. The official docket may be examined in the Office of Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82-ASO-32." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Chief, Airspace and Procedures Branch (ASO-530), Air Traffic Division, P.O. Box 20236, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the description of the Miami, Florida (International Airport) Control Zone. The control zone is presently described as a five-mile radius of Miami International Airport and includes three arrival extensions west and northwest of the airport. One of these extensions is predicated on the Portland RBN (ORTAN) which is being relocated and will no longer support instrument approach procedures at the airport. The currently designated airspace, however, is required for other existing approach procedures serving the airport.

The other two extensions are described by use of radials from the Miami VORTAC and two localizer courses. This designated airspace is also required for Instrument Flight Rule (IFR) operations at the airport.

Increasing the size of the control zone from a five to a six-mile radius of the airport will provide the necessary controlled airspace for containment of IFR operations in the vicinity of the airport. This increase in size will also permit a simplification of the description of the control zone by deleting reference to VORTAC radials and localizer courses. Elimination of "International Airport" from the city/state listing of this control zone will have no effect on the description. Section § 71.171 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Control zone.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Miami, FL [Revised]

Within a 6-mile radius of Miami International Airport (Lat. 25°47'34" N., Long. 80°17'10" W.); excluding that airspace north of latitude 25°52'02" N., and east of the west shoreline of Biscayne Bay.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on July 2, 1982.

William J. McGill,

Acting Director, Southern Region.

[FR Doc. 82-19420 Filed 7-16-82; 8:45 am]

BILLING CODE 4910-13-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 85

[AEN-FRL-2172-7]

Tampering Enforcement Regulations

AGENCY: Environmental Protection Agency.

ACTION: Notice of public workshop.

SUMMARY: This notice announces a public workshop which the Environmental Protection Agency will hold regarding the Advance Notice of Proposed Rulemaking (ANPRM) for the Tampering Enforcement Regulations (46 FR 8982, January 27, 1981). The Agency's purpose in holding this workshop is to meet with those parties potentially affected by the tampering prohibition

contained in section 203(a)(3) of the Clean Air Act (Act).

DATES: The workshop is being held on August 26 and 27, 1982, at 9:00 a.m.

The record of the workshop will be left open for subsequent written submissions for 30 days following the workshop. The comment period will close on August 18, 1982.

ADDRESSES: The workshop will be held at the following location: Hyatt Regency Crystal City at Washington National Airport, 2799 Jefferson Davis Highway, Arlington, Virginia 22202.

Supporting material relevant to this workshop is available in Public Docket No. EN–80–2 (Tampering Enforcement Regulations). The docket is located at the U.S. Environmental Protection Agency, Central Docket Section, West Tower Lobby, Gallery 1, 401 M Street, SW., Washington, D.C. 20460. The dockets may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Robert B. Wright, Field Operations and Support Division (EN–397), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 382–2944.

SUPPLEMENTARY INFORMATION:

The Agency's purpose in holding this workshop is to meet with those parties potentially affected by the tampering prohibition contained in section 203(a)(3) of the Clean Air Act (Act). Although EPA is not required to seek this additional public participation, EPA believes that these discussions will facilitate the Agency's policymaking process by enabling the Agency to receive valuable information in a timely fashion.

The workshops will be informal. No transcript shall be made of the proceeding. However, a summary of the views expressed at the workshop will be prepared and placed in the docket. Although there will not be an opportunity for participants to present prepared statements orally, written statements will be accepted and placed in the docket.

Section 203(a)(3) of the Act prohibits "tampering" with the emission control systems of motor vehicles. EPA's primary objective in enforcing the tampering provision is to ensure the unimpaired operation of motor vehicle emission control systems.

At present, the main sources of guidance as to the Agency's enforcement policy are statements contained in Mobile Source Enforcement Memorandum 1A (Memo 1A) and in letters responding to individuals' particular concerns. Memo 1A, entitled "Interim Tampering Enforcement Policy," was issued in 1974. Memo 1A applies to all parties named in section 203(a)(3). It specifies procedures by which these parties will not be held liable for tampering. Generally, these parties can assure themselves that they will not be held liable for a tampering violation where a vehicle is changed from its EPA-certified configuration and there is a "reasonable basis" to believe that the change will not cause it or similar vehicles to exceed applicable emission standards.

At the workshop, EPA would like to discuss whether further interpretation or explanation of the Federal tampering prohibition is needed. In addition, EPA is interested in whether any such guidance shoud be in the form of a regulation or a policy statement. The Tampering ANPRM lists a number of issues about which participants may want to comment. However, participants are not restricted to those issues. In order to facilitate a useful discussion, EPA requests that it be notified of such other issues at least 7 days prior to the workshop.

The Agency requests that all persons planning to attend the workshop contact Mr. Robert B. Wright at the address set out above.

Dated June 10, 1982.

Kathleen M. Bennett,

Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 82–19475 Filed 7–16–82; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 704

[OPTS–80011A; TSH–FRL 2079–5]

Small Manufacturers Exemption Standards; Reporting and Recordkeeping Requirements

Correction

In FR Doc. 82–16794 appearing on page 27206 in the issue of Wednesday, June 23, 1982, make the following changes:

(1) On page 27208, first column, paragraph numbered "2.", second line, "financeal" should read "financial".

(2) On page 27209, first column, fifteenth line from the bottom, "bases" should read "based"; second column, twelfth line from the bottom, "indicated" should read "indicate".

(3) On page 27213, first column, twelfth line from the top, "approximately" should read "approximate"; third column, ninth line from the top, insert "no" before "meeting".

BILLING CODE 1505–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 30

[CGD 76–081]

Foreign Flag Tank Vessels, Shipping Papers; Termination of Rulemaking

AGENCY: Coast Guard, DOT.

ACTION: Termination of rulemaking.

SUMMARY: In the Federal Register of September 2, 1976, the Coast Guard proposed a requirement for foreign flag tank vessels to carry shipping papers on board while in U.S. waters. A determination has been made not to finalize the proposed rule and, accordingly, the rule making is terminated. Further analysis of the proposed rule showed that it would duplicate an existing requirement in Title 19, Code of Federal Regulations, and would not result in any additional safety benefits.

FOR FURTHER INFORMATION CONTACT: LCDR David M. Strasser (G–MVI–2/24), Room 2612, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593, (202) 426–2190.

SUPPLEMENTARY INFORMATION: The proposed rule was published in the Federal Register of September 2, 1976, (41 FR 37119–37120). The rule would have required all foreign tank vessels to have shipping papers on board while in U.S. waters. The tank vessel regulations in section 30.01–5 and 35.01–1 of Title 46, CFR, impose this requirement only on (1) U.S. vessels and (2) certain foreign flag vessels from countries that are not signatory to the International Convention for the Safety of Life at Sea.

However, the customs regulations in Title 19, CFR, impose a similar requirement for foreign vessels transferring cargo at United States ports. Section 4.7 of Title 19 requires these vessels to carry a manifest containing a cargo declaration that describes the cargo.

Five comments were received on the proposed rule. The commenters were in general agreement with the proposal but expressed the concern that, as to foreign

vessels making voyages to U.S. ports, it is not always possible to determine the consignee and destination prior to sailing. As provided in 19 U.S.C. 1431, these determinations can be made at a later point in time.

This document was drafted by LCDR D. M. Strasser, Office of Merchant Marine Safety, and William R. Register, Office of the Chief Counsel.

List of Subjects in 46 CFR Part 30

Administrative practice and procedure, Barges, Coast Guard, Foreign relations, Hazardous materials transportation, Penalties, Tank vessels.

(46 U.S.C. 391a; 49 U.S.C. 1655(b); 49 CFR 1.46)

Dated: July 9, 1982

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 82-19351 Filed 7-16-82; 8:45 am]

BILLING CODE 4910-14-M

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46 CFR Part 35

[CGD 75-148]

Tank Vessels, Manual of Cargo Transfer Procedures; Termination of Rulemaking

AGENCY: Coast Guard, DOT.

ACTION: Termination of Rulemaking.

SUMMARY: In the **Federal Register** of May 9, 1977, the Coast Guard proposed a requirement for tank vessels to carry and use a manual of cargo transfer procedures. A determination has been made not to finalize the proposed rule, and, accordingly, the rulemaking is terminated. Other regulations which duplicate the proposal have since been adopted.

ADDRESSES: The information referenced in this document is available at the Marine Safety Council (G-CMC/44), Room 4402, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593, (202) 426-1477.

FOR FURTHER INFORMATION CONTACT: LCDR David M. Strasser (G-MVI-2/24), Room 2612, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593, (202) 426-2190.

SUPPLEMENTARY INFORMATION: On May 9, 1977, the Coast Guard published a notice of proposed rulemaking in the **Federal Register** (42 FR 23517-23518). The proposed rule required the carriage and use of a manual of cargo transfer procedures on tank vessels. The purpose of the proposal was to implement Recommendation M-74-31 of the National Transportation Safety Board. NTSB recommended that all operators of chemical tank vessels be required to maintain updated operating manuals on board showing proper operation of piping systems for anticipated transfer operations.

Recommendation M-74-31 was made in the report of the investigation of the S/S WILLIAM T STEELE casualty in November 1972. During cargo transfer operations on board the vessel, benzene was mistakenly loaded into a cargo tank reserved for xylene. The benzene was transferred to another tank, and the tank was washed and ventilated. Crew members then entered the tank to close off the cargo transfer line. When the pipeline flange was opened for inserting the blank, benzene began to leak. As a result, three persons were overcome by benzene fumes and died.

Subsequent to publishing the proposed rules, other similar regulations have come into force. Section 153.910 of Title 46, Code of Federal Regulations, which was published in the **Federal Register** of September 26, 1977 (42 FR 49027), requires tank ships carrying hazardous liquids to maintain a detailed cargo piping plan. Also, Section 154.1810 of Title 46 Code of Federal Regulations, which was published in the **Federal Register** of May 3, 1979 (44 FR 26009), requires self propelled vessels carrying bulk liquefied gases to maintain a cargo manual which includes a description of the cargo system. In addition, vessels carrying oil products are required by 33 CFR 155.720 to provide oil transfer procedures which include a diagram of the oil transfer piping. The existence of these regulations makes it unnecessary to finalize the proposed rule in this proceeding. The NTSB concurs in this determination as noted in their letter of June 30, 1980, to the Coast Guard.

The principal persons involved in the drafting of this document are: LCDR D. M. Strasser, Office of Merchant Marine Safety, and William R. Register, Office of the Chief Counsel.

List of Subjects in 46 CFR Part 35

Barges, Coast Guard, Marine safety, Navigation (water), Reporting requirements, Seamen, Tank vessels.

(46 U.S.C. 391a, 49 U.S.C. 1655(b); 49 CFR 1.46)

Dated: July 9, 1982.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 82-19350 Filed 7-16-82; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 FR Part 61

[CC Docket No. 82-122]

Interconnection Arrangements Between and Among Domestic and International Record Carriers; Tentative Decision

AGENCY: Federal Communications Commission.

ACTION: Tentative decision set for comment.

SUMMARY: Pursuant to the Record Carrier Competition Act of 1981 (RCCA), the Chief of the Common Carrier Bureau (CCB) summarizes two technical issues concerning interconnection among domestic and international record carriers and reaches a tentative decision which is set for comment. The RCCA requires interconnection among carriers and the Commission has implemented this so far as possible. However, the carriers were unable to agree on the issues of store-and-forward interconnection and access to TWK services, and these issues require further comment. Based on the record and comments, under authority delegated by the Commission, the CCB will issue a final or interim order resolving these issues.

DATES: Comments to be filed by June 25, 1982.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Daniel Grosh, Common Carrier Bureau (202) 632-6917.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 61

Communications common carriers, Tariffs.

In the matter of interconnection arrangements between and among the domestic and international record carriers; tentative decision.

Adopted: June 10, 1982.

Released: June 11, 1982.

1. In an order adopted by the Commission, and which is being released contemporaneously with this order, many technical issues related to interim arrangements for interconnection among and between record carriers under the Record Carrier Competition Act of 1981 (RCCA) are resolved, in accord with the parties' agreements at mettings held under the

Commission's auspices [1]. However, as is demonstrated in a staff memorandum associated with the docket file herein, which memorandum summarizes the parties' discussions, agreement was not reached on issues related to store-and-forward services and on 110 baud/ASCII interconnection to TWX. It is clear that these issues also require expeditious resolution, and in this order the parties' discussions on these issues are summarized and tentative decisions are reached. The parties will be given fourteen days to comment on this tentative decision, and based on the record herein and on such comments, the Chief of the Common Carrier Bureau will resolve the store-and-forward and TWX access issues by issuance of a final or interim order.

1. Store-and Forward Services

a. Discussion of the Problems

2. Store-and-forward issues first arose in the context of a Western Union (hereafter, "WU") proposal during the meetings that other carriers block access to WU's "Infomaster" store-and-forward computer facilities. Virtually all other record carriers objected to this in their written filings of May 20 1982, and several of them noted that access through "Infomaster" represents their sole means of accessing two traditional telegraph services, Public Message Telegraph and Mailgram. WU subscribers currently have access to the other carriers' store-and-forward facilities, and the carriers sought continuance of this access as well.

3. A number of interrelated technical and policy considerations arose during the course of these meetings concerning store-and-forward facilities, in part because of inherent discrepancies between input and output time, and in part because unlike real-time messages which are either international or domestic end-to-end, a store-and-forward message may be *both.*

4. When making a single call to store-and-forward facilities, a subscriber may store in the computer one or more individual messages which on output will be either international or domestic, or the subscriber may store multiple-addressed messages which will be transmitted to multiple international or domestic addressees (or to both)[2]. If individual messages are involved, the output time may or may not correspond to the input time. For example, if the input is manually typed, input may occur more slowly than the output which is efficiently spewed out by the store-and-forward facilities without pauses. If the subscriber's input is paper tape-loaded or computer-loaded, output time will approximate input time. If multiple-addressed output messages are involved, the output time will tend to be greater than the input time (for example, a single two minute input message may result in ten two minute output messages, or 20 total output minutes).

5. At the meetings, the only case of carrier-to-carrier interconnection arrangements in store-and-forward calling which was considered was where the subscriber's carrier's facilities are used to carry a call to another carrier's store-and-forward facilities. There was no consideration of the possibility that store-and-forward facilities of the subscriber's carrier might complete calls automatically to another carrier, apparently for technical reasons [3]. The carriers disagreed on whether the subscriber's carrier should be compensated for carrying the call to the computer on the basis of input minutes or output minutes; WU generally sought compensation on the basis of input minutes, while the IRCs sought compensation on the basis of output minutes.

6. A second complication related to the treatment in the Commission's *Interim Order* in this proceeding [4] of minutes themselves. In a domestic call involving two carriers, carriers are compensated on the basis of actual domestic minutes; in an outbound international call involving a domestic and one or more international carriers, the domestic carrier is compensated through a calculation of domestic compensation which employs international minutes. The domestic carrier has the option either of seeking compensation on the basis of actual international minutes (i.e., 1.0 factored international minutes), or on the basis of such minutes multiplied by 1.3 (a holding time factor). *Interim Order,* para. 125. However, this choice governs the domestic carrier in its arrangements for its own international services; if such carrier employs 1.3 factored compensation in calls by its subscribers towards another carrier's international services, it similarly must do so in calls by its subscribers towards its own international services. In the case of multiple-addressed store-and-forward calling involving both domestic and international output messages, it was unclear to the participants at the meetings whether and how 1.0 and 1.3 factored minutes, as a basis for compensation to the subscriber's domestic carrier, could be applied to a single input store-and-forward message which results in multiple domestic *and* international output messages.

7. A third level of complication related to the treatment in the *Interim Order* of "originating" carriers. It was noted during the meetings that if an output message were international, the principles of the *Interim Order* would require the store-and-forward facility international carrier to bill the customer and to compensate the originating domestic carrier. If an output message were domestic, the principles of the *Interim Order* would require the originating domestic carrier to bill the subscriber and to compensate the terminating (store-and-forward) carrier. If multiple outputs were to result from the same input call, which could occur both in the circumstances of multiple-addressed inputs with international and domestic outputs, and in the circumstances of multiple individual stored messages stored during the course of the same call (some of which could be international and others of which could be domestic), it was unclear which carrier would be required to bill the customer and to compensate the other carrier involved. It was noted that it makes little sense to pursue both billing/compensation approaches simultaneously. While para. 79 of the *Interim Order* suggested to the parties that store-and-forward access and billable minutes therefor are best resolved under the general "equal in type and quality" provisions, the *Interim Order* otherwise does not address the difficult practical problems which were discussed by the parties.

8. Various technical arrangements were proposed in an attempt to apply the principles of the *Interim Order* with minimum conflict with its literal terms.[5] It was agreed by all parties, for example, that the carrier providing the store-and-forward facility should bill the subscriber (at least for the output messages) as only that carrier's computer contains the information

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[1] See the Commission's Order published in the Rules section of today's issue for a description of the meetings, and the basis therefor.

[2] At present, WU's "Infomaster" store-and-forward facilities may not generate international output messages, except insofar as such messages are generated toward Mexico and Canada, or are forwarded to IRCs for international handling. The IRC's store-and-forward facilities may generate both international and domestic outputs.

[3] It appears that WU's "Infomaster" store-and-forward facilities are today able to generate message which are accepted by the International Record Carriers (hereafter, "IRCs").

[4] *Interim Order* in CC Docket No. 82-122, FCC 82-158, released Apr. 8, 1982.

[5] As was noted in para. 5 *supra.*, the parties limited their discussions to the case of access through the subscriber's carrier's facilities to the input to another carrier's store-and-forward facilities, and did not consider access by the output of store-and-forward facilities.

necessary to provide a bill for the output messages (i.e., duration information, destination information, delivery/nondelivery information, etc.). To require the subscriber's carrier to perform such billing, as might be required in a fully domestic store-and-forward call under the general principles of the *Interim Order*, would require that such information unnecessarily be passed through the subscriber's carrier to the subscriber. Moreover, in outbound international calling, the IRCs sought to preserve the general principle that access to their store-and-forward facilities use the same carrier-paid technical arrangements and access numbers as are to be used for their real-time international services, when accessed on an interconnected basis.

9. But, for the store-and-forward carrier to be able to bill originating subscribers, this carrier requires certain access to subscribers' carriers' data bases, because "answerbacks" (i.e., subscribers' automatic identification codes which may be triggered from their terminals by an appropriate signal from the store-and-forward carrier for use in billing) are uniquely assigned only *within* carriers' individual networks. Industrywide unique assignment does not presently exist. All carriers agreed in principle that such database access could reasonably be granted, to ensure the ability of the store-and-forward carrier to associate a particular "answerback" signal with a particular subscriber and to enable the transmission of bills to the appropriate subscriber.

10. Other arrangements remained somewhat controversial, although as will be discussed, the controversy related more to policy than to technical arrangements. The IRCs have long billed subscribers the same charge for an output store-and-forward message as they do for a real-time message, and they wished to continue to do so to avoid rate restructuring which they argued might be necessary if customers were to see a rate differential between such messages, depending upon whether the customer filed the same message real-time or store-and-forward. Prior to around two years ago, the IRC's charges included domestic-haul access components which assumed such access on a per-output message basis, i.e., if a single input message resulted in 20 multiple-addressed outputs, the IRC's charges included 20 domestic-haul components. Thereafter, most IRCs converted to customer-paid access charging, under which the customer compensated the domestic carrier for the input time, and the IRCs charged solely for output time without an unbundled domestic access component, although the revenue requirements associated with their international services still included domestic access components. It was argued at the meetings that the RCCA may have forced a return to the earlier charging technique through its "unbundling" provisions.

11. In its comments prior to issuance of the Interim Order, WU had argued that international calls (including calls to international store-and-forward facilities) should be treated as two calls, with the domestic carrier treated as the originating carrier. Although we rejected this concept generally in the *Interim Order*, at the meetings WU advanced a corollary to it in the context of store-and-forward services namely that the subscriber's carrier should be compensated solely on the basis of input minutes, in the belief that such minutes best represent the actual use of the subscriber's carrier's network. Also, it developed that there was no way technically for WU to compensate other carriers based on the actual outputs of its own "Infomaster" store-and-forward facilities; the "Infomaster" facilities apparently have no way technically of associating individual message outputs with individual carriers' inputs.

12. In an attempt to avoid the complexities adverted to previously, several proposals were made at the meetings. First, WU offered to forego 1.3 factored compensation based on output international minutes from store-and-forward facilities, if the principle were agreed to that the subscriber's carrier be compensated solely on the basis of input minutes, and that such minutes be deemed domestic.[6] However, since it appeared that about 10% of WU's present traffic to the IRCs is destined to their store-and-forward computers, and is international traffic currently, WU feared that a reclassification of such traffic (in terms of use of its network) from international to domestic could lower its compensation for international calling. To avoid this, WU sought agreement that 1.3 factor be increased to 1.33 (which would result in the adopted 1.3 overall if incrementally reduced by 10% and, in WU's opinion, would leave it unaffected by such a reclassification). The other carriers unanimously rejected this proposal.

13. A second proposal, by several IRCs, was that the store-and-forward carrier compensate the subscriber's carrier under the literal principles of the *Interim Order*, based on output minutes, i.e., 1.0 and 1.3 factored output minutes for domestic and international output messages, respectively.[7] That is, efficiencies in the use of the subscriber's carrier's network to carry smaller number of input minutes in the multiple-addressed message case would be ignored, and the domestic compensation charge would apply to domestic outputs, while the international compensation charge would apply to international outputs. As noted, para. 11, *supra.*, WU claimed that such an approach is technically impossible to implement in its "Infomaster" system.

14. At this point, a third proposal was made that input minutes be used as a basis of compensation among carriers, but that such input minutes themselves be apportioned among domestic and international by using the ratios of total output domestic and international minutes resulting from other carriers' interconnected service to the store-and-forward facilities; the 1.0 and 1.3 factors could then be applied to such apportioned input minutes. This proposal appeared to meet WU's objection that it was impossible for it to associate specific outputs with specific inputs in "Infomaster", because of necessity WU must be able to accumulate *total* output minutes as a necessary concommitant of billing other carriers' subscribers specially for interconnected "Infomaster" service, and total input minutes by each carrier could be timed. Furthermore, this proposal permitted the 1.3 factor to be applied to international minutes, albeit the input minutes apportioned to international through the output ratios.

15. Much discussion ensued. WU's personnel then indicated that WU would be able—with very significant modification effort and not before September, 1982—separately to accumulate the total domestic and international output minutes for calls originating from each carrier, rather than using the sum of all other carriers' output messages as was envisioned in the proposal under discussion. WU then

[6] While WU would be foregoing future revenues when it might start providing international services under this proposal, it would also be keeping all revenues from Mailgram. Under WU's proposal, it would not share any "Infomaster" Mailgram revenues with another carrier from which it receives "Infomaster" input traffic (through compensation of other carriers for output time), just as the IRCs similarly would not share their store-and-forward output message revenues (international or domestic) with WU if WU were the subscriber's domestic carrier.

[7] Specifically, the parties assumed that 1.3 factored compensation would be chosen for compensation of WU for calling towards other carriers' international offerings. Therefore, the proposal was that the 1.3 factor apply to international outputs and that a 1.0 factor apply to comestic outputs.

offered to accept this compromise proposal if the same principles would apply to the other carriers. The other carriers refused, and maintained that compensation based on outputs should be applied for their store-and-forward services (which technically are capable of accumulating the information necessary for such compensation). The other carriers objected in principle to this "ratioed" input minute approach for their own store-and-forward facilities. They noted that under the "unbundling" provisions of the RCCA, they are required to pass along to subscribers the domestic component of such calls. Under the "ratioed" input minutes approach the ratios may change from month to month, and because of the pass-along requirement they argued that their tariffs either would constantly be changing, or that they would be required to reflect an arithmetically calculated component which would not be understood by their customers.

16. Finally, the other carriers offered to accept *both* approaches, i.e. that WU would use the "ratioed" input minute approach for compensating them for calls to "Infomaster", and that they would use the output minute approach for compensating WU for calls to their store-and-forward facilities. WU rejected this proposal on the grounds that a uniform approach is desirable, and is probably mandated by the RCCA.

b. Tentative Resolution of Store-and-Forward

17. In view of the distinct possibility that carriers might block access to one anothers' store-and-forward facilities if we do not resolve these issues expeditiously—a result which we believe manifestly would be inconsistent with the RCCA—we are impelled to resolve the store-and-forward issues with expedition. Since the parties' discussion was limited to the case of connection of the subscriber's carrier's facilities with the input to another carrier's store-and-forward facilities, we similarly are limiting our discussion to this case, without prejudice to addressing in the future the correlative case of connection of the output of store-and-forward facilities to another carrier's facilities.

18. Compensation on the basis of input minutes in our view best comports with the efficiency mandate of Section 1 of the Communications Act, and with the provisions of the RCCA which specifically provide that we establish an "equitable allocation of revenues * * * based upon the costs of the record communications service or facility employed * * *." Section 222(c)(2). The subscriber's carrier's facility is not used ("employed") for output messages, it is used for input messages. Any compensation approach which caused subscribers ultimately to bear a cost which they do not sustain (i.e., for facilities which are not "employed"), for example a multipled access cost for multiple-addressed messages when the actual access was unitary, would be unreasonable and discriminatory within the meaning of Sections 201(b) and 202(a) of the Act. The IRCs' offer in essence to overcompensate WU by basing compensation to WU (if WU were the subscriber's carrier in a call to an IRC's store-and-forward facility) on the output minutes, most particularly in the case of a multiple-addressed call, is not generosity on their part; it is their subscriber's funds which unnecessarily would provide this overcompensation, and not theirs. Moreover, this approach would perpetuate similar overcompensation of the IRCs themselves when they provide domestic services which are used to access other carriers' store-and-forward facilities.

19. While our general approach to the international services is that the domestic carrier be compensated on the basis of international minutes (either 1.0 or 1.3 factored), which would seem to refer to output minutes and not input minutes in international store-and-forward calling, that approach is not justifiable for store-and-forward calling; store-and-foward is *sui generis* and as a practical matter cannot be treated the same as real-time calling. Thus, the general principles of the *Interim Order* for international calling must yeild to the specific input minute rules which we propose to establish here for calling to store-and-forward facilities, even if international messages are involved.

20. While this proposed treatment of the input to all such store-and-forward calls as domestic conceivably might affect the calculation subsequently of WU's compensation and holding-time ratios, we believe that it is consistent with the RCCA. Alternatively, while the "ratioed" input minutes proposal which was considered at the meetings might alleviate WU's concern in some respects, the "unbundling" provisions of the RCCA could cause a time-varying component to appear in subscriber's rates for service, which might lead ultimately to some subscriber confusion.[8]

21. In view of this, we here propose adoption of the approach of treating carrier-to-carrier *compensation* or interconnected calls to store-and-forward facilities as domestic calls, with such compensation to be calculated on the basis of input minutes. This approach establishes a rate structure which is consistent with the facilities which actually are "employed"; it recognizes any efficiencies which may be inherent in the use of store-and-forward facilities; it may be implemented technically without material facility modifications by any carrier; and, in the final analysis, it is the most rational result which can be reached in these circumstances. As was noted previously, there simply is no clean way to segregate intrnational and domestic uses of store-and-forward facilities; in such circumstances, special treatment of store-and-forward is required. Furthermore, such a structure explicitly recognizes the efficiencies which may be inherent in store-and-forward calling inasmuch as subscribers making such calls will not bear access costs which they do not occasion.

22. To the extent that the IRCs find that this approach might result in public rates which differ on single calls which alternatively might be made real-time or store-and-forward, they are free to make appropriate changes in their tariffs to ameliorate such a problem, consistently with the Act. Perhaps the simplest way of doing so would be to modify the store-and-foward tariffs themselves. While the RCCA does mandate "unbundling", it otherwise assures that the IRCs "have the right to establish the total price charged by such party to the public for any such service which is originated by such party, consistent with the provisions of section 203." Section 222(c)(2). We are not persuaded that there is any benefit to retaining the same rate for real-time and store-and-forward messages, and indeed we can see how subscribers may be denied the benefits of efficiencies which result from store-and-forward calling if the same rates are maintained for real-time and store-and-forward calls. However, it is clear that the RCCA does not mandate any particular relationships between store-and-forward and real-time rates in

[8] At present, such confusion might not occur immediately. The IRCs' store-and-forward facilities are overwhelmingly used for international outputs, and WU's store-and-forward facilities (except for service to Canada and Mexico) are not presently being used for international outputs other than for forwarding of messages to the IRCs. Even when WU is authorized to provide international services, the initial traffic magnitudes are likely to be small. Thus, the IRCs' international/total store-and-forward output ratios on calls from other carriers currently approach unity, and WU's international/total store-and-forward output ratios on calls from other carriers currently approach zero (i.e., the reciprocal domestic/total ratio for WU approaches unity, and is not currently unity solely because of the existence of international service to Canada and to Mexico and of forwarding of "Infomaster" messages to the IRCs).

customer rates; the IRCs are generally free to set such rates competitively, and may do so here. We would hope that competitive pressures would cause the benefits of store-and-forward efficiencies more directly to redound to the benefit of the users of store-and-forward facilities. In sum, we would not perpetuate the present denial of such efficiencies in subscribers' rates by proposing the adoption of a carrier-to-carrier compensation plan which similarly denies such efficiencies.

23. To the extent that treatment of access to store-and-forward facilities on the basis of input minutes, considered domestic, might have some effect on the holding time ratios which affect the 1.3 factor (if use of it is chosen), so be it. At such future time as our treatment of store-and-forward herein manifests an effect on realized holding time ratios (and we believe that the 1.3 factor reflects present real-time message holding time ratios which are not affected by our treatment of store-and-forward facilities herein), the parties will be free to make an appropriate showing that the 1.3 factor should be changed. As the Commission has noted, the 1.3 factor is not scientifically precise; it is based on a "rough justice" approximation to reality on the basis of the imprecise information available to us. WU's claim at the meetings that the 1.3 factor should be increased to 1.33 to leave it whole presumes a degree of precision which does not exist, and further presupposes that international store-and-forward output messages by the IRCs presently should yield 1.3 factored compensation to WU. In the circumstances with which we are confronted, where treatment of store-and-forward generally was at most only ambiguously addressed in the *Interim Order*, WU cannot claim that it is "losing" anything; at most it will not receive 1.3 factored revenues which it could not properly have claimed. Moreover, the 1.3 factor itself is subject to adjustment, which presumably will occur within three months on the basis of better data than was available for the purposes of the *Interim Order*, thus WU will have an adequate opportunity to seek correction of any dislocations which might occur as a result of our proposed treatment of store-and-forward herein. And finally, the purpose of the 1.3 factor is to compensate a domestic carrier for extra holding-time and incomplete calls involved in international calling; in store-and-forward calling, output minutes normally are equal to input minutes, thus only a 1.0 factor would be justified in any event.

24. Moreover, we agree with the carriers that the store-and-forward facility carrier should in some respects be considered the "originating" carrier for all store-and-forward calls, regardless of whether the store-and-forward calls result in domestic or international outputs. Under the *Interim Order*, "originating" carrier status would require interconnection to store-and-forward services to be on a carrier-paid basis, with the store-and-forward carrier compensating the interconnected subscriber's carrier on a domestic input minute basis, and with the store-and-forward carrier providing subscriber billing. It is clear that the carriers can exchange appropriate data base information to permit bills to be rendered to originating subscribers, in view of non-unique "answerbacks", and we tentatively propose that all carriers do so upon request, or that they adopt alternative procedures which permit bills to be rendered[9]. We expect that the carriers will do so copperatively with the object of minimizing administrative cost. Further, since such information exchange appears likely to be mutual and similar to analogous exchanges of information which facilitate subscriber billing currently, we propose to require that carriers exchange such "answerback" identification information for all purposes without charge to one another, unless a carrier demonstrates to us that it is disproportionately disadvantaged, in which case we will consider requiring all carriers to charge one another for this service.

25. Furthermore, WU claimed at the meetings that its store-and-forward facilities ("Infomaster") cannot associate with particular outputs the specific input time which resulted in such outputs (because the computer does not carry through such records). If we were to require that the subscriber's carrier bill its subscriber at its domestic public rate for an input call to another carrier's store-and-forward facilities as well as to its own, and that the carrier operating the store-and-forward facilities bill the subscriber for use of such facilities and for output messages, this problem would be avoided. This approach would meet our efficiency objectives and would be consistent with the "equal in quality and type" provisions of the RCCA and of the *Interim Order*.

26. However, the IRCs seek to retain the ability of WU's customers to access all of their international services, realtime and store-and-forward, in the same manner, i.e. through carrier-paid three digit access, which would be inconsistent with this treatment. The simplest and most practical way to solve this problem, in our view, would be to permit both access techniques to be used, but also to ensure that "unbundled" subscriber rates for such access are the same regardless of whether the call is to WU's store-and-forward facility (on a subscriber-paid basis) or to an IRC's store-and-forward facility (on a carrier-paid basis). Apart from which carrier actually does the billing, the difference presently occurs in the 85% discounting factor for carrier-to-carrier interconnection services and we could eliminate this difference by requiring that store-and-forward calls not invoke the discount factor if carrier-paid access were also permitted. However, if carrier-paid access were also permitted on the same facilities as real-time access, it is unclear whether adequate controls would be possible to ensure that all input minutes were properly reported among the carriers.

27. Accordingly, if the carriers make an adequate showing that accurate reporting of minutes is possible, and that such reporting is capable of being verified by the domestic carrier involved, we will consider providing the carriers an option in addition to the previously proposed approach of having store-and-forward calls treated as domestic calls on input, billed by the subscriber's carrier. Specifically, we will consider allowing the carrier operating the store-and-forward facility to have the option of serving as the "originating" carrier in all respects, including billing the subscriber for domestic access to its facilities on a carrier-paid basis and compensating the domestic carrier for such access, provided that it does so at the domestic carrier's public rate with no discount.

28. Under the general approach (a subscriber-paid access option), the store-and-forward carrier has no other-carrier compensation component to include in its bill, thus this arrangement would comport with the "unbundling" requirements of the RCCA. Under the additional option, should it be adopted (a carrier-paid access option), the subscriber's carrier's public rate would be "unbundled" and included in the bill rendered by the carrier operating the store-and-forward facility. In both cases, the subscriber's carrier's public charge would be included equally in subscribers' bills and we conclude that this arrangement would be consistent with the "equal in type and quality"

[9]The parties may wish to comment upon what alternatives might prove useful as a means of ensuring accurate billing.

requirements of the RCCA and the *Interim Order.*[10]

2. 110 Baud/ASCII Access to TWX

a. Discussion of the Problem

29. TWX and telex differ both in speed and in code. TWX operates at 110 baud using the ASCII character set and code, while telex operates at 50 baud using an older character set and code, so-called "Baudot", which does not include many characters included in the ASCII set. While telex is employed internationally (and also within the United States), TWX is employed only in the United States and Canada (for historic reasons, i.e. because TWX began as a Bell System telephone network-based offering at a time when Bell Canada was largely integrated with the Bell System generally). Because there are large numbers of TWX subscribers in the United States and Canada, various speed/code conversion facilities have been used to permit such subscribers to make and receive international telex calls (which cannot be handled on a TWX basis) and domestic telex calls (to subscribers which have telex machines, generally for international calling purposes, and which use them also for domestic calling).

30. Such conversions have been performed by the IRCs for inbound and outbound international calling (i.e., they have interconnected with WU on a TWX protocol basis for interconnected international calling by WU's TWX subscribers) and by WU for domestic TWX/telex calling. Equipment is in place for these services and is being used.

31. In its Tariff F.C.C. No. 280, WU continues to offer interconnection to TWX using TWX protocols for international interconnection, but in its Tariff F.C.C. No. 282. it offers domestic interconnection to TWX using telex protocols alone. Moreover, such TWX interconnection is service-limited to "interconnection with the domestic telex services of other common carriers." No domestic TWX interconnection at 110 baud, using ASCII coding, is offered.

32. In their May 20 filings, a number of the other carriers argued that this would result in unnecessary double conversions, i.e., from their customers using TWX terminals at 110 baud with ASCII coding, to telex protocols at 50 baud with Baudot coding (and suppression of all ASCII codes which do not exist in Baudot), and again by WU to TWX protocols. The other carriers argued that such double conversion is unnecessary and inefficient, and that not only is a throughput speed penalty paid by limiting throughput to the lower 50 baud speed (and associated conversion time), but also information is unnecessarily lost (i.e., the ASCII characters which do not exist in the Baudot set are lost). This led to extensive discussion at the meetings.

33. In general, WU was willing to offer 110 baud/ASCII access to TWX to those carriers which legitimately can make a showing that they actually themselves provide 110 baud/ASCII services, but it was unwilling to do so if such carriers sought such access solely to permit them to do telex/TWX conversion rather than WU. WU argues that the RCCA would require such interconnection only on "reasonable request", Section 222(c)(1)(A)(i), and that if the IRCs themselves are not providing 110 baud/ASCII services such a request would not be "reasonable." While the IRCs had argued in their filings for interconnection to TWX which would avoid unnecessary double conversions (i.e., from their own 110 baud/ASCII customers), they argued more broadly at the meetings for full 110 baud/ASCII access to TWX. Graphnet claimed to be providing 110 baud/ASCII services to its subscribers, and that it could make a request of WU for 110 baud/ASCII interconnection which would be "reasonable" in WU's own terms.

34. Considerable discussion ensued on the issue of whether 110 baud/ASCII access should be provided to TWX, regardless of whether the other carrier in fact then converted to telex protocols. WU urged its tariffed limitation based on a service concern: its TWX subscribers would have no way of determining whether another carrier's subscriber's machine in fact would reproduce the entire transmitted message, or only a part of it due to the code-stripping which occurs when TWX is converted to telex. In unconstrained 110 baud/ASCII TWX interconnection, a WU TWX customer would not know whether the other carrier's subscriber is using a TWX terminal, or a telex terminal through the other carrier's own code/speed conversion equipment. Under WU's telex protocol-limited TWX interconnection tariff, its TWX customers would know that such code stripping will occur, as special TWX numbers would be used for access to the WU conversion facility by WU's TWX customers.

35. At this point, WU offered to provide 110 baud/ASCII access to TWX generally, but "without restraint." "Restraint" is a technical term of art, and was explained at the meetings as being a technique which is used when a higher-speed device is transmitting towards a lower-speed facility. Since the lower speed facility cannot accept information at the originating device's speed, a buffer is placed between the device and the facility for temporary storage. However, since the length of the originating device's message is unknown, such a buffer in theory might be required to be of infinite capacity to ensure no loss of information. In the real world, finite capacity buffers are used, and a signal is permitted to be sent back to the originating device to stop it periodically, and to allow the buffer to be emptied. This signaling technique is "restraint." Thus, when WU offered to provide 110 baud/ASCII access to TWX "without restraint", it effectively proposed denial to other carriers of the ability to down-convert WU's subscribers' TWX transmissions to telex speed, while allowing end-to-end 110 baud/ASCII communications to proceed through such an interface. Thus, WU's proposal represented a means of avoiding unnecessary TWX/telex/TWX double conversions, while limiting the utility of such interconnections to other carriers which themselves might perform code/speed conversion. The IRCs rejected this proposal.

36. Other proposals were then made, including a proposal that the carrier with facilities using the smaller code set (i.e. telex) do all speed/code conversions, and a proposal that WU and the other carriers split speed/code conversions 50/50 (i.e. that WU should perform the conversions in calling towards other carriers and the other carriers should perform such conversions in calling towards WU). WU objected to both proposals. The first would leave WU with no speed/code conversion function, a function which it claimed is properly associated with the offering of traditional record services, and the second would unnecessarily obsolete the equipment which is presently installed and in service, and which is currently accepting the IRCs' TWX-converted telex signals in international service interconnections.

[10] Under either option, in calls made by WU subscribers to the IRC's store-and-forward facilities WU would be compensated at its public rate, and not 85% thereof. There is no way of avoiding this result without implicating the equality provisions of the RCCA, or requiring extensive modification of WU's "Infomaster" facilities. However, it might be noted that the receipt of 100% compensation rather than 85% compensation should substantially ameliorate any adverse effects on WU of removal of store-and-forward international calling from 1.3 factored compensation (if such compensation is chosen by WU). Furthermore, under these options WU would not be sustaining expenses associated with significant modification of "Infomaster." This further should ameliorate any adverse effects on WU.

37. Finally, WU proposed to follow the following principles, with or without agreement of the other carriers, in treating this issue: (1) WU will provide 110 baud/ASCII interconnection to TWX only if the requesting carrier demonstrates that it is making a "reasonable request" for such interconnection; (2) reasonableness in this context will be shown by 110 baud/ASCII terminal population, terminal-to-terminal traffic forecasts, and the existence of a tariffed 110 baud/ASCII service; (3) such interconnection will be provided "with restraint"; and (4) if a carrier elects and is provided such access, it will be ineligible for 50 baud speed/code converted TWX access. WU's representatives were unable to provide more detail on what would be their view of a "reasonable request" under these general principles. They noted that provision of 110 baud/ASCII access under these principles will be less efficient than provision of other forms of interconnection [11], and that for this reason further analysis will be required.

b. Tentative Interim Resolution of TWX Interconnection

38. There is much merit, in the interim, in WU's initial proposal made in response to the other carriers' written filings. With the exception of Graphnet, it does not appear that the other carriers presently are offering 110 baud/ASCII realtime communications among their subscribers' termnals, and while we recognize that such offerings might arise in the future, the purpose of this order is to arrive at workable interim arrangements. We do not see why adoption of WU's proposal to provide 110 baud/ASCII TWX interconnection "without restraint" (that is, in a way which would frustrate speed/code conversion by other carriers) necessarily would foreclose provision of additional interconnection "with restraint" in the future, and we believe that, should an appropriate showing be made, such arrangements could be provided in addition to any then-existing "without restraint" arrangements. Accordingly, we propose to prescribe that WU file tariffs which implement its offer to provide 110 baud/ASCII interconnection to TWX "without restraint", without prejudice to the issue of whether additional provision of 110 baud/ASCII TWX interconnection "with restraint" is necessary or desirable under the provisions of the RCCA and the Commuications Act generaly.

3. Ordering Clauses

39. We conclude that the store-and-forward and TWX access issues must be addressed expeditiously and that we have sufficient information before us tentatively to do so. It is clear that agreement among the carriers on these matters simply was not possible because the policy choices among alternatives had not specifically been made. We regard the priciples which we are proposing to establish herein as legal and policy ones which may expeditiously be addressed in comments, and we are acordingly establishing an abbreviated fourteen day time period for the filing of comments.

40. In view of the foregoing, it is hereby ordered, pursuant to Sections 4(i), 4(j), 201–05, 218, 222 and 403 of the Communications Act of 1934 as amended, and 5 U.S.C. § 553, That notice is hereby given that this tentative decision may be made final, by interim or final order. An original and five copies of comments may be filed with the Commission on this tentative decision prior to the elapse of fourteen calendar days from release of this order, in accordance with the provisions of Section 1.419 of the Commission's Rules. In reaching its decision, the Commission may take into consideration information in the docket file herein, information in File No. I–S–P–82–002, and information and ideas not contained in the comments, provided that such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

41. It is further ordered, that this proceeding remains subject to the restrictive *ex parte* rulemaking provisions of the Commission's Rules, see generally Sections 1.1207, 1.1209 and 1.1229, and that the public is so advised.

42. It is further ordered, that the Commission's initial analysis pursuant to the Regulatory Flexibility Act, Public Law 96–354 remains unchanged, i.e. that this statute does not apply to the matters under consideration herein which center on rates, financial issues and technical arrangements for interconnection.

43. And, it is further ordered, that the Secretary shall cause a copy of this Tentative Decision to be published in the Federal Register.

Federal Communications Commission.

Gary M. Epstein,

Chief, Common Carrier Bureau.

[FR Doc. 82-19291 Filed 7-16-82; 8:45 am]

BILLING CODE 6712-01-M

[11] WU observed that interconnection to TWX is efffectuated through multiple-trunk "TIM" devices which are shared among the trunks connected therewith. For straight-through interconnection (i.e., "without restraint") the TIM handles 48 trunks. For code-converted interconnection (i.e., the 50 baud telex-like TWX interconnection which is offered under WU's Tariff F.C.C. No. 282) the TIM handles 24 trunks. For 110 baud/ASCII interconnection to TWX "with restraint" the TIM would only handle 16 trunks, and therefore would be less efficient.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Taking Migratory Game Birds with a Crossbow

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to amend Federal migratory bird hunting regulations to allow hunters who use crossbows to take migratory game birds. Since enactment of the Migratory Bird Treaty Act in 1918, these Federal regulations have prohibited the use of crossbows as a means of taking migratory game birds. If the Federal prohibition is removed, then each State would be free to regulate the use of crossbows to take migratory game birds in any way it chooses.

DATES: Comments on this notice must be received by August 18, 1982.

ADDRESSES: Comments may be mailed to Director (LE), Fish and Wildlife Service, P.O. Box 28006, Washington, D.C. 20005 or delivered weekdays to the Division of Law Enforcement, Fish and Wildlife Service, 3rd Floor, 1375 K Street, N.W., Washington, D.C. between 7:45 a.m. and 4:15 p.m. Comments should bear the identifying notation REG 20–02–34. All materials received may also be inspected weekdays during normal business hours at the Service's Division of Law Enforcement, 3rd Floor, 1375 K Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: John T. Webb or William B. Timmerman, Branch of Investigations, Division of Law Enforcement, Fish and Wildlife Service, U.S. Department of the Interior, P.O. Box 28006, Washington, D.C. 20005, telephone: (202) 343–9242.

SUPPLEMENTARY INFORMATION:

Background

Since passage of the Migratory Bird Treaty Act (MBTA), 16 U.S.C. 703–712, in 1918, Federal regulations have restricted the means which hunters may use to take migratory game birds. While these regulations have evolved over the years, they have always addressed what weapons may be used.

On July 31, 1918, President Wilson proclaimed the first Migratory Bird Treaty Act regulations. Within these, Regulation 3 stated "[M]igratory game birds . . . may be taken during the open season with a *gun only*, not larger than number 10 gauge. . . ." [Emphasis added]. Variations of the "shotgun only" restriction continued to appear in Regulation 3 until President Franklin D. Roosevelt proclaimed amended regulations on August 11, 1939 (4 FR 3621), which stated "[M]igratory game birds . . . may be taken . . . with *bow and arrow or* with a *shotgun*. . . ." [Emphasis added.] By 1960 regulations of the Department of the Interior identified both permitted and prohibited methods of taking migratory game birds. As part of a recodification of Department regulations on September 1, 1960 (25 FR 8398), the crossbow and arrow appeared under 50 CFR 10.3(b)(1) as a prohibited method of taking. Today, the Service only identifies prohibited methods of taking and the use of crossbows is prohibited under 50 CFR 20.21(a).

The National Crossbow Hunters Association has requested that the Service amend its regulations on the methods of taking to allow the use of crossbows. The association notes that all bows (including compound bows) used by an archer, except crossbows, are permitted, even though the ballistics of crossbow projectiles are comparable to arrows propelled from compound bows. Further, the Association believes that the use of crossbows would not adversely affect the management of migratory game birds. Finally, the Association notes that the continued Federal prohibition prevents States from choosing among various regulatory approaches to crossbow hunting. The use of crossbows vairies widely among the States. Some allow game hunting, others only nongame hunting or target shooting. Unless Federal regulations are amended, no State can allow crossbow hunting for migratory game birds because the MBTA prohibits States from enacting less restrictive laws. The Association has briefly summarized its own arguments for deleting the prohibition on the use of the crossbow as follows:

1. The crossbow has proven to be materially equivalent to the longbow which is allowed to take migratory game birds.

2. The management of migratory game bird populations would not be effected [sic] by the deletion of the prohibition of crossbows.

3. The States would be allowed to regulate crossbow hunting in their own States to their own best interests without unnecessary restraints from the Federal government.

In response to the Association's request, the Service briefly presented this issue for public comment on February 29, 1980 (45 FR 13643), along with the Proposed 1980–1981 Migratory Game Bird Hunting Regulations (45 FR 13630). The Service indicated that it would consider the requested change for implementation in the 1980–81 hunting season, but failed to serve notice that a rulemaking proceeding was anticipated. The Service further stated that such a change would be in conflict with existing game laws and regulations in a number of States. No specific proposal was made at that time pending review and comment by wildlife administrators in the States, other interested agencies, and the public.

The Service believes that deleting the prohibition on the use of crossbows will not adversely affect the conservation of migratory game birds. While no exact figures are available on the number of crossbow hunters who would hunt migratory game birds if the ban is lifted, the Service projects the number to be fewer than 5000. This total is insignificant when compared to the Service estimate of 5.3 million hunters who currently hunt migratory game birds. Further, the Service can only speculate on the number of migratory game birds that would be killed or crippled by bolts (i.e., arrows) fired from crossbows. However, the Service believes that the use of crossbows will cause no more than a negligible increase in the number of birds taken or crippled by currently allowed methods of hunting.

Although the reasons for the original Federal ban on crossbows are unrecorded, historically the crossbow has been identified as the ideal "poacher's weapon." The modern crossbow is silent, accurate, capable of multiple shot firing (repeating crossbow), and capable of being fired from inside a motor vehicle. These attributes make detection of poachers using crossbows difficult and when coupled with other generally prohibited hunting practices, such as spotlighting, make the crossbow a suitable weapon for illegally hunting various game species. Authorizing hunters to take migratory game birds with a crossbow may affect State and Federal efforts to prevent such illegal hunting. Individual States also may have additional reasons why they restrict or prohibit crossbows for hunting beyond the Federal ban. For instance, high crippling losses may occur when crossbows are used to take certain resident species of wildlife or the use of crossbows may cause concern for public safety in certain geographical locations. Any Federal action should not be viewed by the public as invalidating any State interest in the regulation of crossbow hunting.

Effect of This Proposal if Published as a Final Rule

Responsibility for regulating crossbow hunting would be returned to the States if 50 CFR 20.21(a) is amended by deleting the term "crossbow." Although no Federal prohibition would then exist, each State would have the authority under the MBTA (16 U.S.C. 702, 50 CFR 20.2(d)) to enact more restrictive laws which give further protection to migratory game birds. A number of regulatory approaches could result. For instance, a State could continue the current prohibition, place restrictions on the type of crossbow or projectile used, shorten the open season for crossbow hunters, or limit crossbow hunting to designated areas.

The primary authors of this proposal are Jon T. Webb and William B. Zimmerman, Division of Law Enforcement, U.S. Fish and Wildlife Service.

Determination of Effects of Rules

The Department of the Interior has determined that this is not a major rule under Executive Order 12291.

The Department has also certified that the rules will not have significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act. These determinations are discussed in more detail in a Determinations of Effects which has been prepared by the Service. A copy of that document may be obtained in contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

National Environmental Policy Act

A draft environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Division of Law Enforcement, 1375 K Street, N.W., Suite 300, Washington, D.C., and may be examined during regular hours. Single copies also are available upon request by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

Public Comments Invited

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Interested persons are invited to submit written comments regarding the

proposed rule or the draft environmental assessment. These comments and any additional information received will be considered by the Department in adopting a final rule. Correspondence should be mailed or delivered to the address given at the beginning of this proposal.

List of Subjects in 50 CFR Part 20

Hunting, Wildlife.

Proposed Regulation Promulgation

For the reason set out in the preamble, Subchapter B, Chapter I of Title 50, Code of Federal Regulations is proposed to be amended as follows:

PART 20—MIGRATORY BIRD HUNTING

1. The authority citation for Part 20 is revised to read as follows:

Authority: Migratory Bird Treaty Act, Sec. 3, Pub. L. 65–186, 40 Stat. 755 (16 U.S.C. 704); Sec. 3(h)(3), Pub. L. 95–616, 92 Stat. 3112 (16 U.S.C. 712).

§ 20.21 [Amended]

2. Amend § 20.21(a) by deleting the word "crossbow."

Date: June 7, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82–19419 Filed 7–16–82; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 410

Fish and Wildlife Coordination Act

AGENCY: National Oceanic and Atmospheric Administration, Commerce; Office of the Secretary, Interior.

ACTION: Withdrawal of Proposed Rulemaking.

SUMMARY: On December 16, 1980, the Departments of the Interior and Commerce jointly proposed rulemaking to implement the Fish and Wildlife Coordination Act as per a Presidential directive of July 12, 1978 (45 FR 63412). That proposal became subject to review by the Presidential Task Force on Regulatory Relief (see 47 FR 1700). This proposed rulemaking is hereby withdrawn in favor of administrative actions preparing memoranda of agreement and other Executive instructions.

FOR FURTHER INFORMATION CONTACT: Office of Public Affairs, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 [202–343–5634].

Dated this 4th day of June, 1982.

G. Ray Arnett,

Assistant Secretary of the Interior.

John W. Byrne,

Administrator, National Oceanic and Atmospheric Administration, Department of Commerce.

[FR Doc. 82–19463 Filed 7–16–82; 8:45 am]

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Notices

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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

International Trade Administration

Specialty Steel Surge Monitoring; Determination

AGENCY: International Trade Administration, Commerce.

SUMMARY: In monitoring specialty steel imports for surges possibly caused by dumping or subsidization, the Department of Commerce has determined that imports and import penetration of specialty steel products during the fourth quarter of 1981 and the first quarter of 1982 have reached such high levels as to require the immediate undertaking of surge reviews of trade from certain countries in stainless steel sheet and strip, rod, pipe and tube, and alloy tool steel.

FOR FURTHER INFORMATION CONTACT: Joseph A. Spetrini, Import Administration, U.S. Department of Commerce, Room 3099, Washington, D.C. 20230, (202) 377–3793.

SUPPLEMENTARY INFORMATION: On January 8, 1981 the Department of Commerce announced the Administration's decision to monitor imports of specialty steel products for surges apparently caused by unfair trade practices. This is the fifth of a series of reviews which the Department has issued, based upon its assessment of the specialty steel import situation. The last review was published in the December 29, 1981 **Federal Register** (46 FR 62888). These notices include a detailed listing of the specific Tariff Schedules of the United States Annotated (TSUSA) categories included in the Department's monitoring procedures.

By monitoring specialty steel imports for surges caused by dumping or subsidization, the Department is better able to enforce promptly the trade laws of the United States, in a manner consistent with our international obligations, in cases where the imports could be causing material injury to our industry.

If the Department of Commerce finds that a surge in specialty steel imports appears to be the result of unfair competition, an antidumping or countervailing duty investigation could be initiated. No action will be taken where the surge appears to be the result of fair competition. The monitoring system is designed to ensure enforcement of the trade laws, not to set or imply import quantity or price levels.

An outline of the major factors noted in the Department's fifth review follows. This review is based primarily upon quarterly data for the fourth calendar quarter of 1981 and the first calendar quarter of 1982. It also takes into account quarterly levels for previous years, and the ten-year weighted averages for 1971 through 1980. Detailed data presented in the Appendix to this notice includes those averages and a listing of the specific TSUSA import categories covered by the monitoring procedures.

Total imports of products subject to specialty steel monitoring and their share of the U.S. market increased during the four consecutive quarters from the first quarter of 1981 through the first quarter of 1982. Import penetration (the ratio of total imports to U.S. apparent consumption) increased from 10.6 percent in the first quarter of 1981 to 23.2 percent in the fourth quarter of 1981 and 23.6 percent in the first quarter of 1982. The levels for the fourth quarter 1981 and the first quarter of 1982 far exceed the ten year average of 14.4 percent for all products during the ten year base period of 1971 through 1980. The last time quarterly import penetation exceeded 23 percent was when it peaked at 23.1 percent during the second quarter of 1975, which was during the period for which the U.S. International Trade Commission (USITC) found injury in the 1976 escape clause case. During the second quarter of 1975, imports of specialty steel products now subject to surge monitoring totalled 45,345 net tons. Total imports during the fourth quarter of 1981 reached 64,319 net tons and further increased to 69,645 net tons during the first quarter of 1982.

Since the objective of the specialty steel surge mechanism is to identify instances where the initiation of a formal investigation of possible unfair foreign trade practices is warranted, the Department of Commerce will not undertake surge reviews for those product/country combinations in which antidumping or countervailing duty investigations are now pending. The following five formal investigations were initiated as a result of the filing of petitions by domestic producers: an antidumping investigation of specialty steel pipe and tube from Japan, a countervailing duty investigation of stainless steel bar and rod from Spain, antidumping investigations of stainless steel sheet and strip from the Federal Republic of Germany and France, and a section 301 (of the Trade Act of 1974, as amended) investigation involving five countries and five product lines. The section 301 petition, filed by the Tool and Stainless Steel Industry Committee and the United Steelworkers of America, alleges that domestic subsidies granted by seven countries were inconsistent with their obligations under the General Agreement on Tariffs and Trade. On February 26, 1982 USTR initiated investigations involving five of those countries: Austria, France, Italy, Sweden, and the United Kingdom. There are five product lines involved: stainless steel sheet and strip, rod, plate, bar, and alloy tool steel.

The most recent petition filed by the domestic industry is a countervailing duty petition filed with the Department of Commerce on June 17, 1982 against Brazilian stainless steel bar and rod. The Department will determine whether to initiate a countervailing duty investigation in response to this petition by July 7, 1982.

Because imports and import penetration have already exceeded the levels for the period during which the USITC found injury and have been clearly trending upward, the Department of Commerce is immediately undertaking surge reviews of the following product/country combinations to assess whether the surges in imports appear to be the result of dumping or subsidization. While the Department will not conduct surge reviews of product/country combinations named in petitions filed by the industry, it will continue to closely monitor imports of those product/country combinations.

For the category of stainless steel sheet and strip, surge conditions exist. First calendar quarter of 1982 import

penetration (the share of U.S. apparent consumption accounted for by imports) was 16.9 percent. This is above the 1971 through 1980 ten-year weighted average of 9.5 percent and is above any quarterly import penetration level since 1974. Import penetration for the first quarter of 1982 was above the first, second, third and fourth quarter 1981 levels of 5.2, 7.3, 11.2 and 14.6 percent, respectively, and was above the first quarter 1980 level of 6.6 percent.

Import penetration of stainless steel sheet and strip from Spain reached 2.1 percent during the fourth quarter of 1981. This represents a significant increase over the zero, 0.1 and 0.8 percent levels registered during the first three quarters of 1981, respectively, and is the highest level for the 1975 through 1981 period. The 3,347 net tons of stainless steel sheet and strip imported from Spain during the fourth quarter of 1981 was also the peak figure for the 1975 through 1981 period, and it exceeded the levels of zero, 152 and 1,503 net tons imported during the first three quarters of 1981, respectively. Imports of stainless steel sheet and strip from Spain accounted for 1.2 percent of U.S. consumption during the first quarter of 1982, which is the second highest level registered since 1979 and is exceeded only by the fourth quarter 1981 level. The 1,980 net tons of stainless steel sheet and strip imported from Spain during the first quarter of 1982 is also the largest tonnage imported in any quarter since 1979, exceeded only by the tonnage imported during the fourth quarter of 1981.

The Department of Commerce is undertaking an examination of trade in stainless steel sheet and strip in the U.S. market from Spain to assess whether the surge appears to be the result of injurious dumping or subsidization.

In its review of third quarter 1981 import data, the Department of Commerce announced a surge in stainless steel sheet and strip from the Federal Republic of Germany (FRG) and began to examine trade in this product line from the FRG. The domestic industry filed a petition for an antidumping investigation on imports of West German stainless steel sheet and strip on April 26. The DOC initiated this petition on May 17. Since a formal unfair trade investigation has already been initiated, a surge review on imports of West German sheet and strip will not be conducted.

In its quarterly review of third quarter 1981 import data, the Department of Commerce announced a surge in stainless steel sheet and strip from France and began to examine trade in this product line from France. The domestic industry filed a Section 301 (of the Trade Act of 1974, as amended) petition on January 12 and an antidumping petition on May 10 against imports of stainless steel sheet and strip from France. The U.S. Trade Representative and the DOC initiated these petitions on February 26 and June 1, respectively. Since formal unfair trade investigations have already been initiated, we will not conduct a surge review on imports of sheet and strip from France.

Surge conditions do not exist for the category of stainless steel plate. Import penetration levels during the fourth quarter of 1981 and first quarter of 1982 were 9.9 and 11.0 percent, respectively, which are below the 1971 through 1980 ten-year weighted average of 11.6 percent.

Surge conditions exist for the category of stainless steel rod. Import penetration for the fourth quarter of 1981 and the first quarter of 1982 were 55.5 and 53.7 percent, respectively, which are above the 1971 through 1980 ten-year weighted average of 44.3 percent and are the highest levels since the second quarter of 1978. The fourth quarter 1981 import penetration level represents a substantial increase over the 36.3, 38.7, and 47.0 percent levels recorded during the first three quarters of 1981, respectively, and the 28.9 percent registered in the first quarter of 1980.

Import penetration of stainless steel rod from the FRG reached 5.9 percent for the first quarter of 1982, as compared to levels of 2.3, 1.1, 4.1 and 3.5 percent for each of the four quarters of 1981. This 5.9 percent import penetration level was the highest for the 1974 to 1981 period. The 782 net tons of stainless steel rod imported from the FRG during the first quarter of 1982 was the highest quarterly level for the 1974 to 1981 period, and exceeded the 294, 155, 608 and 518 net tons imported during each of the four quarters of 1981 and the 67 tons imported in the first quarter of 1980.

The Department of Commerce is undertaking an examination of trade in stainless steel rod from the Federal Republic of Germany to assess whether the surge appears to be the result of injurious dumping or subsidization.

During the fourth quarter of 1981 and the first quarter of 1982, import penetration of stainless steel rod from Brazil was 3.3 and 2.5 percent, respectively. On June 16, the domestic industry filed a countervailing duty petition on specialty steel imports of Brazilian rod. The Department initiated a countervailing duty investigation in response to this petition on July 6, 1982. Since a formal unfair trade complaint has been filed, the Department will not conduct an examination of trade in this product from Brazil.

Surge conditions exist for the category of stainless steel bar. Import penetration for the fourth quarter of 1981 and the first quarter of 1982 were 27.0 and 26.9 percent, respectively, which are above the 1971 through 1980 ten-year weighted average of 17.1 percent. These import penetration levels are higher than any quarterly level since 1974, with the previous peak being 26.6 percent during the third quarter of 1981. The import penetration levels for the fourth quarter of 1981 and the first quarter of 1982 are above the levels of 16.3, 20.4, and 26.6 percent for the first, second, and third quarters of 1981, respectively, and the level of 18.6 percent for the first quarter of 1980.

Import penetration of stainless steel bar from Brazil reached 3.0 percent for the fourth quarter of 1981 and 4.0 percent for the first quarter of 1982. These figures are above the 1.2, 1.6, and 1.8 percent levels for the first three quarters of 1981, respectively, and are also the highest levels for the 1974 to 1981 period.

Since a formal trade complaint against imports of specialty steel bar from Brazil was filed on June 16, and the Department initiated a coutnervailing duty investigation in response to this petition on July 6, we will not begin a surge review on this product from Brazil at this time.

In its review of third quarter 1981 import data, the Department of Commerce announced the commencement of a formal examination of trade in stainless steel bar from Spain. On April 14, 1982 the Department initiated a countervailing duty investigation of Spanish stainless steel bar in response to a petition filed by the domestic industry. As a result, the Department's examination of trade in stainless steel bar from Spain was terminated.

Because the increase in import penetration for stainless steel bar was accounted for by countries named in unfair trade petitions filed by the domestic industry, the Department of Commerce will not conduct surge reviews on imports of this product. The Department will continue to closely monitor imports of this product.

Surge conditions exist for the category of specialty steel pipe and tube. Fourth quarter 1981 and first quarter 1982 import penetration levels of 57.9 and 51.7 percent, respectively, are above the 1971 through 1980 ten-year weighted average of 41.5 percent. These have been exceeded only by the 58.9 and 62.2 percent levels registered in the third

quarter 1981 and the first quarter 1978, respectively.

Import penetration of specialty steel pipe and tube from Austria reached 1.1 and 1.3 percent during the fourth quarter of 1981 and the first quarter of 1982, respectively, as compared to the levels of 0.1, 1.0, and 0.9 percent for the first three quarters of 1981, and 0.0 percent during the first quarter of 1980, respectively. The first quarter level represents the highest import penetration for the 1974 to 1981 period, and prior to the fourth quarter of 1980 import penetration of Austrian pipe and tube never exceeded 0.2 percent. The 218 net tons of specialty steel pipe and tube imported from Austria during first quarter of 1982 was the peak figure for the 1974 to 1981 period, as it exceeded the volumes of 15, 133, 165 and 170 net tons imported during each of the four quarters of 1981, respectively.

Import penetration of stainless steel pipe and tube from the Republic of Korea reached 1.1 percent during the fourth quarter of 1981 and 2.3 percent in the first quarter of 1982. These figures are above the 0.1, 0.2, and 0.4 percent import penetration levels for the first three quarters of 1981, respectively, and are also the highest levels for the 1974 to 1981 period. The 374 net tons of specialty steel pipe and tube imports from the Republic of Korea during the first quarter of 1982 exceeded the tonnages imported in any year in the 1974 to 1981 period.

In its review of third quarter 1981 import data, the Department of Commerce announced the undertaking of an examination of trade in specialty steel pipe and tube from Italy to assess whether the surge appeared to be the result of injurious dumping or subsidization. During the fourth quarter of 1981, import penetration of specialty steel pipe and tube from Italy rose to a level of 5.3 percent, its highest level for the 1974 to 1981 period. This figure represents a significant increase over the 0.1, 1.2, and 3.8 percent levels for the first three quarters of 1981, repectively. Import penetration of Italian pipe and tube subsided somewhat to 3.3 percent during the first quarter of 1982, still representing the third highest level registered since 1974, and exceeded only by the levels recorded in the third and fourth quarters of 1981. Imports of specialty steel pipe and tube from Italy amounted to 806 net tons during the fourth quarter of 1981, which is above the 17 net tons, 157 net tons, and 696 net tons imported during the first three quarters of 1981, respectively, and is the highest quarterly total for the 1974 to 1981 period. The 539 net tons imported during the first quarter of 1982 represent the third largest quarterly tonnage imported from Italy, exceeded only by the third quarter 1981 surge level and the fourth quarter 1981 level.

In its review of third quarter 1981 import data, the Department of Commerce announced a surge in specialty steel pipe and tube from the FRG and began to examine trade in specialty steel pipe and tube from the FRG to assess whether the surge appeared to be the result of injurious dumping or subsidization. During the fourth quarter of 1981, imports of specialty steel pipe and tube from the FRG abated to one-half the level of the surge period and further decreased in the first quarter of 1982. The Department will continue to monitor imports of specialty steel pipe and tube from the FRG and will take appropriate action if conditions change.

The Department of Commerce is continuing its examination of trade in specialty steel pipe and tube from Italy and is undertaking an examination of trade in this product line from Austria and the Republic of Korea to determine whether the surges appear to be the result of injurious dumping or subsidization.

The Department of Commerce also announced, in its review of third quarter 1981 import data, a surge in imports of specialty steel pipe and tube from Belgium and began to examine trade in Belgian specialty steel pipe and tube. During the fourth quarter of 1981 and the first quarter of 1982, there were no imports of stainless steel pipe and tube from Belgium. As a result of this abatement, the Department is terminating its examination of imports of specialty steel pipe and tube from Belgium.

Surge conditions exist for the category of alloy tool steel. Import penetration for the first quarter of 1982 was 45.4 percent, which is above the 1971 through 1980 ten-year weighted average of 22.0 percent. The first quarter 1982 import penetration level is above the levels of 28.6, 32.0, 30.5 and 43.7 percent for each of the four quarters of 1981, respectively, and is above the level of 28.8 percent for the first quarter of 1980.

In its review of third quarter 1981 import data, the Department of Commerce announced a surge in alloy tool steel from Brazil and began to examine trade in this product line from Brazil to determine if the surge appeared to be the result of injurious dumping or subsidization. During the fourth quarter of 1981, import penetration of alloy tool steel from Brazil reached 4.0 percent, which is the highest quarterly level for the 1974 to 1981 period, and is a significant increase over the levels of 0.8, 0.5, and 1.6 percent for the first three quarters of 1981, respectively.

Import penetration of Brazilian alloy tool steel subsided somewhat to 2.4 percent in the first quarter of 1982. This level, however, is the second highest level of import penetration for the 1974 to 1981 period, exceeded only by the level registered in the fourth quarter of 1981. Imports of Brazilian alloy tool steel totaled 1,041 net tons during the fourth quarter of 1981, as compared to 185, 126, and 399 net tons for the first three quarters of 1381, respectively. This fourth quarter total represents the largest volume of imports for the 1974 to 1981 period. The 599 net tons of Brazilian alloy tool steel imported during the first quarter of 1982, while less than the tonnage imported during the fourth quarter of 1981, was the second highest net tonnage for the 1974 to 1981 period, exceeded only by the level registered in the fourth quarter of 1981.

In the Department's review of first quarter 1981 import data, a surge in alloy tool steel imports from the FRG was announced. The Department began to examine trade in alloy tool steel from the FRG to determine if the surge appeared to be the result of injurious dumping or subsidization. During the fourth quarter of 1981, import penetration of alloy tool steel from the FRG was 13.3 percent, which was the second highest level for the 1974 to 1981 period, surpassed only by the 1981 third quarter surge level of 16.3 percent. The 3,451 net tons of alloy tool steel imported from the FRG during the fourth quarter of 1981 was surpassed, for the 1974 to 1981 period, only by the third quarter 1981 total of 4, 150 net tons. Prior to the second quarter of 1981, the quarterly import tonnage figure for alloy tool steel from the FRG never exceeded 2,000 net tons.

Import data for the first quarter of 1982 indicates that alloy tool steel from the FRG subsided somewhat from the fourth quarter 1981 level. However, the 3,124 net tons of FRG alloy tool steel imported during the first quarter of 1982 and the corresponding 12.7 percent import penetration level were still the highest levels on record aside from the

surge levels of the pervious quarters.The Department of Commerce is continuing its examination of trade in alloy tool steel from the FRG and Brazil to assess whether the surges appear to be the result of injurious dumping or subsidization

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

TABLE 1.—IMPORT MARKET SHARES BY PRODUCT CATEGORY

[Percent of U.S. apparent consumption [1] supplied by imports]

Year	S.S. sheet and strip	S.S. plate	S.S. bar	S.S. rod	Alloy tool steel	S.S. pipe and tubing	All products
1971	19.7	17.9	13.7	57.7	14.4	44.5	20.5
1972	10.2	24.0	14.5	[illegible]	14.7	33.9	14.3
1973	6.1	13.3	12.5	42.3	18.0	20.8	10.5
1974	7.5	[illegible]	15.2	[illegible]	18.4	26.5	12.1
1975	[illegible]	[illegible]	24.6	[illegible]	26.0	41.5	20.8
1976	10.7	20.0	18.2	51.3	25.6	51.2	17.5
1977	9.0	8.4	17.4	41.2	21.8	46.3	13.7
1978	9.8	9.8	17.5	[illegible]	24.5	52.0	14.8
1979	7.0	5.0	16.4	31.5	27.3	38.4	11.9
1980	5.9	2.7	21.6	37.9	[2]27.7	46.6	13.3
Ten-year weighted average	9.5	[2]11.6	17.1	44.3	22.0	41.5	14.4

[1] Apparent Consumption = Net Domestic Shipments plus Imports minus Exports.

[2] The figure of 27.7 percent which appears here has been revised downward since the publication of the first review due to revisions in U.S. Census Data. This revision does not alter the existence of surges previously announced for this product category.

Sources

Imports: U.S. Department of Commerce, Bureau of the Census, IM146.

Exports: U.S. Department of Commerce, Bureau of the Census, EM546.

Shipments: American Iron and Steel Institute, AIS10–S and AIS10, Data Reflect net shipments to reporting companies.

Specialty Steel Products Lines: TSUSA Categories

(1982 U.S. Tariff Schedules)

(1) Stainless Steel Sheet and Strip

607.7610	608.2900
607.9010	608.4300
607.9020	608.5700
608.2600	

(2) Stainless Steel Plate

607.7905	607.9005

(3) Stainless Steel Bar

608.9005	608.9010

(4) Stainless Steel Rod

607.3000	607.4300

(5) Alloy Tool Steel

606.9000	607.5420
606.9400	607.7200
606.9505	607.7220
606.9510	607.8605
606.9520	607.8620
606.9525	608.3405
606.9535	608.3420
606.9540	608.4905
607.2600	608.4920
607.3405	608.8405
607.3420	608.8420
607.4500	608.4520
607.5405	608.4550

(6) Specialty Steel Pipe and Tube

610.3701	610.5205
610.3727	610.5230
610.3731	610.5211
610.3741	610.5234
610.3742	610.5236
610.5130	

[FR Doc. 82-19480 Filed 7-16-82; 8:45 am]

BILLING CODE 3510-25-M

Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee; Open Meeting

AGENCY: International Trade Administration.

SUMMARY: The Computer Systems Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 18, 1981 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act. The Subcommittee was approved for continuation on October 5, 1981 pursuant to the charter of the Committee. The Foreign Availability Subcommittee was formed to ascertain if certain kinds of equipment are available in non-COCOM and Communist countries, and if such equipment is available, then to ascertain if it is technically the same or similar to that available elsewhere.

TIME AND PLACE: August 3, 1982, at 1:30 p.m. The meeting will take place at the Main Commerce Building, Room 3104, 14th Street and Constitution Ave., NW., Washington, D.C.

Agenda

General Session

(1) Opening remarks by the Subcommittee Chairman.

(2) Presentation of papers or comments by the public.

(3) An overview for future plans in the area of foreign availability by Toli Welihozkiy.

(4) A round table discussion on how the Foreign Availability Subcommittee can assist with the effort.

(5) Discussion of foreign availability technical data form.

(6) Discussion of world computer data bank.

(7) Discussion of subcommittee attendance.

Public participation: The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT:

Mrs. Margaret A. Cornejo, Committee Control Officer, Office of Export Administration, Room 2613, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202–377–2583.

Dated: July 14, 1982

Richard Isadore,

Acting Director, Office of Export Administration.

[FR Doc. 82-19501 Filed 7-16-82; 8:45 am]

BILLING CODE 3510-25-M

Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee; Open Meeting

AGENCY: International Trade Administration.

SUMMARY: The Computer Systems Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 18, 1981 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act. The Subcommittee was approved for continuation on October 5, 1981 pursuant to the charter of the Committee. The Licensing Procedures Subcommittee was formed to review the procedural aspects of export licensing and recommend areas where improvements can be made.

TIME AND PLACE: August 3, 1982, at 9:30 a.m. The meeting will take place at the Main Commerce Building, Room 3104, 14th Street and Constitution Ave., NW., Washington, D.C.

Agenda:

General Session

1. Opening remarks by the Subcommittee Chairman.

2. Presentation of papers or comments by the public.
3. Report on review of distribution license policy.
4. Swiss Blue import certificate update.
5. Post-COCOM procedures.
6. Status of a short form 6031P—Computer Performance Parameter Sheet.
7. New business.

Public participation: The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written Statements may be submitted at any time before or after the meeting.

FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT:
Mrs. Margaret A. Cornejo, Committee Control Officer, Office of Export Administration, Room 2613, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202–377–2583.

Dated: July 14, 1982.

Richard Isadore,

Acting Director, Office of Export Administration.

[FR Doc. 82-19602 Filed 7-16-82; 8:45 am]
BILLING CODE 3510-25-M

Computer Systems, Technical Advisory Committee; Closed Meeting

AGENCY: International Trade Administration.

SUMMARY: The Computer Systems Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 18, 1981 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act. The Committee advises the Office of Export Administration with respect to questions involving (A) technical specifications and policy issues relating to those specifications which are of concern to the Department, (B) worldwide availability of products and systems, including quantity and quality, and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems or technology, and (D) exports of the aforementioned commodities subject to unilateral and multilateral controls which the United States establishes or in which it participates including proposed revisions of any such controls.

TIME AND PLACE: August 4, 1982, at 9:00 a.m. The meeting will take place at the Main Commerce Building, Room B841, 14th Street and Constitution Ave., NW., Washington, D.C.

The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 29, 1981, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12065.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, Telephone: 202–377–4217.

FOR FURTHER INFORMATION CONTACT:
Mrs. Margaret A. Cornejo, Committee Control Officer, Office of Export Administration, Room 2613, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202–377–2583.

Dated: July 14, 1982.

Richard Isadore,

Acting Director, Office of Export Administration.

[FR Doc. 82-19603 Filed 7-16-82; 8:45 am]
BILLING CODE 3510-25-M

Vitamin K From Spain; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: U.S. Department of Commerce, International Trade Administration.

ACTION: Notice of final results of administrative review of countervailing duty order.

SUMMARY: On March 2, 1982, the Department of Commerce published in the **Federal Register** the preliminary results of its administrative review of the countervailing duty order on vitamin K from Spain. The review covered the period January 1, 1980 through December 31, 1980.

Interested parties were invited to comment on the preliminary results. We received no comments. Therefore, we have determined that countervailing duties equal to the calculated value of the net subsidy, 4.80 percent of the f.o.b. invoice price of the merchandise, shall be assessed on all shipments entered on or after January 1, 1980 and exported on or before December 31, 1980.

Further, due to changes in the Spanish banking practices occurring subsequent to the period of review, we have determined that cash deposits of estimated countervailing duties of 2.42 percent of the f.o.b. invoice price of the merchandise shall be collected on future entries, pending the results of the next administrative review.

EFFECTIVE DATE: July 19, 1982.

FOR FURTHER INFORMATION CONTACT:
Lorenza Olivas or Richard Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202, 377–1775/2786).

SUPPLEMENTARY INFORMATION:

Background

On March 2, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 8805) the preliminary results of its administrative review of the countervailing duty order on vitamin K from Spain (T.D. 76–321, 41 FR 50419). The Department has now completed that review.

Scope of the Review

The merchandise covered by the review is vitamin K. Such merchandise is currently classifiable under item 412.6420 of the Tariff Schedules of the United States Annotated.

The review covered the period January 1, 1980 through December 31, 1980. The Department reviewed two programs: (1) the Desgravacion Fiscal a la Exportacion, which was the only program found countervailable in the final determination; and (2) an operating capital loans program, which was found countervailable in another investigation.

Final Results of the Review

Interested parties were invited to comment on our preliminary results. We received no comments. As a result, we determine that the net subsidies conferred on vitamin K by the two programs during the period of review are 3.68 percent and 1.12 percent *ad valorem*, respectively. Accordingly, the Department will instruct the Customs Service to assess countervailing duties of 4.80 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after January 1, 1980 and exported on or before December 31, 1980.

The provisions of T.D. 76–321 or T.D. 79–19 and of section 303(a)(5) of the Tariff Act of 1930 ("the Tariff Act"), prior to the enactment of the Trade Agreements Act of 1979, applying to all entries made prior to January 1, 1980. Accordingly, the Customs Service shall assess countervailing duties on all shipments of Spanish vitamin K which were entered, or withdrawn from warehouse, for consumption prior to January 1, 1980, at the applicable rates set forth in T.D. 76–321 or T.D. 79–19.

Since the publication of our preliminary results, we have learned that, effective March 1, 1981, the Spanish government increased the interest rate for operating capital loans from 8 to 10 percent while eliminating the ceiling on comparable short-term commercial loans. Our investigation after this discovery showed that the average interest rate for commercial short-term loans of up to one year was 19.45 percent for the remainder of 1981. This results in a 9.45 percent differential between the interest rate for operating capital loans and the interest rate for comparable commercial loans. In addition, the Spanish government reduced the maximum percentage of eligiblity for operating capital loans by 20 percent, effective November 19, 1981, and by an additional 5 percent, effective April 20, 1982. As a result of both types of changes, we have determined, for purposes of deposit of estimated countervailing duties, that the net subsidy attributable to the operating capital loans program has increased from 1.12 percent to 2.42 percent.

Therefore, as provided for by section 751(a)(1) of the Tariff Act, a cash deposit of estimated countervailing duties of 2.42 percent of the f.o.b. invoice price shall be required on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

The Department intends to conduct the next administrative review by the end of October 1982. The amount of countervailing duties to be imposed on exports made during 1981 will be determined in that review. Consequently, the suspension of liquidation previously ordered will continue for all shipments exported on or after January 1, 1981.

The Department encourages interested parties to review the public record and submit applciations for protective orders, if desired, as early as possible after the Department's receipt of the information in the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and section 355.41 of the Commerce Regulafions (19 CFR 355.41).

Judith Hippler Bello,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-19508 Filed 7-16-82; 8:45 am]

BILLING CODE 3510-25-M

Certain Fasteners From India; Preliminary Results of Administrative Review of Countervaling Duty Order and Tentative Determination To Revoke In Part

AGENCY: U.S. Department of Commerce, International Trade Administration.

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty Order and Tentative Determination to Revoke in Part.

SUMMARY: The Department has conducted an administrative review, under section 751(b)(1) of the Tariff Act, of the countervailing duty order on certain fasteners from India. The review covers the importantion of duty-free fasteners and generally the period from January 6, 1982 through June 30, 1982. The Commerce Department is authorized to collect countervailing duties on duty-free products from GATT member countries only if the International Trade Commission has found that imports of the merchandise concerned materially injure, or threaten to materially injure, a United States industry. There has been no such determination with respect to duty-free fasteners from India. As a result, the Department has tentatively determined to revoke the countervailing duty order on certain fasteners from India with regard to covered duty-free fasteners. This revocation would apply to all duty-free fasteners entered on or after January 6, 1982, the date upon which the fasteners concerned became duty-free. Interested parties are invited to comment on these preliminary results and tentative revocation.

EFFECTIVE DATE: July 19, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph Black or Richard Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202, 337–1774/2786).

SUPPLEMENTARY INFORMATION:

Background

On July 21, 1980, the Department of Commerce ("the Department") published in the **Federal Register** (45 FR 48607) an affirmative final countervailing duty determination regarding certain fasteners from India. Since India was not a "country under the Agreement" within the meaning of section 701(b) of the Tariff Act of 1930 ("the Tariff Act") at that time, and all of the fasteners subject to the order were at that time dutiable, the investigation has been conducted under section 303 of the Tariff Act and had not been referred to the United States International Trade Commission ("the ITC") for an injury determination.

Effective January 6, 1982 (not January 5, as incorredtly stated in the notice of intent to conduct this review), fasteners from India entering under items 646.5400 and 646.5600 of the Tariff Schedules of the United States Annotated ("TSUSA") acquired duty-free status under the Generalized System of Preferences ("GSP"). On January 27, 1982, India requested the ITC to institute an investigation to determine whether an industry in the U.S. would be materially injured, or would be threatened with material injury, by reason of imports of Indian fasteners if the countervailing duty order on such merchandise were revoked. In a letter dated March 16, 1982, the ITC advised the Indian government that it had no authority under the applicable statutes (section 104(b) of the Trade Agreements Act of 1979 and section 751(b) of the Tariff Act) to conduct an injury investigation of fasteners.

Under section 303(a)(2) of the Tariff Act, which applies in this case, the Department lacks authority to impose countervailing duties on duty-free goods where an international obligation of the U.S. requiring an injury determination exists (e.g., GATT membership), unless an affirmative injury determination is made.

On July 8, 1982, the Department announced its intent to review, under section 751(b)(1) of the Tariff Act, the countervailing duty order on certain fasteners from India with regard to covered duty-free fasteners (47 FR 29695). The Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are those fasteners from India which were included under the original order and which now receive duty-free treatment, under GSP, upon importation into the United States. Such fasteners are

currently classifiable under items 646.5400 and 646.5600 of the TSUSA. Dutiable imports of fasteners, currently classifiable under TSUSA items 646.4920, 646.4940, 646.5800, 646.6020, 646.6040, 646.6320 and 646.6340, are not covered by the review.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that, absent an affirmative injury determination, the Department lacks legal authority to impose countervailing duties on such duty-free fasteners from India. Therefore, we tentatively determine to revoke the order on such products effective January 6, 1982, the date when the merchandise became duty-free. Accordingly, the Department intends to instruct the Customs Service to proceed with liquidation of all unliquidated entries of these fasteners made on or after January 6, 1982 without regard to countervailing duties and to refund any estimated countervailing duties collected with respect to these entries.

The current requirement for a deposit of estimated countervailing duties on such duty-free fasteners, of 18 percent of the f.o.b. invoice price, will continue until the publication of the final results of the present review.

Interested parties may submit written comments on these preliminary results on or before August 18, 1982 and may request disclosure and/or a hearing on or before July 29, 1982. The Department will publish the final results of this administrative review and the final determination with regard to the revocation including the results of its analysis of issues raised in written comments or at a hearing.

This administrative review, tentative determination to revoke in part, and notice are in accordance with sections 751(b)(1) and (c) of the Tariff Act (19 U.S.C. 1675(b)(1), (c)) and sections 355.41(b) and 355.42 of the Commerce Regulations (19 CFR 355.41(b), 355.42).

Judith Hippler Bello,

Acting Deputy Assistant Secretary for Import Administration.

July 13, 1982.

[FR Doc. 82-19509 Filed 7-16-82; 8:45 am]

BILLING CODE 3510-25-M

Petitions by Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from the following firms: (1) Novelty Trimming Works, Inc., 317 St. Paul's Avenue, Jersey City, New Jersey 07307, producer of tassels and cords (accepted June 17, 1982); (2) American Leather Manufacturing Company, 2195 Elizabeth Avenue, Rahway, New Jersey 07065, producer of leather (accepted June 18, 1982; (3) Racquetech Company, Inc., 9812 Independence Avenue, Chatsworth, California 91311, producer of tennis rackets (accepted June 18, 1982); (4) Hanson Industries, Inc., 5717 Arapahoe Avenue, Boulder, Colorado 80306, producer of ski boots and skis (accepted June 24, 1982); (5) Double F Ranch, Star Route 4, Box 55, Raymondville, Missouri 65555, producer of cattle (accepted June 25, 1982); (6) Griffin Industries, Inc., 141 Fifth Avenue, New York, New York 10010, producer of women's under garments (accepted June 28, 1982); (7) Stanly Knitting Mills, Inc., P.O. Drawer 479, Oakboro, North Carolina 28129, producer of yarn (accepted June 28, 1982); (8) Rylco Rubber Products, Inc., 1218 Walnut Avenue, Trenton, New Jersey 08625, producer of rubber tubing, packing and gaskets (accepted June 29, 1982); (9) Burke Manufacturing Company, Inc., P.O. Box 613, Waynesboro, Georgia 30830, producer of men's and women's jackets and vests (accepted June 29, 1982); (10) Malleable Iron Range Company, 715 North Spring Street, Beaver Dam, Wisconsin 53916, producer of furnaces, heaters and stoves (accepted July 2, 1982); (11) Kennetex, Inc., P.O. Box 616, Kennett Square, Pennsylvania 19348, producer of yarn (accepted July 7, 1982); (12) Martha Manning Company, 1700 St. Louis Road, Collinsville, Illinois 62234, producer of women's skirts, pants, blouses, jackets and dresses (accepted July 7, 1982); (13) Quakertown Clothing Company, Inc., P.O. Box 12, Quakertown, Pennsylvania 18951, producer of men's and women's coats and pants (accepted July 8, 1982); (14) Dollin Packaging Corporation, 600 South 21st Street, Irvington, New Jersey 07111, producer of cartons and boxes (accepted July 9, 1982); (15) Lello Fashions, Inc., 1453 75th Street, North Bergen, New Jersey 07047, producer of women's coats, jackets, suits, and skirts (accepted July 9, 1982); (16) Covert Manufacturing Company, 1801 Avenue B, Watervliet, New York 12189, producer of metal fasteners (accepted July 9, 1982); (17) Pierce Pacific Manufacturing, Inc., P.O. Box 1009, Tualatin, Oregon 97062, producer of construction and logging equipment (accepted July 12, 1982); (18) Clear Lumber Company, P.O. Box 68, Sweet Home, Oregon 97386, producer of softwood lumber; and (19) Elaine's Fashion, Inc., 179 Jersey Avenue, Port Jervis, New York 12771, producer of women's coats and suits (accepted July 12, 1982).

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Director, Certification Division, Office of Trade Adjustment Assistance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the projgram under which these petitions are submitted is 11.309, Trade Adjustment Assistance. Inasfar as this notice involves petitions for the determination of eligibility under the Trade Act of 1974, the requirements of Office of Management and Budget Circular No. A-95 regarding review by clearinghouses do not apply.

Charles L. Smith,

Acting Director, Certification Division, Office of Trade Adjustment Assistance.

[FR Doc. 82-19510 Filed 7-16-82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Fishermen's Contingency Fund

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notification of claim pursuant to Title IV of the Outer Continental Shelf Lands Act Amendments of 1978 (Title IV). Notification 08-82.

SUMMARY: 50 CFR 296.6 requires that the Chief, Financial Services Division (FSD), publish in the **Federal Register** a notice of claim received under the Title IV Program. Any interested person may, within 30 days of publication of this Notice, submit to the Chief, FSD, National Marine Fisheries Service (NMFS), evidence concerning the claim or a request to the admitted as a party to any hearing concerning the claim.

IMPORTANT DATE: Any evidence concerning any claim described in this Notice, and any request to be admitted as a party to any hearing concerning any such claim, must be submitted, in writing, to the Chief, FSD, on or before August 18, 1982.

ADDRESS: Send evidence and any request to be admitted as a party to any hearing to: Mr. Michael L. Grable, Chief, Financial Services Division, Attention: Charles L. Cooper, National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Washington, D.C. 20235 (telephone 202–634–4688).

SUPPLEMENTARY INFORMATION: Title IV establishes a Fishermen's Contingency Fund (FCF) to compensate fishermen for eligible claims for actual and consequential damages, including lost profits, due to damages to, or loss of, fishing vessels or fishing gear by items associated with oil and gas exploration, development, or production on the Outer Continental Shelf (OCS). Title IV regulations require that upon receipt of a timely-filed claim which is not clearly ineligible because of statutory exemptions from eligibility, the Chief, FSD publish a 30-day notice of the claim in the **Federal Register** (50 CFR 296.6(a)(1)(iii)). Upon expiration of the 30-day period following publication of the **Federal Register** notice, the claim will be processed by the Chief, Financial Services Division.

Dated: July 12, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

The following claims have been received.

Claim No.	Nature of Loss and Location	Amount	
FCF–48–82	On 5–19–82 claimant lost plastic bag netting with 25 steel rigs while trawling for shrimp at the following coordinates: 29°18'16.35" N., 92°45'10.37" W.	$275.00	Gear loss.
		0	Economic loss.
		0	Consequential loss.
		275.00	Total.
FCF–49–82	On 6–21–82 claimant lost one complete rig, 2 sets of 11'×44" boards, 2–55' nets, bent shaft, and tickler chain while trawling for shrimp at the following coordinates: 28°45'35.03" N., 92°38'50.26" W.	Unknown	Gear loss.[1]
		Unknown	Economic loss.
		Unknown	Consequential loss.
		Unknown	Total.
FCF–50–82	On 6–20–82 claimant lost one complete rig, cable, tri-net and bent outrigger while trawling for shrimp at the following coordinates: 29°22'15.07" N., 91°50'06.49" W.	Unknown	Gear loss.[1]
		Unknown	Economic loss.
		Unknown	Consequential loss.
		Unknown	Total.
FCF–51–82	On 6–20–82 claimant lost 2–75' nets, dummy door, tickler chain, and lazy line while trawling for shrimp at the following coordinates: 7980X26941.1, 7980Y46949.9.	Unknown	Gear loss.[1]
		Unknown	Economic loss.
		Unknown	Consequential loss.
		Unknown	Total.

[1]Amounts not yet reported at this publishing.

[FR Doc. 82–19347 Filed 7–16–82; 8:45 am]
BILLING CODE 3510–22–M

Permit Modification

On May 26, 1982, Notice was published in the **Federal Register** (47 FR 22999), that a request had been filed with the National Marine Fisheries Service by Eleanor M. Dorsey, Friday Harbor Laboratories, P.O. Box 459, Friday Harbor, Washington, 98250, for a modification to Scientific Research Permit No. 295, to radio tag up to 60 minke whales (*Balaenoptera acutorastrata*) and collect skin biopsies from up to 50 minke whales in addition to the activities originally authorized in the Permit.

Notice is hereby given that on July 9, 1982, pursuant to the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service granted a modification to Permit No. 295 issued to Eleanor M. Dorsey for the above taking, subject to certain conditions set forth therein.

Documentation relating to this modification and permit are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW, Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northwest Region, 7600 Sand Point Way, NE., BIN C15700, Seattle, Washington, 98115.

Dated: July 9, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82–19500 Filed 7–16–82; 8:45 am]
BILLING CODE 3510–22–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Automatic Target Recognition; Change in Notice of Advisory Committee Meeting

The location of the meeting of the Defense Science Board Task Force on Automatic Target Recognition on 10–11 August 1982 as published in the **Federal Register** (Vol. 47, No. 113, Friday, 11 June 1982, FR Doc. 82–15828) has been changed to LaJolla, California. In all other respects, the original notice cited above remains the same.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

July 13, 1982.

[FR Doc. 82–19448 Filed 7–16–82; 8:45 am]
BILLING CODE 3810–01–M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Intent To Develop a Resource Displacement Policy Request for Recommendations

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of Intent to Develop a Resource Displacement Policy, Announcement of Planning Session, and Request for Advice, Recommendations.

FILE NO.: RDP–1.

SUMMARY: BPA is in the initial stages of developing a policy to guide the displacement of resources for which BPA controls the generation. Displacement is the substitution of one generating resource for another, generally for economic reasons. BPA is now seeking advice, recommendations, and suggestions for its use in developing a Resource Displacement Policy proposal. Interested persons may submit comments in writing and/or at a planning session scheduled to discuss issues related to this subject.

RESPONSIBLE OFFICIAL: David J. Anderson, Chief, Branch of Contract Negotiations, is the official responsible

for development of the Resource Displacement Policy.

EFFECTIVE DATE: Advice, recommendations, and suggestions concerning the development of the proposed policy will be accepted through September 17, 1982. All documents should be designated with the file number RDP–1. Additionally, interested persons are invited to attend a public planning session to discuss issues related to displacement. The planning session will begin at 8:30 a.m., Tuesday, August 10, 1982, in Room 464, BPA Headquarters Building, 1002 NE. Holladay Street, Portland, Oregon.

ADDRESSES: Persons who wish to be kept informed of developments in this process should direct their requests to Ms. Donna L. Geiger, Public Involvement Coordinator, P.O. Box 12999, Portland, Oregon 97212. Advice, recommendations, and suggestions should also be sent to this address.

FOR FURTHER INFORMATION CONTACT: Ms. Donna L. Geiger, Public Involvement Coordinator, P.O. Box 12999, Portland, Oregon 97212, 503–230–3478. Oregon callers may use the toll-free number 800–452–8429; callers in California, Idaho, Montana, Nevada, Utah, Wyoming, and Washington may use 800–547–6048.

Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97208, 503–230–4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Street, Eugene, Oregon 97401, 503–345–0311.

Mr. Ronald H. Wilkerson, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509–456–2518.

Mr. Gordon H. Brandenburger, Kalispell District Manager, P.O. Box 758, Kalispell, Montana 59901, 406–755–6202.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509–662–4377, extension 379.

Mr. Richard D. Casad, Puget Sound Area Manager, 415 First Avenue North, Room 250, Seattle, Washington 98109, 206–442–4130.

Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509–525–5500, extension 701.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208–523–2706.

SUPPLEMENTARY INFORMATION:

I. Introduction

Displacement is the substitution of one generating resource for another, generally for economic reasons. Displacement occurs fairly frequently in the Northwest because the power system is based on hydroelectric resources augmented by higher cost thermal and other resources. In good water years, secondary or surplus power becomes available from the hydroelectric resource for limited periods, generally during the spring runoff. BPA's displacement policy will guide the agency's decisions as to when and under what conditions higher cost thermal and other resources should be shut down and displaced for a time by lower cost (hydroelectric) resources.

Development of a policy to guide BPA in the displacement of resources for which BPA controls the generation is an integral part of implementation of BPA's responsibilities under the Pacific Northwest Electric Power Planning and Conservation Act (Regional Act). BPA said it would develop this policy in its August 28, 1981, letter transmitting power sales contracts to its direct-service industrial (DSI) customers. Under section 7(c) of those contracts, BPA may restrict deliveries to the DSI loads, "for the purpose of displacing the operation or use of Federal System resources, if and to the extent that displacement is consistent with Bonneville's legal rights, legal obligations, and policies concerning displacement."

Copies of the August 28, 1981, letter to the DSIs, the DSI contracts, and other documents which discuss the need for and probable effect of the Resource Displacement Policy are available from the BPA Public Involvement office.

BPA is now seeking advice, recommendations, and suggestions for its Resource Displacement Policy proposal during the earliest stages of the policy development effort. All interested persons are encouraged to submit suggestions which they believe would be useful in targeting areas of concerns. Some issues related to the operational and marketing aspects of displacement have already been identified and are described in section II below. It is expected that other issues will surface during the policy development process.

The BPA billing credits policy now under development has been identified as a policy which might, when finally adopted, include provisions affecting the Resource Displacement Policy. Page 23 of BPA's Notice of Proposed Billing Credits Policy provides that BPA may displace billing credit resources. The Resource Displacement Policy may include provisions stating when billing credit resources should be displaced.

As part of the Resource Displacement Policy development process, BPA has scheduled an informal planning session to met with its customers and other interested persons who wish to participate in comprehensive discussions of what elements should be contained in the policy proposal. The meeting will begin at 8:30 a.m. on August 10, 1982, in Room 464, BPA Headquarters Building, 1002 NE. Holladay Street, Portland, Oregon.

The policy will be developed in accordance with BPA's Procedure for Public Participation in Major Regional Power Policy Formulation (46 FR 26368) and in compliance with required National Environmental Policy Act procedures. BPA plans to publish its Resource Displacement Policy proposal in the **Federal Register** during November 1982. Any scheduled information and comment forums to receive suggestions will be announced at that time. The final Resource Displacement Policy is tentatively scheduled for completion in March 1983. BPA will consider all advice, recommendations, suggestions, and comments received from BPA's customers and other interested persons throughout the policy development process.

II. Issues Identified by BPA to Date

A. Under what water and load conditions will BPA displace?

B. Which resources should be displaced?

C. Under what order of priority should resource be displaced? Economic, by class of resource, or by some other order?

D. Should BPA continue, under some circumstances, to operate resources that it would otherwise displace?

1. Should BPA continue to operate such resources if there is a buyer for the displaceable power? If so, on what terms would BPA sell such power?

2. What classes of customers should be served with such displaceable power?

3. Should there be any displaceable resource or class of resources that BPA should not continue to operate and market?

4. What contractual arrangement should be required for the purchase of displaceable power?

E. How much freedom should BPA have to displace each resource it controls?

1. Should displacement be a negotiable matter with the resource offeror?

2. If the contract with the resource offeror gives BPA displacement flexibility, should BPA's operational decision to displace be circumscribed by a predetermined policy? How much

displacement flexibility should BPA have?

F. What are the environmental factors affecting the Resource Displacement Policy and any individual displacement decision?

G. What are the fish and wildlife constraints affecting the Resource Displacement Policy and any individual displacement decision?

Issued in Portland, Oregon, July 13, 1982.

Peter T. Johnson,

Administrator.

[FR Doc. 82-19817 Filed 7-16-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 6228-001]

Cascade Charter Township; Application for License (5 MW or Less)

July 15, 1982.

Take notice that Cascade Charter Township (Applicant) filed on May 11, 1982, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for construction and operation of a water power project to be known as Cascade Dam Hydropower Project No. 6228. The project would be located on Thornapple River in Kent County, Michigan. Correspondence with the Applicant should be directed to: Mr. Paul Slater, Treasurer, Cascade Charter Township, 2865 Thornhills, S.E., Grand Rapids, Michigan 49506.

Project Description—The proposed project would consist of: (1) an existing reservoir with a surface area of 280 acres and a storage capacity of 2,800 acre-feet; (2) an existing dam approximately 41 feet high and 550 feet long consisting of two earthern embankments, a spillway section, and a powerhouse structure; (3) the proposed installation of one turbine/generator in the powerhouse with a total installed capacity of 1,000 kW; (4) transmission along an existing power transmission easement to a Consumer Power Company substation located approximately one-half mile from the site; and (5) appurtenant facilities. The average annual generation is expected to be approximately 5.0 GWh.

Purpose of Project—The purpose of the project is to generate electricity from a renewable natural resource in order to supply electricity to be sold to the regional power company and to develop a small scale water power project in accordance with the national policies for conservation of fossil fuels, reduction of oil imports, and recycling of natural resources. The Township also wishes to maintain its role in any potential development at the Cascade Dam site to insure the development maintains the existing environmental and recreational aspects of the impoundment area.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comment should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before September 20, 1982, either the competing application itself [See 18 C.F.R. 4.33 (a) and (d)] or a notice of intent [See 18 C.F.R. § 4.33 (b) and (c)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in 4.33(c) or 4.101 et. seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 C.F.R. 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 20, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19432 Filed 7-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6461-000]

The City of Port Angeles Light Department; Application for Preliminary Permit

July 15, 1982.

Take notice that The City of Port Angeles Light Department (Applicant) filed on June 24, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6461 to be known as the Morse Creek Hydroelectric Project located on the Morse Creek in Port Angeles in Clallam County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Lew Cosens, Director, City of Port Angeles Light Department, P.O. Box 1150, Port Angeles, Washington 98362.

Project Description—The proposed project would consist of: (1) an existing City of Port Angeles' 10-foot-high by 30-foot-long diversion weir and intake structure; (2) an existing 30-inch by 36-inch, 750-foot-long water conduit; (3) a new 4-foot-diameter, 10,000-foot-long pipeline; (4) a 370-foot-long penstock; (5) a powerhouse to contain one turbine-generating unit with a rated capacity of 3.2 MW operating under a head of 420 feet and generating approximately 21 million kWhs of energy; and (6) a 4.5-mile-long, 12.5-kV transmission line.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks a 36-month permit to study the feasibility of constructing and operating the project.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before October 18, 1982, the competing application itself

[see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before September 20, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR. § 4.30 et seq. or § 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 20, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19433 Filed 7-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4593-001]

East Mississippi Electric Power Association, Surrender of Preliminary Permit

July 15, 1982.

Take notice that East Mississippi Electric Power Association, Permittee for the Okatibbee Reservoir Project No. 4593, has requested that its preliminary permit for the project be terminated. The preliminary permit was issued on November 13, 1981, and would have expired on April 30, 1983. The proposed project would have utilized the U.S. Army Corps of Engineers' Okatibbee Reservoir Dam on Okatibbee Creek in Lauderdale County, Mississippi.

The Permittee stated that it wished to surrender the permit due to the lack of available loan funds from the Rural Electrification Administration.

East Mississippi Electric Power Association filed the request on June 4, 1982, and the surrender of the preliminary permit for Project No. 4593 has been deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19434 Filed 7-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-364-000]

Kansas-Nebraska Natural Gas Co., Inc.; Application

July 14, 1982.

Take notice that on June 8, 1982, Kansas-Nebraska Natural Gas Company, Inc. (Applicant), P.O. Box 15265, Lakewood, Colorado 80215, filed in Docket No. CP82-364-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity for blanket authorization to make sales of natural gas in interstate commerce from its interstate transmission facilities to persons engaged in, or desiring to engage in, the business of selling compressed natural gas (CNG) for use as a motor fuel or other similar uses, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to make direct sales of natural gas from its interstate transmission facilities to various customers in Nebraska, Kansas, Colorado, and Wyoming who would convert the natural gas into CNG and sell it to others within the same state for use as a motor fuel. Applicant states that it has received a number of inquiries from fleet users and CNG filling stations regarding CNG for use as a motor fuel. These filling stations, it is maintained, would account for 35 Mcf per day each of Applicant's sales and would not significantly affect Applicant's system supplies.

Applicant has also filed with the Commission concurrently a Petition For Declaratory Order requesting that the Commission declare that the sale of natural gas from Applicant's distribution facilities or from the distribution facilities of distributors served by Applicant at wholesale to customers who convert the gas into CNG and sell it as a motor fuel within the same state is not a sale subject to the Commission's jurisdiction under the Natural Gas Act. It is stated that if the Commission should deny the Petition, Applicant would request that the blanket certificate authority sought by this application be made applicable to those sales from distribution facilities of Applicant and its wholesale customers as well.

Applicant proposes that it would provide the Commission with a list of jurisdictional CNG distributors receiving from Applicant a maximum of 50 Mcf per day or 10,000 Mcf annually without further authority being obtained from the Commission. Applicant further proposes to indicate sales which have been abandoned during each year in its annual customer list update. It is asserted that in its annual filing Applicant would include a statement showing for each service abandoned during the year a description and location of the facilities abandoned and their cost the reason why the service or facilities were abandoned, together with a copy of the written request or permission, or statement in lieu thereof, for termination of service, or in the event a written request or permission cannot be obtained from the customer, a detailed explanation of how abandonment is in the public interest and a showing of the effect, if any, of the abandonment upon any rate schedules or tariffs on file with this Commission.

It is asserted that the rates Applicant would charge for initiating and providing the proposed service would be in accordance with its filed interstate tariffs in effect for the zone in which the sale by Applicant would be made.

Any person desiring to be heard or to make any protest with reference to said

application should on or before August 3 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19435 Filed 7-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6407-000]

Klamath Irrigation District; Application for Preliminary Permit

July 15, 1982.

Take notice that Klamath Irrigation District (Applicant) filed on June 7, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6407 to be known as the K.I.D. Upper "C" Drop Hydroelectric Project to be located on the existing U.S. Bureau of Reclamation's (USBR) "C" Canal Drop, a part of the USBR's Klamath Project in Klamath County, near Klamath Falls, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Malcom Crawford, Manager, Llamath Irrigation District, 6640 K.I.D. Lane, Klamath Falls, Oregon 97601, with a copy to CH2M Hill, Attn: Mr. Neal P. Dixon, P.O. Box 2088, Redding, California 96099.

Project Description—The project would entail retrofitting and rehabilitating an existing abandoned powerhouse located at the Upper "C" Drop and would consist of: (1) the powerhouse, to contain one turbine-generating unit with a proposed rated capacity of 760 kW, operating under a head of 22 feet; and (2) a 12-kV tap line to connect to an existing Pacific Power and Light Company transmission line crossing the project. The estimated annual energy production is 2.7 million kWhs.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks a 36-month permit to study the feasibility of rehabilitating and operating the project. No new roads would be required to conduct the studies.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before October 19, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before September 20, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 20, 1982.

Filing and Service of Responsive Documents—Any filing must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19436 Filed 7-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6361-000]

Lawrence J. McMurtrey; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

July 14, 1982.

Take notice that on May 21, 1982, Lawrence J. McMurtrey (Applicant) filed an application under Section 408, of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 6361) would be located on Tenas Creek, a tributary of Suiattle River in Skagit County, Washington. Correspondence with the Applicant should be directed to: Mr. Lawrence J. McMurtrey, 12122 196th Street, N.E., Redmond, Washington 98052.

Project Description—The proposed project would consist of: (1) an inlet structure; (2) an 11,000-foot-long, 36-inch-diameter pipeline/penstock; (3) a powerhouse containing one generating unit with a rated capacity of 4.9 MW;

and (4) an 8-mile-long, 55-kV transmission line. The power generated will be sold to the Puget Sound Power & Light Company, the Bonneville Power Administration, or Intalco Aluminum Company. The Applicant estimates that the average annual energy production would be 19.2 GWh. The project is located entirely within the boundaries of the Mt. Baker-Snoqualmie National Forest.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State of Washington Department of Fisheries and the State of Washington Department of Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none.

Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before August 30, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 30, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19437 Filed 7-16-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 5122-001]

Mac Hydro-Power Company, Inc.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

July 14, 1982.

Take notice that on February 23,1982, Mac Hydro-Power Company, Inc. (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 5122) would be located on Mill Creek, near Mill Creek, in Tehama County, California and occupy U.S. lands within Lassen National Forest. Correspondence with the Applicant should be directed to: H. L. "Pete" Childers, Mac Hydro-Power Company, P.O. Box 5193, Auburn, California 95603.

Project Description—The proposed project would consist of: (1) a 2-foot-high, 30-foot-long concrete diversion and intake structure; (2) an 18,000-foot-long, 48-inch-diameter low presure conduit; (3) a 600-foot-long, 42-inch-diameter steel penstock; (4) a powerhouse containing one generating unit rated at 1,100 kW; and (5) a transmission line. The average annual energy generation is estimated to be 3.2 million kWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the California Department of Fish and Game are requested, for the purposes set froth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit

to the Commission, on or before August 30, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules and Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 30, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19436 Filed 7-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3261-001]

Modesto Irrigation District; Surrender of Preliminary Permit

July 15, 1982.

Take notice that Modesto Irrigation District (MID), Permittee for the La Grange Project No. 3261, has requested that its preliminary permit be terminated. The permit was issued on May 4, 1981, and would have expired on November 1, 1982. The project would have been located on MID's Main Canal in Stanislaus County, California.

MID filed its request on June 21, 1982, and the surrender of the permit for Project No. 3261 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19439 Filed 7-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP81-316-004]

Montana-Dakota Utilities Co.; Petition to Amend

July 14, 1982.

Take notice that on June 10, 1982, Montana-Dakota Utilities Co. (Petitioner), 400 North Fourth Street, Bismark, North Dakota 58501, filed in Docket No. CP81-316-004 a petition to amend the order issued February 19, 1982, in Docket No. CP81-316 pursuant to Section 7(c) of the Natural Gas Act so as to authorize Petitioner to install and operate a leased gas compressor facility, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that the order issued February 19, 1982, authorized Petitioner, *inter alia*, to construct and operate gas compressors and loop line facilities for the transportation of supplies of gas to Petitioner's Elk Basin Field in Park County, Wyoming, for injection into storage.

It is stated that Petitioner has contracted to lease a gas compressor unit for the Madden sales point in Fremont County, Wyoming. It is submitted that the installation of this compressor unit would provide Petitioner with the capacity to deliver some of its off-system sale volumes to Colorado Interstate Gas Company. Petitioner asserts that the said compressor would provide an additional 12,000 Mcf of natural gas per day. Hence, Petitioner requests herein authorization to install and operate a leased gas compressor facility to be located at the Madden sales point in Fremont County, Wyoming. It is explained that the lease rental is $13,750 per month for a one-year period.

Applicant explains that the addition of the proposed compressor unit would enable Applicant to deliver an additional 12,000 Mcf of gas per day at the Madden sales point and would reduce the delivery at the Elk Basin sales point by 12,000 Mcf per day; hence, Applicant would not have to transport the gas from its supply source in the Wind River Basin to the Elk Basin sales point.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 3, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commissioin's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19440 Filed 7-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6190-001]

Mountain Gems Corp.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

June 14, 1982.

Take notice that on May 24, 1982, Mountain Gems Corporation (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as ameneded),* for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 6190) would be located on Lewis Fork Fresno River in Madera County, California. Correspondence with the Applicant should be directed to: Mr. John J. Silveira, Sierra PowrQuip Associates, Inc., 3961 American River Drive, Sacramento, California 95825.

Project Description—The proposed project would consist of: (1) a 12-foot-high diversion structure; (2) a 30-inch-diameter, 800-foot-long penstock; (3) a powerhouse containing two generating units with a total rated capacity of 460 kW; and (4) a 1,000-foot-long, 12-kV transmission line connecting the powerhouse to an existing Pacific Gas and Electric Company's line northeast of the powerhouse.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption form licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the California Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days form the date of issuance of this notice, it will be presumed to have no comments. One copy of an ageny's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before August 30, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33g (b) and (c) (1980). A competint license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will considered all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 30, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19441 Filed 7-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP80-86-004]

Natural Gas Pipeline Company of America; Petition To Amend

July 14, 1982.

Take notice that on June 14, 1982, Natural Gas Pipeline Company of America (Petitioner), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP80-86-004 a petition to amend the order issued February 6, 1980, pursuant to section 7(c) of the Natural Gas Act and § 157.7(b) of the regulations thereunder (18 CFR 157.7(b)) so as to authorize the construction and operation of budget-type gas supply facilities the cost of which would exceed the total cost limitation prescribed by § 157.7(b), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that by order issued February 6, 1980, it was authorized pursuant to § 157.7(b) of the Commission's Regulations to construct and operate certain natural gas facilities with a maximum total annual cost of $20,000,000.

Because of the effects of inflation on construction costs in the gas industry, the Commission's addition of certain facilities under Part 284 of the Regulations within the budget program, and the unavoidable circumstances that can lead to project cost overrun, Applicant explains, it is estimated that the aggregate cost of the construction of budget gas supply facilities would be $10,000,000 over and above the present $20,000,000 limitation.

Any person desiring to be heard to make any protest with reference to said petition to amend should on or before July 30, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the portestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a

party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19442 Filed 7-16-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP78-124-005]

Northern Border Pipeline Co.; Petition For Clarification of Orders

July 14, 1982

Take notice that on June 14, 1982, Northern Border Pipeline Company (Petitioner), P.O. Box 3330, Omaha, Nebraska 68103, filed in Docket No. CP78-124-005 a petition pursuant to Section 1.7 of the Commission's Rules of Practice and Procedure (18 CFR 1.7) for clarification of the Commission's orders issued April 28, 1980, and April 24, 1981, in Docket No. CP78-124, or in the alternative, pursuant to Section 7(c) of the Natural Gas Act for amendment of such orders so as to authorize Petitioner to transport overrun gas volumes in accordance with its tarriff, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

It is submitted that on January 26, 1979, Petitioner filed in Docket No. CP78-124 a supplemental application pursuant to Section 7(c) of the Natural Gas Act for, *inter alia,* authorization to transport Canadian natural gas from Alberta prior to the time of commencement of delivery of Alaskan gas to the lower 48 United States. It is further submitted that during the course of such proceeding a *pro forma* copy of Petitioner's FERC Gas Tariff, Original Volume No. 1 was filed. Such tariff, Petitioner states, included Rate Schedule OT-1, Overrun Service, which provides for the transportation of natural gas volumes in excess of the maximum receipt quantity set forth in Exhibit A to the U.S. Shippers Service Agreement executed by the respective Shipper.

Petitioner states that by order issued April 28, 1980, in Docket No. CP78-124, it was authorized to construct and operate pipeline facilities for the transportation in interstate commerce of up to 800,000 Mcf of natural gas per day for Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), United Gas Pipe Line Company, and Panhandle Eastern Pipe Line Company.

It is further stated that on September 18, 1980, Petitioner filed a second supplemental application for, *inter alia,* authorization to transport in interstate commerce up to 175,000 Mcf of natural gas per day to be imported from Canada by Northern and Natural Gas Pipeline Company of America (Natural). It is submitted that included in such filing was a *pro forma* copy of Petitioner's FERC Gas Tariff, Original Volume No. 2, which also provides for the transportation of natural gas volumes in excess of each company's respective maximum contract receipt quantity.

Petitioner states that by order issued April 24, 1981, it was authorized to construct and operate facilities proposed in its second supplemental application and to provide transportation service to Northern and Natural pursuant to Rate Schedules X-1 and X-2.

Petitioner asserts that it interprets the above-described orders issued in Docket No. CP78-124 to authorize the transportation of overrun volumes as provided for in both Original Volume Nos. 1 and 2 of its approved tariff, and, therefore, requests that the Commission clarify such orders by specifying that Petitioner, in accordance with its approved tariff, is authorized to transport overrun gas volumes.

However, if the Commission does not agree with Petitioner's interpretation Petitioner requests, in the alternative, that the orders in said docket be amended so as to authorize the transportation of overrun gas volumes in accordance with Petitioner's tariff.

Any person desiring to be heard or to make any protest with reference to said petition should on or before August 3, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of Practice and Procedure (18 CFR 1.8 or 1.10) All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19443 Filed 7-16-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP78-123-017, et al.]

Northwest Alaskan Pipeline Co.; Petition for Clarification of Orders

July 14, 1982.

Take notice that on June 11, 1982,[1] Northwest Alaskan Pipeline Company (Petitioner), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP78-123-017, *et al.* a petition pursuant to Section 1.7 of the Commission's Rules of Practice and Procedure (18 CFR 1.7) for clarification of the Commission's orders issued April 28, 1980, and June 20, 1980, in Docket No. CP78-123, *et al.* or in the alternative, for amendment pursuant to Sections 3 and 7 of the Natural Gas Act of the orders issued April 28, 1980, as amended, and April 29, 1980, so as to authorize Petitioner to import up to the daily quantities authorized for export by Pan-Alberta Gas Ltd. (Pan-Alberta) in the April 30, 1980, decision of the National Energy Board of Canada (NEB), as well as to amend its sales authorization to deliver on a best-efforts basis gas in excess of the daily contract quantities up to the amount authorized for export in the NEB's decision of April 30, 1980, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

It is submitted that by order issued April 28, 1980, in the instant dockets Petitioner was authorized to import from Canada up to 800,000 Mcf of natural gas per day to be transported through the Eastern Leg of the Alaskan Natural Gas Transportation System (ANGTS) pursuant to a gas purchase agreement with Pan-Alberta.

It is further submitted that on April 30, 1980, the NEB decisions referenced by the Commission in such order authorized six years of firm exports for delivery through the Eastern Leg of the ANGTS; for the first five years, Pan-Alberta was authorized to export, on a daily basis, up to 400,000 Mcf of gas, and in addition was granted a "tolerance of two percent by which the Licensee may exceed the daily limitation."

Petitioner states that by order issued April 29, 1980, in the instant dockets, it was authorized to sell a daily volume of 800,000 Mcf of natural gas to Northern Natural Gas Company, Division of InterNorth, Inc., United Gas Pipe Line

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[1] The application was initially tendered for filing on June 11, 1982, however, the fee required by § 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until June 14, 1982; thus, filing was not completed until the later date.

Company and Panhandle Eastern Pipe Line Company.

Petitioner asserts that because of the operational characteristics and/or market requirements of Petitioner's customers there may be days on which gas in excess of the daily contract quantity under the gas purchase and sales contracts is delivered on a best-efforts basis up to the maximum quantity of 880,000 Mcf that the NEB authorized Pan-Alberta to export on a daily basis.

Petitioner states that it interprets the above-described import authorization to allow Petitioner to import, on a daily basis, up to 880,000 Mcf of gas plus a two percent tolerance authorized for export by the NEB decision of April 30, 1980. In addition, Petitioner states that it interprets its above-described sales authorization to allow Petitioner to sell to its customers on any given day in excess of 800,000 Mcf of gas in total or the daily average annual contract quantities specified in the sales contracts with respect to each customer, as long as Petitioner's daily sales do not exceed the 800,000 Mcf daily average quantity specified in the sale contract for a contract year.

If the Commission is not in agreement with these interpretations, Petitioner requests, in the alternative, that the Commission amend the order issued April 28, 1980, so as to authorize import of up to the daily quantities authorized for export by Pan-Alberta in the NEB's April 30, 1980, decision, and to amend the order issued April 29, 1980, so as to authorize sales and deliveries on a best-efforts basis in excess of the daily contract quantities up to the amount authorized for export in the NEB's April 30, 1980, decision as long as deliveries do not exceed such quantities authorized on an average daily basis for a contract year.

Any person desiring to be heard or to make any protest with reference to said petition should on or before July 30, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19444 Filed 7-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6465-000]

Public Utility District No. 1 of Snohomish County; Application for Preliminary Permit

July 14, 1982.

Take notice that Public Utility District No. 1 of Snohomish County (Applicant) filed on June 24, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for Project No. 6465 to be known as the Boulder Creek Hydroelectric Project located on Boulder River partially within the Mt. Baker-Snoqualmie National Forest in Snohomish County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. William G. Hulbert, Jr., Manager, Public Utility District No. 1 of Snohomish County, P.O. Box 1107, Everett, Washington 98206.

Project Description— The proposed project would consist of: (1) a 10-foot-high diversion structure; (2) a 5,000-foot-long, 8-foot-diameter lined tunnel; (3) a 5,300-foot-long, 6-foot-diameter penstock; (4) a powerhouse containing a single generating unit with a rated capacity of 8,900 kW; and (5) appurtenant facilities.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested a 36-month permit to prepare a definitive project report including preliminary designs, results of geological, environmental, and economic feasibility studies. The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with the Forest Service and other Federal, State, and local agencies, preparing a license application, conducting final field surveys, and preparing designs is estimated by the Applicant to be $200,000.

Competing Applications—This application was filed as a competing application to City of Darrington's application for Project No. 5916 filed on January 22, 1982. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 16,1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB, at the above address. A copy of any petition of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19445 Filed 7-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6376-000]

Western Hydro Electric, Inc.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

July 14, 1982.

Take notice that on June 1, 1982, Western Hydro Electric, Incorporated (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. §§ 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 6376) would be located on Cabin Creek in Mason County, Washington. Correspondence with the Applicant should be directed to: Mr. Donald J. White, Vice President, Western Hydro Electric, Incorporated, Commercial Security Bank Building, Suite 600, 50 S. Main Street, Salt Lake City, Utah 84144.

Project Description—The proposed project would consist of: (1) a 32-foot-long, 4-foot-high diversion structure; (2) a 6,600-foot-long, 36-inch-diameter pipeline; (3) a 1,500-foot-long, 27-inch-diameter penstock; (4) a powerhouse containing one generating unit with an installed capacity of 1,994 kW; and (5) an approximately 7-mile-long, 12.5-kV transmission line. The Applicant estimates that the average annual energy production would be 10.5 GWh. The project is located entirely within the Olympic National Forest.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, the State of Washington Department of Fisheries, and State of Washington Department of Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none.

Other Federal, State and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before August 30, 1982 either the competing license application that Proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests or petitions to intervene must be received on or before August 30, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION","COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19448 Filed 7-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-638-000]

Arizona Public Service Co.; Filing

July 14, 1982.

The filing Company submits the following:

Take notice that on July 1, 1982, Arizona Public Service Company (Arizona) tendered for filing revised Exhibit B to the Wholesale Electric Power Agreement between Arizona and Citizens Utilities Company (Citizens).

Arizona states that this Exhibit does not affect the rates applicable to Citizens and is provided for informational purposes. Said Exhibit merely amends the anticipated contract demands for the years through 1990 and adds the years of 1991 and 1992.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 29, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19449 Filed 7-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-642-000]

Central Power & Light Co.; Filing

July 14, 1982.

The filing Company submits the following:

Take notice that Central Power and Light Company ("Company"), on July 2, 1982, tendered for filing ("Agreement"), between Company and South Texas Electric Cooperatives, Inc. and Medina Electric Cooperative, Inc. The Company has requested that the Agreement be designated as rate schedule 70 and be made effective as of May 27, 1982. The Agreement will expire on December 31, 1982 unless extended by the parties. The proposed rate for transmission services is based upon comparable service under CPL rate schedule No. 65 currently provided by Company to the Public Utility Board for the City of Brownsville, Texas.

Any person desiring to be heard or to protest the application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 30, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19469 Filed 7-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-637-000]

Connecticut Light & Power Co.; Filing

July 14, 1982.

The filing Company submits the following:

Take notice that on July 1, 1982, the Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule with respect to a Transmission Service Agreement dated December 24, 1981 between (1) CL&P, the Hartford Electric Light Company (HELCO) and Western Massachusetts Electric Company (WMEC) and (2) Braintree Electric Light Department (BELD).

CL&P states that the Transmission Agreement provides for a transmission service to BELD for the wheeling of BELD's weekly entitlement in system power pursuant to an agreement between BELD and the Vermont Marble Company, Proctor, Vermont, (VMC) for an indefinite period commencing on December 24, 1981.

The transmission charge rate is a weekly rate equal to 1/52nd of the annual average cost of transmission service on the Northeast Utilities system at the at the time that service commenced and is determined in accordance with Schedule A of the Transmission Service Agreement. The weekly transmission charge is determined by the product of (i) the transmission charge rate ($/kW-week), and (ii) the number of kilowatts which BELD is entitled to receive from VMC during such week. The weekly transmission charge is reduced by 50% to give due recognition for payments made by BELD to intervening transmission systems.

CL&P requests that the Commission waive its standard notice period and permit the Transmission Agreement to become effective on December 24, 1981.

CL&P states that copies of this rate schedule have been mailed or delivered to HELCO, WMECO and BELD.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 29, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19480 Filed 7-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-639-000]

Connecticut Light & Power Co.; Filing

July 14, 1982.

The filing Company submits the following:

Take notice that on July 1, 1982, the Connecticut Light and Power Company (CL&P) tendered for filing a Notice of Succession to reflect the merger of the Hartford Electric Light Company into CL&P, as of the close of business on June 30, 1982.

CL&P and HELCO have been wholly-owned subsidiaries of Northeast Utilities since 1966 and are not being fully merged as part of the Northeast Utilities system's continuing program to optimize efficiency of operations and simplify the system's corporate structure.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 29, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19481 Filed 7-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-644-000]

Florida Power & Light Co.; Filing

July 14, 1982.

The filing Company submits the following:

Take notice that Florida Power & Light Company (FPL), on July 2, 1982, tendered for filing documents entitled Amendment Number Eleven and Amendment Number Twelve to Agreement To Provide Specified Transmission Service Between Florida Power & Light Company and the Utilities Commission, City of New Smyrna Beach.

Amendment Number Eleven updates the rates for transmission service provided by FPL, bringing them in accord with the increased rates filed by the Commission on July 1, 1981, in *Florida Power & Light Company*, Docket No. ER81-588-000.

FPL states that under Amendment Number Twelve FPL will transmit power and energy for the Utilities Commission, City of New Smyrna Beach (New Smyrna) as is required by New Smyrna in the implementation of its interchange agreement with Orlando Utilities Commission.

FPL requests that waiver of Section 35.3 of the Commission's Regulations be granted and that the proposed Amendments be made effective immediately. FPL states that copies of the filing were served on the Director of

Utilities, Utilities Commission, City of New Smyrna Beach.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 30, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19402 Filed 7-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-643-000]

Florida Power & Light Co.; Filing

July 14, 1982.

The filing Company submits the following:

Take notice that Florida Power & Light Company (FPL), on July 2, 1982, tendered for filing documents entitled Amendment Number Seven to Agreement To Provide Specified Transmission Service Between Florida Power & Light Company and Tampa Electric Company.

Amendment Number Seven updates the rates for transmission service provided by FPL, bringing them in accord with the increased rate filed by the Commission on July 1, 1981, in *Florida Power & Light Company,* Docket No. ER81-588-000.

FPL requests that waiver of Section 35.3 of the Commission's Regulations be granted and that the proposed Amendment be made effective immediately. FPL states that copies of the filing were served on the Manager, Inter-System Planning, Tampa Electric Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 30, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19403 Filed 7-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-645-000]

Pacific Gas & Electric Co; Filing

July 14, 1982.

The filing Company submits the following:

Take notice that Pacific Gas and Electric Company (Pacific) on July 6, 1982, tendered for filing an Economy Energy Contract between Pacific and Arizona Electric Power Cooperative (Aepco) dated June 1, 1982.

The Contract provides for non-firm energy sales between the Parties at mutually agreed upon times and locations as scheduled by the Parties' dispatchers. The rates for such sales shall be either in the form of an average of the Seller's incremental energy cost and the Purchaser's decremental energy cost, or at a rate mutually acceptable by both Parties with the intent of providing a benefit to each Party. In addition, on or about the first day of the following month, the Seller shall render a bill to the Purchaser for such transactions to be payable within fifteen (15) days of receipt of said bill.

Any transmission charges and energy losses incurred during transmission of such economy energy shall be shared equally by both Parties unless otherwise agreed to by the Parties.

Pacific respectfully requests, pursuant to Section 35.11 of the Commission's Regulations waiver of the Commission's usual notice requirement so as to permit an effective date for the Contract of June 1, 1982. No customers under any other rate schedules will be affected if such waiver is granted.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protest should be filed on or before July 30, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants Parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19404 Filed 7-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-641-000]

Pacific Gas & Electric Co.; Filing

July 14, 1982.

The filing Company submits the following:

Take notice that on July 2, 1982, Pacific Gas & Electric Company (PG&E) tendered for filing a Certificate of Concurrence, attached, for the Portland General Electric Company's filing of the Energy Sales and Exchange Agreement between the Portland General Electric Company and PG&E.

PG&E states that the above mentioned Agreement provides for the terms and conditions for sales and exchanges of power between both companies. This agreement, which supersedes the Letter of Intent dated November 6, 1980 will continue until termination on any June 30 provided a written notice is given three years in advance.

PG&E requests an effective date of November 1, 1980, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 29, 1982. Protests will be considered by the Commission in determining the appropriate action taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19405 Filed 7-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-640-000]

Southwestern Public Service Co.; Filing

July 14, 1982.

The filing Company submits the following:

Take notice that Southwestern Public Service Company (Southwestern) on July 2, 1982, tendered for filing a Contract Amendment for electric power service to Farmer's Electric Cooperative, Inc., Clovis, New Mexico (FEC). The service is to be rendered through Southwestern's 115 KV transmission system to its connection with FEC.

Southwestern states that FEC is a Full Requirements customer and the Contract Amendment provides for Full Requirements Electric Service to FEC's new 115/69 KV interchange near Tucumcari, New Mexico, under rate schedules currently filed and allowed by this Commission, subject to refund, in Docket No. ER80-573, for Full Requirements customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 29, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19496 Filed 7-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-168-000]

Steam Supply Co.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

July 13, 1982.

On June 28, 1982, Steam Supply Co., c/o James U. Hamersley, Counsel, 1700 K Street, Suite 1301, Washington, D.C. 20006, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to section 292.207 of the Commission's rules.

The biomass small power production facility will be located in Tulsa, Oklahoma. The primary energy source will be biomass in the form of municipal solid waste. Use of natural gas in the facility will not exceed one percent of the total Btu input. The electric power production capacity of the facility will be 13 megawatts. The facility will be capable of producing steam for sale to Tulsa Refining, Inc. Applicant owns no other small power production facilities which are located within one mile of the facility and uses the same energy source. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street,NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commision's Rules of Practice and Procedure. All such petitions or protests must be filed on or before August 18, 1982 and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19497 Filed 7-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-626-000]

Western Massachusetts Electric Co.; Filing

July 13, 1982.

The filing Company submits the following:

Take notice that on June 28, 1982, Western Massachusetts Electric Company (WMECO) tendered for filing as a change in rate schedule the Fairmont-Holyoke 115 kV Interconnection Agreement (Agreement), dated as of May 15, 1980 between WMECO, Holyoke Water Power Company (HWP) and City of Holyoke, Massachusetts Gas and Electric Department (City of Holyoke).

WMECO states that the Agreement supersedes two agreements: Interconnection and Capacity Coverage Agreement, dated April 20, 1966 as amended and Supplemented, between WMECO and City of Holyoke (WMECO Rate Schedule FPC No. 31) and Interconnection Agreement, dated November 8, 1967, between WMECO, HWP and City of Holyoke (WMECO Rate Schedule No. FPC No. 36: HWP Rate Schedule No. FPC No. 13). Both the above agreements expired by their terms on December 31, 1972.

WMECO states that the Agreement provides for continued use by City of Holyoke of transmission facilities owned by WMECO and HWP and that the Agreement provides for adjustment in the payments made by the City of Holyoke to WMECO and HWP in order to reflect changes in the costs experienced by WMECO and HWP after January 1, 1973 and after January 1, 1979.

WMECO requests that the Commission, pursuant to Section 35.11 of its regulations, waive its customary notice period and permit the Agreement to become effective January 1, 1973.

WMECO states that copies of the Agreement and filing have been mailed to HWP and City of Holyoke.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 26, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19498 Filed 7-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-627-000]

Western Massachusetts Electric Co.; Filing

July 13, 1982.

The filing Company submits the following:

Take notice that on June 28, 1982, Western Massachusetts Electric Company (WMECO) tendered for filing as an initial rate schedule the Southampton-Holyoke 115 kV Interconnection Agreement (Agreement), dated as of May 15, 1980 between WMECO and City of Holyoke,

Massachusetts Gas and Electric Department (City of Holyoke).

The Agreement provides for an interconnection of the electric system of the City of Holyoke with that of WMECO at its 115 kV Agawam-Midway transmission line in Southampton, Massachusetts.

WMECO requests that the Commission, pursuant to Section 35.11 of its regulations, waive its customary notice period and permit the Agreement to become effective January 1, 1982.

WMECO states that copies of the Agreement and filing have been mailed to City of Holyoke.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 26, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19499 Filed 7-16-82; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[AD FRL 2158-3; Docket No. A-79-01]

Denial of Petitions for Reconsideration of Stack Height Regulations; Clean Air Act

AGENCY: Environmental Protection Agency [EPA]

ACTION: Notice of denial of petitions for reconsideration of stack height regulations.

SUMMARY: On February 8, 1982 (47 FR 5864), EPA published rules required under Section 123 of the Clean Air Act to assure that the degree of emission limitation required for the control of any air pollutant under an applicable State Implementation Plan is not affected by any stack height exceeding good engineering practice height, or by any other dispersion technique. The Sierra Club Legal Defense Fund, Inc., the Natural Resources Defense Council, Inc., and the Commonwealth of Pennsylvania have petitioned the Administrator to reconsider the stack height regulations. EPA is denying the petitions on the grounds that the petitioners did not submit any new information warranting reconsideration of the rules.

DATE: This determination is effective immediately.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce Polkowsky, MD-15, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711. Telephone: (919) 541-5540.

SUPPLEMENTARY INFORMATION:

A. Docket Statement

The petitions for reconsideration and all pertinent information concerning the development of the stack height rules have been filed in Docket No. A-79-01. The Docket is open for inspection by the public between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, at the EPA Central Docket Section (A-130), West Tower Lobby, Gallery One, 401 M Street, S.W., Washington, D.C. 20460. Background documents normally available to the public, such as **Federal Register** notices and Congressional reports, are not included in the docket. A reasonable fee may be charged for copying documents.

B. Background

Section 123 of the Clean Air Act requires EPA to promulgate rules to assure that the degree of emission limitation required for the control of any air pollutant under an applicable State Implementation Plan (SIP) is not affected by stack heights exceeding good engineering practice (GEP) height or any other dispersion technique.

EPA proposed rules to establish limitations on stack heights and other dispersion techniques on January 12, 1979 (44 FR 2608). A public hearing was held in May 1979 (44 FR 24329), and an additional opportunity to comment on revised technical documents was provided in May 1981 (46 FR 24596). On October 7, 1981 (46 FR 49814) EPA proposed to make certain changes in the rules in response to comments received (the second proposal).

EPA promulgated the stack height rules on February 8, 1982 (47 FR 5864). The final rules contain some additional minor changes made in response to comments submitted on the second proposal.

On April 6, 1982 Sierra Club Legal Defense Fund, Inc. (Sierra Club) and the Natural Resources Defense Council, Inc. (NRDC) filed a joint petition for reconsideration of these rules. The Commonwealth of Pennsylvania filed a petition for reconsideration on April 20, 1982.

The joint petition from Sierra Club and NRDC appears to have been submitted pursuant to section 307(d)(7)(B) of the Act.[1] The Commonwealth has not named a statutory basis for its petition.

Section 307(d) applies only to certain enumerated Agency actions, not including the promulgation of regulations under section 123. See section 307(d)(1). Therefore, EPA has decided to treat both petitions as petitions for revision of a rule under section 3(e) of the Administrative Procedure Act, 5 U.S.C. 553(e), which establishes a general right to petition for issuance, amendment or repeal of an agency rule. The standard of review for a petition for revision is whether the petitioner has presented new information that warrants reconsideration of the rule. See generally *Oljato Chapter of Navajo Tribes* v. *Train*, 515 F. 2d 654 (D.C. Cir 1975). Under this standard, EPA has concluded that these petitioners have presented no information warranting revision of the stack height rules.

C. Petitions for Reconsideration

1. Substantive Objections.

Neither petition presents new factual information or new policy arguments. Instead, the petitioners object to certain modifications made in response to comments submitted in response to the second notice of proposed rulemaking. In essence, petitioners are challenging EPA's decision to change its proposed rules without providing an additional opportunity to comment.

It is clear that the Agency is not required to reconsider its rules in light of such a claim. If petitions for revision were to be granted on such grounds, the Agency would be required to repropose its rules every time it modified a proposal in response to comments. The Administrative Procedure Act does not require such a result. *See, e.g., International Harvester Co.* v. *Ruckelshaus*, 478 F. 2d 615, 632 (D.C. Cir. 1973). Substantial changes in the original plan may be made provided they are in character with the original scheme and a logical outgrowth of the comments already received. *BASF Wyandotte Corp.* v. *Costle*, 598 F. 2d 637 (1st Cir.

[1] Section 307(d)(7)(B) provides that the Administrator shall convene a proceeding to reconsider certain actions enumerated in Section 307(d)(7)(B) if a person raising an objection can demonstrate that 1) it was impracticable to raise such objection during the comment period or that grounds for the objection arose after the comment period, and 2) the objection is of central relevance to the rule.

1979), and *Sierra Club* v. *Costle*, 657 F. 2d 298 (D.C. Cir. 1981).

The Agency has discretion, of course, to grant a petition for revision even where reconsideration is not clearly required. However, the Agency has concluded that petitioners' arguments do not warrant reconsideration of this rulemaking. All of the modifications cited by petitioners are logical outgrowth of comments submitted during the comment period on the second proposal. None were based on any new factual information that had not been subject to public scrutiny.

Moreover, in this rulemaking the Agency provided a 15-day "rebuttal period" after the close of the standard comment period on the second proposal. The purpose of this rebuttal period was to allow members of the public to address issues raised by other comments submitted during the comment period. Accordingly, EPA believes that petitioners have already had an opportunity to comment on the comments that persuaded the Agency to modify the second proposal.

EPA has prepared a support document containing brief responses to petitioners' major contentions. This document has been placed in Docket A–79–01. Copies can be obtained from the Central Docket Section or by writing to Mr. Bruce Polkowsky at the address given above.

2. Objections to Contacts with Persons Outside the Agency.

Sierra Club and NRDC also objected to three contacts with persons outside the Agency which are documented in Docket No. A–79–01.

First, Sierra Club and NRDC note that a January 25, 1982 letter from Congressman Richard Shelby to the Administrator refers to an earlier telephone call. The letter states that the call concerned Congress' review of the Clean Air Act. Sierra Club and NRDC infer that the Administrator and Congressman Shelby also discussed the stack height regulations because the letter states "as you know, I and some of my colleagues have been particularly concerned with the unjustifiable costs" of implementing Section 123. Sierra Club and NRDC request EPA to meet the requirements of Section 307(d)(5) by placing a record of the conversation in the docket.

As explained above, this rulemaking is not subject to the requirements of Section 307(d). Nevertheless, EPA would comply with this request if the conversation pertained to the stack height rules and if a record of the conversation existed. No record of any such conversation has been found. However, EPA has discovered a previous letter from Congressman Shelby to the Administrator which had been inadvertently omitted from the stack height docket. A copy has been placed in Docket No. A–79–01. This earlier letter explains the Congressman's assumption that the Administrator was already aware of his concerns about the stack height regulations. It contains no new factual information which affected the Administrator's decision.

Second, Sierra Club and NRDC object to EPA's consideration of five comments filed after the close of the comment period on the second notice of proposed rulemaking. The two groups request EPA to withdraw any changes to the rules which were based on these comments.

EPA has a long-standing general practice of accepting late comments. This practice was generally affirmed by the U.S. Court of Appeals for the District of Columbia Circuit in *Sierra Club* v. *EPA*, 657 F. 2d 298 (D.C. Cir 1981). So long as the such comments do not contain information that is vital to the support of the rule, EPA may consider them without providing an additional opportunity to comment.

Sierra Club and NRDC have not shown that any of the five comments submitted late in this rulemaking contained information vital to the stack height rules. EPA has reviewed the comments, and concluded that none contains such information.

Finally, Sierra Club and NRDC object to a meeting between EPA staff and representatives of the Utilities Air Regulatory Group held on November 29, 1981. This meeting was held at the request of the utilities for the purpose of explaining comments they had filed during the comment period. Sierra Club and NRDC characterize this meeting as an improper *ex parte* contact.

This meeting was not improper, although EPA was required to make a written record of the meeting and place it in the docket. See generally *Sierra Club* v. *Costle*, 657 F. 298 (D.C. Cir. 1981). EPA has fulfilled this obligation (see Docket Entry No. IV–E–9). Additionally, as noted in the written record of the meeting, the meeting concerned theories and data already presented to the Agency in the utilities' comments. Therefore, no new information that could have affected the Agency's action was provided at the meeting.

D. Conclusion

For the reasons described above, I have determined that the petitions for reconsideration filed by Sierra Club, NRDC and the Commonwealth of Pennsylvania present no new information warranting the reopening of the stack height rules promulgated on February 8, 1982. Accordingly, the petitions are denied.

Although the requirements of Section 307(d) do not apply, under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the District of Columbia Circuit within 60 days of today's date.

Dated: July 13, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82–19463 Filed 7–16–82; 8:45 am]

BILLING CODE 6560–25–M

FEDERAL HOME LOAN BANK BOARD

FSLIC Bidding Guidelines for Fidelity Federal Savings & Loan Association of San Francisco

A. On April 15, 1982, the Federal Savings and Loan Insurance Corporation ("FSLIC") held a bidding conference in San Francisco, California, to solicit bids for the acquisition of Fidelity Federal Savings and Loan Association of San Francisco, also known as Fidelity Savings of San Francisco ("Fidelity"). As part of that conference the FSLIC staff invited a number of banks, bank holding companies, savings and loan associations, savings and loan holding companies and other financial institutions in California and elsewhere. Bids were to be submitted to the FSLIC no later than May 14, 1982.

B. A number of bids were received from institutions headquartered in California and elsewhere. Each bid has been carefully reviewed by the FSLIC staff from the standpoint of the cost to the FSLIC of requested assistance for the acquisition and conformity with state and federal laws and regulations. In addition, an evaluation was made of the overall viability of each bid taken as a whole.

C. As a result of this review the staff of the FSLIC has preliminarily determined that the bid submitted by Citicorp (the "benchmark bid") is substantially more favorable to depositors, Fidelity and the FSLIC. In view of the unusual interest which the Fidelity bidding process has raised, the interstate and interindustry nature of the benchmark bid, and the exceptionally large size of the institution to be acquired, the FSLIC staff has decided that a further round of bidding will be held. The second round of bidding will be governed by the procedures set forth below.

Bidding Procedures

1. *Eligible bidders.* Any savings and loan association or commercial bank, or an authorized holding company of either, may participate in the bidding if it meets each of the following conditions for eligibility:

a. The bidder is chartered by the State of California or by the United States (or an agency of the United States);

b. The bidder is headquartered and has its principal business operations in California;

c. The bidder has total assets of at least $500 million if a savings and loan association or savings and loan holding company, or total assets of at least $1 billion if a commercial bank or bank holding company.

2. *First Round Bidders.* Each eligible bidder that submitted a timely bid during the first round ("First Round Bidder") will be provided a summary of the benchmark bid, on July 16, 1982, and may submit a revised bid. If an acceptable bid from a First Round Bidder is received by FSLIC before the Bidders Conference, the conference will not be held, but the FSLIC staff may determine to allow other First Round Bidders to submit bids until the close of business on August 2, 1982, as described in paragraph 6 below. If no acceptable bid from a First Round Bidder is received before the Bidders Conference, but such a bid is received prior to the August 2, 1982, deadline, no bid from a non-First Round Bidder will be opened or considered. An acceptable bid is a bid that the FSLIC staff determines is appropriate for recommendation to the Federal Home Loan Bank Board ("Bank Board"). A bid deemed "acceptable" will not necessarily be the bid finally recommended by the FSLIC staff to the Bank Board for approval.

3. *Absence of New Acceptable Bids.* If no acceptable bid from an eligible bidder or acceptable revised bid from a First Round Bidder is received in accordance with these procedures by August 2, 1982, the FSLIC staff will present the benchmark bid to the Bank Board.

4. *Bidder's Package.* Each eligible bidder will be furnished with a Bidder's Package containing a summary of the benchmark bid, together with a set of materials describing the assets, liabilities and operations of Fidelity. The information contained in the Bidder's Package or otherwise provided during the course of the bidding is confidential. Bidders will be required to sign a protective statement limiting its use to the bidding process as a condition of receipt. Fidelity has agreed to allow bidders access to its books and records at reasonable times and places by appointment upon request made through its Supervisory Agent.

5. *Bidder's Conference.* Subject to the provisions of item 2 above, the Bidder's Package will be distributed to non-First-Round Bidders at a Bidders Conference on July 22, 1982, at 10:00 a.m. in the Washington, D.C. offices of the FSLIC. While questions will be answered at that conference, these written procedures will govern in the case of any inconsistency or dispute.

6. *Return Date.* A bid may be submitted only by completing the Bid Form which will be distributed at the conference, and signing the Bid Form as indicated. Bids must be returned to the Director at 1700 G Street, N.W., Washington, D.C., Attn: *Gene Hall* no later than the close of business on August 2, 1982. Bids received after this date will not be evaluated and will be returned without comment or action.

7. *Bid Contents.* The signed Bid Form (with any attachments) constitutes a bid, which will be considered an offer to acquire Fidelity. A bid should also be summarized in a cover memorandum of no more than 2 pages. Attachments to the Bid Form may include such other information as a bidder thinks fit. As a minimum, information provided in the bid should include: (1) a concise statement of the price the bidder is willing to pay and/or the amount of capital to be infused into Fidelity; (2) the amount, nature and timing of any requested financial assistance; (3) the legal form and structure of the acquisition and the resulting entity, identifying any legal or regulatory approvals necessary; (4) a fully-supported and justified set of pro forma financial and cash-flow statements for the resulting entity for the five years following the acquisition; (5) interest rate assumptions used in calculating the bid including alternate assumptions if more than one scenario is included; (6) the nature and duration of any Supervisory Forbearance requested, and; (7) all other material terms of the proposed transaction, in sufficient detail to enable FSLIC to evaluate the bid. If a bidder is in material actual competition with Fidelity in any geographic and product market, the bid should also contain a statement of the anticipated effect on competition if that bid is accepted. Schedule 1 to the Bid Form sets out a list of items suggested, but not required, as part of each bid.

8. *Evaluation.* All bids will be evaluated in comparison with the benchmark bid and each other in the light of all relevant factors and circumstances. The FSLIC staff reserves the right to determine whether any bid is submitted in accordance with these procedures and to waive any technical or formal defect therein.

a. Each bid will be reviewed for:

(1) Cost to the FSLIC of requested assistance for the acquisition;

(2) Conformity with state and federal laws and regulations;

(3) Demonstrated degree of managerial and financial resources of the bidding institution;

(4) Ability of the bidding institution to immediately accept and successfully operate an acquisition of this size;

(5) Validity of financial plans and forecasts contained as elements of the bid;

(6) Feasibility of the proposed plan of business operations after acquisition; and

(7) Overall impact of the proposed acquisition on the convenience and needs of the community to be served, and on competition in relevant markets.

b. The FSLIC will also take into consideration the competitive or anti-competitive effects of the transaction proposed by any bid, the views of the Attorney General on the competitive factors involved in any bid for the acquisition of Fidelity by a savings and loan holding company, and any other relevant factors which may appear from a bid or from its analysis of the bidding institution.

c. The FSLIC will give preference to a bid from a bidding institution headquartered in the State of California unless a comparison of that bid with the benchmark bid indicates that the insurance liability or risk to the FSLIC resulting from the benchmark bid will be substantially less than the insurance liability or risk that would result from the bid submitted by a California-based institution. *See* 12 CFR 556.5. In this regard, the viability of the resulting institution as well as the cost of requested assistance from FSLIC, as both may be evidenced by, among other things, factors set forth in item 8(a) above, will be significant considerations.

d. If two or more acceptable bids are received from institutions headquartered in California, the FSLIC will give preference to that bid which has the lowest insurance liability and risk to the FSLIC.

e. Notwithstanding any of the above, a bid

(1) Will not be accepted if it would result in a monopoly or would be in furtherance of any combination or conspiracy to monopolize or an attempt to monopolize the savings and loan business in any part of the United States, and

(2) Will not be accepted if it would substantially lessen competition in any section of the country, or tend to create a monopoly, or in any other manner would be in restraint of trade, *unless* the FSLIC finds that the anticompetitive effects of the proposed acquisition are clearly out-weighed in the public interest by the probable effect of the acquisition in meeting the convenience and needs of the community to be served.

f. The FSLIC expects to announce the successful bid not later than August 16, 1982. Each participating bidder will be notified by telephone. A written acceptance or rejection letter will follow by first-class mail.

9. *Further Negotiations.* Completion of the transaction is subject to satisfactory documentation based on further direct negotiations to be conducted between the FSLIC and the institution submitting the bid. In particular, it should be noted that with respect to any negative spread assistance, the cost of money calculations should be reflective of the average cost of savings and borrowings other than from the Federal Home Loan Bank of San Francisco for savings and loan associations in the Federal Home Loan Bank of San Francisco District or some other mutually agreeable index. Final acceptance of any bid is subject to approval by the Federal Home Loan Bank Board.

10. *Disclosure.* The FSLIC staff reserves the right to disclose to any bidder, or to the institution which submitted the benchmark bid, the Bid Form and any other materials submitted by any bidder in the second round.

11. *Later Proceedings.* If no bid is clearly favorable, the FSLIC reserves the right to request subsequent bids from the most favorable in-state bidder and from Citicorp in a final round.

12. *Further Information.* The FSLIC staff may contact bidders by telephone for further information to clarify, explain or expand on the terms of a bid.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82-19861 Filed 7-16-82; 11:53 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Item Submitted for OMB Review

The Federal Maritime Commission hereby gives notice that the following item has been submitted to OMB for review pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, et seq.). Interested parties may obtain a copy of the item and the justifications submitted from Ronald D. Murphy, Agency Clearance Officer, Federal Maritime Commission, 1100 L Street, NW., Room 9305, Washington, D.C. 20573, telephone number (202) 523-5326.

Comments may be submitted to the Agency Clearance Officer and Jim Hedlund, Desk Officer, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., Room 3228, Washington, D.C. 20503, telephone number (202) 395-7340. All comments should be submitted on or before August 3, 1982.

Summary of Item Submitted for OMB Review

46 CFR 536—Publishing and Filing of Tariffs by Common Carriers by Water in the Foreign Commerce of the U.S.—Currency Adjustment Factors. (Docket 82-36)

The proposed rule prescribes the form and manner in which ocean carriers may file currency adjustment factors in their tariffs to offset fluctuations in currencies. The proposed rulemaking is intended to require a carrier, if he chooses to use Currency Adjustment Factors, to file a tariff provision incorporating currency schedules allowing for surcharges and discounts. The Commission estimates that approximately 415 U.S. foreign commerce common carriers will amend at least 3 tariffs each to reflect the currency surcharge provision in their tariffs for a total burden of 9960 man hours. Total estimated annual cost to the Government is $9500.

Francis C. Hurney,

Secretary.

[FR Doc. 82-19477 Filed 7-16-82; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Company; Notice of Proposed de Novo Nonbank Activities

The bank holding company listed in this notice has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to the application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on the application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for the application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than date indicated on the application.

A. Federal Reserve Bank of New York. (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Manufacturers Hanover Corporation*, New York, New York (consumer finance, sales finance, and credit insurance activities; California): To engage through a *de novo* office of its indirect subsidiary, Finance One of California, Inc., in the activities of making or acquiring loans and other extensions of credit, secured or unsecured, such as could be made or acquired by a finance company under California law; servicing such loans and other extensions of credit; and offering credit-related life insurance; such activities will include, but not be limited to, making consumer installment loans, purchasing installment sales finance contracts, making loans and other extensions of credit secured by real and personal property, and offering credit-related single and joint life insurance and decreasing or level term (in the case of single payment loans) life insurance, directly related to extensions of credit made or acquired by Finance One of California, Inc., by licensed agents or brokers to the extent permissible under applicable state insurance laws and regulations. This office will be located in Walnut Creek, California, serving Del Norte, Siskiyou, Modoc, Humboldt, Trinity, Shasta, Lassen, Mendocino, Tehama, Plumas, Butte, Glenn, Lake, Colusa, Sutter, Yuba, Sierra, Nevada, Placer, Sonoma, Napa, Yolo, El Dorado, Marin, Sacramento, Amador, San Francisco, Contra Costa, San Joaquin,

San Mateo, Alameda, Calavaras, Alpine, Mono, Solano, Tuolumne, Stanislaus, Santa Clara, and Santa Cruz Counties, California. Comments on this application must be received not later than August 12, 1982.

Board of Governors of the Federal Reserve System, July 13, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-19429 Filed 7-16-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Harleysville National Corporation* Harleysville, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of Harleysville National Bank and Trust Company, Harleysville, Pennsylvania. Comments on this application must be received not later than August 12, 1982.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 marietta Street, N.W., Atlanta, Georgia 30303:

1. *First Bank Holding Company,* Treasure Island, Florida; to become a bank holding company by acquiring 80 percents of the voting shares of First Bank of Pinellas County, Treasure Island, Florida. Comments on this application must be received not later than August 12, 1982.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *HNB Corporation,* Huntsville, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of the successor by merger to Huntsville National Bank, Huntsville, Texas. Comments on this application must be received not later than August 12, 1982.

Board of Governors of the Federal Reserve System, July 13, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-19430 Filed 7-16-82; 8:45 am]

BILLING CODE 6210-01-M

Federal Open Market Committee; Domestic Policy Directive of May 18, 1982

In accordance with § 217.5 of its rules regarding availability of information, there is set forth below the Committee's Domestic Policy Directive issued at its meeting held on May 18, 1982.[1]

The information reviewed at this meeting suggests that real GNP will change little in the current quarter after the appreciable further decline in the first quarter, as business inventory liquidation moderates from last quarter's extraordinary rate. In April the nominal value of retail sales expanded, while industrial production and nonfarm payroll employment continued to decline. The unemployment rate rose 0.4 percentage point to 9.4 percent. Although housing starts edged up in March for the fifth consecutive month, they remained at a depressed level. The rate of increase in prices on the average appears to be slowing somewhat further in the current quarter; so far this year both the consumer price index and the producer price index for finished goods have risen little on balance, and the advance in the index of average hourly earnings has remained at a reduced pace.

The weighted average value of the dollar against major foreign currencies, after rising somewhat further in early April, has fallen sharply over the past month, reflecting in part a decline in U.S. interest rates relative to foreign rates and market expectations of further declines. The U.S. foreign trade deficit in the first quarter was one-third less than in the preceding quarter.

M1 increased sharply in April, but the expansion was concentrated in the first half of the month and was largely retraced later. Growth of M2 moderated somewhat, owing to a slackening of the expansion in the nontransaction component. Short-term market interest rates and bond yields on balance have declined since the end of March, and mortgage interest rates have edged down further.

The Federal Open Market Committee seeks to foster monetary and financial conditions that will help to reduce inflation, promote a resumption of growth in output on a sustainable basis, and contribute to a sustainable pattern of international transactions. At its meeting in early February, the Committee agreed that its objectives would be furthered by growth of M1, M2, and M3 from the fourth quarter of 1981 to the fourth quarter of 1982 within ranges of 2½ to 5½ percent, 6 to 9 percent, and 6½ to 9½ percent respectively. The associated range for bank credit was 6 to 9 percent.

In the short run, the Committee seeks behavior of reserve aggregates consistent with growth of M1 and M2 from March to June at annual rates of about 3 percent and 8 percent respectively. The Committee also noted that deviations from these targets should be evaluated in light of changes in the relative importance of NOW accounts as a savings vehicle. The Chairman may call for Committee consultation if it appears to the Manager for Domestic Operations that pursuit of the monetary objectives and related reserve paths during the period before the next meeting is likely to be associated with a federal funds rate persistently outside a range of 10 to 15 percent.

By order of the Federal Open Market Committee, July 13, 1982.

Murray Altmann,

Secretary.

[FR Doc. 82-19431 Filed 7-16-82; 8:45 am]

BILLING CODE 6210-01-M

[1] The Record of Policy Actions of the Committee for the meeting of May 18, 1982, is filed as part of the original document. Copies are available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Assiniboine and Sioux Tribes, Fort Peck Indian Reservation, Poplar, Montana; Transfer of Federally Owned Lands

July 7, 1982.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.1.

On March 2, 1982, pursuant to authority contained in the Federal Property and Administrative Services Act of 1949, as amended by Pub. L. 93-599 dated January 2, 1975 (88 Stat.

1954), the below-described property was transferred by the Administrator of the General Services Administration to the Secretary of the Interior without reimbursement, to be held in trust by the United States for the benefit and use of the Assiniboine and Sioux Tribes, Fort Peck Indian Reservation, Poplar, Montana:

Tract 2

All that part of the NW¼NW¼ of Section 23, T 27 N., R. 42 E., Montana Meridian, lying between two lines parallel to and distant, respectively, 50 feet northwesterly and 135 feet southeasterly from the following described center line: Beginning at a poing in the north line of the NW¼NW¼ of Section 23, distant easterly 220.3 feet from the NW section corner; thence southwesterly along a stright line, a distance of 278.6 feet to a point in the west line of the NW¼NW¼, Section 23, making an angle of 52 degrees, 13 minutes, distant southerly 170.8 feet from the NW section corner thereof, containing 1.56 acres more or less, being a right-of-way through and across Indian Allotment 1320, Fort Peck Indian Reservation.

Tract 2A

All that part of the NE¼NE¼ of Section 22, T 27 N., R. 42 E., Montana Meridian, lying between two lines parallel to and distant, respectively, 50 feet northwesterly and 135 feet southerly from the following center line: Beginning at a point in the east line of the NE¼NE¼ of Section 22, distant southerly 170.8 feet from the NE¼ corner thereof; thence southwesterly along a stright line, making an angle of 52 degrees, 13 minutes, with said line, a distant of 1366.6 feet to a point of curve, thence southwesterly along a curve to the left, having a radius of 955.366 feet, a distance of 247.1 feet to a point of tangent, thence southwesterly along a straight line, a distance of 117.1 feet to a point in the west line of said NE¼NE¼ of Section 22, distant southerly 1279.6 feet from the northwest corner thereof, containing 7.37 acres more or less, being a right-of-way through and across Indian Allotment No. 1322, Fort Peck Indian Reservation.

Tract 27

Lots 3, 4, 5, 6, and 7, Block 8
Lots 4 and 5, Block 9
Townsite of Milk River, Valley County, Montana, containing 7,000 sq. ft. each, total 49,000 sq. ft.

Tract 28

Lots 1, Block 8
Townsite of Milk River, Valley County, Montana, containing 7,000 sq. ft.

Tract 29

Lots 8, Block 9
Townsite of Milk River, Valley County, Montana, containing 7,000 sq. ft.

Tract 30

Lots 8, Block 9
Townsite of Milk River, Valley County, Montana, containing 7,000 sq. ft.

These lands are to be treated as and receive the same benefits and protection as other trust lands held for the benefit and use of the Assiniboine and Sioux Tribes. Appropriate notation will be made in the land records of the Bureau of Indian Affairs.

Kenneth Smith

Assistant Secretary—Indian Affairs.

[FR Doc. 82-19481 Filed 7-16-82; 8:45 am]

BILLING CODE 4310-02-M

Proposed Sanitary Landfill Project on Port Gamble Klallam Indian Reservation, Washington; Intent To Prepare an Environmental Impact Statement and Notice of Public Scoping Meetings

July 6, 1982.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Intent.

SUMMARY: This notice advises the public that the Bureau of Indian Affairs intends to have prepared and to issue an Environmental Impact Statement (EIS) on a lease (25 CFR Part 131) of part of the Port Gamble Klallam Indian Reservation in Washington for use as a sanitary landfill. This notice is being published as required by the National Environmental Policy Act (NEPA) regulations (40 CFR 1501.7) to obtain information and comments from other agencies and the public on the scope of issues to be addressed in the EIS. Participation in this scoping process by all interested parties is solicited. Public scoping meetings will be held.

DATES: Two public scoping meetings will be held on August 11, 1982 at the Klallam Tribal Community Center on Little Boston Road, within the Klallam Indian Reservation. These meetings will commence at 2 p.m. and 7 p.m. The meeting location is approximately 7 miles northwest of Kingston, Kitsap County, Washington; Little Boston Road may be reached from the Hansville Road. In accordance with the Council on Environmental Quality Regulations for implementing procedural provisions of the National Environmental Policy Act (40 CFR 1501.7, 1506.6), the purpose of these meetings will be to determine the scope of issues to be addressed in the EIS and to identify significant issues related to the proposed action. Comments may be presented orally or in writing at the public scoping meetings. Written comments to supplement or in lieu of oral presentations should be received by September 1, 1982 to be included in the scoping record.

ADDRESSES: Comments should be addressed to: Area Director, Bureau of Indian Affairs, Portland Area Office, P.O. Box 3785, Portland, Oregon 97208.

FOR FURTHER INFORMATION CONTACT: Bob Taylor, Environmental Coordinator, Bureau of Indian Affairs, Portland Area Office, P.O. Box 3785, Portland, Oregon 97208, Telephone: (503) 231-2208, (FTS) 429-2208.

SUPPLEMENTARY INFORMATION: The Port Gamble Klallam Tribe proposes to negotiate a lease agreement providing for the use of approximately 40 acres of reservation lands as a sanitary landfill facility. The Tribe's purpose in proposing this project is to diversify from the existing, limited economic base of fishing and timber production and provide additional economic development opportunity for the Tribe. Review and approval of the negotiated lease agreement by the Bureau of Indian Affairs will be required.

The basic design concept for the proposed sanitary landfill project is the compaction and baling (with an impermeable cover) of solid wastes before their transport or emplacement in the landfill. This concept will provided ease of handling, result in significant (5-to-1 or greater) volume reduction, minimize the loss of windblown wastes, and minimize infiltration of water into the wastes and resulting leachate production. Only nontoxic, nonhazardous wastes will be accepted in the landfill.

The primary identified user and leasee of the proposed sanitary landfill would be Marine Disposal Corporation, which collects commercial solid wastes in the Seattle area. The waste stream from this source is estimated at 1,000 tons per day; at the rate, the 40-acre landfill site would have an estimated lifetime of 10 years. Compaction and baling of solid wastes will be done by Marine Disposal Corporation in Seattle. The bales, approximately 3' x 3' x 4' in size and 2,500 pounds, will be transported across Puget Sound by barge to Port Gamble Bay.

The Port Gamble Klallam Tribe's proposed project includes a timber pile dock approximately 500' long in Port Gamble Bay to receive baled wastes, an electrically-powered tramway system to carry bales over the shoreline bluff to an evaluation of about 120', a staging area where bales will be transferred to flatbed trucks, and a haul road (located entirely within reservation lands) of about 2 miles to the landfill site which will be dedicated to project use.

The landfill site is located in the northeast corner of the reservation, a little more than ½ mile inland from Hood Canal, in an area that was logged in about 1977. The site has a maximum existing elevation of more than 320', with over 100' of topographic variation.

Portions of the site are located in both the Little Boston Creek and North Creek drainages, which empty into Port Gamble Bay and Hood Canal. Excavation of approximately 1.9 million cubic yards of soils would be required for cover material. The excess materials would be available for sale or local fill.

The landfill would be developed in sequential cells over its lifetime. Operations would include the emplacement of daily lifts of solid waste bales and covering with soil at the end of each day. The preliminary landfill design does not include either a constructed liner or a leachate control system.

The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4371 et seq.), Council on Environmental Quality regulations (40 CFR Parts 1500–1508), and the Department of Interior procedures (516 DMI–6) for compliance with those regulations.

We estimate that a draft EIS will be made available to the public about November 30, 1982.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM8.

Wilford G. Bowker,

Acting Area Director.

[FR Doc. 82–19470 Filed 7–16–82; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

Notice of Filing Period for Good Neighbor Program Applications

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Period for Filing Applications Under the Good Neighbor Program.

SUMMARY: In February 1981, the Secretary of the Interior initiated a "Good Neighbor Program," designed to make public lands available for a wide range of recreation and public purposes. The Secretary invited the Western Governors to identify Federal lands needed for community expansion or other public purposes. Since that time, 361 requests have been filed with the Bureau of Land Management for public lands located almost entirely in the 10 Western States. Approximately 12,700 acres of public lands have been sold or leased since the initiation of the program.

The issuance of Executive Order No. 12348 on February 25, 1982, by the President, dealing with "Federal Real Property" management dictates that the "Good Neighbor" and "Federal Real Property" programs be viewed as part of a combined effort to dispose of unneeded Federal property in a manner that would provide added revenue as a means to help reduce the National debt.

Bureau of Land Management State Offices are not in the process of notifying the remaining requestors that they have until September 1, 1982, to formalize their requests into formal applications. Requests of record, and not formalized into applications by September 1, 1982, will not be given further consideration.

DATE: Applications for public lands, administered by the Bureau of Land Management, must be filed by September 1, 1982.

ADDRESS: Applications should be filed with the Bureau of Land Management State Office having jurisdiction over the lands covered by requests.

FOR FURTHER INFORMATION CONTACT: Bill Krech, (202) 343–8693

Dated: July 9, 1982.

Arnold E. Petty,

Acting Associate Director.

[FR Doc. 82–19466 Filed 7–16–82; 8:45 am]

BILLING CODE 4310–84–M

[AA–37846]

Alaska Native Claims Selection

Correction

In FR Doc 82–17885 appearing at page 28807, in the issue of Thursday, July 1, 1982 make the following corrections:

On page 28807, second column, sixth line beneath the heading, application "AA–6706–F" should read "AA–6707–F".

On page 28808, first column, seventeenth line of the second complete paragraph, "265,000, 176" should read "265,000.176".

BILLING CODE 1505–01–M

National Park Service

National Register of Historic Places; Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before July 9, 1982. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by August 3, 1982.

Carol D. Shull,

Acting Keeper of the National Register.

GEORGIA

Elbert County

Elberton, *Elberton Residential Historic District,* Roughly bounded by Elbert, Oliver, Adams, Thomas, Edwards, and Heard Sts.

Habersham County

Clarkesville, *Asbury Henry House (Clarkesville MRA),* 211 E. Waters St.
Clarkesville, *Baron-York Building (Clarkesville MRA),* 714 N. Washington St.
Clarkesville, *Church Cornelius House (Clarkesville MRA),* 304 N. Washington St.
Clarkesville, *Church Furniture Store (Clarkesville MRA),* N. Washington St.
Clarkesville, *Clarkesville Garage (Clarkesville MRA),* 304 N. Washington St.
Clarkesville, *Does Chapel Methodist Church (Clarkesville MRA),* N. Washington St.
Clarkesville, *Furr-Lambert House (Clarkesville MRA),* 223 Grant St.
Clarkesville, *Griggs-Erwin House (Clarkesville MRA),* Bridge St.
Clarkesville, *Hill A. P. House (Clarkesville MRA),* N. Washington St.
Clarkesville, *Jackson Pharmacy (Clarkesville MRA),* 712 N. Washington St.
Clarkesville, *Lewis J. A. House (Clarkesville MRA),* N. Washington St.
Clarkesville, *Market Building (Clarkesville MRA),* N. Washington St.
Clarkesville, *Martin Building (Clarkesville MRA),* 802–808 Washington St.
Clarkesville, *Mauldin House (Little Pink Cottage) (Clarkesville MRA),* 102 E. Water St.
Clarkesville, *McMillan Robert House (Clarkesville MRA),* Allen Lane
Clarkesville, *McMillan-Garrison House (Clarkesville MRA),* 403 S. Washington St.
Clarkesville, *Porter-York House (Clarkesville MRA),* Bridge St.
Clarkesville, *Reeves Building (Clarkesville MRA),* N. Washington St.
Clarkesville, *South Washington Street Historic District (Clarkesville MRA),* S. Washington St. between Laurel Dr. and Spring St.
Clarkesville, *Washington-Jefferson Street Historic District (Clarkesville MRA),* Washington, Jefferson, and Wilson Sts. between Green St. and Laurel Dr.

Twiggs County

Jeffersonville vicinity, *Chapman John Plantation, S.E. of Jeffersonville on GA 96*

LOUISIANA

Ascension Parish

Donaldsonville, *Landry Tomb,* Ascension Catholic Church Cemetery, St. Vincent and Claiborne Sts.
Donaldsonville, *Lemann Store,* 314 Mississippi St.

Avoyelles Parish

Marksville, *Joffrion House,* 605 N. Monroe

Bossier Parish

Elm Grove vicinity, *Cashpoint Plantation House*, N. of Elm Grove off LA 71

Iberville Parish

Rosedale, *Church of the Nativity*, Laurel St.

Orleans Parish

New Orleans, *Orpheum Theatre*, 125–129 University Pl.

St. Landry Parish

Grand Coteau, *Burleigh House*, Burleigh Lane
Washington vicinity, *Arlington Plantation House*, N. of Washington off LA 103

St. Mary Parish

Baldwin, *Darby House*, 102 Main St.
Baldwin, *Tillandsia*, 202 Charenton Rd.
Centerville, *Cary Joshua B. House*, US 90 and LA 317

St. Tammany Parish

Covington, *Frederick House*, 236 Vermont St.

Tangipahoa Parish

Tangipahoa, *Green Shutters*, Franklin St.

Tensas Parish

Waterproff vicinity, *Burn The*, N. of Waterproof off LA 65

Terrebonne Parish

Houma, *Wesley House*, 1210 E. Main St.

Washington Parish

Angie vicinity, *Magee Robert D. House*, W. of Angie off SR 438

Winn Parish

Winnifield, *Long George Parker House*, 1401 Maple St.

MASSACHUSETTS

Berkshire County

Becket, *Becket Center Historic District*, MA 8, Hamilton and YMCA Rds.

Hampden County

Westfield, *Landlord Fowler Tavern*, 171 Main St.

Hampshire County

Northampton, *Grove Hill Mansion (Dimock Estate)*, Florence Rd. and Front St.

Middlesex County

Billerica, *Manning Manse*, 56 Chelmford Rd.
Lowell, *Allen House*, 57 Rolf St.
Lowell, *South Common Historic District*, Roughly bounded by Summer, Gorham, Horndike, and Highland St.
Lowell, *Wamesit Canal-Whipple Mill Industrial Complex*, 576 Lawrence St.
Lowell, *Washington Square Historic District*, Roughly bounded by Merrimack, Park, Andover, Oak, Harrison, and Willow Sts.

MICHIGAN

Hill dale County

Hillsdale, *Hillsdale County Courthouse*, Howell St.

Muskegon County

Muskegon, *Muskegon YMCA Building*, 297 Clay Ave., W.

NEW HAMPSHIRE

Belknap County

Gilford, *Kimball Castle (The Broads)*, Locke's Hill Rd.
Tilton, *Tilton Charles E. Mansion*, School St.

Carroll County

North Conway, *Eastern Slope Inn (Hotel Randall)*, Main St.

Cheshire County

Jaffrey vicinity, *Jaffrey Mills (Stone Brothers and Curtis (White Brothers) Mill)*, 41 Main St.

Hillsborough County

Amherst, *Amherst Village Historic District*, Roughly bounded by Mack Hill, Old Manchester, Court House, Amherst, Davis, Foundry, and Boston, Post Rds.
Manchester, *New Hampshire State Union Armory*, 60 Pleasant St.
Manchester, *Thorpe T. L. Building*, 19 Traction St.
Milford, *Milford Cotton and Woolen Manufacturing Company*, 2 Bridge St.

Merrimack County

Concord, *Chamberlin House*, 44 Pleasant St.
Franklin, *Franklin Falls Historic District*, Roughly bounded by Bow, River, Schoot, Aylers Sts., and the Winnipesaukee River.

Rockingham County

East Derry, *East Derry Historic District (The Upper Village)*, Rougly bounded by Hampstead, Lane, and Cemetery Rds.

NEW YORK

Chenango County

New Berlin, *New Berlin Historic District*, Academy, Cushman, Genesee, Main and Railroad Sts. (includes both sides)

Dutches and Columbia County

Pine Plains vicinity, *Melius-Bentley House*, N. of Pine Plains on Mr. Ross Rd.

Monroe County

Rochester, *Times Square Building*, 45 Exchange St.

Montgomery County

Fonda vicinity, *County Farm (Montgomery County Buildings TR)*, SW of Fonda on NY 5 Fonda vicinity, *New Courthouse (Montgomery County Buildings TR)*, Broadway and Court Sts.
Fonda vicinity, *Old Courthouse Complex (Montgomery County Buildings TR)*, Broadway, Railroad, and Park Sts.

New York County

New York, *Apartment Buildings at 131–135 E. 66th St. and 130–134 E. 67th St.*, 131–135 E. 66th St, 130–134 E. 67th St.
New York, *Astor Row Houses*, 6–62 W. 130th St.

Warren County

Hague vicinity, *Grace Memorial Union Chapel*, S. of Hague on Sabbath Day Point Rd.

SOUTH CAROLINA

Georgetown County

Minim Island Shell Midden (38GE46),

TEXAS

Bexar County

San Antonio, *Central Trust Company Building*, 603 Navarro St

Denton County

Denton vicinity, *Cranston Site (41DN18) (19th-Century Pottery Kilns of Denton Co. TR)*, S. of Denton off FM 2181
Denton vicinity, *Lambert J. C. Site (41DN74) (19-Century Pottery Kilns of Denton Co. TR)*, S.E. of Denton off FM 2181
Denton vicinity, *Roark-Griffith Site (41DN18) (19th-Century Pottery Kilns of Denton Co. TR)*, S. of Denton off US 380
Denton vicinity, *Serren A. H. Site (41DN75) (19th-Century Pottery Kilns of Denton Co. TR)*, S. of Denton off FM 2181
Denton vicinity, *Wilson-Donaldson Site (41DN19) (19th-Century Pottery Kilns of Denton Co. TR)*, S. of Denton off FM 2181

Harris County

Houston, *State National Bank Building*, 412 Main St.

Jeff Davis County

Fort Davis, *Grierson-Sproul House*, Court Ave.

Kerr County

Kerrville vicinity, *Tulahteka*, S of Kerrville on TX 16

Pecos County

Sheffield vicinity, *Canon Ranch Archeological District*, NW of Sheffield on I–10

Robertson County

Hearne, *Allen, Robert C. House*, 402 Cedar St.

Travis County

Austin, *Long Hog Hollow Archeological District*, Off US 183

Walker County

Huntsville, *Thomason, John W. House*, 1207 Avenue J

UTAH

Carbon County

Price, *Star Theatre*, 20 E. Main St.

VERMONT

Windham County

Bellows Falls, *Bellows Falls Downtown Historic District*, Depot, Canal, Rockingham, Bridge, Mill and Westminster Sts.

[FR Doc. 82-19511 Filed 7-16-82; 8:45 am]
BILLING CODE 4310-70-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: This Notice announces that Chevron U.S.A. Inc., Unit Operator of the West Cameron Block 17 Federal Unit Agreement No. 14–08–001–8927, submitted on July 8, 1982, a proposed supplemental plan of development/production describing the activities it proposes to conduct on the West Cameron Block 17 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837–4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in development and production plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: July 12, 1982.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 19482 Filed 7–16–82; 8:45 am]

BILLING CODE 4310–01–M

INTERSTATE COMMERCE COMMISSION

Motor Carriers, Finance Applications; Decision-Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC–FC–79029. By decision of June 30, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to KLEYSEN TRANSPORT, LTD., of Certificate No. MC–140943 (Sub-No. 11)X, issued to CHEYENNE ROAD TRANSPORT, LTD., which authorizes the transportation of *fertilizer, feed and feed ingredients, lumber and wood products, and soybean meal,* between ports of entry on the international boundary line between the U.S. and Canada located in MT, ID, ND, and WA, on the one hand, and, on the other, specified points in the U.S.; and Certificate No. MC–140943 (Sub-No. 9), issued to K. T. S. TRANSPORT, LTD., which authorizes the transportation of *Mercer commodities,* between points in MT, WA and WY, on the one hand, and, on the other, points along the international boundary line between the U.S. and Canada, adjacent to WA, ID, and MT. Representative: Grant Merritt, 4444 IDS Center, 80 South Eight Street, Minneapolis, MN 55402.

Note.—By decision of March 5, 1981, published in the **Federal Register** issue of May 12, 1981, Cheyenne was authorized to transfer its then outstanding certificates to Kleysen.

MC–FC–79880. By decision of June 30, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to TRICO EQUIPMENT INCORPORATED Of Ahoskie, NC of Permit No. MC–155016 issued to BRANDON CLEMENTS d.b.a. BRANDON CLEMENTS TRUCKING CO. of Waverly, VA authorizing the transportation of (1) *building materials;* and (2) *lumber and wood products,* between points in the United States, under continuing contract(s) with Commonwealth Wood Preservers, Inc. of Newport News VA. Applicant's representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229. TA lease is sought. Transferee is a carrier.

MC–FC–79870. By decision of July 1, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to DRIFTER TRUCKING, INC. of Owensville, MO, of a portion of Certificate MC–145734 (Sub-No. 25) issued to T. F. S., INC. of Grand Island, NE, authorizing the transportation of animal and poultry feed and inedible frozen meat (with exceptions), from Kansas City and St. Joseph, MO to points in CA, WA, and OR. Applicant's representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. Transferee holds no authority. TA lease is not sought.

MC–FC–79886. By decision of June 29, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to Learco, Inc., of Holyoke, MA of Certificate No. MC–154909 issued to MPDS, INC. of N. Grafton, MA, authorizing: (1) for or on behalf of the United States government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), and (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle

in which no one package exceeds 100 pounds, between points in the United States. Applicant's representative: David M. Marshall, 101 State St., Suite 304, Springfield, MA 01103. TA lease is not sought. Transferee is not a carrier.

MC-FC-79889. By decision of June 29, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to LEGAN BUS LINE, LTD., of Certificate No. MC-145524 (Sub-No. 1) issued to ROCKY MOUNTAIN TRANSPORTATION. INC., authorizing the transportation (A) over regular routes of *passengers and their baggage,* and express, and newspapers in the same vehicle with passengers, (1) between Great Falls and East Glacier, MT, and (2) between Valier, MT and junction U.S. Hwy 89 and MT Hwy 44, serving all intermediate points and serving the junction of U.S. Hwy 89 and MT Hwy 44 for the purpose of joinder only; and (B) over irregular routes, of *passengers and their baggage,* in charter and special operations, between points in Cascade, Toole, Pondera, and Teton Counties, MT on the one hand, and, on the other, points in CA, ID, MT, NV, ND, OR, SD, UT, WA and WY. Applicants' representative: Owen B. Katzman, 1828 L Street, N.W. Suite 1111, Washington, DC 20036.

Note(s)—(1) Application for temporary authority has been filed. (2) Transferee is a motor carrier.

MC-FC-79895. By decision of June 30, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to A.M. COX d.b.a. AMCO TRANSPORTATION of Certificate No. MC-152137 (Sub-1) issued to A. M. Cox and James Conner d.b.a. AMCO Transportation authorizing: over irregular routes, Machinery, between points in Pulaski County, AR, and points in LA, MS, NM, OK and TX. Applicant's representative: Billy R. Reid, 1721 Carl St., Ft. Worth, TX 76103. TA lease is not sought. Transferee is not a carrier.

MC-FC-79896. By decision of June 30 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to OTTO L VEGLIO, JR. of Permit No. MC-124625 issued to Earl O'Brien, d.b.a. ACADEMY LIMOUSINE SERVICE authorizing the transportation of *passengers and their baggage,* limited to the transportation of not more than seven passengers in any one vehicle but not including the driver, between Stratford, CT, on the one hand, and, on the other, points in NY, NJ, MA and RI under a continuing contract(s) with Sikorsky Aircraft Division of United Aircraft. Applicants' representative: Catherine C. Brannelly, 1115 Main Street, Bridgeport, CT 06604.

Note(s).— Transferee is a non-carrier.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-19453 Filed 7-16-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 279]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: July 9, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the Federal Register of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Canadian Carrier Applicants

In the event an application to transport property, filed by a Canadian domiciled motor carrier, is unopposed, it will be reopened on the Commission's own motion for receipt of additional evidence and further consideration in light of the record developed in Ex Parte No. MC-157, *Investigation Into Canadian Law and Policy Regarding Applications of American Motor Carriers For Canadian Operating Authority.*

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Shaffer, Ewing, and Williams.

Agatha L. Mergenovich,

Secretary.

MC 21694 (Sub-5)X, filed June 7, 1982. Applicant: GERARD EXPRESS, INC., 2500 83rd St., North Bergen, NJ 07047. Representative: Edward L. Nehez, P.O. Box Y, 7 Becker Farm Rd., Roseland, NJ 07068. Lead and Sub 4F: (1) Broaden (a) electrical equipment and supplies used in repairing electrical equipment to "machinery and supplies used in repairing machinery" in the lead, and (b) plastic granules (except in bulk, in tank vehicles) to "chemicals and related products" in Sub 4F; and (2) change Newark, NJ to Bergen, Essex, Hudson, Middlesex, Morris, Passaic and Union Counties, NJ and Bronx, Kings, New York, Queens, and Richmond Counties, NY; Bangor and Bath, ME to Cumberland, Penobscot and Sagadahoc Counties, ME; Annapolis, Baltimore, Elkton and Sparrows Point, MD to Anne Arundel and Cecil Counties and Baltimore, MD; Brattleboro, Burlington, Marlboro and Fair Haven, VT to Cheshire, Chittenden, Windham and Rutland Counties, VT; Miles, Quantico, and University, VA to Mathews, Prince William, and Stafford Counties, Cabell, Harrison, Kanawha, Marion, Ohio, Wayne Counties, WV and Belmont and Lawrence Counties, OH for Charleston, Clarksburg, Huntington, Riversville, Waynesboro and Wheeling, WV; Claremont, Concord, Nashua and Portsmouth to Sullivan, Merrimack, Hillsborough and Rockingham Counties, NH; Hillside to Bergen County, NJ; and Allegheny, Beaver, Butler, Washington and Westmoreland Counties, PA for Pittsburgh, PA in the lead; and Bergen, Essex, and Hudson Counties, NJ and Bronx, New York, and Queens Counties, NY for North Bergen, NJ; Caroline and Dorchester Counties, MD for Federalsburg, MD; and Lackawanna and Wayne Counties, PA for Carbondale, PA.

MC 67646 (Sub-106)X, filed November 16, 1981 and previously noticed in Federal Register of December 24, 1981, republished as corrected, this issue. Applicant: HALL'S MOTOR TRANSIT COMPANY, 6060 Carlisle Pike, Mechanicsburg, PA 17055. Representative: Edward W. Kelliher (same address as applicant). No. MC-43421 and Sub-Nos. 25, 26, 30, 31, 32, 33, 34, 35, 37, 38, 39, 41, 42, 43, 44, 45, 46, 47, 48, 51, 52, 53, 55, 56, 59F, 61F, 62F, 63 and 67F certificates, acquired in MC-F-14490F, broaden and remove restrictions as previously published and, in addition, expand to counties the following points,

all formerly intermediate points on regular routes, now rendered off-route points because of relocation combined in some instances with abandonment of segments of the designated highways: lead, Kane, Kendall, DuPage, and Will Counties, IL (Aurora, IL, US Hwy 30); Livingstone County, IL (Pontaic, IL, US Hwy 66); DeKalb and LaSalle Counties, IL (Leland, IL, US Hwy 34); Berrien County, MI (Niles, MI, US Hwy 112); Van Wert County, OH (Van Wert, OH, US Hwy 30); Bond County, IL (Greenville, IL, US Hwy 40); Sub-No. 37, Berkshire County, MA (Lenox, MA, US Hwy 20); Sub-No. 67, Phelps County, MO (St. James, MO, US Hwy 66); Pulaski County, MO (Wayneville, MO, US Hwy 66); Laclede, Webster, and Dallas Counties, MO (Conway, MO, US Hwy 66); Bryan County, OK (Colbert, OK, US Hwy 69); Collin County, TX (McKinney, TX, US Hwy 69); Henry County, IA (Mt. Pleasant, IA, US Hwy 218); Johnson County, IA (North Liberty, IA, US Hwy 218); Johnson and Linn Counties, IA (Shueyville, IA, US Hwy 218); and Tama County, IA (Montour, IA US Hwy 30). The purpose of this republication is to reflect the Restriction Removal Board's reappraisal of its position with respect to noticing the proposed expansions, previously rejected by the board.

MC 113622 (Sub-20)X, filed June 21, 1982. Applicant: SAMPSON HAULING CORP., P.O. Box #95, Pavilion, NY 14525. Representative: Kenneth T. Johnson and Ronald W. Malin, Bankers Trust Bldg., 4th Fl., Jamestown, NY 14701. Lead and Subs 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16 and 19 certificates: (1) broaden the commodity descriptions (a) from sand, gravel and bituminous road building materials in lead, from sand, gravel and crushed stone in Sub 4; from sand in Sub 6; from sand and gravel in Subs 7, 15 and 16; from such road and construction materials and may be transported in dump trucks, in bulk, and such bulk commodities as are susceptible of being unloaded by dumping, in dump trucks in Sub 12; from slag in Subs 10 and 16, and from riprap, conglomerate aggregate, sand, gravel and stone in Sub 19 to "commodities in bulk (except petroleum and petroleum products)"; from transit-mix concrete in lead "clay, concrete, glass or stone products"; (c) from front end loaders (tractor shovels) and parts and components thereof in Subs 5, 9, and 11, and from cranes in Sub-No. 14 to "machinery except electrical"; (d) from salt in Subs 12, and 13 to "chemicals or allied products"; and (e) from pepper in Sub-No. 12 to "food and related products"; (2) to remove the restrictions from (a) lead, "in transit-mix trucks"; (b) lead and Sub 12 "in dump trucks", (c) Sub 12 "in containers", "in packages" and "in bulk", (d) Subs 7, 12, 15, 16 and 19 "in dump vehicles", (e) lead "in seasonal operations extending from the 1st day of May to the 15th day of November, inclusive, of each year", (f) Sub 7, 13, and 15 delete facilities limitation, restriction (g) Subs 5, 9 and 14, delete ex-water restrictions; (h) delete interlining restrictions in Subs 11 and 14; (3) replace (a) Machais, NY, and points within ten miles of Machais with "Cattaraugus County, NY", Sub 4; (b) Batavia, NY with "Genesee County, NY", Subs 5, 9, 11, 14; (c) Erie, PA with "Erie County PA", Subs 6 and 10; (d) at or near Alfred Station (Allegany County), NY with "Allegany County, NY," Subs 7 and 15; (e) Buffalo; NY with "Erie County, NY," Subs 9, 11 and 14; (f) Niagara Falls and Lewiston, NY with "Niagara and Erie Counties, NY", Subs 11 and 14; (g) Watkins Glen and Retsof, NY with "Schuyler and Livingston Counties, NY"; Lodlowville and Watkins Glen, NY with "Tompkins and Schuyler Counties, NY"; Retsof, Livingston County, NY with "Livingston County, NY"; and Watkins Glen, NY with "Schuyler County, NY" in Sub-No. 12; (h) Milo, NY with "Yates County, NY" in Sub-No. 13; (i) points in the New York, NY, Harbor Zone with "New York, NY;" (j) Freedom and Yorkshire (Cattaraugus County), NY with "Cattaraugus County, NY," Sub 15; and (k) Machais (Cattaraugus County), NY with "Cattaraugus County, NY," Sub 16; and (4) replace one-way with two-way authority in lead and all subs.

MC 126034 (Sub-8)X, filed April 26, 1982, noticed in **Federal Register** June 10, 1982, republished to notice the following omission: Applicant: McHUGH BROTHERS HEAVY HAULING, INC., P.O. Box 196, Penndel, PA 19047. Representative: E. Stephen Heisley, 1919 Pennsylvania Avenue NW., Suite 500, Washington, D.C. 20006. Sub-No. 7: broaden to "points in Atlantic, Burlington, Camden, Cumberland, Gloucester, Hunterdon, Mercer, Middlesex, Monmouth, Ocean, Somerset, and Warren Counties, NJ, and points in Philadelphia, Montgomery, and Bucks Counties, PA" from points in Pennsylvania and New Jersey that are within a 40 mile radius of Philadelphia, PA, and are on and north of a line beginning near Toms River, NJ, over named highways to the junction of Pennsylvania Hwy 32 at the Delaware River.

MC 142923 (Sub-2)X, filed June 24, 1982. Applicant: FLASH EXPRESS CO., INC., 29 Vanderburg Road, P.O. Box 181, Marlboro, NJ 07746. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. Sub 1 permit, broaden the territorial description to between points in the U.S.

MC 144693 (Sub-16)X, filed June 18, 1982. Applicant: GLENN'S TRUCK SERVICE, INC., 3812 N. 21st, St. Louis, MO 63107. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Subs- 2F, 3, 4F, 8, and 10X: (1) Broaden (a) paper and paper products to "pulp, paper and related products" in Subs- 2F, 3, and 4F; (b) woodburning stoves to "machinery and metal products" in Sub-8; and (c) foodstuffs and materials, equipment and supplies to "food and related products" in Sub-10X; (2) change one-way to radial authority; (3) replace St. Genevieve County, MO and Randolph County, IL, for St. Genevieve, MO; Christian County, IL, for Taylorville, IL; and Jefferson, St. Louis, and St. Charles Counties, MO, St. Louis MO, and Madison, Saint Clair, and Monroe Counties, IL, for St. Louis MO in Sub-No. 2F; Hamilton County, OH and Boone, Kenton, and Campbell Counties, KY, for Cincinnati, OH; Lake and Porter Counties, IN, for Gary, IN; and Kalamazoo County, MI, for Kalamazoo, MI in Sub-No. 3; Des Moines County, IA and Henderson County, IL, for Burlington, IA; and Will County, IL, for Lockport, IL in Sub-No. 4F; and Kankakee County, IL, for Bradley, IL, and (4) remove the originating at restriction in Subs 2F and 4F.

MC 146944 (Sub-5)X, filed July 7, 1982. Applicant: LYKES TRANSPORT, INC., P.O. Box 97, Dade City, FL 33525. Representative: Ansley Watson, Jr., P.O. Box 1531, Tampa, FL 33601. Broaden territory in Sub-3 Permit to "between points in the United States" under contract(s) with named shipper.

[FR Doc. 82-19452 Filed 7-16-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to

comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP1–119

Decided: July 9, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 148151 (Sub-7), filed May 24, 1982, previously filed in the fiscal year on June 11, 1982. Applicant: RAY BELLEW & SONS, INC., 7810 Almeda Genoa Rd., Houston, TX 77075. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459, (713)–437–1768. (1) As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI); and (2) transporting (a) for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials and sensitive weapons and munitions), between points in the U.S. (except AK and HI); (b) *shipments weighing 100 pounds or less if transported in a motor vehicle in which no one package exceeds 100 pounds,* between points in the U.S. (except AK and HI); (c) *used household goods,* for the account of the U.S. Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI); and (d) *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* between points in the U.S. (except AK and HI).

Note.—This republication corrects the docket number and commodity description.

MC 148151 (Sub-8), filed July 1, 1982. Applicant: RAY BELLEW & SONS, INC., 7810 Almeda Genoa Road, Houston, TX 77075. Representative: Hughan R. H. Smith, 26 Kenwood Place, Lawrence, MA 01841, (617) 657–6071. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 161210 (Sub-1), filed June 29, 1982. Applicant: J–R TRANSPORTATION SERVICES, INC., RD #6, Box 385, Hammonton, NJ 08037. Representative: Ray DeSimone (same address as applicant), (609) 561–9257. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions); and (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 162600, filed June 21, 1982. Applicant: VIRGO DISTRIBUTING CORP., 860 North Ave. East, Elizabeth, NJ 07201. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 234–0301. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 162711, filed June 28, 1982. Applicant: ROBERT J. STAUFFER, d.b.a. STAUFFER TRANSPORTATION & AGENCY, P.O. Box 4145, Ontario, CA 91761. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609, (213) 945–2745. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 162740, filed June 30, 1982. Applicant: BERT T. JOHNSON, d.b.a. CROSS COUNTRY HOT SHOT, P.O. Box 853, Channelview, TX 77530. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459, (713) 437–1768. (1) As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI); and (2) transporting (a) for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials and sensitive weapons and munitions), between points in the U.S. (except AK and HI); (b) *shipments weighing 100 pounds* or less if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI); (c) *used household goods* for the account of the U.S. Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI); and (d) *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 162780, filed July 1, 1982. Applicant: BRUCE BAGETTE, d.b.a. WHITE HAT TRUCKING, Route 1, Warren, AR 71671. Representative: Hughan R. H. Smith, 26 Kenwood Place, Lawrence, MA 01841 (617), 657–6071. Transporting *food and other edible products and by products intended for*

human consumption (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP2-150

Decided: July 9, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 11592 (Sub-36), filed June 29, 1982. Applicant: BEST REFRIGERATED EXPRESS, INC., P.O. Box 7365 Omaha, NE 68107. Representative: Rick A. Rude, Suite 611, 1730 Rhode Island Avenue, NW., Washington, D.C. 20036, 202-223-5900. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Camp Dodge and Johnston, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—The purpose of this application is to substitute motor carrier service for abandoned rail carrier service.

MC 142712 (Sub-1), filed June 28, 1982. Applicant: JERRY PAUL, d.b.a. JERRY PAUL TRUCKING, 611 Main St., Clovis, NM 88101. Representative: Thomas F. Sedberry, 2600 Austin National Bank Tower, Austin, TX 78701, 512-472-8355. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials and sensitive weapons and ammunitions), between points in the U.S. (except AK and HI).

MC 145633 (Sub-3), filed June 28, 1982. Applicant: MAKI INTERNATIONAL, INC., P.O. Box 13049, Port Everglades Station, Fort Lauderdale, FL 33316. Representative: Gerard J. Donovan, 4791 S.W. 82nd Ave., Davie, FL 33328, 305-434-7821. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

Agatha L Mergenovich,

Secretary.

[FR Doc. 82-19450 Filed 7-16-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

The following applications were filed in Region I: Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 162793 (Sub-1-1TA), filed July 2, 1982. Applicant: ALL POINTS BROKERS, INC., 3445 Patterson Plank Road, North Bergen, NJ 07047. Representative: Jack L. Schiller, 123-60 83rd Avenue, Kew Gardens, NY 11415. *Contract carrier:* irregular routes: *Kerosene heaters and related parts and accessories* (1) between Bethel and Brookfield, CT, on the one hand, and, on the other, points in DC, DE, ME, NC, NH, NJ, NY, PA, RI, VA and VT; and (2) between Chesapeake, VA, on the one hand, and, on the other, points in AL, FL, GA, KY, NC, NJ, NY, PA, SC and WV under continuing contract(s) with Kero-Sun, Inc., Kent, CT. Supporting shipper: Kero-Sun, Incorporated, P.O. Box 549, Kent, CT 06757.

MC 162793 (Sub-1-2TA), filed July 9, 1982. Applicant: RICHARD G. BOLIO, JR., R. D. 1, Box 113, East Hardwick, VT 05836. Representative: Richard G. Bolio, Jr. (Same as applicant). *Contract carrier:* irregular routes: *Petroleum products, in bulk in tank vehicles* from East Hardwick, VT, to points in NY, ME, MA, and NH, under continuing contract(s) with Sweet & Burt, Inc. of Morrisville, VT. Supporting shipper: Sweet & Burt, Inc., P.O. Box 751, Morrisville, 05661.

MC 162792 (Sub-1-1TA), filed July 2, 1982. Applicant: JOSEPHINE HARTLE, d.b.a. CROWN LIMOUSINE, 62 Roosevelt Drive, Trumbull, CT 06611. Representative: Joseph Hartle, 272 West Ceder Street, Norwalk, CT 06854. *(1) Passengers and their baggage in the same vehicle, in door to door limousine service* from points in CT to points in NY, NJ, MA, RI and return; (2) *Printed matter* from Norwalk, CT to points in MA, RI, NY and NJ. Supporting shipper(s): Domino Printing, 68 Connecticut Ave., Norwork, CT; Stamford Auto Mart, 90 Main Street, Stamford, CT; and Courtney S. Enterprises, Suite 3 B, 325 Strawberry Hill, Norwalk, CT.

MC 63837 (Sub-1-2TA), filed July 2, 1982. Applicant: DIGGINS & ROSS, INC., 3 Sagamore Park Road, Hudson, NH 03051. Representative: James M. Burns, 1383 Main Street, Suite 413, Springfield, MA 01103. *Contract carrier:* irregular routes: *Electrical and electronic equipment and parts, computers, data processing components, and materials and supplies used in the manufacture, processing, distribution, sale and use of such commodities,* between points in the U.S., under a continuing contract(s) with Digital Equipment Corporation, Northboro, MA. Supporting shipper: Digital Equipment Corporation, 450 Whitney Street, Northboro, MA 01532.

MC 37918 (Sub-1-2TA), filed July 6, 1982. Applicant: DIRECT WINTERS TRANSPORT LIMITED, 2 Tippet Road, Downsview, Ontario, CD M3H 5X3. Representative: William J. Hirsch P.C., 64 Niagara Street, Buffalo, NY 14202. *General commodities, (except Classes A and B explosives, household goods and commodities in bulk),* between port of entry on the International Boundary line between the U.S. and CD, located at Rouses Point, NY, on the one hand, and, on the other, Albany, NY. Supporting shipper(s): Can Plast Ltd., 4797 Couture, Montreal, Quebec, CD H1R 3H7; AAF-Ltd., 400 Stinson Blvd., Montreal, Quebec, CD H4N 2G1.

MC 98550 (Sub-1-1TA), filed June 16, 1982. Applicant: HEBDEN & MCKENZIE TRANSPORT, INC., 80 Broad Street, Boston, MA 02110. Representative: Hughan R. H. Smith, 26 Kenwood Place, Lawrence, MA 01841. *Contract carrier:* irregular routes: *General commodities (except household goods, classes A & B explosives, hazardous material, commodities in bulk and commodities which because of size and weight*

require special equipment), between points in MA, CT, RI, VT, ME, NH, NY, NJ, PA, OH, MD, and DC, under continuing contract(s) with Doliff & Company, Boston, MA. Supporting shipper: Doliff & Company, 80 Broad Street, Boston, MA 02110.

MC 141758 (Sub-1–2TA), filed July 6, 1982. Applicant: LYDALL EXPRESS, INC., 615 Parker Street, Manchester, CT 06040. Representative: Hugh M. Joseloff, 410 Asylum Street, Hartford, CT 06103. *Metal products* between Waterbury, CT, on the one hand, and, on the other, points and places in OH, MI, PA and MD under continuing contract(s) with Anchor Fasteners, a Division of Buell Industries, Inc. of Waterbury, CT. Supporting shipper: Anchor Fasteners, Division of Buell Industries, Inc., Huntington Avenue, Waterbury, CT.

MC 162009 (Sub-1–1TA), filed July 6, 1982. Applicant: RICHARD F. SCHMIDT, Pricketts Mill Road, R.D. 4, Vincentown, NJ 08088. Representative: Richard F. Schmidt (same as applicant). *Boats, Boat parts and accessories* between points in ME, NH, RI, MA, CT, NY, NJ, PA, DE, VA, NC, SC, GA, FL, DC, MD. Supporting shipper(s): Jade Marine, Inc., Gravely Hollow Road, Medford, NJ 08055; The Jetset, Route 73, Palmyra, NJ 08065.

MC 135203 (Sub-1–1TA), filed July 2, 1982. Applicant: TEPICO, INC., 150 Lincoln Boulevard, Middlesex, NJ 08846. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Contract carrier:* irregular routes: *Chemicals and allied products* between points in the U.S. (except AK and HI) under continuing contract(s) with Synray Corporation, Kenilworth, NJ. Supporting shipper: Synray Corporation, 209 North Michigan Avenue, Kenilworth, NJ 07033.

The following applications were filed in region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St. Rm. 620, Philadelphia, PA 19106.

MC 162375 (Sub-2–1TA), filed July 6, 1982. Applicant: BLASTING SUPPLIES CO., INC., 11008 Philadelphia Road, Whitemarsh, MD 21162. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. *Contract Irregular: Commercial explosives,* from points in Millville, WV to points in MD, PA and VA for 270 days under continuing contract(s) with Nitrochem Energy Corp. of Allentown, PA. An underlying ETA seeks 120 days authority. Supporting shipper(s): Nitrochem Energy Corp., 1405 N. Cedarcrest Blvd., Allentown, PA 18104.

MC 128304 (Sub-II–10TA), filed July 6, 1982. Applicant: THE MANFREDI MOTOR TRANSIT CO., 14841 Sperry Rd., Newbury, OH 44065. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *Contract: irregular; commodities in bulk* between Akron, OH, on the one hand, and, on the other, Detroit, MI; Lakeland, FL; Chicago, IL; and Newcastle, PA for 270 days. Supporting shipper: Ohio Pure Foods, Inc., 681 W. Waterloo Rd. Akron, OH 44314.

MC 107012 (Sub-II–227TA), filed July 7, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same as applicant). Contract, irregular: *General commodities (except classes A & B explosives, commodities in bulk, and household goods as defined by the Commission)* between points in the U.S., under continuing contract(s) with Steelcase, Inc., Grand Rapids, MI, for 270 days. Supporting shipper: Steelcase, Inc., 1120 36th St., S.E., Grand Rapids, MI 49501.

MC 123091 (Sub-II–3TA), filed July 6, 1982. Applicant: NICK STRIMBU, INC., 3500 Parkway Road, Brookfield, OH 44403. Representative: Neal A. Jackson, 1156—15th Street, N.W., Washington, D.C. 20005. *Lumber and plywood* from points in NC, SC, GA, AL, MS, LA and AR to points in IL, IN, MI, OH, KY, PA and NY, for 270 days. Supporting shipper: Jack Rodgers Lumber Sales, Inc., P.O. Box 115, Canfield, OH 44406.

MC 162805 (Sub-II–1TA), filed July 6, 1982. Applicant: WEYER TRUCKING, ROBERT R. WEYER, d.b.a., 14921 McCallum, NE, Alliance, OH 44601. Representative: Edward P. Bocko, P.O. Box 496, Mineral Ridge, OH 44440. Contract, irregular. *Such commodities as are used by or dealt in by manufacturers and distributors of industrial insulation* between Alliance, OH, on the one hand, and, on the other, Aurora, IL and points in Pennsylvania under a continuing contract(s) with Fibrex, Inc., of Alliance, OH for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s) Fibrex, Inc., 21784 Lake Park, Alliance, OH 44601.

The following applications were filed in Region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, N.E., Altanta, GA 30309.

MC 162089 (Sub-3–2TA), filed July 6, 1982. Applicant: BODWAY TRUCKING, INC., 7660 Gainesville Avenue, Jacksonville, FL 32208. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Contract,* irregular; *paper and paper products,* between points in Duval County, FL on the one hand, and, on the other, points in AL, GA, NC, SC and TN under a continuing contract with Alton Packaging Corporation. Supporting shipper: Alton Packaging Corporation, 401 Alton Street, Alton, Illinois 62002.

MC 162814 (Sub-3–1TA), filed July 6, 1982. Applicant: COAL TRANSPORT, INC., P.O. Box 615, Carrie, KY 41725. Representative: Robert M. Murphy, P.O. Box 535, Quincy, MA 02269. *Contract carrier:* irregular routes: *oil country casing, line pipe, pipe supplies, and materials used in oil and gas well drilling* between points in WV, KY, PA, TN, and VA, under continuing contract(s) with supporting shipper: Branchland Pipe & Supply, 4034 Altizer Avenue, Huntington, WV 25705.

MC 115491 (Sub-3–3TA), filed July 7, 1982. Applicant: COMMERCIAL CARRIER CORPORATION, Post Office Drawer 67, Auburndale, FL 33823. Representative: Mr. Tony G. Russell, (Same as above). *Paper or fiberboard boxes, corrugated or other than corrugated.* From Jacksonville, FL to points in AL, GA, MS, NC and SC. Supporting shipper, Alton Packaging Corp., 401 Alton Street, Alton, IL 62002.

MC 115491 (Sub-3–3TA), filed July 7, 1982. Applicant: COMMERCIAL CARRIER CORPORATION, Post Office Drawer 67, Auburndale, FL 33823. Representative: Mr. Tony G. Russell, (Same as above). *Fly ash in bulk in tank vehicles,* from Gainesville, FL to points in GA. Supporting shipper, Monier Resources, Inc., P.O. Box 306, Auburndale, FL 33823.

MC 162812 (Sub-3–1TA), filed July 6, 1982. Applicant: EASTERN CARTAGE COMPANY, 275 Fairway Dr., Ashville, NC 28805. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004. *General commodities (except classes A&B explosives, household goods as defined by the Commission and commodities in bulk),* between Asheville, NC, on the one hand, and, on the other, points in SC, and that part of TN on and east of U.S. Hwy 27 and that part of NC on and west of Interstate Hwy 77, restricted to traffic having a prior or subsequent movement by rail. Supporting shipper(s): National Piggyback, 361 Baxter St., Suite 202, Charlotte, NC 28202.

MC 155013 (Sub-3–6TA), filed July 6, 1982. Applicant: FREIGHTMASTER, INC., P.O. Box 664, Taylorsville, NC 28681. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064. *Contract carrier:* irregular: *Pulp, paper, pulpboard, and related products* between Conover, NC, Nicholasville,

KY, Maplesville, AL, Marengo County, AL, Tuscaloosa, AL and Waco, TX on the one hand, and, on the other, points on and east of the Mississippi River. Under continuing contract(s) with Gulf States Paper Corporation. Supporting Shipper: Gulf States Paper Corporation, P.O. Box 3199, Tuscaloosa, AL 35404.

MC 162813 (Sub-3–1TA), filed July 6, 1982. Applicant: LEHIGH PORTLAND CEMENT CO., d.b.a. LEHIGH TRUCKING, 537 East Lafayette St., Marianna, FL 32446. Representative: Robert R. Brinker, Suite 1100, 1660 L Street, N.W., Washington, D.C. 20036. *Contract:* Irregular: *Furniture and fixtures,* from Philadelphia, PA, to Ty, Ty, GA, under continuing contract(s) with Continental Specialties of Ty Ty, GA. Supporting shipper: Continental Specialties, 215 Highway 82, Ty Ty, GA 31795.

MC 161969 (Sub-3–1TA), filed July 6, 1982. Applicant: LONDON TOURS, INC., Route 10, Box 741, London, KY 40741. Representative: Dennis P. Bailey, 902 E. 9th Street, London, KY 40741. *Passengers and baggage in special and charter operations* between London, KY; Knoxville and Nashville, TN, and Cincinnati, OH. Supporting shippers: Calvary Baptist Church, McWhorter & Green St., London, KY 40741, and Haymarket Restaurant, D.B. Pkwy. & I–75, London, KY 40741.

MC 162815 (Sub-3–1TA), filed July 6, 1982. Applicant: MORGAN SOUTHERN, INC., 470 E. Paces Ferry Rd., N.E., Suite 2001, Atlanta, GA 30305. Representative: David G. Morgan (same address as applicant). *General commodities (except A&B explosives, commodities in bulk, and hazardous waste)* between points in the U.S. (except AK & HI). There are 14 support statements attached to this application which may be reviewed at the ICC Regional Office, Atlanta, GA.

MC 154942F (Sub-3–2TA), filed July 7, 1982. Applicant: MUSIC CITY TRANSPORT, INC., P.O. Box 100022, Nashville, TN 37210. Representative: Stephen L. Edwards, 806 Nashville Bank & Trust Bldg., 315 Union Street, Nashville, TN 37201. *Furniture and equipment, materials and supplies used in the transportation of furniture,* between Williamson County, TN, on the one hand, and, on the other, points in AL, AR, CO, CT, DC, FL, GA, IA, IL, IN, KY, KS, LA, MA, MD, MI, MN, MO, MS, NC, NE, NJ, NY, OH, OK, PA, SC, TX, UT, VA, WV and WI, under continuing contract(s) with Morning Surf East, Inc., 101 Alpha Drive, Franklin, TN 37064. Supporting shipper: Morning Surf East, Inc., 101 Alpha Drive, Franklin, TN 37064.

MC 162832 (Sub-3–1TA), filed July 7, 1982. Applicant: SOUTHERN REFRIGERATED CARRIERS, INC., 1720 Central Avenue, Memphis, TN 38104. Representative: Kim D. Mann, 7101 Wisconsin Avenue, Suite 1010, Washington, D.C. 20014. *Contract carrier;* irregular routes; *Meat and meat products* between Rossville, TN, on the one hand, and, on the other, points in AL, AR, GA, KY, MS, MO, NC, SC, and TN under continuing contract(s) with John Morrell & Co., Chicago, IL. Supporting shipper: John Morrell & Co., 208 South LaSalle Street, Chicago, IL 00004.

MC 162753 (Sub-3–1TA), filed July 6, 1982. Applicant: TED I. WIGGINS d.b.a. TED'S GARAGE, 8984 Normandy Blvd., Jacksonville FL 32205. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville FL 32202. *Disabled Motor Vehicles and Trailers and Replacement Motor Vehicles and Trailers* between points in Duval County, FL on the one hand, and, on the other, points in GA. There are eight (8) statements in support of this application which may be examined at the Regional Office of the ICC, Atlanta, GA.

MC 162634 (Sub-3–1TA), filed July 7, 1982. Applicant: UNITED SUPREME TRANSPORTATION, INC., P.O Box 1016, Greer, SC 29651. Representative: David L. Capps, P.O. Box 924, Douglasville, GA 30133. *Contract;* irregular routes; *(A) Furniture; (B) Office Equipment; (C) Animal Feeds; and materials, equipment and supplies used in the manufacture, sale and distribution of commodities in (A), (B) and (C) above,* between points in the U.S. under continuing contracts with (1) Nicholson Farms of Inman, SC, (2) United Furniture Mfg., Inc., of Greer, SC, and (3) H. M. Hirsch Office Equipment Corp., of Union City, NJ. Supporting shippers: (1) Nicholson Farms, P.O. Box 31, Inman, SC 29349 (2) United Furniture Mfg., Inc., Hwy 14, Greer, SC 29651, and (3) H. M. Hirsch Office Equipment Corp., 119 Peter Street, Union City, NJ 07087.

MC 162865 (Sub-3–1TA), filed July 8, 1982. Applicant: DENNY BROADWAY d.b.a. BROADWAY TOURS, P.O. Box 457, Henderson, TN 38340. Representative: Edwin C. Townsend, Sr., 121 Tennessee Avenue South, Parsons, TN 38363. *Passengers and their baggage in a charter operation* between Chester County, TN and Orange County, FL, San Francisco and San Diego Counties, CA, Carroll County, AR and Harrison County, MS. There are nine (9) supporting shipper's statements which may be examined at the I.C.C. Regional Office, Atlanta, GA.

MC 162864 (Sub-3–1TA), filed July 6, 1982. Applicant: SOUTHWAY TRUCKING CO., INC., Route 2, Box 243, Vale, NC 28168. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204. *New furniture and parts, materials, and supplies used in the manufacture of new furniture,* from the facilities of Drexel Heritage Furnishings, Inc. in Burke, Cleveland, Davie, Guilford, and McDowell Counties, NC, to points in FL. Supporting shipper: Drexel Heritage Furnishings, Inc., Drexel, NC.

The following applications were filed in Region 4: Send protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 15735 (Sub-4–21TA), filed July 6, 1982. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60680. *Contract* irregular: *Household goods* between points in the U.S. (except AK and HI) under a continuing contract with Chrysler Corporation. Supporting Shipper: Chrysler Corporation of Highland Park, MI.

MC 118696 (Sub-4–37TA), filed July 6, 1982. Applicant: FERREE FURNITURE EXPRESS, INC., 252 Wildwood Road, Hammond, IN 46234. Representative: John F. Wickes, Jr., Scopelitis & Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. *Contract* irregular: *General commodities* (except Classes A and B explosives and commodities in bulk), between points in the U.S. (except AK and HI). Restricted to traffic moving under continuing contract with ITOFCA, Inc. Supporting shipper: ITOFCA, Inc., 1001 West 31st Street, Downers Grove, IL 60515.

MC 143776 (Sub-4–2TA), filed July 6, 1982. Applicant: C.D.B., INC., 155 Spaulding Avenue, S.E., Grand Rapids, MI 49506. Representative: C. Michael Tubbs, Traffic Manager (same address as applicant). *Paper and related products, plastic products, ink copying machines, supplies used in the manufacture thereof,* between Hamilton, OH, on the one hand, and, on the other, Nashua, NH. An underlying ETA seeks 120-day authority. Supporting shipper: Nashua Corporation, 44 Franklin St., Nashua, New Hamphire 03061.

MC 151813 (Sub-4–1TA), filed July 6, 1982. Applicant: CONERTY-HENIFF TRANSPORT, INC., 4220 West 122nd Street, Alsip, IL 60658. Representative: Abraham A. Diamond, 29 South La Salle Street, Chicago, IL 60603. *Contract* Irregular: *Petroleum and related products; Chemicals; and Coal tar products;* between Lemont, IL;

Hammond, IN; Detroit, MI; Cincinnati, OH; and Pittsburgh, PA on the one hand, and, on the other, points in and east of ND, SD, NE, KS, OK, & TA, under continuing contract with Union Oil Company of California. Supporting shipper: Union Oil Company of California, 1650 East Golf Road, Schaumburg, IL 60196.

MC 152353 (Sub-4–6TA), filed July 1, 1982. Applicant: WM. TIMBLIN TRANSIT, INC., Route 1, Eden, WI 53019. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. *Rubber, metal, steel and steel products* between points in WI on the one hand, and, on the other hand, points in AL, IA, IL, MI, OH, SC and TX. Restriction: restricted to shipments originating or terminating at the facilities owned or used by I. Bahcall Steel & Supply Co. Supporting shipper: I. Bahcall Steel & Supply Co., 975 Meade Street, P.O. Box 1054, Appleton, WI 54912.

MC 152706 (Sub-4–6TA), filed July 6, 1982. Applicant: MIDWEST OIL TRANSIT, INC., Post Office Box 68083, Indianapolis, IN 46268. Representative: Robert B. Hebert, Harrison & Moberly, 777 Chamber of Commerce Building, Indianapolis, IN 46204. Asphalt flux from points in Toledo, OH to points in Indianapolis, IN, via irregular routes. Supporting shipper: Asphalt Refining Company, 4902 West 86th Street, Indianapolis, IN 46268.

MC 154491 (Sub-4–2TA), filed July 6, 1982. Applicant: THOMAS R. HAPPERSETT, d.b.a. HAPPERSETT ENTERPRISES, Route 2, Aautoma, WI 54982. Representative: Michael J. Wyngaard, McBurney, Wyngaard & Wilson, 150 East Gilman Street, Madison, WI 53703. *Materials, equipment and supplies used or useful in the production, sale or distribution of flowers and in the operation of a floral business* from Kent and Lancaster, OH and Kokomo, IN to MN, IL and WI. Supporting shipper: Three.

MC 155022 (Sub-4–3TA), filed July 1, 1982. Applicant: PROCHNOW FARMS, INC., Route 5, Medford, WI 54451. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. *Contract;* irregular; *windows, doors and materials, equipment and supplies used in the sale, manufacture or distribution of such commodities* between Medford and Merrill, WI, on the one hand and, on the other hand, points within the U.S. (except AK and HI). Restriction: restricted to transportation performed under continuing contract(s) with Harlyn Industries, Inc. Supporting shipper: Harlyn Industries, Inc., 520 south Whellen Avenue, Medford, WI 54451.

MC 162811 (Sub-4–1–TA), filed July 6, 1982. Applicant: HARLOW'S BUS SERVICE, INC., Rolette, ND 58366. Representative: Charles E. Jophnson, 220 N. 4th Street, P.O. Box 2056 Bismarck, ND 58502–2056. Transporting *passengers and related baggage* between Rolette, Ward and Burleigh Counties in ND on the one hand, and on the other, points in the US (except AK and HI). Underlying ETA seeks 120 day authority. Supporting shippers: Six shippers support the application.

MC 162816 (Sub-4–1TA), filed July 6, 1982. Applicant: JAMES L. KENNEDY, d.b.a. PIONEER EXPRESS, 1013 Woodbine Circle West, Galesburg, IL 61401. Representatives: Edward D. McNamara, Jr., Leslieann G. Maxey, 907 South Fourth St., Springfield, IL 62703. *General commodities* (except Classes A and B explosives, household goods, and commodities in bulk), restricted to shipments which will be delivered within 24 hours of pick-up, subject to any one shipment not to exceed 8,000 pounds between points in the states of IL, MN, NE, MO, IA, WI, IN, MI, and MS. Supporting shippers: There are 8 statements of support attached to this application. An ETA was also filed on this date.

MC 162831 (Sub-4–1TA), filed July 7, 1982. Applicant: POINTER CARRIER, INC., 5906 Driftwood Avenue, Madison, WI 53705. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. Common; irregular; (a) *building materials* between Dane and Milwaukee Counties, WI on the one hand and, on the other hand, points within FL; (b) *food and related products* between facilities of A. Sturm & Sons, Inc. in Waupaca County, WI on the one hand and, on the other hand Indianapolis, IN, St. Louis, MO, Minneapolis/St. Paul, MN and points in FL (Restriction: restricted to shipments not exceeding 20,000 pounds); (c) *lawn and garden equipment, snowmobiles and motorcycles* between Chicago, IL and Madison, WI (Restriction: restricted to shipments originating or terminating at the facilities of Englehart, Inc.); and (d) *sporting goods* between Chicago, IL and Madison, WI (Restriction: restricted to shipments originating or terminating at the facilities of Badger Sporting Goods Co.). Supporting shippers: Vogel Brothers Building Co., 2701 Packers Avenue, P.O. Box 7096, Madison, WI 53704; A. Sturm & Sons, Inc., 977 Depot Street, Manawa, WI 54949; Englehart, Inc., 1589 Greenway Cross, Madison, WI 53713; Badger Sporting Goods Co., 2814 Bryant Road, Madison, WI 53713. Supporting shippers: 4.

MC 147446 (Sub-4–1TA), filed July 9, 1982. Applicant: TOWN TRUCKING CO., 1500 South Roslyn Road, Roselle, IL 60172. Representative: Albert A. Andrin, 180 North La Salle Street, Chicago, IL 60601. Transporting: *Roofing and roofing materials, asphalt and materials and supplies used or useful in the manufacture and distribution of roofing and roofing materials and asphalt,* between Cook County, IL, on the one hand, and, on the other, points in IN, IL, WI, MO, IA, MN, MI, OH and KY. Supporting shipper: IKO Products, Inc., Ray Road, Wilmington, DE 19809.

MC 125973 (Sub-4–5TA), filed July 8, 1982. Applicant: CROWN WAREHOUSE & TRANSPORTATION COMPANY, INC., 710 East 9th Avenue, P.O. Box M799 A, Gary, IN 46401. Representative: Leonard R. Kofkin, Esq., Suite 1515, 140 South Dearborn Street, Chicago, IL 60603. *Contract carrier, irregular routes,* transporting: *General commodities* (except Classes A and B explosives, household goods as defined by the Commission, and commodities in bulk) between points in IL, IN, KY, MI, and OH, under continuing contract(s) with FSC Corporation; Valley Liquors, Inc.; Romano Brothers Co.; and Rand McNally & Company. Supporting shippers: FSC Corporation, 13101 S. Pulaski Avenue, Alsip, IL 60658; Valley Liquors, Inc., 1703 Eastwood Drive, P.O. Box 830, Aurora, IL 60506; Romano Brothers Co., 2555 South Leavitt, Chicago, IL 60608; and Rand McNally & Company, 8255 North Central Park Avenue, Skokie, IL 60076.

MC 158357 (Sub-4–3TA), filed July 8, 1982. Applicant: LEONARD ZERNONE d.b.a. MEKIMLEN TRUCKING COMPANY, 1028 South Walnut, Arlington Heights, IL 60005. Representative: Anthony E. Young, 29 South LaSalle Street, Suite 350, Chicago, IL 60603. *Paper and paper products,* from the facilities of Trinity Mid-West Corp., located at or near Plainfield, IL, to points in IN and WI. Supporting shipper: Trinity Mid-West Corp., P.O. Box 301, Plainfield, IL 60544.

MC 161094 (Sub-4–1TA), filed July 9, 1982. Applicant: G & G TRUCKING, INC., 9780 South 60th Street, Franklin, WI 53132. Representative: Harold O. Orlofske, Post Office Box 368, Neenah, WI 54956. Transporting *machinery which because of its size or weight requires special handling or equipment* between the facilities of the Allis Chalmers Corp. at West Allis, WI on the one hand, and, on the other, Los Angeles, CA; San Francisco, CA; East

Alton, IL; St. Marys, KS; New Orleans, LA; Baltimore, MD; Beulah, ND; Houston, TX; and Longview, WA for 270 days. An underlying ETA seeks 120 days. Supporting shippers: Allis Chalmers Corp., P.O. Box 512, West Allis, WI 53201.

MC 162776 (Sub-4–1TA), filed July 9, 1982. Applicant: DMi TRUCKING, INC., State Road 64, P.O. Box 129, Huntingburg, IN 47542. Representative: Edward G. Bazelon, 29 South La Salle Street, Chicago, IL 60603. Contract, Irregular: (a) *Household and office furniture and materials, equipment and supplies* used in the manufacture and distribution thereof, between Huntingburg and Ferdinand, IN, Dothan, AL, and Gettysburg, PA, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, CO, OK and TX, under continuing contract(s) with DMi Furniture Inc. of Huntingburg, IN; (b) *upholstered furniture and tables and materials, equipment and supplies* used in the manufacture and distribution thereof, between Rushville, IN, Montoursville, PA, Madison and Cornelia, GA, Bryan and Jackson, TX, Corona, CA, Henderson, KY, and Chicago, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Schnadig Corporation of Chicago, IL; and (c) *paper and plastic disposables and ice cream cones, and materials equipment and supplies* used in the manufacture and distribution thereof, between Chicago, IL, on the one hand, and, on the other, points in IN, IA, KY, MI, MN, MO, NE, and OH, under continuing contract(s) with Sweetheart Cup Corporation and Northwest Cone Company, Divisions of Maryland Cup Corporation, for 270 days. Supporting shippers: DMi Furniture Inc., State Road 64, P.O. Box 129, Huntingburg, IN 47542; Schnadig Corporation, 4820 West Belmont Ave., Chicago, IL 60641; and Sweetheart Cup Corporation and Northwest Cone Company, Divisions of Maryland Cup Corporation, 7575 South Kostner Ave., Chicago, IL 60652.

MC 162871 (Sub-4–1TA), filed July 8, 1982. Applicant: J. B. L, INC., 1717 Omaha Street, Osseo, WI 54758. Representative: Richard A. Westley, Attorney, 4506 Regent Street, Suite 100, P.O. Box 5086, Madison, WI 53705–0086. *Malt beverages; rejected shipments, related advertising materials, and used malt beverage containers; and recyclable metal products* (1) between the facilities of West Wisconsin Dist. Co., Inc. at or near Eau Claire, WI on the one hand, and, on the other hand, Chicago, IL; Detroit, MI; St. Louis, MO; Columbus, OH; and Memphis, TN; (2) between the facilities of Gusto Distributing, Inc. at or near Eau Claire, WI on the one hand, and, on the other hand, Chicago, IL; Detroit, MI; St. Louis, MO; Memphis, TN; and Longview, TX. Supporting shipper: West Wisconsin Dist. Co., Inc., 525 Park Ridge Drive, Eau Claire, WI 54701.

The following applications were filed in Region 5. Send protest to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 110567 (Sub-5–10TA), filed July 16, 1982. Applicant: SOONER TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: Kenneth L. Kessler, P.O. Box 855, Des Moines, IA 50304. Contract, Irregular: *such commodities as are distributed by retail grocery stores,* between Polk County, IA, on the one hand, and, on the other, points in Bureau, Carroll, Henry, Knox, La Salle, Lee, Ogle, Stark, Stephenson, Whiteside and Winnebago Counties, IL. Supporting shippers: 13.

MC 114028 (Sub-5–8TA), filed July 6, 1982. Applicant: ROWLEY INTERSTATE TRANSPORTATION CO., INC., 2010 Kerper Blvd., Dubuque, IA 52001. Representative: Carl E. Munson, P.O. Box 796, Dubuque, IA 52001. *Paper and paper products,* from Wycliff, KY, Madawaska and Rumford, ME, Luke, MD, Kalamazoo and Muskegon, MI, Jackson and Moss Point, MS, Riegelswood, NC, Tyrone, PA, and Franklin, VA, to Dubuque, IA. Supporting shipper: Wm. C. Brown Publishers, 2460 Kerper Blvd., Dubuque, IA 52001.

MC 147536 (Sub-5–17TA), filed July 6, 1982. Applicant: D. L. SITTON MOTOR LINES, INC., P.O. Box 1567, Joplin, MO 64802. Representative: David L. Sitton (same as applicant). *Pet food, materials, equipment and supplies* between points in Muscatine County, IA on the one hand, and, on the other, points in MT. Supporting shipper: Doane Products Co., Joplin, MO.

MC 150783 (Sub-5–37TA), filed July 6, 1982. Applicant: SCHEDULED TRUCKWAYS, INC., P.O. Box 757, Rogers, AR 72756. Representative: James H. Berry, P.O. Box 32, Wesley, AR 72773. *Such commodities as are dealt in or used by wholesale, retail discount variety and department stores;* between points in Kay, Pottawatomie and Tulsa Counties, OK, and Benton, Crawford and Washington Counties, AR on the one hand, and on the other, points in the U.S. (except AK and HI). Supporting shipper: Dollar Saver Stores, Ponca City, OK.

MC 150836 (Sub-5–3TA), filed July 6, 1982. Applicant: JOHN A. FOWLER d.b.a. JOHN FOWLER TRUCKING, Route 4, No. 12 Robin Dale Lane, Burleson, TX 76128. Representative: A. William Brackett, 623 S. Henderson, 2nd Floor, Fort Worth, TX 76104. Contract: Irregular. *Such merchandise as is dealt in by retail grocery chains and food business houses and equipment, materials and supplies used in the conduct of such business* from points in Cobb County, GA to points in TX, TN and AR under a continuing contract with The Kroger Co. Supporting shipper: The Kroger Co., 1014 Vine Street, Cincinnati, OH 45201.

MC 159214 (Sub-5–1TA), filed July 6, 1982. Applicant: J. C. PHILLIPS, d.b.a. D & L TRANSFER CO., 1346 Jasper, North Kansas City, MO 64116. Representative: Betty Hoffman (same as Applicant). *Electrical supplies, paint, adhesives, starch, empty containers, chemical products (except in bulk)* between North Kansas City, MO and points in CO and IL. Supporting shippers: Mozel Chemical Products, North Kansas City, MO; National Starch & Chemical Co., North Kansas City, MO; Joslyn Mfg. & Supply Co., North Kansas City, MO; Northern Container Corp., Chicago, IL; Tnemec Co. Inc., North Kansas City, MO.

MC 162335 (Sub-5–1TA), filed July 6, 1982. Applicant: WELLS TRUCKING, INC., Rt. 1, Box 185–C, Ponchatoula, LA 70454. Representative: Bryan Edwards, P.O. Box 535, Ponchatoula, LA 70454. *Contract; Irregular. *Food and Related Products,* between points in the U.S. Supporting shipper: Modern Maid Food Products, 200 Garden City Plaza, Garden City, NY 11530.

MC 162359 (Sub-5–1TA), filed July 6, 1982. Applicant: DUO-FAST ARKANSAS, INC., 8717 Stagecoach Road, Little Rock, AR 72210. Representative: Janet L. James, Suite 850—Twin City Bank, One Riverfront Place, North Little Rock, AR 72114. Contract; Irregular. *Beer, Malt Beverages and Related Products,* between Minneapolis, MN, Fort Smith, AR, Hot Springs, AR, Little Rock, AR, North Little Rock, AR, and other points in the U.S. Supporting Shipper: Mid-Ark Distributing, Inc., 7613 Hardin Drive, North Little Rock, AR 72117.

MC 162803 (Sub-5–1TA), filed July 6, 1982. Applicant: LES LAWVER d.b.a. LES LAWVER TRUCKING, Route 1, Box 20, Friend, NE 68359. Representative: Hughan R. H. Smith, 26 Kenwood Place, Lawrence, MA 01841. Contract carrier, irregular routes: brick and railroad ties, between points in the United States (except AK and HI) under continuing

contract(s) with: (1) Great Plains Brick & Tie Co., 900 Sun Valley Blvd., Lincoln, NE. (2) Happs Inc., 3955 Dundee Road, Northbrook, IL 60062.

MC 162804 (Sub-5–1TA), filed July 6, 1982. Applicant: PENNY'S WRECKER SERVICE, INC., 6404 Geyer Springs Road, Little Rock, AR 72209. Representative: A. R. Pendergrass (same as above). *Wrecked, disabled or repossessed vehicles* between points in AR, LA, MS, TN and TX. Supporting shipper: Affiliated Food Stores, Inc., Little Rock, AR.

MC 162806 (Sub-5–1TA), filed July 6, 1982. Applicant: ATENHAN TRUCKING, INC., P.O. Box 683, Deshler, NE 68340. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Contract, Irregular. (1) *Metal products and machinery, and* (2) *materials, equipment and supplies utilized in the production and distribution of metal products and machinery,* between the facilities of Reinke Manufacturing Company, Inc. at or near Deshler and Geneva, NE, on the one hand, and, on the other, points in the U.S. (except AK and HI), under a continuing contract(s) with Reinke Manufacturing company, Inc. Supporting shipper: Reinke Manufacturing Company, Inc., P.O. Box 566, Deshler, NE 68340.

MC 162808 (Sub-5–1TA), filed July 6, 1982. Applicant: Donald D. or Cynthia A. Johnson d.b.a. JOHNSON FARM LINES, Route 3, Box 152–A, Highway 103N, Clarksville, AR 72830. Representative: Donald D. or Cynthia Johnson (same as above). *Forest products, lumber and wood products, staves, pallets, and posts,* between points in AR, MO, OK, IA, NE, KS, MS, TN, TX, IL, WI, MN, SD, and LA. Supporting shipper(s): Clarksville Wood Products, Inc., Lamar, AR; Powell Lumber Co., Dallas, TX.

The following applications were filed in region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, 211 Main St., Suite 501, San Francisco, CA 94105.

MC 162818 (Sub-6–1TA), filed July 2, 1982. Applicant: CEL, INCORPORATED—ADVANCED TOURS DIVISION, 1379 E. Colorado Blvd., Glendale, CA 91205. Representative: Jesusa D. Caldito, 313 Fischer St., Glendale, CA 91205. *Passengers and their baggage,* in special and charter operations, between Glendale, CA, on the one hand, and, on the other, points in NV and AZ, for 180 days. Supporting shippers: There are (7) seven shippers. Their statements may be examined at the Regional office listed.

MC 162819 (Sub-6–1TA), filed July 6, 1982. Applicant: JOE CONWAY TRUCKING CO., 6509 West Orangewood, Glendale, AZ 85301. Representative: Rod Williams (same as applicant). Transport *aluminum dross, saw fines and chips and aluminum ingots* between points in AZ on the one hand, and, on the other, points in CA, OR, NM, KS, NV, and WA, for 270 days. Supporting shipper: Reynolds Metals Company, P.O.B. 27003, Richmond, VA 23261.

MC 161844 (Sub-6–1TA), filed July 6, 1982. Applicant: J. T. DUNN & ASSOCIATES, INC., 556 E. 2100 S., Suite 100, Salt Lake City, UT 84106. Representative: Harvey Dunn (same as applicant). *Alcoholic beverages, wines & distilled spirits,* between points in the U.S. (except AK and HI), for 270 days. Restricted to the account of NMPC Recreational Service Division, San Francisco, CA. An underlying ETA seeks 120 days authority. Supporting shipper: NMPC Recreational Services Division, Building 1, Room 172, Treasure Island, San Francisco, CA 94103.

MC 150756 (Sub-6–11TA), filed July 7, 1982. Applicant: GUTHMILLER TRUCKING, INC., P.O.B. 206, Union City, CA 94587. Representative: Eldon M. Johnson, 650 California Street, Suite 2808, San Francisco, CA 94108. *Plastic valves* from Santa Ana, CA, to points in CO, ID, OR, UT and WA, for 270 days. Supporting shipper: Colonial Engineering, 402 West Central, Santa Ana, CA 92707.

MC 153314 (Sub-6–6TA), filed July 2, 1982. Applicant: M & D TRANSPORTATION, INC., P.O.B. 775, Glendale, AZ 85311. Representative: Michael S. Varda, P.O.B. 2509, Madison, WI 53701. (1) *Furniture* from Corydon and New Salisbury, IN, to points in TX, and (2) *gypsum building products* from points in Delaware County, PA, and Tarrant County, TX, to points in the U.S. (except AK and HI), for 270 days. Supporting shippers: G.L.C. Furniture Warehouse, Inc., 1705 John Connally Dr., Carrollton, TX 75006 and Zerodec/Megacorp, 614 East 10th St., Chester, PA 19013.

MC 160997 (Sub-6–1TA), filed July 6, 1982. Applicant: M&N ENTERPRISES, INC., 711 Fairway Dr., City of Industry, CA 91789. Representative: Donald R. Hedrick, POB 4334, Santa Ana, CA 92702. (1) *food and related products,* (a) from points in CO, NE, KS, IA, IL, MI, MS, and TX to points in CA, OR, and WA; (b) from points in WA to points in CA and OR; (c) from points in CO and KS to points in TX; (d) from points in AZ to points in CA; and (e) from points in CA to points in WA, OR, MO, KS, OH and NE. (2) *sundries used in restaurants,* from points in CA to points in WA, OR, MO, KS, OH and NE, for 270 days. Supporting shippers: California Provisions, P.O.B. 58508, Vernon, CA 90058; Acapulco Y Los Arcos, 2690 E. Foothill Blvd., Pasadena, CA 91107.

MC 162823 (Sub-6–1TA), filed July 6, 1982. Applicant: TIM BATEMAN, d.b.a. TLB CHARTER, 233 W. Ridgecrest Blvd., Ridgecrest, CA 93555. Representative: Tim J. Bateman, 237 Holly Canyon St., Ridgecrest, CA 93555. *Passengers and baggage,* in special and charter operations, between Kern and San Bernardino counties, CA, on the one hand, and, on the other, points in NV, for 180 days. Supporting shipper: Ridgecrest Ski Association, 501 E. Ridgecrest Blvd., Ridgecrest, CA.

MC 158930 (Sub-6–5TA), filed July 6, 1982. Applicant: U. S. TRANSPORTATION, INC. 585 Valley Blvd., Bloomington, CA 92316. Representative: Frederick J. Coffman, P.O.B. 1455, Upland, CA 91786. *General commodities* (except classes A & B explosives, household goods, and commodities in bulk in tank vehicles), between points in the U.S., (except AK and HI), under continuing contract(s) with Standard Brands Paint Co., and its divisions and subsidiaries, for 270 days. Supporting shipper: Standard Brands Paint Co., 4300 West 190th St., Torrance, CA 90509.

MC 52858 (Sub-6–4TA), filed July 8, 1982. Applicant: CONVOY COMPANY, P.O.B. 10185, Portland, OR 97210. Representative: Raymond A. Greene, Jr., 100 Pine St., #2550, San Francisco, CA 94111. *Motor vehicles in truckaway service* between points in AR, AZ, CA, CO, ID, IL, IA, KS, LA, MN, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, WI, WY, on the one hand and GA, KY, MI and OH on the other, for 270 days. Supporting shippers: Georgia-Pacific Corporation, 900 S.W. Fifth Ave., Portland, OR 97204; Chrysler Corporation, P.O.B. 1976, Detroit, MI 48288; and Ford Motor Company, P.O.B. 1529–B, NAAO, Dearborn, MI 48121.

MC 148000 (Sub-6–3TA), filed July 2, 1982. Applicant: C. H. DREDGE & CO., INC., 918 South 2000 West, Syracuse, UT 84041. Representative: Bruce W. Shand, Ste. 280, 311 S. State St., Salt Lake City, UT 84111. *Such commodities as are dealt in by wholesale and retail food business houses,* between points in CO, ID, MT, UT, & WY for 270 days. ETA seeks 120 days authority. Supporting Shippers: Gulf-Atlantic Distribution Services, 1115 42nd Ave., NE, St. Petersburg, FL 33703 and Borden, Inc., 180 E. Broad St., Columbus, OH 43215.

MC 162873 (Sub-6–1TA), filed July 8, 1982. Applicant: RICHARD N. ESAJIAN

and KENNETH ESAJIAN and BRUCE ESAJIAN, a partnership, d.b.a. ESAJIAN INVESTMENTS, 527 'L' Street, Fresno, CA 93721. Representative: Richard N. Esajian (same as applicant). *Contract carrier,* Irregular Routes: *Aluminum and steel wheels, and tires, and automotive parts, supplies, and accessories.* Between points in CA on the one hand and point in OR and WA on the other, for the accounts of TRU-SPOKE AND PRO TRAC TIRES, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Tru-Spoke, P.O.B. 647, Anaheim, CA 92805; Pro Trac, 425 N. Robertson, L.A., CA [illegible].

MC 155223 (Sub-6–3TA), filed July 8, 1982. Applicant: HIGHWAY EXPRESS, INC., 5742 W. Maryland, Glendale, AZ 85301. Representative: Robert Fuller, 13215 E. Penn St., Ste. 310, Whittier, CA 90602. *Contract carrier,* irregular routes: *electrical cable; aluminum wire, copper clad; aluminum fine wire; and fibreboard,* between Phoenix, AZ, on the one hand, and, on the other, points in CA, FL, GA, IL, IN, MI, NJ, OH, PA, TN and UT for the account of CCS Cable, for 270 days. Supporting shipper: CCS Cable, 5707 W. Buckeye Rd., Phoenix, AZ 85043.

MC 143098 (Sub-6–1TA), filed July 2, 1982. Applicant: LAUGHLIN TRUCKING, INC., Rt 1 B 95, Carlton, OR 97111. Representative: Lawrence V. Smart, Jr., 419 N W 23rd Avenue, Portland, OR 97210. *Aluminum dross and aluminum,* between the facilities of Martin Marietta Aluminum in Klickitat County, WA, on the one hand, and the facilities of Reclaimed Metals Corporation at or near Goodyear, AZ, on the other hand, for 270 days. An underlying ETA seeks 120 day authority. Supporting shipper: Martin Marietta Aluminum, 6801 Rockledge Dr, Bethesda, MD 20034.

MC 162843 (Sub-6–1TA), filed July 6, 1982. Applicant: LONE OAK, INC., 2957 Hamner Ave., Norco, CA 91760. Representative: Miles L. Kavaller, 315 S. Beverly Dr., Suite 315, Beverly Hills, CA 90212. *Contract carrier,* irregular routes. *General commodities,* (except household goods, class A&B explosives, hazardous waste, bulk) between points in CA, on the one hand, and on the other, points in the US, except AK and HI, under a continuing contract with the Interstate Freight Service, Inc. of Downey, CA, for 270 days. Supporting shipper: Interstate Freight Service, Inc., 9710 Shellyfield, Downey CA 90240.

MC 162874 (Sub-6–1TA), filed July 8, 1982. Applicant: BILL LUNA, d.b.a. BILL LUNA TRUCKING, 1418 E. Elgin, Caldwell, Idaho 83605. Representative: Timothy R. Stivers, P.O.B. 1576, Boise, ID 83701. *Contract Carrier,* Irregular routes: *foodstuffs,* from the facilities of Treasure Valley Foods, Inc. located in Canyon County, ID to points in the US (except AK and HI), for 270 days. Supporting shipper(s): Treasure Valley Foods, Inc., 216 Eighth St. N., Nampa, ID 83651.

MC 147553 (Sub-6–6TA), filed July 9, 1982. Applicant: DENNIS MOSS and GARY MOSS, d.b.a. MOTOR WEST, P.O.B. 1405, Caldwell, ID 83605. Representative: Timothy R. Stivers, P.O.B. 1576, Boise, ID 83701. *Contract Carrier,* Irregular routes: *Lumber and Lumber Mill Products,* from points in ID, MT, OR and WA, to points in CO and UT for the accounts of Intermountain-Orient, Inc. and Idaho Pacific Corp., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Intermountain-Orient, Inc., P.O.B. 4297, Boise, ID 83704; Idaho Pacific Corp., P.O.B. 4815, Boise, ID 83704.

MC 110325 (Sub-6–59TA), filed July 6, 1982. Applicant: TRANSCON LINES, P.O.B. 92220, Los Angeles, CA 90009. Representative: Jerome Biniasz (same as applicant). *General commodities* (except Classes A & B explosives, household goods hazardous waste and commodities in bulk) between points in the U.S. (except AK and HI) under continuing contract(s) with Siemens-Allis, Incorporated and subsidiaries for 270 days. Supporting shipper: Siemens-Allis, Incorporated, 223 Perimeter Center Parkway, Atlanta, GA 30338.

MC 162751 (Sub-6–1TA), filed July 8, 1982. Applicant: WASHINGTON AIR TAXI EXPRESS, INC., d.b.a. W.A.T.E., 7595 Perimeter Rd. S., Seattle, WA 98108. Representative: David W. Wiley, 1100 Norton Bldg., Seattle, WA 98104. *Contract carrier,* irregular routes: *photographs, photographic materials, supplies, and products used in the photofinishing process,* between points in WA and Portland, OR under continuing contract with Guardian Photo, Inc., Portland, OR, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Guardian Photo, Inc., 903 Industry Dr., Tukwila, WA 98188.

Agatha L Mergenovich,

Secretary.

[FR Doc. 82-19460 Filed 7-16-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-394N)]

Conrail Abandonment Between Niagara Jct. and Buffalo in Erie County, NY; Findings

Notice is hereby given pursuant to section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Niagara Jct. and Buffalo in the County of Erie, NY, a total distance of 7.1 miles effective on June 2, 1982.

The Commission has decided that the net liquidation value of this line is $876,712. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-19457 Filed 7-16-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-406N)]

Conrail Abandonment Between Rouseville And Titusville, PA; Findings

Notice is hereby given pursuant to section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Rouseville and Titusville in the Counties of Venango and Crawford, PA, a total distance of 15.8 miles effective on June 18, 1982.

The Commission has decided that the net liquidation value of this line is $731,461. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-19458 Filed 7-16-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-448N)]

Conrail Abandonment Between South River and Wrights, NJ; Findings

Notice is hereby given pursuant to section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between South River and Wrights in the County of Middlesex, NJ, a total distance of 1.3 miles effective on June 18, 1982.

The Commission has decided that the net liquidation value of this line is $33,502. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-19454 Filed 7-16-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-298N)]

Conrail Abandonment Between Montandon Junction and Mifflinburg, Pa.; Findings

Notice is hereby given pursuant to section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Montandon Junction and Mifflinburg in the Counties of Union and Northumberland, PA, a total distance of 11.8 miles effective on June 11, 1982.

The Commission has decided that the net liquidation value of this line is $197,314. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-19456 Filed 7-16-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-427N)]

Conrail Abandonment Near N. Tonawanda in Niagara County, NY; Findings

Notice is hereby given pursuant to section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon 1.89 miles of its rail line in the County of Niagara, NY, effective on June 22, 1982.

The Commission has decided that the net liquidation value of this line is $110,020. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-19455 Filed 7-16-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. MC-43]

Lease and Interchange of Vehicles by Motor Carriers

Decided: July 7, 1982.

New England Motor Freight, Inc. (No. MC-112107), and Phoenix Motor Express, Inc. (No. MC-155523) (commonly controlled), petition for waiver of Subpart B, §§ 1057.11 and 1057.12 of the Lease and Interchange of Vehicles Regulations (49 CFR 1057) with respect to equipment augmented between them.

Findings

1. Petitioners are commonly controlled and jointly administer a common safety program.

2. Petitioners have acceptable fitness records.

3. Greater efficiency and economy would result from the waiver.

4. Energy conservation could be effected.

It is ordered

1. The petition of New England Motor Freight, Inc. (No. MC-112107), and Phoenix Motor Express, Inc. (No. MC-155523), for waiver of Subpart B, §§ 1057.11 and 1057.12 is partially granted with respect to equipment leased between them, provided petitioners comply with paragraph (c) of Section 1057.11 and petitioners or their authorized representatives agree in writing that control and responsibility for operating the equipment shall be that of the lessee from the time the lessee acquires the equipment, and a receipt as required by paragraph (b) of Section 1057.11 is furnished to the lessor until possession is returned to lessor or the equipment is interchanged with another authorized carrier, and that a copy of the agreement is carried on the vehicle while in the lessee's possession, and, further provided that petitioners remain under common control.

2. The waiver granted in this decision does not affect the application of the leasing regulations in a lease between an owner-operator and the lessor carrier.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-19400 Filed 7-16-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-175)]

Western Pacific Railroad Co.; Exemption for Contract Tariff, ICC-WP-C-0037

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Tom Smerdon, (202) 275-7277.

SUPPLEMENTARY INFORMATION: The Western Pacific Railroad Company (WP) filed a petition on June 28, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract ICC-WP-C-0037 filed on June 28, 1982, to become effective on one day's notice. The contract involves the movement of coal. The other parties to the contract have submitted letters in support of the petition.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. However, relief may be granted under 49 U.S.C. 10505.

The petition shall be granted. The contract calls for the transportation of a minimum volume of coal by the petitioner or its subsidiary, the Sacramento Northern, to California for export. Delay of the contract's effective

date will undermine the shipper's selling position in Japan, and may cause layoffs at the mine. An exemption will obviously be in the public interest.

Petitioner's contract ICC–WP–C–0037 may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(e) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30 day notice requirement in this instance is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(d) if protests showing good cause are filed within 15 days of publication in the **Federal Register**.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

Authority: 49 U.S.C. 10505.

Dated: July 12, 1982.

By the Commission, Division 1, Commissioners Sterrett, Simmons, and Gradison. Commissioner Gradison did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–19459 Filed 7–16–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 82–16780 appearing at page 26929 in the issue of Tuesday, June 22, 1982; on page 26935, MC 151166 (Sub-2), twelfth line, "GA" should read "CA".

BILLING CODE 1505–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–373]

Commonwealth Edison Co.; Issuance of Amendment of Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 2 to Facility Operating License No. NPF–11, issued to Commonwealth Edison Company, which revised Technical Specifications for operation of the La Salle County Station, Unit No. 1 (the facility) located in Brookfield Township, La Salle County, Illinois. The Amendment is effective as of the date of issuance.

The Amendment consists of changes to the Technical Specifications. The changes to the Technical Specifications were as follows: (1) reduce the count rate on the source range monitors from 3 cps to 0.7 cps, with a minimum allowable value of 0.5 cps instead of 2 cps, and (2) revise the alarm setpoint for the reactor core isolation cooling system from 60 psig to 90 psig.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this Amendment was not required since the Amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this Amendment will not result in any significant environmental impact and that pursuant to 10 CFR Section 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this Amendment.

For further details with respect to this action, see (1) the application for amendment dated June 14, 1982 and July 2, 1982, (2) Amendment No. 2 to License NPF–11 dated July 8, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and the Public Library of Illinois Valley Community College, Rural Route No. 1, Ogelsby, Illinois. A copy of items (1) and (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 9th day of July 1982.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 82–19304 Filed 7–16–82; 8:45 am]

BILLING CODE 7590–01–M

[Dockets Nos. 50–327 and 50–328]

Tennessee Valley Authority; Issuance of Amendments; Facility Operating Licenses Nos. DPR–77 and DPR–79

The U.S. Nuclear Regulatory Commission (the Commission) had issued Amendment No. 14 to Facility Operating License No. DPR–77 and Amendment No. 5 to Facility Operating License DPR–79, issued to Tennessee Valley Authority (licensee) for the Sequoyah Plant, Units 1 and 2 (the facilities) located in Hamilton County, Tennessee.

The amendments were authorized by telephone on June 18, 1982, and were confirmed by letter on June 23, 1982. The amendments authorize, for a period of 30 days, changes in the requirement that containment sump level instrumentation be operable for automatic switchover from Refueling Water Storage Tank to containment sump and accident monitoring. These amendments were issued on an expedited basis to permit both Sequoyah units to remain at 100 percent power.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) environmental impact statements, or negative declarations and enviornmental impact appraisals need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) Tennessee Valley Authority letter dated June 18, 1982, (2) Amendment No. 14 to Facility Operating License No. DPR–77 with Appendix A Technical Specification page changes; (3) Amendment No. 5 to Facility Operating License No. DPR–79, with Appendix A Technical Specification page changes; and (4) the Commission's related Safety Evaluation.

All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and the Chattanooga Hamilton County Bicentennial Library, 1001 Broad Street.

Chattanooga, Tennessee 37402. A copy of Amendment No. 14 and Amendment No. 5 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 7th day of July 1982.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 82-19505 Filed 7-16-82; 8:45 am]

BILLING CODE 7590-01-M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a proposed revision to a guide in its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft, temporarily identified by its task number, SG 042-2 (which should be mentioned in all correspondence concerning this draft guide), is proposed Revision 2 to Regulatory Guide 5.9 and is entitled "Guidelines for Germanium Spectroscopy Systems for Measurement of Special Nuclear Material." The guide is being developed to provide some guidelines acceptable to the NRC staff for the selection of high-resolution gamma ray spectroscopy systems used for nondestructive assay measurements of special nuclear material and to point out useful resources for more detailed information on their assembly, optimization, and use in material protection measurements.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commisson, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by September 17, 1982.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may by reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 13th day of July 1982.

For the Nuclear Regulatory Commission.

Karl R. Goller,

Director, Division of Facility Operations, Office of Nuclear Regulatory Research.

[FR Doc. 82-19506 Filed 7-16-82; 8:45 am]

BILLING CODE 7590-01-M

Ad Hoc Committee for Review of Nuclear Reactor Licensing Reform Proposals; Meeting

Notice is hereby given in accordance with Section 10 of the Federal Advisory Committee Act that NRC's Ad Hoc Committee for Review of Nuclear Reactor Licensing Reform Proposals will hold its sixth meeting at 9:00 a.m., August 4, 1982. This meeting will take place at the office of Shaw, Pittman, Potts and Trowbridge, South Building, 9th Floor Lobby, 1800 M Street, NW, Washington, DC and will be open for public observation.

At this meeting, the committee will continue its review of proposals for reforming the NRC's licensing process for nuclear plants. A transcript of the meeting will be made available for public inspection and copying at NRC's Public Document Room, 1717 H Street, NW, Washington, DC.

Further information on the meeting may be obtained from Mr. Rothschild, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555. (Telephone 202/634-1465).

Dated at Washington, DC this 13th day of July 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-19507 Filed 7-16-82; 8:45 am]

BILLING CODE 7590-01-M

PRESIDENTIAL COMMISSION ON DRUNK DRIVING

Executive and Legislative Leadership Committee; Public Hearing.

AGENCY: Presidential Commission on Drunk Driving.

ACTION: Notice of public hearing.

SUMMARY: The Executive and Legislative Leadership Committee of the Presidential Commission on Drunk Driving is conducting public hearings in Oklahoma City on August 2-3, 1982, to discuss state and local approaches to the drunk driving problem.

DATE AND LOCATION: The hearings will be held on August 2, 1982 from 3:00 to 5:00 P.M. and August 3, 1982, from 9:30 A.M. to 3:00 P.M. at the Skirvin Plaza Hotel, 1 Park Avenue, Oklahoma City, Oklahoma 73102.

SUPPLEMENTARY INFORMATION: The Presidential Commission on Drunk Driving was established by Executive Order No. 12358 on April 14, 1982 (47 FR 16311, April 16, 1982) to assist the States in their fight against the epidemic of drunk driving on their roads. The Executive and Legislative Leadership Committee of the Commission will hold public hearings in Oklahoma City on state and local approaches to the problem. The Commission solicits testimony from the general public, public and private sector executives, and Federal, state and local legislators. The Commission is interested in testimony on any of the following subjects (though statements on other subjects are welcomed):

Initiating state and local legislative reform of drunk driving statutes and ordinances;

State and local government roles in improving drunk driving control measures;

Financing expanded drunk driver efforts;

The role of state and local drunk driving task forces;

The role, responsibility and activities of the business community in support of anti-drunk driving programs;

Leadership at the grass roots levels and the role of citizens groups;

Safety organizations and other private sectors groups activities to combat drunk driving.

FOR FURTHER INFORMATION CONTACT: John V. Moulden, Presidential Commission on Drunk Driving, NES–01, Room 4109, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 426–1495 or 426–2180.

Issued on July 15, 1982.

Eugene V. Lipp,

Executive Director, Presidential Commission on Drunk Driving.

[FR Doc. 82–19559 Filed 7–15–82; 2:04 pm]

BILLING CODE 4910-59-M

Enforcement and Adjudication Committee; Public Hearing

AGENCY: Presidential Commission on Drunk Driving/ Department of Transportation.

ACTION: Notice of public hearing.

SUMMARY: The Enforcement and Adjudication Committee of the Presidential Commission on Drunk Driving is conducting a public hearing in Denver, Colorado on August 11, 1982, to discuss ways to improve the apprehension, prosecution and adjudication of drunk drivers.

DATE AND LOCATION: The hearing will be held on August 11, 1982, from 11:00 A.M. to 1:00 P.M. and 2:30 P.M. to 4:00 P.M. at the U.S. Post Office and Court House, corner of 19th and Stout Streets (enter on the 19th Street side), 2nd floor Auditorium, Courtroom A, Denver, Colorado, 80294.

SUPPLEMENTARY INFORMATION: The Presidential Commission on Drunk Driving was established by Executive Order No. 12358 on April 14, 1982 (47 FR 16311, April 16, 1982) to assist the States in their fight against the epidemic of drunk driving on their roads. The Enforcement and Adjudication Committee of the Commission will hold a public hearing in Denver on ways to improve the apprehension, prosecution and adjudication of drunk drivers. The Commission solicits testimony from the general public, police, prosecutors, judges and others involved in the enforcement and adjudication of drunk driving laws. The Commission is interested in testimony on any of the follow subjects (though statements on other subjects are welcomed):

Techniques for improving drunk driving law enforcement;

Manpower and resource requirements for enforcement of drunk driving laws;

Impediments to effective drunk driving law inforcement;

Methods for improving prosecution and adjudication of drunk drivers;

Impediments to effective prosecution, adjudication, sanctioning and penalizing of drunk drivers;

Victims' rights;

Resource requirements for effective prosecution and adjudication of drunk drivers.

FOR FURTHER INFORMATION CONTACT: Jim Wright, Presidential Commission on Drunk Driving, NES–01, Room 4109, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 426–1495.

Issued on: July 15, 1982.

Eugene V. Lipp,

Executive Director, Presidential Commission on Drunk Driving.

[FR Doc. 82–19560 Filed 7–15–82; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

National Airspace Review; Meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 1) notice is hereby given of a meeting of Task Group 1–5 of the Federal Aviation Administration (FAA) National Airspace Review Advisory Committee. The agenda for this meeting is as follows: A review of Canadian airspace redefinition, by category, to determine compatibility with the present U.S. system or for possible U.S. adoption.

DATE: Beginning August 9, 1982 at 11:00 a.m., continuing daily, except Saturdays, Sundays, and holidays, not to exceed three weeks.

ADDRESS: The meeting will be held at the Transport Canada Building, Room 1464, Place de Ville, Ottawa, Ontario, K1A–0N8.

FOR FURTHER INFORMATION CONTACT: National Airspace Review Program Management Staff, room 1005, Federal Aviation Administration, 800 Independence Avenue, S.W., ATT–30, Washington, D.C. 20591, (202) 426–3560. Attendance is open to the interested public, but limited to the space available. To insure consideration, persons desiring to make statements at the meeting should submit them in writing to the Executive Director, National Airspace Review Advisory Committee, Air Traffic Service, AAT–1, 800 Independence Avenue, S.W., Washington, D.C. 20591, by August 6, 1982. Time permitting and subject to the approval of the chairman, these individuals may make oral presentations of their previously submitted statements.

Issued in Washington, D.C. on July 12, 1982.

Willard H. Reaxin,

Program Manager, NARAC.

[FR Doc. 82–19405 Filed 7–16–82; 8:45 am]

BILLING CODE 4910-13-M

National Airspace Review; Meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 1) notice is hereby given of a meeting of Task Group 1–2 of the Federal Aviation Administration (FAA) National Airspace Review Advisory Committee. The agenda for this meeting is as follows: A review of terminal radar service areas (TRSA's) to determine validity of this airspace concept, including previous TRSA studies, safety, user needs, efficiency, and simplicity.

DATE: Beginning August 9, 1982 at 11:00 a.m., continuing daily, except Saturdays, Sundays, and holidays, not to exceed three weeks.

ADDRESS: The meeting will be held at the Federal Aviation Administration, Conference Room 9AB, 800 Independence Avenue, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: National Airspace Review Program Management Staff, room 1005, Federal Aviation Administration, 800 Independence Avenue, S.W., ATT–30, Washington, D.C. 20591, (202) 426–3560. Attendance is open to the interested public, but limited to the space available. To insure consideration, persons desiring to make statements at the meeting should submit them in writing to the Executive Director, National Airspace Review Advisory Committee, Air Traffic Service, AAT–1, 800 Independence Avenue, S.W., Washington, D.C. 20591, by August 6, 1982. Time permitting and subject to the approval of the chairman, these individuals may make oral presentations of their previously submitted statements.

Issued in Washington, D.C. on July 12, 1982.

Willard H. Reaxin,

Program Manager, NARAC.

[FR Doc. 82–19429 Filed 7–16–82; 8:45 am]

BILLING CODE 4910-13-M

Maritime Administration

[Docket S-717]

Lykes Bros. Steamship Co., Inc.; Application

Notice is hereby given that Lykes Bros. Steamship Co., Inc. has filed an application dated July 1, 1982, to amend its present Operating-Differential Subsidy Agreement, Contract MA/MSB-451, so as to increase the maximum number of sailings permitted from 48 to 55 sailings for calendar year 1982 only on its subsidized Trade Route 13—Freight Service (Line C—Mediterranean Line).

Any person, firm, or corporation having any interest in such application and desiring to offer views and comments thereon for consideration by the Maritime Subsidy Board should submit them in writing, in triplicate, to the Secretary, Maritime Subsidy Board, Washington, D.C. 20590 by close of business on July 29, 1982.

The Maritime Subsidy Board will consider these views and comments and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS))

By Order of the Maritime Subsidy Board.
Date: July 12, 1982.

Georgia P. Stamas,
Assistant Secretary.

[FR Doc. 82-19328 Filed 7-16-82; 8:45 am]
BILLING CODE 4910-81-M

[Docket S-718]

Lykes Bros. Steamship Co., Inc.; Application

Notice is hereby given that Lykes Bros. Steamship Co., Inc. has filed an application dated July 1, 1982, to amend its present Operating-Differential Subsidy Agreement, Contract No. MA/MSB-451, so as to increase its maximum sailing limitation from 24 subsidized sailings to 32 subsidized sailings for calendar year 1982 only on its subsidized Trade Route No. 15-B—Freight Service (Line E-Africa Line) between U.S. Gulf ports and ports in South and East Africa.

Any person, firm, or corporation having any interest in such application and desiring to offer views and comments thereon for consideration by the Maritime Subsidy Board should submit them in writing, in triplicate, to the Secretary, Maritime Subsidy Board, Washington, D.C. 20590 by the close of business on July 29, 1982.

The Maritime Subsidy Board will consider these views and comments and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidy (ODS))

By Order of the Maritime Subsidy Board.
Dated: July 12, 1982.

Georgia P. Stamas,
Assistant Secretary.

[FR Doc. 82-19325 Filed 7-16-82; 8:45 am]
BILLING CODE 4910-81-M

Values for War Risk Insurance

AGENCY: Maritime Administration, DOT

ACTION: Determination of ship values for war risk insurance, effective July 1, 1981.

SUMMARY: Notice is hereby given that the Maritime Administrator has determined that the stated valuations set forth herein constitute just compensation for the vessels to which they apply and have been computed in accordance with sections 902 and 1209(a)(2) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1242, 1289). This authority was delegated to the Maritime Administrator by the Secretary of Transportation by Organizational Order 1100.60 (August 6, 1981), and redelegated to the Ship Valuation Committee by Maritime Administrative Order 440-3 (April 7, 1978; amended March 24, 1980, and November 4, 1981). Such stated valuations apply to vessels covered by interim binders for war risk hull insurance, Form MA-184, prescribed by 46 CFR Part 308. In accordance with Pub. L. 96-195, authority to issue such war risk insurance will expire on September 30, 1984.

The interim binders listed below shall be deemed to have been amended as of July 1, 1981, by inserting in the space provided therefor, or in substitution for any value not appearing in such space, the stated valuations of the respective vessels that appear on the list. Such stated valuation shall apply with respect to insurance attaching during the period July 1, 1981, to December 31, 1981, inclusive; *Provided, however,* That if there is substantial change in market values during the aforesaid period, the Maritime Administration reserves the right to revise the values assigned herein as being applicable; *And provided further,* That the assured shall have the right within 60 days after date of publication of this notice, or within 60 days after the attachment of the insurance under the interim binder to which such valuation applies, whichever is later, to reject such valuation and proceed as authorized by section 1209 (a)(2), Merchant Marine Act, 1936, as amended (46 U.S.C. 1289(a)(2)).

Dated: July 9, 1982.

By Order of the Maritime Administrator.

Georgia P. Stamas,
Assistant Secretary.

Binder No.	Name of vessel	Official No.	Stated valuation (in thousands)
3004	P.L. 1-0332-0342	525332-525342	$30
	P.L. 1-0344-0360	525344-525360	30
3005	P.L. 1-0361-0367	525361-525367	30
	P.L. 1-0369-0375	525369-525375	30
	P.L. 1-0377-0415	525377-525415	30
	P.L. 1-0417-0425	525417-525425	30
3426	P.L. 1-0526-0557	564526-564557	45
	P.L. 1-0559-0603	564559-564603	45
	P.L. 1-0605-0614	564605-564614	45
	P.L. 1-0616-0661	564616-564661	45
	P.L. 1-0664	564664	45
	P.L. 1-0668	564668	45
	P.L. 1-0670	564670	45
	P.L. 1-0672-0674	564672-564674	45
	P.L. 1-0680	564680	45
	P.L. 1-0682	564682	45
	P.L. 1-0685-0687	564685-564687	45
	P.L. 1-0690-0695	564690-564695	45
	P.L. 1-0697-0705	564697-564705	45
	P.L. 1-0707-0711	564707-564711	45
	P.L. 1-0713-0716	564713-564716	45
	P.L. 1-0718-0739	564718-564739	45
	P.L. 1-0741-0749	564741-564749	45
	P.L. 1-0751-0761	564751-564761	45
	P.L. 1-0763-0768	564763-564768	45
	P.L. 1-0770-0773	564770-564773	45
3313	P.L. 1-0740	564740	45
	P.L. 1-0750	564750	45
	P.L. 1-0762	564762	45
	P.L. 1-0769	564769	45
3314	P.L. 2-0426-0481	540426-540481	130
	P.L. 2-0483-0489	540483-540489	130
	P.L. 2-0491-0525	540491-540525	130
3341	Salisbury	275895	450
3367	SAnford B. Dole	510052	800
3351	WA-1-001-0302	551001-551302	150
	WA-1-0304-0450	551304-551450	150
3362	WA-2-0451-0575	567451-567575	150

Vessels of 1,500 Gross Tons or More

1560	Adabelle Lykes	291609	$1,670
3332	Aguadilla	515621	2,460
1751	Aimee Lykes	282614	1,670
3321	Alaska Standard	278320	650
3478	Allegiance	271666	6,335
1828	Allison Lykes	283817	1,670
2988	Almeria Lykes	539671	18,500
3503	Amazonia	622178	7,500
3482	America	610280	7,500
567	American Accord	267275	6,500
572	American Ace	265143	6,500
568	American Alliance	266832	6,500
2812	American Apollo	529004	10,000
2969	American Aquarius	530999	10,000
571	American Archer	267444	6,500
566	American Argosy	266181	6,500
2583	American Astronaut	520694	10,000
1493	American Challenger	289699	2,245
1518	American Champion	290524	2,245
1557	American Charger	290089	2,245
1652	American Chieftain	291020	2,245
1670	American Corsair	291629	2,245
1606	American Courier	290255	2,245
831	American Eagle	278327	6,300
3290	American Hawk	246344	3,585
3360	American Heritage	577343	19,500
3427	American Independence	599633	41,065
2448	American Lancer	514261	12,500
2550	American Lark	516444	12,500
570	American Leader	266258	6,500
569	American Legacy	266243	6,500
574	American Legend	267033	6,500
2466	American Legion	515155	12,500
2465	American Liberty	515464	12,500

Binder No.	Name of vessel	Official No.	Stated valuation (in thousands)
2518	American Lynx	517450	12,600
3004	American Maktester (ex Austral Ensign)	544303	17,000
3075	American Merchant (ex Austral Endurance)	547288	17,000
1924	American Racer	297001	3,000
1988	American Ranger	298270	3,000
2009	American Reliance	299371	3,000
3012	American Spirit	580245	41,065
2961	American Trader	244855	6,000
3086	American Trader	530139	18,525
2764	American Sun	523846	36,200
3510	Amoco Baltimore	3234	5,750
3511	Amoco Brisbane	3046	4,250
2854	Amoco Connecticut	242851	2,400
3506	Amoco Cremona	2926	4,250
2944	Amoco Delaware	245058	6,500
3509	Amoco Savannah	3459	5,750
3507	Amoco Texas City	3460	5,750
3508	Amoco Voyager	5886	4,250
3505	Amoco Yorktown	3233	5,750
3250	Anchorage	243850	650
3530	Antilla	627433	7,500
3485	Arco Alaska	814544	81,895
3048	Arco Anchorage	548424	45,000
3518	Arco California	623291	81,895
233	Arco Endeavor	277823	5,825
3184	Arco Fairbanks	559400	40,000
1648	Arco Heritage	293299	12,480
3142	Arco Juneau	556666	40,000
1560	Arco Prestige	289972	7,615
2900	Arco Prudhoe Bay	536496	34,385
2948	Arco Sag River	539313	34,385
3330	Arecibo	246736	2,860
3469	Argonaut	601377	30,000
1716	Ashley Lykes	292191	2,875
3385	Attigun Pass	586128	56,700
1425	Austin	247455	3,585
3118	Austral Entente	552706	23,500
2908	Austral Envoy	541668	23,500
3338	Austral Lightning	530144	18,000
3336	Austral Moon	530142	18,000
2631	Austral Patriot	500538	3,000
2632	Austral Pilot	297353	3,000
3484	Austral Pioneer	612065	50,000
3337	Austral Rainbow	530141	18,000
3133	Avila	267161	1,780
3293	Baldbutte	278103	9,000
2399	Baltimore	246103	850
2966	Baltimore Trader	270179	15,500
3477	Banner	272077	5,960
1704	Barge Adelaide	292097	5,640
2870	Bayamon	530007	15,500
3464	Bay Ridge	600126	63,200
3357	Beaver State	572359	19,500
3522	Benjamin Harrison	624457	57,000
3331	Borinquen	248239	2,860
3270	Boston	611486	735
1414	Brinton Lykes	288699	2,875
3114	Brooklyn	563648	30,400
3406	Brooks Range	586130	58,700
3397	B/T Alaska	590208	61,895
3432	B/T San Diego	596680	61,895
3525	Button Gwinnett	559623	22,295
3504	Cagues	557149	21,000
3365	California	249239	1,000
3478	Cantigny	247452	3,585
2165	Caribbean	502771	3,900
2934	Carole G. Ingram/IOS 3302.	536067	16,000
3329	Carolina	516522	2,480
3457	Charles Lykes	577836	16,740
3350	Charleston	548095	735
1753	Charlotte Lykes	282782	1,670
3215	Chelsea	562416	17,000
3144	Cherry Valley	557503	17,000
3343	Chesapeake	296863	12,490
3266	Chestnut Hill	577738	19,500
3394	Chevron Arizona	588320	27,000
2985	Chevron California	541563	35,000
3308	Chevron Colorado	577358	27,000
3372	Chevron Louisiana	584686	27,000
2992	Chevron Mississippi	542550	35,000
3309	Chevron Oregon	586080	27,000
3310	Chevron Washington	576709	27,000
1788	Christopher Lykes	293220	1,670
2540	Columbia	247519	2,106
2227	Connecticut	277291	7,885
3104	Coronado	563623	17,000
3479	Council Grove	247896	3,565
3566	Courier	576746	19,500
3403	Cove Communicator	268196	4,480
3402	Cove Explorer	248127	3,150
3404	Cove Navigator	261423	4,130
3379	Cove Trader	279436	9,980
2549	C. V. Lightning	515563	9,750
2626	C. V. Staghound	520743	9,750
2705	David D. Irwin	242354	3,760
2819	Defiance	512102	13,500
2923	Delaware Sun	264863	4,320
2498	Del Campo	515910	3,100
2497	Del Monte	514758	3,100
2500	Del Mundo	512953	3,100
1225	Del Oro	266185	1,925
324	Del Rio	264880	1,925
327	Del Sol	265171	1,925
3416	Delta Caribe	530143	16,000
3071	Delta Mar	549153	20,270
3085	Delta Norte	550900	20,270
3105	Delta Sud	553105	20,270
2499	Del Valle	516800	3,100
2532	Del Viento	517540	3,100
2939	Doctor Lykes	536500	16,500
2330	Dolly Turman	508378	2,500
2924	Eastern Sun	270025	4,480
2906	Edgar M. Queeny	526567	19,970
3531	Edward Rutledge	625873	57,000
2086	Elizabeth Lykes	600702	2,500
3455	El Paso Arzew	598727	88,550
3466	El Paso Howard Boyd	598730	88,550
3414	El Paso Southern	581902	88,550
1296	Export Banner	286124	1,950
1726	Export Challenger	292227	2,145
1771	Export Champion	292669	2,145
1712	Export Commerce	291731	2,145
1601	Export Courier	289947	2,105
2960	Export Freedom	341414	12,500
3016	Export Leader	545126	12,500
3065	Export Patriot	548442	12,500
2593	Exxon Baltimore	282272	10,390
2594	Exxon Bangor	284791	4,005
3056	Exxon Baton Rouge	524619	32,300
3465	Exxon Benicia	600478	58,700
2595	Exxon Boston	283784	10,950
2596	Exxon Chester	284445	3,700
2598	Exxon Florence	286853	4,130
2599	Exxon Gettysburg	273382	7,500
2601	Exxon Houston	297151	16,450
2602	Exxon Huntington	286329	4,005
2603	Exxon Jamestown	275519	7,500
2610	Exxon Lexington	276270	7,500
2605	Exxon Newark	284231	3,700
2606	Exxon New Orleans	298216	16,450
3460	Exxon North Slope	600477	58,700
3057	Exxon Philadelphia	526792	32,300
3058	Exxon San Francisco	523626	32,300
2609	Exxon Washington	273696	7,500
3520	Flora	258034	2,100
3008	Fortaleza	544797	17,000
150	Fort Worth	247276	5,575
2300	Frederick Lykes	506812	2,500
3293	Fredericksburg	529297	9,030
2556	Galveston	248242	735
2421	Genevieve Lykes	513140	2,500
3525	George Wythe	562594	22,295
3346	Glacier Bay	526588	36,665
3370	Golden Dolphin	559936	19,500
3369	Golden Endeavor	561433	19,500
2791	Golden Gate	526972	29,450
3512	Golden Monarch	586090	19,500
3084	Great Land	567835	21,000
2820	Great Republic	521302	13,500
3326	Guayama	516540	735
2994	Gulf Banker	295249	1,735
792	Gulfcrest	279334	6,225
2905	Gulf Farmer	294625	1,735
795	Gulfking	275193	6,565
796	Gulfknight	277163	6,565
797	Gulflion	248990	2,385
2996	Gulf Merchant	297329	1,735
798	Gulfoil	283424	6,025
800	Gulfpride	279768	6,025
801	Gulfprince	276034	6,565
802	Gulfqueen	275583	6,565
2997	Gulf Shipper	296880	1,735
803	Gulfsolar	280223	6,025
806	Gulfspray	282849	6,025
1358	Gulfsupreme	257186	6,830
804	Gulftiger	247767	2,285
2998	Gulf Trader	295404	1,735
3363	Hawaiian Citizen	252149	600
3320	Hillyer Brown	266233	1,800
178	Houston	242639	3,585
3255	Houston	245542	1,930
2306	Howell Lykes	507344	2,500
3325	Humacao	512557	735
3502	Inagua Island	7983-77	3,000
3500	Inagua Shore	8689	3,300
3499	Inagua Surf	6414-76-A	2,800
3501	Inagua Tide	8206-78	7,000
3400	Inger	246011	3,100
3269	Jacksonville	245186	1,900
387	James Lykes	280564	2,500
1304	Jean Lykes	267103	2,500
3245	Jeff Davis	286604	2,145
389	John Lykes	282778	2,500
390	Joseph Lykes	281326	2,500
3491	Kauai	621042	70,000
3396	Keystone Canyon	588129	58,700
596	Keystoner	296730	1,800
3287	Kittanning	579572	19,500
2805	Kopea	244611	3,240
3216	Lash Atlantico	530145	16,685
3564	Lash Italia	529255	15,085
3217	Lash Pacifico	530146	16,685
13	Leland I. Doan	284217	3,800
1352	Leslie Lykes	287416	2,500
2403	Lettie Lykes	512157	2,500
3459	Lipscomb Lykes	579088	16,740
3311	LNG Aquarius	582506	88,050
3371	LNG Aries	588005	88,050
3407	LNG Capricorn	588006	88,050
3454	LNG Leo	595753	88,050
3463	LNG Libra	595756	88,050
3467	LNG Taurus	595754	88,050
3475	LNG Virgo	595755	88,050
3134	LOMPOC	248653	600
3256	Long Beach	248240	2,760
2012	Louise Lykes	299936	2,500
3377	Lurline	549900	17,000
2233	Mallory Lykes	504077	2,500
1356	Manhattan	287253	21,000
2763	Manukai	524219	19,660
2803	Manulani	526400	19,660
1809	Margaret Lykes	293555	1,670
3187	Marine Chemical Transporter	244942	1,500
2814	Marine Chemist	529399	15,295
2777	Marine Duval	245651	2,370
1510	Marine Electric	245675	2,300
2130	Marine Floridian	245836	2,190
1812	Marine Texan	247565	1,800
1513	Marjorie Lykes	289673	2,875
2873	Martha R. Ingram IOS 3301	533104	15,000
3349	Maryland	574906	41,065
2260	Mason Lykes	505406	2,500
3347	Massachusetts	564344	41,065
3107	Matsonia	553090	17,000
3415	Maui	591709	53,510
2109	Maunalei	246343	2,790
2549	Maunawili	246984	2,790
3328	Mayaguez	516060	3,480
1769	Mayo Lykes	293224	1,670
1512	Meadowbrook	289879	3,140
2543	Merrimac	245673	2,300
3410	Meton	276624	6,670
2716	Mobil Aero	276471	6,356
3152	Mobil Arctic	542026	48,540
2717	Mobil Fuel	274588	5,920
2718	Mobilgas	271446	4,200
2719	Mobil Lube	276651	5,670
2442	Mobil Meridian	286479	11,075
2720	Mobiloil	279064	5,356
2721	Mobil Power	274956	5,890
2525	Monmouth	242426	5,578
2797	Monticello Victory	286819	11,075
	Montpelier Victory	289745	11,580
2798	Mormacaltair	295129	7,410
2864	Mormacargo	296216	2,930
2867	Mormacdraco	299008	7,410
2870	Mormacglen	285283	1,800
2873	Mormachynx	296947	2,500
2878	Mormacrigel	297384	2,500
2884	Mormacsaga	289547	2,250
3304	Mormacsea	289119	2,250
3305	Mormacsky	576286	17,820
3301	Mormacstar	589257	17,820
3302	Mormacsun	573770	17,820
3303	Mormactide	297675	2,250
3306	Mormacvega	296632	2,500
2869	Mormacwave	296003	2,250
3307			

Bindar No.	Name of vessel	Official No.	Stated valuation (in thousands)
2799	Mount Vernon Victory	554178	10,265
2809	Mount Washington	293007	11,910
1243	Nancy Lykes	256850	2,500
3262	Newark	511480	735
2925	New Jersey Sun	265748	4,050
3048	New York	569583	41,065
3259	Oakland	548078	2,700
1004	Oasis Hawaii	279811	5,625
336	Odgen Challenger	293198	6,655
3745	Ogden Champion	522341	19,765
3814	Ogden Wabash	520728	19,765
2581	Ogden Willamette	518739	19,765
3515	Ogden Yukon	547818	27,615
3527	Overseas Alaska	529795	29,700
1827	Overseas Aleutian	298819	14,450
3465	Overseas Alice	514529	20,000
3481	Overseas Anchorage	281177	9,920
2992	Overseas Arctic	530877	29,700
3378	Overseas Chicago	583412	48,210
3408	Overseas Harriette	530524	20,310
01	Overseas Joyce	284049	10,390
3533	Overseas Juneau	553137	45,090
3486	Overseas Marilyn	598623	20,310
3577	Overseas Natalie	287158	15,500
3286	Overseas New York	569321	48,210
3263	Overseas Ohio	586647	48,210
932	Overseas Ulla	280004	7,325
3506	Overseas Valdez	517186	20,000
3490	Overseas Vivian	516125	20,000
3399	Overseas Washington	569955	48,210
3280	Panama	246841	2,750
181	Pasadena	249894	3,945
3563	Patriot	571048	19,500
2926	Pennsylvania Sun	280222	10,840
3521	Penny	285108	980
581	Perryville	244644	3,270
2580	Philadelphia	516541	735
1853	Pioneer Commander	250905	2,245
1750	Pioneer Contender	252572	2,245
1715	Pioneer Contractor	251904	2,245
1774	Pioneer Crusader	252530	2,245
1432	Pioneer Moon	256763	2,245
2944	Pittsburgh	247275	2,100
3277	Portland	511987	735
1585	Potomac	249850	1,980
2501	President Adams	517120	5,000
2740	President Cleveland	521685	5,000
1419	President Eisenhower	268986	8,000
3447	President Fillmore	513560	10,500
3483	President Grant	530138	16,525
3148	President Harrison	502569	7,500
3485	President Hoover	530137	16,525
2526	President Jackson	517717	5,000
3030	President Jefferson	544930	10,000
3121	President Johnson	552109	16,000
1047	President Kennedy	296779	8,500
3041	President Madison	548725	16,000
2416	President McKinley	512593	10,500
3113	President Monroe	501712	7,500
3120	President Pierce	502108	16,000
3064	President Polk	500484	7,500
1949	President Roosevelt	287258	8,000
2998	President Taft	511853	10,500
2565	President Taylor	516517	5,000
1418	President Truman	287976	8,000
3484	President Tyler	530140	16,525
2959	President Van Buren	529661	10,500
2922	President Wilson	520092	5,000
3996	Prince William Sound	570126	48,000
2984	Puerto Rican	535580	19,000
2788	Pure Oil	249897	850
3594	Ranger	573510	19,500
3521	Red Jacket	522690	13,500
3468	Resolute	612715	30,000
3147	Robert E. Lee	527033	20,270
3268	Rose City	575096	19,500
3598	Rover	577241	19,500
2180	Sam Lykes	502928	2,500
3170	Sam Houston	550238	20,270
177	San Antonio	268718	5,266
2827	San Juan	516542	2,980
2846	San Pedro	265236	3,300
2916	Sanainena II	538020	20,260
3421	Santa Adela	504715	2,830
3418	Santa Barbara	509186	2,500
3062	Santa Clara	274440	8,250
3419	Santa Clara	526245	2,500
3420	Santa Cruz	534081	2,500
3422	Santa Elena	507696	2,500
3417	Santa Isabel	510570	2,500
2752	Santa Juana	502726	2,630
3421	Santa Lucia	502774	2,500
3425	Santa Magdalena	290270	2,500
1756	Santa Maria	292838	2,500
3434	Santa Mariana	291811	2,500
1839	Santa Mercedes	289943	2,500
2917	Santa Paula	277703	12,915
3453	Sea-Land Adventurer	534073	20,580
3109	Sea-Land Consumer	552818	20,000
3468	Sea-Land Defender	534246	33,000
3513	Sea-Land Developer	604247	33,000
2958	Sea-Land Economy	532410	18,630
3534	Sea-Land Endurance	606062	33,000
3469	Sea-Land Explorer	604248	33,000
3514	Sea-Land Express	604249	33,000
3527	Sea-Land Freedom	606065	33,000
3518	Sea-Land Independence	606061	33,000
3529	Sea-Land Innovator	606064	33,000
3461	Sea-Land Leader	534374	20,580
3467	Sea-Land Liberator	604245	33,000
3536	Sea-Land Mariner	606066	33,000
3460	Sea-Land Pacer	533990	20,580
3466	Sea-Land Patriot	604244	33,000
3462	Sea-Land Pioneer	594375	20,580
3131	Sea-Land Producer	552819	20,000
2967	Sea-Land Venture	531476	18,630
3517	Sea-Land Voyager	606063	33,000
3264	Seattle	245025	650
1810	Shaddoxy Lykes	296528	1,670
1828	Shirley Lykes	289283	2,675
3472	Sinclair Texas	291090	12,040
2722	Socony Vacuum	266811	4,130
3344	Sohio Intrepid	533270	35,355
3345	Sohio Resolute	533357	35,355
962	Solen Tarman	285869	2,500
2488	Spirit of Liberty	516521	20,000
2248	Stella Lykes	504982	2,500
2755	St. Louis	515620	3,300
3149	Stonewall Jackson	557034	20,270
3413	Stuyvesant	594459	63,200
2647	Tampa	245726	1,500
463	Texaco California	266918	8,540
2051	Texaco Connecticut	266501	15,715
3052	Texaco Florida	271620	15,715
1867	Texaco Georgia	293819	6,675
471	Texaco Kansas	244230	3,150
1823	Texaco Maryland	282735	6,675
1824	Texaco Massachusetts	280306	8,340
476	Texaco Minnesota	243202	3,770
478	Texaco Mississippi	245082	3,865
2038	Texaco Montana	298918	7,180
480	Texaco New Jersey	245531	2,089
3053	Texaco New York	265981	15,715
483	Texaco North Dakota	265306	2,295
1999	Texaco Rhode Island	256360	6,675
1270	Texaco Wisconsin	277805	6,560
3527	Texas Sun	283597	11,630#
3053	Texas Trader	246503	5,845
3268	Thomas Nelson	287093	2,145
486	Thompson Lykes	283413	2,500
3431	Thompson Pass	586131	58,700
3026	Tillie Lykes	536672	18,500
2418	Transcolorado	248806	1,000
2419	Transcolumbia	248702	1,000
2756	Transindiana	513582	2,490
3428	Traveler	289496	2,200
3458	Tyson Lykes	585400	16,740
3175	Ultramar	590200	22,100
3176	Ultrasea	555145	22,100
3475	UST Atlantic	591437	71,500
3474	UST Pacific	613131	71,500
2270	Valley Forge	525786	18,000
2354	Velma Lykes	502652	2,500
3401	Walter Rice	248293	2,190
3297	Washington Trade	279527	8,475
2928	Western Sun	283786	4,260
3392	Westward Venture	581673	30,000
3524	William Hooper	581453	22,295
3221	Williamsburgh	567975	30,400
3358	Worth	570876	18,500
3522	Young America	524416	18,500
411	Zaida Lykes	292128	2,500

Vessels Under 1,500 Gross Tons

Bindar No.	Name of vessel	Official No.	Stated valuation (in thousands)
1704	Adelaide	288087	85,840
1567	Alexanara	280273	9,500
3439	AWA	524820	800
3115	Biehl Trader	582451	7,545
3316	Biehl Traveler	584627	7,545
3166	DSLL 540650-540699	540650-540699	130
3132	DSLL 553325-553348	553325-553348	130
3272	DSLL 553965-554014	553965-554014	135
3218	DSLL 555714-555719	555714-555719	130
	DSLL 555774-555780	555774-555780	130
	DSLL 556552-556564	556552-556564	130
3042	Ethel H	277706	1,000
2158	Islander	292910	865
3435	Isleways No. 1	251436	175
3436	Isleways No. 2	251518	175
3437	Isleways No. 3	251552	175
3438	Isleways No. 4	251775	175
3439	Isleways No. 5	251859	175
3188	Jo Anne	541373	4,350
3366	Joe Sevier	500798	277
2359	Komoku	509280	1,115
2942	LY 1	531766	70
	LY 2-36	532702-532736	170
	LY 800	532883	70
	LY 900	532940	70
2943	LY 37-44	532737-532744	170
3005	LY 45-106	532745-532806	170
	LY 801-802	532934-532935	170
	LY 901-902	532941-532942	170
3017	LY 107-111	532807-532811	170
3007	LY 112-124	532812-532824	170
	LY 803	532936	70
3010	LY 125-134	532825-532834	170
3018	LY 135-139	532835-532839	170
	LY 903	532943	70
3019	LY 140-144	532840-532844	170
3031	LY 145-150	532845-532850	170
	LY 160-161	532860-532861	170
3032	LY 151-159	532851-532859	170
	LY 162-165	532862-532865	170
	LY 904	532944	70
3039	LY 166	532866	70
	LY 168-169	532868-532869	170
3040	LY 167	532867	70
	LY 170-171	532870-532871	170
3045	LY 172-173	532872-532873	170
	LY 175-177	532875-532877	170
3046	LY 174	532874	70
	LY 178-180	532878-532880	170
	LY 804	532937	70
3054	LY 181-182	532881-532882	170
3053	LY 183-190	532883-532890	170
	LY 195	532895	70
	LY 905	532945	70
3084	LY 191	532891	70
3086	LY 192-194	532892-532894	170
	LY 196-197	532892-532894	170
3070	LY 198-202	532898-532902	170
3076	LY 203-211	532903-532911	170
3081	LY 212-213	532912-532913	170
	LY 805	532938	70
3084	LY 214-216	532914-532916	170
3085	LY 217-218	532917-532918	170
	LY 220	532920	70
3090	LY 219	532919	70
	LY 221-225	532921-532925	170
3091	LY 226-227	532926-532927	170
	LY 806	532939	70
	LY 906	532946	70
3098	LY 228-229	532928-532929	170
3096	LY 230-231	532930-532931	170
3096	LY 232	532932	70
3052	LY 701	578104	190
	LY 702	579034	190
	LY 703	580566	190
3462	Maci	618706	1,635
3539	Marine B	284766	2,640
3434	OIO	516634	675
3341	Perth Amboy No. 1	171776	140
2999	P.L. 1-0001-0033	525001-525033	130
	P.L. 1-0035-0036	525035-525036	130
	P.L. 1-0108-0132	525108-525132	130
3000	P.L. 1-0037-0096	525037-525096	130
	P.L. 1-0096-0102	525096-525102	130
3001	P.L. 1-0133-0167	525133-525167	130
	P.L. 1-0169-0175	525169-525175	130
	P.L. 1-0177-0185	525177-525185	130
	P.L. 1-0187-0193	525187-525193	130
	P.L. 1-0195-0198	525195-525198	130
3002	P.L. 1-0199-0229	525199-525229	130
	P.L. 1-0231-0264	525231-525264	130
3003	P.L. 1-0265-0273	525265-525273	130
	P.L. 1-0275-0276	525275-525276	130
	P.L. 1-0278-0299	525278-525299	130
	P.L. 1-0301-0331	525301-525331	130
3004	P.L. 1-0332-0342	525332-525342	30
	P.L. 1-0344-0360	525344-525360	130

Bind-er No.	Name of vessel	Official No.	Stated valua-tion (in thou-sands)
3005	P.L. 1-0361-0367	525361-525367	[1]30
	P.L. 1-0369-0375	525369-525375	[1]30
	P.L. 1-0377-0415	525377-525415	[1]30
	P.L. 1-0417-0426	525417-525426	[1]30
3426	P.L. 1-0526-0557	564526-564557	[1]45
	P.L. 1-0559-0603	564559-564603	[1]45
	P.L. 1-0605-0614	564605-564614	[1]45
	P.L. 1-0616-0661	564616-564661	[1]45
	P.L. 1-0664	564664	45
	P.L. 1-0668	564668	45
	P.L. 1-0670	564670	45
	P.L. 1-0672-0674	564672-564674	[1]45
	P.L. 1-0680	564680	45
	P.L. 1-0682	564682	45
	P.L. 1-0685-0687	564685-564687	[1]45
	P.L. 1-0690-0695	564690-564695	[1]45
	P.L. 1-0697-0705	564697-564705	[1]45
	P.L. 1-0707-0711	564707-564711	[1]45
	P.L. 1-0713-0716	564713-564716	[1]45
	P.L. 1-0718-0739	564718-564739	[1]45
	P.L. 1-0741-0749	564741-564749	[1]45
	P.L. 1-0751-0761	564751-564761	[1]45
	P.L. 1-0763-0768	564763-564768	[1]45
	P.L. 1-0770-0773	564770-564773	[1]45
3315	P.L. 1-0740	564740	45
	P.L. 1-0750	564750	45
	P.L. 1-0762	564762	45
	P.L. 1-0769	564769	45
3314	P.L. 2-0426-0481	540426-540481	[1]30
	P.L. 2-0483-0489	540483-540489	[1]30
	P.L. 2-0491-0525	540481-540525	[1]30
3341	Salisbury	275895	450
3367	Sanford B. Dole	510052	200
3361	WA-1-001-0302	551001-551302	[1]50
	WA-1-0304-0450	551304-551450	[1]50
3362	WA 2-0451-0575	567451-567575	[1]50

[1] Each.

[FR Doc. 82-19345 Filed 7-16-82; 8:45 am]
BILLING CODE 4910-81-M

National Highway Safety Administration

[Docket No. IP81-21; Notice 2]

Subaru of America, Inc.; Grant of Petition for Inconsequential Noncompliance

This notice grants the petition by Subaru of America, Inc. Pennsauken, New Jersey ("Subaru") to be exempted from the notification and remedy requirements of the National Highway Traffic and Motor Vehicle Safety Act for a noncompliance with 49 CFR 751.105, Motor Vehicle Safety Standard No. 105, *Hydraulic Brake Systems.* The basis of the petition was that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on November 23, 1981, and an opportunity afforded for comment (46 FR 57414).

Paragraph S5.3.5 of Standard No. 105–75 requires a motor vehicle to be equipped with a brake system indicator lamp with a lens labelled in letters not less than ⅛ inch high (3.2 mm). Subaru reported it had imported more than 4,500 1982 model year vehicles in which the lettering was only 2.2 mm high. The petitioner argued that this noncompliance was inconsequential because the indicator is located between the speedometer and tachometer, "approximately at the center of the driver's line of sight," and it submitted color photographs available for inspection in the docket room, in support of its argument. The noncompliance in its opinion "still results in an easily identifiable and very readable display".

No comments were received on the petition.

The National Highway Traffic Safety Administration has examined the photographs and concurs in the petitioner's argument that the location of the indicator is "an easily identifiable and very readable display". In addition, a 6 mm diameter ISO symbol has been incorporated by Subaru for added identification, highlighting the indicator.

Accordingly, petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety and its petition is hereby granted.

The engineer and attorney primarily responsible for this notice are Vernon Bloom and Taylor Vinson respectively.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on July 12, 1982.

Courtney Price,

Associate Administrator, for Rulemaking.

[FR Doc. 82-19407 Filed 7-16-82; 8:45 am]
BILLING CODE 4910-59-M

Research and Special Programs Administration

Grants and Denials of Applications for Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of Grants and Denials of Applications for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted in June 1982. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

RENEWAL AND PARTY TO EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
1479-X	DOT-E 1479	Allied Corp. Morristown, NJ	49 CFR 173.315(a)(1)	To authorize use of non-DOT specification cargo tanks for transportation of liquefied fluorine and mixture of liquefied fluorine and liquefied oxygen. (Mode 1.)
3004-X	DOT-E 3004	Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 173.302, 175.3	To authorize use of a non-DOT specification cylinder for transportation of certain flammable, and nonflammable compressed gases. (Modes 1, 2, 4, and 5.)
3004-X	DOT-E 3004	Airco Industrial Gases, Murray Hill, NJ	49 CFR 173.302, 175.3	To authorize use of a non-DOT specification cylinder for tranportation of certain flammable, and nonflammable compressed gases. (Modes 1, 2, 4, and 5.)
3004-X	DOT-E 3004	Union Carbide Corp., Danbury, CT	49 CFR 173.302, 175.3	To authorize use of a non-DOT specification cylinder for transportation of certain flammable, and nonflammable compressed gases. (Modes 1, 2, 4, and 5.)
3004-X	DOT-E 3004	U.S. Department of Defense, Washington, DC.	49 CFR 173.302, 175.3	To authorize use of a non-DOT specification cylinder for transportation of certain flammable, and nonflammable compressed gases. (Modes 1, 2, 4, and 5.)
3128-X	DOT-E 3128	U.S. Department of Defense, Washington, DC.	49 CFR 173.304, 175.3	To authorize use of non-DOT specification cylinders for transportation of a Class C explosive and liquefied nonflammable gas. (Modes 1, 2, 3, and 4.)
3128-X	DOT-E 3128	Walter Kidde Co., Inc., Belleville, NJ	49 CFR 173.304, 175.3	To authorize use of non-DOT specification cylinders for transportation of a Class C explosive and a liquefied nonflammable gas. (Modes 1, 2, 3, and 4.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
3308-X	DOT-E 3308	Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 173.302, 175.3	To authorize use of non-DOT specification sampling bottles (cylinders) for shipment of certain nonflammable gases. (Modes 1, 2, 3, and 4.)
3941-X	DOT-E 3941	Kerr-McGee Chemical Corp., Oklahoma City, OK.	49 CFR 173.239a(a)(2)	To authorize transport of ammonium perchlorate in non-DOT specification aluminum portable tanks. (Modes 1 and 2.)
3996-X	DOT-E 3996	Stauffer Chemical Co., Westport, CT	49 CFR 173.168	To authorize shipment of phosphoric anhydride in DOT Specification 6K metal drums. (Modes 1 and 2.)
4600-X	DOT-E 4600	Halocarbon Products Corp., Hackensack, NJ.	49 CFR 173.315, 173.315, 178.245-3(a), 178.245-3(a).	To authorize transport of hydrogen bromide (anhydrous) in DOT Specification 51 type portable tanks with a design pressure of 525 psig. (Mode 1.)
4612-X	DOT-E 4612	EM Science, Division of EM Industries, Inc., Cincinnati, OH.	49 CFR 173.135, 173.122, 173.136, 173.139, 173.154, 173.206, 173.230, 173.245, 173.247, 173.252, 173.253, 173.271, 173.276, 173.281, 173.293, 173.346, 173.382.	To authorize shipment of small quantities of hazardous materials in inside glass bottles overpacked in metal cans further overpacked in 12B fiberboard boxes. (Mode 1.)
4850-X	DOT-E 4850	Halliburton Services, Duncan, OK	49 CFR 173.100(cc), 175.3	To authorize shipment of flexible linear shaped charges, metal clad, in 100' lengths, containing not more than 50 grains per lineal foot of high explosive. (Modes 1, 2, and 4.)
5038-X	DOT-E 5038	Smythatron Corp., Parsippany, NJ	49 CFR 178.119, 173.135(a)(6), 173.136(a)(5), 178.247(a)(1), 175.3.	To authorize shipment of dimethyldichlorosilane, trichlorosilane, other specifically identified flammable liquids and silicon tetrachloride in non-DOT specification type 304 stainless steel cylinders. (Modes 1 and 2.)
5038-X	DOT-E 5038	Airco Industrial Gases, Murray Hill, NJ	49 CFR 173.119, 173.135(a)(6), 173.136(a)(5), 173.247(a)(1), 175.3.	To authorize shipment of dimethyldichlorosilane, trichlorosilane, other specifically identified flammable liquids and silicon tetrachloride in non-DOT specification type 304 stainless steel cylinders. (Modes 1 and 2.)
5365-X	DOT-E 5365	SunOlin Chemical Co., Claymont, DE	49 CFR 172.101, 173.315(a)	To authorize use of non-DOT specification polyurethane insulated cargo tanks for transportation of a flammable cryogenic liquid. (Mode 1.)
5372-X	DOT-E 5372	Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 173.301(d), 173.302(a)(3), 173.304(a)(2).	To authorize shipment of nonflammable and flammable gases in non-DOT specification cylinders complying with DOT Specification 3T, with certain exceptions. (Modes 1 and 3.)
5372-X	DOT-E 5372	Airco Industrial Gases, Murray Hill NJ	49 CFR 173.301(d), 173.302(a)(3), 173.304(a)(2).	To authorize shipment of nonflammable and flammable gases in non-DOT specification cylinders complying with DOT Specification 3T, with certain exceptions. (Modes 1 and 3.)
5414-X	DOT-E 5414	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE.	49 CFR 172.101, 173.315(a)	To authorize use of a vacuum insulated non-DOT specification portable tank for transportation of a flammable gas. (Mode 1.)
5701-X	DOT-E 5701	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE.	49 CFR 173.266(a)(3)	To authorize use of a non-DOT specification cargo tank for transportation of a certain oxidizer. (Mode 1.)
5792-X	DOT-E 5792	Northern Petrochemical Co., Des Plaines, IL.	49 CFR 172.101, 172.101, 173.314(c), 173.314(c).	To authorize shipment of liquefied flammable gases in non-DOT specification vacuum-insulated tank car tank. (Mode 2.)
6016-X	DOT-E 6016	Guttmen Supply Co., Belle Vernon, PA	49 CFR 173.315(a)	To authorize shipment of liquid oxygen, nitrogen, and argon in non-DOT specification portable tanks. (Mode 1.)
6016-X	DOT-E 6016	Welding & Cutting Supply Co., Cleveland, OH.	49 CFR 173.315(a)	To authorize shipment of liquid oxygen, nitrogen, and argon in non-DOT specification portable tanks. (Mode 1.)
6045-X	DOT-E 6045	Union Carbide Corp., Danbury, CT	49 CFR 173.121	To authorize use of DOT Specification MC-312 cargo tanks for transportation of a flammable liquid. (Modes 1 and 3.)
6253-X	DOT-E 6253	Eurotainer S. A. Paris, France	49 CFR 173.119, 173.125, 173.245, 173.247, 173.266, 173.294, 173.346, 173.365.	To authorize use of non-DOT specification stainless steel intermodal portable tanks for transportation of various hazardous materials. (Modes 1, 2, and 3.)
6253-X	DOT-E 6253	Hapag-Lloyd, Hamburg, Germany	49 CFR 173.119, 173.125, 173.245, 173.247, 173.266, 173.294, 173.346, 173.365.	To authorize use of non-DOT specification stainless steel intermodal portable tanks for transportation of various hazardous materials. (Modes 1, 2, and 3.)
6299-X	DOT-E 6299	Minnesota Valley Engineering New Prague, MN.	49 CFR 173.315(a)(1)	To authoize manufacture, marking and sale of non-DOT specification portable tanks for transportation of nonflammable gases. (Modes 1 and 3.)
6305-X	DOT-E 6305	Monsanto Co., St. Louis, MO	49 CFR 173.113(a)(1)	To authorize shipment of a certain Class C explosive in DOT Specification 23F35 fiberboard boxes. (Modes 1 and 2.)
6309-P	DOT-E 6309	Freeman Chemical Corp., Washington, WI.	49 CFR 173.315(a)(1)	To become a party to Exemption 6309. (Modes 1 and 2.)
6309-X	DOT-E 6309	General Latex and Chemical Corp. of GA, Dalton, GA.	49 CFR 173.315(a)(1)	To authorize use of non-DOT specification steel portable tanks for transportation of certain nonpoisonous, nonflammable compressed gases. (Modes 1 and 2.)
6325-X	DOT-E 6325	Atlas Powder Co., Dallas, TX	49 CFR 173.154(a)	To authorize transport of oxidizers in non-DOT specification cargo tanks or DOT Specification MC-306, MC-307 or MC-312 cargo tanks. (Mode 1.)
6333-X	DOT-E 6333	Allied Corp., Morristown, NJ	49 CFR 173.245(a)(31), 173.263(a)(10), 173.266(b)(3), 173.272(i)(25), 178.343-1(b).	To authorize transport of certain corrosive liquids in non-DOT specification type MC-312 glass lined cargo tanks. (Mode 1.)
6392-X	DOT-E 6392	Northern Petrochemical Co., Des Plaines, IL.	49 CFR 172.101, 173.314(c)	To authorize use of non-DOT specification vacuum insulated tank car tanks for shipment of a liquefied flammable compressed gas. (Mode 2.)
6418-X	DOT-E 6418	Great Lakes Chemical Corp., El Dorado, AR.	49 CFR 173.357(b)	To authorize use of DOT Specification MC-303, MC-304, MC-306, MC-307, MC-310 or MC-312 steel cargo tanks for transportation of Class B poisonous liquids. (Mode 1.)
6418-X	DOT-E 6418	Dow Chemical Co., Midland, MI	49 CFR 173.357(b)	To authorize use of DOT Specification MC-303, MC-304, MC-306, MC-307, MC-310 or MC-312 steel cargo tanks for transportation of Class B poisonous liquids. (Mode 1.)
6497-X	DOT-E 6497	FMC Corp., Middleport, NY	49 CFR 173.365, 174.63(c)	To authorize use of a modified DOT Specification 56 portable tank for transportation of Class B poison solids. (Modes 1 and 2.)
6530-X	DOT-E 6530	Mass Oxygen Equipment Co., Inc., Westbourgh, MA.	49 CFR 173.302(c)	To authorize shipment of hydrogen and mixtures of hydrogen with helium, argon or nitrogen in DOT Specification 3A, 3AA, 3AX or 3AAX steel cylinders. (Modes 1 and 2.)
6563-X	DOT-E 6563	Safety Medical Corp., Sharon Hill, PA	49 CFR 173.302(a)(1), 178.3	To authorize shipment of certain nonflammable gases in non-DOT specification steel cylinders, made in compliance with DOT Specification 3E. (Modes 1, 2, 3, 4, and 5.)
6602-X	DOT-E 6602	Great Lakes Chemical, El Dorado, AR	49 CFR 173.245(a), 173.314(c), 173.315(a)(1).	To authorize use of DOT Specification MC-331 cargo tanks and DOT Specification 105A500W or 106A500X tank car tanks for shipment of certain corrosive liquids and nonflammable compressed gases. (Modes 1 and 2.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
6602-X	DOT-E 6602	Dow Chemical Co., Midland, MI	49 CFR 173.245(a), 173.314(c), 173.315(a)(1).	To authorize use of DOT Specification MC-331 cargo tanks and DOT Specification 105A500W or 106A500X tank car tanks for shipment of certain corrosive liquids and nonflammable compressed gases. (Modes 1 and 2.)
6614-P	DOT-E 6614	Dietz Pool & Patio Supply, Williamston, MI.	49 CFR 173.263(a)(28), 173.277(a)(6)	To become a party to Exemption 6614. (Mode 1.)
6614-P	DOT-E 6614	Mid-State Chemical & Supply Corp., Indianapolis, IN.	49 CFR 173.263(a)(28), 173.277(a)(6)	To become a party to Exemption 6614. (Mode 1.)
6614-P	DOT-E 6614	Rand Pool and Patio, Inc., Des Plaines, IL.	49 CFR 173.263(a)(28), 173.277(a)(6)	To become a party to Exemption 6614. (Mode 1.)
6614-P	DOT-E 6614	Russel B. Mason Co., Inc., Webster, NY	49 CFR 173.263(a)(28), 173.277(a)(6)	To become a party to Exemption 6614. (Mode 1.)
6614-P	DOT-E 6614	Steelcrete Co., Novi, MI	49 CFR 173.263(a)(28), 173.277(a)(6)	To become a party to Exemption 6614. (Mode 1.)
6616-X	DOT-E 6616	Fenwal Inc., Ashland, MA	49 CFR 173.304(a)(1), 175.3	To authorize manufacture, marking and sale of non-DOT specification spherical steel pressure vessels for transportation of nonflammable compressed gases. (Modes 1, 2, 3, 4, and 5.)
6762-P	DOT-E 6762	Aquaphase Laboratories, Inc., Adrian, MI	49 CFR 173.266(b)(2), 175.3	To become a party to Exemption 6762. (Modes 1, 2, 3, and 4.)
6763-X	DOT-E 6763	Purex Corp., City of Industry, CA	49 CFR 173.217(a)(6)	To authorize 16 pound minimum polyethylene bottles as an alternate inner packaging to the units currently specified. (Modes 1, 2, and 3.)
6763-X	DOT-E 6763	Purex Corp., Carson City CA	49 CFR 173.217(a)(6)	To authorize use of non-DOT specification single-wall, double-faced corrugated fiberboard boxes for shipment of certain oxidizers. (Modes 1, 2, and 3.)
6806-X	DOT-E 6806	Kaiser Aluminum Chemical Corp., Pleasanton, CA.	49 CFR 173.302(a), 175.3	To authorize transport of a flammable gas in a DOT Specification 3E1800 cylinder by passenger-carrying aircraft. (Mode 5.)
6844-X	DOT-E 6844	Mobay Chemical Corp., Union, NJ	49 CFR 173.249a	To authorize use of non-DOT specification 275-gallon "Dypak" single-trip polyethylene containers overpacked in a plywood box for the transport of a certain corrosive liquid. (Modes 1, 2, and 3.)
6895-X	DOT-E 6895	GTE Products Corp., Danvers, MA	49 CFR 173.140(a)(1), 175.3	To authorize shipment of zirconium liquid mixtures in a DOT Specification 37A steel drum. (Modes 1, 2, 3, and 4.)
6984-P	DOT-E 6984	East Kentucky Explosives, Inc., West Prestonsburg, KY.	49 CFR 173.103(a) 173.66(g), 177.835(g)(2)(i).	To become a party to Exemption 6984. (Mode 1.)
6984-P	DOT-E 6984	Atlas Powder Co., Dallas, TX	49 CFR 173.103(a) 173.66(g), 177.835(g)(2)(i).	To become a party to Exemption 6984. (Mode 1.)
6984-P	DOT-E 6984	International Minerals and Chemical Corp., Des Plaines, IL.	49 CFR 173.103(a) 173.66(g), 177.835(g)(2)(i).	To become a party to Exemption 6984. (Mode 1.)
7026-X	DOT-E 7026	Hydraulic Research Pacoima, CA	49 CFR 173.304(a)(1), 175.3, 178.47	To authorize manufacture, marking and sale of a non-DOT Specification welded steel pressure vessel for transportation of a compressed gas. (Modes 1, 2, 4, and 5.)
7032-X	DOT-E 7032	Polaroid Corp., Needham Heights, MA	49 CFR 172.101, 175.3	To authorize outside packages exceeding the 100 pounds limitation to be carried aboard cargo-only aircraft for shipment of a certain corrosive solid. (Mode 4.)
7040-X	DOT-E 7040	Polaroid Corp., Needham Heights, MA	49 CFR 172.101, 175.3	To authorize carriage of larger quantities of corrosive liquids in DOT Specification 6D cylindrical steel overpack with inside DOT Specification 2SL container mounted on a pallet and covered with a wooden overwrap. (Mode 4.)
7052-X	DOT-E 7052	Altus Corp., San Jose, CA	49 CFR 172.101, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solids. (Modes 1, 2, 3, and 4.)
7052-X	DOT-E 7052	Matsushita Battery Industrial Co., Osaka, Japan.	49 CFR 172.101, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solids. (Modes 1, 2, 3, and 4.)
7052-X	DOT-E 7052	Ray-O-Vac Corp., Madison, WI	49 CFR 172.101, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solids. (Modes 1, 2, 3, and 4.)
7052-X	DOT-E 7052	Jet Propulsion Laboratory, Pasadena, CA	49 CFR 172.101, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solids. (Modes 1, 2, 3, and 4.)
7052-X	DOT-E 7052	Hazeltine Corp., Braintree, MA	49 CFR 172.101, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solids. (Modes 1, 2, 3, and 4.)
7052-X	DOT-E 7052	Sparton Corp., Jackson, MI	49 CFR 172.101, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solids. (Modes 1, 2, 3, and 4.)
7052-X	DOT-E 7052	Electrochem Industries, Inc., Clarence, NY.	49 CFR 172.101, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solids. (Modes 1, 2, 3, and 4.)
7052-X	DOT-E 7052	Tadiran Israel Electronics Industries, Ltd., Removal, Israel	49 CFR 172.101, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solids. (Modes 1, 2, 3, and 4.)
7052-X	DOT-E 7052	Bunker Ramo Corp., Westlake Village, CA.	49 CFR 172.101, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solids. (Modes 1, 2, 3, and 4.)
7052-X	DOT-E 7052	GTE Products Corp., Waltham, MA	49 CFR 172.101, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solids. (Modes 1, 2, 3, and 4.)
7052-X	DOT-E 7052	Allen-Bradley Co., Twinsburg, OH	49 CFR 172.101, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solids. (Modes 1, 2, 3, and 4.)
7052-X	DOT-E 7052	Sonatech, Inc., Goleta, CA	49 CFR 172.101, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solids. (Modes 1, 2, 3, and 4.)
7052-X	DOT-E 7052	Ocean Research Equipment, Inc., Falmouth, MA.	49 CFR 172.101, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solids. (Modes 1, 2, 3, and 4.)
7052-X	DOT-E 7052	Battery Safety Society, Inc., Fairfax, VA	49 CFR 172.101, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solids. (Modes 1, 2, 3, and 4.)
7052-X	DOT-E 7052	Sanders Associates, Inc., Nashua, NH	49 CFR 172.101, 175.3	To become a party to Exemption 7052. (Modes 1, 2, 3, and 4.)
7052-X	DOT-E 7052	Panasonic Industrial Co., Secaucus, NJ	49 CFR 172.101, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solids. (Modes 1, 2, 3, and 4.)
7052-X	DOT-E 7052	Duracell International Inc., Tarrytown, NY	49 CFR 172.101, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solids. (Modes 1, 2, 3, and 4.)
7052-X	DOT-E 7052	National Aeronautics and Space Administration, Washington, DC.	49 CFR 172.101, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solids. (Modes 1, 2, 3, and 4.)
7052-X	DOT-E 7052	U.S. Department of Defense, Washington, DC.	49 CFR 172.101, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solids. (Modes 1, 2, 3, and 4.)
7052-X	DOT-E 7052	Power Conversion, Inc., Mount Vernon, NY.	49 CFR 172.101, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solids. (Modes 1, 2, 3, and 4.)
7052-X	DOT-E 7052	Industrial Solid State Controls, Inc., York, PA.	49 CFR 172.101, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solids. (Modes 1, 2, 3, and 4.)
7052-X	DOT-E 7052	The Boeing Co., Seattle, WA	49 CFR 172.101, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solids. (Modes 1, 2, 3, and 4.)
7052-X	DOT-E 7052	Magnavox Government & Industrial Electronics Corp., Fort Wayne, IN.	49 CFR 172.101, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solids. (Modes 1, 2, 3, and 4.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7052-X	DOT-E 7052	EG & G Environmental Equipment Herndon, VA.	49 CFR 172.101, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solids. (Modes 1, 2, 3, and 4.)
7052-X	DOT-E 7052	Eagle-Picher Industries, Inc., Joplin, MO	49 CFR 172.101, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solids. (Modes 1, 2, 3, and 4.)
7052-X	DOT-E 7052	Gould, Inc., Andover, MA	49 CFR 172.101, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solids. (Modes 1, 2, 3, and 4.)
7052-X	DOT-E 7052	United Space Boosters, Inc., Huntsville, AL.	49 CFR 172.101, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solids. (Modes 1, 2, 3, and 4.)
7052-X	DOT-E 7052	Plainview Electronics Corp., Plainview, NY.	49 CFR 172.101, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solids. (Modes 1, 2, 3, and 4.)
7052-X	DOT-E 7052	General Motors Corp., Detroit, MI	49 CFR 172.101, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solids. (Modes 1, 2, 3, and 4.)
7052-X	DOT-E 7052	U.S. Department of Energy, Washington, DC.	49 CFR 172.101, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solids. (Modes 1, 2, 3, and 4.)
7052-X	DOT-E 7052	Honeywell, Inc., Horsham, PA	49 CFR 172.101, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solids. (Modes 1, 2, 3, and 4.)
7052-X	DOT-E 7052	Rockwell International Corp., Arlington, VA.	49 CFR 172.101, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solids. (Modes 1, 2, 3, and 4.)
7070-X	DOT-E 7070	Oxy Metal Industries Corp., Nutley, NJ	49 CFR 173.365, 175.3, 175.630	To authorize shipment of a poison B solid in a plastic jar overpacked in a metal can equivalent to DOT Specification 2N, packed in a single-faced corrugated DOT Specification 12B fiberboard box. (Modes 4 and 5.)
7070-X	DOT-E 7070	Auric Corp., Newark, NJ	49 CFR 173.365, 175.3, 175.630	To authorize shipment of a poison B solid in a plastic jar overpacked in a metal can equivalent to DOT Specification 2N, packed in a single-faced corrugated DOT Specification 12B fiberboard box. (Modes 4 and 5.)
7070-X	DOT-E 7070	Technic, Inc., Cranston, RI	49 CFR 173.365, 175.3, 175.630	To authorize shipment of a poison B solid in a plastic jar overpacked in a metal can equivalent to DOT Specification 2N, packed in a single-faced corrugated DOT Specification 12B fiberboard box. (Modes 4 and 5.)
7070-X	DOT-E 7070	American Chemical and Refining Co., Waterbury, CT.	49 CFR 173.365, 175.3, 175.630	To authorize shipment of a poison B solid in a plastic jar overpacked in a metal can equivalent to DOT Specification 2N, packed in a single-faced corrugated DOT Specification 12B fiberboard box. (Modes 4 and 5.)
7070-X	DOT-E 7070	Engelhardt Industries, Providence, RI	49 CFR 173.365, 175.3, 175.630	To authorize shipment of a poison B solid in a plastic jar overpacked in a metal can equivalent to DOT Specification 2N, packed in a single-faced corrugated DOT Specification 12B fiberboard box. (Modes 4 and 5.)
7070-X	DOT-E 7070	Lea-Ronal Inc., Freeport, NY	49 CFR 173.365, 175.3, 175.630	To authorize shipment of a poison B solid in a plastic jar overpacked in a metal can equivalent to DOT Specification 2N, packed in a single-faced corrugated DOT Specification 12B fiberboard box. (Modes 4 and 5.)
7097-X	DOT-E 7097	Plant Products Corp., Vero Beach, CA	49 CFR 173.377(f)	To authorize shipment of a dry mixtures of parathion and tetraethyl dithio pyrophosphate from specification packaging requirements. (Mode 1.)
7277-X	DOT-E 7277	Structural Composites Industries, Inc., Pomona, CA.	49 CFR 173.302(a)(1), 175.3	To authorize manufacture, marking and sale of non-DOT specification fiber reinforced plastic full composite cylinder for transportation of certain nonflammable compressed gases. (Modes 1, 2, 3, 4, and 5.)
7409-X	DOT-E 7409	Puerto Rico Maritime Shipping Authority, Elizabeth, NJ.	49 CFR 173.119(b), 46 CFR 05-35, 46 CFR 98.35-3.	To authorize use of a modified DOT Specification cargo tank for transportation of certain combustible liquids. (Mode 3.)
7409-X	DOT-E 7409	Sea-Land Service, Inc., Elizabeth, NJ	49 CFR 173.119(b), 46 CFR 90.05-35, 46 CFR 98.35-3.	To authorize use of a modified DOT Specification cargo tank for transportation of certain combustible liquids. (Mode 3.)
7454-X	DOT-E 7454	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE.	49 CFR 176.410(e)(2), 176.83	To authorize blasting agents to be stowed in proximity to certain explosives without a bulkhead separating these materials. (Mode 3.)
7498-X	DOT-E 7498	Allied Corp., Morristown, NJ	49 CFR 173.263(a)(15), 178.210	To authorize shipment of a corrosive liquid in a non-DOT specification corrugated polypropylene box. (Modes 1, 2, and 3.)
7544-X	DOT-E 7544	Eastman Kodak Co., Rochester, NY	49 CFR 173.245, 173.249, 173.272	To authorize transport of solutions of sodium hydroxide and certain other liquid corrosives, or other liquid corrosive materials in a DOT Specification 2U polyethylene inside container, overpacked in a non-DOT specification fiberboard box. (Modes 1, 2, and 3.)
7573-X	DOT-E 7573	U.S. Department of Defense, Washington, DC.	49 CFR 175.3, 175.30(a)(1)	To authorize transport of certain hazardous materials presently forbidden or in quantities greater than allowed for cargo-only aircraft. (Mode 4.)
7594-X	DOT-E 7594	Bromine Compounds, Ltd., Beersheva, Israel.	49 CFR 173.353	To authorize transportation of certain poison B liquids in DOT Specification MC-312 cargo tanks. (Modes 1 and 3.)
7601-X	DOT-E 7601	Atlantic Research Corp., Gainesville, VA	49 CFR 173.53(e), 173.62	To authorize shipment of densensitized nitroglycerin in non-DOT specification inside containers. (Mode 1.)
7607-P	DOT-E 7607	Ecology and Environment, Inc., Arlington, VA.	49 CFR 172.101, 175.3	To become a party to Exemption 7607. (Mode 5.)
7741-X	DOT-E 7741	Bell Aerospace, Buffalo, NY	49 CFR 173.276(a), 173.302(a), 173.34(d), 175.3, 175.30.	To authorize shipment of anhydrous hydrazine and helium in non-refillable non-DOT specification cylinders. (Modes 1, 3, and 4.)
7770-X	DOT-E 7770	Logemaier S.A., Paris, France	49 CFR 173.143, 173.264(b)(4)	To authorize transport to anhydrous hydrogen fluoride or anhydrous methylchloromethyl ether in certain non-DOT specification portable tanks. (Modes 1, 2, and 3.)
7774-P	DOT-E 7774	Chem Cut Co., Fort Worth, TX	49 CFR 173.246, 175.3	To become a party to Exemption 7774. (Modes 1, 2, 4, and 5.)
7774-P	DOT-E 7774	Pengo Industries, Inc., Fort Worth, TX	49 CFR 173.246, 175.3	To become a party to Exemption 7774. (Modes 1, 2, 4, and 5.)
7835-P	DOT-E 7835	MG Burdett Gas Products Co., Norristown, PA.	49 CFR 177.848, Part 107 Appen. B(1)	To become a party to Exemption 7835. (Mode 1.)
7835-X	DOT-E 7835	Airco Industrial Gases, Murray Hill, NJ	49 CFR 177.848, Part 107 Appen. B(1)	To authorize transport of compressed gas cylinders bearing the flammable gas label, the oxidizer label, or the poison gas label and tank car tanks bearing the poison gas label on the same vehicle. (Mode 1.)
7835-X	DOT-E 7835	Synthatron Crop., Parsippany, NJ	49 CFR 177.848, Part 107 Appen. B(1)	To authorize transport of compressed gas cylinders bearing the flammable gas label, the oxidizer label, or the poison gas label and tank car tanks bearing the poison gas label on the same vehicle. (Mode 1.)
7921-X	DOT-E 7921	Beckton Dickinson & Co., Paramus, NJ	49 CFR 171.2, 173.21, 173.22a, 173.24, 173.8(b), Parts 100-199, except Part 107, excluded.	To authorize transport of analytical kits containing reagent chemicals in sealed glass ampules which do not exceed one ml. capacity. (Modes 1, 2, 3, 4, and 5.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7959-X	DOT-E 7959	Woods Hole, Marthas Vineyard & Nantucket Steamship, Woods Hole, MA.	49 CFR 172.101, 176.76(g)(3), 176.76(k)	To authorize stowage of motor vehicles containing compressed gases packaged in accordance with DOT regulations and recreational vehicles carrying heating and cooking compressed fuels on the vehicle deck of passenger-carrying ferries and other passenger-carrying vessels. (Mode 3.)
7963-X	DOT-E 7963	Stauffer Chemical Co., Westport, CT	49 CFR 173.360(a)(5), 46 CFR 90.05-35	To authorize transport of perchloromethyl mercaptan in monel tanks constructed in accordance with DOT Specification 51, with certain exceptions. (Modes 1, 2, and 3.)
7971-X	DOT-E 7971	Hydraulic Research Textron, Pacoima, CA.	49 CFR 173.302, 173.304, 175.3, 176.53	To authorize manufacture, marking and sale of non-DOT specification cylinders for transportation of nonflammable compressed gases. (Modes 1, 2, 3, 4, and 5.)
7987-X	DOT-E 7987	Stauffer Chemical Co., Westport, CT	49 CFR 173.343, 173.377	To authorize shipment of a material designated as Poison B in 6-ply multi-wall natural kraft bags. (Modes 1 and 2.)
8008-X	DOT-E 8008	Wheaton Aerosols Co., Mays Landing, NJ	49 CFR 173.305, 173.306(a)	To authorize manufacture, marking and sale of non-DOT specification aerosol container consisting of a glass bottle externally coated with plastic, for shipment of compressed gases. (Modes 1, 2, 3, and 4.)
8012-X	DOT-E 8012	Compagnie des Containers Reservoirs Neuilly-sur-Seine, France.	49 CFR 173.266	To authorize use of non-DOT specification portable tanks for transportation of hydrogen peroxide. (Modes 1, 2, and 3.)
8077-P	DOT-E 8077	Dow Corning Corp., Midland, MI	49 CFR 173.136(a)(3), 173.247(a)(7)	To become a party to Exemption 8077. (Modes 1 and 2.)
8077-P	DOT-E 8077	Fairchild Camera and Instrument, San Rafael, CA.	49 CFR 173.136(a)(3), 173.247(a)(7)	To become a party to Exemption 8077. (Modes 1 and 2.)
8077-X	DOT-E 8077	M&T Chemicals Inc., So. San Francisco, CA.	49 CFR 173.136(a)(3), 173.247(a)(7)	To authorize use of non-DOT specification steel drums for shipment of a flammable and corrosive liquid. (Modes 1 and 2.)
8274-X	DOT-E 8274	Eurotainer, Paris, France	49 CFR 173.119, 173.135, 173.141, 173.145, 173.147, 173.245, 173.247, 173.346a, 173.347, 173.349, 173.361, 173.362.	To authorize use of non-DOT specification intermodal portable tanks for transportation of certain hazardous materials. (Modes 1, 2, and 3.)
8305-X	DOT-E 8305	Eldorado Chemical Co., Inc., San Antonio, TX.	49 CFR 173.245(a)	To authorize use of a DOT Specification MC-300 cargo tank for transportation of certain corrosive materials. (Mode 1.)
8344-P	DOT-E 8344	Western-Hoegee Co., Glendale, CA	49 CFR 173.197a	To become a party to Exemption 8344. (Mode 1.)
8344-X	DOT-E 8344	Farwest Sports Inc., Olympia, WA	49 CFR 173.197a	To authorize the transportation of fiberboard boxes containing different brands of smokeless powder without B of E approval of each box. (Mode 1.)
8362-X	DOT-E 8362	Walter Kidde Co., Inc., Belleville, NY	49 CFR 173.302(a), 175.3	To authorize manufacture, marking and sale of welded non-DOT specification stainles steel cylinders for shipment of nonflammable gases. (Modes 1, 2, 3, 4; and 5.)
8390-X	DOT-E 8390	Texas Instruments Inc., Dallas, TX	49 CFR 173.272, 178.210, 178.24a	To authorize shipment of 95%–98% sulfuric acid in DOT Specification 2E polyethylene bottles overpacked in DOT Specification 12A80 fiberboard boxes. (Mode 1.)
8390-X	DOT-E 8390	Allied Corp., Morristown, NJ	49 CFR 173.272, 178.210, 178.24a	To authorize shipment of 95%–98% sulfuric acid in DOT Specification 2E polyethylene bottles overpacked in DOT Specification 12A80 fiberboard boxes. (Mode 1.)
8396-X	DOT-E 8396	Aztec Chemicals, Elyria, OH	49 CFR 173.119, 173.21	To authorize transport of a flammable liquid which is also an organic peroxide in DOT Specifiction MC-307 and MC-312 cargo tanks. (Mode 1.)
8408-X	DOT-E 8408	Presvac Systems (Burlington) Ltd., Burlington, Ontario Can.	49 CFR 173.119(a), 173.119(m), 173.245(a), 173.346(a), 178.340-7, 178.342-5, 178.343-5.	To authorize manufacture, marking and sale of certain non-DOT specification cargo tanks complying with DOT Specification MC-307 or MC-312, for transportation of flammable liquids, corrosive material or poison B. (Mode 1.)
8414-X	DOT-E 8414	Fauvet-Girel, Paris, France	49 CFR 173.315	To authorize transport of certain nonflammable gases in non-DOT specification intermodal portable tanks. (Modes 1, 2, and 3.)
8423-X	DOT-E 8423	U.S. Environmental Protection Agency, Washington, DC.	49 CFR Parts 100–199	To authorize transport of small quantities of hazardous materials in non-DOT specification glass ampules. (Modes 1, 2, 3, 4, and 5.)
8426-X	DOT-E 8426	Martin Tank Manufacturing, Carritos, CA	49 CFR 173.119(a), (m), 173.245(a), 173.346(a), 178.340-7, 178.342-5, 178.343-5.	To authorize manufacture, marking and sale of non-DOT specification cargo tanks complying with DOT Specification MC-307/312 with certain exception for transport of liquid and semi-solid waste material (Mode 1.)
8432-X	DOT-E 8432	U.S. Department of Defense, Washington, DC.	49 CFR 172.101, 173.154, 175.3	To authorize transport of plastic bottles containing an aqueous solution of sodium perchlorate and plastic bottles containing aluminum powder together in a wire bound plywood box. (Modes 1, 2, 3, and 4.)
8441-P	DOT-E 8441	Sanders Associates, Inc., Nashua, NH	49 CFR 172.101	To become a party to Exemption 8441. (Mode 1.)
8441-P	DOT-E 8441	Battery Safety Society, Inc., Fairfax, VA	49 CFR 172.101	To become a party to exemption 8441. (Mode 1.)
8442-X	DOT-E 8442	Evans Tank Co., Lubbock, TX	49 CFR 172.101, 173.315(a), 173.315(c)(1).	To authorize manufacture, marking and sale of non-vacuum insulated DOT Specification MC-331 cargo tanks for transportation of flammable and nonflammable gases. (Mode 1.)
8453-X	DOT-E 8453	Atlas Powder Co., Dallas, TX	49 CFR 173.114a	To authorize use of non-DOT specification cargo tanks and DOT Specification MC-306, MC-307, or MC-312 stainless steel cargo tanks to transport blasting agent. (Mode 1.)
8690-X	DOT-E 8690	Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 173.34(d)	To authorize shipment of nitrosyl chloride in DOT Specification 3BN400 cylinders without safety relief devices. (Mode 1.)
8732-P	DOT-E 8732	Union Carbide Corp., Danbury, CT	49 CFR 173.245	To become a party to Exemption 8732. (Mode 1.)
8736-X	DOT-E 8736	Pressure Transport, Inc., Austin, TX	49 CFR 172.101, 173.301(d)(2), 173.302(a)(3).	To authorize use of DOT Specification 3AAX cylinders made of 4130X steel for transportation of a compressed gas. (Mode 1.)
8834-X	DOT-E 7969	Crosby & Overton Inc., Long Beach, CA	49 CFR 173.119(a), (m), 173.245(a), 173.346(a), 178.340-7, 178.342-5, 178.343-5.	To authorize shipment of certain waste hazardous materials in non-DOT specification single compartment cargo tanks similar to DOT Specification 307/312 except for bottom outlet and circumferential reinforcement. (Mode 1.)
8846-X	DOT-E 8846	GAF Corp., Wayne, NJ	49 CFR 173.315(a)(1) table	To authorize shipment of vinyl methyl ether in DOT Specification MC-330 or MC-331 tank motor vehicles. (Mode 1.)

NEW EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7042-X	DOT-E 8840	Walter Kidde, Belleville, NJ	49 CFR 173.23(c), 173.302(a)(5), 175.3	To authorize manufacture, marking and sale of non-DOT specification inside seamless aluminum containers for transportation of various compressed gases. (Modes 1, 2, 3, and 4.)
8647-N	DOT-E 8847	Marine Technical Services, Inc., Houston, TX.	49 CFR 172.101	To authorize shipment of pressurized liquid oxygen in DOT Specification 4L cylinders secured in the cargo aircraft. (Mode 4.)
8675-N	DOT-E 8676	Southwest Aviation, Inc., Las Cruces, NM	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107 Appendix B.	To authorize carriage of Class A, B and C explosives not permitted for air shipment or in quantities greater than those prescribed for air shipment. (Mode 4.)
8739-N	DOT-E 8739	Kerr Steamship Co. Inc., Seattle, WA	49 CFR 173.1075, 176.30	To authorize carriage of hand wrapped newspaper bundles of paper scraps in a freight container with the total weight of the container listed on the dangerous cargo manifest. (Mode 3.)
8768-N	DOT-E 8768	Evans Tank Co., Lubbock, TX	49 CFR 173.315	To authorize manufacture, marking and sale of non-DOT specification insulated cargo tanks built in accordance with proposed DOT Specification MC-338 with certain exceptions, for transportation of flammable and nonflammably cryogenic liquids. (Mode 1.)
8783-N	DOT-E 8783	Elgnier Schmid Laurent Ivry Sur Seine, France.	49 CFR 173.315	To authorize use of a non-DOT specification IMCO 5 portable tank for transportation of certain flammable gases. (Modes 1, 2, and 3.)
8793-N	DOT-E 8793	American Chemical & Refining Co., Inc., Waterbury, CT.	49 CFR 173.352(a), 175.3	To authorize shipment of a potassium cyanide solution, n.o.s. in DOT Specification 2E polyethylene bottles of one-gallon capacity, packed no more than four to a DOT Specification 12B fiberboard. (Modes 1 and 4.)
8794-N	DOT-E 8794	Applied Technology, Inc., Barnwell, SC	49 CFR 172.200(a), 173.392(d)(a)(iv), 173.392(d)(7).	To transport via private carriage unpackaged radioactive materials, low specific activity, n.o.s. in mobile transport vehicles without determining equipment contamination levels, without shiping papers, and without issuing instructions for exclusive use of vehicle. (Mode 1.)
8795-N	DOT-E 8795	The Marison Co., South Elgin, IL	49 CFR 173.302, 173.304, 173.38, 175.3, 178.36.	To authorize manufacture, marking and sale of non-DOT specification cylinders made in compliance with DOT Specification 4B240ET, for transportation of nonflammable gases. (Modes 1, 2, 3, 4, and 5.)
8796-N	DOT-E 8796	Stauffer Chemical Co., Westport, CT	49 CFR 173.116	To authorize transport of phosphoric anhydride in a DOT Specification 56 portable tank constructed of type 316 L stainless steel. (Modes 1, 2.)
8800-N	DOT-E 8800	General American Transportation Corp., Masury, OH.	49 CFR 173.353	To authorize manufacture, marking and sale of DOT Specification 51 portable tanks for shipment of methyl bromide. (Modes 1, 2, and 3.)
8822-N	DOT-E 8822	Certified Tank Manufacturing, Inc., Long Beach, CA.	49 CFR 173.119(a), (m), 173.245(a), 173.346(a), 178.340-7, 178.342-5, 178.343-5.	To authorize manufacture, marking and sale of non-DOT specification cargo tanks made in full compliance with DOT Specification MC-307 or MC-312 with certain exceptions, for transportation of certain waste hazardous materials. (Mode 1.)
8827-N	DOT-E 8827	Union Carbide Corporation, Danbury, CT	49 CFR 173.315	To authorize shipment of vinyl methyl ether in DOT Specification MC-330 and MC-331 cargo tanks. (Mode 1.)

EMERGENCY EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 8856-N	DOT-E 8856	Transamerica Airlines, Oakland, CA	49 CFR 172.101, 173.57, 173.86, 173.90, 175.3, 175.30.	To authorize transport of rocket ammunition with or without explosive projectile. (Mode 4.)
EE 8857-N	DOT-E 8857	Korean Airlines, Los Angeles, CA	49 CFR 172.101, column 6(b), 175.32)(a)	To authorize transport of Class A explosives loaded on the same aircraft with Class B and C explosives. (Mode 4.)
EE 8858-N	DOT-E 8858	General Electric Co., Schenectady, NY	49 CFR 173.206	To authorize a one time shipment of two non-DOT Specification portable tanks containing sodium metallic. (Mode 1.)
EE 8859-N	DOT-E 8859	AVM Corp., Pittsburgh, PA	49 CFR 173.306(f)(2)(iii), 173.306(f)(3), 175.3.	To authorize shipment of a compressed gas in accumulators which deviate from required test criteria. (Modes 1, 4 and 5.)

WITHDRAWALS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
5372-X	Union Carbide Corp., Danbury, CT	49 CFR 173.301(d),173.302(a)(3), 173.304(a)(2).	To authorize shipment of nonflammable and flammable gases in non-DOT specification cylinders complying with DOT Specification 3T, with certain exceptions. (Modes 1 and 3.)
7914-N	Southern Pacific Transportation Co., San Francisco, CA.	49 CFR 174.91, 174.92, 174.93	To allow operation of unit tank car trains of petroleum crude oil without buffer cars. (Mode 2.)
8663-N	Goex, Inc., Cleburne, TX	49 CFR 173.86	To authorize shipment of black powder, manufactured in a foreign country, in DOT Specification 12H fiberboard boxes overpacked in DOT Specification 15A wooden boxes, without being classified in accordance with 173.86. (Mode 1.)
8696-N	Eastern Mediterranean (Containers) Co. Ltd., London, England.	49 CFR Part 173, Subpart F, H	To authorize the shipment of various poison B liquids and corrosive materials (liquids) in DOT Specification 51 portable tanks. (Modes 1, 2, and 3.)
8749-N	British Caledonian Airways Ltd., West Sussex, England.	49 CFR 175.75	To authorize shipment of various medical inhalers containing small amounts of nonflammable compressed gases, aboard passenger carrying aircraft. (Mode 5.)

Denials

7477-X Request by Systron Donner Corporation, Concord, CA to authorize use of non-DOT specification containers for the transportation of certain nonflammable compressed gases denied June 22, 1982, as being unnecessary.

8744-N Request by Aerazur EFA, Paris, France to authorize use of an aluminum cylinder which would contain a compressed gas to inflate liferafts denied June 10, 1982.

8802-N Request by Eva Eisenbahn-Verkehrsmittel-Gesellschaft mbH, Dusseldorf, West Germany to authorize transport of refrigerant gases in non-DOT specification IMCO Type 5 portable tanks denied June 16, 1982.

8807-N Request by Natico, Incorporated, Chicago, IL to manufacture, mark and sell non-DOT specification tight head 55-gallon drums similar to DOT Specification 17E

except top and bottom heads are 20 gauge steel secured by 7 ply chime, for shipment of commodities authorized in DOT Specification 17E drums denied June 22, 1982.

8818–N Request by Dow Chemical Company, Midland, MI to authorize shipment of bromine, a corrosive material in DOT Specification 105A500W tank car tanks having 263,000 pounds gross weight on rail denied June 30, 1982.

Issued in Washington, DC, on July 8, 1982.

J. R. Grothe,

Chief, Exemptions Branch.

[FR Doc. 82–19238 Filed 7–16–82; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

National Productivity Advisory Committee; Meeting

July 9, 1982.

The Subcommittee on Human Resources of the National Productivity Advisory Committee will meet at 10:00 a.m. on August 10, 1982 in Suite 4514, 45th floor, Pan American Building, 200 Park Avenue, New York, New York.

The purpose of the meeting will be to discuss ways in which changes in government policy can improve national productivity.

Roger B. Porter,

Executive Secretary, National Productivity Advisory Committee.

[FR Doc. 82–19449 Filed 7–16–82; 8:45 am]

BILLING CODE 4810–25–M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 138
Monday, July 19, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 30349, July 13, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., July 14, 1982.

CHANGE IN THE MEETING: The following Docket Numbers have been added to Item CP–1.

Item No., Docket No., and Company

CP–1: CP74–122–008, 009, 010, 011 and 012, Energy Terminal Services Corporation

Kenneth F. Plumb,

Secretary.

[S–1051–82 Filed 7–15–82; 9:10 am]

BILLING CODE 6717–01–M

2

PAROLE COMMISSION

National Commissioners (the Commissioners presently maintaining offices at Chevy Chase, Maryland, Headquarters).

[2P0401]

TIME AND DATE: 10 a.m., Friday, July 30, 1982.

PLACE: Room 420–F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 6 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, National Appeals Board, United States Parole Commission (301) 492–5987.

[S–1053–82 Filed 7–15–82; 3:20 pm]

BILLING CODE 4410–01–M

3

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 30143, July 12, 1982.

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Wednesday, July 7, 1982.

CHANGES IN THE MEETING: Additional item. The following additional item was considered at a closed meeting scheduled for Wednesday, July 14, 1982, at 10 a.m.:

Litigation matter.

Chairman Shad and Commissioners Evans and Thomas determined by vote that Commission business required consideration of this matter and that no earlier notice thereof was possible.

At times changes in Commission priorities requre alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Bob Zutz at (202) 272–2467.

July 15, 1982.

[S–1052–82 Filed 7–15–82; 2:02 pm]

BILLING CODE 8010–01–M

federal register

Monday
July 19, 1982

Part II

Department of the Interior

Bureau of Land Management

Amendments to Reduce Native Overselection Under the Alaska Native Claims Settlement Act

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2650

Amendments To Reduce Native Overselection Under the Alaska Native Claims Settlement Act

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rulemaking would provide a procedure to be used for the reduction of Native corporation overselections under the Alaska Native Claims Settlement Act. The proposed rulemaking is mandated by the terms of a stipulation of a settlement filed in *Alaska* v. *Reagan*, Civil No. A78–291 (D. Alaska).

DATE: Comments should be submitted by September 17, 1982.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FURTHER INFORMATION CONTACT:
Sue Wolf, (202) 343–6511
or
Robert C. Bruce, (202) 343–8735.

SUPPLEMENTARY INFORMATION: The changes made by this proposed rulemaking would set the criteria that will be used to determine what constitutes overselection by an Alaska Native corporation, either regional, village or group, under the Alaska Native Claims Settlement Act. Under the provisions of the proposed rulemaking, a Native corporation would be considered to have overselected if its selections are in excess of 125 percent of its remaining entitlement, after deducting those acres that fit into certain designated categories (i.e., conflicting selections).

This proposed rulemaking would establish the procedure to be followed in reducing any overselection to the acceptable 125 percent of remaining entitlement. After being notified that its valid selections constitute more than 125 percent of its unconveyed entitlement, a Native corporation would use this procedure to identify, by priority, those lands that it wants conveyed and to relinquish any overselection. If the Native corporation should fail to comply with the prioritizing provisions contained in the proposed rulemaking, the Secretary of the Interior would have the discretionary authority to reduce the overselection to 125 percent of the remaining entitlement by rejecting enough of the Native corporation's pending selections to bring them to 125 percent of their remaining entitlement. This proposed rulemaking would not affect existing procedures for rejecting invalid selections.

The principal author of this proposed rulemaking is Sue Wolf, Alaska Programs Staff, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that this rulemaking is exempt from the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) by the provisions of section 910 of the Alaska National Interest Lands Conservation Act (94 Stat. 2371, 2447).

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and that it will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The information collection requirements contained in the amendments to 43 CFR Part 2650 do not require approval of the Office of Management and Budget under 44 U.S.C. 3507 because there are fewer than 10 respondents annually.

List of Subjects in 43 CFR Part 2650

Administrative practice and procedure, Airports, Alaska, Cemeteries, Historic places, Indians—claims, Indians—lands, National forests, National Wildlife Refuge System, Public lands—grants, Public lands—resources.

PART 2650—ALASKA NATIVE SELECTIONS

Under the authority of the Alaska Native Claims Settlement Act of 1971, as amended (43 U.S.C. 1601 et seq.), it is proposed to amend Part 2650, Group 2600, Subchapter B, Chapter II of Title 43 of the Code of Federal Regulations as follows:

1. Section 2651.4(f) is revised to read:

§ 2651.4 Selection limitations.

* * * * *

(f)(1) Eligible village corporations may maintain selection applications for lands in excess of their entitlement by entitlement categories (sections 12(a), 12(b), 16(b) and 16(d)); however, the land selections shall not exceed 125 percent of the village corporation's unconveyed entitlement.

(2) For purposes of calculating excess selections, section 12(a), 16(b) and 16(d) entitlements for villages shall be determined in accordance with sections 14(a), 16(b) and 16(d) of the act, and section 12(b) entitlements shall be determined by applying allocations made by the appropriate regional corporation. Where the regional corporation has not made or completed such allocations, entitlements shall be determined by applying an enrollment prorata distribution among all village corporations within a region against the maximum section 12(b) acreage distribution to the appropriate regional corporation as determined by the Secretary.

(3) In determining excess selections, valid village selections filed on lands on which there are conflicting applications or other disputes such as: (i) other valid Native selections filed under section 12(a) or 16; (ii) Native allotment applications; (iii) Federal withdrawals or reserves other than National Forests, Wildlife Refuges or the National Petroleum Reserve—Alaska; (iv) pre-existing claims under other public land laws; or (v) submerged lands claimed by the State of Alaska as navigable waters on which the Secretary has not determined title, shall not be counted.

(4) If the amount of undisputed selections acreage maintained by a village corporation exceeds 125 percent of its unconveyed entitlement, the Secretary may reject selections to reduce the amount of selections to 125 percent of the unconveyed entitlement. To ensure that a village acquires its selections in the order of its priorities, it shall identify its choices numerically, section by section, in the order it wishes them conveyed. If a village fails to identify properly and submit to the Bureau of Land Management its priorities within 60 days of receipt of notice of excess undisputed lands selection, rejection of selections shall be based on date of filing or order of serialization with the latest unprioritized selection filed or the highest alphabetical suffix being rejected first, but in such a manner as to retain compactness and contiguity. Village corporations may also voluntarily relinquish selections outside their core townships to reduce their overselection at any time prior to approval for conveyance; remaining selections shall comply with criteria for compactness and contiguity.

* * * * *

2. Section 2652.3(f) is revised to read:

§ 2652.3 Selection limitations.

* * * * *

(f)(1) Eligible regional corporations may maintain section 12 selection applications for lands in excess of their

entitlement; however, land selections shall not exceed 125 percent of the region's unconveyed entitlement.

(2) Valid regional selections filed on lands that contain conflicting applications or other uncertainties such as: (i) other valid Native selections filed under section 12 (a) or (b): (ii) Native allotment applications; (iii) Federal withdrawals or reserves; (iv) pre-existing claims under other public land laws; or (v) submerged lands claimed by the State of Alaska as navigable waters on which the Secretary has not determined title, shall not be counted.

(3) If the amount of nonconflicting selection acreage maintained by a regional corporation exceeds 125 percent of the unconveyed entitlement, the Secretary may reject selections to reduce the amount of selections to 125 percent of the unconveyed entitlement. To ensure that a regional corporation acquires its selections in the order of its priorities, it shall identify its choices numerically, section by section, in the order it wishes them conveyed. If the regional corporation fails to identify properly and submit to the Bureau of Land Management its priorities within 60 days of receipt of notice of excess nonconflicting lands selections, rejection of selections shall be based on date of filing or order of serialization, with the latest unprioritized selection filed or the highest numerical suffix being rejected first. Regional corporations may also voluntarily relinquish excess selections at any time prior to approval for conveyance. All priortizations, relinquishments and rejections shall comply with:

(i) The provisions of section 12(c)(3) of the Act; and

(ii) Criteria for compactness, contiguity and minimum size of selection.

3. Section 2653.9(b) is revised to read:

§ 2653.9 Regional selections.

* * * * *

(b) Regional corportions may maintain section 14(h)(8) selection applications for lands in excess of their entitlement; however, the land selections shall not exceed 125 percent of the unconveyed entitlement. Valid regional selection filed on lands that contain submerged lands claimed by the State of Alaska as navigable waters on which the Secretary has not determined title, shall not be counted when determining excess selections. If the regional selection exceeds 125 percent of remaining entitlement, the Secretary may reject selections to reduce the amount of selections to 125 percent of unconveyed entitlement. To ensure that the regional corporation acquires its lands in the order of its priority, it shall identify its choices numerically, section by section, in the order it wishes them conveyed. If a regional corporation fails to identify properly and submit to the Bureau of Land Management its priorities within 60 days of receipt of notice of excess lands selections, rejection of selections shall be based on date of filing or order of serialization, with the latest unprioritized selection filed on or the higest serial number being rejected first, but in such a manner as to retain compactness and contiguity. Excess selections may be voluntarily relinquished at any time prior to approval for conveyance; remaining selections shall comply with criteria for compactness and contiguity.

* * * * *

4. Section 2653.10 is revised to read:

§ 2653.10 Excess selections.

Regional corporations, Native groups or any of the 4 named cities that filed lands selections pursuant to section 14(h)(1), (2) or (3), respectively, may maintain selection applications in excess of their entitlement; however, the land selections shall not exceed 125 percent of unconveyed entitlement. If the selections exceed 125 percent of remaining entitlement, the Secretary may reject selections to reduce the amount of selections to 125 percent of the unconveyed entitlement. To ensure that the corporations acquire their choices in the order of their priorities, they shall identify their choices numerically, section by section, in the order they wish them conveyed. If the corporation fails to identify properly and submit to the Bureau of Land Management its priorities within 60 days of receipt of notice of excess land selection, rejection of selections shall be based on date of filing or order of serialization, with the latest unprioritized selection filed or the highest serial number assigned to the applicant being rejected first. Excess selections may be voluntarily relinquished at any time prior to approval for conveyance; remaining selections shall comply with criteria for compactness and contiguity.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-19465 Filed 7-16-82; 8:45 am]

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Monday, July 19, 1982

INFORMATION AND ASSISTANCE

PUBLICATIONS

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Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
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Federal Election Commission

Reporting and Recordkeeping Requirements
Securities and Exchange Commission

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Engineers Corps

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Rules and Regulations

Federal Register
Vol. 47, No. 139
Tuesday, July 20, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 210 and 220

National School Lunch and Breakfast Programs; Revision of School Food Service Accountability Requirements

AGENCY: Food and Nutrition Service, USDA.

ACTION: Interim rule.

SUMMARY: The Food and Nutrition Service (FNS) is amending the regulations for the National School Lunch Program (NSLP) and School Breakfast Program (SBP) on an interim basis to restructure the financial accountability requirements for these programs. Under this rule, the determination of nonprofit status, as a condition for program participation, is made by determining the financial status of the school food service as a whole rather than the financial status of each Federal program and nongrant activity separately. This Interim rule sets forth definitions for nonprofit school food service and for revenue to such food service and requires School Food Authorities (SFAs) to maintain appropriate revenue and expenditure records in order to substantiate the nonprofit status of their school food service. State agencies (SAs) are responsible for establishing the accounting systems for SFAs to use. This rule eliminates the requirement that cost be considered in assigning and paying NSLP and non-severe need SBP reimbursements to SFAs. The term "operating balance" is eliminated and instead, SAs are responsible for monitoring nonprofit school food service net cash resources. SAs are also responsible for establishing systems for determining and monitoring SBP costs for the purpose of establishing eligibility for and determining payment of severe need SBP reimbursement rates.

This rule simplifies Federal program requirements, reduces federally required reporting and recordkeeping burdens for SFAs, removes the program specific restrictions on Federal reimbursement, and provides added flexibility to SFAs in financing school food service operations. The rule also provides SAs with additional flexibility in administering the National School Lunch and School Breakfast Programs.

DATES: Effective October 1, 1982. To be assured of consideration, comments must be postmarked on or before December 31, 1982.

ADDRESSES: Comments may be mailed to Stanley C. Garnett, Branch Chief, Policy and Program Development Branch, School Programs Division, FNS, USDA, Alexandria, Virginia 22302. Comments may also be delivered or reviewed during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) at 3101 Park Center Drive, Alexandria, Virginia.

FOR FURTHER INFORMATION CONTACT: Stanley C. Garnett, Branch Chief, Policy and Program Development Branch, School Programs Division, FNS, USDA, Alexandria, Virginia 22302, (703) 756–3620.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under Executive Order 12291 and has been classified as not major because it does not meet any of the three criteria identified under the Executive Order. It does not have an annual effect on the economy of $100 million or more, nor does it result in major increases in costs or prices for consumers; individual industries; Federal, State or local government agencies; or geographic regions. Furthermore, it does not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S. based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule has also been reviewed with regard to the requirements of Pub. L. 96–354, the Regulatory Flexibility Act. Samuel J. Cornelius, Administrator of the Food and Nutrition Service, has certified that this proposed rule will not have a significant adverse economic impact on a substantial number of small entities although it could affect virtually all SFAs participating in the School Nutrition Programs.

The Department is issuing this as an interim rule rather than a final to provide States and local school food authorities the opportunity to comment based on actual operational experience. In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting and/or recordkeeping requirements that are included in § 210.14(a–1) and § 210.14(g)(3) of this interim rule will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained.

Background

On April 9, 1982, the Department published a proposed rule in the **Federal Register** (47 FR 15342) to restructure the financial accountability requirements for the NSLP and SBP. The proposal was designed to implement Section 819 of Pub. L. 97–35 which removed most references to cost accountability from the provisions of the National School Lunch and Child Nutrition Acts dealing with the use of Federal reimbursements in these programs. Under Section 819, Federal NSLP and non-severe need SBP funds are no longer restricted by law to the financing of certain specified costs, i.e., food used in the NSLP in the case of Section 4 NSLP funds, the service of free and reduced price lunches in the case of Section 11 NSLP funds, and the service of breakfasts in the case of non-severe need SBP funds. Also eliminated by Section 819 of Pub. L. 97–35 was the provision in Section 12 of the National School Lunch Act which limited total reimbursement received by any SFA under the NSLP and SBP to the net cost of operating these programs. The revised legislation now requires only that NSLP and non-severe need SBP funds be used to assist SFAs in providing program benefits within an overall nonprofit school food service environment.

With the elimination of program specific Federal cost restrictions, SAs could allow SFAs to use Federal NSLP/Commodity and non-severe need SBP reimbursements to support their overall nonprofit school food service. Under this concept, Federal reimbursements could be used to support non-program food service, such as a la carte service, in

addition to NSLP and SBP food service. This would be a rare occurrence, however, since SFAs have traditionally utilized profits from a la carte sales to subsidize their NSLP and SBP operations.

In addition to providing SFAs with some added flexibility in financing their nonprofit school food service operations this concept would decrease the amount of recordkeeping and reporting at the SFA level since separate costs for the NSLP, SBP and other school food service would not be required. However, SFAs would still be required to maintain revenue and expenditure records sufficient to establish the nonprofit status of their food service operations.

This revision in Federal program accountability requirements does not alter existing Federal financial management standards. The requirement that SAs establish and maintain financial management systems conforming to the standards enumerated in Departmental regulations (7 CFR Part 3015, Subpart H) remains in effect. In so doing, State agencies would have the option of continuing their established cost-based accounting systems if they wish or of establishing new or revised financial management systems to monitor and support revised Federal program accountability requirements. This is in keeping with the Department's long established policy of allowing SAs to impose additional requirements for participation in the NSLP and SBP which may be more stringent than the Department's regulations but are not inconsistent with them. It should be noted, however, that reductions in accounting and recordkeeping at the local level will be dependent upon the extent to which SAs alter their existing cost-based accounting systems.

In response to the April 9 proposal, the Department received 29 comments. Only two commentors clearly disapproved of the proposed rule. Of the remaining comments, 16 indicated general approval of the Department's overall approach while 11 of these offered specific recommendations for change. The remaining nine comments did not indicate approval or disapproval but did offer specific recommendations that were in line with the overall philosophy of the proposal. In view of this, the Department also considers these comments as generally supportive of the proposal. The Department would like to thank all of the commentors who responded to the proposal. Especially appreciated were the detailed suggestions made by many of the commentors which were very helpful in formulating this interim rule.

The remainder of this preamble will discuss the specific changes in program financial requirements that are being made under this interim rule. For ease of reference the changes are presented under the same headings and in the same order as in the preamble of the proposed rule.

1. *Assignment of NSLP reimbursement rates*—Under the proposal, SAs would continue to be required to assign NSLP reimbursement rates to participating SFAs at the beginning of each school year but would no longer be required to assign varying rates of reimbursement based on the anticipated cost of producing a lunch and certain specific anticipated revenues available to meet that cost. Those State agencies that wished to vary Federal reimbursements to SFAs, within the maximum rates established by the Secretary, would have had the option to do so based on the anticipated cost of producing lunches and the relative need of participating SFAs as reflected by the anticipated availability of State and local revenues.

One commentor stated that the reference to cost in discussing the option of assigning varying rates implies that only States with cost based accounting procedures would be able to exercise this option. While cost based accounting would provide a good basis for varying rates of reimbursement, the Department does not intend that this be the only basis. The Department believes that SAs should have the flexibility to assign varying rates based on the financial condition of SFAs as determined by the SA through its established accounting and reporting system. Accordingly, § 210.11(b) has been revised in this interim rule to provide SAs with this flexibility.

2. *Payment of NSLP and non-severe need SBP reimbursements*—Under the proposal, SAs would no longer be required by Federal regulation to consider cost in the payment of NSLP and non-severe need SBP reimbursements to SFAs. However, SAs could retain their existing cost-based systems and continue to limit program reimbursements to allowable program costs.

Commentors addressing this provision expressed support for this approach. Some felt that the elimination of cost considerations in the actual payment of NSLP reimbursements would provide SFAs with added flexibility in financing their nonprofit school food service operations and would decrease accounting, recordkeeping and reporting burdens at both the SFA and SA levels. Others, however, while supporting the financial flexibility afforded by this provision also expressed support for cost based accounting as an effective management tool. In response, the Department wishes to make it clear that this provision does not preclude SAs from maintaining or modifying existing cost-based accounting procedures. Furthermore, a SA could limit NSLP and non-severe need SBP reimbursement to the respective or combined costs of those programs. The Department believes that this degree of flexibility is desirable in meeting individual State needs and is retaining the proposed change in this interim rule.

3. *Nonprofit school food service*—Under the proposal, a SFA would have been required to maintain a nonprofit school food service as a condition for participating in the NSLP and/or SBP. Nonprofit school food service was defined as all food service operations conducted by the SFA principally for the benefit of school children. These operations would include the National School Lunch, School Breakfast and Special Milk Programs and could also include a la carte or other food service operations if all revenues generated by or attributable to these operations are used solely for the benefit of the nonprofit school food service.

SFAs would be required to maintain records of their nonprofit school food service revenues and expenditures in accordance with the accounting system established by the SA. However, if the SFA participates in the SMP it would be required to account separately for milk purchased and served under that Program. Also, if the SFA receives severe need SBP reimbursement rates for any of its schools, it would be required to conform to the accounting system established by the SA for documenting SBP costs.

Four comments were received on the nonprofit school food service revenue/expenditure recordkeeping requirements. Two commentors indicated that the Department should specify the accounting, recordkeeping and reporting procedures for SFAs to use while two others were concerned that overall recordkeeping burdens would not be reduced substantially by the proposal. In response to these comments, the Department believes that SA flexibility in this area is essential to accommodate State and local management and accounting requirements while ensuring compliance with Federal program requirements. As indicated earlier in this preamble, the accounting and reporting systems adopted by the SA will determine the extent to which paperwork burdens will

be reduced at the local level. The Department believes, however, that substantial reductions can be made. For these reasons, the provisions of the proposed rule in this area have not been changed in this interim rule.

The proposed treatment of nonstudent meals served within the nonprofit school food service remains the same in this interim preamble but in response to two commentors, is reworded for clarity as follows: It is the Department's policy that nonstudent meals (except for food service workers and supervisory adults) served within the nonprofit school food service not be supported by that food service except by revenues from or specifically contributed for such nonstudent meals. To comply with this policy in the absence of specific per meal cost information, SFAs shall insure that the price charged for nonstudent meals is not less than the full price for a paying child plus the Federal reimbursement for a paid meal and the per meal value of USDA donated commodities. Downward adjustments in nonstudent meal prices may be made to reflect revenues specifically contributed to the nonprofit school food service for the support of such meals. For example, a school district may subsidize teacher's meals as a fringe benefit.

Under the proposed rule, SFAs would have also been required to account separately for all competitive food services which are not operated as part of the SFA's nonprofit school food service. Profits from any such competitive food service operations could be used only for the benefit of the nonprofit school food service, the SFA or individual school, or student organizations approved by the SFA or school. Fifteen comments were received on these provisions. Most of these commentors (10) expressed concern that the rule as written could require SFAs to account for all food sales occurring within the SFA regardless of sponsor or location; for example, food and beverage sales at school athletic events sponsored by student organizations. While schools do have the authority to authorize and control such food service, commentors did not feel that it was properly subject to the accountability requirements of the NSLP and SBP. The Department agrees and has clarified this interim rule to require that SFAs account only for food service operations conducted by the SFA.

4. *Allowable expenditures*—Under the proposed rule, expenditures of nonprofit school food service revenues would be limited to allowable school food service direct and indirect costs in accordance with OMB Circular A–87 and Departmental regulations (7 CFR Part 3015) on allowable costs.

The Department also proposed to allow nonprofit school food service revenues to be used for capital expenditures associated with altering or otherwise improving nonprofit school food service facilities. The purchase of land or buildings was not allowed. Generally, commentors supported this provision but some expressed concern that revenues which should be used to improve meal quality or lower student prices might be used for capital expenditures instead. The Department is sensitive to such concerns but recognizes the increasing need for financial flexibility at the local level as well as the need for adequate facilities in order to provide quality food service. Therefore, this interim rule will allow nonprofit school food service revenues to be used for altering or improving school food service facilities. However, since the department believes that the nonprofit school food service is not intended to provide school real estate facilites, the interim rule will prohibit the expenditure of nonprofit school food service revenues for the purchase of land or the purchase or construction of buildings.

5. *Revenue*—The definition of nonprofit school food service revenue in this rule remains essentially the same as proposed. In response to comments received, the definition has been slightly reworded to accommodate either cash or accrual accounting systems.

6. *Net cash resources*—The proposed rule eliminated the term "operating balance" and instead, would have required State agencies to monitor the net cash resources available to each SFA's school food service. Net cash resources were defined as including but not being limited to, cash on hand, cash receivable, accrued earnings on investments, cash on deposit and the value of stocks, bonds or other negotiable securities less cash payable. The value of food inventories were not included in net cash resources. SFAs would have been required to limit their net cash resources to an amount that did not exceed three months normal operating cost of their nonprofit school food service. State agencies would have been given the flexibility of monitoring net cash resources during audits and supervisory assistance reviews. If the State agency determined that an SFA's net cash resources exceeded three months normal operating cost for the SFA's nonprofit school food service, corrective action would have been required. The proposal specified the types of corrective action that could be undertaken. As part of its ongoing management evaluation process, FNS would review each State agency's system for monitoring and controlling the net cash resources of SFAs.

These provisions generated more comments (19) than any other part of the proposed rule. Major concerns were:

a. The definition of net cash resources is based on accrual accounting. Some States and SFAs utilize cash based accounting systems.

b. The determination of three months normal operating cost would require a cost based accounting system.

c. The three month operating cost limit is not sufficient for many SFAs since it would not allow for advance volume purchasing or for food service equipment replacement.

d. The proposed regulations do not specify how the monitoring of net cash resources is to be accomplished or the frequency of that monitoring.

In response to these valid concerns the Department has made the following changes in this interim rule:

a. The definition of net cash resources has been changed to accommodate cash as well as accrual accounting systems.

b. The regulatory guideline limit for net cash resources has been changed from "three months normal operating cost" to "three months average expenditures".

c. SAs have been given the authority to approve higher or lower net cash resource limits on an individual SFA basis according to the needs of each SFA. SAs will be required to develop and maintain criteria for approving such higher or lower limits. These criteria would be subject to review by FNS.

d. In order to afford SAs maximum flexibility in monitoring the net cash resources of SFAs, the Department is not specifying the method or frequency of review. However, as guidance to SAs this interim rule suggests that the monitoring of net cash resources be accomplished through audits and/or supervisory assistance reviews, and should be conducted at a minimum within the frequency required for such reviews and audits.

7. *Severe need reimbursement rates for the SBP*—Under the proposed rule, State agencies would be allowed to set up their own systems or to continue existing systems for determining and monitoring breakfast costs where such costs were needed to determine eligibility for and payment of severe need breakfast reimbursement rates. Per meal breakfast costs would be used in the determination of severe need eligibility as well as in the payment of severe need breakfast reimbursement.

Depending upon the accounting system used by the SFA, per meal costs could be determined on an overall SFA basis or on a school basis. For any school year, severe need reimbursement payments to any SFA would be limited to the lesser of: (1) The cost of providing free and reduced price breakfasts to eligible children in schools determined to be in severe need (per meal cost multiplied by the number of free and reduced price breakfasts served) less the reduced price payments received by such schools; or (2) the number of free and the number of reduced price breakfasts served to eligible children in schools determined to be in severe need multiplied by the applicable severe need reimbursement rates.

Two commentors pointed out that Pub. L. 97–35 makes schools with State mandated breakfast programs automatically eligible for severe need reimbursement rates until July 1, 1983 for States with annual legislatures and July 1, 1984 for States with biennial legislatures. Therefore, these schools should be exempted from the reimbursement cost comparison in the SBP regulations until their automatic severe need eligibility expires. The Department agrees and has made the appropriate changes in this interim rule. However, the Department recommends that SAs in the affected States establish accounting procedures for determining eligibility for and the actual payment of severe need SBP reimbursements which can be implemented upon expiration of the exemption.

All other proposed provisions concerning severe need reimbursement remain unchanged in this interim rule.

List of Subjects

7 CFR Part 210

Food assistance programs, National school lunch program, Grant programs—Social programs, Nutrition, Children, Reporting and recordkeeping requirements, Surplus agricultural commodities.

7 CFR Part 220

Food assistance programs, School Breakfast Program, Grant programs—Social programs, Nutrition, Children, Reporting and recordkeeping requirements.

Accordingly, Parts 210 and 220 are amended on an interim basis as follows:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

1. In § 210.2, paragraph (d) is removed and reserved, a new paragraph (i–2) is added, paragraph (j) is revised to define "nonprofit school food service," and paragraphs (k) and (n–3) are revised to read as follows:

§ 210.2 Definitions.

* * * * *

(i–2) "Net cash resources" means all monies, as determined in accordance with the State agency's established accounting system, that are available to or have accrued to a School Food Authority's nonprofit school food service at any given time, less cash payable. Such monies may include but are not limited to, cash on hand, cash receivable, earnings on investments, cash on deposit and the value of stocks, bonds or other negotiable securities.

(j) "Nonprofit school food service" means all food service operations conducted by the School Food Authority principally for the benefit of school children, all of the revenue from which is used solely for the operation or improvement of such food service.

(k) "Nonprofit" when applied to schools or institutions eligible for the Program means exempt from income tax under the Internal Revenue Code of 1954, as amended; or in the Commonwealth of Puerto Rico, certified as nonprofit by the Governor.

* * * * *

(n–3) "Revenue" when applied to nonprofit school food service means all monies received by or accruing to the nonprofit school food service in accordance with the State agency's established accounting system including, but not limited to, children's payments, earnings on investments, other local revenues, State revenues, and Federal cash reimbursements.

* * * * *

2. In § 210.7, paragraph (b) is revised to read as follows:

§ 210.7 Use of funds.

* * * * *

(b) Revenues received by the nonprofit school food service in any School Food Authority shall be used only for the operation or improvement of such food service: *Provided, however,* That such revenues shall not be used to purchase land or buildings or to construct buildings.

* * * * *

3. In § 210.8, the words "lunch program" in paragraphs (e)(10) and (e)(11) are changed to read "nonprofit school food service"; in paragraph (e)(14) the words "lunch program" are changed to read "school food service"; and paragraphs (e)(1) and (e)(2) are revised as follows:

§ 210.8 Requirements for participation.

* * * * *

(e) * * *

(1) Maintain a nonprofit school food service and observe the limitations on the use of nonprofit school food service revenues set forth in § 210.7(b) and the limitations on any competitive school food service as set forth in § 210.15b of this part;

(2) Limit its net cash resources to an amount that does not exceed three months average expenditures for its nonprofit school food service; or such other amount as may be approved by the State agency, or FNSRO where applicable.

* * * * *

§ 210.8a [Amended]

4. In § 210.8a, paragraph (f) is amended by changing the words "feeding operation" to "nonprofit school food service".

5. In § 210.11, the last sentence of paragraph (c) is removed, paragraph (d) is removed, and paragraphs (e) and (f) are redesignated (d) and (e), respectively. The second and third sentences of paragraph (a), the second sentence of paragraph (b), and redesignated paragraph (d) are revised to read as follows:

§ 210.11 Reimbursement payments.

* * * * *

(a) * * * General cash-for-food assistance payments shall be made to assist schools in obtaining food for the program. Special cash assistance payments shall be made to assist schools in providing free and reduced price lunches to children eligible for such lunches. * * *

(b) * * * At the beginning of the school year, State agencies, or FNSROs where applicable shall, within these maximum rates of reimbursement, initially assign rates of reimbursement for School Food Authorities or for schools through School Food Authorities. Such rates of reimbursement may be assigned at levels based on financial condition.

* * *

* * * * *

(d) The total general cash-for-food assistance reimbursement and special cash assistance reimbursement paid to any School Food Authority for lunches served to children during the school year shall not exceed the sum of the products obtained by multiplying the total number of free, reduced price and paid lunches respectively, served to eligible children during the school year by the applicable maximum per lunch reimbursement for each type of lunch prescribed for the school year.

* * * * *

§ 210.13 [Amended]

6. In § 210.13, paragraph (a) is amended by removing the words "and other information concerning the operation of its nonprofit lunch program as set forth in paragraph (c) of this section," and paragraph (b) is amended by changing the reference to § 210.14(g)(2) in the first sentence to § 210.14(g)(1).

7. In § 210.14, paragraphs (a–1) and (g)(3) are revised to read as follows:

§ 210.14 Special responsibilities of State agencies.

* * * * *

(a–1) Each State agency, or FNS where applicable, shall establish a system of accounting under which School Food Authorities shall account for all revenues and expenditures of their nonprofit school food service. The system established shall also permit determination of school food service net cash resources, and shall include criteria for approval of net cash resources in excess of or less than three months average expenditures. In addition, School Food Authorities shall be required to account separately for other food services which are operated by the School Food Authority.

* * * * *

(g) * * *

(3) Within 90 days after the end of each school year each State agency shall submit information on the State revenue matching requirements prescribed in § 210.6 of this Part. This information shall be submitted on a form provided by FNS.

* * * * *

8. Section 210.15 is revised to read as follows:

§ 210.15 Review of net cash resources.

During audits, supervisory assistance reviews or by other means, State agencies, or FNSROs where applicable, shall be responsible for monitoring the net cash resources of the nonprofit school food service of each School Food Authority participating in the Program. In the event that such resources exceed three months average expenditures for the School Food Authority's nonprofit school food service or such other amount as may be approved by the State agency or FNSRO where applicable, the State agency or FNSRO where applicable, may require the School Food Authority to reduce children's prices, improve food quality or take other actions designed to improve the nonprofit school food service. In the absence of any such action, adjustments in the rates of reimbursement under the Program shall be made.

* * * * *

9. In § 210.15b, the first sentence of paragraph (a) is amended by changing the words "a school's nonprofit food service under the program" to "lunches served under the Program", and the second sentence of paragraph (a) is revised as follows:

§ 210.15b Competitive food services.

(a) * * * The sale of competitive foods approved by the Secretary may be allowed at the discretion of the State agency and School Food Authority provided that, any profit from the sale of such foods accrue to the benefit of the nonprofit food service or to the school or to student organizations approved by the school.

* * * * *

PART 220—SCHOOL BREAKFAST PROGRAM

1. In Section 220.2, paragraph (p) is revised and new paragraphs (o–1), (o–2), and (t–1) are added to read as follows:

§ 220.2 Definitions.

* * * * *

(o–1) "Net cash resources" means all monies as determined in accordance with the State agency's established accounting system, that are available to or have accrued to a School Food Authority's nonprofit school food service at any given time, less cash payable. Such monies may include but are not limited to, cash on hand, cash receivable, earnings or investments, cash on deposit and the value of stocks, bonds or other negotiable securities.

(o–2) "Nonprofit school food service" means all food service operations conducted by the School Food Authority principally for the benefit of school children, all of the revenue from which is used solely for the operation or improvement of such food service.

(p) "Nonprofit" when applied to schools or institutions eligible for the Program means exempt from income tax under the Internal Revenue Code of 1954, as amended; or in the Commonwealth of Puerto Rico, certified as nonprofit by the Governor.

* * * * *

(t–1) "Revenue" when applied to nonprofit school food service means all monies received by or accruing to the nonprofit school food service in accordance with the State agency's established accounting system including, but not limited to, children's payments, earnings on investments, other local revenues, State revenues, and Federal cash reimbursements.

* * * * *

2. In § 220.7, paragraph (d)(2) is amended by changing the words "feeding operation" to "nonprofit school food service"; (e)(9), (e)(10) and (e)(13) are amended by changing the words "breakfast program" to "nonprofit school food service"; and (e)(1) is revised to read as follows:

§ 220.7 Requirements for participation.

* * * * *

(e) * * *

(1)(i) Maintain a nonprofit school food service, (ii) use all revenues received by such food service only for the operation or improvement of that food service, except that such revenues shall not be used to purchase land or buildings, or to construct buildings (iii) limit its net cash resources to an amount that does not exceed three months average expenditure for its nonprofit school food service or such other amount as may be approved by the State agency, and (iv) observe the limitations on any competitive food service as set forth in § 220.12 of this part;

* * * * *

3. In § 220.9, paragraph (b) is amended by removing the word "maximum" from the first sentence; paragraphs (c) and (d) are revised, and paragraph (e) is amended by adding a sentence to the end of the paragraph as follows:

§ 220.9 Reimbursement payments.

* * * * *

(c) The total reimbursement for breakfasts served to eligible children in, (1) schools not in severe need, and (2) severe need schools in State's with State Breakfast mandates as provided for in § 220.9(e)(3) (i) and (ii) in any School Food Authority during the school year shall not exceed the sum of the products obtained by multiplying the total numbers of such free, reduced price and paid breakfasts, respectively, by the applicable rate of reimbursement for each type of breakfast as prescribed for the school year.

(d) For any school year, severe need reimbursement payments to any School Food Authority except as provided for in (c) above shall be the lesser of: (1) The cost of providing free and reduced price breakfast to eligible children in schools determined to be in severe need, less the reduced price payments received by such schools; or (2) the number of free and the number of reduced price breakfasts, respectively, that are served to eligible children in schools determined to be in severe need,

multiplied by the applicable severe need reimbursement rates for such breakfasts.

(e) * * * The State agency, or FNSRO where applicable, shall be responsible for establishing systems for determining breakfast costs where such costs are necessary to the determination of whether or not a school is in severe need.

4. In § 220.11, paragraph (c) is revised to read as follows:

§ 220.11 Reimbursement procedures.

* * * * *

(c) Where a school participates in both the National School Lunch Program and the School Breakfast Program, the State agency or FNSRO, where applicable, may authorize the submission of one claim for reimbursement to cover both programs.

* * * * *

5. In § 220.12, the first sentence of paragraph (a) is amended by changing the words "a school's nonprofit food service under the Program" to "breakfasts served under the Program", and the second sentence of paragraph (a) is revised as follows:

§ 220.12 Competitive food services.

(a) * * * The sale of competitive foods approved by the Secretary may be allowed at the discretion of the State agency and School Food Authority provided that the sale of such foods is part of the School Food Authority's nonprofit food service, or if not part of the nonprofit food service, that any profit from the sale of such foods accrue to the benefit of the nonprofit food service or to student organizations approved by the School.

* * * * *

6. In § 220.13, paragraph (i) is revised, paragraph (j) is redesignated paragraph (k) and a new paragraph (j) is added as follows:

§ 220.13 [Amended]

* * * * *

(i) Each State agency, or FNS where applicable, shall establish a system of accounting under which School Food Authorities shall account for all revenues and expenditures of their nonprofit school food service. The system established shall also permit determination of school food service net cash resources, and shall include criteria for approval of net cash resources in excess of three months average expenditures. In addition, School Food Authorities shall be required to account separately for other food services which are operated by the School Food Authority.

(j) During audits, supervisory assistance reviews, or by other means, State agencies, or FNSROs where applicable, shall be responsible for monitoring the net cash resources of the nonprofit school food service of each School Food Authority participating in the Program. In the event that such resources exceed three months average expenditures for the School Food Authority's nonprofit school food service, or such amount as may be approved by the State agency or FNSRO where applicable, the State agency or FNSRO where applicable, may require the School Food Authority to reduce children's prices, improve food quality or take other actions designed to improve the nonprofit school food service. In the absence of any such action, adjustments in the rates of reimbursement under the Program shall be made.

* * * * *

(Catalog of Federal Domestic Assistance Nos. 10.553 and 10.555)

(Sec. 819, Pub. L. 97-35, 95 Stat. 533, 42 U.S.C. 1759a, 1773 and 1757)

Dated: July 14, 1982.

Samuel J. Cornelius,

Administrator, Food and Nutrition Service.

[FR Doc. 82-19679 Filed 7-19-82; 8:45 am]

BILLING CODE 3410-30-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 2

[Docket No. 82-14]

Disposition of Credit Life Insurance Income

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Comptroller of the Currency (OCC) is amending an existing regulation, 12 CFR Part 2, to reflect recommendations of the Federal Financial Institutions Examination Council ("Council"). The amendments clarify the permissibility of bonuses and incentives to bank employees for credit life insurance sales; describe the circumstances under which credit life insurance income may be allocated to bank holding company affiliates other than the bank; and delete unnecessary provisions.

EFFECTIVE DATE: August 19, 1982, except that the reasonable compensation proviso in 12 CFR 2.4(b) is effective May 1, 1983.

FOR FURTHER INFORMATION CONTACT: Ford Barrett, Assistant Chief Counsel, Comptroller of the Currency, Washington, D.C. 20219. Telephone (202) 447-1896.

SUPPLEMENTARY INFORMATION:

Special Studies

The Secretary of the Treasury has certified that the amendments do not require a regulatory flexibility analysis on the ground that the amendments will have no significant economic impact. The amendments will change several minor details of a long standing OCC regulation and bring it into conformity with a policy statement recommended by the Council. In addition, the amendments permit OCC to delete several provisions in the existing regulation that are thought to be unnecessary.

The amendments do not constitute a major rule under section 3 of Executive Order 12291, and therefore no regulatory impact analysis is necessary. The Council concluded that its recommended policy statement, from which the amendments are drawn, will have a beneficial impact on financial institutions. The effect on bank holding companies and individuals was assessed as immaterial and minor, respectively. Since OCC's regulation has been in effect for more than three years, the impact of the amendments should not differ from the Council's assessment. Moreover, the staff of the Federal Reserve Board has advised that no problems or industry opposition has been encountered in the 12 months since that agency adopted the Council's policy statement. Finally, the deletion of provisions relating to board of director approvals and the retention of minority shareholders' share of credit life insurance income in trust, should have a favorable impact.

Background

On January 26, 1982, OCC proposed amending Part 2 to make it consistent with a policy statement adopted by the Council following solicitation of public comment. In the Notice of Proposed Rulemaking (47 FR 3555; January 26, 1982), OCC noted that Part 2 and the Council's policy statement were identical in overall purpose and effect, but that differences existed in certain details. Moreover, OCC's experience with Part 2 since its promulgation in 1978 indicated that certain provisions were no longer necessary.

Eleven comments were received on the proposed amendments. In view of the substantial number of comments received by OCC in 1978 when the regulation was first proposed and by the

Council in 1980 when its policy statement was published for comment, the low response can probably be interpreted as general approval of the proposed changes. It may also reflect the Federal Reserve Board's adoption of the Council's policy statement nearly a year age. See 46 FR 24690 (May 1, 1981). In any event, four of the comments, including the comment of the American Bankers Association, endorsed OCC's proposed changes with no significant reservations.

The remaining comments focused on a proposed clarification allowing national bank officials to receive bonuses for the sale of credit life insurance and on the compensation to be paid to the bank when credit life insurance income is credited to non-bank affiliates of the holding company. Both topics are discussed below.

Bonuses

The Council's policy statement on disposition of credit life insurance income prohibits bank officers and other designated persons from retaining for their own personal benefit commissions from the sale of credit life insurance to loan customers. OCC's regulation incorporates the same prohibition. However, Part 2 does not contain another provision recommended by the Council clarifying that bank employees can participate in a bonus or incentive plan under which payments based on credit life insurance sales are made in cash or in kind out of the bank's funds not more frequently than quarterly and in an amount not exceeding in any one year 5 percent of the recipient's annual salary. Accordingly, OCC proposed a similar clarification be added to its regulation.

One comment suggested raising the 5 percent limit to 20 percent, while another advocated eliminating the quarterly limitation. In view of the small number of comments offering these suggestions, we believe it is better to retain the Council's recommended limitations, at least for the time being. The Council's recommended limitations were designed to give financial institutions the flexibility of paying bonuses while at the same time "reducing the potential for abusive sales practices." The latter is a reference to the concern that some credit life purchase may be less than voluntary on the part of the borrower, which raises the possibility of a violation of federal antitrust laws and the antitying provisions of the Bank Holding Company Act Amendments of 1970, 12 U.S.C. 1971 *et seq.*[1] In addition, there is the danger that a loan officer might make a loan not otherwise considered prudent for the sake of reaping a sizeable or frequent bonus.[2]

One comment inquired whether the term "salary" as used in the bonus provision is meant to refer to the employee's total compensation for the year, i.e., salary plus bonuses and incentives not related to credit life insurance sales, or whether it is meant to refer solely to an employee's base salary. OCC believes this decision should be left to bank management.

Reasonable compensation

The Council's policy statement recommended that income derived from the sale of credit life insurance be credited to the income accounts of the bank (or its operating subsidiary) and not to the bank's individual employees, officers, directors, principal shareholders, their interests, or other affiliates. However, the Council stated that the income could be credited to an affiliate operating under the Bank Holding Company Act or to a trust for the benefit of all shareholders, provided the bank is paid "reasonable compensation" for the use of its personnel, premises and good will in the sale of the insurance. The Council stated: "As a general rule, 'reasonable compensation' means an amount equivalent to at least 20 percent of the affiliate's net income attributable to the financial institution's credit life insurance sales."

OCC's existing regulation, 12 CFR 2.4(b), also allows credit life income to be credited to an affiliate, but contains no provision for reasonable compensation to the bank. Part 2 does require, however, that the minority shareholders' proportionate share be placed in trust and paid to them periodically. The Council did not recommend this approach, believing that a reasonable compensation provision would be less burdensome while still protective of the interests of minority shareholders. Accordingly, OCC proposed deleting the minority shareholder requirement and substituting a flexible reasonable compensation provision. OCC also requested comment on several alternative approaches.

The six comments addressing this question were divided in their views, except it was agreed that the regulation should not require the income to go solely to the bank. Two comments argued that any reasonable compensation provision would cause a net increase in taxes paid by the holding company, since some income now sheltered in reinsurance company affiliates would have to be paid to the bank as compensation for use of its personnel, premises and good will.

OCC has previously stated that income tax factors are not a significant regulatory consideration in deciding how credit life insurance income should be allocated within a holding company system.[3] To the extent they should be considered, the tax effect appears minimal since a holding company's bank subsidiary is capable of reducing its tax liability through tax exempt investments. Thus, for the many holding companies with bank subsidiaries whose tax liability is small or non-existent as a result of their tax exempt portfolios, the reasonable compensation measure would not cause a significant change in tax liability. Moreover, the benefits of the reasonable compensation provision are increased bank earnings resulting in a strengthened capital position, plus more credible accounting policies recognizing the expenses incurred by one subsidiary in marketing an affiliate's product.

In light of the comments, OCC believes the least burdensome approach for the industry as a whole is to adopt the original proposal of eliminating the cumbersome minority shareholder provision and substituting a flexible reasonable compensation requirement. The elimination of the minority shareholder provision should be beneficial to the many holding companies owning less than 100 percent of the stock of a national bank subsidiary.[4] Moreover, the reasonable

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[1] Antitrust concerns were an important consideration in OCC's adoption of 12 CFR 2. See 42 FR 48518, 48524 (Sept. 23, 1977). There were also cited in two court decisions relating to credit life insurance practices of national banks, *IBAA* v. *Heimann*, 613 F. 2d 1164, 1168 (D.C. Cir. 1979); *First National Bank of LaMarque* v. *Smith*, 436 F. Supp. 824, 830 (S.D. Tex. 1977), *aff'd*, 610 F. 2d 1258 (5th Cir. 1980).

[2] For this reason some bankers regard incentives for other than overall performance as dangerous. According to O. Leslie Nell, formerly executive vice president of The Indiana National Bank, "* * * as loan officers, all of us in this room would probably agree that it is not a very good idea to give a loan officer an incentive for volume. You do that and you know he will not be with you for very long, and you won't be around for very long to judge his performance." *The Journal of Commercial Bank Lending* (July 1974), cited in OCC Interpretive Letter No. 88, CCH Fed. Banking L. Rep ¶85,161. Too large or too frequent a bonus could generate what one court called "an inherent conflict of interest: the loan officer's judgment may be influenced by his direct financial reward from making the loan." *First National Bank of La Marque* v. *Smith*, *supra*, 610 F. 2d at 1265.

[3] 42 FR 48522 (Sept. 23, 1977).

[4] A significant number of bank holding companies own 80 percent of the stock of their subsidiary banks.

compensation requirement is flexible; it is stated in the form of a guideline which may be varied if holding company management can supply justification satisfactory to OCC.

The actual administration of the reasonable compensation provision is also flexible. Where the entire credit life premium is credited to the bank's reinsurance company affiliate, holding company management has the option of compensating the bank with an amount equivalent to 20 percent of the reinsurance company's net income attributable to the bank's credit life sales.[5] Alternatively, the bank would be paid 20 percent of the net income of a pro forma insurance agency affiliate receiving the ongoing rate of commission.

Where a bank holding company operates an insurance agency furnishing credit life insurance to both the bank's customers and to customers of the holding company's non-bank subsidiaries (e.g., a finance company), reasonable compensation to the bank would be 20 percent of the net income from credit life sales made by the bank.

In keeping with the flexible nature of the reasonable compensation provision, OCC is less interested in the mathematical precision of the calculations than it is in whether the bank's crucial role in marketing the credit life insurance receives adequate recognition.

The effective date of the reasonable compensation provision is May 1, 1983, the same date established by the Federal Reserve Board for state member banks. National banks that elect to wait until May 1, 1983, to implement the provision must continue to adhere to the minority shareholder requirement in the existing 12 CFR 2.4(b) until that date.

Other proposals

OCC's other proposed amendments will be adopted as proposed, including the deletion of the existing 12 CFR 2.4(c) and 2.5(a).

List of Subjects in 12 CFR Part 2

Credit life insurance income, National banks

Accordingly, 12 CFR 2 is amended to read in pertinent part as follows:

PART 2—DISPOSITION OF CREDIT LIFE INSURANCE INCOME

1. The authority citation for 12 CFR Part 2 is revised to read:

Authority: 12 U.S.C. 1 et seq., 24 (Seventh), 60, 73, 92, 93a, and 12 U.S.C. 1818(n).

[5] Net income should be based upon the Generally Accepted Accounting Principles method before income from investment of reserves.

2. Section 2.1 is revised to read:

§ 2.1 Authority.

This part is issued by the Comptroller of the Currency under the general authority of the national banking laws, 12 U.S.C. 1 et seq., and under the specific authority of 12 U.S.C. 24 (Seventh), 60, 73, 92, 93a and 1818(n).

3. Section 2.3(e) is revised to read as follows:

§ 2.3 Definitions.

* * * * *

(e) The term "credit life insurance" means credit life, health and accident insurance, sometimes referred to as credit life and disability insurance, and mortgage life and disability insurance.

4. Section 2.4 is revised to read as follows:

§ 2.4 Distribution of credit life insurance income.

(a) No bank employee, officer, director or principal shareholder may retain commissions or other income from the sale of credit life insurance in connection with any loan made by the bank. Except as provided in paragraph (b) of this section, retention of credit life insurance income by such persons or by corporations, partnerships, associations or other entities in which such persons have an interest of more than 5 percent is an unsafe and unsound banking practice. Notwithstanding this prohibition, bank employees and officers may participate in a bonus or incentive plan under which payments based on credit life insurance sales are made in cash or in kind out of the bank's funds not more frequently than quarterly and in an amount not exceeding in any one year 5 percent of the recipient's annual salary. Alternatively, bonuses paid to any one individual during the year for credit life sales may not exceed 5 percent of the average salary of all loan officers participating in the plan and may not be paid more frequently than quarterly.

(b) As an accounting and operations matter, income derived from credit life insurance sales to loan customers shall be credited to the income accounts of the bank and not to the bank's individual employees, officers, directors, principal shareholders, their interests or other affiliates. However, such income may be credited to an affiliate operating under the Bank Holding Company Act or to a trust for the benefit of all shareholders; *Provided* That the bank receives reasonable compensation in recognition of the role played by its personnel, premises and good will in credit life insurance sales. It is suggested that "reasonable compensation" means an amount equivalent to at least 20 percent of the affiliate's net income attributable to the bank's credit life insurance sales.

(c) Nothing in this section shall be construed to prohibit a bank employee, officer, director, or principal shareholder who holds an insurance agent's license from agreeing to compensate the bank for the use of its premises, employees, and good will; Provided, That all income received by said employee, officer, director, or principal shareholder from this activity is turned over to the bank as compensation.

5. Section 2.5 is revised to read as follows:

§ 2.5 Responsibilities of directors.

Directors shall observe the rules in § 2.4 and shall be mindful of their duty under both the common law and 12 U.S.C. 73 to promote and advance the interests of the bank over their own personal interests.

Dated: May 20, 1982.

C. T. Conover,

Comptroller of the Currency.

[FR Doc. 82-19581 Filed 7-19-82; 8:45 am]

BILLING CODE 4810-33-M

FEDERAL TRADE COMMISSION

16 CFR Part 4

Clearance Procedures

AGENCY: Federal Trade Commission.

ACTION: Rule related notice.

SUMMARY: This notice discusses the relationship between the Commission's rule governing participation in Commission proceedings by former employees (16 CFR 4.1(b)(8)) and a newly amended disciplinary rule of the D.C. Court of Appeals. No change in the Commission rule is contemplated.

FOR FURTHER INFORMATION CONTACT: Jack Schwartz (202) 523-3521, Deputy Assistant General Counsel, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: When the Commission published its revised rule governing participation in Commission proceedings by former Commission members and employees (46 FR 26293, May 12, 1981) ("FTC Rule" or "Commission Rule"), it announced that it would "reexamine its rule, as need be, after final action by the D.C. Court of Appeals" on proposed amendments to Canon 9 of the Code of Professional Responsibility. The D.C.

Court of Appeals recently adopted its amendment, No. M–81–88 ("Revolving Door"), April 30, 1982 ("D.C. Rule" or "Disciplinary Rule"). Having reviewed the effect of the D.C. Rule on the Commission's procedures, the Commission has concluded that no change in its own rule is warranted, because practitioners can comply with both rules without undue burden.

The two rules differ in the following respects:

1. *Number and kind of filings.* FTC Rule 4.1(b)(8)(ii) requires one affidavit from the attorney who wishes to participate, attesting to the screening procedures. Disciplinary Rule (DR) 9–102(C) requires two "signed documents" to be filed with the agency, one from the disqualified lawyer and another from a participating lawyer. Filing of the single affidavit called for by the Commission's Rule remains mandatory; however, the Commission's Secretary will also receive and file any additional documents from D.C. Bar members.

2. *Time of filing.* FTC Rule 4.1(b)(8)(ii) requires that the affidavit be filed "not later than the time such appearance or participation begins." DR 9–102(C) requires filing with the agency "when [the firm] accepts employment in connection with the matter . . . or when the fact and subject matter are otherwise disclosed on the public record, whichever occurs later." In Commission investigations, law firm participation often begins prior to any public disclosure of the investigation. A firm must file its affidavit at the time of such participation to comply with FTC Rule 4.1(b)(8) even if a later filing would be acceptable under DR 9–102(C).

3. *Public disclosure and service on other parties.* The Commission's Rule merely requires filing of the affidavit. Unlike individual clearance requests under FTC Rule 4.1(b)(2), these affidavits are not routinely placed on the public record. The FTC Rule contains no requirement for service on other parties, were a firm to begin its participation on behalf of one respondent in a multi-respondent adjudication.

The D.C. Rule provides that the documents "shall be public except to the extent that a lawyer submitting a signed document shows that disclosure is inconsistent with Canon 4 [preservation of client confidences] or provisions of law," DR 9–102(D), and shall be served "on each other party to any pertinent proceeding." DR 9–102(C). However, if the subject of the representation has not been disclosed to the general public, then the documents are not served and "the public department or agency shall keep the signed documents confidential." DR 9–102(E).

With respect to public disclosure, the two rules reach essentialy the same result. While the Commission intends not to create a public record file of the affidavits received under FTC Rule 4.1(b)(8)(ii), such affidavits are publicly available under Freedom of Information Act procedures if the subject matter of the representation has been publicly disclosed through some other means. Conversely, if the subject matter of the representation is a nonpublic investigation, then the affidavit would generally not be disclosed under FOIA. See 5 U.S.C. § 552(b)(7)(A). Thus, the Commission's Rule is consistent with DR 9–102 (D) and (E).

Counsel who wish to serve "signed documents" on the other parties in a proceeding, in compliance with the requirement of DR 9–102(C), should follow the usual Commission procedures for service. See FTC Rule 4.4(b).

4. *Content of statements.* Both rules require a description of the "Chinese wall" that will screen the disqualified lawyer from those who are participating, together with an assurance that the disqualified lawyer will not share in the fees gained from the matter. FTC Rule 4.1(b)(8)(ii) requires, in addition, a recitation that the firm's client has been informed of the screening arrangement and that the matter was not brought to the firm through the active solicitation of the disqualified attorney.

The Commission will continue to require full compliance with FTC Rule 4.1(b) from all persons appearing or practicing before it, including those attorneys who are also subject to the provisions of the recently adopted D.C. Rule.

Dated: July 13, July 1982.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82–19831 Filed 7–19–82; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 558

Animal Drugs, Feeds, and Related Products; Tylosin; Removal of Sponsor

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is removing those portions of the regulations reflecting approval of a new animal drug application (NADA) providing for use of a 10-gram-per-pound tylosin (as tylosin phosphate) premix in making complete swine feeds used for increased rate of weight gain and improved feed efficiency. The sponsor, Doboy Feeds, Domain Industries, Inc., requested withdrawal of approval.

EFFECTIVE DATE: July 30, 1982.

FOR FURTHER INFORMATION CONTACT: Howard Meyers, Bureau of Veterinary Medicine (HFV–218), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4093.

SUPPLEMENTARY INFORMATION: In a notice published elsewhere in this issue of the **Federal Register**, approval of NADA 98–430 for Doboy Feeds Tylan 10 Premix is withdrawn. This document amends §§ 510.600(c) (21 CFR 510.600(c)) and 558.625 (21 CFR 558.625) to revoke those portions which reflect approval of this NADA.

List of Subjects

21 CFR Part 501

Administrative practice and procedure; Animal drugs; Labeling; Reporting requirements.

21 CFR Part 558

Animal drugs; Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.84), Parts 510 and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

§ 510.600 [Amended]

1. In Part 510, § 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in paragraph (c)(1) by removing the entry "Doboy Feeds, Domain Industries, Inc.," and in paragraph (c)(2) by removing the entry "025796."

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.625 [Amended]

2. In Part 558, § 558.625 *Tylosin* is amended by removing paragraph (b)(24) and designating it "[Reserved]."

Effective date. July 30, 1982.

(Sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360b(c)))

Dated: July 14, 1982.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 82-19586 Filed 7-19-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 510 and 558

Animal Drugs, Feeds, and Related Products; Tylosin; Removal of Sponsor

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is removing Oelwein Chemical Co. from the list of sponsors of approved applications and from the regulation for use of tylosin in animal feeds. Oelwein Chemical Co. has requested the withdrawal of approval of the new animal drug application (NADA).

EFFECTIVE DATE: July 30, 1982.

FOR FURTHER INFORMATION CONTACT: Howard Meyers, Bureau of Veterinary Medicine (HFV-218), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4093.

SUPPLEMENTARY INFORMATION: In a notice published elsewhere in this issue of the **Federal Register**, approval of NADA 111-638 for Occo Swine Fortipak TY 2000 Medicated which contains tylosin phosphate 2,000 grams per ton (equivalent to 1.0 gram per pound) is withdrawn. This document amends the regulation for the use of tylosin in animal feed by revoking that portion which reflects approval of this NADA. In addition, because Oelwein Chemical Co. is not currently the sponsor of any other approved new animal drug it is being removed from the regulations as a sponsor of an approved application.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(2) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects

21 CFR Part 510

Administrative practice and procedure; Animal drugs; Labeling; Reporting requirements.

21 CFR Part 558

Animal drugs; Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84), Parts 510 and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

§ 510.600 [Amended]

1. In Part 510, § 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in paragraph (c)(1) by removing the entry for "Oelwein Chemical Co." and in paragraph (c)(2) by removing the entry for "026431."

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.625 [Amended]

2. In Part 558, § 558.625 *Tylosin* is amended by removing paragraph (b)(58) and making it "Reserved."

Effective date. This regulation is effective July 30, 1982.

(Sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e)))

Dated: July 14, 1982.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 82-19583 Filed 7-19-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Hygromycin B

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) for Growmark, Inc., providing for use of a 0.6-gram-per-pound hygromycin B premix for making complete swine feeds for control of large roundworms, nodular worms, and whipworms, and for making complete chicken feeds for control of large roundworms, cecal worms, and capillary worms.

EFFECTIVE DATE: July 20, 1982.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV-136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5247.

SUPPLEMENTARY INFORMATION: Growmark, Inc., 1701 Towanda Ave., Bloomington, IL 61701, is sponsor of NADA 130-466 providing for use of a 0.6-gram-per-pound hygromycin B premix for making complete swine and chicken feeds. The complete swine feed is used as an aid in the control of large roundworms, nodular worms, and whipworms. The complete chicken feed is used as an aid in the control of large roundworms, cecal worms, and capillary worms. The NADA was filed by Elanco Products Co. for the sponsor. Elanco has authorized use of the safety and effectiveness data contained in their approved NADA's 10-918 and 11-948 to support approval of this application. Additionally, satisfactory chemistry, manufacturing, and control information was submitted. This approval does not change the approved use of the drug. Consequently, approval of the NADA poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species.

Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), approval of NADA 130-466 does not require reevaluation of the safety and effectiveness data in NADA's 10-918 and 11-948. NADA 130-466 is approved, and the regulations are amended to reflect the approval.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 558

Animal drugs; Animal feeds.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.274 [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.274 *Hygromycin B* by adding, in numerical sequence, drug sponsor code "020275" to paragraph (a)(4) and to the "sponsor" column in paragraph (e)(1) (i) and (ii).

Effective Date. July 20, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: July 12, 1982.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 82-19586 Filed 7-19-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin and Sulfamethazine

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed for Growmark, Inc., providing for safe and effective use of a premix containing 5 grams per pound each of tylosin and sulfamethazine for making complete swine feeds.

EFFECTIVE DATE: July 20, 1982.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV–136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5247.

SUPPLEMENTARY INFORMATION: Growmark, Inc., 1701 Towanda Ave., Bloomington, IL 61701, is the sponsor of NADA 130–465 submitted on its behalf by Elanco Products Co. This NADA provides for use of a premix containing 5 grams per pound each of tylosin (as tylosin phosphate) and sulfamethazine for making complete swine feeds used to maintain weight gains and feed efficiency in the presence of atrophic rhinitis, lower the incidence and severity of *Bordetella bronchiseptica* rhinitis, prevent swine dysentery (vibrionic), and control swine pneumonias caused by bacterial pathogens (*Pasteurella multocida* and/or *Corynebacterium pyogenes*).

Approval of the application is based on safety and effectiveness data contained in Elanco Products Co.'s approved NADA's 12–491 and 41–275. Elanco has authorized use of the data in NADA's 12–491 and 41–275 to support approval of this application. This approval does not change the approved use of the drug. Consequently, approval of this NADA poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species.

Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), approval of this NADA has been treated as would approval of a Category II supplemental NADA and does not require reevaluation of the safety and effectiveness data contained in NADA's 12–491 and 41–275.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 558

Animal drugs; Animal feeds.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.630 [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.630 *Tylosin and sulfamethazine* by adding, in numerical sequence, drug sponsor code "020275" to paragraph (b)(9).

Effective date. July 20, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: July 14, 1982.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 82-19585 Filed 7-19-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin and Sulfamethazine

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed for Heinold Feeds, Inc., providing for safe and effective use of a premix containing 5 grams per pound each of tylosin and sulfamethazine for making complete swine feeds.

EFFECTIVE DATE: July 20, 1982.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV–136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5247.

SUPPLEMENTARY INFORMATION: Heinold Feeds, Inc., P.O. Box 377, Kouts, IN 46347, is sponsor of NADA 127–506 submitted on its behalf by Elanco Products Co. This NADA provides for use of a premix containing 5 grams per pound each of tylosin (as tylosin phosphate) and sulfamethazine for making complete swine feeds used to maintain weight gains and feed efficiency in the presence of atrophic rhinitis, lower the incidence and severity of *Bordetella bronchiseptica* rhinitis, prevent swine dysentery (vibrionic), and control swine pneumonias caused by bacterial pathogens (*Pasteurella multocida* and/or *Corynebacterium pyogenes*).

Approval of the application is based on safety and effectiveness data contained in Elanco Products Co.'s approved NADA's 12–491 and 41–275. Elanco has authorized use of the data in NADA's 12–491 and 41–275 to support approval of this application. This approval does not change the approved use of the drug. Consequently, approval of this NADA poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the

target animal species.

Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), approval of this NADA has been treated as would approval of a Category II supplemental NADA and does not require reevaluation of the safety and effectiveness data contained in NADA's 12–491 and 41–275.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 558

Animal drugs; Animal feeds.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.630 [Amended]

Therefore, under the Federal Food, Drugs, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.630 *Tylosin and sulfamethazine* by adding, in numerical sequence, drug sponsor code "043727" to paragraph (b)(9).

Effective date. July 20, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: July 14, 1982.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 82-19582 Filed 7-19-82; 8:45 am]
BILLING CODE 4110-01-M

DEPARTMENT OF EDUCATION

34 CFR Part 74

Education Department General Administrative Regulations (EDGAR)—Audit Requirements

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary of Education amends the Education Department General Administrative Regulations (EDGAR). These amended regulations implement a revision by the Office of Management and Budget (OMB) of the audit requirements for governmental recipients of Federal grants and subgrants—Attachment P to OMB Circular No. A–102.

EFFECTIVE DATE: These regulations are effective July 20, 1982.

FOR FURTHER INFORMATION CONTACT: Willie Price, Acting Director, Policy Division, Assistance Management and Procurement Services, U.S. Department of Education, 400 Maryland Avenue, SW., (Room 5082, ROB–3) Washington, D.C. 20202. Telephone (202) 755–1217.

SUPPLEMENTARY INFORMATION: On October 22, 1979, OMB revised its audit requirements for States, local governments, and Indian tribal governments receiving Federal grants and subgrants. The requirements formerly appeared in Attachment G, paragraph 2(h) of OMB Circular No. A–102. The requirements now are located in a new Attachment P, published on October 22, 1979 in 44 FR 60958.

OMB previously had circulated the proposed revisions of the audit requirements to interest groups representing State, local, and Indian tribal governments; to Federal agencies; and to professional associations. OMB also published the proposed revisions in the **Federal Register** (44 FR 40624, July 11, 1979).

The most significant changes in the audit requirements are—

1. OMB has clarified its intent that audits be conducted on an organization-wide basis rather than a grant-by-grant basis.

2. As part of the organization-wide audit concept, the new requirements prohibit any Federal program from imposing program specific audit guidelines unless they are approved by OMB.

3. To insure that audits are acceptable to all Federal granting agencies, the new requirements establish a cognizant agency system for Federal review of audits.

4. The new requirements contain, in more detail, the prescribed coverage of audits and questions to be answered.

These regulations implementing Attachment P to Circular A–102 will apply to all programs of the Department except where a regulation for a particular program specifically provides otherwise.

Other Information

These amendments merely repeat Government-wide policies established by OMB after notice and public comment. Therefore, in accordance with 5 U.S.C. 553(b), the Secretary finds that it is unnecessary to take additional public comment before adopting these policies for the Department of Education.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these final regulations.

List of Subjects in 34 CFR Part 74

Administrative practice and procedure, Grant programs—education, Grants administration.

Dated: July 14, 1982.
(Catalog of Federal Domestic Assistance No. is not applicable)

T. H. Bell,

Secretary of Education.

The Secretary amends Part 74 of Title 34 of the Code of Federal Regulations as follows:

PART 74—ADMINISTRATION OF GRANTS

1. The Table of Contents is amended by revising Subpart H to read as follows:

* * * * *

Subpart H—Standards for Grantee and Subgrantee Financial Management Systems and Non-Federal Audits

Sec.
74.60 Scope of subpart.
74.61 Financial management standards.
74.62 Non-Federal audits—State and local governments and Indian tribal governments.

* * * * *

2. Section 74.60 is revised to read as follows:

§ 74.60 Scope of subpart.

(a) This subpart contains standards for financial management systems and non-Federal audits of recipients.

(b) Awarding parties may not impose on recipients additional financial management standards or requirements concerning non-Federal audits. The

awarding parties may, however, provide recipients with suggestions and assistance on these subjects.

(20 U.S.C. 3474)

3. Section 74.61 is amended by revising the title and by adding a new first sentence to paragraph (h)(1) to read as follows:

§ 74.61 Financial management standards.

* * * * *

(h) *Audit*—(1) *General.* This paragraph applies to each recipient that is not a "recipient organization", as defined in § 74.62(b). * * *

* * * * *

4. A new § 74.62 is added to Subpart H to read as follows:

§ 74.62 Non-Federal audits—State and local governments and Indian tribal governments.

(a) *Purpose.* (1) This section establishes audit requirements for State and local governments and Indian tribal governments that receive Federal assistance. It provides for independent audits of financial operations, including compliance with certain provisions of Federal law and regulation. The requirements are established to ensure that audits are made on an organization-wide basis, rather than on a grant-by-grant basis.

(2) Except where specifically required by law, no additional requirements for audit will be imposed unless approved by the Office of Management and Budget.

(b) *Definitions.* For the purposes of this section—

"Cognizant agency" means ED if ED has been assigned audit responsibility for a particular recipient organization by the Office of Management and Budget.

"Recipient organization" means a State department, a local government, an Indian tribal government, or a subdivision of those entities, that receives Federal assistance. It does not include State and local institutions of higher education or hospitals.

(c) *Procedures for obtaining Non-Federal audits.* State and local governments and Indian tribal governments shall use their own procedures to arrange for independent audits, and to prescribe the scope of audits. However, the audits must comply with the requirements in this section. Where contracts are awarded for audit services, the contracts must include a reference to this section (34 CFR 74.62).

(d) *Federal audits.* This section does not limit the authority of Federal agencies to make audits of recipient organizations. However, if independent audits arranged for by recipients meet the requirements in this section, all Federal agencies must rely on them, and any additional audit work must build upon the work already done.

(e) Audits must be made in accordance with the Comptroller General's *Standard for Audit of Governmental Organizations, Programs, Activities and Functions,* The General Accounting Office's *Guidelines for Financial and Compliance Audits of Federally Assisted Programs* and successor publications, any compliance supplements approved by OMB, and generally accepted auditing standards established by the American Institute of Certified Public Accountants.

(f) Audits must include, at a minimum, an examination of the systems of internal control, systems established to ensure compliance with laws and regulations affecting the expenditure of Federal funds, financial transactions and accounts, and financial statements and reports of recipient organizations. These examinations are to determine whether—

(1) There is effective control over and proper accounting for revenues, expenditures, assets, and liabilities;

(2) The financial statements are presented fairly in accordance with generally accepted accounting principles;

(3) The Federal financial reports (including Financial Status Reports, Cash Reports, and claims for advances and reimbursements) contain accurate and reliable financial data, and are presented in accordance with the terms of applicable agreements, and in accordance with Subpart I of this part; and

(4) Federal funds are being expended in accordance with the terms of applicable agreements and those provisions of Federal law or regulations that could have a material effect on the financial statements or on the awards tested.

(g)(1) In order to accomplish the purposes set forth above, a representative number of charges to Federal awards must be tested.

(2) The test must be representative of—

(i) The universe of Federal awards received; and

(ii) All costs categories that materially affect the award.

(3) The test is to determine whether the charges—

(i) Are necessary and reasonable for the proper administration of the program;

(ii) Conform to any limitations or exclusions in the award;

(iii) Were given consistent accounting treatment and applied uniformly to both federally assisted and other activities of the recipients;

(iv) Were net of applicable credits;

(v) Did not include costs properly chargeable to other federally assisted programs;

(vi) Were properly recorded (i.e., correct amount, date) and supported by source documentation;

(vii) Were approved in advance, if subject to prior approval in accordance with Appendix C to this part;

(viii) Were incurred in accordance with competitive purchasing procedures if covered by Subpart P of this part; and

(ix) Were allocated equitably to benefiting activities, including non-Federal activities.

(h) Audits usually will be made annually, but not less frequently than every two years.

(i) If the auditor becomes aware of irregularities in the recipient organization, the auditor must promptly notify the cognizant agency and recipient management officials above the level of involvement. Irregularities include such matters as conflicts of interest, falsification of records or reports, and misappropriation of funds or other assets.

(j) The audit report must include—

(1) Financial statements, including footnotes, of the recipient organization;

(2) The auditors' comments on the financial statements which should—

(i) Identify the statements examined, and the period covered;

(ii) Identify the various programs under which the organization received Federal funds, and the amount of the awards received;

(iii) State that the audit was done in accordance with the standards in paragraph (e) of this section; and

(iv) Express an opinion as to whether the financial statements are fairly presented in accordance with generally accepted accounting principles. If an unqualified opinion cannot be expressed, the nature of the qualification should be stated;

(3) The auditors' comments on compliance and internal control, including—

(i) Comments on weaknesses in and noncompliance with the systems of internal control, separately identifying material weaknesses;

(ii) The nature and impact of any noted instances of noncompliance with the terms of agreements and those provisions of Federal law or regulations that could have a material effect on the financial statements and reports; and

(iii) An expression of positive assurance with respect to compliance

with requirements for tested items, and negative assurance for untested items.

(4) Comments on the accuracy and completeness of financial reports and claims for advances or reimbursement to Federal agencies; and

(5) Comments on corrective action taken or planned by the recipient.

(k) Work papers and reports must be retained for a minimum of three years from the date of the audit report unless the auditor is notified in writing by the cognizant agency of the need to extend the retention period. The audit workpapers must be made available upon request to the cognizant agency or its designees and the General Accounting Office or its designees.

(l) A copy of each recipient's audit report that affects federally assisted programs must be provided to the cognizant agency.

(m) Recipients shall require subrecipients that are State and local governments or Indian tribal governments to adopt the requirements in paragraphs (a) through (k) of this section. The recipient shall ensure that it receives the subrecipients' audit reports.

(n) Small business concerns and business concerns owned and controlled by socially and economically disadvantaged individuals must have the maximum practicable opportunity to participate in the performance of contracts awarded with Federal funds. Grantees of Federal funds shall take the following affirmative action to further this goal—

(1) Assure that small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals as defined in Pub. L. 95–507 are used to the fullest extent practicable;

(2) Make information on forthcoming opportunities available, and arrange time frames for the audit so as to encourage and facilitate participation by small or disadvantaged audit firms;

(3) Consider in the contract process whether firms competing for larger audits intend to subcontract with small or disadvantaged firms;

(4) Encourage contracting with small or disadvantaged audit firms which have traditionally audited government programs, and in cases where this is not possible, assure that these firms are given consideration for audit subcontracting opportunities;

(5) Encourage contracting with consortiums of small or disadvantaged audit firms as described in paragraph (n)(1) if a contract is too large for an individual small or disadvantaged audit firm; and

(6) Use the services and assistance, as appropriate, of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce in the solicitation and utilization of small or disadvantaged audit firms.

(20 U.S.C. 3474)

[FR Doc. 82-19513 Filed 7-19-82; 8:45 am]
BILLING CODE 4000-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA 6350]

Identification and Mapping of Special Flood Hazard Areas; Changes in Special Flood Hazard Areas Under the National Flood Insurance Program

Correction

In FR Doc. 82–18767, beginning on page 30490 in the issue of Wednesday, July 14, 1982, the fifth entry in the first column of the table on page 30491 should have read, "Arkansas: Nevada".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants, Revision of Special Rule for the African Elephant

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service revises the special rule for the African elephant, *Loxodonta africana*, by requiring that raw ivory imported into or exported from the United States be marked, by eliminating prohibitions against certain domestic activities and by limiting coverage of the special rule to ivory. This rule makes no changes in the regulations implementing the Convention on International Trade in Endangered Species of Wild Fauna and Flora (50 CFR Part 23). The special rule recognizes the difficulty of enforcing some of the requirements of the old special rule and is designed to bring the special rule into line with the provisions and recommendations of the Convention. The intended effect of this rule is to preserve scarce resources and provide more effective controls on the international trade of African elephant ivory.

DATE: This rule is effective September 20, 1982.

ADDRESS: Send correspondence to the Director, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Richard M. Parsons, Chief, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, Telephone (703/235–1937).

SUPPLEMENTARY INFORMATION: On April 9, 1981, the Service published in the **Federal Register** a notice of intent (46 FR 21209) to amend the special rule for the African elephant (50 CFR 17.40(e)). The notice stated that the Service was considering amending the special rule to ease restrictions on certain domestic activities involving African elephant items and to bring the rule more into line with the import and export provisions of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (hereinafter referred to as CITES or the Convention). The notice also stated that the Service was considering a marking requirement for "raw ivory" and measures to insure that ivory imported into the U.S. had been lawfully acquired in the country of origin.

On July 17, 1981, the Service published a proposed rule (46 FR 37059) in which the background material set forth a brief history of regulation of the African elephant in the U.S. and problems associated therewith. It also set forth a resolution issued by the third regular meeting of the Conference of the Parties to CITES (hereinafter referred to as the resolution) held last February and March in New Delhi.

On August 25, 1981, the Service published a correction to the preamble of the proposed rule which clarified its request for information concerning the necessity of licensing those ivory importers exempt from the licensing requirements of 50 CFR Part 14 (46 FR 42887). The correction also extended the comment period for the proposed rule to September 9, 1981.

Information and Comments

A small number of persons and organizations provided information and comments. In general, the comments favored adoption of the proposed rule. The Service will here summarize and address only those comments that recommended changes in the proposed rule.

Comment: The final rule should state in regulatory form the exception provided by section 9(c)(2) of the Endangered Species Act so that imports of African elephant sport hunting trophies would continue to be exempt

from the prohibitions of the Act and regulations thereunder.

Response: The Service is developing a regulation incorporating this exception into Part 17, but will make it applicable to listed species in general rather than to the African elephant alone. Therefore, this special rule does not contain any reference to the exception. Generally, this exemption is applicable to African elephant hunting trophies.

Comment: Designated ports for imports of ivory should be reduced 2 to 3 (New York City, Chicago, Seattle) from the current 9 to make regulation and monitoring of ivory more effective.

Response: Available information indicates that most of the ivory entering the U.S. enters through four ports. Limitation to these designated ports would constitute an unwarranted limitation on the trade which does not enter those ports.

Comment: The current requirement that worked ivory be derived from an elephant taken in a Party country should be retained.

Response: The resolution recommends that only permits and certificates for raw ivory mention country of origin. This is tacit recognition of the difficulty of matching documents with worked ivory and of marking worked ivory. Experience of the Service in enforcing this rule has proven that it is unworkable. Before importation into the U.S., most worked ivory has entered several countries changing ownership several times. Agreement by the Parties to limit imports of ivory to those from CITES Parties would make enforcement of such a restriction practical. Such an agreement has not been reached.

Comment: Unilateral action by the U.S. imposing a raw ivory marking requirement could cause a price dichotomy and could effectively prohibit imports from those CITES countries not requiring marking.

Response: Regulation of items in trade may have an impact on their price. Regulation of international trade is often not uniform with resultant price differentials. There is no indication such differentials will disrupt the raw ivory trade. The resolution provided no time frames for implementation probably because implementation mechanisms vary greatly from country to country. The one year grace period contained in this rule is an attempt, in part, to accommodate this variation.

Comment: There is no need to regulate trade in worked ivory if trade in raw ivory is regulated.

Response: This would be true if the trade in raw ivory were regulated exceptionally well. Raw ivory successfully smuggled and then worked could avoid all CITES controls on raw ivory. Furthermore, CITES controls would be totally circumvented in those cases where the country of origin also exported worked ivory. Several African countries are currently exporting worked ivory items.

Comment: Illegally acquired raw ivory could be sent to a non-Party country where it could be marked so as to make it appear that it comes from a Party country thereby satisfying, in part, the rules as proposed.

Response: The mark would indicate country of origin. Where "laundering" is suspected, a check back with the country of origin as marked would disclose that export was improper, or that the mark was improper.

Comment: Imports of African elephant trophies taken in non-Party countries with good conservation programs should be allowed.

Response: Such imports would usually be exempt from these regulations if they satisfied the requirements of section 9(c)(2) of the Endangered Species Act.

Comment: The proposed rule should be changed to make it clear that live and dead elephants are not covered by the rule.

Response: The final rule contains a statement to this effect and goes further by changing the proposed rule so that it only covers ivory. It is generally accepted that control of the international ivory trade is the key to controlling the detrimental impacts of the trade in elephant items. The African elephant and its parts and products including ivory will still be controlled by the Service's regulations implementing CITES (50 CFR Part 23).

Comment: The proposed rule is too complex. To simplify it, all importations of African elephant parts and products should be banned.

Response: Such a ban might simplify the regulations but not benefit the species. A ban could reduce the elephant's survival chances by removing incentives to conserve the species. The resolution rather than recommend a trade ban recommended stricter regulation of the trade. The Service believes that only internationally coordinated practical action, such as that recommended by the resolution, can truly aid the African elephant. Although imports of raw ivory into the United States constitute a small portion of world trade, our leadership in implementing a marking requirement for imports of raw ivory will bring us into line with the recommendation of the CITES Conference of the Parties and provide the leadership and incentives to other countries to do likewise.

Comment: The rule should be more restrictive by limiting trade to CITES Parties that have implemented the resolution.

Response: The rule already prohibits trade with Party countries which do not provide for raw ivory marking and which do not clearly show the country of origin of the raw ivory on documents, both important elements of the resolution. This should be sufficient to stimulate implementation by Party countries trading with the U.S.

Comment: Large amounts of worked ivory have been imported through the mails with little inspection. Mail importations should be so restricted as to allow proper inspection, documentation and enforcement.

Response: Mail shipments are routinely checked on a sample basis. Further restriction of mail shipments should be based on sufficient information as to its need and feasibility to warrant placing a further burden on commercial and personal importations.

Comment: Large quantities of ivory carvings and jewelry have been imported under the "personal effects" exception and are then being sold for large profits.

Response: Specific and substantiated allegations of this nature are a primary tool for preventing abuses of the rules and should be directed to the appropriate law enforcement office. The CITES Parties are currently in the process of examining all exemptions in Article VII of CITES.

Comment: All ivory shipped from Africa to the U.S. via a third country should be accompanied by a copy of the original export document issued by the African country.

Response: With certain exceptions, this final rule requires raw ivory imported into the U.S. to bear a mark indicating, in part, the country of origin which should enable tracing of the original documents. The requirement of an original export document in such instances, unilaterally imposed, could seriously inhibit legitimate trade with the U.S., since in most instances the U.S. destination would probably not be known until one or more export-import events had occurred.

Comment: The United States should not trade with any CITES Party that trades in ivory with a non-Party country.

Response: A proposal to ban trade in ivory with non-Party countries was discussed by the Technical Expert Committee in connection with a draft of the resolution. No agreement could be reached. To the best of the Service's information, few if any Party countries other than the U.S. have adopted such a

ban. Refusal to trade with Party countries not banning trade with non-Party countries would more than likely disrupt the U.S. ivory trade and hamper any attempts at negotiating such an international ban with Party countries.

Comment: It is believed that there are vey few importers of raw ivory for commercial purposes and that they are presently licensed under 50 CFR Part 14. A requirement for a separate license would be redundant and therefore unnecessary.

Response: The Service has no information to indicate that a significant number of ivory importers are not licensed under Part 14. Since those persons generally exempted from the license requirement are small entities, imposing the requirement without substantial information that it is necessary would be contrary to the purposes of the Regulatory Flexibility Act, 5 U.S.C. 601.

Final Rule Differs From Proposed Rule

The proposed rule covered all parts and products of the African elephant. The final rule only covers ivory. Most imports into the U.S. of parts and products of the African elephant involve ivory in one form or another; adequate controls exists for other parts and products in the regulations that implement CITES (see 50 CFR Part 23).

The phrase "whole tusks when the whole surface has been carved * * *" in the proposed definition of worked ivory has been changed to "* * * whole tusks where all or substantially all of the surface has been carved * * *" in order to include as worked ivory carved tusks which have a portion left uncarved in final form. In order to include in the defintion of worked ivory, products which need further manufacturing, crafting or carving after being imported, but which are clearly recognizable as to function on importation, the definition was further changed by adding the word "substantial" to the phrase "* * * in a form requiring no further [substantial] carving, crafting or manufacture * * *"

The definition of raw ivory was changed with reference to ivory pieces by adding the phrase "howsoever changed from its original form". Ivory chips, flakes and compressed powder would, for example, be included in the definition of raw ivory. It is intended that all ivory must either fall under the definition of raw ivory or worked ivory. It was also with this intent that both the proposed and final definition omitted the word "cut" used in the resolution in reference to pieces so that pieces of ivory obtained in any fashion would be included in the definition.

The proposed rule provided a one year grace period within which raw ivory could be imported without the required mark to provide sufficient and reasonable time for countries to institute marking and registration systems. The proposal required a prescribed mark to be affixed prior to final entry. The final rule retains the grace period (extending it to 18 months to enable adjustments to the rule which may be adopted by the Fourth Conference of the Parties), but allows final entry without prior marking. However, this will only be allowed if the Service is satisfied (1) that the raw ivory was legally exported from the country of origin, and (2) that the country exporting the ivory to the U.S. does not yet have a marking system. This change from the proposed rule, which provided for marking after import but before final entry of the raw ivory, was made because it was learned that access to items in Customs' custody is very restricted, making the marking requirement, as proposed, difficult to comply with.

In order to assure appropriate marking for identification purposes of unmarked ivory imported during the grace period and of unmarked ivory in the U.S. prior to the effective date of this rule, the final rule contains a requirement that prior to export from the U.S. such ivory must bear a mark assigned by the Service under permit.

The final rule accommodates marks which supply the neccessary information, but which use a formula at variance with the one set forth in the rule. Marking systems have been in operation in some countries of origin for some time, and it would be an unnecessary burden to require a revamping of systems that meet regulatory needs.

In a similar vein, the final rule adds an alternate import marking requirement which enables reimportation of raw ivory marked for export from the United States, and importation of raw ivory marked by a country other than a country of origin. The Service recognizes that there are large stores of raw ivory scattered around the world. While requiring such ivory to obtain marks of registry from countries of origin would be impractical, the Service believes that such ivory should bear officially prescribed marks prior to importation, in part, to prevent freshly taken ivory from avoiding marking requirements under claims that it was "old ivory" in storage.

The weight element of the marking requirements has been modified in the final rule to require that weight be marked to the *nearest* kilogram. Items which could be rounded up or down (i.e., ivory with a weight of .5 kilograms or some whole number and .5 kilograms) should be rounded down to the nearest kilogram. One of the marking formulas in the proposed and final rule also refers to the two-letter country codes established by the International Organization for Standardization. The codes are included in the final rule as they appear in the official "Proceedings of the second meeting of the Conference of the Parties" Volume 1, pages 414–419, as published by the Secretariat of the Convention, IUCN, Gland, Switzerland, 1980, and supplemented by information received from the Secretariat. The Service has asked the Secretariat to notify the Parties of any changes in this list, and will publish them as received.

With regard to the requirement that raw and worked ivory must be imported from a Party country, a proviso has been added to the final rule that an item imported from a Party country which it transited under the exemption in Article VII paragraph 1 of CITES does not satisfy this requirement. Thus, for example, a shipment from Austria which transits the United Kingdom before being imported into the United States would be an import from Austria. This makes clear that for purposes of this Special Rule the CITES definition of export (as opposed to transit) applies. This is necessary to avoid "laundering" of ivory shipments through countries which, because of the transit exemption in CITES, have no obligation to assure the legality of the shipment or to mark and register raw ivory. Further, regarding such requirement, all references to Parties which have taken a reservation have been omitted from the final rule for drafting purposes only. It should be understood that imports of raw or worked ivory from Parties with current reservations as to such items are not considered to be imports from Parties. The Service knows of no such reservations currently in effect.

The final rule also requires marking of raw ivory only where the size and density of the raw ivory makes punch-die marking feasible. Thus such items as small chips, flakes and loose powder would not have to bear one of the prescribed marks.

Effect of the Final Rule

This final rule changes the "special rule", covering the African elephant as contained in 50 CFR 17.40(e) as follows:

(1) It eliminates controls on live and dead African elephants and on all parts, products and offspring thereof with the exception of ivory. Of course, the rules implementing CITES as found in 50 CFR Part 23 continue to control imports and exports of all of the aforesaid.

(2) It eliminates prohibitions under the Endangered Species Act of 1973 against taking African elephant, possession of unlawfully taken African elephant, certain activities in interstate and foreign commerce and sale and offer for sale in interstate commerce of African elephant.

(3) With regard to raw ivory, it eliminates the requirement that raw ivory must originate in and remain in a chain of trade composed of Party countries from country of origin to the U.S. and substitutes a requirement that the raw ivory must originate in a Party country and be exported to the U.S. from a Party country. Other intermediary countries in the chain of trade can be either Party or non-Party countries. This rule adds a requirement that raw ivory imported into the U.S. must bear a mark established by the rule. An 18 month exception to this import requirement is provided. However, unmarked raw ivory exported from the U.S. must bear a mark provided by a Service permit.

(4) With regard to worked ivory, this rule eliminates the requirement that worked ivory originate in a Party country and remain in a chain of trade composed of Party countries, and substitutes therefor a requirement that worked ivory must be exported to the U.S. from a Party country.

Determinations of Effects, NEPA

The Department of the Interior has determined that this is not a major rule under Executive Order 12291.

The Department has also certified that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act. The small number of raw ivory shipments to the United States indicates that the number of small business entities engaged in such trade is also small. The system of marking raw ivory is designed to bring stability to the trade which should be of benefit to small businesses. It has also been determined that this rule does not require an environmental impact statement under the National Environmental Policy Act.

This rule contains information collections, under the Paperwork Reduction Act of 1980, which have Office of Management and Budget approval under clearance number 1018-0022.

Effective Date of Rule, Authorship

This rule shall enter into effect on September 20, 1982. The primary author of this final rule is Arthur Lazarowitz, Acting Chief, Management Operations Branch, Federal Wildlife Permit Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulations Promulgation

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

For the reasons set forth in the preamble to the proposed rule and this rule, §§ 17.3 and 17.40(e) of 50 CFR Part 17 are amended as follows:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93-205, 87 Stat. 884; Pub. L. 95-632, 92 Stat. 3751; and Pub. L. 96-159, 93 Stat. 1241 (16 U.S.C. 1531, et seq.).

2. Section 17.3—amend 17.3 by inserting the following new definition alphabetically:

§ 17.3 [Amended]

* * * * *

"Convention" means the Convention on International Trade in Endangered Species of Wild Fauna and Flora, TIAS 8249.

3. Amend § 17.40(e) by removing all of the language thereof and substitute therefor the following:

§ 17.40 [Amended]

* * * * *

(e) African elephant (*Loxodonta africana*)—(1) *Scope.* The regulations of this paragraph (e) only apply to import and export of raw and worked ivory, however, the import and export of African elephants, including live and dead animals, offspring, and all parts and derivatives are also subject to Parts 14 and 23 of this subchapter.

(2) *Definitions.* For purposes of this paragraph (e):

"Lip mark area" means that area of a whole African elephant tusk where the tusk emerges from the elephant's skull and which is usually denoted by a prominent ring of staining on the tusk in it natural state.

"Raw ivory" means any whole African elephant tusk, polished or unpolished, and in any form whatsoever, and all pieces thereof howsoever changed from its original form, except for worked ivory.

"Worked ivory" means any item made from raw ivory including whole tusks where all or substantially all of the surface has been carved, provided such item is clearly recognizable as jewelry, adornment, art, utility or a musical instrument, and is in a form requiring no further substantial carving, crafting or manufacture to effect its purpose.

(3) Prohibitions against import; exceptions. Except as provided below, it is unlawful to import any raw or worked ivory of an African elephant (see paragraph (e)(4) for prohibitions and exceptions on export).

(i) Import of *Raw Ivory; exception.* The prohibition against import of raw ivory shall not apply to raw ivory that:

(A) Has as its country of origin a country that is at the time of import a Party to the Convention; and

(B) Is imported from a country that is at the time of import a Party to the Covention, under documentation, as required by Part 23 of this subchapter, which clearly shows the country of origin of raw ivory: *Except,* That: raw ivory that transited or was transhipped through a country while remaining under Customs control shall not be considered to be imported from that country; and

(C) Is, where its size and density make it feasible, legibly marked:

(*1*) Under a marking and registration system established by the country of origin, by means of punch-dies, and including the following information: country of origin represented by the two-letters as indicated in the two-letter code established by the International Organization for Standardization (see Appendix A to Chapter I) followed by the registration number assigned to the raw ivory by the country of origin, the last two digits of the year of registration and the weight of the raw ivory to the nearest kilogram (example, KE 127/8214 represents Kenya, registration number 127, year of registration 1982 and weight 14 kilograms); or

(*2*) Under a marking and registration system established by a country of re-export, showing the same information as in paragraph (c)(3)(i)(C)(*1*) of this section, except that the mark shall show the country requiring the marking instead of the country of origin; and

(*3*) In the case of whole tusks, any mark should be placed on the lip mark area and indicated by a flash of color which serves as a background for such mark.

(D) Any mark which substantially supplies the information required in paragraph (e)(3)(i)(C) of this section shall be acceptable.

(E) For a period of 18 months from the effective date of this rule, paragraph (e)(3)(i)(C) of this section shall not apply to raw ivory imported without such a mark if the Service is satisfied by documentary information provided by the importer or by other appropriate means that:

(*1*) The ivory was legally exported from the country of origin; and that

(*2*) The ivory is imported from a country which has certified that it does not require the raw ivory in question to

be marked in a manner that would satisfy the marking requirements of paragraph (e)(3)(i)(C) of this section.

(ii) Imports of *Worked Ivory; exception.* The prohibition against import of worked ivory shall not apply to worked ivory imported from a country that is at the time of import a Party to the Convention: *Except,* That: worked ivory that passed through a country in accordance with Article VII, Paragraph 1 of the Convention (the so-called transit exemption, see 50 CFR 23.13(b)) shall not be considered to be imported from that country.

(4) Prohibitions against export; exceptions. Except as provided below, it is unlawful to export any raw ivory of an African elephant (see paragraph (e)(3) of this section for prohibitions and exceptions on import).

(i) *Export of raw ivory; exception for marked ivory.* The prohibition against export of raw ivory shall not apply to raw ivory which was imported bearing a mark meeting the requirements in paragraph (e)(3)(i)(C) of this section and which retains that mark. The export of any pieces of such ivory which fall within the definition of raw ivory may only be exported under a permit issued under paragraph (e)(4)(iii) of this section.

(ii) *Export of raw ivory; exception where marking infeasible.* The prohibition against export of raw ivory shall not apply if the size or density of such ivory makes marking infeasible.

(iii) *Export of raw ivory; permit.* The prohibition against export of raw ivory shall not apply if the ivory is marked pursuant to a permit issued by the Service under the following provisions:

(A) The Director may, upon receipt of an application submitted in accordance with the provisions of this section and §§ 13.11 and 13.12 of this subchapter, issue a permit authorizing the marking and export of raw ivory.

(Note.—This application may be combined with an application to export or re-export the raw ivory as provided for in Part 23 of this subchapter). Applications shall be submitted to the Director by the person who wishes to mark and export the raw ivory. Each application shall be submitted on an offical application form (Form 3–200) provided by the Service. Each application shall contain the general information required by section 13.12(a) of this subchapter, plus the following additional information:

(*1*) Documents or other information showing legal export from the country of origin of the raw ivory;

(*2*) A description of the raw ivory to be marked including the weight to the nearest kilogram and any distinguishing marks or other features on or associated with such ivory; if the raw ivory is in the form of pieces of tusks, weight and description of each piece must be supplied; and

(*3*) Documents or other information showing legal importation of the raw ivory under this subchapter.

(B) Upon receiving a complete application, the Director will decide whether or not a permit shall be issued. In making this decision, the Director shall consider, in addition to the criteria in § 13.21(b) of this subchapter, whether there is sufficient information to: determine that the country of origin was a Party to CITES at the time of importation into the U.S. and that the ivory was legally exported from that country; describe the raw ivory for purposes of identification; and to establish that the raw ivory was not imported in violation of the regulations of this subchapter.

(C) Each whole tusk or piece or raw ivory must be marked prior to export using the following formula: the two-letter code for the United States (US) followed by a number assigned by the Service and the weight of the raw ivory to the nearest kilogram; and in the case of whole tusks, the mark shall be placed on the lip mark area and indicated by a flash of color which serves as a background for such mark. NOTE: The information collections contained in this paragraph (e)(4)(iii) of this section are approved by Office of Management and Budget under the Paperwork Reduction Act of 1980 and have been assigned clearance number 1018–0022. This information is being collected to provide information necessary to evaluate permit applications. The obligation to respond is required to obtain or retain a permit.

(iv) *Export of raw ivory; exception for remarked pieces.* The prohibition against export of raw ivory shall not apply to pieces of raw ivory which were cut from raw ivory imported bearing a mark meeting the requirements in paragarph (e)(3)(i)(C) of this section, provided that each such piece is marked with a repetition of the original mark showing the weight of the piece being exported.

4. Add as an Appendix A to 50 CFR Chapter I the following:

APPENDIX A TO CHAPTER I.—CODES FOR THE REPRESENTATION OF NAMES OF COUNTRIES [ESTABLISHED BY THE INTERNATIONAL ORGANIZATION FOR STANDARDIZATION]

Country	2-Letter code
Afghanistan	AF.
Albania	AL.
Algeria	DZ.
Angola	AO.
Argentina	AR.

APPENDIX A TO CHAPTER I.—CODES FOR THE REPRESENTATION OF NAMES OF COUNTRIES [ESTABLISHED BY THE INTERNATIONAL ORGANIZATION FOR STANDARDIZATION]—Continued

Country	2-Letter code
Australia	AU.
Austria	AT.
Bahamas	BS.
Bahrain	BH.
Bangladesh	BD.
Barbados	BB.
Belgium	BE.
Benin	BJ.
Bhutan	BT.
Bolivia	BO.
Botswana	BW.
Brazil	BR.
Bulgaria	BG.
Burma	BU.
Burundi	BI.
Canada	CA.
Cape Verde	CV.
Central African Empire	CF.
Chad	TD.
Chile	CL.
China	CN.
Colombia	CO.
Comoros	KM.
Congo	CG.
Costa Rica	CR.
Cuba	CU.
Cyprus	CY.
Czechoslovakia	CS.
Democratic Kampuchea	KH.
Democratic People's Republic of Korea	KP.
Democratic Yemen	YD.
Denmark	DK.
Djibouti	DJ.
Dominica	DM.
Dominican Republic	DO.
Ecuador	EC.
Egypt	EG.
El Salvador	SV.
Equatorial Guinea	GQ.
Ethiopia	ET.
Fiji	FJ.
Finland	FI.
France	FR.
Gabon	GA.
Gambia	GM.
German Democratic Republic	DD.
Germany, Federal Republic of	DE.
Ghana	GH.
Greece	GR.
Grenada	GD.
Guatemala	GT.
Guinea	GN.
Guinea-Bissau	GW.
Guyana	GY.
Haiti	HT.
Holy See	VA.
Honduras	HN.
Hungary	HU.
Iceland	IS.
India	IN.
Indonesia	ID.
Iran	IR.
Iraq	IQ.
Ireland	IE.
Israel	IL.
Italy	IT.
Ivory Coast	CI.
Jamaica	JM.
Japan	JP.
Jordan	JO.
Kenya	KE.
Kiribati	KI.
Kuwait	KW.
Lao People's Democratic Republic	LA.
Lebanon	LB.
Lesotho	LS.
Liberia	LR.
Libyan Arab Jamahiriya	LY.
Liechtenstein	LI.
Luxembourg	LU.
Madagascar	MG.
Malawi	MW.
Malaysia	MY.
Maldives	MV.

APPENDIX A TO CHAPTER I.—CODES FOR THE REPRESENTATION OF NAMES OF COUNTRIES [ESTABLISHED BY THE INTERNATIONAL ORGANIZATION FOR STANDARDIZATION]—Continued

Country	2-Letter code
Mali	ML.
Malta	MT.
Mauritania	MR.
Mauritius	MU.
Mexico	MX.
Monaco	MC.
Mongolia	MN.
Morocco	MA.
Mozambique	MZ.
Nauru	NR.
Nepal	NP.
Netherlands	NL.
New Zealand	NZ.
Nicaragua	NI.
Niger	NE.
Nigeria	NG.
Norway	NO.
Oman	OM.
Pakistan	PK.
Panama	PA.
Papua New Guinea	PG.
Paraguay	PY.
Peru	PE.
Philippines	PH.
Poland	PL.
Portugal	PT.
Qatar	QA.

APPENDIX A TO CHAPTER I.—CODES FOR THE REPRESENTATION OF NAMES OF COUNTRIES [ESTABLISHED BY THE INTERNATIONAL ORGANIZATION FOR STANDARDIZATION]—Continued

Country	2-Letter code
Republic of Korea	KR.
Romania	RO.
Rwanda	RW.
Saint Lucia	LC.
Samoa	WS.
San Marino	SM.
Sao Tome and Principe	ST.
Saudi Arabia	SA.
Senegal	SN.
Seychelles	SC.
Sierra Leone	SL.
Singapore	SG.
Solomon Islands	SB.
Somalia	SO.
South Africa	ZA.
Spain	ES.
Sri Lanka	LK.
Sudan	SD.
Suriname	SR.
Swaziland	SZ.
Sweden	SE.
Switzerland	CH.
Syrian Arab Republic	SY.
Thailand	TH.
Togo	TG.
Tonga	TO.
Trinidad and Tobago	TT.

APPENDIX A TO CHAPTER I.—CODES FOR THE REPRESENTATION OF NAMES OF COUNTRIES [ESTABLISHED BY THE INTERNATIONAL ORGANIZATION FOR STANDARDIZATION]—Continued

Country	2-Letter code
Tunisia	TN.
Turkey	TR.
Tuvalu	TV.
Uganda	UG.
Union of Soviet Socialist Republics.	SU.
United Arab Emirates	AE.
United Kingdom of Great Britain and Northern Ireland.	GB.
United Republic of Cameroon	CM.
United Republic of Tanzania	TZ.
United States of America	US.
Upper Volta	HV.
Uruguay	UY.
Vanuatu	VU.
Venezuela	VE.
Viet Nam	VN.
Yemen	YE.
Yugoslavia	YU.
Zaire	ZR.
Zambia	ZM.
Zimbabwe	ZW.

Dated: June 18, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-19681 Filed 7-19-82; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 47, No. 139
Tuesday, July 20, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL ELECTION COMMISSION

11 CFR Parts 100, 110 and 9003

[Notice 1982-5]

Candidate's Use of Property in Which Spouse Has an Interest

AGENCY: Federal Election Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission requests comments on proposed rules to govern a candidate's use of property jointly owned with a spouse or in which the spouse has some other interest that necessitates the spouse's signature on a loan instrument. The proposed rules being published today seek to relax some of the restrictions now imposed by the regulations on loans obtained by candidates for use in their campaigns. The proposed revision would amend 11 CFR 100.7(a)(1)(i), 100.7(b)(11), and 100.8(b)(12) to allow a spouse, under certain circumstances, to be a signatory on a bank loan without being a contributor. The proposed revision would also amend 11 CFR 110.10(b) and 9003.2(c)(3) to reorder the criteria defining "personal funds" and to redefine one of the criteria. Finally, the proposed revision would add a subsection to §§ 110.10(b) and 9003.2(c)(3) to provide a definition of the candidate's personal funds if the assets used to secure a loan for the campaign are jointly owned with his or her spouse.

DATES: Comments must be received on or before August 19, 1982.

ADDRESS: Susan E. Propper, Assistant General Counsel, 1325 K Street, NW., Washington, D.C. 20463.

FOR FURTHER INFORMATION CONTACT: Susan E. Propper, Assistant General Counsel, 1325 K Street, NW., Washington, D.C. 20463 (202) 523-4143 or (800) 424-9530.

SUPPLEMENTARY INFORMATION: Generally, if a candidate co-owns collateral with his or her spouse or if the spouse has non-ownership interest in the collateral (e.g., inchoate dower), the lending institution will ask for the spouse's signature on the security instrument in order to assure that, in the event of default, it will be able to foreclose on the property free of the claims of other co-owners or interest holders. When the spouse becomes a party to the transaction in this way, the lending institution may also routinely require that spouse's signature on an accompanying promissory note. Since the regulations now in effect view all loan endorsers or guarantors as contributors, it is difficult for a candidate to use his or her share of property without placing the spouse in the position of being a contributor.

The revisions presently proposed are confined to property in which the candidate's spouse has an interest or in which the spouse's signature is required. In addition to the fact that signature and common ownership problems most often arise in husband-wife situations, the peculiar nature of the husband-wife relationship as opposed to other intra-family relationships or non-family relationships gives rise to unique forms of ownership, i.e., tenancy by the entirety and community property. These types of ownership evidence the special consideration that the law gives to property held by partners in a marital relationship. Furthermore, other than voluntary joint ownership arrangements, the law imposes certain safeguards for a spouse such as dower and curtesy, homestead rights, and rights in intestacy, and these safeguards may necessitate the spouse's signature on a security instrument or a commercial note. Thus, the spouse is in a position quite different from that of any other family or non-family co-owner.

A proposed revision adding a new § 100.7(a)(1)(i)(D) and redesignating current subsection (D) as (E) would permit the candidate's spouse to be a signatory without being a contributor when the value of the candidate's share of the property used as collateral or as a basis for the loan equals or exceeds the amount of the loan that is used for the candidate's campaign. This proposed amendment, therefore, would allow a candidate to utilize what are, in reality, his or her "own" funds in accordance with the holding of the Supreme Court in *Buckley v. Valeo*, 424 U.S. 1 at 52-54 and 11 CFR 110.10(a). However, if the loan proceeds going to the committee exceed the candidate's interest in the collateral, the spouse would still be a contributor according to the proposed regulations.

A second proposed revision involves an addition to 11 CFR 100.7(b)(11) and 100.8(b)(12). These sections presently exclude from the definitions of contribution and expenditure, respectively, loans by lending institutions made in accordance with applicable banking laws and in the ordinary course of business but provide that each endorser or guarantor of such loans shall be considered a contributor. The proposed addition would apply the standard set out in the newly added § 100.7(a)(1)(i)(D) to §§ 100.7(b)(11) and 100.8(b)(12).

A third proposed revision involves a change in the wording of one of the criteria in §§ 110.10(b)(1) and 9003.2(c)(3), the sections defining personal funds. This revision would substitute the term "equitable interest" for "beneficial enjoyment" when defining the types of ownership interest that may be used as personal funds. "Equitable interest" is a more specific term which is used as a definition of ownership or pecuniary interest.

A fourth proposed change would reorder the criteria defining personal funds. The legislative history of the 1974 Amendments to 18 U.S.C. 608 pertaining to the limitations on expenditures of personal funds by a candidate, also cited in *Buckley, supra,* at 51, 52, n.57, emphasizes "access to or control over" as a criterion to determine whether or not assets were part of a candidate's personal funds. In order to make it clear that a candidate having legal or rightful title, as well as a candidate having an equitable interest, needs access to or control over the assets, the revision proposed would place the access or control criterion first and them make it clear that one of the two other criteria is to be added in order to define "personal funds."

A fifth proposed revision involves adding a new subsection (3) to § 110.10(b) and a new subsection (iii) to § 9003.2(c)(3). Under this proposal, a spouse could sign a loan agreement without being a contributor if the candidate's share in the asset secured equals or exceeds the amount of the loan going to the committee. The new proposed subsection (3) would clarify what portion of jointly owned property the candidate's share is considered to

be. For example, spouses holding property as tenants by the entirety are said to own whole interest of the property collectively and not any individual share. However, if the husband and wife join to put up as collateral property held in such a way, the Commission, according to the proposed regulation, will construe the candidate's personal funds as one-half of the property.

The Commission also seeks comments as to whether or not the narrow exception being proposed should be extended to other family members who are co-owners or even to non-family members who are co-owners of property with a candidate.

List of Subjects

11 CFR Part 100

Elections.

11 CFR Part 110

Political candidates, Campaign funds.

11 CFR Part 9003

Campaign funds, Political candidates, Elections.

PART 100—SCOPE AND DEFINITIONS (2 U.S.C. 431)

It is proposed to revise 11 CFR 100.7(a)(1)(i)(C) as follows:

§ 100.7 Contribution (2 U.S.C. 431(8)).

(a) * * *
(1) * * *
(i) * * *

(C) Except as provided in (D), a loan is a contribution by each endorser or guarantor. Each endorser or guarantor shall be deemed to have contributed that portion of the total amount of the loan for which he or she agreed to be liable in a written agreement. Any reduction in the unpaid balance of the loan shall reduce proportionately the amount endorsed or guaranteed by each endorser or guarantor in such written agreement. In the event that such agreement does not stipulate the portion of the loan for which each endorser or guarantor is liable, the loan shall be considered a loan by each endorser or guarantor in the same proportion to the unpaid balance that each endorser or guarantor bears to the total number of endorsers or guarantors.

* * * * *

It is proposed to redesignate 11 CFR 100.7(a)(1)(i)(D) as 11 CFR 100.7(a)(1)(i)(E) and add new 11 CFR 100.7(a)(1)(i)(D) as follows:

(a) * * *
(1) * * *
(i) * * *

(D) A candidate may obtain a loan on which his or her spouse's signature is required when jointly owned assets are used as collateral or security for the loan. The spouse shall not be considered a contributor to the candidate's campaign if the value of the candidate's share of the property used as collateral equals or exceeds the amount of the loan which is used for the candidate's campaign.

(E) * * *

* * * * *

It is proposed to revise 11 CFR 100.7(b)(11) as follows:

* * * * *

(b) * * *

(11) A loan of money by a State bank, a federally chartered depository institution (including a national bank or a depository institution whose deposits and accounts are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration is not a contribution by the lending institution if such loan is made in accordance with applicable banking laws and regulations and is made in the ordinary course of business. A loan will be deemed to be made in the ordinary course of business if it: bears the usual and customary interest rate of the lending institution for the category of loan involved; is made on a basis which assures repayment; is evidenced by a written instrument; and is subject to a due date or amortization schedule. Such loans shall be reported by the political committee in accordance with 11 CFR 104.3(a). Each endorser or guarantor shall be deemed to have contributed that portion of the total amount of the loan for which he or she agreed to be liable in a written agreement, except that, in the event of a signature by the candidate's spouse, the provisions of 11 CFR 100.7(a)(1)(i)(D) shall apply. Any reduction in the unpaid balance of the loan shall reduce proportionately the amount endorsed or guaranteed by each endorser or guarantor in such written agreement. In the event that such agreement does not stipulate the portion of the loan for which each endorser or guarantor is liable, the loan shall be considered a contribution by each endorser or guarantor in the same proportion to the unpaid balance that each endorser or guarantor bears to the total number of endorsers or guarantors. For purposes of 11 CFR 100.7(b)(11), an overdraft made on a checking or savings account shall be considered a contribution by the bank or institution unless: the overdraft is made on an account which is subject to automatic overdraft protection; the overdraft is subject to a definite interest rate which is usual and customary; and there is a definite repayment schedule.

* * * * *

It is proposed to revise 11 CFR 100.8(b)(12) as follows:

§ 100.8 Expenditure (2 U.S.C. 431(9)).

* * * * *

(b) * * *

(12) A loan of money by a State bank, a federally chartered depository institution (including a national bank) or a depository institution whose deposits and accounts are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration is not an expenditure by the lending institution if such loan is made in accordance with applicable banking laws and regulations and is made in the ordinary course of business. A loan will be deemed to be made in the ordinary course of business if it: Bears the usual and customary interest rate of the lending institution for the category of loan involved; is made on a basis which assures repayment; is evidenced by a written instrument; and is subject to a due date or amortization schedule. Such loans shall be reported by the political committee in accordance with 11 CFR 104.3(a). Each endorser or guarantor shall be deemed to have contributed that portion of the total amount of the loan for which he or she agreed to be liable in a written agreement, except that, in the event of a signature by the candidate's spouse, the provisions of 11 CFR 100.7(a)(1)(i)(D) shall apply. Any reduction in the unpaid balance of the loan shall reduce proportionately the amount endorsed or guaranteed by each endorser or guarantor in such written agreement. In the event that the loan agreement does not stipulate the portion of the loan for which each endorser or guarantor is liable, the loan shall be considered an expenditure by each endorser or guarantor in the same proportion to the unpaid balance that each endorser or guarantor bears to the total number of endorsers or guarantors. For the purpose of 11 CFR 100.8(b)(12), an overdraft made on a checking or savings account shall be considered an expenditure unless: The overdraft is made on an account which is subject to automatic overdraft protection; and the overdraft is subject to a definite interest rate and a definite repayment schedule.

* * * * *

PART 110—CONTRIBUTIONS AND EXPENDITURE LIMITATIONS AND PROHIBITIONS

It is proposed to revise 11 CFR 110.10(b)(1) as follows:

§ 110.10 Expenditures by candidates.

* * * * *

(b) * * *

(1) Any assets which, under applicable state law, at the time he or she became a candidate, the candidate had legal right of access to or control over, and with respect to which the candidate had either:

(i) Legal and rightful title, or

(ii) An equitable interest

* * * * *

It is proposed to add new 11 CFR 110.10(b)(3) as follows:

* * * * *

(b) * * *

(3) A candidate may use a portion of assets jointly owned with his or her spouse as personal funds. The portion of the jointly owned assets that shall be considered as personal funds of the candidate shall be that portion which is the candidate's share under the instrument(s) of conveyance or ownership. If no specific share is indicated by an instrument of conveyance or ownership, the value of one-half of the property used shall be considered as personal funds of the candidate.

PART 9003—ELIGIBILITY FOR PAYMENTS

It is proposed to revise 11 CFR 9003.2(c)(3) as follows:

§ 9003.2 Candidate certifications.

* * * * *

(c) * * *

(3) For purposes of this section, the terms "personal funds" and "personal funds of his or her immediate family" mean—

(i) Any assets which, under applicable state law, at the time he or she became a candidate, the candidate had legal right of access to or control over, and with respect to which the candidate had either:

(A) Legal and rightful title, or

(B) An equitable interest.

(ii) Salary and other earned income from bona fide employment; dividends and proceeds from the sale of the candidate's stocks or other investments; bequests to the candidate; income from trusts established before candidacy; income from trusts established by bequest after candidacy of which the candidate is a beneficiary; gifts of a personal nature which had been customarily received prior to candidacy; proceeds from lotteries and similar legal games of chance.

(iii) A candidate may use a portion of assets jointly owned with his or her spouse as personal funds. The portion of the jointly owned assets that shall be considered as personal funds of the candidate shall be that portion which is the candidate's share under the instrument(s) of conveyance or ownership. If no specific share is indicated by any instrument of conveyance or ownership, the value of one-half of the property used shall be considered as personal funds of the candidate

Certification of No Effect Pursuant to 5 U.S.C. 605(b) Regulatory Flexibility Act

I certify that the attached proposed rules will not, if promulgated, have a significant economic impact on a substantial number of small entities. The basis for this certification is that no entity is required to make any expenditures under the proposed rules.

Dated: July 15, 1982.

Frank P. Reiche,

Chairman, Federal Election Commission.

[FR Doc. 82-19804 Filed 7-19-82; 8:45 am]

BILLING CODE 6715-01-M

FEDERAL TRADE COMMISSION

16 CFR Ch. I

Semiannual Regulatory Agenda

Corrections

In FR Doc. 82-18177 appearing on page 29462 in the issue of Tuesday, July 6, 1982, make the following changes:

(1) On page 29463, second column, paragraph numbered 2, eleventh line, "prohibitions" should read "prohibited".

(2) On page 29464, first column, twenty-sixth line from the bottom, "(39 FR 29385 * * *" should read "(39 FR 39385 * * *".

(3) On page 29465, third column, paragraph numbered 9, first line "contracts" should read "contacts".

(4) On page 29466, first column, twelfth line from the top, insert "debtor" after "principal".

(5) on page 29468, third column, last line, "know" should read "known".

BILLING CODE 1505-01-M

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16 CFR Part 13

[File No. 821 0077]

BATUS, Inc.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, that a Louisville, Kentucky management and holding company timely divest 200,000 square feet of its retail floor space, and reduce the volume of its retail sales by $20 million of 1981 sales. Further, the company would be barred from making certain acquisitions in prescribed areas without prior Commission approval.

DATE: Comments must be received on or before September 20, 1982.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th and Pennsylvania Ave., NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

FTC/CS–4, Daniel P. Ducore, Washington, D.C. 20580 (202) 724–1268.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with an accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Department stores.

In the Matter of BATUS Inc., a corporation. Agreement Containing Consent Order File No. 821 0077.

The Federal Trade Commission ("Commission") having initiated an investigation of the acquisition of the stock and assets of Marshall Field & Company ("Marshall Field") by BATUS Inc. ("BATUS") and it now appearing that BATUS, as proposed respondents, is willing to enter into an agreement containing an order in settlement of that investigation:

It is hereby agreed by and between BATUS, by its duly authorized agent and its attorney, and counsel for the Commission that:

1. BATUS is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with headquarters address at 2000 Citizens Plaza, Louisville, Kentucky.

2. BATUS admits all jurisdictional facts set forth in the draft of complaint here attached.

3. BATUS waives:

(a) any further procedural steps;

(b) the requirement that the Commission decision contain a statement of findings of fact and conclusions of law;

(c) all rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) any claim under the Equal Access to Justice Act.

4. This Agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information with respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify BATUS, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by BATUS that the law has been or would be violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to BATUS, issue its complaint corresponding in form and substance with a draft of complaint here attached and its decision containing the order set forth herein in diposition of the proceeding and make information public with respect thereto. When so entered, the order shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and the agreed-to order to BATUS shall constitute service. BATUS waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no other agreement, understanding, representation or interpretation not contained in the order or in the agreement, may be used to vary or contradict the terms of the order.

7. BATUS has read the draft of complaint and order contemplated hereby. BATUS understands that once the Order has been issued, BATUS will be required to file one or more compliance reports showing it has fully complied with the order. BATUS further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is ordered that for purposes of this order the following definitions shall apply:

1. "BATUS" means BATUS Inc., a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with headquarters address at 2000 Citizens Plaza, Louisville, Kentucky 40202, as well as its officers, directors, employees, agents, parents, divisions, subsidiaries, affiliates, successors, assigns, and the officers, directors, employees or agents of BATUS' parents, divisions, subsidiaries, affiliates successors or assigns.

2. "Marshall Field" means Marshall Field & Company, a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with principal offices at 25 East Washington St., Chicago, Illinois 60602, as well as its officers, directors, employees, agents, its parents, divisions, subsidiaries, affiliates, successors and assigns, and the officers, directors, employees or agents of its parents, divisions, subsidiaries, affiliates, successors or assigns.

3. "SMSA" means a Standard Metropolitan Statistical Area as defined by the Office of Management and Budget, Statistical Policy Division, 1975 Edition, as amended.

4. "Department stores," as used herein, corresponds with Bureau of the Census Standard Industrial Classification No. 531, 1977 Census of Retail Trade. It refers to retail stores normally employing 25 or more people and engaged in selling some items of each of the following groups of merchandise:

(a) Furniture, home furnishings, appliances, and radio and TV sets; and

(b) A general line of apparel for the family; and

(c) Household linens and dry goods.

5. "GMAF stores," as used herein, refers to all retail establishments included in the following Bureau of Census Major Industry Group and Standard Industrial Classifications as used in the 1977 Census of Retail Trade:

Census Number and Descriptions

Classification No. 531—Department stores
Major Industry Group No. 56—Other stores primarily engaged in the sale of apparel
Classification No. 533—Limited price variety stores
Classification No. 539—Miscellaneous general merchandise stores
Major Industry Group No. 57—Furniture, home furnishings and equipment stores.

II

It is further ordered that BATUS shall, within two (2) years from the date upon which this order becomes final, divest absolutely and in good faith such of its department stores in the Milwaukee, Wisconsin SMSA as will reduce the floor space of its department stores in that SMSA by an amount not less than 200,000 square feet and reduce its annual sales volume in that SMSA in an amount not less than $20 million as measured by fiscal 1981 sales.

A. Divestiture if any store under the terms of this order shall be made only to an acquiror approved in advance by the Federal Trade Commission.

B. Such divestiture shall include all leases, stock space and inventories but not the trade name or other proprietary names associated with the store.

C. Should BATUS divest the Marshal Field department store in Mayfair Mall it shall within two (2) years from the date of such divestiture open or begin construction of another Marshall Field retail establishment consisting of not less than 120,000 square feet of floor space in the Milwaukee SMSA. BATUS shall complete construction within three years from the time construction is begun. BATUS shall ensure that the store is a viable competitive retail establishment for not less than five (5) years from the date of its opening.

III

It is further ordered that:

A. For a period of ten (10) years from the date upon which this order becomes final, BATUS shall not, directly or indirectly, through acquisition of stock, share capital, equity or any other interest in any equity, corporate or noncorporate, acquire any department store or GMAF store located within the Milwaukee, Wisconsin SMSA without the prior approval of the Federal Trade Commission; nor shall BATUS acquire any assets of any entity, corporate or noncorporate, operating any department store or GMAF store located within the Milwaukee, Wisconsin SMSA without the prior approval of the Federal Trade Commission.

B. For a period of two (2) years from the date upon which this order becomes final, BATUS shall not, directly or indirectly, through acquisition of stock, share capital, equity or any other interest in any equity, corporate or noncorporate, acquire any department store or GMAF store located in any SMSA in which BATUS then operates a department store or GMAF store without the prior approval of the Federal Trade Commission; nor shall BATUS acquire any assets of any entity, corporate or noncorporate, operating any department store or GMAF store located in any SMSA in which BATUS then operates a department store or GMAF store without the prior approval of the Federal Trade Commission.

C. For a period of three (3) years, beginning two (2) years from the date upon which this order becomes final, BATUS shall not, directly or indirectly, through acquisition of stock, share capital, equity or any other interest in any equity, corporate or noncorporate, acquire any department store or DMAF store located in any SMSA in which BATUS then operates a department store or GMAF store without the prior approval of the Federal Trade Commission; nor shall BATUS acquire any assets of any entity, corporate or noncorporate, operating any department store or GMAF store located in any SMSA in which BATUS then operates a department store or GMAF store without the prior approval of the Federal Trade Commission. Provided that this provision (III. C.) shall not be deemed to require prior approval of the Federal Trade Commission of acquisitions (1) of store sites, leases or inventories if the store property has not been operated as a department store or GMAF store for a period of ninety (90) consecutive days immediately prior to its acquisition, or (2) of stock, share capital, equity or any other

interest in any equity, corporate or noncorporate, or assets for a purchase price or other consideration less than $15 million.

IV

It is further ordered that BATUS shall submit within sixty (60) days after the date upon which this order becomes final, and every ninety (90) days thereafter, until such time that divestiture as required by paragraph II of this order has been accomplished, a report setting forth in detail the manner and form in which BATUS intends to comply, is complying, and has complied with the terms of this order and such additional information relating thereto as may from time to time be required. All such reports shall include a summary of contacts or negotiations with anyone for the specified assets, the identity of all such persons, and copies of all written communications to and from such persons.

V

It is further ordered that for a period of ten (10) years from the date upon which this order becomes final, BATUS shall notify the Federal Trade Commission at least thirty (30) days prior to any change in BATUS which may affect compliance with the obligations arising out of this consent order, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation.

VI

It is further ordered that each year, for a period of ten (10) years from the date upon which divestiture as required by paragraph II of this order is accomplished, BATUS shall submit a report setting forth in detail the manner and form in which BATUS intends to comply, is complying or has complied with paragraph III of this order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from BATUS Inc.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments from interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Commission's investigation in this matter concerned the April 1982 acquisition by BATUS Inc. ("BATUS") of the stock of Marshall Field & Company ("Marshall Field"). Marshall Field operates one department store in the Milwaukee, Wisconsin Standard Metropolitan Statistical Area (SMSA), where BATUS operates seven Gimbels department stores and 14 Kohl's department stores. Since the proposed consent order was negotiated during the investigational stage of the proceedings, the complaint proposed by the Commission staff was not issued. That complaint charges that BATUS' acquisition of Marshall Field violated Section 7 of the Clayton Act and Section 5 of the Federal Trade Commission Act. The complaint alleges that there will be anticompetitive effects of the acquisition in the Milwaukee SMSA, a highly concentrated market. The alleged anticompetitive effects include (a) the elimination of actual competition between BATUS and Marshall Field in the Milwaukee SMSA; (b) increased concentration in the department store and traditional department store business in the Milwaukee SMSA and in the retail sale of certain merchandise lines; and (c) the lessening of the likelihood of future deconcentration in the department store business in the Milwaukee SMSA.

The proposed order contains provisions requiring divestiture and imposing limitations on BATUS' future acquisitions. Under the order BATUS will be required to divest stores in the Milwaukee SMSA, within two years of the date the order becomes effective, such as to reduce BATUS' presence by 200,000 square feet and $20 million of 1981 sales. Divestiture will be made to an acquiror or acquirors approved in advance by the Federal Trade Commission. The proposed order also requires that for a period of ten (10) years from the effective date of the order, BATUS will not be permitted to make any acquisitions in the department store business in the Milwaukee SMSA without prior Commission approval. Furthermore, BATUS will be required to obtain Commission approval prior to making any department store acquisition in other areas where BATUS operates for five years from the effective date of the order; with a provision, beginning after two years, that acquisitions of inoperative store assets or acquisitions for less than $15 million will not require prior Commission approval.

The provisions of the proposed order are expected to ameliorate the anticompetitive effects alleged in the Complaint resulting from the merger. Before the acquisition BATUS was ranked number one in the market and Marshall Field number seven. As a result of the acquisition the concentration ratio for the four largest firms in Milwaukee increased by more than 3%. BATUS' relative position stayed the same though its market share increased by more than 3%. Under the proposed consent order BATUS' market share increase will be limited almost completely, and four-firm concentration may actually decrease. This will alleviate to a substantial extent any possible adverse impact of the acquisition on competitors in the Milwaukee department store markets.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Carol M. Thomas,

Secretary.

[FR Doc. 82-19918 Filed 7-19-82; 8:45 am]

BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 229, 239, 240, and 249

[Release Nos. 33-6416, 34-18870, 40-12543; File No. S7-939]

Disclosure of Certain Relationships and Transactions Involving Management

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission is publishing for comment, as part of its comprehensive Proxy Review Program, proposed rule, form and schedule amendments relating to the disclosure of transactions in which certain persons connected with management have a material interest and relationships between a registrant's directors or nominees for director and certain entities with which the registrant conducts business. The proposed amendments are intended to simplify disclosure and reduce compliance burdens in a manner consistent with investor protection. The proposed amendments include, among other things, a proposed new uniform item, applicable to registration statements, periodic reports and proxy statements, relating to disclosure of certain relationships and transactions and, in connection therewith, substantially streamlined requirements relating to disclosure of relationships.

DATE: Comments must be received on or before September 7, 1982.

ADDRESS: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Comment letters should refer to File No. S7-939. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. (prior to July 23, 1982), or at 450 5th Street, NW., Washington, D.C. (after July 23, 1982).

FOR FURTHER INFORMATION CONTACT: Susan P. Davis (202) 272-2604 or Robert Pincus (202) 272-2589, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today published for comment proposed amendments to Regulation S-K (17 CFR 229) and to Forms S-1 (17 CFR 239.11)

and S–11 (17 CFR 239.18) under the Securities Act of 1933 (the "Securities Act") (15 U.S.C. 77a et seq. (1976 and Supp. III 1979), as amended by the Small Business Incentive Act of 1980, Pub. L. No. 96–447 (October 21, 1980)), as well as to Form 10 (17 CFR 249.210), Form 10–K (17 CFR 249.310), Schedule 14A (17 CFR 240.14a–101) and Schedule 14B (17 CFR 240.14a–102) under the Securities Exchange Act of 1934 (the "Exchange Act") (15 U.S.C. 78a et seq. (1976) and Supp. II 1977)). These proposals include: (1) A new Item 494 of Regulation S–K (17 CFR 229.404) concerning disclosure of certain relationships and related transactions; (2) amendments to Item 401 of Regulation S–K (17 CFR 239.401) to include certain disclosure involving the business experience of executive officers and directors; (3) amendments to Item 402 of Regulation S–K (17 CFR 229.402) to rescind certain disclosure requirements proposed to be incorporated into new Item 404 relating to transactions with management, indebtedness of management, and transactions with promoters, and to rescind the disclosure requirements relating to transactions with pension plans; (4) amendments to Forms S–1, S–11, 10 and 10–K and Schedules 14A and 14B to require the disclosure called for by new Item 404; and (5) amendments to Item 6(b) of Schedule 14A to rescind certain disclosure requirements concerning relationships of directors, some of which are proposed to be incorporated into new Item 404. These proposed amendments are the first rulemaking initiatives of the Commission's Proxy Review Program.

I. The Proxy Review Program

Over the past several years, the Commission has been engaged in a number of major rulemaking initiatives designed to simplify, in a manner consistent with the protection of investors, the complex disclosure systems that have evolved during the more than forty years since the enactment of the federal securities laws. Application of similar themes in other areas produced, among other things, the Integrated Disclosure System, which streamlines and harmonizes two major disclosure systems—the registration of securities under the Securities Act and the continuous reporting system under the Exchange Act.[1] In addition, the Commission recently examined the registration requirements and exemptive scheme under the Securities Act and adopted new Regulation D,[2] designed to achieve uniformity between state and federal exemptions and to facilitate capital formation.[3]

The Commission now is commencing a major program in connection with the third major disclosure system—the rules, forms and schedules relating to the solicitation of proxies. While various aspects of the proxy rules have been the subject of study in recent years, this will be the first comprehensive and coordinated review of the entire system of proxy regulation.

The existing proxy rules were adopted in a piecemeal fashion and have been the subject of frequent changes. This has led to certain duplicative requirements and difficulty for registrants in keeping current with existing requirements and establishing systems for gathering information for disclosure in proxy statements under Regulation 14A[4] and information statements under Regulation 14C[5] (hereinafter referred to, collectively, as "proxy statements"). Moreover, the disclosure requirements applicable to proxy statements have become more detailed and complex over the years. The burdens associated with proxy statement preparation have been widely felt, since the proxy rules apply to all companies registered pursuant to Section 12 of the Exchange Act.[6]

The Commission also recognizes that the continued accretion in the information required to be included in proxy statements may not always provide benefits to security holders that outweigh the costs of compliance for registrants. Merger proxy statements, for example, may be so lengthy and detailed that they cannot be digested easily by security holders. In fact, security holders may be discouraged from reading some proxy statements due to their sheer volume. To the extent that a proxy statement is overly complicated and difficult to read, it may not effectively perform its intended function of communicating meaningful information to security holders in order that they may make informed voting decisions.

In order to update the proxy regulations and, in doing so, improve the readability of proxy statements and eliminate unnecessary disclosure costs, the Commission has commenced a comprehensive review of the proxy regulations. The Proxy Review Program will involve review of existing substantive and procedural provisions and elimination of duplicative or outmoded requirements. Where practicable, concepts developed in connection with the Integrated Disclosure System, such as incorporation by reference and the use of uniform disclosure items, will be applied to proxy regulations. Particular attention will be paid to simplifying proxy disclosure, because, while security holders often rely on market professionals to digest Exchange Act reports and Securities Act registration statements, they generally do not rely on such persons to do the same in connection with proxy statements.

The Proxy Review Program currently contains six projects.[7] The Commission intends to put revised requirements into place as promptly as possible consistent with registrants' needs for a reasonable time to comply with any new requirements. The entire Proxy Program is expected to take approximately two years to complete.

This release discusses the background of proposed Item 404, the disclosure provisions from which it is derived, the changes proposed to be made from existing disclosure requirements, and proposed coordinating changes. Attention is directed to the text of the proposals for a more complete understanding.

II Background

These proposals result primarily from comments received in response to Release No. 34–17517,[8] which, among

[1] Release No. 33–6383 (March 3, 1982) (47 FR 11380).

[2] 17 CFR 230.501 et seq.

[3] Release No. 33–6389 (March 8, 1982) (47 FR 11251).

[4] 17 CFR 240.14a–1 et seq.

[5] 17 CFR 240.14c–1 et seq.

[6] Registration arises under Section 12(b) for companies registering securities on a national securities exchange. Companies register under Section 12(g) if, on the last day of their fiscal year, they have total assets exceeding $1 million and a class of securities held of record by 500 or more persons. Pursuant to Section 12(g) and the rules promulgated thereunder, however, companies are not required to register under Section 12(g) until they have 500 record holders and total assets of $3 million or more. Release No. 34–18647 (April 15, 1982) (47 FR 17046).

[7] In addition to the revision of rules relating to the disclosure of transactions and relationships, the Program will include: (1) The simplification of the provisions contained in Item 402 of Regulation S–K relating to disclosure of management remuneration; (2) a reexamination of Exchange Act Rule 14a–8 regarding shareholder proposals (17 CFR 240.14a–8); (3) the simplification of Form S–14—the merger proxy statement (17 CFR 239.23); (4) a review of the rules concerning proxy contests; and (5) an evaluation of the recommendations of the Advisory Committee on Shareholder Communications concerning the processes by which issuers communicate with the beneficial owners of their securities. *See* U.S. Securities and Exchange Commission, "Improving Communications Between Issuers and Beneficial Owners of Nominee Held Securities," *Report of the Advisory Committee on Shareholder Communications*, June 1982.

[8] Release No. 34–17517 (February 5, 1981) (46 FR 12011) (the "February Release"). The Commission received 85 comment letters, not including 16 letters that commented exclusively on the amendments that were proposed to Rule 14a–6, which are the

other things: (1) proposed amendments to Item 6(b) of Schedule 14A to clarify and simplify the requirements relating to disclosure of relationships that may affect the independent judgement of directors and nominees for election as a director (hereinafter referred to, collectively, as "directors") and (2) solicited comment on the advisability of combining Item 6(b) with Item 402(f) of Regulation S–K, which elicits disclosure of transactions in which certain persons connected with the registrant or their relatives have a direct or indirect material interest, to create a uniform Regulation S–K item applicable equally to registration statements, periodic reports and proxy statements.[9] The Commission suggested that, although these items originally were adopted to serve differing disclosure functions,[10] it might be appropriate to develop a uniform item since the two items overlap.[11] The Commission noted that this overlap has resulted in some confusion and duplication with concomitant burdens on registrants. In addition, the Commission is concerned that overly detailed disclosure about relationships and transactions may result in truly significant relationships and transactions being obfuscated by less important information.

While commentators generally supported the proposed amendments in the February Release, a large number of commentators stated that the Commission should re-examine the entire area of disclosure of transactions and relationships and, as it had suggested, attempt to develop a uniform item. Commentators asserted that investors and security holders are interested in essentially the same transactions and business relationships, so that separate disclosure requirements for registration statements, periodic reports and proxy statements should not be maintained. They also stated that a uniform item would make document preparation less burdensome. At the same time, however, commentators expressed concern that all of the requirements of Item 6(b) not be incorporated into a new item applicable to registration statements on the basis that detailed disclosure about directors' relationships is not necessary for informed investment decisionmaking and that substantial additional burdens should not be imposed on registrants.

As a result of the Commission's reexamination of this area, it is proposing a new uniform Regulation S–K item, Item 404, "Certain relationships and related transactions," which would be applicable to registration statements, periodic reports and proxy statements. The proposed item represents the Commission's efforts to extract a basic package of information about transactions and relationships that is important to both investment and voting decisions. The requirements of proposed Item 404 are derived, in large part, from the requirements of Items 402(f) and 6(b). In addition, proposed Item 404 incorporates, with some modifications, other provisions of Item 402 of Regulation S–K concerning disclosure of loans to persons connected with management and transactions with promoters so that all provisions regarding transactions are included in one Regulation S–K item.[12] Finally, the Commission is proposing to amend various registration forms and periodic reports, as well as Schedules 14A and 14B, to reference the new Item and to make other necessary changes.

The Commission believes that these proposals, if adopted, will maintain the quality of disclosure received by security holders and investors while reducing compliance burdens on registrants. Moreover, the addition of a new item to Regulation S–K concerning certain relationships and related transactions would constitute another step in integrating the disclosure required under the Securities Act and the Exchange Act.

Pursuant to 5 U.S.C. 605(b), the Chairman of the Commission has certified that the amendments proposed herein, if promulgated, will not have a significant economic impact on a substantial number of small entities. This certification, including the reasons therefor, is attached to this release.

III. Proposed Item 404: Certain Relationships and Related Transactions

A. Proposed Item 404(a)—Transactions With Management and Others

Proposed Item 404(a) sets forth the disclosure requirements with respect to transactions in which certain specified persons connected with the registrant or their relatives have a direct or indirect material interest. Such information is relevant for investment and voting decisions as it indicates insiders' interests in transactions engaged in for the benefit of public security holders.

The provisions of proposed Item 404(a) are derived from existing Item 402(f).[13] The Commission believes that Item 402(f) has worked quite well to elicit information on transactions that are important to investors and security holders. In addition, a large number of the commentators responding to the February Release expressed the view that Item 402(f)'s requirements should be the basis of, or at least included in, any new disclosure item concerning transactions and relationships with management. The commentators stated, among other things, that Item 402(f)'s materiality standard is an effective indicator of conflicts of interest that are important to security holders and investors.[14]

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subject of a separate project. The comment letters, as well as a Comment Highlight prepared by the Division of Corporation Finance, are available for public inspection in the Commission's Public Reference Room. *See* File No. S7–871.

[9] Among the other amendments proposed in the February Release were amendments to Instructions 1 and 5 of Item 403 of Regulation S–K (17 CFR 229.403) relating to the disclosure of beneficial ownership, which will be acted upon at the same time that final action is taken with respect to the proposals set forth herein.

[10] Item 402(f), which was promulgated originally in 1942 (Release No. 34–3347 (December 18, 1942) (7 FR 10653)) as part of Schedule 14A of the Commission's proxy rules and made a part of Regulation S–K in 1978 (Release No. 33–5949 (July 29, 1978) (43 FR 34407)), requires disclosure of transactions involving the registrant or its subsidiaries in which specified persons (including, but not limited to, officers and directors and certain of their relatives) have a direct or indirect material interest.

Item 6(b) was added to the Commission's proxy rules in 1978 (Release No. 34–15384 (December 6, 1978) (43 FR 58552)) following extensive hearings on the subjects of shareholder communications, shareholder participation in the corporate electoral process and corporate governance generally.

See Release Nos. 34–13482 (April 28, 1977) (42 FR 23901) and 34–13901 (August 29, 1977) (42 FR 44860). At the hearings, support was expressed for improving the quality of disclosure to security holders regarding the structure and composition of corporate boards of directors in order to enable security holders to make more informed voting decisions in elections of directors. The Commission thereafter adopted Item 6(b), which requires disclosure of relationships between directors and certain significant customers, suppliers and creditors, as well as with law or investment banking firms that provide services to the registrant. For a more complete discussion of the corporate governance hearings and various staff recommendations, *see* Division of Corporation Finance, U.S. Securities and Exchange Commission, *Staff Report on Corporate Accountability*, 96th Cong., 2d Sess. (Comm. Print 1980) (Senate Comm. on Banking, Housing and Urban Affairs) (the "Staff Report").

[11] Under Item 402(f), a material interest in a transaction involving another entity may arise, in certain circumstances, from a position with such other entity. Similarly, Item 6(b) requires the registrant to focus on a director's or nominee's position with significant customers, suppliers and creditors. Moreover, Item 402(f) requires an examination of certain transactions that also may need to be examined to determine the identity of significant customers, suppliers and creditors under Item 6(b).

[12] As discussed *infra*, the provisions concerning disclosure of transactions with pension plans are proposed to be rescinded.

[13] Accordingly, Item 402(f) is proposed to be rescinded.

[14] Similarly, Congressman John D. Dingell recently stated in hearings held by a Subcommittee on

While including the requirments of Item 402(f) in proposed Item 404(a), the Commission is making several changes to clarify certain requirements and to close certain gaps in the disclosure of transactions involving relatives of persons who are connected with the registrant. First, the $50,000 *de minimis* threshold, currently set forth in Instruction 2C to Item 402(f), is proposed to be incorporated into the text of Item 404(a). Second, the provision, also currently contained in Instruction 2C, regarding aggregation of a series of similar transactions, is likewise proposed to be included in the text of the new item.

Third, the Commission proposes to require disclosure under Item 404(a) of the amount of the transaction, in addition to the amount of any disclosable interest. Currently, Instruction 4 to Item 402(f) requires disclosure of the amount of the transaction only when it is not practicable to state the amount of the interest involved. The Commission believes that information regarding the size of the transaction, as well as the size of the interest of those connected with management, would be material to investors and security holders in making investment or voting decisions relating to the registrant.

Fourth, the Commission proposes to change the class of relatives whose transactions must be disclosed. Currently, Item 402 requires disclosure of transactions in which any relative of a director or officer of the registrant, a nominee for director, or an owner, beneficially or of record, of more than five percent of any class of the registrant's voting securities, who lives in the same household as such person, or who is a director or officer of any parent or subsidiary of the registrant, has a direct or indirect material interest. The Commission believes that Item 402(f) may be too narrow in its coverage of relatives of persons connected with management. Potential conflicts of interest are not necessarily limited to relatives who live in the same household or who are employed by parents or subsidiaries of the registrant; such opportunities may exist for any close relative of a person connected with management. Accordingly, the Commission is proposing to require disclosure of transactions involving relatives of the specified persons, provided they are no more remote than first cousin. The Commission solicits specific comment, however as to whether other classifications of relatives whose transactions are required to be disclosed would be more appropriate.

The Commission is not proposing at this time to make any other changes in the classes of persons whose transactions are disclosable. However, the Commission is requesting comment on whether transactions of only "executive officers," rather than all officers, should be disclosed. Disclosure of transactions would then be required only with respect to officers that perform policy-making functions.[15]

The Commission is proposing to include, as instructions to Item 404(a), most of the instructions to Item 402(f) that are not proposed to be incorporated into the text of the new item. Instructions 2A, B and D (relating to transactions that need not be disclosed), Instruction 2C (relating to aggregation of periodic installments), Instruction 3 (relating to interests that are not deemed to be material), Instruction 4 (regarding the computation of the amount of the transaction) and Instruction 7 (relating to transactions involving remuneration) are proposed as Instructions 1, 2, 3, 4 and 6 to Item 404(a), respectively.[16] Instruction 5 to Item 402(f) (relating to the purchase or sale of assets not in the ordinary course of business) is proposed to be included in Item 404(a) as Instruction 5, except that the Commission is proposing to clarify the Instruction by moving the portion that relates only to registration statements on Form S–11 into that form. Instruction 1 (dealing with information disclosed or omitted pursuant to other paragraphs of Item 402), which has been revised slightly, and Instruction 6 (relating to the presentation of the Item 402(f) information in a registration statement) are proposed to be included as general instructions to Item 404, since they apply to all the disclosure requirements contained in the item. Finally, a new general instruction is proposed to clarify the application of the new item to non-Canadian foreign private issuers that are eligible to use Form 20–F (17 CFR 249.220f).

B. Proposed Item 404(b)—Disclosure of Business Relationships

Proposed Item 404(b) sets forth requirements applicable to registration statement, periodic reports and proxy statements with respect to disclosure of certain relationships of directors and nominees for director. The requirements are derived from Items 6(b)(3), (4), (5) and (7) of Schedule 14A,[17] which are applicable to registrants other than investment companies registered under the Investment Company Act of 1940.[18] Proposed Item 404(b)(1) applies to disclosure of relationships with significant customers; proposed Item 404(b)(2) concerns relationships with significant suppliers; proposed Item 404(b)(3) deals with disclosure of relationships with significant creditors; proposed Items 404(b)(4) and (5) deal with disclosure of relationships with law and investment banking firms respectively; and proposed Item 404(b)(6) requires disclosure of any similar relationships.

The requirements of proposed Item 404(b) are streamlined significantly from those contained in Item 6(b). The major changes from the existing requirements are: (1) Eliminating the need for registrants to trace directors' relationships over two years; (2) eliminating disclosure where a director's relationships with a significant customer, supplier or creditor consists solely of a directorship or employment with the other entity; (3) eliminating disclosure where a director owns five percent or less of the equity interest in the other entity; (4) raising the thresholds of payments or indebtedness that must be met before a relationship is required to be disclosed; (5) requiring the specific dollar amount of payments received by law and investment banking firms to be disclosed only if such amount exceeds five percent of such firm's gross revenues and unconsolidated gross revenue respectively; and (6) excluding certain payments made or received by, or indebtedness incurred by, certain *de minimis* subsidiaries.

The adoption of a Regulation S–K item applicable to registration statements, periodic reports and proxy statements would mean that certain additional information relating to relationships would be required to be included in

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Oversight and Investigations of the House of Representatives:

Self-dealing transactions [are] an area in which management is most likely to favor itself with the potential for substantial harm to shareholders. It is precisely in this area of greatest potential harm that full disclosure is most thoroughly needed.

Transcript of hearings before the Subcommittee on Oversight and Investigations of the Committee on Energy and Commerce, House of Representatives, on H.R. "The administration of the federal securities laws and the regulations concerning corporate disclosure," February 8, 1982, p. 7.

[15] *See* the definition of "executive officer" contained in Rule 405 under the Securities Act (17 CFR 230.405) and Rule 3b-7 under the Exchange Act (17 CFR 240.3b–7).

[16] Instruction 8, the general materiality instruction to Item 402(f), is proposed to be incorporated into new Instruction 1.

[17] Accordingly, Items 6(b)(3), (4), (5) ad (7) are proposed to be rescinded.

[18] 15 U.S.C. 80a–1 et seq. (the "Investment Company Act").

registration statements.[19] Such a result would be in accordance with the views of some commentators responding to the February Release who believed that little distinction could be made in the information on transactions and relationships that is relevant to investment and voting decisions; if information is relevant to one type of decision, it also would be relevant to the other. Thus, there was support for disclosing relationships in registration statements on the basis that, among other things, relationships that are important for security holders to know when voting because they may affect directors' independence also are important to investors when making their decisions as to whether to invest in a company.

In spite of the importance of certain directors' relationships to investors, commentators also were of the view that not all of the relationships currently required to be disclosed by Items 6(b)(3), (4) and (5) are equally important to investment decision-making. In addition, commentators were concerned that substantial additional burdens would be imposed if all of the requirements of Item 6(b) were applied to registration statements.

In view of these comments, proposed Item 404(b) would require disclosure only of those relationships currently required to be disclosed under Items 6(b)(3), (4) and (5) that the Commission believes are necessary for informed voting and investment decisions. The Commission believes that proposed Item 404 strikes an appropriate balance between security holders' and investors' needs for meaningful information that may bear on the ability of directors to exercise independent judgment and the compliance costs that generating and disclosing this information entails. The differences between proposed Item 404(b) and current Items 6(b)(3), (4) and (5) are discussed in more detail below.

1. *Concurrent Relationships.* Item 6(b)(3) currently requires disclosure of any relationship where a director is, or has been within the last two full fiscal years, an officer, director or employee of, or owns, or has owned within the last two full fiscal years, in excess of one percent equity interest in, any entity that has been a significant customer, supplier or creditor during the registrant's last fiscal year or other appropriate period. Commentators have asserted that the requirement to trace directors' relationships over the previous two years results in disclosure of relationships that did not, in fact, exist when the transactions between the registrant and other entity took place.[20]

The Commission believes that conflicts of interest are most likely to arise when a director's relationship with a business entity and the registrant's relationship with such entity are concurrent. In addition, tracing directors' relationships over the two previous years imposes substantial burdens on registrants and may result, in certain instances, in misleading disclosure. Accordingly, the Commission is proposing to limit disclosure of directors' relationships with entities that have been significant customers, suppliers or creditors of the registrant during its last fiscal year to relationships that existed during that period.

2. *Director and Employee Relationships.* In the February Release, the Commission proposed to raise the thresholds of payments made or received or indebtedness incurred that must be met before a relationship with a customer, supplier or creditor is disclosable where the only relationship between the registrant and the other entity is the existence of a common nonemployee director. Many commentators stated that disclosure of relationships based solely on the existence of common directors should be eliminated altogether. These commentators opined, among other things, that such directors generally are unaware of transactions between the registrant and the other entity of which they are a director, and thus they are unlikely to be subject to conflicts of interest due to their relationships.

On the basis of the comments received and its own experience, the Commission believes that the need for disclosure of the existence of business dealings between entities with common directors does not justify the effort involved in making this determination. Accordingly, the Commission is not requiring disclosure based solely on common directorships under proposed Item 404(b). This is consistent with the exclusion in proposed Item 404(a) (based on Item 402(f)) for transactions in which a person's interest consists solely of a directorship with the other entity involved in the transaction.

The Commission also is proposing to eliminate disclosure where a director's relationship with a significant customer, supplier or creditor arises merely from the director's employment as other than an officer with the other entity. Situations where a person is a director of the registrant and also an employee, other than an officer, of the other entity are apt to arise infrequently.

3. *Equity Ownership.* In the February Release, the Commission proposed to raise, from one percent to five percent, the ownership threshold for disclosure of business relationships between the registrant and a significant customer, supplier or creditor in which a director has an equity interest. This proposal was overwhelmingly endorsed by commentators who agreed with the Commission that the increased threshold would help to reduce burdens and allow security holders to focus more readily on disclosure of more significant relationships. Accordingly, proposed Item 404(b) utilizes a five percent equity ownership threshold.

4. *Thresholds of Payments or Indebtedness.* Currently, a customer relationship is required to be disclosed under Items 6(b)(3)(i) and (ii) if the amount of payments made or proposed to be made to the registrant or its subsidiaries for property or services during the registrant's last full fiscal year exceeds one percent of the registrant's consolidated gross revenues for its last full fiscal year. Similarly, a supplier relationship is disclosable under Items 6(b)(3)(iv) and (v) if payments made or proposed to be made by the registrant or its subsidiaries for property or services during the other entity's last full fiscal year exceeds one percent of such other entity's consolidated gross revenues for its last full fiscal year.

In the February Release, the Commission proposed to raised the thresholds of payments, where the only relationship between the registrant and the other entity consists of the existence of a common nonemployee director, to five percent of the registrant's consolidated gross revenues, in the case of customers, and to five percent of the other entity's consolidated gross revenues, in the case of suppliers. Agreeing with the proposal, many commentators stated, furthermore, that the one percent thresholds are too low and do not focus on truly significant relationships, regardless of the nature of the relationship between the registrant and the other entity. To improve the quality of disclosure, commentators suggested across-the-board increases in the thresholds.

[19] Specifically, information on relationships would be required to be presented in Forms S–1 and S–11. In addition, such information would be required to be incorporated by reference into Forms S–2 (17 CFR 239.12) and S–3 (17 CFR 239.13) from the registrant's latest annual report on Form 10–K.

[20] For example, if during year one a nominee had the requisite equity interest in a company which in year two became the registrant's customer, but in year two the nominee no longer had an equity interest in the customer, then in fact there was no relationship or common interest, but Item 6(b)(3)(i) would require disclosure as if there were.

In view of these comments, the Commission is proposing to establish consolidated gross revenues thresholds of five percent in Items 404(b) (1) and (2). The Commission believes, however, that the significance of a customer or supplier relationship should be determined by reference to the percentage of business from the point of view of both the registrant and the other entity involved in the transaction. Accordingly, proposed Item 404(b) applies the five percent test to the consolidated gross revenues of the registrant and to the consolidated gross revenues of the other entity, regardless of whether the registrant is making or receiving payments.

Proposed Item 404(b)(2) also changes the time period over which payments made, or proposed to be made, by the registrant or its subsidiaries are measured from the other entity's last or current fiscal year to the registrant's last or current fiscal year. The proposed time period is consistent with that over which payments made to the registrant or its subsidiaries are measured under proposed Item 404(b)(1) (derived from Items 6(b)(3) (i) and (ii)).

In conformity with the change regarding payments, the Commission is proposing to incorporate into proposed Item 404(b) a five percent consolidated gross assets threshold of indebtedness that must be met before a relationship with a creditor is required to be disclosed. Current Item 6(b)(3)(iii) requires disclosure of a director's relationship with any entity to which the registrant or its subsidiaries was indebted, at any time during the last fiscal year, in excess of one percent of the registrant's consolidated gross assets, or $5,000,000, whichever is less. In the February Release, the Commission proposed to raise the consolidated gross assets threshold to five percent and to eliminate the alternative $5,000,000 threshold where the only relationship between the registrant and the creditor is the existence of a common nonemployee director. A substantial number of commentators advocated raising the percentage threshold and, in particular, eliminating the $5,000,000 alternative threshold regardless of the nature of the relationship between the registrant and the creditor, as they believed the alternative threshold imposed a greater burden on large companies whose indebtedness to any particular creditor may be in excess of $5,000,000 but less than one percent of the company's consolidated gross assets.

The Commission agrees that larger companies should not bear a disproportionate burden with respect to disclosure of relationships with creditors. Accordingly, the Commission, while setting the consolidated gross assets threshold in proposed Item 404(b)(3) at five percent, is not including the $5,000,000 alternative threshold therein.

5. *Relationships with Law and Investment Banking Firms.* Currently, Item 6(b)(4) requires disclosure of whether any director is a member or employee of, or is associated with, a law firm that the issuer has retained in the last two full fiscal years or proposes to retain in the current fiscal year. Item 6(b)(5) requires similar disclosure of relationships of directors with investment banking firms. In February Release, the Commission proposed to retain, as separate items, the requirements to disclose relationships with law and investment banking firms and to add a statement to the effect that a registrant would not be required to specify the amount of transactions between the registrant and the law or investment banking firm if such amount did not exceed $50,000.

The majority of the commentators supported this proposal, but argued that the $50,000 figure above which the Commission would require disclosure of the dollar amounts of payments was much too low to elicit important information for security holders, given the amounts that ordinarily are paid by companies each year for legal or investment banking services. In addition, a few commentators objected to relationships with law and investment banking firms being treated differently from relationships with other entities that supply services to the registrant, which would be disclosable only if certain thresholds were met.

The Commission is reevaluating the requirements concerning disclosure of relationships with law and investment banking firms in light of the changes in both the composition of boards of directors [21] and in the nature of relationships between registrants and law and investment banking firms. Proposed Items 404(b)(4) and (5) would continue to require disclosure of these relationships regardless of the dollar amount involved, but would permit the omission of the dollar amounts which do not exceed five percent of the law firm's gross revenues or the investment banking firm's consolidated gross revenues.[22] The Commission, however, solicits specific comment as to whether relationships with law and investment banking firms should be treated in the same fashion as relationships with other suppliers of services by requiring both the relationship and the dollar amount involved to be disclosed only if the five percent gross revenue threshold is met.

6. *Other Changes.* While incorporating various current disclosure requirements of Item 6(b)(3) into proposed Item 404(b), the Commission is proposing to clarify several of these disclosure provisions and to reduce the costs of compliance. First, the Commission is proposing to add Instruction 3B to Item 404(b), which, consistent with previous staff interpretations, would permit registrants to exclude amounts due for purchases subject to the usual trade terms in calculating their aggregate amount of indebtedness. This exclusion is based on a proposal in the February Release which was supported by commentators. The Commission believes that trade debt is more appropriately considered in connection with the calculation of amounts arising from customer and supplier relationships pursuant to proposed paragraphs (b)(1) and (2) of Item 404. In addition, this exclusion would result in the consistent treatment of trade debt for purposes of Item 404.

Second, the Commission is proposing that Item 404(b)(3), consistent with previous staff interpretations, refer to the aggregate amount of indebtedness as of the end of the registrant's fiscal year. This provision is derived from a similar proposal in the February Release that was supported by commentators.

The Commission also is proposing to permit the exclusion of payments for property or services when the transaction involves the rendering of services as a common or contract carrier, in addition to the exclusion in current Item 6(b)(3) which permits such exclusion when services are performed as a public utility. This proposal, which also is derived from the February Release, would be consistent with proposed paragraph (a) of Item 404.

Finally, the Commission is proposing to permit registrants, when computing aggregate amounts of payments for services or property or indebtedness under Item 404(b), to exclude payments made or received by, or indebtedness incurred by, certain *de minimis*

[21] *See* Release No. 34–18532 (March 3, 1982) (47 FR 10782) analyzing the results of the Commission's 1981 proxy monitoring program, which indicates a downward trend in the presence of lawyers and investment bankers on boards of directors.

[22] In order to treat these relationships in a more similar manner to those of other suppliers of services, proposed Items 404(b)(4) and (5) would not require disclosure of a director's position as an associate or employee of (other than of counsel to) a law or investment banking firm that provides services to the registrant.

subsidiaries. The proposal, derived from a proposal made in the February Release but modified in response to comments, is intended to reduce costs of compliance without a loss of significant information to investors.

The February Release proposed that payments made or received by five percent subsidiaries or indebtedness incurred by such subsidiaries be excluded from the calculations of payments or indebtedness. A "five percent subsidiary," in turn, was defined as a "significant subsidiary" under Rule 1–02(v) of Regulation S–X,[23] except that the applicable assets and income thresholds were to be five, rather than ten, percent. The exclusion was proposed to be made available, however, only if all five percent subsidiaries engaged in transactions, when considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary under Rule 1–02(v).

The proposal met with substantial criticism. Commentators objected that the introduction of the new "five percent subsidiary" concept would cause confusion and argued that the "significant subsidiary" concept contained in Rule 1–02(v) could be utilized in connection with the exclusion without any loss of meaningful information to security holders. Commentators also believed that the requirement to aggregate payments or indebtedness of all *de minimis* subsidiaries in determining whether the exclusion is applicable would impose substantial burdens on registrants that would outweigh any benefits that might otherwise be achieved.

In accordance with the views of commentators, the proposed exclusions utilize the existing concept of "significant subsidiary." Thus, proposed Instructions 2C and 3C to Item 404(b) permit registrants, when computing the aggregate amount of payments for services or property or indebtedness, to exclude payments made or received by, or indebtedness incurred by, subsidiaries other than significant subsidiaries as defined in Rule 1–02(v). However, this exclusion is proposed to be made available only if all subsidiaries other than significant subsidiaries engaged in transactions, when considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary.[24] The Commission continues to believe that, when the *de minimis* subsidiaries, in the aggregate, represent a material part of the registrant's business, such transactions would be important to investors.

C. Proposed Item 404(c)—Indebtedness of Management

In connection with the development of a uniform item on transactions and relationships, the Commission has examined Item 402 of Regulation S–K, the focus of which is management remuneration, with a view towards determining if any provisions contained therein, in addition to the provisions on transactions with management contained in Item 402(f), would be more appropriately included in proposed Item 404. On the basis of this examination, the Commission is proposing to move the provisions regarding disclosure of management indebtedness, currently elicited by Item 402(e), into proposed Item 404 as paragraph (c).[25] The Commission believes that information regarding loans is more appropriately elicited under a transactions disclosure item than a remuneration disclosure item.

The Commission is proposing several changes in the disclosure provisions regarding loans to management in connection with the inclusion of those provisions in proposed Item 404(c). First, the Commission proposes to modify the persons whose connections with management require that their indebtedness be disclosed under Item 404(c) to conform more closely to the persons whose transactions must be disclosed under Item 404(a).

Currently, Item 402(e) requires disclosure of indebtedness of directors, officers and nominees and associates of such persons. Through the definition of "associate" under Securities Act Rule 405 and Exchange Act Rule 12b–2, (17 CFR 240.12b–2), Item 402(e) covers substantially the same types of family relationships as currently are specified in Item 402(f). Just as the Commission believes that Item 402(f) is too limited in its coverage of relatives, and thus is broadening that coverage in proposed Item 404(a), it also believes that Item 402(e) is likewise too limited. Opportunities for obtaining loans from a registrant may arise for any close relatives of directors, officers, or nominees, regardless of where such relatives live or whether they are officers of the registrant's parents or subsidiaries. Accordingly, the Commission is proposing to apply the provisions regarding disclosure of loans to all relatives, provided that they are no more remote than first cousin.[26]

Second, the Commission is proposing to move the threshold of indebtedness that triggers disclosure, currently contained in Instruction 2 to Item 402(e), into the text of proposed Item 404(c) and to raise the threshold to be consistent with that applicable to transactions generally. Currently, Item 402(e) requires disclosure of aggregate indebtedness in excess of the lesser of $25,000 or one percent of the registrant's total assets, whereas the threshold applicable to transactions generally under proposed Item 404(a) is $50,000. The Commission believes that loans aggregating less than $50,000 are generally *de minimis* so that conforming the thresholds of transactions and indebtedness will ease compliance burdens without sacrificing information important to security holders.[27]

Third, the Commission is proposing to include the provisions currently contained in Instruction 1 to Item 402(e), concerning the naming of the person whose indebtedness is required to be disclosed, into the text of the proposed new item.

The Commission is proposing, as instructions to Item 404(c), instructions based on the provisions of existing Instructions 2, 3 and 4 to Item 402(e), with several modifications.[28] First, the exclusion in current Instruction 2 (proposed Instruction 1) for transactions in the ordinary course of business is proposed to be eliminated as duplicative of the exclusions for ordinary travel and expense advances. In connection with this, the Commission is proposing to eliminate, as unnecessary, the language in current Instruction 3 (proposed Instruction 2) that makes clear that the ordinary course of business exclusion

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[23] 17 CFR 210.1–02(v).

[24] For example, under proposed Instruction 2C, if a specified entity made payments for property or services to a subsidiary constituting 3 percent of the registrant's consolidated assets, to a subsidiary constituting 4 percent of the registrant's consolidated assets and to a subsidiary constituting 11 percent of the registrant's consolidated assets, the amount of the payments to the 3 and 4 percent subsidiaries could be disregarded in determining whether the disclosure is required under Item 404(b)(1). If, however, the same entity made payments to a subsidiary constituting 8 percent of the registrant's consolidated assets and to a subsidiary constituting 6 percent of the registrant's consolidated assets, the amount of these payments would be included in an Item 404(b)(1) computation.

[25] In connection therewith, Item 402(e) is proposed to be rescinded.

[26] The Commission is proposing to specify in Item 404(c) the persons currently covered by the term "associate" whose indebtedness will continue to be required to be disclosed, as well as the modified class of relatives.

[27] In this regard, related party transactions, including loans, must be disclosed in the financial statements, regardless of their size, if they are material. *See* Statement of Financial Accounting Standards No. 57 (March 1982).

[28] Instruction 5 (relating to disclosure of indebtedness in registration statements) is not proposed as an instruction to Item 404(c) as it is duplicative of proposed general Instruction 2.

does not permit registrants in the business of making loans to omit disclosure of loans in excess of the specified threshold.

Finally, the Commission is proposing to amend the remainder of current Instruction 3 (proposed Instruction 2), which exempts banks, savings and loan associations and broker-dealers extending credit under Federal Reserve Regulation T [29] from having to describe loans made in the ordinary course of business on substantially the same terms as those for comparable transactions that do not involve more than the normal risk of collectability, to limit the exemption to loans that are not nonperforming.[30] The Commission believes that abbreviated disclosure is not appropriate in the case of loans that are in default or as to which there are serious problems with respect to repayment.

This proposal is derived from a similar proposal made in the February Release, exept that disclosure is proposed to be required only of loans that were nonperforming at the end of the registrant's fiscal year, rather than at any time during the fiscal year. While comments on the proposal generally were supportive, commentators believed it would be unduly burdensome to have to determine whether loans had been nonperforming at any time during the fiscal year.[31]

D. Proposed Item 404(d)—Transactions With Promoters

The Commission believes that disclosure of transactions with promoters, currently elicited by Item 402(h) of Regulation S–K, may be more appropriately included with the other provisions concerning potential conflicts of interest in proposed Item 404. Accordingly, the Commission proposes to rescind Item 402(h) and to move the disclosure requirements of current Item 402(h) into Item 404, as paragraph (d), without proposing any changes in the substance of the provisions.

E. Transactions With Pension or Similar Plans

Finally, the Commission's examination of the provisions of Item 402 has led it to propose the rescission of current Item 402(g) regarding disclosure of transactions with pension or similar plans. The Commission believes that the item is unnecessary in view, among other things, of the extent to which affiliated transactions by pension plans generally are regulated under the Employee Retirement Income Security Act of 1974.[32] However, specific comments are requested as to whether such action will eliminate meaningful disclosure.

IV. Proposed Amendments to Item 6(b)

As a result of the proposed incorporation of the substantive requirements relating to disclosure of relationships with significant customers, suppliers and creditors into Item 404, the Commission is proposing new Items 6(b)(1) and (2) which instruct registrants to furnish the information required by Item 404 of Regulation S-K.[33] Proposed Item 6(b)(1) requires registrants to furnish the information required by Items 404 (a), (c) and (d). Proposed Item 6(b)(2) requires registrants, other than investment companies registered under the Investment Company Act, to furnish the information required by Item 404 (b). This limitation to registrants other than registered investment companies is consistent with current requirements.

In connection with its review of the requirements relating to disclosure of relationships, the Commission has reexamined the provisions of existing Items 6(b)(1) and (2) relating to disclosure of employment experience and family relationships of directors. Item 6(b)(1) currently requires disclosure of whether any director or nominee has during the past five years had a principal occupation or employment with any of the issuer's parents, subsidiaries or other affiliates. Item 401(e) of Regulation S-K calls for disclosure of a similar nature, requiring registrants to furnish a brief account of the business experience during the past five years of each director, executive officer, nominee for director or executive officer and certain other persons, including the person's principal occupation and employment during the period and the name and principal business of any corporation or other organization in which such occupations and employment were carried on.

The Commission believes that the existence of two items concerning past experience is duplicative and unnecessary. Accordingly, the Commission is proposing to rescind Item 6(b)(1) and amend Item 401(e) to require that registrants, in identifying any corporations or other organizations by which the enumerated persons have been employed during the past five years, indicate whether such corporation or organization is a parent, subsidiary or other affiliate of the registrant.

Item 6(b)(2) of Schedule 14A currently requires to indicate whether any director or nominee is related to any executive officer of the registrant's parents, subsidiaries or other affiliates. Disclosure of family relationships also is covered by Item 401(d) of Regulation S-K, which requires registrants to indicate family relationships between the registrant's executive officers, directors and nominees for executive officer or director.

The Commission believes that only one item pertaining to disclosure of family relationships is necessary. Accordingly, the Commission is proposing to rescind Item 6(b)(2). While current Item 6(b)(2) is slightly more expansive in that it includes relatives employed by parents, subsidaries and other affiliates, the Commission does not believe that such relationships are sufficiently important to investors that they must be disclosed. To the extent that a close relative of a director, including a relative that is an executive officer of a parent or subsidiary, has a material interest in a transaction involving the registrant, that interest would be disclosed under proposed Item 404(a).

Finally, the Commission proposes to rescind Item 6(b)(6) which requires disclosure if the nominee or director is a control person of the issuer. Based on its experience, the Commission believes that such disclosure does not add any material information to that which is otherwise available to security holders and investors.

V. Coordinating Amendments to Forms and Schedules

In coordination with the proposal of uniform Regulations S–K Item 404, the

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[29] 12 CFR Part 220.

[30] "Nonperforming" is proposed to be defined in a manner consistent with Industry Guide 3, "Statistical Disclosure by Bank Holding Companies." Thus, more information would be required with respect to loans that (i) are accounted for on a non-accrual basis; (ii) are contractually past due 90 days or more with respect to principal or interest; (iii) have been renegotiated to provide a reduction in principal or interest payments due to a deterioration in financial condition of the borrower; or (iv) are now current but about which serious doubts exist regarding compliance with repayment terms.

[31] Concurrent with this proposal, the Commission is proposing amendments to Article 9 of Regulation S–X, that, among other things, would revise the requirement to disclose aggregate indebtedness of related parties in excess of a specified amount and to require disclosure of nonperforming loans if they represent a significant portion of the total reported related party loans. Release No. 33–6417 (July 9, 1982). In that release, the Commission is proposing to rescind Schedule 1 which requires disclosure of loans from the registrant to its executive officers and principal shareholders. However, the Commission solicits specific comments as to whether that schedule should be included in proxy statements. Proposed Item 404 excludes such loans made in the ordinary course of business.

[32] 29 U.S.C. 1001 et seq.

[33] As discussed *infra*, current Items 6(b) (1) and (2) are proposed to be rescinded.

Commission is proposing to amend registration Forms S–1 and S–11 under the Securities Act, and Forms 10 and 10–K and Schedules 14A and 14C under the Exchange Act to require the information called for by Item 404. The Commission is also proposing certain renumbering changes necessitated by the addition of proposed Item 404 to such forms and schedules.[34]

VI. Request for Comment

Any interested person wishing to submit written comments on the proposed amendments, as well as on other matters that might have an impact on the proposals contained herein, are requested to do so. In addition to the issues raised above, the Commission requests comment on whether the proposed item and amendments, if adopted, would have an adverse effect on competition or would impose a burden on competition which is neither necessary nor appropriate in furthering the purposes of the Exchange Act. Comments on this inquiry should include, to the extent feasible, detailed empirical and evidentiary material in support of any conclusions, opinions or positions. Comment on this inquiry will be considered by the Commission in complying with its responsibilities under Section 23(a)(2) of the Exchange Act.

List of Subjects in 17 CFR Parts 229, 239, 249 and 249.

Reporting requirements and securities.

VII. Text of Proposals

In accordance with the foregoing, it is proposed to amend Title 17, Chapter II, of the Code of Federal Regulations as follows:

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933 AND SECURITIES EXCHANGE ACT OF 1934—REGULATION S-K

1. By revising paragraph (e)(1) of § 229.401 to read as follows:

§ 229.401 (Item 401) Directors and executive officers.

* * * * *

(e) *Business experience*—(1) *Background.* Give a brief account of the business experience during the past five years of each director, executive officer, person nominated or chosen to become a director or executive officer, and each person named in answer to paragraph (c) of this section. The account should set forth each person's principal occupations and employment during the past five years and the name and principal business of any corporation or other organization in which such occupations and employment were carried on, including whether such corporation or organization is a parent, subsidiary or other affiliate of the registrant. When an executive officer or person named in response to paragraph (c) of this section has been employed by the registrant or a subsidiary of the registrant for less than five years, a brief explanation shall be included as to the nature of the responsibility undertaken by the individual in prior positions to provide adequate disclosure of his prior business experience. What is required is information relating to the level of his professional competence, which may include, depending upon the circumstances, such specific information as the size of the operation supervised.

* * * * *

§ 229.402 [Amended]

2. By revising § 229.402 to change its title to Management remuneration, to remove paragraphs (e)–(h) and to redesignate paragraph (i) as paragraph (e).

3. By adding § 229.404 to read as follows:

§ 229.404 (Item 404) Certain relationships and related transactions.

(a) *Transactions with management and others.* Describe briefly any transaction, or series of similar transactions, since the beginning of the registrant's last fiscal year, or any currently proposed transaction, or series of similar transactions, to which the registrant or any of its subsidiaries was or is to be a party, in which the amount involved exceeds $50,000 and in which any of the following persons had, or is to have, a direct or indirect material interest, naming such person and indicating the person's relationship to the registrant, the nature of such person's interest in the transaction, the amount of such transaction and, where practicable, the amount of such person's interest in the transaction:

(1) Any director or officer of the registrant;

(2) Any nominee for election as a director;

(3) Any security holder who is known to the registrant to own of record or beneficially more than five percent of any class of the registrant's voting securities; and

(4) Any relative, by blood, marriage or adoption, of any of the foregoing persons who has no more remote relationship to such person than first cousin.

Instructions to Paragraph (a) of Item 404

1. No information need be given in answer to this Item 404(a) as to any transaction where:

A. The rates or charges involved in the transaction are determined by competitive bids, or the transaction involves the rendering of services as a common or contract carrier, or public utility, at rates or charges fixed in conformity with law or governmental authority;

B. The transaction involves services as a bank depository of funds, transfer agent, registrar, trustee under a trust indenture, or similar services;

C. The interest of the specified person arises solely from the ownership of securities of the registrant and the specified person receives no extra or special benefits not shared on a pro rata basis.

There may be situations where, although this instruction does not expresly authorize nondisclosure, the interest of a specified person in a particular transaction or series of transactions is not a direct or indirect material interest. In that case, information regarding such interest and transaction is not required to be disclosed in response to this paragraph. In determining the significance of the information to investors, the importance of the interest to the person having the interest, the relationship of the parties to the transaction with each other, and the amount involved in the transaction are among the factors to be considered.

2. In computing the amount involved in the transaction or series of similar transactions, include all periodic installments in the case of any lease or other agreement providing for periodic payments or installments.

3. This paragraph calls for disclosure of indirect, as well as direct, material interests in transactions. A person who has a position or relationship with a firm, corporation, or other entity that engages in a transaction with the registrant or its subsidiaries may have an indirect interest in such transaction by reason of such position or relationship. However, a person shall be deemed not to have a material indirect interest in a transaction within the meaning of this paragraph where:

A. The interest arises only (i) from such person's position as a director of another corporation or organization which is a party to the transaction; or (ii) from the direct or indirect ownership by such person and all other persons specified in paragraphs (a)(1) through (4) of this Item, in the aggregate, of less than a ten percent equity interest in another person (other than a partnership) which is a party to the transaction; or (iii) from both such position and ownership;

B. The interest arises only from such person's position as a limited partner in a partnership in which the person and all other persons specified in paragraphs (a)(1) through (4) of this Item had an interest of less than ten percent; or

C. The interest of such person arises solely from the holding of an equity interest (including a limited partnership interest but excluding a general partnership interest), or a creditor interest, in another person which is a party to the transaction with the registrant or

[34] When final action is taken on the amendments proposed herein, certain other technical amendments may be necessary.

any of its subsidiaries and the transaction is not material to such other person.

4. The amount of the interest of any specified person shall be computed without regard to the amount of the profit or loss involved in the transaction.

5. In describing any transaction involving the purchase or sale of assets by or to the registrant or any of its subsidiaries, otherwise than in the ordinary course of business, state the cost of the assets to the purchaser and, if acquired by the seller within two years prior to the transaction, the cost thereof to the seller. Indicate the principle followed in determining the registrant's purchase or sale price and the name of the person making such determination.

6. Information shall be furnished in answer to this paragraph with respect to transactions not excluded above which involve remuneration from the registrant or its subsidiaries, directly or indirectly, to any of the specified persons for services in any capacity unless the interest of such persons arises solely from the ownership individually and in the aggregate of less than ten percent of any class of equity securities of another corporation furnishing the services to the registrant or its subsidiaries.

(b) *Certain business relationships.* Describe any of the following relationships that exist, indicating the identity of the entity with which the registrant has such a relationship, the name of the nominee or director affiliated with such entity and the nature of such nominee's or director's affiliation, the relationship between such entity and the registrant and the amount of the business done between the registrant and the entity during the registrant's last full fiscal year or proposed to be done during the registrant's current fiscal year:

(1) If the nominee or director is an officer of, or owns of record or beneficially in excess of five percent equity interest in, any business or professional entity that has made during the registrant's last full fiscal year, or proposes to make during the registrant's current fiscal year, payments to the registrant or its subsidiaries for property or services in excess of five percent of the registrant's or other entity's consolidated gross revenues for its last full fiscal year;

(2) If the nominee or director is an officer of, or owns of record or beneficially in excess of five percent equity interest in, any business or professional entity to which the registrant or its subsidiaries has made during the registrant's last full fiscal year, or proposes to make during the registrant's current fiscal year, payments for property or services in excess of five percent of the registrant's or other entity's consolidated gross revenues for its last full fiscal year;

(3) If the nominee or director is an officer of, or owns of record or beneficially in excess of five percent equity interest in, any business or professional entity to which the registrant or its subsidiaries was indebted at the end of the registrant's last full fiscal year in an aggregate amount in excess of five percent of the registrant's total consolidated assets at the end of such fiscal year;

(4) If the nominee or director is a member of, or of counsel to, a law firm which the issuer has retained during the last fiscal year or proposes to retain during the current fiscal year, *Provided, however,* That the dollar amount of fees paid to a law firm by the registrant need not be disclosed if such amount does not exceed five percent of the law firms gross revenues for its last fiscal year.

(5) If the nominee or director is a director, partner or officer of any investment banking firm which has performed services for the registrant, other than as a participating underwriter in a syndicate, during the last fiscal year or which the registrant proposes to have perform services during the current year, *provided,* however, *that* the dollar amount of compensation received by an investment banking firm need not be disclosed if such amount does not exceed five percent of the investment banking firm's consolidated gross revenues for its last fiscal year;

(6) Any other relationships that the registrant is aware of between the nominee or director and the registrant that are substantially similar in nature and scope to those relationships listed above.

Instructions to Paragraph (b) of Item 404

1. In order to determine whether payments or indebtedness exceed five percent of the consolidated gross revenues of any entity other than the registrant for such entity's last full fiscal year, it is appropriate to rely on information provided by the nominee or director.

2. In calculating payments for property and services the following may be excluded:

A. Payments where the rates of charges involved in the transaction are determined by competitive bids, or the transaction involves the rendering of services as a common contract carrier, or public utility, at rates or charges fixed in conformity with the law or governmental authority;

B. Payments that arise solely from the ownership of securities of the registrant and no extra or special benefit not shared on a pro rata basis by all holders of the class of securities is received;

C. Payments made or received by subsidiaries other than significant subsidiaries as defined in Rule 1–02(v) of Regulation S–X [17 CFR 210.1–02(v)], provided that all such subsidiaries making or receiving payments, when considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary as defined in Rule 1–02(v).

3. In calculating indebtedness the following may be excluded:

A. Debt securities that have been publicly offered, admitted to trading on a national securities exchange, or quoted on the automated quotation system of a registered securities association;

B. Amounts due for purchases subject to the usual trade terms;

C. Indebtedness incurred by subsidiaries other than significant subsidiaries as defined in Rule 1–02(v) of Regulation S–X [17 CFR 210.1–02(v)], provided that all such subsidiaries incurring indebtedness, when considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary as defined in Rule 1–02(v).

(c) *Indebtedness of management.* If any of the following persons has been indebted to the registrant or its subsidiaries at any time since the beginning of the registrant's last fiscal year in an amount in excess of $50,000, indicate the name of such person, the nature of the person's relationship by reason of which such person's indebtedness is required to be described, the largest aggregate amount of indebtedness outstanding at any time during such period, the nature of the indebtedness and of the transaction in which it was incurred, the amount thereof outstanding as of the latest practicable date and the rate of interest paid or charged thereon:

(1) Any director or officer of the registrant;

(2) Any nominee for election as a director;

(3) Any corporation or organization (other than the registrant or a majority-owned subsidiary of the registrant) of which any of the persons specified in paragraphs 404(c)(1) or (c)(2) above is an officer or partner or is, directly or indirectly, the beneficial owner of ten percent or more of any class of equity securities;

(4) Any trust or other estate in which any of the persons specified in paragraphs 404(c)(1) or (c)(2) above has a substantial beneficial interest or as to which such person serves as a trustee or in a similar capacity; and

(5) Any relative, by blood, marriage or adoption, of any of the persons specified in paragraphs 404(c)(1) or (c)(2) above who has no more remote relationship to such person than first cousin.

Instructions to Paragraph (c) of Item 404

1. Exclude from the determination of the amount of indebtedness all amounts due from the particular person for purchases subject to usual trade terms and for ordinary travel and expense advances.

2. If the lender is a bank, savings and loan association, or broker-dealer extending credit under Federal Reserve Regulation T (12 CFR Part 220) and the loans are not nonperforming, disclosure may consist of a statement, if such is the case, that the loans to such persons (A) were made in the ordinary course of business, (B) were made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions with other persons, and (C) did not involve more than the normal risk of collectability or present other unfavorable features. For purposes of this instruction, "nonperforming loans" are loans that, at the end of the registrant's last fiscal year, were within any of the following categories: (i) Loans accounted for on a nonaccrual basis; (ii) loans contractually past due 90 days or more as to interest or principal payments; (iii) loans, the terms of which have been renegotiated to provide a reduction or deferral of interest or principal because of deterioration in the financial position of the borrower; or (iv) loans now current where there are serious doubts as to the ability of the borrower to comply with present loan repayment terms. A renewal on current market terms at maturity will not be considered a renegotiation within the meaning of clause (iii) of this instruction.

3. If any indebtedness required to be described arose under Section 16(b) of the Exchange Act and has not been discharged by payment, state the amount of any profit realized, that such profit will inure to the benefit of the registrant or its subsidiaries and whether suit will be brought or other steps taken to recover such profit. If, in the opinion of counsel, a question reasonably exists as to the recoverability of such profit, it will suffice to state all facts necessary to describe the transactions, including the prices and number of shares involved.

(d) *Transactions with promoters.* Registrants that have been organized within the past five years and that are filing a registration statement on Form S–1 under the Securities Act (§ 239.11 of this chapter) or on Form 10 under the Exchange Act (§ 249.210 of this chapter) shall:

(1) State the names of the promoters, the nature and amount of anything of value (including money, property, contracts, options or rights of any kind) received or to be received by each promoter, directly or indirectly, from the registrant and the nature and amount of any assets, services or other consideration therefor received or to be received by the registrant; and

(2) As to any assets acquired or to be acquired by the registrant from a promoter, state the amount at which the assets were acquired or are to be acquired and the principal followed or to be followed in determining such amount and identify the persons making the determination and their relationship, if any, with the registrant or any promoter. If the assets were acquired by the promoter within two years prior to their transfer to the registrant, also state the cost thereof to the promoter.

Instructions to Item 404

1. No information need be given in response to any paragraph of this Item as to any remuneration or other transaction reported in response to any other paragraph of this Item or to Item 402 of Regulation S–K (§ 229.402 of this chapter) or as to any remuneration or transaction with respect to which information may be omitted pursuant to any other paragraph of this Item or Item 402.

2. If the information called for by this Item is being presented in a registration statement filed pursuant to the Securities Act or the Exchange Act, the period for which the information called for shall be reported is the previous three years.

3. A non-Canadian foreign private issuer eligible to use Form 20–F (§ 249.220f of this chapter) may respond to this Item only to the extent that the registrant discloses to its security holders or otherwise makes public the information specified in this Item.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

4. By revising § 239.11 to add a new paragraph (m) to Item 11 as follows:

§ 239.11 Form S–1, registration statement under the Securities Act of 1933.

* * * * *

Item 11. *Information With Respect to the Registrant.*

* * * * *

(m) Information required by Item 404 of Regulation S–K (§ 229.404 of this chapter), certain relationship and related transactions.

* * * * *

5. By revising § 239.18 to renumber Items 23–35 as Items 24–36 and to add a new Item 23 to read as follows:

§ 239.18 Form S–11, for registration under the Securities Act of 1933 of securities of certain real estate companies.

* * * * *

Item 23. *Transactions with Management and Related Transactions.*

Furnish the information required by Item 404 of Regulation S–K (§ 229.404 of this chapter). If the information prescribed by Instruction 4 to Item 404(a) is included and the assets have been acquired by the seller within five years prior to the transaction, disclose the aggregate depreciation claimed by the seller for federal income tax purposes.

* * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

6. By revising paragraph (b) of Item 6 of § 240.14a–101 to read as follows:

§ 230.14a–101 Schedule 14A. Information required in proxy statement.

* * * * *

Item 6. *Directors and executive officers.*

* * * * *

(b)(1) Furnish the information required by Item 404 (a), (c) and (d) of Regulation S–K (§ 229.404 of this chapter).

(2) With respect to registrants other than investment companies registered under the Investment Company Act of 1940, furnish the information required by Item 404(b) of Regulation S–K (§ 229.404(b) of this chapter).

* * * * *

7. By revising paragraph (b) of Item 4 of § 240.14a–102 to read as follows:

§ 240.14a–102 Schedule 14B. Information to be included in statements filed by or on behalf of a participant (other than the issuer) pursuant to § 240.14a–11(c) (Rule 14a–11(c)).

* * * * *

Item 4. *Further matters.*

* * * * *

(b) Furnish for yourself and your associates the information required by Item 404 of Regulation S–K (§ 229.404 of this chapter).

* * * * *

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

8. By revising § 249.210 to renumber Items 7–14 as Items 8–15 and to add a new Item 7 to read as follows:

§ 249.210 Form 10, general form for registration of securities pursuant to section 12 (b) or (g) of the Securities Exchange Act of 1934.

* * * * *

Item 7. *Certain Relationships and Related Transactions.*

Furnish the information required by Item 404 of Regulation S–K (§ 229.404 of this chapter).

9. By revising § 249.310 to renumber Item 13 as Item 14 and to add a new Item 13 as follows:

§ 249.310 Form 10–K, annual report pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934.

* * * * *

Item 13. *Certain Relationships and Related Transactions.*

Furnish the information required by Item 404 of Regulation S–K (§ 229.404 of this chapter).

* * * * *

Statutory Authority

These amendments are being proposed pursuant to authority in Sections 6, 7, 8, 10 and 19(a) of the Securities Act of 1933 and Sections 12, 13, 14, 15(d) and 23(a) of the Securities Exchange Act of 1934.

(Secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85; secs. 205, 209, 48 Stat. 906, 908; sec. 301, 54 Stat. 857; sec. 8, 68 Stat. 685; sec. 1, 79 Stat. 1051; sec. 308(a)(2), 90 Stat. 57; secs. 12, 13, 14,

15(d), 23(a) 48 Stat. 892, 895, 901; secs. 1, 3, 8, 49 Stat. 1375, 1377, 1379; Sec. 203(a), 49 Stat. 704; sec. 202, 68 Stat; 680; secs. 3, 4, 5, 6, 78 Stat. 565–568, 569, 570–574, secs. 1, 2, 3, 82 Stat. 454, 455; secs. 28(c), "1, 2, 3–5, 84 Stat, 1435, 1497; sec. 105(b), 88 Stat. 1503; secs. 6, 9, 10, 18, 89 Stat. 117, 118, 119, 155; sec. 308(b), 90 Stat. 57; secs. 202, 203, 204, 91 Stat. 1994, 1498, 1499, 1500; 15 U.S.C. 77f, 77g, 77h, 77j ,77s(a), 78/, 78m, 78n, 78o(d), 78w(a))

By the Commission.

Dated July 9, 1982.

George A. Fitzsimmons,

Secretary.

Regulatory Flexibility Act Certification

I, John S. R. Shad, Chairman of the Securities and Exchange Commission, hereby certify, pursuant to 5 U.S.C. 605(b), that the proposed amendments published in Release No. 33–6416 (July 9, 1982) "Disclosure of Certain Relationships and Transactions Involving Management," will not, if promulgated, have a significant economic impact on a substantial number of small entities. The reasons for such certification are that, while all entities that are subject to the Commission's rules and regulations or that initially file registration statements on Forms S–1 or S–11 will be affected by the proposed amendments, it is not expected that such amendments will have a significant impact on any registrant.

In any event, those small entities that file registration statements on Form S–18 (an optional registration statement available to small entities and others) will be unaffected by the proposed amendments as such amendments will not be applicable to that form.

Dated: July 9, 1982.

John S. R. Shad,

Chairman.

[FR Doc. 82–19690 Filed 7–19–82; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79–76–098 (Montana—1)]

High-Cost Gas Produced From Tight Formations; Montana Public Hearing

July 14, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of hearing on proposed rule; date change.

SUMMARY: On July 1, 1982 the Commission issued a Notice of Public Hearing pertaining to high-cost gas produced from tight formations in Docket No. RM79–79–76–098 (Montana–1), (47 FR 29569 (July 7, 1982). The Hearing was scheduled for Tuesday, July 27, 1982. The Commission subsequently received a request from a party desiring to participate in the hearing to have the hearing date changed to avoid a scheduling conflict that the party had. Accordingly, the hearing is rescheduled for August 20, 1982.

DATES: The public hearing will be held on Friday, August 20, 1982, at 10:00 a.m. Requests to participate and amount of time requested should be directed to the Secretary of the Commission no later than August 16, 1982.

ADDRESS: The hearing will be held in a hearing room at the Federal Energy Regulatory Commission, 825 North Capitol St., NE., Washington, D.C. 20426.

Requests to participate and questions regarding participation should be directed to the Office of Secretary, 825 North Captiol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–19616 Filed 7–19–82; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 888

[Docket No. 78N–3028]

Orthopedic Devices; General Provisions and Classification of 77 Devices; Correction

AGENCY: Food and Drug Administration.

ACTION: Proposed rule; correction.

SUMMARY: In FR Doc. 82–17576 appearing at page 29052 in the Federal Register of Friday, July 2, 1982, the following correction is made: On page 29052 in the first column in the heading, [DOCKET NO. 78N–2830] is corrected to read [DOCKET NO. 78N–3028].

FOR FURTHER INFORMATION CONTACT: Agnes B. Black, Federal Register Writer's Office (HFC–11), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2994.

Dated: July 12, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82–19468 Filed 7–19–82; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Parts 206, 207, and 209

Fishing, Hunting, and Navigation Regulations; Removal and Amendment of Obsolete Provisions

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Corps of Engineers proposes to amend the Fishing and Hunting and Navigation Regulations in Title 33 by revoking certain sections and amending other sections where identified as obsolete or unnecessary. This is part of the Corps ongoing program to improve its regulations.

DATE: Comments must be received on or before August 19, 1982.

ADDRESS: HQDA, DAEN-CWO-N, Washington, D.C. 20314

FOR FURTHER INFORMATION CONTACT: Mr. Ralph T. Eppard, at (202) 272–0200.

SUPPLEMENTARY INFORMATION: The Corps of Engineers has reviewed the regulations in 33 CFR Parts 206, 207 and 209 with a view toward amending or deleting obsolete or unnecessary sections. The following is a list of regulations affected by this proposal and the reason for the proposed change.

1. *Part 206 Fishing and Hunting Regulations (removed and reserved.)* On 16 November 1979 (44 FR 65977–86) the Corps published final rules that revoked most of the fishing and hunting regulations and held the revocation of the remaining regulations in Part 206 in abeyance pending further study. Our current study supports the position that was taken previously that the regulations in Part 206 are unnecessary and may be contradictory in view of the issuance of nationwide permits for marine life harvesting devices in 33 CFR Part 330. It should be noted that these marine life harvesting devices will continue to be subject to regulation by the Corps. If additional control is necessary in the future the district engineers may through public notices, designate and publicize the areas considered to be acceptable for fishing and hunting structures.

2. *Part 207 Navigation Regulations.* We have reviewed the regulations in Part 207 and have identified many that no longer serve the intended purpose and accordingly are obsolete and should be deleted in their entirety. Other regulations in Part 207 are amended to

revoke obsolete and unnecessary requirements.

Section 207.473 Waukegan Harbor, Illinois, is removed from the index. This section was deleted by a previous action.

The following navigation regulations in Part 207 are obsolete. We propose to delete them.

Section 207.37 Jamaica Bay, Long Island, N.Y., Seaplane restricted area.
Section 207.90 Delaware River, Pa.; use of Government landing pier at Marcus Hook.
Section 207.280 White River, Ark.; use, administration and navigation of locks in upper White River.
Section 207.290 Current River above Van Buren, Mo.; logging.
Section 207.400 Duluth—Superior Harbor, Minn., and Wis.; use, administration and navigation, and bridge regulations.
Section 207.410 Keweenaw Waterway, Mich.; use, administration and navigation.
Section 207.490 Cheboygan River, Mich.
Section 207.611 St. Lawrence River from Tibbets Point to Raquette River, excluding the section between Eisenhower Lock and Snell Lock, N.Y.; use, administration and navigation in U.S. Waters.
Section 207.613 Pacific Ocean; U.S. Navy restricted area in vicinity of Scripps Institution of Oceanography Pier, La Jolla, Calif.
Section 207.655 Roque River, Oregon; logging.
Section 207.660 Coquille River, Oregon, logging on North Fork between its mouth and Gravel Ford, at the junction of the North and East Forks.
Section 207.663 South Fork of Coos River, Oreg.; logging in tidal section.
Section 207.720 Willapa Bay and tributaries, Wash.; logging.
Section 207.730 Grays Harbor and tributaries, Wash.; logging.
Section 207.770 Snoqualmie and Snohomish Rivers, Wash.; logging.
Section 207.780 Sammamish River, Wash.; logging.

3. The following regulations in Part 207 are amended to remove obsolete and unnecessary requirements.

Section 207.180 All waterways tributary to the Gulf of Mexico (except the Mississippi River, its tributaraies, South and Southwest Passes and the Atchafalaya River) from St. Marks, Fla., to the Rio Grande; use, administration and navigation. Revise paragraph (d)(5) to change VHF Channel from 16 to 14.

Section 207.187 Gulf Intracoastal Waterway, Tex.; special floodgate lock and navigation regulations. In paragraph (c)(1) and (2) change 1.5 miles per hour to 2 miles per hour, add reference to head differential at the Colorado River Locks in (2) and in paragraph (c)(6)(i) delete 2738 kilocyles and replace with "VHF–FM Channels 12, 13, and 16."

Section 207.476 The Inland—lock in Crooked River, Alason, Mich., use, administration and navigation. Paragraph (c) is amended to read "Operation—The lock operating season will commence and close as determined by the district engineers, Corps of Engineers in charge of the locality, depending on conditions and the need for lockage services. Public notices will be issued announcing the opening and closing dates at least 15 days in advance of such dates". Paragraph (g) is deleted and paragraph (h) is redesignated as (g).

Section 207.614 Pacific Ocean off the east coast of San Clemente Island, Calif., Naval restricted areas. In paragraph (a) *The Area.* The reference to "the Naval Restricted Anchorage Area, as described in § 202.218 (Anchorage Regulations) of this chapter", is changed to ". . . the restricted anchorage area described in § 110.218 of this chapter. . ."

Section 207.640 San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, San Joaquin River and connecting waters, Calif. Delete paragraph (d) San Francisco Bay at South San Francisco, seaplane restricted area. The area is no longer used for its intended purpose.

4. *Part 209—Administrative Procedure* is amended with respect to § 209.330 *Lake Survey Office* which is obsolute. We are holding in abeyance all other changes to Part 209 to allow time for further study. Part 209 will be reviewed and revised as necessary in the near future.

List of Subjects in 33 CFR

Part 206

Fisheries, Fishing, Waterways, Hunting.

Part 207

Navigation, Waterways.

Note.—The Chief of Engineers has determined that this document does not contain a major rule requiring a regulatory impact analysis under Executive Order 12291 because it will not result in an annual effect on the economy of $100 million or more and it will not result in a major increase in coasts or prices. The Chief of Engineers has also determined that this proposed rule will not have a significant economic impact on a substantial number of entities and thus does not require the preparation of a regulatory flexibility analysis.

(40 Stat. 266; 33 U.S.C. 1 and 43 U.S.C. 1333(e))

Dated: June 30, 1982.

James W. Ray,

Colonel, Corps of Engineers, Executive Director, Engineer Staff.

For the reasons cited above, it is proposed to amend 33 CFR Parts 206, 207 and 209 as follows:

PART 206 [REMOVED AND RESERVED]

1. 33 CFR Part 206—Fishing and Hunting Regulations is removed and reserved.

PART 207—NAVIGATION REGULATIONS

2. The table of contents for Part 207 is amended by removing the entry for § 207.473 *Waukegan Harbor, Ill.*

§ 207.37 [Removed]

2a. Section 207.37 *Jamaica Bay, Long Island, N.Y., seaplane restricted area* is removed.

§ 207.90 [Removed]

3. Section 207.90 *Delaware River, Pa.; use of Government landing pier at Marcus Hook* is removed.

4. Paragraph (d)(5) in § 207.180 is revised to read as follows:

§ 207.180 All waterways tributary to the Gulf of Mexico (except the Mississippi River, its tributaries, South and Southwest Passes and the Atchafalaya River) from St. Marks, Fla., to the Rio Grande; use, administration and navigation.

* * * * *

(d) Locks and floodgates. * * *

(5) *Radiophone.* Locks will monitor continously VHF—Channel 14 ("Safety and Calling" Channel) and/or AM–2738 kHz for initial communication with vessels. Upon arrival at a lock, a vessel equipped with radio-phone will immediately advise the lock by radio of its arrival so that the vessel may be placed on proper turn. Information transmitted or received in these communications shall in no way effect the requirements for use of sound signals or display of visual signals, as provided in paragraphs (d) (3) and (4) of this section.

5. Paragraphs (c)(1), (c)(2) and (c)(6) of § 207.187 are revised to read as follows:

§ 207.187 Gulf Intracoastal Waterway, Tex.; special floodgate, lock and navigation regulations.

* * * * *

(c) *Operation of floodgates and locks*—(1) *Unlimited passage.* The floodgates and locks shall be opened for the passage of single vessels and towboats with single or multiple barges when the current in the river is less than

2 miles per hour and the head differential is less than 0.7 foot. When the head differential is less than 0.7, the Colorado River locks shall normally be operated as floodgates, using only the riverside gates of each lock.

(2) *Limited passage.* When the current in either river exceeds 2 miles per hour or the head differential at the Brazos River floodgates is between the limits of 0.7 foot and 1.8 feet, both inclusive, or the head differential at the Colorado River locks is 0.7 foot or greater, passage shall be afforded only for single vessels or towboats with single loaded barges or two empty barges. When two barges are rigidly assembled abreast of each other and the combined width of both together is 55 feet or less, they shall be considered as one barge. Each section of an integrated barge shall be considered as one barge, except when it is necessary to attach a rake section to a single box section to facilitate passage, the two sections shall be considered as one barge. It shall be the responsibility of the master, pilot or other person in charge of a vessel to determine whether a safe passage can be effected, give due consideration to the vessel's power and maneuverability, and prevailing current velocity, head differential, weather and visibility. If conditions are not favorable, passage shall be delayed until conditions improve and a safe crossing is assured.

* * * * *

(6) *Communication*—(i) *Radio.* The floodgates and locks are equipped with short wave radio equipment transmitting and receiving on VHF—FM Channels 12, 13, 14 and 16. Call letters for the floodgates are WUI 411 and for the locks are WUI 412.

(ii) *Telephone.* The floodgates and locks are equipped with telephone facilities. The floodgates may be reached by phoning Freeport, Tx, 713–233–1251; the locks may be reached by phoning Matagorda, Tx, 713–863–7842.

* * * * *

§ 207.280 [Removed]

6. Section 207.280 *White River, Ark.; use, administration, and navigation of locks in upper White River* is removed.

§ 207.290 [Removed]

7. Section 207.290 *Current River above Van Buren, Mo.; logging* is removed.

§ 207.400 [Removed]

8. Section 207.400 *Duluth-Superior Harbor, Minn. and Wis.; use, administration, and navigation, and bridge regulations* is removed.

§ 207.410 [Removed]

9. Section 207.410 *Keweenaw Waterway, Mich.; use, administration, and navigation* is removed.

10. In § 207.476, paragraph (c) is revised, paragraph (g) is removed, and paragraph (h) is revised and redesignated as (g) to read as follows:

§ 207.476 The Inland Route—Lock in Crooked River, Alanson, Mich., use, administration, and navigation.

* * * * *

(c) *Operation.* The lock operating season will commence and close as determined by the district engineers, Corps of Engineers in charge of the locality, depending on conditions and the need for lockage services. Public notices will be issued announcing the opening and closing dates at least 15 days in advance of such dates.

* * * * *

(g) *Precedence at lock.* The craft arriving first at the lock shall be first to lock through; but precedence will be given to craft belonging to the United States or other local government entities, such as state, county, or municipality. Arrival posts may be established above and below the lock. Craft arriving at or opposite such posts or markers will be considered as having arrived at the locks within the meaning of this paragraph.

§ 207.490 [Removed]

11. Section 207.490 *Cheboygan River, Mich.* is removed.

§ 207.611 [Removed]

12. Section 207.611 *St. Lawrence River from Tibbets Point to Raquette River, excluding the section between Eisenhower Lock and Snell Lock, N.Y.; use, administration, and navigation in U.S. waters* is removed.

§ 207.613 [Removed]

13. Section 207.613 *Pacific Ocean; U.S. Navy restricted area in vicinity of Scripps Institution of Oceanography Pier, La Jolla, Calif.* is removed.

14. Paragraph (a) of § 207.614 is revised to read as follows:

§ 207.614 Pacific Ocean off the east coast of San Clemente Island, Calif., Naval restricted areas.

(a) *The area.* The waters of the Pacific Ocean within an area extending easterly from the east coast of San Clemente Island, California, described as follows: The northerly boundary to be a continuation, to seaward of the existing southerly boundary of the restricted anchorage area, as described in 110.218 of this chapter, to latitude 33°00.3′N., longitude 118°31.1′W.; thence to latitude 32°58.6′N., longitude 118°30.0′W.; thence to latitude 32°57.9′N., longitude 118°31.3′W on the shoreline; thence northerly along the shoreline to the point of beginning.

* * * * *

15. Paragraph (d) regarding San Francisco Bay at South San Francisco; seaplane restricted area in § 207.640 is removed and reserved.

§ 207.640 San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, San Joaquin River, and connecting waters, Calif.

* * * * *

(d) [Removed and reserved]

* * * * *

§ 207.655 [Removed]

16. Section 207.655 *Roque River, Oregon; logging* is removed.

§ 207.660 [Removed]

17. Section 207.660 *Coquille River, Oregon; logging on North Fork between its mouth and Gravel Ford, at the junction of the North and East Forks* is removed.

§ 207.663 [Removed]

18. Section 207.663 *South Fork of Coos River, Oreg.; logging in tidal section* is removed.

§ 207.720 [Removed]

19. Section 207.720 *Willapa Bay and tributaries, Wash.; logging* is removed.

§ 207.730 [Removed]

20. Section 207.730 *Grays Harbor and tributaries, Wash.; logging* is removed.

§ 207.770 [Removed]

21. Section 207.770 *Snoqualmie and Snohomish Rivers, Wash.; logging* is removed.

§ 207.780 [Removed]

22. Section 207.780 *Sammamish River, Wash.; logging* is removed.

PART 209—ADMINISTRATIVE PROCEDURE

§ 209.330 [Removed]

23. Section 209.330 *U.S. Lake Survey Office* is removed.

[FR Doc. 82-19312 Filed 7-19-82; 8:45 am]
BILLING CODE 3710-92-M

FEDERAL MARITIME COMMISSION

46 CFR Parts 536 and 538

[Docket No. 82-35]

Procedures and Requirements for Currency Adjustment Factors

AGENCY: Federal Maritime Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Currency adjustment factors (CAF) are a major concern to the shipping public and an effective system which is fair and reasonable to carriers, conferences, and shippers is required. This would establish a simplified and uniform procedure for the publishing and filing of currency adjustment factors. These provisions would require the filing of CAF schedules for each trade currency by carriers and conferences to govern the imposition of surcharges and discounts to be applied on rates in those trades. If finalized this rule would replace the current procedures and requirements for currency adjustment factors found in 46 CFR 538.4.

DATE: Comments due on or before September 20, 1982.

ADDRESS: Comments (original and fifteen copies) to: Francis C. Hurney, Secretary, Federal Maritime Commission, Room 11101, 1100 L Street NW., Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, (202) 523-5725.

SUPPLEMENTARY INFORMATION: The proposed amendment is intended to establish a uniform procedure for publishing currency adjustment factors (CAFs) by all common carriers by water in the U.S. foreign commerce and conferences of such carriers, including non-vessel operating common carriers (NVOCCs). It has been developed from a methodology employed by some conferences in the Canadian continental trades. The system would operate as follows:

Carriers and conferences would file CAF schedules in their tariffs to indicate when, and to what extent, currency surcharges and discounts are to be applied to base ocean freight rates. Whenever a carrier or conference wishes to impose a CAF, it would be required to do so using those schedules. The base level of currency values to be used in the construction of the schedules is to be established for each of the selected trade currencies, relative to the tariff currency, in a given trade.[1]

The exchange rates—obtained from any suitable media source such as the *Wall Street Journal, Journal of Commerce,* or *London Financial Times,* etc.—will serve as the basis for the CAF schedules, to be developed for each trade currency to apply on cargo destined to that nation's ports. This may or may not be a major trade currency; its selection being solely at the discretion of a carrier or conference. In order to satisfy statutory notice requirements, carriers and conferences offering dual rate contracts approved by the Commission pursuant to section 14b of the Shipping Act (46 U.S.C. *813a*) and desiring to publish a CAF provision would be required to file such provision with the Commission no less than 90 days prior to their effective dates. All other carriers and conferences would file CAF tariff provisions at least 30 days in advance of their effectiveness.

A CAF tariff provision could be filed, or updated, at any time but would only become effective on the first day of a month after all applicable statutory notice requirements are met. On the first market day of each succeeding month, on or after the effective date, CAFs would be applied for the full month in accordance with these schedules depending on relative currency values published that day in a selected media source. The schedules are to be constructed so that no CAFs can be imposed in any month unless the value of a trade currency exceeds a two percent minimum deviation from the tariff currency base exchange rate. Each time the schedules are updated, for whatever reason, they will change depending upon the existing exchange rate values of the selected trade currencies in relation to the tariff currency.

The CAF schedules are not to be developed on a one-for-one basis, but rather on a 50 percent factor of the nominal change in the value of the trade currencies of the nations served.[2] Under this system, unless this 50 percent result equals or exceeds a 2 percent currency change at intervals of 2 percent at the beginning of each monthly period, there would be no currency adjustment or change in the adjustment.

A carrier, or conference, which elects to impose CAFs at a subsequent date, or an independent carrier entering the trade, would be required to file currency schedules and, in addition, would be subject to the statutory notice requirements. Any CAFs filed pursuant to this rule would not be valid unless they were imposed in accordance with a currently effective schedule.

This system for each selected trade currency trade currency will eliminate differences in currency adjustment factors applied on cargo with the same destination country to and from all U.S. ports. The currency adjustment would be applied only upon the base rate. This system, however, will not require the submission of any operating expense or revenue data to justify CAF levels. The only mandatory feature is that carriers and conferences publish CAF schedules for each selected trade currency in their tariffs if they choose to file currency adjustment factors. The selection of the trade currencies involved would be at the discretion of the carrier or conference. An example of the currency schedules as applied to the German mark and Japanese yen is contained in paragraph (f) of the proposed rule. Other selected currency exchange rates in multi-currency trades would follow a similar but separate arrangement. CAs determined from these sample currency schedules would apply on cargo moving to or from German and Japanese ports.

The Commission finds that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act (5 U.S.C. 601). Section 601(2) of the Act exempts from its coverage any "rule of particular applicability relating to rates, * * * or practices relating to such rates * * *" As this proposed rule clearly relates to rates and rate practices, and applies only to those particular carriers which elect to publish CAFs, the Regulatory Flexibility Act requirements are determined to be inapplicable.

Information collection requirements contained in this proposed regulation (section 536.16(a) through (f)) must be approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (P.L. 96-511). A copy of this proposed rule is being forwarded to O.M.B. for their action.

[1] The U.S. dollar is the tariff currency in most cases. However, this system could also operate using another tariff currency.

[2] The amount of a CAF at any moment in a given trade represents 50 percent of the magnitude of the change in the value of a trade currency in relation to the tariff currency. This is based on the assumption that no more than one half of any currency change should affect carriers. While this system is not concerned with trade expenses in major operating currencies, it effectively operates under that same theoretical concept. Under the latter hypothesis, the percentage of expenses in the tariff currency is determined and excluded in CAF computations. No CAF system can, or should, be based on 100 percent of the currency changes since whatever share of the expenses is incurred in the tariff currency will act to limit the size of a CAF. Based on experience, and the difficulty in making valid predictions about future exchange rate fluctuations, a 50 percent factor does not appear unreasonable and any adverse effects created under this system should even out over time.

List of Subjects in 46 CFR Parts 536 and 538

Marine carriers, Rate.

Therefore, pursuant to 5 U.S.C. 552 and 553 and sections 14(b), 15, 18(b) and 43 of the Shipping Act, 1916 (46 U.S.C. 813a, 814, 817(b) and 841a), Parts 536 and 538 of 46 CFR are proposed to be amended to:

PART 536—PUBLISHING AND FILING TARIFFS BY COMMON CARRIERS IN THE FOREIGN COMMERCE OF THE UNITED STATES

I. Add a new § 536.16 which reads as follows:

§ 536.16 Requirements for Filing Currency Adjustment Factors (CAFs).

(a) No adjustments in rates based upon fluctuations in the exhange rate of the tariff currency shall be accepted for filing *unless* the carrier or conference has also filed in its tariff a currency adjustment factor (CAF) provision, incorporating currency schedules allowing for surcharges and discounts. Such provisions must conform with all of the requirements of this section. Tariff matter containing currency adjustment factors of any type not conforming to these requirements, or otherwise not in accord with statutory notice requirements, will be rejected.

(b) Currency schedules governing the level of currency surcharges or discounts to be applied on base rates are to be computed on the basis of exchange rate relationships prevailing at a date within 30 days prior to the filing of a currency schedule. The date chosen by the carrier or conference will serve as the base date for exchange rate values to be established for each of the selected trade currencies relative to the tariff currency. These exchange rates, obtained from any suitable media source, will be used to construct the currency schedules applying to CAF levels for each trade selected. A separate CAF schedule is to be constructed for each selected trade currency of a country served to govern all CAFs applied on cargo destined to or from that nation's ports. On the first market day of each succeeding month on or after the effective date of a CAF tariff provision, surcharges and discounts—to be effective for the entire month—will be determined from these schedules depending on the rates of exchange published in the selected media source.

(c) No CAFs shall be imposed in any month unless currency values exceed a 2 percent minimum deviation from the base. The schedules are to be constructed on a 50 percent factor of the nominal change in the value of the selected trade currencies in relation to the tariff currency. Unless this 50 percent result equals or exceeds a 2 percent currency change at intervals of 2 percent at the beginning of a month, there shall be no currency adjustment or change in the adjustment. The schedules may be updated at any time based upon the exchange values of the trade currencies prevailing at the time of such filings. The first CAF adjustment under a new schedule cannot be imposed prior to the first market day of a month following the effective date of the revised currency clause.

(d) CAF tariff provisions filed by carriers and conferences operating dual rate system approved pursuant to section 14(b) of the Shipping Act, 1916 (46 U.S.C. 813a), must be filed with the Commission no later than 90 days prior to their effective dates. CAF tariff provisions filed by all other carriers and conferences must be filed no less than 30 days prior to their effective dates. While CAF tariff provisions may be filed or updated at any time at the discretion of a carrier or conference, any CAFs imposed must be filed in accordance with currency schedules in effect at the time.

(e) The selection of trade currencies will be at the discretion of the carrier or conference. However, the pertinent market and media sources for the exchange rate information used in the construction of the currency schedules shall be indicated in the tariff.

(f) The following is an example of a CAF tariff provision as it would apply to two trade currencies, the German mark and Japanese yen, in the trade between the U.S. and German or Japanese ports.

Currency Adjustment Factor (CAF) Tariff Provision

The U.S. dollar or any other currency in which a quotation is made is only to be used to express the value at the moment of quoting. The rates in this tariff are in U.S. dollars and have been based on the following rates of exchange in effect on April 1, 1981:

U.S. dollar=D.M. 2.0990
U.S. dollar=Japanese yen 212.60
U.S. dollar=Fr. Frs. 4.9550
U.S. dollar=H. Florins 2.3225
U.S. dollar=(Other selected currency exchange rates depending on countries within scope of tariffs.)

Any fluctions of 2 percent or more from the above base currency rates, as indicated by the exchange rates in the New York foreign exchange market (Wall Street Journal), on the first market day of each succeeding month beginning with May 1981 will automatically invoke a surcharge or discount in accordance with the following schedules:

CAF SCHEDULE APPLIED TO CARGO SHIPPED BETWEEN U.S. AND W. GERMAN PORTS

Range of D.M exchange values per U.S. dollar	CAF
2.520 to 2.561	10% discount.
2.478 to 2.519	9% discount.
2.436 to 2.477	8% discount.
2.394 to 2.435	7% discount.
2.352 to 2.393	6% discount.
2.310 to 2.351	5% discount.
2.268 to 2.309	4% discount.
2.226 to 2.267	3% discount.
2.184 to 2.225	2% discount.
2.142 to 2.183	1% discount.
2.058 to 2.141 (mid-point DM 2.0990)	Tariff rates
2.016 to 2.057	1% surcharge.
1.974 to 2.015	2% surcharge.
1.932 to 1.973	3% surcharge.
1.890 to 1.931	4% surcharge.
1.848 to 1.889	5% surcharge.
1.806 to 1.847	6% surcharge.
1.764 to 1.805	7% surcharge.
1.722 to 1.763	8% surcharge.
1.680 to 1.721	9% surcharge.
1.638 to 1.679	10% surcharge.

CAF SCHEDULE APPLIED TO CARGO SHIPPED BETWEEN U.S. AND JAPANESE PORTS

Range of Japanese yen exchange values per U.S. dollar	CAF
255.13 to 259.37	10% discount.
250.88 to 255.12	9% discount.
246.63 to 250.87	8% discount.
242.37 to 246.62	7% discount.
238.12 to 242.36	6% discount.
233.87 to 238.11	5% discount.
229.62 to 233.86	4% discount.
225.37 to 229.61	3% discount.
221.11 to 225.36	2% discount.
216.86 to 221.10	1% discount.
208.36 to 216.85 (mid-point 212.60 yen)	Tariff rates
204.11 to 208.35	1% surcharge.
199.85 to 204.10	2% surcharge.
195.60 to 199.84	3% surcharge.
191.35 to 195.59	4% surcharge.
187.10 to 191.34	5% surcharge.
182.85 to 187.09	6% surcharge.
178.59 to 182.84	7% surcharge.
174.34 to 178.58	8% surcharge.
170.09 to 174.33	9% surcharge.
165.84 to 170.08	10% surcharge.

Should any fluctuation extend beyond the foregoing limits, the currency schedules may be extended at any time. For purpose of this rule, the rates of exchange published in the selected media source, *Wall Street Journal, Journal of Commerce,* or *London Financial Times,* etc.—to be indicated in the tariff—on the first market day of a month will be used as the basis for determining the appropriate surcharge or discount for that month. The currency schedules may be updated at any time subject to statutory notice. Irrespective of any quotation/bookings/contracts, whether firm or provisional, these adjustments will not be subject to the carrier or conference quotation period. For the purposes of this rule, the Bill of Lading date will govern the appropriate currency surcharge or discount.

§ 536.4 [Amended]

II. Amend § 536.4(f) to add the term "currency adjustment factor" after the word "surcharge."

§ 536.5 [Amended]

III. Amend § 536.5(d)(10) to add the term "currency adjustment factor" after the word "surcharge."

PART 538—DUAL RATE CONTRACT SYSTEMS IN THE FOREIGN COMMITTEE OF THE UNITED STATES

§ 538.4 [Removed]

IV. Remove § 538.4.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82-19628 Filed 7-19-82; 8:45 am]
BILLING CODE 6730-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1032

[Ex Parte No. 137]

Contracts for Protective Services

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time to file comments to proposed removal of regulations.

SUMMARY: In the Federal Register notice of June 18, 1982 (47 FR 26409), the date comments were due in this proceeding on the proposed exemption of contracts for protective services against heat or cold provided to or on behalf of rail carriers and express companies and the related proposed removal of regulations was July 19, 1982. At the request of the Chessie System Railroads, the due date has been postponed to August 2, 1982. Parties who have already filed comments are free to file supplemental statements by that date; however, such comments cannot reply to previously filed comments. The proposed removal of regulations and the notice of proposed exemption published at 47 FR 26463, June 18, 1982, will be considered in a single proceeding and parties need not file duplicating comments.

DATE: Comments are due August 2, 1982.

ADDRESS: Send original and 15 copies to: Ex Parte No. 137, Interstate Commerce Commission, Room 5340, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275-7278.

Dated: July 15, 1982.

By the Commission, Reese H. Taylor, Jr., Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-19668 Filed 7-19-82; 8:45 am]
BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 47, No. 139
Tuesday, July 20, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

National Advisory Council on Rural Development; Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–163), notice is hereby given of a meeting of the National Advisory Council on Rural Development. The meeting will be held on August 4 and August 5, 1982 at the Gold Kist/Cotton States Building, 244 Perimeter Center Parkway, NE., Atlanta, Georgia 30346.

The purpose of the meeting will be to develop preliminary policy options related to rural development issues and to continue the discussion of specific assignments for the remainder of fiscal year 1982.

The meeting will be open to the public. In order to provide opportunity for the public to comment on the work of the Council, written statements will be received two weeks prior to and two weeks following the meeting. Due to the press of business, however, public participation will be limited to written statements. Views and comments will be addressed in writing, and, when deemed appropriate by the Co-Chair, may be addressed orally at the next meeting of the council.

Written comments, both prior to and following the meeting, should be addressed to: Mr. Willard (Bill) Phillips, Jr., Director, Office of Rural Development Policy, Room 4128–S, United States Department of Agriculture, 12th and Independence, SW., Washingtom, D.C., (202) 382–0044.

Dated: July 14, 1982.

Willard Phillips, Jr.,

Director, Office of Rural Development Policy.

[FR Doc. 82–19607 Filed 7–19–82; 8:45 am]
BILLING CODE 3410–07–M

Food and Nutrition Service

Child Care Food Program; National Average Payment Rates and Day Care Home Food Service Payment Rates for the Period July 1, 1982–June 30, 1983

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice informs the public of adjustments in the national average payment rates for meals served in centers and the food service payment rates for meals served in day care homes to reflect changes in the Consumer Price Index. Further adjustments are made to these rates to reflect the higher costs of providing meals in the States of Alaska and Hawaii. The adjustments contained in this notice are required by the statutes and regulations governing the Program.

Adjustment to the administrative payment rates is subject to a federal district court order in the case, *Petry v. Block*, No. 82–1682 (D.D.C., June 28, 1982) (order granting preliminary injunction). That litigation is still pending. The preliminary injunction order forces the Department to rescind the formula for administrative reimbursement published at 47 FR 27540 (June 25, 1982), and to apply the 1981 formula for administrative costs reimbursement, pending promulgation of a new regulation. Therefore, this notice makes no adjustment to these rates.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Jordan Benderly, Director, or Beverly Walstrom, Child Care and Summer Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 416, Alexandria, Virginia 22302 or by telephone at (703) 756–3888.

SUPPLEMENTARY INFORMATION:

Classification

This notice has been reviewed under Executive Order 12291, and has been determined to be "non-major" because it will not have an annual effect on the economy of $100 million, will not cause a major increase in costs or prices, and will not have a significant economic impact on competition, employment, investment, productivity, innovation, or on the ability of U.S. enterprises to compete.

This notice has been reviewed for compliance with the requirements of Pub. L. 96–354. Samuel J. Cornelius, Administrator of the Food and Nutrition Service, has determined that this notice will not have a significant economic impact on a substantial number of small entities. This notice merely complies with a Congressional mandate to adjust reimbursement rates in the Child Care Food Program to allow for changes in the Consumer Price Index, thereby maintaining constancy in the Program.

Background

Pursuant to Sections 11 and 17 of the National School Lunch Act (NSLA), Section 4 of the Child Nutrition Act (CNA) and §§ 226.4, 226.12 and 226.13 of the regulations governing the Child Care Food Program (7 CFR Part 226), notice is hereby given of the new payment rates for participating institutions.

These rates shall be in effect during the period July 1, 1982–June 30, 1983. The national average payment rates for breakfasts, lunches and suppers served to children attending centers and the food service payment rates for meals served to children attending day care homes were implemented on September 1, 1981, as mandated by Pub. L. 97–35, the Omnibus Reconciliation Act of 1981. The Department is currently enjoined from applying the administrative costs reimbursement rates implemented January 1, 1982. Pending a stay or appeal, the 1981 rates will be in effect by order of the court.

Therefore, for rate adjustment purposes, the period being adjusted by this notice is considered to have begun on July 1, 1982. The adjustments announced in this notice are based on the change in the CPI for the 12-month period from May 1981 (the month used for the last CPI adjustment on July 1, 1981) and May 1982. Adjustments to all reimbursement rates in the Child Care Food Program are made once each year, on July 1, in compliance with Pub. L. 97–35.

All States Except Alaska and Hawaii

Meals served in centers—per meal payment rates in cents:	
Breakfasts:	
Paid[1]	9.75.
Free	80.50.
Reduced	50.00.
Lunches and suppers:	
Paid	11.00.[1]
Free	104.00+paid=115.00.[1]
Reduced	115.00−40.00=75.00.[1]

All States Except Alaska and Hawaii—
Continued

Supplements:	
Paid	3.00.
Free	31.50.
Reduced	15.75.
Meals served in day care homes—per meal payment rates in cents:	
Breakfasts	50.25.
Lunches and suppers	96.50.
Supplements	29.50.

[1] These rates do not include the value of commodities (or cash-in-lieu of commodities) which institutions receive as additional assistance for each lunch or supper served to children under the Program. Notices announcing the value of commodities and cash-in-lieu of commodities are published separately in the FEDERAL REGISTER.

Pursuant to Section 12(f) of the NSLA, the Department adjusts the payment rates for participating institutions in the States of Alaska and Hawaii. The new payment rates for Alaska are as follows:

Alaska

Alaska—Meals served in centers—per meal payment rates in cents:	
Breakfasts:	
Paid	14.00.
Free	87.25.
Reduced	87.25.
Lunches and Suppers:	
Paid	18.00.[1]
Free	168.50+paid=186.50.[1]
Reduced	186.50−40.00=146.50.[1]
Supplements:	
Paid	4.75.
Free	51.25.
Reduced	25.50.
Alaska—Meals served in day care homes—per meal payment rates in cents:	
Breakfasts	81.50.
Lunches and Suppers	169.75.
Supplements	47.50.

[1] These rates do not include the value of commodities (or cash-in-lieu of commodities) which institutions receive as additional assistance for each lunch or supper served to children under the Program. Notices announcing the value of commodities and cash-in-lieu of commodities are published separately in the FEDERAL REGISTER.

The new payment rates for Hawaii are as follows:

Hawaii

Hawaii—Meals served in centers—per meal payment rates in cents:	
Breakfasts:	
Paid	10.25.
Free	70.25.
Reduced	40.25.
Lunches and Suppers:	
Paid	13.00.[1]
Free	121.75+paid=134.75.[1]
Reduced	134.75−40.00=94.75.[1]
Supplements:	
Paid	3.50.
Free	37.00.
Reduced	18.50.
Hawaii—Meals served in day care homes—per meal payment rates in cents:	
Breakfasts	59.75.
Lunches and Suppers	115.50.
Supplements	34.50.

[1] These rates do not include the value of commodies (or cash-in-lieu of commodities) which institutions receive as additional assistance for each lunch or supper served to children under the Program. Notices announcing the value of commodities and cash-in-lieu of commodities are published separately in the FEDERAL REGISTER.

The changes in the national average payment rates and the food service payment rates for day care homes reflect a 5.36 percent increase during the 12 month period May 1981 to May 1982 (from 289.3 in May 1981 to 304.8 in May 1982) in the food away from home series of the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

The total amount of payments available to each State agency for distribution to institutions participating in the Program is based on the rates contained in this notice.

Definitions: The terms used in this notice shall have the meanings ascribed to them in the regulations governing the Child Care Food Program (7 CFR Part 226) published on November 27, 1981 at 46 fR 57980–58006.

(Catalog of Federal Domestic Assistance Program No. 10.558)

Authority: (Sec. 810 and 820, Pub. L. 97–35, Omnibus Reconciliation Act of 1981; Sec. 2, Pub. L. 95–627, 92 Stat. 3603 (42 U.S.C. 1766); Sec 10(a), Pub. L. 95–627, 92 Stat. 3623 (42 U.S.C. 1760).

Dated: July 15, 1982.

Robert E. Leard,

Associate Administrator Food and Nutrition Service.

[FR Doc. 82-19030 Filed 7-19-82; 8:45 am]

BILLING CODE 3410-30-M

DEPARTMENT OF COMMERCE

International Trade Administration

Bicycle Tires and Tubes From the Republic of Korea; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on bicycle tires and tubes from Korea manufactured by Korea Inoue Kasei Co., Ltd. The review covers the period January 1, 1980 through December 31, 1980. As a result of this review, the Department has preliminarily determined the amount of net subsidy to be 0.95 percent of the f.o.b. invoice price of the merchandise. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: July 20, 1982.

FOR FURTHER INFORMATION CONTACT:

Charles L. Anderson or Joseph A. Black, Office of Compliance, Room 2096, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–1774).

SUPPLEMENTARY INFORMATION:

Background

On July 29, 1981 the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 38736) the final results of its first administrative review of the countervailing duty order on bicycle tires and tubes from Korea (44 FR 25701) and announced its intent to conduct the next administrative review by the end of January 1982. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are pneumatic bicycle tires and tubes, of rubber or plastic, whether such tires and tubes are sold together as units or separately, manufactured by Korea Inoue Kasei Co., Ltd. ("KIK"). Bicycle tires and tubes are currently classifiable under items 772.4800 and 772.5700, respectively, of the Tariff Schedules of the United States Annotated. The review covers the period January 1, 1980 through December 31, 1980 and includes the three countervailable programs cited in the final determination and four other programs. We found that KIK took advantage of two of the countervailable programs during the period: the Foreign Capital Inducement Law ("FCIL"), and short-term preferential financing. The other five programs, tax exemptions for land acquisition and imported capital equipment, accelerated depreciation, and reserve funds for export market development and export losses, were not utilized by KIK in 1980.

Analysis of the Programs

Under the FCIL program, KIK receives partial forgiveness of its income and property tax liabilities. In 1980 KIK received a 62.68 percent exemption from its total income tax liability and a 50 percent exemption from its total property tax liability. The *ad valorem* benefits attributable to this program are 0.76 percent and 0.01 percent, respectively.

The short-term preferential financing program provides short-term loans at preferential rates to manufacturers for the purpose of acquiring imported raw materials used in production for export. Our calculations are based upon the total amount of short-term preferential loans KIK received in 1980 and the

weighted average difference between comparable commercial interest rates and the preferential rates. We have preliminarily determined that the benefit bestowed under this program is 0.18 percent *ad valorem*. Because KIK is located in a free enterprise zone, it is not permitted to sell in the domestic market. Therefore, the export and total production values are identical; hence the same number was used as the denominator in calculating the *ad valorem* benefit attributable to the FCIL program, a domestic subsidy, and the preferential financing program, an export subsidy.

Verification

We verified the information presented by KIK, through examination of Korean government laws and documents, company books and records, and consultation with economic officials of the United States Embassy in the Republic of Korea.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the rate of net subsidy conferred by the two programs cited above during the period of review for KIK is 0.95 percent *ad valorem*.

Accordingly, the Department intends to instruct the Customs Service to assess countervailing duties of 0.95 percent of the f.o.b. invoice price on all shipments by KIK of this merchandise entered, or withdrawn from warehouse, for consumption on or after January 1, 1980 and exported on or before December 31, 1980.

Further, as provided by section 751(a)(1) of the Tariff Act, we intend to instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 0.95 percent of the f.o.b. invoice price on all shipments by KIK of bicycle tires and tubes entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any request for an administrative protective order must be made no later than July 26, 1982. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

This administrative review and notice publication are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: July 15, 1982.

Judith Hippler Bello,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-19871 Filed 7-19-82; 8:45 am]

BILLING CODE 3510-25-M

High Power Microwave Amplifiers From Japan Antidumping Duty Order

AGENCY: Administration, Commerce International Trade.

ACTION: Antidumping Duty Order.

SUMMARY: In separate investigations, the U.S. Department of Commerce ("the Department") and the U.S. International Trade Commission ("the ITC") have determined that high power microwave amplifiers from Japan are being sold at less than fair value and that these sales are materially injuring, or threatening to materially injure, a U.S. industry. Therefore, all unappraised entries, or warehouse withdrawals, for consumption of this merchandise made on or after December 31, 1981, the date on which the Department published its "Suspension of Liquidation" notice in the **Federal Register**, it will be liable for the possible assessment of antidumping duties. Further, a cash deposit of estimated antidumping duties must be made on all such entries, and withdrawals from warehouse, for consumption made on or after the date of publication of this antidumping duty order in the **Federal Register**.

EFFECTIVE DATE: July 20, 1982.

FOR FURTHER INFORMATION CONTACT: Steven Morrison, Office of Investigations, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Telephone: (202) 377-3965.

SUPPLEMENTARY INFORMATION: For purposes of this investigation, HPA's are radio-frequency power amplifier assemblies and components thereof, specifically designed for uplink transmission in the C, X, and Ku bands from fixed earth stations to communication satellites and having a power output of one kilowatt or more. HPA's may be imported in subassembly form, as complete amplifiers, or as a component of higher level assemblies (generally earth stations). They are currently classified under item 685.29 of the Tariff Schedules of the United States.

In accordance with section 733 of the Tariff Act of 1930, as amended ("the Act") (19 U.S.C. 1673b), on December 31, 1981, the Department preliminarily determined that there was reason to believe or suspect that high power microwave amplifiers from Japan are being sold at less than fair value (46 FR 63364). On May 21, 1982, the Department made its final determination that these imports were being sold at less than fair value (47 FR 22134).

On July 1, 1982, in accordance with section 735(b) of the Act (19 U.S.C. 1673(b)), the ITC determined and notified the Department that such importations are materially injuring, or threatening to materially injure, a U.S. industry.

Therefore, in accordance with section 736 of the Act (19 U.S.C. 167e), the Department directs U.S. Customs officers to assess antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the U.S. price for all entries of high power microwave amplifiers from Japan. These antidumping duties will be assessed on all of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after December 31, 1981, the date on which the Department published its "Suspension of Liquidation" notice in the **Federal Register**, and all future entries of said merchandise.

On and after the date of publication of this notice, U.S. Customs officers must require, at the same time as importers deposit their estimated normal customs duties on the merchandise, an additional cash deposit of estimated antidumping duties equal to the following rates:

25.4% TWT high power amplifiers
41.1% Klystron high power amplifiers
41.4% For parts of high power amplifiers unless such parts are dedicated exclusively for use in TWT high power amplifiers, in which case the margin is 25.4%.

Since many parts of Klystron HPA's are interchangeable with TWT HPA's, the security deposit for HPA parts shall be the same as for Klystron HPA's, unless the importer can demonstrate that the parts are dedicated solely for use in TWT HPA's.

This determination constitutes an antidumping duty order with respect to high power microwave amplifiers from Japan, pursuant to section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Commerce Regulations (19 CFR 353.48). The Department intends to conduct an administrative review within twelve months of publication of this order, as

provided in section 751 of the Act (19 U.S.C. 1675).

We have deleted from the Commerce Regulations, Annex 1 to 19 CFR Part 353, which listed antidumping findings and orders currently in effect. Instead, interested parties may contact the Office of Information Services, Import Administration, for copies of the updated list of orders currently in effect.

This notice is published in accordance with section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Department of Commerce Regulations (19 CFR 353.48).

Dated: July 14, 1982.

Judith Hippler Bello,

Acting Assistant Secretary for Import Administration.

[FR Doc. 82-19868 Filed 7-19-82; 8:45 am]
BILLING CODE 3510-25-M

Pectin From Mexico; Initiation of Countervailing Duty Investigation

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of Countervailing Duty Investigation.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Mexico of pectin receive benefits which constitute bounties or grants within the meaning of the countervailing duty law. If our investigation proceeds normally, we will announce a preliminary determination on or before September 17, 1982.

EFFECTIVE DATE: July 20, 1982.

FOR FURTHER INFORMATION CONTACT: Mary A. Martin, Office of Investigations, Import Administration, International Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230; telephone (202) 377–1279.

SUPPLEMENTARY INFORMATION:

Petition

On June 24, 1982, we received a petition from Hercules, Inc. of Wilmington, Delaware, on behalf of a the U.S. industry producing pectin. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that the manufacturer, producer, or exporter of pectin in Mexico receives, directly or indirectly, bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended ("the Act").

Since Mexico is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and the pectin is dutiable, the domestic industry is not required to allege that, and the U.S. International Trade Commission ("ITC") is not required to determine whether, imports of this product cause or threaten material injury to the U.S. industry in question.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on pectin, and we have found that the petition meets these requirement.

Therefore, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Mexico of pectin receive bounties or grants. If our investigation proceeds normally, we will make our preliminary determination by September 17, 1982.

Scope of the Investigation

The merchandise covered by this investigation is pectin from Mexico. The imported merchandise is currently provided for in item 455.04 of the *Tariff Schedules of the United States*. Pectin is used as an ingredient in foods and drugs. In food, pectin is used principally as a jelling agent for jams, jellies, and confectionery and as an ingredient in dairy products.

Allegations of Bounties or Grants

The petition alleges that manufacturer, producer, or exporter in Mexico of pectin receives the following benefits that constitute bounties or grants: tax certificates under the Certificado de Devolucion de Impuesto ("CEDI") program on exports; tax certificates under the Certificates of Fiscal Promotion ("CEPROFI") program for "priority" industrial activities; and preferential financing under the Fund for the Promotion of Exports of Mexican Manufactured Products ("FOMEX").

Dated: July 14, 1982.

Judith Hippler Bello,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-19869 Filed 7-19-82; 8:45 am]
BILLING CODE 3510-25-M

Polypropylene Film From Mexico; Initiation of Countervailing Duty Investigation

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of Countervailing Duty Investigation.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether producers, manufacturers, or exporters in Mexico of polypropylene film receive benefits which constitute bounties or grants within the meaning of the countervailing duty law. If our investigation proceeds normally, we will announce a preliminaray determination on or before September 17, 1982.

EFFECTIVE DATE: July 20, 1982.

FOR FURTHER INFORMATION CONTACT: Mary A. Martin, Office of Investigation, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230; telephone (202) 377–1279.

SUPPLEMENTARY INFORMATION:

Petition

On June 24, 1982, we received a petition from Hercules, Inc. of Wilmington, Delaware, on behalf of the U.S. industry producing polypropylene film. In compliance with the filing requirements of section 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Mexico of polypropylene film receive, directly or indirectly, bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended ("the Act").

Since Mexico is not a "country under the Agreement" within the meaning of section 701(b) of the Act, section 303 of the Act applies to this investigation. Because the merchandise is nondutiable and there is no "international obligation" within the meaning of section 303(a)(2) of the Act which requires an injury determination for nondutiable merchandise from Mexico, the domestic industry is not required to allege that, and the U.S. International Trade Commission ("ITC") is not required to determine whether, imports of this product cause or threaten material injury to a U.S. industry.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on polypropylene film, and we have found

that the petition meets these requirements.

Therefore, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Mexico of polypropylene film receive bounties or grants. If our investigation proceeds normally, we will make our preliminary determination by September 17, 1982.

Scope of the Investigation

The merchandise covered by this investigation is polypropylene film, which is a thin transparent film made from polypropylene resin. It is currently provided for in items 774.5590 and 771.4316 of the Tariff Schedules of the United States Annotated.

Polypropylene film is used for packaging a wide variety of articles and in the manufacture of pressure sensitive packaging tape, dielectric material in electrical capacitors, and for wrapping power and communication cables.

Allegations of Bounties or Grants

The petition alleges that manufacturers, producers, or exporters in Mexico of polypropylene film receive the following benefits that constitute bounties or grants: tax certificates under the Certificado de Devolucion de Impuesto ("CEDI") program on exports; tax certificates under the Certificates of Fiscal Promotion ("CEPROFI") program for "priority" industrial activities; and preferential financing under the Fund for the Promotion of Exports of Mexican Manufactured Products ("FOMEX").

Dated: July 14, 1982.

Judith Hippler Bello,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-19870 Filed 7-19-82; 8:45 am]

BILLING CODE 3510-25-M

Initiation of Countervailing Duty Investigation; Railcars From Canada

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of Countervailing Duty Investigation.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether producers, manufacturers, or exporters in Canada of railcars receive benefits which constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission ("ITC") of this action so that it may determine whether imports of railcars are materially injuring, or threatening to materially injure, a U.S. industry. If the investigation proceeds normally, the ITC will make its preliminary determination on or before August 9, 1982, and we will make ours on or before September 17, 1982.

EFFECTIVE DATE: July 20, 1982.

FOR FURTHER INFORMATION CONTACT: Paul Nichols, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377-5497.

SUPPLEMENTARY INFORMATION:

Petition

On June 24, 1982, we received a petition from counsel for the Budd Company ("Budd") on behalf of the U.S. industry producing passenger railway cars. In compliance with the filing requirements of section 355.26 of the Commerce Regulations (19 CFR 355.26), the petitioner alleges that producers, manufacturers or exporters of railcars in Canada receive subsidies within the meaning of section 771(5) of the Tariff Act of 1930, as amended (19 U.S.C. 1677(5)) (the "Act"), and that these imports are materially injuring, or threatening to materially injure, a U.S. industry.

In addition, on July 14, 1982, we received a request from the Industrial Union Department, AFL-CIO, the United Automobile and Aerospace Workers, and the United Steelworkers of America (the "unions") to be co-petitioners in this proceeding. This request stated that these labor organizations represent members in the United States subway car manufacturing industry and supplying industries, and specifically the Budd Company and its suppliers for the construction of subway cars for the New York Metropolitan Transit Authority. Budd and the unions appear to be "interested parties" within the meaning of section 771(9) of the Act.

Since Canada is a "country under the Agreement" within the meaning of section 701(b) of the Act, Title VII of the Act applies to this investigation, and an injury determination is required.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation, and whether it contains information reasonably available to the petitioners supporting these allegations. We have examined the petition on railcars and have found that it meets these requirements.

Therefore, in accordance with section 702(c) of the Act, we are initiating a countervailing duty investigation to determine whether manufacturers, producers or exporters in Canada of railcars receive benefits that constitute subsidies within the meaning of section 771(5) of the Act. If our investigation proceeds normally, we will make our preliminary determination by September 17, 1982.

Scope of Investigation

The merchandise covered by this investigation consists of rail passenger cars, assembled or unassembled, finished or unfinished, components, and parts and accessories thereof and/or to be used therewith. This merchandise appears to be currently classifiable under the following *Tariff Schedules of the United States* numbers, *inter alia:* 690.40, 688.06-688.07, 680.14-680.28, 647.01-10, 646.92, 646.95, 690.40, 690.30, 680.30-36, 690.40, 685.90, 690.40, 772.35, 772.36, 690.40, 653.41, 690.40, 640.71-640.72, 682.95-683.16.

The rail passenger cars named in this petition are primarily used as subway car.

Value of Imports

No imports of the railcars referred to in the petition have taken place up to this time. Information supplied in the petition indicates that deliveries to the U.S. market will begin in July, 1984. Nevertheless, a binding agreement for 825 passenger railcars was executed on June 10, 1982. Although the effective date of the actual "award" of the contract is apparently contingent upon the Canadian producer's entry into a specified financing agreement, ratification of the contract by purchaser's Board of Directors, and approval of the contract by a specified New York state agency, each of these conditions is essentially ministerial in nature. The contract becomes effective within seven days after the conditions are satisfied (if satisfaction occurs on or before July 23, 1982). Given the nature of this transaction and the peculiarities of the railcar industry, we determine that a sale to the United States of the subject merchandise has occurred. This industry, like others involved in manufacturing costly, technologically complex products, requires substantial lead time between the negotiation of a sale and actual delivery. Inventories of the finished merchandise are seldom or never maintained because of the frequent need to customize the product to meet the particular customer's

engineering and design specifications. Lead time is also required because such production involves large financial commitments which are seldom feasible in the absence of a binding agreement. Under these circumstances, the lack of actual entries of the subject merchandise will not deter our initiating an investigation. To do otherwise would effectively negate the intended effect of the countervailing duty law when expensive, high technology merchandise is being subsidized, but imported only once (or in very few shipments) long after the sales have occurred. If actual entries were a prerequisite to an investigation, domestic industries would receive no relief between the time the transaction is consummated and entry occurs. In the meantime, the relevant domestic industry could suffer material injury with no recourse available under this law. Furthermore, subsidized export financing like that alleged by petitioner would not be investigated until long after capital allocation has been distorted by foreign and domestic manufacturers' investment decisions made in reliance on, or in response to, such subsidies. Congress did not intend that the statute be interpreted so restrictively as to eviscerate its impact in such transactions. Thus, we conclude that for purposes of initiating this countervailing duty investigation, a sale exists because a contract mandating delivery of the subject merchandise in the United States has been executed. In the event that the issue of subsidized imports becomes moot because all conditions precedent to the "award" of the contract have not been satisfied by July 23, 1982, or the purchaser's right to cancel matures and is exercised prior to July 22, 1982, this investigation will terminate (assuming the terms of the agreement between the Canadian producer and the purchaser have not been changed).

Allegations of Subsidies

The petitioners allege that producers, manufacturers, or exporters in Canada receive the following benefits that constitute subsidies from the government of Canada: preferential financing and Department of Regional Economic Expansion grants ("DREE" grants).

Notification of ITC

Section 702(d) of the Act requires us to notify the ITC of this action and to provide it with the information used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by August 9, 1982, whether there is a reasonable indication that imports of railcars from Canada are materially injuring, or threatening to materially injure, a U.S. industry. If its determination is negative, this investigation will terminate; otherwise, it will continue according to the statutory procedures.

July 14, 1982.

Judith Hippler Bello,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-19629 Filed 7-19-82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Caribbean Fishery Management Council and its Administrative Subcommittee; Public Meetings

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice.

SUMMARY: The Caribbean Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265), has established an Administrative Subcommittee. The Council and its Administrative Subcommittee will hold separate public meetings. The Council will hold its 42nd regular meeting to consider status reports on fishery management plans (FMPs) under development; draft FMP framework for the shallow-water reef fish fishery; draft FMP for coastal pelagics resources; draft FMP for the fishery resources of the Puerto Rican and St. Croix Geological Platforms; elect a chair and vice-chair for the Council, as well as discuss other administrative and Council matters. The Administrative Subcommittee will meet to consider matter related to the Council's budget and to discuss regular administrative operations.

DATES: The Council's public meeting will convene on Wednesday, August 25, 1982, at approximately 9 a.m., adjourn at approximately 5 p.m.; reconvene on Thursday, August 26, 1982 at approximately 9 a.m., adjourn at approximately noon. The Council's Administrative Subcommittee public meeting will convene on Tuesday, August 24, 1982, at approximately 1:30 p.m., and will adjourn at approximately 5 p.m.

ADDRESS: The public meetings will take place at the Conference Room of the St. Thomas Hotel and Marina, Long Bay, in St. Thomas, U.S. Virgin Islands.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, Suite 1108, Banco de Ponce Building, Hato Rey, Puerto Rico 00918, telephone: (809) 753-4926.

Dated: July 15, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 82-19618 Filed 7-19-82; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Intent To Grant Exclusive Patent License

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Johnson-Matthey Inc., having a place of business at Wayne, Pennsylvania 19087 an exclusive right in the United States and in certain foreign countries to manufacture, use and sell products embodied in the invention, "A Short Total Synthesis of Dihydrothebainone, Dihydrocedeinone, and Nordihydrocodeinone and Preparation of Chiral 1-Benzyl-1, 2,3,4,-Tetra-Hydroisoquinolines Optical Resolution, U.S. Patent Application Serial Nos. 6-165,600 and 6-265,469 (dated July 3, 1980 and May 20, 1981). Copies of the Patent Applications may be obtained from the Office of Government Inventions and Patents, NTIS, Box 1423, Springfield, VA 22151. The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101-4.1 The proposed license may be granted unless, within sixty days from the date of this Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquires, comments and other materials relating to the proposed license must be submitted to the Office of Government Inventions and Patents, NTIS, at the address above. NTIS will maintain and make available for public inspection a file containing all inquiries,

comments and other written materials received in response to this Notice and a record of all decisions is made in this matter.

Dated: July 12, 1982.

George Kudravetz,

Office of Government Inventions and Patents, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 82-19545 Filed 7-19-82; 8:45 am]

BILLING CODE 3510-04-M

COMMODITY FUTURES TRADING COMMISSION

Chicago Mercantile Exchange; Commodity Exchange, Inc.; Proposed Rules Relating to Exchange Speculative Position Limits

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of Proposed Adoption of Contract Market Rules.

SUMMARY: The Chicago Mercantile Exchange ("CME") and the Commodity Exchange, Inc. ("Comex") have submitted to the Commission proposed rules, bylaws or resolutions setting speculative position limits for currently designated contract markets pursuant to Commission Rules 1.61 and 1.41, 46 FR 50938, 50945 (October 16, 1981), 17 CFR 1.41, and Section 5a(12) of the Commodity Exchange Act, as amended, 7 U.S.C. 7a(12) (Supp. IV 1980). The Commodity Futures Trading Commission ("Commission") has determined that for currently designated contracts, initial exchange proposals to set speculative limits are potentially of major economic significance. Accordingly, the Commission has determined that publication of these proposals is in the public interest, that receipt of public comment will assist the Commission in its consideration of the exchange submissions, and that publication is consistent with the purposes of the Commodity Exchange Act.

SUPPLEMENTARY INFORMATION: The CME has submitted to the Commission pursuant to Commission Rules 1.61 and 1.41, 46 FR 50938, 50945 (October 16, 1981), 17 CFR 1.41, and Section 5a(12) of the Commodity Exchange Act, as amended, 7 U.S.C. 7a(12) (Supp. IV 1980) proposed exchange rules setting speculative position limits in seventeen designated contract markets. They are: 90-Day T-Bills, One-YearT-Bills, Four-Year T-Notes, Domestic CDs, Eurodollars, gold, British Pound, Canadian Dollar, Deutsche Mark, Japanese Yen, Mexican Peso, Swiss Franc, Dutch Guilder, French Franc, U.S. Silver Coins, copper, and platinum. Comex has submitted to the Commission proposed exchange resolutions establishing speculative limits in designated contract markets in gold, copper, GNMAs, 2-Year T-Notes, 90-Day T-Bills, and zinc.[1]

The Commission, in accordance with Section 5a(12) of the Act, has determined that the proposed rules or resolutions setting exchange speculative position limits on currently designated contracts are potentially of major economic significance.[2] Accordingly, the Commission seeks to receive comments from interested persons with respect to these proposed exchange rules. The text of the proposed exchange rules submitted by CME and the proposed resolutions submitted by Comex appear below. In addition, CME Rule 543, and Comex Rule 524, which are referenced in, or are otherwise applicable to, the speculative position limit rules or resolutions are also printed below:

Rules Submitted by the Chicago Mercantile Exchange

Rule 3010. *Pound Sterling.*—

* * * * *

E. Position Limits. A person shall not own or control more than 6,000 contracts net long or net short in all contract months combined.

F. Accumulation of Positions. A person purposes of this rule, the positions of all accounts owned or controlled by a person or persons acting in concert or in which such person or persons have a proprietary or beneficial interest shall be cumulated.

G. Exemptions. The foregoing position limits shall not apply to bona fide hedge positions meeting the requirements of Regulation 1.3(z)(1) of the CFTC and the rules of the Exchange, and shall not apply to arbitrage positions and intercommodity spread positions subject to Rule 543.B.

Rule 3011. *Canadian Dollar.*

* * * * *

E. Position Limits. A person may not own or control more than 6,000 contracts net long or net short in all contract months combined.

F. Accumulation of Positions. For purposes of this rule, the positions of all accounts owned or controlled by a person or persons acting in concert or in which such person or persons have a proprietary or beneficial interest shall be cumulated.

G. Exemptions. The foregoing position limits shall not apply to bona fide hedge positions meeting the requirements of Regulation 1.3(z)(1) of the CFTC and the rules of the Exchange, and shall not apply to arbitrage positions and intercommodity spread positions subject to Rule 543.B.

Rule 3012. *Deutsche Mark.*

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E. Position Limits. A person shall not own or control more than 6,000 contracts net long or net short in all contract months combined.

F. Accumulation of Positions. For purposes of this rule, the positions of all accounts owned or controlled by a person or persons acting in concert or in which such person or persons have a proprietary or beneficial interest shall be cumulated.

G. Exemptions. The foregoing position limits shall not apply to bona fide hedge positions meeting the requirements of Regulation 1.3(z)(1) of the CFTC and the rules of the Exchange, and shall not apply to arbitrage positions and intercommodity spread positions subject to Rule 543.B.

Rule 3013. *Japanese Yen.*

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E. Position Limits. A person shall not own or control more than 6,000 contracts net long or net short in all contract months combined.

F. Accumulation of Positions. For purposes of this rule, the positions of all accounts owned or controlled by a person or persons acting in concert or in which such person or persons have a proprietary or beneficial interest shall be cumulated.

G. Exemptions. The foregoing position limits shall not apply to bona fide hedge positions meeting the requirements of Regulation 1.3(z)(1) of the CFTC and the rules of the Exchange, and shall not apply to arbitrage positions and intercommodity spread positions subject to Rule 543.B.

Rule 3014. *Mexican Peso.*

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E. Positions Limits. A person shall not own or control more than 1,000 contracts net long or net short in all contract months combined, except that in no event shall he own or control more than 500 contracts in the spot month on or after the day one week prior to the termination of trading.

F. Accumulation of Positions. For purposes of this rule, the positions of all accounts owned or controlled by a person or persons acting in concert or in which such person or persons have a proprietary or beneficial interest shall be cumulated.

G. Exemptions. The foregoing position limits shall not apply to bona fide hedge positions meeting the requirements of Regulation 1.3(z)(1) of the CFTC and the rules of the Exchange, and shall not apply to arbitrage positions and intercommodity spread positions subject to Rule 543.B, except

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[1] In addition, five other domestic boards of trade have submitted for Commission approval speculative position limits for currently designated contract markets. The staff of the Commission has divided randomly the submissions into groups and will be reviewing the remaining proposals following its consideration of this initial group of proposals.

Pursuant to Commission Rule 1.61, the Commission also received amendments to various pending designation applications setting speculative position limits for those proposed contracts markets. Those provisions will be considered in connention with the designation application of which they are a part.

[2] This determination is based upon a finding that the initial imposition of speculative position limits for designated contract markets which currently do not have such limits may be of economic significance to those currently trading in a contract which has no existing speculative limits. However, the Commission believes that the subsequent adjustment of existing exchange speculative limits generally would not be of major economic significance.

that spot month position limits shall apply to intercommodity spread positions.

Rule 3015. *Swiss Franc.*

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E. Position Limits. A person shall not own or control more than 6,000 contracts net long or net short in all contract months combined.

F. Accumulation of Positions. For purposes of this rule, the positions of all accounts owned or controlled by a person or persons acting in concert or in which such person or persons have a proprietary or beneficial interest shall be cumulated.

G. Exemptions. The foregoing position limits shall not apply to bona fide hedge positions meeting the requirements of Regulation 1.3(z)(1) of the CFTC and the rules of the Exchange, and shall not apply to arbitrage positions and intercommodity spread positions subject to Rule 543.B.

Rule 3016. *Dutch Guilder.*

* * * * *

E. Position Limits. A person shall not own or control more than 1,000 contracts net long or net short in all contract months combined, except that in no event shall he own or control more than 500 contracts in the spot month on or after the day one week prior to the termination of trading.

F. Accumulation of Positions. For purposes of this rule, the positions of all accounts owned or controlled by a person or persons acting in concert or in which such person or persons have a proprietary or beneficial interest shall be cumulated.

G. Exemptions. The foregoing position limits shall not apply to bona fide hedge positions meeting the requirements of Regulation 1.3(z)(1) of the CFTC and the rules of the Exchange, and shall not apply to arbitrage positions and intercommodity spread positions subject to Rule 543.B, except that spot month position limits shall apply to intercommodity spread positions.

Rule 3017. *French Franc.*

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E. Position Limits. A person shall not own or control more than 1,000 contracts net long or net short in all contract months combined, except that in no event shall he own or control more than 500 contracts in the spot month on or after the day one week prior to the termination of trading.

F. Accumulation of Positions. For purposes of this rule, the positions of all accounts owned or controlled by a person or persons acting in concert or in which such person or persons have a proprietary or beneficial interest shall be cumulated.

G. Exemptions. The foregoing position limits shall not apply to bona fide hedge positions meeting the requirements of Regulation 1.3(z)(1) of the CFTC and the rules of the Exchange, and shall not apply to arbitrage positions and intercommodity spread positions subject to Rule 543.B, except that spot month position limits shall apply to intercommodity spread positions.

Rule 3202. *Futures Call—13 Week U.S. Treasury Bills.*

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E. Position Limits. A person shall not own or control more than 5,000 contracts net long or net short in all contract months combined, except that in no event shall he own or control more than 2,500 contracts in the lead month on or after the day three weeks prior to first delivery day nor more than 750 contracts in the lead month on or after the day one week prior to the first delivery day.

F. Accumulation of Positions. For purposes of this rule, the positions of all accounts owned or controlled by a person or persons acting in concert or in which such person or persons have a proprietary or beneficial interest shall be cumulated.

G. Exemptions. The foregoing position limits shall not apply to bona fide hedge positions meeting the requirements of Regulation 1.3(z)(1) of the CFTC and the rules of the Exchange, and shall not apply to arbitrage positions and intercommodity spread positions subject to Rule 543.B., except that lead month position limits shall apply to intercommodity spread positions.

Rule 3602. *Futures Call—One Year U.S. Treasury Bills.*

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E. Position Limits. A person shall not own or control more than 1,000 contracts net long or net short in all contract months combined, except that in no event shall he own or control more than 500 contracts in the lead month on or after the day one week prior to the termination of trading.

F. Accumulation of Positions. For purposes of this rule, the positions of all accounts owned or controlled by a person or persons acting in concert or in which such person or persons have a proprietary or beneficial interest shall be cumulated.

G. Exemptions. The foregoing position limits shall not apply to bona fide hedge positions meeting the reqirements of Regulation 1.3(a)(1) of the CFTC and the rules of the Exchange, and shall not apply to arbitrage positions and inatercommodity spread positions subject to Rule 543.B, except that lead month position limits shall apply to the intercommodity spread positions.

Rule 3702. *Futures Call—Four-Year U.S. Treasury Notes.*

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E. Position Limits. A person shall not own or control more than 1,000 contracts net long or net short in all contract months combined, except that in no event shall he own or control more than 500 contracts in the lead month on or after the day one week prior to the termination of trading.

F. Accumulation of Positions. For purposes of this rule, the positions of all accounts owned or controlled by a person or persons acting in concert or in which such person or persons have a proprietary or beneficial interest shall be cumulated.

G. Exemptions. The foregoing position limits shall not apply to bona fide hedge positions meeting the requirements of Regulation 1.3(z)(1) of the CFTC and the rules of the Exchange, and shall not apply to arbitrage positions and intercommodity spread positions subject to Rule 543.B, except that lead month position limits shall apply to intercommodity spread positions.

Rule 3802. *Futures Call—Domestic Certificates of Deposit.*

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E. Position Limits. A person shall not own or control more than 5,000 contracts net long or net short in all contract months combined, except that in no event shall he own or control more than 4,000 contracts in the spot month nor more than 750 contracts in the spot month on or after the first notice day.

F. Accumulation of Positions. For purposes of this rule, the positions of all accounts owned or controlled by a person or persons acting in concert or in which such person or persons have a proprietary or beneficial interest shall be cumulated.

G. Exemptions. The foregoing position limits shall not apply to bona fide hedge positions meeting the requirements of Regulation 1.3(z)(1) of the CFTC and the rules of the Exchange, and shall not apply to arbitrage positions and intercommodity spread positions subject to Rule 543.B, except that spot month position limits shall apply to intercommodity spread positions.

Rule 3902. *Futures Call—Three-Month Eurodollars.*

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E. Position Limits. A person shall not own or control more than 5,000 contracts net long or net short in all contract months combined.

F. Accumulation of Positions. For purposes of this rule, the positions of all accounts owned or controlled by a person or persons acting in concert or in which such person or persons have a proprietary or beneficial interest shall be cumulated.

G. Exemptions. The foregoing position limits shall not apply to bona fide hedge positions meeting the requirements of Regulation 1.3(z)(1) of the CFTC and the rules of the Exchange, and shall not apply to arbitrage positions and intercommodity spread positions subject to Rule 543.B.

Rule 3402. *Futures Call—Gold.*

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E. Position Limits. A person shall not own or control more than 6,000 contracts net long or net short in all contract months combined, except that in no event shall he own or control more than 3,000 contracts in the spot month.

F. Accumulation of Positions. For purposes of this rule, the positions of all accounts owned or controlled by a person or persons acting in concert or in which such person or persons have a proprietary or beneficial interest shall be cumulated.

G. Exemptions. The foregoing position limits shall not apply to bona fide hedge positions meeting the requirements of Regulation 1.3(z)(1) of the CFTC and the rules of the Exchange, and shall not apply to arbitrage positions and intercommodity spread positions subject to Rule 453.B, except that spot month position limits shall apply to intercommodity spread positions.

Rule 3102. *Futures Call—U.S. Silver Coins.*

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E. Position Limits. A person shall not own or control more than 1,000 contracts net long or net short in all contract months combined, except that in no event shall he own or control more than 500 contracts in the lead month on or after the day one week prior to the first notice day.

F. Accumulation of Positions. For purposes of this rule, the positions of all accounts owned or controlled by a person or persons acting in concert or in which such person or persons have a proprietary or beneficial interest shall be cumulated.

G. Exemptions. The foregoing position limits shall not apply to bona fide hedge positions meeting the requirements of Regulation 1.3(z)(1) of the CFTC and the rules of the Exchange, and shall not apply to arbitrage positions and intercommodity spread positions subject to Rule 543.B, except that lead month positions shall apply to intercommodity spread positions.

Rule 3302. *Futures Call—Copper.*

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E. Position Limits. A person shall not own or control more than 1,000 contracts net long or net short in all contract months combined, except that in no event shall he own or control more than 500 contracts in the lead month on or after the day one week prior to the first notice day.

F. Accumulation of Positions. For purposes of this rule, the positions of all accounts owned or controlled by a person or persons acting in concert or in which such person or persons have a proprietary or beneficial interest shall be cumulated.

G. Exemptions. The foregoing position limits shall not apply to bona fide hedge positions meeting the requirements of Regulation 1.3(z)(1) of the CFTC and the rules of the Exchange, and shall not apply to arbitrage positions and intercommodity spread positions subject to Rule 543.B, except that lead month position limits shall apply to intercommodity spread positions.

Rule 3502. *Futures Call—Platinum.*

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E. Position Limits. A person shall not own or control more than 1,000 contracts net long or net short in all contract months combined, except that in no event shall he own or control more than 500 contracts in the lead month on or after the day one week prior to the first notice day.

F. Accumulation of Positions. For purposes of this rule, the positions of all accounts owned or controlled by a person or persons acting in concert or in which such person or persons have a proprietary or beneficial interest shall be cumulated.

G. Exemptions. The foregoing position limits shall not apply to bona fide hedge positions meeting the requirements of Regulation 1.3(z)(1) of the CFTC and the rules of the Exchange, and shall not apply to arbitrage positions and intercommodity spread positions subject to Rule 543.B, except that lead month position limits shall apply to intercommodity spread positions.

Rule 543. *Bona Fide Hedging, Intercommodity Spread and Arbitrage Positions.*

A. Bona Fide Hedging Positions—Rules establishing speculative position limits with respect to futures contracts shall not apply to bona fide hedging positions as defined in CFTC Regulation 1.3(z)(1).

A clearing member shall not maintain or carry a customer's hedge account which by itself or in accumulative total with any other accounts of the owner exceeds the speculative trading or position limits of the Exchange, unless the President approves and unless:

A. The prospective hedger has made application to the President on forms provided by the Exchange wherein he states under oath that:

1. The intended positions will be bona fide hedges;

2. The hedges are necessary or advisable as an integral part of his business (fully explaining the nature and extent of his business;

3. The applicant has complied with all federal requirements relating to hedging and has received approval for this purpose from the CFTC wherever necessary.

b. The hedge positions are kept in a special hedge account on the books of a clearing member.

c. The hedger complies with whatever limitations are imposed by the President with relation to said hedges.

d. The hedger agrees to immediately submit a supplemental statement explaining any change in circumstances affecting the reasonableness of his hedge position.

e. The hedger complies with all other Exchange rules and requirements.

f. Hedges are moved in an orderly manner in accordance with sound commercial practices, and are not initiated or liquidated in a manner calculated to cause unreasonable price fluctuations or unwarranted price changes. The hedger does not use said hedges in an attempt to violate or avoid Exchange rules, or otherwise impair the good name or dignity of the Exchange.

The President shall, on the basis of the application and supplemental information which the Exchange may request, determine whether the applicant shall be approved as a bona fide hedger. The President may impose such limitations as are commensurate with the applicant's business needs, financial ability and personal integrity. The President and the Business Conduct Committee may, from time to time, review all hedging approvals and, for cause, revoke said approvals or place limitations thereon.

The applicant may appeal any decision of the President or the Business Conduct Committee to the board.

Hedgers shall be exempt from emergency orders reducing speculative limits or restricting trading but only to the extent provided in such order and only if the approvals required by this rule are secured by the hedger.

B. *Arbitrage and Intercommodity Spread Positions*—Rules establishing speculative position limits with respect to IMM and IOM contracts, except Random Length Lumber shall not apply to arbitrage or intercommodity spread positions enumerated by the Exchange.

A clearing member shall not maintain or carry an arbitrage or intercommodity spread account which by itself or in accumulative total with any other accounts of the owner exceeds the speculative or position limits of the Exchange, unless the President approves and unless:

The prospective arbitrageur or spreader has made application to the President on forms provided by the Exchange wherein he states under oath:

a. The intended positions will be arbitrage or spread positions.

b. The positions are kept in a special account on the books of a clearing member.

c. The arbitrageur or spreader complies with whatever limitations are imposed by the President with regard to said positions.

d. The arbitrageur or spreader agrees to immediately submit a supplemental statement explaining any change in circumstances affecting his position.

e. The arbitrageur or spreader complies with all other Exchange rules and requirements.

f. Such positions are moved in an orderly manner and are not initiated or liquidated in a manner calculated to cause unreasonable price fluctuations or unwarranted price changes. the arbitrageur or spreader does not use said position in an attempt to violate or avoid Exchange rules, or othewise impair the good name or dignity of the Exchange.

The President shall, on the basis of the application and supplemental information which the Exchange may request, determine whether the applicant shall be approved as an arbitrageur or intercommodity spreader. The President may impose such limitations as are commensurate with the applicant's financial ability and business circumstances. The President and the Business Conduct Committee may, from time to time, review all approvals and, for cause, revoke said approvals or place limitations thereon.

The applicant may appeal any decision of the President or the Business Conduct Committee to the Board.

Arbitrageurs and intercommodity spreaders shall be exempt from emergency order reducing speculative limits or restricting trading but only to the extent provided in such order and only if the approvals required by this rule are secured by the intercommodity spreaders and arbitrageurs.

Rules submitted by COMEX

Rule 524—Position Limits

a. General. The Board, or, upon request and delegation by the Board, the Control Committee, shall have the power and authority, at any time and from time to time, and after consultation with representatives of each of the Board Groups, to determine and establish limits for the Net Position ("Net position limit") and/or the Greater Side Position ("Greater Position Limit") which may be maintained by any accounts or Affiliated Accounts and the period of time for which such Net Position Limit/and or Greater Side Position Limit shall remain in effect.

b. Applicability of Position Limits to Customers' Accounts. The position limits set forth in this Rule 524 shall apply for each customer, to all accounts and all Affiliated Accounts in the manner set forth in this rule.

c. Overall Position Limits. No member of member firm shall allow or permit itself or any account or Affiliated Accounts to maintain a Net Position in excess of the Net Position Limit. A member of member firm maintianing or carrying an account, or Affiliated Accounts, which exceeds a Net Position Limit shall immediately take such steps as may be necessary to reduce the

position of such account or Affiliated Accounts below the Net Position Limit then in effect.

d. Monthly Position Limits. No member or member firm shall allow or permit itself or any account or Affiliated Accounts to maintain a Greater Side Position in the then current delivery month in excess of the Greater Side Position Limit. A member or member firm maintaining or carrying an account, or Affiliated Accounts, which exceeds a Greater Side Position Limit shall immediately take such steps as may be necessary to reduce the position of such account or Affiliated Accounts below the Greater Side Position Limit then in effect.

e. Effect of Deliveries on Monthly Position Limit. In determining whether any account or Affiliated Accounts have exceeded the Greater Side Position Limit, there shall be added to the position of the account or Affiliated Accounts a number of contracts equal to the difference between the contracts against which delivery has been received on Comex during the month minus contracts against which delivery has been made (or vice versa depending upon whether the position is a short or a long position).

f. Overall Position Limits at Different Firms. In the event the Exchange learns that a member, member firm or customer maintains positions in accounts at more than one member of member firm such that the aggregate position in all such accounts exceeds either the Net Postiion Limit or the Greater Side Position Limit then in effect, the Exchange shall notify all members and member firms maintaining or carrying such accounts of the total positions of such accounts. Such notice shall also instruct each such member and member firm to reduce the positions in such accounts, and in any Affiliated Accounts, twenty-four hours after receipt of the notice, proportionately so that the aggregate positions of such accounts or Affiliated Accounts at all such members and member firms shall not exceed either the Net Position Limit or the Greater Side Position Limit then in effect, unless during such 24 hour period a request for an exemption is made and granted pursuant to Rule 524(g) (3). Any member of member firm receiving such notice shall immediately take such steps as may be necessry to liquidate such number of contracts as shall be determined by the Exchange in order to cause the aggregate positions of such accounts or Affiliated Accounts at such members of member firms to comply with the Net Position Limit and Greater Side Position Limit. Notwithstanding the foregoing, the members and member firms may reduce the positions of such accounts or Affiliated Accounts by a different number of contracts than that required by the Exchange notice so long as after all reductions have been accomplished at all members and member firms carrying such accounts or Affiliated Accounts *the positions* at all such members or member firms shall comply with the Net Position Limit and the Greater Side Position Limit then in effect.

g. Exemptions.

(1) Positions resulting from bona fide hedging transactions (as that term is defined in Regulation Sec. 1.3(z)(1) promulgated under the Commodity Exchange Act, as amended) shall not be included in the computation of the Net Position or the Greater Side Position of any accounts or Affiliated Accounts, if the member of member firm maintaining such positions has received prior Exchange notice that such bona fide hedging transactions have been exempted (and not revoked) pursuant to Rule 524(g)(3).

(2) In interpreting Regulation Sec. 1.3(z)(1), generally accepted commercial principles and standards shall apply. In addition, notwithstanding any provisions in Regulation Sec. 1.3(z)(1) to the contrary, the following additional criteria shall apply in determining whether a transaction is a bona fide hedge transaction:

(i) A long position shall not be deemed a bona fide hedging transaction if the party holding such position know or reasonably should have known at the time the position was entered into that the other party to the cash or other party to the cash or other transaction is a person whose principal purpose in entering into the cash or other transaction is to benefit from a rise in the price of a commodity; and

(ii) A futures position shall not be deemed a bona fide hedging transaction if the principal purpose for taking such position was to hedge against the potential adverse economic impact of inflation, recession or other similar economic trend or occurrence.

(3) A member or member firm seeking an exemption for bona fide hedging transactions shall submit a written request to the Exchange which shall include the following:

(a) A description of the size and nature of the proposed transactions;

(b) Information which will demonstrate that the proposed transactions are bona fide hedging transactions;

(c) A statement indicating whether the person on whose behalf the request is made (i) maintains positions in the futures contract for which the exemption is sought with any other member of member firm; and/or (ii) has made a previous or contemporaneous request pursuant to this Rule 524(g)(3) through another member or member firm, and if so, the relationship of the information set forth in such requests.

(d) A statement that the intended transactions will be bona fide hedges;

(e) A statement that the applicant will immediately supply the Exchange with any changes to the information submitted pursuant hereto;

(f) Such further information as the Exchange may request.

Within five (5) business days of the submission of the information set forth above, the President of the Exchange or such officer as he may designate shall notify the member or member firm whether the exemption has been granted and the limitations placed thereon. An exemption will remain in full force and effect until (i) the member of member firm requests a withdrawal; or (ii) the Exchange revokes, modifies or places further limitations thereon.

(h) Failure to Reduce Positions. In addition to other powers, remedies and sanctions contained in the By-Laws and Rules, the Board, or upon request and delegation by the Board, the Control Committee, may require every member of member firm that maintains an account or Affiliated Accounts having a position in excess of Net Position Limit or the Greater Side Position Limit then in effect, to take immediate steps to reduce positions in such accounts to levels that do not violate such position limits and to take such other actions, within such time periods and upon such terms, with respect to such accounts, as the Board or the Control committee may deem necessary or desirable.

B. Resolutions

Resolved, that pursuant to Rule 523(a)(5) of the By-Laws and Rules of the Exchange, the Board of Governors hereby reduces the reportable position level for futures contracts and futures options for all commodities from 500 contracts or options to 250 contracts or options; and

Further resolved, that pursuant to Rule 524(a) of the By-Laws and Rules of the Exchange, the Board of Governors hereby establishes the following position limits:

Commodity	Overall position limit (net position limit)	Spot position limit (greater side position limit)
Gold	6,000	3,000
Copper	5,000	2,500
Silver	5,000	1,500
Gold Coins	5,000	3,000
Zinc	1,000	1,000
90-Day T-Bills	1,000	500
GNMA's	1,000	500
2-Year T-Notes	1,000	500

Other materials submitted by the CME or by Comex in support of these proposed rules may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1981)). Requests for copies of such materials should be made to the FOIA, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed exchange rules or resolutions should send such comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, by (30 days). Such comment letters will be publicly available except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C., on July 15, 1982.

Jane K. Stuckey,

Secretary to the Commission.

[FR Doc. 82-19630 Filed 7-19-82; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB)
Dates of meeting: 16-25 August 1982
Place: National Academy of Sciences Study Center, Woods Hole, Massachusetts
Times: 0830-1700 hours, 16-25 August 1982 (Closed)
Agenda: The Army Science Board 1982 Summer Study Group on Science and Engineering Personnel will hold classified discussions of briefings they have received and will develop their report addressing the Army's problem of recruiting civilian S&E personnel, retaining such people, and maintaining a reasonably balanced age profile. While this problem is most vivid relative to the civilian employees in the Army, the shortages of high quality enlisted technicians, technical warrant officers, and S&E trained and experienced commissioned officers contribute to decreased readiness, generally less knowledgeable program and technical management capabilities, and increased reliance on contractor/consultant advice and assistance in lieu of in-house staff supervision. The Group is examining the current and projected shortages of scientists, engineers, and technicians, seeking to find policy program initiatives that the Army can adopt (or recommend to higher authority if not achievable with the Army). The meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and non-classified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 695-3039 or 697-9703.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 82-19678 Filed 7-19-82; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB)
Dates of meeting: 16-25 August 1982
Place: National Academy of Sciences Study Center, Woods Hole, Massachusetts
Times: 0830-1700 hours, 16-25 August 1982 (Closed)
Agenda: The Army Science Board 1982 Summer Study Group on Chemical Warfare will hold classified discussions of briefings they have received and will develop their report addressing the following Terms of Reference:

—Are current Army programs appropriately balanced (offensive/defensive), considering threats, national policy, Defense guidance, and the Army's key chemical role in DoD?

—Are research, development and acquisition programs adequately funded and managed?

—Are Army and contractor research and development capabilities adequate to meet projected systems acquisition and fielding milestones?

—What technical and management initiatives should be implemented?

—What costs are involved (people, facility, funding)?

—What changes to the current Chemical Action Plan, if any, are required?

This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and non-classified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 695-3039 or 697-9703.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 82-19679 Filed 7-19-82; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB)
Date of meeting: Thursday, 5 August 1982
Time: 0830-1700 hours (Closed)
Place: The Pentagon, Washington, D.C.

Agenda: The Army Science Board 1982 Summer Study Group on Science and Engineering Personnel will meet for a final Plenary Session before the writing session in August. There will be classified briefings and discussions addressing the Army's problem of recruiting, retaining, and maintaining a reasonably balanced age profile of civilian S&E personnel. The group will also finalize an agenda for the writing session. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and non-classified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for futher information at (202) 695-3039 or 697-0703.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 82-19580 Filed 7-19-82; 8:45 am]

BILLING CODE 3710-08-M

U.S. DEPARTMENT OF ENERGY

Office of Energy Research

High Energy Physics Advisory Panel; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

NAME: High Energy Physics Advisory Panel.

DATE AND TIME: Monday, August 9, 1982, 9:00 a.m.-6:00 p.m.; Tuesday, August 10, 1982, 9:00 a.m.-4:00 p.m.

PLACE: Room B, Berkner Hall, Brookhaven National Laboratory, Upton, New York.

CONTACT: Dr. P. K. Williams, Secretary, High Energy Physics Advisory Panel, U.S. Department of Energy, Mail Stop J-309, Washington, D.C. 20545, telephone: 301-353-3367.

PURPOSE OF COMMITTEE: To provide advice and guidance on a continuing basis with respect to the high energy physics research program.

Tentative Agenda

- Discussions of the status of the FY 83 National Science Foundation and Department of Energy Budgets
- Scenarios for future budgets
- HEPAP Review of High Energy Physics at Brookhaven National Laboratory
- Status of U.S. participation at CERN/LEP
- Division of Particles and Fields (DPF) Aspen Summer Study on Future Physics and Facilities

Public Participation

The meeting is open to the public. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so either before or after the meeting.

Members of the public who wish to make oral statements pertaining to agenda items should contact Gloria Decker at 202–252–8990. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Minutes

Available for public review and copying at the Public Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on July 14, 1982.

Howard H. Raiken,

Deputy Advisory Committee Management Officer.

[FR Doc. 82–19627 Filed 7–19–82; 8:45 am]
BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPPM–FRL 2173–3]

Agency Forms Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: § 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 requires the Agency to publish in the Federal Register notice of proposed information collections. The purpose of this notice is to inform the public of proposed information requirements that have been forwarded to the Office of Management and Budget (OMB) for review. The information collection requests are available to the public for review and comment.

FOR FURTHER INFORMATION CONTACT: David Kuhn, Information Management Section, U.S Environmental Protection Agency, 401 M Street, S.W., Washington, D.C., telephone number (202) 382–2742 or FTS (8) 382–2742.

SUPPLEMENTARY INFORMATION:

Air Programs

• Title: Compliance Demonstration by Importers of Non-Complying Motor Vehicles and Engines (EPD ID 0010).

Abstract: Importers of non-Complying motor vehicles and engines are required to submit documentation that the imported vehicle (or engine) is exempt from Clean Air Act requirements. The importer of a non-exempt vehicle or engine, who wishes to sell or maintain the vehicle/engine in the U.S. must bring it into conformity with Federal emission requirements or export it.

Respondent: Individuals or households, businesses or other institutions, SIC Code 371.

• Title: Review of PLans for Construction and Modification Under New Source Performance Standards (EPA ID 0058).

Abstract: At an owner's request, EPA will determine whether a source is subject to a New Source Performance Standard and will provide technical advice on proposed control equipment and methods. Respondent: Businesses or other institutions, SIC Codes 495, 281, 324, 333, 491, 142, 327, 331, 121, and 287.

• Title: National Emission Standard for Hazardous Air Pollutants (NESHAP)—Application for Approval of Construction or Modification (EPA ID 0108).

Abstract: Written applications are required in order to obtain EPA approval for the construction or modification of a source subject to the regulations in 49 CFR Part 61.

Respondent: Businesses or other institutions, SIC Codes 149, 109, 329, 333, 281, 296, 161, 495, 348, and 282.

• Title: National Emission Standard for Hazardous Air Pollutants (NESHAP)—Notification of Startup (EPA ID 0109).

Abstract: Owners or operators of sources subject to regulation in 40 CFR Part 61 must furnish written notification of anticipated startup and actual startup.

Respondent: Businesses or other institutions, SIC Codes 109, 149, 161, 281, 282, 286, 329, 333, 348, and 495.

• Title: National Emission Standard for Hazardous Air Pollutants (NESHAP)—Source Reporting and Waiver Request (EPD ID 0110).

Abstract: Owners or operators of a source subject to 40 CFR Part 61 must submit an initial report verifying compliance and/or request a waiver (if the source is unable to operate in compliance). EPA uses this information to conform compliance or to determine if a waiver is appropriate.

Respondent: Businesses or other institutions, SIC Codes 109, 149, 161, 281, 282, 286, 329, 333, 348, amd 495.

• Title: Notification and Recordkeeping for Demolition and Renovation of Asbestos Sources (EPA ID 0111).

Abstract: An owner or operator of an asbestos source must provide EPA notification prior to demolition or renovation to allow EPA the opportunity to schedule an observer at the operation.

Respondent: Businesses or other institutions, SIC Code 179.

• Title: National Emission Standard for Hazardous Air Pollutants (NESHAP) Subpart E—Stack and Sludge Sampling (EPA ID 0013).

Abstract: An owner or operator must report and keep records of emission tests to allow EPA the opportunity to schedule an observer to assure the compliance of the source.

Respondent: Businesses or other institutions, SIC Codes 281, 109, 495.

• National Emission Standard for Hazardous Air Pollutants (NESHAP)—Subpart F—Vinyl Chloride (EPA ID 0186).

Abstract: Owners or operators of sources subject to the Vinyl Chloride Emissions Limits must perform continuous monitoring and prepare semiannual reports to ensure continuing compliance. Records must be maintained to support the data and reports.

Respondent: Businesses or other institutions, SIC Code 282.

• Title: Relief Valve Discharges at Vinyl Chloride Sources (EPA ID 0191).

Abstract: Owners or operators of sources subject to 40 CFR Part 61 must submit a report detailing relief valve discharges to EPA.

Respondent: Businesses or other institutions, SIC Code 282.

• Title: National Emission Standard for Hazardous Air Pollutants (NESHAP)—Subpart C Beryllium Source Emission Test Report—Request for Alternative Procedures (EPA ID 0193).

Abstract: Owners or operators of Beryllium Sources are required to perform an emission test, report results to EPA and retain records of the test to demonstrate compliance with the Beryllium Standard.

Respondent: Businesses or other institutions, SIC Codes 333, 325, 286.

• Title: New Source Performance Standards (NSPS)—Performance Tests and Monitoring Systems Performance (EPA ID 0304).

Abstract: Owners or operators of sources subject to a NSPS must conduct an emission test and a test of its continuous monitoring system, if applicable. Results of the test must be submitted to EPA to determine whether a source has initially met the standard and whether it can adequately monitor for continuing compliance.

Respondent: Businesses or other institutions, SIC Codes 333, 491, 142, 327, 331, 121, 287, 495, 324 and 281.

• Title: Mobile Source Emission Factor Survey (EPA ID 0619).

Abstract: The information is required to determine the extent of air pollution attributable to mobile sources and to measure progress toward its control.

The data are used to characterize exhaust emissions and to determine the benefits of control programs.

Respondent: Individuals or households.

• Title: New Source Performance Standards (NSPS) for Rotogravure Printing (EPA ID 0657).

Abstract: Owners or operators of Rotogravure Printing Facilities subject to the NSPS are required to submit written notification as facilities become subject to the standard and report results of performance tests. Owners or operators must collect data monthly, but are not required to report test results to EPA. EPA will audit the data yearly to assure compliance with the NSPS.

Respondent: Businesses or other institutions, SIC Code 275.

• Title: New Source Performance Standards (NSPS) for Metal Furniture Surface Coating (EPA ID 0649).

Abstract: Owners or operators of metal furniture surface coating facilities subject to the NSPS are required to submit written notification as facilities become subject to the standard and to report results of initial performance tests. Owners or operators must collect data monthly, but are not required to report the results to EPA. EPA will audit the records yearly to assure compliance with the NSPS.

Respondent: Businesses or other institutions, SIC Code 251.

• Title: New Source Performance Standards (NSPS) for Large Appliances: Surface Coating (EPA ID 0659).

Abstract: Owners or operators of large applicance surface coating facilities subject to the NSPS are required to submit notification as facilities become subject to the standard and to report results of initial performance tests. Owners or operators must collect data monthly, but are not required to report the results to EPA. EPA will audit the records on a yearly basis to assure compliance with the NSPS.

Respondent: Businesses or other institutions, SIC Code 363.

• Title: New Source Performance Standards (NSPS) for Metal Coil Surface Coating (EPA ID 0660).

Abstract: Owners or operators of metal coil surface coating facilities subject to the NSPS are require to keep EPA informed of new sources that become subject to the standard and report results of initial performance tests of each source. Owners or operators must collect data monthly, but are not required to report the results to EPA. EPA will audit the records on a yearly basis to assure compliance with the NSPS.

Respondent: Businesses or other institutions, SIC Code 347.

• Title: Survey to Estimate the Benefits of Controlling Diesel Particulates (EPA ID 0974).

Abstract: Data are needed for a study of the relationship of property values to ambient air pollution which will contribute information on the benefits of controlling emissions from diesel powered vehicles.

Respondent: Individuals or households.

Hazardous Waste Programs

• Title: Submission of Annual Reports by Hazardous Waste Generators and Treatment, shortage and Disposal Facilities (EPA ID 0976).

• Abstract: Owners or operators of hazardous waste treatment, storage and disposal facilities must submit an annual report containing information on location, amount and description of hazardous waste handled. This information is being collected to define the population of the regulated community and to expand the Agency's data bases for rulemaking purposes.

Respondent: Businesses or other institutions.

• Title: States Priorities for Remedial Action (EPA ID 0331).

Abstract: Section 105(8)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) requires the States to list, in priority order, sites of known or threatened hazardous substances release. The States must apply criteria specified in the National Contingency Plan, EPA will use the States' priority lists to set national priorities for remedial actions.

Respondent: States or local governments.

Pesticides Programs

• Title: Survey of Petsticide Use on Golf Courses (EPA ID 0605).

Abstract: The purpose of this survey is to collect data on the pesticide use practices of golf courses. Data are used to evaluate exposure and to support regulatory programs.

Respondent: Businesses or other institutions, SIC Code 799.

• Title: Pesticide Registration Standards Bibliography (EPA ID 0614).

Abstract: Before a pesticide registration standard is prepared, a bibliography of all data in EPA's possession is prepared and sent to current registrants to update.

Respondent: Businesses or other institutions, SIC Code 287.

• Title: Registration Standards/Data Call In Notices Issued for Data to be Submitted for Pesticide Chemicals (EPA ID 0922).

Abstract: This is a resubmittal of a disapproved ICR. Under Section 3 of FIFRA, EPA requests test data necessary for determinations concerning the re-registration of pesticide chemicals. These data determine whether these persticide chemicals cause unreasonable adverse effects on humans and the environment.

Respondent: Businesses or other institutions, SIC Code 287.

• Title: Approval of State Plans to Issue Experimental Use Permits at the State Level (EPA ID 0594).

Abstract: FIFRA permits States to issue experimental use permits if their State plan is approved by EPA. These permits allow an applicant to test an unregistered product for effectiveness and assist in the gathering of data needed for registration.

Respondent: State governments, SIC Code 941.

Toxics Programs

• Title: Chemical Specific Information: Request for Resubmission of PCB Exemptions (EPA ID 0857).

Abstract: This is the first ICR of a generic clearance which informs chemical companies that they must renew their PCB exemption within 45 days from day of notice. Companies would be requested to submit updated information.

Respondent: Chemical companies who manufacture, process, or distribute PCBs.

• Title: Cooperative Agreements for Remedial Planning/Implementation (EPA ID 0864).

Abstract: These agreements specify the State's role in the response actions, site operations and maintenance, and enforcement actions. Consultation with the affected State(s) prior to determining any appropriate remedial action is also included.

Respondent: State and local governments.

• Title: Asbestos Reporting and Recordkeeping Requirements (EPA ID 0577).

Abstract: Procedures, importers and processors of asbestos are required to submit data on emission and waste disposal of asbestos to identify activities for which control of asbestos exposure is necessary and to judge how regulatory or voluntary actions would affect exposure levels and competitive markets.

Respondents: Businesses or other institutions (except farms), SIC Codes 329, 289, 295.

Comments on this notice should be sent to:

David Kuhn, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM–223), 401 M Street, SW., Washington, D.C. 29460; and

Robert Shelton, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, NW., Washington, D.C. 20503.

Dated: July 14, 1982.

C. Ronald Smith,

Director, Office of Standards and Regulations.

[FR Doc. 82–19626 Filed 7–19–82; 8:45 am]

BILLING CODE 6560–50–M

[SAB FRL 2174–4]

Science Advisory Board, Environmental Health Committee; Open Meeting

Under Pub. L. 92–463, notice is hereby given that the Agency has expressed a desire to have an immediate Science Advisory Board review of three draft health assessment documents prepared by EPA's Office of Research and Development. A two-day emergency meeting of the Environmental Health Committee of the Science Advisory Board will be held on August 2 and 3, 1982 in Conference Room S353, U.S. Environmental Protection Agency, 401 M Street, Southwest, Washington, D.C. The meeting will start at 9:00 a.m. on August 2 and adjourn not later than 4:30 p.m. on August 3, 1982.

The principal purpose of the meeting will be to expedite the Science Advisory Board's review and comment on the scientific adequacy of three draft health assessment documents prepared by the Office of Health and Environmental Assessment of EPA's Office of Research and Development. The titles and publication numbers of the three documents are:

Title	EPA No.
Carcinogen Assessment of Coke Oven Emissions.	EPA–600/6–82–003, January 1982.
Health Assessment Document for Acrylonitrile.	EPA–600/8–82–007, March 1982.
Health Assessment Document for Toluene.	EPA–600/8–82–008, March 1982.

For information on how to obtain copies of these documents please call or write the Center for Environmental Research Information, 20 West St. Clair, Cincinnati, Ohio 45268, (513) 684–7562.

The meeting will be open to the public. Any member of the public wishing to attend, participate, submit a paper, or wishing further information should contract Mr. Ernst Linde, Executive Secretary, Environmental Health Committee, Science Advisory Board at (202) 382–2552, or Dr. Terry F. Yosie, Acting Director, Science Advisory Board, at (202) 382–4119 by close of business July 27, 1982.

EPA has recently instituted new visitor control procedures. In order to minimize any inconvenience, persons wishing to attend are requested to call Mrs. Patti Howard at (202) 382–2552 in order that they may be included on a roster that will be prepared for the building security guards. Attendees are also requested to enter the building through the West Tower entrance.

Terry F. Yosie

Acting Staff Director, Science Advisory Board.

July 15, 1982.

[FR Doc. 82–19666 Filed 7–19–82; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 80–286]

Federal-State Joint Board on Jurisdictional Separations To Meet in Seattle, Washington; Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board

July 9, 1982.

The Federal-State Joint Board in this proceeding will hold its next meeting on July 26, 1982 in Seattle, Washington. The meeting will take place in the Chinook-Taku Room of the Seattle Hilton Hotel from 9:00 a.m. to approximately 4:00 p.m. The Seattle Hilton is located at 6th and University Streets and can be reached at (206)624–0500.

At this meeting the Joint Board Staff will present reports concerning the regional hearings on the allocation of nontraffic sensitive plant as well as the staff and industry studies concerning the high cost factor. The staff will also report on the activities of the Joint Board staff subcommittees.

For further information contact James W. McConnaughey of the Common Carrier Bureau at (202)632–9342.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82–19618 Filed 7–19–82; 8:45 am]

BILLING CODE 6712–01–M

Public Information Collection Requirements Submitted to Office of Management and Budget for Review

The Federal Communications Commission has submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511.

Copies of these submissions are available from Richard D. Goodfriend, Agency Clearance Officer, (202) 632–7513. Comments should be sent to Edward H. Clarke, Office of Management and Budget, OIRA, Room 3201 NEOB, 726 Jackson Place, NW., Washington, D.C. 20503.

Title: Assignment of Authorization
Form No.: FCC 1046
Action: New Submission
Burden: 20,000 Responses; 1,680 Hours
Abstract: Used to assign authorization of radio station to another individual as the assignor must assign, in wirting, all right, title and interest of the authorization to the other individual.

Title: Common Carrier and Satellite Radio Licensee Qualification Report
Form No.: FCC 430
Action: Extension
Burden: 2,300 Responses; 4,600 Hours.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82–19619 Filed 7–19–82; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwerders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(c)).

Transoceanic Shipping Co., Inc., 2190 North Loop West, Suite 401, Houston, TX 77018. Officers; Basil J. Rusovich, Jr., President/Director/Chief Executive Officer, Erwin M. Melzer, Vice President/Director; Richard W. Castaing, Secretary; Arval D. Headrick, Vice President/Director

B.A. McKenzie & Co. of Missouri, Inc., P.O. Box 1435, 813 Pacific Avenue, Tacoma, WA 98401. Officers: Theodore W. Kennard, President/Director/Treasurer; George E. Tylen, Vice President; Robert M. Kennard, Secretary

Leonardo Martinez Rivera, d.b.a Leonardo Martinez, Calle Taft #105, Santurce, PR 00911
Clyd Ross Albright, Jr., d.b.a. Cross International, 6106 Kirkwood Court, Louisville, KY 40229
Garrison International Trade Services, Inc., c/o North Star Imports, Inc., 7600 23rd Avenue South, Minneapolis, MN 55450. Officers: Larry P. Garrison, President/Director/Stockholder; Carolyn Jean Garrison, Vice President/Director; Wayne Bachman, Vice President—Exports/Director; June Oatins, Vice President—Imports
CBE USA International Inc., 2700 Greens Road, Bldg. K., Houston, TX 77032. Officers: R. Ross Dinyari, President/Director; Preston D. Turpin, Vice President; C.C. Stiles, Secretary/Treasurer
Owen Anderson, d.b.a. Anderson Shipping Co., Inc., Suite No. 2323, No. Tustin Avenue, Santa Ana, CA 92705. Officers: Owen Anderson, President, Angela Green, Officer, Joe Williams, Officer.

Dated: July 14, 1982.

By the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82-19534 Filed 7-19-82; 8:45 am]

BILLING CODE 6730-01-M

[Fact Finding Investigation No. 9]

Possible Rebates and Similar Malpractices in the United States Foreign Commerce; Extension of Investigation

By Order of August 1, 1980, the Federal Maritime Commission extended for a term of two years Fact Finding Investigation No. 9. This nonadjudicatory proceeding was instituted by Order of the Commission on July 9, 1976 (**Federal Register** Vol. 41, No. 141, p. 30062, July 21, 1976), into the practices of rebates, absorptions, allowances in excess of those set forth in the tariff, and any other method of obtaining or allowing other persons to obtain transportion or property at less than the rates or charges which would otherwise be applicable in the United States foreign commerce.

Since its institution, Fact Finding Investigation No. 9 has been utilized as an integal part of the Commission's program into rebates and other malpractices in the foreign commerce of the United States. The Commission's continuing investigation into these matters raises the possibility that the compulsory processes authorized by Fact Finding Investigation No. 9 may have to be utilized to fully develop cases still pending final resolution.

In view of the above, the Commission has determined to extend the term of Fact Finding Investigation No. 9 for an additional two years.

Therefore, It Is Ordered, That pursuant to sections 22 and 27 of the Shipping Act, 1916 (46 U.S.C. 821 and 826) and section 214(a) of the Merchant Marine Act of 1936 [46 U.S.C. 1124(a)], Fact Finding Investigation No. 9 is extended for two years after publication of this Order in the **Federal Register.**

It Is Futher Ordered, That Notice of this Order be published in the **Federal Register.**

By the Commission, July 8, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82-19535 Filed 7-19-82; 8:45 am]

BILLING CODE 6730-01-M

Cancellation of Transshipment Agreements

Agreement Nos. 10139 and 10151.

Agreement No. 10139 covers a transshipment agreement between Iran Express Lines (Iran) and the Scandinavian East Africa Line governing the transportation of general cargo from all ports of Madagascar to U.S. Atlantic and Gulf ports with transshipment at Tamatave, or any other Malagasy port.

Agreement No. 10151 covers a transshipment agreement between Iran and Compagnie Malgache De Navigation governing the transportation of general cargo from all ports of Madagascar to U.S. Atlantic and Gulf ports with transshipment at Tamatave, or any other Malagasy port.

Neither Iran, Scandinavian East Africa Line, nor Compagnie Malgache De Navigation maintain tariffs on file with the Federal Maritime Commission and, therefore, apparently are no longer operating as ocean common carriers in the foreign commerce of the United States. Therefore, it appears that the parties to Agreements Nos. 10139 and 10151 are no longer parties subject to the Shipping Act, 1916, and the agreements should be terminated. Accordingly, notice is hereby given that Agreements Nos. 10139 and 10151 will be terminated effective August 4, 1982.

Agreement No. 9668.

Agreement No. 9668, approved by the Federal Maritime Commission pursuant to section 15, Shipping Act, 1916, on November 30, 1967, authorizes Tica Line and Gallen Line to establish a through billing arrangement for movement of cargo from New York to Bluefields, Nicaragua with transshipment at Puerto Limon, Costa Rica. Tica Line and Gallen Line do not maintain tariffs on file with this Commission and, therefore, apparently are no longer operating as ocean carriers in the foreign commerce of the United States. Therefore, it appears that the parties to Agreement No. 9668 are no longer parties subject to the Shipping Act, 1916, and the agreement should be terminated. Accordingly, notice is hereby given that Agreement No. 9668 will be terminated effective August 4, 1982.

Dated: July 15, 1982.

Robert G. Drew,

Director, Bureau of Agreements.

[FR Doc. 82-19621 Filed 7-19-82; 8:45 am]

BILLING CODE 6730-01-M

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10327; or may inspect the agreements at the Field Office located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before August 9, 1982. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreements Nos.: T-3813-3, T-3813-4, T-3813-5, T-2523-4, and T-2523-5.

Filing party: Ryokichi Higashionna, Ph. D., Director of Transportation, State of Hawaii, Department of Transportation, 869 Punchbowl Street, Honolulu, Hawaii 96813.

Summary: Agreement No. T-3813-3, between the State of Hawaii (State) and Matson Terminals, Inc. (Matson) amends approved Agreement No. T-3813 which provided for the lease of land and facilities by Matson at the Container Complex located at Sand Island, Honolulu, Hawaii. The amendment enlarges the terminal boundary of the original lease by the addition of container yard CY-10 and wharf 51B. Rentals have been updated to reflect fair rental values. An additional Minimum Annual Guarantee of $300,000 will be charged on the 16.2 acres located on the west side of CY-10 and the Wharf structure of Wharf 51B through July 13, 1986. Minimum Annual Guarantee of $161,776 will charged for the 12.8 acres located on the east side of CY-10 thorugh September 5, 2002.

Agreement No. T-3813-4 provides that certain construction items will be added to the construction provisions of the basic lease. The State will construct at its expense, the extension of Wharf 52 and will pave 11.4 acres of container yard area designated as CY-2. The State, at Matson's expense, will construct crane rail bolts and crane securing sockets. The State is responsible for future installation of curved rails, and switching device for container gantry crane, transit between Wharf 52 and Wharf 51, at Matson's expense. The State and Matson will construct various other items for crane usage.

Agreement No. T-3813-5 provides for the construction by the State of the Wharf 52 extension, grading and paving of the 11.4 acre container yard CY-2, and the construction of a special facility extension to Wharf 52. The Minimum Annual Guarantee to be adjusted when the extension of Wharf 52 and CY-2 are ready for operational use.

Agreement No. T-2523-4 modifies the basic agreement between the State and Matson which provides for the 20-year lease of a container facility at Sand Island Container Yard Complex, Honolulu, Hawaii. The purpose of the modification is to eliminate Wharf 51B, Parcel II, Easement A, and CY-10, from the lease. Parcel I containing the Matson office building, parking area and ships store warehouse will be retained under the lease. Wharf 51B, Easement A and CY-10 will be made part of Agreement No. T-3813 by an amendment.

Agreement No. T-2523-5 provides for the assignment by Matson Terminals, Inc., of the lease and amendments thereto under Agreement No. T-2523 to Matson Navigation Company.

Agreement No.: T-4016-1.

Filing party: Mr. Richard L. Landes, Deputy City Attorney, City of Long Beach, Harbor Branch Office, P.O. Box 570, Long Beach, California 90801.

Summary: Agreement No. T-4016-1, between the City of Long Beach (City) and Pacific Maritime Services, Inc. (PMC) amends the basic agreement between the parties which provides for the 20-year nonexclusive preferential assignment to PMS by City of certain premises at Pier J, Long Beach, for operation as a contract marine terminal warehouse and rail and truck facility. The purpose of the amendment is to correct an inadvertent overcharge of rental which was contained in the original agreement.

Agreement No.: T-4055.

Filing party: Mr. Robert W. Goethe, Assistant Executive Director, Georgia Ports Authority, P.O. Box 246, Savannah, Georgia 31402.

Summary: Agreement No. T-4055, between the Georgia Ports Authority (Lessor) and Moller Steamship Company, as Agent for Maersk Line (Lessee) provides for the Authority's 3 year lease to Moller/Maersk on an exclusive basis, of certain premises located within the Containerport at Garden City Terminal, Chatham County, Georgia. The premises will be used for the storage and handling of containers moving in ocean transportation across Lessor's dock facilities. Lessee will pay to Lessor a fixed monthly rental charge as set forth in the agreement and will also pay for terminal services at Lessor's tariff rates, with certain exceptions.

By order of the Federal Maritime Commission.

Dated: July 15, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82-19620 Filed 7-19-82; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 354]

Nato Forwarding Co., Inc.; Order of Revocation in Part

On July 6, 1982, Nato Forwarding Co., Inc., One World Trade Center, Suite 2147, New York, New York 10048, voluntarily surrendered its right to operate under Independent Ocean Freight Forwarder License No. 354.

Notwithstanding this, Inter-Maritime Forwarding Co., Inc. will continue to hold FMC License No. 354 in its name only.

Therefore, by virtue of authority vested in me by the Federal Maritme Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 10.01(f) dated November 12, 1981;

Notice is hereby given, that Nato Forwarding Co., Inc.'s authority to use Independent Ocean Freight Forwarder License No. 345 issued to Inter-Maritime Forwarding Co., Inc. and Nato Forwarding Co., Inc. be and is hereby revoked effective July 6, 1982.

It is ordered, that a copy of this Order be published in the **Federal Register** and served upon Nato Forwarding Co., Inc.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 82-19622 Filed 7-19-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies: Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated for each application.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Chase Manhattan Corporation,* New York, New York (mortgage banking and related lending and insurance activities; Pennsylvania): To make or acquire, for its own account or for the account of others, loans and other extensions of credit secured by real estate, including but not limited to, first and second mortgage loans secured by mortgages on one-to-four family residential properties, to service loans and other extensions of credit for any person, to sell mortgage loans in the secondary market, and to offer mortgage term life insurance, accident and health insurance and disability insurance directly related to such lending and servicing activities. These activities will be conducted from an office located in Wayne, Pennsylvania, serving Eastern Pennsylvania, of which the primary market areas will be the counties of Philadelphia, Chester, Montgomery, Bucks and Delaware. Comments on this application must be received not later than August 13, 1982.

2. *The Chase Manhattan Corporation,* New York, New York (finance, servicing, and leasing activities; Northeastern U.S.): To engage through its indirect subsidiary, Chase Commercial Corporation, in making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a commercial finance, equipment finance or factoring company, including factoring accounts receivable, making advances and over-advances on receivables and inventory and business installment lending as well as unsecured commercial loans; servicing loans and other extensions of credit; leasing personal property on a full payout basis and in accordance with the Board's Regulation Y, or acting as agent, broker or advisor in so leasing such property, including the leasing of motor vehicles. These activities would be conducted from an office in Buffalo, New York, serving the states of western New York State, Connecticut, Maine, New Hampshire, Rhode Island, Massachusetts and Vermont. Comments on this application must be received not later than August 13, 1982.

3. *The Chase Manhattan Corporation,* New York, New York (finance, servicing, and leasing activities; Southwestern U.S.): To engage through its indirect subsidiary, Chase Commercial Corporation, in making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a commercial finance, equipment finance or factoring company, including factoring accounts receivable, making advances and over-advances on receivables and inventory and business installment lending as well as unsecured commercial loans; servicing loans and other extensions of credit; leasing personal property on a full payout basis and in accordance with the Board's Regulation Y, or acting as agent, broker or advisor in so leasing such property, including the leasing of motor vehicles. These activities would be conducted from an office in Longview, Texas serving the States of Texas, Arkansas, Colorado, Kansas, Louisiana, New Mexico and Oklahoma. Comments on this application must be received not later than August 13, 1982.

Board of Governors of the Federal Reserve System, July 14, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-19942 Filed 7-19-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Birnamwood Bancshares, Inc.,* Birnamwood, Wisconsin; to become a bank holding company by acquiring 81 percent of the voting shares of The Bank of Birnamwood, Birnamwood, Wisconsin. Comments on this application must be received not later than August 13, 1982.

2. *Columbus Corporation,* Columbus, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to Columbus Bank and Trust Company, Columbus, Indiana. Comments on this application must be received not later than August 13, 1982.

3. *Dunlap Iowa Holding Co.,* Dunlap, Iowa; to become a bank holding company by acquiring 80 percent of the voting shares of Dunlap Savings Bank, Dunlap, Iowa. Comments on this application must be received not later than August 13, 1982.

4. *Princeton National Bancorp, Inc.,* Princeton, Illinois; to become a bank holding company by acquiring 100 percent (less directors' qualifying shares) of the voting shares of the successor by merger to Citizens First National Bank of Princeton, Princeton, Illinois. Comments on this application must be received not later than August 13, 1982.

B. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Edmonton Bancshares, Inc.,* Edmonton, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to Edmonton State Bank, Edmonton, Kentucky. Comments on this application must be received not later than August 13, 1982.

C. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Amsterdam Bancshares, Inc.,* Amsterdam, Missouri; to become a bank holding company by acquiring 86 percent of the voting shares of Citizens Bank, Amsterdam, Missouri. Comments on this application must be received not later than August 13, 1982.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Oaklawn Financial Corporation,* Texarkana, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of Oaklawn Bank, Texarkana, Texas. Comments on this application must be received not later than August 13, 1982.

Board of Governors of the Federal Reserve System, July 14, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-19943 Filed 7-19-82; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois (60690:

1. *Central Wisconsin Bankshares, Inc.,* Wausau, Wisconsin; to acquire 51 percent or more of the voting shares of Tri-County State Bank of Marshfield, Marshfield, Wisconsin. Comments on this application must be received not later than August 13, 1982.

2. *Milford Bancorporation,* Milford, Iowa; to acquire 100 percent of the voting shares of San Bancorp., Sanborn, Iowa, and thereby indirectly acquire 85 percent or more of the voting shares of Sanborn Savings Bank, Sanborn, Iowa. Comments on this application must be received not later than August 13, 1982.

3. *Mt. Zion Bancorp, Inc.,* Mt. Zion, Illinois; to acquire 100 percent of the voting shares (less directors' qualifying shares) of The Hight State Bank, Dalton City, Illinois. Comments on this application must be received not later than August 13, 1982.

B. Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551:

1. *Texas Commerce Bancshares, Inc.,* Houston, Texas; to acquire 100 percent of the voting shares or assets of Chemical Bank & Trust Company, Houston, Texas. This application may be inspected at the Federal Reserve Bank of Dallas. Comments on this application must be received not later than August 13, 1982.

Board of Governors of the Federal Reserve System, July 14, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-19944 Filed 7-19-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meeting: Baltimore District Office, Chaired by Thomas L. Hooker, District Director.

DATE: Tuesday, July 27, 1982, 10 a.m. to 12 noon.

ADDRESS: Virginia Beach Recreation Center—Kempville, Rm. 117, 800 Monmouth Lane, Virginia Beach, VA 23464.

FOR FURTHER INFORMATION CONTACT: Charity E. Singletary, Consumer Affairs Officer, Food and Drug Administration, 701 W. Broad St., Rm. 309, Falls Church, VA 22046, 703-285-2578.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance understanding and exchange information between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: July 12, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-19461 Filed 7-19-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82M-0004]

Genetic Laboratories, Inc.; Premarket Approval of Bioflow®

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Bioflow® device, a vascular access graft, sponsored by Genetic Laboratories, Inc., Roseville, MN. After reviewing the recommendation of the Gastroenterology—Urology Device Section of the General Medical Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by August 19, 1982.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles Kyper, Bureau of Medical Devices (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7445.

SUPPLEMENTARY INFORMATION: On June 8, 1981, Genetic Laboratories, Inc., Roseville, MN, submitted to FDA an application for premarket approval of the Bioflow® device, a specially processed human umbilical cord arterial graft intended for use as a vascular access graft. The application was reviewed by the Gastroenterology-Urology Device Section of the General Medical Devices Panel, an FDA advisory committee, which recommended approval of the application for grafts not less than 6 millimeters in diameter, for the use of this device for patients who require an arterio-venous graft. On March 10, 1982, FDA approved the application by a letter to the sponsor from the Acting Director of the Bureau of Medical Devices.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Bureau of Medical Devices. Contact Charles Kyper (HFR-402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d) (3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d) (3)) authorizes any interested person to petition under 515(g) of the act (21 U.S.C. 360e(g)) for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative

practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before August 19, 1982, file with the Dockets Management Branch (address above), four copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 12, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-19589 Filed 7-19-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82D-0164]

New Animal Drugs for Use in Poultry Feed for Pigmentation; Availability of Proposed Revised Guidelines

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the availability of proposed revised guidelines prepared by the Bureau of Veterinary Medicine (BVM). The proposed guidelines, revised March 1982, describe the type of data required to establish effectiveness of drugs used in poultry feed for pigmentation. Interested persons are invited to review and submit written comments on the proposed revised guidelines.

DATE: Submit comments on or before November 16, 1982.

ADDRESS: The proposed revised guidelines are available for public examination at, written comments may be submitted to, and requests for single copies may be sent to, the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Bureau of Veterinary Medicine (HFV-147), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4317.

SUPPLEMENTARY INFORMATION: The Federal Food, Drug, and Cosmetic Act (the act) requires that a new animal drug be the subject of an approved new animal drug application (NADA) before it may be marketed. Section 512(b)(1) of the act (21 U.S.C. 360b(b)(1)) requires that each NADA include full reports of investigations which show that the drug is safe and effective for use. Section 512(d) of the act (21 U.S.C. 360b(d)) describes the criteria that must be met before a new animal drug may be approved, including that it be safe and effective for use as labeled.

The proposed revised guidelines prepared by BVM describe the type of data required to establish the effectiveness of drugs used in poultry feed for pigmentation. The proposed revised guidelines would supersede the 1975 Preclearance Guidelines for Production Drugs as they relate to pigmentation uses. The proposed revised guidelines allow for the new animal drug to enhance carcass or egg yolk pigmentation independent of other production uses, and for use of a Roche color fan to provide for a color standard.

This notice of availability is issued under § 10.90(b) (21 CFR 10.90(b)), which provides for use of guideline to establish procedures of general applicability that are not legal requirements but are acceptable to the agency. A person who follows a guidelines is assured that his or her conduct will be acceptable to the agency. A person may also choose to use alternative procedures even though they are not provided for in the guideline. Persons are advised to consult with BVM prior to initiating studies to prevent expenditure of money and effort for work that may later be determined to be unacceptable.

The guidelines are available for public examination at, and requests for single copies may be sent to, the Dockets Management Branch (HFA-305) (address above).

Interested persons may submit written comments on the guideline to the Dockets Management Branch (HFA-305), on or before November 16, 1982. Such comments will be considered in determining whether revision of the guideline is warranted. Respondents should submit two copies (except that individuals may submit single copies) identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Managements Branch from 9 a.m. to 4 p.m., Monday through Friday.

Dated: July 13, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-19588 Filed 7-19-82; 8:45 am]

BILLING CODE 4160-01-M

Oelwein Chemical Co.; Tylosin Premix; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) sponsored by Oelwein Chemical Co., Inc., providing for a tylosin premix used in manufacturing complete swine feeds. The firm requested the withdrawal of approval.

EFFECTIVE DATE: July 30, 1982.

FOR FURTHER INFORMATION CONTACT: Howard Meyers, Bureau of Veterinary Medicine (HFV-218), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4093.

SUPPLEMENTARY INFORMATION: Oelwein Chemical Co., Inc., Second Ave. SE., Oelwein, IA 50662, is the sponsor of NADA 111-638 for Occo Swine Fortipak TY 2000 Medicated which contains tylosin phosphate 2,000 grams per ton (equivalent to 1.0 gram per pound). The premix is used in manufacturing complete swine feeds for increased rate of weight gain and improved feed efficiency.

The sponsor, by letter dated April 13, 1982, requested withdrawal of approval of the NADA because it has not manufactured nor marketed the product and has no intention to do so.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84) and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 111-638 and all supplements thereto is hereby withdrawn, effective July 30, 1982.

In a separate document published elsewhere in this issue of the **Federal Register**, § 558.625 *Tylosin* is amended to remove that portion that reflects approval of this NADA.

Dated: July 14, 1982.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 82-19587 Filed 7-19-82; 8:45 am]

BILLING CODE 4160-01-M

Doboy Feeds, Domain Industries, Inc.; Doboy Tylan 10 Premix; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) sponsored by Doboy Feeds, Doman Industries, Inc., providing for use of Doboy Tylan 10 Premix in manufacturing complete swine feeds. The firm requested withdrawal of approval.

EFFECTIVE DATE: July 30, 1982.

FOR FURTHER INFORMATION CONTACT: Howard Meyers, Bureau of Veterinary Medicine (HFV-218), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4093.

SUPPLEMENTARY INFORMATION: Doboy Feeds, Domain Industries, Inc., 215 N. Knowles Ave., P.O. Box 248, New Richmond, WI 54017, is the sponsor of NADA 98-430 which provides for use of a premix containing 10 grams of tylosin per pound in manufacturing complete swine feeds. The swine feeds are used for increased rate of weight gain and improved feed efficiency.

The application originally became effective on November 21, 1974. By letter of March 29, 1982, the sponsor requested withdrawal of approval of the NADA because the product is no longer being manufactured or marketed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redeletated to the Bureau of Veterinary Medicine (21 CFR 5.84) and in accordance with § 514.115 *Withdrawal of approval of applications* (21, CFR 514.115), notice is given that approval of NADA 98-430 and all supplements for Doboy Tylan 10 Premix is hereby withdrawn, effective Friday, July 30, 1920.

In a separate document published elsewhere in this issue of the **Federal Register**, Parts 510 and 558 are amended to remove those portions of the regulations reflecting this approval.

Dated July 14, 1982.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 82-19517 Filed 7-19-82; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Statement of Organization, Functions, and Delegations of Authority

This notice amends Part F (Health Care Financing Administration) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services, 46 FR 56911 of November 19, 1981, to abolish the Medicaid/Medicare Mangement Institute in the Bureau of Program Operations. Functions concerning the distribution of publications, and scheduling conferences and workshops with State Medicaid agencies and Medicare contractors are reassigned to the Office of Intergovernmental Affairs.

Part FP.20 is amended by deleting section FP.20.A.6 in its entirety. This section includes the Medicaid/Medicare Management Institute (FPA6) and its three subordinate components.

Part FG.20.D. is amended by adding the following sentence at the end of this section:

Prepares and disseminates publications and schedules conferences and workshops to provide information to Medicaid State agencies and in some instances, to Medicare contractors.

Date: July 12, 1982

Richard S. Schweiker,

Secretary.

[FR Doc. 82-19556 Filed 7-19-82; 8:45 am]

BILLING CODE 4120-3-M

Health Services Administration

Health Education Assistance Loan Program; Maximum Interest Rates for Quarter Ending September 30, 1982

Section 727 of the Public Health Service Act (42 CFR Part 60, previously 45 CFR Part 126) authorizes the Secretary of Health and Human Services to establish a Federal program of student loan insurance for graduate students in health professions schools. Section 60.13(a)(4) of the program's implementing regulations provides that the Secretary will announce the interest rate in effect on a quarterly basis.

The Secretary announces that for the period ending September 30, 1982, two interest rates are in effect for loans executed through the Health Education Assistance Loan (HEAL) program.

1. For loans made before January 27, 1981, the variable interest rate is 11 percent. Using the regulatory formula (45 CFR 126.13(a)(2)(3)), in effect prior to January 27, 1981, the Secretary would normally compute the variable rate for this quarter by finding the sum of the fixed annual rate (7 percent) and a variable component calculated by subtracting 3.50 percent from the average bond equivalent rate of 91-day U.S. Treasury Bills for the preceding calendar quarter (12.96 percent), and rounding the result (9.46 percent) upward to the nearest ⅛ percent (9⅜ percent). Thus, the variable rate for this 3-month period would normally be at the annual rate of 16⅜ percent (9⅜ percent plus 7 percent). However, the regulatory formula also provides that the annual rate of the variable interest for a 3-month period shall be reduced to the highest one-eighth of 1 percent which would result in an average annual rate not in excess of 12 percent for the 12-month period concluded by those 3 months. For the previous 3 quarters the variable interest at the annual rate was as follows: 11⅛ percent for the quarter ending December 31, 1981; 12⅝ percent for the quarter ending March 31, 1982; and 13¼ percent for the quarter ending June 30, 1982. Therefore, in order to maintain an average annual rate of 12 percent for the 12-month period ending September 30, 1982, the variable interest rate for the quarter ending September 30, 1982, would be at an annual rate of 11 percent.

2. For fixed rate loans executed during the period of July 1 through September 30, 1982, and for variable rate loans executed after January 27, 1981, the interest rate is 16⅜ percent. Using the regulatory formula (42 CFR 60.13 (a)(3)), in effect since January 27, 1981, the Secretary computes the maximum interest rate at the beginning of each calendar quarter by determining the average bond equivalent rate for the 91-day U.S. Treasury Bills during the preceding quarter (12.96 percent); adding 3.50 percent (16.46 percent); and rounding that figure to the next higher one-eighth of 1 percent (16⅜ percent).

(Catalog of Federal Domestic Assistance No. 13.108, Health Education Assistance Loans)

Dated: July 9, 1982.

John H. Kelso,

Acting Administrator.

[FR Doc. 82-19541 Filed 7-19-82; 8:45 am]

BILLING CODE 4/60-16-M

National Institutes of Health

Biometry and Epidemiology Contract Review Committee; Amended Notice of Meeting

Notice is hereby given of the cancellation of the second day of the meeting of the Biometry and Epidemiology Contract Review Committee, National Cancer Institute, National Institutes of Health, July 30, 1982; which was published in the **Federal Register** on June 22, 1982, (47 FR 26911–2). The meeting will still be held in Building 31C, Conference Room 9, National Institutes of Health, Bethesda, Maryland 20205. The open portion of the meeting will remain from 9:00 a.m. to 9:30 a.m., on July 29 to review administrative details. Attendance by the public will be limited to space available. The closed portion of the meeting will begin at 9:30 a.m. and continue through adjournment.

For further information, please contact Dr. Wilna A. Woods, Executive Secretary, Biometry and Epidemiology Contract Review Committee, National Cancer Institute, Westwood Building, Room 822, National Institutes of Health, Bethesda, Maryland 20205 (301/496–7153).

Dated: July 13, 1982

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 82-19529 Filed 7-19-82; 8:45 am]

BILLING CODE 4140-01-M

Meeting of Environmental Health Sciences Review Committee

Pursuant to Pub L. 92–463, notice is hereby given of the meeting of the Environmental Health Sciences Review Committee on August 2–3, 1982 in Building 101 Conference Room, Research Triangle Park, North Carolina. This meeting will be open to the public from 8:30 a.m. to approximately 10:30 a.m. on August 2, 1982, for general discussions. Attendance by the public is limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 10:30 a.m., August 2, to adjournment on August 3, 1982, for the review, discussion and evaluation of individual grant applications and contract proposals. These applications and proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Carol Shreffler, Executive Secretary, Environmental Health Sciences Review Committee, National Institute of Environmental Health Sciences, National Institutes of Health, P.O. Box 12233, Research Triangle Park, North Carolina 27709, (telephone 919–541–7826), will provide summaries of meeting, rosters of committee members, and substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.892, Prediction, Detection and Assessment of Environmental Caused Diseases and Disorders; 13.893, Mechanisms of Environmental Diseases and Disorders; 13.894, Environmental Health Research and Manpower Development Resources, National Institutes of Health)

NIH programs are not covered by OBM Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular.

Dated: July 8, 1982.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 82-19522 Filed 7-19-82; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Advisory Board Subcommittee on Environmental Carcinogensis; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Cancer Advisory Board Subcommittee on Environmental Carcinogenesis, National Cancer Institute, September 23, 1982, Building 31, Conference Room 4, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205. The meeting will be open to the public on September 23, 1982, from 9:00 a.m. to adjournment to discuss quantitative risk assessment of environmental carcinogens. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708), will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Richard H. Adamson, Executive Secretary, National Cancer Advisory Board Subcommittee on Environmental Carcinogenesis, National Cancer Institute, Building 31, Room 11A03, National Institutes of Health, Bethesda, Maryland 20205 (301/496–6618), will furnish substantive program information.

Dated: July 13, 1982.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 82-19521 Filed 7-19-82; 8:45 am]

BILLING CODE 4140-01-M

President's Cancer Panel; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the President's Cancer Panel, September 14, 1982, at the Westin Hotel, Cascade Room, 5th and Westlake, Seattle, Washington 98101. The entire meeting will be open to the public from 7:30 p.m. to adjournment. Agenda items include reports by the Director, National Cancer Institute, and the Chairman, President's Cancer Panel; and discussions to obtain information on research supported by the National Cancer Institute from scientists of the universities in the Seattle area and those scientists attending the International Cancer Congress. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of Panel members, upon request.

Dr. Elliott Stonehill, Executive Secretary, President's Cancer Panel, National Cancer Institute, Building 31, Room 11A35, National Institutes of Health, Bethesda, Maryland 20205 (301/496–1148) will furnish substantive program information.

Dated: July 13, 1982.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 82-19523 Filed 7-19-82; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Announcement of Vacancies; Osage Education Committee

July 9, 1982.

Second Announcement of Vacancy

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

On September 11, 1981 an announcement of one vacancy on the Osage Education Committee was published in the **Federal Register** (46 FR 45425). No applicants applied in

response to the first announcement. A second vacancy has occurred recently due to a member changing his place of residence. This announcement includes the second vacancy.

Paragraph (e)(5), Committee vacancies, of 25 CFR 112a.5, Establishment of Osage Tribal Education Committee, recently redesignated as Part 122 (47 FR 13326) on March 30, 1982, states that any vacancies shall be filled in the same manner described by this section for the selection of committee members. The period of time for receiving applicaitons shall not exceed 30 days with the expiration date to be announced by the Assistant Secretary. The Assistant Secretary may appoint any individual to serve for a temporary period ot time until the vacancy is filled. However, such an appointment shall not exceed 45 days.

This notice announces that two vacancies have occurred on the Osage Education Committee. The purpose of this announcement is to solicit nominations from individuals or from Osage organizations on behalf of nominees for the vacancies. The vacancies represent the unexpired portion (approximately two years) of a four year term for the Pawhuska Village Area and the Hominy Village Area. Nominees must meet the requirements of residing within a 20 mile radius of the Pawhuska or Hominy Villages. Other requirements state that the nominee must be an adult person of Osage Indian blood, who is an allottee or a descendant of an allottee. The nominee or his representative organization should submit a brief statement requesting that he/she be considered a candidate for the vacancy and the reason for desiring to serve on the committee. If nominated by an Osage organization, a written statement from the nominee stating his/her willingness to serve on the committee must be included with the Osage organization nomination.

Applications and nominations shall be made on or before August 19, 1982 and shall be mailed to: Assistant Secretary—Indian Affairs, Attention: Director, Office of Indian Education Programs, Code 500, 18th & C Streets, NW., Washington, D.C. 20240.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 82-19527 Filed 7-19-82; 8:45 am]
BILLING CODE 4310-02-M

Confederated Tribes of the Umatilla Reservation; Plan for the Use of the Judgment Funds Awarded to the Confederated Tribes of the Umatilla Reservation of Oregon in Dockets 342–70 and 343–70 Before the United States Court of Claims

July 9, 1982.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

The Act of October 19, 1973 (Pub. L. 93–134, 87 Stat. 466), requires that a plan be prepared and submitted to Congress for the use or distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian tribe. Funds were appropriated on March 28, 1981, in satisfaction of the award granted to the Confederated Tribes of the Umatilla Reservation in United States Court of Claims Dockets 342–70 and 342–70. The plan for the use and distribution of the funds was submitted to the Congress with a letter dated December 22, 1981, and was received (as recorded in the Congressional Record) by the House of Representatives on January 25, 1982, and by the Senate on January 26, 1982. The plan became effective on April 25, 1982, as provided by Section 5 of the 1973 Act since Congress did not adopt a resolution disapproving it.

The plan reads as follows:

"The funds appropriated on March 28, 1981, in satisfaction of an award granted to the Confederated Tribes of the Umatilla Reservation of Oregon in Dockets 343–70 and 343–70 before the United States Court of Claims, including all interest and investment income accrued, less attorney fees and litigation expenses, shall be distributed as herein provided.

1. *Land Acquisition:* Fifty (50) percent of the funds shall be utilized for land acquisition including, but not limited to, land for tribal development and to consolidate fractionated individual land interests.

2. *Program Development:* Twenty-five (25) percent of the funds shall be utilized for tribal program development including, but not limited to, the implementation of the tribal reorganization plan, development of a tribal relief program, a recreation program and an oral history project.

3. *Economic Development:* Twenty-five (25) percent of the funds shall be utilized for tribal economic development."

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 82-19529 Filed 7-19-82; 8:45 am]
BILLING CODE 4310-02-M

Kalispel Indian Community; Plan for the Use of the Judgment Funds Awarded to the Kalispel Indian Community of Washington in Dockets 523–71 and 524–71 Before the United States Court of Claims

July 9, 1982.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

The Act of October 19, 1973 (Pub. L. 93–134, 87 Stat. 466), requires that a plan be prepared and submitted to Congress for the use or distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian tribe. Funds were appropriated on March 24, 1981, in satisfaction of the award granted to the Kalispel Indian Community in United States Court of Claims Dockets 523–71 and 524–71. The plan for the use and distribution of the funds was submitted to the Congress with a letter dated December 17, 1981, and was received (as recorded in the Congressional Record) by the House of Representatives on January 25, 1982, and by the Senate on January 28, 1982. The plan became effective on April 27, 1982, as provided by Section 5 of the 1973 Act since Congress did not adopt resolution disapproving it.

The plan reads as follows:

"The funds appropriated on March 24, 1981, in satisfaction of an award granted to the Kalispel Indian Community of Washington in Dockets 523–71 and 524–71 before the United States Court of Claims, including all interest and investment income accrued, less attorney fees and litigation expenses, shall be distributed as herein provided.

The funds shall be invested by the Secretary of the Interior and shall be utilized by the Kalispel Business Committee, subject to the approval of the Secretary, on an annual budgetary basis for tribal governing expenses, including, but not limited to, governing body expenses, tribal rights protection, educational assistance and community development."

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 82-19540 Filed 7-19-82; 8:45 am]
BILLING CODE 4310-02-M

Spokane Tribe; Plan for the Use and Distribution of Spokane Tribe Judgment Funds in Dockets 523–71 and 524–71 Before the United States Court of Claims

July 9, 1982.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

The Act of October 19, 1973 (Pub. L. 93–134, 87 Stat. 466), requires that a plan be prepared and submitted to Congress for the use or distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian tribe. Funds were appropriated on March 24, 1981, in satisfaction of the award granted to the Spokane Tribe in United States Court of Claims Dockets 523–71 and 524–71. The plan for the use and distribution of the funds was submitted to the Congress with a letter dated December 10, 1981, and was received (as recorded in the Congressional Record) by the House of Representatives on January 25, 1982, and by the Senate on January 28, 1982. The plan became effective on April 27, 1982, as provided by Section 5 of the 1973 Act since Congress did not adopt resolution disapproving it.

The plan reads as follows:

The funds appropriated on March 24, 1981, in satisfaction of an award granted to the Spokane Indian Tribe of the Spokane Reservation, Washington in Dockets 523–71 and 524–71 before the United States Court of Claims, including all interest and investment income accrued, less attorney fees and litigation expenses, shall be distributed as herein provided.

A. *Per Capita Distribution.* The Spokane Indian Tribe's latest approved membership roll shall be brought current to include all eligible members born on or prior to and living on the effective date of this Plan.

Subsequent to the preparation and approval by the Secretary of this roll, the Secretary shall make a per capita distribution of eighty (80) percent of the funds, in a sum as equal as possible, to each enrollee. Any amount remaining after the per capita payment to the enrollees shall be utilized pursuant to the provisions of Part B of this Plan.

The per capita shares of living competent adults shall be paid directly to them. The per capita shares of legal incompetents shall be handled pursuant to 25 CFR 115.5 The per capita shares of deceased individual beneficiaries shall be determined and distributed in accordance with 43 CFR, Part 4, Subpart D. The per capita shares of minors shall be handled pursuant to 25 CFR 87.10 (a) and (b)(1) and 115.4 (25 CFR 104 redesignated to 25 CFR Part 115 and 25 CFR Parts 60 to 87, as published in Federal Register of March 30, 1982, page 13327).

B. *Land purchase.* The remaining twenty (20) percent of these funds shall be utilized by the Tribe in its land purchase program.

None of the funds distributed per capita or held in trust under the provisions of this Act shall be subject to Federal or State income taxes, and the per capita payments shall not be considered as income or resources when determining the extent of eligibility for assistance under the Social Security Act.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 82-19547 Filed 7-19-82; 8:45 am]

BILLING CODE 4310-02-M

Akima Indian Nation; Plan for the Use and Distribution of the Confederated Tribes and Bands of the Yakima Indian Nation Judgment Funds in Docket 310–74 Before the United States Court of Claims

July 9, 1982.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

The Act of October 19, 1973 (Pub. L. 93–134, 87 Stat. 466), requires that a plan be prepared and submitted to Congress for the use or distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian tribe. Funds were appropriated on May 20, 1981, in satisfaction of the award granted to the Confederated Tribes and Bands of the Yakima Indian Nation in United States Court of Claims Docket 310–74. The plan for the use and distribution of the funds was submitted to the Congress with a letter dated February 12, 1982, and was received (as recorded in the Congressional Record) by the House of Representatives on February 22, 1982, and by the Senate on February 23, 1982. The plan became effective on May 12, 1982, as provided by Section 5 of the 1973 Act since Congress did not adopt a resolution disapproving it.

The plan reads as follows:

"The funds appropriated on May 20, 1981, in satisfaction of the award granted to the Confederated Tribes and Bands of the Yakima Nation of the Yakima Reservation, Washington, in Docket 310–74 before the United States Court of Claims, including all interest and investment income accrued, less attorney fees and litigation expenses, shall be distributed as herein provided.

A. *Per Capita Distribution.* The Confederated Tribes and Bands of the Yakima Indian Nation's latest approved membership roll shall be brought current to include all eligible members born on or prior to and living on the effective date of the plan.

Subsequent to the preparation and approval by the Secretary of this roll, the Secretary shall make a per capita distribution of eighty (80) percent of the funds, in a sum as equal as possible, to each enrollee. Any amount remaining after the per capita payment to the enrollees shall be utilized pursuant to the provisions of Part B of this Plan.

The per capita shares of living competent adults shall be paid directly to them. The per capita shares of legal incompetents shall be handled pursuant to 25 CFR 115.5. The per capita shares of deceased individual beneficiaries shall be determined and distributed in accordance with 43 CFR, Part 4, Subpart D.

The minors' shares will be retained in individual segregated IIM Accounts. Upon reaching the age of eighteen years, unless under a legal disability, the beneficiary shall be entitled to withdraw the per capita shares and accrued investment income thereon as provided in 25 CFR 115.3. If a beneficiary is under a legal disability upon attaining the age of eighteen years, the per capita share and accrued investment thereon shall be handled pursuant to 25 CFR 115.5 (25 CFR Part 104, redesignated to 25 CFR Part 115, as published in Federal Register of March 30, 1982, page 13327).

Minors' per capita shares, including all investment income accruing thereto, may be disbursed pursuant to Pub. L. 95–433 (92 Stat. 1047) and under the plan adopted by the Yakima Tribal Council through Resolution T–17–79 dated January 17, 1979, as follows:

This plan is prepared to comply with Sections C and D of Pub. L. 95–433, which provides for the disbursing of 'minor's share' of the per capita of judgment awards for the minor's health, education, welfare and emergencies. Since per capita distributions are made on or about the first day of March and the first day of September each year, and are intended to provide in part for the minor's needs, it is preferable that no plan for distribution of minor's funds be in effect until at least 45 days after each per capita distribution. It has been determined that the school years beginning with the fifth (5th) grade and continuing through high school are the most tryng and frustrating if students' needs are not met. This can and does

often contribute to the school drop-out problem.

Therefore, it is preferable that funds not be disbursed for educational purposes until the minor reaches 10 years of age and/or the fifth (5th) grade. Parents may withdraw funds from minor's special I.I.M. accounts for the following purposes and in accordance with following criteria:

1. Health—

(a) There is no minimum age requirement.

(b) Parents must have exhausted all other resources.

(c) Funds can be used for special cases; such as orthodontic treatment, eye glasses, etc.

(d) For other special health related needs.

2. Education—

(a) Minor must be at least ten (10) years of age and/or in the fifth (5th) grade.

(b) Parents must have exhausted all other resources; such as JOM, Title IV, Tribal Emergency Assistance, Per Capitas, BIA, VA, Social Security, etc..

(c) Aceptable purposes include Boy and Girl Scouts, Blue Birds, Camp Fire Girls, 4–H, etc..

(d) Special activities, such as, sports insurance, special clothing, shoes, school clubs, etc..

(e) Special expenses, such as, graduation related expenses, musical instruments, etc.

3. Welfare—

(a) There is no minimum age requirement.

(b) Parents must have exhausted all other resources.

(c) Acceptable purposes include special clothing, dietary food related needs, etc.

(d) Needs of under 18 years of age mothers and/or fathers.

(e) Special needs.

4. Emergency Purposes—

(a) There is no minimum age requirement.

(b) Parents must have exhausted all other resources.

Applications, on a special form, will be reviewed by both Bureau and Tribal Social Services personnel and approval will be made by a member of the H.E.W. Committee, on behalf of the Yakima Indian Nation and the Superintendent on behalf of the Bureau of Indian Affairs.

B. *Heirship Purchase.* The remaining twenty (20) percent of these funds shall be utilized by the Yakima Land Enterprise heirship land purchasing program.

None of the funds distributed per capita or held in trust under the provisions of this Act shall be subject to Federal or State income taxes, and the per capita payments shall not be considered as income or resources when determining the extent of eligibility for assistance under the Social Security Act."

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 82–19548 Filed 7–19–82; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

[Group 795]

California; Filing of Plat of Survey

July 9, 1982.

1. A plat of survey of the following described land accepted June 28, 1982 will be officially filed in the California State Office, Sacramento, California, immediately:

Mount Diablo Meridian, California

T. 29 S., R. 41 E.,
Section 22
Section 27
Section 36.
T. 29 S., R. 42 E.

2. This plat, representing the dependent resurvey of a portion of the west boundary, T. 29 S., R. 42 E., a portion of the south boundary, and a portion of the subdivisional lines, T. 29 S., R. 41 E., and the survey of the subdivision of sections 22, 27, 36, T. 29 S., R. 41 E., Mount Diablo Meridian.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open file and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of this Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, Room E–2841, Cottage Way, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Section of Records and Data Management.

[FR Doc. 82–19549 Filed 7–19–82; 8:45 am]

BILLING CODE 4310–84–M

[Group 788]

California, Notice of Filing of Plat of Survey

July 9, 1982.

1. A plat of survey of the following described land accepted June 22, 1982 will be officially filed in the California State Office, Sacramento, California, immediately.

Mount Diablo Meridian, California

T. 25 S., R. 38 E.,
Section 9.

2. This plat, representing the dependent resurvey of a portion of the subdivisional lines, and the surve of the subdivision of Section 9, T. 25 S., R. 38 E., Mount Diablo Meridian.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open file and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of this Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, Room E–2841, Cottage Way, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Section of Records and Data Management.

[FR Doc. 82–19550 Filed 7–19–82; 8:45 am]

BILLING CODE 4310–84–M

[Group 730]

California; Filing of Plat of Survey

July 9, 1982.

1. A plat of survey of the following described land accepted June 28, 1982 will be officially filed in the California State Office, Sacramento, California, immediately:

Mount Diablo Meridian, California

T. 30 S., R. 42 E.,
Section 5.

2. This plat, representing the dependent resurvey of the west and north boundaries, a portion of the subdivisional lines, and the survey of the subdivision of section 5, T. 30 S., R. 42 E., Mount Diablo Meridian.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open file and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of this Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, Room E–2841,

Cottage Way, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Section of Records and Data Management.

[FR Doc. 82-19551 Filed 7-19-82; 8:45 am]

BILLING CODE 4310-84-M

[Group 741]

California; Filing of Plat of Survey

July 9, 1982.

1. A plat of survey of the following described land accepted June 17, 1982 will be officially filed in the California State Office, Sacramento, California, immediately:

Mount Diablo Meridian, California

T. 34 N., R. 11 W.,
Section 27.

2. This plat, representing the dependent resurvey of a portion of the subdivisional lines, certain boundaries of Mineral Survey Nos. 245 and 246, and the survey of the subdivision of section 27, T. 34 N., R. 11 W., Mount Diablo Meridian.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open file and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of this Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, Room E-2841, Cottage Way, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Section of Records and Data Management.

[FR Doc. 82-19552 Filed 7-19-82; 8:45 am]

BILLING CODE 4310-84-M

[C-35858]

Colorado; Invitation for Coal Exploration License Application; Empire Energy Corporation

All interested parties are hereby invited to participate with Empire Energy Corporation in its proposed exploration of certain Federal coal deposits in the following described lands in Moffat County, Colorado:

Sixth Principal Meridian, Colorado

T. 6 N., R. 91 W.,
Sec. 18, lots 5 to 19, inclusive.
T. 6 N., R. 92 W.,
Sec. 24, All;
Sec. 25, lots 1 and 2, and N½;
Sec. 35, lot 1 and NW¼.

The area described contains 1078.02 acres.

Any party participating in this exploration license will share all costs on a pro rata basis with Empire Energy Corporation and with any other participants. The exploration plan, as submitted to the Bureau of Land Management, is available under serial number C-35858 for public review during normal business hours at the Colorado State Office, 1037-20th Street, Denver, Colorado.

Any party seeking to participate in the exploration program described in the application must notify both the Bureau of Land Management and Empire Energy Corporation in writing on or before August 18, 1982. Such written notice must be addressed to:

1Leader, Craig Team, Branch of Adjudication, Colorado State Office, Bureau of Land Management, 1037 20th Street, Denver, Colorado 80202, and

Stuart R. Snow, Vice President & General Manager, Empire Energy Corporation, 6900 South Yosemite Street, Suite 160, Englewood, Colorado 80112.

This Notice of Invitation is published in the Federal Register pursuant to 43 CFR 3410.2-1(d).

Rodney A. Roberts,

Leader, Craig Team Branch of Adjudication.

[FR Doc. 82-19540 Filed 7-19-82; 8:45 am]

BILLING CODE 4310-84-M

[Coal Lease Application ES 28564]

Tuscaloosa County, Alabama; Public Hearing and Availability of Environmental Assessment

The Department of the Interior, Bureau of Land Management, Eastern States Office, 350 South Pickett Street, Alexandria, Virginia 22304 hereby gives notice that a public hearing will be held on August 6, 1982 at 2:00 p.m., in the Conference Room at the Tuscaloosa Office, 518 19th Avenue, Tuscaloosa, Alabama 35401. Application has been made to the United States that it offer for lease certain federal coal resources in the lands hereinafter described. The purpose of the hearing is to obtain public comments on the Enviornmental Assessment prepared and on the following items:

(1) The method of mining to be employed to obtain maximum economic recovery of the coal; (2) the impact that mining the coal in the proposed leasehold may have on the area, including but not limited to impacts on the environment; and (3) methods of determining the fair market value of the coal to be offered. Written requests to testify orally at the public hearing should be received at the Tuscaloosa Office, 518 19th Avenue, Tuscaloosa, Alabama 35401, prior to the close of business 4:00 p.m., on August 5, 1982. People who indicate they wish to testify when they check in at the hearing room may have an opportunity to testify if time is available after the listed witnesses have been heard.

Both oral and written comments will be received at the public hearings, but speakers will be limited to a maximum of 10 minutes each depending on the number of persons desiring to comment. The time limitation will be strictly enforced, but the complete text of prepared speeches may be filed with the presiding officer at the hearing, whether or not the speaker has been able to finish oral delivery in the allotted minutes. Written comments may also be submitted to the Eastern States Office at the above address, prior to close of business on August 5, 1982. Substantive comments, whether written or oral, will receive equal consideration prior to any lease offering.

In addition, the public is invited to submit written comments concerning the fair market value of the coal resource to the Bureau of Land Management and the Minerals Management Service. Public comments will be utilized in establishing fair market value for the coal resources in the described lands.

Comments should address specific factors related to fair market value including, but not limited to: the quantity and quality of the coal resource, the price that the mined coal would bring in the market place, the cost of producing the coal, the probable timing and rate of production, the interest rate of which anticipated income streams would be discounted, depreciation and other accounting factors, the expected rate of industry return, the value of the surface estate (if private surface), and the mining method or methods which would achieve maximum economic recovery of the coal. Documentation of similar market transactions, including location, terms, and conditions, may also be submitted at the time.

These comments will be considered in the final determination of fair market value as determined in accordance with 30 CFR 211.63 and 43 CFR 3422.1-2. Should any information submitted as comments be considered to be proprietary by the commenter, the information should be labeled as such and stated in the first page of the submission. Comments should be sent to the Eastern States Director, Bureau of Land Management, 350 South Pickett

Street, Alexandria, Virginia 22304, and to the Minerals Manager, Minerals Management Service, Tysons Beltway Office Center, 1951 Kidwell Drive, Suite 601, Vienna, Virginia 22180, to arrive no later than 4:00 p.m., August 5, 1982.

Application ES 28564

The coal resource to be offered is to be surface mined from the Brookwood Group in the following lands located in Tuscaloosa County, Alabama:

T. 18 S., R. 9 W.,
Sec. 31, S½NE¼, S½NW¼, SW¼, SE¼;
Sec. 32, S½SW¼.
Containing approximately 500 acres.

The draft Environmental Assessment will be available for review in the Bureau of Land Management, Eastern States Office, 350 South Pickett Street, Alexandria, Virginia 22304. Single copies are available for distribution upon request from the office at the above address.

A copy of the Environmental Assessment, the case file and the comments submitted by the public on fair market value, except those portions indentified as proprietary by the commenter and meeting exemptions stated in the Freedom of Information Act, will be available for public inspection at the Eastern States Office, Bureau of Land Management, at the address set out above.

Jeff O. Holdren,

Chief, Division of Lands and Minerals Operations.

[FR Doc. 82-19625 Filed 7-19-82; 8:45 am]

BILLING CODE 4310-84-M

[F-19155-21]

Alaska Native Claims Selections; Correction

In FR Doc. 82-17891 appearing on page 28821 in the issue of July 1, 1982 please make following change.

On page 28822, column 3 paragraph 2 should read as follows:

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513

Beaumont C. McClure,

Chief, Alaska Programs Staff.

[FR Doc. 82-19663 Filed 7-19-82; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Applications

The applicants listed below wish to conduct certain activities with endangered species:

Applicant: Mark Runnels, Bradenton, FL—PRT 2-9301.

The applicant requests a permit to purchase in foreign commerce and to import six pairs of scarlet-chested parakeets (*Neophema splendida*) or turquoise parakeets (*N. pulchella*) AND four pairs of hooded parakeets (*Psephotus chrysopterygius dissimilis*) from the following individuals and enhancement of propagation: Bill Hawarth, Bucks, England; Willy De Herdt, Berlaar, Belgium; Ernst Kalf, Landsmeer, Netherlands.

Applicant: Ecosearch, Inc., Mattapoisett, MA—PRT 2-9356.

The applicant requests a permit to take pink mucket pearly mussels (*Lampsilis obiculata*) and tubercled-blossom pearly mussels (*Epioblasma torulosa*) from the Kanawha River, West Virginia for scientific research.

Humane care and treatment during transport, if applicable, has been indicated by the applicants.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia, or by writing to the U.S. Fish & Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications by August 19, 1982 by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: July 14, 1982.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 82-19665 Filed 7-19-82; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Applications

The applicants listed below wish to conduct certain activities with endangered species:

Applicant: Jonathan R. Reed, Univ. of Wisconsin, Madison, WI—PRT 2-9392.

The applicant requests a permit to take (capture and hold temporarily) Hawaiian dark-rumped petrels (*Pterodroma phaeopygia sandwichensis*) for scientific research concerning the attractiveness to man-made lighting by these birds.

Applicant: Dr. Vivian Casagrande, Vanderbilt Univ., Nashville, TN—PRT 2-9390.

The applicant requests a permit to take (euthanize) two female captive-bred brown lemurs (*Lemur fulvus*) for scientific research. Both animals are injured and cannot be used in a captive-breeding program. The research is to examine the neuroanatomical pathways and optic nerve crossovers on partially blind primates.

Applicant: Dr. Robert Manzies, Nova Univ., Dania, FL—PRT 2-9393.

The applicant requests a permit to import blood and tissue samples of American crocodiles (*Crocodylus acutus*) from the Dominican Republic for scientific research.

Humane care and treatment during transport, if applicable, has been indicated by the applicants.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia, or by writing to the U.S. Fish & Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications by August 19, 1982 by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: July 15, 1982.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 82-19666 Filed 7-19-82; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

Gateway National Recreation Area

AGENCY: National Park Service; Interior

ACTION: Notice.

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Gateway Advisory Commission. Notice of this meeting is required under the Federal Advisory Committee Act.

DATE: August 9, 1982, 4 p.m.

ADDRESS: Great Kills Bathhouse Conference Room, Staten Island Unit, Staten Island, New York.

FOR FURTHER INFORMATION CONTACT: Robert W. McIntosh, Jr., Superintendent, Gateway National Recreation Area, Headquarters, Building No. 69, Floyd Bennett Field, Brooklyn, New York 11234, (212) 630-0353.

SUPPLEMENTARY INFORMATION: The Advisory Commission was established

by Pub. L. 92–592 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the development of Gateway National Recreation Area. The agenda for the meeting will include (1) Sandy Hook Beach Nourishment Status; (2) Status of Summer Operations; (3) Budget Update; (4) Miller Field Development Update; (5) Superintendent's Report.

The meeting will be open to the public. The facility at which the meeting will be held is considered physically accessible. If interpretive services are requested by deaf or hearing impaired individuals to this agency within five working days before the meeting, it will be provided. Facilities and space to accommodate members of the public are limited, and persons will be accommodated on a first-come, first-served basis. Any member of the public may file with the Commission a written statement concerning agenda items to be discussed. The statement should be addressed to the Commission, c/o Gateway National Recreation Area, Building No. 69, Headquarters, Floyd Bennett Field, Brooklyn, New York 11234. Minutes of the meeting will be available for inspection four weeks after the meeting at Gateway National Recreation Area Headquarters Building in Brooklyn, New York.

Dated: July 9, 1982

Robert W. McIntosh, Jr.,

Superintendent, Gateway National Recreation Area.

[FR Doc. 82–19554 Filed 7–19–82; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before June 28, 1982. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20243. Written comments should be submitted by August 4, 1982.

Carol D. Shull,

Acting Keeper of the National Register.

NEBRASKA

Webster County

Bladen vicinity, *Cather, George Farmstead (Willa Cather TR)*, SW of Bladen
Red Cloud, *Bentley, Matthew R., House (Willa Cather TR)*, 845 N. Cedar St.
Red Cloud, *Cather, William, Homestead Site (Willa Cather TR)*, NW of Red Cloud
Red Cloud vicinity, *Chalk Cliffs and Republician River (Willa Cather TR)*, S of Red Cloud
Red Cloud, *City Pharmacy (Willa Cather TR)*, 410 N. Webster St.
Red Cloud, *Ducker, William, House (Willa Cather TR)*, 821 Franklin St.
Red Cloud, *Elm Street Historic District (Willa Cather TR)*, Elm St. between 6th and 10th Aves. and Locust St. between 8th and 10th Aves.
Red Cloud vicinity, *Garber Grove (Willa Cather TR)*, off US 281
Red Cloud, *Jackson's Reserve (Willa Cather TR)*, bounded by Seward, Cedar, and 3rd Sts.
Red Cloud, *Main Street Historic District (Willa Cather TR)*, both sides of Webster St. between 3rd and 5th Aves.
Red Cloud, *McKeeby, Dr. Gilbert E., House (Willa Cather TR)*, 641 N. Cherry St.
Red Cloud, *Miner Brothers Store (Willa Cather TR)*, 3rd and Webster Sts.
Red Cloud, *Miner House (Willa Cather TR)*, 241 N. Seward St.
Red Cloud, *Moon Block (Willa Cather TR)*, Webster Street
Red Cloud, *Opera House (Willa Cather TR)*, 413 N. Webster St.
Red Cloud, *Perkins-Wiener House (Willa Cather TR)*, 238 N. Seward St.
Red Cloud, *Railroad Addition Historic District (Willa Cather TR)*, Roughly bounded by Division, Seward, Railway, and Walnut Sts. (both sides)
Red Cloud, *Seward Street Historic District (Willa Cather TR)*, Seward St. betwen Avenue A and 9th Ave. and Cedar St. between 2nd and 4th, and 6th and 9th Aves. (both sides)
Red Cloud vicinity, *St. Stephenie Evangelical Lutheran Church (Willa Cather TR)*, NW of Red Cloud
Red Cloud, *Warner-Cather House (Willa Cather TR)*, 541 N. Seward St.

[FR Doc. 82–19553 Filed 7–19–82; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers, Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the Federal Register. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto Filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: July 14, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell. (Board Member Dowell not participating in Nos. MC-F-14887, MC-F-14888 and MC-F-14891.)

Agatha L. Mergenovich,

Secretary.

MC-F-14881, filed June 18, 1982. H. M. Richters (1301 Versailles Road, Russia, OH 45363), T. E. Subler (1070 Woodland Drive, Versailles, OH 45380), D. L. Subler (11692 Conover Road, Versailles, OH 45380), S. C. Subler (8898 Long Road, Versailles, OH 45380), D. E. Sandri (3225 Ziegler Road, Piqua, OH 45356) and D. K. Borchers (108 Moore Parkway, Versailles, OH 45380)—Continuance in Control—Vantage Transport, Inc. (Vantage) (6810 Fleetwood Road, McLean, VA 22101). Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. H. M. Richters, T. E. Subler, D. L. Subler, S. D. Subler, D. E. Sandri, and C. K. Borchers, individuals controlling Carl Subler Trucking, Inc. (Subler), of Versailles, OH, through ownership of its outstanding stock, seek to continue in control of Vantage upon approval of its current application for a permit and institution of operations thereunder. Subler is a motor common carrier operating pursuant to Certificate No. MC-116763 and subnumbers thereunder generally authorizing transportation of general commodities (with named exceptions) between points in the United States. Vantage is applying for contract carrier authority in No. MC-161795 to transport general commodities (with named exceptions) between points in the U.S. under continuing contract(s) with Kraft, Inc., of Glenview, IL. The operating authorities have not been described in their entirety; however, a more complete description is on file at the Commissioin's office in Washington, D.C.

MC-F-14887, filed June 28, 1982. FAST MOTOR SERVICE, INC. (Fast Service) (9100 Plainfield Road, Brookfield, IL 60513)—CONTINUANCE IN CONTROL—FAST MOTOR EXPRESS, INC. (Fast Express) (same address as above). Representative: Arnold L. Burke, 180 N. LaSalle St., Room 3520, Chicago, IL 60601. Fast Service seeks authority to continue in control of Fast Express upon the institution by Fast Express of operations, in interstate or foreign commerce as a motor common carrier. Jerry Cosentino and Charlotte Consentino, joint stockholders of Fast Express, also seek to continue in control through the transaction. Fast Service is a motor contract carrier pursuant to permits issued in MC-126276 and MC-134612 and sub-numbers thereunder. By decision served April 13, 1982, Fast Express was conditionally granted authority in MC-160124 to operate as a common carrier, transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods as defined by the Commission), between points in IL, IN, KY, MO, IA, MN, WI, MI and OH.

MC-F-14888, filed June 29, 1982. CHARLES P. BELUE, SR., d.b.a. BELUE'S TRUCKING (Belue) (Route 1, Box 268, Campobello, SC 29322)—PURCHASE (PORTION)—D. F. BAST, INC. (Bast) (1425 N. Maxwell Street, P.O. Box 2288, Allentown, PA 18001). Representatives: Mitchell King, Jr., P.O. Box 5711, Greenville, SC 29606; and Sander M. Bieber, 1730 Penna. Ave., Suite 1100, Washington, DC 20006. Belue seeks authority to purchase that portion of the interstate operating rights of Bast contained in Certificate No. MC 6078 (Sub-No. 94), which authorizes the transportation of *general commodities* (except class A and B explosives), between those points in the U.S. in and east of MN, IA, NE, KS, OK, and TX; and *transportation equipment*, between points in the U.S. Impediment: The authority to be transferred duplicates the authority to be retained. In order to avoid an objectionable split of authority, D. F. Bast, Inc., must request, in writing, cancellation of its retained authority, or, in the alternative, submit evidence warranting the existence of the duplicating authority in two separate carriers.

Notes.—Belue holds authority under MC 134978. TA has been filed.

MC-F-14891, filed July 1, 1982. L. L. SMITH TRUCKING (Smith) (P.O. Box 987, Riverton, WY 82501)—purchase—CARLSON TRANSPORT, INC. (Carlson) (P.O. Box 20214, Billings, MT 59104). Representative: Mark A. Davidson, 601 E. 18th Ave., #107, Denver, CO 80203. Smith seeks authority to purchase the interstate operating rights and property of Carlson. Operating rights sought to be purchased are: Certificate No. MC-106523 authorizing *feed, salt, building materials, fencing material and farm machinery, farm implements and parts thereof*, between points in Beaverhead, Big Horn, Broadwater, Carbon, Custer, Deer Lodge, Gallatin, Golden Valley, Jefferson, Madison, Meagher, Musselshell, Park, Rosebud, Silver Bow, Stillwater, Sweet Grass, Treasure, Wheatland and Yellowstone Counties, MT, and Big Horn, Johnson, Park, Sheridan and Washakie Counties, WY. Restriction: No service shall be performed between any two counties, both of which are incorporated towns or cities; Certificate No. MC-106523, Sub 5, authorizing *commodities, which because of their size or weight require the use of special equipment*, between points in Big Horn County, MT, on the one hand, and, on the other, points in MT, restricted to the transportation of traffic originating at, and destined to, points in MT; Certificate No. MC-106523, Sub 8F, authorizing *salt* in bulk, from points in UT, to points in MT; Certificate No. MC-106523, Sub 9F, authorizing (1) *precast concrete building products*, and (2) *supplies and equipment* used in the erection of the commodities in (1) from Billings, MT, to Williston, ND, and point in Campbell, Hot Springs, Natrona, Fremont and Converse Counties, WY; Certificate No. MC-106523; Sub 10, authorizing (1) *commodities*, the transportation of which because of their size or weight require the use of special equipment, and (2) *construction materials, equipment and supplies* (except the commodities in (1) above, between points in MT, on the one hand, and, on the other, points in CO, ID, ND, SD and WY. Condition: Prior to issuance of an effective notice in this proceeding, Roger Smith and Ronald Smith must submit an affidavit stating that they are the persons in control of Transferee and that they join in this application as parties in control.

Notes.—Smith holds authority under MC-105006 and sub-numbers thereunder. TA has been filed.

MC-F-14892, filed July 1, 1982. BILL & GENE'S TRUCKING, INC. (Bill & Gene) (P.O. Box 303, Madison, SD 57042)—PURCHASE (PORTION)—ECKLEY TRUCKING, INC., (Eckley) (P.O. Box 156, Mead, NE 68041). Representative: A.J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101-1103. Bill & Gene seek authority to purchase a portion of the interstate operating rights of Eckley. William R. Alfson and Gene L. Casanova, equal stockholders of Bill & Gene, also seek authority to acquire control of said rights through this transaction. The authority to be purchased is Certificate No. MC-5227 (Sub-No. 81)X, which authorizes the transportation of *metal products*, (1) between Chicago, IL, Houston, TX, New Orleans, LA, Charleston, SC, Savannah, GA, Camden and Jersey City, NJ, Cannonsburg, PA, and Wilmington, DE, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, CO, and AZ, and (2) between Los Angeles, CA, on the one hand, and, on

the other, points in AZ, CA, CO, and NM.

Notes.—Bill & Gene is authorized to operate as a motor common carrier under MC–141899. TA has been filed.

[FR Doc. 82–19537 Filed 7–19–82; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. 280]

Motor Carriers; Permanent Authority Decisions, Restriction Removals, Decision-Notice

Decided: July 15, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Canadian Carrier Applicants

In the event an application to transport property, filed by a Canadian domiciled motor carrier, is unopposed, it will be reopened on the Commission's own motion for receipt of additional evidence and further consideration in light of the record developed in Ex Parte No. MC–157, *Investigation Into Canadian Law and Policy Regarding Applications of American Motor Carriers For Canadian Operating Authority.*

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Shaffer, Ewing, and Williams.

Agatha L. Mergenovich,

Secretary.

MC 113480 (Sub-1)X, filed July 12, 1982. Applicant: SHELDON AUTOMOTIVE, INC., Route 101, Wilton, NH 03086. Representative: William B. Elmer, P.O. Box 801, Traverse City, MI 49684. Lead certificate: Broaden (1) commodity description from wrecked or disabled motor vehicles to "transportation equipment" and (2) Manchester and Nashau to Hillsborough, Merrimack, and Rockingham Counties, NH; and points in New Jersey within 35 miles of New York, NY, to Monmouth, Mercer, Middlesex, Somerset, Morris, Passaic, Bergen, Essex, Hudson, and Union Counties, N.J.

MC 119558 (Sub-8)X, filed July 6, 1982. Applicant: GLEN PHILLIPS and CECIL BLANTON, d.b.a. ALASKA MOBILE HOME MOVERS, 3150 Mountain View Drive, Anchorage, AK 99501. Representative: Robert C. Holmes, Suite 200, 750 W. Second Ave., Anchorage, AK 99501. Sub 6 certificate: (1) broaden to "lumber and wood products, except furniture, but including buildings" from buildings, in sections mounted on wheeled undercarriages with hitch-ball connector, part A; (2) remove the restriction prohibiting the transportation of traffic (a) between points southeast of Yakutat Bay, parts B and C; and (b) originating at or destined to points in Canada, part B.

MC 128497 (Sub-22)X, filed July 2, 1982. Applicant: JACK LINK TRUCK LINE, INC., P.O. Box 127, Dyersville, IA 52040. Representative: Jack H. Blanshan, 205 W. Touhy Ave., Suite 200–A, Park Ridge, IL 60068. MC–72818 (acquired in No. MC–FC–79684); (1) broaden from general commodities, except those of unusual value, Classes A and B explosives, commodites requiring special equipment, and those injurious or contaminating to other lading to "general commodities (except Classes A and B explosives)"; from coal to "coal and coal products"; and from inedible cheese trimmings to "food and related products"; (2) authorize service on all intermediate points on regular route authority; (3) expand points within 12 miles of Mediapolis, IA, to Des Moines, Louisa, and Henry Counties, IA, regular routes (as off-route points), and irregular routes; and (4) change one way to radial authority, irregular routes.

MC 135203 (Sub-1)X, filed July 6, 1982. Applicant: TEPICO, INC., 150 Lincoln Boulevard, Middlesex, NJ 08846. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904. Lead permit: Broaden (1) paint, clay, talc, resin and calcium carbonate, in containers, to "chemicals and related products and clay"; and (2) territorial description to between points in the US under continuing contract(s) with a named shipper.

MC 144532 (Sub-4)X, filed July 12, 1982. Applicant: ANDERSON POTATO CO., INC., 2179 Route 112, Box 190, Medford, NY 11763. Representative: John L. Alfano, Esq., 550 Mamaroneck Avenue, Harrison, NY 10528. Sub 2 permit. Broaden: bakery products and bakery product ingredients to "food and related products"; and to between points in US (except AK and HI) under continuing contract(s) with named shipper.

MC 146787 (Sub-7)X, filed June 25, 1982. Applicant: DEAN ALBAUGH and MICKEY ALBAUGH, d.b.a. ALBAUGH FARMS, R.R. #2, Ankeny, IA 50021. Representative: Thomas E. Leahy, Jr., 1960 Financial Center, Des Moines, IA 50309. Subs 2, 4 and 6, broaden: (1) to "automotive parts and accessories" from wheels, hubs, tires, brakes, spindles and parts thereof, Subs 2 (part 1), and 6 (part 1), (2) remove (a) "originating at/destined to" restriction, Subs 2 and 6, (b) facilities limitation, Sub 4, (3) Des Moines, IA to Polk, Dallas and Warren Counties, all subs; Slinger, WI to Washington County; and Dresden, TN to Weakley County, Subs 2 and 6.

[FR Doc. 82–19538 Filed 7–19–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP1–118

Decided: July 9, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 19280 (Sub-5), filed June 29, 1982. Applicant: SHALLCROSS EXPRESS, INC., 527 Springfield Rd., Kenilworth, NJ 07033. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048, (212) 466–0220. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between New York, NY, and points in NJ, on the one hand, and, on the other, points in CT, DE, PA, NY and NJ.

MC 35831 (Sub-33), filed June 28, 1982. Applicant: E. A. HOLDER, INC., P.O. Box 69, Kennedale, TX 76060. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103, (817) 332–4718. Transporting *concrete products,* between points in AL, AR, CO, KS, LA, MO, MS, NM, OK, TN, and TX.

MC 35831 (Sub-34), filed June 28, 1982. Applicant: E. A. HOLDER, INC., P.O. Box 69, Kennedale, TX 76060. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103, (817) 332–4718. Transporting (1) *building materials,* and (2) *lumber and wood products,* between points in AL, AR, CO, KS, LA, MO, MS, NM, OK, TN, and TX.

MC 109210 (Sub-142), filed July 1, 1982. Applicant: REYNOLDS CONTRACT HAULERS, INC., 400 Parsons St., West Columbia, SC 29171. Representative: James S. Meggs, P.O. Box 1035, West Columbia, SC 29171, (803) 796–7264. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Standard Products Co., of Dearborn, MI.

MC 115491 (Sub-146), filed July 2, 1982. Applicant: COMMERCIAL CARRIER CORPORATION, P.O. Drawer 67, Auburndale, FL 33823. Representative: Tony G. Russell (same address as applicant), (813) 967–1101. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in AL, FL, GA, LA, MS, NC, SC, TN, VA, and WV.

MC 141870 (Sub-8), filed June 28, 1982. Applicant: DIVERSIFIED TRUCKING CORP., 309 Williamson Ave., Opelika, AL 36801. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401, (205) 578–3212. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 148071 (Sub-3), filed June 28, 1982. Applicant: COFER TRANSPORT, INC., P.O. Box 42, Willard, OH 44890. Representative: E. H. van Deusen, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017, (614) 889–2531. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 148791 (Sub-28), filed June 30, 1982. Applicant: TRANSPORT-WEST, INC., 2125 North Redwood Road, Salt Lake City, UT 84116. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84110, (801) 531–1777. Transporting *aluminum and aluminum products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Kaiser Aluminum & Chemical Corporation, of Oakland, CA.

MC 148791 (Sub-27), filed June 30, 1982. Applicant: TRANSPORT-WEST, INC., 2125 N. Redwood Rd., Salt Lake City, UT 84116. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84110, (801) 531–1777. Transporting (1) *paper and paper products;* (2) *plastic articles;* (3) *lighting fixtures;* and (4) *furniture,* between points in the U.S. (except AK and HI), under continuing contract(s) with Scott Paper Company, of Philadelphia, PA.

MC 151641 (Sub-6), filed June 28, 1982. Applicant: WILLIAM E. JOHNSON, d.b.a. WILLIAM E. JOHNSON TRUCKING CO., 11211 Sherman Ave., Dallas, TX 75220. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245, (214) 358–3341. Transporting *food and related products,* between points in Sedwick County, KS, on the one hand, and, on the other, points in NV, CA, ID, OR, WA, CO, UT, OK, NM, AZ, AR and TX.

MC 152490 (Sub-2), filed June 28, 1982. Applicant: SABINE TRUCKING, INC., 322 Freeman St., Mineola, TX 75773. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112, (817) 457–0804. Transporting *such commodities* as are dealt in or used by grocery stores and food business houses, between points in the U.S. (except AK and HI).

MC 152730 (Sub-20), filed June 28, 1982. Applicant: DEPENDABLE TRANSIT, INC., P.O. Box 349, County Rd. 300 South, Hartford City, IN 47348–0349. Representative: Larry Garrett (same address as applicant), (317) 348–0051. Transporting (1) *pulp, paper, and related products;* and (2) *lumber and wood products,* between points in IL, OH, IN, MO, MI and WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 154981 (Sub-1), filed July 1, 1982. Applicant: SNAPS ENTERPRISES, LTD., 105 Amfesco Drive, Plainview, NY 11803. Representative: Morton D. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in CT, NY, NJ, PA, DE, MD and DC.

MC 159220 (Sub-3), filed July 2, 1982. Applicant: REFRIGERATED INTERNATIONAL CARGO HAULERS, INC., 1170 Niagara Street, Buffalo, NY 14240. Representative: Charles H. White, Jr., 1019 19th Street, NW., Suite 800, Washington, DC 20036, (202) 785–3420. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Culinary Arts Specialties, of Buffalo, NY.

MC 159220 (Sub-4), filed July 2, 1982. Applicant: REFRIGERATED INTERNATIONAL CARGO HAULERS, INC., 1170 Niagara St., Buffalo, NY 14240. Representative: Charles H. White, Jr., 1019 19th St. NW., Suite 800, Washington, DC 20036, (202) 785–3420. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with Charles McAlpin Brokerage, Inc., of Decatur, AL.

MC 160271, filed July 1, 1982. Applicant: NESS & CO., 6645 N. Ensign, Portland, OR 97217. Representative: Steve Ness (same address as applicant), (503) 283–1234.Transporting *food and related products*, between points in OR, WA and ID.

MC 162411, filed June 25, 1982. Applicant: TETON TRANSPORTATION, INC., P.O. Box 1929, Cheyenne, WY 82001. Representative: John T. Wirth, 2600 Petro-Lewis Tower, 717–17th St., Denver, CO 80202–3357, (303) 892–6700. Transporting *lumber and wood products*, between points in the U.S., under continuing contract(s) with Teton West Lumber, Inc., of Cheyenne, WY, and its affiliates and subsidiaries, namely: Western States Forest Products, Inc.; Woodworks, Inc.; and Teton Sales, Inc., all of Cheyenne, WY.

MC 162580, filed June 21, 1982. Applicant: RAPID UNITED STEEL HAULERS, INC., 3170 Highland Ave., Warren, OH 44485. Representative: Richard L. Goodman, 852 Ann St., P.O. Box 312, Niles, OH 44446, (216) 530–4342. Transporting (1) *metal products*, between points in Trumbull County, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI); and (2) *refractory products*, between points in Trumbull County, OH, on the one hand, and, on the other, points in IN, MI, PA, WV and IL.

MC 162601, filed June 21, 1982. Applicant: AGRICULTURAL DEALERS SUPPLY, INC., 2323 Commerce Street, Tacoma, WA 98402. Representative: Rowland B. Gibson (same address as applicant), (206) 383–5741. Transporting (1) *pulp containers*, between Corvallis, OR, on the one hand, and, on the other, points in OR and WA; (2) *plastic containers*, between points in OR and WA; and (3) *salt*, between points in Salt Lake County, UT and Alameda County, CA, on the one hand, and, on the other, points in OR and WA.

MC 162671, filed June 25, 1982. Applicant: JOHN MONTGOMERY, 1006 Virginia, El Dorado, AR 71730. Representative: Thomas B. Staley, 1550 Tower Bldg., Little Rock, AR 72201, (501)–375–9151. Transporting *metal products*, between points in the U.S., under continuing contract(s) with Amercable, Inc., of El Dorado, AR.

MC 162691, filed June 28, 1982. Applicant: MID STATE TRUCK & RIGGING, INC., 2650 North 32nd Avenue, Phoenix, AZ 85009. Representative: Andrew V. Baylor, 337 E. Elm Street, Phoenix, AZ 85012, (602) 274–5146. Transporting *fabricated metal products and machinery*, (1) between points in AZ; and (2) between points in AZ, on the one hand, and, on the other points in CA, CO, ID, MT, NV, NM, OR, TX, WA and WY. Condition: Issuance of a certificate in this proceeding is subject to the coincidental cancellation, at applicant's written request of its Certificate of Registration in MC–143883, and Certificate of Public Convenience and Necessity in MC–143883 Sub 1.

MC 162700, filed June 28, 1982. Applicant: MYRON A. CAMPBELL; d.b.a. M.A.C. ENTERPRISES, 1036 W. Santa Barbara Ave., Los Angeles, CA 80037. Representative: Donald R. Hedrick, P.O. Box 4334 Santa Ana, CA 92702, (714)–667–8107. Transportation (1) *transportation equipment;* and (2) *machinery* between points in Los Angeles County, CA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162710, filed June 28, 1982. Applicant: HARRY SCHUBBE; d.b.a. H & H TRUCKING CO., P.O. Box 1103, Bloomington, IL 61701. Representative: Edward D. McNamara, Jr., 907 South Fourth St., Springfield, IL 62703, (217)–528–8476. Transporting *food and related products*, between points in Fresno and Merced Counties, CA, Morgan County, IL, Sherman County, TX, Gibson County, TN, and Monroe, Waupaca and Dodge Counties, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162720, filed June 28, 1982. Applicant: ENDO FREIGHT FORWARDERS, INC., 428 West Redondo Beach Blvd., Gardena, CA 90248. Representative: Uoshihisa Takeda (same address as applicant), (213) 532–7636. Transporting *Household goods* as defined by the Commission, between points in CA.

MC 162741, filed June 30, 1982. Applicant: A. L. SASNETT d.b.a. SASNETT, TRANSPORTATION SERVICE, 1301 Aultman St., Ely, NV 89301. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701, (702)–882–5649. Transporting (1) over regular routes, *passengers and their baggage, and express, mail and newspapers:* (a) between Ely, NV and Salt Lake City, UT; from Ely over U.S. Hwy 93 to Wendover, UT, then over Interstate Hwy 80 to Salt Lake City, UT, and return over the same route; and (b) between Ely, NV and Twin Falls, ID over U.S. Hwy 93 serving all intermediate points in (a) and (b) above; and (2) over irregular routes, *passengers and their baggage* in the same vehicle with passengers, in special and charter operations, beginning and ending at points in White Pine, Clark, Lincoln and Elko Counties, NV, and extending to points in the U.S. (excluding AK and HI).

MC 162781, filed July 1, 1982. Applicant: STATEWIDE DELIVERY, a Corporation, 1409 Sportsman Drive, Compton, CA 90220. Representative: Fred R. Covington, 3483 Golden Gate Way, Suite 217, Lafayette, CA 94549, (415) 283–7878. Transporting *general commodites* (except classes A and B explosives, commodities in bulk, and household goods), between points in CA.

MC 162791, filed July 2, 1982. Applicant: BEHLEN'S CONOCO, INC., d.b.a. BEHLEN'S TOWING, 3601 Howard Blvd., Columbus, NE 68601. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501, (402)–475–6761. Transporting *wrecked, disabled, repossessed and stolen motor vehicles*, between points in CO, IL, IA, KS, MN, MO, NE, ND, OK, SD, TX, UT and WY.

Volume No. OP2–149

Decided: July 13, 1982.

By the Commission, review Board No. 1, Members Parker, Chandler, and Fortier.

MC 144913 (Sub-8), filed June 24, 1982. Applicant: COMPTON TRUCKING, INC., 5300 Kennedy Rd., Forest Park, GA 30050. Representative: David L. Capps, P.O. Box 924, Douglasville, GA 30133–0924, (404) 949–7756. Transporting *general commodites* (except classes A and B explosives, household goods, and commodities in bulk), between Atlanta, GA, on the one hand, and, on the other, points in AL, FL, GA, MS, NC, SC, and TN.

MC 162653, filed June 21, 1982. Applicant: WILLIAM T. BROWN, EDWARD J. LYNAM, AND FORREST N. SIBURT, JR., d.b.a. AUTO FLORIDA, 833 Briarwood Lane, Camp Hill, PA 17011.

Representative: William T. Brown (same as applicant), (717) 763–0492. As a *broker* at points in Cumberland County, PA, in arranging for the transportation, by motor vehicle, of *passengers and their baggage* and (2) *motor vehicles*, between points in PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Volume No. OP2–151

Decided: July 9, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 52793 (Sub-94), filed June 28, 1982. Applicant: BEKINS VAN LINES CO., 333 South Center St., Hillside, IL 60162. Representative: David A. Gallagher (same address as applicant), 312–547–2184. Transporting *used household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with Chrysler Corporation, of Highland Park, MI.

MC 52793 (Sub-95), filed June 28, 1982. Applicant: BEKINS VAN LINES CO., 333 South Center St., Hillside, IL 60162. Representative: David A. Gallagher (same address as applicant), 312–547–2184. Transporting *used household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with Ingersoll-Rand Company, of Piscataway, NJ.

MC 52793 (Sub-98), filed June 28, 1982. Applicant: BIKINS VAN LINES CO., 333 South Center St., Hillside, IL 60162. Representative: David A. Gallagher (same address as applicant), (312) 547–2184. Transporting *used household good*, between points in the U.S. (except AK and HI), under continuing contract(s) with First City National Bank, of Houston, TX.

MC 52793 (Sub-100), filed July 1, 1982. Applicant: BEKINS VAN LINES CO., 333 South Center St., Hillside, IL 60162. Representative: David A Gallagher (same address as applicant), 312–547–2184. Transporting *used household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with The Home Insurance Company, of New York, NY.

MC 52793 (Sub-103), filed July 1, 1982. Applicant: BEKINS VAN LINES CO., 333 South Center St., Hillside, IL 60162. Representative: David A. Gallagher (same address as applicant), 312–547–2184). Transporting *used household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with Bath Iron Works, Inc., of Bath, ME.

MC 52793 (Sub-105), filed July 1, 1982. Applicant: BEKINS VAN LINES CO., 333 South Center St., Hillside, IL 60162. Representative: David A. Gallagher (same address as applicant), 312–547–2184. Transporting *computer systems, peripheral equipment and parts*, between points in the U.S. (except AK and HI), under continuing contract(s) with Modular Computer Systems, Inc., of Ft. Lauderdale, FL.

MC 121403 (Sub-2), filed June 28, 1982. Applicant: LEGGETT EXPRESS, INC., 95 Leggett St., East Hartford, CT 06108. Representative: John E. Fay, 663 Maple Ave., Hartford, CT 06114, (203) 525–2661. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CT, on the one hand, and, on the other, points in MA, ME, NH, NJ, NY, RI, and VT.

MC 140302 (Sub-7), filed June 28, 1982. Applicant: AMERICAN TANK TRANSPORT, INC., 6350 Ordnance Point Rd., Baltimore, MD 21225. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, 201–572–5551. Transporting *commodities in bulk*, between points in the U.S., under continuing contract(s) with Dutch Boy (Consumer Division) Sherwin-Williams Company, of Baltimore, MD.

MC 142072 (Sub-190), filed June 28, 1982. Applicant: DAVID BENEUX PRODUCE AND TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Harry Keifer (same address as applicant), 501–997–1683. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 144102 (Sub-1), filed June 29, 1982. Applicant: DEAKIN FINE ART TRANSPORT LIMITED, 291 Lakeshore Blvd. East, Toronto, Ontario, Canada M5A 1B9. Representative: Robert D. Gunderman, Can-Am Bldg., 101 Niagara St., Buffalo, NY 14202, 716–854–5870. Transporting *fine are objects and original works of art*, between points in CT, NJ, and NY.

MC 144112 (Sub-3), filed June 25, 1982. Applicant: PHILP, INC., 10550 Canyon Rd., Omaha, NE 68112. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104, (712) 255–3127. Transporting *food and related products*, between points in Dakota and Cummings Counties, NE; Crawford, Webster and Woodbury Counties, IA; Rock County, MN, Lyon and Finney Counties, KS; Potter County, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 146602 (Sub-9), filed June 28, 1982. Applicant: ODEAN DUANE BAKKEN, d.b.a. BAKKEN TRUCK LINE, 1301 Third Ave. South, Northwood, IA 50459. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, 612–542–1121. Transporting *food and related products*, between points in the U.S. (except AK and HI).

MC 147712 (Sub-43), filed June 29, 1982. Applicant: MID-WEST TRANSPORT, INC., 511 South Mapleton St., Columbus, IN 47201. Representative: Stephen J. Coulter (same address as applicant), (812) 376–9760. Transporting *general commodities* (except commodities in bulk, classes A and B explosives, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Crown Zellerbach Corporation, of South Glen Falls, NY.

MC 148543 (Sub-2), filed June 25, 1982. Applicant: K. T. TRANSPORT, INC., 2320 Coyle Dr., New Albany, IN. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, 317–846–6655. Transporting (1) *malt beverages*, between Houston County, GA, Milwaukee County, WI, Wayne County, MI, Hennepin County, MN, Peoria County, IL, Campbell County, KY, Butler County, OH and Ramsey County, MN, on the one hand, and, on the other, points in IN on and south of U.S. Hwy 40, and (2) *plastic products*, between Cincinnati, OH, on the one hand, and, on the other, Louisville, KY and Wolsworth, WI.

MC 148833 (Sub-10), filed June 25, 1982. Applicant: REBEL EXPRESS, INC., Box 198, Dawson, IA 50066. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309, (515) 245–4300. Transporting (1) *chemicals* (except in bulk), between points in TX, MS, IN, MO and CA, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *automobile parts and accessories* between points in KS, MO, NY, MN, CO, OR, IL, OH and IA, on the one hand, and, on the other, Omaha, NE.

MC 148872 (Sub-5), filed June 29, 1982. Applicant: H.O.H. COMPANY, INC., P.O. Box 637, Rossville, GA 30741. Representative: C. Jack Pearce, Suite 1200, 1000 Connecticut Ave. NW., Washington, DC 20036, 202–785–0048. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with North Georgia Shippers Association, Inc., of Dalton, GA.

MC 152572 (Sub-4), filed June 25, 1982. Applicant: BILL J. BILLINGS, d.b.a. BILLINGS TRUCKING COMPANY, P.O.

Box 393, Nocona, TX 76255. Representative: James R. Boyd, 1000 Perry Brooks Bldg., Austin, TX 78701, (512) 476–8066. Transporting *metal products* between points in CO, LA, NM, OK, and TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 153273 (Sub-7), filed July 1, 1982. Applicant: SCHREIBER TRANSIT, INC., 425 Pine St., Green Bay, WI 54305. Representative: John H. Sage (same address as applicant), 414–437–7601.Transporting *food and related products,* between points in the U.S., under continuing contract(s) with Proficient Foods Co., of Irvine, CA.

MC 155223 (Sub-6), filed June 28, 1982. Applicant: HIGHWAY EXPRESS, INC., 5742 W. Maryland, Glendale, AZ 85301. Representative: Robert Fuller, 13215 E. Penn St., Ste. 310, Whittier, CA 90602, 213–945–3002. Transporting *electrical metal cable and metal wire, fittings or attachments therefor,* between points in the U.S. (except AK and HI), under continuing contract(s) with CCS Cable, of Phoenix, AZ.

MC 161012 (Sub-1), filed June 25, 1982. Applicant: E.D.D.E. TRUCKING CORP., 2676 Ray Place, N. Bellmore, NY 11710. Representative: Jack L. Schiller, 123–60 83rd Ave., Kew Gardens, NY 11415, 212–263–2078. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI) under continuing contract(s) with (a) Advertising Displays Company, of Englewood Cliffs, NJ, (b) Colton Creators, Inc., of Mineola, NY, (c) Royal Guard Fence Co., Inc., of Westbury, NY, (d) Western Union International, Inc., of New York, NY, and (e) Woodbourne Cultural Nurseries, Inc., of Melville, NY.

MC 161412 (Sub-1), filed June 28, 1982. Applicant: CPI, INC., 5411 South 31st St., Fort Smith, AR 72903. Representative: William S. Jones (same address as applicant), 501–646–6579. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Leflore County, MS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 161462 (Sub-3), filed June 25, 1982. Applicant: MIDLAND EXPRESS, INC., 29 South LaSalle St., Suite 350, Chicago, IL 60603. Representative: Anthony E. Young (same address as applicant), 312–782–8880. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in IL, IA, and WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162683, filed June 25, 1982. Applicant: J & M TRUCKING, INC., Route 3, Long Prairie, MN 56347 Representative: W. E. Seliski, 2 Commerce St. P.O. Box 8255, Missoula, MT 59807, (406)–543–8369. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 162673, filed June 25, 1982. Applicant: A.D.S. BROKERS, INC., RR No. 1, 24 Tollview Court, Gilberts, IL 60136. Representative: Alexander J. Spolar (same address as applicant), (312) 426–7133. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 162682, filed June 25, 1982. Applicant: BARCLAY-MOORE, INC., 512 Delaware, Suite 305, Kansas City, MO 64105. Representative: Arthur J. Cerra, 2100 Charter Bank Center, P.O. Box 19251, Kansas City, MO 64141, (816)–842–8600. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Kansas City, MO, on the one hand, and, on the other, points in IA, IL, KS, MO, and NE.

MC 162683, filed June 25, 1982. Applicant: DON GEORGE TRUCKING, 730 Quay St., Wilmington, CA 90748. Representative: Donald E. George (same address as applicant), 213–518–0969. Transporting *lumber, building materials and related products, and metal and metal products,* between points in AZ, CA, ID, NV, OR, UT and WA.

MC 162692, filed June 25, 1982. Applicant: SUPERPORT TRANSPORT, INC., 406 Carol St., Lockport, LA 70374. Representative: Janet Boles Chambers, 8211 Goodwood Blvd., Suite C–1, Baton Rouge, LA 70806, 504–924–2686. Transporting (1) *contractor's machinery and equipment,* and (2) *machinery, equipment, materials, and supplies used in or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and byproducts, and machinery, equipment, materials and supplies used in or in connection with the construction, operations, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof,* between points in LA and TX, on the one hand, and, on the other, points in AL, AR, CA, FL, GA, KS, MD, MS, NC, OK, SC, VA, WY, and DC.

MC 162703, filed June 28, 1982. Applicant: CARGO MOTOR FREIGHT LINE, INC., P.O. Box 24625, Houston, TX 77015. Representative: C. W. Ferebee, 3910 FM 1960 W., Suite 106, Houston, TX 77068, 713–537–8156. Transporting *general commodities* (except Classes A and B explosives, and commodities in bulk), between points in TX, on the one hand, and, on the other, points in LA, OK, AR and TX.

Volume No. OP2–153

Decided: July 13, 1982.

By the commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 52793 (Sub-101), filed July 1, 1982. Applicant: BEKINS VAN LINES CO., 333 South Center St., Hillside, IL 60162. Representative: David A. Gallagher (same address as applicant), 312–547–2184. Transporting *household goods,* between points in the U.S. (except AK and HI), under continuing contract(s) with Micro-Poise Division of Ransburg Corporation, of Indianapolis, IN.

MC 52793 (Sub-104), filed July 1, 1982. Applicant: BEKINS VAN LINES CO., 333 South Center St., Hillside, IL 60162. Representative: David A. Gallagher (same address as applicant), 312–547–2184. Transporting *household goods,* between points in the U.S. (except AK and HI), under continuing contract(s) with Loral Electronic Systems, of New York, NY.

MC 52793 (Sub-106), filed July 1, 1982. Applicant: BEKINS VAN LINES CO., 333 South Center St., Hillside, IL 60162. Representative: David A. Gallagher (same address as applicant), 312–547–2184. Transporting *household goods,* between points in the U.S. (except AK and HI), under continuing contract(s) with Anacomp, Inc., of Indianapolis, IN.

MC 129712 (Sub-76), filed July 1, 1982. Applicant: GEORGE BENNETT MOTOR EXPRESS, INC., P.O. Box 569, McDonough, GA 30253. Representative: Guy H. Postell, Suite 675, 3384 Peachtree Rd., NE., Atlanta, GA 30326, 404–237–6472. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with International Harvester Company, of Chicago, IL.

MC 143702 (Sub-24), filed July 1, 1982. Applicant: ALL FREIGHT SYSTEMS, INC., 1028 South 10th St., Kansas City, KS 66105. Representative: Donald J. Quinn, Commerce Bank Bldg., 8901 State Line-Suite 232, Kansas City, MO 64114.

816–444–7474. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Royal American Food Company, of Blue Springs, MO.

MC 151173 (Sub-16), filed July 1, 1982. Applicant: HAR-BET, INC., 7209 Tara Blvd., Jonesboro, GA 30236. Representative: O. L. Godfrey, Jr., (same address as applicant), 404–478–4115. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 154963 (Sub-3), filed July 1, 1982. Applicant: BLACK FOX TRANSIT LINES, INC., 2615 Guthrie St., NW., Cleveland, TN 37311. Representative: Robert L. Baker, Sixth Floor, U.S. Bank Bldg., Nashville, TN 37219, 615–244–6100. Transporting *passengers and their baggage*, in the same vehicle, with passengers, in special or charter operations, between points in AL, FL, GA, LA, MS, NC, SC, and TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162693 filed June 28, 1982. Applicant: WONDERLAND TOURS, P.O. Box 6288, Greensboro, NC 27405. Representative: Alice Grubbs Hornady, 2046 Stewart Hutchens Rd., Whitsett, NC 27377, 919–697–0323. As a *broker*, at Greensboro, NC, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, beginning and ending at points in NC and extending to points in the U.S.

MC 162732, filed June 30, 1982. Applicant: X-CEL TRANSPORT, INC., 1617 Godfrey Ave., SW., Wyoming, MI 49509. Representative: Jack Q. Magnuson (same address as applicant), 616–245–2177. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in KY, MI, and OH, on the one hand, and, on the other, points in the U.S. (except AK and HI),

MC 162753, filed July 1, 1982. Applicant: TED I. WIGGINS, d.b.a. TED'S GARAGE, 8984 Normandy Blvd., Jacksonville, FL 32205. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202, 904–632–2300. Transporting *motor vehicles and trailers*, in wrecker service, and *replacement motor vehicles and trailers*, between points in Duval County, FL, on the one hand, and, on the other, points in AL, GA, SC, and NC.

Volume No. OP4–253

Decided: July 13, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 99896 (Sub-11), filed July 6, 1982. Applicant: ATKINSON TRANSFER, INC., 1475 W. River Rd., Dayton, OH 45418. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IL, IN, KY, MI, NY, OH, PA, and WV, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 148126 (Sub-5), filed July 6, 1982. Applicant: E. W. L. TRUCKING, INC., 2055 Johns Dr., (P.O. Box 66), Glenview, IL 60025. Representative: Donald S. Mullins, 1033 Graceland Ave., Des Plaines, IL, (312) 298–1094. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IL, IA, MO, OH, and WI, on the one hand, and, on the other, points in IL, IN, IA, KY, MI, MN, MO, OH, and WI.

MC 148966 (Sub-11), filed July 6, 1982. Applicant: DROTZMANN, INC., P.O. Box 667, Yankton, SD 57078. Representative: James M. Hodge, 3730 Ingersoll Ave., Des Moines, IA 50312, (515) 274–4985. Transporting *food and related products*, between points in IA, MN, NC,NY, PA, and WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 149406 (Sub-16), filed July 2, 1982. Applicant: E. W. WYLIE CORPORATION, P.O. Box 1188, Fargo, ND 58107. Representative: Robert D. Gisvold, 1600 TCF Tower, 121 S 6th St., Minneapolis, MN 55402, (612) 333–1341. Transporting *lumber and wood products, metal products, and building materials*, (1) between points in AL, AZ, AR, CA, KS, KY, LA, MI, MS, MO, NV, NM, OH, OK, PA, TN, TX, UT and WV, and (2) betwen points in AL, AZ, AR, CA, KS, KY, LA, MI, MS, MO, NV, NM, OH, OK, PA, TN, TX, UT and WV, on the one hand, and, on the other, points in CO, ID, IL, IN, IA, MN, MT, NE, ND, OR, SD, WA, WI and WY.

MC 150836 (Sub-2), filed July 6, 1982. Applicant: JOHN A. FOWLER d.b.a. JOHN FOWLER TRUCKING, Route 4, #12 Robin Dale Lane, Burleson, TX 76128. Representative: A. William Brackett, 623 S. Henderson, 2nd Floor, Ft. Worth, TX 76104; (817) 332–4415. Transporting *such commodities* as are dealt in or used by grocery and food business houses, between points in the U.S. (except AK and HI), under continuing contract(s) with the Kroger Co., of Cincinnati, OH.

MC 156506, filed July 6, 1982. Applicant: LYNCHBURG STORAGE COMPANY, INC., 1323 Jefferson St., Lynchburg, VA 24505. Representative: Joseph S. Krajewski (same address as applicant), (804) 845–6912. Transporting *communication equipment*, between points in VA.

Volume No. OP4–254

Decided: July 7, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher and Williams.

MC 53237 (Sub-3), filed June 28, 1982. Applicant: ST. LOUIS TRANSPORTATION CO., 3548 Valleywood, St. Louis, MO 63114. Representative: C.C. Miller (same address as applicant), (314) 428–6391. Transporting (1) *chemicals and related products, petroleum and petroleum products, ores and minerals, and paper and paper products*, between points in MO and IL, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *electronic equipment*, between points in the U.S. (except AK and HI).

MC 116717 (Sub-1), filed June 9, 1982, and previously noticed in the Federal Register issue of June 28, 1982. Applicant: RALPH C. HUTTICK, 4931 N. Fairhill St., Philadelphia, PA 19120. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 19113; (215) 365–5141. Transporting *general commodities* (excet classes A and B explosives, household goods and commodities in bulk), between Philadelphia, PA, points in Bucks and Montgomery Counties, PA, and points in New Castle County, DE, on the one hand, and, on the other, points in DE, MD, NJ, NY, PA, VA and DC.

Note.—The purpose of this republication is to accurately reflect the scope of authority sought.

MC 145777 (Sub-1), filed July 1, 1982. Applicant: CARROLL MOVING & TRANSFER COMPANY, P.O. Box 314, 618 Canton Rd. NW., Carrollton, OH 44615. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215; (614) 228–1541. Transporting *coal and mining machinery and equipment*, between points in IN, KY, MI, OH, PA and WV.

MC 161447, filed July 1, 1982. Applicant: CARA LINES, 500 Devon Ct., Rio Rancho, NM 87124. Representative: Veronica F. DiZinno (same address as applicant), (505) 892–8723. Transporting *lumber and building materials*, between points in the U.S. (except AK and HI), under continuing contract(s) with Sagebrush Sales Co., of Albuquerque, NM.

MC 162157, filed June 28, 1982. Applicant: DELTA TRANSPORTATION, LTD., P.O. Box 8043, Madison, WI 53708. Representative: Stanley C. Olsen, Jr.,

5200 Willson Rd., Suite 307, Edina, MN 55424, (612) 927–8855. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Alpha Distributors, Ltd., of Madison, WI.

MC 162197, filed July 1, 1982. Applicant: G.E.M. TRANSPORTATION, INC., P.O. Box 428, Magna, UT 84044. Representative: Macoy A. McMurray, 35 S State St., Salt Lake City, UT 84111, (801) 532–5125. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Monoroc, Inc., of Salt Lake City, UT. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343 (A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the appropriate application for common control to Team 4, Room 2410.

MC 162747, filed July 1, 1982. Applicant: E.S.I. OF INDIANA, INC., P.O. Box 577, Crown Point, IN 46307. Representative: Norman R. Garvin, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204–3491; (317) 638–1301. Transporting *transportation equipment*, in drive-away service, between points in the U.S. (except AK and HI).

MC 162767, filed July 1, 1982. Applicant: CENTRAL ILLINOIS EXPRESS, INC., 2509 Westpark Way Circle, Euless, TX 76039. Representative: Paul E. Peldyak, 120 W. Madison St., Chicago, IL 60602, (312) 263–0143. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Caradco Corp., Rantoul, IL.

Volume No. OP4–255

Decided: July 8, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 106887 (Sub-11), filed July 6, 1982. Applicant: A. D. RAY TRUCKING, INC., d.b.a. NORTHWESTERN COLORADO PIPE AND STORAGE CO., P.O. Box 883, Craig, CO 81625. Representative: M. A. Andrade, 770 Grant St., Suite 228, Denver, CO 80203; (303) 861–4273. Transporting (1) *Mercer commodities* (a) between points in NM and TX, on the one hand, and, on the other, points in CO, NM, UT and WY, and (b) between points in CO, on the one hand, and, on the other, those points in the U.S. in and west of ND, SD, NE, KS, OK and TX; (2) *machinery, equipment and supplies* used in or in connection with the discovery, development, production and manufacture of coal, electrical energy, geothermal energy and nuclear energy, between points in CO, KS and UT, on the one hand, and, on the other, points in AZ, CO, ID, KS, MT, NM, ND, SD, UT, and WY; (3) *machinery, equipment and supplies* used in or in connection with mining, between points in CO, and KS, on the one hand, and, on the other, points in AZ, CO, ID, KS, MT, NM, NC, SD, UT, and WY; (4) *equipment, materials and supplies* used in or in connection with the manufacture and installation of air pollution control systems, between points in CO and WY, on the one hand, and, on the other, points in UT and CA; (5) *coal*, between points in CO, MT, NM and WY.

MC 110567 (Sub-31), filed July 6, 1982. Applicant: SOONER TRANSPORT CORPORATION, 666 Grand Ave., Des Moines, IA 50309. Representative: Kenneth L. Kessler, P.O. Box 855, Des Moines, IA 50304; (515) 245–2725. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Sunstar Foods, Inc., of Streator, IL.

MC 16024 (Sub-1), filed July 6, 1982. Applicant: SOUTH LOS ANGELES TRUCKING AND MOVING SERVICE CO., INC., 2181 E. 25th St., Vernon, CA 90058. Representative: Miles L. Kavaller, 315 S. Beverly Dr., Suite 315, Beverly Hills, CA 90212; (213) 277–2323. Transporting *furniture*, between points in Los Angeles, San Diego, Orange, Riverside, San Bernardino and Ventura Counties, CA, on the one hand, and, on the other, points in AZ, CO, ID, MT, NV, OR, UT, and WA.

MC 162517, filed July 6, 1982. Applicant: DECKER BROS., INC., P.O. Box 635, Worland, WY 82401. Representative: James B. Hovland, 525 Lumber Exchange Bldg., Minneapolis, MN 55402; (612) 340–0808. Transporting *Mercer commodities*, between those points in the U.S. in and west of ND, SD, NE, KS, OK, and TX.

MC 162817, filed July 6, 1982. Applicant: NORTHWEST CONTRACT CARRIERS, INC., 2050 Antelope Rd., White City, OR 97503. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210; (503) 226–3755. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Crown Zellerbach Corporation, of San Francisco, CA.

MC 147207 (Sub-3), filed July 1, 1982. Applicant: KLASSEN TRUCKING LTD., P.O. Box 1797, Winkler, Manitoba, Canada ROG 2XO. Representative: Robert N. Maxwell, POB 2471, Fargo, ND 58108; (701) 237–4223. Transporting (1) *chemicals and related products*, between the United States and Canada on the International Boundary line at points in MN, MT, and ND, on the one hand, and, on the other, points in ID, IA, MN, MT, ND, SD, and WI, and (2) *food and related products*, between port of entry on the International Boundary line between the United States and Canada MN and ND, on the one hand, and, on the other, points in IA, MN, NE, ND, SD and WI.

Volume No. OP4–257

Decided: July 14, 1982.

By the Commission, Review Board No. 2, members Carleton, Fisher, and Williams.

MC 150528 (Sub-4), filed July 7, 1982. Applicant: YARMOUTH LUMBER, INC., North St., Box 46, Yarmouth, ME 04096. Representative: William H. Phipps (same address as applicant) (207) 846–4853. Transporting *motor oil and lubricants*, between points in PA and NJ, on the one hand, and, on the other, points in ME, under continuing contract(s) with Maine Lubrication Services, Inc., of Portland, ME.

MC 162826, filed July 6, 1982. Applicant: CIRCLE S STEEL TRANSPORT, INC., 111 Pacific Hwy 99 North, Eugene, OR 97402. Representative: James W. Kirk, 1717 Centennial Blvd., Springfield, OR 97477; (503) 741–2311. Transporting (1) *iron* and *steel articles*, (2) *plastic products*, (3) *lumber products*, and (4) *commodities* for recycling, between points in WA, OR, and CA.

MC 162836, filed July 6, 1982. Applicant: J. KENNETH KATZMAN, JR., INC., 31029 Bushnell Rd., Burlington, WI 53105. Representative: Fred H. Figge, 513 Lewis St., Burlington, WI 53105; (414) 763–6296. Transporting *general commodities* (except classes A and B explosives and household goods), between points in IL, IN, IA, MI, MN, and WI, under continuing contract(s) with Elko Liquid Fertilizer Inc., of Elkhorn, WI.

Volume No. OP4–258

Decided: July 14, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Williams not participating.)

MC 149576 (Sub-17), filed May 24, 1982, previously noticed in the **Federal Register** issue of June 15, 1982, and republished this issue. Applicant: TRANS AMERICAN TRUCKING SERVICE, INC., P.O. Box 1247, Nixon Station, Edison, NJ 08818. Representative: R. M. McGraw (same address as applicant) (201) 985–2182. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with National Starch & Chemical Corp., of Bridgewater, NJ. Note: The purpose of this republication is to include the contracting shipper.

MC 154646 (Sub-13), filed July 8, 1982. Applicant: A & O ENTERPRISES, INC., d.b.a. GREATWEST TRANSPORTATION SYSTEMS, 2022 Kent Ave., Grand Island, NE 68801. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501; (402) 475–6761. Transporting *lumber and wood products, metal products,* and *building materials,* between points in the U.S. (except AK and HI).

MC 154716 (Sub-5), filed July 8, 1982. Applicant: WALGREEN OSHKOSH, INC., 200 Wilmont Rd., Deerfield, IL 60015. Representative: Edmund P. Choroski (same address as applicant) (312) 948–5000 X–2454. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S., under continuing contract(s) with United Forwarding, Inc., of Omaha, NE.

MC 161476, filed July 6, 1982. Applicant: LONNIE KNUTSON, 1520 Ashley Lake Rd., Kalispell, MT 59901. Representative: John B. Dudis, P.O. Box 759, Kalispell, MT 59901; (406) 755–6644. Transporting *forest products, and lumber and wood products,* between points in MT, on the one hand, and, on the other, points in ND, SD, NE, MN, WI, IL, IA, OH, KS, OK, WY, and CO.

MC 162856, filed July 7, 1982. Applicant: DAMON'S ESCORTED TOURS, P.O. Box 4562, Wilmington, NC 28406. Representative: Damon G. Helms, 102 LaSalle St., Wilmington, NC 28405; (919) 686–9700. To operate as a *broker,* at Wilmington, NC, in interstate or foreign commerce, in arranging for the transportation of *passengers and their baggage,* between points in NC, on the one hand, and, on the other, points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–19530 Filed 7–19–82; 8:45 am]

BILLING CODE 7035–01–M

[Release Rates Application MC 1528]

Motor Carrier; Motor Freight Classification

SUMMARY: The National Motor Freight Traffic Association, Inc., Agent, on behalf of carriers participating in the National Motor Freight Classification seeks to amend Release Rates Order MC–615 to double the release values, clarify the terms of the order by making the release value apply "per watch or watch movement" instead of "per article" and to limit the carriers' maximum liability to the highest release value in the event a shipment is inadvertently accepted without a release value.

ADDRESSES: Anyone seeking copies of this application should contact: Mr. William W. Pugh, 1616 "P" Street, NW., Washington, DC 20036, Telephone 202–797–5310.

FOR FURTHER INFORMATION CONTACT: Max Pieper, Unit Supervisor, Informal Rate Cases Branch, Bureau of Traffic, Interstate Commerce Commission, Washington, DC 20423, Telephone (202) 275–0781.

The relief sought is from 49 U.S.C. 10730.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–19530 Filed 7–19–82; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte 367 (Sub-177)]

Rail Carriers; Ashley, Drew & Northern Railway Co.; Exemption for Contract Tariff ICC–ADN–C–0001–A

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Tom Smerdon (202) 275–7277.

SUPPLEMENTARY INFORMATION: The Ashley, Drew & Northern Railway Company (ADN) filed a petition on June 24, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract ICC–ADN–C–0001–A filed on June 24, 1982, to become effective on one day's notice. The contract provides for the track storage of pulp, paper, and paper products.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. However, relief may be granted under 49 U.S.C. 10505.

The petition shall be granted. Due to excess production, the shipper requires additional storage capacity. Short notice effectiveness of the contract tariff will enable the petitioner to provide the needed storage in cars that are presently idle. Car supply will therefore not be adversely affected. An exemption will obviously be in the public interest.

Petitioner's contract ICC–ADN–C–0001–A may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(e) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30 day notice requirement in this instance is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(d) if protests showing good cause are filed within 15 days of publication in the **Federal Register.**

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Dated: July 13, 1982.

By the Commission, Division 1, Commissioners Sterrett, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–19532 Filed 7–19–82; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte 387 (Sub-171)]

Rail Carriers; Atchinson, Topeka & Santa Fe Railway Co.; Exemption for Contract Tariff ICC–ATSF–C–0083

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the Federal Register.

SUPPLEMENTARY INFORMATION: The Atchinson, Topeka and Santa Fe Railway Company (ATSF) filed a petition on June 25, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract ICC–ATSF–C–0083 filed on June 23, 1982, to become effective on one day's notice. The contract involves the movement of new covered hopper cars.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. However, relief may be granted under 49 U.S.C. 10505.

The petition shall be granted. The shipper had originally intended to move the covered hopper cars to its place of business in revenue service. However, due to a surplus of such cars in the origin area, the anticipated revenue movement is not feasible. Short notice effectiveness of the contract will enable the shipper to reduce the unexpected cost of moving the cars empty. An exemption will obviously be in the public interest.

Petitioner's contract ICC–ATSF–C–0083 may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(e) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30 day notice requirement in this instance is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(d) if protests showing good cause are filed within 15 days of publication in the Federal Register.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Dated: July 13, 1982.

By the Commission, Division 1, Commissioners Sterrett, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–19535 Filed 7–19–82; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 387 (Sub-179)]

Rail Carrier; Baltimore & Ohio Railroad Co., Exemption for Contract Tariff ICC–BO–C–0042

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional Exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Tom Smerdon (202) 275–7277.

SUPPLEMENTARY INFORMATION: The Baltimore and Ohio Railroad Company (BO) filed a petition on July 6, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract ICC–BO–C–0042 filed on July 6, 1982, to become effective on one day's notice. The contract involves the movement of concrete pipe and fittings.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. However, relief may be granted under 49 U.S.C. 10505.

The petition shall be granted. The concrete pipe and fittings to be moved under the contract will be used in a city drinking water line project. Short notice effectiveness of the contract tariff will allow for the early delivery of the pipe and fittings and will thus enable the project contractor to take advantage of the favorable summer weather conditions. An exemption will obviously be in the public interest.

Petitioner's contract ICC–BO–C–0042 may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(e) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30 day notice requirement in these instances is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(d) if protests showing good cause are filed within 15 days of publication in the Federal Register.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Dated: July 13, 1982.

By the Commission, Division 1, Commissioners Sterrett, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–19533 Filed 7–19–82; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte 387 (Sub-173)

Rail Carrier; Louisville & Nashville Railroad Co., Exemption for Contract Tariff ICC–L&N–C–0029

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioners are granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Tom Smerdon (202) 275–7277.

SUPPLEMENTARY INFORMATION: The Louisville and Nashville Railroad Company (L&N) and the Seaboard Coast Line Railroad Company (SCL) filed a petition on June 24, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory provisions of 49 U.S.C. 10713(e). They request that we permit contract ICC–L&N–C–0029 filed on June 23, 1982, to become effective on one day's notice. The contract involves the

movement of coal from Kentucky to electric generating plants.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. However, relief may be granted under 49 U.S.C. 10505.

The petition shall be granted. The shipper's electric rates depend in part on the transportation charges for coal. By reducing these charges, short notice effectiveness of the contract will enable the shipper to offer its customers the lowest possible electric rates. An exemption is obviously in the public interest.

Petitioners' contract ICC–L&N–C–0029 may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings.

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(e) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement in this instance is not necessary to carry out the transportation policy of 49 U.S.C. 10101(a) and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(d) if protests showing good cause are filed within 15 days of publication in the **Federal Register.**

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Dated: July 13, 1982.

By the Commission, Division 1, Commissioners Sterrett, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-19534 Filed 7-19-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte 387 (Sub-174)]

Rail Carrier, Seaboard Coast Line Railroad Co. Exemption for Contract Tariff ICC-SCL-C-0032

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariffs to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Douglas Galloway (202) 275–7248.

SUPPLEMENTARY INFORMATION: The Seaboard Coast Line Railroad Company filed a petition on June 28, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract ICC–SCL–C–0032 to become effective on one day's notice. The contract was filed to become effective on July 18, 1982 and involves the storage of pulpboard.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. Cf. former section 10762(d)(1). However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. Due to the current recession, sales of pulpboard have fallen requiring shipper to seek additional storage space. The carrier has cars available for storage use and the SCL will obtain shipments of the pulp board at a later date. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

SCL's contract may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

Although the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(e) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement in this instance is not necessary to carry out the transportation policy of 49 U.S.C. 10101(a) and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(d) if protests are filed within 15 days of publication in the **Federal Register.**

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Dated: July 13, 1982.

By the Commission, Division 2, Commissioners Andre, Gilliam, and Taylor. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-19536 Filed 7-19-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte 387 (Sub-176)]

Rail Carriers; Union Pacific Railroad Co. Exemption for Contract Tariff ICC-UP-C-0055

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Douglas Galloway (202) 275–7278.

SUPPLEMENTARY INFORMATION: The Union Pacific Railroad Company (UP) filed a petition on July 1, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract ICC–UP–C–0055 to become effective on July 15, 1982. The contract was filed to become effective on July 29, 1982 and involves the movement of foodstuffs.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. Shipper may encounter storage problems and a disruption to its accounting system if the contract's effective date is not advanced. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

UP's contract may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

Although the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(e) nor shall it serve to deprive the Commission

of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30 day notice requirement in this instance is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(d) if protests are filed within 15 days of publication in the Federal Register.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Dated: July 13, 1982.

By the Commission, Division 2, Commissioners Andre, Gilliam, and Taylor. Commissioner Taylor is assigned to this Divison for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-19631 Filed 7-19-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 137]

Contracts for Protective Services

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time to file comments to notice of proposed exemption.

SUMMARY: In the Federal Register notice of June 18, 1982 (47 FR 26463), the date comments were due in this proceeding on the proposed exemption of contracts for protective services against heat or cold provided to or on behalf of rail carriers and express companies and the related proposed removal of regulations was July 19, 1982. At the request of the Chessie System Railroads, the due date has been postponed to August 2, 1982. Parties who have already filed comments are free to file supplemental statements by that date; however, such comments cannot reply to previously filed comments. The proposed exemption and the proposed removal of regulations published at 47 FR 26409, June 18, 1982, will be considered in a single proceeding and parties need not file duplicating comments.

DATE: Comments are due August 2, 1982.

ADDRESS: Send original and 15 copies to: Ex Parte No. 137, Interstate Commerce Commission, Room 5340, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275-7278.

Dated: July 15, 1982.

By the Commission, Reese H. Taylor, Jr., Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-19684 Filed 7-19-82; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 701-TA-182 (Preliminary)]

Certain Rail Passenger Cars and Parts Thereof Imported From Canada

AGENCY: International Trade Commission.

ACTION: Changes in the scope of the preliminary countervailing duty investigation.

SUMMARY: The U.S. International Trade Commission hereby gives notice of changes in the scope of its investigation to determine whether there is a reasonable indication that an industry in the United States is materially injured, or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of allegedly subsidized imports from Canada of rail passenger cars, assembled or unassembled, finished or unfinished, components, and parts and accessories thereof and/or to be used therewith.

EFFECTIVE DATE: July 16, 1982.

FOR FURTHER INFORMATION CONTACT: Ms. Vera Libeau, Office of Investigations, U.S. International Trade Commission; telephone 202-523-0368.

BACKGROUND: The purpose of these changes in the scope of the Commission's investigation is to conform the scope of this investigation with that initiated by the Department of Commerce on July 14, 1982.[1]

This notice is published pursuant to § 207.12 of the Commission's rules of practice and procedure (19 CFR 207.12).

Issued: July 16, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-19707 Filed 7-19-82; 10:24 am]

BILLING CODE 7020-02-M

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[1] Published elsewhere in this issue.

DEPARTMENT OF LABOR

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period July 5, 1982—July 9, 1982.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separate,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-12,867; Maid Lingerie, Inc., North Troy, NY
TA-W-12,866; Chester County Sportswear, Henderson, TN
TA-W-12,864; Aurora Undergarments Co., Inc., Brooklyn, NY
TA-W-12,863; Anita Foundations, Inc., New York, NY
TA-W-12,850; Urethane Rubber Corp., Port Huron, MI
TA-W-12,838; Press Formed Products, Inc., Centerline, MI

In the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA-W-12,853; Solvent Finishers Inc., Westbury, NY
TA-W-12,857; Charles M. Reeder & Co., Inc., Highland Park, MI
TA-W-12,672; Ford Motor Co., Ford Export Div., Wixom, MI

TA–W–12,695; Ford Motor Co., Dealer Development Office, Pittsburgh, PA

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA–W–12,871; Roller Bearing Co. of America, West Trenton, NJ

Aggregate U.S. imports of roller bearings did not increase as required for certification.

TA–W–12,746; The Toro Co., Shakopee Div. Cast Plant, Skakopee, MN

Aggregate U.S. imports of lawnmowers and snow throwers are negligible.

TA–W–12,770; Canton Textile Mills, Inc., Canton, GA

Affirmative Determinations

TA–W–12,361; Laconia Shoe Co., Inc., Laconia, NH

A certification was issued in response to a petition received on February 20, 1981 covering all workers separated on or after December 1, 1980.

TA–W–12,839; Consumer Electronics Div., Indianapolis, IN

A certification was issued in response to a petition received on July 6, 1981 covering all workers separated on or after March 1, 1981 and before December 31, 1981.

TA–W–12,848; Stylemaster, Inc., Norfolk, VA

A certification was issued in response to a petition received on June 24, 1981 covering all workers separated on or after January 1, 1981 and before June 30, 1981.

TA–W–12,018; Westboro Shoe Co., Dexter, MO

A certification was issued in response to a petition received on December 22, 1980 covering all workers separated on or after December 17, 1979 and before December 31, 1980.

TA–W–12,669; Aquarius Shoe Co., Parma, MO

A certification was issued in response to a petition received on April 27, 1981 covering all workers separated on or after January 1, 1981.

I hereby certify that the aforementioned determinations were issued during the period July 5, 1982—July 9, 1982. Copies of these determinations are available for inspection in Room 10,332, U.S. Department of Labor, 601 D Street NW, Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: July 13, 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82–19624 Filed 7–19–82; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 30, 1982.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director,Office of Trade Adjustment Assistance, at the address shown below, not later than July 30, 1982.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 12th day of July 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Al Tech. Specialty Steel Corp. (USWA)	Watervliet, NY	7/6/82	6/24/82	TA–W–13,614	Steel—tools, stainless bars, rods, wire.
Crucible Specialty Metals, Inc.,—Colt (USWA)	Syracuse, NY	7/1/82	6/25/82	TA–W–13,615	Steel, specialty products.
Duval Corp., Mineral Park Property (USWA)	Kingman, AZ	7/6/82	7/1/82	TA–W–13,616	Copper, mine.
Marathon Steel Co., Rolling Mills Div. (USWA)	Tempe, AZ	7/6/82	7/1/82	TA–W–13,617	Steel reinforced.
Midland Ross Corp., Capitol Casting Div. (USWA)	Phoenix, AZ	7/6/82	7/1/82	TA–W–13,618	Balls, grinding, copper castings.
Wheeling Pittsburgh Steel Corp. (USWA)	Mingo Junction, OH	6/25/82	6/21/82	TA–W–13,619	Steel, carbon products.
Wheeling Pittsburgh Steel Corp. (USWA)	Follansbee, WV	6/25/82	6/21/82	TA–W–13,620	Steel, carbon products.
Wheeling Pittsburgh Steel Corp. (USWA)	Steubenville, OH	6/25/82	6/21/82	TA–W–13,621	Steel, carbon products.
Wheeling Pittsburgh Steel Corp. (USWA)	Benwood, WV	6/25/82	6/21/82	TA–W–13,622	Steel, carbon products.
Wheeling Pittsburgh Steel Corp. (USWA)	Beech Bottom, WV	6/25/82	6/21/82	TA–W–13,623	Steel, carbon products.
Wheeling Pittsburgh Steel Corp. (USWA)	Yorkville, OH	6/25/82	6/21/82	TA–W–13,624	Steel, carbon products.
Ashland Petroleum Co. (Buffalo Refinery) (Independent Oil Workers Union).	Tonawanda NY	6/28/82	6/21/82	TA–W–13,625	Gasoline, Asphalt.
Babcock & Wilcox Co., Tubular Products Group (USWA).	Alliance, OH	7/1/82	6/28/82	TA–W–13,626	Tubular, welded products.
Buddy Knitwear, Inc. (ILCWU)	Hempstead, NY	6/25/82	6/21/82	TA–W–13,627	Fabrics, knitted.
Chino Mine Co., A Kennecott Mitsubishi Partnership (USWA).	Hurley, NM	6/25/82	6/24/82	TA–W–13,628	Copper—mine concentrate, refine and smelter.
Clinton Corn Processing Company (wkrs)	Montezuma, NY	6/28/82	6/21/82	TA–W–13,629	Syrup, corn fuctose high, dextrose.
Jones & Laughlin Steel Corp., Campbell Works (USWA).	Campbell, OH	6/28/82	6/24/82	TA–W–13,630	Pipe, seamless, couplings coke.
Marathon Steel Co., Fabrication Div. (USWA)	Phoenix, AZ	7/6/82	7/1/82	TA–W–13,631	Steel, fabricated.
Marsh Instrument Co. (USWA)	Skokie, IL	6/28/82	6/24/82	TA–W–13,632	Gauges, instruments, needle valves, thermometers, vacuum.
Max Factor & Co. (workers)	Hawthrone, CA	6/29/82	6/22/82	TA–W–13,633	Cosmetics and perfumes.
Norris IN Industries, Inc., Compressed Gas Cylinders Div., Wisconsin Plant (USWA).	W. Milwaukee, WI	6/30/82	6/24/82	TA–W–13,634	Cylinders, pressure, high.
Verson Allsteel Press (UAW)	Chicago, IL	6/28/82	6/21/82	TA–W–13,635	Presses, metal, forming.
DeSantis Dress Co. (ILGWU)	Vineland, NJ	6/30/82	6/23/82	TA–W–13,636	Dresses—ladies.
Kenner Dress Co., Inc. (ILGWU)	Elizabeth, NJ	7/6/82	6/29/82	TA–W–13,637	Sportswear—Ladies'.

APPENDIX—Continued

Petitioner (Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Talon, Inc. (ILGWU)	Woodland, NC	7/6/82	6/24/82	TA-W-13,639	Zippers—clothing industries.

[FR Doc. 82-19825 Filed 7-19-82; 8:45 am]
BILLING CODE 4510-30-M

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 82-121; Exemption Application No. D-3271]

Exemption From the Prohibitions for Certain Transactions Involving the Robert B. Scheidt, M.D., Pension Plan and Trust Located in Van Wert County, Ohio

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption will permit the proposed sale of certain artworks (the Artworks) by the Robert B. Scheidt M.D., Pension Plan and Trust (the Plan) to Robert B. Scheidt (Scheidt), a party in interest with respect to the Plan.

FOR FURTHER INFORMATION CONTACT: Richard Small of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. (202) 523-7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On May 14, 1982, notice was published in the **Federal Register** (47 FR 20886) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for the above described transaction. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition, the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that he has satisfied the notification provisions as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of Section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the Proposed sale of the Art works by the Plan to Scheidt for $74,500 provided that this amount is at least the fair market value of the Artworks at the time of sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 14th day of July 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-19801 Filed 7-19-82; 8:45 am]
BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-124; Applications Nos. D-2841 and D-2842]

Exemption From the Prohibitions for Certain Transactions Involving the Jeff Dell Pension and Employee Benefit Plans and Trust Located in New York, New York

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption permits the cash sale of certain improved real property (the Property) by the Jeff Dell Employee Benefit Plan and Trust and the Jeff Dell Pension Plan and Trust (collectively, the Plans) to Jeff Dell Film Services, Inc. (the Employer).

FOR FURTHER INFORMATION CONTACT: Ms. Jan Broady of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. (202) 523-8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On May 18, 1982, notice was published in the **Federal Register** (47 FR 21348) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for a transaction described in an exemption application filed in behalf of the Plans. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition, the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice had been furnished to interested persons in accordance with the requirements set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plans and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plans.

Accordingly, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale of the Property located at 241 East 51st Street, New York, New York, by the Plans to the Employer, provided: (1) the sales price received by the Plans is not less than the fair market value on the date of sale; and (2) the sales price is no less than the Plans' original cost plus any expenses incurred by the Plans with respect to the Property.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 15th day of July 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-19982 Filed 7-19-82; 8:45 am]
BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-123; Exemption Application No. D-2670]

Exemption From the Prohibitions for Certain Transactions Involving the West Coast Bank Bankers' Participation Acceptances Loan Participation Program Located in Encino, Calif.

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption will permit, subject to certain conditions, transactions to be effected by the West Coast Bank (the Bank) in connection with the maintenance, operation, and servicing of the West Coast Bank Bankers' Participation Acceptances Loan Participation Program (the Program) and the investment by certain employee benefit plans (the Plans) in the Program when the Bank is a party in interest with respect to an investing plan.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. (202) 523-8882. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On June 8, 1982, notice was published in the **Federal Register** (47 FR 24891) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from

the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for the above-described transactions. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury of Labor.

Generation Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plans and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plans.

Accordingly, the following exemption is hereby granted under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1.

I. Effective the date of publication of this grant in the Federal Register (hereinafter, the Effective Date), the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to the sale, exchange, or transfer by the Plans of Loan Participations, as such term is defined in the notice of proposed exemption, in the Program and the holding of such Loan Participations by the Plans provided that:

A. Such sale, exchange, or transfer is expressly approved by a fiduciary independent of the Bank who has authority to manage or control those Plan assets being invested in the Loan Participations;

B. A Plan pays no more for a Loan Participation than would be paid in an arm's-length transaction with an unrelated party;

C. No sales commission or similar compensation is paid to the Bank with regard to such investment by a Plan;

D. At least 50% of all Loan Participations are held by investors other than the Plans; and

E. The following record-keeping requirements are satisfied:

1. The Bank shall maintain for six years from the date any Loan Participation is sold to a Plan pursuant to this exemption, records necessary to enable the persons described in paragraph (2) of this section to determine whether the conditions of this exemption have been met, except that:

a. A prohibited transaction will not be deemed to have occurred, if, due to circumstances beyond the control of the Bank, records are lost or destroyed prior to the end of the six year period.

b. No party in interest shall be subject to the civil penalty which may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code, if the records are not maintained or are not available for examination as required by paragraph (2) below; and

2. Notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (1) of this section must be unconditionally available at their customary location for examination, for purposes reasonably related to protecting rights under the Plans, during normal business hours by: any trustee, investment manager, employer of Plan participants, employee organization whose members are covered by a Plan, participant or beneficiary of a Plan, or any duly authorized employee or representative of such person or of the Department or the Internal Revenue Service.

II. Effective upon the Effective Date, the restrictions of section 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) and (E) of the Code shall not apply to the transactions to be effected by the Bank with respect to the maintenance, operation and servicing of the Program, provided that (A) such transactions are effected in accordance with the terms of the Offering Circular, as such term is defined in the notice of proposed exemption, and (B) the Offering Circular is made available to Plan fiduciaries before they invest in Loan Participations in the Program; and (C) the sum of all payments made to, retained by, or inuring to the benefit of the Bank as a result of the administration of the Program represent not more than adequate consideration for its services with respect to the Program.

III. Effective upon the Effective Date, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) and (D) of the Code shall not apply to any transactions to which such restrictions or taxes would otherwise apply merely because a person is deemed to a party in interest (including a fiduciary) with respect to a Plan or who has a

relationship of such service provider described in section 3(14) (F), (G), (H), or (I) of the Act, solely because the ownership of a Loan Participation by such Plan.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 15th day of July 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-19569 Filed 7-19-82; 8:45 am]
BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-122; Exemption Application No. D-3276]

Exemption From the Prohibitions for a Certain Transaction Involving the Sakas, Inc. Employees Pension Plan Located in Baltimore, Ohio

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption exempts the sale of 15 acres of real property (the Property) by the Sakas, Inc. Employees Pension Plan (the Plan) to George Sakas (Sakas), a party in interest with respect to the Plan.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Hamilton of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216. (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On May 7, 1982, notice was published in the **Federal Register** (47 FR 19827) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the above described transaction. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice was distributed in accordance with the requirements set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive or whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the cash sale of the Property by the Plan to Sakas for $15,000 provided that the amount received by the Plan is not less than the fair market value of the Property at the time of the sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 14th day of July 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Program, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-19394 Filed 7-19-82; 8:45 am]
BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-129; Exemption Application No. D-3364]

Exemption From the Prohibitions for Certain Transactions Involving the RREEF Fund-II, Inc., Located in San Francisco, Calif.

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption exempts the purchase of a shopping center by the RREEF Fund-II, Inc. (the Fund) from an unrelated party, and the assumption by the Fund of an existing lease to Von's Grocery Company (Von's), a party in interest with respect to one of the employee benefit plans participating in the Fund.

EFFECTIVE DATE: This exemption is effective September 12, 1977.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On May 21, 1982, notice was published in the Federal Register (47 FR 22246) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of sections 406(a) and 407(a) of the Employee Retirement Income Security Act of 1974 (the Act) from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (D) of the Code, for transactions described in an application filed on behalf of the RREEF Corporation, the Fund's investment manager. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. The applicant has represented that it has complied with the notice to interested persons requirements as set forth in the notice of pendency. No public comments were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b) of the Act and section 4975(c)(1)(E) and (F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive or whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Fund and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Fund.

Accordingly the restrictions of section 406(a) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply, effective September 12, 1977, to the sale by Tampa Plaza Associates to the Fund of the Loehmann's Plaza Shopping Center (the Shopping Center), located in Los Angeles, California, and the lease of a portion of the Shopping Center to Von's, which began on December 21, 1956, provided the sale and lease terms are no less favorable to the Fund than those available in arm's-length transactions with unrelated parties.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions which are the subject of this exemption.

Signed at Washington, D.C., this 15th day of July 1982,

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Program, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-19595 Filed 7-19-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-128; Exemption Application No. D-3270]

Exemption From the Prohibitions for Certain Transactions Involving the Basic Steel Corporation Employees' Profit Sharing Plan Located in Riverdale, Ill.

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption permits a proposed loan (the Loan) by the Basic Steel Corporation Employees' Profit Sharing Plan (the Plan) to Basic Steel Corporation (the Employer) of 40 percent of the total assets of the Plan.

FOR FURTHER INFORMATION CONTACT: Ms. Jan Broady of the Office of Fiduciary Standards, Pension and Welfare Benefits Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. (202) 523-8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On May 21, 1982, notice was published in the Federal Register (47 FR 22253) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for a transaction described in an application filed by the Employer. The notice set forth a summary of facts and respresentations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition, the notice stated that any

interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice has been distributed to interested persons in accordance with the requirements set for in the notice of pendency.

The Department received no requests for a hearing; however, one public comment was received from a Plan participant. The commentator said he supports the proposed transaction.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the Loan by the Plan to the Employer of 40 percent of the total assets of the Plan, provided the terms of the Loan are at least as equal to those which the Plan could receive in a similar transaction with an unrelated party.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 15th day of July 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-19686 Filed 7-19-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-127; Exemption Application No. D-3262]

Exemption From the Prohibitions for Certain Transactions Involving the Building Trades United Pension Trust Fund, Milwaukee and Vicinity Located in Milwaukee, Wis.

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption permits the loan of $305,000 by the Building Trades United Pension Trust Fund, Milwaukee and Vicinity (the Fund) to Fred E. and Elizabeth Warden (the Wardens), parties in interest with respect to the Fund; and the personal guarantee of repayment by the Wardens.

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216. (202) 523–8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On May 21, 1982, notice was published in the **Federal Register** (47 FR 22250) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (D) of the Code, for the transactions described in an application filed by the trustees of the Fund. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. The applicant has represented that it has complied with the requirements of the notification to interested persons as set forth in the notice of pendency. No public comments were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 7, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a

fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b) of the Act and section 4975(c)(1)(E) and (F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Fund and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Fund.

Accordingly the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to the loan of $305,000 by the Fund to the Wardens, provided that the terms and conditions of the loan are at least as favorable to the Fund as those it could obtain from an unrelated party; and to the personal guarantee of repayment by the Wardens.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 15th day of July 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-19597 Filed 7-19-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-126; Exemption Application No. D-3119]

Exemption From the Prohibitions for Certain Transactions Involving Little Rock Diagnostic Clinic, P.A. Profit Sharing Plan Located in Little Rock, Arkansas

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption permits the proposed lease by the Little Rock Diagnostic Clinic, P.A. Profit Sharing Plan (the Plan) to LRDC Land Company (Land Company), a party in interest with respect to the Plan; and the subordination of the Plan's interest in the leased premises.

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. (202) 523-8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On May 21, 1982, notice was published in the **Federal Register** (47 FR 22251) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the transactions described in an application filed by legal counsel for the Plan. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it has complied with the requirements of the notification to interested persons as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value such excess maybe considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Internal Revenue Code, including sections 401(a)(4), 404 and 415.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other

provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of sections 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the lease of land located in Little Rock, Arkansas by the Plan to the Land Company, including the subordination of the Plan's interest in the leased premises, provided that the terms of the transaction are not less favorable to the Plan than those obtainable in an arm's length transaction with an unrelated party.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 15th day of July 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-19630 Filed 7-19-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-125; Exemption Application No. D-3044]

Exemption From the Prohibitions for Certain Transactions Involving the Reisman, Milberg, Abramson & Magro, P.C. Defined Benefit Pension Plan Located in New York, New York

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption exempts the loans by the Reisman, Milberg, Abramson & Magro, P.C. Defined Benefit Pension Plan (the Plan) of funds not to exceed 25% of total Plan assets to Reisman, Milberg, Abramson & Magro, P.C. (the Employer) for a period of five years and the guarantee of the loans by the principal shareholders of the Employer.

TEMPORARY NATURE OF EXEMPTION: This exemption is temporary in nature and will expire five years from the date of grant with respect to the making of loans by the Plan to the Employer. Subsequent to the expiration date of the exemption, the Plan may hold loans to the Employer provided such loans originated during the five year period.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Hamilton of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On May 14, 1982, notice was published in the **Federal Register** (47 FR 20882) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the above described transactions. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice has been provided to interested persons in compliance with the provisions in the notice of proposed exemption. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed by the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the loans by the Plan to the Employer of funds not to exceed 25% of the total assets of the Plan, for a period of five years, and the guarantee of the loans by the principal shareholders of the Employer, so long as the terms of the loans are no less favorable to the Plan than those obtainable in arm's-length transactions with an unrelated party.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 15th day of July 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-19599 Filed 7-19-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-118; Exemption Application No. D-3079]

Exemption From the Prohibitions for Certain Transactions Involving the Group Health Cooperative of Puget Sound Staff Pension Plan Located in Seattle, Washington

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption permits the contribution, sale and purchase of certain fixed income and equity securities between the Group Health Cooperative of Puget Sound Staff Pension Plan (the Plan) and professional and administrative employees (the Participants) of Group Health Cooperative of the Puget Sound (the Employer).

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. (202) 523-8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On April 9, 1982, notice was published in the **Federal Register** (47 FR 15454) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for a transaction described in an application filed on behalf of the Employer and Plan trustee. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition, the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice has been provided to interested persons in accordance with the requirements set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the Participant directed contribution, sale and purchase of certain fixed income and equity securities between the Plan and the Participants of the Plan, provided all purchases and sales are conducted at fair market value and all Participant contributions are valued at their fair market value on the date contributed.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 14th day of July 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-19800 Filed 7-19-82; 8:45 am]
BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-117; Exemption Application No. D-3030]

Exemption From the Prohibitions for Certain Transactions Involving the Wolverine Aluminum Corporation Profit Sharing Plan Located in Lincoln Park, Michigan

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption will permit, effective January 1, 1975, the extension of credit between the Wolverine Aluminum Corporation Profit Sharing Trust (the Plan) and Wolverine Aluminum Corporation, the sponsor of the Plan (the Employer). The transaction was entered into before the effective date of the Employee Retirement Income Security Act of 1974 (the Act), but after July 1, 1974, the date specified in the transitional rules contained in sections 414 and 2003 of the Act.

EFFECTIVE DATE: This exemption will be effective from January 1, 1975 to March 15, 1982, the date the extension of credit by the Plan (the Mortgage) was repaid by the Employer.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216. (202) 523-861. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On May 14, 1982, notice was published in the **Federal Register** (47 FR 20686) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the above-described transaction. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice was provided to interested persons in accordance with the provisions of the notice of proposed exemption. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1) (F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply, from January 1, 1975 to March 15, 1982, to the Mortgage executed on August 15, 1974, provided that the terms and conditions of the Mortgage were at least as favorable to the Plan as those which the Plan would have received from an unrelated party in a similar transaction.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction which is the subject of this exemption.

Signed at Washington, D.C., this 14th day of July 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-19801 Filed 7-19-82; 8:45 am]
BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-116; Exemption Application No. D-3187]

Exemption From the Prohibitions for a Certain Transaction Involving the Massachusetts State Carpenters Pension Fund Located in Burlington, Massachusetts

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption exempts the loan of $500,000 by the Massachusetts State Carpenters Pension Fund (the Plan) to Northampton Hotel Associates (the Partnership). One of the partners in the Partnership, Irwin J. Nebelkopf, is an owner of Nebel Heating Corp. (Nebel),

which is a contributing employer to the Plan.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On May 18, 1982, notice was published in the **Federal Register** (47 FR 21345) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (D) of the Code, for a transaction described in an application filed on behalf of Nebel. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. The applicant has represented that it has complied with the notice to interested persons requirements as set forth in the notice of pendency. One public comment was received by the Department. The commentator stated that he was in favor of granting the exemption as it was proposed.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b) of the Act and section 4975(c)(1)(E) and (F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiairies; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to a loan by the Plan to the Partnership of $500,000, based on the terms and conditions set forth in the notice of pendency, provided that the terms of the transaction are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party at the time of consummation of the transaction.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 7th day of July 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82–19802 Filed 7–19–82; 8:45 am]

BILLING CODE 4510–29–M

[Application Nos. D–3381 and D–3382]

Proposed Exemption for Certain Transactions Involving Ritchie Enterprises Pension Plan for Salaried Employees, and Ritchie Enterprises Pension Plan for Hourly Paid Employees Located in Wichita, Kansas

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt for a period of five years certain proposed loans of money by the Ritchie Enterprises Pension Plan for Salaried Employees (the Salaried Plan) and the Ritchie Enterprises Pension Plan for Hourly Paid Employees (the Hourly Plan) together (the Plans) to the Ritchie Corporation (the Employer), the sponsor of the Plans. The proposed exemption, if granted, would affect the Employer, the participants and beneficiaries of the Plans and other persons participating in the proposed transactions.

DATE: Written comments and requests for a public hearing must be received by the Department on or before August 30, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application Nos. D–3881 and D–3382. The application for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Richard Small of the Department,

telephone (202) 523–7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1), and 406(b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975. Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely be the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representatives of the applicant.

1. The Salaried Plan as of July 31, 1981 had 90 participants and assests of $1,113,381. The Hourly Plan as of March 31, 1981 had 334 participants and assests of $592,777. The trustees (the Trustees) of the Plans are H.D. Ritchie, E.D. Ritchie, and J.P. Ritchie, all of whom are officers and directors of the Employer and partners in a partnership that own 93% of the stock of the Employer.

2. The Employer is requesting an exemption which will permit the Plans to enter into a loan agreement (the Loan Agreement) with the Employer whereby each of the Plans will periodically lend (the Loans) to the Employer amounts of money up to an aggregate at any point in time of no more than 25% of the total assets of such Plans. The Loans will be made over a five year period, the first day of which will be the date the grant of an exemption for the Loans is published in the **Federal Register**. The maximum length of any Loan will be four years.

3. An independent party, the Central Bank and Trust Co. (the Bank) located in Wichita, Kansas will examine the Loan Agreement. Prior to the Plans entering into any Loan, the Bank must: (1) certify that the Loan is in the best interests of the participants and beneficiaries of the Plans; (2) certify that the terms and conditions of the Loan are at least as favorable to the Plans as those which the Plans could receive in a similar transaction with an unrelated party; and (3) agree to monitor the terms and conditions of the Loan on behalf of the Plans. In addition, prior to the Plans entering into any Loan, the Trustees must certify that the Loan is in the best interests of the participants and beneficiaries of the Plans.

4. The interest rate on the Loans will be the fair market interest rate on similar types of loans as determined by the Bank but no less than 1% above the prime interest rate of the Continental Illinois National Bank and Trust Company (the Continental Bank) located in Chicago. The applicant represents that the Employer regularly borrows from the Continental Bank at a rate 1% over the prime rate of the Continental Bank for certain of its intermediate debts such a those requested in this exemption request.

5. The proceeds of the Loans will be used by the Employer to purchase new equipment (the Equipment) for its construction business. No Loan will be made for more than 75% of the purchase price of the Equipment. The Plans will receive a perfected interest in each piece of Equipment that is financed by a Loan. The applicant represents that the Equipment will be adequately insured with the Plans being named the beneficiary. In addition, each Loan will be collateralized by certain real property (the Property) owned by the Employer. The applicant represents that between the Equipment and the Property, each Loan will be collateralized in an amount equal to at least 200% of the amount of the outstanding balance of such Loan. The Bank will have the responsibility of monitoring the collateral to assure that it is equal to at least 200% of the amount of the outstanding balances of the Loans.

6. The applicant represents that the Loans will enable the Plans to make an investment which will give the Plans a high yield with a high degree of security.

7. In summary, the applicant represents that the Loans will satisfy the statutory criteria of section 408(a) of the Act as follows: (1) the Trustees represent that the Loans will be in the best interests of the participants and beneficiaries of the Plans; (2) an independent fiduciary will approve and monitor the Loans; (3) the Plans will receive a high rate of interest on a secure investment; and (4) the exemption will be for a 5 year period.

Notice to Interested Persons

Within 10 days of its publication in the **Federal Register** a copy of the notice of pendency and a statement advising interested persons of their right to comment or request a hearing will be mailed to each participant and beneficiary of the Plans.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of and exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaies and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments

will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply for a period of five years to the Loans by the Plans to the Employer provided that the terms and conditions of the Loans are at least as favorable to the Plans as those which the Plans could receive in similar transactions with an unrelated party.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 14th day of July 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82–19603 Filed 7–19–82; 8:45 am]

BILLING CODE 4510–29–M

[Prohibited Transaction Exemption 82–120; Exemption Application No. D–3172]

Exemption From the Prohibitions for Certain Transactions Involving the Retail Clerks Union and Employers Midwest Pension Plan Located in Chicago, Ill.

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption will permit the proposed purchase of certain real property (the Property) by the Retail Clerks Union and Employers Midwest Pension Plan (the Plan) from the United Food & Commercial Workers Union Local 1550 (the Union), a party in interest with respect to the Plan.

FOR FURTHER INFORMATION CONTACT: Richard Small of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. (202) 523–722. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On May 7, 1982, notice was published in the **Federal Register** (47 FR 19626) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for the above described transaction. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicants have represented that they have satisfied the notification provisions as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interest of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the purchase of the Property by the Plan from the Union for cash in the amount of $441,000 provided that this amount is not greater than the fair market value of the Property at the time of sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms

of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 14th day of July 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-19006 Filed 7-19-82; 8:45 am]
BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-119; Exemption Application D-3092]]

Exemption From the Pprohibitions for Certain Transactions Involving the National Reserve Life Insurance Company Pension and Profit Sharing Plan Located in Topeka, Kans.

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption permits the sale of participations in real estate mortgage loans (the Participations) by the National Reserve Life Insurance Company Pension and Profit Sharing Plan (the Plan) to the National Reserve Life Insurance Company (the Employer).

FOR FURTHER INFORMATION CONTACT: Ms. Linda Hamilton of the Office of the Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On April 13, 1982, notice was published in the **Federal Register** (47 FR 15934) of the pendency before the Department of Labor (the Department) if a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for the above described transaction. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it has complied with the requirements of notification to interested persons as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other proivions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible:

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale of the Participations by the Plan to the Employer, provided the Plan receives an amount at least equal to the fair market value of the Participations on the date of sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 14th day of July 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-19008 Filed 7-19-82; 8:45 am]
BILLING CODE 4510-29-M

[Application No. D-3204]

Proposed Exemption for Certain Transactions Involving the David Evans and Associates Profit Sharing Plan and Retirement Trust Located in Portland, Oreg.

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employe Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed sale (the Sale) of a parcel of unimproved real property (the property) by the David Evans and Associates Profit Sharing Plan and Retirement Trust (the Plan) to a partnership (the Partnership), which is a party in interest with respect to the Plan. The proposed exemption, if granted, would affect the Partnership, the participants and

beneficiaries of the Plan and other persons participating in the transaction.

DATES: Written comments and requests for a public hearing must be received by the Department on or before August 30, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D–3204. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Louis Campagna of the Department, telephone (202) 523–8883. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by David Evans and Associates, Inc. (the Employer), the sponsor of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a profit sharing plan with approximately 20 participants and total assets, as of June 3, 1981, of $222,896. The trustees (the Trustees) of the Plan are officers and shareholders of the Employer. The Partnership is comprised of officers and shareholders of the Employer and trustees of the Plan.

2. The Property is an unimproved parcel of real estate located in Durham, Oregon. The Property was purchased by the Plan on January 15, 1980 under a sales contract (the Contract) from Nu Pacific, Inc., a corporation unrelated to the Plan or the Employer. The total purchase price for the Property was $97,760. The Plan made a cash downpayment of $24,476.96. The balance of $73,288 was to accure interest at a rate of 12% to be made on December 3, 1980 and December 31, 1981. The initial Contract payment of $36,644.43 plus accrued interest was made by the Plan. The final Contract payment of $36,644.43 plus accrued interest due December 31, 1981 was extended to March 5, 1982 and was made by the Plan on that date. Consequently, the total payments made by the Plan toward the purchase of the Property, as of March 5, 1982, totalled $111,655.21 in principal and interest.

3. The applicant represents that the best and most efficient use for the Property is the construction of a commercial office building and that the Property is zoned only for the use. The applicant also represents that developing the Property would involve a large capital outlay in addition to a substantial amount of debt financing. Although the construction of an office building was the original intent of the Trustees in purchasing the Property and subsequently, the Plan incurred certain pre-construction costs (the Pre-construction Costs) related to the project, the Trustees have concluded that because of the depressed state of the Employer's business and decline in the number of employees of the Employer the level of contributions to the Plan are of such an uncertain status that funding of the development of an office building is not possible. The Pre-construction Costs incurred by the Plan related to the development of an office building totalled $14,524 and included appraisal, architectual, legal and accounting fees and real estate taxes.

4. The applicant represents that because of the inability of the Plan to finance the construction of the office building, the alternatives left the Plan are to leave the Property in its unimproved state in the hope of appreciation or to sell the Property. The applicant is therefore requesting an exemption to permit the Sale of the Property by the Plan to the Partnership for the greater of the fair market value of the Property at the time of the Sale plus the Pre-construction Costs or $126,179.21, which represents the Pre-construction Costs incurred by the Plan plus the amount paid by the Plan toward the purchase of the Property of $111,651.21. Donald R. Palmer, MAI, SRPA, an independent appraiser from Portland, Oregon determined the fair market value of the Property, as of March 11, 1981, to be $111,000. No real estate commissions or fees of any kind will be paid by the Plan in connection with the Sale. The Trustees have determined that the Sale would be in the best interests of the Plan and its participants and beneficiaries.

5. In summary, the applicant represents that the Sale satisfies the statutory criteria of section 408(a) of the Act because: (1) it will be a one time transaction for cash; (2) the value of the Property has been determined by an independent appraisal; (3) it is now impossible due to business problems of the Employer and resulting lack of consistent level of contributions to the Plan to develop the Property as originally intended; (4) the Plan will be reimbursed for all expenses incurred related to the development of the Property since the time the Property was purchased; (5) no real estate commissions or fees of any kind will be paid by the plan in connection with the Sale; and (6) the Trustees have determined that the Sale would be in the best interests of the Plan and its participants and beneficiaries.

Notice to Interested Persons

Notice of proposed exemption will be given to all participants and beneficiaries of the Plan within 10 days of the publication of the notice of pendency in the **Federal Register**. Notice will be posted on bulletin boards in the Employer's places of business where such official notices are usually posted. Notice will include a copy of the notice of pendency as it appears in the **Federal Register** as well as a statement informing all interested persons of their right to comment or request a hearing on the proposed exemption.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in

accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the Sale of the Property by the Plan to the Partnership for the greater of $126,179.21 or the fair market value of the Property at the time of the Sale plus the Pre-construction Costs.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 14th day of July 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-19607 Filed 7-19-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3203]

Proposed Exemption for Certain Transactions Involving the Design Master Homes, Inc., Profit Sharing Plan and Trust Located in Phoenix, Ariz.

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt a loan (the Loan) by the Design Master Homes, Inc. Profit Sharing Plan and Trust (the Plan) of $300,000 to Design Master Homes, Inc. (the Employer), a party in interest with respect to the Plan. The proposed exemption, if granted, would affect the participants and beneficiaries of the Plan, Plan fiduciaries, and other persons participating in the transaction.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before September 8, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefits Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–3203. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Ms. Jan Broady of the Department of Labor, telephone (202) 523–8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471), April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Employer is an Arizona corporation, engaged in the development of commercial and residential properties. The Plan is a profit sharing plan whch was established by the Employer in 1969. As of November 30, 1981, the Plan had 74 participants and total assets of $1,495,916. Messrs., Max W. Wilson and W. D. Long, who are employees of the Employer, serve as the Plan trustees (the Trustees). As Trustees, these individuals are authorized to make investment decisions for the Plan.

2. The Employer requests an exemption to borrow $300,000 from the Plan in order to discharge the balance remaining of an $800,000 total indebtedness owed to Wells Fargo Advisors, Inc., a California corporation. The proposed Loan will be for a ten year period, with payments of principal and interest made quarterly based upon a twenty year amortization schedule. At the end of ten years, all remaining principal and accured interest will become due and payable. The Loan will

carry simple interest at the rate of twenty percent per annum.

3. The Employer owns approximately 112 gross acres of unimproved real property (the Real Property), located in Peoria, Arizona. Roughly 15 acres of the Real Property are located on the south side of Olive Avenue, 330 feet west of 107th Avenue; approximately 97 acres are located on the northwest corner of 107th Avenue and Butler Drive. Of the total acreage, the Employer will offer approximately 60 acres of the Real Property as the collateral (the Collateral) for the proposed loan. The Loan will be evidenced by a promissory note and secured by a duly recorded deed of trust, thereby giving the Plan and first lien interest in the Collateral. The deed of trust will contain certain release provisions to the effect that portions of the Collateral will be released as payments of principal and interest are made. However, in no event will the value of the Collateral be permitted to fall below 150 percent of the outstanding Loan balance.

4. The Collateral underlying the proposed Loan has been appraised in 1978 and 1982 by Mr. Jim Homan (Mr. Homan), an M.A.I. appraiser with the firm, Burke, Hansen, and Homan located in Phoenix Arizona. Mr. Homan and his firm are totally unrelated to the Plan, Employer or to any other party in interest to the proposed transaction. In two appraisals prepared by Mr. Homan on October 26, 1978, he placed the value of the land parcel containing the 97 acres at $1,265,000 and the land parcel containing the 15 acres at $196,000 or $13,000 per acre. Based on these computations, the 60 acres of Real Property offered as the Collateral were valued at $780,000.

In a letter of May 7, 1982, Mr. Homan has updated his earlier valuation of the Real Property. Mr. Homan represents he has reviewed the prior appraisal of the 97 acres to ascertain whether or not the value determined is still applicable, but he concludes the figure ascribed at that time is very conservative in the market today. Mr. Homan also says he has studied recent sales of comparable properties within the area of the Real Property and indicates current prices for land range from $15,000 to $35,000 per acre. Based on the data analyzed, Mr. Homan projects the 60 acres comprising the Collateral to fall within a range of $15,000 to $20,000 per acre or an average value of $17,500 per acre. Using the $17,500 amount as his basis, Mr. Homan values the Collateral at $1,050,000.

5. First American Title Insurance Company of America (First American), which is located in Phoenix, Arizona, has formally agreed to serve as the independent fiduciary of the proposed Loan. First American represents it is completely unrelated to the Plan and Employer. First American also states it has expertise in the area of loan administration.

As the independent fiduciary, First American will monitor and service the proposed Loan pursuant to the terms of a servicing agreement (the Agreement) which it will enter into with the Plan and Employer. The agreement empowers First American to take all steps it deems necessary to protect and enforce the interests of the Plan and its participants and beneficiaries. These steps will include having the Collateral appraised as frequently as First American considers it necessary to ensure the fair market value of the Collateral is at all times equal to or in excess of 150 percent of the outstanding Loan balance. In addition, First American will be authorized to approve any release provisions concerning the Collateral. The Employer will pay all costs and expenses incurred in connection with the preparation and execution of the Agreement.

6. Mr. Robert N. Tellier, Jr. (Mr. Tellier), an actuary with the pension, profit sharing and actuarial consulting firm of Scott, Tellier and Company, located in Phoenix, Arizona, has determined, as a Plan fiduciary, that the proposed transaction is in the best interests of the Plan's participants and beneficiaries. Mr. Tellier is unrelated to the Plan and the Employer. In a letter of September 28, 1981, Mr. Tellier says he believes the Plan will have little difficulty in advancing funds to the Employer or in receiving the payments accruing from the transaction. He indicates the Collateral poses no significant difficulty as it relates to the administration of Plan assets. He believes the Collateral should be appraised periodically to provide assurance that the Collateral amounts are an appropriate safeguard for the Plan's participants.

To support his opinion, Mr. Tellier has concluded the proposed Loan will give the Plan a more than fair rate of return. He says the Loan will not impair the Plan's liquidity position as the majority of the Plan's assets are invested in liquid assets. He states that in the event Plan assets are distributed to Plan participants or beneficiaries, sufficient safeguards are in place to allow for the adequacy of payments without a potential nonliquidity problem occurring. He notes that if the Employer continues its practice of making sufficient contributions to the Plan, the proper liquidity for disbursement of benefits will be enhanced and the percentage of assets that would be held in an investment such as the Loan will be diminished.

7. In summary, the applicant has represented that the proposed transaction meets the statutory criteria for an exemption under section 408(a) of the Act because: (a) the Loan will be secured by real property which has an appraised value of over three times the amount of the funds to be loaned, and in no event will the value of the Collateral be less than 150 percent of the outstanding Loan balance; (b) the Loan will be monitored by an independent fiduciary who will take actions necessary to protect the interests of the Plan and its participants and beneficiaries; and (c) another independent fiduciary, Mr. Tellier, has reviewed the terms of the transaction and believes the Loan will be in the best interests and protective of the Plan's participants and beneficiaries.

Notice to Interested Persons

Notice of the pending exemption will be provided to all Plan participants and the Trustees within fifteen (15) days of the publication of the notice of pendency in the **Federal Register**. The notice shall include a copy of the notice of pendency as published in the **Federal Register** and will inform interested persons of their right to comment and/or request a hearing with respect to the pending exemption. Notice will be provided by posting copies of the pending exemption in conspicuous places within the administrative offices of the Employer and by first class mail.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 406(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1), and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the Loan of $300,000 by the Plan to the Employer, provided the terms of the transaction are not less favorable to the Plan than those obtainable in an arm's length transaction with an unrelated party at the time of consummation of the transaction.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 14th day of July 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-19908 Filed 7-19-82; 8:45 am]
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[Application No. D-3499]

Proposed Exception for Certain Transactions Involving the L. Michael Feingold, Inc., Profit Sharing Plan; Located in Huntington Beach, California

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed sale to the L. Michael Feingold, Inc. Profit Sharing Plan (the Plan) of an interest in a mortgage note by Dr. L. Michael Feingold (Dr. Feingold), a party in interest with respect to the Plan. The proposed exemption, if granted, would affect the Plan and its participants and beneficiaries, Dr. Feingold, and any other persons participating in the proposed transaction.

DATE: Written comments and requests for a public hearing must be received the Department on or before September 2, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–3499. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of Dr. Feingold, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17,1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a profit sharing plan with 3 participants. As of October, 1981, the Plan had net assets of approximately $287,000. Dr. Feingold is the trustee of the Plan and the person responsible for making investment decisions for the Plan. L. Michael Feingold, Inc., the sponsor of the Plan, is a corporation engaged in the practice of pediatrics and pediatric allergy medicine.

2. Dr. Feingold and his wife Vonne formerly owned a 1/11th shareholder interest in Glacier Falls Ice Arena, Inc. (Glacier Falls), a California corporation. Glacier Falls' principal asset was a two acre parcel of real property developed with an ice skating rink and improvements located at 211 West Katella Avenue, Anaheim, California (the Property). On June 8, 1981, the shareholders of Glacier Falls, including Dr. Feingold, voluntarily elected to wind up and dissolve the corporation. As part of the winding up process Glacier Falls sold the Property on August 20, 1981, to Skate Station Properties (Skate Station), a California general partnership. The Property was sold for a total sales price of $1,200,000. Skate Station paid $300,000 in cash and assumed obligations under a first mortgage on the Property. This

mortgage had, as of August, 1981, an outstanding balance of $80,221 and is due in January, 1984. The balance of the purchase price is represented by a purchase money promissory note dated August 20, 1981, in the amount of $839,778 recorded as a second lien on the Property (the Mortgage).

3. The Mortgage bears interest from August 20, 1981, on the unpaid principal balance at the rate of 15%. Principal and interest payments under the Mortgage are due and payable in 28 quarterly payments with the first payment commencing 15 months from the date of the note. The Mortgage provides for a balloon payment of $358,528 of principal on the date the last quarterly installment is due. The Mortgage assumes a first priority position after the current first mortgage is repaid in January, 1984. The Property is insured with the Empire Life and Marine Insurance Company and designates the holders of the Mortgage as the loss-payees. Dr. Feingold presently has a 1/11th interest in the Mortgage.

4. Dr. Feingold proposes to sell his 1/11th interest in the Mortgage for $76,343.47, a price equal to 1/11th of the Mortgage's face value. The Plan will not incur any expenses with regard to the sale. The Mortgage is currently held under a trust agreement recorded in the County Recorder's Office of Santa Ana, California, and Dr. Feingold is one of the three trustees responsible for administering its repayment. The trustees, other than Dr. Feingold, are not parties in interest with respect to the Plan. The trustees have full power to foreclose on the Property if payments under the Mortgage are not made. Each individual who maintains an interest in the Mortgage has identical rights under the Mortgage.

5. Mr. Michael Joyce (Mr. Joyce), an executive vice president of Newport Interstate Properties located in Newport Beach, California, has agreed to serve as the fiduciary for the Plan with regard to the purchase of Dr. Feingold's interest in the Mortgage. Mr. Joyce is experienced in real estate transactions of this type and is completely independent of Dr. Feingold or any other party in interest to the Plan. Mr. Joyce has determined that the proposed investment is appropriate for the Plan and is in the best interests of the Plan and its participants and beneficiaries. Mr. Joyce represents that because the Property has been substantially improved, and the interest rate of the Mortgage is not less than current interest rates, the value of Dr. Feingold's 1/11th interest in the Mortgage is equal to its face value. Mr. Joyce represents that as of May, 1982, the value of the Property is greater than $2,000,000 because of improvements made by the current owner. Mr. Joyce represents that the interest in the Mortgage is a completely safe investment for the Plan, and considers the investment almost as secure as government bonds and treasury bills. Mr. Joyce believes that the value of the Property will increase during the term of the Mortgage and thus, does not believe that the balloon payment due on the Mortgage is a significant factor in this transaction.

6. In summary, the applicant represents that the proposed transaction satisfies the statutory criteria of section 408(a) of the Act because (a) the interest in the Mortgage will be sold to the Plan at its fair market value as determined by Mr. Joyce; (b) the Plan will not incur any expenses with regard to the sale; (c) the Mortgage is secured by the Property which has an estimated value greatly in excess of its outstanding principal balance; and (d) Mr. Joyce, as a fiduciary to the Plan, has determined that the sale is in the best interests of the Plan and its participants and beneficiaries.

Notice to Interested Persons

Within ten days after publication of this notice in the **Federal Register** notice will be delivered to all participants in the Plan. Such notice will include a copy of the notice of pendency as published in the **Federal Register** and will include a statement informing interested persons of their right to comment on and/or request a hearing with regard to the proposed transaction.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the sale by Dr. Feingold to the Plan of his 1/11th interest in the Mortgage for $76,343.47, provided that the price paid is not greater than the fair market value of the interest on the date of sale.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and

that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 14th day of July 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-19609 Filed 7-19-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3318]

Proposed Exemption for Certain Transactions Involving the Peters, Malbon, Greene & Cuttino Associates, Ltd.; Money Purchase Pension Plan; Located in Richmond, Virginia

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt: (1) The proposed loan (the Loan) of $70,000 by the Peters, Malbon, Greene & Cuttino Associates, Ltd. Money Purchase Pension Plan (the Plan), to Peters, Malbon, Greene & Cuttino Associates, Ltd. (the Employer), the sponsor of the Plan; and (2) the personal guarantees concerning repayment of the Loan by the trustees (the Trustees) of the Plan. The proposed exemption, if granted, would affect the Employer, the participants and beneficiaries of the Plan and other persons participating in the proposed transaction.

DATES: Written comments and requests for a public hearing must be received by the Department on or before August 30, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D-3318. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Richard Small of the Department, telephone (202) 523-7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the Trustees of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a money purchase pension plan which as of December 31, 1981 had 12 participants and assets of approximately $680,000. The Trustees are Drs. Peters, Malbon, Greene & Cuttino, all of whom are principals of the Employer. The Employer is a medical practice specializing in oral surgery.

2. The applicants are requesting an exemption which will permit the Loan. The proceeds of the loan will be used by the Employer to purchase furniture, fixtures, equipment and leasehold improvements needed to equip expansion of the Employer's office space, and to purchase an in-house computer. The Loan will be for five years with 60 equal monthly payments of principal and interest. The interest rate will be 1% over the prime rate of the Central Fidelity Bank (the Bank) located in Richmond, Virginia. The Loan will be secured by a security agreement granting the Plan a first security interest (the Security Interest) in certain personal property of the Employer, the Employer's in-house computer, all of the Employer's furniture, equipment and fixtures as well as leasehold improvements to be acquired and thereafter acquired with the proceeds of the Loan at any time while the Loan is outstanding. The applicants represent that such collateral will be adequately insured with the Plan being the named beneficiary. The applicants represent that throughout the duration of the Loan the Security Interest will have a value at least equal to 200% of the amount outstanding on the Loan. In addition, repayment of the Loan will be personally guaranteed by the Trustees.

3. An independent party, the Bank, will examine the proposed transaction. Prior to the Plan entering into the Loan, the Bank must: (1) certify that the Loan will be in the best interests of the participants and beneficiaries of the Plan; (2) certify that the terms and conditions of the Loan are at least as favorable to the Plan as those which the Plan could receive in a similar transaction with an unrelated party; and (3) agree to monitor the terms and conditions of the Loan on behalf of the Plan. In addition, prior to the Plan entering into the Loan, the Trustees must certify that the Loan is in the best interests of the participants and beneficiaries of the Plan.

4. In summary, the applicants represent that the proposed transaction meets the statutory criteria of section 408(a) of the Act as follows: (1) the Trustees represent that the Loan is in the best interests of the participants and beneficiaries of the Plan; (2) the Loan will be approved and monitored by an independent fiduciary; (3) the Loan will be collateralized in an amount at least equal to 200% of the outstanding balance of the Loan; and (4) the Trustees will personally guarantee the Loan.

Notice to Interested Persons

Within 10 days of its publication in the **Federal Register** and a statement advising interested persons of their right to comment or request a hearing will be posted on the employee bulletin board for present employees and mailed within the same period to any interested person who is not a present employee.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a

fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive or whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1), 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to: (1) the proposed Loan of $70,000 by the Plan to the Employer provided that the terms and conditions of the Loan are at least as favorable to the Plan as those which the Plan could receive in a similar transaction with an unrelated party; and (2) the personal guarantees of the repayment of the Loan by the Trustees.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 14th day of July 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-19819 Filed 7-19-82; 8:45 am]

BILLING CODE 4510-29-M

[Applications Nos. D-3250 and D-3251]

Proposed Exemption for Certain Transactions Involving the Profit Sharing Plan for the Employees of Dekalb-Gwinnett Pathologists, P.C., and Profit Sharing Plan for the Employees of Pathology & Laboratory Medicine, P.C.; Located in Atlanta, Georgia

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed sale of promissory notes (the Notes) issued by an unrelated party by certain participants (the Applicants) of the Profit Sharing Plan for the Employees of Dekalb-Gwinnett Pathologists, P.C. (the Dekalb Plan) and Profit Sharing Plan for the Employees of Pathology & Laboratory Medicine, P.C. (the Pathology Plan, collectively, the Plans) to the Applicants respective individual Plan accounts. The proposed exemption, if granted, would affect the Plans, the Applicants and other persons involved in the proposed transaction.

DATE: Written comments and requests for a public hearing must be received by the Department on or before August 20, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application Nos. D-3250 and D-3251. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. Robert N. Sandler of the Department, telephone (202) 523-8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of two applications for exemption from the restriction of section 406(a), 406(b)(1) and (2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in applications filed by the Applicants, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The applications contain representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the applications on file with the Department for the complete representations of the applicants.

1. The Dekalb Plan and the Pathology Plan, both of which are profit sharing plans, have six and seven participants, respectively. Applicants Raphael K. Graves, M.D., L. David Stacy, M.D. and Christopher J. Allan, M.D. are participants in the Dekalb Plan. Applicants Frank Mattews, M.D., Tom D. Raaen, M.D. and Rene A. Tapia, M.D. are participants in the Pathology Plan.

2. Physician's Laboratory, P.C. was the former employer of the Applicants and the sponsor of a profit sharing plan and money purchase pension plan in

which the Applicants and other employees of Physician's Laboratory, P.C. were participants. During the spring of 1981, Pathologists Service Professional Associates, Inc. (PSPA) and Physician's Laboratory P.C., commenced negotiations for the purchase of Physician's Laboratory, P.C. by PSPA, ultimately to be followed by the acquisition of PSPA by Smithline Corporation (Smithline). Each of the Applicants was a shareholder in PSPA. The professional employees of Physician's Laboratory, P.C. formed Dekalb-Gwinnett Pathologists, P.C. and Pathology & Laboratory Medicine P.C., which are the present employers of the Applicants. The two Physician's Laboratory, P.C. plans were subsequently terminated and the account balances of the Applicants in these plans as of May 31, 1981, were as follows:

Applicant	Account balance on May 31, 1981
Graves	$262,653
Matthews	235,632
Raaen	257,404
Stacy	251,134
Tapia	173,798
Allan	200,197

These account balances will be distributed directly to the Applicant's individual account in the Plan in which he is a participant.

3. On November 3, 1981, SmithKline consummated the acquisition of PSPA by purchasing all of the shares of outstanding stock in PSPA for $69.16 per share. The purchase price was paid by the delivery of the Notes, which are promissory notes issued by SmithKline, to each of the shareholders, bearing interest at the rate of 10 percent compounded annually and payable in full on November 3, 1986. The Applicants owned varying numbers of shares and received Notes in the following principal amounts:

Applicant	Amount of note
Graves	$311,310
Matthews	279,952
Raaen	311,310
Stacy	172,950
Tapia	20,754
Allan	69,180

4. The Notes are collateralized by a Letter of Credit issued by Girard Bank, Philadelphia, Pennsylvania. This Letter of Credit guarantees payment of both principal and interest on the Promissory Notes in the event that there is a default in the payment of either principal and interest. SmithKline, the obligor of the Notes, is a large publicly-held corporation whose stock is listed on the New York Stock Exchange. The Form 10–K, Annual Report to the Securities and Exchange Commission filed by SmithKline for the calendar year ending December 31, 1980, indicates that the total assets of SmithKline as of December 31, 1980 were in excess of $1.5 billion, and the operating profit of SmithKline for the year ending December 31, 1980 was $447 million.

5. The Applicants, each of whom is the holder of a Note, desire to sell their Notes for cash to their respective fully vested individual Plan accounts at their fair market value as of the date of sale. The fair market value of the Notes will be determined by discounting the future payments under the Notes at the rate of interest which, under the market conditions prevailing on the date of the sale, will result in a fair market value purchase price for the Notes. Mr. Robert H. Foster, vice-president of the Trust Company Bank of Georgia, which is unrelated to the Applicants and has no interest in the transaction for which the exemption is requested, rendered an appraisal of the Notes on February 10, 1982. Mr. Foster determined that based upon his review of: (a) The terms of the Notes; (b) the terms of the Letter of Credit securing payment of the Notes; (c) the relevant financial statements of SmithKline; and (d) current interest rates on comparable securities, the fair market value of the Notes as of February 10, 1982 will equal the future payments of principal and interest discounted at 19%. Therefore, the Applicants' accounts would realize a net annual rate of return of 19% for the term of the Notes. Based upon Mr. Foster's appraisal, the purchase price of each of the Applicant's Notes would be as follows: Graves—$229,189.74; Matthews—$201,461.04; Raaen—$229,189.74; Stacy—$127,185.37; Tapia—$15,262.25; and Allan—$50,874.15. The actual discount rate which will be used to determine the sale price will be the rate determined by Mr. Foster based upon an evaluation of the above-described factors immediately prior to the sale of the Notes.

6. In summary, the Applicants represent that the proposed transaction satisfies the criteria of section 408(a) due to the following:

(a) Each sale of Notes will be directed by the Applicant owning the Note and will involve only the Applicant's own individual account;

(b) The sales will be one-time transactions for cash;

(c) The Notes will be sold at their fair market value as determined by an independent appraiser;

(d) The obligor on the Notes, SmithKline, has assets in excess of $1.5 billion; and

(e) The Notes are secured by a Letter of Credit issued by Girard Bank, Philadelphia.

Notice to Interested Persons

Because the sale of Notes involves solely the Applicants and the Applicants' individual accounts, the Department believes that there is no need to distribute the notice of pendency to interested persons.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of

whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply the sale of the Notes by the Applicants to their respective individual accounts in the Plans, provided that the purchase price for the Notes is not less than the fair market value of the Notes on the date of sale.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 14th day of July 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82–19611 Filed 7–19–82; 8:45 am]
BILLING CODE 4510–29–M

[Application No. D–3111]

Proposed Exemption for Certain Transactions Involving the F. T. Carey, M.D., P.C. Employee; Benefit Plan and Trust; Located in Sunnyside, New York

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed sale by the F. T. Carey, M.D., P.C. Employee Benefit Plan and Trust (the Trust) of a parcel of improved real property located in Jupiter, Florida to Dr. and Mrs. F. T. Carey (Dr. and Mrs. Carey), disqualified persons with respect to the Trust. The Trust consists of two plans, the F. T. Carey, M.D., P.C. Money Purchase Pension Plan (the Pension Plan) and the F. T. Carey, M.D., P.C. Profit Sharing Plan (the Profit Sharing Plan) (collectively, the Plans). Because Dr. and Mrs. Carey are the sole shareholders of F. T. Carey, M.D., P.C. the sponsor of the Plans and the only participants in the Plans, there is no jurisdiction under Title I of the Employee Retirement Income Security Act of 1974 (the Act) pursuant to 29 CFR 2510.3–3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

DATE: Written comments and requests for a public hearing must be received by the Department on or before August 20, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D–3111. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, NW., Washington, 20216.

FOR FURTHER INFORMATION CONTACT: Katherine D. Lewis of the Department, telephone (202) 523–8972. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(A)(1) through (E) of the Code. The proposed exemption was requested in an application filed by Dr. and Mrs. Carey, pursuant to section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. On September 31, 1981 the Pension Plan had net assets of approximately $120,967.63 and the Profit Sharing Plan had net assets of approximately $80,645.09. The assets of the Plans are commingled for investment purposes.

Dr. and Mrs. Carey are the trustees (the Trustees) of the Plans and decision-makers with respect to Plan investments, and are also the only participants in the Plans. The sponsor of the Plans is the F. T. Carey, M.D., P.C., a professional corporation providing medical services.

2. On July 11, 1980 the Plans purchased, from unrelated parties, a two-bedroom condominium (the Property) located at 1469 Via Miguel, Jupiter, Florida. The cost of the Property to the plans was $112,634, which was paid in cash. The Property includes certrain furnishings which the Plans purchased for $10,632. In addition, the Plans paid $828 for insurance and $384 for maintenance, bringing the total investment of the Plans in the Property to $124,478 on April 1, 1982. No closing costs were paid by the Plans. The Plans purchased the Property for its income and appreciation potential. Representations were made to the Trustees that there was an active rental market in the area and that the earnings of the Plans would be enhanced by the investment. However, the Trustee state that they have been unable to find lessees for the Property and therefore have been unable to realize the income they expected. The Trustees state that the Plan assets currently invested in the Property (currently representing apporoximately 62% of Plan assets) could be put into more productive investments elsewhere. The Trustee have determined that the proposed sale is appropriate for and in the best interest of the Plans.

3. The applicants propose that the Plans sell the Property to Dr. and Mrs. Carey for its appraised fair market

value. The purchase price will be paid to the Plans entirely in cash and no sales commissions will be paid. The sale of the Property will be for a cash sum of $131,000. An independent appraisal by Donald R. Que of Callaway and Price, Inc., West Palm Beach, Florida, indicated a fair market value of $131,000 for the Property and furniture on February 19, 1982. This would represent a profit of $6,522 on the Plans' investment in the Property of $124,478.

4. In summary, the applicants represent that the proposed transaction satisfies the statutory criteria for an exemption under section 4975(c)(2) of the Code because: (a) the Trustees have determined that the proposed transaction is appropriate for and in the best interest of the Plans and their participants and beneficiaries; (b) the Property has been appraised by an independent appraiser; (c) this is a one-time transaction for cash; (d) the Trustees represent that the Plans will be able to invest the sale proceeds in more productive investments; (e) the Plans will be reimbursed for all expenditures they have made regarding the Property; and (f) the Property will be sold at a profit.

Notice to Interested Persons

Because Dr. and Mrs. Carey are the sole shareholders of F. T. Carey, M.D., P.C., the sponsor of the Plans, and the only participants in the Plans, it has been determined that there is no need to distribute the notice of pendency to interested persons.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 4975(c)(2) of the Code does not relieve a fiduciary or other disqualified person from certain other provisions of the Code, including any prohibited transaction provisions to which the exemption does not apply; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722. If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed sale of the Property by the Plans to Dr. and Mrs. Carey for the cash sum of $131,000, provided that this amount is not less than the fair market value of the Property on the date of sale.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 15th day of July 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82–19912 Filed 7–19–82; 8:45 am]

BILLING CODE 4510–29–M

[Application No. D–3390]

Proposed Exemption for Certain Transactions Involving the Bay View Federal Savings and Loan Association Profit Sharing Plan Located in San Mateo, Calif.

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt, effective March 1, 1982, the cash sale by the Bay View Federal Savings and Loan Association Profit Sharing Plan (the Plan) of 39 mortgage loans (the Mortgage Loans) to Bay View Federal Savings and Loan Association (the Employer), the sponsor of the Plan. The proposed exemption, if granted, would affect the Plan and its participants and beneficiaries, the Employer and any other persons who participated in the transaction.

EFFECTIVE DATE: If granted, the exemption will be effective March 1, 1982.

DATES: Written comments and requests for a public hearing must be received by the Department on or before September 7, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D–3390. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, NW. Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The

proposed exemption was requested in an application filed on behalf of the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a profit sharing plan with 482 participants. The Plan is administered by a committee (the Committee) of full-time employees of the Employer consisting of eight voting members. The three trustees of the Plan (the Trustees) are all officers of the Employer. As of December 31, 1981, the Plan had total assets of $3,711,294. The Employer is a mutual stock corporation engaged in the savings and loan industry.

2. The Mortgage Loans consisted of 39 loans originated by the Plan and secured by residential and commercial real estate in northern California. None of the Mortgage Loans were made to parties in interest with respect to the Plan. As of December 31, 1981, the Mortgage Loans had a total outstanding principal balance of $2,204,251. The Trustees estimated that because of the increase in mortgage interest rates in the year 1981 the Mortgage Loans' market values were considerably less than their par values. Consequently, in order to avoid carrying the Mortgage Loans at their market value on the Plan's year end financial statements, the Committee and the Trustees requested the Employer to purchase the Mortgage Loans from the Plan at their outstanding principal balances.

3. The Employer purchased the Mortgage Loans from the Plan for cash on March 1, 1982, for $2,216,815 which represented the Mortgage Loans' outstanding principal balances plus accrued unpaid interest as of that date. Ms. Mary Morehead, vice president of the National Secondary Market Inc., located in Beverly Hills, California, determined that, as of March 1, 1982, the Mortgage Loans had a fair market value of $1,710,016. Neither Ms. Morehead nor her firm maintain any relationship to the Employer or its principals.

4. The Plan did not incur any sales commissions or any other expenses with regard to the sale. The proceeds of the sale were reinvested by the Plan in other interest-bearing investments. The applicant represents that the difference between the purchase price of the Mortgage Loans and their appraised market value, if treated as an employer contribution, will not cause the annual additions to the Plan to exceed the limitations of section 415 of the Code.

5. In summary, the applicant represents that the sale of the Mortgage Loans satisfied the statutory criteria of section 408(a) of the Act because (a) the Trustees represented that the sale was in the best interests of the Plan; (b) the sale was a one-time transaction for cash; (c) the Plan did not incur any expenses with regard to the sale; and (d) the Plan sold the Mortgage Loans for an amount greater than the Mortgage Loans' fair market values.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Code, including sections 401(a)(4), 404 and 415.

Notice to Interested Persons

Within fifteen days after publication of this Notice of Proposed Exemption in the **Federal Register** notice to interested persons will be provided by conspicuous posting on bulletin boards at administrative offices and employee working areas at Employer branch offices. Notice will include a copy of this notice as published in the **Federal Register** and inform interested persons of their right to comment on or request a hearing with regard to the proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the

application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply, effective March 1, 1982, to the cash sale of the Mortgage Loans by the Plan to the Employer for $2,216,815, provided that this amount was not less than the fair market value of the Mortgage Loans on the date of sale.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction which is the subject of this exemption.

Signed at Washington, D.C., this 13th day of July 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-19813 Filed 7-19-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3061]

Proposed Exemption for Certain Transactions Involving the Fletcher Printing Co. Profit Sharing Plan and Trust Located in Lakeland, Fla.

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed leasing of office space (the Lease) by the the Fletcher Printing Co. Profit Sharing Plan and Trust (the Plan) to the Fletcher Printing Co. (the Employer), the sponsor of the Plan. The proposed exemption, if granted, would affect the participants and beneficiaries of the Plan, the Employer, and other persons participating in the proposed transaction.

DATE: Written comments and requests for a public hearing must be received by the Department on or before September 8, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Rooms C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-3061. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216

FOR FURTHER INFORMATION CONTACT: Katherine D. Lewis of the Department, telephone (202) 523-8972. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975 (c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by Mr. Ralph Fletcher, the trustee (the Trustee) of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a profit sharing plan with approximately ten participants and net assets of $394,123 on December 31, 1981. On November 10, 1980, the Plan purchased, for cash, land located at 1425 North Broadway, Bartow, Florida, upon which it subsequently erected an office building (the Building). The Building was completed on January 20, 1981, and consists of 2,340 square feet divided into three rentable office spaces of 840, 780, and 720 square feet, respectively. The cost basis to the Plan of the Building, improvements, and the land upon which it is located was $72,474, representing approximately 18 percent of the Plan's assets as of December 31, 1981.

2. Since February 1, 1981 the Plan has leased 840 square feet of the Building to the Employer and 780 square feet to Dr. Kenneth A. Finger, an unrelated party. The Plan has been unable to find a lessee for the third office space of 720 square feet. The application requested retroactive relief for the lease to the Employer effective Feburary 1, 1981; however, the Department it unable to make a finding that the transaction satisfied the statutory requirements upon which administrative relief is granted. Accordingly, the applicants represent that the Employer will pay all excise taxes which are applicable under section 4975(a) of the Code within 60 days of the publication in the Federal Register of a final notice of the granting of the exemption proposed herein. The applicants request an exemption to enter into similar leasing arrangements prospectively, having added certain safeguards, discussed below, which were not present in the prior lease.

3. The proposed Lease will be for a five year term with an option to renew for an additional five years. The option to renew the Lease is exercisable solely by the Plan. An independent appraisal of the fair rental value of the Building was made on April 6, 1981 by William H. Loftin, S.I.R. (Loftin), of Loftin Real Estate in Lakeland, Florida, indicating a fair rental value of $5.25 per square foot, based on comparable rentals in the area. Loftin has had twenty years of experience in the financing, developing and appraising of real estate in and around Lakeland, Florida and is familiar with property values and commercial lease rates in the area. Loften is independent of all parties to the transaction. The rental to be paid to the Plan under the proposed Lease will be $7 per square foot per annum, which is identical to that charged by the Plan to the other tenant in the Building, who is unrelated to the Employer. The rental will at all times be at least the fair rental value, as determined once every three years during the term of the Lease by a qualified, independent appraiser.

4. Mr. Llewellyn N. Belcourt (Belcourt), who is independent of all parties to the proposed transaction, has agreed to act as an independent fiduciary for the Plan with respect to the proposed Lease. Belcourt is a certified public accountant with extensive experience in both pension and profit sharing plans and real estate investments. Belcourt states that it is his opinion that the proposed Lease is in the best interests of the Plan's participants and beneficiaries and that the terms of the Lease are as favorable to the Plan as those which the Plan could obtain from an unrelated party. Belcourt will monitor the Lease on the Plan's behalf to ensure compliance with all terms and conditions contained therein and will

take any steps necessary to enforce the rights of the Plan with regard to the Lease. Belcourt will also have sole discretion to determine whether a renewal of the Lease at the end of the initial five year term is in the Plan's best interest.

5. The Trustee states that it is his opinion that the Lease is appropriate for the Plan and in the best interest of the Plan's participants and beneficiaries, in that it will enable the Plan to relize at least a 13.9% annual return on its investment in the Building.

6. In summary, the applicant represents that the statutory criteria contained in section 408(a) of the Act have been satisfied as follows: (1) the proposed Lease provides for a higher rental value than that established by an independent appraisal and is identical to that charged by the Plan to an independent third party; (2) Belcourt, acting as the independent fiduciary for the Plan, has determined that the Lease is appropriate for the Plan and in the best interests of the Plan's participants and beneficiaries, and also that the terms of the Lease are as favorable to the Plan as those which the Plan could obtain with an unrelated third party; (3) Belcourt will monitor the terms of the Lease and take any actions necessary to enforce the rights of the Plan; and (4) the Trustee states that it is his opinion that the Lease to the Employer is appropriate for the Plan and favorable to the Plan.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Internal Revenue Code, including sections 401(a)(4), 404 and 415.

Notice to Interested Persons

Within twenty days after publication of this notice in the **Federal Register**, notice of the proposed exemption will be mailed to all interested persons including the Plan participants and beneficiaries, the Employer, the Trustees of the Plan, and the independent fiduciary. Such notice shall contain a copy of the notice of pendency of the exemption as proposed in the **Federal Register** and shall inform interested persons of their right to comment and/or request a hearing within the time period set forth in the notice of proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(b) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogration of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the Lease of office space by the Plan to the Employer, as herein described, provided that the terms and conditions of the Lease remain as favorable to the Plan as would otherwise be available with an unrelated third party.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 7th day of July, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-19614 Filed 7-19-82; 8:45 am]

BILLING CODE 4510-29-M

[Application Nos. D-3191 and D-3192]

Proposed Exemption for Certain Transactions Involving the C. John Robbins Individual Retirement Account and the Ralph Anglin Individual Retirement Account Located in Philadelphia, Pa.

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt cash purchases by the C. John Robbins Individual Retirement Account (the C. John Robbins IRA) and the Ralph Anglin Individual Retirement Account (the Ralph Anglin IRA) (collectively, the Accounts) of certain residential mortgages (the Mortgages) which are

owned by Beach Avenue, Ltd. (the Partnership). Messrs. Robbins and Anglin are each 50 percent owners of the capital and profits interest in the Partnership. The proposed exemption, if granted, would affect Messrs. Robbins and Anglin, the trustee, the Partnership and other persons participating in the transactions.

DATE: Written comments and requests for a public hearing must be received by the Department of Labor on or before August 24, 1982.

ADDRESS: All written comments and request for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application Nos. D–3191 and D–3192. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Ms. Jan Broady of the Department of Labor, telephone (202) 523–8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the dpendency before the Department of an application for exemption from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of Messrs. Robbins and Anglin, pursuant to section 4975(c)(2) of the Code, and in acccordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. Messrs. Robbins and Anglin are the 50 percent owners of the capital and profits interest in the Partnership, an entity organized under the laws of the State of New Jersey and located in Philadelphia, Pennsylvania. Messrs. Robbins and Anglin are also participants in their respective Accounts which are maintained by the Securities Savings and Loan Association (Securities) of Vineland, New Jersey. As of February 23, 1982, the balance in the C. John Robbins IRA was $93,667 and the balance in the Ralph Anglin IRA was $93,962. The Accounts are currently invested in savings certificates. Securities represents that the Accounts conform to the requirements of section 408(a) of the Code.

2. The Partnership is presently the owner of two residential mortgages (Mortgage A and Mortgage B) made with unrelated third parties. The applicants propose that each Account purchase a Mortgage. Mortgage A will be purchased by the C. John Robbins IRA and Mortgage B by the Ralph Anglin IRA. Mortgage A and Mortgage B are both first mortgages.

3. Mortgage A was made by the Partnership and Mr. and Mrs. Kenneth Hopkins on June 19, 1981. The real property underlying Mortgage A is a condominium unit located at 1125 Beach Avenue, Cape May, New Jersey. Mortgage A has a face value of $108,500 with interest payable at the rate of 14.5 percent per annum for a term of five years. The total annual payment for each of the fine years is $15,943 or $1,328 per month. This amount constitutes both payments to principal and interest. A balloon payment of $106,960 is due at the end of the five year period.

4. Mortgage B was made between the Partnership and Mr. and Mrs. Louis Tomasetti on September 16, 1981. The real property underlying Mortgage B consists of a condominium unit also located at 1125 Beach Avenue, Cape May, New Jersey. Mortgage B has a face value of $118,000 with interest payable at the rate of 13.5 percent for five years. The total annual payment for each of the five years is $16,219 or $1,351 per month. This amount represents payments to both principal and interest. A balloon payment of $115,950 is due at the end of the fifth year.

5. The Accounts propose to purchase the respective Mortgages for cash at their fair market values on the date of closing. The Accounts will not incur any commissions or fees in connection with such sale.

6. Mr. Charles T. Rosica, Jr. (Mr. Rosica), Vice President of the Bay Street Bank of Ship Bottom, New Jersey, appraised the Mortgages. On January 5, 1982, Mr. Rosica indicated that based on current market conditions in effect at that time, Mortgage A was worth $86,712 and Mortgage B, $94,341.

7. Securities, which has expertise in the area of mortgage financing, will service Mortgage A and Mortgage B on behalf of the appropriate Account. Securities will collect and remit payments to the Accounts and ensure taxes and insurance premiums are paid. Securities will also make decisions regarding foreclosures should a default on the Mortgages occur.

8. In summary, it is represented that the proposed transactions will satisfy the requirements for an exemption under section 497(c)(2) of the Code because: (a) the purchases will be one-time transactions for cash; (b) the purchase prices for the Mortgages will be based on their fair market values as determined by an independent appraiser at the time of closing; (c) the Accounts will not incur any commissions or fees in connection with the purchases; (d) Securities, as custodian of the Accounts will be vested with oversight and collection responsibilities with respect to the Accounts; and (e) Messrs. Robbins and Anglin, the persons whose Accounts will be affected by the transactions, approve of the transactions and desire that they be consummated.

Notice to Interested Persons

Because Messrs. Robbins and Anglin are the sole participants in their respective Accounts, it has been determined that there is no need to distribute the notice of pendency to interested persons.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 4975(c)(2) of the Code does not relieve a fiduciary or disqualified person from certain other provisions of the Code, including any prohibited tansaction provisions to which the exemption does not apply;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and

not in derogation of, any other provisions of the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Commnents and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722. If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the cash purchases by the C. John Robbins IRA and the Ralph Anglin IRA of certain Mortgages owned by the Partnership, provided the amounts paid for the Mortgages are not more than their fair market values on the date said purchases are made.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 7th day of July, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-19713 Filed 7-19-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-2934]

Proposed Exemption for Certain Transactions Involving the Knoxville Surgical Group Profit Sharing Plan and the Knoxville Surgical Group Pension Plan Located in Knoxville, Tennessee

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt: (1) the proposed sale (the Sale) of a building (the Property) to the Knoxville Surgical Group Profit Sharing Plan (the Profit Sharing Plan) and the Knoxville Surgical Group Pension Plan (the Pension Plan, collectively, the Plans) by a partnership (the Partnership), which is a party in interest with respect to the Plans, (2) the proposed lease (the Lease) of the Property by the Plans to Knoxville Surgical Group, P.C. (the Employer), the sponsor of the Plans; and (3) certain guarantees to the Plans with respect to the Property made by the Employer, and individually by the principal shareholders of the Employer (the Principals). The proposed exemption, if granted, would affect the Employer, the Partnership, the participants and beneficiaries of the Plans and other persons participating in the transactions.

DATE: Written comments and requests for a public hearing must be received by the Department on or before August 30, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D–2934. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Louis Campagna of the Department, telephone (202) 523–8883. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406 (b)(1) and 406 (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Employer is a professional corporation engaged in the practice of medicine. The Profit Sharing Plan and the Pension Plan had total assets, as of March 11, 1982, of $504,731 and $546,586, respectively. The Plans each have 10 participants. The Partnership is presently composed of Drs. Mack Fecher, Hugh Hyatt and Richard Brinner, all officers, directors and employees of the Employer. Drs. Mack Fecher, Hugh Hyatt, Richard Brinner and Bruce McCampbell are the Principals. The Property is a medical office building located in Knoxville, Tennessee and has been owned by the Partnership since 1968.

2. The applicant is requesting an exemption to permit the proposed Sale of the Property to the Plans by the Partnership and the subsequent Lease of the Property by the Plans to the Employer. The Property would be deeded to both the Pension Plan and the Profit Sharing Plan as joint owners, each Plan sharing equally in the purchase price of the Property and the benefits derived from the Property. The Sale will be for a sum of $240,000 in cash. This value was determined to be the fair market value of the Property, as of August 31, 1981, by Lewis Sam Pipkin, M.A.I., S.R.P.A. (Pipkin), an independent appraiser located in Knoxville, Tennessee. All expenses related to the Sale of the Property will be paid by the Partnership. The Lease will be a triple

net lease with all property taxes, insurance, repair and maintenance costs paid by the Employer. The Lease will be for an initial five year term. At the end of this five year term the Plans will have an option to renew the Lease with the Employer for an additional five year term. Rentals initially will be $3,000 a month. This value was determined to be the fair market rental value of the Property, as of August 31, 1981, by Pipkin. An appraisal of the Property will be performed annually by a qualified independent appraiser and rentals will be adjusted to reflect the fair market rental value of the Property. The applicant represents that the projected rate of return to the Plans on the Lease at current fair market rental rates should exceed 13% per annum. In addition, the Property is located in a regional medical center, surrounded by hospitals and other medical office buildings. As a result, the applicant represents property values have appreciated at a rapid rate in the vicinity of the Property with the Property appreciating at a rate of approximately 9.8% per annum. The purchase of the Property would involve less than 24% of the assets of each Plan.

3. Valley Fidelity Bank and Trust Company of Knoxville, Tennessee (Fidelity) has accepted appointment as special trustee on behalf of the Plans with respect to the transactions. Fidelity is independent of the parties involved in the transactions. Fidelity has reviewed the terms and conditions of the proposed transactions and represents that the Sale and Lease are in the best interests of the Plans and their beneficiaries and participants. Fidelity will also monitor the rental payments made to the Plans and all annual rental adjustments and will be responsible for enforcing the rights of the Plans under the terms and conditions of the lease. Fidelity will also determine at the end of the initial five year term of the Lease whether the Lease will be renewed for an additional term of five years.

4. The Employer guarantees that if the Property is sold during the initial five year term of the Lease and the five year renewal of the Lease for below the original purchase price of $240,000, it will indemnify the Plans for the difference between the original purchase price of the Property and the selling price. Fidelity will be responsible for determining when and if the Property is to be sold. The payments of rent under the Lease will be personally guaranteed by the Principals in the event of a default by the Employer. The applicants represent that the Principals had a combined net worth, as of April 1, 1982, of $2,000,000.

5. In summary, the applicants represent that the proposed transactions satisfy the statutory criteria of section 408(a) of the Act because: (1) Fidelity, an independent party, has determined that the Sale and Lease are in the best interests of the Plans; (2) the Sales price and rentals to be paid under the Lease have been determined by Pipkin, a qualified independent appraiser; (3) Fidelity will monitor the terms and conditions of the Lease; (4) rentals under the Lease will be adjusted every year to reflect the fair market rental value of the Property; (5) if the Property is sold at any time during the term of the Lease below the original purchase price paid by the Plans of $240,000, the Employer will indemnify the Plans for the difference; (6) at the termination of the initial five year term of the Lease the Plans have the option to renew the Lease for an additional five year term; and (7) the Principals personally guarantee that rentals will continue to be received by the Plans in the event of a default by the Employer under the Lease.

Notice to Interested Persons

Notice of this proposed exemption will be given to all participants and beneficiaries of the Plans by certified mail within 10 days following the publication of this notice of pendency in the **Federal Register**. The notice will contain a copy of the notice of pendency as it appears in the **Federal Register** as well as a statement informing interested persons of their right to comment or request a hearing on the proposed exemption.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406 (b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to: (1) the Sale of the Property by the Partnership to the Plans for the cash sum of $240,000, provided this price is not greater than the fair market value of the Property at the time of the Sale; (2) the Lease of the Property by the Plans to the Employer, provided the terms and conditions of the Lease are at least as favorable to the Plans as the Plans could obtain in a transaction with an

unrelated party; and (3) certain guarantees to the Plans by the Principals and the Employer with respect to the Property as described herein.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 13th day of July, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-19616 Filed 7-19-82; 8:45 am]

BILLING CODE 4510-29-M

NUCLEAR REGULATORY COMMISSION

Advisory committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed meetings of the ACRS Subcommittees and of the full Committee, the following preliminary schedule reflects the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published June 16, 1982 (47 FR 26059). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the **Federal Register** approximately 15 days (or more) prior to the meeting. Those Subcommittee meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled; or whether changes have been made in the agenda for the August 1982 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634-3267, ATTN: Barbara Jo White) between 8:15 a.m. and 5 p.m., Eastern Time.

ACRS Subcommittee Meetings

**Fluid Dynamics,* July 29 and 30, 1982, San Jose, CA. The Subcommittee will discuss potential safety concerns raised by a former General Electric employee, Mr. John Humphrey, regarding the BWR pressure suppression containment design.

**Reliability and Probabilistic Assessment,* August 6, 1982, Washington, DC. The Subcommittee will discuss the draft NRC Staff Action Plan for implementing the Commission's proposed safety goals.

**Class-9 Accidents,* August 6, 1982, Washington, DC. The Subcommittee will discuss the Severe Accident Research Plan (NUREG-0900).

**Watts Bar Nuclear Plant,* August 10, 1982, Washington, DC. The Subcommittee will complete the review to the application of Tennessee Valley Authority for an operating license for the Watts Bar Nuclear Power Plant Units 1 and 2.

**Regulatory Activities,* August 10, 1982, Washington, DC.—CANCELLED.

**Safety Research Program,* August 11, 1982, Washington, DC. The Subcommittee will discuss the format and content of the NRC Long-Range Plan for fiscal year 1985 through fiscal year 1989.

**Grand Gulf Nuclear Station Units 1 and 2,* August 11, 1982, Washington, DC. The Subcommittee will continue the discussion of the Mississippi Power and Light Company's request for and operating license.

**Extreme External Phenomena,* August 11, 1982, Washington, DC. The Subcommittee will discuss seismic design margins for nuclear power plants.

**Clinch River Breeder Reactor Working Group on Structures and Materials,* August 18 and 19, 1982, Washington, DC. The Subcommittee will discuss elevated temperature design (N-47), "leak before break" criteria, overall leakages, leak detection, inservice inspection, and overall structural integrity of transition joints.

**Transportation of Radioactive Materials,* August 24, 1982, Washington, DC. The Subcommittee will continue its review of the adequacy of the NRC procedures for certifying packages for transporting radioactive materials. It may also discuss proposed revisions to 10 CFR Part 71, "Packaging of Radioactive Material for Transport and Transportation of Radioactive Material Under Certain Conditions".

**Reactor Operations,* August 25, 1982, Washington, DC. The Subcommittee will discuss NRC's enforcement policy, the Inspection and Enforcement (IE) performance appraisal team inspection program and the IE regionalization program.

**Washington Public Power Supply System Unit 2 (WPPSS),* August 31 and September 1, 1982, Washington, DC. The Subcommittee will review the application of Washington Public Power supply System for an operating license for the WPPSS Nuclear Project Unit 2.

**Regulatory Activities,* September 8, 1982, Washington, DC. The Subcommittee will review proposed Regulatory Guides and Regulations.

**Metal Components Working Group,* September 8, 1982, Washington, DC. The Subcommittee will continue the discussion with NRC and industry regarding the matter of pressurized thermal shock.

**AC/DC Power Systems Reliability,* September 8, 1982, Washington, DC. The Subcommittee will discuss the ongoing NRC and industry work on the reliability of DC power systems in nuclear power plants and station blackout.

ACRS Full Committee Meeting

August 12-14, 1982: items are *tentatively* scheduled.

*A. *Grand Gulf Nuclear Station Unit 1*—Outstanding Operating License issues.

*B. *Watts Bar Nuclear Plant Units 1 and 2*—Operating License.

*C. *Robert E. Ginna Nuclear Power Plant*—Systematic Evaluation Program.

*D. *Emergency Core Cooling Systems*—Proposed revision of 10 CFR Part 50, Appendix K. ECCS Evaluation Models.

*E. *Quantitative Safety Goals*—Proposed NRC implementation plan.

*F. *Control Room Habitability*—Discuss control room design bases/criteria.

*G. *Instrumentation and Control Systems in BWRs*—Discuss design features of BWR control and instrumentation systems.

*H. *ACRS Subcommittee Activity*—Discuss status of ACRS subcommittee activity regarding safety-related matters including reactor radiological effects, emergency planning, and the NRC Long-Range Research Plan.

*I. *Naval Reactors Policies and Procedures*—Discuss naval reactors policies and procedures regarding design and operation of nuclear powered propulsion systems.

*J. *NRC Staff Activities*—Hear and discuss reports on NRC Staff activities including system interaction studies and plans for resolution of ATWS.

September 9–11, 1982: Agenda to be announced.

October 7–9, 1982: Agenda to be announced.

Dated: July 15, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-19874 Filed 7-19-82; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Class-9 Accidents; Meeting

The ACRS Subcommittee on Class-9 Accidents will hold a meeting on August 6, 1982, Room 1046 at 1717 H Street, NW., Washington, D.C. The Subcommittee will disucuss the Severe Accident Research Plan (NUREG–0900).

In accordance with the procedures outlined in the **Federal Register** on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Friday, August 6, 1982—12:30 p.m. Until the Conclusion of Business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Gary Quittschreiber, or Mr. Stuart K. Beal (Telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: July 15, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-19875 Filed 7-19-82; 8:45 am]

BILLING CODE 7590-01-M

Policy Statement of Information Flow

AGENCY: Nuclear Regulatory Commission.

ACTION: Final Statement of Policy.

SUMMARY: The Commission has approved this policy statement to emphasize to licensees their responsibility to provide the Commission with timely and accurate information during the course of an incident or significant event.

EFFECTIVE DATE: July 20, 1982.

FOR FURTHER INFORMATION CONTACT: George Eysymontt, Office of Policy Evaluation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone (202) 634–3302.

Policy Statement of Information Flow

All licensees have a responsibility to provide the Commission with timely accurate and sufficiently complete information to make sound regulatory decisions. The purpose of this policy statement is to emphasize to all licensees the special importance of this responsibility during the course of an incident or a significant event. The Commission recognizes that licensees, rather than the Commission, have the ultimate responsibility for safe operation of their facilities including response to significant events. However, if inaccurate, insufficient of deliberately misleading information is provided, it could impede the Commission's ability to fullfill its own responsibilities.

The capability of the Nuclear Regulatory Commission to make timely recommendations and to provide information regarding actual or potential threats to the public health and safety depends on the timeliness, accuracy and completeness with which incidents and significant events are communicated by licensees to the Commission. While the majority of occurrences resulting from licensed activities pose little or no serious or immediate threat to the public health and safety, there are certain occurrences which may pose such threats or generate public concern. In order to perform its regulatory responsibilities the Nuclear Regulatory Commission has an important need to collect facts quickly, accurately and completely about incidents or significant events, assess these facts, take necessary supportive action, and inform the public.

In view of the Commission's responsibilities, it is essential that licensees and personnel at licensed facilities or involved in licensed activities communicate candidly and completely with the Commission at all times and in particular in the following situations:

(a) any incident involving byproduct, source, or special nuclear material possessed by a licensee which may have caused or threatens to cause exposure to certain levels of radiation (see 10 CFR 20.403).

(b) any significant event as defined in 10 CFR 50.72 involving a nuclear power reactor (e.g., any event requiring initiation of the licensee's emergency plan or any section of that plan).

(c) any case of accidental criticality or any loss, other than normal operating loss, of special nuclear material (see 10 CFR 70.52).

(d) any incident in which an attempt has been made, or is believed to have been made, to commit a theft or unlawful diversion of special nuclear material which a licensee is licensed to possess, or to commit an act of industrial sabotage against a licensee's plant or transportation system (see 10 CFR 73.71).

Although their primary responsibility is to deal with any occurrence, licensees will be held accountable for informing the NRC. In those instances when doubt may exist concerning the severity of an occurrence, its consequences, and the potential for further degradation of the situation, licensees should report candidly such uncertainty. They should not fail to communicate with the Commission for reasons such as optimism or fear of public reaction. The Commission cannot and will not tolerate less than timely, candid, and sufficiently complete reporting and intends to deal forcefully with licensees and their responsible personnel when communications are unsatisfactory or when deliberately misleading information is supplied. Sanctions will be imposed on licensees who fail to meet their obligations with respect to Commission requirements. In assessing whether a licensee has met its obligation, the Commission will keep in mind that some judgment on the part of the licensee is called for. Licensees should keep in mind that they are responsible for assuring their judgments are sound—made by competent people who are themselves assured of timely, accurate and sufficiently complete information through adequate procedures.

Dissenting View of Commissioner Thomas M. Roberts

While fully supporting the laudatory goal of encouraging full and candid provision of information between licensees and the NRC, I disapprove this policy statement on the grounds that it is vague and overly broad. With regard to its vagueness, I note that it is unclear exactly what situations and what subjects are covered by this statement. While titled "Policy Statement on Information Flow" and thus seemingly covering the provision of information by all licensees at all times, the text of the statement implies that its coverage is limited to the provision of information during incidents or significant events. Moreover, the statement is vague as to the precise types of information with which the Commission wishes to be provided.

Due to this broad general language, licensees will be hard pressed to determine the kinds of actions which will demonstrate full compliance with this policy statement. The Atomic Energy Act contemplates that the Commission will require by regulation that information which it determines is necessary and/or desirable. 42 U.S.C. 2133, 2201. Here, the Commission, has chosen not to exercise this authority. Rather, it has delegated this identification process to licensees by requesting the provision of "timely, accurate, and sufficiently complete information [for the Commission] to make sound regulatory decisions." Thus, licensees must determine what it is that the Commission needs to make what the Commission considers to be sound regulatory decisions.

Finally, while I realize that a policy statement is not legally enforceable, I note that most licensees make good faith attempts to comply with such statements. This statement appears to request the provisions of information in addition to that already required by NRC regulations and/or license conditions and technical specifications.[1] Thus, to the extent that this statement imposes additional "requirements," the statement would appear to be rulemaking via policy statement. If the Commission has identified the need for additional reporting requirements, it would be preferable to promulgate these by rulemaking.

Dated at Washington, D.C. this 15th day of July 1982.

[1] The policy statement states that "[s]anctions will be imposed on licensees who fail to meet their obligations *with respect to Commission requirements*." (emphasis added) Thus, the statement implies that its coverage extends to the provision of information in addition to that which is legally required and enforceable.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 82-19573 Filed 7-19-82; 8:45 am]

BILLING CODE 7590-01-M

Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 4.17, "Standard Format and Content of Site Characterization Reports for High-Level-Waste Geologic Repositories," suggests the types of information that should be included in a site characterization report for review by the NRC staff and establishes a format for presenting the information.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of active guides may be purchased at the current Government Printing Office price. A subscription service for future guides in specific divisions is available through the Government Printing Office. Information on the subscription service and current prices may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

(5 U.S.C. 552(a))

Dated at Silver Spring, Maryland this 14th day of July 1982.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 82-19572 Filed 7-19-82; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

Announcement on the SEC Government Business Forum on Small Business Capital Formation

In a unique attempt to establish a meaningful and ongoing dialogue on the capital formation problems besetting the small business community, the Securities and Exchange Commission is planning the first SEC Government-Business Forum on Small Business Capital Formation. This program will provide a forum for small businesses, government regulatory agencies, and private sector organizations concerned with small business issues to discuss the existing impediments to small business capital formation particularly in the areas of taxation, securities and credit. The Forum is scheduled to be held September 23–25, 1982, in Washington, D.C.

The format of the Forum provides that participants will meet in working discussion groups of 15–20 persons to cover eight major issues with the intent of developing specific recommendations. In order to achieve these objectives, the size of the Forum must be limited. Each participant must be generally familiar with all the discussion papers being prepared for distribution prior to the Forum. Further, each participant will be requested to act as a discussion leader on one major issue.

Members of the publlic interested in being considered for active participation at the Forum should promptly complete and return the biographical sheet available from the Office of Small Business Policy, Division of Corporation Finance, U.S. Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549 by August 2, 1982. The biographical sheet will facilitate the selection of small businesspersons, lawyers, accountants and others who are knowledgeable in small business issues and who could make the most meaningful contribution ot the Forum.

For further information contact Daniel Abdun-Nabi at (202) 272–2644.

George A. Fitzsimmons,

Secretary.

July 13, 1982.

[FR Doc. 82-19633 Filed 7-19-82; 8:45 am]

BILLING CODE 8010-01-M

[812-5164; Rel. No. 12550]

Carnegie Tax Free Income Trust; Filing of Application

July 14, 1982.

Notice if hereby given that Carnegie Tax Free Income Trust ("Applicant") 1331 Euclid Avenue, Cleveland, Ohio 44115, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on April 13, 1982, and an amendment thereto on June 4, 1982, requesting an order of the Commission pursuant to Section 6(c) of the Act exempting Applicant to the extent necessary (1) from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to permit Applicant (a) to compute its net asset value per share using the amortized cost method of valuation, (b) to consider the maturity of variable rate demand notes in its portfolio as the longer of the notice period required before Applicant would be entitled to prepayment on the note or the period remaining until the note's next interest rate adjustment; and (c) to value in the manner described below rights acquired from brokers, dealers, or banks to sell portfolio securities to such persons; and (2) from the provisions of Section 12(d)(3) of the Act to permit Applicant to acquire rights to sell its portfolio securities to brokers or dealers. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is an unincorporated business trust, organized under the laws of Massachusetts to provide, through investment in a professionally-managed portfolio of high quality municipal obligations, as high a level of current income exempt from federal income taxation obtainable from short-term rates as is consistent with prudent investment management, the preservation of capital and the maintenance of liquidity. Applicant further states that municipal obligations in which it may invest ("Municipal Obligations") consist of debt obligations issued by or on behalf of any state, territory, or possession of the United States or the District of Columbia or their political subdivisions, agencies, or instrumentalities, the interest on which is in the opinion of counsel for the issuer, wholly exempt from federal income taxation. It is further stated that specific types of Municipal Obligations which Applicant may acquire include (1) bond anticipation notes, construction loan notes, project notes, revenue anticipation notes and tax anticipation notes which (a) are backed by the full faith and credit of the United States, (b) are rated MIG–1, MIG–2 or their substantial equivalent by Moody's Investors Service, Inc. ("Moody's"), or (c) if not rated, have, in the opinion of the Board of Trustees of Applicant, essentially the same characteristics and quality as bonds having the above ratings; (2) municipal bonds, including pollution control revenue bonds which are (a) rated Aaa or Aa by Moody's, (b) rated AAA or AA by Standard & Poor's Corporation ("S&P"), or (c) if not rated, have, in the opinion of Applicant's Board of Trustees, essentially the same characteristics and quality as bonds having the above ratings; (3) other types of tax-exempt Municipal Obligations such as short-term discount notes rated (a) Prime–1 or Prime–2 by Moody's, or (b) if not rated, possess equivalent characteristics and quality in the opinion of the Board of Trustees. Applicant also states that it may invest in commitments to purchase Municipal Obligations on a "when-issued" basis; Applicant states that at the time it makes a commitment to purchase a Municipal Obligation, it will record the transaction and reflect the value of the obligation in determining its net asset value. It is further stated that Applicant's custodian will maintain on a daily basis a separate trust account consisting of cash or liquid debt securities with a value at least equal to the amount of Applicant's commitment to purchase when-issued securities. Applicant also states that is may at times invest in taxable short-term investments of comparable quality to its Municipal Obligations consisting of obligations of the United States government, its agencies or instrumentalities, deposit obligations of banks and savings and loan associations which are members of the Federal Deposit Insurance Corporation, bankers acceptances and documented discount notes, high-grade commerical paper guaranteed or issued by domestic corporations, and instruments (including repurchase agreements) secured by such obligations.

Applicant represents that its Board of Trustees intends to establish procedures designed to stabilize, to the extent reasonably possible, the net asset value of its shares, computed for the purpose of distribution, redemption and repurchase, at $1.00. As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c-1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase and such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

Rule 2a-4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value and other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the investment company. Prior to the filing of the application, the Commission expressed its view that, among other things, (1) Rule 2a-4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent generally, with the provisions of Rule 2a-4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977). In view of the foregoing, Applicant request exemptions from Section 2(a)(41) of the Act and Rule 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant to value its portfolio by means of the amortized cost method of valuation.

In support of the relief requested, Applicant states that experience indictates that two features are necessary in any "money market" fund: (1) certainty of stability of principal and (2) steady flow of predictable and competitive investment income. Applicant asserts that it can provide these features to investors by maintaining a portfolio of high quality, municipal obligations valued at amortized cost. Applicant represents that, given the nature of its policies and operations, there should be a negligible discrepancy between prices obtained by the amortized cost method and those obtained by a market valuation method.

Consequently, Applicant states that its use of the amortized cost method of valuation would not be inconsistent with the policy of the Act, as implemented by Rule 2a-4, nor would it undermine the protection of investors provided by such Rule.

Applicant further represents that (1) its Board of Trustees has determined in good faith that, in light of the characteristics of Applicant, absent unusual or extraordinary circumstances, the amortized cost method of valuation of portfolio instruments is appropriate and preferable to the use of a market-based valuation method; and (2) its Board of Trustees has further determined to monitor continuously valuation indicated by methods other than amortized cost so that any necessary changes in the valutaion method may be made to assure that the valuation method being used is a fair approximation of fair value in view of all pertinent factors.

Applicant has agreed that the following conditions may be imposed in any order of the Commission granting the exemptive relief requested:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's Board of Trustees undertakes—as a particular responsibility within its overall duty of care owed to Applicant's shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share share, as computed for the purpose of the distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the Board of Trustees shall be the following:

(a) Review by the Board of Trustees, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of Applicant's net asset value per share as determined by using available market quotations from the $1.00 amortized cost price per share, and maintenance of records of such review.[1]

(b) In the event such deviation from Applicant's $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the Board of Trustees will promptly consider what action, if any, should be initiated.

(c) Where the Board of Trustees believes that the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which action may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten Applicant's average portfolio maturity; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120.[2]

4. Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the Board of Trustees' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the Board of Trustees' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act as though such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which the Board of Trustees determines present minimal credit risks, and which are of high quality as determined by any major rating service, or, in the case of any instrument that is not rated, of comparable quality as determined by Applicant's Board of Trustees.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to condition 2(c) above was taken during the preceding fiscal quarter, and, if any action was taken, will describe the nature and circumstances of such action.

In connection with compliance with the undertaking set forth in paragraph (3) above, Applicant states that the proliferation of tax-exempt mutual funds has significantly increased the demand for short-term tax-exempt instruments and, as a result, available yields on such instruments have tended to decline. At the same time, Applicant states, certain issuers of tax-exempt instruments have sought to lengthen their terms in order, among other things, to decrease the transaction costs associated with repeated short-term issues. Applicant states that, in order to induce longer term borrowing relationships, issuers have begun offering higher yields on variable rate notes containing a demand feature allowing either party to terminate the obligation within relatively short notice periods. Applicant represents that it believes that the acquisition of such variable rate demand notes would provide shareholders with a higher tax-exempt return without subjecting them to increased investment risk.

Applicant states that it proposes to acquire, normally in negotiated transactions with the issuers, tax-exempt variable rate demand notes having the following features: (1) each note would have an interest rate determined by a prescribed forumla and adjusted at periodic intervals not to exceed one year; (2) Applicant could at any time demand prepayment of the unpaid principal balance plus accrued interest thereon and would be entitled to prepayment within a prescribed notice period not to exceed seven calendar days; (3) issuers could, at their discretion, prepay the outstanding principal plus accrued interest thereon upon notice to Applicant within a period comparable to the notice periods required for Applicant to demand prepayment; (4) absent an earlier exercise by Applicant or an issuer of their respective prepayment privileges, the principal and interest under each note would be payable on a date exceeding one year from the date of purchase by Applicant; (5) each note purchased by Applicant would be

[1] To fulfill this condition, Applicant states that it intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its Board of Trustees in the exercise of its discretion to be appropriate indicators of value, which may include among others (i) quotations or estimates of market value for individual portfolio instruments, or (ii) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant states that it will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

determined under procedures prescribed by Applicant's Board of Trustees to present minimal credit risks and would be rated by a major rating service within its two highest rating categories or, if not rated, would be determined by the Board of Trustees to be comparable to tax-exempt securities which are of "high quality" (i.e., within the two highest ratings assigned by any major rating service). Applicant states that the issuer's obligation to pay principal on its notes would be supported by an irrevocable, unconditional bank letter of credit where necessary to ensure that the notes were of "high quality" (i.e., in all cases where the Board of Trustees could not determine that a note is of "high quality" without a letter of credit). Applicant states that, if a letter of credit is a feature of a note when it is purchased by Applicant, the note will always be supported by such letter of credit unless the rating of the note rises to within the two highest grades without the letter of credit.

Applicant represents that its adviser, Carnegie Capital Management Company, intends to evaluate not less frequently than monthly the credit of the issuers of notes and the backing banks in accordance with other procedures used to evaluate the quality of portfolio securities. Applicant undertakes to dispose of any note (by exercising the demand privilege where beneficial) when, due to an adverse change in the issuer's credit, Applicant's Board of Trustees or any rating service concludes that the note is no longer of "high quality".

Applicant states that it will normally have an unconditional right to sell the notes at any time. However, Applicant represents that any note that is not freely assignable will be required to be backed by an irrevocable, unconditional bank letter of credit. According to Applicant, banks issuing such letters of credit will, in its adviser's opinion, present minimal risk of default and will be major United States commercial banks having outstanding certificates of deposit suitable for portfolios of "high quality" short-term "money market" instruments.

Applicant states that it proposes to acquire variable rate demand notes as described above and to consider the maturity of such notes, for purposes computing its dollar-weighted average portfolio maturity and the prohibition against purchase of securities maturing in more than one year, as the longer of the notice period required before Applicant is entitled to prepayment under the note, or the period remaining until the note's next interest rate adjustment.

Applicant submits that there are two general reasons for restricting the maturities of Applicant's portfolio securities. First, lengthening the period to maturity of a fixed rate debt security valued according to the amortized cost method generally increases the risk that unrealized gains or losses will cause the security's amortized cost value to deviate materially from its current market value. Applicant states that this risk (because it primarily results from fluctuations in prevailing interest rates) is the "market risk" and that one of the purposes of limiting the allowable average period to maturity of the portfolio is to reduce its market risk. The second reason for limiting maturity, Applicant states, is that the "credit risk" represented by an instrument is generally perceived to increase as the instrument's maturity is lengthened. Applicant states that the credit risk is controlled by the requirement that Applicant's portfolio be limited to securities of "high quality" which mature in one year or less.

Applicant asserts that neither its proposed purchase of variable rate demand notes nor its proposed method of computing its dollar-weighted average portfolio maturity will violate the intent of the conditions set forth in paragraph (3) above. Applicant states that because a note's interest rate adjustment provision reflects the prevailing rate from time to time on comparable tax-exempt securities, unrealized gains and losses with respect to any note would be eliminated as of each interest rate adjustment date. Absent unusual circumstances, Applicant asserts that the rate adjustment provision will permit the notes to be sold at par on each interest rate adjustment date. Applicant further states that if the interest rate, as adjusted, does not sufficiently eliminate material unrealized appreciation or depreciation on the adjustment date (due to unforeseen circumstances other than a decline in the rating of the notes to below "high quality"), Applicant undertakes to demand prepayment of the note in full. Applicant also undertakes to sell the notes or exercise its demand privilege (whichever is more beneficial) if, due to an adverse change in the issuer's credit, the notes are no longer of "high quality". Applicant asserts that the maturity of a note for purposes of determining its market risk is approximately measured by the notice period required before Applicant is entitled to prepayment in full and that for purposes of measuring either of these risks, the maturity of a note will never exceed one year.

Applicant states in addition that where the period remaining until the next interest rate adjustment is different from the notice period required for payment, Applicant undertakes to utilize the longer of the two periods for purposes of computing weighted average maturity. Applicant states that this approach is the most conservative under the circumstances.

In connection with its proposed use of the amortized cost valuation method, Applicant requests an exemption to permit Applicant to (1) acquire variable rate demand notes and value them by use of the amortized cost valuation method and (2) compute its dollar-weighted average portfolio maturity as proposed hereinabove. Applicant represents that these exemptions comport with the standards of Section 6(c) of the Act in view of its management policies and the conditions set forth above.

Applicant asserts that in addition to maintaining a constant net asset value per share, it must provide its shareholders with the ability to obtain same-day redemption proceeds in federal funds. It is stated that the federal funds wire closes for transmission purposes at 3:00 p.m., and that therefore Applicant has little time to obtain (either from maturing portfolio securities or settlements arranged that day on sales of securities) the cash needed to meet net redemptions. Applicant states further that, because the maturity dates of the Municipal Obligations to be held in its portfolio will be relatively infrequent and non-negotiable, Applicant will be unable to rely on scheduled maturities to meet net redemptions. In addition, Applicant states that regular settlement on sales of portfolio securities may take five business days; thus, it is stated, unless prior arrangements assuring immediate liquidity have been made, the negotiation of same-day settlements on sales of Municipal Obligations within the brief time available is frequently impossible or may require Applicant to receive a less favorable execution price on a sale even though the securities sold have a short remaining maturity. Applicant states that other investment techniques used by taxable money market funds to obtain liquidity are not viable options because they are prohibitively expensive or would produce undesirable taxable income.

Applicant states that it proposes to improve its portfolio liquidity by assuring same-day settlements on portfolio sales (and thus facilitate the

same-day payments of redemption proceeds in federal funds) through the acquisition of "Standby Commitments". A Standby Commitment, Applicant states, is a right of a fund, when it purchases a Municipal Obligation for its portfolio from a broker, dealer, or other financial institution, to sell the same principal amount of such securities back to the seller, at the fund's option, at a specified price. Applicant states further that Standby Commitments are also known as "puts", and that its investment policies permit the acquisition of Standby Commitments solely to facilitate portfolio liquidity. Applicant represents that the acquisition or exercisability of a Standby Commitment will not affect the valuation or maturity of its underlying portfolio, which will be valued in accordance with the amortized cost order hereby requested.

Applicant undertakes to acquire only Standby Commitments having the following features: (1) They will be in writing and will be physically held by Applicant's custodian; (2) they may be exercisable by Applicant at any time prior to the underlying security's maturity; (3) Applicant's rights to exercise them will be unconditional and unqualified; (4) they will be entered into only with dealers, banks and brokers who in the investment adviser's opinion present a minimal risk of default; (5) although they will not be transferable, Municipal Obligations purchased subject to such commitments could be sold to a third party at any time, even though the commitment was outstanding; and (6) their exercise price will be (i) Applicant's acquisition cost of the municipal securities which are subject to the commitment (excluding any accrued interest which Applicant paid on their acquisition), less any amortized market premium or plus any amortized market or original issue discount during the period Applicant owned the securities, plus (ii) all interest accrued on the securities since the last interest payment date during the period the securities were owned by Applicant. Applicant further states that since it values its Municipal Obligations on an amortized cost bases, the amount payable under a Standby Commitment will be substantially the same as the value assigned by Applicant to the underlying securities. Moreover, Applicant submits that there is little risk of an event occurring which would make the amortized cost valuation of its portfolio securities inappropriate; however, Applicant represents that in the unlikely event that the market or fair value of securities in its portfolio were not substantially equivalent to their amortized cost value, the securities would be valued on the basis of available market information and held to maturity. Applicant represents that it expects to refrain from exercising the Standby Commitments in such a situation to avoid imposing a loss on a dealer and jeopardizing Applicant's business relationship with that dealer.

Applicant states that it expects that Standby Commitments generally will be available without the payment of any direct or indirect consideration. However, if necessary or advisable, Applicant states that it will pay for Standby Commitments, either separately in cash or by paying a higher price for portfolio securities which are acquired subject to the commitment. Applicant represents that, as a matter of policy, the total amount paid in either manner for outstanding Standby Commitments held in its portfolio will not exceed ½ of 1% of the value of its total assets calculated immediately after any Standby Commitment is acquired.

Applicant asserts that it is difficult to evaluate the likelihood of use or the potential benefit of a Standby Commitment. Therefore, Applicant states that its Board of Trustees will determine that Standby Commitments have a "fair value" of zero, regardless of whether any direct or indirect consideration is paid. Where Applicant has paid for a Standby Commitment, Applicant states that its cost will be reflected as unrealized depreciation for the period during which the commitment is held. In addition, for purposes of complying with the condition of its amortized cost order that the dollar-weighted average maturity of its portfolio shall not exceed 120 days, Applicant states that the maturity of a portfolio security shall not be considered shortened or otherwise affected by any Standby Commitment to which such security is subject.

Applicant states that it has been advised by its counsel that the Internal Revenue Service ("IRS") has issued a favorable private ruling to the effect that a registered investment company will be the owner of municipal securitis acquired subject to a put option and that interest on the securities will be tax-exempt to the company and that its counsel is prepared to render an opion to Applicant to this effect. Applicant states that it does not intend to seek a favorable ruling from the IRS with respect to its Standby Commitments and that there is no assurance that Standby Commitments will be available to it nor does Applicant assume that such commitments would continue to be available under all market conditions.

Section 12(d) of the Act, in relevant part, prohibits any registered investment company from purchasing or otherwise acquiring any security issued by or any other interest in the business of any person who is a broker, a dealer, is engaged in the business of underwriting, or is an investment adviser. Therefore, Applicant requests an order pursuant to Section 6(c) of the Act exempting it from the provisions of Section 12(d)(3) of the Act to the extent necessary to permit its acquisition of Standby Commitments from brokers or dealers. Applicant also requests, pursuant to Section 6(c) of the Act, an exemption from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder, permitting it to value Standby Commitments in the manner described hereinabove.

Applicant asserts that this relief is appropriate in the public interest, and consistent with the protection of investors. Applicant asserts that the proposed acquisition of Standby Commitments will not affect its net asset value per share for purposes of sales and redemptions and will not pose new investment risks, but rather will improve its liquidity and ability to pay redemption proceeds the same day in federal funds. Applicant states that its reliance upon the credit of dealers, banks and brokers from which it purchases commitments will be secured to the extent of the value of the underlying municipal securities which are subject to the commitment. Therefore, Applicant asserts that a Standby Commitment presents less risk than a bank certificate of deposit and will be qualitatively no greater a risk than the risk of loss faced by any investment company which is holding securities pending settlement after having agreed to sell the securities to a broker or dealer in the ordinary course of business. Moreover, Applicant states that its investment adviser intends to evaluate periodically the credit of institutions issuing Standby Commitments. According to Applicant, for that reason and in light of the fact that Standby Commitments will not be ascribed value for purposes of determining Applicant's net asset value, the acquisition of such commitments will not meaningfully expose its assets to the entrepreneurial risks of the investment banking business, nor require it to evaluate the credit of dealers in determining its net asset value.

Notice is further given that any interested person may, not later than August 9, 1982, at 5:30 p.m., submit to the

Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his/her interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he/she may request that he/she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or in the case of an attorney-at-law, by certificate) shall be filed contemporanously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-19634 Filed 7-19-82; 8:45 am]
BILLING CODE 8010-01-M

[812-5131; Rel. No. 12549]

Keystone Provident Life Insurance Co. et al.; Filing of Application

July 14, 1982.

In the matter of Keystone Provident Life Insurance Company, KMA Variable Account, and Keystone Massachusetts, Inc., 99 High Street, Boston, MA 02105.

Notice is hereby given that Keystone Life Insurance Company (the "Company"), KMA Variable Account (the "Variable Account"), a separate account of the Company registered under the Investment Company Act of 1940 ("Act") as a unit investment trust, and Keystone Massachusetts, Inc. ("KMI"), the principal underwriter of the Variable Account, referred collectively herein as "Applicants," filed an application on March 5, 1982 and amendments thereto on June 18, 1982 and July 2, 1982, for an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicants from provisions of Sections 22(e), 26(a), 27(c)(1), 27(c)(2), and 27(d) of the Act to the extent necessary to permit the transactions described in the application and, pursuant to Section 11 of the Act, for Commission approval of certain offers of exchange. All interested persons are referred to the application on file with the Commission for a statement of the facts and representations contained therein, which are summarized below.

Background

The Company and the Variable Account filed an application July 15, 1980, and amendments thereto on November 21, 1980, January 21, 1981 and March 10, 1981 ("original application"), for an order of the Commission, pursuant to Section 11 of the Act, approving certain offers of exchange and, pursuant to Section 6(c) of the Act, granting exemptions from certain provisions of Sections 2(a)(32), 2(a)(35), 22(c), 26(a), 27(c)(1), 27(c)(2) and 27(d) of the Act and Rule 22c–1 thereunder to the extent necessary to permit the transactions described in the application. On April 9, 1981, the Commission approved the proposed exchange offers and granted the requested exemptions (Investment Company Act Release No. 11727).

The original application contemplated that the administrator and custodian of the assets of the Variable Account would be Bradford Trust Company of Boston ("Bradford Trust") and, therefore, Bradford Trust would hold the shares of the listed portfolio investment companies of the Variable Account (the "Eligible Mutual Funds"). However, the Company and Bradford Trust have now mutually agreed that Bradford Trust should no longer act as custodian and administrator of the contracts. The Applicants therefore propose to have the Company perform all administrative functions for the contracts and the Variable Account and to have State Street Bank and Trust Company ("State Street") serve as the custodian and hold all of the assets of the Variable Account in trust. In addition, two more portfolio investment companies, Keystone Bond Trust and Keystone Stock Trust, have been added to the list of Eligible Mutual Funds.

Custodianship

Sections 26(a) and 27(c)(2) of the Act, as here pertinent, prohibit a registered unit investment trust and any depositor thereof or underwriter therefor from selling periodic payment plan certificates unless the proceeds of all payments other than the sales load are deposited with a qualified bank as trustee or custodian and held in trust under an indenture containing specific provisions. Applicants request exemptions from Sections 26(a) and 27(c)(2) of the Act to the extent necessary to permit State Street to hold the shares of the Eligible Mutual Funds on an uncertified basis.

Texas Optional Retirement Plan

Sections 22(e) and 27(c)(1) of the Act provide, respectively, in pertinent part, (1) that a registered investment company may not suspend the right of redemption or postpone the date of payment upon the redemption of any redeemable security in accordance with its terms for more than seven days after the tender of such security for redemption, and (2) that a registered investment company issuing periodic payment plan certificates may not sell such certificates unless such certificates are redeemable securities. Section 27(d) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless the certificate provides that the holder thereof may surrender the certificate at any time within the first eighteen months after the issuance of the certificate and receive in payment thereof, in cash, the sum of (1) the value of his account, and (2) an amount, from such underwriter or depositor, equal to that part of the excess paid for sales loading which is over 15% of the gross payments made by the certificate holder.

Pursuant to Texas law, all Texas institutions of higher education make available to certain employees an Optional Retirement Program ("ORP") funded through fixed or variable annuity contracts. As interpreted in an opinion by the Attorney General of Texas, certain 1973 amendments to the legislation establishing the Program now prohibit provisions in a fixed or variable contract issued in connection with ORP which provide for making available the redemption value of such contract prior to death, retirement or termination of employment in all institutions of higher education. Since 1973, the Program statute has been amended again. However, the new statute contains similar provisions. Applicants request exemptions from the provisions of Sections 22(e), 27(c)(1) and 27(d) of the Act to the extent necessary to permit compliance with the new ORP statute as it pertains to redemption values under contracts issued to participants in the Program subsequent to the date of such exemptive order.

Applicants will ensure that appropriate disclosure is made to

persons who consider participation in the Program, informing them of the restriction on the availability of redemption values under contracts to be issued to them. This disclosure will take the form of an appropriate reference in each prospectus (or a sticker thereto) to the restriction on redemption of those contracts, as well as requiring each participant, as a part of the determination that the sale of these contracts is suitable for that participant, to sign a statement indicating that he is aware that these restrictions will be placed on his contract when it is issued. In addition, all sales literature that is to be used in conjunction with the sale of these contracts will contain appropriate disclosure regarding the restriction on redeemability and the sales people involved in soliciting in this market will be instructed to bring this restriction specifically to the attention of the potential participants.

Offers of Exchange

Section 11(a) of the Act provides that it shall be unlawful for any registered open-end company or any principal underwriter for such a company to make or cause to be made an offer to the holder of a security of such company or of any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission. Section 11(c) provides that, irrespective of the basis of exchange, the provisions of subsection (a) shall be applicable to any type of offer to exchange the securities of registered unit investment trusts for the securities of any other investment company.

The Variable Account is segmented into sub-accounts. The contract value is the sum of the value of all sub-account accumulation units attributable to a contract. Applicants propose to permit contract owners to transfer accumulated contract values from one sub-account to another sub-account without fee, penalty or other charge. There will be no limitation on such transfers. Applicants request an order under the provisions of Sections 11(a) and 11(c) to permit the transactions described in the application.

Section 6(c)

Section 6(c) of the Act authorizes the Commission to exempt any person, security or transaction or any class or classes of persons, securities or transactions, from the provisions of the Act and rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested party may, not later than August 2, 1982 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following August 2, 1982 unless the Commission thereafter orders a hearing upon request or upon the Commission's motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing, if ordered, and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–19835 Filed 7–19–82; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[License No. 03/04–0056]

Small Business Investment Corporation of Norfolk; Surrender of License To Operate as a Small Business Investment Company

Notice is hereby given that, pursuant to Section 107.105 of the regulations governing Small Business Investment Companies (13 CFR 107.105 (1982)), Small Business Investment Corporation of Norfolk (SBICN), 1216 Granby Street, Norfolk, Virginia 23510, has surrendered its license to operate as a Small Business Investment Company (SBIC) under the Small Business Investment Act of 1958, as amended (the Act). SBICN was licensed by the Small Business Administration on February 5, 1962.

SBICN has complied with all conditions set forth by the Small Business Administration for surrender of its license. Therefore, under the authority vested by the Act, and pursuant to the above-cited regulation, the license of SBICN was accepted effective July 9, 1982, and it is no longer licensed to operate as a SBIC.

(Catalog of Federal Domestic Assistance Program No. 59–011, Small Business Investment Companies)

Dated: July 13, 1982.

Robert G. Lineberry,

Acting Deputy Associate for Investment.

[FR Doc. 82–19862 Filed 7–19–82; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area No. 2054]

Florida; Declaration of Disaster Loan Area

DeSoto and Hendry Counties in the State of Florida constitute a disaster area as a result of damage caused by severe storms and flooding which occurred on June 17, 1982. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on September 6, 1982, and for economic injury until the close of business on April 7, 1983, at the address below: U.S. Small Business Administration, National Guard Armory, Arcadia, Florida 33821.

or other locally announced locations.

Homeowners with credit available elsewhere, 15⅜%

Homeowners without credit available elsewhere, 7⅞%

Businesses with credit available elsewhere, 16½%

Businesses without credit available elsewhere, 8%

Businesses (EIDL) without credit available elsewhere, 8%

Other (non-profit organizations including charitable and religious organizations), 11½%

It should be noted that assistance for agriculture enterprises is the primary responsibility of the Farmers Home Administration as specified in Public Law 96–302.

Information on recent statutory changes (P.L. 97–35, approved August 13, 1981) is available at the above-mentioned office.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: July 12, 1982.

James C. Sanders,

Administrator.

[FR Doc. 82-19504 Filed 7-19-82; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2042; Amendment No. 1]

Texas; Declaration of Disaster Loan Area

The above numbered declaration (See 47 FR 29429) is amended by adding the adjacent county of Archer as a result of damage caused by severe storms and flooding which occurred on or about May 12, 1982. All other information remains the same, i.e., the termination date for filing applications for physical damage is close of business on July 26, 1982, and for economic injury until the close of business on February 25, 1983.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 23, 1982.

Donald R. Templeman,

Deputy Administrator.

[FR Doc. 82-19503 Filed 7-19-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Department Circular; Public Debt Series—No. 18-82]

Treasury Notes of July 31, 1984, Series U-1984

July 15, 1982.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $6,000,000,000 of United States securities, designated Treasury Notes of July 31, 1984, Series U-1984 (CUSIP No. 912827 NL 2). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities, to the extent that the aggregate amount of tenders for such accounts exceeds the aggregate amount of maturing securities held by them.

2. Description of Securities

2.1. The securities will be dated August 2, 1982, and will bear interest from that date, payable on a semiannual basis on January 31, 1983, and each subsequent 6 months on July 31 and January 31 until the principal becomes payable. They will mature July 31, 1984, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered, and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Wednesday, July 21, 1982. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, July 20, 1982, and received no later than Monday, August 2, 1982.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purposed are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.750. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each

competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Monday, August 2, 1982. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, July 29, 1982. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment wil be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 82-19652 Filed 7-16-82; 1:19 pm]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 139
Tuesday, July 20, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Item From July 15th Open Meeting

The following item has deleted at the request of the Broadcast Bureau from the list of agenda items scheduled for consideration at the July 15, 1982, Open Meeting and previously listed in the Commission's Notice of July 8, 1982.

Agenda, Item No., and Subject

Aural—2—*Title:* Mutually exclusive applications for new AM stations on 670 kHz in Tamarac and Miami, Florida, and a petition to deny the Miami application. *Summary:* The Commission considers all the above matters and designates the applications for hearing.

Issued: July 15, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-1080-82 Filed 7-16-82; 3:36 pm]

BILLING CODE 6712-01-M

2

FEDERAL COMMUNICATIONS COMMISSION

FCC To Hold Open Commission Meeting, Thursday, July 22, 1982

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, July 22, 1982, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, D.C.

Agenda, Item No., and Subject

General—1—*Title:* Notice of Proposed Rulemaking to amend Part 5 of the Commission's Rules to diminish restrictions on the licensing and use of stations in the Experimental Radio Service (Other Than Broadcast). *Summary:* The Commission considers staff proposals to reduce certain requirements pertaining to the experimental use of radio under Part 5 of the Commission's Rules, and to expand the scope of Part 5 to authorize limited market trials.

General—2—*Title:* Amendment of Subpart G, Part 15 of the Commission's Rules regarding Auditory Assistance Devices. *Summary:* The FCC will consider whether to adopt a Report and Order amending the Rules to eliminate the restriction on place of use of auditory assistance devices.

General—3—*Title:* Second Report and Order to permit expanded usage of frequencies in the 420-450 MHz band for non-Government radiolocation. *Summary:* The FCC will consider the amendment of Parts 2 and 90 of its regulations to permit assignment of frequencies in the 420-435 MHz portion of the 420-450 MHz band to non-Government radiolocation stations that utilize spread spectrum technology in the contiguous 48 states and Alaska.

General—4—*Title:* Notice of Proposed Rule Making to provide for Emergency Position-Indicating Radiobeacon (EPIRB) for survival craft of vessels operating in the Great Lakes. *Summary:* The FCC will consider whether to adopt a Notice of Proposed Rule Making to amend Part 83 to provide for Class D and Class E EPIRB's for use on survival craft of vessels operating in the Great Lakes. These EPIRB's would operate on the frequencies 156.8 MHz and 156.75 MHz and their intended purpose is to increase the chances for rescue in a distress distress situation. The rule sections pertaining to Class A, Class B and Class C EPIRB's have been rewritten to separate the technical requirements for type acceptance from the operational requirements.

General—5—*Title:* Improvements to UHF Television Reception. *Subject:* The Commission will consider whether to adopt a *Report and Order* in Docket 78-391, instituting rule changes for improving the UHF television service.

General—6—*Title:* Television Receiver Equipment Grading. *Subject:* The Commission will consider what further action should be taken in Docket 78-307, an inquiry considering a program for grading or labeling television receivers and receiving antenna equipment.

General—7—*Title:* Technical Improvements to Television Receivers and Certain Transmitter Standards. *Summary:* The FCC will consider a staff information memorandum concerning the status of tests made on a high performance television receiver developed for the FCC by RF Monolithics, Incorporated, under contract.

General—8—*Title:* UHF Television Receiver Noise Figures. *Subject:* In 1978, the Commission lowered the maximum allowable UHF receiver noise figure from 18 dB to 14 dB beginning in 1979, and further to 12 dB beginning in 1982 (Docket 21010). (Noise figure is a measure of one factor that determines how well a television receiver displays a weak signal.) In 1980, the 12 dB standard was overturned by the U.S. Court of Appeals. The Commission will consider what further action to take in this proceeding.

General—9—*Title:* Measurement Techniques of Television Receiver Noise Figures. *Summary:* The FCC will consider relaxing the annual reporting requirements for television receivers under Part 15 and consider terminating this proceeding which questioned the accuracy, repeatability, and tolerance of noise figure measurements in television receivers.

General—10—*Title:* Television Receiver Performance Standards. *Summary:* The FCC will consider terminating this proceeding which questioned whether noise figure and peak picture sensitivity were adequate evaluators of weak signal television performance.

Private Radio—1—*Title:* Amendment of Part 90 of the Commission's Rules and Regulations to release spectrum in the 806-821/851-866 MHz bands and to adopt rules and regulations which govern their use. An inquiry concerning the multiple licensing of 800 MHz radio systems ("community repeaters"). Amendment of Section 90.385(c) to allow transmission of nonvoice signals at 800 MHz. *Summary:* The Commission will consider whether to adopt Private Radio Bureau recommendations for the release of reserved 800 MHz spectrum. The Commission will consider such issues as: whether to encourage technical flexibility; whether to use frequency coordination in the bands; whether to permit operational flexibility and to what extent; what loading standards should be adopted, and how to accommodate "slow growth" systems.

Private Radio—2—*Title:* Amendment of Parts 2, 22, and 90 of the Commission's Rules to Allocate Spectrum in the 928-941 MHz Band and to Establish Other Rules, Policies, and Procedures for One-Way Paging Stations in the Domestic Public Land Mobile Radio Service and the Private Land Mobile Radio Services. *Summary:* The Commission will consider whether to adopt Private Radio Bureau recommendations for the use of the 929-930 MHz band for Private Land Mobile paging operations. The Commission will consider such issues as: whether SMRS should be permitted in the band and to what extent; whether exclusive channel assignments should be made; whether to adopt loading standards; whether to use frequency coordination, and whether specific technologies should be identified for use in the band.

Private Radio—3—*Title:* Amendment of Part 90 of the Commission's Rules and Regulations to Eliminate Certain Restrictions on Non-voice Operations in the Private Land Mobile Radio Services. *Summary:* The Commission will consider whether to adopt a Notice of Proposed Rule Making which seeks to eliminate two limitations on Private Land mobile operations: (1) A two second limitation on non-voice base/mobile communications; and (2) the secondary status of non-voice to voice communications.

Common Carrier—1—*Title:* Application for Review and Motion for Stay filed by Radio Telephone Communications, Inc., of the Common Carrier Bureau's adoption of the plurality technical coordination plan for the Miami, Florida market, in Docket 21039. *Summary:* RTC requests review of the September 28, 1981, Order by the Chief, Mobile Services Division, approving the technical method of operation advanced by the south Florida Carriers for sharing the frequencies 470–512 MHz in the Miami, Florida area. The plurality plan proposes that eight of the ten applicants in the Miami, Florida market be permitted to form a corporation, Goldcoast Mobile Telephone Company, which will own and operate the facilities and lease air time to all the applicants. RTC alleges that the plurality plan is contrary to Commission policy, the federal antitrust laws, and Department of Justice and Federal Trade Commission policies. Therefore, RTC urges the Commission to condition its acceptance of the plurality plan on RTC's full equity participation in the proposal.

Common Carrier—2—*Title:* Revision and update of Rules Part 22 ("Public Mobile Service") CC Docket 80–57. *Summary:* Before the Commission is a *Notice of Proposed Rulemaking* which proposes to simplify these rules, place them in plain language and bring the rules up to date with current technology, reducing costs to applicants and staff, and expediting the administrative processes related to the public mobile service.

Common Carrier—3—*Title: Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board,* CC Docket No. 80–286. *Summary:* The Commission will consider a petition for reconsideration of the recently adopted plan for the phase out of customer premises equipment from the Separations process over a five-year period.

Common Carrier—4—*Title:* Amendment of Section 22.501(a) of the Rules to allow the 35 and 43 MHz frequency bands to be used for one-way paging on an exclusive basis in the Domestic Public Land Mobile Radio Service (Docket No. 80–189). *Summary:* The Commission will consider whether or not to modify its earlier decision in this proceeding as a result of Petitions for Reconsideration that were filed.

Common Carrier—5—*Title:* Amendment of Parts 2, 22, 89 and 91 of the Commission's Rules with Regard to Allocation of Frequencies in the Bands 35.19–35.69 MHz and 43.19–43.69 MHz (Docket No. 19327). *Summary:* The Commission will consider whether to amend its rules to allow certain 35 and 43 MHz frequencies to be used for one-way paging.

Cable Television—1—*Title:* Applications for construction permits in the Cable Television Relay Service (CARS) filed January 5, 1982 by Karnack Corporation dba Winter Garden Cable TV (Winter Garden) (CAR–19238–01, CAR–19269–05 and CAR–19276–05); and by its subsidiary, Cable Television of Eagle Pass, Inc. dba Rio Grande TV Cable (Rio Grande) (CAR–19240–01 to CAR–19242–01). *Summary:* Winter Garden, licensee of CARS Stations KYX–61 and KYX–62, Pearsall and Loma Vista, Texas, respectively, filed CAR–19269–05 and CAR–19276–05 to make changes to its CARS facilities. Additionally, it filed CAR–19238–01 in order to construct a new CARS station at Moore, Texas. Similarly, Rio Grande filed CAR–19240–01 to CAR–19242–01 for the purpose of constructing new CARS stations at Eagle Pass, Farias Ranch and Winter Haven, Texas.

Assignment and Transfer—1—*Title:* Petition for Reconsideration of the Commission's Action Denying a Petition to Deny the Application to Assign the License of Station WCVB–TV, Boston, Massachusetts, from Boston Broadcasters, Inc., to Metromedia, Inc., by Christopher Bennett and Arklay King. *Summary:* The Commission will consider whether the petitioners have presented any new matters or other allegations which would warrant reconsideration of the Commission's denial of their petition to deny and grant of the WCVB–TV assignment application.

Renewal—1—*Title:* Competing applications of Pillar of Fire for renewal of license of Station WAWZ(FM), Zarephath, New Jersey, and Radio New Jersey for a construction permit for Somerville, New Jersey. *Summary:* The Commission considers designating the mutually exclusive applications for a consolidated proceeding.

Renewal—2—*Title:* Renewal application for Station WABC–TV, New York, New York. *Subject:* The Commission will consider the proposal of WABC–TV to enhance its physical presence in New Jersey by establishing a news bureau in New Jersey, with interconnection to the main studio and with a variety of promotional efforts to publicize the facilities, and petitions to deny the renewal application, filed by the New Jersey Coalition for Fair Broadcasting, the Governor of New Jersey, the State Legislature of New Jersey, and the Department of the Public Advocate for the State of New Jersey.

Compliants and Compliance—1—*Title:* Petitions for notice of Inquiry or declaratory ruling filed by Henry Geller, National Association of Broadcasters and Radio-Television News Directors Association, Public Broadcasting Service, and National Broadcasting Company, Inc., regarding Commission interpretation of Sections 315(a) (3) and (4) the Communications Act. *Subject:* The Commission must decide whether to issue a Notice of Inquiry or declaratory ruling regarding (1) exemption from equal opportunities considerations of broadcaster-sponsored debates between candidates, and broadcast or rebroadcast of such debates later than the next day subsequent to an event; and/or (2) clarification of the Commission's position on candidates' appearances on exempt news documentaries.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen P. Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: July 15, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S–1061–82 Filed 7–16–82; 3:37 pm]

BILLING CODE 6712–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:30 p.m. on Wednesday, July 14, 1982, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider a recommendation regarding the liquidation of assets acquired by the Corporation from Surety Bank and Trust Company, Wakefield, Massachusetts (Legal Division memorandum dated July 12, 1982).

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting pursuant to subsections (c)(6), (c)(9)(B) and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(9)(B) and (c)(10)).

Dated: July 15, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1057–82 Filed 7–16–82; 11:11 am]

BILLING CODE 6714–01–M

4

FEDERAL RESERVE SYSTEM (Board of Governors)

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Federal Reserve Bank and Branch director appointments. (This item was originally announced for a meeting on July 7, 1982.)
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: July 16, 1982.

James McAfee,

Associate Secretary of the Board.

[S–1059–82 Filed 7–16–82; 3:30 pm]

BILLING CODE 6210–01–M

5

NUCLEAR REGULATORY COMMISSION

DATE: Week of July 19, 1982.

PLACE: Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open and closed.

MATTER TO BE DISCUSSED: *Tuesday, July 20:*

10:00 a.m.
Discussion of Proposed Rulemaking—Accreditation of Qualification Testing Organizations (public meeting)

Wednesday, July 21:

2:00 p.m.:
Briefing on Minimum Number of Shifts Required at Operating Reactors (public meeting)

Thursday, July 22:

10:00 a.m.:
Discussion of Waste Confidence Proceeding (closed—Exemption 10)
3:00 p.m.:
Discussion with Licensing Board on Indian Point (Open/Closed status to be determined)
4:30 p.m.:
Affirmation/Discussion Session (public meeting)
Affirmation and/or Discussion and Vote:
a. Export and Import of Nuclear Equipment and Material: Proposed Amendments to NRC's Regulations;
b. Final Rule Implementing the Equal Access to Justice Act;
c. Resumption of Hearing Before Commission in NFS Erwin, (Material Control and Accounting Amendment);
d. Alternative Commission Decision in Indian Point Special Proceeding.

Friday, July 23:

10:00 a.m.:
Budget Briefing (public meeting)
2:00 p.m.:
Continuation of Budget Briefing (public meeting) (if needed)

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFROMATION: Walter Magee (202) 634–1410.

July 13, 1982.

Walter Magee,

Office of the Secretary.

[S–1055–82 Filed 7–15–82; 5:10 pm]

BILLING CODE 7590–01–M

6

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

"FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 28525, June 30, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m. on July 22, 1982.

CHANGES IN THE MEETING: This meeting has been canceled.

Dated: July 15, 1982.

[S–1054–82 Filed 7–15–82; 4:14 p.m.]

BILLING CODE 7600–01–M

7

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1295]

TIME AND DATE: 10:15 a.m. (EDT), Friday, July 23, 1982.

PLACE: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

DISCUSSION ITEM:

1. Preliminary rate review.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245–0101.

Dated: July 16, 1982.

[S–1056–82 Filed 7–16–82; 9:23 am]

BILLING CODE 8120–01–M

8

NATIONAL TRANSPORTATION SAFETY BOARD

[NM–82–18]

TIME AND DATE: 9 a.m., Tuesday, July 27, 1982.

PLACE: Conference Rooms 8 A, B, C, Eighth Floor, 800 Independence Ave., SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED: 1. *Railroad Accident Report:* Derailment of Washington Metropolitan Transit Authority Train No. 410 at Smithsonian Interlocking on January 13, 1982, and Recommendations to the Washington Metropolitan Transit Authority and the District of Columbia.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, (202) 382–6525.

July 20, 1982.

[S–1058–82 Filed 7–16–82; 11:54 am]

BILLING CODE 4910–58–M

federal register

Tuesday
July 20, 1982

Part II

Department of Health and Human Services

Health Care Financing Administration

Medicare and Medicaid Programs; Rural Hospitals: Provision of Long-Term Care Services (Swing-Bed Provision); Flexibility in Application of Standards

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 405, 435, 440, 442 and 447

Medicare and Medicaid Programs; Rural Hospitals: Provision of Long-Term Care Services (Swing-Bed Provision); Flexibility in Application of Standards

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Interim final rule with comment period.

SUMMARY: These regulations implement sections 904 and 949 of Pub. L. 96–499, the Omnibus Reconciliation Act of 1980. Under section 904 (the swing-bed provision), certain small, rural hospitals may use their inpatient facilities to furnish skilled nursing facility (SNF) services to Medicare and Medicaid beneficiaries, and intermediate care facility (ICF) services to Medicaid beneficiaries. These hospitals will be reimbursed at rates appropriate for those services, which are generally lower than hospital rates. This statutory provision is intended to encourage the most efficient and effective use of inpatient hospital beds for delivery of either hospital or SNF and ICF services.

Under section 949, rural hospitals of 50 or fewer beds may be exempted from certain personnel standards in the conditions of participation for hospitals. This exemption applies only to the extent that it does not jeopardize or adversely affect the health and safety of patients.

DATES: These regulations are effective July 20, 1982. We are publishing final regulations, rather than a notice of proposed rulemaking followed by a final rule, and waiving the customary 30-day delay between publication of regulations and the effective date, for reasons given under Waiver of Proposed Rulemaking and Delayed Effective Date below. However, we will consider any comments mailed by September 20, 1982. If, as a result of comment, we believe that changes are needed in these regulations, we will publish the changes in a later **Federal Register** document, and will respond to the comments in the preamble of that document.

ADDRESS: Address comments in writing to: Administrator, Department of Health and Human Services, Health Care Financing Administration, P.O. Box 17073, Baltimore, Maryland 21207.

If you prefer, you may deliver your comments to Room 309–G, Hubert H. Humphrey Building, 200 Independence Ave, S.W., Washington, DC., or to Room 789, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to BPP–149–FC. Agencies and organizations are requested to submit comments in duplicate.

Comments will be available for public inspection, beginning approximately two weeks after publication, in Room 309–G of the Department's office at 200 Independence Ave., SW., Washington, D.C., 20201 on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202–245–7890).

FOR FURTHER INFORMATION CONTACT:

For the Swing-Bed Reimbursement Provision: William J. Goeller, Health Care Financing Administration, Bureau of Program Policy, 1–D–1, East Low Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207, (301–597–1802).

For the Standards for Swing-Bed Hospitals and for the Rural Hospitals Provision: Margaret VanAmringe, Health Care Financing Administration, Health Standards and Quality Bureau, 2–E–3, Dogwood East Building, 1849 Gwynn Oak Avenue, Baltimore, Maryland 21207, (301–594–9712).

SUPPLEMENTARY INFORMATION:

I. Swing-Bed Provisions

A. Background

1. *Shortage of nursing home beds in rural communities*—Both the Medicare and Medicaid programs provide reimbursement for various levels of health care in inpatient facilities. Both programs cover an inpatient hospital level of care and a skilled nursing facility (SNF) level of care. At State option, the Medicaid program also covers care in an intermediate care facility (ICF) under certain conditions for patients whose medical conditions require institutional care that is above the level of room and board, but less intensive than care provided in a hospital or SNF.

Many hospitals participating in Medicare and Medicaid, in addition to providing an inpatient hospital level of care, may also provide SNF or ICF levels of care through establishment of a "distinct part" unit. A distinct part SNF or ICF must be an entire physically indentifiable unit consisting of all the beds within that unit (such as a separate building, floor, wing, or corridor), and must meet the health, safety, and additional requirements at 42 CFR Part 405, Subpart K or Part 442, Subpart F. A distinct part SNF or ICF unit is reimbursed as a separate entity from the rest of the institution. That is, costs are allocated separately to each part of the institution that provides these clearly different levels of inpatient care.

While most hospitals wishing to provide a SNF or ICF level of care to their inpatients have been able to meet the distinct part requirements, small rural hospitals have had difficulty in establishing these physically identifiable units because of the limitations of their physical plant and accounting capabilities. At the same time, these hospitals frequently have an excess of hospital beds, and the communities in which they are located often have a scarcity of SNF or ICF beds in Medicare and Medicaid participating facilities.

2. *Swing-bed concept*—In response to these problems, the "swing-bed concept" was proposed and studied. This concept allows small hospitals to use their beds interchangeably as either hospital, SNF, or ICF beds, with reimbursement based on the specific type of care provided. Allowing the use of beds in this manner would provide small hospitals with greater flexibility in meeting fluctuating demands for inpatient hospital and nursing home care. Between 1973 and 1977, several swing-bed experiments were conducted in rural communities in Utah, Texas, South Dakota, and Iowa to study this concept. An evaluation report ("An Evaluation of Swing-Bed Experiments to Provide Long-Term Care in Rural Hospital", November 1980) concluded that: (a) an unmet demand for nursing home care exists in many communities, (b) the swing-bed concept would particularly benefit rural communities in meeting both nursing home care and hospital care needs, and (c) assuming reimbursement is flexible, the swing-bed concept is a cost-effective means of providing nursing home care.

B. Section 904 of the Omnibus Reconciliation Act

1. *Application of section 904 under Medicare and Medicaid*—In response to the shortage of nursing home beds in rural areas for Medicare and Medicaid beneficiaries, Congress enacted section 904 (the "swing-bed" provision) of Pub. L. 96–499 (the Omnibus Reconciliation Act of 1980). That section added a new section 1883 to title XVIII (Medicare) and a new section 1913 to title XIX (Medicaid) of the Social Security Act (the "Act"). Under these provisions, a small, rural hospital (defined in the law as one with fewer than 50 beds) may be reimbursed under the appropriate program for furnishing SNF services to Medicare or Medicaid beneficiaries, and

ICF services to Medicaid beneficiaries. In order to qualify, the hospital must be granted a certificate of need for the provision of SNF and ICF services from the State health planning and development agency for the State in which the hospital is located, and must have an agreement with the Department.

Specifically, the law provides that—

- The hospital must meet the discharge planning and social services standards applicable to participating SNFs;
- A hospital receiving a waiver for 24-hour nursing coverage is not eligible to participate as a swing-bed hospital;
- Medicare SNF-type services are subject to the same eligibility and coverage requirements as services furnished by participating SNFs, except for those requirements the Secretary determines are inappropriate for such services furnished by a hospital;
- Payment for these services will be made at the average rate per patient day paid for SNF or ICF routine services, respectively, during the previous calendar year under the State's Medicaid plan;
- Reimbursement for general routine hospital services (those for room, nursing, dietary and other services usually included in the daily charge) will be determined after the amounts attributable to the routine SNF and ICF services provided under the swing-bed arrangement are subtracted from total general routine service costs; and
- There will be no change, for purposes of the swing-bed provisions, in the way reimbursement for the reasonable cost of ancillary services, such as laboratory or X-ray services, is determined.

The Department may enter into a swing-bed agreement, on a demonstration basis, with hospitals that meet all eligibility requirements other than the bed size and geographic location criteria.

Section 904 also requires the Department to submit a report to Congress by December 5, 1983, concerning our experience in administering these provisions. The report will include an analysis of (1) the extent and effect of these swing-bed agreements on the availability, effectiveness, and economical provision of nursing home care services, (2) the results of any demonstration projects conducted under these programs, (3) whether eligibility to participate as a swing-bed hospital should be extended to other hospitals, regardless of bed size or geographic location, where there is a shortage of long-term care beds, and (4) whether the swing-bed provision should be continued.

In addition to section 904, Congress enacted section 902 of Pub. L. 96-499, as amended by section 2102 of Pub. L. 97-35 (the Omnibus Budget Reconciliation Act of 1981). Section 902, the "inappropriate inpatient hospital services" provision, provides for temporary care in a hospital for Medicare beneficiaries who need post-hospital, extended care services that are not available in an appropriate SNF facility. The basic difference between the section 902 and 904 provisions is that the "inappropriate inpatient hospital services" provision provides for temporary care in a hospital for a beneficiary who needs covered SNF care that is not available at the time, while the "swing-bed" provision allows small, rural hospitals to function as substitute SNFs. Section 902 requires the hospital to transfer the patient to a certified SNF as soon as a bed becomes available. Section 904 allows small, rural hospitals to provide care throughout the period a patient requires covered SNF or ICF care. The regulations implementing section 902 are being developed for separate publication.

Since the Medicare program is Federally administered, any hospital that meets the criteria set forth in these rules for being a swing-bed facility is eligible for Medicare reimbursement for SNF services. Medicaid is a joint Federal-State program under which the State, within broad Federal rules, makes determinations on the scope and administration of the program. New section 1913 of the Medicaid statute, added by Pub. L. 96-499, states that payment may be made under the State plan for those SNF and ICF services furnished by a participating Medicare swing-bed hospital. Accordingly, each State has the option of deciding whether to reimburse those hospitals for these services under its Medicaid plan. If a State decides not to do so, then a swing-bed hospital under Medicare can be recognized, for purposes of the Medicaid program, as a provider only of hospital care.

2. Eligible Hosptals.

(a) *Calculation of bed size*—To participate as a swing-bed hospital a hospital must have fewer than 50 inpatient hospital beds. The legislation does not specify the method for counting hospital beds. The count of beds will include all inpatient hospital beds maintained by the hospital, exclusive of beds for newborns and beds in intensive care type inpatient units. For general certification purposes, beds for newborns and beds in intensive care type inpatient units are not classified with general routine inpatient hospital beds. Excluding these categories of beds from the bed count for swing-bed hospitals will, therefore, be consistent with established practice and will assure that only those general routine beds capable of providing SNF-type and ICF-type services will be considered. In addition, while the statute and congressional reports are not specific on this count, we believe the congressional intent of this provision was to have as many hospitals as possible become eligible for swing-bed approval. As a result, by excluding beds for newborns and beds in intensive care units, the bed count will assure that the maximum number of hospitals will be able to participate. Beds in separately certified "distinct part" SNFs and ICFs are not included in this count. (For hospitals with distinct part units electing swing-bed reimbursement, see discussion in Section 4.(c) below.)

(b) *Definition of "rural"*—Any geographic area not designated as "urban" in the most recent census is considered "rural" for the purpose of this regulation. This definition was chosen both for its consistency with the definition used for Rural Health Clinics (42 CFR 481.5) and because it allows more hospitals the opportunity to participate as swing-bed facilities.

(c) *Certificate of need*—Section 1883(b)(2) of the Act requires a hospital to obtain a certificate of need from the State health planning and development agency in the area in which it is located, in order to participate as a swing-bed hospital. States with severe shortages of long-term care beds may not require a certificate of need to provide long-term care services. By requiring hospitals in these States to obtain a certificate of need, HCFA would be placed in a position of imposing additional administrative burdens on both providers and the States. We believe this requirement would be expensive, unnecessary, and counterproductive, and could penalize those States that would benefit most from the swing-bed program. Therefore, if a State allows expansion of long-term care units without requiring a certificate of need for these services in hospitals, this criterion will not apply.

(d) *Provider agreement*—Section 1883(c) of the Act requires the hospital to enter into an agreement with the Department in order for the hospital to use its beds on a "swing" basis. HCFA will not require that hospital enter into two separate agreements. Rather, eligible hospitals will be granted an "approval" to participate in the swing-bed program. We believe various administrative difficulties, such as the

issuing of new provider numbers to hospitals and the reissuing of provider numbers upon swing-bed terminations, would be associated with separate provider agreements. These problems would be costly and could inappropriately penalize providers. In addition, since swing-bed services are to be integrated with routine inpatient hospital care services, no new entity is being created that would warrant a new provider agreement.

In order to receive approval to "swing" their beds, a hospital must (i) have a valid provider agreement under Medicare (hospitals wishing to be approved under Medicaid must have valid agreements under both Medicare and Medicaid), and (ii) meet the "Special Requirements for Hospital Providers of Long-Term Care Services" (42 CFR 405.1041).

We are not including in these regulations the specific requirements dealing with swing-bed approvals and withdrawals. These requirment are being including in hospital enter into two separate agreements. Rather, eligible hospitals will be granted an "approval" to participate in the swing-bed program. We believe various administrative difficulties, such as the issuing of new provider numbers to hospitals and the reissuing of provider numbers upon swing-bed terminations, would be associated with separate provider agreements. These problems would be costly and could inappropriately penalize providers. In addition, since swing-bed services are to be integrated with routine inpatient hospital care servies, no new entity is being created that would warrant a new provider agreement.

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We are not including in these regulations the specific requirements dealing with swing-bed approvals and withdrawals. These requirements are being included in an overall recodification of 42 CFR Part 405, Subparts S and O into a new Part 489, Subchapter E, and we do not believe it is practical or necessary at this point to modify sections of the regulations that will be renumbered and substantially changed. HCFA soon will be issuing administrative instructions to Regional Offices, fiscal intermediaries, and State Medicaid agencies, detailing the method for processing provider swing-bed approvals as part of existing provider agreements.

(e) *24-hour nursing waiver*—In accordance with section 1883, a hospital receiving a waiver of the 24-hour nursing coverage requirement under section 1861(e)(5) of the Act will not be eligible to participate as a swing-bed hospital. (See section II.B.3. of this preamble for discussion of the 24-hour nursing waiver.)

(f) *Conditions and requirements for participation*—While a facility in compliance with the Conditions of Participation for Hospitals (42 CFR Part 405, Subpart J) would be able to meet the general health and safety needs of long-term care patients, the psychosocial and rehabilitative needs of long-term care patients and hospital inpatients usually differ significantly. While inpatient hospital medical problems generally require short-term, high intensity treatment, long-term care often denotes chronic illness, disability, advanced age, and social adjustment problems that requires special services and requirements.

The Congress and the Department have consistently maintained that Medicare and Medicaid should not pay for substandard institutional care. To ensure that SNF-type and ICF-type patients in swing-bed hospitals receive necessary supportive services, the Congress specifically required in section 1883(f) of the Act that the SNF provisions governing discharge planning and social services apply to hospital providers of long-term care. In addition, section 1883(f) of the Act specifically require that Medicare SNF-type services in swing-bed hospitals "be subject to the same requirements applicable to such services when furnished by a skilled nursing facility except those requirements the Secretary determines are inappropriate".

We believe that there is clear statutory intent to treat "swing-bed" hospitals similarly to SNFs in order to assure adequate quality of care for long-term care patients in swing-bed hospitals; and clear congressional intent to utilize exess capacity an increase the supply of long-term beds in rural areas. We are attempting to strike this balance by requiring that Medicare SNF-type services in a swing-bed hospital be subject to the same eligibility and coverage requirements as services furnished in a participating SNF, except for those conditions that (1) duplicate existing hospital requirements (2) require a facility to make extensive structural modifications or changes, or (3) are unnecessary in what is primarily a general routine inpatient hospital setting.

In determining which additional standards to apply, we believe that equity among providers of nursing home care requires as much consistency in treatment as possible. For example, if certain professional services are not readily available in a particular geographic area, it seems inequitable to require that these services be provided in local free-standing and distinct part nursing homes, but not in a nearby swing-bed hospital. We have, however, kept the swing-bed requirements to a minimum, and the standards which we are including will be applied as flexibly as possible. We believe that swing-bed hospitals may have a lower daily census of long-term care patients than do nursing homes, and that patients in swing-bed hospitals are less likely to become long-term residents. We will consider these factors when surveying for compliance with the requirements.

We believe that the following standards are necessary and appropriate to SNF patient care requirements and, consistent with the intent of section 949 of Pub. L. 96–499, do not impose a significant burden on rural hospitals. (See section II. of this preamble for discussion of section 949, Standards for Rural Hospitals.) While hospitals that operate "distinct parts" already meet these conditions, we believe other hospitals can easily comply with most requirements by modifying their current services.

(i) *Patients' rights.* The inclusion of patients' rights provisions, which are not addressed in the existing hospital regulations, reflects the Department's increased interest in, and awareness of, the basic rights of institutionalized individuals. The House Committee Report on the swing-bed services provision indicates congressional approval of hospitals' establishing and implementing policies regarding the specific rights of long-term care patients (H.R. Report No. 96–1167, p. 61). These provisions are important in the delivery of care to the institutionalized elderly who, due to lengths of stay that generally exceed those of other general routine hospital inpatients, often become "residents" of the facility. These provisions can be developed by the hospital's governing body or other responsible person(s). Many hospitals currently have patients' rights policies that comply with this requirement. Development and implementation of a patients' rights policy by hospitals that are currently without such policies should not be burdensome or difficult.

(ii) *Specialized rehabilitative services.* Long-term care patients usually have chronic illnesses that impair their ability to function. Rehabilitation services attempt to bring patients to their highest level of activity, retard deterioration, and teach patients to function effectively within these limitations. Since provision of rehabilitation services is not required of hospitals, use of this standard for swing-bed hospitals assures that an integrated rehabilitation program is available to long-term care patients with this need. Swing-bed hospitals may elect to provide some of these services, such as physical or occupational therapy, through the use of outside resources. In addition, swing-bed hospitals need not provide all types of rehabilitative services, as long as they do not accept patients requiring those specific services that the facility cannot provide.

(iii) *Dental services.* The dental needs of long-term care patients may be greater than that of general routine hospital inpatients because of possible longer lengths-of-stay required for these individuals. In addition, prolonged drug use for SNF-type and ICF-type patients may have a deleterious effect on their dental health. Since this condition requires only an agreement with a dentist, and not that a dentist be a full-time employee, there should be no cost impact on swing-bed hospitals.

(iv) *Social services.* As required by statute, the social services requirement is being included and will ensure that long-term care patients' medically related social and emotional needs are met. This requirement complements the provision of rehabilitative services and responds to the patients' need for assistance in adjusting to the emotional aspects of long-term illness, treatment, and extended stay in an inpatient facility.

(v) *Patient activities.* The primary purpose of an activities program is to create opportunities for long-term care patients to continue life tasks and to exercise abilities in order to minimize pathology or retard or prevent disability.

Community, interpersonal, and self-care activities are employed to meet the specific needs of each participant of a program. Such activities are carried out for the purpose of: "(1) Enhancement of healthy integration with the resident's environment, (2) prevention of deterioration by engagement in physical and psychological exercise, (3) symptom reduction (4) correction or amelioration of specific pathology, (5) limitation of disability, and (6) provision of opportunity for meaningful participation and problem solving." (*Working with Older People—A Guide to Practice,* DHEW, 1974).

One of the primary goals of health care in this country should be prevention. In the context of long-term care, this goal is interpreted in terms of the extent to which the facility's staff works with residents to stimulate them to use past self care skills, to regain lost or impaired self care skills, to retain or regain reality orientation, to use judgement and problem solving skills, and other critical individual functions that directly determine whether a person can regain independent or minimally supervised living. Failure to do so reinforces dependency and promotes further deterioration, thereby increasing the types and extent of both special and medical services the individual will require.

The patient activities requirement also refers to activities of "interest" to the individual, suggesting social activities. We believe that social stimulation and interaction is as vital a part of efforts to minimize depression and loneliness (which contributes to debilitation), as is assistance in the maintenance or restoration of self care skills and other activities of daily living.

The required rehabilitative services involve the application of discrete, time-limited treatments intended to aid in the restoration of physical function. Behavioral psychology and rehabilitation research indicates that, unless the skills being developed or restored through these treatments are reinforced through practice (called "generalization") and used spontaneously, the value of the rehabilitative service may be lost.

The activities employed under these requirements represent those "generalization" efforts necessary to make discrete treatments useful. To do this requires an active and continuing process of aiding patients to keep their skills intact, or to build their skills back to a level that will result in reduced instances of institutionalization, longer periods of independence, and ultimately lowered cost and more optimal utilization of facility services.

We believe that, whether intentional or not, there is often a strong momentum toward custodial care in long-term care situations, partly based on the dependency level of the client population. Thus, we think it is critical to incorporate the activities requirements in these regulations. Since it is expected that the number of long-term care patients in swing-bed hospitals will be minimal, the activities program need not be as comprehensive as one in an SNF or an ICF. However, unless a qualified individual is designated to be responsible for these activities, they may not occur, or their importance may go unrecognized.

(vi) *Discharge planning program.* The application to swing-bed hospitals of the SNF provision governing discharge planning (42 CFR 405.1137(h)) will ensure that the long-term patient has a planned program of continuing care that meets his or her post-discharge needs. The discharge planning activities can be incorporated into the hospital's existing utilization review plan.

The following SNF requirements duplicate hospital requirements and will not be applied to swing-bed hospitals: (i) State and local laws; (ii) governing body and management (except patients' rights); (iii) medical direction; (iv) dietetic services; (vii) specialized rehabilitative services—outpatient physical therapy services; (viii) pharmaceutical services; (ix) laboratory and radiological services; (x) medical records; (xi) physical environment (except activity rooms); (xii) infection control; and (xiii) utilization review (except discharge planning). The SNF requirement of dining and patient activity rooms will also not be applied since, in some instances, this may require extensive structural modifications for many hospitals.

In addition, we are exempting the transfer agreement and disaster preparedness requirements since these conditions are inappropriate and unnecessary for hospitals. The transfer agreement requirement is oriented toward skilled nursing facilities where physicians are not normally available. If a long-term care patient in a swing-bed hospital requires general routine inpatient hospital services, these services could be provided in the facility; a transfer agreement would not be necessary. The disaster preparedness requirement is also not needed since hospitals are accustomed to dealing with emergency situations, have 24-hour staff availability, and are familiar with triage procedures. Although disaster preparedness is needed in an SNF, the acute care nature of a hospital makes this condition redundant for swing-bed hospitals.

3. Coverage requirements.

(a) *Medicare*—Section 1883 of the Act specifically permits swing-bed hospitals under Medicare to be paid for those post-hospital extended care services which would be reimbursable if furnished by SNFs. ("Extended care services" is the term used in the Medicare statute for services normally furnished by SNFs.) Under the law, SNF services in a swing-bed hospital are

subject to the same coverage requirements and coinsurance provisions that are applicable for SNFs. SNF days in a swing-bed hospital are to be counted against total SNF benefit days available to Medicare beneficiaries. For coverage purposes, the following existing program requirements specified in 42 CFR 405.120 are applicable to SNF services in a swing-bed hospital:

- Medicare beneficiaries receiving an SNF level of care in a swing-bed facility must first meet the three-day prior hospital stay requirement, that is, they must have had three consecutive calendar days of medically necessary inpatient hospital care before being transferred to SNF care.
- Beneficiaries must meet the requirement for "timely transfer" to a SNF. That is, they must need and receive a covered level of SNF care within 30 days after "discharge" from hospital care (unless a SNF level of care is not medically appropriate until a later predetermined time).

Days of care received at or below the SNF level in a swing-bed hospital will not count toward the three-day prior hospitalization requirement. If a beneficiary is admitted to a swing-bed hospital for inpatient hospital care but requires a SNF level of care after three days, the timely transfer requirement will be considered to be met even though the patient does not physically leave the facility. Under the Medicare program, this situation will be treated as a "discharge" from hospital care and an "admission" to SNF care.

(b) *Medicaid*—Under the Medicaid program, SNF and ICF services can be covered in a swing-bed hospital only to the extent that such services are covered under the State plan. As with the Medicare provisions, the legislation made no changes in the statutory provisions governing SNF and ICF services, other than to permit payment by the State when these services are furnished in a swing-bed setting. Therefore, we see no basis for treating these days differently from SNF days furnished in a SNF or from ICF days furnished in an ICF. Any Federal or State requirements or limits applicable to SNF or ICF care are equally applicable to swing-bed days.

4. Reimbursement.

(a) *Medicare*—Section 1883 of the Act establishes a new method for reimbursing for routine services furnished in the hospital setting to patients who require SNF care, and for determining the reasonable cost of routine services furnished to inpatients who require hospital care. Under the legislation, reimbursement for ancillary services used by swing-bed patients is to be computed in the same manner as is done for ancillary services received by regular hospital inpatients (42 CFR 405.452).

Under current regulations at 42 CFR 405.452, the cost of furnishing general routine services to all hospital patients is determined by an averaging method. Under this method, reimbursement is calculated by adding together all general routine service costs, deriving an average cost per diem, and multiplying that per diem by the number of days of hospital care provided to Medicare beneficiaries in that institution. In addition, regulations at 42 CFR 405.430 provide for an inpatient routine nursing salary cost differential adjustment factor when appropriate (see explanation in section 4.(f) below). Section 1883 of the Act changes this reimbursement methodology for swing-bed hospitals by establishing different reimbursement levels for general routine service areas:

(i) *Cost of SNF care.* Regardless of the actual costs incurred in furnishing routine SNF-type services in a participating swing-bed hospital, the statute specifies that the reasonable cost of the services is the product of the number of SNF patient days furnished times the reasonable cost per patient day. The reasonable cost per patient day is defined as the average rate per patient day paid for routine SNF services during the previous calendar year under Medicaid in the State in which the hospital is located. If a State does not have a Medicaid program, the reasonable cost per patient day is based on the average reasonable cost per patient day paid for routine SNF services during the previous calendar year under Medicare in the State in which the hospital is located.

(ii) *Calculation of general routine service hospital costs.* Since hospital and long-term care services are furnished interchangeably in a swing-bed hospital, the cost of providing such levels of service cannot be readily determined. Instead of imposing a burdensome cost finding process or using an average per diem method to allocate general routine service costs between hospital and long-term care services, the statute provides that the reimbursement due for the long-term care services from all classes of patients will be subtracted from the total general routine service costs to determine the cost of providing the hospital-level services (referred to as the "carve out" method). Once amounts attributable to SNF-type and ICF-type services have been carved out, the average per diem cost of general routine hospital services is then determined by dividing the remaining general routine service costs by the remaining general routine hospital days (i.e., total general routine days minus all SNF and ICF patient days).

In providing for the "carve out" method, section 1883 of the Act states that the "total reimbursement due" for all SNF and ICF routine services for all classes of patients (including Medicare, Medicaid, and private pay patients) is to be subtracted from total inpatient general routine costs. For SNF patient days under Medicare and SNF and ICF patient days under Medicaid, the "reimbursement due" represents the costs attributable to the SNF and ICF routine services and is equivalent to the rates specified in sections 1883 and 1913 for those services; that is, the average Statewide per diem rate paid in the State during the previous calendar year.

A literal definition of "reimbursement due" from private pay patients could represent the charges made by a swing-bed hospital to these patients for SNF and ICF services, rather than the costs of the services. However, since private pay individuals are receiving the same services as those furnished to Medicare and Medicaid patients, the cost attributable to these services should be the same for private pay patients as for program beneficiaries. If charges, rather than costs for SNF and ICF services, are subtracted from the hospital's general routine service costs, the remaining amount will not represent the costs attributable to the general routine hospital services. Therefore, to assure that the Medicare program pays the reasonable cost of the general routine hospital services (as required by section 1861(v)(1) of the Social Security Act), we believe "reimbursement due" with respect to private pay patients is intended to represent costs attributable to the SNF and ICF services. These costs will be based on the same rates as those used for Medicare and Medicaid beneficiaries. Accordingly, the regulations are providing for a "carve out" of total costs attributable to SNF and ICF patients, as determined by summing the product of the total SNF-type days for all classes of patients times the appropirate average SNF rate and the product of the total ICF-type days for all classes of patients times the appropriate average ICF rate.

The following example illustrates the calculation of general routine inpatient service costs for a particular swing-bed hospital:

Facts:	
Total general routine inpatient service costs	$250,000
Total hospital care inpatient days	2,000
Total SNF-type inpatient days	400
Total ICF-type inpatient days	100
Total general routine inpatient days	2,500
Appropriate average State medicaid rate for SNF-type inpatient days	$35
Appropriate average State medicaid rate for ICF-type inpatient days	$20
Calculation:	
Total SNF-type inpatient days (400) times appropriate State medicaid rate ($35)	$14,000
Total ICF-type inpatient days (100) times appropriate State medicaid rate ($20)	$2,000
Total routine service cost applicable to SNF-type and ICF-type care	$16,000
Total general routine inpatient service costs	$250,000
Less total routine service cost applicable to SNF-type and ICF-type care	−16,000
General routine inpatient service costs applicable to hospital care	$234,000
Average per diem general routine inpatient service cost applicable to hospital care ($234,000/2,000 days)	[1]$117.00

[1] To the extent appropriate, this amount is subject to the inpatient routine nursing salary cost differential adjustment factor and hospital cost limits. (See explanation in sections 4 (e) and 4.(f) of this preamble.)

(b) *Medicaid*—Section 1913 of the Act establishes the Medicaid reimbursement provision for swing-bed services comparable to those for Medicare. Specifically, section 1913 provides that—

- Swing-bed hospitals will be paid for SNF and ICF routine services at the Statewide average rates paid under the State plan during the previous calendar year to SNFs and ICFs, as appropriate;
- The reasonable costs of ancillary services will be determined in the same way as for hospital services; and,
- In order to allocate costs between hospital and long-term care services, the total reimbursement due for all classes of long-term care patients will be subtracted from the hospital's total routine costs before determining reimbursement for routine hospital services under the State plan.

When the swing-bed provision was enacted, the Medicaid statute provided for the reimbursement of inpatient hospital services on a reasonable cost basis. Section 2173 of Pub. L. 97–35, however, amended section 1902(a)(13)(A) of the Medicaid statute to provide for payment for hospital services on the basis of rates that the State finds, and satisfactorily assures the Secretary, are reasonable and adequate to meet the costs that must be incurred by efficiently and economically operated facilities to furnish services in compliance with State and Federal requirements. (The methods and standards used by the State to determine hospital payment rates must also take into account the situation of hospitals serving a disproportionate number of low income patients with special needs, and must provide for lower reimbursement rates for hospital patients receiving services at an inappropriate level of care. The State must assure that Medicaid beneficiaries have reasonable access to inpatient hospital services of adequate quality.) Interim final regulations implementing section 1902(a)(13)(A) of the Act, as amended, were published in the **Federal Register** on September 30, 1981 (46 FR 47964).

While most States elected in the past to determine the cost of inpatient hospital services by applying the Medicare principles of reasonable cost reimbursement, we anticipate that the elimination of the Medicaid reasonable cost provision will eventually result in a wide array of diverse payment systems. These payment systems might not differentiate between routine and ancillary services, and the payment rates for inpatient hospital services might not be determined on a cost-related basis. In these situations, the cost allocation provided for in section 1913 of the Act may have no impact on the payment rate developed for the inpatient hospital services under section 2173 of Pub. L. 97–35. We do not believe the Congress intended to limit the flexibility of States to determine the payment rates for the inpatient hospital services and the long-term care ancillary services furnished by a swing-bed hospital by requiring reimbursement on a cost-related basis. We believe the new regulations applicable to payment rates for hospital and long-term care services (42 CFR 447.252) establish appropriate criteria to meet congressional intent. Therefore, we are not issuing separate regulations concerning reimbursement for inpatient hospital services and long-term care ancillary services in swing-bed hospitals. States will have maximum flexibility in determining the payment rates for these services.

A different situation exists with respect to the long-term care routine services. Section 1913 of the Act establishes specific rates of payment for the SNF and ICF routine services. Although the State does not have as much flexibility in determining the reimbursement rate for these services as it does for other long-term care or inpatient hospital services, the swing-bed provision is compatible with other Medicaid reimbursement provisions in that it contemplates reimbursement based on rates rather than on a cost-related basis. For this reason, we are providing that the State plan must pay for routine SNF and ICF services furnished by a swing-bed hospital at the average rate per patient day paid for routine SNF and ICF services, respectively, during the previous calendar year under Medicaid. (Routine services will be defined by the State.)

We invite public comments on the Medicaid reimbursement issues.

(c) *Use of swing-bed reimbursement method by hospitals maintaining distinct parts.*

(i) *Legislative intent*—The bed count used to establish eligibility for a swing-bed approval takes into consideration only hospital beds. Any separately certified long-term care beds are excluded from this count. This means that as long as the hospital component of a hospital-SNF complex has fewer than 50 beds (excluding beds for newborns and beds in intensive care type inpatient units) and meets the other requirements for a swing-bed approval, the institution may obtain approval to use its hospital beds interchangeably for hospital and SNF care. The swing-bed approval would not affect the distinct part SNF; the SNF component of the complex would continue to be treated as a separate provider for certification and reimbursement purposes.

In addition to the swing-bed provisions, we are providing a simplified reimbursement option for small, rural institutions that is based on the swing-bed reimbursement provisions. The legislative history of Pub. L. 96–499 contains various proposals, either as proposed legislation or as part of committee reports and staff papers, that would have allowed hospital-SNF complexes to be reimbursed under the swing-bed reimbursement method while maintaining separate certification of the hospital and SNF components. The inpatient general routine service costs of both components would be combined for reimbursement purposes into a single cost center even though each part of the institution would furnish services only in accordance with its level of care certification.

Neither Pub. L. 96–499 nor the Conference Committee Report (H.R. Report No. 96–1479) included this option; however, statements by Congressman Charles Rangel and Senator Robert Dole, published in the *Congressional Record* on December 5, and December 9, 1980, respectively, indicate that the omission was inadvertent. According to Senator Dole, the reimbursement option was designed to accommodate institutions of fewer than 50 beds that maintain their long-term beds in a separate part of the institution. The intent was to permit these institutions to continue to maintain a separation of the

hospital and long-term care beds while, at the same time, permitting the institution to use the swing-bed reimbursement procedure.

In view of this legislative history, we are providing that rural hospital-SNF complexes with fewer than 50 beds (including beds in their Medicare-certified distinct part SNFs, but excluding beds in non-certified distinct parts) may elect to be reimbursed for services furnished in the hospital and the certified distinct part SNF using the swing-bed reimbursement methodology. Election of this reimbursement option does not authorize a facility to "swing" its hospital beds. In order to use hospital beds for furnishing long-term care services, the hospital component must meet the requirements of regulations at 42 CFR 405.1041 and obtain swing-bed approval from the Department.

The bed count for purposes of the simplified reimbursement option takes into account the total beds only in the Medicare-certified portions of the complex. It differs from the bed count used to establish eligibility for participation as a swing-bed hospital that takes into consideration only the beds in the hospital component of the complex. We believe use of these different bed counts is consistent with congressional intent since this approach avoids a potential reimbursement disdvantage for small institutions that have already established a distinct part SNF. By counting the total beds that are in Medicare participating components of the complex (exclusive of intensive care beds and beds for newborns), we are making this reimbursement option available to small institutions that would still qualify as swing-bed providers if all their Medicare certified beds were hospital beds. If we were to count only the beds in the hospital component, there would be no limit on the combined bed size of the components that would be reimbursed under this option. We believe the option was intended for small institutions, and that a limit on the number of beds included under the reimbursement option comparable to the maximum number that could be reimbursed under a swing-bed approval is appropriate. Otherwise, a hospital-SNF complex with 50 or more beds would have a reimbursement advantage that is not available to hospitals of comparable size.

Rural hospital-SNF complexes with fewer than 50 beds have considerable flexibility under these regulations. These institutions will have the options of:

- Continuing to maintain separate hospital and SNF components for certification and reimbursement purposes;
- Maintaining separate hospital and SNF components for certification purposes and combining the two components for reimbursement purposes (simplified reimbursement option);
- Obtaining a swing-bed approval for the hospital component while continuing to maintain the distinct part SNF as a separate component for certification and reimbursement purposes (swing-bed approval only);
- Obtaining a swing-bed approval for the hospital component, maintaining the separate distinct part SNF certification, and combining the two components for reimbursement purposes (swing-bed approval and simplified reimbursement option); and,
- Converting the distinct part SNF beds to hospital beds and obtaining a swing-bed approval to use all the beds interchangeably for hospital and long-term care.

If the hospital-SNF complex has more than 50 beds, it will not have the option of combining the hospital and SNF components into a single cost center. However, the hospital component in this situation would be treated the same as any other rural hospital for purposes of establishing eligibility for a swing-bed approval.

(ii) *Alternating use of optional reimbursement method.* The legislative history provides that the Department would approve the use of the optional reimbursement method when a hospital can demonstrate that use of this method would contribute significantly to more efficient and effective administration, and would be in the interest of program beneficiaries (H.R. Report 97–1167, p. 62). To facilitate implementation, we will assume automatically that a qualifying hospital complex satisfies these conditions when it initially elects the swing-bed reimbursement option and we will not require further documentation. However, it is not the intent that a hospital complex alternate between the swing-bed reimbursement method and separate cost finding for its distinct part(s), based on which method would provide the higher reimbursement at a given time. Therefore, we are providing that a hospital complex being reimbursed under the swing-bed reimbursement option can revert to separate cost finding for the distinct part one time only. Once having reverted, the provider cannot subsequently elect to use the optional reimbursement method. We believe this is essential to protect program funds and guard against either planned or inadvertent use of this reimbursement method to increase reimbursement without justification.

(iii) *Establishment of a combined cost center.* When the optional swing-bed reimbursement method is used in a qualifying hospital complex, the institution will accumulate the costs of its general routine service area and Medicare participating distinct part SNF into a single cost center. Only those components that are participating in the Medicare program are included in a single cost center since these are the only beds in which Medicare program beneficiaries may receive covered services.

(iv) *Extending the reimbursement option to Medicaid.* We believe that it is within a State's discretion to determine whether the swing-bed reimbursement method can be used by Medicaid-certified distinct parts in small, rural institutions. States have the option of following the Medicare principles of reimbursement for hospital inpatient services, including recognition of the swing-bed provision and the optional reimbursement method.

(d) *Computation of rates to be applied to swing-bed services*—Section 904 provides two basic types of rates to be applied to SNF-type or ICF-type routine services in swing-bed hospitals: (1) for hospitals in States with Medicaid plans, the rates will be the average Medicaid per diem rate paid for routine SNF and ICF services in the previous calendar year, and (2) in the case of a hospital located in a State which does not have a Medicaid plan, the rate for SNF-type services furnished under Medicare will be the average Medicare per diem rate paid for routine SNF services in that State in the previous calendar year. In computing the average per diem payment rates, payments to swing-bed hospitals will not be included.

Following is an explanation of how we plan to develop the necessary rates:

(i) *Medicaid rates used in previous calendar year.* On an annual basis, we will request that each State supply the appropriate HCFA Regional Office with the rates to be applied to the SNF and ICF services. These rates are to represent an average per diem payment for routine services in SNFs weighted by SNF patient days, and for routine services in ICFs other than ICFs furnishing services principally for the mentally retarded (ICF/MRs), similarly weighted (see discussion in section (ii) below on use of ICF/MR rates). The rates should be based on payments made for services furnished during the calendar year preceding the calendar year during which the rates are to be effective. The rates will be effective for

a full calendar year. (Note that more than one rate will apply to cost reporting periods that are not on a calendar year basis.) We will issue specific guidelines concerning the development of the needed data.

While we would like to develop these payment rates in a uniform manner since they will be used for Medicare as well as Medicaid purposes, we recognize that State plan provisions on long-term care reimbursement differ widely, and that some variations in methodology and estimates are inevitable. However, since the law is specific with respect to what rates are to apply to swing-bed services, the rates must approximate as closely as possible the average rate per patient day paid by States for routine services during the previous calendar year to SNFs and to ICFs other than ICF/MRs. If a State does not act on a timely basis to compute the necessary rates or is otherwise unable to furnish rates approximating the average rates of payment during the previous calendar year, we will develop the rates from the best available data.

We are asking the States to furnish the data because no reporting mechanism is currently in place by which we can otherwise obtain the appropriate rates. There are, however, two sources that may become available in the future. One potential source is the reporting form HCFA–120 (Monthly Statistical Report on Medical Care), which contains aggregate data on days of care and program outlays by type of facility.

Because of the difficulties many States are encountering in fully and accurately completing the report and the number of adjustments that would be required, the HCFA–120 cannot be used as the primary source for rate data at the present time.

The other potential source of data is the information regarding average rates of payment that our regulations at 42 CFR 447.255 state must be submitted with the State's assurances regarding the reasonableness and adequacy of its payment rates. Those regulations, which implement sections 962 of Pub. L. 96–499 and section 2173 of Pub. L. 97–35, were published as an interim final rule with comment period on September 30, 1981 (46 FR 47964). We have received a number of comments regarding submittal of assurances and related information, and we are now analyzing those comments to determine whether any changes in the requirements are needed. Because we have not completed this analysis, we cannot predict whether the regulations at 42 CFR 447.255 would provide a useful source of rate data.

Once the HCFA–120 reporting difficulties are resolved, or our analysis of the regulations at 42 CFR 447.255 and the actual rate data submitted by States under this authority show that this data source is feasible, it may no longer be necessary to request that the States furnish the appropriate rates for swing-bed reimbursement. In order to accommodate this situation, as well as to address instances where a State does not furnish the requested rates, we are indicating in the regulations that the Statewide average rate be computed either (1) by the State and furnished to HCFA, or (2) by HCFA directly based on the best available data.

(ii) *Use of ICF/MR rates.* One issue that has arisen in regard to rate computation is the cost of ICF/MR services furnished to Medicaid beneficiaries. Under section 1905(d) of the Act, States providing ICF services may also include ICF services in institutions for the mentally retarded or persons with related conditions. The language contained in section 1913 of the Act on reimbursement for swing-bed services does not make any distinction between these types of ICF services.

Under section 1905(d) of the Act, ICF/MR services are included within the definition of ICF services. The basic difference between ICF/MR services and other types of ICF services (referred to as general ICF services) is with the type of facility providing the services. As defined in the statute, a facility is considered to be furnishing ICF/MR services only if its primary purpose is to provide services to mentally retarded individuals. If a mentally retarded Medicaid beneficiary is placed in a general ICF, he or she is considered as receiving only general ICF services. This is significant because some States maintain separate rates for ICF/MR services.

Only facilities whose primary purpose is to provide services to the mentally retarded are separately identified as ICFs/MR. Hospitals and general ICFs are not considered to furnish ICF/MR services as a separate category. Therefore, we do not believe it is appropriate either to include ICF/MR services with general ICF services when computing an average ICF rate, or to compute a separate rate for ICF/MR services.

(iii) *Average Medicare per diem rates in States without a Medicaid program.* When a swing-bed hospital is located in a State that does not have a Medicaid program, the reasonable cost of Medicare SNF services is the average reasonable cost per patient day paid for routine services during the previous calendar year under Medicare to SNFs in that State. For those States, we will develop a rate for Medicare services based on SNF cost report data regularly maintained by HCFA.

The rate will be based on services furnished during the calendar year preceding the calendar year for which the rates are to be effective. The rate will consist of the Statewide average per diem cost for routine SNF services (as described in 42 CFR 405.452(d)), weighted by SNF patient days in that State.

(iv) *ICF rate for private patients.* We are also establishing a rate for ICF-type services furnished to private patients in States without a Medicaid program and in States that do not cover ICF services under their Medicaid plan. The rate is needed for purposes of carving out the costs applicable to these services in determining the cost of general routine hospital care. We are developing the rate by first determining the ratio of the average ICF rate to the average SNF rate in each of the States with Medicaid programs covering SNF and ICF services. We will then compute a national average ratio and apply it to the SNF rate developed for each of the States without a Medicaid program covering ICF services to establish a rate for ICF-type services furnished to private patients.

(e) *Effect of section 904 on the limitations on reimbursable costs—* Section 1861(v)(1) of the Social Security Act, as amended in 1972 by section 223 (Limitation on Coverage of Costs) of Pub. L. 92–603, grants the Department the authority to set limits on reimbursable costs of providers for services furnished to Medicare beneficiaries. These limits may be based on estimates of costs necessary in the efficient delivery of needed health services. Currently, the hospital cost limits are based on actual hospital costs for prior periods, and are applied to general routine inpatient hospital operating costs. Under current regulations (42 CFR 405.460), the Medicare program allows individual providers to file a request for reclassification, exception, or exemption from these cost limits when specified conditions are met.

As discussed above, section 904 establishes a new method of reimbursing for routine services furnished to nursing care patients in the hospital setting. Once the reasonable cost of SNF and ICF patient days is determined, it is subtracted from total routine costs, with the remainder representing the cost of general routine

inpatient hospital services for hospital patients.

Under the swing-bed demonstration projects that were conducted in a number of rural areas, there was an expectation that placing nursing care patients in vacant hospital beds would result in lower per diem hospital costs. However, we recognize it is possible that after SNF and ICF costs are subtracted from total general routine service costs, general routine inpatient per diem operating costs may increase in certain facilities, resulting in a per diem cost that exceeds the applicable hospital cost limit. This situation may occur when the lower prices paid for the long-term care patient days result in a greater share of total costs being attributed to general routine inpatient hospital days, and a corresponding higher per diem for those days.

We do not have sufficient information or data at this time to assess the impact of the swing-bed provisions with respect to the routine cost limits. We do not believe, however, that it would be equitable for a hospital to be disadvantaged under the cost limits solely because of the mechanics of the reimbursement process. Therefore, we will be closely monitoring the impact of the swing-bed provisions, and we will take appropriate action to address any inequities that come to our attention.

(f) *Effect of section 904 on the inpatient routine nursing salary cost differential*—The Medicare rules for calculating reasonable cost reimbursement include an inpatient nursing salary cost differential applicable to routine nursing services furnished to aged, pediatric and maternity patients in an institutional setting (42 CFR 405.430). (Under the Medicaid program, this differential is excluded in calculating reimbursement (42 CFR 447.272).) For hospital services furnished on or after October 1, 1981 (under the provision of section 2141 of Pub. L. 97–35), the differential is reimbursable at a rate not to exceed 5.0 percent. (Revised regulations on the nursing salary cost differential were published in the **Federal Register** on October 1, 1981 (46 FR 48544)).

Section 904 establishes specific reimbursement rates as the reasonable cost of SNF services furnished in a hospital with a swing-bed approval. Since the law is clear with respect to the calculation of reasonable cost of these services, we do not believe the inpatient routine nursing salary cost differential is applicable to the long-term care services furnished in a swing-bed hospital. To reflect this policy, we are amending 42 CFR 405.430 to state that, for purposes of the nursing differential, (1) aged, pediatric, and maternity inpatient days, as well as total inpatient days, do not include any swing-bed days of care at the SNF or ICF level, and (2) total routine nursing salary costs do not include costs applicable to those days.

5. *Timetable for implementing the swing-bed provisions*—We are providing that the regulations are effective on the date of publication, subject to the provisions specified below.

(a) *Medicare*—Under Medicare, the earliest date reimbursement for swing-bed services may begin is the effective date of the hospital's approval as a swing-bed hospital. The effective date of the approval will be determined using Medicare rules for provider agreements (42 CFR Part 489).

With respect to rural institutions of fewer than 50 total beds that maintain a Medicare distinct part SNF, the earliest date such institutions may elect the simplified swing-bed reimbursement method is the first cost reporting period beginning on or after the effective date of the regulations. We are providing for this election only on a cost reporting period basis because the use of two different cost finding methods during a single reporting period would seriously complicate the reimbursement process.

(b) *Medicaid*—The State plan must be amended in order for a hospital to receive swing-bed reimbursement under Medicaid. The implementation date for the hospital will be based on the later of either the effective date of the plan amendment or that of the hospital's swing-bed approval. The effective date of the State plan amendment will be determined in accordance with usual Medicaid rules (45 CFR 201.3(g)). That is, it will be effective no earlier than the first day of the calendar quarter in which an appropriate amendment is submitted to the HCFA Regional Office, or, with respect to expenditures under the amendment, the date on which the amendment is in operation on a Statewide basis.

II. Standards for Rural Hospitals Provision

A. Background

Under present law (section 1861(e) of the Social Security Act), a hospital must satisfy certain statutory and regulatory requirements related to health and safety standards, physical plant, organizational arrangements, and qualified medical, nursing and other technical staff in order to participate in either the Medicare or Medicaid program. One statutory requirement is that a hospital provide 24-hour nursing services furnished or supervised by a registered professional nurse. Between January, 1971 and December, 1978, the Secretary had statutory authority to waive this requirement for rural hospitals when a determination was made that a shortage of qualified nursing personnel existed in an area.

Small, rural hospitals have frequently criticized the Conditions of Participation for hospitals as being tailored to large, urban facilities and inappropriate to the rural hospital situation and resource limitations. These hospitals, particularly those providing a narrow range of services and without a sufficient supply of nurses or other technical personnel, have found that the rigid application of these Federal requirements creates unnecessary financial and managerial burdens and, at times, has culminated in hospital closure.

B. Section 949 of the Omnibus Reconciliation Act

1. *Application of section 949 to rural hospitals*—In response to a scarcity of technical and nursing personnel in rural areas and the difficulties encountered by small hospitals in meeting Federal requirements, Congress enacted section 949 of Pub. L. 96–499, Standards for Rural Hospitals. That section amended section 1861(e) of the Social Security Act to provide for more flexible application of certain Medicare standards to small, rural hospitals. Specifically, this provision allows the Department, under certain circumstances, to waive temporarily nursing, technical personnel, and fire and safety requirements in rural hospitals of 50 or fewer beds. HCFA will take into consideration the availability of qualified nursing and other technical personnel in the area, the scope of services furnished, and the economic impact of structural standards that, if rigidly applied, would result in unreasonable financial hardship for a rural hospital.

With respect to the fire and safety requirements, these provisions are already contained in regulations at 42 CFR 405.1022(b) and allow the Department to waive provisions of the Life Safety Code when appropriate.

2. *Eligible hospitals*—In order to receive a temporary waiver of existing hospital standards and requirements in accordance with section 949, a hospital must have fifty or fewer inpatient hospital beds and must be located in a rural area (see section I.B.2.(b) of this preamble for the definition of "rural" used for swing-bed hospitals). Separately certified distinct part SNF and ICF beds are not included in the hospital's bed count. In accordance with

the statutory requirements in section 1883(a)(1) of the Act, participating swing-bed hospitals will not be eligible for the 24-hour nursing waiver.

3. *Temporary waiver of nursing and technical personnel requirements*—Section 949 provides for a temporary waiver of the statutory 24-hour nursing service requirement for hospitals experiencing a temporary shortage of qualified nurses in the area. However, in all instances, a registered professional nurse must be on the premises, at least during the regular daytime shift, to furnish or supervise the nursing provided. On all tours of duty not covered by a registered nurse, a licensed practical nurse must serve as the charge nurse. A temporary waiver of technical personnel requirements may also be granted based on the availability of and the educational opportunities for those personnel in the area.

Exceptions to existing personnel requirements may be exercised only to the extent that the hospital has made a good faith effort to comply with these requirements and that these waivers do not jeopardize or adversely affect the health and safety of patients. When HCFA determines that the waiver for technical personnel may adversely affect the health and safety of patients, the hospital may be required to limit its scope of services.

Waivers of nursing and technical personnel requirements may be granted for any one year period, or less, and may be withdrawn earlier if the Department finds that action is necessary in order to protect the health and safety of patients. This reflects Congress' intent that the purpose of requiring compliance with basic standards is to assure safety and quality of care for all patients (Conference Committee Report, H.R. Report No. 96–1167, p. 378).

III. Waiver of Proposed Rulemaking and Delayed Effective Date

We believe the provisions of section 949 of Pub. L. 96–499 do not represent a major departure from past program practices. The temporary waiver for nursing services is basically a continuance of the authority granted the Department in section 102 of Pub. L. 94–182, which expired on December 31, 1978, and the waiver of other technical personnel was previously provided to certain hospitals located in remote areas (42 CFR 405.1910). In addition, under the provisions of section 904, Congress set forth a clear approach for permitting small, rural hospitals to use their inpatient facilities to provide SNF and ICF services to eligible beneficiaries, and indicated its great concern about the problems of providing long-term care facility services in rural areas.

In light of Congress' strong interest in these provisions, the advantages to beneficiaries, and the clarity of the law in most of its major requirements, we believe it is unnecessary and contrary to the public interest to publish a notice of proposed rulemaking and a request for public comments before issuing final regulations. As a result, we find that there is good cause both to waive the notice of proposed rulemaking procedures and to forego a delayed effective date, for both of these provisions.

Although these regulations are published in interim final form, we are providing for a comment period so that interested parties may raise any comments or suggestions. Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. However, if we publish changes in the regulations as a result of the comments received, we will respond to them in the preamble of that document.

IV. Impact Analysis

A. Executive Order 12291

We have determined that these regulations will not result in an annual impact of $100 million or otherwise meet the criteria of section 1(b) of the Order.

As stated earlier, these regulations will give the 1,350 rural hospitals with fewer than 50 beds an opportunity to provide SNF services to Medicare patients and, at State option, to provide SNF or ICF services to Medicaid patients.

Generally, occupancy rates in small, rural hospitals range from 40 to 60 percent, so it is clear that they have some capacity to provide SNF and ICF services. Since hospitals will be required to obtain a certificate of need for long-term care services, and since we believe consumers will prefer to receive SNF or ICF services from a certified SNF or ICF rather than a hospital, demand for hospital-provided SNF or ICF services will generally exist only in areas with a shortage of SNF or ICF beds.

We anticipate that one necessary condition for rural hospitals of fewer than 50 beds for opting to become swing-bed hospitals is that the SNF or ICF rate exceed the marginal cost of providing SNF or ICF services. (Under the "carve-out" reimbursement method, this difference will result in a lower hospital per diem rate.)

Medicare and in many States, Medicaid, reimburse hospitals for the cost of caring for hospital patients who subsequently need a covered lower level of care which is not available. We expect that hospitals in areas with a shortage of SNF or ICF beds are now receiving reimbursment for patients requiring SNF or ICF services. Hospitals electing the swing-bed approach would receive reimbursement for these patients at the lower SNF or ICF rate, reducing total Medicare and Medicaid reimbursement for hospital services. (Although the remaining patients would be reimbursed at a higher per diem rate, the reduced proportion of Medicare and Medicaid hospital patients would reduce total Medicare and Medicaid reimbursement.)

Therefore, we expect that small, rural hospitals will choose to become swing-bed hospitals only if the difference between marginal cost and payment rates, times the expected number of SNF or ICF patients (including patients awaiting placement and new patients), exceeds the reduction in reimbursement for hospital services.

Given the small size of these hospitals, they have limited capacity to provide SNF or ICF services. Since, for purposes of Medicare and Medicaid, the cost of reimbursing these services will be partially offset by reductions in reimbursement for hospital services, we believe the cost of these regulations is negligible.

We are also proposing to give the 100 hospital-SNF complexes of fewer than 50 beds the option of receiving Medicare reimbursement as if they were swing-bed hospitals. While under some circumstances accounting differences could result in slightly higher reimbursement to these facilities, we believe that the cost of this provision is negligible.

B. Regulatory Flexibility Analysis

The Secretary certifies under 5 U.S.C. 605(b), enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that these regulations will not have a significant economic impact on a substantial number of small entities.

All rural hospitals of fewer than 50 beds are small entities for purposes of the Regulatory Flexibility Act. As explained in the previous section, these regulations will not affect hospitals in areas with no unmet demand for SNF or ICF services. These regulations also will not affect hospitals which determine that there is no financial advantage in becoming a swing-bed hospital. For those hospitals that do see a financial advantage, we do not believe that the impact of this rule will be significant, since the additional Medicare and Medicaid reimbursement for SNF or ICF

services will be partially offset by reductions in reimbursement for hospital services. Therefore, a regulatory flexibility analysis is not required.

V. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96–511) requires Federal agencies to seek the approval of the Executive Office of Management and Budget (OMB) for any regulations that contain reporting and recordkeeping requirements that are subject to the statute.

Sections 405.434 and 405.452 of these regulations contain reporting and recordkeeping requirements that are subject to the Paperwork Reduction Act. The requirements contained in §§ 405.434(c) and 405.452(b)(3)(iii) for States to submit data for purposes of determining an estimated adjusted statewide rate for extended care services by a swing-bed hospital have already been approved by OMB for use through June 30, 1983. The OMB approval number is 0938–0253.

List of Subjects

42 CFR Part 405

Administrative practice and procedure, Certification of compliance, Clinics, Contracts (Agreements), End-Stage Renal Disease (ESRD), Health care, Health facilities, Health maintenance organizations (HMO), Health professions, Health suppliers, Home health agencies, Hospitals, Inpatients, Kidney diseases, Laboratories, Medicare, Nursing homes, Onsite surveys, Outpatient providers, Reporting requirements, Rural areas, X-rays.

42 CFR Part 435

Aid to Families with Dependent Children, Aliens, Categorically needy, Contracts (Agreements—State Plan), Eligibility, Grant-in-Aid program—health, Health facilities, Medicaid, Medically needy, reporting requirements, Spend-down, Supplemental security income (SSI).

42 CFR Part 440

Clinics, Dental health, Drugs, Grant-in-Aid program—health, Health care, Health facilities, Health professions, Hearing disorders, Home health services, Inpatients, Laboratories, Language disorders, Lung diseases, Medicaid, Mental health centers, Occupational therapy, Personal care services, Physical therapy, Prosthetic devices, Outpatients, Opthalmic goals and services, Rural areas, Speech disorders, X-rays.

42 CFR Part 442

Certification of intermediate care facilities (ICFs), Certification of skilled nursing facilities (SNFs), Contracts (Agreements), Disabled, Grant-in-Aid program—health, Health facilities, Health professions, Health records, Information (Disclosure), Medicaid, Mental health centers, Nursing homes, Nutrition, Privacy, Safety.

42 CFR Part 447

Accounting, Clinics, Contracts (Agreements), Copayments, Drugs, Grant-in-Aid program—health, Health facilities, Health professions, Hospitals, Medicaid, Nursing homes, Payments for services: general, Payments: timely claims, reimbursement, Rural areas.

42 CFR Chapter IV, Parts 405, 435, 440, 442, and 447 are amended as set forth below:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

A. In Part 405, Subpart A is amended as follows. The authority citation for Subpart A reads as follows:

Authority: Secs. 1102, 1801–1817, 1866, 1871, 1883, 49 Stat. 647, as amended, 79 Stat. 291–301, 314; 79 Stat. 331; 42 U.S.C. 1302, 1395–1395i, 1395cc, 1395hh, and 1395tt, unless otherwise noted.

1. Section 405.116 is amended by revising paragraph (a) to read as follows:

§ 405.116 Inpatient hospital sevices; defined.

(a) *General provisions.* (1) Subject to the conditions, limitations, and exceptions in the succeeding paragraphs of this section, the term "inpatient hospital services" means the following items and services furnished by a qualified hospital, (including a psychiatric hospital or a tuberculosis hospital) to an inpatient of such hospital:

(i) Bed and board;

(ii) Nursing services and other related services;

(iii) Use of hospital facilities;

(iv) Medical social services;

(v) Drugs, biologicals, supplies, appliances and equipment;

(vi) Certain other diagnostic or therapeutic items or services; and

(vii) Medical or surgical services provided by certain interns or residents-in-training.

(2) "Inpatient hospital services" does not include extended care services furnished by a hospital with a swing-bed approval.

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2. Section 405.120 is amended by adding a new paragraph (a)(3) as follows:

§ 405.120 Posthospital extended care services; scope of benefits.

(a) *Benefits and conditions for entitlement.*

* * * * *

(3) For purposes of this subpart, the term "skilled nursing facility" means a facility or distinct part of a facility that has been certified to meet the conditions of participation set out in Subpart K of this part and has entered into an agreement with HCFA. Except as used in § 405.125 (a)(8), (g), and (h), the term "skilled nursing facility" also includes a participating hospital with a swing-bed approval.

* * * * *

B. In Part 405, Subpart D is amended as set forth below.

1. The table of contents for Subpart D is amended by adding a new § 405.434 as set forth below:

405.434 Reasonable cost of extended care services furnished by a swing-bed hospital.

Authority: Secs. 1102, 1814(b), 1833(a), 1861(v), 1871, and 1883, 49 Stat. 647, as amended, 79 Stat. 296, 79 Stat. 302, 79 Stat. 322, 79 Stat. 331; 42 U.S.C. 1302, 1395f(b), 1395l(a), 1395x(v), 1395hh, and 1395tt, unless otherwise noted.

2. Section 405.430 is amended by revising paragraphs (b)(1) to (b)(6), as follows:

§ 405.430 Inpatient routine nursing salary cost differential.

* * * * *

(b) *Definitions*—(1) *Aged day.* Aged day means a day of care furnished to an inpatient 65 years of age or older. Aged days do not include any days of care furnished to an inpatient 65 years of age or older (i) in an intensive care unit, coronary care unit, or other intensive care type inpatient hospital unit, or (ii) receiving skilled nursing facility (SNF) type or intermediate care facility (ICF) type services as defined in § 405.452(d) (3) and (4).

(2) *Pediatric day.* Pediatric day means a day of care furnished to an inpatient less than age 14 who is not occupying a bassinet for the newborn in the nursery. Pediatric days do not include any days of care furnished to an inpatient less than 14 years of age (i) in an intensive care unit, coronary care unit, or other intensive care type inpatient hospital unit, or (ii) receiving SNF-type or ICF-type services as defined in § 405.452(d) (3) and (4).

(3) *Maternity day.* Maternity day means a day of care furnished to a

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female inpatient admitted for delivery of a child. Maternity days do not include any days of care furnished to a female inpatient admitted for child delivery who is (i) in an intensive care unit, coronary care unit, or other intensive care type inpatient hospital unit, or (ii) receiving SNF-type or ICF-type services as defined in § 405.452(d) (3) and (4).

(4) *Nursery day.* Nursery day means a day of care furnished to an inpatient occupying a bassinet for the newborn in the nursery.

(5) *Inpatient day.* Inpatient day means a day of care furnished to any inpatient (except an individual occupying a bassinet for the newborn in the nursery). Inpatient days do not include any days of care furnished to (i) inpatients in an intensive care unit, coronary care unit, or other intensive care type inpatient hospital unit, or (ii) patients receiving SNF-type or ICF-type services as defined in § 405.452(d) (3) and (4).

(6) *Inpatient routine nursing salary cost.* Inpatient routine nursing salary cost includes only the gross salaries and wages of nurses and other personnel for nursing activities performed in nursing units not associated with the nursery and not associated with services for which a separate charge is customarily made. This cost includes gross salaries and wages of head nurses, registered nurses, licensed practical and vocational nurses, aides, orderlies, and ward clerks. Inpatient routine nursing salary cost does not include: (i) salaries and wages of administrative nursing personnel assigned to the departmental office or nursing personnel who perform their work in surgery, central supply, recovery units, emergency units, delivery rooms, nurseries, employee health service, or any other areas not providing general inpatient care; (ii) salaries and wages of personnel performing maintenance or other activities that do not directly relate to the care of patients; (iii) salaries or wages of nursing personnel assigned to an intensive care unit, coronary care unit, or other intensive care type inpatient hospital unit; or (iv) that portion of nursing salaries applicable to SNF-type or ICF-type days as determined by multiplying the general routine nursing salary costs by the ratio of the total costs attributable to SNF-type and ICF-type routine services to the total general routine service costs.

* * * * *

3. A new § 405.434 is added to read as follows:

§ 405.434 Reasonable cost of extended care services furnished by a swing-bed hospital.

(a) *Purpose and basis.* This section implements section 1883 of the Social Security Act, which provides for reimbursement for extended care services furnished by small, rural hospitals having a swing-bed approval. Payments to such hospitals for extended care services furnished in general routine inpatient beds are based on the reasonable cost of extended care services, in accordance with paragraph (c) of this section.

(b) *Definition.* A swing-bed hospital is a hospital participating in Medicare that has an approval from HCFA to provide extended care services as defined in § 405.125 and meets the requirements specified in § 405.1041.

(c) *Principle.* The reasonable cost of extended care services furnished by a swing-bed hospital is determined as follows:

(1) If a hospital is located in a State participating in Medicaid, the reasonable cost of the routine services is based on the average Statewide rate per patient day paid under the State Medicaid plan for routine services furnished by skilled nursing facilities (SNFs) in that State during the previous calendar year. The Statewide average rate will be computed either (i) by the State and furnished to HCFA, or (ii) by HCFA directly based on the best available data.

(2) If a hospital is located in a State that is not participating in Medicaid, the reasonable cost of the routine services is based on the average reasonable cost per patient day under Medicare for routine services furnished by SNFs in that State during the previous calendar year. HCFA will determine the average reasonable cost using Medicare cost reports, with adjustments to account for cost reporting periods not covering the calendar year preceding the year for which the rate is to be effective.

(3) The reasonable cost of ancillary services furnished as extended care services will be determined in the same manner as the reasonable cost of other ancillary services furnished by the hospital, as specified in § 405.452(b)(1).

4. Section 405.452 is amended by reprinting the introductory language in paragraph (b) and adding new paragraph (b)(3); redesignating and reprinting paragraphs (d)(3) through (d)(10) as paragraphs (d)(5) through (d)(12), adding new paragraphs (d)(3), and (d)(4), and revising redesignated paragraphs (d)(9) and (d)(10); and adding new paragraph (e)(6), as follows:

§ 405.452 Determination of cost of services to beneficiaries.

* * * * *

(b) *Principle for cost reporting periods starting after December 31, 1971.* Total allowable costs of a provider shall be apportioned between program beneficiaries and other patients so that the share borne by the program is based upon actual services received by program beneficiaries. For cost reporting periods starting after December 31, 1971, the methods of apportionment are defined as follows:

* * * * *

(3) *Carve out method.* (i) The carve out method is used to allocate hospital inpatient general routine service costs in a participating swing-bed hospital, as defined in § 405.434(b). Under this method, the total costs attributable to the SNF-type and ICF-type services furnished to all classes of patients are subtracted from total general routine inpatient service costs before computing the average cost per diem for general routine hospital care.

(ii) The cost per diem attributable to the routine SNF-type services furnished by a swing-bed hospital is based on the reasonable cost per diem for services determined in accordance with § 405.434.

(iii) The cost per diem attributable to the routine ICF services furnished by the swing-bed hospital is determined as follows:

(A) If the hospital is located in a State that provides for ICF services under Medicaid, the cost per diem for ICF services furnished by a swing-bed hospital in that State is based on the Statewide average rate paid for routine services in ICFs (other than ICFs for the mentally retarded) during the preceding calendar year under the State Medicaid plan. The Statewide average rate will be computed either by the State and furnished to HCFA, or by HCFA directly based on the best available data.

(B) If the hospital is located in a State that does not provide for ICF services under Medicaid or that does not have a Medicaid program, the cost per diem for ICF services will be based on the average ratio of the ICF rate to the SNF rate in those States that provide for both SNF and ICF services under Medicaid. The ratio will be applied to the SNF cost per diem determined under paragraph (b)(3)(ii) of this section.

(iv) The sum of (A) total SNF-type days furnished to all classes of patients multiplied by the SNF cost per diem and (B) total ICF-type days furnished to all classes of patients multiplied by the appropriate ICF cost per diem will be subtracted from inpatient general

routine service costs. The cost per diem for inpatient general routine hospital care will be based on the remaining general routine service costs, taking into account, to the extent pertinent, an inpatient routine nursing salary cost differential (see § 405.430 for definition and application of this differential).

(v) Costs other than general inpatient routine service costs will be determined in the same manner as specified in the Departmental Method in paragraph (b)(1) of this section.

* * * * *

(d) *Definitions.*

* * * * *

(3) *SNF-type services.* SNF-type services are routine services furnished by a swing-bed hospital that would constitute extended care services if furnished by a skilled nursing facility. SNF-type services include routine services furnished in the distinct part SNF of a hospital complex that is combined with the hospital general routine service area cost center under § 405.453(d)(5).

(4) *ICF-type services.* ICF-type services are routine services furnished by a swing-bed hospital that would constitute intermediate care facility (ICF) services, as defined in § 440.150 of this chapter, if furnished by an ICF. ICF-type services are not covered under the Medicare program.

(5) *Ancillary services.* Ancillary services or special services are the services for which charges are customarily made in addition to routine services.

(6) *Charges.* Charges refer to the regular rates for various services which are charged to both beneficiaries and other paying patients who receive the services. Implicit in the use of charges as the basis for apportionment is the objective that charges for services be related to the cost of the services.

(7) *Cost.* Cost refers to reasonable cost as described in § 405.451.

(8) *Ratio of beneficiary charges to total charges on a departmental basis.* Ratio of beneficiary charges to total charges on a departmental basis, as applied to inpatients, means the ratio of inpatient charges to beneficiaries of the health insurance program for services of a revenue-producing department or center to the inpatient charges to all inpatients for that center during an accounting period. After each revenue-producing center's ratio is determined, the cost of services rendered to beneficiaries of the health insurance program is computed by applying the individual ratio for the center to the cost of the related center for the period.

(9) *Average cost per diem for routine services.*

(i) *Average cost per diem for routine services; general principle.* The average cost per diem for general routine services means the amount computed by dividing the total allowable inpatient cost for routine services (excluding the cost of services provided in intensive care units, coronary care units, and other intensive care type inpatient hospital units as well as nursery costs) by the total number of inpatient days of care (excluding days of care in intensive care units, coronary care units, and other intensive care type inpatient hospital units and newborn days) rendered by the provider in the accounting period.

(ii) *Average cost per diem for inpatient general routine hospital services in swing-bed hospitals.* The average cost per diem for inpatient general routine hospital services in swing-bed hospitals means the amount computed by (A) subtracting the costs attributable to SNF-type and ICF-type services from the total allowable inpatient cost for routine services (excluding the cost of services provided in intensive care units, coronary care units, and other intensive care type inpatient hospital units, and nursery costs), and (B) dividing the remainder by the total number of inpatient hospital days of care (excluding SNF-type and ICF-type days of care, days of care in intensive care units, coronary care units, and other intensive care type inpatient hospital units, and newborn days) furnished by the provider in the accounting period.

(10) *Average cost per diem for hospital intensive care type units.* Average cost per diem for intensive care units, coronary care units; and other intensive care type inpatient hospital units as defined in paragraph (d)(12) of this section means the amount computed by dividing the total allowable costs for routine services in each (see paragraph (b)(1) of this section), or the aggregate (see paragraph (b)(2) of this section), of these units by the total number of inpatient days of care rendered in each or the aggregate of these units.

(11) *Ratio of beneficiary charges for ancillary services to total charges for ancillary services.* With respect to cost reporting years starting before January 1, 1972, the ratio of beneficiary charges for ancillary services to total charges for ancillary services, as applied to inpatients, means the ratio of the total inpatient charges for covered ancillary services rendered to beneficiaries of the health insurance program to the total inpatient charges for ancillary services to all patients during an accounting period. This ratio is applied to the allowable inpatient ancillary costs for the period to determine the amount of reimbursement to a provider for the covered ancillary services rendered to beneficiaries. With respect to cost reporting periods starting after December 31, 1971, the ratio of beneficiary charges for ancillary services to total charges for ancillary services, as applied to inpatients, means the ratio of the total inpatient charges for covered ancillary services rendered to beneficiaries of the health insurance program to the total inpatient charges, excluding delivery room charges, for ancillary services to all patients during an accounting period. This ratio is applied to the allowable inpatient ancillary costs for the period, excluding delivery room costs, to determine the amount of reimbursement to a provider for the covered ancillary services rendered to beneficiaries.

(12) *Intensive care type inpatient hospital unit.*

* * * * *

(e) *Application.*

* * * * *

(6) *Carve out method.* The following illustrates how apportionment is determined in a hospital reimbursed under the carve out method:

HOSPITAL K

[Determination of cost of routine SNF-type and ICF-type services and general routine hospital services[1]]

Facts	Days of care		
	General routine hospital	SNF-type	ICF-type
Total days of care	2000	400	100
Medicare days of care	600	300	
Average medicaid rate	N/A	$35	$20

Total inpatient general routine service costs: $250,000.

Calculation of cost of routine SNF-type services applicable to medicare:
$35×300=$10,500

Calculation of cost of general routine hospital services:
Cost of SNF-type services: $35×400 ..... $14,000
Cost of ICF-type services: $20×100 2,000
Total $16,000

Average cost per diem of general routine hospital services:
$250,000−$16,000÷2,000 days=$117

Medicare general routine hospital cost:
$117×600=$70,200

Total medicare reasonable cost for general routine inpatient days:
$10,500+$70,200=$80,700

[1] An inpatient general routine nursing salary cost differential adjustment factor, as defined and illustrated in § 405.430, is applicable to the cost of inpatient general routine hospital days. The factor is not applicable to the cost of SNF days.

* * * * *

5. Section 405.453 is amended by adding a new paragraph (d)(5) to read as follows:

§ 405.453 Adequate cost data and cost finding.

* * * * *

(d) *Cost finding methods.* * * *

(5) *Simplified optional reimbursement method for small, rural hospitals with distinct parts for cost reporting periods beginning on or after [the effective date of the regulations].* (i) A rural hospital with a Medicare-certified distinct part SNF may elect to be reimbursed for services furnished in its hospital general routine service area and distinct part skilled nursing facility (SNF) using the reimbursement method specified in § 405.452(b)(3) for swing-bed hospitals, if it meets the following conditions: (A) The institution is located in a rural area as defined in § 405.1041, and (B) On the first day of the cost reporting period, the hospital and distinct part SNF have fewer than 50 beds in total (with the exception of beds for newborns and beds in intensive care type inpatient units).

(ii) In applying the optional reimbursement method, only those beds located in the hospital general routine service area and in the distinct part SNF certified by Medicare are combined into a single cost center for purposes of cost finding.

(iii) The reasonable costs of the routine extended care services will be determined in accordance with § 405.434(c). The reasonable cost of the hospital general routine services will be determined in accordance with § 405.452(b)(3).

(iv) The hospital must make its election to use the optional swing-bed reimbursement method in writing to the intermediary before the beginning of the hospital's cost reporting year. The hospital must make any request to revoke the election in writing before the beginning of the affected cost reporting period.

(v) The intermediary must approve requests to terminate use of the optional swing-bed reimbursement method. If a hospital terminates use of this optional method, no further elections may be made by the facility to use the optional method.

C. In Part 405, Subpart J is amended as set forth below.

1. The table of contents for Subpart J is amended by adding a new § 405.1041 as set forth below:

405.1041 Conditions of participation—Special requirements for hospital providers of long-term care services ("swing-beds").

Authority: Secs. 1102, 1861(c), (f), and (g); 1864, 1871 and 1883; 49 Stat. 647, as amended; 79 Stat. 314–316, 79 Stat. 326; 79 Stat. 331; 42 U.S.C. 1302, 1395x(c), (f), and (g); 1395aa, 1395hh, and 1395tt, unless otherwise noted.

2. A new § 405.1041 is added to read as follows:

§ 405.1041 Conditions of participation—Special requirements for hospital providers of long-term care services ("swing-beds")

A hospital that has a Medicare provider agreement must meet the following requirements in order to be granted an approval from HCFA to provide post-hospital extended care services, as specified in § 405.120, and be reimbursed as a swing-bed hospital, as specified in § 405.434:

(a) *Standard: Eligibility.* A hospital must meet the following eligibility requirements: (1) The facility has fewer than 50 hospital beds, excluding beds for newborns and beds in intensive care type inpatient units (for eligibility of hospitals with distinct parts electing the optional reimbursement method, see § 405.453(d)(5));

(2) The hospital is located in a rural area. This includes all areas not delineated as "urban" by the Census Bureau, based on the most recent census;

(3) When applicable, the hospital has been granted a certificate of need for the provision of long-term care services from the State health planning and development agency (designated under section 1521 of the Public Health Service Act) for the State in which the hospital is located;

(4) The hospital does not have in effect a 24-hour nursing waiver granted under § 405.1910(c); and

(5) The hospital has not had a swing-bed approval terminated within the two years previous to application.

(b) *Standard: Skilled nursing facility services.* The facility is substantially in compliance with the following skilled nursing facility requirements contained in Subpart K of this part:

(1) Patients' rights (§ 405.1121(k)(2), (3), (4), (7), (8), (10), (11), (13), and (14);

(2) Specialized rehabilitative services (§ 405.1126(a), (b), and (c));

(3) Dental services (§ 405.1129);

(4) Social services (§ 405.1130);

(5) Patient activities (§ 405.1131); and

(6) Discharge planning (§ 405.1137(h)).

D. In Part 405, Subpart P is amended as set forth below. The authority citation for Subpart P reads as follows:

Authority: Secs. 1102, 1814, 1835, 1871, and 1883, 49 Stat. 647 as amended; 79 Stat. 294; 79 Stat. 303; 79 Stat. 331; 42 U.S.C. 1302, 1395f, 1395n, 1395hh, 1395tt, unless otherwise noted.

1. Section 405.1632 is amended by adding a new paragraph (d) as follows:

§ 405.1632 Post-hospital extended care services; certification and recertification.

* * * * *

(d) For purposes of this section, the term "skilled nursing facility" also includes a participating hospital with a swing-bed approval.

E. In Part 405, Subpart S is amended as set forth below. The authority citation for Subpart S reads as follows:

Authority: Secs. 1102, 1814, 1861, 1871; 42 U.S.C. 1302, 1395f, 1395x, 1395hh.

1. Section 405.1910 is amended by revising the section title and paragraphs (a) and (c) and adding a new paragraph (d) to read as follows:

§ 405.1910 Temporary waivers applicable to hospitals.

(a) *General provisions.* If a hospital is found to be out of compliance with one or more conditions of participation for hospitals, as specified in Subpart J of this part, a temporary waiver may be granted by HCFA. HCFA may extend a temporary waiver only if such a waiver would not jeopardize or adversely affect the health and safety of patients. The waiver may be issued for any one year period or less under certain circumstances. The waiver may be withdrawn earlier if HCFA determines this action is necessary to protect the health and safety of patients. A waiver may be granted only if:

(1) The hospital is located in a rural area. This includes all areas not delineated as "urban" by the Bureau of the Census, based on the most recent census;

(2) The hospital has 50 or fewer inpatient hospital beds;

(3) The character and seriousness of the deficiencies do not adversely affect the health and safety of patients; and

(4) The hospital has made and continues to make a good faith effort to comply with personnel requirements consistent with any waiver.

* * * * *

(c) *Temporary waiver of 24-hour nursing requirement of 24-hour registered nurse requirement.* HCFA may waive the requirement contained in section 1861(e)(5) that a hospital must provide 24-hour nursing service furnished or supervised by a registered nurse. Such a waiver may be granted when the following criteria are met:

(1) The hospital's failure to comply fully with the 24-hour nursing requirement is attributable to a temporary shortage of qualified nursing personnel in the area in which the hospital is located.

(2) A registered nurse is present on the premises to furnish or supervise the nursing services during at least the daytime shift, 7 days a week.

(3) The hospital has in charge, on all tours of duty not covered by a registered nurse, a licensed practical (vocational) nurse.

(4) The hospital complies with all requirements specified in paragraph (a) of this section.

(d) *Temporary waiver for technical personnel.* HCFA may waive technical personnel requirements, issued under section 1861(e)(9) of the Act, contained in the Conditions of Participation; Hospitals (Subpart J of this part). Such a waiver must take into account the availability of technical personnel and the educational opportunities for technical personnel in the area in which the hospital is located. HCFA may also limit the scope of services furnished by a hospital in conjunction with the waiver in order not to adversely affect the health and safety of the patients. In addition, the hospital must also comply with all requirements specified in paragraph (a) of this section.

PART 435—ELIGIBILITY IN THE STATES, DISTRICT OF COLUMBIA, AND THE NORTHERN MARIANA ISLANDS

A. In Part 435, Subpart K, § 435.1009 is amended by revising the definition of "Resident of an intermediate care facility" as set forth below. The authority for Subpart K reads as follows:

Authority: Sec. 1102 of the Social Security Act; 42 U.S.C. 1302.

§ 435.1009 Definitions relating to institutional status.

* * * * *

"Resident of an intermediate care facility" is an individual who is—

(1) In need of and receiving professional services to maintain, improve, or protect health or lessen disability or pain under the direction of a practitioner of the healing arts;

(2) Admitted to an intermediate care facility in accordance with §§ 450.370 through 450.381 of this subchapter, or receiving ICF services in a hospital with a swing-bed approval in accordance with § 447.280 of this chapter;

(3) Under care and supervision 24 hours a day; and

(4) If he or she is in an institution for the mentally retarded, receiving active treatment as defined in this section.

* * * * *

PART 440—SERVICES: GENERAL PROVISIONS

A. In Part 440, Subpart A is amended as set forth below. The authority for Subpart A reads as follows:

Authority: Sec. 1102 of the Social Security Act; 42 U.S.C. 1302.

1. Section 440.1 is revised to read as follows:

§ 440.1 Basis and purpose.

This subpart interprets section 1905(a) of the Act, which lists the services included in the term "medical assistance," sections 1905 (c), (d), (f)–(i), (l), and (m), which define some of those services, and section 1915(c), which lists as "medical assistance" certain home and community-based services provided under waivers under that section to individuals who would otherwise require institutionalization. It also implements sec. 1902(a)(43) with respect to laboratory services (see also §§ 447.10 and 447.342 for related provisions on laboratory services), and implements section 1913 of the Act with respect to "swing-bed" services (see related provisions in §§ 405.1041 and 447.280 of this chapter).

2. Section 440.10 is amended by adding a new paragraph (b) as set forth below:

§ 440.10 Inpatient hospital services, other than services in an institution for tuberculosis or mental diseases.

* * * * *

(b) Inpatient hospital services do not include SNF and ICF services furnished by a hospital with a swing-bed approval.

3. Section 440.40 is amended by revising paragraph (a)(1) as set forth below:

§ 440.40 Skilled nursing facility services for individuals age 21 or older (other than services in an institution for tuberculosis or mental diseases), EPSDT, and family planning services and supplies.

(a) *Skilled nursing facility services.* (1) "Skilled nursing facility services for individuals age 21 or older, other than services in an institution for tuberculosis or mental diseases," means services that are—

(i) Needed on a daily basis and required to be provided on an inpatient basis under §§ 405.127, 405.128, and 405.128a of this chapter;

(ii) Provided by (A) a facility or distinct part of a facility that is certified to meet the requirements for participation under Subpart C of Part 442 of this subchapter, as evidenced by a valid agreement between the Medicaid agency and the facility for providing skilled nursing facility services and making payments for services under the plan; or (B) if specified in the State plan, a swing-bed hospital that has an approval from HCFA to furnish skilled nursing facility services in the Medicare program; and

(iii) Ordered by and provided under the direction of a physician.

* * * * *

4. Section 440.150 is amended by adding new paragraph (f) as set forth below:

§ 440.150 Intermediate care facility services, other than in institutions for tuberculosis or mental diseases.

* * * * *

(f) Intermediate care facility services may include services provided in a swing-bed hospital that has an approval to furnish intermediate care services.

* * * * *

PART 442—STANDARDS FOR PAYMENT FOR SKILLED NURSING AND INTERMEDIATE CARE FACILITY SERVICES

A. In Part 442, Subpart A is amended as set forth below. The authority citation for Subpart A reads as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

§ 442.1(a) is amended by revising paragraphs (6) and (7) and adding a new paragraph (8). As revised, paragraph (a) reads as set forth below:

§ 442.1 Basis and purpose.

(a) This part states requirements for provider agreements, facility certification, and facility standards relating to the provision of skilled nursing facility and intermediate care facility services to Medicaid recipients. The requirements apply to State Medicaid agencies and survey agencies and to the facilities. This part is based on the following sections of the Act:

(1) Section 1902(a)(4), administrative methods for proper and efficient operation of the State plan;

(2) Section 1902(a)(27), provider agreements;

(3) Section 1902(a)(28), skilled nursing facility standards;

(4) Section 1902(a)(33)(B), State survey agency functions;

(5) Section 1905 (c) and (d), definition of intermediate care facility services;

(6) Section 1905 (f) and (i), definition of skilled nursing facility services;

(7) Section 1910, participation of Medicare-certified skilled nursing facilities in Medicaid; and

(8) Section 1913, hospital providers of skilled nursing and intermediate care services.

* * * * *

B. In Part 442, Subpart B is amended as set forth below.

1. Section 442.15 is amended by adding a new paragraph (d) as follows:

§ 442.15 Duration of agreement.

* * * * *

(d) The limitation specified in paragraph (a) of this section does not apply to hospitals with a swing-bed approval.

PART 447—PAYMENTS FOR SERVICES

A. In Part 447, Subpart C is amended as set forth below.

1. The table of contents for Subpart C is amended by adding a new § 447.280, and a center heading immediately preceding the new section, as set forth below:

Swing-Bed Hospitals

447.280 Hospital providers of SNF and ICF services (swing-bed hospitals).

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302), unless otherwise noted.

2. Section 447.250 is revised as set forth below:

Subpart C—Payment for Inpatient Hospital and Long-Term Care Facility Services

§ 447.250 Basis and purpose.

Sections 447.251 through 447.265 of this subpart implement section 1902(a)(13)(A) of the Act, which requires that the State plan provide for payment for hospital and long-term care facility services through the use of rates that the State finds, and makes assurances satisfactory to the Secretary, are reasonable and adequate to meet the costs that must be incurred by efficiently and economically operated facilities to provide services in conformity with State and Federal laws, regulations, and quality and safety standards. Sections 447.271 and 447.272 implement section 1902(a)(30) of the Act, which requires that payments be consistent with efficiency, economy, and quality of care; and section 1903(i)(3), which requires that payments for inpatient hospital services not exceed the hospital's customary charges. Section 447.280 implements section 1913(b) of the Act, which concerns reimbursement for long-term care services furnished by swing-bed hospitals.

3. Section 447.252 is amended by adding a new subparagraph (a)(4) as set forth below:

§ 447.252 General requirements.

(a) Payment rates.* * *

(4) With respect to long-term care services furnished by a swing-bed hospital, the methods and standards used to determine payment rates must satisfy the requirements specified in § 447.280.

* * * * *

4. A new § 447.280 and a center heading immediately preceding it are added to read as follows:

Swing-Bed Hospitals

§ 447.280 Hospital providers of SNF and ICF services (swing-bed hospitals).

(a) If the State plan provides for SNF services furnished by a swing-bed hospital, as specified in § 440.40(a) of this chapter, the methods and standards used to determine payments rates must provide for payment for the routine SNF services at the average rate per patient day paid to SNFs for routine services furnished during the previous calendar year.

(b) If the State plan provides for ICF services furnished by a swing-bed hospital, as specified in § 440.150(f) of this chapter, the methods and standards used to determine payment rates must provide for payment for the routine ICF services at the average rate per patient day paid to ICFs, other than ICFs for the mentally retarded, for routine services furnished during the previous calendar year.

(Catalog of Federal Assistance Program, No. 13.714, Medicaid—Medical Assistance Program, No. 13.773; Medicare—Hospital Insurance Program)

Dated: May 12, 1982.

Paul Willging,

Acting Administrator, Health Care Financing Administration.

Approved: June 25, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-19427 Filed 7-19-82; 8:45 am]

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Satellites
Federal Communications Commission

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Presidential Documents

Title 3—

The President

Proclamation 4953 of July 19, 1982

Captive Nations Week, 1982

By the President of the United States of America

A Proclamation

During the past year, we have witnessed another tragic demonstration of the failure of tyranny to compete with the principles of freedom. The imposition of martial law in Poland on December 13, 1981, served as a bitter reminder that the quest for freedom and self-determination can only be restrained by force. It clearly demonstrated the moral bankruptcy of a system which has been unable to earn the support of its population after more than 35 years in power.

The same repression imposed on the Polish people is evidenced in various ways in other captive nations dominated by foreign military power and an alien Marxist-Leninist ideology. The brutal suppression of sovereignty in Afghanistan and the bondage of the captive peoples of Eastern Europe continue. Among the oppressed we must also count the peoples of many nationalities within the Soviet Union itself; they are victims of long decades of repression.

Twenty-three years ago, by a joint resolution approved July 17, 1959, (73 Stat. 212), the Congress authorized and requested the President to proclaim the third week in July as Captive Nations Week.

This week offers Americans an opportunity to honor our Nation's founders whose wisdom and commitment to self-determination and liberty have guided this country for more than 200 years. Let us once again reaffirm our faith that the aspiration for freedom will ultimately prevail over the rule of force and coercion which denies human rights to so many other parts of the world today.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate the week beginning July 18, 1982, as Captive Nations Week.

I invite the people of the United States to observe this week with appropriate ceremonies and activities and to reaffirm their dedication to the ideals which unite us and inspire others.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of July, in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 923

[Cherry Reg. 22]

Sweet Cherries Grown in Designated Counties in Washington; Grade, Size, Container and Pack Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation continues minimum grade, size, container and pack requirements on the handling of sweet cherries, other than Rainier, Royal Anne, and other light sweet cherries, grown in designated counties in the State of Washington. Such action is necessary to promote orderly marketing of suitable quality and sizes of fresh Washington cherries in the interest of producers and consumers.

EFFECTIVE DATE: Effective on and after July 21, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the Washington sweet cherry crop and would not substantially affect costs for the directly regulated handlers.

An interim rule was published in the **Federal Register** (47 FR 23684) on June 1, 1982, which specified grade, size, container, and pack requirements applicable to shipments of Washington State sweet cherries. That rule provided an opportunity to file comments through July 1, 1982. No comments were received. This final rule contains the same requirements as specified in the interim rule. The rule is effective on and after July 21, 1982.

The Washington cherry regulation is issued under the marketing agreement and Order No. 923 (7 CFR Part 923), regulating the handling of sweet cherries grown in designated counties in Washington. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Washington Cherry Marketing Committee, established under the order, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

Under the terms of the regulations, grade, size, container and pack requirements would be effective on and after July 21, 1982. Although the regulation would be effective for an indefinite period, the committee would continue to meet prior to and during each season and consider recommendations for modification, suspension, or termination of the regulation. Prior to making any such recommendations, the committee would submit to the Secretary a marketing policy for the season including an analysis of supply and demand factors having a bearing on the marketing of the crop. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate committee recommendations and information submitted by the committee, and other available information, and determine whether modifications, suspension, or termination of regulation of shipments of Washington sweet cherries would tend to effectuate the declared policy of the Act.

The three most important sweet cherry producing States in the U.S. are Washington, Oregon and California; of these three, Washington has been the leading State every year since 1970. Production for fresh use in California in 1981 was 24,000 tons, in Oregon was 6,600 tons, and in Washington was 29,300 tons. The Washington sweet cherry crop is primarily utilized as fresh.

The minimum grade and size requirements are designed to enhance the image of Washington sweet cherries and thereby improve sales and returns to growers. The shipment of low quality fruit disrupts orderly marketing because low quality fruit undermines buyer confidence in the quality of fruit sold in the markets. The grade and size requirements are designed to provide ample supplies of good quality fruit in the interest of producers and consumers. The container and pack requirements are designed to prevent deceptive packaging and to assure satisfactory arrival condition of fruit in the markets.

Based on current and anticipated market conditions, the Washington Cherry Marketing Committee finds that the regulations recommended will maximize benefits to producers and consumers by providing for good quality fruit and stable market conditions. Most Washington Sweet cherry sales are consummated by telephone with the buyer not seeing the fruit as it is initially purchased. Hence, establishment of acceptable quality and container standards are important in successfully marketing the crop. These requirements are essentially the same as those in effect in prior years except that beginning with the 1982 marketing season, additional containers are authorized for use in shipping sweet cherries.

It is found that it is impracticable and contrary to the public interest to postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), and that good cause exists for making these regulatory provisions effective as specified in that: (1) an interim rule was published in the **Federal Register** (47 FR 23684) and no comments were received during the period provided; (2) the requirements of this final rule are the same as those currently in effect; and (3) the requirements will not require any additional preparation by handlers which cannot be effective by the date hereof.

List of Subjects in 7 CFR Part 923

Marketing Agreements and Orders, Cherries, Washington.

Therefore, a new § 923.322 is added under a new subpart heading *Grade,*

Size, Container and Pack Regulation to read as follows:

§ 923.322 Cherry Regulation 22.

(a) On and after July 21, 1982, no handler shall handle, except as otherwise provided in paragraphs (b), (c) and (d) of this section, any lot of cherries, except cherries of the Rainier, Royal Anne, and similar varieties commonly referred to as "light sweet cherries", unless such cherries meet each of the following applicable requirements:

(1) Washington No. 1 grade except that the following tolerances, by count, of the cherries in the lot shall apply in lieu of the tolerances for defects provided in the Washington State Standards for Grades of Sweet Cherries: *Provided,* That a total of 10 percent for defects including in this amount not more than 5 percent, by count, of the cherries in the lot, for serious damage, and including in this latter amount not more than one percent, by count, of the cherries in the lot, for cherries affected by decay: *Provided further,* That the contents of individual packages in the lot are not limited as to the percentage of defects but the total of the defects of the entire lot shall be within the tolerances specified.

(2) At least 95 percent, by count, of the cherries in the lot shall measure not less than $^{4}/_{64}$ inch in diameter, except as hereinafter provided in paragraph (b)(2)(ii) and paragraph (a)(3) of this section.

(3) At least 90 percent, by count, of the cherries in any lot of face-packed containers or any containers of 20 pounds, net weight, or more shall measure not less than $^{5}/_{64}$ inch in diameter and not more than 5 percent, by count, of such cherries may be less than $^{4}/_{64}$ inch in diameter.

(b) *Containers.* On and after July 21, 1982, no handler shall handle any lot of cherries, except cherries of the Rainier, Royal Anne, and similar varieties commonly referred to as "light sweet cherries", unless such cherries are in containers which meet each of the following applicable requirements:

(1) The net weight of loose packed (jumble-filled) cherries in any container shall be 12 pounds or 20 pounds, or greater. The net weight of face-packed cherries in any container shall be 15 pounds.

(2) Subject to the provisions of paragraphs (b)(2) (i) and (ii) of this section, shipments of cherries may be handled in such experimental containers as have been approved by the Washington Cherry Marketing Committee.

(i) All shipments handled in such containers shall be under the supervision of the committee; and

(ii) At least 90 percent, by count, of the cherries in any lot of such containers shall measure not less than $^{5}/_{64}$ inch in diameter, and not more than 5 percent, by count, of such cherries may be less than $^{4}/_{64}$ inch in diameter.

(c) *Pack.* (1) When containers of cherries are marked with one of the row count/row size designations shown in Column 1 of the following table, at least 90 percent, by count, of the cherries in any lot shall be not smaller than the corresponding diameter shown in Column 2 of such table: *Provided,* That of the 10 percent smaller cherries permitted not more than 5 percent, by count, may be smaller than $^{5}/_{64}$ inch in diameter.

TABLE

Column 1, row count/row size	Column 2, diameter (inches)
9	$^{7}/_{64}$
10	$^{6}/_{64}$
11	$^{5}/_{64}$

(2) When containers of cherries are marked with a minimum diameter of $^{5}/_{64}$ inch, at least 90 percent, by count, of the cherries in any lot shall be not smaller than such minimum diameter: *Provided,* That of the 10 percent smaller cherries permitted not more than 5 percent, by count, may be smaller than $^{4}/_{64}$ inch in diameter.

(3) When containers of cherries are marked with a minimum diameter larger than $^{5}/_{64}$ inch, at least 90 percent, by count, of the cherries in any lot shall be not smaller than the diameter so marked: *Provided,* That of the 10 percent smaller cherries permitted not more than 5 percent, by count, may be smaller than $^{5}/_{64}$ inch in diameter.

(d) *Exceptions.* Any individual shipment of cherries which meets each of the following requirements may be handled without regard to the provisions of paragraphs (a), (b), and (c) of this section, and of §§ 923.41 and 923.55 of this part:

(1) The shipment consists of cherries sold for home use and not for resale;

(2) The shipment does not, in the aggregate, exceed 100 pounds, net weight, of cherries; and

(3) Each container is stamped or marked with the words "not for resale" in letters at least one-half inch in height.

(e) *Definitions.* When used herein, "Washington No. 1" and "diameter" shall have the same meaning as when used in the Washington State Standards for Grades of Sweet Cherries (Order 1550 effective April 29, 1978, WAC 16-414-050); "face packed" means that cherries in the top layer in any container are so placed that the stem ends are pointing downward toward the bottom of the container; "row count/row size" means the number of cherries of a uniform size necessary to pack row-faced across a 10½ inch inside width container or comparable number of cherries when packed loose in a container.

Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674))

Dated: July 16, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-19646 Filed 7-20-82; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 508

Powerplant and Industrial Fuel Use Act of 1978; Electric Utility Conservation Plan

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of effectiveness.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is issuing this notice to announce the effectiveness of its final rule, 10 CFR Part 508 (47 FR 25729 (June 15, 1982)) ("final rule") implementing the new section 808 of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA), which was added to FUA by section 1023 of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97-35. Section 808 of FUA and ERA's implementing rules require certain electric utilities which have used and intend to continue to use natural gas as a primary energy source to submit conservation plans to DOE.

EFFECTIVE DATE: The final rule shall be effective as of July 21, 1982.

FOR FURTHER INFORMATION CONTACT:
Clifford Tomaszewski, Fuels Conservation Division, Office of Fuels Programs, Economic Regulatory Administration, Department of Energy, Room GA-073F, 1000 Independence Avenue, S.W., Washington, D.C. 20585 (202) 252-1251
Henry K. Garson, Assistant General Counsel for Coal Regulations (GC-14), Office of the General Counsel, Department of Energy, Room 6B-178,

1000 Independence Avenue, S.W., Washington, D.C. 20585 (202) 252–2967

SUPPLEMENTARY INFORMATION: ERA's final rule under section 808 of FUA, 10 CFR Part 508 (47 FR 25729 (June 15, 1982)), sets forth the procedures for submission of conservation plans to DOE and establishes the substantive requirements for such plans. The purpose of this notice is to announce the immediate effectiveness of that final rule.

Issued in Washington, D.C., on July 12, 1982.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

[FR Doc. 82–19725 Filed 7–20–82; 8:45 am]

BILLING CODE 6450–01–M

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Docket No. R–0412; Reg. Q]

Interest on Deposits; Temporary Suspension of Early Withdrawal Penalty

AGENCY: Federal Reserve System.

ACTION: Temporary suspension of the Regulation Q early withdrawal penalty.

SUMMARY: The Board of Governors, acting through its Secretary, pursuant to delegated authority, has suspended temporarily the Regulation Q penalty for the withdrawal of time deposits prior to maturity from member banks for depositors affected by severe storms and flooding in Washington Township in Jackson County, Kansas, and Rossville Township in Shawnee County, Kansas.

EFFECTIVE DATE: June 28, 1982.

FOR FURTHER INFORMATION CONTACT: Daniel L. Rhoads, Attorney (202/452–3711) or Beverly A. Belcamino, Attorney (202/452–3623).

SUPPLEMENTARY INFORMATION: On June 28, 1982, pursuant to section 301 of the Disaster Relief Act of 1974 (42 U.S.C. 5141) and Executive Order 12148 of July 15, 1979, the President, acting through the Director of the Federal Emergency Management Agency, designated Washington Township in Jackson County, Kansas, and Rossville Township in Shawnee County, Kansas major disaster areas. The Board regards the President's action as recognition by the Federal Government that a disaster of major proportions had occurred. The President's designation enables victims of the disaster to qualify for special emergency financial assistance. The Board believes it appropriate to provide an additional measure of assistance to victims by temporarily suspending the Regulation Q early withdrawal penalty (12 CFR 217.4(d)). The Board's action permits a member bank, wherever located, to pay a time deposit before maturity without imposing this penalty upon a showing that the depositor has suffered property or other financial loss in the disaster area as a result of the severe storms and flooding beginning on or about June 8, 1982. A member bank should obtain from a depositor seeking to withdraw a time deposit pursuant to this action a signed statement describing fully the disaster-related loss. This statement should be approved and certified by an officer of the bank. This action will be retroactive to June 28, 1982, and will remain in effect until 12 midnight, December 28, 1982.

List of Subjects in 12 CFR Part 217

Advertising; Banks, banking; Federal Reserve System; Foreign Banking.

In view of the urgent need to provide immediate assistance to relieve the financial hardship being suffered by persons in the designated townships of Kansas directly affected by the severe storms and flooding, good cause exists for dispensing with the notice and public participation provisions in section 553(b) of Title 5 of the United States Code with respect to this action. Because of the need to provide assistance as soon as possible and because the Board's action relieves a restriction, there is good cause to make this action effective immediately.

By order of the Board of Governors, acting through its Secretary, pursuant to delegated authority, July 16, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82–19766 Filed 7–20–82; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

Federal Old-Age, Survivors and Disability Insurance Benefits

AGENCY: Social Security Administration, HHS.

ACTION: Final Rules.

SUMMARY: The Department of Health and Human Services is revising its regulations to provide that, in certain cases, a disabled person who has medically recovered will not have his or her disability benefits terminated if he or she is participating in an approved vocational rehabilitation program under a State plan approved under Title I of the Rehabilitation Act of 1973. These revisions implement the change made by section 301 of the Social Security Disability Amendments of 1980, Pub. L. 96–265, and apply to disabled workers, persons disabled before age 22, and disabled widow(er)s under title II and disabled persons under title XVI, whose disabilities did not end before December 1, 1980. The changes provide for continuation of payment of cash benefits after disability ceases within the meaning of the Social Security Act (the Act), although some residual functional limitation remains, to those persons who are enrolled in a vocational rehabilitation (VR) program and who were not, at the beginning of the program, expected to medically recover before the scheduled completion date of the program.

EFFECTIVE DATE: These rules will be effective July 21, 1982.

FOR FURTHER INFORMATION CONTACT: Harry J. Short, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Md. 21235, telephone (301) 594–7337.

SUPPLEMENTARY INFORMATION: The Social Security Disability Amendments of 1980 change the title II and title XVI disability programs regarding payment of benefits to persons who recover medically while engaged in a program of vocational rehabilitation (VR). Section 301 of the amendments provides that disability benefits under title II or title XVI shall not be terminated or suspended because the physical or mental impairment on which the person's entitlement is based has or may have ceased if (1) the person is participating in an approved VR program under a State plan approved under Title I of the Rehabilitation Act of 1973 and (2) the Commissioner of Social Security has determined that completion of the program, or its continuation for a specified period, will significantly increase the likelihood that the person will be permanently removed from the diability rolls. An approved vocational rehabilitation program under a State plan approved under title I of the Rehabilitation Act of 1973 (an appropriate program) is one that meets the requirements and specifications of 45 CFR 1361.2 and 1361.39. These sections describe the general requirements for a State to be eligible for grants under title I of the Rehabilitation Act, and the specifications for an individualized written rehabilitation program.

Background

Prior to passage of the Social Security Disability Amendments of 1980, persons who were participating in a VR program were eligible for disability benefits only so long as they continued to meet the definition of disability for the title II and title XVI programs. Some of these people who no longer meet the definition of disability may still have some residual functional limitation from the impairment. Even in cases where continuation in a VR program might have substantially improved a person's chances of returning to productive employment permanently, his or her disability benefits were ended when he or she was no longer considered disabled within the meaning of the Act. As a result, some persons who no longer met the definition of disability but who still had some functional limitation were forced to discontinue participation in a VR program.

Regulatory Provisions

In order to obtain the public's views and comments before proceeding with these amendments, we published proposed rules along with a Notice of Proposed Rulemaking in the **Federal Register** on October 30, 1981 (46 FR 53684). Interested persons and organizations were invited to submit comments within 60 days of the date of publication of the notice. We have carefully considered all the comments we received pertaining to the proposed amendments and we respond to the issues raised by the comments later in this preamble.

These regulations apply to title II disability insurance benefits, disabled child's insurance benefits, disabled widow/widower's insurance benefits, and title XVI supplemental security income (SSI) benefits based on disability and reflect and implement Section 301 of Pub. L. 96–265, the Social Security Disability Amendments of 1980. These regulations do not apply to persons who are receiving title XVI benefits because of blindness. The language in Section 301 of the Social Security Disability Amendments of 1980 relating to the SSI program refers only to those aged, blind, or disabled individuals receiving benefit payments solely by reason of disability. The SSI program treats disabled and blind as two different and distinct categories. Each category has several provisions not in common with the other category.

The regulations provide that a person may continue to receive cash benefits after medical recovery if some residual functional limitation remains, he or she is participating in an appropriate VR program, and the Commissioner of Social Security has determined that completion of or continuation for a specified period of time in the program will significantly increase the likelihood that the person will not again have to return to the disability rolls. The regulations also provide that benefits to a person's spouse and children will continue while a person remains in the VR program and meets all other requirements for a continued payment of benefits. For purposes of establishing a disability "freeze" on the earnings records of disabled workers receiving title II disability benefits, the period of disability will end two months after disability ceases, as at present.

To effect these changes, we have changed the rules in §§ 404.316, 404.337, 404.352, 404.902, 404.1596, 404.1597, 416.1321, 416.1331, and 416.1402. We also have added a new § 416.1338 to show under what conditions an SSI recipient may continue to receive benefits if he or she is in an appropriate VR program. In §§ 404.902 and 416.1402, we provide that determinations as to whether a person's completion of or continuation for a specified period of time in a VR program will significantly increase the likelihood that he or she will not have to return to the disability benefit rolls (and thus whether benefits may be continued) are initial determinations and subject to administrative and judicial review. We also added a statement to § 416.1402 to show that determinations relating to a person's disability are also initial determinations. In §§ 404.1596 and 416.1321 we explain the circumstances under which we will not suspend a person's benefits if he or she is participating in an appropriate VR program. In §§ 404.1597 and 416.1331 we make clear that a person may appeal a determination that he or she is not disabled while continuing to receive benefits because of his or her continued participation in an appropriate VR program, or that he or she is not entitled to receive benefits even though continuing to participate in an appropriate VR program.

The changes we have made stress throughout that a person must have begun participating in the VR program before his or her disability ended and reflect the intent of Congress that in most cases medical cessation of disability will result in the termination of benefits.

Further, the regulations expressly limit the provisions to those persons who were not expected, at the beginning of the program, to recover medically before the end of the program. The Conference Report (House of Representatives Report No. 96–944, 96th Congress, Second Session) makes clear that the provisions are expected to be so limited. It states on page 52:

> It is the intent of the provision to consider only those exceptional cases where the disabled beneficiary is not expected at the beginning of the program to recover medically before the end of the program, but he or she does recover and is no longer considered disabled within the meaning of the Social Security Act, although some residual functional limitation still remains.

Comments on Notice of Proposed Rulemaking

Interested parties were given 60 days to submit comments on the proposed rules. We received comments from two sources—both advocacy groups.

Comment: Both writers objected to the requirement that, for disability payments to be continued after medical recovery, a person must not have been expected to recover medically before the scheduled completion date of the VR program. (Sections 404.316(c)(1)(iv), 404.337(c)(1)(iv), 404.352(c)(1)(iv), 404.1596(c)(4)(iv), 416.1321(d)(4), and 416.1338(a)(4).)

Both of the writers emphasize that vocational rehabilitation agencies primarily serve people who are expected to recover, and assert that by excluding those who are expected to recover from continued benefits under this rule, we are arbitrarily excluding the population that the law is intended to benefit. They point out that the statutory language does not specifically limit the provisions of section 301 (of Pub. L. 96–265) to those not expected, at the beginning of the program, to recover medically before the scheduled completion date of the program.

Response: In the preamble of the Notice of Proposed Rulemaking, we quoted the Conference Report, House of Representatives, Report No. 96–944 to explain this requirement. The law requires that the Commissioner of Social Security must determine whether the completion or continuation of the vocational rehabilitation program will increase the likelihood that the person will be permanently removed from the disability rolls. As the term "likelihood" refers to a degree of expectation, we looked to the legislative history for guidance in applying it to recovery cases. The conference report reconciled a difference between House and Senate versions of this law by affirming the responsibility of the Commissioner of Social Security to make "likelihood" determinations. The report then made the statement of intent on which we based the requirement to which the

commenters object. We believe that Congress intended that the Commissioner follow its expression of intent when making determinations of eligibility for continued payment of benefits under this provision. Not all persons who are expected to recover are excluded by the rule; only those who are expected to recover before their scheduled completion date of the vocational rehabilitation program.

Comment: One of the writers believes that the requirement that a person not be expected to recover medically before the expected completion date of his or her VR program will require SSA to conduct a separate prognostic medical review at the beginning of a VR program, in addition to those review made on initial application for benefits and as a result of periodic diaries.

Response: We do not intend to conduct a separate prognostic medical review of a person's medical condition when he or she begins a VR program to determine if that person can be expected to recover before the program will be completed. We believe that the evidence that will already be in a person's file at that time will be enough to permit us to make a determination of when a person may reasonably be expected to recover. We see no reason to change our existing procedures which provide for scheduling reexaminations on the basis of the person's medical condition and the judgement of the physician member of the State agency disability determination team. We believe the expectation of recovery to which the conference report referred is that which is obtained from medical evidence submitted or solicited following a person's initial application for benefits, as well as that obtained through periodic reexaminations based on the person's medical condition.

Comment: One of the writers pointed out that some persons who are expected to recover medically do not, in fact, recover.

Response: We agree that some persons do not recover as expected. However, this provision applies only to those persons who do recover. It has no effect on those who do not recover. Their benefits would normally be continued because they are still disabled whether or not they participate in a VR program.

Comment: Both writers objected to the provision that payments will be stopped if a person stops participating in his or her VR program "for any reason". The writers point out that persons may stop their participation for reasons beyond their control. (Sections 404.316(c)(2)(ii), 404.337(c)(2)(ii), 404.352(c)(2)(ii), and 416.1338(b)(2).)

Response: We agree that this can occur. We base our rule on the unqualified requirement in the law that the person must be participating in order to be eligible for continued payments. We interpret "participation" as referring to the person's status as an active client of the State vocational rehabilitation agency. Our procedures require information about the person's client status. Unforeseen interruptions, such as lags in the appropriation of funds or unavoidable personal responsibilities, would not require termination of payments if the State agency certifies that the person is an active client and services are continuing. If the person is not an active client, however, we will not consider the reasons for the nonparticipation and will terminate payments under this provision. However, we did revise sections 404.316(c)(2), 404.337(c)(2), 404.352(c)(2), 404.1586(f)(2), and 416.1338(b) to clarify that nonparticipation will not be a basis for stopping benefits with a month earlier than the second month after the month a person's disability ends.

Comment: One of the writers objected to the provision in the proposed regulations permitting us to stop benefits with the month that *we* determine that participation in the program will no longer significantly increase the likelihood that the person will be permanently removed from the disability benefit rolls. The writer is concerned that the decision-maker will make arbitrary decisions without consultation with the claimant or the vocational rehabilitation counselor. (Sections 404.316(c)(2)(iii), 404.337(c)(2)(iii), 404.352(c)(2)(iii), and 416.1338(b)(3).)

Response: The decision we will make under this provision is identical to the decision we make when we determine that a person's completion or continuation in a VR program will significantly increase the likelihood that the person will not have to return to the disability benefit rolls. (Sections 404.316(c)(1)(vi), 404.337(c)(1)(vi), 404.352(c)(1)(vi), and 416.1338(a)(6).)

This is because, although there may be a change in the vocational rehabilitation program it must continue to meet the same criteria. Our procedures call for a review of the program's criteria if we learn from the vocational rehabilitation agency that there is a significant change in the program objective. All available information will be reviewed to determine whether or not the objective of increasing the likelihood that a person will not have to return to the disability benefit rolls is still being met.

Additional Changes

We added a new paragraph (f) to § 404.1586 to show that a statutorily blind person receiving title II disability benefits who no longer meets the definition of blindness may continue to receive those benefits if he or she is in an appropriate VR program. This change was inadvertently omitted from the proposed rules.

We deleted the proposed paragraph (a) of § 416.1331 (Termination of your disability or blindness payments), which would have stated that we will find that a person's disability ends with the month in which he or she no longer meets the requirements for disability or blindness. Upon our own further review of § 416.1331 we realized that the discussion in the proposed paragraph (a) is not necessary in this section (which discusses payments) since this is already covered in Subpart I.

We also added a phrase to §§ 404.1596(c)(4), 404.1597 and 416.1321(d) and to the heading of § 416.1338(a) to clearly indicate that the provision for continued payment of benefits applies only to disability cases in which payments would otherwise be stopped because of medical recovery.

Other changes that were also made by the Social Security Disability Amendments of 1980, i.e., the provision extending the length of time during which a disability beneficiary may test his or her ability to work, will affect some of the provisions changed by these regulations. Those changes will be published with notice of proposed rulemaking in the near future.

Executive Order 12291

The costs associated with individuals enrolled in vocational rehabilitation programs are minimal. Specifically, total costs in FY 1981 were less than $200,000. Therefore, these regulations do not meet the criteria specified in Executive Order 12291 for a major regulation and no regulatory impact analysis is required.

Paperwork Reduction Act

The additional data we need to determine a person's eligibility under the provisions of these regulations will normally have to be obtained from the State VR agency. The form which States will be asked to use to report this information, Form SSA–4290, Vocational Rehabilitation "301" Program Development, has been approved by OMB (OMB No. 0960–0282).

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities

because these rules affect only individuals. Therefore, a regulatory flexibility analysis required under Pub. L. 96–354, the Regulatory Flexibility Act of 1980, is not necessary.

These amendments are hereby adopted as set forth below.

(Catalog of Federal Domestic Assistance Program No. 13.802, Disability Insurance; No. 13.807, Supplemental Security Income Program)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Death benefits, Disabled, Old-Age, Survivors and Disability Insurance, Social Security Administration.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disabled, Public assistance programs, Social Security Administration, Supplemental Security Income (SSI).

Dated: May 19, 1982.

John A. Svahn,

Commissioner of Social Security.

Approved: July 6, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

PART 404—FEDERAL OLD AGE SURVIVORS AND DISABILITY INSURANCE (1950–)

Part 404 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

Subpart D—Old-Age, Disability, Dependents' and Survivors' Insurance Benefits; Period of Disability

1. The authority citation for Subpart D of Part 404 is revised to read as follows:

Authority: Secs. 202, 205, 216, 223, 225, 228, 1102 of the Social Security Act, 49 Stat. 623, 53 Stat. 1368, 64 Stat. 492, 70 Stat. 815, 94 Stat. 449, 80 Stat. 67, 49 Stat. 647; Sec. 5, Reorganization Plan No. 1 of 1953, 67 Stat. 631; 42 U.S.C. 402, 405, 416, 423, 425, 428, and 1302; and 5 U.S.C. Appendix.

2. Section 404.316 is amended by revising paragraph (b) and adding a new paragraph (c) to read as follows:

§ 404.316 When entitlement to disability benefits begins and ends.

* * * * *

(b) Your disability benefits end with the earliest of these months: (1) the month before the month of your death; (2) the month before the month you become 65 years old; or (3) the second month after the month your disability ends, unless continued subject to paragraph (c) of this section.

(c)(1) Your benefits, and those of your dependents, may be continued after your impairment is no longer disabling if—

(i) Your disability did not end before December 1980, the effective date of this provision of the law;

(ii) You are participating in an appropriate program of vocational rehabilitation, that is, one that has been approved under a State plan approved under Title I of the Rehabilitation Act of 1973 and which meets the requirements outlined in 45 CFR 1361.39 for a rehabilitation program;

(iii) You began the program before your disability ended;

(iv) At the time you began participating in the program you were not expected to recover medically before the scheduled completion date of the program;

(v) You still have some residual functional limitation; and

(vi) We have determined that your completion of the program, or your continuation in the program for a specified period of time, will significantly increase the likelihood that you will not have to return to the disability benefit rolls.

Example: While under a disability from a severe orthopedic impairment, "A" is receiving State vocational rehabilitation services which include training as a bookkeeper. "A" is 45 years old, has a high school education and worked for 5 years as a clerk for a large retail auto parts business. When she began training, "A" had not been expected to recover, and no medical examination had been scheduled by the Social Security Administration. Before "A" completes the training, her disability status is reviewed by social security and a determination made that she is able to do light work. Considering her age, education, and work experience, "A" is no longer disabled. However, if "A" is able to work as a bookkeeper, she will be considered able to engage in substantial gainful activity even if she can do only sedentary work. Therefore, it is determined that "A's" completion of the vocational rehabilitation program will significantly increase the likelihood that she will be permanently removed from the disability rolls. "A" will continue to receive payments until she completes or stops her participation in the rehabilitation program.

(2) Your benefits generally will be stopped with the month—

(i) You complete the program;

(ii) You stop participating in the program for any reason; or

(iii) We determine that your continuing participation in the program will no longer significantly increase the likelihood that you will be permanently removed from the disability benefit rolls.

Exception: In no case will your benefits be stopped with a month earlier than the second month after the month your disability ends.

3. Section 404.337 is amended by revising paragraph (b)(3) and adding a new paragraph (c) to read as follows:

§ 404.337 When widow's and widower's benefits begin and end.

* * * * *

(b) * * *

(3) If your widow's or widower's benefit is based upon a disability, the second month after the month you recover from your disability, subject to the exception in paragraph (c) of this section. You may remain eligible for payment of benefits if you become 65 years old before you recovered from your disability and you met the other requirements for widow's or widower's benefits.

* * * * *

(c)(1) Your benefits may be continued after your impairment is no longer disabling if—

(i) Your disability did not end before December 1980, the effective date of this provision of the law;

(i) You are participating in an appropriate program of vocational rehabilitation as described in § 404.316(c)(1)(ii);

(iii) You began the program before your disability ended;

(iv) At the time you began participating in the program you were not expected to recover medically before the scheduled completion date of the program;

(v) You still have some residual functional limitation; and

(vi) We have determined that your completion of the program, or your continuation in the program for a specified period of time, will significantly increase the likelihood that you will not have to return to the disability benefit rolls.

(2) Your benefits generally will be stopped with the month—

(i) You complete the program;

(ii) You stop participating in the program for any reason; or

(iii) We determine that your continuing participation in the program will no longer significantly increase the likelihood that you will be permanently removed from the disability benefit rolls.

Exception: In no case will your benefits be stopped with a month earlier than the second month after the month your disability ends.

4. Section 404.352 is amended by revising paragraph (b)(1) and adding a new paragraph (c) to read as follows:

§ 404.352 When child's benefits begin and end.

* * * * *

(b) Your entitlement to benefits ends with the month before the month in which one of the following events first occurs:

(1) You become 18 years old, unless you are disabled or a full-time student. If you become 18 years old and you are disabled, your entitlement ends, subject to the exception in paragraph (c) of this section, with the second month following the month in which your disability ends. If you become 18 years old and you are a full-time student who is not disabled, your entitlement ends with the last month you are a full-time student or, if earlier, the month before the month you become age 22. If you become age 22 in a month in which you are a full-time student and you have not completed the requirements for, or received, a degree from a 4-year college or university, your entitlement will end with the month in which the quarter or semester in which you are enrolled ends. If the school you are attending does not have a quarter or semester system, your benefits will end with the month you complete the course, or if earlier, the first day of the third month following the month in which you become 22 years old.

* * * * *

(c)(1) Your benefits may be continued after your impairment is no longer disabling if—

(i) Your disability did not end before December 1980, the effective date of this provision of the law;

(ii) You are participating in an appropriate program of vocational rehabilitation as described in § 404.316(c)(1)(ii);

(iii) You began the program before your disability ended;

(iv) At the time you began participating in the program you were not expected to recover medically before the scheduled completion date of the program;

(v) You still have some residual functional limitation; and

(vi) We have determined that your completion of the program, or your continuation in the program for a specified period of time, will significantly increase the likelihood that you will not have to return to the disability benefit rolls.

(2) Your benefits generally will be stopped with the month—

(i) You complete the program;

(ii) You stop participating in the program for any reason; or

(iii) We determine that your continuing participation in the program will no longer significantly increase the likelihood that you will be permanently removed from the disability benefit rolls.

Exception: In no case will your benefits be stopped with a month earlier than the second month after the month your disability ends.

Subpart J—Determinations, Administrative Review Process, and Reopening of Determinations and Decisions

5. The authority citation for Subpart J of Part 404 reads as follows:

Authority: Secs. 205 and 1102 of the Social Security Act, sec. 5 of Reorganization Plan No. 1 of 1953, 53 Stat. 1368, 49 Stat. 647 (42 U.S.C. 405 and 1302).

6. Section 404.902 is amended by revising paragraphs (p) and (q) and by adding paragraph (r) to read as follows:

§ 404.902 Administrative actions that are initial determinations.

Initial determinations are the determinations we make that are subject to administrative and judicial review. The initial determination will state the important facts and give the reasons for our conclusions. In the old age, disability, and survivors' insurance programs, initial determinations include, but are not limited to, determinations about—

* * * * *

(p) Who will act as your payee if we determine that representative payment will be made;

(q) An offset of your benefits under § 404.408b because you previously received supplemental security income payments for the same period; and

(r) Whether your completion of or continuation for a specified period of time in an appropriate vocational rehabilitation program will significantly increase the likelihood that you will not have to return to the disability benefit rolls and thus, whether your benefits may be continued even though you are not disabled.

Subpart P—Determining Disability and Blindness

7. The authority citation for Subpart P of Part 404 reads as follows:

Authority: Secs. 202, 205, 216, 221, 222, 223, 225, and 1102 of the Social Security Act, as amended; 49 Stat. 623, as amended, 53 Stat. 1368, as amended, 68 Stat. 1080, as amended, 68 Stat. 1081, as amended, 68 Stat. 1082, as amended, 70 Stat. 815, as amended, 70 Stat. 817, as amended, 49 Stat. 647, as amended; 42 U.S.C. 402, 405, 416, 421, 422, 423, 425, and 1302.

8. Section 404.1586 is amended by adding a new paragraph (f) to read as follows:

§ 404.1586 Why and when we will stop your cash benefits.

* * * * *

(f) *If you are in an appropriate vocational rehabilitation program.* (1) Your benefits, and those of your dependents, may be continued for months after November 1980 after your impairment is no longer disabling if—

(i) Your disability did not end before December 1980;

(ii) You are participating in an appropriate program of vocational rehabilitation, that is, one that has been approved under a State plan approved under Title I of the Rehabilitation Act of 1973 and which meets the requirements outlined in 45 CFR 1361.39 for a rehabilitation program;

(iii) You began the program before your disability ended;

(iv) At the time you began participating in the program, you were not expected to recover medically before the scheduled completion date of the program;

(v) You still have some residual functional limitation; and

(vi) We have determined that your completion of the program, or your continuation in the program for a specified period of time, will significantly increase the likelihood that you will not have to return to the disability benefit rolls.

(2) Your benefits generally will be stopped with the month—

(i) You complete the program;

(ii) You stop participating in the program for any reason; or

(iii) We determine that your continuing participation in the program will no longer significantly increase the likelihood that you will be permanently removed from the disability benefit rolls.

Exception: In no case will your benefits be stopped with a month earlier than the second month after your disability ends.

9. Section 404.1596 is amended by revising paragraph (c) to read as follows:

§ 404.1596 Circumstances under which we may suspend your benefits before we make a determination.

* * * * *

(c) *When we will not suspend your cash benefits.* We will not suspend your cash benefits if—

(1) The evidence in your file does not clearly show that you are not disabled;

(2) We have asked you to furnish additional information;

(3) You have become disabled by another impairment; or

(4) After November 1980, even though your impairment is no longer disabling, (i) you are participating in an appropriate vocational rehabilitation program (that is, one that has been approved under a State plan approved under Title I of the Rehabilitation Act of 1973 and which meets the requirements outlined in 45 CFR 1361.39) which you began during your disability, (ii) your disability did not end before December 1, 1980, (iii) you have some residual functional limitation from the impairment, (iv) at the time you began the program you were not expected to recover before the scheduled completion date of your program and (v) we have determined that your completion of the program, or your continuation in the program for a specified period of time, will significantly increase the likelihood that you will not have to return to the disability benefit rolls.

10. Section 404.1597 is revised to read as follows:

§ 404.1597 After we make a determination that your are not now disabled.

If we determine that you do not meet the disability requirements of the law, your benefits generally will stop. We will send you a formal written notice telling you why we believe you are not disabled and when your benefits should stop. If your spouse and children are receiving benefits on your Social Security number, we will also stop their benefits and tell them why. The notices will explain your right to reconsideration if you disagree with our determination. However, your benefits may continue after November 1980 even though your impairment is no longer disabling, if your disability did not end before December 1980, and you are particpating in an appropriate vocational rehabilitation program as described in § 404.1596 which you began before your disability ended. For benefits to continue you must have some residual functional limitation from the impairment and, at the time you began the program, you must not have been expected to recover medically before the scheduled completion date of your program. In addition, we must have determined that your completion of the program, or your continuation in the program for a specified period of time, will significantly increase the likelihood that you will not have to return to the disability benefit rolls. You may still appeal our determination that you are not disabled even though your benefits are continuing because of your participation in an appropriate vocational rehabilitation program. You may also appeal a determination that your completion or of continuation for a specified period of time in an appropriate vocational rehabilitation program will not significantly increase the likelihood that you will not have to return to the disability benefit rolls and, therefore, you are not entitled to continue to receive benefits.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

Subpart M—Suspensions and Terminations

1. The authority citation for Subpart M of Part 416 reads as follows:

Authority: Secs. 1102, 1611–1615, and 1631 of the Social Security Act, as amended, 49 Stat. 647, as amended, 86 Stat. 1466–1477, (42 U.S.C. 1302, 1382–1382d, 1383), unless otherwise noted.

2. Section 416.1321 is amended by adding a new paragraph (d) to read as follows:

§ 416.1321 Suspensions; general.

* * * * *

(d) *Exception.* Even though conditions described in paragraph (a) of this section apply because your impairment is no longer disabling, we will not suspend your benefits if after November 1980; (1) You are participating in an appropriate vocational rehabilitation program (that is, one that has been approved under a State plan approved under Title I of the Rehabilitation Act of 1973 and which meets the requirements outlined in 45 CFR 1361.39) which you began during your disability; (2) Your disability did not end before December 1, 1980; (3) You have some residual functional limitation from the impairment; (4) At the time you began the program you were not expected to recover before the scheduled completion date of your program; and (5) We have determined that your completion of the program, or your continuation in the program for a specific period of time, will significantly increase the likelihood that you will not have to return to the disability benefit rolls.

3. Section 416.1331 is revised to read as follows:

§ 416.1331 Termination of your disability or blindness payments.

(a) *General.* If you have ceased to be disabled or blind (see Subpart I of this Part), you are not age 65 or older and you do not qualify for the special benefits explained in § 416.261, the last month for which we can pay you benefits is the second month after the month in which your disability or blindness ceased, provided that you are otherwise eligible for benefits through such second month. (See § 416.1338 for an exception to this rule if after November 1980 you are participating in an appropriate vocational rehabilitation program.)

(b) After we make a determination that you are not now disabled. If we determine that you do not meet the disability requirements of the law, we will send you an advance written notice telling you why we believe you are not disabled and when your benefits should stop. The notice will explain your right to appeal if you disagree with our determination. You may may still appeal our determination that you are not now disabled even though your payments are continuing because of your participation in an appropriate vocational rehabilitation program. You may also appeal a determination that your completion of or continuation for a specified period of time in an appropriate vocational rehabilitation program will not significantly increase the likelihood that you will not have to return to the disability benefit rolls and, therefore, you are not entitled to continue to receive benefits.

4. A new section 416.1338 is added to read as follows:

§ 416.1338 If you are participating in a vocational rehabilitation program.

(a) When your benefits based on disability may be continued. Your benefits may be continued after your impairment is no longer disabling if—

(1) Your disability did not end before December 1980, the effective date of this provision of the law;

(2) You are participating in a program of vocational rehabilitation that has been approved under a State plan approved under Title I of the Rehabilitation Act of 1973 and which meets the requirements of 45 CFR 1361.39 for a rehabilitation program;

(3) You began the program before your disability ended;

(4) At the time you began participating in the program you were not expected to recover medically before the scheduled completion date of the program;

(5) You still have some residual functional limitations; and

(6) We have determined that your completion of the program, or your continuation in the program for a specified period of time, will significantly increase the likelihood that

you will not have to return to the disability benefit rolls.

Example: While disabled from a severe orthopedic impairment, "A" is receiving State vocational rehabilitation services which include training as a bookkeeper. "A" is 45 years old, has a high school education and worked for 5 years as a clerk for a large retail auto parts business. When she began training, "A" had not been expected to recover, and no medical examination had been scheduled by the Social Security Administration. Before "A" completes the training, her disability status is reviewed by social security and a determination made that she is able to do light work. Considering her age, education, and work experience, "A" is no longer disabled. However, if "A" is able to work as a bookkeeper, she will be considered able to engage in substantial gainful activity even if she can do only sedentary work. Therefore, it is determined that "A's" completion of the vocational rehabilitation program will significantly increase the likelihood that she will be permanently removed from the disability rolls. "A" will continue to receive payments until she completes or stops her participation in the rehabilitation program.

(b) *When your benefits will be stopped.* Your benefits generally will be stopped with the month—

(1) You complete the program;

(2) You stop participating in the program for any reason; or

(3) We determine that your continuing participation in the program will not significantly increase the likelihood that you may be permanently removed from the disability benefit rolls.

Exception: In no case will your benefits be stopped with a month earlier than the second month after the month your disability ends, provided that you are otherwise eligible for benefits through such month.

Subpart N—Determinations, Administrative Review Process, and Reopening of Determinations and Decisions

5. The authority citation for Subpart N of Part 416 reads as follows:

Authority: Sections 1102, 1631(c), and 1633 of the Social Security Act, 49 Stat. 647, 86 Stat. 1475, 86 Stat. 1478 (42 U.S.C. 1302, 1383, 1383b).

6. Section 416.1402 is amended by revising paragraphs (h) and (i) and adding paragraphs (j) and (k), to read as follows:

§ 416.1402. Administrative actions that are initial determinations.

Initial determinations are the determinations we make that are subject to administrative and judicial review. The initial determination will state the important facts and give the reasons for our conclusions. Initial determinations regarding supplemental security income benefits include, but are not limited to, determinations about—

* * * * *

(h) Whether you are eligible for special SSI cash benefits under § 416.262;

(i) Whether you are eligible for special SSI eligibility status under § 416.265;

(j) Your disability; and

(k) Whether your completion of or continuation for a specified period of time in an appropriate vocational rehabilitation program will significantly increase the likelihood that you will not have to return to the disability benefit rolls and thus, whether your benefits may be continued even though you are not disabled.

[FR Doc. 82-19729 Filed 7-20-82; 8:45 am]

BILLING CODE 4110-11-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 891

[Docket No. R-82-976]

Review of Applications for Housing Assistance and Allocation of Housing Assistance Funds

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of changed effective date.

SUMMARY: HUD is delaying, until October 1, 1982, the effective date of an interim rule amending the regulations governing allocation of housing assistance funds and review of applications for housing assistance by local governments and by HUD. This action is being taken for three reasons:

(1) To avoid possible confusion by HUD field offices and local governments as to which regulations apply;

(2) Because pending legislation is likely to make the interim rule unnecessary for the current fiscal year; and

(3) Because of the limited time remaining in the current fiscal year in which to make fund allocations under the new rules.

EFFECTIVE DATE: The effective date for the interim rule is changed from July 26, 1982 to October 1, 1982.

FOR FURTHER INFORMATION CONTACT: Robert J. Coyle, Office of Policy and Budget, Room 9220, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, Telephone (202) 755-6454. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: On June 3, 1982, HUD published an interim rule in the **Federal Register** (FR Doc. 82-15001, published at 47 FR 24120), amending 24 CFR Part 891 to revise HUD's regulations governing allocation of housing assistance funds and local government and HUD review of applications for housing assistance. The interim rule provided for an effective date of July 26, 1982. Several factors have now made it necesary for HUD to delay the effective date until October 1, 1982:

1. Possible confusion on the part of HUD field offices and local governments as to which regulations are applicable to the review and approval of assisted housing applications during the period just before and after the July 26, effective date.

2. The expected approval of an Urgent Supplemental Appropriations Act during the current fiscal year, containing language which would permit assisted housing funds to be allocated without their being subject to the procedural requirements of Section 213(d) of the Housing and Community Development Act of 1974 and of Section 5(c)(3) of the United States Housing Act of 1937. (These statutory provisions were the basis for many of the revisions contained in the interim rule.)

3. The limited time remaining available before September 30, 1982, which imposes severe constraints on HUD's ability to allocate and reserve the remaining Fiscal Year 1982 housing assistance funds in strict accordance with all of the provisions of Subpart D of the Interim rule.

Accordingly, for these reasons, the effective date stated in the interim rule (FR Doc. 82-15001) is changed from July 26, 1982 to October 1, 1982.

(Sec. 7(d) Department of HUD Act; 42 U.S.C. 3535(d))

Dated: July 16, 1982.

Philip Abrams,

General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 82-19644 Filed 7-20-82; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 77

Preparation of a Membership Roll of the Pribilof Islands Aleut Communities of St. Paul and St. George

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs is adding a new part to its regulations which establishes procedures to govern the preparation of a membership roll of the Pribilof Islands Aleut Communities of St. Paul and St. George. The roll to be prepared will serve as a basis for a per capita distribution of a portion of judgment funds awarded the Pribilof Islands by the U.S. Court of Claims.

EFFECTIVE DATE: August 20, 1982.

FOR FURTHER INFORMATION CONTACT: Enrollment Coordinator, Enrollment Coordinating Office, Bureau of Indian Affairs, Pouch 7–1971, Anchorage, Alaska 99510, telephone number (907) 271–3761.

SUPPLEMENTARY INFORMATION: The authority to issue these rules and regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9); and 87 Stat. 466. This final rule is published in exercise of rulemaking authority delegated by the Secretary of the Interior to the Assistant Secretary–Indian Affairs by 209 DM 8.

Proposed rules for the preparation of a membership roll of the Pribilof Islands Aleut Communities of St. Paul and St. George were published for comment as 25 CFR Part 43d in the **Federal Register** on April 21, 1982 (47 FR 17072). On March 30, 1982, the Bureau of Indian Affairs published in 47 FR 13326 a final rule document redesignating numerous Parts compiled in Chapter I of Title 25 of the Code of Federal Regulations to realign the Subchapters under more uniform and precise headings in order to enable the public to locate subject matters more easily. To conform with the realignment, this rule to govern the preparation of a membership roll of the Pribilof Islands Aleut Communities of St. Paul and St. George which was proposed as 25 CFR Part 43d has been redesignated and will be added to Subchapter F of Chapter I of Title 25 of the Code of Federal Regulations as Part 77. The necessary changes have been made to the text of the regulations to conform with the redesignation. Thus, the section that appeared in the proposed regulations as § 43d.1 is being added to the Code of Federal Regulations as § 77.1, the section proposed as § 43d.2 is being added as § 77.2, etc., and any references contained in the text of the regulations to other Parts of Chapter I of Title 25 of the Code of Federal Regulations have been changed accordingly. (Any further references to the text of the regulations under this section will be made with the new Part designation.)

The roll to be prepared under the regulations in this Part will be used to distribute on a per capita basis a portion of the judgment funds awarded the Aleut Community of St Paul Island and the Aleut Community of St. George Island by the U.S. Court of Claims in a compromise settlement in Dockets 352 and 369–A originally filed with the Indian Claims Commission. Funds to satisfy the award were appropriated by Congress and a Plan for the use and distribution of the funds was prepared pursuant to the Judgment Funds Distribution Act of October 19, 1973 (87 Stat. 466), and became effective on June 22, 1980.

In order to provide actual notice of the preparation of the roll to as many potentially eligible participants as possible, the regulations provide for the Juneau Area Director to send notices to certain persons who applied for enrollment pursuant to the Alaska Native Claims Settlement Act of December 18, 1971, Pub. L. 92–203, 85 Stat. 688, as amended and supplemented by the Act of January 2, 1976, Pub. L. 94–204, 89 Stat. 1145. The notice will advise them of the relevant procedures to be followed including the requirements for enrollment and the deadline for filing applications. In accordance with the regulations, persons who desire to be enrolled and who believe they meet the criteria for enrollment must, among other requirements, file or have filed for them completed application forms before the deadline specified in the regulations in order to be eligible to share in the judgment funds.

The period of commenting on the proposed rules to govern the preparation of a membership roll of the Pribilof Islands Aleut Communities of St. Paul and St. George closed on May 21, 1982. Only one letter suggesting changes to the regulations was received from the public within the comment period. The commentor believed the proposed rule was not clear enough in stating that the preparation of the membership roll was strictly to serve as a basis for the per capita payments of a portion of the judgment funds awarded the Pribilof Islands by the U.S. Court of Claims. The commentor felt there was a danger that the rule might close and make final the membership roll of the communities. Consequently, the commentor suggested that the subject title of this Part be changed to read: "Preparation of a membership roll to serve as the basis for the distribution of Judgment Funds awarded to the Pribilof Islands Aleut Communities of St Paul and St George," and that in stating the purpose in the text of the regulations in § 77.2, "members" should be qualified as "certain members."

Careful consideration was given to the suggested changes. However, the changes were not adopted. The Bureau does not intend that the regulations in this Part create a final roll and we do not believe the regulations as they were proposed can be construed as having that effect. The compilation of a roll of members is already qualified in the purpose stated in § 77.2 as members eligible to share in the distribution of judgment funds awarded the Pribilof Islands by the U.S. Court of Claims in Dockets 352 and 369–A. We feel no further limitation or qualification is necessary and, in fact, might create some question as to what was meant or intended by the use of "certain members" since the Plan for the use and distribution of the fund refers to "all persons duly enrolled as members." Also, we believe the subject title of this Part is adequate and appropriate.

In anticipation of a planned reorganization within the Juneau Area Office jurisdiction, responsibility for the preparation of the roll has been changed from what was published in the proposed rules. The Director of the Juneau Area Office or Officer in Charge of any successor field office will be immediately responsible not only for approving the roll as was proposed, but also for the preparation of the roll. Thus, reference to the Superintendent, Anchorage Agency, Bureau of Indian Affairs, has been eliminated in the regulations and the responsibilities that had been assigned to the Superintendent will be the immediate responsibility of the Director. The Director will, however, be utilizing facilities and staff at the Enrollment Coordinating Office located in Anchorage, Alaska, in the preparation of the roll. Therefore, the requirement for the filing of applications contained in § 77.4(b), has been changed to provide that applications be filed with the Director *in care of* the Enrollment Coordinator, Enrollment Coordinating Office, Bureau of Indian Affairs, Pouch 7–1971, Anchorage, Alaska 99510, and must be received by the *Enrollment Coordinator* by the close of business on the deadline date specified. Accordingly, "Enrollment Coordinator"

and "Staff Officer" have been defined and added to the definitions contained in § 77.1. Also, in § 77.1, the definition of "Director" has been changed to include Officer in Charge of any successor field office and the definition of "Superintendent" has been deleted.

As a matter of correction certain other changes have been made to the regulations. In § 77.1 the definition of "Secretary" should read "the Secretary of the Interior *or* his/her authorized representative;" in § 77.4(a)(1) the spelling of the first corporation referred to should be "Tanadgusix;" in § 77.4(a)(2) the text should read "persons who qualify for enrollment under *paragraph* (a)(1) *of this section; or;*" in § 77.4(a)(3) it should state "either St. Paul *or* St. George Island;" and in § 77.12 it should read "including those *whose* appeals were sustained." In addition, to conform with Office of Federal Register document drafting requirements, the alphabetical paragraph designations of the definitions contained in § 77.1 have been eliminated.

The information collection requirement contained in § 77.4(b) has been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1076–0019. Accordingly, § 77.3 in the text of the regulations has been changed to reflect approval of the information collection requirement.

The primary author of this document is Kathleen L. Slover, Branch of Tribal Enrollment Services, Division of Tribal Government Services, Bureau of Indian Affairs, telephone number (703) 235–8275.

The Department of the Interior has determined that this document is not a major rule under the criteria established by Executive Order 12291 and does not have a significant economic effect on a substantial number of small entities under the criteria established by the Regulatory Flexibility Act.

List of Subjects in 25 CFR Part 77

Indians—claims, Indians—enrollment.

Subchapter F of Chapter I of Title 25 of the Code of Federal Regulations is hereby amended by the addition of a new part to read as follows:

PART 77—PREPARATION OF A MEMBERSHIP ROLL OF THE PRIBILOF ISLANDS ALEUT COMMUNITIES OF ST. PAUL AND ST. GEORGE

Sec.

77.1 Definitions.
77.2 Purpose.
77.3 Information collection.
77.4 Qualifications for enrollment and the deadline for filing applications.
77.5 Notices.
77.6 Application forms.
77.7 Burden of proof.
77.8 Action by the Communities.
77.9 Action by the Director.
77.10 Appeals.
77.11 Decision of the Secretary on appeals.
77.12 Preparation of roll.
77.13 Certification and approval of the roll.
77.14 Special instructions.

Authority: 5 U.S.C. 301, 25 U.S.C. 2 and 9, and 87 Stat. 466.

§ 77.1 Definitions.

As used in these regulations:

"Adopted person" means a person whose natural parents' parental rights have been terminated by court order and given to others to exercise.

"ANCSA" means the Alaska Native Claims Settlement Act of December 18, 1971, Pub. L. 92–203, 85 Stat. 688, as amended and supplemented by the Act of January 2, 1976, Pub. L. 94–204, 89 Stat. 1145.

"Assistant Secretary" means the Assistant Secretary of the Interior for Indian Affairs or his/her authorized representative.

"Communities" means the Pribilof Islands Aleut Communities of St. Paul and St. George.

"Community Council" means the governing body of the Aleut Community of St. Paul Island or the governing body of the Aleut Community of St. George Island.

"Director" means the Area Director, Juneau Area office, Bureau of Indian Affairs or the Officer in Charge of any successor field office or his/her authorized representative acting under delegated authority.

"Enrollment Committee" means the committee for the Aleut Community of St. Paul Island or the Aleut Community of St. George Island appointed by the Community Councils to perform duties relating to the enrollment of members.

"Enrollment Coordinator" means the head of the Enrollment Coordinating Office, Bureau of Indian Affairs, Pouch 7–1971, Anchorage, Alaska 99510, having the responsibility for coordinating all activities relating to enrollment pursuant to ANCSA.

"Living" means born on or prior to and living on June 22, 1980.

"Minor Children" means persons who are less than eighteen years of age on the date specified.

"Plan" means the plan for the use and distribution of Pribilof Islands judgment funds awarded in Docket 352 and 369–A before the U.S. Court of Claims, prepared pursuant to the Act of October 19, 1973, Pub. L. 93–134, 87 Stat. 466 and effective June 22, 1980.

"St. George Tanaq" means the village corporation created pursuant to ANCSA, comprised of those Alaska Natives who were determined eligible and whose Permanent Residence as of April 1, 1970, for the purposes of ANCSA, was St. George, Alaska.

"Secretary" means the Secretary of the Interior or his/her authorized representative.

"Sponsor" means a parent, recognized guardian, next friend, next of kin, spouse, executor or administrator of estate, the Director, or other person who files an application for enrollment on behalf of another person.

"Staff Officer" means the Enrollment Coordinator or other person authorized to prepare the roll pursaunt to the Plan.

"Tanadgusix" means the village corporation created pursuant to ANCSA, comprised of those Alaska Natives who were determined eligible and whose Permanent Residence as of April 1, 1970, for the purposes of ANCSA, was St. Paul, Alaska.

§ 77.2 Purpose.

The regulations in this part are to govern the compilation of a roll of members of the Pribilof Islands Aleut Communities of St. Paul and St. George eligible to share in the distribution of judgment funds awarded the Pribilof Islands by the U.S. Court of Claims in Dockets 352 and 369–A.

§ 77.3 Information collection.

The information collection requirement contained in § 77.4(b) has been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1076–0019. The information will be collected in order to prepare a roll of members of the Pribilof Islands Aleut Communities of St. Paul and St. George living on June 22, 1980. The information will be used to determine the eligibility of each applicant for enrollment. The obligation to respond is voluntary, but is a requirement in order to be eligible to share in the distribution of judgment funds awarded the Pribilof Islands by the U.S. Court of Claims.

§ 77.4 Qualifications for enrollment and the deadline for filing applications.

The roll shall contain the names of persons living on June 22, 1980, who meet the following requirements:

(a) They are of Aleut descent; *and:*

(1) They resided on St. Paul or St. George Island on June 22, 1980; *Provided,* That, any person of Aleut descent enrolled to Tanadgusix Corporation or St. George Tanaq Corporation shall be presumed to have resided in the Communities, and all persons of Aleut descent who were

absent from the Communities for purposes of their own education, service in the United States armed forces, or personal health shall also be presumed to have resided in the Communities on June 22, 1980; *or*

(2) They were minor children on June 22, 1980, of persons who qualify for enrollment under paragraph (a)(1) of this section; *or*

(3) They were born on either St. Paul or St. George Island on or before December 31, 1946; *and*

(b) They file or have filed on their behalf an application with the Director, c/o Enrollment Coordinator, Enrollment Coordinating Office, Bureau of Indian Affairs, Pouch 7–1971, Anchorage, Alaska 99510. Application forms must be received by the Enrollment Coordinator no later than close of business on February 16, 1983. Applications received after that date will be rejected for inclusion on the roll being prepared for failure to file on time regardless of whether the applicant otherwise meets the requirements for enrollment. If the filing deadline falls on a Saturday, Sunday, legal holiday, or other nonbusiness day, the deadline will be the next working day thereafter.

§ 77.5 Notices.

(a) The Director shall mail a notice to each person who applied for enrollment under ANCSA at the last address of record and whose application on which his/her determination of eligibility was based indicated that he/she was of Aleut descent.

(b) The notice shall advise of the preparation of a membership roll pursuant to the Plan and the relevant procedures to be followed including the requirements for enrollment, and the need to file or have filed on their behalf a completed application form before the deadline specified in § 77.4(b) in order to be eligible to share in the distribution of judgment funds. The notice shall also state how and where application forms may be obtained as well as the name, address, and telephone number of a person who may be contacted for further information.

§ 77.6 Application forms.

(a) Application forms to be filed by or for applicants for enrollment will be furnished by the Director, or other designated persons, upon written or oral request. Each person furnishing application forms shall keep a record of the names of individuals to whom forms are given, as well as the control numbers of the forms and the date furnished. Instructions for completing and filing applications shall be furnished with each form. The form shall indicate prominently the deadline for filing applications.

(b) Among other information, each application form shall contain:

(1) Certification as to whether application is for a natural child or an adopted child of the parent through whom eligibility is claimed.

(2) If the application is filed by a sponsor, the name and address of sponsor and relationship to applicant.

(3) A control number for the purpose of keeping a record of forms furnished interested individuals.

(c) Application forms may be filed by sponsors on behalf of other persons.

(d) Every applicant or sponsor shall furnish the applicant's mailing address on the application form. Thereafter, he/she shall promptly notify the Director of any change in address, giving appropriate identification of the application, otherwise the mailing address as stated on the form shall be acceptable as the proper address for all purposes under the regulations in this part.

(e) Criminal penalties of a $10,000 fine or five (5) years in prison, or both, are provided by statute for knowingly filing false information in such applications (18 U.S.C. 1001).

§ 77.7 Burden of proof.

The burden of proof of eligibility for enrollment rests upon the applicant. Documentary evidence such as birth certificates, death certificates, baptismal records, adoption records, copies of probate findings, affidavits, medical records, Armed Forces service records, or other records acceptable to the Secretary, must be used to support claims for enrollment. Records of the Bureau of Indian Affairs or other U.S. Government Agencies may also be used to establish eligibility.

§ 77.8 Action by the Communities.

The Director shall submit copies of all applications received to the appropriate Enrollment Committee for review and determination; except that, in cases of adopted persons where the Bureau of Indian Affairs has assured confidentiality in order to obtain the information necessary to determine the eligibility for enrollment of the individual, such confidential information will not be released to the Communities, but the Director shall certify as to the eligibility for membership of such applicant to the Communities. The appropriate Enrollment Committee shall review all applications and make their decision in writing stating the reason(s) for approval or rejection of the applicant for membership in the Communities. The Community Council, by resolution, will make the final decision for the Communities. If the Community Council's decision reverses the Enrollment Committee's decision, the reason(s) for approval or rejection of the applicant for membership in the Communities must be stated in writing. The application shall then be returned to the Director with the decision and any additional evidence used in determining eligibility for membership in the Communities. Approval of the applicant for membership in the Communities by the Community Council does not insure eligibility to share in the distribution of judgment funds.

§ 77.9 Action by the Director.

(a) The Director shall consider each application, all documentation, and the Community Council's decision. The Director shall accept the decision of the Community Council unless the decision is clearly erroneous. If the Director overrules the Community Council's decision, he/she shall notify the Community Council of his/her actions and the reasons therefor. The determination of the Director shall only affect the applicant's eligibility to share in the distribution of the judgment funds.

(b) Upon determining an applicant's eligibility, the Director shall notify the applicant or sponsor, as applicable, in writing of his/her decision. If the decision is favorable, the name of the applicant shall be placed on the roll. If the Director decides the applicant is not eligible, he/she shall notify the applicant or sponsor, as applicable, in writing by certified mail, to be received by the addressee only, return receipt requested, and shall explain fully the reasons for rejection and of the right to appeal to the Secretary. If correspondence is sent out of the United States, it may be necessary to use registered mail. If an individual files applications on behalf of more than one person, one notice of eligibility or rejection may be addressed to the person who filed the applications. However, said notice must list the name of each person involved. If a certified or registered notice is returned as "Unclaimed" the Director shall remail the notice by regular mail together with an acknowledgement of receipt form to be completed by the addressee and returned to the Director. If the acknowledgement of receipt is not returned, computation of the appeal period shall begin on the date the notice was remailed. Certified or registered notices returned for any reason other than "Unclaimed" need not be remailed.

(c) A notice of rejection is considered to have been made on the date:

(1) Of delivery indicated on the return receipt,

(2) Of acknowledgement of receipt,

(3) Of personal delivery, or

(4) Of the return by the post office of an undelivered certified or registered letter.

(d) In all cases where an applicant is represented by an attorney, such attorney will be recognized as fully controlling the case on behalf of his/her client and service on the attorney of any document relating to the application shall be considered to be service on the applicant he/she represents. Where an applicant is represented by more than one attorney, service upon one of the attorneys shall be sufficient.

(e) To avoid hardship or gross injustice, the Director may waive technical deficiencies in applications or other submissions. Failure to file by a deadline does not constitute a technical deficiency.

§ 77.10 Appeals.

Appeals from rejected applicants must be in writing and must be filed pursuant to Part 62 of this subchapter, a copy of which shall be furnished with each notice of rejection.

§ 77.11 Decision of the Secretary on appeals.

The decision of the Secretary on an appeal shall be final and conclusive and written notice of the decision shall be given to the applicant or sponsor. When so directed by the Secretary, the Assistant Secretary shall cause to be entered on the roll the name of any person whose appeal has been sustained.

§ 77.12 Preparation of roll.

The staff officer shall prepare a minimum of five (5) copies of the roll of those persons determined to be eligible for enrollment, including those whose appeals were sustained. In addition to other information which may be shown, the complete roll shall contain for each person an identification number, full name, address, sex, date of birth, date of death (if applicable), and the authority for enrollment.

§ 77.13 Certification and approval of the roll.

A certificate shall be attached to the roll by the staff officer certifying that to the best of his/her knowledge and belief the roll contains only the names of those persons who were determined to meet the requirements for enrollment. The Director shall approve the roll.

§ 77.14 Special instructions.

To facilitate the work of the Director the Assistant Secretary may issue special instructions not inconsistent with the regulations in this Part.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

June 25, 1982.

[FR Doc. 82-19865 Filed 7-20-82; 8:45 am]

BILLING CODE 4310-02-M

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 946

Removal of One of the Conditions of Approval of the Virginia Permanent Program Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: This document amends 30 CFR Part 946 by removing one of the conditions of approval (condition "k") of the Virginia permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Virginia has submitted provisions to the Office of Surface Mining (OSM) which satisfy the condition of the Secretary's approval of December 15, 1981 (46 FR 61088–61115). After providing opportunity for public comment and conducting a thorough review of the program amendment, the Secretary of the Interior has determined that the modification of the Virginia program satisfies condition "k" of the Secretary's approval by clearly granting field inspectors the authority to issue immediate cessation orders for imminent danger or harm if they are unable to contact the supervisor or enforcement manager. Accordingly, the Secretary of the Interior has removed condition "k" from his approval of the Virginia program.

Part 946 of 30 CFR Chapter VII is being amended to implement this decision:

EFFECTIVE DATE: The removal of the condition of the approval is effective July 21, 1982.

FOR FURTHER INFORMATION CONTACT: Arthur W. Abbs, Chief, Division of State Program Assistance, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, South Building, 1951 Constitution Avenue NW., Washington, D.C. 20240, Telephone: (202) 343–5351.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1980, the Secretary of the Interior received a proposed regulatory program from the Commonwealth of Virginia. On October 22, 1980, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved in part and disapproved in part the proposed program (45 FR 69977–70000). Virginia resubmitted its proposed regulatory program on August 13, 1981, and after a subsequent review, the Secretary approved the program subject to the correction of nineteen minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the December 15, 1981, **Federal Register** (46 FR 61088–61115).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Virginia program can be found in the December 15, 1981 **Federal Register** (46 FR 61088–61115).

One of the minor conditions of approval imposed by the Secretary was condition "k," which required Virginia to submit a revised policy clearly granting field inspectors the authority to issue immediate cessation orders for imminent danger or harm if they are unable to contact the supervisor or enforcement manager.

On January 28, 1982, Virginia submitted a revised policy statement to satisfy condition "k" (Administrative Record No. VA 376). The revised policy statement grants authority to the field inspector to issue cessation orders for imminent danger or harm if he/she is unable to consult with the supervisor, enforcement manager or assistant enforcement manager by radio or telephone.

OSM published a notice in the **Federal Register** on April 26, 1982, announcing receipt of the amendment and inviting public comment on whether the proposed program amendment corrected the deficiency (47 FR 17827–17829). The public comment period ended May 26, 1982. A public hearing scheduled for May 12, 1982, was not held because no one expressed a desire to present testimony. On May 11, 1982, OSM published a notice in the **Federal Register** to cancel the public hearing (47 FR 20152–20153).

Public disclosure of comments by Federal agencies was made on July 7, 1982, in the **Federal Register** (47 FR 29571).

Secretary's Findings

Pursuant to 30 CFR 732.17 the Secretary finds that the amendment

submitted by Virginia on January 28, 1982, corrects condition "k" of his conditional approval of December 15, 1981.

The revised policy statement clearly grants authority to the field inspectors to issue cessation orders for imminent danger or harm if they are unable to consult with the supervisor, enforcement manager or assistant enforcement manager by radio or telephone consistent with 30 CFR 843.11.

Public Comments

Although public comments were requested, no substantive comments were received.

Additional Determinations

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this action.

On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 6, and 8 of Executive Order 12291 for all actions taken to approve or conditionally approve State regulatory programs, actions or amendments. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

Pursuant to the Regulatory Flexibility Act, Pub. L. 96–354, I have certified that this rule will not have a significant economic impact on a substantial number of small entities.

On December 8, 1981, the Administrator of the Environmental Protection Agency transmitted her written concurrence on the Virginia permanent program. The amended regulatory provision approved in this document is not an aspect of the Virginia permanent program which relates to air or water quality standards promulgated under the authority of the Federal Clean Water Act, as amended (33 U.S.C. 1151–1175), and the Clean Air Act, as amended (42 U.S.C. 1857 *et seq.*)

Indexing Requirements

List of Subjects in 30 CFR Part 946

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Therefore, Part 946 of 30 CFR Chapter VII is amended as set forth herein.

Dated: July 13, 1982.

William P. Pendley,

Acting Assistant Secretary, Energy and Minerals.

PART 946—VIRGINIA

Part 946 of Title 30 is amended as follows:

1. Section 946.10 is revised to read as follows:

§ 946.10 State regulatory program approval.

The Virginia State Program, as submitted on March 3, 1980, as amended and clarified on June 16, 1980, as resubmitted on August 13, 1981, and clarified in a meeting with OSM on September 21 and 22, 1981, and in a letter to the Director of the Office of Surface Mining on October 15, 1981, was conditionally approved, effective December 15, 1981. Beginning on that date, the Department of Conservation and Economic Development, Division of Mined Land Reclamation was deemed the regulatory authority in Virginia for all surface coal mining and reclamation operations and all exploration operations on non-Federal and non-Indian lands. Beginning on [date of publication] the program also includes the program amendment submitted on January 28, 1982. Copies of the conditionally approved program, as amended, are available for review at:

Virginia Division of Mined Land Reclamation, Drawer U, 630 Powell Avenue, Big Stone Gap, Virginia 24219

Virginia Department of Conservation and Economic Development, 1100 State Office Building, Richmond, Virginia 23219

Office of Surface Mining, Reclamation and Enforcement, Flannagan and Carroll Streets, Lebanon, Virginia 24266

Office of Surface Mining, Reclamation and Enforcement, Room 5315, 1100 L Street NW., Washington, D.C.

2. Section 946.11 is amended by removing and reserving paragraph (k).

§ 946.11 Conditions of State regulatory program approval.

* * * * *

(k) [Reserved]

* * * * *

[FR Doc. 82–19645 Filed 7–20–82; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 1E2541, 1E2547/R457; PH–FRL 2172–6]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Inorganic Bromides Resulting From Soil Treatment With Methyl Bromide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the inorganic bromides, resulting from soil treatment with methyl bromide, in or on the raw agricultural commodities onions (dry bulb only), asparagus, and lettuce. This regulation to establish a maximum permissible level for residues of the inorganic bromides in or on the commodities was submitted by the Interregional Research Project No. 4 (IR–4).

EFFECTIVE DATE: Effective on July 21, 1982.

ADDRESS: Written comments may be submitted to: Hearing Clerk (A–110), Environmental Protection Agency, Room 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald R. Stubbs, Emergency Response Section, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Room 716B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–7700).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking published in the **Federal Register** of June 2, 1982 (47 FR 23955) which announced that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petitions 1E2541 and 1E2547 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Stations of California, Oregon, and Washington (PP 1E2541) and California (PP 1E2547).

These petitions requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, proposed the establishment of tolerances for residues of the inorganic bromides, resulting from soil treatment with methyl bromide, in or on the raw agricultural commodities onions (dry bulb only, PP 1E2541) and asparagus and lettuce, (PP 1E2547) at 200

parts per million (ppm). The petitions were later amended to propose tolerances at 300 ppm in or on each of the commodities.

No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

The data submitted in the petitions and all other relevant material have been evaluated and discussed in the notice of proposed rulemaking.

Based on the information considered by the Agency, it is concluded that the establishment of these tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulations deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291. Effective on: July 21, 1982.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e))).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: July 8, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.199 is revised to read as follows:

§ 180.199 Inorganic bromides resulting from soil treatment with combinations of chloropicrin, methyl bromide, and propargyl bromide; tolerances for residues.

Tolerances are established for residues of inorganic bromides (calculated as Br) in or on the following raw agricultural commodities grown in soil fumigated with combinations of chloropicrin, methyl bromide, and propargyl bromide. No tolerances are established for chloropicrin since it has been established that no residue of this substance remains in the raw agricultural commodity.

Commodities	Parts per million
Asparagus	300
Broccoli	25
Cauliflower	25
Eggplants	60
Lettuce	300
Muskmelons	40
Onions (dry bulb)	300
Peppers	25
Pineapples	25
Strawberries	25
Tomatoes	80

[FR Doc. 82-19484 Filed 7-20-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 6E1756, 6E1800, 8E2103, 9E2137/R 455; PH-FRL 2172-5]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Methyl Parathion

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the insecticide methyl parathion in or on certain raw agricultural commodities. This regulation to establish the maximum permissible level for residues of the insecticide in or on the commodities was requested by the Interregional Research Project (IR-4).

EFFECTIVE DATE: Effective on July 21, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs, Emergency Response Section (TS-767C), Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 716A, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1192).

SUPPLEMENTARY INFORMATION: EPA issued a notice of a proposed rule published in the **Federal Register** of May 26, 1982 (47 FR 22981) which announced that the Interregional Research Project No. 4 (IR-4) New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide and food additive petitions (PP 6E1756, 6E1762, and FAP 6H5128) to EPA. Pesticide petition 6E1756, submitted on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of California, Florida, and New Jersey, requested that the Administrator propose that 40 CFR 180.121 be amended by the establishment of a tolerance for residues of the insecticide parathion (*O,O*-diethyl-*O*-*p*-nitrophenyl thiophosphate) and its methyl homolog in or on the raw agricultural commodity parsley at 1 part per million (ppm). This petition was later amended to limit the proposed tolerance to the methyl homolog of parathion.

IR-4 submitted petitions 6E1762 and 6H5128 on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of California, requesting that the Administrator propose the establishment of a tolerance for residues of the insecticide parathion and its methyl homolog in fish at 0.2 ppm (6E1762) resulting from application of the insecticide to waters of Clear Lake, California, for the control of the Clear Lake gnat, Chaoborus astictopus Dyar and Shannon, in programs conducted by the Lake County, California, Mosquito Abatement District and in potable water derived from the Clear Lake region with a tolerance limitation of 0.01 ppm (6H5128). These petitions were later amended to propose tolerances for residues of methyl parathion only. However, at this time, the tolerances proposed in 6E1762 and 6H1528 are not being reproposed pending further scientific review.

IR-4 has also submitted pesticide petitions 6E1800, 8E2103, and 9E2137 to EPA on behalf of the Agricultural Experiment Stations of Idaho and Washington (6E1800); Arizona, Oklahoma, and Texas (8E2103); and New York (9E2137). Those petitions requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for residues of the insecticide parathion or its methyl homolog in or on the raw agricultural commodities lentils at 1ppm (6E1800); guar beans at 0.2 ppm (8E2103); and birdsfoot trefoil forage at 1.25 ppm and birdsfoot trefoil hay at 5.0 ppm (9E2137). These petitions were later amended to limit the proposed tolerances to the methyl homolog of parathion.

No comments or request for referral to an advisory committee were received in response to this notice of proposed rulemaking. Contrary to a statement in the notice of proposed rule, the Agency has no immediate plans to reevaluate existing tolerances for parathion.

The data submitted in the petitions and all other relevant material have been evaluated and discussed in the

notice of proposed rulemaking (47 FR 22981, May 28, 1982).

Based on the information considered by the Agency, it is concluded that the tolerances established by amending 40 CFR Part 180 will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, on or before August 20, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Effective on: July 21, 1982.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: July 6, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.121 is revised to read as follows:

§ 180.121 Parathion or its methyl homolog; tolerances for residues.

(a) Tolerances are established for residues of the insecticide parathion (*O,O*-diethyl-*O*-*p*-nitrophenyl thiophosphate) or its methyl homolog in or on the following raw agricultural commodities:

Commodities	Parts per million
Alfalfa (fresh)	1.25
Alfalfa hay	5
Almonds	0.1(N)
Almond hulls	3
Apples	1
Apricots	1
Artichokes	1
Avocados	1
Barley	1
Beans	1
Beet greens (alone)	1
Beets (with or without tops)	1
Beets, sugar	0.1(N)
Blackberries	1
Blueberries (huckleberries)	1
Boysenberries	1
Broccoli	1
Brussels sprouts	1
Cabbage	1
Carrots	1
Cauliflower	1
Celery	1
Cherries	1
Citrus fruits	1
Clover	1
Collards	1
Corn	1
Corn, forage	1
Cottonseed	0.75
Cranberries	1
Cucumbers	1
Currants	1
Dates	1
[illegible]	1
Eggplants	1
Endive (escarole)	1
Figs	1
Filberts	0.1(N)
Garlic	1
Gooseberries	1
Grapes	1
Grass (forage)	1
Guavas	1
Hops	1
Kale	1
Kohlrabi	1
Lettuce	1
Loganberries	1
Mangoes	1
Melons	1
Mustard greens	1
Mustard seed	0.2
Nectarines	1
Oats	1
Okra	1
Olives	1
Onions	1
Parsnips (with or without tops)	1
Parsnip greens (alone)	1
Peaches	1
Peanuts	1
Pears	1
Peas	1
Peas, forage	1
Pecans	0.1(N)
Peppers	1
Pineapples	1
Plums (fresh prunes)	1
Potatoes	0.1(N)
Pumpkins	1
Quinces	1
Radishes (with or without tops)	1
Radish, tops	1
Rape seed	0.2
Raspberries	1
Rice	1
Ruthabegas (with or without tops)	1
Rutabega tops	1
Safflower seed	0.1(N)
Sorghum	0.1(N)
Sorghum fodder	3
Sorghum forage	3
Soybeans	0.1
Soybean hay	1
Spinach	1
Squash	1
Strawberries	1
Summer squash	1
Sugarcane	0.1(N)
Sugarcane fodder	0.1(N)
Sugarcane forage	0.1(N)
Sunflower seed	0.2
Sweet potatoes	0.1(N)
Swiss chard	1
Tomatoes	1
Turnips (with or without tops)	1
Turnips greens	1
Vetch	1
Walnuts	0.1(N)
Wheat	1
Youngberries	1

(b) Tolerances are established for residues of the insecticide *O,O*-dimethyl-*O*-*p*-nitrophenyl thiophosphate (the methyl homolog of parathion) in or on the following raw agricultural commodities:

Commodities	Parts per million
Birdsfoot trefoil forage	1.25
Birdsfoot trefoil hay	5
Guar beans	0.1
Lentils	1
Parsley	1

[FR Doc. 82-19485 Filed 7-20-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 6E1812/R453; PH FRL 2172-4]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Benomyl

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the fungicide benomyl and its metabolites in or on the raw agricultural commodity avocados. This regulation to establish a maximum permissible level for residues of the fungicide in or on the commodity was submitted by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: Effective on July 21, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk, (A-110), Room 3708, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald R. Stubbs, Emergency Response Section, Registration Division (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (703-557-7700).

SUPPLEMENTARY INFORMATION: The EPA issued a notice of proposed rulemaking published in the **Federal Register** of May 26, 1982 (47 FR 22980) which announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 6E1812 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of Florida.

This petition requested that the Administrator, pursuant to section

408(e) of the Federal Food, Drug, and Cosmetic Act, establish a tolerance for the combined residues of the fungicide benomyl (methyl 1-[butylcarbamoyl]-2-benzimidazole carbamate) and its metabolite containing the benzimidazole moiety (calculated as benomyl) in or on the raw agricultural commodity avocados at 3 ppm. This represents an increase in the existing tolerance level of 1 ppm for avocados.

No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

The data submitted in the petition and all other relevant material have been evaluated and discussed in the notice of proposed rulemaking (47 FR 22980, May 26, 1982).

The pesticide is considered useful for the purpose for which the tolerance is sought. Based on the information considered by the Agency, it is concluded that the tolerance established by amending 40 CFR Part 180 will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, on or before August 20, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Effective on: July 21, 1982.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Agricultural commodities, Pesticides and pests.

Dated July 6, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.294 is amended by increasing the current tolerance level for the raw agricultural commodity avocados to read as follows:

§ 180.294 Benomyl; tolerances for residues.

* * * * *

Commodities	Parts per million
Avocados	3
* * * * *	

[FR Doc. 82-19488 Filed 7-20-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 1E2493/R456; PH-FRL 2173-1]

Cyano(3-Phenoxyphenyl)Methyl 4-Chloro-Alpha-(1-Methylethyl)Benzeneacetate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the insecticide cyano(3-phenoxyphenyl)methyl 4-chloro-alpha-(1-methylethyl)benzeneacetate in or on the raw agricultural commodity filberts. This regulation to establish a maximum permissible level for residues of the insecticide in or on the commodity filberts was submitted pursuant to a petition by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: Effective on July 21, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Room 378, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald R. Stubbs, Emergency Response Section, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Room 716-B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7700).

SUPPLEMENTARY INFORMATION: The EPA issued a notice of proposed rulemaking published in the **Federal Register** of June 2, 1982 (47 FR 23957), which announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition number 1E2493 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of Oregon.

The petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the insecticide cyano(3-phenoxyphenyl)methyl 4-chloro-alpha-(1-methylethyl)benzeneacetate in or on the raw agricultural commodity filberts at 0.2 part per million (ppm).

No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

The data submitted in the petition and all other relevant material have been evaluated and discussed in the notice of proposed rulemaking (47 FR 23957, June 2, 1982).

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR Part 180 would protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Effective on: July 21, 1982.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: July 9, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.379 is amended by revising the chemical name to reflect "(1-methylethyl)" and adding and alphabetically inserting the raw agricultural commodity filberts to read as follows:

§ 180.379 Cyano(3-phenoxyphenyl methyl 4-chloro-alpha-(1-methyl-ethyl)benzeneacetate; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Filberts	0.2
* * * * *	

[FR Doc. 82-19638 Filed 7-20-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 435

[WH-FRL 2121-2]

Oil and Gas Extraction, Point Source Category; Suspension of Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Suspension of regulations and request for comments.

SUMMARY: EPA is suspending the applicability of "best practicable control technology currently available (BPT)" effluent limitation guidelines regulations for the onshore subcategory of the oil and gas extraction point source category as they apply to facilities located onshore engaged in the production, field exploration, drilling, well completion and well treatment in this industry in existence on April 13, 1979 or thereafter which would have been considered "coastal" as defined in Section 435.41 of the October 13, 1976 Interim Final regulations (41 FR 44943) for this industry. This action is in response to the Court's decision in *American Petroleum* v. *EPA*, 661 F. 2d 340 (5th cir., 1981). In addition, EPA is suspending the applicability of these regulations as to wells located in the Santa Maria Basin of California.

EPA also will reexamine the question of whether or not to establish different effluent limitation guidelines for marginal gas wells.

DATES: The suspension of these regulations as to facilities in existence on April 13, 1979 or thereafter, which are located on land and which would have been considered "coastal" and allowed to discharge under EPA's October 13, 1976 interim final regulations for the oil and gas extraction point source category, is effective as of November 13, 1981, the date of the Court's decision requiring today's action. The suspension of the regulation as to facilities located in the Santa Maria Basin of California is effective August 20, 1982. Comments must be submitted on or before September 20, 1982.

ADDRESS: Comments should be sent to Ron Kirby, Effluent Guidelines Division (WH-552), Washington, D.C. 20460. Attention; EGD Docket Clerk, Oil and Gas Extraction Industry, (WH-552).

The supporting information and all comments received will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2404 (Rear) PM-213 (EPA Library). The EPA information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Ron Kirby, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, or call (202) 472-8075.

SUPPLEMENTARY INFORMATION:

A. Court Opinion

On April 13, 1979 (44 *FR* 22069) EPA promulgated certain "best practicable control technology currently available (BPT)" effluent limitation guidelines for the oil and gas extraction point source category, 40 CFR Part 435, under the Clean Water Act, as amended, 33 U.S.C. 1251 *et seq.* In *American Petroleum Institute v. EPA*, 661 F.2d. 340 (1981), the Fifth Circuit Court of Appeals remanded the Agency's recategorization from the coastal subcategory to the onshore subcategory of certain wells located on land within Texas and Louisiana. The Agency's Interim Final Regulations' definition of "coastal" only applied to wells within those two States. An effect of this recategorization was that these wells which had been allowed to discharge under the interim final regulations (40 CFR 435.41, 41 FR 44943, October 13, 1976), could no longer discharge (40 CFR 435.30, 44 FR 22069, April 13, 1979). The Court held that EPA had not adequately analyzed the costs of this regulatory change. Accordingly, EPA is suspending the applicability of 40 CFR 435.30 to these wells. EPA is also suspending the applicability of the regulations to any wells which came into existence after issuance of the 1979 Final Regulations so as to treat all wells in this area the same. Permit conditions will be determined on a case-by-case basis.

The wells affected by this portion of the Court order are those facilities located landward from the inner boundary of the territorial seas and bounded on the inland side by the line defined by the inner boundary of the territorial seas eastward of the point defined by 89°45′ W. Longitude and 29°46′ N. Latitude and continuing as follows west of that point:

Direction to west longitude	Direction to north latitude
West, 89°48′	North, 29°50′.
West, 90°12′	North, 30°06′.
West, 90°20′	South, 29°85′.
West, 90°35′	South, 29°30′.
West, 90°43′	South, 29°25′.
West, 90°57′	North, 29°32′.
West, 91°02′	North, 29°40′.
West, 91°14′	South, 29°32′.
West, 91°27′	North, 29°37′.
West, 91°33′	North, 29°46′.
West, 91°46′	North, 29°50′.
West, 91°50′	North, 29°56′.
West, 91°56′	South, 29°50′.
West, 92°10′	South, 29°44′.
West, 92°55′	North, 29°46′.
West, 93°15′	North, 30°14′.
West, 93°49′	South 30°07′.
West, 94°03′	South, 30°03′.
West, 94°10′	South, 30°00′.
West, 94°20′	South, 29°53′.
West, 95°00′	South, 29°35′.
West, 95°13′	South, 29°28′.
East, 95°06′	South, 29°15′.
West, 95°11′	South, 29°08′.
West, 95°22′	South, 28°56′.
West, 95°30′	South, 28°55′.
West, 95°33′	South, 28°49′.
West, 95°40′	South, 28°47′.
West, 96°42′	South, 28°41′.
East, 96°40′	South, 28°28′.
West, 96°54′	South, 28°20′.
West, 97°03′	South, 28°13′.
West, 97°15′	South, 27°58′.
West, 97°40′	South, 27°45′.
West, 97°46′	South, 27°28′.
West, 97°51′	South, 27°22′.
East, 97°46′	South, 27°14′.
East, 97°30′	South, 26°30′.
East, 97°26′	South, 26°11′.

East to 97°19′ W. Longitude and Southward to the U.S.—Mexican border.

In addition, the Court directed EPA to reexamine the problems of marginal gas wells and consider treating them similarly to the way the Agency treats stripper oil wells. The Agency has created a separate subcategory for stripper oil wells but has not established nationally applicable effluent limitations.

EPA is considering the effects of the Court remand of the Agency's recategorization from the coastal subcategory to the onshore subcategory of certain wells located on land within Texas and Louisiana, and the Court's directive to reexamine the problems of marginal gas wells and consider adding them to the guidelines for stripper oil wells. The Agency invites comment from the public on the issues raised by the Court remand.

EPA is examining the following issues regarding wells in Texas and Louisiana:

- The number of wells located on land that currently discharge to saline, fresh or brackish waters;
- The wastewater characteristics and amounts of the produced waters discharged from these sources;
- The cost of achieving zero discharge and how that cost is related to well characteristics such as size of well, location, production, geologic conditions, depth and other factors;

- The environmental impacts arising from produced waters discharged which may not be compatible with the receiving streams in terms of salinity, chemical composition, temperature, or pH.

The Agency specifically invites comments from the public on the above issues.

The Agency is reexamining the following issues regarding marginal gas wells:

- The appropriate definition of "stripper gas wells". A possible definition the Agency is considering is the one used by the Department of Energy (DOE) which defines such wells as those producing less than 60 thousand cubic feet (mcf) of natural gas per day;
- The number of marginal gas wells in existence which would be considered stripper under the DOE definition of stripper gas wells;
- The wastewater characteristics and amounts of produced waters discharged from marginal gas wells;
- The environmental impacts arising from produced waters discharged which may not be compatible with the receiving streams in terms of salinity, chemical composition, temperature or pH;
- The costs involved in achieving zero discharge from marginal gas wells and how zero discharge would affect production.

EPA will consider data produced both by the Agency and by various outside groups pertaining to these issues. One study that EPA is considering using as a source of information for the above questions is the "Analysis of the Economic Impact of EPA Proposal to Exclude from the Coastal Subcategory discharges from wells located on land but Discharging into Coastal Waters (March 1978) and Addendum I (April 1978) by J. Gruy and Associates, Inc." ("Gruy Report").

EPA specifically invites comments from the public on the above issues.

B. Wells in Santa Maria Basin

EPA has recently received technical information that reinjection of produced waters by wells in the Santa Maria Basin of California to achieve the no discharge standard of the BPT onshore subcategory regulations (40 CFR 435.30) may no longer be appropriate. The Santa Maria Basin consists of the following oil fields: Barham Ranch; Careaga Canyon; Casmalia; Cat Canyon East; Cat Canyon West; Four Deer; Gato Ridge; Guadalupe; Jesus Maria; Lompoc; Los Alamos; Olivera Canyon; Orcutt; Santa Maria Valley; Tinaquaic and Zaca. These oil fields are the ones listed as being included in the Santa Maria District by the Joint Committee on Nomenclature of the American Association of Petroleum Geologists and the Conservation Committee of California Oil Producers consulting with the California Division of Oil and Gas Representatives.

The injected water follows a subsurface fracture, displaces the oil in adjacent wells and has substantially reduced production capacity in the Santa Maria Basin. In addition, there is evidence to suggest that the requirement of continuing the practice of injection into existing disposal zones at current or expanded levels may cause groundwater contamination because of the area's special geological features. The high injection pressure at the wellhead has caused the reservoir pressures to exceed the formation fracture pressure. This could cause the movement of injection fluids into fresh water aquifers through existing fault planes and fractures as a result of injection pressure. Also, the possibility of developing new disposal wells in other zones at greater depths is severely limited because of the geological features. The porosity, permeability and reservoir capacity of other zones are considered unfavorable to dispose of injection fluids economically and safely. On the basis of this new information, EPA is suspending the applicability of § 435.30 to wells located in the Santa Maria Basin. Permit conditions will be established on a case-by-case basis.

C. Promulgation Without Notice and Comment; OMB Review

Because this regulation is in direct response to the Court's opinion and otherwise responds to pressing issues raised by the public pertaining to public health and loss of domestic oil production, the Administrator has determined that there is good cause to promulgate this regulation without prior opportunity for notice and comment pursuant to Section 553(b) of the Administrative Procedure Act.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it imposes no new obligations. This notice was submitted to the Office of Management and Budget for review, as required by Executive Order 12291.

List of Subjects in 40 CFR Part 435

Oil and gas exploration, Water pollution control, Waste treatment and disposal.

Dated: July 13, 1982.

Anne M. Gorsuch,

Administrator.

PART 435—OIL AND GAS EXTRACTION POINT SOURCE CATEGORY

40 CFR 435.30 is amended by adding the following sentence as follows:

Subpart C—Onshore Subcategory

§ 435.30 Applicability; description of the onshore subcategory

* * * *Provided, however,* That the applicability of this subpart to (a) facilities in existence on April 13, 1979 or thereafter engaged in the production, field exploration, drilling, well completion and well treatment in the oil and gas extraction industry which are located on land and which would have been considered "coastal" as defined under the interim final regulations for this industry (40 CFR 435.41, 41 FR 44942, October 13, 1976) or which are (b) located in the Santa Maria Basin of California is suspended.

Authority: (Sections 301, 304(b) and 501 of the Clean Water Act as amended, 33 U.S.C. 1251 *et seq.).*

[FR Doc. 82-19688 Filed 7-19-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 94 and 100

[Gen. Docket No. 80-603; FCC 82-285]

Development of Regulatory Policy in Regard to Direct Broadcast Satellites for the Period Following the 1983 Regional Administrative Radio Conference

AGENCY: Federal Communications Commission.

ACTION: Interim rule.

SUMMARY: The Federal Communications Commission (FCC) finds authorization of Direct Broadcast Satellite (DBS) systems in the public interest and establishes rules for their operation in the interim period before the 1983 Regional Administrative Radio Conference. The FCC also allocates spectrum for a DBS service and sets forth a method of accommodating terrestrial microwave licensees now occupying the frequencies allocated to DBS. The action was taken in order to make possible the introduction of DBS service in the United States. The action is intended to allow licensing and construction of DBS systems to proceed and to cause a minimum of disruption to terrestrial microwave systems.

EFFECTIVE DATE: August 20, 1982.

FOR FURTHER INFORMATION CONTACT: Florence Setzer or Bruce Franca, 653–5940

SUPPLEMENTARY INFORMATION: As required by Section 603 of the Regulatory Flexibility Act, the FCC has prepared a Final Regulatory Flexibility Analysis of the expected effect of these rules on small entities. The analysis is set forth in Appendix D of the *Report and Order.*

List of Subjects

47 CFR Part 2

Frequency allocations.

47 CFR Part 94

Operational-fixed microwave.

47 CFR Part 100

Direct broadcast satellites.

Report and Order

Adopted: June 23, 1982.
Released: July 14, 1982.

I. Introduction

1. On June 1, 1981, the Commission issued a *Notice of Proposed Policy Statement and Rulemaking* (*Notice*), 86 FCC 2d 719, to consider proposed policies and rules to govern the authorization of direct broadcast satellite (DBS) service prior to the 1983 Regional Administrative Radio Conference (RARC–83).[1] After full consideration of the comments filed in this proceeding, we have concluded that such interim DBS authorizations would serve the public interest. Therefore, we propose to authorize DBS services, on an experimental basis, subject to the policies and rules set forth in this *Report and Order.*

II. Background

2. The Commission began consideration of domestic policies for DBS with a *Notice of Inquiry,* 45 FR 72719 (November 3, 1980), released October 29, 1980 in General Docket 80–603.[2] The *Notice of Inquiry* requested comment on two staff reports dealing with DBS, one dealing with technical characteristics of and the other with appropriate regulatory policies.[3] The *Notice of Inquiry* also requested comment on questions dealing with permanent regulatory policies and questions dealing with regulatory policies and questions dealing with regulatory policies for the interim period prior to the 1983 RARC. Separate comment and reply periods were established for each set of questions.

3. On December 17, 1980, the Commission received an application from Satellite Television Corporation (STC) requesting authority to begin construction of satellites for a satellite-to-home video broadcasting system. The Commission placed STC's application in the docket file and invited public comment on the application.

4. After consideration of the comments and replies in response to the questions dealing with interim regulatory policies, and in response to STC's application, the Commission, on June 1, 1981, released the *Notice,* which set forth the proposed policies and conditions to govern the authorization of interim DBS services. At the same time, the Commission accepted STC's application (File No. DBS–81–01) for filing and established a 45-day cutoff period for the submission of other applications to be considered in conjunction with STC's application. Thirteen additional applications were received during this period.

5. On October 28, 1981, the Commission released a *Public Notice,* FCC 81–507, announcing that the applications submitted by the following parties were acceptable for filing: CBS, Inc. (File No. DBS–81–02); Direct Broadcast Satellite Corporation (File No. DBS–81–03); Focus Broadcast Satellite Company (File No. DBS–81–04);[4] Graphic Scanning Corporation (File No. DBS–81–05); RCA American Communications, Inc. (File No. DBS–81–06); United States Satellite Broadcasting Company (File No. DBS–81–07); Video Satellite Systems, Inc. (File No. DBS–81–08); and Western Union Telegraph Company (File No. DBS–81–09).[5]

6. Numerous comments and replies were filed in reponse to the *Notice.* Appendix A contains a list of the commenters. Because authorization of first generation DBS systems may have some effect on permanent regulatory policies, we have also taken into account, where appropriate, the comments filed in response to the questions concerning permanent regulatory policies in the *Notice of Inquiry.* Appendix B contains a list of those who submitted comments concerning permanent policies. Summaries of the comments filed in response to the *Notice* and the comments relating to permanent regulatory policies filed in response to the *Notice of Inquiry* are available on request. A Final Regulatory Flexibility Analysis is contained in Appendix E.

III. The Public Interest in Authorizing DBS Systems

7. In the *Notice* we pointed out that authorization of DBS systems, even on an experimental basis, might have lasting implications, and that as a consequence we found it advisable to make a preliminary determination that the public interest would be served by the establishment of these services on a regular or permanent basis.[6] The thirteen additional applications to provide DBS service we have received since the adoption of the *Notice* reinforce our belief that authorization of DBS systems in the 12 GHz band is likely to have a major and permanent effect on the use of the band, and that before proceeding we should examine carefully the possible effects of the

[1] Direct broadcast satellite (DBS) service is a radiocommunication service in which signals from earth are retransmitted by high power, geostationary satellites for direct reception by small, inexpensive earth terminals. We use the terms DBS and broadcasting-satellite service (BSS) in this item. Generally, we use the term DBS when discussing domestic policy matters and BSS with regard to frequency allocation matters, in particular with reference to the Table of Frequency Allocations. For the purposes of this document, the terms can generally be regarded as synonymous.

[2] The Commission is conducting a parallel DBS proceeding, General Docket 80–398, concerning Commission preparations for a scheduled 1983 Region 2 Administrative Radio Conference for the planning of the 12 GHz broadcasting satellite service. The results of this proceeding will serve as the basis for Commission coordination with the National Telecommunications and Information Administration (NTIA) and the Department of State in the formulation of United States proposals and positions for that conference. The Commission has released three *Notices of Inquiry* and established an Advisory Committee to aid in these preparatory efforts.

[3] Bruno Pattan, *Technical Aspects Related to Direct Broadcast Satellite Systems* (Federal Communications Commission, Office of Science and Technology, September 1980); and Florence O. Setzer, Bruce A. Franca, and Nina W. Cornell, *Policies for Regulation of Direct Broadcast Satellites* (Federal Communications Commission, Office of Plans and Policy, October 1980).

[4] Only the portion proposing use of the Advanced Westar satellite was accepted.

[5] On August 5, 1981, STC filed a petition requesting that the Commission rule on the acceptability of certain DBS applications. In response to STC's petition, the Commission released a *Memorandum Opinion and Order,* 88 FCC 2d 100, on November 3, 1981, finding that a number of interim DBS applications were incomplete and unacceptable for filing. In a subsequent *Memorandum Opinion and Order,* 89 FCC 2d 177, released March 1, 1982, the Commission reaffirmed this decision and rejected several petitions for reconsideration. An appeal of these decisions is pending. *National Christian Network, Inc.* v. *FCC,* No. 82–1345 (D.C. Cir., appeal filed March 31, 1982).

[6] Such a procedure is consistent with the procedures set forth in §§ 5.253(e) and 74.103(d) of the Commission's rules, which deal with experimental authorizations. Section 5.253(e), for instance, states that "frequencies will not be assigned for the development of a service for which no frequencies have been allocated until the Commission has made a preliminary determination that the public interest, convenience, and necessity would be served by the establishment of the service."

service to determine whether its authorization would serve the public interest. Accordingly, we have carefully studied the record in this proceeding concerning the effects of authorization of DBS systems. We continue to believe that the benefits of authorizing DBS service will outweigh the costs, and that DBS service could constitute a valuable use of the 12 GHz band. Therefore, we believe that authorization of DBS systems in the 12.2–12.7 GHz band would serve the public interest.

8. Many commenters state that the record does not support our preliminary determination that authorization of DBS systems would serve the public interest.[7] Most of these state either that DBS would not provide the benefits claimed for it or that the Commission has not fully considered the costs of authorizing the service. They claim that the benefits to the public would not justify the use of the spectrum and orbital slots.

9. In criticizing our discussion of the benefits of DBS, others state that the only benefits of DBS service not provided by other systems would be service to rural areas, and that this benefit would justify no more than spot beams to serve those areas. Some commenters state that the rural population is to a small to justify the cost of a DBS system, and that the Commission has not established that rual viewers either want or could afford DBS service. Some commenters state that there are better ways of providing the services that DBS would provide, even in rural areas. Some commenters state that DBS as we propose to authorize it would duplicate services already available, either by providing similar programming or by transmitting standard 525-line television signals rather than high definition television (HDTV). Some state that the Commission has not assessed the value of alternative broadcasting-satellite services, such as HDTV and non-video uses.

10. The costs of DBS service about which commenters express greatest concern are those to terrestrial microwave users and to local broadcasters and the services they provide to the public. Several commenters state that they are not opposed to DBS in principle, but that it should not be authorized at the expense of the terrestrial users. Some commenters oppose authorization of DBS prior to the 1983 RARC.

11. Other commenters, however, support the Commission's preliminary public interest finding.[8] STC, for instance, states that DBS has a unique capability to provide video services to rural and remote areas that are underserved by existing television services; that it will offer the public several new channels of television programming, thus increasing competition and diversity; that it may introduce new video services, such as high definition television; and that it will further the national objectives of maintaining U.S. preeminence in satellite communications and enhancing the prospects for economic growth.

Benefits of DBS Service

12. We have examined the record and have concluded that DBS has the potential to provide extremely valuable services to the American people. The possible benefits of the service include the provision of improved service to remote areas, additional channels of service throughout the country, programming offering more variety and that is better suited to viewers' tastes, technically innovative services, and expanded non-entertainment service.

13. *Service to remote areas.* Signals from DBS satellites could be received with essentially the same signal quality in all geographic areas. Reception would be as good in the most isolated rural area as in any urban area. NTIA has estimated that in 1973 nearly 5 million people lived in areas where they could receive no over-the-air television signals at all.[9] Even in 1981, according to Nielsen, roughly 11 million people received 3 or fewer channels.[10] DBS will give these households access for the first time to a level of television service taken for granted in the rest of the nation. For isolated households, satellite technology appears to offer the only new source of television service (with the possible exception of low power television and video cassette and disc equipment) likely to be practical in the foreseeable future. Thus, the statutory goal of providing equitable distribution of service throughout the nation, *see* 47 U.S.C. 307(b), will be furthered by authorizing DBS service, which holds unique promise of meeting the programming needs of remote, underserved households.

14. We also have evidence that for viewers with little or no television service additional channels of service have enormous value. One study estimates that viewers would be willing to spend over 5 percent of their income for three channels of network television rather than have no television service at all; those with three channels available would still spend over 0.75 percent of their income for a fourth network channel.[11] The addition of another competitor in rural markets could also stimulate competition in programming and advertising.

15. *Additional channels of service throughout the country.* DBS would also make available more channels of television programming throughout the country. Preparations for the 1983 RARC lead us to believe that spectrum space is likely to be available for thirty to forty channels nationwide for the foreseeable future, and for many more in the long run. The total benefits of DBS service may in fact be even greater in urban than in rural areas because of the larger number of people who would receive additional service. In most urban areas all available VHF and most available UHF channels are in use. That there is great unmet demand for television channels in urban areas is suggested by the high prices for which television stations are sold in these areas.[12] These prices, and the success of cable and STV in urban areas already receiving many over-the-air signals, suggest that viewers continue to place considerable value on additional television signals even when many signals are already available, and that the public will benefit from the availability of additional channels.

16. *Programming better suited to viewers' tastes.* With a large number of channels of programming available to viewers, we expect that broadcasters' incentives in selecting programming will

[7] These commenters include the Aerospace and Flight Test Radio Coordinating Council (AFTRCC); the American Newspaper Publishers Association (ANPA); the American Petroleum Institute, Central Committee on Telecommunications (API); the Association of American Railroads (AAR); the Association for Higher Education of North Texas (AHE); the Association of Maximum Service Telecasters (MST); Forward Communications Corporation *et al.* (Licensees); Mr. Jeff Green; National Broadcasting Company, Inc. (NBC); the Oklahoma Regents for Higher Education (Oklahoma Regents); the United Church of Christ (UCC); and the Utilities Telecommunications Council (UTC).

[8] These include Citizens Communications Center, *et al.* (Citizens); Direct Broadcast Satellite Corporation, Inc. (DBSC); Mr. Douglas A. Lemke; the Pop Network, Inc. (the Pop Network); STC; and United States Satellite Broadcasting, Inc. (USSB).

[9] Institute for Telecommunications Sciences, National Telecommunications and Information Administration, U.S. Department of Commerce. Estimates based on the computer program "Television Coverage Maps," using predicted Grade B contours and 1970 Census population densities.

[10] Estimated from *1982 Nielsen Report on Television.*

[11] Roger G. Noll, Merton J. Peck, and John J. McGowan, *Economic Aspects of Television Regulation* (Washington, D.C.: The Brookings Institution, 1973), p. 288.

[12] For instance, station WCVB–TV in Boston, Channel 5, recently sold for $220 million. New York Times, May 22, 1982. The excess of the sale price over the value of land and equipment reflects the purchaser's evaluation of the value of the use of the spectrum.

change. They will have more incentive to tailor their programming to small audiences with specialized tastes rather than to a least-common-denominator mass audience. The narrowcasting that we see in radio and that is beginning to occur in cable television may be carried much further, with the result that a much wider variety of programming may be available. If so, viewers will benefit greatly from having access to programming that comes closer to meeting their individual tastes. Thus, we expect that an abundance of channels will, by changing the underlying structure of broadcasters' incentives, provide substantially greater benefits to viewers than the simple number of channels would indicate.[13]

17. The availability of pay services should also improve the responsiveness of programming to viewers' tastes because it may give small groups of viewers with intense interests an opportunity to pay to receive programming that could not be presented profitably by advertiser-supported stations. A nationwide service that can tap small, geographically-dispersed audiences also makes possible more specialized programming.

18. In addition, the amount and quality of programming available now appears to be limited both by the small number of outlets where programs can be shown and by the limited advertising revenues available to support program production.[14] If, however, subscription programming becomes widely available, and if many new outlets begin competing for audiences and advertising revenues, we would expect to see a major growth in the funds spent on program production and more and better programming as a conseqence.

19. *Innovative services.* Many of the experimental DBS applications we have received propose innovative services, such as high definition television (HDTV), stereophonic sound, teletext, and dual-language sound tracks. Allocation of an additional band of spectrum for video program distribution will make introduction of these new services relatively easy. The flexible regulatory and spectrum allocation provisions we propose would allow authorization of any of these services.

20. *Non-entertainment service.* DBS has a wide variety of potential uses other than entertainment programming, including educational programming, transmission of medical data, and the like. While we have not proposed reserving channels for such purposes, we would certainly allow them, and we would expect them to be provided if sufficient demand exists.

Conclusions

21. We believe that authorization of DBS service would not only make possible more channels of television service throughout the country, but could result in a major qualitative improvement in the service available and in the responsiveness of television to viewers' preferences. As a consequence, its potential benefits to the American people would be very great. We have also examined the possible disadvantages of authorization of DBS systems and we have concluded that they are outweighed by the benefits the new service would confer. As discussed below, we believe that there is little likelihood that by authorizing DBS service immediately, rather than delaying until after RARC–83, we will narrow our options at the RARC or foreclose any regulatory policies or rules we might later wish to adopt. We also believe that the benefits of making service available in the near future provide a compelling argument for proceeding expeditiously to authorize the service. We further believe that any adverse effect DBS service may have on local broadcast service will be outweighed by the beneficial new services described above. Finally, we believe that our proposal for accommodation of the terrestrial microwave users in the 12 GHz band will limit the costs of dislocation caused by introduction of DBS service to an acceptable level and will encourage efficient spectrum utilization. Accordingly, we find that authorization of interim DBS systems would serve the public interest.

IV. Interim DBS Authorizations

22. In the *Notice* we proposed to establish rules for DBS for the interim period prior to the 1983 RARC, and to consider and process applications to provide DBS service, even though we recognized that the outcome of the RARC might affect the rules that we could or would wish to impose domestically. We noted that because of the long lead times required for satellite construction, delaying the granting of construction permits until after the RARC would probably mean that no DBS systems would go into operation until the end of this decade. We pointed out that by starting the authorization process now, under interim rules, we would permit implementation of the service several years earlier than if we waited until the outcome of the RARC were known and permanent rules were subsequently established. We also noted that authorization of interim DBS systems would provide valuable experience that would allow us to make better-informed judgments concerning permanent regulations.

23. Some commenters assert that the authorization of DBS systems prior to the 1983 RARC will restrict the United States' negotiating flexibility at the RARC or will predetermine our permanent policies and regulations.[15] For these reasons, these parties argue that no interim DBS authorizations should be granted. Other commenters believe that the Commission should grant interim authorizations.[16] Several of these commenters state that interim authorizations are likely to enhance the United States' negotiating position and will not affect the development of permanent regulations.

24. As stated in the *Notice,* we believe that our approval of one or more DBS applications would not adversely affect the United States' negotiating posture at the 1983 RARC. The 1977 and 1979 World Administrative Radio Conferences (WARC–77 and WARC–79) anticipated that Region 2 countries might wish to implement interim DBS systems, and their Final Acts expressly permit interim authorizations. To date, the United States' preparations for RARC have emphasized the desirability of a high degree of flexibility in planning for the broadcasting-satellite service, and we will examine interim DBS applications carefully to ensure that technical proposals are consistent with our negotiating position. *See Notice,* paras. 64–75. Indeed, we believe that the existence of definite DBS proposals may assist in formulating realistic United States requirements, and that the U.S. delegation to the Conference will be better able to present cogent arguments for the accommodation of United States needs if they can present immediate and demonstrable needs rather than vague conjectures as to possible requirements.

25. We also recognize that the Final Acts of RARC–83 will constitute an International treaty which is subject to full ratification procedures. Therefore, the spectrum allocations and the rules for licensing set forth in this *Report and Order* will be subject to revision based

[13] For a discussion of the effects of the number of channels on broadcasters' program choices, see Bruce M. Owen, Jack H. Beebe, and Willard G. Manning, Jr., *Television Economics* (Lexington, Mass.: Lexington Books, D.C. Heath and Company, (1974), pp. 40–90

[14] Noll, Peck, and McGowan, *Economic Aspects of Television Regulation,* p. 30.

[15] *See* comments submitted by American Broadcasting Companies, Inc. (ABC), Licensees; National Association Broadcasters (NAB); and NBC.

[16] *See* comments submitted by Citizens, DBSC, General Electric Company (GE), USSB, and STC.

upon the outcome of RARC–83. In particular, we recognize the possibility that the final outcome of the RARC may result in the United States being awarded less of the spectrum-orbit resource than is required by the applications we grant. All DBS applicants are on notice, however, that their systems must conform to the outcome of the RARC, and that if insufficient spectrum or orbital positions are available for all the systems they may face comparative hearings at some time after the RARC. Alternatively, we may choose to assign applicants fewer frequencies or somewhat different orbital positions than they request. We will not, in fact, assign frequencies or orbital positions until the outcome of the Conference is known.

26. We also believe that the interim policies and rules we have adopted herein provide the Commission with sufficient flexibility to permit almost any permanent regulatory policies to be imposed at a later date. To ensure that we maintain our future flexibility, we have attempted to impose as few rules as possible on interim DBS systems. In addition, we will require that all operators of interim DBS systems come into compliance with any permanent regulations that are implemented later.

27. Accordingly, we believe that the authorization of interim DBS systems will not adversely affect our negotiating position at the 1983 RARC or limit our ability to establish whatever permanent policies we wish in the future. Interim authorizations will allow the public to receive the benefits of DBS service at the earliest possible time, and thus will advance the statutory objective of facilitating the introduction of new communications services. *See* 47 U.S.C. 303(g). They will also provide information of great value to the Commission in setting permanent spectrum allocation and regulatory policies. Since we see no serious disadvantage to interim authorizations, and we continue to believe that early introduction of DBS systems would provide great benefit to American viewers, we continue to believe that interim authorizations would serve the public interest.

V. Effects on Local Broadcasting

28. In the *Notice* the Commission examined the relationship between DBS systems and the existing terrestrial broadcasting service. We concluded that the Communications Act permits authorization of nonlocal broadcast services. We also concluded that authorization of a DBS service would not be inconsistent with our traditional commitment to encouraging locally-oriented service to particular communities. We noted that our policy has been to "consider economic harm to broadcasters in authorizing a new service only if there is a convincing showing that a signficant loss in income to the broadcaster would occur, that the amount of public service programming would decline as a result, and that the loss would not be offset by programming offered by the applicant." [17] We found that the available evidence indicated that a DBS system would be likely to have a negligible effect on the audiences, revenues, and public service programming of local broadcasters. The comments we have received, both those in response to the *Notice* and those concerning permanent policies, present no arguments or evidence that would cause us to doubt that conclusion or to alter our view of our legal authority to authorize DBS systems.

Legal Authority To Authorize Nonlocal Service

29. Some of the commenters continue to question the Commission's legal authority to authorize a nonlocal broadcasting service. [18] They base their contentions on the language and legislative history of Section 307(b) of the Communications Act, which provides that:

> [I]n considering applications for licenses, and modifications and renewals thereof, when and insofar as there is demand for the same, the Commission shall make such distribution of licenses, frequencies, hours of operation, and of power among the several States and communities as to provide a fair, efficient, and equitable distribution of radio service to each of the same.

47 U.S.C. 307(b). These commenters assert that the above language prohibits the Commission from authorizing DBS systems because these systems would be nonlocal in character, would bypass existing local stations, and would not provide broadcasting outlets to local communities.

30. Other commenters assert that Section 307(b) does not require local assignment of frequencies, but only equitable distribution of service. [19] They assert that the Commission has wide discretion to determine the means of providing broadcast services, in particular to delineate service areas, and that nothing in the language or history of the Communications Act prohibits the establishment of broadcast facilities with nonlocal service areas. Some state that, even granting *arguendo* that the statute reflects a preference for local assignments, the requirement to provide local services does not prohibit the Commission from supplementing it with other forms of service. [20] Thus, the principle of localism is compatible with the goal of expanding the range of available services. One commenter, the Joint Council on Educational Telecommunications (JCET), asserts that DBS would provide the most equitable means of distributing television service, since it would make it possible to provide the same service to all geographic areas of the country. [21]

31. As fully discussed in the *Notice*, we believe the Commission clearly has the authority to authorize nonlocal broadcast services. Nothing in the comments filed in this proceeding has led us to alter that conclusion. [22] The Commission has broad discretion to select the means by which it will implement the statutory directive to "provide a fair, efficient, and equitable distribution of radio service" across the nation. *See* 47 U.S.C. 307(b); *See also FCC* v. *Pottsville Broadcasting Co.*, 309 U.S. 134 (1940); *National Broadcasting Co.* v. *United States*, 319 U.S. 190 (1943). Thus, the policy of localism underlying Commission radio and television regulation "was adopted by Commission choice, not by statutory command." [23] Moreover, we continue to believe that our obligation "to encourage the larger and more effective use of radio," 47 U.S.C. 303(g), requires that we fully utilize the satellite technology offered by DBS to improve services to underserved areas of the nation. Accordingly, we reject the claim of those commenters who contend that, merely because DBS is a nonlocal broadcast service, the Act prohibits its authorization.

Impact on Local Broadcasting

32. Many commenters continue to assert that competition from DBS systems would reduce the audiences and revenues of local broadcasters, which would cause them to reduce the amount or quality of locally-produced programming or public service programming they would provide. [24]

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[17] *Notice*, paragraph 50.

[18] These include ABC, NAB, and the Licensees.

[19] *See* comments of DBSC, STC, and Citizens.

[20] These include the Pop Network; Citizens; and the International Union, UAW (UAW).

[21] *See* JCET's comments on permanent policies.

[22] *Notice*, paragraph 46.

[23] *Notice*, paragraph 47. See also Thomas L. Schuessler, *The Effect of the Federal Communications Commission's Spectrum Management Policies upon the Number of Television Networks*, FCC Network Inquiry Special Staff, December 15, 1979, pp. 40–50.

[24] *See* comments of the Corporation for Public Broadcasting (CPB) and NAB, and comments on permanent policies of the ABC, CBS, and NBC Network Affiliates Organization (Affiliates); the ABC Television Affiliates Association (ABC Affiliates); and Fisher Broadcasting, Inc. (Fisher).

Some argue that advertiser-supported DBS systems would compete directly with terrestrial broadcasters for audiences and advertising revenues, and that subscription DBS systems would affect advertiser-supported stations by bidding against them for premium programming. According to these commenters, this would increase the price and reduce the quality of programming available to advertiser-supported and public television stations, and would reduce the quality of free programming. They also contend that subscription systems would attract viewers away from existing broadcasters, and that because the audiences that pay systems attract would probably be more affluent than average, the effect on advertising revenues and on the fund-raising ability of public television stations would be much greater than indicated by the numbers of subscribers. One commenter asserts that competition with DBS systems would have the most serious adverse effect on the audiences and revenues of STV stations, and that STV stations' free programming would be lost if they went off the air. Another states that DBS systems might destroy all terrestrial network and local service. In addition, NAB and CPB argue that programming provided by DBS systems could not address local needs and would not fully replace local programming that might be lost.

33. Several commenters who are concerned about the effects of DBS on local broadcasting merely state that these effects are unknown.[25] They argue that the Commission should not authorize DBS systems until it has evidence that local broadcasting will not be harmed or unless it takes action to protect local broadcasting.

34. On the other hand, other commenters, DBSC and STC, emphasize that the Commission should only consider harm to local or public service programming, and should not be swayed by potential economic harm to local broadcasters. One commenter, JCET, states that if DBS systems compete with local broadcasters, the market should determine which delivery method succeeds. Some commenters point out that the burden lies with existing licensees to demonstrate that authorization of a new service would cause a net reduction in service to the public, and that, in the case of DBS, this burden has not been met. Several commenters claim either that authorization of DBS service would have little effect or that there is no evidence of an effect on broadcasters or their local or public service programming.[26] These commenters point out that a DBS service would not use the same frequencies as terrestrial broadcasters, so that introduction of DBS systems would not necessitate a reduction in the channels available for terrestrial broadcasting. They state that pay DBS services would not compete with advertiser-supported broadcasters for advertising revenues. These commenters also cite evidence that audience diversion from terrestrial broadcasters to DBS systems would at most be minor. One commenter, USSB, asserts that its system would pose no threat to local broadcasters, and in fact would foster local programming by affording it a nationwide audience.[27] Another commenter, STC, states that the additional resources that DBS systems would devote to programming would increase the amount and quality of programming available through syndication to local stations, and would also increase the quality of network programming through increased competition. STC states that any adverse effect of a DBS system on local service would be negligible and would be greatly outweighed by the unique services provided by DBS and by the stimulus to program production it would provide.[28]

35. One commenter, NAB, questions the *Notice's* interpretation of studies cited as evidence that DBS would have no adverse effect on programming available to the public. NAB states that the report prepared by Kalba Bowen Associates (Kalba Bowen Report) for NAB does not support the contention that BDS would have little effect on broadcasters.[29] It states that the report asserts only that the short term effect would not be great and that the long-term effect would be less than that of cable. NAB points out that the report deals only with subscription DBS services, and says nothing about the effect of advertiser-supported DBS systems. NAB notes that the report does predict a major effect of DBS systems on single-channel STV and MDS systems. NAB also points out that the Kalba-Bowen report is not an econometric study.

36. NAB also criticizes the Commission's reliance on a study by Arthur D. Little, Inc. (A.D. Little Study), which estimates that a three-channel pay DBS system would have a negligible effect on local broadcasters.[30] NAB states that the study may contain large statistical errors. NAB further states that the study relates only to pay services, and that advertiser-supported DBS services would compete directly with conventional free television. NAB also states that the study is based on data from single-channel pay cable systems, and that multiple-Channel DBS systems might be more attractive to consumers and might have greater penetration. NAB further points out that the study uses 1979 data, and that penetration levels of other pay services have increased since 1979. NAB states that the A.D. Little Study indicates that DBS would have a major effect on STV stations, and that if these stations went dark, their free services would disappear.

37. STC, on the other hand, points out that the A.D. Little Study predicts that a DBS system would cause less than a third of the audience diversion estimated for cable in earlier studies, and that the Commission found that effect to pose no danger to existing stations. STC also states that several of the assumptions of the A.D. Little model may cause it to overestimate the effect of DBS systems on existing broadcasters. First, the 16 percent penetration rate for DBS used in the estimates assumes no competition from other pay services, while in much of the country DBS systems would face competition from cable, STV, and MDS. Next, STC states that the data in the A.D. Little Study pertain only to parts of the day when pay television was being transmitted, and audience diversion would probably be lower over the whole day. Third, according to STC, stating the impact on audiences of exisiting broadcasters in terms of shares rather than ratings also overstates the impact of the new service, since it does not allow for the possibility of increases in total viewing. Fourth, the A.D. Little Study also assumes that all non-pay viewing is of local market, conventional broadcasting, though in fact much is of distant signals and other basic cable services. Finally, STC asserts that the reduction of conventional broadcasters'

[25] *See* comments of the Licensees and UCC, and comments on permanent policies of the State Board of Education of the State of Georgia (Georgia State).

[26] *See* comments of Citizens, DBSC, STC, and the Pop Network; and comments on permanent policies of the National Black Media Coalition (NBMC); Oak Communications, Inc. (Oak); STC; and UAW.

[27] USSB's local affiliates could provide programming to the DBS system through a nationwide system of uplinks. *See* USSB's comments on permanent policies.

[28] *See* STC's comments on permanent policies.

[29] Berge Ayvasian, Melville Blake, and David Cantor, "Direct Broadcast Satellites: Preliminary Assessment of Prospects and Policy Issues," Kalba Bowen Associates, September 22, 1980.

[30] Satellite Television Corporation, *Application*, vol. 5: *Pay Television Services via Direct Broadcast Satellite: Demand and Impact in the 1980's*, by Arthur D. Little, Inc., May 1980.

audiences caused by DBS systems would be much less than the number of DBS subscribers because pay television households continue to watch a large amount of free television, and watch more total hours than households without pay television.

Discussion

38. The Commission is required to consider the economic effect of a new service on existing broadcasters only if there is strong evidence that a significant net reduction in service to the public will result.[31] The Commission cannot reject a new service solely because its entry will reduce the revenues or profits of existing licensees. As the Court stated in the *Sanders Brothers* case,

> Plainly it is not the purpose of the Act to protect a licensee against competition but to protect the public. Congress intended to leave competition in the business of broadcasting where it found it, to permit a licensee who was not interfering electrically with other broadcasters to survive or succumb according to his ability to make his programs attractive to the public. 309 U.S. at 475.

39. We have no hard evidence that DBS systems will have a critically adverse effect on existing broadcast service. As we have noted, the Kalba-Bowen Report contains no quantitative estimates. Although the study predicts that DBS may have a significant effect on STV, it concludes that, at most, the long-term effect of subscription DBS systems on broadcasters would be less than the effect of cable, which is not so substantial as to justify Commission intervention. *See Malrite TV of New York* v. *FCC*, 652 F.2d 1140 (2d Cir. 1981), *cert. denied*, 102 S.Ct. 1002 (1982).

40. The A.D. Little Study, which provides some quantitative evidence, suggests that a three-channel subscription DBS service would have a negligible effect on conventional terrestrial broadcasters or the services they provide to the public. As NAB has pointed out, however, the A.D. Little Study may contain large statistical errors. As STC points out, the study may overstate the effects of DBS on existing broadcasters because it assumes that DBS would face no competition from other pay services, because it uses shares rather than ratings, and because it assumes that all non-pay viewing is of local market, conventional broadcasting.[32] On the other hand, the study may underestimate the effect of DBS because it assumes that all DBS programming would be offered on a subscription basis and because it is based on data from single-channel pay systems, when multiple-channel systems might be more attractive to viewers.[33] In addition, the study does not deal with the effects of multiple DBS systems or with the cumulative effect of DBS and other video delivery methods. The fact that nine DBS applications already are on file with the Commission suggests that a number of DBS systems could come into being. Multiple systems, each with several channels, could be expected to provide a more attractive service at a lower price per channel and to have a greater effect on existing broadcasters than a single system. Nevertheless, we cannot predict how many DBS systems will actually go into operation in the foreseeable future, and we have too little experience with markets having large numbers of video channels to predict viewers' response to the availability of additional channels in such markets.

41. As to DBS' effects on existing subscription services, both the A.D. Little Study and Kalba-Bowen Study predict that DBS would have a considerable effect on the audiences of STV and MDS stations. The A.D. Little Study estimates that if both a three-channel DBS service and an STV or MDS service were priced at $20 per month, the STV or MDS system's audience share would be reduced from the current 5 percent to between 1 and 3 percent. A recent study, however, shows that STV and MDS systems provide strong competition for cable.[34] We would expect that STV and MDS systems already in operation when a DBS system was initiated might fare similarly. We know of no evidence concerning the effects of DBS systems specificially on noncommercial stations.

42. From the foregoing, it seems apparent that little firm evidence exists concerning probable effects of DBS on the audiences and revenues of local broadcast stations. The record developed in this proceeding does not support a finding that DBS is likely to have a substantial adverse impact on local services. We conclude that neither the comments nor any other evidence we have seen has shown that DBS systems would have so detrimental an effect on existing service as to justify our choosing not to authorize the service on an experimental basis.

43. In addition to DBS' possible effect on the audiences of local broadcasters, commenters have suggested that DBS systems could have a large impact, either favorable or unfavorable, on the programming available to local stations. On the one hand, DBS operators could bid against conventional broadcasters for the best programming, thereby raising the price of programming for local stations and reducing the availability of good-quality non-subscription programming to their viewers. On the other hand, if additional resources are devoted to programming because of increased demand for programming to fill the additional channels that become available, and, in addition, there is an increase in the number of subscription services, the supply of programming available to local stations through syndication could increase. Whether this occurs depends to a large extent on whether program production can be easily expanded. If the supply of programming does not expand readily in response to increased demand, then in the short run the price of programs will rise and some programming may be bid away from conventional stations. On the other hand, if production resources are available but the amount of programming now being produced is limited by the number of outlets where it can be shown, then increases in the number of outlets and the infusion of additional funds should stimulate the production of more programming. In our view, the latter represents a more plausible description of the nature of the

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[31] *See FCC* v. *Sanders Bros. Radio Station*, 309 U.S. 470 (1940); *Carroll Broadcasting Co.* v. *FCC*, 258 F.2d 440 (D.C. Cir. 1958).

[32] See paragraph 37 above.

[33] We believe, however, that some of the commenters' arguments relating to the validity of the A.D. Little Study are not well founded. For instance, NAB asserts that the study's conclusions may not be sound because penetration levels of other pay services have increased since 1979. The study, however, merely estimated a behavoiral relationship, using 1979 data, showing households' choices given their characteristics and the options they have available. Therefore, assuming that viewers' preferences remain unchanged, the estimated relationship will remain valid. We note that the study's final estimates of demand for DBS services use the most conservative possible assumption, which is that DBS systems would face no competition at all from other pay services.

In addition, the fact that the study's estimates were based upon parts of the day when pay TV was being broadcast does not, in our view, affect its conclusions. There is no reason to believe that if the same services were available, all day viewers' choices among the various services would differ during different parts of the day. We also question the usefulness of the evidence that pay cable households view more total hours of television, and more hours or advertiser-supported television, than other television households. Households that watch more television than average may value television more highly, and consequently may have been more likely to subscribe to pay cable systems. Thus the greater television viewing of cable subscribers may merely reflect the composition of the group and may not be an effect of cable on viewers' behavior.

[34] *See Television Digest with Consumer Electronics*, Vol. 22, No. 19, May 10, 1982, p. 9.

program production industry.[35] The evidence regarding this question is not definitive; for that reason, however, we believe that claims regarding DBS' possible adverse effects on supply of programming to conventional broadcasters must be deemed speculative.

44. We believe that we should not refuse to authorize a potentially valuable new service solely on the basis of speculative allegations concerning possible reductions in service from other sources. *See Connecticut Committee Against Pay TV* v. *FCC*, 301 F.2d 835 (D.C. Cir. 1962), *cert. denied*, 371 U.S. 816 (1962). As discussed above, the evidence concerning the effects of DBS on local broadcasters is at best inconclusive. The record does not show that DBS systems will affect local broadcasters to a critical extent. In contrast to the speculative nature of the claims of injury to conventional broadcasting and subscription service, the benefits that DBS could provide appear quite certain. We noted above that DBS systems could provide the first television service in some geographic areas, and could offer an increase in the number of channels and the variety of programming throughout the country. DBS systems might also offer services not previously available, such as high-definition television, stereophonic sound, or dual-language sound tracks, more readily than terrestrial program sources. The evidence we cited indicates that American viewers would find such an increase in the availability of television service extremely valuable. Thus, even if DBS systems were likely to affect the availability of programming from other sources, we believe that their potential benefits are sufficiently great to outweigh some loss of other programming. In particular, our mandate to provide an equitable distribution of service requires that we weigh very heavily the capability of DBS to provide service to underserved regions. Finally, we note that DBS will be initiated as an experimental service. Should critically adverse effects occur despite our expectations, so that the overall public interest is harmed as a result of the introduction of DBS service, we can take appropriate action at the time to ensure that the public interest is protected. In these circumstances, therefore, we conclude that initiation of the service should be permitted.

[35] Owen, Beebe, and Manning's discussion of the program production industry concludes that the supply of inputs into program production is fairly elastic. *Television Economics*, pp. 19–31.

VI. Spectrum Allocation and Sharing Issues

45. In the *Notice*, the Commission proposed that downlink operations for DBS systems be authorized in the 12.2–12.7 GHz band. To ensure that interference from terrestrial fixed service (FS) operations now using that band would not prevent reception of DBS signals, we proposed that when frequencies were assigned to DBS systems in accordance with RARC–83, and DBS satellites were in operation, terrestrial licensees in the 12 GHz band would be required to make whatever adjustments in technical parameters or assigned frequencies were necessary to prevent harmful interference to operating DBS systems.[36] The *Notice* indicated that terrestrial users would be subject to reassignment within the 12 GHz or other appropriate bands. The *Notice* also proposed that the 17.3–17.8 GHz band would be used for DBS uplinks. The Commission stated that taking such action immediately would allow us to consider DBS applications pending the outcome of RARC–83 with some assurance that sufficient spectrum would be available for DBS operations, and would ensure that existing terrestrial licensees would be afforded a sufficient period of time to prepare for a possible transition to other bands.

46. The Commission recognized that considerable costs would be associated with removal of terrestrial 12 GHz operations to higher bands. While the Commission did solicit comments on who should bear these costs, the rules proposed in the *Notice* stated that the terrestrial users would bear the entire cost of relocation. The *Notice* did, however, indicate an alternative that would lessen the cost to terrestrial users. This alternative involves setting a period of time, sufficiently long to allow normal replacement of equipment to occur, during which existing terrestrial services and DBS would be considered co-equal. Thus, existing terrestrial systems would not be required to provide protection to DBS systems during the specified period of time. Under this arrangement, if a DBS operator desired to provide service in the environment of existing terrestrial stations, he would have to accommodate those operations. Such accommodations could be accomplished through agreements with terrestrial station operators or through the development of receiving equipment capable of providing acceptable service in the fixed service environment. In many areas, however, reception of DBS signals would be impossible because of interference from terrestrial users. As discussed below, we now believe that the option of allowing a transition period with coequal status for DBS and FS would provide a more equitable and efficient solution, and that it would allow introduction of DBS service while minimizing the cost to the existing terrestrial users.

47. Many commenters argue that because the authorization of DBS systems in the 12 GHz band will have an adverse impact on operational-fixed microwave systems now operating in this band, no interim DBS rules should be adopted or DBS systems approved until the Commission has provided adequate replacement spectrum for terrestrial operations.[37] In this regard, some commenters state that higher bands (e.g., 18 and 23 GHz) are not adequate substitutes because equipment is not readily available for use in these bands, and because the propagation characteristics of the bands make them less attractive. Several commenters state that to accommodate DBS, terrestrial fixed operations should be permitted in the 11.7 to 12.2 GHz band.[38] Other commenters oppose such an expansion of terrestrial systems.[39]

48. Many commenters state that DBS operators should compensate terrestrial users for the costs of any relocation.[40]

[36] Studies indicate that the terrestrial microwave operations are likely to cause interference to the DBS home receiver, while DBS transmission will probably cause little or no interference to the terrestrial microwave users. See for instance Hiroshi Akima, "Sharing of the Band 12.2–12.7 GHz Between the Broadcasting-Satellite and Fixed Services," (Boulder, Colorado: Institute for Telecommunications Sciences, January 1980).

[37] Such comments were received from AFTRCC; ANPA; API; AHE; AAR; the California Public-Safety Radio Association, Inc. (CPRA); The Harris Corporation, Farinon Electric Operations (Farinon); Manufacturers' Radio Frequency Advisory Committee (MRFAC); the New York Times Company, Walter E. Mattson, President (N.Y. Times); the Oklahoma Regents; the Public Service Satellite Consortium (PSSC); Rockwell International Corporation (Rockwell); Telecom Engineering, Inc. (Telecom); and UTC.

[38] ANPA states that the Commission should study the option of accommodating terrestrial operations in the 11.7–12.7 GHz band. AAR and UTC state that the 11.7–12.2 GHz band should be made available for terrestrial users. Rockwell states that terrestrial users should be allowed to share the 11.7–12.1 GHz band with fixed satellite services, and that the 12.1–12.3 GHz band and the 13.2–13.25 GHz band should be reserved for low-power, short-range terrestrial microwave users.

[39] See comments filed by Home Box Office, Inc. (HBO), Satellite Business Systems (SBS), and Southern Pacific Communications Company (SPCC).

[40] AHE, PSSC, STC and Telecom state that public service or non-profit users should be compensated. Others, including AFTRCC, ANPA, API, CPRA, Farinon, Citizens, MRFAC, the N.Y. Times, the Oklahoma Regents, Rockwell, and UTC state that all terrestrial users should be compensated.

Other commenters oppose such a requirement. For example, DBSC states in its comments that given the risks involved and the massive financial investment required of a DBS operator, it would be unfair and a misallocation of resources to require DBS operators to pay for relocation of terrestrial users. STC states that no legal or policy basis exists to shift to DBS operators the financial responsibility for costs incurred by those FS users that interfere with DBS reception, and that since it will be at least 1985 before any FS systems are required to make adjustments, normal depreciation of existing equipment will lessen significantly the impact of equipment replacement. STC does propose, however, that nonprofit public service organizations be reimbursed for the costs of adjusting their FS operations to make way for DBS systems. STC states that these costs should be shared on a pro rata basis by all DBS operators.

49. Some commenters indicate that an adequate period of time should be provided for existing terrestrial users to remain in the band before being required to relocate. API suggests that existing terrestrial licensees should be "grandfathered" for a period of at least ten years, or that DBS operators should compensate them for any relocation costs. PSSC suggests that the minimum grandfather period be five years from the start of DBS service in a geographic area.

50. A few commenters suggest that instead of being used for DBS, the 12.2 to 12.7 GHz band or portions of the band should be used by terrestrial broadcasters for high definition television. Some suggest using it to accommodate expected growth by the fixed satellite service.[41]

51. The comments concerning permanent regulatory policies submitted in response to the *Notice of Inquiry* in this proceeding contained views similar to those described above. Generally, terrestrial microwave interests were concerned that DBS would adversely affect their present operations. A number of the commenters discuss various solutions to the BSS–FS sharing issue. Some commenters believe that limited sharing between DBS and terrestrial fixed users may be possible.[42] Other commenters, such as NTIA and the Western Communications Research Institute, Inc. (WCRI), state that the broadcasting-satellite service (BSS) and the FS cannot reasonably co-exist on a co-channel basis in common geographical areas. NTIA also indicates that adjacent channel operation offers limited possibilities. Some commenters state that DBS systems should be responsible for any interference they receive from existing terrestrial users. Several commenters believe that DBS requires the entire 500 MHz band from 12.2 to 12.7 GHz, while other commenters indicate less spectrum is needed.[43] Some commenters propose sharing by band segmentation or frequency interleaving.[44] Some commenters propose that terrestrial microwave users be moved to higher frequency bands, such as 18 and 23 GHz.[45] A number of commenters propose that terrestrial users be permitted to operate in the 11.7–12.2 GHz band.[46] However, such expansion of terrestrial operations was opposed by certain fixed satellite service interests, such as GTE Satellite Corporation (GSAT), HBO, SBS, and SPCC.[47]

52. The American Telephone and Telegraph Company (AT&T) in its comments addresses allocation of frequencies for BSS uplinks, and points out that if the frequency band for BSS is greater than 400 MHz wide in the feeder range around 18 GHz, sharing with several services will be involved. AT&T states that the Commission should avoid service overlapped frequency planning (e.g., limit DBS operations to the 17.3–17.7 GHz band). AT&T states that BSS uplinks and fixed-satellite service (FSS) downlinks cannot be colocated, and that BSS feeder links may cause interference to the fixed service at 18 GHz.

53. Some commenters, such as the Affiliates, ABC, and NAB, propose that the 12 GHz band be used for a terrestrial high definition television (HDTV) service.[48] This proposal is opposed by NBMC and USSB. NBMC doubts that the Commission should encourage the use of scarce spectrum for the elite few who may be able to receive HDTV. USSB states that transmitting HDTV signals from terrestrial television stations is much less desirable than provision of the same service by satellite because of the limited coverage area of terrestrial systems.

AFTRCC Petition

54. On August 12, 1981, AFTRCC submitted a Petition for Expedited Relief (AFTRCC petition). The AFTRCC petition requests that the Commission (1) initiate and complete expeditiously a thorough examination of its policies governing the availability of the 12 GHz or other suitable alternative frequency bands for use in meeting the requests of operational fixed microwave systems, and (2) defer taking any action in Docket 80–603 (or related proceedings) with regard to the authorization of DBS services which could foreclose the use of the 12 GHz band for terrestrial microwave systems pending the completion of the proceeding referred to in (1) above. AFTRCC believes that before the Commission can reasonably determine whether the public interest would be served by authorizing a DBS service in the 12 GHz band, it must undertake a thorough analysis of the growing demand for 12 GHz terrestrial systems, and accommodate present and future terrestrial requirements in existing or new frequency allocations. AFTRCC states such analysis should include consideration of the following issues:

[41] *See* comments submitted by ABC, the Affiliates, MST, and HBO.

[42] For example, Farinon states that sharing probably is feasible if DBS systems are required to operate in the community reception mode, using a single large antenna to serve many households, in urban areas.

[43] For example, JCET proposes allocation of three-fourths of the band for DBS and one-fourth for terrestrial operations. HBO states that many of the present DBS applicants will not go forward with their proposals, and that 250 MHz will adequately support DBS operations. Hughes Aircraft Company (Hughes) and WCRI, on the other hand, believe that the full 500 MHz band is required.

[44] While NTIA offers frequency interleaving or channel overlapping as a possible sharing solution, it is concerned that with this approach adjacent channel interference may be severe in several areas. In addition, NTIA does not know whether there is sufficient unassigned or underutilized spectrum available to make this a viable sharing option.

[45] NTIA, while proposing such an option, indicates that immediate relocation of FS users is impractical for reasons of equipment availability. NTIA states that two to three years' lead time is needed by equipment manufacturers. NTIA asserts, however, that 18 GHz spectrum should be able to support most 12 GHz operations. NTIA states that 90 percent of the terrestrial microwave links are less than 20 miles in length, 71 percent are less than 10 miles, and 32 percent are two miles or less. NTIA believes that for short haul systems costs at 18 GHz would not be significantly greater than normal replacement costs at 12 GHz. For systems over 10 miles, however, NTIA states that the cost at 18 GHz could be triple the original investment at 12 GHz.

[46] For example, see comments submitted by AAR, API, Farinon, NTIA, UTC and WCRI.

[47] HBO states that while sharing FS and FSS sharing would require some constraints on the use of FSS, potential for sharing exists where the FSS could utilize large, sophisticated earth stations in relatively remote areas and shielded from FS interference. HBO proposes, however, that the 11.7–12.2 GHz band be allocated exclusively to FSS; that the 12.2–12.45 GHz band be allocated to FS and FSS on an equal basis; and that the 12.45–12.7 GHz band be allocated to DBS on a primary basis, with FS use permitted on a noninterference basis. SPCC, in its reply comments, opposes reallocation of terrestrial fixed services to the 11.7–12.2 GHz band, but states if such reallocation takes place, terrestrial fixed services should utilize the band on a secondary basis only.

[48] CBS recommends that DBS be used for the introduction of HDTV.

a. What communications requirements are now being met at 12 GHz, and what characteristics of the 12 GHz band are unique to fulfilling those requirements;

b. On what basis, if any, can terrestrial systems share the 12 GHz band with satellite services;

c. What other bands are available for use by the operational fixed services and how do the characteristics of these bands compare to the 12 GHz band in fulfilling operational-fixed applications;

d. What transitional period is necessary to assure that operational-fixed users, who are forced to migrate to new spectrum, will not be unreasonably impacted, operationally or economically.

AFTRCC also states that to the extent that the forecast demand of terrestrial users for spectrum cannot be met, the Commission must determine whether the public interest would be served by authorizing a DBS service at the expense of operational-fixed microwave interests.

55. A number of comments were received in support of the AFTRCC petition.[49] STC submitted comments in partial support of and partial opposition to the AFTRCC petition. STC states that it recognizes that private fixed microwave users perform a number of important public interest functions, and that FS needs raise a serious issue that merits careful attention. STC states, however, that the Commission clearly was correct in its preliminary conclusion that the licensing of interim DBS systems would serve the public interest, and that FS licensees should not be permitted to cause harmful interference to operating DBS systems. STC also believes that the needs of both DBS and FS operators can be accommodated (although at some cost to FS users). STC states that the separate FS proceeding should be initiated once interim DBS policies and rules are established, and believes that the proposed 12.2–12.7 GHz allocation to DBS and licensing of DBS systems are not issues to be considered in the FS proceeding. Further, STC states there is no basis whatever for the Commission to delay action on DBS applications, since the Commission will have ample time to complete the FS proceeding prior to the actual commencement of DBS service.

DBS Spectrum Allocation

56. As stated in the *Notice*, we believe that the concerns of the present operational-fixed microwave users deserve serious attention. We do not believe, however, that our concern for these terrestrial users should preclude the introduction of DBS service. We believe that the potential benefits of DBS justify some adjustments in other services. Furthermore, we believe that interim rules and policies can be established that permit DBS operation with minimal impact on existing 12 GHz terrestrial users.

57. *DBS Spectrum Requirements.* The Commission has accepted nine DBS applications for filing. The applications represent a wide variety of system designs, service offerings, and spectrum requirements. Over 35 new video channels would be provided if all of the proposed systems are implemented. The services proposed include subscription television, advertiser-supported television, and high definition television. A minimum of 500 MHz of orbit-spectrum resource would be required if these applications were granted and implemented as proposed.

58. The Commission also has on file three additional applications that may be acceptable for filing.[50] In addition, we expect that other DBS applications may be filed once the Commission establishes a second cut-off date. With regard to future demand, the FCC RARC–83 Advisory Committee estimates the U.S. requirements for DBS services to be 65 to 207 channels by the year 2000. Accordingly, in order for the Commission to meet the present and anticipated demand for DBS services, we believe that a spectrum allocation of 500 MHz for both the downlinks and uplinks is necessary. The requirements for DBS must be met in the 12 GHz band because it is the only band of spectrum allocated internationally to DBS for which technology will be available within the next several years. If DBS is to be made available in this decade, the 12 GHz band must be used.

59. We believe that allocating 500 MHz to DBS has several advantages: (1) The number of channels receivable by a home antenna is maximized, thereby making DBS service more viable by reducing the cost of home equipment (steerable or multiple antennas would not be needed); (2) competition would be increased by decreasing risks for later DBS suppliers; (3) greater technical and operational flexibility would be possible (e.g. HDTV may be more attractive); and (4) the use of future large space communication platforms would be more feasible. We also believe that such an allocation is necessary to ensure that sufficient spectrum is available to allow an "open skies" policy for DBS. In the *Notice*, we stated that our basic policy for DBS should be to maintain an open and flexible approach that will allow the business judgements of the individual applicants to shape the character of the services offered. We stated that such an open skies policy would encourage the submission of a wide variety of proposals and thereby achieve the full benefits of experimentation with this new service. At the same time, such a policy would permit all minimally qualified applicants to proceed. An open entry policy has proven extemely successful in the domestic satellite area, permitting early implementation of satellite services without the delays of protracted comparative hearings. We have therefore amended the Table of Frequency Allocations contained in Part 2 of our Rules to permit DBS downlink operations in the 12.2–12.7 GHz band and uplink operations in the 17.3–17.8 GHz band.

Accommodating FS Operations

60. *Present Use of the 12 GHz Band.* The Commission's rules currently provide for the use of the 12.2–12.7 GHz band by the fixed service only.[51] Part 94 of the rules provides for the use of operational-fixed stations in the band. The Private Radio Bureau's *Microwave Application Processing System* data base indicates that about 1900 links are currently licensed in the 12 GHz band.[52] These systems provide private, industrial, transportation, and safety (PITS) services and are used, for example, by local governments, banks, newspapers, railroads, utility companies, universities, and colleges. Part 23 of the Commission's rules also provides for the operation of international control stations in this band. The Commission's *Master Frequency File* indicates that as of March 1982, no facilities have been

[49] *See* comments by AAR, Farinon, Southern California Rapid Transit District and UTC submitted in response to the AFTRCC petition.

[50] These applications were filed by Advance, Inc., National Christian Network, and Satellite Development Trust. The Commission has stated that these applications, which appear to have been made substantially complete by amendments submitted after the cutoff date, will be considered with lower priority than those now accepted for filing.

[51] See also Gen. Docket 80–396, An Inquiry relating to preparations for the 1983 Region 2 Administrative Radio Conference of the International Telecommunications Union for the planning of the Broadcast-Satellite Service in the 12 GHz band and the associated uplinks.

[52] Total number of links as of May 1982; the number has been growing at a rate of about 15 percent per year. For the purposes of this analysis, a radio link is defined as a one-way transmission on a single discrete frequency between a transmitter and a receiver. Thus, a two-way, point-to-point communications circuit requires two radio links, one for each direction of transmission.

licensed to operate in the 12.2–12.7 GHz band pursuant to Rule Part 23.

61. Based on the comments submitted in this proceeding and our investigations, we believe that most PITS users have chosen to use the 12 GHz band because of crowding at lower frequencies, because they require channel bandwidths greater than those available at lower frequencies, or because the Commission's rules prohibit their access to the lower frequency bands.[53]

While current fixed service use of the 12 GHz band is less than at 2 and 6 GHz, there is congestion at 12 GHz in several major urban areas.[54]

62. Generally, systems operating in the 12 GHz band can be divided into four categories: (1) One-way, very-short-haul video systems; (2) short-haul, multi-hop systems; (3) single- or multi-hop spur systems providing connection to long-haul backbone systems; and (4) long-haul, backbone systems. Our analysis of present 12 GHz users shows the following path length distribution:

Percent of links	Path length
10	1.0 km or less.
20	2.5 km or less.
30	4.0 km or less.
40	6.5 km or less.
50	9.0 km or less.
60	12.5 km or less.
70	16.0 km or less.
80	23.0 km or less.
90	35.0 km or less.
95	42.0 km or less.

The median path length of all the links is about 9 km, and the mean path length is also about 9 km. Based upon the above distribution and assuming that no intermediate links are employed, we estimate that 50 to 85 percent of the present links can be accommodated at 18 GHz or higher frequencies.[55] If we assume that where necessary an intermediate hop is employed, i.e., a single link is replaced by two links, the number of systems that can be accommodated increases to about 75 percent to 90 percent of the present users.

63. At the present time and for the foreseeable future equipment at the higher frequency bands will normally be more expensive than present 12 GHz equipment.[56] In addition, if an additional link were needed, significant cost increases would be involved, and in some instances site locations for additional links might not be available. Nevertheless, many fixed service users can be accommodated at the higher frequency bands.[57]

64. To accommodate those operations that cannot be supported at the higher frequency bands, we have tentatively identified other spectrum that could support existing 12 GHz FS users. This spectrum includes the 12.7–13.25 GHz band that is used by the broadcast-auxiliary service, the common carrier local television transmission service, and the cable television relay service (CARS).[58] Additionally, within the current FS bands, there is some opportunity for the implementation of wider channel bandwidths. For example, 20 MHz channels could be made available at 6525–6875 MHz for video, data, and high capacity FDM-voice tranmissions.

65. To ensure that sufficient spectrum will be available for FS users in a timely manner, the Commission has instructed the staff to develop a *Notice of Proposed Rulemaking* (NPRM) for its consideration by December, 1982. As a major portion of this proposal, the Commission intends to include a considerable amount of sharing or pooling of microwave frequency spectrum between the broadcast-auxiliary, CARS, and FS users. The Commission will also consider the possibility of pooling non-common carrier (broadcast-auxiliary, CARS and FS) and common carrier microwave frequencies. We recognize, however, that this latter proposal requires additional study and may not prove feasible or desirable. The Commission will also investigate the possibility that all non-common carrier microwave licensing be centralized within the Commission. Among the other issues that will be addressed are (1) the need for minimum path length criteria for the use of each of the available bands, (2) bandwidth requirements and appropriate channeling plans for all bands, (3) feasibility of continued FS use of the 12.2–12.7 GHz band on a secondary basis, and (4) coordination and loading practices needed to ensure efficent use of the spectrum. It is our firm intention that a final *Report and Order* in such a proceeding will be acted upon within six weeks of the completion of the 1983 RARC. The 1983 RARC commences June 13, 1983 and will extend for five weeks, so we intend that Commission action on a final *Report and Order* allocating additional frequencies for displaced terrestrial licensees will occur no later than September 4, 1983. This does not imply, however, that Commission action on this *Report and Order* would necessarily wait for the completion of the RARC.

66. We believe that frequency coordinators would play a prominent role in this proposed plan because of the need for exclusive assignment of channels. Frequency coordinators would have the burden of selecting frequencies that meet the individual needs of users and the requirements of the Commission. For example, CARS licensees have a unique need for contiguous spectrum. Based on their knowledge of local conditions, frequency coordinators would help promote efficient spectrum use. Use of frequency coordinators would also reduce Commission workload and regulation by allowing applicants to use the services of frequency coordinating groups.

[53] Section 94.61 of the Commission's rules prohibits access to both the 1850–1990 MHz and 6525–6875 MHz bands by entities whose sole basis for eligibility is a commercial activity in the business radio service. Thus, if this class of user requires bandwidths in excess of 1.6 MHz, frequencies at 12 GHz and above must be used. Additionally, all users whose bandwidth requirements exceed 10 MHz must use frequencies at 12 GHz or above.

[54] Several of these (Boston, Cleveland, Dallas, Los Angeles) have been designated as congested areas by the Commission. FCC Public Notice, "Private Microwave Congested Areas," August 27, 1979.

[55] These values take into account the location of the link according to rain zone. The lower value is based on a typical installation using a transmitter presently type accepted in this band, and assumes a link quality objective of 99.995 percent (i.e., the link will be available for 99.995 percent of the average year, taking into account rain attenuation). The higher number assumes a modest gain in output power, which manufacturers should be able to achieve in the near future, and a design standard availability of 99.9 percent.

[56] As stated in the *Notice*, one equipment manufacturer estimates that the replacement cost of a typical redundant terminal facility (which consists of two transceivers, two antennas, one antenna tower, transmission lines, and other ancillary equipment) is about $75,000. Site acquistion may add a substantial amount of this figure. Cost of relocation of a facility to 18 GHz is estimated at about $88,000. The present total investment in 12 GHz equipment is about $270 million.

[57] In this regard, the Commission has initiated proceedings which will establish rules for the use of the bands above 12 GHz. For example, in Docket 79-337, the Commission recently adopted relaxed technical standards to promote the development of low-cost, low-power microwave equipment in the 22.0–23.6 GHz band. In adopting these standards, we indicated that our objective was "to stimulate the development of systems in the 22.0–23.6 GHz band, which is sparingly used, and to accommodate some of the existing and future operations which are now authorized in the 12.2–12.7 GHz band". In the *Further Notice of Proposed Rulemaking* in Docket 79–188, released September 2, 1981, the Commission proposed restructuring the 18 GHz band to accommodate private fixed operations, including some of those 12 GHz users who may be displaced due to the operation of DBS downlinks.

[58] The 11.7–12.2 GHz band may also be able to support some fixed service use on a secondary basis. Accordingly, we will investigate the possibility of sharing between the fixed service and the fixed-satellite service in this band. However, the difficulties and detrimental effects of such sharing have been recognized previously. *See* World Administrative Radio Conference, 70 FCC 2d 1103, 1250–1252 (1978).

67. To provide for the continued growth of FS operations, the Commission will continue to license terrestrial FS users in the 12.2–12.7 GHz band [59] as follows:

(a) Terrestrial operations authorized prior to the issuance of the *Report and Order* discussed in paragraph 67 above will not be required to protect domestic DBS reception from interference for a period of five years from the date that *Report and Order* is issued. [60] Since it is the Commission's firm intention to issue the referenced *Report and Order* no later than September 4, 1983, the five-year period should expire no later than September 4, 1988. Subsequent to the expiration of this five-year period, it is the Commission's intent that such terrestrial operations operate on a strict non-interference basis and make any and all adjustments necessary to prevent interference to operating DBS systems.

(b) Terrestrial operations authorized after the issuance of the referenced *Report and Order* will be licensed on the condition that they not cause any harmful interference to DBS systems. It is the Commission's intent that such terrestrial operations operate on a strict non-interference basis and make any and all adjustments necessary to prevent interference to operating DBS systems. The issue of what constitutes harmful interference to DBS will be studied by the Commission and will be disposed of in the 1983 *Report and Order*.

(c) Notwithstanding any other conditions, no FS operation will be permitted to cause interference to DBS systems of other countries operating in accordance with the plan established at the 1983 RARC.

68. We believe that this solution addresses the concerns raised by the comments of the 12 GHz terrestrial users and the AFTRCC petition. The use of frequency bands adjacent to the 12.2–12.7 GHz band (i.e., 12.7–13.25 GHz and possibly 11.7–12.2 GHz) would substantially lower the costs of relocating the 12.2–12.7 GHz terrestrial licensees.[61] The 12.7–13.25 GHz band has propagation characteristics very similar to the adjacent 12.2–12.7 GHz band and as a consequence much of the present 12 GHz equipment could remain in use. For example, the costs of modifying transmitters, feed lines, site locations, and antennas would probably be significantly lower than would be the case for other bands. In addition, some 12 GHz users with long haul requirements may be able to relocate at 6 GHz, probably reducing the costs of their operations by reducing the number of links required. We also believe that there is sufficient spectrum at the higher frequencies (i.e., 18 GHz and above) to accommodate future FS, CARS and broadcast auxiliary users that require short distance radio links.

69. *Present Use of the 17 GHz Band.* In the *Notice,* we proposed to permit operation of feeder links for interim DBS systems, which are allocated as part of the fixed-satellite service, in the 17.3–17.8 GHz band. This allocation is consistent with existing international provisions. A new footnote (3794 H) to the allocations table adopted at WARC-79 states, "[t]he use of the band 17.3–18.1 GHz by the fixed-satellite service (Earth-to-space) is limited to feeder links for the broadcasting-satellite service." Further, WARC–79 Resolution CH calls for planning the Region 2 BSS feeder links in a bandwidth equal to that provided for the downlinks. It has generally been the position of the United States that the lower portion of the 17.3–18.1 GHz band should be used for BSS uplinks.

70. The band 17.3–18.1 GHz is shared with the Government radiolocation service. Arrangements have been made, however, to reduce the allocation status of the Government radiolocation service to secondary and to restrict the power of radiolocation systems to ensure compatibility with BSS feeder links.

71. A few experimental licenses have been granted in the 17.3–17.7 and 17.7–17.8 GHz bands. Otherwise, according to the Commission's *Master Frequency File,* no non-Government facilities have been licensed to operate in the band segment 17.3–17.7 GHz, and only one six-hop system has been licensed in the band segment 17.7–17.8 GHz. Thus, in the near future we do not expect sharing between the services to pose a significant problem in these bands. We will, however, eventually develop and refine appropriate coordination procedures at 17.7–17.8 GHz similar to those used between the fixed-satellite service and the fixed service at 6 GHz. In addition, we intend to limit BSS feeder links from temporarily fixed stations (i.e, stations which can be moved from place to place) to frequencies below 17.7 GHz in order to avoid the sharing difficulties these operations pose.

Allocations for DBS and Terrestrial Operations

72. We believe that the spectrum allocation described here takes into account the needs of both terrestrial and DBS users. By permitting DBS downlink operations in the 12.2–12.7 GHz band and feeder link operations in the 17.3–17.8 GHz band, the Commission will be able to begin the processing of DBS applications, and the American public will be able to receive the benefits of DBS at the earliest possible date. At the same time, if existing terrestrial users can be provided access to an adjacent frequency band (i.e., 12.7–13.25 GHz), the cost of relocating these operations will be minimized. Further, pooling of microwave frequencies among FS, CARS and broadcast-auxiliary users would permit more efficient use of all microwave spectrum. Accordingly, we believe that this solution allows us to meet the needs of both DBS and operational-fixed microwave operations with the least disruption to either of them.

73. The allocations described here are consistent with past international and domestic actions. We note that WARC–79 included an international allocation to the broadcasting-satellite service in the 12.1–12.7 GHz band.[62] In addition, WARC–79 placed restrictions on the terrestrial services at 12 GHz, stating that "* * * existing and future terrestrial radiocommunication services shall not cause harmful interference to the space services operating in accordance with the broadcasting-satellite Plan to be prepared * * * and shall not impose restrictions on the elaboration of such a Plan * * *" [63] The Commission has also previously taken action to indicate to terrestrial microwave licensees operating in the 12 GHz band that some future adjustment

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[59] This action may be revisited if the United States is not allotted the entire 12.2–12.7 GHz band. In any event, terrestrial users operating on those frequencies allotted to the United States for DBS at the 1983 RARC will be subject to these provisions.

[60] Thus, if a DBS operator desires to provide service during this period, he would have accommodated existing FS operations. Such accommodations could include agreements with the terrestrial station operators, adequate replacement of terrestrial equipment, or the development of DBS receiver equipment capable of providing acceptable service in the FS environment (e.g., community service in certain urban areas). In this regard, while we would not require DBS operations to pay the costs of relocating FS operations, we believe that DBS operators would have a strong incentive to compensate the FS users for the costs of moving to other frequency bands during this period.

[61] We estimate that the cost of changing frequencies to operate in an adjacent band would be about $2000. Of course, use of the 11.7–12.2 GHz bands by terrestrial stations would impose frequency coordination and other costs on earth stations in this band.

[62] The 1983 RARC will decide the division of the band 12.1–12.3 GHz, with the lower portion of the band being allocated to the fixed-satellite service and the upper portion being allocated to the fixed and broadcasting-satellite services. Our preliminary proposals envision placing the dividing line at 12.2 GHz.

[63] International FN 3787D.

might be necessary in their operations to accommodate the implementation of the broadcasting-satellite service. [64]

Use of the 12 GHz Band for Terrestrial HDTV Service

74. We noted above that some commenters propose reserving all or part of the 12.2–12.7 GHz band for terrestrial broadcast of HDTV. [65] We believe that the record does not justify reserving spectrum in the 12 GHz band for terrestrial HDTV operations at this time. We note that the 1983 RARC will plan the 12 GHz band for DBS operations and that the proposed U.S. requirement for DBS operations appears to be at least 500 MHz. In addition, a number of terrestrial microwave users are likely to continue to operate within the 12 GHz band for the next several years. Sharing between HDTV and these services appears unworkable, since terrestrial HDTV broadcasting would generally be incompatible with both DBS and terrestrial-fixed operations within the service area of the terrestrial broadcasting station. Accordingly, we choose not to allocate the 12 GHz band or any portion of it to terrestrial HDTV. As noted elsewhere, however, we would permit HDTV transmissions via DBS at 12 GHz.

Use of the 12 GHz Band for the Fixed-Satellite Service

75. In the *Notice* we pointed out that the Commission's Rules provided only for use of the 12.2–12.7 GHz band by the fixed service, even though an allocation also existed for the fixed-satellite service at 12.5–12.7 GHz. [66] The fixed-satellite allocation was specified for use in the Earth-to-space direction. The discussion within the *Notice* regarding use of the 12 GHz band concentrated on the issues raised by terrestrial fixed service operations because of their actual usage of the band. This situation is unchanged, and we do not anticipate that the allocation for the fixed-satellite service will be utilized. [67]

76. As we noted previously, a few commenters suggest that the 12.2–12.7 GHz band or portions of the band might be better used to accommodate expected growth by the fixed-satellite service. [68] In addition, the NAB, in its comments on permanent policies, submitted a report concerning the use of this band by the fixed-satellite service. [69] These parties were referring to use in the space-to-Earth direction. The issue of this usage by the fixed-satellite service is beyond the scope of this proceeding. Further, we do not believe that a case has been made to implement a fixed-satellite service allocation within the 12.2–12.7 GHz band at this time. We note that the Commission has proposed closer orbital spacing in the fixed-satellite service, and this would significantly increase the capacity that can be provided in the affected fixed-satellite bands. In addition, technological advances may make more efficient transponder usage possible in the near future. At the same time, the comments received both in this docket and in General Docket 80–398, the DBS applications submitted to the Commission, and the preliminary reports submitted from the Commission's Advisory Committee all lead us to predict a large demand for spectrum for DBS in the near term.

Use of FSS Frequencies for Interim DBS Systems

77. Two DBS applicants have proposed to use the Advanced Westar satellite and to operate on frequencies in the 12.1–12.2 GHz band. [70] In our *Memorandum Opinion and Order*, 88 FCC 2d 100, released November 3, 1981, we stated that such applications raise significant legal and policy issues. We also stated that "the use of the Advanced Westar satellite for DBS may pose significant technical problems related to sharing with the fixed-satellite services provided by Satellite Business Systems." These problems may be exacerbated by the Commission's consideration of reduced orbital spacings in the 11.7–12.2 GHz band [71] and the new group of pending applications. [72] We concluded, however, that the public should be afforded an opportunity to comment on these proposals, and that these issues should be addressed in the context of ruling on the merits of the applications. The issues will be considered without prejudice to any later determination we might reach, including dismissal or denial of the applications.

VII. Policies and Rules for Interim DBS Systems

Regulatory Policies

78. In the *Notice* we concluded that the public interest would best be served by utilizing a flexible regulatory approach for DBS systems during this interim experimental period. Thus, we proposed to impose minimal regulatory requirements consistent with statutory provisions and international agreements. We proposed not to require applicants to structure their proposals according to any particular regulatory model. We stated that such an approach would allow DBS operators to experiment with service offerings and methods of financing to find those that would be most beneficial to viewers. Further, this approach would allow the Commission to acquire better information about the behavior and structure of the industry in order to make better informed regulatory decisions. We also concluded that the market for video services that DBS systems will enter may be highly competitive, and that, as a consequence, "diversity of programming is likely to be available without Commission intervention, and individual operators will be constrained by competition to provide programming the public wants at prices reflecting production costs." [73] We pointed out, however, that we retained the right to impose further regulatory restrictions if experience showed them to be necessary.

79. Several commenters oppose our plan to impose minimal regulation on interim DBS systems. They assert that, by so doing, we are abdicating our responsibility to protect the public interest. [74] Some recommend that we impose some variant of the conventional regulatory structures. Others discuss specific regulations. Citizens, for instance, disagrees with our assessment of the competitiveness of the market and states that traditional multiple- and cross-ownership rules, EEO rules, comparative hearings for mutually exclusive applicants, and restrictions on trafficking are essential to ensure that DBS operators or lessees who function as broadcasters serve the public interest. Some commenters assert that the Commission must ensure that the right of viewers to suitable access to ideas and information is not infringed.

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[64] Several months prior to WARC–79, the Commission began adding a note to this effect to all operational-fixed licenses issued in the 12.2 to 12.7 GHz band.

[65] *See* comments of Affiliates, ABC, and NAB.

[66] *Notice*, paragraph 30.

[67] The 1979 WARC deleted the international allocation at this band for the fixed-satellite service, Earth-to-space direction. After ratification of the WARC's Final Acts, the domestic allocation will very likely be deleted.

[68] *See* comments submitted by ABC, Affiliates, MST, and HBO.

[69] Paul I. Bortz, Jack T. Pottle, and James Hart, *Direct Broadcast Satellites: Service, Economic, and Market Factors*, prepared for the National Association of Broadcasters by Browne, Bortz, and Coddington, January 1981.

[70] See applications filed by Focus Broadcasting Company (File No. DBS–81–04) and Western Union Telegraph Company (File No. DBS–81–09).

[71] *See* Domestic Fixed Satellite Service, 88 FCC 2d 318 (1981).

[72] *See* Domestic Fixed Satellite Service, FCC 82–233, released May 20, 1982.

[73] *Notice*, paragraph 90.

[74] These included ABC, Citizens, UAW, and UCC.

They propose access requirements and other requirements to ensure responsiveness to viewer needs.

80. Other commenters support the Commission's proposal regulatory approach,[75] STC, for instance, states that minimal regulation of experimental DBS systems will facilitate the development of the service, maximize its benefits to the public, provide data and experience necessary for sound regulatory decisions, and permit flexibility to promulgate policies specially tailored to DBS. STC states that the proposed flexible regulatory policies will permit marketplace forces to identify the characteristics which will satisfy consumer needs and advance other public interest objectives. STC points out that the Commission's flexible interim policies will not preclude any course of action the Commission may decide to take at a later time. STC and DBSC also state that the Commission should postpone establishing certain regulatory policies for DBS until it has obtained operating experience on which to base its conclusions.

81. We remain convinced that it is in the public interest to impose a minimum of regulation during this experimental phase of DBS operation. We believe that this interim approach will best serve to encourage and facilitate the introduction of this new service, the likely nature of which we cannot predict with any certainty at this early stage. By imposing few regulatory restrictions we will allow operators the flexibility to experiment with service offerings to find those that the public needs and wants, and to experiment with technical and organizational characteristics. Imposing minimal regulation will also allow us to gather information about the operation of the industry, which will allow us to make better-informed decisions about permanent regulatory policies. On the other hand, placing constraints on the characteristics of the services prematurely and without sufficient information may reduce the desirability of the service to the public and increase the DBS operators' costs and risks. This, in turn, could reduce their ability to attract financing and might decrease the probability that DBS systems are initiated. Once the systems have proven viable, however, we of course retain the option to impose further regulation if experience shows it to be necessary.

82. *Regulatory classification.* Some commenters propose specific regulatory structures for DBS.[76] Citizens, for instance, states that customers of common carrier DBS licensees who function as broadcasters must be licensed and regulated under Title III. The UAW proposes a dual licensing regulatory framework under which each satellite operator would be licensed as a common carrier and each channel would be licensed individually according to the nature of the proposed service. The UAW states that a dual licensing scheme promotes diversity of expression and ownership, and is required by First Amendment principles.

83. Nothing in the comments has persuaded us to abandon our proposal to apply a flexible regulatory approach for the interim operation of DBS systems. We continue to believe that this approach will allow for the type of technical and economic experimentation that is appropriate prior to the adoption of a permanent regulatory scheme. Thus, during this interim period, we will follow the plan noted in paragraphs 24 and 84 of the *Notice*, and process applications and grant authorizations under a scheme patterned after Part 5 of the Commission's Rules and the "open entry" policy successfully used in the domestic satellite field. *Establishment of Domestic Satellite Facilities*, 35 FCC 2d 844 (1972).

84. Further, we decline at this point to require DBS systems to operate under a particular service classification before the developmental and experimental period has had a chance to run its course. The imposition of an *a priori* classification would determine the nature of the service at the outset and thus would largely foreclose the possibility of gathering valuable experimental data. A primary advantage of an experimental service scheme is that the Commission's eventual public interest judgments can be guided by the experience garnered during the experimental phase. During this period the Commission may learn, for example, whether satellite operators find it most feasible to operate as broadcasters, common carriers, private radio operators, or some combination or variant of these classifications. From this experience the Commission can, if appropriate, establish DBS as a permanent service according to traditional classifications, create a new classification as experience and public interest mandates dictate, or retain the existing open entry policy. In this connection, we also note that the Commission's authority to authorize experimental services is well established [77] and that much useful information has been gained by such experimentation in past proceedings.[78]

85. As we stated in the *Notice*, we will of course impose any applicable statutory requirements upon interim DBS systems. 86 FCC 2d 719, 750 n. 64. *E.g.* 47 U.S.C. 201 *et seq.* (common carriers); 47 U.S.C. 315 (broadcasters). Classification questions will be resolved in the context of considering each individual application.[79]

86. However, as a general matter, certain principles will guide our decisions on classification. First, if an applicant proposes to provide direct-to-home service and retains control over the content of the transmissions, then the service is probably a broadcast service and the broadcasting provisions of Title III will apply.[80] If such services are provided on a subscription basis, they will still be classified as broadcast services unless and until the Commission determines otherwise. 86 FCC 2d at 250–51 n. 64. Second, if a DBS applicant chooses to operate as a common carrier, it must offer its satellite transmission services indiscriminately to the public pursuant to tariff, under the provisions of Title II of the Act.[81] We

[75] These include DBSC, SBS, STC, USSB, the Pop Network, and the Western Union Telegraph Company (Western Union).

[76] Many commenters in the permanent phase of this proceeding discussed regulatory structures for DBS. Of these, HBO; NTIA; Oak; RCA American Communications, Inc. (RCA Americom); STC; the Sony Corporation of America (Sony); the United States Department of Justice (DOJ); and Western Union supported the Commission's proposed flexible regulatory approach. Others, ABC; CBS, Inc. (CBS); Citizens; CPB; UAW; JCET; NBMC; the National Council of Churches of Christ in the USA (NCC); PSSC; Lael Scott; UCC; the University Affiliated Program of Childrens Hospital of Los Angeles (UAP); and WCRI proposed other regulatory structures.

[77] Pursuant to the Communications Act, the Commission is explicitly authorized to experiment with new uses of the radio spectrum. *See* Section 303(g), which requires the Commission "to study new uses for radio, provide for experimental uses of frequencies, and generally encourage the larger and more effective use of radio in the public interest." 47 U.S.C. 303(g). *See also Connecticut Committee against Pay TV* v. *FCC*, 301 F. 2d 835 (D.C. Cir. 1962), *cert. denied*, 371 U.S. 816 (1962).

[78] *See e.g., Network Project* v. *FCC*, 511 F. 2d 786 (D.C. Cir. 1975).

[79] As discussed in the *Notice*, applicants will be permitted to show that particular features of their proposals require classification of the proposals other than as broadcast services. 86 FCC 2d at 750–51 n. 64.

[80] *See* 47 U.S.C. 153(o) which defines broadcasting as "the dissemination of radio communications intended to be received by the public * * *" An example of a non-broadcast DBS service might be transmission to hospitals, businesses, schools, or cable systems.

[81] It should be noted that such regulatory policies and procedures are being reviewed in the Competitive Carrier rulemaking and the Transponder Sales rulemaking. *Deregulation of Telecommunications Services (Further Notice of Proposed Rulemaking)*, 84 FCC 2d 445 (1982); *Domestic Fixed-Satellite Transponder Sales (Notice of Proposed Rulemaking)*, 86 FCC 2d 1419 (1982). We reserve the option to revisit the regulatory

see no reason, furthermore, why a DBS operator could not function as broadcaster with respect to some channels and a common carrier with respect to others.

87. We next address the question of what regulatory restraints, if any, should be imposed upon programmer-customers of a common carrier DBS operator. At the outset, contrary to the contentions of some commenters, we note that nothing in the Communications Act requires that a carrier's customers be licensed and regulated as broadcasters.[82] At the time of passage of the Communications Act, Congress apparently did not consider what type of regulation would be appropriate for a system in which a programmer, using facilities and frequencies licensed to a common carrier, would provide service directly to the public.[83] Instead, it seems plain that Congress envisioned a system that clearly distinguished broadcasters from common carriers. Common carriers were required to provide non-discriminatory access to their facilities without exercising control over message content. In contrast, broadcasters were given broad discretion in determining the content of the programming they transmitted and, with limited exceptions, were not required to provide access to their stations by others. Thus, Congress explicitly declined to require a common carrier approach for broadcasters, declaring in Section 3(h) that no broadcaster shall "be deemed a common carrier." 47 U.S.C. 153(h); *see Columbia Broadcasting System, Inc.* v. *Democratic National Committee, supra,* at 103–114.

88. It seems apparent, therefore, that the imposition upon a common carrier's customers of the limited access requirements now imposed on broadcasters merely would serve to duplicate the more pervasive access obligation already imposed upon the carrier itself. Given this, and in light of the Act's legislative history, we question whether Congress envisioned that the statutory requirements for broadcast licensees must, or should, apply in the context of a common carrier system. As discussed above, Congress apparently imposed certain requirements on broadcasters in lieu of mandating that broadcasters operate as common carriers. Thus, whether such constraints should also apply in a common carrier system is, in our view, an open question which must be resolved under the broader public interest standard.

89. In considering this matter, we believe it is pertinent that in roughly analogous contexts involving existing terrestrial services, programmers have not been subjected to traditional broadcast regulation. Most directly analogous here is our experience with the common carrier Multipoint Distribution Service (MDS). *See Multipoint Distribution Service,* 45 FCC 2d 616, 618–19 (1974). In MDS service, a carrier's customers, many of whom provide subscription programming services to individual residences, are not licensed or regulated by the Commission.

90. In sum, we believe it is unlikely that Congress intended customers of common carrier operators to be licensed and regulated as broadcasters. Because the statute does not compel that they be licensed, and in view of the policy considerations favoring a flexible regulatory approach to this service, we decline at this time to license and classify common carrier DBS customers as Title III broadcasters. Our determination is further supported by the fact that similar systems are currently operating unencumbered by regulation without apparent harm to the public. We wish to stress, however, that in deciding at this point to defer from regulation, we do not foreclose the possibility that we may decide that limited broadcast-type regulation of these programmers would be in the public interest.[84] We therefore retain the discretion to apply appropriate regulatory constraints if circumstances arise to suggest that they are needed.[85]

91. *Restrictions on ownership and control.* In the *Notice* we recommended no restrictions on ownership or control of DBS systems for the interim period. Some commenters, however, advocate imposition of restrictions on the number of channels that can be owned or controlled by a single operator or on the identity of the owner.[86] Commenters recommend these limits to encourage competition and to satisfy First Amendment requirements for diversity of sources of programming. Citizens, in fact, states that such requirements will always be necessary and that there is no maximum number of voices which is sufficient to satisfy the First Amendment.

92. Other commenters state that quantitative limits on ownership of DBS systems to prevent abuses of market power are unnecessary.[87] STC and DOJ, for instance, oppose multiple-ownership restrictions, and state that enough close substitutes for DBS services exist to prevent abuses of power. STC states that the Commission's ongoing oversight function would provide additional protection.

93. Some commenters state that control of multiple channels by a single operator is necessary to develop a profitable service. STC asserts that ownership restrictions would hamper the development of the service by reducing the number of applicants and increasing the cost of providing service, and thus would reduce the number of options available to viewers. USSB states that no applicants would apply if they expected restrictions on the number of channels they could program or on geographic service areas, and asserts that multiple- or cross-ownership restrictions would mean the demise of DBS service. STC and Oak recommend that the Commission impose no restrictions on the number of channels an entity can control or on what entities can control them until the results of experimental operations have been examined. Other commenters state that it would be discriminatory to allow multiple- and cross-ownership of DBS systems while restricting the ownership of existing broadcast stations, and state that such restrictions should be applied neither to DBS nor to conventional broadcasters.[88]

94. Some commentes recommend specific restrictions on who may own DBS systems. Citizens and UAW, for instance, state that cross-ownership of a DBS system by a network, broadcaster, cable operator, or newspaper should be prohibited if the DBS signals are received in the entity's service area. NBMC states that AT&T should also be prohibited from owning DBS systems.

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status of the common carrier DBS operators in the event that we determine, as a result of these and other proceedings, that certain carriers are exempt from Title II regulation.

[82] We have received only one application (that of DBSC) that proposes to provide DBS service on a common carrier basis.

[83] For a discussion of the legislative history surrounding Congress' consideration of broadcast regulation and its relation to a common carrier scheme *see generally Columbia Broadcasting System, Inc.* v. *Democratic National Committee,* 412 U.S. 94, 103–114 (1973).

[84] It is possible, of course, that the issue will never arise. For example, it is not clear at this time that particular services provided by a carrier's customers necessarily would be akin to traditional notions of broadcast service. *See* note 83, *supra.*

[85] In passing we also note that the feasibility of applying such constraints through a dual licensing scheme is not clear. Subjecting a carrier's customers to the hearing requirements of Section 309 of the Act, for example, might create fatal impediments to a carrier's ability to operate this service successfully. Any requirements the Commission might choose to impose on programmers, however, could also be accomplished through tariff provisions or pursuant to Commission rules.

[86] These include Citizens and Licensees. UAW, NBMC, and WCRI advocated such restrictions in their comments on permanent policies.

[87] See comments of USSB and permanent comments of CBS, NAB, STC, and DOJ.

[88] These include Licensees, CBS, and NAB.

Citizens states that once cross-ownership is established it is difficult to remedy, and that therefore it should be prohibited from the outset. DOJ, on the other hand, states that cross-ownership restrictions may be desirable in some circumstances, but recommends such restrictions only where a threat of market power is apparent. DOJ states that the necessity of cross-ownership restrictions within given markets can best be determined on a case-by-case basis.

95. We continue to believe that multiple-ownership restrictions to prevent excessive market power are unnecessary for the interim period. Provision of satellite services does not appear to exhibit the increasing returns to scale that might lead to domination of the market by a single supplier, and, in fact, the current domestic satellite industry consists of several suppliers.[89] Thus we expect considerable competition among DBS systems. In addition, as pointed out in the *Staff Report*, many alternative video services should be available by the time DBS systems go into operation and would provide sufficient competition to prevent monopolistic pricing or other abuses of market power.[90] If the market can support only one DBS system, that system may provide only a small portion of the available video programming. If a large number of DBS channels proves viable, we expect that several DBS operators will compete among themselves and with terrestrial suppliers to provide video services. In any case, existing antitrust laws would provide adequate protection against possible abuses of market power due to horizontal concentration of control.

96. We also believe that it is neither necessary nor appropriate to impose interim restrictions on multiple ownership or control of multiple channels for the purpose of assuring diversity of sources of programming. We hesitate at this early stage to limit the number of channels that can be owned and controlled by a single entity, since such a limitation could discourage many present and potential DBS applicants from entering the market at all.[91] Because DBS systems will add to the total number of sources of programming, the goal of increasing diversity of voices will be well served by the introduction of DBS service. Furthermore, given the many alternative outlets for expression which are likely to be available, we expect the introduction of DBS service to enhance, rather than threaten, First Amendment rights of free expression and the public's access to diverse ideas and points of view.

97. Moreover, the benefits to viewers of requiring that DBS programming originate from many sources must be weighed against the costs. For instance, ownership restrictions may limit the availability of services provided by the most experienced and capable suppliers, and may prevent DBS operators from assembling the most attractive program package. Thus, we are concerned that ownership restrictions may discourage potential applicants and financial supporters.

98. In most cases cross ownership of DBS systems by other media interests appears not to create a threat of concentration of control, again because of the large number of alternatives that in most cases would remain available. As pointed out in the *Staff Report*, however, the number of alternative sources of information and programming varies greatly across geographic areas.[92] In localities where few other sources of programming are available, ownership of the local outlets by a DBS owner could conceivably limit access to video alternatives. We believe, however, that the likelihood of such an occurrence is small. In addition, antitrust laws provide a remedy for abuses of market power. Of course, if our experience with the operation of early DBS systems indicates that excessive concentration of control limits viewers' access to information, we retain the option of imposing ownership restrictions at a later time. We do not believe that we should do so in the absence of evidence that it would serve a useful purpose. If concentration of control appears to be a problem in particular localities, we believe we should consider such localities individually rather than apply blanket rules that in most cases would be inappropriate.

99. *Access requirements.* Some commenters, including UAW and UCC, advocate reserving DBS channels for particular purposes. Some advocate that certain groups, such as nonprofit organizations, be given access to channels at reduced rates or at cost, and that the channels be allocated on a nondiscriminatory basis. The public's right to transmit and receive information should not depend solely on middlemen, according to the UAW, particularly in a national system not founded on institutionalized community contacts. UCC also believes that it is essential to guarantee access and to provide for use of satellite channels by organizations that cannot afford the regular rental price.

100. In the *Notice*, we concluded that access requirements should not be imposed on experimental DBS systems. We pointed out that, by requiring operators to relinquish control over programming services, we might significantly impede an operator's ability to market his service and thereby achieve an acceptable return on his investment. Given the enormous financial risks inherent in constructing these satellite systems, we continue to believe that the public interest would not be served by subjecting entrepreneurs, particularly during this experimental phase, to regulatory burdens that could substantially reduce their incentives to initiate this promising new service. Moreover, we are not convinced that, merely because DBS operators may lack institutionalized community contacts, they will have insufficient incentives to respond to the informational needs and interests of viewers. As noted earlier, it seems likely that, for the most part, DBS systems will operate in a highly competitive video marketplace. Thus licensees will likely have ample economic incentives to offer services that are most desired and needed by the public. Accordingly, we believe it would be premature to impose access requirements, when a period of experimental operation may demonstrate clearly that such requirements are unnecessary.[93] We shall therefore impose no interim access requirements on DBS licensees operating as broadcasters and only those required by Title II of the Communications Act on common carrier DBS operators.

101. *Responsiveness to viewer needs.* Some commenters assert that the Commission should adopt interim rules to ensure that DBS programming is

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[89] The competitiveness of the existing domestic satellite industry is under investigation in the Competitive Carrier and Transponder Sales rulemakings. *See* note 81 *supra*.

[90] *Staff Report*, p. 81.

[91] Some commenters, for instance STC and USSB, argue, for example, that DBS systems will be viable only when operated on multiple channels. If these commenters are correct, then our premature imposition here of an ownership restriction would actually serve to diminish overall diversity of voices.

[92] Ibid., pp. 83–84.

[93] We recognize that market failures may occur in advertiser-supported broadcast markets because advertisers may choose not to program for groups that do not purchase advertised products, and because advertisers in general consider only the number of viewers of given programs and not the intensity of their tastes for various kinds of programming. We believe, however, that increases in the number of channels available and the availability of subscription programming are likely to reduce these tendencies greatly. For a discussion of these issues see Owen, Beebe, and Manning, *Television Economics*, pp. 49–90.

responsive to the needs of the audience. We do not believe that such regulation is needed for DBS systems in the interim period. At this early stage, we do not know exactly what the nature of DBS service is likely to be. We do anticipate that DBS will provide services to satisfy public needs that are currently unfilled. As was discussed in the *Notice*, the presence of many channels of programming creates incentives for programmers to provide variety in programming to meet the needs of audiences with specialized tastes. In addition, subscription programming allows small audiences with intense preferences for certain types of programming to purchase programming that advertiser-supported stations might not find it profitable to present. Consequently, at least for the interim period, we find no need to impose program content requirements or other guarantees of responsiveness on DBS operators beyond those required by the Communications Act.

102. *Equal employment opportunity.* We have determined, however, that DBS operators functioning as broadcasters should be subject to the same equal employment opportunity requirements as are conventional broadcasters, at least for this interim period. Employment decisions made at an early stage in the organization of DBS systems may have a lasting impact on the representativeness of the workforce of DBS operators, and we cannot rule out at this early date the possibility that EEO requirements may be imposed upon permanent DBS systems. We do not wish to render ineffective any future EEO requirements we may choose to impose by permitting operators to hire their basic workforce without specific attention to the purposes and goals embodied in the Commission's EEO rules. For that reason, and because we believe the imposition of this requirement will not unduly burden licensees or restrict their ability to develop this service, we conclude that it is appropriate to impose this requirement on DBS operators from the outset.

Technical Standards

103. The technical requirements we proposed in the *Notice* consisted only of the technical guidelines specified in the WARC–77 Final Acts and the condition that all authorizations would be subject to modification in order to comport with determinations made at RARC–83. We stated that deviations from the guidelines of the WARC–77 or from the outcome of the 1983 RARC might be permitted with Commission approval, provided they did not cause interference to operational or planned systems of other administrations in excess of that specified in the Final Acts of the 1977 WARC. Thus we proposed to require only the technical standards imposed by international agreement, and to set no further technical restrictions on the characteristics of the systems or the services they offered.

104. Some commenters to the responding to the *Notice* assert that the lack of technical standards will adversely affect permanent DBS standards or will give the first interim DBS operator the right to establish *de facto* technical standards.[94] They contend that a second system operator will probably provide signals compatible with receiving equipment already owned by the public, even though another system design might be technically superior. Other commenters support the flexible approach proposed in the *Notice*.[95] For example, GE recommends that the Commission not attempt to establish technical standards for interim service beyond the minimal requirements expressed in the *Notice*. GE does recommend, however, that the Commission establish a cooperative effort with industry and interested technical societies and trade associations on the development of longer range technical standards. The Top Network, in its comments, endorses the Commission's flexible approach to technical standards, noting that it will allow all participants to develop the DBS technology best adapted to the needs of the service.

105. Many of the comments concerning permanent DBS regulatory policies also addressed the issue of technical standards. Many commenters believe that the Commission should establish transmission or receiver standards to ensure compatibility of DBS signals.[96] They state that such standards are needed to ensure that receiving equipment can receive all available DBS transmissions. They believe that such standards will reduce the risks involved in initiating DBS systems, and thereby encourage investment in DBS service. They state that such standards are needed to ensure that receivers are compatible with mass production techniques and can be made available at relatively low prices. They believe that such standards will lessen the risk to viewers that their equipment will become obsolete or that they will need more than one receiver to receive all available signals. Two commenters, Sony and WCRI, also believe that the Commission should adopt uniform scrambling standards. Another commenter, Oak, opposes such standards.

106. Many other commenters believe that the Commission should not adopt technical standards.[97] These commenters believe that DBS operators should be allowed maximum technical flexibility. They believe that technical standards will tend to stifle technical development and innovation and retard the growth of the service. They believe that Commission action at this time will be based on inadequate information and could have an inhibiting effect on the introduction of DBS or the types of services provided. They note that standards for out-of-band emissions will be set by the RARC–83 process.

107. We continue to agree with the commenters who assert that it would be unwise for the Commission to impose technical standards on DBS systems at this time. DBS technology is now at an early stage of development and can be expected to evolve rapidly. Imposing standards based on current technology could stifle its further development. By not specifying compatibility standards, we will allow DBS operators the freedom to offer new services in response to advances in technology or changes in viewers' tastes. Furthermore, in our view, the authorization of interim systems is unlikely to prevent later systems from offering services that the public prefers. If viewers find the characteristics of a second, incompatible system very desirable, the probability is high that demand for the second system will be great enough that the two systems will profitably coexist or that the second system will supplant the first. In sum, as stated in the *Notice*, we believe that by allowing DBS operators to implement a variety of technical configurations, the Commission will provide entrepreneurs the best possible opportunity to provide the services most valued by viewers.

108. We also believe that members of the industry are likely to have very strong incentives to make correct technical judgments regarding DBS system performance parameters. Thus, if an initial DBS system sets *de facto* technical standards for the service, we have no reason to believe that those standards would necessarily be less appropriate than any standards the Commission might impose at this time.

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[94] These commenters include ABC and NBC.

[95] See comments filed by GE, Pop Network, STC, and Western Union.

[96] These commenters include CBS, the Consumer Electronics Group of the Electronic Industries Association (EIA), HBO, UAW, UCC, USSB, Oak, PSSC, RCA Americom, Sony and WCRI.

[97] These commenters include Hughes, NTIA, DOJ, STC, and Western Union.

Of course, if later developments indicate that Commission involvement in the setting of technical standards is needed, we will at that time take appropriate action. In addition, as we stated in the *Notice*, we will carefully examine interim applications to ensure that technical proposals efficiently utilize the orbit and trequency resource and are flexible enough so that we can be reasonably assured of their likely ability to accommodate any permanent rules or technical standards. *Notice*, paras. 86, 87.

109. *High Definition Television.* CBS, in its comments, states that the Commission should not authorize the use of the 12 GHz band for DBS systems offering conventional video service. CBS indicates that using the 12 GHz spectrum to provide a transition from conventional television to HDTV service would represent a better use of the orbit/spectrum resource. ABC also indicates that interim DBS authorizations might foreclose the introduction of truly innovative DBS services like HDTV. Other commenters, however, oppose reserving the band exclusively for HDTV operations.[98] The Pop Network, in its comments, states that while the Commission can encourage the development of HDTV satellite service, it should not do so at the expense of other services.

110. We agree with the latter commenters. As stated in the *Notice*, the Commission wishes to encourage experimentation with HDTV systems, and with other technological innovations that might be used in conjunction with DBS. Thus, we believe that we should provide for HDTV delivered by DBS, and the Commission's preparations for the 1983 RARC have indeed taken HDTV requirements into account. However, we believe that the provision of HDTV service should not exclude conventional television service. We note that only one of the DBS applicants, CBS, proposes to broadcast HDTV exclusively. We believe that any transition to HDTV is likely to be slow, and that reserving the 12 GHz band for HDTV would deprive the public of the use of the band for conventional television transmission. Moreover, HDTV presently requires considerably more bandwidth than conventional television signals, and therefore it reduces the number of channels that can be provided within a given amount of spectrum. Our present proposal would permit the band to be used either for HDTV or for conventional television signals, as spectrum allocation permits and the market dictates. We believe this approach serves the public interest better than reserving the band exclusively for either service.

[98] For example, see comments submitted by the Pop Network, STC, and USSB.

Licensing and Procedural Requirements

111. The licensing and procedural policies and requirements we are adopting are, with few exceptions, those that were set forth in the *Notice*. In particular, applicants will be required to conform to the technical guidelines specified in the WARC–77 Final Acts. Furthermore, all interim authorizations will be subject to modifications, as the Commission deems necessary, in order to comport with determinations made at RARC–83 and any other policies and rules which the Commission may hereafter conclude are necessary or appropriate in the public interest. Deviations from the guidelines of the WARC–77 or from the outcome of RARC–83 may be permitted with Commission approval provided they do not cause interference to operational or planned systems of other administrations in excess of that specified in the Final Acts of the WARC–77 or RARC–83.

112. Applicants may request specific frequencies and orbital positions. However, frequencies and orbital positions will not be assigned until completion of the 1983 RARC. We note that the number of frequencies, the orbital locations, and the size of the service areas specified in the applications we have received to date have varied considerably. While we intend to take each applicant's request fully into account, the Commission may, in acting on a particular application, restrict the number of channels assigned to any applicant, limit or modify the area to be served, or impose any other conditions it deems necessary.

113. The Commission will continue to accept applications for DBS systems. In addition, the Commission intends in the very near future to establish a second cut-off list for applications.[99] In view of the number of applications that have been accepted to date and the number of potential applications that may be filed, future applicants are requested to indicate whether or not they would be willing to operate their systems from non-eclipse-protected orbital positions.

114. In lieu of stringent financial showings and subsequent Commission analysis, we will require that parties granted authorizations proceed with diligence in constructing interim DBS systems. Interim DBS systems will be required to begin construction or complete contracting for construction of the satellite station within one year of the grant of the construction permit. The satellite station will also be required to be in operation within six years of the construction permit grant, unless otherwise determined by the Commission upon proper showing in any particular case. Transfer of control of the construction permit will not be considered to justify extension of these deadlines. We believe that a diligence requirement will provide a more orderly processing of applications and assure that those applicants that are granted construction permits go forward expeditiously.

115. Each application for an interim DBS system shall include a showing describing the type of service that will be provided, the technology that will be employed, and all other pertinent information. The application may be presented in narrative format.[100] Each application for an interim DBS system shall be placed on public notice for 45 days, during which time interested parties may file comments and petitions related to the application. A 45 day cut-off period shall also be established for the filing of applications to be considered in conjunction with the original application. Additional applications filed before the cut-off date shall be considered to have equal priority with the original application and shall be considered together in the assignment of frequencies and orbital positions. If applications have included requests for particular frequencies or orbital positions, the cut-off date shall be considered in establishing the priority of such requests. All frequencies and orbital positions, however, shall generally be considered to be of equal value, and conflicting requests for frequencies and orbital positions will not necessarily give rise to comparative hearing rights as long as unassigned frequencies and orbital slots remain. Each application for an interim DBS system, after the public comment period and staff review, shall be acted upon by the Commission to determine if authorization of the system is in the public interest.

116. All authorizations for interim DBS systems shall be granted for a period of

[99] A number of the interim DBS applications filed in response to the first cut-off date were found unacceptable for filing. Some of these applications were subsequently amended and may now be acceptable for filing.

[100] The Commission will carefully review each DBS application for completeness. Accordingly, all applicants should be sure that their applications contain a complete and detailed technical showing and that the service to be provided is adequately described. (*See also Memorandum Opinion and Order*, FCC 81–500, and *Memorandum Opinion and Order*, FCC 82–82.)

five years. All licenses shall be subject to the policies set forth in this *Report and Order* and with any policies and rules the Commission may adopt at a later date. It is the intention of the Commission, however, that in most circumstances the regulatory policies in force at the time of authorization to construct a satellite shall remain in force for that satellite throughout its operating lifetime.

VIII. Ordering Clauses

117. Pursuant to Sections 4(i) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 4(i) and 303, it is ordered, That:

(a) Parts 2 and 94 of Chapter I of Title 47 of the Code of Federal Regulations are amended as set forth in Appendix C, effective thirty days after publication in the **Federal Register**.

(b) Chapter I of Title 47 of the Code of Federal Regulations is amended to include a new Part 100 as set forth in Appendix D, effective August 20, 1982.

(c) The Petition for Expedited Relief submitted by the Aerospace and Flight Test Radio Coordinating Committee on August 12, 1981 is granted to the extent indicated above and is otherwise denied.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

Comments in Response to Notice of Proposed Policy Statement and Rulemaking in General Docket No. 80-603

The following organizations and individuals submitted comments or reply comments in response to the *Notice of Proposed Policy Statement and Rulemaking* in General Docket No. 80-603:

ABC, CBS, and NBC Television Network Affiliates Associations (Affiliates)
Aerospace and Flight Test Radio Coordinating Council (AFTRCC)
American Broadcasting Companies, Inc. (ABC)
American Newspaper Publishers Association (ANPA)
American Petroleum Institute, Central Committee on Telecommunications (API)
American Telephone and Telegraph Company (AT&T)
Association for Higher Education of North Texas (AHE)
Association of American Railroads (AAR)
Association of Maximum Service Telecasters (MST)
CBS, Inc. (CBS)
California Public-Safety Radio Association, Inc. (CPRA)
Citizens Communications Center, *et al.* (CITIZENS)
Corporation for Public Broadcasting (CPB)
Direct Broadcast Satellite Corporation, Inc. (DBSC)
Forward Communications Corporation *et al.* (Licensees)
General Electric Company (GE)
Green, Jeff
Harris Corporation, Farinon Electric Operations (FARINON)
Home Box Office, Inc. (HBO)
Hubbard Broadcasting, Inc. (Hubbard) (succeeded by United States Satellite Broadcasting, Inc. [USSB])
International Union, United Automobile, Aerospace, and Agricultural Implement Workers of America (UAW)
Lemke, Douglas A.
Manufacturers Radio Frequency Advisory Committee (MRFAC)
Marberg, William
National Association of Broadcasters (NAB)
National Broadcasting Company, Inc. (NBC)
The New York Times Company, Walter E. Mattson, President
Office of Communication, United Church of Christ (UCC)
Oklahoma State Regents for Higher Education (Oklahoma Regents)
The Pop Network Inc. (The Pop Network)
Public Service Satellite Consortium (PSSC)
Rockwell International Corporation (Rockwell)
Satellite Business Systems (SBS)
Satellite Television Corporation (STC)
Small Business Administration (SBA)
Southern Pacific Communications Company (SPCC)
Telecom Engineering, Inc. (Telecom)
Utilities Telecommunications Council (UTC)
Western Union Telegraph Company (Western Union)

Appendix B

Comments Concerning Permanent Regulatory Policies in General Docket No. 80-603

The following organizations and individuals submitted comments and reply comments concerning permanent regulatory policies in General Docket No. 80-603:

ABC, CBS, and NBC Network Affiliates Organization (Affiliates)
ABC Television Affiliates Association (ABC Affiliates)
Aerospace and Flight Test Radio Coordinating Council (AFTRCC)
American Broadcasting Companies, Inc. (ABC)
Association for Higher Education of North Texas (AHE)
Association of American Railroads (AAR)
CBS Inc. (CBS)
Central Committee on Telecommunications of the American Petroleum Institute (API)
Citizens Communications Center *et al.* (Citizens)
Consumer Electronics Group of the Electronic Industries Association (EIA)
Corporation for Public Broadcasting (CPB)
Fisher Broadcasting Inc. (Fisher Broadcasting)
Forward Communications Corporation *et al.* (Licensees)
GTE Satellite Corporation (GSAT)
The Harris Corporation, Farinon Electric Operations (Farinon)
Home Box Office, Inc. (HBO)
Hughes Aircraft Company (Hughes)
International Union, UAW (UAW)
Joint Council on Educational Telecommunications (JCET)
Los Angeles, County Board of Supervisors (L.A. County)
Manufacturers Radio Frequency Advisory Committee (MRFAC)
National Association of Broadcasters (NAB)
National Black Media Coalition (NBMC)
National Broadcasting Company, Inc. (NBC)
National Council of Churches of Christ in the USA (NCC)
National Telecommunications and Information Administration (NTIA)
Oak Communications Inc. (OAK)
Public Service Satellite Consortium (PSSC)
Puerto Rico Federal Affairs Administration (PRFAA)
RCA American Communications, Inc. (RCA Americom)
Satellite Business Systems (SBS)
Satellite Syndicated Systems, Inc. (SSS)
Satellite Television Corporation (STC)
Scott, Lael (Scott)
Sony Corporation of America (Sony)
Southern Pacific Communications Company (SPCC)
State Board of Education of the State of Georgia (Georgia State)
United Church of Christ (UCC)
United States Department of Justice (DOJ)
United States Satellite Broadcasting Company, Inc. (USSB)
University Affiliated Program of Childrens Hospital of Los Angeles (UAP)
Utilities Telecommunications Council (UTC)
Washington Post Company (Post)
The Western Communications Research Institute, Inc. (WCRI)
Western Union Telegraph Company (Western Union)

Appendix C

Parts 2 and 94 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. Section 2.106 is amended by revising the "Service" column of the frequency bands listed below and by adding new Footnotes NG139 and NG140 in proper numerical order to read as follows:

§ 2.106 Table of Frequency Allocations.

* * * * *

United States		Federal Communications Commission		
Band (GHz)	Allocation	Band (GHz)	Service	Class of station
5	6	7	8	9
•	•	•	•	•
12.2–12.75	NG	12.2–12.5 NG8 NG52 NG139	FIXED	International Control Operational Fixed Space
			BROADCASTING-SATELLITE.	
		12.5–12.7 NG8 NG52 NG139	FIXED	International Control Operational Fixed Earth Space
			FIXED-SATELLITE BROADCASTING-SATELLITE.	
		• • •	• • •	
•	•	•	•	•
15.7–17.7	G, NG US110	• • •	• • •	• • •
		17.3–17.7 NG140	FIXED-SATELLITE RADIOLOCATION	Earth Radiolocation Land Radiolocation Mobile.
17.7–19.7	NG	17.7–17.8 NG140	FIXED MOBILE FIXED-SATELLITE	Fixed Mobile Earth Space
		• • •	• • •	• • •

NG 139 Pending adopting of further specific rules concerning usage of the band 12.2–12.7 GHz by the fixed and broadcasting-satellite services, systems in these services may be authorized subject to the condition that adjustments in certain system design or technical parameters may become necessary during the system lifetime. The necessity for such adjustments, and their extent, will be dependent upon the Final Acts of the 1983 Regional Administrative Radio Conference and subsequent Commission decisions.

NG 140 Pending adopting of further specific rules concerning usage of the band 17.3–17.8 GHz by the fixed-satellite service for the purpose of providing feeder links to the broadcasting-satellite service, systems may be authorized for this purpose subject to the condition that adjustments in certain system design or technical parameters may become necessary during the system lifetime. The necessity for such adjustments, and their extent, will be dependent upon the Final Acts of the 1983 Regional Administrative Radio Conference and subsequent Commission decisions.

• • • • • • •

PART 94—PRIVATE OPERATIONAL—FIXED MICROWAVE SERVICE

In § 94.65, paragraph (h) is revised to read as follows:

§ 94.65 Frequencies.

* * * * *

(h) *12,200–12,700 MHZ:* Commission has allocated the 12.2–12.7 GHz band for use by the broadcasting-satellite service. Operational-fixed stations authorized in this band prior to the issuance of a *Report and Order* allocating alternative frequency bands for the operational-fixed service shall not be required to protect domestic broadcasting-satellite systems from interference for a period of five years from the date of issuance of that *Report and Order*. Subsequent to the expiration of this five-year period, such operational-fixed stations shall operate on a strict non-interference basis and shall be required to make any and all adjustments necessary to prevent interference to operating broadcasting-satellite systems. Operational-fixed stations authorized after the issuance of the referenced *Report and Order* shall be licensed on a strict non-interference basis and shall be required to make any and all adjustments necessary to prevent interference to operating broadcasting-satellite systems. Notwithstanding any other conditions, no operational-fixed stations shall be permitted to cause interference to broadcasting-satellite stations of other countries operating in accordance with the Region 2 plan for the broadcasting-satellite service established at the 1983 RARC.

* * * * *

Appendix

Chapter I of Title 47 of the Code of Federal Regulations is amended to include a new Part 100 to read as follows:

PART 100—DIRECT BROADCAST SATELLITE SERVICE

Subpart A—General Information

Sec.
100.1 Basis and purpose.
100.3 Definitions.

Subpart B—Administrative Procedures

100.11 Eligibility.
100.13 Application requirements.
100.15 Licensing procedures.
100.17 License term.
100.19 License conditions.

Subpart C—Technical Requirements

100.31 Technical requirements.

Subpart D—Operating Requirements

100.51 Equal employment opportunities.

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303.

Subpart A—General Information

§ 100.1 Basis and purpose.

(a) The rules following in this part are promulgated pursuant to the provisions of Title III of the Communications Act of 1934, as amended, which vests authority in the Federal Communications Commission to regulate radio transmissions and to issue licenses for radio stations.

(b) The purpose of this part is to prescribe the manner in which parts of the radio frequency spectrum may be made available for the development of interim direct broadcast satellite service. Interim direct broadcast satellite systems shall be granted licenses pursuant to these interim rules during the period prior to the adoption of permanent rules. The Direct Broadcast Satellite Service shall operate in the frequency band 12.2–12.7 GHz.

§ 100.3 Definitions.

Direct Broadcast Satellite Service. A radiocommunication service in which signals transmitted or retransmitted by space stations are intended for direct reception by the general public. In the

Direct Broadcast Satellite Service the term "direct reception" shall encompass both individual reception and community reception.

Subpart B—Administrative Procedures

§ 100.11 Eligibility.

An authorization for operation of a station in the Direct Broadcast Satellite Service shall not be granted to or held by:

(a) Any alien or the representative of any alien;

(b) Any foreign government or the representative thereof;

(c) Any corporation organized under the laws of any foreign government;

(d) Any corporation of which any officer or director is an alien;

(e) Any corporation of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country;

(f) Any corporation directly or indirectly controlled by any other corporation of which any officer or more than one-fourth of the directors are aliens, if the Commission finds that the public interest will be served by the refusal or revocation of such license; or

(g) Any corporation directly or indirectly controlled by any other corporation of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, or by a foreign government or representatives thereof, or by any corporation organized under the laws of a foreign country, if the Commission finds that the public interest will be served by the refusal or revocation of such license.

§ 100.13 Application requirements.

(a) Each application for an interim direct broadcast satellite system shall include a showing describing the type of service that will be provided, the technology that will be employed, and all other pertinent information. The application may be presented in narrative format.

(b) Applicants may request specific frequencies and orbital positions. However, frequencies and orbital positions shall not be assigned until completion of the 1983 Region 2 Administrative Radio Conference for the Broadcasting-Satellite Service. The Commission shall generally consider all frequencies and orbital positions to be of equal value, and conflicting requests for frequencies and orbital positions will not necessarily give rise to comparative hearing rights as long as unassigned frequencies and orbital slots remain.

§ 100.15 Licensing procedures.

(a) Each application for an interim direct broadcast satellite system shall be placed on public notice for 45 days, during which time interested parties may file comments and petitions related to the application.

(b) A 45 day cut-off period shall also be established for the filing of applications to be considered in conjunction with the original application. Additional applications filed before the cut-off date shall be considered to have equal priority with the original application and shall be considered together in the assignment of frequencies and orbital positions. If applications have included requests for particular frequencies or orbital positions, the cut-off date shall be considered in establishing the priority of such requests.

(c) Each application for an interim direct broadcast satellite system, after the public comment period and staff review, shall be acted upon by the Commission to determine if authorization of the proposed system is in the public interest.

§ 100.17 License term.

All authorizations for interim direct broadcast satellite systems shall be granted for a period of five years.

§ 100.19 License conditions.

(a) All authorizations for interim direct broadcast satellite systems shall be subject to the policies set forth in the *Report and Order* in General Docket 80-603 and with any policies and rules the Commission may adopt at a later date. It is the intention of the Commission, however, that in most circumstances the regulatory policies in force at the time of authorization to construct a satellite shall remain in force for that satellite throughout its operating lifetime.

(b) Parties granted authorizations shall proceed with diligence in constructing interim direct broadcast satellite systems. Permittees of interim direct broadcast satellite systems shall be required to begin construction or complete contracting for construction of the satellite station within one year of the grant of the construction permit. The satellite station shall also be required to be in operation within six years of the construction permit grant, unless otherwise determined by the Commission upon proper showing in any particular case. Transfer of control of the construction permit shall not be considered to justify extension of these deadlines.

Subpart C—Technical Requirements

§ 100.21 Technical requirements.

Prior to the 1983 Regional Administrative Radio Conference for the Broadcasting-Satellite Service, interim direct broadcast satellite systems shall be operated in accordance with the sharing criteria and technical characteristics contained in Annexes 8 and 9 of the Final Acts of the World Administrative Radio Conference for the Planning of the Broadcasting-Satellite Service in Frequency Bands 11.7–12.2 GHz (in Regions 2 and 3) and 11.7–12.5 GHz (in Region 1), Geneva, 1977; *Provided, however,* That upon adequate showing systems may be implemented that use values for the technical characteristics different from those specified in the Final Acts if such action does not result in interference to other operational or planned systems in excess of that determined in accordance with Annex 9 of the Final Acts.

Subpart D—Operating Requirements

§ 100.51 Equal employment opportunities.

(a) *General policy.* Equal opportunity in employment shall be afforded all licensees or permittees of direct broadcast satellite stations licensed as broadcasters to all qualified persons, and no person shall be discriminated against in employment because of race, color, religion, national origin, or sex.

(b) *Equal employment opportunity program.* Each station shall establish, maintain, and carry out a positive continuing program of specific practices designed to assure equal opportunity in every aspect of station employment policy and practice. Under the terms of its program, a station shall:

(1) Define the responsibility of each level of management to ensure a positive application and vigorous enforcement of the policy of equal opportunity, and establish a procedure to review and control managerial and supervisory performance.

(2) Inform its employees and recognized employee organizations of the positive equal employment opportunity policy and program and enlist their cooperation.

(3) Communicate the station's equal employment opportunity policy and program and its employment needs to sources of qualified applicants without regard to race, color, religion, national origin, or sex, and solicit their recruitment assistance on a continuing basis.

(4) Conduct a continuing campaign to exclude every form of prejudice or discrimination based upon race, color,

religion, national origin, or sex from the station's personnel policies and practices and working conditions.

(5) Conduct continuing review of job structure and employment practices and adopt positive recruitment, training, job design and other measures needed in order to ensure genuine equality of opportunity to participate fully in all organizational units, occupations and levels of responsibility in the station.

(c) Applicants for a construction permit for a new facility, for authority to obtain assignment of the construction permit or license of such a station, for authority to acquire control of an entity holding such construction permit or license, (other than pro forma or involuntary assignments of transfers) and for renewal of license, shall file with the FCC programs designed to provide equal employment opportunities for American Indians and Alaskan Natives; Asians and Pacific Islanders; Blacks, not of Hispanic Origin; Hispanics; and women, or amendments to such programs. Guidelines for the preparation of such programs are set forth in Forms 396 and 396A. A program need not be filed by an applicant who employs or proposes to employ less than five full-time employees. Additionally, a program for minority group members need not be filed if minorities constitute less than five percent, in the aggregate, of the labor force in the applicant's labor recruitment area. Applicants exempt from the filing requirement should submit a statement of explanation with their applications.

(d) Each licensee or permittee with five or more full-time employees shall file an annual employment report with the FCC on or before May 31 of each year on FCC Form 395.

Appendix E—Final Regulatory Flexibility Analysis

Why is Action Contemplated

Action is being taken to permit the introduction of direct broadcast satellite (DBS) service in the United States. The Commission in this *Report and Order* has determined that the provision of this new service is in the public interest. The Commission has indicated that DBS service has the potential of providing additional television and other video services to all the people of the United States, including those in the remote and rural areas of the country that are currently underserved by the existing terrestrial broadcast system. Further, DBS service will be able to provide the American people with additional diversity in video programming and to provide additional incentives to the program production industry, thereby enhancing competition in all video markets. Moreover, by providing some or all of its service in a subscription mode, a DBS system will be able to provide services for certain groups whose needs might not be met through conventional advertiser-supported mass programming.

Objectives and Legal Basis for Proposed Rule

Our objective in proposing these policies and rules is to provide a regulatory environment that will permit the development of direct broadcast satellite service. Our legal basis for this action can be found in Sections 1, 4 (i) and (j), 303 (g) and (r), and 403 of the Communications Act of 1934, as amended.

Small Entities Affected

In addition to the DBS applicants, this action will affect two types of businesses, some of which may be small entities. First, DBS service will provide additional competition for local television, cable, STV, and MDS operations. The *Report and Order* considers the effect of DBS service on local broadcasters and concludes that the effect would not be sufficiently great to warrant Commission intervention. Any effect that would occur would result from the addition of new competitors rather than from regulatory requirements increasing the costs of local stations or otherwise affecting their ability to provide service.

Second, the provision of DBS service may also affect existing terrestrial microwave users of the 12 GHz band. Since DBS and terrestrial microwave operations apparently cannot use the same frequencies in the same geographic area without causing unacceptable interference to DBS receivers, some terrestrial operators may have to move to other frequency bands for DBS to be able to operate in some areas. Changing frequencies will require replacement of some or all transmitting and receiving equipment. Approximately 1900 one-way links are now licensed in the 12 GHz band. A two-way system requires two such links. At this time we cannot determine, however, the total number of licensees or whether or not the terrestrial users are "small entities" for the purposes of the Regulatory Flexibility Act. Furthermore, the number of users affected and the extent to which they may be affected cannot be determined at this time.*

*The number of terrestrial users affected will depend on the outcome of the 1983 Regional Administrative Radio Conference and the number of DBS systems implemented in the United States.

Reporting, Record-Keeping, and Compliance Requirements

According to our proposed rules and policies, DBS applicants will have to provide a filing describing the type of service that will be provided, the technology that will be employed, and any other pertinent information. We believe that this provision is in keeping with the requirements of the service. In view of the large investments involved in placing a satellite in operation, DBS applicants will almost certainly not be "small entities" as described in the Regulatory Flexibility Act. No reporting requirements are imposed on anyone except DBS applicants.

Relevant Federal Rules Which May Conflict With, Duplicate, or Overlap the Proposed Rule

To our knowledge, there are no other Federal rules that conflict with, duplicate, or overlap the proposed policies and rules contained in this *Notice.*

Specific Alternatives That Could Accomplish the Same Objectives

We believe that the only significant available alternative to our proposed policies and rules is one that probably would not permit the introduction of DBS service. If terrestrial microwave users were allowed to remain indefinitely in the 12 GHz band, even though they caused interference to DBS receivers, the loss of audience to DBS operations would probably be sufficiently great to prevent their becoming economically viable. We do not believe that such a decision is in the public interest or in keeping with the stated objectives of the Communications Act. We note that our policies and rules have recognized and taken into account the potential impact of DBS on other entities and services and has attempted to minimize such impacts. For example, our rules would affect only those terrestrial microwave users that caused harmful interference to operating DBS systems. Further, we plan to provide other frequencies for the terrestrial users that will minimize the cost of relocation, and to provide affected terrestrial operations with a transition period in which to move to alternative frequencies.

Economic Impact of the Rule

For terrestrial microwave users required to change frequencies, the cost would in most cases be $1,000 to $2,000 per transmitter. Where movement to the most desirable frequencies was not possible, however, the cost might average $88,000. As we have noted

above, licensees required to change frequencies would be given a transition period to allow for amortization of existing equipment.

Comments on Initial Regulatory Flexibility Analysis

We received comments on the Initial Regulatory Flexibility Analysis (IRFA) from the American Broadcasting Companies, Inc. (ABC); Forward Communications Corporation *et al.* (Licensees); National Association of Broadcasters (NAB); Satellite Television Corporation (STC); and the Small Business Administration (SBA). NAB, ABC, and the Licensees state that the Commission has submitted an inadequate IRFA, and that before interim rules are adopted, the Commission must issue a Further Notice containing an IRFA that complies with the Regulatory Flexibility Act and provides the public with a meaningful opportunity to comment. They state that the Commission neglected to describe "small entities" and did not describe or weigh alternatives to the rules proposed that would lessen the economic impact on small entities.

SBA is interested in the effect of DBS regulations on local television stations and STV and MDS operators, some of which are small businesses. SBA states that the Commission's IRFA would be aided by a description of the potentially affected small entities, and recommends that the Commission consider supplementing its IRFA to reflect this concern.

STC states that the Commission complied with the Regulatory Flexibility Act. According to STC, the *Notice* considered alternatives to the proposed regulations, gave notice to all concerned of their opportunity to comment on the Commission's proposals, and took steps to minimize the impact of its proposals on small entities. STC states that the Commission has adequately described the small entities that might be affected by its proposed rules.

Numerous comments on the substance of the *Notice* were submitted by association of broadcasters and by associations of terrestrial microwave users, many of which may be small entities. These comments are described and the Commission's response to them is presented in the text of the *Report and Order.*

We agree with STC that the IRFA in this proceeding met the requirements of the Regulatory Flexibility Act. We identified the small entities we believe would be affected as well as possible, given the data available to us. The small entities were certainly sufficiently well identified and given sufficient notice to permit them an opportunity to comment. We considered alternatives to our proposed rules and chose the alternative that we believe imposes the least cost on terrestrial microwave users while permitting DBS service to proceed.

June 23, 1982.

Separate Statement of Chairman Mark S. Fowler

Re: *Direct Broadcast Satellites.*

When Arthur C. Clarke first envisioned direct space-to-earth transmissions in a little article in Britain's *Wireless World* in 1944, he sensed what technology was capable of. Today the Commission demonstrates what government can, and should, do in the face of that technology: let it go forth.

Our report and order is neither a red flag or a checkered flag for the new video delivery system of direct broadcast satellite (DBS). It is simply a green light to a new player. This player wants to offer the public a new service. It comes to the market place with its own advantages and disadvantages when poised against other technologies.

Those who have expressed an interest in providing DBS service comprise a wide range of entrepreneurs, from established broadcasters to relatively new telecommunications players. This range of applicants, with more, perhaps, to file in the future is proof that the emerging video market place under FCC guidance favors open entry.

The potential market for DBS includes rural America. Millions of people live in parts of the country that can receive no over-the-air TV signals; millions more receive two or fewer channels. DBS represents for these people a major advance in access to television service.

DBS can be a powerful tool both domestically and internationally. Of course, DBS is intended to serve the continental United States. But a worldwide system of orbs linking all people and all lands is not beyond the power of DBS. Such a system could be humanity's blessing, or its curse. Like other technologies wrought of this century, DBS carries the capacity for weal and woe.

We at the FCC cannot insure that DBS reaches its full potential as a contributor to our civilization. We do not even warrant its commercial success. But we have allowed it to enter the video marketplace with the least regulatory encumbrances.

And, significantly, it enters a competitive market place. That environment that has been a spur to innovation and creativity in our economy. On it we rely again today.

Despite my continuing concern, with this decision the Commission has moved the promise of DBS much closer to reality and to the public who will benefit from this service.

Separate Statement of Commissioner Joseph R. Fogarty

In Re: Inquiry into the Development of Regulatory Policy in regard to Direct Broadcast Satellites (DBS) for the period following the 1983 Regional Administrative Radio Conference—Report and Order.

I am pleased to see the Commission take this action which allows DBS—an exciting and potentially vital technology and service—to prove itself in the telecommunications marketplace. Those entrepreneurs proposing to make DBS a reality are truly putting their money and talents where this Commission's procompetitive theory is. While this Commission should not and cannot act as a guarantor of their investment and entrepreneurial risk, we do have an obligation to ensure that our regulatory process does not impede or obstruct their best competitive efforts.

For these reasons, I am concerned that the necessary migration of potentially interfering Operational Fixed Service users out of the 12.2–12.7 GHz band now allocated for DBS proceed on an expeditious basis. Here, I would have preferred a date-certain for OFS relocation, rather than the uncertain five-year time-frame stated by this decision. This five-year time-frame is now keyed to the future issuance of a Commission *Report and Order* allocating alternative spectrum for OFS use. While I credit the categorical assurances of both the Commission and its staff that such a *Report and Order* will issue in September of 1983, a date certain would send a firmer and clearer signal to both OFS users and equipment manufacturers that there will be no lag or slippage.

The timely and reasonable accommodation of the OFS users' migration requirements is a critical consideration. So is DBS systems' ability to penetrate subscriber markets as quickly and as fully as the worth of their services to consumers will allow. The Commission must ensure that the incentives are properly structured to achieve both of these objectives. A date certain would better meet this essential regulatory purpose.

June 23, 1982.

Concurring Statement of FCC Commissioner James H. Quello

In re: *Report and Order on Direct Broadcast Satellite (DBS) Service, General Docket No. 80–603.*

While this Report and order has been characterized as an "interim" action, it clearly authorizes a new service which has the potential to dramatically change the current pattern of video distribution in this country. Given the huge capital resources required to participate in this "interim" venture, it is unlikely that the Commission will embark upon a different course once the resources have been committed and the service has begun.

I am particularly concerned that local broadcasting services be given full consideration in any equation which examines this new DBS service. Localism has, traditionally and as a matter of Commission policy, been the bedrock of the broadcasting service in this country. I continue to think it is a good policy and one which demands the careful attention of all us charged with the responsibility of maintaining and improving the system. It has been noted that the bulk of television programming is not locally produced. However, lest the inference be drawn that

local programming and non-local programming are separate entities and need not be considered together, I would point out that the revenues generated by local stations from non-local entertainment programming often supports the production of quality local programming. Thus, to the extent that DBS supplants local broadcasting as a distributor of non-local, entertainment programming, economic support for local program production might well be diminished. My concern is not in protecting the profits of local broadcasters but in protecting continued and enhanced local broadcasting service.

I realize that prediciting the effects of any new technology upon an existing service is historically fraught with peril. Radio broadcasting was once believed by many to be doomed because of the advent of television broadcasting. Of course, radio broadcasting has not only survived but it continues to prosper. Radio programming was changed as a result of the introduction of television service. I would expect that, over time the programming of local television stations will also change as a result of the new video distribution technologies including direct satellite-to-home broadcasting. Local television broadcasters are likely to be faced with problems of adaptation similar to those faced by radio broadcasters thirty years ago. I am confident that they will meet that challenge.

Despite some very real concerns about the orderly introduction of this new technology, I realize that it has the potential to offer to the American public important and desirable new services in the very near future. This *Report* and *Order* deliberately imposes minimal rules and regulations upon this new service providing an opportunity for it to develop in a manner likely to best serve the public. Clearly, DBS is an idea whose time has come and it ill behooves regulators to stand in its way. Thus, I support today's Commission action to move forward.

My support, however, is tempered by my concern that localism must not be sacrificed. I do not fully share the confidence expressed in the *Report* and *Order* that localism has nothing to fear from DBS. At the same time, neither do I believe that the death knell of local broadcasting is being sounded by the action.

Therefore, I concur in the result.

Statement of Commissioner Henry M. Rivera

In re: *Direct Broadcast Satellite Proceeding.*

My Support for the decision to impose minimal regulation on DBS at this time—particularly to refrain from imposing ownership restrictions—flows from the fact that we do not know enough about the service and how it will develop to frame appropriate regulations, and *not*, as the *Report and Order* may suggest, paras. 95–96, from the view that limitations on matters like multiple and cross-ownership are probably unnecessary in this service. The need for such restrictions will have to be carefully evaluated based on the circumstances that exist when the Commission adopts final regulations for DBS.

The future of this service, from both a regulatory and an operational perspective, is largely uncharted. It is unlikely that DBS will come into being, let alone be put to the test of the marketplace, before close to the end of this decade. Therefore, the majority's claims regarding the markets in which DBS will compete, the likely degree of competition among DBS systems, as well as the amount of competition posed by other video alternatives, are wholly premature. In my view, the proper basis for imposing minimal restraints on DBS at this time is simply that the service is in an embryonic stage, not sweeping and unsupported generalizations about future levels of competition.

[FR Doc. 82-19733 Filed 7-20-82; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Parts 73 and 74

[Docket No. 20617; FCC 82-304]

Amendment of the Commission's Radio Operator Licensing Program

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Memorandum Opinion and Order confirms the Federal Communications Commission (FCC) decision to no longer issue First Class Radiotelephone Operator Licenses, and also clarifies previously amended broadcast radio operator rules. This action is taken because of requests for reconsideration and is necessary to avoid misunderstanding of the operator requirements by station licenses that may cause unnecessary expenses and inconvenience.

DATE: Effective August 16, 1982.

FOR FURTHER INFORMATION CONTACT: John Reiser, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 73

Radio broadcast.

47 CFR Part 74

Television.

Memorandum Opinion and Order

Adopted: July 1, 1982.

Released: July 9, 1982.

1. The Commission recently adopted a *Fourth Report and Order* in this proceeding terminating the docket.[1] As our final action in a series of deregulatory actions in this area dating back to 1976,[2] we found that the public interest would best be served by: (1) Repealing rules that require the operators who repair broadcast transmitting equipment to hold a Radiotelephone First Class Operator License; (2) terminating the Radiotelephone First Class examination and license; and (3) renaming the Radiotelephone Second Class License as the General Radiotelephone Operator License; and (4) revising the broadcast rules to permit the holder of any class of commercial license, including a Restricted Radiotelephone Operator Permit, but excluding the Marine Radio Operator Permit, to maintain as well as operate any class of broadcast transmitting equipment.

2. Nine petitions for reconsideration or clarification have been received.[3] After considering each of the arguments set forth in these requests, we affirm our decision but provide the requested clarification of one rule provision. (*See* paragraph 6, *infra.*) We reach this conclusion for three reasons. First, none of the petitioners provided any new facts, evidence, or reasoning that was not explicitly presented and examined in our deliberations that culminated in the *Fourth Report and Order.* Second, since there have been no changes in the record or the general circumstances on which we reached our conclusion, we find no reason to revise our conclusions. Third, and most importantly, we again conclude, based on the entire record including the arguments again enumerated in the instant petitions, that the public interest will best be served by elimination of the Radiotelephone First Class Operator License and the rule provisions specifying it as a requirement for operating broadcast equipment.

3. The arguments presented by the petitions for reconsideration repeatedly focused on a few points. Several petitions set about counting the number of commenters in favor of or opposed to the rule changes we proposed,[4] arguing

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[1] 46 FR 35450 (July 8, 1981).

[2] *Notice of Inquiry,* 41 FR 22981 (June 8, 1976).

[3] The petitioners are listed in Appendix I. One petition was captioned as a Request for Stay and Reexamination (*see* petition by Charles V. Feeley, Jr.), but the petitioner made no attempt to document any of the showings required to justify a stay of a final Commission action. *See, Virginia Petroleum Jobbers Association* v. *Federal Power Commission,* 259 F. 2d 921 (D.C. Cir. 1958); *Washington Metropolitan Area Transit Commission* v. *Holiday Tours, Inc.,* 559 F. 2d 481 (D.C. Cir. 1977). Rather than deny this petition without consideration for this failure, we will consider it as a petition for reconsideration. Nevertheless, for the reason enumerated below, the requested relief will be denied.

[4] *Notice of Proposed Rule Making,* Docket No. 20617, 66 F.C.C. 2d 100 (August 4, 1977). *See, e.g.,*

that the number of commenters on one side of an issue or another accurately reflects the public sentiment on the question and that this number dictates the required outcome of the Commission's deliberations. This premise is faulty for two reasons. First, in proceedings such as this one, where proposed rule changes significantly affect one particular segment of an industry, the affected group always provides the largest number of comments. Although the comments of parties so directly affected are invaluable, simple head counting is not an adequate or acceptable basis for reaching a public interest determination. Rather, the Administrative Procedure Act requires the Commission to analyze all arguments presented, weighing appropriately the comments of each party. Sometimes one documented, well justified position will be more enlightening than many unsupported opinions advocating the opposite outcome. In short, our decision-making process must weigh the merits on each side of an issue.

4. Several petitioners question our conclusion that the public interest would not be served by further Commission efforts to restructure and modify the existing Radiotelephone First Class Operator examination to bring it up-to-date, to resolve the problem of the examination being compromised through pre-test availability of specific test questions, and to make it more relevant to a technician's actual ability to maintain transmitter equipment. These petitioners have misunderstood our conclusion in several regards. First, we did not conclude that written examinations could not be developed to identify which of a group of applicants is most likely to become a competent broadcast technician.[5] We concluded that the existing examination system, or anything that would result from a restructuring of that examination that does not include hands-on testing, is unlikely to be reliable in predicting such a complicated outcome. Second, we suggested that industry associations could develop an examination, not because we believed an examination and certification system was absolutely required, but to illustrate our belief that if certain segments of the communications industry strongly believe such a system is a sufficiently desirable institution, they are free to expend industry resources to develop and implement such a system. What we concluded was that we did not feel further expenditure of Commission resources was warranted. [6] Federal Government implementation is not required merely because a licensing system would be helpful to some broadcasters in selecting competent technical employees.[7] Third, and central to our resolution of this issue, we concluded that the process of licensing Radiotelephone First Class Operators is not in the public interest because, although it imposes substantial costs on the broadcast industry, the Commission, and the public,[8] it was not shown by the record in this proceeding to protect the public in any substantial way.

5. A related contention by some petitioners is that Section 318 of the Communications Act, 47 U.S.C. 318 (1980), requires retention of the Radiotelephone First Class Operator License in particular, and forbids operation or maintenance of broadcast equipment by holders of the Restricted Radiotelephone Operator Permit. Neither the language of Section 318 nor the legislative history of the Communications Act supports an argument that the Commission is constrained in its discretion to decide which level of license[9] qualifications would best serve the public interest. If retention of technicians with more exacting paper credentials better suits a particular broadcaster's needs, each licensee is free to set such standards.[10]

6. Several petitions requested clarification or modification of two aspects of our decision. First, our new Section 73.1870 defines a new "chief operator" requirement and lists several duties as that individual's responsibility.[11] Concern was expressed by several petitioners that we intended that the particular individual designated as chief operator personally perform each of the functions enumerated in the rules section and that those duties could not be delegated to subordinates. Such a requirement would conflict with the practical division of labor in many stations, especially those with equipment at multiple locations. We did not intend to restrict licensee discretion in the assignment of internal responsibilities. The licensee will remain the focal point of all obligations under our rules. We will look to the licensee for compliance with the technical (as well as non-technical) aspects of the station's operation, and will not excuse non-compliance caused by failures on the part of its employees. Compliance with our rules requiring inspections, log entries, and so forth, will remain the exclusive responsibility of the licensee. The licensee, however, is free to delegate to the chief operator, and the chief operator is free to redelegate further, any of the duties imposed by the rules. The wording of the new rule § 73.1870(c) was intended to ensure that there is an individual within each station to whom the Commission can turn who is familiar with all technical aspects of that station. Although performance of the listed duties by a single individual is not required, we believe it better to specifically enumerate which duties are the chief operator's ultimate responsibility to emphasize our intention that the licensee ensure that these technical responsibilities reside in one identifiable person.[12]

7. The second requested area of clarification addressed the issue discussed in paragraph 63 of our *Fourth Report and Order*, 46 FR at 35460 (July 8, 1981), and the Notes to new rule § 73.61.

Petition for Reconsideration of the Society of Broadcast Engineers, filed August 6, 1981.

[5] We concluded that even an improved examination would have little impact on an operator's ability to repair equipment or to assure his safety when actually handling equipment. *Fourth Report and Order* in Docket No. 20817, 46 FR at 35456, paragraph 39 (July 8, 1981).

[6] SBE, in its petition for reconsideration, cites the testing of attorneys ("Bar Examinations") as an illustrative example of a comprehensive examination used to preliminarily determine technical competence. However, this system is not required by Federal Government regulation but rather is a creation of individual state governments.

[7] Indeed, a number of station licensees in their comments argued for elimination of the Radiotelephone First Class license requirement.

[8] SBE suggests that we could reduce this dependence on tax revenues by charging applicants a fee. SBE, petition at 14. However, agency attempts to defray administrative expenses by charging "fees" in the absence of explicit Congressional authorization raises many serious questions. *See National Cable Television Association, Inc.* v. *United States*, 415 U.S. 336 (1974). Moreover, such attempts are inappropriate under any circumstances where, as here, a determination has been made that there is no substantial public benefit accruing from tests that are the subject of any potential fee assessments.

[9] One petitioner suggested that the restricted permit is not a license because there is no examination prerequisite. A license is merely a certificate or document that gives permission to perform acts which, if performed without such authorization, are illegal. *See, Black's Law Dictionary*, 4th Ed. (1968) at 1067 and cases cited therein. A license does not imply a qualifications examination requirement.

[10] In this regard the existence of any antiquated equipment requiring above normal maintenance provides the individual broadcaster with a choice: He can retain such maintenance intensive equipment, expending higher amounts on technical services, or he can invest in modern equipment that needs less maintenance. Our deregulatory action does not increase his costs in any way. It just provides him with the option of choosing to upgrade his equipment to lower maintenance costs.

[11] The designation of "chief operator" must be in writing and be posted with the operator's license, but Commission notification of who has been so designated is not required. *See*, 47 CFR 73.1870(b)(3), 46 FR 36563 (July 8, 1981).

[12] To clarify the ambiguity that raised the delegation question, we are rewording § 73.1870(c) as set out in Appendix II.

In that paragraph we attempted to make clear our intention to preserve the *status quo* pending further rule making. Those stations that did come under former § 73.93(e)(3) were to continue performing partial proofs of performance as required by § 73.61(b) and those licensees that did not come under former § 73.93(e)(3) were to continue to be exempt from the partial proof-of-performance measurements requirements. We chose this path because we felt initially that the decision to extend these measurement requirements to a new class of stations, or to exempt those now so required from future measurements, involved considerations better resolved in a future proceeding. In a separate Notice of Proposed Rule Making to be issued at a later date we will solicit comments on a proposal to review the value of retaining the periodic proof measurements as required by § 73.61(b). We believe a new docket is necessary given the clear distinction between the subject matter of this docket (the Commission's radio operator licensing program) and the subject matter of § 73.61(b) (AM directional antenna field measurements).

8. We will take this opportunity to address one further minor matter. Through telephone and other informal inquiries, it has come to our attention that the wording of rule § 74.665 has been misinterpreted by several parties to require the employment of General Radiotelephone Operators for the operation of TV broadcast auxiliary stations in situations we intended to leave free of such requirements. To remove this ambiguity we are, on our own motion, further amending the first subsection of § 74.665 to clearly state that such equipment may be operated by anyone designated by the licensee of the authorized broadcast station except in the circumstances specified in the other rule subparts of § 74.665.

9. Accordingly, we believe the decisions announced in our *Fourth Report and Order* in Docket No. 20817, as clarified, are in the public interest. In an era of reduced conduct regulation by the Commission, individual licensees' attention to the technical maintenance of their stations becomes of utmost importance. We will continue to actively monitor licensee performance of our rules.[13] As industry practice develops under the radio operator rules, as now amended, some additional modifications or adjustment of those rules intended to ensure satisfactory station functioning may be appropriate. Under such circumstances, we will, on our own motion, take appropriate action.

10. For the above-stated reasons, the petitions for reconsideration by Charles V. Feeley, Jr.,[14] Cedar Rapids Television Company, Eastern Broadcasting Corporation, F. M. Gamer, Schwartz, Woods & Miller, and the Society of Broadcast Engineers, Inc. are denied. The petitions for clarification or partial reconsideration by Annapolis Broadcasting Company, the National Association of Broadcasters (NAB) and in support of NAB, American Broadcasting Companies, Inc., are, to the extent indicated above, granted, and in all other respects denied.

11. In view of the foregoing and pursuant to the authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, it is ordered, That effective August 16, 1982, §§ 73.61, 73.1870 and 74.665 of the Commission's rules and regulations are amended as set forth in the attached Appendix II.

12. For further information concerning this proceeding, contact John W. Reiser, Broadcast Bureau, (202) 632–9660.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission,

William J. Tricarico,

Secretary.

Appendix I—List of Petitions for Reconsideration or Clarification

1. *Formal Request for Stay of Final Rule, and Reexamination of Docket 20817,* FCC 81–226, Charles V. Feeley, Jr. (July 27, 1981).

2. *Petition for Clarification and Partial Reconsideration,* National Association of Broadcasters (August 4, 1981).

3. Statement of American Broadcasting Companies, Inc., In support of NAB's "Petition for Clarification and Partial Reconsideration," American Broadcasting Companies, Inc., (August 7, 1981).

4. *Petition for Reconsideration,* Cedar Rapids Television Company (August 7, 1981).

5. *Petition for Reconsideration,* Eastern Broadcasting Corporation (August 7, 1981).

6. *Petition for Reconsideration,* F. M. Gamer (August 3, 1981).

7. *Petition for Reconsideration,* Schwartz, Woods & Miller (August 7, 1981).

8. *Request for Partial Reconsideration and/or Clarification,* Annapolis Broadcasting Corporation (August 6, 1981).

9. *Petition for Reconsideration,* Society of Broadcasting Engineers, (August 6, 1981).

Appendix II

PART 73—RADIO BROADCAST SERVICES

1. Section 73.61 is amended by revising Notes 1 & 2 to read as follows:

§ 73.61 AM directional antenna field measurements.

* * * * *

Note 1: An AM station that is not required to make periodic field strength measurements under the terms of its current authorization is not subject to the requirements of paragraph (a) of this Section.

Note 2: An AM station that was not required to make periodic skeleton or partial antenna proof of performance measurements under the duty transmitter operator provisions of § 73.93 (e)(3) prior to July 1, 1981, is not subject to the requirements of paragraph (b) of this Section until the need for these measurements for all stations is addressed in a future rulemaking proceeding.

2. Section 73.1870 is amended by revising paragraph (c) to read as follows:

§ 73.1870 Chief operators.

* * * * *

(c) The chief operator is responsible for completion of the following duties specified in this paragraph below. When these duties are delegated to other persons, the chief operator shall maintain supervisory oversight sufficient to know that each requirement has been fulfilled in a timely and correct manner.

(1) Weekly (or monthly for stations using automatic transmission systems) inspections and calibrations of the transmission system, required monitors, metering, and control systems; and any necessary repairs or adjustments where indicated. (See § 73.1580.)

(2) Periodic AM field monitoring point measurements, equipment performance measurements, or other tests as specified in the rules or terms of the station license.

(3) Review of the station operating logs at least once each week as part of the transmission system inspections to determine if the entries are being made correctly or if the station has been operating as required by the rules or the station authorization. Upon completion

[13] This fiscal year (1982) the Commission expects to monitor or inspect approximately 800 broadcast stations, 8–10% of the total licensees. We believe the inspection level will be sufficient to inform us adequately of the level of compliance.

[14] *See* note 3, *supra.*

of the review, the chief operator or his designee is to make a notation of any discrepencies observed and date and sign the log; initiate necessary corrective action, and advise the station licensee of any condition which is a repetitive problem.

(4) Entries in the maintenace log. (*See* § 73.1830.)

* * * * *

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

3. Section 74.665 is amended by revising paragraph (a) to read as follows:

§ 74.665 TV broadcast auxiliary station operator requirements.

(a) Except as provided for in paragraphs (b) and (c) and (d) of this Section, TV broadcast auxiliary stations may be operated by any person designated by the station licensee.

* * * * *

[FR Doc. 82-19732 Filed 7-20-82; 8:45 am]
BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 47, No. 140
Wednesday, July 21, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 1, 274, 284, 375 and 381

[Docket No. RM82-30-000]

Fees Applicable to the Natural Gas Policy Act; Extension of Time for Comments

July 15, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Proposed Rulemaking; extension of comment period.

SUMMARY: On June 2, 1982, the Commission issued a Notice of Rulemaking involving fees applicable to the Natural Gas Policy Act (47 FR 24726, June 8, 1982). The comment period is being extended at the request of Exxon Corporation.

DATE: Comments must be submitted on or before August 13, 1982.

ADDRESS: Submit comments to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Kenneth F. Plumb, Secretary, (202) 357-8400.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19693 Filed 7-20-82; 8:45 am]
BILLING CODE 6717-01-M

18 CFR Parts 271 and 276

[Docket No. RM82-36-000]

Elimination of Reporting Requirements for Sales of Natural Gas Under Sections 105, 106(b), and 109 of the Natural Gas Policy Act of 1978

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission proposes to eliminate Part 276 of its regulations. That part requires the filing of information concerning first sales of natural gas made under sections 105, 106(b) and 109 of the NGPA, and prescribes Form Nos. 122, 123, and 124. The Commission proposes keeping the requirement now under Part 276 that sellers retain certain records, books and contracts relating to sales under these sections; but would place that requirement under the part containing the regulations that govern the ceiling prices for sales under these sections of the NGPA. This proposal is part of the Commission's ongoing program to review its reporting requirements and reduce unnecessary burdens by eliminating the collection of data that are not necessary to the performance of the Commission's regulatory responsibilities.

DATE: Written comments must be received by August 16, 1982. Requests for oral presentation must be received by August 6, 1982.

ADDRESS: Comments and requests for oral presentation must be filed with the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 and should reference Docket No. RM82-36.

FOR FURTHER INFORMATION CONTACT: Kenneth J. Malloy, Office of General Counsel, (202) 357-8033.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Federal Energy Regulatory Commission (Commission) proposes to eliminate Part 276 of its regulations. That part requires the filing of information concerning first sales of natural gas made under sections 105, 106(b), and 109 of the Natural Gas Policy Act of 1978 (NGPA), and prescribes Form Nos. 122, 123, and 124. The Commission proposes keeping a requirement that sellers retain certain records, books, and contracts relating to sales of natural gas made under these sections of the NGPA. This proposal is part of the Commission's ongoing program to review its reporting requirements and reduce unnecessary burdens by eliminating the collection of data that are not necessary to the performance of the Commission's regulatory responsibilities.

II. Background

Part 276 was issued on March 23, 1979, and created a general reporting obligation on first sellers of natural gas qualifying under sections 105, 106(b), and 109 of the NGPA.[1] The information to be reported annually relates to dates of sales of natural gas, volumes of gas so length of contracts, and identity of parties to the contract.[2] The Commission provided three forms for reporting this information as follows: Form No. 122 for sales of natural gas subject to section 109 of NGPA, Form No. 123 for sales subject to section 105, and Form No. 124 for sales subject to section 106(b). The Commission's regulations also require that affidavits by company officials be filed with these forms. In addition, these regulations require persons who filed reports to retain certain relevant records, books, and contracts for various periods of time.

The Commission has required the filing of these reports in order to get information relating to transactions under sections 105, 106(b), and 109 of the NGPA. Unlike other pricing categories of the NGPA, a seller is not required to get a state or federal eligibility determination prior to charging the price authorized by these sections. Collecting the information in these reports was, therefore, considered necessary to provide the Commission with information relating to the identity of the parties to contracts and the number of sales being made under these various pricing categories of the NGPA, and to use these reports as a basis for deciding how to conduct audits for compliance with the NGPA.

Reports for the period of December 1 to December 31, 1978, were required to be filed by June 1, 1979. Reports for succeeding calendar years were suspended on March 14, 1980.[3] The reason for the suspension was "to reevaluate the regulatory need for reports on an annual basis and to address problems experienced in the

[1] Docket No. RM79-30, 44 FR 18-647 (March 29, 1979). Prior to that order, interim regulations under Part 276 had been issued on December 1, 1978, 43 FR 56-448 (December 1, 1978), and amended on February 2, 1979, to extend the filing deadline for initial reports under the Part 276 Interim Regulations from March 1, 1979 to May 1, 1979.

[2] *See, e.g.*, 18 CFR § 276.103(a).

[3] Docket No. RM79-30, 45 FR 19-546 (March 26, 1980).

[4] *Id.*

past year associated with annual reports." [4]

III. Discussion

The Commission has reevaluated the need for these yearly reports and believes that they are not necessary for an effective NGPA compliance program for sales made under these sections. The Commission, therefore, proposes eliminating the reporting requirements of Part 276, including the forms and the various affidavit requirements. The Commission proposes to retain a requirement that certain documents related to the sales be kept; these provisions, however, will be added to the particular subparts of the regulations prescribing rules for selling natural gas under sections 105, 106(b), and 109 of the NGPA.

The reports that have been filed under Part 276 were designed to ensure that the prices charged for the sale of natural gas did not exceed the maximum lawful price allowed by the relevant NGPA section. However, the Commission cannot usually determine if the price reported is in compliance with the NGPA without detailed contract information as well as documents related to the specific sales transaction. The Commission has considered the alternative of requiring the filing of detailed contract information. However, the Commission believes that this alternative would place an unwarranted filing burden on industry and an unwarranted processing and auditing burden on the Commission's staff.

The Commission believes that the compliance function is best carried out by field audits and specific requests for information from sellers or purchasers rather than by annual reporting requirements. Requests to individual natural gas producers or pipelines for volume or revenue information, when needed, is a less burdensome way of getting the information than is requiring that all sellers involved in transactions under these NGPA sections file under Part 276 every year. If this filing requirement were eliminated, regulated entities would be relieved of the burden of filing approximately 5,000 annual oath statements and 300 annual reports containing approximately 25,000 lines of data. This elimination would reduce the total paperwork burden imposed by Part 276 on regulated entities by approximately 15,000 hours annually, or about ninety percent of the present burden. The remaining burden of ten percent is attributable to the record retention requirement. Accordingly, the Commission proposes to eliminate Part 276, including all the reporting requirements, forms, and affidavits.[5]

Consistent with the notion that field audits are a more effective means of ensuring compliance with the pricing provisions of the NGPA, the Commission proposes continuing to require sellers to keep books, records, and contracts relevant to sales made under sections 105, 106(b), 109. The proposed length of time for keeping the books and records is three years, the approximate duration of the Commission's auditing cycle. The proposed length of time for keeping contracts is three years after the expiration of the contract. The Commission believes that it is already normal business practice for sellers to keep these records and contracts for at least as long as the proposed three-year period.[6] These recordkeeping requirements will be moved to the relevant subparts of Part 271, the part containing rules relating to ceiling prices for the various categories of natural gas.

IV. Certification of No Significant Economic Impact

The Regulatory Flexibility Act (RFA),[7] requires the Commission to perform a regulatory flexibility analysis on proposed rules that will have "a significant economic impact on a substantial number of small entities."[8] The Commission is not required to make such an analysis if it certifies that the rule will not have "a significant economic impact on a substantial number of small entities."

There are approximately 10,000 natural gas producers in the United States. Approximately eighty percent of these producers are small entities. This rule, if promulgated, will affect most of these entities by eliminating several reporting requirements and reducing regulatory burden. The Commission believes this reduction will have a positive impact on small entities. The Commission does not, however, believe the economic impact will be "significant," since the burden reduction is about one and a half hours per entity when spread out over the 10,000 entities which could potentially be required to file reports.

Pursuant to section 605(b) of the RFA, the Commission accordingly certifies that this rule, if promulgated, will not have a "significant economic impact on a substantial number of small entities."

V. Comment Procedures

The Commission invites interested persons to submit written data, views and other information concerning the matters set out in this Notice. An original and 14 copies of such comments should be filed with the Commission by August 16, 1982. Comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 and should reference Docket No. RM82–36.

All written submissions will be placed in the Commission's public files and will be available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426 during regular business hours.

In addition, an opportunity for a public hearing to receive oral comments will, if requested, be afforded in accordance with section 502(b) of the NGPA. Any person seeking to appear to give oral comments must file a request to do so with the Secretary by August 6, 1982.

(Natural Gas Act, 15 U.S.C. 717–717w (1976 & Supp. IV 1980); Energy Supply and Environmental Coordination Act, 15 U.S.C. 791–798 (1976 & Supp. IV 1980); Department of Energy Organization Act, 42 U.S.C. 7101–7352 (Supp. III 1979); Natural Gas Policy Act, 15 U.S.C. 3301–3432 (Supp. IV 1980))

List of Subjects

18 CFR Part 271

Natural gas, High-cost gas, Tight formations.

18 CFR Part 276

Natural gas, Reporting requirements, Wage and price controls.

In consideration of the foregoing, the Commission proposes to amend Parts 271 and 276, Title 18 of the Code of Federal Regulations, as set forth below.

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[4] *Id.*

[5] Some sellers may not have filed these initial reports as required by Part 276. Liability for such failure to file required reports will not be relieved by this rule which, if promulgated, eliminates the reporting requirements of Part 276. *Cf. U.S. v. Hark*, 320 U.S. 531, 536 (1944) (Revocation of a regulation does not prevent indictment and conviction for violation of its provisions at a time when it remained in force); *U.S. v. Resnick*, 455 F. 2d 1127, 1134 (5th Cir. 1972) (Revocation of a regulation does not bar prosecution where the legislation authorizing the regulation has not been repealed).

The Commission will keep the reports initially filed by June 1, 1979. Persons who filed these reports are not entitled to have them returned; the Commission needs these reports to determine who to audit.

[6] These recordkeeping requirements are, for the most part, the same or less than the requirements of the Internal Revenue Service. *See*, Records, Treas. Reg. § 1.6001–1 (1978) 26 CFR 1.6001–1 (1981). As such, these recordkeeping requirements impose very little burden on sellers.

[7] 5 U.S.C. 601–612 (Supp. IV 1980).

[8] *Id.* at § 603(a).

By direction of the Commission.
Kenneth F. Plumb,
Secretary.

PART 271—CEILING PRICES

1. Part 271 is amended in its Table of Contents and text by revising the title and text of §§ 271.503, 271.603, and 271.903, all to read as follows:

§ 271.503 Recordkeeping.

Retention by Seller. Any person who collects a price under this subpart shall keep:

(a) any books and records related to the sale for three years from the date of the sale; and

(b) any contract related to the sale for three years after the expiration of the contract.

§ 271.603 Recordkeeping.

Retention by Seller. Any person who collects a price under this subpart shall keep:

(a) any books and records related to the sale for three years from the date of the sale; and

(b) any contract related to the sale for three years after the expiration of the contract.

§ 271.903 Recordkeeping.

Retention by Seller. Any person who collects a price under this subpart shall keep:

(a) any books and records related to the sale for three years from the date of the sale; and

(b) any contract related to the sale for three years after the expiration of the contract.

PART 276—[RESERVED]

2. Subchapter H of Chapter I is amended in its Table of Contents and in its text by removing Part 276 in its entirety and reserving the same for future use.

[FR Doc. 82-19650 Filed 7-20-82; 8:45 am]
BILLING CODE 5717-01-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Olympic National Park Fishing Regulations

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The intent of this proposed rule is to update the present fishing and boating regulations in Olympic National Park, largely in response to Federal court mandate [*U.S.* v. *Washington*, 384 F. Supp. 312 (W.D. Wash., 1974)]. In addition the proposed rules respond to new information and changing conditions in order to more accurately reflect Olympic National Park's fisheries management program for the rivers, lakes and streams. Boating regulations are being updated and clarified to more accurately identify waters which are open to hand-propelled vessels and motorboats.

DATE: Written comments, suggestions of objections will be accepted until August 20, 1982.

ADDRESS: Comments should be directed to: Superintendent, Olympic National Park, 600 East Park Avenue, Port Angeles, Washington 98362.

FOR FURTHER INFORMATION CONTACT: Roger J. Contor, Superintendent, Olympic National Park, Telephone: (206) 452-4501.

SUPPLEMENTARY INFORMATION:

Background

Olympic National Park occupies about 900,000 acres in the center of northwest Washington's Olympic Peninsula and in a narrow coastal strip along the western margin of the Peninsula. The headwaters and upper reaches of nearly all the Peninsula's important river systems supporting anadromous salmonid fishes are in the park. Outside the park these rivers flow through an often confusing array of State and Native American tribal jurisdictions. The mouths of two of the major rivers are in the detached coastal strip of the park and thus are in the unusual position of being under park control at both ends but not the middle.

Since the original promulgation of fishing regulations by the park, the environmental situation on the Olympic Peninsula has undergone considerable change. Land development and heavy logging outside the park on private, State and Federal lands has damaged natural spawning habitat. The largest proportion of the remaining undisturbed habitat is within the park. In addition, extremely heavy fishing pressure by ocean trollers, trawlers, gillnetters and sportsmen has contributed to the seriously depleted runs of anadromous species. The jurisdictional situation regarding the management of anadromous fish has also been changing on the Peninsula. Recent Federal court decisions have affirmed a prominent role for the several Native American tribal fisheries programs and fishery management activities. Olympic National Park fishery management objectives are not always in total agreement with state or tribal objectives. The park emphasizes strongly the perpetuation not only of native species of fish but also, to the extent possible, of natural genetic processes. The park's major role in preserving the unspoiled spawning environment has become apparent. Emphasis is also placed on the maintenance of a quality wild sport fishing experience and on the importance of the fish in their role in the ecosystem.

Adding to the jurisdictional and environmental complexity is the biological variability of the fish themselves. At issue are five salmon species, steelhead trout (sea-run rainbow), sea-run cutthroat trout and Dolly Varden. Within each species and from river to river are significant differences in the timing, size and vigor of the runs. Management manipulations, moreover, have altered these runs even further.

The park needs to be able to carry out its own objectives and respond to biological, environmental and legal constraints with a degree of flexibility not currently possible. This proposed rule will authorize the superintendent to make adjustments in seasons and daily catch limits after consultation with the State and, where appropriate, the concerned Indian Tribe.

The proposed boating revision updates and clarifies the existing rule to more accurately identify waters which are opened to hand-propelled vessels and motorboats. Another provision of this rule closes 8 miles of the Upper Hoh River to fishing from boats to allow bank fishermen an opportunity to fish without competition from boats. Recreational boating would still be allowed. The remaining 30 downstream miles of the Hoh River would be open to all fishermen during legal seasons.

Public Participation

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions or objections regarding the proposed rule to the location identified in the Addresses section of this preamble. Comments must be received on or before August 20, 1982.

Drafting Information

The following persons from Olympic National park participated in the writing of this regulation: Gordon Boyd, Chief Ranger; John Aho, Group Chief, Science and Technology; Jeff Singer, Chairman of Citizen's Advisory Committee, Paul Crawford, Staff Ranger, Elwood Jones,

Law Enforcement Specialist, and Robert Marriott, Park Ranger.

Compliance with Other Laws

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 610 *et seq.* This conclusion is based on the fact that this regulation clarifies an existing rule. The addition of the Indian fishing rights will not have an economic effect on any small entities as no other group has been allowed to fish in park waters in a similar manner.

Pursuant to the National Environmental Policy Act (42 U.S.C. 4332), the Service has prepared an environmental assessment on this proposed regulation which is available at the address noted above.

This rule does not contain any information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

(Section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. section 3)

List of Subjects in 36 CFR Part 7

National parks.

In consideration of the foregoing, it is proposed to amend 36 CFR by revising § 7.28 (a) and (b) as follows:

§ 7.28 Olympic National Park.

(a) *Fishing*—(1) General Provisions. All water within Olympic National Park are open to fishing in conformance with those seasons and limits published annually by the Washington State Department of Game and the Washington State Department of Fisheries applicable in the same watershed in adjoining counties, except as provided for below.

(i) Possession limit. This shall be the same as the daily limit for all species; *provided however,* it is lawful to possess four steelhead over 20 inches regardless of weight. In the Queets River and tributaries the summer season possession limit is two steelhead over 20 inches.

(ii) General summer season. Daily steelhead catch limit shall not exceed two fish, *provided however:*

(A) The Queets River and tributaries shall have a summer season daily limit of one steelhead over 20 inches in length.

(B) The Quinault River is closed to the taking of steelhead all year above the confluence of the North and East Forks, but is open in its entirety during the general summer season to the taking of two rainbow trout with a minimum size of 10 inches and maximum size of 20 inches.

(2) *Salmon Fishing.* Salmon fishing is permitted on the following park waters, exclusive of tributaries, when adjacent State waters are open:

Dickey River
Hoh River below confluence of South Fork
Kalaloch Creek
Ozette River
Queets River below Tshletshy Creek
Quillayute River
Quinault River below the bridge connecting North Fork and Graves Creek Roads
Salmon River

Seasons and bag limits shall be established annually after consultation with the State and any affected Indian tribe.

(3) *Conservation waters.* After consultation with the State and, where appropriate, the concerned Indian tribe, the superintendent may, by local publication and conspicuous posting of signs, alter the season and change daily limits for spawning, conservation or research purposes.

(4) *Closed waters.* That portion of the Morse Creek watershed within the park (except Lake Angeles and P.J. Lake) and that section of Kalaloch Creek which is used as domestic water supply (as posted) are closed to fishing. Fishing from boats is prohibited on the Hoh River upstream from the South Fork Hoh boat launch.

(5) *Fishing gear.* Fishing with a line, gear or tackle having more than two spinners, spoons, blades, flashers, or like attractions, or with more than one rudder, or more than two hooks (single, double, or treble barbed) attached to such line, gear, or tackle, is prohibited.

(6) *Bait.* The use of nonpreserved fish eggs is permitted.

(7) *License.* A license to fish in park waters is not required; however, an individual fishing for steelhead or salmon in park waters, except treaty Indians fishing in the exercise of rights secured by treaties of the United States, shall have in his/her possession a State of Washington punch card for the species being sought. Steelhead and salmon shall be accounted for on these cards as required by State regulations.

(8) *Indian treaty fishing.* (i) Subject to the limitations set forth below, all waters within the Olympic National Park which have been adjudicated to be usual and accustomed fishing places of an Indian tribe, having treaty-secured off-reservation fishing rights, are open to fishing by members of that tribe in conformance with applicable tribal or State regulations conforming to the orders of the United States District Court.

(ii) Identification cards and tags. Members of the tribes having treaty-secured fishing rights shall carry identification cards conforming to the requirements prescribed by the United States District Court and issued either by the Bureau of Indian Affairs or the applicable tribe when fishing in accordance with the tribe's reserved treaty fishing right. Such persons shall produce said card for inspection upon request of a National Park Service enforcement officer. A tribally issued identification tag shall be attached to any unattended fishing gear in park waters.

(iii) Conservation closures and catch limits. The superintendent may close a stream or any portion thereof to Indian treaty fishing or limit the number of fish that may be taken when it is found either that it is:

(A) Reasonable and necessary for the conservation of a run as those terms are used by the United States District Court to determine the permissible limitations on the exercise of Indian treaty rights; or

(B) Necessary to secure the proper allocation of harvest between Indian treaty fisheries and other fisheries as prescribed by the court.

(iv) Catch reports. Indian fishermen shall furnish catch reports in such form as the superintendent, after consultation with the applicable tribe, shall have prescribed.

(v) Applicability of other park regulations. Indian treaty fishing shall be in conformity with National Park Service general regulations in Parts 1–6 of this chapter.

(b) *Boating.* All vessels are prohibited on park waters except as provided below:

(1) Hand propelled vessels and sailboats are permitted on park waters except the following:

Dosewalips River

(2) Motorboats are permitted on the following waters:

Lake Crescent
Lake Cushman
Lake Mills
Dickey River in coastal strip
Hoh River in coastal strip
Quillayute River in coastal strip
Quinault River below the bridge connecting North Fork and Graves Creek Roads

* * * * *

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

June 23, 1982.

[FR Doc 82-19745 Filed 7-20-82; 8:45 am]

BILLING CODE 4310-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[A-10-FRL 2141-3]]

Approval and Promulgation of State Implementation Plan: Oregon and Designation of Areas for Air Quality Planning Purposes: Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rulemaking.

SUMMARY: This proposed rulemaking address State Implementation Plan (SIP) revisions to be submitted by the State of Oregon Department of Environmental Quality pursuant to the requirements of Part D of the 1977 Clean Air Act (hereafter referred to as the Act). In today's action, EPA is proposing to approve the 1982 carbon monoxide and ozone attainment plans for the Portland nonattainment area based on draft plans submitted on January 19, 1982 and February 10, 1982, respectively. These draft plans will be used as a basis for State and local public hearings. Major revisions are not anticipated. EPA is also proposing to approve the redesignation of the Portland carbon monoxide nonattainment boundary.

DATE: Comments must be received on or before August 20, 1982.

ADDRESSES: Comments should be addressed to: Laurie M. Kral, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101.

Copies of the materials submitted to EPA may be examined during normal business hours at:

Central Docket Section, (10A–82–7), West Tower Lobby, Gallery I, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460;

Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101;

State of Oregon, Department of Environmental Quality, Yeon Building, 522 S.W. Fifth, Portland, OR 97207.

FOR FURTHER INFORMATION CONTACT: Loren C. McPhillips Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101, Telephone No. (206) 442–7369, FTS. 399–7369.

SUPPLEMENTARY INFORMATION:

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I. Introduction

The **Federal Register** action is being processed in parallel with action at the State and local level to adopt and submit a revision to the currently approved SIP. It is an attempt to accelerate the EPA rulemaking process by proposing approval based on an acceptable public hearing draft, rather than a finally adopted and submitted SIP. The key to this shortened process is inclusion of EPA opportunity for comment in the early stages of SIP development so that the SIP, when submitted, is approvable without additional corrections. It assumes also that no major changes will be made to the draft SIP as a result of the public hearing. Such changes could necessitate a reproposal on those portions of the SIP.

II. Background

The Clean Air Act Amendments of 1977 require States to submit plans to demonstrate how they will attain and maintain compliance with national ambient air standards for those areas designated as nonattainment. The Act further requires these plans to demonstrate compliance with primary standards no later than December 31, 1982. An extension until December 31, 1987 is possible, if the State can demonstrate that despite implementation of all reasonably available control measures the December 31, 1982 attainment date cannot be met.

On March 3, 1978, the Oregon portion of the Portland-Vancouver Interstate Air Quality Maintenance Area (AQMA) was designated by EPA as a nonattainment area for carbon monoixide (CO). At the same time the entire Portland-Vancouver Interstate AQMA was designated as a nonattainment area for ozone (O_3). In accordance with Section 174 of the Act, former Governor Straub designated the Columbia Regional Association of Governments (CRAG) as the lead agency for the development of the CO and O_3 SIP revisions for the Portland AQMA. On December 12, 1978, Governor Straub redesignated the Metropolitan Service District (MSD) as lead agency, effective January 1, 1979, in accordance with the voter approved May 23, 1978 ballot measure which abolished CRAG and transferred its responsibilities and powers to MSD.

In June 1979, the Governor submitted CO and O_3 plans for the Oregon portion of the Portland-Vancouver AQMA to EPA. These plans made an initial estimate of the CO and hydrocarbon emission reductions required to attain the Federal standards. They also laid the framework for the potential control measures to be evaluated, indicated that the December 31, 1982 attainment date could not be met despite the implementation of reasonably available measures, and requested an extension of the attainment date.

EPA published an approval of this request in the **Federal Register** on June 24, 1980 (45 FR 42278) allowing an extension of the Portland CO and O_3 attainment dates beyond December 31, 1982, but before December 31, 1987. A specific date was to be identified in the 1982 SIP to be submitted to EPA prior to July 1, 1982.

MSD and the City of Portland agreed that the City of Portland should have primary responsibility for writing the CO plan for the region while MSD would write the O_3 plan. Today EPA is proposing to take action on the 1982 CO and O_3 SIPs which were presented before a public hearing on May 24, 1982. A corresponding ozone SIP for Vancouver, Washington, is being developed by the Regional Planning Council of Clark County and action on this portion of the interstate plan will be taken separately.

III. Plan Review

The general requirements for CO and O_3 SIP's are described in the **Federal Register** published on January 22, 1981 (46 FR 7182). EPA reviewed the draft SIP's in accordance with those requirements and developed a technical support document for each plan which briefly describes EPA's conclusions regarding each SIP requirement and its approvability. The following discussion will briefly describe the SIP in terms of its content and indicate what action EPA proposes.

A. *Carbon Monoxide Plan*—1. *Data Base and Modeling Results.*

Numerous violations of the 8-hour CO standard of 9 parts per million (ppm) have been recorded in the Portland Central Business District (CBD). Based upon a statistical analysis of the data for three years, the design CO concentration is 14.9 ppm. The corresponding required emission reduction to reach the standard is approximately 40 percent. It is estimated that CO emissions from motor vehicles represent 95 percent of the total CO emissions generated in the Portland area in 1977. In 1987, 85 percent of the emissions are still projected to be from motor vehicles.

The APRAC–2 computer model was used to predict air quality concentrations. The results of the analysis indicate that a few streets in the Portland CBD are projected to violate the 8-hour CO ambient air quality standard beyond 1982. Analysis shows that the controls adopted in this plan are projected to bring the region into attainment by 1985. Therefore, a request to extend the attainment deadline for the CO ambient air quality standards to December 31, 1985 is included in the SIP revision.

2. *Control Strategy.* In light of the dominant motor vehicle contribution to the CO nonattainment problem, the control strategy focuses on transportation measures. It should be noted that measures designed to reduce vehicle emissions work in one or more of three ways: (a) By reducing vehicle trips and miles traveled; i.e., improved mass transit, carpooling, etc., or (b) by improving traffic speeds; i.e., improved traffic signalization, traffic flow improvements, parking restrictions, etc., or (c) by reducing the emissions from individual vehicles; i.e., an inspection and maintenance program or the Federal Motor Vehicle Emission Control Program (FMVECP). The following is a list of measures already being implemented with commitments for continued operation:

a. Inspection and maintenance program;
b. Improved public transit;
c. Exclusive bus and carpool lanes;
d. Area-wide carpool programs;
e. Long-range transit improvements;
f. Parking controls;
g. Park-and-ride lots;
h. Transit mall;
i. Employer programs to encourage carpooling and vanpooling;
j. Traffic flow improvements;
k. Bicycle program.

Additional measures that have been committed to implementation in the near future include:

a. McLoughlin in Corridor Rideshare Program;
b. Employer Bicyle Planning Project;
c. State Legislation to Encourage Ridesharing;
d. Shop and Ride Program;
e. City of Portland Bicycle Parking Program;
f. Employee Flexible Working Hours Program;
g. Traffic Signal System Program;
h. Downtown Portland Air quality Plan.

B. *Ozone Plan*—1. *Date Base and Modeling Results.*

Ambient O_3 concentrations are generally not related to direct emissions to the atmosphere, but are formed by complex reactions between volatile organic compounds (VOC) and oxides of nitrogen in the presence of sunlight. Attainment strategies focus primarily on reducing VOC emissions and rely on both mobile source control programs and emissions reductions from stationary sources.

There have been six days which exceeded the 0.12 ppm Federal ozone standard in the Oregon portion of the Portland/Vancouver AQMA during the last three years. Five of these days occurred in the summer of 1981 during extreme meteorological conditions. Based upon this monitoring data the design concentration was conservatively identified to be 0.146 ppm.

In 1980, stationary sources contributed 51 percent of total volatile organic compound emissions within the AQMA. Mobile sources (primarily automobiles) accounted for 45 percent, with off-highway vehicles contributing the remaining 4 percent. Projections show that by 1987, stationary sources will contribute 60 percent of total emissons. highway sources will fall to 33 percent, and off-highway vehicles will contribute 7 percent. It should be noted that in both 1980 and 1987, 84 percent of total Portland-Vancouver AQMA volatile organic compound emissions are produced in the State of Oregon and 16 percent are produced in the State of Washington.

The air quality modeling analysis shows that a 28 percent reduction in volatile organic compound emissions will be needed to attain the 0.12 ppm Federal ozone standard. The projected 1987 volatile organic compound emissions inventory shows that previously implemented transportation control measures, including the Oregon biennial inspection and maintenance program, coupled with the FMVECP program and already adopted industrial controls will reduce emissions by 27 percent by 1987.

2. *Control Strategy*—a. Mobile. Measures already implemented with commitments to continued operation are the same as those contained in the CO plan. In addition to those already mentioned, measures that have been committed to implementation in the near future which will have a positive effect on O_3 include:

(1) Bus purchases
(2) Transit fare incentives
(3) Ramp metering
(4) City of Portland Employee Travel Reduction

b. Stationary. Stationary source controls for VOC emissions are contained in Chapter 340–22 of the Oregon Administrative Rules (OAR). Specifically, Sections 100 through 220 of Chapter 340–22 provide for reasonable available control technology controls on all applicable categories of sources for which Control Technique Guidelines (CTG) were published by EPA. EPA published approval of these controls as part of the SIP strategy on June 24, 1980 (45 FR 42265) and March 11, 1982 (47 FR 10534). All 100 ton sources are included in the CTG categories.

c. Growth Allowance. The results of the analysis show that the Portland/Vancouver AQMA will attain the Federal ozone standard by the December 31, 1987 deadline. It is projected that the control strategy will produce VOC emission reductions of 1,700 kilograms per day more than is required for attainment that year.

Pursuant to the requirements under Section 173(1)(B) of the Act, EPA is proposing to approve a 1,700 kilogram per day volatile organic compound emission growth allowance of which 1450 kilograms per day would be used by Portland. The remaining 250 kilograms per day would be made available to Vancouver. The Portland growth allowance would allow new or modified major stationary sources to locate in the Oregon portion of the AQMA without the requirement of obtaining VOC emission offsets until the cushion is used up. If reasonable further progress is not maintained, then the Oregon offset program must be reactivated in place of the growth allowance.

The State is revising its new source review regulation (OAR 340–20–240) to incorporate the Portland VOC growth allowance. The rule change will be submitted prior to EPA's final approval action.

C. *Carbon Monoxide/Ozone—Joint Elements.* The following elements of the CO and O_3 SIP's will be discussed on a joint basis, since they are basically the same for both SIP's. These elements include (1) monitoring reasonable further progress (RFP), (2) basic transportation needs, (3) conformity of highway projects with the SIPs, (4) the inspection and maintenance program and (5) public and elected official participation.

1. *Monitoring Reasonable Further Progress.* The proposed O_3 and CO plans meet the RFP requirement contained in the Act. A monitoring plan to periodically assess the extent to which the transportation measures are actually resulting in meeting this RFP requirement has been established. Although emphasis will be placed on monitoring emission reductions each year, ambient air quality monitoring

data will still be examined. To the extent possible other reasonable indicators will also be used to monitior RFP, such as monitoring the number and use of downtown parking spaces and traffice volumes entering the downtown. To monitor RFP, the Oregon Department of Environmental Quality (DEQ) and MSD will jointly submit a report each July 1 for the preceding calendar year which will comply with the following EPA requirements:

a. Identification of growth of major new or modified sources and mobile sources;

b. Reduction in emissions from existing sources;

c. Update of the emission inventory;

d. Comparison of air quality monitoring data with the emission inventory.

e. Information relating to the effectiveness and enforcement of the I/M program. If ambient air quality data suggests that RFP is not being maintained, MSD and DEQ will examine the emission inventories, meteorological data, and actual O_3 and CO concentrations to determine if a problem exists. If it is determined that RFP is not being maintained, the contingency plan contained in the SIP will be implemented.

2. *Basic Transportation Needs.* EPA requires funding and implementation of public transportation measures to maintain the mobility of people where transportation control strategies are implemented. The Portland region is continuing its emphasis on high levels of transit and ridesharing as a means of providing mobility to the general public, while helping to relieve congestion on the highway system, reduce pollutant emissions and conserve energy. There is a commitment in the plan to implement and fund these measures, thus insuring that requirements for basic transportation needs are satisfied.

3. *Conformity of Federal Actions with the SIP.* Existing State rules already ensure that Federal Actions will be reviewed for conformity with the SIP in a manner consistent with the criteria contained in the April 1, 1980 **Federal Register** (45 FR 21590). Procedures for specifically evaluating Department of Transportation plans, programs and projects are included in the draft SIP produced by MSD. As indicated in the CO plan, regardless of the initial conformity finding of the transportation plans and program, individual projects still must comply with all provisions and requirements of the SIP. Specifically, this includes the provision that a project must not cause new or exacerbate existing violations of the standards.

4. Inspection and Maintenance Program. The Portland I/M program has been in operation since 1975 and has been recognized as an integral part of the transportation control plan since 1974. The program rules and regulations have already been approved in the January 2, 1981 **Federal Register** (46 FR 35) and no modifications have been submitted by the State in the 1982 SIP revision. The State has also submitted in the plan additional documentation which discusses how the Portland I/M program meets EPA policy requirements. Accordingly, EPA has determined that the existing program meets all of the criteria for approval contained in the January 22, 1981 **Federal Register** (46 FR 7182).

5. *Public and Elected Official Participation.* Participation in the SIP development process extended to a wide range of public and elected officials. For developing the ozone plan, the Portland Air Quality Advisory Committee was the focal point of the air quality planning and public involvement effort in the Oregon portion of the AQMA. This committee consisted of 24 members from government, business, industrial, environmental and civic organizations, and citizens. There were two major committees involved in the development of the CO plan: the Citizens Advisory Committee with representation from various city bureaus and agencies. These committees interacted to develop recommendations on the CO plan which were forwarded to the Portland Planning Commission. Both plans were then adopted by the Metro Council with input from the committees as well as other various city and county representatives.

The Metro Council then submitted their adopted plan to the Oregon Environmental Quality Commission. With input from DEQ, it is anticipated that the plan will be adopted and forwarded by the Governor to EPA for approval.

IV. CO Boundary Redesignation

Based upon new monitoring and modeling data submitted in the plan, EPA is proposing, pursuant to Section 107 of the Act, to approve a change to the CO nonattainment boundary. The existing boundary includes the entire air quality maintenance area. The proposed boundary is limited to the general downtown area and is defined as the area enclosed by the west bank of the Willamette River, the Broadway Bridge and Broadway Ramp, Hoyt Street, I–405 (the Stadium Freeway), and the Marquam Bridge.

V. Proposed Rulemaking Action

1. EPA is proposing to approve the Portland CO attainment plan which will be submitted by the DEQ pursuant to part D requirements and a CO boundary redesignation pursuant to 107 of the Act. The plan approval includes the extension of the attainment date for CO to December 31, 1985.

2. EPA is also proposing to approve the Portland and O_3 attainment plan including an extension of the attainment date to December 31, 1987.

Interested parties are invited to comment on all aspects of this proposed approval of the Oregon SIP. Comments should be submitted, preferably in triplicate, to the address listed in the front of this Notice. Public comments postmarked by (30-days after publication) will be considered in any final action EPA takes on this proposal.

Under U.S.C. Section 605(b), the Administrator has certified that SIP approvals do not have a significant impact on a substantial number of small entities (46 FR 8709 (January 27, 1981)).

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects

40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Section 110, 172, Clean Air Act (42 U.S.C. 7410(b) and 7502).

Dated: May 28, 1982.

Robert S. Burd,

Acting Regional Administrator.

[FR Doc. 82-19842 Filed 7-20-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 81

Designations of Areas for Air Quality Planning Process Attainment Status Designations: Illinois

[A-5-FRL 2162-4]

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: This rulemaking proposes to revise the Total Suspended Particulate (TSP) and Ozone designations for certain counties from nonattainment to attainment. This proposed revision is

based on a request from the State of Illinois to redesignate these areas. Under the Clean Air Act, designations can be changed if sufficient data are available to warrant such change.

This rulemaking proposes to revise the TSP designation for all or portions of 19 counties in Illinois. Portions of the following counties are proposed to be redesignated for TSP: Knox, Peoria, Tazewell, Cook, Du Page, Lake, Will, Kane, Jo Daviess, Monroe, Madison, St. Clair, Bureau, Putnam, De Kalb, Winnebago, Jefferson, Williamson and Sangamon.

This rulemaking also proposes to revise the ozone designation for 13 counties in Illinois. The following counties are proposed to be redesignated for ozone: Adams, Kankakee, La Salle, McHenry, Peoria, Sangamon, Will, Macoupin, Boone, De Kalb, Grundy, Kendall and Tazewell. These revisions are based on a request from the State of Illinois and on supporting data the State submitted.

DATE: Comments must be received on or before August 20, 1982.

ADDRESSES: Copies of the redesignation request, technical support documents and the supporting air quality data are available at the following addresses:

Environmental Protection Agency, Region V, Air Programs Branch, 230 S. Dearborn Street, Chicago, Illinois 60604
Illinois Environmental Protection Agency, Division of Air Pollution Control, 2200 Churchill Road, Springfield, Illinois 62706

Written comments should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, Region V, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Air Programs Branch, Region V, Environmental Protection Agency, Chicago, Illinois 60604, (312) 886–6035

SUPPLEMENTARY INFORMATION: Under Section 107(d) of the Act, the Administrator of EPA has promulgated the National Ambient Air Quality Standard (NAAQS) attainment status for each area of every State. See 43 FR 8962 (March 3, 1978) and 43 FR 45993 (October 5, 1978). These area designations may be revised whenever the data warrant.

On January 19, 1982, Illinois submitted a request to U.S. EPA to change the Sec. 107 attainment status designations for TSP in all portions of 22 counties in Illinois. The State included TSP ambient data collected at monitor sites in these areas for the years 1978–1980 and referenced several TSP modeling studies to support the proposed TSP redesignations. Illinois' Sec. 107 redesignations for TSP are made on a township-by-township basis. The criteria used by Illinois in proposing the TSP redesignations are given below:

1. Townships with monitored violations in 1979 or 1980 were designated nonattainment.

2. Eight valid quarters of data were required to support redesignation of a township from nonattainment to attainment, based solely on monitoring results. A township in which a monitor is located was designated attainment if no violations were measured during 1979 and 1980. When eight valid quarters were not available for 1979 and 1980, data fron 1978 were also considered.

3. Where available, air quality modeling studies were used in evaluating the attainment status of townships.

EPA's criteria for redesignating an area are summarized in the June 12, 1979, memo, "Section 107 Redesignation Criteria," by Richard G. Rhoads, Director of EPA's Control Program Development Division. In general, a change from a primary nonattainment designation to either secondary nonattainment or attainment must be supported by either:

1. The most recent eight consecutive quarters of quality assured, representative data on ambient air quality which show no violations of the appropriate national ambient air quality standards (NAAQS), or

2. The most recent four consecutive quarters of quality assured, representative data on ambient air quality which show both (a) no violation of the appropriate NAAQS and (b) air quality improvement that results from legally enforceable emission reductions.

The primary TSP NAAQS is violated when, in a year, either: (1) The geometric mean value of monitored TSP concentrations exceeds 75 micrograms per cubic meter of air 75 $\mu g/m^3$) (the annual primary standard, or (2) the maximum 24-hour concentration of TSP exceeds 260 $\mu g/m^3$ more than once (the 24-hour standard). The secondary TSP NAAQS is violated when, in a year, the maximum 24-hour concentration exceeds 150 $\mu g/m^3$ more than once.

EPA reviewed the air quality modeling results and the emissions inventories in order to determine whether the ambient TSP data are representative of the air quality in the area. In the absence of monitor data, the modeling and inventory were reviewed to determine whether the analyses were adequate to support the proposed redesignation. In addition, the TSP monitor data for 1981 were reviewed to assess whether the most recent data are consistent with Illinois' proposed redesignations.

Based on this review, EPA proposes to revise the TSP designation of townships in 19 Illinois counties as follows: From primary and secondary nonattainment to only secondary nonattainment: Knox County-Galesburg and Henderson Townships; Peoria County-Richwoods Township; Tazewell County-Cincinnati, Elm Grove, Pekin, and Washington Townships; Cook County-Jefferson, Lakeview, Rogers Park, Oak Park, Palos, and Proviso Townships; Du Page County-Lisle Township; Will County-Crete and Troy Townships; Jo Daviess County-East Galena, West Galena, and Rawlins Townships; Monroe County-T.1N–R.10W, T.1N–R.11W, T.1S–R.10W, and T.2S–R10W, Madison County-Alhambra, Collinsville, Edwardsville, Fort Russell, Foster, Hamel, Helvetia, Jarvis, Marine, Moro, Omphghent, Pin Oak, Saline, and St. Jacob Townships; St. Clair County-Freeburg, Lebanon, Millstadt, O'Fallon, Smithton and Stookey Townships.

From secondary nonattainment to attainment: Cook County-Evanston Township; Lake County-Antioch, Shields, Grant, Wauconda, and Waukegan Townships; Will County-Monee Township; Kane County-Dundee Township; Jo Daviess County-Hanover, Menominee, Pleasant Valley, Rush, Stockton, Vinegar Hill, and Warren Townships; Monroe County-all Townships other than T.1N–R.10W, T.1N–R.11W, T.1S–R.10W, T.2S–R.10W, T.1S–R.11W, T.2S–R.9W, T.3S–R.7W and T.3S–R.6W; Bureau County-all Townships not already classified as attainment; Putnam County-Hennepin Township; De Kalb County-except for DeKalb and Mayfield Townships; all Townships are now attainment; Winnebago County-Rockford Township; Jefferson County-all Townships not already classified attainment; Williamson County, West Marion Township.

From primary and secondary nonattainment to attainment: Du Page County-Milton, Wayne and Winfield Townships; Jo Daviess County, Apple River, Council Hill, Elizabeth, Guilford, Rice, Scales Mound, Thompson and Woodbine Townships; Monroe County-T.1S–R.11W, T.2S–R.9W, T.3S–R.7W and T.3S–R.6W; Madison County-Leef, New Douglas, and Olive Townships; St. Clair County-Englemann, Fayetteville, Lenzburg, Marissa, Maccoutah, New Athens, and Prarie du Long Townships.

From unclassified to secondary nonattainment: Sangamon County, Springfield Township.

From unclassified to attainment: Sangamon County-all Townships other than Springfield.

From attainment to secondary nonattainment: Will County-Wilmington Township.

On January 19, 1982, the Illinois Environmental Protection Agency (IEPA) also submitted a request to the USEPA proposing a redesignation of a number of counties for ozone.

Based on a review of the State's proposed revision, EPA has determined that the following changes to the *Code of Federal Regulations* are warranted. It is proposed that the following counties be redesignated attainment for ozone: Adams, Kankakee, LaSalle, McHenry, Peoria, Sangamon and Will. In each of the counties, the three most recent years of monitoring data show no violations of the ozone NAAQS. It is proposed that the following counties be redesignated unclassified for ozone: Boone, DeKalb, Grundy, Kendall and Tazewell. There are no ozone monitors located in these counties.

These counties were originally designated nonattainment on March 3, 1978 (43 FR 8964), with respect to the 0.08 ppm NAAQS for photochemical oxidants (ozone). Subsequently, on February 8, 1979 (44 FR 8220), the 0.08 ppm photochemical oxidants standard was revised to a 0.12 ppm ozone standard. Because of the change in the level of the standard and because these counties are relatively rural and located in close proximity to other rural counties with monitors showing no violation of the ozone NAAQS, this redesignation to unclassified is justified. It is proposed that Macoupin County should be redesignated nonattainment for ozone. There were five monitored exceedances of the ozone NAAQS in the 3 most recent years of ozone monitoring data for this county.

All interested persons are invited to submit written comments on the proposed redesignation. Written comments received by the date above will be considered in determining whether EPA will approve this redesignation. After review of all comments submitted, the Administrator of EPA will publish in the **Federal Register** the Agency's final action on the redesignation.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Section 107(d) of the Act, as amended (42 U.S.C. 7407).

Dated: June 25, 1982.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 82-19747 Filed 7-20-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 123

[W-9-FRL 2174-1]

Guam Environmental Protection Agency, Underground Injection Control Primacy Application

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and of public hearing.

SUMMARY: The purpose of this notice is to announce that: (1) The Environmental Protection Agency has received a complete application from the Guam Environmental Protection Agency requesting approval of its Underground Injection Control program; (2) the application is available for inspection and copying; (3) public comments are requested; and (4) a public hearing will be held if sufficient public interest is shown.

This notice is required by the Safe Drinking Water Act as a part of the response to the States complying with the statutory requirement that there be an Underground Injection Control program in designated States.

The proposed comment period and public hearing will provide EPA the breadth of information and public opinion necessary either to approve, disapprove, or approve in part and disapprove in part the application from the Guam Environmental Protection Agency to regulate Classes I, II, III, IV, and V injection wells.

DATES: Requests to present oral testimony should be filed by August 6, 1982. If sufficient public interest is shown, a public hearing will be held August 18, 1982, 7:00 p.m.–10:00 p.m. All comments must be received by September 1, 1982.

ADDRESSES: Comments and requests to testify may be mailed to Doris Lee-Betuel, Water Management Division, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, California, 94105. Copies of the application and pertinent material are available between 8:00 a.m. and 5:00 p.m. at the following locations:

Environmental Protection Agency, Region IX, Library, 6th Floor 215 Fremont Street, San Francisco, California, 94105, (415) 974–8076

Guam Environmental Protection Agency, Safe Drinking Water Section, Harmon Plaza, Guam, 646–8863.

The Hearing if held, will be held at the Guam Environmental Protection Agency, Conference Room, Harmon Plaza, Guam.

FOR FURTHER INFORMATION CONTACT: Doris Lee-Betuel, Water Management Division, Environmental Protection Agency, Region IX, 215 Fremount Street, San Francisco, California, 94105, (415) 974–7433. Comments should also be sent to this address.

SUPPLEMENTARY INFORMATION: This application from the Guam Environmental Protection Agency is for the regulation of all injection wells in the Territory. The inventory of injection wells indicates that all existing injection wells on Guam are for stormwater disposal (Class V). The Guam program proposes a ban on all Class I, II, III, and IV injection wells. The application includes a description of the State Underground Injection Control program, copies of all applicable regulations and forms, a statement of legal authority, and a memorandum of agreement between the Guam Environmental Protection Agency and the Region IX, Office of the United States Environmental Protection Agency.

List of Subjects in 40 CFR 123

Hazardous materials, Indians—lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

Dated: July 15, 1982.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

[FR Doc. 82-19744 Filed 7-20-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 123

[W-4-FRL 2174-2]

North Carolina Department of Natural Resources and Community Development, Underground Injection Control Primacy Application

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and of public hearing.

SUMMARY: The purpose of this notice is to announce that: (1) The Environmental Protection Agency has received a complete application from the North Carolina Department of Natural Resources and Community Development requesting approval of its Underground Injection Control program; (2) the

application is available for inspection and copying; (3) public comments are requested; and (4) a public hearing will be held if sufficient public interest is shown.

This notice is required by the Safe Drinking Water Act as a part of the response to the States complying with the statutory requirements that there be an Underground Injection Control program in designated States.

The proposed comment period and public hearing will provide EPA the breadth of information and public opinion necessary either to approve, disapprove, or approve in part and disapprove in part the application from the North Carolina Department of Natural Resources and Community Development to regulate Classes I, II, III, IV, and V injection wells.

DATES: Requests to present oral testimony should be filed by August 16, 1982. A Public Hearing will be held on August 24, 1982, at 2:00 p.m. Comments must be received by August 31, 1982. Should EPA not receive sufficient public comment or requests to present oral testimony by August 16, 1982, the Agency reserves the right to cancel the Public Hearing and those persons who submitted written comments or requests to present oral testimony to EPA will be notified.

ADDRESSES: Comments and requests to testify may be mailed to Curtis Fehn, Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365. Copies of the application and pertinent material are available for review and/or copying between 9:00 a.m. and 4:00 p.m. at the following locations:

Environmental Protection Agency, Region IV, Library, 1st Floor, 345 Courtland Street, Atlanta, Georgia 30365 (404) 881–3866
North Carolina Department of Natural Resources and Community Development, Archdale Building, 512 North Salisbury, Raleigh, North Carolina, (919) 733–2020

The hearing will be held in the Ground Floor Hearing Room, Archdale Building, 512 North Salisbury, Raleigh, North Carolina.

FOR FURTHER INFORMATION CONTACT: Curtis Fehn, Ground Water Section, Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365 (404) 881–3866. Comments should also be sent to this address.

SUPPLEMENTARY INFORMATION: This application from the North Carolina Department of Natural Resources and Community Development is for the regulation of all injection wells in the State. The application includes a description of the State Underground Injection Control program, copies of all applicable regulations and forms, a statement of legal authority, and a memorandum of agreement between the North Carolina Department of Natural Resources and Community Development and the Region IV office of the Environmental Protection Agency.

List of Subject in 40 CFR Part 123

Hazardous materials, Indians-lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

Dated: July 15, 1982.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

[FR Doc. 82-19743 Filed 7-20-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 180

[PP 2E2643/P239; PH-FRL 2172-8]

N,N-Diethyl-2-(1-Naphthalenyloxy)-Propionamide; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a tolerance be established for residues of the herbicide *N,N*-diethyl-2-(1-naphthalenyloxy)-propionamide in or on the raw agricultural commodity basil. The proposed amendment to establish a maximum permissible level for residues of the herbicide in or on the commodity was submitted pursuant to a petition by the Interregional Research Project No. 4 (IR–4).

DATE: Comments must be received on or before August 20, 1982.

ADDRESS: Written comments to: Donald R. Stubbs, Emergency Response Section, Registration Division (T–767C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703–557–1192) at the above address.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition number 2E26423 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Stations of California and North Carolina.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the herbicide *N,N*-diethyl-2-(1-naphthalenyloxy)-propionamide in or on the raw agricultural commodity basil at 0.1 part per million (ppm).

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance were a rat acute oral study with an LD_{50} greater than 5 g/kg; a 90-day rat feeding study with a no-observed-effect level (NOEL) of 25 mg/kg/day; a 90-day dog feeding study with a NOEL of 40 mg/kg/day; two 2-year feeding studies (rat and mouse), each with a NOEL of 30 mg/kg/day; a 3-generation reproduction study (rat) with a NOEL of 30 mg/kg/day; and three mutagenicity studies (rec-assay, host-mediated, Ames test), all negative for mutagenic effects. An acceptable teratology study in a mammalian species is lacking but a study in rats is expected to be initiated in 1982 and in a second species in 1983.

The Provisional Acceptable Daily Intake (PADI), based on the 2-year rat feeding study (NOEL of 30 mg/kg/day) and using a 100-fold safety factor, is calculated to be 0.3 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 18.0 mg/day. The incremental residue contribution from the current action to the theoretical maximum residue contribution (TMRC) from existing tolerance for a 1.5 kg daily diet is calculated to be 5×10^{-5} mg/day, a quantity so small that the TMRC is increased by less than 0.3 percent. Published tolerance utilize 0.10 percent of the PADI which the current action will not increase.

The nature of the residues is adequately understood and an adequate analytical method, high-pressure liquid chromatography using ultraviolet detection, is available for enforcement purposes. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR Part 180 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after

publication of this notice in the Federal Register that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, "[PP 2E2643/P239]". All written comments filed in response to this petition will be available in the Emergency Response Section, Registration Division, at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: July 9, 1982.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, it is proposed that 40 CFR 180.328 be amended by adding and alphabetically inserting the raw agricultural commodity basil to read as follows:

§ 180.328 N,N-Diethyl-2-(1-naphthalenyloxy)-propionamide; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Basil	0.1
* * * * *	

[FR Doc. 82-19637 Filed 7-20-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 425

[WH-FRL 2175-2]

Leather Tanning and Finishing Industry Point Source Category Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period.

SUMMARY: On June 2, 1982, EPA announced the availability of supplemental technical and economic data for the leather tanning industry rulemaking under the Clean Water Act (47 FR 23958). The comment period on this notice expires July 19, 1982. On July 7, 1982, the Tanners' Council of America requested EPA to extend the period for submittal of comments on the impact of space limitations on a tannery's ability to implement the pretreatment technology option being considered by EPA. EPA is granting this request and is extending the comment period until August 2, 1982.

DATES: Comments on the impact of space limitations on a tannery's ability to implement pretreatment Technology Option II must be submitted to EPA by August 2, 1982. All other comments on all other subjects must be submitted by July 19, 1982.

ADDRESS: Send comments to Mr. Donald F. Anderson, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, Attention: Docket Clerk, Leather Tanning Notice of Availability. The supporting information and all comments on this Notice of Availability are available for inspection and copying at EPA Public Information Reference Unit, Room 2404 (Rear) PM-213. The EPA information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Donald F. Anderson (202) 426-2707.

SUPPLEMENTARY INFORMATION: On July 2, 1979, EPA proposed regulations to limit effluent discharges to waters of the United States and the introduction of pollutants into publicly owned treatment works from facilities engaged in processing animal hides and skins into finished leather (44 FR 38746-38776). The proposal included effluent limitations guidelines for "best practicable technology," "best available technology," "best conventional technology," new source performance standards, and pretreatment standards under the Clean Water Act.

On June 2, 1982, EPA announced in the Federal Register (47 FR 23958-23965) the availability of supplemental technical and economic data for the leather tanning industry rulemaking. EPA requested comments on these supplementary record materials and on the Agency's preliminary analysis of how these materials might influence the final leather tanning and finishing industry effluent limitations guidelines, new source performance standards and pretreatment standards. Included in that notice was a specific request for comments as to whether any plants would have inadequate space available to meet limitations based on pretreatment Technology Option II and whether those facilities could utilize alternative methods to control chromium (47 FR 23963). Comments on the June 2, 1982, Notice of Availability were to have been submitted by July 19, 1982.

On July 7, 1982, the Tanners' Council of America requested a two week extension of the comment period so that the smaller tanneries could respond to the Agency's request for information on the specific application of pretreatment Technology Option II. Since the Agency has requested information on the specific application of this technology, and since the Tanners' Council has indicated that smaller plants would have difficulty submitting this information by the July 19 deadline, the Agency will extend the comment period on this issue for two weeks, until August 2, 1982. This extension is limited to comments on whether any plants would have adequate space available to meet limitations based on pretreatment Technology Option II and whether those facilities could utilize alternative methods to control chromium. All other comments on all other subjects must be submitted by July 19, 1982.

The Tanners' Council also requested that the comment period be extended to allow companies more time to comment on the economic impacts of the regulatory control options discussed in the June 2, 1982, Federal Register. This portion of their request was denied. A copy of the Agency's response to the Tanners' Council is included in the record.

Dated: July 16, 1982.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

[FR Doc. 82-19638 Filed 7-20-82; 8:45 am]

BILLING CODE 6560-50-M

Notices

Federal Register
Vol. 47, No. 140
Wednesday, July 21, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Black Hills National Forest Grazing Advisory Board; Meeting

The Black Hills National Forest Grazing Advisory Board will meet at 9:00 a.m. August 25, 1982 at the Tepee Work Center located approximately 20 miles west of Custer, South Dakota. The purpose of this meeting is to discuss allotment management plans, range betterment funds and to review the Forest Plan. If time permits, a short field trip will be conducted.

The meeting will be open to the public. Persons who wish to attend should notify William V. Carpenter, Black Hills National Forest, phone 605/673–2251.

Dated: July 12, 1982.

James R. Mathers,

Forest Supervisor.

[FR Doc. 82–19684 Filed 7–20–82; 8:45 am]

BILLING CODE 3410–11–M

Office of the Secretary

Forms Under Review by Office of Management and Budget

July 16, 1982.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of P.L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Comments and questions about the items in the listing should be directed to the agency person named at the end of each entry. If you anticipate commenting on a form but find that preparation time will prevent you from submitting comments promptly, you should advise the agency person of your intent as early as possible.

Copies of the proposed forms and supporting documents may be obtained from: Richard J. Schrimper, Statistical Clearance Officer (202) 447–6201.

New

• Forest Service
Requests to National Forest Concessioners in Region 3 for Reconciled Fee-Base Financial Reports
R3–2700–20, R3–2700–21 and R3–2700–19
Annually
Businesses or other institutions: 35 responses; 105 hours; not applicable under 3504(h).
Frank Pickle (505) 474–2432

• Food and Nutrition Service
Report of Coupon Issuance and Commodity Distribution for Disaster Relief
FNS–292
On occasion
State or local governments: 100 responses; 42 hours; not applicable under 3504(h).
Alan Rich (703) 756–3810

• Agricultural Stabilization and Conservation Service
Conservation and Environmental Programs Regulation 7 CFR Part 701—Recordkeeping
On occasion
Farms: 257,000 responses; 64,250 hours; not applicable under 3504(h).
Charles Sims (202) 447–9563

Extension

• Agricultural Stabilization and Conservation Service
Request for Cost-Sharing
ACP–245
On occasion
Individuals or households and farms: 260,000 responses; 65,000 hours; not applicable under 3504(h).
Charles Sims (202) 447–0563

Richard J. Schrimper,

Statistical Clearance Officer.

[FR Doc. 82–19653 Filed 7–21–82; 8:45 am]

BILLING CODE 3410–01–M

CIVIL AERONAUTICS BOARD

[Docket 40627]

Houston-Acapulco Route Proceeding; Change of Time for Hearing

Notice is hereby given that the hearing in this proceeding assigned to be held on August 3, 1982, in Room 1003, Hearing Room A, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C. (47 FR 29865, July 9, 1982), will begin at 9:30 a.m. (local time) rather than the 10:00 a.m. time originally scheduled.

Dated at Washington, D.C., July 15, 1982.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 82–19755 Filed 7–20–82; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF COMMERCE

National Bureau of Standards

Revision to Federal Information Processing Standard 61, Channel Level Power Control Interface

Correction

In FR Doc. 82–18916, published at page 30277 on Tuesday, July 13, 1982, make the following change;

On page 30277, in the third column, the third line from the bottom should read "provisions of this standard unless a waiver has been granted in accordance with the procedure described elsewhere in this standard."

BILLING CODE 1505–01–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Intent To Prepare a Proposed Draft Environmental Impact Statement

The United States Air Force proposes to site a Phased Array Warning System radar (PAVE PAWS) in the vicinity of Goodfellow AFB/San Angelo, Texas. The mission of PAVE PAWS is to

provide radar coverage over a southern sector of the broad ocean area for tactical warning and attack assessment of sea-launched ballistic missiles (SLBMs) launched against the continental United States. Similar facilities have been completed at Otis Air National Guard Base, Massachusetts and Beale Air Force Base, California and another is proposed to be located at Robins Air Force Base, Georgia.

Four alternative sites in the San Angelo area will be considered in the environmental analysis: Christoval area ranch property located about 17 miles south of San Angelo and within four miles east northeast of Christoval; Mount Susan, lying about 17 miles south of Goodfellow AFB and within two miles southeast of Christoval; Schleicher County ranch property, located about 35 miles south of Goodfellow AFB; ranch property in Tom Green County and Schleicher County, about 33 miles south of Goodfellow AFB.

The environmental analysis will consider such topics as electromagnetic emissions, bio-physical effects, land use compatibility, and the impacts of introducing about 235 direct mission support personnel to the community.

Participation in the environmental analysis process by interested federal, state, and local agencies, as well as interested private organizations and individuals is invited. A scoping meeting will be held at 7:30 PM on Thursday, August 5, 1982 in the Fine Arts Building Recital Hall at Angelo State University in San Angelo, Texas to review the proposed action and facilitate early public involvement in identifying the environmental issues to be included in or eliminated from the environmental analysis. Written comments on environmental issues are also welcome.

It is estimated that the Draft Environmental Impact Statement (EIS) will be available for public review and comment by November 1982.

Questions or comments concerning the proposed action, scoping meeting and EIS may be directed to 3480 TTWG/PA, Goodfellow AFB, Texas, 76903, (915) 653–2322 or HQ ESD/PA, Hanscom AFB, Massachusetts, 01731, (617) 861–4466.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82–19869 Filed 7–20–82; 8:45 am]

BILLING CODE 3910-01-M

Office of the Secretary of the Air Force

Acceptance of Group Application; Merchant Seamen Requisitioned by the U.S. Army for Participation in Operation Mulberry

Under the provisions of Section 401 of Pub. L. 95–202 and DODD 1000.20, the DOD Civilian/Military Service Review Board has accepted an application on behalf of Merchant Seamen requisitioned by the U.S. Army for Participation in Operation Mulberry. Persons with information or documentation pertinent to the determination of whether the service of this group was equivalent to active military service are encouraged to submit such information or documentation within 60 days to the DOD Civilian/Military Service Review Board, Secretary of the Air Force (SAF/MIPC), Washington, D.C. 20330. For further information contact Mrs. Simard, telephone No. 694–5074.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

Federal Voting Assistance Program

AGENCY: Office of the Secretary of Defense.

ACTION: Notice of intent.

SUMMARY: In 44 FR 35283 (FR Doc. 79–19037) the Secretary of Defense published a Notice of Intent. This Notice indicates that minor changes have been implemented in a 1981 revision of the Federal Post Card Application (FPCA) form, SF–76. This form is used for absentee voting in accordance with the Federal Voting Assistance Act of 1955 and the Overseas Citizens Voting Rights Act of 1975 as amended. Individuals covered by these Acts are as follows:

(a) A member of the armed forces or merchant marine in active service;

(b) A spouse or dependent of (a), above;

(c) A U.S. citizen temporarily residing outside the United States;

(d) A spouse or dependent residing with (c), above.

(e) U.S. citizen overseas by virtue of employment;

(f) A spouse or dependent residing with (e), above;

(g) Other U.S. citizen residing outside the United States.

42 U.S.C. 1973cc–14(d) authorizes the presidential designee, currently the Secretary of Defense, to promulgate such changes to forms by regulation. 1979 edition of the form may be used. The 1981 revision of the Federal Post Card Application form contains a small return post card which is part of the FPCA form. This return post card is used by election officials to advise applicants of their voting status. Other minor changes were made in terminology to clarify instructions for completing the form.

ADDRESSES: Federal Voting Assistance Program, Office of the Secretary of Defense, Pentagon, Room 1B457, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT: Henry Valentino, Director, Federal Voting Assistance Program, Extension 695–0663/4.

BILLING CODE 3810-01-M

POST CARD REGISTRATION AND ABSENTEE BALLOT REQUEST

Notice: Knowingly presenting false information in this application could result in criminal sanctions.

(Fold and seal prior to mailing)

U.S. Postage Paid
42 USC 1973dd

PAR AVION

OFFICIAL ELECTION BALLOTING MATERIAL—VIA AIR MAIL

TO

RETURN POST CARD

Election Official Name & Complete Address

Privacy Act Statement:

Authority 42 USC 1973cc et seq. (formerly 50 USC § 1451 et seq.) 42 USC dd et seq., 92 STAT 2538 (1978), 10 USC 133, EO 10646. This form is designed to serve as an application for registration or request for absentee ballot. Disclosure of all information on this form is voluntary. However, your failure to provide the necessary information may keep the pertinent State or other jurisdiction from processing this form and may possibly prevent you from exercising your right to vote elsewhere.

INSTRUCTIONS

A. **TYPE OR PRINT LEGIBLY.** Type or print legibly all entries before signing. The term *APPROPRIATE U.S. OFFICIAL* as used herein refers to Unit Voting Officers or Counselors, Commanding Officers, U.S. Embassy or U.S. Consulate Officers or any other official who has access to the VOTING ASSISTANCE GUIDE.

B. **ADDITIONAL ASSISTANCE.** A detailed VOTING ASSISTANCE GUIDE is published each even numbered year. It contains voting information for all States, U.S. territories and the District of Columbia. The VOTING ASSISTANCE GUIDE is distributed to all Unit Voting Officers, Commanding Officers, U.S. Embassies and Consulates and State Election Officials. Copies of the VOTING ASSISTANCE GUIDE are available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

C. **IDENTIFICATION.** Passport or State Department or Military I.D. Card number is preferred. An alternative form of identification may be acceptable if you do not possess a valid passport or card of identity and registration. Indicate the type of identification used such as a birth or baptism certificate.

D. **APPLICATION.** Some States require a separate application for registration and for each election. If you circle (all as Permitted) you will receive those ballots permitted by State law. Consult the *APPROPRIATE U.S. OFFICIAL* for specific information concerning your State. If you circle (Primary), (Special), or (General) and you are eligible to vote, you will receive a ballot only for the election circled.

E. **PRIMARIES.** Party choice is secret in Primary Elections in the following: Alaska, Guam, Hawaii, Idaho, Louisiana, Michigan, Minnesota, Montana, North Dakota, Utah, Vermont, Washington, Wisconsin. You do not have to disclose your political party preference for a Primary Election ballot in these jurisdictions.

F. **TYPE OF BALLOT.** Most States allow military personnel and U.S. citizens outside the United States to vote absentee in State and local, as well as in Federal elections. However, in a few States, you may be liable for State or local taxes if you vote in State or local elections. The exercise of any right to register or vote in Federal elections by any U.S. citizen outside the United States shall not affect the determination of his place of residence

(Fold Here)

CONTINUED (OVER)

POST CARD REGISTRATION AND ABSENTEE BALLOT REQUEST

Date _____

Notice: Illegible or incomplete information may delay or invalidate your request

APPLICATION FOR STATE OF _____ COUNTY OF _____ CITY OR TOWNSHIP OF _____ §

(Be sure to sign the Application at Item 15 and place your return address on the return post card above)

1. Type or Print Full Name (Last, First, Middle)

2. My voting residence in the U.S. is, Number & Street or Rural Route **(For citizens checking 10(g), my last residence immediately prior to my departure from the United States) (See Instruction I):**

City, Town, or Village | County or Parish

Precinct No. (if known) | Ward No. | State | Zip Code

3. I am a United States Citizen, eligible to vote in the above jurisdiction
(a) Place of Birth | (b) Date of Birth (Yr./Mo./Day)

4. If Naturalized:
(a) Place | (b) Naturalization No. | (c) Date (Yr./Mo./Day)

5. (a) Sex | (b) Height | (c) Weight
(d) Color Hair / Eyes | (e) Race | (f) Marital Status

6. (a) Social Security No. (See Privacy Act Statement) | (b) Other Identification No. (Passport, I.D. Card) (See Instruction C.)

7. I request registration (if required) and absentee ballot(s) to vote in the coming election(s) Circle applicable election(s) (See Instruction D.)
(a) Primary (b) Special
(c) General (d) All as permitted by State law

8. For primary election ballot, my political party preference is: (If party choice is secret for primary in this State do not answer. See instruction E.)

9. Check one box: (See Instruction F)
(a) I request Federal, State and local ballot, if I am entitled
(b) I request only Federal election ballot if provided separately by State

10. I am: (check applicable box — See Instruction G)
(a) a member of the armed forces, uniformed services or merchant marines in active service
(b) a spouse or dependent of (a) above
(c) a U.S. citizen temporarily residing outside U.S.
(d) a spouse or dependent residing with (c) above
(e) a U.S. citizen overseas by virtue of employment (See Instruction H)
(f) a spouse or dependent residing with (e) above
(g) other U.S. citizen residing outside U.S. (See Instruction I)
(h) Special _____ (See Instruction J)

11. Please mail my ballot to this address: (Include zip code if applicable and ensure military or foreign address is complete)

12. The last time I voted was in
a. Year | Address and County, City or Township | State
b. Voter Registration No. | and Precinct No., if known | Ward No.

13. I have not been convicted of a felony or other disqualifying offense or been adjudicated mentally incompetent. (If so, See Instruction K)

14. **Affirmation:** I am not requesting a ballot from or voting in any other U.S. State, territory or possession or subdivision thereof in the coming election(s). I swear or affirm, under penalty of perjury, that the above information is true and complete

15. **Signature** of person requesting ballot

OATH IF REQUIRED BY STATE (See Instruction L)

16. Subscribed and sworn to before me on (Year, Month, Day)

Signature of official administering oath

Typed or printed name of official administering oath

Title or rank, and organization of administering official

The information contained herein is for official use only. Any unauthorized release of this information may be punishable by law

NSN 7540-00-634-5053

INSTRUCTIONS (CONTINUED)

or domicile for purposes of any tax imposed under Federal, State or local law. If you wish to avoid classifying yourself as a State resident (or domiciliary) for tax purposes (through use of this form), you should request only a Federal election ballot and check boxes 9(b) and 10(g) of form. Consult the *APPROPRIATE U.S. OFFICIAL* for specific information concerning your State. If you request a Federal Ballot only and receive a full ballot (Federal and State or local) because some States do not print a Federal Ballot, you may vote the full ballot without incurring a tax liability.

G. **VOTER CATEGORY.** In most States, checking any box 10(a) through (f) will entitle you to a full ballot. Checking box 10(c) generally means that at some future time the voter intends to reside again in the State where application is being made. Civilian employees of the Federal government assigned to an overseas area and requesting a full ballot should check box 10(c).

H. **VOTER CATEGORY.** All citizens, not employed by the Federal government, who are overseas by virtue of their employment and are requesting a full ballot should check box 10(e).

I. **VOTER CATEGORY.** Other U.S. citizen, 10(g), means all civilians not covered by any other listed category who are outside the U.S. in a private capacity and who are requesting only a Federal ballot and whose intent to return to the State of last residence may be uncertain.

J. **VOTER CATEGORY.** Some States offer special voter status to certain persons who are residing **within** the U.S. such as Missionaries, clergymen, teachers, students; their spouses and dependents; the ill or physically disabled. If you are unavoidably unable to register to vote in person. Some States also offer special status to persons on extended travel or vacation in the U.S. or overseas. Consult the *APPROPRIATE U.S. OFFICIAL* for special information concerning your State.

K. **DISQUALIFYING OFFENSES.** In some states, a criminal conviction for a felony or certain misdemeanors, or an adjudication of mental incompetency disqualifies a person from voting. A legal process for reinstatement of voting rights is available in some of these states. Consult the *APPROPRIATE U.S. OFFICIAL* for further information concerning your state.

L. **OATH.** Not all States require completion of the Oath or Notary provision in Item 16. If completion of this item presents an undue hardship, consult the *APPROPRIATE U.S. OFFICIAL* to determine if this is a requirement for your State.

M. **ADDRESS.** Address the card to the proper county, city, township or State official. Consult with the *APPROPRIATE U.S. OFFICIAL* to determine the correct address for your application. Place your return address on the return post card.

☆ U.S. GOVERNMENT PRINTING OFFICE: 1982-359-812

ELECTION OFFICIAL NOTE

This is a return postcard for your use. Please complete and return to Applicant. Please sign and put your return address on the card prior to mailing to the Applicant.

This acknowledges receipt of your post card registration and absentee ballot request.

☐ **You will be sent an absentee ballot for the _____ election(s).**

☐ **Your ballot will be mailed approximately _____.**

☐ **Your application cannot be processed. Item(s) _____ must be completed. Please resubmit a completely new application.**

☐ **Your application is incomplete. Please provide the following information to complete your application:**

_____

_____

_____

☐ **Other Comments:** _____

_____

_____

☐ **NOTE: A separate application must be submitted for each election.**

_____
Signature

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Title

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Date

Name and complete address

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U.S. Postage Paid
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OFFICIAL ELECTION BALLOTING MATERIAL—VIA AIR MAIL

TO _____

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Standard Form 76
Revised 1981
Issued under 42 U S C 1973cc-14
76-110
(1979 edition may be used)

BILLING CODE 3810-01-C

Dated: July 15, 1982.

M. S. Healy,

OSD Federal Register Liaison, Department of Defense.

[FR Doc. 82-19672 Filed 7-20-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

National Petroleum Council; Subcommittee on Third World Petroleum Development; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: Subcommittee on Third World Petroleum Development National Petroleum Council.

Date and time: Wednesday, August 11, 1982, 10:00 a.m.

Place: The Madison Hotel, Mount Vernon Room, Fifteenth and M Streets NW., Washington, DC.

Contact: Gloria Decker, Information Management Systems Branch, U.S. Department of Energy, 1000 Independence Ave., SW., Forrestal Building, Room 4D-024, Washington, DC 20585, telephone: 202-252-8990.

Purpose of committee: To provide advice, information, and recommendations to the Secretary of Energy matters relating to oil and gas or the oil and gas industries.

Tentative Agenda:

- Discuss the scope of the study to be conducted in response to the Secretary of Energy's request for an analysis of Third World petroleum development.
- Discuss an organizational structure for the study.
- Discuss a timetable for completion of the study.
- Discuss any other matters pertinent to the overall assignment from the Secretary.

Public Participation

The meeting is open to the public. The Chairperson of the Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Gloria Decker at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Transcripts

Available for public review and copying at the Public Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on July 16, 1982.

Howard H. Raiken,

Deputy Advisory Committee Management Officer.

[FR Doc. 82-19726 Filed 7-20-82; 8:45 am]

BILLING CODE 6450-01-M

Dose Assessment Advisory Group; Renewal

This notice is published in accordance with the provisions of Section 7 of the Office of Management and Budget Circular (OMB) No. A-63, revised. Pursuant to Section 14(a)(2)(A) of the Federal Advisory Committee Act (FACA) and following consultation with the Committee Management Secretariat, General Services Administration, notice is hereby given that the Dose Assessment Advisory Group (DAAG) charter has been renewed for a two-year period ending on July 15, 1984.

The purpose of DAAG is to provide the Secretary of Energy and the Manager, Nevada Operations Office, with advice and recommendations pertaining to the Offsite Radiation Exposure Review Project concerning the evaluation and amount of radiation potentially received by members of the offsite population surrounding the Nevada Test Site (NTS) as a result of nuclear test operations conducted at the NTS.

I certify that the DAAG has been determined essential and in the public interest in connection with the performance of duties imposed on the Department of Energy (DOE) by law. The DAAG will operate in accordance with the provisions of the FACA (5 U.S.C. Appendix, Pub. L. 92-463, 86 Stat. 770), the DOE Organization Act (42 U.S.C. 7101 et seq., Pub. L. 95-91, 91 Stat. 567), OMB Circular No. A-63, revised, and other instructions issued in implementation of those Acts.

Further information regarding DAAG may be obtained from Gloria Decker (202) 252-8990.

Issued in Washington, DC, on July 16, 1982.

James B. Edwards,

Secretary of Energy.

[FR Doc. 82-19727 Filed 7-20-82; 8:45 am]

BILLING CODE 6450-01-M

Battelle Memorial Institute; Intent To Grant Exclusive Patent License

Notice is hereby given of an intent to grant to Battelle Memorial Institute, an exclusive license to practice in the United States, Canada, Great Britain, France, Federal Republic of Germany, and Japan, the invention described in U.S. Patent No. 4,046,666, entitled "Device For Providing High Intensity Ion Or Electron Beam," and in corresponding patents and patent applications as follows:

Great Britain Patent No. 1,559,430
France Patent No. P.77.13952
Japan Patent Application S.N. 77-50,034
Canada Patent No. 1,072,913
Federal Republic of Germany Patent Application S.N. 27 20 424.6

The invention is owned by the United States of America, as represented by the U.S. Department of Energy (DOE).

The proposed license will contain terms and conditions to be negotiated by the parties in accordance with 35 U.S.C. 209. DOE intends to grant the license, upon a final determination in accordance with 35 U.S.C. 209 (c) and (d), unless within 60 days of this notice the Assistant General Counsel for Patents, Department of Energy, Washington, D.C. 20585, receives in writing any of the following, together with supporting documents:

(i) A statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed license, or

(ii) An application for a nonexclusive license to practice the invention in the United States, Great Britain, Canada, France, Federal Republic of Germany and/or Japan, in which applicant states that he has already brought the invention to practical application or is likely to bring the invention to practical application expeditiously in one or more of the countries listed herein.

The Assistant General Counsel for Patents will review all written responses to this notice. The license will be granted if, after expiration of the 60-day notice period, and after consideration of written responses to this notice, a determination is made, in accordance with 35 U.S.C. 209 (c) and (d), that the license grant is in the public interest.

Signed at Washington, D.C. on this 14th day of July 1982.

R. Tenney Johnson,

General Counsel.

Memorandum of Determination

Battelle Memorial Institute, a not-for-profit corporation, has requested an exclusive license, with right to grant sublicenses, on DOE-owned U.S. Patent No. 4,046,666,

entitled "Device for Providing High Intensity Ion or Election Beam," and in corresponding foreign patents in Canada, France and Great Britain and pending applications in West Germany and Japan.

The invention relates to an electronic device for production of high-intensity electron and ion beams having particular application in sputter deposition and in melting, casting, evaporating, or welding. In accordance with the invention, an auxiliary electrode is positioned near the cathode, said auxiliary electrode including on its surface a metal that can be electro-deposited onto the surface of the cathode, resulting in enhanced electron emission. A U.S. patent on the invention issued in September 1977.

The invention arose from DOE-sponsored research conducted by Battelle's Pacific Northwest Laboratories. According to Battelle's license application, the invention has been developed to the point of practical application for some purposes. It is currently being practiced for the Government at Battelle's Pacific Northwest Laboratory for coatings on high energy laser components, and for protective coatings for high temperature service in gas turbines and diesel engines. However, there is no known practice of the invention for commercial (non-governmental) purposes and no known plans for the Government to fund development of commercial aspects of the invention.

If granted the requested exclusive license, Battelle intends to develop and commercialize the process through performance of research and development service and sublicensing of the invention for commercial manufacture and sale. Battelle represents in its application that it has already invested approximately $1 million of its own funds for research, equipment and process development in the field of cathodic sputtering. Battelle has been working with two prospective sublicensees for further development of the invention. One prospective sublicensee is a large, diversified company which, among other things, supplies manufacturing equipment to the micro-electronic industry. This firm has outlined a development program for applying the invention to the high-rate and large area deposition of a variety of conductor and di-electric materials in the production of semiconductor devices. The development plan includes a feasibly study, an R&D program, and design and construction of a manufacturing prototype at an estimated cost of $440–540K over two years.

A second prospective sublicensee currently has an agreement with Battelle for expending over $1 million over a seven-year period on research and development by Battelle in the field of laser optics employing sputtering. This firm is currently establishing a facility for manufacture of laser mirrors having sputter deposited faces.

The invention has been published as available for license in accordance with normal procedures. However, except for the current license application of Battelle, DOE has received no application for licensing of the subject domestic or foreign patents.

Grant of the requested exclusive license to Battelle, with the right to grant sublicenses, appears to be in the public interest in that it will promote the expenditure of private capital to develop the invention to commercialization, and will allow Battelle to couple its expertise in the technical area of the invention with the capabilities and resources of interested industrial sponsors. Battelle has developed a technical competence in sputtering technology, and has initiated exploratory research work at Battelle Northwest with respect to commercial aspects of the invention. Battelle's plans for transfer of the technology include feasibility studies, prototype development, and cooperative ventures with prospective sublicensees in which Battelle performs the technical R&D needed to support commercialization of the invention, using internal R&D funds and Battelle equipment. Battelle is in a position to combine the subject Government-owned patent rights with unpatented technical "know-how" residing at Battelle to promote further development of the invention. Accordingly, in view of Battelle's unique competence in sputtering technology, its willingness to commit non-Government funds for development of the invention, and its collaboration with interested industrial sponsors, coupled with representations that having the ability to grant exclusive rights is necessary to provide the incentive for commitments from private investors of the substantial funds required for commercialization, grant of the requested exclusive license with the right to grant exclusive sublicenses, appears merited.

Battelle is amenable to sharing with the Government any sublicensing royalties that may accrue from commercial sales of the invention, and in addition, it is amenable to reimbursing the Government for maintenance fees on the corresponding foreign patents.

It is therefore recommended that a Notice of Intent to grant the requested exclusive license be placed in the Federal Register, advising the public of its right to file written objections, or to apply for a nonexclusive license, within sixty days of the Notice.

Robert J. Marchick,

Chief, Licensing Branch, Office of the Assistant General Counsel for Patents.

Concurrence:

John E. Rudolph,

Director of Program Support, Office of Military Application, DP–224.

Leonard Coburn,

Acting Director of Competition, CP–63.

May 28, 1982.

[FR Doc. 82–19723 Filed 7–20–82; 8:45 am]

BILLING CODE 6450–01–M

Stromberg Enterprises; Intent To Grant Exclusive Patent License

Notice is hereby given of an intent to grant to Stromberg Enterprises, of Albuquerque, New Mexico, an exclusive license to practice in the United States, the invention described in U.S. Patent No. 4,274,394 entitled "Electromechanical Solar Tracking Apparatus." The patent is owned by the United States of America, as represented by the U.S. Department of Energy (DOE).

The proposed license will contain terms and conditions to be negotiated by the parties in accordance with 35 U.S.C. 209, and will be subject to an irrevocable, nonexclusive, royalty-free license to Western Electric Company, American Telephone and Telegraph Company, and other companies of the Bell System to practice the invention in the field of public service communication equipment. DOE intends to grant the license, upon a final determination in accordance with 35 U.S.C. 209(c), unless within 60 days of this notice the Assistant General Counsel for Patents, Department of Energy, Washington, D.C. 20585, receives in writing any of the following, together with supporting documents:

(i) A statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed license, or

(ii) An application for a nonexclusive license to manufacture, use, and/or sell the invention in the United States, in which applicant states that he has already brought the invention to practical application or is likely to bring the invention to practical application expeditiously.

The Assistant General Counsel for Patents will review all written responses to this notice. The license will be granted if, after expiration of the 60-day notice period, and after consideration of written responses to this notice, a determination is made, in accordance with 35 U.S.C. 209(c), that the license grant is in the public interest.

Signed at Washington, D.C., on this 14th day of July, 1982.

R. Tenney Johnson,

General Counsel.

MEMORANDUM OF DETERMINATION

Stromberg Enterprises, a small business partnership registered in New Mexico, has applied for an exclusive license to practice the invention described in DOE-owned U.S. Patent No. 4,274,394, entitled "Electromechanical Solar Tracking Apparatus." The invention relates to an apparatus for maintaining a solar collector in a desired orientation with respect to the sun. The invention comprises a pair of bi-metallic elements which are equally shaded from the sun when the apparatus is directed toward the sun. When the apparatus is not aligned with the sun, the elements are shaded unequally and flex an unequal amount, closing an electrical contact, thereby activating an electric motor to correct the position of the apparatus.

Stromberg Enterprises includes the inventor, Mr. Robert P. Stromberg, an employee of Sandia. Mr. Stromberg has been engaged in mail-order sale of plans for

parabolic solar collectors using the subject tracking device and is fabricating a number of test models of the invention. Neither DOE nor Mr. Stromberg are aware of any firms other than Stromberg Enterprises known to be considering commercial manufacture or sale of the invention.

There are no plans for the Government to develop the invention. Indeed, the inventor represents that the invention was made without any Government contribution of any kind, largely as a home project.

The invention has been published as available for licensing by DOE. Except for the current application, there have been no indications of licensing interest in the invention.

According to the application, if granted an exclusive license, applicant plans a $10,000 tooling investment for initial lot fabrication of the apparatus. Applicant contends that exclusivity is necessary for a small business to justify such an investment. Applicant contends that the current market for parabolic trough solar systems, for which the invention is particularly suited, is limited, and therefore a four to ten year period is necessary for projected manufacturing rates to justify the tooling expense. Grant of an exclusive license to applicant will be subject to a covenant that applicant will expend the $10,000 estimated tooling expense within a specified period after grant of the license.

Accordingly, it appears that exclusivity is reasonable and necessary to attract expeditiously the capital needed to bring about the desired practical application of the invention. It is recommended that a Notice be placed in the **Federal Register**, advising the public of an intent to grant the requested exclusive license, and providing the public with an opportunity to file written objections to the proposed grant within sixty days of the Notice.

Robert J. Marchick,

Chief, Licensing Branch, Office of the Assistant General Counsel for Patents.

Memorandum of Determination

Proposed Exclusive Patent License—Stromberg Enterprises

Concurrence:

Gerald W. Braun,

Director, Division of Solar, Thermal Technology Development, CE–314.

Dated: June 10, 1982.

Leonard Coburn,

Acting Director of Competition, CE–314.

Dated: May 12, 1982.

[FR Doc. 82–19724 Filed 7–20–82; 8:45 am]
BILLING CODE 6450–01–M

Economic Regulatory Administration

Inexco Oil Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces that it has adopted a Consent Order with Inexco Oil Co. as a final order of the Department.

EFFECTIVE DATE: June 1, 1982.

FOR FURTHER INFORMATION CONTACT: David H. Jackson, Director, Kansas City Office, Economic Regulatory Administration, 324 E. 11th Street, Kansas City, Missouri 64106–2466, telephone number (816) 374–2092.

SUPPLEMENTARY INFORMATION: On April 23, 1982, Vol. 47, No. 79, FR, Page 17613, the ERA published a notice in the **Federal Register** that it had executed a proposed Consent Order with Inexco Oil Co. (Inexco) on March 25, 1982, which would not become effective sooner than 30 days after publication of that notice. The Order resolves the dispute between the DOE and Inexco Oil Co. arising out of the Mandatory Petroleum Price and Allocation Regulations, 10 CFR Parts 210, 211, 212, in connection with Inexco's sales of natural gas liquids (NGL's) and natural gas liquid products (NGLP's) during the period September 1, 1973 through January 28, 1981. The Order requires that Inexco pay the sum of $982,000, including interest, in twelve equal monthly installments commencing within thirty (30) days after the effective date of the Consent Order. The payments are to be made to the U.S. Treasury to be held in an escrow account, and the ERA will determine ultimate distribution of the funds. Pursuant to 10 CFR 205.199J(c), interested persons were invited to submit comments concerning the terms and conditions of the proposed Consent Order.

Four comments were received. None objected to the validity of the Consent Order, rather each comment addressed only the distribution of the escrowed funds suggesting that the funds be allocated to state of local governments for energy related programs which would offer direct benefit and restitution to the unidentified consumer-purchasers.

Since the ERA received no comments objecting to the Consent Order as proposed, the Proposed Consent Order was made final and effective on June 1, 1982 without modification. In determining the ultimate distribution of the escrowed funds, the ERA will consider numerous factors including the suggestions submitted in the comments received.

Issued in Kansas City, Missouri, on the 2nd day of July 1982.

David H. Jackson,

Director, Kansas City Office, Economic Regulatory Administration.

[FR Doc. 82–19720 Filed 7–20–82; 8:45 am]
BILLING CODE 6450–01–M

[ERA Docket No. 82–CERT–012]

Public Service Electric and Gas Co.; Recertification of Eligible Use of Natural Gas To Displace Fuel Oil

On June 9, 1982, Public Service Electric and Gas Company (Public Service), 80 Park Plaza, Newark, New Jersey 07101, filed with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 an application for recertification of an eligible use of up to 7.0 billion cubic feet of natural gas per year to displace approximately 1,057,000 barrels of No. 6 fuel oil (0.3 percent sulfur) and approximately 28,000 barrels of No. 2 fuel oil (0.2 percent sulfur) or kerosene (0.1 percent sulfur) per year at eight of its electric generating stations located in New Jersey: Bergen in Ridgefield; Essex in Newark; Hudson in New Jersey City; Kearny in Kearny; Linden in Linden; Sewaren in Sewaren; Edison in Edison; and Mercer in Trenton. The eligible seller of the natural gas is Equitable Gas Company (Equitable), 420 Boulevard of the Allies, Pittsburgh, Pennsylvania 15219. The gas will be transported by Texas Eastern Transmission Corporation, P.O. Box 2521, Houston, Texas 77001; Tennessee Gas Pipeline Company, P.O. Box 2511, Houston, Texas 77001; and Transcontinental Gas Pipe Line Corporation, P.O. Box 1396, Houston, Texas 77001. Notice of that application was published in the **Federal Register** (47 FR 27403, June 24, 1982) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

On July 25, 1981, Public Service received a recertification (ERA Docket 81–CERT–015) of an eligible use of natural gas purchased from Equitable for a period of one year expiring on July 24, 1982, for use in its electric generating stations in New Jersey.

The ERA has carefully reviewed Public Service's application in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has

determined that Public Service's application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the recertification and transmitted that recertification to the Federal Energy Regulatory Commission. More detailed information, including a copy of the application, transmittal letter, and the actual recertification is available for public inspection at the ERA, Natural Gas Branch Docket Room, Room 6144, RG–631, 12th & Pennsylvania Avenue, NW., Washington, D.C. 20461, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on July 15, 1982.

F. Scott Bush,

Director, Oil and Gas Imports Division, Office of Fuel Programs, Economic Regulatory Administration.

[FR Doc. 82–19721 Filed 7–20–82; 8:45 am]

BILLING CODE 6450–01–M

Santa Fe Energy Co.; Proposed Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of proposed consent order and opportunity for comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a Proposed Consent Order and provides an opportunity for public comment on the Proposed Consent Order.

DATE: Comments by August 20, 1982.

ADDRESS: Send comments to: David H. Jackson, Director, Kansas City Office, Economic Regulatory Administration, United States Department of Energy, 324 East 11th Street, Kansas City, Missouri 64106–2466. Phone (816) 374–2092.

SUPPLEMENTARY INFORMATION: On July 2, 1982, the ERA executed a proposed Consent Order with Santa Fe Energy Company, of Amarillo, Texas. Under 10 CFR 205.199J(b), a proposed Consent Order which involves a sum of $500,000 or more, excluding interest and penalties, becomes effective no sooner than thirty days after publication of a notice in the Federal Register requesting comments concerning the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate an alternative Consent Order.

I. The Consent Order

Santa Fe Energy Company, with its home office located in Amarillo, Texas, is a firm engaged in the production and sale of domestic crude oil, and was subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, 212 during the period covered by this Consent Order (September 1, 1973 through January 28, 1981). To resolve certain potential civil liability arising out of the Mandatory Petroleum Allocation and Price Regulations and related regulations, 10 CFR Parts 205, 210, 211, 212, in connection with Santa Fe's transactions involving crude oil sales during the period September 1, 1973 through January 28, 1981, (the period covered by this Consent Order) the ERA, and Santa Fe Energy Company entered into a Consent Order, the significant terms of which are as follows:

A. Santa Fe produces and sells domestic crude oil. Santa Fe is a "producer" as that term is defined in the Mandatory Petroleum Price Regulations at 10 CFR 212.31, and is subject to the price regulations presently codified at 10 CFR Part 212, Subpart D.

B. Santa Fe Energy Company operates the SFPRR (Sections 27, 28, 33, 34) and the Montana State 16 properties, from which the ERA believes that during the audit period crude oil produced from these properties was sold at prices in excess of the applicable ceiling prices, in violation of 10 CFR 212.74.

C. Santa Fe has discussed settlement with ERA officials. The ERA and Santa Fe disagree in several respects concerning the proper application of the relevant federal statutes and regulations to Santa Fe's pricing of crude oil during the audit period. Both Santa Fe and the ERA believe that their respective positions concerning the alleged civil liability would be sustained if litigated. However, Santa Fe desires to settle all civil disputes with the ERA concerning the specified transactions which occurred during the audit period, rather than incur the expense and inconvenience of litigation. Similarly, the ERA believes it is in the best interest of the general public and the U.S. Government to conclude the compliance proceeding now by means of this Consent Order.

D. The provisions of 10 CFR 205.199J, including those regarding the publication of this Notice, are applicable to the Consent Order.

II. Refunds and Civil Penalty

A. Disposition of Refunds

In this Consent Order, Santa Fe Energy Company will pay the sum of $800,000, which includes interest, within thirty (30) days of the effective date of this Consent Order to DOE for deposit in the U.S. Treasury as miscellaneous receipts. Upon full satisfaction of the terms and conditions of this Consent Order by Santa Fe Energy Company, the DOE releases Santa Fe Energy Company from any civil claims that the DOE may have arising out of the specified transactions during the period covered by this Consent Order.

B. Civil Penalty

In addition, Santa Fe Energy Company agrees to pay the sum of $8,000 in compromise of civil penalties relating to the above described transactions during the period covered by this Consent Order.

III. Submission of Written Comments

(1) The ERA invites interested persons to submit written comments concerning the terms and conditions of this Consent Order.

You should send your comments to DAVID H. JACKSON, Director, Kansas City Office, Economic Regulatory Administration, United States Department of Energy, 324 East 11th Street, Kansas City, Missouri 64106–2466. You may obtain a free copy of this Consent Order by writing to the above address.

You should identify your comments on the outside of your envelope and on the documents you submit with the designation, "Comments on Santa Fe Energy Company Consent Order." The ERA will consider all comments it receives by 4:30 p.m., local time, August 20, 1982. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Kansas City, Missouri, on the 6th day of July 1982.

David H. Jackson,

Director, Kansas City Office, Economic Regulatory Administration.

[FR Doc. 82–19719 Filed 7–20–82; 8:45 am]

BILLING CODE 6450–01–M

Southland Corp.; Proposed Consent Order

AGENCY: Department of Energy (DOE).

ACTION: Notice of proposed consent order and opportunity for public comment.

SUMMARY: The Office of the Special Counsel (OSC) hereby gives the notice required by 10 CFR 205.199J that it has entered into a Consent Order with The Southland Corporation ("Southland"). The Consent Order resolves all issues of compliance with the DOE Petroleum

Price and Allocation Regulations for the period September 1, 1973 through January 28, 1981, when crude oil and petroleum products were decontrolled by Executive Order 12287, 46 FR 9909 (January 30, 1981). To remedy any violations that may have occurred during the period, Southland has agreed to make payments totalling $1,193,397.

As required by the regulations cited above, OSC will receive comments on the Consent Order for a period of not less than 30 days following publication of this notice. OSC will consider any comments received before determining whether to make the Consent Order final. Although the Consent Order has been signed and accepted by the parties, the OSC may, after the expiration of the comment period, withdraw its acceptance of the Consent Order and attempt to obtain a modification of the Consent Order or, if appropriate, issue the Consent Order as proposed.

COMMENTS: To be considered, comments must be received by 5:00 p.m. on the thirtieth day following publication of this Notice, August 20, 1982. Address comments to: Southland Consent Order Comments, Department of Energy, RG–30, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT: Leslie Wm. Adams, Deputy Solicitor, Economic Regulatory Administration, Department of Energy, RG–30, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20461. Phone: (202) 633–9165.

Copies of the Consent Order may be received free of charge by written request to: Southland Consent Order Request, Department of Energy, RG–30, Room 5109, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20461.

Copies may also be obtained in person at the same address or at the Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue, Room 1E–190, Washington, D.C. 20585, between the hours of 8:00 a.m.–4:00 p.m.

SUPPLEMENTARY INFORMATION: Southland is a marketer of motor gasoline subject to the jurisdiction of the OSC to determine compliance with the DOE Petroleum Price and Allocation Regulations (Regulations). An audit conducted by OSC of Southland included a review of Southland's records relating to its compliance with the Regulation during the period September 1, 1973 through January 28, 1981. During the audit, questions and issues were raised and enforcement documents were issued. This Consent Order resolves all administrative and civil issues concerning the sale of motor gasoline during the audit period.

Conclusion of OSC Audit

The Consent Order addresses all aspects of Southland's compliance with the applicable Regulations. OSC's audit reviewed Southland's pricing policies and procedures and the manner in which Southland applied the Regulations with respect to the sale of motor gasoline.

At the conclusion of the audit, OSC alleged that Southland sold motor gasoline at prices in excess of applicable maximum lawful selling prices. Notwithstanding DOE's position to the contrary, Southland maintains that it has correctly construed and applied the Regulations. The parties, however, desire to resolve the issues raised without resort to complex, lengthy and expensive compliance actions. OSC believes that the terms and conditions of this Consent Order provide a satisfactory resolution of disputed issues and an appropriate conclusion of the Southland audit, and thus, that the Consent Order is in the public interest.

Terms and Conditions of the Consent Order

To remedy any violations that may have occurred during the audit period, Southland has agreed to payments totalling $1,193,397 in equal monthly installments, plus installment interest, to begin thirty (30) days after the Consent Order has been made effective and to be completed by September 30, 1982.

Also, within twenty (20) days after the effective date of the Consent Order, Southland shall pay civil penalties in the amount of $23,868. Because the records that Southland maintains with respect to retail sales of motor gasoline do not permit the identification of customers who were allegedly overcharged, DOE has concluded that a refund to customers is not feasible. Southland marketed its gasoline at retail in numerous states on a cash basis. Under these circumstances, DOE determined that payment into the U.S. Treasury as miscellaneous receipts is an appropriate remedy.

The Consent Order also provides details concerning the conclusions of the audit and procedures concerning enforcement of the provisions of the Consent Order. Among other things, DOE reserves the right to initiate enforcement proceedings and to seek appropriate penalties upon the discovery of information which is materially inconsistent with the information upon which this Consent Order is based.

Upon becoming final after consideration of public comments, the Order will be a final order of DOE to which Southland has waived its right to administrative or judicial appeal. The Consent Order does not constitute an admission by Southland or a finding by OSC of a violation of any Federal petroleum price statutes or regulations.

Submission of Written Comments

Interested persons are invited to submit written comments concerning this Consent Order to the address noted above. All comments received by 5:00 p.m. on or before August 20, 1982 will be considered by OSC before determining whether to adopt the Consent Order as a final order. Any modifications to the Consent Order that, in the opinion of OSC, significantly change the terms or impact of the Consent Order will be published for comment. If, after consideration of public comments, DOE determines to issue the Consent Order as a final order, the Consent Order will be made final and effective by notice to that effect to Southland. Pursuant to 10 CFR 205.199J(c), DOE will thereafter promptly publish in the **Federal Register** notice of any action taken on this Consent Order and an appropriate explanation of the action.

Any information or data considered confidential by the person submitting it must be identified as such in accordance with the procedures of 10 CFR 205.9(f).

Issued in Washington, D.C., July 13, 1982.

Milton C. Lorens,

Special Counsel, Economic Regulatory Adminstration.

[FR Doc. 82–19721 Filed 7–20–82; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. QF82–154–000]

Amoco Chemicals Corp.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

July 15, 1982.

On June 14, 1982, Amoco Chemicals Corp., 301 Evans Avenue, Wood River, Illinois 62095, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility is located in Wood River, Illinois. The primary energy sources of the facility are natural gas and fuel oil. The electric power production capacity

of the facility is 12 megawatts. Normal operation produces 4 to 6 megawatts of electric power. Steam is available for process use at a rate of 120,000 lbs/hr. The most recent addition to the facility was constructed in 1953. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed on or before August 20, 1982 and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not seve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19708 Filed 7-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP80-499-006]

Cities Service Gas Co.; Petition To Amend

July 16, 1982.

Take notice that on June 18, 1982, Cities Service Gas Company (Petitioner), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP80-499-006 a petition to amend the order issued December 22, 1980, as amended, in Docket No. CP80-499 pursuant to Section 7(c) of the Natural Gas Act so as to authorize an extension in the term of the sale of natural gas to EL Paso Natural Gas Company (El Paso), and a change in the average daily quantity of gas from 200 billion Btu to 200,000 Mcf, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that by order issued December 22, 1980, as amended, Petitioner was authorized to sell an average daily quantity of 200 billion Btu of gas to El Paso for resale for a term expiring December 31, 1982.

Petitioner states that because of El Paso's continued need for additional supplies of gas to alleviate curtailment on its system and the availability of additional volumes of gas on Petitioner's system which are in excess of the needs of Petitioner's customers, Petitioner proposes to extend the term of the sale for an additional two-year period through December 31, 1984. Petitioner further proposes to change the average daily quantity of gas sold from 200 billion Btu to 200,000 Mcf since the sale price is on a volumetric basis.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 5, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19694 Filed 7-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-387-000]

Colorado Interstate Gas Co.; Application

July 16, 1982

Take notice that on June 21, 1982, Colorado Interstate Gas Company (Applicant), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP82-387-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and exchange of natural gas with Cities Service Gas Company (Cities), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that both Cities and Applicant control certain volumes of gas within an area of interest in Carbon and Sweetwater Counties, Wyoming, and that the parties have therefore entered into a gas purchase and exchange agreement dated January 26, 1982, which provides for the gathering and exchange of gas between wells to which each party is connected within the area of interest.

It is stated that pursuant to the agreement Applicant and Cities would deliver thermally equivalent volumes of gas at the respective delivery points. Applicant notes that if exchange gas received by either party exceeds in total thermal content the exchange gas delivered by the party in any given month, then that party would pay a gathering charge equal to the product of (1) the exchange volumes so delivered during such month and (2) a gathering charge based upon the cost of service per Mcf of the gathering party, including a reasonable return on investment, as agreed upon by the parties.

Applicant maintains that the exchange is an accommodation for both parties eliminating the need for duplication of facilities and therefore a gathering charge would be assessed but no transportation fee for the exchange or balancing of gas.

Applicant notes that any facilities that it may require would be constructed under Applicant's certificated gas supply budget authority.

It is stated that two common pipeline delivery points located within the area of interest in Sweetwater County, Wyoming, have been included for the purpose of balancing the exchange. It is further stated that the exchange would be balanced insofar as practicable during the month following the imbalance.

Applicant further requests that the Commission authorize annual filing of tariff revisions by January 31 of each year which would reflect any additions or deletions or wells covered by the agreement.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 5, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act

and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, furhter notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19695 Filed 7-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-391-000]

Columbia Gas Transmission Corp.; Application

July 16, 1982.

Take notice that on June 24, 1982, Columbia Gas Transmission Corporation (Applicant), P.O. Box 1273, Charleston, West Virginia 25325, filed in Docket No. CP82-391-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certifice of public convenience and necessity authorizing the construction of 48 interconnecting tap facilities to provide additional points of delivery to existing wholesale customers, all as more fully set forth in the application which is on file with the Commission and open to pubic inspection.

Applicant proposes the following new points of delivery for the following wholesale customers:

(1) Columbia Gas of Kentucky, Inc.—1 tap for residential service; 1 tap for commercial service. Estimated annual usage of 330 Mcf.
(2) Columbia Gas of Ohio, Inc.—25 taps for residential service; 1 tap for commercial service. Estimated annual usage of 3,950 Mcf.
(3) Columbia Gas of Pennsylvania, Inc.—4 taps for residential service. Estimated annual usage of 600 Mcf.
(4) Columbia Gas of West Virginia, Inc.—14 taps for residential service; 1 tap for commercial service. Estimated annual usage of 3,499 Mcf.
(5) The Dayton Power and Light Company—1 tap for residential service. Estimated annual usage of 285 Mcf.

Applicant estimates that the total cost of the interconnections proposed herein is $14,480 to be financed through internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 5, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19709 Filed 7-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST82-130-000]

Consolidated Gas Resources, Inc.; Informal Hearing

July 14, 1982.

On June 9, 1982, the Commission instituted a rate proceeding in this docket to determine a fair and equitable rate for Consolidated Gas Resources, Inc. (CGR) transportation on behalf of United Gas Pipe Line Company.

The Staff panel will conduct an informal hearing on Thursday, July 29, 1982 at 10:00 a.m. at the Commission's offices, 825 North Capitol Street, N.E., Washington, D.C. Parties to the proceeding will have an opportunity to make oral presentation of data, view and arguments as more fully described in the Commission's order. The parties should be prepared to address the cost justification for CGR's proposed rate as well as whether the service rendered to United is "transportation" within the meaning of Section 311(a) of the Natural Gas Policy Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19710 Filed 7-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-379-000]

Delhi Gas Pipeline Corp.; Application

July 16, 1982.

Take notice that on June 16, 1982, Delhi Gas Pipeline Corporation (Applicant), Fidelity Union Tower, Dallas, Texas 75201, filed in Docket No. CP82-379-000 an application pursuant to Section 284.127 of the Commission's Regulations for long-term authorization to transport natural gas on behalf of Transwestern Pipeline Company (Transwestern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is submitted that pursuant to a transportation agreement with Transwestern dated June 25, 1980, Applicant receives natural gas at various points of delivery on its Western Oklahoma Pipeline System and subsequently transports and redelivers equivalent quantities of gas to Transwestern. Such service, Applicant states, commenced July 9, 1980, and was to continue for a period of two years but was extended for a two year period until July 8, 1984.

Applicant now proposes to extend such transportation service effective July 8, 1984, until March 1, 1990, continuing to receive gas from Transwestern at various points in Custer, Caddo, Grady, Roger Mills, and Washita Counties, Oklahoma. Applicant asserts that it anticipates additional deliveries in the immediate future from Transwestern in Dewey, Blaine, Ellis and Beckman Counties, Oklahoma, as well as additional points during the term of the transaction. Upon receipt, Applicant explains, it would transport and redeliver equivalent quantities of natural gas to Transwestern at points in Ellis and Custer Counties, Oklahoma.

Applicant estimates the daily and total volumes of natural gas to be transported during the remainder of the term of the transaction to be 80 billion Btu and 164.8 trillion Btu of gas, respectively.

For such transportation service, it is asserted, Transwestern would pay Applicant 37.89 cents per million Btu of gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 5, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a part to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19696 Filed 7-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-394-000]

El Paso Natural Gas Co.; Application

July 16, 1982.

Take notice that on June 29, 1982, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP82-394-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain tap facilities and the transportation and delivery of natural gas on an exchange basis to the Phillips Petroleum Company (Phillips) in Hutchinson, Gray and Wheeler Counties, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to accept for the account of Phillips pursuant to a gas exchange agreement dated June 18, 1982, up to 95,000 Mcf per day at an existing point of interconnection between the facilities of Applicant and Phillips located at the outlet of Phillips' Dumas Plant in Moore County, Texas. In exchange, Applicant has agreed to deliver concurrently to Phillips at an existing point of interconnection between the facilities of Applicant and Phillips located in Hutchinson County, Texas, referred to as the Borger delivery point, and at two proposed points of interconnection between the facilities of Applicant and Phillips located in Gray and Wheeler Counties, Texas, referred to as the Pampa and Wheeler delivery points, respectively, an equivalent volume of natural gas.

Applicant also proposes to construct and operate tap facilities at the Pampa and Wheeler delivery points. Applicant also states that it estimates the cost of the proposed facilities to be $15,680. Such facilities, it is asserted, would be financed through the use of internally generated funds.

It is also stated that in January 1968 Applicant installed, without apparent certificate authorization, tap facilities necessary to deliver gas to Phillips at the Borger delivery point on Applicant's 18-inch O.D. EPNG-Schafer Plant to Dumas Plant pipeline in Hutchinson County, Texas. Applicant, therefore, requests authorization for these existing facilities at the Borger delivery point.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 5, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its desigee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19697 Filed 7-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-166-001]

Energenics Systems, Inc., Potholes East Canal; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

July 15, 1982.

On June 28, 1982, Energencis Systems, Inc., 1717 K Street, NW., Suite 706, Washington, D.C. 20006, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The hydroelectrics small power production facility will be located on the Potholes East Canal near Mesa in Franklin County, Washington. The electric power production capacity of the facility will be 1,860 kilowatts. There are no other small power production facilities within one mile of the site which are owned by the Applicant and use the same energy source. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed on or before August 20, 1982, and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19711 Filed 7-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-395-000]

Florida Gas Transmission Co.; Application

July 16, 1982.

Take notice that on June 30, 1982, Florida Gas Transmission Company (Applicant), P.O. Box 44, Winter Park, Florida 32790, filed in Docket No. CP82-395-000 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the operation of certain pipeline facilities and for permission and approval to abandon by removal other facilities required to receive ethane from Texas Gas Exploration Company (TGEC), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Applicant entered into a contract with TGEC dated February 4, 1982, which provided for the purchase of 8,000 to 9,000 Mcf of ethane per day from TGEC for a period not to exceed sixty days and at a price not to exceed the Section 102 price under the Natural Gas Policy Act of 1978 (NGPA). Applicant also states that initial delivery under the contract with TGEC commenced on February 24, 1982, and terminated on April 24, 1982, pursuant to the Commission's emergency regulations. On May 10. 1982, the Commission authorized Applicant to continue operating those facilities necessary to continue purchasing such enthane from TGEC for a period through July 8, 1982.

Applicant asserts that in order to receive TGEC's ethane into Applicant's system Applicant made certain minor modifications to its existing pipeline facilites in Acadia Parish, Louisiana. Specifically, Applicant states that it removed 3½ feet of 6-inch pipe, one standard concentric reducer, one four-inch flange, and installed one six-inch weld cap.

It is stated that Applicant seeks authorization to continue using its system as modified so that it may continue purchasing ethane from TGEC for as long as such ethane is available at a price equal to or below the NGPA Section 102 price delivered to Applicant's pipeline.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 5, 1982, file with the Federal Energy Regulatory Commisison, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applioant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19888 Filed 7-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA82-26-000]

Grace Petroleum Corp.; Application for Staff Adjustment

Issued: July 15, 1982.

On June 18, 1982, Grace Petroleum Company (Grace), 6501 North Broadway, Oklahoma City, Oklahoma 73116 filed an application for adjustment pursuant to section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. §§ 3301-3432, (Supp. IV 1980), and § 1.41 of the Federal Energy Regulatory Commission (Commission) Rules of Practice and Procedure. Specifically, Grace seeks an adjustment from § 271.804(c) including a waiver of § 274.206 of the Commission's regulations.

Grace states that this adjustment is needed to prevent serious hardship and inequity. Specifically, Grace requests an adjustment to permit Dewald Rice 23-10 well (Dewald) to requalify as a stripper well as of January 5, 1981 based upon the 90 day production period ending October 31, 1980 and to qualify for continued stripper well status commencing January 5, 1981 based upon installation of compression by Grace. Grace states that it recently became aware that Dewald's continuing qualification as an section 108 stripper well was deficient because the recognized enhanced recovery technique (compression) was not "performed or installed by the producer" as required in § 271.803(a).

Grace states that continued stripper gas pricing is necessary for the Brown's Coulee compressor to operate economically. Grace further states that during the most recent twelve month period, operation of the compressor at section 104 pricing produced revenues of $36,092 but operating costs were $40,020. Without relief, Grace predicts termination of the operation of the Brown's Coulee compressor.

Furthermore, Grace alleges the Dewald well may not ever requalify as a stripper well after termination of the compressor due to § 274.807 of the Commission's regulations, and that in such case, the Dewald well would be plugged and abandoned.

Concurrently, Grace filed a petition to reopen and withdraw the Dewald continuing qualification determination.

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's Rules of Practice and Procedure. Order No. 24, issued March 22, 1979 (44 FR 18961, March 30, 1979).

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed on or before August 5, 1982.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19889 Filed 7-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA82-29-000]

W. B. McCarter, Jr., et al.; Application for Adjustment

Issued: July 15, 1982.

Take notice that on June 21, 1982, W. B. McCarter, Jr. (McCarter), 1820 Southwest Tower Building, Houston, Texas 77002, filed with the Federal Energy Regulatory Commission (Commission), on behalf of himself, Resource Investments, and Barbara McCarter, (applicants) an application for adjustment pursuant to section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301-3432, (Supp. IV

1980), and § 1.41 of the Commission's Rules of Practice and Procedure. McCarter requests a waiver of the provisions of § 273.204(a)(1) of the Commission's regulations. (18 CFR 273.204(a)(1)).

Specifically, McCarter seeks an adjustment of the provisions of 18 CFR 273.204(a)(1) which limit retroactive collection of NGPA maximum lawful prices for natural gas to the deliveries of such natural gas occurring between the date on which an application for an NGPA well category eligibility determination is filed with a jurisdictional agency, and the date on which said eligibility determination becomes final. McCarter seeks authorization to retain the excess of the NGPA section 102 ceiling price over the NGPA section 109 ceiling price for certain deliveries made from the 8300' sand reservoir of the R. J. Hine Estate No. 1 well, located in the Rogers Gully field, Jefferson Davis Parish, Louisiana. (The applicants are all working interest owners of the R. J. Hine Estate No. 1 well.) The subject deliveriess from 8300' sand reservoir were made prior to the date of filing with the state jurisdictional agency of an application for an NGPA section 102(c)(1)(C) eligibility determination for the 8300' sand.

Although an application for an NGPA section 102(c)(1)(C) eligibility determination was filed with the jurisdictional agency when the well was completed in the 8200' sand reservoir, when the well was recompleted in the 8300' sand reservoir after the 8200' sand reservoir had been depleted, McCarter states that he did not realize that a separate well category application would be required for gas from the 8300' sand reservoir, and, although production and sales from the 8300' sand reservoir commenced on July 10, 1981, McCarter did not file a separate well category application for gas produced from the 8300' sand until October 20, 1981.

McCarter requests an adjustment of 18 CFR 273.204(a)(1) to permit the collection of approximately $48,895.86, plus interest, which represents the difference between the NGPA section 102 price and the NGPA section 109 price which would apply to deliveries of gas from the 8300' sand made prior to the October 20, 1981 filing of the application for an eligibility determination for said gas. In support thereof, McCarter states that the basis for the requested relief is the alleged existence of the same type of "inequity" which the Commission spoke of in Order No. 149, where the Commission ruled it would not require refunds from producers that had misinterpreted the regulations under NGPA section 103 which require separate eligibility determinations for each proration unit from the same well. McCarter states that no factual, legal or policy distinction exists between the applicants' instant request for adjustment relief and the basis for the relief granted in Order No. 149. (Order No. 149, Docket No. RM81-31, issued May 28, 1981).

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's Rules of Practice and Procedure. Order No. 24, issued March 22, 1979 (44 FR 18961, March 30, 1979).

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed on or before August 5, 1982.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19700 Filed 7-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-399-000]

Michigan Wisconsin Pipe Line Co.; Application

July 16, 1982.

Take notice that on July 2, 1982, Michigan Wisconsin Pipe Line Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP82-399-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of pipeline and measurement facilities in St. Mary Parish, Louisiana (Centerville), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it was authorized to transport up to 120,000 Mcf of natural gas per day from the West Cameron area, offshore Louisiana, for Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), to United Gas Pipe Line Company (United). It is further stated that deliveries to Northern are presently being made by Applicant by displacement at an interconnection of the pipeline systems of Applicant and Northern in Kiowa County, Kansas.

Applicant submits that on or about November 1, 1982, the delivery point will shift from Kiowa County to Centerville to accommodate and exchange arrangement between Northern and United authorized by the Commission in an order issued April 28, 1980, in Docket Nos. CP79-396 and CP79-400, respectively. Applicant maintains that additional metering will be required to effectuate this.

Applicant, therefore, proposes to construct and operate two addition 10-inch orifice meter runs at Centerville. To attain greater operating flexibility and system security, Applicant also proposes to construct and operate a crossover comprising 0.1 mile of 20-inch O.D. pipeline interconnecting Applicant's existing 30-inch pipeline and 30-inch loop line to an existing 20-inch pipeline.

Applicant estimates the cost of the facilities to be $1,543,150 which would be financed with funds presently on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 5, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the National Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19701 Filed 7-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP75-125-003]

Michigan Wisconsin Pipe Line Co.; Petition To Amend

July 16, 1982.

Take notice that on June 18, 1982, Michigan Wisconsin Pipe Line Company (Petitioner), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP75-125-003 a petition to amend the order issued January 13, 1977,[1] in Docket No. CP75-125 so as to authorize the transportation of natural gas to an additional point of delivery in order to make redeliveries of natural gas to Texas Gas Transmission Corporation (Texas Gas), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that by order issued January 13, 1977, Petitioner was authorized, *inter alia*, to provide a gas transportation service for Texas Gas whereby Petitioner would take receipt of up to 196,640 Mcf of gas at the northerly terminus of the pipeline facilities of High Island Offshore System in West Cameron area Block 167, offshore Louisiana, provide transportation, and make redeliveries of equivalent quantities to Texas Gas at a redelivery point near North Tepetate, Louisiana, Eunice delivery point.

Petitioner further states that by order issued July 6, 1978, at Docket No. CP78-134, Petitioner was authorized to construct and operate measurement facilities comprising two 10-inch meter runs and associated appurtenances which are interconnected to the facilities of Texas Gas at Petitioner's Grand Chenier process and measurement station in Cameron Parish, Louisiana.

Petitioner hereby requests authority to make daily redeliveries of up to 100,000 Mcf of gas to Texas Gas at the Grand Chenier interconnection pursuant to its Rate Schedule X-63. It is explained that the aggregate maximum daily volume under such rate schedule remains unchanged but that utilization of the new delivery point would afford operating flexibilities on both the systems of Petitioner and Texas Gas.

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 5, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19702 Filed 7-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-397-000]

Midwestern Gas Transmission Co.; Application

July 16, 1982.

Take notice that on July 1, 1982, Midwestern Gas Transmission Company (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP82-397-000 an application pursuant to Section 7 of the Natural Gas Act for permission and approval to abandon its storage service to Peoples Gas Light and Coke Company (Peoples) and for a certificate of public concenience and necessity authorizing the use of the top gas capacity available for storage released by Peoples as system storage, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it is authorized to sell 100,000 Mcf of natural gas per day to Peoples under its Rate Schedule CD-1. Applicant further states that it provides Peoples a daily storage quantity of 15,333 Mcf and a total winter storage quantity of 1,149,975 Mcf under its Rate Schedule SS-1.

Applicant states that Peoples gave Applicant twelve months notice pursuant to their gas service contract dated August 15, 1972, that it elected to terminate such contract effective May 31, 1983. Applicant further states that it has entered into a letter agreement with Peoples dated June 28, 1982, for an earlier effective termination date.

Applicant requests authorization to abandon its gas storage service to Peoples to be effective the date the Commission's order granting the authorization sought herein but not before December 31, 1982. Applicant also requests authorization to sell to Peoples the top storage volume remaining in Peoples' account as of the aforestated date and to deliver such gas to Peoples on a mutually agreeable basis during the six months following the date of purchase. The sale to Peoples would be at the sum of Appliant's then effective Rate Schedule SS-1 commodity rate and gas rate, it is submitted.

In addition, Applicant requests authorization to use the top gas capacity available for storage released by Peoples and proposed to be abandoned as system storage for the benefit of Applicant's firm sales customers. Applicant proposes that such Commission authorization be concurrent with the authorization to abandon the storage service for Peoples. Applicant further proposes to operate system storage with a daily storage quantity of 15,333 Mcf and a winter storage quantity of 1,149,975 Mcf.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 5, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes

that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19703 Filed 7-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST82-287-001]

Mississippi Fuel Co.; Amendment of Application for Approval of Rates

July 16, 1982.

Take notice that on June 14, 1982, Mississippi Fuel Company (Applicant), 1100 First National Center East, Oklahoma City, Oklahoma 73102, filed in Docket No. ST82-287-001 an amendment to its application filed pursuant to Section 284.123(b)(2) of the Commission's Regulations for approval of rates charged for transporting natural gas for Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that it, Tennessee, System Fuels, Inc. and Mississippi Power & Light Company have entered into an agreement dated April 15, 1982, whereby Applicant agreed to transport and redeliver to Tennessee natural gas owned by Tennessee.

It is stated that under the agreement, Tennessee would pay to Petitioner 17.45 cents per Mcf until June 14, 1982, at which point Tennessee would pay a monthly rate determined in accordance with the provisions of paragraph (b) of Section 284.123 of the Commission's Regulations.

Petitioner asserts that because the elections otherwise available to an intrastate pipeline under Section 284.123(b)(1) continue not to be available to Petitioner inasmuch as Petitioner has no rate schedules on file with the Mississippi Public Service Commission (MPSC) covering city-gate service or transportation service and the MPSC has not taken into account the revenues received by Petitioner for the purposes of establishing transportation services to its intrastate customers, Petitioner herein requests to amend its transportation charge to provide for a rate of 20.27 cents per Mcf as a fair and equitable rate for the service rendered.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before August 5, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19704 Filed 7-20-82; 8:45 am]

BILLING CODE 6717-01-M

[GP82-44-000; FERC No. JD82-15339]

Grace Petroleum Corp.; Montana Board of Oil & Gas Conservation, Section 108 NGPA Determination for the Dewald Rice 23-10 Well; Request To Withdraw Final Well Category Determination

Issued: July 15, 1982.

On June 18, 1982, Grace Petroleum Corporation (Grace), 6501 North Broadway, Oklahoma City, Oklahoma 73116 filed with the Federal Energy Regulatory Commission (Commission) a request to reopen and withdraw the well category determination for the Dewald Rice 23-10 well (Dewald) pursuant to the Commission's authority under the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301-3432, (Supp. IV 1980).

As grounds for its request to reopen and withdraw the well category determination made under NGPA section 108, Grace states that the recognized enhanced recovery technique which Grace relied upon for continuing qualification of the Dewald well does not satisfy § 271.803(a) of the Commission's regulations. Specifically, Grace further states that the enhanced recovery technique (compression) was performed or installed by the purchaser of the gas not by the producer as the regulation requires.

Concurrently, Grace filed an adjustment request to permit it to retain stripper gas rates for gas produced from Dewald on the basis of compression subsequently installed by Grace.

With respect to the questions of refunds arising out of Grace's request to reopen and vacate well category determinations, notice is hereby given that whether refunds will be required is a matter subject to the review and final decision of the Commission.

Any person desiring to be heard or to protest this petition should file, on before August 20, 1982, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a protest or a petition to intervene in accordance with § 1.8 or § 1.10 of the Commission's Rules of Practice and Procedure. All protests filed with the Commission will be considered, but will not make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing must file a petition to intervene in accordance with the Commission's Rules

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19705 Filed 7-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-392-000]

Natural Gas Pipeline Company of America; Application

July 16, 1982.

Take notice that on June 29, 1982, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP82-392-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the limited term sale of natural gas to Florida Gas Transmission Company (Florida Gas) on an interruptible basis for resale and the construction and operation of facilities necessary therefor, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell natural gas on a best-efforts basis up to a total of 15,000,000 Mcf of gas to Florida Gas. The sale would be limited to those volumes which are not required by Applicant's existing customers, it is stated. Applicant states it would make such sales pursuant to a letter agreement dated June 14, 1982.

Applicant proposes to deliver gas at an existing interconnection between Florida Gas' 24-inch pipeline and Applicant's 30-inch pipeline located in the Wm. H. Smith Survey, Jefferson County, Texas, at a proposed point of interconnection between Applicant and Florida Gas located in Vermilion Parish, Louisiana, and at any other point mutually agreed to in writing by the parties.

In addition, Applicant proposes to install a tap and related facilities at the proposed Vermilion Parish delivery point. Applicant estimates the total cost of such facilities to be $384,000. Florida Gas would reimburse Applicant for all such costs, it is explained. Applicant also requests blanket authorization to add delivery points during the term of the agreement.

Applicant asserts that for every million Btu of gas sold it would charge Florida Gas a rate equal to Applicant's currently effective Rate Schedule DMQ–1, adjusted to reflect the actual DMQ–1 load factor for the twelve-month period ending February 28, 1982, minus the GRI surcharge, as set forth in that portion of the currently effective Sheet No. 5 of Applicant's FERC tariff.

The term of the agreement would run 365 days beginning on the date deliveries of gas commence, it is stated.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 5, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–19706 Filed 7–20–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. SA82–30–000]

Omega Minerals, Inc.; Application for Adjustment and Request for Interim Relief or in the Alternative An Interpretive Rule by the General Counsel

July 15, 1982.

Take notice that on June 22, 1982, Omega Minerals, Inc. (Applicant), filed with the Federal Energy Regulatory Commission (Commission) pursuant to section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301–3432 (Supp. IV 1980) and § 1.41 of the Commission's Rules of Practice and Procedure an application for adjustment and interim relief. Applicant seeks permanent and interim relief from section 270.101(e) and Part 273 of the Commission's regulations.

Specifically, Applicant has drilled and completed the C. Mundine Haskett No. 1, No. 2, No. 3–C and 3–T wells (the 3–C and 3–T are dual completions), and the Chester Kiefer No. 4–C, No. 4–T and NO. 5–C and 5–T (the C and T designation indicate dual completions) in Zavala County, Texas. Applicant states that a contract for the sale of gas was negotiated with Valero Transmission Company (Valero). Applicant further states that due to the constraints of a limited staff, an independent attorney was engaged to be responsible for qualifying the subject gas for the NGPA section 102 price and that Valero paid the Applicant the section 102 price for the gas beginning with initial deliveries in July 1981. The Applicant, however, states that it learned in March of 1982 that the attorney had not filed the applications for determination with the jurisdictional agency and Omega, on April 5, 1982, filed the application with the jurisdictional agency. Applicant further states that on April 22, 1982, Valero requested that Applicant refund the difference, with interest, between the section 102 price and the section 109 price for sales of gas from the initial delivery until April 5, 1982. Applicant alleges that the denial of adjustment relief will cause it to suffer special hardship, inequity, and an unfair distribution of burdens because Applicant's capital costs cannot be recovered from Applicant's share of the gas sale revenues.

Alternatively, Applicant requests that the General Counsel issue an interpretive rule pursuant to section 1.42 of the Commission's Rules of Practice and Procedure that would allow the applicant to retain the monies claimed by Valero.

The procedure applicable to the conduct of this adjustment proceeding are found in section 1.41 of the Commission's Rules of Practice and Procedure, Order No. 24, issued March 22, 1979 (44 Fed. Reg. 19861, March 30, 1979).

Any persons desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of section 1.41(e). All petitions to intervene must be filed on or before August 5, 1982.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–19707 Filed 7–20–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP82–377–000]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Application

July 16, 1982.

Take notice that on June 16, 1982, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Petitioner), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP82–377–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas to Adamsville, Tennessee (Adamsville), in lieu of the Tri-County Utility District of McNairy, Hardin and Chester Counties, Tennessee (Tri-County), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it was authorized to render natural gas service to Tri-County up to a maximum daily quantity of 1,290 Mcf for Tri-County's Adamsville, Tennessee, service area under its Rate Schedule GS–1. It is further stated that effective April 15, 1977, Tri-County sold its properties comprising the natural gas distribution system of its Adamsville, Tennessee, service area to Adamsville and assigned to Adamsville its rights and obligations in its gas sales contract with Applicant. Subsequently, Applicant states, it entered into a gas sales contract with Adamsville dated November 30, 1981, which provided, *inter alia*, for an initial termination date of November 1, 2000.

Applicant states that as a result of the Commission's rejection of this contract's filing with the Commission, Applicant and Adamsville have entered into a new gas sales contract dated June 3, 1982. Pursuant to this new gas sales contract, Applicant requests that it be authorized to serve Adamsville in lieu of Tri-County in the Adamsville, Tennessee, service area under its Rate Schedule GS–1.

It is asserted that the proposal would not affect Applicant's ability to render presently authorized service to the Adamsville, Tennessee, service area or to other areas. It is further asserted that the charge in ownership of the distribution properties would neither increase nor decrease the maximum daily quantity of 1,290 Mcf authorized for the Adamsville, Tennessee, service area.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 5, 1982, file with the Federal Energy Reguatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–19712 Filed 7–20–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP80–8–001]

Texas Eastern Transmission Corp.; Petition To Amend

July 16, 1982.

Take notice that on May 17, 1982,[1] Texas Eastern Transmission Corporation (Petitioner), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP80–8–001 a petition to amend the order issued December 28, 1979, in Docket No. CP80–8 pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Commission's regulations (18 CFR 157.7(b)) so as to authorize the construction of a single offshore project in excess of the single-project cost limitation of $3,500,000, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that by order issued December 28, 1979, in the instant docket, Petitioner was authorized to construct and operate each year gas purchase facilities with no single offshore project to exceed $3,500,000. Petitioner asserts it undertook the construction of approximately 4.02 miles of 8-inch pipeline and appurtenant facilities to connect the West Cameron Block 522 platform to an underwater tap in West Cameron Block 543, offshore Louisiana, which was estimated to cost $2,702,564. However, Petitioner has recorded $3,753,622 as the final actual cost of the project, $253,622 in excess of the offshore single-project limitation of $3,500,000 due to unforeseen contractor's extra work charges. Therefore, Petitioner requests an increase in the single project cost limitation from $3,500,000 to $3,753,622 for construction of facilities to connect the West Cameron Block 522 platform to an underwater tap in West Cameron Block 543.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 9, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–19713 Filed 7–20–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EL82–20–000]

Town of Highlands, N.C., et al.; Filing

July 15, 1982.

In the matter of The Town of Highlands, North Carolina, Haywood Electric Membership Corporation, and North Carolina Electric Membership Corporation v. Nantahala Power and Light Company.

Take notice that on June 30, 1982, The Town of Highlands, North Carolina (Highlands), Haywood Electric Membership Corporation (Haywood) and North Carolina Electric Membership Corporation (Coops) filed a complaint against Nantahala Power and Light Company (Nanthala) pursuant to Article III.4 of the Settlement Agreement in *Nantahala Power and Light Company*, Docket No. ER80–574–000, which was accepted by the Commission on November 16, 1981.

The complainants request that the Commission order the revision of Nantahala's treatment of wartime amortization in its PL–(COSAC) rate tariffs to conform with the Commission's Opinion No. 139 in *Nantahala Power and Light Company*, Docket Nos. ER76–828 and EL78–18, and order refunds of amounts collected since March 1, 1981 based on Nantahala's alleged improper treatment of wartime amortization.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before August 18, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to

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[1] The application was initially tendered for filing on May 17, 1982, however, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until June 21, 1982; thus, filing was not completed until the later date.

the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19714 Filed 7-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-390-000]

Transcontinental Gas Pipe Line Corp; Application

July 16, 1982.

Take notice that on June 24, 1982, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP82-390-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline and related facilities in West Feliciana and Pointe Coupee Parishes, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Applicant seeks authorization to construct and operate in West Feliciana and Pointe Coupee Parishes, Louisiana, approximately 13.94 miles of 10-inch pipeline which would extend from the Roberta S. Towles #1 Well in the Raccourci Island Field, West Feliciana Parish, Louisiana, to Transco's main line at a point located in Pointe Coupee Parish, Louisiana.

Applicant estimates the cost of the facilities to be $6,733,000 which would be financed initially through short-term loans and available cash. Permanent financing would be undertaken as part of an overall long-term financing program at a later date, it is explained.

Applicant asserts that the proposed facilities would enable it to attach new gas supplies to be available commencing in early 1983.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 5, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19715 Filed 7-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-125-003]

Trans-Niagara Pipeline; Amendment to Application

July 16, 1982.

Taken notice that on June 11, 1982, Trans-Niagara Pipeline (Applicant), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP82-125-003 an amendment to the application filed in Docket No. CP82-125-000 pursuant to Section 7(c) of the Natural Gas Act so as to reflect the construction and operation of certain pipeline and appurtenant facilities, and the transportation of natural gas for Transcontinental Gas Pipe Line Corporation (Transco), Texas Eastern Transmission Corporation (Texas Eastern), and Algonquin Gas Transmission Company (Algonquin) by Applicant in lieu of Transco, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

It is submitted that on December 19, 1981, Transco filed in Docket No. CP82-125-000 an application requesting authorization to construct and operate its Transco Niagara Pipeline System for the purpose of making available to its system quantities of natural gas to be imported from Canada. Applicant asserts that Transco has assigned to Applicant all rights and interests in such proposed pipeline system, and pursuant to such assignment, Applicant has filed the instant amendment to the original applicantion.

Applicant states that it is a general partnership formed under the laws of the State of New York by Transco Canada Pipeline Company, an affiliate of Transco, TransCanada PipeLines Niagara, Ltd., an affiliate of TransCanada PipeLines Limited (TransCanada), and Texas Eastern Niagara, Inc., an affiliate of Texas Eastern. It is further submitted that while at the present time Applicant has no natural gas transmission operations and is not now subject to the jurisdiction of the Commission upon the construction and operation of the facilities proposed herein and the commencement of the transportation service proposed herein, Applicant would become a "natural-gas company" within the meaning of the Natural Gas Act and would be subject to the jurisdiction of the Commission.

Applicant specifically proposes to amend the original application filed in Docket No. CP82-125-000 so as to request authorization to construct and operate a new pipeline system, the Trans-Niagara Pipeline, in order to deliver to Transco, Texas Eastern, and Algonquin quantities of Canadian natural gas to be imported by Transco, Texas Eastern, and Algonquin, as well as to render firm and overrun transportation service for such shippers in accordance with a tariff and service agreements.

It is stated that the proposed pipeline facilities would consist of 42-inch diameter pipe with the exception of a dual 36-inch pipe to be used in crossing the Niagara River. Applicant states that the proposed Trans-Niagara System would interconnect at the United States-Canada border with the facilities of TransCanada, and at its southern terminus near Tamarack, Pennsylvania, with the facilities of Transco and Texas Eastern. The new system, it is submitted, would include a metering and regulating station and a compressor station of up to 49,000 horsepower near Lewiston, New York, and a compressor station of up to 36,000 horsepower and metering station at Leidy Storage Field, near Tamarack, Pennsylvania.

Applicant estimates the cost of the proposed facilities to be $424,275,000 which would be financed on a 75 percent debt-25 percent equity ratio which would involve a combination of bank loans of approximately $326,670,000, and the contribution of equity by Applicant's partners totalling

approximately $108,890,000 or a total of $435,560,000 (which includes provision for working capital as well as the cost of line pack quantities).

Applicant states that in two recent decisions the Commission has addressed the appropriateness of project financing for major new pipeline systems: *Trailblazer Pipeline Company et al.*, Opinion No. 138, 18 FERC paragraph 61, 244 (1982); and *Ozark Gas Transmission System*, Opinion No. 125, 16 FERC paragraph 61,099 (1981). Applicant asserts that it qualifies for project financing under the criteria set by the Commission in *Ozark* and *Trailblazer* and its tariff and rate design have been structured in conformance therewith. In that regard, Applicant states that it intends to seek fixed-rate debt financing, but if such financing cannot be arranged on satisfactory terms, Applicant proposes to include in its tariff an interest rate tracking provision to reflect the costs of variable interest rates as was approved by the Commission in *Trailblazer*, it is asserted. Applicant submits that application of a cost/benefit test as enunciated by the Commission in the *Ozark* decision clearly supports the appropriateness of project financing in the instant matter. *Ozark Gas Transmission System, supra*, 16 FERC at pp. 61,196–97. Moreover, Applicant contends that analyses of other factors identified in *Ozark* (magnitude of deliverable reserves, ability of sponsors to finance, unique risk of project) further affirm the appropriateness of using project financing for the Trans-Niagara Pipeline as does the project ownership structure which includes a TransCanada affiliate as a partner in the new pipeline. Because it meets the criteria of the *Ozark* decision, Applicant respectfully requests the opportunity to seek recovery of the partners' equity investments should the project ultimately fail. Applicant contends that in that regard, it is confronted with a risk element not present in *Ozark* or *Trailblazer* with respect to regulatory actions (in Canada or the United States) which may cause the reduction or cessation of shippers' transportation quantities, and since this risk element is beyond the control of Applicant or its shippers, Applicant requests that the Commission specifically approve the recovery of sponsors' equity in such event.

Applicant further proposes to render firm transportation service of up to 1,114,961 Mcf of natural gas per day for Transco, 201,961 Mcf of gas per day for Texas Eastern, and 101,961 Mcf of gas per day for Algonquin, as well as render additional transportation service if and to the extent available capacity exists on the Trans-Niagara system from time to time.

Applicant states that the proposed transportation service would be rendered in accordance with Applicant's tariff and separate service agreements to be entered into between Applicant and Transco, Texas Eastern and Algonquin. It is further stated that Applicant's proposed tariff for firm transportation service under Rate Schedule T has been designed using a two-part rate structure in which the demand rate is designed to recover the debt service charges, the operation and maintenance expenses, and taxes other than income. Applicant avers that shippers would furnish fuel gas based on the ration of each Shippers' transportation requirements to total throughput giving rise to the system fuel requirements of any day. It is submitted that the commodity rate is designed to recover the balance of the cost of service based upon transportation of 85 percent of the purchased quantities on an annual basis. In addition to the demand charge, Applicant explains, shippers would pay a minimum annual commodity charge based upon 75 percent of their respective annual contract quantities.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before August 5, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-19716 Filed 7-20-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ST80-244-001]

Trunkline Gas Co.; Extension Reports

July 15, 1982.

The companies listed below have filed extension reports pursuant to Section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue transportation and sales of natural gas for an additional term of up to 2 years. These transactions commenced on a self-implementing basis without case-by-case Commission authorization. The Commission's regulations provide that the transportation or sales may continue for an additional term if the Commission does not act to disapprove or modify the proposed extension during the 90 days preceding the effective date of the requested extension.

The table below lists the name and addresses of each company selling or transporting pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A letter "B" in the Part 284 column indicates a transportation by an interstate pipeline which is extended under § 284.105. A letter "C" indicates transportation by an intrastate pipeline extended under § 284.125. A "D" indicates a sale by an intrastate pipeline extended under § 284.146.

Any person desiring to be heard or to make any protest with reference to said extension report should on or before August 10, 1982 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

Docket No.	Transporter/seller	Recipient	Date filed
ST80-244-001	Trunkline Gas Co., P.O. Box 1642, Houston, TX 77251	Southern Natural Gas Co.	*6/22/82
ST81-16-001	Colorado Interstate Gas Co., P.O. Box 1987, Colorado Springs, CO 80944	Southern Natural Gas Co.	6/15/82
ST81-29-001	Southern Natural Gas Co., P.O. Box 2563, Birmingham, AL 35202	Austell Natural Gas System	6/28/82
ST81-34-001	El Paso Natural Gas Co., P.O. Box 1492, El Paso, TX 79978	Eastern New Mexico Natural Gas Association	6/30/82
ST81-40-001	Cities Service Gas Co., P.O. Box 25128, Oklahoma City, OK 73125	El Paso Natural Gas Co.	6/25/82
ST81-51-001	Southern Natural Gas Co., P.O. Box 2563, Birmingham, AL 35202	Mississippi Valley Gas Co.	6/28/82
ST81-71-001	Delhi Gas Pipeline Corp., Fidelity Union Tower, Dallas, TX 75201	Transcontinental Gas Pipe Line Corp.	6/16/82

*This report was filed late and will be the subject of a separate order issued by the Director of OPPR.

[FR Doc. 82-19717 Filed 7-20-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-375-000]

United Gas Pipe Line Co.; Application

July 16, 1982.

Take notice that on June 14, 1982, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP82-375-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for the account of Southern Natural Gas Company (Southern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes pursuant to a gas transportation agreement dated March 16, 1981, to transport up to 20,000 Mcf of natural gas per day and redeliver said quantity, less 2.3 percent for fuel and company-used gas, for the account of Southern at the existing point of interconnection between United and Southern at Southern's Shadyside compressor station near St. Mary Parish, Louisiana, Morehouse Parish, Louisiana, and/or the outlet side of Applicant's measuring station at the interconnection between Southern's 20-inch south section 28 mainline and Applicant's 20-inch crossover in St. Martin Parish, Louisiana. Applicant asserts it would receive the gas from Sea Robin Pipeline Company (Sea Robin) for Southern's account at the measuring station at the onshore terminus of Sea Robin's existing pipeline system near Erath, Louisiana.

It is asserted that the transportation agreement would remain in full force and effect for a term of 15 years beginning on March 20, 1981, the day deliveries commenced under Subpart G of Part 284 of the Commission's Regulations and continuing from year to year thereafter until cancelled by either party upon proper notice.

It is asserted that Southern would pay Applicant an amount per Mcf equal to Applicant's transportation rate in effect from time to time in Applicant's northern or southern rate zone, as applicable, as such may be determined by Applicant based on rate filings made from time to time with the Commission, less any amount included in such transportation rate exclusive of the cost of gas attributable to fuel and unaccounted for gas. Applicant's present rate is 35.50 cents per Mcf in Applicant's northern rate zone and 28.16 cents per Mcf in Applicant's southern rate zone.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 5, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19718 Filed 7-20-82; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PF-281; PH-FRL 2155-5]

Certain Companies; Pesticide and Feed Additive Petitions

Correction

In FR Doc. 82-17343 beginning on page 28451 in the issue of Wednesday, June 30, 1982, make the following correction:

On page 28452, column one, under "*PP 2F2683.* FMC Corp.", the chemical names of carbofuran and its carbamate metabolite were given incorrectly. They should have read as follows:

* * * carbofuran (2,3-dihydro-2,2-dimethyl-7-benzofuranyl-*N*-methylcarbamate), its carbamate metabolite 2,3-dihydro-2,2-dimethyl-3-hydroxy-7-benzofuranyl-*N*-methylcarbamate * * *

BILLING CODE 1505-01-M

[A-2-FRL 2173-4]

Delegation of Prevention of Significant Deterioration Authority to the State of New York

AGENCY: Environmental Protection Agency.

ACTION: Notice of delegation of authority.

SUMMARY: The Environmental Protection Agency (EPA) is today delegating its authority for prevention of significant deterioration (PSD) review to the New York State Department of Environmental Conservation (NYSDEC), pursuant to Title 40, Code of Federal Regulations, Part 52, Section 52.21 (40 CFR 52.21). Effective immediately, NYSDEC will receive and process all PSD applications, with the exception of those from power plants and certain

other sources exempt from State permit requirements.

EFFECTIVE DATE: July 21, 1982.

ADDRESSES: Copies of the State's delegation request, correspondence between the State and EPA, and EPA's delegation agreement are available for public inspection during normal business hours at:

Environmental Protection Agency, Region II Office, Air Programs Branch, Room 1005, 26 Federal Plaza, New York, New York 10278

New York State Department of Environmental Conservation, Division of Air, 50 Wolf Road, Albany, New York 12233.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, (212) 264–2517.

SUPPLEMENTARY INFORMATION:

On December 4, 1981 the New York State Department of Environmental Conservation (NYSDEC) submitted to the Region II Office of the Environmental Protection Agency (EPA) a request for delegation of technical and administrative review responsibilities for sources regulated under the EPA's prevention of significant deterioration (PSD) program requirements promulgated at 40 CFR 52.21. Based on a thorough review of this request and other pertinent information, EPA has determined that, with the exception of power plants, which do not fall under the permitting authority of NYSDEC, and sources exempted from permit requirements pursuant to Title 6, New York Code of Rules and Regulations (6 NYCRR), Section 201.6, "Exemptions," the State is capable of receiving delegation of this program. Therefore, effective immediately, full PSD review authority, with the exceptions noted, is delegated to NYSDEC. The conditions of this delegation are delineated in an April 19, 1982 letter from the Region II Administrator to the Commissioner of NYSDEC.

Effective immediately, all applications and other information required by 40 CFR 52.21 for sources (other than sources exempted under 6 NYCRR Section 201.6 and power plants) in the State of New York should be submitted to the appropriate regional office of the NYSDEC or its central office at 50 Wolf Road, Albany, New York 12233 (Attention: Division of Air, Bureau of Source Control). Power plants and § 201.6—exempt sources should continue to submit their applications to the EPA, Region II office at 26 Federal Plaza, New York, New York 10278 (Attention: Permits Administration Branch).

The Office of Management and Budget has exempted this action from the Requirements of Section 3 of Executive Order 12291.

(Secs. 101, 165, and 301 of the Clean Air Act, as amended (42 U.S.C. 7401, 7465, and 7601))

Dated: July 8, 1982.

Jaqueline E. Schafer,

Regional Administrator, Environmental Protection Agency.

[FR Doc. 82-19742 Filed 7-20-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. Interested persons may express their views in writing to the address indicated. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Assistant Vice President), 400 South Akard Street, Dallas, Texas 75222:

1. *Allied Bancshares, Inc.*, Houston, Texas; to acquire 100 percent of the voting shares or assets of Irving American Bancshares, Corp. (The American Bank), Irving, Texas. Comments on this application must be received not later than August 14, 1982.

Board of Governors of the Federal Reserve System, July 15, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-19690 Filed 7-20-82; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares of assets of a bank. The factors that are considered in acting on the applications are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *AmSouth Bancorporation*, Birmingham, Alabama; to acquire 100 percent of the voting shares or assets of Citizens Bank of Talladega, Talladega, Alabama. Comments on this application must be received not later than August 14, 1982.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Hawkeye Bancorporation*, Des Moines, Iowa; to acquire 100 percent of the voting shares or assets of State Bank of Allison, Allison, Iowa. Comments on this application must be received not later than August 13, 1982.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *New Mexico Banquest Corporation*, Santa Fe, New Mexico; to acquire 50 percent or more the voting shares or assets of The Bank of Northern New Mexico, Las Vegas, New Mexico. Comments on this application must be received not later than August 14, 1982.

D. **Secretary, Board of Governors of the Federal Reserve System,** Washington, D.C. 20551:

1. *Harris Bankcorp, Inc.*, Chicago, Illinois; to acquire 100 percent of the voting shares or assets of the successor by merger to Roselle State Bank and Trust Company, Roselle, Illinois. This application may be inspected at the Federal Reserve Bank of Chicago. Comments on this application must be received not later than August 14, 1982.

Board of Governors of the Federal Reserve System, July 15, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-19901 Filed 7-20-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commended *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated for each application.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Shawmut Corporation*, Boston, Massachusetts (commercial financing; southeastern and midwestern United States): To engage through it subsidiary, Shawmut Credit Corp., in commercial finance activities including the making or acquiring for its own account or for the account of others, loans and other extensions of credit such as would be made by a finance company (including, without limitation, commercial loans, which may be secured by accounts receivable, inventory, equipment or other assets) and servicing such loans and other extensions of credit for others. These activities would be conducted from offices in Atlanta, Georgia and Chicago, Illinois. The Atlanta office will serve states in southeastern United States (Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee and Virginia) and the Chicago office will serve the midwestern states (Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Ohio and Wisconsin). Comments on this application must be received not later than August 14, 1982.

B. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President), 701 East Byrd Street, Richmond, Virginia 23261:

1. *Northwestern Financial Corporation*, North Wilkesboro, North Carolina (mortgage banking activities; North Carolina): To engage, through its subsidiary, First Atlantic Corporation, in making, acquiring and servicing loans secured by real estate mortgages such as would be made by a mortgage banking company. These activities would be conducted from an office in Greensboro, North Carolina, serving the counties of Alamance, Forsyth, Guilford and Rockingham, North Carolina. Comments on this application must be received not later than August 14, 1982.

C. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *First Bank System, Inc.*, Minneapolis, Minnesota (data processing activities; United States): To engage, through its subsidiary, First Computer Corporation, in providing bookkeeping or data processing services and storing and processing other banking, financial, or related economic data, such as performing payroll, accounts receivable or payable or billing services to the holding company, its subsidiaries and correspondents and customers of those subsidiaries, non-affiliated banks, thrifts and others on an indirect and direct contract basis. The activities will be conducted from the subsidiary's main office located in St. Paul, Minnesota, and regional centers located in Billings, Montana; Duluth, Minnesota; Fargo, North Dakota; Great Falls, Montana; Minot, North Dakota; Rapid City, South Dakota; Rochester, Minnesota; Sioux Falls, South Dakota; and Rothschild, Wisconsin; serving the continental United States. Comments on this application must be received not later than August 14, 1982.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *BankAmerica Corporation*, San Francisco, California (financing and servicing activities; *de novo* office; all fifty (50) states and the District of Columbia): To engage, through its indirect subsidiary, BA Commercial Corporation, a Pennsylvania corporation, in the activities of making loans and other extensions of credit, and acquiring loans, participations in loans and other extensions of credit such as would be made or acquired by a finance company. Such activities will include, but not be limited to, inventory and accounts receivable financing; equipment financing; insurance premium financing; making loans to non-affiliated finance and leasing companies secured by pledges of accounts receivable of such companies; and making loans secured by real or personal property. In addition, BA Commercial Corporation also proposes to engage in the additional activities of servicing loans, participations of loans and other extensions of credit for itself and others in connection with extensions of credit made or acquired by BA Commercial Corporation. No credit-related insurance of any type will be offered by BA Commercial Corporation in connection with its lending activities. These activities will be conducted from a *de novo* office located in Cleveland, Ohio, serving all fifty (50) states and the District of Columbia. Comments on this application must be received not later than August 14, 1982.

Board of Governors of the Federal Reserve System, July 15, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-19889 Filed 7-20-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the

address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Illini Community Bancgroup, Inc.*, Springfield, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to American State Bank of Springfield, Springfield, Illinois. Comments on this application must be received not later than August 12, 1982.

2. *Mid-Iowa Bancshares Co.*, Algona, Iowa; to become a bank holding company by acquiring 80 percent of more of the voting shares of Iowa State Bank, Algona, Iowa. Comments on this application must be received not later than August 13, 1982.

3. *Purdue National Corporation*, Lafayette, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of Purdue National Bank of Lafayette, Lafayette, Indiana. Comments on this application must be received not later than August 11, 1982.

4. *United Bancorporation, Inc.*, Rockford, Illinois, a Delaware corporation; to become a bank holding company by acquiring control of the voting shares of United Bancorporation, Inc. (Illinois Corporation), which owns 98.75 percent of United Bank of Rochelle, Rochelle, Illinois; S.B.A. Company which owns 98.33 percent of United Bank of Rockford, Rockford, Illinois; United Bank of Southgate, Rockford, Illinois; Oregon Corporation which owns 96.8 percent of United Bank of Ogle County, National Association, Oregon, Illinois; United Bank of Belvidere, Belvidere, Illinois; East Rvierside Inc., which owns 93.22 percent of United Bank of Loves Park, Loves Park, Illinois, and United Bank of Illinois, National Association, Rockford, Illinois. Comments on this application must he received not later than August 14, 1982.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Allied Irving Bancshares, Inc.*, Houston, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Irving American Bancshares, Corp. and thereby indirectly acquire The American Bank, Irving, Texas. Comments on this application must be received not later than August 14, 1982.

Board of Governors of the Federal Reserve System, July 15, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-19692 Filed 7-20-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated for each application.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South La Salle Street, Chicago, Illinois 60690:

1. NBD Bancorp, Inc., Detroit, Michigan (mortgage banking activities; Ann Arbor, Michigan): To engage, through its subsidiary, NBD Mortgage Company, in mortgage banking activities, including the making and acquiring of mortgage loans for its own account and for the accounts of others, mortgage loans and other extensions of credit as would be made by a mortgage company. These activities would be conducted from an office in Ann Arbor, serving the Cities of Ann Arbor, Ypsilanti, Plymouth, Farmington and Novi and the Counties of Washtenaw, Monroe and Livingston and portions of Wayne, Oakland and Lenawee Counties. Comments on this application must be received not later than August 5, 1982.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *McLean Bank Holding Company*, Garrison, North Dakota (general lending activities; North Dakota): To engage in the activity of purchasing loans, including real estate mortgages, agricultural and commercial loans. These activities would be conducted from an office in Garrison, North Dakota, serving McLean, Mercer and Oliver Counties, North Dakota. Comments on this application must be received not later than August 15, 1982.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *West Coast Bancorp*, Encinco, California (finance and credit activities; California): To engage through its *de novo* subsidiary, West Coast Business Credit, Inc., in making or acquiring for its own account loans and other extensions of credit, such as would be made or acquired by a finance company, including commercial loans secured by a borrower's inventory, accounts receivable, or other assets and servicing of these loans. These activities will be conducted from offices located in Encino and in Santa Ana, California, serving the State of California. Comments on this application must be received not later than August 5, 1982.

Board of Governors of the Federal Reserve System, July 16, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-19730 Filed 7-20-82; 8:45 am]

BILLING CODE 6210-01-M

U.S. Bancorp; Proposed Acquisition of Pueblo Beneficial Industrial Bank, Colorado Springs Beneficial Industrial Bank, Trinidad Beneficial Industrial Bank

U.S. Bancorp, Portland, Oregon, has applied, pursuant to section 4(c)(8) of

the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Pueblo Beneficial Industrial Bank, Pueblo, Colorado; Colorado Springs Beneficial Industrial Bank, Colorado Springs; and Trinidad Beneficial Industrial Bank, Trinidad, Colorado.

Applicant states that the proposed subsidiary would engage in the activities of industrial banking. These activities would be performed from offices of Applicant's subsidiary in Pueblo, Colorado Springs and Trinidad, Colorado, and the geographic areas to be served are Pueblo, Colorado Springs and Trinidad, Colorado. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than August 11, 1982.

Board of Governors of the Federal Reserve System, July 16, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-19731 Filed 7-20-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Systems Hazard Analysis of Self-Tripping Presence Sensing Systems Chronic Stress in Office Work Survey; Open Meetings

The following meetings will be convened by the National Institute for Occupational Safety and Health of the Centers for Disease Control and will be open to the public for observation and participation, limited only by space available:

Systems Hazard Analysis of Self-Tripping Presence Sensing Systems

Date: July 28, 1982.
Time: 8:30 a.m. to 5:00 p.m.
Place: Stewart Center, Room 326, Purdue University, West Lafayette, Indiana 47907.
Purpose: To review and discuss state of the art for mechanical power press systems which use a presence sensing device as the stroke actuator.
Additional information may be obtained from: Mr. John Etherton, Division of Safety Research, National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control (CDC), 944 Chestnut Ridge Road, Morgantown, West Virginia 26505; Telephone: 304/291-4454 or FTS/923-4454.

Technical input from industry, organized labor, academia, other governmental agencies, and the public is invited.

Chronic Stress in Office Work Survey

Date: August 11, 1982.
Time: 10:00 a.m. to 4:00 p.m.
Place: Robert A. Taft Laboratories, 4676 Columbia Parkway, Room B-38, Cincinnati, Ohio 45226.
Purpose: To review the scope of a study to define and isolate sources of job stress and strain in office workers, and to define job factors that may intensify or buffer distress. Data collection will be conducted by contractual agreement at work sites in both private and public sectors.
Additional information may be obtained from: Ms. Barbara Cohen, Division of Surveillance, Hazard Evaluations, and Field Studies, NIOSH, CDC, 4676 Columbia Parkway, Cincinnati, Ohio 45226; Telephone: 513/684-8386.

Dated: July 15, 1982.

William H. Foege,

Director, Centers for Disease Control.

[FR Doc. 82-19979 Filed 7-20-82; 8:45 am]

BILLING CODE 4160-18-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Suspension of Plats of Survey

1. Plats of survey of the lands described below were officially suspended in the Alaska State Office, Anchorage, Alaska, effective at 7:30 a.m. March 11, 1982.

Kateel River Meridian, Alaska

T. 9 S., R. 33 W.
T. 10 S., R. 33 W.
T. 10 S., R. 34 W.
T. 10 S., R. 35 W.
T. 11 S., R. 33 W.
T. 11 S., R. 34 W.
T. 11 S., R. 35 W.
T. 12 S., R. 32 W.
T. 12 S., R. 33 W.

2. The plats have been annotated in the lower left hand corner with the following statement: "Suspended March 11, 1982—File Group 226, Alaska, 9611.4 (922)."

Dated: July 6, 1982.

Francis D. Eickbush,

Chief, Division of Cadastral Survey, Anchorage, Alaska.

[FR Doc. 82-19677 Filed 7-20-82; 8:45 am]

BILLING CODE 4310-84-M

[M 55074]

Montana; Realty Action, Modified Competitive Sale of Public Land in Treasure County, Montana

July 9, 1982.

The following described lands have been examined and identified as suitable for disposal by sale pursuant to Sec. 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713 (1976), at no less than the fair market value:

Principal Meridian

T. 3 N., R. 38 E.,
Sec. 26, SE¼NE¼ and SW¼NW¼.
The area described contains 80 acres.

The land will be offered for sale by sealed bid utilizing modified competitive bidding procedures. Lee Wilson, the owner of the surrounding private land, is the proposed designated bidder and will be offered the right to meet the highest bid. Refusal or failure to meet the highest bid shall constitute a waiver of such bidding provisions.

The subject land is located 25 air miles southeast of Hysham, Montana, and Interstate Highway 94. The land is isloated, with no legal access, is unusable by the general public, and is difficult and uneconomic to manage as part of the public lands system. The subject land has no unique values and has historically been used for livestock grazing. The sale, if consummated, will resolve this unauthorized use.

The proposed sale is consistent with the Bureau's planning system and Treasure County government officials

have been notified of the proposed sale. Since the land has a low resource value, the transfer of the tract into private ownership will benefit the public interest and provide for better land management.

The terms and conditions applicable to the sale are as follows:

1. All minerals will be reserved to the United States together with the right to explore, prospect for, mine, and remove them under applicable law and regulations;

2. A right-of-way for ditches and canals will be reserved to the United States; and

3. The sale of these lands will be subject to all valid existing rights and reservations of record.

Detailed information concerning the sale, including the planning documents, environmental assessment, and the record of public discussions is available for review at the Miles City District Office, West of Miles City, P.O. Box 940, Miles City, Montana 59301.

The bid opening for the modified competitive sale of the above-described public land in Treasure County, Montana, will be held at the Montana State Office, 222 North 32nd Street, Billings, Montana, on Wednesday, October 13, 1982, at 10 a.m.

Bidding Information and Instructions

Bidder Qualifications: The Federal Land Policy and Management Act requires that bidders be U.S. citizens or, in the case of a corporationi, subject to the laws of any State or the U.S. A State, State instrumentality or political subdivision submitting a bid must be authorized to hold property. Any other entity submitting a bid must be legally capable able of conveying and holding lands or interests therein under the laws of the State of Montana.

Bids must be made by the principal or his agent.

Bid Standards: No bid will be accepted for less than the appraised value of $4,800 and bids must include all of the land identified in this sale notice.

Method of Bidding: The land will be sold by sealed bid only. Bids delivered or sent by mail will be considered only if received by the Bureau of Land Management, 222 North 32nd Street, P.O. Box 30157, Billings, Montana 59107, prior to 10 a.m. on October 13, 1982. Each bid must be in a sealed envelope accompanied by a certified check, postal money order, bank draft, or cashier's check made payable to the Bureau of Land Management for not less than one-fifth of the amount of the bid. The sealed bid envelope must be marked in the lower left-hand corner as follows:

Public Land Sale M 55074
October 13, 1982

If two or more envelopes containing valid bids of the same amount are received, the determination of which is to be considered the highest bid shall be by drawing. The drawing, if required, shall be held immediately following the opening of the sealed bids. The highest qualifying sealed bid shall then be publicly declared.

Modified Bidding: For a period of 30 days following the date of the sale, Mr. Lee Wilson, the owner of the private land surrounding the sale parcels, will be offered the right to meet the highest bid. If he meets the highest bid, the land will be sold to him, and the other bid will be returned. His refusal to meet the highest bid shall constitute a waiver of such bidding provisions.

Final Details: Once a high bid is accepted, the successful bidder shall submit the remainder of the full bid price within the time period designated by the authorized officer. Failure to submit the required amount within the allotted time will result in cancellation of the sale and the deposit will be forfeited.

All bids will be either returned, accepted, or rejected within 60 days of the sale date.

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Bureau of Land Managment, P.O. Box 940, Miles City, Montana 59301. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this relaty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become a final determination of the Department of the Interior.

Bill D. Noble,
Acting State Director.

[FR Doc. 82-19876 Filed 7-20-82; 8:45 am]
BILLING CODE 4310-84-M

[W-4471-D]

Wyoming; Proposed Continuation of Withdrawals

July 9, 1982.

The Bureau of Land Management, U.S. Department of the Interior, purposes that the existing Public Water Reserves, withdrawn by the Executive and Secretarial Orders as indicated below, be continued in part as to the following described lands for a period of 20 years, pursuant to Section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751, U.S.C. 1714:

Sixth Principal Meridian, Wyoming

1. Public Water Reserve No. 12, withdrawn by Executive Order of December 5, 1913.

T. 43 N., R. 77 W.,
Sec. 26. W½SW¼, and SE¼SW¼;
Sec. 27. NE¼SE¼.

The area described contains 160 acres in Johnson County, Wyoming.

2. Public Water Reserve No. 18, withdrawn by Executive Order dated March 21, 1914.

T. 46 N., R. 76 W.,
Sec. 14, W½NW¼, and NW¼SW¼.
T. 39 N., R. 87 W.,
Sec. 21, NE¼SW¼.
T. 39 N., R. 88 W.,
Sec. 8, NW¼NW¼.

The area described contains 200 acres in Campbell and Natrona Counties, Wyoming.

3. Public Water Reserve No. 20, withdrawn by Executive Order dated June 24, 1914.

T. 34 N., R. 71 W.,
Sec. 33, SE¼NE¼.

The area described contains 40 acres in Converse County, Wyoming.

4. Public Water Reserve No. 36, withdrawn by Executive Order dated August 2, 1916.

T. 51 N., R. 78 W.,
Sec. 29, SE¼NE¼, and NE¼SE¼.

The area described contains 80 acres in Johnson County, Wyoming.

5. Public Water Reserve No. 58, withdrawn by Executive Order dated February 25, 1919.

T. 29 N., R. 82 W.,
Sec. 18, SW¼SE¼.

The area described contains 40 acres in Natrona County, Wyoming.

6. Public Water Reserve No. 107, withdrawn by Secretarial Order dated October 23, 1929.

T. 35 N., R. 84 W.,
Sec. 19, SW¼NE¼;
Sec. 33, S½NE¼.

The area described contains 120 acres in Natrona County, Wyoming.

7. Public Water Reserve No. 143, withdrawn by Executive Order 5672, dated August 3, 1931.

T. 45 N., R. 85 W.,
Sec. 2, lot 1.

The area described contains 39.76 acres in Johnson County, Wyoming.

8. Public Water Reserve No. 107, withdrawn by Secretarial Order dated February 3, 1932.

T. 36 N., R. 83 W.,
Sec. 5, N½SW¼, and SW¼SW¼;
Sec. 6, SE¼.

The area described contains 280 acres in Natrona County, Wyoming.

9. Public Water Reserve No. 107, withdrawn by Secretarial order of February 15, 1933, as modified February 25, 1933.

T. 46 N., R. 83 W.,
Sec. 5, SW¼NE¼.
T. 29 N., R. 85 W.,
Sec. 35, N½SE¼, and SW¼SE¼.

The area described contains 160 acres in Johnson County, Wyoming.

10. Public Water Reserve No. 107, withdrawn by Secretarial Order dated May 14, 1935, as modified June 28, 1937.

T. 33 N., R. 81 W.,
Sec. 26, NE¼NE¼.

The area described contains 40 acres in Natrona County, Wyoming.

11. Public Water Reserve No. 107, withdrawn by Secretarial Order dated May 25, 1950.

T. 57 N., R. 76 W.,
Sec. 28, SW¼SW¼.

The area described contains 40 acres in Sheridan County, Wyoming.

The purpose of the withdrawal is to protect existing permanent water sources. The lands are currently segregated from operation of the public land laws generally, including non-metalliferous mineral location under the mining laws, but not the mineral leasing laws. Upon the Secretary's approval of the proposed withdrawal, the lands will then be opened to non-metalliferous mineral location.

Notice is hereby given, that a public meeting may be afforded in connection with the proposed withdrawal continuation. All interested persons who desire a meeting to be held on the proposal must submit a written request for a meeting to the undersigned on or before October 19, 1982. Upon the determination by the State Director, Bureau of Land Management, that a public meeting shall be held, a notice stating the time and place of the meeting, shall be published in the **Federal Register** and in at least one newspaper having a general circulation in the vicinity of lands involved, at least 30 days before the scheduled date of the meeting. All persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned authorized officer of the BLM on or before October 19, 1982.

The authorized officer of the BLM will undertake such investigations as are necessary and prepare a report for consideration of the Office of the Secretary of the Interior. The final determination on the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawals will continue until such final determination is made.

All communications in connection with the proposed withdrawal continuation should be addressed to the undersigned officer, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82003.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-19678 Filed 7-20-82; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Land Management

[AA-8103-5]

Alaska Native Claims Selection

Correction

In FR Doc. 82-17890, at page 28819, in the issue of Thursday, July 1, 1982, on page 28820, first column under "**Seward Meridian, Alaska (Surveyed),**" line 22 from the bottom of the page, correct "T. 31 N., R. 535 W.," to read "T. 31 N., R. 55 W."

BILLING CODE 1505-01-M

[F-19155-21]

Alaska Native Claims Selection

Correction

In FR Doc. 82-17891, at page 28821, in the issue of Thursday, July 1, 1982, on page 28822, first column, second full paragraph, designated as "b." correct "(EIN 21 D1, L)" to read "(EIN 21b D1, L)".

BILLING CODE 1505-01-M

Bureau of Reclamation

[INT-FES 82-26]

Tuscon Aqueduct Phase A Central Arizona Project, Arizona; Availability of Final Environmental Statement

Pursuant to Section 102(s)(C) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior has prepared a final environmental statement on the environmental consequences of the construction and operation of Phase A of the Tucson Aqueduct and its associated electrical transmission system. Phase A of the aqueduct will convey Colorado River water from the terminus of the Salt-Gila Aqueduct in south-central Pinal County to the vicinity of Rillito in northern Pima County. Construction of the aqueduct is scheduled to being in 1983, with project completion scheduled for 1987.

This final EIS is in an abbreviated form consistent with the intent of the Council on Environmental Quality Regulations. Certain sections of the draft EIS have not been reproduced in the fianl EIS. A copy of both the draft and final EIS, therefore, must be used together for complete EIS coverage.

Copies of the final environmental statement (and the draft) are available for inspection at the following locations:

Office of Environmental Affairs, Room 7622, Bureau of Reclamation, Department of the Interior, Washington, DC 20240, (202) 343-4991

Library Branch, Division of Management Support, Engineering and Research Center, Room 450, Building 67, Denver Federal Center, Denver, CO 80225, (303) 234-3019

Office of the Regional Director, Bureau of Reclamation, Nevada Highway and Park Street, Boulder City, NV 89005, (702) 293-8411

Arizona Projects Office, Bureau of Reclamation, Suite 2200—Valley Center, 201 North Central Avenue, Phoenix, AZ 85073, (602) 261-3577

Libraries

Phoenix City Library, 12 East McDowell Road Phoeniz, ZA 85004

Tucson City Library, 200 South 6th Avenue, Tucson, AZ 85701.

Single copies of the final statement may be obtained on request to the Commissioner of Reclamation or the Regional Director at the address listed above, at no charge. Please refer to the statement number above.

Dated: July 15, 1982.

Robert N. Broadbent,

Commissioner.

[FR Doc. 82-19641 Filed 7-20-82; 8:45 am]

BILLING CODE 4310-09-M

Fish and Wildlife Service

Master Plan for the Minnesota Valley National Wildlife Refuge, Carver, Dakota, Hennepin, and Scott Counties, Minnesota

Decision

I have evaluated the alternatives for the development and management of the Minnesota Valley National Wildlife Refuge presented in the Draft and Final Environmental Impact Statements and have reviewed the public comments. I find that the choice of the selected alternative is based on a thorough analysis in relation to the relevant environmental, social and economic conditions. I have decided to recommend this alternative.

Background

The Minnesota Valley National Wildlife Refuge was authorized by the U.S. Congress with the passage of Public Law 94–466, the Minnesota Valley National Wildlife Refuge Act (MVNWRA). The Minnesota Valley NWR is divided into six different units totalling 9,315 acres. These units include Long Meadow Lake, Black Dog Lake, Bloomington Ferry, Upgrala, Chaska Lake, and Louisville Swamp. The Act was passed to protect important fish and wildlife habitat while also providing the opportunity for wildlife-oriented recreation and environmental education in a metropolitan area.

The Selected Plan

The selected plan is environmentally preferable to other alternatives considered. Also, this is the plan which, by far, received the greatest support during the EIS review process. The overall objective of the selected plan (Alternative C) is to provide a high degree of wildlife-oriented recreation and wildlife management while continuing to provide basic protection for the natural resources of the refuge. All the alternative plans considered attempt to balance the sometimes-conflicting needs for conservation of the Minnesota River valley's wildlife resources and development of its public use opportunities. With this in mind, the selected plan first addresses the need to conserve and protect the resource but of all the alternatives considered it provides the highest degree of wildlife-oriented recreation and wildlife management.

The major recreational development will consist of a wildlife interpretation and environmental education center and the Minnesota Valley State Trail. The center, mandated in P.L. 94–466, is to function as a focus for environmental activities centering on the Minnesota River valley as a natural resource. It will emphasize wildlife and how people can enjoy the refuge/valley. The State Trail is mandated by state statutes and will be developed by the Minnesota Department of Natural Resources (DNR). The MVNWRA also mandated its inclusion, therefore the corridor for the trail is included in all alternatives. Secondary trails and access points will also be included to provide increased public use opportunity.

Included in the select plan are wildlife management practices which would improve the quality and diversity of habitat present. There are two major components of the wildlife management plans for the Minnesota Valley National Wildlife Refuge. These are 1) the restoration or addition of water control structures to maintain or restore floodplain wetlands and 2) the management and monitoring of non-wetland vegetation to encourage diversity of habitat. Some minor wildlife management practices would also include organic food production areas for wildlife, moist soil units and the conversion of an old gravel pit to a marsh complex. The integration of recreational activities and wildlife enhancement practices would also facilitate the interpretation and demonstration of many ecological principles and wildlife management techniques.

Other Alternatives

Alternative A would have provided for the acquisition of refuge lands with a minimal amount of develoment for public use. Refuge public use would have been concentrated in the Long Meadow Lake unit and the Louisville Swamp unit. The only recreational development would have been the State Trail and the Wildlife Interpretive Center. The majority of refuge land would have been a sanctuary with minimal public use. Also, minimal effort would have been made to manage lands to obtain diversified vegetative communities. Wildlife management would have been passive and would have limited the refuge's capability of meeting wildlife management objectives.

Alternative B, is very similar to the selected plan. However, public use opportunities decrease from the selected plan on the refuge in threee of the units—Long Meadow Lake, Bloomington Ferry, and Upgrala. These include the deletion of some trails, trail accesses, and a wildlife interpretation facility. This alternative does not include the conversion of a small portion of existing agricultural lands to organic food production areas for wildlife, the addition of a moist soil unit, and the conversion of an old gravel pit to a marsh complex.

In the No Action Alternative (Alternative D), there would have been no development by the Fish and Wildlife Service within the lower Minnesota River valley except the minimum required for resource protection. Public uses would have been limited to those not requiring improvements, such as hunting. Wildlife management activities would have been limited to signing, patroling, and protecting the resources. Congress recognized the lower Minnesota River valley as a unique environmental resource having great value for wildlife, environmental education, and wildlife-oriented recreational opportunities. To further protect the valley, Congress recommended joint acquisition of federal, state, and local governments of the lower Minnesota River valley. Without federal development, the responsibility for public use of the resource would have been left to local units of government. Therefore, most of the public use activities on proposed refuge lands as illustrated in Alternatives A–C would not have been developed.

The Minimization of Environmental Harm

All practicable means to avoid or minimize adverse environmental effects have been incorporated into the project. In avoiding adverse effects, part of the environmental analysis was conducted by entering the location of each feature (i.e., trail, water control structure, etc.) into a computer. Then each alternative was evaluated by comparing the subject feature with the relevant resource data. The following data variables were compared with each alternative: Soils, high water table, slope, land use, archaeological sites, hydrological features, flood levels, vegetative communities, wetlands.

The computer analysis isolated potential problem areas. Following computer analysis, problem areas were field checked and modifications made to reduce environmental impacts.

Basis for Decision

Congress, in establishing the refuge declared in its statement of findings that "the Lower Minnesota River Valley, which provides habitat for a large number of migratory waterfowl, fish, and other wildlife species, is a unique environmental resource" Sec. 2. (a.1). It clearly states an intention to preserve, conserve, protect, and interpret the wildlife and natural resources of the river valley. "Conserve" is defined in Sec. 3 of the Act "* * * to assure to the maximum extent practicable the continued population of fish and wildlife."

In addition, the legislation mandates that the refuge be developed and administered in accordance with the National Wildlife Refuge System Administration Act, Sec. 4 (b3). The direction given in the Act provided the foundation upon which the selected plan was developed. The selected plan is consistent with national policies, statutes, and administrative directives. The selected plan received the greatest support of all alternatives by the public. Therefore, the Fish and Wildlife Service will proceed, as funding permits, with acquisition, development, and

management of the refuge in accordance with the selected plan.

Date: July 9, 1982.

Harvey K. Nelson,

Regional Director, U.S. Fish and Wildlife Service, Region 3, Twin Cities, Minnesota.

[FR Doc. 82-19885 Filed 7-20-82; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Gulf Oil Exploration and Production Co.

AGENCY: Minerals Management Service, U.S. Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Gulf Oil Exploration and Production Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 0983, Block 252, Eugene Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: July 13, 1982.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-19873 Filed 7-20-82; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Mobil Oil

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Mobil Oil Exploration and Producing Southeast Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 1477, Block 81, East Cameron Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: July 9, 1982.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-19875 Filed 7-20-82; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Interior.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Tenneco Oil Exploration and Production has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 2026, Block 638, West Cameron Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: July 13, 1982.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-19874 Filed 7-20-82; 8:45 am]

BILLING CODE 4310-31-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Finance Applications; Decision-Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any

interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditons set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated the effective notice to be issued hereafter.

By the Commisson, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC–FC–79868. By decision of June 22, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to RUSSELL D. FLORY, d.b.a. RUSSELL FLORY TRUCKING, of Springdale, AR, of Permit No. MC–154966 issued to EARNEST H. KIENE and LAWRENCE E. KIENE d.b.a. KIENE BROTHERS, of Huntsville, AR authorizing: Food and related products, between points in the U.S. under continuing contract with Swift Dairy & Poultry Company of Huntsville, AR. Applicant's representative: Russell D. Flory, 1807 Stone St., Springdale, AR 72764. TA lease is sought. Transferee is not a carrier.

MC–FC–79881. By decision of June 30, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to JOYCE TRUCKING COMPANY (a corporation) of Chicago Heights, IL, of Certificate No. MC–98025 (Sub-2) issued to LINCOLN TRANSFER COMPANY, INC., of Lincoln, IL, authorizing: General commodities (except classes A and B explosives), between (A) points in Woodford, Piatt, Mason, McLean, Fulton, DeWitt, Cass, Moultrie, Shelby, Christian, Sangamon, Menard, Morgan, Macon, Logan, Tazewell, and Peoria Counties, IL, and (A) points in (A) above, on the one hand, and, on the other, points in IL. Applicant's representative: James C. Hardman, 33 N. La Salle St., Chicago, IL 60602. TA lease is not sought. Transferee is a carrier.

MC–FC–79897. By decision of July 8, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to RUSS BOB REALTY CO. of Tiverton, RI of Certificate No. MC–43647 issued October 29, 1976, to DIXIE WAREHOUSING, INC., of Tiverton, RI authorizing the transportation by irregular routes of *household goods*, (1) between points in Newport County, RI, on the one hand, and, on the other, points in CT, DE, MD, MA, NH, NJ, NY, PA, and RI, and (2) between points in CT, MA, NY, and RI, on one hand, and, on the other, points in CT, ME, MD, MA, NJ, NY, PA, RI, and DC. Applicant's representative is Mark D. Russell, 348 Pennsylvania Bldg., 425 13th St., NW. Washington, D.C. 20004.

MC–FC–79903. By decision of July 8, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to TREADWAY TRUCKING, INC., of Oakman, AL, of Certificate No. MC–156530 issued to Treadway Trucking, Inc., of Jasper, AL, authorizing *forest products, coal and coal products, lumber and wood products, pulp, paper and related products, petroleum products, metal products, and building materials*, between points in AL, TN, GA, MS, FL and LA. Applicant's representative: Gerald D. Calvin, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203–3668. TA lease is sought. Transferee is not a carrier.

MC–FC–79904. By decision of July 9, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to PATTERSON FARMS TRUCKING, INC., of Garnett, KS, of Certificate No. MC–151788 (Sub-3), issued to MEL JARVIS CONSTRUCTION CO., INC., of Salina, KS, which authorizes the transportation of *food and related products*, between points in KS, on the one hand, and, on the other, points in U.S. Mel Jarvis Construction Co., Inc., has agreed to request in writing cancellation of its Certificate No. MC–151788 (Sub-2), which duplicates the authority to be transferred, and our approval is so conditioned. This request must be received prior to the issuance of the Effective Notice in this proceeding. Representative: William B. Barker, P.O. Box 1979, Topeka, KS 66601.

Note.—Transferee is not a carrier. TA has been filed.

MC–FC–79912. By decision of July 13, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to ACTION TRANSFER, INC., of Denver, CO of Certificate No. MC–121195 (Sub-3), issued to WARREN H. CLARK, DOING BUSINESS AS COLORADO MOTOR EXPRESS, of Wheat Ridge, CO, which authorizes the transportation of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and foodstuffs requiring refrigeration), between Denver, CO, and points in Mesa County, CO. Representative: Leslie R. Kehl, 1600 Lincoln Center Bldg., 1660 Lincoln St., Denver, CO 80264; and Edward C. Hastings, 666 Sherman St., Gold Suites, Denver, CO 80203.

Note.—Transferee is not a carrier.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–19655 Filed 7–21–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statues and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simlifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (of, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume. No. OP1–121

Decided: July 12, 1982.

By the Commission Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 1622800, filed July 6, 1982. Applicant: E.L.K. EXPRESS, INC., 33507 Janesville Drive, Route 5, Mukwonago, WI 53149. Representative: Richard C. Alexander, 711 North Plankinton Ave., Milwaukee, WI 53203., (414)–273–7410. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP2–152

Decided: July 13, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 58852 (Sub-5), filed July 1, 1982. Applicant: SALEM MOTOR TRANS., INC., 121 Webster Ave., Chelsea, MA 02150. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108; 617–742–3530. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 162733, filed June 30, 1982. Applicant: RAY ALLEN, d.b.a. RAY ALLEN TRUCKING, P.O. Box 24552, Houston, TX 77119. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI), (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI), (3) as a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI), (4) *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI), and (5) *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP3–111

Decided: July 13, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Willians not participating.)

MC 162844, filed July 6, 1982. Applicant: S & S TRANSPORTATION COMPANY, INC., Route 1, Box 197X, Temple, TX 76501. Representative: James B. Smith (same adddress as applicant) (817) 947–5945. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 162855, filed July 6, 1982. Applicant: COMPLETE TRANSPORT SERVICES, INC., P.O. Box 174, Hazelwood, MO 63042. Representative: Donald D. Orbin, 3725 Estates Dr., Florissant, MO 63033; (314) 731–5615. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI)

Volume No. OP4–256

Decided: July 8, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 162567, filed June 21, 1982, previously noticed in the **Federal Register** issue of July 8, 1982, and republished this issue. Applicant: ADAMS TRUCKING, INC., 1470 East Kentucky Ave., Woodland, CA 95695. Representative: Ronald C. Chauvel, 100 Pine St., Suite 2550, San Francisco, CA 94111; (415) 986–1414. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

Note.—The purpose of this republication is to show this proceeding as being that of a "fitness-only" application.

MC 162757, filed July 1, 1982. Applicant: DONALD YOUNG, d.b.a. D.C. YOUNG TRUCKING, Route 3A, Litchfield, NH 03108. Representative: Hughan R. H. Smith, 26 Kenwood Place, Lawrence, MA 01841; (617) 657–6071. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 162777, filed July 1, 1982. Applicant: S. ALLEN SCHREIBER, 160 Thornberry Dr., Pittsburgh, PA 15235. Representative: S. Allen Schreiber (412) 242–5250. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 162797, filed July 6, 1982. Applicant: JIM STOVER d.b.a. STOVER TRUCKING, 191 East Main, Box 232, Ft. Pierre, SD 57532. Representative: Thomas J. Simmons, P.O. Box 480, Sioux Falls, SD 57101; (605) 339–3629. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil*

conditioners, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP4–260

Decided: July 13, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 162857, filed July 6, 1982. Applicant: SIX-WAY FORWARDING, INC., 60 John Hay Ave., Kearney, NJ 07032. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904; (201) 572–5551. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 162867, filed July 8, 1982. Applicant: CHARLES E. CLIFTON, d.b.a. CLIFF'S TRUCKING COMPANY, 663 E. Iowa St., St. Paul, MN 55106. Representative: Rick A. Rude, Suite 611, 1730 Rhode Island Ave., NW., Washington, DC 20036; (202) 223–5900. Transporting, (1) for or on behalf of the United States Government, *general commodities* (except household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI), and (2) *general commodities* (except classes A and B explosives and household goods), between Oakdale, MN, on the one hand, and, on the other, points in the U.S. (except AK and HI). Condition: Issuance of a certificate in this proceeding is conditioned upon applicant certifying to the Commission, prior to commecing operations, that all rail service has actually terminated at specified points. The certification should be sent to the Deputy Director, Section of Operating Rights, Interstate Commerce Commission, Washington, DC 20423.

Note.—The purpose of part (2) of this application is to substitute motor service for abandoned rail service.

Volume No. OP4–262

Decided: July 15, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Williams not participating.)

MC 162866, filed July 7, 1982. Applicant: BILLY D. BURROWS, Route 1, Box 162, Rusk, TX 75785. Representative: William D. Lynch, P.O. Box 912, Austin, TX 78767; (512) 472–1101. Transporting, (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), and (2) *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–19661 Filed 7–21–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc 82–16780, appearing at page 26929 in the issue for Tuesday, June 22, 1982, make the following correction.

On page 26935, column one, paragraph two, line 10, now reading "products, and (3) machinery, on the one" should be corrected to read "products, and (3) machinery, between points in St. Louis County, MO., and points in IL, on the one".

BILLING CODE 1505–01–M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–186

The following applications were filed in Region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, N.E., Atlanta, GA 30309.

MC 156416 (Sub-3–2TA), filed July 8, 1982. Applicant: B & C TRUCKING, INC., 2425 Durby, Memphis, TN 38114. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Suite 909, Memphis, TN 38103. *Furniture* from Batesville and Lexington, MS, to Peoria and Bloomington, IL; Waco, TX; and Ocilla, GA. Supporting shipper: B. & B. Furniture Manufacturing Co., Inc., P.O. Box 963, Batesville, MS 38606.

MC 145906 (Sub-3–5TA), filed July 12, 1982. Applicant; GENERAL TRUCKING COMPANY, INC., P.O. Box 269, Columbia, TN 38401. Representative: Edward C. Blank, II, P.O. Box 1005, Columbia, TN 38401. *Contract carrier*, irregular routes; *General Commodities (except new or used household goods, class A and class B explosives)* between points in the U.S. under continuing contract(s) with CE Cast Division of Combustion Engineering, Pittsburgh, PA. Supporting shipper: CE Cast Division, Combustion Engineering, 305 Mt. Lebanon Blvd., Pittsburgh, PA 15234.

MC 155722 (Sub-3–2TA), filed July 9, 1982. Applicant: HORRELL ENTERPRISES, INC., d.b.a. HORRELL TRUCKING CO., 210 Hemingway Road, Louisville, KY 40207. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. *Salt* from the facilities of Morton Salt, Division of Morton-Norwich Products, Inc. at Louisville, KY to points in IN. Supporting shipper: Morton Salt, Division of Morton-Norwich Products, Inc., 110 North Wacker Drive, Chicago, IL 60606.

MC 162884 (Sub-3–1TA), filed July 9, 1982. Applicant: QUINCY CORPORATION d.b.a. QUINCY FARMS, Rt. 4, Box 245, Quincy, FL 32351. Representative: Jack L. Schiller, 123–60 83rd Ave., Kew Gardens, NY 11415. *Contract*, irregular: *paper articles* from Albertville, AL to points to FL and GA, under account with Keyes Fibre Company of Waterville, ME. Supporting shipper: Keyes Fibre Company, Upper College Ave., Waterville, ME 04901.

MC 162894 (Sub-3–1TA), filed July 9, 1982. Applicant: U.S. CARPET

CARRIERS, INCORPORATED, P.O. Box 904, Calhoun, GA 30701. Representative: Robert B. Walker, 915 Pennsylvania Bldg., 425—13th Street, N.W., Washington, DC 20004. *Floor coverings, materials and supplies* used in the manufacturing, distributions, sales and installation thereof from GA to points in the U.S. (except AK and HI). Supporting shipper(s): There are 30 statements in support of this application which may be examined at the ICC Regional Office, Atlanta, GA.

MC 162893 (Sub-3–1TA), filed July 9, 1982. Applicant: WHITLEY TRUCKING COMPANY, 3820 Crestridge Drive, Charlotte, NC 28210. Representative: Buster Howard Whitley, 3820 Crestridge Drive, Charlotte, NC 28210. *Contract*—Irregular—*cotton yarn mop heads* from Charlotte, NC to Dallas, TX Los Angeles, CA San Francisco, CA and Chicago, IL, under continuing contract(s) with White-Piedmont Mop, Inc. Supporting shipper: White-Piedmont Mop, Inc., 321 Atando Avenue, Charlotte, NC 28210.

MC 140484 (Sub-3–31TA), filed July 13, 1982. Applicant: LESTER COGGINS TRUCKING, INC., P.O. Box 69, Fort Myers, FL 33902. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St., N.W., Washington, DC 20005. *Paper and paper products,* between Portage County, OH, on the one hand, and, on the other, points in WI, MA, NY and PA. Supporting shipper: Chemtrol Adhesives, Inc., 180 Lena Dr., Aurora, OH 44202.

MC 140800 (Sub-3–2TA), filed July 12, 1982. Applicant: COLONIAL TRANSPORTATION, INC., P.O. Box 448, McMinnville, TN 37110. Representative: Robert L. Baker, Sixth Floor, U.S. Bank Building, Nashville, TN 37219. *General commodities (except Classes A & B explosives, commodities in bulk, in tank vehicles and household goods),* between points in AR, SC, NJ, PA, KY, MN, TN and WI on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shippers: Gould, Inc., 10 Gould Center, Rolling Meadows, IL; Brown Boveri Electric, Inc., 167 Overland Drive, Columbia, SC; Milwaukee Plastics, Inc., 4044 North 31st Street, Milwaukee, WI 53216; and Hoeganaes Corporation, River Road, Riverton, NJ 08077.

MC 162623 (Sub-3–1TA), filed July 12, 1982. Applicant: GRAHAM ENTERPRISES, 1613 Winchester, Suite 230, Memphis, TN 38116. Representative: Thomas A. Stroud, 109 Madison Avenue, Memphis, TN 38103. (1) *Tortillas, corn chips and cheese puffs,* between the facilities of Nacho's Inc., at or near Memphis, TN, on the one hand, and, on the other, Kansas City, KS; Los Angeles, CA; Minneapolis, MN; Windsor Locks, CT; Seattle and Tacoma, WA; Cleveland, OH; points in the respective commercial zones of the points just listed; and points in the states of TX, OK, AR, MO, MS, AL, GA, FL, LA and KY; and (2) *corrugated boxes and displays; materials, supplies and equipment used in the manufacture, distribution and sale of corrugated boxes and displays; cornstarch, and paper rolls,* between Memphis, TN and points in its commercial zone, and McGehee, AR, on the one hand, and, on the other, St. Louis, MO; Jackson, MS; La Grange, GA; Tuscaloosa, AL; and Cleveland, OH; and points in their respective commercial zones. Supporting shippers: Nacho's, Inc., 1886–H, E. Brooks Road, Memphis, TN 38116, and Midland Color Corp., 8489 Summit Cove, Olive Branch, MS 38654.

MC 156944 (Sub-3–3TA), filed July 13, 1982. Applicant: LARRY E. MORGAN, d.b.a. MORGAN TRUCKING, Route 1, Box 419–D, Arden, NC 28704. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204. *Spring Water, bottled and in bulk, and Orange Juice, bottled,* from Avery's Creek, NC including commercial zone, to points in FL, GA, TN, KY, VA, SC and NC and return. *Orange Juice Concentrate, in bulk,* from Lake Wales, FL including commercial zone, to Avery's Creek, NC including commercial zone. Supporting shipper: Arcadia Dairy Farms, Inc., P.O. Box 631, Arden, NC 28704.

MC 162933 (Sub-3–1TA), filed July 13, 1982. Applicant: ELLIS ROBERTS TRUCKING, Rt. 1, Box 61, Remlap, AL 35133. Representative: Ellis or Carole Roberts (address same as above). *Metal building studs, metal expansion joints and anchor slot for concrete, metal stakes for screed, and coiled and flat steel, pressed woodboard, plastic laminate, glue and countertops* between AL, FL, GA, NC, SC, TN, KY, MS, LA, TX, AR, MO, and IN. Supporting shippers: Chapman Industries, Inc., 3033 35th Ave., No., Birmingham, AL 35207, and Plastic Clad Corp., 120 Cleage Dr., Birmingham, AL 35217.

MC 161634 (Sub-3–2TA), filed July 13, 1982. Applicant: SUNDANCE EXPRESS CORPORATION, Suite 460, 400 Wendell Court, P.O. Box 43386, Atlanta, GA 30336. Representative: Clayton R. Byrd, 2870 Briarglen Drive, Doraville, GA 30340. *Contact:* Irregular: *Textile mill products,* from Putnam and Rockville, CT, Chickamauga, Swainsboro, and Trion, GA, Fall River, MA, East Rutherford, NJ, Concord, NC, Kenyon and Warwick, RI, Blacksburg, Graniteville, Greenville, Lyman, and Orangeburg, SC, and Elizabethton, TN to Cleburne and Sweetwater, TX, under continuing contract with Walls Industries, Inc. of Cleburne, TX. Supporting shipper: Walls Industries, Inc., 1905 North Main Street, Cleburne, TX 76031.

The following applications were filed in Region 4: Send protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 15735 (Sub-4–22TA), Filed July 12, 1982. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60680. *Contract* irregular: *Such commodities as are dealt in or used by manufacturers of computers or data processing equipment* between points in the U.S. (except AK and HI) under a continuing contract with the Storage Technology Corporation. Supporting shipper: Storage Technology Corporation, P.O. Box 306, Broomfield, CO.

MC 48374 (Sub-4–2TA), Filed July 12, 1982. Applicant: FERNSTROM STORAGE AND VAN COMPANY, Rosemont, IL 60666. Representative: Andrew R. Clark, 1600 TCF Tower, Minneapolis, MN 55402. *Contract* Irregular, *Furniture* from Lenoir, NC to points in the U.S. (except AK and HI) under a continuing contract with Stacy-Taylor, Inc., Rt. 2, Box 420, Lenoir, NC.

MC 144201 (Sub-4–5TA), Filed July 12, 1982. Applicant: V.M.P. ENTERPRISES, INC., 10542 West Donges Ct., Milwaukee, WI 53224. Representative: Daniel R. Dineen, 710 North Plankinton Ave., Milwaukee, WI 53203. *Buses,* in driveaway service, between North Vernon, IN, on the one hand, and, on the other, Chicago, IL, St. Paul, MN, and Topeka, KS. An underlying ETA seeks 120 days authority. Supporting shipper: Lawson National Distributing Co., 8401 Westheimer, Suite 110, Houston, TX 77063.

MC 144945 (Sub-4–1TA), Filed July 12, 1982. Applicant: A & L TRANSPORT, INC., 11800 S. Halsted Street, Chicago, IL 60628. Representative: James R. Madler, 120 W. Madison Street, Chicago, IL 60602. *Metal, machine and automobile parts* between points in OH, on the one hand, and, on the other, points in IL, on and north of IL Hwy. 64. Supporting shipper: Terrel Tool Co., Harvey, IL 60424.

MC 151813 (Sub-4–2TA), Filed July 12, 1982. Applicant: CONERTY-HENIFF TRANSPORT, INC., 4220 West 122nd Street, Alsip, IL 60658. Representative: Abraham A. Diamond, 29 South La Salle Street, Chicago, IL 60603. *Contract*

Irregular: (a) *Petroleum, petroleum products, chemicals and chemicals products;* and (b) *Refractories and refractory products; also, Equipment, Materials and Supplies, used or useful in the manufacture, sale, distribution and installation of refractories and refractory products;* between points in IL and IN on the one hand, and, on the other, points in the United States (except AK and HI) under continuing contracts with Calumet Refining, Division of Calumet Industries, Inc. and V.J. Mattson Co. Supporting shippers: Calumet Refining, Division of Calumet Industries, Inc., 14000 Mackinaw, Chicago, IL 60633 and V.J. Mattson Co., 6450 South Austin Avenue, Chicago, IL [illegible].

MC 161070 (Sub-4–2TA), filed July 12, 1982. Applicant: MIKE BOGENREIF AND KEVIN BOGENREIF (a partnership, d.b.a. BOGENREIF & SON, Big Stone City, SD 57216. Representative: James B. Hovland, 525 Lumber Exchange Bldg., Minneapolis, MN 55402. *Fertilizer,* between points in the Minneapolis, MN commercial zone on the one hand, and, on the other, points in Roberts and Grant Counties, SD, for 270 days. Supporting shippers: Equity Cooperative Association, P.O.B. 5, Wilmont, SD 57279; Cargill, Inc., P.O.B. 590, Milbank, SD 57252.

MC 162613 (Sub-4–1TA), filed July 12, 1982. Applicant: CERTIFIED SAND & GRAVEL, 230 South Michigan Avenue, Coldwater, MI 49036. Representative: John J. Morad, 30600 Telegraph Road, Suite 3250, Birmingham, MI 48010. *Contract* irregular: *Transporting sand* from points in Coldwater, MI to points in Marion, IN and *limestone* from points in Marion, IN to points in Litchfield, MI and return empty to points in Coldwater, MI under contract with Michigan South Central Power Plant of Litchfield, MI.

MC 162913 (Sub-4–1TA), filed July 12, 1982. Applicant: MARCUS TRUCKING, INC., 6909 W. 64th Place, Chicago, IL 60638. Representative: John T. O'Connell, 521 S. LaGrange Rd., LaGrange, IL 60525. *General commodities* between points in the Chicago Commercial Zone on the one hand, and, on the other, points in the Midwest, namely OH, IN, MI, WS, IA and MO for prior or subsequent movement by rail. Supporting shipper: Transmart Inc., 3700 W. 47th St., Chicago, IL 60632.

MC 162914 (Sub-4–1TA), filed July 12, 1982. Applicant: LANCER TRANSPORTATION SERVICES, INC., 552 South Washington, Naperville, IL 60540. Representative: Daniel O. Hands, 42 North Dee Road, Park Ridge, IL 60068. *Railroad car parts* from Kenosha, WI and points in its Commercial Zone to points in Chicago, IL and points in its Commercial Zone. Supporting shipper: Miner Enterprises, 1200 East State Street, Geneva, IL 60134.

The following applications were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, P.O. Box 17150, Fort Worth, TX 76102.

MC 120419 (Sub-5–4TA), filed July 9, 1982. Applicant: SERVICE TRANSFER, INC., P.O. Box 460, Henryetta, OK 74437. Representative: Wilburn L. Williamson, Suite 107, 50 Classen Center 5101 North Classen Boulevard, Oklahoma City, Ok 73118. *Malt beverages* from San Antonio, TX; Memphis, TN; and Belleville, IL to points in OK. supporting shipper(s): Best Sales Company, Inc., P.O. Box 568, Lawton, OK 73502.

MC 154621 (Sub-5–2TA), filed July 9, 1982. Applicant: MONROE WAREHOUSE COMPANY, INC., P.O. Box 2525, Monroe, LA 71201. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. Contract; Irregular. *Chemicals and related products (except in bulk)* between the facilities of Angus Chemical Company at or near Sterlington, LA on the one hand, and, on the other, points in the U.S. (except AL and HI), under continuing contract(s) with Angus Chemical Company of Northbrook, IL.

MC 156336 (Sub-5–2TA), filed July 9, 1982. Applicant: Osceola Waste Materials, Inc., P.O. Box 752, Osceola, AR 72370. Representative: Thomas B. Staley 1550 Tower Building, Little Rock, AR 72201. *Beer and Malt Beverages* between St. Louis, MO and Phillips County, AR. Supporting shipper: Coco Distributing Company, P.O. Box 2491, West Helena, AR 72342.

MC 162692 (Sub-5–1TA), filed July 9, 1982. Applicant: SUPERPORT TRANSPORT, INC., 406 Carol Street, Lockport, LA 70374. Representative: Janet Boles Chambers, 8211 Goodwood Blvd., Suite C–1, Baton Rouge, LA 70806. *Contractor's machinery and equipment; Machinery, equipment, materials, and supplies, used in or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products, and machinery, equipment, materials and supplies used in, or in connection with, the construction, operations, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up therof,* between all points in the states of LA and TX on the one hand and on the other, points in AL, AR, CA, FL, GA, KS, MD, MS, NC, OK, SC, VA, WY, and Wash. D.C. Supporting shipper(s): 16.

MC 162726 (Sub-5–1TA), filed July 9, 1982. Applicant: ROSS HOWE, d.b.a. ROSS HOWE TRUCKING, Route 2, Box 57, Canadian, TX 79014. Representative: William D. Lynch, P.O. Box 912, Austin, TX 78767. *Drilling Mud* from points in WY to points in TX north of I–40. Supporting shippers: Love Company, P.O. Box 448, Canadian, TX 79014 and Winkler Mud Co., Inc., P.O. Box 163, Perryton, TX 79070.

MC 162860 (Sub-5–1TA), filed July 8, 1982. Applicant: MOBILE EXPRESS OF TEXAS, INC., P.O. Box 8167, Longview, TX 75607. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. *Mobile Homes and/or Parts Thereof* between Longview, TX on the one hand, and, on the other, points in AL, MS, LA, TN, KY, AR, MO, OK, KS, NM. Supporting shipper: Hairgrove Industries, Inc. Sundowner Travel Homes Division, P.O. Box 6195, Longview, TX 75604.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-19860 Filed 7-21-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Temporary Authority Application

Correction

In FR Doc 82–15931, appearing at page 25628 in the issue for Monday, June 14, 1982, make the following correction.

On page 25629, first column, first paragraph, line five, "MN" should be corrected to read "NM".

BILLING CODE 1505-01-M

[Sixth Revised ICC Order No. 80; Under Service Order No. 1344]

St. Louis Southwestern Railway Co. et al.; Rerouting Traffic

July 19, 1982.

To: St. Louis Southwestern Railway Company; Cadillac & Lake City Railway Company; Chicago and North Western Transportation Company; Iowa Railroad Company; North Central Texas Railway; Enid Central Railway; South Central Arkansas Railway, Okarche Central Railway, and North Central Oklahoma Railway Inc.

In the opinion of J. Warren McFarland, Agent, the Chicago, Rock Island and Pacific Railroad Company is unable to transport promptly traffic

offered for movement via its lines, because of an embargo of its lines.

Rerouting authority previously granted in Reroute Order No. 63, was continued in Reroute Order No. 80, and should be extended for those carriers which have indicated that tariff modifications in progress could not be completed by the expiration of that order. This matter is considered to be outside the scope of a single railroad as provided by Ex Parte No. 376, and therefore requires this action by the Commission.

It Is Ordered

(a) *Rerouting traffic.* The Chicago, Rock Island and Pacific Railroad Company (RI), being unable to transport promptly traffic offered for movement via its lines because of an embargo of its lines, that lines interim operators named below are authorized to reroute such traffic via any available route. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to the order as authority for the rerouting.

St. Louis Southwestern Railway Company
Cadillac & Lake City Railway Company
Chicago and North Western Transportation Company
Iowa Railroad Company
North Central Texas Railway Inc.
Enid Central Railway Inc.
South Central Arkansas Railway Inc.
Okarche Central Railway Inc.
North Central Oklahoma Railway Inc.

(b) Concurrence of receiving roads to be obtained. The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be rerouted, before rerouting.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted and shall furnish to such shipper the new routing provided for under this order, except when the disability requiring the rerouting occurs after the movement has begun.

(d) Inasmuch as the rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic rerouted by said Agent shall be rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 12:01 a.m., July 10, 1982.

(g) *Expiration date.* This order shall expire at 11:59 p.m., August 31, 1982, unless otherwise modified, amended or vacated.

This order shall be served upon the Association of American Railroads, Transportation Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., July 9, 1982.
Interstate Commerce Commission.

J. Warren McFarland,

Agent.

[FR Doc. 82-19654 Filed 7-21-82; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-61)]

Seaboard Coast Line Railroad Co., Abandonment—Darlington County, SC; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that the Commission, Review Board Number 3, has issued a certificate authorizing the Seaboard Coast Line Railroad Company to abandon a portion of a line of railroad known as the Robinson Spur of its Hamlet Subdivision of its Savannah Division, extending from railroad milepost SJ-307.46 near Robinson, SC, to milepost SJ-312.54 at Hartsville SC, a distance of 5.08 miles, in Darlington County, SC, subject to certain conditions. Since no investigation was instituted, the requirement of Section 1121.38(b) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. The offer, as filed, shall contain information required pursuant to Section 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-19656 Filed 7-20-82; 8:45 am]
BILLING CODE 7035-01-M

Washington; Long-and-Short-Haul Application for Relief (Formerly Fourth Section Application)

July 17, 1982.

This application for long-and-short-haul relief has been filed with the ICC.

Protests are due at the ICC within 15 days from the date of publication of the notice

No. 43970, North Pacific Coast Freight Bureau, for and on behalf of Union Pacific Railroad Company (CNE-NC 4171), reduced rates on barley and wheat, from Clarke and Hinkle, OR, to Columbia River Ports in Oregon and Washington, in Supplement 84 to North Pacific Coast Freight Bureau, Agent, Tariff ICC NPCF 4010-A. Grounds for relief: Market Competition.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-19657 Filed 7-20-82; 8:45 am]
BILLING CODE 7035-01-M

Water Carrier Temporary Authority Applications

The following were filed with the Regional Office. Petition for Reconsideration is to be filed, within 20 days of this publication with the Regional Office noted in each caption summary. Replies to petition may be filed within 20 days of the date petition is filed.

The following applications were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, P.O. Box 17150, Fort Worth, TX 76102.

WC–1352–TA, filed July 8, 1982. Applicant: GERALD B. BRISSMAN d.b.a. MARINE TOWING & SALVAGE CO., 9591 Sutter Park Lane, Houston, TX 77086. Representative: Gerald B. Brissman, (same as address above). Contract: *Partially Assembled Jack up Rig Legs and Derrick Parts (Oilfield—Offshore Equipment)* Inter-Coastal Waterways between Houston, TX and MS—Gonzales Shipyard on the Pearl River. Supporting shipper: Dolphin-Titan International, Inc., 333 Clay St., Houston, TX 77002.

WC–1353–TA, filed July 8, 1982. Applicant: SAND DOLLAR MARINE, INC., 4440 Chastant Street, Suite B, Metairie, LA 70002. Representative: C. Theodore Alpaugh, III, 1300 Hibernia Bank Bldg., New Orleans, LA 70112. Transporting *general commodities* by water between all points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–19659 Filed 7–20–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP1–120

Decided: July 12, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 124411 (Sub-26), filed July 6, 1982. Applicant: SULLY TRANSPORT, INC., P.O. Box 185, Sully, IA 50251. Representative: James M. Hodge, 3730 Ingersoll Avenue, Des Moines, IA 50312, (515) 274–4985. Transporting *denatured grain alcohol*, between points in CO, IA, IL, IN, KS, KY, MN, MO, ND, NE, OH, SD, and TN.

MC 134781 (Sub-7), filed July 6, 1982. Applicant: FAST FREIGHT TRANSFER, INC., P.O. Box 2163, Hialeah, FL 33012. Representative: Clayton R. Byrd, 2870 Briarglen Drive, Doraville, GA 30340, (404) 491–1696. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Great Marketing Company, of Norcross, GA.

MC 145830 (Sub-2), filed July 1, 1982. Applicant: ATCO, INCORPORATED, P.O. Box 7111, Pine Bluff, AR 71611. Representative: Thomas B. Staley, 1550 Tower Building, Little Rock, AR 72201, (501) 375–9151. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in AR, on the one hand, and, on the other, points in AL, AR, IL, IN, KS, IA, LA, MS, MO, NE, OK, TN, TX and KY.

MC 153021 (Sub-4), filed July 2, 1982. Applicant: DAVID DALE TRANSPORT, INC., 2 Franklin Street, West Medway, MA 02053. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108, (617) 742–3530. Transporting (1) *building materials*, (2) *chemicals and related products, and (3) machinery*, between points in the U.S. (except AK and HI).

MC 155051 (Sub-1), filed July 1, 1982. Applicant: COATS & CLARK SALES CORPORATION, 2915 Northeast Parkway, Doraville, GA 30340. Representative: J. L. Fant, P.O. Box 577, Jonesboro, GA 30237, (404) 477–1525. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission and commodities in bulk), between points in Chester County, PA, on the one hand, and, on the other, points in Clayton, Cobb, DeKalb, Fulton and Gwinnett Counties, GA, under continuing contract(s) with SCM Allied Coated Products Group, Allied Paper Division, SCM Corporation, of Phoenixville, PA.

MC 158471 (Sub-1), filed July 6, 1982. Applicant: EDDIE EDWARDS TRUCKING, INC., 1337 Broadway, Lorain, OH 44052. Representative: A. Charles Tell, 100 E. Broad Street, Columbus, OH 43215. Transporting *general commodities* (except household goods and classes A and B explosives), between points in IL, IN, KY, MD, MA, MI, MO, NY, NJ, NC, OH, PA, SC, TN, VA, WV, and WI.

MC 159220 (Sub-5), Filed July 2, 1982. Applicant: REFRIGERATED INTERNATIONAL CARGO HAULERS, INC., 1170 Niagara Street, Buffalo, NY 14240. Representative: Charles H. White, Jr., 1019 19th Street, N.W., Suite 800, Washington, DC 20036; (202) 785–3420. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Rosina Food Products, Inc., of Buffalo, NY.

MC 162181 (Sub-1), Filed July 2, 1982. Applicant: MOMPER EXPRESS, INC.,

2431 West Main St., Fort Wayne, IN 46808. Representative: Robert B. Hebert, 777 Chamber of Commerce Building, Indianapolis, IN 46204; (317) 639–4511. Transporting *building materials,* between points in Morris County, NJ, and Huntington, Wells and Allen Counties, IN, on the one hand, and, on the other, those points in and east of ND, SD, NE, CO, OK and TX.

MC 162380 (Sub-1), Filed July 6, 1982. Applicant: CMM TRANSPORTATION, INC., Abbott Park, North Chicago, IL 60064. Representative: Edward G. Bazelon, 29 South LaSalle Street, Chicago, IL 60603; (312) 236–9375. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Anderson Clayton Foods of Dallas, TX, a division of Anderson, Clayton & Company, of Houston, TX.

Volume No. OP2–154

Decided: July 15, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 36222 (Sub-16), Filed July 2, 1982. Applicant: CREWE TRANSFER, INC., Route 1, Box 209, Crewe, VA 23930. Representative: Paul D. Collins, 7761 Lakeforest Dr., Richmond, VA 23235; 804–745–0446. Transporting *scrap metal, iron, steel, lead, silver, copper, cadmium, and metal alloy,* between points in the U.S. (except AK and HI), under continuing contract(s) with Frank H. Nott, Inc., of Richmond, VA.

MC 148263 (Sub-3), Filed July 7, 1982. Applicant: FLEETWOOD TRUCKING COMPANY, Route #1, Spalding, MI 49826. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503; 616–459–6121. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IL, MI, MN, and WI, under continuing contract(s) with Les-Cove, Inc., of Iron Mountain, MI.

MC 161032 (Sub-1), filed July 2, 1982. Applicant: DELTA VAN & STORAGE, INC., 4604 Eisenhower Avenue, Alexandria, VA 22034. Representative: Robert J. Gallagher, 1000 Connecticut Avenue, NW., Suite 1200, Washington, DC 20036; (202) 785–0024. Transporting *household goods,* between points in MD, VA, and DC.

Volume No. OP3–110

Decided: July 13, 1982

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Williams not participating.)

MC 9325 (Sub-84), filed July 6, 1982. Applicant: K–LINES, INC., P.O. Box 1549, Lake Oswego, OR 97034. Representative: Michael D. Crew, 205 Riviera Plaza, Portland, OR 97201; (503) 221–1529. Transporting *commodities in bulk,* between points in OR, WA, CA, ID, MT, CO, NV, NM, AZ, WY and UT.

MC 110325 (Sub-187), filed July 6, 1982. Applicant: TRANSCON LINES, P.O. Box 92220, Los Angeles, CA 90009. Representative: Jerome Biniasz (same address as applicant) (213) 640–1800, ext. 693. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Siemens-Allis Incorporated, and its subsidiaries of Atlanta, GA.

MC 115724 (Sub-16), filed July 9, 1982. Applicant: PHILLIPS TRUCK LINES, INC., 4500 N. Sewell, Suite #5, Oklahoma City, OK 73118. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154; (405) 424–3301. Transporting (1) *fabricated metal products,* (2) *transportation equipment,* (3) *machinery* and (4) *electrical machinery, equipment and supplies,* between points in the U.S. (except AK and HI).

MC 116254 (Sub-330), filed July 8, 1982. Applicant: CHEM–HAULERS, INC., 118 East Mobile Plaza, P.O. Box 339, Florence, AL 35631. Representative: Hampton M. Mills (same address as applicant) (205) 766–9111. Transporting *such commodities* as are dealt in or used by grocery stores, between points in FL and GA, under continuing contract(s) with Jewel T Discount Grocery, of Barrington, IL.

MC 126545 (Sub-15), filed July 7, 1982. Applicant: GLENERY, INC., 173 Hickory St., Kearny, NJ 07032. Representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, D.C. 20423; (202) 785–0024. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Coastal Transportation Company of Philadelphia, PA.

MC 143515 (Sub-8), filed July 7, 1982. Applicant: P & W CHARTER SERVICE, INC., 1810 S. 11th St., Union Gap, WA 98903. Representative: Randy Ammerman, P.O. Box 2455, Yakima, WA 98907; (509) 575–3655. Transporting *passengers and their baggage,* in the same vehicle, in charter operations, between points in WA and OR, on the one hand, and, on the other, points in the U.S. (except HI), under continuing contract(s) with Senior Citizens Roaming Around the Map, Inc., of Pendleton, OR.

MC 148705 (Sub-7), filed July 6, 1982. Applicant: TWIN CONTINENTAL TRANSPORT CORPORATION, 5738 Olson Highway, Minneapolis, MN 55422. Representative: Stephen F. Grinnell, 1600 TCF Tower, 121 S. 8th St., Minneapolis, MN 55402; (612) 333–1341. Transporting *food and related products,* between points in the U.S., under continuing contract(s) with Weinstein International Corp., and Iowa Park Industries, both of Minneapolis, MN.

MC 149115 (Sub-2), filed July 6, 1982. Applicant: RONALD D. JERNIGAN d.b.a. RONNIE JERNIGAN TRUCKING, Route 5, Box 35, Minden, LA 71055. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR 72902; (501) 782–1001. Transporting *sand* and *gravel,* between points in Bossier, Caddo, Webster, Bienville and Red River Parishes, LA and Panola, Rusk, Harrison and Marion Counties, TX.

MC 153984, filed July 6, 1982. Applicant: CHESS HESTER TRUCKING COMPANY, P.O. Box 567, Russellville, AL 35653. Representative: Carl E. Johnson, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203; (205) 251–2881. Transporting *fertilizer,* between points in AL, on the one hand, and, on the other, points in TN and MS.

MC 157204 (Sub-4), filed July 8, 1982. Applicant: SUR–WAY TRANSPORT, INC., 1506 Radium Springs Rd., Albany, GA 31705. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202; (904) 632–2300. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Calabrain International Corporation, of New York, NY.

MC 159214 (Sub-1), filed July 6, 1982. Applicant: D & L TRANSFER CO., P.O. Box 12311, 1346 Jasper, North Kansas City, MO 64116. Representative: J. C. Phillips (same address as applicant) (816) 842–7365. Transporting *electrical materials, industrial adhesives, food grade starches, paint and industrial chemicals,* between points in Clay County, MO, on the one hand, and, on the other, points in CO and IL.

MC 160505, filed July 7, 1982. Applicant: MIKE J. LAWRENCE, P.O. Box 139, Doyle, CA 96109. Representative: Robert G. Harrison, 4299

James Dr., Carson City, NV 89701; (702) 882–5849. Transporting (1) *refractory materials, equipment, supplies, and products,* (2) *building materials,* (3) *construction materials,* (4) *lumber and wood products,* (5) *pipe,* and (6) *metal products,* (a) between points in OR, WA, CA, NV, WY, MT, and ID, and (b) between points in OR, WA, CA, NV, WY, MT, and ID, on the one hand, and, on the other, ports of entry on the International Boundary line between the U.S. and Canada, in WA, MT, and ID.

MC 162474, filed June 14, 1982. Applicant: GUIDELINE TRUCKING, INC., 4307 Midway Ave., Grants Pass, OR 97526. Representative: Gerald R. Brown (same address as applicant) (503) 476–9730. Transporting *building material,* between points in WA, OR, ID, UT, AZ, CA, NV, TX and CO.

MC 162845, filed July 6, 1982. Applicant: JIM SPARLIN, d.b.a. JIM SPARLIN'S R. V. TRANSPORTING, 1505 Fernwood Dr., Modesto, CA 95350. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakerfield, CA 93306; (805) 872–1106. Transporting *transportation equipment,* between points in San Bernardino and Riverside Counties, CA, on the one hand, and, on the other, points in AZ, CO, ID, MT, NV, NM, OR, UT, WA, WY, and TX.

MC 162854, filed July 7, 1982 Applicant: JUBILEE ESCORTED TOURS, 2255 St. Route 56 N.W., London, OH 43140. Representative: Judith M. Olsen (Same address as applicant) (614) 852–0029. As a *broker,* at London, OH, in arranging for the transportation of *passengers and their baggage,* in the same vehicle, between points in the U.S. (except AK and HI).

Volume No. OP4–259

Decided: July 13, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 152357 (Sub-3), filed July 6, 1982 Applicant: R. G. STINE TRUCKING, INC., 15946 Mills Dr., Visalia, CA 93277. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702; (714) 667–8107. Transporting (1) *food and related products,* between points in CA, on the one hand, and, on the other points in OR, WA, CO, UT, AZ, NV, NM, TX, ID, MT, IL, KS, MN, TN and GA, and (2) *petroleum and related products, and chemicals and related products,* between points in CA, on the one hand, and, on the other points in OR, WA, CO, UT and AZ.

MC 154907 (Sub-5), filed July 7, 1982 Applicant: THE BUCK COMPANY, 631 W Cherry St., Wayland, MI 49348. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503; (616) 459–6121. Transporting *general commodities* (Except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Seaboard Allied Milling Department, Cargill, of Shawnee Mission, KS, and Midland Glass Company, Inc., of Cliffwood, NJ.

MC 162827, filed July 6, 1982 Applicant: LAKESIDE TRANSPORT, INC., 1515 East Ave., P.O. Box 177, Erie, PA 16512. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219; (412) 471–1800. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. under continuing contract(s) with Jamestown Scrap Corp., of Jamestown, NY, Marleys Industries, Inc., of Syracuse, NY, Corry Iron & Metal Corp., of Corry, PA, and Penn Iron & Metal Company, Inc., of Erie, PA.

MC 162847, filed July 7, 1982 Applicant: OWEN G. ANDERSON AND FREDERICK W. Heimann d.b.a. L & K SERVICES, Route 3, Box 357J, Waco, TX 76708. Representative: Charles E. Munson, P.O. Box 1945, Austin, TX 78767; (512) 478–9808. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in McLennan and Bell Counties, TX, on the one hand, and, on the other, points in TX.

Volume No. OP4–261

Decided: July 15, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Williams not participating.)

MC 135046 (Sub-26), filed July 9, 1982 Applicant: ARLINGTON J. WILLIAMS, INC., 1398 S. Dupont Hwy., Smyrna, DE 19977. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 191113; (215) 365–5141. Transporting *rubber and plastic products,* between Chicago, IL, points in Kendall County, IL, points in Le Sueur County, MN, and points in Payne County, OK, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, OK and TX.

MC 144626 (Sub-19), filed July 9, 1982. Applicant: SOUTHWESTERN CARRIERS, INC., P.O. Box 79495, Sagninaw, TX 76179. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Ft. Worth, TX 76112; (817) 457–0804. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 161426, filed July 6, 1982. Applicant: RYAN TRANSFER CORPORATION, P.O. Box 820A, Green Bay, WI 54305. Representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, WI 54956; (414) 722–2848. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IL, IN, IA, MI, MN, and WI.

MC 162796, filed July 6, 1982. Applicant: RON MARTINKO TRUCKING, INC., 25440 Sherwood, Warren, MI 48091. Representative: William B. Elmer, P.O. Box 801, Traverse City, MI 49684; (616) 941–5313. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Walker Wire and Steel Co., of Ferndale, MI.

Agatha L. Mergenovich

Secretary.

[FR Doc. 82–19862 Filed 7–20–82; 8:45 am]

BILLING CODE 7035–01–M

INTERNATIONAL TRADE COMMISSION

Agency Forms submitted for OMB Review

AGENCY: International Trade Commission.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Commission has submitted two proposals for the collection of information to the Office of Management and Budget for review.

PURPOSE OF INFORMATION COLLECTIONS: The proposed information collections are for use by the Commission in connection with the following investigations:

(1) Investigation No. 332–143, The Economic Impact of Foreign Export Credit Subsidies on the Commuter Aircraft Industry;

(2) Investigation No. 332–144, The Economic Impact of Foreign Export Credit Subsidies on Certain U.S. Industries (Civil Aircraft, Heavy Electrical Equipment, and Self-propelled rail vehicles).

SUMMARY OF PROPOSALS: The following summarizes the information collection proposal submitted to OMB for investigation Nos. 332–143 and 332–144:

(1) Number of forms submitted: nine.

(2) Title of forms: Questionnaire for Producers of Civil Aircraft; Questionnaire for Importers of Civil

Aircraft; Questionnaire for Purchasers of Civil Aircraft; Questionnaire for Producers of Heavy Electrical Equipment; Questionnaire for Importers of Heavy Electrical Equipment; Questionnaire for Purchasers of Heavy Electrical Equipment; Questionnaire for Producers of Self-propelled Railcars; Questionnaire for Importers of Self-propelled Railcars; Questionnaire for Purchasers of Self-propelled Railcars.

(3) Type of request: new.

(4) Frequency of use: nonrecurring.

(5) Description of respondents: businesses (U.S. producers, importers, and purchasers of civil aircraft, heavy electrical equipment, and self-propelled railcars).

(6) Estimated number of respondents: 242.

(7) Estimated total numbers of hours to complete the forms: 3,630.

(8) Information obtained from the forms that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.

(9) Section 350(h) of Pub. L. 96–511 does not apply.

ADDITIONAL INFORMATION OR COMMENTS:

Copies of the proposed forms and supporting documents may be obtained from Charles Ervin, the USITC agency clearance officer (tel. no. 202–523–4463). Comments and questions about the proposals should be directed to David Reed, the designated reviewer for OMB (tel. no. 202–395–7231).

If you anticipate commenting on a form but find that time to prepare comments will prevent you from submitting them promptly you should advise David Reed of your intent as soon as possible. Copies of any comments should be provided to Charles Ervin (United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436).

Issued: July 14, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-19736 Filed 7-20-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. TA-406-9]

Canned Mushrooms From the People's Republic of China

AGENCY: International Trade Commission.

ACTION: Institution of an investigation under section 406(a) of the Trade Act of 1974 (19 U.S.C. 2436(a)) and scheduling of a hearing to be held in connection therewith.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission, following receipt on June 30, 1982, of a petition filed by the American Mushroom Institute, instituted investigation No. TA–406–9 under section 406(a) of the Trade Act of 1974 to determine, with respect to imports of mushrooms, prepared or preserved, other than frozen, provided for in item 144.20 of the Tariff Schedules of the United States, which is the product of the People's Republic of China, whether market disruption exists with respect to an article produced by a domestic industry. Section 406(e)(2) of the Trade Act defines such market disruption to exist whenever "imports of an article, like or directly competitive with an article produced by such domestic industry, are increasing rapidly, either absolutely or relatively, so as to be a significant cause of material injury, or threat thereof, to such domestic industry."

EFFECTIVE DATE: July 9, 1982.

FOR FURTHER INFORMATION CONTACT: Vera A. Libeau, Office of Investigations, U.S. International Trade Commission; telephone 202–523–0368.

SUPPLEMENTARY INFORMATION:

Public hearing.—The Commission will hold a public hearing in connection with this investigation beginning at 10:00 a.m., on Tuesday, August 24, 1982, in the Hearing Room, U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. All parties will be given an opportunity to be present, to produce evidence, and to be heard at the hearing. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on Wednesday, August 11, 1982.

Prehearing procedures.—To facilitate the hearing process, it is requested that persons wishing to appear at the hearing submit prehearing briefs enumerating and discussing the issues which they wish to raise at the hearing. Fourteen copies of such prehearing briefs should be submitted to the Secretary to the Commission no later than the close of business on Wednesday, August 18, 1982. All parties submitting prehearing briefs and other documents shall serve copies on other parties of record in accordance with the requirements of § 201.16 of the rules (19 CFR 201.16, as published in 47 FR 6190 (Feb. 10, 1982)). Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately and each sheet must be clearly marked at the top "Confidential Business Data" and submitted in accordance with the procedures set forth in §§ 201.6 and 201.8(d) of the Commission's rules (19 CFR 201.6, 201.8(d), as published in 47 FR 6188 (Feb. 10, 1982)).

Copies of prehearing briefs and other written submissions will be made available for public inspection in the Office of the Secretary. Oral presentations should, to the extent possible, be limited to issues raised in the prehearing briefs. All persons desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m., on August 13, 1982, in Room 117 of the U.S. International Trade Commission Building.

Inspection of the petition.—A copy of the petition in this case is available for public inspection at the Office of the Secretary, U.S. International Trade Commission.

For further information concerning the conduct of the investigation, hearing procedures and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR 201).

Issued: July 12, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 19738 Filed 7-20-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-117]

Certain Automotive Visors; Request for Public Comments on Recommended Termination of Two Respondents Based on a Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Request for public comments on the recommended termination of Toyota Motor Sales Co., Ltd., of Japan, and Toyota Motor Sales, U.S.A., Inc., as respondents in the above-captioned investigation, on the basis of a settlement agreement.

SUMMARY: On May 13, 1982, complainant Prince Corporation (Prince), Toyota Motor Sales Co., Ltd. (TMS), Toyota Motor Sales, U.S.A., Inc. (TMS–USA), of California, and the Commission investigative attorney filed a joint motion to terminate the above-captioned investigation with respect to TMS and TMS–USA on the basis of a settlement agreement entered into between Prince, TMS, and TMS–USA.

On June 8, 1982, the presiding officer recommended that the joint motion be granted. Before taking final action on the motion, the Commission seeks written comments on the proposed termination from interested members of the public. A nonconfidential synopsis of the settlement agreement is set forth below.

DEADLINE: All comments must be received on or before August 20, 1982.

SUPPLEMENTARY INFORMATION: The Commission is conducting investigation No. 337–TA–117 to determine whether there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation and sale of certain automotive visors, which are alleged to infringe certain claims of U.S. Letters Patent Nos. 3,926,470 and 4,227,241, owned by complainant Prince. The alleged effect or tendency of these unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The settlement agreement between Prince, TMS, and TMS–USA is based on a paid-up limited license agreement which became effective May 1, 1982, between TMS and Prince. Under the agreement, Prince agrees to accept a certain lump-sum payment for a paid-up, nonexclusive, irrevocable, limited license under and during the life of the two U.S. patents in issue. The limited license allows the importation into the United States of Toyota motor vehicles equipped with visor assemblies, and of replacement visor assemblies as disclosed and claimed in the subject patents. Similar rights are granted with respect to counterpart patents or patent applications in Canada, the United Kingdom, and the Federal Republic of Germany. The lump-sum payment is in full settlement of all claims between Prince and TMS or TMS–USA arising out of the Commission investigation and a related federal court action in Michigan. TMS and TMS–USA consent to the validity of the patents in issue. The agreements are in compromise of disputed claims, and TMS and TMS–USA admit no liability.

Copies of any nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Jane Albrecht, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–1627.

Issued: July 12, 1982.
By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 82-19737 Filed 7-20-82; 8:45 am]
BILLING CODE 7020-02-M

[Investigations Nos. 701–TA–174 and 701–TA–175]

Certain Commuter Airplanes From France and Italy

Determination

On the basis of the record [1] developed in investigations Nos. 701–TA–174 and 175 (Preliminary),[2] the Commission determines, pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), that there is no reasonable indication that an industry in the United States is materially injured or is threatened with material injury, or the establishment of an industry in the United States is materially retarded,[3] by reason of imports from France and Italy of certain commuter airplanes,[4] as provided for in item 694.41, of the Tariff Schedules of the United States (TSUS), upon which subsidies are alleged to be paid.

Background

On May 27, 1982, a countervailing duty petition was filed with the U.S. International Trade Commission and the U.S. Department of Commerce, respectively, by counsel on behalf of Commuter Aircraft Corporation, of Youngstown, Ohio. The petition alleged that certain commuter airplanes imported from France and Italy receive, directly or indirectly, bounties or grants within the meaning of section 701 of the Tariff Act of 1930 (the Act).

Accordingly, the Commission instituted a preliminary investigation under section 703(a) of the Tariff Act of 1930 to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded by reason of the importation of such merchandise into the United States.

Notice of the institution of the Commission investigations and of the conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** on June 9, 1982 (47 FR 25077). The conference was held in Washington, D.C. on June 23, 1982, and all persons who requested the opportunity were permitted to appear in person or by counsel. The Commission voted on these cases in public session on July 7, 1982.

Views of Chairman Alfred E. Eckers and Commissioners Paula Stern, Michael J. Calhoun, and Veronica A. Haggart

We have determined that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of allegedly subsidized imports of commuter airplanes from France and Italy.[5] The reasons for our determination are discussed below.

Domestic Industry

Prior to consideration of the impact of the imports under investigation on the affected domestic industry, the Commission must first define the appropriate scope of that industry. According to section 771(4)(A) of the Tariff Act of 1930, the domestic industry consists of "the domestic producers as a whole of a like product or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product."[6] The term "like product" is defined by statute as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation * * *"[7]

A brief discussion of the market for the aircraft under consideration is essential for establishing a context for our definition of the appropriate like product and the relevant industry.[8]

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[1] The "record" is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (47 FR 6190, Feb. 10, 1982).

[2] It is the view of Commissioner Calhoun that the Commission's analysis of the impact of imports of these commuter airplanes should be given one investigation number, not two. The analysis concerns one imported product which will be exported from one country.

[3] Commissioner Frank determines that there is a reasonable indication that the establishment of an industry in the United States is materially retarded.

[4] For purposes of this investigation, "commuter airplanes" are airplanes having a seating capacity of less than 60 seats.

[5] Although the petition alleged material injury, threat of material injury, and material retardation of the establishment of an industry, the petitioner's case relied solely on the claim of material retardation. Transcript of staff conference at 7. For reasons to be discussed below, material injury and threat of material injury are not at issue in these cases.

[6] 19 U.S.C. 1677(4)(A).

[7] 19 U.S.C. 1677(10).

[8] Information on the commuter airline industry is derived generally from the Report, the petition, and the transcript of the Commission's staff conference held June 23, 1982.

There are at present over 250 commuter airlines providing service in the United States. These airlines typically operate short-haul, low-passenger-density routes over distances from 100 to 300 miles, providing service to small- and medium-size communities not served by the larger airlines. The aircraft used vary greatly, depending in large part on the performance characteristics and size of airplane suited to the routes operated by each carrier. These airplanes differ significantly in size and in other ways from the larger aircraft, usually powered by jet engines, that are used by the major national and international air carriers.

The Airline Deregulation Act of 1978 (ADA) [9] has greatly increased the market opportunities for commuter airlines. Passage of the ADA permitted tha major airlines to reduce or abandon service to many air service markets that offer too little traffic to be profitable when using large jet aircraft. Commuter airlines have assumed service to many of these markets. Specifically, the ADA has aided in establishing a market for larger commuter aircraft capable of seating 30 to 60 passengers. Prior to 1978, Civil Aeronautics Board and Federal Aviation Administration regulations effectively limited the feasibility of operating commuter aircraft of this size. As a result, few manufacturers produced these aircraft. The ADA now permits commuter airlines ot operate airplanes with up to 60 seats, and there is increasing interest among commuter air carriers in purchasing these airplanes.

Tremendous increases in the cost of fuel necessitate that any new aircraft designed to satisfy this market be efficient to operate.[10] Recently developed turboprop engines can provide better than 25 percent greater fuel efficiency than previously available engines. In addition, technological advances in the kinds of materials used in constructing the airframe and the techniques for bonding components together can reduce the weight of an aircraft, thus increasing fuel efficiency.

The allegedly subsidized import is the ATR–42, which is among the airplanes being developed to take advantage of this new market. It is being developed by a consortium of the French company Societe Nationale Industrielle Aerospatiale and the Italian company Societa Aerospaziale Italiana.[11] It is a pressurized, twin-turboprop aircraft designed to carry 42 to 49 passengers, depending on seat placement and pitch. A stretched version of the airplane can increase the capacity to 54 and 58 passengers. The respondents allege that it utilizes advanced, highly efficient technology in its avionics system and in the construction of its airframe. In addition, its turboprop engines are of a modern design providing high fuel efficiency.

Petitioner Commuter Aircraft Corporation's projected product, the CAC–100, which is planned to be in production by late 1984, is a pressurized 50-passenger aircraft using four turboprop engines. A stretched version accommodating 60 passengers will also be available. The petitioner alleges that the CAC–100 will take advantage of technological advancements in avionics, engine design, and the techniques and materials used in the construction of the airframe.

Both the petitioner and the respondents are in general agreement on the characteristics and uses that they contend define a like product.[12] The parties contend that 40- to 60-seat airplanes constitute a distinctly identifiable segment of the market and do not in any significant way compete with smaller commuter airplanes. Additionally, they contend that the like product would be pressurized and would incorporate advanced technology. Under the definition used by the parties only one U.S.-designed airplane—petitioner's CAC–100—would qualify as a like product, and therefore CAC would constitute the entire relevant U.S. industry.[13]

The record suggests that domestic aircraft other than the CAC–100 may also have characteristics and uses that make them competitive with the ATR–42 in the view of many potential purchasers. There is information available suggesting that smaller airplanes of from 30–40 seats may be competitive with the ATR–42.[14] The seating capacity of an aircraft is a major consideration in a purchaser's decision. Other specifications, such as weight, power capability and other performance characteristics, dimensions, cargo capacity, and pressurization also play a part in determining whether the characteristics and uses of a particular aircraft are suitable for a buyer's needs.[15] There is not sufficient information on the record to allow us to make an adequate comparison of various aircraft with the ATR–42 based on these specifications.

For the purposes of these preliminary investigations,[16] we find the like product definition as developed by the parties to be appropriate based on the information available. Therefore, we determine that the domestic industry consists of CAC.

No Material Retardation of the Establishment of a Domestic Industry

Petitioner's position in these investigations rests on the claim that sales of the ATR–42 in the United States have resulted in material retardation of the establishment of an industry in the United States. Since the industry

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[9] Pub. L. 95–504, 92 Stat. 1705 (Oct. 24, 1978).

[10] *See* Transcript of staff conference at 101.

[11] The ATR–42 is still in the developmental stage, so no aircraft have actually been produced or imported. The producers of the ATR–42, however, have obtained commitments from three commuter airlines in the United States to purchase 17 airplanes. Respondents argue that the petition should be dismissed because, since there are no actual imports, the domestic industry cannot be injured (or its establishment materially retarded) "by reason of imports" within the meaning of section 701 of the Tariff Act of 1930, 19 U.S.C. 1671. The Department of Commerce considered the same arguments in deciding the sufficency of the petition, and nevertheless concluded that the investigation should proceed. The Commission has generally taken the position that it does not possess the discretion to reconsider Department of Commerce determinations regarding the sufficiency and scope of a petition. See Sodium Gluconate from the European Communities, Inv. No. 701–TA–79 (Preliminary), USITC Pub. 1169, at 6–9 (1981). Morever, we believe this remedial statute ought to be construed to apply when sales have been made in the United States of allegedly subsidized articles to be imported in the future. In an industry—like the aircraft industry—in which sales are made well in advance of production and delivery, effective relief, if warranted, would be frustrated if an investigation could proceed only after the first imports have entered this country.

[12] Petition at 31–34; Transcript of staff conference at 38–41, 57, 131; petitioner's post-conference brief at 11; respondents' post-conference brief at 5.

[13] While the two airplanes possess some obvious dissimilarities in design, the most prominent of which being the number of engines and the placement of the wings, these differences are not considered significant enough by the parties to make the CAC–100 unlike the ATR–42 for purposes of analysis under the statute.

[14] A domestic producer of an airplane in that size range, Fairchild Industries, has expressed the opinion that "a simple demarcation line of 40–60 seats would not provide the Commission with an accurate picture of the domestic industry in the United States. The ATR–42 competes with our 34-passenger aircraft." Submission by George S. Attridge, Senior Vice President, Fairchild Industries (June 28, 1982). Asked at the staff conference whether a 36-seat aircraft would be competitive with the 42-seat ATR–42, counsel for petitioner responded that he "would suspect it would be." Transcript of staff conference at 56. The president of one U.S. commuter airline, testifying on behalf of the respondents, stated that his company considered nine different aircraft, with differing passenger capacities, before deciding to purchase the ATR–42. He stated that at the time his firm began its search for an appropriate airplane, it had not yet defined the size of airplane it needed. Transcript of staff conference at 89.

[15] Staff report at A–8; transcript of staff conference at 88; submission by George S. Attridge, Senior Vice President, Fairchild Industries (June 28, 1982).

[16] It is the view of Commissioner Calhoun that the Commission's analysis of the impact of imports of these commuter airplanes should be given one investigation number, not two. The analysis concerns one imported product which will be exported from one country.

definition we have adopted includes only a single firm that has yet to begin production of commuter airplanes, material retardation, not material injury or threat of material injury, is the proper issue to be considered.

Commission precedent establishes that when a domestic industry has not yet undertaken production, it must show, as a threshold matter, that it has made a substantial commitment to commence production.[17] We find that, based on the record developed, the nascent commuter airplane industry represented by CAC has made a substantial commitment to commence production of commuter aircraft in the United States. CAC has obtained substantial loans and loan guarantees from private lenders and federal, state, and local government agencies, and has negotiated for further financing for working capital.[18] It owns 95 acres of land bordering the Youngstown, Ohio airport on which it plans to build its manufacturing facility, and has obtained rezoning and arranged for utility connections. Construction of the 225,000-square-foot plant, projected to cost $14 million, is now underway and is projected to be completed by the end of 1982. CAC employs a staff of engineers and technicians, and has contracted for assistance from outside consulting firms. Design specification for the CAC–100 have been developed and published, and CAC has begun initial efforts to market the airplane. Actual production of the airplane is slated to begin by 1984.

Although CAC has demonstrated a commitment to begin production, the record does not provide a reasonable indication of a causal link between the allegedly subsidized sales of the ATR–42 in the United States and any difficulties CAC may be experiencing in becoming established as a producer of a competitive aircraft.

In the aircraft industry, it is common for sales of a newly designed airplane, like the ATR–42 and the CAC–100, to take place far in advance of actual production.[19] For example, orders have already been taken for the ATR–42, even though no models presently exist and none are projected to be completed until late 1984 or early 1985. Airlines must therefore make their purchase decisions on the basis of a number of factors in the absence of the actual performance experience of the airplane. Among these factors are the performance characteristics of the airplane, operational costs, pressurization, quality of technology used, reputation and proven record of the seller, the seller's ability to provide service, the acquisition cost, and financing.[20] Because of the high debt-to-equity ratio of most commuter airlines, a new equipment decision can often determine the success or failure of a carrier. Often, the cost of a single aircraft exceeds the net worth of the airline itself.

The buyer's ability to evaluate the performance and quality of a new aircraft is therefore essential and is acutely dependent on the availability of detailed technical specifications regarding the airplane. Without such specifications a buyer could not be expected to commit itself to a purchase, and the negotiation of the sale would not proceed to the question of financing. A seller who does not provide detailed specifications cannot be said to be in head-to-head competition for the sale.[21, 22]

Information obtained by the Commission establishes that to date CAC has made very limited efforts to market the CAC–100. Calls on potential customers have been relatively few, and detailed specification documents have not been provided. CAC has informed the Commission that it did not have preliminary detailed specifications ready to supply to its customers until after May 15, 1982, a date subsequent to the orders from Wright, Ransome, and Command for the ATR–42.[23] In addition, confidential marketing documents submitted by CAC indicate that as of early 1982 CAC was aware that other manufacturers were making better sales presentations and that CAC needed aircraft specification and performance documents in order to compete effectively. Representatives of the three U.S. airlines that have purchased the ATR–42 have all told the Commission that the CAC–100 was never seriously considered at the time of their purchasing decisions. Prominent among the reasons given for the lack of consideration was CAC's failure to provide specification documents. Responses to the Commission's purchaser questionnaires further confirm that other potential purchasers have not been provided with firm, reliable data on the CAC–100.

Based on the record of this investigation, we find no reasonable indication that the allegedly subsidized sales of the ATR–42 have resulted in material retardation of the establishment of CAC as a U.S. producer. The limited nature of CAC's sales efforts, particularly the unavailabiliity of specification documents, has seriously restricted CAC's access to the market and has prevented it from competing for sales to date.

Views of Commissioner Eugene J. Frank

Based upon the record of Preliminary Investigations Nos. 701–TA–174–175 on Certain Commuter Airplanes from France and Italy, I have determined there is a reasonable indication that the establishment of an industry in the United States is being materially retarded, because of allegedly subsidized imports of commuter airplanes from France and Italy. The

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[17] Salmon Gill Fish Netting of Manmade Fibers from Japan, Inv. No. 751–TA–5, USITC Pub. 1234 (1982); Motorcycle Batteries from Taiwan, Inv. No. 731–TA–42, USITC Pub.1228 (1982); Synthetic L-Methionine from Japan, Inv. No. 751–TA–4, USITC Pub. 1167 (1981); Regenerative Blower/Pumps from West Germany, Inv. No. AA1921–140, T.C. Pub. 628 (1974) (Views of Commissioner Moore). *CF.* Certain Ultra-Microtome Freezing Attachments, Inv. No. 337–TA10, USITC Pub. 771 (1976).

[18] The loan guarantee by the Economic Development Administration of the Department of Commerce is contingent on CAC's receiving at least 25 orders for the CAC–100. Report at A–15 and A–17.

[19] Commissioner Calhoun notes that commuter airlines, especially the successful ones, generally make their equipment acquisition decisions two to three years in advance of actual delivery of the equipment. Such decisions are most often based upon market forecasts and anticipated needs, the added assurance of equipment availability, and the likelihood of the manufacturer making price, warranty or some other concessions. The manufacturers of commuter airplanes make an effort to secure sales of their product several years prior to its delivery, largely to help finance the substantial capital outlay necessary for production and to test the marketability of the product.

[20] Although U.S. purchasers indicated that financing was not a major factor in their decisions to buy the aircraft, there is information on the record that indicates that variations in financing terms could result in significacnt differences in the overall cost of an airplane. Report at A–31 through A–37. Article entitled "Commuter Aircraft Ruling Nears" appearing in *The Journal of Commerce* on July 6, 1982, and submitted by Congressman Lyle Williams, 19th Ohio District. Commissioner Calhoun does not join in this footnote.

[21] Commissioners Calhoun and Haggart note that because of the industry custom of purchasing airplanes well in advance of production, a manufacturer, such as CAC, entering the market for the first time may face unique problems in achieving buyer acceptance. For example, the financial stability of the company may be more closely scrutinized by the buyer. In addition, the inability of the purchaser to evaluate the company's track record in constructing and servicing airplanes would be an important factor in determining whether to purchase a plane from a newly-established manufacturer. This is not to say that a well-designed and aggressively marketed airplane introduced by a new manufacturer could not be successful in the marketplace. However, in establishing causality, we must be careful not to attribute to imports the market entry difficulties typically faced by new entrants.

[22] Chairman Eckes notes that, with regard to causation of any material retardation, it remains unclear in this investigation as to the suitability of petitioner's product to the needs of the marketplace, notwithstanding the availability of specifications.

[23] *See* memorandum of July 9, 1982, from Woodley Timberlake, investigator, to the record.

reasons for my determination are discussed in the following sections.

Domestic Industry

The appropriate scope of the industry is defined in large measure by agreement of both the petitioner and respondent in these preliminary investigations. Both parties have agreed that the industry considered in these investigations of *certain* commuter airplanes is essentially all 40- to 60-passenger seats commuter airplanes. Some information suggested by some authorities was: that seats are not the only criteria to be applied or that only 40- to 60- passenger seats commuter aircraft is too rigid an industry definition, I do not concur based on all factors I evaluated. I believe evidence presented indicates a segment of the market can be considered as an industry. Comments by some commuter airline executives indicate that this is the segment of the market they really considered in decisions to purchase aircraft for their airlines. They relied heavily on seats available being 40 to 60 seats.

The commuter aircraft industry management in the past has frequently underestimated the number of seats required according to investigations' record. The Airline Deregulation Act of 1978 has stimulated commuter airline industry expansion into many of the smaller- and medium-sized cities or towns where major airlines abandoned their airline service. Major airlines generally wanted to concentrate on longer-haul markets served usually by their larger *jet* aircraft. However, all aircraft *to a certain extent* compete with one another just as all items purchased in the economy compete. Hence, even a "smaller" commuter aircraft with 34 or even fewer seats in a "theoretical" sense may compete with a 40 to 60 passenger seats larger commuter aircraft. However, with pilot and crew costs rising, continuing restrictions on number of flights because of air controller availabilities and aircraft technical or other advancements, it is my opinion that larger aircraft with at least 40 to 60 passenger seats represents the domestic industry. There is considerable interest shown by commuter airlines in stretched aircraft versions and extra space to ease in conversion to freight capacity. To have such capacity flexibility and interchangeability, a larger 40- to 60-passenger seats aircraft is desirable or almost mandatory.

There is a considerable difference between *listing* many types of commuter aircraft when a commuter airline is considering purchase and is uncertain what criteria should be applied in a final selection. Each airline may list different requirements depending on intended routes. Some routes may require four-engine commuter aircraft because of air speed, power needs, take-off, safety, "over-water" regulations or other requirements, length of flights, airport and mountain elevations, servicing flexibility and flights to such service centers (even on three engines), and other features. In preliminary investigations, frequently all the technical requirements or factors are not adequate evaluated or compared. Hence, this lack of data should not blemish preliminary determinations that are based on low threshold requirements.

Some airlines and aircraft manufacturers, especially in the evolving commuter aircraft industry since 1979, do not have rigid specification for necessary planes. This does not mean that the overall commitment to competing in this industry is any less real on a low threshold definition of what is adequate competition or sales effort. In final investigations, more analysis can be completed of: technical matters, market sizes and definitions, injury and material retardation, foreign subsidies, and possible *forthcoming* minimum "allowable" interest rate "arrangements" and payment terms that may be agreed upon by certain European Community and North American continent exporters of commuter aircraft in their export sales efforts. It is imperative to note again that in these preliminary investigations, the petitioner (Commuter Aircraft Corporation—CAC) which is developing the 50-seat CAC–100 and the respondents (a consortium of the French company Societe Nationale Industrielle Aerospatiale and the Italian company Societa Aerospaziale Italiana) which developing the ATR–42 that is a 42- to 49-seat aircraft are both agreed on the type of aircraft which represents the industry covered by these investigations. It is important to note there are plans to provide for "stretched" versions of each of these aircraft. The CAC–100 could possibly be expanded up to a 59- or 60-seat version, and the ATR–42 could be expanded to a 54- to 58 passenger seat capacity. Hence, commuter aircraft passenger revenues could be enhanced if there were more actual passengers per plane. Whether other commuter aircraft manufactures in the United States will, in the future, stretch their existing aircraft or offer a new planned aircraft to fit this agreed industry definition is not the conjectural concern of the Commission. I accept the industry definition which for some reasons was agreed upon in these investigations by both the petitioner and respondent.

Material Retardation of the Establishment of a Domestic Industry

I determine that there were sales of aircraft (the ATR–42) prior to the Commissioners' investigation, briefing, determination, and vote, on Wednesday, July 7, 1982, and the following factors were known or existed:

1. These are preliminary investigations where low-threshold criteria or "standards" apply according to numerous statements and Congressional intent.[24]

2. Retardation standards are still in a state of evolution relative to each industry and type of situation.[25]

3. Alleged interest rate "subsidies" implications were derived by staff research and were presented in the preliminary "staff" report which was to be reorganized according to staff comments to me and my involved staff. These comments were made to me prior to the Commission's final vote on this investigation. There were what I now consider to be major errors in the texts and tables related to ATR–42 interest payment differentials and related statistics which were only found, noted, and corrected by the Commission staff after the July 7, 1982 Commission vote on this preliminary investigation. These corrections, I believe, now should be included in the staff report which should become the (Commission) Report if accepted as corrected by the Commission. The transcript of the Preliminary Hearing conducted on June 23, 1982, on pages 121 and 122 indicated, according to Mr. Walker, that the respondent (consortium) offered 10.4 percent interest over eight years to "people who have signed options before November 15 (1981) and entered into contract before May 15 (1982). The current rates of interest that are being offered are 12.75 percent, not 10.4 percent in keeping with the contested arrangement."

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[24] See my views on low-threshold preliminary determinations in U.S. I.T.C. Publication 1259, June 1982, Frozen French Fried Potatoes from Canada, pp. 12–15.

[25] General Counsel U.S.I.T.C. Memorandum GC–F–215 to the Commission of July 2, 1982, including discussion of views of Commissioner Moore in Investigation No. 337–TA–10 (1976) and the Salmon Gill Fish Netting of Manmade Fibers from Japan, Investigation No. 751–TA–6 U.S.I.T.C. Publication 1234 (1982). I conclude that it has been demonstrated that CAC has taken substantial steps and made an affirmative commitment toward establishing production.

4. There had been a CAC first class mailing of a very large specification booklet on the CAC–100. This mailing began on or about May 1, 1982, and went to 30 to 40 commuter airlines. Hence, commuter airlines had reasonably adequate information on the CAC–100 and could evaluate it more fully if they desired and needed to do so.

5. It is understood that the CAC–100 actually has an "internal" stretching capacity in terms of passenger seats. The present version of the CAC–100 by changing passenger seating arrangements can accommodate up to 59 seats.

6. Both planes it is understood rely on: Pratt and Whitney turboprop engines, technical advances in materials utilized to construct the air frame and bond the components together. Essentially, based upon details provided in a June 28, 1982, post-conference brief filed on behalf of CAC and containing confidential business information, there was considerable documentation illustrating, in my estimation, that the CAC–100 technology was not based on "old" technology. Hence, I conclude both planes (the CAC–100 and ATR–42) are similar in the use of advanced technology and avionics. These are some of the factors repeatedly stated as necessary for an aircraft to be seriously considered by purchasing commuter airlines. Other lists of factors to be evaluated in reaching conclusion and decisions in commuter aircraft purchases seem to be now equally available and indicative of advanced technologies being utilized in both planes. On June 14, 1982, the Commission recorded receipt of Copy No. 60 of "Preliminary Detailed Specifications" for the CAC–100, attached to Mr. Graham's letter of June 9, 1982. This is the full revised May 1, 1982, (but Confidential) detailed specification. However, the May 1, 1982, booklet referred to above was a shorter technical details booklet of approximately 50 or 60 pages according to CAC. Based on all of the above, I conclude adequate details for this type of aircraft at this stage of development were available to numerous commuter airlines on or shortly after May 1, 1982. The fact that some commuter airlines did not have *detailed* specifications earlier did not preclude these airlines from re-evaluating their options to purchase the ATR–42 and/or to enter into discussions relative to the CAC–100 for first time or to supplement or replace their purchases of or options on the ATR–42. Hence, some or all of the *estimated* 21 ATR–42 planes "sold" to U.S. airlines might have been reconsidered if the actual contract dates and terms permitted. The fact that some U.S. commuter airlines had options, etc. to purchase the ATR–42, in my opinion, materially reduced the potential for sales of the CAC–100 to other U.S. airlines on or after May 15, 1982. These U.S. commuter airlines' decisions, if U.S. and/or world market size for the 40- to 60-passenger seat commuter aircraft is as restricted as some experts contend, materially retarded CAC establishment of a U.S. 40- to 60-passenger commuter aircraft industry. CAC has shown its substantial commitment to building the CAC–100 and has made adequate investment and sales efforts based upon standard approaches used by private enterprise companies engaged in the overall aircraft manufacturing industry. It is realized that when a new U.S. industry is being created, the strength of the new entrant(s) will be questioned if such a corporation(s) is not a major established corporation. Capital, in my opinion, will probably be available for well-conceived products where experienced management exists. Such experience can come from management at other aircraft companies or in consortiums.

7. It is of little value to indicate to a petitioner that more sales efforts should have been made, more detailed specifications should have been provided, or that such efforts should now be made and to refile with the appropriate U.S. Government Commissions and/or Departments later. In the interim, additional orders and time will be lost to this potential industry's establishment which is allegedly materially injured by reason of alleged subsidies resulting from below U.S. market interest rates offered to U.S. commuter airlines. Foreign interest rates for similar credit risk situations, in my opinion, may also be alleged to be subsidized and may preclude potential CAC–100 sales in foreign markets. These foreign sales are not particularly discussed in this investigation or my opinion, but are involved in the viability of CAC under the circumstances described above.

Conclusion

The negative determination in this case will probably result in the loss of a potential 1,100 construction jobs and an eventual potential 1,600 jobs in the Youngstown, Ohio, area not including indirect jobs. This, in my opinion, results from comments or decisions to end or retard further these preliminary investigations and not allow them to answer fundamental questions which I believe beg to be answered. No shield on the sufficiency and timing of sales information can, in my judgment, be raised in these particular preliminary investigations, which should have been judged on a low-threshold basis.

I determine that there is a reasonable indication that the establishment of an industry in the United States is being materially retarded because of allegedly subsidized imports of commuter airplanes from France and Italy.

Issued: July 12, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82–19741 Filed 7–20–82; 8:45 am]
BILLING CODE 7020–02–M

[Investigation No. 337–TA–118]

Certain Sneakers With Fabric Upper and Rubber Soles

Notice is hereby given that the prehearing conference and hearing scheduled for July 19, 1982 (47 FR 26258, June 17, 1982) are cancelled. At the request of the parties, the prehearing conference is rescheduled for September 7, 1982 at 9:00 a.m. in the Waterfront Center, Room 201, 1010 Wisconsin Avenue, NW., Washington, D.C., and the hearing shall commence immediately thereafter.

The Secretary shall publish this Notice in the **Federal Register.**

Issued: July 9, 1982.

Janet D. Saxon,

Administrative Law Judge.

[FR Doc. 82–19739 Filed 7–20–82; 8:45 am]
BILLING CODE 7020–02–M

[Investigation No. 337–TA–106]

Certain Vacuum Bottles and Components Thereof; Termination of Respondent

AGENCY: International Trade Commission.

ACTION: Termination of investigation as to respondent Direct Import, Inc.

SUMMARY: The Commission has terminated the above-captioned investigation as to respondent Direct Import, Inc., on the basis of a joint motion filed by complaint Union Manufacturing Co., respondent Direct Import, and the Commission investigative attorneys.

SUPPLEMENTARY INFORMATION: This investigation is being conducted under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and concerns alleged unfair trade practices in the importation into and sale in the United States of certain vacuum bottles and components thereof.

The joint motion to terminate the investigation as to Direct Import, Inc., included an affidavit by Lester H. Kaneta, president of Direct Import, Inc. In his affidavit, Mr. Kaneta stated that Direct Import has not imported any vacuum bottles in commercial quantities for resale or any other purpose, and is not currently importing into or selling in the United States any accused vacuum bottles. Mr. Kaneta also stated that Direct Import will not import or sell the allegedly infringing vacuum bottles in the United States, unless and until there is a final decision by the Commission or a court that the vacuum bottles do not infringe complainant's trademark.

Copies of the Commission's Action and Order and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: William E. Perry, Esq., Office of the General Counsel, telephone 202–523–0350.

Issued: July 14, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82–19740 Filed 7–20–82; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 701–TA–183 (Final)]

Potassium Permanganate From Spain; Final Countervailing Duty Investigation

AGENCY: International Trade Commission.

ACTION: Institution of final countervailing duty investigation.

SUMMARY: As a result of a final determinination by the United States Department of Commerce that the government of Spain is providing its producer and exporter of potassium permanganate with certain benefits which constitute a subsidy within the meaning of section 701 of the Tariff Act of 1930 (19 U.S.C. 1671), the United States International Trade Commission hereby gives notice of the institution of investigation No. 701–TA–183 (Final) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of potassium permanganate provided for in item 420.28 of the Tariff Schedules of the United States. This investigation will be conducted to the provisions of part 207, subpart C, of the Commission's Rules of Practice and Procedure (19 CFR Part 207, 44 FR 76458).

EFFECTIVE DATE: July 6, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Johnson, Office of Industries, U.S. International Trade Commission, Room 109, 701 E Street, NW., Washington, D.C. 20436; telephone 202–523–0127.

SUPPLEMENTARY INFORMATION:

Background

On July 6, 1982, the Department of Commerce published its final determination that the government of Spain has provided its sole producer and exporter of potassium permanganate with a net subsidy of 0.74 percent of the f.o.b. value of the imported merchandise. The Commerce investigation commenced as a result of a petition filed on November 10, 1981, by counsel on behalf of the Carus Chemical Co., of La Salle, Illinois. At the time of the filing Spain was not a "Country under the Agreement" and was not entitled to a preliminary material injury investigation by the Commission. A preliminary negative determination was made by the Department of Commerce, effective the date that Spain became a "Country under the Act," in accordance with section 102(a)(2) of the Trade Agreements Act of 1979. In such circumstances, the U.S. International Trade Commission is given 75 days from the date of the final affirmative determination in which to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded by reason of the imports that have been found by the Commerce Department to be subsidized.

A staff report containing preliminary findings of fact will be available to all interested parties on July 30, 1982.

Service of documents.—Any interested person may appear in this investigation as a party, either in person or by representative, by filing an entry of appearance with the Secretary in accordance with section 201.11 of the Commission's rules (19 CFR 201.11). Each entry of appearance must be filed with the Secretary no later than August 11, 1982.

The Secretary will compile a service list from the entries of appearance filed in this final investigation. Any party submitting in connection with this investigation shall, in addition to complying with § 201.8 of the Commission's rules (19 CFR 201.8), serve a copy of each such document on all other parties to the investigation. Such service shall conform with the requirements set forth in § 201.16(b) of the rules (19 CFR 201.16(b)).

In addition to the foregoing, each document filed with the Commission in the course of this investigation must include a certificate of service setting forth the manner and date of such service. This certificate will be deemed proof of service of the document. Documents not accompanied by a certificate of service will not be accepted by the Secretary.

Written submission.—Any person may submit to the Commission a written statement of information pertinent to the subject of this investigation. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission on or before August 18, 1982. All written submissions except for confidential business data will be available for public inspection.

Any business information for which confidential business treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6).

PUBLIC HEARING: The Commission will hold a public hearing in connection with this investigation on August 12, 1982, in the Hearing Room of the U.S. International Trade Commission Building, beginning at 10 a.m., e.s.t. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m., e.s.t.) on July 30, 1982. All persons desiring to appear at the hearing and make oral presentations must file prehearing statements and should attend a prehearing conference to be held at 10:00 a.m., e.s.t., on August 5, 1982, in Room 117 of the U.S. International Trade Commission Building. Prehearing statements must be filed on or before August 9, 1982.

Testimony at the public hearing is governed by § 207.23 of the Commission's Rules of Practice and Procedure (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing statements and to new information. The Commission will not receive prepared testimony for the public hearing, as would otherwise be provided for rule

201.12(d). All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing statements in accordance with § 207.22.

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, subparts A and C (19 CFR Part 207), and Part 201, subparts A through E (19 CFR Part 201).

This notice is published pursuant to § 207.20 of the Commission's Rules of Practice and Procedure (19 CFR 207.20, 44 FR 76472).

Issued: July 14, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-19735 Filed 7-20-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-52 (Final)]

Sheet Piling From Canada; Final Antidumping Investigation

AGENCY: International Trade Commission.

ACTION: Institution of final antidumping investigation.

SUMMARY: As a result of a preliminary determination by the United States Department of Commerce that there is a reasonable basis to believe or suspect that exports of sheet piling from Canada are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Tariff Act of 1930 (19 U.S.C. 1673), the United States International Trade Commission hereby gives notice of the institution of investigation No. 731-TA-52 (Final) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of sheet piling of iron or steel provided for in items 609-96 and 609.98 of the Tariff Schedules of the United States. This investigation will be conducted according to the provisions of Part 207, subpart C, of the Commission's Rules of Practice and Procedure (19 CFR Part 207, 44 FR 76458).

EFFECTIVE DATE: July 16, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Reavis, Office of Investigations, U.S. International Trade Commission, Room 341, 701 E Street NW., Washington, D.C. 20436; telephone 202-523-0296.

SUPPLEMENTARY INFORMATION:

Background: On January 4, 1981, the Commission unanimously determined, on the basis of the information developed during the course of investigation No. 731-TA-52 (Preliminary), that there was a reasonable indication that an industry in the United States was materially injured, or was threatened with material injury, by reason of imports of sheet piling from Canada which was allegedly being sold in the United States at LTFV. As a result of the Commission's affirmative preliminary determination, the Department of Commerce continued its investigation into the question of LTFV sales. Unless the investigation is extended, the final LTFV determination will be made by the Department of Commerce on or before September 7, 1981.

A staff report containing preliminary findings of fact will be available to all interested parties on August 31, 1982.

Service of documents.—Any interested person may appear in this investigation as a party, either in person or by representative, by filing an entry of appearance with the Secretary in accordance with § 201.11 of the Commission's rules (19 CFR 201.11). Each entry of appearance must be filed with the Secretary no later than August 11, 1982.

The Secretary will compile a service list from the entries of appearance filed in this final investigation and from the Commission's record in the preliminary investigation. Any party submitting a document in connection with this investigation shall, in addition to complying with section 201.8 of the Commission's rules (19 CFR 201.8), serve a copy of each such document on all other parties to the investigations. Such service shall conform with the requirements set forth in § 201.16(b) of the rules (19 CFR 201.16(b)).

In addition to the foregoing, each document filed with the Commission in the course of this investigation must include a certificate of service setting forth the manner and date of such service. This certificate will be deemed proof of service of the document. Documents not accompanied by a certificate of service will not be accepted by the Secretary.

WRITTEN SUBMISSIONS: Any person may submit to the Commission a written statement of information pertinent to the subject of this investigation. A signed original and fourteen (14) true copies of each submission must be filed at the Office of the Secretary, U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436, on or before September 24, 1982. All written submissions except for confidential business data will be available for public inspection.

Any business information for which confidential business treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6).

PUBLIC HEARING: The Commission will hold a public hearing in connection with this investigation on September 16, 1982, in the Hearing Room of the U.S. International Trade Commission Building, beginning at 9:30 a.m., e.d.t. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m., e.d.t.) on September 3, 1982. All persons desiring to appear at the hearing and make oral presentations must file prehearing statements and should attend a prehearing conference to be held at 9:30 a.m., e.d.t., on August 31, 1982, in Room 117 of the U.S. International Trade Commission Building. Prehearing statements must be filed on or before September 13, 1982.

Testimony at the public hearing is governed by § 207.23 of the Commission's Rules of Practice and Procedure (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing statements and to new information. The Commission will not receive prepared testimony for the public hearing, as would otherwise be provided for by rule 201.12(d). All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing statements in accordance with § 207.22.

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, subparts A and C (19 CFR Part 207), and Part 201, subparts A through E (19 CFR Part 201).

This notice is published pursuant to § 207.20 of the Commission's Rules of Practice and Procedure (19 CFR 207.20, 44 FR 76472).

Issued: July 16, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-19734 Filed 7-20-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-122, Order 11]

Certain Miniature, Battery-Operated, All-Terrain, Wheeled Vehicles; Second Notice of Hearing on Relief, Bonding, and the Public Interest and Schedule for Filing Written Submissions

Notice is hereby given that the hearing scheduled before Administrative Law Judge Donald K. Duvall, the designated presiding officer, in connection with the above-styled investigation, at 10 a.m. on Monday, July 12, 1982, in Suite 201, 1010 Wisconsin Avenue, N.W., Washington, D.C. 20007, is cancelled and rescheduled to commence at 10 a.m., Friday, July 30, 1982. The purpose of this hearing is to create an administrative record, to be certified to the Commission, concerning the appropriate relief, the effect that such relief would have upon the public interest, and the proper amount of the bond in the event that the Commission determines that there is a violation of section 337 and that relief should be granted.

Parties to the investigation, Government agencies, public-interest groups, and interested members of the public may make oral presentations on the issues of relief, bonding, and the public interest. Presentations need not be confined to the evidentiary record certified to the Commission by the presiding officer and may include the testimony of witnesses. Oral presentations on relief, bonding, and the public interest will be heard in this order: complainants, respondents, Government agencies, the Commission investigative attorney, public-interest groups, and the interested members of the public.

If the Commission finds that a violation of section 337 has occurred, it may issue (1) an order which could result in the exclusion of the subject articles from entry into the United States and/or (2) an order which could result in one or more respondents being required to cease and desist from engaging in unfair methods of competition or unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in hearing presentations which address the form of relief, if any, which should be ordered.

If the Commission concludes that a violation of section 337 has occurred and contemplates some form of relief, it must consider the effect of that relief upon the public interest. The factors which the Commission will consider include the effect that an exclusion order and/or a cease and desist order would have upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the U.S. production of articles which are like or directly competitive with those which are the subject of the investigation, and (4) U.S. consumers.

If the Commission finds that a violation of section 337 has occurred and orders some form of relief, the President has sixty (60) days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in hearing presentations concerning the amount of the bond, if any, which should be imposed.

Persons making oral presentations on remedy, bonding, and the pubic interest will be limited to fifteen (15) minutes. The presiding officer may in his discretion expand the aforementioned time limits upon receipt of a timely request to do so.

The parties to the investigation and interested government agencies are encouraged to file briefs on the issues of remedy, bonding, and the public interest. The complainants and the Commission investigative attorney are also requested to submit a proposed exclusion order and/or proposed cease and desist orders for the Commission's consideration. Persons other than the parties and Government agencies may file written submissions addressing the issues of remedy, bonding, and the public interest. Written submissions, including briefs, on the questions of remedy, bonding, and the public interest must be filed no later than the close of business on July 29, 1982. Written requests to appear at the hearing must be filed with the Office of the Secretary by July 28, 1982.

Any person desiring to discuss confidential information, or to submit a document (or a portion thereof) to the Commission in confidence, must request in camera treatment unless the information has already been granted such treatment by the presiding officer. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. Documents or arguments containing confidential information approved by the Commission for in camera treatment will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Secretary's Office.

Notice of this investigation was published in the **Federal Register** of May 19, 1982, 47 FR 21638.

The Secretary shall publish this notice in the **Federal Register**.

Issued: July 19, 1982.

Judge Donald K. Duvall,

Presiding Officer.

[FR Doc. 82-19888 Filed 7-20-82; 10:57 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Consent Decree Amendments Pursuant to Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on June 21, 1982 a proposed consent decree amendment in *United States* v. *Alabama By-Products Corporation*, Civil Action No. 77-M-1455-S was lodged with the United States District Court for the Northern District of Alabama, and that on June 30, 1982 a proposed consent decree amendment in *United States, et al.* v. *Keystone Coke Company and Alabama By-Products Corporation*, Civil Action No. 81-0165, was lodged with the United States District Court for the Eastern District of Pennsylvania. The proposed decree amendments provide for the extension of certain final compliance dates pursuant to the Steel Industry Compliance Extension Act of 1981 (42 U.S.C. 113(e)). See generally, 46 FR 62537.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States of America* v. *Alabama By-Products Corporation*, D.J. Ref. 90-5-2-1-88.

The proposed Alabama amendment may be examined at the office of the United States Attorney, Northern District of Alabama, 200 Federal Building, 1800 Fifth Avenue, Birmingham Alabama, and at the Region 4 Office of the Environmental Protection Agency, Atlanta, Georgia. The proposed Pennsylvania amendment may be examined at the office of the United States Attorney, Eastern District of Pennsylvania, United States Courthouse, 601 Market Street, Philadelphia,

Pennsylvania 19106, and at the Region 3 Office of the Environmental Protection Agency, Philadelphia, Pennsylvania. Copies of both the Alabama amendment and the Pennsylvania amendment may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decrees may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $4.70 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

Anthony C. Liotta,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 81-19887 Filed 7-20-82; 8:45 am]

BILLING CODE 4410-01-M

Proposed Consent Decree in Action To Abate Improper Disposal of Hazardous Wastes

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on June 29, 1982, a proposed consent decree in *United States* v. *Bridgeport Rental & Oil Services, Inc., et al.*, Civil Action No. 80-3287, was lodged with the United States District Court for the District of New Jersey. The proposed decree provides for remedial activities with respect to a facility used for the storage and disposal of oil and hazardous wastes in southwestern New Jersey.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the proposed judgment. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, U.S. Department of Justice, Washington, D.C. 20530, and refer to *United States* v. *Bridgeport Rental & Oil Services, Inc.*, D. J. Ref. 90-7-1-157.

The proposed consent decree may be examined at the Office of the United States Attorney, 970 Broad Street, Newark, New Jersey 07102; at the Region II Office of the Environmental Protection Agency, Enforcement Division, 26 Federal Plaza, New York, New York 10007; and at the Environmental Enforcement Section, Land and Natural Resources Division, U.S. Department of Justice (Room 1515), Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, U.S. Department of Justice.

Anthony C. Liotta,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 82-19888 Filed 7-20-82; 8:45 am]

BILLING CODE 4410-10-M

Antitrust Division; United States v. Society of Authors' Representatives Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedure and Penalties Act, 15 U.S.C. Section 16(b) through (h), that a proposed Final Judgment, Stipulation and Competitive Impact Statement have been filed with the United States District Court for the Southern District of New York in *United States of America* v. *Society of Authors' Representatives*, Civil Action No. 82-CIV-4445. The complaint in this case alleges that the Society of Authors' Representatives, an association of literary agencies, engaged in a conspiracy to fix rates for services provided by its members, and to restrict advertising and the solicitation of clients by its members in violation of Section 1 of the Sherman Act, 15 U.S.C. 1. The proposed Final Judgment enjoins the defendant from directly or indirectly continuing or renewing the kind of conspiracy alleged in the complaint.

Public comment is invited within the statutory 60-day comment period. Such comment, and response thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to Ralph T. Giordano, Chief, New York Office, Antitrust Division, Department of Justice, Room 3630, 26 Federal Plaza, New York, New York 10278 (Telephone: 212-264-0390).

Joseph H. Widmar,

Director of Operations.

U.S. District Court, Southern District of New York

United States of America, Plaintiff v. *Society of Authors' Representatives*, Defendant.

Civil No. 82-CIV-4445.

Filed: July 8, 1982.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. A final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of either party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to either party or other proceedings provided that Plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on Defendant, Society of Authors' Representatives, and by filing that notice with the Court.

2. In the event Plaintiff withdraws its consent, or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be without prejudice to Plaintiff and Defendant, Society of Authors' Representatives, in this or any other proceeding.

Dated:

For Plaintiff: William F. Baxter, *Assistant Attorney General*, Mark P. Leddy, Ralph T. Giordano, *Attorneys, Department of Justice.*

Rebecca Meiklejohn, Ruth Dicker, *Attorneys, Department of Justice, Antitrust Division, Room 3630, 26 Federal Plaza, New York, New York 10278, Telephone: (212) 264-0654.*

For Defendant: John S. Siffert, Fulop & Hardee, *One Dag Hammarksjold Plaza, New York, New York 10017, Telephone: (212) 940-8306.*

U.S. District Court, Southern District of New York

United States of America, Plaintiff v. *Society of Authors' Representatives*, Defendant.

Civil No. 82-CIV-4445.

Filed: July 6, 1982.

Final Judgment

Plaintiff, United States of America, having filed its Complaint herein on ———, 1982, and Defendant, the Society of Authors' Representatives, having appeared by its attorneys, and the parties hereto, by their respective attorneys, having consented to the entry of this Final Judgment, without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence against or any admission by either party in respect to any such issue:

Now therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby

Ordered, adjudged and decreed as follows:

I

This Court has jurisdiction over the subject matter of this action and of the parties hereto. The Complaint states a claim upon which relief may be granted against Defendant under Section 1 of the Sherman Act (15 U.S.C. 1).

II

As used in this Final Judgment:

(A) "Person" means any individual, partnership, firm, association, corporation, or other business or legal entity.

(B) "Rates" means remuneration or reimbursement, including commissions, fees, or other charges, for any service rendered by any member of Defendant.

(C) "Defendant" means the Society of Authors' Representatives.

III

This Final Judgment applies to Defendant and to each of its officers, directors, employees, agents, successors and assigns and to all other persons, including members, in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV

Defendant, whether acting unilaterally or in concert or agreement with any other person, is enjoined and restrained from:

(A) Fixing, establishing or maintaining any rates or schedule of rates.

(B) Urging, recommending or suggesting that any of its members adhere to any rates or to any schedule of rates.

(C) Including in any instructional course or any material published or distributed by Defendant any recommended or suggested rates or report on customary rates or ranges thereof.

(D) Threatening or taking any punitive action against any person where such action is based upon that person's failure or refusal to adhere to any rates or any schedule of rates.

Provided, however, that nothing in this Section IV shall be construed to prevent Defendant from requiring its members to charge no rates for reading and rendering an opinion on manuscripts.

And further provided, however, that nothing in this Section IV shall be construed to prohibit Defendant from entering into an agreement with the Writers' Guild of America or any other labor organization, within the meaning of Section 6 of the Clayton Act (15 U.S.C. 7) and the Norris-LaGuardia Act (29 U.S.C. 101–115), pursuant to which Defendant undertakes to recommend to its members that they enter into an agreement with any such labor organization if the terms of that agreement do not violate the federal antitrust laws by virtue of the exemption provided in Sections 6 and 20 of the Clayton Act and the Norris-LaGuardia Act.

V

Defendant, whether acting unilaterally or in concert or agreement with any other person, is enjoined and restrained from adopting, promulgating, publishing or seeking adherence to any constitutional provision, bylaw, rule, regulation, canon or code of ethics, statement of principle, contract, plan or program that prohibits or restricts or delineates as proper or improper:

(A) Advertising or the content and form of advertising; or

(B) Solicitation of any member's or any other person's clients.

Provided, however, that nothing in this Section V shall be construed to prevent Defendant from:

(1) Prohibiting its members from engaging in false or misleading advertising or other advertising in violation of applicable state or federal law; or

(2) Prohibiting its members from soliciting clients in violation of applicable state or federal law.

VI

Defendant is ordered and directed within ninety (90) days from the date of entry of this Final Judgment to:

(A) Amend its Canon of Ethics Nos. 8, 10 and 11 and the pamphlet published by it entitled "The Literary Agent" to eliminate therefrom any language that is contrary to or inconsistent with any provision of this Final Judgment and amend such other of its statements of principles, contracts and material published or distributed by it that contain language that is contrary to or inconsistent with any provision of this Final Judgment to eliminate such language therefrom, and send copies of all such amended documents to each of its members and employees.

(B) Cause a copy of a letter in the form attached hereto as Exhibit A, covering at least one-fourth of the page in size, to be published in the Authors' Guild Bulletin and Dramatists' Guild Bulletin.

VII

Defendant is ordered and directed:

(A) Within sixty (60) days after the date of entry of this Final Judgment, to mail a copy of this Final Judgment to each of its members.

(B) To provide a copy of this Final Judgment to any person upon his application to Defendant to become a member.

(C) Within ninety-five (95) days from the date of entry of this Final Judgment, to file with this Court and serve upon Plaintiff an affidavit concerning the fact and manner of its compliance with Paragraph (A) of this Section VII.

VIII

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

(A) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Defendant made to its principal office, be permitted:

(1) Access during office hours to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of Defendant, which may have counsel present, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of Defendant, and without restraint or interference from it, to interview officers, directors, employees and agents of Defendant, who may have counsel present, regarding any such matters.

(B) Upon the written request of the Attorney General or of the Assitant Attorney General in charge of the Antitrust Division made to Defendant's principal office, Defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

No information or documents obtained by the means provided in this Section VIII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(C) If at the time information or documents are furnished by Defendant to Plaintiff, Defendant represents and identifies in writing the material in any such information or documents to which a claim for protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and Defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure", then ten (10) days' notice shall be given by Plaintiff to Defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which Defendant is not a party.

IX

This Final Judgment shall have full force and effect for a period of ten (10) years from the date of its entry. Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and direction as may be necessary or appropriate for the construction or carrying out of the Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

X

Entry of this Final Judgment is in the public interest.

Entered:

United States District Court Judge.

Exhibit A

To: Authors' Guild Bulletin and Dramatists' Guild Bulletin.

Gentlemen: On ———, 1982, the Department of Justice filed *United States* v. *Society of Authors' Representatives.* No. —, a civil antitrust action under Section 1 of the Sherman Act. The complaint alleges that the Society of Authors' Representatives ("SAR") has engaged in an agreement to eliminate competition by fixing the rates (commissions and other fees) its members charge authors, by prohibiting its members from advertising and by prohibiting its members from soliciting each other's clients.

Prior to the taking of any testimony and without admission by any party with respect to any issue, the SAR consented to the entry of a Final Judgment terminating the lawsuit. The Court found that the settlement was in the public interest and entered a Final Judgment on 1982. A copy of the Final Judgment is available for inspection at the offices of the SAR.

In accordance with the provisions of the Final Judgment, we are informing interested parties that any previous announcements made by the SAR which eliminated competition in any of the above ways have been withdrawn. The judgment reaffirms that

each of the SAR's members may charge any commission or fee it wishes. In addition, members may solicit each other's clients and may advertise. The judgment, however, does not preclude the SAR from requiring its members to charge no fees for reading and rendering opinions on manuscripts. Nor does the judgment prevent the SAR from prohibiting its members from engaging in false or misleading advertising or other advertising in violation of applicable state or federal law or from engaging in the solicitation of clients in violation of applicable state or federal law.

U.S. District Court, Southern District of New York

United States of America, Plaintiff v. *Society of Authors' Representatives*, Defendant.

Proposed Final Judgment.

Competitive Impact Statement.

Civil No. 82–CIV–4445.

Filed: July 8, 1982.

The United States of America, pursuant to Section 2 of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b), submits this Competitive Impact Statement in connection with the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I

Nature and Purpose of the Proceeding

On ———, 1982, the United States filed a civil antitrust complaint under Section 4 of the Sherman Act, 15 U.S.C. 4, alleging that the defendant Society of Authors' Representatives ("SAR") and unnamed co-conspirators had, beginning at least as early as 1976 and continuing until the filing of the complaint, engaged in a continuing combination and conspiracy to fix the rates (commissions and other fees) members of the SAR charge for their services, to prohibit advertising by members of the SAR, and to prohibit members of the SAR from soliciting each other's clients, in violation of Section 1 of the Sherman Act, 15 U.S.C. 1. The complaint also alleges that as a result of the combination and conspiracy, competition among literary agencies has been restrained and authors seeking and using the services of literary agencies have been deprived of the benefits of free and open competition.

The complaint seeks and adjudication that the alleged combination and conspiracy is illegal, and an injunction enjoining the defendant from continuing or renewing the alleged combination or conspiracy and prohibiting the defendant from fixing rates and from restricting advertising or the solicitation of clients by its members.

The Court's entry of the proposed Final Judgment will terminate the action, except that the Court will retain jurisdiction over the matter for possible further proceedings to construe, modify or enforce the Judgment, or to punish violations of any of its provisions.

II

Description of Practices Giving Rise to the Alleged Violation of the Antitrust Laws

The SAR, organized under the provisions of the New York Not-For-Profit Corporation Law, is an association of approximately 54 literary agencies which have their principal places of business in New York City. Among the members of the SAR are some of the leading literary agencies in the country.

The primary services offered by literary agencies are the negotiation of the sale of rights to an author's work and the collection of money due the author. The clients of literary agencies are authors of material for publication in books and magazines and for presentation in theaters, motion pictures and on television. The authors represented by members of the SAR are located throughout the United States and in foreign countries. The purchasers of literary material to whom the members of the SAR sell their clients' works include publishers of books and magazines, theatrical producers and motion picture and television studios. They are located throughout the United States and in foreign countries.

In 1928, the SAR adopted a set of Rules that required its members to charge specified rates for their services. That set of Rules was replaced in 1966 by a Code of Ethics that recommended that members of the SAR charge specified rates for certain of their services. Then, in 1976, the SAR adopted a Canon of Ethics that prohibited its members from advertising and from soliciting each other's clients. During the 1970s, the SAR continued to engage in conduct that had the effect of fixing the rates its members charged for their services. It stated in "The Literary Agent," a pamphlet it publishes, that certain rates were "standard" or "customary" and identified in the pamphlet "maximum" rates charged by literary agencies. In addition, members of the SAR, acting under its auspices, have recently discussed their rates with each other and have exchanged information relating to current and future rates. The SAR has also established a Committee on Ethics and Practices to enforce the requirements and proscriptions contained in the Rules, Code of Ethics and Canon of Ethics.

III

Explanation of the Proposed Final Judgment

The parties have stipulated that the proposed Final Judgment, in the form they negotiated, may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act. The proposed Final Judgment states that it shall not constitute an admission by either party with respect to any issue of fact or law.

The proposed Final Judgment enjoins any direct or indirect continuation or renewal of the kind of conspiracy alleged in the complaint. Specifically, it prevents the defendant from fixing or recommending adherence to any rates or from engaging in certain specified conduct that would tend to have the effect of fixing rates. It does not, however, prevent the SAR from requiring that its members charge no rates for reading and rendering an opinion on manuscripts. It also does not prohibit the SAR from entering into an agreement with the Writers' Guild of America or any other labor organization, pursuant to which the SAR recommends to its members that they enter into an agreement with any such labor organization if the terms of that agreement do not violate the federal antitrust laws by virtue of the exemption provided in Sections 6 and 20 of the Clayton Act and the Norris-LaGuardia Act.

The proposed Final Judgment also enjoins the defendant from restraining advertising or the solicitation of clients by its members but permits it to prohibit its members from engaging in false or misleading advertising or other advertising in violation of applicable state or federal law or from soliciting clients in violation of applicable state or federal law.

The proposed Final Judgment contains several provisions relating to the defendant's compliance with its terms. It requires the defendant to amend certain of its documents so as to eliminate language inconsistent with the provisions of the Final Judgment, to distribute copies of all amended documents to its members and employees, and to place an announcement of its abandonment of restraints on rates, advertising and solicitation in two trade publications. It also requires the defendant to send copies of the Final Judgment to its members and to applicants for membership. The proposed Final Judgment also provides methods of determining and securing the defendant's compliance with its terms. It specifies that it will be effective for ten years from the date of its entry.

The last provision states that entry of the Final Judgment is in the public interest. Under the provisions of the Antitrust Procedures and Penalties Act, entry of the proposed Final Judgment is conditional upon a determination by the Court that it is in the public interest.

The government believes that the proposed Final Judgment is fully adequate to prevent the continuation or recurrence of the violation of Section 1 of the Sherman Act alleged in the complaint, and that disposition of this proceeding without further litigation is appropriate and in the public interest.

IV

Remedies Available to Potential Private Plaintiffs

After entry of the proposed Final Judgment, any potential private plaintiff that might have been damaged by the alleged violation will retain the same right to sue for monetary damages and any other legal or equitable relief that it may have had if the Final Judgment had not been entered. The Final Judgment may not be used, however, as *prima facie* evidence in private litigation, pursuant to Section 5(a) of the Clayton Act, as amended 15 U.S.C. 16(a).

V

Procedures Available for Modification of the Proposed Final Judgment

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed Final Judgment should be modified may submit written comments within the 60-day period provided by the Act to Ralph T. Giordano, Chief, New York Office, Antitrust Division, United States Department of Justice, Room 3630, 26 Federal Plaza, New York, New York 10278 (Telephone: 212–264–0390). These comments and the Department's responses to them will

be filed with the Court and published in the **Federal Register**.

All comments will be given due consideration by the Department of Justice. The Department remains free to withdraw its consent to the proposed Final Judgment at any time prior to its entry if it should determine that some modification is necessary. Additionally, the proposed Final Judgment provides that the Court retains jurisdiction over this action, and that the parties may apply to the Court at any time during the life of the Final Judgment for interpretation, modification, or enforcement of its provisions.

VI

Alternatives to the Proposed Final Judgment

The alternative to the proposed Final Judgment considered by the government was a full trial on the merits and on relief. The government considers the proposed judgment to be of sufficient scope and effectiveness to make a trial unnecessary, since it provides appropriate relief against the violations alleged in the complaint.

VII

Determinative Materials and Documents

No materials or documents were considered determinative by the government in formulating the proposed Final Judgment. Consequently, none is being filed pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b). Dated: New York, New York.

Respectfully submitted,
Rebecca Meiklejohn, Ruth Dicker,
Attorneys, Department of Justice, Antitrust Division, Room 3630, 26 Federal Plaza, New York, New York 10278, Tel. No.: (212) 264–0654.

[FR Doc. 82–19661 Filed 7–20–82; 8:45 am]
BILLING CODE 4410–01–M

LIBRARY OF CONGRESS

Copyright Office; Public Access to the Interim Document Card File

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of limited provisional access to an additional in-process file.

1. Notice of access and background

This notice is issued to inform the public that limited provisional public access to the Interim Document Card File will be allowed. In its notice of October 14, 1981 (46 FR 198) the Copyright Office published a policy decision regarding public access to in-process files. The general policy of the Office is to deny direct public access to in-process files and to any work (or other) areas where they are kept. Access to information contained in in-process files may be obtained by anyone upon request to the Information and Reference Division, in accordance with established procedures.

The Copyright Office recognizes that some members of the public wish to conduct searches of certain in-process files in order to obtain up-to-date information. The notice of October 14, 1981, as an exception to the general policy of denying direct public access to in-process files and to the work areas containing them, announced permission to direct access by members of the public to certain files, namely the Master Index Card File and the Temporary Title Card File. The Interim Document Card File is now added to them as a file to which direct public access is permitted.

2. Description of file

The Interim Document Card File provides preliminary information concerning documents submitted for recordation (and titles of copyrighted works contained in them) prior to the preparation of the official record in catalog card and mircrofilm form. Each card contains the remitter's name and as many titles as can be contained on a single card.

The file is maintained in daily chronological sequence by date of receipt of the document. The file is added to daily—with separations between each day's cards—until cards representing 60 days' receipts have been accumulated. On the 61st day the first day's cards will be discarded. The file is presently located in the Master Index Unit, Room LM–436, James Madison Memorial Building.

3. Access to file

Direct access by members of the public to the Interim Document Card File is permitted under the following conditions:

1. Hours of public access to the above file shall be from 10:00 a.m. to 11:00 a.m. Monday through Friday, on days when the Copyright Office is open for business.

2. Cards may not be removed from the file.

3. The Copyright office reserves the right to deny direct access to the Interim Document Card File in the case of any person who violates the stated conditions of the privilege.

Dated: July 8, 1982.

David Ladd,

Register of Copyrights.

[FR Doc. 82–19607 Filed 7–20–82; 8:45 am]
BILLING CODE 1410–03–M

THE COMMISSION OF FINE ARTS

Meeting

The Commission of Fine Arts will next meet in open session on Tuesday, September 14, 1982 at 10:00 a.m. in the Commission's offices at 708 Jackson Place, NW., Washington, D.C. 20006 to discuss various projects affecting the appearance of Washington, D.C.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Mr. Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address.

Dated in Washington, D.C., July 14, 1982.

Charles H. Atherton,

Secretary.

[FR Doc. 82–19682 Filed 7–20–82; 8:45 am]
BILLING CODE 6330–01–M

NATIONAL FOUNDATION FOR THE ARTS AND HUMANITIES

Dance Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Dance Advisory Panel (Grants to Dance Companies) to the National Coucil on the Arts will be held August 9–14, 1982, from 9:00 a.m.–5:30 p.m. in room 1422 of the Columbia Plaza Office Complex, 2401 E Street, NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, inlcuding discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark

Director, Office of Council and Panel Operations, National Endowment for the Arts.

July 14, 1982.

[FR Doc. 82–19683 Filed 7–20–82; 8:45 am]
BILLING CODE 7537–01–M

National Council on the Arts; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that a meeting of the National Council on the Arts will be held on Friday, August 6, 1982 from 9:00 a.m.—5:30 p.m. and on Saturday, August 7, 1982 from 9:00 am—5:30 p.m. at the Four Seasons Hotel, 2800 Pennsylvania Avenue, NW., Washington, D.C.

A portion of this meeting will be open to the public on Friday, August 6, 1982 from (9:00 a.m.—1:00 p.m. and 4:30 p.m.—5:30 p.m. and on Saturday, August 7, 1982 from 2:15 p.m.—5:00 p.m. Topics for discussion will include Program Review and Guidelines for Theater, Museum, Challenge, Advancement and Visual Arts Fellowship Programs; state and local arts programs and relationships; and arts education.

The remaining sessions of this meeting on Friday, August 6, 1982 from 2:30 p.m.—4:30 p.m. and on Saturday, August 7, 1982 from 9:00 a.m.—2:15 p.m. and 5:00 p.m.—5:30 p.m. are for the purpose of Council review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants, and for discussion and development of confidential FY 1984 budgetary materials to be submitted to the Office of Management and Budget and the Congress. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council & Panel Operations National Endowment for the Arts.

[FR Doc. 82–19671 Filed 7–20–82; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee on Extreme External Phenomena; Meeting

The ACRS Subcommittee on Extreme External Phenomena will hold a meeting on August 11, 1982, Room 1046, at 1717 H Street, NW, Washington, DC. The Subcommittee will discuss seismic design margins for nuclear power plants.

In accordance with the procedures outlined in the **Federal Register** on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows: *Wednesday, August 11, 1982—1:00 p.m. until 2:30 p.m.*

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Dr. Richard Savio (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: July 16, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82–19756 Filed 7–20–82; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Subcommittee on Safety Research Program; Meeting

The ACRS Subcommittee on the Safety Research Program will hold a meeting on August 11, 1982, Room 1046, at 1717 H Street, NW., Washington, DC. The Subcommittee will hold discussions with the NRC Staff regarding the format and contents for, and approach to, the next NRC Long-Range Research Plan for Fiscal Years 1985 through 1989.

In accordance with the procedures outlined in the **Federal Register** on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows: *Wednesday, August 11, 1982—8:30 a.m. until 1:00 p.m.*

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this matter.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Sam Duraiswamy (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: July 16, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82–19757 Filed 7–20–82; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Watts Bar Nuclear Plant; Meeting

The ACRS Subcommittee on Watts Bar Nuclear Plant will hold a meeting on August 10, 1982, Room 1046, at 1717 H Street, NW., Washington, D.C. The Subcommittee will complete the review of the application of Tennessee Valley Authority for an operating license for the Watts Bar Nuclear Plant.

In accordance with the procedures outlined in the **Federal Register** on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being

kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss proprietary and Industrial Security information. One or more closed sessions may be necessary to discuss such information. (Sunshine Act Exemption 4). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows: *Tuesday, August 10, 1982—8:30 a.m. until the conclusion of business.*

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the Tennessee Valley Authority, NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Gary Quittschreiber or Mr. Stuart Beal, Staff Engineer (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EDT.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close some portions of this meeting to protect proprietary and Industrial Security information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: July 16, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82–19758 Filed 7–20–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–309]

Maine Yankee Atomic Power Co.; Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 61 to Facility Operating License No. DPR–36, issued to Maine Yankee Atomic Power Company, which revised Technical Specifications for operation of the Maine Yankee Atomic Power Station (the facility) located in Lincoln County, Maine. The amendment is effective as of the date of issuance.

This amendment changes the Technical Specifications to increase the required number of operable safety injection actuation signal sensors. This amendment also changes the TS, in the area of administrative controls, to indicate the establishment of a separate training department and other organizational changes.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated April 12, 1982 and May 21, 1981 as supplemented December 11, 1981, (2) Amendment No. 61 to License No. DPR–36 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Wiscasset Public Library Association, High Street, Wicasset, Maine. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 14th day of July 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82–19754 Filed 7–20–82; 8:45 am]

BILLING CODE 7590–01–M

Workshop on Nuclear Power Plant Aging; Meeting

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting

SUMMARY: The study of plant aging is part of the NRC's long-range research program to improve the safety of nuclear power plants. The intent of the workshop is to encourage participation by interested persons to define the problem, discuss the state of knowledge on aging phenomena and identify future research activities necessary to understand time-related degradation and its influence on plant safety.

DATE: August 4 and 5, 1982.

ADDRESS: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Maryland 20014.

FOR FURTHER INFORMATION CONTACT: Mr. Satish K. Aggarwal, Program Manager, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; (301) 443–5946.

SUPPLEMENTARY INFORMATION: The workshop will examine the effects of aging on components important to the safety of nuclear power plants. Although emphasis is on electric, mechanical and structural components such as containment structures, cranes, pumps, valves, electric switches, sensors, cables, power sources, distribution equipment and actuation devices, discussions will also include reactor vessels, steam generators and piping.

Persons or organizations who wish to present technical papers should send an abstract to Benjamin E. Bader, Division 9446, Sandia National Laboratories, P.O. Box 5800, Albuquerque, New Mexico 87185 by July 23.

There is no registration fee.

Dated at Rockville, Maryland, this 14th day of July 1982.

For the Nuclear Regulatory Commission.

William F. Anderson,

Acting Director, Division of Engineering Technology, Office of Nuclear Regulatory Research.

[FR Doc. 82–19739 Filed 7–20–82; 8:45 am]

BILLING CODE 7590–01–M

Atomic Safety and Licensing Board; Tennessee Valley Authority; Evidentiary Hearing and Prehearing Conference

July 19, 1982.

In the matter of United States Department of Energy Project Management Corporation, Tennessee Valley Authority (Clinch River Breeder Reactor Plant), Docket No. 50–537.

Please take notice that a Prehearing Conference and an Evidentiary Hearing will be held in this licensing proceeding before an Atomic Safety and Licensing Board (Board), pursuant to the Atomic Energy Act of 1954 as amended (the Act), and the regulations set forth in Title 10, Code of Federal Regulations (CFR), Part 50, "Licensing of Production and Utilization Facilities," Part 51, "Licensing and Regulatory Policy and Procedures for Environmental Protection," and Part 2, "Rules of Practice."

A Prehearing Conference will commence on August 23, 1982 at 8:30 a.m. at the Executive Seminar Center Building, 301 Broadway, Oak Ridge, Tennessee. An Evidentiary Hearing will commence immediately following the Prehearing Conference that same day and will continue until completion of taking evidence on the issues and contentions admitted for the purpose of a limited work authorization (LWA–1) hearing, pursuant to 10 CFR 50.10(e).

The Clinch River Breeder Reactor Plant (CRBRP), a demonstration scale liquid metal fast breeder reactor (LMFBR), was originally authorized by Congress in 1970. In April, 1975, the Project Management Corporation (PMC) and the Tennessee Valley Authority (TVA) filed a § 104(b) application with the U.S. Nuclear Regulatory Commission (NRC) for a license to construct and operate the proposed CRBRP. The Application and Environmental Report (ER) were docketed on April 11, 1975. The Preliminary Safety Analysis Report (PSAR) was docketed on June 13, 1975. Legislation enacted by Congress in January 1976, authorized realignment of responsibilities of the participants in the project. The license application was accordingly amended in May 1976, to recognize that the U.S. Energy Research and Development Administration (ERDA) had overall responsibility for managing the design, construction, and operation of the CRBRP. The NRC Staff conducted a review of the CRBRP between 1975 and 1977. The Staff issued a Final Environmental Statement (FES) in February, 1977, which recommended the grant of a Construction Permit and issued a Site Suitability Report (SSR) in March 1977, which stated that the site was suitable from the standpoint of radiological health and safety.

On April 20, 1977, President Carter announced the Administration's decision to cancel the CRBRP. ERDA then requested suspension of the hearings and this request was granted by the Board on April 25, 1977.

On October 1, 1977, ERDA became the Department of Energy (DOE) as a result of PL 95–91, Department of Energy Organization Act and Executive Order 12009.

On January 11, 1982, the Applicants filed a motion to lift the suspension of the hearings and to set a prehearing conference. In light of President Reagan's policy statement on October 8, 1981 directing government agencies to proceed with completion of the CRBRP, and the Commission Order of December 24, 1981, the Board determined that there was no longer any reason for the suspension. Therefore, on January 18, 1982, the Board issued an order lifting the suspension and setting a date for a prehearing conference. (47 FR 3228)

A prehearing conference was held on February 9–10, 1982 at Oak Ridge, Tennessee. The schedule governing the proceeding was established in the Prehearing Conference Order of February 11, 1982. A conference with the parties was held in Bethesda, Maryland on April 5–6, 1982 to consider the admissibility of proposed contentions, and April 20, 1982 to determine the scope of the issues to be considered at the LWA–1 hearing.

The evidentiary hearing commencing August 23, 1982 will cover contentions 1(a), 2(a)–(d), (f)–(h), and 3(b)–(d), as limited in the Board's Order dated April 22, 1982, and contentions 4, 5, 6, 7, 8 and 11(b)–(d) as set out in the Order dated April 14, 1982. These contentions are as follows:

Contention 1(a) challenges the low probability of anticipated transients without scram (ATWS) or other CDA initiators, sufficient to enable CDAs to be excluded from the envelope of DBAs.

Contentions 2(a)–(c) question the validity of the Staff's postulated radiological source term for site suitability analysis.

Contention 2(d) questions whether the design of the containment is adequate to reduce calculated offsite doses to an acceptable level.

Contentions 2(f)–(h) question the validity of the codes used by Applicants and Staff.

Contention 3(b) questions Applicants' and Staff's analyses of potential accident initiator sequences and events.

Contention 3(c) alleges that accidents associated with core melt-through following loss of core geometry and sodium-concrete interactions have not been adequately analyzed.

Contention 3(d) challenges the analysis of the ways in which human error can initiate, exacerbate or interfere with the mitigation of CRBRP accidents.

Contention 4 addresses the health and safety consequences of acts of sabotage, terrorism or theft directed against the CRBR or supporting facilities.

Contention 5 questions the suitability of the site slected for the CRBR.

Contention 6 alleges that the SER and FES do not include an adequate analysis of the environmental impact of the CRBRP fuel cycle.

Contention 7 alleges inadequate anlyses of alternatives.

Contention 8 alleges inadequate analyses of unavoidable adverse environmental effects and the costs associated with decommissioning.

Contentions 11(b)–(d) assert residual health and safety consequences if the CRBRP merely complies with current requirements for radiation protection of the public health.

This evidentiary hearing will be conducted by a Board which has been duly designated by the Chairman of the Atomic Safety and Licensing Board Panel, consisting of Gustave A. Linenberger, Jr., Dr. Cadt H. Hand, Jr., Members, and Marshall E. Miller, Esq., Chairman.

Any person who wishes to make an oral or written statement in this proceeding but who has not filed a petition for leave to intervene, may request in writing permission to make a limited appearance pursuant to the provisions fo 10 CFR 2.715 of the Commission's Rules of Practice. Limited appearances will be permitted in this proceeding at the discretion of the Board, at times, within such limits and on such conditions as may be determined by the Board. Persons desiring to make a limited appearance are requested to inform in writing the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, not later than twenty (20) days from the date of publication of this notice in the **Federal Register**. A person permitted to make a limited appearance does not become a party, but may state his or her position and raise questions which he or she would like to have answered to the extent that the questions are germane and within the scope of the hearing as specified above. A member of the public does not have a right to participate in this evidentiary hearing unless granted the right to intervene as a party or the right of limited appearance.

Written limited appearance statements may be submitted to the Board at any time prior to closing the record in this phase of the proceeding. Oral statements will only be received at times designated by the Board in order not to interfere with the taking of evidence in this adjudicatory proceeding. Oral limited appearance statements may be made on August 23, 1982, immediately following the final prehearing conference, and at such other times as the Board shall specify. Both oral and written statements will be made a part of the official record of this proceeding.

Is is so ordered.

Dated at Bethesda, Maryland, this 19th day of July 1982.

For the Atomic Safety and Licensing Board.

Marshall E. Miller,

Chairman, Administrative Judge.

[FR Doc. 82-19619 Filed 7-20-82; 8:45 am]
BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

Privacy Act of 1974; System of Records; Annual Publication

In accordance with section 552a(e)(4) of the Privacy Act of 1974 the Postal Rate Commission hereby publishes notice of the existence of its System of Records. The System of Records was last published in full text in the **Federal Register** on September 22, 1977 (42 FR 48228). No changes have occurred since the last full text publication and the System of Records remains in effect as previously published.

David F. Harris,

Secretary.

[FR Doc. 82-19746 Filed 7-20-82; 8:45 am]
BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 18881; File No. SR-Amex-82-5]

American Stock Exchange, Inc.; Self-Regulatory Organization Amendment of Exchange Rule 423 on COD Orders

Comments requested on or after August 11, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on April 19, 1982, the American Stock Exchange filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change for interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange is proposing to amend Rule 423 on collect on delivery (COD) orders to require that member organizations, with certain exceptions, accept COD orders only when the customer or its agent and the member organization or its agent utilize the facilities of a depository for the confirmation, acknowledgement, and book entry settlement of all depository eligible transactions.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for the Proposed Rule Change

(a) *Purpose.* In 1980, a Joint Committee was formed by the Securities Industry Association and the New York Stock Exchange to study certain operating problems that exist with respect to COD trading by institutions. Briefly, trading on a COD basis is a courtesy which brokers normally extend only to their institutional customers. Arrangements are generally made with the broker whereby payment for the securities purchased by the institution (or by its investment manager) is to be made to the broker upon delivery of the securities to an agent of the institution, generally a custodian bank.

The major problem on which the Joint Committee focused was the frequent rejection of these deliveries, which is considered to be one of the most significant operational problems facing the securities industry today. Attempted deliveries of securities by brokers to their customers' agents in exchange for payment are often rejected ("DK'ed") because the agent has not received the customer's instructions to accept the securities. This problem is usually the result of a lost or delayed mailing of the confirmation and/or instructions to the customer or agent, a problem which increased significantly in periods of high volume. The costs incurred by brokers as a result of these DK's are quite significant.

The Joint Committee has recommended that, with certain exceptions, brokers be permitted to accept COD orders only when the customer or its agent and the broker or its agent (i.e., clearing firm) utilize the facilities of a registered securities depository for the confirmation, acknowledgement, and book entry settlement of all transactions in depository eligible securities. In the Joint Committee's view, the electronic confirmation, acknowledgement, and book entry settlement of COD trades offered by a depository is a far more efficient method for the processing of these trades than the conventional method utilizing the mails or private delivery systems. The Joint Committee believed that the use of depositories should reduce the number of DK's thereby significantly reducing costs. Moreover, the use of depositories will reduce the physical delivery and receipt of securities through book entry settlement.

The NYSE amended its Rule 387 on COD orders last December. The Amex now proposes to amend its comparable rule (Rule 423) to require that member organizations, with certain exceptions, accept COD orders only when the customer or its agent and the member organization or its agent utilize the facilities of a depository for the confirmation, acknowledgement, and book entry settlement of all depository transactions.

The proposed Rule provides an exemption for COD transactions between a member organization and a customer where one party to the trade and its agent are not members of a registered securities depository. Thus, persons not currently participating in a depository will not be required to become participants and will be exempted from the Rule. However, where both parties to a transaction or their agents are members of a depository they will be required to utilize the depository's electronic processing system. In addition, COD transactions that are not to be settled in the United States will be exempted.

In order to allow sufficent time for those affected to make any necessary adjustments, the rule change is not scheduled to take effect until January 1, 1983. By that time, all five registered

securities depositories are expected to either have in place a linkage with the Depository Trust Company's existing Institutional Delivery System [1] or to have developed a comparable system of their own.

(b) *Basis.* The proposed amendment is consistent with Section 6(b) of the Exchange Act in general and furthers the objectives of Section 6(b)(5) of the Act in particular in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities.

B. Self-Regulatory Organizations Statement on Burden on Competition

The Exchange has determined that the proposed additional requirements will have no impact on competition among broker-dealers, since brokers not currently participating in a depository will not be required to become participants. Moreover, the proposal has been designed to assure fair competition among registered securities depositories.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change from Members, Participants, or Others

No written Received comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approved such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies there of with the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C. (450 5th Street, N.W., Washington, D.C., after July 23, 1982). Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 9, 1982.

George A. Fitzsimmons,

Secretary.

American Stock Exchange, Inc.—Proposed Amendment of Rule 423

It is proposed that Amex Rule 423 be amended as set forth below.

Arrows (► ◄) indicate words to be added.

COD Orders

Rule 423. No member or member organization shall accept an order from a customer pursuant to an arrangement whereby payment for securities purchased is to be made to the member or member organization upon delivery of the securities to an agent of the customer, or whereby payment for securities sold is to be made by the member or member organizations to an agent of the customer upon receipt of the securities from such agent, unless all of the following procedures are followed:

(1) The member or member organization shall have received from the customer prior to or at the time of accepting the order, the name and address of the agent and the name and account number of the customer on file with the agent to which the securities are to be delivered or from which they are to be received, as the case may be;

(2) Each order accepted from the customer pursuant to such an arrangement has noted thereon the fact that it is a payment on delivery (POD) or collect on delivery (COD) transaction;

(3) The member or member organization delivers to the customer a confirmation, or in lieu thereof delivers to the customer all relevant data customarily contained in a confirmation, with respect to the execution of the order, in whole or in part, not later than the close of business on the next business day after any such execution; and

(4) The member or member organization has obtained an agreement from the customer that the customer will furnish his agent instructions with respect to the receipt or delivery of the securities involved in the transaction promptly upon receipt by the customer of each confirmation, or the relevant data as to each execution, relating to such order (even though such execution represents the purchase or sale of only a part of the order), and that in any event the customer will assure that such instructions are delivered to his agent no later than:

(i) in the case of a purchase by the customer where the agent is to receive the securities against payment (COD), the close of business on the fourth business day after the date of execution of the trade as to which the particular confirmation or relevant data relates; or

(ii) in the case of a sale by the customer where the agent is to deliver the securities against payment (POD), the close of business on the third business day after the date of execution of the trade as to which the particular confirmation or relevant data relates.

►(5) The customer or its agent shall utilize the facilities of a securities depository for the confirmation, acknowledgement and book entry settlement of all depository eligible transactions.◄

* * * Commentary

.01 A confirmation with respect to a COD or POD transaction pursuant to this Rule must set forth all of the information normally contained on customer confirmations, including name and account number of customer, date of entry of order; security, amount, price, and any specific instructions relating thereto. If the order has been only partially executed, the confirmation should show the number of shares or units which remain to be executed.

.02 Under subparagraph (3) of this Rule, the member organization must assure that the confirmation is physically delivered to the customer no later than the close of business on the next business day after the date of execution, regardless of whether the order has been fully executed or only partially executed. Thus, the mailing of confirmations may not be sufficient to assure compliance with this Rule. If the customer's office is so located that physical delivery of the confirmation

[1] An electronic communications system utilized by DTC, banks, brokerage houses and certain customers to facilitate the confirmation and acknowledgement of COD trades.

cannot be made within the specified time period, the member organization must make other arrangements to assure that the customer actually receives the relevant information by the close of business on the day following the date of execution. This may be accomplished by telegram, teletype, telephone or similar means of communication, followed by delivery or mailing of the written confirmation. In case the relevant information concerning a confirmation is furnished to a customer by telephone communication, the member or member organization should prepare and preserve a memorandum of such conversation as evidence of delivery of the required information.

.03 The agreement by the customer to furnish his agent with instructions for receiving or delivering securities upon receipt of information concerning executions must likewise provide for actual delivery of such instructions within the time period specified in subparagraph 4 of this Rule. Again, if such instructions cannot be hand delivered, wire communications must be used.

►.04 The following transactions shall be exempt from the provisions of paragraph (5) of this Rule:

(1) Transactions that are to be settled outside of the United States.

(2) Transactions wherein both a member organization and its agent are not participants in a securities depository.

(3) Transactions wherein both a customer and its agent are not participants in a securities depository.

.05 The exemptions contained in .04(2) and (3) of this Commentary shall be periodically reviewed by the Exchange in order to determine their continued necessity.

.06 For the purposes of this rule, a "securities depository" shall mean a clearing agency as defined in Section 3(a)(23) of the Securities Exchange Act of 1934, that is registered with the Securities and Exchange Commission pursuant to Section 17A(b)(2) of the Act.

.07 For the purposes of this rule, "depository eligible transactions" shall mean transactions in those securities for which confirmation, acknowledgement and book entry settlement can be performed through the facilities of a securities depository as defined in Commentary .06 of this rule.

.08 Rule 423(5) and Commentary .04, .05, .06, and .07 shall become effective January 1, 1983.◄

[FR Doc. 82-19640 Filed 7-20-82; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 18382; File No. SR-MSE-82-6]

Midwest Stock Exchange, Incorporated; Self-Regulatory Organizations

Relating to the use of the facilities of a securities depository in respect to the confirmation, acknowledgement and book entry settlement of securities transctions. Comments requested on or before August 11, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on June 28, 1982 the Midwest Stock Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Arrows indicate additions (► ◄)

Article XV

►Rule 5(a) No member organization shall accept an order from a customer pursuant to an agreement whereby payment for securities purchased or delivery of securities sold is to be made to or by an agent of the customer unless the following procedure is followed:

The customer or its agent shall utilize the facilities of a securities depository for the confirmation, acknowledgement and book entry settlement of all depository eligible transactions.

* * * Interpretations and Policies

.01 The following transactions shall be exempt from the provisions of this Rule:

(1) Transactions that are to be settled outside the United States.

(2) Transactions wherein both a member organization and its agent are not participants in a securities depository.

(3) Transactions wherein both a customer and its agent are not participants in a securities depository.

.02 The exemptions contained in .01(2) and (3) of these Interpretations and Policies shall be periodically reviewed by the Exchange in order to determine their continued necessity.

.03 For the purposes of this rule, a "securities depository" shall mean a clearing agency as defined in Section 3(a)(23) of the Securities Exchange Act of 1934, that is registered with the Securities and Exchange Commission pursuant to Section 17A(b)(2) of the Act.

.04 For the purposes of this rule, "depository eligible transactions" shall mean transactions in those securities for which confirmation, acknowledgement and book entry settlement can be performed through the facilities of a securities depository as defined in Rule 5.03.

.05 Rule 5 and Interpretations and Policies .01, .02, .03 and .04 become effective January 1, 1983.◄

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Bais for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed of the proposed rule change is to establish the requirement that members may not accept orders from their customers or from the customer's agent unless they utilize the facilities of a securities depository in respect to the confirmation, acknowledgement and settlement of securities transactions. The rule provides exceptions for transactions that are settled outside the United States, and also for transactions wherein (i) both a member organization and its agent are not participants in a securities depository, and (ii) both a customer and its agent are not participants in a securities depository. Therefore, persons who are not existing participants in a securities depository will not be required to become participants.

The proposed rule change is designed to remedy "don't know rejected trades" (attempted deliveries of securities against payment that are rejected because the receiver says it has no instructions from its customers to accept such securities), a problem which is exacerbated during periods of high volume.

The change will contribute to the uniform treatment of securities transactions in that other national securities exchanges and the National

Association of Securities Dealers have submitted, or will soon submit, similar rule changes for approval.

The proposed rule change is consistent with Section 6(b)(5) of the Act in that it will foster cooperation and coordination with persons engaged in regulating, clearing, settling and processing information with respect to, and facilitating transactions in securities.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Stock Exchange, Incorporated believes that no burdens will be placed on competition as a result of the proposed rule change. Rather, the Exchange believes that the rule change will assure fair competition among securities depositories.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C. (450 5th Street, N.W., Washington, D.C., after July 23, 1982). Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 9, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-19639 Filed 7-20-82; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[(Delegation Order No. 51) (Rev. 6)]

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of Authority.

SUMMARY: This delegation order is revised to redelegate the authority to sign proofs of claim and other documents to the Chiefs of sections or units responsible for preparing proofs of claim. The text of the delegation order appears below.

EFFECTIVE DATE: July 20, 1982.

FOR FURTHER INFORMATION CONTACT:

Mr. Antony C. Allevato, Internal Revenue Service, 1111 Constitution Ave., N.W., Room 7539, OP:C:O, Washington, D.C. 20224, (202) 566-4654 (not toll free).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury directive appearing in the Federal Register for Wednesday, November 8, 1978.

William Wauben,

Acting Assistant Commissioner (Collection).

[Order No. 51 (Rev. 6)]

Delegation Order

Date of issue: July 20, 1982.

Effective Date: July 20, 1982.

Subject: Authority to Sign Proofs of Claim and Other Documents.

1. Pursuant to the authority vested in the Commissioner of Internal Revenue by 26 CFR 301.7701-9 and 26 CFR 301.6871, the authority to sign proofs of claim and other documents asserting the obligations incurred under the Internal Revenue laws (including taxes, penalties and interest), in order to claim and collect such obligations in any proceeding under the Bankruptcy Act, Bankruptcy Code and any receivership, decedent's estate, corporate dissolution, or other insolvency proceeding is hereby redelegated to the following officers:

Chief, Special Procedures Staff
Chief, Technical and Office Compliance Branch
Chief, Technical and Office Compliance Group in streamlined districts

2. The authority in Section 1 may be redelegated but not lower than the following:

Special Procedures Officers
Advisors no lower than grade 12
Advisor/Reviewers no lower than grade 12
Chief, of sections or units responsible for preparing proofs of claim no lower than grade 8.

This order supersedes Delegation Order No. 51 (Rev. 5), issued September 29, 1980.

James I. Owens,

Deputy Commissioner.

[FR Doc. 82-19782 Filed 7-20-82; 8:45 am]

BILLING CODE 4830-01-M

National Productivity Advisory Committee; Meeting

July 13, 1982.

The Subcommittee on Research, Development and Technological Innovation of the National Productivity Advisory Committee will meet from 9:30 a.m. till 12:30 p.m. on August 6, 1982 in the IBM Board Room, 50th floor, Citicorp Building, 153 East 53rd Street, New York, New York.

The purpose of the meeting will be to discuss ways in which changes in government policy can improve national productivity.

Roger B. Porter,

Executive Secretary, National Productivity Advisory Committee.

[FR Doc. 82-19670 Filed 7-20-82; 8:45 am]

BILLING CODE 6810-25-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 140
Wednesday, July 21, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD

TIME AND DATE: 10 a.m., July 22, 1982.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of Items Adopted by Notation.
2. Docket 21670, *Frontier, Airlines, Inc., Subsidy Mail Rates.* (OGC)
3. Docket 38459, Second year subsidy rate for Atlantic Southeast Airlines for provision of essential air service at Brunswick, Georgia. (BDA)
4. Dockets 40272 and 40273, Republic Airlines' notice to suspend service at Iron Mountain and Ironwood, Michigan. (BDA, OCCCA)
5. Docket 40205, Simmons Airlines' 30-day notice of intent to suspend its service at Manitowoc, Wisconsin. (Memo 948-A, BDA)
6. Dockets 40634 and 40635, Applications of United Air Carriers, Inc. d.b.a. Overseas National Airways (ONA) for certificate authority to engage in scheduled interstate and overseas air transportation between all points in the United States, its territories and possessions, and for authority between points in the United States and a point or points in Belgium, the Netherland, Luxembourg and the Federal Republic of Germany. (BDA, BIA, OGC)
7. Docket 40625, Application of Jeffrey D. Haddock and Ronald A. Watson, d.b.a. Valdez Airlines, under expedited procedures, for a section 401 certificate. (Memo 1319-A, BDA)
8. Bumping of subsidized airlines under section 419 of the Act. (OGA, BDA)
9. Docket 40432, *Bergt-AIA-Western-Wien Acquisition and Control Case.* (OGC)
10. Docket 40545, CAB Recommendations to the FAA concerning slot allocations under the Interim Operations Plan. (OGC, BDA, OEA, OCCA)
11. Docket 28348, Institutional Control of Air Carriers Investigation. (BALJ, BDA)
12. Docket 39675, Application of Air Tungaru Corp. for an amendment to its section 402 permit. (Memo 1400, BIA, OGC, BA J)
13. Docket 40670, Application of Northwest Airlines, Inc. for an exemption to engage in foreign air transportation between Billings, Montana and Calgary, Alberta, Canada. (BIA)
14. Report on Canada. (BIA)
15. Negotiations with China. (BIA)

STATUS: 1-12 Open 13-15 Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-1062-82 Filed 7-16-82; 4:56 pm]

BILLING CODE 6320-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2 p.m. on Monday, July 26, 1982, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Applications for consent to merge and establish branches:

First American Bank of Palm Beach County, North Palm Beach, Florida, for consent to merge, under its charter and title, with First American Bank of Broward County, Hollywood, Florida and to establish the four approved offices of First American Bank of Broward County as branches of the resultant bank.

First American Bank of Palm Beach County, North Palm Beach, Florida, for consent to merge, under its charter and title, with Merritt Square Bank, Titusville, Florida, and to establish the four offices of Merritt Square Bank as branches of the resultant bank.

Maine Savings Bank, Portland, Maine, for consent to merge, under its charter and title, with 1st Consumers Savings Bank, Augusta, Maine, and to establish the five offices and one approved but unopened office of 1st Consumers Savings Bank as branches of the resultant bank.

Request for exemption pursuant to section 348.4(b)(2) of the Corporation's rules and regulations entitled "Management Official Interlocks":

Bank of Santa Maria, Santa Maria, California.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,305—Farmers Bank of the State of Delaware, Dover, Delaware
Memorandum and Resolution re: Banco Regional, Bayamon, Puerto Rico

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Bronson, Bronson & McKinnon, San Francisco, California, in connection with the receivership of United States National Bank, San Diego, California.
Feldstein, Gelpi & Hernandez, Old San Juan, Puerto Rico, in connection with the liquidation of Banco Credito y Ahorro Ponceno, Ponce, Puerto Rico.

Recommendation regarding the Corporation's assistance agreement with an insured bank pursuant to section 13(c) of the Federal Deposit Insurance Act.

Memorandum and resolution re: Proposed amendment to Part 329 of the Corporation's rules and regulations, entitled "Interest on Deposits," which would remove (or, in the alternative, increase) the current $150,000 ceiling on the amount of savings deposits of a corporation, partnership, association, or other organization which may be held by an insured nonmember commercial bank.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.
Reports of the Division of Bank Supervision with respect to applications or requests approved by the Director or Associate Director of the Division and the various Regional Directors pursuant to authority delegated by the Board of Directors.
Report of the Director, Division of Bank Supervision:
Memorandum re:
- First Pennsylvania Bank, N.A., Bala-Cynwyd, Pennsylvania
- First Pennsylvania Corporation, Philadelphia, Pennsylvania
- Report of Actions Taken Under Delegated Authority

Reports of the Director, Division of Liquidation:
Memorandum re:
- American Bank & Trust Company, Orangeburg, South Carolina

Mohawk Bank & Trust Company, Greenfield, Massachusetts
Sale of Residential Mortgage Loans to the Federal National Mortgage Association (FNMA)
Memorandum re:
The Morrice State Bank, Morrice, Michigan, Termination of Field Liquidation Office
Report of the General Counsel:
Memorandum re:
Reports of Actions Approved Under Delegated Authority: Settlements of Claims and Attorneys' Fees Approved for Payment
Reports of the Director, Office of Corporate Audits:
Memorandum re:
Office of Corporate Audits Quarterly Certification of Division of Liquidation Approvals Under Delegated Authority
Audit Report re:
Project Review of the Accounts Receivable Subsystem—Interim Audit Report #2, dated June 1, 1982

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: July 19, 1982.

Federal Deposit Insurance Corporation

Hoyle L. Robinson,

Executive Secretary.

[S 1083–82 Filed 7–19–82; 2:29 pm]

BILLING CODE 6714–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, July 26, 1982, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Notice of acquisition of control:

Name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8) and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Reports of committees and officers:

Report of the Director, Office of Corporate Audits:
Audit Report re: Banco Credito y Ahorro Ponceno, San Juan, Puerto Rico, dated December 16, 1981

Discussion Agenda:

Application for consent to establish a branch:

Riverhead Savings Bank, Riverhead, New York, for consent to establish a branch in the vicinity of the intersection of Ponquogue and Fanning Avenues, Village of Hampton Bays, Town of Southampton, New York.

Request for rescission of conditions previously imposed in granting Federal deposit insurance:

Fidelity Management Trust Company, Boston, Massachusetts.

Request for relief from adjustment for violations of the Truth in Lending Act:

Name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8) and (c)(9)(A)(ii)).

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No 45,272–NR—United States National Bank, San Diego, California
Case No 45,274–L—Northeast Bank of Houston, Houston, Texas
Case No 45,300–SR—Crown Savings Bank, Newport News, Virginia

Appeal from an initial partial denial of a request for records pursuant to the Freedom of Information Act.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: July 19, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1084–82 Filed 7–19–82; 2:30 pm]

BILLING CODE 6714–01–M

Federal Register

Wednesday
July 21, 1982

Part II

Department of Health and Human Services

Public Health Service

Health Maintenance Organizations

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 110

Health Maintenance Organizations

AGENCY: Public Health Service, HHS.

ACTION: Final regulations.

SUMMARY: This rule amends the Public Health Service regulations on qualification of health maintenance organizations (HMOs). Changes are made in the procedural requirements for entities to obtain qualification as federally qualified HMOs. These changes include requirements relating to Freedom of Information requests and deletion of the fair hearing provision. Adoption of these amendments will update the requirements for HMOs seeking Federal qualification.

EFFECTIVE DATE: This rule is effective on August 20, 1982.

FOR FURTHER INFORMATION CONTACT: Frank H. Seubold, Ph.D., Director, Office of Health Maintenance Organizations, Park Building, 3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443–4106.

SUPPLEMENTARY INFORMATION: On June 8, 1977, interim regulations were published in the **Federal Register** (42 FR 29400–01, 14–16), to amend 42 CFR Part 110, Subpart F, issued under Title XIII of the Public Health Service Act (the Act). On October 27, 1981, an NPRM was published in the **Federal Register** (46 FR 52566–9) concerning the qualification of HMOs. The Secretary invited comments by December 28, 1981. Two persons submitted comments on the NPRM.

The comments received, responses thereto, and the changes made, if any, are summarized below:

1. One commenter requested that the Department reconsider its position that inpatient psychiatric services are a supplemental rather than a basic health service. The basic health services are not described in these regulations. The Department will consider this comment in any proposed changes to 42 CFR Part 110, Subpart A, which specifies at § 110.102 those services which are basic health services.

2. The other commenter questioned the Department's proposed change in the footnote to § 110.604(a) regarding the release of documents submitted in connection with a qualification application. The commenter suggested that a policy that did not provide an "advance" ruling or allow the applicant to withdraw such documents when requested by the public under the Freedom of Information Act (FOIA) could cause competitive harm to the HMO. As noted in the Notice of Proposed Rulemaking (46 FR 52567), Department policy and practice do not normally provide for advance rulings as to whether application material may be released to the public. Also, an applicant cannot withdraw a document after an FOIA request has been made. After the document has been submitted to the Department, whether it may be released is determined by applicable law, which does not give the applicant the discretion to retrieve a document.

This commenter also suggested that the Department utilize the Federal Criminal Code (18 U.S.C. 1905) rather than the FOIA to determine which information is releasable. The commenter appears to misunderstand the relationship between the FOIA and 18 U.S.C. 1905. Because both statutes apply to the Department's disclosure of information, each decision by the Secretary whether to disclose information must be made consistent with both laws. Under 18 U.S.C. 1905, employees of the Department are prohibited from disclosing information that is not authorized by law which relates to:

> The trade secrets, processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association * * *"

Because the statute prohibits the disclosure of this information, the Secretary will not release any information that he concludes falls within the scope of 18 U.S.C. 1905 unless that release is otherwise authorized by law. To the extent that the Secretary has received trade secrets and privileged or confidential commercial or financial information which he concludes is not prohibited from disclosure under 18 U.S.C. 1905, this information may still be exempted from release under the FOIA if the Secretary concludes that the release would impair the Department's ability to obtain similar information or its disclosure is likely to cause substantial harm to the competitive position of the organization submitting the information. The Secretary has decided to note 18 U.S.C. 1905 along with FOIA in the discussion of the disclosure of Government records at footnote 2 of § 110.604.

The commenter also noted that there are no HMO regulations specifically addressing procedures for release of documents contained in a request for a service area expansion by a qualified HMO, and he suggested that the Department extend its submission requirements for qualification applicants to applicants for a service area expansion as well. The same standards that apply to the release of documents submitted in connection with a qualification application apply to all documents submitted to OHMO, including those submitted for a service area expansion. The Secretary does not believe it is necessary to state explicitly that these standards apply to service area expansion.

3. The Secretary had proposed deleting the entire requirement in § 110.603(b)(3) that each regional component of an HMO sign its assurances within one year from the date of the signing by the first component. The Secretary had intended only to delete the requirement that these assurances be signed within one year. In order to correct this inadvertent deletion, the Secretary has now restored the requirement in § 110.603(e) that each regional component sign its assurances.

4. The Secretary had proposed to modify the requirement in § 110.604(b) that an applicant for qualification list certain financial, proprietary and managerial relationships with its contractors so that the provision would be consistent with section 1318 of the Act (added by the HMO Amendments of 1978). However, since section 1318 of the Act, which requires an HMO to disclose certain transactions with a "party in interest," does not require this disclosure in connection with an application for qualification and since that information relating to a qualification applicant's financial, proprietary and managerial relationships may be requested under § 110.604 (formerly § 110.604(a)), § 110.604(b) is not necessary. Therefore, the Secretary has reconsidered the proposal and has deleted § 110.604(b).

Executive Order 12291

The Department of Health and Human Services has determined that this is not a major rule for the purposes of Executive Order 12291, Federal Regulation, because it will not result in (1) An annual effect on the economy of $100 million or more; (2) A major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or (3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The Department of Health and Human Services certifies that these regulations will have no significant impact on a substantial number of small entities, including HMOs, small businesses, small organizational units, and small governmental jurisdictions. In fact, several changes in these rules reduce the paperwork burden and reporting requirements on the HMO applicants.

Office of Management and Budget Clearance: Reporting and Recordkeeping Requirements

The Department is required to submit to the Office of Management and Budget (OMB) for review and approval the application form described at § 110.604. This application form has been approved through September 30, 1982, OMB number 0937–0103.

List of Index Terms for the Federal Register Thesaurus

In accordance with 1 CFR § 18.20 the Secretary sent the Director of the **Federal Register** a list of index terms for 42 CFR Part 110. These terms, which have been included in the **Federal Register** Thesaurus of Indexing Terms, follow:

List of Subparts in 42 CFR Part 110

Grant programs-health, Health care, Health facilities, Health insurance, Health maintenance organizations, Loan programs-health.

The Assistant Secretary for Health of the Department of Health and Human Services, with the approval of the Secretary of Health and Human Services, amends 42 CFR Part 110, Subpart F, as set forth below.

Dated: May 11, 1982.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

Approved: July 1, 1982.

Richard S. Schweiker,

Secretary.

Subpart F is revised to read as follows:

PART 110—HEALTH MAINTENANCE ORGANIZATIONS

Subpart F—Qualification of Health Maintenance Organizations

Sec.

110.601 Applicability.
110.602 Definitions.
110.603 Requirements for qualification.
110.604 Application requirements.
110.605 Evaluation and determination of qualification.

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690 (42 U.S.C. 216); secs. 1301–1318 of the Public Health Service Act, as amended, 95 Stat. 572–578 (42 U.S.C. 300e–300e17).

Subpart F—Qualification of Health Maintenance Organizations

§ 110.601 Applicability.

The regulations of this subpart apply to any entity seeking a determination by the Secretary under section 1310(d) of the Act that it is a qualified health maintenance organization (HMO).

§ 110.602 Definitions.

In addition to the terms defined in § 110.101 of this part, as used in this subpart:

"Operational qualified "HMO" means an HMO which the Secretary has determined provides basic and supplemental health services to all of its members in accordance with Subpart A of this part and is organized and operated in accordance with Subpart A of this part.

"Preoperational qualified HMO" means an entity which the Secretary has determined will, when it becomes operational, be a qualified HMO.

"Transitionally qualified HMO" means an entity which operates a prepaid health care delivery system and which the Secretary has determined meets the requirements of § 110.603(b). A transitionally qualified HMO is considered a "qualified HMO" for the purpose of compliance by an employer with the requirements of section 1310 of the Act and Subpart H of this part. Under these requirements, the employer must include the HMO in its health benefits plan so long as the HMO's qualification has not been revoked under section 1312(b) of the Act and § 110.904(d) of this part.

§ 110.603 Requirements for qualification.

Upon the basis of an application submitted in accordance with this subpart and any additional information and investigation (including site visits) that the Secretary may require:

(a) The Secretary will determine that the applicant is an operational qualified HMO upon finding that it meets the requirements of Subpart A of this part and if it provides written assurances satisfactory to the Secretary, within 30 days of the date of the Secretary's determination, that it:

(1) Provides and will provide basic health services (and any contracted for supplemental health services) to its members;

(2) Provides and will provide these services in the manner prescribed by section 1301(b) of the Act and Subpart A of this part;

(3) Is organized and operated, and will continue to be organized and operated, in the manner prescribed by section 1301(c) of the Act and Subpart A of this part;

(4) Under arrangements which will safeguard the confidentiality of patient information and records, will provide access to the Secretary and the Comptroller General or any of their duly authorized representatives for the purpose of audit, examination or evaluation to any books, documents, papers, and records of the entity relating to its operations as an HMO, and to any facilities operated by the entity; and

(5) Will continue to comply with any other assurances which the entity has given to the Secretary under §§ 110.203(b), 110.303(h), and 110.403(b).

(b) The Secretary may determine that an applicant is a transitionally qualified HMO upon finding that it currently is organized and is providing prepaid health services as described in this paragraph and if it provides written assurances satisfactory to the Secretary, within 30 days of the date of the Secretary's determination, that it will:

(1) With respect to all new group and individual (non-group) contracts which it enters into after the date of the Secretary's determination, provide basic health services (and any contracted for supplemental health services) to members enrolled under these contracts and will provide these services in the manner prescribed by Subpart A of this part, and with respect to these members, will be organized and operated in accordance with § 110.108 of this part.

(2) With respect to its group and individual contracts which are in effect on the date of the Secretary's determination and which are renewed or renegotiated during the period approved by the Secretary under paragraph (b)(2)(iii) of this section in accordance with the plan so approved:

(i) Provide at least those services specified in the following sections of this part (except that these services may be limited as to time and cost):
§ 110.102(a)(1) (physician services);
§ 110.102(a)(2) (outpatient services and inpatient hospital services);
§ 110.102(a)(3) (medically necessary emergency health services); and
§ 100.102(a)(6) (diagnostic laboratory and diagnostic and therapeutic radiologic services);

(ii) Be organized and operated in accordance with § 100.108 (except that it need not assume full financial risk for the provision of basic health services as required by § 100.108(b), and need not abide by the limitations on insurance of § 100.108(b)(1) and (3)) and provide that payment for basic health services shall be in accordance with § 100.105 (except

that it need not comply with (A) the requirement for a community rating system of § 100.105(a)(3), (B) the limitations on copayments of § 100.105(a)(4), and (C) the requirement of § 100.106(b) that supplemental health services payments which are fixed on a prepayment basis be fixed under a community rating system);

(iii) Implement a time-phased plan acceptable to the Secretary which specifies definite steps for meeting, at the time of renewal of each group or individual contract, but not to exceed 3 years from the date of the Secretary's determination, all the requirements of Subpart A of this part; and

(iv) Upon completion of the time-phased plan, (A) provide basic and supplemental health services to all of its members, (B) provide these services to all of its members in the manner prescribed by Subpart A of this part, and (C) be organized and operate in the manner prescribed by Subpart A of this part.

(c) The Secretary may determine that an applicant is a preoperational qualified HMO if it provides, within 30 days of the Secretary's determination, satisfactory assurances that it will become operational within 60 days following that determination and will, when it becomes operational, meet the requirements of Subpart A of this part. Upon notification by the applicant to the Secretary that it has become operational, the Secretary will, within 30 days of this notification, make a determination whether the applicant is an operational qualified HMO. In the absence of this determination, the organization is not an operational qualified HMO even though it becomes operational.

(d) If the Secretary determines that an applicant meets the requirements for qualification and the applicant fails to sign its assurances within 30 days following the date of the determination, then the Secretary will notify the applicant in writing that its application is considered withdrawn and that is not a qualified HMO.

(e) An HMO which has more than one regional component, as described in § 100.105(b)(3)(iii), will be considered qualified for those regional components for which assurances have been signed in accordance with this section.

§ 100.604 Application requirements.

An applicant seeking a determination that it is a qualified HMO under this subpart shall apply to the Secretary in the form and manner which the Secretary prescribes.[1] The application must be executed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the statute and the regulations of this part. The applicant must provide a complete description of how the applicant meets or will meet the requirements of Subpart A of this part and applicable sections of the Act.[2] An applicant receiving a denial may not submit a new application for qualification until at least four months after the date of this notice of that determination.

§ 100.605 Evaluation and determination of qualification.

(a) The Secretary will evaluate applications submitted under this subpart and will obtain any additional necessary information, employing site visits, public hearings or any other appropriate procedures. If an application is incomplete, the Secretary will notify the applicant and provide it with an opportunity to furnish the missing information within 60 days of the date of the notice. Following the evaluation of all relevant information, the Secretary will determine whether the applicant meets the appropriate requirements of §§ 100.603 and 110.604, section 1301 of the Act, and Subpart A of this part.

(b) Upon finding that an applicant (1) does not appear to meet the requirements for qualification and (2) appears to be able to meet the requirements within 60 days, the Secretary will issue to the applicant a notice of intent to deny qualification and a summary of the basis for this preliminary finding. Within 60 days of the date of this notice, the applicant may respond in writing to the issues or other matters which were the basis for the Secretary's preliminary finding, and may revise its application to remedy any defects identified by the Secretary.

(c) The Secretary will notify each applicant for qualification under this subpart of the determination and the basis for the determination.

(d) Upon the denial of an application for qualification under this subpart, the Secretary will notify the applicant in writing and provide the applicant an opportunity to request a reconsideration of the determination. A request for reconsideration must be submitted in writing, within 60 days following the date of the notification of denial, be addressed to the officer or employee of the Department of Health and Human Services who has denied the application, and set forth the grounds upon which the reconsideration is requested, specifying the material issues of fact and of law upon which the applicant relies. Reconsideration will be based upon the record compiled during the qualification review proceedings, materials submitted in support of the request for reconsideration, and other relevant materials available to the Secretary. The Secretary will provide written notice of the reconsidered determination to the applicant. The notice will set forth the basis for the determination.

(e) The Secretary will publish on a monthly basis in the **Federal Register** the names, addresses, and descriptions of the service areas of the newly qualified HMOs. A cumulative list of qualified HMOs may be obtained by writing the Document Control Unit, Office of Health Maintenance Organizations, Park Building, 3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, or by visiting that Office between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Interested persons should contact that Office between 8:00 a.m. and 4:30 p.m., Monday through Friday, to make an appointment to obtain additional information regarding qualified HMOs.

[FR Doc. 82-19043 Filed 7-20-82; 8:45 am]
BILLING CODE 4110-17-M

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[1] Application forms and instruction may be obtained by writing the Office of Health Maintenance Organizations, Division of Qualification, Park Building—3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857.

[2] Applicants should be aware that provisions of the Freedom of Information Act, 5 U.S.C. 552, may require disclosure of certain official Government records. Regulations of the Department of Health and Human Services, 45 CFR Part 5, provide exceptions to disclosure. Applicants submitting material which they feel is covered by these exceptions should label the material "privileged" and include a concise explanation of the applicability of 45 CFR Part 5. Upon receipt of a request for information under the Freedom of Information Act, the Secretary will examine the information and determine whether it is subject to disclosure. As part of this determination, the Secretary will decide whether information may not be disclosed under 18 U.S.C. 1905. Under this statute, the Department may not disclose any information not authorized by law that relates to certain confidential information such as trade secrets, processes and confidential financial information.

federal register

Wednesday
July 21, 1982

Part III

Department of the Interior

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants Endangered Status for United States Population of the Ocelot

DEPARTMENT OF THE INTERIOR

U.S. Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Endangered Status for U.S. Population of the Ocelot

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: Due to an inadvertent oversight, the U.S. population of the ocelot (*Felis pardalis),* a species which occurs in extreme southeastern Texas, and which may wander into Arizona from Mexico, is not officially listed as an Endangered species, although all populations which occur in foreign countries are listed. This is because of the special circumstances that this species was listed pursuant to the 1969 Endangered Species Conservation Act, which had separate procedures and separate lists for foreign and domestic species. When the current 1973 Endangered Species Act repealed the 1969 Act, this species was carried forward onto the 1973 combined list but without completing the procedures for listing species which occur within the U.S.

On July 25, 1980, a proposed rulemaking was published to list the U.S. population of the ocelot, and which sought to correct the oversight which resulted in its inadvertent exclusion when the foreign populations were listed. At that time, the Governors of Texas and Arizona were notified of the proposed action, and asked to submit any data, comments, or opinions they might have. All data received as a result of the proposal have now been analzed, and the Service is hereby adding the U.S. population of the ocelot to the List of Endangered Fish and Wildlife.

No Critical Habitat is determined in this rulemaking on the ocelot because such a designation would not be in the best interests of conservation of the species.

DATES: This rulemaking becomes effective on August 20, 1982.

ADDRESSES: All questions pertaining to this rulemaking should be addressed to: Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. All data and other materials related to this rulemaking are available for public examination during normal business hours at the Service' Office of Endangered Species, Suite 531, 1000 North Glebe Road, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, Washington, D.C. (703/235–1975).

SUPPLEMENTARY INFORMATION:

Background

On July 25, 1980, the Service published a proposed rulemaking in the **Federal Register** (45 FR 49844) to list the U.S. population of the ocelot (*Felis pardalis,*) and four other species, which, due to an oversight, were not legally listed despite the fact that foreign populations of these same species were officially on the List of Endangered Fish and Wildlife. The proposal pointed out that the Endangered Species Conservation Act of 1969, under which these five species were originally listed, required that the governors of any State in which an Endangered species occurs must be notifed when such a species is proposed for listing. The five species enumerated in the proposal had been placed on the list as Endangered "foreign" species under the 1969 Act, and none of the governors of the States in which they are resident was contacted at the time. Thus the native populations were never legally listed pursuant to the criteria and procedures of the 1969 Act. The 1969 Act has since been repealed by the Endangered Species Act of 1973. Because the "foreign" and "native" species lists of the 1969 Act were combined into a single list of "Endangered species" under the 1973 Act, the oversight was not discovered until some time later. When it was realized that the populations of these species in the U.S. were not officially listed, the Service published its July 25, 1980, proposal in an attempt to rectify the original error, and to gather sufficient data to warrant listing these U.S. populations. As a result of this proposal, the Service now has sufficient data to warrant a final rulemaking on the ocelot, and is herewith proceeding with a final rulemaking to list the U.S. population of this species as Endangered.

In the proposal, the public and all interested parties were asked to submit views, comments, data, etc., either in support of, or in opposition to, the proposal. The Service has received only two letters that contain comments pertaining to the ocelot. A summary of the contents of these letters as they pertain to the ocelot is as follows:

National Association for Sound Wildlife Programs. In a letter dated October 28, 1980, Dr. John D. Parrot, President of the Association, opposed the listing of any of the five species contained in the proposal. His points specifically pertaining to the ocelot may be summarized as follows:

1. that there is no scientific documentation that the species throughout its range is Endangered or Threatened in the wild;

2. that there is ample evidence that the species has been exterminated in the wild in the U.S.; and

3. that if it has not been exterminated, there is at least no evidence that it maintains any semblance of a viable population in the wild in the U.S.

The Service disagrees with all three of the Association's comments. The Service listed the ocelot as Endangered in 1972, based upon the best scientific and commercial data available. Evidence obtained since 1972, shows that throughout vast areas of Latin America, habitat has been destroyed, and the status of the ocelot continues to deteriorate. Ocelots at present *do* continue to survive in south Texas on about 50,000 acres of public and private land. Estimates of their numbers range from 12 to 60 animals (IUCN Red Data Book, 1982), and they are threatened by both habitat destruction, and killing as unwanted predators. The population, however, is still viable and is known to breed within its restricted range.

The Association's primary concern seems to be that listing the ocelot (as well as the other species in the proposal) in the U.S. as an Endangered species will somehow affect the activities of captive-breeders of this species. Listing of the native population of the ocelot, however, will not significantly change permit requirements for captive-breeders of ocelots. Since the majority of the captive breeding stock has come from the more numerous listed foreign populations, permits to import, export, sell in interstate commerce, etc., have inevitably been required for such captive-breeders of this species regardless of the listed status of the native population. Such permit requirements will continue unchanged under the new regulations, although any breeding done henceforth with native populations would be subject to new permit requirements.

Office of the Governor, State of Texas. In a letter dated November 26, 1980, the Governor of the State of Texas fully supported listing the ocelot (as well as the other species in the proposal).

Although the Governor of Arizona was notified of the proposed action, no response was received from the State. The Service therefore assumes Arizona has no objections to listing the ocelot as Endangered.

Section 4(a) of the Act (16 U.S.C. 1531 et seq.) states:

General. (1) The Secretary shall by regulation determine whether any species is

an endangered species or a threatened species because of any of the following factors:

(1) the present or threatened destruction, modification, or curtailment of its habitat or range;

(2) overutilization for commercial, sporting, scientific, or educational purposes;

(3) disease or predation;

(4) the inadequacy of existing regulatory mechanisms; or

(5) other natural or man-made factors affecting its continued existence.

This authority has been delegated to the Director.

Summary of Factors Affecting the Species

The Service's findings relative to the above five factors for the U.S. population of the ocelot are as follows:

Factor number (1) poses the greatest threat to the survival of the ocelot in the U.S. This species at one time inhabited brushland in the southwestern U.S. as far north as the Texas panhandle and central Arizona.

The clearing of brush in the Texas Rio Grande region to grow citrus crops, vegetables, and cotton, began in the 1920's and by 1940, most of the suitable habitat for the species was gone. Today, very little of the native brushland remains (about 50,000 acres in the southeastern part of the State), and only between 12 and 60 animals are reported to exist there. Thirty thousand acres of remaining brushland is on privately owned land, and is used for lease hunting and livestock grazing (primarily cattle and a few goats), but because of its small area, it is very vulnerable. Only 20,000 acres of land are currently federally protected on the Laguna Atascosa National Wildlife Refuge. The very limited area of habitat remaining for the species, plus the small population size, make it extremely Endangered in Texas. In Arizona, the ocelot apparently never was firmly established, and predator control operations helped to eliminate it some years ago. Any animal found in Arizona today would probably be a wanderer over the border from adjacent Mexico.

Critical Habitat

No Critical Habitat is being determined for the ocelot at this time because such a determination might operate to the disadvantage of the species and could be detrimental to its conservation primarily for the following reasons:

1. Ocelots are extremely valuable commercially; ocelot coats sell in Europe for as much as $400,000, and a live animal can bring $400 on the market. If Critical Habitat were to be determined, public hearings would be held, and attention would be drawn to the exact locality in which remaining populations in the U.S. occur. The great commercial value of the ocelot would make this a dangerous situation possibly causing illegal attempts to capture the few remaining animals for commercial gain.

2. The habitat of the species is already protected on Laguna Atascosa NWR.

For these reasons, no Critical Habitat is being determined for the ocelot in the rulemaking.

Effect of Rulemaking

When this rulemaking becomes effective, all the prohibitions of Section 9(a)(1) of the Act, as implemented by 50 CFR 17.21, will apply to the U.S. population of the ocelot. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. It will also be illegal to possess, sell, deliver, carry, transport, or ship any individual from the U.S. population of the ocelot that was illegally taken. Regulations published in the **Federal Register** (40 FR 44412) provide for the issuance of permits to carry out otherwise prohibited activities under certain circumstances. Such permits are available for scientific purposes or to enhance the survival or propagation of the species.

This rulemaking will prohibit the "take" of any individuals of the U.S. population of the ocelot (except for specific purposes under permit). Ocelots are already protected by State law in Texas so that "take" is already prohibited. The listing action will reinforce State law, and provide additional personnel to enforce protection.

The Department has determined that this is not a major rule under Executive Order 12291. Ocelots occur on brushland which is currently used for livestock grazing and lease hunting. Listing of the ocelot is entirely compatible with both these land uses and will not impact on them in any way. The Service knows of no plans to change present land uses in the area under consideration.

Section 7 of the Act states, in part, that all Federal agencies shall carry out programs for the conservation of Endangered species, and shall assure that, none of their activities (authorized, funded, or carried out) are likely to jeopardize the continued existence of such species. The only Federal agency concerned with the listing of the U.S. population of the ocelot is the Service's Division of Wildlife Refuges. Approximately 20,000 acres of ocelot habitat in south Texas is found on the Atascosa National Wildlife Refuge. However, habitat on the Refuge is already being managed for the ocelot, and the species has always been strictly protected there. Therefore, there will be no additional impacts on the Refuge, or on any other Federal agencies resulting from this rule.

National Environmental Policy Act

An Environmental Assessment has been prepared in conjunction with this rulemaking. It is on file in the Service's Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia, and may be examined during regular business hours. A determination has been made that this is not a major Federal action which would significantly affect the quality of the human environmental within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969, implemented at 40 CFR 1500–1508.

Effects on Small Entities

The Department has determined that this action will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act. The only small entities in the area are the 30 owners of land on which ocelots occur. These landholders use the land for grazing and lease hunting, neither of which would be affected by the rule. Therefore, the listing is entirely compatible with present land uses; no planned changes in land uses are known.

This finding is made as a result of analyses by the Office of Endangered Species of information received from personnel of the Texas Parks and Wildlife Department, Laguna Atascosa NWR, and Regional field experts.

Author

The primary author of this rulemaking is John L. Paradiso, Office of Endangered Species (703/235–1975).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, and plants (agriculture).

Regulations Promulgation

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended by revising the entry in § 17.11(h) for:

"Ocelot," under "MAMMALS," as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Mammals:							
Ocelot	*Felis pardalis*	U.S.A. (TX, AZ) south through Central America to South America.	Entire	E	118	N/A	N/A.

Dated: July 8, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-19728 Filed 7-20-82; 8:45 am]

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

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DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

List of Public Laws

Last Listing July 16, 1982

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (phone 202–275–3030).

H.R. 6685 / Pub. L. 97–216 Urgent Supplemental Appropriations Act, 1982 (July 16, 1982; 96 Stat. 180) Price $2.50.

7-22-82
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Pages 31673-31840

federal register

Thursday
July 22, 1982

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Coast Guard

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Bridges
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Federal Trade Commission

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There are no restrictions on the republication of material appearing in the **Federal Register**.

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 300; Valencia Orange Reg. 699, Amdt. 1]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period July 23–29, 1982, and increases the quantity of such oranges that may be so shipped during the period July 16–22, 1982. Such action is needed to provide for orderly marketing of fresh Valencia oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: This regulation becomes effective July 23, 1982, and the amendment is effective for the period July 16–22, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under Secretary's Memorandum 1512–1, and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona Valencia orange crop for the benefit of producers and will not substantially affect costs for the directly regulated handlers.

This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on February 5, 1982. The committee met again publicly on July 20, 1982, at Visalia, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for Valencia oranges is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of Valencia oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 908

Marketing agreements and orders, California, Arizona, Oranges (Valencia).

1. Section 908.600 is added as follows:

§ 908.600 Valencia Orange Regulation 300.

The quantities of Valencia oranges grown in Arizona and California which may be handled during the period July 23, 1982, through July 29, 1982, are established as follows:

(1) District 1: 306,000 cartons;
(2) District 2: 344,000 cartons;
(3) District 3: Unlimited cartons.

2. Section 908.999 Valencia Orange Regulation 699 (47 FR 30715), is hereby amended to read:

§ 908.999 Valencia Orange Regulation 699.

* * * * *

(1) District 1: 353,000 cartons;
(2) District 2: 397,000 cartons;
(3) District 3: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: July 21, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-20066 Filed 7-21-82; 11:01 am]

BILLING CODE 3410-02-M

7 CFR Part 1065

Milk in the Nebraska-Western Iowa Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA

ACTION: Suspension of rule.

SUMMARY: This action suspends certain order provisions affecting the regulatory status of milk plants under the Nebraska-Western Iowa milk order. The suspension removes for July and August 1982 the requirement that a cooperative association must deliver at least 51 percent of its member producer milk to pool distributing plants each month to qualify its supply plants as pool plants under the order. The action is taken in response to a request by a cooperative association that operates several supply plants under the order and which is a principal supplier of milk to other handlers in the market to avoid inefficient handling and transportation of milk. It would also assure that its member dairy farmers who have regularly been associated with the

market will continue to share in the market's fluid milk sales.

EFFECTIVE DATE: July 22, 1982.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250; (202) 447-7183.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Proposed Suspension: Issued June 17, 1982; published June 22, 1982 (47 FR 26840).

This action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as a "non-major" action.

It also has been determined that the need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register**. However, this would not permit the issuance of the suspension in time to include July 1982 in the suspension period. The initial request for this action was received June 14, 1982. A notice of proposed suspension was issued on June 17, 1982, inviting interested parties to comment on the proposed action by June 29, 1982.

It has been determined that this action would not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Nebraska-Western Iowa marketing area.

Notice of proposed rulemaking was published in the **Federal Register** (47 FR 26840) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon. No opposing comments were received.

After considering all relevant material, including the proposal in the notice, and other available information, it is hereby found and determined that for the months of July and August 1982 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1065.7(c) the words "51 percent or more of the."

Statement of Consideration

This action removes for July and August 1982 the requirement that a cooperative must deliver at least 51 percent of its producer milk to pool distributing plants each month, either through transfers from its supply plants or directly from farms, in order to qualify the supply plants as pool plants under the order. The suspension was requested by Mid-America Dairymen, Inc., a cooperative association that operates four pool supply plants under the Nebraska-Western Iowa order and which is a principal supplier of milk to other handlers in the market.

The basis of the request was that this spring the cooperative had to depool milk of some of its producers who have been regularly associated with the market in order to meet the 51 percent delivery requirement. It indicated this was because deliveries to pool distributing plants, which are used to qualify the cooperative's supply plants, decreased significantly. For instance, the cooperative stated its deliveries to pool distributing plants were down over 6 percent in May 1982 from May 1981. It expects this situation to become more serious during July and August due to the closing of schools.

In the absence of the suspension action, the cooperative estimates that it may be necessary to remove from the market as much as 10 million pounds of its member milk during each month of July and August in order to meet the 51 percent delivery requirement. To the extent possible, the cooperative wants to avoid such costly and inefficient movements of milk solely for the purpose of pooling its supply plants and the milk of its member producers who regularly have supplied the fluid needs of the market.

In view of the circumstances, it is concluded that the aforesaid provisions should be suspended to avoid such costly and inefficient movements of milk solely for the purpose of pooling its supply plants and the milk of its member producers who regularly have supplied the fluid needs of the market.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that without this action uneconomic movements of milk would be made solely for the purpose of assuring that the dairy farmers who have supplied a portion of the fluid milk needs of the market will continue to have their milk pooled and priced under the order;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given to interested parties and they were afforded the opportunity to comment. No opposing views were received.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register**.

List of Subjects in 7 CFR Part 1065

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for July and August 1982.

(Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674)

Effective date: July 22, 1982.

Signed at Washington, D.C., on July 16, 1982.

John Ford,

Deputy Assistant Secretary, Marketing and Inspection, Food Marketing and Inspection Services.

[FR Doc. 82-19796 Filed 7-21-82; 8:45 am]
BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Communications Procedures; Clarifying Amendment

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations to inform applicants and licensees that prior to submitting any communications in microform, they shall obtain specifications and copy requirements from the Nuclear Regulatory Commission. These amendments are issued as the result of a recommendation to clarify the requirements for submission of documents by licensees to allow and encourage use of microform. It was anticipated that the use of microform would result in the reducing of the volume of paper copies submitted to the

NRC as well as relieving the burden of on the licensees of submitting large numbers of paper copies.

EFFECTIVE DATE: July 22, 1982.

FOR FURTHER INFORMATION CONTACT: Steve Scott, Chief, Document Management Branch, Division of Technical Information and Document Control, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492–8585.

SUPPLEMENTARY INFORMATION: In February 1979, as part of a survey of the NRC's Public Document Room activities, the Office of Inspector and Auditor recommended that the Executive Director for Operations consider clarifying the requirements for submission of documents by licensees to allow and encourage use of microform. It was anticipated that the use of microform would result in reducing the volume of paper copies submitted to the NRC as well as relieving the burden on the licensees of submitting large numbers of paper copies. A canvass of licensees, conducted by the Nuclear Records Management Association, revealed that they favored the option of submitting required material on microform. Therefore, the NRC is issuing this rule to provide instructions so that licensees can obtain guidance on how to submit microforms.

Because this is a nonsubstantive amendment dealing with minor procedural matters, good cause exists for finding that the notice and comment procedures of the Administrative Procedure Act (5 U.S.C. 553) are unnecessary and for making the amendment effective July 22, 1982.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Fire prevention, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, and Reporting requirements.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of Title 5 of the United States Code, the following amendment to Title 10, Chapter I, Code of Federal Regulations, Part 50, is published as a document subject to codification.

(Sec. 161, Pub. L. 83–703, 68 Stat. 948, as amended (42 U.S.C. 2201))

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

In § 50.4, the introductory paragraph is designated as paragraph (a), and paragraph (b) is added to read as follows:

§ 50.4 Communications.

(a) * * *

(b) Before making any submittal in microform, the applicant or licensee shall contact the Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 492–8585, to obtain specifications and copy requirements.

Dated at Bethesda, Maryland, this 8th day of June 1982.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 82–19662 Filed 7–21–82; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 81–NW–96–AD; Amdt. 39–4418]

Airworthiness Directives: Fokker B.V. Model F28 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) which requires inspection, replacement, or modification of certain structural components on Fokker F28 airplanes, as necessary, to detect and/or prevent unsafe conditions. This AD resulted from manufacturer's service bulletins which are made mandatory by the Netherlands Civil Aviation Department (RLD).

DATE: Effective date August 23, 1982.

ADDRESSES: The service bulletin specified in this Airworthiness Directive may be obtained upon request to Manager, Maintenance and Engineering, Fokker B.V., Product Support, P.O. Box 7600, 1117ZJ Schiphol Oost, The Netherlands, or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Harold N. Wantiez, Foreign Aircraft Certification Branch, ANM–150S, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767–2530. Mailing address: FAA Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The RLD, which is the civil aviation authority for the Netherlands, has classified as mandatory a number of Fokker Model F28 service bulletins relating to structural components. A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring the inspection, replacement, or modification of these components was published in the **Federal Register** on February 1, 1982, (47 FR 4523). The comment period was closed on March 8, 1982. The manufacturer provided detailed comments on the proposed amendment as follows:

Items A, B, O, P, S, U, Z, BB, CC, DD, EE, and GG should be deleted since the service bulletins have been canceled. These items are monitored by documents made mandatory by inclusion on the airplane's data sheet or by other service bulletins or by special modification programs accomplished on all affected airplanes.

Item E should have serialization as follows: For the rear cargo door, S/N 11021–11062 and 11991–11993. For the front and center cargo doors, S/N 11003–11062 and 11991–11993.

Item F, delete Part 3 of the service bulletin since it applies to airplanes not presently eligible for U.S. certification.

Item H, delete the sentence referring to a temporary safety pin since item J installs a permanent safety catch.

Item K should be expanded to include the modification of the guide rail at station 4610.

Item L should list serial numbers 11003–11112, 11115, 11116, 11120, and 11991–11993. It should also require the modification of the actuating mechanism of the cargo door lock warning switches.

Item R should reference Service Bulletin F28/53–26, Revision 1, dated January 2, 1975, which deletes the requirement for a repetitive inspection.

Item T should reference serial number 11003 instead of 11033.

Item FF should include serial number 11040 and reference Service Bulletin F28/57–33, Revision 1, dated February 24, 1972.

Comments were also received from one operator of the F28 recommending that items A, B, and C be deleted since they no longer were applicable.

The FAA concurs with these comments and has revised the rule accordingly.

It is estimated that no airplane will be immediately affected by this AD since there is only one airplane of the specified serial numbers currently on the U.S. Register, and the operator of that airplane has previously complied with the service bulletins. Any other airplane of the specified serial numbers

will be affected only if it is later entered on the U.S. Register and if the service bulletins have not been complied with under the cognizance of the airworthiness authority of the country from which it was imported.

After review of the available data, including the above comments, the FAA has determined that air safety and the public interest require the adoption of the proposed rule with the changes previously noted.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Fokker B.V.: Applies to Model F28 Series 1000 and 4000 airplanes certificated in all categories, serial numbers as indicated below. Note: Some serial numbers listed may actually be 2000, 3000, 5000, or 6000 airplanes that are not presently eligible for U.S. certification. Those serial numbers may be disregarded insofar as this AD is concerned.

1. Unless already accomplished, accomplish the following within the time specified in each paragraph below after the effective date of this AD.

A. Applies to F28 airplanes S/N 11003–11084 and 11991–11993 inclusive. Compliance required within six months after the effective date of this AD. Install an inspection window in the passenger door per Fokker Service Bulletin F28/52–43, Part IV, dated April 16, 1974.

B. Applies to F28 airplanes S/N 11003–11070, 11072–11074, and 11991–11993 inclusive. Compliance required within six months after the effective date of this AD. Replace sliding pins in the passenger door per Fokker Service Bulletin F28/52–44 dated April 9, 1974.

C. Applies to F28 airplanes S/N 11021–11062 and 11991–11993 inclusive for the rear cargo door and 11003–11062 and 11991–11993 inclusive for the front and center cargo doors. Compliance required within six months after the effective date of this AD. Install the improved switch operating mechanism in the rear, forward, and center cargo door rabbets per Parts I and II of Fokker Service Bulletin F28/52–49, Revision 1, dated March 1, 1976.

D. (1) Applies to F28 airplanes S/N 11003–11061 and 11991–11993 inclusive. Compliance required within six months after the effective date of this AD. Install a reinforced safety catch and stop assembly on the front cargo door and the center cargo door, if installed, per Part I of Fokker Service Bulletin F28/52–51 dated September 3, 1974.

(2) Applies to F28 airplanes S/N 11021–11052, 11054–11061 and 11063–11076 inclusive, and S/N 11078, 11079, and 11191–11193 inclusive. Compliance required within six months after the effective date of this AD. Install a new safety catch and stop assembly on the rear cargo door per Part II of the service bulletin.

E. Applies to F28 airplanes S/N 11003–11061 and 11991–11993 inclusive. Compliance required within 500 flight hours time in service after the effective date of this AD. Inspect the cargo door locking mechanism per Fokker Service Bulletin F28/52–53 dated May 10, 1974.

F. Applies to F28 airplanes S/N 11003–11020 inclusive. Compliance required within 500 flight hours time in service after the effective date of this AD. Inspect and adjust the cargo door lockwarning and locking mechanism for correct functioning per Fokker Service Bulletin F28/52–54 dated July 1, 1974.

G. Applies to F28 airplanes S/N 11003–11061 and 11991–11993 inclusive. Compliance required within the next 500 flight hours time in service after the effective date of this AD. Inspect the cargo door latching mechanism and adjust, if necessary, per Fokker Service Bulletin F28/52–56 dated July 26, 1974.

H. Applies to F28 airplanes S/N 11003–11020 inclusive. Compliance required within the next 500 flight hours time in service after the effective date of this AD. Install a safety catch on the rear cargo door per Fokker Service Bulletin F28/52–61 dated May 21, 1975.

I. Applies to F28 airplanes S/N 11003–11110 and 11991–11993 inclusive. Compliance required within the next 500 flight hours time in service after the effective date of this AD. Modify the shape of the secondary guide rails at fuselage station 3870 (if in post SB F28/52–55, Part I Configuration) and at station 4610 per Fokker Service Bulletin F28/52–66 dated April 12, 1976.

J. Applies to F28 airplanes S/N 11003–11112, 11115, 11116, 11120, and 11991–11993. Compliance required within the next 500 flight hours time in service after the effective date of this AD. Modify the actuating mechanism of the cargo door lock warning switches per Fokker Service Bulletin F28/52–80, Revision 1, dated October 23, 1978.

K. Applies to F28 airplanes forward and center cargo doors—S/N 11003–11061, 11991–11993, and 11062–11101 inclusive if S/B F28/52–51 has been incorporated; rear cargo door—S/N 11053, 11062, 11077, 11080, and 11081 if S/B F28/52–51 has been incorporated and S/N 11090–11093, 11106–11112, and 11114–11116 inclusive, and S/N 11118, 11120–11124, and 11126–11128 inclusive, S/N 11130–11133, 11135, and 11138–11141 inclusive. Compliance required within the next 500 flight hours time in service after the effective date of this AD. Reinforce the cargo door locking handle access panels per Fokker Service Bulletin F28/52–81 dated October 1, 1977.

L. Applies to F28 airplanes S/N 11003–11016 inclusive. Compliance required within 500 flight hours time in service after the effective date of this AD. Reinforce the speed brake accumulator brackets per Fokker Service Bulletin F28/53–4 dated May 19, 1970.

M. Applies to F28 airplanes S/N 11003—11020 inclusive and S/N 11991. Compliance required within 500 flight hours time in service after the effective date of this AD. Install a plastic separation screen and add ventilation provisions per Fokker Service Bulletin F28/53–21 dated October 11, 1971.

N. Applies to F28 airplanes S/N 11003 through 11037 and 11991 through 11994. Compliance required within 500 hours time in service after the effective date of this AD. Inspect for cracks and rework if necessary the speedbrake attach hinge fitting per Fokker Service Bulletin F28/53–26, Revision 1, dated January 2, 1975.

O. (1) Applies to F28 airplanes S/N 11020–11055, 11057–11061, and 11063–11071 inclusive, and S/N 11073, 11075, 11078, and 11991–11993 inclusive. Compliance required within 500 hours time in service after the effective date of this AD and at intervals of 250 flight hours thereafter until the modification in paragraph 2 has been carried out. Inspect the PLI washers in the rear cargo compartment latch brackets for correct installation per Part I of Fokker Service Bulletin F28/53–54, Revision 3, dated October 11, 1976. If one or more washers per latch fitting are incorrectly installed, proceed with paragraph 2 of this AD within the next ten hours time in service.

(2) Applies to F28 S/N 11020–11090 inclusive, 11092, and 11991–11993 inclusive. Compliance required within the next 1000 hours time in service after the effective date of this AD or within ten hours time in service if required by paragraph O. (1), above. Install MS washers and bolts in the cargo door latch fittings per the service bulletin.

(3) Applies to F28 airplanes S/N 11003–11055, 11057–11061, and 11063–11071 inclusive, and S/N 11073, 11075, 11078, and 11991–11993 inclusive. Compliance required within the next 500 hours time in service after the effective date of this AD. Install MS washers and shorter bolts in the forward and center cargo door latch fittings per the service bulletin.

P. Applies to F28 airplanes S/N 11003–11091 and 11991–11993 inclusive. Compliance required within 500 hours time in service after the effective date of this AD. To ensure the proper torquing of the MS 21250 bolts in the main entry door latch fittings, replace the dural washers with MS 20002 washers per Part V of Fokker Service Bulletin F28/51–10, Revision 1, dated July 11, 1975.

Q. Applies to F28 airplanes S/N 11003–11025 inclusive and S/N 11991, 11992, and 11994. Compliance required within 500 flight hours after the effective date of this AD. To prevent stringer cracks, install connecting angles in the stabilizer torsion box at rib station 3800 per Fokker Service Bulletin F28/55–8, Revision 1, dated October 16, 1972.

R. Applies to F28 airplanes S/N 11003–11064 and 11991–11993 inclusive. Compliance required within six months after the effective date of this AD. To ensure proper functioning of the horizontal stabilizer hinge bearings, inspect the bearings per Part I of Fokker Service Bulletin F28/55–14, Revision 1, dated March 15, 1974. If relative rotation does not occur between the bearings ball and the outer ring, modify the hinge bearing installation per Part II of the service bulletin within nine months of the inspection. If relative rotation does occur between the ball and the outer ring, the Part II modification must be accomplished within two years after the effective date of this AD.

S. Applies to F28 airplanes S/N 11003–11020, 11022–11025, and 11991–11993 inclusive. Compliance required within six months after the effective date of this AD. To prevent stress corrosion cracks, install bronze bushings in the stabilizer hinge brackets per Fokker Service Bulletin F28/55–17 dated October 27, 1975.

T. Applies to F28 airplanes as follows: S/N 11003–11145 inclusive and S/N 11147, 11150, 11151, 11991, and 11992. Compliance required within six months after the effective date of this AD. To prevent the loss of the stabilizer hinge bolts if the nut has backed off, install an additional retaining device per Fokker Service Bulletin F28/55–21 dated May 19, 1980.

U. Applies to F28 airplanes S/N 11003–11038, 11040, and 11991–11994 inclusive. Compliance required within six weeks after the effective date of this AD. Balance the aileron servo tabs per Fokker Service Bulletin F28/57–33, Revision 1, dated February 24, 1972.

V. Applies to F28 airplanes S/N 11003–11123 inclusive, 11126, 11991, and 11992 which have accumulated 15,000 landings. Compliance required within two months after the effective date of this AD. To detect cracks in wing rear spar brackets, inspect per Fokker Service Bulletin F28/57–58, Revision 3, dated October 9, 1979. Repair cracks in accordance with the service bulletin.

W. Applies to F28 airplanes S/N 11003–11123 inclusive and S/N 11126, 11991, and 11992. Compliance required within six months after the effective date of this AD. To minimize the chance of cracking bracket lugs, install chromium plated bolts and bronze bushings and inspect left-hand and right-hand rear spar bracket lugs per Fokker Service Bulletin F28/57–59 dated July 25, 1979. Repair cracked lugs in accordance with the service bulletin.

X. Applies to F28 airplanes S/N 11111–11145 inclusive and S/N 11147, 11148, 11150, and 11151. Compliance required within three months after the effective date of this AD. To prevent performance deterioration, reseal the butt straps and boundary layer fences on the wing leading edge sections per Fokker Service Bulletin F28/57–61 dated April 14, 1980.

2. Alternate means of compliance with this AD which provide an equivalent level of safety may be used when approved by the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region.

3. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

This amendment becomes effective August 23, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—For the reasons discussed earlier in this rulemaking action, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities since it involves few, if any, small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

Issued in Seattle, Washington, on July 9, 1982.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 82-19703 Filed 7-21-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-AGL-44]

Alteration of Transition Area; Wisconsin

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal Action is to withdraw the rule as published on Page 56165 of the **Federal Register** dated November 16, 1981, which revoked the Janesville, Wisconsin, transition area, and to replace that rule with a rule which reinstates in part the previously designated Janesville, Wisconsin, transition area.

The intended effect of this action is to reinstate the transition area designated for Rock County Airport, Janesville, Wisconsin, and for Beloit, Wisconsin Airport while at the same time revoking the transition area associated with Wagon Wheel Airport, Rockton, Illinois.

In addition, this action is to insure segregation of the aircraft using approach procedures in instrument weather conditions from other aircraft operating under visual weather conditions.

EFFECTIVE DATE: September 2, 1982.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL–530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694–7360.

SUPPLEMENTARY INFORMATION: The intent of Airspace Docket 81–AGL–16 was to revoke only the transition area associated with Wagon Wheel Airport and to maintain the transition area designated for Rockton County Airport and Beloit Airport. As published, the rule revoked all of the transition area. Therefore, this rule is necessary to reinstate that transition area required for both Rockton County Airport and Beloit Airport.

Aeronautical maps and charts will reflect the defined areas which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

History

On page 17306 of the **Federal Register** dated April 22, 1982, the FAA proposed to amend § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) so as to alter the transition area airspace near Janesville, Wisconsin. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was published in Advisory Circular AC 70–3 dated January 29, 1982.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT, September 2, 1982, as follows:

The Janesville, Wisconsin, transition area as published on page 56165 of the **Federal Register** dated November 16, 1981, is revoked.

The following transition area is reinstated and amended to read:

Janesville, Wisconsin

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the Rock County Airport, Janesville, Wisconsin (latitude 42°37'12" N., longitude 89°02'26" W.), and within a 6-mile radius of the Beloit, Wisconsin, Airport (latitude 42°29'51" N., longitude 88°56'08" W.).

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)) and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It is certified that this—(1) is not a "major rule" under Executive Order 12291; (2) is not a

"significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Illinois, on July 1, 1982.

Paul K. Bohr,

Director, Great Lakes Region.

[FR Doc. 82-19704 Filed 7-21-82; 8:45 am]

BILLING CODE 4910-13-

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14 CFR Part 73

[Airspace Docket No. 82-AEA-7]

Special Use Airspace; Alteration of Restricted Area—Oswego, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters the description of Restricted Area R-5203, located in the Oswego, NY, area, by changing the time of designation from continuous to local time. This action indicates the actual utilization periods on a real time basis.

EFFECTIVE DATE: July 22, 1982. Comments must be received on or before August 23, 1982.

ADDRESSES: Send comments on the rule in triplicate to: Director, FAA Eastern Region, Attention: Chief, Air Traffic Division, Docket No. 82-AEA-7, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, NY 11430.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

This action is in the form of a final rule. Because it makes airspace available to users by changing the time of designation from "continuous" to local time for Restricted Area R-5203 without any negative effect on other persons, it would be contrary to the public interest to delay implementation by notice and public procedure. However, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic and energy aspects of the rule that might suggest the need to modify the rule. Send comments on environmental and land use aspects to: Director, Eastern Region, Federal Building, John F. Kennedy International Airport, Jamaica, NY 11430.

The rule

The purpose of this amendment to § 73.52 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is to change the time of designation for Restricted Area R-5203 from continuous to local time.

Section 73.52 of Part 73 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982.

Since this amendment merely changes the time of use for R-5203 from continuous to local time and thus reflects the actual time of utilization and does not impose a burden on the public, I find, therefore, that notice or public procedure under 5 U.S.C. 553(b) is contrary to the public interest and that good cause exists for making this amendment effective upon publication in the **Federal Register**.

List of Subjects in 14 CFR Part 73

Restricted area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 73.52 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is amended, effective 0901 GMT, July 22, 1982, as follows:

R-5203 Oswego, NY [Amended]

Under time of designation by deleting the word "Continuous" and substituting the words "From 0800 to 2100 local time, Monday through Friday; from 0800 to 1600 local time, Saturdays. Other times by NOTAM 24 hours in advance."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on July 14, 1982.

B. Keith Potts,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc 82-19761 Filed 7-21-82; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. C-3007]

Bayer AG, et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: This order reopens the proceeding and modifies the Commission's order issued on January 15, 1980, 45 FR 9694, (February 14, 1980) by deleting Paragraphs I-IV from the Order, so as to relieve respondent of the requirement of divesting assets used to manufacture allergenic extracts. Accordingly, the portion of Paragraph VII concerning respondent's divestiture efforts has also been deleted.

DATES: Final Order issued Jan. 15, 1980. Modifying Order issued July 6, 1982.

FOR FURTHER INFORMATION CONTACT: FTC/C, Thomas J. Campbell, Washington, D.C. 20580, (202) 523-3601.

SUPPLEMENTARY INFORMATION: In the Matter of Bayer AG, a corporation, Rhinechem Corporation, a corporation,

and Miles Laboratories, Inc. (formerly Rhinechem Laboratories, Inc.), a corporation. The prohibited trade practices and/or corrective actions, codified under 16 CFR Part 13 at 45 FR 9894, are deleted. The following codification is added: Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements.

List of Subjects in 16 CFR Part 13

Allergenic extracts.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

The Reopening and Modification of Order Docket No. C–3007 is as follows:

In the matter of Bayer AG, a corporation, Rhinechem Corporation, a corporation, and Miles Laboratories, Inc. (formerly Rhinechem Laboratories, Inc.), a corporation. Reopening and modification of Order Docket No. C–3007.

By petition filed on February 26, 1982, respondent Miles Laboratories, Inc. ("Miles"), requests on behalf of itself, Bayer AG, and Rhinechem Corporation that the Commission's order in Docket No. C–3007 be modified so that Miles no longer would be required to divest assets used to manufacture allergenic extracts. Pursuant to Section 2.51 of the Commission's Rules of Practice the petition was placed on the public record and Mr. Stanford Yates, representing Kallestad Laboratories, Inc., and Dr. Raymond Rosdale filed comments.

Miles previously had petitioned the Commission to modify the order. However, the Commission by a letter dated May 22, 1981 denied the earlier petition but granted a year's extension of the time in which Miles was required to divest its allergenic extracts assets.

Upon consideration of Miles' petition and supporting material and the public comments, the Commission now finds that due to a Food and Drug Administration proposal to eliminate Category III(A) as a classification for biologics, Miles is unable to sell its allergenic extracts business as a complete, viable competitor. In denying Miles' previous petition, the Commission noted that the proposed elimination of Category III(A) might constitute a changed circumstance sufficient to warrant modification of the order. Events since then have established that modification is now warranted. For this reason the Commission has determined that the order should be modified.

Accordingly,

It is ordered, that the proceeding be, and it hereby is, reopened.

It is further ordered, that the order to cease and desist be, and it hereby is, modified by deleting Paragraphs I–IV of the order and so much of Paragraph VII as relates to reports of Miles' divestiture efforts. Paragraph VII will now read:

It is further ordered that respondents shall annually, on the anniversary date of this order, submit in writing to the Federal Trade Commission a verified report setting forth in detail the manner and form in which each or every respondent intends to comply, is complying or has complied with the order.

By direction of the Commission.

Issued: July 6, 1982.

Carol M. Thomas,

Secretary.

[FR Doc. 82-19812 Filed 7-21-82; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 13

[Docket 9140]

Russell Stover Candies, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: This order requires a Kansas City, Mo. manufacturer, seller and distributor of candy products to cease, among other things, entering into, maintaining, or enforcing any agreement, understanding or arrangement to fix resale prices for its products; suggesting resale prices, by any means, without clearly stating that they are merely suggested; and seeking information relating to recalcitrant retailers. The company is prohibited from terminating, suspending or taking any other adverse action against retailers who fail to conform to company's suggested prices; and required to reinstate those retailers who had been terminated for non-conformance to designated prices. The order additionally requires the company to pay for a survey to ascertain what percentage of its products is sold at manufacturer-designated prices, and to cease suggesting resale prices if that percentage is more than 87.4%.

DATES: Complaint issued July 1, 1980. Final order issued July 1, 1982.[1]

[1] Copies of the Complaint, Initial Decision, Opinion of the Commission, Concurring Statement of Commissioner Clanton, Dissenting Statement of Chairman Miller and the Final Order filed with the original document.

FOR FURTHER INFORMATION CONTACT: FTC/CS–6, Eugene Kaplan, Washington, D.C. 20580. (202) 724–1668.

SUPPLEMENTARY INFORMATION: In the Matter of Russell Stover Candies, Inc., a corporation. The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Coercing and Intimidating: § 13.350 Customers or prospective customers. Supart—Combining or Conspiring: § 13.425 To enforce or bring about resale price maintenance; § 13.433 To fix prices; § 13.497 To terminate or threaten to terminate contracts, dealings, franchises, etc. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533–20 Disclosures; 13.533–35 Employment of independent agencies; 13.533–40 Furnishing information to media. Subpart—Cutting Off Supplies or Service: § 13.610 Cutting off supplies or service; § 13.655 Threatening disciplinary action or otherwise. Subpart—Delaying or Withholding Corrections, Adjustments or Action Owed: § 13.677 Delaying or failing to deliver goods. Subpart—Maintaining Resale Prices: § 13.1130 Contracts and agreement; § 13.1150 Penalties; § 13.1155 Price schedules and announcements; § 13.1160 Refusal to sell § 13.1165 Systems of espionage.

List of Subjects in 16 CFR Part 13

Candy.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

The Final Order, including further order requiring report of compliance therewith, is as follows:

Commissioners:

James C. Miller III, Chairman
David A. Clanton
Michael Pertschuk
Patricia P. Bailey

[Docket No. 9140]

Final Order

In the matter of Russell Stover Candies, Inc., a corporation.

This matter having been heard by the Commission upon the appeal of Complaint Counsel from the initial decision, and upon briefs and oral argument in support thereof, and in opposition thereto, and the Commission, for reasons stated in the accompanying opinion, having granted the appeal:

It is ordered that the order dismissing the complaint entered by the administrative law judge is vacated, and the following cease and desist order is entered.

Order

For purposes of this Order, the following definitions shall apply:

"Product" means any candy items which Russell Stover manufacturers or sells to retailers.

"Retailer" means each location of any person, partnership or corporation, not owned by Russell Stover, which purchases candy directly from Russell Stover for resale to the public.

"Prospective retailer" means each location of any person, partnership or corporation, not owned by Russell Stover, which requests or indicates a desire to purchase any product from Russell Stover for resale to the public.

"Resale price" means any price, price floor, price ceiling, price range, or any mark-up, formula, margin of profit or any other technique for pricing any product at retail.

"Designates" or "designated" means the selection by Russell Stover of the prices at which it desires that its retailers sell Russell Stover products.

I

It is ordered that Russell Stover Candies, Inc. ("Russell Stover"), a corporation, through its successors, assigns, officers, directors, employees, agents, representatives, licensees, subsidiaries, divisions or any other corporate or other device, in connection with the manufacture, advertising, offering for sale, sale or distribution of any product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall forthwith cease and desist directly or indirectly from:

A. Entering into, establishing, exacting assurances to comply with, continuing, enforcing or announcing the terms of any contract, combination, agreement, understanding or arrangement to fix, establish, control, maintain or enforce the resale price at which any retailer or prospective retailer may advertise, offer for sale or sell any product.

B. Communicating, publishing, circulating, disseminating, or providing by any means, not intended for and not likely to be seen by consumers, any resale price unless it is clearly and conspicuously stated on each page of any list, advertisement, or other document or communication where any resale price appears:

"THIS [THESE] RETAIL PRICE[S] IS [ARE] SUGGESTED ONLY. YOU ARE COMPLETELY FREE TO DETERMINE YOUR OWN PRICE."

C. Communicating, publishing, circulating, disseminating, or providing by any means, intended for or likely to be seen by consumers, any resale price, unless it is clearly and conspicuously stated:

"SUGGESTED PRICE OPTIONAL WITH RETAILER."

except that any resale price communicated by preticketing a product by tag, ticket, label, sticker, or other comparable marking must clearly and conspicuously state:

"SUGGESTED PRICE ONLY."

D. Representing that any action may or will be taken against any retailer because of the resale price at which that retailer has advertised, offered for sale or sold any Russell Stover product, or because of the resale price at which that retailer may advertise, offer for sale or sell any Russell Stover product.

E. Terminating, suspending, delaying shipments to, or taking any other action against any retailer because of the resale price at which that retailer has advertised, offered for sale or sold any Russell Stover product.

F. Soliciting, gathering or transmitting data concerning the resale price at which any specific retailer has, or was alleged to have, advertised, offered for sale or sold any Russell Stover product.

II

It is further ordered that Russell Stover shall:

A. Within sixty (60) days from the date on which this Order becomes final, mail or deliver to every Russell Stover retailer and obtain a receipt for, an appropriate notice approved in advance by the Bureau of Competition explaining the provisions imposed by Part I of this Order.

B. For five (5) years from the date on which this Order becomes final, mail or deliver and obtain a receipt for an appropriate notice, approved in advance by the Bureau of Competition, explaining the provisions imposed by Part I of this Order to any new retailer that purchases any product from Russell Stover. The mailing or delivery required by this paragraph shall occur before the first purchase by the retailer.

C. Within ninety (90) days from the date on which this Order becomes final, have printed an advertisement containing an appropriate notice explaining the provisions imposed by Part I of this Order in two successive issues of trade publications that are generally circulated to Russell Stover retailers. The advertisements shall be no less than one-half page. The contents of the advertisements and the trade publications in which they appear shall both be approved in advance by the Bureau of Competition.

D. Within sixty (60) days from the date on which this Order becomes final, mail or deliver and obtain a receipt for an appropriate notice and an offer of reinstatement, both approved in advance by the Bureau of Competition, to each retailer that was terminated by Russell Stover and to each retailer with whom Russell Stover refused to deal, at any time after January 1, 1976, in while or in part because of the resale price at which it advertised, offered for sale or sold any Russell Stover product or at which Russell Stover believed its products would be advertised, offered for sale or sold. Russell Stover may refuse to open these retailers that request reinstatement only if the refusal is wholly for reasons not related to resale price.

E. Provide copies of this Order to all present and future Russell Stover officers and sales personnel.

III

A. It is further ordered that Russell Stover shall pay for a survey to ascertain the percentage of Russell Stover products sold at resale prices designated by Russell Stover. The survey will be conducted by Louis Harris & Associates, Inc., or a similarly qualified organization chosen by the Bureau of Competition, using the same procedures and techniques utilized in the Louis Harris survey conducted in April 1980, referred to in paragraph 23 of the stipulated record in this matter. Upon request from the Bureau of Competition, Russell Stover shall submit within ten (10) days a printed list of the names and addresses of its current retailers. The survey will be conducted during the second year following the date upon which this Order becomes final at a time not known in advance by Russell Stover and chosen at the sole discretion of the Bureau of Competition. If the results of the survey establish that more than 87.4% of Russell Stover products are sold by retailers at Russell Stover's designated resale prices, then the following provision shall take effect immediately upon receipt by Russell Stover of written notice from the Bureau of Competition and shall expire three (3) years thereafter:

It is ordered, that Russell Stover, through its successors, assigns, officers, directors, employees, agents, representatives, licensees, subsidiaries, divisions or any other corporate or other device, in connection with the manufacture, advertising offering for sale, sale or distribution of any product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall forthwith cease and desist directly or indirectly from designating and communicating any resale price to any person by price list, discount schedule, invoicing procedure, advertisement, promotional material, preticketing or other prepricing of products, or by any other means.

B. At any time within one year from the date on which this Order becomes final, Russell Stover may request that the Bureau of Competition direct that a survey identical to that specified in paragraph III(A) be conducted, to be paid for by Russell Stover. The Bureau of Competition shall cause the survey to be conducted within six (6) months after receipt of the request. If the results of the survey establish that 87.4% or less of Russell Stover products are sold by retailers at Russell Stover's designated resale prices, Russell Stover need not comply further with paragraph III(A) of this Order.

IV

It is further ordered that Russell Stover shall:

A. Notify the Commission at least thirty (30) days prior to any proposed change in Russell Stover such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation of or dissolution of subsidiaries or any other such change in the corporation which may affect compliance obligations arising out of this Order.

B. Within sixty (60) days from the date on which this Order becomes final, and annually each year for five (5) years thereafter, file with the Commission a written report setting forth in detail the manner in which Russell Stover has complied with each of the provisions of this Order; and include with its

annual reports or as supplements thereto such documentation as may be required in writing by the Bureau of Competition.

By the Commission. Chairman Miller dissenting.

Issued: July 1, 1982.

Carol M. Thomas,

Secretary.

[FR Doc. 82-19000 Filed 7-21-82; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 13

[Docket No. C-3093]

American Motors Corporation, et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires a Southfield, Mich. motor vehicle manufacturer and its subsidiary to cease, among other things, failing to disclose that the Jeep CJs handle and maneuver differently from ordinary passenger cars under certain reasonably expected driving conditions; and that sharp turns or abrupt maneuvers on pavement may result in loss of control or an accident. The order requires the company to place a prescribed sticker on the windshield of all new Jeep CJs warning owners of the Jeep's handling and maneuvering limitations; provide all existing Jeep CJ owner's manuals with an informational supplement concerning on-pavement driving and update the owner's manual to include this supplemental information. The company is also required to provide its dealers with a point-of-sale display designed to call attention to the Supplement, and with a sufficient quantity of the Supplement to enable dealers to make it available to each person who requests it. The order further requires the company to send to current registered owners of Jeep CJs since 1972, the sticker and the Supplement, together with a letter advising the owner to affix the sticker to his/her Jeep.

DATE: Complaint and order issued July 6, 1982.[1]

FOR FURTHER INFORMATION CONTACT: Leroy C. Richie, Director, 8R, New York Regional Office, Federal Trade Commission, 2243-EB Federal Bldg., 26 Federal Plaza, New York, N.Y. 10278; (212) 264-1207.

[1] Copies of the Complaint and the Decision and Order filed with the original document.

SUPPLEMENTARY INFORMATION: On Friday, Dec. 4, 1981, there was published in the **Federal Register**, 46 FR 59258, a proposed consent agreement with analysis In the Matter of American Motors Corporation, a corporation, and Jeep Corporation, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533-25 Displays, in-house; 13.533-45 Maintain records. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1575 Comparable data or merits; § 13.1740 Scientific or other relevant facts. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1863 Limitations of product; § 13.1890 Safety; § 13.1895 Scientific or other relevant facts.

List of Subjects in 16 CFR Part 13

Motor vehicles, Motor vehicle safety.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended (15 U.S.C. 45))

Carol M. Thomas,

Secretary.

[FR Doc. 82-19014 Filed 7-21-82; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 13

[Docket No. 8928]

Beltone Electronics Corporation, et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Dismissal order.

SUMMARY: This order dismisses the complaint charging a leading hearing aid manufacturer and three company officials with imposing territorial and customer restrictions, and exclusive dealing requirements upon its dealers. The Commission reversed the 1980 decision of the Administrative Law Judge, finding that Beltone's distributional practices do not adversely affect competition between manufacturers or between dealers.

DATES: Complaint issued May 8, 1973. Dismissal Order issued July 6, 1982.[1]

FOR FURTHER INFORMATION CONTACT: FTC/CS-1, Joseph Brownman, Washington, D.C. 20580. (202) 724-1679.

SUPPLEMENTARY INFORMATION: In the Matter of Beltone Electronics Corporation, a corporation, and Sam Posen, David H. Barnow, and Chester K. Barnow, individually and as officers or directors of said corporation.

List of Subjects in 16 CFR Part 13

Hearing aids.

(Sec. 6, 38 Stat. 721 (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

The Final Order is as follows:

Final Order

This matter has been heard by the Commission upon the appeal of respondent from the initial decision and order certifying the record on remand and upon the briefs and oral arguments in support of and in opposition to the appeal. For the reasons stated in the accompanying Opinion, the Commission has determined to reverse the initial decision. Respondent's appeal is granted. Accordingly,

It is ordered that the complaint is dismissed.

It is also ordered that all motions pending in this matter and not resolved in the accompanying Opinion, with the exception of various motions for extended *in camera* treatment of data which are responded to in a separate Order, are hereby denied.[2]

By the Commission.

Issued: July 6, 1982.

Carol M. Thomas,

Secretary.

[FR Doc. 82-19015 Filed 7-21-82; 8:45 am]

BILLING CODE 6750-01-M

[1] Copies of the Complaint, Initial Decision, Opinion of the Commission, Concurring Statement of Commissioner Bailey and the Final Order filed with the original document.

[2] On October 15, 1981, after the oral argument on the appeal from remand, respondent filed a motion seeking (a) to supplement the record with a consultant's report on the hearing aid industry, (b) to have referred to an administrative law judge a question regarding discovery of the aforementioned consultant's report and (c) to reargue the appeal. Complaint counsel filed timely responses to each portion of respondent's motion. The Commission has considered each of the motions and, finding that respondent has not been prejudiced by any matter raised by those motions and that the questions raised therein are mooted by this Opinion and Order, denies the motions.

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230 and 240

[Release Nos. 33-6413; 34-18842; 35-22547; IC-12504; FR-2; File No. S7-906]

Instructions for the Presentation and Preparation of Pro Forma Financial Information and Requirements for Financial Statements of Businesses Acquired or To Be Acquired

Correction

In the **Federal Register** of Friday, July 16, 1982, on page 30967 there was a correction to a document that appeared on July 9, 1982 (page 29832). The correction, however, should be disregarded as the document was correct as originally printed.

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 535

Iranian Assets Control Regulations Tangible Properties Licensing Policy

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control is amending the Iranian Assets Control Regulations to provide a licensing procedure for the sale and disposition of tangible property that is currently blocked because of an interest of Iran in the property. The purpose of the amendment is to prevent the property from physically deteriorating and declining in value, to halt the accrual of storage charges, and to permit the satisfaction of certain claims against the property. The new licensing policy will permit the authorized sale of such property in appropriate cases following the review of license applications on their individual merits on a case-by-case basis.

EFFECTIVE DATE: July 20, 1982.

FOR FURTHER INFORMATION CONTACT: Raymond W. Konan, Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220, Tel. (202) 376-0236.

SUPPLEMENTARY INFORMATION: The new statement of licensing policy provides a mechanism for the disposition of blocked Iranian tangible property held by United States exporters, purchasing agents and others. It also provides for the satisfaction of certain claims out of the proceeds of a licensed sale of such property and for the transfer of any net proceeds in excess of such claims to Iran.

The disposition of tangible property in which Iran has an interest is governed by the provisions of sections 535.201 and 535.215 of the Regulations. Section 535.215 authorizes and directs the transfer of "properties . . . owned by Iran or its agencies, instrumentalities or controlled entities" as directed by the Government of Iran or its agent. However, § 515.333 of the Regulations provides that term "properties" as used in § 535.215 includes all uncontested and non-contingent liabilities and property interests of the Government of Iran. Among other matters, the section provides:

> (b) Properties are not Iranian properties or owned by Iran unless all necessary obligations, charges and fees relating to such properties are paid and liens on such properties (not including attachments, injunctions and similar orders) are discharged.

Among other properties subject to the foregoing provisions are tangible properties as to which Iran does not possess complete or uncontested ownership rights under applicable provisions of U.S. law because of failure to pay the purchase price and other related charges. The referenced provisions implement the provisions of paragraph 9 of the Declaration of the Government of the Democratic and Popular Republic of Algeria which obligates the United States to arrange the transfer to Iran of "Iranian properties" (other than bank deposits or financial assets) "subject to the provisions of U.S. law applicable prior to November 14, 1979 * * *"

Tangible property in which Iran has an interest which is exempt from transfer to Iran under § 535.215 by virtue of § 535.333 of the Regulations remains subject to the blocking provisions of § 535.201. Section 535.201 prohibits, among other matters, the U.S. holder of such property from exercising any lien or set off against such property as a means of satisfying claims. Also, the prohibitions and nullifications in § 535.218 apply to such property even if it is exempt from transfer to Iran under § 535.215 by virtue of § 535.333. Further, such claims are suspended for purposes of seeking satisfaction out of such property through any action in a U.S. court (e.g., judicial creation or enforcement of a lien) by § 535.222.

In order to better formulate a licensing policy regarding Iranian tangible property, on May 24, 1982, the Office initiated a census of such property under § 535.625. Reports on Form TFR-625 were due July 1, 1982. Any person subject to the reporting requirement who has not submitted the report, which is mandatory, should do so immediately.

Under the new policy, the applicant holding property and wishing to dispose of it through public sale must establish that reasonable efforts have been made to obtain payment from Iran and that neither payment nor adequate assurance of payment has been received. The applicant must have, under provisions of law applicable prior to November 14, 1979, a right to sell, or a right to reclaim and sell such property by methods not requiring judicial proceedings.

The applicant must agree to indemnify the United States against liability in the Iran-United States Claims Tribunal in an amount equal to 150% of the proceeds of a licensed sale.

In the event that the applicant elects to use the license to exercise a lien against the property to satisfy a claim out of the proceeds of the sale, the applicant must post a bond or establish a standby letter of credit in favor of the United States in the amount of the proceeds of the sale in order to back up the indemnity. The applicant may elect to hold all or a part of the proceeds in a blocked, interest-bearing account at a domestic bank to the extent they constitute contested property under § 535.333. In the event that the entire proceeds are so held, no bond or standby letter of credit is required. Any proceeds which are un-contested and non-contingent are subject to § 535.215 and must be transferred to Iran.

Reasonable costs of administration of a licensed sale will be licensed to be deducted from the proceeds in any case. A full report to the Office of Foreign Assets Control on the conduct of the sale will be required.

List of Subjects in 31 CFR Part 535

Iran, Foreign assets control.

31 CFR Part 535 is amended as follows:

PART 535—IRANIAN ASSETS CONTROL REGULATIONS

Section 535.540 is added as follows:

§ 535.540 Disposition of certain tangible property.

(a) Specific licenses may be issued in appropriate cases at the discretion of the Secretary of the Treasury for the public sale and transfer of certain tangible property that is encumbered or contested within the meaning of § 535.333 (b) and (c) and that, because it is blocked by § 535.201, may not be sold or transferred without a specific license,

provided that each of the following conditions is met:

(1) The holder or supplier of the property has made a good faith effort over a reasonable period of time to obtain payment of any amounts owed by Iran or the Iranian entity, or adequate assurance of such payment;

(2) Neither payment nor adequate assurance of payment has been received;

(3) The license applicant has, under provisions of law applicable prior to November 14, 1979, a right to sell, or reclaim and sell, such property by methods not requiring judicial proceedings, and would be able to exercise such right under applicable law, but for the prohibitions in this part, and

(4) The license applicant shall enter into an indemnification agreement acceptable to the United States providing for the applicant to indemnify the United States, in an amount up to 150 percent of the proceeds of sale, for any monetary loss which may accrue to the United States from a decision by the Iran-U.S. Claims Tribunal that the United States is liable to Iran for damages that are in any way attributable to the issuance of such license. In the event the applicant and those acting for or on its behalf are the only bidders on the property, the United States shall have the right to establish a reasonable indemnification amount.

(b) An applicant for a license under this section shall provide the Office of Foreign Assets Control with documentation on the points enumerated in paragraph (a) of this section. The applicant normally will be required to submit an opinion of legal counsel regarding the legal right claimed under paragraph (a)(3) of this section.

(c) Any sale of property licensed under this section shall be at public auction and shall be made in good faith in a commercially reasonable manner. Notwithstanding any provision of State law, the license applicant shall give detailed notice to the appropriate Iranian entity of the proposed sale or transfer at least 30 days prior to the sale or other transfer. In addition, if the license applicant has filed a claim with the Iran-U.S. Claims Tribunal, the license applicant shall give at least 30 days' advance notice of the sale to the Tribunal.

(d) The disposition of the proceeds of any sale licensed under this section, minus such reasonable costs of sale as are authorized by applicable law (which will be licensed to be deducted), shall be in accordance with either of the following methods:

(1) Deposit into a separate blocked, interest-bearing account at a domestic bank in the name of the licensed applicant; or

(2) Any reasonable disposition in accordance with provisions of law applicable prior to November 14, 1979, which may include unrestricted use of all or a portion of the proceeds, provided that the applicant shall post a bond or establish a standby letter of credit, subject to the prior approval of the Secretary of the Treasury, in favor of the United States in the amount of the proceeds of sale, prior to any such disposition.

(e) For purposes of this section, the term "proceeds" means any gross amount of money or other value realized from the sale. The proceeds shall include any amount equal to any debt owed by Iran which may have constituted all or part of a successful bid at the licensed sale.

(f) The proceeds of any such sale shall be deemed to be property governed by § 535.215 of this part. Any part of the proceeds that constitutes Iranian property which under § 535.215 is to be transferred to Iran shall be so transferred in accordance with that section.

(g) Any license pursuant to this section may be granted subject to conditions deemed appropriate by the Secretary of the Treasury.

(h) Any person licensed pursuant to this section is required to submit a report to the Chief of Licensing, Office of Foreign Assets Control, within ten business days of the licensed sale or other transfer, providing a full accounting of the transaction, including the costs, any payment to lienholders or others, including payments to Iran or Iranian entities, and documentation concerning any blocked account established or payments made.

(Sec. 201–207, 91 Stat. 1626, 50 U.S.C. 1701–1706; E.O. No. 12170, 44 FR 65729; E.O. No. 12205, 45 FR 24099; E.O. No. 12211, 45 FR 26605; E.O. No. 12276, 46 FR 7913; E.O. No. 12279, 46 FR 7919; E.O. No. 12280, 46 FR 7921; E.O. No. 12281, 46 FR 7923; E.O. No. 12282, 46 FR 7925; and E.O. No. 12294, 46 FR 14111)

Dennis M. O'Connell,

Director, Office of Foreign Assets Control.

Approved:

John M. Walker, Jr.,

Assistant Secretary.

[FR Doc. 82-19887 Filed 7-20-82; 11:53 am]

BILLING CODE 4810-25-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 13-82-08]

Water Festival Regatta; Willamette River

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This regulation establishes an area of controlled navigation on the Willamette River on July 24 and July 25, 1982. This is due to scheduled speed boat races for this time period as a part of the Portland Water Festival, Outboard Performance Craft Races. Through this action the Coast Guard intends to ensure the safety of spectators and participants in this event.

EFFECTIVE DATES: This regulation is effective from July 24, 1982 through July 25, 1982.

FOR FURTHER INFORMATION CONTACT: LCDR B. W. Mills, Commander(bb), Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Washington 98174, (206) 442–7355.

SUPPLEMENTARY INFORMATION:

Discussion

This is the first race sponsored by the Oregon Marine Trade Association on the Federal navigable portion of the Willamette River in Portland, Oregon. The event is expected to draw a large number of spectators to the beaches and waters surrounding the race course. A sizeable portion of the spectators are expected to watch the event from a significant number of pleasure craft anchored near the race course. To ensure the safety of both the spectators and the participants, a special navigational regulation providing Coast Guard personnel with the authority to control and coordinate general navigation in the waters surrounding the race course during the event is herewith established.

Procedure

This regulation has been promulgated as an emergency Final Rule without any prior announcement or Notice of Proposed Rulemaking since this event has already received wide advertisement throughout the Portland area and the surrounding community and the event is scheduled to occur in less than 30 days. Over the past few months representatives of the major Willamette River user groups have participated with the sponsor in planning this event in order to limit

interference with the commercial users of the river and pleasure craft. Therefore, the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, and opportunity for public participation are considered unnecessary. Nevertheless, interested persons wishing to comment may do so by submitting written comments to the office listed under "FOR FURTHER INFORMATION CONTACT" in this preamble. Commenters should include their names and addresses, identify the docket number for the rulemaking, and give reasons for their comments. Based upon comments received, the regulation may be changed.

Drafting Information

The principal persons involved in the drafting of this proposal are LCDR B. W. Mills, USCG, Project Office, Commander(bb), Thirteenth Coast Guard District, and LCDR R. R. Clark, USCG, Project Attorney, Commander(dl), Thirteenth Coast Guard District.

Summary of Evaluation

This final regulation has been reviewed under the provisions of Executive Order 12291 and the guidelines set forth in the Policies and Procedures for Simplification, Analysis and Review of Regulations (DOT Order 2100.00 of 5–22–80). It is considered to be nonsignificant. An economic evaluation of this notice has not been conducted since its impact is expected to be minimal. This regulation affects a short section of the Willamette River with only light commercial traffic and will be in effect for only two (2) days, those days being Saturday and Sunday. In addition the scheduling of commercial traffic on this section of the river has already been coordinated with the effected users. Also, the Patrol Commander will allow commercial traffic to transit the area between race heats. In accordance with § 605(b) of the Regulatory Flexibility Act (94 Stat. 1164) it is also certified that these rules will not have a significant economic impact on a substantial number of small entities. This is clear from the limited, if any, impact on commercial marine traffic that will occur as a result of this final rule.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

Final Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding a new § 100.1311, to read as follows:

§ 100.1311 Willamette River/1982 Water Festival.

(a) On July 24 and July 25, 1982, this regulation will be in effect each day from 0900 Pacific Daylight time until one hour after the conclusion of the last race.

(b) The area in which the Coast Guard will restrict general navigation and anchorage by this regulation during the hours it is in effect is:

(1) On chart 18526, the waters of the Willamette River from a line perpendicular to the northern end of the ARCO fuel pier at statute mile 4.8, upstream to the Burlington Northern Railroad Bridge at Portland, Oregon.

(c) The Coast Guard patrol of the area described in paragraph (b) of this section is under the direction of the Coast Guard Patrol Commander. He is empowered to control the movement of vessels in the area described in paragraph (b).

(d) Vessels underway in the area described in paragraph (b) of this section during the hours this regulation is in effect shall do so only at speeds which will create minimum wake, i.e., seven (7) miles per hour or less. This maximum speed may be reduced at the discretion of the Patrol Commander.

(e) A succession of sharp, short signals by whistle or horn from vessels patrolling the area under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signalled shall stop and shall comply with the orders of the patrol vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(46 U.S.C. 454; 33 CFR 100.35)

Dated: July 9, 1982.

C. F. DeWolf,

Rear Admiral, U.S. Coast Guard, Commander, 13th Coast Guard District.

[FR Doc. 82-19780 Filed 7-21-82; 8:45 am]
BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD 81-107]

Drawbridge Operation Regulations; Snohomish River, Steamboat Slough, and Ebey Slough, Washington

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Washington State Department of Transportation, the Coast Guard is changing the regulations governing the state highway drawbridges across the Snohomish River, Steamboat Slough, and Ebey Slough between Everett and Marysville, Washington, by requiring that one hour advance notice of opening be given for the Ebey Slough bridge and the existing advance notice for the Snohomish River and Steamboat Slough bridges be reduced to one hour. This change is being made because of an increase in the navigational usage of the Snohomish River. This action will relieve the Washington State Department of Transportation of the burden of having a person in constant attendance at the Ebey Slough bridge while still providing for the reasonable needs of navigation.

EFFECTIVE DATE: This amendment becomes effective on August 23, 1982.

FOR FURTHER INFORMATION CONTACT: John E. Mikesell, Chief, Bridge Section, Aids to Navigation Branch, Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Washington 98174, telephone (206) 442–5864.

SUPPLEMENTARY INFORMATION: On January 28, 1982, the Coast Guard published a proposed rule (47 FR 4095) concerning this amendment. The Commander, Thirteenth Coast Guard District, also published the proposal as a Public Notice dated January 28, 1982. Interested parties were given until February 28, 1982 to submit comments.

Drafting Information

The principal persons involved in drafting this rule are: John E. Mikesell, Chief, Bridge Section, Thirteenth Coast Guard District, and LT James R. Woeppel of the Thirteenth Coast Guard District Legal Officer's staff.

Discussion of Comments

Eight responses were received, five were from federal and state agencies who routinely respond to Coast Guard public notices. Of the five, two offered no objection and three offered no comment. Three responses were received from navigation interests. One offered comments in support of the proposal, one had no objection, but offered a recommendation that the bridges involved be equipped with VHF radio for communication with commercial tugs, and one expressed a desire that the Ebey Slough bridges be manned at least during every high tide for the convenience of waterway users. It is felt that the regulation amendment

will adequately cover these points and provide an overall higher level of service than is presently available. An economic evaluation has not been prepared because the proposed amendment would have only minimal economic impacts. The requirement for one hour advance notification would not result in significant costs to commercial waterway users or small businesses, would improve service for recreational traffic, and would not significantly increase costs to the bridge owner. The reference to the "Burlington Northern Corporation" appearing in the proposed rule has been changed to read "Burlington Northern Railroad Company" because of a recent change in the official name of that organization. The wording "one hours advance" appearing in the proposed rule at § 117.805(e)(5)(i) has been changed to "one hour advance notice" for clarity.

These final regulations have been reviewed under provisions of Executive Order 12291 and have been determined not to be a major rule. They are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 22 May 1980). As explained above, an economic evaluation has not been conducted. In accordance with § 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that these rules will not have a significant economic impact on a subtantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended by revising § 117.805(e)(5) to read as follows:

§ 117.805 Snohomish River, Steamboat Slough, and Ebey Slough, Washington; bridges

* * * * *

(e) * * *

(5) The bridges to which this paragraph applies, and the special regulations applicable in each case, are as follows:

(i) The State of Washington, Department of Transportation, bridges across the Snohomish River north of Everett; Steamboat Slough bridges north of Everett; and the Ebey Slough bridge at Marysville, shall open on signal if at least one hour advance notice is given: *Provided,* That during freshets a drawtender shall be kept in constant attendance at the Snohomish River bridges upon order of the District Commander. Notice shall be given by marine radio, telephone, or other means, on weekends, to the drawtender at the Snohomish River bridges, and on weekdays, to the drawtender at the Ebey Slough bridge.

(ii) The State of Washington, Department of Transportation, bridge across the Snohomish River at the foot of Hewitt Avenue, Everett, shall open on signal if at least four hours advance notice is given: *Provided,* That during freshets a drawtender shall be kept in constant attendance upon order of the District Commander.

(iii) The Burlington Northern Railroad Company bridge across Steamboat Slough north of Everett shall open on signal if at least four hours advance notice is given.

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: July 9, 1982.

C. F. DeWolf,

Rear Admiral, U.S. Coast Guard, Commander, 13th Coast Guard District.

[FR Doc. 82-19688 Filed 7-21-82; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD 09-82-07]

Drawbridge Operation Regulations; Wolf River, Wisconsin

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Wisconsin Department of Transportation the Coast Guard is revising the regulations governing the operation of the Winneconne Highway bridge, mile 2.43, across the Wolf River in Winneconne, Wisconsin, by requiring that advance notice for opening of the draw be given during certain periods of time. This change is being made because of few openings for the period of time between 11 p.m. and 7 a.m. during the navigation season and all shifts during the winter months. This action will relieve the bridge owner of the burden of having a person on duty at the draw and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: This amendment becomes effective on August 23, 1982.

FOR FURTHER INFORMATION CONTACT: Robert W. Bloom, Jr., Chief, Bridge Branch, Ninth Coast Guard District, 1240 East Ninth Street, Cleveland, Ohio 44199 (216) 522–3993.

SUPPLEMENTARY INFORMATION: On April 29, 1982, the Coast Guard published a Proposed Rule in the **Federal Register** (47 FR 18373) concerning this amendment. The Commander, Ninth Coast Guard District, also published this proposal as a Public Notice dated 17 May 1982. Interested parties were given until June 14, 1982, and June 16, 1982, respectively, to submit comments.

Drafting Information

The principal persons involved in drafting this Final Rule are: Robert W. Bloom, Jr., Chief, Bridge Branch, Ninth Coast Guard District, and Project Attorney, LCDR Michael D. Gentile, Assistant Legal Officer, Ninth Coast Guard District.

Discussion of Comments

No comments were received from the **Federal Register** or Public Notice.

This final regulation has previously been determined to be non-major under Executive Order 12291, and also to be nonsignificant under the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). The final regulation has been certified under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.), at 47 FR 18373 (April 29, 1982). No information has been received which changes those determinations and certifications. An economic evaluation has not been conducted. Since this rule allows the bridge owner to remove bridgetenders only during times when navigation on the Wolf River is negligible and during times when the U.S. Locks on the Wolf and Lower Fox Rivers are closed for the winter months, small entities in the area will not be economically impacted.

List of Subjects in 33 CFR Part 117

Bridges.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by adding a new § 117.643a immediately after § 117.643 to read as follows:

§ 117.643a Wolf River, Wisconsin.

(a) The Winneconne Highway bridge shall open on signal except that:

(1) From May 1 through October 31, from 11 p.m. to 7 a.m., the draw shall open on signal if at least 2 hours notice is given.

(2) From November 1 through April 30 the draw shall open on signal if at least 12 hours notice is given.

(b) Public vessels of the United States, state and local government vessels used for public safety and vessels in distress,

shall be passed through the draw of this bridge as soon as possible at all times.

(c) The owner of or agency controlling this bridge shall keep conspicuously posted on both the upstream and downstream sides of the bridge, in such a manner that it can be easily read at all times, a copy of the regulations in this section, together with a notice stating exactly how the representative of the bridge owner may be reached during times an advance notice is required.

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05-1(g)(3))

Dated: July 13, 1982.

Henry H. Bell,

Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 82-19849 Filed 7-21-82; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Medicare Program; Provider Reimbursement Review Board: Expedited Administrative Review

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule with comment period.

SUMMARY: Current Medicare regulations permit providers of services to appeal reimbursement decisions of Medicare fiscal intermediaries to the Provider Reimbursement Review Board. Following the Board's decision, the provider may also request judicial review of that decision (and of any action by the Secretary with respect to that decision). These amendments to our regulations permit the provider to obtain expedited administrative review when the Board determines that it lacks authority to decide a question of law, regulation, or HCFA ruling relevant to the case. The question of whether authority is lacking may be raised by the provider or on the Board's own motion. The regulations eliminate the current requirement for a Board hearing before judicial review when the Board lacks authority to decide an issue, and they establish time limits within which the Board must act.

These rules implement section 955 of the Omnibus Reconciliation Act of 1980, Pub. L. 96-499.

DATES: These regulations are effective July 22, 1982. The regulations are being published in final for reasons described in the Supplementary Information below. However, we will consider any written comments mailed by August 23, 1982, and revise the regulations, if necessary.

ADDRESSES: Address comments in writing to: Administrator, Department of Health and Human Services, Health Care Financing Administration, P.O. Box 17073, Baltimore, Maryland 21207.

If you prefer, you may deliver your comments to Room 309-G, Hubert H. Humphrey Building, 200 Independence Ave., S.W., Washington, D.C., or to Room 789, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to BPP-136-FC. Agencies and organizations are requested to submit comments in duplicate.

Comments will be available for public inspection, beginning approximately two weeks after publication, in Room 309-G of the Department's office at 200 Independence Ave., SW., Washington, D.C. 20201 on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202-245-7890).

Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. However, if as a result of comments, we believe that changes are needed in these regulations, we will publish the changes in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Stanley Katz, (301) 594-9595.

SUPPLEMENTARY INFORMATION:

Background

Under the Medicare program, the amount paid to a provider of services is the reasonable cost of items and services furnished to beneficiaries. To be reimbursed for services covered by the program, providers must file cost reports with their fiscal intermediaries. These cost reports are used by the intermediaries to determine the amount of reimbursement. If a provider is dissatisfied with the amount of reimbursement (or if the intermediary does not make its determination within 12 months after receiving a cost report), the provider has the right to request a hearing before the Provider Reimbursement Review Board, if the amount in controversy is $10,000 or more (42 CFR 405.1835). (See section 1878 of the Social Security Act, 42 U.S.C. 1395oo, and 42 CFR Part 405, Subpart R.)

The statute authorizes the Secretary to reverse, affirm, or modify a decision of the Board. (See section 1878(f) of the Act, 42 U.S.C. 1395oo(f).) (This authority has been delegated to the Administrator of the Health Care Financing Administration (HCFA), the agency now administering Medicare. The Administrator in turn delegated this authority to the Deputy Administrator.) If a provider is dissatisfied with the decision of the Secretary (where there is a review) or the Board, the provider may request judicial review of the final agency decision by a United States district court. A determination or decision made at any level in this process is "final" unless it is appealed within specified time limits. (See 42 CFR 405.1841, 405.1871, and 405.1877.)

The Board decides all questions relating to its jurisdiction to grant a hearing (see 42 CFR 405.1873). The Board, however, may grant a hearing under section 1878 of the Act only with respect to those matters for which providers have a right to review by the Board. In general, these are cases in which the amount in controversy is $10,000 or more, the provider is dissatisfied with the intermediary's determination or has not received a timely determination, and the provider has met specified time limits for filing an appeal.

When a provider files a request for a hearing, the Board notifies both the provider and intermediary of the acceptance or nonacceptance of the request. If the Board accepts the request, it notifies the provider and the intermediary and asks them to work together to clarify and simplify the issues involved, make stipulations as to the facts and issues, and prepare their respective position papers. These position papers are expected to present fully the positions and conclusions of the provider and the intermediary as to the issues, facts, evidence, and argumentation concerning supporting law, regulations, and HCFA rulings. Upon receipt of these materials, the Board may schedule a prehearing conference for the purpose of defining the issues more clearly. The Board is required to inform the parties to the hearing of the time and place of the hearing at least 30 days in advance. (See 42 CFR 405.1849 and 405.1853.)

In the exercise of its review authority, the Board may decide factual disputes and determine the applicability of Medicare law, regulations, and HCFA rulings to the matter at issue. In doing so, the Board may accept any evidence presented by the parties and may enter findings of fact on any criterion relevant to the intermediary's decision that is provided in the controlling authority (law, regulations or HCFA rulings). The Board, however, may not reverse or overrule the applicable authority, since these authorities are binding on the Board (42 CFR 405.1867).

There are some cases, however, for which the Board has jurisdiction, but for which a hearing would not resolve the matter at issue. This occurs when the sole issue to be resolved is the validity of the governing law, regulations or HCFA rulings, which the provider challenges. Thus, there may be no factual issues to be resolved by the Board and no legal issues within the authority of the Board to decide. The provider may, however, wish to challenge HCFA's legal position in court. To do so, the provider was previously required under section 1878 of the Act to bring the matter before the Board, even though the Board would have the authority only to affirm the determination of the intermediary. The effect of this process was to delay the resolution of controversies for extended periods of time and to require providers to pursue a time-consuming and unproductive administrative review merely to have the right to seek judicial review. (House Report No. 96–1167, 96th Congress, 2d Session, July 21, 1980; p. 394)

Changes in the Statute

Section 955 of Pub. L. 96–499, the Omnibus Reconciliation Act of 1980, amended section 1878(f)(1) of the Social Security Act. The amendment makes it possible for a provider that requests and has the right to obtain a hearing by the Board under section 1878(a) of the Act to bypass the hearing and obtain judicial review of any action of the fiscal intermediary that involves a question of law or regulations relevant to the matters in controversy, whenever the Board determines that it is without authority to decide the question. The Board may determine that it does not have the authority to decide a question either on its own motion or upon the request of a provider.

The amendment does not in any way change the scope of the Board's jurisdiction; the Board has jurisdiction over no more and no fewer types of issues now than before the law was enacted. If a provider requests and may obtain a Board hearing under section 1878(a) of the Act (that is, the Board accepts jurisdiction of the case), the provider may request expedited review; i.e., a determination by the Board of the Board's authority to decide the question of law or regulation relevant only to the matters that the Board has accepted for a hearing. (We refer to this determination as an "expedited review determination" in this preamble.)

Once the provider has requested an expedited review determination, the Board has 30 days in which to issue the determination in writing. The 30 days begins after receipt of the request, accompanied by whatever documents and other materials the Board requires to make the determination.

A provider may bring a civil action with respect to the matters for which the Board grants expedited review. If the Board does not make a determination either granting or denying expedited review within 30 days after receipt of a provider's request with accompanying documents, the provider may bring suit with respect to the matter in controversy contained in the request. There is no provision for bringing civil suit on the Board's determination not to grant expedited review.

The provider must bring the civil action within 60 days of the date of the Board's determination, or, if the Board fails to make the determination within 30 days after receipt of a provider's appropriately documented request, within 60 days following the end of the 30-day period.

The law provides that an expedited review determination by the Board will be considered final and not subject to the Secretary's review.

The law applies equally to all providers, regardless of whether HCFA or another organization serves as fiscal intermediary.

Provisions of the Regulation

These amendments implement section 955 of Pub. L. 96–499 by adding a new § 405.1842 to 42 CFR Part 405, Subpart R, Medicare regulations on Provider Reimbursement Review Board responsibilities and procedures.

The amendments parallel the statutory changes, with clarifying or implementing policy as discussed below.

A. *Application of Regulations to HCFA Rulings.* Current regulations at 42 CFR 405.1867 provide that the Board is bound by applicable Medicare law, regulations and HCFA rulings. The statutory amendment addresses the right of the provider to judicial review when the validity of a regulation or the law is in question. However, since HCFA rulings are binding on the Board (see 42 CFR 405.1867) and are used effectively for clarifying policy issues that arise in the implementation of the law and existing regulations, we believe the question of the validity of HCFA rulings should also be subject to expedited review. Therefore, we have included this provision in the new regulations.

The HCFA rulings to which we refer are the *Health Care Financing Administration Rulings*, published under the authority of the Administrator of HCFA for the purpose of making available to the public, official rulings relating to the Medicare, Medicaid, Professional Standards Review Organizations and other programs under HCFA's jurisdiction.

The rulings include materials required to be made public by the Freedom of Information Act (5 U.S.C. 552(a)(2)): That is, final opinions, including concurring and dissenting opinions, as well as orders made in the adjudication of cases; statements of policy and interpretations adopted by HCFA or one of its components and not generally published in the **Federal Register**. HCFA may, at its discretion, publish individual rulings in the **Federal Register**, or as a separate publication, or both.

The HCFA rulings are the continuation of the system the Social Security Administration has had for several years for issuing formal rulings; that Administration issued rulings for the Medicare program before HCFA was created.

B. *The Request and Accompanying Documents.* To obtain an expedited review proceeding, the provider must file its request and accompanying documents in writing with the Board and send a copy of its request and documents to the intermediary.

A request to the Board for a determination concerning its authority to decide an issue must—

(a) Identify the issues and the controlling law, regulation, or HCFA ruling for which the Board is to make a determination;

(b) Allege and demonstrate that there are no factual issues in disputes;

(c) Contain an explanation of why the provider believes the Board cannot decide the legal issue or issues that are in dispute; and

(d) Include all other information or details that support the request.

If the request does not contain enough information for the Board to make a determination, the Board will request more information from the provider. A request is not considered complete until all of the statements noted above, and any additional information the Board may request, have been received. Thus, the 30-day time period does not begin until the Board has notified the provider that it has accepted jurisdiction of the case and the request is complete. If the additional information the provider sends in response to the Board's request is still inadequate, the Board will determine not to grant expedited review.

We encourage providers to send all the required and any supplementary information with the initial request for an expedited review determination to avoid requests from the Board for additional information.

We are requesting providers to include the words "EXPEDITED REVIEW" in a prominent place on the envelope. This will help alert the Board and intermediary to the presence of material that must be handled quickly.

C. *Intermediary Participation.* When the intermediary receives its copy of the provider's request, it will review the issue and send the Board and the provider any comments it has. Since the intermediary cannot know if the Board will accept the initial request as complete and thus how much time there will be to comment, the intermediary should send its comments as soon as possible. The Board may consider the comments at any time before it issues its determination.

If the Board receives intermediary comments that raise questions about the provider's request for an expedited review determination, the Board may find it necessary to request additional information from the provider. This will extend the 30-day time period for making a determination, as discussed more fully in "D. Timing of the Request and Accompanying Materials" below.

D. *Timing of the Request and Accompanying Materials.* The request for an expedited review determination may either accompany or follow the provider's request for a Board hearing. However, the 30 days which the Board has to make a determination will not begin until (1) the Board has accepted jurisdiction of the case, and (2) the provider has filed an appropriately documented request for such a determination, if this was not submitted with the request for a hearing.

Under current regulations (42 CFR 405.1841), the Board, after receiving a request for a hearing, examines and develops the request as necessary to determine whether it has jurisdiction. This examination and development is distinct from the Board's review of a provider's request for an expedited review determination. The jurisdiction determination generally takes 30 days. In our view, it would not always be reasonable to expect the Board to act on a request for an expedited review determination within the required 30-day period at the same time it is deciding whether it has jurisdiction in the case.

The provision that the Board consider the provider's request for an expedited review determination after its request for a hearing has been accepted is consistent with the statutory amendment, which clearly intends that the provider first establish its right to obtain a Board hearing. The law reads, "If a provider may obtain a hearing under subsection (a) (of section 1878 of the Act) and has filed a request for such a hearing, such provider may file a request for a determination by the Board of its authority * * *" In order to determine whether a provider "may obtain a hearing," the Board has to decide whether it has jurisdiction under section 1878(a) of the Act. We are therefore interpreting "may obtain a hearing" as meaning the Board has accepted the request and jurisdiction of the case and thus has established the provider's right to a hearing.

The 30-day period during which the Board must issue an expedited review determination will begin on the date of receipt by the Board of a complete request (as defined above in B) or on the date indicated on the Board's written notification to the provider that the Board has jurisdiction of the issue or issues, whichever is later.

When the Board requests more information, the start of the 30-day period which the Board has to make its expedited review determination automatically begins on the date the additional information is received. The Board may set a time limit on the provider's response so that the case is kept active.

There are a number of possible combinations of requests and time frames for expedited review determinations. Following are several examples of possible circumstances and the Board's actions:

- The provider requests a hearing and expedited review at the same, or about the same time, and provides all necessary information. In this case, the Board can notify the provider that it has accepted jurisdiction of the case and can make the expedited review determination simultaneously.
- The provider requests a hearing and expedited review at the same time (or requests the latter before jurisdiction is established), but the request for a hearing does not contain enough information for the Board to determine whether it has jurisdiction. In this case, the Board cannot make an expedited review determination until after it has accepted jurisdiction. The Board would request more information to determine jurisdiction and, assuming it accepts jurisdiction, make its expedited review determination within 30 days after it has accepted jurisdiction.
- The provider requests a hearing and an expedited review determination simultaneously, but does not send enough information for the Board to make an expedited review determination. Assuming the Board accepts jurisdiction of the case, the Board will request more information about the request for an expedited review determination and make its determination within 30 days after it receives that information.
- The provider requests a hearing and an expedited review determination simultaneously, but the Board does not make its expedited review determination until 30 days after it has accepted jurisdiction of the case. The case may be too complex to decide quickly, because, for instance, there may be several issues for which the provider has requested an expedited review.
- The provider requests an expedited review determination after the Board has notified it of acceptance of the provider's request for a hearing. The Board will make its determination within 30 days after the date of actual receipt of the request for an expedited review determination (or upon receipt of additional information if requested by the Board).

The date of the receipt of documents mailed by the provider will be established by the date-time stamp the Board uses for incoming mail or the date established by the use of "return receipt requested" mail, if the provider chooses to mail the material this way. On the other hand, the Board will always use "return receipt requested" mail when it is necessary to establish the day the provider receives mail from the Board.

E. *Effect of the Board's Determination.* The Board's determination to grant expedited review, or its failure to issue a determination within 30 days from the date of receipt of a request upon which action can be taken, will allow the provider to seek judicial review without any intervening Secretary's review. However, there is no provision in the law for judicial review of a Board determination not to grant expedited review. Therefore, if the Board determines not to grant expedited review, it will follow its normal hearing procedures on the substantive issue, and the hearing determination will be subject to the Administrator's review and judicial review, as under current procedures.

When the applicability of a law, regulation, or HCFA ruling on a particular issue is within the authority of the Board to decide, a provider may not obtain expedited review since the Board hearing or the subsequent Secretary's review of the hearing decision could resolve the issue of applicability entirely in the provider's favor. Therefore, if there are factual or legal matters within the authority of the Board to decide on the particular issue, the Board will not grant the expedited review and will proceed with a hearing. The hearing

determination will be subject to the Secretary's review and judicial review.

There may be cases in which a provider requests an expedited review determination on more than one issue and the Board determines that it has the authority to decide one or more issues, but not all of them. The provider may seek judicial review of the issues for which the Board has determined it does not have the authority to decide. The Board will follow regular Board hearing procedures for other issues. The Board has the discretion to decide when two (or more) issues are too entwined to separate for purposes of an expedited review determination on one (or more) of them and a hearing on the other or others.

If the Board fails to make an expedited review determination within the prescribed 30 days, it will proceed as though it had the authority to decide the issue (for example, it would schedule a hearing) until the provider notifies the Board that it is seeking judicial review. The Board will not hold a hearing on the issue or issues for which the provider is seeking judicial review. Therefore, we are requesting the provider to notify the Board when it files for judicial review.

If there is to be judicial review of a given case, HCFA will review the provider's and intermediary's materials and the Board's determination. Our review may lead us to request the court to remand the case to the Board, if we find any unresolved factual issues.

F. *Limitation on Extent of Applicability of Regulations.* Section 955 of the Omnibus Reconciliation Act applies only to those matters that are subject to the Board's review under section 1878 of the Act, as described in the Background section above. However, the Secretary has assigned other responsibilities and administrative appeals to the Board. One example is the Board's review of an intermediary determination that denies payment of amounts claimed for certain capital expenditures, based on the Medicare exclusion (under section 1122 of the Act) of costs attributable to capital expenditures that are not approved by the State health planning agency (42 CFR 405.1890). The Board's review in this instance is a reconsideration under section 1122(f) of the Act, rather than a hearing within the meaning of section 1878. Section 1122(f) of the Act and 42 CFR 405.1890(c)(2) and (d) specifically state that a determination by the Secretary under section 1122 of the Act "* * * *shall not* be subject to [other] administrative or judicial review" (emphasis added). Therefore, we are excluding Board actions under 42 CFR 405.1890 pertaining to matters under section 1122 of the Act from the expedited proceedings the new regulations cover.

Previous Federal Register Publication on Expedited Judicial Review

On February 4, 1980, we published a notice of proposed rulemaking (NPRM) (45 FR 9953) containing extensive changes we wished to make to clarify and improve the effectiveness of the Board's hearing procedures and the Administrator's review process. We received a large number of comments which we are considering in connection with preparing final regulations.

One of the proposed changes, however, was quite similar to the provisions enacted by section 955 of Pub. L. 96–499. In § 405.1853(d) of the NPRM, we proposed a means of expediting cases, when the provider wished to challenge HCFA's legal position, by shortening the Board hearing and permitting the challenge to be taken directly to Federal court. The expediting procedure would have been initiated by a stipulation between HCFA and the provider setting forth their agreement concerning (1) the controlling facts in the case; (2) the fact that there are no factual issues for the Board to resolve; (3) the applicable statutes, regulations and HCFA rulings; and (4) the fact that there are no legal issues within the authority of the Board to decide. Thus, the stipulation would have made it clear that the only issue to be resolved was the provider's challenge to the validity of the governing HCFA policy.

We received 30 comments from 29 commenters on that proposed provision. Ten comments supported the basic provision, and most of the others have been resolved by the recent legislation. Several are no longer pertinent.

A comment not covered by the legislation was a request to clarify that the expedited procedure could permit a challenge to HCFA rulings, as well as to the law and regulations. We have accepted the comment and have written §405.1842 accordingly.

In addition, there was another comment that is relevant to the new section. One commenter indicated that the proposal did not provide a method of tracking the various time periods provided for in the proposed rule. This is a valid point. We adopted the comment and included it in § 405.1842 as discussed above under section C.

Waiver of Proposed Rulemaking

Pub. L. 96–499 was enacted on December 5, 1980, and became effective on that date. In order to have regulations in place as close as possible to the effective date of the law, we must publish these regulations in final form as soon as possible. Because of this, and because we published a substantially similar provision as part of a notice of proposed rulemaking on February 14, 1980, we believe that publication of a new notice of proposed rulemaking is unnecessary and would be contrary to the public interest. We therefore find good cause to waive notice of proposed rulemaking and our normal 30-day delay in effective date. We will, however, consider any comments on this rule that are mailed by the date specified above in the "Dates" section and make any further changes that may be necessary.

Executive Order 12291

The Secretary has determined that these regulations do not meet the criteria for a "major rule," as defined by section 1(b) of Executive Order 12291. That is, the regulations will not—

- Have an annual effect on the economy of $100 million or more;
- Result in a major increase in costs or prices for consumers, any industries, any government agencies or any geographic regions; or
- Have significant adverse effects on composition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or import markets.

The only costs we have identified with implementing these regulations are those of hiring two employees (one professional and one clerical) and purchasing the necessary office equipment these employees will need for a total of $56,200. We anticipate that the Board will receive 75 to 98 cases per year.

Regulatory Flexibility Act

The Regulatory Flexibility Act requires (5 U.S.C. 604) a Federal agency to prepare, and to make available to the public, a final regulatory flexibility analysis when a final rule is published that has an effect on small businesses and other small entities.

As defined by the Regulatory Flexibility Act, the term "small entities" includes "small governmental jurisdictions". The latter term is defined as local governments (cities, counties, towns, townships, villages, school districts, or other special districts) with a population of less that fifty thousand persons.

As explained above, these regulations will permit providers to obtain expedited review when the Board

determines it does not have the authority to decide an issue. These regulations do affect some providers that are small enough to meet the definition of "small entity". However, the regulations have no significant economic effect on any providers. These regulations will benefit providers, and the economic impact on both HCFA and providers will take advantage of the provisions of these regulations, we project that the number of providers that do will be insignificant (compared to total number of providers); further, the number of providers that are "small entities" will be even less significant. Therefore, the Secretary certifies pursuant to section 605(b), that the regulations will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 42 CFR Part 405

Administrative practice and procedure, Certification of compliance, Clinics, Contracts (agreements), End-stage renal disease (ESRD), Health care, Health facilities, Health maintenance organizations (HMO), Health professions, Health suppliers, Home health agencies, Hospitals, Inpatients, Kidney diseases, Laboratories, Medicare, Nursing homes, Onsite surveys, Outpatient providers, Reporting requirements, Rural areas, X-rays.

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

42 CFR Chapter IV, Part 405, Subpart R, is amended as follows:

1. The Table of Contents is revised by adding § 405.1842 as follows:

Subpart R—Provider Reimbursement Determinations and Appeals

* * * * *

Sec.
405.1842 Expediting Board proceedings.

* * * * *

Authority: Secs. 1102, 1861(v), 1871, and 1878, 49 Stat. 647, as amended, 79 Stat. 322, as amended, 79 Stat. 331, as amended, 86 Stat. 1421 (42 U.S.C. 1302, 1395hh, 1395oo, 1395x(v)).

2. A new § 405.1842 is added as follows:

§ 405.1842 Expediting Board proceedings.

(a) *Basis and purpose.* This section implements section 1878(f)(1) of the Social Security Act, as amended by section 955 of Pub. L. 96–499 (42 U.S.C. 1395oo(f)(1)). The amendment provides an opportunity for providers to obtain expedited administrative review when the Board determines that it does not have the authority to decide a question of law, regulation, or HCFA ruling relevant to the case.

(b) *Basic rule.* (1) Except as provided in paragraph (b)(4) of this section, a provider may submit a written request to the Board, with supporting documentation, to determine whether the Board has the authority to decide a question of law, regulations, or HCFA rulings relevant to and controlling upon an issue to be reviewed by the Board. The Board is required to make an expedited review determination in writing, either denying or granting the request, within 30 days after the date of receipt of the request, as defined in paragraph (h) of this section. The Board may also issue a determination on its own motion that it lacks authority to decide a question of law, regulations or HCFA rulings.

(2) The Board must determine that the provider is entitled to a hearing under section 1878(a) of the Act before making the determination described in paragraph (a)(1) of this section. Thus, the provider must file (or have already filed) a written request for a Board hearing that meets the requirements in § 405.1841. The information and documentation required with respect to the filing of a request for a hearing is used by the Board to determine jurisdiction under section 1878(a) of the Act.

(3) A provider's request for an expedited review determination cannot be considered to be filed with the Board, nor can the 30-day time period during which the Board is required to make an expedited review determination begin, until such time as the Board accepts jurisdiction of the case.

(4) Proceedings conducted by the Board under an authority other than section 1878(a) of the Act and §§ 405.1835 through 405.1873 of this subpart are not hearings for purposes of this section and are not subject to the expedited Board proceedings set forth in this section. For example, proceedings concerning reimbursement for capital expenditures conducted under section 1122(f) of the Act and § 405.1890 of this subpart are not hearings for purposes of this section. (Section 1122(f) specifically bars any administrative or judicial review.)

(c) *Provider requests.* (1) If a provider seeks an expedited Board proceeding, it must—(i) File its appropriately documented request in writing with the Board; and

(ii) Send a copy of the request and documentation simultaneously to the intermediary.

(2) The request to the Board for an expedited review determination must—(i) Identify the issues and the controlling law, regulation or HCFA ruling for which the Board is to make a determination;

(ii) Allege and demonstrate that there are no factual issues in dispute;

(iii) Contain an explanation of why the provider believes the Board cannot decide the legal issue or issues that are in dispute; and

(iv) Include all other information or details that support the request.

(3) If the information in the provider's request is insufficient for the Board to determine whether it has the authority to decide an issue, the Board will request more information from the provider. Such a request will affect the 30-day time limit as provided in paragraph (h) of this section. If the provider does not send more information or sends inadequate information, the Board will determine that it has the authority to decide the issue and will begin the regular procedures for a hearing.

(d) *Intermediary participation.* After receiving a copy of the provider's request for an expedited review determination, the intermediary may send comments to the Board on the provider's request and supporting documentation. The intermediary will send a copy of its comments to the provider simultaneously.

(e) *Criteria for a Board determination.* The Board will review all documentation forwarded by the provider and the intermediary relevant to the request for a Board determination concerning the Board's authority to decide an issue. In its review, the Board will consider—

(1) The controlling facts in the case;

(2) The applicability of law, regulations, or HCFA rulings;

(3) Whether there are factual issues for the Board to resolve; and

(4) Whether there are legal issues within the authority of the Board to decide.

(f) *Board determination.* (1) Within 30 days after the date of receipt (as defined in paragraph (h) of this section) of a provider's request and all necessary documentation the Board will issue a determination concerning its authority to decide the question of law, regulations, or HCFA rulings relevant to the issues identified by the provider in its request.

(2) The Board will promptly notify the provider in writing of its determination

and will send a copy of the determination to the intermediary.

(3) The Board's determination concerning its authority or its lack of a determination is not subject to the Secretary's review under § 405.1875.

(g) *Effect of a Board decision.* (1) The Board's determination, issued on its own motion or at the request of a provider, that it lacks authority to decide a question of law, regulations or HCFA rulings is a final decision permitting a provider to seek judicial review with respect to the matter or matters in controversy contained in the determination, within 60 days of the date of the Board's determination.

(2) After the Board has determined that it does not have the authority to decide an issue, the provider will not be granted a hearing on the same issue.

(3) If the Board fails to issue an expedited review determination within 30 days of the date of receipt of a complete request (as determined under paragraph (h) of this section), the provider may, within 60 days from the end of that period, seek judicial review of the matters for which it requested the Board's determination.

(4) If the Board fails to make an expedited review determination within the required 30 days, it will begin regular hearing procedures as though it has the authority to decide the issue.

(5) If the provider seeks judicial review because the Board fails to make a determination as provided in paragraph (f)(1) of this section, it should notify the Board at the time it files for judicial review. The Board will not hold a hearing, even if one has been scheduled, on the matter or matters for which the provider is seeking judicial review.

(6) The Board's determination does not affect the right of the provider to a Board hearing for issues for which the provider did not request expedited review, or for which the Board determines it does have the authority to decide, or for which the Board did not make a determination and the provider did not request judicial review.

(h) *Date of receipt.* For purposes of this section, the date of receipt of the provider's request is the later of—

(1) The actual date of receipt by the Board of the information required under paragraph (c)(2) of this section, or of additional information requested by the Board under paragraph (c)(3) of this section, whichever the Board receives later; or

(2) The date indicated on the Board's written notification to the provider that the Board has accepted jurisdiction of the case.

(i) *Examples.* Below are examples showing when a provider may expect to receive an expedited review determination, in relation to various circumstances affecting its request for the determination.

(1) The provider requests a hearing and expedited review at or about the same time. If all information is complete, the Board could send notification that it has accepted jurisdiction of the case and the expedited review determination simultaneously.

(2) The provider requests both a hearing and an expedited review determination, and supplies complete information. The Board accepts jurisdiction but, for example, because of the complexity of the case, the Board makes its expedited review determination within 30 days after it has accepted jurisdiction.

(3) The provider requests both a hearing and an expedited review determination, but the request for a hearing does not contain enough information for the Board to determine jurisdiction. The Board would request more information to determine jurisdiction and would make its expedited review determination within 30 days after it has accepted jurisdiction.

(4) The provider requests both a hearing and an expedited review determination, but does not send enough information for the Board to make an expedited review determination. Assuming the Board accepts jurisdiction, the Board would request more information about the request for expedited review and make its determination within 30 days after it receives the additional information.

(5) The provider requests an expedited review determination after the Board has accepted jurisdiction. The Board would make its determination within 30 days after receipt of an appropriately documented request for an expedited review determination.

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare-Hospital Insurance; No. 13.774, Medicare-Supplementary Medicare Insurance)

Dated: April 30, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: June 30, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-19051 Filed 7-21-82; 8:45 am]

BILLING CODE 4120-03-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6294

[CA 7523]

California; Partial Revocation of Public Water Reserve No. 157

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes an Executive order affecting 40 acres in California withdrawn for public watering purposes. This action will restore 20 acres to full operation of the public land laws and all the lands to location for nonmetalliferous minerals. The balance of 20 acres will remain segregated from operation of the public land laws generally for the Monache-Walker Pass National Cooperative Land and Wildlife Management Area.

EFFECTIVE DATE: August 20, 1982.

FOR FURTHER INFORMATION CONTACT: Dianna Storey, California State Office, 916-484-4431.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive Order No. 6867 of October 5, 1934, which withdrew lands for Public Water Reserve No. 157, is hereby revoked insofar as it affects the following described lands in California:

Mount Diablo Meridian

T. 28 S., R. 35 E.,
Sec. 15, W½SE¼NW¼, W½NE¼SW¼.

The area described contains 40 acres in Kern County.

2. The W½SE¼NW¼ will remain segregated from operation of the public land laws generally, for the Monache-Walker Pass National Cooperative Land and Wildlife Management Area, by Public Land Order No. 2594 of January 22, 1962.

3. At 10 a.m. on August 20, 1982, the W½NE¼SW¼ shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on August 20, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. The lands will be open to location for nonmetalliferous minerals at 10 a.m. on August 20, 1982. They have been and

will continue to be open to location for metalliferous minerals and to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, Room E-2841, Federal Building, 2800 Cottage Way, Sacramento, California 95825.

Garrey E. Carruthers,

Secretary of the Interior.

July 15, 1982.

[FR Doc. 82-19801 Filed 7-21-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6295

[M-025412]

Montana; Partial Revocation of Secretarial Order Dated January 31, 1936

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes a Secretarial order which withdrew 2.50 acres in Montana for use of the Department of Commerce in the maintenance of air navigation facilities. This action will restore the land to operation of the public land laws generally, including nonmetalliferous mineral location under the mining laws.

EFFECTIVE DATE: August 20, 1982.

FOR FURTHER INFORMATION CONTACT: Roland F. Lee, Montana State Office, 406-657-6291.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior, by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Secretarial Order dated January 31, 1936, which withdrew the following described public land use of the Department of Commerce in the maintenance of air navigation facilities, is hereby revoked as far as it applies to the land described below. Public Land Order No. 3980, dated April 11, 1966, transferred jurisdiction of the land back to the Department of the Interior.

Principal Meridian

T. 9 N., R. 8 W.,
Sec. 8, SE¼NE¼NW¼SW¼.

The area described contains 2.50 acres in Powell County.

2. At 8 a.m. on August 20, 1982, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the above described land shall be open to operation of the public land laws generally. All valid applications received at or prior to 8 a.m. on August 20, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 8 a.m. on August 20, 1982, the land will be open to nonmetalliferous mineral location under the mining laws. The lands have been and continue to be open to metalliferous mineral location under the mining laws and to applications under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Garrey E. Carruthers,

Secretary of the Interior.

July 15, 1982.

[FR Doc. 82-19838 Filed 7-21-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Orders; 6296

[C-6840]

Colorado; Public Land Order No. 6141; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order corrects an order entitled "Colorado: Powersite Restoration No. 678; Partial and Total Revocation of Powersite Reserve Nos. 27, 50, 254, and 495; Release of Section 24 Restriction on Certain Patented Lands." This order describes 120 acres of patented lands erroneously omitted from Public Land Order No. 6141.

EFFECTIVE DATE: July 22, 1982.

FOR FURTHER INFORMATION CONTACT: Richard D. Tate, Colorado State Office; 303-837-2535.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

The description of lands in Public Land Order No. 6141 of February 5, 1982, in FR Doc. 82-4154 appearing on pages 6854-6855 in the issue of Wednesday, February 17, 1982, is hereby corrected to include the following described lands:

1. Page 6854, column 3, paragraph 3, Powersite Reserve No. 27, T. 51 N., R. 1 E. New Mexico Principal Meridian, the following line should be added "Section 22, NE¼SE¼, S½SE¼."

These patented lands are hereby relieved of the restrictions of Section 24 of the Federal Power Act of June 10, 1920, 16 U.S.C. 818.

Dated July 15, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-19835 Filed 7-21-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6297

[I-9100]

Idaho; Revocation of Public Land Order No. 5592

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a withdrawal affecting 37.50 acres of public land in Idaho withdrawn by the Bureau of Land Management for use as a recreation site. This action involves record clearing only. The lands would not be restored to operation of the public land laws or the mining laws, since they remain closed by a classification made under the Recreation and Public Purposes Act.

EFFECTIVE DATE: July 22, 1982.

FOR FURTHER INFORMATION CONTACT: William E. Ireland, Idaho State Office; 208-334-1597.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1914, it is ordered as follows:

1. Public Land Order No. 5592 of July 6, 1976, which withdrew the following described lands, is hereby revoked in its entirety:

Boise Meridian, Idaho

T. 50 N. R. 5 W.,
Sec. 4, lot 13.

The area described contains 37.50 acres in Kootenai County.

2. The lands described remain closed to all forms of appropriation under the public land laws, including the mining laws, because of a classification action made under the Recreation and Public Purposes Act of June 14, 1926. The lands have been and continue to be open to the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau

of Land Management, Federal Building, Box 042, Boise, Idaho 83724.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

July 15, 1982.

[FR Doc. 82-19642 Filed 7-21-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6298

[C-18861]

Colorado; Amendment of Public Land Order No. 6087; Powersite Cancellation No. 319, Partial Cancellation of Powersite Classification Nos. 219 and 357

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order amends Public Land Order No. 6087 of November 16, 1981 relating to Colorado, which partially revokes two Secretarial orders which withdrew lands for Powersite Classification Nos. 219 and 357. The 80 acres described herein will be restored to national forest status.

EFFECTIVE DATE: August 20, 1982.

FOR FURTHER INFORMATION CONTACT: Richard D. Tate, Colorado State Office; 303-837-2535.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and pursuant to the determination of the Federal Power Commission (now Federal Energy Regulatory Commission) by DA-506 Colorado, dated August 30, 1977, it is ordered as follows:

1. Public Land Order No. 6087 of November 16, 1981, FR Doc. 81-33727 in the issue of Monday, November 23, 1981, on page 57289, Powersite Classification 219 is hereby amended to include the following described land:

San Juan National Forest

T. 37 N., R. 5 W. (partially surveyed),
Sec. 19, N½NW¼.

The land described contains 80 acres in Hinsdale County.

2. At 10 a.m. on August 20, 1982, the land described shall be open to such forms of disposition as may by law be made of national forest land.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

July 15, 1982.

[FR Doc. 82-19639 Filed 7-21-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6299

[M 40934]

Montana; Revocation of Secretarial Order Dated March 30, 1932

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a Secretarial order which withdrew public lands in Montana for use as a stock driveway. This action will restore the lands to operation of the public land laws generally.

EFFECTIVE DATE: August 20, 1982.

FOR FURTHER INFORMATION CONTACT: Roland F. Lee, Montana State Office; 406-657-6291.

SUPPLEMENTARY INFORMATION: By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Secretarial Order dated March 30, 1932, which withdrew the following described lands for Stock Driveway No. 229, Montana No. 14, is hereby revoked:

Principal Meridian

T. 31 N., R. 39 E.,
Sec. 35, lots 3 and 4, NE¼ and N½SE¼.

The area described contains 317.37 acres in Valley County.

2. At 8 a.m. on August 20, 1982, the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 8 a.m. on August 20, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The lands have been and continue to be open to location under the mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

July 15, 1982.

[FR Doc. 82-19640 Filed 7-21-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6300

[NEV-051797]

Nevada; Modification of Legal Description; Public Land Order No. 898

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order will modify the existing Nevada boundary description of PLO No. 898, published as FR Document 53-5428 on June 19, 1953, 18 FR 3540. The new description will conform to the approved survey and protraction diagrams for the area. The original boundaries remain unchanged.

EFFECTIVE DATE: July 22, 1982.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, Nevada State Office; 702-784-5703.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The portion of PLO No. 898 describing Target No. 17 is hereby redescribed as follows:

Mount Diablo Meridian, Nevada

T. 16 N., R. 33 E.,
Sec. 2, SW¼, W½SE¼;
Sec. 3, S½;
Sec. 4, S½SW¼, SE¼;
Sec. 5, E½SW¼SE¼, SE¼SE¼;
Sec. 8, E½, SE¼NW¼, E½SW¼;
Sec. 9, all;
Sec. 10, all;
Sec. 11, S½NE¼, W½NW¼NE¼, W½, SE¼;
Secs. 12 to 17, inclusive;
Secs. 20 to 28, inclusive;
Sec. 29, NE¼;
Sec. 33, NE¼;
Secs. 34 to 36, inclusive.

T. 16 N., R. 33¼ E. and a portion of T. 16 N., R. 34 E., unsurveyed, more particularly described as:

Beginning from the northeast corner of section 12, T. 16 N., R. 33 E; thence easterly 2 miles; thence southerly 5 miles; thence westerly 2 miles to the southeast corner of sec. 36, T. 16 N., R. 33 E., thence a distance of 5 miles along the east lines of secs. 36, 25, 24, 13 and 12, T. 16 N., R. 33 E., to the point of beginning.

2. The remainder of PLO No. 898 shall continue as originally published.

Inquiries concerning the land should be addressed to the Chief, Division of Operations, Nevada State Office, Branch of Lands and Minerals

Operations, 300 Booth Street, P.O. Box 12000, Reno, Nevada 89520.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

July 15, 1982.

[FR Doc. 82-19843 Filed 7-21-82; 8:45 am]

BILLING CODE 4310-84-M

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43 CFR Public Land Order 6301

[C-27445]

Colorado; Public Land Order No. 6102; Correction

AGENCY: Bureau of Land Managment, Interior.

ACTION: Public land order.

SUMMARY: This order will correct an error in the heading of Public Land Order No. 6102 of January 28, 1982 pertaining to Colorado, which cites Powersite Restoration No. 758 instead of Powersite Cancellation No. 345.

EFFECTIVE DATE: July 22, 1982.

FOR FURTHER INFORMATION CONTACT: Richard D. Tate, Colorado State Office; 303-837-2535.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

The heading in Public Land Order No. 6102 of January 28, 1982, in FR Doc. 82-3065 in the issue of Friday, February 5, 1982, at page 5416, column two which reads "Colorado; Powersite Restoration No. 758" should be changed to read "Colorado; Powersite Cancellation No. 345".

Garrey E. Carruthers,

Assistant Secretary of the Interior.

July 15, 1982.

[FR Doc. 82-19841 Filed 7-21-82; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 555

[Docket No. 82-14; Notice 1]

Temporary Exemption From Federal Motor Vehicle Safety Standards

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This notice amends the temporary exemption regulations to require that the certification label affixed to exempted vehicles include certification of compliance with the Federal bumper standard, 49 CFR Part 581. Since it is a minor amendment to conform to the requirements of 49 CFR Part 567, it is being made effective 90 days after publication without notice or opportunity to comment.

EFFECTIVE DATE: October 19, 1982.

FOR FURTHER INFORMATION CONTACT: Z. Taylor Vinson, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202-426-9511).

SUPPLEMENTARY INFORMATION: This notice updates the certification requirements for exempted vehicles to include Federal bumper requirements. Under the current regulation, 49 CFR Part 555.9, manufacturers of vehicles or vehicles manufactured in two or more stages, who have been exempted from compliance with one or more safety standards, are required to affix temporary and permanent labels to their products listing the standards from which the vehicle is exempted, and certifying compliance with the rest. When 49 CFR Part 581, *Bumper Standard,* became effective on September 1, 1978, the vehicle certification requirements of 49 CFR Part 567 were amended to include certification of compliance with the bumper standard is required by Section 105(c)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1915(c)(1)).

The agency has assessed the economic and other impacts of this final rule and determined that it is neither a major rule within the meaning of Executive Order 12291 nor a significant one under the Department of Transportation regulatory policies and procedures. Further, the agency concludes that the economic and other consequences of this final rule are so minimal as not to require preparation of a full regulatory evaluation. The impact is minimal because this amendment requires only a minor wording change in a label already required by law. For the same reason, the agency finds that this amendment will have no significant environmental impact. The requirement under the Regulatory Flexibility Act to prepare regulatory flexibility analyses is not applicable to this acition. That Act does not apply to rules for which notice and comment are not required by 5 U.S.C. 553. As explained below, notice and comment are not required for this action. Accordingly, the agency has not prepared any regulatory flexibility analysis. If the Regulatory Flexibility Act were applicable, the agency would certify that there would be no substantial economic impact on a significant number of small entities in view of the negligible cost impact on manufacturers and purchasers of vehicles.

The agency finds for good cause that prior notice and opportunity for comment on this amendment are unnecessary. The notice requires only a minor change of several words on a label already required by Part 567. Further, this minor, essentially technical amendment affects only two manufacturers at present. Since only two manufacturers are affected, it is being made effective October 20, 1982.

List of Subjects in 49 CFR Part 555

Administrative practice and procedure, Labeling, Motor vehicle safety, Motor vehicles.

PART 555—TEMPORARY EXEMPTION FROM MOTOR VEHICLE SAFETY STANDARDS

In consideration of the foregoing, Title 49 Code of Federal Regulations Part 555, *Temporary Exemption From Motor Vehicle Safety Standards,* is amended as follows:

Sections 555.9 (c)(1) and (c)(2) are revised in pertinent part:

§ 555.9 Temporary exemption labels.

* * * * *

(c) * * *

(1) Instead of the statement required by § 567.4(g)(5) of this Chapter, the following statement shall appear:

This vehicle conforms to all applicable Federal motor vehicle safety and bumper standards in effect on the date of manufacture shown above * * *.

(2) Instead of the statement required by § 567.5(c)(7)(iii) of this Chapter, the following statement shall appear:

This vehicle conforms to all applicable Federal motor vehicle safety and bumper standards in effect in * * *.

* * * * *

The author of this notice is Z. Taylor Vinson, Office of Chief Counsel.

(Secs. 114, 119 Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1403, 1408); Sec. 3, Pub. L. 92-548, 86 Stat. 1159, (15 U.S.C. 1410); Secs. 102, 105, Pub. L. 92-513, 56 Stat. 947 (15 U.S.C. 1912, 1915); delegation of authority at 49 CFR 1.50)

Issued on July 2, 1982.

Raymond A. Peck, Jr.,

Administrator.

[FR Doc. 82-19876 Filed 7-21-82; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 2505-90]

Foreign Fishing, Groundfish of the Gulf of Alaska, and Groundfish of the Bering Sea and Aleutian Islands Area

Correction

In FR Doc. 82-17237 appearing at page 27862 in the issue for Monday, June 28, 1982, please make the following corrections:

(1) On page 27864, near the middle of the page, the heading for Part 672 should have read "Groundfish of the Gulf of Alaska".

(2) In § 672.20, Table 1, for Pollock, eastern area, under "Reserve" the figure "1,882" should be "1,992".

(3) Also in § 672.20, Table 1, for Pacific cod, western area, under "DAH", the number "18,880" should have been "1,880.

BILLING CODE 1505-01-M

Proposed Rules

Federal Register
Vol. 47, No. 141
Thursday, July 22, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 932

[Docket No. AO F&V 352-A4]

Olives Grown in California; Recommended Decision and Opportunity To File Written Exceptions To Proposed Further Amendment of the Marketing Agreement and Marketing Order (Partial)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites written exceptions on the proposed amendment of the marketing agreement and order program for olives grown in California. The proposed amendment would permit handlers to credit expenses for brand advertising of olives against a portion of their annual assessment obligation. The intent of the proposed change is to improve the effectiveness of the program.

DATE: Exceptions to this recommended decision must be filed by August 6, 1982.

ADDRESSES: Interested persons may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250. Two copies of all exceptions should be submitted, and they will be made available for public inspection during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–5975.

SUPPLEMENTARY INFORMATION: Prior documents in the proceeding: Notice of Hearing, issued November 13, 1981, and published in the November 18, 1981 issue of the **Federal Register** (46 FR 56620); and Recommended Decision (partial) issued May 7, 1982, and published in the May 13, 1982 issue of the **Federal Register** (47 FR 20593), and Decision on Proposed Further Amendment of Marketing Agreement and Order, issued June 14, 1982, and published in the June 18, 1982, issue of the **Federal Register** (47 FR 26394).

This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code, and therefore is not subject to the requirements of Executive Order 12291.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would result in only minimal costs being incurred by the regulated handlers.

It has been determined that a comment period of less than 60 days is warranted. The proposed amendment, if adopted, should be effective as soon as possible because implementation of the creditable advertising provisions would require issuance of rules and regulations—a process which could take several months to complete. Also, any changes in advertising and promotion activities generally require a substantial period of time for preparation. Thus, handlers need to know of any changes promptly so they can plan their operations accordingly.

Preliminary Statement: Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to a proposed further amendment of the marketing agreement and Order No. 932, regulating the handling of olives grown in California, and of the opportunity to file written exceptions thereto. Copies of this decision may be obtained from the Hearing Clerk or Richard P. Van Diest, Officer-In-Charge, Fresno Marketing Field Office, AMS, F&V, USDA, Room 3114, 1130 "O" Street, Fresno, California 93721, telephone (209) 487–5175.

This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act"), (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR 900).

This proposed amendment was formulated on the record of a public hearing held in Fresno, California, on December 8 and 9, 1981. The hearing notice was published in the November 18, 1981, issue of the **Federal Register** (46 FR 56620). That notice contained proposals submitted by the Olive Administrative Committee and the Fruit and Vegetable Division, AMS.

Material Issues: The material issues of record are as follows:

(1) Authorize crediting of part of a handler's assessment obligation for brand advertising expenditures.

(2) Make conforming changes.

The above material issues are in addition to those presented in the recommended decision published in the May 13, 1982 issue of the **Federal Register** (47 FR 20593) which contained findings and conclusions on other material issues presented on the record of the aforesaid public hearing.

Findings and Conclusions: The following findings and conclusions on these additional material issues are based on the record of the hearing:

(1) The marketing order on California olives currently includes authority for generic advertising. Such advertising is conducted by the Olive Administrative Committee (the agency which administers the order), and is funded by assessments levied on olive handlers. In 1980, the Agricultural Marketing Agreement Act of 1937 was further amended to include olives as a commodity for which crediting the pro rata expense assessment obligation of a handler with all or any portion of the handler's direct expenditures for marketing promotion, including paid advertising, as may be authorized by the marketing order. The proponents testified that the order should be amended to include such authority for paid brand advertising.

The hearing record indicates that this additional authority is intended to supplement, not replace, committee funded advertising and public relations activities. Since the 1968–69 crop year the committee has undertaken a wide scope of advertising and public relation activities. These activities are seen as contributing to the substantial increase in olive sales.

The generic advertising conducted by the committee is financed by means of assessments on olive handlers. In addition, at any given time some handlers may be conducting advertising programs with their own private

brand(s), while others may not. Those handlers who spend monies on their own private brand promotions believe that they may be bearing more than their share of the total industry advertising and promotion expenses because these handlers also pay assessments that are used in part for the committee's generic program. Proponents believe that handler brand advertising has also contributed to increases in olive sales. Therefore, inclusion of authority for crediting certain brand advertising expenditures against program assessment obligations may relieve some of the financial burden for handlers who brand advertise. In addition, this authority may provide handlers the opportunity to tailor promotion activities to their particular needs. With this option available to handlers, a more efficient and effective total industry advertising effort may result. This amendment, however, would not compel any handler to advertise a private brand. Rather, the proponents suggested that inclusion of the additional authority in the marketing order could lead to an increase in olive sales to the benefit of olive growers and handlers.

Authorization and language for such crediting should be included in the order, and any guidelines or specific criteria and operating procedures should be established in administrative rules and regulations recommended by the committee and approved by the Secretary. This approach is appropriate because as marketing conditions change, a high degree of flexibility is necessary. This objective is best accomplished through rules and regulations rather than through the order amendment process.

Section 932.45 currently contains the authority for production research and marketing research and development projects, including generic advertising. This section should be amended, as hereinafter set forth, to establish that the committee, with the approval of the Secretary, may provide for crediting the pro rata expense assessment obligations of a handler with a portion of such handler direct expenditures for paid brand advertising. Such expenditures may include, but are not limited to, money spent for advertising space in magazines, newspapers, outdoor media and transit, or time charges for radio and television.

It was testified at the hearing that magazine space is usually measured on a full page or portion of a page basis. In newspapers, space is usually measured on a lineage basis, that is, according to the number of lines per inch, or columns per page. Radio and television time for advertising is usually purchased in terms of length of time that a commercial runs (e.g. a five-second, ten-second, or 60-second spot announcement), or total sponsorship of a complete radio or television program. In such total sponsorships, there might be other costs over and above the actual time costs of the commercial message. Outdoor media is usually defined as billboards. Billboard space is generally purchased for a certain period of time. Transit advertising usually means advertising which appears on buses, cabs, and cars, or other public vehicles. Handlers buy space on a vehicle for specified periods of time. The above are the generally accepted media forms. The committee should not be precluded from prescribing, with the approval of the Secretary other appropriate media forms.

Proponents testified that initially the committee may wish to limit creditable advertising costs to money spent by handlers for actual advertising time and space costs. Thus, other costs such as production, travel, and costs relating to pre-testing of advertising, test marketing, directory advertising, point-of-sale materials, and premiums might not be included under the initial rules. However, it is intended that the authority in § 932.45(a)(2) be broad enough to include these costs as creditable if so recommended by the committee and approved by the Secretary.

Credit should be allowed only for a handler's "direct expenditures" (e.g. costs payed by the handler for that handler's own brand advertising activities). Thus, a definition of "direct expenditure" should be contained in any rules and regulations. Proponents testified that such a definition might not include as "direct expenditures" the advertising by retail food stores involving only indirect payments by a handler. On the other hand, "direct expenditures" might include costs paid by a handler for joint advertisements with another branded commodity or product which are similar to those currently conducted by the committee under its generic advertising program.

In order to qualify for creditable advertising, each advertisement must be published, broadcast or displayed during the fiscal year for which credit is requested. However, this provision should not prevent a handler from publishing, broadcasting, or displaying the same advertisement more than once in a year, or in subsequent years and receiving appropriate credit if such assessment credit is authorized. The order should empower the committee to establish, with the approval by the Secretary, other requirements for creditable advertisements including, but not limited to, appropriate rules and regulations which specify the necessary proof of performance required of handlers when submitting claims to the committee for crediting. Proof of performance could entail invoices and other documents which demonstrate the advertisement's execution, content, and the handler's direct expenditures. The rules and regulations also should specify the date by which handlers must file with the committee claims for credit for advertising in a fiscal year, and an applicable assessment payment schedule for those assessments available for crediting but not credited to the handler.

Operations under § 932.45(a), which authorize the committee's generic advertising program and the assessment crediting for handler brand advertising, should conform to the guidelines for such activities as the Secretary may require. Currently approved guidelines include the requirements that no promotion or advertising disparage the quality, use, value, or sale of any other agricultural commodity or product, and that no false or unwarranted claims be made in conjunction with an advertised product. There also may be other applicable guidelines which might from time to time be communicated by the Secretary to the committee. In addition, the rules and regulations for creditable brand advertising may include other guidelines recommended by the committee and approved by the Secretary.

The order should provide that no handler shall receive credit in excess of such handler's pro rata share of the total monies alloted for creditable brand advertising. With respect to setting the total amount of brand advertising credit available to all handlers, the hearing record indicates that the committee should consider the same factors as it does now for establishing the level of expenditure for its generic program. Those factors include, among others, the overall need for an advertising program, the potential dollar value of the olive crop, the size of the crop, and the anticipated level of expenditures for brand advertising by handlers. The committee would then recommend the total amount available for its generic program and for handler creditable advertising. For example, the committee might determine that an advertising expenditure of $1,000,000 is advisable for a given year. Then, it might determine that of that amount, 50

percent might be made available for creditable advertising, and 50 percent for the committee's program of generic advertising. Thus, handlers would know that $500,000 would be available for assessment crediting. The committee would calculate the portion of the total assessments for the fiscal year which could be made available for crediting to handlers for brand advertising and recommend to the Secretary the corresponding assessment rate and/or total amount available. Continuing the example, if $500,000 were allocated for crediting for a given year, and Handler A handled ten percent of the assessable olives for such year, then that handler's maximum credit in that year would be $50,000. The proponents testified that each handler should be notified by the committee by December 15 and given the total amount of assessment available for crediting by that handler in the fiscal year which begins the following January 1.

Section 932.39 provides that each handler pay assessments to the committee for its maintenance and functioning. In order to implement § 932.45(a), as revised, § 932.39 should be revised to provide that each handler who first handles olives during a fiscal year shall pay the committee on demand such assessments, less any amounts credited pursuant to § 932.45. This change is to eliminate the possibility that handlers who have received asssessment credit might be required to remit assessments, of which a part would subsequently be refunded to them by the committee.

The order provides a procedure for accounting for assessment funds which are in excess of expenses incurred. Any such excess funds shall be refunded to handlers on a pro rata basis, used by the committee to defray expenses for the first five months of the subsequent year, or carried over as a reserve (as long as funds already in the reserve do not equal approximately one year's expenses). The record indicates that, with respect to assessments which are available for crediting but not creditied, these funds should be treated as any other excess assessment funds. Thus, they may be carried over as a reserve and used for generic advertising or any other purpose authorized under the order.

With respect to conforming changes, there was some discussion at the hearing concerning the need to specify report and recordkeeping authority in conjuction with handler creditable advertising. As proponents noted, any implementing administrative rules and regulations would prescribe the documents necessary to establish a handler's proof of performance. If the committee cannot determine the handler's performance from the documentation submitted, it should have the authority to request further information before granting assessment credit to the handler. Authority to require reports and other information to enable the committee to administer the brand credit program should be contained in a new § 932.60(c). Any such reporting requirement shall be recommended by the committee, and approved by the Secretary. Also, there is no specific authority to require handlers to maintain such records and to authorize committee verification of such reports on handlers' premises. Since the handler must submit information showing that advertising has been done to obtain credit against program assessments, there may be no need to require that a handler retain such records beyond the time the committee approves the assessment credit. However, future circumstances may occur whereby maintenance of such information could be advisable. Therefore, permissive authority should be included in the order whereby the Committee could recommend and the Secretary approve appropriate recordkeeping requirements. Thus, §§ 932.61 and 932.62 should be revised to provide that the committee, with the approval of the Secretary, may prescribe rules and regulations to require appropriate recordkeeping, and authorize verification of reports at handlers' premises, respectively, with respect to advertising and promotion activities under the order.

(2) Some of the proposed amendatory actions herein cause the need to make certain conforming changes, as hereinafter set forth, in the provisions of the order, so that the order, as proposed to be amended, will be in conformity with those actions. Such changes are discussed in material issue (1) and should be incorporated herein.

General Findings: Upon the basis of the record, it is found that:

(1) The findings hereinafter set forth are supplementary, and in addition to, the previous findings and determinations which were made in connection with the issuance of the marketing agreement and order and a previously issued amendment thereto. Except when such findings and determinations may be in conflict with the findings and determinations set forth herein, all of said prior findings and determinations are hereby ratified and affirmed:

(2) The marketing agreement and order, as amended and hereby proposed to be further amended, and all of the terms and conditions thereof, will tend to effecutate the declared policy of the act;

(3) The marketing agreement and order, as amended, and as hereby proposed to be further amemded, regulate the handling of olives in the production area in the same manner as, and are applicable only to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(4) The marketing agreement and order, as amended, and as hereby proposed ot be further amended, are limited in their application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(5) There are no differences in the production and marketing of olives produced in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(6) All handling of olives produced in the production area as defined in the marketing agreement and order, as amended, and as hereby proposed to be further amended, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affect such commerce.

Rulings on Brief of Interested Persons: At the end of the hearing, the Administrative Law Judge fixed January 25, 1982, as the final date for interested persons to file proposed findings and conclusions, and written arguments or briefs, based upon the evidence presented at the hearing. Briefs were filed by the Olive Administrative Committee and the Olive Growers Council of California.

Each point included in the briefs was carefully considered, along with evidence in the record, in making the findings and reaching the conclusions contained herein. To the extent that any suggested findings or conclusions contained in any of the briefs or arguments are inconsistent with the findings and conclusions contained herein, the request to make such findings or to reach such conclusions is denied on the basis of the facts found and stated in connection with the recommended decision.

List of Subjects in 7 CFR Part 932

Marketing agreements and orders, Olives, California.

PART 932—OLIVES GROWN IN CALIFORNIA

Recommended Amendment of the Marketing Agreement and Order: The following amendment of the marketing agreement and order, as amended, is recommended as the detailed means by which the foregoing conclusions may be carried out:

1. Section 932.39(a) is amended by revising the first sentence to read:

§ 932.39 Assessments.

(a) As each handler's pro rata share of the expenses which the Secretary finds are reasonable and likely to be incurred by the committee during a fiscal year, each handler who first handles olives during the current crop year shall pay to the committee, upon demand, assessments less any amounts which may be credited pursuant to § 932.45, on all olives to be used in the production of packaged olives, including olives to be used in canned ripe olives of the "tree-ripened" type or green olives when such are regulated as packaged olives pursuant to § 932.52.

* * * * *

2. Section 932.45(a) is revised to read:

§ 932.45 Production research and marketing research and development projects.

(a) The following activities of the committee are authorized under this section.

(1) The committee may, with the approval of the Secretary, establish or provide for the establishment of production research, and marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of California olives. Such projects may provide for any form of marketing promotion including paid advertising. The expenses of such research and projects shall be paid from funds collected pursuant to § 932.39 or from voluntary contributions. Voluntary contributions may be accepted by the committee only to pay the expenses of such projects: *Provided,* That the committee shall retain complete control over the use of such contributions which shall be free from any encumbrances.

(2) The committee, with the approval of the Secretary, may provide for crediting a portion of a handler's direct expenditures for paid brand advertising for olives. Such expenditures may include, but are not limited to, money spent for advertising space in magazines, newspapers, outdoor media and transit or time charges for radio and television. No handler shall receive credit in excess of such handler's pro rata share of the total monies allotted by the committee for brand advertising credit. Each advertisement must be published, broadcast or displayed during the fiscal year for which credit is requested. Before any creditable brand advertising may be undertaken pursuant to this subparagraph, the Secretary upon recommendation by the committee, shall prescribe appropriate rules and regulations as are necessary to effectively regulate such activity.

* * * * *

3. Section 932.60 is amended by revising the title and adding a paragraph (c) to read:

§ 932.60 Reports of acquisitions, sales, uses, shipments and creditable brand advertising.

* * * * *

(c) Each handler shall file such reports of creditable brand advertising as recommended by the committee and approved by the Secretary.

4. Section 932.61 is revised to read:

§ 932.61 Records.

Each handler shall maintain such records of olives acquired, held, and disposed of by such handler as may be prescribed by the committee and needed by it to perform its functions under this subpart. Such records shall be retained for at least two years beyond the crop year in which the transaction occurred. The committee, with the approval of the Secretary, may prescribe rules and regulations to include under this section handler records that detail advertising and promotion activities which the committee may need to perform its functions under § 932.45(a).

5. Section 932.62 is revised to read:

§ 932.62 Verification of reports.

For the purpose of checking and verifying reports filed by handlers, the committee, through its duly authorized representatives, shall have access to any handler's premises during regular business hours, and shall be permitted at any such time to: (a) Inspect such premises and any olives held by such handler, and any and all records of the handler with respect to such handler's acquisition, sales, uses and shipments of olives; and (b) Inspect any and all records of such handler with respect to advertising and promotion activities subject to § 932.45(a) and maintained by the handler pursuant to § 932.61. Each handler shall furnish all labor and equipment necessary to make such inspections.

Signed at Washington, D.C., on July 19, 1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-19836 Filed 7-21-82; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1951

Servicing and Collections

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: This action amends Farmers Home Administration (FmHA) regulations regarding the rescheduling or reamortizing of Operating Loans (OL), Farm Ownership (FO), Economic Emergency (EE), and certain Emergency (EM) loans at the lesser of either the interest rate on the existing loan or at the current interest rate.

This action is needed because of the severe economic hardship farmers are experiencing due to high interest rates, low product prices, natural disasters and escalating operating costs reducing net farm income. The intended effect of this action is to improve the creditworthiness of FmHA borrowers and greatly increase the number of farmers able to obtain commercial credit through improved cash flow objectives, resulting from maintaining the lower interest rates on rescheduled or reamortized FmHA loans. The maintaining of the lower interest costs resulting from this regulation amendment would permit borrowers to devote more of their own funds, derived from net income, to future operating and capital needs, thus increasing the borrowers' ability to obtain credit elsewhere, and reducing the demand for FmHA loan funds.

DATE: Comments must be received on or before August 2, 1982.

ADDRESSES: Submit written comments in duplicate to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6346, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT: Michael Chiavetta, Loan Officer, Farm Real Estate and Production Division, Farmers Home Administration, Room

5322, South Agriculture Building, Washington, D.C., 20250, telephone (202) 447–2288.

SUPPLEMENTARY INFORMATION: This revision must be implemented immediately if it is to be effective in helping borrowers who are starting to plan for the repayment of their loans. A further delay will force additional farmers out of business due to their inability to meet debt repayment plans at the current high interest rates. It is the policy of this Department that rules relating to public property, loans, grants, benefits or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553, with respect to such rules. Compliance with the usual 60 day comment period following this proposed rulemaking announcement would greatly decrease the effectiveness of this change and would be contrary to the public interest. This proposed action has been reviewed under U.S. Department of Agriculture procedures established in Secretary's Memorandum 1512–1 which implements Executive Order 12291 and has been determined to be nonmajor.

This proposed action has been determined nonmajor since the annual effect on the economy is less than $100 million and there will be no increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. There will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets since it will affect FmHA loan eligibility or loan servicing requirements in a positive way.

This action does not directly affect any FmHA programs or projects that are subject to A–95 clearinghouse reviews.

FmHA has reviewed the proposed changes and determined that they are cost-effective since they will afford farm borrowers the opportunity to be able to maintain their original interest rates by rescheduling or reamortizing the loan to enable them to repay in a reasonable manner.

This proposed change affects the following FmHA programs as listed in the Catalog of Federal Domestic Assistance: 10.404—Emergency Loans, 10.406—Farm Operating Loans, 10.407—Farm Ownership Loans, 10.428—Economic Emergency Loans.

This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

Major Alternative Actions Considered

(1) Continue to reschedule or reamortize farmer program loans at the current interest rate in effect at the time of the action. The rescheduling or reamortizing of loans at higher interest rates has been ineffective because the resulting increased interest burden decreases borrowers' net income sufficiently to trigger a return to delinquent status and, in some cases, a larger default. The borrowers' loan accounts will be current, only temporarily.

(2) Carry farm borrowers delinquent. Do not reschedule or reamortize FmHA farm loans. The Agency's farm loan borrowers will appear to be in very poor financial condition. The FmHA delinquency rate will increase greatly, indicating to outside concerned people that the Agency is not adequately servicing loans and that borrowers are in a dangerous financial situation.

(3) Permit the rescheduling and reamortizing of the farmer program loans at the lesser of either the interest rate on the existing loan or at the current interest rate.

This option will improve the creditworthiness of FmHA borrowers and will increase the number of farmers able to obtain commercial credit through improved cash flow projections resulting from maintaining the lower interest rates on rescheduled FmHA loans. This change will also increase the number of farmers that can be served by FmHA programs resulting from the decrease in per-capita loan demand. The maintaining of the reduced interest costs, resulting from the proposed revision, would permit borrowers to devote more of their own funds, derived from net income, to future operating and capital needs, thus increasing FmHA subordination capabilities.

This option will reduce the number of FmHA foreclosures and debt settlements resulting from the borrowers' inability to repay current high interest rates and lower the FmHA Farmer Programs' delinquency rate.

List of Subjects in 7 CFR Part 1951

Account servicing, Credit, Loan programs—Agriculture, Loan programs—Housing and community development, Mortgages.

Therefore, FmHA proposes to amend Subpart A of Part 1951, Chapter XVIII, Title 7, Code of Federal Regulations, as follows:

PART 1951—SERVICING AND COLLECTIONS

Subpart A—Account Servicing Policies

1. In § 1951.33 paragraph (c), the title of paragraph (d) and paragraph (d)(10) are revised and (d)(11) is added to read as follows:

§ 1951.33 Deferral, consolidation and rescheduling of OL, and EM and EE loans made for Subtitle B purposes.

* * * * *

(c) *Consolidating and/or rescheduling OL loans.* An OL loan secured by real estate will not be consolidated or rescheduled, unless the County Supervisor reviews the Government's real estate lien priority and value of security and determines such an action will be in the best interests of the Government and the borrower. OL loans will be consolidated only with other OL loans. The amount or outstanding accrued interest on the date of consolidation or rescheduling will be added to principal. The "date of consolidation or rescheduling" as used in this section means the date the new Form FmHA 1940–17 "Promissory Note", is signed. Consolidated and rescheduled OL loans will be repaid in accordance with the borrower's repayment ability, but never in excess of seven years from the date of consolidating or rescheduling.

(1) The interest rates for consolidated OL loans will be the following:

(i) Regular OL loans. The interest rate will be the current interest rate in effect on the date of consolidation. When a subsequent loan is made in combination with a consolidation, the interest rate will be the subsequent loan rate as set out on Form FmHA 1940–1.

(ii) Limited resource OL loans. The actual limited resource interest rate to be charged must be in accordance with the borrower's repayment ability. The interest rate may not be more than the current OL loan rate set out in Exhibit B of FmHA Instruction 440.1 (available in any FmHA Office) or not less than the current limited resource interest rate on the date of consolidation. When a subsequent loan is made in combination with a consolidation, the interest rate will be the subsequent loan rate as set out on Form FmHA 1940–1.

(2) The interest rates for rescheduled OL loans will be the following:

(i) Regular OL loans. The interest rate will be the current interest rate in effect

on the date of rescheduling or the interest rate on the Promissory Note to be rescheduled, whichever is less.

(ii) Limited resource OL loans. The actual limited resource interest rate to be charged must be in accordance with the borrower's repayment ability. The interest rate may not be more than the current OL loan rate set out in Exhibit B of FmHA Instruction 440.1 (available in any FmHA Office) or not less than the current limited resource interest rate or the interest rate on the Promissory Note to be rescheduled.

(d) *Consolidating and/or rescheduling EE and EM loans.*

* * * * *

(10) The interest rates for consolidated loans will be the following:

(i) For EE loans. The interest rate will be the current interest rate in effect on the date of consolidation, as specified in Subpart A of Part 1810 of this Chapter (FmHA Instruction 440.1, Exhibit B, available in any FmHA Office). When a subsequent loan is made in combination with a consolidation, the interest rate will be the subsequent loan rate as set out on Form FmHA 1940–1.

(ii) For EM actual loss loans. The interest rate will not be changed from the rate in the original note.

(iii) For EM annual operating loans or EM major adjustment loans for Subtitle B (operating) purposes. The interest rate will be the current interest rate in effect on the date of consolidation, as specified in Subpart A of Part 1810 of this Chapter (FmHA Instruction 440.1, Exhibit B, available in any FmHA Office). When a subsequent loan is made in combination with a consolidation, the interest rate will be the subsequent loan rate as set out on Form FmHA 1940–1.

(11) The interest rates for rescheduled loans will be the following:

(i) For EE loans. The interest rate will be the current interest rate in effect on the date of rescheduling, as specified in Subpart A of Part 1810 of this Chapter (FmHA Instruction 440.1, Exhibit B, available in any FmHA Office) or the interest rate on the Promissory Note to be rescheduled, whichever is less.

(ii) For EM actual loss loans. The interest rate will not be changed from the rate in the original note.

(iii) For EM annual operating loans or EM major adjustment loans for Subtitle B (operating) purposes. The interest rate will be the current interest rate in effect on the date of rescheduling, as specified in Subpart A of Part 1810 of this Chapter (FmHA Instruction 440.1, Exhibit B available in any FmHA Office) or the interest rate on the Promissory Note to be rescheduled, whichever is less.

* * * * *

2. In § 1951.40 paragraph (d)(1) is revised to read as follows:

§ 1951.40 Deferment and reamortization of FO, SW, RL, EE or EM loans made for real estate purposes.

* * * * *

(d) *Interest.*

(1) The interest rate for other than limited resource loans will be the current interest rate in effect on the date of reamortizing, or the interest rate on the Promissory Note to be reamortized, whichever is less, except for EM actual loss loans in which case the interest rate will not be changed.

* * * * *

(7 U.S.C. 1989; 7 CFR 2.23; 7 CFR 2.70)

Dated: July 2, 1982.

Charles W. Shuman,

Administrator, Farmers Home Administration.

[FR Doc. 82-19947 Filed 7-21-82; 8:45 am]

BILLING CODE 3410-07-M

NUCLEAR REGULATORY COMMISSION

10 CFR Ch. I

Issuance of Quarterly Report on the NRC Regulatory Agenda

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of the NRC Regulatory Agenda.

SUMMARY: The Nuclear Regulatory Commission has issued the July 1982, Regulatory Agenda. The Agenda, which is a quarterly summary of all rules on which the NRC has proposed or is planning action and all petitions for rulemaking which have been received by the Commission and are pending disposition by the Commission, is issued to provide the public with information regarding NRC's rulemaking activities.

ADDRESSES: A copy of this report, designated NRC Regulatory Agenda July 1982, is available for inspection and copying at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C.

Requests for single copies of the report, or a request to be placed on an automatic distribution list for single copies of future reports, should be made in writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: John Philips, Chief, Rules and Procedures Branch, Office of Administration, Telephone 301–492–7086, Toll free number 800–368–5642.

Dated at Bethesda, Maryland, this 15th day of July 1982.

For the Nuclear Regulatory Commission.

J. M. Felton,

Director, Division of Rules and Records, Office of Administration.

[FR Doc. 82-19952 Filed 7-21-82; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-ANE-24]

Airworthiness Directives; General Electric Company CF6-45 Series and CF6-50 Series Model Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt an Airworthiness Directive (AD) which would require inspection for front flange cracking of the high pressure turbine (HPT) spacer/impeller in CF6–45 and CF6–50 series model engines. The AD is needed to detect cracks in the front flange of the spacer/impeller which may result in rupture of the spacers and engine failures.

DATES: Comments on the proposed rule must be received on or before August 13, 1982. Proposed effective date October 1, 1982.

ADDRESSES: Send comments on the proposed rule in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, New England Region, Attn: Rules Docket No. 82–ANE–24, 12 New England Executive Park, Burlington, Massachusetts 01803.

The applicable Service Bulletin, (CF6–50, –45) 72–748, Revision 1, dated June 9, 1982, may be obtained from General Electric Company, Neumann Way, Cincinnati, Ohio 45215.

Copies of the Service Bulletin are contained in the Rules Docket at the above FAA address.

FOR FURTHER INFORMATION CONTACT: Arthur W. Nelson, Transport Engine Section, ANE–141, Engine Certification Branch, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273–7347.

SUPPLEMENTARY INFORMATION:
Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Information on the economic, environmental, and energy impact that might result because of adoption of the proposed rule is requested. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Periodic inspection of CF6–45 and CF6–50 series model engine HPT spacer/impellers have identified at least eight instances of cracking in the front flange. Although none of the cracks propagated through the flange, they have extended up to 22" circumferentially and pose a potential threat to the integrity of the HPT rotor. Because this condition is likely to exist or develop on other engines of the same type design, the proposed AD would require inspection for front flange cracking of HPT spacer/impellers in CF6–45 and CF6–50 series model engines.

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, and Safety.

The Proposed Amendment

Accordingly, the FAA proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (FARs) (14 CFR 39.13) by adding the following new AD.

General Electric Company. Applies the CF6–45 series and CF6–50 series model turbofan engines.

Compliance required as indicated.

Perform fluorescent penetrant inspection of the high pressure rotor spacer/impeller, part numbers 9045M59P07, P08, P10, P12; 9173M55P01, P02, P03; 9198M92P01, P02, P03, P04, P05, P06, P07, P08, P09, P10; and 9190M82P02 in accordance with General Electric CF6–50/–45 Service Bulletin 72–748, Revision 1, dated June 9, 1982, or later revision approved by the Chief, Engine Certification Branch, FAA, New England Region, Burlington, Massachusetts 01803, per the following schedule:

1. Spacer/impellers must be inspected prior to the accumulation of 5,000 cycles in service, or within 3,000 cycles since last inspection, or within the next 100 cycles, whichever occurs later.

2. Inspect spacer/impellers thereafter at intervals not to exceed 3,000 cycles.

3. Established life limits for the part are not to be exceeded.

Spacer/impellers with crack indications must be removed from service prior to further flight.

Airplanes may be ferried in accordance with the provisions of Federal Aviation Regulation 21.197 to a base where the AD can be accomplished. Upon request of the operator, an equivalent means of compliance with the requirements of this AD may be approved by the Chief, Engine Certification Branch, FAA, New England Region.

The manufacturer's specifications and procedures identified and described in this directive may be obtained upon request to General Electric Company, Neumann Way, Cincinnati, Ohio 45215. These documents may also be examined at the FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts. A historical file on this AD is maintained by the FAA, New England Region Office, Burlington, Massachusetts.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85)

Note.—The FAA has determined that this document involves a proposed regulation which is not considered to be major under Executive Order 12291 or significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is certified that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities because the rule will affect only domestic air carriers of B–747, DC–10, and A300 aircraft in which the CF6–45, –50 engines are installed, none of which are believed to be small entities. A draft regulatory evaluation prepared for this document is contained in the public docket, and copy may be obtained by writing to Federal Aviation Administration, Office of the Regional Counsel, Attn: Rules Docket No. 82–ANE–24, 12 New England Executive Park, Burlington, Massachusetts 01803.

Issued in Burlington, Massachusetts, on July 12, 1982.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 82-19162 Filed 7-21-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-AGL-16]

Proposed Revocation of Control Zone; Marion, Indiana

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revoke the existing designated control zone serving Marion Municipal Airport, Marion, Indiana, due to non-availability of required weather observations. The intended effect of this action is to return designated airspace to a non-controlled status.

The most recent action involving this control zone, excluding Notices to Airmen, was accomplished in Airspace Docket No. 75–GL–12 issued February 28, 1975.

DATES: Comments must be received on or before August 22, 1982.

ADDRESS: Send comments on the proposal in triplicate to FAA Office of Regional Counsel, AGL–7, Attention: Rules Docket Clerk, Docket No. 82–AGL–16, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

An informal docket will also be available for examination during normal business hours in the Airspace, Procedures, and Automation Branch, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL–530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694–7360.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace within the perimeter of the area currently described as the Marion control zone will be raised from the surface to 700 feet above the surface. No changes will be required to any existing instrument approach procedures, but the minimum descent altitudes associated with those procedures may no longer be contained within controlled airspace. The control zone information will be removed from aeronautical charts and maps.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regluatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental,

and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82-AGL-16." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2, which describes the application procedures.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2, which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the control zone near Marion, Indiana.

Section 71.171 of Part 71 of the Federal Aviation Regulations was published in Advisory Circular AC 70-3 dated January 29, 1982.

List of Subjects in 14 CFR Part 71

Control zones, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Marion, Indiana

Revoked.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It is certified that this—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Illinois, on June 29, 1982.

Monte R. Belger,

Acting Director, Great Lakes Region.

[FR Doc. 82-19766 Filed 7-21-82; 8:45 am]

BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Contract Market Rules and Practices Governing Conflicts of Interest; Request for Public Comment

AGENCY: Commodity Futures Trading Commission.

ACTION: Advance notice of Proposed Rulemaking and Request for comment.

SUMMARY: The Commodity Futures Trading Commission is seeking public comment on the adequacy of existing contract market rules and practices designed to prevent actual or apparent conflicts of interest from improperly influencing market or other actions taken by various governing bodies of designated contract markets. The Commission believes that exchange rules and practices which are intended to ensure that contract market actions are conducted in the best interests of the entire marketplace are necessary to ensure public confidence in the efficacy of self-regulation. The Commission's review of existing exchange rules and practices pertaining to conflicts of interest, however, has found actual rules to be limited in scope, with most exchange practices concerning conflicts of interest governed only by informal, unwritten policies. As such, the Commission is not convinced that current exchange rules and procedures are the most effective means of assuring the public that exchange actions affecting the markets will be consistent with the exchanges' obligations to maintain the integrity of these public marketplaces.

DATE: Comments must be received on or before September 20, 1982.

ADDRESS: Interested persons should submit comments to: Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Attention: Office of the Secretariat, Telephone: (202) 254-6314.

FOR FURTHER INFORMATION CONTACT: Theodore W. Urban, Esq., Deputy Director or David Gelfand, Esq., Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, Telephone: (202) 254-8955.

SUPPLEMENTARY INFORMATION:

Background

The Commodity Futures Trading Commission ("Commission") has been reviewing the rules and practices of the various exchanges currently designated as contract markets insofar as those rules and practices attempt to ensure against the presence of potential or actual conflicts of interest when their governing boards and committee members are considering self-regulatory actions. A summary of each exchange's rules and practices is provided below. The Commission staff's analysis has determined that in the few instances in which contract markets have written rules, the rules are limited in scope and give little guidance to contract market members or other governing board or committee members in the event situations arise which may present a conflict of interest question. Even where such rules do exist they often apply only to specify committees (*e.g.*, the Business Conduct Committee but not the Board of Directors) and only to certain situations (*e.g.*, review of disciplinary matters but not a vote on a market emergency action).

Market events within the last few years have heightened public awareness of the important role served by governing boards and committees of futures exchanges in ensuring the integrity of the marketplace. Allegations

of self-dealing and self-interest by various individuals on exchange governing boards involved in the decision-making process have aroused public concern over the exhanges' role in the maintenance of fair and orderly markets.[1] Some of these allegations are currently the subject of litigation against certain exchanges, among other parties.[2] Moreover, the question of whether the adoption of certain emergency rule changes in various markets have been improperly influenced by positions held by members of the exchanges' governing boards also has arisen during the conduct of a number of Congressional hearings.[3] Finally, the existence of continuing serious concerns by market participants as to the integrity of the self-regulatory process—regardless of whether the concerns are justified—in itself can jeopardize the effectiveness of self-regulation and may provide additional cause for exchanges to make greater efforts to avoid even the potential for impropriety.

In light of the foregoing concerns, the Commission believes the adequacy of existing exchange rules and policies designed to assure public trust in the self-regulatory governance of the nation's exchanges warrant further examination, with particular focus upon what measures exchanges may take in the future to avoid actual or potential improprieties in the conduct of governing boards and member committees where situations involving possible conflicts of interest may arise.

[1] *See, e.g.*, "Who Guards Whom at the Commodity Exchange", Fortune, July 28, 1980, at 38; "The Insider Issue in Silver Futures," Business Week, July 7, 1980, at 25–28; "Pro & Con: Directors' Positions a Conflict," Chicago Tribune, September 28, 1980; "A Power Play in Wheat: U.S. to Review Role of Chicago Board Official, New York Times, March 23, 1979, Sec. D, at 1.

[2] *See e.g., Republic National Monetary Corp.* v. *Commodity Exchange, Inc., et al.*, S.D.N.Y., No. 80 Civ. 5397 (September 24, 1980); and *Gordon* v. *Hunt et al.*, S.D.N.Y., No. 82 Civ. 1318 (March 4, 1982).

[3] *Hearings before the House Committee on Agriculture on March Wheat Trading on the Chicago Board of Trade*, 96th Cong., 1st Sess. 81 (1979); *Hearings before the Senate Subcommittee on Agricultural Research and General Legislation of the Committee on Agriculture, Nutrition, and Forestry on Price Volatility in the Silver Futures Market*, 96th Cong., 2d Sess. 192, 600–603 (1980); *Hearings before the Senate Committee on Banking, Housing and Urban Affairs on Margin Requirements for Transactions in Financial Instruments*, 96th Cong., 2d Sess. 3, 346–347, 575, 581, 594–601 (1980); and *Hearings before the House Commerce, Consumer, and Monetary Affairs Subcommittee of the Committee on Government Operations on Silver Prices and the Adequacy of Federal Actions in the Marketplace, 1979–1980*, 96th Cong., 2d Sess. 282–283 (1980). *See also*, "Report to the Congress in Response to Section 21 of the Commodity Exchange Act, Pub. L. No. 96–276, 96th Cong., 2d Sess. Section 7, 94 Stat. 542 (June 1, 1980); "which was submitted to Congress on May 29, 1981.

Summary of Current Exchange Rules and Practices

The policies and procedures of the eleven exchanges currently designated as contract markets concerning conflicts or potential conflicts of interest are discussed below. The discussion does not address conflicts procedures governing disciplinary actions inasmuch as exchanges already are required to abide by Commission regulations in that area.[4] This information, unless otherwise noted, was derived either from exchange responses to a request by the Director of the Division of Trading and Markets in letters dated August 26 or 29, 1980, examination of exchange rules, or through recent rule enforcement reviews, which have examined certain exchanges' procedures regarding conflicts of interests. The exchanges' policies and procedures are as follows:

1. The Chicago Board of Trade ("CBT") has stated that although it has not defined the term "conflicts of interest", "[a]ll meetings of the Board and of members are governed by the established practices of parliamentary law, by reason of [CBT] Rule 130.00. It is an established practice of parliamentary law 'That it is a general rule that no one can vote on a question in which he has a direct personal or pecuniary interest.' Robert's Rules of Order, Sec. 456 (75th Ann. Ed.)." Moreover, Exchange rule 542.00 requires that a member of the Business Conduct Committee "may be required to recuse himself from a matter if it is determined that his participation would be improper", although there is no parallel rule governing the Board of Directors.[5] Of the 21 individuals on the CBT's Board of Directors, three are public directors.

2. The Chicago Mercantile Exchange ("CME") has no formal policy for dealing with conflicts or potential conflicts of interest of its Board or committee members. While members of a decision-making body are excused from the deliberative process when a conflict or potential conflict may exist, no standard or procedure for determining when such a conflict exists is articulated in the CME rules nor in the minutes of its committees. The Exchanges stated that the ordinary practice is to ask members of the Board and the Business Conduct Committee whether a conflict or potential conflict might exist. In addition, the Exchange represented that "the CME ordinarily makes it a practice of monitoring the positions of the individuals and of the clearing houses with which they are associated so that the potential for conflict is known in advance of any meeting or decision."[6] Three of the 24 members of CME's Board of Governors are public governors.

3. The Commodity Exchange, Inc. ("Comex") does not define a potential conflict of interest. Rather, "[g]enerally, the wisdom and good judgment of the Board of Governors of Comex ("Board") dictates whether they have a conflict of interest which requires that they absent themselves from a Board meeting or abstain from deliberation and voting."[7] Two of the 25 members of Comex's Board of Governors are public governors.[8]

4. The Coffee, Sugar and Cocoa Exchange, Inc. ("CSCE") has an unwritten policy concerning conflicts of interest. Each member is required to disclose whether he has a position in the market under review, and if so, whether he is long or short. If feasible (*i.e.*, a quorum would remain), the interested member will be excluded from the meeting for the discussion immediately preceding any vote and the actual vote.[9] One of the 17 members of CSCE's Board of Managers is a public director.[10]

[4] *See* Commission regulations 8.17(a)(1) and 8.19(b); 17 CFR 8.17(a)(1) and 8.19(b) (1981).

[5] Letter dated September 23, 1980 from Robert K. Wilmouth, President, CBT to John L. Manley, Director, Division of Trading and Markets. *See also* Rule Enforcement Review of the Board of Trade of the City of Chicago, Part V, April 12, 1982.

[6] Letter dated September 11, 1980 from Clayton Yeutter, President, CME to John L. Manley. *See also* Rule Enforcement Review of the Chicago Mercantile Exchange, Appendix B, May 17, 1982.

[7] Letter dated September 25, 1980, from Lee H. Berendt, President, Comex, to John L. Manley.

[8] It should be noted that Comex's Board consists of 25 persons, with membership comprised of seven representatives from each of the following groups: Trade, Commission House, and Floor; two representatives from the registered General group (which consists of Exchange members who are not Floor Members, representatives of Trade Houses or representatives of Commission Houses), and two persons who may be either non-members of the Exchange or representatives from the General group. All Board members are elected by their respective registered groups except the two non-member Governors, who are elected by the Board. Comex By-Law Section 102.

In addition, Comex's Control Committee, which also has market surveillance responsibilities, is now organized into four distinct subcommittees (gold, silver, copper and financial instruments). Each subcommittee consists of three members who are not involved in trading the commodity over which the particular subcommittee has jurisdiction in an attempt to eliminate potential conflicts of interest. *See generally* Rule Enforcement Review of the Commodity Exchange, Inc., Part IV, September 29, 1981.

[9] Rule Enforcement Review of the Coffee, Sugar and Cocoa Exchange, Inc., at 16, February 13, 1982.

[10] To prevent potential conflicts of interest in the Exchange's market surveillance activities and as a result of the Division's 1981 Rule Enforcement Review, the CSCE revised By-Law Section 314 to prohibit the Chairman of the Board from acting as a member or Chairman of the Control Committee. In addition, amended Rule 2.05 now grants the Control Committee the power to direct market surveillance activities in the coffee, sugar and cocoa markets, while excluding from subcommittee membership

5. The New York Cotton Exchange's rules do not explicitly place any restrictions on participation by interested members in Exchange actions. One of 22 of the Cotton Exchange's Board of Managers is a public director.

6. The Kansas City Board of Trade ("KCBT") also does not have a written definition or policy regarding conflicts of interest. Rather, it is KCBT's position that: "because the policy makers and decision-makers come from all segments of the trade, healthy debate can occur, and knowledgeable users can decide issues based on the overall good of the market. Any normal leanings are thus cancelled out, and, of course, no one can decide a specific case involving himself or his firm".[11] The KCBT has no public members on its governing board.[12]

7. The Mid-America Commodity Exchange ("MACE") has stated that "[b]ecause of members' awareness of each others' situations abetted by MACE's knowledge of clearing house data, MACE experiences a minimal number, if any, of situations involving particularized conflicts wherein a member attempts to vote on a matter involving the conflict. To a large degree the Exchange relies in these matters on the integrity of the members to police themselves * * *. There is no formal policy nor should there nor can there be when dealing with the multifarious circumstances and conditions involved in proceedings before the Board and Exchange committees."[13] Two of the 15 directors on MACE's Board of Directors are public directors.

8. The New Orleans Commodity Exchange's (NOCE") rules provide no guidance with respect to situations where conflicts of interest may arise. Two of the 19 members of NOCE's Board of Directors are public directors.

9. New York Mercantile Exchange ("NYME") rule 24.01 provides in part that the chairman may appoint a member to any committee ad interim whenever a member of a committee is "unable to attend, disqualifies himself and whenever it appears to the Chairman that the member replaced has an interest in the subject matter or might not be able to serve impartially." Three of the 17 members of NYME's Board of Governors are public governors.

10. Minneapolis Grain Exchange ("MGE") rule 509 disqualifies interested members from serving on the Business Conduct Committee; rule 510 authorizes the Business Conduct Committee to request the President to appoint alternate members when it is determined that it would be improper for a regular member to serve on that committee. There are no parallel provisions, however, to resolve conflicts of interest on the Board of Directors. Three of the 17 members of MGE's Board of Directors are public directors.

11. The New York Futures Exchange ("NYFE") does not formally define a potential conflict of interest. Nevertheless, NYFE has stated that "[i]f a potential conflict of interest is identified, the facts regarding such potential conflict of interest would be examined to determine whether the conflict is real. If the conflict is determined to be real and involves a Director or committee member, the interested party would be obligated to act in a manner consistent with New York Business Corporation Law Section 717 and Exchange Rules. That is, such person would be required to act in good faith and with that degree of care which an ordinarily prudent person in a like position would use under similar circumstances."[14] Six of the 24 members of NYFE's Board of Directors are public directors.

Commission Staff's Examination of Conflict of Interest Issues

The Commission's staff recently has had occasion to examine closely the conflicts of interest provisions of three exchanges. The Commission's Division of Trading and Markets (the "Division") examined the issue of conflicts in rule enforcement reviews of the Comex, the Chicago Board of Trade and the Chicago Mercantile Exchange.[15] In each case the Division reviewed major emergency rules adopted by those exchanges without prior Commission approval, pursuant to section 5a(12) of the Commodity Exchange Act (the "Act") and Commission regulation 1.41(f). In each instance, the Division found that those actions were not arbitrary, capricious or an abuse of discretion and were not lacking a reasonable basis in fact. The Division found no evidence which would cause it to conclude that the exchange actions were taken in bad faith.[16]

The Division's reviews indicated, however, that these exchanges resolved conflict of interest questions in an evidently *ad hoc* manner, and have not adopted rules or policies of general applicability which address in sufficient detail issues raised by the involvement of market participants in the promulgation of temporary emergency rules or other actions which may have a market impact.

The Division did not recommend during the course of these reviews that the Commission require any exchange to implement measures as mandatory conditions for continuing compliance with Section 5a(8) of the Act and regulation § 1.51. Rather, the Division suggested that the exchanges themselves take appropriate action in order to reduce the possibility that potential or actual conflicts of interest would be present in the voting process. The Division invited each exchange to tailor the Division's suggestions to specific circumstances or situations on that exchange and noted that the manner in which each exchange addressed these issues would not necessarily be valid for all exchanges.

First, the Division suggested that each exchange seek to reduce the possibility that potential or actual conflicts of interest would be present in the voting process, prior to the consideration of any temporary emergency rule or margin rule. The Division noted that this could entail requiring each member of the applicable decision-making panel to disclose whether he or his affiliated firm has any position in the market which would be affected and, if so, to abstain from voting on any proposal resulting from such consideration and recuse

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those Control Committee members who are deemed "identified with" the particular market being examined.

[11] Letter dated September 10, 1980 from W. N. Vernon, III, Executive Vice President and Secretary, KCBT, to John L. Manley.

[12] *See* note 20 *infra*.

[13] Letter dated September 15, 1980, from David H. Morgan, President, MACE, to John L. Manley.

[14] Letter dated October 3, 1980, from Agnes M. Gautier, Vice President for Regulation and Surveillance, NYFE, to John L. Manley.

[15] The Rule Enforcement Review of the Commodity Exchange, Inc., dated September 29, 1981, the Rule Enforcement Review of the Chicago Board of Trade, dated April 12, 1982, and the Rule Enforcement Review of the Chicago Mercantile Exchange, dated May 17, 1982.

[16] The Commission is responsible for reviewing all such emergency actions and determining whether an exchange met the procedural and substantive requirements of Commission regulation § 1.41(f), which concerns the implementation by an exchange of a temporary emergency rule without prior Commission approval. According to standards of review set forth in a memorandum to the Division of Trading and Markets from the Office of the General Counsel, a contract market's determination that an emergency exists, as well as its selection of remedial action to meet the emergency, would constitute a violation of Commission regulation § 1.41(f) if its determinations are found to be "(1) arbitrary, capricious or an abuse of discretion, (2) lacking a reasonable basis in fact, or (3) taken in bad faith by the contract market or its officials." (CCH) Comm. Fut. L. Rep. ¶ 20,888 at p. 23,528 (July 25, 1979). In this regard, whether the members of the applicable decision-making panel may have actual or potential conflicts of interest generally has been a basis to question whether an emergency action may have been taken in bad faith.

himself from attendance at least during the vote. If implementation of such procedures would jeopardize an exchange's ability regularly to achieve a voting quorum or deprive it of knowledgeable people in the decision-making process, the Division suggested that the exchange should consider appropriate plans to restructure its Board to provide reasonable assurance that a quorum of directors without potential conflicts of interest always would exist or to define those instances in which it might be necessary to permit members with an interest in the subject commodity to vote.

With respect to the availability of market expertise, the Division suggested that staff, or committees composed of members who are not market participants, be delegated exclusive responsibility to compile raw surveillance data and additional responsibility to propose alternative courses of action to the governing board. The Division noted that if staff or committees made up of members who are not market participants were given exclusive responsibility to analyze position information and more responsibility to make recommendations based on their analyses, concerns about access of market participants to market sensitive information would be diminished significantly. Moreover, the Division expressed its view that such individuals might be better entrusted to compile complete, unexpurgated analyses of the market, and therefore would be able to advise the decision-making body fully on reasonable courses of action. In such case, the governing board would be insulated further from charges of impropriety and would be in a better position to demonstrate that there was a reasonable basis in fact for any action taken.

The Division noted in each review its belief that even though the exchanges' consideration and adoption of temporary emergency rules and the relation of conflicts of interest to such rules have substantial public impact, they are matters for which a self-regulatory organization should bear primary responsibility. For this reason, the Division suggested that it would be appropriate for the Commission to provide the exchanges with the first opportunity to institute any necessary procedural reforms. The exchanges were informed that any proposal for further Commission action would depend in large part on the response by the exchanges to the Division's recommendations. If each exchange acts in a responsible manner to address the conflict of interest issues discussed above, there would be no need for any further action by the Commission.

Issues Raised by the Exchange Rules

As disclosed by the summaries of exchange rules presented above and the Division's review of emergency actions taken by three exchanges, a common omission from each exchange's rules or policies which address the conflict issue is an attempt to define the types of situations which an exchange would view as raising conflicts of interest. The Commission recognizes that the adoption of a formal definition which would cover all situations presents considerable difficulty. Whatever difficulties may be present in attempting to identify situations where potential conflicts of interest may arise, however, should not prevent the exchanges from considering what financial, personal, or other interests may cause a participant in a self-regulatory determination to benefit from such determination and the degree of any possible benefit. Thus, in the commodities industry, one area of immediate concern relevant to the definitional aspects of the conflicts issue is whether distinctions may or should be drawn on the basis of the type of position held (*e.g.*, outright, spread, personal, house, customer) or the nature of any related financial interest (*e.g.*, futures, options, cash, forward, or leverage contracts) which may cause a benefit to inure to the party involved in making the self-regulatory determination.

The Commission believes that exchange consideration of such definitional issues is important to the adoption of each exchange's rules or policies for addressing conflict of interest situations in that the exchange's ability to distinguish whether a board or committee member has a conflict, or possibly the degree of such a conflict, may be relevant to whether or to what extent that individual participates in further deliberations of the board or committee on the matter at issue. In recognizing the complexity of the issues involved, the Commission does not believe that an exchange can comfortably afford to address these conflict of interest issues on an *ad hoc*, case-by-case basis as they arise, without formulating its general procedures for confronting these issues beforehand.

Instead of attempting to formulate their own procedures with respect to conflict of interest situations, some exchanges have relied on state corporation statutes insofar as those state laws provide remedies against acts of corporate bodies which are the result of voting by governing board members who have conflicts of interest. Under prevailing state law, corporate directors, including exchange directors, generally have a duty to avoid voting on corporate matters in which they have a conflicting personal interest. Corporate directors are clearly fiduciaries who have a duty of loyalty to the corporation. While the Commission recognizes the value of state corporate statutes and related provisions as a starting point for addressing conflict of interest issues among exchange directors, the Commission is not convinced that such statutes provide sufficient guidance for exchange directors to rely upon when confronting the unique conflict of interest questions which arise in a self-regulatory context.

Some exchanges also have expressed the view that there is no truly effective way to control the attitudes of the public concerning accusations of "potential" or "apparent" conflict of interests. These exchanges note that one's perception is personal and dependent on one's attitude towards a particular decision-making event as well as the effect of that event on such person. Accordingly, these exchanges saw effective steps available only to reduce the risks of "actual" conflicts of interest as opposed to those of a "potential" or "apparent" nature.

The Commission believes, however, that the mere presence of potential or actual conflicts of interest among board members can have debilitating effects. Most important, potential conflicts of interest compromise the public perception of the objectivity of board actions and thereby cast doubt on the integrity of exchange governance in general. While the Commission recognizes that "public perception" may not always be an appropriate criterion by which to measure whether a self-regulatory organization has acted in the public interest, nonetheless, public perception is a factor which an exchange cannot afford to ignore entirely in the exercise of its self-regulatory responsibilities. Over the longer term, futures exchanges require public confidence to assure the public participation which is vital to the marketplace. Public confidence is also an essential precondition for the Commission's transfer of functions to self-regulatory organizations. Toward this end, the Commission believes that the appearance of integrity can be as important as integrity itself.

A possible alternative discussed by some exchanges in lieu of addressing conflict of interest issues through more specific rules or policies is the

structuring or exchange governing boards or committees to adequately represent each of the diverse constituencies which participate in the futures markets.[17] Similarly, the addition of public governors as members of the governing body was cited by many exchanges as a measure to ensure the participation of disinterested persons in the decision-making process.[18] Although there is no explicit statutory requirement that commodity futures exchanges assure fair representation of market participants or include public directors on their governing boards,[19] ten of the eleven exchanges currently have at least one public member on their governing board.[20] The Commission notes further that the contract markets have greatly increased public representation on their boards since 1976. In that year a total of 4 public directors were represented on the governing boards of the nation's exchanges. By 1982, however, 28 out of a total of 217 directors were representative of the public. The Commission notes, however, that even with reliance upon an increasing number of public directors in the exercise of self-regulatory functions, concerns with respect to conflicts of interest will remain. Moreover, while public directors may be more readily viewed as lacking partiality in making decisions affecting the marketplace, they may lack the market expertise comparable to that possessed by active participants in making immediate and critical decisions about the marketplace.

Request for Comments on Exchange Conflicts of Interest Rules and Policies

In view of the concerns discussed above, the Commission invites interested persons to analyze existing exchange rules or policies regarding the prevention of actual or potential conflicts of interest and to comment on the benefits and deficiencies of those rules and policies, as well as on the exchanges' reliance upon existing state law and parliamentary procedures with respect to conflicts. The Commission also invites discussion of specific alternative measures commentators believe may remedy particular shortcomings which they perceive in the current exchange rules and policies. In particular, interested persons are requested to address their comments to the following issues:

1. *Definition of Conflict of Interest*—Should each exchange define conflicts of interest for use in determining the participation of board or committee members in making self-regulatory decisions? If so, what form should such definitions take?

a. For example, what distinctions, if any, should an exchange make between types of positions held by a board or committee member (*e.g.*, spot month, distant month, spread, or hedge)?

b. What distinctions, if any, should an exchange make depending on the relation of the board or committee member to the position held (*e.g.*, personal, house, customer or held by a person related to the individual board or committee member)?

c. What related financial interests should be considered in determining whether a board or committee member has a potential conflict of interest (e.g., related futures, options, cash, forward, or leverage contracts; or related positions existing in another market)?

d. Further, would it be possible for an exchange to formulate a definition which reasonably can be applied to all self-regulatory deicisions in which a board or committee member may be called upon to participate or should the definition vary depending upon the situation? For example, should the same definition apply to board or committee determinations to change the margin level on a contract as would apply if the board or committee is considering the adoption of a market emergency action?

2. *Effect of Identifying a Potential Conflict of Interest*—Once a board or committee member determines that a potential or actual conflict of interest exists, what action should an exchange require the member to take?

a. Should the existence of a potential conflict without exception require the member of the board or committee to rescue himself from all further deliberations on the instant matter?

b. If not recused, to what extent should a member with a potential conflict of interest participate in the deliberations? For example, should the member be permitted to lend his expertise by participating in discussions, but be prohibited from voting? To what extent should a member be permitted to attend board or committee deliberations if he is not participating?

c. To what extent, if any, should the effect of a potential conflict of interest depend upon the nature of the exchange action under consideration? For example, should an exchange apply different standards in situations where its governing board is considering emergency actions as opposed to rule changes which are subject to prior Commission review pursuant to section 5a(12) of the Act?

d. Under what circumstances should the potential conflict of interest be disclosed to other members of the board or committee if the member does not recuse himself from all deliberations?

e. What procedures should the exchange's rules, policies or guidelines concerning conflicts of interests permits a board or committee member to follow if the uniform application of its standards would result in the loss of a board or committee quorum? The Commission recognizes that this could be a significant problem on exchanges where a single or limited number of contracts are traded and the exchange lacks a broad diversity of members.

f. Who should be the final arbiter of whether a board or committee member has a conflict of interest which should prevent him from participating in a particular matter? Should such determination be entrusted, for example, to the individual member or to the board or committee on which he sits?

3. *Alternative Measures.*—One means which exchanges may employ to minimize problems arising from the possibility of conflicts of interest or the public perception of such conflicts is through increased reliance upon broadly representative boards or committees or the introduction of greater public representation into exchange self-regulation.

a. Some exchanges have asserted that the existence of broadly representative deliberative bodies (i.e., a board composed of all segments of market participants—commercials, commission house, floor traders, as well as public representatives) mitigates the need for strict application of conflict of interest provisions, particularly where non-emergency actions are being considered. To what extent should an exchange permit such a "balancing of conflicting interests" to supersede the application of specific conflict of interest provisions to individual board or committee members? Regardless of the need for exchanges to adopt specific conflict of

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[17] *See e.g.*, Comex Bylaw Section 102, discussed above at note 8.

[18] Public directors may not necessarily be disinterested, however, since few exchanges expressly prohibit a director from trading on its contract markets. The primary qualification for a public director, in most instances, is simply that the individual not be a member of the exchange.

[19] *Cf.*, section 6(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(6)-(1976)) which prohibits an exchange from being registered as a national securities exchange unless:

"(3) The rules of the exchange assure a fair representation of its members in the selection of its directors and administration of its affairs and provide that one or more directors shall be representative of issuers and investors and not be associated with a member of the exchange, broker or dealer."

[20] Although the governing board of the Kansas City Board of Trade has no public members, its Executive Vice President is a non-member who sits on that Exchange's Board.

interest provisions which address market emergency situations, should the Commission consider requiring exchanges to assure a broad representation of market participants in the exercise of exchange self-regulatory functions?

b. To what extent may an exchange avoid or minimize entanglement in conflict of interest questions by including non-exchange members who are not market participants in the self-regulatory process? Should the Commission consider a requirement that each exchange increase the public representation on its board? Should the Commission encourage exchange efforts to entrust significant market actions exclusively to exchange-selected public representatives?

c. To the extent that an exchange includes public representatives on its governing board or committees, what standards, if any, should be applied to determine whether an individual qualifies as a "public" board member?

d. Opinion on the proper role and responsibility of public directors is not uniform. At least two theoretically distinct views exist. One school holds active involvement by public members in board decision-making paramount. Under this view, appropriate compensation for public directors as well as legal liability for board decisions is argued to encourage such active involvement by public directors. The other view focuses on the willingness of individuals to serve in public directorships. It holds that in order to attract the most distinguished and accomplished persons, it is necessary to limit the legal liability of public directors. The Commission requests comments directed to the applicability of either of these views, or others, to the governance of contract markets.

e. Finally, to what extent does an exchange board or committee's reliance upon its professional staff's analysis and recommendations concerning various regulatory situations—particularly potential market emergencies—insulate the board or committee from potential conflict of interest concerns?

* * * * *

In view of the foregoing, the Commission hereby gives notice of its request for comments on exchange rules and procedures for protecting against abuses stemming from conflicts of interests which may occur on their governing boards or control committees. Any person interested in submitting views or arguments on the matter of conflicts of interest should send his comments by September 20, 1982, to Ms. Jane K. Stuckey, Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

List of Subjects for 17 CFR Part 1

Commodity exchanges, Commodity futures, Consumer protection, Reporting and recordkeeping requirements.

Issued in Washington, D.C. on July 15, 1982.

By the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 82-19298 Filed 7-21-82; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 123

Customs Form 7533; Invitation to the Public To Comment

AGENCY: Customs Service, Treasury.

ACTION: Notice of extension of time for comment.

SUMMARY: This notice extends the period of time within which interested members of the public may submit written comments with respect to Customs proposal to eliminate Customs Form 7533 (Inward Cargo Manifest For Vessel Under Five Tons, Ferry, Train, Car, Vehicle, Etc.) and develop a new standardized form to be used nationwide. A document inviting the public to comment on the petition was published in the **Federal Register** on April 21, 1982, (47 FR 17072). Comments were to have been received on or before June 21, 1982. A request has been received from a railway association to extend the period for the submission of comments claiming that additional time is needed to submit thorough comments from its members. Customs believes that the request has merit. Accordingly, the period of time for the submission of written comments is extended to August 21, 1982.

DATE: Comments must be received on or before August 21, 1982.

ADDRESS: Written comments (preferably in triplicate) may be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

Patricia Anson, Cargo Processing Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229, (202-566-5354).

Dated: July 19, 1982.

John P. Simpson,

Director, Office of Regulations and Rulings.

[FR Doc. 82-19830 Filed 7-21-82; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 736, 760, 761, 762, 764, 765, and 769

Areas Unsuitable for Surface Coal Mining; Cancellation of Public Hearing on Proposed Rule

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Cancellation of public hearing.

SUMMARY: The Office of Surface Mining (OSM) is announcing the cancellation of one of the public hearings scheduled on the proposed rule governing areas unsuitable for surface coal mining because no requests were received to testify at that hearing within the specified time period (3) working days before the date of the hearing). See 47 FR 25278. The Director of the Office of Surface Mining has determined that no hearings are necessary and, in the interest of cost savings, is hereby cancelling the hearing which was scheduled for July 22, 1982, in Denver, Colorado.

This notice cancels the public hearing but does not alter the comment period during which interested persons may submit written comments on the proposed rule.

DATES: The following hearing is cancelled: The public hearing on the proposed rule amending 30 CFR Chapter VII, Subchapter F, scheduled for July 22, 1982, in Denver, Colorado.

ADDRESS: Written comments should be mailed or hand delivered to: Carl C. Close, Special Assistant, Office of Surface Mining, U.S. Department of the Interior, Administrative Record (SPA-04), Room 5315, 1100 L Street, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Carl C. Close, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, N.W., Washington, D.C. 20240; Telephone: (202) 343-4225.

SUPPLEMENTARY INFORMATION: On June 10, 1982, the Office of Surface Mining published a proposed rule in the **Federal Register** which would revise 30 CFR Chapter VII, Subchapter F, regulations governing areas unsuitable for surface coal mining. The proposed rule provided

for two public hearings to be held to receive comments. It further provided that if no person indicated an intention to testify by 3 working days before the appropriate hearing date, that hearing would be cancelled. As of 3 days before the hearing scheduled for Denver, Colorado, no persons contacted OSM indicating that they wished to testify. Therefore, in the interest of cost savings, the Director of OSM is cancelling that hearing.

While there will be no public hearing in Denver, Colorado, interested persons may still submit written comments on the proposed rule. Written comments must be received on or before 4:00 p.m., on August 25, 1982, to be considered.

Dated: July 19, 1982.

Carl C. Close,

Acting Assistant Director, Program Operations and Inspection, Office of Surface Mining.

[FR Doc. 82-20022 Filed 7-21-82; 10:12 am]

BILLING CODE 4310-05-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-16-82]

Filing of Life-Nonlife Consolidated Returns

AGENCY: Internal Revenue Service, Treasury.

ACTION: Extension of time for comments and requests for a public hearing.

SUMMARY: This document provides notice of an extension of time for submitting comments and requests for a public hearing concerning the notice of proposed rulemaking relating to the filing of a consolidated return by an affiliated group of corporations composed of at least one life or mutual insurance company and one or more different companies.

DATES: The extended deadline for submission of comments and requests for a public hearing is September 15, 1982.

ADDRESS: Send comments and requests for a public hearing to Commissioner of Internal Revenue, Attn: CC:LR:T (LR-16-82), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Donald K. Duffy of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W. Washington, D.C. 20224, 202-4336, not a toll-free call.

SUPPLEMENTARY INFORMATION: By a notice of proposed rulemaking published in the **Federal Register** for Tuesday, June 8, 1982 (47 FR 24737), comments and requests for a public hearing with respect to the proposed rules were to be delivered or mailed to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-16-82), Washington, D.C. 20224, by August 2, 1982. The date by which comments or requests must be delivered or mailed is hereby extended to September 15, 1982.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive on improving government regulations appearing in the **Federal Register** for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue.

Jason R. Felton,

Assistant Director, Legislation and Regulations Division.

[FR Doc. 82-19848 Filed 7-19-82; 4:56 pm]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 952

Abandoned Mine Land Reclamation Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: On June 10, 1982, the Hopi Tribe submitted to OSM its proposed Abandoned Mine Land Reclamation Plan (Plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). OSM is seeking public comment on the adequacy of the Tribe's Plan. The purpose of this submission is to determine both the intent and capability of the Hopi Tribe to assume responsibility for administering and conducting the provisions of SMCRA and OSM's Abandoned Mine Land Reclamation (AMLR) Program.

DATES: Written comments on the Plan will be accepted until further notice.

ADDRESSES: Copies of the full text of the proposed Plan are available for review during regular business hours at the following locations:

Office of Surface Mining, New Mexico State Office, 219 Central Avenue, N.W., Suite 216, Albuquerque, New Mexico 87102;

Office of Surface Mining, Administrative Record, Room 5315, 1100 "L" St., N.W., Washington, D.C. 20236.

Written comments should be sent to Robert H. Hagen, State Director, Office of Surface Mining, New Mexico State Office, 219 Central Avenue, N.W., Suite 216, Albuquerque, New Mexico 87102.

The Administrative Record will be available for public review at the State Office during regular business hours.

FOR FURTHER INFORMATION CONTACT: Robert Hagen, State Director, Office of Surface Mining, New Mexico State Office, Telephone 505/766-1486.

SUPPLEMENTARY INFORMATION: Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. 95-87, 30 U.S.C. 1201 et seq., establishes an abandoned mine land program for the purposes of reclaiming and restoring land and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977 and for which there is no continuing reclamation responsibility under tribal or Federal law.

Title IV provides that if the Secretary determines that a State or Tribe has developed and submitted a program for reclamation of abandoned mines and has the ability and necessary State or Tribal legislation to implement the provisions of Title IV, the Secretary may approve the State or Tribal program and grant to the State or Tribe exclusive responsibility and authority to implement the provisions of the approved program.

OSM received a proposed abandoned mine land reclamation plan from the Hopi Tribe. The purpose of this submission is to determine both the intent and capability of the Hopi Tribe to assume responsibility for administering and conducting the provisions of SMCRA and OSM's Abandoned Mine Land Reclamation (AMLR) Program (30 CFR Chapter VII, Subchapter R) as published in the **Federal Register** (FR) on October 25, 1978, 43 FR 49932-49952.

This notice describes the nature of the proposed program and sets forth information concerning public participation in the Secretary's determination of whether or not the submitted plan may be approved. The public participation requirements for the consideration of a State or Tribal AMLR Plan are found in 30 CFR 884.13 and 884.14 (43 FR 49948). Additional information may be found under corresponding sections of the preamble

to OSM's AMLR Program Final Rules (43 FR 49932–49940).

The receipt of the Hopi Tribe's Plan is the first step in the process which will result in the establishment of a comprehensive program for the reclamation of abandoned mine lands on the Hopi Reservation.

By submitting a proposed Plan, the Hopi Tribe has indicated that it wishes to be primarily responsible for this program. If the submission as hereafter modified, is approved by the Secretary, the Hopi Tribe will have primary responsibility for the reclamation of abandoned mine lands on the Hopi Tribe Reservation. If the program is disapproved and the Tribe does not choose to revise the Plan, a Federal AMLR Program will be implemented and OSM will have primary responsibility for these activities.

The Secretary has determined that the public was provided adequate notice and opportunity to be heard on the Plan and that the record does not reflect any major unresolved controversies. Therefore, a public hearing will not be held.

Representatives of OSM's State office or of the Division of Abandoned Mine Land Reclamation will be available to meet at the request of members of the public to receive their advice and recommendations concerning the proposed Hopi AMLR Plan. To arrange for such meetings contact the person listed above under "For Further Information Contact."

The Department intends to continue to discuss the Hopi Tribe's proposed Plan with representatives of the Tribe throughout the review process. All contacts between OSM personnel and representatives of the Tribe will be conducted in accordance with OSM's guidelines on contacts with States published September 19, 1979 at 44 FR 54444.

Pursuant to 30 CFR 884.14, OSM will continue the period of review of the proposed Crow Tribe Plan until a decision is made by the Secretary of the Interior on his authority to approve the abandoned mine land reclamation program submissions of the Tribes.

The Office of Surface Mining has examined this proposed rulemaking under Section 1(b) of Executive Order No. 12291 (February 17, 1981) and has determined that, based on available quantitative data, it does not constitute a major rule. The reasons underlying this determination are as follows:

1. Approval will not have an effect on costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; and

2. Approval will not have adverse effects on competition, employment, productivity, innovation or on the ability of United States based enterprises to compete with foreign based enterprises in domestic or export markets.

This proposed rulemaking has been examined pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., and the Office of Surface Mining has determined that the rule will not have significant economic effects on a substantial number of small entities. The reason for this determination is that approval will not have demographic effects, direct costs, information collection and recordkeeping requirements, indirect costs, nonquantifiable costs, competitive effects, enforcement costs or aggregate effects on small entities.

The Office of Surface Mining has determined that the Hopi Tribe Abandoned Mine Reclamation Plan will not have a significant effect on the quality of the human environment because the decision relates only to the policies, procedures and organization of the Tribe's Abandoned Mine Land Reclamation Program. Therefore, under the Department of Interior Manual 5162.3(A)(1), the Office's decision on the Hopi Plan is categorically excluded from the National Environmental Policy Act process. As a result no Environmental Assessment or Environmental Impact Statement has been prepared on this action. It should be noted that a programmatic EIS was prepared by OSM in conjunction with approval of the Pub. L. 95–87 Title IV abandoned mine land regulations. Moreover, an environmental analysis or an environmental impact statement will be prepared for the approval of the grants for the abandoned mine land reclamation projects under 30 CFR Part 886.

The Hopi Tribe Reclamation Plan for Abandoned Mine Lands can be approved if:

1. The Secretary finds that the public has been given adequate notice and opportunity to comment, and the record does not reflect major unresolved controversies.

2. Views of other Federal agencies have been solicited and considered.

3. The Tribe has the legal authority, policies and administrative structure to carry out the Plan.

4. The Plan meets all the requirements of the OSM AML Program provisions.

5. The Tribe has an approved Regulatory Program.

6. It is determined that the Plan is in compliance with all applicable State/Tribe and Federal laws and regulations.

The following constitutes a summary of the contents of the Hopi Reclamation Plan submission:

The Hopi Tribal Office of Natural Resources has been designated by the Chairman of the Hopi Tribe to implement and enforce the Abandoned Mine Land Reclamation Program in accordance with SMCRA (Pub. L. 95–87). Contents of the Tribe's Plan submission include:

(a) Designation of authorized Tribal Agency to administer the program.

(b) Tribe's General Counsel's opinion that the designated Agency has the legal authority to operate the program in accordance with the requirements of Title IV of the SMCRA, 30 CFR Subchapter R and the Tribal Reclamation Plan.

(c) Description of the policies and procedures to be followed in conducting the program including:

(1) Goals and objectives;

(2) Project ranking and selection procedures;

(3) Coordination with other reclamation programs;

(4) Land acquisition, management and disposal;

(5) Reclamation on private land;

(6) Rights of Entry; and

(7) Public participation in the program.

(d) Description of the Administrative and Management structure to be used in the program including:

(1) Description of the organization of the designated agency and its relationship to other organizations that will participate in the program;

(2) Personnel staffing policies;

(3) Purchasing and procurement systems and policies; and

(4) Description of the accounting system including specific procedures for operation of the reclamation fund.

(e) Description of the public's participation in preparation of the Plan.

(f) A general description of activities to be conducted under the Reclamation Plan including:

(1) Known or suspected eligible lands and water requiring reclamation, including one or more maps as required;

(2) General description of the problems identified and how the plan proposes to deal with them;

(3) General description of how the lands to be reclaimed and proposed reclamation relate to the surrounding lands and land uses;

(4) A table summarizing the quantities of land and water affected and an estimate of the quantities to be reclaimed during each year covered by the Plan; and

(5) General description of the social, economic and environmental conditions

in the different geographic areas where reclamation is planned, including:

(i) The economic base;

(ii) Sociologic and demographic characteristics;

(iii) Significant aesthetic, historic or cultural, and recreational values;

(iv) Hydrology including water quality and quantity problems associated with past mining;

(v) Flora and fauna including endangered or threatened species and their habitat;

(vi) Underlying or adjacent coal beds and other minerals and projected methods of extraction; and

(vii) Anticipated benefits from reclamation.

Additional Findings

On November 12, 1981, the Office of Management and Budget exempted the Office of Surface Mining from the requirements of Sections 3, 4, 6, and 8 of Executive Order 12291 for all actions taken by OSM to approve State Reclamation Plans or amendments. Therefore, a Regulatory Impact Analysis is not required.

This rulemaking has been examined pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and the Office of Surface Mining has determined that the rule will not have a significant economic effect on a substantial number of small entities. The reason for this determination is that approval will not have demographic effects, direct costs, information collection and recordkeeping requirements, indirect costs, nonquantifiable costs, competitive effects, enforcement costs or aggregate effects on small entities.

Under the Department of Interior Manual (DM) 516.2.3(A)(1), the Assistant Secretary's decision on the Hopi Plan is categorically excluded from the National Environmental Policy Act requirements. As a result, no environmental assessment or environmental impact statement (EIA) has been prepared on this action. It should be noted that a programmatic EIS was prepared by OSM in conjunction with the implementation of Title IV. Also an environmental analysis or an EIS will be prepared for the approval of grants for the abandoned mine lands reclamation projects under 30 CFR Part 886.

List of Subjects in CFR Part 952

Coal mining, Indian lands, Surface mining, Underground mining.

Dated: July 13, 1982.

J. R. Harris,

Director, Office of Surface Mining.

Dated: July 14, 1982.

William P. Pendley,

Assistant Secretary for Energy and Minerals.

[FR Doc. 82-19731 Filed 7-21-82; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CCGD8-82-02]

Anchorage Regulations; Lower Mississippi River

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is considering amending the anchorage regulations on the Lower Mississippi River by shifting the Cedar Grove Anchorage approximately 3000 feet down river. This action is necessary because of a planned midstream loading facility in the present anchorage.

DATE: Comments must be received on or before September 20, 1982.

ADDRESS: Comments should be mailed to Captain of the Port, New Orleans, LA, U.S. Coast Guard, 4640 Urquhart Street, New Orleans, LA 70117. The comments will be available for inspection or copying at the above address. Normal office hours are between 7:00 a.m. and 3:30 p.m., Monday through Friday, except holidays, Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: LCDR R. E. Ford, Port Safety Officer, Captain of the Port, New Orleans, LA, U.S. Coast Guard, 4640 Urquhart Street, New Orleans, LA 70117, Tel. (504) 589-7118.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CCGD8-02), the specific section of the proposal to which their comments apply, and give the reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed.

These rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The principal persons involved in drafting this notice are LT M. W. Brown, Project Officer, c/o Commander, Eighth Coast Guard District (mps) and LT J. C. Helfrich, Project Attorney, c/o Commander Eighth Coast Guard District (dl), Hale Boggs Federal Bldg., 500 Camp Street, New Orleans, LA 70130.

Discussion of Proposed Rule

Currently the Cedar Grove Anchorage is located at mile 70.6 to mile 71.2 above Head of Passes on the Right Descending Bank. There is a proposal now to use the area presently encompassed by this anchorage as a midstream loading facility. Mooring buoys would be installed to prevent vessels from swinging while midstream loading occurs. Such an arrangement would serve to enhance safety while facilitating cargo operations. In order to maintain general anchorage space in light of this proposal, it is necessary to relocate the anchorage area. The proposed new anchorage area would be immediately adjacent to the old one with new limits of mile 69.9 to 70.6 above Head of Passes on the Right Descending Bank and would remain the same width. Because the new location of the anchorage area would be in the way of a revetment, the western limit of the anchorage area has been relocated 400 feet from the right descending bank. The character of the river in both locations is essentially the same.

Summary of Draft Evaluation

These proposed regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5-22-80). An economic evaluation of the proposal has not been conducted since its impact is expected to be minimal. As an existing anchorage is merely being shifted, no new costs will be imposed. It is also certified that in accordance with section 605(b) of the Regulatory Flexibility Act, that these rules, if promulgated, will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 110 of Title 33, Code of Federal Regulations, as follows:

PART 110—ANCHORAGE REGULATIONS

1. The authority citation for Part 110 reads as follows:

Authority: 33 U.S.C. 471; 49 U.S.C. 1655(g)(1); 49 CFR 1.46(c)(1); 33 CFR 1.05–1(g).

2. By revising 33 CFR 110.195(a)(8) as follows:

§ 110.195 Mississippi River below Baton Rouge, LA including South and Southwest Passes.

(a) * * *

8. *Cedar Grove Anchorage.* An area 0.7 miles in length between mile 69.9 to mile 70.6 above Head of Passes along the right descending bank of the river 700 feet wide with a western limit 400 feet from the Low Water Reference Plane on the right descending bank.

W. H. Stewart,

Rear Admiral, Coast Guard Commander, Eighth Coast Guard District.

[FR Doc. 82-19628 Filed 7-21-82; 8:45 am]

BILLING CODE 4910-14-M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 82–15; Notice 1]

Federal Motor Vehicle Safety Standards; Seat Belt Assemblies

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: Standard No. 209, *Seat Belt Assemblies,* sets performance requirements for seat belts used in vehicles. The standard incorporates by reference a number of recommended practices and test procedures developed by voluntary standards associations. This notice proposed to update those recommended practices and test procedures by incorporating the most recent version of them. In addition, the agency solicits comments on possible revisions to the standard that would reduce the regulatory burden imposed by the standard without diminishing vehicle safety.

DATES: Comments must be submitted not later than September 7, 1982. The proposed effective date is August 23, 1982.

ADDRESS: Comments should refer to the docket number and notice number and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590 (Docket hours are 8:00 a.m. to 4:00 p.m.)

FOR FURTHER INFORMATION CONTACT: William Smith, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, D.C. 20590, (202–426–2242).

SUPPLEMENTARY INFORMATION: Standard No. 209, *Seat Belt Assemblies,* sets performance requirements for seat belts used in passenger cars, trucks, buses and multipurpose passenger vehicles. Several of the performance requirements incorporate recommended practices developed by voluntary standards association. In addition, the standard specifies that certain, long-established industry test procedures be used in determining whether the seat belts meet those performance requirements. Because of the lengthy and technical nature of the recommended pratices and test procedures, the standard incorporates those items by reference rather than setting out their full text within the standard.

In January 1981 (46 FR 10179, February 2, 1981), the agency granted a petition to amend Standard No. 209 to incorporate the most recent version of the American Society for Testing and Materials standard on testing the corrosion resistance of seat belt hardware. In response to that petition for rulemaking, the agency conducted a review of all the materials incorporated by reference within Standard No. 209 to determine which materials needed to be changed so that their most recent version is incorporated in the standard. The amendments proposed in this notice represent the result of the agency's review.

Test Procedures

As explained above, the standard incorporates a number of recommended practices and test procedures developed by such voluntary standards associations as the American Association of Textile Chemists and Colorists (AATCC), the American Society for Testing and Materials (ASTM) and the Society of Automotive Engineers (SAE). Based on a review of the standard, the agency now proposes the following revisions to the recommended practices and test procedures incorporated by reference. In addition to the amendments proposed below, the agency is also proposing to amend Part 571.5, matter incorporated by reference, to list the address of the AATCC. This amendment will assist interested parties in obtaining copies of the AATCC procedures.

Section 4.1(f) of Standard No. 209 specifies, in part, that a seat belt assembly shall include all hardware necessary for installation of the assembly in a motor vehicle in accordance with SAE Recommended Practice J800b, "Motor Vehicle Seat Belt Installations," September 1965. Recommended Practice J800b was revised by SAE in November 1973 and renumbered J800c. The revision provides more detailed instructions on installation of seat belt attachment hardware and revised instructions on installation of upper torso restraints. Section 4.1(k) of the standard, which sets requirements for installation instructions, also references SAE J800b. It is proposed that the references to J800b be changed to J800c in both sections 4.1(f) and 4.1(k) of the standard.

Section 4.3(a) of the standard specifies the corrosion resistance requirements for seat belt hardware. It incorporates ASTM A166–61T, "Tentative Specifications for Electrodeposited Coatings of Nickel and Chromium on Steel." ASTM discontinued A166–61T in 1967 and replaced it with B456–79. The new specification sets more stringent performance requirements for coating thickness and corrosion testing. In addition, it adds new requirements on the sulfur content of nickel, discontinuities in the chromium deposits, ductility, and adhesion. The agency proposes to adopt the new specification, ASTM B456–79, "Electrodeposited Coatings of Copper Plus Nickle Plus Chromium and Nickle Plus Chromium."

Section 5.1(a) of the standard specifies the test procedure to be used in determining the breaking strength of seat belts. It incorporates ASTM E4–64, "Standard Methods of Verification of Testing Machines." Since issuance of this tentative test method in 1964, ASTM has adopted a final test method, ASTM E4–79, "Load Verification of Testing Machines." The new test method revises the format of the former test method and adds a new accuracy assurance requirement. The agency proposes to adopt the new test method.

Section 5.1(e) of the standard specifies the test procedures for measuring the resistance to light of seat belts. In May 1980 (45 FR 29102), the agency proposed to alter the test apparatus used for the resistance to light requirements. As a part of that action, the agency proposed to update the one ASTM recommended practice (ASTM E42–64) already incorporated in the standard and to add a reference to another ASTM

recommended practice (G24–66). The agency is awaiting the completion of additional testing before taking final action on that proposal. If the amendment is adopted, the agency plans to incorporate the most recent version of both ASTM recommended practices.

Section 5.1(f) of the standard specifies the requirements for resistance to micro-organisms. It currently incorporates Section 1C1—Water Leaching, Section 1C2—Volatilization, and Section 1B3—Soil Burial Test of AATCC Tenative Test Method 30–1957T, "Fungicides, Evaluation of Textiles; Mildew and Rot Resistance of Textiles." The AATCC has issued a new test method which is a change in form and not in substance. It completely revises the editorial format of the prior test method. The new version specifies the same test method as the 1957T version currently incorporated in Standard No. 209. The agency proposes to incorporate the new version of the test method, AATCC Test Method 30–79, "Fungicides Evaluation on Textiles; Mildew and Rot Resistance of Textiles."

Section 5.1(g) of the standard specifies the test method used to measure the colorfastness to crocking of seat belts. It currently incorporates AATCC Standard Test Method 8–1961, "Colorfastness to Crocking (Rubbing)." The AATCC has issued a new test method that revises the format of the test procedure; it does not make any substantive changes to the test procedure. The agency proposes to incorporate the new version of the test method, AATCC Test Method 8–1981, "Colorfastness to Crocking: AATCC Crockmeter Method."

Section 5.1(h) of the standard specifies the test method to be used to determine the colorfastness to staining of seat belts. It currently incorporates AATCC Standard Test Method 107–1962, "Colorfastness to Water." The AATCC has issued a new test method that makes editorial changes to the format of the test method; it does not make any substantive changes to the test method. The agency proposes to incorporate the new test method, AATCC 107–1981, "Colorfastness to Water."

Section 5.2(a) of the standard specifies the test procedure for determining the corrosion resistance of seat belt hardware. It currently incorporates ASTM B117–64, "Standard Method of Salt Spray (Fog) Testing." ASTM has revised the format of that test method; however, there are no substantive differences between the old and new version. The agency proposes to incorporate the current version of the test method, ASTM B117–73, "Salt Spray (Fog) Testing."

In addition to incorporating the new ASTM corrosion resistance test procedure, the agency is proposing a minor change to the corrosion resistance test procedure. The ASTM procedure specifies that the seat belt hardware is to be "suitably cleaned" prior to testing. To clarify the extent of cleaning necessary, the agency is proposing to specify that any temporary coating placed on the seat belt hardware shall be removed prior to testing. The purpose of this proposed change is to prevent the use of a coating material on the hardware during the corrosion resistance test that would aid the hardware to meet the corrosion resistance requirement, but which would not be found on the hardware when it is in actual in-vehicle use. Coatings which are applied permanently to the hardware will not be removed.

Section 5.2(b) of the standard specifies temperature resistance requirements for seat belt hardware. It currently incorporates procedure IV of ASTM D756–56, "Standard Methods of Test for Resistance of Plastics to Accelerated Service Conditions." ASTM has revised the format of D756. There are no substantive differences between the new and old version. The agency proposes to incorporate procedure D of the new version of the standard practice, ASTM D756–78, "Determination of Weight and Shape Changes of Plastics under Accelerated Service Conditions."

Section 5.2(k) of the standard sets the test procedure for determining the performance of seat belt retractors. As a part of the procedure, the retractor is tested under dusty conditions. Section 5.2(k) currently incorporates the coarse grade dust specifications of SAE Recommended Practice J726a, "Air Cleaner Test Code." This Recommended Practice was completely revised by SAE in April 1979. The specification on coarse grade dust, however, is identical to that currently incorporated in section 5.2(k) of the standard. The agency proposes to incorporate the most current version of the Recommended Practice entitled, SAE Recommended Practice J726, Sep 79, "Air Cleaner Test Code."

To further assist the public in commenting on the proposed revisions, copies of the recommended practices and test procedures currently incorporated in the standard and of the versions that would be incorporated under this proposal are available for public inspection in the general reference section of the docket for this notice.

Review of Requirements

As a part of its regulatory review of all the standards, the agency is evaluating each of the performance requirements of Standard No. 209 to determine if they were still necessary and appropriate. The agency solicits comments, information and data from the public concerning current requirements of the standard which impose a regulatory burden and have a negligible or inconsequential impact on safety. Based on its review and the comments received in response to this notice, the agency may begin additional rulemaking to reduce or eliminate regulatory burdens imposed by the standard.

Executive Order 12291

The agency has evaluated the economic and other effects of these proposed amendments and determined that they are neither major as defined by Executive Order 12291 nor significant as defined by the Department of Transportation's regulatory policies and procedures. The proposed amendments only update references to recommended practices and test methods incorporated by reference in Standard No. 209. Because the economic and other effects of this proposal are minimal, no regulatory evaluation is necessary.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, the agency has evaluated the effects of this action on small entities. Based on that evaluation the Administrator certifies that the proposed amendments to Standard No. 209 will not have a significant effect on a substantial number of small entities. Accordingly, no regulatory flexibility analysis has been prepared.

Only a few of the vehicle and parts manufacturers required to comply with Standard No. 209 are small businesses as defined by the Regulatory Flexibility Act. Small organizations and governmental jurisdictions which purchase fleets of motor vehicles would not be significantly affected by the proposed amendments. The proposed amendments merely update references to test methods and recommended practices incorporated by reference in Standard No. 209. They should not impose any cost or other burdens.

National Environmental Policy Act

The agency has also analyzed this proposed action for the purposes of the National Environmental Policy Act. The agency has determined that the proposed amendments to Standard No.

209 will not have any significant effect on the human environment.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. 552(b)(4), and that disclosure of the information is likely to result in substantial competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commenter or, in the case of a corporation, a responsible corporate official authorized to speak for the corporation must certify in writing that each item for which condifential treatment is requested is in fact confidential within the meaning of section 552(b)(4) and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items has previously been disclosed or otherwise become available to the public.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

In consideration of the foregoing, the following amendments are proposed to Title 49, Chapter V, § 571.209, *Seat Belt Assemblies,* and § 571.5, *Matter incorporated by reference:*

§ 571.209 [Amended]

1. The first sentence of S4.1(f) would be revised to read as follows:

* * * * *

S4.1 * * *

(f) *Attachment hardware.* A seat belt assembly shall include all hardware necessary for installation in a motor vehicle in accordance with Society of Automotive Engineers Recommended Practice J800c, "Motor Vehicle Seat Belt Installations," November 1973. * * *

* * * * *

2. The last sentence of § 4.1(k) would be revised to read as follows:

* * * * *

S4.1 * * *

(k) *Installation instructions.* * * * The installation instructions shall state whether the assembly is for universal installation or for installation only in specifically stated motor vehicles, and shall include at least those items specified in SAE Recommended Practice J800c, "Motor Vehicle Seat Belt Installations," November 1973.

* * * * *

3. The second sentence of S4.3(a)(1) would be revised to read as follows:

* * * * *

S4.3 * * *

(a) *Corrosion resistance,* (1) * * * Alternatively, such hardware at or near the floor shall be protected against corrosion by at least a electrodeposited coating of nickel, or copper and nickel with at least a service condition number of SC2, and other attachment hardware shall be protected by a electrodeposited coating of nickel, or copper and nickel with a service condition number of SC1, in accordance with American Society for Testing and Materials B456–79, "Standard Specification for Electrodeposited Coatings of Copper Plus Nickel Plus Chromium and Nickel Plus Chromium," but such hardware shall not be racked for electroplating in locations subjected to maximum stress.

* * * * *

4. The first sentence of S5.1(b) would be revised to read as follows:

* * * * *

S5.1 * * *

(b) *Breaking strength.* Webbing from three seat belt assemblies shall be conditioned in accordance with paragraph (a) of this section and tested for breaking strength in a testing machine of capacity verified to have an error of not more than one percent in the range of the breaking strength of the webbing in accordance with American Society for Testing and Materials E4–79, "Standard Methods of Load Verification of Testing Machines."

* * * * *

5. The first sentence of S5.1(f) would be revised to read as follows:

* * * * *

S5.1 * * *

(f) *Resistance to microorganisms.* Webbing at least 20 inches or 50 centimeters in length from three seat belt assemblies shall first be preconditioned in accordance with Appendix A (1) and (2) of American Association of Textile Chemists and Colorists Test Method 30–79, "Fungicides Evaluation on Textiles; Mildew and Rot Resistance of Textiles," and then subjected to Test I, "Soil Burial Test" of that test method.

* * * * *

6. Paragraph (g) of S5.1 would be revised to read as follows:

* * * * *

S5.1 * * *

(g) *Colorfastness to crocking.* Webbing from three seat belt assemblies shall be tested by the procedure specified in American Association of Textile Chemists and Colorists Standard Test Method 8–181, "Colorfastness to Crocking: AATCC Crockmeter Method."

* * * * *

7. Paragraph (h) of S5.1 would be revised to read as follows:

* * * * *

S5.1 * * *

(h) *Colorfastness to staining.* Webbing from three seat belt assemblies shall be tested by the procedure specified in American Association of Textile Chemists and Colorists (AATCC) Standard Test Method 107–1981, "Colorfastness to Water," except that the testing shall use (1) distilled water, (2) the AATCC perspiration tester, (3) a drying time of four hours, specified in section 7.4 of the AATCC procedure, and (4) section 9 of the AATCC test procedures to determine the

colorfastness to staining on the AATCC Chromatic Transference Scale.

* * * * *

8. The first sentence of S5.2(a) would be revised to read as follows:

* * * * *

S5.2 *Hardware.*—

Corrosion resistance. Three seat belt assemblies shall be tested in accordance with American Society for Testing and Materials B117–73, "Standard Method of Salt Spray (Fog) Testing." * * *

9. Paragraph (a) of S5.2 would be amended by adding a new sentence after the first sentence to read as follows:

* * * * *

S5.2 *Hardware.*

(a) * * * Any surface coating or material not intended for permanent retention on the metal parts during service life shall be removed prior to preparation of the test specimens for testing. * * *

* * * * *

10. The first sentence of S5.2(b) would be revised to read as follows:

* * * * *

S5.2 *Hardware.*

* * * * *

(b) *Temperature resistance.* Three seat belt assemblies having plastic or nonmetallic hardware or having retractors shall be subjected to the conditions prescribed in Procedure D of American Society for Testing and Materials D756–78, "Standard Practice for Determination of Weight and Shape Changes of Plastics under Accelerated Service Conditions." * * *

* * * * *

11. The eighth sentence of S5.2(k) would be revised to read as follows:

* * * * *

S5.2 * * *

(k) * * * Then, the retractor and webbing shall be subjected to dust in a chamber similar to one illustrated in Figure 8 containing about 2 pounds or 0.9 kilogram of coarse grade dust conforming to the specification given in Society of Automotive Engineering Recommended Practice J726, "Air Cleaner Test Code" Sep 1979. * * *

In § 571.5, paragraph (b) (5) would be redesignated (b)(6) and a new paragraph (b)(5) would be added to read as follows:

§ 571.5 Matter incorporated by reference.

* * * * *

(b) * * *

(5) *Test methods of the American Association of Textile Chemists and Colorists.* They are published by the American Association of Textile Chemists and Colorists. Information and copies can be obtained by writing to: American Association of Textile Chemists and Colorist, Post Office Box 886, Durham, NC.

(6) * * *

(Secs. 103, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on July 15, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 82–19577 Filed 7–21–82; 8:45 am]

BILLING CODE 4910–59–M

Notices

Federal Register
Vol. 47, No. 141
Thursday, July 22, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

CIVIL RIGHTS COMMISSION

New York Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a press conference to be conducted by the New York Advisory Committee will convene at 9:00a and will end at 1:00p, on August 13, 1982, at the Eastern Regional Office, Jacob K. Javits Building, 26 Federal Plaza, Room 1639, New York, New York, 10278. At this press conference the Committee will release a statement on equal employment opportunity in New York City.

Persons desiring additional information should contact the Chairperson, Robert J. Mangum, 420 East Twenty-Third Street, New York, New York, 10010, (212) 420–3935 or the Eastern Regional Office, Jacob K. Javits Building, 26 Federal Plaza, Room 1639, New York, New York, 10278, (212) 264–0400.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 19, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-19802 Filed 7-21-82; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-122-047]

Elemental Sulphur From Canada: Final Results of Administrative Review and Partial Revocation of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review and Partial Revocation of Antidumping Finding.

SUMMARY: On April 27, 1982 the Department of Commerce published the preliminary results of its administrative review and intent to partially revoke the antidumping finding on elemental sulphur from Canada (47 FR 18016). The review covered 3 of the 40 known exporters of this merchandise to the United States currently covered by the finding and the period December 1, 1980 through September 15, 1981. All sales by Home Oil Company, Ltd., Sulconam, Inc., and Irving Oil, Ltd. were made at not less than fair value during the above period. Interested parties were provided an opportunity to submit written comments or request disclosure and/or a hearing. We received no comments.

EFFECTIVE DATE: July 22, 1982.

FOR FURTHER INFORMATION CONTACT: Jonathan Seiger or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–5255).

SUPPLEMENTARY INFORMATION:

Background

On December 17, 1973, a dumping finding with respect to elemental sulphur from Canada was published in the **Federal Register** as Treasury Decision 74–1 (38 FR 34655). On September 15, 1981, the Department of Commerce ("the Department") published in the **Federal Register** the preliminary results of its first administrative review and tentative determination to partially revoke the finding (46 FR 45789). The tentative determination applied to Home Oil Company, Ltd., Sulconam, Inc., and Irving Oil, Ltd. On April 5, 1982, the Department published the final results of that administrative review (47 FR 14507). On April 27, 1982, the Department published the preliminary results of its second administrative review regarding the three firms covered by the tentative determination of September 15, 1981 and intent to revoke with regard to those 3 firms (47 FR 18016).

The Department has now completed its administrative review of the finding with respect to the three firms.

Scope of the Review

Imports covered by the review are shipments of elemental sulphur, currently classifiable under item 415.4500 of the Tariff Schedules of the United States Annotated (TSUSA). The Department knows of a total of 40 exporters of elemental sulphur from Canada to the United States currently covered by the finding, three of which are covered by this notice. The three firms are Home Oil Company, Ltd., Sulconam, Inc., and Irving Oil, Ltd. This review covers the period December 1, 1980 through September 15, 1981, the date of the Department's tentative determination to revoke the finding with respect to the three firms.

Final Results of Review

Interested parties were invited to comment on the preliminary results and intent to revoke. The Department received no comments or requests for disclosure or a hearing. Therefore, the final results of our review are the same as those presented in the preliminary results of review. However, the Department is postponing action on Home Oil's application for revocation. Home Oil is a shareholder member in Cansulex. an organization from which the Department has been unsuccessful in obtaining information concerning third-country sales. That information is necessary in order for the Department to review entries made by Mobil Oil Canada and Union Oil Company of Canada. It is the Department's policy not to exclude any Cansulex member company from the finding until Cansulex complies with our long-standing requests for information.

Determination

As a result of this review, the Department revokes the antidumping finding on elemental sulphur from Canada with respect to Sulconam, Inc., and Irving Oil, Ltd. This partial revocation applies to all unliquidated entries of this merchandise by Irving and Sulconam entered, or withdrawn from warehouse, for consumption on or after September 15, 1981. Since all sales by all three companies between December 1, 1980 and September 15, 1981 were made at not less than fair value, the Department shall instruct the Customs Service to liquidate all entries in that period without regard to dumping

duties. The Department will issue assessment instructions directly to the Customs Service.

Since the calculated rate for Home Oil for the period is zero, the Department shall not require a deposit of estimated antidumping duties, as provided for by section 353.48(b) of the Commerce Regulations, on any shipments of sulphur from Home Oil entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

This administrative review, partial revocation, and notice are in accordance with sections 751(a)(1) and (c) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1), (c)) and sections 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

July 16, 1982.

[FR Doc. 82-19944 Filed 7-21-82; 8:45 am]

BILLING CODE 3510-25-M

Litharge, Red Lead and Lead Stabilizers from Mexico; Initiation of Countervailing Duty Investigations

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of countervailing duty investigations.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating countervailing duty investigations to determine whether manufacturers, producers, or exporters in Mexico of litharge, red lead and lead stabilizers receive benefits which constitute bounties or grants within the meaning of the countervailing duty law. If the investigations proceed normally, we will announce our preliminary determinations on or before September 15, 1982.

EFFECTIVE DATE: July 22, 1981.

FOR FURTHER INFORMATION CONTACT: Mary A. Martin, Import Administration Specilist, Office of Investigations, International Trade Administration, Department of Commerce, Washington, D.C. 20230, (202) 377-1279.

SUPPLEMENTARY INFORMATION:

Petition

On June 22, 1982, we received a petition from counsel for the Committee for Litharge, Red Lead and Lead Stabilizers, on behalf of the U.S. industry producing litharge, red lead and lead stabilizers. In compliance with the filing requirements of the Commerce Regulations (19 CFR 355.26), the petition alleges that producers, manufacturers, or exporters in Mexico receive bounties or grants from the government of Mexico. Section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) ("the Act"), applies to these investigations.

Since Mexico is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and certain of the merchandise at issue here (litharge and red lead) is dutiable, the domestic industries are not required to allege that, and the U.S. International Trade Commission ("ITC") is not required to determine whether imports of these products cause or threaten material injury to the U.S. industries in question. Similarly, with respect to the merchandise which is nondutiable (lead stabilizers including lead compounds not specifically provided for ("NSPF") and pigments containing lead NSPF), no injury determination is required by the ITC because there are no "international obligations" within the meaning of section 303(a)(2) of the Act which require such a determination for nondutiable merchandise from Mexico.

Initiation of Investigations

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation, and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on litharge, red lead and lead stabilizers from Mexico, and we have found that it meets these requirements.

Therefore, we are initiating countervailing duty investigations to determine whether manufacturers, producers, or exporters in Mexico of litharge, red lead and lead stabilizers as described in the "Scope of the Investigation" section of this notice, receive benefits that constitute bounties or grants. If our investigations proceed normally, we will make our preliminary determinations by September 15, 1982.

Scope of the Investigations

The merchandise covered by these investigations consists of litharge, red lead and lead stabilizers which includes lead compounds NSPF and pigments containing lead NSPF from Mexico. The imported merchandise is currently classifiable in Tariff Schedules of the United States ("TSUS") under the following numbers: litharge under TSUS number 473.52, red lead under TSUS number 473.56, lead stabilizers including lead compounds NSPF under TSUS number 419.04, and pigments containing lead NSPF under TSUS number 473.90.

Litharge is a lead oxide which is manufactured through the simple process of oxidizing refined lead. It is used primarily in lead storage batteries. The merchandise under investigation is also used in the manufacture of special glass such as television and optical glass, ceramics, plastics as a stabilizer, chemicals, protective coatings, sonar devices, and other special applications.

Allegations of Bounties or Grants

The petition alleges that producers and exporters of litharge, red lead and lead stabilizers receive the following benefits that constitute bounties or grants: tax certificates under the Certificado de Devolucion de Impuesto ("CEDI") program on exports; tax certificates under the Certificates of Fiscal Promotion ("CEPROFI") program for "priority" industrial activities; and preferential financing under the Fund for the Promotion of Exports of Mexican Manufactured Products ("FOMEX").

Dated: July 12, 1982.

Judith Hippler Bello,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-19945 Filed 7-21-82; 8:45 am]

BILLING CODE 7020-02-M

Withdrawal of Application for Duty-Free Entry of Scientific Article

The Medical College of Wisconsin has withdrawn Docket Number 82-00212, an application for duty-free entry of an electron microscope. Accordingly, further administrative proceedings will not be taken by the Department of Commerce with respect to this application.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-19966 Filed 7-21-82; 8:45 am]

BILLING CODE 3510-25-M

National Technical Information Service

Grant of Limited Exclusive Patent License

Notice is hereby given that the National Technical Information Service (NTIS), U.S. Department of Commerce, granted to Bio-Systems Research, Incorporated a limited exclusive right in the United States for the manufacture, use and sale of the process and products embodied in U.S. Patent 4,293,567 (dated October 10, 1981) "Anti-Feedant for Boll Weevils."

The limited exclusive license granted by NTIS is a royalty-bearing license for a term of ten years from the effective date of the license agreement. The license may be revoked in accordance with 41 CFR 101–4.104.5.

Dated: July 14, 1982.

George Kudravetz,

Program Manager, Office of Government Inventions and Patents.

[FR Doc. 82-19780 Filed 7-21-82; 8:45 am]

BILLING CODE 3430-34-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

July 13, 1982.

The USAF Scientific Advisory Board TAC Cross-Matrix Panel will meet at Langley AFB, Virginia, September 1 and 2, 1982. The purpose of the meeting will be to update the TAC staff on preliminary findings of the Scientific Advisory Board Summer Study on Electronics and to review Joint Tactical Air Force and Army concepts and doctrine. The meeting will convene at 8:30 a.m. and adjourn at 5:30 p.m. on the 1st and will convene at 8:30 a.m. and adjourn at 1:00 p.m. on the 2nd.

The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–4648.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82-19794 Filed 7-21-82; 8:45 am]

BILLING CODE 3901-01-M

Corps of Engineers; Department of the Army

Intent; To Prepare a Draft Environmental Impact Statement (DEIS) for Proposed Deep-Draft Navigation Improvements for Oakland Inner Harbor Channel, Alameda County, California.

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent To Prepare a DEIS.

SUMMARY:

1. The proposed action consists of:

a. Deepening navigation channels between the entrance to Oakland Inner Harbor via the Bar Channel and the Clay Street Piers at project mile 4.3 in the Inner Harbor from −35 feet, MLLW to −43 feet, MLLW.

b. Widening the north side of the Inner Harbor entrance reach and the bend at project mile 3.0.

c. Disposal of about 6.8 million cubic yards of sediments at the designated, open water Alcatraz disposal site by barge.

2. Four plans were considered initially:

a. No-action.

b. The proposed plan-optimum plan of improvement.

c. Deepen and widen the 4-mile channel reach plus widening as in the proposed plan. The dredging would be accomplished with hydraulic dredge with disposal by pipeline to a bay fill at the outer harbor.

d. Deepen and widen a 6-mile channel reach from the entrance to the Fortman turning basin. Disposal by barge at the designated Alcatraz disposal site.

The last two plans were eliminated from further detailed study for environmental and economic reasons.

3. Scoping Process:

a. The public involvement program began in November 1979 with a notice of study initiation. The initial public meeting was held in February 1980. This public meeting identified several concerns including need to improve channels for deep-draft navigation, impacts upon transportation, wetland protection, air and water quality, cultural resources and the Bay's natural resources.

b. Significant issues to be analyzed in the DEIS include: (1) water quality, (2) benthos, (3) energy, (4) hydrography, (5) commercial shipping, (6) navigation safety, and (7) endangered species.

4. Scoping meeting: A second public meeting was held on 14 July 1982 to review alternatives and respond to questions from local citizens and concerned agencies and groups.

5. The DEIS is expected to be available to the public by October 1982.

Dated: July 13, 1982.

Thomas J. Edgerton,

Major, CE, District Engineer.

[FR Doc. 82-19787 Filed 7-21-82; 8:45 am]

BILLING CODE 3710-FS-M

Office of the Secretary

Advisory Committee Charter; Overseas Dependents Schools National Advisory Panel on the Education of Handicapped Dependents

Notice is hereby given that the Office of the Secretary of Defense has established the following charter for the Overseas Dependents Schools National Advisory Panel on the Education of Handicapped Dependents:

1. Authority: a. Defense Dependents' Education Act of 1978, section 1409, Pub. L. 95–561, 20 U.S.C. 927.

b. Education for All Handicapped Children Act of 1975, section 5(a), Pub. L. 94–142, 20 U.S.C. 1413(a)(12).

c. Federal Advisory Committee Act, as amended, Pub. L. 92–463 and Pub. L. 94–409, 5 U.S.C. Appendix I.

2. Official Designation: Overseas Dependents Schools National Advisory Panel on the Education of Handicapped Dependents (the Panel).

3. Objectives and Scope: The Panel, among other duties, (a) advises the Director, DoDDS of unmet needs within the system for the education of handicapped children, (b) comments publicly on an Office of Dependents Schools (ODS) rules or standards regarding the education of handicapped children, and (c) assists ODS in matters that have been identified as areas of concern by the Director, DoDDS.

4. Time Required to Carry Out the Purpose of the Panel: In accordance with 32 CFR Part 57 DoD Instruction 1342.12), the Panel shall continue in existence for the effective period of the Instruction.

5. Official to Whom the Panel Reports: The Panel reports to the Director, DoDDS.

6. Agency Responsible for Providing Support Services: The Department of Defense provides support services to the Panel.

7. Structure: The Panel shall consist of members appointed by the Secretary of Defense, or designee. Membership shall include at least one representative from each of the following groups:

(1) Handicapped persons.

(2) DoDDS special education teachers.

(3) DoDDS regular education teachers.

(4) Parents of handicapped children.

(5) DoDDS headquarters.

(6) DoDDS regional offices.

(7) DoDDS special educational program administrators.

(8) Military Departments and overseas commands, including providers of related services.

(9) Other appropriate persons.

8. Functions and Procedures of the Panel: The Panel shall:

(1) Review information regarding improvements in services provided to handicapped students in DoDDS.

(2) Receive and consider the views of various parent, student, and professional groups, and handicapped individuals.

(3) When necessary, establish committees for short-term purposes composed of representatives from

parent, student, and professional groups and handicapped individuals.

(4) Review the findings of fact and decision of each impartial due process hearing conducted pursuant to 32 CFR Part 57 (DoD Instruction 1342.12).

(5) Assist in developing and reporting such information and evaluations as may aid DoDDS in the performance of its duties under 32 CFR Part 57 (DoD Instruction 1342.12).

(6) Make recommendations, based on program and operational information, for changes in the budget, organization, and general management of the special education program, and in policy and procedure.

(7) Comment publicly on rules or standards regarding the education of handicapped children.

(8) Submit an annual report of its activities and suggestions to the Director, DoDDS by July 31 of each year.

(9) Perform such other tasks as may by requested by the Director.

9. Length of Term: The term of the office of each member of the Panel appointed shall be 2 years, provided that one-half of the members first appointed under this Charter shall have a term of 1 year. Any member appointed to fill a vacancy occurring before the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term.

10. Estimated Annual Operating Cost: The estimated annual operating cost for the Panel is $12,000, which includes travel and per diem for members, but excludes staff support.

11. Number and Frequency of Meetings: The Panel shall meet as often as necessary.

FOR FURTHER INFORMATION CONTACT:

Dr. Diane L. Goltz, Chief, Special Education Section, DoD Dependents Schools, 2461 Eisenhower Avenue, Alexandria, VA 22331, telephone 202–325–7810.

Dated: July 8, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

July 8, 1982

[FR Doc. 82–18870 Filed 7–21–82; 8:45 am]

BILLING CODE 3810–01–M

Defense Advisory Committee on Women in the Services (Dacowits); Meeting

Pursuant to Pub. L. 92–463, notice is hereby given that a meeting of the Executive Committee of the Defense Advisory Committee on Women in the Services (DACOWITS) is scheduled to be held from 1:30 p.m. to 5:00 p.m., 17 August 1982 in MRA&L Conference Room #3E794, The Pentagon, and from 9:30 a.m. to approximately 12:00 noon, 18 August 1982 in MRA&L Conference Room #3E794, The Pentagon. Meeting sessions will be open to the public.

The purpose of the meeting is to review the responses to the recommendations/requests for information/continuing concerns made at the 1982 Spring Meeting, discuss current issues relevant to women in the Services, and plan the itinerary/program for the next Semiannual Meeting scheduled for 7–11 November 1982 in Fayetteville, North Carolina.

Persons desiring to make oral presentations or submit written statements for consideration at the Executive Committee Meeting must contact Captain Mary J. Mayer, Executive Secretary, DACOWITS, OASD (Manpower, Reserve Affairs, and Logistics), Room 3D769, The Pentagon, Washington, D.C. 20301, telephone (202) 697–2122 no later than 10 August 1982.

M.S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

July 16, 1982.

[FR Doc. 82–19813 Filed 7–21–82; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF ENERGY

Energy Information Administration

Publication of Alternative Fuel Price Ceilings and Incremental Price Threshold for High Cost Natural Gas

The Natural Gas Policy Act of 1978 (NGPA) (Pub. L. 95–621) signed into law on November 9, 1978, mandated a new framework for the regulation of most facets of the natural gas industry. In general, under Title II of the NGPA, interstate natural gas pipeline companies are required to pass through certain portions of their acquisition costs for natural gas to industrial users in the form of a surcharge. The statute requires that the ultimate cost of gas to the industrial facility should not exceed the cost of the fuel oil which the facility could use as an alternative.

Pursuant to Title II of the NGPA, section 204 (e), the Energy Information Administration (EIA) herewith publishes for the Federal Energy Regulatory Commission (FERC) computed natural gas ceiling prices and the high cost gas incremental pricing threshold which are to be effective August 1, 1982. These prices are based on the prices of alternative fuels.

For further information contact: Leroy Brown, Jr., Energy Information Administration, Federal Building, Room 4121, Washington, D.C. 20461, Telephone: (202) 633–9710.

Section I

As required by FERC Order No. 50, computed prices are shown for the 48 contiguous States. The District of Columbia's ceiling is included with the ceiling for the State of Maryland. FERC, by an Interim Rule issued on March 2, 1981, in Docket No. RM79–21, revised the methodology for calculating the monthly alternative fuel price ceilings for State regions. Under the revised methodology, the applicable alternative fuel price ceiling published for each of the contiguous States shall be the lower of the alternative fuel price ceiling for the State or the alternative fuel price ceiling for the multistate region in which the State is located.

The price ceiling is expressed in dollars per million British Thermal Units (BTU's). The method used to determine the price ceilings is described in Section III.

State	Dollars per million BTU's
Alabama	3.97
Arizona [1]	3.88
Arkansas [1]	3.75
California	3.77
Colorado [2]	3.85
Connecticut [1]	3.82
Delaware [1]	3.91
Florida	3.96
Georgia	4.03
Idaho [2]	3.85
Illinois [1]	3.78
Indiana [1]	3.78
Iowa [1]	4.01
Kansas [1]	4.01
Kentucky [1]	3.78
Louisiana [1]	3.75
Maine	3.76
Maryland [1]	3.95
Massachusetts [1]	3.87
Michigan	3.75
Minnesota	3.86
Mississippi	4.01
Missouri [1]	4.01
Montana [2]	3.85
Nebraska [2]	4.01
Nevada [1]	3.85
New Hampshire [1]	3.82
New Jersey	3.74
New Mexico	3.20
New York [1]	3.95
North Carolina [1]	4.04
North Dakota [1]	4.01
Ohio	3.59
Oklahoma	3.67
Oregon [1]	3.85
Pennsylvania [1]	3.95
Rhode Island [1]	3.82
South Carolina [1]	4.04
South Dakota [1]	4.01
Tennessee [1]	3.84
Texas	3.57
Utah [2]	3.85
Vermont [1]	3.82
Virginia [1]	4.04
Washington [1]	3.85
West Virginia	3.70
Wisconsin [1]	3.78
Wyoming [2]	3.85

[1] Region based price as required by FERC Interim Rule, issued on March 2, 1981, in Docket No. RM79–21.

[2] Region based price computed as the weighted average price of Regions E, F, and H.

Section II. Incremental Pricing Threshold for High Cost Natural Gas

The EIA has determined that the volume-weighted average price for No. 2 distillate fule oil landed in the greater New York City Metropolitan area during May 1982 was $38.70 per barrel. In order to establish the incremental pricing threshold for high cost natural gas, as identified in the NGPA, Title II, Section 203(a)(7), this price was multiplied by 1.3 and converted to its equivalent in millions of Btu's by dividing by 5.8. Therefore, the incremental pricing threshold for high cost natural gas, effective August 1, 1982, is $8.67 per million BTU's.

Section III. Method Used To Compute Price Ceilings

The FERC, by Order No. 50, issued on September 29, 1979, in Docket No. RM79-21, established the basis for determining the price ceilings required by the NGPA. FERC also, by Order No. 167, issued in docket No. RM81-27 on July 24, 1981, made permanent the rule that established that only the price paid for No. 6 high sulfur content residual fuel oil would be used to determine the price ceilings. In addition, the FERC, by Order No. 181, issued on October 6, 1981, in docket No. RM81-28, established that price ceilings should be published for only the 48 contiguous States on a permanent basis.

A. Data Collected

The following data were required from all companies identified by the EIA as sellers of No. 6 high sulfur content (greater than 1 percent sulfur content by weight) residual fuel oil: for each selling price, the number of gallons sold to large industrial users in the months of March 1982, April 1982, and May 1982.[1] All reports of volume sold and price were identified by the State into which the oil was sold.

B. Method Used to Determine Alternative Price Ceilings

(1) *Calculation of Volume-Weighted Average Price.* The prices which will become effective August 1, 1982, (shown in Section I) are based on the reported price of No. 6 high sulfur content residual fuel oil, for each of the 48 contiguous States, for each of the 3 months, March 1982, April 1982, May 1982. Reported prices for sales in March 1982 were adjusted by the percent change in the nationwide volume-weighted average price from March 1982 to May 1982. Prices for April 1982 were similarly adjusted by the percent change in the nationwide volume-weighted average price from April 1982 to May 1982. The volume-weighted 3-month average of the adjusted March 1982 and April 1982, and the reported May 1982 prices were then computed for each State.

(2) *Adjustment for Price Variation.* States were grouped into the regions idenfified by the FERC (see Section III.C.). Using the adjusted prices and associated volumes reported in a region during the 3-month period, the volume-weighted standard deviation of prices was calculated for each region. The volume-weighted 3-month average price (as calculated in Section III.B.(1) above) for each State was adjusted downward by two times this standard deviation for the region to form the adjusted weighted average price for the State.

(3) *Calculation of Ceiling Price.* The lowest selling price within the State was determined for each month of the 3-month period (after adjusting up or down by the percent change in oil prices at the national level as discussed in Section III.B(1) above). The products of the adjusted low price for each month times the State's total reported sales volume for each month were summed over the 3-month period for each State and divided by the State's total sales volume during the 3 months to determine the State's average low price. The adjusted weighted average price (as calculated in Section III.B.(2)) was compared to this average low price, and the higher of the values was selected as the base for determining the alternative fuel price ceiling for each State. For those States which had no reported sales druing one or more months of the 3-month period, the appropriate regional volume-weighted alternative fuel price was computed and used in combination with the available State data to calculate the State's alternative fuel price ceiling base. The State's alternative fuel price ceiling base was compared to the alternative fuel price ceiling base for the multistate region in which the State is located and the lower of these two prices was selected as the final alternative fuel price ceiling base for the State. The appropriate lag adjustment factor (as discussed in Section III.B.4) was then applied to the alternative fuel price ceiling base. The alternative fuel price (expressed in dollars per gallon) was multiplied by 42 and divided by 6.3 to estimate the alternative fuel price ceiling for the State (expressed in dollars per million Btu's).

There were no reported sales in Region G for the months of March, April, and May 1982. The alternative fuel price ceilings for the States in Region G were determined by calcuating the volume-weighted average price ceilings for Region E, Region F, and Region H.

(4) *Lag Adjustment.* the EIA has implemented a procedure to partially compensate for the two-month lag between the end of the month for which data are collected and the beginning of the month for whch ceiling prices become effective. It was determined that *Platt's Oilgram Price Report* publication are given for each trading day in the form of high and low prices for No. 6 residual oil in 21 cities throughout the United States. The low posted prices for No. 6 residual oil in these cities were used to calculate a national and a regional lag adjustment factor. The national lag adjustment factor was obtained by calculating a weighted average price for No. 6 sulfur residual fuel oil for the ten trading days ending July 14, 1982, and dividing that price by the corresponding weighted average price computed from prices published by Platt's for the month of May 1982. A regional lag adjustment factor was similarly calculated for four regions. These are: one for FERC Regions A and B combined; one for FERC Region C; one for FERC Regions D, E, and G Combined; and one for FERC Regions F and H combined. The lower of the national or regional lag factor was then applied to the alternative fuel price ceiling for each State in a given region as calculated in Section III.B.(3).

Listing of States by Region

States were grouped by the FERC to form eight distinct regions as follows:

Region A

Connecticut
Maine
Massachusetts
New Hampshire
Rhode Island
Vermont

Region B

Delaware
Maryland
New Jersey
New York
Pennsylvania

Region C

Alabama
Florida
Georgia
Mississippi
North Carolina
South Carolina
Tennessee
Virginia

Region F

Illinois
Indiana
Kentucky
Michigan
Ohio
West Virginia
Wisconsin

Region E

Iowa
Kansas
Missouri
Minnesota
Nebraska
North Dakota
South Dakota

[1] Large Industrial User—A person/firm which purchases No. 6 fule oil in quantities of 4,000 gallons or greater for consumption in a business, including the space heating of the business premises. Electric utilities, governmental bodies (Federal, State, or Local), and the military are excluded.

Region F

Arkansas	Oklahoma
Louisiana	Texas
New Mexico	

Region G

Colorado	Utah
Idaho	Wyoming
Montana	

Region H

Arizona	Oregon
California	Washington
Nevada	

Issued in Washington, D.C., July 19, 1982.

J. Erich Evered,

Administrator, Energy Information Administration.

[FR Doc. 82-19901 Filed 7-20-82; 12:15 p.m.]

BILLING CODE 6450-01-M

Presurvey Consultation Program

AGENCY: Energy Information Administration, DOE.

ACTION: Request for Presurvey Consultation Comments on Proposed DOE Annual Report of Natural and Supplemental Gas Supply and Disposition, Form EIA-176.

SUMMARY: As part of its continuing effort to reduce paperwork burden, the Department of Energy (DOE), through its Energy Information Administration (EIA), conducts a presurvey consultation program which provides for public comment in the early development stages of new or revised reporting forms. This program is designed to ensure that requested data can be provided in the desired format, the cost of reporting is minimized, reporting forms are designed to be clearly understood, and reporting burden estimates accurately reflect the impact of the collection requirements on respondents.

Previously, these presurvey consultations were conducted primarily by mail or telephone with a sample of potential respondents and with various industry associations, public interest groups, and other government agencies. In order to extend the opportunity for commenting to a larger audience, EIA is now publishing proposed forms and instructions in the **Federal Register.** However, when EIA needs comments quickly, or where the target population is relatively narrow, it may conduct these presurvey consultations by mail, telephone, and/or personal visit.

At this time, EIA is requesting comments on the "Annual Report of Natural and Supplemental Gas Supply and Disposition" form. The proposed form is reproduced following this Notice. Interested persons are asked to review the form and instructions and provide comments in the format prescribed below.

DATE: Comments by August 23, 1982.

FOR FURTHER INFORMATION CONTACT: James W. McCarrick, Jr., Natural Gas Division, Office of Oil and Gas, Energy Information Administration, Room BE-012, 1000 Independence Avenue, S.W, Washington, D.C. 20585, (202) 252-6198.

SUPPLEMENTARY INFORMATION:

I. Background
II. Comment Procedures

I. Background

In accordance with provisions of the Department of Energy Organization Act (Public Law 95-91), the Energy Information Administration is responsible for carrying out a comprehensive, centralized energy data program including the collection and dissemination of economic and statistical information. In keeping with these mandated responsibilities and in an effort to minimize respondent reporting burden, the EIA has developed Form EIA-176, "Annual Report of Natural and Supplemental Gas Supply and Disposition" to replace the original Form EIA-176, "Supply and Disposition of Natural Gas."

EIA believes the revised Form EIA-176 will provide the basic data needed, when supplemented by data collected on Forms EIA-627, "Annual Quantity and Value of Natural Gas Report," EIA-64, "Natural Gas Liquids Operation Report," EIA-64A, "Annual Report of the Origin of Natural Gas Liquids Production," EIA-759 "Monthly Power Plant Report," and FPC-423, "Monthly Report of Cost and Quality of Fuels for Electric Plants," for an integrated natural gas supply, price, interstate movement, storage, and disposition data system.

The proposed "Annual Report of Natural and Supplemental Gas Supply and Disposition" form was designed by EIA to continue, with certain modifications, the annual supply and disposition of natural gas survey initially conducted by the Department of Interior, Bureau of Mines (BOM) beginning with 1910. With the creation of the Department of Energy, the EIA assumed responsibility for conducting the survey. The Forms 6-1340-A and 6-1341-A developed by the BOM were consolidated and superseded by the original Form EIA-176, "Supply and Disposition of Nautral Gas."

The original EIA-176 form was essentially the same as the BOM forms in both format and content except for the addition of certain data elements. During the 1980 and 1981 report cycles, a substantial portion of the total burden upon respondents and EIA resources was a direct result of respondents misunderstanding the specific data to be reported and/or the manner in which specific data elements were to be reported. The proposed revised Form EIA-176 was developed to more clearly and precisely describe and define the data to be reported in order to increase the reliability and usefulness of the information collected while reducing the additional burden upon respondents of compiling and submitting revised reports due to misunderstanding the reporting instructions.

In addition to the changes in format and expanded instruction for clarification purposes, the revised Form EIA-176 would collect certain classification, operation, and cost information to enhance the value of the data formerly collected and eliminate the collection of certain data with limited usefulness.

II. Comment Procedures

The proposed Form EIA-176 is reproduced following this notice. EIA invites the public to provide comments on the form within 30 days of publication of this notice and provides the following general guidelines to assist in the preparation of responses.

As a potential data provider:

1. Are the instructions and definitions clear and sufficient?

2. Can the data be submitted using definitions included in the instructions?

3. Can the data be submitted in accordance with the response time specified in the instructions?

4. How many hours, including time for research, computation, preparation, and administrative review, will it take your firm to complete and submit the form for the first year of reporting—including time to design and implement ADP processing programs?

5. How many hours will it take your firm for subsequent years of reporting?

6. Estimate the annual cost of completing the forms, including direct and indirect costs associated with the data collection for the first year and for subsequent years of reporting. Direct costs should include all one-time and recurring costs, such as development, assembly, equipment, ADP, and other administrative costs.

7. How can the form be improved?

As a potential data user:

a. Do you need data at the levels of detail indicated on the forms; that is, do the products, frequency, market categories, and geography reflect your needs?

b. For what purposes would you use these data? (Be specific.)

c. What are the "costs" involved in not having these data available?

d. How could the form be improved to better meet your specific data needs?

e. Are there alternative sources of data and do you now use them? What are their strong points? What are their deficiencies?

Comments provided on the forms will be included in EIA's submission to the Office of Management and Budget and will become a matter of public record.

Issued in Washington, D.C., July 15, 1982.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

Department of Energy, Energy Information Administration

Annual Report of Natural and Supplemental Gas Supply and Disposition EIA–176 (Rev. 1982)

Instructions

I. *Purpose.* Form EIA–176, "Annual Report of Natural and Supplemental Gas Supply and Disposition," was designed to collect data on natural, synthetic, and other supplemental gas supplies and disposition, and the associated costs and revenues, by State pursuant to Section 5(b)(9) of the Federal Energy Administration Act of 1974 (FEA Act), Public Law 93–275, requiring the collection, evaluation, and analysis of energy information on reserves, production, demand, and related economic data. This report is mandatory under the FEA Act. Late filing, failure to file, failure to keep records or failure otherwise to comply with those instructions, may result in criminal fines, civil penalties, and other sanctions as provided by law.

The data obtained from this survey are compiled and combined with data obtained from State and Federal agencies, gas processing plant operators, and business firms participating in other Energy Information Administration surveys to develop annual gas supply/disposition balances by State and associated average cost and price information. The compiled and combined data are published in the Energy Information Administration "Natural Gas Annual." The data base generated is used as input to the State Energy Data System which reports quantity and value of consumption by product, by economic sector, and by State.

The information collected in this survey will also be used by the Department of Energy as baseline information for State and Regional studies and forecasts of natural gas supply, demand, and prices.

II. *Who must Submit.* Report must be completed by:

(1) Interstate natural gas pipeline companies.

(2) Intrastate natural gas pipeline companies.

(3) Publicly and privately owned natural gas distributors.

(4) Underground natural gas storage operators.

(5) Synthetic natural gas plant operators.

(6) Field, well, or processing plant operators that deliver natural gas directly to consumers (including their own industrial facilities) other than for lease or plant use.

(7) Field, well, or processing plant operators that transport gas to, across, or from a State border through field or gathering facilities.

III. *When to Submit.* Completed Form EIA–176, "Annual Report of Natural and Supplemental Gas Supply and Disposition," reports are to be filed with the EIA on or before the first day of March following the close of the calendar report year. Requests for extension of the filing deadline of up to 30 days may be granted, upon good cause shown, provided that written requests are received at the address below no later than five working days before the due date.

IV. *Where to Submit.* Mail complete form(s) to: Energy Information Administration, EI–441; Mail Station BF–118 FORSTL, U.S. Department of Energy, Washington, D.C. 20585, Attn.: Form EIA–176.

Reports may be hand delivered to: Room BF–118, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585.

V. *General Description of the Report.* The "Annual Report of Natural and Supplemental Gas Supply and Disposition," survey form is divided into six parts. Part I is for reporting responding company and report identification information. Part II is for certification of the information submitted or an explanation of the reason a report is not required. Part III is a checkoff list for describing the type of company responding and the nature of its operations within each report State. Part IV is for reporting the total supply of natural and supplemental gas from all sources within each report State. Part V is for reporting the total disposition of natural and supplemental gas within each report State. Part VI is a continuation sheet to be used, as needed, to report particulars of large purchases, receipts, sales, and/or deliveries or to report information where insufficient space was provided in Parts IV and V.

VI. *General Instructions.* A separate report must be completed for each State in which: (1) gas (natural and commingled natural and supplemental gas) was transported utilizing respondent operated facilities other than field or gathering lines, (2) gas was transported to, from, or across a State border utilizing respondent operated field or gathering lines, (3) gas was delivered directly to consumers utilizing respondent operated facilities other than field, well, or plant operators delivering solely for lease and plant use, (4) gas was stored in respondent operated underground storage reservoirs, and/or (5) synthetic natural gas was produced in respondent operated facilities.

A separate report must be filed by, or for, each company subsidiary or affiliate operating within a State.

A State, for the purpose of this report, includes adjacent offshore Federal Domain areas.

All information must be provided on a calendar year basis.

All reporting must be on the basis of physical possession in respondent operated facilities. Information concerning respondent owned production, purchases and usage are to be reported only when and where the gas physically enters or leaves the respondent's transportation, storage or distribution system, or synthetic natural gas plants.

Respondents operating separate and distinct systems within a State are to report on a combined basis.

Complete only those spaces applicable to your operations. Leave all other spaces blank.

All volumes are to be reported in thousand cubic feet (Mcf) at the pressure base of 14.73 pounds per square inch absolute at 60 degrees Fahrenheit.

All cost and revenue quantities are to be rounded to the nearest whole number of dollars.

No changes are to be made to the report form.

Definitions of the terms used in the instructions and on the form are provided in Appendix A.

VII. Specific Instructions. Part I: Identification—Check mailing label for accuracy.

1.0 Control No.: Enter six digit control (ID) number from upper left of mailing label.

2.0 Name: Enter company name as abbreviated on the mail label. If correction is necessary, abbreviate to limit length to 24 spaces.

3.0 Report for operations in: Enter name of State covered by the report (Report State). A separate report must

be submitted for each State for which your company is required to file.

4.0 Report is: Check appropriate "Original" or "Resubmittals" block and enter date (Month, Day, Year; e.g., enter April 3, 1983 as 040383) if report is a resubmission.

If a resumbmission, enter only those data elements to be added or corrected. Enter the word "delete" in the appropriate space if a data element previously reported is to be deleted.

5.0 Name and/or address change or correction: Enter correct information if mailing label is incorrect. Abbreviate, if necessary, to limit lines to 24 spaces.

6.0 Contact person: Enter name, title, and telephone number, including area code and extension, of the person to contact concerning the information shown on this report.

Part II: Certification. Check the appropriate box to certify the information reported or the reason a report is not required from your company in the State covered. For example, "My company is a producer that does not transport, store, or deliver gas to end-users within the State."

Note.—A report is not required as a transporter in any State in which all transportation was through field or processing plant gathering lines or systems, unless gas was delivered to, received at, or transported across a State line. Nor is a report required of field or well operators if all gas delivered to end-users within the State was for lease or processing plant fuel.

Complete and sign the certification block.

Part III: Company classification and gas activities operated within State.

1.0 Company classification: Check the box that best describes your company's overally gas operations. The classification should represent the reporting entities' operations. For example, a producer subsidiary of an interstate pipeline should be classified as a producer.

2.0 Gas operations within report state: Check appropriate box(es) best describing the gas activities operated by your company in the State. Do *not* check activities in which your company owns an interest but are operated by others.

Part IV: Total supply of natural and supplemental gas received within or transported into report State.

Report in this Part the total volumes and, where indicated, costs of natural and supplemental gas physically received or produced and taken into your company's transportation, storage, or distribution facilities located in the State. Volumes are to be reported based upon physical possession regardless of ownership.

Offsystem production, i.e., production sold to others directly from the wellhead, field, or tailgate of a plant is *not* to be reported. (Such production is to be reported as "Received from producers, gatherers, and/or processing plant operators" by the company physically receiving the gas.)

Field or well operators delivering gas directly to end-users are to report only that supply utilized to serve such users.

Supply sources (produced, purchased from producers, received from pipelines, distributors, and/or storage operators, etc.) are to be determined based upon the point at which the gas physically entered your company operated transportation, storage or distribution system, or facilities. For example, offsystem production or purchases transported to your system by others should be reported as "Exchange, transportation, and/or storage receipts" (Part IV, 3.2) in the State in which the gas finally enters your system.

Synthetic natural gas and other supplemental supplies are to be reported separately *only* when produced, received, or introduced into your system in an unmixed stream. (Commingled natural and supplemental gas are to be reported in Part IV, 3.1, 3.2, 4.0, 5.0, or 7.1 as appropriate.)

1.0 Produced onsystem. Report gross company owned production, after lease separation (including royalty and overriding royalty interest), and the booked cost of such production (including production, severance, or similar taxes) taken directly into your system at the wellhead, field, or tailgate of a processing plant within the report State whether produced from wells operated by your company or by others. Do *not* include offsystem production. (Offsystem sales to others are not to be reported. Offsystem production delivered to your system by others is to be reported in Part IV, 3.2).

2.0 Received from producers, gatherers, and/or processing plant operators. Report volumes of gas first received in your company's system within the report State from producers, gatherers, and/or processing plant operators at the wellhead, field, or plant tailgate.

2.1 Purchased gas received. Report total volume of gas purchased and received in your system within the report State and the cost of such purchases, including all production, severance, or similar taxes and any adjustments for treating, dehydration, heat content, gathering, compression, etc.

2.2 Received for the account of others. Report volume first received into your system from producers, gatherers, and/or processing plants within the report State, for the account of others, under exchange, storage, or transportation agreements. Include volumes transported to processing plants for the account of producers, i.e., the difference between the volume delivered to the plants and the residue redelivered where the gas was processed for the producer's account.

3.0 Received within report State from pipelines, distributors, and/or storage operators. Report the volume of gas, including commingled supplemental gas, physically received in your system within the State from interstate pipelines, intrastate pipelines, distributors, and/or storage operators. These volumes should represent receipts after transportation (other than gathering) and/or storage by others.

3.1 Purchased gas received. Report the total volume of gas purchased and received within the report State and the total cost of gas purchased from pipelines and/or distributors. If your company purchased 1,000,000 Mcf (one billion cubic feet) or more from any individual pipeline or distribution company or companies, report the name or names of the seller(s) and the volume(s) purchased on Part VI, Continuation Sheet. (See instructions for completing Part VI).

3.2 Exchange, transportation, and/or storage receipts. Report the total volume of gas received within the report State under exchange, transportation, and/or storage agreements. Include offsystem production and purchases transported to your system by others and company-owned gas received from storage facilities operated by others. If your company received 1,000,000 Mcf (one billion cubic feet) or more from any individual pipeline, distribution, or storage company or companies under such agreements, report the name of the delivering company(ies) and volume(s) received on Part VI, Continuation Sheet. (See instructions for completing Part VI.)

4.0 Transported into report State from: Report the volume of gas, including commingled supplemental gas, transported into the State through company operated gathering, distribution, or transmission facilities and the name of the bordering State or Country from which it was transported. If insufficient space is provided, continue on Part VI, Continuation Sheet.

5.0 Received at State line or U.S. border from: Report the name of the company from whom gas, including commingled supplemental gas, was received at the report State line or U.S. Border, the name of the bordering State or foreign Country from which received

and the volume received. If insufficient space is provided, continue on Part VI, Continuation Sheet.

6.0 Synthetic natural gas received. Report only those volumes of synthetic natural gas produced or received in unmixed streams. (Quantities received commingled with natural gas are to be reported in 3.1, 3.2, 4.0 or 5.0, as appropriate.)

6.1 Produced. Report the volumes of synthetic natural gas produced in plant(s) operated by your company within the State and the booked cost of such gas.

6.2 Purchased and received in unmixed streams. Report the volume of synthetic natural gas purchased and received in unmixed streams directly from a plant or from a synthetic natural gas pipeline within the report State and the cost of such gas.

6.3 Other unmixed receipts. Report the volume of synthetic natural gas received in unmixed streams for the account of others under exchange, transportation, and/or storage agreements.

7.0 Withdrawn from company operated storage facilities. Report the volume of gas withdrawn from underground or liquefied natural gas storage facilities operated by your company within the State. Report total gas withdrawn during the year, including gas owned by others. (Do *not* include gas owned by your company withdrawn from facilities operated by others. Such volumes are to be reported under Part IV, 3.2).

7.1 From underground storage. Report the total volume withdrawn from underground storage reservoirs operated by your company within the report State.

7.2 From liquefied natural gas storage. Report the total gas phase volume of liquefied natural gas withdrawn from peakshaving or base load facilities operated by your company within the report State. Include quantities withdrawn in the liquid phase for shipment by truck, rail, or barge.

8.0 Other sources of supply (specify). Report any other source or sources of natural or supplemental gas supply received or introduced into your system within the report State and the volume or volumes of each. Other sources would include, for example, withdrawals from gas holders, liquefied or compressed gas received by truck, rail or barge, and reduction in line pressure. Supplemental gas supplies would include, for example, propane-air injection, air injection for Btu stabilization, coke oven gas, and refinery gas.

9.0 Total supply within report State. Report the total supply of natural and supplemental gas received into your system within the report State.

Part V: Disposition of natural and supplemental gas delivered, used, removed, lost within, or transported out of report State.

Report in this Part the total volume of natural and supplemental gas used, delivered, stored in company operated facilities, or otherwise disposed of within the State or delivered to bordering States or foreign Countries. The type of disposition (used, delivered, stored, transported, etc.) is to be determined based upon the physical possession of the gas within your company operated onsystem production, transportation, storage, or distribution facilities at the point of disposition. Report booked cost of gas used or gross revenues received, including all taxes and/or surcharges imposed at the point of sale and all price adjustments, where indicated.

1.0 Used in lease operations. Report total volume and cost of gas used in your company's onsystem lease operations. (Volumes delivered to others for such use should be included in Part V, 9.3). The volume reported should be directly attributable to the operations resulting in the onsystem production reported in Part IV, 1.0.

2.0 Returned to oil or gas reservoirs. Report the volume of gas delivered directly from your system to oil or gas fields located within the report State for repressuring, pressure maintenance, and/or cycling operations.

3.0 Used, removed, or lost in processing or treating plants. Report volumes used, removed, vented, flared, or lost in processing or treating plants from which gas was received directly into your system within the State.

3.1 Company operated plants.

3.1.1 Volume delivered to company operated plants. Report total volume of gas processed or treated in onsystem processing plants operated by your company within the report State. Note that this is not an element of disposition but is to be reported as a weighting factor for the elements below.

3.1.2 Consumed as fuel. Report volume of gas utilized as fuel in your company operated plants. If fuel use was not measured, provide your best estimate. Denote estimated volume by inserting an "E" immediately after the quantity entered.

3.1.3 Gas phase volume of extracted liquids. Report the estimated gas phase volume of liquids extracted in company operated plants in the report State. The following conversion factors should be used to estimate the gas phase volume by component or product. Estimate mixed streams on a proportional basis.

Ethane: 1.558 Mcf/Bbl
Propane: 1.499 Mcf/Bbl
Isobutane: 1.245 Mcf/Bbl
n-butane: 1.288 Mcf/Bbl
Isopentane: 1.095 Mcf/Bbl
Heavier Products: 0.940 Mcf/Bbl

3.1.4 Nonhydrocarbon gas removed. Report the volume of nonhydrocarbon gas, such as hydrogen sulfide, carbon dioxide, and nitrogen, removed in processing or treating plants operated by your company within the report State. Provide your best estimate, if not measured. Denote estimated volume by inserting an "E" immediately after the volume entered.

3.1.5 Vented, flared, and/or lost. Report the volume of gas vented, flared, and/or lost in processing or treating plants operated by your company within the State. Provide your best estimate, if not measured. Denote estimated volume by inserting an "E" immediately after the quantity entered.

3.1.6 Total used, removed, or lost in company operated plants. Report the total volume of gas used, removed, or lost, i.e., the difference between the quantity of raw gas delivered to company operated onsystem plants and the quantity of residue gas redelivered into your system from such plants.

3.2 Plants operated by others. Report total volume of gas delivered for processing or treating in plants operated by others and the total reduction in volume across the plant.

3.2.1 Volume delivered to plants operated by others. Report the total volume physically delivered from your system to processing or treating plants operated by others for processing or treating and redelivery within the report State.

3.2.2 Volume used, removed, and/or lost. Report the total volume of gas used, removed, and/or lost in plants operated by others to which gas was delivered from your system for treating or processing and redelivery to your system. The volume reported should represent the difference between the volume of raw gas delivered and residue gas redelivered. (Volumes sold to plant operators or delivered for redelivery of residue to others should be reported in Part V, 5.1, 5.2 or 9.3, as appropriate.)

4.0 Used as pipeline and/or distribution system compressor fuel. Report the volume and booked cost of gas consumed as compressor fuel in your company's pipeline, storage, and/or distribution facilities operated within the report State. (Gas used by your company for other purposes are to be included in Part V, 1.0, 2.0, 3.1.2, 9.2, 9.3, or 9.4, as appropriate.)

5.0 Delivered within report State for resale or redelivery.

5.1 Sales for resale delivered. Report the total volume of gas sold for resale with deliveries made from points on your system within the report State and gross revenue received. (Offsystem sales for resale should *not* be included.) Grass revenues reported should reflect all taxes, surcharges, and adjustments included in the delivered price. If your company sold and delivered 1,000,000 Mcf (one billion cubic feet) or more to any individual company or companies, report the name(s) and volume(s) delivered on Part VI, Continuation Sheet. (See instructions for completing Part VI.)

5.2 Exchange, transportation, and/or storage deliveries. Report the total volume of gas delivered from points on your system within the report State under exchange, transportation, and/or storage agreements. (Offsystem production or purchases first delivered to others for transportation to your system should *not* be included.) If your company delivered 1,000,000 Mcf (one billion cubic feet) or more to any individual company or companeis, report the name(s) and volume(s) delivered on Part VI, Continuation Sheet. (See instructions for completing Part VI.)

6.0 Transported out of report State to: Report the name(s) of the bordering State(s) or foreign Country(ies) to which your company transported gas through company operated facilities and the volume of gas transported across the State line or U.S. borders. Gas moved across the State line through gathering facilities are to be included. The volume(s) reported must agree with the volume(s) reported as received on your company's report for the bordering State(s). Export or intransit gas transported into or through foreigh Countries through your company's facilities are to be included. If insufficient space is provided, continue on Part VI.

7.0 Delivered at the State line or U.S. border to: Report the name(s) of the company(ies) to whom gas was delivered, the name(s) of the State(s) or Country(ies) to which delivered, and the volume(s) of gas delivered where deliveries were made at the State line or U.S. border. Deliveries for export and deliveries at the U.S. border for redelivery into the U.S. are to be reported. If insufficient space is provided, continue on Part VI.

8.0 Added to storage in company operated facilities. Report the total volume addedd to storage facilities operated by your company within the report State. (Volumes of company-owned gas added to storage in facilities operatd by others are to be reported in Part V, 5.2.)

8.1 Injected into underground storage. Report total volume injected into underground storage reservoirs. Include all volumes injected for others as well as company-owned gas. Volumes of supplemental gas, e.g., synthetic natural gas, are to be included whether injected in an unmixed or commingled stream.

8.2 Liquified natural gas added to storage. Report total gas phase volume of liquefied natural gas added to company operated storage facilities. Include LNG received in the liquid phase by truck, rail, barge, or tanker for storage.

9.0 Delivered directly to consumers. Report the average number of residential, commercial, industrial, and electric utility consumers served directly from your facilities during the year, the volumes delivered to such consumers, and the revenues received. Deliveries for consumption in your company operations other than for lease use (1.0), processing or treating plant fuel (3.1.2), or compressor fuel (4.0) are to be included. Also include deliveries directly to your company-owned industrial or electric utility facilities. (Do *not* include sales where final deliveries to consumers are made by others for the account of your company.)

The average number of consumers during the year, for the purpose of this report, is the sum of the number of consumers attached at the end of each month divided by twelve.

Each individually metered dwelling, building, plant, establishment, or location is to be counted as a separate consumer, for the purpose of this report, whether or not centrally billed and whether or not provided with more than one type of service, e.g., firm and interruptible service.

Multiple use or combination consumers such as apartment buildings with commercial establishments, retail stores with attached dwellings, or industrial plants with on-site office space or buildings, served from a common meter are to be classified based upon the predominate volumetric usage.

Revenues reported are to be gross revenues, including all local and State taxes, surcharges, and/or adjustments billed to consumers. Also include revenues attributable to gas delivered for the account of others. For gas used in your company operations or delivered to your own industrial or electric utility facilities include the booked cost.

9.1 Residential. Residential customers, for the purpose of this report, include single and multifamily dwellings and apartments using gas for heating, air-conditioning, cooking, water heating, and other residential uses.

9.2 Commercial. Commercial customers, for the purpose of this report, are nonmanufacturing establishments or agencies primarily engaged in the sale of goods or services. Included are establishments such as hotels, restaurants, wholesale and retail stores, and other service enterprises; establishments engaged in agriculture, forestry, and fisheries; and local, State, and Federal agencies engaged in nonmanufacturing activities. (Note: Local, State, and Federal agencies were formerly classified as "Other Consumers." The "Other Consumers" classification has been discontinued.) Gas used by your company from your system in office buildings, appliance sales outlets, etc., are to be included in this category.

9.3 Industrial. Industrial customers, for the purpose of this report, are establishments engaged in a process which creates or changes raw or unfinished materials into another form or product. Deliveries to company-owned industrial facilities, not reported elsewhere on this report, are to be included in this category. Generation of electricity, other than by electric utilities, is included.

9.4 Electric utility. Electric utilities, for the purpose of this report, are establishments primarily engaged in the generation, transmission, and/or distribution of electricity for sale or resale. (Firms generating electricity for use within their own industrial or commercial facilities are *not* to be classified as electric utilities). Electric utility operations by your company are to be included.

10.0 Average heat content of gas delivered to consumers. The average heat (Btu) content should be computed by summing the total Btu delivered each month (volume delivered multiplied by average Btu content per unit volume) and dividing by the total volume delivered during the year. The average Btu content for each month should be that used for billing purposes where billing was on a therm (100,000 Btu) or decatherm (1,000,000 Btu) basis. If billing was on a volumetric basis and your company did not measure the Btu content, contact your supplier for the information. If the Btu content was not measured at any point, enter a "U" for Unknown.

11.0 Other disposition (specify). Report any disposition of gas which is not described in the instructions for completing 1.0 through 9.4 of this Part.

This would include, but not be limited to, such disposition as: increase in line pressure, storage additions other than underground or LNG, e.g., in gas holders, gas liquefied or compressed for shipment by truck, rail or barge, and gas lost from ruptured line. Provide estimates of the volume involved, if not measured and denote such estimates by inserting an "E" immediately after the volume reported. If insufficient space is provided, continue on Part VI.

12.0 Total disposition accounted for with report State. Report the total volume of natural and supplemental gas disposition reported in 1.0 through 11.0 of this Part.

13.0 Supply (+) or disposition (−) unaccounted for. Enter the difference between "Total supply" (Part IV, 9.0) and "Total disposition accounted for" (Part V, 12.0). A positive entry indicates supply in excess of accounted for disposition and a negative entry (denoted by a minus sign preceding the entry) indicates accounted for disposition in excess of supply reported.

Part VI: Continuation sheet.

Use the Part VI, Continuation Sheet, if needed, to report individual purchases, receipts, sales, and/or deliveries of 1,000,000 Mcf (one billion cubic feet), or more included in the totals reported on:

Part IV: 3.1, Purchased gas received (Report seller's name and volume received).

Part IV: 3.2, Exchange, transportation, and/or storage receipts (Report delivering company's name and volume received).

Part V: 5.1, Sales for resale delivered (Report purchaser's name and volume delivered).

Part V: 5.2, Exchange, transportation, and/or storage deliveries (Report receiving company's name and volume delivered).

and/or to report additional companies, States, foreign Countries, supply sources, and/or other disposition, and the associated volumes, where insufficient space is provided on:

Part IV: 4.0, Transported into report State from:

Part IV: 5.0, Received at report State line or U.S. border from:

Part IV; 8.0, Other sources of supply (specify).

Part V: 6.0, Transported out of report State to:

Part V: 7.0, Delivered at the State line or U.S. border to:

Part V: 11.0, Other disposition (specify).

Enter reference Part and item Number (for example: IV–3.1), descriptive information specified for the item, and the associated volume. Use additional continuation sheets, as needed, and number sequentially (Sheet 1 of 3, Sheet 2 of 3, etc.) in the spaces provided.

VIII. *Provisions of Confidentiality.*

The information contained in this form may be information which is exempt (1) from disclosure to the public under the exemption for trade secrets and confidential commercial information specified in the Freedom of Information Act (5 USC 552(b)(4)) (FOIA), or (2) from public release by 18 USC 1905. However, before a determination can be made that particular information is within the coverage of either of these statutory provisions, the respondent must make a showing satisfactory to the Department concerning its confidential nature. Therefore, the respondent should state briefly and specifically (on an element by element basis if possible), in a letter accompanying the submission of the form, why he considers the information concerned to be a trade secret or other proprietary information, whether such information is customarily treated as confidential by this company and the industry, and the type of competitive harm that would result to the company from disclosure of the information. In accordance with the provisions of 10 CFR 1004.11 of DOE's FOIA regulations, DOE will determine whether any information submitted should be withheld from public disclosure.

If DOE receives a response and does not receive a request, with substantive justification, that the information submitted should not be released to the public, DOE will assume that the respondent does not object to disclosure to the public of any information submitted on the form.

A new writen justification need not be sumitted each time the EIA–176 is submitted if:

a. your views concerning information items identified as privileged or confidential have not changed; and

b. a written justification setting forth respondent's views in this regard was previously submitted.

In accordance with the cited statutes and other applicable authority, the information must be made available, upon request, to the Congress or any committee of Congress, and to the General Accounting Office.

Appendix A

Definitions

Booked Costs—Costs allocated or assigned to interdepartmental or intracompany transactions, such as onsystem or SNG production and company owned gas used in gas operations, and recorded in company books or records for accounting and/or regulatory purposes.

Btu—One British thermal unit, or Btu, is 1/180 of the heat required to raise the temperature of one pound of water from 32° to 212° F.

Citygate—A point or measuring station at which a distributing gas utility receives gas from a natural gas pipeline company or transmission system.

Company—Any individual, company, association, partnership, business trust, corporation, municipality, or unincorporated organization engaged in the production, gathering, treating, processing, transportation, storage, and/or distribution of natural gas or in the production of synthetic natural gas.

Except as indicated otherwise by the context, company, company operated, and company-owned refer to the responding entity.

Compressor Station—Any combination of facilities which supplies the energy to move gas in transmission or distribution lines or into storage by increasing the pressure.

Consumer—Any individually metered dwelling, building, establishment, or location utilizing natural gas, synthetic natural gas, and/or mixtures of natural and supplemental gas for feedstock or as fuel for any purpose other than in oil or gas lease operations; natural gas treating or processing plants; or pipeline, distribution, or storage compressors.

Cycling—The practice of producing natural gas for the extraction of natural gas liquids and returning the dry residue to the producing reservoir to maintain reservoir pressure and increase the ultimate recovery of natural gas liquids. The reinjected gas is produced for disposition after cycling operations are completed.

Decatherm—Ten therms or 1,000,000 Btu.

Delivered—The physical transfer of natural, synthetic, and/or supplemental gas from facilities operated by the responding company to facilities operated by others or to consumers.

Disposition—The removal of natural, synthetic, and/or supplemental gas, or any components or gaseous mixtures contained therein, from the responding company's facilities within the report State by any means or for any purpose including the transportation of such gas out of the report State.

Distributor—A company primarily engaged in the sale and delivery of natural and/or supplemental gas directly to consumers through a system of mains. Except for the purpose of Company Classification (III, 1.0), distributor includes both privately and

publicly (municipally) owned companies.

Exchange Agreement—A contractual arrangement whereby one company agrees to deliver gas either directly or through intermediates to another company at one location, or in one time period, in exchange for the delivery by the second company to the first company of an equivalent volume or heat content at a different location or time period. Such agreements may or may not include the payment of fees in dollar or volumetric amounts.

Gatherer—A company primarily engaged in the gathering of natural gas from well or field lines for delivery, for a fee, to a natural gas processing plant or central point. Gathering companies may also provide compression, dehydration, and/or treating services.

Heat Content—(Also Btu content or Gross heating value) The number of British thermal units (Btu) produced by the combustion, at constant pressure, of the amount of the gas which would occupy a volume of one (1) cubic foot at a temperature of 60° F, if saturated with water vapor and under a pressure of 14.73 psia and under standard gravitational force (980.665 cm sec^{-2}) with air of the same temparature and pressure as the gas, when the products of combustion are cooled to the initial temperature of gas and air and when the water formed by combustion is condensed to the liquid state.

Lease Operations—Any well, lease, or field operations related to the exploration for or production of natural gas prior to delivery for processing or transportation out of the field. Gas used in lease operations include usage such as for drilling operations, heaters, dehydrators, field compressors, and net used for gas lift.

Liquefied Natural Gas (LNG)—Natural gas cryogenically reduced to the liquid phase. At atmospheric pressure and −259° F, liquefied natural gas occupies 1/600 of the volume it occupies in the vapor state. It remains a liquid at −116° F and 673 psia.

Mains—A system of pipes for transporting gas within a distributing gas utility's retail service area to points of connection with consumer service pipes.

Mcf—One thousand cubic feet at 14.73 psia and 60° F.

Municipality—A village, town, city, county, or other political subdivision of a State.

Natural Gas—A mixture of hydrocarbon compounds and various nonhydrocarbons existing in the gaseous phase or in solution with crude oil in natural underground reservoirs at reservoir conditions. The principal hydrocarbon in natural gas is methane with lesser quantities of ethane, propane, butane, pentanes, and heavier compounds. Typical nonhydrocarbon gas which may be present in reservoir natural gas are carbon dioxide, helium, hydrogen sulfide, and nitrogen.

Nonhydrocarbon Gas—Nonhydrocarbon gases most commonly contained in reservoir natural gas in concentrations high enough to require or warrant removal are carbon dioxide, hydrogen sulfide, helium, and nitrogen.

Offsystem—Any point *not* on, or directly interconnected with, a transportation, storage, and/or distribution system operated by the responding company within the report State.

Onsystem—Any point on, or directly interconnected with, a transportation, storage, and/or distribution system by the responding company within the report State.

Operated—Exercised management responsibility for the day-to-day operations of natural gas production, gathering, treating, processing, transportation, storage, and/or distribution facilities and/or a synthetic natural gas plant.

Operator—The company responsible for the management and day-to-day operations of natural gas production, gathering, treating, processing, transportation, storage, and/or distribution facilities and/or a synthetic natural gas plant.

Pipeline—A continuous pipe conduit, complete with such equipment as valves, compressor stations, communication systems, and meters for tranporting natural and/or supplemental gas from one point to another, usually from a point in or beyond the producing field or processing plant to another pipeline or to points of utilization. Also refers to a company operating such facilities.

Processing Plant—A surface installation designed to separate and recover natural gas liquids from a stream of produced natural gas through the processes of condensation, absorption, adsorption, refrigeration, or other methods and to control the quality of natural gas marketed and/or returned to oil or gas reservoirs for pressure maintenance, repressuring, or cycling.

Producer—A company engaged in the production and sale of natural gas from gas or oil wells with delivery generally at a point at or near the wellhead, the field, or the tailgate of a gas processing plant. For the purpose of company classification, a company primarily engaged in the exploration for, development of, and/or production of oil and/or natural gas.

Purchased—Receipts into transportation, storage, and/or distribution facilities within a report State under gas purchase contracts or agreements whether or not billing or payment occurred during the report year.

Received—Gas physically transferred into the responding company's transportation, storage, and/or distribution facilities.

Receipts—See Received.

Report State—The State, including adjacent offshore continental shelf areas in the Federal domain, in which the responding company operated natural gas gathering, transportation, storage, and/or distribution facilities or a synthetic natural gas plant covered by the individual report.

Report Year—Calendar year, January 1 through December 31, for which data are reported.

Respondent—The company required to complete and return the report.

Storage Agreement—Any contractual arrangement between the responding company and a storage operator under which gas was stored for, or gas storage service was provided to, the responding company by the storage operator, irrespective of any responding company ownership interest in either the storage facilities or stored gas.

Supplemental Gas—Any gaseous substance introduced into or commingled with natural gas which increased the volume available for disposition. Such substances include, but are not limited to, propane-air, refinery gas, coke oven gas, still gas, manufactured gas, bio-mass gas, or air or inerts added for Btu stabilization.

Supply—Natural, synthetic, and supplemental gas produced within, introduced into, and/or received into facilities operated by the responding company within the report State for disposition during the report year.

Supply Source—The source of natural, synthetic, and/or supplemental gas supply used, removed, lost, delivered, or otherwise disposed of during the report year.

Synthetic Natural Gas (SNG)—(Also referred to as substitute natural gas.) A manufactured product, chemically similar in most respects to natural gas, resulting from the conversion or reforming of petroleum hydrocarbons which may easily be substituted for or interchanged with pipeline quality natural gas.

System—An interconnected network of pipes, valves, meters, storage facilities, and auxiliary equipment utilized in the tranportation, storage, and/or distribution of natural gas or

commingled natural and supplemental gas.

Tailgate—The outlet of a natural gas processing plant at which point dry residue gas is delivered or redelivered for sale or transportation.

Therm—One hundred thousand (100,000) Btu.

Transport—Movement of natural, synthetic, and/or supplemental gas between points beyond the immediate vicinity of the field or plant from which produced except for movements through well or field lines to a central point for delivery to a pipeline or processing plant within the same State or movements from a city gate point of receipt to consumers through distribution mains.

Transportation Agreement—Any contractual agreement for the transportation of natural and/or supplemental gas between points for a fee.

Treating Plant—A plant designed primarily to remove undesirable impurities from natural gas to render the gas marketable.

Underground Storage—The storage of natural gas in underground reservoirs at a different location from which it was produced.

BILLING CODE 6450-01-M

EIA-176
(Rev. 1982)

U.S. Department of Energy
Energy Information Administration

Form Approved:
OMB No.:
Expires:

ANNUAL REPORT OF NATURAL AND SUPPLEMENTAL GAS SUPPLY AND DISPOSITION

Report Year ____

This report is mandatory under the Federal Energy Administration Act of 1974. Late filing, failure to file, failure to keep records or failure otherwise to comply with those instructions, may result in criminal fines, civil penalties, and other sanctions as provided by law. See instructions for confidentiality statement.

PART I: IDENTIFICATION

1.0 Control No.

2.0 Name

(Mailing Label)

3.0 Report for operations in:
(Report State) ☐☐

4.0 Report is:
(a) ☐ Original
(b) ☐ Resubmittal
(c) Date of resubmittal:
(M, D, Y) _____

5.0 Name and/or address change or correction
(a) Name: _____
(b) Street or P.O. Box: _____
(c) City, State, Zip: _____
(d) Attention: _____

6.0 Contact person
(a) Name _____ (b) Title _____
(c) Telephone Number (Area Code, Number, Extension) (___) _____ _____

PART II: CERTIFICATION

I certify that:
(a) ☐ the information provided herein and appended hereto is true and accurate to the best of my knowledge.
(b) ☐ my company is not required to complete and submit PARTS IV, V, and VI for the report State for the following reason.

DRAFT

☐

1.0 Name

2.0 Title

3.0 Signature

4.0 Date (M, D, Y)

PART III: COMPANY CLASSIFICATION AND GAS OPERATIONS WITHIN REPORT STATE

1.0 Company classification (Check one)

(a) ☐ Integrated oil and gas company
(b) ☐ Producer
(c) ☐ Gatherer
(d) ☐ Processor
(e) ☐ Interstate pipeline
(f) ☐ Intrastate pipeline
(g) ☐ Underground storage operator
(h) ☐ SNG plant operator
(i) ☐ Distributor
(j) ☐ Municipality
(k) ☐ Other (specify)
_____

2.0 Gas operations within report State
(Check all that apply)

(a) ☐ Produced
(b) ☐ Gathered
(c) ☐ Processed
(d) ☐ Transported interstate
(e) ☐ Transported intrastate
(f) ☐ Stored underground
(g) ☐ Stored liquefied natural gas
(h) ☐ Injected propane-air
(i) ☐ Produced synthetic natural gas
(j) ☐ Distributed
(k) ☐ Imported
(l) ☐ Exported
(m) ☐ Sold for resale
(n) ☐ Sold direct to consumers
(o) ☐ Other (specify)
_____

Control No.	Name	Report State

PART IV: SUPPLY OF NATURAL AND SUPPLEMENTAL GAS RECEIVED WITHIN OR TRANSPORTED INTO REPORT STATE

		Volume (Mcf)	Cost (Dollars)
1.0	Produced onsystem		
2.0	Received from producers, gatherers, and/or processing plant operators:		
	2.1 Purchased gas received		
	2.2 Received for the account of others		
3.0	Received within report State from pipelines, distributors, and/or storage operators:		
	3.1 Purchased gas received ..... (List individual purchases over 1,000,000 Mcf on PART VI, Continuation Sheet)		
	3.2 Exchange, transportation, and/or storage receipts ..... (List individual transactions over 1,000,000 Mcf on PART VI, Continuation Sheet)		
4.0	Transported into report State from: (State or foreign Country)		
	_____		
	_____		
	_____		
	(Check here / / and continue on PART VI, if necessary)		
5.0	Received at report State line or U.S. border from: (Name of company) (State or foreign Country)		
	_____ _____		
	(Check here / / and continue on PART VI, if necessary)		
6.0	Synthetic natural gas received:		
	6.1 Produced		
	6.2 Purchased and received in unmixed streams		
	6.3 Other unmixed receipts		
7.0	Withdrawn from company operated storage facilities:		
	7.1 From underground storage		
	7.2 From liquefied natural gas storage		
8.0	Other sources of supply (specify): (Source or kind of fuel)		
	_____		
	(Check here / / and continue on PART VI, if necessary)		
9.0	Total supply within report State		

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Control No.	Name	Report State

PART V. DISPOSITION OF NATURAL AND SUPPLEMENTAL GAS DELIVERED, USED, REMOVED, LOST WITHIN, OR TRANSPORTED OUT OF REPORT STATE

		Volume (Mcf)	Cost or Revenue (Dollars)
1.0	Used in lease operations		
2.0	Returned to oil or gas reservoirs		
3.0	Used, removed, or lost in processing or treating plants:		
3.1	Company operated plants:		
3.1.1	Volume delivered to company operated plants (Mcf)		
3.1.2	Consumed as fuel		
3.1.3	Gas phase volume of extracted liquids		
3.1.4	Nonhydrocarbon gas removed		
3.1.5	Vented, flared, and/or lost		
3.2	Plants operated by others:		
3.2.1	Volume delivered to plants operated by others (Mcf)		
3.2.2	Volume used, removed, and/or lost		
4.0	Used as pipeline and/or distribution system compressor fuel		
5.0	Delivered within report State for resale or redelivery:		
5.1	Sales for resale delivered (List individual sales over 1,000,000 Mcf on PART VI, Continuation Sheet)		
5.2	Exchange, transportation, and/or storage deliveries (List individual transactions over 1,000,000 Mcf on PART VI, Continuation Sheet)		
6.0	Transported out of report State (State or foreign Country)		
	(Check here // and continue on PART VI, if necessary)		
7.0	Delivered at the State line or U.S. border to: (Name of Company) (State or foreign Country)		
	(Check here // and continue on PART VI, if necessary)		
8.0	Added to storage in company operated facilities:		
8.1	Injected into underground storage		
8.2	Liquefied natural gas added to storage		
9.0	Delivered directly to consumers:	(Number of Consumers)	
9.1	Residential		
9.2	Commercial		
9.3	Industrial		
9.4	Electric Utility		
10.0	Average heat content of gas delivered to consumers (Btu per cubic foot)		
11.0	Other disposition (specify)		
	(Check here // and continue on PART VI, if necessary)		
12.0	Total disposition accounted for within report State		
13.0	Supply (+) or disposition (-) unaccounted for		

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Control No.	Name	Report State ///

PART VI: CONTINUATION SHEET Sheet /// of ///

Part	Item	EIA Use	Description of Other sources of supply, Other disposition, or Name of company and/or State or Country	Volume (Mcf)

Office of Energy Research

Multiprogram Lab Panel; Energy Research Advisory Board; Meeting

Notice is hereby given of the following meeting:

Name: Multiprogram Lab Panel of the Energy Research Advisory Board (ERAB). ERAB is a Committee constituted under the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770).

Date and Time: August 26, 1982, 9 a.m. to 4 p.m.

Place: Department of Energy, Forrestal Building, Room 8E–089, 1000 Independence Avenue, SW, Washington, DC 20585.

Contact: Mary Gant, Energy Research Advisory Board, Department of Energy, Forrestal Building, ER–6, 1000 Independence Avenue, SW, Washington, DC 20585, Telephone: 202/252–8933.

Purpose of the Parent Board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative Agenda: Discussion of the draft of final report.

Public Participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Energy Research Advisory Board at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC, between 8:30 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on July 16, 1982.

J. Ronald Young,

Director of Management, Office of Energy Research.

[FR Doc. 82–19829 Filed 7–21–82; 8:45 am]

BILLING CODE 6450–01–M

Office of Hearings and Appeals

Cases Filed; Week of June 25 Through July 2, 1982

During the week of June 25 through July 2, 1982, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

July 15, 1982.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of June 25 through July 2, 1982]

Date	Name and location of applicant	Case No.	Type of submission
June 28, 1982	State of Michigan, Lansing, Michigan	HEG–0020	Petition for Special Redress. If granted: The June 18, 1982, Consent Order issued to Permian Corporation by the Office of Special Counsel would be modified as to the disposition of refunds of overcharges in the State of Michigan.
Do	Wyoming Energy Conservation Office, Cheyenne, Wyoming.	HEE–0035	Exception to the Conservation Program. If granted: The State of Wyoming would receive an exception from the Provisions of 10 CFR 455, the Institutional Conservation Program regarding the use of Administrative grant funds under Cycle IV.
June 29, 1982	State of Alaska, Anchorage, Alaska	HEE–0036	Exception to the Energy Conservation Program. If granted: The State of Alaska would receive an exception from the provisions of 10 CFR 455, the Institutional Conservation Program regarding the use of Administrative funds under Cycle IV.
June 30, 1982	Hudson Oil Company, Kansas City, Kansas	HRD–0064	Motion for Discovery. If granted: Discovery would be granted to Hudson Oil Company in connection with the Statement of Objections submitted in response to the March 22, 1982, Proposed Remedial Order (Case No. HRO–0043 issued to Hudson Oil Company.
Do	Thomas P. Reidy, Houston, Texas	HRS–0013	Request for Stay. If granted: Thomas P. Reidy would receive a stay of its obligation to file the Statement of Objections in response to a Proposed Remedial Order (Case No. HRO–0062) pending a final determination on a Motion for Discovery which the firm intends to file.
July 1, 1982	State of New Jersey, Trenton, New Jersey	HEG–0021	Petition for Special Redress. If granted: The June 18, 1982, Consent Order issued to Permian Corporation by the Office of Special Counsel would be modified as to the disposition of refunds of overcharges in the State of New Jersey.
July 2, 1982	State of New York, Albany, New York	HRD–0065	Motion for Discovery. If granted: Discovery would be granted to the State of New York in connection with the Statement of Objections submitted in response to the June 1, 1982, Proposed Remedial Order (Case No. HRO–0027) issued to Atlantic Richfield Company.

REFUND APPLICATIONS RECEIVED

[Week of June 25 to July 2, 1982]

Date	Name of refund proceeding/ name of refund applicant	Case No.
June 28, 1982	OKC Corp./McCall Service Stations, Inc..	RF13–6.
Do	OKC Corp./Mico Oil Company.	RF13–7.
Do	OKC Corp./Fisca Oil Company.	RF13–8.
Do	OKC Corp./Highway Oil Company.	RF13–9.

REFUND APPLICATIONS RECEIVED—Continued

[Week of June 25 to July 2, 1982]

Date	Name of refund proceeding/ name of refund applicant	Case No.
Do	OKC Corp./Air Transport Assoc. of America.	RF13–10.
June 15, 1982	Tenneco/Henoch Oil Company.	RF7–85.
May 28, 1982	Tenneco/Larrison Coal & Fuel Oil.	RF7–86.
June 15, 1982	Tenneco/Seaboard Service	RF7–87.
May 28, 1982	Tenneco/Liberty Fuel Oil Company.	RF7–88.

REFUND APPLICATIONS RECEIVED—Continued

[Week of June 25 to July 2, 1982]

Date	Name of refund proceeding/ name of refund applicant	Case No.
Do	Tenneco/Eastern of New Jersey, Inc.	RF7–89.
June 15, 1982	Tenneco/W. A. Fluhr, Inc.	RF7–90.
May 28,1982	Tenneco/Colelli & McCormick.	RF7–91.
Do	Tenneco/Clements Brothers, Inc.	RF7–92.
Do	Tenneco/Cagney & Dyk, Inc.	RF7–93.

REFUND APPLICATIONS RECEIVED—Continued

[Week of June 25 to July 2, 1982]

Date	Name of refund proceeding/ name of refund applicant	Case No.
June 18, 1982	Tenneco/Superior Oil Services.	RF7-94.
May 28, 1982	Tenneco/John Duffy Fuel Company.	RF7-95.
June 15, 1982	Tenneco/Edgerley & Gilson	RF7-96.
Do	Tenneco/Joe Hitt & Son	RF7-97.
Do	Tenneco/Rettig Coal Company, Inc.	RF7-98.
July 2, 1982	OKC Corp./Suter & Chafin Oil, Inc.	RF13-18.

REFUND APPLICATIONS RECEIVED—Continued

[Week of June 25 to July 2, 1982]

Date	Name of refund proceeding/ name of refund applicant	Case No.
Do	OKC Corp./Curts Oil Company.	RF13-19.
June 30, 1982	OKC Corp./Beeway Marketing Company.	RF13-11.
Do	OKC Corp./Growmark Inc.	RF13-12.
Do	OKC Corp./Sun Company, Inc.	RF13-13.
Do	OKC Corp./W. E. Alford, Inc.	RF13-14.

REFUND APPLICATIONS RECEIVED—Continued

[Week of June 25 to July 2, 1982]

Date	Name of refund proceeding/ name of refund applicant	Case No.
Do	OKC Corp./Williams Chemical Company.	RF13-15.
Do	OKC Corp./Champlin Petroleum Company.	RF13-16.
Do	OKC Corp./Town & Country Markets, Inc.	RF13-17.
July 2, 1982	OKC Corp./Leo's Wholesale Inc.	RF13-20.
Do	Panhandle/I. V. Cole Petroleum Co., Inc.	RF15-1.
Do	Upham/Pedigo Oil Company, Inc.	RF16-1.

[FR Doc. 82-19834 Filed 7-21-82; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of May 17 through May 21, 1982

During the week of May 17 through May 21, 1982, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

Miller & Chevalier, 5/17/82, HFA-0052

The law firm of Miller & Chevalier filed an Appeal from a partial denial by the Disclosure Officer of the Office of Special Counsel (OSC) of a request for information which the firm had submitted under the Freedom of Information Act (FOIA). In considering the Appeal, the DOE found that since there was a significant possibility that additional unidentified, responsive documents existed, the matter should be remanded to the OSC for another search. The DOE also found that the OSC properly withheld certain requested material under Exemption 5 of the FOIA. Important issues that were considered in the Decision and Order were: (i) whether the determination letter adequately described the withheld material and (ii) whether the withheld material constituted predecisional, deliberative inter-agency memoranda, or attorney work-product. These types of material are exempt from mandatory disclosure under Exemption 5.

Remedial Orders

Argo Petroleum Corp., et al., 5/20/82, DRO-0146, BRD-0104

Argo Petroleum Corporation objected to a Proposed Remedial Order which the Director of Enforcement of DOE Region IX issued to the firm on November 2, 1978. In the Proposed Remedial Order, Region IX found that during the period September 1973 through October 1976 Argo violated 10 CFR 212.72, 212.73, and 212.74. The DOE rejected Argo's contentions and concluded that the Proposed Remedial order should be issued as a final Order. The important issues discussed in the Decision and Order include (i) regulatory treatment of "load oil" and "fracing" (ii) offsetting undercharges against overcharges and (iii) interest rates on overcharges.

Dan Crookston, d/b/a Crookston Plaza Arco, Dan Crookston, d/b/a Shelter Ridge Arco, Dan Crookston, d/b/a Shelter Ridge Arco, 5/17/82, BRO-1497, BRO-1456, BRO-1498

Dan Crookston filed Statements of Objections to three separate Proposed Remedial orders issued to two retail outlets which he operates. In the Proposed Remedial Orders, the Economic Regulatory Administration found that Crookston sold motor gasoline at retail outlets at prices in excess of those permitted under 10 CFR 212.93(a)(2). After considering Crookston's objections, the DOE determined that the findings contained in the Proposed Remedial Order were correct and that they should be issued as final Remedial Orders of the Department of Energy. The DOE also determined that the Proposed Remedial orders should be modified so that interest is assessed on the overcharges at the rate of one percent per month. The important issue considered in the Decision and Order was the validity of the July 1979 amendments to the retailer price rule.

Buchanan Shell, Jim Campbell Shell, Village Parkway Shell, 5/20/82, BRO-1492, BRO-1499, BRO-1493

Buchanan Shell, *et al.* objected to Proposed Remedial Orders that were issued to the firms by the DOE Office of Enforcement. In the Proposed Remedial Orders, the Office of Enforcement found that the objecting firms had charged prices higher than those permitted by 10 CFR 212.93(a)(2). After considering the firms' objections, the DOE determined that the Proposed Remedial Orders should be issued as final Remedial Orders. The DOE also determined that the Proposed Remedial Orders should be modified to require that payment of the overcharges be deposited into the U.S. Treasury. The important issues discussed in the Decision include: (i) whether charging a combined cents-per-gallon price for gasoline and service in excess of the maximum lawful selling price permitted by DOE regulations violates 10 CFR 212.93(a)(2), and (ii) the procedural and substantive validity of 10 CFR 210.62(d)(1).

Interlocutory Order

Southland Royalty Company, 5/21/82, HRZ-0000

Southland Royalty Company filed a motion for an order deeming as established certain allegations made in its Statement of Factual Objections (SFO) to a May 1, 1979 proposed Remedial Order (PRO) issued to Gulf Oil Corporation by the Office of Special Counsel for Compliance. Southland sought to have allegations it made concerning undercharges on two leases cited in the Gulf PRO deemed admitted. OSC had not responded to these allegations in its Response to Southland's SFO because it claimed that Southland's claims were raised as a defense to the PRO's allegations concerning extrapolated overcharges, which the Office of Hearings and Appeals (OHA) at a July 9, 1979 hearing, ruled would be deferred for future consideration. OHA found OSC was incorrect in claiming that Southland's undercharge claims were raised prematurely. However, OHA determined that it would not deem Southland's undercharge assertions admitted because the ruling issued at the July 9, 1979 hearing was ambiguous and OSC's incorrect interpretation of that ruling was made in good faith. OSC was instead permitted to amend its Response to Southland's SFO to enable it to respond to Southland's undercharge assertions. Accordingly, Southland's motion was dismissed without prejudice.

Petition for Special Redress

Eldon Spencer Oils, Inc., 5/21/82, BEG-0060

Eldon Spencer Oils, Inc. (Spencer) filed with the Office of Hearings and Appeals (OHA) a Petition for Special Redress and a Motion to Strike in connection with its Statement of Objections to a Proposed Remedial Order issued to the firm by the DOE Central Enforcement District on June 12, 1980 (Case No: BRO-1273). Both the petition and the motion sought to expunge from the record all filings submitted by the Administrative Litigation Division of the DOE Office of General Counsel, which represents the Office of Enforcement of the Economic Regulatory Administration before the OHA in

remedial order proceedings. Spencer argued in both submissions that Administrative Litigation lacks specific authority to participate in remedial order proceedings, and therefore should be barred from submitting any pleadings. In considering both submissions the DOE noted that the issue of Administrative Litigation's authority to represent the Office of Enforcement before the OHA in remedial order proceedings had already been analyzed in *Taylor Oil Co.*, 8 DOE ¶ 82,645 (1981), and that arguments precisely the same as Spencer's had been conclusively rejected. Accordingly, both Spencer's Petition for Special Redress and Motion to Strike were denied.

Motions for Discovery

Brock Exploration Corporation, 5/19/82, BRD–0190, DRH–0190

Brock Exploration Corporation (Brock) filed Motions for Discovery and Evidentiary Hearing in connection with its Statement of Objections to a Proposed Remedial Order that the ERA's Southwest District Office of Enforcement issued to Brock and another firm on March 19, 1982. In its Motion for Discovery, Brock requested the following: (1) administrative record discovery of the regulation defining the term "property" and the rulings related to that definition, (2) contemporaneous construction discovery of the property definition, and (3) discovery of all documents concerning the ERA's audit and investigation of the firm, and (4) a deposition of an ERA auditor. Although the DOE denied the Motion in most respects, it ordered the ERA to provide Brock with the following: (1) All documents authored, approved, or authorized by responsible agency officers generated in the period between August 17, 1973 and January 31, 1978, that discuss the effect of state designation or recognition of producing entities or other state regulatory action under the property definition, (2) all documents authored, approved, or authorized by responsibile agency officers generated in the period between August 17, 1973 and August 17, 1976, that discuss (a) the effect of producer development or production practices or requirements including phased development or selection under the property definition or (b) the narrower issue of the effect of a paramount agreement under the property definition, and (3) unless already provided, a table showing the ERA's calculation of the overcharge attributed to Brock and the worksheets from which the table was prepared. With respect to Brock's Motion for Evidentiary Hearing, the DOE determined that Brock had not demonstrated that the eight issues identified in Brock's Motion were relevant and material issues of fact whose resolution would be substantially assisted by an evidentiary hearing. Accordingly, the Motion for Evidentiary Hearing was denied. The DOE also determined, however, that Brock should be permitted, at the conclusion of discovery, to renew its Motion for Evidentiary Hearing on the issues upon which contemporaneous construction discovery had been granted.

Laketon Asphalt Refining, Inc., 5/18/82, HED–0047, HEH–0047

Laketon Asphalt Refining, Inc. (Laketon) filed a Motion for Discovery and a Motion for Evidentiary Hearing in which the firm requests that the DOE produce information which the firm contends is material to the resolution of a pending Motion for Reconsideration, the firm requests that the DOE rescind a Decision and Order which reviewed the level of entitlements exception relief Laketon received during its 1980 fiscal year finding that the firm had received $3,484,245 in excessive relief, and which ordered Laketon to refund that amount. Laketon contends that the firm's entitlements purchase obligation arising from the fiscal year end review is solely attributable to the decontrol of heavy crude oil in late 1979 and the subsequent failure of the Entitlements Program to equalize access to price-controlled crude oil for small refiners such as Laketon, which are dependent on heavy crude oil for their feedstock. In its Motions for Discovery and Evidentiary Hearing, the firm seeks information pertaining to (1) the relationship of crude oil grade and quality differentials to the Entitlements Program, and (2) the effect of heavy crude oil decontrol on post-entitlements crude oil costs of refiners in general. In considering the request, the DOE found that Laketon had failed to demonstrate how information concerning the relationship of crude oil quality differentials to the Entitlements Program would materially advance the firm's Motion for Reconsideration. In addition, the DOE found that data relating to the general impact of heavy crude oil decontrol could not be dispositive of Laketon's individual request for exception relief, nor did such data relate to issues in dispute between Laketon and the DOE. Accordingly, the Motions for Discovery and Evidentiary Hearing were denied.

Protective Order

Office of Special Counsel, 5/18/82, HRJ–0012–0016

The Office of Special Counsel sought a protective order limiting the dissemination of three assertedly privileged documents which it had inadvertently released to six firms in connection with its response to a discovery order entered by the Office of Hearings and Appeals. The firms that had received the documents informed the OHA that they had disseminated the documents to third parties prior to the filing of the OSC's request. The OHA denied the request for a protective order.

Supplemental Order

The 341 Tract Unit of the Citronelle Field, 5/21/82, HEX–0028

In a December 31, 1980 Interim Decision and Order, the DOE approved exception relief to the Citronelle Unit in the amount of $63.8 million in order to enable the ownership interest to implement a tertiary recovery project on the Citronelle Field. *The 341 Tract Unit of the Citronelle Field*, 7 DOE ¶ 81,140 (1980). After a review of the periodic reports submitted by the special trustee appointed to monitor this case, the DOE determined that revenues realized from the sale of the tertiary crude oil produced from the Citronelle Unit should also be utilized to fund the enhanced crude oil recovery project. Accordingly, Citronelle was directed to place all future tertiary revenues into the escrow account.

Petitions for Implementation of Special Refund Procedures

Office of Enforcement/Fagadau Energy Corp., Liquid Products Recovery Inc., Worldwide Energy Corp., and Gas Engine & Compressor Service, 5/17/82, BEF–0029, BEF–0030, BEF–0049, BEF–0054.

The Office of Enforcement Economic Regulatory Administration, filed Petitions for Implementation of Special Refund Procedures relating to Consent Orders in the matters of Fagadua Energy Corporation, Liquid Products Recovery, Inc., Worldwide Energy Corporation, and Gas Engine and Compressor Service. The Decision and Order grants the Office of Enforcement's Subpart V Petition and establishes a mechanism by which refunds of moneys obtained pursuant to the Consent Orders can be made to those who may have been injured by the alleged regulatory violations.

Office of Enforcement/Panhandle Eastern Pipeline Co., PVM Oil Associates, Inc., Loveladdy Oil Co., Armstrong & Associates, Ethyl Corp., 5/20/82, DEF–0041, DEF–0042, DEF–0067, DEF–0069, DEF–0070

The Office of Enforcement filed a Petition for Implementation of Special Refund Procedures in the Matters of Panhandle Eastern Pipeline Company, PVM Oil Associates, Inc., Loveladdy Oil Company, Armstrong & Associates, and Ethyl Corporation in connection with consent orders or decrees entered into by each of the firms in order to settle claims of alleged violations of DOE regulations between 1973 and 1975. The DOE determined that a two-stage refund procedure would be implemented. In the first stage, applications for refund will be accepted from all claimants that can affirmatively demonstrate that they have been injured by the violations alleged in the consent orders or decree. Applications for Refund must be postmarked no later than ninety days from the date of publication of the Decision and Order in the **Federal Register**. Specific information which must be included in the Application is discussed in the Decision. No determination was reached regarding the second-stage distribution process, since the most appropriate disposition of remaining funds can be determined only after ascertaining the amount of money remaining after first-state refunds are made. Further comments on the second stage were solicited.

Dismissals

The following submissions were dismissed without prejudice:

Name and Case No.

Frank Rowland Auto Service Center, BRO–1530
Mobil Oil Corp., HRS–0012
OE/Eastern of New Jersey, Inc., BEF–0078
UCO Oil Company, DEL–2787

Copies of the full text of these decisions and orders are available in the

Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

July 15, 1982.

[FR Doc. 82-19828 Filed 7-21-82; 8:45 am]

BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangements; EURATOM

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended and the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

This subsequent arrangement would give approval, which must be obtained under the above mentioned agreements, for the following transfer of special nuclear materials of United States origin, or of special nuclear materials produced through the use of materials of United States origin, as follows: from Japan to France (Compagnie Generale des Matieres Nucleafres) for the purpose of reprocessing, 24 irradiated fuel assemblies, containing 9,384 kilograms of uranium, enriched to 1.2% in U–235, and 92 kilograms of plutonium from the Ikata Nuclear Power Station Unit No. 1. This subsequent arrangement is designed as RTD/EU(JA)–46.

The Department of Energy has received letters of assurance from the Government of Japan that the recovered uranium and plutonium will be stored in France, and will not be transferred from France, nor put to any use, without the prior consent of the United States Government.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice and after fifteen days of continuous session of the Congress, beginning the day after the date on which the reports required by section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) are submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. The two time periods referred to above shall run concurrently.

For the Department of Energy.

Dated: July 16, 1982.

George Bradley,

Principal Deputy Assistant Secretary, Office of International Affairs.

[FR Doc. 82-19821 Filed 7-21-82; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangement; EURATOM

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended and the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

This subsequent arrangement would give approval, which must be obtained under the above mentioned agreements, for the following transfer of special nuclear materials of United States origin, or of special nuclear materials produced through the use of materials of United States origin, as follows: from Japan to the United Kingdom (British Nuclear Fuels, Ltd.) for the purpose of reprocessing, 70 irradiated fuel assemblies, containing 12,833 kilograms of uranium, enriched to 1.22% in U–235, and 105 kilograms of plutonium from the Hamaoka Nuclear Power Station, Units 1 and 2. This subsequent arrangement is designated as RTD/EU(JA)–51.

The Department of Energy has received letters of assurance from the Government of Japan that the recovered uranium and plutonium will be stored in United Kingdom, and will not be transferred from the United Kingdom, nor put to any use, without the prior consent of the United States Government.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice and after fifteen days of continuous session of the Congress, beginning the day after the date on which the reports required by section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) are submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. The two time periods referred to above shall run concurrently.

For the Department of Energy.

Dated: July 16, 1982.

George Bradley,

Principal Deputy Assistant Secretary, International Affairs.

[FR Doc. 82-19822 Filed 7-21-82; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangement; EURATOM

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended and the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

This subsequent arrangement would give approval, which must be obtained under the above mentioned agreements, for the following transfer of special nuclear materials of United States origin, or of special nuclear materials produced through the use of materials of United States origin, as follows: from Japan to France (Compagnie Generale des Matieres Nucleaires) for the purpose of reprocessing, 88 irradiated fuel bundles, containing 12,508 kilograms of uranium, enriched to 1.48% in U–235, and 92 kilograms of plutonium from the Hamaoka Nuclear Power Station Units 1 and 2. This subsequent arrangement is designated as RTD/EU(JA)–50.

The Department of Energy has received letters of assurance from the Government of Japan that the recovered uranium and plutonium will be stored in France, and will not be transferred from France, nor put to any use, without the prior consent of the United States Government.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice and after fifteen days of continuous session of the Congress, beginning the day after the date on which the reports required by section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) are submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. The two time periods referred to above shall run concurrently.

For the Department of Energy.

Dated: July 16, 1982.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs

[FR Doc. 82-19823 Filed 7-21-82; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreement; Civil Uses; Proposed Subsequent Arrangement; EURATOM

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended and the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

This subsequent arrangement would give approval, which must be obtained under the above mentioned agreements, for the following transfer of special nuclear materials of United States origin, or of special nuclear materials produced through the use of materials of United States origin, as follows: from Japan to the United Kingdom (British Nuclear Fuels, Ltd.) for the purpose of reprocessing, 28 irradiated fuel bundles, containing 10,777 kilograms of uranium, enriched to 1.1% in U-235, and 102 kilograms of plutonium from the Genkai Nuclear Power Station Unit No. 1. This subsequent arrangement is designated as RTD/EU(JA)-40.

The Department of Energy has received letters of assurance from the Government of Japan that the recovered uranium and plutonium will be stored in the United Kingdom, and will not be transferred from the United Kingdom nor put to any use, without the prior consent of the United States Government.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice and after fifteen days of continuous session of the Congress, beginning the day after the date on which the reports required by section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) are submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. The two time periods referred to above shall run concurrently.

For the Department of Energy.

Dated: July 16, 1982.

George Bradley,

Principal Deputy Assistant Secretary, Office of International Affairs.

[FR Doc. 82-19824 Filed 7-21-82; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangement; EURATOM

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended and the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

This subsequent arrangement would give approval, which must be obtained under the above mentioned agreements, for the following transfer of special nuclear materials of United States origin, or of special nuclear materials produced through the use of materials of United States origin, as follows: from Japan to the United Kingdom (British Nuclear Fuels, Ltd.) for the purpose of reprocessing, 28 irradiated fuel assemblies, containing 10,957 kilograms of uranium, enriched to 1.2% in U-235, and 107 kilograms of plutonium from the Ikata Nuclear Power States Unit No. 1. This subsequent arrangement is designated as RTD/EU(JA)-47.

The Department of Energy has received letters of assurance from the Government of Japan that the recovered uranium and plutonium will be stored in the United Kingdom, and will not be transferred from the United Kingdom nor put to any use, without the prior consent of the United States Government.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice and after fifteen days of continuous session of the Congress, beginning the day after the date on which the reports required by section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) are submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. The two time periods referred to above shall run concurrently.

For the Department of Energy.

Dated: July 16, 1982.

George Bradley,

Principal Deputy Assistant Secretary, Office of International Affairs.

[FR Doc. 82-19825 Filed 7-21-82; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangement Between U.S. and Australia

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Australia Concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the following sale: Contract Number S-AU-15, to the Australian Radiation Laboratory, 5 Milligrams of thorium-230, for use in research studies concerning

the atomic shell properties of the inner shells of heavy elements.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than August 6, 1982.

For the Department of Energy.

Dated: July 19, 1982.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 82-19832 Filed 7-21-82; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangement Between U.S. and European Atomic Energy Community

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for supply of the following material: Contract Number S–EU–739, to Kraftwerk Union AG, Frankfurt, the Federal Republic of Germany, one gram of uranium-234, for use in fission ionization chambers for power reactors.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than August 6, 1982.

For the Department of Energy.

Dated: July 19, 1982.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 82-19830 Filed 7-21-82; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Proposed Subsequent Arrangement Between U.S. and European Atomic Energy Community

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the following sale: Contract Number S–EU–740, to V.G. Isotopes, Cheshire, England, one gram of uranium containing less than 0.02% U-235, and 13 grams of uranium enriched to an average of 50.2% in U-235, for use as standard reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than August 6, 1982.

For the Department of Energy.

Dated: July 19, 1982.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 82-19831 Filed 7-21-82; 8:45 am]

BILLING CODE 6450-01-M

European Atomic Energy Community; Proposed Subsequent Arrangement Between U.S. and European Atomic Energy Community and U.S. and Japan

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (ERATOM) Concerning Peaceful Uses of Atomic Energy, as amended and the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

This subsequent arrangement would give approval, which must be obtained under the above mentioned agreements, for the following transfer of special nuclear materials of United States origin, or of special nuclear materials produced through the use of materials of United States origin, as follows: from Japan to France (Compagnie Generale des Matieres Nucleaires) for the purpose of reprocessing, 24 irradiated fuel assemblies, containing 9,241 kilograms of uranium, enriched to 1.1% in U-235, and 88 kilograms of plutonium from the Genkai Nuclear Power Station Unit No. 1. This subsequent arrangement is designated as RTD/EU(JA)–48.

The Department of Energy has received letters of assurance from the Government of Japan that the recovered uranium and plutonium will be stored in France, and will not be transferred from France, nor put to any use, without the prior consent of the United States Government.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than August 6, 1982 and after fifteen days of continuous session of the Congress, beginning the day after the date on which the reports required by section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) are submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. The two time periods referred to above shall run concurrently.

For the Department of Energy.

Dated: July 16, 1982.

George Bradley,

Principal Deputy Assistant Secretary, Office of International Affairs.

[FR Doc. 82-19833 Filed 7-21-82; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Pick-Sloan Missouri Basin Program; Submission of Rate Order

AGENCY: Western Area Power Administration, DOE.

ACTION: Submission of Rate Order—Pick-Sloan Missouri Basin Program.

SUMMARY: The Notice published in the **Federal Register** on July 2, 1982 (47 FR 28992) should have included the Rate Order for the Pick-Sloan Missouri Basin Program, No. WAPA–12.

Dated: July 14, 1982.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

Order Confirming, Approving, and Placing Increased Power Rates in Effect on an Interim Basis

June 28, 1982.

In the Matter of: Western Area Power Administration—Pick-Sloan Missouri Basin Program Power Rates Rate Order No. WAPA–12.

Pursuant to section 302(a) of the Department of Energy (DOE) Organization Act, 42 U.S.C. 7152(a), the power marketing functions of the Secretary of the Interior under the Reclamation Act of 1902, 43 U.S.C. 372 *et seq.*, as amended and supplemented by subsequent enactments, particularly by section 9(c) of the Reclamation Act of 1939, 43 U.S.C. 458h(c), and acts specifically applicable to the Pick-Sloan Missouri Basin Program (P–SMBP) for the Bureau of Reclamation (Bureau), were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204–33, effective January 1, 1979 (43 FR 60636, December 28, 1978), last amended March 19, 1981 (46 FR 25426, May 7, 1981), the Secretary of Energy delegated to the Assistant Secretary, Conservation and Renewable Energy, the authority to develop power and transmission rates, acting by and through the Administrator of the Western Area Power Administration (Western), and to confirm, approve, and place in effect such rates on an interim basis, and delegated to the Federal Energy Regulatory Commission (FERC) the authority to confirm and approved on a final basis or to disapprove rates developed by the Assistant Secretary under the delegation. This rate order is issued pursuant to the delegation to the Assistant Secretary and the rate adjustment procedures at 10 CFR part 903.

Background

Existing and Provisional Rates

The provisional rates which are the subject of this order supersede existing P–SMBP rates as shown below.

EASTERN DIVISION

Class of power	Existing rate	Provisional rate
Wholesale Firm Power (Existing rate schedule UM–F2, effective June 1, 1977):		
Demand Charge, $/kW-month	1.20	1.35
Energy Charge, mills/kWh up through 60% monthly load factor	3.17	3.62
Above 60% monthly load factor	5.18	7.00
Peaking Power (Existing rate schedule UM–FP3, effective June 1, 1977):		
Demand Charge, $/kW-month	1.20	1.35
Energy Charge, mills/kWh	3.33	3.62
Maintenance Energy (No formal rate schedule) Energy Charge, mills/kWh	10.00	12.00

WESTERN DIVISION

Class of power	Existing rate	Provisional rate
Wholesale Firm Power (Existing rate schedule UM–F2, effective June 1, 1977):		
Demand Charge, $/k/W-month	1.34	1.43
Energy Charge, mills.kWh	4.0	4.30
Peaking Power (Existing rate schedule UM–FP2, effective June 1, 1977):		
Demand Charge, $k/W-month	1.34	1.43
Energy Charge, mills/kWh	4.0	4.3
Transmission Charge (No existing rate schedule):		
Firm service	1.0 mills/kWw	1.1 mills/kWh or $9.60/kW-year 1.1
Nonfirm service, mills/kWh	1.0	

A comparison of the existing and provisional composite yields is tabulated below:

	Existing designed firm yield	Provisional designed firm yield
Eastern Division, mills/kWh	5.15	5.80
Western Division, mills/kWh	8.55	7.20
P–SMBP (overall), mills/kWh	5.45	6.10

Existing Schedule UM–P12, titled, "Schedule of Rates for Commercial Irrigation and/or Drainage Pumping Service and for Wholesale Firm Power Service When Supplied in Conjunction Therewith," is no longer being used. Therefore, Schedule UM–P12 will expire on August 1, 1982.

Public Notice

The FY 1980 P–SMBP Power Repayment Study indicated that existing power rates would not be sufficient to achieve project repayment during the study period. An overall firm power rate increase of 0.65 mills/kWh, for sales from both the Eastern and Western Divisions, with other rate adjustments, was found to be necessary to provide the additional revenues required.

Public proceedings on the proposed rate adjustment were initiated on December 29, 1981, with a mailing to all firm power customers and other interested persons of a draft customer brochure explaining the need for increases and announcing a series of informal customer meetings. These meetings were conducted at four different locations from January 18 through January 21, 1982. At these preliminary meetings, Western's representatives explained the need for the increases and answered questions from interested persons.

A 90-day customer consultation and comment period was initiated with an announcement of the proposed rate adjustment published in the Federal Register at 47 FR 6705 (February 16, 1982). This notice also announced four public information forums conducted March 1, through March 4, 1982, and four public comment forums conducted April 5 through April 8, 1982. This announcement was later amended at 47 FR 10899 (March 12, 1982) to add locations and telephone numbers where records could be examined. The information forums were advertised with a February 16, 1982, press release and a February 18, 1982, mailing of a final customer brochure. The comment forums were further advertised with a March 22, 1982, press release and customer mailing. At the information forums Western's representatives again explained the need for the rate increase and answered questions from interested persons. The comment forums were conducted to give the public an opportunity to comment for the record.

In addition to these public meetings and forums, representatives of one customer met with Western's personnel on February 25, 1982, to discuss the FY 1980 Power Repayment Study. During this meeting, they asked for and received several items of backup information involved in the preparation fo the study, plus copies of some of the repayment studies done in previous years.

Also, after the April 8, 1982, customer comment forum, one customer met informally with Western's representatives and requested and received some backup material to the FY 1980 Power Repayment Study.

Although the 90-day comment period closed on May 17, 1982, all comments received before the rate order was written have been considered in the preparation of this rate order.

Project History

The Missouri River Basin Project was initially authorized by section 9 of the Flood Control Act of December 22, 1944 (58 Stat. 887, Public Law 534, 78th Congress, 2nd Session), which approved the general comprehensive plan set forth in Senate Document 191 and House Document 475, as revised and

coordinated by Senate Document 247, 78th Congress. The comprehensive plan has been funded through numerous appropriation acts with the intention of development of the water resources in the Missouri River Basin.

The Missouri River Basin Project, later renamed Pick-Sloan Missouri Basin Program to honor its two principal authors, has been under construction since 1944. The project encompasses a comprehensive program of flood control, navigation improvement, irrigation, municipal and industrial water development, and hydroelectric production for the entire Missouri Rver Basin. Multipurpose projects have been developed on the Missouri River and its tributaries in Montana, North Dakota, South Dakota, Wyoming, and Colorado. Electric transmission facilities have also been constructed in those States, as well as in Minnesota, Iowa, Missouri, and Nebraska. In addition to the multipurpose water development projects which were authorized by section 9 of the 1944 Flood Control Act, certain older existing projects have been intergrated with the P–SMBP for power marketing and operational purposes. Four projects, Colorado-Big Thompson, Kendrick, Shoshone, and Riverton, were combined with the P–SMBP in 1954 for marketing, operation, and repayment purposes, and the fifth, North Platte, was combined in 1959. These projects are known as the "Integrated Projects" of the P–SMBP, Western Division. The Riverton Project was reauthorized as a unit of the P–SMBP by Pub. L. 91–409 on September 25, 1970. The Flood Control Act of 1944 also authorized integration of the Fort Peck Project (initially operated in 1943) with the P–SMBP for operations and repayment purposes.

The P–SMBP has been heralded since its authorization as a pioneer in comprehensive basinwide multipurpose development. All functions of the project were maximized within the water resource with some functions assisting others in repayment beyond the ability of the beneficiary. An innovative feature of the program was its basinwide (rather than individual project) financial management plan which affected the scope of financial assistance to irrigation and established that cost allocations and repayment of all features be based on ultimate development of the program.

Power, flood control, and navigation are the most advanced features and have been providing benefits to the basin states for many years. Upper basin states have received hydropower since 1943, and downstream states have received flood control and navigation benefits. Yet to be advanced to a comparable status of development are some of the Federal irrigation projects which were included in the comprehensive plan to replace land lost to project reservoirs in the upper basin states.

The planning, development, and operation of the P–SMBP has been successfully carried out for almost 40 years by the Departments of the Interior and Army, and most recently, the Department of Energy. The success of the program can be attributed to sound financial management, wherein power rates and revenues have been carefully monitored to meet program and repayment obligations.

The Western Area Power Administration was established on December 21, 1977, pursuant to section 302 of Pub L. 95–91, the Department of Energy Organization Act, dated August 4, 1977. Western is responsible for the Federal electric power marketing and transmission functions in 15 Central and Western States encompassing a 1.3-million-square-mile geographic area.

Western activities associated with the P–SMBP are administered by two Area Offices, one located in Billings, Montana, and the other in Fort Collins, Colorado. There are two separate large power systems in the P–SMBP. The Eastern Division operates in Montana, east of the Continental Divide, North Dakota, South Dakota, western Minnesota, western Iowa, the eastern two-thirds of Nebraska, and into the northwest corner of Missouri. The Western Division operates in Wyoming, Colorado, and the western one-third of Nebraska. The Eastern and Western Divisions have total generator nameplate ratings of 2,273,000 kW and 528,000 kW (including the 270,000 kW in the Western Division integrated projects), respectively. Firm commercial sales from the two divisions amounted to over 9.3 billion kWh in FY 1980. Although both the Eastern and Western Division systems have terminals at Yellowtail Dam in Montana, and are interconnected at a point near Stegall, Nebraska, they are separate, distinct systems and for several technical reasons, cannot be fully integrated at this time. The two divisions have generating plants located on different river systems, separate allocations of firm power, and separate rate structures. Nevertheless, they are both part of one financially integrated project (P–SMBP), and both must contribute revenue to repay project investments. Therefore, it is necessary to make a single power repayment study to determine the financial position of the project.

Discussion

Power Repayment Studies

The Power Repayment Studies for the P–SMBP are prepared by Western with the cooperation of the Bureau and the Corps of Engineers (Corps). Basic river basin hydrology, water depletions, power generation, and project development data are among the many items the Bureau and the Corps contribute to the studies.

The Power Repayment Studies are prepared in accordance with P–SMBP authorizing legislation and with DOE Order No. RA 6120.2, Power Marketing Administration Financial Reporting. The studies array historic income, expense, and investment to be repaid from power revenues, along withestimates for future years. They also portray repayment of nonpower costs assigned to power. The studies show, among other items, estimated revenues and expenses year by year over the project repayment period, the estimated amount of Federal investment which will be repaid during each year, and the total estimated amount of Federal investment remaining to be repaid. The studies do not deal with rate design.

Special Study B–5, documented in the "Report on Financial Position, Missouri River Basin Project, December 1963," was submitted to Congress and set forth a broad statement of repayment. Basic guides and criteria established therein have been incorporated in the annual Power Repayment Studies. Beginning in FY 1966, payout criteria and interest rates have been based on those principles endorsed in the legislative history of the Garrison Diversion Unit Authorization Act of August 5, 1965. Our current studies reflect the resource, marketing, operation and maintenance (O&M), replacement, payment to the Integrated Projects, investment, and irrigation development data available as of FY 1980.

The repayment study consists of three main parts. These are: (1) Capability and energy quantities converted to annual revenue, (2) annual revenue deductions, and (3) repayment of investment. The capability and energy quantities are based on the latest hydrology depletion and marketing projections for the P–SMBP. These quantities are converted to annual power revenues by the application of appropriate rates. The program is designed to repay the investment carrying the highest interest rate as quickly as possible and still remain within the repayment period for each investment.

Interest rates of 2½ and 3 percent are used on existing and authorized

transmission facilities and on existing generating facilities in accordance with provisions of the Garrision Diversion Act of August 5, 1965. New investments beyond the scope of that act are subject to the current interest rate (8.5 percent in studies based on FY 1980 data).

The FY 1972 Power Repayment Study and previous studies forecast future replacement costs based on the original installed cost of the facility. Starting withe the FY 1973 Power Repayment Study, forecast replacement costs have been indexed to current levels, and have been treated as capital investments with repayment periods equal to the expected service lives, up to a maximum of 50 years.

The P–SMBP's future investments in the power system were based on the official cost estimates in the FY 1982 budget justifications through the budget period; thereafter, estimates of other future power investment and irrigation investment were indexed to 1980 cost levels.

Periods for repayment of reimbursable investments in the current analysis were as follows:

1. Costs of each unit, division, or separable feature, including the integrated projects, allocated to commercial power were repaid within 50 years from the date when the unit, division, or separable feature was placed in service and/or became revenue-producing.

2. Costs relating to specific irrigation units (including main stem and other reservoir storage and irrigation pumping power cost assignments, if appropriate) constructed or under construction on June 30, 1964, were repaid within the earliest practicable time period after completion of repayment of interest-bearing commercial power investment but prior to projects constructed after that date.

3. Costs relating to new (after June 30, 1964) and future irrigation units, divisions, or irrigation blocks (including main stem and other reservoir storage and irrigation pumping power cost assignments, if appropriate) were repaid within 50 years following an allowable development period (usually 10 years) after an individual unit, division, or irrigation block became benefit-producing.

In accordance with repayment criteria, the repayment study first applies all revenue from each of the revenue-producing functions to payment of annual O&M, wheeling, purchased power, and interest costs. An annual credit from P–SMBP accounts is made to the Western Division Integrated Projects which is sufficient to cover the O&M and replacements, repay the interest-bearing power investment, and make the aid to irrigation payments within their established repayment periods. These annual payments are treated as an operating expense by the P–SMBP. Remaining revenues are applied to repayment of P–SMBP investment. In the case of commercial power, costs of each unit, division, or separable feature allocated to commercial power are repaid with interest on the unpaid balance. In no case does the repayment period exceed 50 years from the date when the unit, division, or separable feature became revenue-producing. After repayment of these investments, revenues will be utilized to assist in the repayment of P–SMBP costs allocated to irrigation.

In 1954, the Colorado-Big Thompson, Kendrick, Shoshone, and Riverton Projects, and in 1959, the North Platte Project were integrated into the Western Division of the P–SMBP. The Riverton Project was reauthorized as a unit of P–SMBP on September 25, 1970, by Pub. L. 91–409. Basically, the integration combined the five projects' powerplants and transmission systems for operational, marketing, and repayment purposes. Irrigation development of the Integrated Projects was completed in accord with plans contemplated in the individual pieces of authorizing legislation. Long-term contracts established the share of the costs allocated to irrigation that the irrigation districts would repay. The remaining irrigation development costs are assigned to be repaid from power revenues.

Costs of the multipurpose elements of the plan have been allocated by the agency having construction jurisdiction in keeping with the practice established by interagency agreement in 1954. The "Separable Costs-Remaining Benefits" method of allocation has been used on multipurpose reservoirs in the Eastern Division. Federally financed alternative costs have been used for determining the annual cost of the single-purpose power alternative in cost-allocation procedures in accordance with the procedure approved by the 89th Congress as presented to it in the "Report on Financial Position, Missouri River Basin Project, December 1963." This is also consistent with the statement of "Policies, Standards, and Procedures in the Formulation, Evaluation, and Review of Plans for Use and Development of Water and Related Land Resources," approved by the President on May 15, 1962, and printed as Senate Document No. 97, 87th Congress, 2nd Session.

The legislative history of the P–SMBP, principally Senate Document No. 191, recognized that portions of the power-producing capacity of the project would be used for Federal project irrigation and drainage pumping service. The Power Repayment Study is based on the "ultimate development" concept, with 19.9 percent of the power facilities being reserved for irrigation pumping (500,700 kW of ultimate pumping requirements divided by 2,521,000 kW of total P–SMBP system capacity). The suballocated costs of these facilities are interest free and are scheduled for repayment with the associated irrigation project. In addition, certain joint-use facilities associated with navigation and flood control are nonreimbursable.

Major Changes From the FY 1974 Study

Existing power rates for the P–SMBP are based on an FY 1974 power repayment study. Therefore, it is appropriate to note some items that are treated differently in the FY 1980 study than they have been in the past.

The P–SMBP provides for the application of excess municipal and industrial (M&I) water revenues to repayment of irrigation investment which is beyond the irrigators' ability to repay. In past power repayment studies, such excess revenues have included the proceeds from M&I option contracts. However, beginning with the 1980 study there is no application of such revenues, because the option contracts for M&I water have expired. When future M&I sales are made, power will be credited with revenue adequate to cover the cost of purchasing an amount of energy equivalent to the lost generation. The balance of the revenue will be credited to irrigation repayments.

Effective with the current rate analysis, future hydroelectric powerplant development will be eliminated from the study. Original P–SMBP legislation envisioned ultimate development of hydroelectric generating capacity of about 1,155 megawatts, about 500 megawatts of which would be devoted to providing seasonal irrigation pumping requirements. Those original goals for generating capacity have been exceeded. Total installed capacity within the P–SMBP system now exceeds 2,500 megawatts, about 80 percent of which is provided by the Corps of Engineers (Corps) Missouri River powerplants. A letter dated December 9, 1981, from the Bureau to Western concluded,

> Thus, since the spirit and intent of the original legislation has been met, it is logical to assume that future legislation will determine the final capacity of the P–SMBP.

Elimination of future powerplants results in changing the suballocation to interest-free investment from 16.8 percent as used in FY 1974 study to 19.9 percent.

The Bureau completed a depletion study for Western's Post-FY 85 Marketing Plan. The depletions which resulted from that study are the basis for the data used in the FY 1980 repayment study. Figure 3 of the February 1982 customer brochure compares the level of depletion forecasts which have been used in selected previous analyses.

Public Comments

Additional Steps in Energy Rate

One customer requested that we consider additional steps in the rate design, with even higher firm power rates than are now proposed for energy taken at monthly load factors that are above 60 percent. The customer was willing to pay more per kWh as his energy use increased if Western would guarantee that the energy would be available. Existing arrangements give Western the option of placing a ceiling on a customer's energy use on 3-year's notice. Western responded that because of the 3-year notice provision, an energy limitation could not be effected before the probable start of the next rate adjustment proceedings, and on that basis, further graduations in our energy rate are not considered necessary at this time. Western did agree to consider this proposal during future rate adjustment proceedings.

Special Repayment Studies

Western received certain requests during the customer consultation and comment period to prepare additional power repayment studies designed to analyze special interest items. Among these were requests for separate studies on repayment of the P–SMBP's transmission system, and studies using a 5-year cost evaluation period rather than the ultimate development concept. Western does not have the manpower and time to run power repayment studies that are inconsistent with existing P–SMBP authorizing legislation and supporting legislative history, and declines to do so at this time. The one project, ultimate development concept, is discussed in further detail in the next section of this order.

Ultimate Development Concept

Several customers questioned Western's 100-year repayment study period and cited DOE Order No. RA 6120.2 as providing for a normal 5-year cost evaluation period.

At least one customer commented that:

> The 1980 repayment study shows the critical year to be approximately 2053 when revenues will not cover the required repayment amount * * * the year 2053 is seventy-one years in the future.

Western's authorization for basing repayment of the P–SMBP on the concept of ultimate development is probably most clearly evidenced in the legislative history of the enactment of section 4(b) of the Garrison Diversion Unit (Act of August 5, 1965, 79 Stat. 433, 435). That subsection reads as follows:

> (b) From and after July 1, 1985, the interest rate on the unamortized balance of the investment allocated to commercial power facilities constructed or under construction on June 30, 1965, by the Department of the Army in the Missouri River Basin, the commercial power from which is marketed by the Department of the Interior, and in the transmission and marketing facilities associated therewith, shall be 2½ per centum per annum.

The change in the interest rate, noted above, was one of the principal recommendations made to the Congress by the Department of the Interior in December 1963, in a document entitled "Report of Financial Position, Missouri River Basin Project." The purpose of the report was to present a financial plan which would put the P–SMBP in a sound financial position.

Of the costs allocated to the power function, a portion is suballocated to irrigation pumping based upon the pumping demand under conditions of ultimate development. These costs are repaid without interest. The remaining power investment is repaid with interest. The Secretary's report indicated (at that time) that about 81 percent of the power investment was allocated to interest-bearing commercial power with about 19 percent suballocated to noninterest-bearing irrigation pumping, based upon ultimate development.

The Secretary's financial report and the Department's recommendations were transmitted to the Congress by the Assistant Secretary of the Interior on December 17, 1963. In his transmittal letter, the Assistant Secretary explained the relationship between ultimate development and project investment:

> Comprehensive utilization of the damsites and most economic program of development require, however, that ultimate needs for irrigation storage be recognized and that the purpose be provided for in the designs. Accordingly, substantial investment costs in irrigation storage and pumping power facilities have been made for the ultimate benefit of irrigation undertakings that are not yet in being and will not be revenue producing, in certain cases, for many years.

The report itself clearly shows how the repayment policy proposed to the Congress took into account irrigation projects not under construction at the time.

> The scale of irrigation development included in current analyses and for which repayment of reimbursable costs is sought to be demonstrated consists of those unts and divisions in the Bureau of Reclamation program which have either been constructed or will be under construction as of June 30, 1964, plus units which are shown to be economically justified in the most recent economic analysis.

As provided in section 4(b) of the Garrison Act, the interest rate on the investment allocated to commercial power in Corps facilities constructed or under construction on June 30, 1965, was reduced from 3 to 3⅛ percent. The purpose in reducing the interest rate was to make ⅛ percent interest savings available over the years to assist in the repayment of irrigation facilities included in the plan of ultimate development.

The report of the House Committee explained that the enactment of the interest amendment, i.e., 4(b), showed Congressional acceptance of the Secretary's financial report:

> In addition to reauthorizing the initial stage of the Garrison Diversion Unit, the approval of this legislation will indicate acceptance by the Congress of the Department's recommendations with respect to the overall financial position of the Missouri River Basin Project. H.R. Rept. No. 282, 89th Cong., 1st Sess. 8 (1965).

The Senate committee report also acknowledged that Section 4(b) was enacted to carry out major recommendations of the Secretary's financial plan. (S. Rept. No. 4670 (on S. 34), 89th Cong., 1st Sess. 4 (1965).)

At least one entity has formally agreed with Western's methodology. A letter dated May 19, 1982, prepared on behalf of the Mid-West Electric Consumers Association, was received that was supportive of the above position.

It is true that Departmental Order RA 6120.2 provides for a cost evaluation period, which normally is five years. However, the purpose of RA 6120.2 is to establish uniform financial procedures and methodology for the power marketing agencies.

> * * * except where deviations therefrom are specifically approved by the Secretary, authorized by statute, or identified and explained in a transmittal memorandum or in the footnotes to the reports.

In other words, the Order RA 6120.2 attempts to establish uniform procedures in the absence of legislation which authorizes deviations. The legislation and the congressional purpose underlying the legislation sanction a departure from the five-year limitation in the case of the P–SMBP.

Another aspect of the discussion is whether cost allocations should be based on the ultimate development concept or a current use concept. Power Repayment Studies and cost allocations should both use the same concept; to do otherwise would be illogical and inconsistent. Audits and reports by the General Accounting Office and the Inspector General concerning the P–SMBP have suggested and even recommended that the cost allocations should be based on a current-use concept. In a June 13, 1973, memorandum to the Commissioner of Reclamation, the Assistant Solicitor, Branch of Water and Power, Department of the Interior, stated,

> * * * we are of the view that Congressional approval would be necessary before the Secretary could make such a change.

Section 302 of the August 4, 1977, DOE Act (42 U.S.C. 7152(a)(3)) says in part,

> * * * Neither the transfer of functions effected by paragraph (1)(E) of this subsection nor any changes in cost allocation or project evaluation standards shall be deemed to authorize the reallocation of joint costs of multipurpose facilities theretofore allocated unless and to the extent that such change is hereafter approved by Congress.

And an October 14, 1980, memorandum to the Commissioner from the Assistant Solicitor, Branch of Water and Power, Division of Energy and Resources, Department of the Interior, concerning a July 1978 audit report, included this statement:

> We have reviewed the audit report, the legislation authorizing the Pick-Sloan Missouri Basin Program, and legislative history that accompanied it. We conclude that the use of the ultimate development cost allocation method in the P–SMBP is based in law and that Congressional approval would be necessary before the Secretary could change the basis for suballocation from ultimate use to current use.

It has consistently been Western's position (and likewise the Bureau's) that changing from the ultimate development concept to a current-use concept would require congressional approval because such a change would negate the congressional policy to treat the P–SMBP as a whole for cost allocation and repayment purposes.

After Western had responded in writing to a question concerning use of the ultimate development concept for determining P–SMBP rates, two customers took exception to Western's position for three reasons:

1. Power ratemaking based on ultimate development is so unusual that one would expect Congress to expressly support the concept in legislation, but Congress has not done so;

2. The requirement for repayment within 50 years would not seem to support use of the ultimate development concept; and

3. Congress has, by statute, made clear that no new P–SMBP construction may begin unless it is authorized or reauthorized by Congress (and some of the features included in determining the present rate increase have not been so reauthorized).

Power ratemaking based on "ultimate development" might be viewed as an unusual approach by someone who is familiar with utility ratemaking practices, but to a Congress which is concerned about authorizing a major river basin development, it is not unusual to insist that power rates be adequate to pay all the costs of the authorized project which are assigned to power for repayment. We do not believe that Congress views marketing of power produced at multi-purpose Federal developments as a utility operation; even the Federal Power Act defines an electric utility as,

> * * * any person or State agency which sells electric energy; such term includes the Tennessee Valley Authority, but does not include any Federal power marketing agency.

It was precisely because P–SMBP power rates were not adequate to pay the costs of authorized (existing and future) features assigned to power for payment, and because the rates at that time could not be increased much without being priced out of the market, that Congress undertook financial remedies while it was developing the Garrison Diversion Act. Four remedies came out of that Act and the associated legislative history:

1. Firm power rates for the Eastern Division were increased 5 percent;

2. The interest rate for powerplants constructed or under construction by the Corps of Engineers as of June 30, 1965, and associated transmission and marketing facilities was reduced from 3 percent to 2½ percent;

3. The repayment period for irrigation features constructed or under construction as of June 30, 1964, was changed so that the costs of such features are to be repaid within the shortest practicable time after completion of repayment of interest-bearing commercial power investment, but prior to repayment of irrigation features constructed after that date; and

4. The cost of a federally financed alternative, rather than a privately financed alternative, was used in determining the allocation of costs.

With these remedies, the repayment requirements for authorized features, both existing and future, could be met based on cost levels at that time. Basically this meant,

> * * * that commercial power and municipal and industrial water investments would be repaid with interest in not to exceed 50 years * * * (from their commercial service dates) * * * and that irrigation investments would be repaid within 50 years plus any authorized development period, * * * (after they become benefit producing) * * * including that portion to be repaid from power revenues. H. R. Rept. No. 282, 89th Cong., 1st Sess. 8 (1965), (parens added).

With a sound financial position resorted, Congress could proceed with reauthorization of the Garrison Diversion Unit.

Authorization or Reauthorization of Future Construction

There has been cocern expressed about the fact that no new P–SMBP construction can be undertaken unless it is first authorized or reauthorized. (S. Rep. 470, 89th Cong., 1st Sess., 3 (1965)). It has long been recognized that in establishing this requirement, Congress did not deauthorize previously authorized features. Thus, although the power rates are based on requirements to pay the costs of authorized (existing and future) features of the program, it is acknowledged that some of those features have to be reauthorized before they may be constructed. Congress is aware of how P–SMBP power rates are set and would have to approve a departure from that methodology. Any such departure would also entail a change in the suballocation of power costs to irrigation, and perhaps a change in the allocation of joint costs, particularly if it were decided that any feature not authorized or reauthorized since 1964 is to be treated as if it is not authorized.

Irrigation Units Included in the Study

One customer asked for a list of all projects included in the FY 1980 Power Repayment Study that would not be operational by the end of 1985. Western referred this customer to Table 8 of the February 1982 customer brochure. With the exception of the "existing units," and the Grass Ropes Unit, all of the projects shown on Table 8 are scheduled for completion after 1985.

CRSP Wheeling

Two customers questioned the propriety of charging a fee to deliver Colorado River Storage Project (CRSP) power over the Western Division transmission system. Questions arose concerning: the average cost of transmission in the Western Division; the impact to P–SMBP customers if a wheeling fee were not charged for the delivery of CRSP power; what, if any, is the added cost to P–SMBP of delivering CRSP power; what major expenditures Western has made to its transmission system that would justify imposing a transmission charge for the delivery of CRSP power; the difference, if any, between the cost of delivering Federal power and non-Federal power; whether the rates for transmission service were arbitrarily chosen; and the past use of the P–SMBP transmission system for delivery of CRSP power.

Transmission investment and associated replacements are not segregated from powerplant investments in the repayment study. However, using data from financial records, Western has determined the approximate annual transmission costs of the Western Division P–SMBP to be $9.608 million, including repayment of investment, operation, maintenance, and replacements. To the extent that revenues from firm and nonfirm wheeling arrangements do not offset these annual costs, the costs are recovered from the firm power and other nonwheeling revenues. Using data from the repayment study, the annual estimated wheeling revenues are:

Western Division Auxiliary Energy Wheeling	$2,282,500
Colorado River Storage Project Wheeling	1,402,500
Western Division Nonfirm Wheeling	1,100,000
Total	4,785,100

The FY 1980 Power Repayment Study included the above revenue projections. Wheeling CRSP power is expected to yield about $1.4 million per year. If these revenues were to be excluded, the difference would have to be made-up in firm power revenues. It is estimated that an increase of 0.15 mills per kWh in the composite firm power yield from both divisions would be required to furnish the $1.4 million per year.

The General Marketing Criteria for Colorado River Storage Project published in the **Federal Register** on February 9, 1978 (43 FR 5559), specifically referred to transmission charges by other Federal projects. On page 5564 of the **Federal Register** notice, first column, paragraph 10(D) states:

> WAPA will transmit CRSP power to customers over existing transmission systems of other projects to the extent that capacity is determined to be available. Capacity in these other project transmission systems to the extent possible will be available for the term of the CRSP contracts involved. No additional charges will be imposed unless additional substation or switching station capacity is required or where utilization of another project's system would delay project repayment beyond the point in time which would otherwise be the case. *At some future date, the Secretary may charge for transmission service for delivery of CRSP power over other Federal Systems such as the Parker-Davis and Pick-Sloan Missouri Projects.* The customer will pay for such service at a rate determined by the Secretary which may be assessed as early as 1978 but shall not be later than the termination date of the customer's existing power sales contracts as they may be amended, or in any event, by October 1, 1989 (Emphasis added.)

This issue was raised during proceedings held in connection with the Parker-Davis Project rate increase. Western believes it is proper to charge those customers in the Northern Division of the CRSP for transmission of CRSP energy over the P–SMBP system. Those receiving the benefits of the service should defray the costs of service. It would not be equitable for those CRSP customers utilizing the P–SMBP system to continue receiving transmission service for their CRSP entitlement at no cost, at the expense of the other users of the P–SMBP system.

Delivery of CRSP power over the P–SMBP transmission system does not in itself increase the cost of operating and maintaining the transmission system. However, it is obvious that delivery of CRSP power requires that alternative wheeling revenues must be foregone. The failure to collect such revenues, in the absence of an increase to the P–SMBP firm power rate, would cause repayment to be delayed. Such delayed repayment, or impact on the P–SMBP firm power rate, is the criteria for assessing a charge to other projects for use of the P–SMBP transmission system.

As to the question of what major transmission enhancement expenditures Western has made in Colorado, Wyoming, and Nebraska, which would justify the imposition of a transmission charge for delivery of CRSP power and energy on the P–SMBP system, such expenditures are not the basis for the charge. The criteria are that a charge shall be imposed for transmission service at such time as rendering the service, without charge, would cause P–SMBP repayment to be delayed, or would otherwise adversely impact firm power rates. CRSP deliveries over the P–SMBP transmission system deny use of the system for revenue-producing energy transfers, as discussed in the preceding paragraph. The fact that others have investments in transmission which, by virtue of interconnection with P–SMBP's system, enhance the P–SMBP's system capability is not germane; such benefits are reciprocal.

There is no difference between the cost of delivery of Federal and non-Federal power on the P–SMBP transmission system; however, any costs not paid by revenues from wheeling would have to be paid by firm power revenues, thus increasing the firm power rate.

Transmission rates on the P–SMBP system are not based on cost of service; nor is the 1.1 mill/kWh rate arbitrarily set. Initial non-Federal use of the P–SMBP transmission system in the Western Division was for delivery of non-Federal power and energy related to exchange agreements for delivery of Federal power to preference entities on third parties' systems. The 1 mill/kWh rate for this service was mutually established with the involved third parties reflecting the then prevalent rate for transmission services. For the most part, these third parties provided more service and delivery of Federal loads than the Federal transmission served for the third parties. Any upward adjustment of the rate at which we agreed to deliver power for each other would have resulted in greater costs to the United States. This 1 mill rate was continued in later years when other non-Federal use such as auxiliary load service developed.

The decision to increase the rate for transmission services at this time reflects Western's desire to ensure a more equitable sharing of project costs. The increase in the transmission service rate from 1.0 to 1.1 mills per kWh is consistent with the general overall increase proposed for the firm power rates.

A question was asked about the amount of CRSP power that has been delivered over the P–SMBP Western Division transmission system. Since FY 1966 (the beginning of CRSP sales), 16,149 GWH have been transmitted over the Western Division system of the P–SMBP. The following table shows the annual billed energy to CRSP customers on the P–SMBP Western Division system.

Fiscal year	Gigawatt-hours	Fiscal year	Gigawatt-hours	Fiscal year	Gigawatt-hours
1966	11.5	1972	853.5	1977	1667.4
1967	71.8	1973	1085.8	1978	1713.0
1968	106.9	1974	1302.8	1979	1826.9
1969	209.9	1975	1548.6	1980	1953.7
1970	493.0	1976	1659.4	1981	1828.5
1971	579.7	TQ	505.6		
Total					17,279

Billed quantities include 7 percent losses.

To adjust for losses: 17,279 GWH*1.07=16,149 GWH delivered.

One Western Division customer commented that there is no provision in its contract to require it to pay wheeling for the CRSP power it receives over the P–SMBP system. If the comment is correct, the power repayment study assumes wheeling revenues which may not materialize for the term of that contract. In the event this turns out to be the case, the effect is less than one one-hundredth of a mill/kWh in the firm power rate. The term of this customer's contracts through September 1989. Depending upon the outcome of the formulation of the CRSP post-1989 marketing plan, Western may require payment for wheeling of CRSP power over the Western Division system as a condition of any sale of CRSP power.

Rate Levels

Comments were received from one private utility customer which were intended to emphasize the low price the Government is receiving for P–SMBP power. Western acknowledges that rates for power from alternative sources have risen faster than hydropower rates have risen in recent years. However, the rates being proposed are in keeping with the legislative intent for repayment of the P–SMBP investments.

Rate Design

There been very few comments on the rate design for the proposed increase. However, the subject is addressed in some detail in the February 1982 customer brochure.

Further Discussion

Two customers expressed a desire to meet with Western's representatives to further discuss the proposed increase. A meeting was subsequently held on May 13, 1982. During this meeting a request was made to extend the end of the comment period from May 17, 1982, to June 17, 1982. Written requests for the same extension of the time period were also received. Because no relevant new issues were cited as a basis for these requests, Western denied the requests for an extension of the comment period.

Environmental Evaluation

In compliance with the National Environmental Policy Act of 1969 (NEPA) and DOE regulations published in the **Federal Register** on March 28, 1980 (45 FR 20694), Western conducted an environmental evaluation of this proposed rate adjustment.

Section D of the above guidelines states that for rate adjustments for power marketing administrations, the level of scrutiny and documentation under NEPA depends upon the size of the rate increase as it relates to the rate of inflation since the last rate increase.

Western made a determination of the size of this rate increase. If, as in this provisional increase, the provisional rate increase does not exceed the rate of inflation since the last rate increase, no further NEPA documentation is required. In such cases, a memorandum is typically prepared explaining the basis for that determination and an administrative determination made that no further documentation under NEPA is required. A memorandum dated February 22, 1982, to that effect is on file in Western's offices.

Public Utility Regulatory Policies Act (PURPA) of 1978 (Pub. L. 95–617)

The purposes of Public Law 95–617 are to encourage: (1) Conservation of energy supplied by electric utilities; (2) the optimization of the efficiency of use of facilities and resources by electric utilities; and (3) equitable rates to electric consumers.

The PURPA requires that each State regulatory authority and each unregulated electric utility consider the six standards presented in section III and make a determination whether or not it is appropriate to implement such standards to carry out the purposes of title I of the act. Western has considered the standards. The discussion of each standard and determination whether or not it is appropriate to implement each standard is found in the February 1982 customer brochure.

Availability of Information

Information regarding this rate adjustment, including studies, comments, transcripts, and other supporting material, is available for public review in the Billings Area Office, Western Area Power Administration, 2525 4th Avenue North, Billings, Montana 59101; in the Office of the Administrator, Western Area Power Administration, 1627 Cole Boulevard, Golden, Colorado 80401; and in the Office of the Director of Power Marketing Coordination, Department of Energy, 12th and Pennsylvania Avenue, NW., Washington, DC 20461.

Submission to FERC

The rate herein confirmed, approved, and placed in effect on an interim basis, together with supporting documents, will be submitted to the FERC for confirmation and approval on a final basis.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approved on an interim basis, effective the first day of the first full billing period beginning on or after August 1, 1982, Rate Schedules P–S ED–F1, P–S ED–FP1, P–S WD–F1, P–S WD–FP1, P–S WD–T1, and P–S WD–T2 and a rate for maintenance energy of 12 miles per kWh (no formal rate schedule). These rates shall remain in effect pending the FERC confirmation and approval of them, or substitute rates, on a final basis, or until they are superseded.

Schedule UM–P12 will expire on August 1, 1982.

Issued in Washington, DC, June 28, 1982.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

Schedule P–S ED–F1 (Supersedes Schedule UM–F2)

Pick-Sloan Missouri Basin Program, Eastern Division

Schedule of Rates for Wholesale Firm Power Service

Effective: The first day of the first full billing period beginning on or after August 1, 1982.

Available: In the area served by the Eastern Division of the Pick-Sloan Missouri Basin Program.

Applicable: To wholesale power customers for general power service supplied through one meter at one point of delivery.

Character and Conditions of Service: Alternating current, sixty hertz, three-phase, delivered and metered at the voltage and points established by contract.

Monthly Rate

Capacity charge: $1.35 per kilowatt of billing demand.

Energy charge: 3.62 mills per kilowatthour all energy use up to and including that associated with a 60 percent loan factor.

7.00 mills per kilowatthour for all additional energy use up to, but not in excess of, the delivery obligations under the power sales contact; *Provided, that any contract provisions regarding minimum energy purchase requirements will be modified at the customer's request to reduce said minimum to an amount associated with a 60 percent load factor.*

Billing demand: The billing demand will be the highest 30-minute integrated demand established during the month up to, but not in excess of, the delivery obligation under the power sales contract.

Minimum bill: $1.35 per month per kilowatt of the effective contract rate of delivery.

Billing for Unauthorized Overruns

For each billing period in which there is a contract violation involving an unauthorized overrun of the contractual firm power and/or energy obligations, such overruns shall be billed at ten (10) times the above rate.

Adjustments

For character and conditions of service: Customers who receive deliveries at transmission voltage may in some instances be eligible to receive a 5 percent discount on capacity and energy charges when facilities are provided by the customer which result in a sufficient savings to the United States to justify the discount. The determination of eligibility for receipt of the voltage discount shall be exclusively vested in the United States.

For transformer losses: If delivery is made at transmission voltage but metered on the low-voltage side of the substation, the meter readings will be increased two percent to compensate for transformer losses.

For power factor: None. The customer will normally be required to maintain a power factor at the point of delivery of between 95 percent lagging and 95 percent leading.

Schedule P–S ED–FP1 (Supersedes Schedule UM–FP3)

Pick–Sloan Missouri Basin Program, Eastern Division

Schedule of Rates for Wholesale Peaking Power Service

Effective: The first day of the first full billing period beginning on or after August 1, 1982.

Available: Within and adjacent to the marketing area of the Eastern Division of the Pick-Sloan Missouri Basin Program.

Applicable: To wholesale power customers purchasing such service under long-term contracts. Because of the nature of this class of service it is applicable only to customers with other resources enabling them to utilize it.

Character and Conditions of Service: As specifically established by contract. Delivery will be made from the transmission system of the United States at transmission voltages, and normally only during peak hours of the purchaser's load. Return of all energy furnished shall normally be required.

Monthly Rate

Capacity charge: $1.35 per kilowatt of the effective contract rate of delivery for peaking power or the maximum amount scheduled, whichever is the greater.

Energy charge: 3.62 mills per kilowatthour for all energy scheduled for delivery without return.

Billing for Unauthorized Overruns

For each billing period in which there is a contract violation involving an unauthorized overrun of the contractual obligation for peaking capacity and/or energy, such overrun shall be billed at ten (10) times the above rate.

Adjustments

For power factor: None. The customer will normally be required to maintain a unity power factor at the point of delivery.

Schedule P–S WD–F1 (Supersedes Schedule LM–F2)

Pick-Sloan Missouri Basin Program, Western Division

Schedule of Rates for Wholesale Firm Power Service

Effective: The first day of the first full billing period beginning on or after August 1, 1982.

Available: In the area served by the Western Division of Pick-Sloan Missouri Basin Program.

Applicable: To wholesale power customers for general power service supplied through one meter at one point of delivery.

Character and Conditions of Service: Alternating current, sixty hertz, three-phase, delivered and metered at the voltages and points established by contract.

Monthly Rate

Capacity charge: $1.43 per kilowatt of billing demand.

Energy charge: 4.3 mills per killowatthour for all energy use up to, but not in excess of, the delivery obligation under the power sales contract.

Billing demand: The billing demand will be the highest 30-minute integrated demand established during the month up to, but not in excess of, the delivery obligation under the power sales contract.

Minimum bill: $1.43 per month per kilowatt of the effective contract rate of delivery.

Billings for Unauthorized Overruns: For each billing period in which there is a contract violation involving an unauthorized overrun of the contractual firm power and/or energy obligations, such overrun shall be billed at ten (10) times the above rate.

Adjustments

For character and conditions of service: Customers who receive deliveries at transmission voltage may in some instances be eligible to receive a 5 percent discount on capacity and energy charges when facilities are provided by the customer which result in a sufficient savings to the United States to justify the discount. The determination of eligibility for receipt of the voltage discount shall be exclusively vested in the United States.

For transformer losses: If delivery is made at transmission voltage, but metered on the low-voltage side of the substation, the meter readings will be increased to compensate for transformer losses as provided for in the contract.

For power factor: None. The customer will normally be required to maintain a power factor at the point of delivery of between 95 percent lagging and 95 percent leading.

Schedule P–S WD–FP1 (Supersedes Schedule LM–FP2)

Pick-Sloan Missouri Basin Program, Western Division

Schedule of Rates for Wholesale Peaking Power Service

Effective: The first day of the first full billing period on or after August 1, 1982.

Available: Within and adjacent to the marketing area of the Western Division of the Pick-Sloan Missouri Basin Program.

Applicable: To wholesale power customers purchasing such service under long-term contracts. Because of the nature of this class of service, it is applicable only to customers with other resources enabling them to utilize it.

Character and Conditions of Service: As specifically established by contract. Delivery will be made from the transmission system of the United States at transmission voltage and normally only during peak hours of the purchaser's load. Return of all energy furnished shall normally be required.

Monthly Rate

Capacity charge: $1.43 kilowatt of the effective contract rate of delivery for peaking power or the maximum amount scheduled, whichever is greater.

Energy charge: 4.3 mills per kilowatthour for all energy scheduled for delivery without return.

Billing for Unauthorized Overruns: For each billing period in which there is a contract violation involving an unauthorized overrun of the contractual obligation for peaking capacity and/or energy, such overrun shall be billed at ten (10) times the above rate.

Adjustments

For power factor: None. The customer will normally be required to maintain a power factor at the point of delivery of between 95 percent lagging and 95 percent leading.

Schedule P–S WD–T1

Pick-Sloan Missouri Basin Program, Western Division

Schedule of Rates for Firm Transmission Service

Effective: The first day of the first full billing period beginning on or after August 1, 1982.

Available: In the area served by the Pick-Sloan Missouri Basin Program, Western Division.

Applicable: To firm transmission service customers where power and energy are supplied to the Western Division systems at points of interconnection with other systems and transmitted and delivered, less losses, to points of delivery on the Western Division system specified in the service contract.

Character and Conditions of Service: Transmission service for three-phase alternating current at sixty hertz, delivered and metered at the voltages and points of delivery specified in the service contract.

Rate

Transmission service charge: 1.1 mills per kilowatthour delivered at the point of delivery or $9.60 per kilowatt per year for each kilowatt contracted for at the point of delivery, as specified in the service contract; payable monthly at the rate of 1.1 mills per kilowatthour or $0.80 per kilowatt of effective contract rate of delivery.

Adjustments

For reactive power: None. There shall be no entitlement to transfer of reactive kilovoltamperes at delivery points, except when such transfers may be mutually agreed

upon by Contractor and Contracting Officer or their Authorized Representatives.

For Losses: Power and energy losses incurred in connection with the transmission and delivery of power and energy under this rate schedule shall be supplied by the customer in accordance with the service contract.

Schedule P–S WD–T2

Pick-Sloan Missouri Basin Program, Western Division

Schedule of Rates for Nonfirm Transmission Service

Effective: The first day of the first full billing period beginning on or after August 1, 1982.

Available: In the area served by Pick-Sloan Missouri Basin Program, Western Division.

Applicable: To nonfirm transmission service customers where power and energy are supplied to the Western Division systems at points of interconnection with other systems and transmitted and delivered subject to the availability of transmission capacity, less losses, to points of delivery on the Western Division Systems specified in the service contract.

Character and Conditions of Service: Transmission service on an intermittent basis for three-phase alternating current at sixty hertz, delivered and metered at the voltages and points of delivery specified in the service contract.

Rate

Transmission service charge: 1.1 mills per kilowatthour delivered at the point of delivery for each kilowatthour scheduled; payable monthly.

Adjustments

For reactive power: None. There shall be no entitlement to transfer of reactive kilovoltamperes at delivery points, except when such transfers may be mutually agreed upon by Contractor and Contracting Officer or their Authorized Representatives.

For Losses: Power and energy losses incurred in connection with the transmission and delivery of power and energy under this rate schedule shall be supplied by the customer in accordance with the service contract.

[FR Doc. 82-19828 Filed 7-21-82; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[TSH–FRL2174–3; OPTS–53039]

Premanufacture Notices; Monthly Status Report for June 1982

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to issue a list in the **Federal Register** at the beginning of each month reporting the premanufacture notices (PMNs) pending before the Agency and the PMNs for which the review period has expired since publication of the last monthly summary. This is the report for June 1982.

DATE: Written comments are due no later than 30 days before the applicable notice review period ends on the specific chemical substance. Nonconfidential portions of the PMNs may be seen in Rm. E–106 at the address below between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

ADDRESS: Written comments are to be identifdied with the document control number "[OPTS–53039]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M Street, SW., Washington, D.C. 20460; (202–382–3532).

FOR FURTHER INFORMATION CONTACT: Kirk Maconaughey, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–208, 401 M Street, SW., Washington, D.C. 20460; (202–382–3746).

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)(3) of TSCA (90 stat. 2102 (15 U.S.C. 2504)), will identify: (a) PMNs received during June; (b) PMNs received previsously and still under review at the end of June; (c) PMNs for which the notice review period has ended during June; (d) chemical substances for which EPA has received a notice of commencement to manufacture during June; and (e) PMNs for which the review period has been suspended. Therefore, the June 1982 PMN Status Report is being published.

Dated: July 15, 1982.

Paul Fuschini,

Acting Director, Management Support Division.

Premanufacture Notices Monthly Status Report, June 1982

I. 76 Premanufacture Notices Received During the Month

PMN No.	Identity and generic name	FR citation	Expiration date
82–400	Potassium N,N-bis (hydroxyethyl) cocamine oxide phosphate	47 FR 25402 (6/11/82)	Aug. 30, 1982.
82–401	Generic name: Polyvinyl starch	47 FR 25402 (6/11/82)	Do.
82–402	Generic name: Styrene-diene-substituted alkene copolymer	47 FR 25402 (6/11/82)	Do.
82–403	Ethyl acrylate-methyl acrylate copolymer	47 FR 25402 (6/11/82)	Aug. 31, 1982.
82–404	Ethyl acrylate-methyl methacrylate copolymer	47 FR 25402 (6/11/82)	Do.
82–405	Ethyl acrylate-methyl acrylate-methyl methacrylate copolymer	47 FR 25402 (6/11/82)	Do.
82–406	Ethyl acrylate-methyl acrylate copolymer	47 FR 25403 (6/11/82)	Do.
82–407	Vinyl acetate homopolymer	47 FR 25403 (6/11/82)	Do.
82–408	Generic name: Tetra tosylate porphine	47 FR 25403 (6/11/82)	Do.
82–409	Potassium N,N-bis(hydroxyethyl) tallow amine oxide phosphate	47 FR 25403 (6/11/82)	Do.
82–410	Generic name: Substituted heterocycle, amine salt	47 FR 25403 (6/11/82)	Do.
82–411	Generic name: Mixed metal hydroxide	47 FR 25403 (6/11/82)	Do.
82–412	Anthra[2,1,9-def:6,5,10-d'e'f']diisoquinoline-1,3,8,10(2H,9H)-tetrone, 2,9-bis(4-aminophenyl)	47 FR 25403 (6/11/82)	Sept. 1, 1982.
82–413	Generic name: Polyether polyglycol resin polymer	47 FR 25403 (6/11/82)	Do.
82–414	Generic name: Polyester polymer	47 FR 25403 (6/11/82)	Do.
82–415	Generic name: Polyester polymer	47 FR 25403 (6/11/82)	Do.
82–416	Generic name: Urethane polyol	47 FR 25403 (6/11/82)	Do.
82–417	Generic name: Polymer of alkenes and substituted alkenes	47 FR 25403 (6/11/82)	Do.
82–418	Generic name: Hydrogen bis[1-[(3,5-disubstituted-2-hydroxyphenyl)azo]-3-(N-mono-substituted)-2-naphthalenolato(2-)]chromate(1-).	47 FR 26235 (6/17/82)	Sept. 2, 1982.
82–419	Generic name: Acrylamide-acrylate copolymer	47 FR 26235 (6/17/82)	Do.
82–420	Invalid		
82–421	1-(cyclohexen-1-yl) piperidine	47 FR 26236 (6/17/82)	Sept. 5, 1982.
82–422	Generic name: Tetraalkyldiol benzocarbene	47 FR 26235 (6/17/82)	Do.
82–423	Generic name: Polyhaloalkoxyalkylphenone	47 FR 26235 (6/17/82)	Sept. 6, 1982.
82–424	Polymer of: Hexanediol, dentocol, trimethylol propane, isophthalic acid, adipic acid	47 FR 26236 (6/17/82)	Do.
82–425	Generic name: Polyester of a substituted alkanoic ester, alkanoic diole and a carbomonocydic dicoid.	47 FR 26236 (6/17/82)	Do.
82–426	Generic name: Substituted cyclopentadiene	47 FR 26235 (6/17/82)	Sept. 7, 1982.

I. 76 Premanufacture Notices Received During the Month—Continued

PMN No.	Identity and generic name	FR citation	Expiration date
82-427	Generic name: Alkoxylated aliphatic glycol	47 FR 26235 (6/17/82)	Do.
82-428	Generic name: Acrylated alkoxylated aliphatic glycol	47 FR 26235 (6/17/82)	Do.
82-429	Generic name: Ethoxylated molybdenum amine	47 FR 26235 (6/17/82)	Do.
82-430	Generic name: Tetrasubstituted benzisoxazole	47 FR 26235 (6/17/82)	Do.
82-431	Generic name: Isocyanic acid, polymethylene polyphenylene ester polymer with modified polyalkylene glycol.	47 FR 26235 (6/17/82)	Do.
82-432	Reaction mixture containing: Isobornyl acetyl-acetate, isoboryl acetate and ethylacetyl-acetate	47 FR 27610 (6/25/82)	Sept. 12, 1982.
82-433	Found to be on the Inventory		
82-434	Generic name: Polyquaternary methacrylamide ammonium acetate	47 FR 27610 (6/25/82)	Do.
82-435	Generic name: Poly[oxy(methyl-1,2-ethanediyl)] aliphatic ether amide of dialkenoic acid	47 FR 27610 (6/25/82)	Do.
82-436	Soyabean oil polymer with maleic anhydride, neopentyl glycol, tetrahydrophthalic anhydride and trimethylol propane.	47 FR 27610 (6/25/82)	Do.
82-437	Generic name: Modified polyester of a carbomonocyclic anhydride and a substituted alkanediol	47 FR 27610 (6/25/82)	Do.
82-438	Generic name: Aromatic amine ester	47 FR 27610 (6/25/82)	Do.
82-439	Generic name: Sulphonated phenyl arsine dibromide	47 FR 27610 (6/25/82)	Do.
82-440	Generic name: Copolyesters	47 FR 27611 (6/25/82)	Sept. 13, 1982.
82-441	Generic name: Alkylphenol, formaldehyde, alkanolamine, alkylene oxides reaction product	47 FR 27611 (6/25/82)	Do.
82-442	Generic name: Aromatic acids, polyether polyol alkyd	47 FR 27611 (6/25/82)	Do.
82-443	Generic name: Alkyl substituted mercaptan	47 FR 27611 (6/25/82)	Sept. 14, 1982.
82-444	Further clarification needed on chemical identity		
82-445	Withdrawn		
82-446	Generic name: Substituted imidazolidinone	47 FR 28994 (7/2/82)	Sept. 16, 1982.
82-447	Generic name: Substituted imidazolidinone	47 FR 28994 (7/2/82)	Do.
82-448	Generic name: A reaction product of phenylene-bis[[[(butane derivative)-substituted]-phenyl]azo], compound with organic acids.	47 FR 28995 (7/2/82)	Do.
82-449	1-cyclohexen-1-amine, N,N-dibutyl	47 FR 28995 (7/2/82)	Sept. 19, 1982.
82-450	Generic name: Amino alkyl alkoxy silanes	47 FR 28995 (7/2/82)	Do.
82-451	Generic name: Metal complexed diazo compound	47 FR 28995 (7/2/82)	Do.
82-452	Generic name: Benzoxazole oxazolidinone	47 FR 28995 (7/2/82)	Do.
82-453	Generic name: Benzoxazolium salt	47 FR 28995 (7/2/82)	Do.
82-454	Generic name: Saturated polyester resin	47 FR 28995 (7/2/82)	Sept. 20, 1982.
82-455	Generic name: Polyhaloalkoxyarylamide	47 FR 28995 (7/2/82)	Do.
82-456	Generic name: Isocyanate terminated polyether polyurethane prepolymer	47 FR 28995 (7/2/82)	Do.
82-457	Generic name: Alkyd derivative from fatty acids, substituted alkanoic acids, a carbomonocyclic anhydride, polyols and esters.	47 FR 28995 (7/2/82)	Do.
82-458	Generic name: Polymer of a vegetable oil derivative, alkane diols and a carbomonocyclic anhydride.	47 FR 28995 (7/2/82)	Do.
82-459	Generic name: Silicon substituted organic ester	47 FR 28995 (7/2/82)	Do.
82-460	Generic name: Dialkyl amide of an alkenedioic acid	47 FR 28995 (7/2/82)	Sept. 21, 1982.
82-461	Generic name: Diacyl peroxide	47 FR 28996 (7/2/82)	Sept. 22, 1982.
82-462	Generic name: Trisubstituted benzoxazole	47 FR 28996 (7/2/82)	Do.
82-463	Generic name: Unsaturated polyester resin	47 FR 30103 (7/12/82)	Sept. 23, 1982.
82-464	Generic name: 2-hydroxy-3-naphthoic acid N-aryl amide	47 FR 30103 (7/12/82)	Sept. 26, 1982.
82-465	Generic name: Quaternary ammonium chloride	47 FR 30103 (7/12/82)	Do.
82-466	Polymer of vinyl toluene, styrene, 2 ethyl hexyl acrylate	47 FR 30103 (7/12/82)	Do.
82-467	Generic name: Aromatic aliphatic branched polyester resin	47 FR 30103 (7/12/82)	Sept. 28, 1982.
82-468	Generic name: Isocyanate terminated polyether polyurethane prepolymer	47 FR 30103 (7/12/82)	Sept. 27, 1982.
82-469	Reaction product from benzyl-1-hydroxydiphenyl ethoxylate and glycolic acid, sodium salt	47 FR 30103 (7/12/82)	Do.
82-470	Generic name: Terephthalic acid modified unsaturated polyester resin	47 FR 30103 (7/12/82)	Sept. 28, 1982.
82-471	Generic name: Terephthalic acid modified unsaturated polyester resin	47 FR 30103 (7/12/82)	Do.
82-472	Generic name: Terephthalic acid modified unsaturated polyester resin	47 FR 30103 (7/12/82)	Do.
82-473	Generic name: Terephthalic acid modified unsaturated polyester resin	47 FR 30104 (7/12/82)	Do.
82-474	Generic name: Terephthalic acid modified unsaturated polyester resin	47 FR 30104 (7/12/82)	Do.
82-475	Generic name: Terephthalic acid modified unsaturated polyester resin	47 FR 30104 (7/12/82)	Do.
82-476	Generic name: Terephthalic acid modified unsaturated polyester resin	47 FR 30104 (7/12/82)	Do.
82-477	Generic name: Terephthalic acid modified unsaturated polyester resin	47 FR 30104 (7/12/82)	Do.
82-478	Generic name: Calcium salt of a substituted amino acid	47 FR 30104 (7/12/82)	Do.

II. 75 Premanufacture Notices Received Previously and Still Under Review at the End of the Month

PMN No.	Identity and generic name	FR citation	Expiration date
82-323	Generic name: t-alkyl peroxyester	47 FR 20853 (5/14/82)	Aug. 1, 1982.
82-324	Generic name: Phenoxy ester resin	47 FR 20853 (5/14/82)	Do.
82-325	Generic name: Acrylic resin	47 FR 20853 (5/14/82)	Do.
82-326	Generic name: Substituted pyridine	47 FR 20853 (5/14/82)	Do.
82-327	Generic name: Hydroxy, amine-substituted anthraquinone	47 FR 20853 (5/14/82)	Aug. 2, 1982.
82-328	Generic name: Modified amine	47 FR 20853 (5/14/82)	Do.
82-329	Generic name: Poly[(aminoalkylamino)alkylene oxide]	47 FR 20853 (5/14/82)	Do.
82-330	Generic name: Poly(vinyl acrylate)	47 FR 20853 (5/14/82)	Aug. 3, 1982.
82-331	Generic name: Nitrophenyl amide	47 FR 20853 (5/14/82)	Do.
82-332	Generic name: Aminophenyl amide	47 FR 20853 (5/14/82)	Do.
82-333	Generic name: Polyacrylate	47 FR 20853 (5/14/82)	Do.
82-334	Generic name: 5-chloro-4-nitro-2-substituted aryloxydimethylaniline	47 FR 20853 (5/14/82)	Aug. 4, 1982.
82-335	Generic name: 5-chloro-2-substituted aryloxyaniline	47 FR 20853 (5/14/82)	Do.
82-336	Generic name: 2-chloro-4(N,N-dimethylamino)-5-substituted aryloxydiazonium tetrafluoroborate	47 FR 20854 (5/14/82)	Do.
82-337	Generic name: 5-chloro-2-substituted aryloxydimethylaniline	47 FR 20853 (5/14/82)	Do.
82-338	Generic name: Disubstituted triazolidine	47 FR 20853 (5/14/82)	Do.
82-339	Generic name: Disubstituted triazolidine salt	47 FR 20853 (5/14/82)	Do.
82-340	Generic name: Complex quaternary ammonium chloride	47 FR 22214 (5/21/82)	Aug. 6, 1982.
82-341	Generic name: Unsaturated hydrocarbons modified rosin	47 FR 22214 (5/21/82)	Do.
82-342	Generic name: Unsaturated hydrocarbons modified rosin	47 FR 22214 (5/21/82)	Do.
82-343	Generic name: Unsaturated hydrocarbons modified rosin	47 FR 22214 (5/21/82)	Do.
82-344	Generic name: Unsaturated hydrocarbons modified rosin	47 FR 22214 (5/21/82)	Do.
82-345	Generic name: Polyhalo alkoxyaryl nitrile	47 FR 22214 (5/21/82)	Aug. 9, 1982.
82-346	Generic name: Reaction product of a substituted benzene, formaldehyde and inorganic acid	47 FR 22214 (5/21/82)	August 9, 1982.
82-347	Generic name: Polyurethane of a diisocyanate and a substituted alkanediol	47 FR 22214 (5/21/82)	Do.
82-348	Generic name: Urea/carbamate elastomer	47 FR 22214 (5/21/82)	Do.

II. 75 Premanufacture Notices Received Previously and Still Under Review at the End of the Month—Continued

PMN No.	Identity and generic name	FR citation	Expiration date
82-349	Generic name: Polycyclic sulfonic acid salt	47 FR 22215 (5/21/82)	Aug. 10, 1982.
82-350	Generic name: Titanium (4) mixed alcohol complex	47 FR 22215 (5/21/82)	Do.
82-351	Generic name: Titanium (4) mixed alcohol complex	47 FR 22215 (5/21/82)	Do.
82-352	Generic name: Naphthalenedisulfonic acid, [[aminosulfohydroxy naphthalenyl]azo]-, trisodium salt.	47 FR 22215 (5/21/82)	Do.
82-353	Generic name: Substituted phenyl-pyrimidine	47 FR 22215 (5/21/82)	Aug. 11, 1982.
82-354	Generic name: Substituted phenyl-pyrimidine	47 FR 22215 (5/21/82)	Do.
82-355	Generic name: Substituted phenyl-pyrimidin bicyclic azo heterocyclic merocyanine	47 FR 22215 (5/21/82)	Do.
82-356	Generic name: Polymer of 1,4-benzenedicarboxylic acid dimethyl ester; dihydroxyalkane; 1,6-hexanediol; alpha hydro-omega hydroxy poly (oxy-1,4-butanediyl).	47 FR 22215 (5/21/82)	Do.
82-357	Generic name: 2,5-diisopropoxy-4-morpholino benzene diazonium aryl sulfonic acid salt	47 FR 23552 (5/28/82)	Aug. 12, 1982.
82-358	Generic name: Modified phenoxy—S resin	47 FR 23552 (5/28/82)	Do.
82-359	Generic name: Polyester resin	47 FR 23552 (5/28/82)	Do.
82-360	Generic name: Trisubstituted benzenamide	47 FR 23553 (5/28/82)	Do.
82-361	Generic name: Tetrasubstituted benzene	47 FR 23553 (5/28/82)	Do.
82-362	Generic name: Substituted benzamide	47 FR 23553 (5/28/82)	Do.
82-363	Generic name: Polyoxypropylene ester acyl caprolactam	47 FR 23553 (5/28/82)	Do.
82-364	Poly[oxy-1,2-ethanediyl), alpha-(carboxymethyl)-omega-(4-nonylphenoxy)	47 FR 23553 (5/28/82)	Aug. 15, 1982.
82-365	Poly(oxy-1,2-ethanediyl), alpha-(carboxymethyl)-omega-(4-nonylphenoxy)	47 FR 23553 (5/28/82)	Do.
82-366	Poly(oxy-1,2-ethanediyl), alpha-(carboxymethyl)-omega-(4-nonylphenoxy)	47 FR 23553 (5/28/82)	Do.
82-367	Poly(oxy-1,2-ethanediyl), alpha-(carboxymethyl)-omega-(4-nonylphenoxy)	47 FR 23553 (5/28/82)	Do.
82-368	Generic name: Alkenyl alkyl silozane alkoxy terminated	47 FR 23553 (5/28/82)	Do.
82-369	Generic name: Benzenedicarboxylic acid saturated mixed glycols copolyester	47 FR 23553 (5/28/82)	Aug. 16, 1982.
82-370	Generic name: Benzenedicarboxylic acid saturated mixed glycols copolyester	47 FR 23553 (5/28/82)	Do.
82-371	Generic name: Disubstituted alkane	47 FR 23553 (5/28/82)	Do.
82-372	Generic name: ((Substituted phenyl)azo)-dihydro-hydroxy-alkyl-oxo-pyridinecarbonitrile	47 FR 23553 (5/28/82)	Do.
82-373	Generic name: Poly(ester-urethane)	47 FR 23554 (5/28/82)	Do.
82-374	Generic name: Alkyl thiadiazole	47 FR 23554 (5/28/82)	Aug. 17, 1982.
82-375	Formaldehyde polymer with 2-furanmethanol and methyloxirane capped	47 FR 23554 (5/28/82)	Do.
82-376	Polymer of trimethylol propane, 1,6 hexanediol, neopentyl glycol, trimellitic anhydride, adipic acid, and isophthalic acid.	47 FR 23554 (5/28/82)	Aug. 18, 1982.
82-377	Generic name: Hybrid urethane	47 FR 23554 (5/28/82)	Do.
82-378	Found to be on the Inventory		Do.
82-379	Generic name: Tetrasubstituted benzisoxazole	47 FR 23554 (5/28/82)	
82-380	Generic name: Disubstituted benzoxazole	47 FR 23554 (5/28/82)	Do.
82-381	Generic name: Tetrasubstituted benzisoxazole	47 FR 25400 (6/11/82)	Do.
82-382	Generic name: Polymer of alkenoic acid alkyl esters, 2-propenoic acid, and 2-propenoic acid, 2-methyl.	47 FR 25400 (6/11/82)	Do. Aug. 19, 1982.
82-383	Generic name: Brominated xylenol	47 FR 25400 (6/11/82)	
82-384	Generic name: Bis[bromo xylenol]sulfide	47 FR 25400 (6/11/82)	Aug. 22, 1982.
82-385	Generic name: Bis[xylenol]sulfide	47 FR 25400 (6/11/82)	Do.
82-386	Generic name: Metal complex of diazo aromatic acids, sodium salt	47 FR 25400 (6/11/82)	Do.
82-387	Phosphorodithioic acid, O,O', secondary buty and isooctyl mixed esters	47 FR 25401 (6/11/82)	Aug. 23, 1982.
82-388	Phosphorodithioic acid, O,O', secondary buty and isooctyl mixed esters, zinc salt	47 FR 25401 (6/11/82)	Aug. 23, 1982.
82-389	Reaction product of [[(phosphonomethyl)imino] bis-[6,1-hexanediyl-nitrilobis(methylene)]] tetrakis-phosphonic acid (2,2' oxybisethanol, reaction products with ammonia; morpholine derivatives, residues).	47 FR 25401 (6/11/82)	Do. Do.
82-390	Polymer of styrene, 2-propenoic acid, 1,1-dimethylethyl ester of 2-propenoic acid, 2-ethylhexyl ester of 2 propenoic acid, and 2-hydroxy propyl acrylate.	47 FR 25401 (6/11/82)	Do.
82-391	Invalid		
82-392	Generic name: Hydroxy ethyl ester substituted polybis imide of pyromellitic dianhydride	47 FR 25401 (6/11/82)	Aug. 25, 1982.
82-393	Amines, N-(3-aminopropyl)-N-tallowalkyltrimethylenedibis-(3-aminopropyl)-N-tallowamine	47 FR 25401 (6/11/82)	Do.
82-394	Generic name: Modified polyurethane from diisocyanate, substituted alkanol and a substituted alkane diol.	47 FR 25401 (6/11/82)	Do.
82-395	Generic name: Polymer of a vegetable oil derivative, alkane diols and a carbomonocyclic anhydride.	47 FR 25401 (6/11/82)	Do.
82-396	Generic name: Substituted oxirane reacted with polyalkylene glycol	47 FR 25401 (6/11/82)	Do.
82-397	Generic name: Tetrasubstituted benzisoxazole	47 FR 25402 (6/11/82)	Do.
82-398	Generic name: A mixture of benzamide, N-((substituted naphthyl)azo)pheny-(substituted amino-hydroxy-sulfonaphthyl)azo) and benzamide, N-((substituted naphthyl)azo)phenyl-((substituted amino-hydroxy-sulfonaphthyl)azo, compounded with organic acids.	47 FR 25402 (6/11/82)	Do.
82-399	C_{12-18}-alkyl mercaptoacetates reaction products with dichlorodioctylstannane and trichlorooctylstannane.	47 FR 25402 (6/11/82)	Do.

III. 69 Premanufacture Notices for Which the Notice Review Period Has Ended During the Month

[Expiration of the notice review period does not signify that the chemical had been added to the inventory]

PMN No.	Identity and generic name	FR citation	Expiration date
82-171	Generic name: Aromatic substituted triazine diazo dye, tetrasodium salt	47 FR 10900 (3/12/82)	June 1, 1982.
82-172	Generic name: Chromophore substituted poly-(oxyalkylene)	47 FR 10900 (3/12/82)	June 2, 1982.
82-173	Generic name: Borate esters-mixture	47 FR 10901 (3/12/82)	Do.
82-174	Generic name: Substituted acrylamide polymer	47 FR 10901 (3/12/82)	June 1, 1982.
82-175	Generic name: Borate ester	47 FR 11957 (3/19/82)	June 3, 1982.
82-176	Generic name: Epoxy functional ployalloxane/silica resin	47 FR 11957 (3/19/82)	Do.
82-177	Generic name: Metal salt of sulfur analog of carboxy alkyl	47 FR 11957 (3/19/82)	June 6, 1982.

III. 69 PREMANUFACTURE NOTICES FOR WHICH THE NOTICE REVIEW PERIOD HAS ENDED DURING THE MONTH—Continued

[Expiration of the notice review period does not signify that the chemical had been added to the inventory]

PMN No.	Identity and generic name	FR citation	Expiration date
82-176	Generic name: Disubstituted butanamide	47 FR 11957 (3/19/82)	Do.
82-178	Generic name: Disubstituted thioic acid ester	47 FR 11957 (3/19/82)	Do.
82-180	Generic name: Disubstituted benezene	47 FR 11957 (3/19/82)	Do.
82-181	Polymers of benzoic acid, dimethylethanolamine, epoxidized soybean oil, neipenyl glycol, propylene glycol, phthalic anhydride, trimellitic anhydride.	47 FR 11958 (3/19/82)	June 7, 1982.
82-182	Polymers of bisphenol, epichlorohydrin, styrene, phenol, formaldehyde	47 FR 11958 (3/19/82)	June 26, 1982.
82-183	Polymers of acrylic acid hydroxyethyl methacrylate, methylmethacrylate, phthalicanhydride, trimelliticanhydride, neodecanoic acid, 2,3-epoxypropyl ester.	47 FR 11958 (3/19/82)	June 7, 1982.
82-184	Invalid		
82-185	Generic name: Fatty acids, esters with a polyol	47 FR 11958 (3/19/82)	Do.
82-186	Generic name: Substituted alkyl amine	47 FR 11958 (3/19/82)	Do.
82-187	Generic name: Modified polymer of alkenoic acid, alkenoic ester and substituted alkenoic esters	47 FR 11958 (3/19/82)	Do.
82-188	Generic name: Modified polymer of alkenoic acid, alkenoic ester and substituted alkenoic esters	47 FR 11958 (3/19/82)	Do.
82-189	Generic name: Benzene 2-[(hexahydro-2,4,6-trioxopyrimidyl)azo]-5-(2-benzothiazolyl) sulfonic acid	47 FR 11958 (3/19/82)	June 8, 1982.
82-196	Generic name: Polyalkylene glycol alkyl glycidyl ether	47 FR 11959 (3/19/82)	June 9, 1982.
82-197	Generic name: Polyoxyalkylene aryl alkyl phenyl ether	47 FR 11959 (3/19/82)	Do.
82-198	Generic name: Modified polyurethane of a substituted alkene diol and a diisocyanate	47 FR 11959 (3/19/82)	Do.
82-199	Generic name: Poly-imidazoline derivative	47 FR 11959 (3/19/82)	Do.
82-200	Void		
82-201	Generic name: Dodecenyl-oleyl-capryl-succinimide	47 FR 13037 (3/26/82)	June 10, 1982.
82-202	Generic name: Dimer fatty acid, propionic acid, dicarboxylic acid, ethylene diamine, diamine polymer.	47 FR 13037 (3/26/82)	June 13, 1982.
82-203	Generic name: Bisphenol A-epichlorohydrin resin—mixed acrylic polymer	47 FR 13037 (3/26/82)	Do.
82-204	Generic name: Di-abietamide	47 FR 13037 (3/26/82)	June 14, 1982.
82-205	Generic name: Polyetherpolyol reaction with toluene diisocyanate hydroxypropyl acrylate blocked	47 FR 13038 (3/26/82)	Do.
82-206	Reaction product of (9,12 octadecadienoic acid, dimer, polymer with 2,5-furandione) with tallow diamine.	47 FR 13038 (3/26/82)	June 15, 1982.
82-207	OC-hydro-w-hydroxy-poly (oxy-1,2 ethanediyl)), polymer with 3,5-dimethyl-1H-pyrazole	47 FR 13038 (3/26/82)	Do.
82-208	OC-hydro-w-hydroxy-poly (oxy(methyl-1,2 ethanediyl)), polymer with 3,5-dimethyl-1H-pyrazole	47 FR 13038 (3/26/82)	Do.
82-209	Generic name: Polymer from disubstituted monocycle and disubstituted alkanes	47 FR 13038 (3/26/82)	Do.
82-210	Generic name: Disubstituted benezene	47 FR 13038 (3/26/82)	June 14, 1982.
82-211	Generic name: Disubstituted butanamide salt	47 FR 13038 (3/26/82)	Do.
82-212	Generic name: Disubstituted benzene	47 FR 13038 (3/26/82)	Do.
82-213	Generic name: Disubstituted benzene	47 FR 13038 (3/26/82)	Do.
82-214	Generic name: Benzoxazole carbocyamine	47 FR 13038 (3/26/82)	June 15, 1982.
82-215	Generic name: Halogenated silicon magnesium oxo-titanium alkoxides	47 FR 13038 (3/26/82)	Do.
82-216	Adduct of 1,3-bis(isocyanatomethyl)-cyclohexane with 2-ethyl-2 (hydroxymethyl)-1,3-propanediol	47 FR 13038 (3/26/82)	Do.
82-217	Generic name: 2-methoxy-1,4 naphthalenedione	47 FR 13038 (3/26/82)	Do.
82-218	Generic name: Di-arylamine	47 FR 14218 (4/2/82)	June 17, 1982.
82-219	Generic name: Polyetherpolyol reaction with isophorone diisocyanate—HEA blocked	47 FR 14218 (4/2/82)	Do.
82-220	Generic name: Polymer of linear glycols and aromatic dicarboxylic acids	47 FR 14218 (4/2/82)	Do.
82-221	Generic name: Disubstituted benzene	47 FR 14218 (4/2/82)	Do.
82-222	Generic name: Disubstituted benzene	47 FR 14218 (4/2/82)	Do.
82-223	Generic name: Polyester-urethane	47 FR 14218 (4/2/82)	June 20, 1982.
82-224	Generic name: Neutralized reaction products of fatty acid derivatives and a substituted alkyl ester	47 FR 14218 (4/2/82)	Do.
82-225	Generic name: Neutralized reaction products of fatty acid derivatives and a substituted alkylester	47 FR 14218 (4/2/82)	Do.
82-226	Generic name: Substituted phenyl, substituted naphthalenyl azo dye	47 FR 14219 (4/2/82)	June 21, 1982.
82-227	2-propenamide, N-[3-(dimethylamino)propyl]-,polymer with diethenylbenzene and 2,2-bis[(2-propenyloxy)methyl]-1-butanol.	47 FR 14219 (4/2/82)	June 23, 1982.
82-228	1-propanaminium, N,N,N-trimethyl-3-[(1-oxo-2-propenyl)amino]-, chloride, polymer with diethenylbenzine and 2,2-bis[(2-propenyloxy)methyl]-1-butanol.	47 FR 14219 (4/2/82)	Do.
82-229	1-propanaminium, N,N,N-trimethyl-3-[(1-oxo-2-propenyl)amino]-, polymer with diethenylbenzene and 2,2-bis[(2-propenyloxy)methyl]-1-butanol.	47 FR 14219 (4/2/82)	Do.
82-230	1-propanaminium, N,N,N-trimethyl-3-[(1-oxo-2-propenyl)amino]-, sulfate, polymer with diethenylbenzene and 2,2-bis[(2-propenyloxy)methyl]-1-butanol.	47 FR 14219 (4/2/82)	Do.
82-231	Generic name: Laurylsulfate salt of substituted p-diazo diphenylamine, polymer with formaldehyde	47 FR 14219 (4/2/82)	June 24, 1982.
82-232	Generic name: Thiophosphate	47 FR 15407 (4/9/82)	June 27, 1982.
82-233	Generic name: Organic salt of phosphorus	47 FR 15407 (4/9/82)	Do.
82-234	Generic name: Modified aromatic diisocyanate with aliphatic triol	47 FR 15407 (4/9/82)	Do.
82-235	Generic name: Allylglycidyl ether alcohol resin	47 FR 15407 (4/9/82)	June 28, 1982.
82-236	Generic name: Polymer of an alkoxylated alkyl heteromonocycle and polymethylenepolyphenylene isocyanate.	47 FR 15407 (4/9/82)	Do.
82-237	Generic name: Bis-substituted urea	47 FR 15407 (4/9/82)	Do.
82-238	N-substitutedphenyl-N,N'-dialkyl urea	47 FR 15407 (4/9/82)	Do.
82-239	Generic name: Substituted unsaturated alcohol	47 FR 15407 (4/9/82)	Do.
82-240	Generic name: Substituted unsaturated alcohol	47 FR 15407 (4/9/82)	Do.
82-241	Penta(oxy-1,2-ethanediyl), alpha-(carboxymethyl)-omega-hydroxy-, C(>)(<) linear primaryalkyl ethers	47 FR 15407 (4/9/82)	June 29, 1982.
82-242	Void		
82-243	Manganic acetylacetonate	47 FR 15407 (4/9/82)	June 30, 1982.
82-244	Generic name: Antimony pentafluoride-substituted amine complex	47 FR 16403 (4/16/82)	Do.
82-262	Generic name: Polyhalogenated aromatic polyacrylate	47 FR 17667 (4/23/82)	June 9, 1982.
82-263	Generic name: t-butylated triphenyl phosphate residue	47 FR 17667 (4/23/82)	Do.
82-264	Generic name: Methylated triphenyl phosphate residue	47 FR 17667 (4/23/82)	Do.
82-265	Generic name: Isopropylated triphenyl phosphate residue	47 FR 17667 (4/23/82)	Do.

IV. 40 Chemical Substances for Which EPA Has Received Notices of Commencement To Manufacture

PMN No.	Chemical identification	FR citation	Date of commencement
80-155	Cyclohexanehexacarboxylic acid, penta sodium salt	45 FR 51282 (8/1/80)	June 24, 1982.
80-345	Sunflower oil, polymer with pentaerythritol phthalic anhydride, soybean oil, and trimethylolethane	46 FR 5058 (1/19/81)	June 1, 1982.
81-114	Generic name: Modified epoxy resin	46 FR 20765 (4/7/81)	June 5, 1982.
81-119	Generic name: Alkyl aluminum halide	46 FR 22280 (4/16/81)	1st quarter of 1982.
81-120	Generic name: Alkyl aluminum halide, ester	46 FR 22280 (4/16/81)	Do.
81-128	Generic name: Unsaturated alicyclic ether	46 FR 22643 (4/20/81)	June 15, 1982.
81-166	Generic name: Polyester polyurethane	46 FR 27170 (5/18/81)	May 21, 1982.
81-251	2-chloro-4-trifluoromethyl-5-thiazolecarboxylic acid, phenylmethyl ester	46 FR 35345 (7/8/81)	July 1, 1982.
81-252	Generic name: Disubstituted thiazolecarboxylic acid ester	46 FR 35345 (7/8/81)	Do.
81-256	Generic name: Polymer of alkanedioic acid and epoxy ester	46 FR 34409 (7/1/81)	June 15, 1982.
81-412	Generic name: Polymeric alkanoic acid ester of substituted hydroxy alkyl, aryl ether	46 FR 45997 (9/16/81)	April 26, 1982.
81-441	Generic name: Mixed mono and dialkyl-dithiothiaalazoles	46 FR 47004 (9/23/81)	June 18, 1982.
81-444	Generic name: Substituted heterocyclic-phenylazo dye	46 FR 47004 (9/23/81)	Feb. 24, 1982.
81-468	4-chloronaphthalene 1,8-ducarbiduc acid anhydride	46 FR 24986 (9/30/81)	May 26, 1982.
81-483	4(2'-aminophenylthio) 1,8 naphthalic anhydride	46 FR 46979 (10/5/81)	May 29, 1982.
81-492	1,3-bis(1-methylethenyl) benzene	46 FR 49945 (10/8/81)	Feb. 1, 1982.
81-494	Generic name: (Alkylaminoalkyl)-(substituted)-benzotriazole	46 FR 49946 (10/8/81)	May 18, 1982.
81-508	Generic name: Benzenedicarboxylic acid saturated mixed glycol polyester	46 FR 50410 (10/13/81)	Feb. 1, 1982.
81-517	Generic name: Alkenyl tetracarboxylate	46 FR 50841 (10/15/81)	June 4, 1982.
81-547	1,4-bis(1-methylethenyl) benzene	46 FR 55001 (11/5/81)	Feb. 8, 1981.
81-573	Generic name: Polyacrylate	46 FR 56651 (11/18/81)	June 11, 1982.
81-583	Generic name: Fatty acid ester with a polyol and oleic acid	46 FR 57127 (11/20/81)	May 13, 1982.
81-594	Generic name: Mixed aromatic diazo dye	46 FR 58358 (12/1/81)	April 10, 1982.
81-617	Generic name: Substituted benzenbe sulfonic acid derivative	46 FR 60981 (12/14/81)	April 12, 1982.
81-640	Generic name: Disubstituted phenol	46 FR 62929 (12/29/81)	April 19, 1982.
81-648	Generic name: Tetrasubstituted benzenamine	47 FR 337 (1/5/82)	May 28, 1982.
81-649	Generic name: Tetrasubstituted benzene	47 FR 338 (1/5/82)	May 5, 1982.
81-651	Generic name: Tetrasubstituted benzene	47 FR 338 (1/5/82)	May 12, 1982.
82-48	Generic name: Modified polyester polyurethane	47 FR 5328 (2/4/82)	June 3, 1982.
82-50	Generic name: Polyester from an alkanedioic acid and polyetherdiols	47 FR 5328 (2/4/82)	June 2, 1982.
82-61	Generic name: Polyoxypropylene ester acyl caprolactum	47 FR 5932 (2/9/82)	July 6, 1982.
82-90	Generic name: Siloxanes and silicones, aminoalkyl me; di-me	47 FR 8677 (3/1/82)	June 10, 1982.
82-134	Propenoic acid/methylene butanedioic acid copolymer, sodium salt	47 FR 8676 (3/1/82)	June 9, 1982.
82-135	Polymer of 2-propenoic acid and methylbutanedioic acid	47 FR 8676 (3/1/82)	June 15, 1982.
82-150	Polymer of methyl methacrylate, acrylamide, butyl acrylate, acrylic acid, methacrylic acid	47 FR 10075 (3/9/82)	June 10, 1982.
82-166	Generic name: Disubstituted-6, 13-dichloro-4, 11-tripenodioxazine disulfonic acid	47 FR 10900 (3/12/82)	June 25, 1982.
82-189	Generic name: Benzene -2-[(hexahydro-2,4,6-trioxophyrmidyl)azo]-5-(2-benzothiazolyl)sulfonic acid	47 FR 11958 (12/1/81)	June 28, 1982.
82-196	Generic name: Polyalkylene aryl phenyl ether	47 FR 11959 (3/19/82)	June 9, 1982.
82-197	Generic name: Polyoxyalkylene aryl phenyl ether	47 FR 11959 (3/19/82)	Do.
82-215	Generic name: Halogenated silicon magnesium oxo-titanium alkoxides	47 FR 13036 (3/26/82)	June 16, 1982.

V. 16 Premanufacture Notices for Which the Review Period Has Been Suspended

PMN No.	Identify and generic name	FR citation	Date suspended
80-137	Benzeneamine, 4,4'-methylene bis[*N*-(1-methylbutylidene)	45 FR 48243 (7/18/80)	Sept. 22, 1980.
80-138	Benzeneamine, 4,4'-methylene bis[*N*(1-methybutylidene)	45 FR 48243 (7/18/80)	Do.
80-148	Phosphorodithioic acid *O,O'*-di(isohexyl, isoheptyl, isooctyl, isononyl, isodecyl) mixed esters, zinc salt.	45 FR 49153 (7/23/80)	Sept. 17, 1980.
80-147	Phosphorodithioic acid *O,O'*-di(isohexyl, isoheptyl, isooctyl, isononyl, isodecyl) mixed esters	45 FR 49153 (7/23/80)	Do.
80-264	Generic name: Benzeneamine, [*N*-(1-methylhexylidene)-*N*-(1-methyl butylidene)-4,4'-methylene bis]	45 FR 73127 (11/4/80)	Dec. 24, 1980.
81-534	2,3-epoxycyclohexanone	46 FR 53522 (10/29/81)	Nov. 2, 1981.
81-558	4-hydroxy-3-(5-(2-hydroxysulfonyloxy) ethylsulfonyl)-2-methoxyphenylazo)-7-succinylamino-2-naphthalenesulfonic acid disodium salt.	46 FR 55146 (11/6/81)	Jan. 27, 1982.
81-559	5-Acetylamino-4-hydroxy-3-(2-hydroxyl-4-(2-hydroxy-sulfonyl) ethylsulfonyl)-5-methyphenylazo)-2,7-naphthalenedisulfonic acid trisodium salt complex.	46 FR 55146 (11/6/81)	Do.
81-561	4-[4-[2-(hydroxysulfonyoxy)ethylsulfonyl]-5-methyl-2-methoxyphenylazo]-3-methyl-1-(3-sulfophenyl)-5-pyrazolone disodium salt.	46 FR 55146 (11/6/81)	Do.
81-643	Generic name: Cationic acrylamide copolymer	46 FR 63107 (12/30/81)	Feb. 19, 1982.
81-644	Generic name: Cationic acrylamide copolymer	46 FR 63107 (12/30/81)	Do.
81-660	4-hydroxy-3-(2-methoxy-5-methyl-4-(2-(hydroxysulfonyloxy)ethylsulfonyl)phenylazo)-1-naphthalene sulfonic acid disodium salt.	47 FR 1021 (1/8/82)	Mar. 26, 1982.
81-661	4-hydroxy-3-(2-methoxy-5-methyl-4-(2-(hydroxysulfonyloxy)ethylsulfonyl)phenylazo(-6-(3-sulfophenyl)amino-2-naphthalenesulfonic acid trisodium salt.	47 FR 1021 (1/8/82)	Do.
82-25	Generic name: Polyhalogenated aromatic alkylated hydrocarbon	47 FR 3595 (1/26/82)	May 12, 1982.
82-59	Generic name: Aromatic disazo dye	47 FR 5330 (2/4/82)	Apr. 20, 1982.
82-60	Generic name: Zinc, *O,O*-bis alkylphosphoro dithioate	47 FR 5932 (2/9/82)	Apr. 15, 1982.

[FR Doc. 82-19748 Filed 7-21-82; 8:45 am]
BILLING CODE 6560-50-M

[Docket No. ECAO-CD-81-2; FRL No. 2173-8]

Air Quality Criteria Document for lead

AGENCY: Environmental Protection Agency.

ACTION: Notice of public meeting.

SUMMARY: A series of peer-review workshops will be held in Research Triangle Park, North Carolina on August 2–3–4 and August 25–26–27, 1982, to facilitate scientific and technical evaluation of some of the preliminary working draft chapters of the *Air Quality Criteria Document for Lead.* The workshops on August 2–3–4 will be held in the Environmental Research Center Annex (Beaunit Building), Research Triangle Park, N.C. and will last from 8:30 A.M. to approximately 5:00 P.M. each day. The workshop beginning on Monday, August 2 will deal with the physical and chemical properties, sampling and analytical methodology, and sources and

emissions of lead. The workshop beginning on Tuesday, August 3 will deal mainly with the transport and transformation and environmental concentrations of lead. The workshop beginning on Wednesday, August 4 will deal mainly with the effect of lead on ecosystems. The public is invited to attend as observers.

DATE: The workshops on August 25–26–27 will be held in the main auditorium of the National institute for Environmental Health Sciences (South Campus), Research Triangle Park, N.C. The workshop beginning at 8:15 A.M. Wednesday, August 25 will deal with the clinical chemistry, metabolism, effects on the hematopoietic and immunologic systems, and the potential mutagenic and carcinogenic effects of lead. This workshop is expected to end at 5:30 P.M. The workshop beginning at 8:30 A.M. on Thursday, August 26 will deal with the effects of lead on the nervous system, on reproduction and development, and on the hepatic, cardiovascular, renal and endocrine systems. This workshop is expected to end at 5:00 P.M., with an evening session planned for 8:00–10:00 P.M. The workshop beginning at 9:00 a.m. on Friday, August 27 will deal with the epidemiological assessment of lead exposures. This workshop is expected to end at 5:30 P.M. The public is invited to attend as observers.

FOR FURTHER INFORMATION CONTACT: Dr. David Weil, Project Manager, Environmental Criteria and Assessment Office, MD–52, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, Telephone: (919) 541–4163.

SUPPLEMENTAL INFORMATION: The existing Air Quality Criteria Document for Lead (EPA–600/8–77–017) is being updated and revised pursuant to sections 108 and 109 of the Clean Air Act, as amended, 42 U.S.C. 7408 and 7409, and will be used as a basis for the review and, as appropriate, revision of the National Ambient Air Quality Standard (NAAQS) for lead. As part of this process, EPA is assembling a panel consisting of its consulting authors and contributors, EPA personnel and other scientific and technically qualified persons selected by EPA to discuss the proposed revisions and suggest ways of resolving outstanding issues.

Persons wishing to attend these workshops as observers should contact David Weil (see "Further Information" above). Copies of the preliminarily revised chapters will be provided to such observers, who will have an opportunity at the end of the meeting to make brief oral statements, should they so desire. Ample opportunity for public review of the revised chapters and submission of written comments will be provided when the first external review draft of the entire document is submitted for EPA Science Advisory Board review.

Notes on the meeting will be kept by EPA, containing a general description of key issues discussed and any conclusions reached. These notes, preliminary chapter drafts discussed at the meeting, and any other materials provided for or produced collectively at the meeting will be included in the docket established for the review of the lead document. The docket is available for inspection and copying between the hours of 8 and 4 at EPA headquarters in the Central Docket Section (A–130), Gallery 1, West Tower, Waterside Mall, 401 "M" Street, S.W., Washington, D.C. 20460. (The criteria document docket is No. ECAO–CD–81–2).

Dated: July 13, 1982.

Courtney Riordan,

Acting Assistant Administrator for Research and Development (RD–672).

[FR Doc. 82–19687 Filed 7–21–82; 8:45 am]

BILLING CODE 6560–50–M

GENERAL SERVICES ADMINISTRATION

Carrier Performance Report; Information Collection Requirement

AGENCY: General Services Administration.

ACTION: Notice of Information collection.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the General Services Administration plans to request the Office of management and Budget to review and approve a new information collection requirement.

DATE: Comments on this information collection must be submitted on or before July 26, 1982.

ADDRESS: Send comments to Franklin S. Reeder, OMB Desk Officer, Room 3208, NEOB, Washington, D.C. 20503, and to Anthony Artigliere, GSA Clearance Officer, General Services Administration (ORAI), Washington, D.C. 20405.

FOR FURTHER INFORMATION CONTACT: Anthony Artigliere, Acting Chief, Directives, Reports, and Publications Branch (202–566–0666).

SUPPLEMENTARY INFORMATION: a. The General Services Administration (GSA) is entering into several contracts with certain airline companies for reduced passenger fares for Government travelers on official business between selected city-pairs. These contracts require the airline companies to furnish quarterly reports on the use of the services by Government employees. GSA will use the data to determine the extent of use and whether corrective action is needed to improve the services.

b. A copy of the information collection proposal may be obtained from the Directives, Reports, and Publications Branch (ORAI), Room 3011, GS Building, Washington, D.C. 20405, telephone 566–1164.

Dated: July 13, 1982.

Clarence A. Lee, Jr.,

Director of Administrative Services.

[FR Doc. 82–19769 Filed 7–21–82; 8:45 am]

BILLING CODE 6820–24–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. D–82–678]

Redelegation of Authority for Mortgage Sales Auctions; Director and Deputy Director, Office of Multifamily Financing and Preservation; Area Manager, Deputy Area Manager and Director of Housing, Philadelphia, Atlanta, Dallas, Chicago, and Los Angeles

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Redelegation of authority.

SUMMARY: The Assistant Secretary for Housing is redelegating authority to execute documents to effectuate the sale of HUD-held mortgages and deeds of trust.

EFFECTIVE DATE: July 21, 1982.

FOR FURTHER INFORMATION CONTACT: Charles J. Bartlett, Acting Assistant General Counsel, U.S. Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C., (202) 755–7090. This is not a toll free-number.

SUPPLEMENTARY INFORMATION: The General Deputy Assistant Secretary for Housing (Housing) and the Government National Mortgage Association (GNMA) entered into a contract, dated as of July 15, 1982, providing for GNMA's auctioning of HUD-held multifamily mortgages and deeds of trust. The contract also permits GNMA (through the Federal National Mortgage

Association (FNMA) to prepare and conduct sales closings. In addition, Housing may contract in the future with GNMA for the auctioning and closing of other mortgage and deed of trust sales. To facilitate these closings, authority to execute all necessary documents is being redelegated to HUD Area Managers in Philadelphia, Atlanta, Dallas, Chicago, and Los Angeles, their Deputies, and their Directors, Office of Housing. These are the cities in which FNMA will be conducting closings through its Regional Offices. This authority also is being redelegated to the Director and the Deputy Director of the Office of Multifamily Financing and Preservation at HUD Headquarters in Washington, D.C.

Accordingly, the Assistant Secretary redelegates his authority as follows:

a. Each HUD Area Manager, Deputy Area Manager and Director, Office of Housing in Philadelphia, Atlanta, Dallas, Chicago and Los Angeles is hereby delegated authority to execute, in the name of the Secretary of HUD, all documents necessary to effectuate the sales closings of mortgages and deeds of trust (including, but not limited to, the endorsement of such documents for mortgage insurance) auctioned pursuant to the contract, dated as of July 15, 1982, between Housing and GNMA or pursuant to any additional contract between the parties for the sale of other mortgages and deeds of trust. This authority is being delegated regardless of whether the mortgage or deed of trust being sold relates to a project which is located within the Area Manager's geographical jurisdiction.

b. The Director and Deputy Director of the Office of Multifamily Financing and Preservation are each hereby delegated authority to execute, in the name of the Secretary of HUD, all documents necessary to effectuate the sale closings of mortgages and deeds of trust (including, but not limited to, the endorsement of such documents for mortgage insurance) auctioned pursuant to the contract, dated as of July 15, 1982, between Housing and GNMA.

(Secretary's delegation of authority to redelegate published at 36 FR 5005, March 16, 1971.

Dated: July 19, 1982.

Philip Abrams,

General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 82-19798 Filed 7-21-82; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Lower Elwha Indian Reservation, Washington; Addition of Land to the Lower Elwha Indian Reservation

July 9, 1982.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.1. On July 9, 1982, pursuant to the authority contained in Section 7 of the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 467), the following described land, located in Clallam County, Washington, was added to and made a part of the Lower Elwha Indian Reservation.

Willamette Meridian

Tract 130–T1112:

Those portions of Lot 4 of section 27 and of the NW¼NW¼ of section 34, Township 31 North, Range 7 West, Clallam County, Washington, described as follows: Beginning at a point in the north line of said NW¼NW¼ lying north 88°36'20" east, a distance of 482.52 feet from the northwest corner of said NW¼NW¼ (said northwest corner being a 1"×10' pipe with Peterson and Associates Brass Cap); thence north 16°51'25" west, approximately 940 feet to the north line of said Lot 4; thence northeasterly along said north line to the east line of said Lot 4; thence south 2°01'53" west, along said east line approximately 1570 feet to the northeast corner of said NW¼NW¼; thence south 9°35'10" west along the east line of said NW¼NW¼, a distance of 1353.65 feet to the southeast corner thereof; thence south 89°34'34" west, along the south line of said NW¼NW¼, a distance of 330.00 feet; thence north 5°45'00" west, a distance of 915.00 feet; thence north 34°01'39" west, a distance of 210.00 feet; thence south 79°28'30" west a distance of 18.00 feet; thence north 16°51'25" west, a distance of 245.84 feet to the point of beginning, containing 33.46 acres, more or less.

Subject to all valid existing easements, reservations, and rights-of-way, of record.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 82-19781 Filed 7-21-82; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[Serial No. I-04218]

Idaho; Partial Termination of Proposed Withdrawal and Reservation of Lands

Correction

On FR Doc. 82–14102, beginning on page 22418 in the issue of Monday, May 24, 1982, make the following corrections:

On page 22419, first column, in the description for Lolo-Weitas Road No. 103.2, under T. 35 N., R. 6 E., B.M. Idaho, Sec. 12, a comma was omitted. The lines should have read "Sec. 12, N½NE¼NE¼, NW¼NW¼NE¼,N½NW¼, NW¼SW¼N W¼."

In the same description, under T. 36 N., R.7 E., B.M., Idaho, Sec. 33, a comma was left out. The lines should have read "Sec 33, SE¼NE¼NE¼, SE¼NE¼, W½NE¼SE¼, W½SW¼SE¼".

BILLING CODE 1505-01-M

[Group 153]

California; Filing of Plat of Survey

July 16, 1982.

1. A plat of survey of the following described land accepted July 7, 1982, will be officially filed in the California State Office, Sacramento, California, effective at 10:00 a.m. on August 31, 1982.

Humboldt Meridian, California

T. 13 N., R. 3E.,
Sec. 37;
Sec. 38;
Sec. 39.

2. This plat representing the dependent resurvey of a portion of the east boundary of Township 13 North, Range 2 East, and a portion of the former west boundary of Township 13 North, Range 3 East, and the survey of sections 37, 38, and 39, Township 13 North, Range 3 East, Humboldt Meridian.

3. The plat will become the basic record for describing the land for all authorized purposes at and after 10:00 a.m. of the above date. Until this date and time, the plat has been placed in the open files and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of this Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Dated: July 16, 1982.

Herman J. Lyttge,

Chief, Section of Records and Data Management.

[FR Doc. 82-19771 Filed 7-21-82; 8:45 am]

BILLING CODE 4310-84-M

[Group 733]

California; Filing of Plat of Survey

July 16, 1982.

1. A plat of survey of the following described land accepted July 7, 1982,

will be officially filed in the California State Office, Sacramento, California, immediately:

San Bernardino Meridian, California

T. 9 S., R. 2 W.,
Sec. 35.

2. This plat, representing the dependent resurvey of a portion of the subdivisional lines, and the subdivision of section 35, Township 9 South, Range 2 West, San Bernardino Meridian.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open file and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of this Bureau and the Bureau of Indian Affairs.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, Room E–2841, Cottage Way, Sacramento, California.

Dated: July 16, 1982.

Herman J. Lyttge,

Chief, Section of Records Data Management.

[FR Doc. 82–19772 Filed 7–21–82; 8:45 am]

BILLING CODE 4310–84–M

[Group 801]

California; Filing of Plat of Survey

July 16, 1982.

1. A plat of survey of the following described land accepted June 30, 1982, will be officially filed in the California State Office, Sacramento, California, immediately:

Mount Diablo Meridian, California

T. 4 S., R. 27 E.,
Tract 45;
Tract 46.

2. This plat, representing the resurvey of a portion of the subdivisional lines and the metes and bounds survey of Tracts 45 and 46, Township 4 South, Range 27 East, Mount Diablo Meridian.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open file and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of this Bureau, the U.S. Department of Agriculture, Forest Service, and Dempsey Construction Corporation.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California. 95825

Dated: July 16, 1982.

Herman J. Lyttge,

Chief, Section of Records Data Management.

[FR Doc. 82–19773 Filed 7–21–82; 8:45 am]

BILLING CODE 4310–84–M

[Group 713]

California; Filing of Plat of Survey

July 16, 1982.

1. A plat of survey of the following described land accepted June 30, 1982, will be officially filed in the California State Office, Sacramento, California, immediately:

Mount Diablo Meridian, California

T. 33 N., R. 9 W.,
Sec. 17;
Sec. 19;
Sec. 27;
Sec. 28;
Sec. 30;
Sec. 32;
Sec. 33;
Sec. 34.

2. This plat, representing the dependent resurvey of a portion of the south and west boundaries, a portion of the subdivisional lines, and certain boundaries of mineral surveys, and the survey of the subdivision of sections 17, 19, 27, 28, 30, 32, 33, and 34, Township 33 North, Range 9 West, Mount Diablo Meridian, California.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open file and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of this Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Section of Records and Data Management.

July 16, 1982.

[FR Doc. 82–19774 Filed 7–21–82; 8:45 am]

BILLING CODE 4310–84–M

[Group 796]

California; Filing of Plat of Survey

July 16, 1982.

1. A plat of survey of the following described land accepted July 6, 1982, will be officially filed in the California State Office, Sacramento, California, immediately:

Mount Diablo Meridian, California

T. 11 N., R. 16 E.

2. This plat, representing the dependent resurvey of a portion of the subdivisional lines of Township 11 North, Range 16 East, Mount Diablo Meridian.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open file and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of this Bureau and the U.S. Department of Agriculture, Forest Service.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Herman J. Lyttge

Chief, Section of Records and Data Management.

July 16, 1982.

[FR Doc. 82–19775 Filed 7–21–82; 8:45 am]

BILLING CODE 4310–84–M

[M 589]

Montana; Partial Termination of Proposed Withdrawal and Reservation of Lands

July 14, 1982.

The Department of Transportation filed application for withdrawal and reservation of lands from mineral entry for proposed highway construction. The application was published as **Federal Register** Document 67–641, Volume 32, No. 12, page 621 in issue of January 18, 1967. The Department has cancelled its application insofar as it affects the following described lands:

Principal Meridian

T. 6 N., R. 5 W.,
Sec. 16, unpatented portion of N½SW¼.

The area described contains approximately 32 acres in Jefferson County, Montana.

Therefore, pursuant to the regulations contained in 43 CFR 2091.2–5(b)(1), at 8 am on September 15, 1981, such land will be relieved of the segregative effect of the above mentioned application.

Roland F. Lee,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82–19777 Filed 7–21–82; 8:45 am]

BILLING CODE 4310–84–M

[M 8670]

Montana; Partial Termination of Proposed Withdrawal and Reservation of Land

The Forest Service, United States Department of Agriculture, filed an application for withdrawal of the following described land from operation of the public land laws including location and entry under the mining laws. The Notice of Proposed Withdrawal was published in the **Federal Register** on January 20, 1967, Volume 32, No. 13, page 678, Document No. 67-649 under M 1171 and republished on July 27, 1977, Volume 42, No. 144, page 38224 under M 8670. The applicant agency has cancelled its application in part as to the following:

Principal Meridian, Deerlodge National Forest, Main Gulch Campground

T. 5 N., R. 7 W.,
Sec. 23, W½SW¼NW¼NE¼, NW¼NW¼SW¼NE¼, SE¼NE¼NW¼, and N½NE¼SE¼NW¼.

The area described contains 22.5 acres in Jefferson County.

Therefore, pursuant to the regulations contained in 43 CFR 2091.2-5(b)(1), at 8 am on September 15, 1982, such lands will be relieved of the segregative effect of the above mentioned application.

Roland F. Lee,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-19791 Filed 7-21-82; 8:45 am]
BILLING CODE 4310-84-M

[I-4376]

Idaho; Order Providing for Opening of Public Land

1. In an exchange of lands made under the provisions of Section 206 of the Act of October 21, 1976, 90 Stat. 2756, 43 U.S.C. 1716, the following land has been reconveyed to the United States:

Boise Meridian, Idaho

T. 22 N., R. 1 E.,
Sec. 24, S½SW¼.
T. 1 S., R. 6 E.,
Sec. 27, SW¼;
Sec. 28, NE¼SE¼.

The area described contains 280 acres in Idaho and Elmore Counties, Idaho.

2. The lands in T. 22 N., R. 1 E., have a moderately stocked Douglas-fir/Ponderosa Pine timber stand growing upon a northerly slope of the Little Elk Creek drainage. The slope has elevation of 4,200 to 4,900 feet above mean sea level and the soils are classified critical erosion hazard, especially when vegetation is removed. These lands are part of a key wintering area for elk and deer and provide nesting area for upland game and turkeys.

3. The lands in T. 1 S., R. 6 E., are located about twelve miles northwest of Mountain Home, Idaho. The soils on the tract are silt, clay loam desert soil on a 3 to 10 percent southwesterly slope above Mud Springs Creek. These lands were seeded to crested wheatgrass.

4. Subject to valid existing rights, provisions of existing withdrawals, and the requirements of applicable law, the following-described land is hereby open to operation of the public land laws, including the mining laws (ch. 2, Title 30 U.S.C.) and mineral leasing laws. All valid applications received at or prior to 9:00 a.m., August 5, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

T. 22 N., R. 1 E., B.M.,
Sec. 24, SE¼SW¼.
T. 1 S., R. 6 E., B.M.,
Sec. 27, SW¼;
Sec. 28, NE¼SE¼.

5. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the land described below is hereby open to operation of the public land laws. All valid applications received prior to 9:00 a.m., August 5, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

T. 22 N., R. 1 E., B.M.,
Sec. 24, SW¼SW¼.

6. Inquiries concerning the lands should be addressed to the Chief, Lands Section, Bureau of Land Management, 550 West Fort Street, Box 042, Boise, Idaho 83724.

William E. Ireland,
Chief, Lands Section.

[FR Doc. 82-19778 Filed 7-21-82; 8:45 am]
BILLING CODE 4310-84-M

[I-15375]

Idaho Order Providing for Opening Public Lands To Nonmetalliferous Mineral Location

July 15, 1982.

1. The Secretarial Order of Interpretation No. 186, dated June 16, 1933, of Public Water Reserve 107, is hereby revoked as to the following-described land, which does not meet the criteria of the Executive Order of April 17, 1926:

Boise Meridian

T. 12 S., R. 32 E.,
Sec. 10, NW¼SW¼.

The area described contains 40 acres in Power County.

2. At 9:00 a.m. on August 16, 1982, the land will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. All valid applications received at or prior to 9:00 a.m. on August 16, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 9:00 a.m. on August 16, 1982, the land will be open to nonmetalliferous mineral location under the United States mining laws. The land has been and continues to be open to metalliferous mineral location under the United States mining laws and to applications and offers under the mineral leasing laws. Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Federal Building, Box 042, Boise, Idaho 83724.

Clair M. Whitlock,
State Director.

[FR Doc. 82-19779 Filed 7-21-82; 8:45 am]
BILLING CODE 4310-84-M

[Exchange CA 12957]

California, Humboldt County; Realty Action

The following described public land has been determined to be suitable for disposal under the provisions of Pub. L. 91-476, an Act to provide for the establishment of the King Range National Conservation Area (84 Stat. 1067), and Sec. 206 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2756).

Humboldt Meridian

T. 10 N., R. 3 E.,
Sec. 21, SW¼SW¼.
T. 11 N., R. 2 E.,
Sec. 26, NW¼SW¼.
T. 11½ N., R. 3 E.,
Sec. 31, Lots 1, 2 and 3;
Sec. 32, Lots 1, 2, 3 and 4
Sec. 33, Lots 1, 2, 3 and 4;
Sec. 34, Lots 1, 2, 3 and 4;
Sec. 35, Lots 2, 3 and 4.
T. 12 N., R. 3 E.,
Sec. 28, NE¼NE¼.
Containing 865.44 acres.

Simpson Timber Company, P.O. Drawer V, Arcata, California 95521, has applied to acquire the above described lands in exchange for the following described privately owned lands.

Humboldt Meridian

T. 3 S., R. 1W.,
Sec. 16, SW¼.
T. 3 S., R. 2 E.,
Sec. 7, NE¼SE¼;

Sec. 8, W½SW¼, SE¼SW¼.
T. 7 N., R. 3 E.,
Sec. 2, Lots 2, 3 and 4, SW¼NE¼,SE¼;
Sec. 11E½, NW¼NE¼, SW¼SE¼;
Sec. 12, E½E½;
Sec. 14, N½NE¼,NE¼NW¼, SW¼NE¼, E½SW¼, W½SE¼.
Containing 1,361.98 acres.

A mineral evaluation has been requested on the public land. If any minerals are identified, a reservation of identified minerals will be made to the United States. If no minerals are identified, the mineral estate of the public lands will be conveyed with the surface. The mineral estate of the privately owned lands will be conveyed with the surface.

The publication of this notice in the **Federal Register** shall segregate the applied for public lands from all other forms of appropriation under the public land laws, including the mining laws, for a period of two years. The exchange is expected to be consumated before the end of that period.

The value of the lands to be exchanged is approximately equal and money will be used to equalize the values upon completion of the final appraisal of the lands.

There will be reserved to the United States in the applied for lands, a right-of-way thereon for ditches and canals constructed by the authority of the United States (43 U.S.C. 945).

The purpose of the exchange is to acquire non-Federal lands within the King Range National Conservation Area and to consolidate public land ownership for more effective management in the Scattered Blocks Planning Unit. The exchange is in conformance with Bureau planning, and in the public interest.

Detailed information concerning the exchange, including the environmental analysis and the record of non-Federal participation, is available for review at the Eureka Area Office, BLM, 1585 J Street, P.O. Box II, Arcata, California 95521.

For a period of 45 days from the first publication of this notice interested parties may submit comments to the California State Director, Bureau of Land Management, E–2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825. Any adverse comments will be evaluated by the California State Director, who may vacate or modify this realty action and issue a final determination. In the absence of a vacation or modification, this realty action will become the final determination of the Bureau.

Dated: July 13, 1982.

Harold R. Dietz,

Acting Chief, Lands Section, Branch of Lands and Mineral Operations.

[FR Doc. 82–19770 Filed 7–21–82; 8:45 am]

BILLING CODE 4310–84–M

Rescind Off-Road Vehicle Closure

July 13, 1982.

Notice is hereby given that pursuant to an amendment to the 1982 Farm Bill, the Agricultural Research Service has total management responsibility for the Dubois Sheep Experiment Station in the Centennial Mountains, Montana. The **Federal Register** notice of September 26, 1978, designating these lands as either limited or closed to off-road vehicle use under the authority of the BLM is hereby rescinded. The lands are described as follows:

Principal Meridian, Montana

Blair Lake Trail

T. 15 S., R. 1, E.,
Sec. 3, lots 3, 4 and 5;
Sec. 4, lots 1 and 2.

Odell Creek Access

T. 15 S., R. 1 W.,
Sec. 18, lots 2, 3, 4, and 5 and 8.
T. 15 S., R. 2 W.,
Sec. 13, lot 4 and E½NE¼.
T. 14 S., R. 1 E.,
Sec. 25, SW¼SW¼;
Sec. 26, S½S½;
Sec. 27, S½S½;
Sec. 28, SE¼SE¼;
Sec. 32, lots 3 and 4;
Sec. 33, lots 1, 2, 3 and 4, NE¼, SE¼NW¼ and N½S½;
Sec. 34 and 35.
T. 15 S., R. 1 E.,
Sec. 1 and 2;
Sec. 3, lots 1 and 2;
Sec. 4, lots 3 and 4, N½ and N½SW¼;
Sec. 5, lots 1, 2, 3 and 4, NE¼, NE¼NW¼, S½NW¼ and NE¼SE¼;
Sec. 6, lot 3.
T. 14 S., R. 1 W.,
Sec. 31, NE¼SE¼ and S½SE¼;
Sec. 32, S½NE¼ and S½;
Sec. 33, S½SW¼ and SW¼SE¼.
T. 15 S., R. 1 W.,
Sec. 3, lots 6 and 7, N½SW¼ and SW¼SW¼;
Sec. 4, lots 2, 3 and 4, SW¼NE¼, S½NW¼ and S½S½;
Sec. 5, lots 1, 2, 3 and 4, S½N½, NW¼SW¼ and S½S½;
Sec. 6 to 10, inclusive;
Sec. 17;
Sec. 18, lots 1, 6 and 7 and NW¼NE¼.
T. 15 S., R. 2 W.,
Sec. 1 to 4, inclusive;
Sec. 5, lots 1, 4 and 5;
Sec. 9 to 12, inclusive;
Sec. 13, lots 1, 2 and 3, W½NE¼ and N½NW¼;
Sec. 14, 15, 22 and 23.

The lands are located in Beaverhead County in southwestern Montana, north of the Continental Divide which is the boundary between Montana and Idaho.

This order is effective immediately.

For further information contact either of the following Bureau of Land Management offices.

District Manager, Butte District Office, P.O. Box 3388, 106 N. Parkmont, Butte, Montana 59702; (406) 494–5059
Area Manager, Dillon Resource Area, P.O. Box 1048, Dillon, Montana 59725; (406) 683–2337

Demiles R. Pedersen,

Acting State Director.

[FR Doc. 82–19776 Filed 7–21–82; 8:45 am]

BILLING CODE 4310–84–M

Colorado; Preplanning Activities for Resource Management Plan/ Environmental Impact Statement; Piceance Basin Planning Unit, White River Resource Area, Craig District

Pursuant to the Federal Land Policy and Management Act of 1976 (FLPMA), the Bureau of Land Management, Craig District has begun preparation for a resource management plan and environmental impact statement to guide and control future management actions on the public lands within the Piceance Basin Planning Unit of the White River Resource Area.

The Piceance Basin Planning Unit is located in northwestern Colorado, covering some 722,330 acres mainly in Rio Blanco County and a small portion of Garfield County. The 722,330 acres include 14 percent privately owned land, 4 percent state owned land, and 82 percent (589,080 acres) public land administered by BLM. The planning unit is bounded on the north by the White River, on the west by the Cathedral Bluffs, on the south by the Roan Plateau divide, and on the east by Colorado State Highway 13/789.

The resource management plan (RMP) is a comprehensive land use plan that will establish land areas for limited, restrictive, designated or exclusive uses within the planning unit. It will also identify lands for potential transfer from BLM administration. The RMP will identify allowable resource uses and levels of production or use to be maintained, resource condition goals, program constraints, and general management practices needed to achieve these objectives. The RMP will also establish a sequence of implementation, support action necessary, and the need for more detailed or specific plans.

The general issues that will be addressed by the RMP include: rangeland uses, present and future demands for minerals, land development, forestry management, recreation use, cultural resources, wilderness and wildlife areas, social and economic conditions, access rights-of-way, and soil, water and air quality.

Tentatively, a specific call for Expressions of Interest will be issued in the **Federal Register** on May 15, 1983 to determine industry interest in development of oil shale and associated minerals in Piceance Basin. This information will provide a guideline basis in the RMP planning process.

The tentative RMP schedule is as follows:

Notice of intent	Aug. 1, 1982.
Public scoping meetings	Aug. 24–26, 1982.
Written comments due	Oct. 1, 1982.
Specific call for expressions of interest	May 15, 1983.
Expressions due	July 15, 1983.
Draft RMP/EIS completed	Apr. 30, 1984.
Comment of draft due	Jun3 30, 1984.
Final RMP/EIS completed	Aug. 15, 1984.

An interdisciplinary team has been established to prepare the RMP, ensuring the integrated use of the natural and social science and the environmental design arts. Disciplinary specialists represented on this team will include:

Geologist	Archaeologist.
Realty Specialist	Sociologist.
Forester	Economist.
Range Conservationist	Fire Management Specialist.
Hydrologist	Soils Scientist.
Wildlife Biologist	Air Quality Specialist.
Engineer	Access Specialist.
Botantist	Surface Reclamation Specialist.
Wild Horse Specialist	Recreation/Wilderness/ Visual Res. Spec.
Paleontologist	Transport./Noise/Net Energy Balance Spec.

Other Management and Support Positions.

Public involvement will be an essential component of the RMP process. As a public resource management agency, BLM will make every effort to insure that attitudes, interests, and desires of local, regional and national groups are considered throughout the decision-making process. Public information meetings will be called as needed and/or requested. A newsletter will be published at least twice a year to inform the public of planning progress; dates, times and locations of meetings; and the availability of planning documents and related information.

In order to focus the direction of the RMP at the outset of the process, the public, other Federal agencies, state and local governments are encouraged to assist in identifying the issues and planning criteria that should be addressed by the RMP. Public meetings for this purpose will be held in August, 1982 in conjunction with the public meetings on the Draft Supplemental Environmental Impact Statement for the Prototype Oil Shale Leasing Program. The dates and locations of these meetings are given below and will be announced by local news media and a BLM newsletter. Future meetings will be announced by the media and newsletters as they are scheduled.

August 24, 1982 Denver
Ramada Inn Foothills, 11595 W. 6th Ave., 2:00 p.m.
August 25, 1982 Meeker
Fairfield Center, 200 Main Street, 7:00 p.m.
August 26, 1982 Grand Junction
Ramada Inn, 718 Horizon Drive, 7:00 p.m.

If you wish to discuss or review information relevant to the planning process, you may write, call, or visit: Curt Smith, Area Manager, BLM, White River Resource Area Office, P.O Box 928, 317 East Market Street, Meeker, Colorado 81641; Telephone (303) 878–3601.

Terry L. Plummer,

Acting District Manager.

[FR Doc. 82–19790 Filed 7–21–82; 8:45 am]

BILLING CODE 4310–02–M

Montana and Wyoming; Call for Expression of Leasing Interest in the Power River Federal Coal Production Region

July 12, 1982.

SUMMARY: This call for Phase IV of the expressions of coal leasing interest for parts of the Powder River Area, Montana, is to integrate potential lessees data and need into the coal activity planning phase of the federal Coal Management Program in the Powder River Federal Production Region. The information received from this call will be used along with existing data to delineate tracts that would be considered for possible competitive leasing in a sale tentatively scheduled to begin June 20, 1984.

ADDRESS: Responses to this notice may be received until August 24, 1982.

Mr. Mike Penfold, Montana State Director (930), Bureau of Land Management, Box 30157, Billings, Montana 59107

Mr. George Mowat, Minerals Management Service, Resource Evaluation, P.O. Box 2550, Billings, Montana 59103

FOR FURTHER INFORMATION CONTACT:

Mr. J. Stan McKee, Bureau of Land Management, Wyoming State Office, P.O. Box 1828, Cheyenne, Wyoming 82001; Telephone: (307) 722–2413

Mr. Bill Frey, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107; Telephone: (406) 657–6474

SUPPLEMENTARY INFORMATION: This is to advise all interested parties that Phase IV of the official call for expressions of interest in federal coal leasing for the second round of federal leasing in the Powder River Coal Region for possible lease sales, begins July 22, 1982.

Phase IV, of the call for expression of leasing interest incldues parts of the Powder River Resource Area of the BLM Miles City District, Montana, as follows:

1. Colstrip area of the South Rosebud (Planning Unit).
2. Greenleaf-Miller Area of the South Rosebud (Planning Unit).
3. Decker Area of the Decker-Birney (Planning Unit).
4. Moorehead Area of the Decker-Birney (Planning Unit).
5. Hanging Woman Area of the Decker-Birney (Planning Unit).
6. Squirrel Creek Area of the Decker-Birney (Planning Unit).
7. Otter Creek and Ashland Area of the Decker-Birney (Planning Unit).

Maps and other information on the areas acceptable for further consideration for coal leasing may be obtained from the BLM Montana and Wyoming State Offices at the address given above and from Mr. Bill Hill or Mr. Al Pierson at the BLM Miles City District Office, P.O. Box 940, Miles City, Montana 59301 (406) 232–4331.

This call for expressions of interest is the first step in activity planning for the second round of coal leasing in the Powder River Federal Coal Region under the federal coal management program. It is being made before any new tract boundaries are delineated within areas found acceptable for further consideration for coal leasing that will be used for lease sale after they have been through the tract ranking, selection, scheduling, and analysis processes that are an integral part of the federal coal management program defined in 43 CFR Subpart 3420.

Expressions of interest from small businesses and public bodies are actively invited in accordance with the provisions of 43 CFR 3420.1–4 which states that a reasonable number of lease tracts will be reserved and offered through competitive lease sales to those

qualifying under the definitions of public bodies and small coal mining businesses. Entities desiring special leasing opportunities as a public body should state their intentions in their expressions of leasing interest for possible public body set-asides. Proof of public body status and evidence of qualifications as required by 43 CFR 3420.1–4(b)(1)(ii) shall be submitted with the expression of interest.

A major purpose of this call for expressions of interest is to integrate potential lessees' data and needs with the process of delineating the logical mining units prior to tract ranking, scheduling and analysis process. The BLM hopes to gain sufficient information from this call, and from its own site specific analyses, as well as using other information, to identify areas in which data are of sufficient detail to ultimately make a fair market value determination.

The proposed tracts delineated as a result of this call will be ranked and selected through the Regional Coal Team in accordance with provisions in 43 CFR 3420.4.

An expression of interest is not an application. The size and/or location of a proposed tract as indicated by an expression of interest may be modified or changed if there is sufficient reason to do so.

These expressions of leasing interest should include the following data where applicable:

1. Quantity needs (total tonnage, average tons per year, and year during which production should commence) for both coal producers and users.
2. Quality needs (types and grades of coal) for both producers and users.
3. Coal reserve or drilling data that the company may have pertaining to the expression of interest area should be submitted to the Minerals Management Service. This request is made based on lack of total coal reserve data by the Minerals Management Service at this time. Lack of reserve data may eliminate areas for tract delineation.
4. Location:
   a. Tracts desired by mining companies (narrative description with delineation on surface minerals management quad map, available for purchase from the BLM State Office).
   b. Public and private industry user facilities in region.
   c. If no location is indicated, but other specified data are a provided, the expression will be considered. In such cases the joint BLM/MMS delineation team will locate the tract.
5. Type of mine:
   a. Surface or underground.
   b. Technique of mining (i.e., longwall, room and pillar, strip mining, etc.).
6. Proposed uses of coal:
   a. By mining companies.
   b. By public and private industries.
7. Where coal is consumed (include extra-regional markets).
8. Transportation needs (i.e., railroads, pipelines, etc.):
   a. Existing facilities.
   b. Proposed facilities and development timing.
9. Available sources of coal:
   a. Presently operative.
   b. Contingency of other sources.
10. Information relating to mineral ownership:
   a. Information on surface owner consents previously granted, e.g., a description of the location of the property, whether consents are transferable, etc.
   b. Commitments from fee coal owners or for associated non-federal coal.
11. Special qualifications for public bodies requesting special leasing opportunities. These specific requirements are listed in 43 CFR 3471.1–5.

Data which are considered proprietary should not be submitted as part of this expression of leasing interest.

An individual, business entity, governmental entity, or public body may participate and submit expressions of leasing interest under this call.

The call for Phase II expression of leasing interest for the Recluse Review area Wyoming scheduled to begin in April 1982 has been rescheduled for August 1982.

Demiles R. Pedersen,

Acting State Director.

[FR Doc. 82-19780 Filed 7-21-82; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

Santa Monica Mountains National Recreation Area Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Act that public meetings of the Santa Monica Mountains National Recreation Area Advisory Commission will be held in August 1982. These meetings will provide an opportunity for the public to comment on the Development Concept Plan for Paramount Ranch.

The Advisory Commission was established by Public Law 95–625 to provide for free exchange of ideas between the National Park Service and the public.

Members of the Commission are as follows:

Dr. Norman P. Miller, Chairperson
Honorable Marvin Braude
Ms. Sarah Dixon
Ms. Margot Feuer
Dr. Henry David Gray
Mr. Edward Heidig
Mr. Frank Hendler
Ms. Mary C. Hernandez
Mr. Peter Ireland
Mr. Robert Lovellette
Ms. Susan Barr Nelson
Mr. Carey Peck
Mr. Donald Wallace

The Advisory Commission will conduct the meetings in informal work sessions.

These meetings will be held in two locations in Los Angeles County.

The schedule and locations of meetings are as follows:

Monday, August 23, 1982 at 7:30 p.m., Taft High School, 5461 Winnetka Avenue, Woodland Hills, CA, Oral Arts room;

Safurday, August 28, 1982 at 9:30 p.m., Paramount Ranch, Northwest corner of Cornell Road/Mulholland Highway, Agoura, CA, Longhorn Building.

Persons who wish to receive further information on this meeting or who wish to submit written statements may contact the Superintendent, Santa Monica Mountains National Recreation Area, 22900 Ventura Boulevard, Suite 140, Woodland Hills, California 91364. A copy of the Development Concept Plan may be obtained by writing to Nancy Fries Ehorn at the above address or calling her at 213–888–3440 after July 26, 1982.

Dated: July 13, 1982.

William Webb,

Acting Superintendent.

[FR Doc. 82-19860 Filed 7-21-82; 8:45 am]

BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to OMB for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing

official, Mr. William T. Adams, at 202–395–7340.

Title: 30 CFR 826—Special Permanent Program Performance Standards-Operations on Steep Slopes.

Bureau Form Number: None.

Frequency: On Occasion.

Description of Respondents: Coal Mine Operators.

Annual Responses: 978.

Annual Burden Hours: 12,714.

Bureau Clearance Officer: Darlene Grose (202) 343–5447.

Darlene Grose,

Information Collection Clearance Officer.

[FR Doc. 82–19792 Filed 7–21–82; 8:45 am]

BILLING CODE 4310–01–M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 82–13369 beginning on page 21310 in the issue for Tuesday, May 18, 1982, make the following correction to MC 161732 (Applicant: R & I. Trucking, Inc.):

On page 21312, first line of the second column, the abbreviation "* * * MN * * *" should have read "* * * NM * * *".

BILLING CODE 1505–01–M

[OP2–157 A]

Motor Carriers Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349,* 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Decided: July 16, 1982.

By the Commission, Review Board Number 1, Members Parker, Chandler, and Fortier.

Agatha L. Mergenovich,

Secretary.

MC–F–14883, filed June 24, 1982. UNITED CARRIERS CORPORATION (Applicant), 1984 Coffman Rd., Newark, OH 43055—Continuance In Control—ELLIS EXPRESS, INC., 211B Ferris Ave., Waxahachie, TX 75165. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. Applicant seeks authority to continue in control of Ellis Express, Inc., upon the institution by Ellis Express, Inc., of operations, in interstate or foreign commerce, as a motor common carrier. Applicant presently controls B & L Motor Freight, Inc., and Truck One, Inc., motor common carriers authorized in MC–123255 and MC–156327, respectively, each of which carriers is authorized to operate in all continental United States. The control of B & L and Truck One by United Carriers was approved in MC–F–14826.

Note.—Ellis Express, Inc., has filed as a directly related application, its initial common carrier application, docketed MC–162662, published in this same **Federal Register** issue.

[FR Doc. 82–19809 Filed 7–21–82; 8:45 am]

BILLING CODE 7035–01–M

[Decision Volume No. OP4–VOL–263]

Motor Carriers; Republications of Grants of Operating Rights; Authority Prior to Certification

July 16, 1982.

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this **Federal Register** notice. Such pleading shall address specifically the issue(s) indicated as the purpose for republication. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 160936 (republication), filed March 9, 1982; published in the **Federal Register** issue of March 25, 1982; and republished this issue. Applicant: PRB ENTERPRISES, INC., 2809 Mockingbird Lane, Granite City, IL 62040. Representative: Steven L. Weiman,444 N. Frederick Ave., Suite 200, Gaithersburg, MD 20877, Phone: (301) 840–8565. In a decision by the Commission, Review Board Number 1,

decided June 3, 1982, and finds that performance by the applicant as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over *irregular routes*, transporting *metal products*, between points in Illinois, Ohio, Alabama, Tennessee, Delaware, and Michigan, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), will serve a useful public purpose, responsive to a public demand or need. Applicant is fit, willing and able properly to perform the granted service and to conform to statutory and administrative requirements.

Note.—The purpose of this republication is to include the State of Michigan in the origin territory.

MC 161128 (republication), filed March 19, 1982; published in the Federal Register issue of April 7, 1982; and republished this issue. Applicant: WINN STREET SERVICE, 90 Mountain Road, Burlington, MA 01803. Representative: James F. Martin, Jr., 8 W. Morse Road, Bellingham, MA 02019. In a decision by the Commission, Review board Number 1, decided June 8, 1982, and finds that performance by the applicant as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) machinery; and (2) transportation equipment, between points in the United States (except Alaska and Hawaii); will serve a useful public purpose responsive to a public demand or need. Applicant is fit, willing and able properly to perform the granted service and to conform to statutory and administrative requirements.

Note.—The purpose of this republication is to include "machinery" in the commodity description.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-19807 Filed 7-21-82; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-180); ICC-BO-C-0039]

Rail Carriers; Baltimore & Ohio Railroad Co.—Exemption for Contract Tariff

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e) The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275-7278.

SUPPLEMENTARY INFORMATION: The Baltimore and Ohio Railroad Company (BO) filed a petition on July 1, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract ICC BO-C-0039 to become effective on one day's notice. The contract was filed to become effective on July 28, 1982 and involves the movement of concrete pipe under joint contract rates with The Chesapeake and Ohio Railway Company, a participant in the contract.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. Shipper is providing concrete pipe to be used in a public works water line project which requires early delivery to take advantage of the warm weather. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

BO's contract may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

Although the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(e) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement in this instance is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(d) if protests are filed within 15 days of publication in the Federal Register.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Dated: July 15, 1982.

By the Commission, Division 2, Commissioners Andre, Gilliam, and Taylor. Commissioner Taylor is assigned to this division for the purpose of resolving tie votes. Since there was no tie vote in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-19805 Filed 7-21-82; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 29965]

Rail Carriers; Chicago, Milwaukee, St. Paul & Pacific Railroad Co., (Richard B. Ogilvie, Trustee)—Trackage Rights Exemption—Over Escanaba & Lake Superior Railroad

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Pursuant to 49 U.S.C. 10505, the Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 11343 the trackage rights agreement granting Chicago, Milwaukee, St. Paul and Pacific Railroad Company (Richard B. Ogilvie, Trustee) the right to operate over 48.04 miles of Escanaba & Lake Superior Railroad Company track between Green Bay and Crivitz, WI.

DATES: Exemption effective on August 22, 1982. Petitions for reconsideration must be filed on or before August 11, 1982, and petitions for stay must be filed on or before August 2, 1982.

ADDRESSES: Send pleadings to:

(1) Section of Finance, Room 5349, Interstate Commerce Commission, Washington, D.C. 20423.

(2) Petitioner's representative: William L. Phillips, 516 West Jackson Boulevard, Suite 888—Union Station, Chicago, Illinois 60606.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, contact TS InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, D.C. 20423, or call toll free (800) 424-5403, or for the D.C. metropolitan area, call 289-4357.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-19811 Filed 7-21-82; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 29966]

Rail Carriers; Pocono Northeast Railway Inc.—Exemption—Issuance of Stock

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts the Pocono Northeast Railway, Inc. from 49 U.S.C. 11301 for the issuance of 100,000 shares of common stock, reissuance of 300,000 shares of common stock and 250,000 shares of Class I preferred stock, and for future stock issuances under its revised capitalization up to the maximum authorized 999,900 shares of common stock and up to the additionally authorized 249,750 shares of Class I preferred stock.

DATES: This exemption is effective on July 19, 1982. petitions to reopen must be filed by August 9, 1982.

ADDRESSES: Send pleadings to:

(1) Section of Finance, Room 5349, Interstate Commerce Commission, Washington, D.C. 20423.

(2) Petitioner's representative: Peter A. Gilbertson, Witkowski, Weiner, McCaffrey and Brodsky, P.C., 1575 Eye Street, NW., Washington, D.C. 20005.

Pleadings should refer to Finance Docket No. 29968.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of its full decision, contact T.S. InfoSystems, Room 2227, Interstate Commerce Commission, Washington, D.C. 20423, or call 289–4357 (D.C. Metropolitan area) or toll-free (800) 424–5403.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-19800 Filed 7-21-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-172); ICC-UP-C-0057]

Rail Carriers; Union Pacific Railroad Co.—Exemption for Contract Tariff

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275–7278.

SUPPLEMENTARY INFORMATION: The Union Pacific Railroad Company (UP) filed a petition on June 30, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract ICC–UP–C–0057 to become effective on one day's notice and involves the movement of frozen foodstuffs.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. Advancement of the contract's effective date will allow the shipper to meet more readily the minimum volume requirements and will avoid disruption to shipper's accounting procedures. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

UP's contract may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

Although the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713 nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30 day notice requirement in this instance is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(d) if protests are filed within 15 days of publication in the **Federal Register**.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Dated: July 16, 1982.

By the Commission, Division 2, Commissioners Andre, Gilliam, and Taylor. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-19999 Filed 7-21-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29965]

Rail Carriers; Berlin Mills Railway, Inc., James River–Dixie/Northern, Inc., James River Corp. of Virginia; Exemption

July 15, 1982.

On June 2, 1982, Berlin Mills Railway, Inc. (BMR), James River-Dixie/Northern, Inc. (JR–D/N), and James River Corp. of Virginia (JR) filed a notice of exemption from the prior approval requirements of 49 U.S.C. 11343 for the acquisition of control of Meridian & Bigbee Railroad Company (M&B) pursuant to our regulations at 49 CFR 1111.2(d)(2) and 1111.4(g).

JR–N/D, a wholly-owned subsidiary of JR, has contracted to purchase certain business assets from American Can Company (ACC) including all the capital stock of M&B (a class III rail carrier) and the pulp and paper mill, at Naheola, Alabama, served by M&B. JR also controls James River-Berlin/Gorham, Inc. (JR–B/G), which in turn controls BMR (another Class III railroad).

The present transaction is exempt under 49 CFR 1111.2(d)(2). The exemption was effective and the transaction could have been consummated after revocation of the motor carrier operating authority of JR's subsidiary Riverside Transportation, Inc. on July 1, 1982. BMR and M&B are nonconnecting class III carriers. BMR owns and operates an 11.66 mile track in New Hampshire. M&B owns and operates 50.36 miles of track, of which 30.70 miles are located in Alabama and 19.66 miles are located in Mississippi. JR has no other rail carrier in its corporate family. There is no evidence that the acquisition by JR–D/N, and ultimately by JR, of the M&B is part of a series of anticipated transactions that could connect the railroads.

The Commission has determined that the employee protective provisions found in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979), satisfy the statutory requirements for the protection of employees involved in control and merger transactions. Under the *Railroad Consolidation Procedures*, 366 I.C.C. 75 (1982) such conditions must be provided if they would have been required if the transaction were not exempt.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-20000 Filed 7-21-82; 8:45 am]

BILLING CODE 7035-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Grand Gulf Nuclear Station Units 1 and 2; Meeting

The ACRS Subcommittee on Grand Gulf Nuclear Station Units 1 and 2 will hold a meeting on August 11, 1982, Room 1046, 1717 H Street, NW, Washington, DC. The Subcommittee will continue the discussion of the Mississippi Power and Light Company's request for an operating license.

In accordance with the procedures outlined in the **Federal Register** on September 30, 1982, (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Cognizant Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance to except for those sessions during which the Subcommittee finds it necessary to discuss proprietary and Industrial Security information. One or more closed sessions may be necessary to discuss such information. (Sunshine Act Exemption 4). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows: *Wednesday, August 11, 1982, 2:30 p.m. until the conclusion of business.*

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the Mississippi Power and Light Company, NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Herman Alderman (telephone 202/634–1413) between 8:15 a.m. and 5:00 p.m. e.d.t.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close some portions of this meeting to protect proprietary and Industrial Security information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C 552b(c)(4).

Dated: July 16, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-19689 Filed 7-21-82; 8:45 am]
BILLING CODE 7590-01-M

Consideration of Psychological Stress Issues; Policy Statement

AGENCY: Nuclear Regulatory Commission.

ACTION: Statement of policy.

SUMMARY: On May 4, 1982, the United States Court of Appeals for the District of Columbia Circuit issued its opinion in *People Against Nuclear Energy (PANE)* v. *NRC*, No. 81–1131. By a divided vote, the court ruled that the National Environmental Policy Act requires the Commission to evaluate the effects on psychological health of operating the Three Mile Island Unit 1 facility. The Commission is directed to determine whether "significant new circumstances or information have arisen with respect to the potential psychological health effects of operating the TMI–1 facility," and if it answers that question affirmatively, to prepare a "supplemental environmental impact statement which considers not only effects on psychological health but also effects on the well-being of the communities surrounding Three Mile Island."

The time within which the Commission may seek further review of the court's decision by a petition to the Supreme Court for a writ of *certiorari* has not yet expired. Irrespective of its plans with respect to further judicial review of the decision, however, it is necessary for the Commission to provide guidance on the applicability of the decision to NEPA issues raised in proceedings other than the Three Mile Island Unit 1 restart proceeding, since the court did not provide explicit instructions to the Commission on that issue. (Indeed, the court stated expressly that it saw no need to attempt in its decision to "draw a bright line" between cognizable and non-cognizable psychological stress effects under NEPA.) The purpose of this Policy Statement is to furnish that guidance for NRC staff's own NEPA analyses, for proceedings in which NEPA psychological stress contentions have been or may be raised and for any petitions which may be submitted under 10 CFR 2.206 requesting relief on the basis of NEPA psychological stress issues.

The court's opinion states that the "issue of first impression" which it addresses is "the cognizability of post-traumatic psychological health effects under NEPA." Slip op. p. 13. Elsewhere, the court states its holding that while NEPA "does not encompass mere dissatisfactions arising from social opinions, economic concerns, or political disagreements with agency policies," the statute "does apply to post-traumatic anxieties, accompanied by physical effects and caused by fears of recurring catastrophe." Slip op. pp. 16–17. The court underlines this point with a reference to the "unique and traumatic nuclear accident" which gave rise to the fears alleged by PANE. Slip op. p. 16. The court also stated:

> We need not attempt to draw a bright line in this case. Three Mile Island is, at least so far, the only event of its kind in the American experience. We cannot believe that the psychological aftermath of the March 1979 accident falls outside the broad scope of the National Environmental Policy Act. Slip op., p. 17.

The majority opinion thus stands for the proposition that an evaluation of environmental impacts under NEPA includes evaluation of "post-traumatic anxieties, accompanied by physical effects and caused by fears of recurring catastrophe." As the Commission reads the opinion, the cognizability of psychological stress impacts under NEPA thus hinges on three elements. First, the impacts must consist of "post-traumatic anxieties", as distinguished from mere dissatisfaction with agency proposals or policies. Second, the impacts must be accompanied by physical effects. Third, the "post-traumatic anxieties" must have been caused by "fears of recurring catastrophe". This third element means that some kind of nuclear accident must already have occurred at the site in question, since the majority's holding was directed to "post-traumatic" anxieties and by fears of a "recurring" catastrophe. Moreover, the majority clearly had only serious accidents in mind, because of the use of the word "catastrophe" and its references to the "unique" Three Mile Island Unit 2 accident in the opinion. In the Commission's view, the only nuclear

plant accident that has occurred to date that is sufficiently serious to trigger consideration of psychological stress under NEPA is the Three Mile Island Unit 2 accident. Accordingly, only this accident can currently serve as a basis for raising NEPA psychological stress issues.

It is therefore the Commission's policy that adjudicatory boards, in ruling on NEPA contentions alleging psychological stress resulting from Commission-licensed activities, should assure that all of the elements described above are present. Psychological stress contentions which do not satisfy these criteria should be held inadmissible. For contentions which allege the elements described above, usual standards will apply for weighing the sufficiency of the initial filing. The NRC staff should apply the same tests in conducting its own NEPA analyses and in weighing requests for relief, filed under 10 CFR 2.206, which allege psychological harm resulting from ongoing Commission-licensed activities. The Commission believes that by adopting this approach, it can fully comply with the court's specific holding that the "psychological aftermath" of "unique and traumatic nuclear accidents" be cognizable in NRC proceedings, without at the same time so broadening the court's holding as to make the litigation of psychological stress contentions available virtually on demand in any licensing proceeding.

By adopting a literal reading of the court's decision, as far as other proceedings are concerned, the commission believes it is serving the public interest. In the conduct of licensing reviews and proceedings involving numerous complex technical issues, the Commission's resources should be devoted primarily to addressing the safety issues which are or might be the causes of psychological stress on the part of some members of the public, rather than to addressing the nature and extent of the stress itself.

Dated at Washington, D.C. this 16th day of July, 1982.

For the Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 82-19888 Filed 7-21-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-317]

Baltimore Gas and Electric Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 72 to Facility Operating License No. DPR-53, issued to Baltimore Gas and Electric Company, which revised Technical Specifications for operation of the Calvert Cliffs Nuclear Power Plant, Unit No. 1 located in Calvert County, Maryland. The amendment is effective as of the date of issuance.

The amendment revises the Technical Specifications to decrease the maximum allowable response and closure times for the Main Steam Line Isolation Valves and to correct a typographical error which occurred in the issuance of Amendment No. 71.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated June 30, 1982, (2) Amendment No. 72 to License No. DPR-53, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Calvert County Library, Prince Frederick, Maryland. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 13th day of July, 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82-19864 Filed 7-21-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-302]

Florida Power Corp. et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 54 to Facility Operating License No. DPR-72, issued to the Florida Power Corporation, City of Alachua, City of Bushnell, City of Gainesville, City of Kissimmee, City of Leesburg, City of New Smyrna Beach and Utilities Commission, City of New Smyrna Beach, City of Ocala, Orlando Utilities Commission and City of Orlando, Sebring Utilities Commission, Seminole Electric Cooperative, Inc., and the City of Tallahassee (the licensees) which revised the Technical Specifications (TSs) for operation of the Crystal River Unit No. 3 Nuclear Generating Plant (the facility) located in Citrus County, Florida. The amendment is effective as of the date of issuance.

This amendment revises the TS requirements for overpower trip setpoints.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 21, 1979, as supplemented November 27, 1979, and February 15, 1980, (2) Amendment No. 54 to License No. DPR-72, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555,

Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 14th day of July 1982.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 82-19865 Filed 7-21-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-390 and 50-391]

Tennessee Valley Authority; Availability of Safety Evaluation Report for the Watts Bar Nuclear Plant, Units 1 and 2

The Office of Nuclear Reactor Regulation has published its Safety Evaluation Report on the proposed operation of the Watts Bar Nuclear Plant, Units 1 and 2, located in Rhea County, Tennessee. Notice of receipt of Tennessee Valley Authority's application for a facility operating license for Watts Bar Nuclear Plant, Units 1 and 2, was published in the **Federal Register** on December 27, 1976 (41 FR 56244).

The report (Document No. NUREG-0847) is being referred to the Advisory Committee on Rector Safeguards and is being made available at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37402. Copies may be purchased for $12.00 directly from NRC by sending check or money order, payable to Superintendent of Documents, to Director, Division of Technical Information and Document Control, U.S. NRC, Washington, D.C. 20555. GPO Deposit Account holders may charge their orders by calling (301) 492-9530. Copies are also available for purchase through the National Technical Information Service, Springfield, Virginia 22161.

Dated at Bethesda, Maryland, this 12th day of July 1982.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 82-19868 Filed 7-21-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-305]

Wisconsin Public Service Corp. et. al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 46 to Facility Operating License No. DPR-43, issued to Wisconsin Public Service Corporation, Wisconsin Power and Light Company, and Madison Gas and Electric Company (the licensees), which revised Technical Specifications for operation of the Kewaunee Nuclear Plant (the facility) located in Kewaunee, Wisconsin. The amendment is effective as of the date of issuance.

The amendment revises the Technical Specifications in respect of (a) administrative controls and (b) plant staff qualifications relating to the Health Physics Supervisor.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negativwe declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated September 8, 1980 (as revised on December 9, 1980 and December 17, 1981) and August 7, 1981, (2) Amendment No. 46 to License No. DPR-43 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Kewaunee Public Library, 314 Milwaukee Street, Kenwaunee, Wisconsin 54216. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 12th day of July, 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-19867 Filed 7-21-82; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Delegation of Authority No. 148-2; Public Notice 813]

Under Secretary of State for Management; Amendment to Delegation of Authority

By virtue of the authority vested in me as Secretary of State, including the authority of section 4 of the Act of May 26, 1949 (22 U.S.C. 2658), Delegation of Authority No. 148 of August 4, 1981 (46 FR 42395, August 20, 1981) as amended by Delegation of Authority No. 148-1 of September 9, 1981 (46 FR 50655, October 14, 1981) is further amended by adding at the end of section 3:

"However, the Under Secretary of State for Management is delegated authority to make decisions on recommendations of the Foreign Service Grievance Board under section 1107(d) of the Act which reflect settlement Agreements between a grievant and the Bureau of Personnel."

Dated: July 13, 1982.

Walter J. Stoessel, Jr.,

Acting Secretary.

[FR Doc. 82-19703 Filed 7-21-82; 8:45 am]

BILLING CODE 4710-10-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301-32]

Industrial Union Department, AFL-CIO; Initiation of Investigation

On June 3, 1982, the Chairman of the Section 301 Committee received a petition from the Industrial Union Department, AFL-CIO, and others, alleging that Canada has provided subsidized financing on a contract for the sale subway cars to the New York Metropolitan Transit Authority in a manner which is inconsistent with the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade (the "Subsidies Code") and is unreasonable and a burden on U.S. commerce. The petition was filed pursuant to Section 301 of the Trade Act of 1974, as amended (18 U.S.C. 2411 *et seq.*). On July 19, 1982 the United States Trade Representative decided to initiate an investigation pursuant to 19 U.S.C. 2412(a).

The text of the petition is printed below. The petition also includes a number of attachments which are available in Room 223 of the Office of the United States Trade Representative,

800 17th Street, N.W., Washington, D.C. 20506 (202) 395-3432.

Petition Filed With the United States Trade Representative Under Section 301 of the Trade Act of 1974, as Amended

In the Matter of Subsidized Export Credit to Canadian Firm Manufacturing Subway Cars

Petitioners

1. The petitions are labor organizations which are deeply concerned about Canadian Government concessional financing to a Canadian firm, Bombardier Company, enabling it to win a $663 million contract for the manufacture of subway cars from the New York Metropolitan Transit Authority. The following labor organizations are petitioning in this case:

—Industrial Union Department, AFL–CIO.
—United Automobile and Aerspace Workers.
—International Association of Machinists and Aerospace Workers.
—District 31 and District 19, United Steelworkers of America.

2. These labor organizations represent workers in the U.S. subway car manufacturing and supplier industries including the Budd Corporation and its supplier firms, which would lose an estimated 13,000 jobs if this contract were carried out by the Canadian company.

Canadian Practice Which is the Subject of the Petition

3. On January 5, 1982, proposals for the manufacture of 825 subway cars were submitted by three companies to the New York Metropolitan Transit Authority. The three companies submitting proposals were Bombardier (Canada), Francorail (France), and Budd Company (United States).

4. In order to gain the contract referred to above, the successful Canadian bidder, Bombardier Corporation, received below market financing from the Canadian Export Development Corporation which provided $563 million in financing at 9.7 percent for a period of 15 years. See Attachment I which is a synopsis of the MTA contract in question. In addition, we understand that the EDC has offered to indemnify the MTA for any penalties and legal fees it may incur as a result of this contract. See paragraphs 13 and 14 below for an explanation of how the contract violates international agreements.

5. The Canadian bid was identical in terms of price and financing to a bid submitted on behalf of a French consortium, Francorail. The French recognized that the terms of the Francorail bid clearly violated the Subsidies Code, and the OECD Arrangement. On February 2, 1982, the French export credit support agency (DREE) delivered a notice of derogation to the terms of the Arrangement to the Ex-Im Bank.

Violation of U.S. Law

6. This practice violated the following provisions of section 301 of the Trade Act of 1974, as amended:

"(a) Determinations Requiring Action—If the President determines that action by the United States is appropriate—

"(2) To respond to any act, policy, or practice of a foreign country or instrumentality that—

"(A) Is inconsistent with the provisions of, or otherwise denies benefits to the United States under, any trade agreement, or

"(B) Is unjustifiable, unreasonable, or discriminatory and burdens or restricts United States commerce; the President shall take all appropriate and feasible action within his power to enforce such rights or to obtain the elimination of such act, policy, or practice. Action under this section may be taken on a nondiscriminatory basis or solely against the products or services of the foreign country or instrumentality involved."

7. The Canadian laws or regulations which are the subject of the petition are the laws and regulations of the Canadian Export Development Corporation which provide for the program of low-cost financing for exports.

8. Canada is a signatory to the Code on Subsidies and Countervailing Duties and to the OECD Arrangement on Guidelines for Officially Supported Export Credits (Attachments II and III) and this petition alleges that Canadian practices violates these agreements. See paragraphs 13 and 14 below.

9. The products affected by the Canadian practice are 825 subway cars with a total value of $663 million.

Volume of Trade and Impact on U.S. Economy

10. The value of the subway car contract awarded by the New York MTA to the Canadian firm was $663 million. Press reports indicate that 30–40 percent of the value will be from assembly operations in the United States. The total value of the products entering the U.S. from Canada would be from $380–443 million.

11. The petitioning labor organizations would be affected in that an estimated 13,000 person years of employment in the U.S. subway car manufacturing and supplier industries would be lost.[1] Many of the workers holding the jobs would be members of the petitioning labor organizations.

12. The United States economy as a whole would lose federal, state, and local tax revenues as a result of loss of the above manufacturing and job opportunities.

Violation of International Agreement

13. The acts, policies and practice of the Canadian government in subsidizing export credit for the subway cars in question violate Article 9 of the Code on Subsidies and Countervailing Duties whereby export subsidies are prohibited. The Canadian practice violates both the maximum rates and minimum repayment terms under the Code as the Code refers to the OECD Arrangement on Guidelines for Officially Supported Export Credits, see Annex to Code on Subsidies and Countervailing Duties subsection (k).

14. The OECD Arrangement allows export financing at rates not greater than 11.25 percent for a period of no longer than 8.5 years, while the Canadian Government offered financing for the subway cars at 9.7 percent for 15 years.

Canadian Practice is Unreasonable

15. Even if the financing offered by the Canadian Export Development Corporation had been consistent with the Arrangement we still believe that the action is unreasonable because it would still result in a subsidy sufficient to deny the contract to the Budd Company of the United States, whose price and delivery date were more competitive. The exception created in Annex subsection (k) for official export credits was based on the expectation that the OECD Arrangement would effectively prohibit subsidized export financing by official export credit agencies. However, given the rapid increase in interest rates and the refusal of other participants in the Arrangement adequately to increase the Arrangement minimum interest rates, the Arrangement has not successfully controlled the subsidization of official export credits.

Canadian Practice Burdens and Restricts U.S. Commerce

16. The estimated subsidy of $352.8 million or $427,636 per car [2] given to the Candadian firm was more than enough to offset the competitive price and delivery date of the U.S. firm. The subsidy would result in the lost U.S. jobs and revenues mentioned above in paragraphs 10 and 11. The lowest bidder, Budd Company, of Troy, Michigan, offered a price of $770,768 per subway car (as opposed to $803,485 per car by the Canadian firm) and a delivery date of October, 1986 (seven months earlier than the Canadian bidder).

Petitioners Have Filed for No Other Relief

17. These petitioners have filed for no other forms of relief under the Trade Act of 1974 or any other provision of law.

Wherefore, petitioners request the following relief:

That the President take steps to restrict the importation of the Canadian subway cars built with the assistance of the low-cost export financing described in the petition.

Respectfully submitted,

Brian Turner,

Director for Legislation and Economic Policy, Industrial Union Dept., AFL–CIO.

June 3, 1982.

Interested parties are invited to submit their views concerning the allegations in the petition. Submissions should be filed in accordance with the procedures set forth in 15 CFR 2006.8 on or before August 20, 1982. In order to provide interested parties the opportunity to contest information submitted by other interested parties, rebuttal briefs may be filed in accordance with the requirements of 15

[1] The employment estimate is based upon an input-output model of the U.S. Economy which indicates that 25,000 jobs are involved in the production of $1 billion of output of subway cars.

[2] The subsidy estimate is based on the difference in interest costs on a $563 million loan for 15 years at 9.7 percent versus 15 percent, the rate at which current financing could be obtained in the U.S. market.

CFR 2008.8 on or before September 3, 1982.

Jeanne D. Archibald,
Chairman, 301 Committee.

[FR Doc. 82-19797 Filed 7-21-82; 8:45 am]
BILLING CODE 3195-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 82-070]

Port Access Route Study

AGENCY: Coast Guard, DOT.

ACTION: Final notice of study results.

SUMMARY: The purpose of this notice is to publish the results of the Port Access Route Study announced on April 16, 1979, in the Federal Register (44 FR 22543) and modified on January 31, 1980 (45 FR 7028). Only the results for study areas 7 through 12 are published in this notice. Generally, this area includes the coasts of Maryland, Virginia and North Carolina.

On the basis of the Port Access Route Study, no new offshore routing measures are recommended for study areas 7 to 12. The existing traffic separation scheme (TSS) in the approaches to the Chesapeake Bay is considered adequate for the foreseeable future, although voluntary changes in traffic patterns will be encouraged. The areas will be restudied in five years.

ADDRESSES: The Port Access Route Study report on which the present summary is based is available for inspection and copying at the Marine Safety Council, Room 4402, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, D.C. 20593, between the hours of 8 a.m. and 4 p.m., Monday through Friday. The report will be filed under the docket number of this notice (CGD 82-070).

Details of the report are also available from the Fifth Coast Guard District (mps), Federal Building, 431 Crawford St., Portsmouth, VA 23705 (telephone (804) 398-6276).

FOR FURTHER INFORMATION CONTACT: Mr. Christopher Young, Project Manager, Office of Navigation, room 1606, U.S. Coast Guard Headquarters, 2100 Second St., S.W., Washington, D.C. 20593, (202) 245-0108. Information on the details of the report is also available from the Fifth Coast Guard District office at the above address.

SUPPLEMENTARY INFORMATION:

Background

The Fifth Coast Guard District performed the study for areas 7 to 12. Geographically, these areas extend from the coast seaward to the 1800 meter curve, between a line bearing 122° T from Fenwick Island Light (38°27.1' N, 75°03.3' W) and a line bearing 156° T from the North Carolina-South Carolina border to 32°50.0' N latitude, 78°00.0' W longitude.

Results for other study areas have been published as follows: areas 1 to 4 (coast of New England) in 47 FR 879; areas 5, 5a and 6 (New York and Delaware approaches and Long Island Sound) in 46 FR 49035; areas 13 to 20 (coast of South Carolina, Georgia and Florida) in 46 FR 48376; area 21 (Gulf of Mexico) in 46 FR 49989; areas 26 to 29 (coast of Oregon and Washington) in 46 FR 59686; areas 30 to 32 (Alaska) in 46 FR 61049; and area 22 (coast of southern California) in 47 FR 27430. Results for the remaining study areas (23 to 25 along northern California) will be published in a future Federal Register.

The Federal Register of April 16, 1979 (44 FR 22543) and the Fifth Coast Guard District Public Notice 5-430 of September 6, 1979, announced the commencement of the Port Access Route study for areas 7 to 12 and invited interested persons to comment on, and make contributions to the study. The preliminary findings of the study were published in the Federal Register on December 15, 1980 (45 FR 82406) and in the Fifth Coast Guard District Public Notice 5-489 of October 29, 1980. Comments from interested persons were solicited. None was received.

The study was initiated in response to a mandate in the Ports and Waterways Safety Act (PWSA) (Pub. L. 95-474; 92 Stat. 1472; 33 U.S.C. 1223). In the PWSA, Congress directed the Coast Guard to conduct a study of potential traffic density and the need for safe access routes for vessels operating in the approaches to U.S. ports and in the traditional routes between U.S. ports. Although the right of navigation in designated routing measures is to be considered paramount over all other uses, this study was to encompass those uses and, to the extent practicable, reconcile them with safe access needs.

Data for the study and information about vessel routing, possible user conflicts in the six study areas, and other navigational problems that might be encountered, was solicited from all parties having a maritime interest in maintaining safe access routes to the ports of the Fifth Coast Guard District. The parties contacted included State and local governments, Federal agencies, fishing interests, pilot associations, shipping companies, Outer Continental Shelf developers, and the general public.

Coincidentally, a study was initiated in 1979 to determine whether a Vessel Traffic Service (VTS) was needed for the entrance to the Chesapeake Bay. Although this VTS study was not originally scheduled as part of the Port Access Route Study, it addressed some of the same issues. Between the VTS and Port Access Route Studies, hundreds of ships' masters were interviewed to ascertain whether or not their voyages had been impaired by cross traffic, fixed structures or drilling vessels, or a lack of aids to navigation. The masters were also queried as to their routes through the survey area and their reasons for selecting those routes.

Conclusions and Recommendations

The conclusions of the Fifth Coast Guard District Port Access Route Study are:

a. That there is only a negligible indication of any present interference with navigation on the coastal waters of the study areas.

b. That only negligible user conflicts presently exist among the various maritime interests using the coastal waters of the study areas.

c. That there are safe offshore access routes to the ports in the study areas for the present and future projected amounts of vessel traffic using those ports. (Currently, a traffic separation scheme is established in the approaches to Chesapeake Bay. This TSS has been adopted internationally by the International Maritime Organization (IMO; formerly IMCO). It includes two sets of traffic lanes and a precautionary area.)

d. That there is no need to impose new ship routing measures, such as TSS's or shipping safety fairways where fixed structures would be prohibited, in any of the six study areas.

e. That during the next five years, the anticipated use and development of the natural resources found on that portion of the Outer Continental Shelf (OCS) located within the study areas will not interfere with the navigation on those waters, with the following exception:

Commercial development of tracts 40 through 45, Beaufort NI 18-4, of the Bureau of Land Management's OCS lease sale 56, may interfere with a large portion of vessel traffic in the southern part of study area 9 (off Morehead City, North Carolina). The Coast Guard will monitor the lease and later oil exploration of these tracts. Should commercial development prove feasible, the Coast Guard will evaluate any proposed development plan and, if necessary, take appropriate action to protect the safety of navigation. Should

any implementing regulations be required, they will be issued in accordance with section 4(c) of the Ports and Waterways Safety Act (33 U.S.C. 1223).

f. That the following practices should be encouraged for vessels transiting the entrance to the Chesapeake Bay:

(1) Passage of the CBJ buoy to port;

(2) Increased use of the south leg of the TSS;

(3) Security broadcasts upon entering inbound TSS lanes to announce on Channel 13 the vessel's name position and immediate intention.

g. That in five years the final results of this Port Access Route study should be reviewed to ensure their continued validity.

h. That methods should be explored for gathering data on the impact of offshore activities on vessel traffic, perhaps through use of platforms operated by OCS lease holders.

Implementation

The Port Access Route Study recommendations affecting vessel operations (paragraph f. above) will be implemented through notices to mariners and perhaps by chart notes. No rulemaking is considered necessary at this time.

Dated: July 12, 1982.

Peter J. Rots,

Captain, U.S. Coast Guard, Acting Chief, Office of Navigation.

[FR Doc. 82-19760 Filed 7-21-82; 8:45 am]

BILLING CODE 4910-14-M

Federal Highway Administration

Environmental Impact Statement; Ventura and Los Angeles Counties, Calif.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for an operational improvement project on the Ventura Freeway in Ventura and Los Angeles Counties, California.

FOR FURTHER INFORMATION CONTACT: Albert J. Gallardo, District Engineer, Federal Highway Administration, P.O. Box 1915, Sacramento, California 95809, Telephone: (916) 440-2804.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the California Department of Transportation (Caltrans) will prepare an Environmental Impact Statement (EIS) on a proposal to improve the Ventura Freeway (Route 101) between the San Diego Freeway (Route 405) in the City of Los Angeles, and the Santa Clara River in the City of Oxnard. To reduce congestion, improve air quality, and reduce fuel consumption the following alternatives are being studied:

A. Add a lane in each direction between Mulholland Drive and Topanga Canyon Boulevard.

B. Ramp metering and bypass lanes.

C. Variations of high occupancy vehicle (HOV) lanes on the freeway.

D. Add a lane in each direction for all traffic between Route 405 and Moorpark Road.

E. Do nothing more than open the new lanes currently under construction in Ventura County to all traffic.

As part of the scoping process, numerous meetings have been held with staff people representing various agencies and elected officials in the corridor. Meetings have also been held with the Caltrans Transportation Advisory Committee of the Ventura County Association of Governments. Since July of 1981, public open houses have been conducted in communities adjacent to the freeway including Thousand Oaks, Woodland Hills, Camarillo, Oxnard, Canoga Park, Tarzana, and Encino.

To ensure the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research Planning and Construction. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program.)

Issued: July 12, 1982.

Albert J. Gallardo,

District Engineer, Sacramento, California.

[FR Doc. 82-19765 Filed 7-21-82; 8:45 am]

BILLING CODE 4910-22-M

Maritime Administration

[Maritime Administration Docket No. S-716]

Atlantic Richfield Co.; Application

AGENCY: Maritime Administration, DOT.

ACTION: Notice of Application—Extension of Comment Period.

A notice was published in the **Federal Register** (47 FR 26272) on June 17, 1982 for the purpose of noticing for public comment two applications filed by Atlantic Richfield Company for permission to repay the unamortized construction-differential subsidy applicable to the ARCO INDEPENDENCE and ARCO SPIRIT with appropriate interest, if any, in return for the permanent removal of the vessels' domestic trading restrictions. Comments were to be submitted not later than July 19, 1982. We have received a request from an interested party to extend the comment period. Accordingly, the deadline for comment is hereby extended. Comment from any interested person desiring to offer views concerning the applications should be submitted in triplicate to the Secretary, Maritime Administration, Room 7300-B, Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590 not later than August 2, 1982.

(Catalog of Domestic Assistance Program No. 11.500 construction-differential Subsidy (CDS))

By Order of the Maritime Subsidy Board/ Maritime Administration.

Dated: July 15, 1982.

Georgia Pournaras Stamas,

Assistant Secretary.

[FR Doc. 82-19753 Filed 7-21-82; 8:45 am]

BILLING CODE 4910-81-M

National Highway Traffic Safety Administration

Rulemaking, Research and Enforcement Programs; Public Meetings

The National Highway Traffic Safety Administration (NHTSA) will hold a meeting on October 6, 1982, to answer questions from the public and industry regarding the Agency's rulemaking, research and enforcement programs. The meeting will begin at 10:30 a.m., run until 1:00 p.m., and reconvene at 2:00 p.m. if necessary. It will be held in the Conference Room of the Environmental Protection Agency's Laboratory Facility, 2565 Plymouth Road, Ann Arbor, Michigan.

At the October meeting, representatives of DOT will answer questions received from the industry and the public relating to NHTSA's rulemaking, research and enforcement programs (including defects). The purpose of this is to focus on those phases of these NHTSA activities which are technical, interpretative or procedural in nature. (Questions regarding the Agency's fuel economy program will continue to be addressed at the EPA's meetings on vehicle emissions).

Questions for the October 6 meeting should be submitted in writing by

September 15 to Courtney M. Price, Associate Administrator for Rulemaking, Room 5401, 400 Seventh Street, S.W., Washington, D.C. 20590. If sufficient time is available, questions received after the September 15 date may be answered at the meeting. The individual, group, or company submitting a question does not have to be present for the question to be answered. A consolidated list of the questions submitted by September 15 and the issues to be discussed will be mailed to interested persons on or before October 1, 1982, and will be available at the meeting. This list will serve as the agenda.

A transcript of the meeting will be available for public inspection in the NHTSA Technical Reference Section in Washington, D.C., within four weeks after meeting. Copies of the transcript will then be available at twenty-five cents for the first page and five cents for each additional page (length has varied from 100 to 150 pages) upon receipt to NHTSA, Technical Reference Section, Room 5108, 400 Seventh Street, SW., Washington, D.C. 20590.

Issued in Washington, D.C., on July 14, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 82-19823 Filed 7-21-82; 8:45 am]

BILLING CODE 4910-59-M

Research and Special Programs Administration

Applications for Exemptions

Correction

In FR Doc. 82-18724 beginning on page 30139 in the issue for Monday, July 12, 1982, make the following correction:

On page 30140, in the table listing "New Exemptions", the first entry under *Application No.* now reading "88" should have read "8854-N". The applicant is ETS Fauvet Girel, Neuilly-Sur-Seine, France.

BILLING CODE 1505-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 141
Thursday, July 22, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD

[M–358 (amdt. 1); July 19, 1982]

Additions to the July 22, 1982 Board Meeting

TIME AND DATE: 10 a.m., July 22, 1982.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

10a. Air Transport Association air "slot" exchange agreement. (Memo 1382–A, BDA, OGC)
16. Negotiations with Venezuela. (BIA)
17. Negotiations with Israel. (BIA)
18. Report on Trinidad and Tobago. (BIA)
19. Implications for Negotiations of the Interagency Issues Group. (BIA)

STATUS: 10a (Open); 16–19 (Closed).

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673–5068.

[S–1073–82 Filed 7–20–82; 3:31 pm]

BILLING CODE 6320–01–M

2

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Items From July 22nd Open Meeting

The following item has been deleted at the request of Private Radio Bureau from the list of agenda items scheduled for consideration at the July 22, 1982, Open Meeting and previously listed in the Commission's Notice of July 15, 1982.

Agenda, Item No., and Subject

General—4—*Title:* Notice of Proposed Rule Making to provide for Emergency Position-Indicating Radiobeacon (EPIRB) for survival craft of vessels operating in the Great Lakes. *Summary:* The FCC will consider whether to adopt a Notice of Proposed Rule Making to amend Part 83 to provide for Class D and Class E EPIRB's for use on survival craft of vessels operating in the Great Lakes. These EPIRB's would operate on the frequencies 156.8 MHz and 156.75 MHz and their intended purpose is to increase the chances for rescue in a distress situation. The rule sections pertaining to Class A, Class B and Class C EPIRB's have been rewritten to separate the technical requirements for type acceptance from the operational requirements.

Issued: July 16, 1982.

William J. Tricarico,
Secretary, Federal Communications Commission.

[S–1067–82 Filed 7–20–82; 10:12 am]

BILLING CODE 6712–01–M

3

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, July 27, 1982 at 10 a.m.

PLACE: 1325 K Street, NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:
Compliance. Litigation. Audits. Personnel.

* * * * *

DATE AND TIME: Thursday, July 29, 1982 at 10 a.m.

PLACE: 1325 K Street, NW., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings
Correction and approval of minutes
Advisory opinions:
Draft AO 1982–45: Ann M. Dumenil, on behalf of the Salt River Project Agricultural Improvement & Power District
Draft AO 1982–46: Will Ehrle, President and General Counsel, Texas Manufactured Housing Association (TMHA—Committee For Responsible Government)
National Unity Campaign for John Anderson—Solicitation for National Unity Committee—Source of funds for repayment of non-qualified campaign expenses
Routine Administrative Matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer; Telephone 202–523–4065.

Marjorie W. Emmons,
Secretary of the Commission.

[S–1072–82 Filed 7–20–82; 3:55 pm]

BILLING CODE 6715–01–M

4

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10 a.m., Wednesday, July 28, 1982.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: July 20, 1982.

James McAfee,
Associate Secretary of the Board.

[S–1074–82 Filed 7–20–82; 3:55 pm]

BILLING CODE 6210–01–M

5

NATIONAL TRANSPORTATION SAFETY BOARD

[NM–82–16]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 29442, July 6, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., Tuesday, July 13, 1982.

STATUS: Open.

CHANGE IN MEETING: A majority of the Board determined by recorded vote that the business of the Board required revising the agenda of this meeting and that no earlier announcement was possible. The following items were added to the agenda:

Matters to be Considered:

7. *Recommendation* to the Federal Aviation Administration regarding United Control Corporation (Sundstrand) Cockpit Voice Recorders.
8. *Recommendation* to the Federal Aviation Administration regarding flight recorders on air carrier aircraft.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, (202) 382–6525.

July 20, 1982.

[S–1060–82 Filed 7–20–82; 12:30 pm]

BILLING CODE 4810–56–M

6

NUCLEAR REGULATORY COMMISSION

DATE: Week of July 19, 1982 (Additional items).

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE DISCUSSED: *Wednesday, July 21:*

10:00 a.m.:

Discussion of ORNL Report, "Potential Precursors to Severe Core Damage" (public meeting) (additional item)

Thursday, July 22:

2:00 p.m.:

Discussion of GAO Report on Reactor Operator Capabilities (public meeting) (*Replaces* 3:00 p.m. Discussion with Licensing Board on Indian Point)

3:30 p.m.:

Affirmation/Discussion Session (public meeting) (items revised)

a. S–3 Policy Statement (Tentative)

b. Final Rule Implementing the Equal Access to Justice Act

c. Resumption of Hearing Before Commission in NFS, Erwin (Material Control and Accounting Amendment)

d. Alternative Commission Decision in Indian Point Special Proceeding

ADDITIONAL INFORMATION: On July 15 the Commission voted 5–0 to hold on short notice the Discussion of Management-Organization and Internal Personnel Matters, held that day. On July 15, the Commission voted 4–0 (Commissioner Gilinsky not present) to hold on short notice Affirmation of Three Mile Island Restart Proceeding—Appeal Board Order Requesting Authorization to Hear Issues Sua Sponte, held that day.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status of the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

July 15, 1982.

Walter Magee,

Office of the Secretary.

[S–1066–82 Filed 7–19–82; 4:04 pm]

BILLING CODE 7590–01–M

7

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10 a.m. on August 5, 1982.

PLACE: Room 1101, 1825 K Street, N.W., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Patricia Bausell (202) 634–4015.

Dated: July 20, 1982.

[S–1070–82 Filed 7–20–82; 1:29pm]

BILLING CODE 7600–01–M

8

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10 a.m., August 19, 1982.

PLACE: Room 1101, 1825 K Street, NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Patricia Bausell (202) 634–4015.

Dated: July 20, 1982.

[S–1071–82 Filed 7–20–82; 1:29 pm]

BILLING CODE 7600–01–M

9

POSTAL RATE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 31116, Friday, July 16, 1982.

DATE: Tuesday, July 20.

PLACE: Conference Room, Rm. 500, 2000 L Street, NW., Washington, D.C. 20268.

TIME: 2 p.m.

STATUS: Closed (Pursuant to 5 U.S.C. 552b(c)(10)).

CHANGES IN MEETING: Meeting re-scheduled for 10 a.m., Wednesday, July 21.

CONTACT PERSON FOR MORE INFORMATION: Dennis Watson, 254–3880.

[S–1068–82 Filed 7–20–82; 10:12 am]

BILLING CODE 7715–01–M

10

RAILROAD RETIREMENT BOARD

TIME AND DATE: 10 a.m., July 29, 1982.

PLACE: Board's meeting room, 8th floor, Headquarters Building, 844 Rush Street, Chicago, Illinois 60611.

STATUS: Part of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portion open to the public.

(1) Appeal of Itel Corporation.

(2) Appeal of Rail Car Corporation.

(3) Detection and prevention of fraud, waste, and abuse at the Board—Bureau of Audit and Investigation.

(4) Survey of the Division of Disability Benefits.

(5) Annual Report of the Railroad Retirement Board.

(6) Erroneous overpayment of severance pay: Ceil Schlesinger.

(7) Proposed addition to Board Order 75–3 entitled "Policy With Regard to the Senior Executive Service (SES)".

(8) Inclusion of legislative proposals amending the RRA and RUIA to ease the administration of those Acts and to reduce the time limit to appeal a Board decision to the courts in the FY 1984 budget submission.

(9) Inclusion of the President's legislative proposal concerning the RRB in the FY 1984 budget submission.

(10) Final report of the planning taskforce recommending a plan for implementing personnel reductions in FY 1983.

(11) Staffing of Washington District/Liaison Office.

(12) Employer status of Burlington Northern (Manitoba) Limited.

(13) Procedure for handling dissents in appeals decisions.

(14) Appeal from referee's denial of spouse's dual windfall benefit, Pauline Menzio.

(15) Bruce H. Bradash appeal (availability for work).

Portion closed to the public:

A. Appeal from referee's denial of claim for a "period of disability," Leo G. Fay.

CONTACT PERSON FOR MORE INFORMATION: Beatrice Ezerski, COM No. 312–751–4920; FTS No. 387–4920.

[S–1069–82 Filed 7–20–82; 12:33 pm]

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Thursday
July 22, 1982

Part II

Department of Defense

Corps of Engineers, Department of the Army

Regulatory Programs of the Corps of Engineers

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Parts 320, 321, 322, 323, 324, 325, 326, 327, 328, 329 and 330

Interim Final Rule for Regulatory Programs of the Corps of Engineers

AGENCY: Corps of Engineers, Army Department, DOD.

ACTION: Interim final rule and request for comments.

SUMMARY: We are hereby issuing final rules which govern the regulatory programs of the Corps of Engineers. On September 19, 1980, (45 FR 62732), we published proposed rules in the **Federal Register** which were based on legislative changes in the Clean Water Act, Executive Orders, judicial decisions and policy changes which occurred since our previous regulations were published on July 19, 1977. The major changes of these Regulations are reduction in processing time and expansion of the nationwide permit program. Because it has been nearly two years since the proposed rules were published, we are providing an additional comment period for interested parties to update their views. We will review all comments and determine whether any changes are necessary.

EFFECTIVE DATES: July 22, 1982. Comments must be received by August 23, 1982.

ADDRESS: Office of the Chief of Engineers, DAEN–CWO–N, 20 Massachusetts Ave., N.W., Washington, D.C. 20314.

FOR FURTHER INFORMATION CONTACT:

Mr. Bernie Goode 202–272–0199

or

Mr. Morgan Rees, 202–697–6985.

SUPPLEMENTARY INFORMATION:

Classification

We have determined these regulation revisions not to be a major rule requiring a Regulatory Impact Analysis (RIA) under Executive Order 12291. However, because of the extensive public interest in the overall program we prepared an RIA. We submitted the RIA to the Office of Management and Budget. A copy has been placed in the agency record for this rule making and is available for public inspection. Since these revisions, for the most part, provide regulatory relief, they do not require a 30-day delay in implementation under 5 U.S.C. 553(d).

Environmental Impact Statement

We have determined that this action does not constitute a major federal action significantly affecting the quality of the human environment. Appropriate environmental documentation is prepared for all permit decisions. We prepared an environmental assessment for each of the nationwide permits in Part 330. We determined that, considering the potential impacts, required conditions, discretionary authority and best management practices, none would require preparation of an environmental impact statement.

Public Comment

We received nearly 400 public comments which covered the full range of views. On balance, the comments were favorable, but there were many strong criticisms that the regulations were too slanted towards environmental protection on the one hand and too slanted towards economic development on the other. We also held two public hearings on proposed nationwide permits, transcripts of which are on file in the Office of the Chief of Engineers. We convened a task force of experienced field and headquarters regulatory and legal personnel to review all comments, and synthesized them into major issues. Significant changes are as indicated below.

Part 320—General Regulatory Policies

Section 320.1(a): This new section discussing Corps of Engineers approach to its regulatory authorities received generally favorable support and has been adopted as proposed.

Section 320.1(b): Types of activities regulated. In the proposed regulations, we changed the definition of our Section 10 authority to add the term "physical" to the historic "course, condition, location or *physical* capacity". This was based on the judicial opinion in *National Wildlife Federation* v. *Alexander,* 613 F 2d 1054 (DC CIRC Dec 7, 79). (An incorrect cite was given in the preamble to the proposed regulations.) Since several other judicial opinions conflict and the case cited above is under appeal, we have decided not to change the regulations at this time. The word "physical" has been deleted throughout these final regulations. We also changed the language referring to outer continental shelf jurisdiction to conform to language in recent amendments to the Outer Continental Shelf Lands Act.

Section 320.3(a): This revision recognizes that Federal applicants now require state water quality certifications per revisions to Section 401 of the CWA.

Section 320.3(b): Recognition of the status of Indian tribes has been added for Coastal Zone Management Act (CZMA) consistency requirements.

Section 320.3(n): A new section has been added to recognize Corps of Engineers responsibility to review for impacts on navigation applications to EPA for point source discharge permits under Section 402 of the Clean Water Act.

Section 320.4(a): The public interest review. This is the heart of our evaluation process. It involves a weighing and balancing of all factors affecting the public interest. Many comments expressed concern that the policy statements in paragraph (b) through (o) are too broad and are subject to too wide a range of interpretation. We recognize that concern and are developing specific guidance on how each of the factors may affect the public interest balancing process based on specific citations of law, Executive policy and policies of the Corps and other Federal agencies. We have changed § 320.4(a)(2)(ii) to conform to CEQ–NEPA regulations that alternatives to proposed actions need not be investigated when there are no unresolved conflicts as to resource use. We have also made a technical change. The analysis of cumulative impacts previously required by § 320.4(a)(2)(iv) has been incorporated in § 320.4(a)(1). The potential for cumulative impacts will be considered in the evaluation of the impacts on each public interest factor rather than in a separate cumulative impact analysis which may overlook potential cumulative effects of one or more of the factors.

Several comments questioned the relationship between our public interest review and the Environmental Protection Agency Guidelines for the Specification of Disposal Sites for Dredged or Fill Material. The guidelines (40 CFR Part 230) were published in the **Federal Register** on December 24, 1980 pursuant to Section 404(b)(1) of the CWA. The guidelines and the public interest review go hand-in-hand. Once all aspects of the public interest have been considered, if a project does not conform to the guidelines, the permit would be denied.

Section 320.4(c): The statement on mitigation of fish and wildlife impacts has been deleted from this section as it is now incorporated in the policy for conditioning permits expressed in 33 CFR 325.4.

Section 320.4(j): Some comments were concerned that permits may be issued

without compliance with the requirements of Federal law such as water quality certification and coastal zone consistency. That is not the case. Those requirements are covered in 33 CFR Part 325. Section 320.4(j) deals with only those requirements established by local or state laws or Federal laws administered by other Federal agencies.

Section 320.4(l) and (m): Extensive comments were received on both the floodplain management and water conservation policies. However, after considering all the points of view, we have retained the policies. The floodplain policy is consistent with Executive Order 11988. With addition of language from Section 101(g) of the CWA, the water conservation policy is consistent with Federal policy. It does not infringe on the primary authority of the states to allocate water rights.

Section 320.4(n): A section has been added to recognize the national importance of energy conservation and development.

Section 320.4(o): A section has been added on navigation policy. Previously, 33 CFR Part 328 addressed Corps authority to establish harbor lines and was used as a basis for navigation policy. However, with the rescission of that part, there is a need to express navigation policy elsewhere. We also had to retain in our regulations the provision which authorizes all activities which took place shoreward of a harbor line prior to 27 May 1970, the date on which harbor lines were changed from permit authorization lines to navigational guidance lines.

Part 321—Dams and Dikes

There were no significant objections to a minor wording change to exclude weirs from Section 9 coverage and to provide an expedited decision process by processing applications concurrently with the applicant obtaining the necessary approval from either the Congress or the State Legislature.

Part 322—Structures and Work

Section 322.2(f): A provision has been added to allow general permits to be issued to avoid unnecessary duplication of the regulatory control exercised by another agency provided it has been determined that the environmental consequences of the action are individually and cumulatively minimal.

Section 322.3(a)(1): The term "physical capacity" has been reverted to "navigable capacity" in the definition of Section 10 authority. See the discussion for § 320.1(b) above.

Section 322.4: Nationwide permits have been moved to Part 330.

Section 322.5(f): In the proposed rules, we specifically requested comments on our long standing policy of limiting our review of structures on the Outer Continental Shelf (OCS) under lease from the Department of Interior (DOI). About 10 years ago, we adopted a policy of limiting our review to navigation and national security because the DOI does a comprehensive review during its leasing procedures. There were extensive comments on both sides of the issue. Based on all the comments and in order to be responsive to Executive Order 12291, we have maintained our policy of limited review. The DOI concurred in this policy.

Section 322.5(g): We have changed this section to be consistent with the discussion under § 320.1(b) above.

Appendixes: The appendixes to Parts 322, 323, and 324 and Appendixes B and D–H to Part 325 have been deleted. They deal with internal Corps of Engineers operations and interagency agreements. They need not be incorporated in the Code of Federal Regulations. Also, we are sensitive to reducing the volume of these regulations. The interagency agreements have recently been revised and copies are available to the public.

Part 323—Discharges of Dredged and Fill Material

Section 323.2(a): In the proposed rules, we consolidated former categories 1, 2, and 3 of waters of the United States into one category. Some concerns were raised about this change. While we believe it would be a change only in form and not in substance, we did not make the change as proposed. This was to be consistent with EPA's definition found in 40 CFR Part 126.

Section 323.2(c): We received many comments on revisions to the definition of wetlands. In addition to a Corps field task force, we convened an interagency meeting to review potential improvements to the definition. Both groups, after extensive deliberation, did not provide any improvement on a technical basis. We have therefore, decided not to change the definition at this time.

Section 323.2(e) and (f): These sections were modified to combine the terms natural lake and impoundment into one term, lake. Many people commented that impoundments should not be given the same status in the review process as natural lakes. However, we believe that the evaluation of the public interest should be based on what the impacts actually are and not on whether the area in question is natural or man-made.

Section 323.2(h): The footnote for this section was changed to delete the requirement for the district engineer to notify the regional administrator of EPA when the median rather than the average annual flow is used to determine the headwaters of a stream. EPA and others expressed concern that EPA should be kept informed of these determinations. However, we know of no cases in the past where EPA has objected to such determinations. In the interests of reducing paperwork, we have deleted the notification requirement. District engineers, however, should notify EPA if EPA is known to have an interest in the area in question.

Section 323.2(n): A provision has been added to allow general permits to be issued to avoid unnecessary duplication of the regulatory control of another agency as discussed for 322.2(f), above.

Section 323.4: The nationwide permits which previously appeared in this section have been moved to Part 330. A new section has been added to describe the legislative exemptions to the program under Sections 404(f) and (r) of the CWA. The wording of § 323.4(a)(1)(i) and § 323.4(a)(1)(iii)(c)(1)(iv) have been changed slightly to recognize irrigation as a normal farming practice and to change the time for removal of stream blockages, to one year from the date of discovery, respectively. EPA has concurred with these changes and will at the next convenient opportunity amend its regulations at 40 CFR Part 230 to coincide with these modifications.

Section 323.5: A new section has been added to note the authority of EPA to transfer Section 404 programs to the states and Army support of program transfer. Many comments urged a more extensive discussion of procedural steps which the Corps intends to follow in a transfer process. However, we did not include such a discussion. EPA has published at 40 CFR Part 123 extensive transfer regulations. As we have not yet had the opportunity to discuss these with any states who have an interest in program transfer, we have not developed any transfer procedures.

Section 323.6(b): This section formerly § 323.5(b), has ben modified to be consistent with current agreements between the Corps and EPA which reflect EPA authority to veto disposal site specifications under Section 404(c) of the CWA.

Part 324—Ocean Disposal

Section 324.3(b)(2): This section was modified to note the requirement that Federal agencies must obtain Section 401 water quality certifications from the appropriate state or interstate agency to

dispose of dredged material within the territorial sea.

Part 325—Permit Processing

Section 325.1(b): This is a new provision for pre-application consultation based on regulations of the Council on Environmental Quality for agency procedural compliance with the National Environmental Policy Act (NEPA). Other Corps procedures and policies for compliance with CEQ's NEPA regulations in its regulatory programs are now found in Appendix B to 33 CFR Part 230; a number of changes and deletions have been made throughout Part 325 to reflect this.

Section 325.1(d): Many people commented that we required too much or too little information in support of an application. In deciding what should be required, we have tried to achieve a balance among various considerations such as clarity of plans for review by technical and non-technical people, cost of developing data and its utility in the review process, and to severely limit requests for additional information once an application is considered complete.

Section 325.1(d)(2): This new section would avoid piecemeal applications for work associated with the same project. Comments on this addition were very favorable.

Section 325.1(d)(6): This new section on dam safety drew extensive comment, some saying we did not go far enough, others saying that we have only duplicated existing state requirements. The intent of this section is that the district engineer must be reasonably assured that proper design standards are met. This may be done through evidence of approval by a duly established state review, design or review by appropriately qualified persons, or other reasonable means.

Section 325.1(e): This new section limits the additional information requested of an applicant to that which is essential for the district engineer's decision process.

Section 325.1(f) Fees: This was § 325.1(g) in the proposed rules. It was renumbered because the former Section 325.1(f), signature of application, was moved to § 325.1(d)(7) for format purposes. The fee for letters of permission (LOP) has been deleted on the basis that LOP's are minor and do not generate benefits to the permittee significant enough to warrant payment of a fee.

Section 325.2(a)(1) and (2): These sections were revised to reflect the requirement of Section 404(a) of the CWA that public notices be issued within 15 days of a completed application and a stipulation in a law suit involving ocean dumping, respectively.

Section 325.2(a)(6): The term "Findings of Fact" has been changed to "Statement of Findings" in this section and throughout these regulations to more properly reflect the nature of the document. This section also allows the district and division engineers to divulge recommendations on applications forwarded for higher authority decision.

Section 325.2(a)(9): This section concerning distribution of copies of permits has been moved from former § 325.2(b)(5).

Section 325.2(b): The provision for issuing joint notices with water quality certifying agencies has been moved and consolidated with other joint notice and processing authorities stated in 33 CFR 320.1(a)(5), 320.4(j)(6), and § 325.2(e).

Section 325.2(b)(1) has been expanded and clarified to describe procedures where more than one state is involved in the water quality certification process.

Section 325.2(b)(1)(ii) has been reworded for clarification.

Section 325.2(b)(2) has been expanded to cover coastal zone certification procedures where Indian lands are involved.

Section 325.2(b)(5) refers to endangered species review (proposed to be in § 325.2(e). The former § 325.2(b)(5) has been moved to Section 325.2(a)(5) for format purposes.

Section 325.2(b)(6) has been deleted. The provision is a requirement of the Freedom of Information Act and need not be repeated in this regulation.

Section 325.2(d) has been revised to reduce processing time goals in accordance with comments received in response to the 1980 proposed rules. Subparagraph 4 is added to clarify that decisions will normally not be deferred pending action on other agency authorizations.

Section 325.2(e) has been added to specify alternative processing procedures available to division and district engineers. These include letters of permission, regional permits, joint procedures with other Federal, state, and local agencies and expedited review processes such as joint agency review meetings.

Section 325.2(e)(4): The authority to approve emergency processing procedures has been delegated from the Assistant Secretary of the Army to the division engineers. Many people asked for a more explicit description of emergency procedures. However, since it is impossible to determine ahead of time the nature of emergencies, division engineers are relied upon to use good judgment in establishing emergency procedures. Normally, such procedures would include expedited coordination with state and Federal agencies with an interest in any resources involved.

Section 325.3(a)(9) deletes the requirement for a statement concerning a preliminary determination of the need for and/or availability of an environmental impact statement and adds a notice of categorical exclusion, if appropriate, in accordance with Appendix B to 33 CFR Part 230.

Section 325.3(c): The requirement which was added in the proposed rules for periodic purging of the public notice mailing list and the authority to publish notices in the local newspaper have been deleted from the final regulation. District engineers are still expected to take these actions as appropriate, but they are within the scope of normal public involvement principles and need not be expressed in the CFR.

Section 325.3(d) has been deleted from the regulation. It is an internal requirement which has been added to our internal reports system.

Section 325.4: The former section on environmental impact statements has been moved to Appendix B of 33 CFR Part 230. A new section on permit conditioning has been added. We received many comments on this section. It has been rewritten to incorporate many of those comments and to clarify the intent. The authority for bonding was moved from Part 326 of the proposed rules as it is related more to permit conditioning than to enforcement.

Section 325.5(c): This section has been revised to conform to new Section 325.2(e) on alternative processing and evaluation procedures.

Section 325.6(c) and (d): These sections have been rewritten to clarify the difference between the expiration of a permit itself and the expiration of an authorized construction period. Specification of a starting time for permitted activities is now optional. The term "revalidation" is no longer in use and has been deleted. Ocean dumping permits are limited to three years based on a stipulation agreed to in a law suit.

Section 325.7(b) and (k) have been revised to give permittees who are notified of suspension proceedings an opportunity to have an informal meeting as well as or instead of a public hearing.

Section 325.7(d) has been modified to delegate permit revocation authority from the Chief of Engineers to the authority who made the decision on the original permit.

Section 325.8(b) and (c) have been revised to conform to Memoranda of Agreement reached with other Federal agencies pursuant to Section 404(q) of

the CWA and to authorize district engineers to deny certain permits without issuing a public notice where other required authorizations have been denied or where the activity will clearly interfere with navigation.

Section 325.9 has been revoked and reserved. The former section on supervision and enforcement has been moved to Part 326, except subparagraph (e) on bonding authority which has been addressed in § 325.4.

Section 325.11 on district engineer case reports to higher authority has been deleted. It is an internal requirement of the Corps and need not be expressed in the CFR.

Appendix A. The permit form has been revised as indicated in the proposed regulations. There were no significant comments on this appendix.

1. The term "Federal Water Pollution Control Act (86 Stat. 816, PL 92–500)" has been changed to "Clean Water Act (33 U.S.C. 1344)" to reflect the new law citation.

2. The last clause of general condition "i" has been deleted and set forth as a new condition "j": "That this permit does not obviate the requirement to obtain state or local assent required by law for the activity authorized herein." This change is to eliminate any suggestion that this provision relates to property rights.

3. General conditions "j" and "k" have been combined into a new condition "k": "That this permit may be modified, suspended or revoked in whole or in part pursuant to the policies and procedures prescribed in 33 CFR 325.7." This change eliminates present inconsistencies between the two conditions and the regulation provisions. It also avoids the necessity to revise the standard permit conditions in the future as the suspension, modification, and revocation procedures change in the regulations through rulemaking procedures.

4. General condition "o" has been revised to delete the start time dates pursuant to the change to § 325.6(c).

5. New general condition "u" has been added as follows: "That if the permittee, during prosecution of the work authorized herein, encounters a previously unidentified archeological or other cultural resource within the area subject to Department of the Army jurisdiction that might be eligible for listing in the National Register of Historic Places, he shall immediately notify the district engineer." This notification will enable the district engineer to notify the appropriate authorities as required by historic preservation laws.

6. The last phrase of condition "b" under "Discharges of dredged or fill material into waters of the United States" relating to toxic pollutants has been changed from "in to other than trace quantities" to "in toxic amounts" to agree with the language of Section 101(a)(3) of the CWA.

7. Condition "d" under "Discharges of Dredged or Fill Material into Waters of the United States" pertaining to wild and scenic rivers has been deleted as its original inclusion as a permit condition was inappropriate.

Appendix B has been revoked and reserved. The 1967 Memorandum of Understanding with Department of Interior has been terminated. New agreements have been reached with five Federal agencies, under Section 404(q) of the Clean Water Act.

Appendix C, Procedures for the Protection of Cultural Resources, is being revised and was not yet complete for publication. The interim procedures adopted on April 3, 1980, 40 FR 66, pgs. 22112, et seq. still apply.

Part 326—Enforcement

Comments on this part were generally related to concerns that increased authority given to district engineers in determining the disposition of an enforcement case would result in greater risk to environmental quality. However, the changes are actually related only to program management. Most violations are minor, many of them resulting from lack of public understanding of Federal jurisdiction. This regulation has been advised to allow district engineers to recognize those cases and not require lengthy paperwork and processing procedures on all of them. The staff resources thereby made available would allow the district engineer to take more vigorous enforcement action and conduct greater coordination with interested parties on those cases which are potentially significant. The changes provide a focus on the substance of the violation and the need for enforcement action. It is expected that in significant cases, there will be full coordination with interested parties to develop appropriate protective or remedial measures. The full public interest balancing process has been deleted from this Part 326 but remains in the after-the-fact evaluation phase of 33 CFR Part 325 thereby eliminating the duplication of that evaluation required in the previous regulation.

Section 326.3(d) has been added to provide for cases which are not suitable for legal action and where the responsible party refuses to apply for after-the-fact authorization. The district engineer may now proceed on his own initiative giving due consideration in the processing requirements and the public interest review to the extent of information furnished by the responsible party.

Section 326.5: The former section dealing with processing after-the-fact permit applications has been deleted. The processing requirements are contained in Part 325. Former § 325.9 on supervision and enforcement has been moved to this section as it more directly related to this part than to Part 325.

Part 327—Public Hearings

The public hearing regulation has been changed to make the public hearing policies consistent under all Corps of Engineers regulatory authorities. As a standard, we adopted the policies and criteria previously applicable to Section 404 only. This part also combines the hearing file with the complete administrative record of the permit action. All the information previously required for the public hearing file was also required to be in the administrative record. This duplication has been eliminated. The requirement for a verbatim hearing transcript has been retained. The mandatory requirement for district counsel to be present at all hearings as a legal adviser to the presiding officer (§ 327.6) has been changed to a discretionary decision; the district engineer may wish to informally resolve a hearing request (§ 327.4); and § 327.5 provides that the district engineer may also appoint an appropriately qualified person other than the deputy district engineer to be a hearing officer. The intent of these changes is to provide greater flexibility in responding to requests for public hearings.

Part 328—Harbor Lines

This part has been revoked and reserved. The Corps policy on harbor lines and their impact on the public interest review process is now found at 33 CFR 320.4(o). That subparagraph also retains the authorization for activities constructed shoreward of harbor lines prior to 27 May 1970.

Part 329—Definition of Navigable Waters of the United States

Based on a court decision (Leslie Salt Co. v. Froelke, 578 F.2d 742) (9th Cir 1978) the shoreward limit of navigable waters of the United States (frequently referred to as "Section 10 waters") in coastal areas is the mean high water line on both the Atlantic and Pacific coasts (formerly the mean higher high water was used on the Pacific coast). Therefore, Part 329 has been amended to

delete the second sentence of § 329.12(a)(2).

Part 330—Nationwide Permits

Combining the nationwide permits previously found in 33 CFR 322.4 (Section 10 nationwide permits) and 33 CFR 323.4 (Section 404 nationwide permits) received very favorable response. Extensive comment was received on some aspects of the nationwide permit program and on specific nationwide permits. We conducted public hearings in Washington, DC and in St. Paul, Minnesota of obtain additional public comment. Comments from all sources ranged from strongly supportive to strongly opposed because the program was either too broad or too restrictive. We prepared environmental assessments for all proposed nationwide permits, and Section 404(b)(1) evaluations for Section 404 actions. The Chief of Engineers then reached the decision, supported by a Statement of Findings (SOF) that each of the nationwide permits contained in Part 330 is in the public interest. The decisions were based on the policies expressed in 33 CFR Part 320 and include consideration of the Clean Water Act Sections 101(b), 101(f), 404(e), and 404(q) and Executive Order 12291 which superseded E.O. 12044.

The major areas of concern are as follows:

1. *Compliance with the specific language of Section 404(e) of the CWA.* That section provides that nationwide permits may be issued for categories of activities which are similar in nature and which have individually and cumulatively minor environmental impacts. The concern was that some of the nationwide permits, particularly the ones for discharges into certain waters (§ 330.4) exceeded the Section 404(e) authority because the activities covered were considered by the respondent to not be minor and similar in nature. However, those permits and others were in effect at the time Congress adopted Section 404(e). The legislative history clearly shows Congress' intent to endorse the program in effect at the time and to encourage its expansion. Therefore, we consider that categories of activities may be based on similarities in time (§ 330.3), location (§ 330.4) and type of work (§ 330.5).

2. *State certification under Section 401 of the CWA.* In the proposed rules, we stated that we assumed all states would want to waive certification requirements except for § 330.5(a)(18), run-off from upland disposal areas. Several states responded with concerns that the nationwide permits did not take into account local and state needs. As a result, the regional conditioning authority discussed below was added to address any special concerns states may have. Even so, the State of Wisconsin took action to formally deny certification of certain nationwide permits. These permits have been so noted in the regulations.

3. *Coastal Zone Management.* Under the Coastal Zone Management Act, a state must determine if the proposed activity is consistent with its approved state coastal zone management plan. We noted in the proposed rules that the nationwide permits would comply with state coastal zone programs. A few states replied that they would need more detailed information to make a consistency determination. However, the nature of nationwide permits must be general to account for wide variations from region to region. We appreciate the concern expressed and have adopted the regional conditioning authority to deal with those concerns.

4. *Reporting on nationwide permits.* In the preamble to the proposed rules, we specifically sought comments on the need for a reporting procedure as a prerequisite for working under a nationwide permit. Reaction was great and sharply mixed. What appeared to be good for one region was not practicable for another. Some of the nationwide permits have automatic procedures whereby the Corps is informed of the activities, and others were consensus "no reporting" situations. The ones in between were difficult to handle in a uniform national fashion. Therefore, we have designed the regional conditioning authority to provide for reporting on a regional basis where the division engineer determines there is an appropriate need.

5. *Discretionary Authority/Regional Conditioning.* The discretionary authority in the proposed rules generated many comments. One major concern was the removal of discretionary authority from district engineers to the Chief of Engineers. Some people supported that concept. However, most believed that the Chief is too far removed from the local level and that the administrative process of seeking the Chief's approval would be inefficient and would thereby unduly influence a district engineer to avoid seeking discretionary authority. On the other hand, some commenters pointed out and experience has shown a need to improve the consistency of interpretation of Corps jurisdiction and policy. Accordingly, we have vested discretionary authority on a case-by-case basis with the division engineer who is closer to the problem and can provide necessary consistency. However, in order to override a nationwide permit for a entire category or geographic region, approval must be obtained from the Chief of Engineers. The nationwide permits published today go into effect immediately. Should additional regional conditions be found to be appropriate, they may be added at any time and appropriately announce to concerned parties. Work done between now and the effective date of any regional conditions would not be subject to those conditions. We considered deferring publication of the nationwide permits until the division engineers had an opportunity to develop regional conditions. However, the benefits to the regulated public and to the government administrative efforts stemming from immediate implementation appear to far outweigh any risk to public resources which may result while regional conditions are being considered. Note also that previously exercised discretionary authority under nationwide permits issued on 19 July 1977 expires four months from the date of these regulations. However, it may be reinstated after appropriate procedures have been followed.

6. *Section 330.3(a):* The nationwide permit for activities occurring before phase-in dates was issued with the July 1977 regulations. Those activities remain authorized. The section is included here to retain in the regulation that these activities have been authorized.

7. *Section 330.4:* The nationwide permits for activities occurring in certain waters drew the most comments. Some urged that we broaden the categories of water, others believed that this permit exceeds the authority of Section 404(e). Areas above the headwaters and isolated waters have never been regulated on a case-by-case basis (except for lakes greater than 10 acres) and it was clearly within the scope of the CWA to retain the nationwide permits existing at the time the legislation was enacted. Fills in the areas involved, including the expansion to include lakes of greater than 10 acres, are not usually a threat to water quality of the surface tributary system. In addition, case-by-case regulation of such areas is a more appropriate role for the states based on Sections 101(b) and 101(f) of the CWA. If there are areas where adequate state regulation is not present and there is a threat to the principles of the CWA, division engineers may assert discretionary authority as appropriate. The two nationwide permits found in § 330.4(a)(1) and (2) consolidate the four nationwide permits previously found at

33 CFR § 323.4–2(a). Conditions (b)(2) was modified to comply with the Endangered Species Act.

8. *Section 330.5:* The section describes specific nationwide permits 1 through 25. A few generated no comments but most had strong supporters and strong opponents. We attempted to incorporate all the concerns into the permit conditions, but as a result of the widely divergent views, found the task impossible. While we recognize many of the concerns raised about protection of resources, we believe that we have minimized any significant risk through the conditions and the discretionary authority, including regional conditioning. As noted above, the requirements of the regulations have been followed and it has been found that each of these nationwide permits is in the public interest.

a. *Section 330.5(a)(1):* This is an expansion of an existing nationwide permit previously found at 33 CFR 322.4(a). Only navigation aids installed by the Coast Guard were included. This revision expands the coverage to all aids and regulatory markers regulated by the Coast Guard. This permit avoids dual Federal regulatory control.

b. *Section 330.5(a)(2):* This is a reauthorization of the nationwide permit for structures in artificial canals previously found at 33 CFR 322.4(b).

c. *Section 330.5(a)(3):* This is reauthorization of the nationwide permit previously found at 33 CFR 322.4(c). The term fill material has been added. Normally, fill for repair and maintenance is exempt from regulation by Section 404(f)(1)(A). However, there are conditions in Section 404(f)(2) under which the exemption may not apply. In those cases, the nationwide permit would be operable.

d. *Section 330.5(a)(4):* Fish and wildlife harvesting activities are added to this existing nationwide permit previously found at 33 CFR 322.4(d). Such activities are or can be adequately regulated through other Federal, State and local fishing and hunting regulatory programs or they are so minor in impact as not to require any individual review.

e. *Section 330.5(a)(5):* This is a reauthorization of the nationwide permit for water testing devices previously found at 33 CFR 322.4(e).

f. *Section 330.5(a)(6):* This is a reauthorization and expansion of the nationwide permit for survey activities previously found at 33 CFR 322.4(f). Seismic operations are added to avoid unnecessary delays for geophysical survey activities.

g. *Section 330.5(a)(7)* is a new nationwide permit to avoid duplicating the regulatory control exercised by EPA under its Section 402 permitting authority. The public concern with impacts of outfall structures is generally related to what comes out of the pipe rather than to the pipe itself. Some expressed concern that EPA's scope of review is not broad enough to encompass occasionally significant environmental concerns. We believe it is. However, as an additional safeguard, discretionary authority is available should the need arise.

h. *Section 330.5(a)(8)* is a new nationwide permit to avoid duplicating regulatory control exercised on the Outer Continental Shelf by the Department of Interior, Bureau of Land Management and Geological Survey.

i. *Section 330.5(a)(9)* is a new nationwide permit to avoid duplicating controls exercised by the U.S. Coast Guard over vessel anchorage and fleeting areas. There were many concerns expressed about fleeting areas in the upper Mississippi. However, only one fleeting area has been designated by the Coast Guard and it is located in the lower Mississippi near New Orleans.

j. *Section 330.5(a)(10)* is a new nationwide permit to avoid unnecessary Federal control over private mooring buoys.

k. *Section 330.5(a)(11)* is a new nationwide permit to avoid unnecessary Federal control over temporary markers and buoys.

l. *Section 330.5(a)(12)* is an expansion of an existing nationwide permit for utility line crossings previously found at 33 CFR 323.4–3(a)(1). It now also includes bedding and backfill for outfall and intake structures.

m. *Section 330.5(a)(13)* is an expansion of an existing Section 404 nationwide permit for bank stabilization previously found at 33 CFR 323.4–3(a)(2). It now includes Section 10 authorization and some additional conditions.

n. *Section 330.5(a)(14)* is a reauthorization of an existing nationwide permit for minor road crossings previously found at 33 CFR 323.4–3(a)(3).

o. *Section 330.5(a)(15)* is an expansion of an existing nationwide permit previously found at 33 CFR 323.4–3(a)(4) for some bridge-associated fills in tidal waters where those fills are regulated by the U.S. Coast Guard as part of the bridge permit. The expansion to include non-tidal waters reduces dual Federal regulatory control for bridges crossing tidal *and* non-tidal navigable waters of the United States.

p. *Section 330.5(a)(16)* is a new nationwide permit to recognize that the return water from dredged material placed hydraulically on upland sites is administratively a 404 discharge but need not be regulated on an individual basis as long as the water quality concerns are protected through the Section 401 certification procedure. Reducing regulatory burdens on upland disposal should encourage such disposal and avoid the confusion now existing on why hydraulic disposal on the upland needs a 404 permit while non-hydraulic disposal does not.

q. *Section 330.5(a)(17)* is a new nationwide permit to avoid duplicating the regulatory control exercised by the Department of Energy, Federal Energy Regulatory Commission (FERC) under the Federal Power Act of 1920 for small hydropower projects. Some people were concerned that FERC review might not fully reflect the principles of the Clean Water Act. We disagree. However, the safeguard of discretionary authority is still available.

r. *Sections 330.5(a)(18) and (19)* are new nationwide permits for very small dredging and filling activities. We had imposed a limit of five cubic yards in the proposed rules. However, we were persuaded by the comments that increasing the limit to 10 cubic yards is reasonable.

s. *Section 330.5(a)(20)* is a new nationwide permit to avoid regulatory delays associated with oil and hazardous substances containment and cleanup operations.

t. *Section 330.5(a)(21)* is a new nationwide permit to avoid duplicating the regulatory control exercised by the Department of the Interior under the Surface Mining Control and Reclamation Act of 1977. The provision for an advance review by the Corps would afford the Corps an opportunity to insure that the activity needing a Corps permit would have minimal impacts and thus qualify for the nationwide permit.

u. *Section 330.5(a)(22)* is a new nationwide permit for work associated with removal of wrecked vessels and navigational obstructions.

v. *Section 330.5(a)(23)* is a new nationwide permit to reduce duplication of effort and unnecessary paperwork concerning activities of other Federal agencies which would have only minimal individual or cumulative environmental impacts. Some concerns were raised that other federal agencies are not as aware of CWA principles as is the Corps of Engineers. We disagree, but have reserved discretionary authority should the need arise. The conditions specified in the proposed rules have been consolidated and the notification requirement has been moved from the district engineer to the Chief of Engineers in accordance with CEQ categorical exclusion procedures.

w. *Section 330.5(a)(24)* is a new nationwide permit to avoid duplications with state-administered Section 404 permit programs. Administration of the Section 404 program in waters which are navigable waters of the United States based solely on historical commercial use may be transferred to qualified states pursuant to Section 404(g) of the CWA. However, the Corps retains Section 10 permitting authority in these waters. Thus the discharge of dredged or fill material in such waters would require both a Corps Section 10 permit and State Section 404 permit. Since both EPA and the Corps have adequate control over the state 404 programs to protect the federal interest, a nationwide permit to satisfy the Section 10 jurisdictional authority would avoid paperwork, duplications, and delays. Other activities not involving the discharge of dredged and fill material in such waters would continue to be subject to Section 10.

x. *Section 330.5(a)(25)* is a new nationwide permit for placement of concrete into tightly sealed forms. This would address the situation where poured concrete used as a structural member would require a Section 404 permit whereas a structural member made of steel or wood but serving the same purpose does not require a Section 404 permit. The concrete structure itself would still require a Section 10 permit if located in navigable waters of the United States. This nationwide permit was announced in the **Federal Register** of May 15, 1981 and was discussed at our public hearings.

y. *Section 330.6:* A 5-year expiration date is added pursuant to Section 404(e) of the CWA.

Note 1

The term "he" and its derivatives used in these regulations are generic and should be considered as applying to both male and female.

Note 2

One purpose of these regulations is to bring up to date *all* policies which affect the Corps regulatory programs. All policy guidance issued prior to January 1, 1981 is hereby terminated. Since that time we have issued guidance letters with specific expiration dates.

List of Subjects

33 CFR Part 320

Environmental protection, Intergovernmental relations, Navigation, Water pollution control, Waterways.

33 CFR Part 321

Dams, Intergovernmental relations, Navigation, Waterways.

33 CFR Part 322

Continental shelf, Electric power, Navigation, Water pollution control, Waterways.

33 CFR Part 323

Navigation, Water pollution control, Waterways.

33 CFR Part 324

Water pollution control.

33 CFR Part 325

Administrative practice and procedure, Intergovernmental relations, Environmental protection, Navigation, Water pollution control, Waterways.

33 CFR Part 326

Investigations, Intergovernmental relations, Law enforcement, Navigation, Water pollution control, Waterways.

33 CFR Part 327

Administrative practice and procedure, Navigation, Water pollution control, Waterways.

33 CFR Part 329

Waterways.

33 CFR Part 330

Navigation, Water pollution control, Waterways.

For the reasons set forth in the preamble, Chapter II of Title 33 of the Code of Federal Regulations is amended by revising Parts 320, 321, 322, 323, 324, 325, 326, 327, and 329, removing and reserving Part 328 and adding a new part 330 to read as set forth below.

Dated: July 16, 1982.

Forrest T. Gay III,

Brigadier General, USA, Acting Director of Civil Works.

PART 320—GENERAL REGULATORY POLICIES

Sec.

320.1 Purpose and scope.
320.2 Authorities to issue permits.
320.3 Related laws.
320.4 General policies for evaluating permit applications.

Authority: 33 U.S.C. 401 *et seq.;* 33 U.S.C. 1344; 33 U.S.C. 1413.

§ 320.1 Purpose and scope.

(a) *Regulatory approach of the Corps of engineers.* (1) The U.S. Army Corps of Engineers has been involved in regulating certain activities in the nation's waters since 1890. Until 1968, the primary thrust of the Corps' regulatory program was the protection of navigation. As a result of several new laws and judicial decisions, the program evolved from one that protects navigation only to one that considers the full public interest by balancing the favorable impacts against the detrimental impacts. This is known as the "public interest balancing process" or the "public interest review." The program is one which reflects the national concerns for both the protection and utilization of important resources. It is a dynamic program that varies the weight given to a specific public interest factor in light of the importance of other such factors in a particular situation.

(2) The Corps is a highly decentralized organization. Most of the authority for administering the regulatory program has been given to the thirty six district engineers and eleven division engineers. If a district or division engineer makes a final decision on a permit application in accordance with the procedures and authorities contained in these regulations (33 CFR Parts 320–330), there is no administrative appeal of that decision.

(3) The Corps seeks to avoid unnecessary regulatory controls. The general permit program described in 33 CFR Parts 325 and 330 is the primary method of eliminating unnecessary Federal control over activities which do not justify individual control or which are adequately regulated by another agency.

(4) The Corps believes that applicants are not necessarily due a favorable decision but they are due a timely one. Reducing unnecessary paperwork and delays is a continuing Corps goal.

(5) The Corps believes that state and Federal regulatory programs should complement rather than duplicate one another. Use of general permits, joint processing procedures, interagency review coordination and authority transfers (where authorized by law) are encouraged to reduce duplications.

(b) *Types of activities regulated.* This regulation and the regulations that follow (33 CFR Parts 321–330) prescribe the statutory authorities, and general and special policies and procedures applicable to the review of applications for Department of the Army permits for various types of activities that occur in waters of the United States or the oceans. This part identifies the various Federal statutes that require Department of the Army permits before these activities can be lawfully undertaken; the related Federal laws applicable to the review of each activity that requires a Department of the Army permit; and the general policies that are applicable to the review of all activities that require Department of the Army permits. Parts 321–324 address the various types of activities that require Department of

the Army permits, including special policies and procedures applicable to those activities, as follows:

(1) Dams or dikes in navigable waters of the United States (Part 321);

(2) Other structures or work including excavation, dredging, and/or disposal activities, in navigable waters of the United States (Part 322);

(3) Activities that alter or modify the course, condition, location, or capacity of a navigable water of the United States (Part 322);

(4) Construction of artificial islands, installations and other devices on the outer continental shelf (Part 322);

(5) Discharges of dredged or fill material into the waters of the United States (Part 323);

(6) Activities involving the transportation of dredged material for the purpose of disposal in ocean waters (Part 324); and

(7) Nationwide general permits for certain categories of these activities (Part 330).

(c) *Forms of authorization.* Department of the Army permits for the above described activities are issued under various forms of authorization. These include individual permits that are issued following a review of an individual application for a Department of the Army permit and general permits that authorize the performance of a category or categories of activities in a specific geographical region or nationwide. The term "general permit" as used in these regulations (33 CFR Parts 320–330) refers to both those regional permits issued by district or division engineers on a regional basis and to nationwide permits issued by the Chief of Engineers through publication in the **Federal Register** and applicable throughout the nation. The nationwide permits are found in 33 CFR Part 330. If an activity is covered by a general permit, an application for a Department of the Army permit does not have to be made. In such cases, a person must only comply with the conditions contained in the general permit to satisfy requirements of law for a Department of the Army Permit.

(d) *General instructions.* The procedures for processing all individual permits and regional general permits are contained in 33 CFR Part 325. However, before reviewing those procedures, a person wanting to do work that requires a Department of the Army permit should review the general and special policies that relate to the particular activity as outlined in this Part 320 and Parts 321 through 324. The terms "navigable waters of the United States" and "waters of the United States" are used frequently throughout these regulations, and it is important from the outset that the reader understand the difference between the two. "*Navigable waters* of the United States" are defined in 33 CFR Part 329. These are waters that are navigable in the traditional sense where permits are required for certain work or structures pursuant to Sections 9 and 10 of the River and Harbor Act of 1899. "*Waters* of the United States" are defined in 33 CFR 323.2(a). These waters include more than navigable waters of the United States and are the waters where permits are required for the discharge of dredged or fill material pursuant to Section 404 of the Clean Water Act.

§ 320.2 Authorities to issue permits.

(a) Section 9 of the River and Harbor Act approved March 3, 1899 (33 U.S.C. 401) (hereinafter referred to as Section 9) prohibits the construction of any dam or dike across any navigable water of the United States in the absence of Congressional consent and approval of the plans by the Chief of Engineers and the Secretary of the Army. Where the navigable portions of the waterbody lie wholly within the limits of a single state, the structure may be built under authority of the legislature of that State, if the location and plans or any modification thereof are approved by the Chief of Engineers and by the Secretary of the Army. The instrument of authorization is designated a permit. Section 9 also pertains to bridges and causeways by the authority of the Secretary of the Army and Chief of Engineers with respect to bridges and causeways was transferred to the Secretary of Transportation under the Department of Transportation Act of October 15, 1966 (49 U.S.C. 1155g(6)(A)). (See also 33 CFR Part 321.) A Department of the Army permit pursuant to Section 404 of the Clean Water Act is required for the discharge of dredged or fill material into waters of the United States associated with bridges and causeways. (See 33 CFR Part 323.)

(b) Section 10 of the River and Harbor Act approved March 3, 1899 (33 U.S.C. 403) (hereinafter referred to as Section 10) prohibits the unauthorized obstruction or alteration of any navigable water of the United States. The construction of any structure in or over any navigable water of the United States, the excavation from or depositing of material in such waters, or the accomplishment of any other work affecting the course, location, condition, or capacity of such waters is unlawful unless the work has been recommended by the Chief of Engineers and authorized by the Secretary of the Army. The instrument of authorization is designated a permit. The authority of the Secretary of the Army to prevent obstructions to navigation in the navigable waters of the United States was extended to artificial islands, installations, and other devices located on the outer continental shelf by Section 4(e) of the Outer Continental Shelf Lands Act of 1953 as amended (43 U.S.C. 1333(e)). (See also 33 CFR Part 322.)

(c) Section 11 of the River and Harbor Act approved March 3, 1899 (33 U.S.C. 404) authorizes the Secretary of the Army to establish harbor lines channelward of which no piers, wharves, bulkheads or other works may be extended or deposits made without approval of the Secretary of the Army. Effective May 27, 1970, permits for work shoreward of those lines must be obtained in accordance with Section 10 and, if applicable Section 404 of the Clean Water Act. (See § 320.4(o) of this Part.)

(d) Section 13 of the River and Harbor Act approved March 3, 1899 (33 U.S.C. 407) provides that the Secretary of the Army, whenever the Chief of Engineers determines that anchorage and navigation will not be injured thereby, may permit the discharge of refuse into navigable waters. In the absence of a permit, such discharge of refuse is prohibited. While the prohibition of this section, known as the Refuse Act, is still in effect, the permit authority of the Secretary of the Army has been superseded by the permit authority provided the Administrator, Environmental Protection Agency (EPA), and the States under Sections 402 and 405 of the Clean Water Act, respectively (33 U.S.C. 1342 and 1345). (See 40 CFR Parts 124 and 125.)

(e) Section 14 of the River and Harbor Act approved March 3, 1899 (33 U.S.C. 408) provides that the Secretary of the Army on the recommendation of the Chief of Engineers may grant permission for the temporary occupation or use of any sea wall, bulkhead, jetty, dike, levee, wharf, pier, or other work built by the United States. This permission will be granted by an appropriate real estate instrument in accordance with existing real estate regulations.

(f) Section 404 of the Clean Water Act (33 U.S.C. 1344) (hereinafter referred to as Section 404) authorizes the Secretary of the Army, acting through the Chief of Engineers, to issue permits, after notice and opportunity for public hearing, for the discharge of dredged or fill material into the waters of the United States as specified disposal sites. See 33 CFR Part 323. The selection and use of disposal sites will be in accordance with

guidelines developed by the Administrator of EPA in conjunction with the Secretary of the Army and published in 40 CFR 230. If these guidelines prohibit the selection or use of a disposal site, the Chief of Engineers shall consider the economic impact on navigation of such a prohibition in reaching his decision. Furthermore, the Administrator can prohibit or restrict the use of any defined area as a disposal site whenever he determines, after notice and opportunity for public hearings and after consultation with the Secretary of the Army, that the discharge of such materials into such areas will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas, wildlife, or recreational areas (See 40 CFR Part 230).

(g) Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended (33 U.S.C. 1413) (hereinafter referred to as Section 103) authorizes the Secretary of the Army, acting through the Chief of Engineers, to issue permits, after notice and opportunity for public hearings, for the transportation of dredged material for the purpose of disposal in the ocean where it is determined that the disposal will not unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities. The selection of disposal sites will be in accordance with criteria developed by the Administrator of the EPA in consultation with the Secretary of the Army and published in 40 CFR Parts 220–229. However, similar to the EPA Administrator's limiting authority cited in paragraph (f) of this section, the Administrator can prevent the issuance of a permit under this authority if he finds that the disposal of the material will result in an unacceptable adverse impact on municipal water supplies, shellfish beds, wildlife, fisheries or recreational areas. (See also 33 CFR 324.)

§ 320.3 Related laws.

(a) Section 401 of the Clean Water Act (33 U.S.C. 1341) requires any applicant for a Federal license or permit to conduct any activity that may result in a discharge of a pollutant into waters of the United States to obtain a certification from the State in which the discharge originates or would originate, or, if appropriate, from the interstate water pollution control agency having jurisdiction over the affected waters at the point where the discharge originates or would originate, that the discharge will comply with the applicable effluent limitations and water quality standards. A certification obtained for the construction of any facility must also pertain to the subsequent operation of the facility.

(b) Section 307(c) of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1456(c)), requires Federal agencies conducting activities, including development projects, directly affecting a State's coastal zone, to comply, to the maximum extent practicable, with an approved State coastal zone management program. Indian tribes doing work on Federal lands will be treated as a Federal agency for the purpose of the Coastal Zone Management Act. The Act also requires any non-Federal applicant for a Federal license or permit to conduct an activity affecting land or water uses in the State's coastal zone to furnish a certification that the proposed activity will comply with the State's coastal zone management program. Generally, no permit will be issued until the State has concurred with the non-Federal applicant's certification. This provision becomes effective upon approval by the Secretary of Commerce of the State's coastal zone management program. (See also 15 CFR Part 930.)

(c) Section 302 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended (16 U.S.C. 1432), authorizes the Secretary of Commerce, after consultation with other interested Federal agencies and with the approval of the President, to designate as marine sanctuaries those areas of the ocean waters or of the Great Lakes and their connecting waters or of other coastal waters which he determines necessary for the purpose of preserving or restoring such areas for their conservation, recreational, ecological, or aesthetic values. After designating such an area, the Secretary of Commerce shall issue regulations to control any activities within the area. Activities in the sanctuary authorized under other authorities are valid only if the Secretary of Commerce certifies that the activities are consistent with the purposes of Title III of the Act and can be carried out within the regulations for the sanctuary.

(d) The National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) declares the national policy to encourage a productive and enjoyable harmony between man and his environment. Section 102 of that Act directs that "to the fullest extent possible: (1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this Act, and (2) all agencies of the Federal Government shall * * * insure that presently unquantified environmental amenities and values may be given appropriate consideration in decision-making along with economic and technical considerations * * *". (See Appendix B of 33 CFR Part 230.)

(e) The Fish and Wildlife Act of 1956 (16 U.S.C. 742a, *et seq.*), the Migratory Marine Game-Fish Act (16 U.S.C. 760c–760g) and the Fish and Wildlife Coordination Act (16 U.S.C. 661–666c) and other acts express the will of Congress to protect the quality of the aquatic environment as it affects the conservation, improvement and enjoyment of fish and wildlife resources. Reorganization Plan No. 4 of 1970 transferred certain functions, including certain fish and wildlife-water resources coordination responsibilities, from the Secretary of the Interior to the Secretary of Commerce. Under the Fish and Wildlife Coordination Act and Reorganization Plan No. 4, any Federal agency that proposes to control or modify any body of water must first consult with the United States Fish and Wildlife Service, the National Marine Fisheries Service, as appropriate, and with the head of the appropriate State agency exercising administration over the wildlife resources of the affected State.

(f) The Federal Power Act of 1920 (16 U.S.C. 791a *et seq.*), as amended, authorizes the Department of Energy (DOE) to issue licenses for the construction, operation and maintenance of dams, water conduits, reservoirs, power houses, transmission lines, and other physical structures of a hydro-power project. However, where such structures will affect the navigable capacity of any navigable waters of the United States (as defined in 16 U.S.C. 796), the plans for the dam or other physical structures affecting navigation must be approved by the Chief of Engineers and the Secretary of the Army. In such cases, the interests of navigation should normally be protected by a recommendation to the DOE for the inclusion of appropriate provisions in the DOE license rather than the issuance of separate Department of the Army permit under 33 U.S.C. 401 *et seq.* As to any other activities in navigable waters not constituting construction, operation and maintenance of physical structures licensed by the DOE under the Federal Power Act of 1920, as amended, the provisions of 33 U.S.C. 401 *et seq.* remain fully applicable. In all cases involving the discharge of dredged or fill material into waters of the United States or the transportation of dredged material for the purpose of disposal in

ocean waters, Section 404 or Section 103 will be applicable.

(g) The National Historic Preservation Act of 1966 (16 U.S.C. 470) created the Advisory Council on Historic Preservation to advise the President and Congress on matters involving historic preservation. In performing its function the Council is authorized to review and comment upon activities licensed by the Federal Government which will have an effect upon properties listed in the National Register of Historic Places, or eligible for such listing. The concern of Congress for the preservation of significant historical sites is also expressed in the Preservation of Historical and Archeological Data Act of 1974 (16 U.S.C. 469 *et seq.*), which amends the Act of June 27, 1960. By this Act, whenever a Federal construction project or Federally licensed project, activity or program alters any terrain such that significant historical or archeological data is threatened, the Secretary of the Interior may take action necessary to recover and preserve the data prior to the commencement of the project.

(h) The Interstate Land Sales Full Disclosure Act (15 U.S.C. 1701 *et seq.*) prohibits any developer or agent from selling or leasing any lot in a subdivision (as defined in 15 U.S.C. 1701(3)) unless the purchaser is furnished in advance a printed property report containing information which the Secretary of Housing and Urban Development may, by rules or regulations, require for the protection of purchasers. In the event the lot in question is part of a project that requires Department of the Army authorization, the Property Report is required by Housing and Urban Development regulation to state whether or not a permit for the development has been applied for, issued, or denied by the Corps of Engineers under Section 10 or Section 404. The Property Report is also required to state whether or not any enforcement action has been taken as a consequence of non-application for or denial of such permit.

(i) The Endangered Species Act (16 U.S.C. 1531 *et seq.*) declares the intention of the Congress to conserve threatened and endangered species and the ecosystems on which those species depend. The Act requires that Federal agencies in consultation with the US Fish and Wildlife Service and the National Marine Fisheries Service use their authorities in furtherance of its purposes by carrying out programs for the conservation of endangered or threatened species, and by taking such action necessary to insure that any action authorized, funded or carried out by the Agency is not likely to jeopardize the continued existence of such endangered or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary of the Interior or Commerce, as appropriate, to be critical. (See also 50 CFR Parts 17 and 402.)

(j) The Deepwater Port Act of 1974 (33 U.S.C. 1501 *et seq.*) prohibits the ownership, construction, or operation of a deepwater port beyond the territorial seas without a license issued by the Secretary of Transportation. The Secretary of Transportation may issue such a license to an applicant if he determines, among other things, that the construction and operation of the deepwater port is in the national interest and consistent with national security and other national policy goals and objectives. An application for a deepwater port license constitutes an application for all Federal authorizations required for the ownership, construction, and operation of a deepwater port, including applications for Section 10, Section 404 and Section 103 permits which may also be required pursuant to the authorities listed in § 320.2 and the policies specified in § 320.4 of this Part.

(k) The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 *et seq.*) expresses the intent of Congress that marine mammals be protected and encouraged to develop in order to maintain the health and stability of the marine ecosystem. The Act imposes a perpetual moratorium on the harassment, hunting, capturing, or killing of marine mammals and on the importation of marine mammals and marine mammal products without a permit from either the Secretary of the Interior or the Secretary of Commerce, depending upon the species of marine mammal involved. Such permits may be issued only for purposes of scientific research and for public display if the purpose is consistent with the policies of the Act. The appropriate Secretary is also empowered in certain restricted circumstances to waive the requirements of the Act.

(l) Section 7(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1278 *et seq.*) provides that no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary charged with its administration.

(m) The Ocean Thermal Energy Conversion Act of 1980, (42 U.S.C. Section 9101 *et seq.*) establishes a licensing regime administered by the Administrator of NOAA for the ownership, construction, location and operation of ocean thermal energy conversion (OTEC) facilities and plantships. An application for an OTEC license filed with the Administrator constitutes an application for all Federal authorizations required for ownership, construction, location and operation of an OTEC facility or plantship, except for certain activities within the jurisdiction of the Coast Guard. This includes applications for Section 10, Section 404 and other Department of Army authorizations which may be required.

(n) Section 402 of the Clean Water Act authorizes EPA to issue permits under procedures established to implement the National Pollutant Discharge Elimination System (NPDES) program. The administration of this program can be and, in many cases, has been delegated to individual states. Section 402(b)(6) states that no NPDES permit will be issued if the Chief of Engineers, acting for the Secretary of the Army and after consulting with the US Coast Guard, determines that navigation and anchorage in any navigable water will be substantially impaired as a result of a proposed activity.

§ 320.4 General policies for evaluating permit applications.

The following policies shall be applicable to the review of all applications for Department of the Army permits. Additional policies specifically applicable to certain types of activities are identified in Parts 321–324.

(a) *Public interest review.* (1) The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity and its intended use on the public interest. Evaluation of the probable impact which the proposed activity may have on the public interest requires a careful weighing of all those factors which become relevant in each particular case. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so, the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process. That decision should reflect the national concern for both protection and utilization of important resources. All factors which may be relevant to the proposal must be

considered including the cumulative effects thereof: among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs and, in general, the needs and welfare of the people. No permit will be granted unless its issuance is found to be in the public interest.

(2) The following general criteria will be considered in the evaluation of every application:

(i) The relative extent of the public and private need for the proposed structure or work:

(ii) Where there are unresolved conflicts as to resource use, the practicability of using reasonable alternative locations and methods to accomplish the objective of the proposed structure or work; and

(iii) The extent and permanence of the beneficial and/or detrimental effects which the proposed structure or work may have on the public and private uses to which the area is suited.

(b) *Effect on wetlands.* (1) Some wetlands are vital areas that constitute a productive and valuable public resource, the unnecessary alteration or destruction of which should be discouraged as contrary to the public interest. For projects to be undertaken by Federal, state, or local agencies, additional guidance on wetlands considerations is stated in Executive Order 11990, dated 24 May 1977.

(2) Wetlands considered to perform functions important to the public interest include:

(i) Wetlands which serve significant natural biological functions, including food chain production, general habitat, and nesting, spawning, rearing and resting sites for aquatic or land species;

(ii) Wetlands set aside for study of the aquatic environment or as sanctuaries or refuges;

(iii) Wetlands the destruction or alteration of which would affect detrimentally natural drainage characteristics, sedimentation patterns, salinity distribution, flushing characteristics, current patterns, or other environmental characteristics;

(iv) Wetlands which are significant in shielding other areas from wave action, erosion, or storm damage. Such wetlands are often associated with barrier beaches, islands, reefs and bars;

(v) Wetlands which serve as valuable storage areas for storm and flood waters;

(vi) Wetlands which are prime natural recharge areas. Prime recharge areas are locations where surface and ground water are directly interconnected; and

(vii) Wetlands which through natural water filtration processes serve significant and necessary water purification functions.

(3) Although a particular alteration of wetlands may constitute a minor change, the cumulative effect of numerous such piecemeal changes often results in a major impairment of the wetland resources. Thus, the particular wetland site for which an application is made will be evaluated with the recognition that it may be part of a complete and interrelated wetland area. In addition, the District Engineer may undertake reviews of particular wetland areas in consultation with the appropriate Regional Director of the Fish and Wildlife Service, the Regional Director of the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration, the Regional Administrator of the Environmental Protection Agency, the local representative of the Soil Conservation Service of the Department of Agriculture, and the head of the appropriate state agency to assess the cumulative effect of activities in such areas.

(4) No permit will be granted which involves the alteration of wetlands identified as important by paragraph (b)(2) or of this section because of provisions of paragraph (b)(3), of this section, unless the district engineer concludes, on the basis of the analysis required in paragraph (a), of this section, that the benefits of the proposed alteration outweigh the damage to the wetlands resource. In evaluating whether a particular alteration is necessary, the district engineer shall consider whether the proposed activity is dependent on being located in, or in close proximity to the aquatic environment and whether practicable alternative sites are available. The applicant must provide sufficient information on the need to locate the proposed activity in the wetland and the availability of practicable alternative sites.

(5) In addition to the policies expressed in this subpart, the Congressional policy expressed in the Estuary Protection Act, Pub. L. 90–454, and state regulatory laws or programs for classification and protection of wetlands will be given great weight.

(c) *Fish and wildlife.* In accordance with the Fish and Wildlife Coordination Act (paragraph 320.3(e) of this part) Corps of Engineers officials will consult with the Regional Director, U.S. Fish and Wildlife Service, the Regional Director, National Marine Fisheries Service, and the head of the agency responsible for fish and wildlife for the state in which work is to be performed, with a view to the conservation of wildlife resources by prevention of their direct and indirect loss and damage due to the activity proposed in a permit application. They will give great weight to these views on fish and wildlife considerations in evaluating the application.

(d) *Water quality.* Applications for permits for activities which may adversely affect the quality of waters of the United States will be evaluated for compliance with applicable effluent limitations and, water quality standards, during the construction, and subsequent operation of the proposed activity. Certification of compliance with applicable effluent limitations and water quality standards required under provisions of Section 401 of the Clean Water Act will be considered conclusive with respect to water quality considerations unless the Regional Administrator, Environmental Protection Agency (EPA), advises of other water quality aspects to be taken into consideration.

(e) *Historic, cultural, scenic, and recreational values.* Applications for permits covered by this regulation may involve areas which possess recognized historic, cultural, scenic, conservation, recreational or similar values. Full evaluation of the general public interest requires that due consideration be given to the effect which the proposed structure or activity may have on values such as those associated with wild and scenic rivers, registered historic places and natural landmarks, National Rivers, National Wilderness Areas, National Seashores, National Recreation Areas, National Lakeshores, National Parks, National Monuments, estuarine and marine sanctuaries, archeological resources, including Indian religious or cultural sites, and such other areas as may be established under Federal or state law for similar and related purposes. Recognition of those values is often reflected by state, regional, or local land use classifications, or by similar Federal controls or policies. Action on permit applications should, insofar as possible, be consistent with and avoid significant adverse effects on the values or purposes for which those classifications, controls, or policies were established.

(f) *Effect on limits of the territorial sea.* Structures or work affecting coastal waters may modify the coast line or base line from which the territorial sea

is measured for purposes of the Submerged Lands Act and international law. Generally, the coast line or base line is the line of ordinary low water on the mainland; however, there are exceptions where there are islands or lowtide elevations offshore (the Submerged Lands Act, 43 U.S.C. 1301(a) and United States v. California, 381 U.S.C. 139 (1965), 382 U.S. 448 (1966)). Applications for structures or work affecting coastal waters will therefore be reviewed specifically to determine whether the coast line or base line might be altered. If it is determined that such a change might occur, coordination with the Attorney General and the Solicitor of the Department of the Interior is required before final action is taken. The district engineer will submit a description of the proposed work and a copy of the plans to the Solicitor, Department of the Interior, Washington, D.C. 20240, and request his comments concerning the effects of the proposed work on the outer continental rights of the United States. These comments will be included in the administrative record of the application. After completion of standard processing procedures, the record will be forwarded to the Chief of Engineers. The decision on the application will be made by the Secretary of the Army after coordination with the Attorney General.

(g) *Interference with adjacent properties or water resource projects.* Authorization of work or structures by the Department of the Army does not convey a property right, nor authorize any injury to property or invasion of other rights.

(1) Because a landowner has the general right to protect his property from erosion, applications to erect protective structures will usually receive favorable consideration. However, if the protective structure may cause damage to the property of others, adversely affect public health and safety, adversely impact floodplain or wetland values, or otherwise appear not to be in the public interest, the district engineer will so advise the applicant and inform him of possible alternative methods of protecting his property. Such advice will be given in terms of general guidance only so as not to compete with private engineering firms nor require undue use of government resources.

(2) A riparian landowner's general right of access to navigable waters of the United States is subject to the similar rights of access held by nearby riparian landowners and to the general public's right of navigation on the water surface. In the case of proposals which create undue interference with access to, or use of, navigable waters, the authorization will generally be denied.

(3) Where it is found that the work for which a permit is desired is in navigable waters of the United States (see 33 CFR Part 329) and may interfere with an authorized Federal project, the applicant should be apprised in writing of the fact and of the possibility that a Federal project which may be constructed in the vicinity of the proposed work might necessitate its removal or reconstruction. The applicant should also be informed that the United States will in no case be liable for any damage or injury to the structures or work authorized by Sections 9 or 10 of the River and Harbor Act of 1899 or by Section 404 of the Clean Water Act which may be caused by or result from future operations undertaken by the Government for the conservation or improvement of navigation, or for other purposes, and no claims or right to compensation will accrue from any such damage.

(4) Proposed activities which are in the area of a Federal project which exists or is under construction will be evaluated to insure that they are compatible with the purpose of the project.

(h) *Activities affecting coastal zones.* Applications for Department of the Army permits for activities affecting the coastal zones of those states having a coastal zone management program approved by the Secretary of Commerce will be evaluated with respect to compliance with that program. No permit will be issued to a non-Federal applicant until certification has been provided that the proposed activity complies with the coastal zone management program and the appropriate state agency has concurred with the certification or has waived its right to do so. However, a permit may be issued to a non-Federal applicant if the Secretary of Commerce, on his own initiative or upon appeal by the applicant, finds that the proposed activity is consistent with the objectives of the Coastal Zone Management Act of 1972 or is otherwise necessary in the interests of national security. Federal agency and Indian tribe applicants for Department of the Army permits are responsible for complying with the Coastal Zone Management Act's directives for assuring that their activities directly affecting the coastal zone are consistent, to the maximum extent practicable, with approved State coastal zone management programs.

(i) *Activities in marine sanctuaries.* Applications for Department of the Army authorization for activities in a marine sanctuary established by the Secretary of Commerce under authority of Section 302 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, will be evaluated for impact on the marine sanctuary. No permit will be issued until the applicant provides a certification from the Secretary of Commerce that the proposed activity is consistent with the purposes of Title III of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, and can be carried out within the regulations promulgated by the Secretary of Commerce to control activities within the marine sanctuary.

(j) *Other Federal, state, or local requirements.* (1) Processing of an application for a Department of the Army permit normally will proceed concurrently with the processing of other required Federal, state, and/or local authorizations or certifications. Final action on the Department of the Army permit will normally not be delayed pending action by another Federal, state or local agency (see 33 CFR 325.2(d)(4)). However, where the required Federal, state and/or local certification and/or authorization has been denied for activities which also require a Department of Army permit before final action has been taken on the Army permit, the Army permit will be denied without prejudice to the right of the applicant to reinstate processing of the application if subsequent approval is received from the appropriate Federal, state and/or local agency. Even if official certification and/or authorization is not required by state or Federal law, but a state, regional, or local agency having jurisdiction or interest over the particular activity comments on the application, due consideration shall be given to those official views as a reflection of local factors of the public interest.

(2) Where officially adopted Federal, state, regional, local or tribal land-use classifications, determinations, or policies are applicable to the land or water areas under consideration, they shall be presumed to reflect local factors of the public interest and shall be considered in addition to the other national factors of the public interest identified in § 320.4(a) of this part.

(3) A proposed activity may result in conflicting comments from several agencies within the same state. Where a state has not designated a single responsible coordinating agency, district engineers will ask the Governor to express his views or to designate one

state agency to represent the official state position in the particular case.

(4) In the absence of overriding national factors of the public interest that may be revealed during the evaluation of the permit application, a permit will generally be issued following receipt of a favorable state determination provided the concerns, policies, goals, and requirements as expressed in 33 CFR Part 320–324, and the applicable statutes have been followed and considered: e.g., the National Environmental Policy Act; the Fish and Wildlife Coordination Act; the Historical and Archeological Preservation Act; the National Historic Preservation Act; the Endangered Species Act; the Coastal Zone Management Act; the Marine Protection, Research and Sanctuaries Act of 1972, as amended; the Clean Water Act, the Archeological Resources Act, and the American Indian Religious Freedom Act. Similarily, a permit will generally be issued for Federal and federally-authorized activities; another Federal agency's determination to proceed is entitled to substantial consideration in the Corps' public interest review.

(5) The district engineers are encouraged to develop joint procedures with those states and other Federal agencies with ongoing permit programs for activities also regulated by the Department of the Army. In such cases, applications for Department of the Army permits may be processed jointly with the state or other Federal applications to an independent conclusion and decision by the district engineer and appropriate Federal or state agency. (See 33 CFR 325.2(e).)

(6) The district engineer shall develop operating procedures for establishing official communications with Indian Tribes within the district. The procedures shall provide for appointment of a tribal representative who will receive all pertinent public notices, and respond to such notices with the official tribal position on the proposed activity. This procedure shall apply only to those Tribes which accept this option. Any adopted operating procedures shall be distributed by public notice to inform the Tribes of the option.

(k) *Safety of impoundment structures.* To insure that all impoundment structures are designed for safety, non-Federal applicants may be required to demonstrate that the structure complies with established state dam safety criteria or has been designed by qualified persons and, in appropriate cases, that the design has been independently reviewed (and modified as the review would indicate) by similarly qualified persons.

(l) *Floodplain management.*

(1) Floodplains possess significant natural values and carry out numerous functions important to the public interest. These include:

(i) Water resources values (natural moderation of floods, water quality maintenance, and groundwater recharge);

(ii) Living resource value (fish, wildlife, and plant resources);

(iii) Cultural resource values (open space, natural beauty, scientific study, outdoor education, and recreation); and

(iv) Cultivated resource values (agriculture, aquaculture, and forestry).

(2) Although a particular alteration to a floodplain may constitute a minor change, the cumulative impact of such changes may result in a significant degradation of floodplain values and functions and in increased potential for harm to upstream and downstream activities. In accordance with the requirements of Executive Order 11988, district engineers, as part of their public interest review, should avoid to the extent practicable long and short term significant adverse impacts associated with the occupancy and modification of floodplains as well as the direct and indirect support of floodplain development whenever there is a practicable alternative. For those activities, which in the public interest, must occur in or impact upon floodplains, the district engineer shall ensure to the maximum extent practicable that the impacts of potential flooding on human health, safety and welfare are minimized, the risks of flood losses are minimized, and, whenever practicable the natural and beneficial values served by floodplains and restored and preserved.

(3) In accordance with Executive Order 11988, the district engineer should avoid authorizing floodplain developments whenever practicable alternatives exist outside the floodplain. If there are no practicable alternatives, the district engineer may consider, as a means of mitigation, alternatives within the floodplain which will lessen any significant adverse impact to the floodplain.

(m) *Water supply and conservation.* Water is an essential resource, basic to human survival, economic growth, and the natural environment. Water conservation requires the efficient use of water resources in all actions which involve the significant use of water or that significantly affect the availability of water for alternative uses. Full consideration will be given to water conservation as a factor in the public interest review including opportunities to reduce demand and improve efficiency in order to minimize new supply requirements. This policy is subject to Congressional policy stated in Sec. 101(g) of the Clean Water Act that the authority of states to allocate water quantities shall not be superseded, abrogated, or otherwise impaired.

(n) *Energy conservation and development.* Energy conservation and development is a major national objective. District engineers will give great weight to energy needs as a factor in the public interest review and will give high priority to permit actions involving energy projects.

(o) *Navigation.* (1) Section 11 of the River and Harbor Act of 1899 authorized establishment of harbor lines shoreward of which no individual permits were required. Because harbor lines were established on the basis of navigation impacts only, the Corps of Engineers published a regulation on May 27, 1970 (33 CFR 209.150) which declared that permits would thereafter be required for activities shoreward of the harbor lines. Review of applications would be based on a full public interest evaluation and harbor lines would serve as guidance for assessing navigation impacts. Accordingly, activities constructed shoreward of harbor lines prior to May 27, 1970 do not require specific authorization.

(2) The policy of considering harbor lines as guidance for assessing impacts on navigation continues.

(3) Navigation in all navigable waters of the United States continues to be a primary concern of the Federal government and will be given great weight in the public interest balancing process.

(4) District engineers should protect navigational and anchorage interests in connection with the NPDES program by recommending to EPA or to the state, if the program has been delegated, that a permit be denied unless appropriate conditions can be included to avoid any substantial impairment of navigation and anchorage.

PART 321—PERMITS FOR DAMS AND DIKES IN NAVIGABLE WATERS OF THE UNITED STATES

Sec.

321.1 General.
321.2 Definitions.
321.3 Special policies and procedures.

Authority: 33 U.S.C. 403.

§ 321.1 General.

This regulation prescribes, in addition to the general policies of 33 CFR Part 320

and procedures of 33 CFR Part 325, those special policies, practices, and procedures to be followed by the Corps of Engineers in connection with the review of applications for Department of Army permits to authorize the construction of a dike or dam in a navigable water of the United States pursuant to Section 9 of the River and Harbor Act of 1899 (33 U.S.C. 401). See 33 CFR 320.2(a). Dams and dikes in navigable waters of the United States also require Department of the Army permits under Section 404 of the Clean Water Act, as amended (33 U.S.C. 1344). Applicants for Department of the Army permits under this Part should also refer to 33 CFR Part 323 to satisfy the requirements of Section 404.

§ 321.2 Definitions.

For the purpose of this regulation, the following terms are defined:

(a) The term "navigable waters of the United States" means those waters of the United States that are subject to the ebb and flow of the tide shoreward to the mean high water mark and/or are presently used, or have been used in the past, or may be susceptible to use to transport interstate or foreign commerce. See 33 CFR Part 329 for a more complete definition of this term.

(b) The term "dike or dam" means an impoundment structure that completely spans a navigable water of the United States and that may obstruct interstate waterborne commerce. The term does not include a weir which is regulated pursuant to Section 10 of the River and Harbor Act of 1899 (see 33 CFR Part 322).

§ 321.3 Special policies and procedures.

The following additional special policies and procedures shall be applicable to the evaluation of pemit applications under this regulation:

(a) The Secretary of the Army will decide whether Department of the Army authorization for a dam or dike in a navigable water of the United States will be issued, since this authority has not been delegated to the Chief of Engineers. The conditions to be imposed in any instrument of authorization will be recommended by the district engineer when forwarding the report to the Secretary of the Army, through the Chief of Engineers.

(b) Processing a Department of the Army application under Section 9 will not be completed until the approval of the United States Congress has been obtained if the navigable water of the United States is an interstate waterbody, or until the approval of the appropriate state legislature has been obtained if the navigable water of the United States is solely within the boundaries of one state. The district engineer, upon receipt of such an application, will notify the applicant that the consent of Congress or the state legislature must be obtained before a permit can be issued.

PART 322—PERMITS FOR STRUCTURES OR WORK IN OR AFFECTING NAVIGABLE WATERS OF THE UNITED STATES

Sec.

322.1 General.
322.2 Definitions.
322.3 Activities requiring permits.
322.4 Reserved.
322.5 Special policies.

Authority: 33 U.S.C. 403.

§ 322.1 General.

This regulation prescribes, in addition to the general policies of 33 CFR Part 320 and procedures of 33 CFR Part 325 those special policies, practices and procedures to be followed by the Corps of Engineers in connection with the review of applications for Department of Army permits to authorize certain structures or work in or affecting navigable waters of the United States pursuant to Section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403) (hereinafter referred to as Section 10). See 33 CFR 320.2(b). Certain stuctures or work in or affecting navigable waters of the United States are also regulated under other authorities of the Department of the Army. These include discharges of dredged or fill material into waters of the United States, including the territorial seas, pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344; see 33 CFR Part 323) and the transportation of dredged material by vessel for purposes of dumping in ocean waters, including the territorial seas, pursuant to Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended (33 U.S.C. 1413; see 33 CFR Part 324). A Department of the Army permit will also be required under these additional authorities if they are applicable to structures or work in or affecting navigable waters of the United States. Applicants for Department of the Army permits under this part should refer to the other cited authorities and implementing regulations for these additional permit requirements to determine whether they also are applicable to their proposed activities.

§ 322.2 Definitions.

For the purpose of this regulation, the following terms are defined:

(a) The term "navigable waters of the United States" means those waters of the United States that are subject to the ebb and flow of the tide shoreward to the mean high water mark, and/or are presently used, or have been used in the past, or may be susceptible to use to transport interstate or foreign commerce. See 33 CFR Part 329 for a more complete definition of this term.

(b) The term "structure" shall include, without limitation, any pier, wharf, dolphin, weir, boom, breakwater, bulkhead, revetment, riprap, jetty, permanent mooring structure, power transmission line, permanently moored floating vessel, piling, aid to navigation, or any other obstacle or obstruction.

(c) The term "work" shall include, without limitation, any dredging or disposal of dredged material, excavation, filling, or other modification of a navigable water of the United States.

(d) The term "letter of permission" means a type of individual permit issued in accordance with the abbreviated procedures of 33 CFR 325.2(e).

(e) The term "individual permit" means a Department of the Army authorization that is issued following a case-by-case evaluation of a specific structure or work in accordance with the procedures of this regulation and 33 CFR 325 and a determination that the proposed structure or work is in the public interest pursuant to 33 CFR 320.

(f) The term "general permit" means a Department of the Army authorization that is issued on a nationwide ("nationwide permits") or regional ("regional permits") basis for a category or categories of activities when:

(1) those activities are substantially similar in nature and cause only minimal individual and cumulative environmental impacts; or

(2) the general permit would result in avoiding unnecessary duplication of the regulatory control exercised by another Federal, state, or local agency provided it has been determined that the environmental consequences of the action are individually and cumulatively minimal. (See 33 CFR 325.2(e) and 33 CFR Part 330).

§ 322.3 Activities requiring permits.

(a) *General.* Department of the Army permits are required under Section 10 for structures and/or work in or affecting navigable waters of the United States except as otherwise provided in these regulations. Activities that were commenced or completed shoreward of established Federal habor lines before May 27, 1970 (see 33 CFR 320.4(o)) also do not require Section 10 permits; however, if those activities involve the discharge of dredged or fill material into

waters of the United States after October 18, 1972, a Section 404 permit is required (see 33 CFR Part 323).

(1) Structures or work are in the navigable waters of the United States if they are within limits defined in 33 CFR Part 329. Structures or work outside these limits are subject to the provisions of law cited in paragraph (a) of this section, if these structures or work affect the course, location, or condition of the waterbody in such a manner as to impact on the navigable capacity of the waterbody. For purposes of a Section 10 permit, a tunnel or other structure or work under or over a navigable water of the United States is considered to have an impact on the navigable capacity of the waterbody.

(2) Pursuant to Section 154 of the Water Resource Development Act of 1976 (Pub. L. 94–587), Department of the Army permits will not be required under Section 10 to construct wharves and piers in any waterbody, located entirely within one State, that is a navigable water of the United States solely on the basis of its historical use to transport interstate commerce. Section 154 applies only to the construction of a single pier or wharf and not to marinas. Furthermore, Section 154 is not applicable to any pier or wharf that would cause an unacceptable impact on navigation.

(b) *Outer continental shelf.* Department of the Army permits will also be required for the construction of artificial islands, installations, and other devices on the outer continental shelf pursuant to Section 4(e) of the Outer Continental Shelf Lands Act as amended (see 33 CFR 320.2(b)).

(c) *Activities of Federal agencies.* (1) Except as specifically provided in this subparagraph, activities of the type described in paragraphs (a) and (b), of this section, done by or on behalf of any Federal agency, other than any work or structures in or affecting navigable waters of the United States that are part of the civil works activities of the Corps of Engineers, are subject to the authorization procedures of these regulations. Agreement for construction or engineering services performed for other agencies by the Corps of Engineers does not constitute authorization under this regulation. Division and district engineers will therefore advise Federal agencies accordingly, and cooperate to the fullest extent in expediting the processing of their applications.

(2) Congress has delegated to the Secretary of the Army and the Chief of Engineers in Section 10 the duty to authorize or prohibit certain work or structures in navigable waters of the United States. The general legislation by which Federal agencies are empowered to act generally is not considered to be sufficient authorization by Congress to satisfy the purposes of Section 10. If an agency asserts that it has Congressional authorization meeting the test of Section 10 or would otherwise be exempt from the provisions of Section 10, the legislative history and/or provisions of the Act should clearly demonstrate that Congress was approving the exact location and plans from which Congress could have considered the effect on navigable waters of the United States or that Congress intended to exempt that agency from the requirements of Section 10. Very often such legislation reserves final approval of plans or construction for the Chief of Engineers. In such cases evaluation and authorization under this regulation are limited by the intent of the statutory language involved.

(3) The policy provisions set out in 33 CFR 320.4(j) relating to state or local certifications and/or authorizations, do not apply to work or structures undertaken by Federal agencies, except where compliance with non-Federal authorization is required by Federal law or Executive policy, e.g., Section 313 and Section 401 of the Clean Water Act.

§ 322.4 [Reserved]

§ 322.5 Special policies.

The Secretary of the Army has delegated to the Chief of Engineers the authority to issue or deny Section 10 permits. The following additional special policies and procedures shall also be applicable to the evaluation of permit applications under this regulation.

(a) *General.* Department of the Army permits are required for structures or work in or affecting navigable waters of the United States. However, certain structures or work specified in 33 CFR Part 330 are permitted by that regulation. If a structure or work is not permitted by that regulation, an individual or regional Section 10 permit will be required.

(b) [Reserved]

(c) *Non-Federal dredging for navigation.* (1) The benefits which an authorized Federal navigation project are intended to produce will often require similar and related operations by non-Federal agencies (e.g., dredging access channels to docks and berthing facilities or deepening such channels to correspond to the Federal project depth). These non-Federal activities will be considered by Corps of Engineers officials in planning the construction and maintenance of Federal navigation projects and, to the maximum practical extent, will be coordinated with interested Federal, state, regional and local agencies and the general public simultaneously with the associated Federal projects. Non-Federal activities which are not so coordinated will be individually evaluated in accordance with these regulations. In evaluating the public interest in connection with applications for permits for such coordinated operations, equal treatment will, therefore, be accorded to the fullest extent possible to both Federal and non-Federal operations. Furthermore, permits for non-Federal dredging operations will normally contain conditions requiring the permittee to comply with the same practices or requirements utilized in connection with related Federal dredging operations with respect to such matters as turbidity, water quality, containment of material, nature and location of approved spoil disposal areas (non-Federal use of Federal contained disposal areas will be in accordance with laws authorizing such areas and regulations governing their use), extent and period of dredging, and other factors relating to protection of environmental and ecological values.

(2) A permit for the dredging of a channel, slip, or other such project for navigation may also authorize the periodic maintenance dredging of the project. Authorization procedures and limitations for maintenance dredging shall be as prescribed in 33 CFR 325.6(e). The permit will require the permittee to give advance notice to the district engineer each time maintenance dredging is to be performed. Where the maintenance dredging involves the discharge of dredged material into waters of the United States or the transportation of dredged material for the purpose of dumping in the ocean waters, the procedures in 33 CFR Parts 323 and 324 respectively shall also be followed.

(d) *Structures for small boats.* (1) As a matter of policy, in the absence of overriding public interest, favorable consideration will generally be given to applications from riparian owners for permits for piers, boat docks, moorings, platforms and similar structures for small boats. Particular attention will be given to the location and general design of such structures to prevent possible obstructions to navigation with respect to both the public's use of the waterway and the neighboring proprietors' access to the waterway. Obstructions can result from both the existence of the structure, particularly in conjunction with other similar facilities in the immediate vicinity, and from its inability to withstand wave action or other forces which can be expected. District

engineers will inform applicants of the hazards involved and encourage safety in location, design and operation. Corps of Engineers officials will also encourage cooperative or group use facilities in lieu of individual proprietor use facilities.

(2) Floating structures for small recreational boats or other recreational purposes in lakes controlled by the Corps of Engineers under a resource manager are normally subject to permit authorities cited in § 322.3, above, when those waters are regarded as navigable waters of the United States. However, such structures will not be authorized under this regulation but will be regulated under applicable regulations of the Chief of Engineers published in 36 CFR 327.19 if the land surrounding those lakes is under complete Federal ownership. District engineers will delineate those portions of the navigable waters of the United States where this provision is applicable and post notices of this designation in the vicinity of the lake resource manager's office.

(e) *Aids to navigation.* The placing of fixed and floating aids to navigation in a navigable water of the United States is within the purview of Section 10 of the River and Harbor Act of 1899. Furthermore, these aids are of particular interest to the U.S. Coast Guard because of their control of marking, lighting and standardization of such navigation aids. A Section 10 nationwide permit has been issued for such aids provided they are approved by and installed in accordance with the requirements of the U.S. Coast Guard (33 CFR Part 330). Electrical service cables to such aids are not included in the nationwide permit (an individual or regional Section 10 permit will be required).

(f) *Outer continental shelf.* Artifical islands, installations, and other devices located on the outer continental shelf are subject to the standard permit procedures of this regulation. Where the islands, installations and other devices are to be constructed on lands which are under mineral lease from the Bureau of Land Management, Department of the Interior, that agency, in cooperation with other Federal agencies, fully evaluates the potential effect of the leasing program on the total environment. Accordingly, the decision whether to issue a permit on lands which are under mineral lease from the Department of the Interior will be limited to an evaluation of the impact of the proposed work on navigation and national security. The public notice will so identify the criteria.

(g) *Canals and other artifical waterways connected to navigable waters of the United States.* (1) A canal or similar artificial waterway is subject to the regulatory authorities discussed in § 322.3, of this part, if it constitutes a navigable water of the United States, or if it is connected to navigable waters of the United States in a manner which affects their course, location, condition, or capacity or if at some point in its construction or operation it results in an effect on the course, location, condition, or capacity of navigable waters of the United States. In all cases the connection to navigable waters of the United States requires a permit. Where the canal itself constitutes a navigable water of the United States, evaluation of the permit application and further exercise of regulatory authority will be in accordance with the standard procedures of these regulations. For all other canals, the exercise of regulatory authority is restricted to those activities which affect the course, location, condition, or capacity of the navigable waters of the United States.

(2) The proponent of canal work should submit the application for a permit, including a proposed plan of the entire development, and the location and description of anticipated docks, piers and other similar structures which will be placed in the canal, to the district engineer before commencing any form of work. If construction of the canal in such a manner as to result in an effect on the course, location, condition, or capacity of the navigable waters of the United States has already taken place without a permit, the district engineer will proceed in accordance with 33 CFR Part 326. Where the construction of the canal would result in an effect on the course, location, condition, or capacity of navigable waters of the United States, an application for a Section 10 permit should be made at the earliest stage of planning. Where the district engineer becomes aware that the canal construction has already begun, he will advise the proponent in writing of the need for a permit to the extent that the construction will result in an effect on the course, location, condition, or capacity of navigable waters of the United States. He will also ask the proponent if he intends to undertake such work and will request the immediate submission of the plans and permit application if it is so intended. The district engineer will also advise the proponent that any work is done at the risk that, if a permit is required, it may not be issued, and that the existence of partially completed excavation work will not be allowed to weigh favorably in evaluation of the permit application.

(h) *Facilities at the borders of the United States.* (1) The construction, operation, maintenance, or connection of facilities at the borders of the United States are subject to Executive control and must be authorized by the President, Secretary of State, or other delegated official.

(2) Applications for permits for the construction, operation, maintenance, or connection at the borders of the United States of facilities for the transmission of electric energy between the United States and a foreign country, or for the exportation or importation of natural gas to or from a foreign country, must be made to the Secretary of Energy. (Executive Order 10485, September 3, 1953, 16 U.S.C. 824(a)(e), 15 U.S.C. 717(b), as amended by Executive Order 12038, February 3, 1978, and 18 CFR Parts 32 and 153).

(3) Applications for the landing or operation of submarine cables must be made to the Federal Communications Commission. (Executive Order 10530, May 10, 1954, 47 U.S.C. 34 to 39, and 47 CFR 1.766).

(4) The Secretary of State is to receive applications for permits for the construction, connection, operation, or maintenance, at the borders of the United States, of pipelines, conveyor belts, and similar facilities for the exportation or importation of petroleum products, coals, minerals, or other products to or from a foreign country; facilities for the exportation or importation of water or sewage to or from a foreign country; and monorails, aerial cable cars, aerial tramways and similar facilities for the transportation of persons or things, or both, to or from a foreign country. (Executive Order 11423, August 16, 1968).

(5) A Department of the Army permit under Section 10 of the River and Harbor Act of 1899 is also required for all of the above facilities which affect the navigable waters of the United States, but in each case in which a permit has been issued as provided above, the district engineer, in evaluating the general public interest, may consider the basic existence and operation of the facility to have been primarily examined and permitted as provided by the Executive Orders. Furthermore, in those cases where the construction, maintenance, or operation at the above facilities involves the discharge of dredged or fill material in waters of the United States or the transportation of dredged material for the purpose of dumping it into ocean waters, appropriate Department of the Army authorizations under Section 404 of the Clean Water Act or under Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972, as

amended, are also required (see 33 CFR Parts 323, 324).

(i) *Power transmission lines.* (1) Permits under Section 10 of the River and Harbor Act of 1899 are required for power transmission lines crossing navigable waters of the United States unless those lines are part of a water power project subject to the regulatory authorities of the Department of Energy under the Federal Power Act of 1920. If an application is received for a permit for lines which are part of such a water project, the applicant will be instructed to permit the application to the Department of Energy. If the lines are not part of such a water power project, the application will be processed in accordance with the procedures of these regulations.

(2) The following minimum clearances are required for aerial electric power transmission lines crossing navigable waters of the United States. These clearances are related to the clearances over the navigable channel provided by existing fixed bridges, or the clearances which would be required by the U.S. Coast Guard for new fixed bridges, in the vicinity of the proposed power line crossing. The clearances are based on the low point of the line under conditions which produce the greatest sag, taking into consideration temperature, load, wind, length of span, and type of supports as outlined in the National Electrical Safety Code.

Nominal system voltage, kV	Minimum additional clearance (feet) above clearance required for bridges
115 and below	20
138	22
161	24
230	28
350	30
500	35
700	42
750 to 765	45

(3) Clearances for communication lines, stream gaging cables, ferry cables, and other aerial crossings are usually required to be a minimum of ten feet above clearances required for bridges. Greater clearances will be required if the public interest so indicates.

(j) *Seaplane operations.* (1) Structures in navigable waters of the United States associated with seaplane operations require Department of the Army permits, but close coordination with the Federal Aviation Administration (FAA), Department of Transportation, is required on such applications.

(2) The FAA must be notifed by an applicant whenever he proposes to establish or operate a seaplane base. The FAA will study the proposal and advise the applicant, district engineer, and other interested parties as to the effects of the proposal on the use of airspace. The district engineer will therefore refer any objections regarding the effect of the proposal on the use of airspace to the FAA, and give due consideration to its recommendations when evaluating the general public interest.

(3) If the seaplane base would serve air carriers licensed by the Civil Aeronautics Board, the applicant must receive an airport operating certificate from the FAA. That certificate reflects a determination and conditions relating to the installation, operation, and maintenance of adequate air navigation facilities and safety equipment. Accordingly, the district engineer may, in evaluating the general public interest, consider such matters to have been primarily evaluated by the FAA.

(4) For regulations pertaining to seaplane landings at Corps of Engineers projects, see § 327.4 of this part.

(k) *Foreign trade zones.* The Foreign Trade Zones Act (48 Stat. 998–1003, 19 U.S.C. 81a to 81u, as amended) authorizes the establishment of foreign-trade zones in or adjacent to United States ports of entry under terms of a grant and regulations prescribed by the Foreign-Trade Zones Board. Pertinent regulations are published at Title 15 of the Code of Federal Regulations, Part 400. The Secretary of the Army is a member of the Board, and construction of a zone is under the supervision of the district engineer. Laws governing the navigable waters of the United States remain applicable to foreign-trade zones, including the general requirements of these regulations. Evaluation by a district engineer of a permit application may give recognition to the consideration by the Board of the general economic effects of the zone on local and foreign commerce, general location of wharves and facilities, and other factors pertinent to construction, operation, and maintenance of the zone.

PART 323–PERMITS FOR DISCHARGES OF DREDGED OR FILL MATERIAL INTO WATERS OF THE UNITED STATES

Sec.

323.1 General.
323.2 Definitions.
323.3 Discharges requiring permits.
323.4 Discharges not requiring permits.
323.5 Program transfer to States.
323.6 Special policies and procedures.

Authority: 33 U.S.C. 1344

§ 323.1 General.

This regulation prescribes, in addition to the general policies of 33 CFR Part 320 and procedures of 33 CFR Part 325, those special policies, practices, and procedures to be followed by the Corps of Engineers in connection with the review of applications for Department of the Army permits to authorize the discharge of dredged or fill material into waters of the United States pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344) (hereinafter referred to as Section 404). See 38 CFR 320.2(g). Certain discharges of dredged or fill material into waters of the United States are also regulated under other authorities of the Department of the Army. These include dams and dikes in navigable waters of the United States pursuant to Section 9 of the River and Harbor Act of 1899 (33 U.S.C. 401; see 33 CFR Part 321) and certain structures or work in or affecting navigable waters of the United States pursuant to Section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403; see 33 CFR Part 322). A Department of the Army permit will also be required under these additional authorities if they are applicable to activities involving discharges of dredged or fill material into waters of the United States. Applicants for Department of the Army permits under this part should refer to the other cited authorities and implementing regulations for these additional permit requirements to determine whether they also are applicable to their proposed activities.

§ 323.2 Definitions.

For the purpose of this regulation, the following terms are defined:

(a) The term "waters of the United States" means: [1]

(1) All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

(2) All interstate waters including interstate wetlands;

(3) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect

[1] The terminology used by the CWA is "navigable waters" which is defined in Section 502(7) of the Act as "waters of the United States including the territorial seas." For purposes of clarity, and to avoid confusion with other Corps of Engineers regulatory programs, the term "waters of the United States" is used throughout this regulation.

interstate or foreign commerce including any such waters:

(i) Which are or could be used by interstate or foreign travels for recreational or other purposes; or

(ii) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or

(iii) Which are used or could be used for industrial purposes by industries in interstate commerce;

(4) All impoundments of waters otherwise defined as waters of the United States under this definition.

(5) Tributaries of waters identified in paragraphs (a)(1)–(4) of this section;

(6) The territorial sea;

(7) Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a)(1)–(6) of this section. Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA (other than cooling ponds as defined in 40 CFR 123.11(m) which also meet the criteria of this definition) are not waters of the United States.

(b) The term "navigable waters of the United States" means those waters of the United States that are subject to the ebb and flow of the tide shoreward to the mean high water mark and/or are presently used, or have been used in the past, or may be susceptible to use to transport interstate or foreign commerce. (See 33 CFR Part 329 for a more complete definition of this term.)

(c) The term "wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

(d) The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the United States by man-made dikes or barriers, natural river berms, beach dunes and the like are "adjacent wetlands."

(e) The term "lake" means a standing body of open water that occurs in a natural depression fed by one or more streams from which a stream may flow, that occurs due to the widening or natural blockage or cutoff of a river or stream, or that occurs in an isolated natural depression that is not a part of a surface river or stream. The term also includes a standing body of open water created by artificially blocking or restricting the flow of a river, stream, or tidal area. As used in this regulation, the term does not include artificial lakes or ponds created by excavating and/or diking dry land to collect and retain water for such purposes as stock watering, irrigation, settling basins, cooling, or rice growing.

(f) The term "ordinary high water mark" means that the line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank; shelving; changes in the character of soil; destruction of terrestrial vegetation; the presence of litter and debris; or other appropriate means that consider the charactertics of the surrounding areas.

(g) The term "high tide line" is the line used in Sec. 404 determinations and means a line or mark left upon tide flats, beaches, or along shore objects that indicates the intersection of the land with the water's surface at the maximum height reached by a rising tide. The mark may be determined by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The term includes spring high tides and other high tides that occur with periodic frequency, but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

(h) The term "headwaters" means the point on a non-tidal stream above which the average annual flow is less than five cubic feet per second.[2] The District engineer may estimate this point from available data by using the mean annual area precipitation, area drainage basin maps, and the average runoff coefficient, or by similar means.

(i) The term "dredged material" means material that is excavated or dredged from waters of the United States.

(j) The term "discharge of dredged material" means any addition of dredged material into the waters of the United States. The term includes, without limitation, the addition of dredged material to a specified discharge site located in waters of the United States and the runoff or overflow from a contained land or water disposal area. Discharges of pollutants into waters of the United States resulting from the onshore subsequent processing of dredged material that is extracted for any commercial use (other than fill) are not included within this term and are subject to Section 402 of the Clean Water Act even though the extraction and deposit of such material may require a permit from the Corps of Engineers. The term does not include plowing, cultivating, seeding and harvesting for the production of food, fiber, and forest products.

(k) The term "fill material" means any material used for the primary purpose of replacing an aquatic area with dry land or of changing the bottom elevation of an waterbody. The term does not include any pollutant discharged into the water primarily to dispose of waste, as that activity is regulated under Section 402 of the Clean Water Act.

(l) The term "discharge of fill material" means the addition of fill material into waters of the United States. The term generally includes, without limitation, the following activities: Placement of fill that is necessary to the construction of any structure in a water of the United States; the building of any structure or impoundment requiring rock, sand, dirt, or other material for its construction; site-development fills for recreational, industrial, commercial, residential, and other uses; causeways or road fills; dams and dikes; artificial islands; property protection and/or reclamation devices such as riprap, groins, seawalls, breakwaters, revetments; beach nourishment; levees; fill for structures such as sewage treatment facilities, intake and outfall pipes associated with power plants and subaqueous utility lines; and artificial reefs. The terms does not include plowing, cultivating, seeding and harvesting for the production of food, fiber, and forest products.

(m) The term "individual permit" means a Department of the Army authorization that is issued following a case-by-case evaluation of a specific project involving the proposed discharge(s) in accordance with the procedures of this regulation and 33 CFR Part 325 and a determination that the proposed discharge is in the public interest pursuant to 33 CFR Part 320.

(n) The term "general permit" means a Department of the Army authorization that is issued on a nationwide ("nationwide permits") or regional ("regional permits") basis for a category or categories of activities when:

(1) those activities are substantially similar in nature and cause only minimal individual and cumulative environmental impacts; or

(2) the general permit would result in avoiding unnecessary duplication of

[2] For streams that are dry during long periods of the year, district engineers may establish the headwater point as that point on the stream where a flow of five cubic feet per second is equaled or exceeded 50 percent of the time.

regulatory control exercised by another Federal, state, or local agency provided it has been determined that the environmental consequences of the action are individually and cumulatively minimal. (See 33 CFR 325.2(e) and 33 CFR Part 330).

§ 323.3 Discharges requiring permits.

(a) *General.* Except as provided in § 323.4 below, Department of the Army permits will be required for the discharge of dredged or fill material into waters of the United States. Certain discharges specified in 33 CFR Part 330 are permitted by that regulation ("nationwide permits"). Other discharges may be authorized by district or division engineers on a regional basis ("regional permits"). If a discharge of dredged or fill material is not exempted by § 323.4 of this part or permitted by 33 CFR Part 330, an individual or regional Section 404 permit will be required for the discharge of dredged or fill material into waters of the United States.

(b) *Activities of Federal agencies.* Discharges of dredged or fill material into waters of the United States done by or on behalf of any Federal agency, other than the Corps of Engineers (see 33 CFR 209.145), are subject to the authorization procedures of these regulations. Agreement for construction or engineering services performed for other agencies by the Corps of Engineers does not constitute authorization under the regulations. Division and district engineers will therefore advise Federal agencies and instrumentalities accordingly and cooperate to the fullest extent in expediting the processing of their applications.

§ 323.4 Discharges not requiring permits.

(a) *General.* Except as specified in paragraphs (b) and (c) of this section, any discharge of dredged or fill material that may result from any of the following activities is not prohibited by or otherwise subject to regulation under Section 404:

(1)(i) Normal farming, silviculture and ranching activities such as plowing, seeding, cultivating, minor drainage, and harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices, as defined in paragraph (a)(1)(iii) of this section.

(ii) To fall under this exemption, the activities specified in paragraph (a)(1)(i) of this section must be part of an established (i.e., on-going) farming, silviculture, or ranching operation. Activities on areas lying fallow as part of a conventional rotational cycle are part of an established operation. Activities which bring an area into farming, silviculture, or ranching use are not part of an established operation. An operation ceases to be established when the area on which it was conducted has been converted to another use or has lain idle so long that modifications to the hydrological regime are necessary to resume operations. If an activity takes place outside the waters of the United States, or if it does not involve a discharge, it does not need a section 404 permit, whether or not it is part of an established farming, silviculture, or ranching operation.

(iii)(A) Cultivating means physical methods of soil treatment employed within established farming, ranching and silviculture lands on farm, ranch, or forest crops to aid and improve their growth, quality or yield.

(B) Harvesting means physical measures employed directly upon farm, forest, or ranch crops within established agricultural and silvicultural lands to bring about their removal from farm, forest, or ranch land, but does not include the construction of farm, forest, or ranch roads.

(C)(*1*) Minor Drainage means:

(*i*) The discharge of dredged or fill material incidental to connecting upland drainage facilities to waters of the United States, adequate to effect the removal of excess soil moisture from upland croplands. (Construction and maintenance of upland (dryland) facilities, such as ditching and tiling, incidental to the planting, cultivating, protecting, or harvesting of crops, involve no discharge of dredged or fill material into waters of the United States, and as such never require a Section 404 permit.);

(*ii*) The discharge of dredged or fill material for the purpose of installing ditching or other such water control facilities incidental to planting, cultivating, protecting, or harvesting of rice, cranberries or other wetland crop species, where these activities and the discharge occur in waters of the United States which are in established use for such agricultural and silvicultural wetland crop production;

(*iii*) the discharge of dredged or fill material for the purpose of manipulating the water levels of, or regulating the flow or distribution of water within, existing impoundments which have been constructed in accordance with applicable requirements of CWA, and which are in established use for the production of rice, cranberries, or other wetland crop species.[3]

(*iv*) The discharge of dredged or fill material incidental to the emergency removal of sandbars, gravel bars, or other similar blockages which are formed during flood flows or other events, where such blockages close or constrict previously existing drainageways and, if not promptly removed, would result in damage to or loss of existing crops or would impair or prevent the plowing, seeding, harvesting or cultivating crops on land in established use for crop production. Such removal does not include enlarging or extending the dimensions of, or changing the bottom elevations of, the affected drainageway as it existed prior to the formation of the blockage. Removal must be accomplished within one year of discovery of such blockages in order to be eligible for exemption.

(*2*) Minor drainage in waters of the U.S. is limited to drainage within areas that are part of an established farming or silviculture operation. It does not include drainage associated with the immediate or gradual conversion of a wetland to a non-wetland (e.g., wetland species to upland species not typically adapted to life in saturated soil conditions), or conversion from one wetland use to another (for example, silviculture to farming). In addition, minor drainage does not include the construction of any canal, ditch, dike or other waterway or structure which drains or otherwise significantly modifies a stream, lake, swamp, bog or any other wetland or aquatic area constituting waters of the United States. Any discharge of dredged or fill material into the waters of the United States incidental to the construction of any such structure or waterway requires a permit.

(D) Plowing means all forms of primary tillage, including moldboard, chisel, or wide-blade plowing, discing, harrowing and similar physical means utilized on farm, forest or ranch land for the breaking up, cutting, turning over, or stirring of soil to prepare it for the planting of crops. The term does not include the redistribution of soil, rock, sand, or other surficial materials in a manner which changes any of area of the waters of the United States to dry land. For example, the redistribution of surface materials by blading, grading, or other means to fill in wetland areas is not plowing. Rock crushing activities which result in the loss of natural drainage characteristics, the reduction

[3] The provisions of paragraphs (a)(1)(iii)(C)(*1*)(*ii*) and (*iii*) of this section apply to areas that are in established use exclusively for wetland crop production as well as areas in established use for conventional wetland/non-wetland crop rotation (e.g., the rotations of rice and soybeans) where such rotation results in the cyclical or intermittent temporary dewatering of such areas.

of water storage and recharge capabilities, or the overburden of natural water filtration capacities do not constitute plowing. Plowing will never involve a discharge of dredged or fill material.

(E) Seeding means the sowing of seed and placement of seedlings to produce farm, ranch, or forest crops and includes the placement of soil beds for seeds or seedlings on established farm and forest lands.

(2) Maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, bridge abutments or approaches, and transportation structures. Maintenance does not include any modification that changes the character, scope, or size of the original fill design. Emergency reconstruction must occur within a reasonable period of time after damage occurs in order to qualify for this exemption.

(3) Construction or maintenance of farm or stock ponds or irrigation ditches, or the maintenance (but not construction) of drainage ditches. Discharges associated with irrigation facilities in the waters of the U.S. are included within the exemption unless the discharges have the effect of bringing these waters into a use to which they were not previously subject and the flow or circulation may be impaired or reach reduced of such waters.

(4) Construction of temporary sedimentation basins on a construction site which does not include placement of fill material into waters of the U.S. The term "construction site" refers to any site involving the erection of buildings, roads, and other discrete structures and the installation of support facilities necessary for construction and utilization of such structures. The term also includes any other land areas which involve land-disturbing excavation activities, including quarrying or other mining activities, where an increase in the runoff of sediment is controlled through the use of temporary sedimentation basins.

(5) Any activity with respect to which a state has an approved program under section 208(b)(4) of CWA which meets the requirements of sections 208(b)(4)(B) and (C).

(6) Construction or maintenance of farm roads, forest roads, or temporary roads for moving mining equipment, where such roads are constructed and maintained in accordance with best management practices (BMPs) to assure that flow and circulation patterns and chemical and biological characteristics of waters of the United States are not impaired, that the reach of the waters of the United States is not reduced, and that any adverse effect on the aquatic environment will be otherwise minimized. These BMPs which must be applied to satisfy this provision shall include those detailed BMPs described in the state's approved program description pursuant to the requirements of 40 CFR 123.4(h)(4), and shall also include the following baseline provisions:

(i) Permanent roads (for farming or forestry activities), temporary access roads (for mining, forestry, or farm purposes) and skid trails (for logging) in waters of the U.S. shall be held to the minimum feasible number, width, and total length consistent with the purpose of specific farming, silvicultural or mining operations, and local topographic and climatic conditions;

(ii) All roads, temporary or permanent, shall be located sufficiently far from streams or other water bodies (except for portions of such roads which must cross water bodies) to minimize discharges of dredged or fill material into waters of the U.S.;

(iii) The road fill shall be bridged, culverted, or otherwise designed to prevent the restriction of expected flood flows;

(iv) The fill shall be properly stabilized and maintained during and following construction to prevent erosion;

(v) Discharges of dredged or fill material into waters of the United States to construct a road fill shall be made in a manner that minimizes the encroachment of trucks, tractors, bulldozers, or other heavy equipment within waters of the United States (including adjacent wetlands) that lie outside the lateral boundaries of the fill itself;

(vi) In designing, constructing, and maintaining roads, vegetative disturbance in the waters of the U.S. shall be kept to a minimum;

(vii) The design, construction and maintenance of the road crossing shall not disrupt the migration or other movement of those species of aquatic life inhabiting the water body;

(viii) Borrow material shall be taken from upland sources whenever feasible;

(ix) The discharge shall not take, or jeopardize the continued existence of, a threatened or endangered species as defined under the Endangered Species Act, or adversely modify or destroy the critical habitat of such species;

(x) Discharges into breeding and nesting areas for migratory waterfowl, spawning areas, and wetlands shall be avoided if practical alternatives exist;

(xi) The discharge shall not be located in the proximity of a public water supply intake;

(xii) The discharge shall not occur in areas of concentrated shellfish production;

(xiii) The discharge shall not occur in a component of the National Wild and Scenic River System;

(xiv) The discharge of material shall consist of suitable material free from toxic pollutants in toxic amounts; and

(xv) All temporary fills shall be removed in their entirety and the area restored to its original elevation.

(b) If any discharge of dredged or fill material resulting from the activities listed in paragraphs (a)(1)–(6) of this section contains any toxic pollutant listed under section 307 of CWA such discharge shall be subject to any applicable toxic effluent standard or prohibition, and shall require a permit.

(c) Any discharge of dredged or fill material into waters of the United States incidental to any of the activities identified in paragraphs (a)(1)–(6) of this section must have a permit if it is part of an activity whose purpose is to convert an area of the waters of the United States into a use to which it was not previously subject and the flow for circulation of waters of the United States may be impaired or the reach of such waters reduced. Where the proposed discharge will result in significant discernible alterations to flow or circulation, the presumption is that flow or circulation may be impaired by such alteration.[4]

(d) Federal projects which qualify under the criteria contained in Section 404(r) of CWA (Federal projects authorized by Congress where an EIS has been submitted to Congress prior to authorization or an appropriation) are exempt from Section 404 permit requirements, but may be subject to other state or Federal requirements.

§ 323.5 Program transfer to states.

Section 404(h) of the Clean Water Act allows the Administrator of the Environmental Protection Agency to transfer administration of the Section 404 permit program for discharges into certain waters of the United States to

[4] For example, a permit will be required for the conversion of a cypress swamp to some other use or the conversion of a wetland from silvicultural to agricultural use when there is a discharge of dredged or fill material into waters of the United States in conjunction with construction of dikes, drainage ditches or other works or structures used to effect such conversion. A discharge which elevates the bottom of waters of the United States without converting it to dry land does not thereby reduce the reach of, but may alter the flow or circulation of, waters of the United States.

qualified states. (The program cannot be transferred for those waters which are presently used, or are susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce shoreward to their ordinary high water mark, including all waters which are subject to the ebb and flow of the tide shoreward to the high tide line, including wetlands adjacent thereto). See 40 CFR Part 123 for procedural regulations for transferring Section 404 programs to states. Once a state's 404 program is approved, the Corps of Engineers will suspend processing of Section 404 applications in the applicable waters and will transfer pending applications to the state agency responsible for administering the program. District engineers will assist EPA and the states in any way practicable to effect transfer and will develop appropriate procedures to ensure orderly and expeditious transfer.

§ 323.6 Special policies and procedures.

(a) The Secretary of the Army has delegated to the Chief of Engineers the authority to issue or deny Section 404 permits. Applications for permits for the discharge of dredged or fill material into waters of the United States will be reviewed in accordance with guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act. (See 40 CFR Part 230.) If the EPA guidelines alone prohibit the designation of a proposed disposal site, the economic impact on navigation and anchorage of the failure to authorize the use of the proposed disposal site will also be considered in evaluating whether or not the proposed discharge is in the public interest.

(b) The Corps will not issue a permit where the regional administrator of EPA has notified the district engineer and applicant in writing pursuant to 40 CFR 231.3(a)(1) that he intends to issue a public notice of a proposed determination to prohibit or withdraw the specification, or to deny, restrict or withdraw the use for specification, of any defined area as a disposal site in accordance with Section 404(c) of the Clean Water Act. However the Corps will continue to complete the administrative processing of the application while the Section 404(c) procedures are underway including completion of final coordination with EPA under 33 CFR Part 325.

PART 324—PERMITS FOR OCEAN DUMPING OF DREDGED MATERIAL

Sec.
324.1 General.
324.2 Definitions.
324.3 Activities requiring permits.
324.4 Special procedures.

Authority: 33 USC 1413.

§ 324.1 General.

This regulation prescribes in addition to the general policies of 33 CFR Part 320 and procedures of 33 CFR Part 325, those special policies, practices and procedures to be followed by the Corps of Engineers in connection with the review of applications for Department of the Army permits to authorize the transportation of dredged material by vessel or other vehicle for the purpose of dumping it in ocean waters at dumping sites designated under 40 CFR Part 228 pursuant to Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended (33 USC 1413) (hereinafter referred to as Section 103). See 33 CFR 320.2(h). Activities involving the transportation of dredged material for the purpose of dumping in the ocean waters also require Department of the Army permits under Section 10 of the River and Harbor Act of 1899 (33 USC 403) for the dredging in navigable waters of the United States. Applicants for Department of the Army permits under this Part should also refer to 33 CFR Part 322 to satisfy the requirements of Section 10.

§ 324.2 Definitions.

For the purpose of this regulation, the following terms are defined:

(a) The term "ocean waters" means those waters of the open seas lying seaward of the base line from which the territorial sea is measured, as provided for in the Convention on the Territorial Sea and the Contiguous Zone (15 UST 1606: TIAS 5639).

(b) The term "dredged material" means any material excavated or dredged from navigable waters of the United States.

(c) The term "transport" or "transportation" refers to the carriage and related handling of dredged material by a vessel or other vehicle.

§ 324.3 Activities requiring permits.

(a) *General.* Department of the Army permits are required for the transportation of dredged material for the purpose of dumping it in ocean waters.

(b) *Activities of Federal agencies.* (1) The transportation of dredged material for the purpose of disposal in ocean waters done by or on behalf of any Federal agency other than the activities of the Corps of Engineers are subject to the procedures of this regulation. Agreement for construction or engineering services performed for other agencies by the Corps of Engineers does not constitute authorization under these regulations. Division and district engineers will therefore advise Federal agencies accordingly and cooperate to the fullest extent in the expeditious processing of their applications. The activities of the Corps of Engineers that involve the transportation of dredged material for disposal in ocean waters are regulated by 33 CFR 209.145.

(2) The policy provisions set out in 33 CFR 320.4(j) relating to state or local authorizations do not apply to work or structures undertaken by Federal agencies, except where compliance with non-Federal authorization is required by Federal law or Executive policy. Federal agencies are required to comply with the substantive and procedural state, interstate, and local water quality standards and effluent limitations as are applicable by law that are adopted in accordance with or effective under the provisions of the Clean Water Act and the Marine Protection, Research and Sanctuaries Act of 1972, as amended, and related laws in the design, construction, management, operation, and maintenance of their respective facilities. (See Executive Order No. 12088, dated October 18, 1978.) They are not required, however, to obtain and provide certification of compliance with effluent limitations and water quality standards from state or interstate water pollution control agencies in connection with activities involving the transport of dredged material for dumping into ocean waters beyond the territorial sea.

§ 324.4 Special procedures.

The Secretary of the Army has delegated to the Chief of Engineers the authority to issue or deny Section 103 permits. The following additional procedures shall also be applicable under this regulation.

(a) *Public notice.* For all applications for Section 103 permits, the district engineer will issue a public notice which shall contain the information specified in 33 CFR 325.3.

(b) *Evaluation.* Applications for permits for the transportation of dredged material for the purpose of dumping it in ocean waters will be evaluated to determine whether the proposed dumping will unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems or economic potentialities. In making this evaluation, critieria established by the Administrator, EPA, pursuant to Section 102 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, shall be applied including an

evaluation of the need for the ocean dumping and including the availability of alternatives to ocean dumping. Where ocean dumping is determined to be necessary, the district engineer will, to the extent feasible, specify disposal sites using the recommendations of the Administrator pursuant to Section 102(c) of the Act. See 40 CFR Parts 220 to 229.

(c) *EPA review.* If the Regional Administrator, EPA, advises the district engineer that the proposed dumping will comply with the criteria, the district engineer shall complete his evaluation of the Section 103 application under this regulation and 33 CFR Parts 320 and 325. If, however, the Regional Administrator advises the district engineer that the proposed dumping will not comply with the criteria, the district engineer will proceed as follows.

(1) The district engineer shall determine whether there is an economically feasible alternative method or site available other than the proposed ocean disposal site. If there are other feasible alternative methods or sites available, the district engineer shall evaluate them in accordance with 33 CFR Parts 320, 322, 323, 325 and this regulation, as appropriate.

(2) If the district engineer makes a determination that there is no economically feasible alternative method or site available, and the proposed project is otherwise found to be in the public interest, he shall so advise the Regional Administrator of his intent to issue the permit setting forth his reasons for such determination.

(d) *EPA objection.* If the Regional Administrator advises, within 15 days of the notice of the intent to issue, that he will commence procedures specified by Section 103(c) of the Marine Protection, Research, and Sanctuaries Act of 1972 to prohibit designation of the disposal site, the case will be forwarded to the Chief of Engineers for further coordination with the Administrator, EPA, and decision. The report forwarding the case will contain, in addition to the analysis required by 33 CFR 325.11, an analysis of whether there are other economically feasible methods or sites available to dispose of the dredged material.

(e) *Chief of Engineers review.* The Chief of Engineers shall evaluate the permit application and make a decision to deny the permit or recommend its issuance. If the decision of the Chief of Engineers is that ocean dumping at the proposed disposal site is required because of the unavailability of economically feasible alternatives, he shall so certify and request that the Secretary of the Army seek a waiver from the Administrator, EPA, of the criteria or of the critical site designation in accordance with 40 CFR 225.4.

PART 325—PROCESSING OF DEPARTMENT OF THE ARMY PERMITS

Sec.
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Authority: 33 U.S.C. 401 et seq.; 33 USC 1344; 33 USC 1413.

§ 325.1 Applications for permits.

(a) *General.* The processing procedures of this regulation (Part 325) apply to any Department of the Army permit. Special procedures and additional information are contained in 33 CFR Parts 320 through 324 and Part 330. This Part is arranged in the basic timing sequence used by the Corps of Engineers in processing applications for Department of the Army permits.

(b) *Pre-application consultation for major applications.* The district staff element having responsibility for administering, processing, and enforcing Federal laws and regulations relating to the Corps of Engineers regulatory program shall be available to advise potential applicants of studies or other information forseeably required for later Federal action. The district engineer will establish local procedures and policies including appropriate publicity programs which will allow potential permit applicants to contact the district engineer or the staff element to request pre-application consultation. Upon receipt of such request, the district engineer will assure the conduct of an orderly process which may involve other staff elements and affected agencies (Federal, state, or local) and the public. This early process should be brief but thorough so that the applicant may begin to assess the viability of some of the more obvious alternatives in the permit application. The district engineer will endeavor at this stage, to provide the applicant with all helpful information necessary in pursuing the application, including factors which the Corps must consider in its permit decision making process. Whenever the district engineer becomes aware of planning for work which may require a Department of the Army permit and which would involve the preparation of an environmental document, he shall contact the principals involved to advise them of the requirement for the permit(s) and the attendant public interest review including the development of an environmental document. Whenever a potential permit applicant indicates the intent to submit an application for work which may require the preparation of an environmental document, a single point of contact shall be designated within the district's regulatory staff to effectively coordinate the regulatory process, including the National Environmental Policy Act (NEPA) procedures and all attendant reviews, meetings, hearings, and other actions, including the scoping process if appropriate, leading to a decision by the district engineer. Effort devoted to this process should be commensurate with the likelihood of a permit application actually being submitted to the Corps. The regulatory staff coordinator shall maintain an open relationship with each applicant or his consultants so as to assure that the applicant is fully aware of the substance (both quantitative and qualitative) of the data required by the district engineer for use in preparing an environmental assessment or an environmental impact statement (EIS). The actual development of the scope of data required in cases requiring an EIS should be the product of the formal "scoping" process discussed in 33 CFR Part 230.

(c) *Application form.* Any person proposing to undertake any activity requiring Department of the Army authorization as specified in 33 CFR Parts 321–324 (except activities already authorized by general permit) must apply for a permit to the district engineer in charge of the district where the proposed activity is to be performed. Applications for permits must be prepared utilizing the prescribed application form (ENG Form 4345, OMB Approval No. OMB 49–R0420). The form may be obtained from the district engineer having jurisdiction over the waters in which the proposed activity will be located. Local variations of the application form for purposes of facilitating coordination with state and local agencies may be used.

(d) *Content of application.* (1) Generally, the application must include a complete description of the proposed activity including necessary drawings, sketches or plans sufficient for public notice (the applicant is not expected to submit detailed engineering plans and specifications); the location, purpose and intended use of the proposed activity; scheduling of the activity; the names and addresses of adjoining

property owners; the location and dimensions of adjacent structures; and a list of authorizations required by other Federal, interstate, state or local agencies for the work, including all approvals received or denials already made. See also Section 325.3 for information required to be in public notices. District and division engineers are not authorized to develop additional information forms and will limit requests for additional information to those cases where the specific information is essential to complete an evaluation of the proposal's impact on the public interest.

(2) All activities which the applicant plans to undertake which are reasonably related to the same project and for which a Department of the Army permit would be required should be included in the same permit application. District engineers should reject, as incomplete, any permit application which fails to comply with this requirement. For example, a permit application for a marina will include dredging required for access as well as any fill associated with construction of the marina.

(3) If the activity would involve dredging in navigable waters of the United States, the application must include a description of the type, composition and quantity of the material to be dredged, the method of dredging, and the site and plans for disposal of the dredged material.

(4) If the activity would include the discharge of dredged or fill material in the waters of the United States or the transportation of dredged material for the purpose of disposing of it in ocean waters, the application must include the source of the material; the purpose of the discharge, a description of the type, composition and quantity of the material; the method of transportation and disposal of the material; and the location of the disposal site. Certification under Section 401 of the Clean Water Act is required for such discharges into waters of the United States.

(5) If the activity would include the construction of a filled area or pile or float-supported platform, the project description must include the use of and specific structures to be erected on the fill or platform.

(6) If the activity would involve the construction of an impoundment structure, the applicant may be required to demonstrate that the structure complies with established state dam safety criteria or that the structure has been designed by qualified persons and, in appropriate cases, independently reviewed (and modified as the review would indicate) by similarly qualified persons. No specific design criteria are to be prescribed nor is an independent detailed engineering review to be made by the district engineer.

(7) *Signatures on application.* The application must be signed by the person who desires to undertake the proposed activity or by a duly authorized agent if accompanied by a statement by that person designating the agent. In either case, the signature of the applicant or the agent will be understood to be an affirmation that he possesses the requisite property interest to undertake the activity proposed in the application, except where the lands are under the control of the Corps of Engineers, in which cases the district engineer will coordinate the transfer of the real estate and the permit action. An application may include the activity of more than one owner provided the character of the activity of each owner is similar and in the same general area and each owner submits a statement designating the same agent.

(e) *Additional information.* In addition to the information indicated in paragraph (d) of this section the applicant will be required to furnish only such additional information as the district engineer deems essential to assist in the evaluation of the application. Such additional information may include environmental data and information on alternate methods and sites as may be necessary for the preparation of the required environmental documentation.

(f) *Fees.* Fees are required for permits under Section 404 of the Clean Water Act, Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, and Sections 9 and 10 of the River and Harbor Act of 1899. A fee of $100.00 will be charged when the planned or ultimate purpose of the project is commercial or industrial in nature and is in support of operations that charge for the production, distribution or sale of goods or services. A $10.00 fee will be charged for permit applications when the proposed work is non-commercial in nature and would provide personal benefits that have no connection with a commercial enterprise. The final decision as to the basis for a fee (commercial vs. non-commercial) shall be solely the responsibility of the district engineer. No fee will be charged if the applicant withdraws the application at any time prior to issuance of the permit or if the permit is denied. Collection of the fee will be deferred until the proposed activity has been determined to be in the public interest. At that time, the district engineer will furnish the applicant two copies of the unsigned permit for his signature. He will also notify the applicant of the required fee and will request that any check or money order be made payable to the Treasurer of the United States. The permit will then be issued upon receipt of the application fee and the two signed permit copies. Multiple fees are not to be charged if more than one law is applicable. Any modification significant enough to require publication of a public notice will also require a fee. No fee will be assessed when a permit is transferred from one property owner to another. No fees will be charged for time extensions, general permits or letters of permission. Agencies or instrumentalities of Federal, state or local governments will not be required to pay any fee in connection with permits.

§ 325.2 Processing of applications.

(a) *Standard procedures.* (1) When an application for a permit is received, the district engineer shall immediately assign it a number for identification, acknowledge receipt thereof, and advise the applicant of the number assigned to it. He shall review the application for completeness, and if the application is incomplete, request from the applicant within 15 days of receipt of the application any additional information necessary for further processing.

(2) Within 15 days of receipt of all information required in accordance with Sec. 325.1(d) of this part, the district engineer will issue a public notice as described in Sec. 325.3 of this part unless specifically exempted by other provisions of this regulation. The district engineer will issue a supplemental, revised, or corrected public notice if in his view there is a change in the application data that would affect the public's review of the proposal.

(3) The district engineer will consider all comments received in response to the public notice in his subsequent actions on the permit application. Receipt of the comments will be acknowledged and they will be made a part of the administrative record of the application. Comments received as form letters or petitions may be acknowledged as a group to the person or organization responsible for the form letter or petition. If comments relate to matters within the special expertise of another Federal agency, the district engineer may seek the advise of that agency. At the earliest practicable time, the applicant must be given the opportunity to furnish the district engineer his proposed resolution or rebuttal to all objections from other Government

agencies and other substantive adverse comments before final decision will be made on the application. The applicant may voluntarily elect to contact objectors in an attempt to resolve objections but will not be required to do so.

(4) The district engineer will follow Appendix B of 33 CFR Part 230 for environmental procedures and documentation required by the National Environmental Policy Act of 1969. A permit application will require either an environmental assessment or an environmental impact statement unless it is included within a categorical exclusion.

(5) The district engineer will also evaluate the application to determine the need for a public hearing pursuant to 33 CFR Part 327.

(6) After all above actions have been completed, the district engineer will determine in accordance with the record and applicable regulations whether or not the permit should be issued. He shall prepare a Statement of Findings (SOF) or, where an EIS has been prepared, a Record of Decision (ROD), on all permit decisions. The SOF or ROD shall include the district engineer's views on the probable effect of the proposed work on the public interest including conformity with the guidelines published for the discharge of dredged or fill material in waters of the United States (40 CFR Part 230) or with the criteria for dumping of dredged material in ocean waters (40 CFR Parts 220 to 229), if applicable, and the conclusions of the district engineer. The SOF or ROD shall be dated, signed, and included in the record prior to final action on the application. Where the district engineer has delegated authority to sign permits for and in his behalf, he may similarly delegate the signing of the SOF or ROD. If a permit is warranted, the district engineer will determine the special conditions, if any, and duration which should be incorporated into the permit. In accordance with the authorities specified in § 325.8 of this Part, the district engineer will take final action or forward the application with all pertinent comments, records, and studies, including the final EIS or environmental assessment, through channels to the official authorized to make the final decision. The report forwarding the application for decision will be in the format prescribed by the Chief of Engineers. District and division engineers will notify the applicant and interested Federal and state agencies that the application has been forwarded to higher headquarters. The district or division engineer may, at his option, disclose his recommendation to the news media and other interested parties, with the caution that it is only a recommendation and not a final decision. Such disclosure is encouraged in permit cases which have become controversial and have been the subject of stories in the media or have generated strong public interest. In those cases where the application is forwarded for decision in the format prescribed by the Chief of Engineers, the report will serve as the SOF or ROD.

(7) If the final decision is to deny the permit, the applicant will be advised in writing of the reason(s) for denial. If the final decision is to issue the permit and a standard individual permit form will be used, the issuing official will forward two copies of the draft permit to the applicant for signature accepting the conditions of the permit. The applicant will return both signed copies to the issuing official who then will sign and date the permit and return one copy to the permittee. The permit is not valid until signed by the issuing official. Letters of permission will be issued in letter form (signed by the issuing official only). Final action on the permit application is the signature on the letter notifying the applicant of the denial of the permit or signature of the issuing official on the authorizing document.

(8) The district engineer will publish monthly a list of permits issued or denied during the previous month. The list will identify each action by public notice number, name of applicant, and brief description of activity involved. It will also note that relevant environmental documents and the SOF's or ROD's are available upon written request and, where applicable, upon the payment of administrative fees. This list will be distributed to all persons who may have an interest in any of the public notices listed.

(9) Copies of permits will be furnished to other agencies in appropriate cases as follows:

(i) If the activity involves the construction of artificial islands, installations or other devices on the outer continental shelf, to the Director, Defense Mapping Agency, Hydrographic Center, Washington, D.C. 20390 Attention, Code NS12 and to the Director, National Ocean Survey, NOAA, Department of Commerce, Rockville, Maryland 20852.

(ii) If the activity involves the construction of structures to enhance fish propagation (e.g., fishing reefs) along the coasts of the United States, to Defense Mapping Agency, Hydrographic Center and National Ocean Survey as in paragraph (a)(9)(i) of this section and to the Director, Office of Marine Recreational Fisheries, National Marine Fisheries Service, Washington, D.C. 20235.

(iii) If the activity involves the erection of an aerial transmission line across a navigable water of the United States, to the Director, National Ocean Survey, NOAA, Department of Commerce, Rockville, Maryland 20852, reference C322.

(iv) If the activity is listed in paragraphs (a)(9)(i), (ii), or (iii) of this section or involves the transportation of dredged material for the purpose of dumping it in ocean waters, to the appropriate District Commander, U.S. Coast Guard.

(b) *Procedures for particular types of permit situations.* (1) If the district engineer determines that water quality certification for the proposed activity is necessary under the provisions of Section 401 of the Clean Water Act, he shall so notify the applicant and obtain from him or the certifying agency a copy of such certification.

(i) The public notice for such activity, which will contain a statement on certification requirements (see Sec. 325.3(a)(8)), will serve as the notification to the Administrator of the Environmental Protection Agency (EPA) pursuant to Section 401(a)(2) of the Clean Water Act. If EPA determines that the proposed discharge may affect the quality of the waters of any state other than the state in which the discharge will originate, it will so notify such other state, the district engineer, and the applicant. If such notice or a request for supplemental information is not received within 30 days of issuance of the public notice, the district engineer will assume EPA has made a negative determination with respect to Section 401(a)(2). If EPA does determine another state's waters may be affected, such state has 60 days from receipt of EPA's notice to determine if the proposed discharge will affect the quality of its waters so as to violate any water quality requirement in such state, to notify EPA and the district engineer in writing of its objection to permit issuance, and to request a public hearing. If such occurs, the district engineer will hold a public hearing in the objecting state. Except as stated below, the hearing will be conducted in accordance with 33 CFR 327. The issues to be considered at the public hearing will be limited to water quality impacts. EPA will submit its evaluation and recommendations at the hearing with respect to the state's objection to permit issuance. Based upon the recommendations of the objecting state,

EPA, and any additional evidence presented at the hearing, the district engineer will condition the permit, if issued, in such a manner as may be necessary to insure compliance with applicable water quality requirements. If the imposition of conditions cannot, in the district engineer's opinion, insure such compliance, he will deny the permit.

(ii) No permit will be granted until required certification has been obtained or has been waived. Waiver may be explicit, or will be deemed to occur if the certifying agency fails or refuses to act on a request for certification within sixty days after receipt of such a request unless the district engineer determines a shorter or longer period is reasonable for the state to act. The request for certification must be made in accordance with the regulations of the certifying agency. In determining whether or not a waiver period has commenced or waiver has occurred, the district engineer will verify that the certifying agency has received a valid request for certification. If, however, special circumstances identified by the district engineer require that action on an application be taken within a more limited period of time, the district engineer shall determine a reasonable lesser period of time, advise the certifying agency of the need for action by a particular date and that, if certification is not received by that date, it will be considered that the requirement for certification has been waived. Similarly if it appears that circumstances may reasonably require a period of time longer than sixty days, the district engineer, based on information provided by the certifying agency, will determine a longer reasonable period of time, not to exceed one year, at which time a waiver will be deemed to occur.

(2) If the proposed activity is to be undertaken in a State operating under a coastal zone management program approved by the Secretary of Commerce pursuant to the Coastal Zone Management Act (see 33 CFR 320.3(b)), the district engineer shall proceed as follows:

(i) If the applicant is a Federal agency, and the application involves a Federal activity in or affecting the coastal zone, the district engineer shall forward a copy of the public notice to the agency of the state responsible for reviewing the consistency of Federal activities. The Federal agency applicant shall be responsible for complying with the Coastal Zone Management Act's directive for ensuring that Federal agency activities are undertaken in a manner which is consistent, to the maximum extent practicable, with approved Coastal Zone Management Programs. (See 15 CFR Part 930.) If the State coastal zone agency objects to the proposed Federal activity on the basis of its inconsistency with the State's approved Coastal Zone Management Program, the district engineer shall not make a final decision on the application until the disagreeing parties have had an opportunity to utilize the procedures specified by the Coastal Zone Management Act for resolving such disagreements.

(ii) If the applicant is not a Federal agency and the application involves an activity affecting the coastal zone, the district engineer shall obtain from the applicant a certification that his proposed activity complies with and will be conducted in a manner that is consistent with the approved State Coastal Zone Management Program. Upon receipt of the certification, the district engineer will forward a copy of the public notice (which will include the applicant's certification statement) to the state coastal zone agency and request its concurrence or objection. If the state agency objects to the certification or issues a decision indicating that the proposed activity requires further review, the district engineer shall not issue the permit until the state concurs with the certification statement or the Secretary of Commerce determines that the proposed activity is consistent with the purposes of the Coastal Zone Management Act or is necessary in the interest of national security. If the state agency fails to concur or object to a certification statement within six months of the state agency's receipt of the certification statement, state agency concurrence with the certification statement shall be conclusively presumed. District engineers shall check with the certifying agency at the end of the allotted period of time before determining that a waiver has occurred.

(iii) If the applicant is requesting a permit for work on Indian reservation lands which are in the coastal zone, the district engineer shall treat the application in the same manner as prescribed for a Federal applicant in paragraph (b)(2)(i) of this section. However, if the applicant is requesting a permit on non-trust Indian lands and the state CZM agency has decided to assert jurisdiction over such lands, the district engineer shall treat the application in the same manner as prescribed for a non-Federal applicant in paragraph (b)(2)(ii) of this section.

(3) If the proposed activity would involve any property listed or eligible for listing in the National Register of Historic Places, the district engineer will proceed in accordance with Corps National Historical Preservation Act counterpart implementing regulations.

(4) If the proposed activity would consist of dredging of an access channel and/or berthing facility associated with an authorized Federal navigation project, the activity will be included in the planning and coordination of the construction or maintenance of the Federal project to the maximum extent feasible. Separate notice, hearing, and environmental documentation will not be required for activities so included and coordinated; and the public notice issued by the district engineer for these Federal and associated non-Federal activities will be the notice of intent to issue permits for those included non-Federal dredging activities. The decision whether to issue or deny such a permit will be consistent with the decision on the Federal project unless special considerations applicable to the proposed activity are identified. (See Sec. 322.5(C)).

(5) Applications will be reviewed for the potential impact on threatened or endangered species pursuant to Section 7 of the Endangered Species Act as amended. If the district engineer determines that the proposed activity would not affect listed species or their critical habitat, he will include a statement to this effect in the public notice. If he finds that proposed activity may jeopardize the continued existence of listed species or destroy or adversely modify their critical habitat, he will initiate formal consultation procedures with the U.S. Fish and Wildlife Service or National Marine Fisheries Service by including a statement to this effect in the public notice (or will amend any previous notice as appropriate). Public notices forwarded to the U.S. Fish and Wildlife Service or National Marine Fisheries Service will serve as the request for information on whether any listed or proposed to be listed endangered or threatened species may be present in the area which would be affected by the proposed activity, pursuant to Section 7(c) of the Act. References, definitions, and consultation procedures are found in 33 CFR Part 306 and 50 CFR Part 402.

(c) [Reserved]

(d) *Timing of processing of applications.* The district engineer will be guided by the following time limits for the indicated steps in the evaluation process:

(1) The public notice will be issued within 15 days of receipt of all information required to be submitted by the applicant in accordance with §325.1.(d) of this part.

(2) The comment period of the public notice should not extend beyond 30 days from the date of the notice. However, if circumstances warrant, the district engineer may extend the comment period up to an additional 30 days.

(3) District engineers will decide on all applications not later than 60 days after receipt of a complete application, unless (i) precluded as a matter of law or procedures required by law (see below), (ii) the case must be referred to higher authority (see Sec. 325.8 of this part), (iii) the comment period is extended, (iv) a timely rebuttal or resolution of objections is not received from the applicant, (v) the processing is suspended at the request of the applicant, or (vi) information needed by the district engineer for a decision on the application cannot reasonably be obtained within the 60-day period. Once the cause for preventing the decision from being made within the normal 60-day period has been satisfied or eliminated, the 60-day clock will start running again from where it was suspended. For example, if the comment period is extended by 30 days, the district engineer will, absent other restraints, decide on the application within 90 days of receipt of a complete application. Certain laws (e.g., the Clean Water Act, the Coastal Zone Management Act, the National Environmental Policy Act, the National Historic Preservation Act, the Preservation of Historical and Archeological Data Act, the Endangered Species Act, the Wild and Scenic Rivers Act, and the Marine Protection, Research and Sanctuaries Act) require procedures such as state or other Federal agency certifications, public hearings, environmental impact statements, consultation, special studies and testing which may prevent district engineers from being able to decide certain applications within 60 days.

(4) Once the public comment period has closed (or, at the latest, on the ninetieth day following the public notice) and the district engineer has sufficient information to make his public interest determination, he should decide the permit application even though other agencies which may have regulatory jurisdiction have not yet granted their authorizations, except where such authorizations are, by Federal law, a prerequisite to making a decision on the Army permit application. Permits granted prior to other (non-prerequisite) authorizations by other agencies should, where appropriate, be conditioned in such manner as to give those other authorities an opportunity to undertake their review without the applicant biasing such review by making substantial resource commitments on the basis of the Army permit. In an unusual case, the district engineer may decide that due to the nature or scope of a specific proposal, it would be prudent to defer taking final action until another agency has acted on its authorization. In such cases, he may advise the other agency of his position on the Army permit while deferring his final decision.

(5) If the applicant fails to respond within 45 days to any request or inquiry of the district engineer, the district engineer may advise the applicant by certified letter that his application will be considered as having been withdrawn unless the applicant responds thereto within thirty days of the date of the letter.

(e) *Alternative procedures.* Division and district engineers are authorized to use alternative procedures as follows:

(1) *Letters of permission.* In those cases subject to Section 10 of the River and Harbor Act of 1899 in which, in the opinion of the district engineer, the proposed work would be minor, would not have significant individual or cumulative impact on environmental values, and should encounter no appreciable opposition, the district engineer may omit the publishing of a public notice and authorize the work by a letter of permission. However, he will coordinate the proposal with all concerned fish and wildlife agencies, Federal and state, as required by the Fish and Wildlife Coordination Act. The letter of permission will not used to authorize the discharge of dredged or fill material into waters of the United States nor the transportation of dredged material for purposes of dumping it in ocean waters. The letter of permission form is specified in § 325.5 of this part.

(2) *Regional permits.* Regional permits are a type of general permit as defined in 33 CFR 322.2(f) and 33 CFR 323.2(n). They may be issued by a division or district engineer after compliance with the other procedures of this regulation. After a regional permit has been issued, individual activities falling within those categories that are authorized by such regional permits do not have to be further authorized by the procedures of this regulation. The issuing authority will determine and add appropriate conditions to protect the public interest. When the issuing authority determines on a case-by-case basis that the concerns for the aquatic environment so indicate, he may exercise discretionary authority to override the regional permit and require an individual application and review. A regional permit may be revoked by the issuing authority if it is determined that it is no longer in the public interest provided the procedures of Sec. 325.7 of this part are followed. Following revocation, applications for future activities in areas covered by the regional permit shall be processed as applications for individual permits. No regional permit shall be issued for a period of more than five years.

(3) *Joint Procedures.* Division and district engineers are authorized and encouraged to develop joint procedures with states and other Federal agencies with ongoing permit programs for activities also regulated by the Department of the Army. Such procedures may be substituted for the procedures in paragraphs (a)(1) through (5) of this section provided that the substantive requirements of those sections are maintained. Division and district engineers are also encouraged to develop management techniques such as joint agency review meetings to expedite the decision-making process. However, in doing so, the applicant's rights to a full public interest review and independent decision by the district or division engineer must be strictly observed.

(4) *Emergency procedures.* Division engineers are authorized to approve special processing procedures in emergency situations. An "emergency" is a situation which would result in an unacceptable hazard to life, a significant loss of property, or an immediate, unforeseen, and significant economic hardship if corrective action requiring a permit is not undertaken within a time period less than the normal time needed to process the application under standard procedures. In emergency situations, the district engineer will explain the circumstances and recommend special procedures to the division engineer who will instruct the district engineer as to further processing of the application. Even in an emergency situation, reasonable efforts will be made to receive comments from interested Federal, state, and local agencies and the affected public. Also, notice of any special procedures authorized and their rationale is to be appropriately published as soon as practicable.

§ 325.3 Public notice.

(a) *General.* The public is the primary method of advising all interested parties of the proposed activity for which a

permit is sought and of soliciting comments and information necessary to evaluate the probable impact on the public interest. The notice must, therefore, include sufficient information to give a clear understanding of the nature and magnitude of the activity to generate meaningful comment. The notice should include the following items of information:

(1) Applicable statutory authority or authorities;

(2) The name and address of the applicant;

(3) The name or title, address and telephone number of the Corps employee from whom additional information concerning the application may be obtained;

(4) The location of the proposed activity;

(5) A brief description of the proposed activity, its purpose and intended use, so as to provide sufficient information concerning the nature of the activity to generate meaningful comments, including a description of the type of structures, if any, to be erected on fills, or pile or float-supported platforms, and a description of the type, composition and quantity of materials to be discharged or disposed of in the ocean;

(6) A plan and elevation drawing showing the general and specific site location and character of all proposed activities, including the size relationship of the proposed structures to the size of the impacted waterway and depth of water in the area;

(7) If the proposed activity would occur in the territorial seas or ocean waters, a description of the activity's relationship to the baseline from which the territorial sea is measured;

(8) A list of other government authorizations obtained or requested by the applicant, including required certifications relative to water quality, coastal zone management, or marine sanctuaries;

(9) If appropriate, a statement that the activity is a categorical exclusion for purposes of the National Environmental Policy Act (see paragraph 7 of Appendix B to 33 CFR Part 230);

(10) A statement on endangered species (see Sec. 325.2(b)(5);

(11) A statement(s) on evaluation factors (see Sec. 325.3(b));

(12) Any other available information which may assist interested parties in evaluating the likely impact of the proposed activity, if any, on factors affecting the public interest;

(13) A reasonable period of time, normally thirty days but not less than fifteen days from date of mailing, within which interested parties may express their views concerning the permit application;

(14) A statement that any person may request, in writing, within the comment period specified in the notice, that a public hearing be held to consider the application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing;

(15) For non-Federal applications in states with an approved Coastal Zone Management Plan, a statement on compliance with the approved Plan; and

(16) In addition, for Section 103 (ocean dumping) activities:

(i) The specific location of the proposed disposal site and its physical boundaries;

(ii) A statement as to whether the proposed disposal site has been designated for use by the Administrator, EPA, pursuant to Section 102(c) of the Act;

(iii) If the proposed disposal site has not been designated by the Administrator, EPA, a description of the characteristics of the proposed disposal site and an explanation as to why no previously designated disposal site is feasible;

(iv) A brief description of known dredged material dischages at the proposed disposal site;

(v) Existence and documented effects of other authorized disposals that have been made in the disposal area (e.g., heavy metal background reading and organic carbon content);

(vi) An estimate of the length of time during which disposal would continue at the proposed site; and

(vii) Information on the characteristics and composition of the dredged material.

(b) *Evaluation factors.* A paragraph describing the various evaluation factors on which decisions are based shall be included in every public notice.

(1) Except as provided in paragraph (b)(3) of this section, the following will be included:

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposals must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety production and, in general, the needs and welfare of the people.

(2) If the activity would involve the discharge of dredged or fill material into the waters of the United States or the transportation of dredged material for the purpose of disposing of it in ocean waters, the public notice shall also indicate that the evaluation of the impact on the activity of the public interest will include application of the guidelines promulgated by the Administrator, EPA under authority of Section 404(b) of the Clean Water Act (40 CFR Part 230) or of the criteria established under authority of Section 102(a) of the Marine Protection, Research and Sanctuaries Act of 1972, as amended (40 CFR Parts 220 to 229), as appropriate. (See also 33 CFR Parts 323 and 324).

(3) In cases involving construction of artificial islands, installations and other devices on outer continental shelf lands which are under mineral lease from the Department of the Interior, the notice will contain the following statement: "The decision as to whether a permit will be issued will be based on an evaluation of the impact of the proposed work on navigation and national security."

(c) *Distribution of public notices.* (1) Public notices will be distributed for posting in post offices or other appropriate public places in the vicinity of the site of the proposed work and will be sent to the applicant, to appropriate city and county officials, to adjoining property owners, to appropriate state agencies, to appropriate Indian Tribes or tribal represenatives, to concerned Federal agencies, to local, regional and national shipping and other concerned business and conservation organizations, to appropriate River Basin Commissions, to appropriate state and areawide clearing houses as prescribed by OMB Circular A–95, to local news media and to any other interested party. Copies of public notices will be sent to all parties who have specifically requested copies of public notices, to the U.S. Senators and Representatives for the area where the work is to be performed, the field representative of the Secretary of the Interior, the Regional Director of the Fish and Wildlife Service, the Regional Director of the National Park Service, the Regional Administrator of the Environmental Protection Agency (EPA), the Regional Director of the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration (NOAA), the head of the state agency responsible for fish and wildlife resources, the State Historic

Preservation Officer, and the District Commander, U.S. Coast Guard.

(2) In addition to the general distribution of public notices cited above, notices will be sent to other addressees in appropriate cases as follows:

(i) If the activity would involve structures or dredging along the shores of the seas or Great Lakes, to the Coastal Engineering Research Center, Washington, D.C. 20016.

(ii) If the activity would involve construction of fixed structures or artificial islands on the outer continental shelf or in the territorial seas, to the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics (ASD(MRA&L)), Washington, D.C. 20310; the Director, Defense Mapping Agency (Hydrographic Center) Washington, D.C. 20390, Attention, Code NS12; and the Director, National Ocean Survey, NOAA, Department of Commerce, Rockville, Maryland 20852, and to affected military installations and activities.

(iii) If the activity involves the construction of structures to enhance fish propagation (e.g., fishing reefs) along the coasts of the United States, to the Director, Office of Marine Recreational Fisheries, National Marine Fisheries Service, Washington, D.C. 20235.

(iv) If the activity involves the construction of structures which may affect aircraft operations or for purposes associated with seaplane operations, to the Regional Director of the Federal Aviation Administration.

(v) If the activity would be in connection with a foreign-trade zone, to the Executive Secretary, Foreign-Trade Zones Board, Department of Commerce, Washington, D.C. 20230 and to the appropriate District Director of Customs as Resident Representative, Foreign-Trade Zones Board.

(3) It is presumed that all interested parties and agencies will wish to respond to public notices; therefore, a lack of response will be interpreted as meaning that there is no objection to the proposed project. A copy of the public notice with the list of the addresses to whom the notice was sent will be included in the record. If a question develops with respect to an activity for which another agency has responsibility and that other agency has not responded to the public notice, the district engineer may request its comments. Whenever a response to a public notice has been received from a member of Congress, either in behalf of a constitutent or himself, the district engineer will inform the member of Congress of the final decision.

§ 325.4 Conditioning of permits.

(a) *General.* The decision of whether to issue a permit is based on the public interest review described in 33 CFR 320.4. In order to protect the public interest, projects may require modifications or conditions different from what the applicant proposes.

(b) Division and district engineers are authorized to modify or add conditions to proposals when:

(1) they are necessary to meet a legal requirement,

(2) they serve to meet a public interest objective, or

(3) they will avoid or mitigate adverse impacts on fish and wildlife resources.

(c) Division and district engineers may modify or condition proposals to meet one of the objectives of 325.4(b) of this section when:

(1) there are no local, state or other Federal programs or policies to achieve the objective of the desired condition, and

(2) an agreement, enforceable at law, between the applicant and the party(ies) concerned with the resource use is not practicable.

(d) Division and district engineers will ensure that any modifications or conditions imposed on an applicant's proposal are:

(1) directly related to the impacts of the proposal; and

(2) commensurate in scope and degree with the impacts of concern; and

(3) reasonably enforceable.

(e) *Bonds.* If the District Engineer has reason to consider that the permittee might be prevented from completing work which is necessary to protect the public interest, he may require the permittee to post a bond of sufficient amount to indemnify the government against any loss as a result of corrective action it might take.

§ 325.5 Forms of permits.

(a) *General discussion.* (1) Department of the Army permits under this regulation will be in the form of individual permits or general permits. The basic format shall be ENG Form 1721, Department of the Army Permit (Appendix A).

(2) The general conditions included in ENG Form 1721 are normally applicable to all permits; however, some conditions may not apply to certain permits and may be deleted by the issuing officer. Special conditions applicable to the specific activity will be included in the permit as necessary to protect the public interest in accordance with § 325.4 of this Part.

(b) *Individual permits.* (1) *Standard permits.* A standard permit is one which has been processed through the public interest review procedures, including public notice and receipt of comments, described throughout this Part. The standard individual permit shall be issued using ENG Form 1721.

(2) *Letters of permission.* A letter of permission will be issued where procedures of Section 325.2(e)(1) have been followed. It will be in letter form and will identify the permittee, the authorized work and location of the work, the statutory authority, any limitations on the work, a construction time limit and a requirement for a report of completed work. A copy of the general conditions form ENG Form 1721 will be attached and will be incorporated by reference into the letter of permission.

(c) *General permits.* (1) *Regional permits.* Regional permits are a type of general permit as defined in 33 CFR 322.2(f) and 33 CFR 323.2(n). They may be issued by a division or district engineer after compliance with the other procedures of this regulation. If the public interest so requires, the issuing authority may condition the regional permit to require a case-by-case reporting and acknowledgement system. However, no separate applications or other authorization documents will be required.

(2) *Nationwide permits.* Nationwide permits are a type of general permit and represent Department of the Army authorizations that have been issued by the regulation (33 CFR Part 330) for certain specified activities nationwide. If certain conditions are met, the specified activities can take place without the need for an individual or regional permit.

(d) *Section 9 permits.* Permits for structures under Section 9 of the River and Harbor Act of 1899 will be drafted at Department of the Army level.

§ 325.6 Duration of permits.

(a) *General.* Department of the Army permits may authorize both the work and the resulting use. Permits continue in effect until they automatically expire or are modified, suspended, or revoked.

(b) *Structures.* Permits for the existence of a structure or other activity of a permanent nature are usually for an indefinite duration with no expiration date cited. However, where a temporary structure is authorized, or where restoration of a waterway is contemplated, the permit will be of limited duration with a definite expiration date.

(c) *Works.* Permits for construction work, discharge of dredged or fill material, or other activity and any construction period for a structure with

a permit of indefinite duration under paragraph (b) of this section will specify time limits for completing the work or activity. The time limits may specify a date by which the work must be started, normally one year from the date of issuance, and will specify a date by which the work must be completed. The dates will be established by the issuing official and will provide reasonable times based on the scope and nature of the work involved. Permits issued for the transport of dredged material for the purpose of disposing of it in ocean waters will specify a completion date for the disposal not to exceed three years from the date of permit issuance.

(d) *Extensions of time.* An authorization or construction period will automatically expire if the permittee fails to request and receive an extension of time. Extensions of time may be granted by the district engineer. The permittee must request the extension and explain the basis of the request, which will be granted only if the district engineer determines that an extension would be in the public interest. Requests for extensions will be processed in accordance with the regular procedures of § 325.2 of this Part, including issuance of a public notice, except that such processing is not required where the district engineer determines that there have been no significant changes in the attendant circumstances since the authorization was issued and that the work is proceeding essentially in accordance with the approved plans and conditions.

(e) *Maintenance dredging.* If the authorized work includes periodic maintenance dredging, an expiration date for the authorization of that maintenance dredging will be included in the permit. The expiration date, which in no event is to exceed ten years from the date of issuance of the permit, will be established by the issuing official after evaluation of the proposed method of dredging and disposal of the dredged material in accordance with the requirements of 33 CFR Parts 320 to 325. In such cases, this district engineer shall require notification of the maintenance dredging prior to actual performance to insure continued compliance with the requirements of this regulation and 33 CFR Parts 320–324. If the permittee desires to continue maintenance dredging beyond the expiration date, he must request a new permit. The permittee should be advised to apply for the new permit six months prior to the time he wishes to do the maintenance work.

§ 325.7 Modification, suspension or revocation of authorizations.

(a) *General.* The district engineer may reevaluate the circumstances and conditions of any permit, including regional permits either on his own motion, at the request of the permittee, or a third party, or as the result of periodic progress inspections, and initiate action to modify, suspend, or revoke a permit as may be made necessary by considerations of the public interest. In the case of regional permits, this reevaluation may cover individual activities, categories of activities, or geographic areas. Among the factors to be considered are the extent of the permittee's compliance with the terms and conditions of the permit; whether or not circumstances relating to the authorized activity have changed since the permit was issued or extended, and the continuing adequacy of the permit conditions; any significant objections to the authorized activity which were not earlier considered; revisions to applicable statutory and/or regulatory authorities; and the extent to which modification, suspension, or other action would adversely affect plans, investments and actions the permittee has reasonably made or taken in reliance on the permit. Significant increases in scope of a permitted activity will be processed as new applications for permits in accordance with § 325.2 of this part, and not as modifications under this paragraph.

(b) *Modification.* Upon request by the permittee or, as a result of reevaluation of the circumstances and conditions of a permit, the district engineer may determine that the public interest requires a modification of the terms or conditions of the permit. In such cases, the district engineer will hold informal consultations with the permittee to ascertain whether the terms and conditions can be modified by mutual agreement. If a mutual agreement is reached on modification of the terms and conditions of the permit, the district engineer will give the permittee written notice of the modification, which will then become effective on such date as the district engineer may establish. In the event a mutual agreement cannot be reached by the district engineer and the permittee, the district engineer will proceed in accordance with paragraph (c) of this section if immediate suspension is warranted. In cases where immediate suspension is not warranted by the district engineer determines that the permit should be modified, he will notify the permittee of the proposed modification and reasons therefor, and that he may request a meeting with the district engineer and/or a public hearing. The modification will become effective on the date set by the district engineer which shall be at least ten days after receipt of the notice by the permittee unless a hearing or meeting is requested within that period. If the permittee fails or refuses to comply with the modification, the district engineer will proceed in accordance with 33 CFR Part 326.

(c) *Suspension.* The district engineer may suspend a permit after preparing a written determination and finding that immediate suspension would be in the public interest. The district engineer will notify the permittee in writing by the most expeditious means available that the permit has been suspended with the reasons therefor, and order the permittee to stop those activities previously authorized by the suspended permit. The permittee will also be advised that following this suspension a decision will be made to either reinstate, modify, or revoke the permit, and that he may within 10 days of receipt of notice of the suspension, request a meeting with the district engineer and/or a public hearing to present information in this matter. If a hearing is requested, the procedures prescribed in 33 CFR Part 327 will be followed. After the completion of the meeting or hearing (or within a reasonable period of time after issuance of the notice to the permittee that the permit has been suspended if no hearing or meeting is requested), the district engineer will take action to reinstate, modify or revoke the permit.

(d) *Revocation.* Following completion of the suspension procedures in paragraph (c) of this section if revocation of the permit is found to be in the public interest, the authority who made the decision on the original permit may revoke it. The permittee will be advised in writing of the final decision.

(e) *Regional permits.* The district engineer may, by following the procedures of this section, revoke regional permits for individual activities, categories of activities, or geographic areas. Where groups of permittees are involved, such as for categories of activities or geographic areas, the informal discussions provided in paragraph (b) of this section may be waived and any written notification may be made through the general public notice procedures of this regulation. If a regional permit is revoked, any permittee may then apply for an individual permit which shall be processed in accordance with these regulations.

§ 325.8 Authority to issue or deny permits.

(a) *General.* Except as otherwise provided in this regulation, the Secretary of the Army, subject to such conditions as he or his authorized representative may from time to time impose, has authorized the Chief of Engineers and his authorized representatives to issue or deny permits for construction or other work in or affecting navigable waters of the United States pursuant to Section 10 of the River and Harbor Act of 1899. He also has authorized the Chief of Engineers and his authorized representatives to issue or deny permits for the discharge of dredged or fill material in waters of the United States pursuant to Section 404 of the Clean Water Act or for the transportation of dredged material for the purpose of disposing of it into ocean waters pursuant to Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended. The authority to issue or deny permits pursuant to Section 9 of the River and Harbor Act of March 3, 1899 has not been delegated to the Chief of Engineers or his authorized representatives.

(b) *District Engineers' authority.* District engineers are authorized to issue or deny permits in accordance with these regulations permits pursuant to Section 10 of the River and Harbor Act of 1899; Section 404 of the Clean Water Act; and Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, in all cases not required to be referred to higher authority (see below). It is essential to the legality of a permit that it contain the name of the district engineer as the issuing officer. However, the permit need not be signed by the district engineer in person but may be signed for and in behalf of him by whomever he designates. In cases where permits are denied for reasons other than navigation or failure to obtain required local, State, or other Federal approvals or certifications, the Statement of Findings must conclusively justify a denial decision. District engineers are authorized to deny permits without issuing a public notice or taking other procedural steps where required local, state or other Federal permits for the proposed activity have been denied or where he determines that the activity will clearly interfere with navigation except in all cases required to be referred to higher authority (see below). District engineers are also authorized to add, modify, or delete special conditions in permits in accordance with § 325.4 of this part, except for those conditions which may have been imposed by higher authority, and to modify, suspend and revoke permits according to the procedures of § 325.7 of this part. District engineers will refer the following applications to the division engineer for resolution:

(1) When a referral is required by a written agreement between the head of a Federal agency and the Secretary of the Army;

(2) When the recommended decision is contrary to the written position of the Governor of the State in which the work would be performed;

(3) When there is substantial doubt as to authority, law, regulations, or policies applicable to the proposed activity;

(4) When higher authority requests the application be forwarded for decision; or

(5) When the district engineer is precluded by law or procedures required by law from taking final action on the application (e.g., Section 404(c) of the Clean Water Act, Section 9 of the River and Harbor Act of 1899, or territorial sea baseline changes).

(c) *Division Engineers' authority.* Division engineers will review and evaluate all permit applications referred by district engineers. Division engineers may authorize the issuance or denial of permits pursuant to Section 10 of the River and Harbor Act of 1899; Section 404 of the Clean Water Act; and Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended; and the inclusion of conditions in accordance with § 325.4 of this Part in all cases not required to be referred to the Chief of Engineers. Division Engineers will refer the following applications to the Chief of Engineers for resolution:

(1) When a referral is required by a written agreement between the head of a Federal agency and the Secretary of the Army;

(2) When there is substantial doubt as to authority, law, regulations, or policies applicable to the proposed activity;

(3) When higher authority requests the application be forwarded for decision; or

(4) When the division engineer is precluded by law or procedures required by law from taking final action on the application.

§ 325.9 [Reserved.]

§ 325.10 Publicity.

The district engineer will establish and maintain a program to assure that potential applicants for permits are informed of the requirements of this regulation and of the steps required to obtain permits for activities in waters of the United States or ocean waters. Whenever the district engineer becomes aware of plans being developed by either private or public entities which might require permits for implementation, he should advise the potential applicant in writing of the statutory requirements and the provisions of this regulation. Whenever the district engineer is aware of changes in Corps of Engineers regulatory jurisdiction, he will issue appropriate public notices.

Appendix A—Permit Form

Application No. _____
Name of Applicant _____
Effective Date _____
Expiration Date (If applicable) _____

DEPARTMENT OF THE ARMY

Permit

Referring to written request dated _____ for a permit to:

( ) Perform work in or affecting navigable waters of the United States, upon the recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of March 3, 1899 (33 U.S.C. 403);

( ) Discharge dredged or fill material into waters of the United States upon the issuance of a permit from the Secretary of the Army acting through the Chief of Engineers pursuant to Section 404 of the Clean Water Act (86 Stat. 816, Pub. L. 92–500);

( ) Transport dredged material for the purpose of disposal in ocean waters upon the issuance of a permit from the Secretary of the Army acting through the Chief of Engineers pursuant to Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (86 Stat. 1052; Pub. L. 92–532);

_____

_____

(Here insert the full name and address of the permittee.)

is hereby authorized by the Secretary of the Army:
to _____

_____

(Here describe the proposed structure or activity, and its intended use. In the case of an application for a fill permit, describe the structures, if any proposed to be erected on the fill. In the case of an application for the discharge of dredged or fill material into waters of the United States or the transportation for discharge in ocean waters of dredged material, describe the type and quantity of material to be discharged.)
in _____

_____

(Here to be named the ocean, river, harbor, or waterway concerned.)

at _____
(Here to be named the nearest well-known locality-preferably a town or city and the distance in miles and tenths from some definite point in the same, stating whether above or below or giving direction by points of compass.)

in accordance with the plans and drawings attached hereto which are incorporated in and made a part of this permit (on drawings, give file number or other definite

identification marks). Subject to the following conditions:

I. General conditions: (a) That all activities identified and authorized herein shall be consistent with the terms and conditions of this permit; and that any activities not specifically identified and authorized herein shall constitute a violation of the terms and conditions of this permit which may result in the modification, suspension or revocation of this permit, in whole or in part, as set forth more specifically in General Conditions j or k hereto, and in the institution of such legal proceedings as the United States Government may consider appropriate, whether or not this permit has been previously modified, suspended or revoked in whole or in part.

(b) That all activities authorized herein shall, if they involve, during their construction or operation, any discharge of pollutants into waters of the United States or ocean waters, be at all times consistent with applicable water quality standards, effluent limitations and standards of performance, prohibitions, pretreatment standards and management practices established pursuant to the Clean Water Act of 1972 (Pub. L. 92–500; 86 Stat. 816), the Marine Protection, Research and Sanctuaries Act of 1972 (Pub. L. 92–532, 86 Stat. 1052), or pursuant to applicable State and local law.

(c) That when the activity authorized herein involves a discharge during its construction or operation, of any pollutant (including dredged or fill material), into waters of the United States, the authorized activity shall, if applicable water quality standards are revised or modified during the term of this permit, be modified, if necessary, to conform with such revised or modified water quality standards within 6 months of the effective date of any revision or modification of water quality standards, or as directed by an implementation plan contained in such revised or modified standards, or within such longer period of time as the district engineer, in consultation with the Regional Administrator of the Environmental Protection Agency, may determine to be reasonable under the circumstances.

(d) That the discharge will not destroy a threatened or endangered species as identified under the Endangered Species Act, or endanger the critical habitat of such species.

(e) That the permittee agrees to make every reasonable effort to prosecute the construction or operation of the work authorized herein in a manner so as to minimize any adverse impact on fish, wildlife, and natural environmental values.

(f) That the permittee agrees that it will prosecute the construction or work authorized herein in a manner so as to minimize any degradation of water quality.

(g) That the permittee shall allow the District Engineer or his authorized representative(s) or designee(s) to make periodic inspections at any time deemed necessary in order to assure that the activity being performed under authority of this permit is in accordance with the terms and conditions prescribed herein.

(h) That the permittee shall maintain the structure or work authorized herein in good condition and in reasonable accordance with the plans and drawings attached hereto.

(i) That this permit does not convey any property rights, either in real estate or material, or any exclusive privileges; and that it does not authorize any injury to property or invasion of rights or any infringement of Federal, state, or local laws or regulations.

(j) That this permit does not obviate the requirement to obtain state or local assent required by law for the activity authorized herein.

(k) That this permit may be either modified, suspended or revoked in whole or in part pursuant to the policies and procedures of 33 CFR 325.7.

(l) That in issuing this permit, the Government has relied on the information and data which the permittee has provided in connection with his permit application. If, subsequent to the issuance of this permit, such information and data prove to be materially false, materially incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and or the Government may, in addition, institute appropriate legal proceedings.

(m) That any modification, suspension, or revocation of this permit shall not be the basis for any claim for damages against the United States.

(n) That the permittee shall notify the District Engineer of the time the activity authorized herein will be commenced, as far in advance of the time of commencement as the District Engineer may specify, and of any suspension of work, if for a period of more than one week, resumption of work and its completion.

(o) That if the activity authorized herein is not completed on or before ——— day of ———, 19——, (three years from the date of issuance of this permit unless otherwise specified) this permit, if not previously revoked or specifically extended, shall automatically expire.

(p) That this permit does not authorize or approve the construction of particular structures, the authorization or approval of which may require authorization by the Congress or other agencies of the Federal Government.

(q) That if and when the permittee desires to abandon the activity authorized herein, unless such abandonment is part of a transfer procedure by which the permittee is transferring his interests herein to a third party pursuant to General Condition (t) hereof, he must restore the area to a condition satisfactory to the District Engineer.

(r) That if the recording of this permit is possible under applicable state or local law, the permittee shall take such action as may be necessary to record this permit with the Register of Deeds or other appropriate official charged with the responsibility for maintaining records of title to and interests in real property.

(s) That there shall be no unreasonable interference with navigation by the existence or use of the activity authorized herein.

(t) That this permit may not be transferred to a third party without prior written notice to the District Engineer, either by the transferee's written agreement to comply with all terms and conditions of this permit or by the transferee subscribing to this permit in the space provided below and thereby agreeing to comply with all terms and conditions of this permit. In addition, if the permittee transfers the interests authorized herein by conveyance of realty, the deed shall reference this permit and the terms and conditions specified herein and this permit shall be recorded along with the deed with the Register of Deeds or other appropriate official.

(u) That if the permittee during prosecution of the work authorized herein, encounters a previously unidentified archeological or other cultural resource that might be eligible for listing in the National Register of Historic Places, he shall immediately notify the district engineer.

II. Special Conditions: Here list conditions relating specifically to the proposed structure or work authorized by this permit. The following Special Conditions will be applicable when appropriate:

Structures In or Affecting Navigable Waters of the United States

(a) That this permit does not authorize the interference with any existing or proposed Federal project and that the permittee shall not be entitled to compensation for damage or injury to the structures or work authorized herein which may be caused by or result from existing or future operations undertaken by the United States in the public interest.

(b) That no attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized by this permit.

(c) That if the display of lights and signals on any structure or work authorized herein is not otherwise provided for by law, such lights and signals as may be prescribed by the United States Coast Guard shall be installed and maintained by and at the expense of the permittee.

(d) That the permittee, upon receipt of a notice of revocation of this permit or upon its expiration before completion of the authorized structure or work, shall, without expense to the United States and in such time and manner as the Secretary of the Army or his authorized representative may direct, restore the waterway to its former conditions. If the permittee fails to comply with the direction of the Secretary of the Army or his authorized representative, the Secretary or his designee may restore the waterway to its former condition, by contract or otherwise, and recover the cost thereof from the permittee.

(e) Structures for Small Boats: That the permittee hereby recognizes the possibility that the structure permitted herein may be subject to damage by wave wash from passing vessels. The issuance of this permit does not relieve the permittee from taking all proper steps to insure the integrity of the structure permitted herein and the safety of boats moored thereto from damage by wave

wash and the permittee shall not hold the United States liable for any such damage.

Maintenance Dredging

(a) That when the work authorized herein includes periodic maintenance dredging, it may be performed under this permit for —— years from the date of issuance of this permit (ten years unless otherwise indicated);

(b) That the permittee will advise the District Engineer in writing at least two weeks before he intends to undertake any maintenance dredging.

Discharges of Dredged or Fill Material Into Waters of the United States

(a) That the discharge will be carried out in conformity with the goals and objectives of the EPA Guidelines established pursuant to Section 404(b) of the Clean Water Act and published in 40 CFR Part 230;

(b) That the discharge will consist of suitable material free from toxic pollutants in toxic amounts.

(c) That the fill created by the discharge will be properly maintained to prevent erosion and other non-point sources of pollution; and

Disposal of Dredged Material Into Ocean Waters

(a) That the disposal will be carried out in conformity with the goals, objectives, and requirements of the EPA criteria established pursuant to Section 102 of the Marine Protection, Research and Sanctuaries Act of 1972, published in 40 CFR Parts 220–228.

(b) That the permittee shall place a copy of this permit in a conspicuous place in the vessel to be used for the transportation and/or disposal of the dredged material as authorized herein.

This permit shall become effective on the date of the District Engineer's signature.

Permittee hereby accepts and agrees to comply with the terms and conditions of this permit.

(Permittee) ——————————

(Date) ——————————

By authority of the Secretary of the Army:

(District Engineer) ——————————

(Date) ——————————

Transferee hereby agrees to comply with the terms and conditions of this permit.

(Transferee) ——————————

(Date) ——————————

Appendix B [Reserved]

PART 326—ENFORCEMENT, SUPERVISION AND INSPECTION

Sec.

326.1 Purpose.
326.2 Discovery of unauthorized activity.
326.3 Administrative action.
326.4 Legal action.
326.5 Supervision and enforcement of authorized activities.

Authority: 33 U.S.C. 401 et seq.; 33 U.S.C. 1344; 33 U.S.C. 1413.

§ 326.1 Purpose.

This regulation prescribes the policy, practice, and procedures to be followed by the Corps of Engineers in connection with activities requiring Department of the Army permits that are performed without prior authorization; and supervision and inspection of authorized activities.

§ 326.2 Discovery of unauthorized activity.

(a) When the district engineer becomes aware of any unauthorized activity still in progress, including a violation of the terms and conditions of an authorized activity, he shall immediately issue an order prohibiting further work to all persons responsible for and/or involved in the performance of the activity and may order interim protective work. If the unauthorized activity has been completed, he will advise the responsible party of his discovery.

(b) Where the unauthorized activity involves an American Indian (including Alaskan natives, Eskimos, and Aleuts) or takes place on reservation land, district engineers will coordinate proposed cease and desist order with the Assistant Chief Counsel for Indian Affairs (DAEN–CCI).

§ 326.3 Administrative action.

(a) *Initial investigation.* Immediately upon discovery of an unauthorized activity, the district engineer shall commence an investigation to ascertain the facts surrounding the activity. In making this investigation, the district engineer should, in appropriate cases, depending upon the potential impacts of the completed work solicit the views of the Regional Administrator of the Environmental Protection Agency, the Regional Director of the U.S. Fish and Wildlife Service, and the Regional Director of the National Marine Fisheries Service, and other Federal, state, and/or local agencies. He shall also request the persons involved in the unauthorized activity to provide appropriate information on the activity to assist him in his evaluation and in determining the course of action to be taken.

(b) *Remedial work.* (1) The district engineer shall determine whether as a result of the unauthorized activity, life, property or important public resources are in serious jeopardy and would require expeditious measures for protection. Such measures may range from minor modification of the existing work to complete restoration of the area involved. Important public resources are identified in 33 CFR 320.4. If the district engineer determines that immediate remedial work is required, he shall issue an appropriate order describing the work, conditions and time limits required to provide satisfactory protection of the resource.

(2) Voluntary restoration by the responsible party on the party's own initiative shall be allowed if legal action is not otherwise necessary. However, district engineers will advise the responsible party of the option of an after-the-fact application for a permit to retain the unauthorized work. No permit will be required when complete and satisfactory restoration is accomplished.

(c) *Acceptance of an after-the-fact application.* Upon completion of appropriate remedial work, if any, the district engineer shall accept an application for an after-the-fact permit for all unauthorized activities unless:

(1) Civil action to enforce an order issued pursuant to § 326.2 or § 326.3(b) of this part is required;

(2) Criminal action is appropriate (see § 326.4a(1) of this part);

(3) State local, or other federal authorization or certification has been denied,[1] or a state or local enforcement action is pending. In the above situations, the District Engineer may accept an after-the-fact permit application provided he believes it would be in the public interest and he obtains approval of the next higher authority.

(4) In some cases, a violation of the Clean Water Act may be of such a nature that it is appropriate to seek a civil penalty as provided for in the act. These cases include knowing, flagrant, repeated or substantial impact violations.[2]

(d) If the responsible party fails to submit an application as noted in paragraph (c) of this section within a reasonable time period, the district engineer may proceed on his own initiative with a determination of whether the activity is in the public interest. The determination will be made in accordance with appropriate procedures described in 33 CFR Parts 320 through 325.

§ 326.4 Legal action.

(a) *Criminal or civil action.* District engineers shall be guided by the following policies in recommending appropriate legal action:

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[1] This section refers to state or local authorizations required as a matter of Federal law before a Sec. 404 permit may be issued. Examples are Sec. 401 Water Quality Certification and Sec. 307 Coastal Zone Management Consistency Determinations.

[2] In such cases, the District Engineer may, in his discretion, recommend to the United States Attorney that a complaint be filed. An after-the-fact application should not be accepted until the enforcement action is completely resolved. This exception to the general rule of accepting after-the-fact applications should be used on a limited basis, only for those cases which merit special treatment.

(1) *Criminal action.* Criminal action is considered appropriate when the facts surrounding an unauthorized activity reveal the necessity for punitive action and/or when deterrence of future unauthorized activities in the area is considered essential to the establishment or maintenance of a viable regulatory program.

(2) *Civil action.* Civil action is considered appropriate when the evalution of the unauthorized activity reveals that (i) enforcement of an order issued pursuant to § 326.2 or § 326.3 (b) of this Part is required; (ii) after the procedures in § 326.3 (c) of this Part have been completed, the unauthorized activity would be in the public interest if altered or modified but attempts to secure voluntary alteration or modification have failed such that a judicial order is necessary, or (iii) after the procedures in § 326.3 (c) of this Part have been completed, a civil penalty under Section 309 of the Clean Water Act is warranted.

(b) *Preparation of case.* If the district engineer determines to recommend legal action he shall prepare a litigation report which shall contain an analysis of the data and information obtained during the investigation and a recommendation of appropriate civil and/or criminal action. In those cases where the analysis of the facts developed during the investigation and/or the after-the-fact application evaluation leads to the preliminary conclusion to recommend that removal of the unauthorized activity is in the public interest, the district engineer shall also recommend restoration of the area to its original or comparable condition.

(c) *Referral to local U.S. Attorney.* Except as provided in paragraph (d) of this section, district engineers are authorized to refer the following cases to the Department of Justice (DOJ) in accordance with procedures established by DOJ. Information copies of all letters of referral which go directly to a U.S. Attorney shall be forwarded to the Chief of Engineers, ATTN: DAEN-CCK, for transmittal to the Chief, Pollution Control Section, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530.

(1) Unauthorized structures or work in or affecting navigable waters of the United States that fall exclusively within the purview of Section 10 of the River and Harbor Act of 1899 (see 33 CFR Part 322) for which a criminal fine or penalty under Section 12 of that Act (33 U.S.C. 406) is recommended.

(2) Civil action involving small unauthorized structures, such as piers, which the district engineer determines are either (i) not in the public interest and recommends that they be removed, or (ii) would be in the public interest if altered or modified but attempts to secure voluntary alteration or modification have failed such that the district engineer recommends that a judicial order is necessary.

(3) Violations of Section 301 of the Clean Water Act involving the unauthorized discharge of dredged or fill material into the waters of the United States where the district engineer recommends, with the concurrence of the Regional Administrator, civil and/or criminal action pursuant to Section 309 of the Clean Water Act.

(4) Cases for which a temporary restraining order and/or preliminary injunction is appropriate following noncompliance with a cease and desist order.

(d) *Referral to Office, Chief of Engineers.* District engineers shall prepare and forward a litigation report to the Office, Chief of Engineers, ATTN: DAEN-CCK, for cases not identified in paragraph (c) of this section which civil and/or criminal action is considered appropriate, including cases involving:

(1) Significant questions of law or fact;

(2) Discharges of dredged or fill material into waters of the United States that are not interstate waters or navigable waters of the United States, or part of a surface tributary system to these waters;

(3) Recommendations for substantial or complete restoration;

(4) Violations of Section 9 of the River and Harbor Act of 1899; and

(5) Violations of the Marine Protection, Research and Sanctuaries Act of 1972.

(6) All cases involving American Indians, including unauthorized activities on reservation lands.

§ 326.5 Supervision and enforcement of authorized activities.

(a) *Inspection and monitoring.* District engineers will assure that authorized activities are conducted and executed in conformance with approved plans and other conditions of the permits. Appropriate inspections should be made on timely occasions during performance of the activity and appropriate notices and instructions given permittees to insure that they do not depart from the approved plans. Reevaluation of a permit to assure compliance with its purposes and conditions will be carried out as provided in 33 CFR Part 325.7. If there are approved material departures from the authorized plans, the district engineer will require the permittee to furnish corrected plans showing the activity as actually performed.

(b) *Non-compliance.* Where the district engineer determines that there has been non-compliance with the terms or conditions of a permit, he should first contact the permittee and attempt to resolve the problem. If a mutually agreeable resolution cannot be reached, a written demand for compliance will be made. If the permittee has not agreed to comply within 5 days of receipt of the demand, the district engineer will issue an immediately effective notice of suspension in accordance with 33 CFR Part 325.7(c) and consider initiation of appropriate legal action (§ 326.4 of this Part).

(c) *Surveillance.* For purposes of inspection of permitted activities and for surveillance of the waters of the United States for enforcement of the permit authorities the district engineer will use all means at his disposal. All Corps of Engineers employees will be instructed to observe and report all unauthorized activities in waters of the United States. The assistance of members of the public and personnel of other interested Federal, state and local agencies to observe and report such activities will be encouraged. To facilitate this surveillance, the district engineer will, in appropriate cases, require a copy of ENG Form 4336 to be posted conspicuously at the site of authorized activities and will make available to all interested persons information on the scope of authorized activities and the conditions prescribed in the authorizations. Surveillance in ocean waters will be accomplished primarily by the Coast Guard pursuant to Section 107(c) of the Marine Protection, Research and Sanctuaries Act of 1972, as amended.

(d) *Inspection expenses.* The expenses incurred in connection with the inspection of permitted activity in waters of the United States normally will be paid by the Federal Government in accordance with the provisions of Section 6 of the River and Harbor Act of 3 March 1905 (33 U.S.C. 417) unless daily supervision or other unusual expenses are involved. In such unusual cases, the district engineer may require the permittee to bear the expense of inspections in accordance with the conditions of his permit; however, the permittee will not be required or permitted to pay the United States inspector either directly or through the district engineer. The inspector will be paid on regular payrolls or service vouchers. The district engineer will collect the cost from the permittee in accordance with the following:

(1) At the end of each month the amount chargeable for the cost of

inspection pertaining to the permit will be collected from the permittee and will be taken up on the statement of accountability and deposited in a designated depository to the credit of the Treasurer of the United States, on account of reimbursement of the appropriation from which the expenses of the inspection were paid.

(2) If the district engineer considers such a procedure necessary to insure the United States against loss through possible failure of the permittee to supply the necessary funds in accordance with paragraph (d)(1) of this section he may require the permittee to keep on deposit with the district engineer at all times an amount equal to the estimated cost of inspection and supervision for the ensuing month, such deposit preferably being in the form of a certified check, payable to the order of Treasurer of the United States. Certified checks so deposited will be carried in a special deposit account (guaranty for inspection expenses) and upon completion of the work under the permit the funds will be returned to the permittee provided he has paid the actual cost of inspection.

(3) On completion of work under a permit, and the payment of expenses by the permittee without protest, the account will be closed, and outstanding deposits returned to the permittee. If the account is protested by the permittee, it will be referred to the division engineer for approval before it is closed and before any deposits are returned to the permittee.

(e) Where the unauthorized activity is determined not to be in the public interest, the notification of the denial of the permit will prescribe any corrective actions to be taken in connection with the work already accomplished, including restoration of those areas subject to denial, and establish a reasonable period of time for the applicant to complete such actions. The district engineer, after denial of the permit, will again consider whether to recommend civil and/or criminal action in accordance with § 326.4 of this Part.

(f) If the applicant declines to accept the proposed permit conditions, or fails to take corrective action prescribed in the notification of denial, or if the district engineer recommends legal action after denying the permit, the matter will be referred to the Chief of Engineers, Attn.: DAEN–CCK, with recommendations for appropriate action.

(g) Division and District Engineers are authorized and encouraged to develop joint surveillance and inspection procedures with other Federal, state, and local agencies with similar regulatory responsibilities and with other Federal, state and local agencies having special interest or expertise in the Corps regulatory program. However, any decision to initiate legal action or to require any restoration or other remedial work under Corps of Engineers authority remains the independent responsibility of the Division or district engineer.

PART 327—PUBLIC HEARINGS

Sec.

327.1 Purpose.
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327.10 Powers of the presiding officer.
327.11 Public notice.

Authority: 33 U.S.C. 1344; 33 U.S.C. 1413

§ 327.1 Purpose.

This regulation prescribes the policy, practice and procedures to be followed by the U.S. Army Corps of Engineers in the conduct of public hearings conducted in the evaluation of a proposed Department of the Army permit action or Federal project as defined in § 327.3 of this Part below including those held pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344) and Section 103 of the Marine Protection, Research and Sanctuaries Act (MPRSA), as amended (33 U.S.C. 1413).

§ 327.2 Applicability.

This regulation is applicable to all divisions and districts responsible for the conduct of public hearings.

§ 327.3 Definitions.

(a) Public hearing means a public proceeding conducted for the purpose of acquiring information or evidence which will be considered in evaluating a proposed Department of the Army permit action, or Federal project, and which affords to the public the opportunity to present their views, opinions, and information on such permit actions or Federal projects.

(b) Permit action, as used herein means the evaluation of and decision on an application for a permit pursuant to Section 9 or 10 of the River and Harbor Act of 1899, Section 404 of the Clean Water Act, or Section 103 of the MPRSA, as amended, or the modification or revocation of any Department of the Army permit (see 33 CFR 325.7).

(c) Federal project means a Corps of Engineers project (work or activity of any nature for any purpose which is to be performed by the Chief of Engineers pursuant to Congressional authorizations) involving the discharge of dredged or fill material into waters of the United States or the transportation of dredged material for the purpose of dumping it in ocean waters subject to Section 404 of the Clean Water Act, or Section 103 of the MPRSA. See 33 CFR 209.145. (This regulation supersedes all references to public meetings in 33 CFR 209.145).

§ 327.4 General policies.

(a) A public hearing will be held in connection with the consideration of a Department of the Army permit application, or a Federal project whenever a public hearing is needed for making a decision on such permit application or Federal project. In addition, a public hearing may be held when it is proposed to modify or revoke a permit. (See 33 CFR 325.7).

(b) Unless the public notice specifies that a public hearing will be held, any person may request, in writing, within the comment period specified in the public notice on a Department of the Army permit application or on a Federal project, that a public hearing be held to consider the material matters in issue in the permit application or Federal project. Upon receipt of any such request, stating with particularity the reasons for holding a public hearing, the district engineer may expeditiously attempt to resolve the issues informally. Otherwise, he shall promptly set a time and place for the public hearing and give due notice thereof, as prescribed in § 327.11 of this Part. Requests for a public hearing under this paragraph shall be granted, unless the district engineer determines that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing. The district engineer will make such a determination in writing, and communicate his reasons therefor to all requesting parties.

(c) In case of doubt, a public hearing shall be held. HQDA has the discretionary power to require hearings in any case.

(d) In fixing the time and place for a hearing, the convenience and necessity of the interested public will be duly considered.

§ 327.5 Presiding officer.

(a) The district engineer, in whose district a matter arises, shall normally serve as the Presiding Officer. When the district engineer is unable to serve, he

may designate the deputy district engineer or other qualified person as such Presiding Officer. In cases of unusual interest, the Chief of Engineers or the Division Engineer may appoint such person as he deems appropriate to serve as the Presiding Officer.

(b) The Presiding Officer shall include in the administrative record of the permit action the request or requests for the hearing and any data or material submitted in justification thereof, materials submitted in opposition to or in support of the proposed action, the hearing transcript, and such other material as may be relevant or pertinent to the subject matter of the hearing. The administrative record shall be available for public inspection with the exception of material exempt from disclosure under the Freedom of Information Act.

§ 327.6 Legal adviser.

At each public hearing, the district counsel or his designee may serve as legal advisor to the presiding officer. In appropriate circumstances, the district engineer may waive the requirement for a legal advisor to be present.

§ 327.7 Representation.

At the public hearing, any person may appear on his own behalf, or may be represented by counsel, or by other representatives.

§ 327.8 Conduct of hearings.

(a) The presiding officer shall make an opening statement outlining the purpose of the hearing and prescribing the general procedures to be followed.

(b) Hearings shall be conducted by the presiding officer in an orderly but expeditious manner. Any person shall be permitted to submit oral or written statements concerning the subject matter of the hearing, to call witnesses who may present oral or written statements, and to present recommendations as to an appropriate decision. Any person may present written statements for the hearing record prior to the time the hearing record is closed to public submissions, and may present proposed findings and recommendations. The presiding officer shall afford participants a reasonable opportunity for rebuttal.

(c) The presiding officer shall have discretion to establish reasonable limits upon the time allowed for statements of witnesses, for arguments of parties or their counsel or representatives, and upon the number of rebuttals.

(d) Cross-examination of witnesses shall not be permitted.

(e) All public hearings shall be reported verbatim. Copies of the transcripts of proceedings may be purchased by any person from the Corps of Engineers or the reporter of such hearing. A copy will be available for public inspection at the office of the appropriate district engineer.

(f) All written statements, charts, tabulations, and similar data offered in evidence at the hearing shall, subject to exclusion by the presiding officer for reasons of redundancy, be received in evidence and shall constitute a part of the record.

(g) The pesiding officer shall allow a period of not less than 10 days after the close of the public hearing for submission of written comments.

(h) In appropriate cases, the district engineer may participate in joint public hearings with other Federal or state agencies, provided the procedures of those hearings meet the requirements of this regulation. In those cases in which the other Federal or state agency allows a cross-examination in its public hearing, the district engineer may still participate in the joint public hearing but shall not require cross-examination as a part of his participation.

§ 327.9 Filing of transcript of the public hearing.

Where the presiding officer is the initial action authority, the transcript of the public hearing, together with all evidence introduced at the public hearing, shall be made a part of the administrative record of the permit action or Federal project. The initial action authority shall fully consider the matters discussed at the public hearing in arriving at his initial decision or recommendation and shall address, in his decision or recommendation, all substantial and valid issues presented at the hearing. Where a person other than the initial action authority serves as presiding officer, such person shall forward the transcript of the public hearing and all evidence received in connection therewith to the initial action authority together with a report summarizing the issues covered at the hearing. The report of the presiding officer and the transcript of the public hearing and evidence submitted thereat shall in such cases be fully considered by the initial action authority in his decision or recommendation to higher authority as to such permit action or Federal project.

§ 327.10 Authority of the presiding officer.

Presiding officers shall have the following authority:

(a) To regulate the course of the hearing including the order of all sessions and the scheduling thereof, after any initial session, and the recessing, reconvening, and adjournment thereof; and

(b) To take any other action necessary or appropriate to the discharge of the duties vested in them, consistent with the statutory or other authority under which the Chief of Engineers functions, and with the policies and directives of the Chief of Engineers and the Secretary of the Army.

§ 327.11 Public notice.

(a) Public notice shall be given of any public hearing to be held pursuant to this regulation. Such notice should normally provide for a period of not less than 30 days following the date of public notice during which time interested parties may prepare themselves for the hearing. Notice shall also be given to all Federal agencies affected by the proposed action, and to state and local agencies and other parties having an interest in the subject matter of the hearing. Notice shall be sent to all persons requesting a hearing and shall be posted in appropriate government buildings and published in newspapers of general circulation.

(b) The notice shall contain time, place, and nature of hearing; the legal authority and jurisdiction under which the hearing is held; and location of and availability of the draft environmental impact statement or environmental assessment.

PART 328 [RESERVED]

PART 329—DEFINITION OF NAVIGATION WATERS OF THE UNITED STATES

Sec.

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329.2 Applicability.
329.3 General policies.
329.4 General definitions.
329.5 General scope of determination.
329.6 Interstate or foreign commerce.
329.7 Intrastate or interstate nature of waterway.
329.8 Improved or natural conditions of the waterbody.
329.9 Time at which commerce exists or determination is made.
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329.11 Geographic and jurisdiction limits of rivers and lakes.
329.12 Geographic and jurisdictional limits of oceanic and tidal waters.
329.13 Georgraphic limits: Shifting boundaries.
329.14 Determination of navigability.
329.15 Inquiries regarding determinations.
329.16 Use and maintenance of lists of determinations.

Authority: 33 U.S.C. 401 et seq.

§ 329.1 Purpose.

This regulation defines the term "navigable waters of the United States" as it is used to define authorities of the Corps of Engineers. It also prescribes the policy, practice and procedure to be used in determining the extent of the jurisdiction of the Corps of Engineers and in answering inquiries concerning "navigible waters of the United States." This definition does not apply to authorities under the Clean Water Act which definitions are described under 33 CFR Part 323.

§ 329.2 Applicability.

This regulation is applicable to all Corps of Engineers districts and divisions having civil works responsibilities.

§ 329.3 General policies.

Precise definitions of "navigable waters of the United States"; or "navigability" are ultimately dependent on judicial interpretation, and cannot be made conclusively by administrative agencies. However, the policies and criteria contained in this regulation are in close conformance with the tests used by the Federal courts and determinations made under this regulation are considered binding in regard to the activities of the Corps of Engineers.

§ 329.4 General definition.

Navigable waters of the United States are those waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. A determination of navigability, once made, applies laterally over the entire surface of the waterbody, and is not extinguished by later actions or events which impede or destroy navigable capacity.

§ 329.5 General scope of determination.

The several factors which must be examined when making a determination whether a waterbody is a navigable water of the United States are discussed in detail below. Generally, the following conditions must be satisfied:

(a) Past, present, or potential presence of interstate or foreign commerce;

(b) Physical capabilities for use by commerce as in paragraph (a) of this section; and

(c) Defined geographic limits of the waterbody.

§ 329.6 Interstate or foreign commerce.

(a) *Nature of commerce: type, means, and extent of use.* The types of commercial use of a waterway are extremely varied and will depend on the character of the region, its products, and the difficulties or dangers of navigation. It is the waterbody's capability of use by the public for purposes of transportation of commerce which is the determinative factor, and not the time, extent or manner of that use. As discussed in § 329.9 of this Part, it is sufficient to establish the potential for commercial use at any past, present, or future time. Thus, sufficient commerce may be shown by historical use of canoes, bateaux, or other frontier craft, as long as that type of boat was common or well-suited to the place and period. Similarly, the particular items of commerce may vary widely, depending again on the region and period. The goods involved might be grain, furs, or other commerce of the time. Logs are a common example; transportation of logs has been a substantial and well-recognized commercial use of many navigable waters of the United States. Note, however, that the mere presence of floating logs will not of itself make the river "navigable"; the logs must have been related to a commercial venture. Similarly, the presence of recreational craft may indicate that a waterbody is capable of bearing some forms of commerce, either presently, in the future, or at a past point in time.

(b) *Nature of commerce: interstate and intrastate.* Interstate commerce may of course be existent on an intrastate voyage which occurs only between places within the same state. It is only necessary that goods may be brought from, or eventually be destined to go to, another state. (For purposes of this regulation, the term "interstate commerce" hereinafter includes "foreign commerce" as well.)

§ 329.7 Intrastate or interstate nature of waterway.

A waterbody may be entirely within a state, yet still be capable of carrying interstate commerce. This is especially clear when it physically connects with a generally acknowledged avenue of interstate commerce, such as the ocean or one of the Great Lakes, and is yet wholly within one state. Nor is it necessary that there be a physically navigable connection across a state boundary. Where a waterbody extends through one or more states, but substantial portions, which are capable of bearing interstate commerce, are located in only one of the states, the entirety of the waterway up to the head (upper limit) of navigation is subject to Federal jurisdiction.

§ 329.8 Improved or natural conditions of the waterbody.

Determinations are not limited to the natural or original condition of the waterbody. Navigability may also be found where artificial aids have been or may be used to make the waterbody suitable for use in navigation.

(a) *Existing improvements: artificial waterbodies.* (1) An artificial channel may often constitute a navigable water of the United States, even though it has been privately developed and maintained, or passes through private property. The test is generally as developed above, that is, whether the waterbody is capable of use to transport interstate commerce. Canals which connect two navigable waters of the United States and which are used for commerce clearly fall within the test, and themselves become navigable. A canal open to navigable waters of the United States on only one end is itself navigable where it in fact supports interstate commerce. A canal or other artificial waterbody that is subject to ebb and flow of the tide is also a navigable water of the United States.

(2) The artificial waterbody may be a major portion of a river or harbor area or merely a minor backwash, slip, or turning areas. (See § 329.12(b) of this Part.)

(3) Private ownership of the lands underlying the waterbody, or of the lands through which it runs, does not preclude a finding of navigability. Ownership does become a controlling factor if a privately constructed and operated canal is not used to tranport interstate commerce nor used by the public; it is then not considered to be a navigable water of the United States. However, a private waterbody, even though not itself navigable, may so affect the navigable capacity of nearby waters as to nevertheless be subject to certain regulatory authorities.

(b) *Non-existing imporvements, past or potential.* A waterbody may also be considered navigable depending on the feasibility of use to transport interstate commerce after the construction of whatever "reasonable" imporvements may potentially be made. The improvements need not exist, be planned, nor even authorized; it is enough that potentially they could be made. What is a "reasonable" improvement is always a matter of degree; there must be a balance between cost and need at a time when the improvement would be (or would have been) useful. Thus, if an improvement were "reasonable" at a time of past use, the water was therefore navigable in law from that time forward.

The changes in engineering practices or the coming of new industries with varying classes of freight may affect the type of the improvement; those which may be entirely reasonable in a thickly populated, highly developed industrial region may have been entirely too costly for the same region in the days of the pioneers. The determination of reasonable improvement is often similar to the cost analyses presently made in Corps of Engineers studies.

§ 329.9 Time at which commerce exists or determination is made.

(a) *Past use.* A waterbody which was navigable in its natural or improved state, or which was susceptible of reasonable improvement (as discussed in § 329.8(b) of this Part retains its character as "navigable in law" even though it is not presently used for commerce, or is presently incapable of such use because of changed conditions or the presence of obstructions. Nor does absence of use because of changed economic conditions affect the legal character of the waterbody. Once having attained the character of "navigable in law," the Federal authority remains in existence, and connot be abandoned by administrative officers or court action. Nor is mere inattention or ambiguous action by Congress an abandonment of Federal control. However, express statutory declarations by Congress that described portions of a waterbody are non-navigable, or have been abandoned, are binding upon the Department of the Army. Each statute must be carefully examined, since Congress often reserves the power to amend the Act, or assigns special duties of supervision and control to the Secretary of the Army or Chief of Engineers.

(b) *Future or potential use.* Navigability may also be found in a waterbody's susceptibility for use in its ordinary condition or by reasonable improvement to transport interstate commerce. This may be either in its natural or improved condition, and may thus be existent although there has been no actual use to date. Non-use in the past therefore does not prevent recognition of the potential for future use.

§ 329.10 Existence of obstructions.

A stream may be navigable despite the existence of falls, rapids, sand bars, bridges portages, shifting currents, or similar obstructions. Thus, a waterway in its original condition might have had substantial obstructions which were overcome by frontier boats and/or portages, and nevertheless be a "channel" or commerce, even though boats had to be removed from the water in some stretches, or logs be brought around an obstruction by means of artificial chutes. However, the question is ultimately a matter of degree, and it must be recognized that there is some point beyond which navigability could not be established.

§ 329.11 Geographic and jurisdictional limits of rivers and lakes.

(a) *Jurisdiction over entire bed.* Federal regulatory jurisdiction, and powers of improvement for navigation, extend laterally to the entire water surface and bed of a navigable waterbody, which includes all the land and waters below the ordinary high water mark.

(1) The "ordinary high water mark" on non-tidal rivers is the line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank; shelving; changes in the character of soil; destruction of terrestrial vegetation;' the presence of litter and debris; or other appropriate means that consider the characteristics of the surrounding areas.

(2) Ownership of a river or lake bed or of the lands between high and low water marks will vary according to state law; however, private ownership of the underlying lands has no bearing on the existence or extent of the dominant Federal jurisdiction over a navigable waterbody.

(b) *Upper limit of navigability.* The character of a river will, at some point along its length, change from navigable to non-navigable. Very often that point will be at a major fall or rapids, or other place where there is a marked decrease in the navigable capacity of the river. The upper limit will therefore often be the same point traditionally recognized as the head of navigation, but may, under some of the tests described above, be at some point yet farther upstream.

§ 329.12 Geographic and jurisdictional limits of oceanic and tidal waters.

(a) *Ocean and coastal waters.* The navigable waters of the United States over which Corps of Engineers regulatory jurisdiction extends include all ocean and coastal waters within a zone three geographic (nautical) miles seaward from the coast line. Wider zones of three leagues (nine nautical miles) are recognized off the coast of Texas and the Gulf coast of Florida and for other special regulatory powers such as those exercised over the outer continental shelf.

(1) *Coast line defined.* Generally, where the shore directly contacts the open sea, the line on the shore reached by the ordinary low tides comprises the coast line from which the distance of three geographic miles is measured. The line has significance for both domestic and international law (in which it is termed the "baseline"), and is subject to precise definitions. Special problems arise when offshore rocks, islands, or other bodies exist, and the line may have to be drawn to seaward of such bodies.

(2) *Shoreward limit of jurisdiction.* Regulatory jurisdiction in coastal areas extends to the line on the shore reached by the plane of the mean (average) high water. Where precise determination of the actual location of the line becomes necessary, it must be established by survey with reference to the available tidal datum, preferably averaged over a period of 18.6 years. Less precise methods, such as observation of the "apparent shoreline" which is determined by reference to physical markings, lines of vegetation, or changes in type of vegetation, may be used only where an estimate is needed of the line reached by the mean high water.

(b) *Bays and estuaries.* Regulatory jurisdiction extends to the entire surface and bed of all waterbodies subject to tidal action. Jurisdiction thus extends to the edge (as determined by paragraph (a)(2) of this section of all such waterbodies, even though portions of the waterbody may be extremely shallow, or obstructed by shoals, vegetation, or other barriers. Marshlands and similar areas are thus considered "navigable in law," but only so far as the area is subject to inundation by the mean high waters. The relevant test is therefore the presence of the mean high tidal waters, and not the general test described above, which generally applies to inland rivers and lakes.

§329.13 Geographic limits: Shifting boundaries.

Permanent changes of the shoreline configuration result in similar alterations of the boundaries of the navigable waters of the United States. Thus, gradual changes which are due to natural causes and are perceptible only over some period of time constitute changes in the bed of a waterbody which also change the shoreline boundaries of the navigable waters of the United States. However, an area will remain "navigable in law," even though no longer covered with water, whenever the change has occurred suddenly, or was caused by artificial forces intended to produce that change. For example, shifting sand bars within a river or estuary remain part of the navigable

water of the United States, regardless that they may be dry at a particular point in time.

§ 329.14 Determination of navigability.

(a) *Effect on determinations.* Although conclusive determinations of navigability can be made only by Federal Courts, those made by Federal agencies are nevertheless accorded substantial weight by the courts. It is therefore necessary that when jurisdictional questions arise, District personnel carefully investigate those waters which may be subject to Federal regulatory jurisdiction under guidelines set out above, as the resulting determination may have substantial impact upon a judicial body. Official determinations by an agency made in the past can be revised or reversed as necessary to reflect changed rules or interpretations of the law.

(b) *Procedures of determination.* A determination whether a waterbody is a navigable water of the United States will be made by the Division Engineer, and will be based on a report of findings prepared at the District level in accordance with the criteria set out in this regulation. Each report of findings will be prepared by the District Engineer, accompanied by an opinion of the District Counsel, and forwarded to the Division Engineer for final determination. Each report of findings will be based substantially on applicable portions of the format in paragraph (c) of this section.

(c) *Suggested format of report of findings.* (1) Name of waterbody:
(2) Tributary to:
(3) Physical characteristics:
(i) Type: (river, bay, slough, estuary, etc.)
(ii) Length:
(iii) Approximate discharge volumes: Maximum, Minimum, Mean.
(iv) Fall per mile:
(v) Extent of tidal influence:
(vi) Range between ordinary high and ordinary low water:
(vii) Description of improvements to navigation not listed in paragraph (c)(5) of this section:
(4) Nature and location of significant obstructions to navigation in portions of the waterbody used or potentially capable of use in interestate commerce:
(5) Authorized projects:
(i) Nature, condition and location of any improvements made under projects authorized by Congress:
(ii) Description of projects authorized but not constructed:
(iii) List of known survey documents or reports describing the waterbody:
(6) Past or present interstate commerce:
(i) General types, extent, and period in time:
(ii) Documentation if necessary:
(7) Potential use for interstate commerce, if applicable:
(i) If in natural condition:
(ii) If improved:
(8) Nature of jurisdiction known to have been exercised by Federal agencies if any:
(9) State or Federal court decisions relating to navigability of the waterbody, if any:
(10) Remarks:
(11) Finding of navigability (with date) and recommendation for determination:

§ 329.15 Inquiries regarding determinations.

(a) Findings and determinations should be made whenever a question arises regarding the navigability of a waterbody. Where no determination has been made, a report of findings will be prepared and forwarded to the Division Engineer, as described above. Inquiries may be answered by an interim reply which indicates that a final agency determination must be made by the Division Engineer. If a need develops for an emergency determination, District Engineers may act in reliance on a finding prepared as in § 329.14 of this part. The report of findings should then be forwarded to the Division Engineer on an expedited basis.

(b) Where determinations have been made by the Division Engineer, inquiries regarding the *navigability* of specific portions of waterbodies covered by these determinations may be answered as follows:

> This Department, in the administration of the laws enacted by Congress for the protection and preservation of the navigable waters of the United States, has determined that ———— (River) (Bay) (Lake, etc.) is a navigable water of the United States from ———— to ————. Actions which modify or otherwise affect those waters are subject to the jurisdiction of this Department, whether such actions occur within or outside the navigable areas.

(c) Specific inquiries regarding the *jurisdiction* of the Corps of Engineers can be answered only after a determination whether (1) the waters are navigable waters of the United States or (2) if not navigable, whether the proposed type of activity may nevertheless so affect the navigable waters of the United States that the assertion of regulatory jurisdiction is deemed necessary.

§ 329.16 Use and maintenance of lists of determinations.

(a) Tabulated lists of final determinations of navigability are to be maintained in each District office, and be updated as necessitated by court decisions, jurisdictional inquiries, or other changed conditions.

(b) It should be noted that the lists represent only those waterbodies for which determinations have been made; absence from that list should not be taken as an indication that the waterbody is not navigable.

(c) Deletions from the list are not authorized. If a change in status of a waterbody from navigable to non-navigable is deemed necessary, an updated finding should be forwarded to the Division Engineer; changes are not considered final until a determination has been made by the Division Engineer.

PART 330—NATIONWIDE PERMITS

Sec.
330.1 General.
330.2 Definitions.
330.3 Nationwide permits for activities occuring before certain dates.
330.4 Nationwide permits for discharges into certain waters.
330.5 Nationwide permits for specific activities.
330.6 Management practices.
330.7 Discretionary authority.
330.8 Expiration of nationwide permits.

Authority: 33 U.S.C. 403; 33 U.S.C. 1344.

§ 330.1 General.

The purpose of this regulation is to describe the Department of the Army's nationwide permit program and to list all current nationwide permits which have been issued by publication herein. The two types of general permits are referred to as "nationwide permits" and "regional permits." A nationwide permit is a form of general permit which authorizes a category of activities throughout the nation. The authority for general permits to be issued by district engineers on a regional basis is contained in 33 CFR Part 325. Copies of regional permits can be obtained from the appropriate district engineer. Nationwide permits are designed to allow the work to occur with little, if any, delay or paperwork. However, the nationwide permits are valid only if the conditions applicable to the nationwide permits are met. Just because a condition cannot be met does not necessarily mean the activity cannot be authorized but rather that the activity will have to be authorized by an individual or regional permit. Additionally, division engineers have the discretion, under situations and procedures described herein, to override the nationwide permit coverage and require an individual or regional permit. The nationwide permits are issued to satisfy the requirements of both Section 10 of the River and Harbor Act of 1899

and Section 404 of the Clean Water Act unless otherwise stated. These nationwide permits apply only to Department of the Army regulatory programs (other Federal agency, state and local authorizations may be required for the activity).

§ 330.2 Definitions.

(a) The definitions of 33 CFR Parts 321–329 are applicable to the terms used in this part.

(b) Discretionary authority means the authority delegated to division engineers in § 330.7 of this Part to override provisions of nationwide permits to add regional conditions or to require individual permit applications.

§ 330.3 Nationwide permits for activities occurring before certain dates.

The following activities are permitted by a nationwide permit which was issued on 19 July 1977 and need not be further permitted:

(a) Discharges of dredged or fill material in waters of the United States outside the limits of navigable waters of the United States that occurred before the phase-in dates which began July 25, 1975, and extended Section 404 jurisdiction to *all* waters of the United States. These phase-in dates are: after July 25, 1975, discharges into navigable waters of the United States and adjacent wetlands; after September 1, 1976, discharges into navigable waters of the United States and their primary tributaries, including adjacent wetlands, and into natural lakes, greater than 5 acres in surface area; and after July 1, 1977, discharges into all waters of the United States.

(b) Structures or work completed before 18 December 1968 or in waterbodies over which the District Engineer was not asserting jurisdiction at the time the activity occurred provided, in both instances, there is no interference with navigation.

§ 330.4 Nationwide permits for discharges into certain waters.

(a) *Authorized discharges.* Discharges of dredge or fill material into the following waters of the United States are hereby permitted provided the conditions listed in paragraph (b) of this section below are met:

(1) Non-tidal rivers, streams and their lakes and impoundments, including adjacent wetlands, that are located above the headwaters.[1]

(2) Other non-tidal waters of the United States (see 33 CFR 323.2(a)(3)) that are not part of a surface tributary system to interstate waters or navigable waters of the United States.[1]

(b) *Conditions.* The following special conditions must be followed in order for the nationwide permits identified in paragraph (a) of this section to be valid:

(1) That the discharge will not be located in the proximity of a public water supply intake;

(2) That the discharge will not destroy a threatened or endangered species as identified under the Endangered Species Act, or destroy or adversely modify the critical habitat of such species. In the case of Federal agencies, it is the agencies' responsibility to review its activities to determine if the action "may affect" any listed species or critical habitat. If so, the Federal agency must consult with the Fish and Wildlife Service and/or the National Marine Fisheries Service;

(3) That the discharge will consist of suitable material free from toxic pollutants in toxic amounts;

(4) That the fill created by the discharge will be properly maintained to prevent erosion and other non-point sources of pollution;

(5) That the discharge will not occur in a component of the National Wild and Scenic River System.

(6) That the best management practices listed in § 330.6 of this Part should be followed to the maximum extent practicable.

§ 330.5 Nationwide permits for specific activities.

(a) *Authorized activities.* The following activities are hereby permitted provided the conditions specified in this paragraph and listed in paragraph (b) of this section are met:

(1) The placement of aids to navigation and regulatory markers which are approved by and installed in accordance with the requirements of the U.S. Coast Guard (33 CFR Part 66, Subchapter C).

(2) Structures constructed in artificial canals within principally residential developments where the connection of the canal to a navigable water of the United States has been previously authorized (see 33 CFR 322.4(g)).

(3) The repair, rehabilitation, or replacement of any previously authorized, currently serviceable, structure or fill or of any currently serviceable structure or fill constructed prior to the requirement for authorization; provided such repair, rehabilitation, or replacement does not result in a deviation [2] from the plans of the original structure or fill, and further provided that the structure or fill to be maintained has not been put to uses differing from uses specified for it in any permit authorizing its original construction. Maintenance dredging is not authorized by this nationwide permit.

(4) Fish and wildlife harvesting devices and activities such as pound nets, crab traps, eel pots, lobster traps, duck blinds, clam and oyster digging.

(5) Staff gages, tide gages, water recording devices, water quality testing and improvement devices, and similar scientific structures.

(6) Survey activities including core sampling, seismic exploratory operations, and plugging of seismic shot holes and other exploratory-type bore holes.

(7) Outfall structures and associated intake structures [3] where the effluent from that outfall has been permitted under the National Pollutant Discharge Elimination System program (Section 402 of the Clean Water Act) (see 40 CFR Part 122) provided that the individual and cumulative adverse environmental effects of the structure itself are minimal.

(8) Structures for the exploration, production, and transport of oil, gas, and minerals on the outer continental shelf within areas leased for such purposes by the Department of Interior, Bureau of Land Management, provided those structures are not placed within the limits of any designated shipping safety fairway or traffic separation scheme (where such limits have not been designated or where changes are anticipated, District Engineers will consider recommending the discretionary authority provided by § 330.7 of this Part), and further subject to the provisions of the fairway regulations in 33 CFR 209.135.

(9) Structures placed within anchorage or fleeting areas to facilitate moorage of vessels where such areas have been established by the US Coast Guard.

(10) Non-commercial, single-boat, mooring buoys.

(11) Temporary buoys and markers placed for recreational use such as water skiing and boat racing provided that the buoy or marker is removed within 30 days after its use has been

[1] The State of Wisconsin has denied water quality certification pursuant to Section 401 of the Clean Water Act for certain waters within these two Nationwide Permit Categories. Discharges of dredged or fill material into those specified waters are not authorized under these two nationwide permits. A list of the specific waters may be obtained from the St. Paul District Engineer, 1135 U.S. Post Office & Customhouse, St. Paul, MN 55101.

[2] Minor deviations due to changes in materials or construction techniques and which are necessary to make repair, rehabilitation, or replacement are permitted.

[3] Intake structures per se are not included—only those directly associated with an outfall structure are covered by this nationwide permit.

discontinued. At Corps of Engineers reservoirs, the reservoir manager must approve each buoy or marker individually.

(12) Discharge of material for backfill or bedding for utility lines including outfall and intake structures provided there is no change in preconstruction bottom contours (excess material must be removed to an upland disposal area). A "utility line" is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquifiable, or slurry substance, for any purpose, and any cable, line, or wire for the transmission for any purpose of electrical energy, telephone and telegraph messages, and radio and television communication. (The utility line and outfall and intake structures will require a Section 10 permit if in navigable waters of the United States. See 33 CFR Part 322. See also paragraph (a)(7) of this section.)

(13) Bank stabilization activities provided:

(i) The bank stabilization activity is less than 500 feet in length;

(ii) The activity is necessary for erosion prevention;

(iii) The activity is limited to less than an average of one cubic yard per running foot placed along the bank within waters of the United States;

(iv) No material is placed in excess of the minimum needed for erosion protection;

(v) No material is placed in any wetland area;

(vi) No material is placed in any location or in any manner so as to impair surface water flow into or out of any wetland area;

(vii) Only clean material free of waste metal products, organic materials, unsightly debris, etc. is used; and

(viii) The activity is a single and complete project.

(14) Minor road crossing fills including all attendant features both temporary and permanent that are part of a single and complete project for crossing of a non-tidal waterbody, provided that the crossing is culverted, bridged or otherwise designed to prevent the restriction of and to withstand expected high flows [4] and provided further that discharges into any wetlands adjacent to the waterbody do not extend beyond 100 feet on either side of the ordinary high water mark of that waterbody. A "minor road crossing fill" is defined as a crossing that involves the discharge of less than 200 cubic yards of fill material below the plane of ordinary high water. The crossing will require a permit from the US Coast Guard if located in navigable waters of the United States (see 33 U.S.C. 301). Some road fills may be eligible for an exemption from the need for a Section 404 permit altogether (see 33 CFR 323.4).

(15) Fill placed incidental to the construction of bridges across navigable waters of the United States including cofferdams, abutments, foundation seals, piers, and temporary construction and access fills provided such fill has been authorized by the US Coast Guard under Section 9 of the River and Harbor Act of 1899 as part of the bridge permit. Causeways and approach fills are not included in this nationwide permit and will require an individual or regional Section 404 permit.

(16) Return water [5] from a contained dredged material disposal area provided the State has issued a certification under Section 401 of the Clean Water Act (see 33 CFR 325.2(b)(1)). The dredging itself requires a Section 10 permit if located in navigable waters of the United States.

(17) Fills associated with small hydropower projects at existing reservoirs where the project which includes the fill is licensed by the Department of Energy under the Federal Power Act of 1920, as amended; has a total generating capacity of not more than 1500 kw (2,000 horsepower); qualifies for the short-form licensing procedures of the Department of Energy (see 18 CFR 4.61); and the individual and cumulative adverse effects on the environment are minimal.

(18) Discharges of dredged or fill material into waters of the United States that do not exceed ten cubic yards as part of a single and complete project provided no material is placed in wetlands [6] [7].

(19) Dredging of no more than ten cubic yards from navigable waters of the United States as part of a single and complete project.[6]

(20) Structures, work and discharges for the containment and cleanup of oil and hazardous substances which are subject to the National Oil and Hazardous Substances Pollution Contingency Plan provided the Regional Response Team which is activated under the Plan concurs with the proposed containment and cleanup action.

(21) Structures, work, and discharges associated with surface coal mining activities provided they are authorized by the Department of the Interior, Office of Surface Mining, or by states with approved programs under Title V of the Surface Mining Control and Reclamation Act of 1977; the appropriate district engineer is given the opportunity to review the Title V permit application and all relevant Office of Surface Mining or state (as the case may be) documentation prior to any decision on that application; and the district engineer makes a determination that the individual and cumulative adverse effects on the environment from such structures, work, or discharges are minimal.

(22) Minor work or temporary structures required for the removal of wrecked, abandoned, or disabled vessels or the removal of obstructions to navigation.

(23) Activities, work, and discharges undertaken, assisted, authorized, regulated, funded, or financed, in whole or in part, by another Federal agency or department where that agency or department has determined, pursuant to the CEQ Regulation for Implementing the Procedural Provisions of the National Environmental Policy Act (40 CFR Part 1500 et seq.), that the activity, work, or discharge is categorically excluded from environmental documentation because it is included within a category of actions which neither individually nor cumulatively have a significant effect on the human environment and the Office of the Chief of Engineers (ATTN: DAEN–CWO–N) has been furnished notice of the agency or department's application for the categorical exclusion and concurs with that determination.[7]

(24) Any activity permitted by a state administering its own permit program for the discharge of dredged or fill material authorized at 33 U.S.C. 1344(g)–(1) shall be permitted pursuant to Section 10 of the River and Harbor Act of 1899 (33 U.S.C. Part 403). Those activities which do not involve a Section 404 state permit are not included in this nationwide permit but many will be exempted by Sec. 154 of Pub. L. 94–587. (See 33 CFR 322.2(a)(2)).

(25) Discharge of concrete into tightly

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[4] District Engineers are authorized, where regional conditions indicate the need, to define the term "expected high flows" for the purpose of establishing applicability of this nationwide permit.

[5] The return water or runoff from a contained disposal area is administratively defined as a discharge of dredged material by 33 CFR 323.2(j) even though the disposal itself occurs on the upland and thus does not require a Section 404 permit. This nationwide permit satisfies the technical requirement for a Section 404 for the return water where the quality of the return water is controlled by the state through the Section 401 certification procedures.

[6] These nationwide permits are designed for very minor dredge and fill activities such as the removal of a small shoal in a boat slip; they cannot be used for piecemeal dredge and fill activities.

[7] The State of Wisconsin has denied water quality certifications pursuant to Section 401 of the Clean Water Act for these two nationwide permits. Consequently, the permits do not apply in Wisconsin.

sealed forms or cells where the concrete is used as a structural member which would not otherwise be subject to Clean Water Act jurisdiction.

(b) *Conditions.* The following special conditions must be followed in order for the nationwide permits identified in paragraph (a) of this section to be valid:

(1) That any discharge of dredged or fill material will not occur in the proximity of a public water supply intake;

(2) That any discharge of dredged or fill material will not occur in areas of concentrated shellfish production unless the discharge is directly related to a shellfish harvesting activity authorized by paragraph (a)(4) of this section.

(3) That the activity will not jeopardize a threatened or endangered species as identified under the Endangered Species Act, or destroy or adversely modify the critical habitat of such species. In the case of Federal agencies, it is the agencies' responsibility to review its activities to determine if the action "may affect" any listed species or critical habitat. If so, the Federal agency must consult with the Fish and Wildlife Service and/or National Marine Fisheries Service;

(4) That the activity will not significantly disrupt the movement of those species of aquatic life indigenous to the waterbody (unless the primary purpose of the fill is to impound water);

(5) That any discharge of dredged or fill material will consist of suitable material free from toxic pollutants (See Section 307 of Clean Water Act) in toxic amounts;

(6) That any structure or fill authorized will be properly maintained;

(7) That the activity will not occur in a component of the National Wild and Scenic River System; and

(8) That the activity will not cause an unacceptable interference with navigation.

(9) That the best management practices listed in § 330.6 of this Part should be followed to the maximum extent practicable.

§ 330.6 Management practices.

(a) In addition to the conditions specified in §§ 330.4 and 330.5 of this Part, the following management practices should be followed, to the maximum extent practicable, in the discharge of dredged or fill material under nationwide permits in order to minimize the adverse effects of these discharges on the aquatic environment. Failure to comply with these practices may be cause for the district engineer to recommend or the division engineer to take discretionary authority to regulate the activity on an individual or regional basis pursuant to § 330.7 of this Part.

(1) Discharges of dredged or fill material into waters of the United States shall be avoided or minimized through the use of other practical alternatives.

(2) Discharges in spawning areas during spawning seasons shall be avoided.

(3) Discharges shall not restrict or impede the movement of aquatic species indigenous to the waters or the passage of normal or expected high flows or cause the relocation of the water (unless the primary purpose of the fill is to impound waters).

(4) If the discharge creates an impoundment of water, adverse impacts on the aquatic system caused by the accelerated passage of water and/or the restriction of its flow, shall be minimized.

(5) Discharge in wetlands areas shall be avoided.

(6) Heavy equipment working in wetlands shall be placed on mats.

(7) Discharges into breeding areas for migratory waterfowl shall be avoided.

(8) All temporary fills shall be removed in their entirety.

§ 330.7 Discretionary Authority.

Division engineers on their own initiative or upon recommendation of a district engineer are authorized to modify nationwide permits by adding regional conditions or to override nationwide permits by requiring individual permit applications on a case-by-case basis. Discretionary authority will be based on concerns for the aquatic environment as expressed in the guidelines published by EPA pursuant to § 404(b)(1). (40 CFR Part 230)

(a) *Regional conditions.* Division engineers are authorized to modify nationwide permits by adding conditions applicable to certain activities or specific geographic areas within their divisions. In developing regional conditions, division and district engineers will follow standard permit processing procedures as prescribed in 33 CFR Part 325 applying the evaluation criteria of 33 CFR Part 320 and appropriate parts of 33 CFR Parts 321, 322, 323, and 324. A copy of the Statement of Findings will be forwarded to the Office of the Chief of Engineers, ATTN: DAEN–CWO–N. Division and district engineers will take appropriate measures to inform the public at large of the additional conditions.

(b) *Individual permits.* In nationwide permit cases where additional regional conditioning may not be sufficient or where there is not sufficient time to develop regional conditions under paragraph (a) of this section, the division engineer may require individual permit applications on a case-by-case basis. Where time is of the essence, the district engineer may telephonically recommend that the division engineer assert discretionary authority to require an individual permit application for a specific activity. If the division engineer concurs, he may verbally authorize the district engineer to implement that authority. Both actions will be followed by written confirmation with copy to the Chief of Engineers (DAEN–CWO–N). Additionally, after notice and opportunity for public hearing, division engineers may recommend to the Chief of Engineers that individual permit applications be required for categories of activities, or in a specific geographic area. The division engineer will announce the decision to persons affected by the action. The district engineer will then regulate the activity or activities by processing an application(s) for individual permit(s) pursuant to 33 CFR Part 325.

(c) Discretionary authority which has been exercised under nationwide permits issued on 19 July 1977 expires four months from the effective date of this regulation. Such authority may be extended or reinstated after appropriate procedures of this regulation and 33 CFR Parts 320 through 325 have been followed.

§ 330.8 Expiration of nationwide permits.

The Chief of Engineers will review nationwide permits at least every five years. Based on this review, which will include public notice and opportunity for public hearing through publication in the **Federal Register**, he will either modify, reissue (extend) or revoke the permits. If a nationwide permit is not modified or reissued within five years of publication in the **Federal Register**, it automatically expires and becomes null and void.

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federal register

Thursday
July 22, 1982

Part III

Office of Management and Budget

Budget Rescissions and Deferrals

OFFICE OF MANAGEMENT AND BUDGET

Budget Rescissions and Deferrals

TO THE CONGRESS OF THE UNITED STATES:

In accordance with the Impoundment Control Act of 1974, I herewith report two new proposals to rescind $63.6 million in budget authority previously provided to the Congress and one revision to an existing deferral increasing the amount deferred by $61.1 million.

The rescissions include $47.4 million previously deferred for the employment and training assistance program administered by the Department of Labor, and $16.2 million for the exploration of national petroleum reserve in Alaska account in the Department of the Interior. The deferral affects the facilities and equipment account (Airport and Airway Trust Fund) in the Department of Transportation.

The details of the rescission proposals and revised deferral are contained in the attached reports.

Ronald Reagan

THE WHITE HOUSE,
July 16, 1982.

BILLING CODE 3110-01-M

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Rescission Proposal No: D82-28

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Rescission #	Item	Budget Authority
	Department of the Interior	
	Geological Survey	
R82-28	Exploration of national petroleum reserve in Alaska.....	16,200
	Department of Labor	
	Employment and Training Administration	
R82-29	Employment and training assistance	47,429
	Subtotal, rescission proposals.	63,629

Deferral #	Item	Budget Authority
	Department of Transportation	
	Federal Aviation Administration	
D82-21B	Facilities and equipment (airport and airway trust fund).....	411,634
	Subtotal, deferral.....	411,634
	Total, rescission proposals and deferral.....	475,263

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SUMMARY OF SPECIAL MESSAGES
FOR FY 1982
(in thousands of dollars)

	Rescissions	Deferrals
Fifteenth special message		
New items.....	63,629	---
Change to amount previously submitted.....	---	61,121
Effect of fifteenth special message.....	63,629	61,121
Previous special messages.....	7,584,998	8,138,904
Total amount proposed in special messages.....	7,648,627	8,200,025 1/

1/ This amount represents budget authority except for $20,922 thousand in one general revenue sharing deferral of outlays only (D82-23A).

Rescission Proposal No: R82-28

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of the Interior
Bureau: Geological Survey
Appropriation title & symbol:
Exploration of National Petroleum Reserve in Alaska
14X0805

OMB identification code:
14-0805-0-1-271

Grant program: ☐ Yes ☒ No

Type of account or fund:
☐ Annual
☐ Multiple-year _____ (expiration date)
☒ No-year

New budget authority (P.L. 97-100) $ 2,196,000
Other budgetary resources 37,861,797
Total budgetary resources 40,057,797

Amount proposed for rescission $ 16,200,000

Legal authority (in addition to sec. 1012):
☐ Antideficiency Act
☐ Other _____

Type of budget authority:
☒ Appropriation
☐ Contract authority
☐ Other _____

Justification: The Geological Survey conducted a program to explore the oil and gas potential of the National Petroleum Reserve in Alaska. The exploration program ended in 1981, and close-out operations are in progress. The funds proposed for rescission are in excess of those required to complete close-out operations in the Reserve.

Estimated Effects: This proposed rescission will have no programmatic or budgetary effects.

Outlay Effects:

(in millions of dollars)

1982 Outlay Estimate Without Rescission	1982 Outlay Estimate With Rescission	Outlays Savings 1982	1983	1984	1985
75.0	75.0	---	---	---	---

Rescission Proposal No: D82-28

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency Department of Labor	New budget authority (P.L. 97-161) $3,023,201,280*
Bureau Employment and Training Administration	Other budgetary resources 848,863,309
Appropriation title & symbol: Employment and Training Assistance 1/ 161/20174 1620174	Total budgetary resources 3,872,064,589*
	Amount proposed for rescission $ 47,429,309
OMB identification code: 16-0174-0-1-504	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program ☒ Yes ☐ No	
Type of account or fund: ☒ Annual ☒ Multiple-year September 30, 1982 (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification:* This appropriation provides for a system of Federal, State, and local programs of training and other services for economically disadvantaged unemployed and underemployed persons intended to lead to permanent gains in employment and increased self-sufficiency. The amount proposed for rescission represents the balance of $88,543,309 in unanticipated, unobligated balances and unanticipated recoveries of prior year obligations previously deferred and that are not proposed for transfer to other Department of Labor agencies to meet operational needs or defray the cost of the October civilian pay increase. These balances were unanticipated, no plans to their use had been developed at the time 1982 program levels were determined, and no compelling program or operational need has developed in this account to justify increasing 1982 and 1983 outlays by utilizing these balances.

Estimated Effects: No programmatic or budgetary effects are anticipated due to this rescission, since program levels were not based on utilization of these resources.

Outlay Effects:

(in millions of dollars)

1982 Outlay Estimate		Outlays Savings			
Without Rescission	With Rescission	1982	1983	1984	1985
4,110.4	4,110.4	---	---	---	---

* Revised from previous report.
1/ This account is the subject of four deferrals in FY 1982 (D82-18, D82-194, D82-229, and D82-229A).

D82-28

Exploration of National Petroleum Reserve in Alaska

Of the unobligated balances for "Exploration of National Petroleum Reserve in Alaska", $16,200,000 are rescinded.

D82-29

DEPARTMENT OF LABOR

Employment and Training Administration

Employment and Training Assistance

Of the amounts available for obligation in fiscal year 1982 for "Employment and training assistance", $47,429,309 are rescinded.

D82-21B

Supplementary Report

Report Pursuant to Section 1014(c) of P.L. 93-344

This report revises Deferral No. 82-21A, transmitted to the Congress on January 22, 1982.

This revision reflects a change in the amount deferred from $350,513,011 to $411,633,611. The major portion of this deferral increase is due to an unavoidable delay in awarding a $45 million contract for terminal radars. This deferral action is consistent with the Congressional intent to provide multi-year funding for the total costs of these projects and is taken under provisions of the Antideficiency Act (31 U.S.C. 655) which authorizes the establishment of reserves for contingencies.

Deferral No: D82-21B

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Transportation	New budget authority (P.L. 97-102) $260,847,000
Bureau: Federal Aviation Administration	Other budgetary resources 378,266,011*
Appropriation title & symbol: Facilities and Equipment (Airport and Airway Trust Fund), FAA 1/ 69X8107 690/48107 698/28107 691/58107 699/38107 692/68107	Total budgetary resources $639,113,011*
	Amount to be deferred: Part of year $ -0- Entire year 411,633,611*
OMB identification code: 69-8107-0-7-402	Legal authority (in addition to sec. 1013): [x] Antideficiency Act [ ] Other
Grant program: [ ] Yes [x] No	
Type of account or fund: [ ] Annual [x] Multiple-year (expiration date) [x] No-year	2/ 698/28107 Sept. 30, 1982 699/38107 Sept. 30, 1983 690/48107 Sept. 30, 1984 691/58107 Sept. 30, 1985 692/68107 Sept. 30, 1986
Type of budget authority: [x] Appropriation [ ] Contract authority [ ] Other	

Justification: Funds from this account are used to procure specific Congressionally approved facilities and equipment for the expansion and modernization of the National Airspace System. Projects financed from this account include construction of buildings and purchase of new equipment for new or improved air traffic control towers, automation of the en route airway control system and expansion and improvement in the navigational and landing aid systems. These funds were appropriated in the Department of Transportation and Related Agencies Appropriation Acts of 1982 and prior years. The estimated total cost for each project is included in the budget submission and appropriation for the year in which it is requested. Because of the lengthy procurement and construction time for interrelated new facilities and complex equipment systems, it is not possible to obligate all funds necessary to complete each project in the year funds are appropriated. Therefore, it is necessary to apportion funds so that sufficient resources will be available in future periods to complete these projects. This deferral action is consistent with the Congressional intent to provide multi-year funding for the total costs of these projects and is taken under provisions of the Antideficiency Act (31 U.S.C. 655) which authorizes the establishment of reserves for contingencies.

1/ This account was the subject of a similar deferral in FY 1981 (D81-17B).

2/ None of these funds are deferred.

Estimated Effects: This deferral action is consistent with normal operation for this program. The amount deferred could not be economically used if made available in FY 1982 because of the planned multi-year procurement, construction, and installation cycle.

Outlay Effect: This deferral action has no outlay effect in FY 1982 since the funds could not be used if made available.

* Revised from previous report

[FR Doc. 82-19861 Filed 7-21-82; 8:45 am]
BILLING CODE 3110-01-C

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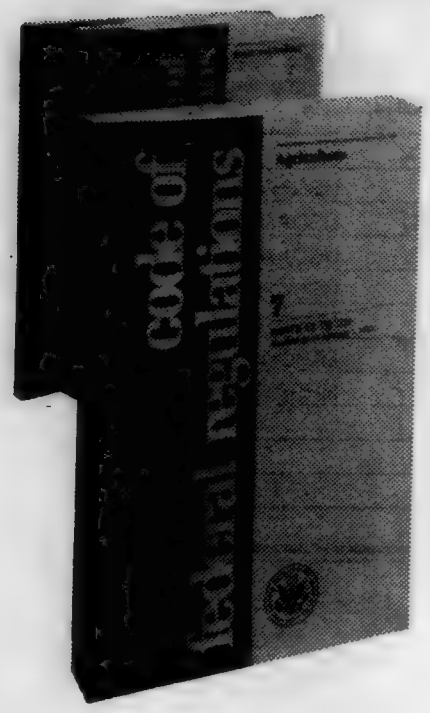

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Federal Register
Vol. 47, No. 142
Friday, July 23, 1982

Presidential Documents

Title 3—

The President

Memorandum of July 21, 1982

Memorandum for the United States Trade Representative

Determination Under Section 301 of the Trade Act of 1974

Pursuant to Section 301(a)(2) of the Trade Act of 1974 (19 U.S.C. 2411(a)(2)), I have determined that the action described below is an appropriate and feasible response to subsidy practices of the European Economic Community (EEC) with respect to pasta exports which are inconsistent with the Agreement on the Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade (Subsidies Code). With a view towards eliminating or reducing the harmful effects of the EEC subsidies on pasta exports, I am directing the United States Trade Representative (USTR) to pursue diligently and complete expeditiously the dispute settlement procedures already initiated under the Subsidies Code.

Statement of Reasons

The Office of the United States Trade Representative initiated an investigation under Section 301 on November 30, 1981 (46 FR 59675) on the basis of a petition filed by the National Pasta Association. The petitioner's principal allegation, that the EEC has violated Article 9 of the Subsidies Code which prohibits the grant of a subsidy upon the export of a non-primary product, is well founded. Pasta is a non-primary product the manufacture of which requires complex, multi-staged processing. Furthermore, Italian exports of pasta to the U.S., which are subsidized by the EEC, have been growing at a substantial rate over the last few years. In 1981, Italian pasta imports containing no egg or egg products accounted for 42.3 percent of total U.S. pasta imports.

In an effort to resolve this problem, the U.S. requested consultations with the EEC on several occasions beginning on December 2, 1981. However, the EEC refused to consult. Therefore, the U.S., on March 1, 1982 referred this matter to the Subsidies Code Committee for conciliation. Several conciliation meetings were held in March and April, but no mutually acceptable solution was reached. Therefore, on April 7, the Subsidies Code Committee authorized the establishment of a dispute settlement panel to review the U.S. complaint. This panel began its work on July 12.

We are disappointed that the entire dispute settlement process was not concluded in the minimum time set forth in the Subsidies Code, and that consultations, which might have contributed to a more expeditious resolution, were not held. Nevertheless, the dispute settlement is now proceeding in a timely manner and we believe that U.S. interests would be best served by following that process to its conclusion. It is our hope that the panel will act expeditiously on this matter.

This determination shall be published in the **Federal Register**.

Ronald Reagan

THE WHITE HOUSE,
Washington, July 21, 1982.

[FR Doc. 82-20124
Filed 7-21-82; 4:53 pm]
Billing code 3195-01-M

Presidential Documents

Executive Order 12373 of July 21, 1982

Establishing an Emergency Board To Investigate a Dispute Between The United Transportation Union and Certain Railroads Represented by the National Carriers' Conference Committee of the National Railway Labor Conference

A dispute exists between the United Transportation Union and certain railroads represented by the National Carriers' Conference Committee of the National Railway Labor Conference designated on the list attached hereto and made a part hereof.

This dispute has not heretofore been adjusted under the provisions of the Railway Labor Act, as amended; and

This dispute, in the judgment of the National Mediation Board, threatens substantially to interrupt interstate commerce to a degree such as to deprive a section of the country of essential transportation service:

NOW, THEREFORE, by the authority vested in me by Section 10 of the Railway Labor Act, as amended (45 U.S.C. § 160), it is hereby ordered as follows:

1-101. *Establishment of Board.* There is established, effective immediately, a board of three members to be appointed by the President to investigate this dispute. No member of the board shall be pecuniarily or otherwise interested in any organization of railroad employees or any carrier.

1-102. *Report.* The board shall report its finding to the President with respect to the dispute within 30 days from the date of its establishment.

1-103. *Maintaining Conditions.* As provided by Section 10 of the Railway Labor Act, as amended, from the date of the creation of the Emergency Board and for 30 days after the board has made its report to the President, no change, except by agreement, shall be made by the carriers or by their employees, in the conditions out of which the dispute arose.

Ronald Reagan

THE WHITE HOUSE,
July 21, 1982.

RAILROADS

Akron & Barberton Belt Railroad Company
Akron, Canton and Youngstown Railroad Company
Alameda Belt Line
Alton & Southern Railway Company
Atchison, Topeka and Santa Fe Railway Company
Atlanta & Saint Andrews Bay Railway Company
Belt Railway Company of Chicago
Bessemer and Lake Erie Railroad Company
Birmingham Southern Railroad Company
Boston and Maine Corporation
Brooklyn Eastern District Terminal
Burlington Northern Railroad Company
Butte, Anaconda & Pacific Railway Company
Camas Prairie Railroad Company
Canadian National Railways—
  Great Lakes Region, Lines in the United States
  St. Lawrence Region, Lines in the United States
Canadian Pacific Limited
Central of Georgia Railroad Company
Central Vermont Railway, Inc.
The Chessie System:
  Baltimore and Ohio Railroad Company
  Baltimore and Ohio Chicago Terminal Railroad Company
  Chesapeake and Ohio Railway Company
  Chicago South Shore and South Bend Railroad
  Staten Island Railroad Corporation
  Western Maryland Railway Company
Chicago & Illinois Midland Railway Company
Chicago and North Western Transportation Company
Chicago and Western Indiana Railroad Company
Chicago, Milwaukee, St. Paul & Pacific Railroad, Lines East
Chicago Union Station Company
Chicago, West Pullman & Southern Railroad Company
Colorado and Southern Railway Company
Columbia & Cowlitz Railway Company
Davenport, Rock Island and North Western Railway Company
Denver and Rio Grande Western Railroad Company
Des Moines Union Railway Company
Detroit and Mackinac Railway Company
Detroit & Toledo Shore Line Railroad Company
Detroit, Toledo and Ironton Railroad Company
Duluth, Missabe and Iron Range Railway Company
Duluth, Winnipeg & Pacific Railway Company
Elgin, Joliet and Eastern Railway Company
The Family Lines:
  Seaboard Coast Line Railroad Company
  Gainesville Midland Railroad Company
  Louisville and Nashville Railroad Company
  Clinchfield Railroad Company
  Georgia Railroad
  Atlanta and West Point Railroad Company
    The Western Railway of Alabama
  Atlanta Joint Terminals
Fort Worth and Denver Railway Company
Galveston, Houston and Henderson Railroad Company
Grand Trunk Western Railroad Company
Houston Belt and Terminal Railway Company
Illinois Central Gulf Railroad
Illinois Terminal Railroad Company
Indiana Harbor Belt Railroad Company
Joint Texas Division of the CRI&P–FW&D Railway Company
Kansas City Southern Railway Company
Kansas City Terminal Railway Company
Kentucky & Indiana Terminal Railroad Company
Lake Erie, Franklin & Clarion Railroad Company
Lake Superior & Ishpeming Railroad Company
Lake Superior Terminal & Transfer Railway Company
Lake Terminal Railroad Company
Longview, Portland & Northern Railway Company
Los Angeles Junction Railway Company
Louisiana & Arkansas Railway Company
Maine Central Railroad Company
  Portland Terminal Company

Manufacturers Railway Company
McKeesport Connecting Railroad Company
Meridian & Bigbee Railroad
Minneapolis, Northfield and Southern Railway, Inc.
Minnesota, Dakota & Western Railway Company
Minnesota Transfer Railway Company
Mississippi Export Railroad Company
Missouri-Kansas-Texas Railroad Company
  Oklahoma, Kansas and Texas Railroad Company
Missouri Pacific Railroad Company
Monogahela Railway Company
Montour Railroad Company
Newburgh and South Shore Railway Company
New Orleans Public Belt Railroad
New York Dock Railway
Norfolk and Portsmouth Belt Line Railroad Company
Norfolk and Western Railway Company
Northwestern Pacific Railroad Company
Oakland Terminal Railway
Ogden Union Railway and Depot Company
Peoria and Pekin Union Railway Company
Pittsburg & Shawmut Railroad Company
Pittsburgh and Lake Erie Railroad
Pittsburgh, Chartiers & Youghiogheny Railway Company
Portland Terminal Railroad Company
Port Terminal Railroad Association
Richmond, Fredericksburg and Potomac Railroad Company
Sacramento Northern Railway
St. Louis Southwestern Railway Company
Soo Line Railroad Company
Southern Pacific Transportation Company—
  Western Lines
  Eastern Lines
Southern Railroad Company
  Alabama Great Southern Railway Company
  Cincinnati, New Orleans and Texas Pacific Railway Company
  Georgia Southern and Florida Railway Company
  New Orleans Terminal Company
  St. Johns River Terminal Company
  East St. Louis Terminal Company
Spokane International Railroad Company
Terminal Railroad Association of St. Louis
Texas Mexican Railway Company
Toledo, Peoria & Western Railroad Company
Toledo Terminal Railroad Company
Union Pacific Railroad Company
Walla Walla Valley Railway Company
Waterloo Railroad Company
Western Pacific Railroad Company
Wichita Terminal Association
Yakima Valley Transportation Company
Youngstown & Southern Railway Company

[FR Doc. 82-20165
Filed 7-22-82; 10:48 am]
Billing code 3195-01-M

Editorial Note: The President's announcements of July 21, 1982, on creating an emergency board to investigate a railway labor dispute and appointing the membership of the board are printed in the *Weekly Compliation of Presidential Documents* (vol. 18, no. 29).

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Rules and Regulations

Federal Register
Vol. 47, No. 142
Friday, July 23, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

1 CFR Part 3

Subscription Rates

AGENCY: Administrative Committee of the Federal Register (ACFR).

ACTION: Final rule.

SUMMARY: The Administrative Committee of the Federal Register raises the annual subscription rates for four publications in order to recover the production and distribution costs to the Government for sales copies. In addition to the paper edition of the **Federal Register**, the Committee authorizes a daily microfiche edition which will be offered at a lower rate.

EFFECTIVE DATE: August 23, 1982. The microfiche edition of the **Federal Register** will be available at the price stated beginning October 1, 1982.

FOR FURTHER INFORMATION CONTACT: Denise Normandin at (202) 523–5240.

SUPPLEMENTARY INFORMATION: The Administrative Committee of the Federal Register establishes prices for **Federal Register** publications and the manner and form in which the **Federal Register** shall be printed (44 U.S.C. 1506). At a recent meeting, the Committee decided to raise the subscription rates for four publications in accordance with a policy of recovering full printing and distribution costs for sales copies. The Committee sets the price of an annual subscription to the Code of Federal Regulations at $615, the price of a separate annual subscription to the **Federal Register** Index at $21, and the price of a separate annual subscription to the List of CFR Sections Affected at $20. The annual subscription rate for the Weekly Compilation of Presidential Documents is increased to $55, and $1.50 for a single issue, in accordance with a plan adopted by the ACFR a year ago to move the Weekly Compilation toward full cost recovery in incremental phases. The Committee also authorizes a daily microfiche edition of the **Federal Register** to be made available by the Government Printing Office in addition to the paper edition. The microfiche edition is to be made available beginning October 1, 1982, at $175 per year and $1.50 for a single issue. The Committee agreed that some copies of the microfiche edition are to be available on the morning of publication, and the subscription mailing is to be completed by noon of the following day. The Committee expects to issue in the future an amendment to its regulations which would set exact deadlines for distributing the microfiche edition.

The definition of major rule under E.O. 12291 and the definition of rule under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply to the rate increases on subscription prices because they merely recover costs to the Government of printing and distributing these publications. Nor do these definitions apply to the authorization of a microfiche edition of the **Federal Register** since the microfiche edition will provide an alternative at a lower cost to the users of the **Federal Register**. Furthermore, since a notice of proposed rulemaking is not necessary in order to take these actions, the Regulatory Flexibility Act also does not apply for that reason.

List of Subjects in 1 CFR Part 3

Federal Register publications, Subscription rates.

PART 3—SERVICES TO THE PUBLIC

For the reasons set out in the preamble and under the authority given the Administrative Committee of the Federal Register by 44 U.S.C. 1506, Part 3 of Chapter I of Title 1 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 3 reads as follows:

Authority: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR 1954–1958 Comp., p. 189.

2. § 3.4 is amended by revising paragraphs (b)(3), (4), and (7) to read as follows:

§ 3.4 Subscriptions and availability of "Federal Register" publications.

* * * * *

(b) * * *

(3) **Federal Register.** The daily issues of the **Federal Register** will be furnished by mail to subscribers for $300 per year or $150 for six months for the paper edition, or for $175 per year for the microfiche edition. Subscription fees are payable in advance to the Superintendent of Documents, Government Printing Office. Limited quantities of current or recent paper and microfiche copies may be obtained from the Superintendent of Documents, Government Printing Office, for $1.50 per copy.

(4) *Code of Federal Regulations.* A complete bound set of the Code of Federal Regulations will be furnished by mail to subscribers for $615 per year payable in advance to the Superintendent of Documents. Individual copies of the code volumes are sold by the Superintendent of Documents at prices determined by the Superintendent under the general direction of the Administrative Committee.

* * * * *

(7) *Weekly Compilation of Presidential Documents*—(i) *Non-priority mailing.* Issues will be furnished by mail to subscribers for $55 per year payable in advance to the Superintendent of Documents, Government Printing Office.

(ii) *First-class mailing.* Issues will be furnished to subscribers by first-class mail for $96 per year payable in advance to the Superintendent of Documents, Government Printing Office. Individual issues may be obtained for $1.50 per copy from the Superintendent of Documents, Government Printing Office.

Robert M. Warner,
Chairman.
Danford L. Sawyer, Jr.,
Member.
Stephen J. Wilkinson,
Member.

Approved:
William French Smith,
Attorney General.
Gerald P. Carmen,
Administrator of General Services.

[FR Doc. 82-19825 Filed 7-22-82; 8:45 am]
BILLING CODE 1505-02-M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 245

Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools; Revised Application Procedures

AGENCY: Food and Nutrition Service, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: On May 25, 1982, the Department published a proposed rule concerning revised application procedures in school programs. That proposal addressed a number of the application related provisions of section 803 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35). One hundred and nine comments were received during the 30-day comment period. This interim rule responds to both the comments received and to the legislative changes mandated by Pub. L. 97–35. This rule: (1) Requires additional information on the free and reduced price application in the National School Lunch, School Breakfast, Special Milk, and Commodity School Programs; (2) requires changes in the letter to parents which accompanies the application; (3) removes the hardship provisions and standard deductions from the calculation of income and; (4) eliminates the verification "for cause" only limitation. This rule is intended to reduce program abuse and to result in a savings of Federal funds.

DATES: Effective July 23, 1982. To be assured of consideration, comments must be postmarked on or before December 31, 1982. In accordance with the Paperwork Reduction Act of 1980, (44 U.S.C. 3507), the reporting and recordkeeping requirements that are included in §§ 245.5 and 245.6 of this interim rule have been approved by the Office of Management and Budget (OMB).

ADDRESS: Comments should be sent to Stanley C. Garnett, Branch Chief, Policy and Program Development Branch, School Programs Division, USDA–FNS, Alexandria, Virginia 22302. All written submissions will be available for public inspection in Room 509, 3101 Park Center Drive at the address listed above, during regular business hours (8:30 a.m. to 5:00 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Garnett at the address listed above, or call (703) 756–3620.

SUPPLEMENTARY INFORMATION: *Classification*—This interim rule has been reviewed under Executive Order 12291 and has been classified as *not major*. We do not anticipate that this rule will have an impact on the economy of more than $100 million. This interim rule is intended to ensure that free and reduced price benefits are directed to only those children from families whose income falls within the Income Eligibility Guidelines set forth by the Department. No major increase in cost or prices for program participants; individual industries; Federal, State or local government agencies; or geographic regions is anticipated. This interim rule is not expected to have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S. based enterprises to compete with foreign based enterprises in domestic or export markets.

This interim rule has been reviewed with regard to the requirements of Public Law 96–354. The Administrator of the Food and Nutrition Service, has certified that this interim rule does not have a significant economic impact on a substantial number of State agencies and School Food Authorities.

The Administrator of the Food and Nutrition Service has determined that good cause exists to make this interim rule effective immediately upon publication. This action is being taken because most School Food Authorities print their free and reduced price applications in July and August. In order to ensure that those applications reflect the regulatory requirements and have the support of regulations, the rule is effective upon publication.

Background—On May 25, 1982, the Department published a proposed rule on revised application procedures in the **Federal Register** (47 FR 22704). That proposal was designed to address both the discretionary and nondiscretionary provisions of section 803 of Pub. L. 97–53 which amended section 9 of the National School Lunch Act. The amendments concerned the application process for school meal and milk benefits. The Department provided a 30-day comment period for the proposal which ended June 24, 1982. During that time 109 comments were received from a variety of sources including State educational agency personnel, School Food Authority personnel, private citizens, advocacy groups, professional organizations and other State agency staff.

Of the 109 commentors, 48 percent indicated general approval of the Department's approach; many of these included constructive suggestions. Twenty-three percent clearly disapproved of the proposal. The remaining 28 percent did not offer clear approval or disapproval but did offer specific recommendations for change. The Department would like to thank all of the commentors who responded to the proposal. Especially appreciated were the many detailed suggestions which were very helpful in formulating this interim rule.

General Comments—A number of commentors addressed issues which had been clearly identified in the proposal as "nondiscretionary", that is, required by Pub. L. 97–35. The Department has no authority to disregard that law and to implement the recommended changes. However, each issue has been identified and the disposition of each issue has been indicated throughout this preamble.

Approximately 36 percent of all commentors expressed concern regarding the timing of the proposal. Commentors indicated that an interim rule must be in place in July, 1982 to provide School Food Authorities adequate time to implement the required changes on the application for School Year 1982–83.

Several commentors indicated that a mid to late July issuance would be too late. For this reason, a number of commentors recommended that the interim rule be delayed until Spring of 1983 while others recommended making implementation in School Year 1982–83 optional and required in 1983–84.

Most School Food Authorities print applications for free and reduced price benefits in July and August. Since this rule does not require many revisions to the applications used last school year, the Department believes that the timing of this rule will provide School Food Authorities sufficient opportunity to prepare for the forthcoming school year.

The remainder of this preamble will discuss the major concerns expressed by commentors and the specific changes being made to the regulatory requirements presented in the proposed rule. For ease in reference, the changes are presented under the regulatory section headings.

Section 245.2 Definitions

Adult—Of the 28 comments discussing the definition of "adult", 18 commentors concurred with the Department's proposal to define "adult" as any individual 21 years of age or older. Of the commentors concurring with the 21 years of age concept, several recommended that the Department exclude students of high school grade and under and persons participating in a

school program established for the handicapped. Seven commentors suggested the age of "adult" be lowered to 18 years of age or older. Three commentors pointed out potential problems with students declared emancipated by the courts.

Based on the commentor support for the proposed definition, this interim rule will define adult as any individual 21 years of age or older. This approach is intended to complement the definition of "child" identified in § 210.2, 215.2, and 220.2. A child is any individual under 21 years of age, as specified in these sections. Lowering the age to 18 would include a large number of senior high school students thus complicating the application requirements unnecessarily. Commentors suggested that defining "adult" as 21 years of age or older would enable households to exclude the income of household members who are under 21 years of age. Commentors should be aware that the definition of adult is intended to affect the collection of social security numbers and *not* the requirement to indicate total household income. The income of children under 21 years of age will continue to be counted as it has been under current regulations for purposes of determining household eligibility.

Current Income—Of the 40 comments received concerning the Department's definition of "current income", eight commentors concurred with the definition in the proposed rule.

That definition stated "Current income means income, as defined in § 245.6(a), received during the month prior to application, if representative, and multiplied by 12, or for farmers, self-employed persons, migrant workers, or others, income received during the past 12 months, if more representative."

Four commentors approved of the definition but stated that the definition should be applied to all persons in the same manner. These commentors recommended deletion of the words "for farmers, self-employed persons, migrant workers, or others." A number of other commentors urged the Department to expand the definition to cover the unemployed, persons whose income varies, farmers and the self-employed.

Several commentors recommended alternative approaches of defining current income. These approaches included: calculating income over the past 12 months for all persons; calculating income over the past 12 months for farmers and self-employed only; and calculating income based on an annual projection. Several other commentors believed retrospective counting of income is inconsistent with the legislative history of Pub. L. 97–35.

The Department believes the variety of approaches suggested by commentors is indicative of the number of income situations needing to be addressed. Section 9 of the National School Lunch Act states that "any child who is a member of a household whose income, at the time the application is submitted, is at an annual rate which does not exceed the applicable family size income level" is eligible to receive free or reduced price meals. As several commentors pointed out, defining current income as "income received over the past 12 months" may be inconsistent with the legislative history of Pub. L. 97–35. To ensure compliance with congressional intent, the Department has determined that income received during the month prior to application, multiplied by 12 must serve as the basic standard for current income. The month prior to application was chosen because families will know how much income was received in that month and will not be forced to speculate. This approach does not address a number of situations such as seasonal workers or farmers who may have an unrepresentative income during August or September when applications are filed. Consequently, the Department has accepted a recommendation to allow the use of projected income for the current year in those cases where this approach would produce the most accurate reflection of a household's actual financial situation.

In those situations where a projection of current annual income most accurately reflects a household's financial situation, the Department intends to allow the use of income information from the previous year as a base from which the current year's annual income can be estimated.

In summary, this interim rule defines "current income" as income received during the month prior to application and multiplied by 12 unless such income does not accurately reflect the household's income at an annual rate. In such cases, income shall be determined based on the projected annual household income.

Household—Twenty-nine comments were received regarding the Department's definition of household. Ten commentors concurred with the Department's intention to define household as family (§ 245.2(b)). "Family" is currently defined as a "group of related or nonrelated individuals, who are not residents of an institution or boarding house, but who are living as one economic unit."

Three commentors believed it was confusing to have both terms used interchangeably in the same section. Eight commentors recommended modification of the definition to address two household's living under one roof. Another commentor recommended defining household as related and unrelated persons sharing expenses. Finally, four commentors requested clarification of the term "economic unit."

The use of the terms "family" and "household" interchangeably reflects the use of those terms in section 9 of the National School Lunch Act. The basic definition of what constitutes a "family" or "household" for purposes of determining total family income was not changed by the proposal. Commentors suggested a number of changes to the concept of family for purposes of determining income. These recommendations require a re-examination of the definition of family and would require a proposed rulemaking. Therefore, this interim rule is limited to a change in terminology from "family" to "household". The Department intends to evaluate the conceptual changes recommended by the commentors and assess the need for future regulatory action.

Documentation—Nine commentors recommended that the Department define "documentation" in the regulatory language as it was defined in the preamble of the proposed rule.

The Department did not define the term in the regulatory language because the term was not used in Part 245. Several commentors recommended specifying the components of a complete application (documentation). The Department concurs with the commentors suggestions and defines documentation in § 245.2 at a minimum, as the completion of the following information on the application: (1) total household income; (2) names of all household members; (3) social security numbers of all adult household members or an indication that a household member does not possess one; and (4) signature of an adult member of the family. Sections 245.5(a)(1) and 245.6(b) are revised to reference the need for documentation as a condition of eligibility.

Section 245.3 Eligibility Standards and Criteria

This interim rule implements the deletion of the hardship provisions and standard deductions as proposed since this is a nondiscretionary provision of Pub. L. 97–35. Six comments were received on this issue. Four opposed the elimination of those adjustments to household income because they believed the school officials should be

able to take into account special situations. Two commentors concurred with the provision as proposed. The Department does not possess the statutory authority to address the concerns of commentors who opposed this provision.

Section 245.5 Public Announcement of the Eligibility Criteria

Reduced Price Guidelines—This interim rule requires schools participating in the National School Lunch and School Breakfast Programs to include the reduced price guidelines and not the free guidelines in the letter to parents, with an explanation that households with income equal to or less than the reduced price guidelines may be eligible for either free or reduced price meals. Schools participating in the free milk option of the Special Milk Program continue to be required to include the free milk criteria in the letter to parents. Of the 14 commentors who addressed this issue, three concurred with the proposal. Three others recommended deletion of both scales from the letter to parents while one other suggested providing parents with income eligibility ranges. Four commentors recommended deletion of the free scale from the press release. The Department believes that implementation of all options submitted by commentors who opposed the proposed rule will violate this nondiscretionary provision of Pub. L. 97–35.

Therefore, the interim rule implements the provision as proposed; however, as a result of commentor concerns, the interim rule clarifies that the press release will contain both the free and reduced price eligibility guidelines.

Verification—This interim rule requires that the letter to parents contain an explanation that the information of the application may be verified at any time during the school year. Although two commentors objected to the deletion of the "for cause" restriction, the interim rule implements the provision as proposed. The statutory basis for the show "cause" restriction was eliminated by Pub. L. 97–35. Section 9(b)(2)(C) clearly authorizes the Secretary, State agencies and School Food Authorities to verify the information on the applications. Persons who apply for free and reduced price benefits should be informed of that fact.

Nondiscrimination—All three of the commentors addressing the nondiscrimination statement concurred with the Department's updated wording: "In the operation of child feeding programs, no child will be discriminated against because of race, sex, color, national origin, age, or handicap." This interim rule implements this statement as proposed.

Reporting Changes—Thirty-nine commentors addressed the proposed requirement that recipients of free and reduced price benefits must notify the appropriate school official of any changes in family size and increases in income which exceed $25 per month.

Twenty-four commentors stated that the required reporting of increases in income exceeding $25 per month and changes in family size would be unenforceable, not cost effective or would create a burden on school officials. Four commentors concurred with the proposed requirement. Of the 24 commentors objecting to the requirement, several offered suggestions. A number recommended that the $25 per month trigger be increased to $100 per month. Several suggested that a dollar amount should not be specified; rather the wording should be changed to "an amount which would change eligibility status." Four commentors recommended clarification of the requirement by inserting the word "available" between the words "level of" and "income" while another commentor urged further clarification by specifying timeframes over which the changes would be reported. Several commentors recommended that the Department require reporting decreases in income as well as increases in family size. Several commentors indicated the Department has no statutory authority to implement this requirement; thus it should be deleted.

Section 9 of the National School Lunch Act requires that only children whose household income falls within the income eligibility criteria receive benefits. An increase in a household's annual income may render the children of that household ineligible for benefits or eligible only for reduced price meals. Without a requirement to report changes in income, households may receive benefits throughout the school year despite the fact that their income no longer falls within the applicable Income Eligibility Guideline. The Department believes it would be fiscally irresponsible to allow ineligible persons to continue to receive benefits. For this reason, the Department has initiated this provision based on its statutory obligation to provide benefits only to children from households whose annual income falls within the applicable guidelines.

The Department agrees that the $25.00 income change reporting trigger may be too stringent and would not, in many instances reflect a change in eligibility. To ensure that this provision does not create an undue administrative burden on schools or households, the interim rule requires households to report increases in income of $50 per month or $600 per year and decreases in family size. Changes in income of this size or decreases in family size can potentially alter the eligibility status of a number of households. To provide State flexibility, this rule also allows States the option of establishing a stricter reporting requirement regarding changes in income. Also in response to comments, a requirement has been added to the letter to parents. This requirement specifies that the letter to parents must inform parents that they may apply for benefits at any time during the school year as their financial circumstances change.

Complete Application—A number of commentors concurred with the requirement that a completed and signed application is a prerequisite for eligibility for free and reduced price benefits; however, several commentors urged clarification of what constitutes a complete application. The Department concurs with commentor suggestions. This interim rule specifies the components of a complete application under § 245.5(a).

Section 245.6 Application for Free and Reduced Price Meals and Free Milk

Social security numbers and Privacy Act—Nine commentors concurred with the requirement that applicants provide the social security numbers of all adult household members 21 years of age or older; an indication that application for one has been made; or in the case of aliens ineligible for social security numbers, an indication that none can be acquired.

Twenty-one commentors indicated that section 9(d) of the National School Lunch Act only requires the member of the household who executes the application to furnish the social security account number of all adult members of the household. It does not authorize the Department to require adults to make application for one or require aliens to indicate ineligibility for one. Two commentors pointed out that some religions object to the use of social security account numbers and that the proposed regulations did not address this potential problem. Six commentors indicated that there are a number of potential uses of the social security number (i.e., identifier, wage matching, etc.) which are not made clear in the disclosure statement of the proposed rule. Three commentors indicated that the proposed rule does not give the notice required by the Privacy Act of

1974 to all persons from whom disclosure of social security account number is requested. Rather, the proposed rule would notify only the parent or guardian who completed the application and includes the social security number of all adult household members. Several commentors indicated that the National School Lunch Act does not authorize use of social security numbers to verify information on the application. Several other comments were received taking issue with the requirement for the collection of social security numbers.

Section 9 of the National School Lunch Act requires the collection of social security numbers as a condition of eligibility and authorizes the use of those numbers to identify persons during verification procedures. The Department has no authority to alter this provision. Therefore the basic requirement that the numbers be collected is contained in the interim rule.

In response to commentor concerns, the requirement for adults lacking social security numbers to make application for a social security number has been deleted. This interim rule requires that applications contain the social security number of all adult household members or an indication that a household member does not possess one.

The Privacy Act of 1974 requires any Federal, State, or local agency which requests individuals to disclose their social security account numbers to inform those individuals whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it. Guidelines issued by the Office of Management and Budget (40 FR 28960) require the agency to indicate the consequences of not providing the account numbers.

In response to the Privacy Act requirements, Office of Management and Budget (OMB) requirements and commentor concerns, the regulatory wording has been revised to require all State agencies and local School Food Authorities which intend to make use of the social security numbers to comply with the requirements listed above. In addition, the regulatory wording has been expanded to read as follows: "Section 9 of the National School Lunch Act requires that in order for your child to be eligible for free or reduced price meals, you must provide the social security numbers of all adult members of your household. Provision of these social security numbers is not mandatory, but failure to provide the numbers will result in a denial of the application for free or reduced-price benefits. This notice must be brought to the attention of all household members whose social security numbers are disclosed. The social security numbers may be used to identify household members in carrying out efforts to verify the correctness of information stated on the application. These verification efforts may be carried out through program reviews, audits and investigations and may include contacting employers to determine income, contacting the state employment security office to determine the amount of benefits received and checking the documentation produced by household members to prove the amount of income received. These efforts may result in a loss or reduction of benefits, administrative claims or legal action if incorrect information is reported."

States and local School Food Authorities are authorized by section 9 of the National School Lunch Act to carry out verification efforts. The notice contained in the regulations is a prototype notice which the Department believes will cover most uses of the social security numbers. However, States and local School Food Authorities may carry out verification efforts that the Department has not anticipated or State laws may impose. Therefore, State agencies and local school authorities must review the notice and ensure that their intended uses are included in the notice on all applications.

Food Stamp Question—The Department has deleted the proposed requirement that the applicant indicate whether the household participates in the Food Stamp Program. Thirteen commentors recommended deleting this required question. Three commentors suggested that pinpointing the food stamp population with intent to verify was discriminatory. Some commentors stated that unless a household was selected for verification, it would be unnecessary to ask for this information.

The Department agrees that asking for food stamp information is unnecessary unless the information will be used in the verification process. Therefore, this interim rule does not require this question on the application. The rule does allow State agencies to include this question with the indication that providing the information is not a condition of eligibility. However, the Department recommends that School Food Authorities and State agencies use this question to identify the food stamp as well as the non-food stamp population and to verify from both categories. While this interim rule makes identification of the food stamp/non-food stamp population optional, the Department recommends that a part of the verification efforts will be directed toward the non-food stamp population which has not gone through the food stamp verification process. The Department disagrees with those commentors who believe the request for this information is discriminatory.

Determination of Eligibility—Eighteen commentors concurred with the proposed requirement to provide written notice to each family denied benefits. Two commentors objected to the inclusion of an explanation of appeal rights in the notice. Several commentors recommended that the Department require written notice of denial *and* approval. In addition, these commentors recommended that parents of children approved for reduced price meals be provided the free scales to enable them to appeal the reduced price approval. Several commentors recommended that timeframes for notification be specified.

This interim rule implements the notification requirement for denial of benefits as proposed. The interim rule also requires schools to notify families of approval for receipt of free or reduced price benefits. The method of notifying the family of aproval is left to local discretion. The Department agrees with the commentors that the application review process should be conducted as quickly as possible. Therefore, the interim rule has been changed to require that notification of approval or denial of benefits be given promptly. The Department did not propose timeframes for notification of approval or denial and therefore does not include them in this interim rule. The Department did not propose that families approved for reduce price benefits should be informed of the applicable free meal income eligibility guideline; therefore that requirement has not been incorporated in the interim rule. Both of these provisions would increase the burden on a School Food Authority. The Department believes that any action in these areas must be discussed with States and local School Food Authorities prior to implementation.

Appeal of denial benefits—Only one commentor discussed this provision; the commentor concurred with the proposal. The interim rule provides for a conference or fair hearing as proposed.

Exemption for Pilot Study Schools—Five commentors concurred with the exemption from routine verification requirements. This interim rule implements the exemption as proposed.

Section 245.10 Action by School Food Authorities and § 245.11 Action by State Agencies and FNSRO's

Nondiscrimination—Seven commentors concurred with the nondiscrimination provision as proposed. One commentor felt these provisions were unnecessary in light of the nondiscrimination statement in § 245.5. The Department concurs; however, the additional emphasis provided by this wording will stay in place until the interim rules on verification are set forth. At that time the Department will delete this wording.

All Sections—Miscellaneous

A number of commentors made technical suggestions to improve clarity, sentence structure, and flow. While these suggestions are not discussed herein, in most cases, the suggestions have been incorporated into the interim rule.

List of Subjects in 7 CFR Part 245

Food assistance programs, Grant programs—social programs, National school lunch program, School breakfast program, Special milk program, Reporting and recordkeeping requirements.

PART 245—DETERMINING ELIGIBILITY FOR FREE AND REDUCED PRICE MEALS AND FREE MILK IN SCHOOLS

Accordingly, Part 245 is amended as follows:

1. In § 245.1 paragraph (a) is revised to read as follows:

§ 245.1 General purpose and scope.

(a) This part established the responsibilities of State agencies, Food and Nutrition Service Regional Offices (where applicable), and School Food Authorities in providing free and reduced price meals and free milk in the National School Lunch Program (7 CFR Part 210), the School Breakfast Program (7 CFR Part 220), the Special Milk Program for Children (7 CFR Part 215), and commodity schools. Section 9 of the National School Lunch Act, as amended, and Sections 3 and 4 of the Child Nutrition Act of 1966, as amended, require schools participating in any of the programs and commodity schools to make available, as applicable, free and reduced price lunches, breakfasts, and at the option of the School Food Authority for schools participating only in the Special Milk Program free milk to eligible children.

* * * * *

2. In § 245.2 the word "only" is removed from definition (a) "Commodity only school." Definition (a) "Commodity School" is redesignated as (a–1). New definitions (a) "Adult", (a–2) "Current income", (a–3) "Documentation", and (d–2) "Household" are added.

§ 245.2 Definitions.

(a) "Adult" means any individual 21 years of age or older.

* * * * *

(a–2) "Current income" means income, as defined in § 245.6(a), received during the month prior to application and multiplied by 12. If such income does not accurately reflect the household's annual income, income shall be based on the projected annual household income. If the prior year's income provides an accurate reflection of the household's current annual income, the prior year may be used as a base for the projected annual income.

(a–3) "Documentation" means, at a minimum, the completion of the following information on a free and reduced price application: (1) Total household income; (2) names of all household members; (3) social security numbers of all adult household members or an indication that a household member does not possess one; and (4) signature of an adult member of the family.

* * * * *

(d–2) "Household" means "family" as defined in § 245.2(b).

* * * * *

3. In § 245.2, definition (e) "Income poverty guidelines" is amended by removing the word "poverty" and inserting in its place the word "eligibility."

4. In § 245.3, paragraph (a) the last sentence is revised to read as follows:

§ 245.3 Eligibility standards and criteria.

(a) * * * Such family size income standards for free and reduced price meals and for free milk shall be in accordance with Income Eligibility Guidelines published by the Department by notice in the **Federal Register.**

* * * * *

5. In § 245.3 paragraph (c) the second sentence is removed.

6. Section 245.3 is amended by removing paragraph (d) in its entirety. That paragraph contained instructions to implement Public Law 96–499 and the paragraph is now obsolete.

7. Section 245.5 paragraph (a)(1) is revised to read as follows:

§ 245.5 Public announcement of the eligibility criteria.

(a) * * *

(1) A letter or notice distributed on or about the beginning of each school year, to the parents of children in attendance at school. The letter or notice shall contain the following information: (i) In schools participating in a meal service program, the eligibility criteria for *reduced price* benefits with an explanation that households with incomes less than or equal to the reduced price criteria would be eligible for either free or reduced price meals, or in schools participating in the free milk option, the eligibility criteria for *free* milk benefits; (ii) how a household may make application for free or reduced price meals or for free milk for its children; (iii) an explanation that in order to be considered eligible for free or reduced price benefits, an application must contain complete documentation of eligibility information including the total household income, names of all household members, social security numbers of all adult household members or an indication that a household member does not possess one, *and* the signature of an adult household member; (iv) an explanation that the information on the application may be verified at any time during the school year; (v) an explanation that recipients of free and reduced price benefits must notify school officials during the school year of any decreases in household size, or increases in income of over $50 per month or $600 per year (or a lesser amount if established by the State); (vi) how a household may apply for benefits at any time during the school year as circumstances change; (vii) a statement to the effect that children having parents or guardians who become unemployed are eligible for free or reduced price meals or for free milk during the period of unemployment, *Provided,* that the loss of income causes the household income during the period of unemployment to be within the eligibility criteria; (viii) a statement to the effect that in certain cases foster children are eligible for free or reduced price meals or free milk regardless of the income of the household with whom they reside and that households wishing to apply for such benefits for foster children should contact the School Food Authority; (ix) the statement: "In the operation of child feeding programs, no child will be discriminated against because of race, sex, color, national origin, age or handicap;" and (x) how a household may appeal the decision of the School Food Authority with respect to the application under the hearing procedure set forth in § 245.7. The letter or notice shall be accompanied by a copy of the application form required under § 245.6.

* * * * *

8. In § 245.5(a)(2) after the word "parents", the phrase "and including both the free and reduced price eligibility criteria" shall be inserted.

9. Section 245.6(a) is amended as follows:

a. In § 245.6(a) the introductory paragraph is amended in the third sentence by adding the word "current" between the words "with respect to the" and "annual income of" and by revising the phrase at the end of the introductory paragraph as set forth below.

b. Paragraph (a) is further amended by revising paragraph (a)(1) and the first two sentences of paragraph (a)(2) as set forth below, and by removing the phrase "for cause" from the third sentence of paragraph (a)(2).

§ 245.6 Application for free and reduced price meals and free milk.

(a) * * * The application shall require applicants to provide the names of all household members, and the social security numbers of those household members 21 years of age or older or an indication that a household member does not possess one. The application shall also contain substantially the following statements:

(1) "Section 9 of the National School Lunch Act requires that in order for your child to be eligible for free or reduced price meals, you must provide the social security numbers of all adult members of your household. Provision of these social security numbers is not mandatory, but failure to provide the numbers will result in a denial of the application for free or reduced-price benefits. This notice must be brought to the attention of all household members whose social security numbers are disclosed. The social security numbers may be used to identify household members in carrying out efforts to verify the correctness of information stated on the application. These verification efforts may be carried out through program reviews, audits, and investigations and may include contacting employers to determine income, contacting the state employment security office to determine the amount of benefits received and checking the documentation produced by household members to prove the amount of income received. These efforts may result in a loss or reduction of benefits, administrative claims or legal actions if incorrect information is reported." State agencies and School Food Authorities shall ensure that the notice complies with section 7 of Pub. L. 93–579 (Privacy Act of 1974); and (2) "In certain cases foster children are eligible for free or reduced price meals or free milk regardless of your household income. If you have such children living with you and wish to apply for such meals or milk for them, please contact us." At the State agency's discretion, the application may enable the applicant to indicate whether the household is participating in the Food Stamp Program; *Provided,* that applicants are informed that provision of this information is not a condition of eligibility. * * *

* * * * *

10. In § 245.6 paragraph (b) is revised to read as follows:

* * * * *

(b) *Determination of eligibility.* School officials may seek verification of the information on the application. When a completed application furnished by a family indicates that the family meets the eligibility criteria for free and reduced price meals or free milk, the family shall be promptly notified and the children from that family shall be provided the benefits to which they are entitled.

(1) *Notice of denial.* When the application furnished by the family is not fully documented or does not meet the eligibility criteria for free or reduced price benefits, school officials shall promptly provide written notice to each family denied benefits. As a minimum, this notice shall include: (i) The reason for the denial of benefits, e.g. income in excess of allowable limits or incomplete application; (ii) notification of the right to appeal; (iii) instructions on how to appeal; and (iv) a statement reminding parents that they may reapply for free and reduced price benefits at any time during the school year. The reasons for ineligibility shall be properly documented and retained on file at the School Food Authority.

(2) *Appeals of denied benefits.* A family who wishes to appeal a denied application by the School Food Authority may do so as specified in § 245.7. However, prior to initiating the hearing procedure, the parent may request a conference to provide the opportunity for the parent and school officials to discuss the situation, present information, and obtain an explanation of the data submitted in the application or the decision rendered. The request for a conference shall not in any way prejudice or diminish the right to a fair hearing. The School Food Authority shall promptly schedule a fair hearing, if requested.

* * * * *

11. In § 245.6, a new paragraph (d) is added to read as follows:

* * * * *

(d) School Food Authorities which are involved in the Department's pilot study on income verification may be exempted from the requirements of this section and shall obtain verification and documentation as directed by the Department.

12. In § 245.10, a new paragraph (f) is added to read as follows:

§ 245.10 Action by School Food Authorities.

* * * * *

(f) School Food Authorities verifying the information on the free and reduced price application shall ensure that verification activities are applied without regard to race, sex, color, national origin, age, or handicap.

13. In § 245.11, a new paragraph (g) is added to read as follows:

§ 245.11 Action by State agencies and FNSRO's.

* * * * *

(g) State agencies or FNSRO's, as applicable, verifying the information on the free and reduced price application shall ensure that verification activities are applied without regard to race, sex, color, national origin, age or handicap.

(Sec. 803; Pub. L. 97–35; 95 Stat. 521–535; (42 U.S.C. 1758))

Signed in Washington, D.C. on July 20, 1982.

John W. Bode,

Deputy Assistant Secretary for Food and Consumer Services.

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Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 369; Lemon Reg. 368, Amdt. 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period July 25–31, 1982, and increases the quantity of lemons that may be shipped during the period July 18–24, 1982. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situation confronting the lemon industry.

EFFECTIVE DATES: The regulation becomes effective July 25, 1982, and the amendment is effective for the period July 18–24, 1982.

FOR FURTHER INFORMATION CONTACT:

William J. Doyle, Acting Chief, Fruit

Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This aciton is designed to promote orderly marketing of the California-Arizona lemon crop for the benefit of producers, and will not sustantially affect costs for the directly regulated handlers.

This final rule is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on July 7, 1982. The committee met again publicly on July 20, 1982, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons is better than it was last week.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective times.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

1. Section 910.669 is added as follows:

§ 910.669 Lemon Regulation 369.

The quantity of lemons grown in California and Arizona which may be handled during the period July 25, 1982, through July 31, 1982, is established at 275,000 cartons.

2. Section 910.668 Lemon Regulation 368 (47 FR 30964) is revised to read as follows:

§ 910.668 Lemon Regulation 368.

The quantity of lemons grown in California and Arizona which may be handled during the period July 18, 1982, through July 24, 1982, is established at 300,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: July 22, 1982.

D. S. Kuryloski,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-20105 Filed 7-22-82; 11:42 am]
BILLING CODE 3410-02-M

Food Safety and Inspection Service

9 CFR Part 318

[Docket No. 82-004I]

Production Requirements for Cooked Beef, Roast Beef, and Cooked Corned Beef

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Interim final rule.

SUMMARY: This interim rule establishes production requirements for cooked beef, roast beef and cooked corned beef. Cooking requirements for cooked beef and roast beef involving time, temperature, and, in some cases, relative humidity were established in 1977 and 1978 following a number of outbreaks of *Salmonella* food poisoning, or salmonellosis. Small numbers of *Salmonella* micro-organisms are a common contaminant of raw beef; however, these mocro-organisms are destroyed if the product is properly cooked. The resulting cooked product is safe unless it is recontaminated with such *Salmonella* micro-organisms which render the product injurious to health. Following the implementation of the cooking requirements, one outbreak of salmonellosis occurred in 1978 due to a deviation from the cooking requirements. No further outbreaks occurred until 1981, when a number of additional outbreaks occurred. In addition, recent surveys revealed the presence of salmonellae in cooked corned beef. Investigation has shown that the recent outbreaks of salmonellosis resulted because the processors did not use one of the prescribed cooking time and temperature combinations, or failed to maintain good sanitary practices or failed to maintain adequate separation of raw and cooked product, thus permitting cooked product to become recontaminated and adulterated. The new rules reorganize and clarify the existing rules, strengthen the cooking requirements, require marking with the date of production, and establish handling and storing requirements. Adherence to these rules is designed to assure the absence of salmonellae in properly cooked beef, roast beef, and cooked corned beef when the product leaves the official establishment.

DATES: Interim rule effective July 23, 1982, comments must be received on or before September 21, 1982.

ADDRESS: Written comments to: Regulations Office, Attn: Annie Johnson, FSIS Hearing Clerk, Food Safety and Inspection Service, U.S. Department of Agriculture, Room 2637, South Agriculture Building, Washington, DC 20250. (See also "Comments" under "Supplementary Information".)

FOR FURTHER INFORMATION CONTACT: Mr. Bill F. Dennis, Director, Processed Products Inspection Division , Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–3840.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Agency has determined that this interim final rule is not a major rule under Executive Order 12291. It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Among the 250 federally inspected meat establishments producing cooked beef and roast beef, there have been five outbreaks of salmonellosis since 1978. In

August 1978, the first outbreak of salmonellosis was apparently caused by the processor's failure to follow proper cooking procedures. The other outbreaks of salmonellosis, which occurred in the summer and fall of 1981, were apparently caused primarily by the processors' failure to adhere to the general principles of good sanitary practice, especially the prevention of recontamination of cooked product prior to packaging. As a result of the outbreaks of salmonellosis, at least 194 people became ill. (Salmonellosis is usually an unpleasant and debilitating but nonfatal gastroenteritis. However, very young, elderly, or ill people can be fatally affected.)

Due to the continuing, present health risk, the Agency is amending, on an interim basis and effective immediately, those Federal meat inspection regulations which pertain to the processing, handling, and storing of cooked beef and roast beef.

Additionally, in an ongoing information gathering process related to this health risk, the Agency is conducting a surveillance program of establishments in the Northeastern region of the United States producing roast beef and cooked beef. In early January of this year, samples of cooked corned beef were also collected from 17 of those same establishments, and two of them had samples which were positive for the presence of salmonellae. Corned beef is a cured product, and, because of the presence of nitrite, the color of the meat is not nearly as heat-sensitive as roast beef. For this reason, most manufacturers of cooked corned beef tend to use a higher temperature, a longer cook time, or both, than they use for roast or cooked beef, which results in the destruction of salmonellae. However, some manuacturers presently cook this product at a temperature as low as 140° F. Therefore, the Agency is applying to cooked corned beef the same requirements as it is applying to cooked beef and roast beef. The Agency may add additional heat process requirements and further broaden the applicability of this regulation to other meat products, such as pastrami, if further study shows additional requirements are necessary to protect the public's health.

In view of the imminent health hazard in this situation, the Agency did not consider any alternative to this interim rule. Therefore, pursuant to the administrative procedures in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency action is impracticable, unnecessary, and contrary to the public interest, and good cause is found for making this emergency interim action effective less than 30 days after publication of this document in the **Federal Register**. Comments have been solicited for 60 days after publication of this document, and this emergency interim action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

Effect on Small Entities

The Administrator, Food Safety and Inspection Service, has determined that this interim rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601), because it contains sufficient flexibility to allow a number of different production procedures to be used which will result in safe, wholesome product.

Many of the establishments which produce cooked beef, roast beef, and cooked corned beef are small entities and quite frequently produce more than one product. The interim rule, however, can be implemented inexpensively, and has been written to allow maximum flexibility consistent with the problem to be corrected.

Specifically, the change may affect a small establishment in any of five areas:

1. The establishment operator is required to develop a reasonable method of producing a safe product, describe it in writing for approval by the Regional Director, Food Safety and Inspection Service (FSIS), and follow the written procedure.

2. The establishment operator is required to follow a few common sense rules when processing and cooking the product, such as assuring that nonmeat ingredients, like spice solutions, do not spread salmonellae as they are reused, preventing the overlap or routine contact of product when cooking or cooling, and placing monitoring devices properly so that they will work as they are intended.

3. The establishment operator is required to calendar or code date each immediate container of product. This identification procedure is necessary to aid the Department in identifying the cause, isolating the suspect product, and rapidly preventing further spread of the illness if a food poisoning outbreak occurs. In this event, dated product is likely to make it possible to more precisely identify the suspect product and aid in voluntary recalls by an establishment or detention and seizure actions. This, in turn, could lower the establishment's cost beyond that which would be possible without the production date information, because the establishment might have to recall only products from particular lots, rather than larger quantities of product to provide assurance that all adulterated products are removed from the marketplace.

4. Cooked beef, roast beef, and cooked corned beef heated to an internal temperature of 145° F are now subject to the same monitoring and, where applicable, oven temperature and humidity provisions previously applied to those products processed under one of the alternate procedures. The monitoring devices requirement need not be burdensome to small processors because the interim rule provides for use of alternative control records, in specific cases, if compliance with the 145° F cooking temperature and the relative humidity requirement can be assured. Because most manufacturers of cooked corned beef already heat their product higher than 145° F, compliance of the time and temperature requirements will not be burdensome for such manufacturers.

5. Specific product separation requirements have been introduced. These will require cooked and raw product to be separated either by physical means or production time. The interim rule does, however, allow processors to submit written alternate cooked/raw product separation procedures to the Agency's Processed Products Inspection Division for consideration.

This interim rule is designed to assist small businesses producing cooked beef, roast beef, and cooked corned beef. Their market has been somewhat jeopardized because of a perceived public health risk associated with their products, due to recent findings of salmonellae in samples of these products and recent outbreaks of human salmonellosis. The interim regulation provides a flexible, cost-effective means to assure production and sale of safe and wholesome product.

Comments

Interested persons are invited to submit written comments concerning this interim rule. Comments must be sent in duplicate to the Regulations Office and should bear a reference to the docket number located in the heading of this document. Comments submitted pursuant to this interim rule will be made available for public inspection in the Regulations Office, Food Safety and Inspection Service, U.S. Department of Agriculture, Room 2637,

South Agriculture Building, Washington, DC 20250, between 9:00 a.m. and 4:00 p.m., Monday through Friday.

Background

Salmonellae are common bacteria which are often associated with warm-blooded animals, including man. Many animals which are not clinically ill are nevertheless carriers of these organisms. The physical nature of raw beef roasts is such that the penetration of microorganisms, including salmonellae, into the deepest portions of the roast may occur. Gaps in intermuscular connective tissue, knife cuts, and deep folds are some of the physical features that contribute to such penetration. Deep penetration of salmonellae and other micro-orgranisms may also occur during boning, packing, defrosting, and pre-cook handling of the raw roasts, or by the flow of natural juices during the cooking process. A significant public health hazard is created when the cooking procedure fails to kill the salmonellae. If this contaminated product is then exposed to temperature abuse in distribution or consumer channels, human salmonellosis may result.

On September 2, 1977, the Agency published cooking requirements for cooked beef and roast beef as an emergency measure to prevent outbreaks of human salmonellosis caused by the consumption of commercially prepared cooked beef (42 FR 44217). These requirements specified that such products be prepared by a cooking procedure that produced a minimum temperature of 145° F (63°C) in all parts of each roast. This procedure was deemed necessary in order to destroy all *Salmonella* bacteria present in the roast.

Although a 145° F cooking temperature destroys the salmonellae, many consumers prefer rare roast beef and they do not consider beef cooked to 145° F as rare. Seven trade associations, therefore, funded studies, the design of which was approved by the Agency, to develop alternative time and temperature procedures. A number of these time and temperature alternatives were submitted to the Agency, examined, found to be safe, and added to the regulation as alternative requirements on July 18, 1978 (43 FR 30719).

Nevertheless, since that date, there have been five outbreaks of salmonellosis attributed to product from among the 250 establishments producing roast beef and cooked beef. Of these 250 establishments, 190 use the 145° F procedure, 52 use an alternative procedure, and eight use both. The first four outbreaks were attributed to product produced in establishments using the 145° F procedure, while only the last outbreak was attributed to product produced in an establishment using an alternative procedures.

The first outbreak, in August 1978, was related to the processor's failure to adhere to the correct cooking procedure. The second through the fifth, all in 1981, apparently occurred primarily as the result of poor sanitation practices; specifically, they were apparently due to the recontamination with salmonellae of cooked product by raw product, either directly or indirectly, prior to packaging of the finished cooked product.

The New York State Department of Health on November 6, 1981, and the U.S. Department of Health and Human Services' Centers for Disease Control in Atlanta on November 27, 1981, issued public health warnings concerning precooked rare roast beef.

On January 8, 1982, the Administrator, Food Safety and Inspection Service, met with officials from the public health departments of Vermont, New Jersey, Connecticut, Pennsylvania, New York, and Delaware; trade association officials; consumer protection officials; and officials from the Centers for Disease Control. The States presented a list of recommended actions at the conclusion of the meeting.

One recommendation was to reevaluate the alternate cooking methods, which the Agency has done. The Agency has no evidence, after a thorough reconsideration, that any of the alternative time and temperature combinations are unsafe. In addition, as noted above, four of the five recent outbreaks occurred in establishments using the 145° F cooking temperature rather than an alternative cooking method.

Another recommendation, that the "Hazard Analysis Critical Control Point" approach be used, was accepted in principle. (Hazard analysis of critical control points is part of a system used by the Food and Drug Administration by which known hazards are monitored at critical points of the processing of a food product to prevent those hazards from occurring.) Certain basic requirements can and do serve as guideposts to good manufacturing practice. Many of the specific points raised by the States had already been considered by the Agency. However, some new points were raised as well.

Overall, the exchange was useful and many of the provisions of this regulation were considered at that meeting. A copy of the States' recommended actions and the Agency's responses may be obtained from the Processed Products Inspection Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

The New Regulation

The following regulation, issued as an interim rule due to the immediate nature of the health risk involved, is intended to prevent the handling, processing, and storage deficiencies which are associated with adulteration of cooked beef, roast beef, and cooked corned beef with salmonellae. It incorporates the requirements in the existing regulation, reorganized for clarity, and adds new provisions as discussed below.

1. Time and Temperature Requirements for Cooked Corned Beef (§ 318.17(a)). The time and temperature requirements in roast beef have also been made applicable to cooked corned beef. No independent data base exists as to the survival rate of salmonellae in cooked corned beef. The Agency, using professional judgment, has determined that the times and temperatures for cooked beef and roast beef are appropriate for cooked corned beef as well.

2. Relative Humidity Control (§ 318.17(c)). The original requirement was for a minimum internal temperature only. The roast and cooked beef were required to be heated to 145° F. When the alternate temperatures with accompanying times were added, consideration was given to the fact that, at relatively low oven temperatures, the amount of moisture in the heating environment is important in the death rate of salmonellae. Salmonellae are much more resistant to heat in a dry environment. But the relative humidity requirement was made applicable only to the lower temperatures which were being added, not to the existing 145° F requirement. In the reorganized table of time and temperature combinations, for product under 10 pounds, the relative humidity provision is applied to all temperatures, including the 145° F requirement. The extension of this provision is needed to insure destruction of salmonellae in beef dry roasted at 145° F.

3. Monitoring Devices (§ 318.17(d)). A requirement for monitoring equipment was already in the regulation. It has been retained and reworded slightly to make clear that the 145° F temperature must be monitored. Additional flexibility has been added to the existing rule, in accordance with the Agency policy of allowing maximum flexibility consistent with safety, by allowing for approved alternatives to recording devices with respect to the humidity

requirements of paragraph (c) of § 318.17 of this part (9 CFR 318.17(c)) and with respect to the 145° F temperature requirements of paragraph (a) of § 318.17 of this part (9 CFR 318.17(a)).

The reason that similar flexibility is not permitted with respect to other time and temperature combinations is that the other time and temperature combinations are so sensitive that a 1 degree difference in process temperature can require a 5 to 7 minute change in process time. Therefore, without a continuous recording device, the Agency has determined that process safety cannot be assured.

4. Written Procedures (§ 318.17(e)). The establishment is required by this regulation to describe in writing its procedures for handling, processing, and storing product. The written procedures must include all time and temperature combinations for cooking, cooling and defrosting, the lot identification procedure, and any variances or alternate procedures. The procedure must be reviewed and approved by the Regional Director, FSIS.

This review of proposed procedures by process control experts in the regional office should assist the establishment in producing safe, wholesome products. With the written procedure in hand, the establishment operators and the inspectors have an objective standard against which to measure actual production.

5. Date of Production Labeling (§ 318.17(e)). The date of production is being required on all immediate containers of product to aid in determining whether product caused a food poisoning outbreak, to identify suspect product, and to aid in voluntary plant recalls or inspection detention and seizure actions. When the product is not identified by date of production, investigation may be significantly hindered, and recalls and detention actions must encompass larger quantities of product to provide assurance that all adulterated product is removed from the marketplace.

6. Identification of Process (§ 318.17(h)(1)). A plant may well have several approved cooking processes, depending on the purchaser's preferences and depending also on the cut or thickness of the beef in a particular lot. The inspector must know which process is being used so that he can properly monitor it.

7. Sizing of Product (§ 318.17(h)(2)). Individual pieces of product cooked at the same time and in the same piece of cooking equipment are required to be relatively uniform in weight and thickness. This provides assurance that all pieces of product receive the same heat penetration.

8. Good Manufacturing Practices (§ 318.17(h)(6), (7), (8), and (9)). Because the products to be controlled are ones which have caused public health problems, some specific manufacturing practices are established as safety requirements. Placing units of the product so that they do not touch or overlap during cooking and cooling is important to proper heat transfer. Placing temperature sensing devices in the coldest portion of the cooking unit assures that all product receives the intended cook. Placement is equally important for a humidity sensing device. Holding product in the cooking unit until time and temperature requirements have been met is also needed to assure adequacy of cook.

9. Control of Nonmeat Ingredients (§ 318.17(h)(3) and (4)). Large numbers of salmonellae can be spread from meat cut to meat cut through nonmeat ingredients such as spice mixtures or solutions which contact more than one cut. If salmonellae contaminate an ingredient solution relatively early in the shift and the solution is maintained at room temperature or higher, the salmonellae may multiply quite rapidly. Meat cuts on which these solutions are used are then contaminated with large numbers of salmonellae. To prevent this, such solutions are required to be maintained at 50°F or lower throughout the shift from the time they contact the meat, to be filtered each time they are reused to remove meat particles and as many as possible of the accompanying micro-organisms, and to be discarded at the end of the shift. Because dry spice mixtures that have contacted product may also function as a source of cross-contamination, although they are less likely to permit a microbiological buildup, they are also required to be discarded at the end of the shift.

10. Control of Temperature and Time During Heating and Cooling (§ 318.17(h)(5), (10)). As an additional safeguard against *Salmonella* growth, the time the product spends between 40°F and 120°F should be as closely limited as possible. Therefore, the rule requires an establishment to either begin cooking within 2 hours after the completion of precooking preparation or chill the product, to begin chilling within 90 minutes after cooking is completed, and to complete the chilling to 40°F within 7½ hours after cooking is completed. To provide additional flexibility, provision has been made to permit establishments to have alternate cooling procedures if they submit adequate data showing the procedures are satisfactory.

11. Process Deviations (§ 318.17(h)(11) and (12)). A process will occasionally deviate from the specified procedure. The rule provides a way for the establishment to determine how product is to be handled once a process deviation has occurred. Although both are serious, a cooking deviation is easier to deal with than a cooling deviation. The product can be cooked to a higher temperature or for a longer period of time and the cooking deviation can be remedied. The cooling deviation, however, frequently requires a determination as to whether a particular batch of product, which was cooled more slowly than the regulation requires, can be used as human food. Because of this difference, the regulation allows an establishment to contact the Regional Director for a cooking schedule in case of a process deviation, but requires an establishment to contact the Processed Products Inspection Division for disposition of product in case of a cooling deviation.

12. Prevention of Cooked Product Recontamination (§ 318.17(i), (j), and (k)). One of the most common reasons for a salmonellosis outbreak to occur from meat products is the direct or indirect contamination of cooked meat by raw meat. Small amounts of salmonellae are commonly found in raw meat. If raw meat is handled during processing too close to cooked meat so that they touch, the cooked meat could become recontaminated with salmonellae. Recontamination can also occur if the cooked meat comes in contact with a work surface which is contaminated with salmonella. Once on cooked meat, the salmonellae can increase rapidly. Because the evidence is convincing that much of the *Salmonella* hazard results from this type of recontamination, it is here that the Agency has imposed its most stringent requirements. In order to prevent contamination of cooked product by raw product, the Agency is requiring that they be either handled in separate areas with a wall between them, or that they be handled in the same area but at different times to permit thorough cleaning between uses. However, here, as at several other points, the Agency has made provision for affected establishments to show that product could be safely produced under alternate requirements.

In order to prevent indirect recontamination, the rule establishes some additional handling requirements for work surface, machines, tools, and employees' hands and clothing so that salmonellae are not carried by these

means from the raw meat to the cooked meat.

Finally, a storage requirement is established to assure that recontamination does not occur after processing and before the cooked product is securely wrapped in an impervious container.

Information collection requirements contained in this regulation (§ 318.17) have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB #0583–0015.

Indexing Terms. As required by 1 CFR 18.20 (46 FR 7162, Jan. 22, 1981), the following are the index terms for this regulation:

List of Subjects in 9 CFR Part 318

Meat inspection, Preparation of products.

PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS; REINSPECTION AND PREPARATION OF PRODUCTS

Accordingly, § 318.17 of the Federal meat inspection regulations (9 CFR 318.17) is revised as set forth below:

1. The authority citation for Part 318 reads as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*, 601 *et seq.*, (33 U.S.C. 1254).

2. The heading and text of § 318.17 are revised to read as follows:

§ 318.17 Requirements for the production of cooked beef, roast beef, and cooked corned beef.

(a) Cooked beef, roast beef, and cooked corned beef shall be prepared by one of the time and temperature combinations described in the following table, provided that the procedure produces and maintains the minimum temperature required in all parts of each roast for at least the stated time:

TABLE FOR TIME/TEMPERATURE COMBINATION FOR COOKED BEEF, ROAST BEEF, AND COOKED CORNED BEEF

Minimum internal temperature		Minimum processing time in minutes after minimum temperature is reached
Degrees Fahrenheit	Degrees Centigrade	
130	54.4	121
131	55.0	97
132	55.6	77
133	56.1	62
134	56.7	47
135	57.2	37
136	57.8	32
137	58.4	24
138	58.9	19
139	59.5	15
140	60.0	12
141	60.6	10
142	61.1	8
143	61.7	6
144	62.2	5

TABLE FOR TIME/TEMPERATURE COMBINATION FOR COOKED BEEF, ROAST BEEF, AND COOKED CORNED BEEF—Continued

Minimum internal temperature		Minimum processing time in minutes after minimum temperature is reached
Degrees Fahrenheit	Degrees Centigrade	
145	62.8	(1)

1 Instantly.

(b) Cooked beef or cooked corned beef shall be moist cooked. It shall be either (1) placed in a sealed, moisture impermeable bag, from which the excess air has been removed, and cooked in a water bath or oven, or (2) completely immersed, unbagged, in water throughout the entire cooking process.

(c) Roast beef shall be cooked either (1) by heating roasts of 10 pounds or more in netting or on racks using dry heat in an oven maintained at 250°F (121°C) or higher throughout the process; or (2) by heating roasts of any size in an oven maintained at any temperature that will satisfy the internal temperature and time requirements of paragraph (a) if the relative humidity of the oven is maintained above 90 percent for at least 25 percent of the total cooking time, but in no case for less than 1 hour. This relative humidity may be achieved by use of steam injection or by sealed ovens capable of producing and maintaining the required 90 percent relative humidity.

(d)(1) Except as provided in paragraph (d)(2), establishments producing cooked beef, roast beef, and cooked corned beef shall have sufficient monitoring equipment, including recording devices, to assure that the time (within 1 minute), temperature (within 1°F) and relative humidity (within 5 percent) limits required by these processes are being met. Data from the recording devices shall be made available to a program employee upon request.

(2) In lieu of recording devices, establishments may propose in the written procedures prescribed in paragraph (f) of this section, an alternative means of providing inspection personnel with evidence that finished product has been prepared in compliance with the humidity requirements of paragraph (c) of this section, and the 145°F temperature requirement of paragraph (a) of this section.

(e) Each package of finished product shall be plainly and permanently marked on the immediate container with the date of production either in code or with the calendar date.

(f) In order to assure that cooked beef, roast beef, and cooked corned beef are handled, processed, and stored under sanitary conditions, the establishment shall submit a set of written procedures through the inspector in charge for approval by the Regional Director. The written procedures shall contain the following information:

(1) The temperature to which frozen product is thawed and the time required.

(2) The lot identification procedure for lots of product during processing.

(3) The processing and storage time and temperature combinations which the establishment intends to use.

(4) The time, if any, the establishment intends to wait after cooking and before cooling.

(5) If a code is used on the immediate container of the finished product, its meaning shall also be included.

(6) Any other critical control points in the procedures which could affect the safety of the product.

(7) In lieu of recording devices, the alternate means permitted by § 318.17(d)(2) of providing evidence to inspection personnel that the finished product will be prepared in compliance with temperature or humidity requirements.

(g) The establishment shall maintain records and reports which document the time, temperature, and humidity at which any cooked beef, roast beef, or cooked corned beef is prepared at the establishment. Such records shall be kept by the establishment for 6 months or for such further period as the Administrator may require for purposes of any investigation or litigation under the Act, by written notice to the person required to keep such records. Such records shall be made available to a program employee upon request.

(h) The handling, processing, and storing of cooked beef, roast beef, and cooked corned beef before, during, and after cooking shall be controlled by the establishment as follows:

(1) The establishment shall notify the inspector in charge which processing procedure will be used on each lot, including time and temperature.

(2) In order to assure uniform heat penetration and consequent adequate cooking of each piece of beef, individual pieces of raw product in any one lot shall not vary in weight by more than 2 pounds nor in thickness by more than 2 inches at the thickest part. Alternate methods of assuring uniform heat penetration may be submitted in writing for approval to Processed Products Inspection Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

(3) A water-based solution that is used for injecting or immersing the meat shall be refrigerated to 50°F or lower from the time it contacts the meat, and shall be filtered each time it is recirculated or reused.

(4) A nonmeat ingredient, including the water-based solution in (h)(3) above, which has contacted meat shall be discarded at the end of that day's production.

(5) Product prepared for cooking shall be entered into the cooking cycle or be chilled to an internal temperature of 40°F or lower within 2 hours of the completion of precooking preparation.

(6) The time and temperature requirements shall be met before any product in the lot is removed from the cooking units. Unless otherwise specified in the written procedures approved in accordance with paragraph (f) of this section, the heat source shall not be shut off until these requirements are met.

(7) Other than incidental contact caused by water currents during immersion cooking or cooling, product shall be placed so that it does not touch or overlap other product.

(8) Temperature sensing devices shall be so placed that they monitor product and, when oven temperature is required by paragraph (c) of this section, oven temperature in the coldest part of the cooking unit.

(9) If a humidity sensing device is required in an oven, it shall be placed so that it measures humidity in either the oven chamber or at the exit vent.

(10) Chilling shall begin within 90 minutes after the cooking cycle is completed, and the product shall be chilled to an internal temperature of 40°F or lower within 7½ hours after the cooking cycle is completed, unless an alternate chilling procedure is used. Alternate chilling procedures shall first be approved by the Processed Products Inspection Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250. Request for approval of alternate chilling procedures shall be submitted in writing and shall provide complete details and supporting data.

(11) Any establishment that has experienced a cooking process deviation during preparation of product may either reprocess the product completely, continue the heating to 145°F or contact the Regional Director for a review of the process schedule for adequacy and, if needed, for a cooking schedule to finish this one batch of product.

(12) An establishment that has experienced a cooling deviation after the product has been cooked shall contact the Processed Products Inspection Division to determine the disposition of that retained product.

(i) Cooked beef, roast beef, and cooked corned beef shall be so handled as to assure that the product is not recontaminated by direct or indirect contact with raw product. To prevent direct contamination of the cooked product, establishments shall (1) physically separate areas where raw product is handled from areas where exposed cooked product is handled, using a solid impervious floor to ceiling wall; or (2) handle raw and exposed cooked product at different times, with a cleaning of the entire area after the raw material handling is completed and prior to the handling of cooked product in that area; or (3) submit a written procedure for approval to the Processed Products Inspection Division, detailing the steps to be taken which would avoid recontamination of cooked product by raw product during processing.

(j) To prevent indirect contamination of cooked product, (1) any work surface, machine, or tool which contacts raw product shall be thoroughly cleaned and sanitized with a solution germicidally equivalent to 50 ppm chlorine before it contacts cooked product; (2) employees shall wash their hands and sanitize them with a solution germicidally equivalent to 50 ppm chlorine whenever they enter the heat processed product area or before preparing to handle cooked product, and as frequently as necessary during operations to avoid product contamination; and (3) outer garments, including aprons, smocks, and gloves shall be especially identified as restricted for use on cooked product only, changed at least daily, and hung in a designated location when the employee leaves the area.

(k) Cooked product shall not be stored in the same room as raw product unless it is first packaged in a sealed, watertight container.

The Administrator, Food Safety and Inspection Service, has determined that immediate implementation of this rule, on an interim basis, is necessary in order to prevent further outbreaks of human salmonellosis caused by the consumption of commercially prepared cooked beef and roast beef and to prevent similar outbreaks from the consumption of cooked corned beef.

Done at Washington, DC, on July 9, 1982.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 82-19861 Filed 7-22-82; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Parts 500 and 503

[Docket No. ERA-R-80-24]

Powerplant and Industrial Fuel Use Act of 1978; Cogeneration Exemption; Final Rules; Correction

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Final rule; correction.

SUMMARY: This document makes technical corrections to a document published July 6, 1982 (47 FR 29209) relating to cogeneration exemptions under the Power Plant and Industrial Fuel Use Act of 1978.

FOR FURTHER INFORMATION CONTACT: Constance L. Buckley, (202) 252-1774.

SUPPLEMENTARY INFORMATION: In FR Doc. 82-18216, on page 29209, in the issue of Tuesday, July 6, 1982, on page 29209, make the following correction to Summary, line 7, correct "1982" to read "1981". On page 29210, paragraph III. A, Procedural Matters, line 1, correct "Selection" to read "Section".

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-19924 Filed 7-22-82; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563

[No. 82-479]

Amendments Relating to Calculation of the Net-Worth Requirement

Dated: July 15, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Board has amended its regulations pertaining to net-worth calculation to clarify that certain balances normally reported by insured institutions under the general heading "liabilities" may be properly viewed as contra-asset accounts and, therefore, should be excluded from the base amount from which the regulatory net-worth requirement is calculated. The Board believes that this amendment will result in a more realistic approach to the calculation of the net-worth requirement.

EFFECTIVE DATE: June 30, 1982.

FOR FURTHER INFORMATION CONTACT: David Schweitzer, Office of

Examinations and Supervision (202–377–6574), or John P. Soukenik, Deputy Director, Division of Corporate and Regulatory Structure, Office of General Counsel (202–377–6411), Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION:

Paragraph (b)(2) of § 563.13 (12 CFR 563.13(b)(2)) contains instructions for computing the minimum required amount of regulatory net worth. One step in this computation involves determining a percentage of "all liabilities." Until today's amendment, "all liabilities" had been defined simply as total assets minus net worth. The Board is revising the definition to clarify that total assets should be calculated net of certain account balances that, although reported by institutions on the liabilities schedule in reports to the Board, are actually contra-asset accounts. A contra-asset is a deduction from a specific asset account, carried as a separate account for bookkeeping purposes. Specifically, accounts entitled "loans in process," "specific reserves," and all "deferred credits" with the exception of deferred taxes may be considered contra-asset accounts rather than liabilities.

In terms of the Board's Semiannual Financial Report, the following line items of "Schedule B—Liabilities," may be excluded from reported total liabilities and viewed as contra-asset accounts in calculating the base, "all liabilities," under § 563.13(b)(2):

Line No.	Caption
B–122	Loans-in-Process: Mortgage Loans.
B–123	Loans-in-Process: Other Loans.
B–127	Reserve for Uncollected Interest.
B–128	Other Specific Reserves.
B–129	Unearned Profit on Real Estate Sold.
B–130	Unearned Discount on Loans Purchased.
B–131	Other Unearned Discounts.
B–132	Deferred Loan Fees.
B–134	Deferred Gain on Securities.
B–135	Other Deferred Credits.

Report line item B–133, "Deferred Federal Income Taxes," is not a contra-asset account and may not be deducted. Deferred state taxes are currently reported as part of line B–135, Other Deferred Credits. Therefore, preliminary net-worth compliance tests made on the basis of the Semiannual Financial Report data will be inaccurate to the extent that deferred state taxes, a true liability, cannot be distinguished from other deferred credits properly deducted as contra-asset accounts. Institutions will, however, be required to include in the "all liabilities" category both deferred federal and deferred state taxes when making formal compliance calculations.

Because the Board believes that it is important to authorize use of the revised liability calculation, the Board finds that observance of the notice and comment procedures of 12 CFR 508.11 and 5 U.S.C. 533(b) and the 30-day delay of effective date provision of 12 CFR 508.14 and 5 U.S.C. 533(d) is unnecessary and contrary to the public interest, and the amendments will become effective as of June 30, 1982. This effective date will allow insured institutions with annual closing dates on or after June 30, 1982, to use the new method of calculating their networth requirement in current reports to the Board.

List of Subjects in 12 CFR Part 563

Savings and loan associations.

PART 563—OPERATIONS

Accordingly, the Board hereby amends Part 563, Subchapter D, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

1. Section 563.13 is amended by revising the first sentence of paragraph (b)(2), to read as follows:

§ 563.13 Reserve accounts.

* * * * *

(b) *Net-worth requirement.* * * *

(2) *Minimum required amount.* On the annual closing date of the twentieth anniversary of insurance of accounts and on each annual closing date thereafter, an institution shall have net worth at least equal to the sum of (i) three percent of the amount on the date specified in paragraph (b)(1) of this section or of the average amount on such date and on the corresponding date(s) of one or more of the four immediately preceding fiscal years (provided all such dates are consecutive) of all liabilities (*i.e.*, total assets, net of the following: loans in process, specific reserves, and deferred credits other than deferred taxes; minus net worth as defined by § 561.13 of this Subchapter) of the institution, (ii) two percent of recourse liabilities (as defined in § 561.8 of this Subchapter) resulting from the sale of any loan, and (iii) an amount equal to 20 percent of the institution's scheduled items. * * *

* * * * *

(Sec. 409, 94 Stat. 160. Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730). Sec. 5A, 47 Stat. 727, as amended by sec. 1, 64 Stat. 256, as amended; sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1464) Reorg. Plan No. 3 of 1947, 12 FR 4891, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

Gregory B. Smith,

Acting Secretary.

[FR Doc. 82–20012 Filed 7–22–82; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 373

Documentation for Reexports Under a Distribution License; Correction

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Correction to final rule.

SUMMARY: On June 10, 1981 (46 FR 30623), the Export Administration Regulations were revised to reduce the documentation for reexports under a Distribution License. However, on April 8, 1982 (47 FR 15106–15116), a revision to § 373.3(i)(3) to change an address inadvertently inserted outdated provisions governing documentation under a Distribution License.

This rule, which neither expands nor limits the provisions of the Export Administration Regulations, revises § 373.3(i)(3) to reinstate the provisions published on June 10, 1981, which had reduced the documentation for reexports under a Distribution License.

EFFECTIVE DATE: July 23, 1982.

FOR FURTHER INFORMATION CONTACT: Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230 (Telephone (202) 377–4811).

Rulemaking Requirements

In connection with various rulemaking requirements, the Office of Export Administration has determined that:

1. Under section 13(a) of the Export Administration Act of 1979 (Pub. L. 96–72, 50 U.S.C. app. 2401 *et seq.*) ("the Act"), this rule is exempt from the public participation in rulemaking procedures of the Administrative Procedure Act. This rule does not impose new controls on exports, and is therefore exempt from section 13(b) of the Act.

2. This rule does not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

3. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

4. This rule is not a major rule within the meaning of section 1(b) of Executive

Order 12291 (46 FR 13193, February 19, 1981), "Federal Regulation."

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

List of Subjects in 15 CFR Part 373

Exports.

PART 373—SPECIAL LICENSING PROCEDURES

Accordingly, Part 373 of the Export Administration Regulations is amended as follows:

1. Section 373.3(i)(3) is revised to read as follows:

§ 373.3 Distribution license.

* * * * *

(i) * * *

(3) Request for specific reexport authorization. A request for specific authorization for any reexport under a Distribution License that is not authorized by the provisions of § 373.3(i)(1) or (2) above, shall be submitted on a Form ITA–699P, Request to Dispose of Commodities or Technical Data Previously Exported, or by letter, to the Office of Export Administration at the address in § 373.1(d). (See § 374.3.) Each request shall be supported by any document that is required for an individual reexport request under the provisions of § 374.3(c).

(Secs. 13 and 15, Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. app. section 2401 *et seq.;* E. O. No. 12002 (42 FR 35623, July 11, 1977) and E. O. No. 12214 (45 FR 29783, May 6, 1980))

Dated: July 7, 1982.

Vincent F. DeCain,

Acting Director, Office of Export Administration.

[FR Doc. 82–19873 Filed 7–22–82; 8:45 am]

BILLING CODE 3510–25–M

National Oceanic and Atmospheric Administration

15 CFR Part 981

Licensing of Ocean Thermal Energy Conversion Facilities and Plantship; Correction

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Correction of final rule.

SUMMARY: This document corrects two legal citations and changes a cross reference contained in final regulations which were published July 31, 1981 (46 FR 39388) implementing the ocean thermal energy conversion (OTEC) facility and plantship licensing provisions of the Ocean Thermal Energy Conversion Act of 1980.

EFFECTIVE DATE: This correction is effective July 23, 1982.

FOR FURTHER INFORMATION CONTACT: Lowell Martin, OTEC Licensing Program Manager, Office of Ocean Minerals and Energy, NOAA, Page I Building, Room 410, 2001 Wisconsin Ave., NW., Washington, D.C. 20235 (202) 254–3483.

§§ 981.210 and 981.580 [Corrected]

SUPPLEMENTARY INFORMATION: NOAA is hereby making minor changes in citations and references in 15 CFR Part 981 as follows: (1) The legal citations in line 11, 15 CFR 981.210(b) (46 FR 39401, 7/31/81) are corrected to read "40 CFR Part 122, 40 CFR Part 124, and 40 CFR 125.120 et seq." (2) The cross reference in § 981.580(b)(2) line 11 (46 FR 39415, 7/31/81) is changed from "981.590(b)" to "15 CFR Subpart 904.102 (46 FR 61645, 12/18/81)."

Dated: July 16, 1982.

Francis J. Balint,

Director, Office of Information and Management Services.

[FR Doc. 82–20025 Filed 7–22–82; 8:45 am]

BILLING CODE 3510–12–M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 9103]

The Times Mirror Company, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Dismissal order.

SUMMARY: This order returns the matter to adjudication and dismisses the complaint charging a Los Angeles, Calif. publisher with adversely affecting competition by the use of a discriminatory rate structure for run-of-the-paper and suburban display advertising. Having considered the views of the parties and the comments received from the public, the Commission concluded that the public interest would best be served by rejecting the consent agreement and dismissing the complaint.

DATES: Complaint issued July 27, 1977. Dismissal order issued July 8, 1982.[1]

[1] Copies of the Complaint, Statement of the Commission, Separate Statement of Chairman Miller, Separate Statement of Commissioner Clanton, Separate Statement of Commissioner Pertschuk and the Final Order Returning Matter To Adjudication And Dismissing Complaint filed with the original document.

FOR FURTHER INFORMATION CONTACT: Robert J. Enders, Regional Director, 7R, Los Angeles Regional Office, Federal Trade Commission, 11000 Wilshire Blvd., Los Angeles, CA 90024, (213) 824–7575.

SUPPLEMENTARY INFORMATION: On Thursday, Oct. 1, 1981, there was published in the **Federal Register**, 46 FR 48226, a proposed consent agreement with analysis In the Matter of The Times Mirror Company, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has ordered the matter returned to adjudication and dismissed the complaint.

List of Subjects in 16 CFR Part 13

Advertising, Newspapers.

(Sec. 6, 38 Stat. 721 (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended (15 U.S.C. 45)

The Final Order Returning Matter To Adjudication And Dismissing Complaint is as follows:

On November 7, 1980, this matter was withdrawn from adjudication for consideration by the Commission of a proposed consent agreement. The Commission accepted the proposed consent and placed it on the public record on September 25, 1981, for comment pursuant to § 3.25(f) of the Commission's rules of practice and procedure.

Having considered the views of the parties to the consent and the comments received from the public, the Commission has determined that the public interest would best be served by rejecting the consent agreement and dismissing the complaint. Therefore

It is ordered that this matter be returned to adjudication and

It is further ordered that the complaint issued in the matter be, and it hereby is, dismissed.

By the Commission.

Carol M. Thomas,

Secretary.

Statement of the Commission

By Bailey, Commissioner

The Commission brought this case in 1977 out of a concern that the *Los Angeles Times'* discriminatory rate structure for run-of-the-paper and suburban display advertising adversely affected competition by disadvantaging smaller advertisers. In November 1980 the *Los Angeles Times* entered into a negotiated agreement and

jointly with FTC staff proposed a consent order for the Commission's consideration.

On September 25, 1981, the Commission, Commissioner Clanton dissenting, provisionally accepted the consent order. At that time, however, the Commission expressed concern about whether the order would work as intended, and whether it was practical or feasible to apply similar orders to newspapers in other markets. The Commission believed it had insufficient data against which to test its concerns and so sought public comment on the order for ninety days.

The comment period produced a broad sampling of opinion: 65 newspapers and broadcasters, 13 media trade associations, 10 retailers, 7 trade associations and four individuals reponded. Of the 99 comments received, 98 urged the Commission to reject the consent order.

These comments caused reexamination of two important assumptions which formed the basis of the Commission's original decision to bring the case and on which the proposed consent was based. The first assumption was that smaller advertisers were injured competitively by the *Los Angeles Times'* cumulative volume discount rate structure. However, all but one of the retailers and retail trade associations which responded opposed the consent agreement and indicated no concern about competitive injury. Their position was reinforced by academics knowledgeable in the field of mass media economics, who concluded that the benefits of the proposed order were fairly speculative, and that the order might well raise prices to all advertisers. Thus, the Commission has concluded that the benefits to competition from accepting this order are much more uncertain than was originally believed.

The comments also highlighted the issue of whether the principles of this order could or should be extended beyond the *Los Angeles Times*. It now appears that to do so within the newspaper industry would be unwise, as the type of uniform pricing required by the order could impair the pricing flexibility of secondary size papers. Were the principles of the order to be extended to other advertising media, the uncertainties as to the trade-offs between vigorous pricing flexibility and the benefits of eliminating price discrimination increase. In particular, making cross-media comparisons for the purpose of assessing a valid meeting competition defense is likely to be impossible. Clearly, however, it was never the Commission's intention, and would be inappropriate now, to leave the *Los Angeles Times* as the only seller of advertising space subject to Robinson-Patman Act principles.

In conclusion, the Commission notes that the process of decision-making in this matter worked precisely as the Commission's Rules contemplate. The scope and depth of public comment contributed greatly to the Commission's ability to reach an informed decision.

Issued: July 8, 1982.

Separate Statement of Chairman Miller

In concurring with the Commission's decision today, I am heartened to find that the extensive administrative exercise required to analyze this consent proposal has reached the same conclusion that my analysis of the likely economic consequences, as well as my reading of the law, would have suggested in the first instance.

First, economic analysis and overwhelming public comment have demonstrated persuasively that an order applying Robinson-Patman rules to newspaper advertising could injure competition in this industry.

Second, and more importantly, it seems quite clear that the intent of Congress was to leave advertising rates outside the reach of the Robinson-Patman Act.[2] While I do not dispute our role of filling inadvertent gaps in antitrust law with enforcement of the FTC Act, that role should stop short of creating law in defiance of Congress.

Separate Statement of Commissioner Clanton

I concur with the Commission's decision to dismiss the complaint in this matter not only for the reasons set out in the Commission's statement but for an additional reason that I expressed earlier when I voted not to accept provisionally the negotiated consent agreement. My decision to dismiss this complaint stems from my concerns about extending the coverage of Section 5 of the FTC Act to encompass commerical cirumstances on which we reserved judgment in *Reuben H. Donnelley Corp.*, 95 F.T.C. 1 (1980), *rev'd sub nom. Official Airline Guides, Inc.* v. *FTC*, 630 F. 2d 920 (2d Cir. 1980), *cert. denied*, 101 S. Ct. 1362 (1981).

The Commission's opinion in *Donnelley* did not distinguish between an absolute refusal to deal and dealing on discriminatory terms. While we did not foreclose the possibility of reaching price discrimination under Section 5, we emphasized the difficulties of extending a duty to deal into the area of secondary-line discrimination, which is at issue in *Times-mirror*. In *Donnelley*, we signaled a cautionary note for any future applications of such a duty to deal where the inevitable result would be to involve the Commission in regulatory-style monitoring of the reasonableness of pricing or other on-going activities. 95 F.T.C. at 81. Furthermore, in defining "arbitrary" conduct in *Donnelley*, we indicated that our concern should be limited to "conduct which results in a substantial injury to competition and lacks substantial business justification." *Id.* at 82. I was persuaded earlier and remain persuaded that this matter would not be likely to meet the *Donnelley* standards for liability. At the least, I am persuaded that this possibility is insufficient to justify acceptance of the order, especially in light of the other significant uncertainties associated with the case.

Separate Statement of Commissioner Pertschuk

I have voted to reject the tentatively accepted order against *Times-Mirror* for two reasons.

First, the benefits to competition from accepting this order are much more uncertain than we had believed. The comments, by newspapers, retailers and academics alike, overwhelmingly support the view that the competitive strength of newspapers themselves require more pricing flexibility than the order allows and that smaller retailers may not be significantly helped by it.

Second, it is clear that, if we were to prohibit newspapers from giving discounts to large advertisers which are not cost-justified, we should apply the same principle to other advertising media which compete with newspapers, including network and cable television. I do not see a realistic possibility that this Commission in the foreseeable future will apply Robinson-Patman principles in this way, and I do not believe it is appropriate to single out *Times-Mirror* as the only company to be subjected to such standards.

Consequently, I join the Commission in rejecting this particular order. It is important to state, however, that this decision by the Commission does not represent any repudiation of Robinson-Patman principles, only a decision that it would be inappropriate to apply them in this case.[3]

Finally, I note that *Times-Mirror*, to its credit, argued its position thoroughly and carefully on the merits and through public comment. It did not, as has increasingly become the custom, solicit members of Congress to pressure the Commission, after having heard an incomplete and biased presentation of the disputed issues.

[FR Doc. 82-19983 Filed 7-22-82; 8:45 am]
BILLING CODE 6750-01-M

[2] In Senate floor debates, Senator Logan flatly replied, "No," when asked if the Act would require newspapers selling advertising to observe its price discrimination provisions. 80 Cong. Rec. 3115.

[3] I agree with Chairman Miller's point in his statement that the Commission should not defy the will of Congress. I therefore am hopeful that the Commission will continue to enforce the Robinson-Patman Act in other industries.

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16 CFR Part 13

[Docket 8718]

Lenox, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying Order.

SUMMARY: This order reopens the proceeding and modifies the Commission's modified order issued on June 24, 1970, 35 FR 12754, by deleting Paragraph VIII from the order, so as to allow Lenox to prevent transshipping of its products by its authorized dealers. The Commission has also included a provision which prevents Lenox from taking disciplinary action against any dealer for transshipment which occurred before the effective date of the order.

DATES: Final Order issued April 19, 1968. Modifying Order issued July 12, 1982.

FOR FURTHER INFORMATION CONTACT: FTC/CC, Selig S. Merber, Washington, D.C. 20580. (202) 634-4642.

SUPPLEMENTARY INFORMATION:
In the Matter of Lenox, Incorporated, a corporation. Reference to codification appearing at 35 FR 12754 remains unchanged.

List of Subjects in 16 CFR Part 13

Chinaware.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

The Modifying Order is as follows:

In the Matter of Lenox, Incorporated, a corporation; Decision and Order; Docket No. 8718;

Whereas, a "Request of Lenox, Incorporated for Modification of Final Order" was filed by Respondent on March 15, 1982 pursuant to section 5(b) of the Federal Trade Commission Act, 15 U.S.C. 45(b), and § 2.51 of the Commission's Rules of Practice, 16 CFR 2.51 wherein Lenox, Incorporated seeks a partial modification of the order that issued on June 24, 1970 by the deletion of Paragraph 8; and

Whereas, the matter was thereafter placed on the public record for thirty (30) days pursuant to § 2.51(c) of the Commission's Rules of Practice, 16 CFR 2.51(c) during which time comments from the public were received; and

Whereas, the Commission thereafter considered the Petition presented by Lenox, Incorporated and all of the materials and information submitted as public comments on the petition and has determined that the request makes a satisfactory showing that change conditions of fact and law and the public interest require that the order be reopened for the purpose of modification.

Accordingly, it is ordered that the matter is reopened and that the order is modified by deleting the language of paragraph 8 that reads: Requiring or inducing, by any means, dealers or prospective dealers to refrain, or to agree to refrain, from reselling respondent's products to any dealers or distributors;

It is further ordered that paragraphs 9 and 10 be renumbered to 8 and 9.

It is further ordered that nothing herein shall be construed to permit respondent to terminate or otherwise discipline any dealer for (1) having resold respondent's products to any dealer or distributor prior to the effective date of this Order or (2) for any such resale that occurs prior to the dealer's receipt of notice that it may be disciplined for such resale.

By the Commission. Commissioner Bailey voted in the negative. Concurring statement of Commissioner Pertschuk.

Issued: July 12, 1982.

Carol M. Thomas,

Secretary.

Separate Statement of Commissioner Pertschuk

I wish to make clear why I voted for Lenox's petition to modify the Commission order prohibiting it from engaging in resale price maintenance. The petition persuaded me that the ban on transshipping, which was included in the order originally only as an *ancillary* means of deterrence, was no longer a necessary safeguard against vertical price fixing by Lenox and could safely be dropped from the order. The petition argued that the requested relief was also necessary to maintain a strong Lenox presence and vigorous interbrand competition in the houseware china business, and that it would not cause a rollback of the gains in intrabrand competition that have occurred during the life of the order. In this regard, I found the petition to be much less persuasive. I do not believe it has been established in this reopening proceeding that competition in the china industry will be improved as a result of allowing Lenox to prevent transshipping of its products by its authorized dealers. However, since Lenox has met the statutory standard for modifying orders by showing that the ancillary transshipping provision is no longer appropriate under the circumstances, it is entitled to the relief granted.

[FR Doc. 82-20043 Filed 7-22-82; 8:45 am]
BILLING CODE 6750-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-104 (Texas-3 Addition III); Order No. 242]

High-Cost Gas Produced From Tight Formations, Texas; Final Rule

Issued July 15, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Railroad Commission of Texas that the Cisco-Canyon Formations be designated as tight formations under § 271.703(d).

EFFECTIVE DATE: This rule is effective July 15, 1982.

FOR FURTHER INFORMATION CONTACT:
Leslie Lawner, (202) 357-8511, or Walter Lawson, (202) 357-8556.

SUPPLEMENTARY INFORMATION:

Before Commissioners: C. M. Butler III, Chairman; Georgiana Sheldon, J. David Hughes and A. G. Sousa.

High-Cost Gas Produced from Tight Formations; Final Rule

Issued July 15, 1982.

The Commission hereby amends § 271.703(d) of its regulations to include the Cisco Sandstone and the Canyon Sandstone Formations (Cisco-Canyon Formations), located in Glasscock County, Texas, as designated tight formations eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation, issued April 2, 1982 (47 FR 15353, April 9, 1982),[1] based on a recommendation by the Railroad Commission of Texas (Texas) in accordance with § 271.703(c) that the Cisco-Canyon Formations in Texas be designated as tight formations in § 271.703(d).

Evidence submitted by Texas supports the assertion that the Cisco-Canyon Formations meet the guidelines contained in § 271.703(c)(2). The Commission hereby adopts the Texas recommendation.

This amendment shall become effective immediately. The Commission has found that the public interest dictates that new natural gas supplies be developed on an expedited basis, and, therefore, incentive prices should be made available as soon as possible. The need to make incentive prices immediately available establishes good cause to waive the thirty-day publication period.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432; Administrative Procedure Act, 5 U.S.C. 553.)

[1] Comments on the proposed rule were invited and none were received. No party requested a public hearing and no hearing was held.

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Title 18, Code of Federal Regulations, is amended as set forth below, effective July 15, 1982.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—CEILING PRICES

In § 271.703, paragraph (d)(12) is revised to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(12) *Cisco Sandstone Formation in Texas.* RM79–76 (Texas-3)

(i) *The Sallie (Cisco) Field*—(A) *Delineation of formation.* The Sallie (Cisco) Field in the Cisco Sandstone Formation is located in Sections 58, 59, 60, and 72, Block 2, T&P RR Survey, northeast Reagan County, Texas, and Section 42, Block 2 T&P RR Survey, southwest Sterling County, Texas.

(B) *Depth.* The top of the Cisco Sandstone Formation is located at an approximate depth of 8,030 feet and is approximately 300 feet thick.

(ii) *Credo, East (Cisco, Upper) Field*—(A) *Delineation of formation.* The Upper Cisco Formation is located in the northwestern corner of Sterling County, in west Texas, and includes 24 sections in Block 29, W&NM Survey, 13 sections in Block 31, T–4–S, T&P RR Survey, 15 sections in Block 17, SP RR Survey, 5 sections in Block 14, SP RR Survey, 36 sections in Block 23, H&TC RR Survey, and 3 sections in J. G. Soulard Survey.

(B) *Depth.* The top and base of the Upper Cisco Formation located in the Credo, East (Cisco, Upper) Field, are found at an approximate depth of 7,125 feet and 7,550 feet, respectively, as measured in the log of the HNG Oil Co. No. 21–1 McEntire well.

(iii) *The Cisco-Canyon Formations*—(A) *Delineation of formation.* The Cisco-Canyon Formations are found in the area of the Conger, S. W. (Penn) Field, Glasscock County, Texas, and consist of Sections 40 and 41, T–5–S, Block 32, T&P RR Co. Survey.

(B) *Depth.* The top of the Cisco Sandstone Formation is found at a log depth of 8,110 feet and the base of the Cisco Sandstone is found at a log depth of 8,330 feet in the Grand Banks Energy Co., No. 1 Edmonson "A" well. The total thickness of the formations is approximately 390 feet.

[FR Doc. 82-20097 Filed 7-22-82; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510, 546, and 555

New Animal Drugs; Change of Sponsor

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of two supplemental new animal drug applications (NADA's) filed by Lemmon Co. providing for a change of sponsor from Federal Pharmacal, Inc.

EFFECTIVE DATE: July 23, 1982.

FOR FURTHER INFORMATION CONTACT: John R. Markus, Bureau of Veterinary Medicine (HFV–104), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4313.

SUPPLEMENTARY INFORMATION: Lemmon Co., P.O. Box 30, Sellersville, PA 18960, filed two supplemental NADA's providing for a change of sponsor from Federal Pharmacal, Inc., Kingshill, St. Croix, VI 00850. Affected by this change of sponsor is NADA 65–345 for chloramphenicol capsules and NADA 65–467 for tetracycline hydrochloride capsules. The supplemental NADA's are approved. The regulations are amended in §§ 510.600(c), 546.180a, and 555.110b to remove Federal Pharmacal as the sponsor of the approved NADA's and to provide for the new sponsor.

This action concerns a change of sponsor and does not involve any changes in manufacturing facilities, equipment, procedures, or production personnel. Under the Bureau of Veterinary Medicine's supplemental approval policy (see 42 FR 64367; December 23, 1977), this is a Category I change which does not require reevaluation of the safety and effectiveness data in the parent applications.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects

21 CFR Part 510

Administrative practice and procedure; Animal drugs; Labeling; Reporting requirements.

21 CFR Part 546

Animal drugs; Antibiotics, Tetracycline.

21 CFR Part 555

Animal drugs; Antibiotics, Chloramphenicol.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i) and (n), 82 Stat. 347, 350–351 (21 U.S.C. 360b(i) and (n))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 510, 546, and 555 are amended as follows:

PART 510—NEW ANIMAL DRUGS

§ 510.600 [Amended]

1. In Part 510, § 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in paragraph (c)(1) by removing the entry for "Federal Pharmacal, Inc." and in paragraph (c)(2) by removing the entry for "000345."

PART 546—TETRACYCLINE ANTIBIOTIC DRUGS FOR ANIMAL USE

§ 546.180a [Amended]

2. In Part 546, § 546.180a *Tetracycline hydrochloride capsules* is amended in paragraph (c)(5)(i)(*c*) by removing sponsor number "000345" and inserting in its place sponsor number "000693."

PART 555—CHLORAMPHENICOL DRUGS FOR ANIMAL USE

§ 555.110b [Amended]

3. In Part 555, § 555.110b *Chloramphenicol capsules* is amended in paragraph (c)(2)(i) by removing sponsor number "000345" and inserting in its place "000693."

Effective date: July 23, 1982.

(Sec. 512(i) and (n), 82 Stat. 347, 350–351 (21 U.S.C. 360b(i) and (n)))

Dated: July 16, 1982.

Richard A. Carnevale,

Acting Associate Director for Scientific Evaluation.

[FR Doc. 82-19816 Filed 7-22-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 540

Penicillin Antibiotic Drugs for Animal Use; Sterile Benzathine Penicillin G and Procaine Penicillin G Suspension

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplement to a new animal drug application (NADA) filed by John D. Copanos & Co., Inc. The supplement provides for the over-the-counter marketing of benzathine penicillin G and procaine penicillin G suspension for subcutaneous use in beef cattle.

EFFECTIVE DATE: July 23, 1982.

FOR FURTHER INFORMATION CONTACT: Richard A. Carnevale, Bureau of Veterinary Medicine (HFV–125), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1788.

SUPPLEMENTARY INFORMATION: John D. Copanos & Co., Inc., Baltimore, MD 21225, filed a supplement to its approved NADA 65–277 for Combi-Pen (benzathine penicillin G and procaine penicillin G suspension). The supplement requested the over-the-counter marketing of Combi-Pen when the product is labeled solely for subcutaneous use in beef cattle for the treatment of bacterial pneumonia (*Streptococcus* spp., *Corynebacterium pyogenes, Staphylococcus aureus*); upper respiratory infections such as rhinitis or pharyngitis (*Corynebacterium pyogenes*); blackleg (*Clostridium chauvoei*); and for prophylaxis of bovine shipping fever in 300 to 500 pound beef calves. The supplement did not include additional safety or effectiveness data.

Combi-Pen is approved for use in horses, dogs, and beef cattle and has been restricted to use by or on the order of a licensed veterinarian (i.e., prescription use). The product has been limited to prescription use since December 22, 1971, when the agency placed all injectable drugs containing benzathine penicillin for veterinary use on a prescription basis (36 FR 24214). The reasons for this action were that FDA had concluded that adequate directions for benzathine penicillin for lay use could not be written for companion animal or pet population diseases and that the directions requiring subcutaneous injection for use in beef cattle were not likely to be followed by the laity.

The agency has reconsidered its policy limiting the subcutaneous use of benzathine penicillin in beef cattle to prescription status. The Bureau of Veterinary Medicine has concluded that cattle producers are capable of following label directions for the subcutaneous use of this product. This conclusion is supported by experience with another new animal drug which is sold over-the-counter for use in cattle and which is specifically labeled for subcutaneous administration (see 21 CFR 522.1244). The Bureau of Veterinary Medicine is confident that adequate directions for the subcutaneous use of Combi-Pen in beef cattle can be written for the requested claims in this supplement. The supplement to NADA 65–277 is approved and § 540.255c (21 CFR 540.255c) is amended to reflect the approval. NADA 65–277 now provides for dual labeling and marketing of Combi-Pen. The product must be labeled for prescription use if marketed for use in horses, dogs, and beef cattle, but may be labeled for over-the-counter use if limited to use in beef cattle for the claims designated in this approval.

Because penicillin products including injectables are currently available over-the-counter, the agency has concluded that the approval of this supplement will not significantly increase human exposure to residues of the drug in edible tissue. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), this is a Category II approval which does not require a reevaluation of the human safety or animal safety and effectiveness data in the parent application.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 540

Animal drugs, Antibiotics, Penicillin.

PART 540—PENICILLIN ANTIBIOTIC DRUGS FOR ANIMAL USE

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i) and (n), 82 Stat. 347, 350–351 (21 U.S.C. 360b(i) and (n))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 540 is amended in § 540.255c by revising paragraph (c), to read as follows:

§ 540.255c Sterile benzathine penicillin G and procaine penicillin G suspension.

* * * * *

(c) *Conditions of marketing*—(1) *Specifications.* Meets the specifications in paragraph (a) of this section. Each milliliter contains 150,000 units of benzathine penicillin G and 150,000 units of procaine penicillin G in aqueous suspension.[1]

(2) *Sponsors.* (i) See Nos. 000008, 000015, 000029, 000856, and 010271 in § 510.600(c) of this chapter for the conditions of use in paragraph (c)(4)(i) of this section.

(ii) See No. 010271 in § 510.600(c) of this chapter for the conditions of use in paragraph (c)(4)(ii) of this section.

(3) *Related tolerances.* See § 556.510 of this chapter.

(4) *Conditions of use.* (i) It is used in horses, dogs, and beef cattle for the treatment of bacterial infections susceptible to penicillin G. The dosage given should be repeated in 48 hours. Restricted to use by or on the order of a licensed veterinarian.[1]

(*a*) Inject intramuscularly in horses at 2 milliliters per 150 pounds of body weight. Do not use in horses intended for food purposes.[1]

(*b*) Inject intramuscularly or subcutaneously in dogs at 1 milliliter per 10 to 25 pounds of body weight.[1]

(*c*) Inject beef cattle subcutaneously only at 2 milliliters per 150 pounds of body weight. Treatment should be limited to two doses. Not to be used in beef cattle within 30 days of slaughter.[1]

(ii) It is used in beef cattle for the treatment of bacterial pneumonia (*Streptococcus* spp., *Corynebacterium pyogenes, Staphylococcus aureus*); upper respiratory infections such as rhinitis or pharyngitis (*Corynebacterium pyogenes*); blackleg (*Clostridium chauvoei*); and for prophylaxis of bovine

[1] These conditions are NAS/NRC reviewed and deemed effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter.

shipping fever in 300 to 500 pound beef calves.[1]

(*a*) Inject subcutaneously 2 milliliters per 150 pounds of body weight. Repeat dosage in 48 hours. Limit treatment to two doses.[1]

(*b*) Not for use within 30 days of slaughter.[1]

Effective date: July 23, 1982.

(Sec. 512(i) and (n), 82 Stat. 347, 350–351 (21 U.S.C. 360b(i) and (n)))

Dated: July 16, 1982.

Richard A. Carnevale,

Acting Associate Director for Scientific Evaluation.

[FR Doc. 82-19817 Filed 7-22-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed for Dale Alley Co. providing for safe and effective use of an 8-gram-per-pound tylosin premix for making complete swine, beef cattle, and chicken feeds.

EFFECTIVE DATE: July 23, 1982.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV–136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5247.

SUPPLEMENTARY INFORMATION: Dale Alley Co., P.O. Box 444, 222 Sylvanie St., St. Joseph, MO 64502, is the sponsor of supplemental NADA 96–512 submitted on its behalf by Elanco Products Co. This supplemental NADA provides for use of premixes containing 8 grams of tylosin (as tylosin phosphate) per pound for making complete feeds for swine, beef cattle, and chickens. The swine feed is used for increased rate of weight gain and improved feed efficiency, for prevention, treatment and control of swine dysentery, for maintaining weight gains and feed efficiency in the presence of atrophic rhinitis; a beef cattle feed for reduction of incidence of certain liver abscesses; a chicken feed for increased rate of weight gain and improved feed efficiency; a layer feed for improved feed efficiency; and a broiler and replacement chicken feed for control of chronic respiratory disease.

Approval of this NADA relies upon safety and effectiveness data contained in Elanco's approved NADA 12–491. Elanco has authorized use of the data in NADA 12–491 to support approval of this application. This approval does not change the approved use of the drug. Consequently, approval of this NADA poses no increased human risk from exposure to residues of the animal drug nor does it change the conditions of the drug's safe use in the target animal species.

Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), this is a Category II supplemental approval which does not require reevaluation of the safety and effectiveness data in NADA 12–491 or NADA 96–512.

The supplement is approved and the regulations are amended accordingly. This approval is in addition to the firm's existing approval for use of 4-gram-per-pound tylosin premixes for making swine feeds and 10-gram-per-pound tylosin premixes for making swine, beef cattle, and chicken feeds.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 558

Animal drugs; Animal feeds.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.625 Tylosin.

Therefore, under the Federal Food, Drug and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 558.625 is amended by revising paragraph (b)(50) to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(50) To 018083: 4 grams per pound; paragraph (f)(1)(vi)(*a*) of this section, 8 and 10 grams per pound, paragraph (f)(1)(i) through (vi) of this section.

* * * * *

Effective date: July 23, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))

Dated: July 16, 1982.

Richard A. Carnevale,

Acting Associate Director for Scientific Evaluation.

[FR Doc. 82-19818 Filed 7-22-82; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 81

[Docket No. R–82–967]

Federal National Mortgage Association (FNMA)—Maximum Debt-to-Capital Ratio

AGENCY: Department of Housing and Urban Development, Office of the Secretary.

ACTION: Final rule.

SUMMARY: This rule will permit the Secretary to change FNMA's maximum debt-to-capital ratio from time to time by means of a notice published in the **Federal Register.** Each request by FNMA for such a change must be supported by justification satisfactory to the Secretary. This rule will permit the Secretary to respond to FNMA requests for change in a manner more directly focused on FNMA's foreseeable immediate requirements than would be practicable if rulemaking procedures were followed in each instance.

EFFECTIVE DATE: September 10, 1982.

FOR FURTHER INFORMATION CONTACT: Eleanor Roberts Lewis, Assistant General Counsel for Finance, Office of General Counsel, Department of Housing and Urban Development, Room 9238, 451 Seventh Street SW., Washington, D.C. 20410, (202) 755–6270. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Section 304(b) of the FNMA Charter Act, 12 U.S.C. 1719, provides that FNMA:

is authorized to issue * * * and have outstanding at any one time obligations having such rate or rates of interest as may be determined by [FNMA] * * *; but the aggregate amount of obligations of [FNMA]

under this subsection outstanding at any one time shall not exceed fifteen times the sum of its capital, capital surplus, general surplus, reserves, and undistributed earnings unless a greater ratio shall be fixed at any time or from time to time by the Secretary of Housing and Urban Development.

Section 304(e) of the Charter Act provides that, for the purpose of the above limitation, the amount of FNMA's outstanding subordinated obligations are deemed to be capital.

HUD's current regulations implementing the Secretary's authority over the conduct of FNMA's secondary market operations fix FNMA's maximum debt-to-capital ratio at 25-to-1. (24 CFR 81.15(a)). An amendment to the regulation merely revising the ratio but retaining the remaining text of the regulation would require a separate rulemaking proceeding upon any subsequent request by FNMA for an increase in the maximum ratio.

The Secretary's authority to fix FNMA's maximum debt-to-capital ratio pursuant to section 304(b) of the Charter Act is independent of the Secretary's general authority under section 309(h) of the Charter Act to issue such rules and regulations as shall be necessary and proper to insure that the purposes of the Charter Act are accomplished. The Secretary does not believe that the interests of FNMA or the public or the purposes of the Charter Act require resort to rulemaking procedures under the Administrative Procedure Act whenever a request for an increase in FNMA's maximum debt-to-capital ratio is submitted. The Secretary is aware, however, that knowledge of the maximum debt-to-capital ratio by which FNMA at any time is bound may be material to investors.

On May 17, 1982, the Department published a proposed rule (47 FR 21093) which would amend the current regulation in order to permit the Secretary to change FNMA's maximum debt-to-capital ratio from time to time upon request by FNMA, supported by justification satisfactory to the Secretary. The proposed revision would require that, upon the fixing of any change in the ratio by the Secretary, notice thereof will be published in the **Federal Register**. The published preamble indicated that the proposed revision was intended to permit the Secretary to address FNMA requests for increases in the maximum ratio in a manner more directly focused upon FNMA's foreseeable immediate requirements than would be permitted because of the time necessarily consumed in rulemaking proceedings.

During the 30-day public comment period following publication of the proposed rule, no comments were received. Accordingly, the Department is adopting its final rule in the same form as it was proposed, subject only to minor technical corrections.

The Department has determined that this final rule does not constitute a "major rule" as defined in Executive Order 12291. Analysis of the final rule indicates that it will not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50 which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant impact on a substantial number of small entities. This rule affects only one entity, FNMA, which is not a small entity.

This rule was not listed in the Department's Semiannual Agenda of Regulations published on August 17, 1981 (46 FR 41708) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 81

Accounting, Federal National Mortgage Association, Mortgages, Reporting and recordkeeping requirements, Securities.

PART 81—REGULATIONS IMPLEMENTING THE AUTHORITY OF THE SECRETARY OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT OVER THE CONDUCT OF THE SECONDARY MARKET OPERATIONS OF THE FEDERAL NATIONAL MORTGAGE ASSOCIATION (FNMA)

Accordingly, 24 CFR 81.15 is revised to read as follows:

§ 81.15 Debt-to-capital ratio.

(a) Under section 304(b) of the Charter Act, FNMA's debt-to-capital ratio may not exceed 15 to 1, unless a greater maximum ratio is fixed by the Secretary. Upon request submitted in writing by FNMA including justification satisfactory to the Secretary and supporting financial data, the Secretary from time to time may fix such greater maximum ratio as the Secretary, in his discretion, shall determine, which shall remain in effect as FNMA's maximum debt-to-capital ratio until otherwise specified by the Secretary. Upon fixing or changing a maximum ratio pursuant hereto, the Secretary shall cause notice of such action to be published in the **Federal Register**.

(b) Except as provided in paragraph (d) of this section, FNMA shall not issue any debt instrument if such issuance would cause its debt-to-capital ratio to exceed the maximum ratio established by section 304(b) of the Charter Act or such other maximum ratio as has been fixed by the Secretary as provided in paragraph (a) of this section.

(c) The Secretary may decrease the maximum debt-to-capital ratio fixed pursuant to paragraph (a) of this section (but not below a ratio of 15 to 1), if the Secretary determines that such action: (1) Will not adversely affect the fiscal integrity of or limit the availability of credit to the corporation, and (2) will not impair FNMA's ability to discharge its obligations to the holders of FNMA's debt instruments and holders of subordinated debentures issued under section 304(e) of the Charter Act. The Secretary shall provide FNMA 60 workdays' written notice of the effective date of any decrease in its maximum debt-to-capital ratio.

(d) In the event at any time of a reduction in the sum of the corporation's capital, capital surplus, general surplus, reserves, and undistributed earnings, the maximum debt-to-capital ratio is automatically increased to such ratio as may be necessary to include all obligations issued pursuant to section 304(b) of the Charter Act and outstanding at such time. In the event at any time of a maturity or other event requiring the payment or redemption of any of the obligations issued under section 304(e) of the Charter Act, the maximum debt-to-capital ratio is automatically increased to such ratio as may be necessary to permit the issuance of obligations under section 304(b) of the Charter Act in an amount sufficient to provide the proceeds required to pay the principal of and interest on the obligations outstanding under such

section 304(e) and so required to be paid or redeemed at such time.

(Secs. 304(b) and 309(h), FNMA Charter Act (12 U.S.C. 1719, 1723a))

Dated: July 19, 1982.

Samuel R. Pierce, Jr.,

Secretary of Housing and Urban Development.

[FR Doc. 82-19903 Filed 7-22-82; 8:45 am]

BILLING CODE 4210-01-M

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Parts 215, 221, and 236

[Docket No. 82-989]

Prohibited Lease Terms

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner.

ACTION: Interim rule.

SUMMARY: This rule defines certain lease provisions which are prohibited from use in certain HUD subsidized multifamily housing programs. It implements a provision of Section 202(b)(3) of the Housing and Community Development Amendments of 1978 which requires the Secretary to assure that leases approved by the Secretary do not contain unreasonable terms and conditions.

DATES:

Effective date: September 10, 1982.

Comment due date: September 7, 1982.

ADDRESS: Interested persons may participate in this rulemaking by submitting written data, views, or arguments before the comment due date to the Rules Docket Clerk, Office of General Counsel, Room 10274, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Each comment should include the commentor's name and address and should refer to the docket number indicated in the heading above. A copy of each comment will be available for public examination at the above address during regular business hours.

FOR FURTHER INFORMATION CONTACT: James J. Tahash, Director, Program Planning Division, Office of Multifamily Housing Management, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 426-8730. This is not a toll free number.

SUPPLEMENTARY INFORMATION: Section 202(b) of the Housing and Community Development Amendments of 1978 provides, among other things, that "the Secretary shall assure that * * * leases approved by the Secretary * * * do not contain unreasonable terms and conditions" (12 U.S.C. 715-1b(b)(3)). Section 202 is applicable to multifamily housing projects assisted under section 236 or the proviso of section 221(d)(5) (i.e., section 221(d)(3) BMIR of the National Housing Act), or under section 101 of the Housing and Urban Development Act of 1965 (rent supplement). Section 202 further instructed the Secretary to "promulgate regulations to carry out the provisions of this section" not later than 90 days after the statute's effective date. The Department heretofore has not promulgated regulations specifically prohibiting unreasonable lease provisions, on the basis of its interpretation that the statute required promulgation of regulations only if, and to the extent that, the Secretary concluded that regulations were necessary to carry out the statute's mandate.

Department regulations have prohibited the use of certain defined lease provisions in particular HUD programs for some time. These existing regulations appear at 24 CFR 866.6 (public housing); Part 882, appendix II (Section 8 Existing Housing); § 883.707(b)(2) (Section 8—State Housing Agencies); § 884.215(c) (Section 8—Rural Renting Housing Projects); § 886.122(c) (Section 8—Additional Assistance for Projects with HUD-Insured and HUD-Held Mortgages); § 886.322(d) (Section 8—Disposition of HUD-Owned Projects). All of these provisions are substantially identical, listing eight prohibited types of lease provisions. Regulations applicable to other programs refer to prohibited provisions specified in the developer's packet (see 24 CFR §§ 880.602(b) (Section 8—New Construction), 881.606(b) (Section 8—Substantial Rehabilitation)).

Leases utilized by project owners under HUD's mortgage insurance programs generally are required to be in a form approved by the Commissioner, either by explicit regulation (see, e.g., 24 CFR 236.75) or by regulatory agreement. Prior to November 1981, HUD field instructions permitted the approval of lease forms which contained provisions of the type prohibited by the other specific program regulations cited above. On November 4, 1981, HUD issued Handbook 4350.3, Occupancy Requirements of Subsidized Multifamily Housing Programs. The Handbook contains a model lease agreement and, consistent with the existing regulations, requires that variations from the model form be approved in writing by HUD. The Handbook also sets out the eight lease provisions prohibited by the other program regulations cited above, and provides that leases containing any of such provisions will not be approved.

Also, on November 4, 1981, the United States District Court, Western District of Pennsylvania, in a class action brought on behalf of tenants of section 236 and section 221(d)(3) BMIR projects in Allegheny County, Pennsylvania, entered an order directing the Secretary to promulgate interim or final regulations "which assure that unreasonable provisions are no longer contained in leases in use in section 236 and section 221(d)(3) Below Market Interest Rate projects. Such unreasonable provisions shall include but are not limited to" the eight lease provisions cited in other program regulations and in the Handbook. *Love v. HUD*, Civ. No. 80-1041B (W. D. Pa.).

The Department has noticed an appeal from the District Court's order, principally because the order mandated the inclusion of specific provisions in regulations to be issued by the Secretary. However, the Department agrees that the statutory directives should be implemented by a regulation specifically enumerating lease provisions determined to be unreasonable, with an opportunity for public comment on the content of the regulation.

Accordingly, the Department is amending the section 236; rent supplement; section 236, Rental Assistance Payments (RAP); and section 221(d)(3) BMIR regulations to incorporate a specific listing of lease terms which the Department considers unreasonable and which therefore are prohibited. Because the regulation incorporates a listing of prohibited lease provisions which has existed for some time in other regulations, and in view of the delay in responding adequately to the statutory directive, the Secretary has concluded that prior public comment is unnecessary and that good cause exists for permitting the regulation to be published as an interim rule which will become effective before consideration of public comments. At the same time, however, the Department is soliciting public comments which will be considered before issuance of a final rule.

In this connection, comment is invited specifically on the following questions. As noted above, each of the mortgage insurance program regulations to which the enumeration of prohibited lease provisions is being added requires that all leases utilized by owners be in a

form approved by the Commissioner. The Department invites comment as to whether this requirement should be retained, or whether, instead, the Department should follow its present pattern in other subsidized programs of requiring certain provisions reflecting program requirements (e.g., rent terms and adjustments, good cause for eviction) and prohibiting certain provisions considered unreasonable, while leaving the remainder of the lease form to be developed by the owner in accordance with local law and custom.

The Department also notes the following with respect to the coverage of the interim rule. Section 202 of the Housing and Community Development Amendments of 1978 defines its coverage in terms of projects "eligible for assistance as described in" section 201 of the same statute, which authorizes flexible subsidy operating assistance. Projects not insured under the National Housing Act but financed by a State agency under section 236(b) of the National Housing Act are eligible for flexible subsidy assistance and therefore, as a consequence of the cross-reference in section 202, are also within the coverage of the latter statute. (As adopted by the Senate, section 202 applied specifically only to insured or HUD-acquired projects. The conformance of coverage definitions to that of the flexible subsidy provisions occurred in Conference. While the legislative history contains no indication that extension of the coverage of section 202 to State-assisted uninsured projects was specifically intended, the result is clear.)

The provisions of 24 CFR Part 215 (rent supplement) and Part 236, Subpart D (Rental Assistance Payments) being amended in this proceeding already are applicable to State-assisted uninsured projects. However, uninsured State-assisted projects receiving section 236 interest subsidy without rental assistance payments or rent supplement are not covered by Part 236, Subpart A. Moreover, the Department also has proposed legislation which would remove uninsured State-assisted projects from eligibility for flexible subsidy under section 201. If adopted, such legislation would have the result of removing such projects from the coverage of section 202.

For the foregoing reasons, the Department has elected not to extend the coverage of the interim rules issued herein to State-assisted uninsured projects not receiving either rental assistance payments or rent supplement. If the Department's current legislative proposal is not adopted, however, the Department will reconsider the question of extension of these regulations to such projects. The Department invites specific comment on this point.

The rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse impact on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk at the address listed above.

This rule was not listed in the Department's Semiannual Agenda of Regulations published on August 17, 1981 (46 FR 41708) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The mortgage insurance programs affected by this rule are listed in the catalog of Federal Domestic Assistance under the following numbers: 14.103, 14.137 and 14.149.

Pursuant to the provisions of 5 U.S.C. 605(b) of the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities.

List of Subjects

24 CFR Part 215

Grant programs: Housing and community development, Rent subsidies.

24 CFR Part 221

Condominiums, Low and moderate income housing, Mortage insurance, Displaced families, Single family housing, Projects, Cooperatives.

24 CFR Part 236

Low and moderate income housing, Mortgage insurance, Rent subsidies, Taxes, Utilities, Projects.

Accordingly, 24 CFR Chapter II is amended as follows:

PART 215—RENT SUPPLEMENT PAYMENTS

1. Section 215.70 is amended by adding a new paragraph (c) thereof, as follows:

§ 215.70 Form of lease.

* * * * *

(c) *Prohibited lease provisions.* Lease clauses of the nature described below shall not be included in new leases and shall be deleted from existing leases either by amendment thereof or execution of a new lease:

(1) *Confession of judgment.* Prior consent by the tenant to any lawsuit the landlord may bring against him in connection with the lease and to a judgment in favor of the landlord.

(2) *Distraint for rent or other charges.* Agreement by the tenant that landlord is authorized to take property of the tenant and hold it as a pledge until the tenant performs the obligation which the landlord has determined the tenant has failed to perform.

(3) *Exculpatory clauses.* Agreement by the tenant not to hold the landlord or landlord's agent liable for any acts or omissions whether intentional or negligent on the part of the landlord or the landlord's authorized representatives or agents.

(4) *Waiver of legal notice by tenant prior to actions for eviction or money judgments.* Agreements by the tenant that the landlord may institute suit without any notice to the tenant that the suit has been filed, thus preventing the tenant from defending against the lawsuit.

(5) *Waiver of legal proceedings.* Authorization to the landlord to evict the tenant or hold or sell the tenant's possessions whenever the landlord determines that a breach or default has occurred without notice of the rights and liabilities of the parties.

(6) *Waiver of jury trial.* Authorization of the landlord's lawyer to appear in court for the tenant and waive the right to a trial by jury.

(7) *Waiver of right to appeal judicial error in legal proceeding.* Authorization to the landlord's lawyer to waive the right to appeal for judicial error in any suit or to waive the right to file a suit in equity to prevent the execution of a judgment.

(8) *Tenant chargeable with cost of legal actions regardless of outcome.* Provision that the tenant agrees to pay attorney's fees or other legal costs whenever the landlord decides to take action against the tenant even though

the court determines that the tenant prevails in the action. Prohibition of this type of provision does not mean that the tenant as a party to the lawsuit may not be obligated to pay attorney's fees for other costs if he loses the suit.

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

2. Part 221 is amended by adding a new § 221.536a as follows:

§ 221.536a Leases and occupancy agreements.

(a) *Form of lease and occupancy agreement.* The owner shall provide and the tenant shall be required to execute a lease in a form approved by the Commissioner. A cooperative member shall be required to execute an occupancy agreement in a form approved by the Commissioner, regardless of the rent he is paying.

(b) *Prohibited lease provisions.* Lease clauses of the nature described below shall not be included in new leases in projects which receive the benefit of subsidy in the form of below-market interest rates pursuant to sections 221(d)(3) and (5) of the Act and shall be deleted from existing leases entirely by amendment thereof or execution of a new lease:

(1) *Confession of judgment.* Prior consent by the tenant to any lawsuit the landlord may bring against him in connection with the lease and to a judgment in favor of the landlord.

(2) *Distraint for rent or other charges.* Agreement by the tenant that landlord is authorized to take property of the tenant and hold it as a pledge until the tenant performs the obligation which the landlord has determined the tenant has failed to perform.

(3) *Exculpatory clauses.* Agreement by the tenant to hold the landlord or landlord's agent liable for any acts or omissions whether intentional or negligent on the part of the landlord or the landlord's authorized representatives or agents.

(4) *Waiver of legal notice by tenant prior to actions for eviction or money judgments.* Agreements by the tenant that the landlord may institute suit without any notice to the tenant that the suit has been filed, thus preventing the tenant from defending against the lawsuit.

(5) *Waiver of legal proceedings.* Authorization to the landlord to evict the tenant or hold or sell the tenant's possessions whenever the landlord determines that a breach or default has occurred without notice to the tenant or any determination by a court of the rights and liabilities of the parties.

(6) *Waiver of jury trial.* Authorization of the landlord's lawyer to appear in court for the tenant and waive the right to a trial by jury.

(7) *Waiver of right to appeal judicial error in legal proceeding.* Authorization to the landlord's lawyer to waive the right to appeal for judicial error in any suit or to waive the right to file a suit in equity to prevent the execution of a judgment.

(8) *Tenant chargeable with cost of legal actions regardless of outcome.* Provision that the tenant agrees to pay attorney's fees or other legal costs whenever the landlord decides to take action against the tenant even though the court determines that the tenant prevails in the action. Prohibition of this type of provision does not mean that the tenant as a party to the lawsuit may not be obligated to pay attorney's fees or other costs if he loses the suit.

PART 236—MORTGAGE INSURANCE AND INTEREST REDUCTION PAYMENT FOR RENTAL PROJECTS

3. Section 236.75 is revised to read as follows:

§ 236.75 Form of lease and occupancy agreement.

(a) A tenant who is to pay less than the fair market rental shall be required to execute a lease in a form approved by the Commissioner. A cooperative member shall be required to execute an occupancy agreement in a form approved by the Commissioner, regardless of the rent he is paying.

(b) Lease clauses of the nature described below shall not be included in new leases or occupancy agreements covered by paragraph (a) of this section and shall be deleted from existing leases and agreements either by amendment thereof or execution of a new lease or agreement.

(1) *Confession of judgment.* Prior consent to the tenant to any lawsuit the landlord may bring against him in connection with the lease and to a judgment in favor of the landlord.

(2) *Distraint for rent or other charges.* Agreement by the tenant that landlord is authorized to take property of the tenant and hold it as a pledge until the tenant performs the obligation which the landlord has determined the tenant has failed to perform.

(3) *Exculpatory clauses.* Agreement by the tenant not to hold the landlord or landlord's intentional or negligent on the part of the landlord or the landlord's authorized representatives or agents.

(4) *Waiver of legal notice by tenant prior to actions for eviction or money judgments.* Agreements by the tenant that the landlord may institute suit without any notice to the tenant that the suit has been filed, thus preventing the tenant from defending against the lawsuit.

(5) *Waiver of legal proceedings.* Authorization to the landlord to evict the tenant or hold or sell the tenant's possessions whenever the landlord determines that a breach or default has occurred without notice to the tenant or any determination by a court of the rights and liabilities of the parties.

(6) *Waiver of jury trial.* Authorization of the landlord's lawyer to appear in court for the tenant and waive the right to a trial by jury.

(7) *Waiver of right to appeal judicial error in legal proceeding.* Authorization to the landlord's lawyer to waive the right to appeal for judicial error in any suit or to waive the right to file a suit in equity to prevent the execution of a judgment.

(8) *Tenant chargeable with cost of legal actions regardless of outcome.* Provision that the tenant agrees to pay attorney's fees or other legal costs whenever the landlord decides to take action against the tenant even though the court determines that the tenant prevails in the action. Prohibition of this type of provision does not mean that the tenant as a party to the lawsuit may not be obligated to pay attorney's fees or other costs if he loses the suit.

Subpart D—Rental Assistance Payments

4. Section 236.750 is amended by adding a new paragraph (c) as follows:

§ 236.750 [Amended]

(c) *Prohibited lease provisions.* Lease clauses of the nature described below shall not be included by paragraphs (a) and (b) of this section and shall be deleted from existing leases and agreements either by amendment thereof or execution of a new lease or agreement.

(1) *Confession of judgment.* Prior consent by the tenant to any lawsuit the landlord may bring against him in connection with the lease and to a judgment in favor of the landlord.

(2) *Distraint for rent or other charges.* Agreement by the tenant that landlord is authorized to take property of the tenant and hold it as a pledge until the tenant performs the obligation which the landlord had determined the tenant has failed to perform.

(3) *Exculpatory clauses.* Agreement by the tenant not to hold the landlord or landlord's agent liable for any acts or omissions whether intentional or negligent on the part of the landlord or

the landlord's authorized representatives or agents.

(4) *Waiver of legal notice by tenant prior to actions for eviction or money judgments.* Agreements by the tenant that the landlord may institute suit without any notice to the tenant that the suit has been filed, thus preventing the tenant from defending against the lawsuit.

(5) *Waiver of legal proceedings.* Authorization to the landlord to evict the tenant or hold or sell the tenant's possessions whenever the landlord determines that a breach or default has occurred without notice to the tenant or any determination by a court of the rights and liabilities of the parties.

(6) *Waiver of jury trial.* Authorization of the landlord's lawyer to appear in court for the tenant and waive the right to a trial by jury.

(7) *Waiver of right to appeal judicial error in legal proceeding.* Authorization to the landlord's lawyer to waive the right to appeal for judicial error in any suit or to waive the right to file a suit in equity to prevent the execution of a judgment.

(8) *Tenant chargeable with cost of legal actions regardless of outcome.* Provision that the tenant agrees to pay attorney's fees or other legal costs whenever the landlord decides to take action against the tenant even though the court determines that the tenant prevails in the action. Prohibition of this type of provision does not mean that the tenant as a party to the lawsuit may not be obligated to pay attorney's fees or other costs if he loses the suit.

(Sec. 202(b)(3), Housing and Community Development Amendments of 1978 (12 U.S.C. 17152–1b(b)(3)); Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)))

Dated: June 19, 1982.

Philip Abrams,

General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

[FR Doc. 82-19002 Filed 7-22-82; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF LABOR

Office of Pension and Welfare Benefit Programs

29 CFR Part 2520

Summary Annual Report Furnished Participants and Beneficiaries of Employee Benefit Plans, Amendments and Corrections

AGENCY: Office of Pension and Welfare Benefits Programs, Labor.

ACTION: Adoption of Amendments.

SUMMARY: This document adopts amendments to the Department of Labor regulation governing the summary annual report (SAR) furnished participants and beneficiaries of certain employee benefit plans under the Employee Retirement Income Security Act of 1974 (ERISA). These amendments are necessary in order to accommodate the summary annual report requirements to the triennial filing system implemented beginning with the 1980 plan year for certain small employee benefit plans filing the annual report. The amendments require small plans filing Form 5500–R to distribute copies of that form with an accompanying explanatory notice to participants and beneficiaries or to notify participants and beneficiaries in writing that they are entitled to receive a copy of Form 5500–R. Such distribution or notification shall be made in lieu of distribution of the summary annual report. In the case of active participants, the obligation to furnish a notice of the availability of the 5500–R may be satisfied by a posting of the notice at worksite locations reasonably calculated to ensure disclosure of the information to plan participants, e.g., administration office, union office, employee bulletin boards, etc. The SAR requirements remain generally unchanged for plans filing Form 5500 and for small plans in those years for which a Form 5500–C or Form 5500–K is filed. The document also contains several minor corrections to the regulation and the attached appendix.

EFFECTIVE DATE: These amendments and corrections are effective July 21, 1982. Thus, all affected plans must satisfy SAR requirements due on or after that date in accordance with these amendments and corrections.

FOR FURTHER INFORMATION CONTACT: Joseph L. Roberts III, Office of Reporting and Plan Standards, Division of Reporting and Disclosure, Pension and Welfare Benefit Programs, U.S. Department of Labor, Washington, D.C. 20216, (202) 523–8684. (This is not a toll free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Department of Labor (the Department) has determined to adopt final amendments to the regulations governing the summary annual report furnished participants and beneficiaries of employee benefit plans. These amendments are adopted under the authority contained in sections 104, 109, 110 and 505 of ERISA (Pub. L. 93–406, 88 Stat. 847, 851, 894 (29 U.S.C. 1024, 1029, 1030, 1135)).

A. Statutory Provision

Section 104(b)(3) of ERISA and regulations thereunder require the administrator of an employee benefit plan to furnish annually to each participant of such plan and to each beneficiary receiving benefits under an employee pension benefit plan a summary annual report (SAR) which summarizes the information included in the annual report and which conforms to the requirements of the regulation as to form, style and content.

B. Background

On January 6, 1981, the Department published in the **Federal Register** (46 FR 1304) a notice proposing an amendment to the SAR regulations which, upon adoption, would accommodate the SAR requirements to the triennial reporting system under which, beginning with the 1980 plan year, small plans are permitted to file Form 5500–C or 5500–K every third year, and Form 5500–R in the two intervening years.

The Department solicited comments on the proposed amendment to the regulation (29 CFR 2520.104b–10) and, based on the comments received, is adopting the amendment as modified and discussed below.

C. Discussion of Comments

In response to the January 6, 1981, notice of proposed rulemaking, the Department received nine comment letters. Comments received by the Department are available for inspection by the public in the Public Disclosure Room at the Department.

One commenter suggested that the notice which accompanies Form 5500–R might be less costly to prepare if it were less specifically tailored to individual plans. The commenter suggested that the notice might refer the reader to the accompanying Form 5500–R for specific plan related information, such as the name of the plan and the period covered by the registration statement. The Department has decided to adopt this suggestion, and, accordingly, the notice which is to accompany the 5500–R has been modified to reflect this change. The Department believes that the adoption of this change will reduce costs and simplify preparation of the notice, without impacting on the adequacy of the disclosure.

Another commenter suggested that the plan administrator have the option of deleting from the notice accompanying the 5500–R the paragraph which sets forth the right to request a copy of Schedules A and B, if plans filing those schedules routinely include them along with the 5500–R sent to the participant.

The commenter indicated that the same notice format could then be used both by plans which file Schedules A and B and by those which do not, and that the resulting standardization would produce a reduction in cost. The Department believes that plans already have this option, since the portion of the notice relating to the participant's right to request a copy of Schedules A and B is clearly inapplicable when this additional material has already been given, and may therefore be omitted.

Three commenters suggested that it would be administratively easier for the full SAR to be distributed to participants and beneficiaries for the year for which a plan files Form 5500–R, even though most of the information which would be contained in such an SAR is not to be found in the 5500–R. One of these commenters suggested that since plans must keep records of their contributions, distributions, gains, losses, and expenses each year regardless of their obligation to report such information on the annual report, it would be simpler for plans to have the option of distributing a full SAR containing this information each year. Another commenter argued that such an option would enable computerized service providers to avoid the additional programming costs attributable to producing another version of the SAR, which they viewed the proposal as requiring. The Department has decided not to accept the suggestion that plans should be allowed the option of distributing the full SAR in the 5500–R years. While the information contained in a full SAR may be useful to plan participants, the information set forth therein would not be information which, as required by section 104(b)(3) of ERISA, fairly summarizes a plan's latest annual report in the 5500–R years. It should be noted, however, that a plan would not be precluded from providing such financial information in conjunction with its furnishing of the Form 5500–R.

Four commenters opposed the distribution of the Form 5500–R, which would have been required under the proposal, on the grounds that little information on the 5500–R would be of interest to or understandable by participants and beneficiaries. Some of these commenters also believed that such distribution would cause confusion and misunderstanding and would constitute an unreasonable paperwork burden. For these reasons, three of these commenters suggested dropping the SAR requirement altogether for small plans in years when Form 5500–R is filed. Another commenter suggested that plans distribute only a notice informing participants of the existence of the 5500–R, of their rights to additional information, and of any event which might adversely affect them. As discussed below the Department has decided to adopt the suggestion to distribute a notice of availability.

D. Description of Amendments

The Department has determined that the present requirements for summary annual reports as applied to plans for plan years for which a Form 5500–R is filed would impose unnecessary costs and burdens on such plans while providing only minimal useful information to participants in the plans. Accordingly, the Department, pursuant to the authority contained in sections 104 and 110 of ERISA, is adopting amendments to 29 CFR 2520.104b–10 as described below.

The amendments relieve administrators of small plans from preparing an SAR in accordance with existing regulations for those plan years for which a 5500–R is filed, and require them to satisfy their SAR obligations for those years by one of the two following methods of compliance:

Under the first method of compliance, plans would be required to notify participants and beneficiaries in writing of their right, upon written request, to receive free of charge a copy of the Form 5500–R filed by the plan. In the case of most active participants, the regulations permit notification of the availability of the Form 5500–R to be accomplished by a posting of the notice at worksite locations reasonably calculated to insure disclosure of the information to participants (e.g., administration office, union office, and employee bulletin boards). In the case of inactive participants (i.e., retirees and participants who have separated from service with a vested pension benefit) or other participants who would not reasonably be expected to visit such worksite locations during the period when the notice is posted, the notice must be furnished each participant in accordance with regulation section 2520.104b–1. The Department has decided not to prescribe the format of the notice of availability of the Form 5500–R; however, this notice must be in writing and contain the information set forth in the regulation.

Under the second method of compliance, which is substantially the same as that provided in the proposal, plans would furnish participants and beneficiaries with a copy of the filed Form 5500–R as a substitute for furnishing the SAR.

The 5500–R furnished under either method of compliance set forth above would be accompanied by a notice, conforming to the format prescribed in the regulation, which explains that the 5500–R is being furnished in lieu of the SAR and that further disclosure is available on request.

E. Executive Order 12291 Statement

Pursuant to Executive Order 12291, the Department has determined that these amendments do not constitute a "major rule", as that term is used in the Order because it does not appear that they will result in: An annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, government agencies or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

These amendments will have the effect of reducing expenses by not requiring the present SAR format for years for which plans file Form 5500–R. The amendments will not, however, have the effect of reducing the availability of plan information to participants and beneficiaries nor will they have an adverse impact on small employee benefit plans under the Act.

For these reasons, the Department has determined that the amendments do not constitute a major rule within the meaning of section 1(b) of Executive Order 12291, and that, therefore, no regulatory impact analysis is required.

F. Regulatory Flexibility Act Statement

Section 603(a) of Pub. L. 96–354 (the Regulatory Flexibility Act of 1980) requires Federal agencies to prepare and make public a regulatory flexibility analysis when final regulations are promulgated which would have a significant economic impact on a substantial number of small businesses or small entities. Since, in general, most small employee plans would be those maintained by small businesses, for the purposes of these amendments a small entity is defined to be an employee benefit plan having fewer than 100 participants. Pursuant to section 604(b) of the Regulatory Flexibility Act, an analysis of these amendments has been prepared and is available on request at the Public Disclosure Room, Pension and Welfare Benefit Programs, Frances Perkins Department of Labor Building, Room N–4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

G. Paperwork Reduction Act Statement

No new reporting or recordkeeping burdens will be established by these amendments since they merely simplify disclosure requirements that are already in place. We estimate that the amendments will permit small plans to save over 200,000 burden hours annually by posting of the notice of availability of the 5500–R instead of preparing and distributing the full SAR format.

H. Statutory Authority ad Effective Date

This regulation is amended under the authority in sections 104, 109, 110 and 505 of ERISA (Pub. L. 93–406, 88 Stat. 847, 851, 894 (29 U.S.C. 1024, 1029, 1030, 1135)). These amendments are being made effective upon publication in the **Federal Register**. The reason for making these amendments effective immediately is that, as a general matter, plans must furnish the SAR within nine months of the close of the plan year. The triennial reporting system became effective for plan years beginning in 1980. Consequently, these amendments must be made effective as soon as possible so that plans will not have to comply with SAR requirements which are incompatible with their reporting requirements.

Information collection requirements contained in these amendments have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB control number 1210–0040.

I. List of Subjects in 29 CFR Part 2520

Accountants, Actuaries, Disclosure requirements, Employee benefit plans, Employee Retirement Income Security Act, Health insurance, Life insurance, Pensions, Pension and Welfare Benefit Programs Office, Reporting requirements.

J. Amendments to the Regulation

PART 2520—RULES AND REGULATIONS FOR REPORTING

For the reasons set out in the preamble, Part 2520 of Chapter XXV of Title 29 of the Code of Federal Regulations is hereby amended as follows:

Paragraph (a) of § 2520.104b–10 is revised, the introductory text of paragraph (b) is revised and that paragraph is redesignated paragraph (c), paragraphs (d)(1) and (2) are revised and redesignated paragraphs (e)(1) and (2), paragraph (e) is revised and redesignated paragraph (f), paragraph (f) is revised and redesignated paragraph (g) and the Appendix is revised; paragraphs (c)(3) and (4) are amended and redesignated (d)(3) and (4); and paragraph (b) is added.

§ 2520.104b–10 Summary Annual Report.

(a) *Obligation to furnish.* Except as otherwise provided in paragraphs (b) and (g) of this section, the administrator of any employee benefit plan shall furnish annually to each participant of such plan and to each beneficiary receiving benefits under such plan (other than beneficiaries under a welfare plan) a summary annual report conforming to the requirements of this section. Such furnishing of the summary annual report shall take place in accordance with the requirements of § 2520.104b–1 of this part.

(b) *Plans filing Form 5500–R.* In the case of an employee benefit plan subject to § 2520.104–41 (concerning simplified annual reporting for plans with fewer than 100 participants), the administrator, in lieu of furnishing a summary annual report for the year in which a Form 5500–R is filed, shall, in accordance with § 2520.104b–1, furnish each participant of such plan and each beneficiary receiving benefits under such plan (other than beneficiaries under a welfare plan) either—

(1) A copy of the Form 5500–R filed on behalf of the plan, and the notice described in paragraph (b)(3); or

(2)(i) A written notice stating that in lieu of a summary annual report a copy of the Form 5500–R filed on behalf of the plan will be furnished free of charge upon receipt of a written request. The notice shall contain the name and address of the plan administrator to whom such requests may be directed. The administrator, upon receipt of such a written request from a participant or beneficiary, shall furnish, free of charge and in accordance with § 2520.104b–1, a copy of the Form 5500–R filed on behalf of the plan and the notice described in paragraph (b)(3). Such furnishing shall take place within thirty days following receipt of a request.

(ii) The administrator of an employee benefit plan will be deemed to have furnished, in accordance with § 2520.104b–1, the written notice described in paragraph (b)(2)(i) of this section to participants, if the administrator posts the notice for a minimum of thirty days at worksite locations, and in a manner reasonably calculated to ensure disclosure to plan participants. Participants who have retired or separated from service with vested benefits under a pension plan, beneficiaries receiving benefits under a pension plan, and other participants who could not reasonably be expected to visit such worksite locations during the period when the notice is posted must be furnished the notice pursuant to paragraph (b)(2)(i) of this section.

(iii) Nothing in paragraph (b)(2)(ii) of this section shall preclude an administrator from posting a copy of the Form 5500–R filed on behalf of the plan with the required notice; however, such a posting shall not relieve an administrator from the requirement to furnish a copy of the Form free of charge upon receipt of a written request from any participant or beneficiary.

(3) Any Form 5500–R furnished in accordance with paragraphs (b)(1) or (b)(2)(i), of this section, shall include the following notice:

Disclosure of Plan Information Under ERISA

Attached is a copy of the most recent Registration Statement (Form 5500–R) for the employee benefit plan of which you are a participant or beneficiary (see item 4(a) on Form 5500–R). The Registration Statement contains information about the plan and has been filed with the Internal Revenue Service under the Employee Retirement Income Security Act of 1974 (ERISA).

This copy of Form 5500–R is being furnished to you in compliance with Department of Labor regulations which require it to be furnished to you free of charge either automatically or upon written request in lieu of the summary annual report for plan years for which Form 5500–R has been filed.

You also have the right to receive from the plan administrator (see item 1(a) or 2(a) on Form 5500–R), on request, a copy of Schedule A (Insurance Information) and Schedule B (Actuarial Information), which were filed with the attached Form 5500–R. The charge to cover copying costs will be ($——) for this/these Schedule(s), or ($——) per page for any part thereof.

You also have the legally protected right to examine these documents at the main office of the plan (address, if different from Form 5500–R, item 1(a) or 2(a)), (at any other location where these documents are available for examination), and at the U.S. Department of Labor in Washington, D.C., or to obtain a copy from the U.S. Department of Labor upon payment of copying costs. Requests to the Department should be addressed to: Public Disclosure Room, N–4677, Pension and Welfare Benefit Programs, Frances Perkins Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

Note.—Inapplicable portions of this notice may be omitted.

(c) *When to furnish.* Except as otherwise provided in this paragraph (c) of this section, the summary annual report required by subparagraph (a) of this section, and Form 5500–R or the notice of its availability on request required under paragraph (b) of this section, shall be furnished in accordance with the respective requirements of

those subparagraphs within nine months after the close of the plan year.

* * * * *

(d) Contents, Style and Format

* * * * *

(3) *Form for Summary Annual Report Relating to Pension Plans.*

* * * * *

Your Rights to Additional Information

* * * * *

3. Fiduciary information, including transactions between the plan and parties-in-interest (that is, persons who have certain relationships with the plan);

* * * * *

(4) *Form for Summary Annual Report Relating to Welfare Plans.*

* * * * *

Insurance Information

* * * * *

The total premiums paid for the plan year ending (date) were ($——).

* * * * *

Your Rights to Additional Information

* * * * *

3. Fiduciary information, including transactions between the plan and parties-in-interest (that is, persons who have certain relationships with the plan);

* * * * *

(e) *Foreign languages.* In the case of either—

(1) A plan which covers fewer than 100 participants at the beginning of a plan year in which 25 percent or more of all plan participants are literate only in the same non-English language; or

(2) A plan which covers 100 or more participants in which 500 or more participants or 10 percent or more of all plan participants, whichever is less, are literate only in the same non-English language—

The plan administrator for such plan shall provide these participants with an English-language summary annual report which prominently displays a notice, in the non-English language common to these participants, offering them assistance. The assistance provided need not involve written materials, but shall be given in the non-English language common to these participants. The notice offering assistance shall clearly set forth any procedures participants must follow to obtain such assistance. Plans furnishing an explanatory notice accompanying Form 5500–R pursuant to subparagraph (b)(1) of this section or the notice of the availability of the Form 5500–R pursuant to subparagraph (b)(2) of this section shall also provide a notice in such non-English language offering such assistance.

(f) *Furnishing of additional documents to participants and beneficiaries.* A plan administrator shall promptly comply with any request by a participant or beneficiary for additional documents made in accordance with the procedures or rights described in paragraphs (b)(3) and (d) of this section.

* * * * *

(g) *Exemptions.*

* * * * *

(3) An apprenticeship or other training plan which meets the requirements of 29 CFR § 2520.104–22;

* * * * *

Signed at Washington, D.C., this 15th day of July 1982.

Jeffrey N. Clayton,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[A cross-reference to the annual report]

A. PENSION PLANS

SAR item	Form 5500 line items	Form 5500–C line items	Form 5500–K line items
1. Funding arrangement	11	11	11.
2. Total Plan Expenses	14(l)	16(k)	13(d).
3. Administrative Expenses	14(j) column b	16(j)	15(c).
4. Benefits paid	14(h)	16(g)	13(c).
5. Other expenses	14(i) plus 14(k)	16(h) plus 16(j)	N/A.
6. Total participants	7(f)	7(a)(ii)	7(b)(ii).
7. Value of Plan assets (net):			
a. End of plan year	13(m) column b	15(l) column b	13(g).
b. Beginning of plan year	13(m) column a	15(l) column a	13(a).
8. Change in net assets	14(o)	16(n)	13(g) minus 13(a).
9. Total income:	14(g)	16(f)	13(b) plus 13(c).
a. Employer contributions	14(a)(i)	16(a)(i)	13(b).
b. Employee contributions	14(a)(ii)	16(a)(ii)	13(b).
c. Change in sales of assets	14(e)(ii) column b	16(d) column b	N/A.
d. Earnings from investments	14(d)(iv) column b	16(c) column b	N/A.
10. Total insurance premiums	14(h)(ii) or Sched. A, Part II, item 5(b).	16(g)(ii) or Sched. A, Pt. II, 5(b).	Sched. A, Pt. II, item 5(b)
11. Fund deficiency:			
a. Defined benefit plans	Sched. B, item 8(d)	Sched. B, 8(d)	Sched. B, 8(d).
b. Defined contribution plans	21(b)(iii)	14(b)(iii)	13(b)(iii).

B. WELFARE PLANS

SAR item	Form 5500 line items	Form 5500–C line items
1. Name of insurance carrier	Sched. A, Pt. I, 2(a)	Sched. A, Pt. I, 2(a).
2. Total insurance premiums	Sched. A, Pt. III, Total of 8(c).	Sched. A, Pt. III, Total of 8(c).
3. Experienced-rated premiums	Sched. A, Pt. III, 9(a)(iv)	Sched. A, Pt. III, 9(a)(iv).
4. Experienced-rated claims	Sched. A, Pt. III, 9(b)(iv)	Sched. A, Pt. III, 9(b)(iv).
5. Value of plan assets (net):		
a. End of plan year	13(m), column b	15(1), column b.
b. Beginning of plan year	13(m), column a	15(1), column a.
6. Change in net assets	14(o)	16(n).
7. Total income:	14(g)	16(f).
a. Employer contributions	14(a)(i)	16(a)(i).
b. Employee contributions	14(a)(ii)	16(a)(ii).
c. Change in sales of assets	14(e) column b	16(d) column b.
d. Earnings from investments	14(d) column b	16(c) column b.
8. Total plan expenses	14(f)	16(k).
9. Administrative expenses	14(j) column b	16(j).
10. Benefits paid	14(h)	16(g), column b.
11. Other expenses	14(i) plus 14(k)	16(h), plus 16(j).

[FR Doc. 82-19836 Filed 7-20-82; 8:45 am]

BILLING CODE 4510-25-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 925

[SPA 28]

Approval of Program Amendments From the State of Missouri Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: The State of Missouri has proposed to alter its permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) by amending certain of its regulations. 30 CFR Part 925 is hereby amended to reflect approval of these amendments to the Missouri permanent regulatory program.

EFFECTIVE DATE: July 23, 1982.

ADDRESSES: Copies of the Missouri program, the amendments being approved today, and the administrative record for this rulemaking are available for public inspection and copying during

regular business hours at: Missouri Land Reclamation Commission, 1026–D N.E. Drive, Jefferson City, Missouri 65101, Telephone: (314) 751–3241; Kansas City Field Office, Office of Surface Mining Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106, Telephone: (816) 374–5527; Administrative Record, Office of Surface Mining, Room 5315, 1100 L Street, N.W., Washington, D.C., Telephone: (202) 343–7896.

FOR FURTHER INFORMATION CONTACT: Richard Rieke, Director, Kansas City Field Office, Office of Surface Mining, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106, Telephone: (816) 374–5527.

SUPPLEMENTARY INFORMATION:

Background on the Amendments

The Secretary of the Interior has approved Missouri's permanent State regulatory program to control surface coal mining and reclamation operations. See 45 FR 77017, November 21, 1980.

The Secretary determined that the Missouri program met all criteria for approval pursuant to section 503 of SMCRA and 30 CFR Part 732 except for 23 minor deficiencies.

To correct these deficiencies, Missouri submitted regulatory amendments dated December 3, 1980 and March 12, 1981. The Secretary found that the amendments submitted by Missouri corrected these deficiencies with one exception. See 47 FR 20116, May 11, 1982. At the same time that Missouri submitted amendments to correct the deficiencies, the State also submitted other regulatory amendments. Notice of receipt and a request for public comment on these additional program amendments were announced in the **Federal Register** on June 1, 1982 (47 FR 23767). The public comment period ended July 1, 1982. A public hearing scheduled for June 21, 1982, was not held because no one expressed a desire to present testimony. A notice announcing cancellation of the hearing was published on June 17, 1982 (47 FR 26164).

Director's Findings

Pursuant to 30 CFR 732.17(h)(9) and 732.15, the Director finds that the program amendments are in accordance with the provisions of SMCRA and no less effective than the provisions of 30 CFR Chapter VII.

Disposition of Comments

No public comments were received on the proposed program amendments.

Director's Decision

The amendments submitted to OSM by Missouri dated December 3, 1980, and March 12, 1981, are hereby approved. The approval of these program amendments is effective July 23, 1982.

Other Determinations

On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 6, and 8 of Executive Order 12291 for all actions taken to approve or conditionally approve State regulatory programs, actions, or amendments. Therefore, this action is exempt from the requirement to prepare a Regulatory Impact Analysis and regulatory review by OMB.

I have determined, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), that this action is not a major Federal action and therefore no environmental impact statement need be prepared.

Pursuant to the Regulatory Flexibility Act, Pub. L. 96–354, I certify that this rule will not have a significant economic effect on a substantial number of small entities.

List of Subjects in 30 CFR Part 925

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

For the reasons stated in the preamble above, 30 CFR Part 925 is amended as set forth herein.

Dated: July 16, 1982.

William B. Schmidt,

Acting Director, Office of Surface Mining.

PART 925—MISSOURI

Part 925 is amended by adding a new § 925.15 as set forth below.

§ 925.15 Approval of regulatory program amendments.

The Missouri permanent program amendments of December 3, 1980 and March 12, 1981, are approved effective July 23, 1982.

[FR Doc. 82–19974 Filed 7–22–82; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD–FRL 1982–8(b)]

Standards of Performance for New Stationary Sources; Priority List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Studies of the asphalt processing and asphalt roofing industry have revealed that asphalt is processed at petroleum refineries and asphalt processing plants as well as at asphalt roofing plants. These locations were not specifically included in the asphalt roofing source category on the priority list for regulation of new sources under Section 111 of the Clean Air Act, promulgated on August 21, 1979. Therefore, on November 18, 1980 (45 FR 76427), the Administrator proposed to amend the priority list to include specifically asphalt processing locations in the source category previously listed as asphalt roofing plants. The proposed amendment to the priority list was based on the Administrator's judgment that asphalt blowing stills and storage tanks at asphalt processing facilities and petroleum refineries contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. No comments were received on the proposed Amendment to the priority list. Therefore, the priority list is being amended by this action.

EFFECTIVE DATE: July 23, 1982.

ADDRESSES:

Background Information Document

Background information on the emissions from the asphalt processing and asphalt roofing manufacturing industry may be obtained from the U.S. EPA Library (MD–35), Research Triangle Park, North Carolina 27711, telephone number (919) 541–2777. Please refer to "Asphalt Roofing Manufacturing Industry, Background Information for Proposed Standards," EPA–450/3–80–021a.

Docket. Docket Number OAQPS A–79–39, containing information used by EPA in development of the standards of performance for the asphalt processing and asphalt roofing manufacturing industry, is available for public inspection between 8:00 a.m. and 4:00 p.m. Monday through Friday at EPA's Central Docket Section (A–130), West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Ms. Susan R. Wyatt, Emission Standards and Engineering Division (MD–13), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541–5578.

SUPPLEMENTARY INFORMATION:

Amendment to Priority List

The Clean Air Act of 1970 established a program under Section 111 to develop standards of performance for new stationary sources which the Administrator determines may contribute significantly to air pollution

which may reasonably be anticipated to endanger public health or welfare. Section 111 of the Clean Air Act Amendments of 1977 requires that the Administrator publish, and from time to time revise, a list of categories of major stationary sources for which standards of performance for new sources are to be promulgated.

The priority list, which identifies major source categories in order of priority for development of regulations, was proposed on August 31, 1978, and promulgated on August 21, 1979 (40 CFR 60.16, 44 FR 49222). Of the 59 source categories on the list, asphalt roofing plants are listed as number 45.

On November 18, 1980, the amendment to the priority list was proposed (45 FR 76427). No comments were received on the amendment. Because, in the Administrator's judgment, asphalt processing operations at petroleum refineries and asphalt processing plants contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare, and because we received no comments to the contrary, the amendment is now being finalized.

Promulgated standards of performance for Asphalt Processing and Asphalt Roofing Manufacture appear elsewhere in this issue of the **Federal Register.**

(Sec. 111 and 301(a) of the Clean Air Act as amended, 42 U.S.C. 7411 and 7601(b))

Dated July 19, 1982.

Anne M. Gorsuch,

Administrator.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal, Zinc.

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

40 CFR Part 60, subpart A, section 60.16 is amended by revising item 45 as follows:

§ 60.16 Priority list.

* * * * *

45. Asphalt Processing and Asphalt Roofing Manufacture.

* * * * *

(Secs. 111 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7411 and 7601(a)))

[FR Doc. 82-19915 Filed 7-22-82; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 81

[AD-FRL-2134-2]

Air Quality Control Regions, Criteria and Control Techniques

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In compliance with the decision of the United States Court of Appeals for the District of Columbia Circuit in *State of New Jersey* v. *EPA*, 626 F.2d 1038 (D.C. Cir. 1980), EPA proposed to reaffirm existing attainment/unclassifiable designations for ozone in the eastern half of the United States (45 FR 56104, August 22, 1980). EPA is taking final action to reaffirm these designations as proposed.

DATE: Effective on August 23, 1982.

FOR FURTHER INFORMATION CONTACT: Requests for information should be directed to Willis Beal, U.S. Environmental Protection Agency, Control Programs Development Division, MD-15, Research Triangle Park, North Carolina 27711, phone (919) 541-5665. FTS 629-5665.

SUPPLEMENTARY INFORMATION: 1. *Background—New Jersey's Challenge to EPA's Attainment/Unclassifiable Designations for Ozone.* The Clean Air Act Amendments of 1977 required EPA to designate areas of the country with pollution levels exceeding the national ambient air quality standards as nonattainment areas, areas with air quality better than the national standards as attainment areas, and areas without air quality data as unclassifiable areas. Section 107(d), 42 U.S.C. 7407(d).

Using data from air quality monitoring networks and modeling studies, EPA promulgated designations for all areas of the country on March 3, 1978 (43 FR 8962). Because section 107(d) provided only three months for this process, EPA promulgated the designations without first providing opportunity for notice and comment. However, EPA announced that it would accept comments on the designations for 60 days following promulgation, and committed to revise the designations in response to comments received.

The State of New Jersey submitted comments claiming that all areas east of the Mississippi should be designated as nonattainment for ozone. The State wanted EPA to consider meteorological studies suggesting that weather formations can transport ozone for distances of up to 1000 miles. The State also wanted EPA to consider aircraft data showing exceedances of the 0.08 ppm ozone standard aloft.[1] In addition, the State complained that ozone generated in improperly designated attainment/unclassifiable areas was moving downwind and contributing to high ozone levels in New Jersey, forcing the State to impose more stringent controls on its own ozone sources.

The State also challenged EPA's attainment/unclassifiable designations for ozone in the United States Court of Appeals for the District of Columbia Circuit. *State of New Jersey* v. *EPA*, 626 F.2d 1038 (D.C. Cir. 1980). The Court stayed the lawsuit to allow EPA to evaluate and respond to the State's comments.

2. *Final Rulemaking of February 1, 1979.* EPA found that aircraft data were not reliable indicators of ground-level ozone concentrations. EPA also found that ozone was generally transported only 500–600 miles before decaying. EPA also decided that ozone transport was not sufficiently understood to be used as a basis for nonattainment designations.

Furthermore, EPA noted that over 80% of the major stationary sources of ozone precursors within 1000 miles of New Jersey were already located in areas which had been designated as nonattainment on the basis of monitoring or modeling data. Accordingly, EPA concluded that the existing designations were imposing no hardship on downwind States like New Jersey.

EPA announced this decision at 44 FR 6345 (February 1, 1979), and published a detailed "Technical Support Document for Agency Policy Concerning Designation of Attainment, Unclassifiable and Nonattainment Areas for Ozone" (January 1979) (the "1979 TSD"). EPA also committed to undertake long-term studies of ozone formation and transport.

3. *Court Remand.* The United States Court of Appeals for the District of Columbia Circuit ultimately found that

[1] In a separate rulemaking, EPA relaxed the ozone standard from 0.08 parts per million to 0.12 parts per million. See 44 FR 52020 (February 8, 1979). That rulemaking also changed the name of standard from "photochemical oxidants" to "ozone". Today's action will also make technical corrections to the ozone designation tables in 40 CFR 81.300 *et seq.*, changing the abbreviation "Ox" to O_3".

EPA had violated the notice and comment requirements of the Administrative Procedure Act, 5 U.S.C. 551 *et seq.*, in promulgating the original designations without first providing notice and opportunity for comment. *State of New Jersey v. EPA*, 626 F.2d 1038 (D.C. Cir. 1980). The Court ordered EPA to promulgate new designations, after first providing notice and opportunity for comment, to replace the designations that were challenged by the State. However, the Court left the existing designations in effect pending completion of the new rulemaking. The Court did not address New Jersey's substantive arguments.

4. *Proposed Rulemaking in Response to Remand.* On August 22, 1980 EPA proposed to reaffirm existing designations for all areas affected by the Court's decision (45 FR 56104).[2] EPA informed the public that it again proposed to rely on ozone data from air quality monitoring and modeling studies. The most recent available monitoring and modeling data for the affected areas showed that attainment/unclassifiable designations were still appropriate for these areas.

5. *Additional Studies.* EPA has proceeded to meet its commitment to conduct additional ozone studies made in its 1979 final action on the ozone designations. A first report, "Assessing the Representativeness of Ozone Monitoring Data." EPA 1480–001 ("1980 Ozone Study") was published in January 1980. This report addressed the size of the geographical area represented by a single ozone monitor and the reliability of aircraft data in predicting ground-level ozone concentrations.

EPA has also undertaken a more extensive, long-term study of regional ozone transport and ozone control strategies. One of the goals of this project is to produce a regional-scale model of ozone concentrations which will provide information on contributions of ozone from upwind urban centers. The field work on this project, the "Northeast Corridor Regional Modeling Project," has been completed. Review and analysis are scheduled to be completed in 1982.

EPA made copies of the 1980 Ozone Study and the draft protocol for the Northeast Corridor Study available to commenters during the comment period on its proposal to reaffirm the ozone designations.

6. *Response to Comments on the August 1980 Proposal.* a. *Comments on EPA's ozone designation policy.* EPA received seven comments objecting to EPA's policy for ozone designations. Most of these comments raised issues of equity, complaining that it was unfair for some portions of the highly urbanized eastern half of the country to be designated as attainment or unclassifiable because such areas are subject to less restrictive control requirements. Comments from the States of New Jersey and New York also raised technical issues concerning the 1979 TSD and the 1980 Ozone Study. None of these comments questioned the reliability of the monitoring and modeling data EPA had used. Detailed responses to all of these comments can be found in the Technical Support Document prepared for this rulemaking (the "1981 TSD") Copies are available from the Office of Air Quality Planning and Standards at the address given above.

b. *Comments concerning specific designations: Region I (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont):* No comments specifically pertaining to Region I designations were received.[3]

Region II (New Jersey, New York, Puerto Rico, Virgin Islands): No comments specifically pertaining to Region II designations were received.[3]

Region III (Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia): Region III received five public comments. The State of Maryland and the Commonwealth of Virginia suggested that EPA reaffirm the ozone designations for those States as amended on April 1, 1980 and June 27, 1980. In addition, the Celanese Fibers Company submitted comments suggesting that EPA reaffirm its approval of the most recent ozone designations in Garrett and Allegheny Counties (Maryland) and the Valley of Virginia Intrastate Air Quality Control Region ("AQCR") (Virginia). EPA is retaining these nonattainment designations.

The State of Delaware also submitted comments requesting EPA to retain the current attainment and unclassified designation for the Southern Delaware Intrastate AQCR because ozone monitoring began only in July 1979. EPA agrees that this designation should not be changed at this time. However, if one or more exceedances are observed in 1982, the Regional Office will propose to change the designation for this area to nonattainment.

A detailed review of Region III designations can be found in the 1981 TSD.

Region IV (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee): No comments concerning Region IV designations were received.

Region V (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin): Region V received only one comment regarding the attainment designation of a Region V county. This comment was received from the Kentucky Department of Natural Resources and Environmental Protection and concerned Dearborn County, Indiana.

EPA has reviewed the 1975 data for Dearborn County and decided that it does not provide a reliable basis for a nonattainment designation. The data show only two exceedances of the standard in one ozone season. This would not result in a violation as calculated by the reference method accompanying the ozone standard. See 40 CFR Part 50, Appendix H. EPA also feels that the 1975 data is too old to serve as a reliable indicator of ozone levels in 1981. In addition, although Dearborn County is near the Louisville urbanized area, its population is low and it is not considered to be part of the urbanized area. Accordingly, EPA has decided not to change the designation for Dearborn County.

7. *Final Action.* EPA reaffirms the existing attainment/unclassifiable designations found in 40 CFR Part 81 for all areas affected by the Court's decision.

8. *Miscellaneous.* EPA finds that this action is based on a determination of nationwide scope and effect. Under section 307(b)(1) of the Clean Air Act, petitions for review of this action may be filed only in the United States Court of Appeals for the District of Columbia Circuit within 60 days of the date of publication.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action is not major because it imposes no new regulatory requirements. Today's designations are identical to previous designations for the same areas.

The Office of Management and Budget has exempted this rule from the review

[2] EPA noted that a few of the areas that had originally been designated as attainment/unclassifiable had subsequently been redesignated as nonattainment. EPA believed that these redesignated areas did not fall within the scope of the Court's order, which concerned only attainment/unclassified areas. Accordingly, EPA's proposal did not address these redesignated areas.

[3] EPA did not propose to reaffirm any designations for Connecticut, Massachusetts, Rhode Island, New Jersey or New York since all areas in these States were designated as nonattainment for ozone on March 3, 1978 and were not affected by the Court's decision.

requirements of section 3 of Executive Order 12291.

(Sec. 107(d) and 301 of the Clean Air Act, 42 U.S.C. 7407(d) and 7601)

Dated: July 16, 1982.

Anne M. Gorsuch,

Administrator.

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

40 CFR Part 81 is amended as follows:

1. In Part 81, Subpart C—Section 107 Attainment Status Designations, wherever in the tables the heading "O_x" appears after the State name it is revised to read "Ozone (O_3)".

§ 81.355 [Amended]

2. In § 81.355, the table headed "Puerto Rico—Oxidants" is revised to read "Puerto Rico—Ozone (O_3)".

§ 81.356 [Amended]

3. In § 81.356, the table headed "Virgin Islands—Oxidants" is revised to read "Virgin Islands—Ozone (O_3)".

§§ 81.301, 81.308, 81.309, 81.310, 81.311, 81.314, 81.315, 81.318, 81.320, 81.321, 81.323, 81.325, 81.330, 81.334, 81.336, 81.339, 81.341, 81.343, 81.346, 81.347, 81.349, 81.350, 81.355, and 81.356 [Amended]

4. In §§ 81.301 (Alabama), 81.308 (Delaware), 81.309 (District of Columbia), 81.310 (Florida), 81.311 (Georgia), 81.314 (Illinois), 81.315 (Indiana), 81.318 (Kentucky), 81.320 (Maine), 81.321 (Maryland), 81.323 (Michigan), 81.325 (Mississippi), 81.330 (New Hampshire), 81.334 (North Carolina), 81.336 (Ohio), 81.339 (Pennsylvania), 81.341 (South Carolina), 81.343 (Tennessee), 81.346 (Vermont), 81.347 (Virginia), 81.349 (West Virginia), 81.350 (Wisconsin), 81.355 (Puerto Rico), and 81.356 (Virgin Islands) the tables headed "Ozone (O_3)" are amended by inserting as the last entry in the column headed "Designated Areas" the following sentence:

Designations of "Cannot be classified or better than national standards" were reaffirmed on July 23, 1982.

[FR Doc. 82-19910 Filed 7-22-82; 8:45 am]

BILLING CODE 6560-38-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 441

Medicaid Program; Nurse-Midwife Services; Correction

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Correction of Interim Final Rule.

SUMMARY: This document corrects a technical error to the interim final rule published in the **Federal Register** on May 17, 1982, (47 FR 21046) on nurse-midwife services. That notice incorrectly designated a new paragraph in 42 CFR Part 441.

EFFECTIVE DATE: July 16, 1982.

FOR FURTHER INFORMATION CONTACT: Karen Haas, 301-594-4269.

SUPPLEMENTARY INFORMATION: The interim final rule, "Nurse-Midwife Services", published in the **Federal Register** on May 17, 1982, (47 FR 21046, FR Doc. 82-13346) contained a technical error. The amendatory language for 42 CFR 441.10 (47 FR 21051, column 1) revised paragraph (e) and added a new paragraph (f). This addition of paragraph (f) is incorrect since paragraphs (f) and (g) already exist. The amendatory language for § 441.10 should have revised paragraph (e) and added a new paragraph (h).

(Section 1102 of the Social Security Act (42 U.S.C. 1302); Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance program)

Dated: July 19, 1982.

Robert F. Sermier,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 82-20016 Filed 7-22-82; 8:45 am]

BILLING CODE 4120-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 82-144; RM-3993]

FM Broadcast Station in Paauilo, Hawaii; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 240A to Paauilo, Hawaii, in response to a petition filed by Jack N. Wheeler. The assigned channel could provide a first FM service to Paauilo.

DATE: Effective September 14, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: July 13, 1982.

Released: July 16, 1982.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Paauilo, Hawaii), BC Docket No. 82-144, RM-3993; Report and Order (Proceeding Terminated).

1. The Commission has under consideration a *Notice of Proposed Rule Making*, 47 FR 11905, published March 19, 1982, proposing the assignment of Channel 240A to Paauilo, Hawaii, as that community's first FM assignment in response to a petition filed by Jack N. Wheeler ("petitioner"). In his comments in support of the proposal, petitioner reaffirmed his intention to apply for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements.

2. As requested in the *Notice*, petitioner submitted economic and demographic data for Paauilo, Hawaii; in view of the action taken in the *Second Report and Order*, BC Docket No. 80-130, 47 Fed. Reg. 28624, published June 21, 1982, this information is no longer required.

3. The Commission has determined that the public interest would be served by assigning Channel 240A to Paauilo, Hawaii, since it would provide the community with its first local FM service.

4. Accordingly, pursuant to the authority contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's Rules, it is ordered, That effective September 14, 1982, § 73.202(b) of the Commission's Rules, is amended with respect to the following community:

City	Channel No.
Paauilo, Hawaii	240A

5. It is further ordered, That this proceeding is terminated.

6. For further information, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-19030 Filed 7-22-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-113; RM-3972]

FM Broadcast Station in Marshall, Minn.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 296A to Marshall, Minnesota, in response to a petition filed by Donnell, Inc. The assigned channel could provide a second FM service to Marshall.

DATE: Effective September 14, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: July 9, 1982.

Released: July 15, 1982.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Marshall, Minnesota); BC Docket No. 82-113, RM-3972; Report and order (Proceeding Terminated).

1. The Commission has under consideration a *Notice of Proposed Rule Making*, 47 FR 10261, published March 10, 1982, proposing the assignment of Channel 296A to Marshall, Minnesota, as that community's second FM assignment. The *Notice* was issued in response to a petition filed by Donnell, Inc. ("petitioner"). Comments in support of the proposal were filed by petitioner. No oppositions to the proposal were received.

2. The Commission has determined that the public interest would be served by assigning Channel 296A to Marshall, Minnesota, since it would provide the community with an opportunity for a second FM broadcast service.

3. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's Rules, it is ordered, That effective September 14, 1982, § 73.202(b) of the Commission's Rules is amended with regard to the following community.

City	Channel No.
Marshall, Minnesota	261A, 296A

4. It is further ordered, That this proceeding is terminated.

5. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-19031 Filed 7-22-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-38; RM-3982]

FM Broadcast Stations in Volga, South Dakota; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 272A to Volga, South Dakota, in response to a petition filed by Dakota-North Plains Corporation. The assigned channel could provide a first FM service to Volga.

DATE: Effective September 14, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: July 9, 1982.

Released: July 15, 1982.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Volga, South Dakota); BC Docket No. 82-38, RM-3982; *Report and Order* (Proceeding Terminated).

1. The Commission has under consideration the *Notice of Proposed Rule Making*, 47 Fed. Reg. 8795, published March 2, 1982, proposing the assignment of Channel 272A to Volga, South Dakota, as that community's first FM assignment in response to a petition filed by Dakota-North Plains Corporation ("petitioner"), licensee of AM Station KVAA, Volga, South Dakota. Comments in support of the proposal were filed by petitioner. The assignment can be made in compliance with the minimum distance separation requirements.

2. In its comments to the proposal, petitioner incorporated by reference, the information contained in the Notice. It also restated its intention to apply for the channel, if assigned.

3. The Commission has determined that the public interest would be served by assigning Channel 272A to Volga, South Dakota, since it could provide the community with its first local FM broadcast service.

4. Accordingly, pursuant to the authority contained in section (i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's Rules, it is ordered, That effective Sept. 14, 1982, § 73.202(b) of the Commission's Rules, is amended with respect to the following community:

City	Channel No.	
	Present	Proposed
Volga, South Dakota		272A

5. It is further ordered, That this proceeding is terminated.

6. For further information contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792, concerning this proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-19033 Filed 7-22-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-150; RM-4021]

FM Broadcast Station in Hearne, Texas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 232A to Hearne, Texas, in response to separate petitions filed by

East Texas Wireless Radio and by Texan Broadcasting Company. The assigned channel could provide a first FM service to Hearne.

DATE: Effective September 14, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: July 13, 1982.

Released: July 16, 1982.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Hearne, Texas); BC Docket No. 82–150, RM–4021; report and order (Proceeding Terminated).

1. The Commission has under consideration a *Notice of Proposed Rule Making*, 47 FR 13841, published April 1, 1982, proposing the assignment of Channel 232A to Hearne, Texas, as that community's first FM assignment in response to a petition filed by East Texas Wireless Radio ("petitioner"). Petitioner filed comments in support of the proposal [1] and reaffirmed its interest in applying for the channel, if assigned. Texan Broadcasting Company, Inc., also filed comments in support of the proposal and indicated its continuing interest in applying for the channel, if assigned.

2. The Commission has determined that the public interest would be served by assigning Channel 232A to Hearne, Texas, since it would provide the community with its first local FM broadcast service.

3. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's rules, it is ordered, That effective September 14, 1982, § 73.202(b) of the Commission's Rules is amended with respect to the following community:

City	Channel No.
Hearne, Texas	232A

4. It is further ordered, That this proceeding is terminated.

5. For further information contact Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82–19934 Filed 7–22–82; 8:45 am]

BILLING CODE 6712–01–M

[1] Petitioner submitted certain community and economic data for Hearne in support of the assignment. However, in view of the action taken in BC Docket No. 80–130, 47 FR 28624, published June 21, 1982, this information is no longer required.

Proposed Rules

Federal Register
Vol. 47, No. 142
Friday, July 23, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 210 and 220

National School Lunch and Breakfast Programs; Meal Pattern Monitoring Requirements

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the National School Lunch Program regulations to require each State to develop a system for monitoring compliance with the school lunch meal pattern requirements. The State's familiarity with each School Food Authority's methods for meal planning and preparation provides the expertise to establish a State monitoring system that will ensure compliance with the school lunch meal pattern requirements. The Department is proposing this rule to reduce Federal regulation, increase State and local flexibility, and reduce costs of local program operations in the school lunch program.

DATE: To be assured of consideration, comments must be postmarked on or before September 21, 1982.

ADDRESSES: Comments should be sent to Stanley C. Garnett, Branch Chief, Policy and Program Development Branch, School Programs Division, Food and Nutrition Service, USDA, Alexandia, Virginia 22302. All written submissions will be available for public viewing in Room 509, 3101 Park Center Drive, Alexandria, Virginia 22302, during regular business hours (8:30 a.m. to 5:00 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Garnett at the address listed above, or call (703) 756–3620.

SUPPLEMENTARY INFORMATION:

Classification

This proposed action has been reviewed under Executive Order 12291 and has been classified *not major*. We anticipate that this proposal will not have an impact on the economy of more than $100 million. The proposed rule will decrease costs by providing States, School Food Authorities and institutions more flexibility in administering the National School Lunch Program. No major increase in cost or prices for program participants, individual industries, Federal agencies, or geographic regions is anticipated. We do anticipate decreased administrative costs at the State and local School Food Authority levels. The proposal is not expected to have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or foreign markets.

This proposal has also been reviewed with regard to the requirements of Public Law 96–354, the Regulatory Flexibility Act. The Administrator of the Food and Nutrition Service (FNS) has certified that this proposal will not have a significant economic impact on a substantial number of small entities.

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the reporting and recordkeeping requirements contained in this proposed rule will be submitted to the Office of Management and Budget (OMB) for approval. They are not effective until OMB approval has been obtained.

Proposed Rule

States share with the Department the responsibility for assuring that schools comply with program requirements, and the Department believes States should be given as much flexibility as possible in determining how to meet that responsibility. Therefore, this proposal would require each State to develop a plan for monitoring compliance with the meal pattern requirements, but allow it to determine what that plan should be, subject to review and approval by FNS. The plan would be part of the Assessment, Improvement, and Monitoring System (AIMS). If ten percent or more of meals reviewed in a School Food Authority failed to meet meal pattern requirements, a corrective action plan and a second AIMS review must be undertaken.

In this regard, the proposal recognizes both production-based monitoring and the monitoring of individual food portions as alternative methods of determining compliance with the regulations. The reliance on the monitoring of individual food portions as served has been subject to criticism by some State and local school food service officials. Much of this criticism is directed at the use of laboratory quantity measuring standards to determine if an individual food portion meets the minimum weight or volume requirements of the regulations. Moreover, there is increasing concern that monitoring meals as served discourages innovative approaches to food service, such as salad bars and family style service. The recognition of production-based monitoring, which traditionally includes a review of portioning techniques and observing the actual meal service, as an alternative available to the States is intended to respond to these concerns. States may also wish to consider a system that includes both production based and individual plate monitoring to ensure that Federal requirements are being met.

The proposal also contains three conforming changes to the regulations. First, because the need for production records would now be determined by each State in developing its monitoring system, the Federal requirement that schools maintain production records would be deleted. Second, under this proposal the monitoring of compliance with the quantity standards of the meal pattern requirements would become part of the Assessment, Improvement, and Monitoring System. Consequently, the proposal deletes the superseded provisions of § 210.16(h) concerning the disposition of State agency claims against local schools for failure to comply with the meal pattern requirements. Third, to make the disposition of claims consistent between the school lunch and breakfast programs, the proposal would also delete § 220.14(h).

The "Table" referred to in the restatement of § 210.10(a)(1) and (a)(2) is the School Lunch Pattern and is not changed by this proposal.

List of Subjects

7 CFR Part 210

Food assistance programs, National school lunch program, Grant programs—Social programs, Nutrition, Children, Reporting and recordkeeping

requirements, Surplus agricultural commodities.

7 CFR Part 220

Food assistance programs, School breakfast program, Grant programs—Social programs, Nutrition, Children, Reporting and recordkeeping requirements.

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

Accordingly, Part 210 is proposed to be amended as follows:

1. Section 210.2 is proposed to be amended by revising paragraph (b–3)(4) (AIMS Performance Standard 4) to read as follows:

§ 210.2 Definitions.

* * * * *

(b–3) * * *

(4) Lunches claimed for reimbursement are produced in accordance with the requirements of § 210.10; and

* * * * *

2. In § 210.8, paragraph (e)(3) is proposed to be revised to read as follows:

§ 210.8 Requirements for participation.

* * * * *

(e) * * *

(3) Provide lunches that meet the requirements of § 210.10 during a period designated as the lunch period by the School Food Authority;

* * * * *

3. In § 210.10, paragraph (a)(1) and the introductory paragraph of (a)(2) are proposed to be revised and a new paragraph (k) is proposed to be added to read as follows:

§ 210.10 Requirements for lunches.

(a)(1) This section including the following table, sets forth the Federal lunch requirements. School Food Authorities that cannot provide lunches on the basis of age or grade level shall provide lunches based on group IV portions for all children.

(2) *Table.* The table presents the minimum Federal lunch requirements for groups I to IV and larger recommended amounts for group V. The requirements and recommendations are designed to provide a nutritious and well-balanced lunch to each child; the nutrients of the lunch, averaged over a period of time, should *approximate* one-third of the Recommended Dietary Allowances for children for each group. Schools shall provide sufficient kinds and quantities of foods so that students may be served lunches that contain all five food items within the four required components in at least the amounts indicated. Where students may decline items under paragraph (a)(5) of this section, quantity production may take into account student preferences and the amount of food students are expected to request. Schools are encouraged to produce quantities of food for group V based on the larger amounts specified in the table. * * *

* * * * *

(k) The State agency shall develop the system used in monitoring schools for compliance with meal pattern quantity requirements. The State agency shall maintain a description of the monitoring system for annual review and approval by FNS during the management evaluations conducted in accordance with § 210.17. The State's system shall be designed to ensure that the requirements of this section are met. The system must include a description of how the system will monitor combination products. If 10 percent or more of meals reviewed in a School Food Authority failed to meet meal pattern requirements, a corrective action plan and a second AIMS review must be undertaken under § 210.14. If the State system relies on monitoring production, the system also include the basis for determining food yields.

4. In § 210.11, the fifth sentence of paragraph (a), "Production and participation records shall be maintained to demonstrate positive action toward this objective," is proposed to be removed and the last sentence of that paragraph is proposed to be revised to read as follows:

§ 210.11 Reimbursement payments.

(a) * * * In no event shall the School Food Authority claim or be eligible for special cash assistance reimbursement for free and reduced price meals in excess of the number of children approved for free and reduced price meals, or be eligible for general or special assistance for lunches claimed in excess of the number prepared in accordance with the requirements of § 210.10.

* * * * *

5. In § 210.14, in the third sentence of paragraph (a)(3) the words at the end of that sentence, "determine by observation of a representative sample of meals that all meals contain all required components," are proposed to be revised to read as follows:

§ 210.14 Special responsibilities of State agencies.

(a) * * *

(3) * * * determine that meals are prepared in accordance with the requirements of § 210.10. * * *

6. In § 210.14(a)(3)(iv) subparagraph (D), the first sentence is proposed to be revised to read as follows:

(a) * * *

(3) * * *

(iv) * * *

(D) For AIMS Peroformance Standard 4, ten percent or more of the meals in a School Food Authority failed to meet meal pattern requirements under the State agency monitoring system * * *

* * * * *

§ 210.16 [Amended]

7. § 210.16(h) is proposed to be removed.

PART 220—SCHOOL BREAKFAST PROGRAM

Accordingly, Part 220 is proposed to be amended by removing § 220.14(h).

(Sec. 9, Pub. L. 79–396, 60 Stat. 233 (42 U.S.C. 1758(a)))

Dated: July 20, 1982.

John W. Bode,

Deputy Assistant Secretary for Food and Consumer Services.

[FR Doc. 82-19979 Filed 7-22-82; 8:45 am]

BILLING CODE 3410-30-M

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7 CFR Parts 210, 225 and 226

Vegetable Protein Products Used in Child Nutrition Programs; Proposal To Allow Flexibility

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food and Nutrition Service (FNS) of the Department of Agriculture (USDA) proposes to amend Appendix A of the National School Lunch Program Regulations, the Summer Food Service Program for Children Regulations, and the Child Care Food Program Regulations to allow program administrators greater flexibility in the use of vegetable protein products. Vegetable protein products have been authorized as an alternate food for the child nutrition programs since 1971, although the authorization was not stated in the program regulations. The Department is issuing these regulations because of developments in food technology, rising food costs, and the need to simplify federal administrative procedures. This proposal will (1) adopt the naming and nutritional requirements for vegetable protein products used to substitute, in part, for meat, poultry, and seafood as set forth by the Food and Drug Administration, (2) maintain a 30 percent maximum level of substitution by hydrated vegetable protein products,

(3) allow vegetable protein products in the dry form or artially hydrated form, (4) allow for the appropriate hydration of all forms of vegetable protein products by setting the protein quantity requirements for a product "when hydrated or formulated," (5) establish a requirement that vegetable protein products fortified for use in the child nutrition programs be identified as meeting USDA–FNS specifications, (6) eliminate the "texture" requirement for vegetable protein products.

DATE: Comments must be received by on or before September 21, 1982.

ADDRESS: Comments may be mailed to Cynthia H. Ford, Branch Chief, Technical Assistance Branch, Nutrition and Technical Services Division, Food and Nutrition Service, USDA, Alexandria, Virginia 22302. Comments will be received and may be inspected at Room 602, Nutrition and Technical Services Division, Park Office Center Building, 3101 Park Center Drive, Alexandria, Virginia, during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Bernard Alexander or Kathy Molino, 703–756–3556.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Executive Order 12291 and has been classified nonmajor because it does not meet any of the three criteria of the Executive Order. It will not have an annual effect on the economy of $100 million, will not cause a major increase in costs or prices, and will not have a significant impact on competition, employment, investment, productivity, innovation, or on the ability of U.S. enterprises to compete. Vegetable protein products have been allowed since 1971; this proposed rule would merely increase the flexibility for their use in child nutrition programs and expand on the types of vegetable protein products that are currently authorized.

The proposal has also been reviewed with regard to the provisions of Pub. L. 96–354. Samuel J. Cornelius, Administrator of the Food and Nutrition Service, has certified that the proposal does not have a significant economic impact on a substantial number of small entities.

This regulation does not contain reporting and record keeping requirements subject to approval by the Office of Management and Budget under the Paperwork Reduction Act.

Background

In February of 1971, the Department issued FNS Notice 219 which permitted the use of hydrated textured vegetable protein products as an alternate food to provide up to 30 percent (uncooked basis) of meat, poultry, or fish used to meet the meat/meat alternative requirement of meal patterns for the various child nutrition programs. The Department permitted the use of these products because they were nutritious, helped school food service directors to cope with the high cost of meats, and helped to provide more flexibility in menu planning.

The Department designed the nutrient specifications for textured vegetable protein products outlined in FNS Notice 219 to be nutritionally equivalent to raw ground beef containing no more than 30 percent fat. The dry textured vegetable protein was to contain at least 50 percent protein and when hydrated have a maximum moisture content of 65 percent. FNS Notice 219 was clearly designed around soy flour which was the vegetable protein product available at that time.

Due to recent advances in food technology, several new types of vegetable protein products have been developed—isolates and concentrates. These proposed regulations will allow a wider choice than FNS Notice 219 in types of vegetable protein products used. The regulations, however, will not expand the amount of vegetable protein product allowed to substitute for meat, poultry and seafood beyond what is currently allowed.

These regulations adopt portions of tentative final regulations for vegetable protein products published by the Food and Drug Administration (FDA) in the **Federal Register** of July 14, 1978, (43 FR 30472). FDA has reviewed the proposed regulations embodied in this document and has agreed that they do not conflict with their regulations.

The regulation will ensure that vegetable protein products are nutritionally equivalent to the food they replace. In fact, the new FDA tentative final regulations contain some nutrients, such as zinc and copper, that are not in FNS Notice 219. These nutrients have been determined recently to be needed in vegetable protein products to make them more equivalent nutritionally to the food they replace.

Any change proposed in these regulations will not replace existing specifications for vegetable protein products until a final regulation is published. It is expected that manufacturers will comply with the specifications in the final rule within one year from publication of such rule.

Issues Addressed

There are a number of issues surrounding the use of vegetable protein products as an alternate food. In addressing these issues the Department will: (1) protect the nutritional integrity of the child nutrition programs, (2) provide the greatest amount of flexibility possible to allow for the use of economical, acceptable, and nutritious vegetable protein products, and (3) elinminate the process by which the Department "approved" vegetable protein products. The following is a discussion of pertinent issues and how the Department is proposing to address them in this proposed rule.

1. *Nutritional Requirements for Vegetable Protein Products Used in Child Nutrition Programs.* The Department proposes to adopt the nutrient profile set forth by FDA (in tentative final regulations) for vegetable protein products used to substitute, in part, for meat, poultry, and seafood.

The nutrient profile was developed as a nutritional equivalence standard for regulatory purposes. All nutrient requirements are on a per gram of protein basis. Vitamins and minerals included in the nutrient profile are those found in measurable amounts in meat, poultry, and seafood, that is, at least 2 percent of the U.S. Recommended Daily Allowance per serving for an individual nutrient. Required nutrient levels were generally set at the average amount of a nutrient found in these foods. Exceptions to these general guidelines were made in some cases. For instance, bioavailability considerations were taken into account in setting zinc levels. In order to adjust for the inhibitory effect of phytate found in vegetable protein products on the absorption of zinc and to ensure availability of adequate levels, the zinc requirement as set at approximately twice the average level found in each food category. The effect of phytate on other nutrients such as iron and manganese was taken into consideration. However, there is insufficient evidence at this time to alter the levels of these nutrients based on the effects of phytate in vegetable protein products. The Department will continue to monitor research in this field.

The nutrient profile set forth in this document also establishes that the biological quality of protein for the vegetable protein product be at least 80 percent that of casein. Currently, the Protein Efficiency Ratio (PER) assay is the only official method available for determining protein quality. The Department recognizes there are other methods being used to measure protein quality, but the merits of these methods have not yet been established through the collaborative studies which are

necessary for them to be made official. Therefore, the Department concludes that for the purpose of this regulation it is appropriate to continue to use the PER assay as the basis for determining protein quality. However, exceptions to use of the PER assay will be considered when adequately supported.

2. *Labeling.* This regulation eliminates the requirement for manufacturers to apply for inclusion of their products on an approved products list. However, the Department is proposing to require that vegetable protein products for use in child nutrition programs as an alternate food be labeled, as are other alternate foods, as meeting USDA–FNS requirements for such use.

The Department also proposes to adopt from FDA's tentative final regulations the common and usual names for vegetable protein products used to substitute, in part, for meat, poultry or seafood. This name will be required to appear on the product's label along with an ingredient statement which shall list the source (e.g., soy or peanut) and type of vegetable protein product(s) (flour, concentrate, isolate) contained in the extended food. For the latter purpose this document establishes definitions for various types of vegetable protein products (flour, concentrate, isolate). These defintions are based on requirements set forth by FDA (in tentative final regulations) in establishing common or usual names for these types of products.

3. "Texture" of Vegetable Protein Products. FNS Notice 219 required vegetable protein products used in the child nutrition programs to have texture, that is, "structural integrity and identifiable texture such that each unit will withstand hydration and cooking and other procedures used in preparing the food for consumption." The intent of this requirement was to ensure that a hydrated product resembled the physical characteristics of the meat (usually ground beef) it replaced. However, new uses of vegetable protein products including functional uses such as binders make it unnecessary to impose such a requirement at this time.

4. *Usage.* FNS Notice 219 specified the level of replacement of vegetable protein products for meat, poultry, and seafood based on the fully hydrated weight (60–65 percent moisture level) of the vegetable protein product. Additionally, this notice required that vegetable protein products shall be prepared and served in combination with ground or diced meat in the form of meat patties, meat loaves, meat sauces, or in similar foods made with poultry or seafood. To acknowledge new advances in food technology, the Department is proposing to allow vegetable protein products in the dry form or partially hydrated to be used to substitute, in part, for meat, poultry or seafood. The contribution that vegetable protein products used in the dry form or partially hydrated make toward the meat/meat alternate requirement will be calculated based on the quantity by weight of the dry or partially hydrated product plus the amount of water that would have been used to attain full hydration (as defined in the following section on hydration). This use and the use of the fully hydrated product would be allowed when the vegetable protein product is prepared in combination with raw or cooked meat, poultry or seafood and resembles the product for which it is combined. Examples of items in which a vegetable protein product may be used include, but are not limited to beef patties, beef crumbles, meat loaf, tuna salad, etc.

A vegetable protein product may not be used to meet part of the meat/meat alternate requirement when used in such items as pizza crust or breading. The requirement that a vegetable protein product be nutritionally equivalent to meat, poultry or seafood, as established by FDA and adopted for purposes of this regulation, applies only to those vegetable protein products that resemble as well as substitute, in part, for meat, poultry or seafood. For example, the nutrient profile, because it is designed to approximate meat, applies to vegetable protein products formulated and used to resemble and substitute, in part, for meat in a beef pattie, but not to vegetable protein products used in breading for that beef pattie. Comments are being requested on establishing a nutrient profile for and allowing breading containing vegetable protein products to be used to substitute, in part, for meat, poultry or seafood for the purposes of the child nutrition programs.

Currently, the contribution vegetable protein products make toward the meat/meat alternate requirement of the child nutrition meal patterns is determined on the basis of the preparation yield of the meat, poultry or seafood with which it is combined. When computing the preparation yield of a product containing meat, poultry or seafood, and vegetable protein product, the vegetable protein product is evaluated as having the same preparation yield that is applied to the meat, poultry or seafood it replaces. The Department proposes to retain this method of calculating the contribution of vegetable protein products toward the meat/meat alternate requirement.

5. *Hydration.* As we already discussed above in the proposed nutritional requirements, the hydration levels set forth in FNS Notice 219 are inadequate for concentrates and isolates currently on the market. The nutritional specifications as proposed by FDA provide for appropriate hydration of vegetable protein products by setting the protein quantity requirements for a product when hydrated. The nutrient profile for meat, poultry, and seafood adopted in this document, sets the protein requirement at 18 percent by weight when hydrated or formulated (hereinafter referred to as fully hydrated). ("When hydrated" refers to a dry vegetable protein product(s) and the amount(s) of water, fat or oil, colors, flavors, and any other substances which have been added in order to make the resultant mixture resemble the meat, poultry, or seafood.)

Since the protein requirement is specified for a vegetable protein product when hydrated, in order to hydrate a dry vegetable protein product correctly it is necessary to know the percent of protein contained in the dry product. This information is also necessary in order to determine the contribution that a vegetable protein product makes toward the meat/meat alternate requirement regardless of the manner in which it is used (dry, partially hydrated, fully hydrated). Therefore, the Department is recommending that manufacturers provide information on the percent protein contained in the dry vegetable protein product to be used to substitute in part for meat, poultry or seafood in the child nutrition programs.

6. *Allowable Levels of Substitution for Meat, Poultry, and Seafood.* FNS Notice 219 specified that the quantity by weight of fully hydrated (60–65 percent moisture level) vegetable protein product shall not exceed 30 parts to 70 parts meat, poultry or seafood on an uncooked basis when used as an alternate food in the child nutrition programs. The Department is proposing to retain the 30 percent maximum level for fully hydrated vegetable protein products. Also, vegetable protein products used in the dry form or partially hydrated may be used in substituting, in part, for meat, poultry or seafood at a level of substitution not to exceed 30 percent calculated as if the product were fully hydrated.

7. *"Mixes" of Dry Vegetable Protein Products and Seasonings.* There are a number of vegetable protein product "mixes" currently available to the child nutrition program market. These are dry products containing vegetable protein products along with substantial levels

(more than 5 percent) of seasonings, bread crumbs, flavorings, etc. For example, a "mix" may contain 80 percent dry vegetable protein product and 20 percent seasonings and other ingredients. Only the vegetable protein product portion of the "mix" may be used as a meat alternative in the child nutrition programs. Because the user must know the amount of the "mix" that is vegetable protein product, the Department recommends that manufacturers provide information on the amount by weight of dry vegetable protein product in the package. It is also recommended that hydration instructions, and instructions on how to combine the mix with meat, poultry or seafood be stated on the package.

List of Subjects

7 CFR Part 210

Food assistance programs, National school lunch program, Grant programs—Social programs, Nutrition, Children, Reporting and recordkeeping requirements, Surplus agricultural commodities.

7 CFR Part 225

Food assistance programs, Grant programs—health, Infants and children, Reporting requirements.

7 CFR Part 226

Day care, Food assistance programs, Grant programs—health, Infants and children, Surplus agricultural commodities.

PARTS 210, 225, AND 226 [AMENDED]

Accordingly, a new section, Vegetable Protein Products, is proposed to be added to Appendix A of 7 CFR Part 210, and a new Appendix A to be added to Parts 225 and 226 to read as follows:

Appendix A: Food for Meals

* * * * *

Vegetable Protein Products

1. Schools, institutions, and service institutions may use a vegetable protein product, defined in paragraph 2, as a food component meeting the meal requirements specified in § 210.10, § 225.10 or § 226.21 under the following terms and conditions:

(a) The vegetable protein product must be prepared in combination with raw or cooked meat, poultry or seafood and shall resemble the product for which it substitutes. Examples of items in which a vegetable protein product may be used include, but are not limited to, beef patties, beef crumbles, pizza topping, meat loaf, meat sauce, taco filling, burritos, and tuna salad.

(b) Vegetable protein products may be used in the dry, partially hydrated or fully hydrated form in combination with meat, poultry or seafood. The moisture content of the fully hydrated vegetable protein product shall be such that the mixture will have a minimum of 18 percent protein by weight or equivalent amount for the dry or partially hydrated form (based on the level that would be provided if the product were fully hydrated).

(c) The quantity, by weight, of the fully hydrated vegetable protein product must not exceed 30 parts to 70 parts meat, poultry or seafood on an uncooked basis. The quantity by weight of the dry or partially hydrated vegetable protein product must not exceed a level equivalent to the amount (dry weight) used in the fully hydrated product at the 30 percent level of substitution. The dry or partially hydrated product's replacement of meat, poultry or seafood will be based on the level of substitution it would provide if it were fully hydrated.

(d) A vegetable protein product shall not be used other than when combined with meat, poultry or seafood.

(e) The combination of the vegetable protein product and meat, poultry or seafood may meet all or part of the meat/meat alternate requirement specified in §§ 210.10, 225.10, or 226.21.

(f) The contribution vegetable protein products make toward the meat/meat alternate requirement specified in §§ 210.10, 225.10 or 226.21 shall be determined on the basis of the preparation yield of the meat, poultry or seafood with which it is combined. When computing the preparation yield of a product containing meat, poultry or seafood, and vegetable protein product, the vegetable protein product shall be evaluated as having the same preparation yield that is applied to the meat, poultry or seafood it replaces.

(g) When vegetable protein products are served in a meal with other alternate foods authorized in this Appendix A, each individual alternate food shall be used as specifically directed.

2. A vegetable protein product to be used to substitute in part for meat, poultry, or seafood as specified in paragraph 1 must meet the following criteria:

(a) The vegetable protein product (substitute food) shall contain one or more vegetable protein products which are defined as follows:

(1) Vegetable (plant) protein products are foods which are processed so that some portion of the nonprotein constituents of the vegetable is removed. These vegetable protein products are safe and suitable edible products produced from vegetable (plant) sources including, but not limited to, soybeans, peanuts, wheat, and corn.

(b) The types of vegetable protein products described in paragraph 2(a)(1) above shall include flour, concentrate, and isolate as defined below:

(1) A product which contains less than 65 percent protein by weight calculated on a moisture-free basis excluding added flavors, colors, or other added substances is a "flour."

(2) A product which contains 65 percent or more but less than 90 percent protein by weight calculated on a moisture-free basis excluding added flavors, colors, or other added substances, is a "—— protein concentrate", the blank to be filled with the name of the source of the protein, e.g., "soy" or "peanut".

(3) A product which contains 90 percent or more protein by weight calculated on a moisture-free basis excluding added flavors, colors, or other added substances, is a "protein isolate" or "isolated——protein," the blank to be filled in with the name of the source of the protein, e.g., "soy" or "peanut".

(c) Compliance with the moisture and protein provisions of paragraph 2(b) (1),(2), and (3) above shall be determined by the appropriate methods described in "Official Methods of Analysis of the Association of Official Analytical Chemists" (latest edition).

(d) Vegetable Protein Products which are used to subsitute in part for meat, poultry or seafood shall be labeled in conformance with applicable sections of § 102.76, tentative final regulations, published by the Food and Drug Administration in the Federal Register of July 14, 1978 (43 FR 30472). Adopted for the purpose of this proposed regulation are the following:

(1) The common or usual names for a vegetable protein product used to resemble and substitute for meat, poultry or seafood shall include the term "vegetable protein product" and may include the term "textured" or "texturized" and/or a term which accurately describes the physical form of the product, e.g., "granules," when such term is appropriate. The term "plant" may be used in the name in lieu of the term "vegetable."

(2) The vegetable protein products used as ingredients in the substitute food shall be listed by source (e.g. soy or peanut) and produce type (i.e., flour, concentrate, isolate) in the ingredient statement on the label. Product type(s) listed shall comply with the appropriate definition(s) set forth in paragraph 2(b) (1),(2), and (3), and may include a term which accurately describes the physical form of the product, e.g., "granules" when such term is appropriate.

(e) Vegetable protein products which substitute in part for meat, poultry or seafood shall meet the following nutritional specifications adopted from 102.76, tentative final regulation, published by the Food and Drug Administration in the Federal Register of July 14, 1978 (43 FR 30472).

(1) The biological quality of the protein in the vegetable protein product shall be at least 80 percent that of casein, determined by performing a Protein Efficiency Ratio (PER) assay or such other test approved by FNS.

(2) The vegetable protein product shall contain at least 18 percent protein by weight when hydrated or formulated to be used in combination with meat, poultry or seafood. ("When hydrated" refers to a dry vegetable protein product and the amount of water, fat or oil, colors, flavors or any other substances which have been added in order to make the resultant mixture resemble the meat, poultry or seafood.)

(3) The vegetable protein product must contain the following levels of nutrients per gram of protein:

Nutrient	Amount
Vitamin A (IU)	13
Thiamine (milligrams)	0.02
Riboflavin (milligrams)	.01

Nutrient	Amount
Niacin (milligrams)	.3
Pantothenic acid (milligrams)	.04
Vitamin B_6 (milligrams)	.02
Vitamin B_{12} (micrograms)	.1
Iron (milligrams)	.15
Magnesium (milligrams)	1.15
Zinc (milligrams)	.5
Copper (micrograms)	34
Potassium (milligrams)	17

(4) Compliance with the nutrient provisions set forth in paragraph 2(e)(1)(2) and (3) above shall be determined by the appropriate methods described in "Official Methods of Analysis of the Association of Official Analytical Chemists" (latest edition).

(f) Vegetable protein products to be used in the child nutrition programs as a substitute in part for meat, poultry or seafood that comply with the labeling and nutritional specifications set forth in paragraph 2(d)(1) and (2) and paragraph 2(e)(1)(2) and (3) shall bear a label containing a statement that "this product meets USDA–FNS requirements for use in meeting a portion of the meat/meat alternate requirement of the child nutrition programs." This statement shall appear on the principal display panel area of the package.

(g) It is recommended that for vegetable protein products to be used to substitute in part for meat, poultry or seafood and labeled as specified in paragraph 2(f) above, manufacturers provide information on the percent protein contained in the dry vegetable protein product.

(h) It is recommended that for a vegetable protein product mix, manufacturers provide information on (1) the amount by weight of dry vegetable protein product in the package, (2) hydration instructions, and (3) instructions on how to combine the mix with meat, poultry or seafood. A vegetable protein product mix is defined as a dry product containing vegetable protein products that comply with the labeling and nutritional specifications set forth in paragraphs 2(d)(1) and (2) and paragraph 2(e)(1)(2) and (3) along with substantial levels (more than 5 percent) of seasonings, bread crumbs, flavorings, etc.

3. Schools, institutions, and service institutions may use a commercially prepared meat, poultry or seafood product combined with vegetable protein products to meet all or part of the meat/meat alternate requirement specified in § 210.10, 225.10 or 226.21 if the product bears a label containing a statement that "this product contains vegetable protein product(s) which can be used to meet a portion of the meat/meat alternate requirement of the child nutrition programs" (outlined in paragraph 2 above). This would designate that the vegetable protein product used in the formulation of the meat, poultry or seafood item complies with the naming and nutritional specifications set forth in paragraph 2 above.

(National School Lunch Act Sections 9, 13, 17, 42 U.S.C. 1758, 1761, 1766; 7 CFR Parts 210.10, 225.10, 226.21)

Dated: July 20, 1982.

John W. Bode,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 82-19978 Filed 7-22-82; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 1011

[Marketing Agreements and Orders; Milk]

Milk in the Tennessee Valley Marketing Area; Proposed Temporary Revision of Shipping Percentage

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed temporary revision of rule.

SUMMARY: This notice invites written comments on a proposal that the supply plant shipping requirement under the Tennessee Valley Federal milk order be decreased temporarily for the months of August through November 1982. The temporary change was requested by the operator of a supply plant that is regulated as a pool plant by the Tennessee Valley order. The handler contends that the change is necessary to remove the need for supply plant operators to incur the cost of uneconomic shipments of milk to maintain pool status for their plants during a period of supply imbalance.

DATE: Comments are due on or before July 30, 1982.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, Room 1077 South Building, United States Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–4829.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as a "non-major" action.

It has also been determined that the potential need for adjusting certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the Federal Register. However, this would not permit the completion of the procedure in time to give interested parties timely notice that supply plant shipping requirements for August 1982 would be modified. The initial request for the action was received on July 13, 1982.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the provisions of § 1011.7(b) of the order, the temporary revision of certain provisions of the order regulating the handling of milk in the Tennessee Valley marketing area is being considered for the months of August through November 1982.

All persons who desire to submit written data, views or arguments in connection with the proposed revision should file the same with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250, on or before July 30, 1982. Please submit two copies of the documents filed. The period for filing views is being somewhat limited to enable the timely consideration of this matter since the proposed action would be applicable to milk shipments made during August. Further, the proposed change provides some reduction of pooling standards and would not require extensive preparation or substantial alteration in the method of operation for handlers.

All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The provisions proposed to be revised are the supply plant shipping percentages set forth in § 1011.7(b) that are applicable during the months of August through November 1982. It has been requested that the shipping requirements be reduced from 60 percent to 50 percent for the four-month period. Section 1011.7(b) allows the Director of the Dairy Division to increase or decrease the applicable shipping percentage up to 10 percentage points in order to obtain needed shipments for the market or to prevent uneconomic shipments of milk to distributing plants.

Kraft, Inc., which operates a supply plant regulated by the Tennessee Valley order, has requested a temporary reduction in the supply plant shipping

requirement of 10 percentage points. Kraft states that over the past year the Tennessee Valley market has experienced an increase in milk production without a corresponding increase in Class I sales. The handler claims that this marketwide development makes it difficult for its supply plant to meet the 60 percent shipping requirement without engaging in uneconomic shipments of milk if it wishes to maintain pool plant status. Kraft notes that the general imbalance of supply over demand in the Tennessee Valley market recently required emergency rulemaking to ease the burden of surplus milk disposition. The handler indicates, also, that its situation is affected by an increase in the number of producers delivering milk to its supply plant.

Under the circumstances described, it may be appropriate to reduce the pool supply plant shipping percentage for these months. The proposed temporary reduction in the shipping requirement could prevent uneconomic movements of milk merely for purposes of pool plant qualification. Also, these changes could assure that producers who have been regularly associated with the fluid market can continue to share in the pool proceeds of the market. Accordingly, the proposed relaxation of these pooling provisions during August through November 1982 may be appropriate.

List of Subjects in 7 CFR Part 1011

Milk Marketing Orders, Milk, Dairy Products.

Signed at Washington, D.C., on: July 19, 1982.

W. H. Blanchard,

Acting Director, Dairy Division.

[FR Doc. 82-20061 Filed 7-22-82; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 34

[Docket No. PRM-34-2]

Withdrawal of Petition for Rulemaking; Nondestructive Testing Management Association

AGENCY: Nuclear Regulatory Commission.

ACTION: Withdrawal of petition for rulemaking.

SUMMARY: In the **Federal Register** of August 4, 1978 (43 FR 34563), the Commission announced the receipt of and requested comments on a petition for rulemaking (PRM-34-2) filed by the Non-Destructive Testing Management Association. The petition, dated June 28, 1978, requested that the Commission amend its regulations to provide for the registration, licensing, and control of individual radiographers. By letter dated May 10, 1982, the petitioner has withdrawn its petition for rulemaking. The petitioner did not indicate any reason for withdrawing the petition in the letter requesting this action.

The Nuclear Regulatory Commission has been studying the problem of radiography overexposures. As a part of its program to reduce the extent and seriousness of this problem, NRC published on May 4, 1982 (47 FR 19152) an advance notice of proposed rulemaking investigating the possibility of third-party certification of industrial radiographers. Although this ANPRM was issued partially in response to PRM-34-2, the staff intends to continue this rulemaking action because of the continuing concern regarding radiography exposures.

ADDRESSES: A copy of the petitioner's letter of withdrawal is available for public inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, DC. A copy of the letter of withdrawal may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: John D. Philips, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492-7086 or Toll Free: 800-368-5642.

Dated at Bethesda, Maryland this 13th day of July 1982.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 82-19076 Filed 7-22-82; 8:45 am]

BILLING CODE 7590-01-M

10 CFR Part 140

Modification of Indemnity Agreements

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission's regulations provide that if the Commission intends to enter into an indemnity agreement with provisions different than those in a standard form indemnity agreement or intends to modify a standard form indemnity agreement, then the Commission must publish notice of this intent in the **Federal Register** and allow 15 days for interested persons to file petitions for leave to intervene with respect to the proposed amendment. The Commission is proposing to amend its regulations to retain the public notice provision but delete the opportunity for public intervention and comment. The Commission is proposing this action because the scope of public comment appropriate for an action of this type is so restricted that the opportunity for public comment is unnecessary.

DATE: Comment period expires August 23, 1982. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Submit written comments and suggestions on the proposal to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments received by the Commission may be examined in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Eric E. Jakel, Esq., Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone: (301) 492-8691.

SUPPLEMENTARY INFORMATION: On April 7, 1960, the Atomic Energy Commission published in the **Federal Register** (25 FR 2999) proposed amendments to 10 CFR Part 140, "Financial Protection Requirements and Indemnity Agreements." Among other things the notice proposed an amendment to establish the form of indemnity agreement which the Commission would execute with licensees furnishing insurance policies as proof of financial protection (10 CFR 140.92, Appendix B). The proposed rule did not contain any provisions such as those now present in § 140.9. After consideration of public comments and other relevant information, on April 22, 1961, the Commission published a final rule (26 FR 3455) setting forth, *inter alia*, the specific provisions of Appendix B. Through this same notice the Commission adopted § 140.9 in a form identical to its present form. Currently, § 140.9 provides:

§ 140.9 Modifications of indemnity agreements.

The Commission will publish in the **Federal Register** a notice of the intent to enter into an indemnity agreement, or agreement amending an indemnity agreement, which contains provisions different from the form of the

applicable indemnity agreement set forth in the appendices to this part, as such appendices may be amended from time to time. Such notices will provide at least a fifteen day period following the date of publication in the Federal Register in which interested persons may file petitions for leave to intervene with respect to the proposed agreement.

Since the Commission adopted § 140.9 over 20 years ago, this section has only been used twice in situations involving nuclear power plants (and the Standard Form indemnity agreements contained in the Appendices to 10 CFR Part 140). In both instances an NRC licensee requested Commission approval of a plan to move spent fuel from one of its nuclear power facilities to a different nuclear power facility (for which it was also the licensee). The request involved the transportation of spent fuel from the first facility to the second facility, storage of the spent fuel at the second facility, and Commission extension of indemnity coverage to the storage of this spent fuel at the second facility. The first instance involved Commission approval of a request by Carolina Power and Light Company to transport spent fuel generated at its H. B. Robinson facility to its Brunswick facility for the purpose of storage and to have the storage indemnified (42 FR 44617, September 6, 1977). The second instance involved Commission approval of a similar request by Duke Power Company with respect to its Oconee and McGuire facilities (46 FR 55024, November 5, 1981).

To ensure that the fuel irradiated at the first reactor would be covered by Price-Anderson Act indemnity during storage at the second reactor, the NRC had to make a minor modification to the definition of "radioactive material" in Article I, paragraph 9, of the indemnity agreement applicable to the storing reactor. (See 10 CFR 140.92, Appendix B.) However, under the existing provisions of § 140.9, the Commission must publish notice of the specific amendment and allow 15 days for interested persons to file petitions for leave to intervene with respect to the proposed agreement, even where it makes only a small change of several words in the standard form of indemnity agreement.

The Commission has interpreted § 140.9 to mean that it only need solicit and consider written public comments on whether the language proposed to modify the indemnity agreements effectively implements the Commission's policy decision to exercise its discretionary authority to extend Price-Anderson indemnity coverage in any given situation. See 42 FR 44617, September 6, 1977; 46 FR 55024, November 5, 1981. Comments addressing any other issue are not considered relevant.

Because granting a hearing or requesting public comment on such an insubstantial point as the precise wording of an amendment to the standard indemnity agreement is not meaningful, the Commission is proposing to delete the second sentence of this as unnecessary.

This does not affect an interested person's opportunity to comment on health and safety aspects of the underlying activity. To the extent an amendment to the indemnity agreement reflects a change in the underlying activity, there will be an opportunity to raise issues in the context of a proceeding to amend the facility or material licenses. For example, in the situations described above, the separate proceedings to amend the appropriate facility and material licenses provided an opportunity to discuss whether the spent fuel generated at one reactor site could be transported to and stored at a second reactor site without unduly endangering the public health and safety.

Paperwork Reduction Act Statement

Pursuant to the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511), the NRC has made a determination that this proposed rule would not impose new recordkeeping, application, reporting, or other types of information collection requirements.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the NRC certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The proposed rule affects the licensing and operation of nuclear reactors. The companies and institutions that own these reactors do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act or in the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR Part 121. Since the companies that will be affected by this rule are dominant in their service areas, this rule does not fall within the purview of the Act.

List of Subjects in 10 CFR Part 140

Extraordinary nuclear occurrence, Insurance, Intergovernmental relations, Nuclear materials, nuclear power plants and reactors, Penalty, Reporting requirements.

Proposed Rule Change

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendment to 10 CFR Part 140, is contemplated.

PART 140—FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY AGREEMENTS

1. The authority citation for Part 140 is revised to read as follows:

Authority: Secs. 161, 170, 66 Stat. 948, 71 Stat. 576, as amended (42 U.S.C. 2201, 2210); secs. 201, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 140.11(a), 140.12(a), 140.13 and 140.13a are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); and § 140.6 is issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

§§ 140.2, 140.3, 140.5, 140.6, 140.7, 140.10, 140.11, 140.13a, 140.14, 140.18, 140.20, 140.21, 140.22, 140.91, 140.92, 140.93, 140.94, 140.95, 140.107, 140.108 [Amended]

2. Remove the authority citations following §§ 140.2, 140.3, 140.5, 140.6, 140.7, 140.10, 140.11, 140.13a, 140.14, 140.18, 140.20, 140.21, 140.22, 140.91, 140.92, 140.93, 140.94, 140.95, 140.107, and 140.108.

3. Section 140.9 is revised to read as follows:

§ 140.9 Modification of indemnity agreements.

The Commission will publish in the Federal Register a notice of the intent to enter into an indemnity agreement, or agreement amending an indemnity agreement, which contains provisions different from the form of the applicable indemnity agreement set forth in the appendices to this part, as such appendices may be amended from time to time.

Dated at Washington, D.C., this 19th day of July, 1982.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 82-20008 Filed 7-22-82; 8:45 am]
BILLING CODE 7590-01-M

INTERNATIONAL COMMUNICATION AGENCY

22 CFR Part 503

Fees; Schedules of Standard Fees

AGENCY: International Communication Agency.

ACTION: Proposed rule.

SUMMARY: In consideration of inflationary cost increases during the six years since the present fees were established, the International Communication Agency proposes to amend its Freedom of Information Act (5 U.S.C. 552) "Schedule of Standard Fees" published in the Federal Register on August 23, 1976 (41 FR 35480).

DATE: Comments should be received by August 19, 1982.

ADDRESS: Send all comments on the proposed amendment to: Director, Office of Public Liaison, International Communication Agency, Room 1019, 1750 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

FOR FURTHER INFORMATION CONTACT: Charles Jones, Jr., Freedom of Information/Privacy Acts Coordinator, Office of Administration, at (202) 724–9089.

SUPPLEMENTARY INFORMATION:

E.O. 12291 Federal Regulation

USICA has determined that this is not a major rule for the purposes of E.O. 12291 Federal Regulation, because it will not result in:

1. An annual effect on the economy of $100 million or more;

2. A major increase in costs or prices for consumers, individuals industries, Federal, State, or local government agencies, or geographic regions; or

3. Significant adverse effects on competition, employment investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 22 CFR Part 503

Freedom of information.

Dated: July 19, 1982.

Charles Z. Wick,

Director, International Communication Agency.

PART 503—AVAILABILITY OF RECORDS

The Agency proposes to amend 22 CFR Chapter V, Part 503, by revising § 503.6(c)(1)(ii) to read as follows:

* * * * *

§ 503.6 Availability of records.

(c) * * *

(1) * * *

(ii) Searching for records per hour—$8.00 for clerical personnel; $15.00 for supervisory personnel. No fees will be charged for searches of one hour or less.

* * * * *

[FR Doc. 82-19838 Filed 7-22-82; 8:45 am]
BILLING CODE 8230-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-2-82]

Deposits of Individual Estimated Tax; Notice of Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations which would require individuals to deposit their estimated income tax payments through the Federal Tax Deposit (FTD) system instead of forwarding them to an Internal Revenue Service Center. The regulations would affect individuals required to pay estimated tax and financial institutions which are authorized depositaries for Federal taxes. The regulations would improve the efficiency of the administration of Federal tax laws.

DATES: Written comments and requests for a public hearing must be delivered or mailed by September 20, 1982. The amendments are proposed to be effective with respect to taxable years beginning after December 31, 1982.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–2–82), 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

ADDRESS INQUIRIES TO: John A. Tolleris of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3294).

SUPPLEMENTARY INFORMATION:

Background

This document contains a proposed amendment to the Income Tax Regulations under section 6302 (c) of the Internal Revenue Code of 1954. The amendment is proposed to be issued under the authority of sections 6302 (c) and 7805 of the Internal Revenue Code of 1954 (68A Stat. 775, 26 U.S.C. 6302 (c); 68A Stat. 917, 26 U.S.C. 7805).

Explanation of Provisions

The proposed amendment would, if promulgated as a Treasury Decision, require individual taxpayers to deposit their estimated income and self-employment tax payments with a Federal Reserve bank, a commercial bank, or other depositary institution authorized to receive deposits of Federal taxes, instead of mailing such payments to an Internal Revenue Service Center as is presently required.

Individuals may satisfy the new requirement by sending their estimated taxes to the authorized depositary institution by mail postmarked 2 days prior to the due date. The payment must be made in cash, by postal money order, or by a check drawn on the depositary bank.

An exception to the new deposit requirement is provided for individuals who never before were required to make estimated tax payments, or who are required to pay estimated tax for the first time in more than a year. Such individuals may forward the first installment of estimated tax to their Internal Revenue Service Center. It is anticipated that the Center will then provide the taxpayer with forms and instructions needed to pay subsequent installments of estimated tax by deposit.

Another exception to the deposit requirement is provided for individuals who reside outside the United States.

Non-Applicability of Executive Order 12291

The Treasury Department has determined that this proposed regulation is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 28, 1982.

Regulatory Flexibility Act

Pursuant to 5 U.S.C. 605(b), the Secretary of the Treasury has certified that the requirements of the Regulatory Flexibility Act do not apply to this notice of proposed rulemaking as it will not have a significant economic impact on a substantial number of small entities. The regulations affect primarily individual taxpayers and do not significantly increase the recordkeeping duties of small entities, which will receive compensation for their services.

Comments and Requests for a Public Hearing

Before the adoption of these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any

person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Drafting Information

The principal author of these proposed regulations is John A. Tolleris of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR 1.6302–1–1.6302–2

Income taxes, Administration and procedure, Tax depositaries.

Proposed Amendments to the Regulations

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

The proposed amendments to 26 CFR Part 1 are as follows:

The Income Tax Regulations are amended by adding a new § 1.6302–3 immediately following § 1.6302–2. The added provisions read as follows:

§ 1.6302–3 Use of Government depositaries in connection with individual estimated taxes.

(a) *Requirement.* For taxable years beginning after December 31, 1982, except as provided in paragraph (e) of this section, an individual shall deposit with a Federal Reserve bank or an authorized financial institution described in section 6302 (c) all payments of estimated tax required to be paid by section 6153 on or before the date otherwise prescribed for paying such tax. The requirements of this paragraph do not apply to an individual whose tax home is in a foreign country and who otherwise meets the qualifications described in section 911 (d) (1).

(b) *Depositary forms.* A deposit required to be made by this section shall be made separately from a deposit required by any other section. Each remittance shall be accompanied by a Federal Tax Deposit, Estimated Individual Tax form (Form 502) which shall be prepared in accordance with the instructions relating to Form 502. The remittance, together with Form 502, shall be forwarded to a Federal Reserve bank or to a financial institution authorized in accordance with Treasury Department Circular No. 1079, 31 CFR Part 214, to accept remittances of Federal taxes for transmission to a Federal Reserve bank. The timeliness of the deposit will be determined by the date of receipt by a Federal Reserve bank or by an authorized financial institution, whichever is earlier; however, if the deposit is mailed to the Federal Reserve bank or authorized financial insititution, the date of deposit will be determined in accordance with section 7502 (e). Each individual making deposits pursuant to this section shall report on the form for the period with respect to which such deposits are made information regarding such deposits in accordance with the instructions applicable to such return or declaration. Amounts deposited under this section shall be considered as payment of the estimated tax.

(c) *Procurement of the prescribed forms.* Copies of Form 502, the Federal Tax Deposit, Estimated Individual Tax form will so far as possible be furnished individual taxpayers. However, unless the exception provided in paragraph (e) of this section applies, an individual will not be excused from making a deposit by the fact that no form has been furnished to him or her. Individuals not supplied with the proper forms should make application for them in ample time to make the required deposits by the time prescribed in section 6153. An individual may obtain the forms by applying for them with the district director or the director of a service center, and providing with the application his or her name, social security account number, address, and the taxable year to which the deposits will relate.

(d) *Failure to deposit.* For provisions relating to the penalty for failure to make a deposit within the prescribed time, see § 301.6656–1 of this chapter (Regulations on Procedure and Administration).

(e) *Exception for first-time estimated tax payment.* If an individual establishes to the satisfaction of the Commissioner that he was not required (without taking this exception into account) to make a deposit pursuant to this section with respect to each preceding quarter of the current taxable year and with respect to each quarter of the prior taxable year, he shall make his estimated tax payment required to be made by section 6153 by forwarding it with his declaration of estimated tax on Form 1040–ES in accordance with the instructions relating to Form 1040–ES on or before the date otherwise prescribed for paying such tax.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 82-19795 Filed 7-19-82; 11:57 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

Public Comment Procedures and Opportunity for Public Hearing on Modified Portions of the Kentucky Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for the public comment period and for a public hearing on the substantive adequacy of certain program amendments submitted by them State of Kentucky as modifications to the Kentucky Permanent Regulatory program (hereinafter referred to as the Kentucky program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). These amendments are submitted (1) to satisfy conditions imposed by the Secretary of the Interior on the approval of the Kentucky program, and (2) as further modifications to the Kentucky program.

This notice sets forth the times and locations that the Kentucky program and proposed amendments are available for public inspection, the comment period during which interested persons may submit written comments on the proposed program elements, and the procedures that will be followed at the public hearing.

DATE: Written comments must be received on or before 4:00 p.m., August 23, 1982, to be considered.

A public hearing on the proposed modifications has been scheduled for August 12, 1982 from 7:00 p.m. to 9:00 p.m., or until all comments have been heard.

Any person interested in making an oral or written presentation at the hearing should contact W. H. Tipton at the address and phone number listed below by August 9, 1982. If no person has contacted Mr. Tipton to express an interest in participating in the hearing by August 9, 1982, the hearing will be cancelled. A notice announcing any cancellation will be published in the **Federal Register.**

ADDRESSES: Written comments should be mailed or hand delivered to: W. H. Tipton, Director, Kentucky Field Office, Office of Surface Mining, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504.

A public hearing will be held at the Harley Hotel, 2143 North Broadway, Lexington, Kentucky, 40505.

Copies of the Kentucky program, the proposed modifications to the program, a listing of any scheduled public meetings and all written comments received in response to this notice will be available for review at the OSM Kentucky State Office and the Office of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Kentucky Field Ofice, Office of Surface Mining, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504.

Bureau of Surface Mining, Reclamation and Enforcement, Capitol Plaza Tower, Third Floor, Frankfort, Kentucky 40601.

FOR FURTHER INFORMATION CONTACT: W. H. Tipton, Director, Kentucky Field Office, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504, Telephone: (606) 233–7320.

SUPPLEMENTARY INFORMATION: On December 30, 1981, Kentucky resubmitted its proposed regulatory program to OSM. On April 1,3, 1982, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved the program subject to the correction of twelve minor deficiences. The approval was effective upon publication of the notice of conditional approval in the May 18, 1982, **Federal Register** (47 FR 21404–21435).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Kentucky program can be found in the May 18, 1982, **Federal Register** notice (47 FR 21404–21435).

Deficiencies (b) and (c) of the Kentucky program for which the Secretary required correction as conditions of approval were as follows:

b. Kentucky did not have fully promulgated regulations providing for citizens to accompany State inspectors onto a mine site consistent with 30 CFR Part 842.

c. Kentucky did not have fully promulgated regulations providing adequate public participation in the cumulative bond crediting process in accordance with SMCRA section 519.

Submission of Material to Satisfy Conditions

In accepting the Secretary's approval, Kentucky agreed to correct deficiencies (b) and (c) by October 31, 1983. Kentucky submitted material to OSM on May 26, 1982, to correct deficiencies (b) and (c) as follows:

(b) Kentucky adopted 405 KAR 12:030 section 4 to provide for citizens to accompany State inspectors onto a mine site.

(c) Kentucky deleted 405 KAR 10:010 section 3(2) and 10:040 section 1(7) to eliminate the cumulative bond crediting process. Further, Kentucky amended 405 KAR 10:030 section 2(3), and 10:040, "Necessity and Function" and sections 1 and 2 to conform to these deletions.

The Secretary seeks public comment on whether the provisions submitted correct the deficiencies for these 2 conditions. If the program amendments are approved, conditions (b) and (c) in 30 CFR 917.11 will be removed.

Submission of Additional Program Amendments

On May 26, 1982, OSM received from the Commonwealth of Kentucky, pursuant to the 30 CFR 732.17 procedures, the following proposed revisions to the State program, which state that they became effective on the date Kentucky received primacy:

1. An addition to 405 KAR 7:020 section 1(11) to include in the definition of "auger mining" the phrase, "* * * and shall also include all other such methods of mining in which coal is extracted from beneath the overburden by mechanical devices located at the face of the cliff or highwall and extending laterally into the coal seam, such as extended depth, secondary recovery systems."

2. An amendment to 405 KAR 7:020 section 1(70) to change the definition of "operator" to, "any person, partnership or corporation engaged in surface coal mining and reclamation operations."

3. An amendment to 405 KAR 7:020 section 1(86) to change the definition of "principal shareholder" to, "any person who is the record or beneficial owner of ten (10) percent or more interest of the applicant."

4. An addition to 405 KAR 7:020 section 1(117) in the definition of "surface coal mining operations" to exclude from such definition, "the extraction of, or intent to extract, 250 tons or less of coal by any person by surface coal mining operations with twelve (12) successive calendar months."

5. An amendment to 405 KAR 7:030 section 1 to change the applicability section to state: "Title 405, Chapter 7 through 24 apply to all coal exploration and surface coal mining and reclamation operations, except surface coal mining and reclamation operations of two (2) acres or less which are exempt from the requirements of SMCRA."

6. In 405 KAR 7:040 section 5(1), an amendment to delete the words, "Division of Water," after the word, "department."

7. Amendments to 405 KAR 7:040 section 10(2):

a. Delete the phrase, "and appropriate direct participation and/or supervision by the registered professional engineer," and replace it with the phrase, "and standard practice as it relates to direct participation by the registered professional engineer or supervision of the registered professional engineer's employees or subordinates."

b. Delete the phrase, "or assume any liability other than that normally incurred in the practice of engineering," in the second sentence.

8. An amendment to 405 KAR 7:040 section 10(7) to delete the requirement that certifications by registered professional engineers be notarized.

9. An addition to 405 KAR 7:090 section 4(1) to clarify that a preliminary hearing need not be scheduled if it is waived.

10. An amendment to 405 KAR 7:090 section 4(6) to give a person to whom a notice or order was issued, 15 days from the mailing of the proposed penalty assessment to waive the preliminary hearing and request a formal hearing.

11. An amendment to 405 KAR 7:090 section 6 to provide a 15 day period during which a local preliminary hearing may be requested.

12. An addition to 405 KAR to create a new part, 7:095, Assessment of Civil Penalties. This new part contains, inter alia, the State's proposed penalty assessment guidelines at § 731.14(g)(4–7)(15) of the Kentucky resubmission.

13. An amendment to 405 KAR 8:010 section 6(1) to delete the different requirements applicable to "small operators" (as defined by KRS 350.450(4)(d) for the payment of permit application fees.

14. An amendment to 405 KAR 8:010 section 6(2) to increase the permit application fee for applications submitted after July 15, 1982, to $375 plus $75 for each acre or fraction thereof of the area of land to be affected under the permit.

15. Amendments to 405 KAR 8:010 section 13(1) to:

a. Decrease from 15 to 10 the number of days from initial receipt of the application by which the department

shall notify the applicant of the initial completeness of the application, and

b. Explain the department's procedures if an application is determined to be incomplete.

16. An amendment to 405 KAR 8:010 section 20(5), regarding permit revisions, to conform the fees therefor to the amendment to 405 KAR 8:010 section 6(2), above.

17. An amendment to 405 KAR 8:010 section 21(2)(a)(4), regarding permit renewals, to conform the fees therefor to the amendment to 405 KAR 8:010 section 6(2), above.

18. An amendment to 405 KAR 8:010 section 21(2)(b)(1) to delete the phrase, "except that the time for the initial completeness determination shall be ten (10) days."

19. An amendment to 405 KAR 8:010 section 22(1) and 22(2)(a) to change the word "chapter" to "Title."

20. An amendment to 405 KAR 8:010 section 222(a)(2), regarding the transfer, assignment or sale of permit rights, to conform the fees therefor to the amendment to 405 KAR 8:010 section 6(2), above.

21. An amendment to 405 KAR 8:010 section 22(2)(c)(1) to delete the existing language and replace it with the following: "The person seeking approval would be eligible to receive a permit in accordance with the criteria specified in section 14."

22. Amendments to 405 KAR 8:010 section 22, to create the following 3 new subsections:

a. Section 22(4), regarding proof of transfer, sale or assignment of permit rights.

b. Section 22(5), regarding release of bond liability.

c. Section 22(6), regarding interim program permits.

23. An amendment to 405 KAR 8:020 section 2(2)(h) to increase the fee for exploration to $375 after July 15, 1982.

24. An amendment to 405 KAR 8:030 section 23(4) and 8:040 Section 23(4) to add the following sentence: "The qualified registered professional engineer shall not be required to certify true ownership of property."

25. Amendments to 405 KAR 8:050 section 2, regarding permitting augering operations, as follows:

a. Combine existing subsections (1)–(3) into a general subsection (1).

b. Add a description of the application requirements, and the criteria used to determine whether a permit shall be issued.

26. Amendments to 405 KAR 12:010 section 3(5) (a) and (b) to delete the phrase, "under its jurisdiction," and replace it with the phrase, "permitted under Title 405, Chapter 8."

27. An amendment to 405 KAR 16:020 to delete the existing sections 4 and 5 regarding time extensions due to adverse conditions, and replace it with a new Section 4 describing the conditions for allowing a permittee to defer coal removal and contemporaneous reclamation requirements.

28. An amendment to 405 KAR 16:140 section 2(1)(d) to add the following sentence: "The resoponsible registered professional engineer shall certify to the department within two (2) weeks after each inspection that the coal processing waste bank has been constructed as specified in the design approved by the department."

29. An amendment to 405 KAR 16:190 section 2(2) to create a new subsection (c), regarding backfilling and grading where the permittee is conducting augering operations on previously mined lands.

30. An amendment to 405 KAR 18:140 section 2(1)(d) to add the same sentence as the amendment to 405 KAR 16:140 section 2(1)(d), above.

31. An amendment to 405 KAR 24:020 section 3(7) and section 4(6) and 24:030 section 3(5) to delete the term, "supporting evidence," and replace it with the term, "objective evidence."

32. Amendments to 405 KAR 24:030 section 4(4) as follows:

a. To require a notarized signature by an intervenor in subsection (a).

b. To delete the term, "supporting evidence," and replace it with the term, "objective evidence," in subsection (d).

33. An amendment to 405 KAR 24:030 to create a new section 9 and delete existing section 8(7), describing the administrative and judicial review of decisions on petitions to designate lands unsuitable for surface mining operations.

34. An amendment to 405 KAR 1:005, to create a new section 6 which states, "The hearing provisions of this chapter shall apply to the resolution of all notices and orders that were issued by the department prior to the date of primacy as defined in 405 KAR 7:020E."

35. An amendment to 405 KAR 3:005 to create a new section 6 which states, "The hearing provisions of this chapter shall apply to the resolution of all notices and orders that were issued by the department prior to the date of primacy as defined in 405 KAR 7:020E."

36. An amendment to the Kentucky Revised Statues (KRS), contained in House Bill No. 19, as follows (language bracketed by arrows is to be added):

Section 1. A New Section of KRS Chapter 350 is Created to Read as Follows:

►All bonds required to be filed in accordance with KRS 350.060 and KRS 350.064 shall not be required to be filed until the applicant for the permit has been notified in writing by the department that the application for the permit has been approved, with the exception of the bond.◄

37. An amendment to KRS 350.010, contained in Senate Bill No. 267, changing the definition of "surface coal mining operations," to include "extended depth secondary recovery systems" within such definition.

38. Amendments to the KRS, contained in Senate Bill No. 380, as follows:

a. Section 1. KRS 350.425 is amended to add the following sentence at the end: "The Kentucky bureau of surface mining through KRS Chapter 350 shall have exclusive jurisdiction over KRS Chapter 151 concerning the regulation of dams, levees, embankments, dikes, bridges, fills, or other obstructions across or along any stream or in the floodway of any stream, which structures or obstructions are permitted under this chapter."

b. Section 2. KRS 151.250 is amended to add the following sentence at the end of Subsection (3): "The Kentucky bureau of surface mining through KRS Chapter 350 shall have exclusive jurisdiction over KRS Chapter 151 concerning the regulation of dams, levees, embankments, dikes, bridges, fills, or other obstructions across or along any stream or in the floodway of any stream which structures are permitted under KRS Chapter 350 for surface coal mining operations."

39. Amendment, to the KRS, contained in Senate Bill No. 165, as follows (language bracketed by arrows is to be added, and bracketed language is to be deleted):

a. Section 1. KRS 350.035 is amended to read as follows:

(1) * * * The secretary may divide the bureau into a division of permits, division of standards and specifications, division of operations and enforcement, ►an office of special investigation,◄ [division of orphan land reclamation,] * * *

(2) ►The secretary shall have the power to appoint not more than fifteen (15) special investigations officers who shall be peace officers except for purposes of KRS 527.020. Such peace officers shall be responsible for enforcement of the provisions of KRS

Chapter 350 relating to criminal offenses.◄

b. Section 2. KRS 350.035 (1980 Acts, Chapter 377, Section 2, effective on primacy) is amended to read as follows:

(1) There is established * * * The secretary may divide the bureau into a division of permits, division of standards and specifications, division of operations and enforcement, ►an office of special investigations,◄ [division of orphan land reclamation,] * * *

(2) ►The secretary shall have the power to appoint not more than fifteen (15) special investigations officers who shall be peace officers except for purposes of KRS 527.020. Such peace officers shall be responsible for enforcement of the provisions of KRS Chapter 350 relating to criminal offenses.◄

c. Section 3. KRS 350.990 is amended to read as follows:

(2) Any person who engages in strip mining ►operations◄ without first securing a permit, as provided in KRS 350.060, or any person who engages in ►coal exploration◄ operations, ►exclusive of core drilling,◄ without proper authorization, which shall not be construed to mean permits, as required by the department pursuant to ►KRS 350.057 or regulations promulgated pursuant thereto, or any person who engages in mining operations, without proper authorization as required by the department pursuant to KRS 350.029 or regulations promulgated pursuant thereto,◄ [KRS 350.151] shall be liable * * * However, the penalties provided for in subsection (1) of this section shall apply in lieu of the penalties provided for in this subsection where an operator through inadvertence has exceeded the boundaries ►or expiration date◄ of the permit in effect at that time.

* * * * *

(5) Any person who, in violation of KRS 350.060, willfully and knowingly engages in strip mining ►operations◄ without first obtaining a permit from the department or any person who willfully and knowingly engages in ►coal exploration◄ operations, ►exclusive of core drilling,◄ without proper authorization, which shall not be construed to mean permits, as required by the department pursuant to ►KRS 350.057 or regulations promulgated pursuant thereto, or any person who willfully and knowingly engages in mining operations without proper authorization as required by the department pursuant to KRS 350.029 or regulations promulgated pursuant thereto,◄ [KRS 350.151] with the intent to violate such laws shall be guilty of a Class ►D felony◄ [A misdemeanor] and upon conviction thereof shall be imprisoned for ►at least one (1) but not more than five (5) years and may be fined an amount not to exceed ten thousand dollars ($10,000)◄ [a term of up to one (1) year].

d. Section 4. KRS 350.990 (1980 Acts, Chapter 377, Section 3, effective on primacy) is amended to read as follows:

(2) Any person who engages in surface coal mining ►operations◄ without first securing a permit, as provided by KRS 350.060, or any person who engages in ►coal exploration◄ operations, ►exclusive of core drilling,◄ without proper authorization, as required by the department pursuant to ►KRS 350.057 or regulations promulgated pursuant thereto, or any person who engages in mining operations, without proper authorization as required by the department pursuant to KRS 350.029 or regulations promulgated pursuant thereto,◄ [KRS 350.151] shall be liable * * * However, the penalties provided for in subsection (1) of this section shall apply in lieu of the penalties provided for in this subsection where an operator through inadvertence has exceeded the boundaries ►or expiration date◄ of the permit in effect at that time.

* * * * *

(5) Any person who, in violation of KRS 350.060, willfully and knowingly engages in surface coal mining ►operations◄ without first obtaining a permit from the department or any person who willfully and knowingly engages in ►coal exploration◄ operations, ►exclusive of core drilling,◄ without proper authorization, as required by the department pursuant to ►KRS 350.057 or regulations promulgated pursuant thereto, or any person who willfully and knowingly engages in mining operations without proper authorization as required by the department pursuant to KRS 350.029 or regulations promulgated pursuant thereto,◄ [KRS 350.151] with the intent to violate such laws shall be guilty of a Class ►D felony◄ [A misdemeanor] and upon conviction thereof shall be imprisoned for ►at least one (1) but not more than five (5) years and may be fined an amount not to exceed ten thousand dollars ($10,000)◄ [a term of up to one (1) year].

e. A new section of KRS Chapter 350 is created to allow the secretary of the department to appoint officers to deal with criminal violations. This section describes such officers' authority and their qualifications.

f. A new section of KRS Chapter 350 is created to allow the seizure by the department of all instrumentalities used in the mining of coal without a permit.

g. A new section of KRS Chapter 350 is created to establish an "illegal mining reclamation fund", consisting of monies from the sale or forfeiture of all instrumentalities used in the mining of coal without a permit. The section describes the permissible uses of such monies.

40. Amendments to the KRS, contained in Senate Bill No. 218, as follows (language bracketed by arrows is to be added, and bracketed language is to be deleted):

a. Section 1, KRS 350.010, 1960 Acts Chapter 62, Section 1, operative on approval of primacy, is amended to read as follows:

As used in this chapter unless the context requires otherwise:

(1)"Surface coal mining operations" means activities conducted on the surface of lands in connection with a surface coal mine [or subject to the requirements of this chapter] and surface impacts incident to an underground coal mine. * * * Such activities shall not include the extraction of coal by a landowner * * *; ►or the extraction of, or intent to extract, two hundred fifty (250) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months. * * *◄

(2) "Strip mining" means * * *; but shall not include * * *; ►the extraction of, or intent to extract, two hundred fifty (250) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months;◄ * * *

* * * * *

(4) "Overburden" means ►material of any nature, consolidated or unconsolidated, excluding topsoil,◄ [all of the earth and other materials] which ►lies◄ [lie] above a natural deposit of coal and also means such [earth and other] material after removal from ►its◄ natural state in the process of surface coal mining;

(5) "Area of land affected" means ►any area of land or water upon which surface coal mining and reclamation operations are conducted or located or are to be conducted or located◄ [the area of land from which overburden is to be or has been removed and upon which the overburden is to be or has been deposited and shall include all lands affected by the construction of new roads or the improvement or use of existing roads other than public roads, to gain access and to haul coal];

* * * * *

(8) "Operator" means any person, partnership or corporation engaged in surface coal mining and reclamation operations [who removes or intends to remove more than two hundred fifty (250) tons of coal from the earth by surface coal mining within twelve (12) successive calendar months or who removes overburden for the purpose of determining the location, quality or quantity of a natural coal deposit];

* * * * *

(17) ►"Certification" by a qualified registered professional engineer as required by this chapter and regulations promulgated hereunder means a good faith representation to the best of his or her knowledge and belief, based on adequate knowledge of the requirements of this chapter and regulations promulgated hereunder, related experience, best professional judgment, accepted engineering practices and recognized professional standards, and standard practice as it relates to direct participation by the registered professional engineer or supervision of the registered professional engineer's employees or subordinates. Such certification shall not be construed to constitute a warranty or guarantee.◄

b. Section 2. KRS 350.028, 1980 Acts Chapter 62, section 3, operative on approval of primacy, is amended to read as follows:

(3) To issue after ►an opportunity for◄ a hearing, suspension orders or ►show cause◄ orders requiring an operator to adopt such remedial measures as are necessary to comply with this chapter and regulations adopted pursuant thereto, ►provided that failure to attend a hearing shall be excused for good cause shown;◄

(4) To issue after ►an opportunity for◄ a hearing, a final order imposing civil penalties for violations of this chapter or directing the Kentucky bureau of surface mining reclamation and enforcement to revoke a permit, when the requirements set forth by the notice of noncompliance, order of ►cessation◄ [suspension], or an order of the department requiring remedial measures have not been complied with according to the terms therein, provided that the secretary or his authorized representatives determine that a pattern of violations of the requirements of this chapter or any permit conditions required by this chapter exist or have existed and if the secretary or his authorized representatives also find that such violations are caused by the unwarranted failure of the permittee to comply with any requirements of this chapter or any permit conditions or that such violations are willfully caused by the permittee, ►provided further that failure to attend a hearing shall be excused for good cause shown;◄ and

(5) To adopt rules * * * ►provided further that nothing in this chapter shall be construed as superseding, amending, modifying, or repealing any of the acts listed in section 702(a) of Pub. L. 95–87, or any rule or regulation promulgated thereunder.◄

c. Section 3. KRS 350.060, 1980 Acts Chapter 62, section 5, operative on approval of primacy, is amended to read as follows:

(3) * * * [The department shall not accept interim permit applications after August 1, 1980 or after December 1, 1980 if the United States secretary of the interior has not approved the commomwealth's permanent regulatory program by September 3, 1980. The department shall receive and act on all substantially complete permit applications tendered to it on or before August 1, 1980 or December 1, 1980, whichever date is applicable, under the interim program.]

* * * * *

(5)(g) Whether or not the applicant is in compliance with subsection (3) of KRS 350.130 and whether or not every officer, partner, director or any individual owning of record or beneficially (alone or with associates) *a* [if known,] ten percent (10%) or more *interest* [of any class of stock] of the applicant, is subject to any of the provisions of subsection (3) of KRS 350.130 and he shall so certify;

* * * * *

(8)(a) Be prepared and certified by a professional engineer, registered under the provisions of KRS Chapter 322. The certification shall be in the form as provided in subsection (10) below, ►except that the engineer shall not be required to certify the true ownership of property under paragraph (d) of this subsection;◄

(b) Identify the area to correspond with the application;

(c) Show adjacent deep mining; [and]

(d) ►Show◄ the boundaries of surface properties and names of owners on the affected area and adjacent to any part of the affected area;

d. Section 3. KRS 350.060, 1980 Acts Chapter 62, section 5, operative on approval of primacy, is further amended by relettering existing subsections (8)(d)–(h) as subsections (8)(e)–(i).

e. Section 3. KRS 350.060, 1980 Acts Chapter 62, section 5, operative on approval of primacy is further amended to read as follows:

(10) All certifications required by this chapter to be made by professional engineers [shall state that the information or documentation contained in the application is correct, and shall show that to the best of his or her knowledge and belief all the information required by the applicable laws and regulations of this state is included. The certification shall be signed and notarized. The department may reject any document or map as incomplete if its accuracy is not so attested. The certification] shall be done in the form prescribed by the department ►and shall be reasonably specific as to the work being certified. The department may reject any document or map as incomplete if it is not properly certified.◄

* * * * *

(14) * * * Where [a surface coal mining operation affects two (2) acres or less and] the circumstances are such as to warrant an exception, the department, in its discretion, may reduce the amount of the bond for a ►two (2) acre◄ [particular] operation to less than the required minimum.

(15) By adding the word "revegetation" after the phrase, "controlling offsite water quality," and before the phrase, "refuse piles," in the first sentence of subsection (15).

(16) The department shall * * * The department shall recognize the distinct differences between the surface effects of underground mining and ►strip◄ [surface coal] mining, as also provided in KRS 350.151, in promulgating permitting requirements for these operations; provided, that the department shall require, ►for underground mines that are greater than two (2) acres under subsection (15) of this section, that all of the areas overlying underground workings be permitted but that the areas overlying◄ [overlaying] underground workings not affected by ►operations and facilities occurring on the surface◄ [the operation be permitted only for purposes of subsidence control and] shall not be subject to the payment of acreage fees or bond requirements of subsection (14) of this section ►or of KRS 350.151; provided, however, that applications for operations of two (2) acres or less filed under subsection (15) of this section shall clearly identify the boundaries of the proposed deep mine operation.◄

* * * * *

(21) ►Each application for a permit or revision for auger mining on a previously mined area must contain information to describe the area to be affected, to show that the proposed method of operation will result in stable post-mining conditions, and reduce or eliminate adverse environmental

conditions created by previous mining activities. If the department determines that the affected areas cannot be stabilized and reclaimed subsequent to augering or that the operation will result in an adverse impact to the proposed or adjacent area, the permit or revision shall not be issued. The department shall, consistent with all applicable requirements of KRS Chapter 350, issue a permit or revision if the applicant demonstrates that the proposed coal mining operations will provide for reduction or elimination of the highwall, or reduction or abatement of adverse impacts resulting from past mining activities, or stabilization or enhancement of a previously mined area. The department shall insure that all reasonably available spoil material will be used to backfill the highwall to the extent practical and feasible; provided, however, that in all cases the holes be properly sealed and backfilled to a minimum of four (4) feet above the coal seam being mined.◄

(22) ►All operations involving the crushing, screening, or loading of coal which do not separate the coal from its impurities, and which are not located at or near the mine site, shall be exempt from the requirements of this chapter.◄

f. KRS 350.062 is amended to read as follows:

(9) ►The department shall not arbitrarily deny or unreasonably delay any permit application based upon the information required in this section if the registered professional engineer or geologist or other qualified person has utilized or developed a procedure or analytical method that differs from departmental technical guidelines; provided, that the registered professional engineer or geologist or other qualified person shall design a sampling and testing program based on all available information and on a site-specific basis. The reasons for denial shall be given in writing and shall be reasonably specific. The requirements contained in subsection (3) of this section may be waived for locations where the department determines that adequate information is already available to the department.◄

g. Section 5. KRS 350.093, 1980 Acts, Chapter 62, section 10, operative on approval of primacy, is amended to add the following subsection:

(2) ►The department may allow an operator to defer contemporaneous reclamation requirements on specified areas if the operator can demonstrate that said deferment is necessary to address at least one (1) of the following:◄

(a) ►Adverse condition including weather, labor and other conditions clearly beyond the operator's control;◄

(b) ►Other bona fide mining operations carried out on a strip mined area, pursuant to KRS 350.060;◄

(c) ►Coal marketing problems. Application for a deferment pursuant to this section shall be in the form prescribed by the department. Approval of the deferment request shall be made in writing. The approval shall state that the deferment is justified and that no environmental damage will occur during the period of deferment. Reclamation deferments may be approved for a period reasonably related to the specified conditions justifying the deferment, but in no event shall the aggregate deferral period exceed thirty (30) months, nor shall the deferral extend beyond the expiration date of the permit. The department shall periodically reexamine and update the amount of the bond on the permit area so that the amount of the bond is sufficient to assure completion of reclamation if the work had to be performed by the department in the event of forfeiture.◄

Section 5 is further amended by changing all appropriate references and renumbering the subsections which follow subsection (2), above.

h. KRS 350.130, 1980 Acts Chapter 62, section 14, operative on approval of primacy, is amended to read as follows:

(1) When any of the requirements of this chapter or rules or regulations adopted pursuant thereto or the orders of the department have not been complied with, the department shall forthwith cause a notice of noncompliance to be issued upon the ►person or◄ operator * * * [where found necessary, the secretary shall after hearing (except as provided in KRS 224.071) order the suspension of a permit or operation.] Such notice or order shall be handed to the person in charge of the operation, and the operator ►or person engaged in coal exploration operations◄ [in person] * * *. The notice of noncompliacne or order ►for immediate compliance and cessation◄ [of suspension] shall specify in what respects the ►person or◄ operator * * *. If the ►person or◄ operator has not reached an agreement with the department or has not complied with the requirements set forth in the notice of noncompliance or order ►for immediate compliance and cessation◄ [of suspension] within time limits set therein, the permit may be revoked or the operation terminated, after ►an opportunity for a◄ hearing, by order of the department and the performance bond, if any, shall then be forfeited to the department, except as provided in subsection (2) of this section and in KRS 350.110, ►provided that failure to attend a hearing shall be excused for good cause shown.◄

* * * * *

(4) [Whenever the secretary or authorized representatives of the department, purusant to the general authority of KRS 224.071, exercises, such authority to order the discontinuance, abatement, alleviation, or cessation of conditions or operations which present a danger to the health or welfare of the people or which result in or are likely to result in damage to natural resources or the environment]. In ►the◄ exercise * * *.

i. Section 7. KRS 350.450, 1980 Acts Chapter 62, section 33, operative on approval of primacy, is amended to read as follows:

(4)(a) ►Develop a simplied small operator permit application. The department shall notify all applicants of deficiencies in the form of the application by certified mail within ten (10) working days after the filing in the regional office. The applicant shall have ten (10) working days after the receipt of the notification to repair the deficiencies. Upon failure of the applicant to repair the deficiencies within ten (10) working days after receipt of the notification, the department may return the application as incomplete.◄ [Allow a small operator to pay the cost of the permit and acreage fees in not less than four (4) equal installments over the term of the permit].

[(b) Develop a simplied small operator permit application. The department shall notify the applicant of all deficiencies in the form of the application by certified mail within ten (10) working days after the filing. The applicant shall have ten (10) working days after the receipt of the notification to repair the deficiencies. Upon failure of the applicant to repair the deficiencies within the ten (10) working days after receipt of the notification, the department may return the application as incomplete.]

j. Section 8. KRS 350.610 is amended to read as follows:

(6) * * * Such a petition shall contain allegations of fact ►which shall be specific as to the petitioner's designated area and shall be based upon objective evidence which would tend to establish the allegations. The department shall make a determination or finding whether the petition is complete, incomplete or frivolous◄ [with supporting evidence which would tend to establish the allegations]. * * * ►Within thirty (30) days after receipt of

an order, determination, finding or decision by the department or the secretary hereunder, any applicant, or any person with an interest which is or may be adversely affected and who is aggrieved by the order, determination, finding or decision of the department or secretary may obtain judicial review thereof by appealing to the circuit court of Franklin County pursuant to the provisions of KRS 224.085.◄

k. Section 9. KRS 350.990, 1980 Acts Chapter 62, Section 35, operative on approval of primacy, is amended to read as follows:

(1) Any person or operator * * * section; provided, however, that any operator or person who fails to abate a violation noted in a notice of noncompliance ►or an order for immediate compliance and cessation◄ within the time period prescribed for such abatement * * * Each day of continuing violation may be deemed a separate violation for purposes of penalty assessment. ►The department shall develop a method for calculating monetary penalities and shall promulgate it as a regulation. The secretary or a designated representative, upon his or her own initiative or upon written request received within fifteen (15) days after the department mails its proposed penalty assessment, may waive the use of such method for calculating monetary penalties if he or she determines that, taking into account exceptional factors present in the particular case, the penalty is demonstrably unjust. The basic for every waiver shall be fully explained and documented in the records of the case. If the secretary or his or her designated representative waives the use of the formula, he or she shall determine the appropriate penalty upon consideration of the permittee's history of previous violations at the particular surface coal mining operation, the seriousness of the violation, whether the permittee was negligent, and the demonstrated good faith of the permittee charged in attempting to achieve rapid compliance after notificaiton of the violation * * *◄

(2) Any person who engages in surface coal mining ►operations◄ without first securing a permit, * * *

41. Amendments to KRS 350.060(9), 350.060 section 5(14), and Chapter 377 section 1(14), contained in House Bill No. 813, to increase the maximum allowable permit application fee to $375 plus $75 for each acre or fraction thereof of the area of land to be affected by the operation.

42. Amendments to KRS 350.130(2) and 350.130, Chapter 377 section 4(2), contained in Senate Bill No. 310, to read as follows (language bracketed by arrows is to be added, and bracketed language is to be deleted):

The state treasurer shall on or before August 1 of each year tranfer ►thirty-three and one-third percent (33⅓%)◄ [fifty percent (50%)] of all funds paid during the preceding fiscal year as fees for the issuance of any permit to strip mine to the fiscal courts of the county in which the permitted operation is located for the general purposes of that fiscal court.

The Secretary seeks public comment on these proposed amendments to the Kentucky program. If these amendments are approved, they will become part of the Kentucky program.

Submission of Proposed Program Corrections

On June 18, 1982, OSM received from the Commonwealth of Kentucky a letter attempting to clarify certain statements in the May 18, 1982, Federal Register (47 FR 21404–21435) notice announcing the approval of the State program. The letter makes the following points:

1. At the top of page 21434, middle column, the notice states that the deadline for correcting deficiency (d), relating to civil procedure guidelines, is September 30, 1982, when the actual date agreed upon was December 31, 1982.

2. On page 21428 of the notice in item No. 2 relating to Performance Standards, the Secretary indicates, in a response to a public comment, that plans prepared by a professional engineer under 405 KAR 16:140E section 6 and 18:140E section 6 for removal of burned coal processing waste must be certified by the engineer as being in accordance with sound engineering practice. Kentucky states that its regulations provede for no such certification.

3. Kentucky is concerned that in Finding 13.26 (47 FR 21413) and deficiency No. 1 (47 FR 21433), the Secretary does not make it clear that this deficiency exists only for permit areas larger than 40 acres.

4. On page 21426, in Item No. 3 relating to permitting, in response to a public comment, the Secretary defines "incidental boundary revisions" as incidental to whatever revision is being sought. Kentucky states that its Act allows boundary revisions incidental to the mining operation as a whole.

5. Kentucky is concerned that in Finding 18.8 (47 FR 21419), the Secretary gives an incorrect impression of the State's criteria for release of bond by increments. Kentucky states, that in incremental bonding the remaining bond amounts must be sufficient to insure reclamation on the remaining permit area as a result of setting initial bond amounts on individual increments sufficiently high to insure reclamation on those increments.

The Secretary seeks public comment on these clarifications of the Kentucky program.

Additional Information

Pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no Environmental Impact Statement need be prepared on this proposed rule. On August 28, 1981, the Office of Management and Budget (OMB) granted OSM exemption from sections 3, 4, 6 and 8 of Executive Order 12291 for all actions taken to approve or conditionally approve State regulatory programs, actions or amendments. Therefore, these proposed program amendments are exempt from the preparation of a Regulatory Impact Analysis and regulatory review by OMB.

Pursuant to the Regulatory Flexibility Act, Pub. L. 96–354, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 30 CFR Part 917

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: July 16, 1982.

William B. Schmidt,

Acting Director, Office of Surface Mining.

[FR Doc. 82-19973 Filed 7-22-82; 8:45 am]

BILLING CODE 4310-05-M

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30 CFR Part 934

Permanent State Regulatory Program of North Dakota; Consideration of Modification of Deadline

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is considering modifying the deadline for North Dakota to meet one of the conditions of approval of its State permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Based on a request of the State, the Secretary is proposing to extend the deadline for the State to resolve the condition until July 1, 1983.

DATE: Comments must be received by August 23, 1982 at the address below, no later than 5:00 p.m.

ADDRESS: Written comments must be mailed or hand-delivered to: Mr.

William Thomas, State Office Director, Office of Surface Mining Reclamation and Enforcement, Freden Building, P.O. Box 1420, Mills, Wyoming 82644.

FOR FURTHER INFORMATION CONTACT: Arthur Abbs, Chief, Division of State Program Assistance, Office of Surface Mining, 1951 Constitution Avenue, N.W., Washington, D.C. 20240.

SUPPLEMENTARY INFORMATION: Under 30 CFR 732.13(i), the Secretary may conditionally approve a State permanent regulatory program which contains minor deficiencies where the deficiencies are of such a size and nature as to render no part of the program incomplete, the State is actively proceeding with steps to correct the deficiencies and the State agrees to correct the deficiencies according to a schedule set in the notice of conditional approval. The correction of each deficiency is a condition of the approval. The conditional approval terminates if the conditions are not met according to the schedule. The dates are established in consultation with the State based on its regulatory and administrative schedules.

The North Dakota program was conditionally approved on December 15, 1980 (45 FR 82241–82248). The Secretary's approval was conditioned on the State's correction of 13 minor deficiencies in its program by July 1, 1981. That deadline was later extended, upon the State's request, to January 1, 1983 (46 FR 54070–54071). In a letter to the Director dated June 14, 1982, the North Dakota Public Service Commission requested a further extension of that deadline to July 1, 1983, to meet condition "e" as listed at 30 CFR 934.11(e).

Copies of the State's letter of request and the above cited **Federal Register** notices will be available for public review during regular business hours at the location listed above under **"ADDRESS."**

Condition "e" stipulates that the Secretary's approval of the North Dakota program will terminate on January 1, 1983, unless North Dakota submits to the Secretary by that date copies of fully enacted regulations amending the North Dakota Administrative Code 69–05.2–10–03(i) to prohibit issuance of permits to any person with an outstanding violation or a pattern of violations outside of North Dakota in a same or similar manner as Section 510(c) of SMCRA, and 30 CFR 786.17, and 30 CFR 786.19(i) or otherwise amends its program to accomplish the same results.

The State indicated that satisfaction of condition "e" will require a statutory change in the North Dakota Century Code Chapter 38–14.1. The Commission indicated that it would draft the required change for consideration by the Legislative Assembly when it convenes in January 1983. Since statutory changes normally become effective on the first of July following legislative action, the State requested an extension to July 1, 1983, to meet condition "e" to allow time for the statutory change to take effect. In order for the change to become effective earlier, both houses of the State Legislature would have to pass emergency legislation by a two-thirds vote. In accordance with the State's request, the Secretary is proposing to allow North Dakota until July 1, 1983, to meet condition "e."

In light of the small number of permit applications expected to be reviewed and issued during the additional time the Secretary is proposing to allow the State to meet condition "e", the Secretary believes that extension of this deadline would not render the deficiency major. However, the Secretary specifically requests comments on whether the extension of the deadline would render the deficiency major, as that term is used under 30 CFR 732.17(i).

Additional Determinations

1. *Compliance with the National Environmental Policy Act.* The Secretary has determined that pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Compliance with the Regulatory Flexibility Act.* The Secretary hereby determines that this proposed rule will not have a significant economic effect on small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

3. *Compliance with Executive Order No. 12291.* Regulations concerning satisfaction of conditions of approval of State regulatory programs under SMCRA have been granted a categorical exemption from the requirement to prepare a Regulatory Impact Analysis.

List of Subjects in 30 CFR Part 934

Coal mining, Intergovernmenatal relations, Surface mining, and Underground mining.

Dated: July 20, 1982.

J. R. Harris,

Director.

[FR Doc. 82-20052 Filed 7-23-82; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 946

Surface Coal Mining Reclamation and Enforcement in Virginia: Review of State Program Amendments

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Reopening of public comment period.

SUMMARY: The Office of Surface Mining (OSM) is reopening the period for review and comment on the modifications by Virginia to its permanent program for the regulation of surface coal mining and reclamation in the State. Specifically, OSM is reopening the comment period to allow the public sufficient time to consider and comment on statutory and regulation revisions submitted by Virginia.

DATES: Written comments, data or other relevant information relating to Virginia's modifications to its program not received on or before 4:00 p.m., August 9, 1982 from date of publication will not necessarily be considered.

ADDRESSES: Written comments should be mailed or hand-delivered to: Ralph Cox, Field Office Director, Virginia Field Office, Office of Surface Mining Reclamation and Enforcement, Route 3, Box 183–C–1, Big Stone Gap, Virginia 24219, Telephone: (703) 523–4303.

Copies of the Virginia program, the proposed modifications to the program, a listing of any scheduled public meetings and all written comments received in response to this notice will be available for review at the OSM offices and the Office of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Room 5315, 1100 "L" Street, NW., Washington, D.C.

Office of Surface Mining Reclamation and Enforcement, Highway 23, South, Big Stone Gap, Virginia 23219

Office of Surface Mining Reclamation and Enforcement, Flannagan and Carroll Streets, Lebanon, Virginia 24266

Virginia Division of Mined Land Reclamation, Drawer U, 630 Powell Avenue, Big Stone Gap, Virginia 24219

FOR FURTHER INFORMATION CONTACT: Ralph Cox, Field Office Director, Virginia Field Office, Office of Surface Mining Reclamation and Enforcement, Route 3, Box 183–C–1, Big Stone Gap, Virginia 24219, Telephone: (703) 523–4303.

SUPPLEMENTARY INFORMATION: On April 26, 1982, at 47 FR 17827–17829, the Director, OSM, published notice of

public hearing and public comment period on the substantive adequacy of program amendments submitted by Virginia to satisfy two conditions imposed by the Secretary of the Interior on the approval of the Virginia program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The comment period closed on May 26, 1982.

A public hearing scheduled for May 12, 1982, was not held because no one expressed a desire to present testimony. On May 11, 1982, OSM published a notice in the **Federal Register** to cancel the public hearing (47 FR 20152–20153). The April 26, 1982 **Federal Register** notice announced receipt of program amendments relating to conditions "k" and "r". Condition "k" required Virginia to submit a revised policy clearly granting field inspectors the authority to issue immediate cessation orders for imminent danger or harm if they are unable to contact the supervisor or enforcement manager. The modification submitted by Virginia on January 28, 1982 (Administrative Record No. VA 376) to satisfy condition "k" will be the subject of a final rule to be published soon in the **Federal Register.**

Condition "r" required Virginia to submit a copy of revised policy statement or othrwise amend its program to make its coal haul roads policy consistent with the Federal requirements. In addition to the material submitted March 31, 1982 (Administrative Record No. VA 383), on July 9, 1982, Virginia submitted the following: (1) enacted regulations relating to performance standards for coal haul roads; (2) enacted legislation which repeals section 33.1–246.1 of the Virginia Code allowing deeding of haul roads to counties once the Secretary of the Interior has approved the Commonwealth's regulations to establish perfomance standards for haul roads; and (3) enacted legislation (Chapter 23 Title 45.1) restoring reclamation requirements for operations of two-acres or less (Administrative Record No. VA *400*). Also in the July 9, 1982 submission, Virginia included proposed regulations to implement Chapter 23, Title 45.1, which will control surface coal mining operations disturbing two acres or less. While these proposed regulations are not being formally reviewed for approval or disapproval, they are closely interwoven with the provisions to satisfy condition "r" and should be considered within the context of Virginia's provisions formally submitted to satisfy condition "r".

Thus, OSM is reopening the public comment period until 4:00 p.m. August 9, 1982 to allow the public time to review and comment on the above cited Administrative Record material relating to condition "r".

This announcement is made in keeping with OSM's commitment to public participation as a vital component in fulfilling the purposes of the Surface Mining Control and Reclamation Act of 1977.

Dated: July 15, 1982.

William B. Schmidt,

Assistant Director, Program Operations and Inspection, Office of Surface Mining.

[FR Doc. 82–20014 Filed 7–22–82; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 950

Public Comment and Opportunity for Public Hearing on Modified Portions of the Wyoming Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule: Notice of receipt of permanent program modifications; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing procedures for the public comment period and for a public hearing on the substantive adequacy of program amendments intended to satisfy conditions imposed by the Secretary of the Interior on the approval of the Wyoming Permanent Regulatory Program (hereinafter referred to as the Wyoming program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

This notice sets forth the times and locations that the Wyoming program and the proposed amendments are available for public inspection, the comment period during which interested persons may submit written comments on the proposed program elements, and the procedures that will be followed at the public hearing.

DATES: Written comments must be received on or before 4:00 p.m. on August 13, 1982, to be considered in the Secretary's decision on whether the proposed amendments satisfy the Secretary's conditions of approval of the Wyoming program.

A public hearing on the proposed modifications has been scheduled for 2 p.m. on August 11, 1982, at the addresses listed below under **"ADDRESSES."**

Any person interested in making an oral or written presentation at the hearing should contact Bill Thomas at the address and phone number listed below by July 30, 1982. If no person has contacted Mr. Thomas to express an interest in participating in the hearing by the above date, the hearing will be cancelled. A notice announcing any cancellation will be published in the **Federal Register.**

ADDRESSES: The hearing will be at the Ramada Inn, I–25 and Center Street, Casper, Wyoming. Written comments should be mailed or hand delivered to: Bill Thomas, State Office Director, Office of Surface Mining Reclamation and enforcement.

Copies of the Wyoming program, the proposed modifications to the program, a listing of any scheduled public meetings and all written comments received in response to this notice will be available for review at the OSM Offices and the Office of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Administrative Record Office, 1100 "L" Street, N.W., Washington, D.C. 20240

Office of Surface Mining Reclamation and Enforcement, Wyoming State Office, Freden Building, P.O. Box 1420, Mills, Wyoming 82644

Wyoming Department of Environmental Quality, Land Quality Division, 401 West 19th Street, Cheyenne, Wyoming 82002

FOR FURTHER INFORMATION CONTACT: Bill Thomas, State Office Director, Freden Building, P.O. Box 1420, Mills, Wyoming 82644, Telephone: (307) 328–5830.

SUPPLEMENTARY INFORMATION: On August 15, 1980, OSM received a proposed regulatory program from the State of Wyoming. On February 15, 1981, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved in part and disapproved in part the proposed program. Notice of that decision and the Secretary's findings were published in the **Federal Register** on March 31, 1980 (45 FR 20930–20982). The State of Wyoming resubmitted its proposed regulatory program and after a subsequent review, the Secretary approved the program subject to the correction of seven minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the November 26, 1980 **Federal Register** (45 FR 78638–78684).

In accepting the Secretary's conditional approval, Wyoming agreed to correct the seven deficiencies by March 26, 1981. On October 30, 1981, the Secretary extended the date by which Wyoming is required to satisfy

conditions "b" and "c" to May 26, 1982 (46 FR 54070–54071).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed expalantion of the conditions of approval of the Wyoming program can be found in the November 26, 1980 **Federal Register** (45 FR 78638–78684).

Submission of Revisions

On March 26, 1981, OSM received from the State of Wyoming revisions to the State regulations intended to satisfy conditions "a," "d," "e," and "f." On March 23, 1981, OSM received from the State of Wyoming an Attorney General's Opinion intended to satisfy condition "g." Following a review of these provisions in accordance with the procedures set forth at 30 CFR 732, the Secretary announced his decision to remove conditions "a," "d," "e," and "f" (47 FR 7218–7220, February 18, 1982). With regard to condition "g" the Secretary found the amendment submitted by the State did not fully satisfy the condition. Hence, the Secretary granted Wyoming an extension to May 20, 1983, to submit additional materials to meet conditoon "g" (47 FR 7218–7220, February 18, 1982). On May 26, 1982, Wyoming submitted emergency rules pertaining to the definition of "toxic materials" and procedures and criteria for petitions on the award of costs and expenses. These rules were submitted by the State to address condition "b" and, in part, condition "c."

Prior to the submission of these program amendments, Wyoming requested an extension to meet condition "c" in order to allow OSM time to act on a petition which was submitted by Wyoming, together with Colorado, Utah, Montana, New Mexico and North Dakota, which could have a bearing on the State's satisfaction of condition "c." In a notice published May 26, 1982 (47 FR 22975–22976), the Secretary invited comment on the State's request for an extension.

Because Wyoming is still awaiting OSM's decision on the petition, the amendments submitted on May 26, 1982, are intended to satisfy the requirements of conditions "b" and "c" with the exception of the requirement of condition "c" which calls for the State to adopt a provision to provide for the award of costs and expenses against the State. Wyoming still seeks an extension of time to satisfy that part of condition "c" in order to allow OSM time to act on the petition. The Secretary is still considering the State's request for an extension and will announce his final decision in a separate notice. This notice is only for the purpose of seeking comment on the amendments submitted May 26, 1982, which, as noted above, are intended to satisfy condition "b" and, in part, condition "c."

Condition "b" stipulates that Wyoming must promulgate an amendment to its rule defining toxic materials to require only a showing of "detrimental" effects, or make other changes in its program to achieve the same result. Condition "c" stipulates that Wyoming must establish requirements which are consistent with the Federal regulation at 43 CFR Part 4.

The emergency rules submitted by Wyoming on May 26, 1982, consist of the following:

(1) An amendment of the rules of the Wyoming Department of Environmental Quality, Land Quality Division, relating to the definition of "toxic materials." The amendment supersedes Chapter I, Section 2(99).

(2) An amendment to the Rules of Practice and Procedure relating to intervention and petitions for awards of costs and expenses. The amendment supersedes Chapter II, Section 7 and creates a new Chapter V.

These amendments are contained in full text in the Wyoming Administrative Record and are available for public review at the addresses listed above under "**ADDRESSES**".

The Secretary seeks public comment on whether the amendments satisfy condition "b" and "c" except the requirement in condition "c" which calls for the State to adopt a provision to provide for the award of costs and expenses against the State.

Additional Determinations

1. *Compliance with the National Environmental Policy Act.* The Secretary has determined that pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Compliance with the Regulatory Flexibility Act.* The Secretary hereby determines that this proposed rule will not have a significant economic effect on small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

3. *Compliance with Executive Order No. 12291.* Regulations concerning satisfaction of conditions of approval of State regulatory programs under SMCRA have been granted a categorical exemption from the requirement to prepare a Regulatory Impact Analysis.

List of Subjects in 30 CFR Part 950

Coal mining, Intergovernmental relations, Surface mining, and Underground mining.

Dated: July 20, 1982.

J. R. Harris,

Director, Office of Surface Mining.

[FR Doc. 82-19976 Filed 7-22-82; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 435 and 436

Medicaid Program; Deeming of Income Between Spouses; Categorically Needy

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: We propose to revise current Medicaid rules for determining the financial eligibility and the level of Medicaid payments for institutional care of aged, blind, and disabled categorically needy individuals when one spouse is institutionalized and the other spouse is not. We propose to reinstate the rules that were in effect prior to the court orders in the Gray Panthers litigation. The change would affect those States that, as permitted by statute, use more restrictive eligibility criteria than those applied nationally under the Supplemental Security Income (SSI) program. It would also apply in Puerto Rico, Guam, and the Virgin Islands.

These amendments would revise the regulations permitting these jurisdictions, in situations where one spouse is institutionalized, to consider a portion of the income of one spouse as available to the other spouse whether or not the income is actually contributed.

DATE: To assure consideration, comments should be mailed by September 21, 1982.

ADDRESS: Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17076, Baltimore, Maryland 21235.

If you prefer, you may deliver your comments to Room 309–G, Hubert H. Humphrey Building, 200 Independence Ave., S.W., Washington, D.C., or to Room 793, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to file code BPP–214–P. Agencies and organizations are requested to submit comments in duplicate.

Comments will be available for public inspection, beginning approximately two weeks after publication, in Room 309–G of the Department's offices at 200 Independence Ave., S.W., Washington, D.C. 20201, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202–245–7890).

FOR FURTHER INFORMATION, CONTACT: Marinos T. Svolos, (301) 594–9052.

SUPPLEMENTARY INFORMATION:

A. Background

Section 1902(a)(10(A) of the Social Security Act requires States to provide Medicaid eligibility for all SSI beneficiaries. However, section 1902(f) of the Act gives the States an option to restrict the Medicaid eligibility of the aged, blind and disabled to those individuals who meet the eligibility criteria under the State's Medicaid plan in effect on January 1, 1972.

Section 1902(a)(17)(B) of the Act requires that, in determining eligibility for and the extent of medical assistance provided under the plan, States take into account only such income as is determined (under standards prescribed by the Secretary) to be "available" to the Medicaid applicant or beneficiary. Under Medicaid plans in effect in January 1972, some States "deemed" a certain amount of the income of a financially responsible relative (spouse or parent) as available to a Medicaid applicant or beneficiary, without regard to the actual contribution of that money by the relative. In the case of institutionalized applicants or beneficiaries, this was often done by subtracting, from the income of the relative living in the community, a specific "protected" amount that was considered necessary for his or her living expenses, and considering the remaining amount available to the institutionalized individual. The State then reduced its payment to the institution based on that individual's available income.

Under the SSI program, the statute requires that, if an individual and his or her spouse who apply or are eligible for SSI cease to live together, their income and resources must be considered to be mutually available, for purposes of determining eligibility, for the first six months after the month they cease to live together (see 42 U.S.C. 1381a, 1382(a), and 1382c(b)). If only one spouse applies or is eligible for SSI, the SSI program must deem the income and resources of the other spouse only until the end of the month they cease to live together (42 U.S.C. 1382c(f)). For the eligible couple, their total income and resources are measured against the SSI standard for a couple; for couples where only one spouse applies or is eligible, the amount deemed is determined according to a set formula.

B. Court Orders

These proposed regulations represent a return to policy that was in effect until May 30, 1979 when we revised our deeming rules through a HCFA issuance to State Medicaid agencies. That issuance was required by an order of the United States District Court for the District of Columbia that prohibited any deeming of income between spouses in section 1902(f) States when one spouse was institutionalized. That order in *Gray Panthers v. Secretary, Department of Health, Education, and Welfare, et al.*, Civil Action No. 78–0661, vacated the existing deeming regulations (the 1977 regulations) in 1902(f) States, and required HCFA to propose and publish new regulations that would prohibit any deeming of income between spouses in 1902(f) States when one spouse is institutionalized. No change was required for regulations affecting non-1902(f) States or situations when neither spouse was institutionalized.

After issuing a notice of proposed rulemaking, we issued final regulations on December 15, 1980, based upon the analysis of the United States Court of Appeals *Gray Panthers* decision issued July 29, 1980 that amended the District Court order in *Gray Panthers*. The Court of Appeals ordered the Secretary to issue new regulations after considering certain "relevant factors". Under the December 15, 1980 rules, 1902(f) States were permitted to use SSI deeming of income criteria or any deeming criteria more liberal than SSI, when one spouse was institutionalized. In the preamble to those regulations, we stressed that the new regulations were based on the Court of Appeals decision that rejected the Department's legal analysis of the statute and ordered new regulations. We added that the Department was seeking Supreme Court review of the *Gray Panthers* decision and, if our 1977 regulations were upheld, we might revise the December 1980 regulations (45 FR 82254).

On June 25, 1981, the United States Supreme Court ruled that the Court of Appeals was not justified in invalidating our 1977 deeming regulations because the Secretary had properly exercised the authority delegated by Congress. In reversing the decision of the Court of Appeals, the Supreme Court noted that the December regulations do not reflect the "independent judgment of the Secretary and is entitled to no weight. In issuing the [December 1980] provisional regulations, the Secretary was simply adhering to the lower court's reasoning and mandate." *Schweiker v. Gray Panthers*, 101 S.Ct. 2633, 2639, fn. 12.

On February 23, 1982, the United States Supreme Court decided another Medicaid deeming case, *Herweg v. Ray*, No. 80–60, governing non-1902(f) States. In *Herweg*, the Court noted that, if a non-1902(f) State (Iowa) wished to deem more extensively than under SSI rules, the State could opt for 1902(f) status. (See footnote 15 on page 12). However, under our 1980 rules, Iowa's election to become a 1902(f) State would not permit it to deem more extensively than under SSI rules.

The Court also stated on page 12 that section 1902(f) States are *"required* to deem income to the extent required in SSI States and may deem to the full extent they did before 1972".

Because the United States Supreme Court has clearly upheld the validity of our 1977 deeming regulations, we propose to reissue our 1977 deeming rules for the categorically needy (individuals who are eligible for Medicaid and who meet the financial eligibility requirements of a related cash assistance program; for example SSI, or a State supplementary assistance program under title XVI of the Act).

These rules would not apply to "medically needy" aged, blind or disabled individuals. The medically needy are individuals who are otherwise eligible for Medicaid, who are not categorically needy, and whose income and resources are within limits set under each State Medicaid plan. Deeming rules for the medically needy in section 1902(f) States were included in regulations implementing the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35. (See 46 FR 47976, September 30, 1981.) These regulations are located in sections 42 CFR 435.822, 435.823, and 436.821 and need no further modification to reflect the *Gray Panthers* decision.

C. Application

These regulations would apply to determinations of Medicaid eligibility in section 1902(f) States [1] and Guam,

[1] At present these States are as follows: Region I: Connecticut, New Hampshire; Region II: New York; Region III: Virginia; Region IV: North Carolina; Region V: Illinois, Indiana, Minnesota, Ohio; Region VI: Oklahoma; Region VII: Missouri, Nebraska; Region VIII: North Dakota, Utah; Region IX: Hawaii; and Region X: none.

Puerto Rico and the Virgin Islands. There would no longer be separate rules in the Medicaid regulations for the financial responsibility of spouses in section 1902(f) States when one spouse is institutionalized.

In a reissuing of the 1977 deeming rules for categorically needy individuals, States would be required to use SSI deeming practices or any deeming criteria more extensive than SSI practices, but not more restrictive than under the State's January 1, 1972 Medicaid plan.

This would mean that both the amount and duration of deeming could be more extensive than SSI practice, if authorized under the 1972 plan. For example, States could continue to deem for indefinite periods of time. Under these proposed rules, 1902(f) States would no longer be permitted to use any deeming criteria less extensive than SSI practices.

We are particularly interested in comments from 1902(f) States concerning the impact of reinstituting the 1977 regulations. We are requesting suggestions for implementation and recommendations that those States may have for alternatives or modifications within the scope of the statute.

D. Executive Order 12291

The HCFA actuary estimates that the savings resulting from this regulation may range from $4 million to $12 million in Federal funds and from $3 million to $10 million in State funds. Savings will be realized to the extent that 1902(f) States change their deeming practices. The impact will be on those individuals who may now be determined ineligible for Medicaid. Therefore, we have determined that this rule does not meet the criteria for a major rule as defined by section 1(b) of Executive Order 12291. That is, this rule will not have an annual effect on the economy of $100 million or more; or cause a major increase in costs or prices for consumers, government agencies, industry, or a geographic region; or cause significant adverse effects on business or employment.

E. Regulatory Flexibility Analysis

The provisions of 5 U.S.C. 603(a), as enacted by the Regulatory Flexibility Act of 1980, require Federal agencies to prepare a regulatory flexibility analysis when regulations have a significant economic impact on a substantial number of small businesses or small governmental jurisdictions.

These regulations would affect individuals who, because a State may change its deeming practices, may be determined ineligible for Medicaid. Only section 1902(f) States may be affected, and any changes in deeming practices as a result of these regulations could affect only individuals. Therefore, the Secretary certifies, under Section 605(b) of Title 5, United States Code, that this proposed rule would not have a significant economic impact on a substantial number of small entities.

F. Response to Comments

Because of the large number of comments that we receive, we cannot acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments and will respond to them in the preamble to that rule.

G. List of Subjects

42 CFR Part 435

Aid to Families with Dependent Children, Aliens, Categorically needy, Contracts (Agreements—State Plan), Eligibility, Grant-in-Aid program—health, Health facilities, Medicaid, Medically needy, Reporting requirements, Spend-down, Supplemental security income (SSI).

42 CFR Part 436

Aid to families with dependent children, aliens, contracts (agreements), eligibility, grant-in-aid program—health, Guam, health facilities, medicaid, Puerto Rico, supplemental security income (SSI), Virgin Islands.

42 CFR Parts 435 and 436 are amended as set forth below:

PART 435—ELIGIBILITY IN THE STATE AND DISTRICT OF COLUMBIA

The authority citation for Part 435 reads as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

1. Section 435.121 is amended by revising paragraph (b)(1) as follows:

§ 435.121 Individuals in States using more restrictive requirements for Medicaid than the SSI requirements.

* * * * *

(b) If an agency uses more restrictive requirements under this section—

(1) Each requirement may be no more restrictive than that in effect under the State's Medicaid plan on January 1, 1972, and no more liberal than that applied under SSI or an optional State supplement program that meets the conditions of § 435.230; and

* * * * *

2. Section 435.734 is revised to read as follows:

§ 435.734 Financial responsibility of spouses and parents.

In determining Medicaid eligiblity of an aged, blind, or disabled individual under requirements more restrictive than those used under SSI, the agency must consider the income and resources of spouses and parents as available to the individual in the manner specified in §§ 435.723 and 435.724 or in a more extensive manner, but not more extensive than the requirements in effect under the Medicaid plan on January 1, 1972.

PART 436—ELIGIBILITY IN GUAM, PUERTO RICO, AND THE VIRGIN ISLANDS

The authority citation for Part 436 reads as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

3. Section 436.711 is revised to read as follows:

§ 436.711 Determination of financial eligibility.

In determining eligibility of individuals specified in subparts B and C of this part who are not recipients of cash assistance, the agency must apply the financial eligibility requirements of the State plan for OAA, AFDC, AB, APTD, or AABD that would be used if the individual were applying for cash assistance. This includes requirements on financial responsibility of spouses and parents, except that in determining eligibility of families and children, the agency must consider parental income and resources as available to a child who is living with the parents until he becomes 21, even if State law confers adult status below age 21.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: June 8, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: July 6, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-20088 Filed 7-22-82; 8:45 am]

BILLING CODE 4120-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 82-413; RM-4097]

FM Broadcast Station in Cambria, California; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of a Class A FM channel to Cambria, California, in response to a petition filed by E. G. Wallenbrock. The proposed assignment could provide a first FM broadcast service to Cambria.

DATES: Comments must be filed on or before August 30, 1982, and reply comments must be filed on or before September 14, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Subjects Listed in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

Adopted: July 9, 1982.
Released: July 16, 1982.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Cambria, California); BC Docket No. 82-413, RM-4097.

By the Chief, Policy and Rules Division:

1. The Commission herein considers a petition for rule making filed April 6, 1982, by E. G. Wallenbrock ("petitioner") proposing the assignment of FM Channel 232A to Cambria, California, as that community's first FM assignment. Petitioner failed to state its intention to apply for Channel 232A, if assigned. It is requested to do so in its comments to this proposal. This assignment can be made in compliance with the Commission's minimum distance separation requirements.

2. Petitioner filed information in support of the proposal.[1] Cambria has no local aural service.

3. In view of the fact that the proposed assignment could provide Cambria with its first local FM broadcast service, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with regard to the following community:

City	Channel No.	
	Present	Proposed
Cambria, Calif.		232A

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before August 30, 1982, and reply comments on or before September 14, 1982, and are advised to read the Appendix for the proper procedures.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

[Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303]

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or

[1] Petitioner furnished economic, demographic and preclusion data demonstrating the need for a first FM assignment to Cambria, California. However, in view of the action taken in the *Second Report and Order* in BC Docket No. 80-130, 47 FR 26624, published June 21, 1982, the information is no longer required.

before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 82-19935 Filed 7-22-82; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-76; RM-3933]

TV Broadcast Station in Salem and Bend, Oreg.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Withdrawal of proposed rule.

SUMMARY: This action dismisses a proposal to reassign VHF Channel *3 from Salem to Bend, Oregon, in response to a petition filed by Oregon Educational and Public Broadcasting Service. The rule making is dismissed at the request of the petitioner.

DATE: Effective September 14, 1982.

ADDRESS: Federal Communications Commission, Washington D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television.

Adopted: July 13, 1982.
Released: July 16, 1982.

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Salem and Bend, Oregon); BC Docket No. 82-76, RM-3933; Report and Order (Proceeding Terminated).

1. Before the Commission is the *Notice of Proposed Rule Making*, 47 FR 7467, published February 19, 1982, proposing the reassignment of VHF television Channel *3 from Salem to Bend, Oregon, in response to a petition filed by Oregon Educational and Public Broadcasting Service, licensee of noncommercial educational Station KVDO-TV, Salem, Oregon. The *Notice* also proposed removing the reservation on Channel *15 at Bend, Oregon. Supporting comments were filed by the petitioner and by Fisher Broadcasting Inc., licensee of KATU(TV), Portland, Oregon.

2. Fisher supported the proposal primarily because it would eliminate the short spacing between its station (KATU) and Station KVDO-TV. Petitioner explains that it proposed the reassignment based on the premise that the license which it holds for Station KVDO-TV could be modified to specify the city of license as Bend, instead of Salem, Oregon. Since the petition did not request a modification of license, the issue was not addressed in the *Notice*. In the alternative, petitioner has requested to withdraw from this proceeding without any action on its request. We have determined that under existing law, we could not approve a modification of license to specify the new city without the opportunity to permit other interested persons to apply for the assigned channel. See *Ashbacker Radio Corp.* v. *F.C.C.* 326 U.S. 327 (1945) and *Riverside and Santa Ana, Cal.*, 65 F.C.C. 2d 920 (1977).

3. In view of the foregoing, it is ordered, That the petition of Oregon Educational and Public Broadcasting Service, requesting the reassignment of VHF television Channel *3 from Salem to Bend, Oregon, is hereby dismissed.

4. It is further ordered, That this proceeding is terminated.

5. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau (202) 632-7792.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-19932 Filed 7-22-82; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-249; RM-4083, RM-4141; RM-4142]

Broadcast Station in Clarion, Emporium, Mercer, and Sugar Creek, Pa.; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule (Order).

SUMMARY: This action extends the time for filing reply comments in the proceeding involving proposed FM channel assignments to Clarion, Mercer, Emporium, and Sugar Creek, Pennsylvania.

DATE: Reply comments must be filed on or before July 23, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: July 8, 1982.
Released: July 13, 1982.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Clarion, Emporium,[1] Mercer,[1] and Sugar Creek,[1] Pennsylvania); BC Docket 82-249, RM-4083, RM-4141, RN-4142; order extending time for filing reply comments.

1. On April 29, 1982, the Commission adopted a *Notice of Proposed Rule Making*, 47 FR 20162, published May 11, 1982, proposing the assignment of Channel 244A to Clarion, Pennsylvania, in response to a petition filed by Clarion County Broadcasting Corporation. On June 21, 1982, two counterproposals were filed. The first by Patrick H. Engrao d.b.a. Mercer County Broadcasting Company, requests the assignment of Channel 244A to Mercer, and Channel 224A to Clarion, and the substitution of Channel 257A for 224A at Emporium, Pennsylvania. The second counterproposal submitted by Stephen S. Strattan requests the assignment of Channel 244A to Sugar Creek,

[1] These communities have been added to the caption.

Pennsylvania. Reply comments are presently due on July 7, 1982.

2. Counsel for Clarion Broadcasting Corporation filed a request on June 28, 1982, seeking additional time for filing reply comments to and including July 23, 1982. Counsel states that Clarion has been informed by its consulting engineer that it cannot complete the necessary review and analysis of the counterproposals by the time now set for filing reply comments and that additional time is needed to address and respond to the issues raised in the counterproposals. Counsel adds that Engrao has been apprised of the intent to file this request and has no objection to the extension. Petitioner also states that he has been unable to contact Strattan but has provided service of this request to all parties.

3. Since the Commission believes that it would be in the public interest to have all material available to it in arriving at a decision in this proceeding, we are granting the additional time as requested.

4. Accordingly, it is ordered, That the above request for an extension of time filed by Clarion County Broadcasting Corporation is granted and the date for filing reply comments is extended to and including July 23, 1982.

5. This action is taken pursuant to authority contained in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's Rules.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-19936 Filed 7-22-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-262; RM-4066, RM-4146, RM-4151]

FM Broadcast Station in Kingman, Ariz. and Pahrump, Nev.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule (order).

SUMMARY: Action taken herein extends the time for filing reply comments in a proceeding involving the substitution of Channel 297 for Channel 244A at Kingman, Arizona, and a counterproposal to retain Channel 244A at Kingman. A separate proposal to assign Channel 298 to Pahrump, Nevada, has also been consolidated into this proceeding.

DATE: Reply comments must be filed on or before July 30, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: July 13, 1982.

Released: July 16, 1982.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Kingman, Arizona and Pahrump, Nevada); BC Docket No. 82-262, RM-4066, RM-4146, RM-4151; order extending time for filing comments.

1. On May 10, 1982, the Commission adopted a *Notice of Proposed Rule Making*, 47 FR 22125, published May 21, 1982, in response to a petition filed by Mohave Sun Broadcasting, requesting the substitution of Channel 297 for Channel 244A at Kingman, Arizona. On June 28, 1982, two counterproposals were timely filed—(1) by Lilly Amador, requesting that Channel 244A be retained at Kingman, and (2) by Tamarack Investment Corporation requesting the conflicting assignment of Channel 298 to Pahrump, Nevada. The reply comment deadline is July 19, 1982.

2. Counsel for Mohave Sun Broadcasting on July 1, 1982, filed a request seeking additional time in the proceeding to and including July 30, 1982, for filing reply comments. Counsel states that he had been informed that other parties had or anticipated filing counterproposals to the *Notice of Proposed Rule Making*. According to counsel, he has neither received copies of said counterproposal, nor has he been able to ascertain if, in fact, they have been filed. Counsel adds that he will be out of the city from July 3 to July 18, 1982, thus there will be no opportunity to review and respond by the present deadline, to any counterproposals which may have been filed.

3. Since the reply pleading cycle is intended to permit the petitioner to respond to counterproposals of which we have two pending, we shall grant the extension.

4. Accordingly, it is ordered, That the date for filing reply comments in BC Docket 82-262 is extended to and including July 30, 1982.

5. This action is taken pursuant to authority contained in sections 4(i), 5(d)(1), and 303(r) of the Commissions Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's rules.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-19937 Filed 7-22-82; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 47, No. 142
Friday, July 23, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Availability of Surplus Butter

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: The Food and Nutrition Service announces that it will provide at least 50 million pounds of surplus butter to requesting State agencies for distribution to eligible recipients.

DATE: Requests for allocations of butter must be submitted by December 31, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph E. Shepherd, Director, Food Distribution Division, Food and Nutrition Service, Park Office Center, Alexandria, Virginia 22302, (703) 756–3680.

SUPPLEMENTARY INFORMATION: The Food and Nutrition Service will provide at least 50 million pounds off butter to agencies of State governments which request it for distribution to eligible recipients. The Department will pay the cost of transporting the butter from Federal storage facilities to centralized storage facilities of recipient State agencies. State agencies will be responsible for arranging and financing distribution of the butter within the State.

The butter is being offered under the provisions of section 416 of the Agriculture Act of 1949 and section 1114 of the Agriculture and Food Act of 1981. It may be used only in nonprofit school lunch programs; nonprofit summer camps for children, and other child nutrition programs providing food service; in nutrition projects operating under authority of the Older Americans Act of 1965, including congregate nutrition sites and providers of home-delivered meals; in assistance to needy persons; and in charitable institutions, including hospitals, to the extent that needy persons are served.

Distribution to needy persons for use in the preparation of meals in the home may be made only through food banks participating in the program established under section 211 of the Agriculture Act of 1980. State agencies wishing to distribute butter for this use will be required to assist the Department in designating food banks for participation in that program. State agencies must ensure that food banks have adequate freezer facilities for the storage of the butter or the ability to distribute it within 48 hours of receipt.

State agencies participating in this distribution of butter will be required to enter into an agreement with the Food and Nutrition Service. This agreement will embody the terms and conditions under which the butter is being provided. A copy of the agreement may be obtained from tthe appropriate Regional Administrator, Food and Nutrition Service. Agencies wishing to participate in the distribution should, by December 31, 1982, advise the appropriate Regional Administrator, in writing, of their interest and of the amount which they would like to recieve. If requests for butter exceed the amount available, the butter will be allocated among the States on the basis of State population.

Dated: July 16, 1982.

Robert E. Leard,

Associate Administrator, Food and Nutrition Service.

[FR Doc. 82–19853 Filed 7–22–82; 8:45 am]

BILLING CODE 3410–30–M

Office of the Secretary

National Advisory Council on Child Nutrition; Meeting

Pursuant to the Federal Advisory Committee Act, Pub. L. 92–463, notice is hereby given that the National Advisory Council on Child Nutrition, established by Section 15 of the National School Lunch Act to make a continuing study of the child nutrition programs of the U.S. Department of Agriculture, has scheduled a meeting for August 11, 12 and 13, 1982. The meeting will take place from 8:30 a.m. to 5:00 p.m. daily on August 11 and 12; and from 8:30 a.m. to 11:30 a.m. on August 13 at the Ramada Inn, 4641 Kenmore Avenue (Seminary Road East and I–395), Alexandria, Virginia 22304. It will be open to the general public who may be allowed to participate in the discussions if time permits.

The meeting will be devoted primarily to the preparation of the 1982 biennial report to the President and the Congress. The agenda will be available 15 days prior to the meeting. Requests for the agenda and any written comments should be sent to Mr. George A. Braley, Executive Secretary, National Advisory Council on Child Nutrition, United States Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, Virginia 22303, (703) 756–3052.

Dated: July 19, 1982.

Samuel J. Cornelius,

Administrator, Food and Nutrition Service.

[FR Doc. 82–20006 Filed 7–22–82; 8:45 am]

BILLING CODE 3410–30–M

Section 22 Import Fees; Adjustment of Import Fees on Sugar

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: Headnote 4(c) of Part 3 of the Appendix to the Tariff Schedules of the United States (TSUS) requires the Secretary of Agriculture to decrease by one cent the amount of the fees which shall be imposed on imports of raw and refined sugar (TSUS items 956.05, 956.15, and 957.15) under the authority of Section 22 of the Agricultural Adjustment Act of 1933, as amended, whenever the average daily (domestic) spot price quotation for raw sugar for 10 consecutive market days within any calendar quarter is in excess of the market stabilization price by more than one cent. This notice announces such adjustment.

EFFECTIVE DATE: 12:01 AM (local time at post of entry) July 21, 1982. (See Supplementary information.)

FOR FURTHER INFORMATION CONTACT: William F. Doering, Foreign Agricultural Service, Department of Agriculture, Washington, D.C. 20250, (202) 447–6723.

SUPPLEMENTARY INFORMATION: By Presidential Proclamation No. 4940, dated May 5, 1982, headnote 4 of Part 3 of the Appendix to the TSUS was amended to provide for quarterly adjusted fees on imports of raw and refined sugar (TSUS items 956.15, and

957.15). Paragraph (c)(ii) of headnote 4 provides that the quarterly adjusted fee for item 956.15 shall be the amount by which the average of the daily spot (domestic) price quotations for raw sugar for the 20 consecutive market days immediately preceding the 20th day of the month preceding the calendar quarter during which the fee shall be applicable (as reported by the New York Coffee, Sugar, and Cocoa Exchange) expressed in United States cents per pound, in bulk, is less than the market stabilization price. However, whenever the average of the daily spot (domestic) price quotations for 10 consecutive market days within any calendar quarter (1) exceeds the market stabilization price by more than one cent, the fee then in effect shall be decreased by one cent, or (2) is less than the market stabilization price by more than one cent, the feet then in effect shall be increased by one cent. Paragraph (c)(i) further provides that the quarterly adjusted fee for items 956.05 and 957.15 shall be the amount of the fee for item 956.15 plus one cent per pound.

The average of the daily spot (domestic) price quotations for raw sugar (item 956.15) for the 10 consecutive market day period July 1–July 15, inclusive, within the third calendar quarter of 1982, is 21.77 cents per pound. This is more than one cent in excess of the market stabilization price of 19.88 cents. Accordingly, the fee of 3.4193 cents per pound for item 956.15 is required to be decreased by one cent, resulting in a fee for item 956.15 of 2.4193 cents per pound and a fee for items 956.05 and 957.15 of 3.4193 cents per pound.

Headnote 4(c) requires the Secretary of Agriculture to determine and announce any adjustment in the fees made within a calendar quarter, certify such adjusted fees to the Secretary of the Treasury, and file notice thereof with the Federal Register within 3 market days of such determination. This notice is therefore being issued in order to comply with the requirements of headnote 4(c).

Effective Date

In accordance with headnote 4(c)(vi) of Part 3 of the Appendix to the Tariff Schedules of the United States, the adjustment in fees made herein shall not apply to the entry or withdrawal from warehouse for consumption of sugar exported (as defined in § 152.1 of the Customs Regulations) on a through bill of lading to the United States from the country of origin before the effective date of the adjustment.

Notice

Notice is hereby given that, in accordance with the requirements of headnote 4(c) of Part 3 of the Appendix to the Tariff Schedules of the United States, it is determined that the fees for raw and refined sugar (TSUS items 956.05, 956.15, and 957.15) for the remainder of the third calendar quarter of 1982, unless further adjusted in accordance with headnote 4(c), shall be as follows:

Item	Fee (cents per lg)
956.05	3.4193
956.15	2.4193
957.15	3.4193

The amounts of such fees have been certified to the Secretary of the Treasury in accordance with paragraph (c)(iv) of headnote 4.

Signed at Washington, D.C. on July 19, 1982.

Seeley G. Lodwick,

Acting Secretary of Agriculture.

[FR Doc. 82-19945 Filed 7-20-82; 3:44 pm]

BILLING CODE 3410-10-M

Rural Electrification Administration

Continental Telephone Co. of Arkansas, Russellville, Ark., Proposed Loan Guarantee

Under the authority of PUB. L. 93–32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 320–22, "Guarantee of Loans for Telephone Facilities," dated February 4, 1975, published in proposed form in the **Federal Register**, September 16, 1974 (Vol. 39 No. 180, pages 33228–33229), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $10,500,000 to Continental Telephone Company of Arkansas, Russellville, Arkansas. The loan funds will be used to finance the construction of facilities to extend telephone service to new subscribers, and improve telephone service for existing subscribers.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information and details of the proposed project from Mr. Eugene J. Fix, President, Continental Telephone Company of Arkansas, P.O. Box 307, Wentzville, Missouri 63385.

To assure consideration, proposals must be submitted (within 30 days of the date of this notice) to Mr. Eugene J. Fix. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Continental Telephone Company of Arkansas and REA deem appropriate. Prospective lenders are advised that it is anticipated that financing for this project will be available from the Federal Financing Bank under a standing loan commitment agreement with the Rural Electrification Administration.

Copies of REA Bulletin 320–22 are available from the Director, Public Information Office, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

This program is listed in the Catalog of Federal Domestic Assistance as 10.851—Rural Telephone Loans and Loan Guarantees.

Dated at Washington, D.C., this 14th day of July 1982.

Jack Van Mark,

Acting Administrator, Rural Electrification Administration.

[FR Doc. 82-19946 Filed 7-22-82; 8:45 am]

BILLING CODE 3410-15-M

Glacier Highway Electric Association, Inc.; Finding of No Significant Impact

AGENCY: Rural Electrification Administration.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, the Council on Environmental Quality Regulations (40 CFR Part 1500) and REA Bulletin 20–21:320–21, Environmental Policies and Procedures, has made a Finding of No Significant Impact with respect to a request for financing assistance by Glacier Highway Electric Association, Inc., (Glacier Highway) of Auke Bay, Alaska, for the construction of a standby generating plant and associated facilities in Greater Juneau Borough, Alaska.

FOR FURTHER INFORMATION CONTACT: REA's Finding of No Significant Impact and Environmental Assessment and Glacier Highway's Borrower's Environmental Report (BER) may be reviewed at or obtained from Mr. William E. Davis, Director, Distribution Systems Division, Room 3304, South Agriculture Building, Washington, D.C.

20250, telephone: (202) 382–8848 or Mr. Charles Y. Walls, General Manager, Glacier Highway, Mile 12 Glacier Highway, Auke Bay, Alaska 99821, telephone: (907) 789–7344, during regular business hours.

SUPPLEMENTARY INFORMATION: REA, in connection with a request for financing assistance by Glacier Highway, has reviewed the BER submitted by Glacier Highway and has determined that it represents an accurate assessment of the environmental impacts of the proposed project.

The proposed project consists of constructing a 5.5 MW standby generating plant, two 5,000 barrel fuel storage tanks and approximately 9.9 km (6.2 mi) of 69 kV transmission line. Based on the BER and other support documents, REA prepared an Environmental Assessment concernig the proposed project and its impacts. REA concluded that the proposed request for financing assistance would not be a major Federal action significantly affecting the quality of the human environment.

The BER and EA adequately consider potential impacts of the project on resources including threatened and endangered species, important farmlands, cultural resources, wetlands and floodplains.

Alternatives examined include no action, continuation to contract with Alaska Electric Power and Light for all standby service and alternate sites. After reviewing these alternatives, REA determined that the proposed project is an acceptable alternative because it meets Glacier Highway's needs with a minimum of adverse impacts.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated: July 14, 1982.

Jack Van Mark,

Acting Administrator.

[FR Doc. 82–19847 Filed 7–22–82; 8:45 am]

BILLING CODE 3410–15–M

Mt. Wheeler Power, Inc.; Finding of No Significant Impact

AGENCY: Rural Electrification Administration.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, the Council on Environmental Quality Regulations (40 CFR Part 1500) and REA Bulletin 20–21:320–21, Environmental Policies and Procedures, has made a Finding of No Significant Impact with respect to the proposed financing assistance to Mt. Wheeler Power, Inc., (Mt. Wheeler) of Ely, Nevada, for the construction of 69 kV transmission facilities in Lander and Nye Counties, Nevada.

FOR FURTHER INFORMATION CONTACT: REA's Finding of No Significant Impact and Environmental Assessment and Mt. Wheeler's Borrower's Environmental Report (BER) may be reviewed at or obtained from Mr. William E. Davis, Director, Distribution Systems Division, Room 3304, South Agriculture Building, Washington, D.C. 20250, telephone: (202) 382–8848, or Mr. William R. Coffman, Acting Manager, Mt. Wheeler Power, Inc., 1137 Avenue F, East Ely, Nevada 89315, telephone: (702) 289–4453, during regular business hours.

SUPPLEMENTARY INFORMATION: REA, in connection with a request for financing assistance from Mt. Wheeler, has reviewed the BER submitted by Mt. Wheeler and has determined that it represents an accurate assessment of the environmental impact of the proposed project. The proposed project consists of approximately 72 km (45 mi) of 69 kV transmission line between the proposed Hickison Summit 69 kV Switching Station and the proposed Northumberland 69 to 14.4/24.9 kV Substation. Based on the BER and other support documents, REA prepared an Environmental Assessment concerning the proposed project and its impacts. REA concluded that the proposed financing assistance would not be a major Federal action significantly affecting the quality of the human environment.

The BER and EA adequately consider potential impacts of the proposed project on resources including threatened and endangered species, important farmlands, cultural resources, wetlands and floodplains.

Alternatives examined include no action, alternative line routing and substation sites and tapping an existing facility (Sierra Pacific's 230 kV transmission line). After reviewing these alteratives, REA determined that the proposed project is an acceptable alternative because it meets Mt. Wheeler's needs with a minimum of adverse impacts.

This Program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated: July 14, 1982.

Jack Van Mark,

Acting Administrator.

[FR Doc. 82–19849 Filed 7–22–82; 8:45 am]

BILLING CODE 3410–15–M

Soil Conservation Service

Carney Park RC&D Measure, Nebraska

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Carney Park RC&D Measure, Holt County Nebraska.

FOR FURTHER INFORMATION CONTACT: Mr. A. E. Sullivan, State Conservationist, Soil Conservation Service, Federal Building, Room 345, Box 82502, Lincoln, Nebraska, 68501, telephone 402–471–5300.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. A.E. Sullivan, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for public water based recreation. The planned works of improvement include pond renovation and excavation, recreational facilities, and waterway installation including culverts and drop structure.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting A. E. Sullivan.

No administrative action on implementation of the proposal will be taken until after August 23, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation

and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

A. E. Sullivan,

State Conservationist.

[FR Doc. 82–19918 Filed 7–22–82; 8:45 am]

BILLING CODE 3410–16–M

Lark Enterprise Land Drainage R.C. & D. Measure, Pennsylvania

AGENCY: Soil Conservations Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Lark Enterprise Land Drainage R. C. & D. Measure, Lawrence County, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Graham T. Munkittrick, State Conservationist, Soil Conservation Service, Federal Building, 228 Walnut Street, Harrisburg, Pennsylvania 17108, Telephone (717) 782–2202.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the measure will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Graham T. Munkittrick, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns land drainage practices on approximately two acres. The planned works of improvement include regrading and shaping less than one acre, approximately 900 feet of subsurface drainage, and revegation of all disturbed areas with lime, fertilizer, seed, and mulch.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental evaluation are on file and may be reviewed by contacting Graham T. Munkittrick.

No administrative action on implementation of the proposal will be taken until August 23, 1982.

Dated: July 12, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Graham T. Munkittrick,

State Conservationist.

[FR Doc. 82–19783 Filed 7–22–82; 8:45 am]

BILLING CODE 3410–16–M

Llagas Creek Watershed, California; Availability of a Record of Decision

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of Availability of a Record of Decision.

FOR FURTHER INFORMATION CONTACT: Gene Andreuccetti, State Conservationist, Soil Conservation Service, 2828 Chiles Road, Davis, California, 95616, telephone (916) 758–2200.

NOTICE: Gene Andreuccetti, the responsible Federal official for projects administered under the provisions of Pub. L. 83–566, 16 U.S.C. 1001–1008, in the state of California, is hereby providing notification that a Record of Decision to proceed with installation of the Llagas Creek Watershed Project is available. Single copies of this Record of Decision may be obtained from Gene Andreuccetti at the above address.

(Catolog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: July 9, 1982.

Gene Andreuccetti,

State Conservationist.

[FR Doc. 82–19782 Filed 7–22–82; 8:45 am]

BILLING CODE 3410–16–M

Marne Creek Watershed, South Dakota; Intent To Deauthorize Federal Funding

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of Intent to Deauthorize Federal Funding.

SUMMARY: Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83–566, and the Soil Conservation Service Guidelines (7 CFR 622), the Soil Conservation Service gives notice of the intent to deauthorize Federal funding for the Marne Creek Watershed project, Yankton County, South Dakota.

FOR FURTHER INFORMATION CONTACT: Robert D. Swenson, State Conservationist, Soil Conservation Service, 200 Fourth Street S.W., Huron, South Dakota 57350, telephone 605–352–8651.

A determination has been made by Robert D. Swenson that the proposed works of improvement for the Marne Creek Watershed project will not be installed. Information regarding this determination may be obtained from Robert D. Swenson, State Conservationist, at the above address and telephone number.

Marne Creek Watershed, South Dakota; Notice of Intent To Deauthorize Federal Funding

No administrative action on implementation of the proposed deauthorization will be taken until September 21, 1982.

Dated: July 14, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Robert D. Swenson,

State Conservationist.

[FR Doc. 82–19784 Filed 7–22–82; 8:45 am]

BILLING CODE 3410–16–M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits

Permits filed under Subpart Q of the Board's procedural regulations (see, 14 CFR 302.1701 et seq.) week ended: July 16, 1982.

SUBPART Q APPLICATIONS

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
July 12, 1982	40837	Sun Country Airlines, Inc., Mr. James R. Olsen, President, 12940 Harriet Avenue South, Suite 280, Burnsville, Minnesota 56337. Application of Sun Country Airlines, Inc. requests the Board pursuant to Section 401(d)(3) of the Act and Part 201 of the Board's Economic Regulations for a certificate of public convenience and necessity authorizing it to engage in interstate and overseas charter air transportation of persons, property, and mail as follows: (a) Between any point in any State in the United States, the District of Columbia, or any territory or possession of the United States and any other point in any State of the United States or the District of Columbia, or any territory or possession of the United States; and (b) In interstate and overseas air transportation pursuant to contracts with the Department of Defense. Applicant requests such approval under Sections 408 and 409 of the Act as may be necessary or, in the alternative, such exemptions or disclaimers of jurisdiction as may be appropriate. Conforming Applications, Motions to modify scope, and Answers may be filed by August 9, 1982.
July 12, 1982	40838	Sun Country Airlines, Inc., Mr. James R. Olsen, President, 12940 Harriet Avenue South, Suite 280, Burnsville, Minnesota 55337. Application of Sun Country Airlines, Inc. requests the Board pursuant to Section 401(d)(3) of the Act and Part 201 of the Board's Economic Regulations for a certificate of public convenience and necessity authorizing it to engage in foreign charter air transportation of persons, property, and mail, as follows: (a) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and Canada, on the other; (b) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and Mexico, on the other; (c) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and points in Jamaica, the Bahama Islands, Burmuda, Haiti, the Dominican Republic, Trinidad, Aruba, the Leeward and Windward Islands, and any other foreign place located in the Gulf of Mexico or the Caribbean Sea, on the other hand; (d) In foreign air transportation, pursuant to contracts with the Department of Defense. Applicant requests such approvals under Sections 408 and 409 of the Act, or, in the alternative, such exemptions or disclaimers of jurisdiction as may be necessary. Conforming Applications, Motions to modify scope, and Answers may be filed by August 9, 1982.
July 13, 1982	40842	Delta Air Lines, Inc., Hartsfield Atlanta International Airport, Atlanta, Georgia 30320. Application of Delta Air Lines, Inc. requests the Board pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations for an amendment or renewal of its certificate of public convenience and necessity for Route 178 to permit it to continue to engage in the scheduled air transportation of persons, property, and mail over the following unrestricted segment: Between the terminal point Atlanta, Georgia and the terminal point London, England. Delta requests that the five year time limitation now included on its Atlanta-London authority be eliminated or extended. Delta invokes, and intends to rely upon, Section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c) as implemented by Part 377 of the Board's Special Regulations for continuance of its Atlanta-London authorization pending final determination of this application. Conforming Applications, Motions to modify scope, and Answers may be filed by August 10, 1982.
July 16, 1982	40847	Mid Pacific Airlines, Inc., c/o Cecil A. Beasley, Jr., Ballard and Beasley, 505 Commerce Building, 1700 K Street, N.W., Washington, D.C. 20006. Application of Mid Pacific Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests the Board to grant a certificate authorizing Mid Pacific to engage in interstate scheduled air transportation of persons, property and mail as follows: (1) Between Lihue, Kauai, and Honolulu, Oahu, and between Honolulu, Oahu, and Kahului, Maui (points the Company is presently serving pursuant to Part 298 of the Board's Economic Regulations); (2) Between Honolulu, Oahu, and Kona, Hawaii, and between Honolulu, Oahu, and Hilo, Hawaii (points Mid Pacific will serve in the future); (3) Between any and all additional or other points in the Hawaiian Islands; and (4) Between any and all points in the United States, its territories and possessions; Conforming Applications, Motions to modify scope, and Answers may be filed by August 13, 1982.
July 16, 1982	40848	Austin Airways Limited, c/o James M. Burger, Shaw, Pittman, Potts & Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036. Application of Austin Airways, Limited, pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations applies for a Foreign Air Carrier Permit authorizing it to operate scheduled air transportation of persons, property and mail between Thunder Bay, Ontario and Minneapolis, Minnesota. Answers may be filed by August 13, 1982.
July 16, 1982	40850	Aeronaves Del Peru S. A., c/o Paul Reiber, 6714 Whittier Avenue, McLean, Virginia 22101. Application of Aeronaves Del Peru S. A. pursuant to Section 402 of the Act applies for a Foreign Air Carrier Permit authorizing it to engage in the foreign air transportation of property and mail over the routes described below: Between a terminal point or points in Peru, intermediate points in Colombia, Panama and Mexico, and the terminal points Houston, Texas and New York, New York. Answers may be filed by August 13, 1982.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 82-20006 Filed 7-22-82; 8:45 am]
BILLING CODE 6320-01-M

[Docket No. 40829]

Aeroamerica, Inc., A. Joel Eisenberg; Enforcement Proceeding; Notice of Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge John M. Vittone. Future communications should be addressed to him.

Dated at Washington, D.C., July 19, 1982.

Elias C. Rodriguez,
Chief Administrative Law Judge.

[FR Doc. 82-20009 Filed 7-22-82; 8:45 am]
BILLING CODE 6320-01-M

[82-7-67; Docket 40747]

Application of Emerald Air, Inc. d.b.a. Emerald Airlines; for Certificate Authority Under Subpart Q

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order instituting the

Emerald Air Fitness Investigation, 82–7–67, Docket 40747.

SUMMARY: The Director, Bureau of Domestic Aviation, under delegated authority, is instituting an investigation to determine the fitness of Emerald Air, Inc. to engage in the interstate and overseas air transportation of persons, and the interstate and overseas air transportation of property and mail between all points in the United States, its territories and possessions, except in all-cargo service within Alaska or Hawaii, and its fitness to continue holding the unused authority granted to it in Order 82–2–21.

DATES: Persons wishing to intervene in the *Emerald Air Fitness Investigation* shall file their petitions in Docket 40747 by 1982.

ADDRESSES: Petitions to intervene should be filed in Docket 40747, and addressed to the Docket Section, Civil Aeronautices Board, Washington, D.C. 20428

In addition, copies of such filings should be served on persons listed in the attachment and on any other person filing petitions.

FOR FURTHER INFORMATION CONTACT: John Brennan, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue N.W., Washington, D.C. 20428, (202) 673–5340.

SUPPLEMENTARY INFORMATION: The complete text of Order 82–7–67 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82–7–67 to that address.

By the Bureau of Domestic Aviation: July 19, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–20010 Filed 7–22–82; 8:45 am]

BILLING CODE 6320–01–M

Announcement of Proposed Collection of Information Under the Provisions of the Paperwork Reduction Act (44 U.S.C. 35)

Agency clearance officer from whom a copy of the collection of information and supporting documents is available: Robin A. Caldwell—(202) 673–5922.

Extension

Title of the Collection of Information: Part 324, "Procedures for Compensating Air Carriers for Losses"
Agency Form Number: None
How often the Collection of Information must be filed: On occasion
Who is asked or required to report: U.S. Scheduled Air Carriers
Estimate of number of annual responses: 87
Estimate of number of annual hours needed to complete the collection of information: 2,050
Title of the Collection of Information: Part 212, "Charter Trips by Foreign Air Carriers"
Agency Form Number: None
How often the Collection of Information must be filed: On occasion
Who is asked or required to report: Foreign Air Carriers
Estimate of number of annual responses: 33,408
Estimate of number of annual hours needed to complete the collection of information: 14,035

Revision

Title of the Collection of Information: "Report of Financial and Operating Statistics for Certificated Air Carriers"
Agency Form Number: 41
How often the Collection of Information must be filed: Monthly, Quarterly, Semiannually, Annually
Who is asked or required to report: Certificated Air Carriers
Estimate of number of annual responses: 11,392
Estimate of number of annual hours needed to complete the collection of information: 48,405

Jack Calloway,

Chief, Data Requirements Section, Office of Comptroller.

July 16, 1982.

[FR Doc. 82–20011 Filed 7–22–82; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Carbon Steel Wire Rod From Venezuela; Preliminary Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary Determination of Sales at Less Than Fair Value.

SUMMARY: This notice is to advise the public that the Department of Commerce has determined preliminary that carbon steel wire rod from Venezuela is being sold or is likely to be sold in the United States at less than fair value within the meaning the antidumping law. Liquidation of all entries, of the product subject to this determination which are entered, or withdrawn from warehouse, for consumption, are being suspended, and a cash deposit or bond in an amount equal to the estimated dumping margin of 40 percent of the f.o.b. value shall be required at the time of each such entry or withdrawal from warehouse. If this investigation proceeds normally, the Department will make a final determination by October 1, 1982.

EFFECTIVE DATE: July 23, 1982.

FOR FURTHER INFORMATION CONTACT: Michael J. Altier, Office of Investigations, International Trade Administration, Department of Commerce, Washington, D.C. 20203, (202) 377–1785.

SUPPLEMENTARY INFORMATION:

Case History

On February 8, 1982, we received a petition in proper form from counsel for Atlantic Steel Corp., Georgetown Steel Corp., Georgetown Texas Steel Corp., Keystone Consolidated, Inc., Korf Industries, Inc., Penn-Dixie Steel Corp., and Raritan River Steel Co. filed on behalf of the U.S. industry producing carbon steel wire rod. The petitioners alleged that carbon steel wire rod from Venezuela is being sold at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended ("the Act").

On March 1, 1982, upon examining the petition as required under section 732 of the Act, we determined that there existed sufficient grounds upon which to initiate an antidumping investigation (47 FR 9259).

On March 25, 1982, the United States International Trade Commission ("ITC") determined that there is a reasonable indication that an industry in the United States is being materially injured or is threatened with material injury by reason of imports of carbon steel wire rod from Venezuela which are alleged to be sold at less than fair value. The ITC published notice of its determination on April 1, 1982 (47 FR 13927).

On March 15, 1982, we presented a questionnaire concerning the allegations to CVG–Siderurgica del Orinoco, C.A. ("Sidor"), the sole producer and/or exporter from Venezuela of the subject product.

Scope of Investigation

The product covered by this investigation is carbon steel wire rod which is a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross section not under 0.20 inch nor over 0.74 inch in diameter, not tempered, not treated, and not partly manufactured, valued over four cents per pound, currently provided for in item 607.17 of the *Tariff Schedules of the United States*.

Petitioner alleged that sales of the subject product to the United States had been made during calendar year 1981, the time period initially chosen as the

period of investigation. Subsequently, Sidor informed us that although several shipments of its merchandise had entered the United States during 1981, the actual sales for these entries were made in late 1980. Accordingly, the period of investigation was extended to include these sales.

However, Sidor refused to include in its response to our questionnaire any of the requested sales information. Since the requested information is essential to this investigation, we have therefore used the best information otherwise available in making our preliminary determination, in accordance with section 776(b) of the Act. At this time, we find the best information available is data submitted by the petitioners and Department of Commerce import statistics.

Methodology of Fair Value Comparison

A comparison was made between the United States price and the foreign market value of the imported merchandise.

United States Price

Purchase price was used to represent United States price because, according to the best information available, the price of carbon steel wire rod to unrelated purchasers in the United States was agreed to before the merchandise was imported into the United States. Purchase price, as defined in section 772(b) of the Act, was calculated by dividing the total value (f.o.b. port of exportation) of carbon steel wire rod imported into the United States from Venezuela in 1981 by the total volume (in metric tons) of the same imports. The source of this information was Department of Commerce import statistics.

Foreign Market Value

In accordance with section 773(a)(1)(A) of the Act the price of such or similar merchandise sold for consumption in the home market of Venezuela was used to determine foreign market value.

The petition included evidence of the price at which several home market sales were made. These sales prices included freight from the mill to the customer. We deducted the freight to arrive at an ex-mill price, and used the weighted average of these ex-mill prices to represent foreign market value.

Result of Comparison

We compared foreign market value with United States price calculated as above. The comparison results in a dumping margin of 40 percent.

Negative Determination of Critical Circumstances

Petitioners contend that "critical circumstances" exist with respect to this case. "Critical circumstances" exist when there is a reasonable basis to believe or suspect that: (1) There is a history of dumping in the United States, or the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than fair value; and (2) there have been massive imports of the subject merchandise over a relatively short period.

Since this investigation was initiated, there have been no U.S. imports of carbon steel wire rod from Venezuela. In the context of this industry, this product has not been massively imported from Venezuela over a relatively short period. Since there have not been massive imports over a relatively short period, we therefore determine that critical circumstances do not exist with respect to imports of carbon steel wire rod from Venezuela.

Preliminary Determination and Suspension of Liquidation

In accordance with section 733(b) of the Act, we are preliminarily determining that there is a reasonable basis to believe or suspect that carbon steel wire rod from Venezuela is being sold or likely to be sold at less than fair value within the meaning of the antidumping law.

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries, of carbon steel wire rod which are entered or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**, and to require a cash deposit or bond, for each such entry of the merchandise in the amount of 40 percent of the f.o.b. value.

ITC Notification

We are notifying the U.S. International Trade Commission of this action. We will allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

Public Comment

In accordance with § 353.47 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on August 23, 1982 at the U.S. Department of Commerce, Roon 3080, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within ten days of this notice's publication.

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy Assistant Secretary by August 16, 1982. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within thirty days of this notice's publication, at the above address and in at least ten copies.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

July 19, 1982.

[FR Doc. 82-19944 Filed 7-22-82; 8:45 am]
BILLING CODE 3510-25-M

Elemental Sulphur From Canada; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Antidumping Finding.

SUMMARY: On April 9, 1981, the Department of Commerce published the preliminary results of its administrative review and tentative determination to partially revoke the antidumping finding on elemental sulphur from Canada (46 FR 21214). The review covered 5 of the 40 producers and/or exporters currently covered by the finding: Canadian Superior Oil, Ltd., Shell Canada, Ltd., Chevron Standard, Ltd., Hudson's Bay Oil & Gas, Ltd., and Gulf Oil Canada, Ltd. Our review covered varying time periods through February 8, 1979, the date of a prior Treasury Department tentative determination to revoke with respect to the 5 companies.

Interested parties were provided an opportunity to submit written comments or request disclosure and/or a hearing. After review of comments made by a domestic interested party, the Department published in the **Federal**

Register on January 27, 1982, the final results of its administrative review and partial revocation of the finding with respect to Shell Canada and Canadian Superior Oil. With regard to the other three firms the Department now finds that all sales by Gulf Oil Canada, Chevron Standard, and Hudson's Bay Oil & Gas were made at not less than fair value. However, the Department is postponing action on these companies' applications for revocation.

EFFECTIVE DATE: July 23, 1982.

FOR FURTHER INFORMATION CONTACT: Jonathan Seiger or Robert Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–5255).

SUPPLEMENTARY INFORMATION:

Background

On December 17, 1973, a dumping finding with respect to elemental sulphur from Canada was published in the **Federal Register** as Treasury Decision 74–1 (38 FR 34655). On April 9, 1981, the Department of Commerce ("the Department") published in the **Federal Register** the preliminary results of its administrative review and tentative determination to revoke the finding (46 FR 21214) with respect to five firms. On January 27, 1982, the Dpartment published the final results of that review and revoked the finding with respect to two of those firms, Shell Canada, Ltd. and Canadian Superior Oil, Ltd.

The Department has now completed its administrative review of the finding for the remaining three firms.

Scope of the Review

Merchandise covered by the review is elemental sulphur, currently classifiable under item 415.4500 of the Tariff Schedules of the United States Annotated (TSUSA). The review is limited to Gulf Oil Canada, Ltd., Chevron Standard, Ltd., and Hudson's Bay Oil & Gas, Ltd. For Gulf and Chevron Standard the review covers the period May 1, 1977 through February 8, 1979. For Hudson's Bay the review covers the period January 1, 1977 through February 8, 1979.

Analysis of Comments Received

(1) *Comment:* A domestic interested party, Freeport Minerals Corporation, argued that the issue of whether these three firms had made home market sales at less than the cost of production in 1975 and 1976 had never been resolved by the Treasury Department or by the Department of Commerce.

Position: We conclude that the Treasury Department did resolve the issue in its tentative determination to revoke the finding with regard to these companies (44 FR 8057), finding that no sales at less than the cost of production had been made for that period. Our review is limited to a later period for which no allegation has been made of less than cost of production sales.

(2) *Comment:* Freeport requested that, for Gulf Oil, the Department conduct sales comparisons for shipments made during the Department's period of review but pursuant to contracts entered into prior to the period of review.

Position: The Department has now made these comparisons, and still finds that all sales were made at not less than fair value by this firm during the period of review.

(3) *Comment:* Freeport also requested that Hudson's Bay and Gulf furnish written agreements, required by § 353.54(e) of the Commerce Regulations for revocations, comparable to that submitted by Shell Canada.

Position: The Department is satisfied that the agreements from Hudson's Bay and Gulf currently on file conform to our present standards.

(4) *Comment:* Freeport objected to the lack of adequate non-confidential summaries from these three companies for the questionnaire responses covering our review period.

Position: In view of the subsequent release of the companies' confidential submissions under administrative protective order, we believe this issue has been adequately resolved.

(5) *Comment:* Freeport objected to the Department's failure to request additional information from these three companies for the period since February 8, 1979, the date of the Treasury Department's tentative determination to revoke.

Position: Section 353.54(a) of the Commerce Regulations gives the Department discretion to determine whether to revoke an antidumping finding. It has been the practice of the Department to view earlier Treasury tentative revocation notices as valid, and as fixing the effective date of revocation, unless the Department receives information from an interested party which causes the Department to have substantive doubt concerning the validity of Treasury's tentative revocation.

Final Results of Review

After analysis of the comments and supplemental information received, we conclude that all sales were made at not less than fair value by Hudson's Bay Oil & Gas, Ltd. for the period January 1, 1977 through February 8, 1979, and that all sales were made at not less than fair value by Chevron Standard, Ltd. and Gulf Oil Canada, Ltd. from May 1, 1977 through February 8, 1979. For the latter two companies, the Treasury Department concluded that all sales were made at not less than fair value from January 1, 1976 through April 30, 1977.

With regard to the applications for revocation by these three companies, the Department has decided to postpone action. All three companies are significant shareholder members in Cansulex, Ltd., an organization from which the Department has been unsuccessful in obtaining information concerning third-country sales. That information is necessary in order for the Department to review entries made by Mobil Oil Canada and Union Oil Company of Canada. In view of the fact that revocation actions are more discretionary in nature than are routine annual reviews, it is the Department's policy not to exclude any Cansulex member company from the finding until Cansulex complies with our long-standing requests for information, which we consider necessary to our administration of this particular antidumping finding or of the antidumping statute in general.

Since all sales by Hudson's Bay Oil & Gas between January 1, 1977 and February 8, 1979, and all sales by Chevron Standard and Gulf from May 1, 1977 through February 8, 1979 were made at not less than fair value, the Department shall instruct the Customs Service to liquidate without regard to dumping duties all appropriate entries with purchase dates or export dates in those periods. The Department will issue appraisement instructions directly to the Customs Service.

Since the calculated rates for all three companies are zero, the Department shall not require a deposit of estimated antidumping duties, as provided for by § 353.48(b) of the Commerce Regulations, on any shipments by these three firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

July 19, 1982.

[FR Doc. 82–19942 Filed 7–22–82; 8:45 am]

BILLING CODE 3510–25–M

Portable Electric Typewriters From Japan; Preliminary Results of Administrative Review of Antidumping Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Antidumping Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping duty order on portable electric typewriters from Japan. This review covers two new exporters of this merchandise to the United States, Tokyo Juki Industrial Co., Ltd. and Towa Sankiden Corporation, for the period January 4, 1980 through April 30, 1981. The review indicates a margin of 0.60% for Tokyo Juki and no margin for Towa Sankiden. As a result of this review, the Department has preliminarily determined to assess dumping duties equal to the calculated differences between foreign market value and United States price on shipments by Tokyo Juki occurring during the period. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: July 23, 1982.

FOR FURTHER INFORMATION CONTACT: Susan M. Crawford or Robert Marenick Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–5255).

SUPPLEMENTARY INFORMATION:

Background

On May 9, 1980, the Department of Commerce ("the Department") published in the **Federal Register** (45 FR 30618–19) an antidumping duty order with respect to portable electric typewriters from Japan. Pursuant to section 736(c) of the Tariff Act of 1930 ("the Tariff Act"), the Department published an "Early Determination of Antidumping Duties" on August 13, 1980 (45 FR 53853–53856) with respect to two exporters to the United States, Brother Industries Ltd. and Silver Seiko Ltd. The Department published in the **Federal Register** of March 16, 1981 (46 FR 18921) a notice of intent to conduct administrative reviews of certain antidumping findings and orders. On April 24, 1981, the Department published the preliminary results of its first administrative review of the antidumping duty order with respect to a third exporter, Nakajima All Co., Ltd. (46 FR 23278). As required by section 751 of the Tariff Act, the Department has now conducted an administrative review for two new exporters.

Scope of the Review

Imports covered by the review are shipments of portable electric typewriters from Japan. The Department defines such merchandise as all typewriters currently classifiable under item 676.0510 of the Tariff Schedules of the United States Annotated ("TSUSA") and some currently classifiable under TSUSA item 676.0540, depending on the individual characteristics of the typewriters. The characteristics we consider include, but are not limited to, the dimensions, weight, presence of a carrying case, type of market, and method of distribution.

This review covers two new exporters of Japanese portable electric typewriters to the U.S., Tokyo Juki Industrial Co., Ltd. ("Tokyo Juki") and Towa Sankiden Corporation, for the period January 4, 1980, the date of suspension of liquidation, through April 30, 1981. The typewriters manufactured by Tokyo Juki are portable electronic typewriters. Any interested party who wishes to comment on the issue of whether the order covers such electronic typewriters should do so within the time limits set forth here in *Preliminary Results of Review.*

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act. Purchase price was calculated on the basis of either the FOB packed price to an unrelated trading company for exportation to the United States or the C.I.F. packed price to the first unrelated purchaser in the United States. Where applicable, deductions were made for ocean freight, insurance, U.S. and foreign inland freight, handling charges, brokerage fees and commissions to unrelated parties, in accordance with § 353.10 of the Commerce Regulations. An addition was made for import duties on imported raw materials not collected when used to produce subsequently exported merchandise, in accordance with § 353.10(d)(1)(ii) of the Commerce Regulations. No other adjustments were claimed or made.

Foreign Market Value

In calculating foreign market value the Department used either the FOB packed price to an unrelated trading company for sale in the home market or the price to purchasers in a third country (West Germany) when sufficient sales did not exist in the home market, as defined in section 773 of the Tariff Act. The foreign market values were adjusted, where applicable, for inland freight, handling charges, commissions to unrelated parties and differences in the merchandise, in accordance with §§ 353.15 and 353.16 of the Commerce Regulations, and for packing cost differences. Where applicable, a deduction was made for Japanese customs brokerage charges incurred on imported parts upon withdrawal from bonded warehouse, in accordance with § 353.15 of Commerce Regulations. No other adjustments were claimed or made.

The Department requested, and Tokyo Juki supplied, cost of production information. The information demonstrates that Tokyo Juki was selling below cost during this review period. However, Tokyo Juki did not begin production until December 1980. Tokyo Juki indicated and the Department verified that the firm sold below cost in the initial months of production because of start-up costs which are normally incurred when a firm begins production and because it did not reach full production capacity during the review period. Since the company did not sell in substantial quantities at less than cost over an extended period, and because the review period was not of sufficient duration over which the recovery of start-up costs could reasonably be made, these sales did not meet the criteria for exclusion under § 353.7 of the Commerce Regulations. Accordingly, we did not disregard such sales.

Further, to substantiate the selected bases of comparison, the Department requested and received certain resale information from Olivetti Corporation, the importer of the merchandise manufactured by Tokyo Juki. The data pertained to resales in both the U.S. and Japan and justified the use of the prices to the unrelated trading company in both markets since the resales were not below the cost of acquisition.

Preliminary Results of Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that a margin of 0.60 percent exists for Tokyo Juki and no margin exists for Towa Sankiden for the period January 4, 1980 through April 30, 1981.

Interested parties may submit written comments on these preliminary results on or before August 23, 1982 and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 30 days after publication of this notice or the first workday thereafter. Any request for an administrative protective order must be made within 5 days of the date of publication. The Department will

publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess dumping duties on all appropriate entries made with purchase dates during the time period involved. Individual differences between United States price and foreign market value may vary from the percent stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for by § 353.48(b) of the Commerce Regulations, a cash deposit based upon the margins calculated above shall be required on all shipments of typewriters by these two firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

July 19, 1982.

[FR Doc. 82-19943 Filed 7-22-82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Caribbean Fishery Management Council's Scientific and Statistical Committee; Public Meeting

AGENCY: National Marine fisheries Service, NOAA, Commerce.

SUMMARY: The Caribbean Fishery Management Council, established by section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265), has established a Scientific and Statistical Committee which will meet to examine and provide recommendations to the Council on the quantification of the productivity of the shelf in relation to maximum sustainable yield (MSY) determination for the draft generic fishery management plan for the fishery resources of the Puerto Rican and St. Croix geological platforms.

DATE: The public meeting will convene on Tuesday, August 17, 1982, at approximately 9:30 a.m., and will adjourn at approximately 3 p.m.

ADDRESS: The meeting will take place at the Council's Headquarter's Office, 1108 Banco de Ponce Building, Hato Rey, Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, Suite 1108—Banco de Ponce Building, Hato Rey, Puerto Rico 00918, Telephone: (809) 753-4926.

Dated: July 20, 1982.

Jack L. Falls,

Chief, Administrative Support Staff, National Marine Fisheries Service.

[FR Doc. 82-19961 Filed 7-22-82; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Issuance To Permit to Southwest Fisheries Center

On June 18, 1982, Notice was published in the **Federal Register** (47 FR 26425), that an application had been filed with the National Marine Fisheries Service by the Southwest Fisheries Center, National Marine Fisheries Service, P.O. Box 271, La Jolla, California 92038, for a permit to take up to 200 Pacific bottlenose dolphins (*Tursiops truncatus*) by inadvertent harassment for the purpose of scientific research.

Notice is hereby given that on July 19, 1982, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Scientific Research Permit to the Southwest Fisheries Center for the above taking subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: July 19, 1982.

R. B. Brumsted,

Acting Deputy Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-19962 Filed 7-22-82; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Receipt of Application for Permit From Richard H. Lambertsen

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531-1544), the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217-222).

1. Applicant:

a. Name: Dr. Richard H. Lambertsen (P277A).

b. Address: Woods Hole Oceanographic Institution, Woods Hole, Massachusetts 02543.

2. Type of permit: Scientific research and scientific purposes.

3. Name and number of animals: Humpback whale (Megaptera novaeangliae), up to 520.

4. Type of take: Tissue sampling with biopsy dart for sex determination.

5. Location of activity: Western North Atlantic Ocean.

6. Period of activity: 5 years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, on or before August 23, 1982. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assisitant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: July 16, 1982.

R. B. Brumsted,

Acting Deputy Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-19980 Filed 7-22-82; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1982; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1982 commodities to be produced by and a service to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: July 23, 1982.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557-1145.

SUPPLEMENTARY INFORMATION: On January 8, 1982, February 22, 1982, and May 21, 1982, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (47 FR 999, 47 FR 7721, and 47 FR 22141) of proposed additions to Procurement List 1982, November 12, 1981 (46 FR 55740).

After consideration of the relevant matter presented, the Committee has determined that the commodities and service listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following commodities and service are hereby added to Procurement List 1982:

Class 8135

Chipboard
- 8135-00-290-0335
- 8135-00-782-3948
- 8135-00-782-3951

Class 8455

Holder, Identification
- 8455-00-880-9730

SIC 7349

Janitorial/Custodial, Federal Building, U.S. Post Office, Boise, Idaho.

C. W. Fletcher,

Executive Director.

[FR Doc. 82-20003 Filed 7-22-82; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1982; Proposed Additions and Deletions

AGENCY: Committee for Purchase From the Blind and Other Severely Handicapped.

ACTION: Proposed additions to and deletions from procurement list.

SUMMARY: The Committee has received proposals to add to and delete From Procurement List 1982 commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: August 25, 1982.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street, North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1982, November 12, 1981 (46 FR 55740):

Class 7510

Sheath, Pen and Pencil
- 7510-00-052-2664

Class 7530

Paper Set, Manifold and Carbon
- 7530-00-205-0511
- (GSA Regions 2 and 5)

Class 8440

Neckerchief, Desert
- 8440-01-103-5981

SIC 0782

Grounds Maintenance, Bergstrom Air Force Base, Texas

SIC 7331

Mailing Services, Department of Treasury, Bureau of Public Debt, 13th and C Streets, S.W., Washington, D.C.

SIC 7349

Janitorial Service, 210 Walnut Street, Des Moines, Iowa

Janitorial/Custodial, DMS Warehouse, 1 King Street, U.S. Customs House, N. 2nd Street, Hastings Keith Federal Building, 53 N. 6th Street, New Bedford, Massachusetts

Janitorial/Custodial, Federal Building/U.S. Courthouse, Helena, Montana

Janitorial Service, Jacob Javits Federal Building, Court of International Trade, 26 Federal Plaza, Court of International Trade, 1 Federal Plaza, Center Street Garage, 203-209 Center Street, New York, New York

Janitorial Service, Robert C. McEwen U.S. Customs House, 127 North Water Street, Ogdensburg, New York, plus 4 U.S. Border Stations in Messena, Fort Covington, Trout River, and Chateaugay, New York

Janitorial Service, Federal Building, Brinker Hoff and Margaret Streets, Plattsburg, New York, plus 4 U.S. Border Stations: Route 9A and 9B Rouses Point; Champlain and Mooers, New York

Janitorial/Custodial (Grass Cutting) for the following locations:
- USAR Center, Williamsburg, Virginia
- USAR Center, Marcella Road, Hampton, Virginia
- USAR Center, Butler Farm Road, Hampton, Virginia

Janitorial Service, FAA NAVAIDS Communication Building 1300, Spokane International Airport, Spokane, Washington

SIC 7369

Commissary Shelf Stocking and Custodial Services, Naval Air Station, Moffett Field, California

Commissary Shelf Stocking and Custodial Services, Naval Training Center, Great Lakes, Illinois

Commissary Shelf Stocking and Custodial Services, Naval Station, Philadelphia, Pennsylvania

Commissary Shelf Stocking and Custorial Services, Charleston Naval Station and Naval Weapons Station, Charleston, South Carolina

Commissary Shelf Stocking and Custodial Services, Naval Station, Norfolk, Virginia

Commissary Shelf Stocking and Custodial Services, Naval Air Station, Oceana, Virginia Beach, Virginia

Commissary Shelf Stocking and Custodial Services, Puget Sound Naval Shipyard, Bremerton, Washington

Commissary Shelf Stocking and Custodial Services, Naval Air Station, Whidbey, Oak Harbor, Washington

Commissary Shelf Stocking and Custodial Services, Naval Support Activity, Sand Point, Seattle, Washington

SIC 7699

Pallet Repair, Naval Supply Center, Cheatham Annex, Williamsburg, Virginia

Deletions

It is proposed to delete the following commodities and service from Procurement List 1982, November 12, 1981 (46 FR 55740):

Class 1430

Circuit Card Assembly
- 1430-00-471-5375
- 1430-00-403-5787

Class 1440

Circuit Card Assembly
1440-00-454-8574

Class 6920

Circuit Card Assembly
6920-00-482-8305

SIC 7399

Assembly of General Mechanic's Tool Kit, (5180-00-177-7033), GSA Depot, Kansas City, Missouri

C. W. Fletcher,

Executive Director.

[FR Doc. 82-20004 Filed 7-22-82; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Department of the Army

United States Army Medical Research and Development Advisory Committee, Medical Defense Against Chemical Agents Subcommittee; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Subcommittee meetings:

Name of Committee: United States Army Medical Research and Development Advisory Committee, Subcommittee on Medical Defense Against Chemical Agents.

Date of meeting: 19-20 August 1982.

Time and place: 1300-1700 hrs, 19 August 1982 and 0630-1200 hrs, 20 August 1982, Churchill Downs Room, Hyatt Regency, Louisville, KY.

Proposed agenda: In accordance with the provisions set forth in section 552b(c)(6), US Code, Title 5 and Section 10(d) of Pub. L. 92-463, both sections of the meeting will be closed to the public for the review, discussion and evaluation of individual programs and projects conducted by the U.S. Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Richard Lindstrom, US Army Medical Research Institute of Chemical Defense, Aberdeen Proving Ground, MD 21010 (301/671-2833) will furnish summary minutes, roster of Subcommittee members and substantive program information.

Harry G. Dangerfield, M.D.,

Colonel, MC, Deputy Commander.

[FR Doc. 82-19929 Filed 7-22-82; 8:45 am]

BILLING CODE 3710-08-M

Office of the Secretary

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

Working Group B (Mainly Low Power Devices) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session 24 August 1982, at the Palisades Institute for Research Services, 1925 North Lynn Street, Arlington, Virginia 222099.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. The low power device area includes such programs as integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with 5 U.S.C. App 1, section 10(d) (1976), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

July 20, 1982.

[FR Doc. 82-19912 Filed 7-22-82; 8:45 am]

BILLING CODE 3810-01-M

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

Working Group C (Mainly Imaging and Display) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session 16 September 1982, at the Palisades Institute for Research Services, AGED at 1925 N. Lynn Street, Arlington, Virginia 22209.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. This special device area includes such programs as infrared and night sensors. The review will include classified program details throughout.

In accordance with 5 U.S.C. App 1, section 10(d) (1976), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

July 20, 1982.

[FR Doc. 82-19913 Filed 7-22-82; 8:45 am]

BILLING CODE 3810-01-M

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, September 7, 1982; Tuesday, September 14, 1982; Tuesday, September 21, 1982; and Tuesday, September 28, 1982, at 10:00 a.m. in Room 3D321, the Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Pub. L. 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b. (c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b. (c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b (c)(2)), and the detailed wages data considered by the

Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b. (c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D264, the Pentagon, Washington, D.C. 20301.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

July 20, 1982.

[FR Doc. 82-19914 Filed 7-22-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

List of Accrediting and State Approval Agencies To Be Reviewed Under a Special Procedure

AGENCY: Department of Education.

ACTION: List of accrediting and State approval agencies to be reviewed under a special procedure.

SUMMARY: The Secretary lists nationally recognized accrediting agencies and State approval agencies that the National Advisory Committee on Accreditation and Institutional Eligibility recommends to the Secretary under a special review procedure. The list of agencies to which the Advisory Committee has applied this special procedure is composed of (1) agencies that were awarded the full four-year recognition in their last review and (2) agencies that have submitted interim reports.

DATE: Comments on these analyses must be received no later than August 27, 1982.

ADDRESSES: Comments may be submitted to Dr. L. W. Friedrich, Acting Chief, Agency Evaluation Section, Eligibility and Agency Evaluation Staff, Office of Postsecondary Education, 400 Maryland Avenue, S.W. (Room 3030, ROB-3), U.S. Department of Education, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Dr. L. W. Friedrich, Telephone: (202) 245-9873.

SUPPLEMENTARY INFORMATION: This document advises the public that the National Advisory Committee on Accreditation and Institutional Eligibility, in making recommendations to the Secretary regarding his responsibility for listing accrediting agencies and State approval agencies, as required by 20 U.S.C. 1094(b)(3), 20 U.S.C. 1141(a) and other statutes, is following a special review procedure regarding some agencies.

Previously the Advisory Committee reviewed in detail each report and petition, each staff analysis, and heard oral presentations from the petitioning agencies and interested third parties before formulating its recommendations to the Secretary regarding the accrediting, or State approval, agencies.

The special procedure for reviewing agency petitions and interim reports will reduce the depth of review by the Advisory Committee of agencies that were awarded the full four year recognition period in their last review, and of agencies which have submitted interim reports. The Advisory Committee will use both staff analyses and public comment before submitting final recommendations to the Secretary regarding the listing of these agencies under 34 CFR Part 603.

This notice provides the names of the agencies being reviewed under this special procedure. The Department's Eligibility and Agency Evaluation Staff has prepared analyses of the petitions and reports of these agencies according to the criteria in 34 CFR 603.6 and 34 CFR 603.24, and has prepared proposed recommended actions on them.

The public is offered an opportunity to comment on these analyses before the Advisory Committee makes final recommendations to the Secretary.

The reports and petitions of the following agencies are being reviewed:

Interim Reports

American Association for Marriage and Family Therapy, Commission on Accreditation for Marriage and Family Therapy Education.

Proposed Recommendation: Accept the report as satisfactory.

New York State Board of Regents.

Proposed Recommendation: Accept the report as satisfactory.

Petitions for Continuation of Recognition

Accreditation Board for Engineering and Technology, Inc.

Proposed Recommendation: Continue recognition for four years. Request an interim report in two years regarding improvement in compliance with criteria (a)(3)(iii)(A) (self-analysis) and (b)(5) (assessment of validity and reliability of standards).

American Board of Funeral Service Education, Committee on Accreditation

Proposed Recommendation: Continue recognition for a period of four years. Request an interim report in two years concerning full compliance with criteria (a)(2)(ii) (fiscal management), (b)(2)(ii)(D) (publication of affiliations of members of policy and decision-making bodies), (b)(2)(iii) (notice of standards revision—providing opportunity for comment), (b)(2)(iv) (complaint review procedure), (b)(3)(vii) (providing notice of right to appeal), (b)(4) (fostering nondiscrimination), and (b)(5) (assessment of validity and reliability of standards).

Association of Advanced Rabbinical and Talmudic Schools, Accreditation Commission

Proposed Recommendation: Continue recognition for four years. Request an interim report in one year regarding improvement in compliance with (a)(3)(iii) (A) and (B) (self-analysis and guidance to institutions), and (b)(5) (assessment of validity and reliability of standards).

National Association of Schools of Art and Design, Commission on Accreditation and Membership

Proposed Recommendation: Continue recognition for four years. Request an interim report in two years concerning compliance with criteria (b)(3)(viii)(C) (provide chief executive officer with a written decision of appeal body), and (b)(5) (assessment of validity and reliability of accreditation standards).

National Association of Schools of Music

Proposed Recommendation: Continue recognition for four years. Request an interim report in two years on improved compliance with criteria (b)(3)(viii)(C) (supplying institution with written decision of appeal body, including specifics), and (b)(5) (assessment of validity and reliability of standards).

Iowa State Board of Public Instruction

Proposed Recommendation: Continue recognition for four years.

Invitation to Comment

A copy of the analysis of any of the reports and petitions submitted by the agencies listed in this notice may be obtained from Dr. L. W. Friedrich.

Dated: July 21, 1982.

T. H. Bell,

Secretary of Education.

[FR Doc. 82-20147 Filed 7-22-82; 9:51 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of Assistant Secretary for International Affairs

International Atomic Energy Agreements; Proposed Subsequent Arrangement; Japan

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves contractual arrangements under which DOE will consent, if requested, to the assignment of 100,000 separative work units from uranium enrichment services contracts held by U.S. utilities to the Kyushu Electric Power Co., Japan, in fiscal year 1988.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: July 19, 1982.

For the Department of Energy.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 82-20015 Filed 7-22-82; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangement Between U.S. and European Atomic Energy Community

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended and the Agreement for Cooperation Between the Government of the United States of America and the Government of Switzerland Concerning Civil Uses of Atomic Energy, as amended.

This subsequent arrangement would give approval, which must be obtained under the above mentioned agreements, for the following transfer of special nuclear materials of United States origin, or of special nuclear materials produced through the use of materials of United States origin, as follows: From Switzerland to France (Compagnie Generale des Matieres Nucleaires) for the purpose of reprocessing, 190 irradiated fuel assemblies, containing 58,910 kilograms of uranium, enriched to 1.0% in U–235, and 535 kilograms of plutonium from the Beznau Power Stations I and II. This subsequent arrangement is designated at rtd/UE(SD)–41.

The Department of Energy has received letters of assurance from the Government of Switzerland that the recovered uranium and plutonium will be stored in France, and will not be transferred from France, nor put to any use, without the prior consent of the United States Government.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice and after fifteen days of continuous session of the Congress, beginning the day after the date on which the reports required by section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) are submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. The two time periods referred to above shall run concurrently.

Dated: July 20, 1982.

For the Department of Energy.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 82-20035 Filed 7-22-82; 8:45 am]

BILLING CODE 6450-01-M

Bonneville Power Administration

Prepare an Environmental Assessment on the Muddy Ranch Point of Delivery

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice to prepare an environmental assessment on the Muddy Ranch Point of Delivery.

SUMMARY: In response to a request by Wasco Electric Cooperative (WEC, a preference customer of BPA) for a new point of delivery at its proposed Muddy Ranch Substation, BPA proposes to provide instrument transformers and 12.5-kV metering facilities at a cost of $20,000. As connected actions, in addition to constructing a new substation, WEC proposes to construct a 6.8-mile, 115-kV tapline operated at 69-kV, connecting the Columbia Power Cooperative Association's Antelope-Fossil 69-kV line; underbuild their 7.2/12.5-kV distribution line on the 115-kV tapline; and install a three-way switch at the tap point. WEC's substation facilities include a 115/69-12.5-kV, 10-MVA transformer. In a connected action, the Bureau of Land Management (BLM) will grant a right-of-way permit for the transmission line, and BPA will be requested to review the application.

The environmental assessment will be used to determine if a draft environmental impact statement will be prepared or if a finding of no significant impact is appropriate.

SUPPLEMENTARY INFORMATION: WEC is a requirements customer of BPA whose existing power sales contract expires in January 1990. It currently serves over 3,300 customers in the north central Oregon area. In 1981, its winter peakload was 18,546 kW and its summer peakload was 16,481 kW.

WEC's proposed Muddy Ranch Substation is in response to a request to serve the Muddy Ranch Project, a development of the Rajneesh International Foundation, which is presently applying for township status in Wasco County, Oregon. In addition to incorporating a town on the ranch during the next year or two, the Foundation plans to put approximately 12,000 acres under cultivation. The Foundation is seeking necessary permits for incorporation and development from the appropriate State, county, and local agencies.

By agreeing to provide metering points at the substation, BPA will add a new Muddy Ranch point of delivery as a contract amendment to the power sales contract with Wasco Electric Cooperative. As a requirements customer, WEC is entitled to receive Federal power from BPA to serve its loads, up to a specified amount (25 average MW). The proposal to provide a point of delivery at a new Muddy Ranch Substation with associated metering facilities is the most efficient way to provide this service. BPA, therefore, has no discretion except to provide the requested services. However, BPA does have some discretion on how and where the services will be provided and, therefore, could influence the substation and transmission line location. The environmental assessment will address

the impacts associated with BPA's discretionary actions related to this project.

FOR FURTHER INFORMATION CONTACT: Anthony Morrell, Environmental Manager, Bonneville Power Administration, P.O. Box 3621–SJ, Portland, Oregon 97208; telephone (503) 230–5136.

Issued in Portland, Oregon, July 13, 1982.

Peter T. Johnson,

Administrator.

[FR Doc. 82–20013 Filed 7–22–82; 8:45 am]

BILLING CODE 5450–01–M

Economic Regulatory Administration

Intercoastal Oil Corp.; Proposed Remedial Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of proposed remedial order to Intercoastal Oil Corporation and opportunity for objection.

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that a Proposed Remedial Order was issued on July 9, 1982 to Intercoastal Oil Corporation (IOC), P.O. Box 5413, Long Beach, California 90805. Any aggrieved person may file a Notice of Objection to the PRO in accordance with 10 CFR 205.193 by the fifteenth day following publication of this notice.

In the Proposed Remedial Order, ERA sets forth proposed findings of fact and conclusions of law concerning IOC's resales of crude petroleum and refined products under the reseller pricing rules in 10 CFR Part 212, Subpart F between November 1973 and December 1975.

IOC is alleged to have violated 10 CFR 212.10(a), 212.93(a) and 212.111 by selling crude oil, No. 2 diesel fuel, and No. 4 fuel oil at prices in excess of Maximum Lawful Selling Prices. The overcharges, totaling $345,288.53, resulted from IOC's failure to set its prices by reference to prices charged at the nearest comparable outlet on the day when the item was first offered for sale, as provided in 10 CFR 212.111(b)(3). As a remedy, IOC would be required to refund the overcharges with interest. The refund amounts will be held by DOE pending the determination of a suitable disposition of the funds.

Aggrieved persons may object to this Proposed Remedial Order by filing a "Notice of Objection to the Proposed Intercoastal Oil Corporation Remedial Order." This notice must comply with the requirements of 10 CFR 205.193. To be considered, a Notice of Objection must be filed with the Office of Hearings and Appeals, Department of Energy, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461.

The notice must be filed, in duplicate, by 4:30 p.m. EDT on or before the fifteenth day following publication of this notice, or the first Federal workday thereafter. In addition, a copy of the Notice of Objection must, on the same day as filed, be served on IOC and on each of the following persons, pursuant to 10 CFR 205.193(c): Assistant General Counsel for Administrative Litigation, Office of General Counsel, U.S. Department of Energy, 1000 Independence Avenue, S.W., Room 6E–066, Washington, D.C. 20585.

No data or information which is confidential shall be included in any Notice of Objection.

Issued in San Franciso, California, on the 9th day of July 1982.

Patrick J. O'Hern,

Director, San Francisco Office, Economic Regulatory Administration.

[FR Doc. 82–20018 Filed 7–22–82; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Volume 690]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: July 15, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
ARKANSAS OIL & GAS COMMISSION									
-ARKLA EXPLORATION COMPANY				RECEIVED:	06/28/82	JA: AR			
8240261		0313110123	103			TYLER #1-25	BONANZA	498.0	ARKANSAS LOUISIAN
-C & K PETROLEUM INC				RECEIVED:	06/28/82	JA: AR			
8240259		0311510135	103			MORLEY #6-1	MORELAND	336.0	ARKANSAS LOUISIAN
8240260		0311510140	103			REAVIS #1	MORELAND	215.5	ARKANSAS LOUISIAN
LOUISIANA OFFICE OF CONSERVATION									
-AMINOIL OF LOUISIANA INC				RECEIVED:	06/25/82	JA: LA			
8240092	82-819	1707522779	103			E COCKRELL JR #139	LAKE WASHINGTON	0.0	SOUTHERN NATURAL
-AMOCO PRODUCTION CO				RECEIVED:	06/25/82	JA: LA			
8240134	81-2546	1702321545	103			GULF LAND A R/A B #221	EAST MACKBERRY	18.0	VALLEY GAS TRANSM
8240137	82-643	1705721729	103			HARANG ET AL R/A B #41-D	VALENTINE	38.0	COLUMBIA GAS TRAN
8240117	81-2604	1710121122	103			LAWS REALTY CO INC #75	CHARENTON	330.0	TEXAS GAS TRANSMI
-BENGAL OIL & GAS INC				RECEIVED:	06/25/82	JA: LA			
8240193	82-531	1707321849	103			MYHRE #1	MONROE	18.0	UNITED GAS PIPE L
8240194	82-532	1707321846	103			MYHRE #2	MONROE	18.0	UNITED GAS PIPE L
-BETHLAN PRODUCTION CORP				RECEIVED:	06/25/82	JA: LA			
8240098	82-945	1707321674	108			EAST OUACHITA RECREATION DIST #1	MONROE GAS FIELD	6.1	UNITED GAS PIPE L
8240099	82-946	1707321659	108			EAST OUACHITA RECREATION DIST #2	MONROE GAS FIELD	6.1	UNITED GAS PIPE L
8240163	82-942	1707321572	108			GRANT A #7	MONROE GAS FIELD	5.7	GAS TRANSPORTATIO
8240146	82-851	1706721677	103			J 2 RANCH B #1	MONROE GAS FIELD	45.6	GEORGIA PACIFIC C
8240167	82-857	1706721678	103			J 2 RANCH B #2	MONROE GAS FIELD	54.8	GEORGIA PACIFIC C
8240097	82-944	1707321704	108			OSTERLAND PENNZOIL A #1	MONROE GAS FIELD	4.6	UNITED GAS PIPE L
8240114	82-957	1707321481	108			OUACHITA PARISH SCHOOL BOARD #2	MONROE	10.0	UNITED GAS PIPE L
8240113	82-958	1707321402	108			OUACHITA PARISH SCHOOL BOARD #3	MONROE	10.0	UNITED GAS PIPE L
8240131	82-959	1707321418	108			OUACHITA PARISH SCHOOL BOARD #4	MONROE	10.0	UNITED GAS PIPE L
8240161	82-943	1707321645	108			PECAN BAYOU LAND CORP #1	MONROE GAS FIELD	7.0	UNITED GAS PIPE L
-CAPITAL GAS INC				RECEIVED:	06/25/82	JA: LA			
8240188	82-846	1767360624	108			HSU 879 LEE #1	MONROE	7.0	INC PIPELINE CO I
-CRESCENT DRILLING CO INC				RECEIVED:	06/25/82	JA: LA			
8240181	82-847	1707321832	108			CRESCENT DRILLING CO #5	MONROE GAS	5.5	UNITED GAS PIPE L
8240182	82-848	1707321833	108			CRESCENT DRILLING CO NO 6	MONROE GAS	5.5	UNITED GAS PIPE L
-CUSTER K PRIMOS & H J NICHOLAS ASSO				RECEIVED:	06/25/82	JA: LA			
8240093	82-947	1711102508	108			D RABUN SMITH #1	MONROE	1.0	INC PIPELINE CO I
-DEWEY WHITE				RECEIVED:	06/25/82	JA: LA			
8240174	82-690	1708320540	108			L E JOHNSTON #2	RICHLAND	6.3	MID LOUISIANA GAS
-ELGIE CO INC				RECEIVED:	06/25/82	JA: LA			
*8240241	82-802	1701723512	103			N SONIAT #1 PXY SU G	GREENWOOD-WASKOM	55.0	TEXAS EASTERN TRA
-FRANKS & BASS ETAL				RECEIVED:	06/25/82	JA: LA			
8240243	82-60	1706120241	103			COLVIN G #1 CVD RB SUA	UNIONVILLE	73.0	LOUISIANA GAS PUR

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-GAS RESOURCES INC				RECEIVED:	06/25/82	JA: LA			
8240105	82-762	1711122410		108		EXXON #14	MONROE GAS	12.0	IMC PIPELINE CO I
8240151	82-763	1711122391		108		EXXON #15	MONROE GAS	13.0	IMC PIPELINE CO I
8240148	82-764	1711122392		108		EXXON #16	MONROE GAS	9.0	IMC PIPELINE CO I
8240149	82-765	1711122393		108		EXXON #17	MONROE GAS	3.0	IMC PIPELINE CO I
8240212	82-766	1711122502		108		EXXON #18	MONROE GAS	15.0	IMC PIPELINE CO I
8240209	82-767	1711122500		108		EXXON #19	MONROE GAS	3.0	IMC PIPELINE CO I
8240216	82-768	1711122544		108		EXXON #20	MONROE GAS	18.0	IMC PIPELINE CO I
8240221	82-769	1711122849		108		EXXON #22	MONROE GAS	18.0	IMC PIPELINE CO I
-GAS TRANSPORTATION CORPORATION				RECEIVED:	06/25/82	JA: LA			
8240173	82-701	1707321737		108		DONALD #1	MONROE GAS FIELD	0.0	INTERNATIONAL MIN
-GATOR HAWK GAS CO				RECEIVED:	06/25/82	JA: LA			
8240183	82-0849	1711122738		108		BIRD #1	MONROE	12.0	IMC PIPELINE CO I
8240184	82-850	1711123135		108		BIRD #2	MONROE	12.0	IMC PIPELINE CO I
8240150	82-759	1711123301		108		BIRD #3	MONROE	12.0	IMC PIPELINE CO I
-GLENDA PETROLEUM CORP				RECEIVED:	06/25/82	JA: LA			
8240157	82-545	1707321507		103		PENNZOIL 4 #12 S/N 178453	MONROE	15.0	UNITED GAS PIPELI
8240123	82-0702	1707321495		103		PENNZOIL 5 #1 S/N 170612	MONROE	16.0	UNITED GAS PIPELI
8240213	82-703	1707321496		103		PENNZOIL 5 #2 S/N 170613	MONROE	16.0	UNITED GAS PIPELI
8240172	82-704	1707321497		103		PENNZOIL 5 #3 S/N 170614	MONROE	16.0	UNITED GAS PIPELI
8240214	82-705	1707321518		103		PENNZOIL 5 #6 S/N 170670	MONROE	16.0	UNITED GAS PIPELI
8240171	82-706	1707321512		103		PENNZOIL 5 #8 S/N 170672	MONROE	16.0	UNITED GAS PIPELI
8240215	82-501	1707321762		103		STEELE WILLIAMS #3 S/N 175152	MONROE	15.0	UNITED GAS PIPELI
8240226	82-500	1707321763		103		STEELE WILLIAMS #4 S/N 175153	MONROE	15.0	UNITED GAS PIPELI
-GULF OIL CORPORATION				RECEIVED:	06/25/82	JA: LA			
8240182	81-2842	1707522739		103		B L D "E" 156 VU 61	WEST BAY	110.0	TEXAS EASTERN TRA
8240186	81-2772	1707522707		103		SL 192 "PP" #144	WEST BAY	32.0	TEXAS EASTERN TRA
8240118	81-2605	1707522460		103		SL 195 QQ #283-D	QUARANTINE BAY	370.0	UNITED GAS PIPELI
-HADDOX PETROLEUM CORP				RECEIVED:	06/25/82	JA: LA			
8240218	82-940	1711121999		108		EXXON ARCO #3	MONROE	6.2	IMC PIPELINE CO I
8240220	82-938	1711121997		108		EXXON-ARCO #1	MONROE	6.2	IMC PIPELINE CO I
8240217	82-939	1711121998		108		EXXON-ARCO #2	MONROE	6.2	IMC PIPELINE CO I
8240222	82-936	1711121455		108		MEDLIN #2	MONROE	3.1	IMC PIPELINE CO I
8240219	82-937	1711121456		108		MEDLIN #3	MONROE	3.1	IMC PIPELINE CO I
8240162	82-941	1711123094		108		NORMAN #1	MONROE	13.1	IMC PIPELINE CO I
-IMC EXPLORATION COMPANY				RECEIVED:	06/25/82	JA: LA			
8240160	82-543	1707321856		103		MYHRE #6	MONROE	18.0	UNITED GAS PIPELI
8240136	82-645	1711123430		103		OLIN GAS TRANSMISSION CO #86	MONROE	12.0	IMC PIPELINE CO I
8240169	82-887	1711123335		108		PARKS # F-347	MONROE	15.0	IMC PIPELINE CO I
8240127	82-886	1711123350		108		PARKS #F-346	MONROE	15.0	IMC PIPELINE CO I
8240165	82-863	1707321393		108		UNION PRODUCING CO T #12	MONROE	20.0	IMC PIPELINE CO I
-KERR-MCGEE CORPORATION				RECEIVED:	06/25/82	JA: LA			
8240211	82-742	1772620223		103		S L 4409 #13	BRETON SOUND BLOCK 37	104.0	SOUTHERN NATURAL
-L & L ENERGYS INC				RECEIVED:	06/25/82	JA: LA			
8240159	82-539	1701722098		108		MUSLOW #5 SERIAL #153635	CADDO PINE ISLAND	0.0	UNITED GAS PIPELI
-LAMSON/ONSHORE PETROLEUM CORP				RECEIVED:	06/25/82	JA: LA			
8240188	81-2980	1702321488		103		RENA HEBERT #1	BIG LAKE	385.0	VALLEY GAS TRANSM
-LANKFORD & NANCE				RECEIVED:	06/25/82	JA: LA			
8240230	82-558	1711123302		108		BARR #4	MONROE	8.0	TEXAS GAS TRANSMI
8240229	82-562	1711123291		108		FROST #1	MONROE	6.0	TEXAS GAS TRANSMI
8240227	82-564	1711123232		108		FROST #10	MONROE	6.0	TEXAS GAS TRANSMI
8240242	82-563	1711123196		108		FROST #6	MONROE	2.0	TEXAS GAS TRANSMI
8240231	82-560	1711123304		108		PARDUE #1	MONROE	16.0	TEXAS GAS TRANSMI

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8240179	82-559	1711123383		108		PENNZOIL #1	MONROE	12.0	TEXAS GAS TRANSMI
8240224	82-561	1711123305		108		REPPOND #2	MONROE	8.0	TEXAS GAS TRANSMI
8240225	82-557	1711123292		108		S S REPPOND #1	MONROE	8.0	TEXAS GAS TRANSMI
8240232	82-556	1711123165		108		WILSON #1	MONROE	12.0	TEXAS GAS TRANSMI
-LINVILLE NATURAL GAS CO INC				RECEIVED:	06/25/82	JA: LA			
8240095	82-909	1711121313		108		EXXON #1	MONROE	5.0	IMC PIPELINE CO I
8240096	82-910	1711121314		108		EXXON #2	MONROE	7.0	IMC PIPELINE CO I
8240124	82-911	1711121315		108		EXXON #3	MONROE	11.0	IMC PIPELINE CO I
8240111	82-914	1711100524		108		HUMBLE UNIT #6	MONROE	4.0	IMC PIPELINE CO I
8240175	82-895	1711101239		108		P M TURNER ESTATE #2	MONROE	6.0	IMC PIPELINE CO I
8240126	82-893	1711100000		108		PERCY LOVE #1	MONROE	4.0	IMC PIPELINE CO I
8240125	82-892	1711100500		108		R D PILGREEN #1	MONROE	2.0	IMC PIPELINE CO I
8240168	82-894	1711101822		108		W C MORGAN #1	MONROE	2.0	IMC PIPELINE CO
-MARSHALL EXPLORATION INC				RECEIVED:	06/25/82	JA: LA			
8240164	82-868	1703121497		103		COLVIN-CRANER #1 U HOSS RA SUGG	BELLE BOWER	320.0	SOUTHERN NATURAL
8240109	82-772	1703121257		103		HORN #5 HOSS SUAA	LOGANSPORT	200.0	TENNESSEE GAS PIP
8240110	82-771	1703121386		103		LUCY HORN #1 L GR RA SUP	LOGANSPORT	190.0	TENNESSEE GAS PIP
8240145	82-770	1703121270		103		PAUL HOLMES #1 VUA	BELLE BOWER	73.0	ARKANSAS LOUISIAN
-MCRAE EXPLORATION INC				RECEIVED:	06/25/82	JA: LA			
8240139	82-642	1702120462		102-2		OLINKRAFT #1 HOSS RA SUG	COTTON PLANT	0.0	UNITED GAS PIPELI
-MID LOUISIANA GAS COMPANY				RECEIVED:	06/25/82	JA: LA			
8240119	82-929	1707321425		108		GTC- MLGC FEE GAS #11	MONROE GAS FIELD	14.8	MID LOUISIANA GAS
8240234	82-793	1707321394		108		GTC-MLGC FEE GAS #1	MONROE GAS FIELD	17.6	MID LOUISIANA GAS
8240122	82-928	1707321424		108		GTC-MLGC FEE GAS #10	MONROE GAS FIELD	14.8	MID LOUISIANA GAS
8240120	82-930	1707321426		108		GTC-MLGC FEE GAS #12	MONROE GAS FIELD	14.8	MID LOUISIANA GAS
8240132	82-602	1707321733		103		GTC-MLGC FEE GAS #16	MONROE GAS FIELD	28.8	MID LOUISIANA GAS
8240236	82-794	1707321395		108		GTC-MLGC FEE GAS #2	MONROE GAS FIELD	17.6	MID LOUISIANA GAS
8240235	82-795	1707321411		108		GTC-MLGC FEE GAS #3	MONROE GAS FIELD	14.8	MID LOUISIANA GAS
8240237	82-796	1707321412		108		GTC-MLGC FEE GAS #4	MONROE GAS FIELD	14.8	MID LOUISIANA GAS
8240238	82-797	1707321413		108		GTC-MLGC FEE GAS #5	MONROE GAS FIELD	14.8	MID LOUISIANA GAS
8240239	82-798	1707321414		108		GTC-MLGC FEE GAS #6	MONROE GAS FIELD	14.8	MID LOUISIANA GAS
8240240	82-799	1707321416		108		GTC-MLGC FEE GAS #7	MONROE GAS FIELD	14.8	MID LOUISIANA GAS
8240121	82-920	1707321423		108		GTC-MLGC FEE GAS #9	MONROE GAS FIELD	14.8	MID LOUISIANA GAS
8240129	82-603	1707321792		103		MLGC FEE GAS #1085	MONROE GAS FIELD	29.2	MID LOUISIANA GAS
8240130	82-604	1707321793		103		MLGC FEE GAS #1886	MONROE GAS FIELD	29.2	MID LOUISIANA GAS
8240138	82-605	1711123294		103		MLGC FEE GAS #1093	MONROE GAS FIELD	27.3	MID LOUISIANA GAS
-MIDWAY PRODUCTION CO				RECEIVED:	06/25/82	JA: LA			
8240107	82-777	1703218368		103		BLM #1	MONROE	9.0	IMC PIPELINE CO I
-MIDWAY PRODUCTION CO XII				RECEIVED:	06/25/82	JA: LA			
8240108	82-778	1707321805		108		LMB #1	MONROE	21.0	IMC PIPELINE CO I
8240106	82-779	1707321806		108		LMB #2	MONROE	15.0	IMC PIPELINE CO I
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	06/25/82	JA: LA			
8240112	82-919	1703100035		108		SPIDER #1 P SUE	SPIDER	0.0	SOUTHERN NATURAL
-POGO PRODUCING COMPANY				RECEIVED:	06/25/82	JA: LA			
8240184	81-2786	1772620207		102-2		SL 7896 #1	BRETON SOUND BLOCK 23	365.0	UNITED GAS PIPE L
-PRIMOS PRODUCTION CO				RECEIVED:	06/25/82	JA: LA			
8240201	82-575	1711122974		103		FROST LUMBER #42	MONROE	14.4	PETRO-LEWIS FUNDS
8240142	82-568	1711122953		103		PETRO LEWIS FROST LUMBER #34	MONROE	12.3	PETRO-LEWIS FUNDS
8240154	82-750	1711122954		103		PETRO LEWIS FROST LUMBER #36	MONROE	12.3	PETRO LEWIS FUNDS
8240253	82-571	1711122973		103		PETRO LEWIS FROST LUMBER #38	MONROE	15.4	PETRO LEWIS FUNDS
8240252	82-572	1711122955		103		PETRO LEWIS FROST LUMBER #39	MONROE	14.4	PETRO LEWIS FUNDS
8240199	82-573	1711122967		103		PETRO LEWIS FROST LUMBER #40	MONROE	17.5	PETRO LEWIS FUNDS
8240254	82-574	1711122956		103		PETRO LEWIS FROST LUMBER #41	MONROE	14.4	PETRO LEWIS FUNDS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8240241	82-800	1711123295		108		PETRO LEWIS FROST LUMBER #43	MONROE	14.4	PETRO LEWIS FUNDS
8240242	82-801	1711123296		108		PETRO LEWIS FROST LUMBER #44	MONROE	14.4	PETRO LEWIS FUNDS
8240243	82-802	1711123297		108		PETRO LEWIS FROST LUMBER #45	MONROE	14.4	PETRO LEWIS FUNDS
8240244	82-803	1711123298		108		PETRO LEWIS FROST LUMBER #46	MONROE	14.4	PETRO LEWIS FUNDS
8240245	82-804	1711123299		108		PETRO LEWIS FROST LUMBER #47	MONROE	14.4	PETRO LEWIS FUNDS
8240246	82-805	1711123300		108		PETRO LEWIS FROST LUMBER #48	MONROE	14.4	PETRO LEWIS FUNDS
8240247	82-806	1711123301		108		PETRO LEWIS FROST LUMBER #49	MONROE	14.4	PETRO LEWIS FUNDS
8240248	82-807	1711123302		108		PETRO LEWIS FROST LUMBER #50	MONROE	14.4	PETRO LEWIS FUNDS
8240249	82-808	1711123303		108		PETRO LEWIS FROST LUMBER #51	MONROE	14.4	PETRO LEWIS FUNDS
8240250	82-809	1711123304		108		PETRO LEWIS FROST LUMBER #52	MONROE	14.4	PETRO LEWIS FUNDS
8240251	82-810	1711123306		108		PETRO LEWIS FROST LUMBER #53	MONROE	14.4	PETRO LEWIS FUNDS
8240255	82-811	1711123307		108		PETRO LEWIS FROST LUMBER #54	MONROE	14.4	PETRO LEWIS FUNDS
8240256	82-812	1711123308		108		PETRO LEWIS FROST LUMBER #55	MONROE	14.4	PETRO LEWIS FUNDS
8240257	82-813	1711123309		108		PETRO LEWIS FROST LUMBER #56	MONROE	14.4	PETRO LEWIS FUNDS
8240258	82-814	1711123310		108		PETRO LEWIS FROST LUMBER #57	MONROE	14.4	PETRO LEWIS FUNDS
8240259	82-815	1711123311		108		PETRO LEWIS FROST LUMBER #58	MONROE	14.4	PETRO LEWIS FUNDS
8240260	82-816	1711123312		108		PETRO LEWIS FROST LUMBER #59	MONROE	14.4	PETRO LEWIS FUNDS
8240261	82-817	1711123314		108		PETRO LEWIS FROST LUMBER #60	MONROE	14.4	PETRO LEWIS FUNDS
8240262	82-818	1711123315		108		PETRO LEWIS FROST LUMBER #61	MONROE	14.4	PETRO LEWIS FUNDS
8240263	82-819	1711123316		108		PETRO LEWIS FROST LUMBER #62	MONROE	14.4	PETRO LEWIS FUNDS
8240264	82-820	1711123317		108		PETRO LEWIS FROST LUMBER #63	MONROE	14.4	PETRO LEWIS FUNDS
8240265	82-821	1711123318		108		PETRO LEWIS FROST LUMBER #64	MONROE	14.4	PETRO LEWIS FUNDS
8240266	82-822	1711123319		108		PETRO LEWIS FROST LUMBER #65	MONROE	14.4	PETRO LEWIS FUNDS
8240267	82-823	1711123320		108		PETRO LEWIS FROST LUMBER #66	MONROE	14.4	PETRO LEWIS FUNDS
8240268	82-824	1711123321		108		PETRO LEWIS FROST LUMBER #67	MONROE	14.4	PETRO LEWIS FUNDS
8240269	82-825	1711123322		108		PETRO LEWIS FROST LUMBER #68	MONROE	14.4	PETRO LEWIS FUNDS
8240270	82-826	1711123323		108		PETRO LEWIS FROST LUMBER #69	MONROE	14.4	PETRO LEWIS FUNDS
8240271	82-827	1711123324		108		PETRO LEWIS FROST LUMBER #70	MONROE	14.4	PETRO LEWIS FUNDS
8240272	82-828	1711123325		108		PETRO LEWIS FROST LUMBER #71	MONROE	14.4	PETRO LEWIS FUNDS
8240273	82-829	1711123326		108		PETRO LEWIS FROST LUMBER #72	MONROE	14.4	PETRO LEWIS FUNDS
8240274	82-830	1711123327		108		PETRO LEWIS FROST LUMBER #73	MONROE	14.4	PETRO LEWIS FUNDS
8240275	82-831	1711123328		108		PETRO LEWIS FROST LUMBER #74	MONROE	14.4	PETRO LEWIS FUNDS
8240276	82-832	1711123329		108		PETRO LEWIS FROST LUMBER #75	MONROE	14.4	PETRO LEWIS FUNDS
8240277	82-833	1711123330		108		PETRO LEWIS FROST LUMBER #76	MONROE	14.4	PETRO LEWIS FUNDS
8240278	82-834	1711123331		108		PETRO LEWIS FROST LUMBER #77	MONROE	14.4	PETRO LEWIS FUNDS
8240279	82-835	1711123332		108		PETRO LEWIS FROST LUMBER #78	MONROE	14.4	PETRO LEWIS FUNDS
8240280	82-836	1711123333		108		PETRO LEWIS FROST LUMBER #79	MONROE	14.4	PETRO LEWIS FUNDS
8240281	82-837	1711123334		108		PETRO LEWIS FROST LUMBER #80	MONROE	14.4	PETRO LEWIS FUNDS
8240282	82-838	1711123335		108		PETRO LEWIS FROST LUMBER #81	MONROE	14.4	PETRO LEWIS FUNDS
8240283	82-839	1711123336		108		PETRO LEWIS FROST LUMBER #82	MONROE	14.4	PETRO LEWIS FUNDS
8240284	82-840	1711123337		108		PETRO LEWIS FROST LUMBER #83	MONROE	14.4	PETRO LEWIS FUNDS
8240285	82-841	1711123338		108		PETRO LEWIS FROST LUMBER #84	MONROE	14.4	PETRO LEWIS FUNDS
8240286	82-842	1711123339		108		PETRO LEWIS FROST LUMBER #85	MONROE	14.4	PETRO LEWIS FUNDS
8240287	82-843	1711123340		108		PETRO LEWIS FROST LUMBER #86	MONROE	14.4	PETRO LEWIS FUNDS
8240288	82-844	1711123341		108		PETRO LEWIS FROST LUMBER #87	MONROE	14.4	PETRO LEWIS FUNDS
8240289	82-845	1711123342		108		PETRO LEWIS FROST LUMBER #88	MONROE	14.4	PETRO LEWIS FUNDS
8240290	82-846	1711123343		108		PETRO LEWIS FROST LUMBER #89	MONROE	14.4	PETRO LEWIS FUNDS
8240291	82-847	1711123344		108		PETRO LEWIS FROST LUMBER #90	MONROE	14.4	PETRO LEWIS FUNDS
8240292	82-848	1711123345		108		PETRO LEWIS FROST LUMBER #91	MONROE	14.4	PETRO LEWIS FUNDS
8240293	82-849	1711123346		108		PETRO LEWIS FROST LUMBER #92	MONROE	14.4	PETRO LEWIS FUNDS
8240294	82-850	1711123347		108		PETRO LEWIS FROST LUMBER #93	MONROE	14.4	PETRO LEWIS FUNDS
8240295	82-851	1711123348		108		PETRO LEWIS FROST LUMBER #94	MONROE	14.4	PETRO LEWIS FUNDS
8240296	82-852	1711123349		108		PETRO LEWIS FROST LUMBER #95	MONROE	14.4	PETRO LEWIS FUNDS
8240297	82-853	1711123350		108		PETRO LEWIS FROST LUMBER #96	MONROE	14.4	PETRO LEWIS FUNDS
8240298	82-854	1711123351		108		PETRO LEWIS FROST LUMBER #97	MONROE	14.4	PETRO LEWIS FUNDS
8240299	82-855	1711123352		108		PETRO LEWIS FROST LUMBER #98	MONROE	14.4	PETRO LEWIS FUNDS
8240300	82-856	1711123353		108		PETRO LEWIS FROST LUMBER #99	MONROE	14.4	PETRO LEWIS FUNDS
8240301	82-857	1711123354		108		PETRO LEWIS FROST LUMBER #100	MONROE	14.4	PETRO LEWIS FUNDS
8240302	82-858	1711123355		108		PETRO LEWIS FROST LUMBER #101	MONROE	14.4	PETRO LEWIS FUNDS
8240303	82-859	1711123356		108		PETRO LEWIS FROST LUMBER #102	MONROE	14.4	PETRO LEWIS FUNDS
8240304	82-860	1711123357		108		PETRO LEWIS FROST LUMBER #103	MONROE	14.4	PETRO LEWIS FUNDS
8240305	82-861	1711123358		108		PETRO LEWIS FROST LUMBER #104	MONROE	14.4	PETRO LEWIS FUNDS
8240306	82-862	1711123359		108		PETRO LEWIS FROST LUMBER #105	MONROE	14.4	PETRO LEWIS FUNDS
8240307	82-863	1711123360		108		PETRO LEWIS FROST LUMBER #106	MONROE	14.4	PETRO LEWIS FUNDS
8240308	82-864	1711123361		108		PETRO LEWIS FROST LUMBER #107	MONROE	14.4	PETRO LEWIS FUNDS
8240309	82-865	1711123362		108		PETRO LEWIS FROST LUMBER #108	MONROE	14.4	PETRO LEWIS FUNDS
8240310	82-866	1711123363		108		PETRO LEWIS FROST LUMBER #109	MONROE	14.4	PETRO LEWIS FUNDS
8240311	82-867	1711123364		108		PETRO LEWIS FROST LUMBER #110	MONROE	14.4	PETRO LEWIS FUNDS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROL	PURCHASER
8240200	82-576	1711122975		103		PETRO LEWIS FROST LUMBER #43	MONROE	13.3	PETRO LEWIS FUNDS
8240202	82-578	1711122985		103		PETRO LEWIS FROST LUMBER #49	MONROE	16.4	PETRO LEWIS FUNDS
8240248	82-579	1711122986		103		PETRO LEWIS FROST LUMBER #50	MONROE	14.4	PETRO LEWIS FUNDS
8240249	82-580	1711122998		103		PETRO LEWIS FROST LUMBER #51	MONROE	15.4	PETRO LEWIS FUNDS
8240203	82-601	1711123035		103		PETRO LEWIS FROST LUMBER #67	MONROE	16.4	PETRO LEWIS FUNDS
8240223	82-586	1711123178		103		PETRO LEWIS G A MCCORMICK #1	MONROE	0.0	PETRO LEWIS FUNDS
8240191	82-583	1711122913		103		PETRO LEWIS HOLLIS #4	MONROE	0.0	PETRO-LEWIS FUNDS
8240226	82-505	1711123155		103		PETRO LEWIS J S HANDY #3	MONROE	0.0	PETRO LEWIS FUNDS
8240187	82-510	1711123360		103		PETRO LEWIS LA GAS LANDS #1	MONROE	0.0	PETRO LEWIS FUNDS
8240152	82-756	1711123144		103		PETRO LEWIS MARY D WHEELER #3	MONROE	12.3	PETRO LEWIS FUNDS
8240250	82-587	1711123189		103		PETRO LEWIS UNION POWER #19	MONROE	16.4	PETRO LEWIS FUNDS
8240251	82-588	1711123110		103		PETRO LEWIS UNION POWER #20	MONROE	20.5	PETRO LEWIS FUNDS
8240204	82-589	1711123111		103		PETRO LEWIS UNION POWER #21	MONROE	20.5	PETRO LEWIS FUNDS
8240206	82-591	1711123112		103		PETRO LEWIS UNION POWER #24	MONROE	22.6	PETRO LEWIS FUNDS
8240153	82-757	1711123207		103		PETRO LEWIS UNION POWER #26	MONROE	12.3	PETRO LEWIS FUNDS
8240216	82-582	1711122898		103		PETRO-LEWIS C L MCKENNIE #1	MONROE	0.0	PETRO-LEWIS FUNDS
8240178	82-0507	1711123197		103		PETRO-LEWIS CONS COXLION #4	MONROE	0.0	PETRO LEWIS FUNDS
8240197	82-512	1711122904		103		PETRO-LEWIS FROST LUMBER #12	MONROE	20.5	PETRO-LEWIS FUNDS
8240195	82-513	1711122949		103		PETRO-LEWIS FROST LUMBER #30	MONROE	10.3	PETRO LEWIS FUNDS
8240196	82-514	1711122950		103		PETRO-LEWIS FROST LUMBER #31	MONROE	14.4	PETRO LEWIS FUNDS
8240147	82-566	1711122951		103		PETRO-LEWIS FROST LUMBER #32	MONROE	15.4	PETRO LEWIS FUNDS
8240143	82-567	1711122952		103		PETRO-LEWIS FROST LUMBER #33	MONROE	16.4	PETRO-LEWIS FUNDS
8240148	82-569	1711122972		103		PETRO-LEWIS FROST LUMBER #35	MONROE	12.3	PETRO-LEWIS FUNDS
8240144	82-570	1711122964		103		PETRO-LEWIS FROST LUMBER #37	MONROE	14.4	PETRO LEWIS FUNDS
8240245	82-577	1711122976		103		PETRO-LEWIS FROST LUMBER #4	MONROE	225.0	PETRO LEWIS FUNDS
8240246	82-581	1711123426		103		PETRO-LEWIS FROST LUMBER #52	MONROE	24.7	PETRO-LEWIS FUNDS
8240247	82-582	1711122965		103		PETRO-LEWIS FROST LUMBER #53	MONROE	226.5	PETRO LEWIS FUNDS
8240189	82-596	1711123052		103		PETRO-LEWIS FROST LUMBER #61	MONROE	12.3	PETRO LEWIS FUNDS
8240190	82-597	1711123053		103		PETRO-LEWIS FROST LUMBER #62	MONROE	14.4	PETRO LEWIS FUNDS
8240207	82-598	1711123054		103		PETRO-LEWIS FROST LUMBER #63	MONROE	12.3	PETRO-LEWIS FUNDS
8240208	82-599	1711123055		103		PETRO-LEWIS FROST LUMBER #64	MONROE	12.3	PETRO LEWIS FUNDS
8240188	82-600	1711123034		103		PETRO-LEWIS FROST LUMBER #66	MONROE	14.4	PETRO-LEWIS FUNDS
8240198	82-511	1711122890		103		PETRO-LEWIS FROST LUMBER #9	MONROE	14.4	PETRO-LEWIS FUNDS
8240177	82-509	1711123200		103		PETRO-LEWIS H P REALDON #3	MONROE	0.0	PETRO-LEWIS FUNDS
8240128	82-876	1711122938		103		PETRO-LEWIS NOLAN HEIRS #6	MONROE	14.4	PETRO-LEWIS FUNDS
8240205	82-590	1711122997		103		PETRO-LEWIS UNION POWER #23	MONROE	12.3	PETRO LEWIS FUNDS
8240155	82-755	1711123141		103		PETRO-LEWIS UNION PRODUCING #4	MONROE	14.4	PETRO-LEWIS FUNDS
8240192	82-584	1711123143		103		PETRO-LEWIS UNION PRODUCING #6	MONROE	0.0	PETRO-LEWIS FUNDS
-RENUDA OIL & GAS CO				RECEIVED:	06/25/82	JA: LA			
8240133	81-2530	1708120336		103		BEARDEN-VINCENT #1	RED RIVER BULL BAYOU	43.0	LUMAR GAS GATHERI
-ROBERSON WELL SERVICE				RECEIVED:	06/25/82	JA: LA			
8240094	82-906	1707321678		108		PENNZOIL 152 #1	MONROE	15.0	UNITED GAS PIPE L
-SUCCESS OIL & GAS CO INC				RECEIVED:	06/25/82	JA: LA			
8240166	82-861	1710993022		108		JACK T BIRD #2	MONROE	1.0	INC PIPELINE CO I
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	06/25/82	JA: LA			
8240176	82-2950	1702321657		107-DP		LACASSANE CO B #7 VUA	LACASSINE REFUGE	863.0	NATURAL GAS PIPEL
-TEXACO INC				RECEIVED:	06/25/82	JA: LA			
8240178	82-1168	1701722870		102-4	103	ANNIE NORTON #1 MOSS RB SUF	CADDO-PINE ISLAND	365.0	ARKANSAS LOUISIAN
8240116	81-2726	1710922381		103		DGL EE RU SU U12 #78	DOG LAKE	10.0	TEXAS GAS TRANSMI
8240115	82-1169	1701722927		102-4	103	E N ROSS #1 MOSS RB SUE	CADDO-PINE ISLAND	70.0	ARKANSAS LOUISIAN
8240185	81-2779	1710922318		103		LB U-32 #28 VU 32	LAKE BARRE	416.0	KAISER ALUMINUM &
8240244	82-128	1710922466		107-DP		LB U23 #16 VU 23	LAKE BARRE	1555.0	
8240141	82-657	1710121046		103		SL 1819 #5 10986 RA SUB	SWEET BAY LAKE	1640.0	KAISER ALUMINUM &

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8240183	81-2832	1710922240		102-4		SL 168 CI #694 CI L 15000 ROOM SU	CAILLOU ISLAND	178.0	KAISER ALUMINUM &
8240135	81-2601	1710922404		103		SL 301 TERREBONNE BAY #358	CAILLOU ISLAND	100.0	KAISER ALUMINUM &
8240181	81-2971	1710922286		103		SL 301 TERREBONNE BAY 360	CAILLOU ISLAND	1000.0	KAISER ALUMINUM &
-WELLS-BATTELSTEIN OIL & GAS INC				RECEIVED:	06/25/82	JA: LA			
8240158	82-547	1707321845		103		W H THOMPSON #1	MONROE GAS	25.0	I M C PIPELINE CO
8240233	82-548	1711123439		103		W W NOLAN #1	MONROE	50.0	WEST MONROE GAS G
8240156	82-549	1711123440		103		W W NOLAN #2	MONROE	30.0	WEST MONROE GAS G

OKLAHOMA CORPORATION COMMISSION

-APOLLO PRODUCTION LTD				RECEIVED:	06/28/82	JA: OK			
8240267	17175	3507323366		102-4	103	LORENZ AMLDEN #28-5	NE OKARCHE	445.0	
-B & W OIL CO				RECEIVED:	06/28/82	JA: OK			
8240287	15026	3511321192		103		KATIE #1	SE SE SE 26-15N-15E M	68.0	PHILLIPS PETROLEU
-C J CASSELMAN				RECEIVED:	06/28/82	JA: OK			
8240278	14882	3511123348		103		BELISLE #1-8	MORRIS	18.3	
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	06/28/82	JA: OK			
8240282	14993	3509322412		103		J R FOSTER #2	E CHANEY DELL	33.0	UNION TEXAS PETRO
8240277	14666	3509300080		103		META KOEHN #2	E CHANEY DELL	87.0	UNION TEXAS PETRO
-CHASE EXPLORATION CORP				RECEIVED:	06/28/82	JA: OK			
8240290	12376	3507121035		108		BORTH #1-7	UNNAMED	1.0	CITIES SERVICE GA
-CIMARRON MANAGEMENT CORP				RECEIVED:	06/28/82	JA: OK			
8240288	14990	3511721328		103		WARD #3-A	HALLETT	37.0	
8240281	14991	3511721342		103		WARD #4-3	HALLETT	183.0	
-COBRA OIL AND GAS CORPORATION				RECEIVED:	06/28/82	JA: OK			
8240265	16928	3515332130		102-4	103	BOYLE "13" #1		456.0	NORTHERN NATURAL
-CONOCO INC				RECEIVED:	06/28/82	JA: OK			
8240271	15076	3509928315		103		COLLIE JAMES #5	S W SANDY CREEK	352.0	MUSTANG FUEL CORP
-DAVIS OIL COMPANY				RECEIVED:	06/28/82	JA: OK			
8240289	15031	3501121601		103		MEL #1	HACKBERRY	0.0	TRANSOK PIPELINE
-ECC OIL CO				RECEIVED:	06/28/82	JA: OK			
8240291	12286	3514721525		102-2		MITCHELL 1 A-1 SW/4 NE/4 2-27N-13E	EAST DEWEY	270.0	OKAN GAS CO
-F C O OIL CORP				RECEIVED:	06/28/82	JA: OK			
8240270	15073	3500320870		103		STOOKEY 2-1B	RINGWOOD	36.5	CHAMPLIN PETROLEU
-H & O ENERGY MANAGEMENT INC				RECEIVED:	06/28/82	JA: OK			
8240268	17558	3502723685		102-4		REECE #1	NORTHWEST NOBLE	8.0	SUN GAS CO
-HAMILTON BROTHERS OIL CO				RECEIVED:	06/28/82	JA: OK			
8240266	16963	3504520936		102-4		PARKER #1-23	WILDCAT	365.0	UNITED GAS PIPELI
-HAWKINS OIL & GAS INC				RECEIVED:	06/28/82	JA: OK			
8240269	15072	3500722133		103		DESPER #1-34	FLORIS	165.0	
-HIGHLANDS GOODALL & GREER INC				RECEIVED:	06/28/82	JA: OK			
8240292	08059	3505320563		102-2		WIDENER #1	NE GRANT POND CREEK	0.0	CRA INC
-JOE L THOMPSON INC				RECEIVED:	06/28/82	JA: OK			
8240262	17554	3507122367		102-4	103	ONA #1		637.5	
-JOHN R THOMPSON OPERATING INC				RECEIVED:	06/28/82	JA: OK			
8240279	14972	3511122121		103		SIMS 2A	SW SW SE SEC 35 TWP 1	14.6	PHILLIPS PETROLEU
-M & S OIL CO				RECEIVED:	06/28/82	JA: OK			
8240294	12868	3514700000		102-2		PISARRA A #1	WAYSIDE	12.0	COON CREEK GAS IN
8240293	12867	3514700000		102-2		SCUDDER-DUNAWAY #1	WAYSIDE	30.0	COON CREEK GAS IN
8240276	12869	3514700000		102-2		SCUDDER-PRIEST #1	WAYSIDE	42.0	COON CREEK GAS IN
-MACKELLAR INC				RECEIVED:	06/28/82	JA: OK			
8240284	15888	3510320852		103		JOHN #1	EAST GREEN VALLEY	0.0	ARCO OIL & GAS CO
8240286	15010	3507322034		103		MUSICK #1	SOONER TREND	0.0	CITIES SERVICE GA

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8240285	15009	3510321193		103		WILLIAMS #2
-PELTO OIL CO				RECEIVED:	06/28/82	JA: OK
8240263	17555	3507122236		102-4 103		EASTERDAY #1
-RED EAGLE OIL CO				RECEIVED:	06/28/82	JA: OK
8240273	15081	3509322313		103		BERTHA #1
-RONALD W SUMMERS				RECEIVED:	06/28/82	JA: OK
8240264	15084	3518525168		103		KING #1
8240275	15083	3510525169		103		KING #2
8240274	15082	3510525170		103		KING #3
-SAMSON RESOURCES COMPANY				RECEIVED:	06/28/82	JA: OK
8240255	19359	3500700000		108		DILLON LONKER #1
-TRANSIERRA EXPLORATION CORP				RECEIVED:	06/28/82	JA: OK
8240272	15079	3510321438		103		FLORIS DAYTON #1
-VULCAN ENERGY CORP				RECEIVED:	06/28/82	JA: OK
8240288	15027	3507322883		103		PENNER #1
-W & W EXPLORATION INC				RECEIVED:	06/28/82	JA: OK
8240283	15006	3510700000		103		BETA II
**********						
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, ALBUQUERQUE,NM						
**********						
-AMOCO PRODUCTION CO				RECEIVED:	06/28/82	JA: NM 4
8240258	NM 0934-81	3004508575	D	108		HEATH GAS COM "J" #1 (2ND)
-SUPRON ENERGY CORPORATION				RECEIVED:	06/28/82	JA: NM 4
8240256	NM 0972-81	3004511084	D	108		NORDHAUS #7
-TENNECO OIL COMPANY				RECEIVED:	06/28/82	JA: NM 4
8240257	NM 0961-81	3004500000	D	108		LODEWICK #3

FIELD NAME	PROD	PURCHASER
EAST GREEN VALLEY	0.0	ARCO OIL & GAS CO
	309.9	
WEST FAIRVIEW	36.0	PHILLIPS PETROLEU
	3.7	FUEL PRODUCTS INC
	5.5	FUEL PRODUCTS INC
	3.7	FUEL PRODUCTS INC
MOCANE-LAVERNE	19.8	CITIES SERVICE GA
TRANSIERRA-CINNAMON F	16.0	AMINOIL USA INC
SOONER TREND	11.0	PHILLIPS PETROLEU
LAFOON	45.0	KERR - MCGEE CORP
BASIN DAKOTA	25.0	EL PASO NATURAL G
BLANCO MESAVERDE	23.4	SOUTHERN UNION GA
BASIN DAKOTA	20.0	SOUTHERN UNION GA

OTHER PURCHASERS VOLUME NO :690

8240241 ARKANSAS LOUISIANA GAS CO

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MHCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 10 CFR 275.203 and 275.204, file a protest with the Commission on or before August 9, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
- 102–2: New well (2.5 mile rule)
- 102–3: New well (1000 ft rule)
- 102–4: New onshore reservoir
- 102–5: New reservoir on old OCS lease

Section 107–DP: 15,000 feet or deeper
- 107–GB: Geopressured brine
- 107–CS: Coal seams
- 107–DV: Devonian shale
- 107–PE: Production enhancement
- 107–TF: New tight formation
- 107–RT: Recompletion tight formation

Section 108: Stripper well
- 108–SA: Seasonally affected
- 108–ER: Enhanced recovery
- 108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–19891 Filed 7–22–82; 8:45 am]

BILLING CODE 6717–01–M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: July 15, 1982

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
OHIO DEPARTMENT OF NATURAL RESOURCES									
-AGNES BEISSER GAS & OIL				RECEIVED:	06/28/82	JA: OH			
8240298		3416722579		108		BEISSER #1		3.0	VALENTINE OIL CO
-AMERICAN WAY PRODUCTION INC				RECEIVED:	06/28/82	JA: OH			
8240295		3415321063		103	107-TF	TRYBOWSKI-PERDION UNIT #1	BOSTON HEIGHTS	0.0	POI ENERGY INC
-APPALACHIAN ENERGY INC				RECEIVED:	06/28/82	JA: OH			
8240296		3401320336		103		CHARLES CARUTH #1 AE-183	PULTNEY	25.0	COLUMBIA GAS TRAN
8240297		3401320348		103		HERMAN PFRONGER #1 AE-193	PEASE	25.0	COLUMBIA GAS TRAN
-B T SIMPSON JR				RECEIVED:	06/28/82	JA: OH			
8240714		3407534950		103		GLASGO WELL #2	NASHVILLE	70.0	COLUMBIA GAS TRAN
-BARCLAY PETROLEUM INC				RECEIVED:	06/28/82	JA: OH			
8240406		3416923282		103	107-TF	L ELSER #2	WEST SALEM	7.5	COLUMBIA GAS TRAN
-BELDEN & BLAKE OIL PRODUCTION				RECEIVED:	06/28/82	JA: OH			
8240324		3415122678		108		A & M ORAVEC COMM #1 1-0788		3.0	
8240367		3415123036		108		A & R SCHAEFER COMM #1 1-0887		3.0	
8240302		3401920836		108		A MASTRIOANNI #1 1-0744		3.0	
8240328		3415122736		108		C & J WEISENT COMM #1 1-0795		3.0	
8240363		3415123027		108		C & L LINERODE COMM #1 1-0884		3.0	
8240351		3415122917		108		C & M SHILLING #3 1-0866		3.0	
8240321		3415122508		108		C & M STUMP COMM #1 1-0713		3.0	
8240357		3415122947		108		C J SWEITZER COMM #1 1-0874		3.0	
8240304		3401921252		108		C KRETZINGER COMM #1 1-0855		3.0	
8240370		3415123102		108		CANTON VOL FIRE COMM #1 1-0926		3.0	
8240380		3415722993		108		D & B BECKER #1 1-0811		3.0	
8240362		3415123026		108		D & J GABLER COMM #1 1-0886		3.0	
8240374		3415123251		108		D & M REAM #1 1-0961		3.0	
8240329		3415122737		108		D & M REED COMM #1 1-0796		3.0	
8240347		3415122871		108		E & B SPELLMAN COMM #1 1-0853		3.0	NOT YET DETERMINE
8240360		3415122951		108		E & M HARROLD #1 1-0873		3.0	
8240383		3415723230		108		FALL SPRINGS LAKE COMM #1 1-0859		3.0	
8240375		3415123285		108		FRANKLIN REAL EST COMM #3 1-0971		3.0	
8240355		3415122945		108		FRITCHLEY #4 1-0863		3.0	
8240306		3415121801		108		FRITCHLEY COMM #1 1-0516		3.0	
8240346		3415122858		108		FRITCHLEY COMM #2 1-0845		3.0	
8240387		3415122034		108		FRY ANGLE #3 1-0694		3.0	
8240385		3415723392		108		FRY-ANGLE #4 1-0982		3.0	
8240359		3415122950		108		G & L MARCHAND #2 1-0869		3.0	
8240330		3415122746		108		G & L MARCHAND COMM #1 1-0798		3.0	
8240358		3415122948		108		G & V GARREN COMM #2 1-0876		3.0	
8240381		3401920810		108		G DOWELL #2 1-0731		3.0	
8240365		3415123029		108		H & M MYERS #1 1-0892		3.0	
8240318		3415122231		108		H & M RUGANI #1 1-0602		3.0	

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8240352		3415122920		108		H & M TESSMER #1 1-0849		3.0	
8240377		3415123443		108		H & M TESSMER #2 1-0921		3.0	
8240356		3415122946		108		J & C HORNER COMM #1 1-0871		3.0	
8240376		3415123287		108		J & L MAARSCHALK #2 1-0984		3.0	
8240323		3415122652		108		J & L MCCREERY #1		3.0	
8240305		3415121521		108		J & S DAVIS #2 1-0933		3.0	
8240372		3415123195		108		J & S DAVIS #3 1-0956		3.0	
8240338		3415122787		108		J HERSHBERGER #1 1-0833		3.0	
8240341		3415122790		108		J HERSHBERGER COMM #2 1-0834		3.0	
8240319		3415122505		108		J HOWENSTINE #3 1-0709		3.0	
8240339		3415122788		108		J MCCONAGHY COMM #1 1-0832		3.0	
8240344		3415122855		108		K & D VAUGHAN #1 1-0844		3.0	
8240361		3415123025		108		K & H ZELLERS #3 1-0889		3.0	
8240349		3415122892		108		K & R WENGER #1 1-0856		3.0	
8240325		3415122725		108		K HILL #1 1-0793		3.0	
8240373		3415123249		108		L & G POHARESKY COMM #1 1-0947		3.0	
8240336		3415122774		108		L D KRABILL #1 1-0815		3.0	
8240331		3415122757		108		M & A DONAT COMM #1 1-0805		3.0	
8240335		3415122772		108		M & C ROYER #2 1-0807		3.0	
8240353		3415122925		108		M & C YODER 1-0848		3.0	
8240303		3401921016		108		M MASTROINE #1 1-0771		3.0	
8240348		3415122872		108		M WELTY COMM #1 1-0867		3.0	
8240366		3415123030		108		MAGNOLIA MINING #10 1-0881		3.0	
8240308		3415122171		108		MAGNOLIA MINING #4 1-0579		3.0	
8240309		3415122179		108		MAGNOLIA MINING #5 1-0583		3.0	
8240313		3415122371		108		MAGNOLIA MINING #6 1-0679		3.0	
8240314		3415122377		108		MAGNOLIA MINING #7 1-0681		3.0	
8240317		3415122492		108		MAGNOLIA MINING #8 1-0699		3.0	
8240328		3415122583		108		MAGNOLIA MINING COMM #9 1-0712		3.0	
8240312		3415122366		108		MEHL YOUNG COMM #4 1-0675		3.0	
8240343		3415122843		108		O & K MILLER #1 1-0835		3.0	
8240322		3415122591		108		O RICE COMM #1 1-0747		3.0	
8240316		3415122485		108		R & E BROWN COMM #1 1-0696		3.0	
8240337		3415122776		108		R & I HARTLINE COMM #1 1-0804		3.0	
8240334		3415122771		108		R & I HARTLINE COMM #2 1-0812		3.0	
8240333		3415122759		108		R & M WILSON COMM #1 1-0800		3.0	
8240299		3401920712		108		R & O SMITH #3 1-0697		3.0	
8240300		3401920711		108		R & O SMITH #4 1-0698		3.0	
8240340		3415122789		108		R BALTZLEY COMM #1 1-0831		3.0	
8240382		3415723223		108		R BALTZLY #2 1-0865		3.0	
8240381		3415723222		108		R MEEK #1 1-862		3.0	
8240384		3415723284		108		R ROBERTS COMM #1 1-0875		3.0	
8240379		3415722975		108		R SMITH COMM #2 1-0803		3.0	
8240371		3415123115		108		ROHRER-VAUGHAN #3 1-0940		3.0	
8240327		3415122734		108		SHULTZ #1 1-0802		3.0	
8240368		3415123042		108		SPRINGWOOD LAKE #1 1-0896		3.0	
8240354		3415122944		108		V & B PITTIS COMM #1 1-0872		3.0	
8240342		3415122841		108		VAUGHAN H & S COMM #1 1-0840		3.0	
8240369		3415123086		108		W & I SLUSSER COMM #1 1-0911		3.0	
8240318		3415122498		108		W & N BLACKMER COMM #2 1-0850		3.0	
8240364		3415123028		108		W & P AMES COMM #1 1-0891		3.0	
8240332		3415122758		108		W & Z WENGER COMM #1 1-0821		3.0	
8240378		3415722918		108		W DIXLER #1 1-0797		3.0	

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8240315		3415122463		108		W BOWMAN #10 1-0688		3.0	
8240311		3415122293		108		W BOWMAN COMM #7 1-0630		3.0	
8240350		3415122903		108		W WEFLER #5 1-0861		3.0	
8240345		3415122856		108		WALTER BALTZLY #1 1-0817		3.0	
8240326		3415122733		108		1-0818 J STANFORTH COMM #1 1-0818		3.0	
-BERWELL ENERGY INC				RECEIVED:	06/28/82	JA: OH			
8240386		3408323053		103		E BROWN #1	BRINKHAVEN	14.4	OHIO CUMBERLAND G
8240387		3408323054		103		E BROWN #2	BRINKHAVEN	18.8	OHIO CUMBERLAND G
-BUCKEYE CRUDE EXPLORATION INC				RECEIVED:	06/28/82	JA: OH			
8240409		3400922159		107-TF		JOHNSON #10	AMES	1.0	COLUMBIA GAS TRAN
8240407		3400922128		107-TF		JOHNSON #7	AMES	3.6	COLUMBIA GAS TRAN
8240408		3400922129		107-TF		JOHNSON #9	AMES	12.8	COLUMBIA GAS TRAN
-BUCKEYE OIL PRODUCING CO				RECEIVED:	06/28/82	JA: OH			
8240410		3410321808		108		D K & G BRIGGS #2-1		8.2	COLUMBIA GAS TRAN
8240412		3410321810		108		J L SLAYTON #2-3		8.2	COLUMBIA GAS TRAN
8240413		3411121996		107-DV		OLIVE & CLARENCE ROE #1	SENECA	10.0	COLUMBIA GAS TRAN
8240411		3410321809		108		SLAYTON UNIT #2-2 (BRIGGS-SLAYTON)		8.2	COLUMBIA GAS TRAN
-CARLTON OIL CORP				RECEIVED:	06/28/82	JA: OH			
8240414		3416727186		103		MCMAHAN #2	NEWPORT	50.0	RIVER GAS CO
-CARMCO INC				RECEIVED:	06/28/82	JA: OH			
8240415		3410322914		103	107-TF	J TRAMONTE #2	GRANGER	8.8	
-CAVENDISH PETROLEUM OF OHIO INC				RECEIVED:	06/28/82	JA: OH			
8240419		3412122159		108		B C FARMS INC #1-MH		16.0	EAST OHIO GAS CO
8240418		3411923056		108		C WATSON #1-G		14.0	COLUMBIA GAS TRAN
8240417		3405922036		108		HOMER CHAMBERS #1 MD		16.8	EAST OHIO GAS CO
8240416		3405921535		108		OHIO POWER #1-C		3.0	EAST OHIO GAS CO
-CLARENCE SHERMAN				RECEIVED:	06/28/82	JA: OH			
8240713		3415723721		103	107-TF	LADRACH #3	RAGERSVILLE	15.0	EAST OHIO GAS CO
-CLINTON OIL CO				RECEIVED:	06/28/82	JA: OH			
8240420		3411926855		103	107-TF	DUVALL-ROBERTS #1-656	PHILO	10.8	
-COLUMBIA GAS TRANSMISSION CORP				RECEIVED:	06/28/82	JA: OH			
8240467		3411920030		108		AARON E SWANK 706318	SOUTHERN DIST STE OF	3.8	COLUMBIA GAS TRAN
8240469		3411921626		108		BEATRICE B CORBIN 710126	SOUTHERN DIST STE OF	2.8	COLUMBIA GAS TRAN
8240462		3410521307		108		BERNARD CARTER AGT 710160	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8240457		3410521243		108		CARRIE M KING AGT 709917	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8240454		3410520118		108		CHARLES W HECK ETAL 706427	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8240468		3410521293		108		CLEORA SHUMWAY 710073	SOUTHERN DIST STE OF	4.0	COLUMBIA GAS TRAN
8240474		3416920193		108		DAISY E PRIEST 706157	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8240472		3416920006		108		DANIEL J MILLER 706472	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8240461		3410521304		108		DELMAR PULLINS ETAL 710139	SOUTHERN DIST STE OF	3.8	COLUMBIA GAS TRAN
8240431		3408300011		108		DONALD E RIDGEWAY 706857	SOUTHERN DIST STE OF	0.4	COLUMBIA GAS TRAN
8240471		3412721916		108		ELZA HINKLE 709939	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8240459		3410521259		108		ESTA WHITE ETAL 709974	SOUTHERN DIST STE OF	3.8	COLUMBIA GAS TRAN
8240443		3410320208		108		ETHEL K DROGELL ETAL 706394	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8240458		3410521253		108		EVERETT L CROW JR 709927	SOUTHERN DIST STE OF	2.8	COLUMBIA GAS TRAN
8240463		3411520898		108		F E & EILEEN HAINES 709853	SOUTHERN DIST STE OF	1.8	COLUMBIA GAS TRAN
8240455		3410521219		108		FLOYD STOUT ETAL 709843	SOUTHERN DIST STE OF	5.8	COLUMBIA GAS TRAN
8240434		3408700120		108		FRANK BLISS ENSLOW 706768	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8240447		3410321143		108		FRANK SMITH 1-A 710053	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8240460		3411921550		108		FRED IHINGER 709911	SOUTHERN DIST STE OF	5.0	COLUMBIA GAS TRAN
8240421		3400500015		108		HAZEL M SPRINKLE 706221	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8240429		3407520017		108		HELEN BOYD MITTEN 706262	SOUTHERN DIST STE OF	6.7	COLUMBIA GAS TRAN
8240432		3408700117		108		HENRY V SUITER ETAL 706621	SOUTHERN DIST STE OF	3.0	COLUMBIA GAS TRAN

JD NO	JA DAT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8240453		3416528187		108		HOMER BAILEY 706412	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8240422		3400520069		108		HOYLAND B AUSTIN 706275	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8240438		3408700124		108		JAMES T SMITH 706900	SOUTHERN DIST STE OF	4.0	COLUMBIA GAS TRAN
8240437		3408700123		108		JAMES T SMITH706869	SOUTHERN DIST STE OF	3.0	COLUMBIA GAS TRAN
8240423		3400920075		108		JOHN M ROBINSON 706389	SOUTHERN DIST STE OF	6.4	COLUMBIA GAS TRAN
8240440		3410320146		108		JOHN HENRY COX EXEC 706185	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8240469		3411520948		108		KENNETH OSTRANDER 709995	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8240465		3411520959		108		KENNETH OSTRANDER 710101	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8240473		3416920166		108		KENNETH R MILLER 706244	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8240444		3410321109		108		L C KOLLERT 709614	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8240445		3410321115		108		L C KOLLERT 709855	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8240475		3416920949		108		MARGERY RAMSEYER 710119	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8240470		3412720133		108		MARY J HARLAN 706541	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8240448		3410520026		108		MARY ROUSH ETAL 706162	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8240427		3403520316		108		MARY S MARTY 709803	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8240426		3403500013		108		MARY S MARTY 709804	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8240449		3418528839		108		MICHAEL EVANS 706172	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8240450		3410520054		108		MILDRED FITCH 706248	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8240439		3408700126		108		MYRTLE M ASH 705481	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8240433		3408700119		108		ORVILLE CARRICO 706724	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8240436		3408700122		108		R A GRAY 706868	SOUTHERN DIST STE OF	3.0	COLUMBIA GAS TRAN
8240428		3407520012		108		RAYMOND A BIRD 706227	SOUTHERN DIST STE OF	8.4	COLUMBIA GAS TRAN
8240456		3410521226		108		RAYMOND E MAXSON 709854	SOUTHERN DIST STE OF	5.0	COLUMBIA GAS TRAN
8240425		3408921344		108		RICHARD E SHOEMAKEE 710095	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8240466		3411920012		108		RICHARD L HECKEL 706215	SOUTHERN DIST STE OF	0.9	COLUMBIA GAS TRAN
8240442		3418320161		108		ROBERT HENFIELD 706308	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8240430		3407520217		108		RONNIE LEE HARRIS 706216	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8240451		3410520060		108		ROY M BUSH 706279	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8240435		3408700121		108		RUSSELL SCHNEIDER 706827	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8240441		3418320155		108		STANLEY L HARTMAN 706270	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8240446		3410321133		108		TONY A PIVATO 709924	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8240424		3408920092		108		VELMA D POSTON 706422	SOUTHERN DIST STE OF	8.6	COLUMBIA GAS TRAN
8240452		3410520069		108		W HOYT HALL 706299	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
-CONSOLIDATED RESOURCES OF AMERICA				RECEIVED:	06/28/82	JA: OH			
8240477		3412102271		103	107-TF	MELVIN DAVIS #1	CIVIL TOWNSHIP - BUFF	39.0	EAST OHIO GAS CO
-CRYSTAL ENERGY				RECEIVED:	06/28/82	JA: OH			
8240478		3410322619		103	107-TF	THOMAS & THERESA SHUMAY #1	BRUNSWICK	26.0	
-CUYAHOGA EXPLORATION & DEVELOPMENT				RECEIVED:	06/28/82	JA: OH			
8240479		3416727083		107-DV		DELMAR HENDERSHOT #7	DALZELL	23.7	
-DERBY OIL & GAS CORP				RECEIVED:	06/28/82	JA: OH			
8240481A		3408323097		103		CAROLINE KUSS #1	JEFFERSON	12.0	EAST OHIO GAS CO
8240481B		3408323097	D	107-TF		CAROLINE KUSS #1	JEFFERSON	12.0	EAST OHIO GAS CO
8240482A		3408323098		103		RICHARD MARTIN #1	JEFFERSON	12.0	EAST OHIO GAS CO
8240482B		3408323098	D	107-TF		RICHARD MARTIN #1	JEFFERSON	12.0	EAST OHIO GAS CO
8240480A		3408323096		103		ROBERT CUTLIP #1	JEFFERSON	12.0	EAST OHIO GAS COR
8240480B		3408323096	D	107-TF		ROBERT CUTLIP #1	JEFFERSON	12.0	EAST OHIO GAS COR
-DIXIE ENERGY CO				RECEIVED:	06/28/82	JA: OH			
8240483		3415522241		107-TF		FETTY #1	RUTLAND	7.0	COLUMBIA GAS OF O
-DORAN & ASSOCIATES INC				RECEIVED:	06/28/82	JA: OH			
8240484A		3412725231		103		PAUL MUSSER #2	JACKSON	12.0	COLUMBIA GAS TRAN
8240484B		3412725231	D	107-TF		PAUL MUSSER #2	JACKSON	12.0	COLUMBIA GAS TRAN
-DUGAN & EARLYWINE INVESTMENT & DEVE				RECEIVED:	06/28/82	JA: OH			
8240485		3403121479		108		CLARENCE & RUTHERFORD HAYES #2	SPRING MOUNTAIN QUAD	1.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8240486		3403122965		108		DEAN MEEKS #1	BRINKHAVEN QUAD	9.0	COLUMBIA GAS TRAN
-EARTH RESOURCES EXPL DEV CORP				RECEIVED: 06/28/82 JA: OH					
8240487		3416923042		103	107-TF	FITZPATRICK #1	WOOSTER	10.0	
-EDCO DRILLING & PRODUCING INC				RECEIVED: 06/28/82 JA: OH					
8240492		3407523638		103		CRIDER UNIT WB-3A	GREER	18.0	
8240490		3403123706		108		GAMERSTSFELDER MO-2A		18.0	COLUMBIA GAS TRAN
8240489		3403123705		108		GAMERSTSFELDER MO-4A		18.0	COLUMBIA GAS TRAN
8240488		3403123435		108		GAMERTSFELDER MO-1A		18.0	COLUMBIA GAS TRAN
8240491		3403124673		103	107-TF	LAPP WB-2A	CONESVILLE	18.0	
8240493		3416923070		103	107-TF	WB-1F MILLER WB-1F	WILMOT	18.0	
-ENERGY PRODUCTION INC				RECEIVED: 06/28/82 JA: OH					
8240494		3412122708		103	107-TF	ESCHMAN #1	BELLE VALLEY	50.0	TEXAS EASTERN
-ENERGY UNLIMITED INC				RECEIVED: 06/28/82 JA: OH					
8240495		3408922406		107-TF		BOBO #1	LODI TOWNSHIP	0.0	COLUMBIA GAS TRAN
8240496		3408922407		107-TF		CARTER #1	LODI TOWNSHIP	0.0	COLUMBIA GAS TRAN
-EUGENE B CONRAD				RECEIVED: 06/28/82 JA: OH					
8240476		3415723705		103		CAPPELL #2	SANDY	5.0	COLUMBIA GAS TRAN
-FRANKLIN GAS & OIL CO INC				RECEIVED: 06/28/82 JA: OH					
8240497		3408322944		103		DONALD KAUFFMAN #2	GREER	0.0	EAST OHIO GAS CO
-GASEARCH INC				RECEIVED: 06/28/82 JA: OH					
8240499		3400721855		103	107-TF	DELMUL #5	CHERRY VALLEY	28.0	EMPIRE PLATING
-GILBERT OIL CO				RECEIVED: 06/28/82 JA: OH					
8240500		3413322704		103	107-TF	BIRKNER ET AL UNIT #1	STREETSBORO TOWNSHIP	9.0	P O I ENERGY INC
-GLACIER ENERGY CORP				RECEIVED: 06/28/82 JA: OH					
8240501		3408322561		107-TF		T&S AND A&F WAGNER #2	AMESVILLE	10.0	COLUMBIA GAS TRAN
-GNC ENERGY CORP				RECEIVED: 06/28/82 JA: OH					
8240498		3411522464		107-TF		MCCONKEY JAMES & JANICE #9	ROKEBY LOCK	15.0	
-GREEN GAS COMPANY				RECEIVED: 06/28/82 JA: OH					
8240502		3403521127		107-TF		WOIDKE UNIT #1	OLMSTED	27.3	COLUMBIA GAS TRAN
-GUERNSEY PETROLEUM CORPORATION				RECEIVED: 06/28/82 JA: OH					
8240503		3411922880		103		HARDY 1-MD	RICH HILL	46.0	EAST OHIO GAS CO
-HERALD OIL & GAS CO				RECEIVED: 06/28/82 JA: OH					
8240504		3405328522		107-TF		CROW & MORGAN #4	CHESHIRE	0.0	COLUMBIA GAS TRAN
8240505		3410521940		107-TF		HERALD & DOLAN #3	RUTLAND	0.0	COLUMBIA GAS TRAN
-HILLTOP DEVELOPMENT CORP				RECEIVED: 06/28/82 JA: OH					
8240507		3411926238		103		JOHN MCCANN #3	JACKSON	1.0	NATIONAL GAS & OI
-HOLROYD PRODUCTION CO				RECEIVED: 06/28/82 JA: OH					
8240508		3408720151		108		MURNAHAN #1 (CALLICOAT)		2.0	COLUMBIA GAS TRAN
8240509		3408720191		108		P & M FLIEHMAN #1 (HALL)		1.0	COLUMBIA GAS TRAN
8240510		3408720199		108		P & M HOLSCHUH #1		0.0	COLUMBIA GAS TRAN
8240511		3408720202		108		P & M HOLSCHUH #2		0.5	COLUMBIA GAS TRAN
-HOPEWELL OIL AND GAS DEVELOPMENT CO				RECEIVED: 06/28/82 JA: OH					
8240515		3412725571		103		BEULAH & BRUCE COMSTOCK #5	JACKSON	3.0	COLUMBIA GAS TRAN
8240514		3411925047		103	107-TF	R RUCKER #2	BETHLEHEM	20.0	NATIONAL GAS & OI
8240512		3403123163		103	107-TF	R THOMSON #3	BETHLEHEM	0.0	NATIONAL GAS & OI
8240513		3403124476		103	107-TF	THOMSON #2	BETHLEHEM	0.0	NATIONAL GAS & OI
-INTEGRATED PETROLEUM COMPANY INC				RECEIVED: 06/28/82 JA: OH					
8240516		3409921133		107-RT		BROWN #1	GOSHEN	0.0	
8240517		3409921178		107-RT		DIORIO/ELMO #2	BERLIN	0.0	
8240518		3409921179		107-RT		FISHER #1	MILTON	0.0	
-IRVIN PRODUCING COMPANY				RECEIVED: 06/28/82 JA: OH					
8240519		3411925796		103	107-TF	CAW-PRICE #1	ZANESVILLE	35.0	COLUMBIA GAS TRAN
-JANCO WELL OPERATIONS LTD #1-7				RECEIVED: 06/28/82 JA: OH					

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8240521		3415522063		107-TF		HORTON-QUIGGLE UNIT #1	FARMINGTON	0.0	COLUMBIA GAS TRAN
8240520		3415522062		107-TF		RICHARD E JACOBSON #1	FARMINGTON	0.0	COLUMBIA GAS TRAN
-JERRY MOORE INC				RECEIVED: 06/28/82 JA: OH					
8240578		3403123523		103		RICHARD E GILMORE UNIT #2	NEW BEDFORD	1.0	COLUMBIA GAS TRAN
-JOHN C MASON				RECEIVED: 06/28/82 JA: OH					
8240559		3407523752		107-TF		LEVI J SCHLABACH #3	HARDY	10.0	COLUMBIA GAS TRAN
-K S T OIL & GAS CO INC				RECEIVED: 06/28/82 JA: OH					
8240529		3415320857		103	107-TF	BELL #3	NORTHAMPTON	0.0	REPUBLIC STEEL CO
8240530		3415320866		103	107-TF	BELL #4	NORTHAMPTON	0.0	REPUBLIC STEEL CO
8240527		3415320732		103	107-TF	BLOSSOM #2	NORTHAMPTON	0.0	EAST OHIO GAS CO
8240525		3415320681		103	107-TF	E & L REALTY & PONDVIEW CORP #1	STOW	0.0	
8240523		3409921116		103	107-TF	GOTTSCHALL TOOL & DIE #1	GOSHEN	0.0	
8240522		3408721208		103	107-TF	GRAND VALLEY #2	ORWELL	0.0	REPUBLIC STEEL CO
8240532		3415521331		103	107-TF	GRAND VALLEY #3	BLOOMFIELD	0.0	REPUBLIC STEEL CO
8240526		3415320785		103	107-TF	HEVENER UNIT #1	HUDSON	0.0	
8240528		3415320809		103	107-TF	J D & M E BELL #2	NORTHAMTON	0.0	
8240524		3413322287		103	107-TF	LANGE-STONESTREET #6	FREEDOM	0.0	REPUBLIC STEEL CO
8240531		3415320868		103	107-TF	QUINE #1	NORTHAMPTON	0.0	
-KENOIL				RECEIVED: 06/28/82 JA: OH					
8240533		3416922799		107-TF		TED ACKER #1-S	PLAIN	5.0	COLUMBIA GAS TRAN
-KRAMER EXPLORATION CO				RECEIVED: 06/28/82 JA: OH					
8240543		3410522278		107-TF		BARTON #3	POMEROY	12.0	COLUMBIA GAS TRAN
8240537		3416522053		107-TF		CAMPBELL #1	RUTLAND	70.0	COLUMBIA GAS TRAN
8240539		3416522074		107-TF		CHASTEEN #1	RUTLAND	28.0	COLUMBIA GAS TRAN
8240541		3410522182		107-TF		FERRELL #1	BEDFORD	15.0	COLUMBIA GAS TRAN
8240536		3416522025		107-TF		GOEGLEIN #1	RUTLAND	15.0	COLUMBIA GAS TRAN
8240544		3410522345		103		HOFFMAN #1	ALFRED	10.0	COLUMBIA GAS TRAN
8240538		3410522073		107-TF		HYSELL #1	RUTLAND	0.0	COLUMBIA GAS TRAN
8240540		3410522148		107-TF		JOHNSON #1	SALISBURY	20.0	COLUMBIA GAS TRAN
8240534		3405320722		107-TF		O JOHNSON #1	ADDISON	12.0	COLUMBIA GAS TRAN
8240535		3405320723		107-TF		O JOHNSON #2	ADDISON	0.0	COLUMBIA GAS TRAN
8240542		3410522236		107-TF		TAYLOR #1	POMEROY	15.0	COLUMBIA GAS TRAN
-L & M PETROLEUM INC				RECEIVED: 06/28/82 JA: OH					
8240546		3401921556		103		COOPER/ROMIG #1	UHRICHSVILLE	10.0	BONANZA GAS LINE
8240547		3415123698		103		GILL/BOWMAN #1	WAYNESBURG	5.0	BONANZA GAS LINE
-LBJ DRILLING DBA JEFF MORAN				RECEIVED: 06/28/82 JA: OH					
8240545		3408323077		103		DWIGHT GORSUCH #4	MARTINSBURG	0.0	
-LEADER EQUITIES INC				RECEIVED: 06/28/82 JA: OH					
8240548		3411926120		103	107-TF	MOGUE #1	ADAMS	15.0	
-LESLIE OIL & GAS CO INC				RECEIVED: 06/28/82 JA: OH					
8240555		3415521541		107-TF		HOLKO #1	BRISTOL TWP	3.0	AMERICAN ENERGY I
8240557		3415521577		107-TF		HOLKO #2	BRISTOL TWP	3.0	AMERICAN ENERGY I
8240551		3410322213		107-TF		KUSMIK #1	SPENCER	3.0	COLUMBIA GAS TRAN
8240552		3410322279		107-TF		KUSMIK #2	SPENCER	3.0	COLUMBIA GAS TRAN
8240558		3415522008		107-TF		MACDONALD #1	BRISTOL TWP	15.0	AMERICAN ENERGY I
8240549		3418322198		107-TF		MORGAN #1	SPENCER	3.0	COLUMBIA GAS TRAN
8240553		3415520316		107-TF		PETERSHEIM #1	MESOPOTAMIA TWP	11.0	
8240554		3415521402		107-TF		RICHARDS - MOORE #1	MESOPOTAMIA TWP	11.0	
8240550		3418322285		107-TF		RODRIGUEZ #1	SPENCER	3.0	COLUMBIA GAS TRAN
8240556		3415521553		107-TF		STROM #1	NA - BRISTOL TWP	15.0	AMERICAN ENERGY I
-MEIGS JOINT VENTURE				RECEIVED: 06/28/82 JA: OH					
8240564		3411924734		107-RT		GALLOGLY #1	MEIGS	1.2	COLUMBIA GAS TRAN
8240563		3411924407		107-RT		GALLOGLY #10	MEIGS	1.2	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8240562		3411924406		107-RT		GALLOGLY #11	MEIGS	1.2	COLUMBIA GAS TRAN
8240561		3411924405		107-RT		GALLOGLY #12	MEIGS	1.2	COLUMBIA GAS TRAN
8240569		3411924718		107-RT		GALLOGLY #3	MEIGS	1.2	COLUMBIA GAS TRAN
8240565		3411924739		107-RT		GALLOGLY #5	MEIGS	1.2	COLUMBIA GAS TRAN
8240566		3411924147		107-RT		GALLOGLY #7	MEIGS	1.2	COLUMBIA GAS TRAN
8240567		3411924748		107-RT		GALLOGLY #8	MEIGS	1.2	COLUMBIA GAS TRAN
8240568		3411924749		107-RT		GALLOGLY #9	MEIGS	1.2	COLUMBIA GAS TRAN
-MORELAND OIL & GAS				RECEIVED:	06/28/82	JA: OH			
8240572		3410323863		107-TF		HEEGE #1	HINCKLEY	25.0	COLUMBIA GAS TRAN
-MORMACK INDUSTRY INC				RECEIVED:	06/28/82	JA: OH			
8240575		3416922925		107-TF		ED SUTTLE #1	EAST UNION	18.0	COLUMBIA GAS TRAN
8240574		3416922918		107-TF		ERVIN HODGE #1	EAST UNION	19.0	COLUMBIA GAS TRAN
8240573		3416922610		107-TF		ISAAC KEIM #1	WOOSTER EAST	10.0	COLUMBIA GAS TRAN
-MURPHY OIL CO				RECEIVED:	06/28/82	JA: OH			
8240576		3400922010		107-TF		CROWELL #1	LODI TWP	0.0	COLUMBIA GAS TRAN
8240577		3410522211		107-TF		GOEGLEIN #1	RUTLAND TWP	0.0	COLUMBIA GAS TRAN
-MUSK JOINT VENTURE				RECEIVED:	06/28/82	JA: OH			
8240586		3411924708		107-RT		DRAKE #1	BLUE ROCK	1.7	COLUMBIA GAS TRAN
8240585		3411924701		107-RT		DRAKE #3	BLUE ROCK	1.7	COLUMBIA GAS TRAN
8240579		3411924483		107-RT		MITCHELL #4	MEIGS	1.1	COLUMBIA GAS TRAN
8240578		3411924393		107-RT		MITCHELL #5	MEIGS	1.1	COLUMBIA GAS TRAN
8240584		3411924697		107-RT		MITCHELL #6	MEIGS	1.1	COLUMBIA GAS TRAN
8240583		3411924696		107-RT		MITCHELL #7	MEIGS	1.1	COLUMBIA GAS TRAN
8240582		3411924685		107-RT		WHITE #1	BLUE ROCK	0.7	COLUMBIA GAS TRAN
8240581		3411924684		107-RT		WHITE #2	BLUE ROCK	0.7	COLUMBIA GAS TRAN
8240580		3411924683		107-RT		WHITE #3	BLUE ROCK	0.7	COLUMBIA GAS TRAN
-NATIONAL PETROLEUM CORP				RECEIVED:	06/28/82	JA: OH			
8240587		3400720861		107-TF		EWING TANSEY #1	NEW LYME	15.0	OHIO GAS CO
8240596		3400721445		107-TF		KENYON NELSON #3	JEFFERSON	15.0	OHIO GAS CO
8240590		3400721146		107-TF		KENYON NELSON #4	JEFFERSON	15.0	OHIO GAS CO
8240589		3400720960		107-TF		OHIO LAND & TIMBER #1	LENOX	15.0	OHIO GAS CO
8240588		3400720959		107-TF		OHIO LAND & TIMBER #3	LENOX	15.0	OHIO GAS CO
8240592		3400721394		107-TF		REINKE #2	JEFFERSON	15.0	OHIO GAS CO
8240591		3400721254		107-TF		ZORMAN #1	LENOX	15.0	OHIO GAS CO
8240595		3400721418		107-TF		ZORMAN HENERY PORT #1	LENOX	15.0	OHIO GAS CO
8240594		3400721409		107-TF		ZORMAN HENERY PORT #2	LENOX	15.0	OHIO GAS CO
8240593		3400721488		107-TF		ZORMAN HENERY PORT #3	LENOX	15.0	OHIO GAS CO
-NEIL R. WYNN				RECEIVED:	06/28/82	JA: OH			
8240729		3416727172		103		BAUMGARD #1	BARLOW	2.0	COLUMBIA GAS TRAN
8240728		3416727171		103		MIRACLE #1	BARLOW	2.0	COLUMBIA GAS TRAN
-NEW FRONTIER EXPLORATION INC				RECEIVED:	06/28/82	JA: OH			
8240598		3406720430		103 - 107-TF		D SADOWSKI #1	MONROE	28.0	TENNECO
8240597		3401320359		103		JOHN G BROWN #1	SOMERSET	16.0	
-NUCORP ENERGY COMPANY				RECEIVED:	06/28/82	JA: OH			
8240599		3400721713		103 - 107-TF		BEALS #1	NEW LYME	16.0	OHIO GAS CO
-OILTECH INC				RECEIVED:	06/28/82	JA: OH			
8240683		3407522384		107-TF		DAVID KAUFFMAN #1	MECHANIC	0.0	COLUMBIA GAS TRAN
8240682		3407522397		107-TF		GEORGE HIPP #1	HARDY	0.0	COLUMBIA GAS TRAN
8240680		3407522394		107-TF		GEORGE HIPP #2	HARDY	0.0	COLUMBIA GAS TRAN
8240681		3407522396		107-TF		JACK HOYMAN #2	MECHANIC	0.0	COLUMBIA GAS TRAN
8240605		3407523387		107-TF		JOHN LANE #4	KILLBUCK	0.0	COLUMBIA GAS TRAN
8240604		3407523388		107-TF		JOHN LANE #5	KILLBUCK	0.0	COLUMBIA GAS TRAN
-OXFORD OIL CO				RECEIVED:	06/28/82	JA: OH			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8240666		3415723703		103	107-TF	JOHN BOYD #1	MINERAL CITY	10.0	
-PENWIM JOINT VENTURE				RECEIVED:	06/28/82	JA: OH			
8240667		3411924642		107-RT		H WILSON #1	BLUE ROCK	0.9	COLUMBIA GAS TRAN
8240666		3411924638		107-RT		H WILSON #2	BLUE ROCK	0.9	COLUMBIA GAS TRAN
8240662		3411924595		107-RT		H WILSON #3	BLUE ROCK	0.9	COLUMBIA GAS TRAN
8240661		3411924584		107-RT		MOORE #1	BLUE ROCK	1.4	COLUMBIA GAS TRAN
8240660		3411924578		107-RT		MOORE #2	BLUE ROCK	1.4	COLUMBIA GAS TRAN
8240659		3411924576		107-RT		MOORE #3	BLUE ROCK	1.4	COLUMBIA GAS TRAN
8240664		3411924631		107-RT		MOORE #5	BLUE ROCK	1.4	COLUMBIA GAS TRAN
8240663		3411924630		107-RT		MOORE #6	BLUE ROCK	1.4	COLUMBIA GAS TRAN
8240665		3411924634		107-RT		MOORE #7	BLUE ROCK	1.4	COLUMBIA GAS TRAN
8240668		3411924644		107-RT		MOORE #8	BLUE ROCK	1.4	COLUMBIA GAS TRAN
8240654		3411924497		107-RT		PARKER #1	BLUE CREEK	0.9	COLUMBIA GAS TRAN
8240653		3411924490		107-RT		PARKER #2	BLUE ROCK	0.9	COLUMBIA GAS TRAN
8240658		3411924558		107-RT		PARKER #5	BLUE ROCK	0.9	COLUMBIA GAS TRAN
8240655		3411924506		107-RT		PARKER #6	BLUE CREEK	0.9	COLUMBIA GAS TRAN
8240656		3411924523		107-RT		PARKER #7	BLUE ROCK	0.9	COLUMBIA GAS TRAN
8240657		3411924521		107-RT		PARKER #8	BLUE ROCK	0.9	COLUMBIA GAS TRAN
-POI ENERGY INC				RECEIVED:	06/28/82	JA: OH			
8240643		3413321712		108		BENSON #1		10.9	
8240644		3413321838		108		BENSON #2		10.9	
8240645		3413321839		108		BENSON #3		10.9	
8240628		3408726624		108		BOGDON #1		7.9	
8240638		3400721063		108		BOGDON #2		7.9	
8240631		3408721866		108		BOGDON #3		7.9	
8240614		3400720584		108		CARLSON #1		8.3	
8240621		3408720626		108		CARLSON #2		8.3	
8240634		3400721073		108		CARLSON #3		8.3	
8240633		3408721072		108		CARLSON #4		8.3	
8240617		3400720598		108		CLARK UNIT #1		11.7	
8240647		3413321908		108		CONOVER #1		16.8	
8240637		3413321223		108		CORBETT #1		6.6	
8240636		3413321221		108		DREWS #4		2.2	
8240611		3400720566		108		ECKENRODE #1		12.8	
8240626		3408720648		108		HELINSKI #1		13.7	
8240632		3400721067		108		HELINSKI #2		13.7	
8240641		3413321643		108		HOWITT #2		14.7	
8240642		3413321642		108		HOWITT #3		14.7	
8240615		3408720586		108		HUGO #1		2.8	
8240635		3400721974		103	107-TF	J FULLER #1	WINDSOR	25.0	
8240618		3408720621		108		JOZEFCZIK #1		7.6	
8240651		3415320607		108		LAKE ERIE GIRL SCOUTS #1		5.2	
8240652		3415320695		108		LAKE ERIE GIRL SCOUTS #2		5.2	
8240625		3400720642		108		LAYTEMAN #1		6.4	
8240650		3415320602		108		LUTHER #2		5.7	
8240627		3400720650		108		MCKIBBEN #2		4.4	
8240619		3400720622		108		MCKIBBEN #3		4.4	
8240646		3413321862		108		OATES #1		3.7	
8240609		3400720524		108		PIZON UNIT #1		1.6	
8240623		3408720634		108		PIZON UNIT #1		6.2	
8240624		3400720635		108		PIZON UNIT #2		6.2	
8240616		3400720587		108		PLESZ #1		3.5	
8240648		3415320532		108		REID FARM #1		1.3	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8240628		3408720652		108		ROBAKEWICZ #2		5.3	
8240607		3400720242		108		SASALA #1		5.8	
8240638		3413321331		108		SAUNDERS #1		9.8	
8240639		3413321332		108		SAUNDERS #2		8.6	
8240640		3413321424		108		SCHEFFEL #1		18.5	
8240610		3400720556		108		SHAFFER #1		1.7	
8240608		3408720498		108		STANHOPE #1		5.6	
8240629		3400720667		108		STEFANCIN UNIT #1		3.6	
8240612		3408720580		108		WAID UNIT #1		11.9	
8240622		3400720627		108		WARE UNIT #1		6.9	
8240613		3408720583		108		WAUGAMAN #1		5.5	
8240649		3415320601		108		WOOD RUFF #1		8.2	
-QUAKER STATE OIL REFINING CORP		RECEIVED: 06/28/82 JA: OH							
8240673		3401921449		103	107-TF	C MAYLE #1	BROWN	27.4	MB OPERATING CO I
8240674		3401921453		103	107-TF	CASPER #1	BROWN	27.4	MB OPERATING CO I
8240670		3400922567		103	107-TF	DRY DOCK COAL #3	YORK	18.3	COLUMBIA GAS TRAN
8240671		3401921439		103	107-TF	EPPLER UNIT #1	BROWN	27.0	MB OPERATING CO I
8240672		3401921448		103	107-TF	FARMER UNIT #1	BROWN	27.4	MB OPERATING CO I
8240675		3407322638		103	107-TF	SUNDAY CREEK COAL CO #59	WARD	7.3	COLUMBIA GAS TRAN
-R GENE,BRASEL DBA BRASEL & BRASEL		RECEIVED: 06/28/82 JA: OH							
8240403		3405320726		103	107-TF	D WAREHIME #2	GALLIPOLIS	2.0	COLUMBIA GAS TRAN
8240404		3405320727		103	107-TF	D WAREHIME #3	GALLIPOLIS	2.0	COLUMBIA GAS TRAN
8240405		3405320728		103	107-TF	D WAREHIME #4	GALLIPOLIS	2.0	COLUMBIA GAS TRAN
8240400		3405320684		103	107-TF	F CAMERON SANDS #2	ADDISON	2.0	COLUMBIA GAS TRAN
8240393		3405320553		107-TF		FLORENCE PHILLIPS #2	ADDISON	1.8	COLUMBIA GAS TRAN
8240392		3405320552		107-TF		FLORENCE PHILLIPS #3	ADDISON	0.0	COLUMBIA GAS TRAN
8240394		3405320572		107-TF		GEORGE STOVER #1	ADDISON	2.0	COLUMBIA GAS TRAN
8240402		3405320690		103	107-TF	H DARST #5	CHESHIRE	2.0	COLUMBIA GAS TRAN
8240401		3405300687		103	107-TF	H DARST #6	CHESHIRE	2.0	COLUMBIA GAS TRAN
8240389		3405320442		107-TF		HOBART M DARST #3	CHESHIRE	2.0	COLUMBIA GAS TRAN
8240391		3405320444		107-TF		HOBART M DARST #4	CHESHIRE	1.0	COLUMBIA GAS TRAN
8240388		3405320245		108		JAMES L CONKLE #1	CHESHIRE	2.0	COLUMBIA GAS TRAN
8240390		3405320443		107-TF		JOSEPH LEACH #5	CHESHIRE	1.5	COLUMBIA GAS TRAN
8240395		3405320573		103		MARY K SOWARDS #4	ADDISON	2.0	COLUMBIA GAS TRAN
8240397		3405320623		107-TF		MOUNTAINEER LAND CO #2	ADDISON	2.0	COLUMBIA GAS TRAN
8240396		3405320618		107-TF		MOUNTAINEER LAND CO #1	ADDISON	1.5	COLUMBIA GAS TRAN
8240398		3405320682		107-TF		RICHARD BARRETT #2	ADDISON	2.0	COLUMBIA GAS TRAN
8240399		3405320683		107-TF		RICHARD BARRETT #3	ADDISON	0.0	COLUMBIA GAS TRAN
-RICHARD C POLING		RECEIVED: 06/28/82 JA: OH							
8240669		3412725522		103		MULLINS-LINDAMOOD RAYMOND STIMME 1	PIKE	5.0	
-RINCO OPERATING INC		RECEIVED: 06/28/82 JA: OH							
8240677		3416929800		103	107-TF	BOWERS #9	PLAIN	12.0	COLUMBIA GAS TRAN
8240678		3416923291		103	107-TF	E STULL #3	PLAIN	12.0	COLUMBIA GAS TRAN
8240676		3416922680		103	107-TF	RICE #3	FRANKLIN	12.0	COLUMBIA GAS TRAN
-ROCK JOINT VENTURE		RECEIVED: 06/28/82 JA: OH							
8240679		3411924597		107-RT		BETZ #1	BLUE ROCK	2.5	COLUMBIA GAS TRAN
8240682		3411924643		107-RT		BETZ #2	BLUE ROCK	2.5	COLUMBIA GAS TRAN
8240681		3411924637		107-RT		BETZ #3	BLUE ROCK	2.5	COLUMBIA GAS TRAN
8240683		3411924645		107-RT		BETZ #4	BLUE ROCK	2.5	COLUMBIA GAS TRAN
8240680		3411924633		107-RT		BETZ #5	BLUE ROCK	2.5	COLUMBIA GAS TRAN
8240685		3411924699		107-RT		BETZ #6	BLUE ROCK	2.5	COLUMBIA GAS TRAN
8240684		3411924698		107-RT		BETZ #7	BLUE ROCK	2.5	COLUMBIA GAS TRAN
-RONALD F MORAN		RECEIVED: 06/28/82 JA: OH							

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8240571		3403123813		103		JOSEPH GOMEZ #2	PERRYTON	0.0	
-ROYAL PETROLEUM 81-III LTD				RECEIVED:	06/28/82	JA: OH			
8240686		3410522399		103		HOSKINS #1	REDFORD	5.0	COLUMBIA GAS TRAN
-SALT CREEK JOINT VENTURE				RECEIVED:	06/28/82	JA: OH			
8240693		3411924839		107-TF		FRALEY #2	SALT CREEK	1.6	COLUMBIA GAS TRAN
8240695		3411924844		107-TF		G & J WILSON #1	SALT CREEK	0.8	COLUMBIA GAS TRAN
8240696		3411924845		107-TF		G & J WILSON #2	SALT CREEK	0.8	COLUMBIA GAS TRAN
8240694		3411924843		107-TF		G & J WILSON #4	SALT CREEK	0.8	COLUMBIA GAS TRAN
8240697		3411924847		107-TF		G & J WILSON #5	SALT CREEK	0.8	COLUMBIA GAS TRAN
8240698		3411924848		107-TF		G & J WILSON #6	SALT CREEK	0.8	COLUMBIA GAS TRAN
8240701		3411924859		107-TF		G & J WILSON #7	SALT CREEK	0.8	COLUMBIA GAS TRAN
8240703		3411925215		103	107-TF	HOCK #2	SALT CREEK	0.5	COLUMBIA GAS TRAN
8240689		3411924831		107-RT		MCNUTT #1	SALT CREEK	0.7	COLUMBIA GAS TRAN
8240691		3411924833		107-RT		MCNUTT #2	SALT CREEK	0.7	COLUMBIA GAS TRAN
8240690		3411924832		107-RT		MCNUTT #3	SALT CREEK	0.7	COLUMBIA GAS TRAN
8240700		3411924851		107-TF		SHOOK #1	SALT CREEK	0.8	COLUMBIA GAS TRAN
8240699		3411924850		107-TF		SHOOK #2	SALT CREEK	0.8	COLUMBIA GAS TRAN
8240688		3411924818		107-RT		WHEELER #2	SALT CREEK	0.8	COLUMBIA GAS TRAN
8240687		3411924809		107-RT		WHEELER #3	SALT CREEK	0.8	COLUMBIA GAS TRAN
8240692		3411924836		107-RT		WHEELER #4	SALT CREEK	0.8	COLUMBIA GAS TRAN
8240702		3411925174		103	107-TF	WILLS #1	SALT CREEK	1.5	COLUMBIA GAS TRAN
-SANDHILL ENERGY INC (OH)				RECEIVED:	06/28/82	JA: OH			
8240707		3416727029		107-DV		CLIFFORD CHANEY #1	GRANDVIEW	14.6	
8240704		3416726947		107-DV		GEORGE B SHAPLEY #3	NEW MATAMORAS	0.0	
8240705		3416727150		103		GEORGE SHAPLEY #7	NEW MATAMORAS	10.9	
8240706		3416727151		103		GEORGE SHAPLEY #8	NEW MATAMORAS	18.2	
-SCHWANCO INC				RECEIVED:	06/28/82	JA: OH			
8240708		3410321941		108		SCHWAN #1		20.0	COLUMBIA GAS TRAN
8240710		3410321943		108		SCHWAN #2		20.0	COLUMBIA GAS TRAN
8240709		3410321942		108		SCHWAN #3		20.0	COLUMBIA GAS TRAN
8240711		3410321944		108		SCHWAN #4		20.0	COLUMBIA GAS TRAN
-SIMON HERSHBERGER				RECEIVED:	06/28/82	JA: OH			
8240586		3487521697		108		SIMON HERSHBERGER	FREDERICKSBURG QUAD	13.8	COLUMBIA GAS TRAN
-STEPHEN SENG				RECEIVED:	06/28/82	JA: OH			
8240712		3408321654		108		WILLEY #1 PERMIT #1654	CLINTON	7.6	COLUMBIA GAS TRAN
-TIGER OIL INC				RECEIVED:	06/28/82	JA: OH			
8240716		3411122848		103		BRADFIELD #3	JACKSON	0.0	RIVER GAS CO
8240715		3411122634		103		MARTHA SHEETS #1	WASHINGTON	0.0	RIVER GAS CO
-TITAN ENERGY CORP				RECEIVED:	06/28/82	JA: OH			
8240717		3415522936		103	107-TF	BOYCAN - UNIT - #1	ORANGEVILLE	20.0	COLUMBIA GAS TRAN
-TOWNER PETROLEUM CO				RECEIVED:	06/28/82	JA: OH			
8240718		3405923206		103	107-TF	R YOUNG #1	EAST GUERNSEY	0.0	TENNESSEE GAS PIP
-UNITED PETROLEUM CORP				RECEIVED:	06/28/82	JA: OH			
8240722		3413320880		108		BLACK #3	SHALERSVILLE	2.5	AMERICAN ENERGY S
8240719		3409920567		108		CUA #1	ELLSWORTH	28.8	AMERICAN ENERGY S
8240720		3409920568		108		SCHESLER #1	ELLSWORTH	8.8	AMERICAN ENERGY S
8240721		3409921007		108		WILT #3	GOSHEN	7.0	AMERICAN ENERGY S
-VICTOR MCKENZIE				RECEIVED:	06/28/82	JA: OH			
8240560		3412725393		103	107-TF	JOSEPHINE HELRIGGLE C #2	FULTONHAM	6.8	
-VIKING RESOURCES CORP				RECEIVED:	06/28/82	JA: OH			
8240723		3413321876		108		MYERS-HOWARD UNIT #1		2.0	EAST OHIO GAS CO
8240724		3413322611		103	107-TF	T MIX UNIT #6	DEERFIELD	30.0	
-WALLICK PETROLEUM CO				RECEIVED:	06/28/82	JA: OH			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8240727		3413322612		103	107-TF	T MIX UNIT #7	DEERFIELD	30.0	
-WEST VIRGINIA OIL & GAS CO				RECEIVED:	06/28/82	JA: OH			
8240728		4703701000		108		ROBERT HOLLAND #1		0.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240729		3413322613		103	107-TF	T MIX UNIT #8	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240730		3413322614		103	107-TF	T MIX UNIT #9	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240731		3413322615		103	107-TF	T MIX UNIT #10	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240732		3413322616		103	107-TF	T MIX UNIT #11	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240733		3413322617		103	107-TF	T MIX UNIT #12	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240734		3413322618		103	107-TF	T MIX UNIT #13	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240735		3413322619		103	107-TF	T MIX UNIT #14	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240736		3413322620		103	107-TF	T MIX UNIT #15	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240737		3413322621		103	107-TF	T MIX UNIT #16	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240738		3413322622		103	107-TF	T MIX UNIT #17	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240739		3413322623		103	107-TF	T MIX UNIT #18	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240740		3413322624		103	107-TF	T MIX UNIT #19	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240741		3413322625		103	107-TF	T MIX UNIT #20	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240742		3413322626		103	107-TF	T MIX UNIT #21	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240743		3413322627		103	107-TF	T MIX UNIT #22	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240744		3413322628		103	107-TF	T MIX UNIT #23	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240745		3413322629		103	107-TF	T MIX UNIT #24	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240746		3413322630		103	107-TF	T MIX UNIT #25	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240747		3413322631		103	107-TF	T MIX UNIT #26	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240748		3413322632		103	107-TF	T MIX UNIT #27	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240749		3413322633		103	107-TF	T MIX UNIT #28	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240750		3413322634		103	107-TF	T MIX UNIT #29	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240751		3413322635		103	107-TF	T MIX UNIT #30	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240752		3413322636		103	107-TF	T MIX UNIT #31	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240753		3413322637		103	107-TF	T MIX UNIT #32	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240754		3413322638		103	107-TF	T MIX UNIT #33	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240755		3413322639		103	107-TF	T MIX UNIT #34	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240756		3413322640		103	107-TF	T MIX UNIT #35	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240757		3413322641		103	107-TF	T MIX UNIT #36	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240758		3413322642		103	107-TF	T MIX UNIT #37	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240759		3413322643		103	107-TF	T MIX UNIT #38	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240760		3413322644		103	107-TF	T MIX UNIT #39	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240761		3413322645		103	107-TF	T MIX UNIT #40	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240762		3413322646		103	107-TF	T MIX UNIT #41	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240763		3413322647		103	107-TF	T MIX UNIT #42	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240764		3413322648		103	107-TF	T MIX UNIT #43	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240765		3413322649		103	107-TF	T MIX UNIT #44	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240766		3413322650		103	107-TF	T MIX UNIT #45	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240767		3413322651		103	107-TF	T MIX UNIT #46	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240768		3413322652		103	107-TF	T MIX UNIT #47	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240769		3413322653		103	107-TF	T MIX UNIT #48	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240770		3413322654		103	107-TF	T MIX UNIT #49	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240771		3413322655		103	107-TF	T MIX UNIT #50	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240772		3413322656		103	107-TF	T MIX UNIT #51	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240773		3413322657		103	107-TF	T MIX UNIT #52	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240774		3413322658		103	107-TF	T MIX UNIT #53	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240775		3413322659		103	107-TF	T MIX UNIT #54	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240776		3413322660		103	107-TF	T MIX UNIT #55	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240777		3413322661		103	107-TF	T MIX UNIT #56	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240778		3413322662		103	107-TF	T MIX UNIT #57	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240779		3413322663		103	107-TF	T MIX UNIT #58	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240780		3413322664		103	107-TF	T MIX UNIT #59	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240781		3413322665		103	107-TF	T MIX UNIT #60	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240782		3413322666		103	107-TF	T MIX UNIT #61	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240783		3413322667		103	107-TF	T MIX UNIT #62	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240784		3413322668		103	107-TF	T MIX UNIT #63	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240785		3413322669		103	107-TF	T MIX UNIT #64	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240786		3413322670		103	107-TF	T MIX UNIT #65	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240787		3413322671		103	107-TF	T MIX UNIT #66	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240788		3413322672		103	107-TF	T MIX UNIT #67	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240789		3413322673		103	107-TF	T MIX UNIT #68	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240790		3413322674		103	107-TF	T MIX UNIT #69	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240791		3413322675		103	107-TF	T MIX UNIT #70	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240792		3413322676		103	107-TF	T MIX UNIT #71	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240793		3413322677		103	107-TF	T MIX UNIT #72	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240794		3413322678		103	107-TF	T MIX UNIT #73	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240795		3413322679		103	107-TF	T MIX UNIT #74	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240796		3413322680		103	107-TF	T MIX UNIT #75	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240797		3413322681		103	107-TF	T MIX UNIT #76	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240798		3413322682		103	107-TF	T MIX UNIT #77	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240799		3413322683		103	107-TF	T MIX UNIT #78	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240800		3413322684		103	107-TF	T MIX UNIT #79	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240801		3413322685		103	107-TF	T MIX UNIT #80	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240802		3413322686		103	107-TF	T MIX UNIT #81	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240803		3413322687		103	107-TF	T MIX UNIT #82	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240804		3413322688		103	107-TF	T MIX UNIT #83	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240805		3413322689		103	107-TF	T MIX UNIT #84	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240806		3413322690		103	107-TF	T MIX UNIT #85	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240807		3413322691		103	107-TF	T MIX UNIT #86	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240808		3413322692		103	107-TF	T MIX UNIT #87	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240809		3413322693		103	107-TF	T MIX UNIT #88	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240810		3413322694		103	107-TF	T MIX UNIT #89	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240811		3413322695		103	107-TF	T MIX UNIT #90	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240812		3413322696		103	107-TF	T MIX UNIT #91	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240813		3413322697		103	107-TF	T MIX UNIT #92	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240814		3413322698		103	107-TF	T MIX UNIT #93	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240815		3413322699		103	107-TF	T MIX UNIT #94	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240816		3413322700		103	107-TF	T MIX UNIT #95	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240817		3413322701		103	107-TF	T MIX UNIT #96	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240818		3413322702		103	107-TF	T MIX UNIT #97	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240819		3413322703		103	107-TF	T MIX UNIT #98	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240820		3413322704		103	107-TF	T MIX UNIT #99	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240821		3413322705		103	107-TF	T MIX UNIT #100	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240822		3413322706		103	107-TF	T MIX UNIT #101	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240823		3413322707		103	107-TF	T MIX UNIT #102	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240824		3413322708		103	107-TF	T MIX UNIT #103	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240825		3413322709		103	107-TF	T MIX UNIT #104	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240826		3413322710		103	107-TF	T MIX UNIT #105	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240827		3413322711		103	107-TF	T MIX UNIT #106	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240828		3413322712		103	107-TF	T MIX UNIT #107	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240829		3413322713		103	107-TF	T MIX UNIT #108	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240830		3413322714		103	107-TF	T MIX UNIT #109	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240831		3413322715		103	107-TF	T MIX UNIT #110	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240832		3413322716		103	107-TF	T MIX UNIT #111	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240833		3413322717		103	107-TF	T MIX UNIT #112	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240834		3413322718		103	107-TF	T MIX UNIT #113	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240835		3413322719		103	107-TF	T MIX UNIT #114	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240836		3413322720		103	107-TF	T MIX UNIT #115	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240837		3413322721		103	107-TF	T MIX UNIT #116	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240838		3413322722		103	107-TF	T MIX UNIT #117	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240839		3413322723		103	107-TF	T MIX UNIT #118	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240840		3413322724		103	107-TF	T MIX UNIT #119	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240841		3413322725		103	107-TF	T MIX UNIT #120	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240842		3413322726		103	107-TF	T MIX UNIT #121	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240843		3413322727		103	107-TF	T MIX UNIT #122	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240844		3413322728		103	107-TF	T MIX UNIT #123	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240845		3413322729		103	107-TF	T MIX UNIT #124	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240846		3413322730		103	107-TF	T MIX UNIT #125	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240847		3413322731		103	107-TF	T MIX UNIT #126	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240848		3413322732		103	107-TF	T MIX UNIT #127	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240849		3413322733		103	107-TF	T MIX UNIT #128	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240850		3413322734		103	107-TF	T MIX UNIT #129	DEERFIELD	30.0	
-WILLIAM ARTHUR KIDD				RECEIVED:	06/28/82	JA: OH			
8240851		3413322735		103	107-TF	T MIX UNIT #130	DEERF

JD NO	JA DKT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8240726		3411925923	103	107-TF	LEONARD SMITH #1	JACKSON	12.0	COLUMBIA GAS TRAN
-WESTMORELAND INVESTORS LTD.			RECEIVED: 06/28/82		JA: OH			
8240727		3416725498	107-DV		EARL & BEULAH CONGLETON #1	LIBERTY	50.0	
-MOA INC 80			RECEIVED: 06/28/82		JA: OH			
8240725		3410322155	103	107-TF	FRANKS #3	SHARON	20.0	

CORRECTIONS TO PREVIOUS NOTICES OF DETERMINATION

JD No.	JA	Applicant	Well Name	Orig. FERC Vol. No.	Date Pub. in Federal Register	C:	Correction to prior Fed. Register notice
80-34665	TX	Mitchell Energy Corp	Denver Caddo Congl U #1-1	213	6-06-80	C:	Well Name
80-47267	TX	Tenneco Oil Company	Bowers "A" & "C" #4-A	257	8-18-80	C:	Well Name
80-51380MMS(WY)		Ladd Petroleum Corp	Duncan Federal #30-24 (Mission Cyn)	268	9-17-80	C:	Well is on Federal land; Orig. determ. by ND affirmed by MMS(WY)
81-35251	KY	Plateau Resource Dev	PR-1 William C Parris	460	7-02-81	C:	Well Name
82-00625	TX	GHR Energy	La Perla #29	527	10-30-81	C:	102-4 & 107-TF Approved
82-06192MMS(WY)		Ladd Petroleum Corp	Duncan Federal #30-22	553	12-14-81	C:	Well is on Federal land Orig. determ. by ND affirmed by MMS(WY)
82-10102	OK	Whitmar Exploration Co	Rees #1-13 LT	573	1-08-82	C:	103 Approved; not 102-4
82-14306	TX	Texaco Inc.	C W Lamkin NCT-2 #1	589	2-11-82	C:	Well Name
82-14652	CA	TXO Production	Porter 13-1	591	2-11-82	C:	Well Name
82-14654MMS(WY)		Ladd Petroleum Corp	Duncan Federal #30-24 (Red River)	591	2-11-82	C:	Well is on Federal land Orig. determ. by NG affirmed by MMS(WY)
82-18933	OK	Hadson Petroleum Corp	Blaylock "C" #1	607	3-15-82	C:	102-4 & 103 Approved
82-20608	TX	American Quasar Pet. Co	Truett Flachs #1-71	615	4-01-82	C:	Well Name
82-20636	TX	Champlin Petroleum Co	Louis Knesek #2	615	4-01-82	C:	102-2 & 103 Approved
82-25650	TX	TX Petroleum Co	Charlie Muil #2	637	4-23-82	C:	Applicant Name
82-25698	TX	Wagner & Brown	Hildebrand #19-12	637	4-23-82	C:	Well Name
82-25699	TX	Wagner & Brown	Hildebrand #20-26	637	4-23-82	C:	Well Name
82-25891	TX	Bob Wallace Oil Co	#2-7 Hays Trust(04938)	637	4-23-82	C:	Well Name
82-26413	NY	Trahan Petroleum Inc	E Bly #2	640	5-05-82	C:	107-TF Approved; not 107-DV
82-26414	NY	Trahan Petroleum Inc	Cowen #3	640	5-05-82	C:	107-TF Approved; not 107-DV
82-26415	NY	Trahan Petroleum Inc	George Peterson-Croner #4	640	5-05-82	C:	107-TF Approved; not 107-DV
82-26416	NY	Trahan Petroleum Inc	Thomas Potter #2	640	5-05-82	C:	107-TF Approved; not 107-DV
82-26417	NY	Trahan Petroleum Inc	R H Milspaw NY #16	640	5-05-82	C:	107-TF Approved; not 107-DV
82-26418	NY	Trahan Petroleum Inc	B. Rendell-Ny #80	640	5-05-82	C:	107-TF Approved; not 107-DV
82-26419	NY	Trahan Petroleum Inc	Vruwink - NY #13	640	5-05-82	C:	107-TF Approved; not 107-DV
82-26421	NY	Trahan Petroleum Inc	Widrig - NY #68	640	5-05-82	C:	107-TF Approved; not 107-DV
82-26422	NY	Trahan Petroleum Inc	Roger Neil - NY #7	640	5-05-82	C:	107-TF Approved; not 107-DV
82-26423	NY	Trahan Petroleum Inc	Keem #1	640	5-05-82	C:	107-TF Approved; not 107-DV
82-26459	NY	Trahan Petroleum Inc	E Bly #1	640	5-05-82	C:	107-TF Approved; not 107-DV

CORRECTIONS TO PREVIOUS NOTICES OF DETERMINATION

JD No.	JA	Applicant	Well Name	Orig. FERC Vol. No.	Date Pub. in Federal Register	C:	Correction to prior Fed. Register notice
82-26460	NY	Trahan Petroleum Inc	Leo Ackley #2	640	5-05-82	C:	107-TF Approved; not 107-DV
82-27111	TX	Windsor Producing Co	Erwin Unit #1	642	5-07-82	C:	103 Approved; not 102-2
82-27153	TX	Mitchell Energy	J R Halsdl No. 16	642	5-07-82	C:	103 Approved, not 108
82-27281	TX	Jennings Explo. Co	George Thoreen #2(93059)	642	5-07-82	C:	Well Name
82-28171MMS(NM)		El Paso Natural Gas Co	San Juan 28-7 Unit #154	646	5-17-82	C:	Well Name
82-28244	UT	Frank B Adams	Jouflas #2	646	5-17-82	C:	Well Name
82-28598	PA	Tarrus Oil Corp	Merritt #1 ER1-20871	647	5-17-82	C:	107-TF Approved,
82-29997MMS(WY)		American Quasar Pet Co	Riley Ridge Federal 10-14	652	5-28-82	C:	107-DP Approved, not 107-TF
82-30410	OK	Richard Wheeler Jr	Lattimere #2	654	6-03-82	C:	Well Name
82-31642	OK	Hilliard O & G Inc	#1 Bullock	659	6-08-82	C:	103 Approved, not 102-4
82-31646	OH	Altheire Oil Inc	Martin #1	659	6-08-82	C:	103 & 107-TF Approved
82-31911	OK	Arkla Cxpl. Company	Essary-Huseby #1-20	660	6-08-82	C:	102-3 Approved, not 102-2
82-32560	TX	Scandrill Co	Putnam #14	662	6-14-82	C:	103 Approved, not 102-4
82-32700	TX	Mobil Prdg Tx & NM Inc	H F Fnatmr #1-A	662	6-14-82	C:	108 Approved, not 108-SA
82-32702	TX	W L Gupton	94197 #1 Milmo - Page	662	6-14-82	C:	Well Name
82-32727	TX	Mark IV Energy	Renato Martinez #1	662	6-14-82	C:	Well Name
82-33010	OK	Boswell Energy Corp	Chisholm #13-9	663	6-14-82	C:	Well Name
82-33032	OK	Rainbow Ventures	Montcastle 31-1	663	6-14-82	C:	103 Approved; not 102-2
82-33098	NM	Mesa Petroleum Co	Acme #6	663	6-14-82	C:	102-2 & 107-TF Approved
82-33149	TX	Lear Petroleum Corp	Bell #2	664	6-14-82	C:	108-SA Approved, not 108-ER
82-33154	TX	Dorchester Gas Prod Co	Sheridan #3	664	6-14-82	C:	108-SA Approved, not 108-ER
82-33433	TX	Delta Oil & Gas	A R Knight "B" #2	664	6-14-82	C:	Well Name
82-33526	TX	Pennzoil Producing Co	Minnie Brown #1	664	6-14-82	C:	108 & 108-ER Approved
82-33532	NM	HNG Oil Co	Kelly #5 "Com #1	665	6-17-82	C:	102-2 & 103 Approved
82-33586	NY	Envirogas Inc	R Davis #1	665	6-17-82	C:	107-TF Approved, not 107-DV
82-33587	NY	Envirogas Inc	C Bank #1	665	6-17-82	C:	107-TF Approved, not 107-DV
82-33589	NY	Envirogas Inc	W Pihl #1	665	6-17-82	C:	107-TF Approved, not 107-DV
82-33594	NY	Envirogas Inc	J J Baker #1	665	6-17-82	C:	107-TF Approved, not 107-DV
82-33595	NY	Envirogas Inc	J J Baker #2	665	6-17-82	C:	107-TF Approved, not 107-DV
82-33597	NY	Envirogas Inc	D Canfield #2	665	6-17-82	C:	107-TF Approved, not 107-DP
82-33598	NY	Envirogas Inc	D Canfield #3	665	6-17-82	C:	107-TF Approved, not 107-DV
82-33599	NY	Envirogas Inc	C Dengenfelder #1	665	6-17-82	C:	107-TF Approved, not 107-DV
82-33600	NY	Envirogas Inc	Chautauqua Institution #6	665	6-17-82	C:	107-TF Approved, not 107-DV
82-33601	NY	Envirogas Inc	J Bowen #2	665	6-17-82	C:	107-TF Approved, not 107-DV

CORRECTIONS TO PREVIOUS NOTICES OF DETERMINATION

CORRECTIONS TO PREVIOUS NOTICES OF DETERMINATION

JD No.	JA	Applicant	Well Name	Orig. FERC Vol. No.	Date Pub. in Federal Register	C:	Correction to prior Fed. Register notice
82-33602	NY	Envirogas Inc	J Brightman #2	665	6-17-82	C:	107-TF Approved, not 107-DV
82-33603	NY	Envirogas Inc	J Birghtman #3	665	6-17-82	C:	107-TF Approved, not 107-DV
82-33604	NY	Envirogas Inc	C Dinabier #1	665	6-17-82	C:	107-TF Approved, not 107-DV
82-33605	NY	Envirogas Inc	Chautauqua Lk Snowmb #1	665	6-17-82	C:	107-TF Approved, not 107-DV
82-33606	NY	Envirogas Inc	D Canfield #1	665	6-17-82	C:	107-TF Approved, not 107-DV
82-33607	NY	Envirogas Inc	A Firster #1	665	6-17-82	C:	107-TF Approved, not 107-DV
82-33608	NY	Envirogas Inc	G Hewes #2	665	6-17-82	C:	107-TF Approved, not 107-DV
82-33609	NY	Envirogas Inc	M Boehm #2	665	6-17-82	C:	107-TF Approved, not 107-DV
82-33610	NY	Envirogas Inc	M Boehm #1	665	6-17-82	C:	107-TF Approved, not 107-DV
82-33611	NY	Envirogas Inc	J Brightman #1	665	6-17-82	C:	107-TF Approved, not 107-DV
82-33612	NY	Envirogas Inc	A Firster #2	665	6-17-82	C:	107-TF Approved, not 107-DV
82-33613	NY	Envirogas Inc	C. Carlson #1	665	6-17-82	C:	107-TF Approved, not 107-DV
82-33614	NY	Trahan Petroleum Corp	D E Schimek-Chautauqua 3	665	6-17-82	C:	107-TF Approved, not 107-DV
82-33615	NY	Sunrise Resources Inc	Richter #3	665	6-17-82	C:	107-TF Approved, not 107-DV
82-33616	NY	Envirogas Inc	R Wassink #2	665	6-17-82	C:	107-TF Approved, not 107-DV
82-33617	NY	Envirogas Inc	G Neckers #1	665	6-17-82	C:	107-TF Approved, not 107-DV
82-33618	NY	Envirogas Inc	H White #4	665	6-17-82	C:	107-TF Approved, not 107-DV
82-33621	NY	Envirogas Inc	H Wassink #1	665	6-17-82	C:	107-TF Approved, not 107-DV
82-33622	NY	Envirogas Inc	N.Y. State REF Area 3 #1	665	6-17-82	C:	107-TF Approved, not 107-DV
82-33623	NY	Envirogas Inc	D Harper #1	665	6-17-82	C:	107-TF Approved, not 107-DV
82-33624	NY	Envirogas Inc	Legters Brothers #4	665	6-17-82	C:	107-TF Approved, not 107-DV
82-33625	NY	Envirogas Inc	E Oonk #1	665	6-17-82	C:	107-TF Approved, not 107-DV
82-33626	NY	Envirogas Inc	R Wassink #4	665	6-17-82	C:	107-TF Approved, not 107-DV
82-33627	NY	Envirogas Inc	P Gravink #3	665	6-17-82	C:	107-TF Approved, not 107-DV
82-33628	NY	Envirogas Inc	R Bakerink #1	665	6-17-82	C:	107-TF Approved, not 107-DV
82-33629	NY	Envirogas Inc	Letgers Brothers #5	665	6-17-82	C:	107-TF Approved, not 107-DV
82-33630	NY	Envirogas Inc	J Legters #1	665	6-17-82	C:	107-TF Approved, not 107-DV
82-33631	NY	Envirogas Inc	X Wassink #3	665	6-17-82	C:	107-TF Approved, not 107-DV
82-33632	NY	Envirogas Inc	X Wassink #2	665	6-17-82	C:	107-TF Approved, not 107-DV
82-33633	NY	Envirogas Inc	A Rosati #1	665	6-17-82	C:	107-TF Approved, not 107-DV
82-33653	NY	Berea Oil & Gas Corp	Claude Haller Unit #2	665	6-17-82	C:	107-TF Denied, not 107-DV
82-33968	NY	Villanova Nat Gas Corp	Geo & Elmer Burbules #2	666	6-17-82	C:	107-TF Denied
82-34122	OH	Hupewell Oil & Gas Dev	Daniel V. Van Allen	668	6-18-82	C:	103 Approved, 107-TF denied
82-34609	PA	V G Gas Company	Hetrick #2	670	6-22-82	C:	108 Approved; not 103

CORRECTIONS TO PREVIOUS NOTICES OF DETERMINATION

JD No.	JA	Applicant	Well Name	Orig. FERC Vol. No.	Date Pub. in Federal Register	C:	Correction to prior Fed. Register notice
82-34620	TX	Marshall R. Young Oil Co	Good #1	671	6-22-82	C:	Well Name
82-34648	TX	Texas Oil & Gas	Hooper #1-T	671	6-22-82	C:	Well Name
82-34746	TX	HNG Oil Co	Perkins "200" #1	671	6-22-82	C:	107-DF Approved, not 107-TF
82-34850	TX	Marshall R Young Oil Co	University 14-33 Well #1	671	6-22-82	C:	Well Name
82-34948	NY	Envirogas Inc	W Gill #2	672	6-28-82	C:	107-TF Approved, not 107-DV
82-34949	NY	Envirogas Inc	D Linqquist #1	672	6-28-82	C:	107-TF Approved, not 107-DV
82-34950	NY	Envirogas Inc	D Breads #2	672	6-28-82	C:	107-TF Approved, not 107-DV
82-34951	NY	Envirogas Inc	N Reed #3	672	6-28-82	C:	107-TF Approved, not 107-DV
82-34952	NY	Envirogas Inc	N Coleman #3	672	6-28-82	C:	107-TF Approved, not 107-DV
82-34953	NY	Envirogas Inc	R Geer #1	672	6-28-82	C:	107-TF Approved, not 107-DV
82-34954	NY	Envirogas Inc	C Latta #2	672	6-28-82	C:	107-TF Approved, not 107-DV
82-34955	NY	Envirogas Inc	Legters Bros #6	672	6-28-82	C:	107-TF Approved, not 107-DV
82-34956	NY	Envirogas Inc	J Patterson #1	672	6-28-82	C:	107-TF Approved, not 107-DV
82-34957	NY	Envirogas Inc	D and B #1	672	6-28-82	C:	107-TF Approved, not 107-DV
82-34958	NY	Villanova Natural Gas	Geo & Elmer Burbulen #1	672	6-28-82	C:	107-TF Approved, not 107-DV
82-34959	NY	Villanova Natural Gas	State Ref Area 6 #2	672	6-28-82	C:	107-TF Approved, not 107-DV
82-34960	NY	Envirogas Inc	H White #2	672	6-28-82	C:	107-TF Approved, not 107-DV
82-34961	NY	Villanova Natural Gas	State Ref Area 6 #6	672	6-28-82	C:	107-TF Approved, not 108-DV
82-34962	NY	Envirogas Inc	R. Nickerson #1	672	6-28-82	C:	107-TF Approved, not 107-DV
82-34963	NY	Envirogas Inc	H White #3	672	6-28-82	C:	107-TF Approved, not 107-DV
82-34964	NY	Envirogas Inc	W Durst #1	672	6-28-82	C:	107-TF Approved, not 107-DV
82-34965	NY	Envirogas Inc	H White #1	672	6-28-82	C:	107-TF Approved, not 107-DV
82-34966	NY	Envirogas Inc	P Gravink #1	672	6-28-82	C:	107-TF Approved, not 107-D
82-34967	NY	Envirogas Inc	R Wassink #3	672	6-28-82	C:	107-TF Approved, not 107-DV
82-34968	NY	Envirogas Inc	P Heslink #3	672	6-28-82	C:	107-TF Approved, not 107-DV
82-34969	NY	Envirogas Inc	P Heslink #2	672	6-28-82	C:	107-TF Approved, not 107-DV
82-34970	NY	Envirogas Inc	Big Tree #1	672	6-28-82	C:	107-TF Approved, not 107-DV
82-34971	NY	Envirogas Inc	R Wassink #5	672	6-28-82	C:	107-TF Approved, not 107-DV
82-34972	NY	Envirogas Inc	Lagters Brothers #7	672	6-28-82	C:	107-Tf Approved, not 107-DV
82-34973	NY	Envirogas Inc	J Williams #1-A	672	6-28-82	C:	107-TF Approved, not 107-DV
82-34974	NY	Envirogas Inc	J Sventek #1	672	6-28-82	C:	107-TF Approved, not 107-DV
82-34975	NY	Envirogas Inc	W Gill #1	672	6-28-82	C:	107-TF Approved, not 107-DV
82-34976	NY	Envirogas Inc	E Martt #1	672	6-28-82	C:	107-TF Approved, not 107-DV
82-34977	NY	Envirogas Inc	P Gravink #2	672	6-28-82	C:	107-TF Approved; not 107-DV

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19892 Filed 7-22-82; 8:45 am]

BILLING CODE 6717-01-C

[Docket No. ER82-647-000]

Arkansas Power & Light Co.; Notice of Filing

July 16, 1982.

The filing Company submits the following:

Take notice that on July 6, 1982, Arkansas Power & Light Company (Company) tendered for filing proposed changes in Arkansas Power & Light Company Rate Schedule FPC No. 49.

This Rate Schedule is a contract between the Company and the City of North Little Rock. The only change is an increase in the maximum capacity made availabile at two substation points of delivery. The Company states that it does not believe that the increase in capacity will have any material effects upon the billing and that no billing data was filed. The Company states that there will be no change in rates or provisions in the contract other than those noted above.

A copy of the filing has been mailed to the City of North Little Rock.

Any person desiring to be heard or to protest this filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before July 30, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to interevene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19877 Filed 7-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2014-000]

Vincent E. Beacom; Notice of Application

July 19, 1982.

The filing individual submits the following:

Take notice that on July 6, 1982, Vincent E. Beacom filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President: Northern States Power Company (Wisconsin)

President: Lake Superior District Power Company

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 9, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to interevene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19878 Filed 7-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4942-001]

The City of Ukiah; Notice of Surrender of Preliminary Permit

July 20, 1982.

Take notice that the City of Ukiah, California (Ukiah) Permittee for the Deep Hole Creek Project No. 4942, has requested that its preliminary permit be terminated. The permit was issued on November 27, 1981, and would have expired on May 1, 1983. The project would have been located on Deep Hole Creek in Mendocino County, California.

Ukiah filed its request on June 29, 1982, and the surrender of the permit for Project No. 4942 is deemed acceptable as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19879 Filed 7-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP72-157-054, et al.]

Consolidated Gas Supply Corp., et al.; Notice of Filing of Pipeline Refund Reports and Refund Plans

July 16, 1982.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before July 30, 1982. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

APPENDIX

Filing date and company	Docket No.	Type filing
6/28/82 Consolidated Gas Supply Corp.	RP72-157-054	Report.
6/30/82 Midwestern Gas Transmission Co.	RP80-23-011	Di.
6/30/82 Midwestern Gas Co.	CP66-110-027	Di.
6/30/82 Natural Gas Pipe Line Co. of America.	RP80-11-009	Di.
7/2/82 Consolidated Gas Supply Corp.	RP72-157-055	Di.
7/2/82 Consolidated Gas Supply Corp.	RP81-114-004	LFUT Report.
7/6/82 Kansas-Nebraska Natural Gas Co.	RP82-44-002	Di.
7/7/82 Tennessee Natural Gas Lines, Inc.	RP81-143-006	Di.
7/7/82 National Fuel Gas Supply Corp.	RP80-135-019	Report.
7/7/82 Tennessee Natural Gas Lines, Inc.	RP71-11-015	Di.

[FR Doc. 82-19880 Filed 7-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-646-000]

Idaho Power Co.; Notice of Filing

July 16, 1982.

The filing Company submits the following:

Take notice that on July 6, 1982, Idaho Power Company (Idaho) tendered for filing in compliance with the Federal Energy Regulatory Commission's Order of October 7, 1978, a summary of sales made under the Company's 1st Revised FERC Electric Tariff, Volume No. 1 (Supersedes Original Volume No. 1) during May, 1982, along with cost justification for the rate charged.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal

Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 30, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19881 Filed 7-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP82-45-000]

Independent Oil & Gas Association of West Virginia, Ashland Exploration, Inc.; Notice of Petition for Waiver

Issued: July 19, 1982.

Take notice that on June 11, 1982, Independent Oil & Gas Association of West Virginia (IOGA) and Ashland Exploration, Inc. (Ashland) filed pursuant to § 1.7 of the Commission's Rules of Practice and Procedure a petition for waiver of § 271.804(e)(1)(ii) of the Commission's regulations under the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301–3342 (Supp. IV 1980). Specifically, IOGA and Ashland request a waiver of the 5,400 Mcf limit set forth in § 271.804(e)(1)(ii) of the Commission's regulations.

IOGA and Ashland state that on March 26, 1982, Appalachian producers of which Ashland is a member and many of whom belong to IOGA, received a letter from Columbia Gas Transmission Corporation (Columbia) which stated that due to market requirements, Columbia would interrupt purchases from each Appalachian producer for 90 days between March and November of 1982. IOGA and Ashland further state that the shut-in will cause well pressures to increase and concomitantly an increase in production.

The Commission adopted an interim rule which provided that short-term over-production as a result of temporary pressers build-up should not cause a stripper well to lose that status. That interim rule allows continued stripper well status for wells temporarily shut-in if production is less than 5,400 Mcf for any 90-day production period (i.e., less than an average of 60 Mcf per day). Section 271.804(e)(1)(ii). IOGA and Ashland allege that when wells that normally produce slightly less than 60 Mcf per production day are shut-in for a 90-day period, the rate of production following the shut-in could easily exceed 5,400 Mcf for a 90-day period. To avoid the alleged hardship and inequity due to the loss of stripper well status as a result of increased production caused by the Columbia shut-in, IOGA and Ashland request a waiver of the 5,400 Mcf limit set forth in § 271.804(e)(1)(ii) of the Commission regulations. So as to enable the affected wells to continue to qualify for stripper well prices, IOGA and Ashland further request waiver of the requirement that a state jurisdictional agency must approve qualification under § 271.804(e).

Any person desiring to be heard or to protest this request should file on or before August 23, 1982 with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered but will not make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19882 Filed 7-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-640-000]

Long Island Lighting Co.; Notice of Filing

July 16, 1982.

The filing Company submits the following:

Take notice that Long Island Lighting Company (LILCO) on July 6, 1982, tendered for filing proposed changes in its FERC Rate Schedule 32, pursuant to which LILCO transmits power and energy from the Power Authority of the State of New York to the three municipal electric utilities on Long Island: the Villages of Greenport, Rockville Centre and Freeport. The proposed changes would increase revenues from such service by $1,226.82 based on the 12-month period ending May 31, 1982.

LILCO requests an effective date of June 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon the Power Authority of the State of New York, the Municipal Electric Utilities Association, the Villages of Greenport, Rockville Centre and Freeport and the New York State Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 30, 1982. Protests will be considered by the Commission in determing the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kennth F. Plumb,

Secretary.

[FR Doc. 82-19883 Filed 7-23-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2012-000]

Richard A. Reckert; Notice of Application

July 19, 1982.

The filing individual submits the following:

Take notice that on June 30, 1982, Richard A. Reckert filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President: The Connecticut Light and Power Company
Vice President: The Hartford Electric Light Company
Vice President: Western Massachusetts Electric Company
Vice President: Holyoke Water Power Company
Vice President: Holyoke Power & Electric Company

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 6, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will

not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19884 Filed 7-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP80-58-000]

The State of Oklahoma and the Corporation Commission of the State of Oklahoma, Complainants v. Western Gas Interstate Co. and Southern Union Gas Co., Respondents; Notice of Motion To Terminate Proceeding Without Prejudice and Establishing Period for Comments

July 19, 1982.

Take notice that on July 6, 1982, the State of Oklahoma and the Corporation Commission of the State of Oklahoma (Complainants) filed with the Secretary of the Federal Energy Regulatory Commission a motion to terminate this proceeding without prejudice and a memorandum in support of the motion. Copies of the pleadings have been served on the respondents and intervenors and are available at the offices of the Commission for inspection

Oklahoma's complaint was filed on December 4, 1979, and amended on September 4, 1981.

On May 4, 1982, the Commission issued a notice of technical conference in Oklahoma City, Oklahoma for June 9, 1982, and granted petitions to intervene.

In its motion, Oklahoma states that upon discussion of the matter, no party objects to the motion. In its supporting memorandum, Oklahoma states, *inter alia,* that the Commission's decision in Opinion No. 120 in Docket No. CP76-462, *et al.,* Oklahoma's reviews of respondents' compliance with fuel adjustment charges and its tariffs indicate that prosecution of the complaint in this docket would not serve the best interests of the rate payers and regulatory agencies involved. Oklahoma also notes that it has intervened in respondents' other Federal and State rate proceedings wherein the practices and rates of resondents are being examined.

Take further notice that any party desiring to submit comments on the motion to terminate may do so by filing written comments on or before August 9, 1982. Reply comments may be filed on or before August 24, 1982. The Commission may take final action in this proceeding based on the record, including the motion and comments received.

Any person desiring to be heard or to make any protest with reference to said motion should on or before August 9, 1982 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19885 Filed 7-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. SA81-16-000, SA82-16-000]

Southern Union Gathering Co.; Notice of Informal Settlement Conference

Issued: July 16, 1982.

Take notice that on Monday August 2, 1982 at 1:30 p.m., there will be an informal settlement conference in the above captioned proceedings. The conference will be held in a room to be announced at the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Parties, participants, intervenors and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene in this matter, attendance will not be deemed to authorize intervention as a party to these proceedings.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19886 Filed 7-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP80-106-000]

Trunkline Gas Co.; Notice of Informal Conference

July 19, 1982.

Take notice that an informal conference in the above-captioned docket will commence at 10:00 a.m. on August 10, 1982. This conference is being convened to finalize the procedural dates and mechanism for the offering of a settlement proposal, if one is accomplished, and to agree upon a hearing date if no settlement is reached.

This conference will be held in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Customers and other interested persons will be permitted to intervene in this matter by order of the Commission, attendance will not be deemed to authorize intervention as a party in this proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19887 Filed 7-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC82-12-000]

Union Electric Co.; Notice of Application

July 19, 1982.

Take notice that on July 2, 1982, Union Electric Company (Applicant) filed and application pursuant to Section 203 of the Federal Power Act seeking an order authorizing the purchase from Missouri Power & Light Company, its subsidiary, of 200,000 shares of common stock, $5 par value, for a consideration of $12.00 per share. The Applicant is a Missouri corporation, with its principal business office at St. Louis, Missouri, and primarily is engaged in the electric utility business in Missouri, Iowa and Illinois.

Missouri Power & Light Company also is a Missouri corporation, with its principal business office in Jefferson City, Missouri, and primarily is engaged in the electric utility business in Missouri. Applicant owns all of the presently issued and outstanding shares of common stock, $5 par value, of said company.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 13, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are

on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19688 Filed 7-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-113-000]

Errata Notice to Notice of Application for Commission Certification of Qualifying Status of a Small Power Production Facility; Walter Verduyn; Correction

July 19, 1982.

In Docket No. QF82-113-000 appearing in the **Federal Register** issue of June 3, 1982 on page 24191, make the following correction: On page 24191 in the first column, in the third complete paragraph, lines one and two, and in the fourth complete paragraph lines one and two.

"On April 10, 1982 Dr. Walter Verduyn, M.D. located at RR2, in Elkader, Iowa" is corrected to read "On April 10, 1982 Dr. Walter Verduyn, M.D. located at RR, Reinbeck, Iowa".

"The facility will be a 10 kilowatt wind installation located in Elkader, Iowa" is corrected to read "The facility will be a 10 kilowatt wind installation located in Reinbeck, Iowa".

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19689 Filed 7-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Projects Nos. 4201-001, 4432-001, 4434-001]

Wisconsin Public Power Incorporated System; Notice of Surrender of Preliminary Permit

July 20, 1982.

Take notice that Wisconsin Public Power Incorporated System (WPPIS) Permittee for the Mississippi River Lock and Dam Nos. 7, 8, and 9, Projects Nos. 4432, 4434, and 4201 respectively, has requested that its preliminary permits be terminated. The preliminary permit for Project No. 4201 was issued on June 22, 1981, and would have expired on June 1, 1983. The project would have been located on the Mississippi River in Crawford County, Wisconsin and Allamake County, Iowa. The preliminary permit for Project No. 4432 was issued on September 28, 1981, and would have expired on September 1, 1983. The project would have been located on the Mississippi River in LaCrosse County, Wisconsin. Project No. 4434 was issued on October 7, 1981, and would have expired on October 1, 1983. The project would have been located on the Mississippi River in Vernon County, Wisconsin and Houston County, Minnesota.

The WPPIS feasibility studies of the sites indicate that they are of marginal economic value for hydropower development. In addition, WPPIS stated that the marginal economic value, together with the current economic conditions, do not warrant additional expenses for a full-scale feasibility analysis of the sites.

WPPIS filed the requests for Projects Nos. 4201, 4432, and 4434 on June 28, 1982, and the surrender of Projects Nos. 4201, 4432, and 4434 have been deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19690 Filed 7-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP81-174-002]

Colorado Interstate Gas Co.; Notice of Petition To Amend

July 19, 1982.

Take notice that on June 21, 1982, Colorado Interstate Gas Company (Petitioner), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP81-174-002 a petition to amend the order issued August 11, 1981, in Docket No. CP81-174-000 pursuant to Section 7(c) of the Natural Gas Act so as to authorize the sale of natural gas to Trans Louisiana Gas Company (Trans La) for an extended time expiring August 31, 1984, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that by order issued August 11, 1981, Petitioner was authorized to sell to Trans La on a best-efforts basis up to 150,000 Mcf of natural gas per day over a three-year term of the agreement ending July 31, 1982. Petitioner proposes herein to continue the sale of natural gas to Trans La until August 31, 1984.

It is asserted that the sale to Trans La is made at a sales price per Mcf equal to the effective rate in Rate Schedule EX-1 in Petitioner's FERC Gas Tariff, Original Volume 1, which is currently 341.27 cents per Mcf.

Petitioner explains that it anticipates a surplus supply of gas which it can make available for sale without reducing or jeopardizing service to existing customers. It is noted that for fiscal years 1983 and 1984, 104,679,000 Mcf of gas and 96,253,000 Mcf of gas, respectively, are projected as surplus supplies over customer requirements. Petitioner maintains that the proposed sale would reduce the risk of incurring take-or-pay penalties under certain gas purchase contracts and in addition would allow Petitioner to continue its search for new long-term gas supplies.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 9, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procudure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to itervene in accordance with the Commission's Rules.

Kenneth F. Plumb.

Secretary.

[FR Doc. 82-19684 Filed 7-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-398-000]

Columbia Gas Transmission Corp.; Notice of Application

July 19, 1982.

Take notice that on July 2, 1982, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP82-398-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon natural gas storage services to certain of its wholesale customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has been rendering storage service in Rate Schedule CSS to certain of its wholesale customers. Applicant submits that in view of its projected ability to meet its wholesale customers' requirements along with the capability to meet the requirements of a 10 percent colder-than-normal winter season, Applicant should be permitted to cancel CSS storage services to 9 wholesale customers. The 9 customers which Applicant states have elected to discontinue the storage service as of January 1, 1983, are Columbia Gas of Kentucky, Inc., Columbia Gas of Ohio, Inc., Columbia Gas of Maryland, Inc.,

Columbia Gas of New York, Inc., Columbia Gas of Pennsylvania, Inc., Columbia Gas of Virginia, Inc., Columbia Gas of West Virginia, Inc., The Dayton Power & Light Company, and UGI Corporation.

Applicant further states that the additional storage capacity of approximately 10,100,000 Mcf which would become available as a result of the abandonment would be used by Applicant in its overall system storage operations.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 9, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19986 Filed 7-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-393-000]

Iowa-Illinois Gas and Electric Co.; Notice of Application

July 16, 1982.

Take notice that on June 29, 1982, Iowa-Illinois Gas and Electric Company (Applicant), P.O. Box 4350, Davenport, Iowa 52808, filed in Docket No. CP82-393-000 an application pursuant to Section 7(c) of the Natural gas Act for a certificate of public convenience and necessity authorizing it to increase the nominal operating pressure of both its Muscatine/West Liberty-Wilton System and its Wilton-Durant Extension and to construct and operate its Wilton extension, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to increase the operating pressure of the Muscatine/West Liberty-Wilton System from a nominal operating pressure of 400 psig to a nominal operating pressure of 600 psig. (Applicant also proposes to increase the operating pressure of the Wilton-Durant Extension from a nominal operating pressure of 400 psig to a nominal operating pressure of 600 psig.

Applicant further proposes to construct and operate the Wilton Extension, approximately 1.57 miles of 4-inch diameter pipeline and related facilities with a nominal operating pressure of 600 psig. The Wilton Extension would commence at a point in the existing 4-inch facility, a part of the Muscatine/West Liberty-Wilton System, Muscatine County, Iowa, extending in a northerly direction to Applicant's proposed regulator station, it is stated.

Applicant asserts that the proposed pressure increase for the combined system would result in a system capacity increase of from 9,010 Mcf per day to 14,284 Mcf per day or 5,274 Mcf per day which Applicant maintains is necessary to supply the increased process requirements of an existing industrial customer and to maintain adequate service capabilities.

Applicant estimates total costs related to the increase in nominal operating pressure from 400 psig to 600 psig on the existing Muscatine/West Liberty-Wilton System and Wilton-Durant Extension to be $78,830 and the estimated total cost of the proposed Wilton Extension to be $146,360. Applicant states it would finance these costs from funds now on hand.

Any person desiring to be heard or to make any protest with reference to said applicantion should on or before August 9, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural gas act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19988 Filed 7-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6350-000]

Juliette Associates; Notice of Application for License (5 MW or Less)

July 20, 1982.

Take notice that Juliette Associates (Applicant) filed on May 20, 1982, an application for license [Pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for continued operation of a water power project to be known as the Trio Project No. 6350. The project would be located on the Ocumlgee River in East Juliette, Jones and Monroe Counties, Georgia. Correspondence with the Applicant should be directed to: Juliette Associates, P.O. Box 1144, 108 E. Ponce DeLeon Avenue, Decatur, Georgia 30030.

Project Description—The project would consist of: (1) An existing

reservoir with a surface area of approximately 78 acres and a normal storage capacity of 418 acre-feet at 368 feet NGVD elevation; (2) the existing 20-foot-high, 1,280-foot-long Middle Georgia Fuels Products, Inc.'s concrete gravity Juliette Dam; (3) an existing 400-foot-long intake canal; (4) two existing powerhouses located on the east bank of the dam with generating units having an estimated total installed capacity of 840-kW and producing an average annual energy output of 7,000 MWh; and (5) appurtenant facilities. Energy produced at the project would be sold to a public utility. The project will be operated as a run-of-river facility.

Purpose of Project—The Trio Project is an existing hydroelectric facility presently generating power for the adjacent Trio Manufacturing Company mill. The Applicant proposes to acquire the project and sell the power generated to a utility. Future rehabilitation of the right bank of the dam for power generation is contemplated.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before September 27, 1982, either the competing application itself (See 18 CFR 4.33(a) and (d) or a notice of intent (See 18 CFR 4.33(b) and (c)) to file a competing application. Submission of a timely notice of intent allows an interesting person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et. seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments protests, or petitions to intervene must be received on or before September 27, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this Notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary,

[FR Doc. 82-19069 Filed 7-22-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 6332-000]

McDowell Forest Products, Inc.; Notice of Application for License (Minor)

July 20, 1982.

Take notice that McDowell Forest Products, Inc. (Applicant) filed on May 14, 1982, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for construction and operation of a water power project to be known as Indian Power Project No. 6332. The project would be located on Indian Creek, partially within the Plumas National Forest in Plumas County, California. Correspondence with the Applicant should be directed to: Mr. Bruce McDowell, McDowell Forest Products, Inc., Post Office Box 131, Taylorsville, California 95983.

Project Description—The proposed project would consist of: (1) A steel penstock 22 inches in diameter by 2,800 feet long tapping a natural pool at elevation 4,200 feet; (2) 3,200 feet of penstock 16 inches in diameter; (3) a powerhouse at elevation 3,800 feet containing a turbine generator with a 300-kW capacity and a 1.746-GWh average annual output; and (4) a transmission line 1,000 feet long. The Applicant estimates that the project would cost $238,000.

Purpose of Project—The project would utilize the natural fall of Indian Creek for hydroelectric power development. The Applicant expects to sell power output to the Pacific Gas and Electric Company.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before September 27, 1982, either the competing application itself [See 18 CFR 4.33 (a) and (d)] or a notice of intent [See 18 CFR 4.33 (b) and (c)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 27, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION",

"PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19987 Filed 7-22-82; 9:45 am]

BILLING CODE 6717-01-M

[Project No. 6397-000]

Lawrence J. McMurtrey; Notice of Application for Preliminary Permit

July 20, 1982.

Take notice that Lawrence J. McMurtrey (Applicant) filed on June 2, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6397 to be known as the Helena Creek Water Power Project located on Helena Creek, within Snoqualmie-Mt. Baker National Forest in Snohomish County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Lawrence J. McMurtrey, 12122 196th N.E., Redmond, Washington 98052.

Project Description—The proposed project would consist of: (1) Two 2-foot-high diversion structures on Helena Creek; (2) a 12-inch and 24-inch-diameter, 600-foot and 13,000-foot-long penstock, respectively; (3) a powerhouse containing a generating unit with a rated capacity of 1.81 MW; and (4) appurtenant facilities. The Applicant estimates a 9.5 GWh average annual energy production.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested a 24-month permit to prepare a definitive project report including preliminary designs, and geological, environmental, and economic feasibility studies. The cost of forementioned activities along with preparation of an environmental impact report, obtaining agreements with Federal, State, and local agencies, and preparing a license application is estimated by the Applicant to be $40,000. Power would be sold to Puget Sound Power and Light.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before September 29, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981].

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before September 29, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et. seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than November 29, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 29, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19988 Filed 7-22-82; 9:45 am]

BILLING CODE 6717-01-M

[Docket No. CP81-73-001]

Natural Gas Pipeline Company of America, et al.; Notice of Petition To Amend

July 19, 1982.

Take notice that on June 28, 1982, Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60603, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, and Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP81-73-001 a joint petition to amend the order issued July 31, 1981, in Docket No. CP81-73-000 pursuant to Section 7(c) of the Natural Gas Act so as to authorize the substitution of Transco for Natural as co-owner with Tennessee of certain offshore pipeline and related facilities, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioners state that by order issued July 31, 1981, Natural and Tennessee were authorized to construct, own, and operate jointly 13.5 miles of 12-inch pipeline. Tennessee individually was authorized to construct and operate another 1.4 miles of 6-inch pipeline. The 1.4 miles of 6-inch pipeline and the 13.5 miles of 12-inch pipeline interconnect at the Tenneco Oil Company production platform in the Brazos Block A-17, offshore Texas. The 13.5 miles of 12-inch pipeline extends from this interconnection in a northwesterly

direction to an interconnection with an existing 30-inch pipeline owned by Transco in the Brazos Block 538, offshore Texas. The 12-inch pipeline was to be owned 75.25 percent by Tennessee and 24.75 percent by Natural.

Under a June 11, 1981, exchange and transportation agreement between Natural and Transco, it is stated that Transco agreed to receive natural's volumes produced from Brazos Block A–17 at the point of interconnection between the pipeline facilities extending between Blocks A–17 and 538 and the producer facilities in Block A–17. Transco states it would also receive volumes available to Natural from South Marsh Island Blocks 107 and 114 at an existing interconnection between an extension of Transco's Southeast Louisiana Gathering System and the producer facilities located in South Marsh Island Block 107, offshore Louisiana. In return, by exchange, Natural states it would receive volumes available to Transco from Vermilion Block 348, offshore Louisiana, at a point of interconnection between facilities constructed and owned by Natural and Trunkline Gas Company and producer facilities in Vermilion Block 348.

Petitioners request that Transco be allowed to become co-owner in place of Natural and operate the above described 12-inch line and related facilities so that Transco can use its own capacity to perform the service it agreed to in the June 11, 1981, exchange and transportation agreement.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 9, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–19869 Filed 7–22–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP81–304–004]

Natural Gas Pipeline Co. of America; Notice of Petition To Amend

July 19, 1982.

Take notice that on June 29, 1982, Natural Gas Pipeline Company of America (Petitioner), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP81–304–004 a petition to amend the order issued August 12, 1981, in Docket No. CP81–304–000 pursuant to Section 7(c) of the Natural Gas Act so as to authorize the extension of a term of sale of natural gas to United Gas Pipe Line Company (United), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that by order issued August 12, 1981, it was authorized to sell on a best-efforts basis up to 37,000,000 Mcf of natural gas to United for a term expiring on July 31, 1982. It is also stated that on April 15, 1982, Petitioner and United executed Amendment No. 1 to their gas sales agreement dated April 9, 1981, extending the term of the sale in order to sell an additional 20,000,000 Mcf for the period of extension.

Petitioner states that it requests the extension of the term of the sale of natural gas to United for an additional term of 363 days commencing upon the earlier of August 1, 1982, or the date upon which Petitioner has sold 37,000,000 Mcf of natural gas to United under the August 12, 1981, order. It is also stated that Petitioner requests authorization to sell up to 20,000,000 Mcf to United for the term of the extension.

It is further stated that Petitioner's gas supply is sufficient to extend the term of the sale to United without impairing service to its present customers.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 9, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth R. Plumb,

Secretary.

[FR Doc. 82–19860 Filed 7–22–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP82–380–000]

Northwest Pipeline Corp.; Notice of Application

July 19, 1982.

Take notice that on June 17, 1982, Northwest Pipeline Corporation (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP82–380–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities and the transportation of natural gas to effectuate the direct sale of natural gas to Union Oil Company of California (Union), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that pursuant to a direct sales contract dated October 16, 1981, Applicant has agreed to sell for the period from April 16 through October 14 of each year, a firm contract demand of 170,000 therms equivalent of gas and for the period from October 15 through April 15 a daily firm contract demand of 80,000 therms equivalent of gas and an interruptible daily volume of 90,000 therms equivalent.

Applicant, therefore, proposes to construct and operate the facilities necessary to deliver the gas into Union's facilities in Garfield County, Colorado. Specifically, Applicant proposes to construct and operate two 6-inch taps on its Piceance Creek lateral, one 6⅝-inch O.D. measuring station and approximately 26.6 miles of 8⅝-inch pipeline extending from the outlet side of the 6-inch tap to a point of delivery to Union in Garfield County, Colorado. The total cost of the proposed facilities is estimated at $5,000,000 to be financed from current operating revenues or short-term borrowings either of which would ultimately be refinanced by the issuance of long-term corporate financing.

Applicant further requests authority to transport the subject gas in order to effectuate the direct sale to Union.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 9, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a

protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19991 Filed 7-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. G-5035-000, et al.]

Shell Oil Co., et al.; Notice of Applications for Certificates, Abandonment of Service and Petitions to Amend Certificates[1]

July 19, 1982.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before August 2, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 band 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft ³	Pressure base
G-5035-000, D, July 7, 1982	Shell oil Company, One Shell Plaza, P.O. Box 2463, Houston, Texas 77001.	Texas Gas Transmission Corporation, Chalkley Field, Cameron Parish, Louisiana.	(²)	
G-11613-002, D, July 2, 1982	Conoco Inc., P.O. Box 2197, Houston, Texas 77252	Texas Eastern Transmission Corporation, East Meyersville Field, DeWitt and Victoria Counties, Texas.	(²)	
G-17379-004, D, July 1, 1982	Texaco Inc., P.O. Box 2420, Tulsa, Oklahoma 74102	Transwestern Pipeline Co., Harper Ranch Field, Clark County, Kansas.	(²)	
CI61-613-000, D, July 2, 1982	Shell Oil Company, One Shell Plaza, P.O. Box 2463, Houston, Texas 77001.	Northern Natural Gas Company, Hugoton Field, Kearney, Seward, and Stevens Counties, Kansas	(²)	
CI61-737-000, D, July 2, 1982	Shell Oil Company, One Shell Plaza, P.O. Box 2463, Houston, Texas 77001.	Transwestern Pipeline Company, Cree Flowers Field, Roberts & Ochiltree Counties, Texas.	(²)	
CI61-737-001, D, July 2, 1982	do	Transwestern Pipeline Company, Catesby-Ellwood Field Ellis County, Oklahoma.	(²)	
CI62-628-000, (CI62-630), June 28, 1982.	Amoco Production Company, 1814 Amoco Building, 1670 Broadway, Denver, Colorado 80202.	Northern Natural Gas Company, NE Gate Lake and Six Mile Fields, Harper and Beaver Counties, Oklahoma.	(²)	14.65
CI65-199-000, D, June 29, 1982	Texaco Inc., P.O. Box 2100, Denver, Colorado 80201.	El Paso Natural Gas Company, Basin Dakota Field, San Juan County, New Mexico.	(²)	
CI67-878-000, D, July 6, 1982	Mobil Oil Corporation, Nine Greenway Plaza, Suite 2700, Houston, Texas 77046	Panhandle Eastern Pipeline Company, Bishop *et al* Fields, Ellis County, Oklahoma.	(²)	
CI71-872-000, D, July 6, 1982	Sun Exploration and Production Company (Formerly Sun Oil Company), P.O. Box 20, Dallas, Texas 75221.	Michigan Wisconsin Pipe Line Company, Lovedale Field, Woodward County, Oklahoma.	(²)	15.025
CI78-729-002, Jan. 15 1981	Mobil Oil Exploration & Producing Southeast Inc., Nine Greenway Plaza, Suit 2700, Houston, Texas 77046.	Transcontinental Gas Pipe Line Corporation, South Pelto 10 Field, Federal Offshore Louisiana.	(²)	
CI78-192-001, D, July , 1982	Shell Oil Company, One Shell Plaza, P.O. Box 2463, Houston, Texas 77001.	Montana-Dakota Utilities Company, Cabin Creek Unit, Fallon County, Wyoming.	(³)	
CI82-211-001, July 8, 1982	Shell Offshore Inc., One Shell Plaza, P.O. Box 2463, Houston, Texas 77001.	Tennessee Gaspipe Line Company, Main Pass Block 37, Offshore Louisiana.	(¹³)	15.025
CI82-313-000, A, July 1, 1982	Aminoil USA, Inc., Golden Center One, 2800 North Loop West, Post Office Box 94193, Houston, Texas 77018.	Transcontinental Gas Pipe Line Corporation, Ship Shoal Area Block 113, Offshore Louisiana.	(¹³)	15.025
CI82-314-000, (CI74-647), B, July 2, 1982.	Phillips Petroleum Company, 336 Home Savings & Loan Bldg., Bartlesville, Oklahoma 74004.	Kansas-Nebraska Natural Gas Company, Section 2, 2 North, 52 West, Washington County, Colorado.	(¹³)	

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI82-315-000, A, July 2, 1982	Aminoil USA, Inc., Golden Center One, 2800 North Loop West, Post Office Box 94193, Houston, Texas 77018.	Transcontinental Gas Pipe Line Corporation, South Pelto Area Block 20 Field, Offshore Louisiana.	(15)	15.025
CI82-316-000, A, July 2, 1982	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Northern Natural Gas Company, Mocane-Laverne Field, Harper County, Oklahoma.	(16)	14.73
CI82-317-000, (CI69-514), B, July 2, 1982.	Conoco Inc., P.O. Box 2197, Houston, Texas 77252	Kansas-Nebraska Natural Gas Company, Red Lion Field, Sedgwick County, Colorado.	(17)	

[1] Shell Lease No. L-4128 dated October 19, 1935 located in T-12-S, R-6-W in Sections 15, 17, 20, 21, 22 and 27 is beyond its primary term. Due to demand by lessor, Shell released subject lease.
[2] Conoco's leasehold interest in the Ruschhaupt Leases is limited to depths not covered by the subject rate schedule.
[3] Leases were released.
[4] Shell Oil Company is no longer able to render service from the acreage involved in this application because it has no interest in the acreage.
[5] Applicant is filing under Rollover Contract dated July 1, 1971, and requests that Rate Schedule No. 324 be cancelled and certificate issued in Docket No. CI62-630 be terminated.
[6] Purchaser has refused to connect the well due to economic reasons.
[7] By partial assignment of Oil and Gas Lease, effective March 1, 1982 assigned to Kaiser-Francis Oil Company, all of its right, title and interest in and to that certain producing acreage.
[8] Sun released rights to leases because all economically recoverable reserves had been depleted.
[9] Applicant is filing under Gas Sales Contract, as amended, dated July 29, 1976, amended by amendment dated November 24, 1980, but made effective April 1, 1979 which adds deeper gas reservoirs to the basic contract.
[10] Leases released-MN 6691-1 and MN6701-1. Nonproducting lease.
[11] Applicant is filing under Letter Agreements dated February 8, 1982 and April 30, 1982, so as to increase Applicant's percentage of gas dedicated hereunder to 100% (being 58.25% of all gas sold).
[12] Applicant is filing under Gas Purchase Contract dated April 9, 1982 and Letter Agreements dated April 22, 1982 and May 14, 1982.
[13] Applicant is filing under Rollover Gas Purchase Agreement dated January 9, 1981, and seeks authorization effective January 1, 1982 (as a result of merger with Aminoil Development Inc.).
[14] Depletion and release of acreage.
[15] Applicant is filing under Rollover Gas Purchase Contract dated February 20, 1981, and seeks authorization effective January 1, 1982 (as a result of merger with Aminoil Development Inc.).
[16] Applicant is filing under Rollover Gas Purchase Contract dated June 21, 1982.
[17] Acreage subject to RS #344 was assigned or surrendered to lessor(s).
Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 82-19992 Filed 7-22-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP81-291-004]

Texas Eastern Transmission Corp.; Notice of Petition to Amend

July 19, 1982.

Take notice that on June 23, 1982, Texas Eastern Transmission Corporation (Petitioner), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP81-291-004 a petition to amend the order issued July 24, 1981, in Docket No. CP81-291-000 pursuant to Section 7(c) of the Natural Gas Act so as to authorize the construction and operation of three 8-inch meter runs, all as more fully set fourth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that by order issued July 24, 1981, it was authorized to construct and operate a 10-inch meter run in addition to the two 6-inch meter runs at regulating station number 2004 in Chester County, Pennsylvania, (M & R 2004) which is used to render service to Philadelphia Electric Company (Philadelphia Electric).

Subsequent to receipt of authorization to install the 10-inch meter run, Petitioner determined that the expansion as proposed was not the most feasible method. Installation of a 10-inch meter run would require major modification to the building, it is asserted. Petitioner states that it has been determined that the two 6-inch meter runs can be replaced with three 8-inch meter runs within the same building requiring no building modification. It is asserted that this would provide sufficient delivery capacity to Philadelphia Electric. Petitioner estimates that the revised expansion will cost $354,750.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 9, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19993 Filed 7-22-82; 8:45am]
BILLING CODE 6717-01-M

[Docket No. CP82-396-000]

Westar Transmission Co., a Division of Pioneer Corp.; Notice of Application

July 19, 1982.

Take notice that on June 30, 1982, Westar Transmission Company, a Division of Pioneer Corporation (Applicant), P.O. Box 511, Amarillo, Texas 79163, filed in Docket No. CP82-396-000 an application pursuant to Section 7(c) of the Natural Gas Act and § 284.222 of the Commission's Regulations for a certificate of public convenience and necessity for blanket authorization to transport and sell natural gas in interstate commerce as if Applicant were an intrastate pipeline as defined in Subparts C, D, and E of Part 284 of the Commission's Regulations under the Natural Gas Policy Act of 1978 (NGPA) as well as Section 284.203 thereof, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it transports and sells primarily intrastate gas, but it also purchases some quantities of natural gas from companies subject to the Commission's jurisdiction within the State of Texas. For the twelve-month period ending May 31, 1982, Applicant states that it received 233,000,000 Mcf of gas from all sources of which 80,000,000 Mcf were volumes sold in interstate commerce but received by Applicant within the State of Texas. Applicant further states that its Texas facilities are regulated by the Texas Railroad Commission (TRRC).

Applicant submits that the TRRC is an "appropriate state regulatory agency" within the meaning of the NGPA Regulation and that Applicant qualifies for exemption from the Commission's jurisdiction under Section 1(c) of the Natural Gas Act. Applicant proposes that this blanket authority would apply to its West Texas System only.

Applicant submits that it would comply with the conditions set forth in § 284.222(e) of the Commission's Regulations.

Applicant further states that it has existing rates on file with the appropriate state regulatory agency for city-gate service and elects to use the rate methodology provided by § 284.123(b) (1)(i) of the Commission's Regulations.

Applicant requests the Commission to determine that no customer of Applicant would become a natural gas company within the meaning of the Natural Gas Act or otherwise become subject to the jurisdiction of the Commission by reason of purchasing or transporting gas which has been delivered from a commingled stream being transported by Applicant.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 9, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19991 Filed 7-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6365-000]

Western Hydro Electric, Inc.; Notice of Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

July 20, 1982.

Take notice that on May 24, 1982, Western Hydro Electric, Inc. (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) 16 U.S.C. 2705, and 2708 *as amended),* for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric Project No. 6365 would be located on the Vermillion River, near Trout Creek in Sanders County, Montana. The proposed project would occupy U.S. lands in Kaniksu National Forest. Correspondence with the Applicant should be directed to: Mr. Donald J. White, Western Hydro Electric, Inc., Commercial Security Bank Building, Suite 600, 50 So. Main Street, Salt Lake City, Utah 84144.

Project Description—The proposed project would consist of: (1) A 6-foot-high, 89-foot-long concrete diversion structure on Vermillion River; (2) a concrete intake; (3) a 28,800-foot-long, 72-inch-diameter penstock; (4) a 6-foot-high, 50-foot-long concrete diversion structure on Cataract Creek; (5) a concrete intake; (6) a 2,500-foot-long, 24-inch-diameter penstock; (7) a powerhouse containing one generating unit rated at 4,000 kW; and (8) a 2-mile-long transmission line, not included as part of the project. The average annual energy generation is estimated to be 20 million kWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Montana Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presummed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before September 7, 1982 either the competing license application that propose to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted

A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.333(a) and (d) (1980).

Comments, Protest, or Petition To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments protests, or petitions to intervene must be received on or before September 7, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20426. An

additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-19985 Filed 7-22-82; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of June 7 Through June 11, 1982

During the week of June 7 through June 11, 1982, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy.

Appeal

Paul B. Woodall, Jr., June 9, 1982, HFA-0055

Paul B. Woodall, Jr. filed an Appeal from a determination issued by the Director of the Office of Personnel of the Department of Energy regarding his Request for Access to Counselling Records submitted under the Privacy Act of 1974. The DOE found that the Office of Personnel had failed to follow the procedures set forth in 10 CFR 1008.8(c) which govern an individual's access to his medical and psychological records. The DOE therefore determined that the matter should be remanded to the Director of Personnel.

Remedial Orders

Bill Bailey d.b.a. Bailey's Standard, June 8, 1982, BRO-1505

Bill Bailey d.b.a. Bill Bailey's Standard objected to a Proposed Remedial Order which the Economic Regulatory Administration issued to the firm. The Proposed Remedial Order alleged that Bailey, a retailer of motor gasoline, charged prices which were in excess of the maximum lawful selling price under 10 CFR 212.93(a)(2). The DOE concluded that the findings contained in the Proposed Remedial Order were correct and that it should be issued as a final Remedial Order of the Department of Energy. The DOE also determined that the Proposed Remedial Order should be modified to require payment of the overcharges to the U.S. Treasury. The important issues considered in the Decision and Order were (i) whether charging a combined cents-per-gallon price for gasoline and service in excess of the maximum lawful selling price violates 10 CFR 212.93(a)(2) and (ii) the procedural validity of 10 CFR 210.62(d)(1).

Capital 66 Oil Company, June 9, 1982, DRO-0170

Capital 66 Oil Co. (Capital) objected to a Proposed Remedial Order which the Region IV Office of Enforcement of the Economic Regulatory Administration (ERA) of the Department of Energy issued to the firm. In the Proposed Remedial Order, the ERA found that Capital exceeded maximum lawful prices in its sales of motor gasoline and No. 2 diesel fuel during the period from November 1, 1973 through March 31, 1974. The DOE rejected the firm's contentions that the DOE erred in (i) calculating the firm's costs of product in inventory; (ii) applying a "negative Bank" adjustment in its calculation of Capital's increased costs; and (iii) applying the equal application rule on a retroactive basis. The DOE found merit, however, in Capital's arguments that the ERA improperly (i) established more than one pricing period per month, and (ii) failed to treat as separate inventory certain quantities of diesel fuel which did not pass through the firm's bulk storage facilities. Accordingly, the Proposed Remedial Order was remanded to the Director of Enforcement of DOE Region IV for modifications with respect to the selection of pricing periods and the treatment of inventory that did not enter the firm's storage facilities.

J. M. Reeves Chevron, June 11, 1982, BRW-0100

On May 7, 1980, the Economic Regulatory Administration of the DOE issued a Proposed Remedial Order (PRO) to J. M. Reeves Chevron (Reeves). Since Reeves' Notice of Objection to the PRO was dismissed at the firm's request, the factual and legal bases for the Reeves PRO were no longer contested. Accordingly, the DOE concluded that the PRO should be issued in final form, with the modification that restitution of the overcharges be accomplished through payment to the United States Treasury over a period of time similar to the period that it would have taken the firm to accomplish restitution under the rollback provisions originally set forth in the PRO.

Motions for Discovery

Cool Fuel, Inc., June 10, 1982, BRD-0078

Cool Fuel, Inc. filed a Motion for Discovery in connection with a Statement of Objections to a Proposed Remedial Order issued to the firm. The DOE found that discovery of audit workpapers and other audit file materials, upon which class of purchaser determinations made in the PRO were based, was relevant and material. Accordingly, discovery was granted with respect to that information. In its Motion, Cool also requested information regarding the identity of all DOE employees who examined the firm" records and the dates of those examinations, in order to establish that DOE Officials gave Cool erroneous oral advice which resulted in the price and recordkeeping violations alleged in the PRO. In considering that request, the DOE reiterated its consistent position that a firm may not rely on informal advice to ratify unlawful conduct. The DOE therefore determined that the information sought by Cool regarding the dates of the DOE's examination of the firm's records was irrelevant in determining the validity of the conclusions of the PRO. That portion of Cool's discovery motion was accordingly denied.

Mobil Oil Corporation/Little America Refining Company, June 10, 1982, HED-0038

Mobil Oil Corporation filed a Motion for Discovery and Protective Order in which the firm sought access to financial and operating data submitted by the Little America Refining Company (LARCO), in connection with two exception proceedings pending before the Office of Hearings and Appeals. In considering the Motion, the DOE determined that access to the data was necessary for Mobil's effective participation in the proceedings. The DOE also found that in view of the fact that the factual issues were clearly defined in the early stages of the LARCO proceeding, it was appropriate to approve Mobile's request for discovery prior to the issuance of Proposed Decisions and Order to LARCO.

Request for Modification and/or rescission

Charter Oil Company, June 10, 1982, HYR-0010, HES-0001

Charter Oil Co. filed a Motion for Reconsideration of a Supplemental Order issued to the firm on September 14, 1981, *Charter Oil Co.*, 8 DOE ¶ 82,629 (1981), in which the DOE ordered the firm to refund $4,994,150 in excessive entitlements exception relief that the firm had received for its 1979 fiscal year. In its Motion for Reconsideration, Charter disputed the DOE's finding that the relief the firm had received was excessive. The DOE determined that the agency had properly applied the *Delta* standards to the firm's entire 1979 fiscal year, even though the firm received relief for only a six month period. Accordingly, Charter's Motion for Reconsideration was denied.

Requests for Exception

Highway Oil, Inc. Tommy Oil Co. Inc. Hi-Lo Oil, Workingman's & Friend Oil, Inc., June 10, 1982, HEO-0001, HEO-0004, HEO-0002, HEO-0003

Highway Oil, Inc. and its subsidiaries Hi-Lo Oil, Inc. and Workingman's Friend Oil, and Tommy Oil Co., Inc. filed a Motion for Reconsideration of a Decision and Order issued to the firms by the Cost of Living Counsel in 1979. The CLC denied the firms' request for exception from the provisions of the mandatory price regulations set forth at 6 CFR 150.359 and 10 CFR 212.93. The firms' Request for Modification, if granted, would permit them to retroactively increase their maximum lawful selling price of motor gasoline for 1973 and 1974, thereby excusing the firms from liability for violations of price regulations which they allegedly committed during the period. The DOE found that all the firms had maintained profitable operations not only during the period for which relief was requested, but also for the following 6 years. The DOE concluded that the firms were not adversely affected by the price regulations. Accordingly, exception relief was denied.

Metropolitan Fuels Co., June 9, 1982, BEE-1353

Metropolitan Fuels Company filed an Application for Exception in which the firm sought to be relieved of its obligation to

prepare and submit Form EIA–172. In considering the request, the DOE found that the firm had not demonstrated that completing the form would cause it to experience an inordinate burden. Accordingly, exception relief was denied.

Interlocutory Order

Marathon Oil Company, Landmark, Inc., Township Oil Company, June 10, 1982, HRZ–0062, 0063, 0064, HRD–0043, HRD–0045

Marathon Oil Company filed a Motion to Strike Statements of Objections filed by three aggrieved parties in a proceeding involving two Proposed Remedial Orders issued to Marathon. In their Statements of Objections, two of the aggrieved parties claimed that Marathon committed violations not addressed in the PROs. The DOE determined that those Statements of Objections should be stricken because that type of claim is not properly raised in a Statement of Objections, since it did not specifically contest and finding of fact or conclusion of law set forth in the PROs. The DOE also struck related Motions for Discovery filed by the two aggrieved parties. However, the DOE determined that a third party that was specifically named in one PRO as having been placed in an improper class of purchaser, should be permitted to raised additional facts in support of the allegations regarding the class of purchaser issued in that PRO. The DOE also determined that this party should be permitted to contest the PRO's findings of fact regarding that issue.

Refund Application

Tenneco Oil Company/System Fuels, Inc., June 10, 1982, HFX–0030

System Fuels, Inc. (SFI) filed an Application for Refund in which the firm sought a portion of the funds obtained by the DOE through a consent order entered with Tenneco Oil Company. Tenneco agreed to make the funds available to compensate for alleged violations of the DOE price regulations. The DOE found that SFI sold fuel oil purchased from Tenneco during the period covered by the consent order to four regulated electric utility companies, which then passed on the alleged overcharges to ultimate consumers through state regulated fuel adjustment clauses. The DOE determined that SFI had established in its Application that the utility companies would similarly pass on any refunds it receives to ultimate consumers, as credit against their monthly fuel adjustment clause charges. Accordingly, the SFI request for refund was granted.

Copies of the full text of these decisions and orders are available in the public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th & Penn. Ave., N.W. Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

July 16, 1982.

[FR Doc. 82–20046 Filed 7–22–82; 8:45 am]

BILLING CODE 6450–01–M

Objection To Proposed Remedial Orders Filed Period of May 3 Through May 21, 1982

During the period of May 3 through May 21, 1982, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

July 16, 1982.

Bob's Chevron Service, Santa Cruz, California, HRO–0053

On May 20, 1982, Bob's Chevron Service, 805 Ocean Street, Santa Cruz, CA 95060, filed a Notice of Objection to a Proposed Remedial Order which the DOE Economic Regulatory Administration issued to the firm on April 14, 1982.

In the PRO the ERA found that during August 1, 1979 to January 31, 1980, Bob's Chevron Service charged prices in retail sales of motor gasoline in excess of those permitted by 10 CFR 212.93.

According to the PRO the Bob's Chevron Service violation resulted in $17,161.23 of overcharges.

Cabrillo Arco, Soquel, California, HRO–0052

On May 20, 1982, Cabrillo Arco, 5955 Soquel Drive, Soquel, CA 95073, filed a Notice of Objection to a Proposed Remedial Order which the DOE Economic Regulatory Administration issued to the firm on April 15, 1982.

In the PRO the ERA found that during August 1, 1979 to November 30, 1979, Cabrillo Arco charged prices in retail sales of motor gasoline which were in excess of those allowed by 10 CFR 212.93.

According to the PRO the Cabrillo Arco violation resulted in $2,471.59 of overcharges.

Cascade Chevron, Hayward, California, HRO–0055

On May 20, 1982, Cascade Chevron, 1490 W. Winton Ave., Hayward, CA 94544, filed a Notice of Objection to a Proposed Remedial Order which the DOE Economic Regulatory Administration issued to the firm on April 15, 1982.

In the PRO the ERA found that during October 1, 1980 to October 3, 1980, Cascade Chevron charged prices in retail sales of motor gasoline that were in excess of those permitted by 10 CFR 212.93.

According to the PRO the Cascade Chevron violation resulted in $1,535.53 of overcharges.

Clean Machine Inc., Fairfield, California, HRO–0048

On May 20, 1982, Clean Machine Inc., 1300 Travis Blvd., Fairfield, CA 94533, filed a Notice of Objection to a Proposed Remedial Order which the DOE Economic Regulatory Administration issued to the firm on April 15, 1982.

In the POR the ERA found that during August 1, 1979 to January 31, 1980, Clean Machine charged prices in sales of motor gasoline that were in excess of those allowed by 10 CFR 212.32.

According to the PRO the Clean Machine violation resulted in $7,812.63 of overcharges.

Clean Machine Inc., San Jose, California, HRO–0049

On May 20, 1982, Clean Machine, Inc., 2701 Story Road, San Jose, CA 95127, filed a Notice of Objection to a Proposed Remedial Order which the DOE issued to the firm on April 15, 1982.

In the PRO the ERA found that during August 1, 1979 to January 31, 1980, Clean Machine charged prices in retail sales of motor gasoline in excess of those permitted by 10 CFR 212.93.

According to the PRO the Clean Machine violation resulted in $16,897.13 of overcharges.

Carwash Service, San Lorenzo, California, HRO–0050

On May 20, 1982, Carwash Service, 15526 Hesparian Blvd., San Lorenzo, CA 94580, filed a Notice of Objection to a Proposed Remedial Order which the DOE Economic Regulatory Administration issued to the firm on April 15, 1982.

In the PRO the ERA found that during August 1, 1979 to January 31, 1980, Carwash Service charged prices in sales of motor gasoline which were in excess of those permitted by 10 CFR 212.93.

According to the PRO the Carwash Service violation resulted in $21,393.68 of overcharges.

Robert J. Heald Shell, San Rafael, California, HRO–0054

On May 20, 1982, Robert J. Heald Shell, 110 Belvedere, San Rafael, CA 94901, filed a Notice of Objection to a Proposed Remedial Order which the DOE issued to the firm on April 15, 1982.

In the PRO the ERA found that during July 1, 1980 to November 30, 1980, Robert J. Heald Shell charged prices in retail sales of motor gasoline which were in excess of those allowed by 10 CFR 212.93.

According to the PRO the Robert J. Heald Shell violation resulted in $3,902.08 of overcharges.

Roy's Civic Center Mobil, San Jose, California, HR–0057

On May 20, 1982, Roy's Civic Center Mobil, 1271 N. First Street, San Jose, CA 95112, filed a Notice of Objection to a Proposed Remedial Order which the DOE Economic Regulatory Administration issued to the firm on April 15, 1982.

In the PRO the ERA found that during May 1, 1980 to September 30, 1980, Roy's Civic Center Mobil charged prices in retail sales of motor gasoline in excess of those permitted by 10 CFR 212.93.

According to the PRO the Roy's Civic Center Mobil violation resulted in $1,381.14 of overcharges.

St. Francis Texaco, Santa Rosa, California, HRO–0056

On May 20, 1982, St. Francis Texaco, 164 Calistoga Road, Santa Rosa, CA 95405, filed a Notice of Objection to a Proposed Remedial Order which the DOE Economic Regulatory Administration issued to the firm on April 15, 1982.

In the PRO the ERA found that during April 1, 1980 to September 30, 1980, St. Francis Texaco charged prices in retail sales of motor gasoline that were in excess of those permitted by 10 CFR 212.93.

According to the PRO the St. Francis Texaco violation resulted in $6,514.20 of overcharges.

Walt Freeman Chevron, Sacramento, California, HRO–0051

On May 20, 1982, Walt Freeman Chevron, 8099 Folsom Blvd., Sacramento, CA, filed a Notice of Objection to a Proposed Remedial Order which the DOE Economic Regulatory Administration issued to the firm on April 15, 1982.

In the PRO the ERA found that during May 1, 1980 to September 30, 1980, Walt Freeman Chevron charged prices in retail sales of motor gasoline that were in excess of those allowed by 10 CFR 212.93.

According to the PRO the Walt Freeman Chevron violation resulted in $10,912.51 of overcharges.

[FR Doc. 82–20045 Filed 7–22–82; 8:45 am]

BILLING CODE 6450–01–M

Issuance of Proposed Decision and Order; Week of June 21 Through June 25, 1982

During the week of June 21 through June 25, 1982, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (1) CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact of law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of this proposed decision and order are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

George B. Breznay,

Director, Office of Hearings and Appeals.

July 16, 1982.

Camden Fuel Oil Co., Kingsland, Georgia, HEE–0021, No. 2 Fuel Oil

Camden Fuel Oil Company filed an Application for Exception from the provisions of the Energy Information Administration (EIA) reporting requirements. The exception request, if granted, would permit the firm to be relieved of the requirement to complete and file Form EIA–9A, "No. 2 Distillate Price Monitoring Report." On June 24, 1982, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 82–20047 Filed 7–22–82; 8:45 am]

BILLING CODE 6450–01–M

Objection To Proposed Remedial Order Filed Week of June 21 Through June 25, 1982

During the week of June 21 through June 25, 1982, the notice of objection to proposed remedial order listed in the Appendix to this Notice was filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to paticipate in the proceeding the Department of Energy will conduct concerning the proposed remedial order described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in this proceeding should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

July 16, 1982.

J.D. Streett Company, Inc., Maryland Heights, Missouri, HRO–0063, Motor Gasoline

On June 24, 1982, J.D. Streett Co., Inc., 144 Walden Parkway, Maryland Heights, Missouri 63043, filed a Notice of Objection to a Proposed Remedial Order which the DOE's Kansas City District Office of Enforcement issued to the firm on May 21, 1982. In the PRO the Kansas City District found that during the period January 1, 1970 to November 30, 1979, the J.D. Streett Co. charged amounts exceeding the maximum lawful price in sales of motor gasoline. According to the PRO the alleged violations resulted in overcharges of $2,948,350.46.

[FR Doc. 82–20048 Filed 7–22–82; 8:45 am]

BILLING CODE 6450–01–M

Issuance of Proposed Decision and Order; Week of June 28 Through July 2, 1982

During the Week of June 28 through July 2, 1982, the proposed decision and order sumarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the proposed decision and order in final form. An

aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except Federal holidays.

George B. Breznay,

Director, Office of Hearings and Appeals.

July 16, 1982.

Premier Oil Company, Wilmington, Delaware HEE–0016, Petroleum

Premier Oil Company (Premier) filed an Application for Exception from the provisions of the EIA Filing Requirements. The exception request, if granted, would permit Premier to be relieved of the obligation to file Form EIA–9A. On June 20, 1982, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 82–20049 Filed 7–22–82; 8:45 am]

BILLING CODE 6450–01–M

Issuance of Proposed Decisions and Orders; Week of July 6 Through July 9, 1982

During the week of July 6 through July 9, 1982, the two proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (1 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in a final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

With respect to the Proposed Refund Decision any person who wished to file comments should submit comments to the Office of Hearings and Appeals within 30 days of receipt of the proposed decision or the date of publication of this list, whichever is earlier.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

George B. Breznay,

Director, Office of Hearings and Appeals.

July 16, 1982.

Urbana Community School, Urbana, Iowa, HEE–0009, Institutional Building Grant Program

Urbana Community School filed an Application for Exception from the provisions of 10 CFR Part 455. The exception request, if granted, would permit Urbana Community School to receive funding based on credit for energy conservation measures implemented prior to a technical assistance program, and for its technical assistance program even though it failed to apply properly for the technical assistance credit. On July 9, 1982, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted with respect to the technical assistance credit and denied with respect to the energy conservation measure credit.

Palo Pinto/Gulf Oil Corporation, Houston, Texas, RF5–1

Palo Pinto/Controller of the State of California, Washington, D.C. RF5–2

Gulf Oil Corporation (Gulf) filed an Application for Refund pursuant to the provisions of 10 CFR, Part 205, Subpart V. In its Application, Gulf requested 94.4% of the $529,000 collected through a Consent Order entered into by the Department of Energy (DOE) with Palo Pinto Oil & Gas (Palo Pinto). Gulf's claim was based on the fact that Warren Petroleum Company, a Gulf subsidiary, purchased 94.4% of the volumes of natural gas liquid products (NGLPs) involved in the Palo Pinto Consent Order. Gulf claimed that it was injured by the full amount of the overcharges allocated to its purchases. Specifically, Gulf asserted that its banks of unrecovered costs indicated that its prices for NGLPs were based on its perception of the market. Thus, Gulf asserted that lower selling prices by Palo Pinto would not have reduced the prices Gulf charged for its NGLPs. Accordingly, Gulf's profit would have increased by any reduction in selling prices by Palo Pinto.

On July 6, 1982, the Department of Energy issued a Proposed Decision and Order in which it determined that Gulf was entitled to receive a refund of $199,750. This sum represents 40% of the funds attributable to sales by Palo Pinto to Gulf ($199,750=40%×94.4%×$529,000). In considering Gulf's claim that it was injured by the overcharges, the DOE found that the existence of sizeable cost banks was only a threshold showing of injury by a direct purchaser/refiner such as Gulf. The DOE also found that market data provided by Gulf did not conclusively demonstrate that Gulf did not pass through any of the alleged overcharges to its customers. The DOE determined that, for purchases of natural gas liquids, a meaningful indication of the extent of injury suffered by a direct purchaser/refiner, was whether the firm was charged prices which exceeded prevailing market prices. In such a circumstance, the DOE concluded that the refiner suffered a competitive disadvantage with respect to the purchases involved. Similarly, the DOE determined that a refiner purchasing products at below-market prices enjoyed a competitive advantage with respect to such purchases. Accordingly, to determine the magnitude of injury experienced by Gulf, the DOE calculated the extent to which Palo Pinto prices to Gulf for NGLPs exceeded the prevailing industry prices. On the basis of its calculations, the DOE determined that 40% of the value of the alleged overcharges attributable to purchases by Gulf from Palo Pinto constituted a reasonable and fair approximation of the extent of injury incurred by Gulf.

The Controller of the State of California (State of California) also filed an Application for Refund in this proceeding. In its refund request, the State of California claims a portion of the Palo Pinto Consent Order funds on behalf of end-users of Palo Pinto NGLPs within its jurisdiction. In considering the request, the DOE determined that the State of California was eligible to receive refund monies upon implementation of second stage refund procedures which will be utilized to distribute the remaining Palo Pinto Consent Order funds.

[FR Doc. 82–20050 Filed 7–22–82; 8:45 am]

BILLING CODE 6450–01–M

Procurement and Assistance Management Directorate

AGENCY: Department of Energy.

ACTION: Notice of suspension and proposed debarment.

SUMMARY: This notice announces that the Department of Energy (DOE) has suspended Daniel P. Ahearne, President, Total Energy Applications Management, Inc., and all organizations with which he is or may become affiliated from participating in any new contract with

DOE or with any DOE contractor. In addition, Mr. Ahearne has been advised that DOE proposes to debar him and all such affiliated organizations for a period of three years beginning on August 30, 1982.

DATE: The suspension became effective on July 9, 1982, and shall last until the proposed debarment becomes effective or for 12 months, whichever occurs earlier.

FOR FURTHER INFORMATION CONTACT: Norman Vinson, Procurement and Assistance Management Directorate, Room II–018, Forrestal Building, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585, telephone 202/252–1150.

SUPPLEMENTARY INFORMATION: The suspension and proposed debarment actions are being taken in accordance with the procedures set forth in the Federal Procurement Regulations (FPR), 41 CFR Subpart 1–1.6 and in the DOE Procurement Regulations (DOE–PR), 41 CFR Subpart 9–1.6. In addition to Daniel P. Ahearne, the known affiliated organizations affected by the suspension and proposed debarment actions are Total Energy Applications Management, Inc. (TEAM); Renewable Resources Institute, Inc.; and Zetcon International, Inc. Each is a Virginia corporation with the same mailing address; 5105 Backlick Road, Annandale, Virginia 22003.

During the period of suspension and subsequent debarment, DOE will neither accept nor consider a bid or proposal submitted by Mr. Ahearne or by any organization with which he is affiliated. In addition, DOE will not approve any new contract between him or any such affiliated organization and a DOE contractor.

This suspension and proposed debarment are based on the conduct of Mr. Ahearne and TEAM as project manager for Northwest Mississippi Junior College (NMJC) under DOE Grant No. DE–FG05–79CS30472 during the period 1977 through 1981. This $7.7 million grant was awarded to NMJC for construction and operation of a total energy system at the school's main campus in Senatobia, Mississippi. Under the terms of the DOE grant, the energy system was supposed to include the following components:

- A woodchip burning biomass conversion unit to provide steam heat through a thermal loop to certain buildings on campus;
- A 200 kilowatt photovoltaic array (solar field) to provide electricity to the school;
- A solar pond and power conditioning unit; and
- A solar collector to provide heat to an agricultural facility.

Mr. Ahearne's consulting firm, TEAM, Inc., was hired by the school under a separate contract to manage the solar energy project. Although the entire $7.7 million in DOE grant funds have been spent, TEAM failed to complete any of the components of the NMJC total energy system.

The Department has determined that Mr. Ahearne and TEAM violated numerous requirements applicable to the expenditure of Federal funds. This determination is based on three audits conducted by the Office of Program Evaluation, Oak Ridge Office. The major findings of these audits include the following:

1. TEAM's accounting system did not ensure that costs were adequately controlled, properly recorded and/or correctly classified between Government and other work.

2. From January 9, 1979 through March 24, 1980, TEAM received $4.6 million in cash advances from the college in contravention of the NMJC/TEAM contract.

3. TEAM did not remit to the grantee the interest income earned on advance payments of Federal funds.

4. Inaccurate and altered TEAM employee time sheets were used to support vouchers.

5. TEAM charged the cost of consultants working on commercial/private ventures to Government-funded projects while failing to provide evidence of the services rendered (no reports, invoices, or correspondence).

6. TEAM failed to maintain an accurate inventory of project property.

Mr. Ahearne has been advised that he has the right to submit, by no later than August 9, 1982, a written request for a hearing and a reply to the notice of proposed debarment.

As required under DOE–PR 9–1.602, Mr. Ahearne and the above-named affiliated organizations have been placed on the DOE Consolidated List of Debarred, Ineligible, and Suspended Contractors which is distributed periodically to DOE Contracting Officers. DOE has also notified the General Services Administration (GSA) of this suspension action.

When the proposed debarment becomes effective, GSA shall be notified in accordance with Policy Letter No. 82–1 issued by the Office of Federal Procurement Policy on June 24, 1982 (47 FR 28854 (July 1, 1982)).

Issued in Washington, D.C., on July 9, 1982.

Hilary J. Rauch,

Director, Procurement and Assistance Management Directorate.

[FR Doc. 82–20036 Filed 7–22–82; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS–51423; TSH–FRL 2174–5]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of six PMNs and provides a summary of each.

DATES:

Close of Review Period: PMN 82–488, 82–489, 82–490 and 82–491—October 10, 1982. PMN 82–492 and 82–493—October 11, 1982.

Written comments by: PMN 82–488, 82–489, 82–490 and 82–491—September 10, 1982. PMN 82–492 and 82–493—September 11, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS–51423]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, DC 20460, (202–382–3532).

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. 216, 401 M St., SW., Washington, DC 20460, (202–382–3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential documents is available in the public reading room E–107.

PMN 82-488

Manufacturer. Rhone-Poulenc Inc.
Chemical. (S) Adduct of oleic acid and cerium (IV) oxide.
Use/Production. (S) Catalyst. Prod. range: 0-200,000 lbs/yr.
Toxicity Data. No data submitted.
Exposure. 3 workers, 2 hrs/da, 25 da/yr.
Environmental Release/disposal. Negligible. Disposal by recycle or recovery.

PMN 82-489

Manufacturer. The Southland Corporation.
Chemical. (G) Sulfurized di-carboxylic poly-glycol ester.
Use/Production. (S) Industrial additive for water based lubricants. Prod. range: 5,000-2,400,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 4 workers, up to 2 hrs/da, up to 200 da/yr.
Environmental Release/Disposal. 100-1,000 kg/yr released to air 5 hrs/da, 200 da/yr. Disposal by publicly owned treatment works (POTW).

PMN 82-490

Manufacturer. Confidential.
Chemical. (G) Amine modified epoxy resin.
Use/Production. (G) Contained use. Prod. range: Confidential.
Toxicity Data. No data submitted
Exposure. Manufacture and processing: possible dermal.
Environmental Release/Disposal. No release to water and land with minimal to air. Disposal by landfill.

PMN 82-491

Manufacturer. E. I. DuPont de Nemours and Company, Inc.
Chemical. (G) Polyester polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, 2 workers, 2 shifts/da, 12 hrs/shift, 37 da/yr.
Environmental Release/Disposal. Minimal release. Disposal by approved methods.

PMN 82-492

Manufacturer. Confidential.
Chemical. (G) Substituted dithioic acid salt.
Use/Production. (G) Site-limited intermediate. Prod. range: 75-150 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and use: minimal dermal and inhalation, a total of 5 workers, up to 2 hrs/da, up to 5 da/yr.
Environmental Release/Disposal. No release. Disposal by incineration.

PMN 82-493

Manufacturer. Confidential.
Chemical. (G) Tetrasubstituted benzisoxazole.
Use/Production. (G) Minor constituent of an article for commercial and consumer use. Prod. range: 300-700 kg/yr.
Toxicity Data. Acute oral: > 3,000 mg/kg; Acute dermal: > 1,000 mg/kg; Skin irritation: Slight; Eye irritation: Non-irritant; Skin sensitization: Low.
Exposure. Manufacture and processing: minimal dermal and inhalation, a total of 15 workers, up to 2 hrs/da, up to 10 da/yr.
Environmental Release/Disposal. No release. Disposal by biological treatment system and incineration.

Dated: July 16, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82-19749 Filed 7-22-82; 8:45 am]
BILLING CODE 6560-50-M

[ER-FRL-2175-5]

Availability of Enviromental Impact Statements Filed July 12, Through July 16, 1982 Pursuant to 40 CFR Part 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities; general information 382-5075 or 382-5076.

Corps of Engineers:
EIS No. 820477, Draft, COE, IL, Hickory and Spring Creeks Flood Control Plan, Permit, Will County, Due: Sept. 6, 1982
EIS No. 820478, Draft, COE, SEV, MA RI Fall River Harbor Navigational Improvements, Mount Hope Bay, Due: Sept. 6, 1982
EIS No. 820484, Draft, COE, SEV, MO IL St. Louis Harbor Improvements, Mississippi River, Due: Sept. 6, 1982
EIS No. 820470, Final, COE, MO, Maline Creek Water Resources Study, Flood Control, St. Louis County, Due: Aug. 23, 1982
EIS No. 820451, Final, COE, SEV, ATL VA Norfolk Disposal Site, Designation, Due: Aug. 23, 1982
EIS No. 820474, FSuppl, COE, NB, West Branch Papillion Creek Flood Control, Damsite 18 Construction, Due: Aug. 23, 1982
Department of Commerce:
EIS No. 820479, Final DEA, TN, Hamilton County Industrial Park/River Port Construction, Grant, Due: Aug 23, 1982
Department of Interior:
EIS No. 820482, DSuppl, BLM, CO, Prototype Oil Shale Leasing, Piceance Basin, Rio Blanco County, Due: Sept. 6, 1982
EIS No. 820481, Final, IBR, AZ, Tucson Aqueduct Construction/Operation, Colorado R. Pinal & Pima Cos., Due: Aug. 23, 1982
Department of Transportation:
EIS No. 820473, Final, FAA, GA Hartsfield-Atlanta Airport, Runway 9L Departure Change, Clayton Co., Due: Aug. 23, 1982
EIS No. 820476, Final, FHW, GA, Pio Nono Avenue, US 41/GA-247 Widening, Macon, Bibb County, Due: Aug. 23, 1982
EIS No. 820475, Final, FHW, MD, I-195 Construction, Baltimore-Washington Int'l Airport to I-95/US 1, Due: Aug. 23, 1982
EIS No. 820471, Draft, CGD, FL, Rickenbacker Causeway/Bridge Improvements, Permit, Dade County, Due: Sept. 6, 1982
Federal Energy Regulatory Commission:
EIS No. 820480, Final, FRC, AZ, Red Lake Salt Cavern Gas Storage Project, Certificate, Mohave County, Due: Aug. 23, 1982
Department of Housing and Urban Development:
EIS No. 820483, Draft, HUD, UT, Utah Housing Areawide Study, Weber, Davis, Utah and Salt Lake Cos., Due: Sept. 6, 1982
State Department:
EIS No. 820469, Final, STA, ANT, Antarctic Mineral Resources, International Regime, Due: Aug. 23, 1982
Department of Agriculture:
EIS No. 820472, Final AFS, AK, Quartz Hill, Road Access and Bulk Sampling, Permit, Tongass NF Due: Aug. 23, 1982
EIS No. 820468, Final, SCS, SEV, MD DE Upper Chester River Watershed Flood Protection Plan Due: Aug. 23, 1982
Amended Notices:
EIS No. 820355, Draft, FHW, WI, US 53 Upgrading, Rice Lake to Trego, Barron and Washburn Counties *Published FR 06/11/82—Review extended, Due: Aug. 27, 1982

Dated: July 20, 1982.

Paul C. Cahill,

Director, Office of Federal Activities.

[FR Doc. 82-19975 Filed 7-22-82; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Advisory Committee for the 1985 ITU World Administrative Radio Conference on the Use of the Geostationary Satellite Orbit and the Planning of the Space Services Utilizing It

July 19, 1982.

Task Group A-2 of Working Group A:
Facilities and Technology
Chairman:
Jeffrey Binckes (202) 863-6864
Date:
Tuesday, August 10, 1982
Time:
9:30 a.m.—2:00 p.m.
Location:
Southern Pacific Satellite Company,

1700 Old Meadow Road, McLean, Virginia 22102; Tel: (703) 734–2388

Agenda:

(1) Approval of Minutes
(2) Report of Ad Hoc Groups
(3) Future Efforts of Ad Hoc Groups
(4) Briefing on Program in Committees A1 and A3
(5) New Business
(6) Next Meeting

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-20020 Filed 7-22-82; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 82-378, File No. BPCT-811208KG, etc.]

Minority Broadcasters of East St. Louis, Inc., et al.; Applications

In re applications of Minority Broadcasters of East St. Louis, Inc., East St. Louis, Illinois (BC Docket No. 82-378, File No. BPCT-811208KG), East St. Louis, 46 Broadcasters, Inc., East St. Louis, Illinois (BC Docket No. 82-379, File No. BPCT-820127KI), Spectrum Telecommunications Corporation, East St. Louis, Illinois (BC Docket No. 82-380, File No. BPCT-820127KJ), and Mahogany Entertainment Television, Inc., East St. Louis, Illinois (BC Docket No. 82-381, File No. BPCT-820127KL) for a television construction permit; Hearing Designation order designating applications for consolidated hearing on stated issues.

Adopted: July 7, 1982.

Released: July 15, 1982.

1. The Commission by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it: (a) the above-captioned mutually exclusive applications of Minority Broadcasters of East St. Louis, Inc. (Minority), East St. Louis 46 Broadcasters, Inc. (ESL-46), Spectrum Telecommunications Corporation (Spectrum), and Mahogany Entertainment Television, Inc. (Mahogany) for a new commercial television station to operate on Channel 46 in East St. Louis, Illinois; (b) a petition to dismiss filed by Spectrum against Mahogany; [1] and (c) related pleadings.

2. Applicants for new broadcast stations are required to give local notice of the filing of their applications, in accordance with § 73.3580 of the Commission's Rules. They must then file proof of publication of such notice or certify that they have or will comply with the public notice requirement; however, we have no evidence that ESL-46, Spectrum, and Mahogany have done either. If they have not already done so, ESL-46, Spectrum, and Mahogany will be required to publish local notice of the filing of their applications and to file a statement of publication with the presiding Administrative Law Judge within 30 days of the mailing of this Order.

Spectrum Telecommunications Corporation

3. Myrtle Officer, the Treasurer, Director, and 7.735% stockholder of Spectrum, and Marion Officer, 15.015% stockholder, jointly own 15.45 shares (approximately 0.8%) of WESL, Inc., licensee of WESL-AM, East St. Louis. Further, Spectrum states that Myrtle Officer is also a Director of WESL, Inc.[2] Section 73.636(a) of the Commission's Rules sets out a policy against granting a television construction permit to parties who directly or indirectly own, operate, or control radio stations licensed to the same community as their proposed television station. Marion and Myrtle Officer state that they will divest themselves of the shares in WESL, Inc. within a reasonable time, after a grant of the application for a construction permit to Spectrum. No mention is made of terminating the Directorship in WESL, Inc.; however, Marion and Myrtle Officer must demonstrate a termination of both stock and the Directorship before Spectrum commences operation.

Mahogany Entertainment Television, Inc.

4. Mahogany estimates that $584,367 will be required to construct its proposed station and to operate it for three months, itemized as follows:

Equipment	[1]311,400
Studio lease (5 months)	16,667
Land lease (5 months)	5,000
Legal and engineering costs	32,500
Operating costs (3 months)	216,800
Total	$584,367

[1] Although Mahogany proposes to lease its equipment from Amvest Leasing and Capital Corporation, no lease agreement has been submitted. Consequently, Mahogany will be charged with the total cost of the equipment.

Mahogany provides no means by which it intends to meet these expanses, nor does it certify the availability of any sources of funds. A financial issue could, therefore, be specified. Nonetheless, we are in a period of transition and are faced with some applicants filing under the old requirements competing with those filed under the revised form, or who amend their applications to submit a financial certification. In the interest of fairness, all competing applicants ought to be held to the same standard. Further, the purpose of permitting financial certification was to expedite processing. *Revision of Form 301*, 50 R.R. 2d 381, 382 (1981). The Commission there noted that the benefits flowing from expedited processing outweighed any detriment that might flow from the certification process. After adoption of the revised form, we have specified financial issues against applicants that did not make the requisite showing and that did not amend their applications to indicate that they could subsequently certify to their financial qualifications. Upon reflection, we believe this practice is unfair and is inconsistent with the Commission's expressed interest in expediting processing and, ultimately, in expediting service to the public. We shall, therefore, permit the applicant to review its financial plan, to make any revisions it deems required and, if it can, to submit a certification in the manner called for in the revised Form 301 to the Administrative Law Judge within 30 days of the mailing of this order. If the applicant cannot make the required certification, it shall so advise the Administrative Law Judge who shall then specify an appropriate issue. We shall follow this practice in all future cases where the problem arises.

5. Mahogany proposes to mount its antenna 630 feet above ground atop the existing tower of KSLQ-FM. Section 1.1305(a)(2) of the Rules considers a tower in excess of 300 feet in height to be a major action within the meaning of the National Environmental Policy Act, and § 1.1311 requires the submission of an environmental narrative statement from applicants proposing such major actions. Mahogany argues that it is exempt from this requirement, since the tower is an existing structure; however, the applicant proposes an increase of 50 feet above ground. Consequently, Mahogany will be required to submit an environmental narrative statement within 30 days of the mailing of this Order.

6. Since we have not received a determination from the Federal Aviation Administration that Mahogany's proposed increased tower height and location would not constitute a hazard to air navigation, an issue regarding this matter is required.

7. Mahogany proposes electrical or mechanical beam tilt but has not provided horizontal and vertical radiation patterns, as required by

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[1] Spectrum's petition is, in essence, a pre-designation petition to specify issues. Since such petitions are no longer permitted, it will be dismissed. *Processing of Contested Broadcasting Applications*, 72 FCC 2d 202 (1979).

[2] WESL, Inc.'s most recent ownership report lists Marion Officer, not Myrtle Officer, as Director.

Question 7(b) of Section V–C of FCC Form 301. Consequently, Mahogany will be required to submit appropriate patterns within 30 days of the mailing of this Order.

Conclusion and Order

8. Except as indicated by the issues specified below, the applicants are qualified to operate as proposed. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues set out below.

9. Accordingly, it is ordered, that, pursuant to section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications are designated for hearing in a consolidated proceeding to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether there is a reasonable possibility that the tower height and location proposed by Mahogany Entertainment Television, Inc. would constitute a hazard to air navigation and, if so, whether the applicant is qualified.

2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

10. It is further ordered, that the Federal Aviation Administration is made a party respondent in respect to Issue 1 above.

11. It is further ordered, that within 30 days of the mailing of this Order, ESL–46, Spectrum, and Mahogany shall, if they have not already done so, publish local notice of the filing of their applications and file a statement of publication with the presiding Administrative Law Judge.

12. It is further ordered, that within 30 days of the mailing of this Order, Mahogany shall: (a) certify, if it can, to the presiding Administrative Law Judge in the manner described in paragraph 4, above, (b) submit an environmental narrative statement as a supplement to its application, and (c) submit the required horizontal and vertical radiation patterns.

13. It is further ordered, that in the event of a grant of Spectrum's application, the construction permit shall contain the following condition: Prior to the commencement of operation Marion and Myrtle Officer shall certify to the Commission that they have severed all interest in or connection with WESL, Inc.

14. It is further ordered, that the petition to dismiss filed by Spectrum against Mahogany is dismissed.

15. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

16. It is further ordered, that the applicant's herein shall, pursuant to section 311(a)(2) of the Communications Act and § 73.3594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 82–20019 Filed 7–22–82; 8:45 am]

BILLING CODE 6712–01–M

[Report No. 17049; Gen. Docket No. 82–334]

Inquiry Issued on Establishment of Spectrum Utilization Policy for Fixed and Mobile Services' Use of Certain Bands Between 17.7 and 40 GHz

The Commission has issued a notice of inquiry looking towards establishment of a spectrum utilization policy for the fixed and mobile services' use of certain bands between 17.7 and 40 GHz (18, 22, 28, 31 and 38 GHz bands).

The Commission said it intended to examine spectrum allocations and technical standards with a view towards determining whether existing regulations are appropriate for current and future uses, taking advantage of the particular propagation characteristics of this region of the radio spectrum, the availability of newer technology, and the fact that the spectrum is relatively undeveloped in order to develop a utilization plan which will provide both technically and economically efficient use of the spectrum.

Having already identified several non-government requirements as a result of rulemaking petitions and other FCC actions, the Commission said it would like additional information on other possible fixed and mobile uses of the particular bands between 17.7 and 40 GHz. Comments should describe as fully as possible foreseen radio-communication applications, including functional characteristics such as methods of operation, areas/populations to be served, type of information to be transferred, number of stations, time frame for implementation, as well as anticipated technical characteristics such as emission types, channel bandwidth, power levels, communication path lengths, performance and interference criteria etc.

To conserve spectrum, comments are solicited on the possible use of other, non-radio technologies to provide the envisioned radiocommunication services; the trade-offs between use of the radio spectrum and technologies such as coaxial cable, fiber optices, laser links, etc.; and whether there is some capacity/bandwidth or circuit configuration where it becomes more beneficial to use other communications technologies.

Noting that technical standards would not necessarily have to be identical for all fixed and mobile operations within a band and could vary between the five bands, the Commission said its desire is to promote flexibility and encourage innovation, while providing for a proper level of spectrum conservation in keeping with its economic value and for adequate interference control without excessive costs.

Therefore, the Commission asked for comments on whether the policy of specifying explicit technical standards should continue and if some parameters could be eliminated or others added. It also asked for comments on the appropriate values, limits, etc., which should be established for such parameters in each of the five bands or any subband therein, taking into account foreseen uses of the spectrum and international standards described in an appendix. Where the value of a particular parameter is sensitive to some other factor, e.g., cost, that fact should be indicated and discussed.

The Commission's basic purpose in setting explicit standards on system parameters is to control interference and effect a proper level of spectrum conservation. But it may be feasible to accomplish this by directly regulating a system's output signal rather than by specifying its design, or input, parameters. Thoughtful analysis and comments are requested on the pros and cons of such regulatory approaches.

The Commission also would like specific comments on provisions for analog and digital systems in the fixed and mobile services—whether one type of emission could be expected to become predominant; whether they can coexit within the same block of spectrum, or whether it is more efficient to allocate specific bands to each type of system. If these two kinds of systems are to share a common block of spectrum, the FCC asked for comments on problems that might arise in controlling interference between users and how these two types of systems would affect interservice sharing criteria, e.g., such as with the fixed-satellite service.

Pointing out that one planning technique is to channelize the spectrum according to the amounts of spectrum required to support various levels of baseband capacity and to provide specific portions of spectrum for various capacities, the Commission asked whether it would be desirable to provide channelling plans and specific allocations according to system capacities. If so, it asked for comments on the capacity levels for each, and the appropriate channel bandwidths for the various capacities. Comments should include suggestions for other possible means for considering system capacities in developing spectrum utilization plans.

Turning to system configuration, the Commission asked how these configurations should be taken into account in a utilization plan and whether specific frequencies should be designated for particular configurations or if they can be accommodated by channelling arrangements and technical criteria. It also requested comments on what standards should be adopted for the appropriate approach and whether some frequencies should be reserved exclusively for mobile operations.

Noting that experience at 12 GHz has pointed out the difficulties of sharing between the broadcasting-satellite service and thefixed service in that band, the Commission asked how the 22 GHz could band best be utilized by the fixed and mobile services, while providing for broadcasting-satellite operations at 22.5–23.0 GHz like those proposed and discussed at 12 GHz. Similar consideration should be given to other interservice sharing, especially to that of the fixed and mobile services with the fixed-satellite service at 17.7–17.8 GHz, 27.5–29.5 GHz and 38.6–40.0 GHz, with the meterological-satellite service at 18.1–18.3 GHz and with the earth exploration-satellite service at 18.6–18.8 GHz.

Because fixed and mobile service licenses are normally divided into common carrier, private, broadcast and cable categories, the Commission asked for comments on what approach should be adopted for these five bands of interest. If it adopts a system of priorities in allocating spectrum in these bands, e.g., should common carriers have priority based on their Title II obligations to the public, it asked whether private and common carrier, or private and broadcast, or broadcast and common carrier, or all users of fixed and mobile services can share the same bands. It also questioned whether performance and/or interference requirements of common carrier services are different from those of non-common carrier services.

Noting there are some technically related applications which occur in the fixed services, such as video program distribution in the broadcast relay and remote pick-up services, the common carrier relay and remote pick-up services and the cable TV relay service, the Commission asked if spectrum should be allocated in blocks for such technically related purposes in order to realized its most efficient use. It also asked whether there are other technically similar applications for which block allocations may be appropriate.

To minimize interference to existing radiocommunications facilities, the Commission asked for comments on appropriate coordination and licensing procedures for these bands of interests. Comments should address the needs for coordination and licensing in the bands and describe administrative procedures which appear feasible, with special attention being given to possible sharing situations involving other non-government and government radio services and the need for coordination with Canada and Mexico along their respective borders. It also questioned whether some frequencies should be reserved for devices not subject to coordination or individual licensing.

The Commission also would like comments on strategic approaches which may be taken toward the lower bands and if there are modifications to existing technical and regulatory standards which can be pursued profitably. Similarly comments are requested on strategic approaches which may be taken toward bands above 40 GHz where there now is almost no utilization and communications systems are largely in experimental and developmental stages.

Comment dates will be announced at a later time.

Action by the Commission June 23, 1982, by Notice of Inquiry (FCC 82–286). Commissioners Fowler, Quello, Washburn, Fogarty, Jones, Dawson and Rivera.

For more information contact Donald Campbell at (202) 653–8177.

Note.—Due to the continuing effort to minimize printing costs, the Notice of Inquiry will not be published herein. However, copies may be obtained from any of the distribution centers listed in the FCC Office of Public Affairs, Room 202, 1919 M St., N.W., Washington, D.C. 20554 (202) 254–7674.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82–19200 Filed 7–15–82; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. Interested persons may express their views in writing to the address indicated for the application. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Busey Corporation*, Urbana, Illinois; to acquire 100 percent (less directors' qualifying shares) of the voting shares or assets of Roberts State Bank, Roberts, Illinois. Comments on this application must be received not later than August 15, 1982.

Board of Governors of the Federal Reserve System, July 16, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82–19809 Filed 7–22–82; 8:45 am]

BILLING CODE 6210–01–M

Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank

Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *First Bancorp of N.H., Inc.*, Manchester, New Hampshire; to acquire 100 percent of the voting shares of The Bedford Bank, Bedford, New Hampshire. Comments on this application must be received not later than August 16, 1982.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Trust Company of Georgia*, Atlanta, Georgia; to acquire 80 percent of the voting shares or assets of Southern Bancshares, Inc., Douglas, Georgia. Comments on this application must be received not later than August 16, 1982.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Southwest Kansas Banc Shares, Inc.*, Hutchinson, Kansas; to acquire 20 percent of the voting shares or assets of Valley Bancorp., Inc., Syracuse, Kansas, and its subsidiary, The Valley State Bank, Syracuse, Kansas. Comments on this application must be received not later than August 12, 1982.

2. *Arkansas Valley Banc Shares, Inc.*, Hutchinson, Kansas; to acquire 20 percent of the voting shares or assets of Valley Bancorp, Inc., Syracuse, Kansas, and its subsidiary, The Valley State Bank, Syracuse, Kansas. Comments on this application must be received not later than August 12, 1982.

3. *Sante Fe Trail Banc Shares, Inc.*, Hutchinson, Kansas; to acquire 20 percent of the voting shares or assets of Valley Bancorp, Inc., Syracuse, Kansas, and its subsidiary, The Valley State Bank, Syracuse, Kansas. Comments on this application must be received not later than August 12, 1982.

4. *Northwest Kansas Banc Shares, Inc.*, Hutchinson, Kansas; to acquire 20 percent or more of the voting shares or assets of Valley Bancorp, Inc., Syracuse, Kansas, and its subsidiary, The Valley State Bank, Syracuse, Kansas. Comments on this application must be received not later than August 12, 1982.

D. **Secretary, Board of Governors of the Federal Reserve System**, Washington, D.C. 20551:

1. *Mercantile Texas Corporation*, Dallas, Texas; to acquire 100 percent of the voting shares of The Ashford Bank, Houston, Texas. This application may be inspected at the Federal Reserve Bank of Dallas. Comments on this application must be received not later than August 18, 1982.

Board of Governors of the Federal Reserve System, July 19, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-19805 Filed 7-22-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Notice of Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated for each application.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp*, New York, New York (thrift and loan, consumer finance and credit-related insurance activities; California): To establish five *de novo* offices of its thrift and loan subsidiary, Citicorp Person-to-Person Thrift, Inc. It is proposed that the *de novo* offices engage in operating as thrift and loan association offices in the manner authorized by California law, and in the following activities: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the purchasing and servicing for its own account of sales finance contracts; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed brokers, as required; the issuing of thrift certificates and thrift passbook certificates; the sale of consumer oriented financial management courses; and the servicing, for any person, of loans and other extensions of credit. The service area for each of the offices would be comprised of the entire State of California. Credit related life, accident and health insurance may be written by family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Thrift, Inc. The *de novo* offices will engage in the aforementioned activities from locations in San Diego (2 offices), Chula Vista, Escondido, and El Cajon, California. Comments on this application must be received not later than August 18, 1982.

2. *Manufacturers Hanover Corporation*, New York, New York (expansion of service area; Virginia): To expand the service area of Manufacturers Hanover Mortgage Corporation, Newport News, Virginia ("MHMC"). MHMC engages in the activities of arranging, making, or acquiring for its own account or for the account of others loans and other extensions of credit such as would be made or acquired by a mortgage company; servicing such loans and other extensions of credit; and acting as agent

or broker for the sale of credit life insurance and credit accident had health insurance relating to such loans and other extensions of credit. MHMC proposes to expand its service area to include Norfolk, Virginia Beach, Portsmouth, Chesapeake, Mathews, Nansemond, Isle of Wight and Surry Counties. Comments on this application must be received not later than August 18, 1982.

B. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Maryland National Corporation,* Baltimore, Maryland (mortgage and insurance activities; Maryland): To engage through its subsidiary, Maryland National Mortgage Corporation, in the business of a mortgage banker, mortgage broker and mortgage servicing firm; originating, buying, selling and otherwise dealing in mortgage loans as principal or agent; servicing mortgage loans for affiliated or nonaffiliated entities; acting as adviser in mortgage loans transactions; and engaging in the sale as agent of credit life, credit disability and credit accident and health insurance in connection with extensions of credit by bank and nonbank subsidiaries of the holding company. These activities would be conducted from an office in Lutherville, Maryland. The geographic area to be served by this office will be the greater Baltimore metropolitan area including the surrounding counties of Harford, Baltimore, Carroll, Howard and Anne Arundel. Comments on this application must be received not later than August 12, 1982.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Fidelity Corp.,* Carmel, Indiana (mortgage lending and loan servicing activities; Indiana, Ohio and Kentucky): To engage, through a *de novo* subsidiary, Fidelity Investment Mortgage Company, Inc., in mortgage lending and servicing activities, including making or acquiring, for its own account or for the account of others, mortgage loans and other extensions of credit and servicing mortgage loans and other extensions of credit. These activities would be conducted from offices in Carmel, Indiana, serving the States of Indiana, Ohio and Kentucky. Comments on this application must be received not later than August 17, 1982.

Board of Governors of the Federal Reserve System, July 19, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-19804 Filed 7-22-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Beach One Financial Services, Inc.,* Vero Beach, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of The Beach Bank of Vero Beach, Vero Beach, Florida. Comments on this application must be received not later than August 15, 1982.

2. *Peoples Bancshares Inc.,* Clifton, Tennessee; to become a bank holding company by acquiring 80 percent of the voting shares of Peoples Bank of Clifton, Clifton, Tennessee. Comments on this application must be received not later than August 15, 1982.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *CS Bancorp,* Huntington, Indiana; to become a bank holding company by acquiring 80 percent or more of the voting shares of Community State Bank in Huntington, Huntington, Indiana. Comments on this application must be received not later than August 15, 1982.

2. *Illowa Bancorp, Inc.,* Savanna, Illinois; to become a bank holding company by acquiring 93 percent of the voting shares of The National Bank of Savanna, Savanna, Illinois. Comments on this application must be received not later than August 15, 1982.

Board of Governors of the Federal Reserve System, July 16, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-19900 Filed 7-22-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *New Great Lakes Financial, Inc.,* Grand Rapids, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of Union Bancorp Inc., Grand Rapids, Michigan. Comments on this application must be received not later than August 18, 1982.

2. *Royal Bancshares, Inc.,* Royal, Iowa; to become a bank holding company by acquiring 80 percent or more of the voting shares of Home State Bank, Royal, Iowa. Comments on this application must be received not later than August 18, 1982.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First Bancorp of Kansas,* Wichita, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank in Wichita, Wichita, Kansas. Comments on this application must be received not later than August 18, 1982.

2. *Sunflower Bancshares, Inc.*, Riley, Kansas; to become a bank holding company by acquiring 88.6 percent of the voting shares of The Riley State Bank of Riley, Riley, Kansas. Comments on this application must be received not later than August 18, 1982.

C. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Cal Coast Bancorp*, San Clemente, California; to become a bank holding company by acquiring 100 percent of the voting shares of Mariners Bank, N.A. (in organization), San Clemente, California. Comments on this application must be received not later than August 11, 1982.

Board of Governors of the Federal Reserve System, July 19, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-19898 Filed 7-22-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 82M-0212]

Sherman Laboratories, Inc.; Premarket Approval of Sof/Pro-Clean Contact Lens Cleaner

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces approval of the application for premarket approval under the Medical Device Amendments of 1976 of the SOF/PRO-CLEAN Contact Lens Cleaner sponsored by Sherman Laboratories, Inc., Abita Springs, LA. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by August 23, 1982.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles Kyper, Bureau of Medical Devices (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7445.

SUPPLEMENTARY INFORMATION: On August 6, 1981, Sherman Laboratories, Inc., Abita Springs, LA submitted to FDA an application for premarket approval of the SOF/PRO/CLEAN Contact Lens Cleaner for daily use with all soft (hydrophilic) contact lenses and with the POLYCON® (silafocon A) Contact Lens. The application was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, and FDA advisory committee, which recommended approval of the application. On June 15, 1982, FDA approved the application by a letter to the sponsor from the Acting Director of the Bureau of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94-295, 90 Stat. 539-583), soft contact lens solutions were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(h)), soft contact lens solution are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the **Federal Register** of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly regulated as new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications for premarket approval of soft contact lenses or solutions comply with the records and reports provisions of Subpart D of Part 310 (21 CFR Part 310), until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based is on file with the Dockets Management Branch (address above), and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Bureau of Medical Devices. Contact Charles Kyper (HFK-402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

The labeling of the Sof/Pro-Clean Contact Lens Cleaner states that the solution is designed for daily use as a cleaning solution for use with all soft (hydrophilic) contact lenses and with the POLYCON®± (silafocon A) Contact Lens. Sponsors of any soft (hydrophilic) contact lenses and the POLYCON® (silafocon A) Contact Lens that have been approved for marketing are advised that whenever FDA publishes a notice in the **Federal Register** of the agency's approval of a new solution for use with an approved soft contact lens, the sponsor of each lens shall correct its labeling to refer to the new solution at the next printing or at such other time as FDA prescribes by letter to the sponsor. A sponsor who fails to update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41-58), as amended by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 93-637). Furthermore, failure to update the restrictive labeling to refer to new solutions that may be used with an approved lens may be grounds for withdrawing approval of the application for the lens, under section 515(e)(1)(F) of the act (21 U.S.C. 360e(e)(1)(F)).

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before August 23, 1982, file with the Dockets Management Branch (address above), four copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this

document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 15, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-19804 Filed 7-22-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82M-0187]

Unilab, Inc.; Expiration of Time To Request Review of Denial of Premarket Approval of Kiel Surgibone

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that the 30-day time period allowed Unilab, Inc., Hillside, NJ, to request administrative review of the denial by the Bureau of Medical Devices (the Bureau) of approval of the sponsor's premarket approval application for Kiel Surgibone has expired. The sponsor did not request administrative review and therefore elected not to avail itself of the opportunity for a hearing on the decision. Therefore, the denial of approval of the premarket approval application is the agency's final action in this proceeding.

FOR FURTHER INFORMATION CONTACT: Charles Kyper, Bureau of Medical Devices (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7445.

SUPPLEMENTARY INFORMATION: By letter dated May 28, 1982, the Bureau informed Unilab, Inc., Hillside, NJ, of its denial of approval of the premarket approval application for Kiel Surgibone, a bovine heterograft intended for use in surgical procedures following the removal of a herniated cervical disc. The application was reviewed by the Orthopedic Device Section of the Surgical and Rehabilitation Devices Panel, an FDA advisory committee, which recommended that the application not be approved. The Bureau denied the application on the grounds that the device had not been shown to be safe and effective for use as recommended in the submitted labeling. The May 28, 1982 letter from the Bureau advised the sponsor that it had 30 days from the date of receipt of the letter in which to petition for administrative review of the denial of approval of the premarket approval application. Notice of the denial was published in the **Federal Register** of June 18, 1982 (47 FR 26458).

The sponsor did not request administrative review, as provided by the Bureau's letter. The failure to petition for such review constitutes an election by the sponsor not to avail itself of the opportunity for a hearing. Therefore, the denial of approval of the premarket approval application is the agency's final action in this proceeding.

Dated: July 15, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-19803 Filed 7-22-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 77N-0239]

Availability of Model Retail Food Store Sanitation Code

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the availability of the 1982 Model Retail Food Store Sanitation Code. The model code was initiated by the Association of Food and Drug Officials (AFD) and has been jointly developed with FDA to provide industry and State and local governments with a uniform food protection code for the operation and regulation of retail food stores.

ADDRESSES: Copies of the model code are available from the Association of Food and Drug Officials, P.O. Box 3425, York, PA 17402. See Supplementary Information for prices. Requests for copies should be identified with "Retail Food Store Sanitation Code—1982." A copy of the model code is available for viewing at the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Arthur L. Banks, Bureau of Foods HFF-342, Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202-245-1508.

SUPPLEMENTARY INFORMATION: In August 1974, the Executive Board of the Association of Food and Drug Officials petitioned FDA "to publish in the **Federal Register** and adopt as soon as possible a Retail Food Market Document." A proposed Retail food market sanitation standard which had been developed by AFDO's Food Service and retail Food Handling Committee was provided to FDA as part of the petition. FDA agreed to continue development of the document provided by AFDO and to promote its adoption after it is completed.

FDA initially announced that availability for comment of a proposed Model Retail Food Store Ordinance in a notice published in the **Federal Register** of October 25, 1977 (42 FR 56367). The comment period was extended to 120 days and closed February 24, 1978.

Significant changes were made in this ordinance as a result of the comments received. Consequently, FDA decided that interested persons should be allowed to comment on the revised ordinance. A notice announcing its availability for comment was published in the **Federal Register** of November 3, 1978 (42 FR 51450). The comment period for the revised document closed on January 31, 1979.

Additional changes were made to accommodate meritorious points in the comments received. A notice announcing that the 1981 revision of the proposed ordinance had been provided to AFDO was published in the **Federal Register** of September 18, 1981 (46 FR 46395).

Three AFDO Committees reviewed the document and offered 55 additional comments. AFDA carefully considered each comment and made a number of additional changes reflecting these recommendations. The new code was approved by FDA on June 7 and by AFDO on June 13, 1982.

Copies of the model code are available from the Association of Food and Drug Officials, P.O. Box 3425, York, PA 17402. Current prices[1] prepaid are: $3.50 per copy (sent book rate) $4.00 per copy (sent first class); $3.00 per copy (orders for 10 or more copies); and $2.75 per copy (orders for 50 or more copies). Requests for copies should be identified with "Retail Food Store Sanitation Code—1982." Checks should be made payable to FDO. A copy of the model code is available for viewing at the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

Dated: July 10, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-19948 Filed 7-22-82; 8:45 am]

BILLING CODE 4160-01-M

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of

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[1] Price subject to change.

Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on July 16.

Public Health Service

National Institutes of Health

Subject: Retirement Substudy of the Iowa 65 + Rural Health Study—Preliminary Plan
Respondents: Individuals
OMB Desk Officer: Richard Eisinger

Social Security Administration

Subject: Summer State Survey of FY 82 Low-Income Home Energy Assistance Program (SSA–2201)—New
Respondents: State or Local Governments
OMB Desk Officer: Milo Sunderhauf

Health Care Financing Administration

Subject: Home Dialysis Target Rate Reimbursement Agreement and Instruction (HCFA–119A)—Extension/No Changes
Respondents: Businesses
OMB Desk Officer: Fay S. Iudicello

Office of Human Development Services

Subject: Assessment of Voluntary Placement Assistance—New
Respondents: Child Welfare social workers/parents
Subject: Program Performance Standards Self Assessment Instrument—Youth Development Bureau (0980–0037)—Extension
Respondents: Runaway and Homeless Youth Act grantees
OMB Desk Officer: Milo Sunderhauf

Office of the Secretary

Subject: Utilization of Products Disseminated by the National Diabetes Clearinghouse—New
Respondents: Nurses/physicians/dieticians
OMB Desk Officer: Richard Eisinger

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202–245–6511.

Written comments and recommendations for the proposed information collections should be sent directly to both the HHS Reports Clearance Officer and the appropriate OMB Desk Officer designated above at the following addresses:

J. J. Strnad, HHS Reports Clearance Officer, Hubert H. Humphrey Building, Room 524–F, Washington, D.C. 20201;
OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503, ATTN: (name of OMB Desk Officer).

Dated: July 16, 1982.

Dale W. Sopper,

Assistant Secretary for Management and Budget.

[FR Doc. 82–19799 Filed 7–22–82; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Notice of Filing Period for Good Neighbor Program Applications

Correction

In FR Doc. 82–19466, appearing on page 31327 in the issue of Monday, July 19, 1982, the second line of the first complete paragraph in the second column should have read, "Offices are now in the process of".

BILLING CODE 1505–01–M

Colorado; Craig District Grazing Advisory Board Meeting

Notice is hereby given in accordance with Public Law 92–463, that a meeting of the Craig District Grazing Advisory Board will be held on August 26, 1982, at the Craig District Office of the Bureau of Land Management, 455 Emerson Street, Craig, Colorado 81625. The meeting will convene at 10:00 a.m.

The agenda for the meeting will include: (1) Status of range improvement projects being constructed in FY '82 and proposed projects for FY '83; (2) the expenditures of advisory board funds for range improvements; (3) status of Kremmling Resource Management Plan, livestock forage allocations and monitoring studies; (4) discussion of White River grazing decisions and a review of allotment management plans; (5) status of the Little Snake inventory.

The meeting is open to the public. Interested persons may make oral statements to the board between 10:00 and 11:00 A.M. on August 26, 1982, or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, P.O. Box 248, Craig, Colorado 81626, by August 21, 1982. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the board meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: July 14, 1982.

Terry L. Plummer,

Acting Distirct Manager.

[FR Doc. 82–19822 Filed 7–22–82; 8:45 am]

BILLING CODE 4310–84–M

Ely District, Nevada; Schell Resource Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Intent to prepare a Wilderness Environmental Impact Statement for the Schell Resource Area, scoping of wilderness alternatives.

SUMMARY: This notice advises the public that a wilderness environmental impact statement (EIS) will be prepared by the Bureau of Land Management for eight wilderness study areas (WSAs) in the Schell Resource Area, Ely District, Nevada. This notice also advises that a scoping period will be held to solicit comments from the public concerning the alternatives for the Schell Wilderness EIS.

The wilderness EIS will be conducted to determine which of eight WSAs or portions of these WSAs, if any, are suitable for designation as wilderness. The eight WSAs encompass 424,583 acres. Analysis will be conducted in accordance with the National Environmental Policy Act, the regulations of the Council of Environmental Quality, and the BLM's *Wilderness Study Policy.*

Scoping for the EIS alternatives will be conducted beginning with the publication of this notice and lasting through September 10, 1982. The purpose of the scoping period is to solicit written comments about the alternatives formulated, in particular the composition of the individual alternatives and the representativeness of the array presented by the four alternatives. For the Schell EIS, the four alternatives are the No-Wilderness Alternative, the All-Wilderness Alternative, the Management Framework Plan (MFP–2) Alternative and a Limited-Wilderness Alternative. The eight WSAs are listed below:

WILDERNESS STUDY AREAS

		Acreage
NV–040–172	Far South Egans	53,224
NV–040–202	White Rock Range	23,625
NV–040–206	Parsnip Peak	68,175
NV–040–242	Worthington Mountains	47,600
NV–040–246	Weepah Spring	61,137
NV–040–169	Mount Grafton	73,216
NV–040–177	Fortification Range	41,615
NV–040–187	Table Mountain	36,958
Total Acreage		424,583

DATES: Three scoping meetings will be conducted at the following locations:

Reno, Nevada—El Dorado Hotel—August 9, 1982, 3:00 to 4:30 p.m. and 7:00 to 9:00 p.m.

Ely, Nevada—White Pine Library, Conference Room—August 10, 1982, 7:00 to 9:00 p.m.

Pioche, Nevada—Lincoln County Courthouse—August 11, 1982, 7:00 to 9:00 p.m.

ADDRESS: Comments should be addressed to Merrill DeSpain, District Manager, Bureau of Land Management, Star Route 5, Box 1, Ely, Nevada 89301.

FOR FURTHER INFORMATION CONTACT: Wayne Lowman, Schell Area Manager, or Wayne Howle, Wilderness Program Leader, Ely District Office, (702) 289-4865.

Dated: July 16, 1982.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 82-19923 Filed 7-22-82; 8:45 am]

BILLING CODE 4310-84-M

[Modified Competitive Sale—I-17736]

Idaho Falls District; Realty Action; Public Lands in Bear Lake County, Idaho

SUMMARY: The following described lands have been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713) at no less than the fair market value of $17,400 for Tract #1 and $17,600 for Tract #2.

Boise Meridian, Idaho

T. 16 S., R. 45 E.,
Tract #1—Section 11: E½SE¼—80 acres;
Tract #2—Section 23: W½SE¼—80 acres.

The land will be sold at public auction by modified competitive bidding. DeMar W. Romrell, Star Route 1, Montpelier, Idaho 83254 and J.R. Ream Ranch, c/o Mrs. J.R. Ream, Dingle, Idaho 83233, the adjoining landowners of Tract #1, will be the designated bidder to have a perference right to purchase the land by meeting the highest bid. If both landowners exercise their preference, an oral bid-off will be held at the Bureau of Land Management, Soda Springs Resource Area Office, 490 East 2nd South, Soda Springs, Idaho 83276 at 2:00 p.m. on Thursday, November 1, 1982. Such preference right is being offered because Mr. Romrell and Mrs. Ream are the adjoining landowners of Tract #1.

George Weston, Laketown, Utah 84035, the adjoining landowner of Tract #2, will be the designated bidder to have a preference right to purchase the land by meeting the highest bid. Such preference right is being offered because Mr. Weston is the adjoining landowner of Tract #2.

The land has not been used for and is not required for any federal purpose. The location and physical characteristics of the tract make it difficult and uneconomical to manage as public land. Disposal would not have any significant effect on resource values and would best serve the public interest.

A patent for the land, when issued, will be subject to the following conditions:

1. A right-of-way for ditches or canals constructed by the authority of the United States. Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. All minerals will be reserved to the United States as required by Section 209(a) of the Federal Land Policy and Management Act of 1976, U.S.C. 1719.

3. All valid existing rights and reservations of record.

The sale will be held at the Bear Lake County Courthouse, 7 East Center, Paris, Idaho 83261, at 2:00 p.m. on Thursday, September 30, 1982.

BIDDING INFORMATION AND INSTRUCTIONS:

Bidder Qualifications

The Federal Land Policy and Management Act requires that bidders must be citizens of the United States 18 years of age or over, or, in the case of a corporation, be subject to the laws of any state or the United States. Bids may be made by a principal (the one desiring to purchase the land) or his duly qualified agent.

Bid Standards

No bid will be accepted for less than the appraised fair market value of: Tract #1—$17,400; Tract #2—$17,600. Bids must be for all the land in the specified tract.

Method of Bidding

The land will be sold by sealed bid only. Bids sent by mail will only be considered if received by the Bureau of Land Management, Soda Springs Resources Area Office, 490 East 2nd. South, Soda Springs, Idaho 83276, prior to 1:00 p.m. on September 30, 1982. Bids must be in sealed envelopes, accompanied by a certified check, postal money order, bank draft or cashier's check made payable to the Bureau of Land Management for not less than one-fifth of the amount of the bid. Sealed bid envelopes must be marked in the lower left-hand corner, "Sealed bid, Public Land Sale I-17736, Sale to be September 30, 1982". If two or more valid sealed bids in the same amount are received, the determination of which is to be considered the highest bid shall be by a drawing. The drawing, if required, shall be held immediately following the opening of the bids. The highest qualifying sealed bid shall then be declared.

Modified Bidding

For a period of 30 days following the date of the sale, DeMar W. Romrell and J.R. Ream Ranch, c/o Mrs. J.R. Ream for Tract #1 and George Weston for Tract #2 will have a preference right to purchase the land by meeting the highest bid. If they meet the highest bid, the land will be sold to them, and the other bid will be returned. Refusal or failure by the designated bidder to meet the highest bid shall constitute a waiver of such bidding provision.

Final Details

Once a high bid is accepted, the successful bidder shall submit the balance of the full bid price within the time designated by the authorized officer. Failure to submit the required balance within the period of time allowed will result in cancellation of the sale and the bid deposit will be forfeited. If the high bid is accepted, the full bid price is paid, and required citizenship or corporate qualifications are met, title to the lands will be conveyed by a patent.

FURTHER INFORMATION/INQUIRIES: Detailed information concerning this sale, including the planning documents and Environmental Assessment, is available for review in the Soda Springs Resource Area Office at the address indicated above. For the period of 45 days from the date of this notice, interested parties may submit comments to the Bureau of Land Management, Idaho Falls District Manager, 940 Lincoln Road, Idaho Falls, Idaho 83401. Any adverse comments will be evaluated by the Idaho State Director, Bureau of Land Management, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Dated: July 15, 1982.

O'dell A. Frandsen,

District Manager.

[FR Doc. 82-19919 Filed 7-22-82; 8:45 am]

BILLING CODE 4310-84-M

[ES 30504, Survey Group 78]

Michigan; Filing of Plats of Survey

1. On November 19, 1981, the plats representing the survey of 5 islands in Potagannissing Bay, which were omitted from the original survey, was accepted. It will be officially filed in the Eastern States Office, Alexandria, Virginia, at 7:30 a.m. on October 21, 1982.

The tracts shown below describe the islands omitted from the original survey.

Michigan Meridian, Michigan

T. 43 N., R. 5 E.,
Tract Nos. 37, 38, 39, 40, and 41.

2. The islands described above are separate and distinct yet similar in all respects to that of the adjacent surveyed lands.

a. The island Tract No. 37 rises approximately 3 feet above the ordinary high water mark of Potagannissing Bay and has a thin layer of soil over a rocky base. Timber consists of birch, spruce, balsam fir, and cedar with undergrowth of alder.

b. The island Tract No. 38 rises approximately 5 feet above the ordinary high water mark of Potagannissing Bay and has a thin layer of soil over a rocky base. Timber consists of elm, aspen, and ash with undergrowth of willow, dogwood and alder. Many large boulders were found on the island.

c. Tract No. 39 rises approximately 10 feet above the ordinary high water mark of Potagannissing Bay and has a thin layer of soil over a rocky base. Numerous large boulders were found on the island. Tree species consist of cedar, birch and elm with undergrowth of willow and dogwood.

d. The island Tract No. 40 rises approximately 2 feet above the ordinary high water mark of Potagannissing Bay and has a thin layer of soil over a rocky base. Timber consists of elm, birch, aspen, maple, and cedar with undergrowth of willow and alder.

e. Tract No. 41 rises approximately 3 feet above the ordinary high water mark of Potagannissing Bay and has a thin layer of soil over a rocky base. Timber consists of cedar and aspen with undergrowth willow and alder.

3. The tracts described above were found to be over 50 percent upland in character within the purview of the Swamp Lands Act of September 28, 1850 (9 Stat 519). They are, therefore, held to be public land.

4. Except for valid existing rights, the islands will not be subject to application petition, location, or selection under any public law until a further order is issued.

5. All inquiries relating to these islands should be sent to the Chief, Division of Lands and Minerals Operations, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304 on or before October 21, 1982.

Jeff O. Holdren,
Chief, Division of Lands and Minerals Operations.

[FR Doc. 82-19917 Filed 7-22-82; 8:45 am]
BILLING CODE 4310-84-M

[ES 30508, Survey Group 78]

Michigan; Filing of Plat of Survey

1. On November 19, 1981, the plat representing the survey of 5 islands in Lake Huron and 1 island is De Tour Passage, which were omitted from the original survey, was accepted. It will be officially filed in the Eastern States Office, Alexandria, Virginia, at 7:30 a.m. on October 21, 1982.

The tracts shown below describe the islands omitted from the original survey.

Michigan Meridian, Michigan

T. 41 N., R. 4 E.,
Tract Nos. 37, 38, 39, 40, 41, and 42.

2. The islands described above are separate and distinct yet similar in all respects to that of the adjacent surveyed lands.

a. The island Tract No. 37 rises approximately 4 feet above the ordinary high water mark of Lake Huron and has a soil composition of stony loam over glacial-till. Large boulders were found on the island. Timber consists of cedar, spruce, balsam fir, and birch. Borings showed trees to be up to 70 years old.

b. Tract No. 38 rises approximately 4 feet above the ordinary high water mark of Lake Huron and has a soil composition of stony loam over glacial-till. Tree species consist of cedar, balsam fir, birch, and aspen. Borings showed trees to be up to 70 years old. Large boulders were found on the island.

c. The island Tract No. 39 rises approximately 6 feet above the ordinary high water mark of Lake Huron and has a soil composition of stony loam over glacial-till. Large boulders were found on the island. Tree species consist of cedar, spruce, balsam fir, birch, and aspen. Borings showed trees to be up to 70 years old.

d. Tract No. 40 rises approximately 4 feet above the ordinary high water mark of Lake Huron and has a soil composition of stony loan over glacial-till. Large boulders were found on the island. Tree species consist of white pine, spruce, cedar, and birch. Borings showed trees to be up to 75 years old.

e. The island Tract No. 41 rises approximately 7 feet above the ordinary high water mark of Lake Huron and has a soil composition of stony loam over glacial-till. Timber consists of cedar, spruce, balsam fir, and birch. Borings showed trees to be up to 70 years old. Decomposed stumps and large boulders were found on the island.

f. Tract No. 42 rises approximately 1 foot above the ordinary high water mark of De Tour Passage and has a soil composition of humus over glacial-till. Tree species consist of spruce, cedar and birch. Borings showed trees to be up to 60 years old. Large boulders were found on the island.

3. The islands describd above were found to be over 50 percent upland in character within the purview of the Swamp Lands Act of Septebmer 28, 1850 (9 Stat. 519). They are, therefore, held to be public land.

4. Except for valid existing rights, the islands will not be subject to application, petition, location, or selection under any public law until a further order is issued.

5. All inquiries relating to these islands should be sent to the Chief, Division of Lands and Minerals Operations, Eastern States Office, Bureau of Land Management, 350 South Pickett street, Alexandria, Virginia 22304 on or before October 21, 1982.

Jeff O. Holdren,
Chief, Division of Lands and Minerals Operations.

[FR Doc. 82-19920 Filed 7-22-82; 8:45 am]
BILLING CODE 4310-84-M

[ES 30513, Survey Group 78]

Michigan; Filing of Plat of Survey

1. On November 19, 1981, the plat representing the survey of one island in Lake George, which was omitted from the original survey, was accepted. It will be officially filed in the Eastern States Office, Alexandria, Virginia at 7:30 a.m. on October 21, 1982.

The tract shown below describes the island omitted from the original survey.

Michigan Meridian, Michigan

T. 47 N., R. 2 E.,
Tract No. 37.

2. The island described above is separate and distinct yet similar in all respects to that of the adjacent surveyed lands.

The island Tract No. 37 rises approximately 10 feet above the ordinary high water mark of Lake George and has a soil composition of humus over glacial-till. Tree species consist of elm, spruce and birch. Decomposed stumps and trees up to 3[illegible] inches in diameter were found on the island.

3. The island described above was found to be over 50 percent upland in character within the purview of the Swamp Lands Act of September 28, 1850 (9 Stat. 519). It is, therefore, held to be public land.

4. Except for valid existing rights, the island will not be subject to application, petition, location, or selection under any public law until a further order is issued.

5. All inquiries relating to this island should be sent to the Chief, Division of Lands and Minerals Operations, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304 on or before October 21, 1982.

Jeff O. Holdren,

Chief, Division of Lands and Minerals Operations.

[FR Doc. 82-19821 Filed 7-22-82; 8:45 am]

BILLING CODE 4310-84-M

Montana; Partial Termination of Proposed Withdrawal and Reservation of Land

July 15, 1982.

The Forest Service, United States Department of Agriculture, filed an application for withdrawal of the following described land from operation of the public land laws, including location and entry under the mining laws. The Notice of Proposed Withdrawal was published in the **Federal Register** on June 1, 1972, Volume 37, No. 106, page 10964, and republished on August 26, 1977, Volume 42, No 166, p. 43132. The applicant agency has cancelled its application in part as to the following:

Principal Meridian, Deer Lodge National Forest

Rock Creek Trail End Facility

T. 2 S., R. 3 W.,
Sec. 6, SE¼ of lot 6 and NE¼ of lot 8.
Total area 15 acres.

Spire Rock Spike Camp

T. 2 N., R. 5 W.,
Sec. 6, SE¼ of lot 4, lot 5.
Total area 53.89 acres.

The total acres described aggregate 68.89 acres in Madison and Jefferson Counties.

Therefore, pursuant to the regulations contained in 43 CFR 2091.2–5(b)(1), at 8 am on September 15, 1982, such land will be relieved of the segregative effect of the above mentioned application.

Roland F. Lee,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-19827 Filed 7-22-82; 8:45 am]

BILLING CODE 4310-84-M

California Desert District; Motorized Vehicle Use Designation of the Jacumba Outstanding Natural Area—Correction

The following corrections are made to FR Doc. 82–17170 appearing on pages 27407 through 27409 in the issue of June 24, 1982. The corrections are found on page 27408, column 3, under the subheading of "Closed Area Designations."

In the legal description of lands closed to motorized vehicle use within T. 17 S., R. 9 E., SBM, the line reading "Sec. 14, WE¼, W½E½;" is corrected to read "Sec. 14, W½, W½E½;". In the legal description of lands closed to motorized vehicle use within T. 17 S., R. 10 E., SBM, the line reading "Sec. 23, E½, SW¼, E½W½SW¼, S½SE¼;" is corrected to read "Sec. 23, E½SW¼, E½W½SW¼, S½SE¼;".

Dated: July 13, 1982.

Gerald E. Hillier,

District Manager.

[FR Doc. 82-20000 Filed 7-22-82; 8:45 am]

BILLING CODE 4310-84-M

Outer Continental Shelf Advisory Board; Alaska Regional Technical Working Group Committee; Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. 92–643.

The Alaska Regional Technical Working Group Committee of the National Advisory Board will hold a meeting on August 5, 1982, beginning at 9 a.m. in the Mountainview Conference Room, Alaska OCS Office, 620 East 10th Avenue, Anchorage, Alaska.

The meeting will cover the following principal subjects:

—Final 5-Year OCS Leasing Schedule.
—Proposed Notice of Sale, Diapir Sale 71.
—Area Selection, Navarin Sale 83.
—Proposed Notice of Sale, Norton Sale 57 (If available).
—MMS Organization.
—Discussion of the Beaufort Sea Transportation Management Plan.
—Update on Studies for FY 1983 and FY 1984.

The meeting is open to the public. Public attendance may be limited by the space available. Summary minutes of the meeting will be available at the Alaska OCS Office for public inspection and copying 3 weeks after the meeting.

For further information, contact Gordy Euler at the Alaska OCS Office, (907) 276–2955.

Dated: July 13, 1982.

Esther C. Wunnicke,

Acting Manager, Alaska, OCS Region.

[FR Doc. 82-20023 Filed 7-22-82; 8:45 am]

BILLING CODE 4310-84-M

Application Procedures; Place of Filing of Simultaneous Oil and Gas Leasing Applications

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Existing regulations under § 3112.2–1(a) of Title 43 of the Code of Federal Regulations require the filing of simultaneous oil and gas lease applications on a form approved by the Director, Bureau of Land Management.

The only form approved by the Director for use in the Simultaneous Oil and Gas program administered by the Montana, Arizona, Idaho, and Oregon State Offices beginning on September 1, 1982, is the Automated Simultaneous Oil and Gas Lease Application (Bureau of Land Management Forms 3112–6 and 3112–6(a), OMB No. 1004–0065). Applications for a simultaneous oil and gas lease for lands under jurisdiction of these offices shall, on or after September 1, 1982, be submitted to the Bureau of Land Management's Wyoming State Office, 2512 Warren Avenue, P.O. Box 1828, Cheyenne, Wyoming 82001.

No simultaneous oil and gas lease applications will be accepted in the Bureau of Land Management's Montana, Arizona, Idaho, and Oregon State Offices. Simultaneous oil and gas lease applications submitted to the Wyoming State Office on the manual form will not be accepted. Applications filed on the automated form received in a condition that the authorized officer determines would prevent automated processing will not be accepted.

Applications determined to be unacceptable will be returned to the applicant along with the filing fee. All applications shall be filed in accordance with Group 3100, subchapter C, Chapter II of Title 43 of the Code of Federal Regulations.

Forms 3112–6 and 3112–6(a), which are machine readable, will allow an applicant to file for up to 600 tracts on a single application. Ten copies of the form are available from any of the Bureau of Land Management State offices. Additional copies of the application form can be purchased from the Superintendent of Documents.

Applicants who have filed Form 3112–6 (Part A) with the Wyoming State Office of the Bureau of Land

Management need not file that form again. Applicants are reminded that one copy of Form 3112–6(a) (Part B) must be filed for each State drawing. For example, applicants wishing to file for leases in both Wyoming and Idaho must file two copies of Part B, one for each State.

The automated form is designed to accommodate the automated processing of simultaneous oil and gas lease applications. The development of the automated process is a result of the Bureau's efforts to expedite the issuance of leases and lessen the paperwork burden on the public.

The Bureau of Land Management will continue to use the Simultaneous Oil and Gas Lease Application (Bureau of Land Management Form 3112–1) in State offices located in California and Utah.

It is anticipated that in the near future the Wyoming State Office will be designated the proper office for filing all simultaneous oil and gas lease applications. Future **Federal Register** notices will announce effective dates for both forms and filing for any affected State office.

James M. Parker,

Associate Director.

July 20, 1982.

[FR Doc. 82-30119 Filed 7-22-82; 8:45 am]

BILLING CODE 4310-84-M

Bureau Forms Submitted for Review

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of forms being submitted to Office of Management and Budget for review.

SUMMARY: The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the bureau's clearance officer at the number listed below. Comments and suggestions should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Mr. William T. Adams, at (202) 395–7340.

Title: 43 CFR 2200, Exchanges, General.
Bureau Form Number: 1004–0056.
Frequency: Intermittent.
Description of Respondents: General Public, state and local governments, other Federal agencies.
Annual Responses: 115.
Annual Burden Hours: 345.

Bureau clearance officer (alternate): Linda Gibbs (202) 653–8853.

James M. Parker,

Acting Director

May 13, 1982.

[FR Doc. 82-30118 Filed 7-22-82; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Marathon Oil Co.

AGENCY: Minerals Management Service, U.S. Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Marathon Oil Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 2061, Block 321, East Cameron Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: July 9, 1982.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-30039 Filed 7-22-82; 8:45 am]

BILLING CODE 4310-31-M

National Park Service

Gettysburg National Military Park and Gettysburg National Military Cemetery; Adams County, Pennsylvania; Availability of Draft General Management Plan/Environmental Assessment

An Environmental Assessment for the Draft General Management Plan for Gettysburg National Military Park and Gettysburg National Military Cemetery, Adams County, Pennsylvania has been distributed and is available for review and comment. Copies may be obtained from Gettysburg National Military Park, Gettysburg, PA 17325 or Mid-Atlantic Regional Office, 143 S. Third Street, Philadelphia, PA 19106.

Anyone wishing to provide comments on the Environmental Assessment for the Draft General Management Plan should address them to the Superintendent, Gettysburg National Military Park, Gettysburg, PA 17325, on or before September 6, 1982.

A public meeting will be held at the park on the evening of August 4, 1982 at 7:30 p.m. at the Cyclorama Center at the park. Anyone wishing to comment on the Environmental Assessment for the General Management Plan is invited to attend.

July 15, 1982.

Don H. Castleberry,

Acting Regional Director Mid-Atlantic Region.

[FR Doc. 82-19839 Filed 7-22-82; 8:45 am]

BILLING CODE 4310-70-M

Mormon Pioneer National Historic Trail Advisory Council; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Mormon Pioneer National Historic Trail Advisory Council will be held beginning at 8:30 a.m., and concluding at 5:00 p.m., on August 13, 1982, at the Historical Library Conference Room, The Church of Jesus Christ of Latter Day Saints, 50 East North Temple Street, Salt Lake City, Utah. The Advisory Council was established by Pub. L. 90–543, section 5(d), as amended by Pub. L. 95–625, to consult with the Secretary of the Interior through the National Park Service on matters concerning the Trail, including selection of rights-of-way, markers and administration.

The meeting will be held for the purpose of Council review of the plan status, management action, implementation efforts, critical management issues, and Executive Council actions.

The meeting will be open to the public. However, facilities and space to accommodate members of the public are limited, and persons will be accommodated on a first-come, first-served basis. Any member of the public may file with the Council a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting or who will wish to submit written statements may contact Michael Beaudry, Trail Coordinator, Rocky Mountain Region, National Park Service, 655 Parfet Street, P.O. Box 25287, Denver, Colorado 80225, (202) 234–4942.

Minutes of the meeting will be available for inspection 4 weeks after the meeting at the above address.

Dated: July 13, 1982.

Lorraine Mintzmyer,

Regional Director, Rocky Mountain Region.

[FR Doc. 82-19940 Filed 7-22-82; 8:45 am]

BILLING CODE 4310-70-M

Information Collection Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Mr. William T. Adams, at 202–395–7340.

Title: Concessioner Annual Financial Report.

Bureau Form Number: 10–356 and 356a.

Frequency: Annually.

Description of Respondents: Concessioners operating within National Park Service areas.

Annual Responses: 500.

Annual Burden Hours: 3,800.

Bureau clearance officer: Russell K. Olsen 523–5092.

Russell K. Olsen,

Information Collection Clearance Officer.

July 16, 1982.

[FR Doc. 82-19929 Filed 7-22-82; 8:45 am]

BILLING CODE 4310-03-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 387 (Sub-181)]

Rail Carriers; the Atchison, Topeka and Santa Fe Railway Co., Exemption for Contract Tariff ICC–ATSF–C–0038

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Tom Smerdon, (202) 275–7277.

SUPPLEMENTARY INFORMATION: The Atchison, Topeka and Santa Fe Railway Company (ATSF) filed a petition on July 7, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract ICC–ATSF–C–0038 filed on July 7, 1982, to become effective on one day's notice. The contract involves the movement of grain.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. However, relief may be granted under 49 U.S.C. 10505.

The petition shall be granted. The volume of grain shipments has recently increased and cars capable of moving such tonnage are in short supply. Short notice effectiveness of the contract tariff will enable the shipper to continue to move the grain in available equipment, subject to minimum weight or volume requirements. An exemption will obviously be in the public interest.

Petitioner's contract ICC–ATSF–C–0038 may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(e) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30 day notice requirement in these instances is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(d) if protests showing good cause are filed within 15 days of publication in the Federal Register.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505.)

Dated: July 19, 1982.

By the Commission, Division 1, Commissioners Sterrett, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-19905 Filed 7-22-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29961]

Rail Carriers; Bangor and Aroostook Railroad Co.-Exemption-Abandonment Between Collins Siding and Van Buren, ME

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Pursuant to 49 U.S.C. 10505, the Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 10903 the abandonment by the Bangor and Aroostook Railroad Company of 10.9 miles of track in Maine.

DATES: Exemption effective on August 23, 1982. Petitions for reconsideration must be filed by August 12, 1982, and petitions for stay must be filed by August 2, 1982.

ADDRESSES: Send pleadings to:

(1) Section of Finance, Room 5349, Interstate Commerce Commission, Washington, DC 20423;

(2) Petitioner's representative, William M. Houston, Northern Main Junction Park, RR2 Bangor, ME 04401.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., NW., Washington, DC 20423, (202) 289–4357, DC metropolitan area, (800) 424–5403, Toll-free for outside the DC area.

Decided: July 15, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-19906 Filed 7-22-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-183)]

Rail Carriers; Burlington Northern Railroad Co.—Exemption for Contract Tariff ICC–BN–C–0038

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Tom Smerdon, (202) 275–7277.

SUPPLEMENTARY INFORMATION: The Burlington Northern Railroad Company (BN) filed a petition on July 7, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit it to file on one day's notice a supplement to its contract tariff ICC–BN–C–0038 which would extend the expiration date of the contract. The contract provides for allowances on lumber and related articles.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. However, relief may be granted under 49 U.S.C. 10505.

The petition shall be granted. The contract, presently due to expire on July 25, 1982, provides for automatic extension. For the extension to be effective, however, it must be noticed in a supplement to the original contract tariff. Without short notice effectiveness of the supplement, the petitioner would be unable to extend the contract before its expiration date. An exemption will obviously be in the public interest.

Petitioner's contract ICC–BN–C–0038 may become effective on one day's notice. We will apply the following conditions which have ben imposed in similar exemption proceedings:

> If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(e) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement in this instance is not necessary to carry out the transportation policy of 49 U.S.C. 10101(a) and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(d) if protests showing good cause are filed within 15 days of publication in the **Federal Register.**

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505.)

Dated: July 19, 1982.

By the Commission, Division 1, Commissioners Sterrett, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-19906 Filed 7-22-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB–43 (Sub-91)]

Rail Carriers; Illinois Central Gulf Railroad Co.—Abandonment—in McLean, Tazewell, Logan and Mason Counties, IL; Notice of Findings

The Commission has found that the public convenience and necessity permit the Illinois Central Gulf Railroad Company to abandon its line of railroad extending from milepost 127.8 near Bloomington, IL to milepost 173.0 at Mason City, IL, a distance of 45.2 miles in McLean, Tazewell, Logan and Mason Counties, IL. A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds that. (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be resubmitted within this 10–day period.

Information and procedures regarding financial assistance for continued rail services are contained in 49 U.S.C. 10905 and 49 CFR 1121.38.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-19908 Filed 7-22-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub–182)]

Rail Carriers; Norfolk & Western Railroad Co.—Exemption for Contract Tariff ICC–NW–C–0017

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariffs to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275–7278.

SUPPLEMENTARY INFORMATION: The Norfolk and Western Railroad Company (NW) filed a petition on July 7, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract ICC–NW–C–0017 to become effective on July 20, 1982. The contract was filed to become effective on August 5, 1982, and involves the movement of used locomotives.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. The actual commencement of the receiver's rebuilding operations is dependent upon its scheduled receipt of locomotives beginning July 20, 1982. Advancement of the contract's effective date will assist in the rebuilding program. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

NW's contract may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

> Although the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(e) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement

in this instance is not necessary to carry out the transportation policy of 49 U.S.C. 10101(a) and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(d) if protests are filed within 15 days of publication in the **Federal Register.**

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Dated: July 16, 1982.

By the Commission, Division 2, Commissioners Andre, Gilliam, and Taylor. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-19907 Filed 7-22-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. *Parent Corporation and address of principal office:* Columbus Foundries, Inc., 1600 Northside Industrial Boulevard, Columbus, Georgia 31904.

2. *Wholly-owned subsidiaries which will participate in the operations, and state of incorporation.*

(I) Columbus Standard, Inc., Georgia.

(II) Commercial Precision Machining Co., Georgia.

(III) Waterworks Equipment Co., Georgia.

1. Parent corporation and address of principal office: Dixie Container Corporation, 2000 Jefferson Davis Highway, P.O. Box 26179, Richmond, Virginia 23260. Dixie Container Corporation is incorporated in Virginia.

2. Wholly-owned subsidiaries which will participate in the operations, and States of incorporation:

(i) Jackson Paper Manufacturing Company, a North Carolina corporation.

(ii) Dixie Container Corporation of North Carolina, a Delaware corporation.

(iii) Dixie Container Corporation of High Point, a North Carolina corporation.

(iv) Dixie Container Corporation of South Carolina, a Virginia corporation.

(v) Coleman Enterprises, Inc., a Virginia corporation.

(vi) Dixie Convoy Corporation, a North Carolina corporation.

1. Parent corporation and address of principal office: Dynatron Corporation, 2160 Hills Avenue, NW., Atlanta, Georgia 30318.

2. Wholly-owned subsidiaries which will participate in the operations, and states of incorporation:

(i) Dynatron/Bondo Corporation—Georgia.

(ii) Bondo Freight Corp.—Georgia.

(iii) Dynatron/Bondo Corporation of California—California.

(iv) Dynatron Plastic Division Corporation of California—California.

(v) Reliable Strainer Mfg. Co., a corporation—California.

(vi) Dyantron/Bondo Corporation—Connecticut.

(vii) Bondo Canada Limited—Canada.

(1) Parent Corporation and address of principal office: Empire Machinery Co., 1725 South Country Club Drive, Mesa, AZ 85201; Mailing Address: P.O. Box 2985, Phoenix, AZ 85062.

(2) Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

(i) Empire Lift, an Arizona corporation.

(ii) Empire Transportation Co., an Arizona corporation.

1. The parent company address is: Federated Department Stores, Inc., 7 West Seventh Street, Cincinnati, OH 45202.

2. The wholly-owned divisions which are participating in this operation are as follows:

Abraham & Straus, 420 Fulton Street, Brooklyn, NY 11201
Bloomingdale's, 1000 Third Avenue, New York, NY 10022
Boston Store, 331 West Wisconsin Avenue, Milwaukee, WI 53203
Bullock's Broadway, 7th and Hill, Los Angeles, CA 90014
Bullock's Northern California, Executive and Administrative Offices, Administration Service Center, 135 Constitution Drive, P.O. Box 2007, Menlo Park, CA 94025
Burdines, 22 East Flagler Street, Miami, FL 33131
The Children's Place, 25 Riverside Drive, Pine Brook, NJ 07058
Filene's, 426 Washington Street, Boston, MA 02101
Foley's 1110 Main Street, P.O. Box 1971, Houston, TX 77001
Gold Circle Stores, P.O. Box 63, 6121 Huntley Road, Worthington, OH 43085
Goldsmith's 123 South Main Street, P.O. Box 449, Memphis, TN 38143
Lazarus, Town and High Streets, Columbus, OH 43216
Levy's, P.O. Box 27447, Tucson, AZ 85726
I. Magnin, 135 Stockton St. at Union Square, San Francisco, CA 94106
Ralph's Grocery Company, P.O. Box 54143, Los Angeles, CA 90054
Rich's, 45 Broad Street, S.W., P.O. Box 4539, Atlanta, GA 30302
Richway Stores, 45 Broad Street, P.O. Box 50359, Atlanta, GA 30302
Sanger Harris, 303 North Akard and Pacific, Dallas, TX 75222
Shillito/Rike's, Seventh and Race Streets, Cincinnati, OH 45202

1. *Parent Corporation:* GBP Industries, Inc., 302 Grote Street, Buffalo, New York 14207.

2. *Wholly-owned subsidiaries and State of Incorporation:*

Greater Buffalo Press, Inc, New York
Great Lakes Color Printing Corporation, New York
Southwest Color Printing Corporation, Texas
Dixie Color Printing Corporation, Alabama
Kenmore Colorplate Corporation, New York
Mid-Atlantic Color Printing, Pennsylvania
Greater Canada Colour Printing Limited, New York
Mid-West Color Printing Corporation, Iowa
Medina Sandstone Quarry, Inc., New York
Lakeview Leasing Corporation, New York
Southeastern Commercial Printing Corporation, Alabama
Buffalo Polycolor Corporation, New York
California Color Printing Corporation, California
Gazette Press, Inc., California
Chemical Process and Supply Co., New York

1. Parent corporation and address of principal office: J. P. Stevens & Co., Inc., 1185 Avenue of the Americas, New York, NY 10036.

2. Wholly-owned subsidiaries:

(a) The Black Hawk Corporation, White Horse Rd., Greenville, S.C. 29604.

(b) Foote & Davies, Inc., 3101 McCall Drive, Atlanta, Ga. 30340.

(c) Mid-America Webpress, Inc., 3700 N. W. 12 Street, Lincoln, Neb. 68501.

(d) Children's Publishers Corp., 123 South Hill Street, San Francisco, Ca. 94005

(e) Foote & Davies Transport Co., 3101 McCall Drive, Atlanta, Ga. 30340.

(f) Stevens Beechcraft, Inc., Greenville-Spartanburg Jetport, Greer, S.C. 29651.

(g) J. P. Stevens & Co. (Canada), Ltd., 474 Attwell Drive, Rexdale, Ontario M9W 1M4.

(h) J. P. Stevens International Sales, Inc., 1185 Avenue of the Americas, New York, N.Y. 10036

(i) J. P. Stevens (Europe), Ltd., 1185 Avenue of the Americas, New York, N. . 10036

(j) J. P. Stevens & Co. Limited, 26 Dover Street, London, England W1

(k) Stevens Graphics, Inc., 713 Glenn St., S. W., Atlanta, Ga. 30310

(l) Automated Graphics Unlimited, Inc., 880 Great Southwest Parkway, Atlanta, Ga. 30336

(m) Books, Inc., 3635 McChord Street, Montgomery, Ala. 36109

(n) Carolina Ruralist Press, Inc., 314 East Eighth Street, Charlotte, N. C. 28202

(o) Courier Graphics, Inc., 4325 Old Shepardville Rd., Louisville, Ky. 40216

(p) Florida Printers, Inc., 5190 S. W. 75th Ave., Miami, Fla. 33155

(q) Oxmoor Press, Inc., 100 W. Oxmoor Rd., Birmingham, Ala. 35201

(r) Ruralist Press, Inc., 713 Glenn St., S. W., Atlanta, Ga. 30310

(s) Superior Type, Inc., 109 Alexander, N. W., Atlanta, Ga. 30303

(t) Graphic Data Systems, Inc., 1819 Peachtree Rd., N.E., Atlanta, Ga. 30309.

1. Parent corporation and address of principal office: Wegmans Properties, Inc., 1500 Brooks Ave., Box 844, Rochester, NY 14692.

2. Participating wholly-owned subsidiaries and states of incorporation:

Wegmans Enterprises, Inc. (New York)
Wegmans Express, Inc. (New York)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-19910 Filed 7-22-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Long and Short-Haul Application for Relief (Formerly Fourth Section Application)

July 19, 1982.

This application for long and short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. within 15 days from the date of publication of the notice. No. 43971, Southwestern Freight Bureau, Agent (No. B-159), carload rates on cottonseed hulls between stations in Southwestern Territory, including Mississippi River Crossings Memphis, TN and South; also between points in Southwestern Territory, on the one hand, and stations in Illinois and Western Trunk Line Territories, on the other hand, and only for account of the ARW, KCS, and LA, in Supplement 273 to its Tariff ICC SWFB 4450, effective August 10, 1982. Grounds for relief: Rate Relationships.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-19904 Filed 7-22-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OP1-122

Decided: July 15, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

FF-540 (Sub-2), filed July 7, 1982. Applicant: L D S FORWARDING, 2211 Wood St., Oakland, CA 94607. Representative: Fred H. Mackensen, 2029 Century Park East, Suite 4150, Los Angeles, CA 90067, (213) 879-5955. As a freight forwarder in connection with the transportation of *general commodities* (except classes A and B explosives), between points in AZ, CA, NV, OR, and WA, on the one hand, and, on the other, points in the U.S.

MC 2421 (Sub-41), filed July 6, 1982. Applicant: NEWTON TRANSPORTATION COMPANY, INC. 510 Greer Circle, S.W., P.O. Box 678, Lenoir, NC 28645. Representative: Charles H. Keller, Jr. (same address as applicant) (704) 754-4518. Transporting *lumber and wood products*, between points in VA, on the one hand, and, on the other, points in IA, IN, IL, KY, NY, OH and TN.

MC 38481 (Sub-25), filed July 2, 1982. Applicant: FARRUGGIO'S BRISTOL AND PHILADELPHIA AUTO EXPRESS, INC., 1419 Radcliffe St., Bristol, PA 19007. Representative: Samuel J. Farruggio, Sr. (same address as applicant) (215) 788-5596. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods as defined by the Commission), between points in the U.S. (except AK and HI).

MC 61440 (Sub-220), filed July 6, 1982. Applicant: LEE WAY MOTOR FREIGHT, INC., P.O. Box 12750, Oklahoma City, OK 73157.

Representative: T. M. Brown (same address as applicant) (405) 840–7579. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with J. C. Penney Company, Inc., of New York, NY.

MC 103210 (Sub-6), filed July 6, 1982. Applicant: SERVICE BUS CO., INC., 845 Nepperhan Ave., Yonkers, NY 10703. Representative: Sidney J. Leshin, 3 East 54th St., New York, NY 10022; (212)–759–3700. Transporting *passengers and their baggage* in the same vehicle as passengers, in special and charter operations, beginning and ending at points in NY, NJ, CT and FL, and extending to points in the U.S. (excluding HI).

MC 110310 (Sub-3), filed July 6, 1982. Applicant: INTER-COUNTY BUS LINES, INC., 513 S. Adams St., Havre de Grace, MD 21078. Representative: Edward T. Love, 4401 East West Highway, Suite 404, Bethesda, MD 20814, (301) 986–0030. Transporting *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, between points in Harford and Cecil Counties, MD, and Lancaster County, PA, on the one hand, and, on the other, those points in the U.S. on and east of aline beginning at the mouth of the Mississippi River to its junction with the western boundary of Itasca County, MN, thence northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the U.S. and Canada.

MC 126091 (Sub-23), filed July 9, 1982. Applicant: FRALEY & SCHILLING, INC., General Delivery, Rushville, IN. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240; (317) 846–6655. Transporting *metal products and machinery*, between points in the U.S. (except AK and HI), under continuing contract(s) with R. L. Best Company, Inc., of Youngstown, OH.

MC 129410 (Sub-33), filed July 6, 1982. Applicant: BONCOSKY TRANSPORTATION, INC., 1301 Industrial Drive, Algonquin, IL 60102. Representative: Carl L. Steiner, 29 South LaSalle Street, Chicago, IL 60603; (312) 236–8375. Transporting *metal and metal products*, between points in the U.S. (except AK and HI).

MC 144631 (Sub-5), filed July 12, 1982. Applicant: HHV TRANSPORTATION, INC. d.b.a. THACKER TRANSORTATION, 4201 East 52nd Ave., Commerce City, CO 80022. Representative: Dale E. Isley, Steele Park Suite 330, 50 South Steele St., Denver, CO 80209; (303) 320–6100. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in WA, OR, CA, AZ, UT, NV, ID, MT, WY, CO, NM, TX, OK, MO, KS, SD, ND, and NE.

MC 14761 (Sub-9), filed July 1, 1982. Applicant: FEDERAL ARMORED EXPRESS, INC., 7675 Canton Center Drive, Baltimore, MD 21224. Representative: Eugene T. Liipfert, Suite 1100, 1660 L Street, NW., Washington, DC 20036; (202) 452–7422. Transporting *currency, coin, securities, food stamps and bonds*, between points in IL, IN, IA and WI.

MC 147630 (Sub-3), filed July 2, 1982. Applicant: WILLIAM CHARLES REAK, d.b.a. NORTHWEST FLORIDA DRIVEAWAY, 201 Poinciana Drive, P.O. Box 777, Gulf Breeze, FL 32561. Representative: William Charles Reak (same address as applicant), (904) 932–6200. Transporting *motor vehicles*, between points in FL, AL and MS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 147900 (Sub-8), filed July 7, 1982. Applicant: COLLINS WHOLESALE SUPPLY, INC. d.b.a. COLLINS FREIGHT SERVICE, 4073 Hooker Rd., Roseburg, OR 97470. Representative: Lucille Collins (same address as applicant) (503)–673–1155. Transporting (1) *building materials and metal products*, between points in AZ, CO, KS, MT, NM, NE, ND, OK, SD, TX and WY; and (2) *metal products*, between points in CA, ID, NV, OR, WA and UT.

MC 148461 (Sub-2), filed July 6, 1982. Applicant: JOSEPH E. COBB d.b.a. JEC TRUCKING, 202 Highway 3 South, Yerington, NV 89447. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701; (702)–882–5649. Transporting *food and related products*, between points in CA, OR, WA, ID, WY, MT, NV, UT, CO, AZ, NM, OK, TX, NE, KS, IA and ND.

MC 151751 (Sub-5), filed July 6, 1982. Applicant: BRUNSON, INC., P.O. Box 489, Dodge City, KS 67801. Representative: Clyde N. Christey, Ks Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612; (913) 233–8629. Transporting *food and related products*, between points in Finney County, KS, on the one hand, and, on the other, points in TX and Dona Ana and Otero Counties, NM.

MC 153421 (Sub-3), filed July 9, 1982. Applicant: PRINTO, INC., P.O. Box 16039, Memphis, TN 38116. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304; (703)–751–2441. Transporting (1) *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Baltimore, MD, and points in Anne Arundel, Baltimore, Howard, and Prince Georges Counties, MD, Fayette, Hardman, Haywood, Lauderdale, Madison, Shelby, and Tipton Counties, TN, Craighead, Critterden, Cross, Lee, Mississippi, Phillips, Poinsett, and St. Francis Counties, AR, Benton, Coahoma, Desoto Lafayette, Marshall, Panola, Quitman, Tate, and Tunica Counties, MS, on the one hand, and, on the other, points in the U.S. (except AK and HI); and (2) *printed matter*, between points in AL, AZ, AR, CO, CT, DE, FL, GA, ID, IA, KS, KY, ME, MA, MI, MN, MO, MT, NE, NH, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TX, UT, VT, VA, WA, WV, WI, WY and DC.

MC 153751 (Sub-2), filed July 12, 1982. Applicant: LITTLE SHIRLEY'S TRANSPORTATION, INC., 2821 9th St. N.E., Puyallup, WA 98371. Representative: George LaBissoniere, 15 S. Grady Way, Suite 239, Renton, WA 98055; (206) 228–3807. Transporting *building materials*, between points in the U.S., under continuing contract(s) with Kaiser Cement Corporation, of Oakland, CA.

MC 154311 (Sub-1), filed July 2, 1982. Applicant: P. C. TRANSPORT, INC., 2081 East Bryan Road, Casper, WY 82609. Representative: Phillip M. Christopherson, 1739 S. Mitchell, Casper, WY 82601; 307/265–4621. Transporting *commodities in bulk*, between points in the U.S., under continuing contract(s) with Ashland Chemical Company, Division of Ashland Oil Inc., of Dublin, OH; Denver Industrial, of Denver, CO; Emulsified Asphalt, of Evansville, WY; Nalco Chemical Company, of Oak Brook, IL; Sweitzer Oil Co., of Gunnison, CO; and Casper Oil Co., McKesson Chemical Co., and Weskem, Inc., all of Casper, WY.

MC 154491 (Sub-2), filed July 6, 1982. Applicant: THOMAS R. HAPPERSETT d.b.a. HAPPERSETT ENTERPRISES, Route 2, Wautoma, WI 54982. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703; (608)–256–7444. Transporting *such commodities* as are dealt in or used by floral businesses, between points in MN, WI, IL, MI, IN, OH and PA.

MC 155370 (Sub-2), filed July 12, 1982. Applicant: KEM CONTRACT CARRIERS, INC., Kirkwood Industrial Park, P.O. Box 1245, Binghamton, NY 13902–1245. Representative: Donald C. Carmien, Suite 501, Midtown Mall, 15 Chenango St., P.O. Box 1922,

Binghamton, NY 13902–1922; (607) 772–6993. Transporting *footwear,* between points in the U.S., under continuing contract(s) with Endicott Johnson Corporation, Endicott Johnson Shoe Co., Father & Son Shoe Co., Lehigh Safety Shoe Co., Nobil Shoe Co., Nosco Shoe Co., Trent Shoe Co., and Trimfoot Co., all of Endicott, NY.

MC 159371, filed July 12, 1982. Applicant: ECCARIUS TRUCKING, 14639 Highland Dr., Grass Valley, CA 95945. Representative: Carl D. Eccarius (same address as applicant) (916)–272–9429. Transporting *modular buildings,* between points in Placer County, CA, on the one hand, and, on the other, points in AZ, NV, and OR.

MC 160051 (Sub-1), filed June 30, 1982. Applicant: TALENT TRUCKING CO., P.O. Box 320, Talent, OR 97540. Representative: John A. Anderson, Suite 801, The 1515 Building, 1515 S.W. Fifth Avenue, Portland, OR 97201; (503) 227–4586. Transporting (1) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Jackson County, Or, on the one hand, and, on the other, points in the U.S. (except AK and HI); and (2) *furniture and fixtures,* between points in Missoula County, MT, and Portage County, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 160300 (Sub-1), filed July 2, 1982. Applicant: TRANSPORT ALIVE CORPORATION, 669 Airport Freeway, Suite 205, Hurst, TX 76021; Representative: Bobby H. Hataway, 669 Airport Freeway, Suite 205, Hurst, TX 76021; (817) 268–3903. Transporting *furniture and fixtures,* between points in NC and VA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 161411,filed July 6, 1982. Applicant: AUGUST LINDECKER, d.b.a. LINDECKER TRUCKING, R.R. 1, Alexander, ND 58831. Representative: Robert N. Maxwell, P.O. Box 2471, Fargo, ND 58108; (701) 237–4223. Transporting *chemicals and related products,* between points in McKenzie County, on the one hand, and, on the other, points in MN and MT.

MC 162820, filed July 6, 1982. Applicant: BEST WAY EXPRESS, INC., Old U.S. Highway 41 South, P.O. Box 728, Vincennes, IN 47591. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204; (317) 638–1301. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of malt beverages, between points in FL, IL, IN, KY, MI, MN, OH, and WI.

MC 162840, filed July 7, 1982. Applicant: ARLINGTON SHAKE CO., INC., P.O. Box 42, Arlington, WA 98226. Representative: Jim Pitzer, 15 S. Grady Wy., Suite 321, Renton, WA 98055–3273; (206) 235–1111. Transporting *lumber and wood products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Wesco Cedar, Inc., of Eugene, OR, and Western International Forest Products, Inc., of Portland, OR.

MC 162910, filed July 12, 1982. Applicant: CALIFORNIA FUEL COMPANY, 6260 Riverdale St., San Diego, CA 92120. Representative: Michael L. Miles (same address as applicant) (714)–563–0386. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Eagle Point Investments, of Eagle Point, OR, and The Price Company and The Monahan Industrial Equipment Corporation, each of San Diego, CA.

Volume No. OP2–156

Decided: July 15, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 52793 (Sub-107), filed July 6, 1982. Applicant: BEKINS VAN LINES CO., 3090 Via Mondo, Compton, CA 90221. Representative: David P. Christianson, 707 Wilshire Blvd., Ste. 1800, Los Angeles, CA 90017; (213) 627–8471. Transporting *such commodities* as are dealt in or used by furniture and department stores, between points in the U.S., (except AK and HI) under continuing contract(s) with Levitz Furniture Corporation, of Miami, FL.

MC 118142 (Sub-254), filed July 6, 1982. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67219. Representative: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, KS 67202; 316–265–2634. Transporting *paper and paper products,* between points in the U.S. (except AK and HI).

MC 125602 (Sub-2), filed July 1, 1982. Applicant: LOCKWOOD HORSE VANS, INC., 911 South Lily Lake Rd., McHenry, IL 60050. Representative: Edward G. Finnegan, 134 North La Salle St., Suite 1016, Chicago, IL 60602; 312–782–0500. Transporting *livestock,* other than ordinary, *mascots* used in the care and exhibition of livestock, *personal effects* of attendants, and *stable equipment,* between points in the U.S. (except AK and HI).

MC 141652 (Sub-52), filed July 6, 1982. Applicant: ZIP TRUCKING INC., P.O. Box 6126, Jackson, MS 39206. Representative: K. Edward Wolcott, Suite 1200, Atlanta Gas Light Tower, 235 Peachtree St., NE., Atlanta, GA 30303; (404) 522–2322. Transporting *marine and aircraft furniture and fixtures,* between points in Harrison County, MS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 144103 (Sub-5), filed July 1, 1982. Applicant: LAWRENCE EVERS, P.O. Box 176, Darby, MT 59829. Representative: William E. Seliski, 2 Commerce St., P.O. Box 8255, Missoula, MT 59807, 406–543–8369. Transporting *such commodities* as are used in or dealt in by food, drug, and hardware business houses, and *paper and paper products,* between Milwaukee, WI, Chicago, IL, points in Portage County, WI, and points in AZ, CA, ID, MN, NV, OR, UT, and WA, on the one hand, and, on the other, those points in the U.S., in and west of WI, IL, MO, KS, CO, and AZ (except AK, IA, and HI).

MC 153973 (Sub-5), filed July 6, 1982. Applicant: SPARTAN SERVICE TRANSPORTATION, INC., 1501 West Pershing Road, Chicago, IL 60609. Representative: Albert A. Andrin, 180 North La Salle Street, Chicago, IL 60601; (312) 332–5106. Transporting *general commodities* (except classes A and B explosives, and household goods, and commodities in bulk), between points in IL, IN, KY, MO, IA, MN, WI, MI, OH and TN.

MC 162783 filed July 2, 1982. Applicant: HURRICANE TRUCKING, INC., 550 Aleen St., Houston, TX 77029. Representative: H. W. Stephens (same address as applicant) 713–674–6884. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in TX, LA, OK, CO, NM, and AR.

MC 162833, filed July 6, 1982. Applicant: CALUMET TRANSIT CO., 739 Aberdeen Dr., Crete, IL 60417. Representative: Joel H. Steiner, 29 South LaSalle St., Suite 905, Chicago, IL 60603; (312) 236–9375. Transporting *metal products, machinery, chemicals and related products, pulp, paper and related products, automotive products, and accessories and supplies for automotive products,* between points in IL, IN, IA, KY, MI, MO, OH, TN and WI.

Volume No. OP4–265

Decided: July 15, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 59247 (Sub-22), filed July 8, 1982. Applicant: LINDEN MOTOR FREIGHT COMPANY, INC., 1300 Lower Rd., Linden, NJ 07036. Representative: George A. Olsen, P.O. Box 357,

Gladstone, NJ 07934; (201) 234–0301. Transporting *general commodities* (except classes A and B explosives, and household goods) between points in the U.S. (except AK and HI), under continuing contract(s) with C–I–L Chemicals, Inc., of River Rouge, MI.

MC 146807 (Sub-41), filed July 9, 1982. Applicant: SnW ENTERPRISES, INC., P.O. Box 1131, Wilkes-Barre, PA 18701. Representative: Peter Wolff, 722 Pittston Ave., Scranton, PA 18505; (717) 342–7595. Transporting (1) *metal products,* between points in PA, on the one hand, and, on the other, points in the U.S. (except AK and HI), (2) *metal products,* between points in AZ, CT, ID, KS, ME, MI, MN, NE, NV, MN, NJ, NY, ND, RI, SD, UT, VT, WI, and WY, (3) *metal products, rubber and plastic products, and transportation equipment,* between points in AL, CO, CT, FL, GA, IL, IN, IA, KS, KY, LA, MI, MO, NJ, NY, NC, OH, OK, PA, SC, TN, TX, VA, and WV, and (4) *general commodities* (except classes A and B explosives, and household goods, and commodities in bulk), between points in CT, NJ, NY, OH, and PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 149597 (Sub-28), filed July 6, 1982. Applicant: HAUPT CONTRACT CARRIERS, INC., P.O. Box 1023, Wausau, WI 54401. Representative: Robert A. Wagman (same address as applicant) (715) 359–2907. Transporting *general commodities* (except classes A and B explosives, and household goods, and commodities in bulk), between points in the U.S. (except AK and HI) under continuing contract(s) with Southwest Forest Industries, of Phoenix, AZ.

MC 150607 (Sub-2), filed July 9, 1982. Applicant: B & B TRUCKING, INC., Box 2462, Williston, ND 58801. Representative: Charles E. Johnson, P.O. Box 2056, Bismarck, ND 58502; (701) 223–5300. Transporting *dry drilling fluid, additives, storage houses and vans,* between those points in the U.S. in and west of ND, SD, NE, KS, OK, and TX.

MC 159327, filed July 7, 1982. Applicant: MANUFACTURERS RECYCLING DISTRIBUTORS, INC., 7014 8th Court NE., Salem OR 97303. Representative: Pamella E Moore (same address as applicant) (503) 390–6040. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in WA and OR.

Volume No. OP4–266

Decided: July 14, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 98197 (Sub-7), filed July 9, 1982. Applicant: WALDRON TRUCK LINES, INC., 443 N. 47th St., Fort Smith, AR 72903. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154; (405) 424–3301. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Sebastian, Scott, Logan, and Yell Counties, AR.

MC 107527 (Sub-66), filed July 8, 1982. Applicant: POST TRANSPORTATION CO., a California corporation, 1970 E. 213th St., Carson, CA 90810; Mailing address, P.O. Box 1000, Long Beach, CA 90801. Representative: John C. Allen (same address as applicant) (213) 549–4570. Transporting *acids, chemicals, and plastics,* between points in the U.S. (except AK and HI).

MC 142147 (Sub-2), filed July 9, 1982. Applicant: B–LINE TRUCKING, INC., 67 Esther St., Newark, NJ 07105. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904; (201) 572–5551. Transporting *commodities in bulk,* between New York, NY, on the one hand, and, on the other, points in CT, DE, MA, MD, NJ, NY, PA, RI, VA, and WV.

Volume No. OP5–147

Decided: July 12, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 52729 (Sub-27), filed June 30, 1982. Applicant: FIOROT TRUCKING, INC., P.O. Box 43, W. Main St., Pen Argyl, PA 18072. Representative: Floyd W. Mensch (same address as applicant) 215–863–4194. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S. (except AK and HI).

MC 108243 (Sub-15), filed July 1, 1982. Applicant: SHAW TRUCKING, INC., P.O. Box E, Brockway, PA 15824. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107; 215–735–3090. Transporting *glass, plastic, and metal containers, and glass tubing and related products,* between those points in the U.S. locatd in and east of MN, IA, MO, AR, and LA.

MC 120909 (Sub-7), filed May 13, 1982. Applicant: MIDDLE AMERICAN EXPRESS, INC., 6 Front St., National Stock Yards, IL 62071. Representative: Joseph T. Kelleher, Jr., P.O. Box 224, Edwardsville, IL 62025; 618–656–4118. (1) Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IL, IN, and MO and those points in KS which are in the Kansas City, MO, Commercial zone, and (2) *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in IL, IN, and MO, and those points in KS which are in the Kansas City, MO, Commercial zone, on the one hand, and, on the other, points in AL, AR, CO, DE, FL, GA, IA, KS, KY, LA, MD, MI, MN, MS, NE, NJ, NM, NY, NC, OH, OK, PA, SC, SD, TN, TX, VA, WV, WI, and WY.

MC 143866 (Sub-14), filed June 28, 1982. Applicant: R.E.T.E.N.O. CARRIERS, INC., P.O. Box 1438, Willmar, MN 56201. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609; (213) 945–2745. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Freight Management Systems, Inc., of Pittsburgh, PA.

MC 145108 (Sub-64), filed June 28, 1982. Applicant: BULLET EXPRESS, INC., P.O. Box 289, Bay Ridge Station, Brooklyn, NY 11220. Representative: Robert L. Van Buren, 5600 First Ave., Brooklyn, NY 11220; (212) 392–7332. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Signode Corporation of Glenview, IL.

MC 153138 (Sub-3), filed July 1, 1982. Applicant: LARRY DON EASLEY, d.b.a., EASLEY TRUCKING, P.O. Box 103, Ben Wheeler, TX 75754. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245; 214–358–3341. Transporting *metal products,* between points in Cross County, AR, on the one hand, and, on the other, points in CA, OR, CO, AZ, NM, NV, and WA.

MC 154238 (Sub-2), filed June 25, 1982. Applicant: WESTERN CARRIER EXPRESS INCORPORATED, 2800 Brighton Blvd., Denver, CO 80216. Representative: Jerald D. Watters (same address as applicant) (303) 629–7117.Transporting (1) *pulp, paper and allied products,* and (2) *such commodities* as are dealt in or used by food, grocery department or variety stores and business houses, between points in the U.S. (except AK and HI).

MC 154568 (Sub-1), filed June 24, 1982. Applicant: CLARENCE DEAN KVALEVOG d.b.a. C. D. KVALEVOG TRUCKING, P.O. Box 917, Bemidji, MN 56601. Representative: James B. Hovland, 525 Lumber Exhange Bldg., Minneapolis, MN 55402; (612) 340–0600.

Transporting (1) *malt beverages* (a) between St. Louis, MO, on the one hand, and, on the other, points in Williams and Ward Counties, ND, Richland County, MT, and Beltrami County, MN; (b) between Milwaukee, WI, on the one hand, and, on the other, points in Ward County, ND; and (c) between Longview, TX, and Memphis, TN, on the one hand, and, on the other, points in Williams County, ND, and Richland County, MT; and (2) *such commodities* as are dealt in by farm supply wholesale houses, (a) between Kansas City and Wichita, KS, New Orleans, LA, Des Moines, IA, Denver, CO, St. Louis, MO, points in Gallatin County, MT, Dallas County, IA, and points in TX and GA, on the one hand, and, on the other, points in Cass County, ND, Saborn County, SD, and points in MN, and (b) between St. Paul, MN, on the one hand, and, on the other, points in ND and SD.

MC 155389 (Sub-1), filed July 1, 1982. Applicant: WITS TRANSPORT, INC., 333 Vine St., P.O. Box 4805, Seattle, WA 98124. Representative: James T. Johnson, 1610 IBM Bldg., Seattle, WA 98101; 206–624–2832. Transporting *general commodities* (except classes A and B explosives, and household goods, and commodities in bulk), between points in MN, IL, and CA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162089 (Sub-1), filed July 1, 1982. Applicant: BODWAY TRUCKING, INC., 7660 Gainesville Ave., Jacksonville, FL 32208. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202; 904–632–2300. Transporting *general commodities* (except classes A and B explosives, and household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Alton Packaging Corporation of Alton, IL.

MC 162768, filed July 1, 1982. Applicant: NORTHLAND VALLEY TRANSFER, LTD., 524 North 9th St., St. Peter, MN 56082. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Edina, MN 55424; 612–927–8855. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in Blue Earth, Nicollet and LeSueur Counties, MN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162778, filed July 1, 1982. Applicant: JEAN N. BARDGETT d.b.a. BARDGETT TOURS, 1101 South McKnight Rd., St. Louis, MO 63117. Representative: Jean N. Bardgett (same address as applicant) 314–993–1533. To operate *as a broker* at St. Louis, MO in arranging for the transportation of passengers and their baggage, in special and charter operations, beginning and ending at St. Louis, MO, and points in St. Louis, Jefferson and St. Charles Counties, MO and extending to points in the U.S. (except AK and HI).

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Decided: July 12, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

FF–609, filed June 28, 1982. Applicant: ORION FREIGHT SYSTEM, INC., 3407 West Pershing Rd., Chicago, IL 60632. Representative: Owen B. Katzman, 1828 L St., NW., Suite 1111, Washington, DC 20016; (202) 822–8200. To operate as a *freight forwarder* of general commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S.

MC 112989 (Sub-161), filed July 6, 1982. Applicant: WEST COAST TRUCK LINES, INC., 85647 Hwy 99 So., Eugene, OR 97405. Representative: John T. Morgans (same address as applicant) 503–747–1283. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 130648 (Sub-1), filed July 6, 1982. Applicant: LANDALE, INC., 1313 S.W. Third, Rm #4, Oklahoma City, OK 73108. Representative: C. L. Phillips, Room 248, Classen Terrance Bldg., 1411 N. Classen, Oklahoma City, OK 73106; 405–528–3884. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the OK, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 133239 (Sub-2), filed June 30, 1982. Applicant: SANDNER BROTHERS TRANSPORT, LTD., P.O. Box 40, Christina Lake, B.C. Canada VOH 1EO. Representative: Robert G. Gleason, 1127 10th East, Seattle, WA 98102; 206–325–8875. Transporting *building materials, machinery, chemicals, fertilizers,* and *electrical equipment,* between ports of entry on the international boundary line between the U.S. and Canada in WA, ID, and MT, on the one hand, and, on the other, points in WA, ID, MT, OR and CA.

MC 142258 (Sub-8), filed June 28, 1982. Applicant: DALE BLAND TRUCKING, INC., Rural Route 1, Switz City, IN 47465. Representative: Andrew K. Light, 1301 Merchants Plaza, Indianapolis, IN 46204; (317) 636–1301. Transporting *equipment and machinery* between points in IN, IL, KY, and OH, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IN, IA, LA, MI, MN, MO, MS, NC, OH, PA, SC, TN, TX, VA, WI, and WV.

MC 142758 (Sub-1), filed June 28, 1982. Applicant: OHIO DELIVERY, INC., 85 East Gay St., Columbus, OH 43215. Representative: Earl N. Merwin (same address as applicant.) (614) 224–3161.Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI) under continuing contract(s) with Schenley Distillers, Inc., of Cincinnati, OH. Condition: U.S. Truck Lines, Inc. of Delaware, who appears to be engaged in common control of applicant and other regulated carriers, must either file an application under 49 U.S.C. 11343(a) to continue in control of applicant, or submit an affidavit indicating why such approval is unnecessary, to the Secretary's office. In order to expedite issuance of any authority, please submit a copy of the affidavit or proof of filing the application(s) for common control to Team 5, Room 6370.

MC 144989 (Sub-45), filed June 30, 1982. Applicant: WHEATON CARTAGE CO., Industrial Park Rd., Pennsville, NJ 08070. Representative: Laurence J. DiStefano, Jr., 1101 Wheaton Ave., P.O. Box 269, Millville, NJ 08332; 609–825–1400, Ext. 2414. Transporting *pulp paper and related products,* between points in Kennebec, Cumberland and Somerset Counties, ME, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 146779 (Sub-4), filed July 6, 1982. Applicant: REGAL TRUCKING CO., 9007 South Odell, Bridgeview, IL 60455. Representative: Albert A. Andrin, 180 No. LaSalle St., Chicago, IL 60601; 312–332–5106. Transporting *petroleum products,* between those points in the U.S. in and east of ND, SD, NE, KS, OK and TX.

MC 151488 (Sub-2), filed June 30, 1982. Applicant: BROOKLYN EXPRESS CO., 6525 Zealand Ave., North, Brooklyn Park, MN 55428. Representative: Samual Rubenstein, P.O. Box 5, Minneapolis, MN 55440; (612) 542–1121. Transporting *sugar* between points in the U.S. (except AK and HI), under continuing contract(s) with Have A Portion, Inc., of Roseville, MN.

MC 157009 (Sub-1), filed June 30, 1982. Applicant: ALL ALASKA TRANSPORTATION CO., P.O. Box 55251, 106 Kit Blvd., North Pole, AK 99705. Representative: Floyd D. Estes Sr. (same address as applicant), 907–452–8234. Transporting (1) *commodities in bulk,* (1) *construction equipment,* (3) *machinery,* (4) *mercer commodities,* and

(5) *camp supplies,* between points in Alaska (except those points south of an imaginary line beginning at the Gulf of Alaska and extending through Mount Crillon then across Glacier Bay and Lynn Canal to the International Boundary line between the U.S. and Canada).

MC 157289, filed June 30, 1982. Applicant: HUNTERLINE TRUCKING LTD., P.O. Box 421, Salmon Arm, BC CB VOE 2TO. Representative: Robert G. Gleason, 1127 10th East, Seattle, WA 98102; (206) 325–8875. Transporting *lumber and lumber products, shakes, and shingles,* between ports of entry on the international boundary line between the United States and Canada in WA, ID, MT, ND, NM, and WI, on the one hand, and, on the other, points in WA, ID, MT, ND, MN, and WI.

MC 162719, filed June 28, 1982. Applicant: YOUNGBLOOD ENTERPRISES, INC., Chalybeate Rd., P.O. Box 470, Haynesville, LA 71038. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245; (214) 358–3341. Transporting *Mercer commodities* between points in LA, on the one hand, and, on the other, points in TX, OK, AR, and MS.

MC 162798, filed July 6, 1982. Applicant: T AND S ENTERPRISES, INC., 7013 Sands Rd., Crystal Lake, IL 60014. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602; 312–726–6525. Transporting (1) *machinery* and (2) *metal products,* between points in IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162828, filed July 6, 1982. Applicant: JACK A. HANSEN d.b.a. HANSEN TRUCKING SERVICE, 224 Evergreen St., Bensenville, IL 60106. Representative: Albert A. Andrin, 180 N. LaSalle St., Chicago, IL 60601; 312–332–5106. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in IA, WI, MI, IN, IL, MO, MN, OH, KS and TN.

MC 162829, filed June 23, 1982. Applicant: JOAN R. DESKIN AND JOHN E. DESKIN d.b.a. MAGIC CARPET LINES, 15492 7th St., Victorville, CA 92392. Representative: Terry Caldwell, Pacific Federal Savings, 14250 Seventh St., Victorville, CA 92392; 714–245–1637. Transporting *passengers and their baggage* in the same vehicle with passengers, in charter operations, between points in the U.S. under continuing contract(s) with Magic Carpet Tours, of Victorville, CA.

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Decided: July 14, 1982.

By the Commission, Review Board No. 3, members Krock, Joyce, and Dowell.

MC 25399 (Sub-19), filed July 7, 1982. Applicant: A–P–A TRANSPORT CORP., 2100 88th Street, North Bergen, NJ 07047. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934; (201) 234–0301. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), under continuing contract(s) with Pfizer Inc., of New York, NY, Russell Stover Candies Inc., of Allantown, PA, Totes Inc., of Lancaster, PA, Smith Metal Arts Co. Inc., of Buffalo, NY, American Greetings Corporation, of Cleveland, OH, CIBA–GEIGY Corporation, of Ardsley, NY, The Mennen Company, of Morristown, NJ, Lapine Associates, Inc., of New York, NY, Angelica Uniform, of St. Louis, MO, The Putnam Publishing Group and The Berkeley Jove Publishing Group, of Lyndhurst, NJ, Revlon, Inc., of Edison, NJ, Max Factor & Co., of Hollywood, CA, KEM Manufacturing Corp., of East Brunswick, NJ, Goldring Inc., of New York, NY, Warren Press Inc., of New York, Jaguar Rover Triumph, of Leonia, NJ, YKK(USA) Inc., of Lyndhurst, NJ, Eagle Comtronics, Inc., of Clay, NY, Victor B. Handel & Bro., Inc., of New York, NY, Astra Pharmaceutical Products Inc., of Worcester, MA, KG Engineering Inc., of Woonsocket, RI, FPPF Chemical Company Inc., and Consumer Fuel Products, of Buffalo, NY, Tektronix, Inc., of Beaverton, OR, Langeveld Bulb Co., of Park Ridge, NJ, M. Grumbacher, Inc., of Cranbury, NJ, American Home Products Corporation, of New York, NY, Eli Lilly & Company, of Enfield, CT, Mallinckrodt, Inc., of St. Louis, MO, and The Bristol-Meyers Company, of New York, NY, between points in the US (except AK and HI).

MC 52858 (Sub-131), filed June 28, 1982. Applicant: CONVOY COMPANY, 3900 N.W. Yeon Ave., Portland, OR 97210. Representative: Raymond A. Greene, Jr., 100 Pine St., #2550, San Francisco, CA 94111; (415) 986–1414. Transporting *transportation equipment* between points in the U.S., under continuing contract(s) with Nissan Motor Corp. in U.S.A., of Carson, CA.

MC 79658 (Sub-24), filed July 2, 1982. Applicant: ATLAS VAN LINES, INC., 1212 St. George Rd., P.O. Box 509, Evansville, IN 47711. Representative: Robert C. Mills (same address as applicant) (812) 424–2222. Transporting *household goods* between points in the U.S. (except AK and HI), under continuing contract(s) with Frontier Airlines, Inc., of Denver, CO.

MC 80018 (Sub-23), filed July 1, 1982. Applicant: EDMAC TRUCKING COMPANY, INC., Hwy 301S, P.O. Box 770, Fayettesville, NC 28302. Representative: Kenneth D. Angell (same address as applicant) 919–424–4550. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S. (except AK and HI).

MC 109818 (Sub-100), filed May 28, 1982. Previously published in the **Federal Register** (Republication) on June 15, 1982. Applicant: WENGER TRUCK LINE, INC., P.O. Box 3427, Davenport, IA 52808. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309; 515–244–2329. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with General Foods Corporation of White Plains, NY; and its subsidiaries Birds Eye, Inc., of White Plains, NY., Oscar Mayer and Co., Inc., of Madison, WI., and General Foods Manufacturing Corporation of White Plains, N.Y.

Note.—This republication adds the third subsidiary as shown above.

MC 128989 (Sub-1), filed July 1, 1982. Applicant: JEROME KOENIG, Rural Route, Box 112, Fairfax, SD 57335. Representative: Dale Benson, P.O. Box 331, Burke, SD 57523; (605) 774–2656. Transporting *building materials* between points in OK, AR, and TX, on the one hand, and, on the other, points in IA, MN, SD, ND, and NE.

MC 147318 (Sub-13), filed July 6, 1982. Applicant: DEEP SOUTH TRUCKING, INC., P.O. Box 304, Purvis, MS 39475. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205; (601) 948 8820. Transporting *lumber and wood products* and *building materials,* (a) between points in AL, AR, FL, GA, LA, MS, and TX, on the one hand, and, on the other, points in the U.S. (except AK and HI), (b) between points in AZ, CA, CO, ME, MI, MN, NH, NM, NC, OR, SC, TN, and WA, (c) between points in AZ, CA, CO, ME, MI, MN, NM, NC, OR, SC, TN, and WA, on the one hand, and, on the other, points in IL, IN, IA, KS, KY, MD, MO, NE, NJ, OH, OK, and VA, and (d) between points in MT, on the one hand, and, on the other, points in TN.

MC 149218 (Sub-20), filed July 6, 1982. Applicant: SUNBELT EXPRESS, INC., Sunbelt Drive, P.O. Box 604, Breman, GA 30110, Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328; (404) 256–4320. Transporting *general*

commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. in and east of MN, IA, NE, CO, OK and TX.

MC 150589 (Sub-7), filed July 7, 1982. Applicant: J & K TRANSPORTATION CO., INC., 1600 Industrial, Dearborn, MI 48120. Representative: Michael F. Morrone, 1150 17th St., NW., Suite 1000, Washington, DC 20036; (202) 457–1124. Transporting (1) *steel and aluminum coils*, under continuing contract(s) with First American Resources Corporation, of Atlanta, GA, and (2) *automobile parts*, under continuing contract(s) with Grinnell Brake Manufacturing, of St. Clair Shores, MI, between points in the U.S. (except AK and HI).

MC 152509 (Sub-26), filed July 6, 1982. Applicant: CONTRACT TRANSPORTATION SYSTEMS CO., 1370 Ontario St., Cleveland, OH 44101. Representative: J. L. Nedrich (same address as applicant) (216) 566–2677. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Jack Meiderdrut & Associates, of Franklin Square, NY.

MC 155118 (Sub-9), filed July 7, 1982. Applicant: T.D.S. TRANSPORTATION, INC., 1700 South Wolf Road, Des Plaines, IL 60018. Representative: Julie L. Roper (same address as applicant) (312) 298–8800. Transporting *general commodities* (except classes A and B explosives, commodities in bulk and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Cleo Wrap, of Memphis, TN, H. T. Tucker Industries, Inc., of Ft. Smith, AR, Glamos Wire Products Co., of Hugo, MN, Thompson Steel Company, Inc., of Canton, MA, Raven Industries, Inc., of Sioux Falls, SD, Thompson Industries Co., of Phoenix, AZ, and Union Camp Corporation, of Wayne, NJ.

MC 156319 (Sub-4), filed June 28, 1982. Applicant: GALEN O. KING, d.b.a. G.O.K. TRUCKING, 4792 S. State Rt. 53, Tiffin, OH 44883. Representative: Richard H. Brandon, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017; (614) 889–2531. Transporting *chemicals, grain, seed, fertilizers, feed, pesticides, and farm supplies*, between points in OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 157358 (Sub-1), filed June 23, 1982. Applicant: ERNCO TRANSPORTATION CORP., Box 227, Edgar, WI 54426. Representative: Richard Kaiser (same address as applicant) (715) 352–2311. Transporting *juvenile furniture and toys* between points in Marathon County, WI on the one hand, and on the other, points in IL, MI, and NY, under continuing contract(s) with Standard Container Co., of Edgar, WI.

MC 158318 (Sub-1), filed July 1, 1982. Applicant: TALCO CHEMICAL TRANSFER, INC., Route 1, Box 87, Soperton, GA 30457. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202; (904) 632–2300. Transporting *chemicals and related products* (except in bulk), between points in the U.S. (except AK and HI).

MC 158859 (Sub-5), filed July 7, 1982. Applicant: O. DEAN TRANSPORTATION, INC., 406 W. Williamsburg Rd., Sandston, VA 23150. Representative: P. Owen Dean (same address as applicant), (703) 737–7838. Transporting *pulp and paper products*, between points in King William County, VA on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with The Chesapeake Corporation of Virginia, of West Point, VA.

MC 159048 (Sub-1), filed June 28, 1982. Applicant: MYRICK TRUCKING CO., P.O. Box 145, Savanna, IL 61074. Representative: Perry G. and Nancy A. Myrick, 1424 Chicago Ave., Savanna, IL 61074; (815) 273–4162. Transporting *lead oxide* between points in Carroll County, IL, and Kaufman County, TX, on the one hand, and, on the other, points in IL, AR, IN, IA, KS, KY, MI, MN, MO, CO, OH, TN, WI, TX, LA, and AL.

MC 159168, filed July 1, 1982. Applicant: HAGEN TRUCKING CO., INC., 2814 La Ventana St., San Clemente, CA 92672. Representative: Richard C. Celio, 2300 Camino Del Sol, Fullerton, CA 92633; (714) 738–3889. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CA.

MC 159618 (Sub-1), filed July 1, 1982. Applicant: RYAN BROS. TRUCKING, INC., P.O. Box 596, Hwy 11N Trenton, GA 30752. Representative: J. Greg Hardeman, 618 United American Bank Bldg., Nashville, TN 37219; 615–244–8100. Transporting *textile mill products* between points in Dade, Murray, Walker, and Whitfield Counties, GA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 161319, filed July 6, 1982. Applicant: KENNETH M. SMITH, 2714 E. 8th St., Casper, WY 82601. Representative: Kevin M. Clark, 2714 Bank Dr., Ste 8, Boise, ID 83705; 208–344–7714. Transporting *petroleum products and anti-freeze*, between points in the U.S. (except AK and HI), under continuing contract(s) with Energy Distributing Company of Casper, WY.

MC 161500, filed July 6, 1982. Applicant: BAUDY TRANSPORT, INC., 1717 S. Peters St., New Orleans, LA 70130. Representative: C. W. Ferebee, 3910 FM 1960 W., Suite 106, Houston, TX 77068; (713) 537–8156. Transporting *general commodities* (except classes A and B explosives, commodities in bulk and household goods), between Baton Rouge, Gramercy, and New Orleans, LA, on the one hand, and, on the other, points in LA.

MC 161509 (Sub-1), filed July 6, 1982. Applicant: BAUDY TRANSPORT, INC., 1717 S. Peters St., New Orleans, LA 70130. Representative: C. W. Ferebee, 3910 FM 1960 West, Suite 106, Houston, TX 77068; 713–537–8156. Transporting *metal products* between points in AL, AR, LA, MS, TX, and TN.

MC 161739, filed July 1, 1982. Applicant: WILLS FREIGHT LINE, INC., 1700 West Grand Ave., Oakland, CA 94623. Representative: Armand Karp, 743 San Simeon Dr., Concord, CA 94518; 415–825–1774. Transporting *electrical machinery*, between Oakland, CA, on the one hand, and, on the other, points in Alameda, Contra Costa, Fresno, Madera, Marin, Merced, Monterey, Napa, Placer, Sacramento, San Benito, San Francisco, San Joaquin, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Yolo and Yuba Counties, CA, under continuing contract(s) with General Electric Company of Oakland, CA.

MC 161759 (Sub-2), filed July 7, 1982. Applicant: NIPPON TRANSPORTATION SERVICE, 3408 Wisconsin Ave. NW., Washington, DC 20016. Representative: Noble & Roberts, 4801 Massachusetts Ave. NW., Washington, DC 20016; (202) 966–4440. Transporting *passengers and their baggage*, in the same vehicle with passengers, in special or charter operations, limited to the transportation of not more than 20 people, excluding the driver, in any one vehicle, between points in DC, on the one hand, and, on the other, points in MD and VA.

MC 162499, filed July 15, 1982. (Previously published in **Federal Register** (Republication) on July 9, 1982. Applicant: SCHNUCKS TRANSPORTATION COMPANY, INC., 12991 Enterprise Way, Bridgeton, MO 63044. Representative: William H. Borghesani, Jr., 1150 17th St. NW., Suite 1000, Washington, DC 20036; (202) 457 1122. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between St. Louis, MO and points

in Clay and St. Louis Counties, MO and Clay and St. Clair Counties, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—Purpose of republication is to show that applicant also seeks authority to serve St. Louis, MO.

MC 162709, filed June 28, 1982. Applicant: ANTHONY JOHN WALACH, JR. d.b.a. WALACH TRUCKING, 2707 East 31st St., Erie, PA 16510. Representative: William J. Kelly, 150 East Eighth St., P.O. Box 1819, Erie, PA 16507; (814) 453–7129. Transporting *machinery and machinery parts* between points in the U.S. (except AK and HI).

MC 162758, filed July 1, 1982. Applicant: SERVICE TRUCKING, INC., 413½ N. 5th Ave., MVA, Casper, WY 82604. Representative: David Froehlich (same address as applicant) (307) 472–0472. Transporting *Mercer commodities* between points in AR, LA, and MS, and those points in the U.S. in and west of ND, SD, NE, KS, OK, and TX (except AK and HI).

MC 162779, filed July 1, 1982. Applicant: LLOYD A. BELLINGER d.b.a. BELLINGER TRUCKING, Box 208, Little York, IL 61453. Representative: Lloyd A. Bellinger (same address as above) (309) 729–5119. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 162849, filed July 7, 1982. Applicant: ELSIE BLUM d.b.a. BLUM TRANSPORTATION, 1506 McClellan Drive, Klamath Falls, OR 97601. Representative: Robert Masterson, P.O. Box 1970, Lake Oswego, OR 97034; (503) 882–8694. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AZ, CA, CO, ID, MT, NM, NV, OR, TX, UT, WA, and WY, under continuing contract(s) with Cascade West Materials, Inc., of Lake Oswego, OR.

MC 162869, filed July 8, 1982. Applicant: SPRINGS TRANSPORT, INC., P.O. Box 70, Fort Hill, SC 29715. Representative: David A. Sutherlund, 1150 Connecticut Ave. N.W., Ste. 400, Washington, DC 20036; 202–452–6800. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CT, DE, MD, MA, NH, NJ, NY, NC, PA, RI, SC, VT and VA under continuing contract(s) with Springs Industries, Inc. of Fort Mill, SC, and The Standard Register Company of York, PA.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-19011 Filed 7-22-82; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period July 12, 1982–July 16, 1982.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–12,142; Zwicker Knitting Mills, Eagle Knitting Mills, Milwaukee, WI
TA–W–12,915; Princeton Shirt Corp., Perth Amboy, NY
TA–W–12,885; Avanti Co., Wyandotte, MI
TA–W–12,788; Rosalaine Dress, Inc., Hazelton, PA
TA–W–12,711; Samuel Coane, Inc., Philadelphia, PA
TA–W–12,773; Ben Shiffrin, Inc., New York, NY
TA–W–12,783; Arrowhead Sportswear, Philadephia, PA
TA–W–12,795; Kaiser Steel Corp., Light Steel Products Plant & Plate, Normalizing Operation, Fontana, CA
TA–W–12,760; Allis-Chalmers Corp., Appleton, WI
TA–W–12,635; V & E Dress Co., Brooklyn, NY
TA–W–12,964; Bayview Cedar Products, Inc., Hoquiam, WA
TA–W–12,971; Glass City Tool & Die Co., Toledo, OH
TA–W–12,973; Mesta Machine Co., West Homestead, PA
TA–W–12,974; Beaver Metal, Forest Products Div., Beaver, WA
TA–W–12,975; Beaverton Plastics, Inc., Clare, MI
TA–W–12,577; Mercer Dress, Burgin, KY
TA–W–12,719; Bardstown Manufactors, Bardstown, KY
TA–W–12,985; Tracy Fashions, Chamberburg, PA
TA–W–12,989; Westminster Knit Corp, Westminster, MD
TA–W–12,992; York Dress Co., York, PA
TA–W–13,028; Butte Knitting Mills, Spartanburg, SC
TA–W–13,030; David Knit, Northumberland, PA
TA–W–13,033; Greene Manufacturing Co., Greenville, TN
TA–W–13,034; Jonathan Logan Transportation, Spartanburg, SC
TA–W–13,035; Kim Fashions, Hialeah, FL
TA–W–13,040; Plaza Manufacturing Co., Spartanburg, SC
TA–W–13,042; Sandra Fashions, Sanford, FL
TA–W–13,045; Terrence Fashions, Miami, Fl

In the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA–W–12,965; Betex Corp., Paterson, NJ
TA–W–12,966. Brewster Finishing Co., Inc., Paterson, NJ

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA–W–12,920; FMC Corp., Alkali Chemicals Div., Modesto, CA

Aggregate U.S. imports of barium carbonate and strontium carbonate did not increase as required for certification.

TA–W–13,152; Fitzgerald Plating Co., Detroit, MI

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–12,859; International Harvester Co., Pittsburgh, Pa Truck Branch

Aggregate U.S. imports of trucks did not increase as required for certification.

TA–W–12,980; Oomphies, Inc., Lowell, MA

Aggregate U.S. imports of slippers did not increase as required for certification.

TA–W–12,977; Grand Ford, Inc., Bronx, NY

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–12,888; Larry Mazzuca Buick, Inc., St. Louis, MO

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–13,107; Kenco Warehouse Distributors, Inc., Warren, MI

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

Affirmative Determinations

TA–W–12,968; Callins Industries, Inc., Greenfield, TN

A certification was issued in response to a petition received on September 9, 1981 covering all workers separated on or after September 4, 1980 and before December 31, 1981.

TA–W–12,952; Victoreen, Inc., Cleveland, OH

A certification was issued in response to a petition received on August 24, 1981 covering all workers engaged in employment related to the production of fixed film resistors separated on or after March 1, 1981.

TA–W–12,918; Texas Instruments, Inc., Liquid Crystal Display Dept., Dallas, TX

A certification was issued in response to a petition received on August 3, 1981 covering all workers separated on or after July 29, 1980 and before January 1, 1982.

TA–W–12,918A; Digital Watch Department, Lubboch, TX

A certification was issued in response to a petition received on August 3, 1981 covering all workers separated on or after July 29, 1980 and before January 1, 1982.

I hereby certify that the aforementioned determinations were issued during the period July 12, 1982–July 16, 1982. Copies of these determinations are available for inspection in Room 10,332, U.S. Department of Labor, 601 D Street NW, Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: July 20, 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82–19900 Filed 7–23–82; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 2, 1982.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 2, 1982.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, N.W., Washington, D.C., 20213.

Signed at Washington, D.C. this 19th day of July 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Atlanta Steel Co. (USWA)	Atlantic, GA	7/9/82	7/5/82	TA–W–13,639	Angles, rods, nails.
(The) Anaconda Minerals Co., New Mexico Operations (UMTC).	LaGuna, NM	7/12/82	7/9/82	TA–W–13,640	Uranium mining.
(The) Anaconda Minerals Co., New Mexico Operation (UMTC).	Blue Water, NM	7/12/82	7/9/82	TA–W–13,641	Uranium, processing.
Armco Inc., Ashland Works (USWA)	Ashland, KY	7/12/82	7/7/82	TA–W–13,642	Steel products.
BRM, Inc., Harbour Road Div. (ILGWU)	Blue Ridge, GA	7/1/82	6/24/82	TA–W–13,643	Jeans—women's.
Bethlehem Steel Corp., and So. Buffalo Railway Co. (USWA).	Lackawanna, NY	7/2/82	6/29/82	TA–W–13,644	Steel products and hauling.
Bethlehem Steel Corp., and Johnstown Plant, and Conemaugh & Blacklick R.R. (USWA).	Johnstown, PA	7/13/82	7/9/82	TA–W–13,645	Bars, carbon and alloy, rods, wire, plates sheets, axles, circular forgings, coke and manganese.
Dolan Steel Co., Inc. (USWA)	Bridgeport, CT	7/15/82	7/12/82	TA–W–13,646	Steel—galvanized process cold rolled.
Kaiser Steel Corp. (boilermaker-blacksmiths)	Napa, CA	7/6/82	6/28/82	TA–W–13,647	Pipe and fabrication.
Kennecott Minerals Corp., Ray Mines Div. (USWA)	Ray, AZ	7/6/82	7/1/82	TA–W–13,648	Copper—mining.
Kennecott Minerals Corp., Ray Mines Div. (USWA)	Hayden, AZ	7/6/82	7/1/82	TA–W–13,649	Copper smelter.
L.C.P. Chemicals—NY, Inc. (USWA)	Syracuse, NY	7/9/82	7/6/82	TA–W–13,650	Chlorine, caustics, acid and bleach.
Latrobe Steel Co. (USWA)	Latrobe, PA	7/6/82	7/7/82	TA–W–13,651	Steel—tool, alloy specialty high temperature.
Sutton Shoe Co. (workers)	Sutton, WV	7/13/82	7/12/82	TA–W–13,652	Shoes, sandals—infant.
Copper Range Co., White Pine Copper Division (USWA).	White Pine, MI	7/6/82	7/6/82	TA–W–13,653	Copper extraction, milling, smelting.

[FR Doc. 82–19899 Filed 7–23–82; 8:45 am]

BILLING CODE 4510–30–M

Federal-State Unemployment Compensation Program; Extended Benefits; Ending of Extended Benefit Periods in the States of Arkansas and Maine

This notice announces the ending of the Extended Benefit Periods in the States of Arkansas and Maine, effective on July 3, 1982.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

Extended benefits are payable in a State during an Extended Benefit Period, which is triggered "on" when the rate of insured unemployment in the State reaches the State trigger rate set in the Act and the State law. During an Extended Benefit Period individuals are eligible for a maximum of up to 13 weeks of benefits, but the total of Extended Benefits and regular benefits together may not exceed 39 weeks.

The Act and the State unemployment compensation laws also provide that an Extended Benefit Period in a State will trigger "off" when the rate of insured unemployment in the State is no longer at the trigger rate set in the law. A benefit period actually terminates at the end of the third week after the week for which there is an off indicator, but not less than 13 weeks after the benefit period began.

Extended Benefit Periods commenced in the State of Arkansas on March 7, 1982 and in the State of Maine on February 21, 1982, and have now triggered off.

Determination of "off" Indicator

The heads of the employment security agencies of the States named above have determined that the rate of insured unemployment in each State for the period consisting of the week ending on June 12, 1982, and the immediately preceding twelve weeks, fell below the State trigger rate, so that for that week there was an "off" indicator in each State.

Therefore, the Extended Benefit Periods in these States terminated with the week ending on July 3, 1982.

Information for Claimants

Each State employment security agency will furnish a written notice to each individual who is filing claims for Extended Benefits of the end of the Extended Benefit Period and its effect on the individual's right to Extended Benefits. 20 CFR 615.13(d)((3).

Persons who wish information about their rights to Extended Benefits in the States named above should contact the nearest State employment service office or unemployment compensation claims office in their locality.

Signed at Washington, D.C., on July 15, 1982.

Albert Angrisani,

Assistant Secretary of Labor.

[FR Doc. 82-19906 Filed 7-22-82; 8:45 am]

BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program; Extended Benefits; Ending of Extended Benefit Periods in the States of Delaware and Indiana

This notice announces the ending of the Extended Benefit Periods in the States of Delaware and Indian, effective on July 17, 1982.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

Extended Benefits are payable in a State during an Extended Benefit Period, which is triggered "on" when the rate of insured unemployment in the State reaches the State trigger rate set in the Act and the State law. During an Extended Benefit Period individuals are eligible for a maximum of up to 13 weeks of benefits, but the total of Extended Benefits and regular benefits together may not exceed 39 weeks.

The Act and the State unemployment compensation laws also provide that an Extended Benefit Period in a State will trigger "off" when the rate of insured unemployment in the State is no longer at the trigger rate set in the law. A benefit period actually terminates at the end of the third week after the week for which there is an off indicator, but not less than 13 weeks after the benefit period began.

Extended Benefit Periods commenced in the State of Delaware on April 18, 1982 and in the State of Indiana on January 31, 1982, and have now triggered off.

Determination of "off" Indicator

The heads of the employment security agencies of the States named above have determined that the rate of insured unemployment in each State for the period consisting of the week ending on June 26, 1982, and the immediately preceding twelve weeks, fell below the State trigger rate, so that for that week there was an "off" indicator in each State.

Therefore, the Extended Benefit Periods in these States terminated with the week ending on July 17, 1982.

Information for Claimants

Each State employment security agency will furnish a written notice to each individual who is filing claims for Extended Benefits of the end of the Extended Benefit Period and its effect on the individual's right to Extended Benefits. 20 CFR 615.13(d)(3).

Persons who wish information about their rights to Extended Benefits in the States named above should contact the nearest State employment service office or unemployment compensation claims office in their locality.

Signed at Washington, D.C. on July 15, 1982.

Albert Angrisani,

Assistant Secretary of Labor.

[FR Doc. 82-19907 Filed 7-22-82; 8:45 am]

BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program; Extended Benefits; New Extended Benefit Period in the State of Kentucky

This notice announces the beginning of a new Extended Benefit Period in the State of Kentucky, effective on June 6, 1982.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established

the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

In accordance with section 203(d) of the Act, the State unemployment compensation law provides that there is a State "on" indicator in the State for a week if the head of the State employment security agency determines that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured employment under the State unemployment compensation law equalled or exceeded the State trigger rate. The Extended Benefit Period actually begins with the third week following the week for which there is an "on" indicator. A benefit period will be in effect for a minimum of 13 consecutive weeks, and will end the third week after there is an "off" indicator.

Determination of "on" Indicator

The head of the employment security agency of the State of Kentucky has determined that the rate of insured unemployment in the State, for the period consisting of the week ending on May 22, 1982, and the immedately preceding 12 weeks, rose to a point that equals or exceeds the State trigger rate, so that for that week there was an "on" indicator in that State.

Therefore, a new Extended Benefit Period commenced in that State with the week beginning on June 6, 1982.

Information for Claimants

The duration of extended benefits payable in the new Extended Benefit Period, and the terms and conditions on which they are payable, are governed by the Act and the State unemployment compensation law. The State employment security agency will furnish a written notice of potential entitlement to extended benefits to each individual who has established a benefit year in the State that will expire after the new Extended Benefit Period begins, and who has exhausted all rights under the State unemployment compensation law to regular benefits before the beginning of the new Extended Benefit Period. 20 CFR 615.13(d)(1). The State employment security agency also will provide such notice promptly to each individual who exhausts all rights under the State unemployment compensation law to regular benefits during the Extended Benefit Period, including exhaustion by reason of the expiration of the individual's benefit year. 20 CFR 615.13(d)(2).

Persons who believe they may be entitled to extended benefits in the State of Kentucky or who wish to inquire about their rights under the Extended Benefit Program, should contact the nearest State employment office or unemployment compensation claims office in their locality.

Signed at Washington, D.C. on July 6, 1982.

Albert Angrisani,

Assistant Secretary of Labor for Employment and Training.

[FR Doc. 82-19998 Filed 7-22-82; 8:45 am]

BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program; Extended Benefits; New Extended Benefit Period in the State of Louisiana

This notice announces the beginning of a new Extended Benefit Period in the State of Louisiana, effective on June 27, 1982.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

In accordance with section 203(d) of the Act, each State unemployment compensation law provides that there is a State "on" indicator in the State for a week if the head of the State employment security agency determines that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured employment under the State unemployment compensation law equalled or exceeded the State trigger rate. The Extended Benefit Period acturally begins with the third week following the week for which there is an "on" indicator. A benefit period will be in effect for a minimum of 13 consecutive weeks, and will end the third week after there is an "off" indicator.

Determination of "on" Indicator

The head of the employment security agency of the State named above has determined that the rate of insured unemployment in the State, for the period consisting of the week ending on June 12, 1982, and the immediately preceding 12 weeks, rose to a point that equals or exceeds the State trigger rate, so that for that week there was an "on" indicator in the State.

Therefore, a new Extended Benefit Period commenced in the State with the week beginning on June 27, 1982.

Information for Claimants

The duration of extended benefits payable in a new Extended Benefit Period, and the terms and conditions on which they are payable, are governed by the Act and the State unemployment compensation law. The State employment security agency will furnish a written notice of potential entitlement to extended benefits to each individual who has established a benefit year in the State that will expire after the new Extended Benefit Period begins, and who has exhausted all rights under the State unemployment compensation law to regular benefits before the beginning of the new Extended Benefit Period. 20 CFR 615.13(d)(1). The State employment security agency also will provide such notice promptly to each individual who exhausts all rights under the State unemployment compensation law to regular benefits during the Extended Benefit Period, including exhaustion by reason of the expiration of the individual's benefit year. 20 CFR 615.13(d)(2).

Persons who believe they may be entitled to extended benefits in the State named above, or who wish to inquire about their rights under the Extended Benefit Program, should contact the nearest State employment office or unemployment compensation claims office in their locality.

Signed at Washington, D.C., on July 15, 1982.

Albert Angrisani,

Assistant Secretary of Labor.

[FR Doc. 82-19999 Filed 7-22-82; 8:45 am]

BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program; Extended Benefits; Ending of Extended Benefit Period in the State of Massachusetts

This notice announces the ending of the Extended Benefit Period in the State of Massachusetts, effective on June 26, 1982.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

Extended Benefits are payable in a State during an Extended Benefit Period, which is triggered "on" when the rate of insured unemployment in the State reaches the State trigger rate set in the Act and the State law. During an Extended Benefit Period individuals are eligible for a maximum of up to 13 weeks of benefits, but the total of Extended Benefits and regular benefits together may not exceed 39 weeks.

The Act and the State unemployment compensation laws also provide that an Extended Benefit Period in a State will trigger "off" when the rate of insured unemployment in the State is no longer at the trigger rate set in the law. A benefit period actually terminates at the end of the third week after the week for which there is an off indicator, but not less than 13 weeks after the benefit period began.

An Extended Benefit Period commenced in the State of Massachusetts on March 28, 1982 and has now triggered off.

Determination of "off" Indicator

The head of the employment security agency of the State named above has determined that the rate of insured unemployment in the State for the period consisting of the week ending on June 5, 1982, and the immediately preceding twelve weeks, fell below the State trigger rate, so that for that week there was an "off" indicator in the State.

Therefore, the Extended Benefit Period in the State terminated with the week ending on June 26, 1982.

Information for Claimants

The State employment security agency will furnish a written notice to each individual who is filing claims for extended Benefits of the end of Extended Benefit Period and its effect on the individual's right to Extended Benefits. 20 CFR 615.13(d)(3).

Persons who wish information about their rights to Extended Benefits in the State named above should contact the nearest State employment service office or unemployment compensation claims office in their locality.

Signed at Washington, D.C. on July 15, 1982.

Albert Angrisani,

Assistant Secretary of Labor.

[FR Doc. 82-20000 Filed 7-22-82; 8:45 am]

BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program; Extended Benefits; Ending of Extended Benefit Period in the State of Minnesota

This notice announces the ending of the Extended Benefit Period in the State of Minnesota, effective on July 10, 1982.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

Extended Benefits are payable in a State during an Extended Benefit Period, which is triggered "on" when the rate of insured unemployment in the State reaches the State trigger rate set in the Act and the State law. During an Extended Benefit Period individuals are eligible for a maximum of up to 13 weeks of benefits, but the total of Extended Benefits and regular benefits together may not exceed 39 weeks.

The Act and the State unemployment compensation laws also provide that an Extended Benefit Period in a State will trigger "off" when the rate of insured unemployment in the State is no longer at the trigger rate set in the law. A benefit period actually terminates at the end of the third week after the week for which there is an off indicator, but not less than 13 weeks after the benefit period began.

An Extended Benefit Period commenced in the State of Minnesota on February 28, 1982 and has now triggered off.

Determination of "Off" Indicator

The head of the employment security agency of the State named above has determined that the rate of insured unemployment in the State for the period consisting of the week ending on June 19, 1982, and the immediately preceding twelve weeks, fell below the State trigger rate, so that for that week there was an "off" indicator in the State.

Therefore, the Extended Benefit Period in the State terminated with the week ending on July 10, 1982.

Information for Claimants

The State employment security agency will furnish a written notice to each individual who is filing claims for Extended Benefits of the end of the Extended Benefit Period and its effect on the individual's right to Extended Benefits. 20 CFR 615.13(d)(3).

Persons who wish information about their rights to Extended Benefits in the State named above should contract the nearest State employment service office or unemployment compensation claims office in their locality.

Signed at Washington, D.C. on July 15, 1982.

Albert Angrisani,

Assistant Secretary of Labor.

[FR Doc. 82-20001 Filed 7-22-82; 8:45 am]

BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program; Extended Benefits; Ending of Extended Benefit Periods in the States of Missouri and New Jersey

This notice announces the ending of the Extended Benefit Periods in the States of Missouri and New Jersey, effective on June 19, 1982.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment

benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

Extended Benefits are payable in a State during an Extended Benefit Period which is triggered "on" when the rate of insured unemployment in the State reaches the State trigger rate set in the Act and the State law. During an Extended Benefit Period individuals are eligible for a maximum of up to 13 weeks of benefits, but the total of Extended Benefits and regular benefits together may not exceed 39 weeks.

The Act and the State unemployment compensation laws also provide that an Extended Benefit Period in a State will trigger "off" when the rate of insured unemployment in the State is no longer at the trigger rate set in the law. A benefit period actually terminates at the end of the third week after the week for which there is an off indicator, but not less than 13 weeks after the benefit period began.

Extended Benefit Periods commenced in the State of Missouri on March 21, 1982 and in the State of New Jersey on February 28, 1982, and have now triggered off.

Determination of "off" Indicator

The heads of the employment security agencies of the States named above have determined that the rate of insured unemployment in each State for the period consisting of the week ending on May 29, 1982, and the immediately preceding twelve weeks, fell below the State trigger rate, so that for that week there was an "off" indicator in each State.

Therefore, the Extended Benefit Periods in these States terminated with the week ending on June 19, 1982.

Information for Claimants

Each State employment security agency will furnish a written notice to each individual who is filing claims for Extended Benefits of the end of the Extended Benefit Period and its effect on the individual's right to Extended Benefits. 20 CFR 615.13(d)(3).

Persons who wish information about their rights to Extended Benefits in the States named above should contact the nearest State employment service office or unemployment compensation claims office in their locality.

Signed at Washington, D.C. on July 15, 1982.

Albert Angrisani,

Assistant Secretary of Labor.

[FR Doc. 82-20002 Filed 7-22-82; 8:45 am]

BILLING CODE 4510-30-M

Occupational Safety and Health Administration

National Advisory Committee on Occupational Safety and Health; Appointment of Members

Correction

In FR Doc 82-19348 appearing in the issue for Friday, July 16, 1982, on page 31096 make the following correction:

The third column, second paragraph, line one, under the heading *"Management,"* now reading, "Tom Baker, President, Electric Company", should be changed to read, "Tom Baker, President, Baker Electric Company".

BILLING CODE 1505-01-M

Pension and Welfare Benefit Programs

[Application No. D-3183]

Proposed Exemption for Certain Transaction Involving the Automotive Sales Co. Employee Stock Ownership Plan Located in Phoenix, Arizona

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt: (1) certain indemnifications by the Automotive Sales Company Employee Stock Ownership Plan (the Plan) for the benefit of the HJS, Inc. (the Employer), regarding the proposed sale of the assets of the Employer; and (2) the proposed salt of a portion of certain real property (the Property) by the Plan to the Employer. The proposed exemption, if granted, would affect the Employer, the participants and beneficiaries of the Plan and other persons participating in the transactions.

DATE: Written comments and requests for a public hearing must be received by the Department on or before September 1, 1982.

ADDRESS: All written comments and requests for a hearing (a least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D-3183. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Richard Small of the Department, telephone (202) 523-7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the administrative committee (the Administrative Committee) of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is an employee stock ownership plan which as of January 22, 1982, had 132 participants. The trustee of the Plan is the Valley National Bank of Arizona (the Bank) which is located in Phoenix, Arizona. Investment decisions for the Plan are made by the Administrative Committee which consists of Donald Newgart, Ray Fay, Jr. and Bruce Coales, all of whom are former employees of the Employer. None of the members of the Administrative Committee own any of the stock of the Employer. The Plan currently owns 103,284 shares (the Stock) of the issued and

outstanding stock of the Employer. The Stock represents 25.61 percent of the issued and outstanding stock of the Employer. The Employer, the sponsor of the Plan, on March 30, 1981 entered into an agreement (the Agreement) with the Parts Industries Company (the Parts Co.) for the sale of the assets of the Employer to Parts Co. Prior to the Agreement, the Parts Co. had no relationship to the Employer. The applicants represent that as is the custom with such sales, the Employer and Mr. Joseph Willsey (Willsey), the majority shareholder of the Employer, have indemnified the Parts Co. for certain claims (the Claims) which may be made within three years after the date of sale. Pursuant to the Agreement, twenty percent of the purchase price will be withheld for eighteen months and may be used to offset any Claims or any tax liability of the Employer. Willsey is not willing to liquidate the Employer unless the Plan as a part owner of the Employer agrees to contribute is proportionate share, along with Willsey, to a $300,000 reserve account (the Reserve fund) to cover the Claims or any potential tax liability of the Employer.

2. The applicant represents that subsequent to the sale of the assets of the Employer, it is the intent of the Employer to liquidate (the Liquidation) before November, 1982 and to distribute cash to the Plan in exchange for the Stock it owns while distributing cash and the Property owned by the Employer to other shareholders. The applicant represents that it is preferable for the Plan to receive cash from the Employer in lieu of that portion of the Property which the Plan would receive in a pro rata distribution of the assets of the Employer. This receipt by the Plan of all cash in lieu of cash and a portion of the Property may be construed to be a sale by the Plan of its portion of the Property to the Employer. The value of the Property to be used in this distribution will be determined by an independent M.A.I. appraisal at the time of the Liquidation. Accordingly, the applicant is requesting an exemption which will permit the Plan to accept cash in the Liquidation in lieu of a portion of the Property.

3. The applicant is also requesting an exemption that will permit the Plan to contribute to the Reserve Fund to cover any potential tax liability of the Employer and any liability for the Claims. In this regard, the applicant proposes that the Plan enter into an agreement (the 2nd Agreement) to contribute an amount equal to 25.61 percent of the Reserve Fund. The Plan's contribution to the Reserve Fund will be retained in an escrow account and represents amounts otherwise payable to the Plan by reasons of the Liquidation. The 2nd Agreement will further provide that the Reserve Fund will be placed in an interest-bearing account and on November 30, 1984, any balance in the Reserve Fund will be distributed to the Plan and Willsey in proportion to their holdings at the time of the Liquidation. The Plan will not be liable for any further claims beyond the Reserve Fund except for any tax liability which might arise independently of any agreement among the Plan, Willsey, the Employer and the Parts Co.

4. An independent party, Leslie A. Plattner (Plattner), an attorney whose office is located in Phoenix, Arizona has examined the proposed transactions. The applicant represents that Plattner has experience which pension plans and is a member of the Western Pension Conference and a member of the Board of Directors of the Central Arizona Estate Planning Council. Plattner certifies that the transactions will be in the best interests of the participants and beneficiaries of the Plan and that setting aside the Reserve Fund to assure meeting all the contingencies is a normal business practice and one which, when combined with the liquidation of the Employer and distribution of the net proceeds of sale, is in the aggregate, in the best interests of the participants and beneficiaries of the Plan. The Bank and the Administrative Committee also represent that the proposed transactions are in the best interests of the participants and beneficiaries of the Plan.

5. The applicant represents that the proposed transactions will satisfy the statutory requirements of section 408(a) of the Act as follows: (1) the Administrative Committee represents that they are in the best interests of the participants and beneficiaries of the Plan; (2) the Trustee represents that the transactions are in the best interests of the participants and beneficiaries of the Plan; (3) the transactions will be approved by an independent fiduciary; and (4) the Plan will receive cash in exchange for the Stock of a non-operating company.

Notice to Interested Persons

On or before August 2, 1982 a copy of the notice of pendency and a statement advising participants and beneficiaries of the Plan of their right to comment or request a hearing will be posted at the workplace of the Employer. Within the same time period the same information will be mailed to all terminated participants and beneficiaries.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to: (1) certain indemnifications by the Plan for the benefit of the Employer; and (2) the proposed sale of a portion of the Property by the Plan to the Employer provided that the Plan receives at least the fair market value of the portion of the Property at the time of the sale.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 15th day of July, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82–19972 Filed 7–22–82; 8:45am]

BILLING CODE 4510–29–M

[Application No. D–3286]

Proposed Exemption for Certain Transactions Involving BREA Real Estate Fund-I Located in Minneapolis, Minnesota.

AGENCY: Pension and Welfare Benefit Program, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would allow a collective investment fund, BREA Real Estate Fund-I (Fund-I), that is managed by Banco Real Estate Advisers (BREA), in which employee benefit plans (the Plans) participate, to engage in certain transactions provided specified conditions are met. The proposed exemption, if granted, would affect participants and beneficiaries of the Plans, employers of employees covered under such Plans, BREA, Fund-I and other persons engaging in the transactions described herein.

DATES: Written comments and requests for a public hearing must be received by the Department on or before September 2, 1982.

ADDRESS: All written comments and requested for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D–3286. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTRACT: Mr. Robert Sandler of the Department, telephone (202) 523–8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406 and 407(a) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (F) of the Code. The proposed exemption was requested in an application filed on behalf of BREA, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued soley by the Department.

Preamble

On July 25, 1980, the Department published a class exemption, Prohibited Transaction Exemption 80–51 (PTE 80–51, 45 FR 49709), which permits collective investment funds that are maintained by banks and in which employee benefit plan participate to engage in certain transactions provided that specified conditions are met. The transactions for which the applicant has requested relief are those which are the subject of PTE 80–51.

The Department stated in PTE 80–51 that a comment had been received with regard to the proposed class exemption requesting that it be amended to apply to collective investment funds that are not maintained by banks. Relief was granted for bank collective investment funds because, among other reasons, such funds are regulated by other governmental agencies and constitute a well-defined class of funds. In the case of collective investment funds that are not maintained by banks, the Department found that the record was insufficient to determine the nature of the funds and the entities managing the funds that would comprise the class covered by such broad relief. As a result, the Department stated that it could not make the required statutory findings for such relief, and that relief for non-bank maintained collective investment funds should be dealt with on an individual rather than class basis.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. BREA is a registered investment adviser under the Investment Advisers Act of 1940. BREA, a division of Banco Mortgage Company (BMC), will serve as the investment adviser to Fund-I. There are 3,000 units (Units) of Fund-I that will be offered for sale. The price of each Unit is $50,000 and the minimum purchase by a Plan is $500,000. The offering of the Units in Fund-I is being made pursuant to a private placement that is exempt from registraton under the Securities Act of 1933. A private placement memorandum, which is given to all potential investors, describes the management, operations, investment objectives prior to investment, income tax consequences and compensation to be paid to BREA and its affiliates.

2. The five Trustees of Fund-I are individuals who are either officers of BMC or its parent, Northwest Bancorporation (Banco). None of the individuals who are Trustees of Fund-I, nor any of the employees, officers, or directors or shareholders of BREA or its affiliates, will own equity interests in Fund-I. Units may be sold to Plans with respect to which a Banco bank may be a fiduciary. However, all determinations regarding the purchase, holding and disposition of Units will be made on the

Plan's behalf by a Plan fiduciary who is not an affiliate of BREA or Banco.

3. Banco, as a major bank holding company and its subsidiaries, as major national banking associations, draw from a broad spectrum of the business community to fill their respective boards of directors. It is therefore probable that Units of Fund-I will be sold to Plans whose sponsors have one or more of their officers or directors on the board of directors of Banco or any of its affiliates. However, the applicant emphasizes that in no case will such a relationship involve control of the Plan sponsor or the Plan by Banco or its affiliates as that term is defined in section IV(b) of the exemption proposed herein.

4. Fund-I was organized in 1982 to offer tax-exempt pension and profit sharing trusts a vehicle whereby they could make mortgage loan investments and related equity participations in diversified parcels of improved real property. Fund-I is to have an existence of 18 years, unless the Trustees vote to terminate it earlier. The transferability of Units of Fund-I is prohibited and Units are only intended to be considered for long-term investment. The applicant believes that mortgage loans with equity participations will provide Plans with a greater return than currently obtainable from investments in equity and debt securities. Equity participations may include the right to receive a percentage of the rents or the right to share in a percentage of the sale proceeds when the subject property is sold. Another type of equity participation would be the right to convert from a secured creditor status to fee ownership of the property.

5. The properties in which Fund-I would invest would be leased to various tenants, including employers or their affiliates whose plans have invested in Fund-I, a person providing services to such a Plan, or a fiduciary of such a Plan. While any given lease typically would account for a small percentage of rental income to Fund-I, and the participation of a party in interest is proportionately small, it would be necessary without an exemption to examine every prospective tenant or property in which Fund-I has as interest to ascertain whether thatr tenant is a party in interest with respect to any participating Plan. The applicant represents that the end result of the failure to grant the proposed exemption could be the denial of leases to qualified tenants or the failure to purchase valuable properties, with a commensurate injury to the Plans investing in Fund-I.

6. BREA'S duties as investment adviser to Fund-I will include: (a) Making the investment decisions with regard to the acquisition of mortgage notes and related equity participations; (b) servicing the mortgage notes; (c) monitoring the performance of the fee owner; (d) making decisions regarding the exercising of equity participation rights; and (e) making decisions with respect to remedies upon any default regarding mortgage notes. During calendar year 1982, the only fee paid by Fund-I to BREA will be 75 percent of any commitment fees paid to Fund-I by mortgage loan applicants to whom Fund-I has issued loan commitments. Generally the commitment fees paid to Fund-I will be 1 pecent of the approved mortgage indebtedness. Therefore the fees earned by BREA are expected to be 75 basis points with Fund-I retaining the remaining 25 basis points. In all events BREA's fee is capped at 75 basis points and therefore if the commitment fee paid to Fund-I is greater than 1 pecent, Fund-I will retain more than 25 basis points. Beginning in 1983, BREA will also receive an annual investment management fee of 1 percent of the net asset value of Fund-I. For this purpose, mortgage notes will be valued at book value and the equity participations will be valued at their fair market value determined by an independent appraiser. Short-term cash equivalent funds held by Fund-I pending investment in mortgage notes are not included for purposes of fee calculation.

7. Fund-I will consider a number of factors prior to making a mortgage loan commitment, including the following: creditworthiness of the borrower; feasibility studies; construction cost estimates; leasing commitments; pro forma profit and loss statements; and comparable properties. Permanent lenders usually rely on loan originators to develop and supply the above information. The commercial loan division of BMC (Commercial Loan Division) provides loan origination services and BREA proposes to enter into an agreement (the Servicing Agreement) with BMC under which the Commercial Loan Division will act as a loan originator with respect to loan applications submitted to permanent lenders for Fund-I. The Servicing Agreement will be non-exclusive and will permit unrelated parties to act as loan originators for Fund-I. The loan originator's fee, which is paid by the mortgage loan applicant, is usually 1% of the mortgage loan. Because of its significant market position in certain areas of the country, it is estimated that approximately one-half of Fund-I investments could be originated by the Commercial Loan Division.

8. Fund-I will be regularly audited by the national accounting firm of Peat, Marwick, Mitchell & Co. (PMM). PMM will examine the history of ownership in property with respect to which Fund-I obtains a security interest or an equity participation to ensure that neither BREA nor any of its affiliates has a direct or indirect interest at the time of acquisition. PMM will also perform tests to ensure that, except as specifically provided in the exemption, lease transactions are not entered into with parties related to BREA, its affiliates, or any investor in Fund-I. PMM will recompute the investment adviser's fee to ensure compliance with the investment management agreement. PMM will perform reasonableness tests on loan origination fees paid to the Commercial Loan Division of BMC. On a test basis PMM will review certified financial statements received from the fee owners of property in which Fund-I has equity participations to ensure that Fund-I has received all amounts due to it under its equity participations. On a test basis PMM will confirm aspects of mortgage loans made by Fund-I, including a verification that no "side agreements" exist. PMM will maintain documentation of significant investor related matters. As part of obtaining this documentation, PMM will review BREA's files for completeness. Finally, PMM will perform tests in general to ensure compliance with the provisions of the Act.

9. At least annually each investor shall receive from the Trustees a balance sheet. profit and loss statement, and statement of change in financial position of Fund-I as prepared by an independent certified public account. Investors will be also receive a statement of source and application of funds and statement of fees paid to BREA and the Commercial Loan Division. Furthermore, the Trustees will provide whatever other information is reasonably requested by the investors. Appraisals of the equity participations will be made each year by independent appraisers. These appraisals will be included in the above reports.

10. The applicant represents that it can satisfy the conditions for the subject transactions as exempted for bank collective investment funds in PTE 80–15, except that the collective investment funds here are privately maintained. The applicant further represents that as a registered investment adviser under the Investment Advisers Act of 1940, certain, but not all of BREA's activities and operations are regulated by the Securities and Exchange Commission and are subject to periodic examination.

11. In summary, the applicant represents that the subject transactions

meet the criteria of section 408(a) of the Act because: (a) each of the protections provided to investing plans and their participants and beneficiaries by PTE 80–51 will be provided in the subject transactions, except that Fund-I is privately maintained; (b) the decision to invest in Fund-I will be made by fiduciaries of large Plans on the basis of a detailed private placement memorandum supplied to them prior to investment; (c) such fiduciaries will be unrelated to BREA or any of its affiliates; (d) PMM will audit the operation of Fund-I on an annual basis; (e) investing Plans will be provided with certain investment performance information; and (f) all services to be performed by BREA and the Commercial Loan Division will be subject to and controlled by agreements the terms of which will be disclosed to investors prior to investment.

Notice to Interested Persons

On or before August 2, 1982, BREA and its affiliates will send by mail a copy of such notice to the appropriate fiduciary of each Plan that has subscribed to invest in Fund-I. The notice will also inform interested persons of their right to comment on and request a hearing regarding the proposed exemption within the time period set forth in the notice of proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; not does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the following exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975).

Section I—Exemption for Certain Transactions Involving Fund-I

(a) The restrictions of sections 406(a), 406(b) (1) and (2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the transactions described below if the applicable conditions set forth in Section III are met.

(1) *Transactions Between Parties In Interest and the Fund: General.* Any transaction between Fund-I and a party in interest with respect to a Plan that has invested in Fund-I, or any acquisition or holding by Fund-I of employer securities or employer real property, if the party in interest is not BREA or one of its affiliates; or the acquisition or sale of Units to a Plan if a Banco bank has discretionary authority or control over Plan assets, provided that a fiduciary who is independent of BREA and its affiliates expressly approves such acquisitions or sale, if at the time of any such transaction, acquisition, holding or solely the interest of the Plan together with the interests of any other Plans maintained by the same employer or employee organization in Fund-I does not exceed 5 percent of the total of all assets in Fund-I.

(2) *Special Transactions Not Meeting the Criteria of Section 1(a)(1) Between Employers of Employees Covered by a Multiple Employer Plan and Fund-I.* Any transaction between Fund-I and an employer (or an affiliate of an employer) of employees covered by a multiple employer plan that has invested in Fund-I, or any acquisition or holding by Fund-I of employer real property, if at the time of the transaction, acquisition or holding—

(A) The interest of the multiple employer plan in Fund-I does not exceed 10 percent of the total assets in Fund-I, and the employer is not a "substantial employer" with respect to the plan (within the meaning of section 4001(a)(2) of the Act), or

(B) The interest of the multiple employer plan in Fund-I exceeds 10 percent of the total assets in Fund-I, but the employer is not a "substantial employer" with respect to the plan and would not be a "substantial employer" within the meaning of section 4001(a)(2) of the Act, if "5 percent" were substituted for "10 percent" in that definition.

(3) *Acquisitions, Sales of Holdings or Employer Securities and Employer Real Property.* (A) Except as provided in subsection (B) of this section (3), any acquisition, sale or holding of employer securities or employer real property by Fund-I which does not meet the requirements of paragraphs (a)(1) and (a)(2) of Section I, if no commission is paid of BREA or to the employer or to any affiliate to BREA or the employer in connection with the acquisition, sale or lease of employer real property, and

(i) In the case of employer real property—

(aa) Each parcel of employer real property and the improvements thereon held by Fund-I are suitable (or adaptable without excessive cost) for use by different tenants, and

(bb) The property of Fund-I that is leased or held for lease to others, in the aggregate, is dispersed geographically.

(ii) In the case of employer securities—

(aa) Neither BREA nor any of its affiliates is an affiliate of the issuer of the security, and

(bb) If the security is an obligation of the issuer, either

1. Fund-I owns the obligation at the time the Plan acquires an interest in Fund-I, and interests in Fund-I are

offered and redeemed in accordance with valuation procedures of Fund-I applied on a uniform or consistent basis, or

2. Immediately after acquisition of the obligation: (a) Not more than 25 percent of the aggregate amount of obligations issued in the issue and outstanding at the time of acquisition is held by such Plan, and (b) in the case of an obligation that is a restricted security within the meaning of Rule 144 under the Securities Act of 1933, at least 50 percent of the aggregate amount of obligations issued in the issue and outstanding at the time of acquisition is held by persons independent of the issuer. BREA, its affiliates and any collective investment fund maintained by BREA or its affiliates shall be considered to be persons independent of the issuer if BREA is not an affiliate of the issuer.

(B) In the case of a Plan that is not an eligible individual account plan (as defined in section 407(d)(3) of the Act), the exemption provided in subsection (A) of this section (3) shall be available only if, immediately after the acquisition of the securities or real property, the aggregate fair market value of employer securities and employer real property with respect to which BREA or its affiliates has investment discretion does not exceed 10 percent of the fair market value of all the assets of the plan with respect to which BREA or it affiliates has investment discretion.

(C) For the purposes of the exemption contained in subsection (a) of this section (3), the term "employer securities" shall include securities issued by, and the term "employer real property" shall include real property leased to a person who is a party in interest with respect to a participating Plan by reason of a relationship to the employer described in Section 3(14) (E), (G), (H) or (I) of the Act.

(b) The restrictions of section 406(a), 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975(c)(1) (A) through (E) shall not apply to transactions described below, if the conditions of Section III are met.

(1) *Transactions with Persons Who are Parties In Interest With Respect to a Participating Plan Solely by Virtue of Being Certain Service Providers or Certain Affiliates of Service Providers.* Any transactions between Fund-I and a person who is a party in interest with respect to a Plan if—

(A) The person is a party in interest (including a fiduciary) solely by reason of providing services to the Plan, or solely by reason of a relationship to a service provided described in section 3(14) (F), (G), (H) or (I) of the Act, or both, and the person neither exercised nor had any discretionary authority, control, responsibility or influence with respect to the investment of the Plan's assets in, or held by, Fund-I, and

(B) The person is not an affiliate of BREA.

(2) *Certain Leases and Goods.* The furnishing of goods to Fund-I by a party in interest with respect to a Plan or the leasing of real property owned by Fund-I to such party in interest and the incidental furnishing of goods to such party in interest by Fund-I, if—

(A) In the case of goods, they are furnished to or by Fund-I in connection with real property owned by Fund-I.

(B) The party in interest is not BREA or any affiliate of BREA, and

(C) The amount involved in the furnishing of goods or leasing of real property in any calendar year (including the amount under any other lease or arrangement for the furnishing of goods in connection with the real property investments of Fund-I with the same party in interest, or any affiliate thereof) does not exceed the greater of $25,000 of 0.5 percent of the fair market value of the assets of Fund-I on the most recent valuation date of Fund-I prior to the transaction.

(D) The restrictions of section 406(a), 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975(c)(1) (A) through (D) shall not apply to transactions described below, if the conditions of section III are met.

(3) *Loan Origination Services.* Loan origination services provided by the Commercial Loan Division with respect to the investments made by Fund-I, provided that the terms and conditions of such services are embodied in the Servicing Agreement.

(4) *Transactions Involving Places of Public Accommodation.* The furnishing of services, facilities or any goods incidental to such services and facilities by a place of public accommodation in which Fund-I has an investment to a party in interest with respect to a Plan, if the services, facilities and incidental goods are furnished on a comparable basis to the general public.

Section II—Excess Holding Exemption for the Plans

(a) The restrictions of sections 406(a), 406(b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to a Plan with respect to any acquisition or holding of qualifying employer securities or qualifying employer real property (other than through Fund-I), if—

(1) The acquisition or holding contravenes the restrictions of sections 406(1)(E), 406(a)(2) and 407(a) of the Act solely by reason of being aggregated with employer securities or employer real property held by Fund-I,

(2) The requirements of either paragraph (a)(1) or paragraph (a)(2) of Section I of this exemption are met, and

(3) The applicable conditions set forth in Section III of this exemption are met.

Section III—General Conditions

(a) At the time the transaction is entered into, and at the time of any subsequent renewal thereof that requires the consent of BREA or its affiliates, the terms of the transaction are not less favorable to Fund-I than the terms generally available in arms'-length transactions between unrelated parties.

(b) BREA or its affiliates maintains for a period of six years from the date of the transaction the records necessary to enable the persons described in paragraph (c) of this Section to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of BREA or its affiliates, the records are lost or destroyed prior to the end of the six-year period, and (2) no party in interest shall be subject to the civil penalty that may be assessed under section 501(i) of the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (c) below.

(c)(1) Except as provided in section 2 of this paragraph (c) and notwithstanding any provisions of sections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (b) of this Section are unconditionally available at their customary location for examination during normal business hours by:

(A) Any duly authorized employee or representative of the Department or the Internal Revenue Service,

(B) Any fiduciary of a Plan who has authority to acquire or dispose of the interests in Fund-I of the Plan or any duly authorized employee or representative of such fiduciary,

(C) Any contributing employer to any Plan or any duly authorized employee or representative of such employer, and

(D) Any participant or beneficiary of any Plan, or any duly authorized employee or representative of such participant or beneficiary.

(2) None of the persons described in subparagraphs (B) through (D) of this

paragraph (c) shall be authorized to examine trade secrets of BREA or its affiliates, or commercial or financial information which is privileged or confidential.

Section IV—Definitions and General Rules

(a) An "affiliate" of a person includes—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control, with the person,

(2) Any officer, director, employee, relative or partner in any such person, and

(3) Any corporation or partnership of which such person is an officer, director, partner or employee.

(b) The term "control" means the power to exercise a controlling influence over the management of policies of a person other than an individual.

(c) The term "relative" means a "relative" as that term is defined in section 3(15) of the Act (or a "member of the family" as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or sister.

(d) The term "multiple employer plan" means an employee benefit plan that satisfies at least the requirements of section 3(37)(A) (i), (ii) and (v) of the Act and section 414(f)(1) (A), (B) and (E) of the Code.

(e) The time as of which any transaction, acquisition or holding occurs is the date upon which the transaction is entered into, the acquisition is made or the holding commences. In addition, in the case of a transaction that is continuing, the transaction shall be deemed to occur until it is terminated. If any transaction is entered into, or an acquisition is made, on or after the date of granting of this exemption, or a renewal that requires the consent of Fund-I occurs on or after the date of granting of this exemption, and the requirements of this exemption are satisfied at the time the transactions are entered into or renewed, respectively, or at the time the acquisition is made, the requirements will continue to be satisfied thereafter with respect to the transaction or acquisition and the exemption shall apply thereafter to the continued holding of the property so acquired.

Notwithstanding the foregoing, this exemption shall cease to apply to a holding exempt by virtue of Section I(a)(1) at such time as the interest of the Plan exceeds the percentage interest limitation of Section I(a)(1), unless no portion of such excess results from an increase in the assets allocated to Fund-I by the Plan. For this purpose, assets allocated do not include the reinvestment of Fund-I earnings. Nothing in this paragraph shall be construed as exempting a transaction entered into by Fund-I which becomes a transaction described in Section 406 of the Act or Section 4975 of the Code while the transaction is continuing unless the conditions of the exemption were met either at the time the transaction was entered into or at the time the transaction would have become prohibited but for this exemption.

(f) Each Plan shall be considered to own the same proportionate undivided interest in each asset of Fund-I as its proportionate interest in the total assets of Fund-I as calculated on the most recent preceding valuation date of Fund-I.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 15th day of July 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-19066 Filed 7-22-82; 8:45 am]
BILLING CODE 4510-29-M

[Application No. D-3182]

Proposed Exemption for Certain Transactions Involving the Elsinore Corp.; Profit Sharing and Retirement Investment Trust, Located in Las Vegas, Nevada

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed sale by the Elsinore Corporation Profit Sharing and Retirement Trust (the Trust) of its interest in the John Hancock Mutual Life Insurance Company Group Annuity Contract No. 2776 GAC (the Annuity Contract), to Elsinore Corporation (the Employer), the sponsor of the Plan. The proposed exemption, if granted, would affect the Trust and its beneficiaries, the Employer and the John Hancock Mutual Life Insurance Company.

DATED: Written comments and requests for a public hearing must be received by the Department on or before September 1, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-3182. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Katherine D. Lewis of the Department, telephone (202) 523-8972. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by counsel for the Employer, pursuant to section 406(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Trust consists of a defined contribution profit sharing plan (the Plan). On December 31, 1981 the Plan had 130 participants and net assets of approximately $783,261. The trustee (the Trustee) of the Plan is the Wells Fargo

Bank, National Association. Investment decisions for the Plan are made by an administrative committee (the Committee) comprised of Messrs. Philip J. Lombardi and Patrick Foley, who are independent of the Employer, and Mr. Jay A. Pritzker, who is a shareholder of the Employer. The Employer is a publicly held Nevada corporation engaged in the ownership and management of hotels and gambling casinos.

2. On October 22, 1981, the board of directors of the Employer determined that the Plan should be terminated. The Trustee was charged with the orderly liquidation of Plan assets. Among the Plan assets to be liquidated is the Annuity Contract. The Annuity Contract is currently valued at $406,039.46, based on its normal expiration date, and comprises approximately 51 percent of the Plan assets. Provisions in the Annuity Contract state that if it is terminated prior to its normal expiration date, which is June 30, 1986, an asset liquidation adjustment must be made. The asset liquidation charge is determined by John Hancock Mutual Life Insurance Company (John Hancock), and is to be equal to the amount which John Hancock, in accordance with uniform procedures applicable to all contracts of this class, determines would be required to cover investment losses to John Hancock resulting from making payment of the amount to be transferred on that date. On October 30, 1981, the Trustee was advised by John Hancock that the asset liquidation adjustment was estimated to be 41.54 percent, which would reduce the value of the Annuity Contract to approximately $237,370. The actual asset liquidation adjustment would be determined fifteen days prior to the actual transfer date.

3. The Committee states that if the Annuity Contract is terminated as described above, the Plan participants will suffer a 41.54 percent decline in the value of their interests in the Annuity Contract. In order to mitigate this loss, an exemption is requested to permit the Plan to sell the Annuity Contract to the Employer for $397,248, which was the principal balance remaining under the Annuity Contract on January 22, 1982, less any amounts received by the Plan from John Hancock under the Annuity Contract between January 22, 1982 and the date of sale. The Employer represents that this amount will be the fair market value of the Annuity Contract on the date of sale. Thus, instead of the approximately $237,370 the participants would receive if the Annuity Contract was terminated by John Hancock, approximately $397,248 will be available to pay benefits to Plan participants. The transaction will be for cash and no commissions will be paid. Upon sale of the Annuity Contract by the Plan, the rights due under the Annuity Contract will be assigned by John Hancock to the Employer and the cash proceeds of the sale will be distributed by the Trustee to the Plan participants.

4. The Committee represents that this transaction is in the best interest of the Plan's participants and beneficiaries in that the account balances of the participants will be made whole with regard to their respective interests in the Annuity Contract, whereas, if the exemption is denied the Plan's participants and beneficiaries will suffer significant losses.

5. In summary, it is represented that the proposed transaction satisifies the statutory criteria of section 408(a) due to the following:

(a) This is a one-time transaction for cash;

(b) No commissions will be paid with respect to the sale;

(c) The Plan participants will receive the outstanding principal balance due under the Annuity Contract, whereas, if the exemption is denied, they will suffer considerable losses; and

(d) The Committee, which makes investment decisions for the Plan, has determined that the proposed sale is in the best interests of the Plan's participants and beneficiaries.

Notice To Interested Persons

Notice of the pending exemption will be provided to all interested persons, including all participants and beneficiaries of the Plan. The notice will include a copy of the notice of pendency published in the **Federal Register** and will inform each recipient of his right to comment on or request a hearing regarding the pending exemption. The notice will be provided within 10 days of the publication in the **Federal Register** and will be delivered by hand or by mail to participants and beneficiaries.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a) (1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code; (3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan, and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A)

through (E) of the Code shall not apply to the proposed sale by the Trust to the Employer of the Annuity Contract for $397,248, less any amounts received by the Plan from John Hancock under the Annuity Contract between January 22, 1982 and the date of sale, provided that such amount is not less than the fair market value of the Annuity Contract on the date of sale.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 15th day of July 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-19970 Filed 7-22-82; 8:45 am]
BILLING CODE 4510-29-M

[Application Nos. D-3453 and D-3454]

Proposed Exemption for Certain Transactions Involving the LIL Nursery Distributors, Inc.; Money Purchase Pension Plan and the LIL Nursery Distributors, Inc. Employees Profit Sharing Plan, Located in Worthington, Ohio

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This documents containes a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt (1) the sale of an unimproved parcel of real property by the LIL Nursery Distributors, Inc. Money Purchase Plan (Money Purchase Plan) and the LIL Nursery Distributors, Inc. Employees Profit Sharing Plan (Profit Sharing Plan; collectively, the Plans) to Mr. Lee W. Larson (Mr. Larson), a disqualified person with respect to the Plans; and (2) other transactions to be executed in accordance with the terms of the sale. Because Mr. Larson is the sole owner of LIL Nursery Distributors, Inc. (the Employer), the sponsor of the Plans, and is the only participant in the Plans, there is no jurisdiction under Title I of the Employee Retirement Income Security Act of 1974 (the Act) pursuant to 29 CFR 2510.3-3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code. The proposed exemption, if granted, would affect the Plans, Mr. Larson and any other persons participating in the proposed transactions.

DATE: Written comments and requests for a public hearing must be received by the Department on or before August 25, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application Nos. D-3453 and D-3454. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Plans, pursuant to section 4975(c)(2) of the Code, and in accordance with procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722. Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representation of the applicant.

1. Mr. Larson is the only participant in the Plans and is the trustee of the Plans. The Employer is a corporation engaged in the business of selling plants, trees and other nursery products.

2. On September 24, 1980, the Plans together purchased an unimproved parcel of real property (the Property) from an unrelated party for $35,000. The Property contains 21,341 square feet and is located in section 2 of the Northbridge Hamlet, Columbus, Ohio. The Money Purchase Plan has an undivided ⅔ interest, and the Profit Sharing Plan has an undivided ⅓ interest in the Property. The Property was purchased by the Plans for investment purposes and has not generated any income since purchase.

3. The applicant requests an exemption to allow the Plans to sell the Property to Mr. Larson at its appraised fair market value. Mr. James L. Murr, and M.A.I. appraiser with James Petropoulous and Company located in Columbus, Ohio, determined that, as of April 9, 1982, the Property had a fair market value of $42,500. The terms of the sale will provide that Mr. Larson pay a 10% cash downpayment and execute, with his wife, a cognovit promissory note (the Note) payable in 120 consecutive monthly installments of principal and interest commencing from the date of closing. Interest is payable at 2% above the prime lending rate in the Central Ohio area as of the date of closing. The Money Purchase Plan and the Profit Sharing Plan will, respectively have a ⅔ interest and ⅓ interest in the Note, and will receive their proportionate shares of the downpayment. The Plans will not incur any commissions with respect to the sale.

4. The Note will be secured by a duly recorded first mortgage (the Mortgage) on the Property. Mr. Larson will at all times maintain appropriate insurance on the Property throughout the term of the Mortgage. The present net worth of Mr. Larson and his wife is in excess of $200,000. The Note will represent less than 25% of the combined assets of the Plans.

5. Upon the granting of this exemption and prior to the closing of the sale, the Employer will appoint Bank One Trust Company, N.A. (the Bank), located in Columbus, Ohio, as a trustee to the Plans. The Bank will be empowered to preemptorily act with respect to all matters relating to the sale of the Property and will completely monitor the terms and conditions of the Mortgage and the Note. The Bank is independent of Mr. Larson and the Employer.

6. Mr. Larson represents that if any other person becomes a participant in the Money Purchase Plan, such Plan's interest in the Mortgage and the Note will be segregated and held solely for the account of Mr. Larson. The Profit Sharing Plan is currently frozen and no new participants can be added.

7. Ms. Denise Demetry, an assistant manager of the downtown office of County Savings Association (the

Association) located in Columbus, Ohio, has reviewed the terms of the proposed transactions and represents that such terms are at least equal to, if not more favorable than, the terms which the Association would require before undertaking such a mortgage transaction.

8. In summary, the applicant represents that the proposed transactions satisfy the statutory criteria of section 4975(c)(2) of the Code because (a) the only participant in the Plans who will be affected by the proposed transactions is Mr. Larson and he requests that the transactions be consummated; (b) the Property will be sold at its appraised fair marked value as determined by an independent appraiser, Mr. Murr; and (c) the Bank will preemptorily act with regard to the execution of the sale and will monitor the terms and conditions of the Mortgage and the Note.

Notice to Interested Persons

Because Mr. Larson is the only participant in the Plan there is no need to distribute notice to interested persons.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 4975(c)(2) of the Code does not relieve a fiduciary or other disqualified person from certain other provisions of the Code, including any prohibited transaction provisions to which the exemption does not apply; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722. If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to (1) the sale of the Property by the Plans to Mr. Larson for $42,500, and (2) the extension of credit by the Plans to Mr. Larson under the Note and Mortgage, provided that the terms of the transactions are not less favorable to the Plans than those obtainable in similar transactions with an unrelated third party.

The proposed exemption, if granted, will be subject to the expess condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 16th day of July 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82–19997 Filed 7–22–82; 8:45 am]

BILLING CODE 4510–29–M

[Application Nos. D–2909, D–2919 and D–2913]

Proposed Exemption for Certain Transactions Involving MIH Pension Plan and Trust; MIH Profit Sharing Plan and MIH Employees Benefit Trust, Located in New York, New York

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transactions restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the International Revenue Code of 1954 (the Code). The proposed exemption would exempt a loan by MIH Pension Plan and Trust (the Plans) to Marine & Industrial Hydraulics, Inc. (the Employer), a party in interest with respect to the Plans, for the lesser of $160,000 or one-third of the Plans' assets and to the personal guaranteed of repayment by John J. and Kathleen Wright. The proposed exemption, if granted would affect the participants and beneficiaries of the Plans, and the Employer.

DATE: Written comments and requests for a public hearing must be received by the Department on or before September 1, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application Nos. D–2909, D–2912 and D–2913. The application MIH Profit Sharing Plan and MIH Employees Benefit Trust for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of the Department, telephone (202) 523–8884. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a) and 406 (b)((1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of sections 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by legal counsel for the Plans, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in ERISA Procedures 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue

exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plans each have four participants and total assets as of May 31, 1981 of $382,012. The Plans' Trustees are John J. and Kathleen Wright, both of whom are officers of the Employer.

2. The Plans propose to loan the Employer the lesser of $160,000 or one third of each Plans' assets, received in return a promissory note collateralized with a first mortgage on a parcel of unencumbered real property (the property) owned by the Plans' Trustees. The Property, which is improved by a building, is located at 329 Center Avenue, Mamaroneck, New York.

3. The loan is to be repaid in forty equal quarterly installments of principal plus interest. The interest rate shall be set in accordance with the rate that is normally charged in Westchester County, New York by lenders making similar loans, as determined by the independent fiduciary (see below), but never less than 15% per annum. Such interest rate will be adjusted annually by the independent fiduciary.

4. The Property has been appraised by Joseph A. Spadaro, an independent real estate broker, on November 20, 1981 to have a current fair market value of $375,000. Thus, the loan represents less than 43% of the value of the improved real property that will secure it. The Employer represents that at all times the value of the collateral securing the loan will equal at least 150% of the outstanding balance of the loan. During the life of the loan, the Employer will keep the collateral adequately insured against fire or other loss at its expense, with the Plans named as beneficiaries. The loan will also be secured by the personal guarantees of the Plans' Trustees, whose net worth as of December 31, 1981 was approximately $1,000,000. The Property was purchased by the Plans' Trustees on January 29, 1981, from an unrelated third party for $160,000. The applicants represent that the purchase of the Property was a bargain purchase.

5. The Plans' Trustees have appointed Edward S. Saviano of Harrison, New York, an attorney, to serve as independent fiduciary for the proposed loan. Mr. Saviano has no other relationship with the Employer, any officer or director of the Employer, or the Plans. The fiduciary will review the Plans' portfolio of assets prior to execution of the loan transaction to assure that the proposed loan is an appropriate investment for the Plans. The fiduciary will certify that the terms of the loan are equal to or better than terms the Plans could receive from unrelated parties and that upon completion of the loan, the Plans' assets will be sufficiently diversified. The fiduciary will make this determination immediately prior to the consummation of the transaction. The fiduciary will be empowered and directed to enforce the terms of the loan agreement, including making demand for timely payment, bringing suit or other appropriate process against the Employer and the Trustees in the event of default, keeping accurate records, specifically including whether the value of the collateral securing the loan remains equal to at least 150 percent of the outstanding balance of the loan, and whether the value of the loan does not exceed the lesser of $160,000 or one-third the value of each Plans' assets. The fiduciary will be authorized to receive such information from the Plans and the Employer as may be reasonably necessary to fulfill his responsibilities.

6. In summary, the applicant represents that the proposed transactions meet the statutory criteria for an exemption under section 408(a) of the Act because:

(a) The loan is secured by collateral with an appraised value in excess of twice the amount of the loan and by the personal guarantee of the Trustees;

(b) The Employer will insure the collateral and ensure that the collateral for the loan equals at all times at least 150 percent of the outstanding balance of the loan;

(c) The loan will be administered by an independent fiduciary; and

(d) Before engaging in the transaction an independent fiduciary must determine that the transaction is appropriate for the Plans and is in the best interests of the Plans' participants and beneficiaries.

Notice To Interested Persons

On or before August 2, 1982, all participants and beneficiaries of the Plans will receive by personal delivery or first class mail, a copy of the notice as published in the **Federal Register**. Such notice will contain a statement, informing interested persons of their right to comment and/or request a hearing within the period specified in the notice.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments

will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to a loan by the Plans to the Employer for the lesser of $160,000 or one-third of each Plans' assets and to the guarantee of repayment by the Plans' Trustees, based on the terms and conditions set forth above, provided that the terms of the transactions are not less favorable to the Plans than those obtainable in arm's length transactions with an unrelated party at the time of consummation of the transactions.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 16th day of July 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-19869 Filed 7-22-82; 8:45 am]
BILLING CODE 4510-29-M

[Application No. D–3165]

Proposed Exemption for Certain Transactions Involving Woollen Associates, Inc. Profit Sharing Plan, Located in Indianapolis, Indiana

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt: (1) The loan (the Loan) of $72,000 by the Woollen Associates, Inc. Profit Sharing Plan (the Plan) to the Majestic Partnership (the Partnership), a party in interest with respect to the Plan; and (2) the guarantee of repayment of the Loan by the partners (the Partners) of the Partnership. The proposed exemption, if granted, would affect the participants and beneficiaries of the Plan, the Partnership and Woollen Associates, Inc. (the Employer), the Plan sponsor.

DATE: Written comments and requests for a public hearing must be received by the Department on or before August 25, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. Attention: Application No. D–3165. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Horace C. Green of the Department, telephone (202) 523–8196. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a profit sharing plan that had total assets of $206,822 and approximately 14 participants as of April 30, 1982. The investment decisions are made by the trustees (the Trustees), who are Ida Showalter, an employee and 3.125% capital interest owner of the Partnership and Evans Woollen, an employee, 51% shareholder of the Employer and 67.4% capital interest owner of the Partnership.

2. The applicant is requesting an exemption which would permit the Plan to make the Loan to the Partnership. The proceeds from the Loan would be used to assist the Partnership in financing the cost of rehabilitation and restoration of the Majestic building (the Building), a commercial office building located at Pennsylvania Street and East Maryland Street in Indianapolis, Indiana. the Building is owned by the Partnership.

3. The Loan will have: (a) a floating interest rate of 1¼% over the Indiana National Bank of Indianapolis, (the Bank) prime rate adjusted semi-annually, with a floor of 13%; and (b) a term of five years. Repayments will be made in quarterly installments to cover principal and interest. It is represented that the Loan would represent approximately 35% of the assets of the Plan as of April 30, 1982.

4. The Loan will be secured by a second mortgage (the Second Mortgage) on the Building which is valued at $2,800,000 by an appraisal and is subject to a first mortgage of $2,300,000 held by the Bank. The appraisal was performed by Donald S. Rogers, MAI, SREA of D. S. Rogers and Associates, Indianapolis, Indiana, an independent appraiser, on July 21, 1981. The Second Mortgage will be filed with the Recorder's office of Marion County, Indiana recording the Plan's secured interest in the Building. It is represented that the Plan will be added as a loss payee on the insurance policy (the Policy) insuring the Plan's secured interest in the Building against fire, casualty losses, etc. throughout the term of the Loan upon the execution of the Second Mortgage. The Policy will reflect a total coverage of $2,800,000. In addition, the Partnership will incur all costs necessary to maintain the Building, including, but not limited to, paying all taxes, assessments, insurance premiums, repairs and rent.

5. Peoples Bank and Trust Company (Peoples) of Indianapolis, Indiana has been appointed by the Plan as an independent fiduciary with respect to the transaction. Peoples is independent of the Employer, the Partneship and the Plan. It is represented that after reviewing the proposed transaction, Peoples believes that the transaction is in the best interests of the Plan participants and beneficiaries and is protective of their rights. Peoples will monitor all terms and conditions of the Loan and will enforce collection. Peoples will also require the Partnership to provide additional collateral when in the judgement of Peoples, the market value of the Plan's secured interest in the Building is less than 150% of the remaining balance of the Loan. In such an instance, Peoples will be provided with appraisals of additional collateral, performed by an independent appraiser, the cost of which will be borne by the Partnership. Additionally, it is represented that if the Partnership defaults on the Loan, the Partners, Evans Woollen, L. N. Molzan, L. R. O'Connor, T. J. Weigel, E. Sueberkrop, S. D. Hilleary and I. Showalter, will personally guarantee repayment within 30 days of default by the Partnership. It is represented that the collective net worth of the Partners is in excess of two million dollars.

6. In summary, the applicant represents that the Loan satisfies the statutory criteria of section 408(a) of the Act because: (a) Peoples, an independent fiduciary has determined that the Loan is in the best interests of the Plan participants and beneficiaries and protective of their rights; (b) the Loan will at all times be secured by the Plan's secured interest in the Building and, if required, additional collateral so that the value of the Plan's secured interest and the additional collateral would represent at least 150% of the outstanding balance of the Loan; (c) Peoples will monitor all the terms and conditions of the Loan; and (d) in event of default, the Partners will personally guarantee repayment of the Loan.

Notice To Interest Persons

Notice of the proposed exemption will be provided to all Plan participants and beneficiaries. Such notice will either be personally delivered to such interested persons or will be mailed to such interested persons at their last known personal residence by first class mail. Such notice will contain a copy of the notice of pendency of such exemption published in the **Federal Register** and will timely inform such interested persons within 3 days of the time the notice of pendency of exemption is published in the **Federal Register** of their right to comment and their right to request a hearing within the period set forth in the notice of pendency of exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact a that transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to: (1) the Loan by the Plan to the Partnership provided that the terms and conditions of the Loan will be and remain at least favorable to the Plan as an arm's-length transaction would be with an unrelated party; and (2) the guarantee of repayment of the Loan to the Plan by the Partners should the Partnership default on the Loan.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 15th day of July 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82–19971 Filed 7–22–82; 8:45 am]

BILLING CODE 4510-29-M

MERIT SYSTEMS PROTECTION BOARD

Appointment of Members to the Performance Review Board

AGENCY: Merit Systems Protection Board.

ACTION: Notice of Appointment of Members to the Performance Review Board.

SUMMARY: This notice publishes the names of Performance Review Board Members as required by 5 U.S.C. 4314(c)(4).

The following persons have been appointed to, and will serve on the Performance Review Board for Senior Executives in the U.S. Merit Systems

Protection Board: Harold Kessler, John J. McCarthy, Darrell Netherton, David C. Rector, Ernest Russell, and Evangeline Swift.

EFFECTIVE DATE: July 23, 1982.

FOR FURTHER INFORMATION CONTACT:

Frederick L. Foley, Acting Director, Personnel Management Division, U.S. Merit Systems Protection Board, 1120 Vermont Avenue NW., Washington, D.C. 20419, (653–5916).

Dated: July 2, 1982.

For the Board:

Herbert E. Ellingwood,

Chairman.

[FR Doc. 82-19700 Filed 7-22-82; 8:45 am]

BILLING CODE 7400-01-M

NATIONAL LABOR RELATIONS BOARD

Appointments of Individuals To Serve as Members of Performance Review Board

5 U.S.C. 4314(c)(4) requires that the appointment of individuals to serve as members of performance review boards be published in the **Federal Register**. Therefore, in compliance with this requirement, notice is hereby given that the individuals whose names and position titles appear below have been appointed to serve as members of performance review boards in the National Labor Relations Board for the rating year begining January 1, 1981 and ending December 31, 1981.

Name and Title

Robert E. Allen—Associate General Counsel, Enforcement Litigation
William C. Baisinger—Chief Counsel to Board Member
Frederick Calatrello—Chief Counsel to Board Member
Harold J. Datz—Associate General Counsel, Advice
Joseph E. DeSio—Associate General Counsel, Operations Management
David Dunn—Chief Counsel to Board Member
John E. Higgins, Jr.—Deputy General Counsel
Mario Lauro—Executive Assistant to the Chairman
Harry Leet—Chief Counsel to Board Member
John Miller—Chief Counsel to Chairman
Eugene L. Rosenfeld—Deputy Associate General Counsel, Operations Management
Ernest Russell—Director of Administration
Berton Subrin—Director, Office of Representation Appeals
John C. Truesdale—Executive Secretary
Robert Volger—Deputy Executive Secretary
Melvin Welles—Chief Administrative Law Judge

Dated: Washington, D.C., July 16, 1982.

By direction of the Board.

John C. Truesdale,

Executive Secretary, National Labor Relations Board.

[FR Doc. 82-19949 Filed 7-22-82; 8:45 am]

BILLING CODE 7545-01-M

Schedule for Awarding Senior Executive Service; Performance Awards (Bonuses)

AGENCY: National Labor Relations Board.

ACTION: Notice.

SUMMARY: Notice is hereby given of the schedule for awarding Senior Executive Service bonuses.

FOR FURTHER INFORMATION CONTACT: Ernest Russell, Director of Administration, National Labor Relations Board, 1717 Pennsylvania Ave., NW., Washington, D.C. 20570, (202) 254–9200.

SUPPLEMENTAL INFORMATION: Office of Personnel Management guidelines require that each agency publish a notice in the **Federal Register** of the agency's schedule for awarding Senior Executive Service bonuses at least 14 days prior to the date on which the awards will be paid.

Schedule for Awarding Senior Executive Service Bonuses: The National Labor Relations Board intends to award Senior Executive Service bonuses for the performance rating cycle of January 1, 1981 through December 31, 1981, with payouts scheduled by September 30, 1982.

Dated: Washington, D.C., July 16, 1982.

By direction of the Board.

John C. Truesdale,

Executive Secretary, National Labor Relations Board.

[FR Doc. 82-20017 Filed 7-22-82; 8:45 am]

BILLING CODE 7545-01-M

NUCLEAR REGULATORY COMMISSION

Abnormal Occurrence; Diesel Generator Engine Cooling System Failures

Section 208 of the Energy Reorganization Act of 1974, as amended, requires the NRC to disseminate information on abnormal occurrences (i.e., unscheduled incidents or events which the Commission determines are significant from the standpoint of public health and safety). The following recurrence of certain incidents was determined to be an abnormal occurrence using the criteria published in the **Federal Register** on February 24, 1977 (42 FR 10950). One of the general criteria in Appendix A notes that a major degradation of essential safety-related equipment can be considered an abnormal occurrence. The following description of the incidents includes the remedial actions taken.

Date and Place—On October 23, 1981, the NRC was notified by the Commonwealth Edison Company (the licensee) concerning trips (shut downs) experienced by the Dresden Station's Unit 2/3 and Unit 3 diesel generators. The cause was attributed to insufficient cooling water flow to the diesel generator heat exchangers resulting in high engine temperature protective trips. On November 19, 1981 a similar event occurred with Unit 3 diesel generator. On December 1, 1981 the Unit 2/3 diesel generator was declared inoperable when a problem developed with Unit 2/3 diesel generator cooling water pump motor bearings. Dresden Units 2 and 3 utilize boiling water reactors and are located in Grundy County, Illinois.

Nature and Probable Consequences—Diesel generators (D/Gs) at nuclear power plants provide emergency, on-site backup AC power in the event that normal off-site sources of AC power are unavailable. Dresden Units 2 and 3 have a total of three D/Gs. "Unit 2 D/G" is dedicated to Dresden Unit 2, "Unit 3 D/G" is dedicated to Dresden Unit 3, and "Unit 2/3 D/G" is shared by Dresden Unit 2 and Unit 3. For the events described below, normal off-site sources of AC power remained available; however, the loss of both D/Gs to either plant can be considered a serioius reduction in safety redundancy. For the events described below, the safety significance was enhanced since there was the potential for the simultaneous loss of all three D/Gs. The D/Gs are designed to power certain essential safety-related equipment in the event that all off-site AC power is lost.

Starting October 23, 1981, a series of inoperable D/G events occurred due to insufficient cooling water flow to the D/G heat exchangers. Subsequent investigations eventually led to the discovery of broken check valves in the discharge of the D/G Cooling Water Pump (DGCWP) for all three diesel generators (see Figure 1). The valves are horizontally mounted Crane, 8-inch, tilting disk check valves. Type 373, and have a pressure rating of 125 psi. For the last event, an indicated pressure drop was actually caused by DGCWP bearing wear; subsequent examination showed that the check valve was broken, but apparently had not caused restriction at this time. The licensee's discovery of the failed check valves which were involved in degraded flow was seriously

hampered by the lack of adequate installed pressure and flow monitoring instrumentation. In the earlier stages of the licensee's investigations, the licensee suspected such possible causes for the degraded flow as air binding in the pumps, pump runout, or blockage of the suction piping to the D/G cooling water pumps. The various events are described by date and involved D/Gs as follows:

BILLING CODE 7590-01-M

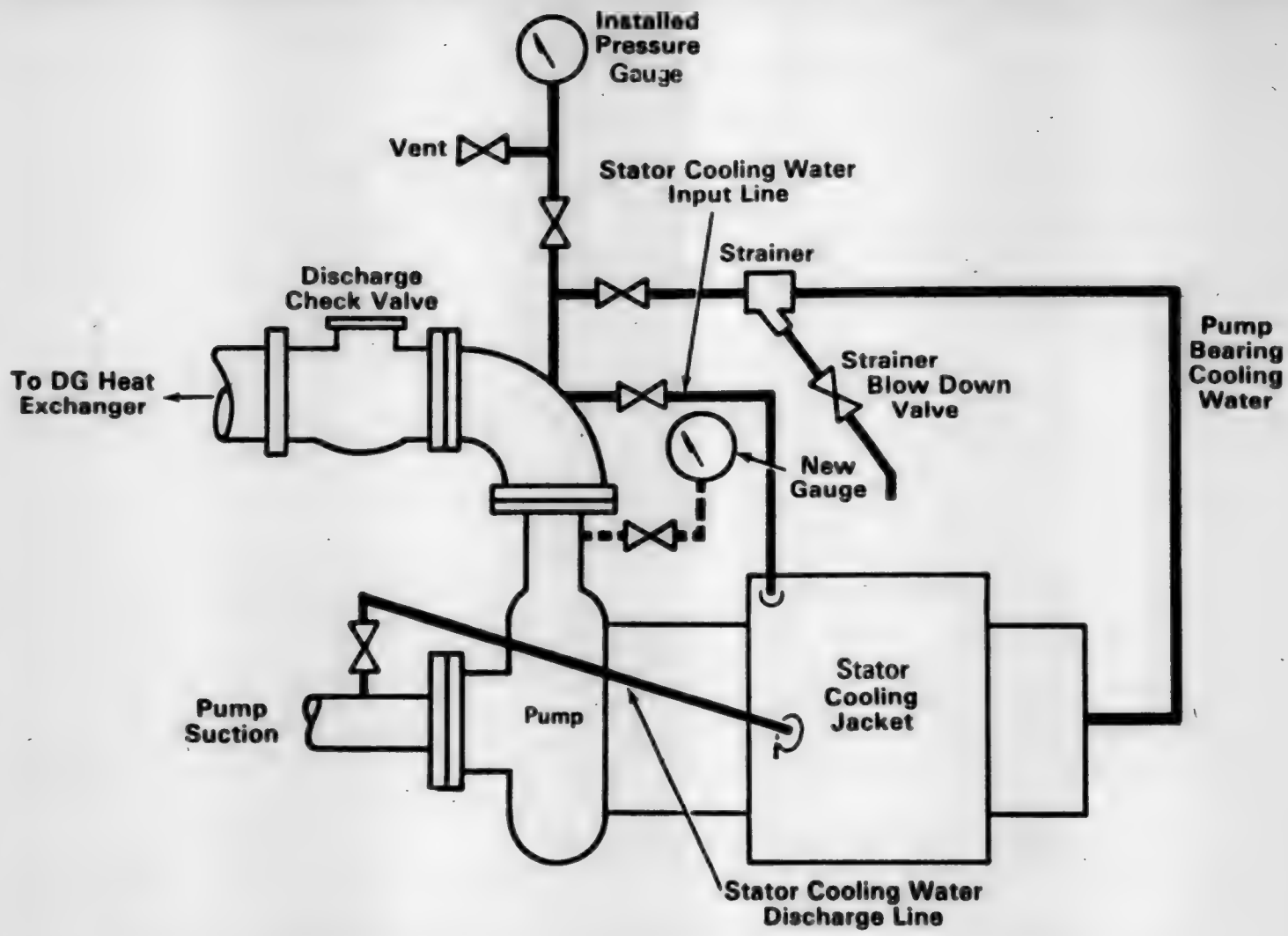

Figure 1. Diesel Generator Cooling Water Pump (DGCWP) and Discharge Check Valve

BILLING CODE 7590-01-C

October 23, 1981 Events (Unit 2/3 and Unit 3 D/Gs)

The first loss of D/G cooling water flow was experienced October 23, 1981 while conducting a monthly D/G surveillance test. One D/G was started in the normal manner from the control room while the equipment operators were in the Unit 2/3 D/G room. After taking initial log readings, the operators left the room. At approximately 0224, the Unit 2/3 D/G tripped on high engine temperture. The D/G cooling water pump tripped when the D/G tripped as per design. The operators returned to the room, followed by two shift foremen. The records show that the Unit 2/3 pump has started at about 0228. The pump was manually cycled several times to determine if the problem was in the pump. Cooling water pressure at the D/G heat exchanger remained abnormally low. The pump was then shut down.

The two shift foremen proceeded to the cribhouse to examine the pump. The foremen, suspecting air binding as a possible casue of the problem, directed the cyclying of the pump during which time the pump was vented. However, no air was observed issuing form either of two vent paths which shared a common ½-inch tap with the pump discharge pressure gauge and motor bearing cooling water line. The foremen observed low pump discharge pressure, low vent flow, abnormally low levels of pump noise and vibrations, and abnormal warm stator cooling line. The foremen also reported that valve positions were visually checked and found to be proper. The stator cooling line is supplied by a separate tap on the pump discharge from the tap for the vent, discharge pressure gauge, and stator cooling water lines. The low pump discharge pressure was later determined to be the result of venting through the same tap as the pressure gauge.

Since the Unit 2/3 pump can be supplied power from either Unit, the power was switched from a Unit 2 source to a Unit 3 source to determine if the low cooling water flow was caused by an electrical problem. The pump was cycled again, but the heat exchanger pressure remained low. The power supply was returned to normal, and the Unit 2/3 pump was declared inoperable.

At approximately 0400, the same monthly surveillance test was commenced on the Unit 3 D/G. Indications of insufficient cooling water flow were observed in the D/G room and reported by the equipment operators, and a D/G shutdown was commenced by the control room operators at 0407. A few seconds later, the diesel tripped on high engine temperature. The Unit 3 D/G cooling water pump tripped with the diesel as per design. The Unit 3 pump was cycled several times. During this period, the pump was vented. No air was observed during venting, and the pump performance was essentially the same as for the Unit 2/3 pump. Valve line ups again were checked and found to be proper.

At about 0417, immediately after one of the pump starts, the shift foremen and the shift engineer heard considerable noise from the Unit 3 pump and observed an increase in the pump discharge pressure. In the D/G room, equipment operators observed the D/G heat exchanger pressure return to normal. A hot restart of the Unit 3 D/G was conducted at which time the pump and D/G functioned normally. Subsequently, the Unit 2/3 pump was tested, found to operate satisfactorily, and was returned to service.

November 19, 1981 Event (Unit 3 D/G)

On November 19, 1981 at approximately 0453 during the conduct of a surveillance test of Unit 3 D/G, the diesel tripped on high engine temperature. Still suspecting air binding, the licensee cycled the cooling water pump twice, during which time the pump was vented. The individual who vented the pump observed what appeared to be an air and water mixture issuing from the vent path for about five minutes.

The Unit 3 pump was declared inoperable and the Unit 3 D/G was removed from service. Dresden Unit 3 then operated under a Technical Specification limiting condition for operation while the event was further investigated.

A broken check valve on the discharge of the Unit 3 pump was found and replaced. The valve disk had broken free of the pivot arm and was lodged in the discharge side of the valve, restricting nearly all flow.

The licensee subsequently stated that the apparent air/water mixture which was observed to have issued from the discharge pressure gauge test connection valve of the Unit 3 pump was due to the atomizing effect that occurred by partially opening the valve (gate valve). This effect was also observed by NRC inspectors.

December 1, 1981 Event (Unit 2/3 D/G)

On December 1, 1981, the Unit 2/3 pump exhibited a slow decrease in indicated discharge pressure accompanied by increasing noise and vibration levels. This decrease in indicated pressure and the increase in noise and vibration levels were later determined, through visual inspection, testing, and determination of actual bearing clearance to be cause by excessive wear on the pump motor bearings. Since the discharge pressure gauge and the motor bearing cooling water supply share a common tap on the pump discharge, the gauge responded to changes in bearing cooling water flow. This same tap also provides the two vent paths for the pump: the discharge pressure gauge test connection and the blowdown line for the Y-strainer in line with the bearing cooling water supply.

It is believed that bearing wear may have been accelerated by frequent venting of the pump while it was running, as required by Confirmation of Action Letters issued by the NRC on November 20 and 25, 1981. The letters were issued in order to provide adequate assurance that on-site emergency power would be available in the event of an accident, while the licensee continued to investigate the cause of the D/G cooling water insufficiencies. The frequent venting was consistent with the licensee's belief, at the time, that a likely cause of the flow restrictions was air binding in the D/G cooling water pumps.

The Unit 2/3 pump was replaced. During the pump replacement, the licensee inspected the pump's check valve and found it to be broken. As was the case with the Unit 3 pump discharge check valve, the disk had broken free of the pivot arm. In the case of the Unit 2/3 pump, however, the disk had not lodged into the body of the valve, but was free to move in any direction within the valve body. The valve was replaced.

During the October 23 through December 1, 1981 events, the Unit 2 D/G had functioned properly. However, as part of the investigation, the Unit 2 pump discharge check valve was inspected. It was found that this valve was also broken, but at a different point. The valve hinge broke and the pivot hinge remained rigidly attached to the valve dis. This valve was also replaced.

These events were unique insofar as D/G failures are concerned because all three check valves were found to be broken during a short period of time, diagnosis of the valve failures was delayed due to inadequate and poorly designed instrumentation, both D/Gs of Dresden Unit 3 were simultaneously affected (and made inoperable) on October 23, 1981, and the potential existed for all three D/Gs to be affected simultaneously had the Unit 2 D/G check valve broken in the same manner as the other two check valves.

Cause or Causes—The D/Gs were made inoperable due to insufficient cooling water flow to the D/G heat exchangers. In most of the events, the degraded flow was caused by broken check valves in the cooling water pump discharge. In one event, even though the check valve was broken, it was not restricting flow; a decrease in discharge pressure was caused by worn bearings on the D/G cooling water pump. For the check valves for Unit 3 and Unit 2/3 D/Gs, the valve disk had broken free of the pivot arm. For Unit 2 D/G, the pivot arm remained attached to the valve disk, but was broken at the hinge to the valve body. The disks for the Unit 3 and Unit 2/3 check valves were at times in such a position that flow was restricted to the cooling water heat exchanger which caused the D/Gs to overheat. The disk for the Unit 2 check valve had apparently not located itself in a critical position to affect flow.

It is not known how long these check valves were broken before they were detected since the broken Unit 3 and Unit 2/3 check valve disks were free to move within the valve bodies and may have been that way for some time before coming to rest in a position which would restrict flow enough to cause the D/G to trip on high engine temperature.

The check valves are not routinely covered by inservice testing programs or routine surveillance to verify valve operability. These failures were not adequately characterized by operator observations and available instrument readings during diesel generator surveillance tests, but were discovered by direct inspection of the internals of the check valve. The use of a common tap for pump discharge pressure, pump bearing cooling and pump discharge line venting, and the lack of alternate methods to adequately monitor flow acutally delayed and confused the analysis of the problem.

Actions Taken To Prevent Recurrence

Licensee—Commonwealth Edison conducted an investigation of the events and plans to take or has taken the following specific actions:

1. All three discharge check valves have been replaced.

2. Instrumentation changes for the cooling water systems for all three diesels will be made. An additional pressure gauge on the discharge volute of each DGCWP has been installed (see "New Gauge" in Figure 1). When an engineering study is completed, the licensee will also provide a more accurate indication of system flow than presently exists (i.e., 0–200 psig gauges on the inlet and outlet of the heat exchangers are unreliable to indicate a small differential pressure).

3. Plant procedures will be changed to lower the probability of air leakage into the pumps or inadvertent shutting of the pump suction valves. In addition, motor bearing tolerances for the pumps, which are checked annually, will be recorded for trend analysis purposes.

4. The electrical supply and control systems have been extensively tested in an effort to determine that the DGCWPs operated properly. No negative results were fund; however, the pump motor electrical overload devices were changed so that they will reset automatically instead of manually.

5. Inasmuch as each diesel experienced a defective check valve, the licensee plans to examine and test each valve annually.

The following testing was also conducted to determine the cause of the events:

1. Systems tests to verify or deny the possibility of air binding or suction blockage. It was concluded that these were not contributing factors to the events.

2. Tests to determine normal indications.

3. A test to verify that pump runout did not occur.

4. Radiography of valves in the cooling water system.

Pump operability tests were conducted periodically during the course of the events as needed to provide additional assurance that the systems would operate properly if called upon.

NRC—An inspection team was dispatched to the site on October 23, 1981, to begin to determine the adequacy of the licensee's response to the initial event. Due to the licensee's inability to identify the cause of the event to the inspector's satisfaction, the licensee agreed to run surveillance on the pumps daily to verify operability. This team returned to the site on October 27, 1981, to gather additional information. In a telephone call between the Plant Superintendent and NRC Region III Staff on October 28, 1981, the licensee was requested to increase the intensity of their investigation into the event. On October 30, 1981, NRC Region III management was briefed by the inspectors. Since the initial data had a number of inconsistencies, it was decided that an investigator should be assigned and that sworn statements would be taken to ensure that the information received had a greater level of reliability. During the next four weeks, seven site visits were made during which eight sworn statements were taken.

The NRC issued a series of Confirmation of Action Letters to the licensee in order to provide adequate assurance that onsite emergency power would be available in the event of an accident, while the licensee continued to investigate the cause of the D/G cooling water insufficiencies. The first Confirmation of Action Letter was issued November 20, 1981. As more information became available and was analyzed, the Confirmation of Action Letter was superseded by a letter dated November 25, 1981; the latter was in turn superseded by a letter dated December 2, 1981.

After the licensee's investigations and corrective actions were considered adequate, the licensee was verbally released from the requirements of the December 2, 1981 letter on December 24, 1981.

On January 22, 1982, the NRC Region III forwarded their inspection report of the events to the licensee. No items of noncompliance with NRC requirements were identified during the course of the inspection.

On March 26, 1982, the NRC issued IE Information Notice No. 82–08 ("Check Valve Failures on Diesel Generator Engine Cooling System") to all nuclear power reactor facilities holding an operating license or construction permit to inform them of the event. Recipients are expected to review the Information Notice for possible applicability to their facilities. This Information Notice represents the generic action taken by the staff thus far.

Dated at Washington, D.C. this 19th day of July 1982.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 82–19964 Filed 7–22–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–324]

Carolina Power & Light Co.; Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 71 to Facility Operating License No. DPR–62 issued to Carolina Power & Light Company (the licensee) which revised the Technical Specifications for operation of the Brunswick Steam Electric Plant, Unit No. 2 (the facility) located in Brunswick County, North Carolina. The amendment is effective as of the date of issuance.

The amendment changes the Technical Specifications to establish revised safety and operating limits for

operation of the facility during fuel Cycle Number 5.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated May 20, 1982, (2) supplemental submittals dated June 24, 1982 and June 28, 1982, (3) Amendment No. 71 to License No. DPR-62, and (4) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Southport-Brunswick County Library, 109 West Moore Street, Southport, North Carolina 28461. A copy of items (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 12th day of July 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-19961 Filed 7-22-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-237, 50-249, 50-254 and 50-265]

Commonwealth Edison Co. and Iowa-Illinois Gas and Electric Co.; Issuance of Amendments to Operating Licenses

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 73 to Provisional Operating License No. DPR-19, and Amendment No. 65 to Facility Operating License No. DPR-25, issued to Commonwealth Edison Company, which revised the Technical Specifications for operation of the Dresden Nuclear Power Station, Unit Nos. 2 and 3, located in Grundy County, Illinois. The Commission has also issued Amendment No. 80 to Facility Operating License No. DPR-29, and Amendment No. 74 to Facility Operating License No. DPR-30, issued to Commonwealth Edison Company and Iowa-Illinois Gas and Electric Company, which revised the Technical Specifications for operation of the Quad Cities Nuclear Power Station, Unit Nos. 1 and 2, located in Rock Island County, Illinois. The amendments are effective as of the date of issuance.

The amendments authorized deletion of the surveillance requirement to demonstrate the operability of the automatic pressure relief subsystem on a daily basis when the high pressure coolant injection system (HPCI) is inoperable. The existing requirement to demonstrate the operability of the automatic pressure relief subsystem immediately upon declaring the HPCI inoperable remains unchanged. The amendments also correct several previously amended pages which contained typographical and editorial errors.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated April 29, 1982, and, for Dresden Unit 3 only, a letter dated May 25, 1982, (2) Amendment No. 73 to License No. DPR-19, Amendment No. 65 to License No. DPR-25, Amendment No. 80 to License No. DPR-29 and Amendment No. 74 to License No. DPR-30, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Morris Public Library, 604 Liberty Street, Morris, Illinois, for Dresden 2 and 3 and at the Moline Public Library, 504 17th Street, Moline, Illinois, for Quad Cities 1 and 2. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 9th day of July 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-19962 Filed 7-22-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-361]

Southern California Edison Co., et al.; Issuance of Amendment Facility Operating License No. NPF-10

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 4 to Facility Operating License No. NPF-10, issued to Southern California Edison Company, San Diego Gas and Electric Company, The City of Riverside, California and The City of Anaheim, California (licensees) for the San Onofre Nuclear Generating Station, Unit 2 (the facility) located in San Diego County, California. This amendment is effective as of the date of issuance.

Amendment No. 4 makes the following changes to the Facility Technical Specifications:

(1) Adds three valves that were inadvertently omitted from a table of motor operated valves requiring surveillance to verify bypassing of thermal overload protection.

(2) Adds special test exceptions to allow performance of natural circulation tests.

(3) Makes various editorial and typographical corrections.

(4) Clarifies certain administrative controls.

(5) Requires sampling of the milk injestion pathway when it is available.

(6) Clarifies the containment air lock door seal pressure requirement.

Issuance of this amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Prior public notice of this amendment was not required since the amendment

does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) Southern California Edison Company's letter dated May 14, 1982, (2) Amendment No. 4 to Facility Operating License No. NPF-10, (3) the Commission's related safety Evaluation, and (4) Supplement No. 6 to the Safety Evaluation Report.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and the San Clemente Library, 242 Avenida Del Mar, San Clemente, California 02672. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 16th day of July 1982.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 82-19963 Filed 7-22-82; 8:45 am]
BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

Notice of Visits to Postal Facilities

July 19, 1982.

Notice is hereby given that members of the Commission advisory staff have made or will make the following visits to postal facilities:

July 13 Sectional Center Facility, Merrifield, VA
July 15 Bulk Mail Center, Largo, MD
July 20 General Post Office, Washington, D.C.
July 22 Amissville (VA) Post Office
July 28 20th Street Station, Washington, D.C.
July 30 Manassas (VA) Post Office

The purpose of the visits is to acquire a general knowledge of postal operations.

A report of the visits will be on file in the Commission's docket room.

David F. Harris,

Secretary.

[FR Doc. 82-20021 Filed 7-22-82; 8:45 am]
BILLING CODE 7715-01-M

Decrease in Rates for Preferred-Rate Mailers Caused by Increase in Congressional Subsidy

AGENCY: Postal Service.

ACTION: Notice of decreases in preferred postage rates.

SUMMARY: This is to give notice that postage rates for preferred-rate mailers will decrease, as directed by Congress in the Urgent Supplemental Appropriations Act, 1982, H.R. 6685, signed into law on July 18, 1982 (Pub. L. 97-216). The decrease in postage rates is the result of an increased appropriation for the revenue forgone subsidy appropriated by Congress. The new rates are contained in the Appendix to this notice.

EFFECTIVE DATE: 12:01 a.m., July 28, 1982.

FOR FURTHER INFORMATION CONTACT: Don S. Allen (202) 245-4418.

SUPPLEMENTARY INFORMATION: In the Urgent Supplemental Appropriations Act, 1982, Congress appropriated an additional Payment for revenue forgone on free and reduced rate mail of $42 million. Congress directed that the Postal Service promptly use the additional funds to revise the phasing schedules for reduced-rate mail so that all mail covered by the 16-year phasing schedule established pursuant to section 3626 of title 39, United States Code, shall benefit from step 13 on such schedule through September 30, 1982.

Accordingly, the Postal Service hereby gives notice that at 12:01 a.m. on July 28, 1982, the step 13 phased rates for preferred-rate categories contained in the appendix to this notice will take effect.

(39 U.S.C. 401, 403, 404, 2401(c), 3626, Pub. L. 97-216)

Fred Eggleston,

Assistant General Counsel, Legislative Division.

Appendix

Schedule 1.—Second-class rates: In-county

[In cents]

Per Pound	3.9
Per piece:	
Presorted to carrier route	1.9
Other	2.4

Schedule 2.—Second-class rates: Publications of authorized nonprofit organizations, outside county

[In cents]

Editorial	7.7
Advertising:	
1 and 2	10.7
3	11.4
4	12.7
5	14.6
6	16.4
7	18.4
8	20.2
Pieces:	
A	5.3
B	3.7
C	2.7

Schedule 3.—Second-class rates: Classroom publications

[In cents]

Editorial	4.5
Advertising:	
1 and 2	5.0
3	6.7
4	8.0
5	10.0
6	12.2
7	14.4
8	16.4
Piece	2.4

Schedule 4.—Second-class rates: Regular rate publications outside county

[In cents]

Science of agriculture:	
Advertising to zones 1 and 2	10.7
Limited circulation:	
A	5.8
B	3.0
C	2.5

Schedule 5.—Third-class rates: Nonprofit bulk

[In cents]

Per pound[1]	21.4
Minimum per-piece:	
Required presortation	4.9
Presorted to 5-digits	4.0
Presorted to carrier route	3.0

[1] Less the amount of difference between the minimum per-piece rates for required presortation and the appropriate presortation level on a per-piece basis.

Schedule 6.—Forth-class rates: Library

[In cents]

1st pound	32.0
each additional pound through 7 pounds	11.0
Each additional pound	7.0

[FR Doc. 82-20031 Filed 7-22-82; 8:45 am]
BILLING CODE 7710-12-M

SMALL BUSINESS ADMINISTRATION

[License No. 09/09-5298]

Dime Investment Corp.; Issuance of a License To Operate as a Small Business Investment Company

On December 22, 1981, a notice was published in the Federal Register (46 FR

62211), stating that Dime Investment Corporation, located at 422 South Western Avenue, Los Angeles, California 90004, had filed an application with the Small Business Administration pursuant to 13 CFR 107.102 (1981), for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business on January 6, 1982, to submit their comments to SMA. No comments were received.

Notice is hereby given that having considered the application and other pertinent information, SBA has issued License No. 09/09–5298 to Dime Investment Corporation, on July 7, 1982.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 19, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82–19954 Filed 7–22–82; 8:45 am]

BILLING CODE 8025–01–M

[License No. 09/09–0184]

Grocers Capital Co., Inc.; Application for Approval of Conflict of Interest Transaction between Associates

Notice is hereby given that Grocers Capital Company, Inc., (Grocers) 2601 S. Eastern Avenue, Los Angeles, California 90040 a Federal Licensee under the Small Business Investment Act of 1958, as amended, has filed an application with the Small Business Administration pursuant to § 107.1004 of the Regulations governing small business investment companies (13 CFR 107.1004 (1982)) for approval of a conflict of interest transaction.

Grocers proposes to loan $80,000 to Arrow Market, 8315 Santa Monica Boulevard, Los Angeles, California 90069. The proceeds of the loan will be used to purchase equipment or inventory from Grocers Equipment Company (G.E.C.) and/or Certified Grocers of California, Ltd. (Certified), Associates of the Licensee.

All of Grocers' stock is owned by subsidiaries of Certified, a retailer owned grocery cooperative. G.E.C., a subsidiary of Certified, is a 41 percent shareholder of Grocers and is defined as an Associate by Section 107.3 of the SBA Rules and Regulations.

As a result, Grocers' financing to Arrow Market fall within the purview of Sections 107.3 and 107.1004(b)(5) of the SBA Regulations. Grocers' loan to Arrow Market require prior written approval of SBA.

Notice is hereby given that any person may not later than August 2, 1982, submit written comments to the Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A similar Notice shall be published in a newspaper of general circulation in the Los Angeles, California area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 19, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82–19955 Filed 7–22–82; 8:45 am]

BILLING CODE 8025–01–M

[License No. 09/09–0184]

Grocers Capital Co., Inc.; Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given that Grocers Capital Company, Inc., (Grocers) 2601 S. Eastern Avenue, Los Angeles, California 90040, a Federal Licensee under the Small Business Investment Act of 1958, as amended, has filed an application with the Small Business Administration pursuant to Section 107.1004 of the Regulations governing small business investment companies (13 CFR 107.1004 (1982)) for approval of a conflict of interest transaction.

Grocers proposes to loan $120,000 to Moore's Market Inc., 43 Malaga Cove, Palos Verdes, California 90274. The proceeds of the loan will be used to purchase equipment or inventory from Grocers Equipment Company (G.E.C.) and/or Certified Grocers of California, Ltd. (Certified), Associates of the Licensee.

All of Grocers' stock is owned by subsidiaries of Certified, a retailer owned grocery cooperative. G.E.C., a subsidiary of Certified, is a 41 percent shareholder of Grocers and is defined as an Associate by § 107.3 of the SBA Rules and Regulations.

As a result, Grocers' financing to Moore's Market, Inc. fall within the purview of Sections 107.3 and 107.1004(b)(5) of the SBA Regulations. Grocers' loan to Moore's Market, Inc. require prior written approval of SBA.

Notice is hereby given that any person may not later than 10 days from the date of publication of this Notice, submit written comments to the Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A similar Notice shall be published in a newspaper of general circulation in the Palos Verdes, California area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 19, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82–19956 Filed 7–22–82; 8:45 am]

BILLING CODE 8025–01–M

[License No. 05/05–0168]

Mesirow Capital Corp.; Issuance of a Small Business Investment Company License

On April 28, 1982, a notice was published in the **Federal Register** (18208) stating that an application has been filed by Mesirow Capital Corporation, 135 S. LaSalle Street, Suite 3705, Chicago, Illinois 60603, with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1981)) for a license as a small business investment company.

Interested parties were given until close of business May 13, 1982, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 05/05–0168 on July 7, 1982, to Mesirow Capital Corporation to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 19, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82–19957 Filed 7–22–82; 8:45 am]

BILLING CODE 8025–01–M

Region III Advisory Council; Public Meeting

The Small Business Administration Region III Advisory Council, located in the geographical area of the State of Maryland will hold a public meeting from 9:00 a.m. to 2:00 p.m., Wednesday, September 29, 1982, in the Conference Room of the Baltimore District Office, 8600 LaSalle Road, 630 Oxford Building, Towson, Maryland 21204, (301) 962–2054.

For further information, write or call J. Arnold Feldman, District Director, U.S. Small Business Administration, 8600 LaSalle Road, 630 Oxford Building, Towson, Maryland 21204, (301) 962–2054.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

July 19, 1982.

[FR Doc. 82-19959 Filed 7-22-82; 8:45 am]

BILLING CODE 8025-01-M

Region VI—Advisory Council; Public Meeting

The Small Business Administration Region VI Advisory Council, located in the geographical area of Dallas, will hold a public meeting at 10:00 a.m. on Friday, August 27, 1982, in Room 7A23 at the Federal Building, 1100 Commerce Street, Dallas, Texas, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present and for an orientation of newly appointed Advisory Council Members.

For further information, write or call James S. Reed, District Director, U.S. Small Business Administration, 1100 Commerce Street, Room 3C36, Dallas, Texas 75242, (214) 767–0600.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

July 19, 1982.

[FR Doc. 82-19960 Filed 7-22-82; 8:45 am]

BILLING CODE 8025-01-M

[License No. 06/06–5254]

United Oriental Capital Co.; Issuance of a License To Operate as a Small Business Investment Company

On February 18, 1982, a notice was published in the **Federal Register** (47 FR 7357), stating that United Oriental Capital Company located at 13432 Hemstead Highway, Houston, Texas 77040, has filed an application with the Small Business Administration pursuant to 13 CFR 107.102 (1982), for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business March 5, 1982, to submit their comments to SBA. No comments were received.

Notice is hereby given that having considered the application and other pertinent information, SBA has issued License No. 06/06–5254 to United Oriental Capital Company, on July 7, 1982.

(Catalog of Federal Domestic Program No. 59.011, Small Business Investment Companies)

Dated: July 19, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-19958 Filed 7-22-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

During the period July 9 through July 15, 1982, the Department of Treasury submitted the following public information collection requirements to OMB, for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634–2179. Comments regarding these information collections should be addressed to the Treasury Reports Management Officer, Information Resources Management Division, Room 309, 1625 I St. N.W., Washington, D.C. 20220; *and* to the OMB reviewer listed at the end of each entry.

Date Submitted: July 14, 1982.

Submitting Bureau: Internal Revenue Service.

OMB Number: N/A (new submission).

Form Number: SWR E–2574.

Type of Submission: New.

Title: Windfall Profit Tax 30-Day Letter.

Purpose: Letter SWR E–2574 is used to explain a proposed adjustment to windfall profit tax liability and to solicit agreement from the taxpayer. If the taxpayer does not agree, he or she fills out a questionnaire on the letter. IRS uses the information to review its adjustments.

OMB Reviewer: Michael Abrahams, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date Submitted: July 14, 1982.

Submitting Bureau: Internal Revenue Service.

OMB Number: 1545–0230.

Form Number: 8458.

Type of Submission: Revision.

Title: Certification and Election Form.

Purpose: Form 8458 is used to make or revoke various elections and certifications for the crude oil windfall profit tax. The IRS uses Form 8458 to record persons, who are claiming exemptions from or reduced rates of the windfall profit tax, as well as other elections or revocations.

OMB Reviewer: Michael Abrahams, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date Submitted: July 14, 1982.

Submitting Bureau: Internal Revenue Service.

OMB Number: 1545–0226.

Form Number: 6249.

Type of Submission: Revision.

Title: Computation of Overpaid Windfall Profit Tax.

Purpose: Form 6249 is used to claim a credit or refund by producers of domestically produced crude oil, who have overpaid their windfall profit tax. The information is used to determine if overpayment has been correctly computed.

OMB Reviewer: Michael Abrahams, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date Submitted: July 14, 1982.

Submitting Bureau: Internal Revenue Service.

OMB Number: N/A (new submission).

Form Number: 1671C, 1671(DO) and 1671(SC).

Type of Submission: New.

Title: Second Request for Information to handle Problem Resolution Case.

Purpose: Taxpayers ask the Problem Resolution office for assistance when normal channels cannot resolve their problems with the Service. Sometimes they do not furnish the information necessary for Problem Resolution to help them. These forms may be used as second requests for this information. There is no standard first request letter.

OMB Reviewer: Michael Abrahams, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date Submitted: July 14, 1982.

Submitting Bureau: Internal Revenue Service.

OMB Number: 1545–0203.

Form Number: 5329.

Type of Submission: Revision.

Title: Return for Individual Retirement Arrangement Taxes.

Purpose: This form is used to compute and collect taxes related to individual retirement (i) accounts, (ii) annuities, and (iii), bonds. These taxes are: (i) excess contribution tax, (ii) premature distribution tax, and (iii) failure to distribute after age 70½ tax. The data is used to help verify that the correct amount of tax has been paid.

OMB Reviewer: Michael Abrahams, (202) 395–6880, Office of Management

and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date Submitted: July 13, 1982.

Submitting Bureau: Internal Revenue Service.

OMB Number: 1545-0426.

Form Number: 1742.

Type of Submission: Revision.

Title: Order Form for Understanding Taxes Materials.

Purpose: Form 1742 will be used by each school wishing to order the Understanding Taxes program materials and supplemental films. The information at the bottom of the proposed 1742 will be used solely to provide schools with films at a convenient time and in appropriate format.

OMB Reviewer: Michael Abrahams, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

July 20, 1982.

Joy Tucker,

Departmental Reports Management Officer.

[FR Doc. 82-19946 Filed 7-22-82; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 142
Friday, July 23, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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	Items
Equal Employment Opportunity Commission	1
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Postal Rate Commission	4
Securities and Exchange Commission	5

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, July 27, 1982.

PLACE: Commission Conference Room No. 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Ratification of Notation Vote/s.
2. Freedom of Information Act Appeal No. 82-05-FOIA-39-PA, concerning a request for a copy of the file pertaining to requestor's charge.
3. Freedom of Information Act Appeal No. 82-05-FOIA-47-DA, concerning any information regarding charges of racial discrimination in discharge.
4. Freedom of Information Act Appeal No. 82-05-FOIA-43-PA, concerning a request for a reply by a respondent to allegations raised in this charge.
5. Freedom of Information Act Appeal No. 82-05-FOIA-070-MK, concerning a request for access to all documents in age charge file No. 076820453.
6. Freedom of Information Act Appeal No. 82-05-FOIA-071-MK, concerning a request for access to all documents in age charge file No. 076820569.
7. Freedom of Information Act Appeal No. 82-05-FOIA-39-SL, concerning a request for a review of requestor's closed Title VII file.
8. Freedom of Information Act Appeal No. 82-5-FOIA-055-NY, concerning a request for all records in an open ADEA file.
9. Freedom of Information Act Appeal No. 82-5-FOIA-13-DE, concerning a request for materials previously denied from requestor's charge file.
10. Staff Report—Analysis of Pre-complaint Counseling and Complaint Processing Data Submitted by Federal Agencies for Fiscal Year 1981.
11. Report on Commission Operations by the Acting Executive Director.

Closed:

Litigation Authorization, General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Officer, Executive Secretariat at (202) 634-6748.

This Notice issued July 20, 1982.

[S-1075-82 Filed 7-21-82; 9:44 am]

BILLING CODE 6570-06-M

2

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 9 a.m., July 28, 1982.

PLACE: Hearing Room One, 1100 L Street, NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Monthly report of actions taken pursuant to delegated authority.
2. Agreements Nos. T-3875-1 and T-3875-2: Stevedoring and terminal service agreement between the Chicago Regional Port District and Ceres Terminals Incorporated; and "Amendment No. 2" to Agreement No. T-3901: Stevedoring and terminal service agreement between Chicago Port District and International Great Lakes Shipping Company.
3. Docket No. 82-23: In the Matter of Rates Applicable to Ocean Shipments via American President Lines—Further consideration of the record.
4. Docket No. 81-51: Time Limit for Filing of Overcharge Claims—Consideration of comments submitted in response to notice of proposed rulemaking.

CONTACT PERSON FOR MORE INFORMATION:
Francis C. Hurney, Secretary, (202) 523-5725.

[S-1077-82 Filed 7-21-82; 11:11 am]

BILLING CODE 6730-01-M

3

NATIONAL LABOR RELATIONS BOARD

Notice of Meeting

TIME AND DATE: 10 a.m., Thursday, July 22, 1982.

PLACE: Board Conference Room sixth floor, 1717 Pennsylvania Avenue, NW., Washington, D.C.

STATUS: Open to public observation.

MATTERS TO BE CONSIDERED:

1. Current Agency Operations—Spending Levels—FY '82
2. Status of FY '83 Agency budget request
3. Budget Options—Consideration of cash allocation for the following:
   A. SES Bonuses
   B. Managers and Supervisors
4. GAO Report
5. Bound Volumes—Whether to increase distribution
6. Regional Directors' Conference

CONTACT PERSON FOR MORE INFORMATION: John C. Truesdale, Executive Secretary, Washington, D.C. 20570; telephone (202) 254-9430.

By direction of the Board.

Dated: July 20, 1982.

John C. Truesdale,
Executive Secretary, National Labor Relations Board.

[S-1078-82 Filed 7-21-82; 8:45 am]

BILLING CODE 7545-01-M

4

POSTAL RATE COMMISSION

TIME AND DATE: 2 p.m., Thursday, July 29, 1982.

PLACE: Conference Room 500, 2000 L Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: FY 83 Budget.

CONTACT PERSON FOR MORE INFORMATION:
Dennis Watson, Information Officer, Postal Rate Commission, Room 500, 2000 L Street, NW., Washington, D.C. 20268; telephone (202) 254-5614.

[S-1079-82 Filed 7-21-82; 3:40 pm]

BILLING CODE 7715-01-M

5

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of July 26, 1982, in Room 6059, 450 5th Street, N.W., Washington, D.C.

A closed meeting will be held on Tuesday, July 27, 1982, at 10:00 a.m. An open meeting will be held on Wednesday, July 28, 1982, at 10:00 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries

will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Commissioner Longstreth, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, July 27, 1982, at 10:00 a.m., will be:

Formal orders of investigation.
Settlement of injunctive action.
Litigation matters.
Institution of injunctive actions.
Settlement of administrative proceedings of an enforcement nature.
Report of investigation.
Institution of administrative proceedings of an enforcement nature.
Opinion.

The subject matter of the open meeting scheduled for Wednesday, July 28, 1982, at 10:00 a.m., will be:

1. Consideration of two proposals that will be pending before the House of Delegates of the American Bar Association at the Associations's annual meeting in August, concerning discipline by federal agencies of attorneys who represent clients that are regulated by an agency. The Commission will determine whether it wishes to transmit its views to the House of Delegates. For further information, please contact Myrna Siegel at (202) 272–2430.

2. Consideration of whether to adopt Form SECO–4 which would establish the charges for SECO broker-dealers for fiscal year 1982. For further information, please contact Katherine England at (202) 272–2410.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Richard Starr at (202) 272–3195.

July 21, 1982.

[S–1076–82 Filed 7–21–82; 11:03 am]

BILLING CODE 8010–01–M

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FEDERAL RESERVE SYSTEM

Correction

In S–1059–82 appearing on page 31494 in the issue of Tuesday, July 20, 1982, the time and date of the meeting was omitted and should be inserted as follows:

TIME AND DATE: 10:00 a.m., Monday, July 26, 1982.

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federal register

Friday
July 23, 1982

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Georgia: GA82-2041	June 25, 1982.
[illegible]	
LA82-4020	May 7, 1982.
LA82-4023	May 7, 1982.
Iowa: IA82-4030	June 4, 1982.
Colorado: CO82-5104	Feb. 26, 1982.
Texas:	
TX81-4064	Aug. 7, 1981.
TX82-4001	Jan. 29, 1982.
TX82-4002	Jan. 15, 1982.
TX82-4019	May 7, 1982.
TX82-4024	June 18, 1982.
TX82-4025	June 18, 1982.
TX82-4026	June 18, 1982.
TX82-4027	June 18, 1982.
TX82-4028	June 18, 1982.
TX82-4029	June 18, 1982.
TX82-4033	June 18, 1982.
Michigan: MI81-2032	July 6, 1981.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

[illegible]	
AR81-4040 (AR82-4036)	June 19, 1981.
AR81-4041 (AR82-4039)	June 19, 1981.
Virginia: VA81-3065 (VA82-3024)	Nov. 27, 1981.

Please note that we are changing the format for Federal Register wage decision to coincide with the provisions of All Agency Memorandum No. 132 dated January 29, 1980 which provides that the Department of Labor will discontinue identifying fringe benefits separately. Rather, they will be stated as a composite figure which is the total hourly equivalent value of fringe benefits found to be prevailing. Fringe benefits which can not be stated in monetary terms will be shown in footnotes. This procedure is being phased in gradually.

Signed at Washington, D.C., this 16th day of July 1982.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-30-M

[FR Doc. 82-19768 Filed 7-22-82; 8:45 am]

BILLING CODE 4510-30-C

MODIFICATION PAGE 1

DECISION NO. LA82-4020 - MOD. #3 (47 FR 19880 - 5/7/82) Statewide Louisiana	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Asbestos workers:		
Zone 3	$13.80	2.22
Boilermakers	16.25	2.415
Bricklayers & stonemasons:		
Zone 4	14.15	1.69
Carpenters:		
Zone 5:		
Carpenters & soft floor layers	13.85	2.06
Millwrights	14.24	2.06
Piledrivermen	13.95	2.06
Zone 6:		
Carpenters & soft floor layers	13.69	2.06
Millwrights	14.24	2.06
Piledrivermen	13.95	2.06
Zone 9:		
Carpenters & soft floor layers	12.30	1.85
Millwrights	13.20	1.85
Piledrivermen	12.80	1.85
Cement masons - Zone 1	13.60	.05
Elevator constructors:		
Zone 2 - Mechanics	13.66	2.465+a+b
Helpers	70%JR	"
Helpers (Prmb.)	50%JR	
Glaziers - Zone 2	11.75	.01
Marble, tile & terrazzo workers & finishers:		
Zone 1:		
Marble setters	14.15	1.69
Tile & terrazzo worker	13.75	.65
Zone 2 - Tile setters	12.07	1.70
Painters:		
Zone 2 - Group 1	11.85	.83
Group 2	13.42	.83
Zone 7 - Group 1	9.05	
Group 2	10.05	
Group 3	9.55	
Plasterers - Zone 2	13.00	.01
Roofers:		
Zone 4 - Roofers	11.00	.30
Kettlemen	9.00	.30
Zone 3 - Roofers	11.63	1.79
Truck drivers:		
Zone 5 - Group 1	10.79	.70
Group 2	11.40	.70
Group 3	11.45	.70
Group 4	11.71	.70

DECISION NO. LA82-4021 - MOD. #2 (47 FR 19878 - 5/7/82) Allen, Beauregard, Bossier, Caddo, Calcasieu, Cameron, Jefferson, Jefferson Davis, Orleans, Plaquemines, St. Bernard, St. Charles Pars., Louisiana	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Bricklayers & stonemasons - Zone 1	$14.15	1.69

DECISION NO. IA82-4030 - MOD. #1 (47 FR 26537 - 6/4/82) Black Hawk, Cerro Gordo, Clinton, Des Moines, Dubuque, Johnson, Linn & Polk Cos., Iowa	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Asbestos workers:		
Zones 1,3,4,5,6 & 7	$16.86	2.40
Zones 2 & 8	16.17	3.155
Electricians:		
Zones 6 & 7	16.52	2.35+3-3/4%
Elevator constructors:		
Zone 8:		
Mechanics	15.01	2.465+a
Helpers	70%JR	2.465+a
Helpers (Prob.)	50%JR	
Ironworkers:		
Zones 1, 2(except SE part of Dubuque Co.), 6 & 7	15.11	1.96
Painters:		
Zones 6 & 7:		
Brush & rollers	15.14	.03
Paperhangers	15.39	.03
Sandblasting	16.14	.03
Spray	15.79	.03
Plumbers & pipefitters:		
Zone 4	16.15	2.65
Zone 5	14.92	1.98
Zone 8	15.15	3.15
Roofers:		
Zone 8	12.25	2.05

DECISION NO. CO82-4010 - Mod. #1 (47 FR 8497 - February 26, 1982) El Paso County, Colorado	Basic Hourly Rates	Fringe Benefits
Change:		
Carpenters:		
Zone 1	$13.57	3.36
Zone 2	14.07	3.36
Zone 3	14.32	3.36
Sprinkler Fitters	16.67	2.83

MODIFICATION PAGE 2

DECISION NO. TX81-4064 - MOD. #5 (46 FR 40487 - 8/7/81) El Paso County, Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Plumbers & pipefitters	$13.17	1.60
Sheet metal workers	13.30	1.55+3%

DECISION NO. TX82-4001 - MOD. #4 (47 FR 4463 - 1/29/82) Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos., Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Boilermakers	16.25	2.415
Carpenters:		
Zone 1 - Carpenters	13.75	.71
Millwrights	14.10	.71

DECISION NO. TX82-4002 - MOD. #3 (47 FR 1472 - 1/15/82) Wichita County, Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Boilermakers	16.25	2.415
Elevator constructors:		
Mechanics	14.99	2.465+a+b
Helpers	70%JR	"
Helpers (Prob.)	50%JR	
Ironworkers:		
Structural;ornamental; reinforcing	12.50	2.95
Ironworkers on jobs 30 miles or more from the City of Wichita Falls	12.625	2.95
Laborers - Group 1	7.85	.57
Group 2	7.98	.57
Group 3	8.10	.57

DECISION NO. TX82-4019 - MOD. #3 (47 FR 19935 - 5/7/82) Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Cos., Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Boilermakers	$16.25	2.415
Cement masons - Zone 1	15.22	1.50
Elevator constructors:		
Mechanics	14.99	2.465+a+b
Helpers	70%JR	"
Helpers (Prob.)	50%JR	
Glaziers:		
Collin, Dallas, Denton, Ellis, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Cos.	14.90	1.30
Line construction:		
Linemen	16.15	.60+8½%
Cable splicers	17.77	.60+8½%
Operators	16.96	.60+8½%
Groundmen	11.31	.60+8½%
Plasterers - Zone 1	14.42	2.54
Power equipment ops.:		
Zone 1 - Group 1	14.53	2.35
Group 2	14.13	2.35

DECISION NO. TX82-4024 - MOD. #1 (47 FR 26548 - 6/18/82) Travis County, Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Boilermakers	16.25	2.415
Laborers - Group 1	8.73	.72
Group 2	8.88	.72
Group 3	9.05	.72
Group 4	9.13	.72
Painters - Group 1	12.25	
Group 2	12.75	
Plumbers & pipefitters	16.00	1.27

MODIFICATION PAGE 3

DECISION NO. TX82-4025 - MOD. #3 (47 FR 19936 - 5/7/82) Dallas, Ellis, Hunt, Kaufman, Rockwall & Tarrant Cos., Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Boilermakers	$16.25	2.415
Elevator constructors:		
Mechanics	14.99	2.465+a+b
Helpers	70%JR	"
Helpers (Prob.)	50%JR	
Glaziers:		
Dallas, Ellis, Hunt, Kaufman, Rockwall & Tarrant Cos.	14.90	1.30
Line construction:		
Linemen	16.15	.60+8½%
Cable splicers	17.77	.60+8½%
Operators	16.96	.60+8½%
Groundmen	11.31	.60+8½%
Plasterers - Zone 1	14.42	2.54
Power equipment ops.:		
Zone 1 - Group 1	14.53	2.35
Group 2	14.13	2.35

DECISION NO. TX82-4026 - MOD. #3 (47 FR 19937 - 5/7/82) Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery & Waller Cos., Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Boilermakers	$16.25	2.415
Elevator constructors:		
Mechanics	14.99	2.465+a+b
Helpers	70%JR	"
Helpers (Prob.)	50%JR	
Glaziers:		
Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery & Waller Cos.	14.90	1.30
Line construction:		
Linemen	16.15	.60+8½%
Cable splicers	17.77	.60+8½%
Operators	16.96	.60+8½%
Groundmen	11.31	.60+8½%
Plasterers - Zone 1	14.42	2.54
Power equipment ops.:		
Zone 1 - Group 1	14.53	2.35
Group 2	14.13	2.35

MODIFICATION PAGE 4

DECISION NO. TX82-4027 - MOD. #3 (47 FR 19938 - 5/7/82) Bexar, Comal, Guadalupe, Kendall & Wilson Cos., Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Boilermakers	$16.25	2.415
Elevator constructors:		
Mechanics	14.99	2.465+a+b
Helpers	70%JR	"
Helpers (Prob.)	50%JR	
Glaziers:		
Bexar, Comal, Guadalupe, Kendall & Wilson Cos.	14.90	1.30
Line construction:		
Linemen	16.15	.60+8½%
Cable splicers	17.77	.60+8½%
Operators	16.96	.60+8½%
Groundmen	11.31	.60+8½%
Plasterers - Zone 1	14.42	2.54
Power equipment ops.:		
Zone 1 - Group 1	14.53	2.35
Group 2	14.13	2.35

DECISION NO. TX82-4028 - MOD. #3 (47 FR 19939 - 5/7/82) Bell, Brazos, Burleson, Coryell, Falls, Hamilton, Lampasas, Limestone, McLennan, Milam & Robertson Cos., Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Boilermakers	$16.25	2.415
Elevator constructors:		
Mechanics	14.99	2.465+a+b
Helpers	70%JR	"
Helpers (Prob.)	50%JR	
Glaziers:		
Bell, Brazos, Burleson, Coryell, Falls, Hamilton, Lampasas, Limestone, McLennan, Milam & Robertson Cos.	14.90	1.30
Line construction:		
Linemen	16.15	.60+8½%
Cable splicers	17.77	.60+8½%
Operators	16.96	.60+8½%
Groundmen	11.31	.60+8½%
Plasterers - Zone 1	14.42	2.54
Power equipment ops.:		
Zone 1 - Group 1	14.53	2.35
Group 2	14.13	2.35

	Basic Hourly Rates	Fringe Benefits
DECISION NO. TX82-4025 - MOD. #1 (47 FR 26550 - 6/18/82) Brazos County, Texas		
CHANGE:		
Boilermakers	$16.25	2.415
Sheet metal workers	15.69	1.99+3%
Power equipment ops.:		
Group 1	16.09	2.09
Group 2	14.23	2.09
Group 3	13.60	2.09
Group 4	13.39	2.09
DECISION NO. TX82-4026 - MOD. #1 (47 FR 26547 - 6/18/82) Lubbock County, Texas		
CHANGE:		
Boilermakers	16.25	2.415
Bricklayers & stonemason	12.57	.33
Ironworkers:		
Structural;ornamental; reinforcing	12.50	2.95
All ironworkers on jobs 30 miles or more from the City of Lubbock	12.625	2.95
DECISION NO. TX82-4027 - MOD. #1 (47 FR 26551 - 6/18/82) Bexar County, Texas		
CHANGE:		
Boilermakers	16.25	2.415
Bricklayers & stonemason	13.28	1.52
Power equipment ops.:		
Group 1	13.02	2.25
Group 2	11.60	2.25
Group 3	9.80	2.25
Group 4	9.42	2.25
DECISION NO. TX82-4028 - MOD. #1 (47 FR 26553 - 6/18/82) Jefferson & Orange Cos., Texas		
CHANGE:		
Carpenters - residential const. of not more than 2 units & condominium townhouses of not more than 10 units excl. all apt. const. & multiple bldgs. for rental purposes	14.69	1.765
Boilermakers	16.25	2.415

	Basic Hourly Rates	Fringe Benefits
DECISION NO. TX82-4029 - MOD. #1 (47 FR 26552 - 6/18/82) Bell,Bosque,Coryell, Falls,Hill & McLennan Cos., Texas		
CHANGE:		
Building Construction:		
Boilermakers	$16.25	2.415
Elevator constructors:		
Mechanics	14.99	2.465+a
Helpers	70%JR	2.465+a
Helpers (Prob.)	50%JR	
Line construction:		
Zone 1:		
Linemen	13.66	.60+8½%
Cable splicers	15.03	.60+8½%
Groundman	9.56	.60+8½%
Operators	14.34	.60+8½%
Zone 2:		
Linemen	15.60	.60+8½%
Cable splicers	17.16	.60+8½%
Groundman	10.92	.60+8½%
Operators	16.38	.60+8½%
DECISION NO. TX82-4033 - MOD. #2 (47 FR 26549 - 6/18/82) Galveston & Harris Cos., Texas		
CHANGE:		
Boilermakers	16.25	2.415
Carpenters:		
Millwrights	16.135	2.17
Piledrivermen	15.75	2.17
Cement masons:		
Galveston Co.	15.25	2.05
Sheet metal workers	15.69	1.99+3%
Power equipment ops.:		
Group 1	16.09	2.09
Group 2	14.23	2.09
Group 3	13.60	2.09
Group 4	13.39	2.09

	Basic Hourly Rates	Fringe Benefits
DECISION #MI81-2032 - Mod. #2 (46 FR 34998 - July 6, 1981) Macomb, Monroe, Oakland, Washtenaw, & Wayne Counties, Michigan		
CHANGE:		
Sheet Metal Workers:		
Monroe Counties	$16.145	$ 3.315
Remainder of Counties -		
Light Commercial Work - jobs consisting of 10 tons of air conditioning and/or 200,000 B.T.U.'s of heating and architectural sheet metal work on such projects.	$10.11	$ 1.89
All Other Commercial Work	14.85	7.16
Residential Work - consisting of single family homes and apartments up to and including four (4) stories.	10.11	1.89
DECISION NO. GA82-2041 - Mod. #2 (42 FR 27685 - June 25, 1982) Georgia, North Carolina, South Carolina, Virginia, Washington, D. C. and in Florida, All Counties on the Atlantic Coast and The Gulf Coast West to the Aucilla River and All Tributary Water Ways		
Delete:		
from States: Georgia		

SUPERSEDEAS DECISION

STATE: Arkansas
DECISION NO.: AR82-4038
COUNTY: Union and Ouachita
DATE: Date of Publication
SUPERSEDES DECISION NO. AR81-4040 dated June 19, 1981 in 46 FR 32179
DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including four stories).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	15.25	2.05
BOILERMAKERS	16.35	2.415
BRICKLAYERS	12.00	1.25
CARPENTERS:		
Carpenters	10.85	1.04
Millwrights-Piledriver-men	11.35	1.04
CEMENT MASONS	12.00	.38
ELECTRICIANS:		
Electrical contract $20,000 or less:		
Electricians	14.39	3%
Cable splicers	14.69	3%
Electrical contracts over $20,000:		
Electricians	15.18	3%
Cable splicers	15.48	3%
IRONWORKERS	13.25	1.91
LABORERS:		
Group I	8.30	1.15
Group II	8.55	1.15
Group III	8.70	1.15
Group IV	8.80	1.15
Group V	8.95	1.15
Group VI	9.20	1.15
Group VII	9.10	1.15
LINE CONSTRUCTION:		
Electricial contracts $20.000.00 or less:		
Linemen	14.39	3%
Cable splicers	14.69	3%
Electricial contracts over $20,000.00:		
Linemen	15.18	3%
Cable splicers	15.48	3%
Electricial contracts $20,000.00 or less and over $20,000.00:		
Groundman	65%JR	3%
Truck drivers	70%JR	3%
Winch operator	80%JR	3%
Heavy Equipment operator (on track or transmission equipment	100%JR	3%
PAINTERS:		
Brush, roller, sheet rock work & paperhanging	9.00	
Spray and sandblasting	9.875	
PLASTERERS	12.00	.39
PLUMBERS-PIPEFITTERS	14.25	1.60
POWER EQUIPMENT OPERATORS		
Group I	13.22	1.25
Group II	11.97	1.25
Group III	11.40	1.25
Group IV	9.38	1.25
ROOFERS	11.81	.30
SHEET METAL WORKERS	12.09	3%+ 1.38
SPRINKLER FITTERS	14.57	2.83
TILE, MARBLE & TERRAZZO WORKERS	12.10	1.54

WELDERS--receive rate prescribed for craft performing operation to which welding is incidental.

UNLISTED classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

DECISION NO. AR82-4038 Page 2

LABORERS LABORERS CLASSIFICATION DEFINITIONS

GROUP I - Construction laborer-concrete, wrecking, carpentrs, dry-wall, mechanics, excavating, plumbers and electricians laborers, green cutter, blowpipe, and crete pump hose placer

GROUP II - Semi-skilled labor - pipelayers, concrete, clay, and mechanical tool, cement mixer, wet or dry finishers and plasterers, mason tenders, mortar mixers, asphalt rakers and shovelers, creosote wood handlers, chuck tender

GROUP III - Skilled "A" - Steelform setters, curb and gutters, grout and cement muckers

GROUP IV - Skilled "B" - Swinging scaffold, barco, 90lb pavement breaker and burners

GROUP V - Nozzleman (gunite, grout, and sandblasters); concrete pump (nozzel placer)

GROUP VI - Powderman and blaster GROUP VII - Wagon drill

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I - Cranes, draglines, shovels and piledrivers with a lifting capacity of 50 tons or over, and operators of all towers, climbing cranes, and derricks required to work 25 feet or over from the ground, blacksmith. mechanics

GROUP II - Hydraulic cranes, cherry pickers, backhoes and all derricks with a lifting capacity less than 50 tons, as specified by the manufacturers, all backhoes, tractor or truck type, all overhead and traveling cranes, or tractors with swinging boom attachments, gradalls, all above equipment irrespective of motive power, leverman (engineer), hydraulic or bucket dredges, irrespective of size

GROUP III - HEAVY EQUIPMENT OPERATORS: All bulldozers, all front end loaders, all sidbooms, skytracks, all push tractors, all pull scrapers, all motor graders, all trenching machines, regardless of size or motive power, all back fillers all central mixing plants, 10S and larger, finishing machines, all boiler firemen high or low pressure, all asphalt spreaders, hydro truck crane, multiple drum hoist, irrespective of motive power, all rotary, cable tool core drill or churn drill, water well and foundation drilling machines regardless of size, regardless of motive power and dredge tender operator

GROUP IV - LIGHT EQUIPMENT OPERATORS: Oilerdriver motor crane, single drum hoists, winches and air tuggers, irrespective of motive power, winch or A-frame trucks, forklifts, rollers of all types and pull tractors, regardless of size, elevator operators inside and outside when used for carrying workmen from floor to floorand handling building material. Lad-A-Vator, conveyor, batch plant, and mortar or concrete mixers, below 10S, and dump Euclid, pumpcrete, spray machine andpressure grout machine, air compressors, regardless of size, all equipment, welding machines light plants, pumps, all well point system de-watering and portable pumps, space heater, irrespective of size, and motive power, equipment greaser, oiler, asphalt distributor, and like equipment, safety boat operator and deckhand.

SUPERSEDEAS DECISION

STATE: Arkansas
COUNTY: Garland, Clark & Hot Springs

DECISION NO. AR-82-4039 Page 2

LABORERS LABORERS CLASSIFICATION DEFINITIONS

SUPERSEDEAS DECISION

STATE: Arkansas COUNTY: Garland, Clark & Hot Springs

DECISION NO.: AR82-4039 DATE: Date of Publication

SUPERSEDES DECISION NO. AR81-4041 dated June 19, 1981 in 45 FR 32179

DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including four stories).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	15.25	2.05
BOILERMAKERS	16.35	2.415
BRICKLAYERS-STONEMASONS:		
Clark & Garland Counties	12.00	.50
Hot Springs County	12.80	.59
CARPENTERS:		
Carpenters	10.85	1.04
Millwrights-Piledrivermen	11.35	1.04
CEMENT MASONS	12.00	.38
ELECTRICIANS:		
Electricians	12.77	3%%+ 1.60
Cable Splicers	12.895	"
ELEVATOR CONSTRUCTORS:		
Journeymen	10.81	3.05+a
Helpers	70%JR	3.05+a
IRONWORKERS	12.80	1.91
LABORERS:		
Group I	8.30	1.15
Group II	8.55	1.15
Group III	8.70	1.15
Group IV	8.80	1.15
Group V	8.95	1.15
Group VI	9.20	1.15
Group VII	9.10	1.15
LINE CONSTRUCTION:		
Lineman	12.27	3%%+ 1.60
Cable splicers	12.395	"
Groundman	64%JR	"
Truck drivers (with winch)	80%JR	"
Truck drivers (flat bed)	64%JR	"
PAINTERS:		
Brush and roller	8.00	
Paperhanging	8.50	
Sheet rock (tape and float only), stage & steel	8.50	
Spray & sandblasting	11.25	
Painters operating any kind of taping or floating machine	11.75	
PLASTERERS	12.00	.39
PLUMBERS-PIPEFITTERS:		
Within 10 miles of Garland County Courthouse	13.85	1.60
10 miles and over from Garland County Courthouse	14.35	1.60
POWER EQUIPMENT OPERATORS:		
Group I	13.22	1.25
Group II	11.97	1.25
Group III	11.40	1.25
Group IV	9.38	1.25
ROOFERS	11.81	.30
SHEET METAL WORKERS	13.26	3%+ 1.35
SPRINKLER FITTERS	14.57	2.43
TILE LAYERS (Garland and Clarke Counties)	12.00	.50

FOOTNOTES:
a. 1st 6 mos. - none; 6 mos. to 5 yrs. 6%; over 5 years - 8% of basic hourly rate plus 6 paid holidays; A-New Years Day B-Memorial Day C-Independence Day D-Labor Day E-Thanksgiving Day F-Christmas Day

WELDERS--receive rate prescribed for craft performing operation to which welding is incidental

UNLISTED classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii).

LABORERS LABORERS CLASSIFICATION DEFINITIONS

GROUP I - Construction laborer-concrete, wrecking, carpentrs, dry-wall, mechanics, excavating, plumbers and electricians laborers, green cutter, blowpipe, and crete pump hose placer

GROUP II - Semi-skilled labor - pipelayers, concrete, clay, and mechanical tool, cement mixer, wet or dry finishers and plasterers, mason tenders, mortar mixers, asphalt rakers and shovelers, creosote wood handlers, chuck tender

GROUP III - Skilled "A" - Steelform setters, curb and gutters, grout and cement muckers

GROUP IV - Skilled "B" - Swinging scaffold, barco, 90lb pavement breaker and burners

GROUP V - Nozzleman (gunite, grout, and sandblasters); concrete pump (nozzel placer)

GROUP VI - Powderman and blaster GROUP VII - Wagon drill

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I - Cranes, draglines, shovels and piledrivers with a lifting capacity of 50 tons or over, and operators of all towers, climbing cranes, and derricks required to work 25 feet or over from the ground, blacksmith, mechanics

GROUP II - Hydraulic cranes, cherry pickers, backhoes and all derricks with a lifting capacity less than 50 tons, as specified by the manufacturers, all backhoes, tractor or truck type, all overhead and traveling cranes, or tractors with swinging boom attachments, gradalls, all above equipment irrespective of motive power, leverman (engineer), hydraulic or bucket dredges, irrespective of size

GROUP III - HEAVY EQUIPMENT OPERATORS: All bulldozers, all front end loaders, all sidebooms, skytracks, all push tractors, all pull scrapers, all motor graders, all trenching machines, regardless of size or motive power, all back fillers all central mixing plants, 10S and larger, finishing machines, all boiler firemen high or low pressure, all asphalt spreaders, hydro truck crane, multiple drum hoist, irrespective of motive power, all rotary, cable tool core drill or churn drill, water well and foundation drilling machines regardless of size, regardless of motive power and dredge tender operator

GROUP IV - LIGHT EQUIPMENT OPERATORS: Oilerdriver motor crane, single drum hoists, winches and air tuggers, irrespective of motive power, winch or A-frame trucks, forklifts, rollers of all types and pull tractors, regardless of size, elevator operators inside and outside when used for carrying workmen from floor to floorand handling building material. Lad-A-Vator, conveyor, batch plant, and mortar or concrete mixers, below 10S, end dump Euclid, pumpcrete, spray machine andpressure grout machine, air compressors, regardless of size, all equipment, welding machines light plants, pumps, all well point system de-watering and portable pumps, space heater, irrespective of size, and motive power, equipment greaser, oiler, asphalt distributor, and like equipment, safety boat operator and deckhand.

SUPERSEDEAS DECISION

STATE: Virginia

COUNTIES: York County, The Cities of Hampton and Newport News (including Langley AFB, Fort Eustis and Fort Monroe)

DECISION NO.: VA82-3024 **DATE:** Date of Publication

Supersedes Decision No. VA81-3085 dated November 27, 1981 in 46 FR 58029

DESCRIPTION OF WORK: Building Construction (does not include single family homes and apartments up and including 4 stories), Sewer and Water Line Construction.

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	12.55	1.91
BOILERMAKERS	13.70	2.715
BRICKLAYERS AND STONE MASONS	12.50	
CARPENTERS AND SOFT FLOOR LAYERS	11.65	1.46
CEMENT MASONS:		
Cement Masons	10.40	.40
Machine and Scaffold Men	10.50	.40
ELECTRICIANS:		
Zone I-within a 16 air mile radius of 7812 Warwick Bldv., Newport News:		
Wiremen	12.20	1.85
Cable Splicers	12.45	1.87
Zone II-beyond a 16 air mile radius of 7812 Warwick Bldv., Newport News:		
Wiremen	13.20	1.94
Cable Splicers	13.45	1.96
ELEVATOR CONSTRUCTORS	10.33	2.18+ a+b
ELEVATOR CONSTRUCTORS HELPERS	7.23	2.18+ a+b
ELEVATOR CONSTRUCTORS HELPERS PROBATIONARY	5.165	
GLAZIERS	11.10	1.12
IRONWORKERS:		
Structural, ornamental, riggers, reinforcing, fence erectors, and machinery movers	13.15	2.38
LABORERS:		
Unskilled	7.50	.66
Tenders, motorized Georgia buggy operators, nozzlemen (gunite or sandblasting), concrete saw operators, air tool and vibrator operators	7.60	.66
Mortar mixers, hod carriers, pipelayers, caulkers, marble, tile and terrazzo worker helpers	7.75	.66
Burners (wrecking)	7.85	.66
Floor, base, and terrazzo grinder	7.90	.66
Wagon drill and air trac	8.00	.66
Powdermen	8.25	.66
LATHERS	10.75	.25
LINE CONSTRUCTION:		
Zone 1-within a 16 air mile radius of 7812 Warwick Blvd., Newport News:		
Lineman	11.05	1.59
Cable Splicer	11.30	1.61
Zone II-beyond a 16 air mile radius of 7812 Warwick Bldv., Newport News:		
Lineman	12.05	1.68
Cable Splicer	12.30	1.70
MARBLE SETTERS	10.65	
MILLWRIGHTS	13.55	1.51
PAINTERS:		
(York County from a point on the north shore of Queens Creek at the intersection of York River due west to a point on the eastern shore of James River including all cities therein the cities of Hampton and Newport News;)		
Brush and roller	9.90	1.20
Paperhanger, taper, spray, roller with a 6' handle or over, structural steel to 74' from the ground up, swing stage, under 40', sandblasting	10.25	1.20

DECISION NO. VA82-3024

	Basic Hourly Rates	Fringe Benefits
PAINTERS CONT'D:		
Swing stage over 40', spray epoxy	10.50	1.20
Epoxy brushed or rolled	10.15	1.20
All work over 74' from the ground	10.40	1.20
Bituminous coatings, hot cresmite	11.20	1.20
PAINTERS: REMINDER OF COUNTY OF YORK		
Brush and roller	10.50	1.20
Paperhanging, taper, spray, roller with a handle 6' or over, structural steel 74' from the ground up, swing stage under 40', sandblasting	10.85	1.20
Swing stage over 40', epoxy sprayed	11.10	1.20
Epoxy brushed or rolled	10.75	1.20
All work over 74' from the ground	11.00	1.20
Bituminous coatings, hot creosote	11.90	1.20
Piledrivermen and dockbuilders	11.65	1.20
Plasterers	12.91	.40
Plumbers and Steamfitters	13.85	1.32
Roofers composition	8.10	
Roofers helpers (tearing off old roofing, carrying materials & clear-up)	6.20	
Sheet metal workers: Newport News and Hampton	10.30	1.00%
York County	10.55	1.00%
Sound and Signal Installer	6.00	
Sprinkler Fitters	13.47	2.83
Terrazzo workers and tile setters	10.65	
POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION:		
Group 1	12.40	1.775
Group 2	9.95	1.775
Group 3	8.00	1.775
Group 4	7.80	1.775
Group 5	7.61	1.775
WELDERS-receive rate prescribed for craft performing operation to which welding is incidental.		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day, F-Christmas Day.

FOOTNOTES:
a. Holidays: A through F, Day after Thanksgiving.
b. Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as vacation pay credit.

SEWER & WATER CONSTRUCTION:		
LABORERS	3.38	
PIPELAYERS	4.59	
TRUCK DRIVERS	3.50	
LOADERS	4.69	
BACKHOE	6.50	
CRANES	7.90	

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CLASSIFICATIONS

Group 1 - Tunnel machine, cranes, derricks, pile drivers, pavers, two or more (drum) hoist, finish motor grader, mechanic, batch plant, gradall, quad

Group 2 - Cableways, tractors with attachments, combination front end loader and backhoe, front end loader, rubber tired scraper and pans, rough motor grader, 20-ton locomotive, bulldozers, pump crete, trenching machine, mixer larger than 16S, fork lift

Group 3 - Compressor over 125 cu. ft., bottom and end dumps, tractors without attachments, 1 drum hoist, rollers, welding machines (gas or diesel), locomotive under 20-tons, power plant, generator (1200 KW or larger), pumps (over 2 inches, including wellpoints), A-frame trucks, mechanic's helper

Group 4 - Firemen

Group 5 - Oilers

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

[FR Doc. 82-19708 Filed 7-22-82; 8:45 am]

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federal register

Friday
July 23, 1982

Part III

Environmental Protection Agency

Hazardous Waste Management System; General and EPA Administered Permit Programs: the Hazardous Waste Permit Program

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 122

[SW-FRL 2113-2]

Hazardous Waste Management System; General and EPA Administered Permit Programs: the Hazardous Waste Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule and notice of intent to grant rulemaking petition; Request for comments.

SUMMARY: The Environmental Protection Agency (EPA) is today proposing to amend its consolidated permit regulations to provide a variance from the requirement that owners of hazardous waste management facilities, as well as operators, must sign the hazardous waste permit application. In addition, these proposed amendments provide an alternate certification that owners may use when signing hazardous waste permit documents, when the owner and operator are not the same person. These proposed changes do not affect EPA's ability to enforce against the owner as he is legally bound by both the permit conditions and any independently enforceable regulations whether or not he signs the permit application.

This proposal also constitutes a tentative decision to grant a rulemaking petition filed jointly by the Department of Agriculture (USDA) and the Department of Interior (DOI). The petition requests that EPA revise the certification statement required of a state or federal agency when it owns but does not operate a hazardous waste management facility.

These amendments are proposed. Therefore, they will have no immediate economic impact. If these amendments are promulgated in the same form as proposed here, the Agency expects that they will result in savings to the regulated community of approximately $85,000 annually over the next 10 years. The savings would be the result of not requiring the owner's signature on the permit application in some situations, and by requiring less burdensome review of permit applications by owners of hazardous waste management facilities before they sign the applications. This amendment will not have any environmental impact.

COMMENT DATE: EPA will accept public comment on these proposed amendments until September 21, 1982.

ADDRESS: Comments should be sent to the Docket Clerk (Docket 3005-owner signature/certification), Office of Solid Waste (WH-562), Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Deborah Wolpe, Office of Solid Waste (WH-563), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 382-4754; or the RCRA hotline in Washington, D.C. at 382-3000 or toll-free at (800) 424-9346.

SUPPLEMENTARY INFORMATION:

I. Background

On February 26, 1980 and May 19, 1980, EPA published regulations pursuant to the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (RCRA), 42 U.S.C. 6901 *et seq.*, establishing the first phase of a comprehensive program for the handling and management of hazardous waste (45 FR 33066-33285, now codified in 40 CFR Parts 260-265).

In addition, on May 19, 1980, EPA promulgated the consolidated permit regulations, governing five permit programs the hazardous waste management (HWM) program under Subtitle C of RCRA, the Underground Injection Control (UIC) program under Part C of the Safe Drinking Water Act, the National Pollutant Discharge Elimination System (NPDES) program under section 402 of the Clean Water Act, the state "Dredge and Fill" permit programs under section 404 of the Clean Water Act, and the Prevention of Significant Deterioration (PSD) program under regulations implementing section 165 of the Clean Air Act (45 FR 33290-33588, now codified in 40 CFR Parts 122-124). The changes proposed today concern only the RCRA portion of the consolidated permit regulations.

Among other things, the consolidated permit regulations require that, pursuant to Section 3005 of RCRA, facilities which treat, store, or dispose of hazardous waste must obtain a permit from EPA or a state authorized to run the RCRA program.[1] The regulations further require that to obtain a RCRA permit, the owner of a hazardous waste management facility, as well as the operator, must sign the application form (40 CFR 122.4(b)). Any person signing the permit documents must certify that he was personally examined, and is familiar with, the information submitted in the permit application and that, based on his personal inquiry of the individuals responsible for obtaining the information he believes that the application is true, accurate, and complete (40 CFR 122.6(d))[2]

The requirement that owners of HWM facilities sign the above-mentioned certification has raised a number of problems. Many applications were submitted without the owner's signature. Applicants claimed they had problems finding the owner, and if found, had difficulty getting him to sign. The problem of finding the owner of a facility has surfaced in a variety of situations, such as where there are complicated land ownership arrangements (*e.g.*, a real estate consortium, separate ownership of land and structures on the land); when the owner is an absentee landlord; and when the duration of the lease is extremely long (*e.g.*, 99-year leases where the original contracting parties are no longer available). Government-owned land presented a different problem. Although the owner is known, operators had difficulty obtaining the signature of the correct person at the responsible agency.

These, and additional problems were raised in the context of a lawsuit on the consolidated permit regulations, *NRDC v. EPA*,[3] and a petition for rulemaking filed by the Department of Agriculture (USDA) and the Department of Interior (DOI).[4]

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[1] Pursuant to Section 3006 of RCRA, a state may obtain authorization to run its hazardous waste program in lieu of the Federal program. For a discussion of state authorization of the RCRA program, see the preamble to 40 CFR Part 123 in the May 19, 1980 **Federal Register**, 45 FR 33368, and the preamble discussion accompanying the January 26, 1981 amendments to those regulations, 46 FR 8296.

[2] Since both the owner and operator must sign the permit application, both must make this certification.

[3] *NRDC v. EPA*, No. 80-1607 (D.C. Cir., filed June 2, 1980) and consolidated cases. In June, 1980, numerous industry petitioners and other organizations filed petitions for judicial review of the consolidated permit regulations. Included in the issues raised in this litigation are 24 RCRA-related issues. Some of these issues are common to the other permit programs governed by the consolidated permit regulations, and are known as "common issues." On November 16, 1981, the RCRA industry petitioners and EPA signed a settlement agreement in the *NRDC* lawsuit, in which EPA agreed to issue a regulation interpretation memorandum (RIM), promulgate several technical amendments, and to propose several substantive amendments to the regulations as expeditiously as possible. The RIM and technical amendments were promulgated on April 8, 1982 (47 FR 15304). This proposal is one of the substantive amendments EPA has agreed to propose.

[4] Petition for rulemaking modification filed by USDA and DOI on June 24, 1981 pursuant to 42 U.S.C. 6974 and 40 CFR 260.20. The petition will be referred to as the "USDA-DOI petition" in this preamble.

Petitioners in the *NRDC* suit challenged § 122.4(b) as creating serious practical difficulties for the operator of a facility who must obtain the signature and certification of the property owner. The petitioners argued that requiring the owner's signature is pointless when the operator can demonstrate that the lack of the owner's signature and certification will not diminish the opertor's ability to comply with the permit and regulations.

The USDA–DOI petition requests modification of the certification in § 122.6(d) for those situations in which a federal or state agency owns but does not operate a HWM facility.[5] They assert that requiring the Federal government to sign the certification as required in § 122.6(d) in effect created a duplicative two-step permitting process. A prospective operator must first request permission from the applicable land-owning agency before he could consider siting and operating a HWM facility on public land. The request would be carefully reviewed and if found to be an acceptable land use, a lease or other type of authorization would be issued for the site. After receiving the land use authorization from the agency, the operator would prepare a RCRA permit application. The application must then be submitted to the land-owning Agency for careful scrutiny as to the truth, accuracy, and completeness of the permit application and certification before it can be submitted to EPA. Such a review, they argue, represents an inefficient allocation of the limited amount of federal and state funding available for hazardous waste management. They request that the nature of the certification required of federal and state agencies that own HWM facilities be changed. Rather than requiring them to conduct a review of the truth, accuracy, and completeness of the permit application, have them certify that they have reviewed the application to the extent necessary to be aware of its contents, and that they are aware that the government agency is liable if the operator fails to comply with the regulations. They argue that a certification of this nature could be less burdensome and require much less administrative effort.

Prior to November 19, 1980, EPA stated that operators who could not obtain the owner's signature by November 19, 1980, should inform EPA that they had tried and failed to obtain the signature, and submit the application anyway. The Agency received many permit applications without the owner's signature. Many operators demonstrated their good faith attempts to obtain the owner's signature and certification. After making all reasonable attempts to obtain the owner's certification, one operator notified the owner of his responsibilities and obligations under the rules and regulations. The operator then asked EPA to use its "inherent authority to mitigate the impact of such a refusal upon a good faith applicant" and waive the owner's signature requirement. The applicant argued that EPA retains jurisdiction over the owner regardless of his refusal to execute the certification.

EPA believes that some of the claims made by the petitioners and the regulated community are valid in whole or in part. Rather than contravening or making exceptions to existing regulations, however, the Agency is proposing a regulatory solution to these problems. The Agency is today proposing to amend 40 CFR 122.4(b) and 122.6(d) to provide a variance from the requirement that all owners of HWM facilities must sign the RCRA permit application and to provide an alternative certification for owners signing permit applications when the owner and operator are not the same person.

The Agency considers the owner and operator of a facility jointly and severally responsible for carrying out the requirements of the hazardous waste regulations and permit. There is clear congressional intent to bind the owner as evidenced by the language of sections 3004 and 3005 of RCRA.

Section 3004 states in part that "* * * the Administrator shall promulgate regulations establishing such performance standards, *applicable to owners and operators* of facilities for the treatment, storage, or disposal of hazardous waste * * * as may be necessary to protect human health and the environment * * *" (emphasis added).

Similarly, Section 3005 states in part that "* * * the Administrator shall promulgate regulations requiring each person *owning or operating* a facility for the treatment, storage or disposal of hazardous waste * * * to have a permit issued pursuant to this section * * *" (emphasis added).

In addition, the House report on RCRA states "It is the intent of the committee that responsibility for complying with the regulations pertaining to hazardous waste facilities rest equally with owners and operators of hazardous waste treatment, storage or disposal sites and facilities where the owner is not the operator." H.R. Rep. No. 94–1491, 94th Congress, 2d Sess. (1976).

Such language clearly shows that Congress intended owners, as well as operators, to be bound to both the regulations and the permit.

There are several purposes behind the requirement that an owner co-sign a RCRA permit application. One reason relates to the joint responsibility of the owner and operator. As outlined in the preamble to the May 19, 1980 regulations, there are requirements in the regulations with which only the owner can comply, such as the requirement in 40 CFR 264.120 and 265.120 that notice of land disposal activity be placed in the chain of title to the property (See 45 FR 33169, 33295 (May 19, 1980)).

A second purpose is to ensure that the owner is notified of the nature and extent of hazardous waste management activity taking place on his property and that he has notice that EPA considers him jointly and severally responsible for compliance with EPA's regulations and permit requirements. To ensure this knowledge, the owner is required to sign the permit application and certify familiarity with the information contained therein.

Third, where there is a default on any of the regulatory provisions, the Agency must attempt to gain compliance as quickly as possible. In doing so, the Agency may bring an enforcement action against either the owner or the operator, or both. The third purpose, therefore, for obtaining both the owner's and operator's signatures is to provide the Agency with an evidentiary document to use as an aid in implementing and enforcing the regulations.[6] The signed permit application established a *prima facie* case that the person is the owner of the facility, and that he has actual knowledge that hazardous wastes are being handled at the facility.

It is helpful, therefore, both from a practical and evidentiary standpoint to have the owner's signature on the application. Based on the language of RCRA and EPA's implementing regulations, however, the Agency

[5] The U.S. Department of Agriculture and the U.S. Department of the Interior have a substantial interest in this proposal as the managers of approximately 540 million acres of federal land. They are considered owners of HWM facilities because they own property upon which facilities are cited. (See definitions of "owner" and "facility" in 40 CFR 260.10 and 122.3).

[6] The owner and operator are bound to the regulations during interim status, but only to the permit once a permit has been issued, since compliance with a RCRA permit during its term constitutes compliance with Subtitle C of RCRA for enforcement purposes. (See 40 CFR 122.13(a)).

believes that the owner is legally bound by both the permit conditions and any independently enforceable regulations, whether or not he signs the permit application.

Although the Agency still feels that the reasons outlined above are valid reasons for requiring the owner to sign RCRA permit applications, the Agency is proposing today to provide a variance from this requirement in certain limited circumstances and to provide an alternate certification that the owner may use when the owner and operator are not the same person. The Agency believes that the amendments proposed today allow needed flexibilty in the regulations without sacrificing the goals of the regulations.

II. Proposed Amendments

The Agency is proposing to amend §§ 122.4(b) and 122.6(d) to (1) add a variance to the requirement that owners of HWM facilities must sign the RCRA permit application;[7] (2) add a notice which must be sent to owners who have not signed the permit application; and (3) add alternative certification language that an owner may use when the owner and operator of the facility are not the same person.

(1) *Variance from the requirement for the owner's signature.* The general rule remains that owners, as well as operators, must sign RCRA permit applications. However, EPA is proposing to give Directors [8] the discretion, providing certain prerequisites are satisfied, to waive the requirement for the owner's signature. The Director may waive the owner's signature only if the operator submits an explanation of why he has not been able to obtain the owner's signature, and why he believes the Director ought to waive it. The Director may then waive the requirement if the operator has met the following three requirements: (1) The operator has identified the owner; (2) the operator has sent a copy of the application with a copy of the notice proposed today in § 122.4(b)(2) to the owner by certified mail; and (3) the operator is able to assure compliance with all applicable standards and permit conditions.

If all of the above conditions are met, the Director has the discretion to waive the requirement. In so deciding, he may consider any factors he deems relevant including, but not limited to, the number and kind of attempts the operator has made to obtain the owner's signature, the financial responsibility of the operator, and the nature of the owner's interest in the facility. He may also want to look at the type fo facility (*i.e.*, is it a landfill or a container storage facility) and the facility's compliance record during interim status.

The Agency is also proposing today that the general rule be that the owner need not sign the RCRA permit application where the owner is a federal, state or local governmental entity. The Director must accept the application without the government entity's signature if the operator (1) has identified the owner; (2) is able to assure compliance with all applicable standards and permit conditions, and (3) has sent a copy of the notice proposed today in § 122.4(b)(2) by certified mail to the head of the agency with primary responsibility for managing the land or to another person designated by the applicable government entity to receive such a notice.

These proposals should enable most operators who have made reasonable efforts to obtain the owner's signature on the permit application, but cannot, to apply for a RCRA permit. The exceptions would be the operator who is not able to identify the owner; the operator who cannot comply with all of the applicable standards and permit conditions, *e.g.*, those that cannot themselves ensure financial responsibility or control of the facility during the post-closure care period; and operators of land disposal facilities that cannot comply with the requirement of §§ 264.120 or 265.120, that the owner record a notice in the deed or other appropriate instrument of the hazardous waste disposal activity occurring on the property. In these situations, and in whatever others the Director deems appropriate, a RCRA permit may not be issued without the owner's signature on the application.

(2) *Notice to owners who do not co-sign.* An integral part of the waiver of the owner's signature is the requirement that a notice be sent to those owners who do not sign the permit application. This notice is designed to fulfill the notification function of the signature which is being waived. The notice proposed today in § 122.4(b)(2) is designed to ensure that owners who do not sign the permit application are aware that they are jointly responsible for compliance with the regulations and any permit issued pursuant to those regulations.

This notice is only required when the owner does not sign the permit application. Where the owner and operator are different persons, but the owner has signed the application, this notice is not required. Where the owner and operator are the same person, the notice is obviously not required.

(3) *Alternate certification.* Under § 122.6(d) of the present regulations, any person signing a RCRA permit application must make the following certification:

> I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

On August 6, 1980, EPA clarified how extensive an inquiry this certification requires (see 45 FR 52149). EPA clarified that the signer must make a "good faith effort" to ascertain whether the information is true, accurate, and complete. The inquiry must provide a "reasonable basis" to decide if the information meets the standard. Although the nature and extent of the required inquiry may vary on a case-by-case basis, the signer must inquire of the person or persons who supervised the collection of the information. This certification has been challenged as unnecessarily stringent and inefficient.[9]

The Agency agrees that this certification can be quite burdensome for owners who are nto also operators. In large corporations and government agencies, it may be impossible for the person signing the permit application as an owner but not an operator, to personally examine every permit application, or to question all the

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[7] The signature requirement and the variance proposed today apply to both Part A and Part B of the permit application.

[8] The term Director as used in the consolidated permit regulations, is defined to mean the EPA Regional Administrator or the Director of an authorized state program, as the circumstances require. See 40 CFR 122.1. The change proposed today is to the Federal regulations. If promulgated, authorized states would be allowed to have equivalent or more stringent requirements than those proposed today.

[9] As part of the settlement of the common issues in the *NRDC* v. *EPA* lawsuit, the Agency is proposing, separate from this action, to change the certification in § 122.6(d). The proposed certification which must be made if the owner and operator are the same person reads: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations." (47 FR 25546, June 14, 1982).

individuals responsible for obtaining the information. Therefore, EPA is proposing an alternate certification to the one quoted above, that may be used by an owner when the owner and operator are not the same person. The alternate language requires the owner to certify that he understands that the application is submitted for the purpose of obtaining a permit to operate a hazardous waste management facility on the described property, and that he understands that he and the facility operator are jointly responsible for compliance with both the regulations at 40 CFR Parts 122, 264, 265, and 267, and any permit issued pursuant to those regulations. Owners of land disposal facilities must certify that they understand that they are also responsible for providing the notice in the deed to the property required by 40 CFR 264.120 and 265.120.

Under this proposed certification, owners who are not operators of a facility need not certify under penalty of law that they have personally examined the information submitted in the document. They need not inquire of the persons immediately responsible for obtaining the information. The proposed alternate language fulfills the purpose of the original certification with regard to owners who are not also operators with much less burden on them.

Although this proposal does not incorporate the exact language proposed in the USDA–DOI petition for rulemaking, it fulfills their request that a government agency certify merely that (1) it has reviewed the permit application to the extent necessary to be aware of its contents and (2) it understands that it is jointly liable for compliance with the regulations.

The alternate language may not be used by operators. An operator must still assure that the information was gathered properly, under his supervision, and that he knows that the information is true, accurate, and complete.

III. Request for Comments

The Agency invites comments on all aspects of these proposed regulations and all issues discussed in the preamble. EPA anticipates that finalization of today's proposal will provide part of the basis for the settlement of the *NRDC* v. *EPA* litigation affecting the RCRA portion of the consolidated permit regulations. EPA has also tentatively decided to grant the petition for modification of the rules submitted by USDA and DOI, although not using exactly the same regulatory language as submitted. However, EPA will carefully consider all public comments on this proposal before making its final decision.

IV. Effective Date

Section 3010(b) of RCRA provides that EPA's hazardous waste regulations, and revisions thereto take effect 6 months after their promulgation. In addition, section 553(d) of the Administrative Procedure Act requires publication of a substantive rule not less than 30 days before its effective date. The purpose of these requirements is to allow the regulated community sufficient lead time to prepare to comply with major new regulatory requirements. For the amendments proposed today, however, the Agency believes that an effective date 30 days or 6 months after promulgation would cause substantial and unnecessary disruption in the implemention of the regulations and would contravene the purpose of these amendments. These amendments, if promulgated in final form, would allow an operator to obtain a RCRA permit without the owner's signature, which is sometimes impossible to obtain. The Agency believes that this is not the type of regulation that Congress had in mind when it provided a delay between the promulgation and the effective date of revisions to regulations. Consequently, EPA believes that it will have good cause to make these amendments effective immediately if and when they are promulgated in final form, but requests comments on whether such action would cause hardship for the regulated community or would otherwise be inappropriate.

V. Executive Order 12291

Under Executive Order 12291, (46 FR 12193, February 19, 1981), EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. A major rule is defined as a regulation which is likely to result in:

—An annual effect on the economy of $100 million or more;
—A major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or
—Significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This regulation is not major because it will not result in an effect on the economy of $100 million or more, nor will it result in a major increase in costs or prices to consumers, industry or government entities. Rather, the effect is to enable certain operators of hazardous waste management facilities to obtain permits without the owner's signature. There will be no adverse impact on the ability of the U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. Because this amendment is not a major regulation, no Regulatory Impact Analysis is being prepared.

This amendment was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection at the Office of Solid Waste Docket, Room S–269, U.S. EPA, 401 M St. S.W., Washington, D.C. 20460.

VI. President's Task Force

The President's Task Force on Regulatory Relief designated the consolidated permit regulations (40 CFR Parts 122–124) for review by EPA. This proposal supports the goals of the Task Force by reducing the burden on the regulated community. These proposed amendments also fulfill EPA's obligations for the settlement of this issue in industry litigation on the consolidated permit regulations.

In addition to settling the litigation, this year the Agency will also propose:

- other substantive changes to further streamline the Agency's permitting processes;
- to deconsolidate the regulations and make them easier for the public to use.

As a result of deconsolidation, the regulations will be reorganized. Thus this proposed amendment may be finalized in somewhat different format and location than proposed today.

VII. Paperwork Reduction Act

The information provisions that are included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under section 3504(b) of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Any final rule will explain how its reporting or recordkeeping provisions respond to any comments by OMB or the public.

VIII. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, whenever an agency is required to publish a general notice of proposed rulemaking, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the proposed rule on small entities (i.e., small businesses, small organizations,

and small governmental jurisdictions). No regulatory flexibility analysis is required, however, if the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will not have a significant economic impact on a substantial number of small entities because it reduces regulatory requirements by providing a variance from a currently inflexible requirement. Accordingly, I hereby certify this proposed regulation, if issued in final form, will not have a significant economic impact on a substantial number of small entities.

IX. List of Subjects in 40 CFR Part 122

Administrative practice and procedure, Air pollution control Hazardous materials, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Confidential business information.

Dated: July 16, 1982.

Anne M. Gorsuch,

Administrator.

It is proposed that 40 CFR Part 122 be amended as follows:

PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM; THE HAZARDOUS WASTE PERMIT PROGRAM; AND THE UNDERGROUND INJECTION CONTROL PROGRAM

1. The authority for Part 122 is proposed to read as follows:

Authority: These regulations are issued under the authority of the Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*, the Safe Drinking Water Act, 42 U.S.C. 300f *et seq.*; the Clean Water Act, 33 U.S.C. 1251 *et seq.*; the Clean Air Act, 42 U.S.C. 1857 *et seq.*

2. In Part 122 it is proposed that § 122.4(b) be revised to read as follows:

§ 122.4 Application for a permit.

* * * * *

(b) Who applies? When a facility or activity is owned by one person but is operated by another person, it is the operator's duty to obtain a permit.

(1) *For RCRA only,* the owner must also sign the permit application, except that the Director may determine, in his or her discretion, that the application need not bear the owner's signature. The operator may request that the Director waive the requirement that the facility owner sign the permit application by submitting to the Director a written explanation of why he has not been able to obtain the owner's signature and why he believes the Director ought to waive it and, in addition, by demonstrating that he has met the following three requirements: (i) The operator has identified the owner; (ii) the operator has sent a copy of the application with a copy of the notice in paragraph (b)(2) of this section to the owner by certified mail; and (iii) the operator is able to assure compliance with all applicable standards and permit conditions. In deciding whether to waive the requirement that the facility owner sign the application, the Director may consider any factors he or she deems relevant including, but not limited to, the number and kind of attempts the operator has made to obtain the owner's signature, the financial responsibility of the operator, the number of owners, the relationship between the owner and the operator, and the nature of the owner's interest in the facility. In cases where the owner is a federal, state, or local governmental entity, the Director shall accept the application without the owner's signature if the applicant shows compliance with requirements (b)(1) (i) and (iii) of this section and has sent a copy of the application with a copy of the notice in paragraph (b)(2) of this section by certified mail to the head of the agency with primary responsibility for managing the land or to another person designated by the applicable governmental entity to receive such an application.

(2) *For RCRA only, notice to be sent to owners who have not signed the permit application.* This application is being submitted to the U.S. Environmental Protection Agency for the purpose of obtaining a permit to operate a hazardous waste management facility on the property as described. As owner of the property/facility, EPA considers you and (insert name of facility operator), the facility operator, jointly responsible for compliance with both the regulations at 40 CFR Parts 122, 264, 265 and 267 and any permit issued pursuant to those regulations.

* * * * *

3. In Part 122, it is proposed that § 122.6 be amended by designating the quotation in (d) as (d)(1), by revising the introductory text of (d), and by adding (d)(2) as follows:

§ 122.6 Signatures to permit applications and reports.

* * * * *

(d) *Certification.* Any person signing a document under paragraph (a) or (b) of this section shall make the certification in subparagraph (1), except that in making an application under paragraph (a) of this section, owners of RCRA facilities may make the certification in subparagraph (2) when the owner and operator are not the same person:

(1) * * *

(2) "I certify that I understand that this application is submitted for the purpose of obtaining a permit to operate a hazardous waste management facility on the property as described. As owner of the property/facility, I understand fully that the facility operator and I are jointly and severally responsible for compliance with both the regulations at 40 CFR Parts 122, 264, 265 and 267, and any permit issued pursuant to those regulations." *For owners of land disposal facilities, add:* "I further understand that I am responsible for providing the notice in the deed to the property required by 40 CFR 264.120 and 265.120."

* * * * *

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federal register

Friday
July 23, 1982

Part IV

Department of the Treasury

Fiscal Service

Money and Finance; Exchange of Paper Currency and Coin

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 100

Money and Finance; Exchange of Paper Currency and Coin

AGENCY: Bureau of Government Financial Operations, Fiscal Service, Treasury.

ACTION: Final rule.

SUMMARY: These technical amendments are necessary because present regulations contain a limited amount of information with regard to Treasury's liability in the redemption of mutilated paper currency and no information concerning the responsibility of the public when remitting mutilated paper currency for redemption. The purpose of these amendments is to provide the public with additional information as to where mutilated paper currency is to be submitted, how it is to be packaged, and Treasury's liability. In addition, these amendments have been made to reflect changes in the coin and currency distribution function of the Federal Reserve banks.

EFFECTIVE DATE: July 15, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Coffey, Currency Operations Division, Bureau of Government Financial Operations, Room 331–11, BEPA, Department of the Treasury, Washington, D.C. 20226 (202–447–0545).

SUPPLEMENTARY INFORMATION: Since the only effect of these regulations is to provide information to the public, public notice of proposed rule making was determined to be unnecessary in accordance with 5 U.S.C. 553(b)(B).

(Sec. 3640 of the Revised Statutes of the United States; 31 U.S.C. 773a)

This document does not meet Treasury's criteria for a significant regulation.

List of Subjects in 31 CFR Part 100

Currency, Gold, Silver.

33 CFR Part 100 is revised to read as follows:

PART 100—EXCHANGE OF PAPER CURRENCY AND COIN

Sec.

100.2 Scope of regulations; transactions effected through Federal Reserve banks and branches; distribution of coin and currencies.

Subpart A—In General

100.3 Lawfully held coins and currencies in general.
100.4 Gold coin and gold certificates in general.

Subpart B—Exchange of Mutilated Paper Currency

100.5 Mutilated paper currency.
100.6 Destroyed paper currency.
100.7 Treasury's liability.
100.8 Packaging of mutilated currency.
100.9 Where mutilated currency should be transmitted.

Subpart C—Exchange of Coin

100.10 Exchange of uncurrent coins.
100.11 Exchange of bent and partial coins.
100.12 Exchange of fused and mixed coins.
100.13 Criminal penalties.

Subpart D—Other Information

100.16 Exchange of paper and coin to be handled through Federal Reserve banks and branches.
100.17 Location of Federal Reserve banks and branches.
100.18 Counterfeit notes to be marked; "redemption" of notes wrongfully so marked.
100.19 Disposition of counterfeit notes and coins.

Authority: Sec. 1, 40 Stat. 938; 31 U.S.C. 773a.

§ 100.2 Scope of regulations; transactions effected through Federal Reserve banks and branches; distribution of coin and currencies.

The regulations in this part govern the exchange of the coin and paper currency of the United States (including national bank notes and Federal Reserve bank notes in process of retirement and Federal Reserve notes). Under authorization in the act approved May 29, 1920, 41 Stat. 655 (31 U.S.C. 476), the Secretary of the Treasury transferred to the Federal Reserve banks and branches the duties and functions performed by the former Assistant Treasurers of the United States in connection with the exchange of paper currency and coin of the United States. Except for the duties in this respect to be performed by the Treasurer of the United States and the Director of the Mint, as may be indicated from time to time by the Secretary of the Treasury, exchanges of the paper currency and coin of the United States and the distribution and replacement thereof will, so far as practicable, be effected through the Federal Reserve banks and branches. The Federal Reserve banks and branches are authorized to distribute available supplies of coin and currency to depository institutions, as that term is defined in Section 103 of the Monetary Control Act of 1980 (Pub. L. 96–221). As authorized by Section 107 of the Act, transportation of coin and currency and coin wrapping services will be provided according to a schedule of fees established by the Board of Governors of the Federal Reserve System. Inquiries by depository institutions regarding distribution and related services should be addressed to the Federal Reserve bank of the district where the institution is located.

Subpart A—In General

§ 100.3 Lawfully held coin and currencies in general.

The official agencies of the Department of the Treasury will continue to exchange lawfully held coins and currencies of the United States, dollar for dollar, for other coins and currencies which may be lawfully acquired and are legal tender for public and private debts. Paper currency of the United States which has been falsely altered and coins altered to render them for use as other denominations will not be redeemed since such currency and coins are subject to forfeiture under title 18, United States Code, section 492. Persons receiving such currency and coins should notify immediately the nearest local office of the U.S. Secret Service of the Department of the Treasury, and hold the same pending advice from the Service.

§ 100.4 Gold coin and gold certificates in general.

Gold coins, and gold certificates of the type issued before January 30, 1934, are exchangeable, as provided in this part, into other currency or coin which may be lawfully issued.

Subpart B—Exchange of Mutilated Paper Currency

§ 100.5 Mutilated paper currency.

(a) Lawfully held paper currency of the United States which has been mutilated will be exchanged at face amount if clearly more than one-half of the original whole note remains. Fragments of such mutilated currency which are not clearly more than one-half of the original whole note will be exchanged at face value only if the Commissioner, Bureau of Government Financial Operations, Department of the Treasury, is satisfied that the missing portions have been totally destroyed. The Commissioner's judgment shall be based on such evidence of total destruction as is necessary and shall be final.

(b) *Definitions*

(1) Mutilated currency is currency which has been damaged to the extent that (i) one-half or less of the original note remains or (ii) its condition is such that its value is questionable and the currency must be forwarded to the Treasury Department for examination

by trained experts before any exchange is made.

(2) Unfit currency is currency which is unfit for further circulation because of its physical condition such as torn, dirty, limp, worn or defaced. Unfit currency should not be forwarded to the Treasury, but may be exchanged at commercial banks.

§ 100.6 Destroyed paper currency.

No relief will be granted on account of lawfully held paper currency of the United States which has been totally destroyed.

§ 100.7 Treasury's liability.

(a) Payment will be made to lawful holders of mutilated currency at full value when:

(1) Clearly more than 50% of a note identifiable as United States currency is present; or

(2) Fifty percent or less of a note identifiable as United States currency is present and the method of mutilation and supporting evidence demonstrate to the satisfaction of the Treasury that the missing portions have been totally destroyed.

(b) No payments will be made when:

(1) Fragments and remnants presented are not identifiable as United States currency; or

(2) Fragments and remnants presented which represent 50% or less of a note are identifiable as United States currency but the method of destruction and supporting evidence do not satisfy the Treasury that the missing portion has been totally destroyed.

(c) All cases will be handled under proper procedures to safeguard the funds and interests of the claimant. In some cases, the amount repaid will be less than the amount claimed. In other cases, the amount repaid may be greater. The amount paid will be determined by an examination made by trained mutilated currency examiners and governed by the above criteria.

(d) The Commissioner of the Bureau of Government Financial Operations shall have final authority with respect to settlements for mutilated currency claims.

§ 100.8 Packaging of mutilated currency.

Mutilated currency examiners are normally able to determine the value of mutilated currency when it has been carefully packed and boxed as described below:

(a) Regardless of the condition of the currency, do not disturb the fragments more than is absolutely necessary.

(b) If the currency is brittle or inclined to fall apart, pack it carefully in cotton and box it as found, without disturbing the fragments, if possible.

(c) If the money was in a purse, box, or other container when mutilated, it should be left therein, if possible, in order to prevent further deterioration of the fragments or from their being lost.

(d) If it is absolutely necessary to remove the fragments from the container, send the container with the currency and any other contents found, except as noted in h below.

(e) If the money was flat when mutilated, do not roll or fold.

(f) If the money was in a roll when mutilated, do not attempt to unroll or straighten.

(g) If coin or any other metal is mixed with the currency, remove carefully. Do not send coin or other metal in the same package with mutilated paper currency, as the metal will break up the currency. Coin should be forwarded as provided in Section 100.12 (c) and (d).

(h) Any fused or melted coin should be sent to: Superintendent, United States Mint, P.O. Box 400, Philadelphia, PA 19105.

§ 100.9 Where mutilated currency should be transmitted.

Mutilated currency shipments must be addressed as follows: Department of the Treasury, Bureau of Government Financial Operations, Room 132, Treasury Annex No. 1, DCS/BEPA, Washington, D.C. 20226.

Subpart C—Exchange of Coin

§ 100.10 Exchange of uncurrent coins.

(a) *Definition.* Uncurrent coins are whole U.S. coins which are merely worn or reduced in weight by natural abrasion yet are readily and clearly recognizable as to genuineness and denomination and which are machine countable.

(b) *Redemption Basis.* Uncurrent coins will be redeemed at face value.

(c) *Criteria for acceptance.* Uncurrent coins, forwarded for redemption at face value, must be shipped at the expense and risk of the owner. Shipments of subsidiary or minor coins for redemption at face value should be sorted by denomination into packages in sums of multiples of $20. Not more than $1,000 in any silver or clad coin, $200 in 5-cent pieces, or $50 in 1-cent pieces should be shipped in one bag or package.

(d) *Redemption sites.* Uncurrent coins will be redeemed only at the Federal Reserve banks and branches listed in § 100.17.

§ 100.11 Exchange of bent and partial coins.

(a) Definitions.

(1) Bent coins are U.S. coins which are bent or deformed so as to preclude normal machine counting but which are readily and clearly identifiable as to genuineness and denomination.

(2) Partial coins are U.S. coins which are not whole; partial coins must be readily and clearly identifiable as to genuineness and denomination.

(b) *Redemption basis.* Bent and partial coins shall be redeemed on the basis of their weight and denomination category rates, (which is the weight equivalent of face value) provided such coins are presented separately by denomination category in lots of at least one pound for each category. Bent and partial coins not presented separately by denomination category will be redeemed as mixed coins. Denomination categories and rates are 1. Cents, @ $1.4585 per pound 2. Nickels, @ $4.5359 per pound 3. Dimes, Quarters, Halves, and Eisenhower Dollars @ $20.00 per pound and 4. Anthony Dollars @ $56.00 per pound. Copper plated zinc cents shall be redeemed at the face value equivalent of copper one cent coins.

(c) *Redemption Site.* Bent and partial coins will be redeemed only at the United States Mint, P.O. Box 400, Philadelphia, PA 19105. Coins are shipped at sender's risk and expense.

§ 100.12 Exchange of fused and mixed coins.

(a) Definitions.

(1) Fused coins are U.S. coins which are melted to the extent that they are bonded together and the majority of which are readily and clearly identifiable as U.S. coins.

(2) Mixed coins are U.S. coins of several alloy categories which are presented together, but are readily and clearly identifiable as U.S. coins.

(b) Redemption basis.

(1) Fused and mixed coins shall be redeemed at the lesser of:

(i) The inventory value of the copper and nickel as priced in the Philadelphia Mint, Coinage Metal Account at the end of the preceding calendar quarter or;

(ii) $1.5327 per pound of contained copper, which is the face value equivalent of a pound of copper in the copper one-cent coin plus $18.1442 per pound of contained nickel which is the face value equivalent of a pound of nickel in the five cent coin.

(2) The redemption rate (discussed in subparagraph (1)(a)) will take effect on the 15th day of each new calendar quarter.

(c) Criteria for acceptance.

(1) A minimum of two pounds of fused and mixed coins is required for redemption.

(2) Fused and mixed coins containing lead, solder, or other substance which will render them unsuitable for coinage metal will not be accepted.

(d) Redemption site. Fused and mixed coins will be redeemed only at the United States Mint, P.O. Box 400, Philadelphia, PA 19105. Coins are shipped at sender's risk and expense.

§ 100.13 Criminal penalties.

Criminal penalties connected with the defacement or mutilation of U.S. coins are provided in the United States Code, Title 18, Section 331.

Subpart D—Other Information

§ 100.16 Exchange of paper and coin to be handled through Federal Reserve banks and branches.

Other than as provided in this document all transactions including the exchange of paper currency and coin shall be handled through the Federal Reserve banks and branches.

§ 100.17 Location of Federal Reserve banks and branches.

Federal Reserve Bank and Address

Boston—600 Atlantic Avenue, Boston, MA 02106
New York—33 Liberty Street (Federal Reserve P.O. Station), New York, NY 10045
Buffalo Branch—160 Delaware Avenue (P.O. Box 961), Buffalo, NY 14240
Philadelphia—100 North Sixth Street (P.O. Box 66), Philadelphia, PA 19105
Cleveland—1455 East Sixth Street (P.O. Box 6387), Cleveland, OH 44101
Cincinnati Branch—150 East Fourth Street (P.O. Box 999), Cincinnati, OH 45201
Pittsburgh Branch—717 Grant Street (P.O. Box 867), Pittsburgh, PA 15230
Richmond—701 East Byrd Avenue (P.O. Box 27622), Richmond, VA 23261
Baltimore Branch—114–120 East Lexington Street (P.O. Box 1378), Baltimore, MD 21203
Charlotte Branch—401 South Tryon Street (P.O. Box 30248), Charlotte, NC 28230
Atlanta—104 Marietta Street, NW., Atlanta, GA 30303
Birmingham Branch—1801 Fifth Avenue, North (P.O. Box 10447), Birmingham, AL 35202
Jacksonville Branch—515 Julia Street Jacksonville, FL 32231
Miami Branch—9100 NW., 36th Street (P.O. Box 520847), Miami, FL 33152
Nashville Branch—301 Eighth Avenue, North, Nashville, TN 37203
New Orleans Branch—525 St. Charles Avenue (P.O. Box 61630), New Orleans, LA 70161
Chicago—230 South LaSalle Street (P.O. Box 834), Chicago, IL 60690
Detroit Branch—160 Fort Street, West (P.O. Box 1059), Detroit, MI 48231
St. Louis—411 Locust Street (P.O. Box 442), St. Louis, MO 63166
Little Rock Branch—325 West Capitol Avenue (P.O. Box 1261), Little Rock, AR 72203
Louisville Branch—410 South Fifth Street (P.O. Box 32710), Louisville, KY 40232
Memphis Branch—200 North Main Street (P.O. Box 407), Memphis, TN 38101
Minneapolis—250 Marquette Avenue, Minneapolis, MN 55480
Helena Branch—400 North Park Avenue, Helena, MT 59601
Kansas City—925 Grand Avenue (Federal Reserve Station), Kansas City, MO 64198
Denver Branch—1020 16th Street (P.O. Box 5228, Terminal Annex), Denver, CO 80217
Oklahoma City Branch—226 Northwest Third Street (P.O. Box 25129), Oklahoma City, OK 73125
Omaha Branch—102 South Seventeenth Street, Omaha, NB 68102
Dallas—400 South Akard Street (Station K), Dallas, TX 75222
El Paso Branch—301 East Main Street (P.O. Box 100), El Paso, TX 79999
Houston Branch—1701 San Jacinto Street (P.O. Box 2578), Houston, TX 77001
San Antonio Branch—126 East Nueva Street (P.O. Box 1471), San Antonio, TX 78295
San Francisco—400 Sansome Street (P.O. Box 7702), San Francisco, CA 94120
Los Angeles Branch—409 West Olympic Boulevard (P.O. Box 2077), Los Angeles CA 90051
Portland Branch—915 SW Stark Street (P.O. Box 3436), Portland, OR 97208
Salt Lake City Branch—120 South State Street (P.O. Box 30780), Salt Lake City, UT 84125
Seattle Branch—1015 Second Avenue (P.O. Box 3567), Seattle, WA 98124

§ 100.18 Counterfeit notes to be marked; "redemption" of notes wrongfully so marked.

The act of June 30, 1876 (19 Stat. 4; 31 U.S.C. 424), provides that all U.S. Officers charged with the receipt or disbursement of public moneys, and all officers of national banks, shall stamp or write in plain letters the word "counterfeit," "altered," or "worthless" upon all fraudulent notes issued in the form of, and intended to circulate as money, which shall be presented at their places of business; and if such officers shall wrongfully stamp any genuine note of the United States, or of the national bank, they shall, upon presentation, "redeem" such notes at the face amount thereof.

§ 100.19 Disposition of counterfeit notes and coins.

All counterfeit notes and coin found in remittances are cancelled and delivered to the U.S. Secret Service of the Department of the Treasury or to the nearest local office of that Service, a receipt for the same being forwarded to the sender. Communications with respect thereto should be addressed to the Director, U.S. Secret Service, Department of the Treasury, Washington, DC 20223.

Dated: July 15, 1982.

W. E. Douglas,

Commissioner.

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federal register

Friday
July 23, 1982

Part V

Department of the Interior

Bureau of Land Management

Proposed Standard Oil and Gas Lease Stipulations, Proposed Oil and Gas Lease Form Revision; and Public Meeting

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3000 and 3100

Proposed Standard Oil and Gas Lease Stipulations, Proposed Oil and Gas Lease Form Revision and a Public Meeting on the Proposed Stipulations, the Proposed Lease Form and To Review the Proposed Rulemaking on Oil and Gas Leasing

AGENCY: Bureua of Land Management, Interior.

ACTION: Publication of Proposed Standard Oil and Gas Stipulations, Proposed Oil and Gas Lease Form Revision and Providing for a Public Meeting on the Proposed Stipulations, the Proposed Lease Revision and to Allow Public Comment on the Proposed Rulemaking on Oil and Gas Leasing (43 CFR Parts 3000 and 3100).

SUMMARY: In an effort to streamline and standardize the stipulations that appear in an oil and gas lease, except for a few very special stipulations that will apply in very limited situations, the Bureau of Land Management has prepared and publishes herewith, a proposed set of standard stipulations for all oil and gas leases. Individual stipulations from this proposed set will be implemented and further specified, depending on surface conditions and proposed operations, when such activity is proposed. Also, in an effort to reduce paperwork and facilitate lease processing, the Bureau has proposed and publishes herewith a proposed multipurpose lease form to replace all other oil and gas lease forms except that used for lands in the National Petroleum Reserve—Alaska. The public is asked to submit its written comments on these proposed items. As a further effort to give the public an opportunity to present its comments on these items and on the proposed rulemaking on Oil and Gas Leasing (43 CFR Parts 3000 and 3100), published in the **Federal Register** on June 30, 1982 (47 FR 28550), a public meeting will be held in Salt Lake City, Utah.

DATE: Comments on the proposed stipulations and proposed lease form should be submitted by August 25, 1982. A public meeting will be held at 9:00 a.m. on August 24, 1982.

ADDRESS: Written comments on the proposed stipulations and the proposed lease form should be sent to and copies of the proposed lease form and proposed stipulations may be obtained from: Director (530), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240.

The public meeting on the proposed stipulations, the proposed lease form and proposed rulemaking will be held at: Salt Palace, Suite E, 100 South W. Temple, Salt Lake City, Utah.

FOR FURTHER INFORMATION CONTACT: Jeffrey F. Zabler or Raul Martinez (202) 343–7722.

SUPPLEMENTARY INFORMATION: This notice requests written comment on a proposed oil and gas lease form and proposed stipulations. It also provides notification that a public meeting will be held to allow the public to give its comments on the proposed stipulations and proposed form. The stipulations and form are not a rulemaking, however, the Bureau of Land Management wishes to obtain public input into its decisionmaking process on these proposals.

Proposed Lease Form

At present, the Bureau of Land Management utilizes a number of lease forms in issuing oil and gas leases. Each form differs in several ways depending on the type of lease or lands applied for or the manner in which the lease is awarded. The use of so many different forms has been a cause of considerable paperwork, differing procedures in forms management and execution, and time and expense within the Bureau. It also has been a source of confusion among the public. In an effort to streamline procedures, contain costs, speed processing and reduce confusion, the Bureau has developed a single lease form which can be used to issue any type of lease except for competitive leases in the National Petroleum Reserve—Alaska. The Bureau will use such form, if adopted, to issue all leases except for those in the National Petroleum Reserve—Alaska. The proposed form incorporates provisions to indicate the type of lease being issued and clearly states which provisions apply to such lease where differences, if any, exist. The public will only use such a form for making applications for noncompetitive leases by regular offer. In using the proposed form, the public need only indicate whether they are applying for public domain or acquired lands as they do now by use of separate forms. For types of leasing other than by regular offer for noncompetitive leases, the public, as at present, does not use the lease form itself to make application.

An additional change in the lease form is that if the proposed nationwide Notice of Stipulations is adopted it will be incorporated at Part III on a single separate sheet in the lease form. At present, stipulaitons are not enumerated in the lease form but are attached to the lease or to permits issued subsequent to the lease.

The proposed form is as follows:

BILLING CODE 4310-84-M

Form
(Sides 1 and 2)
Type or print plainly in ink and sign in ink.

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

Office _____
Serial No. _____
Agency code _____

OFFER TO LEASE AND LEASE FOR OIL AND GAS

The undersigned hereby offers to lease and enters into this indenture to lease all or any of the lands described in Item 2 that are available for lease, pursuant and subject to as appropriate, the terms and provisions of the Acts of February 25, 1920 (41 Stat. 437, 30 U.S.C. sec. 181), and August 7, 1947 (61 Stat. 913, 30 U.S.C. 351-359), as amended, and to all reasonable regulations and stipulations as the Secretary of the Interior may apply now or hereafter, when not inconsistent with any express and specific provisions herein, which are made a part hereof.

Read Instructions Before Completing

1.
Name
Street
City, State
Zip Code

This offer/lease is for: (Check One Only) ☐ Public Domain Lands ☐ Acquired Lands

2. Give legal description of land requested:
State County T R Meridian

(Blank space omitted)

U.S. interest if less than 100 percent

Total area _____ acres

Amount remitted: Filing fee $ _____ . Rental $ _____ . Total $ _____

Surface managing agency if other than BLM: _____ Unit/Project _____

DO NOT WRITE BELOW THIS LINE

3. Land included in lease:
☐ Same as Item 2, if checked.
State County T. R. Meridian

(Blank space omitted)

U.S. interest if less than 100 percent

Total area _____ acres

Rental retained $ _____

This lease for the lands described in Item 3 above is hereby issued, subject to the provisions of the offer or simultaneous oil and gas entry form, as appropriate and the terms, conditions and stipulations contained herein (Parts II & III) or as attached.

The term of this lease is FIVE YEARS if issued as the result of competitive bid; TEN YEARS if issued noncompetitively; or TEN YEARS if a renewal lease

Effective date of lease _____

THE UNITED STATES OF AMERICA

☐ Competitive lease

☐ Regular noncompetitive lease

☐ Noncompetitive simultaneous lease

☐ _____

by _____
(Signing Officer)

_____ _____
(Title) (Date)

Issuing Office/Address:

THIS OFFER WILL BE REJECTED AND WILL AFFORD THE OFFEROR NO PRIORITY IF IT IS NOT PROPERLY FILLED IN AND EXECUTED OR IF IT IS NOT ACCOMPANIED BY THE REQUIRED PAYMENTS.

BILLING CODE 4310-84-C

4. Undersigned certifies as follows:

(a) Offeror is a citizen of the United States; an association/partnership of such citizens; a municipality; a corporation composed of citizens organized under the laws of the United States or of any State or territory thereof, or aliens of which the customs or regulations of their country do not deny similar or like privileges to citizens or corporations of the United States.

(b) That all parties holding an interest in the offer are in compliance with the regulations (43 CFR 3100) and Acts of February 25, 1920 and August 7, 1947, as amended.

(c) Offeror's interests, direct and indirect, do not exceed 200,000 acres in oil and gas options or 246,080 chargeable acres in options and leases in the same State, or 300,000 chargeable acres in leases and options in each leasing District in Alaska.

(d) Offeror accepts as a part of this lease, to the extent applicable, the stipulations provided for in 43 CFR 3108.

(e) Offeror is not considered a minor under the laws of the State in which the lands covered by this offer are located.

(f) Offeror's signature to this offer shall also constitute offeror's signature to and acceptance of this lease, all terms, conditions, stipulations and restrictions pertaining thereto and any amendment thereto that may cover any land described in this offer open to lease application at the time this offer was filed but omitted for any reason from this lease, or signature thereto or acceptance of, any separate lease for such land. The offeror further agrees that this offer cannot be withdrawn, either in whole or part, unless the withdrawal is received by the BLM State Office before this lease, an amendment to this lease, or a separate lease, whichever covers the land described in the withdrawal, has been signed on behalf of the United States.

(g) If this lease form does not contain all of the terms and conditions of the lease form in effect at the date of filing the offeror further agrees to be bound by the terms and conditions contained in that form.

18 U.S.C Sec. 1001 makes it a crime for any person knowingly and willfully to make to any Department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

Duly executed this _____ day of _____ 19 ___.

_____
(Lessee Signature)

_____
(Attorney-in-fact)

_____
(Lessee Signature)

Offer To Lease/Lease for Oil and Gas—Part II—Terms

Sec. 1. Rights of lessee—The Lessee is granted the exclusive right and privilege to drill for, mine, extract, remove, and dispose of all the oil and gas deposits, including gaseous and nongaseous hydocarbon substances not leasable as coal, oil shale or gilsonite pursuant to the Combined Hydocarbon Lease Act of 1981 (Pub. L. 97–78), except helium gas, in the lands leased, together with the right to construct and maintain thereupon, all works or other improvements necessary to the full enjoyment thereof, for a period of 5 years if lease issued as the result of competitive lid or 10 years if issued noncompetitively, and so long thereafter as oil or gas is produced in paying quantities or in the case of renewal leases with a preferential right in lessee to renew this lease for successive periods of 10 years, upon such reasonable terms and conditions as may be prescribed by lessor, unless otherwise provided by law at expiration of such periods; subject to any unit agreement heretofore or hereafter approved by the Secretary of the Interior (hereafter, the Secretary), the provisions of said agreement to govern the lands subject thereto where inconsistent with the terms of this lease.

Sec. 2. The lessee agrees:

(a) Bonds—(1) to file any bond required by this lease and the current regulations and until such bond is filed not to enter on the land under this lease. (2) to maintain any bond furnished by the leasee as a condition for the issuance of this lease. (3) To furnish prior to beginning of drilling operations and maintain at all times thereafter as required by the lessor a bond in the penal sum of $10,000 with approved corporate surety, or with deposit of United States bonds as surety therefor, conditioned upon compliance with the terms of this lease, unless a bond in that amount is already being maintained or unless such a bond furnished by an operator of the lease is accepted.

(b) Cooperative or unit plan—Within 30 days of demand, or, if the leased land is committed to an approved unit or cooperative plan and such plan is terminated prior to the expiration of this lease, within 30 days of demand made thereafter, to subscribe to and operate under such reasonabale cooperative or unit plan for the development and operation of the area, field, or pool, or part thereof, embracing the lands included herein as the Secretary may

then determine to be practicable and necessary or advisable, which plan shall adequately protect the rights of all parties in interest, including the United States.

(c) Wells—(1) To drill and produce all wells necessary to protect the leased land from drainage by wells on lands not the property of the lessor, or lands of the United States leased at a lower royalty rate, or as to which the royalties and rentals are paid into different funds than are those of this lease; or in lieu of any part of such drilling and production, with the consent of the Director of the Minerals Management Service, to compensate the lessor in full each month for the estimated loss of royalty through drainage in the amount determined by said Director; (2) at the election of the lessee to drill and produce other wells in conformity with any system of well spacing or production allotments affecting the field or area in which the leased lands are situated, which is authorized and sanctioned by applicable law or by the Secretary of the Interior; and (3) promptly after due notice in writing to drill and produce such other wells as the Secretary may reasonably require in order that the leased premises may be properly and timely developed and produced in accordance with good operating practice.

(d) Rentals and royalties—(1) To pay rentals and royalties in amount or value of production removed or sold from the leased lands as follows:

Rentals—To pay the lessor in advance an annual rental:

(a) If the lands are wholly outside the known geologic structure of a producing oil or gas field: For each lease year a rental of $1.00 per acre or fraction of an acre except where the lease has been issued as the result of posting of lands and simultaneous drawing in which case the rental in the sixth of subsequent years is $3.00 per acre or fraction thereof.

(b) If the lands are wholly or partly within the known geologic structure of a producing oil or gas field: (i) Beginning with the first lease year after 30 days notice that all or part of the land is included in such a structure and for each year thereafter, prior to a discovery of oil or gas on the lands leased, $2.00 per acre or fraction of an acre, except on leases for which the annual rental is $3.00 per acre. (ii) If this lease is committed to an approved cooperative or unit plan which includes a well capable of producing oil or gas and contains a general provision for allocation of production, the rental prescribed for the respective lease years in subparagraph (a) of this section, shall apply to the acreage not within a participating area. Minimum royalty—Commencing with the lease year beginning on or after a discovery on the leased land, to pay the lessor in lieu of rental, a minimum royalty of $1 per acre or fraction thereof at the expiration of each lease year, or the difference between the actual royalty paid during the year if less than $1 per acre, and the prescribed minimum royalty of $1 per acre; Provided that if this lease is unitized, the minimum royalty shall be payable only on the participating acreage and rental shall be payable on the nonparticipating acreage as provided in subparagraph (b)(ii) above.

Royalty on Production—To pay the lessor 12½ percent royalty on the production removed or sold from the lands leased noncompetitively; or to pay the rentals and royalties set by regulations (43 CFR 3103.3) in force at the time of issuance, or as set out in the rental and royalty schedule attached hereto on production removed or sold from lands leased by competitive, renewal or future interest lease, computed in accordance with the Oil and Gas Operating Regulations (30 CFR 211).

(2) It is expressly agreed that the Secretary may establish reasonable minimum values for purposes of computing royalty on any or all oil, gas, natural gasoline, and other products obtained from gas, due consideration being given to the highest price paid for a part or for a majority of production of like quality in the same field, to the price received by the lessee, to posted prices, and to other relevant matters and, whenever appropriate, after notice and opportunity to be heard.

(3) When paid in value, royalties on production shall be due and payable monthly on the last day of the calendar month next following the calendar month in which produced. When paid in amount of production, such royalty products shall be delivered in merchantable condition on the premises where produced without cost to lessor, unless otherwise agreed to by the parties hereto, at times and in tanks provided by the lessee as reasonably may be required by the lessor, but in no case shall the lessee be required to hold such royalty oil or other products in storage beyond the last day of the calendar month next following the calendar month in which produced nor be responsible or held liable for loss or destruction of royalty oil or other products in storage from causes beyond his control.

(4) Rentals or minimum royalties may be waived, suspended or reduced and royalties on the entire leasehold or any portion thereof segregated for royalty purposes may be reduced if the Secretary finds that, for the purpose of encouraging the greatest ultimate recovery of oil or gas and in the interest of conservation of natural resources, it is necessary, in his judgment, to do so in order to promote development, or because the lease cannot be successfully operated under the terms fixed herein.

(e) Payments—Unless otherwise directed by the Secretary, to make rental, royalty, or other payments to the lessor, to the order of the Bureau of Land Management or Minerals Management Service as set by regulation (43 CFR 3103). If there is no well on the leased lands capable of producing oil or gas in paying quantities, the failure to pay rental on or before the anniversary date shall automatically terminate the lease by operation of law. If the proper office is closed on the payment date payment must be made on the next official working day.

(f) Contracts for disposal of products—To file with the Minerals Management Service not later than 30 days after the effective date thereof any contract or evidence of other arrangement, for the sale or disposal of

oil, gas, natural gasoline, and other products of the leased land: Provided, That nothing in any such contract or other arrangement shall be construed as modifying any of the provisions of this lease.

(g) Statements, plats, and reports—At such times and in such form as the lessor may prescribe, to furnish detailed statements showing the amounts and quality of all products removed and sold from the lease, the proceeds therefrom, and the amount used for production purposes or unavoidably lost; a plat showing development work and improvements on the leased lands; and a report with respect to stockholders, investments, depreciation, and cost.

(h) Well Records—To keep a daily drilling record, a log, and complete information on all well surveys and tests in form acceptable to or prescribed by the lessor of all wells drilled on the leased lands; and an acceptable record of all subsurface investigations affecting said lands, and to furnish them, or copies thereof to the lessor when required. All information obtained under this paragraph, upon the request of the lessee, shall not be open to inspection by the public until expiration of the lease.

(i) Inspection—To keep open at all reasonable times for the inspection of any duly authorized officer of the Department, the leased premises and all wells, improvements, machinery, and fixtures thereon and all books, accounts, maps and records relative to operations and surveys or investigations on the leased lands or under the lease. All information obtained pursuant to any such inspection, upon the request of the lessee, shall not be open to inspection by the public until the expiration of the lease.

(j) Diligence, prevention of waste, health and safety of workmen—To exercise reasonable diligence in drilling and producing the wells herein provided for unless consent to suspend operations temporarily is granted by the lessor; to carry on all operations in accordance with approved methods and practice as provided in the Oil and Gas Operating Regulations, having due regard for the prevention of damage or waste of other resources, for the preservation and conservation of the property for future productive operations, and for the health and safety of workmen and employees; to plug property and effectively all wells drilled under this lease or of any prior lease or permit upon which the lease was predicated before abandoning the same; to carry out at expense of the lessee all reasonable orders of the lessors relative to the matters in this paragraph, and that on failure of the lessee so to do the lessor shall have the right to enter on the property and to accomplish the purpose of such orders at the lessee's cost; Provided, that the lessee shall not be held responsible for delays or casualties occasioned by causes beyond the lessee's control.

(k) Taxes and wages, freedom of purchase—To pay when due, all taxes lawfully assessed and levied under laws of the State or the United States upon improvements, oil and gas produced from the lands hereunder, or other rights, property, or assets of the lessee; to accord all workmen and employees complete freedom of purchase, and to pay all wages due workmen and employees at least twice each month in the lawful money of the United States.

(l) Equal opportunity and certification of nonsegregated facilities—The lessee will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and the rules, regulations, and relevant orders of the Secretary issued pursuant thereto. The lessee further certifies that it does not and will not maintain segregated facilities and will comply with the applicable regulations of the Secretary of Labor relating to this certification.

(m) Assignment of oil and gas lease or interest therein—As required by applicable law, to file for approval by the lessor any instrument of transfer made of this lease or any interest therein, including assignments of record title, operating agreements and subleases, working or royalty interest.

(n) Pipelines to purchase or convey at reasonable rates and without discrimination—If owner, or operator or owner of a controlling interest in any pipeline or of any company operating the same which may be operated accessible to oil or gas derived from lands under this lease, to accept and convey and, if a purchaser of such products, to purchase at reasonable rates and without discrimination the oil or gas of the Government or of any citizen or company not the owner of any pipeline, operating a lease or purchasing or selling oil, gas, natural gasoline, or other products under the provisions of the Acts of February 25, 1920 (41 Stat. 437, 30 U.S.C. 181) or August 7, 1947 (61 Stat. 913, 30 U.S.C. sec. 351), (hereafter, Acts).

(o) Reserved deposits—To comply with all statutory requirements and regulations thereunder, if the lands embraced herein have been or shall hereafter be disposed of under the laws reserving to the United States the deposits of oil and gas therein, subject to such conditions as are or may hereafter be provided by the laws reserving such oil or gas.

(p) Damage to property—To pay the lessor or his tenant for damage to or destruction of property caused by lessee's operations hereunder, to save and hold the lessor harmless from all damage or claims for damage to persons or property resulting from the lessee's operations under this lease; and where the surface of the leased land is owned by other than the lessor, to pay such owner, or his tenant, for damage or injury to livestock, crops, trees, and improvements.

(q) Protection of the surface, natural resources and improvements—The lessee agrees to take reasonable steps to prevent any operations, from unnecessarily: (1) causing or contributing to soil erosion or damaging forage and timber on the leased lands or those lands in the vicinity, (2) polluting air and water; (3) damaging crops, forage, timber, or improvements of a surface owner: (4) damaging any improvements; (5) destroying, damaging or removing fossils, historic or prehistoric ruins, or artifacts; and upon any partial or total relinquishment or the cancellation or expiration of this lease or at any other time prior thereto when

required and to the extent deemed necessary by the lessor to fill any sump holes, ditches, and other excavations, remove or cover all debris, and so far as reasonably possible restore the surface of the leased land and access roads to its former condition, including the removal of structures as and if required. The lessor may prescribe the steps to be taken and restoration to be made with respect to the leased lands and improvements thereon, whether or not owned by the United States. When American antiquities or other objects of historic or scientific interest are discovered, the item(s) or condition(s) will be left intact and immediately brought to the lessor's attention.

(r) Reserved or segregated lands—If any of the land included in this lease is embraced in a reservation or segregated for any particular purpose, to conduct operations thereunder in conformity with such requirements as may be made by the Director, Bureau of Land Management, for the protection and use of the land for the purpose for which it was reserved or segregated, so far as may be consistent with the use of the land for the purpose of this lease, which later shall be regarded as the dominant use unless otherwise provided herein or separately stipulated.

(s) Overriding royalties—Not to create overriding royalties in excess of five percent except as otherwise authorized by the regulations.

(t) Deliver premises in cases of forfeiture—To deliver up to the lessor in good order and condition the land leased including all improvements which are necessary for the preservation of producing wells.

Sec. 3. The lessor reserves:

(a) Easements and rights-of-way—The right to permit for joint or several use easements or rights-of-way, including easements in tunnels upon, through, or in the lands leased, occupied, or used as may be necessary or appropriate to the working of the same or of other lands containing the deposits described in the Acts, and the treatment and shipment of products thereof by or under authority of the government, its lessees or permittees, and for other public purposes.

(b) Disposition of surface—The right to lease, sell, or otherwise dispose of the surface of the leased lands under existing law or laws hereafter enacted, insofar as said surface is not necessary for the use of the lessee in the extraction and removal of the oil and gas therein, or to dispose of any resource in such lands which will not unreasonably interfere with operations under this lease.

(c) Monopoly and fair prices—Full power and authority to promulgate and enforce all orders necessary to insure the sale of the production of the leased lands to the United States and to the public at reasonable prices, to protect the interests of the United States, to prevent monopoly, and to safeguard the public welfare.

(d) Helium—Pursuant to the Acts, ownership of helium and the right to extract or have it extracted from all gas produced under this lease, subject to such rules and regulations as shall be prescribed by the Secretary.

(e) Taking of royalties—All rights pursuant to take royalties in amount or in value of production.

(f) Casing—In case the lessee strikes water while drilling instead of oil or gas, or abandons a well drilled as a water well, the right to purchase the casing in and at such well at its reasonable salvage value.

Sec. 4. Undivided fractional interest—Where the interest of the United States in the oil and gas underlying tracts described in item 3 hereof is an undivided fractional interest, the following shall apply: (a) Royalties payable on account of each such tract shall be in the same proportions to the royalties provided in section 2(d) hereof as the undivided fractional interest of the United States in the oil and gas underlying such tract is to the full fee simple interest.

(b) If while this lease is in effect, the lessee owns or holds under lease other undivided fractional interests in oil and gas underlying such tract, the right of the lessor to extract helium shall extend to all gas produced on the basis of such ownership or lease.

Sec. 5. Drilling and producing restrictions—The rate of prospecting and developing and the quantity and rate of production from the leased lands, shall be subject to control in the public interest by the Secretary, and in his judgment he may consider, among other things, Federal and State laws and regulations or lawful agreements among operators regulating either drilling or production, or both. After unitization, the Secretary, or any person, committee, or State or Federal officer or agency so authorized in the unit plan, may alter or modify from time to time, the rate of prospecting and development and the quantity and rate of production from the lands covered by this lease.

Sec. 6. Surrender and termination of lease—The lessee may surrender this lease or any legal subdivision thereof by filing in the proper BLM State office a written relinquishment in triplicate, which shall be effective as of the date of filing subject to the continued obligation of the lessee and surety to pay all accrued rental and royalties and to place all wells on the land to be relinquished in condition for suspension or abandonment in accordance with applicable lease terms and regulations.

Sec. 7. Removal of materials, etc., on termination of lease—Upon the surrender, termination or expiration of this lease, the lessee shall have the privilege within 90 days thereafter of removing from the premises all machinery, equipment, tools and materials other than improvements needed for producing wells. Anything subject to removal which remains on the leased lands shall become the property of the lessor after 90 days unless an extension is granted because of adverse climatic conditions throughout said period; Provided, that the lessee shall remove any or all such property where so directed by the lessor.

Sec. 8. Proceedings in cases of default—If the lessee shall not comply with any of the provisions of the Acts, the regulations thereunder or the lease or defaults in the performance or observance of any of the terms hereof (except for payment of rental which results in automatic lease termination), and such default continues for 30 days after service of written notice thereof by the lessor, this lease may be canceled by the Secretary except that if this lease covers lands known to contain valuable deposits of oil or gas, the lease may be canceled only by judicial proceedings; This provision shall not be construed to prevent the exercise by the lessor of any legal or equitable remedy which the lessor might otherwise have. Upon cancellation, any casing, material, or equipment determined by the lessor to be necessary for use in plugging or preserving any well drilled on the leased land shall become the property of the lessor. A waiver of any particular cause of cancellation and forfeiture shall not prevent the cancellation and forfeiture of this lease for any other cause of cancellation and forfeiture, or for the same cause occurring at any other time.

Sec. 9. Heirs and successors-in-interest—Each obligation hereunder shall extend to and be binding upon, and every benefit hereof shall inure to, the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

Sec. 10. Unlawful interest—No Member of or Delegate to Congress, or Resident Commissioner, after election or appointment, or officer, agent, or employee of the Department of the Interior, except as provided in 43 CFR 7.4 (a)(1), shall be admitted to any share or part in this lease or derive any benefit

therefrom: and the provisions of Section 3741 of the Revised Statutes of the United States, as amended (41 U.S.C. 22), and Sections 431, 432, and 433, Title 18 U.S. Code, relating to contracts, as applicable, form a part of this lease.

Instructions

A. General

1. This offer must be typed or printed plainly in ink, signed in ink, and dated.

2. This form is to be used by applicants in offering to lease noncompetitively lands or oil and gas deposits reserved to the United States and subject to lease under the Acts of February 25, 1920, or August 7, 1947.

3. Offers may be made by individuals of age of majority or by legal guardian or trustee of minors and incompetents who are citizens of the United States and by corporations, partnerships or associations.

4. FIVE copies of this offer must be prepared and filed in the proper BLM State office. See regulation 43 CFR 1821.2–1 for office locations. "Filing" means the actual receipt of the offer.

5. If additional space is needed for required information, additional sheets must be attached to each copy of the form submitted.

6. If any of the land described in item 2 of the offer, is open to oil and gas lease filing when the offer is filed but is omitted from the lease for any reason and thereafter becomes available for leasing to the offeror, the original lease will be amended to include the omitted land unless, before the issuance of the amendment the BLM State Office receives the withdrawal of the offer as to such lands or an election to receive a separate lease to be dated in accordance with 43 CFR 3110. If the lease is amended, the rental charged and the lease term will be the same as though the added land had been included in the original lease when it was issued.

B. Special (Numbers Correspond To Offer Form, Sides 1 and 2)

Item 1—Must be completed with the offeror's name and address. Proper BLM signing office must be notified, in writing, of change of address. The offeror must identify the mineral status of the oil and gas (Public Domain or Acquired) ONLY ONE MAY BE CHECKED. This form may not be used for tracts combining both Public Domain and Acquired lands. In such cases, separate applications must be completed.

Item 2—Description: The description of surveyed and unsurveyed lands must conform to the provisions of 43 CFR 3101. All lands must be within a 6-mile square or an area of 6 surveyed sections in length and width. Total area of land requested should be shown in acres in the space provided at the bottom of Item 2 and must not exceed 10.240 acres for lands leased noncompetitively. If the United States does not own a 100 percent interest in the oil and gas deposits in any particular tract, the offeror should indicate the percentage of Federal ownership. Payments: The amount remitted should include the filing fee for noncompetitive offers and the first year's rental at the rate of $1 per acre or fraction thereof. The full rental payment based on the total acreage applied for should accompany an offer even though the mineral interest of the United States is less that 100 percent. The filing fee is retained as a service charge even where the offer is completely rejected. In order to protect the offeror's priorities it is importmant that the rental submitted with the offer be sufficient to cover all the land requested at the rate indicated above. If the land requested includes lots or irregular quarter-quarter sections the exact area of which is not known to the offeror, rental should be submitted on the basis of each such lot or quarter-quarter section containing 40 acres, or on the computed acreage included with a metes and bounds descriptions. If the offer is withdrawn in whole or in part before a lease is issued, or if the offer is rejected in whole or in part, the rental remitted for the parts withdrawn of rejected will be returned. Surface Management Agency: If practicable, the offeror should indicated the agency controlling the surface use of the land and the unit or project of which the land is a part.

Item 3—This space will be completed by the United States. When the lease is issued, this space will contain the identification of the leased area, total acres, United States interest if less than 100 percent, and effective date of lease.

Item 4—Offeror's signature certifies as to all statements in Item 4.

Proposed Notice of Stipulations

The purpose of the proposed nationwide Notice of Stipulations is to reduce internal workload in the Bureau of Land Management and surface managing agencies at the time of lease issuance, thereby expediting the processing of applications, while maintaining full protection of all land and use values. The proposed Notice also will serve to standardize the many variations of stipulations that now exist from State to State, region to region and agency to agency.

At present each agency including the Bureau of Land Management develops stipulations for each lease covering a variety of valuable resources that are to be protected or events to be guarded against. Even when such stipulations have been standardized within a geographic or agency jurisdiction there still exists a multiplicity of versions of such stipulations. More importantly, each agency must determine for each application which stipulations, standardized or not, apply to the specific lands requested. This time consuming process is applied regardless of whether the lease issues or whether any type of surface disturbing activity which the stipulations control is ever proposed by the lessee. The Bureau estimates that for a variety of reasons approximately 25 percent of all applications never ripen into leases and of those that are issued, 80–85 percent never see any form of surface disturbing activity. This means that approximately 90 percent of the effort spent on developing stipulations and/or matching stipulations to lands applied for is wasted contributing to higher costs, longer processing times and less time available to properly manage lands experiencing development.

The Bureau of Land Management proposal is to avoid this wasted effort that could be otherwise beneficially be spent and utilize in place of individually developed lease stipulations that rightly or wrongly apply to a lease a more generalized and comprehensive list of stipulations for all leases. These can be implemented and further detailed on request of the lessee or when surface disturbing activities are proposed. The proposed Notice will constitute an alert to lessees that certain conditions may exist on their leasehold and if so, they will be required to conduct their activities to avoid or mitigate potential damage. The existence of such conditions and details as to times, distances and necessary actions of the avoidance or mitigation requirements will be provided on request and when activity is proposed. Not all stipulations on such a comprehensive list will apply to all proposed operations and the detail and degree of restriction will vary, as at present, depending on the nature of the land resources and the proposed activity. Stipulations will be specifically tailored to each proposed activity and will take better cognizance than present stipulations of the advantages or disadvantages of each proposed activity procedure and of the particular sensitivity or lack thereof of the surface values on specific drill sites.

When severe restrictions are required such as no surface or no seasonal occupancy of the leasehold, a contingent right or wilderness protection requirements, such limitations will be specified and the applicant will be required to consent thereto at the time of lease issuance.

The proposed notice of general stipulations that may apply and those that may apply in certain regions or categories of lands follows:

Department of the Interior

Bureau of Land Management

Notice of Oil and Gas Lease Stipulations

Any of the following stipulations may apply to this lease and may be modified at the time any surface disturbing activity on the leased lands is proposed. The Bureau of Land Management, the appropriate surface management agency and/or the Minerals Management Service should be contacted for details.

General Requirements

The lease and this notice are modified by, and subject to any special stipulations hereto attached. This notice will be implemented and may be modified when surface disturbing activities are proposed, at which time the lessee will be notified which stipulations in the Notice or attachments hereto apply to the lands and proposed activity and what the detailed requirements of each stipulation will be.

The lessee will recognize existing uses and commitments and the rights of use reserved by the lessor and will conduct his operations so as to interfere as little as possible with the rights and privileges granted by these permits or with other existing uses. The lessee will endeavor to make his use compatible with subsequently authorized uses of the leased lands. No operations will be conducted hereunder until prior written consents of the lessor have been obtained.

The lessee must comply with all Federal laws and statutes. The lessee must also comply with all Federal regulations, State or local laws, statutes and regulations pertaining to the drilling and recovery of oil and gas and protection of property unless otherwise notified in writing by the lessor.

Unless otherwise authorized, prior to the beginning of operations, the lessee will appoint and maintain at all times during the term of this lease or permit a local agent upon whom may be served written orders or notices respecting matters contained in this stipulation, and to inform the Minerals Management Service (MMS), BLM and the appropriate surface managing agency, in writing, of the name and address of such agent. If a substitute agent is appointed, the lessee or permittee shall immediately so inform the said representative.

Existing roads on the leasehold may be used by the lessee. The lessee will be required to repair any damage thereto caused by such use.

Under the provisions of Pub. L. 97–78, this lease includes all deposits of nongaseous hydrocarbon substances other than coal, oil shale, gilsonite (including all vein-type solid hydrocarbons). Development by methods not conventionally used for oil and gas extraction such as fire flooding and including surface mining will require the lessee to submit a plan of operations and will be subject to regulations governing development by such methods when those rules are issued by the MMS and the rules or procedures of the surface managing agency. Development may proceed only if the plan of operations is approved. The United States shall not be responsible for damages to the government or injuries to persons which may arise from or be incident to the government use and operations on the leased area.

Requirements for General Surface Conditions

Cultural and Paleontological Resources—Prior to undertaking any surface-disturbing activities on the lands covered by this lease, the lessee or operator, unless notified to the contrary by the authorized officer of the surface management agency or BLM, as appropriate, shall:

1. Inquire of the Bureau of Land Management or the appropriate surface management agency as to the need for a study of cultural and/or paleontological resources and, if required, engage at his own expense the services of a qualified cultural resource specialist acceptable to the Federal surface management agency to conduct an inventory of the surface area to be disturbed for evidence of cultural and paleontological resource values;

2. Submit a report acceptable to the authorized officer of the surface management agency and the MMS; and

3. Implement measures required by the surface management agency to preserve or avoid destruction of cultural resource values. Mitigation may include relocation of proposed facilities, testing and salvage or other protective measures. Where impacts cannot be mitigated to the satisfaction of the surface managing agency, surface occupancy on that area must be prohibited.

The lessee or operator shall immediately bring to the attention of the MMS or the authorized officer of the Federal surface management agency or BLM any cultural or paleontological resources or any other objects of scientific interest discovered as a result of surface operations under this lease, and shall leave such discoveries undisturbed until directed to proceed by the MMS.

Endangered or Threatened Species—The Federal surface management agency or BLM, as appropriate, is responsible for assuring that the leased land is examined prior to undertaking any surface-disturbing activities to determine effects upon any plant or animal species listed or proposed for listing as endangered or threatened, or in certain instances, as sensitive, or their habitats. The findings of this examination may result in some restrictions to the operator's plans or even disallow use and occupancy that would be in violation of the Endangered Species Act of 1973 by detrimentally affecting endangered or threatened species or their habitats.

The lessee/operator shall, unless notified by the authorized officer of the surface management agency or BLM that the examination is not necessary, conduct the examination on the leased lands at his discretion and cost. This examination must be done by or under the supervision of a qualified resource specialist approved by the surface management agency identifying the anticipated effects of a proposed action on endangered, threatened, and in certain cases sensitive species or their habitats.

Esthetics— To maintain esthetic values, all surface-disturbing activities, semipermanent and permanent facilities must be properly sited and may require special design, painting or camouflage to blend with the natural surroundings and meet the intent of the visual quality objectives of the Federal surface management agency.

Erosion Control—Surface-disturbing activities may be prohibited during muddy and/or wet soil periods. This limitation does not apply to operation and maintenance of producing wells using authorized roads. During period of adverse conditions due to climatic factors or under adverse ground conditions all activities creating irreparable or extensive damage, as determined by the surface managing agency, will be suspended or the plan of operation modified.

Controlled or Limited Surface Use—The lands within this lese may include special areas and such areas may

contain special values, may be needed for special purposes, or may require special attention to prevent damage to surface and/of other resources. Any surface use or occupancy within such special areas will be strictly controlled or, if absolutely necessary, excluded. Distances and/or time periods may be adjusted depending on the actual onground conditions. The lessee will be required to submit for approval plans of operations to MMS and the surface managing agency, including modifications sufficient to protect special values and other uses. Use or occupancy will be restricted only when MMS and/or the surface managing agency demonstrates that the restriction is necessary for the protection of such special areas and existing or planned uses. Appropriate modifications to imposed restrictions will be made for the maintenance and operation of producing oil and gas wells.

After the Federal surface management agency has been advised of specific proposed surface use or occupancy on the leased lands, prior to such use or occupancy and on request of the lessee/operator, the Agency will furnish further information on any special areas which may include:

Roads and trails, perrenial and ephemeral water courses and bodies, flood plains, and water supplies,

Grouse strutting grounds and associated nesting areas, essential habitat of State and Federal sensitive species, crucial wildlife ranges and calving areas,

Buildings and structures, recreational areas ans sites eligible for or designated as National Register sites,

Areas having restrictive off-road vehicle designations, and

Slopes over 30 percent, or 20 percent on extremely erodable or slumping soils, or in areas or extreme soil sensitivity.

An environmental analysis or a categorical exclusion review will be prepared by MMS, in the consultation with the Federal surface management agency, to analyze the impacts of the proposal, determine appropriate mitigation measures, and evaluate if an environmental statement is needed, for the purpose of insuring proper protection of the surface, the natural resources, the environment, existing improvements, and for assuring timely reclamation of disturbed lands. Upon completion of said environmental analysis, the authorized officer of the MMS shall notify the licensee/permittee/lessee of the conditions, if any, to which the proposed surface disturbing operatios will be subject.

Requirements for Special Surface Conditions

Wild and Scenic Rivers—This stipulation applies to any Federal lands adjacent to a river designated or under study for possible inclusion in the National Wild and Scenic Rivers System. Federal lands constituting bed or bank or within one quarter mile to two miles of a designated Wild River already may be withdrawn by statute from operation of the mineral leasing law.

The licensee/permittee/lessee may not use, occupy, or disturb any portion of surface adjacent to such river as described by the surface managing agency without prior specific authorization of the surface managing agency while the Congress is considering inclusion of the River into the National Wild and Scenic River System.

If Congress adds the River to the National Wild and Scenic River System, the surface managing agency will prepare a management plan which will specify particular controls.

If by the date prescribed by Section 7b of the Wild and Scenic River Act (82 Stat. 906, as amended) or possible amendments, the Congress has not added the River to the National Wild and Scenic River System, the area will be used according to a land management plan which may specify particular controls or special requirements.

The applicant should know that there is at this time no assurance that use, occupancy, or disturbance of the surface of the lands adjacent to such river can be permitted.

Alaska Lands—Lessee shall not undertake any geophysical operations without first obtaining a permit from the District Manager, BLM or the authorized officer of the surface managing agency having jurisdiction over the lands involved nor undertake any other work on the leasehold without exploration, development and production plans approved by MMS in accordance with the Alaska National Interest Lands Conservation Act (ANILCA), Section 1008 (f) and (g) and 30 CFR Part 221. Such plans must include an environmental training program approved by the MMS in consultation with BLM or the appropriate surface managing agency for all personnel engaged in activities on the leasehold. The MMS in consultation with BLM and/or the appropriate surface managing agency, as part of such plans may require joint use of facilities by lessees. Approved plans and permits may be subject to restrictions of operations on a seasonal basis and/or within proximity to wildlife habitat, nesting sites, lakes and rivers, and subsistence use areas. Consistent with ANILCA, Title VIII, the lessee will be required at his own expense to provide for study by a subsistence specialist, approved by BLM or the appropriate surface managing agency and the Alaska Department of Fish and Game, of conflicts of his approved planned activity with subsistence uses and to undertake such steps deemed appropriate by BLM, the appropriate surface managing agency and the MMS to protect and guarantee access to subsistence resources.

Oil Shale Areas—Drilling will be permitted only if MMS concludes that it will not result in undue waste of oil shale deposits, will not interfere with the mining and recovery of oil shale deposits or the extraction of shale oil by in situ methods or that the interest of the United States would best be served thereby. When it is determined that unitization is necessary for orderly oil and gas development and proper protection of oil shale deposits, all drilling must be conducted pursuant to an approved unit plan. The drilling or the abandonment of any well on leases within an oil shale area will be subject to oil and gas operating regulations including such requirements as the MMS may prescribe to prevent flow or infiltration of oil, gas or water into formations containing oil shale deposits or into mines or workings used in the extraction of such deposits.

Powersites—If any of the land covered by this lease or permit was, on the date of filing, within a powersite classification, reservation or project on which an application for a license or preliminary permit is pending or had been issued under the Federal Power Act, or on which an authorized power project (other than one owned or operated by the Federal Government) had been constructed, the prior right is reserved to use such land for purposes of power development so applied for, or authorized, and no compensation shall accrue to the mineral lessee or permittee for any loss occasioned thereby. Where the mineral lessee or permittee can make adjustments of his improvements to avoid undue interference with power development, he will be permitted to do so at this own expense. Furthermore, occupancy and use of the land by the mineral lessee or permittee shall be subject to such reasonable conditions with respect to the use of the land as may be prescribed by the Federal Power Commission for the protection of any improvements and workings constructed thereon for power development.

If any of the land covered by this lease or permit is on the date of issuance within a powersite classification or reservation not governed by the preceding paragraph, the lease or permit is subject to the express condition that operations under

it shall be so conducted as not to interfere with the administration and use of the land for powersite purposes as determined by the Secretary of the Interior.

Bureau of Reclamation and Department of Defense Lands—Within the area of any government reclamation project, or in proximity thereto, the lessee shall take precautions to prevent any injury to the lands susceptible to irrigation under such project or to the water supply thereof; provided that drilling is prohibited on any constructed works or right-of-way of the Bureau of Reclamation, or Department of Defense, and provided further, that there is reserved to the lessor, the superior and prior right to construct, operate, and maintain dams, dikes, reservoirs, canals, wasteways, laterals, ditches, telephone and telegraph lines, electric transmission lines, roadways, appurtenant irrigation structures, reclamation works and structures or facilities for military purposes and remove construction materials therefrom without compensation and without responsibility for any damage. Nothing shall be done under this lease to increase the cost of, or interfere in any manner with, the construction, operation, and maintenance of such works and that said additional expense so caused is to be estimated by the Secretary of the Interior and be binding on and paid by the lessee within 30 days after demand.

All surface work performed by the lessee on Bureau of Reclamation or Department of Defense lands requires prior approval in writing by and be under the general supervision or standards (guidelines) and regulations provided by the appropriate representative of the Bureau of Reclamation or Department of Defense. The plans and location for all construction and surface work on the subject lands shall be submitted to the said representative for prior approval. The authorized representatives shall have the right to enter the leased premises at any time for inspection purposes. No wells shall be drilled for oil and gas proximate to a dam, a reservoir, or any constructed or proposed tunnel, canal, aqueduct, pipeline, lateral, drain, transmission lines, telephone lines, roadways, and structures and facilities used for military purposes, under the administration or jurisdiction of the Bureau of Reclamation or Department of Defense. The lessee may be required to cease operations in the event of national emergency or at other times as directed by the surface managing agency and may be required to obtain the assistance of such agency in controlling or correcting adverse conditions. The surface managing agency to the extent necessary may regulate the lessee's activities for safety and security purposes. Failure to comply with such regulation may result in termination of the lease or other penalties. The lessor will be held harmless for any damages or claims arising from the activities of the lessee. The specifics of such restrictions may be obtained from the surface managing agency.

Timber Lands—Lessees shall not cut or destroy timber without first obtaining permission from the authorized representative of the appropriate surface managing agency and may be required to pay for all such timber cut or destroyed at the rates prescribed by such representative. The lessee may be required by the surface managing agency's representative to restore the surface of the lands or undertake other measures as required to restore land values and uses.

The lessee shall do all in his power to prevent and suppress forest, brush, or grass fires on the leased lands and in their vicinity. Unless prevented by circumstances over which he has no control, the lessee or permittee shall make available his employees, contractors, subcontractors, and their employees employed on the leased lands for the purpose of fighting forest, brush, or grass fires on or originating on the leased lands or on adjacent areas or caused by their negligence with the understanding that payment for such services shall be made at rates to be determined by the authorized representative except in cases of negligence where no payment will be made. During periods of serious fire danger to forest, brush, or grass, as may be specified by the authorized representative of the surface managing agency, the lessee or permittee shall prohibit smoking and the building of camp and lunch fires except at established camps, and shall enforce this prohibition by all means in his power. The lessee or permittee shall not burn rubbish, trash, or other inflammable materials except as authorized and shall not use explosives in such a manner as to scatter inflammable materials on the surface of the lands during the forest, brush or grass fire season, except as authorized. The lessee or permittee shall build or construct such fire lines or do such clearing on the lands as required and shall maintain such fire tools as required by the authorized representative.

Where construction, operation, or maintenance of any of the facilities on or connected with this lease or permit would cause damage to the watershed or pollution of water resources, the lessee or permittee shall not undertake such activity or shall repair such damage and shall take such corrective measures to prevent further pollution or damage as are deemed necessary by the authorized representative of the surface managing agency. If in the opinion of the authorized representative the lands are valuable for watershed protection, the lessee or permittee shall provide for control of surface runoff and return the affected area to as productive condition as practicable.

43 CFR Parts 3000 and 3100

This announcement does not extend or modify the comment period on proposed oil and gas leasing regulations (43 CFR Parts 3000 and 3100) announced in the **Federal Register** on June 30, 1982 (47 FR 28550). The comment period on the proposed regulations closes August 30, 1982. Comments should be submitted as directed in that notice. This announcement provides notice of a public meeting to express comments on these proposed regulations in conjunction with the previously announced comment period for the regulations.

James M. Parker,

Associate Director.

July 19, 1982.

[FR Doc. 82-20102 Filed 7-22-82; 8:45 am]

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federal register

Friday
July 23, 1982

Part VI

Department of the Treasury

Office of Foreign Assets Control

Cuban Assets Control Regulations; Travel-Related Transactions

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 515

Cuban Assets Control Regulations; Travel-Related Transactions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control is amending section 515.560 of the Cuban Assets Control Regulations to (1) explain and clarify the meaning of the general license for "professional research" and "similar activities;" (2) expand the meaning of "close relatives;" (3) set forth a specific licensing policy concerning professional meetings, seminars, and conferences scheduled to be held in Cuba prior to December 31, 1982; and (4) authorize certain transactions in connection with hosted or sponsored travel.

EFFECTIVE DATE: July 22, 1982.

FOR FURTHER INFORMATION CONTACT: Raymond W. Konan, Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220, tel. (202) 376–0236.

SUPPLEMENTARY INFORMATION: Since the Regulations involve a foreign affairs function, the provision of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable.

Similarly, because the amendment is issued with respect to a foreign affairs function of the United States, it is not subject to Executive Order 12291 of February 17, 1981, dealing with Federal regulation.

List of Subjects in 31 CFR Part 515

Cuba; Foreign assets control.

31 CFR Part 515 is amended as follows:

1. Section 515.560 is amended by the addition of a sentence at the end of paragraph (a)(2), so that it now reads as follows:

§ 515.560 [Amended]

(a) * * *

(2) For purposes of this section, the term "close relative" means spouse, child, grandchild, parent, grandparent, great grandparent, uncle, aunt, brother, sister, nephew, niece, first cousin, or spouse, widow, or widower of any of the foregoing. The term "close relative" also means mother-in-law, father-in-law, daughter-in-law, son-in-law, sister-in-law, or brother-in-law.

2. Section 515.560 is amended by the addition of paragraphs (h) and (i) and (j) as follows:

§ 515.560 [Amended]

* * * * *

(h) *Professional research and similar activities.* (1) Paragraph (a)(1) of this section provides a general authorization for travel to, from, and within Cuba for professional research. Those covered by the "professional research" authorization are full-time professionals who travel to Cuba to do research in their professional areas, whose research is specifically related to Cuba and will constitute a full work schedule in Cuba, and where there is a substantial likelihood of dissemination of the product of such research. No transactions related to tourist or recreational travel within Cuba are authorized under the general license for professional research, except those that are consistent with a full schedule of research activities.

(2) "Similar activities" include attendance by professionals with an established interest in Cuba at professional meetings where research on Cuba is shared, and travel for research purposes specifically related to Cuba by persons who are working to qualify themselves academically as professionals (*e.g.*, certain graduate degree candidates). Study visits to Cuba in connection with pre-college or undergraduate college course work are not within the scope of professional research and similar activities authorized by the general license.

(3) Categories of travel which do not qualify as professional research or similar activities and for which specific license requests will normally be denied include recreational travel; tourist travel; travel in pursuit of a hobby; general study tours; general orientation visits; student class field trips; youth camps; research for personal satisfaction only; travel by fishing or bird-watching groups and similar affinity groups; and any travel for an authorized research purpose, if the schedule of activities includes free time, travel, or recreation in excess of that consistent with a full work schedule of professional research and similar activities.

(4) A group does not fall within the general license for professional research or similar activities merely because some members of the group could qualify individually under the general license. For example, the presence of a professional fish biologist who travels to Cuba to engage in professional research does not bring within the general license other persons who might travel with the fish biologist but whose principal purpose in travel is to engage in recreational or trophy fishing. The fact that such persons may engage in certain activities with, or under the direction of, the professional fish biologist, such as measuring or recording facts about their catch, does not bring these individuals' activities within the meaning of professional research or similar activities.

(5) A person does not fall within the general license for professional research or similar activities merely because that person is a professional who plans to travel to Cuba. For example, a professor of history interested in traveling to Cuba for the principal purpose of learning or practicing Spanish or attending general lectures devoted to Cuban culture and contemporary life would not fall within the general license. A doctoral candidate in economics traveling to Cuba to undertake research for a dissertation on the Cuban economy would fall within the general license for activities directly related to the research but would not be authorized by the general license to stay an extra week in Cuba in order to attend a seminar on Cuban arts and crafts.

(i) *Professional Meetings, Seminars, Conferences.* Specific licenses authorizing the transactions in paragraph (c) of this section will be issued in appropriate cases to persons desiring to travel to Cuba for purposes of participation in professional meetings, seminars, conferences, or similar gatherings, provided that the prospective traveler is a full-time professional in the field to which the meeting or similar gathering pertains; that planning and preparation for the meeting or similar gathering were underway prior to May 15, 1982; and that the meeting or similar gathering is scheduled to be held prior to December 31, 1982. Specific license requests pertaining to travel for attendance at professional meetings to be held after December 31, 1982, will generally be denied.

(j) For purposes of this section, all necessary transactions involving fully sponsored or hosted travel to, from, and within Cuba are authorized, provided that no person subject to U.S. jurisdiction shall make any payment or transfer of any property or provision of any service to Cuba or a Cuban national in connection with such travel. Travel shall be considered fully sponsored or hosted for purposes of this section notwithstanding a payment by a person subject to U.S. jurisdiction for

transportation to and from Cuba, provided that the carrier furnishing the transportation is not a Cuban national.

(Sec. 5, 40 Stat. 415, as amended, 50 U.S.C. App. 5; 75 Stat. 445, 22 U.S.C. 2370(a); Proc. 3447, 27 FR 1085, 3 CFR, 1959–1963 Comp.; E.O. 9193, 7 FR 5205, 3 CFR, Cum. Supp., p. 1174; E.O. 9989, 13 FR 4891, 3 CFR, 1943–1948 Comp., p. 748)

Dennis M. O'Connell,

Director.

John M. Walker, Jr.,

Assistant Secretary.

[FR Doc. 82-20164 Filed 7-22-82; 10:40 am]

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
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List of Public Laws

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

H.R. 6590/Pub.L. 97-218 No Net Cost Tobacco Program Act of 1982. (July 20, 1982; 96 Stat. 197) Price: $2.75.

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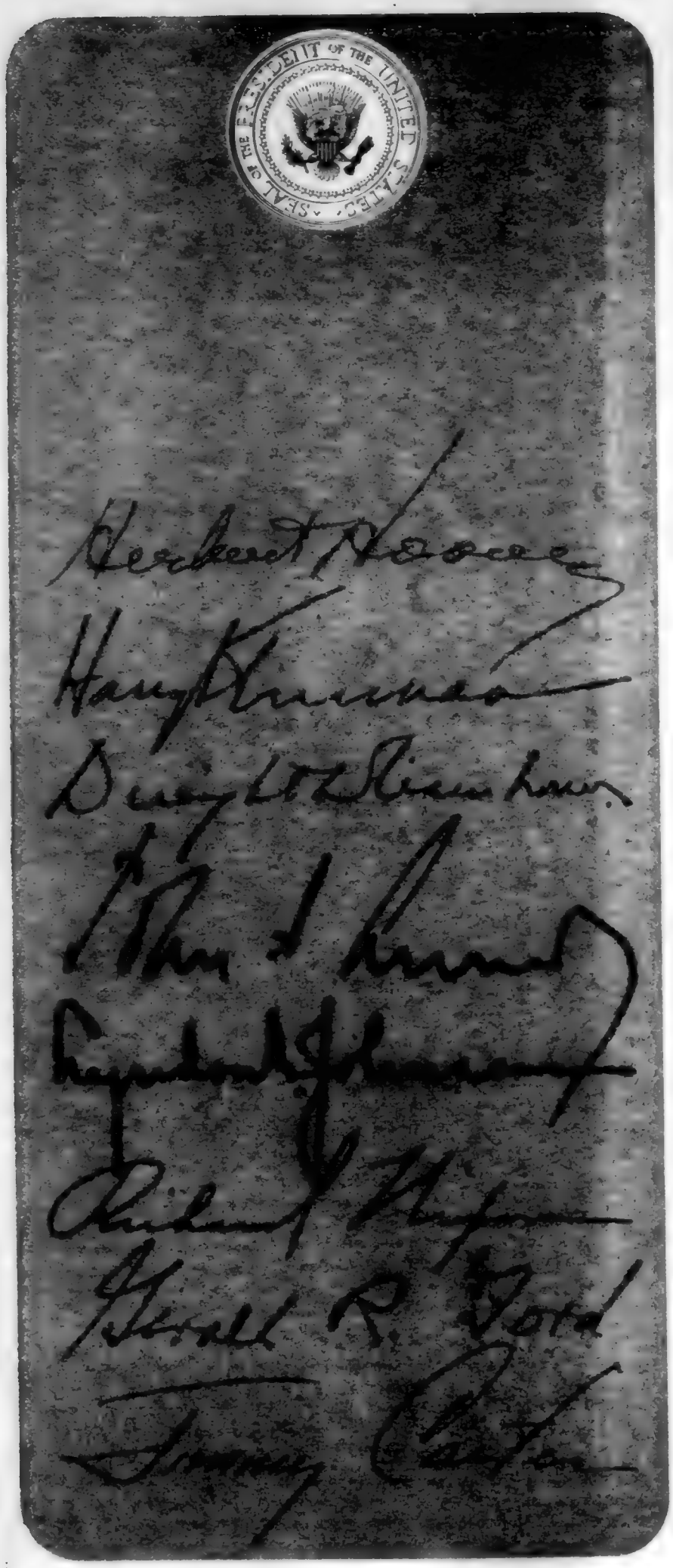

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Pages 32063-32408

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Monday
July 26, 1982

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Environmental Protection Agency

Aviation Safety
Federal Aviation Administration

Coal Mining
Surface Mining Reclamation and Enforcement Office

Conflict of Interests
National Science Foundation

Fisheries
National Oceanic and Atmospheric Administration

Hazardous Materials
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Organization and Functions (Government Agencies)
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Postal Service

Public Lands
Land Management Bureau

Railroads
Interstate Commerce Commission

Reporting and Recordkeeping Requirements
Securities and Exchange Commission

Trade Practices
Federal Trade Commission

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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Florida Orange, Grapefruit, Tangerine and Tangelo Reg. 6]

Florida Oranges, Grapefruit, Tangerines and Tangelos; Grade and Size Requirements

CFR Correction

In the January 1, 1982 revision of Title 7 (Parts 900 to 999) of the Code of Federal Regulations, § 905.306 was inadvertently omitted. Section 905.306, published at 46 FR 60170, December 8, 1981, should read as set forth below:

§ 905.306 Orange, Grapefruit, Tangerine and Tangelo Regulation 6.

(a) During the period specified in Column (2) of Table I, no handler shall ship between the production area and any point outside thereof; in the continental United States, Canada, or Mexico, any variety of fruit listed in Column (1) of such table unless such variety meets the applicable minimum grade and size (with tolerances for size as specified in paragraph (c) of this section specified for such variety in Columns (3) and (4) of such table.

TABLE I

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
Oranges			
Early and midseason	On and After 12/7/81	U.S. No. 1	2⅝
Navel	On and After 12/7/81	U.S. No. 1 Golden	2⅝
Valencia and other late type	On and After 12/7/81	U.S. No. 1	2⅝
Temple	On and After 12/7/81	U.S. No. 1	2⅝
Grapefruit			
Seeded, except pink	On and After 12/7/81	U.S. No. 1	3⅛
Seeded, pink	On and After 12/7/81	U.S. No. 1	3⅛
Seedless, except pink	On and After 12/7/81	Improved No. 2	3⅜
Seedless, pink	On and After 12/7/81	Improved No. 2	3⅜
Tangerines			
Robinson	On and After 12/7/81	U.S. No. 1	2⅝
Dancy	On and After 12/7/81	U.S. No. 1	2⅝
Honey	On and After 12/7/81	Florida No. 1	2⅛
Tangelos			
Tangelos	On and After 12/7/81	U.S No. 1	2⅝

(b) During the period specified in Column (2) of Table II, no handler shall ship to any destination outside the continental United States, other than Canada or Mexico, any variety of fruit listed in Column (1) of such table unless such variety meets the applicable minimum grade and size (with tolerances for size as specified in paragraph (c) of this section) specified for such variety in Columns (3) and (4) of such table.

TABLE II

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
Oranges			
Early and midseason	On and After 12/7/81	U.S. No. 1	2⅝
Navel	On and After 12/7/81	U.S. No. 1 Golden	2⅝
Valencia and other late type	On and After 12/7/81	U.S. No. 1	2⅝
Temple	On and After 12/7/81	U.S. No. 1	2⅝
Grapefruit			
Seeded, except pink	On and After 12/7/81	U.S. No. 1	3⅛
Seeded, pink	On and After 12/7/81	U.S. No. 1	3⅛
Seedless, except pink	On and After 12/7/81	Improved No. 2	3⅜
Seedless, pink	On and After 12/7/81	Improved No. 2	3⅜
Tangerines			
Robinson	On and After 12/7/81	U.S. No. 1	2⅝
Dancy	On and After 12/7/81	U.S. No. 1	2⅝
Honey	On and After 12/7/81	Florida No. 1	2⅛
Tangelos			
Tangelos	On and After 12/7/81	U.S. No. 1	2⅝

(c) Size Tolerances: In the determination of minimum size as prescribed in Tables I and II, the following tolerances are permitted (1) for *oranges,* as set forth in § 2851.1152 of the U.S. Standards for Grades of Florida Oranges and Tangelos, except that such tolerances for other than navel and Temple oranges shall be based only on the oranges in the lot measuring $2^{1}\frac{5}{64}$ inches or smaller in diameter, and the tolerance for Honey tangerines shall be as specified in § 2851.1818 of the U.S. Standards for Grades of Florida Tangerines; (2) for *grapefruit,* as specified in § 2851.761 of the U.S. Standards for Grades of Florida Grapefruit; (3) for *tangerines,* as specified in § 2851.1818 of the U.S. Standards for Grades of Florida Tangerines; and (4) for *tangelos,* as set forth in § 2851.1152 of the U.S. Standards for Grades of Florida Oranges and Tangelos.

(d) Terms used in the marketing order, including Improved No. 2 grade for grapefruit, when used herein, mean the same as is given to the terms in the order; Florida No. 1 grade for Honey tangerines means the same as provided in Rule No. 20–35.03 of the Regulations of the Florida Department of Citrus, and terms relating to grade, except Improved No. 2 grade for grapefruit, and diameter shall mean the same as is given to the terms in the U.S. Standards for Grades of Florida Oranges and Tangelos (7 CFR 2851.1140–2851.1180), the U.S. Standards for Grades of Florida Tangerines (7 CFR 2851.1810–2851.1835), or the U.S. Standards for Grades of Florida Grapefruit (7 CFR 2851.750–2851.784).

BILLING CODE 1505-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-CE-21-AD; Amendment 39-4221]

Airworthiness Directives; EMBRAER Models EMB-110P1 and EMB-110P2 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires incorporation of a temporary revision into the "Pilot's Operating Handbook (POH) and Centro Tecnico Aeroespacial (CTA) Approved Airplane Flight Manual" (POH/AFM) that limits flap extension to no more than 50 percent when there is known or suspected ice accumulation on the horizontal stabilizer on certain EMBRAER Models EMB–110P1 and EMB–110P2 airplanes. This AD is needed to prevent sharp and unexpected nose-down pitching which could result in the loss of control of the airplane during approach to landing in icing conditions.

EFFECTIVE DATE: July 29, 1982.

Compliance.—

Required within the next 25 hours time-in-service after the effective date of this AD unless already accomplished.

ADDRESSES: A copy of the temporary POH/AFM revision is contained in the Rules Docket, Office of the Regional Counsel, FAA, Room 1558, Federal Building, 601 East 12th Street, Kansas City, Missouri 64106, and in Room 275, Atlanta Aircraft Certification Office, FAA, 3400 Norman Berry Drive, East Point, Georgia 30344.

FOR FURTHER INFORMATION CONTACT: Edward M. Boothe, ACE–160A, Atlanta Aircraft Certification Office, FAA, P.O. Box 20636, Atlanta, Georgia 30320, telephone (404) 763–7446.

SUPPLEMENTARY INFORMATION: There have been reports of sharp and unexpected nose-down pitching during approach to landing in icing conditions when the horizontal stabilizer has failed to deice and when the flaps are extended to 100 percent on certain EMBRAER Models EMB–110P1 and EMB–110P2 airplanes. This combination of events is likely to occur at low altitude, just prior to landing, when the pilot has very limited time to take corrective action. This condition could result in loss of control of the airplane and an accident. The FAA has determined that limitation of the flap extension to 50 percent will prevent the nose-down pitching under these circumstances.

Since this condition is likely to exist or develop on other airplanes of the same type design, an AD is being issued which requires the incorporation of a temporary revision into the POH/AFM which limits flap extension to no more than 50 percent in icing conditions on certain EMBRAER Models EMB–110P1 and EMB–110P2 airplanes.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aircraft, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

Embraer: Applies to Models EMB–110P1 and EMB–110P2 (S/Ns 110001 thru 110415) airplanes certificated in any category.

Compliance: Required as indicated unless already accomplished.

To prevent loss of control of the airplane during approach and landing in icing conditions, within the next 25 hours time-in-service after the effective date of this AD, accomplish the following:

(a) Incorporate a temporary POH/AFM revision (immediately following page 2–10) in the affected airplane POH/AFM. This revision is set forth in Figure I of this AD.

(b) Make the following pen and ink changes in the Log of Revisions, page IX, of the POH/AFM: "Temporary Revision No. 1", "add page 2–10A", "include temporary landing flap limitations" and "in accordance

with Airworthiness Directive Amendment 39-4421."

(c) The incorporation of the temporary POH/AFM revision and Log of Revisions entry required by this AD may be accomplished by the owner/operator of the airplane.

(d) An equivalent method of compliance with this AD may be used if approved by the Chief, Atlanta Aircraft Certification Office, FAA, P.O. Box 20636, Atlanta, Georgia 30320.

This amendment becomes effective on July 29, 1982.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Section 11.89 of the Federal Aviation Regulations (14 CFR 11.89))

Note.—The FAA has determined that this regulation involves an emergency regulation which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and certifies that the rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act since it involves an operating limitation affecting only a few aircraft owned by small entities. If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket; otherwise, an evaluation is not required. A copy of it, when filed, may be obtained by contacting the Rules Docket at the location identified under the caption "ADDRESSES."

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the various Courts of Appeal of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Kansas City, Missouri, on July 13, 1982.

John E. Shaw,

Acting Director, Central Region.

Figure 1.—Temporary Revision Number 1

Section 2 Limitations.—EMBRAER EMB 110P1 and EMB 110P2 BANDEIRANTE

Insert this page immediately following Page 2-10 of the Pilot's Operating Handbook and CTA Approved Airplane Flight Manual.

2-31 Systems Operating Limitations

During the approach to landing phase of flight when in icing conditions or when having been in icing conditions, visually check, if possible, the horizontal stabilizer to verify that ice has been removed by the de-icing system. If it is suspected that ice has not been removed, or it is not possible to perform the visual check, observe the following wing flap deflection limitation: "DO NOT EXTEND THE WING FLAPS MORE THAN 50 PERCENT FOR LANDING. USE THE APPROACH SPEEDS FOR THE APPROPRIATE FLAP SETTING IN THE PILOT OPERATING HANDBOOK AND CTA APPROVED AIRPLANE FLIGHT MANUAL."

Landing Distance Factor Limitations

When using 50 percent or less wing flap deflection for landing, the landing distances given for 100 percent flap deflection must be multiplied by the following factors depending on landing weight:

FOR 50 PERCENT FLAPS

Landing weight (pounds)	Factor
12,500	1.25
11,800	1.25
9,450	1.00

FOR 0 PERCENT AND 25 PERCENT FLAPS

Landing weight (pounds)	Factor
12,500	1.31
11,000	1.31
9,000	1.00

The above factors vary linearly between the weights given.

FAA approved: ———.

Date: ———.

[FR Doc. 82-19884 Filed 7-23-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Airworthiness Docket No. 82-ASW-39; Amdt. 39-4419]

Airworthiness Directives; Robinson Helicopter Company Model R-22 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires replacement of the tail rotor drive shaft assembly on Robinson Helicopter Company Model R-22 series helicopters. The AD is needed to prevent shaft whipping during inadvertent shaft overspeeds which could cause coupling failures. This could result in loss of power to the tail rotor, and loss of control of the helicopter.

DATES: Effective July 26, 1982.

Compliance required within 100 hours' additional time in service after the effective date of this AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from Robinson Helicopter Company, 24747 Crenshaw Boulevard, Torrance, California 90505.

These documents may be examined at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76106, or at the Rules Docket in Room 916, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Harold Ferris, Aerospace Engineer, Propulsion Section, ANM-174W, Western Aircraft Certification Field Office, Northwest Mountain Region, Federal Aviation Administration, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009; Telephone: (213) 536-6381.

SUPPLEMENTARY INFORMATION: There have been reports that the long tail rotor drive shaft has entered a whirl mode during inadvertent overspeeds into the 115 percent rotor speed range. This third order whirl mode allows the shaft to take a permanent set, creating excessive misalignment on the shaft couplings which results in coupling fatigue failure and loss of drive to the tail rotor. Since the R-22 series helicopters require throttle coordination on several maneuvers to prevent overspeeds, and because the helicopter is often used for training, the rotor RPM limits may frequently be exceeded. A new, larger diameter shaft assembly has been approved that will preclude shaft whipping during inadvertent overspeed operations. Since this condition is likely to exist or develop on other helicopters of the same type design, an Airworthiness Directive is being issued which requires replacement of the tail rotor drive shaft, damper, and aft coupling plate assemblies on the Robinson R-22 series helicopters.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedures hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Approximately 280 aircraft could be affected by the requirements of this AD for an estimated impact of $113,400 or $405 per aircraft.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, and Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Robinson Helicopter Company: Applies to Model R-22 series helicopters certificated in all categories, serial numbers 0002 through 0282.

Compliance is required as indicated, unless already accomplished.

To prevent loss of power to the tail rotor, accomplish the following:

Within 100 hours' additional time in service after the effective date of this AD, remove from further service the following tail rotor drive shaft components in accordance with Robinson Helicopter Company Service Bulletin #21 dated June 1, 1982, or FAA approved equivalent:

T/R Driveshaft Assembly A197–[1] thru Rev. P,
Damper Assembly A041–1 thru Rev. H,
Plate, Flex Coupling A193–3,
Spacer A559–1 thru Rev. F,
Spacer A559–2.

Replace with:

T/R Driveshaft Assembly A197–* Rev. Q and subsequent,
Damper Assembly A041–1 Rev. I and subsequent,
Plate, Flex Coupling A947–3,
Spacer A559–1 Rev. G and subsequent.

Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations to operate rotorcraft to a base for the accomplishment of modifications required by this AD.

Alternative inspections, modifications, or other actions which provide an equivalent level of safety may be used when approved by the Chief, Western Aircraft Certification Field Office, FAA, Northwest Mountain Region.

This amendment becomes effective July 26, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation that is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final regulatory evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the various courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Fort Worth, Texas, on July 9, 1982.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 82-19866 Filed 7-23-82; 8:45 am]

BILLING CODE 4910-13-M

[1] The dash number of the replacement A197 shaft must be the same as the one removed to obtain the correct length.

14 CFR Part 71

[Airspace Docket No. 82-ASW-26]

Designation of Transition Area: Waller, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will designate a transition area at Waller, TX. The intended effect of the amendment is to provide controlled airspace for aircraft executing a new instrument approach procedure to the Skylake Airport, Waller, TX. This amendment is necessary to provide protection for aircraft executing a standard instrument approach procedure (SIAP) to the Skylake Airport using the Navasota VORTAC.

EFFECTIVE DATE: October 28, 1982.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW–535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, telephone (817) 624–4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

On May 24, 1982, a notice of proposed rulemaking was published in the **Federal Register** (47 FR 22376) stating that the Federal Aviation Administration proposed to designate the Waller, TX, transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes, this amendment is that proposed in the notice.

List of Subjects in 14 CFR Part 71

Control zones and/or transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, by the Administrator, Subpart G of Part 71, § 71.181, of the Federal Aviation Regulations (14 CFR Part 71) as republished in Advisory Circular AC 70–3 dated January 29, 1982, is amended, effective 0901 GMT, October 28, 1982, as follows:

Waller, TX, New

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Waller, TX, Skylake Airport (latitude 29°59'28" N., longitude 95°55'48" W.).

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 1103; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. It is certified that the rule will not have a significant economic impact on a substantial number of small entities as the anticipated impact is minimal.

Issued in Fort Worth, TX, on July 14, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82-19868 Filed 7-23-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 97

[Docket No. 23218; Amdt. No. 1221]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA–430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs, mailed once every 2 weeks, may be ordered from Superintendant of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.00.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures and Airspace Branch (AFO–730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4 and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM)(as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Proceduers, effective at 0901 Gmt on the dates specified, as follows:

1. By amending § 97.23 VOR–VOR/DME SIAPs identified as follows:

* * * Effective September 16, 1982

Montague, MA—Turners Falls, VOR–A, Amdt. 2
Westfield, MA—Barnes Muni, VOR or TACAN Rwy 2, Amdt. 1
Hamilton, NY—AMA Executive Airstrip, VOR–A, Amdt. 1
Winchester, VA—Winchester Muni, VOR/DME–A, Original

* * * Effective September 2, 1982

Decatur, AL—Pryor Field, VOR Rwy 18, Amdt. 8
Decatur, AL—Pryor Field, VOR Rwy 36, Amdt. 1
Kodiak, AK—Kodiak, VOR or TACAN Rwy 25, Amdt. 4
Fresno, CA—Fresno-Chandler Downtown, VOR–A, Amdt. 3, cancelled
Fresno, CA—Fresno-Chandler Downtown, VOR/DME–C, Original
Marietta, GA—McCollum, VOR/DME Rwy 9, Original cancelled
Hilo, HI—General Lyman Field, VOR Rwy 26, Amdt. 5
Hilo, HI—General Lyman Field, VOR/DME or TACAN–A, Amdt. 4
Hilo, HI—General Lyman Field, VOR/DME or TACAN Rwy 26, Amdt. 2
Honolulu, HI—Honolulu Intl, VOR or TACAN Rwy 8L, Amdt. 17
Honolulu, HI—Honolulu Intl, VOR or TACAN Rwy 8R, Amdt. 4
Kahului, HI—Kahului, VOR/DME or TACAN Rwy 20, Amdt. 4
Kahului, HI—Kahului, VOR/DME or TACAN–A, Amdt. 3
Kahului, HI—Kahului, VOR or TACAN Rwy 2, Amdt. 6
Kahului, HI—Kahului, VOR Rwy 20, Amdt. 9
Indianapolis, IN—Indianapolis Intl, VOR Rwy 13, Amdt. 21
Jeffersonville, IN—Clark County, VOR Rwy 18, Original
Elizabethtown, KY—Elizabethtown, VOR–A, Original
Marksville, LA—Marksville Muni, VOR/DME–A, Amdt. 1
Grand Ledge, MI—Abrams Muni, VOR–A, Amdt. 1
Utica, MI—Berz-Macomb, VOR–A, Original
Minneapolis, MN—Flying Cloud, VOR Rwy 9R, Amdt. 4
Minneapolis, MN—Flying Cloud, VOR Rwy 36, Amdt. 9
Brockport, NY—Ledgedale Airpark, VOR Rwy 28,, Amdt. 2
Millbrook, NY—Sky Acres, VOR–A, Amdt. 5
Beach City, OH—Beach City, VOR–A, Original
Painesville, OH—Concord Airpark, VOR–A, Amdt. 7
Sidney, OH—Sidney Muni, VOR Rwy 22, Amdt. 9
Crossville, TN—Crossville Memorial, VOR/DME–A, Amdt. 7
Dayton, TN—Mark Anton, VOR/DME–A, Amdt. 2
Jamestown, TN—Jamestown Muni, VOR/DME–A, Amdt. 1
Knoxville, TN—Knoxville Downtown Island, VOR–A, Amdt. 2, cancelled
Livingston, TN—Livingston Muni, VOR/DME Rwy 21, Amdt. 1
Oneida, TN—Scott Muni, VOR/DME–A, Amdt. 2
Rockwood, TN—Rockwood Muni, VOR/DME Rwy 22, Amdt. 3
Decatur, TX—Decatur Muni, VOR–A, Amdt. 2
Wheeling, WV—Wheeling Ohio Co., VOR Rwy 21, Amdt. 7

* * * Effective July 15, 1982

Shelby, NC—Shelby Muni, VOR/DME Rwy 5, Amdt. 6

* * * Effective July 8, 1982

Shelbyville, TN—Bomar Field-Shelbyville Muni, VOR/DME Rwy 18, Amdt. 1

2. By amending § 97.25 SDF–LOC–LDA SIAPs identified as follows:

* * * Effective September 2, 1982

Tampa, FL—Tampa Intl, LOC BC Rwy 18R, Amdt. 5, cancelled
Macon, GA—Herbert Smart Downtown, LDA Rwy 9, Original
Kahului, HI—Kahului, LOC/DME (BC) Rwy 20, Amdt. 7

Minneapolis, MN—Flying Cloud, LOC Rwy 9R, Original
Memphis, TN—Memphis Intl, LOC (BC) Rwy 27, Amdt. 19, cancelled
Oneida, TN—Scott Muni, SDF Rwy 23, Amdt. 1

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

* * * Effective September 2, 1982

Kodiak, AK—Kodiak, NDB Rwy 25, Amdt. 2
Fresno, CA—Fresno-Chandler Downtown, NDB–B, Amdt. 4
Titusville, FL—Titusville-Cocoa, NDB Rwy 18, Amdt. 9
Kahului, HI—Kahului, NDB Rwy 20, Amdt. 6
Indianapolis, IN—Indianapolis Intl, NDB Rwy 4L, Amdt. 16
Indianapolis, IN—Indianapolis Intl, NDB Rwy 31, Amdt. 9
Larned, KS—Larned-Pawnee County, NDB Rwy 17, Amdt. 1
Larned, KS—Larned-Pawnee County, NDB–A, Amdt. 1, cancelled
Marksville, LA—Marksville Muni, NDB Rwy 4, Original
Minneapolis, MN—Flying Cloud, NDB Rwy 9R, Original, cancelled
Vicksburg, MS—Vicksburg Muni, NDB Rwy 1, Amdt. 4
Hamilton, OH—Hamilton, NDB–A, Amdt. 10
Versailles, OH—Darke County, NDB Rwy 9, Amdt. 4
Oneida, TN—Scott Muni, NDB Rwy 23, Amdt. 1
Devine, TX—Devine Muni, NDB Rwy 35, Original
Ladysmith, WI—Rusk County, NDB Rwy 32, Original
Powell, WY—Powell Muni, NDB Rwy 31, Original

* * **Effective July 15, 1982*

Grayling, MI—Grayling AAF, NDB Rwy 14, Amdt. 4
Shelby, NC—Shelby Muni, NDB Rwy 5, Amdt. 2

* * **Effective July 9, 1982*

Delavan, WI—Lake Lawn, NDB Rwy 18, Amdt. 1

* * **Effective July 8, 1982*

Andreafsky/St. Marys, AK—St. Marys, NDB/DME Rwy 16, Amdt. 3
Andreafsky/St. Marys, AK—St. Marys, NDB Rwy 16, Amdt. 3
Andreafsky/St. Marys, AK—St. Marys, NDB Rwy 34, Amdt. 2

4. By amending § 97.29 ILS–MLS SIAPs identified as follows:

* * **Effective September 16, 1982*

Washington, DC—Dulles Intl, ILS Rwy 12, Amdt. 2

* * **Effective September 2, 1982*

Kodiak, AK—Kodiak, ILS/DME–1 Rwy 25, Amdt. 2
Hilo, HI—General Lyman Field, ILS Rwy 26, Amdt. 7
Honolulu, HI—Honolulu Intl, ILS Rwy 8L, Amdt. 16
Kahului, HI—Kahului, ILS Rwy 2, Amdt. 17
Indianapolis, IN—Indianapolis Intl, ILS Rwy 4L, Amdt. 19
Indianapolis, IN—Indianapolis Intl, ILS Rwy 22R, Amdt. 4
Indianapolis, IN—Indianapolis Intl, ILS Rwy 31 Amdt. 11
Minneapolis, MN—Flying Cloud, MLS Rwy 9R (Interim), Amdt. 3
Pierre, SD—Pierre Muni, ILS Rwy 31, Amdt. 6
Crossville, TN—Crossville Memorial, ILS Rwy 25, Amdt. 6
Memphis, TN—Memphis Intl, ILS Rwy 27, Original
Wheeling, WV—Wheeling Ohio Co, ILS Rwy 3, Amdt. 14

* * **Effective July 8, 1982*

Andreafsky/St. Marys, AK—St. Marys, ILS/DME Rwy 16, Amdt. 3

5. By amending § 97.31 RADAR SIAPs identified as follows:

* * **Effective September 2, 1982*

Indianapolis, IN—Indianapolis Intl, RADAR–1, Amdt. 25

6. By amending § 97.33 RNAV SIAPs identified as follows:

* * **Effective September 2, 1982*

Hamilton, OH—Hamilton, RNAV Rwy 29, Amdt. 4
Sidney, OH—Sidney Muni, RNAV Rwy 28, Amdt. 1
Dayton, TN—Mark Anton, RNAV Rwy 21, Amdt. 1
Knoxville, TN—Knoxville Downtown Island, RNAV Rwy 26, Original, cancelled

* * **Effective July 8, 1982*

Shelbyville, TN—Bomar Field-Shelbyville Muni, RNAV Rwy 18, Amdt. 2

Note.—The FAA published an amendment in Docket No. 23079, Amdt. No. 1218 to Part 97 of the Federal Aviation Regulations (Vol. 47 FR No. 114, page 25511; dated June 14, 1982) under section 97.33 effective August 5, 1982, which is hereby amended as follows: Esterville, IA—Esterville Muni, RNAV Rwy 34, orig cancelled.

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. The FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C. on July 16, 1982.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on December 31, 1981.

John M. Howard,
Acting Chief, Aircraft Programs Division.

[FR Doc. 82-19865 Filed 7-23-82; 8:45 am]
BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket 9125]

BASF Wyandotte Corp.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Dismissal order.

SUMMARY: This order upholds the Administrative Law Judge's May 14, 1982 Initial Decision in this matter and effects dismissal of the complaint on July 13, 1982. The complaint charged the wholly-owned American subsidiary of a German chemical corporation with antitrust violations in the organic pigments market.

DATES: Complaint issued April 5, 1979. Dismissal order issued July 12, 1982.[1]

FOR FURTHER INFORMATION CONTACT: Paul W. Turley, Director, 3R, Chicago Regional Office, Federal Trade Commission, 55 East Monroe St., Suite 1437, Chicago, Ill. 60603. (312) 353–4423.

SUPPLEMENTARY INFORMATION: In the Matter of BASF Wyandotte Corporation, a wholly owned subsidiary of BASF A.G., a corporation.

List of Subjects in 16 CFR Part 13

Organic pigments.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

The Final Order is as follows:

Final Order

The Administrative Law Judge filed an Initial Decision dismissing the complaint in this matter on May 14, 1982, and service on the parties was completed on May 26, 1982. No appeal from the Initial Decision has been filed. The Commission has determined that the case should not be placed on its own docket for review and that the Initial Decision should become effective as provided in Rule 3.51(a) of the Commission's Rules of Practice (16 CFR 3.51(a)). By operation of Rule 3.51(a), the Commission adopts the Administrative Law Judge's order of dismissal as its

[1] Copies of the Complaint, Initial Decision and Final Order filed with the original document.

decision in this matter. The precedential significance of all or any part of this dismissal in future Commission proceedings will depend entirely on the persuasive weight the Commission determines that it should bear in such proceedings. Accordingly, it is ordered that the Initial Decision dismissing the complaint herein shall become effective on July 13, 1982.

By the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-20168 Filed 7-23-82; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 4

[Docket No. RM81-7-000; Order No. 202-A]

Exemption From the Licensing Requirements of Part I of the Federal Power Act of Certain Categories of Small Hydroelectric Power Projects With an Installed Capacity of 5 Megawatts or Less

Issued July 20, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order denying petition for stay of final rule.

SUMMARY: The Federal Energy Regulatory Commission is issuing an order denying a petition for a stay of the final rule in Docket No. RM81-7-000 (Order No. 202). The final rule establishes procedures and standards for exempting two categories of small hydroelectric power projects 5 MW or less from licensing requirements in Part 1 of the Federal Power Act.

FOR FURTHER INFORMATION CONTACT: Frederick D. Chanania, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION:

Order Denying Petition For Stay of Final Rule

Issued July 20, 1982.

In the matter of exemption from the licensing requirements of Part I of the Federal Power Act of certain categories of small hydroelectric power projects with an installed capacity of 5 megawatts or less.

I. Introduction

On June 21, 1982, the National Wildlife Federation, Trout Unlimited, Inc., and New England Rivers Center ("petitioners") filed with the Commission a Motion for Stay of Order No. 202 Pending Reconsideration ("Motion").[1] Order No. 202 is the final rule in Docket No. RM81-7-000.[2] This final rule establishes procedures and standards for exempting two categories of small hydroelectric power projects 5 MW or less from licensing requirements in Part 1 of the Federal Power Act.[3] In their Motion, petitioners request a stay of the final rule, pending rehearing pursuant to the petitioner's Application for Rehearing.[4]

II. Discussion

The Motion is grounded upon arguments raised during the rulemaking comment period. Notwithstanding the Commission's treatment of these issues in the final rule, the petitioners raised these same arguments in their application for rehearing of the final rule. The Commission has not yet completed its final reconsideration of the points raised on rehearing and, therefore, will defer, until its rehearing decision, any final action on these points. Nonetheless, in light of the pendency of the Motion to stay the final rule, the Commission makes the following determinations.[5]

A. Assessment of Potential Harm

In the context of their request for a stay of the final rule in Docket No. RM81-7-000, the burden is upon the petitioners for such extraordinary action to show that significant harm will be incurred and that the equities favor granting the stay. Petitioners have basically presented only a reargument of views expressed during the rulemaking and on rehearing. For the reasons set forth below, the Commission does not believe a stay is warranted at this time.

The final rule addresses two categories of hydroelectric power projects (less than 100KW and 100KW-5MW) that are very small in size in relation to other hydroelectric projects licensed by the Commission. *See* 18 CFR 4.109(a) and (b). The rule establishes stringent criteria which any project must meet in order to qualify for an exemption, and these criteria specifically eliminate those projects where significant adverse environmental effects are likely. For example, water cannot be diverted from the existing waterway for more than 300 feet, thus allowing only a minimal area for the construction of any necessary project works. In addition, projects may not obstruct the passage of migratory fish and may not adversely affect any threatened or endangered species or critical habitat. Projects with more than 100 KW of installed capacity may not cause violation of federal or state water quality standards and may not vary the existing regime of storage and release at the existing dam. Other requirements are imposed as well. *See generally,* 18 CFR 4.109 (a) and (b).

The final rule also requires an applicant to serve a copy of the Notice of Exemption on, and obtain certifications from, fish and wildlife agencies, state historic preservation officers, and water resources agencies before filing the application. These certifications must attest that water quality standards will not be violated, that historic sites will not be adversely affected, that no endangered or threatened species or critical habitats will be adversely affected, and that there is either no significant migratory fish population (for 100 KW or 5 MW projects) or no constriction of passage of any migratory fish (for less than 100 kW projects). *See* 18 CFR 4.112(b), and 4.113(b).

In assessing whether there is potential harm from the continued effectiveness of the final rule, the petitions have not presented any information to demonstrate that the environmental protection afforded in the exemption process is so deficient as to warrant a stay. Absent such a showing, the Commission will not take the unusual step of granting a stay of the final rule at this point.

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[1] Petitioners filed their Motion pursuant to 16 U.S.C. 825-1(c) (1976) and 18 CFR 1.12 (1981). Sections 1.12 (a) and (e) permit motions to be filed only "after a hearing has commenced" i.e., in a trial-type proceeding. Rulemakings are not trial-type proceedings and do not involve hearings in the sense that term is used in § 1.12. Therefore, the Commission is treating the Motion as a petition for a stay under 18 CFR 1.7 (a) and (b).

[2] Issued Jan. 19, 1982, 47 FR 4232 (Jan. 29, 1982).

[3] The final rule implements, in part, section 408 of the Energy Security Act of 1980 ("ESA"), Pub. L. 96-294, 94 Stat. 611. This section of the ESA amended sections 405 and 408 of the Public Utilities Regulatory Policy Act of 1978 (PURPA), 16 U.S.C. 2705, 2708. Under section 408(b) of the ESA, the Commission is authorized to exempt "classes or categories" of small hydroelectric power projects.

[4] Filed February 18, 1982. The Commission tolled the period for action on rehearing on March 22, 1982, 47 FR 13517 (Mar. 31, 1982).

[5] Contrary to petitioners' assertion, the standards for judicial stays in Virginia Petroleum Jobbers Ass'n v. FPC, 259 F.2d 921, 925 (D.C. Cir. 1958) are not mandatory for the Commission in determining whether to stay a final rule during the pendency of rehearing. Under the Administrative Procedure Act, the Commission may grant such a stay when it determines that "justice so requires." 5 U.S.C. 705.

B. Balance of the Equities

Granting petitioners' request for a stay, and thereby foreclose the availability of further categorical exemptions, would lead to unwarranted adverse effects, both on potential hydroelectric project developers and on the public interest. First, the Congressional mandate to the Commission in sections 402 and 408 of the ESA would be frustrated. Section 408 of the ESA authorizes the Commission to establish categorical exemptions. Section 402 of the ESA provides specifically that one major purpose of Title IV (including Section 408) is "to provide further encouragement for the development of small hydroelectric power projects."

Second, given the size of these projects and the types of developers that appear interested in these small projects (based on the developers that have filed pplications or expressed interest thus ar), adverse effects would likely be imposed upon those persons interested in developing small hydroelectric power projects. It is not unreasonable for such persons to rely on the availability of the categorical exemption process when acquiring ownership of potential sites and when incurring start-up expenses, such as the site studies and information-gathering needed to meet certification requirements. A stay of the final rule would adversely affect those hydroelectric projects, into which developers and others have put time and expense. A stay would delay the effectiveness of an exemption where a Notice of Exemption is pending, and also would jeopardize the future filing of any Notice of Exemption which is now in the preparation stage. Under the circumstances, it is unlikely that resort to case-specific exemption from licensing procedures under Order No. 106 will be an acceptable alternative to the categorical exemption process, particularly in view of the Congressional mandate in section 408 of the ESA. The petitoners have not adequately demonstrated how this adverse disruption of small hydroelectric power project development would be outweighed by the potential for environmental or other harm from continued administration of the rule.

Since the effective date of the final rule, February 18, 1982, the Commission has received seven acceptable (and four deficient) notices seeking categorical exemptions under 18 CFR §§ 4.109–4.113. The Commission is not presently aware of any reason to expect this flow of exemption applications to increase or decrease dramatically before the rehearing order is issued in this docket. Petitioners' statement about submittal of an "incalculable number" of future exemption notices is not supported. As a result, the Commission does not find that the equities favor granting the requested stay, or that the public interest is best served by suspending the final rule.

III. Conclusion

The Commission has taken into account the petitioners' arguments as well as all the interests involved, including the public interest in hydroelectric power development and appropriate environmental protection. Based upon the showing made in the petitioners' Motion and upon the factors discussed above, the Commission concludes that a stay of the effectiveness of the final rule in Docket No. RM81–7–000, pending a decision on rehearing, is unwarranted at this time. Accordingly, the petitioners' Motion For a Stay of Order No. 202 is hereby denied.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–20134 Filed 7–23–82; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Parts 1, 3 and 5

Notice of Deferral of Effective Dates of Regulations Relating to Labor Standards on Federal and Federally Assisted Construction Projects

AGENCY: Wage and Hour Division, Labor.

ACTION: Notice of deferral of effective dates of regulations.

SUMMARY: This notice defers the effective dates of certain Labor Department regulations relating to labor standards on federal and federally assisted construction projects, from July 27, 1982, until further notice. This action is taken in order to comply with a preliminary injunction issued in the U.S. District Court for the District of Columbia on July 22, 1982.

EFFECTIVE DATE: This notice is effective on July 22, 1982.

ADDRESS: William M. Otter, Administrator, Wage and Hour Division, Employment Standards Administration, Frances Perkins Department of Labor Building, Room S–3502, 200 Constitution Avenue, NW, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: William M. Otter, Telephone: (202) 523–8305.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 28, 1982 (47 FR 23644, 23658, 23678), the Department of Labor issued final regulations, 29 CFR Part 1, entitled "Procedure for Predetermination of Wage Rates"; section 3.3(b) of 29 CFR Part 3 entitled "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants From the United States"; and 29 CFR Part 5, entitled "Labor Standards Provisions Applicable to Noncontracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)." These regulations were to be effective July 27, 1982.

On July 22, 1982, the District Court for the District of Columbia issued a preliminary injunction enjoining the Department from putting certain provisions of these regulations into effect pending final disposition. Accordingly, to prevent confusion and disruption which would be caused by partial effectuation of the regulations, the effective date of the entire regulations published on May 28, 29 CFR Part 1, 29 CFR 3.3(b), and 29 CFR Part 5, Subpart A, is stayed until further notice.

Because these rules are scheduled to become effective very shortly, notice and public comment on this change of effective date is impracticable, unnecessary and contrary to the public interest and good cause exists for making these deferrals effective immediately.

Authority: The statutory authority for this action is as follows: 40 U.S.C. 276a–276a–7; 40 U.S.C. 276c; 40 U.S.C. 327–332; Reorganization Plan No. 14 of 1950, 5 U.S.C. Appendix; 5 U.S.C. 301; and the statutes listed in section 5.1(a) of Part 5.

Signed at Washington, D.C., this 23rd day of July, 1982.

William M. Otter,

Administrator, Wage and Hour Division.

[FR Doc. 82–20285 Filed 7–23–82; 11:47 am]

BILLING CODE 4510–27–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

Conditional Approval of the Permanent Regulatory Program Submission From the State of Indiana Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: On September 28, 1981, the State of Indiana resubmitted to the Department of the Interior its proposed permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). This follows an initial approval in part and disapproval in part of the proposed program which was published in the **Federal Register** on November 25, 1980 (45 FR 78482–78499). The purpose of the resubmission is to demonstrate the State's intent and capability to administer and enforce the provisions of SMCRA and the permanent regulatory program regulations, 30 CFR Chapter VII. Only those portions of the State's original submission which were not initially approved or which were changed are considered in this decision. This rule grants conditional approval of the Indiana permanent regulatory program.

A new Part 914 is being added to 30 CFR Chapter VII to implement this decision.

EFFECTIVE DATE: This conditional approval is effective July 29, 1982. This conditional approval will terminate as specified in 30 CFR 914.11 unless the deficiencies identified below have been corrected in accordance with the dates specified in 30 CFR 914.11, adopted below.

ADDRESSES: Copies of the Indiana program and the administrative record on the Indiana program are available for public inspection and copying during regular business hours at:

Office of Surface Mining, Administrative Record, Room 5315, 1100 L Street, N.W., Washington, D.C. 20240, Phone: (202) 343–7896

Office of Surface Mining, Federal Building and U.S. Courthouse, Fifth Floor, 46 East Ohio Street, Indianapolis, Indiana 46204, Phone: (317) 269–2600

Indiana Department of Natural Resources, Division of Reclamation, Suite 202, 309 West Washington Street, Indianapolis, Indiana 46204

FOR FURTHER INFORMATION CONTACT: Mr. Arthur W. Abbs, Chief, Division of State Program Assistance, Program Operations and Inspection, Office of Surface Mining, Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, Phone: (202) 343–5351.

SUPPLEMENTARY INFORMATION:

A. General Background

The general background on the permanent program, the program approval process, and the Indiana program submission were discussed in the **Federal Register** notice of November 25, 1980 (45 FR 78482–78499). Amendments to the Federal permanent program regulations were published December 12, 1980 (45 FR 82084–83100); January 23, 1981 (46 FR 7894 and 7906); July 17, 1981 (46 FR 37232); August 17, 1981 (46 FR 41702); September 29, 1981 (46 FR 47720); October 8, 1981 (46 FR 50018); October 28, 1981 (46 FR 53376); November 2, 1981 (46 FR 54495); April 29, 1982 (47 FR 18552–18558); and June 17, 1982 (47 FR 26356–26367). An interpretive rule was published November 7, 1980 (45 FR 73945–73946). Additional regulations were suspended August 19, 1981 (46 FR 42063), and December 7, 1981 (46 FR 59934), pending further rulemaking.

In the November 25, 1980 **Federal Register** notice, the Secretary announced his partial approval and partial disapproval of the Indiana program. The Indiana statute was approved with the exceptions noted under the heading "Secretary's Decision," November 25, 1980 (45 FR 78482–78499). The proposed rules submitted by Indiana on March 3, 1980, were not fully promulgated by the 104th day following program submission, as required by 30 CFR 732.11(d).

Therefore, the November 25, 1980 **Federal Register** notice did not contain findings on the State's regulatory provisions. However, the Indiana regulations were published in the *Indiana Register* on November 1, 1981, and amendments subsequent to that time were adopted on May 26, 1982 (IN–0269). The regulations become effective on the date of approval of the Indiana program.

Background on the Indiana Resubmission

In accordance with the procedures set forth in 30 CFR 732.13(f), the State of Indiana originally had 60 days from the date of publication of the Secretary's partial approval decision on November 25, 1980, to resubmit a revised program for consideration. On July 29, 1980, prior to the publication of the Secretary's initial decision, the Marion County Circuit Court enjoined the Indiana Department of Natural Resources (IDNR) from submitting or resubmitting the Indiana permanent State program for a period of one year. On July 28, 1981, the injunction terminated and the State had 60 days within which to resubmit its program. The State submitted its revised program for consideration on September 28, 1981. Announcement of Indiana's resubmission was made in newspapers of general circulation within the State of Indiana and published in the **Federal Register** on September 28, 1981 (46 FR 47467), and a public hearing was held in Vincennes, Indiana on October 23, 1981. An additional 20 day public comment period was announced in the **Federal Register** on May 26, 1982 (47 FR 22974), in order to allow public comment on additional information submitted by Indiana and to consider the Indiana program in light of the new definition of "consistent with," which sets a new standard for comparison of the State program with the Federal regulations, 30 CFR 732.15 (46 FR 53376–53384, October 28, 1981). The second public comment period ended on June 15, 1982.

Public disclosure of comments by Federal agencies was made on June 18, 1982 (47 FR 26406).

On July 9, 1982 the Administrator of the Environmental Protection Agency transmitted her written concurrence on the Indiana program.

The OSM Regional Director completed his program review on June 17, 1982 and forwarded the public hearing transcripts, written presentations, and copies of all comments to the Director together with a recommendation that the program be conditionally approved.

On July 8, 1982, the Director recommended to the Secretary that the Indiana program be conditionally approved.

The basis and purpose statement for the Secretary's decision to conditionally approve the Indiana program consists of this notice and the November 25, 1980 **Federal Register** notice, announcing the Secretary's initial decision. The Indiana program consists of the formal submission of March 3, 1980 (IN–0002), as amended on June 4, 1980 (IN–0114), the resubmission of September 28, 1981 (IN–0220), December 8, 1981 (IN–0260), April 8, 1982 (IN–0265), May 18–19, 1982 (IN–0268), and May 26, 1982 (IN–0269), and as clarified in meetings with Indiana described below. On November 2, 3, 13 and 16, 1981, February 24 and May 18 and 19, 1982, OSM representatives met with officials of the IDNR to discuss the Indiana resubmission. All of the issues discussed at these meetings were subsequently

resolved, with the exceptions of those discussed below under "Secretary's Findings." For further background on the matters discussed at these meetings, see IN–0240, IN–0255, IN–0262, and IN–0268.

Throughout the remainder of this notice, "Indiana program" or "Indiana submission" is used to mean the documents cited above together with those parts of the initial submission partially approved on November 25, 1980. The Indiana program being approved today consists of all information provided to OSM by Indiana, including State laws, regulations, opinions of the Indiana Attorney General, narrative explanations, policy statements, meeting notes, permit application forms, memoranda of understanding or agreement, and related materials. Any changes to any part of the approved State program must be approved by OSM under the rules and procedures governing state program amendments found at 30 CFR 732.17.

The term "resubmission" only refers to those portions of the Indiana program resubmitted on September 28, 1981 (IN–0220), and as modified on December 8, 1981 (IN–0260), April 8, 1982 (IN–0265), May 18–19, 1982 (IN–0268), and May 20, 1982 (IN–0269), and the meeting notes of November 2, 3, 13, and 18, 1981, February 24 and May 18–19, 1982. (See IN–2040, IN–0255, IN–0267, and IN–0268). The term "May 18 and 19, 1982 meeting" refers to a meeting held between OSM and the IDNR, the purpose of which was to discuss concerns about the Indiana program submission. The meeting notes were entered into the administrative record and were made available for public review during the second public comment period (See IN–0268).

The Secretary's findings below are organized to follow the order set forth in Section 503 of SMCRA and 30 CFR 732.15. These sections specify the findings which the Secretary must make before he may approve a regulatory program.

Because Indiana has recodified its regulations since its original submission, OSM has adjusted all references to the State's rules throughout this notice to refer to the current Indiana citations. The following cross-reference table is included to assist the reader.

CROSS REFERENCE OF INDIANA SUBMITTED REGULATIONS AND INDIANA CODIFIED REGULATIONS

Recodified Indiana rules	Original Indiana rules
310 IAC	
12-1-2	700.01

CROSS REFERENCE OF INDIANA SUBMITTED REGULATIONS AND INDIANA CODIFIED REGULATIONS—CONTINUED

Recodified Indiana rules	Original Indiana rules
12-1-3	701.10
12-1-4	707.12
12-2-1	761.11
12-2-2	761.11
12-2-3	762.12
12-2-4	762.13
12-2-5	762.14
12-2-6	764.13
12-2-7	764.15
12-2-8	764.17
12-2-9	764.19
12-2-10	764.21
12-2-11	764.23
12-2-12	764.25
12-3-1	770.11
12-3-2	771.4
12-3-3	771.11
12-3-4	771.19
12-3-5	771.21
12-3-6	771.23
12-3-7	771.24
12-3-8	771.25
12-3-9	771.26
12-3-10	771.27
12-3-11	776.3
12-3-12	776.11
12-3-13	776.12
12-3-14	776.13
12-3-15	776.14
12-3-16	776.15
12-3-17	776.17
12-3-18	778.11
12-3-19	778.13
12-3-20	778.14
12-3-21	778.15
12-3-22	778.16
12-3-23	778.17
12-3-24	778.18
12-3-25	778.19
12-3-26	778.20
12-3-27	778.21
12-3-28	779.11
12-3-29	779.12
12-3-30	779.13
12-3-31	779.14
12-3-32	779.15
12-3-33	779.16
12-3-34	779.17
12-3-35	779.18
12-3-36	779.21
12-3-37	779.22
12-3-38	779.24
12-3-39	779.25
12-3-40	779.27
12-3-41	780.11
12-3-42	780.12
12-3-43	780.13
12-3-44	780.14
12-3-45	780.15
12-3-46	780.16
12-3-47	780.21
12-3-48	780.23
12-3-49	780.25
12-3-50	780.27
12-3-51	780.29
12-3-52	780.31
12-3-53	780.33
12-3-54	780.35
12-3-55	780.37
12-3-56	782.11
12-3-57	782.13
12-3-58	782.14
12-3-59	782.15
12-3-60	782.16
12-3-61	782.17
12-3-62	782.18
12-3-63	782.19
12-3-64	782.20
12-3-65	782.21
12-3-66	783.11
12-3-67	783.12
12-3-68	783.13
12-3-69	783.14
12-3-70	783.15
12-3-71	783.16
12-3-72	783.17
12-3-73	783.18

CROSS REFERENCE OF INDIANA SUBMITTED REGULATIONS AND INDIANA CODIFIED REGULATIONS—CONTINUED

Recodified Indiana rules	Original Indiana rules
12-3-74	783.22
12-3-75	783.24
12-3-76	783.25
12-3-77	783.27
12-3-78	784.11
12-3-79	784.12
12-3-80	784.13
12-3-81	784.14
12-3-82	784.15
12-3-83	784.16
12-3-84	784.17
12-3-85	784.18
12-3-86	784.19
12-3-87	784.20
12-3-88	784.22
12-3-89	784.23
12-3-90	784.24
12-3-91	784.25
12-3-92	784.26
12-3-93	785.1
12-3-94	785.13
12-3-95	785.14
12-3-96	785.15
12-3-97	785.16
12-3-98	785.17
12-3-99	785.18
12-3-100	785.19
12-3-101	785.20
12-3-102	785.22
12-3-103	785.23
12-3-104	785.24
12-3-105	786.4
12-3-106	786.11
12-3-107	786.12
12-3-108	786.13
12-3-109	786.14
12-3-110	786.15
12-3-111	786.17
12-3-112	786.19
12-3-113	786.21
12-3-114	786.23
12-3-115	786.25
12-3-116	786.27
12-3-117	786.31
12-3-118	787.11
12-3-119	787.12
12-3-120	788.11
12-3-121	788.12
12-3-122	788.13
12-3-123	788.14
12-3-124	788.15
12-3-125	788.16
12-3-126	788.17
12-3-127	788.18
12-3-128	788.19
12-3-129	795.2
12-3-130	795.5
12-3-131	795.13
12-3-132	795.14
12-3-133	795.16
12-3-134	795.17
12-3-135	795.19
12-4-1	800.1
12-4-2	800.2
12-4-3	800.4
12-4-4	800.5
12-4-5	800.11
12-4-6	800.12
12-4-7	800.13
12-4-8	800.14
12-4-9	800.15
12-4-10	800.16
12-4-11	800.20
12-4-12	800.21
12-4-13	800.22
12-4-14	800.24
12-4-15	800.30
12-4-16	800.40
12-4-17	800.50
12-4-18	800.51
12-4-19	800.60
12-5-1	815.11
12-5-2	815.13
12-5-3	815.15
12-5-4	815.17
12-5-5	816.10
12-5-6	816.11

CROSS REFERENCE OF INDIANA SUBMITTED REGULATIONS AND INDIANA CODIFIED REGULATIONS—CONTINUED

Recodified Indiana rules	Original Indiana rules
12-6-7	816.12
12-5-8	816.13
12-5-9	816.14
12-5-10	816.15
12-5-11	816.21
12-5-12	816.22
12-5-13	816.23
12-5-14	816.24
12-5-15	816.25
12-5-16	816.41
12-5-17	816.42
12-5-18	816.43
12-5-19	816.44
12-5-20	816.46
12-5-21	816.46
12-5-22	816.47
12-5-23	816.48
12-5-24	816.49
12-5-25	816.50
12-5-26	816.51
12-5-27	816.52
12-5-28	816.53
12-5-29	816.54
12-5-30	816.55
12-5-31	816.56
12-5-32	816.57
12-5-33	816.61
12-5-34	816.62
12-5-35	816.64
12-5-36	816.65
12-5-37	816.67
12-5-38	816.68
12-6-39	816.71
12-5-40	816.79
12-5-41	816.81
12-5-42	816.82
12-5-43	816.83
12-5-44	816.85
12-5-45	816.86
12-5-46	816.88
12-6-47	816.89
12-5-48	816.91
12-5-49	816.92
12-5-50	816.93
12-5-51	816.97
12-5-52	816.99
12-5-53	816.100
12-5-54	816.101
12-5-55	816.102
12-5-56	816.103
12-5-57	816.104
12-5-58	816.105
12-5-59	816.111
12-5-60	816.112
12-5-61	816.113
12-5-62	816.114
12-5-63	816.115
12-5-64	816.116
12-5-65	816.117
12-5-66	816.131
12-5-67	816.132
12-5-68	816.133
12-5-69	816.150
12-5-70	816.180
12-6-71	816.181
12-5-72	817.10
12-5-73	817.11
12-5-74	817.13
12-5-75	817.14
12-5-76	817.15
12-5-77	817.21
12-5-78	817.22
12-5-79	817.23
12-5-80	817.24
12-5-81	817.45
12-5-82	817.41
12-5-83	817.42
12-5-84	817.43
12-5-85	817.44
12-5-86	817.45
12-5-87	817.46
12-6-88	817.47
12-6-89	817.48
12-5-90	817.49
12-5-91	817.50
12-5-92	817.52
12-5-93	817.55

CROSS REFERENCE OF INDIANA SUBMITTED REGULATIONS AND INDIANA CODIFIED REGULATIONS—CONTINUED

Recodified Indiana rules	Original Indiana rules
12-5-94	817.54
12-5-95	817.55
12-5-96	817.56
12-5-97	817.57
12-5-98	817.58
12-5-99	817.61
12-5-100	817.62
12-5-101	817.65
12-5-102	817.67
12-5-103	817.68
12-5-104	817.71
12-5-105	817.81
12-5-106	817.82
12-5-107	817.83
12-5-108	817.85
12-5-109	817.86
12-5-110	817.88
12-5-111	817.89
12-5-112	817.91
12-5-113	817.92
12-5-114	817.95
12-5-115	817.97
12-5-116	817.99
12-5-117	817.100
12-5-118	817.101
12-5-119	817.102
12-5-120	817.103
12-5-121	817.104
12-5-122	817.105
12-5-123	817.111
12-5-124	817.112
12-5-125	817.113
12-5-126	817.114
12-5-127	817.115
12-5-128	817.116
12-5-129	817.117
12-5-130	817.121
12-5-131	817.122
12-5-132	817.124
12-5-133	817.126
12-5-134	817.131
12-5-135	817.132
12-5-136	817.133
12-5-137	817.150
12-5-138	817.180
12-5-139	817.181
12-5-140	818.11
12-5-141	818.13
12-5-142	818.15
12-6-143	819.10
12-5-144	819.11
12-5-145	823.11
12-5-146	823.12
12-5-147	823.13
12-5-148	823.14
12-5-149	824.11
12-5-150	825.11
12-5-151	825.12
12-5-152	825.15
12-5-153	825.16
12-5-154	825.17
12-5-155	827.11
12-5-156	827.12
12-5-157	828.11
12-5-158	828.12
12-6-1	840.1
12-6-2	840.2
12-6-3	840.3
12-6-4	840.4
12-6-5	843.11
12-6-6	843.12
12-6-7	843.14
12-6-8	843.15
12-6-9	843.16
12-6-10	843.19
12-6-11	845.12
12-6-12	845.13
12-6-13	845.15
12-6-14	845.16
12-6-15	845.17
12-6-16	845.18
12-6-17	845.19
12-6-18	846.20

B. The Secretary's Findings

In reaching his decision to conditionally approve the Indiana program submission, the Secretary finds, in accordance with Section 503(a) of SMCRA and 30 CFR 732.15, that Indiana has the capability, except as noted below, to carry out the provisions of SMCRA and to meet its purposes in the following ways. Findings made under Section 503 (a) (1) through (7) and (b) (1) through (4) are numbered (1) through (11). Findings made under 30 CFR 732.15 (a), (b) (1) through (16), (c), and (d) are numbered (12) through (30).

Finding 1

The Secretary finds that the State of Indiana has a law (I.C. 13–4.1 *et seq.*) and regulations adopted thereunder to provide, except as noted in the findings below, for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands in Indiana in accordance with SMCRA. This finding is based on the requirements of Section 503(a)(1) of SMCRA (30 U.S.C. 1253(a)(1)). The issues underlying this finding are analyzed in Findings 12 through 30, below.

Finding 2

The Secretary finds that Indiana has a law (I.C. 13–4.1 *et seq.*) which provides, except as noted in the findings below, sanctions for violations of State laws, regulations or conditions of permits concerning surface coal mining and reclamation operations and which meets the requirements of SMCRA, including civil and criminal sanctions, forfeiture of bonds, suspensions, revocations, and withholding of permits and the issuance of cease and desist orders by the IDNR or its inspectors.

This finding is based on the requirements of Section 503(a)(2) of SMCRA (30 U.S.C. 1253(a)(2)). The issues underlying this finding are analyzed in Findings 18, 19 and 20, below.

Finding 3

The Secretary finds that the IDNR has sufficient administrative and technical personnel and sufficient funds to enable Indiana to regulate surface coal mining and reclamation operations in accordance with the requirements of SMCRA. This finding is based on the requirements of Section 503(a)(3) of SMCRA (30 U.S.C. 1253(a)(3)).

Finding 4

The Secretary finds that Indiana has a law (I.C. 13–4.1 *et seq.*) which provides, except as noted in the findings below,

for the effective implementation, maintenance and enforcement of a permit system that meets the requirements of SMCRA for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within Indiana. This finding is based on the requirements of Section 503(a)(4) of SMCRA (30 U.S.C. 1253(a)(4)). The issues underlying this finding are discussed in Finding 14, below.

Finding 5

The Secretary finds that the Indiana program provides, except as noted in the findings below, for the establishment of a process for designation of areas as unsuitable for surface coal mining in accordance with Section 522 of SMCRA (30 U.S.C. 1272). This finding is based on the requirements of Section 503(a)(5) of SMCRA (30 U.S.C. 1253(a)(5)). The issues underlying this finding are discussed in Finding 21, below.

Finding 6

The Secretary finds that the Indiana program provides, for the purposes of avoiding duplication, a process for coordinating the review and issuance of permits for surface coal mining and reclamation operations with other Federal or State permit processes applicable to the proposed operations. This finding is based on the requirements of Section 503(a)(6) of SMCRA (30 U.S.C. 1253(a)(6)).

Finding 7

The Secretary finds that Indiana has fully enacted regulations which, except as noted in the findings below, are no less effective than the regulations issued by the Secretary pursuant to SMCRA. This finding is based on the requirements of Section 503(a)(7) of SMCRA (30 U.S.C. 1253(a)(7)). The issues underlying this finding are discussed in Findings 12–30, below.

Finding 8

The Secretary has, through OSM, solicited and publicly disclosed on June 18, 1982 (47 FR 26406), the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise pertinent to the proposed Indiana program. This finding is based on the requirements of Section 503(b)(1) of SMCRA (30 U.S.C. 1253(b)(1)).

Finding 9

The Secretary has obtained the written concurrence of the Administrator of the Environmental Protection Agency with respect to those aspects of the Indiana program being approved today which relate to air or water quality standards promulgated under the authority of the Clean Water Act, as amended, 33 U.S.C. 1251 *et seq.*, and the Clean Air Act, as amended, 42 U.S.C. 1857 *et seq.* This finding is based on the requirements of Section 503(b)(2) of SMCRA.

Finding 10

The Secretary has, through OSM, held a public hearing in Indianapolis, Indiana on April 10, 1980, to discuss the completeness of the Indiana program submission, held public hearings in Indianapolis, Indiana on July 23, 1980, and Evansville, Indiana on July 24, 1980, on the adequacy of the Indiana program submission, and held a public hearing on the resubmission of the Indiana program in Vincennes, Indiana on October 23, 1981. This finding is based on the requirements of Section 503(b)(3) of SMCRA (30 U.S.C. 1253(b)(3)).

Finding 11

The Secretary finds that the State of Indiana has the legal authority and qualified personnel necessary for the enforcement of the environmental protection standards of SMCRA and 30 CFR Chapter VII. This finding is based on the requirements of Section 503(b)(4) of SMCRA (30 U.S.C. 1253(b)(4)).

Finding 12

In accordance with 30 CFR 732.15(a), the Secretary finds, on the basis of information in the Indiana program submission, including the section-by-section comparison of the Indiana law and the regulations with SMCRA and 30 CFR Chapter VII, public comments, testimony and written presentations at the public hearings, and other relevant information, that the Indiana program provides, except as noted in the findings below, for Indiana to carry out the provisions and meet the purposes of SMCRA and 30 CFR Chapter VII. The issues underlying this Finding are analyzed in the findings discussed throughout this **Federal Register** notice.

Finding 13

The Secretary finds that Indiana has authority under enacted Indiana laws and regulations pertaining to coal exploration and surface coal mining and reclamation operations, and that the Indiana program submission contains provisions to implement, administer and enforce all applicable requirements consistent with Subchapter K of 30 CFR Chapter VII, except as discussed below. Special provisions comparable to 30 CFR Parts 820, 822 and 825 for anthracite mines, operations on alluvial valley floors, and special bituminous coal mining are not applicable to or included in the Indiana laws or regulations. This Finding is made under the requirements of 30 CFR 732.15(b)(1).

13.1 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute at I.C. 13–4.1–7–3(3) did not require that all of the performance standards equivalent to those found in Section 515 of SMCRA apply to exploration operations. Specifically, the State omitted the requirements of Section 515(b)(15) of SMCRA dealing with the use of explosives [See Finding 13.1, 45 FR 78485, November 25, 1980]. The Secretary now finds that the State has amended its statute at I.C. 13–4.1–7–3(3) to require that any person conducting a coal exploration operation comply with the blasting requirements of I.C. 13–4.1–10, and that the provisions of I.C. 13–4.1–10 provide blasting standards that are in accordance with the provisions of SMCRA Section 515(b)(15). See IN–0268.

13.2 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute at I.C. 13–4.1–8–1(3) limited the backfilling and grading requirements of SMCRA Section 515(b)(3) to those instances where these practices are advisable to ensure stability or to prevent leaching of toxic materials [See finding 13.2, 45 FR 78485, November 25, 1980]. The Secretary now finds that the State has amended its statute at I.C. 13–4.1–8–1(3) to remove the limitation on backfilling and to require that backfilling and compacting requirements apply to all surface coal mining operations, and that these provisions are in accordance with the requirements of Section 515(b)(3) of SMCRA. See IN–0269.

13.3 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute at I.C. 14–4.1–8–1(8) required that specifications for all prime farmlands for soil removal, storage, replacement and reconstruction be established by the Indiana Natural Resources Commission rather than the Secretary of Agriculture as prescribed by Section 515(b)(7) of SMCRA [See finding 13.3, 45 FR 78486, November 25, 1980]. Indiana has modified its program by adopting in its prime farmland regulation at 310 IAC 12–1–3 the reference to the Secretary of Agriculture's regulations. The Secretary now finds this provision to be in accordance with the requirements of Section 515(b)(3) of SMCRA.

13.4 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute at I.C. 13–4.1–8–

1(13) required compliance with standards established by the Chief of Engineers, U.S. Army Corps of Engineers, for coal mine waste piles used as dams or embankments rather than standards established by the Secretary of the Interior with the concurrence of the Chief of Engineers (See Finding 13.4, 45 FR 78486, November 25, 1980), as prescribed by Section 515(b)(13) of SMCRA. The Secretary now finds that the State has amended its statute at I.C. 13–4.1–6–1(13) to require standards established by the Secretary of the Interior with the concurrence of the Chief of Engineers. See IN–0269.

13.5 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute at I.C. 13–4.1–9–1(5) provided for the use of certain standards established by the Chief of Engineers, U.S. Army Corps of Engineers, concerning waste piles rather than standards established by the Secretary of the Interior as prescribed by Section 516(b)(5) of SMCRA (See Finding 13.7, 45 FR 78486, November 25, 1980). The Secretary now finds that the State has amended its statute at I.C. 13–4.1–9–1(5) to provide for use of standards established by the Secretary of the Interior. See IN–0269.

13.6 Indiana's definition of "best technology currently available" found at 310 IAC 12–1–3 differs from the Federal definition of that term at 30 CFR 701.5. The Indiana definition uses the term "locally" in lieu of the words "anywhere even if they are not in routine use." The Director, IDNR, stated at the May 18–19, 1982 meeting that it is Indiana's policy to interpret its definition of "best technology currently available" as follows:

The use of the word "locally" in Indiana's rule is intended to describe the use of equipment, devices, systems, methods or techniques which are used in areas with the same or similar local conditions as in Indiana. Because the Director, IDNR, has the authority under both the Federal and State definitions to determine the best technology currently available on a case-by-case basis in making this determination, and the Director, IDNR, would need to consider only technology used in areas with the same or similar local conditions for mining, Indiana contends that its rule is no less effective than the Federal definition at 30 CFR 701.5. The Director, IDNR, indicated further that Indiana will consider all equipment, devices, systems, methods or techniques which are available in areas with the same or similar mining conditions as in Indiana even if they are not in routine use (IN–0268).

The Secretary finds that Indiana's definition of "best technology currently available" at 310 IAC 12–1–3, when read in light of the above policy statement, which OSM will enforce through oversight, is no less effective than the Federal definition found at 30 CFR 701.5.

13.7 Indiana rules 310 IAC 12–5–39 and 310 IAC 12–5–104 do not require that coal processing wastes shall not be disposed of in head-of-hollow or valley fills, and may only be disposed of in other excess spoil fills, if such waste is placed in accordance with 30 CFR 816.85 and 817.85, demonstrated to be non-toxic and non-acid forming, and demonstrated to be consistent with the design stability of the fill. Such requirements are provided in 30 CFR 816.71(b) and 817.71(b). Indiana rules 310 IAC 12–5–39 and 310 IAC 12–5–104 stipulate the requirements for the disposal of excess spoil.

Indiana pointed out at the May 18–19, 1982, meeting that because of the topography of the Indiana coal fields, there are and will be no head-of-hollow or valley fills. Therefore, the Secretary finds that this requirement is not applicable in Indiana, and Indiana's program is no less effective than the Federal rules. IN–0268.

13.8 Indiana rule 310 IAC 12–5–123(b) does not address productivity levels for post-mining land use. The Director, IDNR, at the meeting of May 18–19, 1982 (IN–0268), indicated that Indiana would amend its program to be no less effective than the requirements of 30 CFR 817.111(b). However, because this amendment has not yet been made, the Secretary's approval of the Indiana program is conditioned on Indiana amending its program to be no less effective than the provisions of 30 CFR 817.111(b).

13.9 The Federal rules at 30 CFR 816.43(c) and 817.43(c) provide that diversions must prevent additional contributions of suspended solids to streamflow "to the extent possible using the best technology currently available." The State rule at 310 IAC 12–5–18(c) provides that "Diversions shall be designed, constructed and maintained in a manner which prevents to the extent possible additional contribution of suspended solids to stream flow and to runoff outside the permit area, to the extent possible using the best technology currently available." This double reference to "to the extent possible" does not make Indiana's rule less effective than the Federal rule, since it is still clear that the best technology currently available must be used. Federal rules 30 CFR 816.43 and 817.43 also set forth design requirements for diversions. Indiana rules 310 IAC 12–5–18, 310 IAC 12–5–19, 310 IAC 12–5–84, and 310 IAC 12–5–85 which govern diversions, do not contain requirements as effective as those in 30 CFR 816.43 and 817.43. Indiana has agreed (IN–0268) to amend its rules to include design criteria consistent with 30 CFR 816.43 and 817.43. The Secretary's approval of Indiana's program is conditioned upon the State's amending its program to incorporate provisions that are no less effective than those in 30 CFR 816.43 and 817.43.

13.10 Federal rules 30 CFR 816.81(b) and 817.81(b) allow coal processing waste from outside the permit area to be disposed of within the permit area if approved by the regulatory authority and if certain protective criteria are met. Indiana rules 310 IAC 12–5–41 and 310 IAC 12–5–105 do not contain the language specifically requiring regulatory authority approval, but do require that the same protective criteria be met. Furthermore, the State's permit application (IN–0269 at S–50 and S–51) requires applicants to submit information to demonstrate compliance with 310 IAC 12–5–41 and 310 IAC 12–5–105. The Director, IDNR, stated that IDNR will approve permits only if all the application requirements are met in a technically adequate manner and that the same criteria will apply to underground permits (See IN–0268). Thus, the Secretary finds that the State program is no less effective than the Federal rules.

13.11 Federal rules 30 CFR 816.52 and 817.52 set forth requirements for surface and ground water monitoring that are not expressed in the Indiana rules in the same manner. The Director, IDNR, at the meeting of May 18–19, 1982 (IN–0268) explained that Indiana rule 310 IAC 12–5–27(b) requires that "surface water monitoring, recording and record keeping shall be conducted as specified in the NPDES permit." Likewise, 310 IAC 12–5–82(c) (the Indiana counterpart to 30 CFR 817.52) contains the same requirement. The Director pointed out that the Indiana rule further states that "copies of the monitoring reports and any noncompliance notification shall be provided to the Director concurrently with the submission to the NPDES permit authority." Further, Indiana rules 310 IAC 12–5–16(c) and 310 IAC 12–5–82(c) state: "In no case shall Federal and Indiana water quality statutes, regulations, standards, or effluent limitations be violated." The requirements of the NPDES permit are

no less effective than those in 30 CFR 816.52 and 817.52; therefore, the Secretary finds Indiana's program to be no less effective than the Federal rule.

13.12 Indiana rules 310 IAC 12–5–24, 310 IAC 12–5–30, 310 IAC 12–5–90 and 310 IAC 12–5–95 do not specify provisions equivalent to those in 30 CFR 816.49(f), 816.55, 817.49(f) and 817.55 that all dams and embankments meeting the size or other criteria of MSHA's rules shall be routinely inspected by a qualified registered professional engineer, or by someone under the supervision of a qualified professional engineer, in accordance with MSHA's rules at 30 CFR 77.216–3. The Director, IDNR, at the May 18–19, 1982 meeting pointed out that in cases where a dam or embankment is necessary to create an impoundment and the dam height is 20 feet or greater, the drainage area is 1 square mile or larger, the volume of water impounded at the emergency spillway level will be more than 100 acre-feet, or the rights of other property owners are affected, the applicant must complete an "Application for Approval of Construction in a Floodway" (IN–0269). The Director, IDNR, stated further that this application must be submittd to the IDNR Division of Water and meet the requirements of Chapter 318 of the State Acts of 1945, as amended (Sections 17 and 19). That State law requires dams and embankments to be inspected annually. Such inspections of dams and embankments conducted by the Division of Water will be made by the Regulations Branch, the Chief of which is required to be a qualified registered professional engineer.

The Secretary finds that Indiana rules 310 IAC 12–5–24, 310 IAC 12–5–30, 310 IAC 12–5–90 and 310 IAC 12–5–95, when read in light of the other program provisions, are no less effective than the provisions of 30 CFR 816.49(f), 816.55, 817.49(f) and 817.55.

13.13 Indiana rules 310 IAC 12–5–21 and 310 IAC 12–5–87 do not specify all of the design standards for sediment ponds in 30 CFR 816.46 and 817.46. The Director, IDNR, stated at the May 18–19, 1982 meeting that IDNR has entered into a memorandum of agreement with the Indiana Stream Pollution Control Board (the State agency having jurisdiction over sediment pond design and construction) whereby the specific design criteria of 30 CFR 816.46 and 817.46 will be used in the review of construction permit applications for sediment ponds (IN–0268). The Secretary interprets this to mean that permits will not be approved unless the design requirements of 30 CFR 816.46 and 817.46 are met, and the State's language clearly expresses that this is the State's intention.

The Secretary finds that Indiana rules 310 IAC 12–5–21 and 310 IAC 12–5–87, as supported by the IDNR memorandum of agreement with the Indiana Stream Pollution Control Board, are no less effective than the provisions of 30 CFR 816.46 and 817.46.

13.14 Indiana rules 310 IAC 12–5–23(c) and 310 IAC 12–5–89(c) concerning hydrologic balance and the burying and treatment of acid-forming and toxic-forming spoil require such actions to be completed "within a reasonable period of time," whereas the Federal rules at 30 CFR 816.48(c) and 817.48(c) require that such actions be completed within 30 days or less if required by the regulatory authority. Also, the aforementioned Indiana rules do not specify the procedures for temporary storage of acid-forming or toxic-forming spoil, as does 30 CFR 816.48(c) and 817.48(c).

The Director, IDNR, at the May 18–19, 1982 meeting stated that it is the policy of the Natural Resources Commission that in determining what is a reasonable time for burial or treatment of acid-forming or toxic-forming spoil, no period of time in excess of 30 days will be considered as reasonable. Further, temporary storage of spoil will be allowed only upon a finding that burial or treatment is not feasible within 30 days and will not result in any material risk of water pollution or other environmental damage. Storage will be limited to the period until burial or treatment first becomes feasible. Acid-forming or toxic-forming spoil to be stored will be placed on impermeable material and protected from erosion and contact with surface water. See IN–0269. These requirements are no less effective than those set forth in 816.48(c) and 817.48(c) for temporary storage.

The Secretary finds that Indiana rules 310 IAC 12–5–23(c) and 310 IAC 12–5–89(c), when read in light of the policy statement, are no less effective than 30 CFR 816.48(c) and 817.48(c).

13.15 Indiana rule 310 IAC 12–5–152 concerning steep slope variances and approximate original contour does not provide criteria no less effective than those in 30 CFR 826.15. Indiana has indicated that it intends to amend its rules. However, because the amendment is not fully promulgated, the Secretary's approval is conditioned upon the promulgation of rules which are no less effective than the requirements of 30 CFR 826.15. In addition, Indiana has agreed as a condition of approval not to permit use of the variance during the period before the regulation is changed.

13.16 Indiana rule 310 IAC 12–5–149 concerning "hilltop removal" allows exemptions from the approximate contour requirements. The Federal Act and rules do not allow such an exemption. Indiana is amending its rules to repeal this provision (IN–0269), but because the amendment repealing this provision has not been fully promulgated, the Secretary is conditioning his approval upon the satisfactory completion of this action. In addition, the State has agreed, in its letter agreeing to meet the Secretary's conditions of approval, not to issue any permits for hilltop removal during the period before the rule is repealed.

13.17 Indiana's rules 310 IAC 12–5–51 and 310 IAC 12–5–115 do not contain provisions specified in 30 CFR 816.97 (a), (c) and (d) and 817.97 (a), (c) and (d) concerning the protection of fish and wildlife, including requirements that the best technology currently available be used to minimize adverse impacts. The Director, IDNR, at the meeting of May 18–19, 1982 (See IN–0268) agreed to amend the State's program to be no less effective than the requirements of 30 CFR 816.97 and 817.97. Because the amendment has not been fully promulgated at this time, the Secretary's approval of the Indiana program is conditioned on the State's submission of a program amendment that will make the Indiana provisions no less effective than 30 CFR 816.97 and 817.97.

13.18 Indiana does not have in its rules at 310 IAC 12–5–9 and 310 IAC 12–5–75 a requirement that devices used for temporary casing and sealing of drilled holes be periodically inspected and maintained in good operating condition by the person who conducts the surface mining activities, as required by 30 CFR 816.14 and 817.14.

Under Indiana rule 310 IAC 12–5–9, the operator is responsible for activities that occur within the permit area. This responsibility necessitates permittee maintenance of temporary casings and seals throughout the duration of the permit and until bond release. The general requirements of Indiana rules 310 IAC 12–5–8 and 310 IAC 12–5–74 (the Indiana counterparts to 30 CFR 816.13 and 817.13, respectively) state that drilled holes must be managed to prevent acid or toxic water drainage from entering ground or surface waters; hence, the operator is responsible for maintenance of all drilled holes to assure not risking a water violation. For these reasons, the Secretary finds that Indiana rules 310 IAC 12–5–9 coupled with 310 IAC 12–5–8, and 310 IAC 12–5–75 coupled with 310 IAC 12–5–74, are no

less effective than 30 CFR 816.14 and 817.14.

13.19 The Indiana rules at 310 IAC 12–5–17, 310 IAC 12–5–20, 310 IAC 12–5–21, 310 IAC 12–5–83, 310 IAC 12–5–86, and 310 IAC 12–5–87 state that all drainage must pass through a siltation structure and that the best technology currently available must be used to control sediment, but do not explicitly provide that this means sedimentation ponds must be used, as do 30 CFR 816.42 and 817.42. The Director, IDNR, stated at the May 18–19, 1982 meeting that it is the policy of the Natural Resources Commission to require the use of the best technology currently available to meet the requirements of 30 CFR 816.42 and 817.42, and that the phrase "best technology currently available" will be interpreted by the State to require the use of sediment ponds. The only exceptions will be those provided in the Federal rules at 30 CFR 816.42(a)(3) and 817.42(a)(3) and case-by-case alternatives submitted to, and approved by, the IDNR and OSM as an experimental practice. The Secretary finds that Indiana's rules at 310 IAC 12–5–17, 310 IAC 12–5–20, 310 IAC 12–5–21, 310 IAC 12–5–83, 310 IAC 12–5–86, and 310 IAC 12–5–87, when read in light of this policy statement, are no less effective than 30 CFR 816.42 and 817.42.

13.20 Indiana rules 310 IAC 12–5–18 and 310 IAC 12–5–84 do not specify the design standards for diversions, as do 30 CFR 816.43 and 817.43. Instead, the Indiana rules state that diversions shall be designed using standard engineering practices and certified by a qualified registered professional engineer. At the May 18–19 meeting, the Director, IDNR, stated that it is IDNR policy to define standard engineering practices as follows: Standard engineering practice for design of temporary and permanent diversions of overland flow and streams with less than one square mile watershed in Indiana would require that: (1) temporary diversions be constructed to pass safely the peak runoff from a precipitation event with a 2-year recurrence interval, and (2) permanent diversions be constructed to pass safely the peak runoff from a precipitation event with a 10-year recurrence interval (See IN–0268). The Secretary finds that Indiana rules 310 IAC 12–5–18 and 12–5–84, when read in light of this policy statement are no less effective than the provisions of 30 CFR 816.43 and 817.43.

Finding 14

The Secretary finds that Indiana has authority under Indiana laws and regulations and the Indiana program includes the necessary provisions to implement, administer, and enforce applicable permitting requirements consistent with Subchapter G of 30 CFR Chapter VII and to prohibit surface coal mining and reclamation operations without a permit issued by the State. This finding is made under the requirements of 30 CFR 732.15(b)(2).

14.1 The Secretary found that the Indiana statute in the Indiana program submission of March 3, 1980, had omitted the requirement of Section 506(a) of SMCRA that no person shall engage in surface coal mining operations unless the person has obtained a permit issued by the regulatory authority (Finding 14.1, 45 FR 78486, November 25, 1980). The Secretary now finds that the State has amended its statute at I.C. 13–4.1–3–1 to require that "no person may open, develop, or operate a new or previously mined or abandoned site for surface coal mining operations * * * without first holding a valid surface coal mining and reclamation permit," and, therefore, now finds the Indiana provision to be in accordance with Section 506(a) of SMCRA. See IN–0269.

14.2 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute at I.C. 13–4.1–5–1(b) allowed for longer term permits to be issued based on lesser showings than required by Section 506(b) of SMCRA, thus reducing public and agency review of proposed mining operations (Finding 14.2, 45 FR 78486, November 25, 1980). The Secretary now finds that the State has amended its statute at I.C. 13–4.1–5–1(b) to require that for permit terms in excess of five years, the applicant must meet requirements consistent with those in SMCRA Section 506(b). The Secretary finds the Indiana provision to be in accordance with Section 506(b) of SMCRA. See IN–0269

14.3 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute at I.C. 13–4.1–3–3(a)(3) limited the public notice requirements of Sections 513 and 514 of SMCRA as required by Section 506(d)(1) of SMCRA for issuance of a renewal permit to only those permit applications held since 1970 and required the statement only on the first application with provision for updating on subsequent applications (Finding 14.3, 45 FR 78486, November 25, 1980). The Secretary now finds that the State has amended I.C. 13–4.1–3–3(a) and (b) to remove this limitation and finds this section of the Indiana statute to be in accordance with Section 506(d)(1) of SMCRA. See IN–0269.

14.4 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute at I.C. 13–4.1–3–3(a)(11) allowed permit approvals when hydrologic information required by Section 507(b)(11) of SMCRA was not present (Finding 14.4, 45 FR 78486, November 25, 1980). The Secretary now finds that the State has amended I.C. 13–4.1–3–3(a)(11) to require that the permit not be approved until the hydrologic information is available and is incorporated into the application. The Secretary finds that the Indiana provision is in accordance with the requirements of Section 507 of SMCRA. See IN–0269.

14.5 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute at I.C. 13–4.1–3–4(a)(1) required less information from the permit applicant than required by Section 508(a)(6) of SMCRA (Finding 14.5, 45 FR 78486, November 25, 1980) by limiting information to the life of the "permit" rather than "operations" and omitting identification of subareas. The Secretary now finds that the State has corrected this deficiency by amending its statute at I.C. 13–4.1–3–4(a)(1) to require the same information as in Section 508(a)(6) of SMCRA. Further, the Indiana provision was amended to reflect the life of the operations rather than the permit. The Secretary finds that the Indiana provision is in accordance with the requirements of Section 508(a)(6) of SMCRA. See IN–0269.

14.6 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute at I.C. 13–4.1–3–4(a)(7) required an estimate of reclamation costs only if requested by the Director, IDNR, while Section 508(a)(5) of SMCRA requires such an estimate in every instance (Finding 14.6, 45 FR 78486, November 25, 1980). The Secretary now finds that the State has amended I.C. 13–4.1–3–4(a)(7) to require the estimated cost per acre of the reclamation in every reclamation plan, which makes the State's provisions in accordance with the requirements of Section 508(a)(5) of SMCRA. See IN–0269.

14.7 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute at I.C. 13–4.1–3–4(a)(13) made information concerning interest in lands contiguous to the area to be covered by the permit confidential, while Section 508(a)(11) of SMCRA requires it to be public (Finding 14.7, 45 FR 78486, November 25, 1980). Indiana explained that all information pertaining to interests in land is recorded in the County Recorder's Office in the County where the land is located and is, therefore a matter of public record. Indiana further explained that the only information to be kept confidential

would be "trade secrets." The Secretary finds this to be in accordance with SMCRA Sections 508(a)(11) and 508(b), which provide that information which is not on public file shall be held in confidence by the regulatory authority.

14.8 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute at I.C. 13–4.1–6–1 omitted the phrase "and the permit" concerning performance bond, thereby allowing the possibility of a bond which is not conditioned on any special requirements in the permit, which would be contrary to the requirements of Section 509(a) of SMCRA (Finding 14.8, 45 FR 78486, November 25, 1980). The Secretary now finds that the State has corrected this problem by amending I.C. 13–4.1–6–1 to include the phrase "and the permit," thereby assuring that no bond could be allowed which is not conditioned on permit requirements. See IN–0269.

14.9 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute at I.C. 13–4.1–4–3(a)(6) limited violations to be considered to those "pertaining to air or water environmental protection" rather than to violations of SMCRA and any law, rule, or regulation of the United States, as required by Section 510(c) of SMCRA (Finding 14.9, 45 FR 78486, November 25, 1980). The Secretary now finds that the State has corrected this problem by amending the Indiana statute at I.C. 13–4.1–4–3(a)(6) to require consideration of violations of I.C. 13–4.1 *et seq.*, SMCRA, or any law, rule, or regulation of the United States, or of any agency or department of the United States, pertaining to air or water environmental protection. See IN–0269.

14.10 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute at I.C. 13–4.1–4–3(d) appeared to allow an operator who held a permit on August 3, 1977, continually to renew and revise the permit in order to increase the acreage covered by the permit, thereby making this increased acreage subject to the prime farmland "grandfather" exemption from strict environmental protection standards. This was believed to be contrary to the provisions of Section 510(d)(2) of SMCRA (Finding 14.10, 45 FR 78486, November 25, 1980). The Secretary now finds that the earlier finding was incorrect and that the State statute provision need not be interpreted to allow increased acreage to be subject to the "grandfather" exemption. The Secretary finds that the State's statutory language is in accordance with the meaning and intent of the provisions of Section 510(d)(2) of SMCRA and that the State's rules at 310 IAC 12–3–98 regarding the determination of lands exempt from the prime farmland regulations made the State program no less effective than 30 CFR 785.17. See IN–0269.

14.11 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute at I.C. 13–4.1–3–3(a)(15) did not require that any waiver concerning the results of test borings and core samplings be made with respect to the specific application, and by a written determination that such results are unnecessary, and that this was contrary to the provisions of Section 507(b)(15) of SMCRA (Finding 14.11, 45 FR 78487, November 25, 1980). The Secretary now finds that the State has satisfactorily corrected this deficiency by amending its statute at I.C. 13–4.1–3–3(a)(15) to reflect the requirements of Section 507(b)(15) of SMCRA. IN–0269.

14.12 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute at I.C. 13–4.1–3–4(a)(2) (A) and (B) limited the applicability of information required in the reclamation plan covering the condition of the land prior to any mining only to coal mining, contrary to Section 508(a)(2) (A) and (B) of SMCRA (Finding 14.12, 45 FR 78487, November 25, 1980). The Secretary now finds that the State has satisfactorily corrected this deficiency by amending its statute at I.C. 13–4.1–3–4(a)(2) (A) and (B) to reflect any kind of mining rather than only coal mining. IN–0269.

14.13 The Federal rules at 30 CFR 778.15(a) and (b) and 782.15(a) require public availability of the documents granting the right of entry for the applicant to mine. The Director, IDNR, at the May 18–19, 1982 meeting explained that information concerning public availability of these documents can be found on the State's surface coal mining permit application form (p. S–6, Question I–11(d), IN–0268 and IN–0269). Further, Indiana pointed out that in its rules at 310 IAC 12–3–106(b) the applicant is required to file a copy of the complete permit application "with the recorder at the courthouse of the county where the mining is proposed to occur." The Secretary finds that in light of the above information, Indiana rule 310 IAC 12–3–106(b) is no less effective than 30 CFR 778.15(a) and (b). The Director, IDNR, at the May 18–19, 1982 meeting stated that the above permit application requirements for surface coal mining also apply to underground mining. For this reason, the Secretary finds that Indiana's provision is no less effective than 30 CFR 782.15(a).

14.14 Federal rule 30 CFR 780.12 requires information concerning existing structures. The Indiana rules do not require all of the information required by the Federal section. Indiana rule 310 IAC 12–3–42 addresses existing structures in the surface mining permit application, which requires information on existing structures. (See IN–0269, permit application, p. S–22). Indiana's definition of existing facilities includes those existing facilities for which there are design/construction performance standards (e.g. sediment ponds (and other water impoundments), coal refuse disposal sites, conveyors, rail transportation sytems, haul or access roads, diversion ditches, excess spoil disposal areas, and utility installations). The permit application requires that all structures be listed and meet the applicable performance standards of 310 IAC 12–5–5 through 12–5–71. The location of each structure is to be shown on a map, and a demonstration that each structure complies with the performance standards is required. For structures listed which do not meet the standards, Indiana requires plans and a schedule for modification or reconstruction.

The Secretary finds that, in light of the above information, Indiana's provisions are no less effective than 30 CFR 780.12.

14.15 30 CFR 780.21(a) requires that cross-section drawings be included in reclamation plans. The Indiana rule at 310 IAC 12–3–47 does not contain this requirement. However, Indiana requires cross-sections to be included in its permit application form. (See IN–0269, permit application, pages S–38, S–41, S–42, S–44 and S–45).

The Secretary finds, based on the above information, that the Indiana program is no less effective than 30 CFR 780.21(a).

14.16 The Indiana rules at 310 IAC 12–3–33 and 310 IAC 12–3–44 do not require a plan for control and treatment of surface and ground water drainage, nor do they impose quantitative limits on pollutants in the discharges as required by 30 CFR 780.21. The Director, IDNR, at the May 18–19, 1982 meeting stated that Indiana would amend its program to meet the requirements of 30 CFR 780.21(b)(1) and (2). However, because that action has not been completed at this time, the Secretary's approval of the Indiana program is conditioned on Indiana's submitting amended provisions to its program that are no less effective than the requirements of 30 CFR 780.21(b)(1) and (2).

14.17 The Indiana rules at 310 IAC 12–3–49(e) and 310 IAC 12–3–83 omit the

Mine Safety and Health Administration (MSHA) requirements as specified at 30 CFR 780.25(e) and 784.16. However, Indiana's surface coal mining permit application form requires that design plans and cross sections for the construction of each dam or embankment be approved by MSHA. (See IN–0269, permit application page S–48, Question K–2). The Director, IDNR, at the May 18–19, 1982 meeting stated that the above requirements for surface coal mining permit applications will also apply to underground coal mining. See IN–0268. Additionally, Indiana rule 310 IAC 12–3–83(a)(2) requires that all coal processing waste dams and embankments covered by 310 IAC 12–5–112 through 310 ICA 12–5–114 (counterparts to 30 CFR 817.91–93) be certified by a qualified registered professional engineer which is no less effective than 30 CFR 784.16(a)(3). Based on this information, the Secretary finds Indiana's provisions to be no less effective than 30 CFR 780.25(e) and 784.16.

14.18 Indiana rule 310 IAC 12–3–102 omits the requirement of 30 CFR 785.22(c) that no permit shall be issued for an in-situ operation unless the regulatory authority finds that the operation will be conducted in compliance with the performance standards of 30 CFR Parts 817 and 828. The Director, IDNR, at the meeting of May 18–19, 1982, stated that it is the policy of the Natural Resources Commission that no permit for in-situ processing will be approved until appropriate regulations are promulgated and approved by OSM as a state program amendment. See IN–0268. On the basis of this policy, the Secretary finds the Indiana provision to be no less effective than the Federal requirements.

14.19 Indiana rule 310 IAC 12–3–112(m) provides that no permit or permit revision application will be approved unless "the applicant has indicated in the permit application whether or not all reclamation fees required by 30 CFR 870.12 have been paid." The rule does not explicitly state that a permit or permit revision will be disapproved if the required fees have not been paid, as is stated by 30 CFR 786.19(h). The Director, IDNR, pointed out in the May 18–19, 1982 meeting that Indiana's surface coal mining permit application form will be modified to require the applicant to certify that all reclamation fees required by 30 CFR 870.12 have been paid. Further, the Director, IDNR, stated that it is the Natural Resources Commission's policy that no permit will be issued unless the permit application contains an affirmative answer to the question regarding payment of reclamation fees required by 30 CFR 870.12. See IN–0268. However, due to an oversight the modified page of the permit application form was inadvertently omitted from the form provided to OSM and which was subsequently made available for public review. Accordingly, the Secretary's approval of the Indiana program is conditioned on the State's amending its program in order to make Indiana rule 310 IAC 12–3–112(m) no less effective than 30 CFR 870.12.

14.20 30 CFR 779.25(b) requires surface mining permit applications to include cross-sections, maps, and plans showing elevations and locations of monitoring stations used to gather data for water quality and quantity, fish and wildlife, and air quality, if required, in the preparation of the application. Indiana's counterpart at 310 IAC 12–3–39 requires that groundwater and surface water monitoring stations be shown, but omits air quality and fish and wildlife monitoring stations.

The Director, IDNR, at the May 18–19, 1982 meeting indicated that it is the policy of the Natural Resources Commission that whenever fish and wildlife or air quality monitoring stations are required, the permit applicant must include those stations on the cross-sections and maps and plans, prior to permit approval. See IN–0268.

The Secretary finds that in light of the policy statement of the Director, IDNR, Indiana's provision is no less effective than the requirements of 30 CFR 779.25.

14.21 SMCRA Section 510(d)(1) and 30 CFR 785.17(c) require the regulatory authority to coordinate permit approvals with the U.S. Soil Conservation Service (SCS) in cases where prime farmland may be affected, whereas Indiana's rules do not contain this requirement.

The Director, IDNR, pointed out at the May 18–19, 1982 meeting that the Indiana statute at I.C. 13–4.1–4–3(d) requires that IDNR consult with the SCS. Additionally, Indiana has a memorandum of agreement with the SCS clarifying the details of the coordination requirement. The Secretary finds that Indiana's provisions concerning consultation with the SCS on prime farmland related permit applications are in accordance with Section 510(d)(1) of SMCRA and are no less effective than 30 CFR 785.17(c).

14.22 The Indiana rules at 310 IAC 12–3–116 do not explicitly state the provision of 30 CFR 787.11(b)(2)(iv) that temporary relief may not take the form of granting a permit which has been denied. The Director, IDNR, stated at the May 18–19, 1982 meeting that it is the policy of the Natural Resources Commission that in no case shall the temporary relief granted be such as to issue the permit in whole or in part. See IN–0268. The Secretary finds that Indiana rule 310 IAC 12–3–116, when read in light of the policy statement, is no less effective than the provisions of 30 CFR 787.11(b)(2)(iv).

14.23 Indiana rules 310 IAC 12–3–25 and 310 IAC 12–3–63 limit the requirement that applicants list necessary "other licenses" to only "safety and environmental licenses," contrary to the provisions of 30 CFR 778.19 and 782.19. Indiana has proposed amendments to its rules to require the identification of all other licenses and permits.

Because these amendments have not been fully promulgated, the Secretary's approval of the Indiana program is conditioned upon Indiana's amending its program to make it no less effective than 30 CFR 778.19 and 782.19.

14.24 Indiana rules 310 IAC 12–3–37 and 310 IAC 12–3–74 omit the provisions of 30 CFR 779.22 and 783.22, requiring a narrative analysis of "the known history of any previous uses before mining." Indiana has proposed amendments to its rules which would require this information. Because these amendments have not been promulgated, the Secretary is conditioning his approval of the Indiana program upon the State amending its program to make it no less effective than 30 CFR 779.22 and 783.22.

14.25 Indiana omits the phrase "including a discussion of the utility and capacity of the reclaimed land to support a variety of alternative land uses," from 310 IAC 12–3–48(a) concerning the reclamation plan as required by 30 CFR 780.23. In 310 IAC 12–3–48(a)(2) Indiana added the above language but, by placing it in this section, limited the requirement only to situations where a different land use was proposed rather than to all reclamation plans. Further, in 310 IAC 12–3–48(b), Indiana prefaced, and thus limited, the section to "Where a land use different from the pre-mining use is proposed * * *".

Indiana has proposed amendments to its rules which would add the above language to 310 IAC 12–3–48(a) and delete the limiting language of 310 IAC 12–3–48 (a)(2) and (b). Because these amendements have not been fully promulgated, the Secretary's approval of the Indiana program is conditioned upon the State amending its program to make it no less effective than 30 CFR 780.23.

14.26 The Indiana rules at 310 IAC 12–3–97 concerning steep slope mining and variances from approximate

original contour do not contain criteria consistent with those in 30 CFR 785.16. Indiana has agreed to amend its rules. However, because that action has not been completed at this time, the Secretary's approval of the Indiana program is conditioned on the State's amending its program to include provisions no less effective than 30 CFR 785.16.

Finding 15

The Secretary finds that Indiana has the authority and the necessary program provisions to regulate coal exploration consistent with 30 CFR Parts 776 and 815 and to prohibit coal exploration that does not comply with 30 CFR Parts 776 and 815, except as discussed below. This finding is made under the requirements of 30 CFR 732.15(b)(3).

15.1 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute at I.C. 13–4.1–7–1 and 3 did not clearly state that any person who conducts any coal exploration activities which substantially disturb the natural land surface in violation of the Indiana statute will be subject to the penalty provisions of I.C. 13–4.1–11 and 12. He found this inconsistent with Section 512(c) of SMCRA, which requires that violations of coal exploration provisions of SMCRA or the Federal rules shall be subject to the penalty provisions of Section 518 of SMCRA (Finding 15.1, 45 FR 78487, November 25, 1980). However, SMCRA Section 512(c) only applies to coal exploration activities which substantially disturb the natural land surface. Indiana has explained that coal exploration in the State which removes less than 250 tons is primarily limited to core drilling and the drilling of boreholes neither of which substantially disturb the natural land surface. *See* IN–0268. Furthermore, the Director, IDNR, at the May 18–19, 1982 meeting made a policy statement that no coal exploration in excess of 250 tons will be permitted until such time as a statutory change is made to make Indiana's penalty provisions at I.C. 13–4.1–11 and I.C. 13–4.1–12 applicable to coal exploration (IN–0268). For these reasons, the Secretary finds the Indiana program to be in accordance with SMCRA and no less effective than the Federal rules. Should Indiana wish to allow future coal exploration operations that will substantially disturb the natural land surface, or where more than 250 tons of coal will be removed, the State will then have to amend its program to be in accordance with SMCRA and no less effective than the Federal rules.

15.2 30 CFR 776.11(b)(6) requires that the notice of intent to explore, when less than 250 tons of coal will be removed, must include a description of the practices proposed to be followed to protect the environment. Indiana's rules omit this requirement.

The Director, IDNR, at the May 18–19, 1982 meeting stated that Indiana would amend its program to meet the requirements of 30 CFR 776.11(b)(6). See IN–0268. However, because that action has not been completed at this time, the Secretary's approval of the Indiana program is conditioned on Indiana submitting amendments to its program that are no less effective than 30 CFR 776.11(b)(6).

15.3 The Indiana rules do not contain a specific counterpart to 30 CFR 815.15(h), which states that each exploration hole, borehole, well or other exposed underground opening created during exploration must be covered in a manner consistent with the casing and sealing performance standards under 30 CFR 816.13–15. However, Indiana rule 310 IAC 12–3–12(a)(2) requires all holes, wells, or other exposed openings created during exploration to meet the requirements of 310 IAC 12–5–8 through 310 IAC 12–5–10 which, in turn, the Secretary finds are no less effective than the provisions of 30 CFR 816.13–15. For these reasons, the Secretary finds Indiana rule 310 IAC 12–3–12(a)(2) to be no less effective than 30 CFR 815.15(h).

15.4 Indiana rule 310 IAC 12–5–3(g) is less effective than 30 CFR 815.15(j) because the State rule exempts core drilling or drilling of boreholes in coal exploration from the requirements of 30 CFR 815.15(j). Section 512(a)(2) of SMCRA requires that performance standards be met with regard to coal exploration. The Director, IDNR, at the May 18–19, 1982 meeting stated that Indiana intends to amend its rules to require that all coal exploration be conducted in such a manner as to meet the performance standards of 310 IAC 12–5–21 pertaining to siltation structures. However, because that action has not been completed at this time, the Secretary's approval of the Indiana program is conditioned on the State's submission of a program amendment in accordance with Section 512(a)(2) of SMCRA and are no less effective than 30 CFR 815.15(j).

Finding 16

The Secretary finds that Indiana has authority under State laws and regulations and the State program includes the necessary provisions to require that persons extracting coal incidental to government financed construction maintain information on site consistent with 30 CFR Parts 707. This finding is made under the requirements of 30 CFR 732.15(b)(4).

Finding 17

The Secretary finds that Indiana has authority under State laws and regulations and the State program includes the necessary provisions to enter, inspect and monitor all coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian land within Indiana in accordance with the requirements of Section 517 of SMCRA and Subchapter L of 30 CFR Chapter VII except as discussed below. This finding is made under the requirements of 30 CFR 732.15(b)(4).

17.1 In the Indiana program submission of March 3, 1980, the Secretary found that the Indiana statute, regulations, and narrative did not give field inspectors the authority and require them to issue notices of violation and cessation orders. This is contrary to Section 521 of SMCRA and 30 CFR Part 843 (Finding 17.1, 45 FR 78487, November 25, 1980). The Attorney General of Indiana states that the Director, IDNR, has the authority to delegate his duties to other employees of IDNR by virtue of I.C. 13–4.1–2–2(c). See IN–0260. The State has provided a policy statement which assures that the Director, IDNR, has the authority to issue notices of violation and cessation orders, that he has the authority to delegate this authority to field inspectors, and that he has done so. See IN–0285. The Secretary accepts the Attorney General Opinion and policy statement as resolving this issue.

17.2 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute at I.C. 13–4.1–11–1 failed to contain the requirements of Section 517(b)(1) (B) (C) (D) and (E) of SMCRA that the regulatory authority require the permittee to make monthly reports, install, use, and maintain monitoring equipment or methods, evaluate results, and provide other reasonable and necessary information (Finding 17.2, 45 FR 78487, November 25, 1980). The Secretary now finds that the State has satisfactorily corrected this deficiency by amending its statute at I.C. 13–4.1–11–1 to require the permittee to make monthly reports, install, use, and maintain monitoring equipment or methods, evaluate results and provide other reasonable and necessary information. See IN–0269.

17.3 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute at I.C. 13–4.1–3–3(a) (11) and (14) was inconsistent with Section 517(b)(2) of SMCRA because it

failed to contain the hydrologic monitoring requirements for operations which remove or disturb strata that serve as aquifers (Finding 17.3, 45 FR 78487, November 25, 1980). The Secretary now finds that the State has corrected this problem by amending its statute at I.C. 13–4.1–11–1.5 to require such hydrologic monitoring. See IN–0269.

17.4 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute at I.C. 13–4.1–11–1(b)(3) was inconsistent with Section 517(b)(3)(A) of SMCRA because it failed to include right of entry to premises where records are kept (Finding 17.4, 45 FR 78487, November 25, 1980). The Secretary now finds that the State has corrected this deficiency by amending its statute at I.C. 13–4.1–11–1(b)(3)(A) to allow the Director, IDNR, or his authorized representatives to have the right of entry "to, upon, or through any surface coal mining and reclamation operations or any premises in which any records * * * are located." See IN–0269.

17.5 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute at I.C. 13–4–11–1(b)(1) was inconsistent with Section 517(b)(3)(B) of SMCRA because it provided for a delay in allowing access to records (Finding 17.5, 45 FR 78487, November 25, 1980). The Secretary now finds that the State has corrected this deficiency by amending its statute at I.C. 13–4.1–11–1(b)(1) to allow access to records "without delay." See IN–0269.

17.6 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute at I.C. 13–4.1–11–1(b)(3) was inconsistent with Section 517(b)(3) of SMCRA because it was applicable to "surface coal mining and reclamation premises," an undefined term, while SMCRA Section 517(b)(3) is applicable to the specifically defined term, "surface coal mining and reclamation operations." The Secretary was concerned that inspectors have access to all parts of a mining and reclamation operation in order to be able to carry out their duties (Finding 17.6, 45 FR 78487, November 25, 1980). The Secretary now finds that the State has corrected this deficiency by amending its statute at I.C. 13–4.1–11–1(b)(3) to reflect "surface coal mining and reclamation operations" rather than "surface coal mining and reclamation premises." See IN–0269.

17.7 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute at I.C. 13–4.1–11–2(b) was inconsistent with Section 521(a)(1) in that while it would allow persons to accompany the Director on an inspection, it would absolve the operator or permittee from any liability (Finding 17.7, 45 FR 78487, November 25, 1980). The Secretary now finds that the State has corrected this deficiency by amending its statute at I.C. 13–4.1–11–2(b) to delete the language absolving the operator or permittee from liability. See IN–0269.

17.8 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute at I.C. 13–4.1–11–3(a) and I.C. 13–4.1–11–4 was inconsistent with Section 517(e) of SMCRA in that it did not require that each inspector, upon detection of each violation, notify the operator in writing and report in writing any such violation to the regulatory authority (Finding 17.8, 45 FR 78487, November 25, 1980). The Secretary now finds that the State has corrected this problem by amending its statute at I.C. 13–4.1–11–3(a) and I.C. 13–4.1–11–4 to give the inspector the authority to and require that he report notices of violation in writing to the operator and the regulatory authority. See IN–0269.

17.9 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute at I.C. 13–4.1–11–3(b) was inconsistent with the public participation provisions of Section 517(f) of SMCRA because it failed to require that the materials referenced in this section be made immediately and conveniently available to the public at central and sufficient locations in the county, multi-county and state areas of mining (Finding 17.9, 45 FR 78487, November 25, 1980). The Secretary now finds that the State has satisfactorily corrected this deficiency by amending its statute at I.C. 13–4.1–11–3(b) to reflect that "a copy of any record report, inspection material, or other information obtained under this chapter * * * shall be available to the public" at specific locations. See IN–0269.

17.10 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute omitted the requirements of Section 517(h) of SMCRA which allows any person adversely affected by a surface coal mining operation the right to notify the regulatory authority of any violation, the right to a review of a refusal to issue a citation, the right to notify the regulatory authority of a failure to inspect, and the right to written reasons for the final determination (Finding 17.10, 45 FR 78487, November 25, 1980). The Secretary now finds that the State has corrected this problem by amending its statute at I.C. 13–4.1–11–11 (g) and (h) to provide all of the above-stated rights to such persons. See IN–0269.

17.11 The Indiana statute at I.C. 13–4.1–12–2 omits the requirements of Section 518(e) of SMCRA that a failure or refusal to comply with an order is the basis for a possible criminal conviction and penalty. The Attorney General of Indiana explained that this section of the State statute provides adequate authority to criminally punish a violation of "a provision of * * * any order," because "the article, permit, and orders clearly, in appropriate and numerous circumstances require an affirmative act on the part of persons subject to the jurisdiction of the program." See IN–0260. The Director, IDNR, at the May 18–19, 1982 meeting (IN–0268) clarified the Attorney General's opinion by pointing out first, that the correct citation should be I.C. 13–4.1–12–2 rather than I.C. 13–4.1–12.2 and further, that the statutory phrase "a provision of * * * any order," means any order issued under the Indiana statute (I.C. 13–4.1 *et seq.*). The Secretary finds that with this clarification, the Indiana provisions are in accordance with the requirements of Section 518(e) of SMCRA.

17.12 30 CFR 843 requires that the regulatory authority have the authority to, and will take action for, violations of permit conditions. The Director, IDNR, at the meeting on May 18–19, 1982 (IN–0268) pointed out that the State Attorney General's opinion shows that the State has the authority to and will take action for violations of permit conditions. See IN–0268. The Secretary finds that with this explanation, the Indiana provision is no less effective than the requirements of 30 CFR 843.

17.13 The Indiana rule at 310 IAC 12–6–6.5(a)(1) limits the IDNR Director's ability to make a determination that a pattern of violations exists or has existed to "only on the basis of an inspection." Further, Indiana omits the phrase "lack of diligence" from its definition of "unwarranted failure to comply" concerning the failure of the permittee to prevent the occurrence of any violation, and also omits a violation due to indifference or lack of reasonable care. It was also unclear when the Indiana Natural Resources Commission must act on a permit suspension or revocation.

At the meeting of May 18–19, 1982 (IN–0268), the Director, IDNR, stated that Indiana intends to amend its program to make this section no less effective than 30 CFR 843.13. However, because this action has not been completed at this time, the Secretary's approval of the Indiana program is conditioned on the State's submission of a program amendment making the program no less effective than the above provisions.

17.14 Indiana rule 310 IAC 12–6–16 does not state whether or not any person can attend and participate in an assessment conference. The Director, IDNR, stated that it is the State's policy that since assessment conferences are not governed by I.C. 4–22 *et seq.*, any person can attend and participate in such conferences (IN–0265).

The Secretary finds that with this policy statement, Indiana's provision is no less effective than the requirements of 30 CFR 845.18.

17.15 Indiana rule 310 IAC 12–5–16 does not allow the conference officer the authority to increase a penalty, as is required by 30 CFR 845.18(b)(3). At the meeting of May 18–19, 1982 (IN–0268), the Director, IDNR, stated that Indiana intends to amend its program to make this rule no less effective than the requirements of 845.18(b)(3). However, because that change has not been made at this time, the Secretary's approval of the Indiana program is conditioned on Indiana amending its program to be no less effective than 30 CFR 845.18(b)(3).

17.16 The Indiana rule at 310 IAC 12–6–1 does not explicitly state the requirement of 30 CFR 840.11 that an inspector collect evidence of "any violation of those conditions or violations observed." The Director, IDNR, explained at the May 18–19, 1982 meeting (IN–0268) that the Indiana rule at 310 IAC 12–6–1(a)(3) does require inspections and the prompt filing of inspection reports "adequate to enforce the requirements of this program." The Director, IDNR, further explained that the inspector is required to collect all evidence sufficient to enforce the requirements of the program.

The Secretary finds that on the basis of this explanation the Indiana provision is no less effective than 30 CFR 840.11.

17.17 Indiana rule 310 IAC 12–6–6(e) provides that the Director, IDNR, can accept information obtained from an appropriate government agency when making a determination that a violation has been abated. The Director, IDNR, stated at the May 18–19, 1982 meeting (IN–0268) that for the purposes of 310 IAC 12–6–6(e) the regulatory authority would rely on the following government agencies for those areas for which they have primary jurisdiction:

The Mine Safety and Health Administration for the purposes of 30 CFR 1–100.

The Indiana Air Pollution Control Board for purposes of the Indiana Air Pollution Control Law.

The Indiana Stream Pollution Control Board for purposes of the Indiana Stream Pollution Control Law.

The Secretary finds that with this additional explanation, the Indiana provisions are no less effective than the requirements of 30 CFR 843.12(e).

Finding 18

The Secretary finds that Indiana has the authority under enacted Indiana laws and regulations and that the Indiana program submission includes the necessary provisions to implement, administer and enforce a system of performance bonds and liability insurance or other equivalent guarantees consistent with the requirements of Subchapter J of 30 CFR chapter VII except as discussed below. This finding is made under the requirements of 30 CFR 732.15(b)(6).

18.1 The Secretary found that in the Indiana program submission on March 3, 1980, the Indiana statute at I.C. 13–4.1–6–7 was inconsistent with Section 519(a)–(g) of SMCRA because it made optional the requirement that local planning agencies and others be notified of bond release applications (Finding 18.1, 45 FR 78488, November 25, 1980). The Secretary now finds that the State has corrected this problem by amending its statute at I.C. 13–4.1–6–7(b) to make such notice mandatory. The Secretary also finds that Indiana's requirement that notice be provided to "appropriate local governmental bodies, planning agencies, sewage and water treatment authorities or water companies in the county in which the surface coal mining operation is located * * *" is in accordance with Section 519(a) of SMCRA, which requires that such notice be made to the municipality in which a surface coal mining operation is located. See IN–0269.

18.2 The Indiana rules at 310 IAC 12–4–3(e) and 310 IAC 12–3–4–7(a) do not require the regulatory authority to forfeit the bond if all attempts to ensure completion of the reclamation plan by the operator have failed, unlike 30 CFR 800.13(f) and 808.11–12. The Director, IDNR, at the May 18–19, 1982 meeting (IN–0268) stated that it is Indiana's policy to use its discretion to require forfeiture of all or part of the bond in all cases where attempts to ensure that the operator complete reclamation have failed.

The Secretary finds that based on this policy statement, Indiana rules 310 IAC 17–4–3(e) and 310 IAC 12–4–17(a) are no less effective than the provisions of 30 CFR 800.13(f), and 808.11–12.

18.3 Indiana rule 310 IAC 12–4–5 does not specifically prohibit the disturbance of surface areas, underground shafts, tunnels, etc. prior to the IDNR's acceptance of the performance bond, as does 30 CFR 800.11(b). The Director, IDNR, explained at the May 18–19, 1982 meeting that no permit can be issued prior to an acceptable bond being posted and no disturbance would be allowed until a permit is issued (IN–0268). The Secretary finds that Indiana rule 310 IAC 12–4–5, when read in light of this policy statement, is no less effective than the provisions of 30 CFR 800.11(b).

18.4 Indiana rule 310 IAC 12–4–5(b) allows for incremental bonding, a system allowed by the Federal rules under 30 CFR 800.11(b)(2). While the Indiana rule does not detail all the specific information concerning how the requirements of 30 CFR 800.11(b)(2) will be met, the Secretary finds that Indiana has provided the necessary information elsewhere in its rules and the surface coal mining permit application form (IN–0268). Specifically, Indiana rules 310 IAC 12–3–44(b)(3) and 310 IAC 12–3–89 (b) and (c) require that maps be submitted showing "each area of land for which a performance bond will be posted * * *". Furthermore, the Director, IDNR, explained at the May 18–19, 1982 meeting, that operators will be required to show all increments proposed throughout the duration of the permit prior to permit approval (IN–0268). The surface coal mining permit application also sets forth bonding amount requirements for each increment. For these reasons, the Secretary finds that Indiana rule 310 IAC 12–4–5(b) when read in light of the other State regulations at 310 IAC 12–3–44(b)(3) and 310 IAC 12–3–89(b)(3) and the information and other requirements contained in the permit application, ensure that Indiana's incremental bonding system is no less effective than the provisions of 30 CFR 800.11(b)(2).

18.5 Indiana rule 310 IAC 12–4–5(c) does not require replacement of a bond for long-term operations 120 days prior to the expiration of the existing permit, as called for by 30 CFR 801.13(b). The Director, IDNR, at the May 18–19, 1982, meeting stated that Indiana intends to amend its program to meet the 120 day bond replacement requirement (IN–0268). However, because this action has not been completed at this time, the Secretary's approval of the Indiana program is conditioned on the State's submission of a program amendment no less effective than 30 CFR 801.13(b).

18.6 Indiana rule 310 IAC 12–4–6(c) includes a blanket bonding provision which OSM originally considered to be an alternative bonding system. At the May 18–19, 1982, meeting, the Director, IDNR explained that the State rule does not prescribe an alternative bonding system because even though one bond could apply to all operations of one company, all bonding requirements will

apply to each operation, including the submittal of the required bond amount per acre for each permit (IN–0268). Based on the policy statement, the Secretary finds that Indiana rule 310 IAC 12–4–6(c), when read in light of the above explanation, provides for a bonding system that is no less effective than the bonding system requirements of 30 CFR 800.13.

18.7 Indiana rule 310 IAC 12–4–7 provides for separate bonding of areas requiring extended liability, but does not explicitly specify the criteria contained in 30 CFR 805.13(c)(1) and (2) used to determine whether extended liability should apply to only a portion of the original bonded area. The Director, IDNR, stated at the May 18–19, 1982 meeting that it is the State's policy that separate bonding will only be approved by the Director pursuant to 310 IAC 12–4–7, and provided that extended liability will only apply to a portion of the original bonded area and that such portion: (1) is not significant in extent in relation to the entire area under the bond; and (2) is limited to isolated, distinguishable, and contiguous portions of the bonded area and does not comprise scattered or intermittent occurrences throughout the bonded area (IN–0268). The Secretary finds that Indiana rule 310 IAC 12–4–7, when read in light of this policy statement, is no less effective than 30 CFR 805.13(c).

18.8 Indiana rule 310 IAC 12–4–8(c) imposes a maximum bond per acre of $10,000, whereas Section 509(a) of SMCRA and 30 CFR 805.12 require bond coverage adequate to cover the costs of reclamation. The Director, IDNR, explained at the May 18–19, 1982 meeting that Indiana has a State fund which the State intends to use to supplement the bond coverage prescibed by its rule at 310 IAC 12–4–8(c) (IN–0268). The State fund is based on an annual operator's fee consisting of $2,000 for each permit application and $1,000 annually thereafter due on the anniversary date of permit issuance. The Director, IDNR explained further that approximately $300,000 is contained presently in the State fund. The State provided additional narrative explaining the projected health of the fund (IN–0268) which the Secretary has carefully considered. Based on the supplemental information concerning the State fund, the Secretary finds that the bonding limits provided by Indiana rule 310 IAC 12–4–8(c) as supplemented by the State fund will provide bonding requirements that are in accordance with Section 509(a) of SMCRA and no less effective than the provisions of 30 CFR 805.12. However, the Secretary will, through OSM's monitoring role under the permanent program, carefully evaluate the health of Indiana's State fund and the overall adequacy of Indiana's bond coverage. Should the Secretary later determine that the requirements of Section 509(a) of SMCRA and 30 CFR 805.12 are not being met, additional requirements may be placed on Indiana to take corrective actions at that time.

18.9 Indiana rule 310 IAC 12–4–10(e)(1) contains a typographical error in that the phrase "suspension of revocation of the surety's right to do business" should read "suspension or revocation of the surety's license to do business." The Director, IDNR stated that Indiana intends to correct the typographical error (IN–0268). However, because that action has not been completed at this time, and because the error could have a substantive effect, the Secretary's approval of the Indiana program is conditioned on the State's submission of a program amendment no less effective than 30 CFR 806.12(e)(6)(i).

18.10 Indiana rule 310 IAC 12–4–10(e)(2) does not explicitly state provisions consistent with all of 30 CFR 806.12(e)(6) concerning replacement of bond coverage due to the insolvency of the surety. 30 CFR 806.12(e)(6)(iii) provides that upon the incapacity of a surety by reason of bankruptcy, insolvency, or suspension or revocation of its license, the permittee shall be deemed to be without bond coverage in violation of 30 CFR 800.11(b). The Federal rule requires that the regulatory authority issue a notice of violation against any operator who is without bond coverage and that the notice shall specify a reasonable period to replace bond coverage not to exceed 90 days.

The Director, IDNR, stated at the May 18–19, 1982, meeting that Indiana rule 310 IAC 12–4–10(e)(2) requires that any operator who is without bond coverage shall replace bond coverage within a reasonable period not to exceed 90 days (IN–0268). Additionally, the Director, IDNR, indicated that as a matter of policy, any operator who is without bond coverage shall be deemed to be in violation of Indiana rule 310 IAC 12–4–5, the State's counterpart to 30 CFR 800.11(b). In that event, the Director, IDNR, will issue a notice of violation against the operator. The notice will specify a reasonable period, not to exceed 90 days, to replace bond coverage. If such a notice of violation is not abated in accordance with the schedule, a cessation order will be issued.

The Secretary finds that Indiana rule 310 IAC 12–4–10(e)(2) as amplified by the policy statement, is no less effective than the provisions of 30 CFR 806.12(e)(6)(iii).

18.11 The Indiana rules do not specifically consider seasonal effects on reclamation results in order to properly evaluate reclamation, as in 30 CFR 807.11(a)(1). For example, Indiana rule 310 IAC 12–4–16(b) requires the regulatory authority to inspect within 30 days, and does ot specifically require an extension of that time due to weather, as in 30 CFR 807.11(d). The intent of the Federal rules is to ensure that weather and seasonal conditions are appropriate so that proper inspections and evaluations of revegetation can be made prior to bond release. The Director, IDNR, stated at the May 18–19, 1982, meeting that it is Indiana's policy that the submittal of an application for bond release during a period which would prevent an adequate inspection being made to validate the application would cause the application to be disapproved because a finding could not be made that bond release requirements have been met. IN–0268.

The Secretary finds that Indiana rule 310 IAC 17–4–16(b), when read in light of this policy statement, is no less effective than the provisions of 30 CFR 807.11(a)(1) and (d).

18.12 Indiana rule 310 IAC 12–4–16(a) does not require that the advertisement published by the bond release applicant contain notice of the public right of participation, thus making the State provision less effective than 30 CFR 807.11(b)(7). The Director, IDNR, at the May 18–19, 1982, policy meeting stated that Indiana intends to amend its rule at 310 IAC 12–4–16(a) to require that "such advertisement shall also state that written comments, objections, and requests for a public hearing or informal conference may be submitted to the IDMR, provide the IDNR's address, and the closing date by which comments, objections, and requests must be received." (IN–0268). However, because that action has not been completed at this time, the Secretary's approval of the Indiana program is conditioned on the State's submittal of an amendment consistent with 30 CFR 807.11(b)(7).

18.13 Indiana rule 310 IAC 12–4–16(b) does not contain a provision to allow the surface owner, agent or lessee to participate at the bond release inspection, as required by 30 CFR 807.11(d). The Director, IDNR, at the May 18–19, 1982 meeting (IN–0268) stated that it is the policy of the IDNR that any surface owner, agent or lessee may accompany the State inspector and participate in the bond release inspection pursuant to 310 IAC 12–4–16(b).

The Secretary finds that Indiana rule 310 IAC 12–4–16(b), when read in light of the policy statement, is no less effective than 30 CFR 807.11(d).

Finding 19

The Secretary finds that the state regulatory authority has the authority under State laws and regulations to provide criminal and civil sanctions for violations of State laws, regulations and conditions of permits, and exploration approvals including civil and criminal penalties in accordance with Section 518 of SMCRA and consistent with 30 CFR Part 845 and the same or similar procedural requirements, except as discussed below. This finding is made under the requirements of 30 CFR 732.15(b)(7).

19.1 and 19.2 In the Indiana program submission of March 3, 1980, the State statute at I.C. 13–4.1–12–1 was inconsistent with SMCRA Section 518(a), (c) and (g). (Findings 19.1 and 19.2, 45 FR 78488, November 25, 1980.) The State statute failed to provide a civil penalty of $5,000 per violation and it was unclear whether it provided criminal fines as stringent as those in SMCRA. The State amended its statute at I.C. 13–4.1–12–1(b) to allow civil penalties of up to $5,000 per violation. The State's statute does not allow criminal penalties of up to $10,000, as does SMCRA, using the $5,000 figure instead. However, the Secretary finds that the State program is in accordance with SMCRA because where, for instance, a criminal violation were to last five days, the operator's total liability under SMCRA would be $35,000 ($5,000 per day civil penalty, plus $10,000 criminal penalty) while under Indiana's system, the operator's total liability would be $30,000 ($5,000 per day civil penalty plus $5,000 criminal penalty). Although these penalty amounts are not identical, they are for all practical purposes equivalent in stringency because fines this large have not been and are not likely to be assessed

19.3 In the Indiana program submission of March 3, 1980, the Secretary found that the Indiana statute at I.C. 13–4.1–12–1(b) was inconsistent with Section 518(h) of SMCRA because it provided that the allotted time period for the correction of a violation and, therefore, the issuance of a cessation order for non-abatement extends "until all proceedings challenging the violation are final" (Finding 19.3, 45 FR 78388, November 25, 1980). The Secretary now finds that the State has corrected this problem by amending its statute at I.C. 13–4.1–12–1(b) to provide for the time period for abatement to be in accordance with Section 518(h) of SMCRA. See IN–0269.

Further, the Indiana rules at 310 IAC 12–6–6(f) allow an extension of the period for abatement under a notice of violation beyond 90 days under circumstances not allowed by 30 CFR 843.12. Indiana has agreed to amend its program to make its provision no less effective than 30 CFR 843.12(f). See IN–0268. However, because this action has not been completed, the Secretary's approval of the Indiana program is conditioned on Indiana's amending its program to make its provision no less effective than 30 CFR 843.12(f).

Specifically, regarding circumstances which may qualify a surface coal mining operation for an abatement period of more than 90 days, Indiana must: (1) limit to climatic conditions the circumstance where abatement within 90 days would cause more environmental harm than it would prevent, and (2) delete Subsection (f)(6) relating to circumstances where abatement could create an imminent danger.

Indiana's reference to a labor dispute as a basis for the extension, rather than a strike, as in the Federal rule, is in effect equivalent to the Federal rule because the dispute must make compliance within 90 days impossible, and nothing short of a strike could do this. Further, Indiana must promulgate regulations which are no less effective than 30 CFR 843.12(h), (i) and (j), or otherwise amend its program to accomplish the same result. These subsections describe the showing required of a permittee in requesting an abatement period exceeding 90 days, contain a right of administrative appeal in accordance with the regulations at 43 CFR 4, and provide a maximum abatement extension of 90 days per request.

Additionally, Indiana rules contain no provision requiring the issuance of a cessation order where the operator fails to meet an interim step as required under 30 CFR 843.12(d). Indiana has agreed to amend its rule at 310 IAC 12–6–6(d) to require the issuance of a cessation order in such instances. See IN–026. However, because this action has not been completed, the Secretary's approval of the Indiana program is conditioned on Indiana's amending its program to make its provision no less effective than 30 CFR 843.12(d).

Finally, Indiana rule 310 IAC 12–6–6(b)(4) limits the issuance of a notice of violation to surface coal mining and reclamation operations, omitting coal exploration operations that are included under 30 CFR 843.12(b)(4). The Secretary finds that the Indiana rule is no less effective than 30 CFR 843.12(b)(4) because the kinds of coal exploration operations covered under a State program are limited by 30 CFR 840.1 to coal exploration operations which substantially disturb the natural land surface. Indiana has stated that coal exploration operations in Indiana are primarily limited to core drilling and the drilling of boreholes which do not substantially disturb the natural land surface. Should Indiana desire to allow coal exploration operations that will substantially disturb the natural land surface to be conducted in the future, the State will then have to amend its program to be in accordance with SMCRA and no less effective than the Federal rules. Also, see Finding 15.1.

19.4 In the Indiana program submission of March 3, 1980, the Secretary found that the Indiana statute at I.C. 13–4.1–12–4 was inconsistent with Section 518(f) of SMCRA in that it was not clear that the violation of a permit condition was covered in this section (Finding 19.4, 45 FR 78488, November 25, 1980). The Secretary now finds that the State has corrected this deficiency by amending its statute at I.C. 13–4.1–12–4 to cover violations of permit conditions. See IN–0269.

19.5 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute at I.C. 13–4.1–12–1(b) was inconsistent with Section 518(h) of SMCRA because it failed to provide a minimum penalty of $750 per day for each day during which a failure to abate a violation continues (Finding 19.5, 45 FR 78488, November 25, 1980). The Secretary now finds that the State has corrected this deficiency by amending its statute at I.C. 13–4.1–12–1(b) to provide for a penalty of $750 for each day during which such failure or violation continues. See IN–0269. In amending its statute the State also inserted the phrase "if a civil penalty is assessed" with respect to the imposition of the $750 per day penalty. However, Indiana rule 30 IAC 12–6–13 provides that the penalty will be assessed in every case, so Indiana's program is in accordance with SMCRA and no less effective than the Federal rules.

19.6 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute at I.C. 13–4.1–11–10 did not meet the requirements of Section 521(c) of SMCRA because it could be construed to require an affirmative act of violation, whereas the Federal law clearly authorizes criminal and civil actions for acts of omission as well (Finding 19.6, 45 FR 78488, November 25, 1980). The Secretary now

finds that the State has corrected this deficiency by amending its statute at I.C. 13–4.1–11–10 to include the phrase "or fails or refuses to comply with." See IN–0269.

Finding 20

The Secretary finds that the State regulatory authority has authority under State laws and regulations to issue, modify, terminate, and enforce notices of violations, cessation orders, and show cause orders in accordance with Section 521 of SMCRA (30 U.S.C. 1271) and the requirements of Subchapter L of 30 CFR Chapter VII, including the same or similar procedural requirements, except as discussed below. This finding is made under the requirements of 30 CFR 732.15(b)(8).

20.1 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute at I.C. 14–4.1–11–5(a) was inconsistent with Section 521(a)(2) of SMCRA in that it did not require that a cessation order be issued whenever it is determined that a "condition or practice" creates an imminent danger to the health or safety of the public, or is causing a significant, imminent environmental harm (Finding 20.1, 45 FR 78488, November 25, 1980). The Secretary now finds that the State has satisfactorily corrected this deficiency by amending its statute at I.C. 13–4.1–11–5(a) to require that a cessation order be issued whenever "any condition or practice exists * * * which creates an imminent danger to the health or safety of the public or is reasonably expected to cause significant environmental harm." See IN–0269.

20.2 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute at I.C. 13–4.1–11–2 was inconsistent with Section 521(a)(2) of SMCRA in that it limited the authority to issue, modify, vacate, and terminate notices of violation and cessation orders to only the Director, IDNR, rather than extending this authority to field inspectors (Finding 20.2, 45 FR 78488, November 25, 1980). The Secretary now finds that this has been satisfactorily resolved. See Finding 17.1 above.

20.3 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana Statute at I.C. 13–4.1–11–6 was inconsistent with Section 521(a)(4) of SMCRA because it failed to apply to violations of permit conditions (Finding 20.3, 45 FR 78488, November 25, 1980). The Secretary now finds that the State has satisfactorily corrected this problem by amending its statute at I.C. 13–4.1–11–6 to reflect violations of any permit conditions. See IN–0269.

Finding 21

The Secretary finds that Indiana has the required authority under enacted Indiana laws and regulations and that the Indiana program submission includes required provisions for the designation of areas as unsuitable for surface coal mining consistent with Subchapter F of 30 CFR Chapter VII except as discussed below. This finding is made under the requirements of 30 CFR 732.15(b)(9).

21.1 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute at I.C. 13–4.1–14–4 and 5 was inconsistent with Section 522(a) of SMCRA by not providing for a planning process separate from the petition process and by not providing for a data base and inventory system (Finding 21.1, 45 FR 78488, November 25, 1980). The Secretary now finds that the State has corrected this problem by amending its statute to add I.C. 13–4.1–14–1(c), which is in accordance with Secton 522(a)(1) of SMCRA (IN–0269).

21.2 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute at I.C. 13–4.1–14–2 was inconsistent with Section 522(c) of SMCRA because it placed a burden on the petitioner to establish allegations of unsuitability rather than merely to submit evidence which tends to establish the allegations, as under the Federal statute. (Finding 21.1, 45 FR 78488, November 25, 1980). The Secretary now finds that Indiana partially satisfied this deficiency by amending its statute at I.C. 13–4.1–14–2(b), which governs intervenors. However, the required change was not made to Subsection (a) of that provision, which governs petitioners. The Director, IDNR, at the May 18–19, 1982 meeting stated that Indiana would amend its statute to meet the requirements of Section 522(c) of SMCRA. However, because that action has not been completed at this time, the Secretary's approval of the Indiana program is conditioned on Indiana submitting amended provisions to its statute that are in accordance with the requirements of Section 522(c) of SMCRA and are no less effective than 30 CFR 74.13(b)(2).

21.3 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana Administrative Adjudication Act (AAA) provided for adjudicatory hearings rather than the legislative hearing required by 30 CFR 764.17 (Finding 21.2, 45 FR 78488, November 25, 1980). Section I.C. 13–4.1–14–2 of the Indiana statute (referencing I.C. 4–22–1) and 310 IAC 12–2–8(a) of the Indiana rules provide for adjudicatory hearings rather than the legislative type of hearings provided for by 30 CFR 764.17(a). Further, the Indiana rules do not specify that consideration will be given to all relevant information collected or prepared or received by the regulatory authority in reaching decisions on petitions to designate lands unsuitable as required by 30 CFR 764.19(a), nor do the Indiana rules provide for the right of any person to intervene up to within three days prior to the hearing, as required by 30 CFR 764.15(c). At the May 18–19, 1982, meeting, the Director, IDNR stated that its hearing officers will ensure that intimidation of non-expert witnesses will not be allowed during cross-examination, nor will such witnesses otherwise be dissuaded from participating at hearings (IN–0268). Additionally, the Attorney General of Indiana stated that Indiana's designation of a hearing procedure does not strip the hearing of its "public" nature, as required by SMCRA, but rather operates as a safeguard against arbitrary, capricious and illegal actions. The Attorney General added that the public's right to participate is guaranteed by the statute's intervenor provisions in Subsection (b), which ensure an orderliness fitting for public discussion and inquiry into the issues involved in the particular petition. The Secretary has carefully considered whether Indiana's hearing format and structure meet the public participation requirements of SMCRA. The Secretary has determined that Indiana has provided adequate procedural safeguards to ensure fair hearings that are no less effective than the hearings provided for by 30 CFR 764.17(a). The Secretary is approving this provision based on the understanding that intimidation of non-expert witnesses will not be allowed. However, the Secretary will continue to monitor this during monitoring and evaluation of the Indiana program, and if he finds that witnesses are being harassed or intimidated, the State will be required to amend its program.

With respect to consideration of relevant information in reaching decisions on petitions to designate lands unsuitable, the Director, IDNR, stated at the May 18–19, 1982 meeting that Indiana has proposed an amendment to its rules at 310 IAC 12–2–9(b) to provide for the Director, IDNR, to use the information contained in the data base and inventory system in reaching decisions on petitions to designate lands unsuitable as required by 30 CFR 764.19(a), and will initiate an amendment to the Indiana rules at 310

IAC 12–2–7(c) to allow intervention by persons up to three days before a hearing to meet the requirements on 30 CFR 764.15(c). However, because these actions have not been completed at this time, the Secretary's approval of the Indiana program is conditioned on Indiana's submittal of program amendments that are in accordance with Section 522 of SMCRA and no less effective than 30 CFR 764.15(c) and 764.19(a).

21.4 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute at I.C. 13–4.1–14–1(a) was inconsistent with section 522(e) of SMCRA because the Indiana phrase "surface coal mining and reclamation" appeared to prohibit reclamation activities on lands covered by that section (Finding 21.3, 45 FR 78488, November 25, 1981). The Secretary now finds that the State has corrected this problem by amending its statute at I.C. 12–4.1–14–1(a) to delete the phrase "and reclamation." the State statute is now in accordance with Section 522(e) of SMCRA.

21.5 The Indiana rules at 310 IAC 12–2–7(b)(2) provide that the Director, IDNR, shall notify the general public of the receipt of a petition to designate lands unsuitable for mining and request submissions of relevant information by newspaper advertisements to be published within five weeks after accepting the petitions for further processing. Under 30 CFR 764.15(b)(2) the newspaper advertisements are to be published within three weeks after the determination that a petition is complete. The Secretary finds that the additional two-week interval does not render the Indiana provisions less effective than the requirements of 30 CFR 764. The intent of 30 CFR 764.15(b)(2) is to provide adequate public notice of the petition and to allow adequate time in which persons may participate in the designation process by providing information. The Indiana rule at 310 IAC 12–2–7(b)(2) prescribes the publication of the newspaper advertisement with the same frequency and in the same locations as in 30 CFR 764.15(b)(2). Further, under Indiana rule 310 IAC 12–2–9(b), the time period for the regulatory authority to reach a final decision on a petition is the same as that required by 30 CFR 764.19(b), i.e., within 60 days of completion of the public hearing, or, if no public hearing is held, then within 12 months after receipt of the petition accepted for further processing. The Secretary interprets the phrase "accepted for further processing" to equate to the Federal language of "receipt of the complete petition." For these reasons, the Secretary finds Indiana rule 310 IAC 12–2–7(b)(2) to be no less effective than 30 CFR 764.15(b)(2) in meeting the intent and purposes of Section 522 of SMCRA.

Finding 22

The Secretary finds that Indiana has authority under enacted laws and regulations pertaining to coal exploration and surface coal mining and reclamation operations, and that the Indiana program submission has provisions for public participation in the development, review, and enforcement of State regulations and the State program, consistent with the public participation requirements of SMCRA and 30 CFR Chapter VII except as discussed below. This finding is made under the requirements of 30 CFR 732.15(b)(10).

22.1 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute at I.C. 13–4.1–5–4 was inconsistent with Section 506(d) of SMCRA by omitting the public notice requirements with regard to permit renewal (Finding 22.1, 45 FR 78489, November 25, 1980). The Secretary now finds that the State has sufficiently corrected this problem by amending its statute at I.C. 13–4.1–4–1 to insert "renewal," thus making all of the public notice requirements applicable to applications for permit renewals. See IN–0269.

22.2 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute at I.C. 13–4.1–4(A)(B) was inconsistent with Section 508(a)(11) of SMCRA in that it made information confidential which is public under the Federal section (Finding 22.2, 45 FR 78489, November 25, 1980). The Secretary now finds that the State has corrected this problem. The reference to the Indiana statute cited in the Secretary's initial decision was incorrect. Indiana addresses the issue of public availability of application information under I.C. 13–4.1–3–4(a)(13), and the Secretary finds in Finding 14.7 above that it is in accordance with Section 508(a)(11) of SMCRA.

22.3 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute at I.C. 13–4.1–5–5(b) was inconsistent with Section 511(a)(21) of SMCRA by not requiring that any revisions which proposed significant alterations in the reclamation plan shall at a minimum be subject to public notice and hearing requirements (Finding 22.3, 45 FR 78489, November 25, 1980). The Secretary now finds that the State has corrected this deficiency by amending its statute at I.C. 13–4.1–5–5(b) to reflect that "any revisions which propose significant alterations in the reclamation plan shall, at a minimum, be subject to notice and hearing requirements." See IN–0269.

22.4 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute at I.C. 13–4.1–4–1 was inconsistent with Section 513(a) of SMCRA in that it omitted the requirement that the applicant submit a copy of his advertisement to the regulatory authority. This Indiana section also did not require that the advertisement contain the "ownership, precise location, and boundaries of the land to be affected" (Finding 22.4, 45 FR 78489, November 25, 1980). The Secretary now finds that the State has corrected this problem. See IN–0269. When the provisions of I.C. 13–4.1–3–3(a)(6) are read together with I.C. 13–4.1–4–1, it is evident that the Indiana provisions are in accordance with Section 513(a) of SMCRA.

22.5 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute at I.C. 13–4.1–4–5 omitted the requirement of Section 514(f) of SMCRA that appeals filed under this section must be in accordance with Section 526(a)(2) of SMCRA, which provides a 30-day period for judicial review (Finding 22.5, 45 FR 78489, November 25, 1980). The Secretary finds the Indiana provisions acceptable for the reasons set forth below in Finding 27.1.

22.6 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute at I.C. 13–4.1–11(3)(b) was inconsistent with Section 517(f) of SMCRA because the locations and availability of the records, reports, inspection materials and information required by the Indiana statute were insufficient and not consistent with the Federal requirements in that Indiana only required this information to be available "at the Department" and not in sufficient locations so that they are conveniently available to residents in the area of mining (Finding 22.6, 45 FR 78489, November 25, 1980). The Secretary now finds that the State has corrected this deficiency by amending its statute at I.C. 13–4.1–11(3)(b) to require that this information be available at the office of the County Recorder in the appropriate county as well at the IDNR. See IN–0269.

22.7 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute at I.C. 13–4.1–6–7 was inconsistent with Section 519(a)–(g) of SMCRA because it made optional the requirement that local planning agencies and others be notified of bond release applications (Finding 22.7, 45 FR

78489, November 25, 1980). The Secretary now finds that the State has corrected this problem by amending its statute at I.C. 13–4.1–6–7 to require the Director, IDNR, to notify local governmental bodies, etc. See IN–0269. (See Finding 18.1 above.)

22.8 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana Administrative Adjudication Act (I.C. 4–22–1–21) was inconsistent with Section 519(h) of SMCRA because it failed to authorize the inspection of land affected and other surface coal mining operations carried on by the applicant in the general vicinity (Finding 22.8, 45 FR 78489, November 25, 1980). The Secretary now finds the State has corrected this problem by amending its statute at I.C. 13–4.1–6–7(e) to include such inspection authority. See IN–0269.

22.9 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute at I.C. 13–4.1–11–11 was inconsistent with Section 520 of SMCRA as follows:

(1) The State failed to allow the Secretary of the Interior to intervene as of right in a suit to compel compliance with SMCRA. The Secretary now finds that the State has corrected this deficiency by amending its statute at I.C. 13–4.1–11–11(d) to provide that the Secretary may intervene in any suit brought under I.C. 13–4.1–11–11(a)(1). See IN–0269.

(2) Indiana did not explain the limitations included in I.C. 13–4.1–11–11(a)(2). The Secretary now finds that the limitation on the location of the commencement of the action does not operate to make the Indiana statute any less stringent than SMCRA because it does not prohibit any action otherwise intended to be provided.

(3) The Indiana statute did not provide that the Secretary gets notification of suits to compel compliance. The Attorney General of Indiana has agreed to take the necessary steps to assure that notice of any citizen suit brought pursuant to I.C. 13–4.1–11–11 will be given to the Secretary. See IN–0260.

(4) The State statute did not contain the requirement of Section 520(e) of SMCRA that nothing restricts any right of any person to seek enforcement of any of the provisions of SMCRA and the regulations thereunder, or to seek other relief. The Secretary now finds that the State has corrected this deficiency by amending its statute to add I.C. 13–4.1–11–11(f) which is in accordance with Section 520(e) of SMCRA. See IN–0269.

(5) The Indiana statute did not contain the requirements of Section 520(f) of SMCRA that a person who is injured through a violation by any operator may sue for damages only in the judicial district in which the surface coal mining operation is located. The Secretary's concern is that damage actions, such as those provided under SMCRA, be available in the State courts in the Indiana program. The Attorney General of Indiana stated that I.C. 13–4.1–11–11 preserves remedies available under statutory or common law which, in Indiana, would include an action for damages on such theories as trespass or negligence. The Attorney General also clarified that I.C. 13–4.1–11–11(a)(1) is directly congruous to the SMCRA provision limiting such actions to the district in which the operation is located because in Indiana the judicial districts are called circuits and follow county lines. IN–0260. Finally, with respect to the availability of attorney and expert witness fees in such damage actions, the Director, IDNR, at the May 18–19 meeting, agreed to propose a statutory change which provides for the award of attorney and expert witness fees in surface-mining related common law damage actions. See IN–0268. The Secretary's approval of the Indiana program is conditioned on the State's submission of a statutory amendment in accordance with Section 520(f) of SMCRA.

22.10 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute at I.C. 13–4.1–14–2 was inconsistent with Section 522 of SMCRA by providing for adjudicatory hearings rather than legislative type hearings. (Finding 22.10, 45 FR 78489, November 25, 1980). The Secretary now finds that this issue has been resolved. See Finding 21.3 above.

22.11 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute at I.C. 13–4.1–14–2 and 13–4.1–4–4 (a) and (b) was inconsistent with Section 513(b) of SMCRA in that Indiana provides for a "hearing" instead of an "informal conference" concerning an application for a permit. (Finding 22.11, 45 FR 78489, November 25, 1980). The Secretary now finds that the State has corrected this deficiency by amending its statute to provide for an informal conference in accordance with SMCRA. See IN–0269.

22.12 Indiana's statute at I.C. 13–4.1–4–5 and rules at 310 IAC 12–3–118 and 12–3–119 provide for a hearing only when a permit has been denied. This is contrary to Section 514(c) of SMCRA, which requires that the State regulatory authority hold a hearing on any final permit decision of the regulatory authority on the initial application or an application for revision or renewal, transfer, sale or assignment of rights or concerning coal exploration. At the May 18–19, 1982, meeting the Director, IDNR stated that Indiana would amend its program to meet the Federal requirements (IN–0268).

However, because that action has not been completed at this time, the Secretary's approval of the State program is conditioned on Indiana's submittal of program amendments that are in accordance with Section 514(c) of SMCRA and no less effective than the provisions of 30 CFR Part 787.

Finding 23

The Secretary finds that Indiana has authority under enacted Indiana laws and regulations and that the Indiana program submission includes provisions to monitor, review and enforce the prohibition against indirect or direct financial interest in coal mining operations by employees of the Indiana Department of Natural Resources consistent with 30 CFR Part 705, except as discussed below. This finding is made under the requirements of 30 CFR 732.15(b)(11).

The Indiana rules at 310 IAC 12–77–4(f) require that the annual listing of exempt positions include a written justification, as required by 30 CFR 705.11(d). The language of the Indiana rule is unclear due to a typographical error in that the State rule should provide for a justification for inclusion of the positions listed in 310 IAC 12–7–4(b) (1) and (2), rather than those not listed in those sections. The Director, IDNR, explained at the May 18–19, 1982 meeting that the State is proceeding to correct the typographical error (IN–0268). However, because that action has not been completed at this time, and because the error could have a substantive effect, the Secretary's approval of the Indiana program is conditioned on Indiana's submittal of a program amendment correcting the typographical error and ensuring that the Indiana rules are no less effective than the provisions of 30 CFR 705.11(d).

Finding 24

The Secretary finds that Indiana has authority under enacted laws and regulations to require the training, examination, and certification of persons engaged in or responsible for blasting and the use of explosives in accordance with Section 719 of SMCRA. This finding is made under the requirements of 30 CFR 732.15(b)(12).

Under 30 CFR 732.15(b)(12), Indiana is not required to implement regulations governing such training, examination and certification until six months after Federal regulations for these provisions have been promulgated. Federal

regulations have not been promulgated at this time. *See* 30 CFR 850.11. However, when the Secretary issues final rules on this subject, Indiana will be required to amend its program to have regulations that are no less effective than the Federal rules.

Finding 25

The Secretary finds that Indiana has authority under enacted Indiana laws and regulations and that the Indiana program submission includes provisions for small operator assistance consistent with 30 CFR 795. This finding is made under the requirements of 30 CFR 732.15(b)(13).

Finding 26

The Secretary finds that Indiana has authority under enacted Indiana laws and regulations and that the Indiana program includes provisions for protection of State employees of the regulatory authority in accordance with the protection afforded Federal employees under Section 704 of SMCRA, except as discussed below. This finding is made under the requirements of 30 CFR 732.15(b)(14).

The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute at I.C. 13–4.1–12–4 did not appear consistent with Section 704 of SMCRA, in that the protection offered in this section appeared to apply only to the Director, IDNR, rather than to all employees (Finding 26.1, 45 FR 78490, November 25, 1980). The Secretary now finds that this deficiency has been corrected by the State's amendment to its statute I.C. 13–4.1–12–3 which provides the protection of the section to the Director, IDNR, or his representative. IN–0269.

Finding 27

The Secretary finds that the Indiana Department of Natural Resources has the authority under enacted State laws and regulations to provide administrative and judicial review of State program actions in accordance with Sections 525 and 526 of SMCRA and Subchapter L of 30 CFR Chapter VII, except as discussed below. This finding is made under the requirements of 30 CFR 732.15(b)(15).

27.1 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute was inconsistent with the provisions of Section 526(a)(2) of SMCRA because it failed to provide for judicial review within 30 days from the date of order or decision in a civil penalty proceeding or other proceeding. (Finding 27.1, 45 FR 78490, November 25, 1980). The Attorney General of Indiana explained that the Indiana Administrative Adjudication Act, I.C. 4.22–1 *et seq.*, allows a 15 day period for judicial review, which comports with due process and is a time period that is familiar to Indiana citizens and Government agencies. See IN–0220. The Secretary now finds that this explanation resolves the issue because Section 526(e) of SMCRA provides for judicial review of State action to be "in accordance with State law" and that, therefore, the judicial review provisions of the State programs are in accordance with SMCRA.

27.2 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute at I.C. 13–4.1–3–13 was inconsistent with the provisions of section 526(e) of SMCRA because it failed to provide for standards of judicial review of regulatory actions consistent with those found in SMCRA (Finding 27.2, 45 FR 78490, November 25, 1980). The Secretary now finds that this issue has been resolved by the Attorney General Opinion (IN–0220) and the Indiana program is in accordance with Section 526(e) of SMCRA for the reasons set forth above in Finding 27.1.

Finding 28

The Secretary finds that the State has authority under enacted Indiana laws and regulations and that the Indiana program submission includes provisions to cooperate and provide documents and other information to the Office of Surface Mining in accordance with the provisions of 30 CFR Chapter VII. This finding is made under the requirements of 30 CFR 732.15(b)(16).

Finding 29

The Secretary finds that the Indiana laws and regulations contain no provisions which would interfere with or preclude implementation of SMCRA and 30 CFR Chapter VII except as discussed below. This finding is made under the requirements of 30 CFR 732.15(c).

29.1 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana statute at I.C. 13–4.1–5 (b) and (c) could have the effect of voiding the entire Indiana statute if any section of SMCRA is found to be unconstitutional by any court (Finding 29.1, 45 FR 78490, November 25, 1980). The Indiana Attorney General has advised OSM that the statute limits the IDNR Director's enforcement authority as to that State law provision which corresponds to a provision of SMCRA is held unconstitutional and that this language does not require total non-enforcement if any section of the Federal law is declared unconstitutional.

Additionally, section I.C. 13–4.1–1–5(c) of the Indiana statute provides that neither the Director, IDNR nor the Indiana Natural Resources Commission may enforce a provision of I.C. 13–4.1 (the Indiana statute) if the Indiana Natural Resources Commission determines that it is unnecessary due to a final judgment of a court of competent jurisdiction which holds that corresponding provisions of SMCRA are unconstitutional or otherwise invalid. OSM expressed concern that this provision could be construed to allow a State or Federal judge in any State to change the Indiana program, undermining the consistency requirement of SMCRA. At the May 18–19, 1982, meeting, the Director, IDNR stated that it is the policy of the Commission that it will only find enforcement of the State law unnecessary if one of the following courts invalidates a provision of the Federal law:

1. An Indiana State Court.
2. An Indiana Federal District Court.
3. The U.S. Court of Appeals for the Seventh Circuit.
4. The U.S. Supreme Court.

Although an Indiana State Court cannot rule on the validity of Federal law, it can rule on the validity of the State law. If a provision of State law is invalidated by a State court, the State may not enforce that provision. If a provision of Federal law is invalidated by one of the above listed Federal courts, I.C. 13–4.1–1–5(c) allows the State to choose not to enforce the comparable provision.

Therefore, the Secretary finds that the Attorney General Opinion (IN–0260) and the policy statement (IN–0268) ensure that the State program is consistent with SMCRA.

29.2 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana Administrative Adjudication Act (AAA) is possibly inconsistent with the hearing and notice requirements of SMCRA and 30 CFR Chapter VII. (Finding 29.2, 45 FR 78490, November 25, 1980). The Attorney General of Indiana provided an explanation of how Indiana's Administrative Adjudication Act is consistent with SMCRA and is no less effective than the Federal rules. See IN–0260. In addition, the hearing procedure was discussed in finding 22.10 above. The Secretary now finds, based upon these explanations, that the issue is resolved.

29.3 The Secretary found that the Indiana Attorney General's opinion in the Indiana program submission of March 3, 1980, was inadequate (Finding

29.4, 45 FR 78490, November 25, 1980). On September 28, 1982, and on December 8, 1981, the State submitted an updated Attorney General's opinion and an Addendum to the same which resolves these problems. See IN–0220 and IN–0260.

Finding 30

The Secretary finds that Indiana has demonstrated that the Indiana Department of Natural Resources and other agencies having a role in the program have sufficient legal, technical, and administrative personnel and sufficient funds to implement, administer, and enforce the provisions of the program, the requirements of 30 CFR 732.15(b) and other applicable State and Federal laws, SMCRA and 30 CFR Chapter VII except as discussed below. This finding is made under the requirements of 30 CFR 732.15(d).

30.1 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana program provisions describing the existing and proposed structural organization of the regulatory authority, and of other applicable agencies which will have duties in the state program, and indicating the coordination systems between these agencies, and the lines of authority and staffing functions within each agency and between agencies, appeared to be inadequate and inconsistent with the Federal requirements (Finding 30.1, 45 FR 78490, November 25, 1980). On September 28, 1981, Indiana submitted further information which addressed the concerns of OSM by demonstrating that the regulatory authority will have sufficient staff and funds to operate the program. See IN–0220.

30.2 The Secretary found that in the Indiana program submission of March 3, 1980, no supporting agreements between agencies were supplied (Finding 30.2, 45 FR 78490, November 25, 1980). On June 16, 1980, the State furnished copies of proposed supporting agreements between the Indiana Department of Natural Resources and other agencies. However, these proposed agreements were not signed or in effect at the time of submission. Therefore, they did not provide an adequate basis upon which the Secretary could approve the program narrative. Signed copies of the agreements were provided in the September 28, 1981, resubmission; therefore, the Secretary now finds that adequate information has been supplied and that the deficiency has been corrected. See IN–0220.

30.3 The Secretary found that in the Indiana Program submission of March 3, 1980, the Indiana summary table of existing and proposed State program staff showing job functions, titles, and required job experience and training was inadequate (Finding 30.3, 45 FR 78490, November 25, 1980). This information was provided in the September 28, 1981 resubmission; therefore, the Secretary now finds that the State has corrected this deficiency. See IN–0220.

30.4 The Secretary found that in the Indiana program submission of March 3, 1980, the Indiana submission did not describe sufficiently how the staffing for the State program will be adequate to carry out the identified administrative, technical, permitting, or enforcement elements (Finding 30.4, 45 FR 78490, November 25, 1980). This information was provided in the September 28, 1981 resubmission, and the Secretary now finds that the State has satisfactorily corrected this deficiency. See IN–0220.

30.5 The Secretary found that the Indiana program submission of March 3, 1980 did not describe sufficiently how the staffing for the State program would be adequate to carry out the identified administrative, technical, permitting, or enforcement elements (Finding 30.5, 45 FR 78491, November 25, 1980). The Secretary now finds that the State has satisfactorily corrected this deficiency by submitting additional information which fully describes staff and staffing functions adequate to carry out the administrative, technical, permitting and enforcement elements of the permanent program. See IN–0220.

30.6 The Secretary found that in the Indiana program submission of March 3, 1980, the description of the actual capital and operating budget was insufficient to allow a reasonable determination of the capability of Indiana to operate a permanent program (Finding 30.6, 45 FR 78491, November 25, 1980). The State has now submitted additional budget information from which the Secretary has determined that the State's actual capital and operating budget is sufficient to operate the Indiana permanent program. See IN–0220.

30.7 The Secretary found that the Indiana program submission of March 3, 1980 lacked physical resource information sufficient to allow evaluation of the State's preparedness in this area (Finding 30.7, 45 FR 78491, November 25, 1980). The Secretary now finds that the State has corrected this deficiency by submitting additional budget and physical resource information to assure that the State has adequate equipment and other physical resources to operate a permanent program. See IN–0220.

30.8 The Indiana resubmission of September 28, 1981, was unclear in that it did not provide any method for determining the lines of authority between elements of the organizational structure of the regulatory authority, particularly between the Director, IDNR and the Natural Resources Commission. This matter was discussed at the May 18–19, 1982, meeting, and Indiana provided additional narrative which delineated the authority and duties of the Director, IDNR and the Natural Resources Commission (IN–0268). The Secretary finds that the Indiana program meets the requirements of 30 CFR 732.15(d).

C. Disposition of Public Comments

Comments have been accepted and considered on Indiana's program resubmission of September 28, 1981 and on information provided by Indiana in connection with a reopened public comment period. Comments are organized into appropriate subject headings.

I. General

1. The Environmental Policy Institute, the National Wildlife Federation and the Indiana Wildlife Federation (EPI, NWF and IWF) expressed concern over the acceptability of policy statements as a means for the State to meet the requirements of the Federal rules. EPI, NWF and IWF questioned whether an operator could circumvent a policy statement by refusing to comply because it has not been adopted under proper rulemaking procedures. EPI, NWF and IWF contend that the public will, in turn, be forced to accept the consequences of an operator's non-compliance with unenforceable policy statements.

The Secretary has carefully considered the commenters' argument. Under 30 CFR 732.15(b), State program provisions are eligible for approval by the Secretary when they are in accordance with SMCRA and no less effective than the Federal rules. The Secretary has accepted policy statements as meeting State program requirements only when the State laws or regulations provide adequate authority for the policy statements. It should be noted that when the Secretary accepts a policy statement, the Secretary considers it to be a legally binding and an enforceable part of the State's program, and that it cannot be changed except under the State program amendment procedures found at 30 CFR 732.17. Further, the Secretary, through OSM's monitoring role, will check to ensure that all policy statements as well as other program provisions are being implemented in accordance with SMCRA, the Federal rules, and the

Secretary's decision on the State's program.

2. The Fish and Wildlife Service (FWS) issued on June 8, 1982, a biological opinion pursuant to Section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 531 et seq.), which stated that the Indiana program is not likely to jeopardize the continued existence of endangered or threatened species or result in the adverse modification of their critical habitat.

3. EPI, NWF and IWF commented that Indiana failed to respond to OSM's concerns regarding the failure of the State's conflict of interest regulations to provide remedial action for violation by the head of the state regulatory authority. The State of Indiana has submitted a letter from the Governor, dated April 27, 1982, by which he agrees to cooperate with OSM to ensure that the provisions of 30 CFR 705.19(b) are complied with in Indiana. The Secretary finds this submission to be a satisfactory resolution of the issue.

4. EPI, NWF, and IWF commented that Indiana is required by 30 CFR 731.14(c) to submit an Attorney General's opinion stating that Indiana has the legal authority to implement, administer and enforce the State program and containing a section-by-section analysis of the differences between the State and Federal standards. In particular, the commenters asked about the Attorney General's opinion referenced in Indiana's responses to OSM's comments I–18 and I–19 in the April 28, 1982, letter (See IN–0266 and IN–0268) and requested an opportunity for the public to comment on that opinion. The Attorney General of Indiana did provide an opinion which included a section-by-section analysis of both the regulations and the statute with its resubmission on September 28, 1981. Additionally, the Attorney General opinion referred to in the comment was an addendum submitted to OSM on December 8, 1981. See IN–0280. It has been available for public review and comment as part of the administrative record. As stated in Finding 29.3 above, the Secretary has determined that the requirements of 30 CFR 731.14(c) have been met.

5. EPI, NWF, and IWF commented that Indiana's explanation of its definition of best technology currently available (BTCA) fails to convince them that it is consistent with the Federal law and regulations at 30 CFR 701.5, which provides for use of technology available "anywhere . . . even if . . . not in routine use." They stated that by limiting BTCA to that which is available locally, Indiana discourages operators from the innovation and technology forcing direction for water pollution control that Congress intended. See 44 FR 14926.

As discussed in Finding 13.6 above, the Secretary finds that Indiana has adequately addressed this concern and that 310 IAC 12–1–3 is no less effective than 30 CFR 701.5.

II. Indiana law

1. The Environmental Policy Institute, the National Audubon Society, National Wildlife Federation, Save Our Irreplaceable Land and the Indiana Division of Izaak Walton League of America (EPI, *et al.*) commented that the Indiana statute at I.C. 13–4.1–4(a)(13) fails to remove the provision making confidential information on interest in lands contiguous to the area covered by the permit. EPI noted that Section 508(a)(11) of SMCRA requires this information to be public. The Secretary finds that Indiana has addressed the commenter's concern for the reasons set forth in Finding 14.7 above.

2. EPI *et al.* commented that the Indiana statute at I.C. 13–4.1–4–1 does not require that the applicant for a permit submit a copy of the advertisement referred to in I.C. 13–4.1–4–1 and I.C. 13–4.1–3–3(a)(6) to the regulatory authority as does Section 513(a) of SMCRA. The Secretary finds that Indiana has addressed the commenter's concern for the reasons set forth above in Finding 22.4.

3. EPI *et al.* commented that the Indiana statute at I.C. 13–4.1–4–3(d) does not address the problem of having a point at which areas of land can no longer be added onto a permit, i.e., which "grandfathers" prime farmlands through the process of renewals and revisions. The Secretary finds that Indiana's program is in accordance with the Federal standards for the reasons set forth above under Finding 14.10.

4. EPI *et al.* commented that the Indiana statute at I.C. 13–4.1–4–5 has no counterpart to Section 514(f) of SMCRA providing for judicial review of regulatory authority decisions. The Secretary finds that Indiana has addressed the commenter's concern for the reasons set forth above in Finding 22.5.

5. EPI *et al.* commented that the Indiana statute at I.C. 13–4.1–3–1(7) fails to require, as does Section 515(b)(7) of SMCRA, that specifications for all prime farmlands for soil removal, storage, replacement and reconstruction be established by the United States Secretary of Agriculture. The Secretary finds that Indiana has addressed the commenter's concerns for the reasons set forth above under Finding 13.3.

6. EPI *et al.* commented that the Indiana statute at I.C. 13–4.1–11–2 (a) and (b) only authorize the Director, IDNR, to inspect surface coal mining and reclamation operations, i.e., it is unclear that inspectors may also do inspections. The Secretary finds that Indiana has addressed the commenter's concerns for the reasons set forth above in Finding 17.1.

7. EPI *et al.* commented that the Indiana statute at I.C. 13–4.1–11–3(b) is inconsistent with Section 517(f) of SMCRA because the State provision does not say when the materials will be made available to the public while Section 517(f) of SMCRA requires that the material be available immediately. The Secretary finds that Indiana has addressed the commenter's concerns for the reasons set forth above in Findings 17.9 and 22.6.

8. EPI *et al.* commented that the Indiana statute at I.C. 13–4.1–11–11 appears not to include permits issued under the Indiana statute as the basis for a civil action, as does Section 528 of SMCRA. EPI commented further that the Indiana Constitution and I.C. 34–4–16.5 must be construed to establish no greater defense to suit than the 11th Amendment of the United States Constitution to be consistent with SMCRA. The Secretary finds that the commenter's concerns have been addressed by Indiana for the reasons set forth above in Finding 22.9.

9. EPI *et al.* commented that the Indiana statute at I.C. 13–4.1–12–1 is not in accordance with Section 518(h) of SMCRA which requires that any operator be assessed a civil penalty of not less than $750 each day a violation continues. EPI *et al.* argued that the Indiana statute appears to be inconsistent with SMCRA in that it is discretionary whether the IDNR Director assesses the civil penalty. The Secretary finds that Indiana's program is in accordance with the Federal standard for the reasons set forth above under Finding 19.5.

10. EPI *et al.* commented that the Indiana statute at I.C. 13–4.1–12–2 does not appear to provide a criminal fine consistent with Section 513(e) and 513(g) of SMCRA. The Secretary finds that Indiana's provisions are acceptable for the reasons set forth above in Finding 19.2.

11. EPI *et al.*, EPI, NWF and IWF commented that the Indiana statute at I.C. 13–4.1–14–2 appears, by the reference to I.C. 4–22–1, to provide for adjudicatory hearings as opposed to legistative hearings for unsuitability petitions while Section 522 of SMCRA provides for legislative hearings. The

Secretary finds that Indiana's provisions, which assure that no non-expert witness will be harassed, are in accordance with the Federal standards for the reasons set forth above in Findings 21.3 and 22.10.

12. EPI *et al.* commented that the Indiana statute at I.C. 13–4.1–14–4 and 5 appears not to require a data base and inventory system for designating areas unsuitable for surface coal mining as required by Section 522(a) of SMCRA. The Secretary finds that Indiana has addressed the commenter's concerns for the reasons set forth above in Finding 21.1.

13. EPI *et al.* commented that the Indiana statute at I.C. 14–3–3–3 creates a Commission to perform administrative review functions over the IDNR with six of the twelve Commission members as "lay members." EPI expressed concern that these "lay members" appear to have been chosen to represent specific interests.

The Secretary finds that the Indiana Natural Resources Commission is a multi-interest board under 30 CFR 705.5. Under that regulation, members of multi-interest boards such as Indiana's are exempt from the conflict of interest rule. The State program is consistent with this rule.

14. EPI *et al.* commented that the Indiana statute at I.C. 14–22–1 (the Indiana Administrative Adjudication Act) does not provide rights for hearings as complete as those under the Federal Administrative Procedure Act. EPI *et al.* commented further that Indiana does not allow citizen access to regulatory proceedings as broad as under Sections 518 and 525 of SMCRA. They argued that the State lacks the attorney fees provisions of 525 (e) or (f) and the broad discovery provisions of SMCRA. The Secretary finds that the commenter's concerns have been addressed by Indiana for the reasons set forth above in Finding 29.2.

15. EPI *et al.* expressed concern that the Indiana statute at I.C. 13–4.1–11–9 does not allow attorney fees for intervenors in an action as is required by Section 515(e) of SMCRA. The Secretary finds that the Indiana statute at I.C. 13–4.1–11–9 does allow for the award of costs and attorney fees for any person, including intervenors. The Secretary approves the Indiana program based on this interpretation and will continue to observe the implementation of the Indiana provision during OSM's monitoring and evaluation of the State's program. If the Secretary finds that the implementation of this provision of the State program is inconsistent with Section 525(e) of SMCRA, or the Secretary's above interpretation, Indiana will be required to amend its program.

16. EPI, NWF and IWF commented that Indiana's statute at I.C. 13–4–1–5 provides that the State may not enforce any program provisions once the corresponding provision in SMCRA is held invalid by a court of competent jurisdiction pursuant to Section 526(a)(1) of SMCRA. As discussed in Finding 29.1, Indiana has explained that it will find enforcement of its Act unnecessary if one of the following courts invalidates a provision of SMCRA: (1) an Indiana State court, (2) an Indiana Federal District Court, (3) the U.S. Court of Appeals for the Seventh Circuit, and (4) the U.S. Supreme Court. See IN–0268. After having reviewed Indiana's explanation, the commenters expressed concern that it appears that Indiana believes an Indiana State Court could hold a provision of Federal law invalid, which would be contrary to Section 526(a)(1) of SMCRA. However, the Attorney General of Indiana has made it clear also that any action finding a provision of Federal law unconstitutional would have to be based on a judgement of a court having the competence by way of personal and subject matter jurisdiction to make such a finding. See IN–0265. An Indiana State court does not have jurisdiction to rule on the constitutionality of Federal law and could only, therefore, rule on the constitutionality of a State law provision. As stated in Finding 29.1, the State may not enforce a State provision held invalid by a State court and can also choose not to enforce a State provision which is equivalent to a Federal provision held invalid by one of the three Federal courts listed by Indiana in its policy statement.

17. EPI, NWF and IWF objected to the OSM's rationale as stated at the May 18–19, 1982 meeting, (IN–0268) that Indiana's use of the term "establish" rather than "tend to establish" to substantiate allegations of facts for lands unsuitable petitions at I.C. 13–4.1–14–2 constitutes a minor deficiency. Their specific objection is that Indiana's provision may preclude designation petitions, thus undermining the intent of SMCRA. The Secretary has found that the Indiana provision is deficient and has made the correction of this provision a condition of approval (*See* Finding 21.2 and 30 CFR 914.10(g)(1) being promulgated today). As part of the criteria for conditional approval, the Secretary has explained that this deficiency is minor. See Paragraph (g)(1) of Section E, "Secretarial Decision," below for a discussion of why this condition is minor.

III. Permitting

1. The Environmental Protection Agency (EPA) and FWS commented that Indiana's rules do not contain provisions specified in 30 CFR 770.12 pertaining to the coordination of permit review and issuance with other applicable Federal and State permit processes. The Secretary finds that the requirements of 30 CFR 770.12 have been met by Indiana rules 310 IAC 12–3–6(d), 310 IAC 12–3–25, 310 IAC 12–3–45, 310 IAC 12–3–92 and 310 IAC 12–5–16(c). The Indiana provisions are no less effective than the Federal provisions of 30 CFR 770.12.

2. EPA, EPI, NWF and IWF pointed out that 30 CFR 776.11(b)(6) requires that the notice of intent to explore, when less than 250 tons of coal will be removed, includes a description of the practices proposed to be followed to protect the environment from adverse impacts and the Indiana's rules omit this requirement. The Secretary agrees for the reasons set forth in Finding 15.2 above and has required, as a condition of approval, that Indiana adopt a provision consistent with the Federal rule.

3. EPA, FWS, EPI, NWF and IWF commented that 30 CFR 776.12(a)(5) requires a map depicting certain items to be included in an application to conduct coal exploration where more than 250 tons of coal will be removed. Indiana rule 310 IAC 12–3–11(b)(6) omits the following map requirements: existing occupied dwellings and pipelines, the proposed location of trenches, structures to be constructed, land excavations to be conducted, water or coal exploratory holes and wells to be drilled or altered, earth or debris disposal areas, historic and cultural features, and the distribution and important habitats of any endangered or threatened species listed pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

The Secretary has carefully reviewed the Indiana rule and finds that Indiana requires a detailed narrative description and a U.S. Geological Survey topographic map cross-referenced to that narrative. The topographic map requirement will ensure that the requirements of 30 CFR 776.12(a)(5) will be met because all the above features will be shown on the topographic map.

4. EPA suggested that Indiana should require, in its permit application, a description of the existing premining environmental resources "within the proposed mine plan area" rather than "within the proposed permit area." The Federal rules at 30 CFR 779.11 require permit applications to refer to the

proposed permit area as does the Indiana rule at 310 IAC 12–3–28. See 45 FR 51547 *et seq.* (August 4, 1980). For that reason, the Secretary finds that the Indiana rule is no less effective than the Federal rule; therefore, no change is necessary.

5. EPA, EPI, NWF and IWF commented that Indiana should add to its rules language equivalent to 30 CFR 799.13(b)(3), which requires that a permit not be approved until information on hydrology, water quality and quantity, and geology is made available in the permit application. The Secretary finds that Indiana's rules and permit application form contain requirements no less effective than the provisions of 30 CFR 779.13(b)(3) for the following reasons. Permit application hydrology information requirements are included in Indiana rules 310 IAC 12–3–112(c), 310 IAC 12–3–6(a), 310 IAC 12–3–32 and 310 IAC 12–3–33. Geology information requirements are found at 310 IAC 12–3–31. The hydrology and geology information requirements are also found on the Indiana permit application (IN–0269). At the May 18–19, 1982, meeting, the Director, IDNR stated that the requirements contained in the Indiana surface coal mining permit application will also be included in the State's underground coal mining permit application (IN–0268).

EPA further commented that Indiana should include language comparable to 30 CFR 779.13(c), concerning the use of modeling techniques for the gathering of surface and ground water information. The Federal provision is discretionary; it provides that modeling techniques "may" be used. Therefore, the Secretary cannot require Indiana to add this provision.

6. EPA, EPI, NWF and IWF commented that 30 CFR 779.13(a) requires that each surface mining permit application contain a description of hydrology and geology, including information on water characteristics, for any water which will flow into or receive discharges of water from the general area, whereas Indiana's counterpart at 310 IAC 12–3–30 does not specifically state this requirement.

The Secretary finds that Indiana Rules 310 IAC 12–3–32 and 12–3–33 require specific information on ground water and surface water for the permit and adjacent areas for all permit applications. Further, Indiana rule 310 IAC 12–3–30(c) requires hydrologic information outside the permit area and within the adjacent area, and 310 IAC 12–3–30(c) allows Indiana to require additional information for the permit area. These three provisions are in accordance with Section 507(b)(11) of SMCRA and are no less effective than the provisions of 30 CFR 779.13(a).

7. EPA, EPI, NWF and IWF commented that SMCRA Section 507(b)(11) and 30 CFR 779.14(a) require the geology description in a permit application to include a general statement of the geology within the proposed mine plan area down to and including the first aquifer to be affected below the lowest coal seam to be mined, whereas Indiana rule 310 IAC 12–3–30(a) omits this requirement.

The Secretary disagrees. The Secretary finds that Indiana's regulations at 310 IAC 12–3–30 through 12–3–33 require descriptions of the geology and hydrology within the permit area. Rule 310 IAC 12–3–32(a) specifically requires "the location and extent of each aquifer which may be affected by the mining and the estimated level of the water table." This requirement is no less effective than 30 CFR 779.14(a).

8. EPA, EPI, NWF and IWF suggested that Indiana substitute the language contained in 30 CFR 779.15(b) concerning the description of the recharge, storage, and discharge characteristics of aquifers and the quality and quantity of ground water in Indiana's rule 310 IAC 12–3–32(d) pertaining to ground water information for surface mining permits. EPA further suggested that Indiana revise its underground mining permit application requirements at 310 IAC 12–3–70 to be consistent with the requirements of 30 CFR 783.15(a). The Indiana rules, when viewed in conjunction with the hydrology section of the State's surface coal mining permit application (IN–0268) require all necessary information to be shown, including all supporting calculations. The Director, IDNR at the May 18–19, 1982, meeting stated that these requirements will also apply to the State's underground mining permit application (IN–0268). For these reasons, the Secretary finds Indiana's provisions at 310 IAC 12–3–32(d) and 310 IAC 12–3–70, coupled with the State's permit application requirements, are no less effective than the requirements of 30 CFR 779.15(b).

9. EPA, EPI, NWF and IWF suggested that Indiana substitute language comparable to 30 CFR 779.16 concerning surface water information for surface mining permit applications in place of its language at 310 IAC 12–3–33(b), and substitute language comparable to 30 CFR 783.16 for 310 IAC 12–3–71 concerning underground mining surface water information. The Secretary finds that the aforementioned Indiana rules, when coupled with the State's surface coal mining permit application (IN–0268) and commitment to include the same requirements in the Indiana underground coal mining permit application (IN–0268), are no less effective than the provisions of 30 CFR 779.16 and 783.16.

Further, EPA and FWS suggested that Indiana amend its rules at 310 IAC 12–3–33(b) and 310 IAC 12–3–71(b) to broaden the scope of surface water information requirements beyond just perennial streams. The Secretary will not require Indiana to do so because Indiana's surface coal mining permit application requires the inclusion of such information for "other streams and other water bodies which will receive surface water drainage from the permit area" (IN–0269). For this reason, the Secretary finds Indiana rules 310 IAC 12–3–33(b) and 310 IAC 12–3–71(b) to be no less effective than the provisions of 30 CFR 779.16(b)(2) and 783.16(b)(2).

EPA and FWS also commented that Indiana should drop the phrase "subject to legal access" from its rules at 310 IAC 12–3–33(b) and 310 IAC 12–3–71(b) when identifying streams or other water bodies for which surface water information is required in order to be consistent with 30 CFR 779.16(b) and 783.16(b). Indiana has amended its rules by deleting the phrase "subject to legal access," making the State rules consistent with the Federal requirements (IN–0269).

EPA further stated that the parameters of acidity, total and dissolved iron, and total manganese contained in 30 CFR 779.16(b) and 783.16(b) should be added to the surface water information requirements of 310 IAC 12–3–33(b) and 310 IAC 12–3–71(b). Indiana amended its rules to specify acidity as one parameter to be used. Further, the rules require the use of State water quality standards and EPA effluent limitations (IN–0269). Specific dissolved solids, including iron and manganese, are also included in the hydrology and ground water information section of the State's surface coal mining permit application form and will be included in the State's underground coal mining permit application form (IN–0269). For these reasons, the Secretary finds Indiana rules 310 IAC 12–3–33(b) and 310 IAC 12–3–71(b) to be no less effective than 30 CFR 779.16(b) and 783.16(b).

EPA also suggested that Indiana add the language of 30 CFR 779.16(b)(2)(vii) and 30 CFR 783.16(b)(2)(vii) to its rules at 310 IAC 12–3–33(b) and 310 IAC 12–3–71(b), respectively. The Federal provisions specify that surface water information shall include such other information as the regulatory authority

determines is relevant. Indiana will not be required to add the suggested language to its rules because the Secretary finds that the Federal requirement will be met through Indiana's surface coal mining permit application information requirements (IN–0268 and 0289). Therefore, Indiana rules 310 IAC 12–3–33(b) and 310 IAC 12–3–71(b), coupled with the State's permit application requirements, are no less effective than 30 CFR 779.16(b)(2)(vii) and 783.16(b)(2)(vii).

10. EPA, EPI, NWF and IWF commented that 30 CFR 779.25(b) requires surface mining permit applications to include cross-sections, maps, and plans showing elevations and locations of monitoring stations used to gather data for water quality and quantity, fish and wildlife, and air quality, if required, in the preparation of the application. EPA noted that Indiana's counterpart at 310 IAC 12–3–39 requires that groundwater and surface water monitoring stations be shown, but omits air quality and fish and wildlife monitoring stations. As indicated above in Finding 14.20, the Secretary finds that the State program is no less effective than the Federal rules.

EPI, NWF and IWF further expressed concern that the policy statement found in Finding 14.20 may not be enforceable. The Secretary disagrees with the commenters for the reasons set forth in General Comment 1.

11. EPA suggested that Indiana add the phrase "unless specifically required for the mine plan area or adjacent area beyond 1000 feet of the permit area by the requirements of this section or by the Commission" to Indiana rule 310 IAC 12–3–44(b), which sets forth the requirements for the maps and plans submitted as part of the operation plan for surface mining activities. The same suggestion was also made concerning the underground permit rule at 310 IAC 12–3–76. The Indiana rules require that information be shown for the proposed permit area and adjacent area within 1000 feet. The Federal rules at 30 CFR 780.14(b) and 783.25(b) require that information be shown for the proposed permit area unless specifically required for the mine plan area or adjacent area. Indiana has merely provided specific guidance concerning what is included in the adjacent area. The Secretary, therefore, finds Indiana rules 310 IAC 12–3–44(b) and 310 IAC 12–3–76 to be no less effective than 30 CFR 780.14(b) and 783.25(b), respectively.

12. EPA noted that Indiana substitutes the term "siltation structure" for "sedimentation pond" in its regulations. The Secretary finds that Indiana defines its term "siltation structure" at 310 IAC 12–1–3 in a manner no less effective than the Federal definition of "sedimentation pond" found at 30 CFR 701.5. Therefore, no change is necessary. Also, see Finding 13.19.

13. EPA objected to Indiana's reference in its rules at 310 IAC 12–3–45 and 310 IAC 12–3–92 to permits issued by the Indiana Air Pollution Control Board because Indiana's fugitive dust regulations have not been approved by EPA. The Federal performance standards pertaining to fugitive dust (30 CFR 816.95 and 817.95) were remanded by the U.S. District Court for the District of Columbia, so the State program is no less effective than the Federal rules.

14. EPA, EPI, NWF and IWF pointed out that Indiana fails to require cross-section drawings as required by 30 CFR 780.21(a) to be included in reclamation plans in its rule at 310 IAC 12–3–47. The Secretary finds that Indiana's program is no less effective than the Federal requirements for the reasons set forth above in Finding 14.15. EPI, NWF and IWF further expressed concern that provisions in Indiana's permit application that are not in the State's rules are unenforceable. The Secretary disagrees for the reasons set forth in General Comment 1.

15. EPA commented that Indiana rules 310 IAC 12–3–47(b) (1) and (2), concerning a description of the plans for the control and treatment of surface and groundwater drainage, refer to control plans at 310 IAC 12–3–33 and 12–3–44. EPA is concerned that the referenced provisions do not require a plan for control or treatment of surface and groundwater drainage, nor do they impose quantitative limits on pollutants in the discharges. The Secretary agrees for the reasons set forth above in Finding 14.16, and as a condition of approval Indiana must amend its program to make it no less effective than the Federal rule.

16. EPA commented that Indiana omitted the reference to contents of pollutants at 310 IAC 12–3–47 contained in 30 CFR 780.21(c). Indiana submitted amended rules at 310 IAC 12–3–47(e) containing provisions that are no less effective than the requirements of 30 CFR 780.21(c) (IN–0269). No further change is required.

17. EPA, MSHA, EPI, NWF and IWF commented that the State program does not contain the MSHA requirements for coal processing waste dams and embankments in its reclamation plan information requirements at 310 IAC 12–3–49, 310 IAC 12–3–83, 310 IAC 12–5–30, and 310 IAC 12–5–90(h). The Secretary finds that Indiana has met the Federal requirements for the reasons set forth above in Findings 13.12 and 14.17. EPI, NWF and IWF expressed concern that the provisions in Indiana's permit application that are not in the State's rules are unenforceable. The Secretary disagrees for the reasons set forth in General Comment 1.

18. EPA commented that Indiana's underground mine permit application rules at 310 IAC 12–3–54 do not specify the Federal requirements of 30 CFR 780.35(a) that the permit application contain descriptions of the proposed design of the spoil disposal structures according to 30 CFR 816.71. The Indiana provision correctly references Indiana's counterpart to 30 CFR 816.71 (310 IAC 12–5–39) but omits counterparts to 30 CFR 816.72–74. The latter Federal rules pertain to valley fills, head-of-hollow fills and durable rock fills. Since these do not exist at this time in Indiana, these Federal provisions are not applicable in Indiana. Should the above types of fills be proposed in Indiana, the State would have to amend its program to be no less effective than the Federal requirements. Also, see Finding 13.7.

19. EPA commented that Indiana fails to require a description of water quantity in its underground mine permit application rules at 310 IAC 12–3–68(a) as required by 30 CFR 783.13(a). The Secretary disagrees. Indiana rule 310 IAC 12–3–76 requires comprehensive descriptions of surface and ground water quality and quantity. The descriptions required by this rule are no less effective than 30 CFR 783.13(a).

20. EPA, EPI, NWF and IWF commented that to be no less effective than 30 CFR 783.25(f), Indiana should require cross-section and contour maps for underground mining permit applications to show the location and extent of subsurface water, including areal and vertical distribution of aquifers and portrayal of seasonal differences of head in different aquifers. Indiana amended its rule at 310 IAC 12–3–76(f) by adding the suggested language (IN–0268); therefore, no further change is necessary (IN–0269).

21. EPA, EPI, NWF and IWF commented that Indiana omits "coal development waste" from its rule at 310 IAC 12–3–76(i), the State's counterpart to 30 CFR 783.25(i). The Secretary interprets the Indiana term "waste" to include coal development or processing wastes. The Secretary finds that Indiana defines coal processing waste in a manner no less effective than 30 CFR 701.5; therefore, no further change is required.

22. EPA argued that Indiana rule 310 IAC 12–3–78 is inconsistent with 30 CFR 784.11 because the State rule allegedly limits the information requirements of

operation plans for underground mine permit applications. The Federal rule requires a description of the mining operations proposed to be conducted during the life of the mine within the proposed mine plan area. Indiana's counterpart limits the information to "within the proposed permit area" and drops the phase "during the life of the mine." The Secretary finds that Indiana rule 310 IAC 12–3–78 is consistent with 30 CFR 784.11 because the Federal reference to "mine plan area" was remanded by the U.S. District Court for the District of Columbia (*In Re: Surface Mining Regulation Litigation*, No. 79–1144, (D.D.C. February 26, 1970), p. 35 as clarified by the Court on May 6, 1980, on p. 37).

23. EPA, EPI, NWF and IWF commented that Indiana rule 310 IAC 12–3–97 is inconsistent with 30 CFR 785.16 because the State rule allows for a general variance from approximate original contour restoration while the Federal rule limits the variance to steep slope mining, and then only when specific criteria have been met. The Secretary agrees with the commenter for the reasons set forth above under Findings 13.15 and 14.25 and notes that Indiana has agreed to amend its program to meet the Federal requirements. The Secretary is requiring as a condition of approval that Indiana amend its program to be no less effective then the provisions of 30 CFR 785.16.

24. EPA commented that Indiana omitted from 310 IAC 12–3–102 the requirement of 30 CFR 785.22(c) that no permit shall be issued for an in-situ operation unless the regulatory authority finds that the operation will be conducted in compliance with the performance standards of 30 CFR Parts 817 and 828. The Secretary will not require Indiana to change its rules because no in-situ operation will be allowed in Indiana and for the reasons set forth above in Finding 14.18.

25. EPA, EPI, NWF and IWF commented that the Indiana rules do not contain the requirements of 30 CFR 786.29, Conditions of Permits: Environmental Public Health and Safety. The Indiana Attorney General has stated that this section was duplicative and that the requirements of this section are covered elsewhere in the State regulations (IN–0265). The Secretary accepts the Attorney General's opinion with the understanding that Indiana has the authority to ensure minimization of any adverse impact to the environment of public health and safety resulting from noncompliance with any term or condition of the permit.

26. FWS commented that the Indiana rule 310 IAC 12–3–112 has no counterpart to 30 CFR 786.19(o). This subsection requires that the regulatory authority find that the mining will not "affect the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitats as determined under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)."

It is Indiana's policy that the Natural Resources Commission will not issue any permit which would affect the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitats as determined under the Endangered Species Act of 1973 and Indiana's Endangered Species Law (I.C. 14–2–8.5–5). (See IN–270).

Indiana has demonstrated that the regulatory authority has built into its program other ample safeguards to assure protection of endangered and threatened species and their habitats. The IDNR Division of Reclamation has a member of its Technical Services Section a Wildlife Biologist with ten years' experience with the State Division of Fish and Wildlife. This individual will be reviewing permit applications for fish and wildlife concerns.

In addition, on the staff of the Division of Reclamation are two environmental specialists who are responsible for the development and maintenance of the State's lands unsuitability data base, which contains information on the location of threatened or endangered species and their critical habitat.

Further, the State assures that the Division of Wildlife will be reviewing all permit applications, and will comment on any threatened or endangered species or critical habitat in the proposed permit area. The FWS is also free to comment on permit applications.

In addition to the above safeguards, Indiana has pointed out that pursuant to the Indiana statute at I.C. 13–4.1–2–2(a)(6), the Director of the Department of Natural Resources is required to submit to any Federal agency any report required to be submitted, and that report is to include such information as that agency may require. OSM requires that each State which has an approved program submit or make available to OSM each approved permit promptly upon issuance. These applications will be available to FWS through OSM.

The Secretary finds that Indiana has provided safeguards for the protection of threatened and endangered species and their critical habitats no less effective than those in the Federal rules; therefore, no further changes will be required.

27. FWS commented that the Indiana program omits rules equivalent to 30 CFR 783.20 and 784.21. FWS commented that the above rules have not been remanded by the courts. Although the above rules were not explicitly remanded, 30 CFR 779.20 and 780.16 (which set forth the requirements for fish and wildlife resources information and reclamation plan requirements for surface mines) were remanded (*In re:* Permanent Surface Mining Reclamation Litigation, No. 79–1144 (D.D.C. February 26, 1980, pp. 38–39) for reasons equally applicable to 30 CFR 783.20 and 784.21. OSM suspended these regulations on August 4, 1980 (45 FR 51558).

28. EPI commented that the parameters delineated by Indiana in rule 310 IAC 12–3–121(a)(1) for changes in surface coal mining operations which constitute significant departures requiring a permit revision are too broad, Indiana's narrative provides an example of how this rule would apply. IN–0269. Based on this information, the Secretary finds Indiana rule 310 IAC 12–3–12(a)(1) to be no less effective than 30 CFR 788.12(a)(1).

29. EPI, NWF and IWF commented that Indiana failed to include in its statute a provision for administrative review of permit applications consistent with the provisions of Section 514(c) of SMCRA and 30 CFR 787.11. The Secretary agrees with the commenter for the reasons set forth in Finding 22.12.

30. EPI, NWF and IWF expressed concern with OSM's acceptance at the May 18–19, 1982 meetings of a policy statement from Indiana that in no case will the temporary relief granted under 310 IAC 12–3–118 be the issuance of the permit in whole or in part. The Secretary finds that Indiana has addressed the commenters' concern as demonstrated in Finding 14.22 and Comment 1 under General Comments.

31. EPI, NWF and IWF commented that Indiana failed to provide counterparts to 30 CFR 780.12(a)(3) and (b)(1)–(4) and that inclusion of such items on the permit application rather than in a rule makes the Indiana provisions less effective than the Federal rules. For the reasons set forth in Finding 14.14 and General Comment 1, the Secretary finds the State program no less effective than the Federal rules.

32. EPI, NWF and IWF commented that a state policy that no permit shall be approved unless all reclamation fees have been paid is not as effective as a rule change because a policy may not be enforceable in the event of a legal

challenge. Furthermore, EPI, NWF and IWF indicated that no such requirement is contained on p. S–S7 of Indiana's permit application form. As discussed in Finding 14.19 above, Indiana rule 310 IAC 12–3–112(m) requires the applicant to indicate on the application whether or not all fees have been paid and the State has agreed, in a policy statement, to require certification that such fees have been paid. Through an oversight, the necessary application change was not submitted by the State and, therefore, the Secretary's approval of the program is conditioned on the submission of that revision. As discussed in General Comment 1, the Secretary finds that policy statements which Indiana has the authority to issue are acceptable as part of the State program.

33. EPI, NWF and IWF commented that Indiana has no counterpart to 30 CFR 776.12(a)(3)(v), which requires that an application for exploration operations removing over 250 tons of coal include a description of measures to be used to comply with 30 CFR 815. Indiana rule 310 IAC 12–3–13 addresses the requirements of such applications. In addition to listing specific requirements, it references the requirements of 310 IAC 12–3–12 with which applicants must also comply. Indiana rule 310 IAC 12–3–12(b)(5) does require a description of measures to be used to comply with Part 815.

However, while Indiana's permitting rules cover coal exploration where more than 250 tons of coal will be removed, Indiana's program does not contain penalty provisions for such operations. Because of this, Indiana has stated that coal exploration of over 250 tons will not be allowed at this time. See Finding 15.1 and IN–0268.

34. The U.S. Soil and Conservation Service (SCS) commented that the term "Soil Conservation Service" should be included in Indiana rule Sections 310 IAC 12–3–37(a)(2)(ii), 310 IAC 12–3–40(a), and 310 IAC 12–3–77(a). The Secretary does not agree with the commenter because this reference is not required under the Federal requirements of 30 CFR 779.22, 783.24 and 785.16. The Secretary cannot compel the State to exceed the Federal requirements. However, the Secretary finds that Indiana has taken appropriate steps to coordinate permit approvals with the SCS in cases where prime farmland may be affected. See Finding 14.21.

IV. Bonding and Insurance

1. EPI *et al.* commented that Indiana regulations are confusing because the State appears to allow for self-bonding but did not establish any standards to regulate the acceptance of self-bonding as set forth in 30 CFR 806.11 and Section 509(c) of SMCRA.

The Secretary has carefully reviewed Indiana's statute at I.C. 13–4.1–6–1 through I.C. 13–4.1–6–8, and the Indiana rules at 310 IAC 12–4–1 through 310 IAC 12–4–19, and finds no mention of Indiana's allowing self-bonding. Indiana rule 310 IAC 12–4–6 specifies the kinds of bonding that will be allowed. Under the rule, surety bonds, escrow account bonds, combined surety/escrow bonding and a combination of any of those bonding methods are allowable. These are all acceptable as specified under 30 CFR 806.11(a). Should Indiana elect to allow for self-bonding in the future the State would then have to demonstrate how it will meet the requirements of Section 509(c) of SMCRA and 30 CFR 806.14.

2. EPI, FWS and IWS commented that Indiana rule 301 IAC 12–4–8, concerning the determination of bond amount, does not take into account the administrative costs.

The Secretary finds the Indiana rule to be no less effective than the Federal standards in light of the supplemental State fund established by Indiana statute I.C. 13–4.1–6–8. The State fund will ensure that the administrative costs will not affect the amount of funds available for actual reclamation. See Finding 18.8.

3. EPI *et al.* commented that Indiana rule 310 IAC 12–4–16 does not require that revegetation standards of success must be met. The commenters note that this is required under Section 509(b) of SMCRA.

The Secretary finds that Indiana rule 310 IAC 12–4–16(c)(2) requires revegetation to have been established on the regraded mined lands in accordance with the approved reclamation plan before the release of an additional 25 percent of the bond. The specific requirements for revegetation are set forth on the State's permit application form as part of the approved reclamation plan. Thus, Indiana rule 310 IAC 12–4–16(c)(2), when coupled with the State's reclamation plan requirements, is in accordance with SMCRA Section 509(b) and is no less effective than 30 CFR 807.12(b)(2).

4. EPI *et al.* commented that Indiana rules 310 IAC 12–4–16 (f) and (h) are unclear in that they do not state that the hearings for bond release will be full Administrative Procedures Act type hearings. The Secretary finds that Indiana rule 310 IAC 12–4–16(h) sets forth hearing criteria that are no less effective than the provisions of 30 CFR 807.11(h)(ii). Specifically, the Indiana rule states that the IDNR shall have the authority to administer oaths, subpoena witnesses or written or printed materials, compel the attendance of witnesses, or production of materials and take evidence. Further, Indiana's rule also requires that a verbatim record of each public hearing be made and that the transcript be made available on the motion of any party or the IDNR.

5. EPI *et al.* commented that Indiana rule 310 IAC 12–4–17(d) does not contain a requirement that, even with incremental bonds, bond liability for protection of hydrologic balance shall extend to the entire permit area.

The commenters' concern is unclear. Indiana rule 310 IAC 12–4–17(d) is the State counterpart to 30 CFR 808.12(a)(1)(3), which concerns notification, appeal and collection procedures for bond forfeiture. However, the Secretary notes that Indiana statute section I.C. 13–4.1–6–7(g) and Indiana rule 310 IAC 12–4–16(c) require that specific criteria be met for the release of all or part of the bond and that the criteria to be used will be those included in the approved reclamation plan. For these reasons, the Secretary finds that the Indiana provisions are no less effective than the Federal rules.

6. EPI, NWF and IWF commented that Indiana does not provide for changes in bond amount where standards of reclamation change, and that the Indiana program does not provide for review and reevaluation of each performance bond at the time of permit review. The Secretary disagrees with the commenters for the reasons set forth in Finding 18.2. Indiana has submitted a policy statement that the term "may" in the Indiana statute at 310 IAC 12–34–3(e) and 310 IAC 12–4–17(a), only limits the discretionary authority of the IDNR and the Indiana Natural Resources Commission to determine whether all (as opposed to part) of the bond should be forfeited. Further, it is the State's policy that the term does not extend direct authority to withhold forfeiture altogether; in cases where all attempts to ensure completion of the reclamation have failed, the IDNR and Natural Resources Commission will forfeit all or part of any bond. The Secretary accepts this policy statement for the reasons set forth in General Comment 1.

7. EPI, NWF and IWF commented that in order to be consistent with the Federal rules at 30 CFR 800.11(b), the Indiana regulations must state clearly that disturbance of surface areas, underground shafts, tunnels, etc. will not be permitted prior to approval of an acceptable performance bond. The commenters contended that as the current Indiana rules read, work could begin after submission of a bond of any

amount, and that this is less effective than the provisions of 30 CFR 800.11(b) which requires that disturbance not occur prior to approval of a bond. The Secretary finds that the commenters' concern has been addressed for the reasons set forth above in Finding 18.3.

8. EPI, NWF and IWF commented that the Indiana provisions concerning extended bond liability (discussed above in Finding 18.7) would be acceptable provided that the policy statement being relied upon is a binding part of the State's program which the State cannot change without following the State program amendment process. The Secretary has stated under General Comment 1 that all policy statements are binding and can only be changed under the State program amendment provisions of 30 CFR 732.17.

9. EPI, NWF and IWF expressed concern that Indiana's bonding provisions do not provide for adequate bond. Specifically, the commenters contended that the maximum bond per acre of $10,000 provided in 310 IAC 12–4–8(c) even when supplemented by the State fund established by I.C. 13–4.1–6–8 does not assure that the total funds available will be adequate to cover the costs of reclamation if it had to be carried out by the regulatory authority. The Secretary has carefully considered the adequacy of Indiana's provisions and, in particular, the information provided by Indiana on the projected health of the State fund, in Finding 18.8. The Secretary finds that the commenters' concerns have been addressed. The Secretary will, through OSM, monitor the implementation of the Indiana program. Should the Secretary find later that the Federal requirements are not being met, the Secretary will take appropriate action at that time.

10. EPI, NWF and IWF expressed concern with OSM's acceptance at the May 18–19, 1982 meeting of the Indiana policy statement that any operator who is without bond coverage shall be required to replace bond coverage within a reasonable period not to exceed 90 days and that any operator who is without bond coverage shall be deemed to be in violation of Indiana rule 310 IAC 12–4–5. In that event, the Director, IDNR will issue a notice of violation against any operator who is without bond coverage specifying a reasonable period not to exceed 90 days. (See Finding 18.10) The commenters expressed concern that this provision "may very well violate an operator's due process rights" and therefore be unenforceable. The commenters' concern is unclear, because it did not explain why there could be a due process problem and did not cite any case law which would explain why there is a problem. The Secretary accepts Indiana's policy statement for the reasons set forth in General Comment 1 and assumes that the regulatory authority will make operators aware of its policy.

11. EPI, NWF and IWF commented that Indiana does not contain in its rules a provision comparable to 30 CFR 807.11(a)(1) which requires that the times or seasons appropriate for the evaluation of certain types of reclamation be identified in the permit application and reclamation plan. The Secretary has determined that Indiana has clearly provided that seasonal effects of reclamation will be considered when scheduling inspections of reclamation prior to bond release. See the discussion in Finding 18.11 above for the rationale for the Secretary's finding that Indiana's provisions are no less effective than 30 CFR 807.11(a)(1).

12. EPI, NWF and IWF expressed concern over OSM's acceptance at the May 18–19, 1982 meeting of a policy statement from Indiana that it is the policy of the IDNR that "any surface owner, agent or lessee may accompany the State Inspector and participate in the bond release inspection * * *." For the reasons set forth in Finding 18.13 and General Comment 1, the Secretary finds that the Indiana policy statement and rules are no less effective than the Federal requirements.

V. Performance Standards

1. EPA, FWS, EPI, NWF and IWF argued that Indiana rule 310 IAC 12–5–3 fails to prohibit the diversion of ephemeral, intermittent, and perennial streams as required by 30 CFR 815.15(g).

The Secretary disagrees. 30 CFR 815.15(g) does not prohibit diversions *per se;* it allows and regulates small and temporary diversions of water. Indiana has amended its rules at 310 IAC 12–5–3 to provide the environmental protection required by 30 CFR 815.15(g). Because of the nature of coal exploration in Indiana, the requirements for small temporary diversions are no less effective than the Federal requirements. Indiana allows for the diversion of "all other drainage" with reference to the environmental protection standards of 310 IAC 12–5–18 and 310 IAC 12–5–19. These provisions are no less effective than the Federal rules since all coal exploration activities in Indiana involve core drilling operations which do not substantially disturb the land surface. Also, Indiana explained in its April 8, 1982, modified narrative how it will protect the integrity of biological communities with respect to stream buffer zones (IN–0289).

2. EPA commented that Indiana omits from its rules a section stating the provisions of 30 CFR 815.15(h), which states that each exploration hole, borehole, well or other exposed underground opening created during exploration must be covered in a manner consistent with the casing and sealing performance standards under 30 CFR 816.13–15. The Secretary finds that Indiana has met the Federal requirements for the reasons set forth above in Finding 15.3.

3. EPA commented that Indiana rule 310 IAC 12–5–3(j) exempts "core drilling or drilling of boreholes" in coal exploration from the requirements of 30 CFR 815.15(g). The Secretary agrees for the reasons set forth above in Finding 15.5, and as a condition of approval the State must amend its program to meet the Federal requirements.

4. EPA, EPI, NWF and IWF pointed out that Indiana rules 310 IAC 12–5–8 and 12–5–74, concerning the general requirements for the casing and sealing of drilled holes, do not contain provisions specified in 30 CFR 816.13 and 817.13 to ensure the safety of people, livestock, fish and wildlife and machinery in the mine plan and adjacent area. The Secretary finds the State's program no less effective than the Federal rules because the omitted language merely describes the rationale for why holes must be sealed, which the Indiana rules do require; therefore, no further change is required.

5. EPA, EPI, NWF and IWF commented that Indiana does not have in 310 IAC 12–5–10 a requirement that: "These devices shall be periodically inspected and maintained in good operating condition by the person who conducts the surface mining activity." The Secretary finds that Indiana has met the Federal requirements for the reasons set forth above in Finding 13.18.

EPI further objected to the fact that Indiana did not submit the rules of the Indiana Division of Oil and Gas. However, the Secretary is not relying on these rules in his approval of the State program. The Secretary has approved Indiana's rules governing boreholes for the reasons discussed in Finding 15.3.

6. EPA, EPI, NWF and IWF pointed out the need for Indiana to incorporate into the State's regulations all of the specific provisions of 30 CFR 816.42 and 817.42 (which state that all drainage must pass through a sedimentation pond or series of sedimentation ponds). The Secretary finds that Indiana has met the Federal requirements for the reasons set forth above in Finding 13.19. EPI, NWF

and IWF expressed concern that the policy statement found in Finding 13.19 may not be enforceable. The Secretary disagrees with the commenters for the reasons set forth in General Comment 1.

7. EPA, EPI, NWF and IWF expressed concern Indiana rules 310 IAC 12–5–18 and 310 IAC 12–54–84: Discharge performance criteria on diversions. EPA argued that Indiana should clarify the term "standard engineering practices," and show how that term requires the design standard for permanent diversions (10-year standard) and temporary diversions (2-year standard) in 30 CFR 816.43 and 817.43 will be met. The Secretary finds that Indiana has met the Federal requirements for the reasons set forth above in Finding 13.20. EPI, NWF and IWF objected to the use of a policy statement to meet 30 CFR 816.43 and 817.43, which set forth design standards for diversions, arguing that it is unenforceable. See response to General Comment 1. The Indiana rules do state that standard engineering practices must be used, and the IDNR has adequate legal authority to exercise its discretion to determine what constitutes such practices in deciding whether to approve a permit. The IDNR can enforce its policy simply by refusing to approve permits which do not reflect engineering practices which IDNR considers to be standard. EPI, NWF and IWF also argued that IDNR's policy statement is "totally inadequate," but did not say in what way it is inadequate. The Secretary finds that it is no less effective than the Federal rules. See Finding 13.20.

8. EPA, EPI, NWF and IWF expressed concern that streams with a watershed of one square mile or less were removed from the protection of 310 IAC 12–5–19 and placed in 310 IAC 12–5–18 and will, therefore, receive less protection. EPA noted that Indiana's rationale for this change is that "administrative efficiency will be promoted" and that a "time-tested rule" implies that such streams do not have hydrological significance. EPA pointed out that significance should be based on hydrological parameters rather than administrative efficiency and that the State's rule is not consistent with the Federal requirements. Therefore, it argues that the State should demonstrate how protection of these streams will be guaranteed as required by 30 CFR 816.44 and 817.44.

Further, EPA commented that Indiana should delete the phrase "* * * with a watershed greater than one square mile * * *" EPA contends that this would provide all streams the protection afforded by 310 IAC 12–5–19. EPA indicated that studies conducted by the Indiana State Board of Health indicate that intermittent streams with small watersheds have biological resources and that these resources may provide food for larger species downstream. EPA contended that these small intermittent streams may serve as spawning and nursery areas for downstream species and, therefore, that the Indiana regulation should be amended to cover all streams in order to provide protection for the downstream biological resources in the general area of the mining activity.

Further, based on the same logic as above, EPA and FWS expressed concern about the deletion of intermittent streams from 310 IAC 12–5–32 and 310 IAC 12–5–97, which establish stream buffer zone requirements. EPA was further concerned that Indiana had omitted the requirements of 30 CFR 816.57(c) concerning streams with biological communities and argued that Indiana should demonstrate how protection of these areas will be provided.

The Secretary finds that the Indiana definition of "intermittent stream" is no less effective than 30 CFR 701.5. The rule differs only in applying the cut-off point of one square mile, which is not mentioned in the Federal definition. EPA appears to have misread the Indiana rule to mean that a perennial stream less than one square mile could be exempted from the protective requirements. The Secretary reads the sentence as protecting all perennial streams within the permit area. Furthermore, Indiana has amended its rule at 310 IAC 12–5–19(d) to delete the limiting phrase "of perennial streams with a watershed greater than five square miles. The deletion of the phrase applies to all streams, intermittent or perennial, in every size or drainage area including those with biological communities (IN–0269). Thus, biological communities are protected.

EPI *et al.* argued that the deletion of this phrase does not make the rule protect all streams because 310 IAC 12–5–19 applies only to intermittent streams with a watershed greater than one square mile.

They also argued that the deletion has nothing to do with 310 IAC 12–5–32 and 12–5–97, which protect only perennial streams. They point out that 30 CFR 816.57(a) requires stream buffer zones for perennial streams and for all streams with a biological community, and argue that Indiana only protects perennial streams. The Secretary finds that Indiana rule 310 IAC 12–5–19(a) sets forth the criteria as to when perennial streams and intermittent streams with a watershed greater than one square mile within the permit area may be diverted. The Secretary finds that Indiana rule 310 IAC 12–5–18 sets forth the criteria as to when intermittent streams of less than one square mile may be diverted. The Secretary finds that intermittent streams of less than one square mile in Indiana may be diverted only when specifically approved by the same conditions imposed under 30 CFR 816.57(a). Therefore, Indiana rule 310 IAC 12–5–18 is no less effective than 30 CFR 816.57(a).

The Secretary finds that for these reasons, the Indiana rules are no less effective than the requirements of 30 CFR 816.43, 816.44 and 816.57, and 817.43, 817.44 and 817.57.

9. EPA, EPI, NWF and IWF commented that in rules 310 IAC 12–5–19(a)(1) and 310 IAC 12–5–85, Indiana omitted the language of 30 CFR 816.44(a)(1) and 817.44(a)(1) that diversions may be allowed if they "are approved by the regulatory authority" after making the findings in 30 CFR 816.57(a). Although Indiana has included part of the requirements, it has omitted restoring the original stream channel. EPA made the same comment regarding Indiana rules 310 IAC 12–5–32 and 310 IAC 12–5–97, the State counterparts to 30 CFR 816.57(a) and 817.57(a), respectively.

The Secretary finds that the Federal requirement that stream channel diversions be approved by the regulatory authority is adequately covered by the requirements of 310 IAC 12–5–19(a)(1) and 310 IAC 12–5–85(a)(1) that diversions be approved by the "Commission." Further, with respect to restoration of stream channels following removal of temporary diversions, 310 IAC 12–5–19(d) (1) and (2) are no less effective than the Federal rules at 30 CFR 816.44(d)(1)–(3) because Indiana's provisions set forth specific restoration requirements. Additionally, Indiana's amended rules at 310 IAC 12–5–32(a) and 310 IAC 12–5–97(a) require stream channel restoration (IN–0269).

10. EPA, EPI, NWF and IWF suggested that Indiana add to its rules at 310 IAC 12–5–19(b)(1), concerning stream channel diversions, the requirements of the last two sentences in 30 CFR 816.44(b)(1) pertaining to erosion control. The Federal rule requires that the regulatory authority approve the use of certain erosion control structures before they can be used. Thus, Indiana has opted to disallow the use of such measures, making its program no less effective than the Federal rules.

11. EPA, EPI, NWF and IWF commented that Indiana should

substitute the language of 30 CFR 816.44(b)(2) for the State's language at 310 IAC 12–5–19(b)(2). Indiana's language does not allow for changes in channel capacity and thus is no less effective than the Federal language.

12. EPA, EPI, NWF and IWF commented that Indiana omits the reference to 30 CFR 816.105 as required by 30 CFR 816.44(c) from 310 IAC 12–5–19(c). The commenters indicated that this is acceptable if Indiana can demonstrate that it has no thick overburden.

The Secretary finds that thick overburden, as defined by 30 CFR 816.105(a), is non-existent in Indiana. Therefore, this provision is not applicable to Indiana; 30 CFR 816.105(a) states that "The provisions of this section apply only when surface mining activities cannot be carried out to comply with 30 CFR 816.101 to achieve the approximate original contour." In Indiana, overburden swell factors and thickness of coal seams are such that approximate original contour can always be achieved. Therefore, no further change is required.

13. EPA, FWS, EPI, NWF and IWF commented that Indiana should delete the language "of perennial streams with a watershed greater than five square miles" from its rules at 310 IAC 12–5–19(d) and 310 IAC 12–5–85(d) to be no less effective than 30 CFR 816.44(d) and 817.44(d). The Secretary finds that Indiana has amended its rules at 310 IAC 12–5–19(d) and 310 IAC 12–5–85(d) to delete the above phrase and to meet the Federal requirements; therefore, no further change will be required (IN–0269).

14. EPA, EPI, NWF and IWF commented that Indiana rules 310 IAC 12–5–19(d) and 310 IAC 12–5–85(d) do not specify all the criteria for construction of permanent diversions and restoration of stream channels as specified in 30 CFR 816.44(d) and 817.44(d). The Secretary has carefully examined the Indiana rules and finds that both of the above Indiana provisions require that the operator shall restore, enhance, or maintain, to the extent possible, natural riparian vegetation on the banks of the stream, and that the operator shall establish or restore the stream to a gradient, cross-section, and shape that approximates premining stream channel characteristics, including (when necessary) meandering and a pattern of pools and riffles. These State rules provide requirements that are no less effective than 30 CFR 816.44(d) and 817.44(d).

15. EPA, EPI, NWF and IWF suggested that Indiana add a provision to its rules at 310 IAC 12–5–20 and 310 IAC 12–5–86, concerning hydrologic balance and sediment control measures, consistent with the requirements of 30 CFR 816.45(b) and 817.45(b). The Federal requirements provide that the sedimentation storage capacity of structures and measures in, and downstream from, the disturbed area shall reflect the degree to which successful mining and reclamation techniques reduce erosion and control sediment. Because Indiana's provisions provide for sufficient control of the sediment storage capacity of structures and measures within the site, the State's rule is no less effective than the Federal requirement. Therefore, the Secretary finds that no further change is required.

16. EPA suggested that Indiana reference the provisions of 30 CFR 816.111(b) and 817.111(b) instead of the State's counterparts setting forth sediment control measures at 310 IAC 12–5–20 and 310 IAC 12–5–85. The reference counterpart to 30 CFR 816.111(b), found at 310 IAC 12–5–59(b), has been amended by Indiana and is consistent with the Federal requirements because the requirements for productivity levels for post-mining land use have been included (IN–0269). Therefore, Indiana's rule establishing sediment control measures at 310 IAC 12–5–70 is consistent with the Federal requirements. However, Indiana's counterpart to 817.111(b), found at 310 IAC 12–5–123(b), was not amended with respect to productivity levels for post-mining land use and is inconsistent with the Federal rules, making its reference in 310 IAC 12–5–86 inadequate. The Secretary agrees with the commenters on this point for the reasons set forth in Finding 13.8 and as a condition of approval has required Indiana to amend its program. Indiana has agreed to amend its program to make its provisions no less effective than the Federal provisions of 30 CFR 817.111(b).

17. EPA suggested that Indiana reference the provisions of 30 CFR 816.101 and 817.101 instead of the State's counterparts setting forth sediment control measures at 310 IAC 12–5–20 and 310 IAC 12–5–86. EPA stated that the referenced counterparts found at 310 IAC 12–5–54 and 310 IAC 12–5–118 provide the same requirements for rough backfilling and grading as 30 CFR 816.101(a)(3) and 817.101, with the exception that at 310 IAC 12–5–118 (the counterpart to 30 CFR 817.101), Indiana refers to an exemption to approximate original contour (AOC). EPA questions whether the exemption is allowed by the Federal rules, an additional concern also raised by EPI, NWF and IWF. The Secretary finds that exemptions to AOC are not allowed by Indiana except for conditions of box cut spoil and last-cut lakes, both of which are covered by performance standards (310 IAC 12–5–39 and 310 IAC 12–5–24) at 30 CFR 816.71 and 30 CFR 816.49. Accordingly, the Secretary finds Indiana provisions to be no less effective than the provisions of 30 CFR 816.101 and 817.101; therefore, no further changes will be required.

18. EPA, EPI, NWF and IWF objected to Indiana's rules on sedimentation ponds. EPA argued that Indiana's rules do not require that 30 CFR 816.46 and 817.46 be met, and EPI, NWF and IWF argued that the memorandum of agreement with the Stream Pollution Control Board is inadequate to meet these requirements because it states that the design criteria in the Federal regulations "will be used in review" of permit applications for sedimentation ponds. The Secretary does not agree for the reasons noted in Finding 13.13. EPI, NWF and IWF also argued that the memorandum of agreement "might not" be enforceable. The Secretary does not agree for the reasons in response to General Comment 1. This memorandum of agreement is a binding part of the State program, and if it should be struck down in court the Secretary will require the State to amend its rules; however, the Secretary does not believe that an element of the State program should be disapproved simply because there is a chance that it will be struck down in court.

19. EPA, EPI, NWF and IWF commented that Indiana's rule at 310 IAC 12–5–23(c) concerning hydrologic balance and the burying and treatment of acid-forming or toxic-forming spoil is inconsistent with 30 CFR 816.48(e) because the Indiana rule does not require such actions to be completed within 30 days or less if required by the regulatory authority. Instead, Indiana's rule uses the phrase "within a reasonable period of time." EPA also pointed out that Indiana's rule does not set forth needed procedures for temporary storage of acid-forming or toxic-forming spoil. The Secretary finds Indiana's program to be no less effective than the Federal provisions for the reasons set forth in Finding 13.14. EPI, NWF and IWF object to the use of a policy statement to meet these Federal requirements, arguing that the statement "may not" survive legal challenge because mining companies may argue that they did not receive notice and an opportunity to comment on the policy statement. The Secretary does not agree that a policy statement is inadequate to meet this requirement because the reference in 310 IAC 12–5–23(c) to "a

reasonable period of time" gives the IDNR ample authority to exercise its discretion to determine that more than 30 days is not reasonable. See also response to General Comment 1. The fact that a policy statement "may not" survive legal challenge does not make it inadequate; rules and statutes as well as policy statements are always subject to legal challenge. If the Indiana's policy statement is legally invalidated, the Secretary will require that the State promulgate a regulation to fill in the gap.

20. EPA, EPI, NWF and IWF commented that Indiana rules 310 IAC 12–5–24 and 310 IAC 12–5–90 concerning hydrologic balance and permanent impoundments are inconsistent with 30 CFR 816.49 and 817.49 because the State's rules do not contain a prohibition on permanent impoundments. The Federal rules state that permanent impoundments are prohibited unless authorized by the regulatory authority. Indiana rules provide that permanent impoundments may be authorized by the Indiana Natural Resources Commission. The State's rule is clear that permanent impoundments are forbidden unless they are authorized by the regulatory authority. For the reasons set forth above, the Secretary finds that the commenter's concerns have been met.

21. EPA, EPI, NWF and IWF suggested that Indiana add the design requirements for impoundment structures contained in 30 CFR 816.49(a)(5) and 817.49(a)(5) to its rules. Indiana amended its rules at 310 IAC 12–4–54(a)(6) and 310 IAC 12–5–90(a)(6) by adding design requirements (IN–0269). The Secretary finds that the Indiana rules are now no less effective than the Federal provisions of 30 CFR 816.49(a)(5) and 817.49(a)(5).

22. EPA commented that Indiana has no provisions consistent with 30 CFR 816.49(f) and 817.49(f) in its rules at 310 IAC 12–4–24 and 310 IAC 12–4–90. The cited Federal provisions require that all dams and embankments meeting the size of other criteria of MSHA's rules shall be routinely inspected by a qualified registered professional engineer, or by someone under the supervision of a qualified registered professional engineer, in accordance with MSHA's rules at 30 CFR 77.216–3. The Secretary finds that the commenter's concerns have been addressed for the reasons set forth above in Finding 13.12.

23. EPA, EPI, NWF and IWF pointed out that Indiana omits several requirements of 30 CFR 816.49(h) and 817.49(h) in its counterparts found at 310 IAC 12–5–24(g) and 310 IAC 12–5–90(g). Specifically, EPA noted that Indiana's rules do not require dams and embankments to be certified to the regulatory authority by a qualified registered professional engineer immediately after construction and annually thereafter. Indiana's rules require certification "after construction" and omit the requirement for annual recertification. Further, Indiana omits the information requirements for certification reports prescribed by 30 CFR 816.49(h)(1)–(5) and 817.49(h)(1)–(5).

The Secretary finds that the Indiana regulations are no less effective than the provisions of 30 CFR 816.49(h) and 817.49(h) because both require the design and construction certification by a qualified professional engineer. The annual certification by a professional engineer is not necessary because the structure need only be recertified after a modification or change. The dam is insected annually by State mine inspectors for modifications and performance. Indiana, therefore, covers the annual certification requirement with an annual inspection requirement. 30 CFR 816.49(h)(1)–(5) is the cross-reference to MSHA rule 30 CFR 77.216(a). Any dam meeting the criteria in 30 CFR 77.216(a) must comply with MSHA's requirement whether or not these requirements are cited in Indiana's State Program. The Secretary finds, for these reasons, that no further changes are required.

24. EPA, EPI, NWF and IWF commented that the Indiana rules at 310 IAC 12–5–27 and 310 IAC 12–5–92 do not provide the same hydrology protection requirements as 30 CFR 816.52 and 817.52. EPA's specific concern was that Indiana rules 310 IAC 12–5–27 and 310 IAC 12–5–92 do not require monitoring of infiltration and flow rates to determine the effects of mining activities on the recharge capacity of reclaimed lands and goundwater systems in the area. While Indiana's rules do not explicitly state these particular methods to determine the effects of mining activities on the recharge capacity and groundwater systems, Indiana's rules do require that the effects of mining activities on recharge capacity be evaluated, which is the intent of the Federal rules. There are other methods available for use by operators to check on groundwater and recharge capacity. Accordingly, the Secretary finds Indiana's rules to be no less effective than 30 CFR 816.52 and 817.52.

Also, on May 18–19, 1982, Indiana provided its Stream Pollution Control Board rules which provide the necessary protection. Therefore, the Secretary finds the Indiana provisions to be no less effective than 30 CFR 816. 52 and 817.52 (IN–0269).

25. EPA, EPI, NWF and IWF argued that Indiana rules 310 IAC 12–5–39 and 310 IAC 12–5–104, concerning general requirements for disposal of excess spoil, do not contain all the requirements of 30 CFR 816.71 and 817.71. EPA's specific concern was that Indiana rules 310 IAC 12–5–39 and 310 IAC 12–5–104 do not require that excess spoil be placed in a manner to ensure that leachate and surface runoff will not degrade surface or ground waters or exceed effluent limitations. While Indiana's rules do not explicitly state the language of 30 CFR 816.71(a)(1) and 817.71(a)(1), the State's rules at 310 IAC 12–5–16(c), 310 IAC 12–5–17(a)(2), 310 IAC 12–5–82 and 310 IAC 12–5–83 specifically state that in no case shall Federal and Indiana water quality statutes, regulations, standards or effluent limitations be violated. Further Indiana rules 310 IAC 12–5–23 and 310 IAC 12–5–89 set forth specific requirements for maintaining hydrologic balance and handling acid-forming and toxic-forming materials. The Secretary finds that Indiana's program, in these particular rules, will ensure that the requirements of 30 CFR 816.71(a)(1) and 817.71(a)(1) will be met in a manner no less effective than the provisions of those Federal rules. The Secretary finds further that Indiana rules 310 IAC 12–5–39 and 310 IAC 12–5–104 contain all of the requirements of Section 516(b)(22) of SMCRA plus other requirements found in 30 CFR 816.71(f) and 817.71(f) for a safety factor of 1.5, and 30 CFR 816.71(m) and 817.71(m) for foundation and abutment stability. The only requirements omitted in the Indiana rules are those which pertain to steep slopes, valley and head-of-hollow fills, which do not occur in Indiana. Indiana rule 310 IAC 12–5–39 also addresses the spoil disposal for box cut, which is not addressed in the Federal rule. For these reasons, the Secretary finds that the commenters concerns have been addressed.

26. EPA, EPI, NWF and IWF commented that at 310 IAC 12–5–41 and 12–5–105 Indiana refers to State rules that are inconsistent with their Federal counterparts. The sections in question are Indiana's counterparts to 30 CFR 816.71–72, and 82–88, 817.71–72 and 82–88, as found under 30 CFR 816.81(a)(1) and 817.81(a)(1). The Secretary finds the references to Indiana rules 310 IAC 12–5–39 and 310 IAC 12–4–104 (counterparts to 30 CFR 816.71 and 817.71) acceptable for the reasons set forth in comment 25 in this section. Indiana does not have rules concerning valley fills (816.72 and 817.72) because no valley fills exist in Indiana. The references to Indiana rules

310 IAC 12–5–42 through 310 IAC 12–5–46, and 310 IAC 12–5–106 through 310 IAC 12–5–110 are acceptable for the reasons set forth in comments 28 and 29 in this section and in Finding 13.7.

27. EPA was concerned that Indiana omits from its rules the provisions of 30 CFR 816.81(b) and 817.81(b), requiring regulatory authority approval for disposal of waste, in its counterparts at 310 IAC 12–5–41 and 310 IAC 12–5–105. Indiana has shown that the regulatory authority has the approval/disapproval power, and that it will be exercised in a manner no less effective than the Federal rules. See Finding 13.14. EPI, NWF and IWF object to the use of a policy statement to fulfill the requirements of 30 CFR 816.81(b) and 817.81(b), arguing that a rule change is preferable and that Indiana will not be able to require operators to submit information not specifically required by its regulations. See response to General Comment 1. The reference in Indiana's rule to a "reasonable period of time" gives IDNR ample legal authority to exercise its discretion to determine what is a reasonable time. IDNR has authority under I.C. 13–4.1–2–2(a)(1) to impose conditions in permits on the temporary storage of spoil.

EPI, NWF and IWF also argue that Indiana's permit application form does not state what type of analysis the operator must use to determine whether disposal will harm water quality or flow or vegetation, whether it will create a health hazard, or whether it will be stable. However, the Federal rules also do not specify these requirements, so Indiana's program is no less effective than the Federal rules.

28. EPA commented that Indiana rules 310 IAC 12–5–43 and 310 IAC 12–5–107 do not provide the same waste bank and water control measure protection as specified in 30 CFR 816.83 and 817.83. EPA commented further that the references to Indiana rules 310 IAC 12–5–8 and 310 IAC 12–5–19 are inconsistent with the Federal rules at 30 CFR 816.72(d). The Secretary has carefully reviewed the Indiana rules and finds that because 30 CFR 816.83(a) and 817.83(a) were suspended by OSM (44 FR 77455 (1979)), the Indiana rules are no less effective than the remaining parts of the Federal rules. Furthermore, Indiana does not have rules concerning valley fills, as in 30 CFR 816.72, and the Secretary has found this to be no less effective than the Federal rule for the reasons set forth in Finding 13.7.

EPI, NWF and IWF commented that Indiana should delete the first occurrence of the phrase "to the extent possible" in 310 IAC 12–5–18(c). The Secretary disagrees as discussed in finding 13.7. Further, EPI, NWF and IWF commented that adding the diversion design criteria of 30 CFR 816.44(f) to Indiana's rules 310 IAC 12–5–18(e) and 310 IAC 12–5–84(e) is not a minor change. They stated that numerous permits could be awarded during the first few months of the program and that the diversion designs submitted almost certainly would not be effective as the design criteria of the Federal rules.

Note.—The correct reference is to 30 CFR 816.43(f).

As stated in Finding 13.9 above, the Secretary's approval is conditioned on this rule change being made, and as stated in the condition (a)(2) of Part E herein, the deficiency is considered minor because of the short period of time necessary for the rulemaking to be completed. The State will not issue any permits which do not conform to design criteria which are no less effective than those in 30 CFR 816.43(f).

29. EPA, EPI, NWF and IWF commented that Indiana should add to 310 IAC 12–5–83 and 310 IAC 12–5–107 the references contained in 30 CFR 816.83(c) and 817.83(c). The Indiana rules are no less effective than the Federal rules in that the Indiana rules include not only the standards of the cited Federal provisions, but also require compliance with all applicable State and Federal water quality standards; therefore, no further change will be required.

30. EPA, EPI, NWF and IWF commented that Indiana rule 310 IAC 12–5–47(a) concerning disposal of non-coal waste is inconsistent with 30 CFR 816.89(a) because the State rule omits the Federal requirement that the area used for placement and storage of non-coal wastes remain stable and suitable for reclamation and revegetation "compatible with the natural surroundings." The Secretary finds that the omitted phrase does not render the Indiana provision less effective than the Federal rule because revegetation compatibility with natural surroundings will be achieved by the State's requirement at 310 IAC 12–4–59(a) that vegetation be of the same seasonal variety. Therefore, no further change is required.

31. EPA, EPI, NWF and IWF commented that Indiana does not explicitly state in rule 310 IAC 12–5–47(b) the requirements of 30 CFR 816.89(b) that disposal sites for non-coal wastes be designed and constructed with appropriate water barriers on the bottom and sides of the designated site. Further, they commented that the references to the Indiana provisions contained in 310 IAC 12–5–47(b) are inadequate. Specifically, the commenters are concerned that the State counterparts to 30 CFR 816.111–117, 310 IAC 12–5–59 through 12–5–65, are inconsistent with the Federal rules and, therefore, use of these State provisions creates further inconsistencies. The Secretary finds that Indiana rule 310 IAC 12–5–47 is no less effective than 30 CFR 816.89 because it requires that "placement and storage shall ensure that leachate and surface runoff do not degrade surface or groundwater, fires are prevented, and that the area remains stable and suitable for reclamation and revegetation." In addition, specific design criteria are stipulated in 310 IAC 12–5–47(b). The Secretary finds that the fact that Indiana does not include the explanatory phrase "water barriers" does not render the State's rule at 310 IAC 12–5–47(b) less effective than 30 CFR 816.89. EPA also commented that Indiana omitted from its rules the requirements of 30 CFR 816.89(c) concerning disposal of solid waste material, Indiana amended its rules by adding these requirements at 310 IAC 12–5–47(c). The Secretary finds that the Indiana provision is no less effective than the Federal rule. IN–0269.

32. EPA, FWS, EPI, NWF and IWF expressed concern about Indiana's counterparts to 30 CFR 816.97 and 817.97, found at 310 IAC 12–5–51 and 12–5–115. Specifically, Indiana has no regulation explicitly stating the requirements of 30 CFR 816.97 (a), (c) and (d) and 817.97 (a), (c) and (d) concerning the protection of fish and wildlife. The Secretary agrees with the commenters for the reasons set forth in Finding 13.17. As a condition of approval Indiana must amend its program to satisfy these requirements.

EPI, NWF and IWF argue that this deficiency is not minor and that irreparable harm could be done to fish and wildlife during the months before the program is amended. However, this change must be completed by December, 1982, only four months after the effective date of this approval. By the time Indiana issues any new permanent program permits the new standard will be in effect. Under Section 506(a) of SMCRA, operators need not begin meeting the performance standards until eight months after a program is approved.

EPI, NWF and IWF also commented that Indiana must include in its rules the requirements that roads be fenced to guide wildlife to overpasses and underpasses and that new barriers to wildlife migration routes not be created, as in 30 CFR 816.97(d)(2) and

817.97(d)(2). The Secretary is at present making no finding as to whether this will be necessary, and this comment will be appropriate during the program amendment procedure when Indiana submits material to fulfill this condition.

33. EPA, EPI, NWF and IWF commented that Indiana rules 310 IAC 12–5–56 and 12–5–120, which pertain to covering coal and acid-forming and toxic-forming materials, are inconsistent with 30 CFR 816.103 and 817.103 in several respects. EPA noted that the Federal rules require the use of "the best available" nontoxic and noncombustible material whereas Indiana only requires the use of nontoxic and noncombustible material. The Secretary finds no substantive difference between the Indiana and Federal rules.

EPA commented that Indiana rules 310 IAC 12–5–56(a) and 12–5–120(a) are inconsistent with 30 CFR 816.103(a)(3) and 817.103(a)(3) because the Indiana rules do not state that the regulatory authority shall specify thicker amounts of cover, where necessary to protect against upward migration of salts, exposure by erosion, formation of acid or toxic seeps, to provide an adequate depth of plant growth, or otherwise to meet local conditions. Furthermore, EPA noted the Indiana rules do not mention formation of acid or toxic seeps in its rules. The Secretary finds that Indiana's rules are no less effective than the Federal rules. Acid or toxic seeps are covered adequately under the State regulation's reference to the migration of salts and requirements that waste materials be treated to neutralize toxicity in order to treat water pollution. Further, thicker amount of cover is not the only treatment to neutralize potential acids. For these reasons, no changes to the Indiana rules will be required.

EPA also expressed concern over Indiana rules 310 IAC 12–5–56(b) and 310 IAC 12–5–120(b). The Federal rules at 30 CFR 816.103(b) and 817.103(b) require backfilled materials to be selectively hauled or conveyed and compacted whereas Indiana's rules omit the Federal requirements concerning the hauling or conveying of such materials. Instead, Indiana's rules require such materials be selectively placed and compacted. The Secretary interprets Indiana's rules to be no less effective than the Federal rules as there is no substantive difference between the two phrases.

Further, EPA suggested that Indiana add to its rules the provisions of 30 CFR 816.103(b) and 817.103(b) which state that the method and design specifications of compacting material shall be approved by the regulatory authority before acid-forming or toxic-forming material are covered. The Secretary does not agree with the comment, and will not require Indiana to add the suggested language to its rules, because the regulatory authority's approval of such methods to compact material will be obtained during the permit approval process, which makes Indiana's program no less effective than the Federal requirements.

34. EPA, EPI, NWF and IWF commented that Indiana rule 310 IAC 12–5–76 pertaining to the permanent casing and sealing of underground openings is inconsistent with 30 CFR 817.15 in several respects. The commenters argued that the Federal rule requires that the regulatory authority make a finding that the underground opening is no longer needed for monitoring purposes or other uses before capping, sealing or backfilling is allowed and that the State omits this requirement. EPA suggested that Indiana delete the phrase "in use shall" from its rule. However, the Federal rule does not require that the regulatory authority make a finding that the hole is no longer needed for monitoring; it requires that a hole be properly managed when it is no longer needed for monitoring "or other use approved by the regulatory authority upon a finding of no adverse environmental or health and safety effects or unless it is to be used as a well." Thus, the finding required is that the other use will not have harmful effects, not that the hole is no longer needed for monitoring. The State rule simply does not refer to other uses, requiring that all holes when no longer needed be properly-managed unless it is to be used as a water well. Since the State does not have the "other use" exception at all, it need not require findings about the other use, and its rule is no less effective than the Federal rule.

Further, EPA suggested that Indiana substitute the references to Indiana rules 310 IAC 12–5–74, 12–4–91, and 12–5–53 because those provisions are inconsistent with 30 CFR 817.13, 817.50 and 817.53, respectively. EPA also noted that Indiana has in 310 IAC 12–5–76 no counterpart to the Federal requirement at 30 CFR 817.15 that permanent closure measures be designed "to keep acid or other toxic drainage from entering ground or surface waters." The Secretary finds that Indiana rule 310 IAC 12–5–76 specifically requires that holes be capped, sealed, backfilled or otherwise properly managed to keep acid or other toxic drainage from entering ground or surface waters, and that, therefore, the Indiana provision is no less effective than the Federal requirement.

35. EPA commented that Indiana refers to State provisions that are inconsistent with the Federal rules. The State references concerned are 310 IAC 12–5–144, 310 IAC 12–5–149 and 310 IAC 12–5–157 which correspond to 30 CFR 819.11, 824.11 and 828.11, respectively. The Secretary has no legal authority to require a State to cross-reference a Federal regulation. However, the Secretary can and will require that State provisions be no less effective than the Federal regulations. Regarding 30 CFR Part 819, all provisions of 310 IAC 12–5–43 and 310 IAC 12–5–44 are identical; therefore the Indiana rule is no less effective than 30 CFR 819.

Regarding 30 CFR Part 824, Indiana has deleted its counterpart (310 IAC 12–5–149) because of the fact that there never has been nor will there ever be mountaintop operations in Indiana because of the geology and topography of Indiana. Therefore, the Secretary finds that the State program is no less effective than the Federal rule. Regarding 30 CFR Part 828, the Secretary finds that Indiana rule 310 IAC 12–5–157 is no less effective than the Federal rule because it contains the same requirements.

36. EPI, NWF and IWF commented that Indiana rule 310 IAC 12–5–27(b), which requires that surface and groundwater monitoring be conducted as specified in the NPDES permit, is not in compliance with the provisions of 30 CFR 817.52, arguing that this rule requires more than does the NPDES permit. As discussed in Finding 13.11 above, the Secretary has determined that the requirements of the NPDES permit are no less effective than 30 CFR 817.52.

37. EPI, NWF and IWF commented that Indiana's provisions at I.C. 13–4.1–8–1(22)(H) and 310 IAC 12–5–42, which require that excess spoil areas be inspected during and after construction, are not as effective as 30 CFR 816.71(b), which requires that fills be designed using recognized professional standards and certified by a registered professional engineer. Indiana's law at I.C. 13–4.1–8–1(22)(H) does, however, require that spoil disposal areas be designed by an engineer licensed under State law and in accordance with professional standards, and this requirement is included in the State's permit application at pages S–50 thru S–53 which require plans with information analogous to 30 CFR 816.71 and 816.85. This is in accordance with Section 515(b)(22)(H) of SMCRA and is no less effective than the Federal rule.

Further, EPI, NWF and IWF commented that Indiana's general

requirement in 310 IAC 12–5–41(b)(2) that "no adverse affect on water quality will be allowed" is not as effective as 30 CFR 816.71(k) and 816.85. As discussed in Finding 13.7 above, the Secretary finds Indiana's rules at 310 IAC 12–5–39 and 310 IAC 12–5–104, which set forth the requirements for the disposal of excess spoil to be no less effective than the Federal rules.

38. FWS commented that Indiana does not specify in its rules the requirements of 30 CFR 815.15 (a) and (b) concerning the prohibition against disturbing fish and wildlife during coal exploration. The Secretary finds that the performance standards in Indiana rules 310 IAC 12–5–6 will assure protection to fish and wildlife habitat through 310 IAC 12–5–69, which prevents damage to fish or wildlife or their habitat. Indiana rule 310 IAC 12–5–3 further requires that all road construction and drilling sites be returned to pre-exploration condition or better and revegetated to the same seasonal variety of native vegetation.

39. EPI, NWF and IWF commented that Indiana rule 310 IAC 12–5–42 does not explicitly state the requirement in 30 CFR 816.82(a)(2) concerning maintenance of coal processing wastebanks. The Secretary finds that Indiana rule 310 IAC 12–5–41(a) requires the maintenance of wastebanks and that the Indiana statute at I.C. 13–4.1–12–4 provides penalties for violating permits and conditions thereof which would include the reclamation plan. Accordingly, the Secretary finds the Indiana provision no less effective than the Federal rules.

VI. Inspection and Enforcement

1. EPA, EPI, NWF and IWF commented that the Indiana rules do not contain either the definitions of "partial inspection" and "complete inspection" or the phrase "coal exploration operation" found in 30 CFR 840.11. Indiana has amended its rules at 310 IAC 12–6–1(b) to add the necessary Federal requirements (IN–0269).

2. EPA noted that the Indiana rules omit provisions comparable to 30 CFR 840.12. The Federal rule requires the State to have the authority for a right of entry. The Secretary finds that Indiana has the required statutory right of entry at I.C. 13–4.1–11–1 and, therefore, finds that the commenter's concern has been addressed.

3. EPA noted that the Indiana rules omit any provision comparable to 30 CFR 840.13, which requires that the State's program contain enforcement authority no less effective than that found in the Federal rules. Indiana has established the general authority in 310 IAC 12–6–1, *et seq.* Therefore, the Secretary finds that the commenter's concern has been addressed.

4. EPA commented that Indiana's rules omit the requirements of 30 CFR 840.14(c), which allows the Director and the State to enter into a special agreement to handle certain investigative and enforcement materials. The Federal rule is permissive, and entering such an agreement is not a required part of the State program. Therefore, the Secretary will not require Indiana to make the suggested change.

5. EPA, EPI, NWF and IWF commented that Indiana rules (1) omit protection of a citizen's identity, as is provided in 30 CFR 842.12(b); (2) omit the right of entry for citizens, as provided in 30 CFR 842.12(c); and (3) omit the right of a citizen to be informed of the results of the inspection in accordance with 30 CFR 842.12(d). Indiana has amended 310 IAC 12–6–2 and 310 IAC 12–6–3 (IN–0269) to protect a citizen's identity and to require a report of the inspection results. Further, Indiana amended its rule at 310 IAC 12–6–2(c) (IN–0269) to provide for the right of entry for a citizen to accompany an inspector, thus meeting the requirements of 30 CFR 842.12(c). The Secretary finds that with the above amendments, the commenters' concerns have been addressed.

6. EPA commented that Indiana rule 310 IAC 12–6–5(a)(2) substitutes "completely" for "in the most expeditious manner physically possible" and omits the time for abatement. Indiana has amended its rules to require abatement "in the most expeditious manner physicaly possible." See IN–0269. In addition, on April 8, 1982 (IN–0265), Indiana issued a formal policy statement which specified that a time for abatement would be included in cessation orders where necessary to abate the imminent danger or harm. For these reasons, the Secretary finds that Indiana's program is no less effective than the Federal rules.

7. EPA, EPI, NWF and IWF noted that the Indiana rules (1) have no reference to "coal exploration," as in the notice of violation provision of 30 CFR 843.12(b)(4); (2) extend the 90-day abatement period in a manner inconsistent with 30 CFR 843.12(c); and (3) have no provision specifying the requirements of 30 CFR 843.12(d) requiring the issuance of a cessation order where the operator fails to meet an interim step. With respect to the issuance of a notice of violation for coal exploration operations, the Secretary is not requiring Indiana to amend its program at this time because the Federal rules at 30 CFR 840.1 make the provisions of 30 CFR 843.12(b)(4) applicable to coal exploration operations which substantially disturb the natural land surface. Such exploration operations will not occur in Indiana. See Findings 15.1 and 19.3. With respect to the extension of the 90-day abatement period and the issuance of a cessation order for an operator who fails to meet an interim step, the Secretary agrees with the commenters, and the Secretary's approval of the Indiana program is conditioned on the State's correcting these problems. See Finding 19.3 and IN–0268.

8. EPA commented that the Indiana rules contain no section comparable to 30 CFR 843.19(g), which allows the Attorney General to seek relief for the refusal to permit inspection of monitoring equipment. Indiana has amended its rules at 310 IAC 12–6–10(g) to include a provision allowing the Attorney General to seek relief for the refusal to permit inspection of monitoring equipment. See IN–0269.

9. EPA commented that Indiana rule 310 IAC 12–6–11 prohibits the assessment of a penalty if the proposed penalty is less than $750. The Secretary finds that the Indiana rule is in accordance with SMCRA Section 518(a) which makes the assessment of a penalty for a notice of violation discretionary.

10. EPA commented that Indiana rule 310 IAC 12–6–12(a) only considers a violation for which a penalty was finally assessed, unlike 30 CFR 843.13(b). Indiana has amended its rules to include information on all violations, regardless of whether a penalty was assessed, in the history of violation (IN–0269); therefore, no further change is required.

11. EPA commented that the Indiana rules limit the minimum penalty found in 30 CFR 845.15(a) and that the Indiana rules establish a maximum of 30 days for the minimum penalty not found in 30 CFR 845.15(b). The Secretary finds that Indiana does not have to establish a minimum penalty since the penalty in 30 CFR 845.15(a) is based upon the point system, which is not a requirement for State programs. Revisions of 30 CFR 845.15(b) establish 30 days as the maximum for which the penalty in 30 CFR 845.15(b) can be established. The Indiana provisions, therefore, are no less effective than 30 CFR 845.15(a) and (b).

12. EPA commented that the Indiana rule at 310 IAC 12–6–14 provides for the waiver of the entire civil penalty. Indiana has amended 310 IAC 12–6–14 to limit the potential waiver of a civil penalty to a notice of violation (IN–0269). The Indiana rule is now no less effective than 30 CFR 845.16.

13. EPA, EPI, NWF and IWF commented that the Indiana rules have no provision specifying the requirements of 30 CFR 845.18(b)(2) which state that "any person shall have a right to attend and participate" in an assessment conference. Discussions with Indiana concerning this omission in 310 IAC 12–6–16(b)(2) have resulted in the State's submittal of a formal policy statement which assures that any person may participate in an assessment conference (IN–0265). See Finding 17.14. EPI, NWF and IWF commented further that a policy statement to the effect that any person may attend an assessment conference is not as effective as a rule change since interested persons will probably rely on the State's rules in trying to ascertain their rights. For the reasons set forth in Finding 17.14 and General Comment 1, the Secretary finds this policy statement to be no less effective than 30 CFR 845.18. The Secretary assumes that Indiana will make its citizens aware of this right and notes that anyone reading this notice will be aware of it.

In addition, EPA, EPI, NWF and IWF pointed out that the conference officer does not have the authority to raise a penalty, as in 30 CFR 845.18(b)(3). The Secretary agrees with the commenters for the reasons set forth in Finding 17.5, and as a condition of approval Indiana must amend its program to satisfy the requirements of 30 CFR 845.18(b)(3). EPI, NWF and IWF objected to the Secretary's consideration of this deficiency as constituting a minor deficiency. The Secretary disagrees with the commenters for the reasons set forth below under "Secretary's Decision," in paragraph (d)(2).

14. EPA commented that Indiana rule 310 IAC 12–6–5 requires that written findings be made before the issuance of a cessation order, which is inconsistent with the requirements of 30 CFR 843.11 and Section 521(a)(2) of SMCRA. Indiana submitted amended rules which delete this written finding requirement and make Indiana's rule no less effective than the Federal requirements (IN–0269).

15. EPI *et al.* commented that Indiana rule 310 IAC 12–6–10(g) omitted the requirement of 30 CFR 843.19(g) concerning the inspection of monitoring equipment. At the meeting of May 18 and 19, 1982 (IN–0268), Indiana gave OSM amended rules (IN–0269) in which the State has added the requirement that the Director, IDNR, can request the Attorney General to institute a civil action for relief when a permittee or his agent "refuses to permit inspection of monitoring equipment." Based on the amended rule submitted by Indiana, the Secretary now finds that Indiana rule 310 IAC 12–6–10(g) is no less effective than 30 CFR 843.19(g).

16. EPI *et al.* commented that the ninety-day extension provision in the Indiana rules at 310 IAC 12–6–6 is impermissibly broad. The Secretary agrees with this comment for the reasons set forth above in Finding 19.3, and as a condition of approval Indiana must amend its program to make its provision no less effective than 30 CFR 843.12(f).

17. EPI *et al.* commented that Indiana omitted in its program a provision comparable to 30 CFR 843.18 concerning the effect of inability to comply with cessation orders and violations. Indiana rule 310 IAC 12–6–6 provides that a cessation order shall be issued if there is a failure to abate a notice of violation. Therefore, the Secretary finds that in no case would inability to comply be a basis to vacate any order or violation.

18. EPI *et al.* commented that the Indiana program omits the requirements of 30 CFR 843.19(a) concerning injunctions when the regulations are violated. The Indiana statute at I.C. 13–4.1–11–4, 5 and 7 provides for injunctive relief for violating the State Act. Further, the Indiana statute in the above sections requires compliance with the rules. Therefore, any violation of the rules will necessarily be construed to be a violation of the Indiana statute and subject to injunctive relief.

19. EPI *et al.* commented that Indiana omits the provisions of 30 CFR 843.17 concerning the vacating of enforcement actions due to failure on the part of OSM to give notice or lack of information to the State. The Secretary finds that 30 CFR 843.17 only applies to OSM, and therefore States are not required to have a counterpart to this section.

20. EPI, NWF and IWF commented that neither Indiana's statute nor its rules require it to take enforcement action for violations of permit conditions and that the narrative explanation provided is not adequate to ensure that there is lawful authority to do so. The Attorney General of Indiana has advised OSM that since every requirement of the permit is one authorized to be included in the permit by the State Act or regulation, a violation of a specific permit condition must therefore be a violation of the corresponding legal authorization. See IN–0260. The Secretary finds this assurance acceptable to meet the requirements of SMCRA.

21. EPI, NWF and IWF commented that Indiana must change rule 310 IAC 12–6–1(b) to require an investigator, presumably an inspector, "to collect evidence of any violations of those conditions or violations observed", adding that assurance by Indiana that this will be done is not sufficient to meet the requirement of 30 CFR 840.11. EPI *et al.* stated that Indiana's rules should state that a complete inspection review includes compliance with requirements of any narrative sections of the program and any policy statements issued by the Director or Commission. Otherwise, EPI *et al.* fear that the public may be deprived of the right to bring a citizen suit to force compliance with this standard should the State fail to perform its obligations. As discussed in Finding 17.16 above and in General Comment 1, the Secretary finds that Indiana's explanation that evidence will be collected is acceptable and that it is enforceable as part of the State program. Therefore, the Secretary finds that 310 IAC 12–6–1(b) is no less effective than 30 CFR 840.11.

22. EPI, NWF and IWF commented that Indiana should incorporate into its rules the names of the agencies from which it intends to accept a signed statement that a notice of violation has been abated so that all persons are put on notice as to who are authorized representatives of the State. The commenters argued that a mere "statement" by Indiana of the names of such agencies is not sufficient. As discussed in Finding 17.17 above, the Secretary finds that 310 IAC 12–6–6(c), together with the list of agencies provided by the Director, IDNR (see IN–0268), to be no less effective than 30 CFR 843.12(e). The commenters' concern that the acceptance of a statement is not adequate is addressed in General Comment 1.

23. EPI, NWF and IWF argue that the deficiency concerning patterns of violation discussed in Finding 17.13, and which is subject to a condition of approval, is not minor. They do not explain why this deficiency is so major as to justify disapproval of Indiana's entire program and imposition of a Federal program, which would be necessary if the deficiency is major. For several reasons, the Secretary does not agree that the deficiencies in Indiana's rule 310 IAC 12–6–6.5(a)(1) concerning patterns of violations amount to a major deficiency justifying disapproval of the entire program. First, the rule change must be submitted by December of this year, only four months after Indiana receives primacy. Under Section 506(a) of SMCRA, operators need not begin meeting the permanent program performance standards until eight

months after a state receives primacy. Thus, no violation of these standards could occur during the first eight months. Second, a pattern of violations by its very nature requires some time to emerge, and Indiana's rule will be changed long before this could occur.

VII. Designation of Lands as Unsuitable for Mining

1. EPI, NWF and IWF objected to Indiana rule 310 IAC 12–2–8(c), which provides that IDNR will give notice of the designation hearing by means of a newspaper advertisement "once a week for two consecutive weeks and once during the week prior to the scheduled date of the hearing." They argue that this is not enough time for citizens to prepare to attend the hearing, or to intervene, and point out that under 30 CFR 764.17(c) the two consecutive weeks of newspaper advertisement must begin between four and five weeks before the scheduled date of the hearing.

The Secretary does not consider this difference of only a few weeks to be significant enough to render Indiana's rule less effective than the Federal rule in meeting the purpose set forth in Section 522(c) of SMCRA, which is that there be "appropriate" notice of the hearing. Interested persons will have been preparing for the hearing in any case, having previously received notice of the receipt of a petition, and intervention is a simple procedure for which it should not take a long time to prepare. The hearing is to be held in the locality concerned in the petition, so extensive travel preparations should not be necessary.

D. Backgound on Conditional Approval

The Secretary is fully committed to two key aims which underlie SMCRA. SMCRA calls for comprehensive regulation of the effects of surface coal mining on the environment and public health and safety and for the Secretary to assist the States in becoming the primary regulators under SMCRA. To enable the States to achieve primacy, the Secretary has undertaken many activities, of which several are particularly noteworthy.

The Secretary has worked closely with several State organizations, such as the Interstate Mining Compact Commission, the Council of State Governments, the National Governors' Association and the Western Interstate Energy Board. Through these groups, OSM has frequently met with State regulatory authority personnel to discuss informally how SMCRA should be administered, with particular reference to unique circumstances in individual States. Often these meetings have been a way for OSM and the States to test new ideas and for OSM to explain portions of the Federal requirements and how the States might meet them.

The Secretary has dispensed over $8.5 million in program development grants and over $37.6 million in initial program grants to help the States to develop their programs, to administer their initial programs, to train their personnel in the new requirements, and to purchase new equipment. In several instances, OSM detailed its personnel to States to assist in the preparation of their permanent program submissions. OSM has also met with individual States to determine how best to meet SMCRA's environmental protection standards.

Equally important, the Secretary structured the State program approval process to assist the States in achieving primacy. He voluntarily provided his preliminary views on the adequacy of each State program to identify needed changes and to allow them to be made without penalty to the State. The Secretary adopted a special policy to ensure that communication between him and the States remained open and uninhibited at all times (44 FR 54444, September 19, 1979). This policy was critical to avoiding a period of enforced silence between OSM and a State after the close of the public comment period on its program and has been a vital part of the program review process.

The Secretary has also developed in his regulations the critical ability to conditionally approve a State program. Under the Secretary's regulations, conditional approval gives full primacy to a State even though there are minor deficiencies in a program. This power is not expressly authorized by SMCRA; it was adopted through the Secretary's rulemaking authority under 30 U.S.C. 301(c), 502(b), and 503(a)(7).

SMCRA expressly gives the Secretary only two options—to approve or disapprove a State program. Read literally, the Secretary would have no flexibility; he would have to approve those programs that are letter-perfect and disapprove all others. To avoid that result, and in recognition of the difficulty of developing an acceptable program, the Secretary adopted the regulation providing the authority to conditionally approve a program.

Conditional approval has a vital effect for programs approved in the Secretary's initial decision. It results in the implementation of the permanent program in a State months earlier than might otherwise be anticipated. It also avoids the costly and cumbersome problem of implementing Federal programs where the State submittal was deficient in only minor respects. While this may not be significant in States that already have comprehensive surface mining regulatory programs, in many States, that earlier implementation will initiate a much higher degree of environmental protection. It also implements the rights SMCRA provides to citizens to participate in the regulation of surface coal mining through soliciting their views at hearings and meetings and enabling them to file requests to designate lands as unsuitable for mining if they are fragile, historic, critical to agriculture, or simply cannot be reclaimed to their prior productive capability.

The Secretary considers three factors in deciding whether a program qualifies for conditional approval. First is the State's willingness to make good faith efforts to effect the necessary changes. Without the State's commitment, the option of conditional approval may not be used.

Second, no part of the program can be incomplete. As the preamble to the regulations states, the program, even with deficiencies, must "provide for implementation and administration for all processes, procedures, and systems required by SMCRA and these regulations" (44 FR 14961; March 13, 1979). That is, a State must be able to operate the basic components of the permanent program: the designation process; the permit and coal exploration systems; the bond and insurance requirements; the performance standards; and the inspection and enforcement systems. In addition, there must be a functional regulatory authority to implement the other parts of the program. If some fundamental component is missing, conditional approval may not be granted.

Third, the deficiencies must be minor. For each deficiency or group of deficiencies, the Secretary considers the significance of the deficiency in light of the particular State in question. Examples of deficiencies that would be minor in virtually all circumstances are correction of clerical errors and resolution of ambiguities.

Other deficiencies require individual consideration. An example of a deficiency that would most likely be major would be a failure to allow meaningful public participation in the permitting process. Although this would not render the permit system incomplete, because permits could still be issued, the lack of any public participation could be such a departure from a fundamental purpose of SMCRA that the deficiency would probably be major.

The granting of conditional approval is not and cannot be a substitute for the adoption of an adequate program. Section 732.13(i) of Title 30 of the regulations gives the Secretary little discretion in terminating programs where the State, in the Secretary's view, fails to fulfill the conditions. The purpose of the conditional approval authority is to assist States in achieving compliance with SMCRA, not to excuse them from compliance.

E. The Secretary's Decision

As indicated above under "Secretary's Findings," there are minor deficiencies in the Indiana program which the Secretary requires be corrected. In all other respects, the Indiana program meets the criteria for approval. The deficiencies identified in prior findings are summarized below and an explanation is given to show why the deficiency is minor, as required by 30 CFR 732.13(i).

(a) The deficiencies listed below relate to inadequacies in Indiana's performance standards:

(1) As discussed in Finding 13.8, Indiana rule 310 IAC 12–5–123(b) does not address productivity levels for post-mining land use, as does 30 CFR 817.111(b). This deficiency is minor because the State rule will be modified before it is implemented.

(2) As discussed in Finding 13.9, Indiana rules 310 IAC 12–5–43, 310 IAC 12–5–107, 310 IAC 12–5–18, and 310 IAC 12–5–19 omit the design criteria for diversions found in 30 CFR 816.43 and 817.43. This deficiency is minor because the State has begun rulemaking and because of the short period of time involved for the rule to be amended.

(3) As discussed in Finding 13.15, Indiana rule 310 IAC 12–5–152 does not provide the same criteria for steep slope mining and variances from approximate original contour as does 30 CFR 826.15. This deficiency is minor because of the short time period necessary for the amendment to be made and because Indiana has agreed, in its letter agreeing to meet the Secretary's conditions, not to allow any general variances under this rule during the time it is being amended.

(4) As discussed in Finding 13.16, Indiana rule 310 IAC 12–5–149 concerning "hilltop removal" provides an exemption not provided for in the Federal rules. This deficiency is minor because no permits will be issued under this section and because of the short period of time necessary for the State to amend its rules to delete this provision.

(5) As discussed in Finding 13.17, Indiana rules 310 IAC 12–5–51 and 310 IAC 12–5–115 contain provisions less effective than 30 CFR 816.97 (a), (c), and (d) and 817.97 (a), (c), and (d) concerning protection fo fish and wildlife. This deficiency is minor because of the short time period involved for the State to amend its rules.

(b) The deficiencies listed below relate to inadequacies in Indiana's permitting requirements:

(1) As discussed in Finding 14.16, Indiana rules 310 IAC 12–3–33 and 310 IAC 12–3–44 do not require a plan for control and treatment of surface and ground water drainage, nor do they impose quantitative limits on pollutants in the discharges as required by 30 CFR 780.21(b). This deficiency is minor because of the short period of time involved for the State rule to be amended.

(2) As discussed in Finding 14.19, Indiana has not included in its permit application a requirement that the applicant certify that all reclamation fees required by 30 CFR 870.12 have been paid. This certification is necessary in order that Indiana's rule at 310 IAC 12–3–112(m) will be no less effective than 30 CFR 786.19(h). This deficiency is minor because of the short time involved in the submission of a revision of the application and because it is Indiana's policy that no permits will be issued without such certification from the applicant.

(3) As discussed in Finding 14.23, Indiana rules 310 IAC 12–3–25 and 12–3–63 limit other needed licenses which must be listed on the permit application form to only other "safety and environmental licenses" which is less effective than 30 CFR 778.19 and 30 CFR 782.19. This deficiency is minor because of the short time involved for the State rules to be amended.

(4) As discussed in Finding 14.24, Indiana rules 310 IAC 12–3–37 and 310 IAC 12–3–74 omit the provisions of 30 CFR 779.22 and 783.22 requiring a narrative analysis of "the known history of any previous uses before mining." This deficiency is minor because of the short period of time involved for Indiana to amend its rule and because the Indiana surface coal mining permit application form requires a checklist of premining land uses under its land use information section.

(5) As discussed in Finding 14.25, Indiana rule 310 IAC 12–3–48(a) limited information required by 30 CFR 780.23 concerning post-mining utility and capacity of reclaimed land to only those instances where an alternative land use is proposed. This deficiency is minor because of the short period of time necessary for Indiana to amend its rule.

(6) As discussed in Finding 14.26, Indiana rule 310 IAC 12–3–97 does not provide criteria for steep slope mining and variance from approximate original contour in a manner no less effective than 30 CFR 785.16. This deficiency is minor because Indiana has agreed, in its letter agreeing to meet the Secretary's conditions, not to allow any general variances under this rule during the time it is being amended.

(c) The deficiencies listed below relate to inadequacies in Indiana's coal exploration provisions:

(1) As discussed in Finding 15.2, Indiana rules do not require that the notice of intent to explore, when less than 250 tons of coal will be removed, include a description of the practices proposed to be followed to protect the environment as set forth in 30 CFR 776.11(b)(6). This deficiency is minor because of the short period of time involved for the State rule to be amended and because coal exploration in Indiana is primarily limited to core drilling and the drilling of boreholes which do not substantially disturb the natural land surface.

(2) As discussed in Finding 15.4, Indiana rule 310 IAC 125–3(g) is less effective than 30 CFR 815.15(j) because the State rule exempts core drilling or drilling of boreholes in coal exploration from meeting the requirements of 30 CFR 815.15(j). This deficiency is minor because of the short time period involved for the State rule to be amended.

(d) The deficiencies listed below relate to inadequacies in Indiana's inspection and enforcement provisions:

(1) As discussed in Finding 17.13, Indiana rule 310 IAC 12–6–6.5(a)(1) is deficient in several respects. First, the State rule limits the IDNR Director's ability to make a determination that a pattern of violations exists or has existed only on the basis of an inspection. Further, the State rule omits the phrase "lack of diligence" from its definition of "unwarranted failure to comply," concerning the failure of the permittee to prevent the occurrence of any violation. The Indiana rule also omits provisions for a violation due to indifference, lack of diligence, or lack of reasonable care. The Indiana rule is also unclear as to when the Indiana Natural Resources Commission must act on a permit suspension or revocation. These deficiencies are minor because no permanent program permits will be issued prior to the State rule being amended to meet the requirements of 30 CFR 843.13.

(2) As discussed in Finding 17.15, Indiana rule 310 IAC 12–6–16 does not allow the conference officer the authority to increase a penalty, as is

required by 30 CFR 845.18(b)(3). This deficiency is minor because Indiana has proposed an amendment to this rule and because of the short time period necessary for this rule to be promulgated.

(e) The deficiencies listed below relate to inadequacies in Indiana's bonding provisions:

(1) As discussed in Finding 18.5, Indiana rule 310 IAC 12–4–5(c) does not contain a requirement for the replacement of a bond for long-term operation 120 days prior to the expiration of the existing permit as specified in 30 CFR 801.13(b). This deficiency is minor because the provision is not expected to be implemented prior to being amended.

(2) As discussed in Finding 18.9, Indiana rule 310 IAC 12–4–10(e)(1) contains a typographical error in that the phrase "suspension of revocation" should read "suspension or revocation" in order to be no less effective than 30 CFR 806.12(e)(b)(i). This deficiency is minor because of the short period of time involved for the State rule to be amended, and because Indiana has indicated that it will read its rule as "suspension or revocation" during the period while the correction is being made.

(3) As discussed in Finding 18.12, Indiana rule 310 IAC 12–4–16(a) does not contain a requirement that the advertisement published by the bond release applicant contain notice of the public right to participate, as required by 30 CFR 807.11(b)(7). This deficiency is minor because the provision is not expected to be implemented before being amended.

(f) The deficiencies listed below relate to inadequacies in Indiana's civil and criminal penalty provisions:

(1) As discussed in Finding 19.3, Indiana rule 310 IAC 12–6–6(f) allows an extension of the period for abatement under a notice of violation beyond ninety days under certain circumstances which are not allowed under 30 CFR 843.12. This deficiency is minor because of the short period of time necessary for this rule to be amended.

(2) As discussed in Finding 19.3, Indiana rule 310 IAC 12–6–6(d) fails to provide for issuance of a cessation order where the operator fails to meet an interim step in abatement as required by 30 CFR 843.12(d). This deficiency is minor because of the short period of time necessary for this rule to be amended.

(g) The deficiencies listed below relate to inadequacies in Indiana's lands unsuitable provisions:

(1) As discussed in Finding 21.2, the Indiana Statute at I.C. 13–4.1–14–2 is inconsistent with Section 522(c) of SMCRA and less effective than 30 CFR 764.16 because it requires that allegations of fact in support of petitions to designate lands unsuitable for mining "establish" the allegations, whereas Section 522(c) requires only allegations of fact which "tend to establish" the allegations. This deficiency is minor because of the low number of petitions anticipated to be filed during the time Indiana is acting to amend its program to be in accordance with Section 522(c) of SMCRA and no less effective than 30 CFR 764.13(b)(2). Also, during this time while the State is making the necessary change, interested persons concerned about possible coal mining being permitted by the State in a specific area will be able to express their concerns under the State's permitting process should a permit application be filed concerning the area in question.

(2) As discussed above in Finding 21.3, the Indiana rules at 310 IAC 12–2–9(b) do not specify that the Director, IDNR, must use the information contained in the data base and inventory system in reaching decisions on petitions to designate lands unsuitable as required by 30 CFR 764.19. Also, Indiana rule 310 IAC 12–2–7(c) does not provide for the right of any person to the hearing as required by 30 CFR 764.16(c). These deficiencies are minor because of the low number of anticipated petitions to be processed prior to the time that the Indiana rules will be amended.

(h) The deficiencies listed below relate to inadequacies in Indiana's public participation requirements:

(1) As discussed in Finding 22.9, the Indiana program does not provide for the award of attorney and expert witness fees in surface mining related common law damage actions as required by Section 520(f) of SMCRA. This deficiency is minor because of the short time period before the State provision will be changed and because it is unlikely that any common law damage action will be completed prior to the amending of the State provisions.

(2) As discussed above in Finding 22.12, Indiana's statute at I.C. 13–4.1–4–5 and rules at 310 IAC 12–3–118 and 310 IAC 12–3–119 provide for a hearing only when a permit has been denied, unlike Section 514(c) of SMCRA and 30 CFR 787, which require that the State regulatory authority hold a hearing on any final decision of the regulatory authority. This deficiency is minor because no permanent program permits for existing operations are expected to be issued during the first eight months after permit approval, and because during the remaining four month interval interested persons would be able to seek relief in the courts. Also, any new permits issued during this time could be reviewed in the State courts.

(i) The deficiency listed below relates to an inadequacy in Indiana's conflict of interest provisions:

As discussed above in Finding 23, Indiana rule 310 IAC 12–77–4(f) does not provide a justification for inclusion of the positions listed in 310 IAC 12–7–4(b) (1) and (2), due to a typographical error, making the State rule less effective than 30 CFR 705.11(d). This deficiency is minor due to the short period of time involved prior to the State rule being amended.

Given the nature of the deficiencies set forth in the Secretary's findings and their magnitude in relation to all the other provisions of the Indiana program, the Secretary of the Interior has concluded that they are minor deficiencies. Accordingly, the program is eligible for conditional approval under 30 CFR 732.13(i) because:

1. The deficiencies are of such a size and nature as to render no part of the Indiana program incomplete;

2. All other aspects of the program meet the requirements of SMCRA and 30 CFR Chapter VII;

3. These deficiencies, which will be promptly corrected, will not directly affect environmental protection at coal mines;

4. Indiana has initiated and is actively proceeding with steps to correct the deficiencies; and

5. Indiana has agreed, by letter dated June 28, 1982, to correct the regulation deficiencies by December 31, 1982, the statutory deficiencies by September 30, 1983, and to amend its permit application form by September 1, 1982.

Accordingly, the Secretary is conditionally approving the Indiana program. If regulations correcting the deficiencies are not promulgated by December 31, 1982, if State legislation correcting the statutory deficiencies is not enacted by September 30, 1983, and if the State does not submit an amended permit application form by September 1, 1982, the Secretary will take appropriate steps under 30 CFR Part 733 (as amended June 17, 1982, 47 FR 26356–26367) to terminate the State program. This conditional approval is effective on July 29, 1982. This brief interval will allow IDNR to give adequate public notice and will help provide a smooth transition between the interim and permanent programs, and is in accordance with 30 CFR 732.13(i), as amended on June 17, 1982 (47 FR 26356). Beginning on that date, the Indiana Department of Natural Resources shall

be deemed the regulatory authority in Indiana and all Indiana surface coal mining and reclamation operations on non-Federal and non-Indian lands and all coal exploration on non-Federal and non-Indian lands in Indiana shall be subject to the permanent regulatory program.

On non-Federal and non-Indian lands in Indiana, the permanent regulatory program consists of the State program approved by the Secretary. Following this approval, in accordance with Section 523(c) of SMCRA, Indiana may elect to enter into a cooperative agreement with the Secretary to provide for State regulation of surface coal mining and reclamation operations on Federal lands within the State.

The Secretary's approval of the Indiana program relates at this time only to the permanent regulatory program under Title V of SMCRA. The approval does not constitute approval of any provisions related to implementation of Title IV under SMCRA, the abandoned mine lands reclamation program.

Other Information

On August 28, 1981, the Office of Management and Budget (OMB) granted the Office of Surface Mining (OSM) an exemption from Sections 3, 4, 6 and 8 of Executive Order 12291 for all actions taken to approve or conditionally approve, State regulatory programs, actions or amendments. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Secretary has determined that pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1291(d), no environmental impact statement need be prepared on this action.

Pursuant to the Regulatory Flexibility Act, Pub. L. 96–354, I have certified that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 30 CFR Part 914

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Therefore, 30 CFR Chapter VII is amended by adding a new Part 914 as set forth herein.

Dated: July 12, 1982.

James G. Watt,

Secretary of the Interior.

PART 914—INDIANA

Sec.
914.1 Scope.
914.10 State regulatory program approval.
914.11 Conditions of State regulatory program approval.

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977, (30 U.S.C. 1201 *et seq.*).

§ 914.1 Scope.

This part contains all rules applicable only within Indiana that have been adopted under the Surface Mining Control and Reclamation Act of 1977.

§ 914.10 State regulatory program approval.

The Indiana State program, as submitted on March 3, 1980, as amended and clarified on June 4, 1980, as resubmitted on September 28, 1981, and clarified on December 8, 1981, April 8, 1982, May 18–19, 1982 and May 26, 1982, is conditionally approved, effective July 29, 1982. Beginning on that date, the Indiana Department of Natural Resources shall be deemed the regulatory authority in Indiana for all surface coal mining and reclamation operations and all coal exploration operations on non-Federal and non-Indian lands. Only surface coal mining and reclamation operations on non-Federal and non-Indian lands shall be subject to the provisions of the Indiana permanent regulatory program. Copies of the approved program, together with copies of the letter of the Department of Natural Resources agreeing to the conditions of 30 CFR 914.11, are available at:

Office of Surface Mining, Room 5315, 1100 L Street, N.W., Washington, DC 20240.

Office of Surface Mining, 46 East Ohio Street, Indianapolis, Indiana 46204

Indiana Department of Natural Resources, Suite 202, Indianapolis, Indiana 46204

§ 914.11 Conditions of State regulatory program approval.

The approval of the Indiana State program is subject to the State revising its program to correct the deficiencies listed in this Section. The program revisions may be made, as appropriate, to the statute, the regulations, the program narrative, or the Attorney General's opinion. This Section indicates, for the general guidance of the State, the component of the program to which the Secretary recommends the change be made.

(a) Termination of the approval found in § 914.10 will be initiated on December 31, 1982, unless Indiana submits to the Secretary by that date, copies of promulgated rules or otherwise amends its program to:

(1) Require productivity levels for post-mining land use as required by 30 CFR 817.111(b);

(2) Require the design criteria for diversions as required by 30 CFR 816.43 and 817.43;

(3) Provide criteria for steep slope mining and variance from approximate original contour in a manner no less effective than the requirements of 30 CFR 826.15 and assure that no general variance for approximate original contour will be allowed.

(4) Delete the provisions for hilltop removal found in 310 IAC 12–5–149; and assure that no permits for hilltop removal are granted; and

(5) Require the protection of fish and wildlife in a manner no less effective than that required by 30 CFR 816.97 (a), (c) and (d) and 817.97 (a), (c) and (d).

(b) Termination of the approval found in § 914.10 will be initiated on December 31, 1982, unless Indiana submits to the Secretary by that date, except as noted in 30 CFR 914.11(b)(2), copies of promulgated rules or otherwise amends its program to:

(1) Require a plan for control and treatment of surface and ground water drainage and impose ground water limits on pollutants in the discharges as required by 30 CFR 780.21(b);

(2) Require that each permit application require the applicant to certify that all reclamation fees due under 30 CFR 870.12 have been paid. Indiana must submit this revision to the permit application to OSM by September 1, 1982;

(3) Require that each permit application contain a list of all other licenses and permits needed by the applicant to conduct the proposed surface or underground mining activities including all the information required by 30 CFR 778.19 and 782.19;

(4) Require the narrative analysis of "the known history of any previous uses before mining," as required by 30 CFR 779.22 and 30 CFR 783.22;

(5) Require information concerning utility and capacity of reclaimed land for all lands, and not just those where an alternative land use is proposed as required by 30 CFR 780.23;

(6) Provide criteria for permit requirements for steep slope mining and variance from approximate original contour in a manner no less effective than 30 CFR 785.16.

(c) Termination of the approval found in § 914.10 will be initiated on December 31, 1982, unless Indiana submits to the Secretary by that date, copies of promulgated rules or otherwise amends its program to:

(1) Require that the notice of intent to explore, when less than 250 tons of coal will be removed, include a description of the practices proposed to be followed to

protect the environment as required by 30 CFR 776.11(b)(6);

(2) Require that core drilling and drilling of boreholes during coal exploration activities be conducted in accordance with Section 512(a)(2) of SMCRA and in a manner no less effective than 30 CFR 815.15(j).

(d) Termination of the approval found in § 914.10 will be initiated on December 31, 1982, unless Indiana submits to the Secretary by that date, copies of promulgated rules or otherwise amends its program to:

(1) Require that the criteria for the determination that a pattern of violations exists or has existed meet the requirements of 30 CFR 843.13 and require that lack of diligence be considered with regard to unwarranted failure to comply;

(2) Require that the conference officer have the authority to increase a penalty as required by 30 CFR 845.18(b)(3);

(e) Termination of the approval found in § 914.10 will be initiated on December 31, 1982, unless Indiana submits to the Secretary by that date, copies of promulgated rules or otherwise amends its program to:

(1) Require the replacement of a bond for long term operations 120-days prior to the expiration of the existing permit as required by 30 CFR 801.13(b);

(2) Change the phrase "suspension of revocation" to "suspension or revocation" in Indiana rule 310 IAC 12–4–10(e)(1) to correct the typographical error and make the Indiana rule no less effective than 30 CFR 806.12(e)(6)(i);

(3) Require that the advertisement published by the bond release applicant contain notice of the public right of participation as required by 30 CFR 807.11(b)(7).

(f) Termination of the approval found in § 914.10 will be initiated on December 31, 1982, unless Indiana submits to the Secretary by that date, copies of promulgated rules or otherwise amends its program to:

(1) Require that no extension of an abatement period will be allowed unless it meets the criteria of 30 CFR 843.12(f).

(2) Require the issuance of a cessation order where the operator fails to meet an interim step in abatement as required by 30 CFR 843.12(d).

(g) (1) Termination of the approval found in § 914.10 will be initiated on September 30, 1983, unless Indiana submits to the Secretary by that date, a statutory amendment or otherwise amends its program to: Require that a petitioner would only have to present evidence which would "tend to establish allegations of fact," to be in accordance with section 522(c) of SMCRA and no less effective than 30 CFR 764.13(b)(2).

(2) The approval found in § 914.10 will terminate unless Indiana submits to the Secretary by December 31, 1982 copies of promulgated rules or otherwise amends its program to: Require that the Director, IDNR, must use the information in the data base and inventory system in reaching decisions to designate lands unsuitable as required by 30 CFR 764.19, and to provide for the right for any person to intervene up to within three days prior to the hearing as required by 30 CFR 764.16(c).

(h) Termination of the approval found in § 914.10 will be initiated on September 30, 1983, unless Indiana submits to the Secretary by that date, statutory amendments or otherwise amends its program to:

(1) Provide for the award of attorney and expert witness fees in surface mining related common law damage actions as required by Section 510(f) of SMCRA.

(2) Provide for administrative review of a permit on any final decision of the regulatory authority in accordance with the provisions of Section 514(c) of SMCRA and in a manner no less effective than the requirements of 30 CFR Part 787.

(i) Termination of the approval found in § 914.10 will be initiated on December 31, 1982, unless Indiana submits to the Secretary by that date, copies of promulgated rules or otherwise amends its program to provide for justification of positions exempted from conflict of interest requirements and makes its provision no less effective than 30 CFR 705.11(d).

[FR Doc. 82–19852 Filed 7–23–82; 8:45 am]
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30 CFR Part 914

Approval of the Abandoned Mine Reclamation Plan for the State of Indiana Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: On December 7, 1981, the State of Indiana submitted to OSM its proposed Abandoned Mine Land Reclamation Plan (Plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The purpose of this submission is to demonstrate the State's intent and capability to assume responsibility for administering and conducting the Abandoned Mine Land Reclamation Program established by Title IV of SMCRA and regulations adopted by OSM (30 CFR Chapter VII, Subchapter R, 43 FR 49932–49952, October 25, 1978). After opportunity for public comment and review of the plan submission, the Assistant Secretary for Energy and Minerals of the Department of the Interior has determined that the Indiana Abandoned Mine Reclamation Plan meets the requirements of SMCRA and the Secretary's regulations. Accordingly, the Assistant Secretary has approved the Indiana Plan.

EFFECTIVE DATE: This approval is effective July 29, 1982.

ADDRESSES: Copies of the full text of the Indiana Plan are available for review during regular business hours at the following locations:

OSM Indiana State Office, Room 524, U.S. Court House and Federal Building, 46 East Ohio Street, Indianapolis, Indiana 46207

State of Indiana, Department of Natural Resources, 608 State Office Building, Indianapolis, Indiana 46204

Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5315, 1100 "L" Street, N.W., Washington, D.C. 20240

FOR FURTHER INFORMATION CONTACT: Don Willen, Chief, Division of Abandoned Mine Land Reclamation, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, Telephone (202) 343–7951.

SUPPLEMENTARY INFORMATION: The good cause for making this rule effective upon date of publication is: (1) The Office of Surface Mining wants to minimize the time between the approval of Title V regulatory programs and Title IV State reclamation program; and (2) grants are pending approval of the Title IV plan and OSM wishes to expedite grant assistance to States to initiate needed reclamation work as required by the Act.

General Background of Abandoned Mine Land Program

Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Public Law 95–87, 30 U.S.C. 1201 *et seq.*, establishes an abandoned mine land reclamation program for the purposes of reclaiming and restoring lands and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation under the program are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status

prior to August 3, 1977, and for which there is no continuing responsibility under State or Federal law. Each State, having within its borders coal mined lands eligible for reclamation under Title IV of SMCRA, may submit to the Department a State reclamation plan demonstrating its capability for administering an abandoned mine reclamation program. Title IV provides that the Department may approve the plan once the State has an approved regulatory program under Title V of SMCRA. If the Department determines that a State has developed and submitted a program for reclamation and has the necessary State legislation to implement the provisions of Title IV, the Department shall grant the State exclusive responsibility and authority to implement the provisions of the approved plan. Section 405 of SMCRA (30 U.S.C. 1235) contains the requirements for State reclamation plans.

The Secretary has adopted regulations that specify the content requirements of a State reclamation plan and the criteria for plan approval (30 CFR Part 884, 43 FR 49932–48847, October 25, 1978). Under those regulations, the Director of the Office of Surface Mining is required to review the plan and solicit and consider comments. If the State plan is disapproved, the State may resubmit a revised reclamation plan at any time.

Upon approval of the State reclamation plan, the State may submit to the Office on an annual basis, an application for funds to be expended in that State on specific reclamation projects which are necessary to implement the State reclamation plan as approved. The annual requests are reviewed and approved by OSM in compliance with the requirements of 30 CFR Part 886.

To codify information applicable to individual States under SMCRA, including decisions on State reclamation plans, OSM has established a new Subchapter T to 30 CFR Chapter VII. Subchapter T consists of parts 900 through 950. Provisions relating to Indiana are found in 30 CFR Part 914.

Background on the Indiana Abandoned Mine Plan Submission

On August 31, 1981, a cooperative agreement between the Indiana Department of Natural Resources and the Office of Surface Mining was approved. The purpose of this agreement was to assure that information required for the preparation of the Indiana Abandoned Mine Reclamation Plan would be assembled.

On June 17, 1981, the Natural Resources Division held a public hearing in Vincennes, Indiana to hear comments on the plan.

On December 7, 1981, the State of Indiana submitted its proposed Abandoned Mine Land Reclamation Plan to the Office of Surface Mining.

Notice of receipt of the submission initiating the Plan review was published January 21, 1982 (47 FR 3008–3010). The announcement requested public comments. On May 21, 1982, OSM's Indiana State Director and on May 26, 1982 the Assistant Director for Program Operations and Inspection recommended to the Director that the Assistant Secretary approve the Indiana Reclamation Plan.

The administrative record on the Indiana Plan is available for review during regular business hours at the Office of Surface Mining Reclamation and Enforcement, at the address listed above in "Addresses."

Assistant Secretary's Findings

1. In accordance with Section 405 of SMCRA the Assistant Secretary finds that Indiana has submitted a Plan for reclamation of abandoned mines and has the ability and necessary legislation to implement the provisions of Title IV of SMCRA.

2. The Assistant Secretary has determined, pursuant to 30 CFR 884.14, that:

(a) The Indiana Department of Natural Resources has the policies and administrative structure necessary to carry out the Plan;

(b) The Plan meets all the requirements of 30 CFR Chapter VII, Subchapter R;

(c) The State has an approved regulatory program; and

(d) The Plan is in compliance with all applicable State and Federal laws and regulations.

3. The Assistant Secretary has solicited and considered the views of Federal agencies having an interest in the Plan as required by 30 CFR 884.13(a)(2). These agencies include: The U.S. Department of the Interior, Geological Survey (USGS); the U.S. Department of the Interior, Fish and Wildlife Service (FWS), the U.S. Department of Interior, Bureau of Mines (BOM), U.S. Department of Agriculture, Forest Service (FS), Department of Energy (DOE), and the Federal Regional Council (FRC).

Disposition of Comments

The following comments received on the Indiana Abandoned Mine Land Reclamation Plan during the public comment period were considered in the Assistant Secretary's evaluation of the Indiana Plan as indicated.

1. The USGS commented that the staffing levels given in the plan are too low to effectively run the reclamation program. OSM's response is that staffing needs of an organization are unique and can always be supplemented by outside contracting. Changing the staffing levels in the plan is unnecessary.

2. The USGS suggested that the following two statements given on page 10 of the plan: "a water sampling program may be initiated" and "sampling *may* continue through the life of the project and then after reclamation" that the word *may* be changed to *will* in each of the statements. OSM agrees with this suggestion. The State has agreed to modify the plan accordingly.

3. The USGS commented that reference in the plan that extreme danger or priority I "small money" will be interspersed with "big money" priority II projects cannot be reconciled with Pub. L. 95–87, the OSM regulations, Indiana code, or the State Regulations. OSM agrees with this comment. The State has complied with this suggestion by taking out all references to "big money" and "little money" projects.

4. The USGS suggested changing the statement in § 884.13(f)(4) on page 17 of the plan containing the phrase "guess work" as to the success that can be achieved * * * "OSM agrees with USGS that "guess work" as to the success of a project is not always the case. Indeed—some project results can be judged. The State has agreed to modify the plan by inserting the word "some" after AML in the third to last sentence of page 17.

5. The USGS suggested that the "Site Evaluation Matrix" presented on page 19 of the plan be called a tally sheet instead of a matrix. OSM's response is that the concept of an Evaluation Matrix, i.e. expressing information in rows and columns, is generally understood to be a mechanism for prioritizing projects. No changes to the plan are required by this suggestion.

6. The FWS commented that "prereclamation fish and wildlife values on AML sites will not be adequately considered in site selection and development of the reclamation plan; a system for consultation with our agency regarding fish and wildlife resources at individual sites is not established in the program; and that fish and wildlife habitat is not encouraged as a postreclamation land use." OSM agrees that there is merit in this comment and recommends closer coordination between the State and various Federal agencies. The State has agreed to include a discussion of how it plans to

coordinate reclamation projects with FWS and other Federal agencies.

7. The FWS commented that the Site Evaluation Matrix as shown in the plan may not protect existing wildlife habitats at the sites selected for reclamation. The State has modified the matrix by including additional data to show how wildlife parameters might be better qualified.

8. The FWS commented that the Federal list of endangered species in exhibit V of the plan is not current. Specifically, the mammal list should be updated. OSM concurs with this suggestion. The State has revised the plan accordingly.

9. The FWS commented that there is no provision in § 884.13(f)(5) of the plan entitled Flora and Fauna to insure that the proposed reclamation action will not jeopardize the continued existence of threatened or endangered species. FWS suggests devising a system which would accommodate a federal review of these areas. The State has complied with this suggestion through its plan to coordinate closer with other Federal agencies. See comment No. 6.

10. The BOM commented that the AML inventory is based on 1971 vintage aerial photography and lacks important data such as acid mine drainage problems. A state summary of the data is suggested. OSM feels that a complete summary of AML reclamation sites is not a strict requirement for the plan. It has been determined that a State inventory was completed in 1981 and does include information on acid mine drainage and other problems that cannot be identified from aerial photographs. No modification to the Plan is required.

11. The BOM observes that after defining in detail how priorities will be set, including the application of the site evaluation matrix, the State in effect proposes to disregard these procedures and plans to do priority II projects over priority I projects. OSM observed the same thing and recommended a revision to the Plan. State has complied with this suggestion by modifying the plan to put priority I projects in proper perspective.

12. The FS commented that rather than having an open ended monitoring program which may include all sites with water quality problems, it would be in the best interest of taxpayers to select a few representative sites with water quality problems and monitor them. OSM feels that water monitoring as discussed in the plan is appropriate. No modification to the plan is necessary.

13. The DOE comments that the plan does not specify the types of skills and educational background which would be used as criteria for screening potential candidates for Reclamation Planning specialist. OSM feels that there is no requirement for including selection criteria for personnel in the plan. No modification to the plan is required.

14. The DOE commented that in § 874.14 of the plan not all of the project evaluation criteria listed in the regulations are covered. DOE suggested including criteria 3, 4, 5 and 7 of 30 CFR 874.14 pertaining to reclamation project evaluation. The State has agreed to modify the plan to include these criteria.

15. The DOE commented that certain reclamation procedures and their roles in the reclamation process such as environmental assessments be discussed. OSM feels that the EA is a unique requirement for each reclamation project. A complete discussion of the EA is not required in the Plan.

16. The DOE commented that the relationship between existing and planned land uses of reclaimed land is only discussed in general terms. DOE points out that the usefulness of the material presented on pages 45–70 of the plan is not specified, incorporated or referenced in § 884.13(f)(3). The State has modified the plan to include a more specific discussion of the applicability of the materials identified in pages 45–70.

17. The DOE commented that the Indiana plan should provide for the findings regarding acquisition and the determination of rights that are necessary for land acquisition as set forth in 30 CFR 879.11(a), (d) and (e). OSM agrees with this comment. The State has modified the plan accordingly.

Additional Findings

On November 12, 1981, the Office of Management and Budget exempted the Office of Surface Mining from the requirements of Sections 3, 4, 6, and 8 of Executive Order 12291 for all actions taken by OSM to approve State Reclamation Plans or amendments. Therefore, a Regulatory Impact Analysis is not required.

This rulemaking has been examined pursuant to the Regulatory Flexibility Act., 5 U.S.C. 601 *et seq.*, and the Office of Surface Mining has determined that the rule will not have a significant economic effect on a substantial number of small entities. The reason for this determination is that approval will not have demographic effects, direct costs, information collection and recordkeeping requirements, indirect costs, nonquantifiable costs, competitive effects, enforcement costs or aggregate effects on small entities.

The Assistant Secretary has determined that the Indiana Abandoned Mine Land Reclamation Plan will not have a significant effect on the quality of the human environment because the decision relates only to policies, procedures and organizations of the State's Abandoned Mine Land Reclamation Program. Therefore, under the Department of Interior Manual (DM) 516.2.3.(A)(1), the Assistant Secretary's decision on the Indiana Plan is categorically excluded from the National Environmental Policy Act requirements. As a result, no environmental assessment or environmental impact statment (EIS) has been prepared on this action. It should be noted that a programmatic EIS was prepared by OSM in conjunction with the implementation of Title IV. Also an environmental analysis or an EIS will be prepared for the approval of grants for the abandoned mine lands reclamation projects under 30 CFR Part 886.

List of Subjects in 30 CFR Part 914

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: July 1, 1982.

James R. Harris,

Director, Office of Surface Mining.

Dated: July 6, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary for Energy and Minerals.

Therefore Part 914 is amended by adding § 914.20 to read as follows:

PART 914—INDIANA

§ 914.20 Approval of Indiana abandoned mine plan.

The Indiana Abandoned Mine Plan, as submitted and revised is approved. Copies of the approved program are available at:

The Office of Surface Mining Reclamation and Enforcement, Indiana State Office, Room 524, U.S. Court House and Federal Building, 46 East Ohio Street, Indianapolis, Indiana 46207

State of Indiana, Department of Natural Resources, 608 State Office Building, Indianapolis, Indiana 46204

[FR Doc. 82-20077 Filed 7-23-82; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 353

[DOD Directive 5142.1]

Assistant Secretary of Defense (Legislative Affairs)

AGENCY: Office of the Secretary of Defense, DOD.

ACTION: Final rule.

SUMMARY: The Secretary of Defense has assigned responsibilities and functions to the Assistant Secretary of Defense (Legislative Affairs) (ASFD(LA)) and has delegated specific authorities. This rule (DOD Directive 5142.1) serves as the instrument that authorizes the ASD(LA) to carry out his charter.

EFFECTIVE DATE: This rule was approved and signed by the Deputy Assistant Secretary of Defense on July 2, 1982, and is effective as of that date.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur H. Ehlers, Director for Organizational and Management Planning, Office of the Deputy Secretary of Defense (Administration), Washington, D.C. 20301, telephone 202–695–4278.

SUPPLEMENTARY INFORMATION: This information is submitted in compliance with the requirements of section 552a(1) of Title 5, United States Code, and 2 CFR 305.76.

List of Subjects in 32 CFR Part 353

Organization and functions (Legislative Affairs).

Accordingly, 32 CFR Chapter 1, is amended by revising Part 353, reading as follows:

PART 353—ASSISTANT SECRETARY OF DEFENSE (LEGISLATIVE AFFAIRS)

Sec.

353.1 Reissuance and Purpose.
353.2 Definition.
353.3 Responsibilities and Functions.
353.4 Relationships.
353.5 Authorities.

Authority: 10 U.S.C. 136.

§ 353.1 Reissuance and purpose.

This Part establishes, pursuant to the authority vested in the Secretary of Defense under Title 10, U.S.C., Section 136, one of the positions of Assistant Secretary of Defense as Assistant Secretary of Defense (Legislative Affairs) (ASD(LA)), with responsibilities, functions, and authorities as prescribed herein.

§ 353.2 Definition.

DOD Components. The Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands, and the Defense Agencies.

§ 353.3 Responsibilities and functions.

The *Assistant Secretary of Defense (Legislative Affairs)* as the principal staff assistant to the Secretary of Defense for DOD relations with the members of Congress, shall:

(a) Provide advice and assistance concerning congressional aspects of DoD policies, plans, and programs.

(b) Coordinate actions relating to congressional consideration of the DoD legislative program.

(c) Coordinate DoD participation in congressional hearings and investigations.

(d) Assign responsibility for, and coordinate responses to, congressional inquiries.

(e) Process and coordinate requests for DoD support of congressional travel.

(f) Arrange for the designation and appearance of witnesses and provision of information at congressional hearings.

(g) Coordinate the preparation of all congressional testimony and backup material for the Secretary and Deputy Secretary of Defense.

(h) Provide for DOD processing of personal security clearances for members of congressional staffs.

(i) Perform such other duties as the Secretary of Defense may assign.

§ 353.4 Relationships.

(a) In the performance of his duties, the ASD(LA) shall:

(1) Coordinate and exchange information with DOD Components having collateral or related functions.

(2) Use existing facilities and services of the Department of Defense or other federal agencies to avoid duplication and achieve maximum efficiency and economy.

(b) Heads of DOD Components shall coordinate with the ASD(LA) on all matters related to the functions cited in

§ 353.5 Authorities.

The ASD(LA) is hereby delegated authority to:

(a) Issue DOD Instruction and one-time directive-type memoranda, consistent with DOD Directive 5025.1, "DOD Directives System," October 16, 1980 which carry out policies approved by the Secretary of Defense in assigned fields of responsibility. Instructions to the Military Departments shall be issued through the Secretaries of those Departments, or their designees. Instructions to Unified and Specified Commands will be issued through the Joint Chiefs of Staff.

(b) Obtain reports, information, advice, and assistance consistent with the policies and criteria of DOD Directive 5000.19, "Policies for the Management and Control of Information Requirements," March 12, 1976, as necessary.

(c) Communicate directly with DOD Components. Communications to the Commanders of Unified and Specified Commands shall be coordinated with the Joint Chiefs of Staff.

(d) Communicate with the Executive Office of the President, other Government agencies, representatives of the legislative branch, and members of the public, as appropriate, in carrying out assigned functions.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

July 20, 1982.

[FR Doc. 82-20133 Filed 7-23-82; 8:45 am]
BILLING CODE 3810-01-M

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32 CFR Part 375

[DoD Directive 5122.5]

Assistant Secretary of Defense (Public Affairs)

AGENCY: Office of the Secretary, DOD.

ACTION: Final rule.

SUMMARY: The Secretary of Defense has assigned responsibilities and functions to the Assistant Secretary of Defense (Public Affairs) (ASD(PA)), and has delegated specific authorities. This rule (DoD Directive 5122.5) serves as the instrument that authorizes the ASD(PA) to carry out his charter.

EFFECTIVE DATE: This rule was approved and signed by the Deputy Secretary of Defense on June 15, 1982, and is effective as of that date.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur H. Ehlers, Director for Organizational and Management Planning, Office of the Deputy Assistant Secretary of Defense (Administration), Washington, D.C. 20301, telephone 202–695–4278.

SUPPLEMENTARY INFORMATION: This information is submitted in compliance with the requirements of section 552(a)(1) of Title 5, U.S. Code, and 1 CFR 305.76.

List of Subjects in 32 CFR Part 375

Organization and functions (government agencies), Public affairs.

Accordingly, 32 CFR, Chapter 1, is amended by adding a new Part 375, reading as follows:

PART 375—ASSISTANT SECRETARY OF DEFENSE (PUBLIC AFFAIRS)

Sec.

375.1 Reissuance and Purpose.
375.2 Definition.
375.3 Responsibilities.
375.4 Functions.
375.5 Relationships.
375.6 Authorities.

Authority: 10 U.S.C. 136.

§ 375.1 Reissuance and purpose.

This Part establishes, pursuant to the authority vested in the Secretary of Defense under the provisions of Title 10, U.S.C., Section 36, one of the positions of Assistant Secretary of Defense as the Assistant Secretary of Defense (Public Affairs) (ASD(PA)), with responsibilities, functions, and authorities as prescribed herein.

§ 375.2 Definition.

DoD Components. The Office of the Secretary of Defense (OSD), the Military Departments, the Organization of the Joint Chiefs of Staff (OJCS), the United and Specified Commands, and the Defense Agencies.

§ 375.3 Responsibilities.

The *Assistant Secretary of Defense (Public Affairs)* shall:

(a) Serve as principal staff advisor and assistant to the Secretary of Defense for DoD public information, internal information, Freedom of Information, mandatory declassification review, clearance of DoD information for public release, community relations, information training, and audiovisual matters.

(b) Ensure a free flow of news and information to the media, appropriate forums, and the American people limited only by national security constraints and statutory mandates.

§ 375.4 Functions.

The ASD(PA) shall:

(a) For each of the areas of responsibility cited in paragraph 3 of this section.

(1) Develop policies, plans, and programs in support of DoD objectives and operations.

(2) Monitor, evaluate, and develop systems, standards, and procedures for the administration and management of approved policies, plans, and programs.

(3) Issue policy guidance to DoD Components.

(4) As required, participate with the Assistant Secretary of Defense (Comptroller) in planning, programing, and budgeting activities.

(5) Promote coordination, cooperation, and mutual understanding among DoD Components and with other federal, state, and local agencies and the civilian community.

(6) Serve on boards, committees, and other groups, and represent the Secretary of Defense outside of the Department of Defense.

(b) Conduct security reviews, consistent with Executive Order 12356 and DoD Directive 5230.9, "Clearance of DoD Information for Public Release," April 2, 1982, of all material prepared for public release and publication originated by the Department of Defense (including testimony before Congressional committees), or by its contractors, DoD employees as individuals, and material submitted by sources outside the Department of Defense for such review.

(c) Review for conflict with established DoD and national security policies or programs, official speeches, news releases, photographs, films, and other information originated within the Department of Defense for public release, or similar material submitted for review by other executive agencies of the U.S. Government.

(d) Oversee the provision of news analysis and news clipping services for the OSD, OJCS, and the Military Departments headquarters.

(e) Evaluate and approve:

(1) Requests for DoD cooperation in programs involving relations with the public consistent with 32 CFR Parts 237 and 238.

(2) Requests for travel in military carriers, for public affairs purposes, by news media representatives or other non-DoD personnel.

(f) Direct and administer the DoD Freedom of Information Act Program consistent with 32 CFR Part 286.

(g) Exercise program and resource management control of American Forces Radio and Television activities through the American Forces Information Service consistent with 32 CFR Part 372.

(h) Evaluate and coordinate the DoD response to requests for speakers received by the Department of Defense and, as required, assist in scheduling, programing, and drafting speeches for the participation of qualified personnel.

(i) Provide policy guidance regarding information training to the Defense Information School consistent with DoD Directive 5160.48, "Department of Defense Information Training," February 21, 1964.

(j) Exercise overall policy development and management responsibilities for DoD audiovisual activities consistent with DoD Directive 5040.2, "Audiovisual Activities," July 23, 1979.

(k) Administer the Freedom of Information Act Program and the access portion of the Privacy Act Program for the OSD, OJCS, and other DoD Components as may be assigned.

(l) Direct and administer the mandatory declassification review program for the OSD, OJCS, and other DoD Components as may be assigned.

(m) Exercise direction, authority, and control over the Defense Audiovisual Agency and the American Forces Information Service consistent with 32 CFR Parts 205 and 372.

(n) Perform such other functions as the Secretary of Defense may assign.

§ 375.5 Relationships.

(a) In the performance of assigned duties the ASD(PA) shall:

(1) Coordinate and exchange information with DoD Components having collateral or related functions.

(2) Use existing facilities and services of the Department of Defense or other federal agencies to avoid duplication and achieve maximum efficiency and economy.

(3) Maintain liaison with and provide assistance to the general public, representatives of the news media, and private organizations seeking information relating to the activities of the Department of Defense.

(b) Heads of DoD Components shall coordinate with the ASD(PA) on all matters related to the functions cited in paragraph 4 of this section.

§ 375.6 Authorities.

The ASD(PA) is hereby delegated authority to:

(a) Issue DoD Instructions and one-time directive-type memoranda, consistent with DoD Directive 5025.1, "DoD Directives System," October 16, 1980, which carry out policies approved by the Secretary of Defense in assigned fields of responsibility. Instructions to the Military Departments shall be issued through the Secretaries of those Departments, or their designees. Instructions to Unified and Specified Commands regarding public affairs matters shall be issued directly to the commanders of the Unified and Specified Commands. Instructions which have operational implications shall be coordinated with the Joint Chiefs of Staff, consistent with DoD Directive 5105.35, "Responsibilities of Unified and Specified Commands in Public Affairs Matters," May 7, 1965.

(b) Obtain reports, information, advice, and assistance, consistent with the policies and criteria of DoD Directive 5000.19, "Policies for the Management and Control of Information Requirements," March 12, 1976, as necessary.

(c) Communicate directly with DoD Components. The channel of communications with the Unified and Specified Commands regarding public affairs matters shall be between the ASD(PA) and the Commanders of the Unified and Specified commands. Communications which have operational implications shall be coordinated with the Joint Chiefs of

Staff consistent with DoD Directive 5105.35.

(d) Communicate with other government agencies, representatives of the legislative branch, and members of the public.

(e) Establish arrangements for DoD participation in those non-DoD government programs for which the ASD(PA) has been assigned primary staff cognizance.

(f) Act as the sole agent at the Seat of Government for the release of official DoD information for dissemination through any form of public information media.

(g) Establish accreditation criteria and serve as the approving and issuing authority for credentials for news gathering media representatives traveling in connection with coverage of official DoD activities.

(h) Approve military participation in public exhibitions, demonstrations, and ceremonies of national or international significance.

(i) Declassify official information submitted for security review, mandatory declassification review, and Freedom of Information appellate actions and those over which the Department of Defense exercises final classification jurisdiction.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

July 20, 1982.

[FR Doc. 82-20060 Filed 7-23-82; 8:45 am]
BILLING CODE 3810-01-M

POSTAL SERVICE

39 CFR Part 232

Conduct on Postal Property; Solicitations to Postal Employees by Mail or Telephone

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: Existing postal regulations prohibit soliciting, electioneering, advertising and similar activity on postal premises. The Postal Service believes the prohibition applies whether or not the person engaging in the activity is physically present on those premises. However, this final rule makes it unambiguously clear that the prohibition includes such activity when carried out by telephone or by mail directed to postal employees on postal premises.

EFFECTIVE DATE: August 25, 1982.

FOR FURTHER INFORMATION CONTACT: Charles D. Hawley, (202) 245-4584.

SUPPLEMENTARY INFORMATION: On May 12, 1982, the Postal Service published for comment in the **Federal Register**, 47 FR 20326, a proposed new 39 CFR 232.1(h)(2) to carry out the purpose described in the Summary above. Interested persons were invited to submit comments concerning the proposed changes by June 11, 1982. No comments were received. Accordingly, the Postal Service hereby adopts, without change, the following revisions of title 39, Code of Federal Regulations:

List of Subjects in 39 CFR Part 232

Law enforcement.

PART 232—CONDUCT ON POSTAL PROPERTY

In § 232.1(h), the unnumbered first paragraph is designated as paragraph (h)(1) and present paragraphs (1), (2), and (3) are redesignated as (i), (ii), and (iii). In addition, paragraph (h)(2) is added making the section read as follows:

§ 232.1 Conduct on Postal Property.

(h) * * *

(1) * * *

* * * * *

(2) Solicitations and other actions which are prohibited by paragraph (h)(1) of this section when conducted on Postal Service property should not be directed by mail or telephone to postal employees on Postal Service property. The Postal Service will not accept or distribute mail or accept telephone calls directed to its employees which are believed to be contrary to paragraph (h)(1) of this section.

(39 U.S.C. 401)

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 82-20061 Filed 7-23-82; 8:45 am]
BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-4-FRL 2140-1]

Approval and Promulgation of Implementation Plans; Florida: Carbonaceous Fuel Burning Regulations

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is approving a Florida State Implementation Plan (SIP) revision pertaining to carbonaceous fuel burning sources. The emission limits which have been applicable to these sources for several years are now being included in the SIP.

EFFECTIVE DATE: This action will be effective on September 24, 1982 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the materials submitted by the State may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460;

Library, EPA, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365;

Library Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20005;

Bureau of Air Quality Mgmt., Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32301.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Gilbert, Air Programs Branch, EPA Region IV at the above address and telephone number 404/881-3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION: On March 18, 1974, the Florida Department of Environmental Regulation (FDER) held a hearing and adopted rule 17-2.04(6)(i) for carbonaceous fuel burners. FDER submitted the rule on May 22, 1974, as a SIP revision. The new limits replaced the process weight table as being applicable to carbonaceous fuel burners. Subsequent to the publication of the proposal notice (August 9, 1974, 39 FR 28646), EPA requested additional information relative to the control strategy, etc. On September 17, 1981, FDER submitted additional information concerning the sources and ambient air quality in their vicinity.

On January 21, 1981, FDER adopted a reasonably available control technology regulation (RACT) for carbonaceous fuel burners in Jacksonville. Other regulations were also adopted which apply to other source categories and nonattainment areas, but those regulations will be addressed in another notice.

On August 11, 1981, FDER submitted a SIP revision reformatting the entire FDER regulation 17-2. The applicable regulations being approved are 17-2.600 Specific Source Emission Limiting Standards, (10) Carbonaceous Fuel Burning Equipment, and 17-2.650 Reasonably Available Control Technology (RACT), (2) Particulate

Matter, (c) Specific RACT Emission Limiting Standards for Stationary Sources, 3. Carbonaceous Fuel Burners.

Rule 17–2.650(f), compliance schedules, is applicable to carbonaceous fuel burners in Jacksonville; however, no compliance schedules are necessary.

Rule 17–2.420, Designation of areas not meeting the NAAQS, identifies a portion of downtown Jacksonville as nonattainment for particulate matter. This is the only area where carbonaceous fuel burning sources are subject to the more strict rule 17–2.650(2)(c)3. There are no carbonaceous fuel burners in the nonattainment portion of Hillsborough County. The remainder of the State is either attainment or unclassified and there is sufficient air quality and modeling data to demonstrate that these regulations are adequate.

Carbonaceous fuel burners with a capacity less than 30 million BTU per hour total heat input are limited to a 20% opacity except that 40% opacity is allowed 2 minutes in any hour. Burners with a capacity equal to or greater than 30 million BTU per hour total heat input are limited to a 30% opacity except that a 40% opactiy is allowed for 2 minutes in any hour. Burners with a capacity equal to or greater than 30 million BTU per hour total heat input and with an operating or construction permit issued prior to July 1, 1974, must meet particulate emission limits of 0.3 pound per million BTU of heat input (#/10^6 BTU) from carbonaceous fuel and 0.1 #/10^6 BTU from fossil fuel. Burners with a capacity equal to or greater than 30 million BTU per hour total heat input and with permits issued after July 1, 1974, or in a particulate matter nonattainment area must meet limits of 0.2 #/10^6 BTU from carbonaceous fuel and 0.1 #/10^6 BTU from fossil fuel.

Action: EPA is approving the Florida State Implementation Plan pertaining to carbonaceous fuel burning sources. The public should be advised that this action will be effective September 24, 1982. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 24, 1982. This action may not be challenged later in proceedings to enforce its requirements. (See sec. 307(b)(2).)

Under 5 U.S.C. 605(b), I have previously certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Note.—Incorporation by reference of the State Implementation Plan for the State of Florida was approved by the Director of the Federal Register on July 1, 1982.

List of Subjects in 40 CFR Part 52

Air pollution control, intergovernmental relations, ozone, sulfur oxides, nitrogen dioxide, lead, particulate matter, carbon monoxide, hydrocarbons.

(Secs. 110 and 172 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7502)).

Dated July 14, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart K—Florida

Section 52.520 is amended by adding paragraph (c)(39) as follows:

§ 52.520 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(39) Emission limits for sources burning carbonaceous fuel, submitted on May 22, 1974, and January 21, 1981, and reformatted on August 11, 1981, by the Florida Department of Environmental Regulation.

[FR Doc. 82-20082 Filed 7-23-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-4-FRL-2140-2]

Approval and Promulgation of Implementation Plans; Florida: Florida Plan Revision for Point Source Emission Testing

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA today approves all of the point source emission testing methods in the State Implementation Plan (SIP) revisions which the Florida Department of Environmental Regulation (FDER) submitted on December 30, 1980, and May 29, 1981. These SIP revisions replace the existing regulations on testing which the FDER has not been allowed to enforce due to legal constraints. However, in these revisions FDER did not provide testing regulations (methods) for all sources, thereby leaving numerous regulated sources without a test method. For all source categories for which FDER did not submit a test regulation, EPA will enforce the regulations using EPA test methods identified in 40 CFR Part 60 until the State submits and EPA approves test methods for these source categories.

DATE: These actions are effective August 25, 1982.

ADDRESSES: Copies of the materials submitted by the State may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

Library, EPA, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365

Library, Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20005

Department of Environmental Regulation, Twin Tower Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32302

FOR FURTHER INFORMATION CONTACT: Mr. Barry Gilbert, Air Management Branch, EPA Region IV, at the above address and telephone number 404/881–3286 or FTS 257–3286.

SUPPLEMENTARY INFORMATION:

Background

On December 30, 1980, and May 29, 1981, the State of Florida submitted SIP revisions that pertain to point source emission testing procedures used to enforce their emission regulations. The previous stationary source sampling procedures, which were adopted in 1971 by the predecessor of the Florida Environmental Regulation Commission and approved by EPA, were based on a wet impingement method and the ASTM in-stack method for particulate sampling and Western Precipitator (WP)–50 Bulletin (containing basic stack sampling procedures). EPA Reference Methods 1–20 (Appendix A of 40 CFR Part 60) have been developed since 1971. Revisions to the Florida sampling manual were adopted in 1974 and 1975,

but not in conformity with the Florida Administrative Procedures Act. These revisions reflected both extant EPA methods and the earlier Florida methods. These sampling procedures were never adopted as a rule under the revised Florida Administrative Procedures Act. As a result, they became void and unenforceable as of October 1, 1975. Present adoption of source sampling procedures by FDER responds to the need to resolve that issue as well as to remedy a deficiency in the SIP.

Discussion

Submittals

The December 30, 1980, submission contained SIP revisions relating to FDER rule Sections 17–2.02 (Definitions), 17–2.08 (Sampling and Testing), 17–2.23 (Stationary Point Source Emissions Test Procedures), and 17–2.24 (Severability). The May 29, 1981, submittal modified and replaced the entire FDER rule Sections 17–2.23 (Stationary Point Source Emissions Test Procedures) and 17–2.24 (Severability). EPA approves FDER rule Sections 17–2.23 (Stationary Point Source Emissions Test Procedures) and 17–2.24 (Severability) as submitted May 29, 1981; and FDER rule Sections 17–2.02 (Definitions: (15) Batch Process and (69) Isokinetic Sampling or Isokinetic Conditions), and 17–2.08 (Sampling and Testing) as submitted December 30, 1980.

Test Methods

Section 17–2.23, Florida Administrative Code (FAC), as adopted by the Florida Environmental Regulation Commission, limits the procedures for source sampling to regulatory provisions required by law. Procedures of FDER adopted in Section 17–2.23, FAC, are brought to agreement with EPA Methods where EPA methods are applicable. The differences between FDER Methods and EPA Methods are minor except for Method 2.

In regulation 17–2.23(6) (a) and (b), FAC, the following EPA Reference Methods are adopted in their entirety: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13A and 13B, 14, 15, 17, 19, and 20. For sources required to use EPA Method 5, flexible tubing may be inserted between the heated filter and the first impinger. The allowable length of the tubing is not specified. In addition the following FDER methods have been adopted: 1, 2, 3, 5, 6, and 9. FDER Methods 1 through 3, and 6 are substantially identical to the EPA Methods of the same number but are designed to apply to existing sources.

EPA approves all these test methods.

FDER Method 2

In regulation 17–2.23(6)(a)2., FAC, FDER Method 2, Stack Gas, Velocity and Volumetric Flow Rate, the State has relaxed the cyclonic flow restrictions for applying Method 2 to existing sources by increasing the allowed deviation from parallel flow from 10 degrees to 20 degrees. The FDER feels the lack of adopted procedures for cyclonic flow sampling, the small number of affected major sources and the exceptional expense for alternate sampling methods and facilities, justifies this exception. This procedure is unacceptable according to the procedure as stated in the Code of Federal Regulations and the EPA Quality Assurance Handbook for Air Pollution System, and supported in the report, "Angular Flow Insensitive Pitot Tube Suitable for Use with Standard Stack Testing Equipment," EPA Report 600/4–79–042. Because the pollutant emission rate it is based upon the average stack gas velocity and volumetric flow rate measurements, it is critical to obtain accurate velocity reading. Unless the true direction of the flow is known and the "S" pitot tube is aligned with the flow, the flow cannot be accurately measured. For this reason, the USEPA Method 2 limits the "S" pitot tube to conditions of angular flow less than 10° from the stack axis. Exception to the 10° maximum limit may be considered on a case-by-case determination in advance of the test when EPA's proposed method to adjust for cyclonic flow is incorporated into the test procedure. Otherwise, there should be no deviation from this maximum allowable limit as stipulated in Method 2 and in the "Quality Assurance Handbook for Air Pollution Measurement Systems, Vol. III."

In a June 17, 1981, letter to EPA, FDER stated that it has agreed to make the following changes in the FDER procedure:

1. Measure the angle of flow at each traverse point and record the maximum angle observed.
2. Select the proper nozzle by conventional determination.
3. If maximum angle is less than ten degrees, do nothing since the percent error is only 1.5 percent for a maximum angle of 10°.
4. If maximum angle is more than ten degrees, multiply the actual nozzle diameter by the cosine of the largest angle observed in order to calculate the effective apparent nozzle diameter.
5. Put the effective apparent nozzle diameter on the nomograph and on the data sheet to figure isokinetic flow.

Comment: A comment was received on EPA's proposed action. FDER stated that it had agreed to make proposed changes in a procedure for stack testing cyclonic flows, but had not as yet adopted those changes as was implied in the proposal notice.

EPA Response: EPA accepts the FDER commitment to make the necessary changes to this regulation.

EPA therefore approves FDER Method 2 with the understanding that this procedure will be used to correct cyclonic flow.

Other FDER Regulations

Sections 17–2.600 (5) and (6) and 17–2.650 (2)(c)1. allow the use of certified transmissometers in determining compliance with the visible emissions standard. This special condition does not preclude the use of a certified visible emission reader in determining compliance with the applicable visible emission standard.

Sections 17–02.23(1)(c) and 17–2.23(3) provide that the FDER Secretary can, at his discretion, approve alternative test procedures. Further, the document entitled "Comparative Appraisal of SIP Revision With Previous Source Sampling Procedures," which accompanies the SIP submittal, provides in paragraph 5.e. that "for EPA test methods which are adopted by reference, the Secretary of the Department or his designee may approve alternative procedures whenever the EPA Method authorizes the Administrator to make such a determination."

Any alternative procedures adopted by FDER will not be effective under the SIP unless and until they are submitted to and approved by EPA as SIP revisions.

FDER Reserved Methods

FDER previously submitted SIP revisions containing test methods which were intended to replace test methods developed in the original SIP. EPA has never approved those revisions because of certain deficiencies. The present EPA-approved Florida SIP is out of date since the EPA-approved test methods are applicable to emission limits which have been extensively modified, i.e., emission limits now apply to each specific types of source rather than to processes in general.

The regulations submitted December 30, 1980, and May 29, 1981, completely replace the State's previously adopted test method regulations. EPA approves all the regulations submitted, as proposed on September 8, 1981 (46 FR 44783). However, in these revisions FDER did not submit testing regulations (methods) for all sources, but instead

reserved sections, thereby leaving numerous regulated sources wihout a test method. For clarity, the applicable regulations (emission limiting standards) are identified below by both the rule numbers in effect when these revisions were submitted and when the entire regulations were reformated on August 11, 1981. FDER did not submit test methods for the following source categories:

Particulate emissions from citrus plants controlled by a scrubber and subject to the process weight table (submitted as 17–2.05(2) and reformated as 17–2.610(1)1.a.).

TRS emissions from recovery furnaces at kraft pulp mills (submitted as 17–2.05(6)D and reformated as 17–2.600(4)1.).

Sulfur dioxide emissions from fossil fuel steam sources (submitted as 17–2.05(6)E and reformated as 17–2.600 (5) and (6)).

Emissions from portland cement plants (submitted as 17–2.05(6)F and reformated as 17–2.600(7)).

Particulate and visible emissions from carbonaceous fuel burning equipment (submitted as 17–2.05(6)I and reformated as 17–2.600(10)).

Comments: The Region IV office of EPA has received several comments from the pulp and paper industry objecting to EPA's proposed use of EPA test methods for source categories without a specified FDER test procedure and suggesting that EPA utilize unspecified test methods which were used to set the FDER emission standards. FDER has asked EPA for time for the industry to stack test to determine the correct and fair test methods.

EPA Response: Section 110(a)(2)(C) of the Clean Air Act, 42 U.S.C. 7410(a)(2)(C) requires each SIP to contain "devices, methods, systems, and procedures necessary to (i) monitor, compile, and analyze data on ambient air quality * * *." Section 110(a)(2)(B) requires each SIP to include "emission limitations, schedules, and timetables for compliance * * * and such other measures as may be necessary to insure attainment and maintenance of [primary and secondary ambient air quality standards] * * *" 42 U.S.C. 7410(a)(2)(B). These statutory sections of the Clean Air Act provide ample authority for EPA to require test methods in state-submitted SIP revisions, or where none are adopted, to require by enforcement of EPA test methods. Without stated test methods for certain source categories, an SIP deficiency exists because there is no way EPA can determine source compliance with individual source emission limitations. If EPA cannot determine by test methods the compliance status of a source with the individual emission limitations applicable to it, then the Agency cannot insure that such individual emission limits in the SIP will achieve and maintain ambient air quality standards. EPA cannot enforce unidentified test methods used by FDER to develop certain emission standards, unless FDER officially adopts the test methods and forwards them in an SIP revision to EPA for approval.

Finally, 40 CFR 52.12(c)(1) (1980) expressly provides that EPA test methods (found at 40 CFR Part 60) will be enforced by the EPA when an SIP does not specify a test procedure.

FDER can replace EPA test methods by submitting acceptable test methods to EPA for inclusion in the SIP. EPA will enforce the regulations listed above using EPA test methods identified in 40 CFR Part 60 until the State has adopted and submitted approvable test methods for these source categories.

Action. Based on the foregoing, EPA hereby approves all of the point source emission testing methods which the FDER has submitted to provide procedures for point source emission sampling. For all source categories for which FDER did not submit a test regulation, EPA will enforce the regulations listed above using EPA test methods identified in 40 CFR Part 60 until the State has adopted and submitted approvable test methods for these source categories.

This action is effective August 25, 1982.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 25, 1982. This action may not be challenged later in proceedings to enforce its requirements. (See sec. 307(b)(2).)

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

Incorporation by reference of the State Implementation Plan for the State of Florida was approved by the Director of the Federal Register on July 1, 1981.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Sec. 110 of the Clean Air Act (42 U.S.C. 7410))

Dated: July 19, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart K—Florida

1. Section 52.520 is amended by adding paragraph (c)(47) as follows:

§ 52.520 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * *

(47) Point source emission testing methods submitted on December 30, 1980, and May 29, 1981, by the Florida Department of Environmental Regulation.

2. A new § 52.533 is added as follows:

§ 52.533 Source surveillance.

The plan lacks test methods for several source categories. As required by § 52.12(c)(1) of this part, EPA test methods (found at 40 CFR Part 60) will be used by EPA to determine compliance with the following emission limiting standards:

(a) Particulate emissions from citrus plants controlled by a scrubber and subject to the process weight table (submitted as 17–2.05(2) and reformatted as 17–2.610(1)1.a).

(b) TRS emissions from recovery furnaces at kraft pulp mills (submitted as 17–2.05(6)D and reformatted as 17–2.600(4)1).

(c) Sulfur dioxide emissions from fossil fuel steam sources (submitted as 17–2.05(6)E and reformatted as 17–2.600 (5) and (6)).

(d) Emissions from portland cement plants (submitted as 17–2.05(6)F and reformatted as 17–2.600(7)).

(e) Particulate and visible emissions from carbonaceous fuel burning equipment (submitted as 17–2.05(6)I and reformatted as 17–2.600(10)).

[FR Doc. 82–20090 Filed 7–23–82; 8:45 am]
BILLING CODE 6560–50–M

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40 CFR Part 52

[A–5–FRL–2167–2]

Approval and Promulgation of Implementation Plans; Michigan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The EPA announces final approval of a revision to the Michigan State Implementation Plan (SIP) for ozone. The revision pertains to the State's strategy to control volatile organic compound (VOC) emissions from stationary industrial sources of VOC emissions addressed in EPA's Group II Control Technique Guidelines (CTGs). EPA's action is based upon a revision request which was submitted by the State to satisfy the requirements of Part D of the Clean Air Act (Act).

EFFECTIVE DATE: This final rulemaking becomes effective on August 25, 1982.

ADDRESSES: Copies of the SIP revision and other materials relating to this rulemaking are available for inspection at the following addresses:

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460

Environmental Protection Agency, Air Programs Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604

The Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: Sharon Reinders, (312) 886-6034.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1978 (43 FR 8962), and on October 5, 1978 (43 FR 45993), pursuant to the requirements of Section 107 of the Act, the EPA designated certain areas in Michigan as not attaining the National Ambient Air Quality Standard (NAAQS) for ozone. Part D of the Act requires each State to revise its SIP for areas that have not attained the NAAQS. These SIP revisions must demonstrate attainment of the primary NAAQS by December 31, 1982, or in certain cases, by December 31, 1987. The requirements for an approvable SIP are described in a "General Preamble" for Part D rulemaking published on April 4, 1979 (44 FR 20372) as supplemented at 44 FR 38583 (July 2, 1979), 44 FR 50371 (August 28, 1979), 44 FR 53761 (September 17, 1979) and 44 FR 67182 (November 23, 1979).

In response to the requirements of Part D of the Act, the State of Michigan amended the Michigan Administrative Code to require control of VOC emissions from stationary industrial sources addressed in EPA's Group II CTGs issued between January 1978 and January 1979. The State submitted the amendments to the EPA as a SIP revision on September 2, 1981. The regulations and definitions are codified as follows:

•R336.1101–3, R336.1105–9, R336.1114–16, R336.1118–21 and R336.1123	Definitions
•R336.1601	Definition of Existing Source
•R336.1603	Compliance Program
•R336.1604	Storage of Organic Compounds
•R336.1610	Existing Coating Lines
•R336.1619	Perchloroethylene Dry Cleaning
•R336.1620	Flat Wood Paneling Coating
•R336.1621	Metallic Surfaces Coating
•R336.1622	Petroleum Refinery; Refinery Monitoring Program
•R336.1623	Petroleum Liquid Storage
•R336.1624	Graphic Arts Lines
•R336.1625	Synthesized Pharmaceutical Products
•R336.1626	Pneumatic Rubber Tire Manufacturing
•R336.1627	Delivery Vessels and Vapor Collection Systems
•R336.2005	Other Reference Test Methods

On April 13, 1982 (47 FR 15810), EPA proposed to approve the SIP revision with the understanding that the State change section 2(a) of Rule 336.1624 regulating Graphic Arts Lines. The reader is referred to the notice of proposed rulemaking for further details. In a letter dated January 5, 1982, the State of Michigan committed to change the rule to substantially shorten the averaging time contained in section 2(a). EPA received no public comments on the proposed rulemaking; therefore, EPA finally approves the revision to Michigan's SIP as outlined in 47 FR 15810 with the understanding that the State change R336.1624 section 2(a), as committed.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 24, 1982. This action may not be challenged later in proceedings to enforce its requirements. (See sec. 307(b)(2).)

Note.—Incorporation by reference of the State Implementation Plan for the State of Michigan was approved by the Director of the Federal Register on July 1, 1982.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Secs. 110, 172 and 301(a) of the Clean Air Act)

Dated: July 19, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF STATE IMPLEMENTATION PLANS

Subpart X—Michigan

1. Section 52.1170 is amended by adding paragraph (c)(56) as follows:

§ 52.1170 Identification of plan.

* * * * *

(c) * * *

(56) On September 2, 1981, the State of Michigan submitted a revision to the ozone plan consisting of RACT requirements for the control of volatile organic compound emissions from stationary industrial sources (Group II) referenced in Rules R336.1101–3, 5–9, 14–16, 18–21, 23; R336.1601, 3–4, 10, 19–27; and R336.2005.

[FR Doc. 82-20131 Filed 7-23-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-5-FRL 2170-4]

Approval and Promulgation of Implementation Plans; Minnesota

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: In a May 6, 1982, **Federal Register** notice (47 FR 19556) EPA proposed to approve the deadline by which the State of Minnesota committed itself to remedy the conditionally approved item in the total suspended particulate (TSP) portion of its State Implementation Plan (SIP). No public comments were submitted during the thirty-day comment period. Therefore, EPA takes final action today to approve the deadline.

EFFECTIVE DATE: This final rulemaking becomes effective August 25, 1982.

ADDRESSES: Copies of the SIP revision are available for inspection at the following addresses:

Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 24060

Minnesota Pollution Control Agency, 1935 West County Road B–2, Roseville, Minnesota 55113

FOR FURTHER INFORMATION CONTACT: Delores Sieja, Regulatory Analysis

Section, Air Programs Branch, EPA, Region V, 230 South Dearborn Street, Chicago Illinois 60604, (312) 886–6038.

SUPPLEMENTARY INFORMATION: On May 6, 1982 (47 FR 19520) EPA approved the State of Minnesota's Part D plan to attain the primary and secondary TSP standards in the Twin Cities Seven County Metropolitan Area and the City of Duluth with the exception of Rule APC–29 which is conditionally approved. APC–29 contains standards of performance for grain handling facilities. A conditional approval requires the State to remedy identified deficiencies by specified deadlines. A discussion of conditional approval and its practical effect appears in the July 2, 1979 **Federal Register** (44 FR 67182).

Based on negotiations with EPA, the State of Minnesota in a letter dated January 22, 1982, committed itself to submit an amended Rule APC–29, containing opacity limits, to EPA by December 31, 1982. EPA proposed approval of this deadline on May 6, 1982 (47 FR 19556). No public comments were submitted during the thirty day public comment period. Therefore, EPA approves the December 31, 1982 date.

This action is not required to undergo review by the Office of Management and Budget.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 24, 1982. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Secs. 110 and 172 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7502))

Dated: July 19, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40 of the Code of Federal Regulations, Chapter I, Part 52 is amended as follows:

1. Section 52.1230(a) is revised to include the December 31, 1982, deadline.

§ 52.1230 Control strategy and rules: Particulates.

(a) Part D—Conditional Approval.

(1) The attainment demonstration for the Twin Cities Seven County Metropolitan Area and the City of Duluth is approved provided that the following condition for Rule APC–29 is satisfied by December 31, 1982.

(2) The State must submit either an amended APC–29 which contains specific opacity limits that are representative of RACT levels of control; or operating permits and/or stipulation agreements which contain opacity limitations equivalent to reasonable available control technology levels.

[FR Doc. 82–20093 Filed 7–23–82; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 52

[A–4–FRL 2144–1]

Approval and Promulgation of Implementation Plans; North Carolina: New Source Review, Bubble Regulations

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA announces its approval of implementation plan revisions which North Carolina submitted on April 16 and September 14, 1981. These revisions include regulations providing for new source review in nonattainment areas, alternative emission reduction options ("bubbles"), the State's permit regulations, and miscellaneous regulatory changes. This action by EPA means that the North Carolina plan meets the requirements of 40 CFR 51.18(j); it also means, among other things, that the State can approve bubbles for volatile organic compounds (VOC) which do not need EPA approval to be Federally enforceable.

DATE: This action is effective August 25, 1982.

ADDRESSES: Copies of the materials submitted by North Carolina may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20005

Air Management Branch, Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365

Division of Environmental Management, North Carolina Department of Natural Resources and Community Development, 512 N. Salisbury Street, Raleigh, North Carolina 27611, Archdale Building.

FOR FURTHER INFORMATION CONTACT: Walter Bishop of the Region IV, Air Management Branch, at 404/881–3043 (FTS 257–3043).

SUPPLEMENTARY INFORMATION: Following notice and public hearing in conformity with 40 CFR 51.4, the North Carolina Environmental Management Commission adopted numerous regulation changes which were submitted to EPA on April 16 and September 14, 1981, for approval as implementation plan revisions.

New Source Review in Nonattainment Areas

On November 24, 1981 (46 FR 57572), EPA proposed to approve North Carolina regulations 2D.0531 and .0532, which replace old regulation 2H.0608, Permits for Sources Impacting Nonattainment Areas. As indicated in the proposal, the two new regulations satisfy the requirements of 40 CFR 51.18 (j) and (k) as promulgated on May 13 and August 7, 1980 (45 FR 31307 and 52743 ff.). However, the State was asked in the proposal to clarify the waiver provided in 2D.0531(e)(3)(B) for sources requiring modification as a result of EPA regulations. This waiver was taken from EPA's offset policy (Appendix S to 40 CFR Part 51). EPA's initial review of the North Carolina revisions failed to note that this waiver had been superseded by the August 7, 1980, promulgation. Nevertheless, the effect of the waiver is expected to be minimal and presents no obstacle to approval of North Carolina's regulation.

As the State has shown, the partial waiver applies only to the requirement for emission offsets and net air quality benefit and is available only to sources required to be modified as a result of EPA regulations, e.g., lead-in-fuel requirements, and only when no exemption from such regulations is available. There are no such sources in the only affected area, Mecklenburg County, which is nonattainment for carbon monoxide and ozone only. This area has no petroleum refineries.

Bubble Concept, etc.

On March 29, 1982, EPA proposed approval of "bubble" provisions and a number of other regulation changes. The changes include those noted in the next section on "other permits", the State's permit regulations and an ambient particulate standard revised to be consistent with the Federal standard. For a fuller description of the changes, the reader may refer to the proposal notice (47 FR 13172). One comment was

received in response to the proposal; it favored approval of the changes.

The North Carolina provisions for alternative emission reductions allow industrial plants to choose a less costly way of achieving the air quality benefit provided by traditional controls on individual emission points. Using such an approach, a source will control some emission points more than ordinarily required while controlling other points less or not at all. The changes approved today will allow North Carolina to approve individual bubbles for VOC emissions under a generic bubble rule. The VOC bubble revisions approved by the State will not need EPA approval as implementation plan revisions. The changes approved today also set procedures for developing bubble plans for other pollutants. Such bubble revisions must be submitted to EPA for approval as implementation plan revisions.

Other Permits

The State amended regulation 2H.0603(f) to require a public hearing for source permits involving any of the following:

1. A requirement for controls more stringent than the applicable emission standards in Section 15 NCAC 2D .0500 in accordance with Regulation 15 NCAC 2D .0501,

2. an allowance of controls different than the applicable emission standards in Section 15 NCAC 2D .0900 in accordance with Regulation 15 NCAC 2D .0905,

3. an alternate compliance schedule promulgated in accordance with Regulation 15 NCAC 2D .0910,

4. a limitation on production rate, throughput, hours of operation or other similar operational factors in accordance with Regulation 15 NCAC 2D .0902, or

5. the quantity of solvent-borne ink that may be used by a printing unit or printing systems in accordance with Regulation 15 NCAC 2D .0936.

For clarification, it should be noted that such permits become federally enforceable only after being submitted to and approved by EPA as a SIP revision. In addition, subdivision (h) was added to regulation 2H.0603. Its effect is to make the permit conditions just listed federally enforceable without going through the implementation plan revision process. As EPA indicated in its proposal notice of March 29, 1982, this provision conflicts with current Agency policy on the enforceability of State permits. No action is being taken today on 2H.0603(h) since the State plans to repeal it.

Action. Except for regulation 2H.0603(h), on which no action is taken, these changes in the North Carolina plan are approved, effective August 25, 1982.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 24, 1982. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OBM) for review.

Note.—Incorporation by reference of the State Implementation Plan for the State of North Carolina was approved by the Director of the Federal Register on July 1, 1982.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Secs. 110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502)

Dated: July 19, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40, Code of Federal Regulations is amended as follows:

Subpart II—North Carolina

§ 52.1770 is amended by adding paragraph(c)(31) as follows:

§ 52.1770 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(31) Addition of regulations 2D.0531 and 2D.0532 to replace repealed regulation 2H.0608, regulations providing for alternative emission reduction options, revised permit regulations (no action is taken on the addition of subdivision (h) to regulation 2H.0603), and miscellaneous other regulation changes, submitted on April 16, 1981, and relaxed annual ambient standard for particulate matter, submitted on September 14, 1981, by the North Carolina Department of Natural Resources and Community Development.

[FR Doc. 82-20095 Filed 7-23-82; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 52

[A-5-FRL-2159-7]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The EPA announces approval on a revision to the Total Suspended Particulate (TSP) Ohio State Implementation Plan (SIP). This revision is in the form of an alternative emission reduction plan ("bubble") for eighteen sources at the General Motors Central Foundry (GM) located in Defiance County, Ohio. EPA's approval of this revision is based on a modeling analysis submitted by the State which shows that this revision will result in an overall improvement in TSP air quality.

EFFECTIVE DATE: This final rulemaking becomes effective on August 25, 1982.

ADDRESSES: Copies of this revision to the Ohio SIP are available for inspection at: The Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20408.

Copies of the SIP revision, and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone the contact person given below before visiting the Region V Office).

Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, D.C. 20460

Ohio Environmental Protection Agency, Office of Air Pollution Control, 361 East Broad Street, Columbus, Ohio 43216.

FOR FURTHER INFORMATION CONTACT: Debra Marcantonio, Air Programs Branch, Environmental Protection Agency, Region V, Chicago, Illinois 60604, 886-6088.

SUPPLEMENTARY INFORMATION: On March 27, 1981, the State of Ohio submitted a revision to the total suspended particulate (TSP) portion of the Ohio State Implementation Plan (SIP). The SIP revision was in the form of an alternative emissions reduction plan for the GM Central Foundry located in Defiance County, Ohio. This county is a designated attainment area for TSP. (40 CFR 81.336)

The GM Bubble trades TSP emission reductions from eighteen sources located at the GM Central Foundry. The

sources affected by this bubble are six Brown-Bovier electric induction furnaces, six Ajax electric induction furnaces and six material handling processes (i.e., mold shakeout, casting/mold separation equipment, sand reclamation and preparation devices, mold cooling and spudding operations and other material handling equipment). To ensure that the emission reductions for all eighteen sources are enforceable, Ohio EPA submitted variances and modified operating permits for each of the eighteen sources subject to the GM bubble.

TSP emissions from these sources are regulated by rule 11 of Chapter 3745–17 of the Ohio Administrative Code. For the six Ajax furnaces and the six Brown-Bovier furnaces, rule 3745–17–11 specifies for each furnace TSP emission limitations 2.3 lbs./hr and 1.9 lbs./hr respectively. The total TSP emissions allowed by rule 3745–17–11 from the six Ajax and the six Brown-Bovier furnaces are 25.2 lbs./hr.

Present actual TSP emissions are 22.5 lbs./hr, from each of the Ajax furnaces and 16.9 lbs./hr, from each of the Brown-Bovier furnaces. Total actual TSP emissions from these furnaces are 236.4 lbs./hr.

Through the installation of additional air pollution control equipment, the GM bubble will reduce TSP emissions from the Ajax and Brown-Bovier furnaces to 14.0 lbs/hr and 8.4 lbs/hr respectively, for each furnace. Total TSP emissions for all of the furnaces would then be reduced to 134.4 lbs/hr.

To achieve the emission reduction goal of 25.2 lbs/hr specified in rule 3745–17–11, an additional TSP reduction of 109.2 lbs/hr needs to be achieved. The GM bubble will achieve this goal by reducing TSP emissions from the six material handling processes previously mentioned by a total of 144 lbs/hr beyond what is presently required for these sources. Under the GM bubble plan, the 144 lbs/hr reduction achieved as a result of implementing additional controls on the six material handling processes will more than adequately offset the 109.2 lbs/hr reduction needed as a result of the new limits specified for the Ajax and Brown-Bovier furnaces. Therefore since this revision will reduce the TSP emissions by an additional 34.8 lbs/hr, EPA on October 29, 1981 (46 FR 53461) proposed to approve this revision as part of the Ohio TSP SIP.

On March 10, 1982, Ohio submitted to EPA revised operating permits for six of the furnaces which are part of the GM bubble SIP revision. The sources involved are Ajax electric induction furnaces. According to the terms of the GM bubble, these sources are to achieve final compliance by September 1, 1982.

The revised operating permits for these six sources extend the compliance date from September 1, 1982 to September 1, 1983. The purpose for the extension is to allow additional time to resolve engineering problems arising from research and development of the Inmold Innoculation process. Since EPA believes that the new final compliance dates will not interfere with the area's ability to maintain its present TSP attainment status, on March 31, 1982 (47 FR 13535) EPA published a supplemental notice of proposed rulemaking proposing to approve these revised operating permits as part of the GM bubble.

EPA received a public comment from the State of Connecticut regarding the alternative emission reduction plan, however, no comments were submitted regarding the compliance date extension. The Agency's evaluation of the issues raised in the public comment is summarized below.

Comment: The particulate emissions from the induction furnaces are finer, more respirable and more toxic than the emissions from the material handling operations. As a result, these particulates do not settle out quickly and add to the background TSP levels in Connecticut. Therefore, as far as impacts on the State of Connecticut are concerned, control of the emission from the handling operations is not equivalent to control of the emissions from the induction furnaces.

Response: Although the current TSP NAAQS does not make a distinction with respect to particle size in the control of particulate matter, EPA is currently reviewing changes to the standard. Until these changes are promulgated, however, the current TSP NAAQS are applicable. Based on the current TSP NAAQS, this revision is approvable. It reduces the total TSP emissions from the facility by 34.8 lbs/hr and does not threaten the attainment and maintenance of the NAAQS. Additionally, the modeling analysis shows that the maximum impact from the foundry occurs close to the facility and decreases significantly within a short distance from the plant. Although it can not be quantified by available models, the TSP impact on Connecticut's air is expected to be minimal or nonexistent.

With regard to the commentor's concerns regarding trading of suspected toxic emissions, EPA's national policy does not at this time prohibit trades which will result in increased emissions of suspected toxic pollutants, unless those pollutants have been officially designated as "hazardous" under section 112 of the Clean Air Act. Based on EPA's review of the emissions resulting from this SIP revision, EPA does not believe it is likely that more toxic emissions are being substituted for less toxic emissions. EPA has considered the composition of input metal, typically charged to the induction furnaces at GM's foundry and concluded that the potential for toxic emissions is low.

Comment: The commentor objected to the lack of detail in EPA's rulemaking notice regarding stack heights and details of the modeling analysis.

Response: EPA maintains that the **Federal Register** notice provided an adequate summary of the rulemaking action and its technical basis. In addition, more detailed technical information relating to EPA's rulemaking action can be found in associated technical support documents as well as the SIP revision request itself. These documents were available during the public comment period and are available to the public for review at the addresses indicated in the rulemaking notice. Furthermore, a contact person is provided in each notice in order to provide any additional information or answer any questions the public may have.

Since EPA's review of the GM bubble indicates that it satisfies the criteria specified in the April 7, 1982 (47 FR 15076) **Federal Register**, EPA approves the alternative control plan as part of the Ohio SIP. Additionally, since EPA believes that the revised compliance date of September 1, 1983 for the six Ajax electric induction furnaces will not interfere with the area's ability to maintain its present TSP attainment status, EPA approves this extension as part of the Ohio SIP.

This approval includes the emission limitations, interim and final compliance milestones, control equipment requirements and the testing procedures specified in the variances and permits submitted for the GM bubble. Any change in the permits or variances represents a revision to the SIP and as such must be submitted to EPA for review and approval.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Note.—Incorporation by reference of the State Implementation Plan for the State of Ohio was approved by the Director of the Federal Register on July 1, 1982.

(Sec. 110 of the Clean Air Act, as amended (42 U.S.C. 7410))

Dated: July 19, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40 of the Code of Federal Regulations, Chapter I, Part 52 is amended as follows:

1. Section 52.1870 is amended by revising paragraph (c)(31) as follows.

§ 52.1870 Identification of plan.

(c) * * *

(31) On March 27, 1981 and March 10, 1982 the State of Ohio submitted revisions to the total suspended particulate (TSP) portion of its State Implementation Plan (SIP). These revisions are in the form of an alternative emissions reduction plan (bubble) for the General Motors (GM) Central Foundry located in Defiance County, Ohio. Incorporated into Ohio's SIP are the emission limitations, interim and final compliance milestones, control equipment requirements and testing procedures specified in the variances and permits submitted for the GM bubble.

* * * * *

[FR Doc. 82-20125 Filed 7-23-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-5-FRL-2134-1]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: This notice revises the sulfur dioxide (SO_2) emission limitation in the federally promulgated Ohio State Implementation Plan (SIP) for the Ohio Power Company Gavin plant in Gallia County, Ohio. EPA's action is based on a reanalysis of the sulfur dioxide plan for Gallia County.

EFFECTIVE DATE: This final rulemaking becomes effective on August 25, 1982.

ADDRESSES: The docket for this revision (#5A-81-1) is on file at the following locations and may be inspected and copied during normal business hours.

U.S. Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Central Docket Section, U.S. Environmental Protection Agency, West Tower Lobby, Gallery 1, 401 M Street, SW., Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT: Debra Marcantonio at (312) 886-6088.

SUPPLEMENTARY INFORMATION: On February 23, 1982 (47 FR 7856), EPA proposed to revise the emission limitation for the Ohio Power Gavin plant located in Gallia County from 9.50 lbs SO_2/MMBtu to 7.41 lbs. SO_2/MMBtu. EPA's action was in response to a remand by the United States Court of Appeals for the Sixth Circuit in *Northern Ohio Lung Association v. EPA*, 572 F. 2d 1182 (1978). The Court held that the Ohio sulfur dioxide plan did not comply with the requirements of section 110(a)(2)(F) of the Act and did not include specific provisions for meeting the secondary ambient air quality standards for SO_2. EPA's proposed rule addressed the secondary standard portion of the remand as it applied to Gallia County.

EPA reanalyzed the emission limitation for the Ohio Power Company Gavin plant and the Ohio Valley Electric Company Kyger Creek plant, both located in Gallia County. This reanalysis demonstrated that to attain the secondary standard in Gallia County, it is possible to leave Kyger Creek at its existing SIP limit and to reduce only Gavin's emission limit. This approach is reasonable since Gavin is the dominant contributor to the predicted violations. Therefore, on February 23, 1982 (47 FR 7856), EPA proposed to revise the emission limitation for the Gavin plant from 9.50 lbs. SO_2/MMBtu to 7.41 lbs. SO_2/MMBtu. A detailed discussion of the modeling analysis is contained in the technical support document which is available at Region V.

Public Comment

During the public comment period, EPA received comments from the State of Connecticut, a public interest group, and the Ohio Power Company. The Agency's evaluation of the comments is summarized below.

Comment: The State of Connecticut modeled the combined impact of the Gavin and Kyger Creek power plants using the MPTER model used by EPA. Although Connecticut stated that their results compared favorably with EPA's results, the State questioned the adequacy of the assumed background concentration of 40 $\mu g/m^3$, especially in its application to both short-term averaging times. The commentor claimed that recent SO_2 monitored data collected in the general area of the power plants would produce much higher background levels (e.g., 146 $\mu g/m^3$). The commentor claimed that the higher background in conjuction with EPA's modeling results indicate violations of the 3-hour standard.

Response: As part of EPA's development of the Ohio SO_2 SIP, a detailed review was undertaken to determine county-specific background levels based on ambient monitoring and modeling data. The Gallia County background concentration (40 $\mu g/m^3$) devised from that analysis was used by EPA in its original modeling as well as in its recent remodeling of the Gavin and Kyger Creek power plants. The background value is discussed further in the "Technical Support Document: Sulfur Dioxide Control for the State of Ohio, Vol I" (EPA-905/2-76-002, August 1976).

The same background level can be used for both the 3-hour and 24-hour average concentrations, provided the modeled emissions inventory is complete. EPA's remodeling included both the Gavin and Kyger Creek plants. There are no other significant SO_2 sources in the immediate vicinity of these two power plants. The next closest major source is the Gallipolis State Institute, located over 12 km away. The Gallipolis State Institute does not, have any significant impact beyond 12 km. Thus, EPA's modeling includes all source contributions except those due to natural sources and small and distant man-made sources (i.e., background sources). Little variation in the contribution from these types of sources is expected over a short-term period, such as a day.

Consequently, use of the same background level for both short-term averaging times is acceptable in this case.

The background value suggested by the commentor has not been shown to be a true background concentration. EPA modeling guidelines specify that the monitored concentrations used in computing a short-term background for isolated point sources such as Gavin and Kyger Creek should occur on days with meteorological conditions similar to those associated with the constraining modeled concentration. In addition, the measured concentrations must not include impacts from the

modeled sources. Without a demonstration that these conditions are met, EPA cannot accept the proposed alternate background level. Therefore, for the reasons stated above, the application of a 40$\mu g/m^3$ background level is sufficient to account for the impact of all natural sources and small and distant man-made sources.

Comment: The State of Connecticut claimed that "adjacent" major sources should have been included in the modeled emissions inventory. The commentor claimed that large sources located south of Gavin are not part of EPA's assumed background and may add considerably to the constraining 3-hour concentrations.

Response: As noted above, the closest major SO_2 source to the Gavin and Kyger plants does not significantly interact with the two power plants. The only other major sources within 30 km are two West Virginia power plants located over 17 km east. EPA determined that the two West Virginia plants did not need to be included in the remodeling for the following reasons. First, one of these plants, Sporn, was modeled in EPA's initial SIP development for Gallia County. This modeling showed that Sporn did not significantly interact with Gavin or Kyger Creek at the critical receptors in the area of the two Ohio plants. Second, the high concentrations in the remodeling occurred north of Gavin and Kyger Creek. The two West Virginia plants will not add to these high concentrations because they are located east, not south, of Gavin and Kyger Creek. Consequently, EPA's modeled emissions inventory was complete.

Comment: The State of Connecticut also argued that EPA should have modeled multiple operating load conditions (i.e., 50%, 75%, and 100%).

Response: EPA did perform a reference screening analysis to assess the individual and combined impacts of the Gavin and Kyger Creek Plants at 50%, 75%, and 100% load. This analysis was summarized in an EPA memo entitled "Gavin/Kyger Creek Operating Loan Analysis" which is available for review in the docket. As noted in that memo, the screening demonstrated that maximum impacts occurred under 100% load conditions.

Note.—Since the terrain elevation variations in the immediate vicinity of the two plants is not significant, the screening results are appropriate.

Thus, all refined modeling was based on 100% load.

Comment: The State of Connecticut also objected to EPA allowing emission levels which they felt were unnecessarily high. The commentor claimed that emissions from Region V sources adversely affect air quality in Connecticut, impart acidity to their rainwater and aquatic environment, and put their utilities at a competitive disadvantage due to the additional control equipment necessary to compensate for high background levels.

Response: According to section 110 of the Clean Air Act as amended (CAAA), EPA shall approve emission limitations necessary to insure attainment and maintenance of the ambient standards. The revised emmission limit for Gavin, in conjunction with the existing limit for Kyger Creek, have been demonstrated by EPA reference methods to protect the ambient standards.

The commenter's claims regarding adverse impacts in Connecticut are part of the long-range transport issue. EPA wishes to note that its review and approval of the Gavin and Kyger Creek SO_2 emission limitatons are consistent with section 110(a)(2)(E) and section 126 of the CAAA for the following reasons:

(1) The revised emission limit for Gavin represents a reduction in allowable emissions. Thus, there should be no increase in ambient SO_2 concentrations downwind.

(2) EPA has not yet established any techniques to evaluate impacts beyond 50 km from a source. The only other state within 50 km of Gallia County is West Virginia. EPA's modeling at receptors in West Virginia demonstrated that this revision would protect the ambient standards there.

(3) Because the revision does not represent an increase in actual (baseline) emissions, this revision will not interfere with PSD requirements in Ohio or any other state.

(4) On June 18 and 19, 1981, as a result of petitions filed by the States of New York and Pennsylvania under Section 126 of the CAA, EPA held a hearing in Washington, D.C. to consider the possible interstate impact of a number of proposed and final SO_2 revisions for sources located in Indiana, Tennessee, Ohio, and West Virginia (Docket No. A-81-9). To the extent that Connecticut's comments on the Gallia County action relate to the same aggregate air quality impact issues as in the section 126 action, they will be addressed in the Agency's section 126 determination.

EPA believes it is not appropriate to withhold the Gallia County rulemaking until EPA acts on the section 126 petitions. At the time the Agency makes such a determination and to the extent necessary, EPA can and will reevaluate the adequacy of the Gallia County plan.

Comment: The public interest group which commented on this action, was pleased to see that EPA was reducing Gavin's emission limit. The commentor, however, felt that the revised limit was still too high. The commentor urged that the plant be retrofitted now with a flue gas desulfurization unit.

Response: Under the CAA, each State is required to have a State Implementation Plan (SIP) which will provide for the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS). Therefore, EPA's basis for approval of disapproval of a SIP is whether or not it is adequate to protect the NAAQS. As noted earlier, the revised emission limit for Gavin, in conjunction with the existing limit for Kyger Creek, have been demonstrated to be adequate to protect the primary health and the secondary welfare standards for sulfur dioxide. Therefore, these emission limits are approvable under the CAA and the source can choose what controls it will utilize to achieve the limit.

Comment: The commentor also questioned why under Executive Order 12291 this revision was not considered a major action.

Response: Under Executive Order 12291 of February 17, 1981, a major rule is defined as any regulation that is likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Since the Gavin revision does not meet any of the above criteria, it is not considered a major rule under Executive Order 12291.

Comment: The Ohio Power Company claimed that the degree of spatial resolution in EPA's remodeling is beyond the analytical capability of the model.

Response: The receptor network utilized in EPA's remodeling consisted of two initial polar grids with 0.5 km spacing from 0.5 to 4.0 km from each source and 1.0 km spacing from 4 to 7 km from each source and a refined 0.1 km Cartesian grid in a few "hot spot" areas. Such a network is not beyond the analytical capability of the model and is consistent with EPA modeling guidelines.

Comment: The Ohio Power Company also noted a few minor errors in EPA's

initial technical support document. On page one of the technical support document Ohio Power pointed out that footnotes a and b should be reversed. Additionally, Ohio Power felt that on page two of the same document, the American Electric Power Service Corporation (AEP) is implied to be the sole owner of the Ohio Valley Electric Corporation, when in fact, AEP, through its subsidiaries, is a joint owner along with a number of other utilities.

Response: EPA acknowledges these errors and stands corrected. These errors have no effect on this rulemaking.

Final Determination

Based on EPA's modeling analysis and the public comments received, EPA has determined that approval of the revised emission limitation for the Ohio Power Gavin Plant from 9.50 lbs. SO_2/MMBTU to 7.41 lbs SO_2/MMBTU in conjunction with the existing limit for Ohio Valley Electric Company Kyger Creek plant is adequate to attain and maintain both the primary and the secondary sulfur dioxide standards. Since this revision represents a more stringent emission limitation for the Ohio Power Gavin plant, the plant will have three years from the effective date of this action to comply with this revised emission limitation in accordance with the compliance schedule set forth at 40 Code of Federal Regulations Section 52.1882(k).

No matter what rules the State of Ohio now enforces, the existing federally-approved SIP regulations for any source will apply, and be fully enforceable, until the source complies with the new regulations which EPA is approving today. Further, the existing SIP will continue in force if there is any delay or lapse in the applicability of the new regulations. However, if the existing and new regulations conflict, so that a source cannot comply with the existing SIP while moving toward compliance with the new regulations, the State may exempt the source from the existing SIP. EPA will review and act on any such exemption.

Under Executive Order 12291, today's action is not "Major." It has been submitted to the Office of Management and Budget (OMB) for review.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 24, 1982. This action may not be challenged later in proceedings to enforce its requirements. (See sec. 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, particulate matter, Carbon monoxide, Hydrocarbons.

(Sec. 110 of the Clean Air Act, as amended (42 U.S.C. 7410).)

Dated: July 19, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart KK—OHIO

1. Section 52.1875 is amended by revising footnote "f" to the table in § 52.1875 paragraph (a) as follows:

§ 52.1875 Attainment dates for National standards.

(a) * * *

f. August 27, 1979, except for the companies listed in (1) which are subject to an attainment date of June 17, 1980, the Ashland Oil Company which is subject to an attainment date of September 14, 1982, the companies in Summit County listed in (2) which are subject to an attainment date of January 4, 1983, PPG Industries, Inc. (boilers only) in Summit County, Ohio which is subject to an attainment date of August 25, 1983, the utilities listed in (3) which are subject to an attainment date of June 19, 1983, and the Portsmouth Gaseous Diffusion Plant in Pike County which is subject to an attainment date of November 5, 1984, and the Ohio Power Company Gavin plant in Gallia County which is subject to an attainment date of (3 years from the effective date of this action).

2. Section 52.1881(b)(28) is revised as follows:

§ 52.1881 Control strategy: sulfur oxides (sulfur dioxide).

* * * * *

(b) Regulations for the control of sulfur dioxide in the State of Ohio.

* * * * *

(28) In Gallia County

(i) The Ohio Power Company or any subsequent owner or operator of the Gavin Power Plant in Gallia County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at the Gavin facility in excess of 7.41 pounds per million Btu actual heat input.

* * * * *

3. Section 52.1882 is amended by adding paragraph (k) as follows:

§ 52.1882 Compliance schedules.

* * * * *

(k) The Federal compliance schedule for the Ohio Power Company Gavin Power Plant in Gallia County is set forth in § 52.1882(b) except that all references to June 17, 1977 are changed to August 25, 1982.

[FR Doc. 82-20126 Filed 7-23-82; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 52

[A-4-FRL 2166-3; SC-001]

Approval and Promulgation of Implementation Plans; South Carolina: Approval of Plan Revision

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The State of South Carolina submitted to the Environmental Protection Agency (EPA) a revision in South Carolina Air Pollution Control Regulation No. 62.1, Section II, Operating Permits. This change will allow the South Carolina Department of Health and Environmental Control (DHEC) to alter operating permits, compliance schedules, or other restrictions upon request from a source.

This revision was presented to the public at a hearing held on April 2, 1981, and became State-effective on May 28, 1982. EPA has reviewed this submittal and is today announcing its approval.

EFFECTIVE DATE: This action will be effective on September 24, 1982 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Written comments should be addressed to Denise W. Pack of EPA Region IV's Air Management Branch (see EPA Region IV address below). Copies of the materials submitted by South Carolina may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460

Environmental Protection Agency, Region IV, Air Management Branch, 345 Courtland Street NE., Atlanta, Georgia 30365

Bureau of Air Quality Control, South Carolina Department of Health and Environmental Control, Columbia, South Carolina 29201

Office of the Federal Register, Room 8401, 1100 L Street NW., Washington, D.C. 20005

FOR FURTHER INFORMATION CONTACT: Denise W. Pack at the EPA Region IV address above or call 404/881–3286 or FTS 257–3286.

SUPPLEMENTARY INFORMATION: On May 28, 1982 the South Carolina Department of Health and Environmental Control (DHEC) submitted to EPA a revision to South Carolina Air Pollution Control Regulation No. 62.1, Section II, Operating Permits. The revision allows the DHEC to alter the operating permits, compliance schedules or other restrictions on operations of a source without presenting the proposed change to the State legislature. This regulation will allow for more efficient handling of these types of requests. A source requesting a variance under this section must show that: (1) Good faith efforts have been made to comply with applicable state requirements; (2) necessary technology or other methods of control are not reasonably available for the source to comply with applicable state requirements; (3) all available operating procedures or control measures possible have been implemented; and that (4) the request has been submitted in a timely manner. The regulation also provides for permanent increases of allowable visible emissions and for the expeditious compliance of sources operating in accordance with alternative compliance schedules. All requests under the revision shall be subject to a public notice and opportunity for a public hearing and concurrence by EPA.

The provisions of this revision cannot supersede emission limitations established under the Federal New Source Performance Standards, Federal National Emission Standards for Hazardous Air Pollutants, Federal or State Prevention of Significant Deterioration Regulations, or nonattainment requirements.

ACTION: EPA has reviewed this submittal and is today announcing its approval of this revision to the South Carolina Air Pollution Control Regulation No. 62.1, Section II, Operating Permits.

This approval is being made without prior proposal because the revision is noncontroversial, is based on accepted procedures, has limited impact, and no comments are expected. The public should be advised that this action will be effective September 24, 1982. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action, and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 24, 1982. This action may not be challenged later in proceedings to enforce its requirements. (See sec. 307(b)(2).)

Under 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals do not have significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Note.—Incorporation by reference of the State Implementation Plan for South Carolina was approved by the Director of the Federal Register on July 1, 1982.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Sec. 110, Clean Air Act (42 U.S.C. 7410))

Dated: July 19, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENATION PLANS

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart PP—South Carolina

Section 52.2120 is amended by adding paragraph (c)(22) as follows:

§ 52.2120 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(22) Provision for variance from conditions of operating permits, submitted on June 7, 1982, by the South Carolina Department of Health and Environmental Control.

[FR Doc. 82-20127 Filed 7-23-82; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 52

[A-4-FRL-2139-3]

Approval and Promulgation of Implementation Plans; Tennessee: Approval of Metropolitan Nashville-Davidson County Set II Volatile Organic Compounds (VOC) Regulations

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is announcing full approval of Set II Volatile Organic Compounds (VOC) revisions for Regulation No. 7, "Regulation for Control of Volatile Organic Compounds," which Tennessee submitted for Metropolitan Nashville-Davidson County pursuant to requirements of Part D, Title I, of the Clean Air Act (CAA).

EFFECTIVE DATE: This action will be effective on September 24, 1982 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: The submittals may be examined during normal business hours at the following offices:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW., Washington D.C. 20460

Environmental Protection Agency, Region IV, Air Management Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365

Library, Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington D.C. 20005

State of Tennessee, Department of Public Health, Division of Air Pollution Control, Terra Building, 6th Floor, 150 9th Avenue North, Nashville, Tennessee 37219

FOR FURTHER INFORMATION CONTACT: Waymond A. Blackmon, EPA Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365, 404/881–2864 (FTS 257–2864).

SUPPLEMENTAL INFORMATION:

The Tennessee Revision

After public hearing, the Metropolitan Board of Health of Nashville-Davidson County, Tennessee adopted regulations for Set II volatile organic compounds (VOC). On August 27, 1980 and January 23, 1981, Tennessee submitted Metropolitan Nashville-Davidson Set II VOC revisions for Regulation No. 7, "Regulation for Control of Volatile Organic Compounds," for approval as a plan revision. EPA's review of these

regulations indicates they are consistent with the Set II VOC control techniques guidelines (CTGs) issued by the Agency. Therefore, EPA is today approving the following Metropolitan Nashville-Davidson County Health Department Air Pollution Control's Set II VOC regulations.

Section 7–2, "Prohibited Act."
Section 7–11, "Bulk Gasoline Plants."
Section 7–16, "Emission Standards for Miscellaneous Metal Parts and Products."
Section 7–17, "Manufacture of Pneumatic Rubber Tires."
Section 7–18, "Graphic Arts."
Section 7–19, "Perchloroethylene Dry Cleaning."
Section 7–21, "External Floating Roof Tanks."
Section 7–22, "Compliance Schedules."
Section 7–23, "Special Provisions for Volatile Organic Compound Sources and Modifications."
Section 7–24, "Test Methods and Procedures."

Nashville-Davidson County does not have regulations for petroleum refinery fugitive emissions (leaks), factory surface coating of flatwood paneling, or synthetic pharmaceutical production because these sources do not exist in the area. Also, Metropolitan Nashville-Davidson County did not submit a regulation for leaks from gasoline tank trucks and vapor collection systems. This omission is based on the fact that most of the tank trucks that enter the nonattainment area come from outside the jurisdictional boundaries of the Metropolitan Board of Health. Since all tank trucks must be regulated, the State of Tennessee has agreed to adopt an approved regulation for gasoline tank trucks and collection systems by September 1, 1982 (November 24, 1981, **Federal Register**, 46 FR 57486).

The public should be advised that this action will be effective September 24, 1982. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 24, 1982. This action may not be challenged later in proceedings to enforce its requirements. (See Sec. 307(b)(2).)

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), I have certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Note.—The Director of the Federal Register approved the incorporation by reference of the Tennessee State Implementation Plan on July 1, 1982.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Secs. 110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502))

Dated: July 19, 1982.

Anne M. Gorsuch,
Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart RR—Tennessee

1. Section 52.2220 is amended by adding paragraph (c)(47) as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

(47) Metropolitan Nashville-Davidson County Set II VOC Regulation, submitted on August 27, 1980 and January 23, 1981, by the Tennessee Department of Public Health.

[FR Doc. 82-20132 Filed 7-23-82; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 52

[A-6-FRL-2167-1]

Approval and Promulgation of Revisions to the Texas State Implementation Plan

AGENCY: Environmental Protection Agency.
ACTION: Final rulemaking.

SUMMARY: This action approves revisions to the Texas State Implementation Plan (SIP) which were submitted by the Governor on April 13, 1979. This action is taken based upon the State's request to revise its regulations concerning outdoor burning, visible emissions, particulate matter and compliance. This notice approves these revisions to the SIP and amends 40 Code of Federal Regulations (CFR) Part 52.

EFFECTIVE DATE: This rulemaking will be effective on September 24, 1982 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Written comments on this action should be addressed to Carol D. Peters of the EPA Region 6 Air Branch (address below). Copies of the State's submittal may be examined during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region 6, Air Branch, 1201 Elm Street, Dallas, Texas 75270
Texas Air Control Board, 6330 Hwy. 290 East, Austin, Texas 78723
U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Room 2922, Washington, D.C. 20460
The Office of the Federal Register, 1100 L Street, NW., Rm. 8401, Washington, D.C. 20005

FOR FURTHER INFORMATION CONTACT: Carol D. Peters, State Implementation Plan Section, Air & Waste Management Division, U.S. EPA, Region 6, 1201 Elm Street, Dallas, Texas 75270, (214) 767-2742.

SUPPLEMENTARY INFORMATION: The Governor of Texas has submitted to the Environmental Protection Agency (EPA) amendments to Texas Air Control Board (TACB) Regulation I and requested that they be reviewed and processed as revisions of the Texas SIP.

Regulation I, which is titled "Control of Air Pollution from Visible Emissions and Particulate Matter", was amended December 19, 1973, October 31, 1975 and March 30, 1979. The present version was submitted to EPA on April 13, 1979 by the Governor of Texas and incorporates all earlier revisions. The State of Texas has met all applicable requirements regarding the conduct of public hearings concerning these revisions, including a thirty-day public notice.

EPA has reviewed the State's submittal and developed an evaluation report[1] which discusses the revisions in detail. This evaluation report is available for inspection by interested parties during normal business hours at the EPA Region 6 and TACB Offices listed above. The following is a summary of EPA's evaluation.

In this revision, the rule numbers and some words in the text were changed to conform to a new format prescribed by the Texas Secretary of State. Regulation

[1] EPA Review of Texas SIP Revisions to Regulation I, June 1982.

I is now contained in Chapter 111. EPA views these changes as minor administrative changes, which are acceptable.

Sections 111.1–111.4 deal with outdoor burning. This revision changes some of the conditions under which outdoor burning is allowed. EPA has determined that these changes are either more restrictive or will have no significant impact.

Sections 111.11 and 111.12, concerning incineration, have only minor administrative changes made to them. EPA has determined that these changes are acceptable.

Sections 111.21–111.27 contain the regulations for visible emissions. These have not been substantively changed since the original regulation was submitted. The changes are mainly administrative and minor. Therefore, EPA finds the changes acceptable.

Sections 111.61–111.65, "Transient Operations," Sections 111.71–111.76 "Agriculture Process," and Sections 111.91–111.92, "Compliance," contain minor administrative changes and changes to State procedures. EPA has determined that these changes are acceptable.

Sections 111.41–111.45, as submitted on April 13, 1979, regulate particulate matter in nonattainment areas. EPA approved these sections on March 25, 1980 (at 45 FR 19231). Rule 104 as submitted in the January 28, 1972 version regulates particulate matter in Standard Metropolitan Statistical Areas (SMSAs) where the federal air quality standards for particulate matter are exceeded. According to the April 4, 1979 General Preamble (at 44 FR 20373), existing requirements may not ordinarily be relaxed or revoked, even when new requirements are being added to the SIP. Since no demonstration accompanied the April 13, 1979 revision showing that there would be no significant adverse impact resulting from the change, EPA can not allow Rule 104 to be superseded. Therefore both versions of these sections will remain in the federally enforceable SIP.

Based on the Agency's review, EPA has determined that the revisions meet the requirements of Section 110(a)(3)(A) of the Clean Air Act and is hereby approving these revisions to the Texas SIP.

The public should be advised that this action will be effective September 24, 1982. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 24, 1982. This action may not be challenged later in proceedings to enforce its requirements. (See sec. 307(b)(2).)

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this approval will not have a significant economic impact on a substantial number of small entities. This action only approves State actions. It imposes no new requirements.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Note.—Incorporation by reference of the State Implemenation Plan for the State of Texas was approved by the Director of the Federal Register on July 1, 1982.

(Sec. 110(a) and 172 of the Clean Air Act, 42 U.S.C. 7410(a) and 7520)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: July 19, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Title 40, Code of Federal Regulations is amended as follows:

Subpart SS—Texas

1. In § 52.2270, paragraph (c)(20) is revised and new paragraphs (c)(44), (45) and (46) are added to read as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

(20) Revision to the plan for attainment of standards for particulate matter, carbon monoxide, and ozone (Part D requirements) were submitted by the Governor on April 13, 1979.

Note.—The provisions of Rule 104 submitted by the Governor on 1/28/72 and approved by EPA on 5/31/72 remain in effect in other than nonattainment areas.

* * * * *

(44) Revisions to Regulation I, Sections 111.2(7), 111.3, 111.11, 111.12, 111.26, 111.61–111.65, and 111.71–111.76, for control of particulate matter and visible emissions as submitted by the Governor on January 22, 1974.

(45) Revisions to Regulation I, Section 111.2 for control of particulate matter and visible emissions as submitted by the Governor on December 29, 1975.

(46) Revisions to Regulation I, Sections 111.2(8), 111.2(9), 111.22, 111.91 and 111.92 for control of particulate matter and visible emissions as submitted by the Governor on April 13, 1979.

[FR Doc. 82-20128 Filed 7-23-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 81

[A-5-FRL 2167-7]

Designation of Area for Air Quality Planning Purposes; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final rulemaking.

SUMMARY: EPA is today approving as a revision to the Ohio State Implementation Plan (SIP) the redesignation of Jefferson County for carbon monoxide (CO) from non-attainment to attainment. This revision is based on a request from the State of Ohio to redesignate this area and on the supporting data the State submitted. Under the Clean Air Act, designations can be changed if sufficient data are available to warrant such change.

EFFECTIVE DATE: This action will be effective on September 24, 1982 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

Copies of the SIP revision, and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone the contact person given below before visiting the Region V Office.)

Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604;

Ohio Environmental Protection Agency, Office of Air Pollution Control, 361 East Broad Street, Columbus, Ohio 43216.

Written Comments on this action should be addressed to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Toni Lesser at EPA, Region V, address listed or call (312) 886-6037.

SUPPLEMENTARY INFORMATION: The Clean Air Act (Act) amendments of 1977

added Section 107(d) to the Act. This section directed each State to submit to the Administrator of EPA a list of the National Ambient Air Quality Standards (NAAQS) attainment status for all areas within the State. On March 3, 1978 (43 FR 8962), and on October 5, 1978 (43 FR 45993), pursuant to the requirements of Section 107 of the Act, EPA designated certain areas in each State as nonattainment with respect to NAAQS for several pollutants including CO.

EPA may redesignate an area to attainment if eight consecutive quarters of the most recent quality assured representative ambient air quality data show no violation of the appropriate NAAQS. The primary NAAQS for CO is violated if more than once in a calendar year, maximum monitored CO concentrations exceed either: (1) The maximum allowable eight-hour concentration of 10 milligrams per cubic meter of air (10 mg/m_3), or (2) the maximum allowable one-hour concentration of 40 mg/m_3.

On April 19, 1982, the Ohio Environmental Protection Agency (Ohio EPA) requested that Jefferson County be redesignated from non-attainment to attainment for CO. To support their request, Ohio EPA submitted eight quarters of quality assured monitored data for 1980 and 1981.

EPA has completed its review of the monitored data submitted by the Ohio EPA. The second high CO concentrations for the 814 Adams Street site were 8.3 milligrams/cubic meter in 1980 and 9.5 milligrams/cubic meter in 1981 (eight-hour averages). Therefore, a violation of the eight-hour NAAQS has not been recorded during the most recent two years. No exceedances of the one-hour NAAQS (40 milligrams/cubic meter) were recorded during 1980 and 1981.

EPA is therefore redesignating Jefferson County from non-attainment to attainment of the national standards for CO, without prior proposal. This action will be effective September 24, 1982. However, if EPA is notified within 30 days that someone wishes to submit adverse or critical comments, then this action will be withdrawn and a new rulemaking will propose the action and establish a comment period.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities (See 46 FR 8709).

Under Section 307(b) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 24, 1982. This action may not be challenged later in proceedings to enforce its requirements. (See sec. 307(b)(2).)

List of Subjects in 40 CFR Part 81

Environmental pollution control, National parks, Wilderness areas.

(Sec. 107(d) of the Act, as amended (42 U.S.C. 7407))

Dated: July 19, 1982.

Anne M. Gorsuch,

Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Subpart C of Part 81 of Chapter 1, Title 40, Code of Federal Regulations.

§ 81.336 [Amended]

1. Section 81.336 is amended by revising the table for "Ohio-CO" the entry for Jefferson County to read as follows:

OHIO—CO

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
• • • • •		
Jefferson		X.
• • • • •		

[FR Doc. 82-20120 Filed 7-23-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 81

[A-5-FRL 2167-4]

Redesignations of Areas for Air Quality Planning Process; Ohio

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: This rulemaking revises the carbon monoxide (CO) designation for Mahoning County from non-attainment to attainment. This revision is based on a request from the State of Ohio to redesignate this area and on the supporting data the State submitted. Under the Clean Air Act (the Act), designations can be changed if sufficient data are available to warrant such change.

DATE: This action is effective September 24, 1982.

ADDRESSES: Copies of the redesignation request, technical support documents and the supporting air quality data are available at the following addresses:

Environmental Protection Agency, Region V, Air Programs Branch, 230 S. Dearborn Street, Chicago, Illinois 60604

Ohio Environmental Protection Agency, Office of Air Pollution Control, 361 East Broad Street, Columbus, Ohio 43216.

Written comments should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, Region V, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Toni Lesser, Air Programs Branch, Region V, Environmental Protection Agency, Chicago, Illinois 60604, 886-6037.

SUPPLEMENTARY INFORMATION: Under Section 107(d) of the Act, EPA has promulgated the National Ambient Air Quality Standards (NAAQS) attainment status for each area of every State. See 43 FR 8962 (March 3, 1978) and 43 FR 45993 (October 5, 1978). These area designations may be revised whenever the data warrants.

EPA's criteria for data that warrant redesignating an area are set out in the June 12, 1979 memo, "Section 107 Redesignation Criteria," by Richard G. Rhoads, Director of EPA's Control Program Development Division. In general, a change from a primary nonattainment designation to either secondary nonattainment or attainment must be supported by either:

(1) Eight consecutive quarters of recent data on ambient air quality which show no violations of the appropriate NAAQS, or

(2) four consecutive quarters of the most recent data on ambient air quality which show both (a) no violation of the appropriate NAAQS and (b) air quality improvement that results from legally enforceable emission reductions.

On May 5, 1982, the Ohio EPA (OEPA) requested the redesignation of Mahoning County for carbon monoxide from non-attainment to attainment.

The primary NAAQS for carbon monoxide (CO) is violated if, more than once in a calendar year, maximum monitored CO concentrations exceed either: 1) the maximum allowable eight-hour concentration of 10 milligrams per cubic meter of air (10 mg/m^3), or 2) the maximum allowable one-hour concentration of 40 mg/m^3.

CO has been monitored at a single site in Mahoning County, 24-36 Phelps

Street in Youngstown, since the implementation of CO monitoring in 1975. Prior to 1980, a number of exceedances of the eight-hour CO NAAQS (10 milligrams/cubic meter) were observed at this site, forming the basis for the present nonattainment designation. No exceedance of the one-hour CO NAAQS (40 milligrams/cubic meter)has ever been recorded at this site.

EPA's review of the monitoring data supplied with the redesignation request indicates that these data are quality assured and that no exceedance of the one hour and the eight-hour CO NAAQS occurred during 1980 and 1981. Therefore, EPA is approving the State's request for the redesignation of Mahoning County to attainment for CO.

We are approving today's action without prior proposal. The action will become effective on September 24, 1982. If, however, we receive notice by August 25, 1982 that someone wishes to submit critical comments, then EPA will publish: (1) a notice that withdraws the action, and (2) a notice that begins a new rulemaking by proposing the action and establishing a comment period.

The Office of management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Pursuant to Executive Order 12291 (Order) EPA must judge whether a regulation is "Major" and therefore subject to the requirement of preparing a regulatory impact analysis. Today's action does not constitute a major regulation because it only changes an area's air quality designation; it does not impose any new regulatory requirements.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 24, 1982. This action may not be challenged later in proceedings to enforce its requirements. (See sec. 307(b)(2)).

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Sec. 107(d) of the Act, as amended (42 U.S.C. 7407))

Dated: July 19, 1982.

Anne M. Gorsuch,

Administrator.

PART 81—REDESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

§ 81.336 [Amended]

1. Section 81.336 is amended by revising the table for "Ohio-CO" Mahoning County to read as follows:

OHIO—CO

Designated area	Does nor meet primary standards	Cannot be classified or better than national standards
Mahoning County	X	

[FR Doc. 82-20130 Filed 7-23-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 120

[WH-FRL 2152-2]

Water Quality Standards; State of Nebraska; Withdrawal of Regulation

AGENCY: Environmental Protection Agency.

ACTION: Withdrawal of a rule.

SUMMARY: EPA is withdrawing a rule that established beneficial uses for eleven water segments that superseded those established by the 1976 State of Nebraska Water Quality Standards. EPA believes that revisions adopted in the 1982 Nebraska Water Quality Standards obviate the need for the Federal Rule.

DATE: This withdrawal is effective August 25, 1982.

FOR FURTHER INFORMATION CONTACT: Dr. Allan S. Abramson, Director, Water Management Division, EPA Region VII, 324 East 11th Street, Kansas City, Missouri 64106, (816) 374-6401.

SUPPLEMENTARY INFORMATION:

Background

On June 6, 1978, the Environmental Protection Agency (EPA) promulgated a rule establishing beneficial use designations for eleven water bodies in the State of Nebraska (43 FR 24529, codified at 40 CFR 120.37). These beneficial use designations superseded the use designations adopted by the Nebraska Environmental Control Council, which had previously been disapproved by EPA pursuant to section 303(c) of the Clean Water Act.

The uses and segments covered by EPA's 1978 promulgation are:

I. Full Body Contact, Partial Body Contact, and Fish and Wildlife Protective

1. Bowman Lake State Recreational Area,
2. Crystal Lake State Recreational Area,
3. Diamond Lake Special Use Area,
4. Memphis Lake State Recreational Area,
5. Pibel Lake State Recreational Area,
6. Plattsmouth Special Use Area,
7. Ravenna State Recreational Area,
8. Victoria Spring State Recreational Area.

II. Partial Body Contact and Fish and Wildlife Protective

1. Pawnee Prairie Special Use Area,
2. Yellowbanks Special Use Area,
3. Limestone Bluffs Special Use Area.

The water quality standards applicable to these waters were those contained in Rules 2 and 7 of the 1976 Nebraska Water Quality Standards. As a result of revisions, the applicable standards are now contained in Rules 1 through 6, and in Rule 8 of the 1982 Nebraska Water Quality Standards.

On May 5, 1982, the governor of Nebraska approved revised State water quality standards, which became effective on May 10, 1982. These revised State water quality standards designate beneficial uses for the eleven water bodies in question which are identical to the uses designated by EPA in its June 6, 1978, promulgation. (See Rule 8, Nebraska Water Quality Standards for Surface Waters of the State). The Regional Administrator, EPA Region VII, approved Nebraska's revised water quality standards on May 12, 1982, in accordance with section 303(c) of the Clean Water Act.

Statement of Basis and Purpose

EPA's 1978 promulgation is now duplicative of an EPA-approved State water quality standard, and is no longer needed to meet the requirements of the Clean Water Act. As the Act contemplates Federal promulgation of water quality standards only where a State fails to adopt standards which meet the requirements of the Act, it is EPA's policy to withdraw promulgated water quality standards when the State adopts new or revised standards which meet the requirements of the Act. Accordingly, because EPA's 1978 promulgation for Nebraska is no longer necessary to meet the requirements of the Act, the 1978 promulgation which established Federal use designations for eleven Nebraska water bodies is withdrawn.

Availability of Record

The administrative record for the consideration of Nebraska's revised Water Quality Standards is available for public inspection and copying at the

Environmental Protection Agency, Region VII Office, Water Management Division, 324 East 11th Street, Kansas City, Missouri 64106, during normal weekday business hours of 8:00 a.m to 4:30 p.m. The approved Nebraska Water Quality Standards are available for inspection and copying from the Criteria and Standards Division (WH–585), 401 M Street, SW., Washington, D.C. 20460, in Room 2818 of the Mall.

Regulatory Analysis

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

This regulation imposes no new regulatory requirements but merely withdraws a Federal regulation that now duplicates a State regulation. Therefore, this rule will not have a significant economic impact on a substantial number of small entities.

Administrative Procedure

Because Nebraska has adopted, and EPA has approved, beneficial use designations identical to those in the Federal promulgation, withdrawal of the Federal promulgation will have no effect on water quality or on the regulated public. Nebraska complied with the public participation requirements of the Act during its review and revision of its water quality standards. Therefore, EPA has determined that notice of proposed rulemaking and public procedure thereon is unnecessary for this action to withdraw 40 CFR 120.37

List of Subjects in 40 CFR Part 120

Water pollution control.

(Sec. 303(c) (33 U.S.C. 1313(c)) of the Clean Water Act (Pub. L. 92–500, as amended (33 U.S.C. 1251, *et seq.*))

Dated: July 19, 1982.

Anne M. Gorsuch,

Administrator

40 CFR PART 120—WATER QUALITY STANDARDS

§ 120.37 Nebraska [reserved]

Section 120.37 of Part 120 of Chapter I, Title 40 of the Code of Federal Regulations is removed and reserved.

[FR Doc. 82–20094 Filed 7–23–82; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Parts 122 and 146

[WH–FRL 2170–8]

Underground Injection Control Program

AGENCY: Environmental Protection Agency.

ACTION: Final rule; Effective date for information collection requirements.

SUMMARY: This document serves as notice that certain information requirements in the Environmental Protection Agnecy's Underground Injection Control (UIC) Program Regulations were approved by the Office of Management and Budget (OMB), and amends the regulations to include the OMB control numbers at the places in the regulations where current information collection requirements are described.

EFFECTIVE DATE: May 11, 1982.

FOR FURTHER INFORMATION CONTACT: Thomas E. Belk, Chief, Ground Water Protection Branch, Environmental Protection Agency, (202) 426–3934.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The information collection requirements contained in the regulatory sections listed below were approved on May 11, 1982, by the OMB under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and assigned the control number contained in the listing.

PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM; THE HAZARDOUS WASTE PERMIT PROGRAM; AND THE UNDERGROUND INJECTION CONTROL PROGRAM

PART 146—UNDERGROUND INJECTION CONTROL PROGRAM: CRITERIA AND STANDARDS

Accordingly, 40 CFR Parts 122 and 146 are amended as follows.

§§ 122.42, 146.13, 146.23, 146.33 [Amended]

40 CFR Parts 122 and 146 are amended by adding the OMB clearance number 2000–0456 parenthetically after each paragraph listed below.

CFR Citation	*OMB Control Number*
122.42(e)	2000–0456
146.13	2000–0456
146.23	2000–0456
146.33	2000–0456

Dated: July 19, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82–20097 Filed 7–23–82; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Circular No. 2507]

43 CFR Part 1810

Introduction and General Guidance; Public Land Records; Amending the Notation of the Public Land Records Procedures

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking amends the existing regulations relating to notation of the public land records by eliminating the requirement to note applications to the record which do not segregate, designate or otherwise withdraw Federal lands from other forms of entry, application or location. This change is a result of the delegation of decisionmaking authority for most land use decisions to those offices closest to the activity, the District and Area Offices. The change made by the final rulemaking will shorten the time required for issuance of land use authorizations and patents and will substantially reduce the administrative costs involved in the notation of certain applications to the land records.

EFFECTIVE DATE: August 25, 1982.

ADDRESS: Any suggestions or inquiries should be addressed to: Director (320), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Jeff Steele, (202) 343–8693.

SUPPLEMENTARY INFORMATION: In order for the Bureau of Land Management to be more responsive to the public, decisionmaking authority is being delegated to those managers that are closest to the actual activity on-the-ground, namely District and Area Managers. Existing regulations require notation of all applications at the time the application is filed and again at the time the application is approved or denied. Notation of certain applications prior to issuance, both increases processing time and administrative costs to the public and the Bureau of Land Management. Although this final rulemaking continues to require noting on the record of applications for withdrawals, designations and other segregative actions, the rulemaking also provides that lands disposal actions, use authorization applications and proposals which do not designate, segregate or otherwise withdraw public

lands shall be noted only after issuance of the patent or use authorization.

This final rulemaking will make a change in existing procedure that is administrative in nature. The change will accelerate the processing of certain applications and result in lower administrative costs to the public and the Bureau of Land Management, while maintaining, in a different form, the information on land status of the public lands. Under the change made by this final rulemaking, pending applications will be posted on serial register pages. These serial register pages will be available to the public for their use in obtaining the same information regarding the status of pending applications which is currently noted on the plat books. Therefore, land status records relating to the filing of applications will be available through the serial register page, and in some Bureau of Land Management offices through automated systems and computer printouts, and the public will continue to receive the same information it now receives on the status of public lands, only in a different form.

The author of this final rulemaking is Jeff Steele, Division of Lands, Bureau of Land Management, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The change made by this final rulemaking, which is administrative in nature, will have no impact on any segment of the public, including small entities, except to accelerate the processing of some applications and reduce administrative costs.

List of Subjects in 43 CFR Part 1810

Administrative practice and procedure, Archives and records, Disaster assistance, Forest and forest products, Public lands.

Under the authority of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), Subpart 1813, Part 1810, Group 1800, Subchapter A, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

July 2, 1982.

Frank A. DuBois,

Acting Assistant Secretary of the Interior.

PART 1810—INTRODUCTION AND GENERAL GUIDANCE

1. Section 1813.1–1 is revised to read:

§ 1813.1–1 Notations to records.

(a) The authorized officer shall cause the proper notation to be made on the plats in order that the status of a tract may be readily ascertained by the person examining the plat.

(b) All withdrawals, reservations, classifications, designations, segregations and orders affecting the disposition of lands shall be noted on the tract books and plats.

(c) Use authorizations in excess of 1 year and other leases, easements and permits shall be noted on the tract books and plats upon issuance. Title transfers shall be noted upon issuance of patent.

[FR Doc. 82–20121 Filed 7–23–82; 8:45 am]

BILLING CODE 4310–84–M

NATIONAL SCIENCE FOUNDATION

45 CFR Parts 600, 680, 681, 682, 683, and 684

Conflict of Interests

AGENCY: National Science Foundation.

ACTION: Final rule.

SUMMARY: These final regulations are issued in accordance with E.O. 11222 of May 8, 1965, 3 CFR, 1965 Supplement and Regulations of the Office of Personnel Management, 5 CFR 735.104. They apply to all employees of the National Science Foundation (NSF) and consolidate all the conflict-of-interests rules of the NSF into one document. They replace the current NSF conflict regulations at 45 CFR 600.735.

EFFECTIVE DATE: July 26, 1982.

FOR FURTHER INFORMATION CONTACT: General Counsel, National Science Foundation, 1800 G Street NW, Washington, D.C. 20550, Attention: Harriet E. Tucker (202/357–7483).

SUPPLEMENTARY INFORMATION: Proposed rulemaking was published on pages 193–215 of the **Federal Register** of January 5, 1982, and invited comments for 60 days ending March 8, 1982. No comments were received from the public. The Office of Government Ethics and NSF employees offered suggestions for technical changes. Based on these comments and further review several minor changes were made.

Classification

The National Science Foundation does not consider this regulation significant for the purposes of Executive Order 12044.

Regulatory Analysis

Not required for this rulemaking.

Environmental Impact Statement

This regulation does not affect the environment. An environmental statement is not required under the National Environmental Policy Act of 1969.

Background and Purposes of These Regulations.

Federal employees are subject to a variety of conflicts rules from several different sources. There is a series of criminal statutes (18 U.S.C. 201–209) covering several pages in the United States Code. There is the Hatch Act. There is an Executive Order (11222). There are Office of Personnel Management/Office of Government Ethics regulations memoranda interpreting the laws and implementing the Executive Order. There are memoranda from the Attorney General on the effect of the laws. There are two appendices in the Federal Personnel Manual. Every Federal Employee is theoretically responsible for knowing about, understanding, and observing the laws and many of the rules that come out of the Executive Order and an implementing regulation.

Many of these sources treat the same or similar subject, but they are nowhere consolidated into a coherent whole, with all the provisions that bear on the same subject brought together. Many of them, particularly the criminal statutes, are drafted in traditional technical legal language that is difficult for employees to understand. Moreover, they are drafted to cover diverse problems that arise all over the Government; the ones that predominate at the NSF are a small and rather unusual subset of those to which the Governmentwide rules are written. At the same time, none of these multitudinous authorities covers some unique problems the NSF repeatedly confronts particularly those that have to do with short-term employees usually known as "rotators."

The NSF has had a number of different conflicts documents of its own, both to implement other laws and regulations and to add a few special rules of its own. The Foundation's formal conflict regulations (45 CFR

600.735) implement the requirements of Executive Order 11222 and the associated OPM regulations. There is a National Science Board resolution, amended by another resolution, on special conflicts problems that arise for National Science Board members, and the Director of the NSF has issued at least four currently effective Staff Memoranda (O/D 74–48, O/D 74–51, O/D 80–5, and O/D 80–27) that concern one or another conflicts problem.

These regulations represent our effort to create a single conflicts document to coherently consolidate all these conflicts rules and replace the multiple documents we have now. They replace all the existing regulations and internal documents. Moreover, though we cannot relieve employees of legal responsibility for observing the primary external authorities, particularly the criminal statutes, the regulations are designed so that an employee who observes the NSF regulations should by the same token observe the other laws.

For the benefit of National Science Foundation employees and other readers, we include an index to terms and sections of the regulations. The index will appear in the *Code of Federal Regulations.*

List of Subjects in 45 CFR Parts 680, 681, 682, 683, and 684

Conflict of interests.

For the reasons set out in the preamble, Chapter VI of Title 45 CFR is amended as set forth below:

PART 600—STANDARDS OF CONDUCT OF EMPLOYEES AND CONSULTANTS

§ 600.735 [Removed]

1. 45 CFR 600.735 is removed; and

2. 45 CFR Chapter VI is amended by adding Parts 680–684 as follows:

Dated: July 15, 1982.

John B. Slaughter,

Director.

PART 680—NSF CONFLICT-OF-INTERESTS RULES AND STANDARDS OF CONDUCT: INTRODUCTION AND GENERAL PROVISIONS

Subpart A—Introduction to Regulations

Sec.

680.10 Introduction.
680.11 Summary of conflicts rules.
680.12 Underlying purposes and considerations.
680.13 Summary of additional responsibilities.
680.14 Summary of special rules for full-time presidential appointees.
680.15 General standards of employee conduct.
680.16 Key terms.

Subpart B—Statutory Exemptions

680.20 Necessity and effect of formal exemptions.
680.21 Exemptions under 18 USC 208(b).
680.22 Certification under 18 USC 205.

Authority: E.O. 11222 of May 8, 1965, 3 CFR, 1965 Supplement and Regulations of the Office of Personnel Management, 5 CFR 735.104.

Subpart A—Introduction to Regulations

§ 680.10 Introduction

(a) Parts 680 through 684 of this Title 45 contain conflict-of-interests rules and standards of conduct for employees and former employees of the National Science Foundation.

(b) *"You", the NSF Employee.* The principal audience for these regulations is the NSF employee who must comply with and understand them. They are therefore addressed directly to you. Except where provisions plainly indicate otherwise, "you" includes every NSF employee. It includes not only permanent civil service employees, but "rotators" and persons working at the NSF under the Intergovernmental Personnel Act. It includes rehired annuitants. It includes part-time employees. It also includes any intermittent employees, temporary consultants, or members of the National Science Board who work or will work for the Government more than 130 days a year.

(c) *What is expected of you.* You are not expected to be familiar with every section of the regulations. You are expected to be thoroughly acquainted with a number of basic conflict-of-interests rules, which are summarized for you in § 680.13. You are also responsible for adhering to general "standards of employee conduct" that are laid out in § 680.16. (Full-time Presidential appointees should also be thoroughly acquainted with the special rules in § 680.15.) Beyond that the regulations are designed as a reference document and you need not cope with more detail than you find helpful until a problem or question comes up. Then, you should be able to find the detail you may need in Parts 681–683.

(d) *Consultants, Board members, and other "special employees".* Most consultants, members of the National Science Board, and other temporary or intermittent employees work for the Government *fewer* than 130 days a year and are therefore what the law calls "special Government employees". If you are such a "special employee", see Part 684 of these regulations. Part 684 states and explains the rules and standards you must observe. If you are a member of the National Science Board, Part 684 applies to you as to any other "special employee". Subpart B of Part 684 states and explains special rules of the National Science Board that apply only to its members.

(e) *Ethics counselors.* Within the Office of the General Counsel is an attorney designated by the General Counsel who has primary responsibility for conflict-of-interests matters and for liaison with the Office of Government Ethics. This attorney is the "ethics counselor". Working with the ethics counselor are one or more deputy ethics counselors. Whenever you have a conflict-of-interests problem or question and cannot find a clear answer in these regulations, consult an ethics counselor.

§ 680.11 Summary of conflicts rules.

(a) This section summarizes the principal conflicts rules that NSF employees (other than "special employees") are expected to observe. Section 680.13 summarizes specific conflicts-related responsibilities assigned to particular organizational units or officials by the regulations. Section 680.14 summarizes special rules for full-time Presidential employees. Rules for consultants, Board members, and other employees who work for the NSF 130 days a year or less are covered in Part 684.

(b) *Rules on handling proposals and awards.* (§§ 681.10–681.44) (1) If you would normally handle a proposal or other application, but possess with respect to it an affiliation or relationship listed in § 681.21, you must bring the matter to the attention of a conflicts official in your directorate or staff office. The conflicts official will determine how the matter should be handled and will tell you what further steps to take.

(2) If you become aware that a prospective, current, or recent NSF employee has an involvement or interest in any proposal or other application you are handling, you must bring the matter to the attention of a directorate conflicts official. The conflicts official will decide how the matter should be handled and tell you what further steps to take. If the file reflects that a conflicts official has already been consulted and has decided how the matter should be handled, you may proceed as the conflicts official has directed, unless something of possible significance has changed.

(3) You must ask each peer reviewer of any proposal you are handling to indicate any possible conflicts of interests the reviewer may have. You should record in the proposal file all interests, affiliations, or relationships revealed by reviewers; determine how,

if at all, they ought to affect the use of the review; and describe your determination in the file.

(c) *Representational restrictions and involvement with proposals and projects during and after NSF service.* (§§ 682.10–682–23) (1) *Current-employee restriction.* During your Federal employment you must not represent anyone (including yourself) in dealings with any Federal official on any proposal, project, or other matter.

(2) *One-year NSF restriction.* For one year after you leave NSF employment you must not represent anyone (including yourself) in dealings with any NSF official on any proposal, project, or other matter.

(3) *"Official responsibility" two-year restriction.* For two years after you leave NSF employment you must not represent anyone else in dealings with any Federal official on any proposal, project, or other matter involving specific parties if the same matter was active under your official responsibility during your last year at the NSF.

(4) *"Personal involvement" permanent restriction.* You must never represent anyone else in dealings with any Federal official on any proposal, project, or other matter involving specific parties if you were personally involved with the same matter as an NSF employee.

General effect: These representational restrictions do not preclude you from being involved as a researcher or educator with proposals submitted to the Government or projects supported by the Government. They do preclude you from negotiating with NSF officials or other Federal officials and from engaging in other representational activities intended to influence their decisions on certain proposals and projects. They do not preclude you from representing yourself before the Government on personal matters, such as audits of your individual tax returns or personnel decisions that affect you.

(d) *Financial disclosure.* (§§ 683.10–683.12)

(1) If you are an executive level, SES, or supergrade (GS–16 or equivalent and above) employee, you are a "senior employee" and must file public Financial Disclosure Reports.

(2) Otherwise, if you serve as either a program officer, a directorate administrative official, a grants officer, a contracts officer, an auditor, or a lawyer, you must file confidential Statements of Employment and Financial Interest.

(3) If you fit neither of these categories, no general financial disclosure is required of you.

(4) If you are required to file Financial Disclosure Reports or Statements of Employment and Financial Interests, the Foundation will supply the necessary forms. You may ask for them when you need them, but normally they will be sent to you automatically, with instructions.

(e) *Acts affecting your financial interests.* (§ 683.20) You must not be personally involved as a Federal employee in the handling of any matter in which you, a member of your immediate family, a business partner, or an organization of which you are or may become a part has a financial interest.

(f) *Outside employment, compensation, gifts, etc.* These rules are too numerous to summarize but they are not difficult to use. Refer to the referenced sections whenever you contemplate any of the following:

(1) Outside employment and income (§ 683.30);

(2) Compensation from private sources (§ 683.31);

(3) Honoraria (683.32);

(4) Reimbursement of expenses or receipt of meals, lodging, or travel tickets from private sources (§ 683.33);

(5) Use of inside Government information in connection with speeches, articles, or other private activities (683.34);

(6) Participation in an NSF-supported conference or workshop (§ 683.35); or

(7) Receipt of a gift, favor, loan, prize, or award (§ 683.36).

(g) *Political activity (Hatch Act).* (§§ 683.40–683.45)

(1) You may not run for public or party office, except in nonpartisan elections and certain local elections.

(2) You may not participate in election campaigning, except in nonpartisan elections and certain local elections.

(3) You may not take an active part in leading or managing a political party.

(4) You must not use your official authority or influence for political purposes.

§ 680.12 Underlying purposes and considerations.

(a) *Conflicts sensitivity.* This section outlines the primary sources of conflicts of interests and explains other considerations that underlie the conflicts rules. If you are sensitive to those considerations and identify situations in which someone might at least think that you have a conflict of interests, you will not be likely to violate the conflict-of-interests rules. When you do identify such a situation, of course, you can and should consult these regulations.

(b) *Effect of conflicts of interests.* There are two principal reasons why you and the NSF should avoid or minimize actual or apparent conflicts of interests.

(1) The success of the NSF in performing its scientific and other functions depends on the effectiveness of its proposal review process in ensuring that the best and most important work is supported. If judgments are warped because of conflicting interests, that effectiveness is compromised. The same is true of other NSF decision processes.

(2) The NSF must earn the confidence of the scientific community, the Congress, and the general public in the integrity, effectiveness, and evenhandedness of its proposal-review and other decision processes. It will not do so if the processes are seen to be compromised by conflicts of interests.

(c) *What is a conflict of interests?* A conflict of interests is a clash between an official's concern for the public interest and his or her private interests or allegiances. There are three primary sources: (1) personal interests; (2) outside affiliations or relationships; and (3) gifts or favors. The examples that follow deliberately present situations that are not clear cut and do *not* illustrate specific rules you must follow. The pertinent rules appear elsewhere in these regulations.

(1) You might use your government position to further your *personal interests,* in conflict with the public interest.

Example: If as an NSF program official you recommended a conference of scientists in your field to discuss current issues, then chaired the conference yourself and delivered the principal paper, at least a inference suspicion would arise that you had used your Government position to further your own professional prestige or other personal interests.

(2) *Outside affiliations or relationships* could affect the objectivity of your judgments as a public official.

Example: A proposal comes to you for handling. You received your degree from the applicant institution and were a professor there until recently. The proposed principal investigator is your cousin. You have potential conflicts of interests arising from both your academic affiliation and your family relationship.

(3) *Gifts or favors* from those interested in agency decisions could affect the objectivity or integrity of your contribution to those decisions.

Example: The chairman of a university department that regularly sends proposals to your unit is in town. After a late afternoon meeting he proposes dinner at a restaurant on his expense account. Acceptance of the dinner would create a potential conflict between your debt of gratitude towards him

and your disinterested pursuit of the public interest.

(d) *Inside access and influence.* A special concern that underlies many of the conflicts rules is that your insider's access to other Federal officials and your inside influence with them might allow you to sway their decisions or actions where you or those with whom you have ties are interested.

Example: A personal friend is principal investigator on a proposal pending in another part of your NSF unit. He asks you to check how things are going with that proposal. You talk with the program officer and division director handling the proposal. You not only check the status of the review, but mention what a fine scientist your friend is and how excellent his recent work has been. Your friendship with the investigator may influence your judgment on these points, and your inside influence may affect the actions and judgments of those with whom you talk. This creates a potential conflict between your private allegiance to your friend and the public interest.

(e) *Conflicts that require prohibition or disqualification.* Some conflicts of interests would so warp the performance of a Government agency or damage its credibility that they simply cannot be allowed to occur. (If a proposal from a member of your family or from your home institution comes into your program, for instance, you would clearly have to disqualify yourself from handling it.) Most Federal conflict-of-interests laws and a few conflicts rules special to the NSF deal with conflicts or potential conflicts of this sort. They therefore either flatly prohibit you from doing certain things that could give rise to such conflicts or disqualify you from participating in matters where you would have a potentially serious conflict.

(f) *Other conflicts.* By no means all conflicts of interests are so serious and clear that flat prohibitions or disqualifications are appropriate. Many conflicts, though real, are subtle, even remote. The seriousness of others so depends on circumstances of the particular case that unvarying rules would be impractical. There are also countervailing considerations. When we flatly prohibit Federal employees from doing things others who are not Federal employees are free to do, we tend to make Federal employment unattractive and so reduce the competence of Government. Also, disqualifying officials from being involved with particular matters may remove those who are best qualified by expertise or experience to make the required judgments or effect the required actions. For these reasons, the conflicts laws and regulations do not specifically address many potential or actual conflicts that are not serious enough to require flat prohibitions or disqualifications or not easily enough identified by general rule to permit them.

(1) In the handling of the proposals and other award-related applications, these regulations require that some such potential conflicts receive special attention from a designated directorate "conflicts official." The conflicts official considers the circumstances of each case and decides whether to require either a disqualification or some form of special handling. See Part 681.

(2) Other actual or potential conflicts may not be covered by any specific rule. You should nonetheless be sensitive to them and do whatever seems wise either to avoid them altogether or to ensure that they affect neither the quality of NSF decisions nor public trust in those decisions.

§ 680.13 Summary of additional responsibilities.

Apart from the conflicts rules for all employees summarized in the preceding section, these regulations impose the following additional responsibilities:

(a) *Directorates and staff offices.* Each directorate and staff office is responsible for designating "conflicts officials" and for making sure that all staff who handle proposals and other applications know who the conflicts officials are (§ 681.10(d)).

(b) *Directorate (and staff-office) "conflicts officials".* If your directorate or staff office has designated you as a conflicts official, your responsibilities are described in Part 681, Subpart D, (§§ 681.40–681.44).

(c) *Officials who are recruiting new professional employees.* If NSF officials who are recruiting determine that a person has become a "prospective employee", they are responsible for bringing that fact and subsequent developments to the attention of a directorate (or staff-office) conflicts official. Whenever a person currently listed in the NSF principal investigator/project director file seems likely to become an NSF employee, the directorate or office which has recruited that person must inform the Division of Information Systems by memo (so that the principal investigator/project director file can be "flagged" accordingly). It must also send copies of the memo to each NSF division or office that is responsible for an active award or pending proposal involving that person. These and related requirements are further described in Part 681, Subpart C, (§§ 681.30–681.33).

(d) *Directorate for Administration.* The Assistant Director for Administration is responsible for "flagging" the principal investigator/project director file to indicate those who are incoming, current, or recent employees (§ 681.33(d)).

§ 680.14 Summary of special rules for full-time Presidential appointees.

If you are a Presidential appointee, you are subject to special additional rules:

(a) You must file a public Financial Disclosure Report within 5 days of your nomination to your position by the President. (§ 683.11)

(b) You may not hold office in or act for any institution that has or is seeking NSF awards without the approval of the National Science Board. (§ 683.30)

(c) You must not engage in any other business, vocation, or employment while serving the NSF in a full-time Presidential position. (§ 683.30)

(d) You may not earn from other outside activities income totalling more than 15 percent of your Government salary in any calendar year. (§ 683.30)

(e) You are not subject to the restrictions on political activity, except to those concerning use of official authority or influence for political purposes. (§ 683.40)

§ 680.15 General standards of employee conduct.

(a) *Summary.* This section covers some standards of conduct for Government employees that are not covered elsewhere in the NSF regulations. Most of them are basic standards of integrity, decency, and obedience to law. Violation of any of these standards is grounds for serious disciplinary action.

(b) *Underlying intent.* The intent of these regulations generally is that you should not:

(1) Engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct or in any other conduct prejudicial to the Government or to Government efficiency or economy;

(2) Use your public office for private gain;

(3) Give preferential treatment;

(4) Have direct or indirect financial interests that conflict substantially, or appear to conflict substantially, with your Government duties and responsibilities;

(5) Engage directly or indirectly in financial transactions based on information obtained through your Government employment that is not available to the general public;

(6) Lose your independence or impartiality; or

(7) Make Government decisions outside of the proper official channels.

(c) *Preserving public trust.* You are responsible for helping to earn and maintain the confidence of the public in the integrity of the Government. This requires you to be concerned with appearances of as well as actual conflicts.

(d) *Payment of taxes and debts.* You are expected to pay your taxes and your just debts properly and on time. ("Just debts" means those you acknowledge or that have been reduced to final judgment. The Government will not try to determine the validity or amount of any disputed debt.)

(e) *Gambling.* You must not gamble in a Government office or while on duty. This includes participating in a sports pool or a lottery not officially sanctioned by the NSF.

(f) *Familiarity with statutory provisions.* You are legally responsible for acquainting yourself with each statute that relates to your conduct as an NSF and Federal employee. Principal among these are the criminal statutes relating to bribery, graft, and conflicts of interests contained in 18 U.S.C. 201–209; these regulations cover those provisions as they apply to NSF employees. These regulations also cover the provisions of Executive Order 11222, which prescribes standards of ethical conduct for Government officers and employees. They cover regulations of the Office of Personnel and Management that implement both the criminal statutes and the Executive Order. If you follow these regulations, you should have no trouble with any of those provisions. Not covered in these regulations, however, are the following statutory provisions:

(1) The prohibition against lobbying with appropriated funds (18 U.S.C. 1913).

(2) The prohibitions against disloyalty and striking (5 U.S.C. 7311, 18 U.S.C. 1918).

(3) The prohibitions against disclosure of classified information (18 U.S.C. 798, 50 U.S.C. 783) and disclosure of confidential information (18 U.S.C. 1905).

(4) The provision relating to habitual use of intoxicants to excess (5 U.S.C. 7352).

(5) The prohibition against misuse of a Government vehicle (31 U.S.C. 638a(c)).

(6) The prohibition against misuse of the franking privilege (18 U.S.C. 1719).

(7) The prohibition against use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917).

(8) The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001).

(9) The prohibition against mutilating or destroying a public record (18 U.S.C. 2071).

(10) The prohibition against counterfeiting or forging transporation requests (18 U.S.C. 508).

(11) The prohibitions against embezzling Government money or property (18 U.S.C. 641); failing to account for public money (18 U.S.C. 643); and embezzling the money or property of an employee by reason of his employment (18 U.S.C. 654).

(12) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).

(13) The prohibition against acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

§ 680.16 Key terms.

Except where provisions plainly indicate otherwise, certain other terms are used throughout these regulations in standard meanings:

(1) "Award" means any grant, contract, cooperative agreement, loan, or other arrangement made by the Government.

(2) "Project" means the unit of work that an award supports or helps support.

(3) "Proposal" means an application for an award and includes a bid.

(4) "Other award-related application" means a request for an award amendment, for an increment to a continuing grant, for a no-cost extension, or for an administrative approval.

(5) "Institution" means any university, college, business firm, research institute, professional society, or other organization. It includes any university consortium or joint corporation such as AUI, AURA, or JOI, Inc., but not the universities that belong to it. It includes all parts of a university or college, including separate campuses. It does not include other universities or colleges in a multi-institution state or city system, unless you are an employee of the central system offices or an officer, trustee, or equivalent of the system as a whole.

(6) "Directorate" means an NSF directorate, staff office, or other organization that reports immediately to the NSF Director.

(7) "Program Officer" includes assistant and associate program officers or program managers.

Subpart B—Statutory Exemptions

§ 680.20 Necessity and effect of formal exemptions.

The exemptions described in this subpart are provided for by statute, which requires that they be formally promulgated. This subpart provides the formal promulgation and gives notice to the public. If you are an NSF employee, you need not be concerned with them. Anything you need to know that follows from them is either covered elsewhere in these regulations or will be explained if occasion arises by an ethics counselor.

§ 680.21 Exemptions under 18 U.S.C. 208(b).

(a) The Foundation exempts the interests described in the remainder of this section from the operation of section 208(a) and from case-by-case formal determinations under section 208(b)(1) of Title 18, United States Code.

(b) *Minor interests.* The following financial interests are too inconsequential to affect the integrity of an employee's services to the Government:

(1) Noncorporate bonds;

(2) Shares in a well-diversified money market or mutual fund;

(3) Stocks, bonds, or other securities of a corporation listed on the New York or American Stock Exchange if the aggregate market value of all the securities you hold in that corporation does not exceed $1,000;

(4) Vested pension rights to which no further contributions are being made by your former employer.

(c) *Indirect interests.* An NSF employee may be a stockholder, partner, employee, officer, or director of an institution, such as a mutual fund, that owns a financial interest in a second institution. If the owning institution's financial interest consists of securities or other evidences of debt of the second institution that amount to:

(1) Less than 5 percent of the total portfolio of investments of the owning institution,

(2) Less than 5 percent of the total outstanding amounts of the same classes of securities of the second institution, and

(3) Less than would be needed to obtain effective control of the second institution,

then the interest is too remote and inconsequential to affect the integrity of the employee's services to the Government.

(d) *Policy determinations.* Where a general policy determination of the Government might constitute a "particular matter" under 18 U.S.C.

208(a) and might affect the home institution of an NSF officer or employee, but only in the same manner as all similar institutions, the officer or employee may participate in that determination.

(e) *Support services for National Science Board tasks and responsibilities.* A member of the National Science Board may need professional, clerical, and administrative services to support the member's personal efforts to carry out Board tasks and responsibilities. With the approval of the Director and the Chairman of the National Science Board and in accordance with other laws and regulations, the NSF may contract with the home insitution of the member to provide such services. The institution may receive reimbursement of all allowable costs, but no profit or fee. In such circumstances any financial interests the institution might have are normally too inconsequential to affect the integrity of the services provided by the Board member to the Government.

PART 681—CONFLICTS OR POTENTIAL CONFLICTS IN HANDLING PROPOSALS AND AWARDS

Subpart A—Summary

Sec.

681.10 Summary.

Subpart B—Guidance for Program Officers and Other Decisionmaking Officials

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681.21 When you have a potentially biasing interest, affiliation or relationship.
681.22 "Normally disqualifying"; "automatically disqualifying".
681.23 When a prospective, current, or recent NSF employee has an involvement or interest.
681.24 Directorate conflicts officials.
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Subpart C—Indentifying Prospective, Current, or Recent NSF Employees and Proposals or Awards in Which They Have an Interest

681.30 General.
681.31 "Recent employee" "prospective employee".
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Subpart D—Guidance for Directorate Conflicts Officials

681.40 Summary; responsibilities of conflicts officials.
681.41 Making determinations: Underlying considerations.
681.42 Disclosure, disqualification, and other special handling.
681.43 Potential conflicts when an NSF employee has an involvement or interest.
681.44 Handling prospective-employee determinations.

Authority: E.O. 11222 of May 8, 1965, 3 CFR, 1965 Supplement and Regulations of the Office of Personnel Management, 5 CFR 735.104.

Subpart A—Summary

§ 681.10 Summary.

(a) Two types of problems could affect the judgments of program officers and other NSF officials who handle proposals and other applications:

(1) The official might possess outside interests, affiliations, or relationships that could create bias; or

(2) Another NSF employee could have an involvement or interest in the proposal or application.

Whenever either of these problems arises, the official who would normally handle the proposal or other application is asked to bring the problem to the attention of a "directorate conflicts official". This conflicts official examines the case; decides what disqualifications or special handling arrangements, if any, are called for; and places a memo in the file explaining the circumstances and any arrangements made to deal with them. In some cases disqualifications are routine or automatic.

(b) Peer reviewers can also have interests, affiliations, or relationships that might affect their reviews. Reviewers are asked to reveal any such interests, affiliations, or relationships. Those are then taken into account by NSF officials in making decisions or recommendations based on the reviews.

(c) If you are a program officer or other NSF official who handles proposals and other award-related applications, your responsibilities in these matters are explained in Subpart B (§§ 681.20–681.26).

(d) Each directorate or staff office of the Foundation is responsible for designating "conflicts officials" and for making sure that all staff who handle proposals and other applications know who the conflicts officials are. The conflicts officials need not be in the directorate front office. They could, for example, be division directors.

(e) If you have been designated as a directorate (or staff office) conflicts official, your responsibilities in these matters are explained in Subpart D (§§ 681.40–681.44) of this part, which also provides guidance to help you carry out those responsibilities.

Subpart B—Guidance for Program Officers and Other Decision-making Officials

§ 681.20 Introduction.

(a) If you are a progam officer or other NSF official who would normally handle a proposal or other application, but you possess with respect to it a potentially biasing affiliation, listed in § 681.21, that section explains what you should do.

(b) If you become aware that another NSF employee—including a prospective employee or a recent employee (one who has left the NSF within the past year)—has an involvement or interest in a proposal or other application you are handling, § 681.23 explains what you should do.

(c) You must ask each peer reviewer of any proposal or project you are handling to indicate any possible conflicts of interest the reviewer may have. Section 681.25 suggests how you should do that and explains what you should do when a reviewer does have a possible conflict.

(d) Should an employee of another Government agency have an interest in a proposal or other application submitted by anyone other than that agency, do not talk or correspond with that employee at all without first consulting an ethics counselor. He or she could inadvertently violate a criminal statute.

(e) You "handle" a proposal or other applicaton if you recommend a decision on it, make or approve the decision, or otherwise substantially influence the decision. If you are a grants officer, contracts officer, financial official, or lawyer you are affected if you play a significant role in decisions on award budgets or terms. If in doubt, consult an ethics counselor in the Office of the General Counsel.

(f) This Part covers only conflicts and potential conflicts in handling proposals and other award-related applications. Conflicts or potential conflicts in handling other matters are covered in § 683.20.

§ 681.21 When you have a potentially biasing affiliation or relationship.

(a) If you would normally handle a proposal or other application, but possess with respect to it a potentially biasing affiliation or relationship listed below, you must bring the matter to the attention of a conflicts official in your directorate or staff office. You must do so whether or not the affiliation or relationship is also designated "normally disqualifying" or "automatically disqualifying". (Some affiliations or relationships are neither.)

The conflicts official will determine how the matter should be handled and will tell you what further steps to take.

(b) *Affiliations with an applicant institution.* (1) Current appointment at the institution as professor, adjunct professor, visiting professor, or the like [automatically disqualifying].

(2) Current employment or being under consideration for employment at the institution [automatically disqualifying].

Note.—This may include employment via a consulting or advisory arrangement; check with an ethics counselor.

(3) Any formal or informal reemployment arrangement with the institution [automatically disqualifying].

(4) Current membership on a visiting committee or similar body at the institution [automatically disqualifying, but only for proposals or applications that originate from the department, school, or facility that the visiting committee or similar body advises].

(5) Ownership of the institution's securities or other evidences of debt [automatically disqualifying].

Note.—Minor or indirect holdings may be exempted; see § 680.21 or check with an ethics counselor.

(6) Any office, governing board membership, or *relevant* committee chairmanship in the institution [automatically disqualifying].

Note.—Ordinary membership in a professional society or association is not considered an office.

(7) Current enrollment as a student [normally disqualifying, but only for proposals or applications that originate from the department or school in which one is a student].

(8) Receipt and retention of an honorarium or award from the institution within the last twelve months [automatically disqualifying].

(c) *Relationships with an investigator, project director, or other person who has a personal interest in the proposal or other application.* (1) Known family or marriage relationship [automatically disqualifying if the relationship is with a principal investigator or project director].

(2) Business or professional partnership [automatically disqualifying].

(3) Employment at the same institution within the last 12 months.

(4) Past or present association as thesis advisor or thesis student.

(5) Collaboration on a project or on a book, article, report, or paper within the last 48 months.

(d) *Other affiliations or relationships.* (1) Any affiliation or relationship of your spouse, of your minor child, of a relative living in your immediate household or of anyone who is legally your partner that you are aware of and that would be covered by (b) or (c) of this section, if it were yours [disqualifying just as if the affiliation or relationship were yours, except for receipt by your spouse or relative of an honorarium or award, which is not necessarily disqualifying].

(2) Any other relationship, such as close personal friendship, that you think might tend to affect your judgments or be seen as doing so by a reasonable person familiar with the relationship.

§ 681.22 "Automatically disqualifying"; "normally disqualifying".

(a) *"Automatically disqualifying".* If you have an interest, affiliation, or relationship that § 681.21 designates "automatically disqualifying", you should disqualify yourself from handling the affected proposal or other application. You must not participate in handling it *under any circumstances.* BE CAREFUL: in most cases a violation of this rule would be a Federal crime.

(b) *"Normally disqualifying".* If you have an interest, affiliation, or relationship that § 681.21 designates "normally disqualifying", you should disqualify yourself from handling the affected proposal or other application, *unless specifically directed to do otherwise by the conflicts official.*

§ 681.23 When a prospective, current, or recent NSF employee has an involvement or interest.

(a) If you become aware that a prospective, current, or recent NSF employee has an involvement or interest in any proposal or other application you are handling, you must bring the matter to the attention of a directorate conflicts official. The conflicts official will decide how the matter should be handled and instruct you accordingly. If the file reflects that a conflicts official has already been consulted and has decided how the matter should be handled, you may proceed as the conflicts official has directed unless something of possible significance has changed.

(b) *What constitutes "an involvement or interest".* A prospective, current, or recent NSF employee "has an involvement or interest" in a proposal or other application if the employee is, was, or will be a member of the research group or project staff involved. If the employee was a member of a research group, but has since ceased working on the project and with the group, the employee no longer has an involvement or interest. Unless there has been such a severance, however, appointment of a substitute principal investigator or substitute negotiator would not affect the requirement for consulting a conflicts official.

(c) *Finding out about it.* How do you find out that someone who has an involvement or interest in a proposal or application is a current, prospective, or recent NSF employee? There are four possibilities:

(1) The proposal or application might say so.

(2) The Foundation's principal investigator/project director file that you routinely check when beginning work on a new proposal will usually indicate that a listed investigator is a current, prospective, or recent NSF employee if that is the case. The mechanism by which this is arranged is explained in § 681.33.

(3) You might receive a copy of a memorandum from another NSF official indicating that an investigator on a proposal already pending or an award already active has become a prospective employee. The circumstances under which such a memorandum will be sent to you are also explained in § 681.33.

(4) You might happen to know or learn of the person's NSF employment or prospective employment through your other activities.

(d) *Your responsibility.* No matter how you find out, once you do, it is your responsibility to bring the matter to the attention of a directorate conflicts official—unless, of course that has already been done. If in doubt, consult the conflicts official or an ethics counselor.

§ 681.24 Directorate conflicts officials.

Your directorate or office is responsible for letting you know who your conflicts officials are. If you do not know, check with the office of the assistant director or office head. Subpart D (§§ 681.40–681.44) explains the responsibilities of the conflicts officials and provides guidance for them.

§ 681.25 Possible conflicts of peer reviewers.

(a) You must ask each peer reviewer of any proposal or similar application you are handling to indicate any possible conflicts of interests the reviewer may have.

(b) In the case of mail review, you may do this by including in the letter requesting the review the following language:

If you have any relationships with the institution or the persons submitting this proposal, please consider whether they could be construed as creating a conflict of interests for you. Please describe in your own words any relationship that might be so construed. You may use a separate piece of

paper and attach it to your review. Regardless of any such relationships, we would like to have your review unless you believe you cannot be objective.

(c) In the case of panel review, you should make an oral request of the panel members, essentially as follows:

If when we come to consider any particular proposal, you recognize that you have a relationship with the institution or persons submitting the proposal that could be construed as creating a conflict of interests, please let me know. I'll ask you to describe the relationship in your own words and will determine from your description what to do about the situation. You must not participate in reviewing any application in which you or a member of your immediate family or an organization of which you are or may become a part has a financial interest. Otherwise, we'll often just make a note in the file to consider when making final recommendations.

(d) You may use the list in § 681.21 as a guide in responding to reviewer questions about the relationships that should be considered. Section 684.15 explains when a panel reviewer, like any other "special employee", must be excused from review of an application because of a financial interest. Otherwise, no advance disqualification of reviewers is required. There may be other circumstances, though, in which you and the reviewer will conclude that the review would have to be disregarded and would thus be a waste of the reviewer's time.

(e) You should record in the proposal file all interests, affiliations, and relationships revealed by reviewers or otherwise known to you. You should determine how, if at all, those interests, affiliations, or relationships ought to affect the use of the review in assessing the proposal. You should describe in the file both your determination and the reasoning behind it.

Subpart C—Identifying Prospective, Current, or Recent NSF Employees and Proposals or Awards in Which They Have an Interest

§ 681.30 General.

Sections 681.23 and 681.43 provide for special handling of any proposal or other application in which a prospective, current, or recent NSF employee has an involvement or interest. Section 681.23(c) explains generally how an official who handles a proposal or application might learn that a person who has an involvement or interest is a prospective, current, or recent employee. This Subpart:

(a) Explains more precisely who is a "recent employee", or "prospective employee" (§ 681.31);

(b) Identifies responsibilities of the recruiting directorate or office when a person becomes a "prospective employee" (§ 681.32);

(c) Explains how the recruiting directorate should inform others when it becomes clear that a prospect will become an NSF employee (§ 681.33(a)); and

(d) Requires the Assistant Director for Administration to provide for "flagging" the principal investigator/project director (PI/PD) file to indicate that a person listed there is a prospective, current, or recent NSF employee (§ 681.33(d)).

§ 681.31 "Recent employee"; "prospective employee".

(a) *"Recent employee".* Any former NSF employee who left the NSF within the year before the affected proposal or other application is filed with the NSF should be considered a recent NSF employee.

(b) *"Prospective employee" threshold.* As soon as those recruiting have expressed interest in a particular person in connection with a specific opening and have received some indication of reciprocal interest, that person should be considered a prospective NSF employee—even though no actual offer has been made and even though there is substantial doubt that one would be accepted if it were made. More specifically:

(1) NSF officials who have an opening on the horizon often discuss it with persons outside the NSF. If the discussion is just a general effort to make members of the appropriate community aware of the opening in the hope that applicants will appear, it makes no one a prospective employee. But if the discussion is with a particular individual whose candidacy is sought for a particular position, that individual should be considered a prospective employee if (but only if) the candidate expresses some interest. The expression of interest need not be strong. It could amount to no more than a willingness to "think it over" or come in for a talk. After such an expression of interest NSF officials could be influenced in decisions on proposals or other applications by their hopes of getting the candidate to consider the job or to take it.

(2) When a specific vacancy is imminent, the NSF usually solicits and receives applications. Some applications may come from persons in whom there is little or no interest. Others may come from persons the recruiters have never met. Conflicts are unlikely to arise in such cases unless and until the recruiters become sufficiently interested to initiate some direct contact with the applicant, typically by suggesting an interview. At that point the applicant should be considered a "prospective employee". If no direct contact is ever initiated outside the personnel mechanics, the applicant need not be considered a prospective NSF employee.

§ 681.32 What the recruiting directorate or office should do when a person becomes a "prospective NSF employee".

(a) Special attention and special handling of proposals or other applications in which a prospective NSF employee has an involvement or interest are not required automatically. They are required under § 681.23(a) only if an official handling the proposal or application actually becomes aware that a person involved or interested is a prospective employee. Whether to inform other officials that a person is a prospective employee is within the discretion of a conflicts official of the recruiting directorate or office.

(b) If those who are recruiting determine that a person has become a prospective employee under these guidelines, they are responsible for bringing that fact and subsequent developments to the attention of a directorate or office conflicts official. This should be an official who is not directly involved in the recruitment and does not immediately supervise the position for which the prospective employee is being considered.

(c) The conflicts official is responsible for deciding whether, when, and to what extent proposals or other applications involving the prospect require special attention and special handling. See § 681.44.

§ 681.33 Informing others about incoming employees; "flagging".

(a) *When a "prospective employee" becomes an "incoming employee".* Each directorate is responsible for informing the Division of Information Systems by memo whenever a prospective employee listed in the NSF PI/PD (principal investigator/project director) file seems likely in fact to become an NSF employee. The memo should be sent at least as soon as the incoming employee enters into discussions of grade and salary with personnel officials. It might be sent sooner should the responsible conflicts official of the recruiting directorate or office find that appropriate. The memo should identify all active NSF awards and pending NSF proposals with which the prospective employee has an association. This should be checked with the PI/PD file *and* with the prospective employee.

(b) *Informing other divisions.* The recruiting directorate is also responsible for sending copies of its memo to each NSF division or office that is responsible for such an active award or pending proposal.

(c) *"Signals off".* If the prospect does not become an NSF employee after all, the recruiting directorate is responsible for notifying by memo all those who received its original memo.

(d) *"Flagging".* The Assistant Director for Administration is responsible for "flagging" the PI/PD file to indicate every person listed there who is a current or recent NSF employee or who has been identified in a memo from the recruiting directorate or office as an incoming NSF employee.

Subpart D—Guidance for Directorate Conflicts Officials

§ 681.40 Summary; responsibilities of conflicts officials.

(a) If your directorate or staff office has designated you as a conflicts official, you have three responsibilities under these regulations:

(1) You determine how to handle a proposal or other application when an official who would normally handle it possesses with respect to it an affiliation or relationship listed in § 681.21. The potential conflicts you should be concerned with in such a case are generally apparent from the nature of the affiliation or relationship.

(2) You determine how to handle a proposal or other application when a prospective, current, or recent NSF employee has an involvement or interest in it. Section 681.43 describes the potential conflicts you should be concerned with in such a case.

(3) You determine whether, when, and to what extent proposals or other applications involving a prospective NSF employee require special attention and special handling. Section 681.44 offers guidance for such determinations.

(b) Section 681.41 describes the underlying considerations you are called upon to accommodate and balance in making these determinations. Section 681.42 describes the disclosure that is required in all cases that come to you for determination and the forms of special handling you might require in such cases. It also explains what you should do when a particular relationship is considered "automatically disqualifying" or "normally disqualifying".

§ 681.41 Making determinations: underlying considerations.

When you are called upon to make any of the determinations described in § 681.40, what considerations should influence you in deciding what to do?

(a) The primary purpose of your involvement is to remove or limit the influence of any ties to an applicant institution, investigator, etc. that you think could affect the decisions of an NSF official. Keep in mind that an official may be influenced by such ties without deliberate bias Do not, however, "strain at gnats".

(b) A secondary purpose is to preserve the trust of the scientific community, the Congress, and the general public in the integrity, effectiveness, and even-handedness of the NSF and its award-review processes. This requires you to be concerned with appearances as well as actualities.

(c) An important countervailing consideration is to avoid distorting NSF judgments on proposals and other applications by disqualifying those who are most competent to make the judgments. So far as possible, you should ensure that those who handle a proposal or other application are competent in the scientific or technical fields involved and are capable of judging the standing of a proposal in comparison with other proposals in the same field.

(d) Occasionally, action on a proposal or other application raises significant policy questions. As far as possible, you should avoid preventing an official who is responsible for the policy judgments in question from exercising that responsibility.

(e) Finally, you can and should consider the extra paperwork, effort, and expense to the taxpayer required by any special handling you might require. Except where an interest, affiliation, or relationship is designated "normally disqualifying" or "automatically disqualifying", finding ways to accommodate and balance these competing considerations is left to your ingenuity and judgment.

§ 681.42 Disclosure, disqualification, and other special handling.

(a) *Disclosure.* In every case brought to you as a conflicts official, you should prepare a simple memo for the file. The memo need not be in any particular format and may be handwritten. It should identify the potential conflicts problem involved and should explain what special handling, if any, you have required. Even if you require no additional special handling, the memo will ensure that the Foundation is open about the potential conflict and attentive to it. It will allow those reviewing the recommended action at higher levels to consider any effect the potential conflict might have had and alert them to scrutinize the action more closely. It will allow meaningful audit and oversight and so protect those involved, including you. And it will help preserve public trust in the NSF and in NSF decisions.

(b) *Disqualification.* In some cases disclosure alone will be insufficient to protect against distortion of NSF decisions or undermining of public trust in the NSF and NSF decisions. On conflicts considerations alone, disqualification of the official who possesses the potential conflict is the best solution. But if the official has unique scientific or technical competence, is uniquely qualified to judge the competitive standing of a proposal, or has responsibility for policy judgments raised in the decision—disqualification of that official would have serious disadvantages. Although decisions on the kind and degree of special handling that should be required are often left to your discretion, more inflexible disqualification rules do apply in the case of certain interests and affiliations.

(1) If an interest or affiliation is labelled "automatically disqualifying" in § 681.22, you *must* disqualify any official who possesses such an interest or affiliation with respect to the proposal or application concerned. In most cases, the disqualification is required by criminal law. If you were to allow the official to take any part in the handling of the proposal or application, you would place him or her (and conceivably even yourself) in jeopardy of fine or imprisonment.

(2) If an interest or affiliation is labelled "normally disqualifying" in these regulations, you should normally disqualify any official who possesses such an interest or affiliation with respect to the proposal or application concerned. If unusual circumstances require that such an official be allowed to act on the proposal or application, your memo to the file should carefully explain those circumstances and what other precautions you have taken to minimize the potential for bias. Even then, you should not proceed until you have consulted an ethics counselor and the ethics counselor concurs.

(3) Even if an interest or affiliation is *not* labled "automatically" or "normally" disqualifying, disqualification may be called for. Your judgment should depend heavily on the extent to which someone else who will be able to substitute effectively for the official might be disqualified.

(c) *Other special handling.* You are not confined to relying either on

disclosure only or on complete disqualification. Other, intermediate solutions can also go a long way toward removing or minimizing any potential for bias. For example:

(1) Sometimes you might allow a case to be handled normally, but provide for extra peer reviews or extra review within the NSF.

(2) Sometimes you might have an official perform some functions but not others. The official might be able to supply a list of potential reviewers, for example, without running into serious conflicts. Or the official might be consulted by a substitute official on the competitive range in the program where the substitute is competent enough to read reviews and judge the merit of a proposal, but ill-prepared to determine where that places the proposal among those competing for funds within the same program.

(3) In some cases scientists from outside the NSF could be relied on to a greater extent than usual. For example, suppose a substitute NSF official has less than optimal technical competence or less than optimal sense of the competitive range in the affected program. Such a substitute might nonetheless be able to stand in if aided by an outsider who is more familiar with the scientific subfield or the affected program or both. The outsider might be a former NSF official, a panel member, a scientist from a sister agency, or in an unusual case, a special consultant.

(d) *Consolidated handling of related cases.* If you anticipate a number of cases that will involve the same person and the same general circumstances, you may make a single determination and issue a single memo covering all of the cases. For example, you might issue a memo indicating that a rotator will be disqualified from handling any proposal or application from his or her home institution, and saying who will handle any such proposal or application instead. A copy of this memo should be placed in the file for each affected proposal or award.

§ 681.43 Potential conflicts when an NSF employee has an involvement or interest.

(a) When a prospective, current, or recent NSF employee has an involvement or interest in a pending proposal or other application, you should look for and deal appropriately with the five types of potential conflicts described in the rest of this section.

(b) *Recruiter's conflicts.* These are potential conflicts that could arise if an NSF official who is recruiting a prospective employee were simultaneously to handle a proposal or other application in which the prospective employee has an interest. You should identify those actively interested in recruiting the prospective employee and look for ways to limit their involvement in the handling of the proposal or other application. In particular:

(1) The person who would be the immediate supervisor of the prospective employee usually will have an especially active interest in successful recruiting. You should treat that interest as "normally disqualifying".

(2) Those directly involved in discussions with the prospective employee will also have an interest in successful recruiting. You should consider their possible conflicts.

(3) Officials at higher echelons who are not directly involved in the particular recruitment may still have an interest in successful recruiting within their organizations. You should consider their possible conflicts.

(c) *Superior's conflicts.* These are potential conflicts that could arise if an NSF official were to handle a proposal or other application in which one of the official's subordinates has an interest. In particular:

(1) The immediate supervisor of an employee usually will have an especially active interest in having the employee happy and in maintaining good relations with the employee. You should treat the immediate supervisor's interest as "normally disqualifying" if the interested employee is a prospective or current employee. You need not do so, however, in the case of a recent employee, for the supervisor's interest diminishes when the employment relationship ends.

(2) Persons at higher echelons might also be influenced by an interest in having the employee happy. You should consider whether their involvement in handling the proposal or application can or should be limited.

(d) *Subordinate's conflicts.* These are potential conflicts that could arise if an NSF official were to handle a proposal or other application in which the official's immediate superior or someone at a higher echelon in the official's "chain of command" has an interest. In particular:

(1) An NSF official would be placed in a particularly difficult position if asked to act on a proposal or other application in which the official's boss has an interest. Thus you should treat the immediate subordinate of a prospective or current employee as having a "normally disqualifying" relationship and only under the most special circumstances allow him or her to have any part in handling the proposal or application. You need not necessarily disqualify one who was the immediate subordinate of a recent employee, however, since the potential conflict would be substantially diminished once the supervisor-subordinate relationship ends.

(2) You may sometimes have to allow less immediate subordinates at lower echelons to play a role if there is not to be serious loss of technical competence and awareness of competitive range in the program affected. But you should take particular care in involving such lower-echelon subordinates. Disqualification would be preferable if it is workable. One possibility if disqualification is not workable may be to allow the official handling the proposal to stay anonymous, dealing with investigators and the grantee institution through another NSF official—perhaps a senior official or a grants officer. Other types of special handling that might be useful in such a case are described in § 681.42(c).

(e) *Professional associate's conflicts.* These are potential conflicts that could arise if an NSF official were to handle a proposal or other application in which a close professional associate at the NSF has an interest. In particular:

(1) You may have to consider disqualification of a very close associate of the interested employee, particularly where professional association may have led to personal friendship.

(2) When the degree of professional association and personal acquaintance involved is only what normally arises from service within the same organizational unit, little more than disclosure should normally be required.

(f) *Reviewer's conflicts.* These are potential conflicts that could arise when reviewers are asked to pass upon a proposal involving the interests of a scientist who will later be passing upon their proposals as an NSF program official. To avoid them:

(1) All files, active and inactive, that involve research or a research group with which the employee was or is associated should be sequestered to protect the anonymity of reviewers.

(2) To the extent possible you may want to provide more protection by selecting as peer reviewers persons who are not supported by any program for which the interested official is responsible.

§ 681.44 Handling prospective-employee determinations.

(a) You may be called upon to determine whether, when, and to what extent proposals or other applications that involve a prospective employee require special attention and special

handling. You should be consulted as soon as a person becomes a prospective employee. The procedure for this is described in § 681.32.

(b) *Nature of possible conflicts.* Actual or potential conflicts of interests can arise in such a situation if any of those who would handle a proposal or other application either is trying to recruit the prospective employee or would be a subordinate, supervisor, or close colleague of the potential employee.

(c) *When you should take action.* If there is a significant possibility that such actual or potential conflicts could improperly influence decisions on proposals or other applications or awards, you must institute special handling as described in §§ 681.42 and 681.43. In the case of proposals and awards outside your own directorate or office, you should do that by notifying officials of the other directorate. A conflicts official of that directorate or office will determine what special handling may be necessary there.

(d) *Avoid premature action.* However, you should avoid unnecessarily early disclosure that a person is under consideration for an NSF position, for two reasons:

(1) That a person is considering a change of jobs is often confidential, particularly in earlier stages; and

(2) That an interested person is a prospective NSF employee cannot affect an official's judgment on a proposal or other application if the official has no knowledge of the prospective employment.

Since an official who works in one NSF organizational unit is less likely to know that a person is under consideration for employment in a different unit, and is also less likely to be influenced by any such knowledge, it normally makes sense to delay notifying officials outside the recruiting unit until it seems quite likely that the prospect will indeed become an NSF employee.

PART 682—REPRESENTATIONAL RESTRICTIONS AND INVOLVEMENT WITH PROPOSALS AND PROJECTS DURING AND AFTER NSF SERVICE

Subpart A—The Representational Restrictions Generally

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682.11 "Official responsibility"; "personally involved".
682.12 Representation covered.
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Subpart B—Involvement With Proposals and Projects During and After NSF Service

682.20 General; restricted representational activities vs. permitted research or educational activities.
682.21 Proposals and projects over which you had official responsibility or with which you were personally involved.
682.22 When you are or would be principal investigator.
682.23 Compensation or reimbursement of expenses from awards.

Authority: E.O. 11222 of May 8, 1965, 3 CFR, 1965 Supplement and Regulations of the Office of Personnel Management, 5 CFR 735.104.

Subpart A—The Representational Restrictions Generally

§ 682.10 Summary; the four basic representational restrictions.

(a) NSF employees are subject to four basic restrictions on representing private parties (not the Government) in dealings with other Federal officials. The first of these applies while you are working for the Government. The other three apply for varying periods afterward; they are thus known collectively as the post-employment restrictions.

(1) *Current-employee restriction.* During your Federal employment you must not represent private parties in dealings with any federal official on any proposal, project, or other matter.

(2) *One-year NSF restriction.* For one year after you leave NSF employment you must not represent private parties in dealings with any NSF official on any proposal, project, or other matter.

(3) *"Official responsibility" two-year restriction.* For two years after you leave NSF employment you must not represent private parties in dealings with any Federal official on any proposal, project, or other matter involving specific parties if the same matter was active under your official responsibility during your last year at the NSF.

(4) *"Personal involvement" permanent restriction.* You must never represent private parties in dealings with any Federal official on any proposal, project, or other matter involving specific parties if you were personally involved with the same matter as an NSF employee.

All four restrictions have to do with representing private parties in dealings with NSF officials or other Federal officials. Here are the distinguishing features:

Current employee restriction.	During Federal employment	Any Federal official	Any matter.
One-year NSF restriction	For one year after NSF employment.	Any NSF official	Any matter.
"Official responsibility" two-year restriction.	For two years after NSF employment.	Any Federal official	Any matter involving specific parties that was under your official responsibility.
"Personal involvement" permanent restriction.	Forever	Any Federal official	Any matter involving specific parties in which you were personally involved.

(b) *Examples.* The following examples illustrate the application of these rules.

Example 1: You have been on the Physics faculty at the University of Wyoming and have been principal investigator on grants from the NSF and from the Department of Defense. You come to the NSF for a two-year stint as a section head. While you are away a colleague acts as principal investigator on both your grants. During your stint at the NSF the Department of Defense grant is about to expire. The substitute principal investigator files a new proposal with DOD. She asks you to call the DOD program officer, with whom you have great credibility from past dealings, to vouch for her excellence and to urge that he continue to fund the Wyoming work. The current-employee restriction prohibits you from doing so.

Example 2: Same underlying facts as Example 1. After your stint at the NSF you return to Wyoming and want again to become principal investigator on the NSF-supported work. You may do so, but the one-year NSF restriction prohibits you from calling, writing, or visiting NSF officials to represent yourself or your institution on the award.

Example 3: Same facts as Examples 1 and 2. A few months after your return it comes time to file a new proposal for another NSF award so that you can continue the line of investigation you have been pursuing with the NSF support. You may prepare a proposal for your institution and may be listed as principal investigator, but the one-year NSF restriction prohibits you from calling, writing, or visiting NSF officials to represent yourself or your institution on the proposal.

Example 4: Same underlying facts as Example 1. During the last year of your tenure as section head another physics proposal came in from the University of Wyoming. Though the program officer who handled the peer review and submitted a recommendation was in your section, you disqualified yourself from any participation in handling the proposal. A three year continuing grant was awarded. *Within two years* after you return to Wyoming a problem comes up with the last increment of the continuing grant. You have meanwhile become department chairman. As department

chairman you would normally confer with NSF officials about the problem and try to resolve it. The "official responsibility" two-year restriction prohibits you from doing so. If the problem came up more than two years after you left the NSF, however, you would be free to confer with NSF officials. The "official responsibility" two-year restriction would no longer apply, and the "personal involvement" permanent restriction would not apply because you had no personal involvement in handling the proposal while at the NSF.

Example 5: While you were Director of the Division of Grants and Contracts at the NSF you personally approved the terms of a contract to the Solar Equipment Company for development of solar heating equipment. Subsequently, responsibility for this contract was transferred to the Department of Energy. After you retire from your NSF position, you accept a position with the Solar Equipment Company. A problem comes up under the same contract, and you would normally be responsible for resolving it in discussions with DOE officials. The "personal involvement" permanent restriction prohibits you from doing so. That you would be dealing with DOE officials, not NSF officials, makes no difference: the restriction applies to dealings with any Federal official.

(c) *Proposals and projects.* Subpart B (§§ 682.20–682.23) is devoted entirely to the application of the representational restrictions in relation to proposals and projects. In relation to proposals and projects you may rely entirely on Subpart B.

(d) *Other matters.* For most current and former NSF employees the representational restrictions will rarely apply except in relation to proposals and projects. You are nonetheless responsible for making yourself familiar with the restrictions and abiding by them in relation to all covered matters.

(e) *Terms and effect.* The wording of the restrictions as presented in this section and § 682.20 has been simplified substantially from the wording of the underlying statutes, so that they will be easier to understand. In the process, they have also been deliberately overstated, with exceptions and "escape hatches" left out, so that your initial reaction will be to interpret them conservatively. The next three sections fill in critical concepts: what it means to have "official responsibility" or to be "personally involved" (§ 682.11); what is and is not representation subject to the restrictions (§ 682.12); and which are the matters on which representation is restricted (§ 682.13). In the process they explain the exceptions and refinements left out in this section.

(f) *Partners.* During your Federal service only, there is a further restriction that applies to any partner of a business or professional partnership to which you belong. If you belong to any such partnership, see § 682.14.

(g) *Source statutes and penalties for violation.* For the most part these restrictions derive from Federal criminal statutes and apply to officials of all Federal agencies. In one respect the NSF rules are stricter. At other agencies the one-year agency restriction applies only to former high-ranking officials; the one-year NSF restriction applies to all former NSF employees. Violation of the statutory provisions can lead to criminal prosecution (the penalties are a fine of up to $10,000 or imprisonment for up to two years of both) or to civil debarment from dealings with the NSF (for up to five years). A violation of the NSF's current-employee restriction can lead to disciplinary personnel action against an employee.

(h) *Consultation.* If in doubt about any of the rules in this part, consult an ethics counselor in the Office of the General Counsel. You are welcome to consult an ethics counselor for this purpose even after you leave the NSF.

§ 682.11 "Official responsibility"; "personally involved".

(a) The "official responsibility" two-year restriction applies only if you had official responsibility for the matter in question during your last year at the NSF. The "personal involvement" permanent restriction applies only if you were personally involved with the matter in question while at the NSF. This section elaborates the concepts of "official responsibility" and "personal involvement".

(b) *"Official responsibility".* You had "official responsibility" for a matter if you had direct authority to approve, disapprove, or otherwise direct Government actions regarding that matter, and it was actually pending during your tenure. It does not matter whether your authority was intermediate or final, whether it was exercisable alone or with others, or whether it was exercisable personally or through subordinates. Specifically:

(1) The scope of your "official responsibility" is ordinarily determined by the responsibilities of position you filled or the organization you headed.

(2) Any matter under consideration in the NSF is under the "official responsibility" of the Director and of each intermediate supervisor who has responsibility for any employee who actually participates in the matter within the scope of his or her duties.

Example: A proposal under consideration within a particular program is under the "official jurisdiction" of the program officer who actually handles it, of the program director for the program, of the responsible section head, of the responsible division director, of the responsible assistant director, and of the Director of the NSF. Whether it is under the "official responsibility" of any of their deputies depends on the responsibilities assigned to the deputies by their position descriptions, by any formal delegations to them, or by an other legally effective means.

(c) *"Personal involvement".* "Personally involved" is short for the following statutory language:

> "Participated personally and substantially as an officer or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise".

In other words:

(1) You may have "participated" and so have been "personally involved" even though you actually made none of the important decisions. You "participated" if you made recommendations, rendered advice, conducted an investigation, or otherwise contributed. Moreover, "approval" is specifically covered. Giving a required approval, however perfunctorily, is covered if the action could not have been taken over your objection.

(2) On the other hand, there is a distinction between personal involvement and official responsibility. If you could have intervened in the matter because of your position, but in fact did not, you were not "personally involved".

(3) You must have participated "personally". You participated personally if you gave directions or instructions about the matter to a subordinate who participated directly. If a subordinate participated without any direction or instruction from you about that particular matter, and you did not otherwise participate, you did not participate personally.

(4) You must have participated "substantially". That requires more than knowledge of what was going on, perfunctory involvement, or involvement on an administrative or peripheral issue. Your participation was "substantial" if it was significant to the outcome or would have seemed so to a reasonable outside observer, considering not only the effort you devoted to the matter but the influence of your effort on the outcome. A single act of a critical step, such as an approval, may be substantial. A series of time-consuming peripheral involvements, such as review solely for compliance with administrative or budgetary controls, may be insubstantial.

§ 682.12 Representation covered.

(a) *Representational dealings.* All four of the basic representational restrictions are restrictions on representing private parties in dealing with NSF officials or

other Federal officials. The dealings covered are encompassing. They include any formal appearance before an official; any meeting with an official; and any letter, phone call, or other communication with an official.

(b) *Intent to influence and potential controversy required.* Contacts as a representative without intent to influence the officials contracted are not prohibited. Nor are contacts as a representative in connection with a routine request not involving a potential controversy. For example, you may ask a question about the status of a particular matter, as long as there is no implicit attempt to influence the outcome. You may request publicly available documents. You may communicate with an official to impart purely factual information as long as the communication has no connection with an adversary proceeding.

Example: While an NSF employee you helped write the current contract for the Kitt Peak National Observatory, with which you are now a staff scientist. You are asked to make a scientific presentation to NSF officials at the annual review of the Kitt Peak program. You may do so. You may not, however, participate in or support any appeal for more funds for Kitt Peak during the review. Indeed, it would be better for you to not be present at all when funding and other contractual subjects are discussed. If you were not a staff scientist at Kitt Peak, but only a user, that would not change things for this purpose.

(c) *Assisting without appearing or communicating with officials.* You are not prohibited from helping those who are representing a private party with Federal officials, as long as you do not yourself make an appearance or otherwise communicate with the officials. You may advise officials or representatives of the party, may make suggestions about whom they should contact and what they should say, and may even draft documents and letters, as long as you do not personally sign or transmit them. CAUTION: What is permitted under Federal law may be prohibited by rules of professional ethics, particularly if you are a lawyer.

(d) *Assisting by personal presence at an appearance or meeting.* A former high-ranking employee (SES, GS–17, or above) who had official responsibility for a matter or was personally involved while a Federal employee may violate the criminal statutes by being present to assist others at a meeting with Federal officials or an appearance before them, even though the former employee never speaks with the Federal officials. The NSF goes further and asks that (whether high-ranking or not) if you would be barred from directly representing anyone in connection with any matter, you refrain from being personally present while others are meeting with NSF officials. In rare cases where there are special circumstances the General Counsel or the Director may waive this restriction to the extent consistent with the Government-wide law and regulations.

(e) *Dealings with officials of the legislative branch not covered.* Where the basic representational restrictions refer to dealings with "Federal officials", that covers officials of a Federal Executive-branch or administrative agency and officials of Federal courts or administrative tribunals. It does not, however, encompass Members of Congress, their staffs, or other officials of the legislative branch.

(f) *Representing the United States.* During your Government service, you may naturally represent your office, the NSF, or the Government (or anyone else, for that matter) with other Federal officials if the representation is part of your official duties. After your Government service, moreover, you may represent an office or agency of the Government in dealings with officials of another office or agency any time you are asked to do so.

(g) *Representing yourself.* The "official responsibility" two-year restriction and the "personal involvement" permanent restriction do not apply if you represent only yourself. They would apply, however, if you were to represent yourself *and* another person, such as an institution or organization with which you are employed or affiliated. The current-employee representational restriction and the one-year NSF restriction *would* apply even if you were to represent only yourself. Even they, however, would not apply to:

(1) Any expression of your views on policy issues, where the circumstances make obvious that you are only speaking as an informed and interested citizen, not representing any financial or other interests of your own or of any other person or institution with whom you are associated;

(2) Any appearance or communication concerning matters of a personal and individual nature, such as your income taxes; your salary, benefits, or rights as a Federal employee; or the application of conflict-of-interests rules to something you propose to do; or

(3) Any appearance on your own behalf in any litigation or administrative proceeding.

They do apply, though, to contacts seeking grants or business, except for discussions about employment with an agency as a consultant or otherwise and to scientific or technical proposals, presentations, or communications. See § 682.20.

§ 682.13 "Matters" covered.

(a) *Matters involving specific parties.* The "official responsibility" two-year restriction an the "personal involvement" permanent restriction both cover only a "matter involving specific parties". Generally, such a matter is a specific proceeding affecting the legal rights of the parties to the proceeding or an isolatable transaction or related set of transactions between identifiable parties. A "party" may be either a person or an institution, and one such party other than the Government is enough.

(1) In the context of the NSF a "matter involving specific parties" will usually consist of a proposal or bid, the award-or-declination decision process with respect to it, any award that results, and any subsequent administrative action related to the project. Such "matters" are covered in Subpart B of this part.

(2) Otherwise, typical "matters involving specific parties" include other kinds of contracts or agreements; applications for permits, licenses, or the like; requests for rulings or similar official determinations; claims; investigations or audits; charges or accusations against individuals or firms; adjudicatory hearings; and court cases. These are relatively uncommon at the NSF, but when current or former NSF employees have been officially responsible for such matters or personally involved in them, the representational restrictions may apply. If in doubt consult an ethics counselor in the Office of the General Counsel.

(b) *Same or different matter.* The "official responsibility" two-year restriction and the "personal involvement" permanent restriction cover such a matter only if during your NSF service the *same* matter was under your official responsibility or you were personally involved in it. Except where guidance is provided in Subpart B of this part, you should not decide for yourself whether a "matter involving specific parties" is the same as one for which you had "official responsibility" or with which you were "personally involved" while at the NSF. Consult an ethics counselor in the Office of the General Counsel.

(c) *Other "matters".* The current-employee restriction and the one-year NSF restriction both cover matters that do *not* "involve specific parties" as well

as those that do. Such broader "matters" include:

(1) Determinations to establish or disestablish a particular program or set its budget level for a particular fiscal year;

(2) Decisions to undertake or terminate a particular project;

(3) Decisions to open or not open a contract to competitive bidding;

(4) Decisions on particular NSF rules or formal policy, such as adoption or amendment of a resolution by the National Science Board, promulgation or amendment of an NSF regulation or circular, amendment of standard grant or contract terms, or changes to such NSF policy documents as *Grants for Scientific Research* and the *Grants Policy Manual;* and

(5) Agency positions on particular legislative or regulatory proposals.

On the other hand, the statutory term is really not just "matter", but "particular matter". The word "particular" is intended to exclude broad technical areas, policy issues, and conceptual work done before a program has become particularized into one or more specific projects. You should not, however, rely on this hazy distinction alone to take you out from under either of the representational restrictions that cover matters not involving specific parties without checking with an ethics counselor in the Office of the General Counsel.

(d) *Boundaries of matters not involving specific parties.* In connection with the current-employee restriction and the one-year NSF restriction, you need not consider whether a "matter" is the same as or separate from any other matter. Those two restrictions cover any "matter", whether or not you have previously had any responsibility for or involvement with it.

§ 682.14 Restriction on your partners.

While you are a Federal official no person who is legally your partner in a business or professional partnership may act as agent or attorney for anyone in dealings with any other Federal official on any matter under your official responsibility or with which you are or have been personally involved as a Federal official. A partner who violates this rule commits a Federal crime punishable by a fine of up to $5000 or imprisonment for up to one year or both. In general, your partners may safely steer clear of this restriction by using the definitions and guidance in the earlier sections of this Subpart A, treating "act as agent or attorney" as equivalent to "represent" (it may actually be slightly less encompassing). They may consult on this restriction with attorneys in the Office of the NSF General Counsel. If they prefer to consult other counsel, the counsel should be directed to 18 U.S.C. 207(g).

Subpart B—Involvement With Proposals and NSF-Supported Projects During and After NSF Service

§ 682.20 General; restricted representational activities vs. permitted research or educational activities.

(a) *Basic representational restrictions.* The same four representational restrictions described in Subpart A of this part apply to representational activities involving proposals or projects.

(1) *Current-employee restriction.* During your Federal employment you must not represent anyone (including yourself) in dealings with any Federal official on any proposal or project.

(2) *One-year NSF restriction.* For one year after you leave NSF employment you must not represent anyone (including yourself) in dealing with any NSF official on any proposal or project.

(3) *"Official responsibility" two-year restriction.* For two years after you leave NSF employment you must not represent anyone else in dealing with any Federal official on any proposal or project if the same proposal or project was active under your official responsibility during your last year at the NSF.

(4) *"Personal involvement" permanent restriction.* You must never represent anyone else in dealings with any Federal official on any proposal or project if you were personally involved with the same proposal or project as an NSF employee.

(b) *Examples.* Examples 1 through 4 in § 682.10(b) illustrate the application of these restrictions.

(c) *General effect.* These representational restrictions do not preclude you from being involved as a researcher or educator with proposals submitted to the Government or projects supported by the Government. They do preclude you from negotiating with NSF officials or other Federal officials and from engaging in other representational activities intended to influence their decisions on certain proposals and projects.

(d) *Restricted representational dealings.* If you write, call, visit, or otherwise communicate with an official you have "dealt" with the official. Those dealings are representational if you try to influence the official to suggest, recommend, or approve:

(1) An award;

(2) An award amount, a budget, or particular budget items;

(3) Particular award terms or conditions;

(4) An award amendment, increase, or extension;

(5) An administrative approval; or

(6) Any other action affecting a proposal or project.

(e) *Permitted research and educational activities.* You do not engage in representational dealings, and so you violate none of the representational restrictions, by:

(1) Participating in research or other work supported under an award from the NSF or another Federal agency;

(2) Being listed as an investigator in a proposal or award;

(3) Preparing a proposal that will be submitted to the NSF or another Federal agency (but if you prepare it during your NSF tenure, you must do so entirely on your own time);

(4) Making a scientific or technical presentation to officials of the NSF or another Federal agency (at a site visit, for example) or otherwise communicating scientific or technical information to them on the work being proposed or conducted; or

(5) Communicating with officials of the NSF or another Federal agency, with no intent to influence them, to request routinely available and noncontroversial information, such as the status of the decision process on a proposal.

Be very careful with these last two activities particularly; it would be easy to fall into trying to influence actions of the officials involved. If you can, let someone else make the presentation or request. If in any doubt, consult an ethics counselor in the Office of the General Counsel.

(f) *Specifics on proposals.* You may prepare a proposal for submission to the NSF or another Federal agency even though you would be precluded by one of the three post-employment restrictions from any representational dealings with agency officials about it. You may sign the cover sheet to signify your agreement to assume responsibility for the scientific and technical direction of the project and for the preparation of required technical reports. You may not, however, sign the cover sheet as "authorized official" or sign any cover letter submitting the proposal for the institution. Nor may you call, write, or visit the agency program officer who is handling the proposal to urge an award, haggle over budgets, or the like. You may respond to requests from the program officer or another NSF official for scientific and technical information relating to the proposal, such as might

be needed to respond to reviewer comments. You must not, however, couple the information you supply with any attempt to influence the decision on the proposal other than what inheres in the provision of the information itself. (If possible, have someone else respond.) At the NSF the proposal will receive special scrutiny and may require special handling to avoid conflict of interests, but you have no special responsibility in that connection.

(g) *Other issues related to representation.* Section 682.12 covers a number of other issues related to representation. Among these are assisting in representation without appearing or communicating with official (generally permitted); assisting by personal presence at an appearance or meeting (generally prohibited); representating the Government (generally permitted); and representing yourself along (depends). The rules and explanations given there apply to proposals or projects just as to other matters. If any confusion persists after you read them, consult an ethics counselor in the Office of the General Counsel.

§ 682.21 Proposals and projects over which you had official responsibility or with which you were personally involved.

(a) The "official responsibility" two-year restriction applies only if you had official responsibility for the proposal or project in question during your last year at the NSF. The "personal involvement" permanent restriction applies only if you were personally involved with the proposal or project while at the NSF. You will therefore need to know: (1) When a project is the same as one proposed or active while you were at the NSF, and (2) whether you had official responsibility for the project or were personally involved with it.

(b) *When is a project the same project?* All usual aspects of handling a particular proposal and any award based on it relate to the same "project". These include:

(1) The initial peer review and award-or-declination decision process;

(2) Review and approvals of an award recommendation;

(3) Negotiation of budget and award terms;

(4) Negotiation of award amendments;

(5) Consideration of continuing-grant increments; and

(6) Consideration of any extensions or administrative approvals.

(c) *Exceptions.* (1) A negotiation or determination on disposition of rights in any invention or publication that arises out of an award normally is a separate matter from the processing and monitoring of the award, but not from discussions or negotiations about disposition of rights that took place before the invention was made or the publication written.

(2) Separate task orders under a continuing order agreement or the like constitute separate "matters" if the tasks and the negotiations are actually separate.

(3) An ethics counselor may determine that other matters arising from a particular proposal or award constitute separate "matters" if the circumstances warrant.

(d) *Renewals.* An application that involves a continuation or outgrowth of work that the investigators have been doing under a previous NSF and award is part of the same "project" as the original proposal and project unless:

(1) A complete new proposal and a new budget are submitted;

(2) They are subjected to a complete new competitive peer review or evaluation; and

(3) The review or evaluation involves a new group of reviewers, a substantial fraction of whom did not review the earlier proposal.

(e) *"Official responsibility".* You had "official responsibility" for a proposal or project if you were personally responsible for handling it or if you headed a directorate, division, section, or program that was responsible for handling it. (The Director has "official responsibility" for every proposal or project active at the NSF during his or her tenure.) You will find further elaboration of "official responsibility" in § 682.12(b).

(f) *"Personal involvement".* You were "personally involved" with a proposal or project if you handled the peer review of the proposal; if you made any formal recommendation or decision on it, including any approval of an award recommendation or other action; if you reviewed the proposal or made a site visit; or if you otherwise made a substantial contribution to the handling of the proposal or project. You will find further elaboration of "personally involved" in § 682.12(c).

§ 682.22 When you are or would be principal investigator.

(a) *Retention of ties to research, etc. permitted.* Many scientists and educators interrupt active research and teaching careers to spend a year or two at the NSF as "rotators" and then return to research and teaching, usually at the same institution from which they came. Many such rotators (and a few permanent employees) who have been principal investigators under NSF awards before coming to the NSF, retain some interest or association with the work. If you have been the principal investigator under an NSF award, you are not precluded from retaining ties to the work under the award after you become an NSF employee. Subject to the restrictions on outside employment explained in Part 683 of the NSF conflict-of-interests regulations, you may stay in contact with those who are continuing the work in your laboratory or on your project. You may continue to supervise graduate students. And you may visit and work in the laboratory on your own time for these purposes.

(b) *Substitute principal investigator.* Before you come to the NSF, however, the NSF requires that you and your institution designate, subject to NSF approval, a substitute principal investigator—*i.e.*, another scientist who will be responsible for the work and equipment and will represent the project and the institution in any dealings with NSF officials while you are at the NSF.

(c) *Suspension of work on an NSF award.* Appointment of a substitute principal investigator is unnecessary if all work under an award is to be completely suspended while you are at the NSF. If the work is to be suspended, you and your institution should so inform the NSF by letter before your NSF employment begins. Work under the award may be resumed when you complete your NSF employment, and its term may be extended to account for the time lost during your NSF employment.

(d) *Substitute negotiator.* As soon as you leave the NSF, you may again be principal investigator on an NSF project, may be listed as principal investigator in any proposal or award, and may sign a proposal as principal investigator. However, the NSF asks that you and your institution formally designate (subject to NSF approval) a "substitute negotiator" who, though not principally responsible for the work, will represent the project and the institution in dealings with NSF officials from which you would be restricted. In the typical case, the one-year NSF restriction will require that a substitute negotiator continue to serve that function for one year after you leave the NSF. In the rarer case of a proposal or project for which you had official responsibility or with which you were personally involved, there should be a substitute negotiator for as long as the "official responsibility" two-year restriction or the "personal involvement" permanent restriction bar you from such representational dealings.

(e) *Renewal proposals submitted during your NSF service.* During your NSF service a proposal may be

submitted for continuation or extension of work on which you were principal investigator before coming to the NSF and to which you intend to return. The role you will play in the work proposed should be clearly spelled out in the proposal, and the proposal should prominently indicate that you are currently an NSF employee. If work under a resulting award would begin before you leave the NSF, a substitute principal investigator must be named. If the work would not begin until after you leave the NSF, you may be named as principal investigator, but a substitute negotiator must be named.

(f) *Your involvement or interest in project to be open.* The appointment of a substitute principal investigator or a substitute negotiator is not intended to conceal or obscure your continued involvement or interest in the project. Just the opposite: your involvement or interest should be made unmistakably plain. This will ensure that any proposal or other award-related application will be given the special attention and special handling called for under Part 681.

(g) *Purposes of "substitute" requirements.* The appointment of a "substitute principal investigator" or "substitute negotiator" ensures against unthinking violation of the restrictions on dealings with NSF officials. It serves this purpose by flagging proposals or awards affected by the restrictions and by identifying someone else with whom NSF officials can properly discuss them or negotiate over them. Designation of a substitute principal investigator while you are at the NSF has two additional functions: it identifies another person to be responsible for the work and equipment, and it reminds all concerned that during your NSF service your primary attentions must be on your NSF duties.

(h) *Proposals and awards of other agencies.* The "substitute principal investigator" and "substitute negotiator" requirements described in this section are specific to the NSF. If you are or would be a principal investigator under a project proposed to or supported by another Federal agency, however, you should carefully observe the representational restrictions as they apply to dealings with officials of other Federal agencies. The current-employee restriction is particularly likely to apply.

§ 682.23 Compensation or reimbursement of expenses from Federal awards.

(a) *Compensation from NSF awards.* While you are an NSF employee, you may not receive any salary, consulting fee, honorarium, or other form of compensation for your services from an NSF award or any other Federal award either directly or indirectly. In other words, you may not receive money for your services in connection with a project, a conference, or other work that was supported in whole or in part by funds provided from an NSF award. After you cease to be an NSF employee, you may again receive compensation from an NSF award.

(b) *Expenses from an NSF award.* While an NSF employee you may not receive any reimbursement of expenses from an NSF award except as provided for in § 682.23(c). You may receive reimbursement of expenses from other Federal awards to the extent consistent with § 683.33.

(c) *Rotators home visits.* Authorized travel and related expenses may be charged to your NSF award.

PART 683—OTHER CONFLICTS RULES

Subpart A—Financial Disclosure

Sec.

683.10 Who must make general financial disclosure.
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Subpart B—Acts Affecting Financial Interests

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683.30 Outside employment ("moonlighting") and income.
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Subpart D—Political Activity (Hatch Act)

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Authority: E.O. 11222 of May 8, 1965, 3 CFR, 1965 Supplement and Regulations of the Office of Personnel Management, 5 CFR 735.104.

Subpart A—Financial Disclosure

§ 683.10 Who must make general financial disclosure

(a) If you are an executive level, SES, or supergrade employee, you are a "senior employee" and must file public Financial Disclosure Reports. See § 683.11.

(b) If you are not a "senior employee", but serve as either a program officer, a directorate administrative official, a grants and contracts officer, an auditor, or a lawyer, you must file confidential Statements of Employment and Financial Interests. See § 683.12.

(c) If you are in neither of these categories, no general financial disclosure is required of you. You may ignore the rest of this subpart.

(d) If you are required to file Financial Disclosure Reports or Statements of Employment and Financial Interests, the Foundation will supply you with the necessary forms. You may ask for them when you need them, but normally they will be sent to you automatically, with instructions.

§ 683.11 Financial disclosure requirements for senior employees.

(a) If you are a "senior employee" you must file an initial Financial Disclosure Report within 30 days after you first come to the Foundation or are promoted into a senior-employee position. You must thereafter file a Financial Disclosure Report by May 15 of each year. And you must file a termination Financial Disclosure Report within 30 days after you leave the Government.

(b) File your Reports with an ethics counselor. The ethics counselor will help with problems or questions that arise in completing the forms, and is required by law to review your Report after you file it. The ethics counselor may contact you about any errors you make in filling out the form or about questions that are raised by what you report.

(c) The law requires the NSF to make each Report you file available to the public within 15 days after you file it.

(d) Any person who wants to see or copy your Report must make a written request. A copy of any such request will be sent to you.

(e) If you are nominated by the President to an NSF position and must be confirmed by the Senate, your initial Report must be filed with the NSF within five days after your nomination.

(f) If you fail to file a required Report, fail to file information required to be reported, or file false information, you are subject to disciplinary action. If you do any of those things willfully, the law requires the Director of the Foundation to report to the Attorney General, who has authority to enforce the disclosure requirements against any knowing or willful violation by suits seeking civil penalties of up to $5,000.

§ 683.12 Financial disclosure requirements for program officers, grants and contracts officers, auditors, and lawyers.

(a) § 683.10(b) indicates that you are one of those who must file Statements of Employment and Financial Interests, you must file an initial Statement within 30 days after you are first appointed to a covered position either by promotion or as a new NSF employee. You must thereafter file a Statement each year by July 31.

(b) File your Statements with the Personnel Office.

(c) Your Statements will be held in the strictest confidence allowed by law. The Personnel Office will keep them in a locked file and will release them or allow disclosure of information from them only with your written approval or that of the General Counsel. Before any release or disclosure on the authority of the General Counsel you will be notified and will have an opportunity to comment, except when information is requested for an official investigation of a possible criminal violation.

(d) If you fail to file a required Statement, fail to file information required to be reported, or file false information, you are subject to disciplinary action.

Subpart B—Acts Affecting Financial Interests

§ 683.20 Acts affecting your financial interests.

(a) *No acting as a Federal employee where you have a financial interest.* You must not be personally involved as a Federal employee in handling of any proposal, award, or other matter in which you, a member of your immediate family, a business partner, or an organization of which you are or may become a part has a financial interest. BE CAREFUL: Violation of this rule may also result in a violation of a criminal statute for which the penalties are a fine of up to $10,000, imprisonment for up to two years, or both.

(b) *Proposals and awards.* You will not violate this restriction in handling proposals and awards as long as you abide by the requirements on handling proposals and awards described in Part 681 of these regulations.

(c) *Policy determinations.* Broad policy determinations that might affect your home institutions, but only in the same manner as all similar institutions, are not covered.

(d) *"Matter".* Otherwise, the term "matter" has the same meaning here as in connection with the representational restrictions described in Part 682 of this chapter. It is elaborated in § 682.13 of this chapter. Note that here specific parties need not be involved.

(e) *"Personally involved".* The term "personally involved" has exactly the same meaning here as in connection with the representational restrictions described in Part 682 of this chapter. It is elaborated in § 682.12(b) of this chapter. In general, you can be "personally involved" in the handling of a matter even though you actually make none of the critical decisions, if you contribute by recommendations, advice, approval, or the like, and your contribution is substantial.

(f) *Immediate family.* Only your spouse and minor children are considered members of your "immediate family" under this rule.

(g) *"Organization of which you are or may become a part".* You are a part of an organization if you are an officer, director, trustee, partner, or employee. You "may become" part of an organization if you are negotiating with it or have an arrangement with it concerning a position.

(h) *Waiver.* This provision may be waived where the interest is so insubstantial as to be unlikely to affect the integrity of your services to the Government. If you think such a waiver is called for, consult an ethics counselor in the Office of the General Counsel. The ethics counselor will advise you and will make a recommendation to the official who would have to approve such a waiver.

Subpart C—Outside Employment, Compensation, Income, Gifts, etc.

§ 683.30 Outside employment ("moonlighting") and income.

(a) *Permitted within limits; duty first.* While not on official duty, you may work for private firms or organizations either for pay or as a volunteer, within limits established by the rest of this Subpart. Be sure that you understand all those limits before undertaking any such outside work. Those that do not relate to compensation apply whether or not you work for pay. A basic limit, of course, is that duty comes first. You should not engage in any outside activity that impairs your health, exhausts your energies, or otherwise prevents you from doing your NSF job.

(b) *Policymaking or administrative work for certain organizations.* You may not participate as a policymaking officer for any research or educational institution, any scientific society, or any professional association without the written approval of an ethics counselor. Whenever a major policy question is presented by a request for such approval, you or the ethics counselor may raise the matter with the General Counsel and, if appropriate, with the Director of the Foundation.

(c) *Visiting Committees.* Employees should not participate in the deliberations of a college or university visiting committee. However, an employee may meet with such groups as a Foundation official where it would be appropriate to attend a similar meeting with any other comparable group requesting his or her assistance.

(d) *Special rules for full-time Presidential appointees.* If you are a Presidential appointee:

(1) You may not hold office in or act for any institution that has or is seeking NSF awards without the approval of the National Science Board.

(2) You must not engage in any other business, vocation, or employment while serving in the Presidential position.

It does not include investment income (dividends, interest, or the like). It does not include reimbursement for meals, lodging, travel, or other expenses. And it does not include prizes or awards, even if an award carries an obligation to give lectures.

§ 683.31 Compensation.

(a) *Basic restrictions on outside compensation.* Three basic rules restrict compensation (not including reimbursement of expenses) you can accept from sources other than your Federal salary:

(1) *No extra compensation for official duties.* You must not seek or accept any contribution or supplement to your Government salary for doing any part of your NSF job.

(2) *No compensation out of any Federal award.* You must not seek or accept any compensation out of funds that come wholly or partly from a Federal award.

(3) *No compensation in connection with any matter involving the Government.* You must not seek or accept any compensation for services by you or anyone else in connection with any proposal, project, or other matter in which the United States is a party or has a direct interest.

BE CAREFUL: Breaking any of these rules would be a Federal crime.

(b) *Pensions and other employee benefits.* These rules do not preclude you from continuing to participate in a bona fide pension or other employee benefit plan maintained by a former employer.

(c) *Wording and terms.* The wording of these restrictions has been simplified here substantially from the wording of the underlying statutes, so that they will be easier to understand. Interpret them

conservatively. If you have any doubt about the meaning of terms, consult an ethics counselor in the Office of the General Counsel.

§ 683.32 Honoraria.

(a) *Honoraria on official duty.* You must not accept any honoraria for speeches, papers, lectures, or the like delivered in the course of your official duties. However, if declining an honorarium would appear embarrassing or insulting to the offeror, particularly one from another country, you may accept the honorarium on behalf of the Foundation and deposit it into a special trust fund account or into the Treasury. Under no circumstances may you accept an honorarium for yourself for acts performed in your official capacity.

(b) *Honoraria—while not on official duty.* You may accept honoraria for speeches, papers, or lectures delivered while you are not on official duty, subject to general limits on outside employment described in § 683.30, general restrictions on receipt of compensation described in § 683.31, and prohibitions against misuse of inside information described in § 683.34. You will be disqualified for one year from handling proposals and other award-related applications that involve the interests of the person or institution from which you received any honorarium. See § 681.21 of this chapter. Moreover, the law restricts the amounts of honoraria you may accept:

(1) You must not accept an honorarium of more than $2,000 for any speech, paper, lecture, or the like (excluding reimbursements for meals, lodging, and travel).

(2) If you are a Presidential employee, honoraria count toward the fifteen-percent limit on your outside income. See § 683.30(d)(3).

§ 683.33 Reimbursements and services in kind.

(a) *For official travel.* You may not accept money from private sources to reimburse you for expenses incurred during travel on official NSF business, though private sources may reimburse the NSF for your expenses. You may accept meals, lodging, or travel tickets (not money) from private sources when you are traveling on official NSF business, but not if they would be paid for out of funds that come wholly or partly from an NSF award. There is one exception to the reservation about funds that come from an NSF award: if you are attending a conference, symposium, or other meeting funded by the NSF, you may accept meals and lodging (but NOT travel tickets) if they are offered to everyone attending the meeting and alternate arrangements for meals and lodging are unavailable or would cause an unusual inconvenience. If you do accept meals or lodging while on official travel, your per diem must be reduced accordingly.

(b) *For travel, etc. when not on duty.* If you are on leave, not representing the Foundation, and not expected primarily to discuss NSF policy or procedures, these restrictions do not apply. However, you may not accept services in kind or reimbursement for travel expenses if the sources would be funds that come wholly or partly from an NSF award EXCEPT as provided for rotators in § 682.23(c).

§ 683.34 Misuse of inside information or Government Property.

(a) *No misuse of inside information.* If your Government job gives you access to information not generally available to the public, you must not use that information for your private benefit or make it available for the private benefit of any other person or institution.

(b) *Consulting, lecturing, etc. about the NSF.* You must not receive anything of monetary value for consulting, lecturing, writing, or public discussion that concerns the responsibilities, the programs, or the operations of the NSF or that draws on official information or ideas not generally available to the public.

(c) *Waivers.* The Director, the Deputy Director, or an assistant director may waive application of these rules and authorize use of non-public information in the public interest. Any such authorization must be in writing. Consult an ethics counselor in the Office of the General Counsel.

(d) *Private use of public property or services.* You must not use Government property or services for your private benefit or for the private benefit of others, except as your normal public duties benefit particular members of the public in intended ways.

§ 683.35 Participation in NSF-supported conferences and workshops.

You may participate in a conference, workshop, or similar event supported by NSF funds, provided you do not receive any compensation, honorarium, or the like for your participation. You may not serve as an organizer or director of such an NSF-supported event, unless its purpose is to plan, assess, or publicize NSF programs. Nor, ordinarily, should you chair a session or give a paper except to describe NSF programs or NSF needs. You may discuss arrangements with the organizers or directors as long as you do not use the influence that derives from your NSF position to pressure them.

§ 683.36 Gifts, favors, loans, prizes, and awards.

(a) *Gifts and favors generally.* You may not directly or indirectly solicit or accept a gift, a favor, or a loan from any person or organization that has or is seeking NSF awards, that has other interests potentially affected by what you do in your NSF job, or that may be trying to affect your official actions. (You may, however, accept promotional things of trivial value such as pens, pencils, note pads, and calendars.)

(b) *Meals or entertainment.* By extension, you should ordinarily avoid accepting meals or entertainment from such persons or organizations if you can avoid doing so within the reasonable bounds of politeness. You may, however, occasionally accept a modest meal offered as a courtesy or convenience during a site visit or a luncheon or dinner meeting.

(c) *Prizes and awards.* The restrictions in paragraph (a) of this section do not prevent you from accepting a prize or award for scientific or other public achievement given by a university, scientific society, or other organization. However, you may accept anything of value that accompanies the prize or award only if it is not paid for out of funds that come wholly or partly from an NSF award. You will be disqualified for one year from handling proposals and other award-related applications that involve the interests of the person or institution from which you received any such prize or award. See § 681.21 of this chapter.

(d) *From foreign governments.* You may not accept a gift or decoration from a foreign government except one of "minimal value". Minimal value means retail value in the United States of $140 or less. If the gift is of more than minimal value you may accept it only if not accepting it would be likely to cause offense or embarrassment. Even then, any gift of more than minimal value becomes the property of the United States. Consult an ethics counselor for help in depositing the gift with the State Department.

Subpart D—Political Activity

§ 683.40 Introduction; who's covered.

(a) *Hatch Act.* In order to ensure that day-to-day government actions (such as award of grants) are not affected by political motives and in order to preserve a nonpolitical civil service that is selected on merit, not on political considerations, the law restricts the

involvement of Federal civil service employees with partisan politics. These restrictions derive from a law popularly known as "the Hatch Act".

(b) *Summary of Hatch Act restrictions.* (1) You may not run for public or party office, except in nonpartisan elections and certain local elections. See § 683.42(a).

(2) You may not participate in election campaigning, except in nonpartisan elections and certain local elections. See § 683.42(c).

(3) You may not take an active part in leading or managing a political party. See § 683.43.

(4) You must not use your official authority or influence for political purposes. See § 683.44.

(c) *Presidential appointees.* You are subject to these restrictions if you are an NSF employee, unless you are a Presidential appointee whose appointment was subject to Senate confirmation. If you are such a Presidential appointee, you are subject only to the restrictions decribed in § 683.44. You need not be concerned with the rest of this Subpart except as it affects your colleagues and subordinates.

(d) *Employee coverage.* If you are subject to the "Hatch Act" restrictions, they apply even while you are on leave while you are on detail or assignment to a non-Federal post. They apply even if you work for the Government only part-time. If you work for the Government as a temporary employee, the restrictions apply as long as your temporary employment lasts. If you work for the Government as an intermittent employee, the restrictions apply only while you are in the active-duty status, but that includes the entire 24 hours of any day on which you work for the Government at all. (If in doubt about the employment category to which you belong, check with Personnel.)

(e) *Political party.* Any political party or political club, national or state, is a "political party" under this Subpart, except where provisions specifically refer to a "national political party".

§ 683.41 Basic political rights unaffected.

The Hatch Act restrictions do not affect your basic political rights. Specifically:

(a) You may register and vote as you choose in any election.

(b) You may contribute to a political party or candidate, though you may not be pressured to do so because of your Federal employment.

(c) You may be a member of a political party or other political organization. You may attend party meetings and vote on issues. You may not, however, be involved in managing or leading the organization. See § 683.43.

(d) You may write, call, or visit any Federal, state, or local political official (including, for example, your Congressman) to express your views on any political issue and on how the official should vote or act on the issue.

(e) You may sign political petitions, including nominating petitions, but you may not circulate such petitions for others to sign. See § 683.42(d)(2).

§ 683.42 Candidacy and campaigns.

(a) *Running for office.* You may not run for nomination or election to public office. There are two exceptions:

(1) You may run in an election in which no candidate runs as representing any national political party. (Currently, this means the Democratic or Republican party, but if another party wins electoral votes in a Presidential election, that could change.)

(2) You may run for office in most of the local political jurisdictions in the Washington, D.C. area if you run as an independent not representing any political party, national or otherwise. (To be sure that your jurisdiction is among those in which this is permitted, check with an Ethics Counselor in the Office of the General Counsel.)

(b) *No partisan campaigning.* You may not campaign for or against a political party or candidate in an election for public office or in an election for party office. Essentially the same two exceptions apply:

(1) You may campaign for a candidate in an election in which no candidate runs as representing any national political party.

(2) If you could be an independent candidate in a local election described in (a)(2) of this section, you may campaign for an independent candidate in such an election.

You may not campaign for any side of a question or issue that is specifically identified with a political party.

(c) *What constitutes campaigning.* You "campaign" when you:

(1) Actively participate in management of a campaign;

(2) Initiate nominating petitions or canvass for signatures on nominating petitions;

(3) Endorse or oppose a candidate or a position through political advertisements, broadcasts, campaign literature, or the like;

(4) Speak at rallies, candidate nights, party caucuses, or other political gatherings;

(5) Solicit campaign contributions, promote political dinners or similar events, sell tickets for such events, or otherwise participate in campaign fundraising;

(6) Help to handle campaign finances;

(7) Distribute campaign material;

(8) Host a coffee, cocktail party, or buffet for a candidate or a candidate's surrogate;

(9) Drive voters to the polls;

(10) Work at the polls as a checker, challenger, pollwatcher, or the like, or

(11) Do any other work on behalf of a candidate.

(d) *Nonpartisan election duties.* In connection with an election, you may perform nonpartisan duties provided for by law as an election clerk, judge, or the like.

(e) *Appointment to nonelective office.* You may accept appointment to nonelective public office, subject to the same limits that apply to any other outside employment. See Subpart C, §§ 683.30–683.36.

§ 683.43 Party activities.

You may not take an active part in leading or managing a political party. You do that when you:

(a) Participate in organizing or reorganizing it;

(b) Serve as a party officer or as a member of a national, state, or local party committee (or stand as a candidate for such a position);

(c) Participate in party fundraising or in handling party finances;

(d) Serve as a delegate, alternate, or proxy to a party convention (though you may attend such a convention); or

(e) Take an active part in conducting or running a meeting, rally, fund-raising function, convention, or other party gathering (though you may attend such a gathering).

§ 683.44 Political use of official authority or influence.

You must not use your official authority or influence for political purposes. Thus:

(a) You must not use your official position or authority to interfere with an election or to affect the result of an election.

(b) You must not solicit political contributions from other Federal employees, allow your name to appear on any fundraising appeal likely to be sent to Federal employees, or authorize anyone to solicit or receive political contributions in a building where Federal employees work.

(c) You must not discriminate against any other employee because of his or her political opinions or affiliations. This is a "prohibited personnel practice". See regulations of the Merit Systems Protection Board at 5 CFR 1250.3(b)(3).

PART 684—RULES FOR CONSULTANTS, BOARD MEMBERS, AND OTHER "SPECIAL EMPLOYEES"

Subpart A—General Rules for Consultants, Board Members, and Other "Special Employees"

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684.10 "Special employees".
684.11 Summary of rules for "special employees".
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684.15 Compensation.
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Subpart B—Special Rules of the National Science Board for Board Members

684.20 Summary.
684.21 Participation in Board deliberations.
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Authority: E.O. 11222 of May 8, 1965, 3 CFR, 1965 Supplement and Regulations of the Office of Personnel Management, 5 CFR 735.104.

Subpart A—General Rules for Consultants, Board Members, and Other "Special Employees"

§ 684.10 "Special employees".

(a) "*Special employees*". Any NSF consultant, National Science Board member, or other temporary or intermittent employee (including a rehired annuitant) who works or is expected to work for the NSF 130 days a year or less is a "special Government employee." The rules in this Subpart apply to you *only* if you are such a "special employee". Other employees should see Parts 680 through 683 of the NSF conflict-of-interests regulations.

(b) *Days worked.* If you have any uncertainty about how many days you work or are expected to work for the NSF, consult an ethics counselor in the Office of the General Counsel. There are specific rules for counting the days, and the rules that apply while you are still employed differ somewhat from those that apply afterward.

§ 684.11 Summary of rules for "special employees".

(a) This section summarizes the principal conflicts requirements that you are expected to observe as an NSF "special employee". It references the subsequent provisions of this Subpart in which these requirements are elaborated. You are encouraged to read as well sections 680.10 and 680.12, which introduce the NSF conflict-of-interests regulations and explain their purposes. Members of the National Science Board are committed to observe, besides the requirements summarized here, the special rules of the Board for its members. See Subpart B, §§ 684.20–684.22.

(b) *NSF work on proposals and awards of others.* (1) If you serve on a panel that reviews proposals or otherwise serve as a peer reviewer, you will be given instructions designed to deal with any conflict of interests you may have.

(2) If you participate in action on proposals and awards as a National Science Board member, see § 684.21.

(3) If you should otherwise become involved with the handling of a proposal of other award-related application you should follow the same rules and procedures on conflicts or potential conflicts in handling proposals and awards as regular NSF employees. They are set out in Part 681 of the NSF conflicts regulations, § 681.20–681.26.

(c) *Financial disclosure* (§ 684.12). (1) If you are compensated at a rate at or above the lowest rate for a GS–16 regular employee and plan to work or actually do work more than sixty days in any calendar year, you must file public Financial Disclosure Reports.

(2) If you are not required to file public Financial Disclosure Reports, you must file a confidential Statement of Financial Interests at the time of your appointment (or reappointment).

(3) You may ask for forms if you need them. Normally, however, they will be provided to you automatically, with instructions.

(d) *Political activity (Hatch Act)* (§ 684.13). The Hatch Act prohibits you from being involved in an election campaign or in political-party activity on any day when you work for the Government.

(e) *Representational restrictions and involvement with proposals and awards during and after NSF service* (§ 684.14). (1) You must never represent any private party in dealings with any Federal official on any proposal, project, or other matter if you have been personally involved with that matter at or for the NSF.

(2) If you have been employed with the NSF more than sixty days a year, you must not represent anyone in dealings with any NSF official during your NSF service and for one year thereafter on any proposal, project, or other matter involving specific parties.

General effect: These restrictions do not preclude you from preparing a proposal for your institution, from serving as principal investigator under an NSF proposal or award, from otherwise working under an NSF award, or from receiving compensation or expenses out of an NSF award. If you are a member of the National Science Board, however, see § 684.22.

(f) *Compensation* (§ 684.15).

(1) While you are an NSF "special employee" you must not seek or accept (except from the Government) any compensation for services by you or anyone else in relation to any matter involving specific parties if you have been personally involved for the Government.

(2) If you have been employed with the NSF for more than sixty days in the last 365, you must not seek or accept (except from the Government) any compensation for services by you or anyone else in relation to any matter involving specific parties that is pending in the NSF.

(g) *Acts affecting your financial interests* (§ 684.16). You must not be personally involved as a Federal employee in the handling of any proposal, award, or other matter in which you, a member of your immediate family, a business partner, or an organization of which you are or may become a part has a financial interest. You will not violate this restriction with respect to proposals and awards as long as you follow the instructions provided in paragraph (b) of this section.

(h) *Use of inside information* (§ 684.17). If your work for the Government gives you access to information not generally available to the public, you must not use that information for your private benefit or make it available for the private benefit of any other person or organization.

(i) *Effect of simplified wording.* The wording of the requirements as presented in these regulations has been simplified substantially from the wording of underlying statutes and other authorities, so that they will be easier to understand. Your initial interpretation should be conservative. If in doubt on the meaning of terms or otherwise troubled, consult an ethics counselor in the Office of the General Counsel.

(j) *General standards of conduct.* You are also responsible for being familiar with general standards of conduct described in § 680.18 of this chapter and for observing them.

§ 684.12 Financial disclosure.

(a) Unless you are required under paragraph (b) of this section to file public Financial Disclosure Reports, you must file a confidential Statement of Employment and Financial Interests at the time of your appointment (and of any reappointment). The Personnel

Office automatically supplies you with the necessary forms, and you file the Statement there.

(b) *High-ranking "special employees" who work more than sixty days a year.* If you are compensated as a "special employee" at a rate at or above the lowest rate for a GS–16 regular employee, you are a "senior employee". Regular senior employees are required to file public Financial Disclosure Reports. You are required to do so, however, only if you plan to work or actually do work more than sixty days in any calendar year. Specifically:

(1) If at the time of your appointment you are expected to serve more than sixty days in any calendar year, you must file such a Report then and again within thirty days after your appointment ends.

(2) If you did not file at the time of your appointment, but do in fact serve more than sixty days in any calendar year, you must file such a Report within fifteen days of your sixty-first day of work and again within thirty days after your appointment ends.

(3) In either case, if you in fact serve more than sixty days in any calendar year, you must also file such a Report before May 15 of the next year.

A person who is under consideration for nomination to the National Science Board may be asked to file a Financial Disclosure Report with the White House or the Senate through the Office of Government Ethics as part of the clearance process even if not expected to serve more than sixty days a year. Such a Report will not be made public by the NSF.

(c) *Filing of Financial Disclosure Reports.* If you are required to file Financial Disclosure Reports, the necessary forms ordinarily will be sent to you automatically, with instructions. You should inquire, however, if you think you may go over the sixty-day limit, and you may ask for forms from the Office of the General Counsel whenever you need them. File your Reports with an ethics counselor in the Office of the General Counsel. The ethics counselors will help with problems or questions that arise in completing the forms. The law also requires them to review your Report after you file it. They may contact you about any errors you make in filling out the form and about any questions that are raised by what you report. The law requires them to make each Report you file available to the public within fifteen days after receiving it. A copy of any request for your Report will be sent to you.

§ 684.13 Political activity (Hatch Act).

The Hatch Act and other laws restrict the involvement of Federal civil service employees with partisan politics. The restrictions apply to you for all of any day during which you work for the Government. If you have any plan or intention of being involved in any election campaign or political-party activity on any such day, consult an ethics counselor in the Office of the General Counsel before doing so. Members of the National Science Board, as Presidential appointees, are not subject to these rules. They are subject only to a restriction on using official authority or influence for political purposes. Part 683, Subpart D, §§ 683.40–683.44, cover the Hatch Act restrictions in greater detail.

§ 684.14 Representing private interests before the NSF or other Federal agencies.

(a) *"Personal involvement" permanent restriction.* All NSF "special employees" are subject to the following basic restriction:

> You must never represent anyone in dealings with any Federal official on any proposal, project, or other matter involving specific parties if you have been personally involved with that matter at or for the NSF.

(b) *NSF restriction.* If you have been employed with the NSF more than sixty days a year, you are subject to one other restriction:

> During your NSF service and for one year thereafter you must not represent anyone in dealings with any NSF official on any proposal, project, or other matter involving specific parties.

Be careful: Violation of either of these restrictions may also be a Federal crime.

(c) *Effect on involvement with proposals and projects.* These representational restrictions do not preclude you from being involved as a researcher or educator with proposals submitted to the NSF or other Government agencies or with projects supported by the NSF or by other Government agencies. They may preclude you from being the one to write, call, visit, or otherwise communicate with a Federal official about a proposal or project.

(d) *"Personally involved".* You can be "personally involved" even though you actually make none of the critical decisions if you contribute to them by recommendations, advice, approval, or the like, but your involvement must have been substantial. If you are a member of the National Science Board, you have definitely been "personally involved" with a matter if you have participated in any Board or Board-committee action on the matter or have taken part in a Board or committee discussion immediately preceding such an action.

§ 684.15 Compensation.

(a) *Compensation where you have been involved for the Government.* All "special Government employees" are subject to the following restriction:

> While you are an NSF "special employee" you must not seek or accept (except from the Government) any compensation for services by you or anyone else in relation to any matter involving specific parties if you have been personally involved with that matter for the Government.

(b) *Compensation in relation to NSF matters.* If you have been employed with the NSF for more than sixty days in the last 365 and still are, you are subject to one other restriction:

> You must not seek or accept any compensation for services by you or anyone else in relation to any matter involving specific parties that is pending in the NSF.

Be careful: Violation of either of these rules may also be a Federal crime.

(c) *NSF awards.* You may, however, perform work under an NSF award and may receive compensation charged to the award for the work.

(d) *"Personally involved".* The term "personally involved" has exactly the same meaning here as in connection with the representational restrictions described in § 684.14. See § 684.14(d).

§ 684.16 Acts affecting your financial interests.

(a) *No acting as a Federal employee where you have a financial interest.* You must not be personally involved as a Federal employee in the handling of any proposal, award, or other matter in which you, a member of your immediate family, or an organization of which you are or may become a part has a financial interest. BE CAREFUL: violation of this rule may also be a Federal crime.

(b) *Proposals and awards.* You will not violate this restriction with respect to proposals and awards as long as you follow the instructions provided in § 684.11(b).

(c) *"Personally involved".* The term "personally involved" has exactly the same meaning here as in connection with the representational restrictions described in § 684.14. See § 684.14(d).

(d) *"Matter".* The word "matter" has a somewhat broader meaning here than the phrase "matter involving specific parties" used in § 684.14. Broad policy determinations that might affect your home institution, but only in the same manner as all similar institutions, are not covered. If in doubt, consult an ethics counselor in the Office of the

General Counsel. National Science Board members should consult the Chairman of the Board.

(e) *Immediate family.* Only your spouse and minor children are considered members of your "immediate family" under this rule.

(f) *"Organization of which you are or may become a part".* You are a part of an organization if you are an officer, director, trustee, partner, or employee. You "may become" a part of an organization if you are negotiating with it or have an arrangement with it concerning such a position.

(g) *Waiver.* This provision may be waived where the financial interest involved is so insubstantial that it is unlikely to affect the integrity of your services to the Government. If you think such a waiver is called for, consult an ethics counselor in the Office of the General Counsel. The ethics counselor will advise you and will make a recommendation to the official who would have to approve such a waiver. National Science Board members should consult with the Chairman of the Board.

§ 684.17 Inside information.

(a) If your Government job gives you access to information not generally available to the public, you must not use that information for your private benefit or make it available for the private benefit of any other person or organization.

(b) You must not receive anything of monetary value for consulting, lecturing, writing, or public discussion that primarily concerns the responsibilities, programs, or operations of the Foundation or that draws significantly on official information or ideas not generally available to the public.

(c) The Director, the Deputy Director, an assistant director, or (in the case of Board members) the Chairman of the National Science Board may waive application of these rules and authorize use of non-public information in the public interest. Any such authorization must be obtained in writing. Consult an ethics counselor in the Office of the General Counsel. National Science Board members should consult with the Chairman.

§ 684.18 General standards of conduct for "special employees".

(a) *Use of Government employment for private gain.* You must not use your Government employment for a purpose that is (or gives the appearance of being) motivated by desire for private gain for yourself or anyone else, particularly anyone with whom you have family, business, or financial ties.

(b) *Use of Government employment for extortion.* You must not use your Government employment to coerce (or appear to coerce) anyone to provide financial benefit to yourself of anyone else, particularly anyone with whom you have family, business, or financial ties.

(c) *Gifts and favors.* On days when you are working at or for the NSF or in connection with NSF employment you must not seek or accept from anyone who has business with the NSF any gift, tip, loan, entertainment, or favor for yourself or anyone else, particularly anyone with whom you have family, business, or financial ties. This does not include promotional items of trivial value or a modest meal offered as a courtesy when there is no apparent connection with NSF business.

(d) *Misuse of Government property.* You must not use Government property or services for your private benefit or for the private benefit of others, except as your public duties benefit particular members of the public in intended ways.

(e) *Familiarity with statutory provisions.* You are legally responsible for acquainting yourself with each statute that relates to your ethical and other conduct as an NSF and Federal employee. Principal among these are the criminal statutes relating to bribery, graft, and conflicts of interests contained in 18 U.S.C. 201–209. The aspects of those statutory provisions that apply to you as an NSF "special employee" are covered by these regulations. These regulations also cover the provisions of Executive Order 11222, which prescribes standards of ethical conduct for Government officers and employees, and regulations of the Office of Personnel and Management that implement both the statutory provisions and the Executive Order. If you follow the regulations, you should have no trouble with any of those provisions. The regulations do not cover a number of other statutes that you must obey as a Federal employee:

(1) The prohibition against lobbying with appropriated funds (18 U.S.C. 1913).

(2) The prohibitions against disloyalty and striking (5 U.S.C. 7311, 18 U.S.C. 1918).

(3) The prohibitions against disclosure of classified information (18 U.S.C. 798, 50 U.S.C. 783) and disclosure of confidential information (18 U.S.C. 1905).

(4) The provision on habitual use of intoxicants to excess (5 U.S.C. 7352).

(5) The prohibition against misuse of a Government vehicle (31 U.S.C. 638a(c)).

(6) The prohibition against misuse of the franking privilege (18 U.S.C. 1719).

(7) The prohibition against use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917).

(8) The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001).

(9) The prohibition against mutilating or destroying a public record (18 U.S.C. 2071).

(10) The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508).

(11) The prohibitions against embezzlement of Government money or property (18 U.S.C. 641), failing to account for public money (18 U.S.C. 643), and embezzlement of the money or property of an employee by reason of his employment (18 U.S.C. 654).

(12) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).

(13) The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

Subpart B—Special Rules of the National Science Board for Board Members

§ 684.20 Summary.

As a member of the National Science Board you are covered by rules for "special employees" described in Subpart A of this Part 684. In addition, Board deliberations raise a number of conflicts issues in a unique context. Moreover, Board members are highly visible Presidential appointees who retain private employment and other affiliations. Specifically, many of them are active scientists whose work has been supported by the NSF or other Federal agencies. For these reasons the Board has adopted the following specific conflict-of-interests rules for the governance of its members. You should also advise the Chairman of the Board of any interest or affiliation you have or propose to have that could create a significant appearance of conflict of interests in the work of the Board.

§ 684.21 Participation in Board deliberations.

(a) *Abstention.* You must excuse yourself from deliberations and votes of the Board or any of its committees on any action that would to your knowledge affect:

(1) The interests of an institution with which you, your spouse, a minor child, a blood relative who lives with you, or anyone who is legally your partner has any of the affiliations listed in paragrah (b) of this section, or

(2) The interests of an individual with whom you, your spouse, a minor child, a blood relative who lives with you, or anyone who is legally your partner has any of the relationships listed in paragraph (c) of this action.

(b) *Affiliations with affected institutions.* (1) Ownership of the institution's stocks, bonds, notes, or other evidences of debt (other than through mutual funds).

Note.—Minor or indirect holdings may be exempted; check with the Chairman.

(2) Current employment.

(3) Any formal or informal arrangement for future employment.

(4) Current appointment as professor, adjunct professor, visiting professor, or the like.

(5) Governing board membership.

(6) Chairmanship of any committee of the institution that has an interest in the Board's action.

(7) Any other office (not including ordinary membership in a professional society or association).

(8) Current membership on a visiting committee or similar body.

Note.—Individual waivers of this provision may be issued in appropriate circumstances; contact the Chairman.

(9) Current enrollment as a student in a department or school that has an interest in the Board's action.

(10) Any other affiliation with the institution that you think would destroy your objectivity or be seen as doing so by a reasonable person familiar with the affiliation.

(c) *Relationships with affected individuals.* (1) Blood or marriage relationship with a principal investigator.

(2) Any other relationship, such as close personal friendship, that you think might tend to destroy your objectivity or be seen as doing so by a reasonable person familiar with the relationship.

§ 684.22 Participation in NSF-supported projects.

(a) *Proposals and new awards.* You must not be listed as an investigator on any proposal submitted to the NSF or on any award made by the NSF while you are on the Board. (Proposals pending when you are nominated will be handled case-by-case by the General Counsel.) Nor should you receive any compensation under an award made by the NSF while you are on the Board. You may, however, do work on a project supported by such an award and may be reimbursed for expenses you incur in doing so.

(b) *Existing awards.* If you are already an investigator or consultant under an NSF award when you become a Board member, you may continue work under the award in the same capacity and may be compensated under the award to the extent established before your nomination. If you have been principal investigator before you become a Board member, you and your institution should select a substitute negotiator. The substitute negotiator need not be responsible for the work, but should represent the project and the institution in dealings with NSF officials on whom you might have undue influence because of your Board position.

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[FR Doc. 82–20067 Filed 7–23–82; 8:45 am]

BILLING CODE 7555–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1307

[Ex Parte No. MC 19 (Sub-29)]

Motor Carriers; Household Goods Carriers Bills of Lading Provisions Concerning Full or Replacement Value Protection Tariff Items

AGENCY: Interstate Commerce Commission.

ACTION: Dismissal of petition; interpretation of regulations.

SUMMARY: The Commission is dismissing a petition to amend 49 CFR 1056.12 because the relief requested should properly be framed as a Released Rates Application to depart from 49 CFR 1307.201. Section 1307.201 is interpreted as not prohibiting the inclusion of a valuation statement on household goods carriers' bills of lading which gives effect to full or replacement value protection plans.

DATE: This action is effective on July 26, 1982.

FOR FURTHER INFORMATION CONTACT: Ray G. Atherton, Jr. (202) 275–7844 or Patricia M. Schulze (202) 275–7841

SUPPLEMENTARY INFORMATION: United Van Lines, Inc., filed a petition to amend 49 CFR 1056.12 by restating the valuation options contained in Released Rates Order MC–505 and by including a further valuation statement concerning United's full value protection option.

United's request to amend 49 CFR 1056.12 is inappropriate since subsection (b) of that section simply precludes carrier limitation of liability to *less* than that permitted under the Released Rates Order. Full, or replacement value protection plans appear, on their face, to offer an assumption of liability greater than the liability assumed under Released Rates Order MC–505.

The exact terms of the Released Rates Order are set out in 49 CFR 1307.201. Briefly, the Order authorizes household goods carriers to establish rates applicable only when the shipper declares or releases the shipment at a value of either 60¢ per pound per article or at a lump sum value equal to, or greater than, $1.25 times the total actual shipment weight. If the shipper fails to affirmatively exercise either of these options, the shipment is deemed released to a maximum value of $1.25 times the weight of the shipment. The Order provides that under the 60¢ per pound per article otpion, no separate charge is made for the assumption of liability, while shipments for which the carrier assumes liability at $1.25 times the shipment weight, or greater amount, bear an additional charge of 50¢ per $100 of the value of the shipment. A valuation statement summarizing these options in prescribed language is required to be placed on the carrier's bill of lading.

United's proposal, however, does not appear to request a revision of 49 CFR 1307.201. Instead, it is tailored specifically to United's offering which includes the valuation options of the Released Rates Order and the full value protection which United publishes as an exception to the Bureau tariff in which it participates. As such, the request is construed as seeking individual relief for United Van Lines, Inc., to depart from the prescribed valuation statement of 49 CFR 1307.201(c).

Released Rates Order MC–505 predates the publication by various carriers of full, or replacement value protection plans. It is therefore necessary to interpret the effect of the Order on these plans.

On December 24, 1980, the Commission, Division 1 Acting is an Appellate Division, upheld a Suspension Board Vote in Case No. 70243 not to suspend protested motor common carrier schedules naming a provision covering full value protection on shipments of household goods at 85¢ per $100 of released or declared value. Significantly, the protest was, in part, based on the contention that the protested schedules were violative of Released Rates Order MC–505. This decision establishes precedent for the proposition that full or replacement value protection plans do not, per se, violate Released Rates Order MC–505. It follows that 49 CFR 1307.201(c), while requiring that the prescribed MC–505 valuation statement appear on household goods carriers' bill of lading, does not prohibit the inclusion on those bills of a meaningful valuation statement concerning full or replacement value protection if offered by carriers in their tariffs. It is therefore unnecessary to seek specific permission insofar as the full or replacement protection valuation statement is concerned. On the other hand, any alteration in the prescribed valuation statement of Released Rates Order MC–505 would require authorization from the Released Rates Board. For this reason, the petition is dismissed without prejudice to the filing of an appropriate Release Rates application.

We find: That the petition is inappropriate and should be dismissed without prejudice to the filing of a Released Rates Application.

We further find: That Released Rates Order MC–505 does not prohibit the establishment and maintenance of full value protection valuation options and

that 49 CFR 1307.201(c) is interpreted as not prohibiting the inclusion on household goods carrier bills of lading of meaningful valuation statements on full or replacement value tariff items.

It is ordered: The petition is dismissed.

Dated: July 19, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons and Gradison. Commissioner Simmons was absent and did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-20057 Filed 7-23-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 2719-134]

Ocean Salmon Fisheries Off the Coasts of California, Oregon, and Washington

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of closure.

SUMMARY: The Secretary of Commerce issues this notice to close the recreational fishing season in the fishery conservation zone (FCZ) between Cape Falcon, Oregon, and Cape Blanco, Oregon (subarea C), and the recreational fishing season for coho salmon in the FCZ between Cape Blanco and the Oregon-California border (subarea D), on July 21, 1982. The Director, Northwest Region, National Marine Fisheries Service has determined that the recreational quota of 114,000 coho salmon for both subareas will be reached by that date. This action is necessary to ensure that quotas for coho salmon are not exceeded in 1982.

EFFECTIVE DATES: Closure of subarea C to recreational fishing and closure of subarea D to recreational fishing for coho salmon is effective from 2400 hours Pacific Daylight Time (PDT), July 21, 1982, until 2400 hours, Pacific Standard Time, December 31, 1982.

FOR FURTHER INFORMATION CONTACT: H. A. Larkins (Director, Northwest Region, National Marine Fisheries Service), 7600 Sand Point Way, BIN C15700, Seattle Washington 98115; telephone 206-527-6150.

SUPPLEMENTARY INFORMATION: Emergency regulations to implement a 1982 amendment to the fishery management plan for the Commercial and Recreational Fisheries off the Coasts of Washington, Oregon, and California were published in the **Federal Register** (47 FR 21256) for the commercial fishery north of Cape Blanco, Oregon, and the coastwide recreational fisheries. These emergency regulations were effective on May 14, 1982, for a 45-day period and were extended for an additional 45 days on June 28, to be effective through August 11, 1982 (47 FR 28105).

These regulations specify at § 661.22(a)(2) that when a subarea quota is projected by the Director, Northwest Region, National Marine Fisheries Service (Regional Director) to be reached by a certain date, the Secretary of Commerce (Secretary) shall, by publishing a field order in the **Federal Register**, close the fishery as of the date the quota will be reached in that subarea.

The coho quota for the recreational fishery in subareas C and D is 114,000 coho salmon, as stated in § 661.22(a)(1). The Regional Director has determined not to adjust this quota as provided for in § 661.22(b)(1), with respect to the contribution of private hatchery coho to established quotas. Based on the most recent preliminary information supplied by the Oregon Department of Fish and Wildlife (ODFW)l, and the California Department of Fish and Game (CDFG), the recreational fishery in subareas C and D may have reached the 114,000 coho salmon quota as early as July 19, 1982. The Secretary has determined, to avoid confusion for the fishermen and in the interest of consistency, to provide Oregon an opportunity to close its waters as well. However, that closure of State waters cannot be accomplished before Wednesday, July 21, 1982, since ODFW must secure Oregon Fish and Wildlife Commission approval to close and must file the closure order with the Secretary of State. The Secretary therefore issues this notice that the recreational fishery in subarea C will be closed effective midnight, July 21, 1982. Also, the recreational fishery in subarea D will be closed effective midnight, July 21, 1982, to the taking of coho salmon but will remain open for recreational fishing for other species of salmon until October 31, 1982, as specified in § 661.21(a)(4)(ii). This notice does not affect seasons for other subareas specified in the 1982 regulations. Consultations have been held with the Directors of ODFW and CDFG and representatives of the Pacific Fishery Management Council regarding this closure.

As provided under § 661.22(c), all information and data relevant to this notice of closure have been compiled in aggregate form and are available for public review at the above address during normal working hours.

This action is taken under the authority of 50 CFR 661.22, and is taken in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fish, Fisheries, Fishing, Indians.

(16 U.S.C. 1801 et seq.)

Dated: July 21, 1982.

William H. Stevenson,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 82-20120 Filed 7-21-82; 4:27 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 47, No. 143
Monday, July 26, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 82-ASW-45]

Proposed Alteration of Transition Area; Orange, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes to alter the transition area at Orange, TX. The intended effect of the proposed action is to provide adequate controlled airspace for aircraft executing a new instrument approach procedure to the Orange Airport. This action is necessary since there is a proposed change in the standard instrument approach procedure (SIAP) to the Orange Airport using the Beaumont VORTAC.

DATES: Comments must be received on or before August 25, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8 a.m. and 4:30 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

Federal Aviation Regulation Part 71, Subpart G § 71.181 as republished in advisory Circular AC 70-3 dated January 29, 1982, contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Alteration of the transition area at Orange, TX, will necessitate an amendment to this subpart. This amendment will be required at Orange, TX, since there is a proposed change in IFR procedures to the Orange Airport.

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. (Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.) Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82-ASW-45." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, or by calling (817) 624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

List of Subjects in 14 CFR Part 71

Control zones and/or transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Orange, TX [Amended]

That airspace extending upward from 700 feet above the suface within a 6.5-mile radius of the Orange Airport (latitude 30°04'11" N., longitude 93°46'23" W)

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c))

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "Significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on July 14, 1982.

F. E. Whitfield,
Acting Director, Southwest Region.

[FR Doc. 82-19866 Filed 7-23-82; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 82-AAL-7]

Alteration of Additional Control Area; Alaska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the description of Additional Control Area 1487, located in the vicinity of Middleton Island, AK, by lowering the current controlled airspace floor from 14,500 feet MSL to 5,500 feet MSL. This action would provide controlled airspace for air traffic control radar vectoring service and for non-Part 95 routes. Also, the new floor would coincide with the floor of the Anchorage Oceanic CTA/FIR boundary.

DATES: Comments must be received on or before August 25, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Alaskan Region, Attention: Chief, Air Traffic Division, Docket No. 82-AAL-7, Federal Aviation Administration, 701 C Street, Box 14, Anchorage, AK 99513.

The offical docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service,. Federal Aviation Administration, 800 Independence Avenue, SW., Washington D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaing by submiting such written data, views, or agruments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82-AAL-7." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request ot the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 300 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.163 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to lower the controlled airspace floor of Additional Control Area 1487 from 14,500 feet MSL to 5,500 MSL. The FAA has installed a radar facility at Middleton Island, AK, and at Biorka Island, AK. After the commissioning of those facilities, FAA Flight Standards Office has approved a non-Part 95 direct route between Middleton Island and Sandspit, British Columbia. This proposal would provide controlled airspace for air traffic control (ATC) radar vectoring service for this entire area. Also, the lower floor coincides with the adjacent floor of the Anchorage Oceanic CTA/FIR, thereby, aiding flight planning. Section 71.163 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982.

ICAO Considerations

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of, and Annex 11 to, the Convention on International Civil Aviation, which pertains to the establishment of air navigational facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator is consulting with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

List of Subjects in 14 CFR Part 71

Control area.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.163 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Control 1487 [Amended]

By deleting the words "That airspace extending upward from 14,500 feet MSL; to Fl 450," and substituting for them the words "That airspace extending upward from 5,500 feet MSL to FL 450."

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354)a), and 1510); Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposal only involves an established body of technical regulations for which frequent and routine amendments are necessary to

keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on July 15, 1982.

B. Keith Potts,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82-19870 Filed 7-23-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ACE-19]

Control Zone—Hastings, Nebraska; Proposed Revocation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This Notice proposes to revoke the Hastings, Nebraska, control zone due to the discontinuance of required weather observation reporting. The proposed action will return this designated airspace to a noncontrolled status.

DATES: Comments must be received on or before September 3, 1982.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Don A. Peterson, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before the closing date for comments will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374-3408.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart F, § 71.171 of the Federal Aviation Regulations (14 CFR 71.171) by revoking the control zone at Hastings, Nebraska. The Hastings, Nebraska, control zone no longer has continuous weather observation reporting service. The fixed base operator that previously provided the service can no longer do so. In addition, the airport manager advised that he is unable to provide a practical or reliable means of performing hourly weather observations. Therefore, inasmuch as weather observations are a requirements for maintaining a control zone and since those observations cannot be provided, this proposal is for the purpose of revoking the control zone.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones.

The Proposed Amendment

Accordingly, FAA proposes to amend Subpart F, Section 71.171 of the Federal Aviation Regulations (14 CFR 71.171) by revoking the following control zone:

Hastings, Nebraska

(Secs. 307(a) Federal Aviation Act of 1958, as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65)

Note.—The FAA has determined that this proposed revocation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current or to delete them if no longer applicable. It therefore (1) is not a "major rule" under Excutive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) is certified that at promulgation it will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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14 CFR Part 71

[Airspace Docket No. 82-ASW-40]

Proposed Alternation of Transition Area: Oklahoma City, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes alteration of a transition area at Oklahoma City, OK. The intended effect of the proposed action is to provide adequate controlled airspace for aircraft executing new instrument approach procedures to the Sundance Airpark (formerly Jack Richards Airport). This section is necessary to provide protection for aircraft executing a VOR approach to Runway 17 and an RNAV approach to the Sundance Airpark.

DATE: Comments must be received on or before August 25, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays between 8 a.m. and 4:30 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: James L. Owens, Airspace and Procedures Branch, ASW-536, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O.

Box 1689, Fort Worth, TX 76101; telephone: (817) 624–4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

Federal Aviation Regulation Part 71, Subpart G 71.181 as republished in Advisory Circular AC 70–3 dated January 29, 1982, contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Alteration of the transition area at Oklahoma City, OK, will necessitate an amendment to this subpart. This amendment will be required at Oklahoma City, OK, since there are proposed new IFR procedures to the Sundance Airpark.

Comment Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis, supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. (Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.) Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82–ASW–40." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, or by calling (817) 624–4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

List of Subjects in 14 CFR Part 71

Index Terms

Control zones and/or transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Oklahoma City, OK [Amended]

* * * And within a 6.5-mile radius of the Sundance Airpark (latitude 35°36'06" N., longitude 97°42'21" W.).

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c))

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on July 14, 1982.

F. E. Whitefield,

Acting Director, Southwest Region.

[FR Doc. 82–19967 Filed 7–23–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 75

[Airspace Docket No. 81-ARM-8]

Proposed Alteration and Establishment of Jet Routes—Withdrawal

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This action withdraws a proposal published in the Federal Register on October 29, 1981 (46 FR 53436) that would have realigned Jet Route J–128 between Tuba City, AZ, and Gunnison, CO, and establish new Jet Route J–205 between Gunnison and Colorado Springs, CO. After analaysis of additional information, we have concluded the proposal does not satisfy current operational requirements; therefore this proposal is withdrawn.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations and Obstructions Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administrative, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8783.

List of Subjects in 14 CFR Part 75

Jet routes.

Withdrawal of the Proposal

Accordingly, pursuant to the authority delegated to me, the proposal to amend § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as specified in Airspace Docket No. 81–ARM–8 and published in the Federal Register on October 29, 1981 (46 FR 53436), is hereby withdrawn.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this action only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal.

Issued in Washington, D.C., on July 16, 1982.

B. Keith Potts,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82–19971 Filed 7–23–82; 8:45 am]

BILLING CODE 4910–13–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 210, 231, and 241

[Release Nos. 33-6417; 34-18879; File No. S7-940]

Proposed Revision of Financial Statement Requirements and Industry Guide Disclosures for Bank Holding Companies

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rules.

SUMMARY: The Commission is publishing for comment a proposed revision of Article 9 of Regulation S–X,

which governs the form and content of financial statements filed for bank holding companies. These revisions are a part of the Commission's reexamination of its requirements for financial statements in connection with its efforts to integrate disclosure requirements under the Securities Act of 1933 and the Securities Exchange Act of 1934. The proposed changes eliminate rules which are duplicative of generally accepted accounting principles ("GAAP"), integrate and simplify the rules, and update the reporting requirements to reflect current financial reporting practices. The Commission has also authorized the proposal of amendments to the Guides for Statistical Disclosures by Bank Holding Companies in order to incorporate certain disclosures proposed to be eliminated from the requirements of Article 9.

DATE: Comments should be received by the Commission on or before September 30, 1982.

ADDRESS: Comment letters should refer to File No. S7–940 and should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 5th Street, NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Marc D. Oken (202–272–2157), Edmund Coulson (202–272–2160) or Eugene W. Green (202–272–2161), Office of the Chief Accountant, Securities and Exchange Commission, 450 5th Street NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

Background

On September 2, 1980, the Commission published a comprehensive revision of Articles 3, 5, and 12 of Regulation S–X ("S–X") (17 CFR 210.3–01 to .3–18; 17 CFR 210.5–01 to .5–04; and 17 CFR 210.12–01 to .12–29).[1] One of the major purposes of that release was to modify S–X to facilitate uniformity between financial statements included in filings with the Commisson and those included in annual reports to security holders prepared in accordance with the Commisson's proxy rules. At the time those amendments were adopted, the Commission indicated its intent to revise the specific requirements included in Articles 6 (Investment Companies) (17 CFR 210.6–01 to .6–34), 7 and 7A (Insurance Companies) (17 CFR 210.7–01 to .7A–06), and 9 (Banks and Bank Holding Companies) (17 CFR 210.9–01 to .9–05). The Commission has completed the revision of Articles 7 and 7A,[2] and has proposed amendments to Article 6.[3] This proposal to revise the requirements for financial statements of bank holding companies is another step in the project to revise S–X to facilitate the integration of filings of financial statements under the Securities Act of 1933 (15 U.S.C. 77a et seq.) and the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.).

Synopsis of Proposal

Generally, the propsed rules do not significantly modify the current requirements governing the form and content of bank holding company consolidated financial statements. The proposed changes simplify the existing rules and delete certain of the S–X financial statement requirements. Certain of the requirements are proposed to be deleted because a reassessment of the rules indicates they are duplicative of GAAP or that utility of the related disclosure may not be significant.

In addition, certain presently required footnote disclosures which are supplemental to the basic financial statement requirements are proposed to be transferred to the Industry Guides for Disclosure by Bank Holding Companies: Securities Act Industry Guide 3 and Exchange Act Industry Guide 3 ("Guide 3").[4] In evaluating the requirements of Article 9, it was determined that some of the information was primarily analytical data and may not be essential disclosures for the annual report to shareholders. Since Guide 3 is primarily intended to provide data to facilitate analyses, and to allow for comparisons of sources of income and evaluations of exposures to risk, the Commission believes that this supplemental information may be more appropriately presented with the Guide 3 data. Moreover, the simplification of the financial statement disclosures resulting from such changes is of significant benefit. These proposed changes would mean that such disclosures would not be required to be included in the annual report to shareholders, since Guide 3 is applicable only to the description of business section in reports on Form 10–K, certain proxy statements and registration statements. The Commission notes that, in many cases, bank holding company registrants have been integrating their 10–K and annual report to shareholders in a single document, or otherwise have presented much, if not all, of the Guide data in the context of the management's discussion and analysis. The proposed amendments would not preclude these practices and would continue to allow management to determine the appropriate level of supplemental analytical-type data to be included in the annual report to shareholders. In any case, the full information would continue to be available in the Guide 3 disclosures furnished in the 10–K and in other filings with the Commission.

If the amendments herein are adopted, the Commission will concurrently amend the proxy rules to eliminate the interim rules[5] that require only substantial compliance with Article 9 in annual reports to shareholders. Thereafter, bank holding companies that are required to comply with the Commission's proxy rules would be required to include in annual reports to shareholders financial statements prepared in accordance with the requirements of Regulation S–X

Summary of Significant Changes Included in the Proposed Rules

Cash and Due from Banks. Under the existing rules, balances relating to interest bearing deposits in other banks are included with cash and amounts due from depository institutions (Rule 9–02.1(a)). These amounts are proposed to be included in short-term investments since this classification appears to better reflect the nature of these items as an alternative temporary investment of funds. Also, as a result of this proposed change, the amounts included in the "Cash and due from Banks" caption would include only noninterest bearing amounts.

Additionally, the instructions regarding restricted cash balances are clarified to indicate that Federal Reserve requirements must be considered.

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[1] Securities Act Release No. 6233 (45 FR 63660). The release revising S–X was one of four related releases issued on that date comprising part of the Commission's integrated disclosure project which is intended to improve disclosure in certain important areas, to eliminate obsolete or duplicative disclosure requirements, and facilitate the integration of filings made under the Securities Act and the Exchange Act.

[2] Securities Act Release No. 6357 (October 21, 1981) (46 FR 54332).

[3] Securities Act Release No. 6374 (January 11, 1982) (47 FR 2776).

[4] These guides were formerly designated as Guide 61 and Guide 3; they were redesignated as Securities Act Industry Guide 3 and Exchange Act Industry Guide 3 in Securities Act Release No. 6384 (March 3, 1982) (47 FR 11476). They are included in the list of industry guides in Items 801 and 802 of Regulation S–K (17 CFR 229), the central repository of disclosure requirements under the Securities Act and the Exchange Act, which was amended by Securities Act Release No. 6383 (March 3, 1982) (47 FR 11380).

[5] 17 CFR 240.14a–3 and 240.14c–6.

Investment Securities. Disclosures about holdings of investment securities of an issuer of a state, its political subdivisions, or their agencies, or of other securities which exceed 10 percent of stockholders' equity are presently required to be made in the notes (Rule 9–02.2(e)). It is proposed that this information be included in the Guide 3 disclosures since the information may be of interest primarily to analysts and a limited number of other financial statement users. There may be some circumstances where contingencies exist because of unusual risks inherent in significant holdings of securities of certain issuers, and in these situations appropriate disclosures should be made in management's discussion and analysis of the financial statements. Moveover, GAAP would require financial statement disclosure of material contingencies (Statement of Financial Accounting Standards ("SFAS") No. 5, "Accounting for Contingencies"). However, otherwise routine disclosures of such concentrations would not be required in the financial statements under the proposed rules.

Lease Financing. The existing rules require that lease financing amounts be disclosed as a separate balance sheet caption (Rule 9–02.6). The rule also requires that any net investments in direct financing leases and in leveraged leases be stated separately in a note. Although the form of direct financing leases may differ significantly from loans made by a financial institution, there appears to be little difference in the substance of these lending transactions. The proposed rules require that lease financing amounts be combined with loans in a single balance sheet caption with separate disclosure of the various subcategories thereof, including lease financing amounts. The Commission believes this presentation improves and simplifies disclosures while providing adequate information about the nature of a financial institution's lending activities. The Article 9 requirement for separate disclosure of the net amounts relating to direct financing leases and leveraged leases is proposed to be deleted since there is a GAAP requirement to disclose these amounts (paragraphs 23 and 47 of SFAS No. 13, "Accounting for Leases").

Loans to Related Parties. Note disclosure is presently required of the aggregate amount of loans made to directors, executive officers or principal holders of equity securities of the registrant or its principal subsidiaries when such amounts exceed 5 percent of stockholders' equity (Rule 9–02.5(e)). Additionally, disclosure is required by Schedule I of the indebtedness of directors who are also officers, executive officers, and principal equity stockholders when the aggregate indebtedness of such person(s) exceed either $500,000 or 2.5 percent of stockholders' equity, whichever is less, at any time during the period for which income statements are required.[6] Aggregate disclosure is permitted for loans made in the ordinary course of business to nonofficer directors who are not principal shareholders (Rule 9–05) provided that the registrant indicates the number of directors whose indebtedness is included in the aggregate amount. For purposes of both footnote and schedule disclosures, installment loans made in the ordinary course of business are not required to be reported.

The proposed rules revise the existing rules in the following respects. First, the definition of "executive officer" would be modified to conform to the definition in Regulation C which was recently amended.[7] Second, the rule would be amended as it relates to relatives of executive officers, directors and principal shareholders to correspond with the proposed revisions to Regulation S–K ("S–K") (17 CFR Part 229) relating to disclosure of certain relationships and transactions involving management, which are discussed in more detail below. These two changes are proposed in order to achieve appropriate consistency in the Commission's rules. Third, the existing rule is applicable to executive officers, directors and major shareholders of "principal subsidiaries" which are defined as "the subsidiary with the greatest amount of deposits of all consolidated bank subsidiaries and any other consolidated subsidiary in which deposits exceed fifteen percent of consolidated deposits." The scope of the revised rule is proposed to encompass any subsidiary which meets the definition of a "significant subsidary" (Rule 1–02) because that definition is an established Commission benchmark for evaluating the materiality of an entity.

Finally, the Commission is proposing to delete Schedule I of the required schedules for bank holding companies because it believes that detailed listings of loans which are made to related parties in the ordinary course of business by a financial institution may not be useful information for making investment decisions. Disclosure of the aggregate amount of loans made to such persons would continue to be required in a note when such amount exceeds 5 percent of stockholders' equity at the balance sheet date; aggregate information about the level of such activities with related parties is considered necessary for an investor to evaluate the financial condition of the registrant when the amounts of these loans are significant. The Commission is also proposing to require additional footnote disclosure when the aggregate amount of such loans at the balance sheet date is significantly lower than the weighted average amount outstanding during the period covered by the related income statement; this will elicit appropriate disclosures in circumstances where related parties' loan balances have been significant during the reporting period, but are below the disclosure threshold at the balance sheet date. Further, the Commission is proposing to require certain note disclosures when a significant portion of loans to related parties are nonperforming loans [8] and when any such material loans were not made in the ordinary course of business. This information is necessary so that investors and security holders may better assess the effects of such transactions on the financial statements.[9] The Commission believes that the proposed amendments will reduce disclosure burdens generally while enhancing the information value of the disclosures by emphasizing the more significant aspects of loan transactions with related parties.

In proposing these revisions to S–X, the Commission has considered both the existing requirements for disclosure of loans to management in Item 402(e) of S–K and the proposed revisions to such requirements. Instruction 3 to Item 402(e) of the current S–K rules provides that, in lieu of the specific disclosure of indebtedness of management called for by that paragraph,[10] if the lender is a

[6] Specific details of the schedule are found in Schedule 12–03 of Regulation S–X. As to the indebtedness of each person, the schedule calls for name of debtor, balance at beginning of period, additions, amounts collected, amounts written off and balance at end of period, and also pertinent information such as due date, interest rate, terms of repayment and collateral.

[7] 17 CFR 230.405, as amended by Securities Act Release No. 6383 (March 3, 1982) (47 FR 11380).

[8] The definition of "nonperforming" is taken from present Item III.C of Guide 3.

[9] The definition of "ordinary course of business" is taken from the present Rule 9–02.5(e) and existing Schedule I.

[10] Item 402(e) calls for the following disclosure with respect to each director or officer of the registrant, each nominee for election as a director, and each associate of any such director, officer or nominee who was indebted to the registrant or its subsidiaries at any time since the beginning of the last fiscal year of the registrant: (i) The largest aggregate amount of indebtedness outstanding at any time during such period, (ii) the nature of the indebtedness and of the transaction in which it was

bank, savings and loan association, or a broker-dealer extending credit under Federal Reserve Regulation T, such disclosure may consist of a statement (if such is the case) that the loans to such persons were made in the ordinary course of business on substantially the same terms as those for comparable transactions and did not involve more than a normal risk of collectibility or present other unfavorable features.[11]

In Securities Exchange Act Release No. 17517 (February 5, 1981) (46 FR 11954), the Commission proposed, among other changes, to amend Instruction 3 to paragraph (e) of Item 402, to require disclosure about any such loans that had become nonperforming.[12] In that release, the Commission stated its belief that the instruction permitting abbreviated disclosure by specified financial entities should not be applicable to loans which, although originally made in the ordinary course of business, enter default or evidence serious problems with respect to repayment. This proposal was reproposed without change in Securities Act Release No. 6338 (August 6, 1981) (46 FR 42042), however, final action on the proposal was deferred because of the contemplated separate reexamination of the remuneration item as part of the Commission's general review of the rules governing proxy solicitations.

As the initial step in its Proxy Review Program, the Commission published for comment in Securities Act Release No. 33–6416 (July 9, 1982) (47 FR 31394, July 20, 1982), amendments to S–K which, among other things, would establish a new Item 404, "Certain relationships and related transactions," containing the current Item 402 requirements pertaining to disclosure of management's indebtedness. The proposed new Item 404 would amend the existing disclosure requirements of management indebtedness to require the disclosure of nonperforming loans, as would have been required by the earlier proposals.[13]

The Commission believes that some of the objectives for disclosure about loans to management in proxy statements, reports or prospectuses are applicable to financial statement disclosures about loans to related parties. Accordingly, the Commission is proposing related revisions to the provisions of Article 9. Given the objective of S–X to facilitate an understanding of the financial condition of a company, the proposed amendments of S–X differ somewhat from the S–K proposal, which is intended to elicit disclosures of transactions with management, directors or director nominees and shareholders where there are possible conflicts of interest. For example, the proposed S–X revision would only require disclosure about nonperforming loans to insiders when a significant portion of the aggregate amount of reported loans to insiders relates to nonperforming loans. This contrasts with the proposed S–K amendment which requires disclosure, on an individual basis, of nonperforming loans of officers and directors in excess of $50,000. The Commission believes that the proposed amendments to S–X would generally complement the disclosure required by both the existing management indebtedness provision required by both the existing management indebtedness provsion as well as the proposed revision to that provision. In this connection, Article 9 will be evaluated as any future changes are made in the related S–K rules.

Bank Premises and Equipment. The current requirement that each major class of bank premises and equipment and related accumulated depreciation be stated separately. (Rule 9–02.7(b)) has been deleted from the proposed rules since such information is generally not significant to a bank holding company. If such amounts are material, Accounting Principles Board Opinion No. 12 requires disclosure of the balances of major classes of depreciable assets, by nature or function, and the related accumulated depreciation, either by major classes of depreciable assets or in total. Similar disclosure of material amounts relating to capital leases is required by paragraph 16 of SFAS 13.

Bankers' Acceptances. No changes are proposed to the balance sheet presentation of bankers' acceptances transactions. The Commission understands that some preparers of financial statements believe that the current presentation should be reevaluated to determine whether these transactions are more appropriately reported as contingent transactions. The Commission invites comments on whether its present requirement to disclose on the balance sheet amounts due from customers on acceptances and banks' acceptances outstanding as assets and liabilities best represents the substance of these transactions.

Deposits. The current rules (Rule 9–02.11) require financial statement disclosure of the details of deposits by type (demand, time, savings and foreign). Proposed Rule 9–03.10 requires only the separate disclosure of the amounts of noninterest bearing deposits and interest bearing deposits, and the related amounts in foreign banking offices if the foreign disclosures provided by proposed Rule 9–05 are required. Guide 3 would continue to require the additional analytical disclosures with respect to the details of demand, savings, time and foreign deposit balances. The current financial statement dislosure requirement (Rule 9–03.7) for interest expense by type of interest bearing deposit would be deleted, although the total interest expense on such deposits would be presented, and Guide 3 would continue to require disclosure of interest expense by each major category of interest bearing liability.

The existing rules require separate disclosure of the aggregate amount of certificates of deposits and other time deposits of $100,000 or more in domestic bank offices (Rule 9–02.11(e)) and the related annual interest expense on the certificates of deposit (Rule 9–03.7). These disclosures are not included in the proposed Article 9 revision. Guide 3 currently provides for disclosure of the amounts of such large certificate of deposit balances as of the end of the latest fiscal year and the scheduled maturities of such balances. The Guide disclosure is proposed to be amended to provide similar disclosure of the amounts of other large time deposits. No amendment to Guide 3 is proposed to require the specific disclosure of the amount of the interest expense on such certificates of deposit since the Commission believes that this information may not be of significant interest to investors and other users. As noted above, Guide 3 currently requires the disclosure of the annual interest expense paid on each major category of interest bearing liabilities, including time deposits.

Short-Term Borrowings. The current requirement to disclose in a note certain short-term borrowings levels and rates (Rule 9–02.12(d)) is proposed to be included in Guide 3 since the information is primarily analytical in nature and may be of limited interest to most investors and other users of the

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incurred, (iii) the amount thereof outstanding as of the latest practicable date, and (iv) the rate of interest paid or charged thereon.

[11] The term "ordinary course of business" is defined the same way in S–K as it is defined in the proposed amendments to S–X.

[12] The amended instruction would have defined the term "nonperforming loan" in a manner consistent with Guide 3.

[13] The Commission has also solicited comments in Release No. 33–6416 as to whether the disclosure of loans to executive officers and principal shareholders currently required in Schedule I, should be required in proxy statements. Proposed Item 404 of Regulation S–K does not require disclosure of such loans made in the ordinary course of business.

financial statements. This is generally consistent with the recent revision [14] to Rule 5–04, which provides that commercial and industrial companies may include this information in a schedule or in management's discussion and analysis.

Standby Letters of Credit. The current requirement for note disclosure of outstanding standby letters of credit (Rule 9–02.17) is not included in the proposed rules since such disclosure is required by paragraph 12 of SFAS 5.

Foreign Activities. Information about the foreign activities of a bank holding company is presently required by Rule 9–04. This rule provides for the following disclosures about material foreign activities: (1) The amount of identifiable assets, total revenue, expenses, income (loss) before taxes, and net income (loss) for each significant foreign geographic area; (2) details of the categories of foreign loans and deposits; (3) a statement of changes in the allowance for loan losses applicable to foreign loans; (4) details of interest bearing deposits and other balances in banks outside of the United States; and (5) information about other borrowings associated with foreign activities. Furthermore, existing Rules 9–02.5 and 9–02.11 also require that the total amounts of foreign loans and deposits in foreign banking offices be disclosed.

Many of these foreign disclosures provide detailed information which is primarily analytical in nature, and which provides supplemental information about foreign asset risks and profitability. Although no substantive amendments are proposed as to the kinds of disclosures about foreign activities currently required, the Commission is proposing that certain of the disclosures be transferred to Guide 3. Proposed Rule 9–05 requires the following financial statement disclosures about foreign activities: Identifiable assets, total revenue, expenses, income (loss) before taxes, and net income (loss) associated with foreign activities (all detailed by significant foreign geographic area). The existing Article 9 foreign disclosure requirements in items (2) and (3) in the paragraph above are proposed to be transferred to Guide 3. The remaining Article 9 requirements in items (4) and (5) in the paragraph above are proposed to be deleted from the financial statements because, if significant, this information is presently required to be disclosed in the condensed average balance sheets called for by item I.A of Guide 3. Proposed Rules 9–03.5 and 9–03.10 would continue to include a requirement to disclose the amounts of total foreign loans and deposits in the financial statements.

As a result of these proposed changes, disclosures in the financial statements about a bank holding company's foreign operations would comprise information regarding identifiable assets invested in foreign activities, revenues and profitability, and the amount of aggregate foreign loans and foreign deposits. The Commission believes that these changes would simplify the disclosures required in bank holding company financial statements and that the financial statement user would continue to be provided with key summary information to assess the importance of a registrant's foreign operations and any associated risks. Users requiring more detailed information about foreign activities would be able to refer to the supplemental foreign data provided by the Guide 3 disclosures.

Investment Securities Gains and Losses. Rule 9–03.19 currently provides that securities gains and losses be presented in the income statement net of taxes after net income from operations. Similarly, earnings per share data are required to be presented for net income both before and after securities transactions. This two-step reporting format was developed primarily in response to arguments that gains and losses from such transactions should be reported separately from net income from operations because securities sales are not a part of a bank's normal operations, and for various other reasons. The commission believes that gains and losses from such transactions are conceptually only one of several components of income of a banking operation and that the current requirements in Article 9 may perpetuate the belief that these transactions are in some way different than other very similar transactions which are components of operating income. For example, sales of short-term investments, loans and loan participations are all reflected in operating income. Furthermore, there are numerous other transactions often reflected in bank operating income which are not typical transactions for a banking operation, such as gains on debt extinguishment and gains on sales of lease residuals and bank premises. The Commission is also concerned that the current two-step format may result in inconsistent reporting of net income before securities gain and losses among registrants because of differences of opinion as to what constitutes an "investment security." Liberal interpretations of this definition can result in inappropriate presentation of gains and losses on sales of certain assets as investment securities transactions.

Because the Commission believes there is no conceptual basis for the two-step reporting format since securities transactions are a normal part of bank operations, and because of the potential for inappropriate reporting of certain transactions as security gains and losses, the Commission is proposing that gains and losses from securities transactions be presented on a pre-tax basis as a separate, appropriately captioned line item. The applicable income taxes on such amounts may be disclosed parenthetically or in a note, if desired. Such disclosure would provide users with the same amount of information as is presented under the current rules. This one-step format would also reduce the complexity of the income statement and the disclosure of earnings per share date.

Schedule I. This schedule, designated as "Amounts receivable from Certain Persons," is proposed to be deleted, as discussed under "Loans to Related Parties" above. Existing Schedule V, "Indebtedness to Related Parties" is proposed to be redesignated as Schedule I.

Schedule II. The current requirement to disclose in Schedule II information as to valuation and qualifying accounts is proposed to be deleted, since bank holding companies are specifically required by Article 9 to include separate analyses of the activity in their loan loss and real estate allowance accounts in the notes.

Schedule III. The existing Schedule III. "Guarantee of Securities of Other Issuers," is proposed to be redesignated as Schedule II.

Schedule IV. The existing Schedule IV, "Investments in, Equity in Earnings of, and Dividends Received from Releated Parties" is proposed to be replaced by a new Schedule III requirement for condensed parent company information. This change is proposed to conform Article 9 to the recent amendments to Rule 12–04. Accounting Series Release ("ASR") 302 [15] amended Rule 12–04 to replace the schedule requirements detailing the registrant's investments in and indebtedness of affiliates with new requirements specifying disclosures of condensed financial information about the parent company and other related

[14] Securities Act Release No. 6233 (September 2, 1980) [45 FR 63660].

[15] Securities Act Release No. 6359 (November 6, 1981) [46 FR 56171].

data. The test for determining when the proposed Schedule III would be furnished is the same as the Article 5 test which was adopted in ASR 302. The proposed schedule would be required when there are significant third party restrictions on the net assets of the registrant's consolidated subsidiaries.

The Commission previously requested comments in ASR 302 as to: (1) Whether the need for parent company financial information is satisfactorily met by the condensed financial information and other related data prescribed by Rule 12–04; (2) whether sufficient information is disclosed about the activities of bank holding companies in Copmmission filings, given the deletion of the previous requirement for separate financial statements of consolidated finance-type subsidiaries; and (3) whether there should be additional criteria established for determining when parent company information should be furnished. Since these questions have particular relevance to bank holding company registrants, the Commission again requests specific comments on these matters, particularly from financial statement users.

Guide 3

As noted above, certain amendments are proposed to the Industry Guides for Disclosure by Bank Holding Companies. The proposed changes to Guide 3 are principally for the purpose of accommodating related changes being proposed to Article 9 of S–X. In effect, these changes transfer certain disclosure requirements from the financial statements to the description of business section of registration statements and certain filings under the Securities Exchange Act. The underlying rationale for this transfer is that the information is primarily analytical in nature and is similar in character to the other disclosure requirements of Guide 3; these disclosures do not appear to be necessary in annual reports to shareholders. Finally, the Commission believes that there are benefits derived from combining related analytical data in Guide 3 and from the resulting simplification of the financial statement disclosures.

A summary of the proposed changes to Guide 3 follows:

- A new instruction 7 has been added to the General Instructions to key the requirement to provide separate disclosures regarding foreign activities to the proposed Rule 9–05 requirement to make such disclosures in the financial statements.
- Certain disclosures regarding foreign activities have been transferred from the financial statements to Guide 3. These include details of loans and deposits, an analysis of the allowance for loans losses related to foreign activities and certain information related to large time deposits. In some cases, Guide 3 requires the presentation of average balances as opposed to the end of period balances required by S–X.
- Information as to concentrations in the investment portfolio in the securities of particular issuers has been transferred from S–X to Item II of Guide 3.
- The instructions to "Nonperforming Loans" in Item III have been clarified to provide that loans adversely classified (doubtful, loss) by regulatory examiners should normally be included in one of the nonperforming categories.
- The instructions regarding the "Summary of Loan Loss Experience" in Item IV have been recast in a tabular format with no substantive change in the information called for by this item.
- Certain analytical information regarding the registrant's short-term borrowings has been transferred from S–X to a new Item VII in Guide 3.
- Certain other minor editorial and other changes are proposed in order to conform the Guide to related changes being proposed in S–X.

The complete text of the proposed Guide 3, including sections for which no amendments are proposed, is included in this release so that commentators will have available for consideration the entire package of financial disclosure requirements for bank holding companies.

New Bank Audit Guide

The AICPA is currently completing the revision of its audit guide for banks. The issuance of this new audit guide should result in further improvements and uniformity in accounting and financial reporting for banks and bank holding companies. As part of the Commission's oversight role of the private sector's standard-setting efforts, the Commission staff has closely monitored this project and has taken into account the provisions reflected in the final drafts of this audit guide, where appropriate.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chairman of the Commission has certified that the amendment proposed herein will not, if adopted, have a significant economic impact on a substantial number of small entities. This certification, including the reasons therefor, is attached to this release.

List of Subjects in 17 CFR Parts 210, 231 and 241

Accounting, Reporting requirements, Securities.

The Commission hereby proposes to amend 17 CFR Chapter II as follows:

PART 210—FORM AND CONTENT OF AND REQUIREMENTS FOR FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, INVESTMENT COMPANY ACT OF 1940, AND ENERGY POLICY AND CONSERVATION ACT OF 1975

1. By removing §§ 210.9–01 to 210.9–05 and adding new §§ 210.9–01 to 210.9–06 as follows:

Bank Holding Companies

§ 210.9–01 Application of §§ 210.9–01 to 210.9–06.

This article is applicable to consolidated financial statements filed for bank holding companies and to any financial statements of banks that are included in filing with the Commission.

§ 210.9–02 General requirement.

The requirements of the general rules in §§ 210.1 to 210.4 (Articles 1, 2, 3, 3A and 4) should be complied with where applicable.

§ 210.9–03 Balance sheets.

The purpose of this rule is to indicate the various items which, if applicable, should appear on the face of the balance sheets and in the notes thereto.

Assets

1. *Cash and due from banks.* The amounts in this caption should include demand deposits and other noninterest bearing deposits with other banks.

(a) Any withdrawal and usage restrictions (including requirements of the Federal Reserve to maintain reserve balances) or compensating balance requirements should be disclosed (see § 210.5–02–1).

2. *Short-term investments.* Disclose separately the aggregate value of (1) Federal funds sold and securities purchased under resale agreements or similar arrangements, (2) interest bearing deposits in other banks and (3) any other short-term investments. Federal funds sold and securities purchased under resale agreements should not be netted against Federal funds purchased and securities sold under agreements to repurchase as reported in caption 11.

3. *Trading account securities.* Include securities or any other investments held for trading purposes.

(a) Disclose in a note whether trading account assets are valued at market or lower of cost or market. If market is not used, state

on the balance sheet the aggregate market value at the balance sheet date.

4. *Investment securities.* Disclose the aggregate book value of investment securities; show on the balance sheet the aggregate market value at the balance sheet date. The aggregate amounts should include securities pledged, loaned or sold under repurchase agreements and similar arrangements; borrowed securities and securities purchased under resale agreements or similar arrangements should be excluded.

(a) Disclose in a note the carrying value and market value of securities of (1) the U.S. Treasury and other U.S. Government agencies and corporations; (2) states of the U.S. and political subdivisions; and (3) other securities.

5. *Loans.* Disclose separately (1) total loans, (2) the related allowance for losses and (3) unearned income.

(a) Disclose on the balance sheet or in a note the amount of total loans in each of the following categories:

(1) Commercial, financial and agricultural
(2) Real estate—construction
(3) Real estate—mortgage
(4) Installment loans to individuals
(5) Lease financing
(6) Foreign
(7) Other (state separately any other loan category regardless of relative size if necessary to reflect any unusual risk concentration).

(b) The amount of foreign loans must be presented if the disclosures provided by § 210.9–05 are required.

(c) For each period for which an income statement is required, furnish in a note a statement of changes in the allowance for loan losses showing the balances at beginning and end of the period, provision charged to income, recoveries of amounts charged off and losses charged to the allowance.

(d)(1)(i) As of each balance sheet date, disclose in a note the aggregate dollar amount of loans (exclusive of installment loans in the ordinary course of business) made by the registrant or any of its subsidiaries to directors, executive officers, or principal holders of equity securities (§ 210.1–02) of the registrant or any of its significant subsidiaries (§ 210.1–02), or to any associate of such persons.

(ii) This disclosure need not be furnished when the aggregate amount of such loans at the balance sheet date does not exceed 5 percent of stockholders' equity at that date. Notwithstanding this reporting threshold, if the weighted average amount of such loans outstanding during the year exceeds 5 percent of stockholders' equity at year-end and significantly exceeds the amount of such loans outstanding at year-end, additional information, including discussion of individual transactions, should be provided to explain such differences.

(2) If a significant portion of the aggregate amount of loans disclosed pursuant to (d)(1)(i) above relates to nonperforming loans, so state and disclose the aggregate amount of such nonperforming loans along with such other information necessary to an understanding of the effects of the transactions on the financial statements.

(3) Notwithstanding the aggregate disclosure called for by (d)(1) above, if any loans were not made in the ordinary course of business during any period for which an income statement is required to be filed, provide an appropriate description of each such loan (See § 210.4–08(L)(3)).

(4) Definition of terms. For purposes of this rule, the following definitions shall apply:

"Associate" means (i) a corporation, venture or organization of which such person is an officer or general partner or is, directly or indirectly, the beneficial owner of 10 percent or more of any class of equity securities; (ii) any trust or other estate in which such person has a substantial beneficial interest or for which such person serves as trustee or in a similar capacity and (iii) any relative by blood, marriage or adoption who has no more remote relationship than first cousin.

"Executive officers" means the president, any vice president in charge of a principal business unit, division or function (such as loans, investments, operations, administration or finance), and any other officer or person who performs similar policy-making functions.

"Ordinary course of business" means those loans which were made on substantially the same terms, including interest rate and collateral, as those prevailing at the same time for comparable transactions with unrelated persons and did not involve more than the normal risk of collectibility or present other unfavorable features.

"Nonperforming loans" means loans that either: (i) Are accounted for on a nonaccrual basis; (ii) are contractually past due 90 days or more as to interest or principal payments; (iii) the terms of which have been renegotiated to provide a reduction or deferral of interest or principal because of a deterioration in the financial position of the borrower; or (iv) are now current, but there are serious doubts as to the ability of the borrower to comply with the present loan repayment terms. A renewal at maturity on current market terms not due to the financial weakness of the borrower will not be considered a renegotiation within the meaning of clause (iii) above.

6. *Bank premises and equipment.*

7. *Due from customers on acceptances.* Include amounts receivable from customers on drafts and bills of exchange that have been accepted by a consolidated bank subsidiary or by other banks for the account of a consolidated subsidiary and that are outstanding—that is, not held by a subsidiary bank, on the reporting date. (If held by a bank subsidiary, they should be reported as "loans" under § 210.9–03.5.)

8. *Other assets.* Disclose separately on the balance sheet or in a note thereto any of the following assets or any other asset the amount of which exceeds thirty percent of stockholders' equity. The remaining assets may be shown as one amount.

(1) Excess of cost over tangible and identifiable intangible assets acquired (net of amortization).

(2) Other intangible assets (net of amortization).

(3) Investments in and indebtedness of affiliates and other persons.

(4) Other real estate.

(a) Disclose in a note the basis at which other real estate is carried. Any reduction in carrying value resulting from the recognition of fair market value at the time of acquisition shall be accounted for as a loan loss. Any allowance for losses on other real estate which has been established subsequent to acquisition should be deducted from other real estate. For each period for which an income statement is required, disclosures should be made in a note as to the changes in the allowance, including balances at beginning and end of period, provision charged to income, and losses charged to the allowance.

9. Total assets.

Liabilities and Stockholders' Equity

Liabilities

10. *Deposits.* Disclose separately the amounts of noninterest bearing deposits and interest bearing deposits.

(a) The amount of noninterest bearing deposits and interest bearing deposits in foreign banking offices must be presented if the disclosures provided by §210.9–05 are required.

11. *Short-term borrowings.* Disclosure separately on the balance sheet or in a note, amounts payable for (1) Federal funds purchased and securities sold under agreements to repurchase; (2) commercial paper; and (3) other short-term borrowings.

(a) Disclose any unused lines of credit for short-term financing (§ 210.5–02.19(b)).

12. *Bank acceptances outstanding.* Disclose the aggregate of unmatured drafts and bills of exchange accepted by a bank subsidiary, or by some other bank as its agent, less the amount of such acceptances acquired by the bank subsidiary through discount or purchase.

13. *Other liabilities.* Disclose separately on the balance sheet or in a note any of the following liabilities or any other items which are individually in excess of thirty percent of stockholders' equity (except that amounts in excess of 5 percent of stockholders' equity should be disclosed with respect to item (4)). The remaining items may be shown as one amount.

(1) Income taxes payable.
(2) Deferred income taxes.
(3) Indebtedness to affiliates and other persons the investments in which are accounted for by the equity method.
(4) Indebtedness to directors, executive officers, and principal holders of equity securities of the registrant or any of its significant subsidiaries (the guidance in §210.9–03.5(d) shall be used to identify related parties for purposes of this disclosure).
(5) Accounts payable and accrued expenses.

14. *Long-term debt.* Disclose in a note the information required by § 210.5–02.22.

15. *Total liabilities.*

16. *Commitments and contingent liabilities.*

17. *Minority interest in consolidated subsidiaries.* The information required by § 210.5–02.27 should be disclosed, if applicable.

Redeemable Preferred Stocks

18. *Preferred stocks subject to mandatory redemption requirements or whose redemption is outside the control of the issuer.* See § 210.5–02.28.

Non-redeemable Preferred Stocks

19. *Preferred stocks which are not redeemable or are redeemable solely at the option of the issuer.* See § 210.5–02.29.

Common Stocks

20. *Common stocks.* See § 210.5–02.30.

Other Stockholders' Equity

21. *Other stockholders' equity.* See § 210.5–02.31.

22. *Total liabilities and stockholders' equity.*

§ 210.9–04 Income statements.

The purpose of this rule is to indicate the various items which, if applicable, should appear on the face of the income statement and in the notes thereto.

1. *Interest and fees on loans and lease financing.* Include commitment and origination fees, late charges and current amortization of premium and accretion of discount on loans which are related to or are an adjustment of the loan interest rate.

2. *Interest and dividends on investment securities.* Disclosure separately (1) taxable interest income, (2) nontaxable interest income, and (3) dividends.

3. *Trading account interest.*

4. *Other interest income.*

5. *Total interest income.*

6. *Interest on deposits.*

7. *Interest on short-term borrowings.*

8. *Interest on long-term debt.*

9. *Total interest expense.*

10. *Net interest income.*

11. *Provision for loan losses.*

12. *Net interest income after provision for loan losses.*

13. *Other income.* Disclosure separately any of the following amounts, or any other item of other income, which exceed one percent of the aggregate of total interest income and other income. The remaining amounts may be shown as one amount.

(a) Commissions and fees from fiduciary activities.

(b) Commissions, broker's fees and markups on securities underwriting and other securities activities.

(c) Insurance commissions, fees and premiums.

(d) Fees for other customer services.

(e) Profit of loss on transactions in securities in dealer trading account.

(f) Equity in earnings of unconsolidated subsidiaries and 50 percent or less owned persons.

(g) Gains or losses on disposition of equity in securities of subsidiaries or 50 percent or less owned persons.

14. *Other expenses.* Disclosure separately any of the following amounts, or any other item of other expense, which exceed one percent of the aggregate of total interest income and other income. The remaining amounts may be shown as one amount.

(a) Salaries and employee benefits.

(b) Net occupancy expense of premises.

(c) Goodwill amortization.

(d) Net cost of operation of other real estate (including provisions for real estate losses, rental income and gains and losses on sales of real estate).

(e) Minority interest in income of consolidated subsidiaries.

15. *Investment securities gains or losses.* Disclose the method followed in determining the cost of investments sold, e.g., "average cost," "first-in, first-out," or "identified certificate."

16. *Income or loss before income tax expense.*

17. *Income tax expense.* The information required by § 210.4–08(h) should be disclosed.

18. *Income or loss before extraordinary items and cumulative effects of changes in accounting principles.*

19. *Extraordinary items, less applicable tax.*

20. *Cumulative effects of changes in accounting principles.*

21. *Net income or loss.*

22. *Earnings per share data.*

§ 210.9–05 Foreign Activities.

(a) *General requirement.* Separate discosure concerning foreign activities shall be made for each period in which either (1) assets, or (2) revenue, or (3) income (loss) before income tax expense, or (4) net income (loss), each as associated with foreign activities, exceeded ten percent of the corresponding amount in the related financial statements.

(b) *Disclosures.* (1) Disclose total identifiable assets (net of valuation allowances) associated with foreign activities.

(2) For each period for which an income statement is filed, state the amount of revenue, expense, income (loss) before taxes, and net income (loss) associated with foreign activities. Describe the method of allocating the cost of funds to foreign and domestic operations. Explain how adjustments to these funds costs are made for the cost of capital, or why no such adjustment is made. State the nature of any other significant estimates and assumptions used in allocating revenue and expenses to foreign activities.

(3) The information in paragraph (b)(1) and (2) of this section shall be presented separately for each significant geographic area and in the aggregate for all other geographic areas not deemed significant.

(c) *Definitions.* (1) "Foreign activities" include loans and other revenue producing assets and transactions in which the debtor or customer, whether an affiliated or unaffiliated person, is domiciled outside the United States.

(2) The term "revenue" includes the total of the amounts reported at §§ 210.9–04.5 and 210.9–04.13.

(3) A "significant geographic area" is one in which assets or revenue or income before income tax or net income exceed 10 percent of the comparable amount as reported in the financial statements.

§ 210.9–06 Schedules.

(a) The following schedules, which should be examined by an independent accountant, should be filed unless the required information is not applicable or is given in the related financial statements.

Schedule I—Indebtedness to Related Parties. The schedule prescribed by § 210.12–05 should be filed for each period for which an income statement is required in support of any amounts required to be reported by § 210.9–03.13(4) unless such amount does not exceed 5 percent of stockholders' equity at either the beginning or the end of the period.

Schedule II—Guarantees of Securities of Other Issuers. The schedule prescribed by § 210.12–08 should be filed as of the date of the most recent audited balance sheet with respect to any guarantees of securities of other issuers by the person for which the statements are being filed.

Schedule III—Condensed Financial Information of Registrant. The schedule prescribed by § 210.12–04 should be filed when the restricted net assets (§ 210.4–08(e)(3)) of consolidated subsidiaries exceed 25 percent of consolidated net assets as of the end of the most recently completed fiscal year. For purposes of the above test, restricted net assets of consolidated subsidiaries shall mean that amount of the registrant's proportionate share of net assets of consolidated subsidiaries (after intercompany eliminations) which as of the end of the most recent fiscal year may not be transferred to the parent company by subsidiaries in the form of loans, advances or cash dividends without the consent of a third party (i.e., lender, regulatory agency, foreign government, etc.). Where restrictions on the amount of funds which may be loaned or advanced differ from the amount restricted as to transfer in the form of cash dividends, the amount least restrictive to the subsidiary shall be used. Redeemable preferred stocks (§ 210.5–02.28) and minority interests shall be deducted in computing net assets for purposes of this test.

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2. By revising § 210.12–01 as follows:

Form and Content of Schedules

General

§ 210.12–01 Application of §§ 210.12–01 to 210.12–29.

These sections prescribe the form and content of the schedules required by §§ 210.5–04, 210.6–10, 210.6–13, 210.6–24, 210.6–34, 210.7–05 and 210.9–06.

PART 231—INTERPRETIVE RELEASES RELATING TO THE SECRUITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

3. By revising the Securities Act Industry Guide 3 [Statistical Disclosure by Bank Holding Companies] of Part 231 by adding new Item VII and by revising the general instructions and the remaining items. The full text of the revised industry guide, as proposed, is set out below.

Guide 3—Statistical Disclosure By Bank Holding Companies

General Instructions

1. This Guide applies to the description of business portions of those bank holding company registration statements for which financial statements are required.

2. Information furnished in accordance with this Guide should generally be presented in tabular form in the order appearing below. However, an alternative presentation, such as inclusion of the information in Management's Discussion and Analysis, may be used if in management's opinion such presentation would be more meaningful to investors.

3. When the term "reported period" is used in the Guide, it refers to each of the periods described below:

(a) Each of the last three fiscal years of the registrant, except as is provided in paragraphs (b) and (c) below;

(b) Each of the last five fiscal years of the registrant with respect to Items III and IV, except as is provided in paragraph (c) below;

(c) Each of the last two fiscal years with respect to all items, if the registrant had assets of less than $200,000,000 or net worth of $10,000,000 or less as of the end of its latest fiscal year; and

(d) Any additional interim period necessary to keep the information from being misleading.

The reported period shall not include an additional interim period under paragraph (d) above merely because an income statement is presented for such additional interim period, but the reported period shall include such an additional period if a material change in the information presented or the trend evidenced thereby has occurred.

4. Unless otherwise indicated, averages called for by the Guide are daily averages. Where the collection of data on a daily average basis would involve unwarranted or undue burden or expense, weekly or month-end averages may be used, provided such averages are representative of the operations of the registrant. The basis used for presenting averages need be stated only if not presented on a daily average basis.

5. Some of the information called for by the Guide which is prospective in nature may not be available on a historical basis. The staff should be advised of such situations prior to filing and if the requested information is unavailable and cannot be compiled without unwarranted or undue burden or expense, the requirement that such information be furnished may be waived. If possible, reasonably comparable date should be furnished instead. If certain requested information will not be available with respect to periods to be covered in future filings subject to the Guide, this should also be brought to the staff's attention.

6. The disclosure requirements of the Guide are also applicable to foreign registrants to the extent the requested information is available. If the information is unavailable and cannot be compiled without unwarranted or undue burden or expense, this should be brought to the staff's attention.

Note.—In evaluating the reasonableness of assertions by registrants that the compilation of requested information, such as historical data or daily averages, would involve an unwarranted or undue burden or expense, the staff takes into consideration, among other factors, the size of the registrant, the estimated costs of compiling the data, the electronic data processing capacity of the registrant, and efforts in process to obtain the information in future periods.

7. In various places throughout this Guide, disclosure is called for regarding certain "foreign" data. For purposes of this Guide, this information need not be presented unless the registrant is required to make separate disclosures concerning its foreign activities in its consolidated financial statements using the test set forth in § 210.9–05 of Regulation S–X.

I. Distribution of Assets, Liabilities and Stockholders' Equity; Interest Rates and Interest Differential

A. *For each reported period, present average balance sheets.* The format of the average balance sheets may be condensed from the detail required by the financial statements provided that the condensed average balance sheets indicate the significant categories of assets and liabilties, including all major categories of interest-earning assets and interest-bearing liabilities. Major categories of interest-earning assets should include loans, taxable investment securities, non-taxable investment securities, short-term investments and other (specify if significant). Major categories of interest-bearing liabilities should include savings deposits, other time deposits, short-term debt, long-term debt and other (specify if significant).

B. *For each reported period, present an anlaysis of net interest earnings as follows:*

1. For each major category of interest-earning asset and each major category of interest-bearing liability, the average amount outstanding during the period and the interest earned or paid on such amount.

2. The average yield for each major category of interest-bearing asset.

3. The average rate paid for each major category of interest-bearing liability.

4. The average yield on all interest-earning assets and the average effective rate paid on all interest-bearing liabilities.

5. The net yield on interest-earning assets (net interest earnings divided by total interest-earning assets, with net interest earnings equaling the difference between total interest earned and total interest paid).

6. This analysis may, at the option of the registrant, be presented in connection with the average balance sheet required by paragraph A.

C. *For the latest two fiscal years, present (1) the dollar amount of change in interest income and (2) the dollar amount of change in interest expense.* The changes should be segregated for each major category of interest-earning asset and interest-bearing liability into amounts attributable to (a) changes in volume (change in volume times old rate), (b) changes in rates (change in rate times old volume), and (c) changes in rate-volume (change in rate times the change in volume). The rate/volume variances should be allocated on a consistent basis between rate and volume variance and the basis of allocation disclosed in a note to the table.

Instructions. (1) Explain how non-accruing loans have been treated for purposes of the analyses required by paragraph B.

(2) In the calculation of the changes in the interest income and interest expense, any out-of-period items and adjustments should be excluded and the types and amounts of items excluded disclosed in a note to the table.

(3) If loan fees are included in the interest income computation, the amount of such fees should be disclosed, if material.

(4) The interest income on tax exempt securities may be calculated on a tax equivalent basis. A brief note should describe the extent of recognition of exemption from Federal, state and local

taxation and the combined marginal or incremental rate used.

(5) If disclosure regarding foreign activities is required pursuant to General Instruction 7 of this Guide, the information required by paragraph A, B and C of Item I should be further segregated between domestic and foreign activities for each significant category of assets and liabilities disclosed pursuant to paragraph A. In addition, for each reported period, present separately, on the basis of averages, the percentage of total assets and total liabilities attributable to foreign activities.

II. Investment Portfolio

A. As of the end of each reported period, present the book value of investments in obligations of (1) the U.S. Treasury and other U.S. Government agencies and corporations; (2) States of the U.S. and political subdivisions; and (3) other securities including bonds, notes, debentures and stock of business corporations, foreign governments and political subdivisions, intergovernmental agencies and the Federal Reserve Bank.

B. As of the end of the latest reported period, present the amount of each investment category listed above which is due (1) in one year or less, (2) after one year through five years, (3) after five years through ten years, and (4) after ten years. In addition, state the weighted average yield for each range of maturities.

Instruction. State whether yields on tax exempt obligations have been computed on a tax equivalent basis. (See Instruction (4) to Item I.) Any major changes in the tax-free portfolio should be discussed hereunder.

C. As of the end of the latest reported period, state the name of any issuer, and the aggregate book value and aggregate market value of the securities of such issuer, when the aggregate book value of such securities exceeds ten percent of stockholders' equity.

Instruction. The term "issuer" has the meaning given in section 2(4) of the Securities Act of 1933, except that debt securities issued by a state of the United States and its political subdivisions and agencies which are payable from and secured by the same source of revenue or taxing authority shall be considered to be securities of a single issuer. This information does not have to be provided for securities of the U.S. Government and U.S. Government agencies and corporations. Consideration should be given to disclosure of risk characteristics of the securities of an issuer and of differences in risk characteristics of different issues of securities of an issuer as may be appropriate.

III. Loan Portfolio

A. *Types of Loans.* As of the end of each reported period, present separately the amount of loans in each category listed below. Also show the total amount of all loans for each reported perod which amounts should be the same as those shown on the balance sheets.

Domestic:

1. Commercial, financial and agricultural;
2. Real estate—construction;
3. Real estate—mortgage;
4. Installment loans to individuals;
5. Lease financing.

Foreign:

6. Governments and official institutions;
7. Banks and other financial institutions;
8. Commercial and industrial;
9. Other loans.

Instructions. A series of categories other than those specified above may be used to present details of loans if considered a more appropriate presentation. Furthermore, additional details of loans by category, or separate disclosure of other loan categories regardless of relative size, may be necessary or appropriate in some circumstances, such as when a substantial portion of total loans is concentrated in one or a few industries or foreign countries or, when appropriate, to show any other unusual risk or uncertainties.

B. *Maturities and Sensitivity to Changes in Interest Rates.* As of the end of the latest fiscal year reported on, present separately the amount of loans in each category listed in paragraph A (except that this information need not be presented for categories 3, 4 and 5, and categories 6 through 9 may be aggregated) which are: (1) Due in one year or less, (2) due after one year through five years and (3) due after five years. In addition, present separately the total amount of all such loans due after one year which (a) have predetermined interest rates and (b) have floating or adjustable interest rates.

Instructions. (1) Scheduled repayments should be reported in the maturity category in which the payment is due.

(2) Demand loans, loans having no stated schedule of repayments and no stated maturity, and overdrafts should be reported as due in one year or less.

(3) Determinations of maturities should be based upon contract terms. However, such terms may vary due to the registrant's "rollover policy," in which case the maturity should be revised as appropriate and the rollover policy should be briefly discussed.

C. *Nonperforming Loans.* As of the end of each reported period, state the aggregate amount of loans in each of the following categories for: (a) Loans accounted for on a non-accrual basis; (b) loans which are contractually past due 90 days or more as to interest or principal payments (but not included in the non-accrual loans in (a) above); (c) loans, the terms of which have been renegotiated to provide a reduction or deferral of interest or principal because of a deterioration in the financial position of the borrower (exclusive of loans in (a) or (b) above); and (d), loans now current where there are serious doubts as to the ability of the borrower to comply with present loan repayment terms. In connection with (d), a separate discussion of the risk elements associated with such loans, including the relative magnitude of such risks, shall be given.

Instructions. (1) Loans in categories 4 and 5 of paragraph A need not be considered for disclosure pursuant to paragraph C unless the total amount in either category exceeds 10 percent of total loans.

(2) A renewal of a loan at maturity on current market terms not due to the financial weakness of the borrower will not be considered a renegotiation for purposes of clause (c) of paragraph C.

(3) A loan remains in the category described in clause (c) until such time as the terms are substantially equivalent to terms on which loans with comparable risks are being made.

(4) In determining the amounts to be included in category (d), consideration should be given to adverse classifications (doubtful or loss) assigned to any loans by regulatory authorities. Any such loans which have not been included in categories (a), (b) or (c) should normally be disclosed as nonperforming loans under category (d).

(5) If a substantial portion of the loans stated pursuant to paragraph C are concentrated in one or a few industries, separate disclosure of the information required by this paragraph should be provided for such loans.

IV. Summary of Loan Loss Experience

A. An analysis of loss experience shall be furnished in the following format for each reported period:

ANALYSIS OF THE ALLOWANCE FOR LOAN LOSSES

	Reported period
Balance at beginning of period	$X
Charge-offs:	
Domestic:	
Commercial, financial and agricultural	X
Real estate-construction	X
Real estate-mortgage	X
Installment loans to individuals	X
Lease financing	X
Foreign	X
	X
Recoveries:	
Domestic:	
Commercial, financial and agricultural	X
Real estate-construction	X
Real estate-mortgage	X
Installment loans to individuals	X
Lease financing	X
Foreign	X
	X
Net charge-offs	X
Additions charged to operations	X
Balance at end of period	$X
Ratio of net-charge offs during the period to average loans outstanding during the period	X

Instructions. (1) The above table is not intended to mandate a specific format for disclosure of this information. Registrants are encouraged to experiment with various disclosure formats in the interest of effective communication of this data; however, all the required information must be given.

(2) For each period presented, describe briefly the factors which influenced management's judgment in determining the amount of the additions to the allowance charged to operating expense. A statement that the amount is based on management's judgment will not be sufficient.

(3) If, in accordance with the instructions to paragraph III–A, information concerning loans has been presented in categories other than those specified in that paragraph, those other categories should be used to present the disclosures called for under this paragraph.

(4) If the registrant is required to present separate data as to its foreign activities pursuant to General Instruction 7 to this Guide, disclosure must be provided as to the changes in the allowance for loan losses applicable to loans related to foreign activities, including the balances at the beginning and end of the periods, charge-offs, recoveries, and additions charged to operations.

B. At the end of each reported period, furnish a breakdown of the allowance for loan losses in the following format:

ALLOCATION OF THE ALLOWANCE FOR LOAN LOSSES

Balance at end of period applicable to	Reported period	
	Amount	Percent of loans in each category to total loans
Domestic	$X	X
Commercial, financial and agricultural	X	X
Real estate-construction	X	X
Real estate-mortgage	X	X
Installment loans to individuals	X	X
Lease financing	X	X
Foreign	X	X
Unallocated	X	N/A
	X	100

Instructions. (1) See instructions (1) and (3) to paragraph A above.

(2) In lieu of the breakdown of the allowance for loan losses by loan category called for above, the registrant may furnish a narrative discussion of the risk elements in the loan portfolio and the factors considered in determining the amount of the allowance for loan losses. The discussion may be extended to risk elements associated with particular loan categories or subcategories. Information should also be furnished as to the approximate anticipated amount of chargeoffs by category during the next full year of operation.

V. Deposits

A. For each reported period, present separately the average amount of each of the following deposit categories which are in excess of 10 percent of average total deposits:

Deposits in domestic bank offices:

(1) Noninterest bearing demand deposits.

(2) Interest bearing demand deposits.

(3) Savings deposits.

(4) Time deposits.

Deposits in foreign bank offices:

(5) Banks located in foreign countries (including foreign branches of other U.S. banks).

(6) Foreign governments and official institutions.

(7) Other foreign demand deposits.

(8) Other foreign time and savings deposits.

B. If material, the registrant should disclose separately the aggregate amount of deposits by foreign depositors in domestic offices. Identification of the nationality of the depositors is not required.

C. As of the end of the latest reported period, state the amount outstanding of (1) time certificates of deposit in amounts of $100,000 or more and (2) other time deposits of $100,000 or more issued by domestic offices by time remaining until maturity of 3 months or less; over 3 through 6 months; over 6 through 12 months; and over 12 months.

D. As of the end of the latest reported period, state the amount outstanding of time certificates of deposits and other time deposits in amount of $100,000 or more issued by foreign offices. If the aggregate of such certificates of deposit and time deposits in amounts exceeding $100,000 represents a majority of total foreign deposit liabilities, the disclosure need not be given, provided that there is a statement that a majority of deposits were in amounts in excess of $100,000.

VI. Return on Equity and Assets

For each reported period, present the following:

(1) Return on assets (net income divided by average total assets).

(2) Return on equity (net income divided by average equity).

(3) Dividend payout ratio (dividends declared per share divided by net income per share).

(4) Equity to assets ratio (average equity divided by average total assets).

Instructions. (1) If manditorily redeemable preferred stock is outstanding, furnish the ratios required under (2) and (4) above in a dual presentation including and excluding such stock in the calculations.

(2) Registrants should supply any other ratios which they deem necessary to explain their operations.

VII. Short-Term Borrowings

For each reported period, present the following information for each category of short-term borrowings reported in the financial statements pursuant to § 210.9–04.11:

(1) The amounts outstanding at the end of the reported period, the weighted average interest rate thereon, and the general terms thereof;

(2) The maximum amount of borrowings in each category outstanding at any month-end during each reported period;

(3) The approximate average amounts outstanding during each reported period and the approximate weighted average interest rate thereon.

Instruction. This information is not required to be given for any category of short-term borrowings for which the average balance outstanding during the period was less than 30 percent of stockholders' equity at the end of the period.

PART 241—INTERPRETIVE RELEASES RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER

4. By conforming Exchange Act Industry Guide 3 [Statistical Disclosure by Bank Holding Companies] to the amendments proposed for Securities Act Industry Guide 3.

Authority. These amendments are being proposed pursuant to the authority in sections 6, 7, 8, 10 and 19(a) (15 U.S.C. 77f, 77g, 77h, 77j, 77s) of the Securities Act of 1933, and sections 12, 13, 15(d) and 23(a) (15 U.S.C. 78*l*, 78m, 78o(d), 78w) of the Securities Exchange Act of 1934.

Pursuant to section 23(a)(2) of the Securities Exchange Act, the Commission has considered the impact of these proposals on competition and it is not aware at this time of any burden that such rule amendments, if adopted, would impose on competition. However, the Commission specifically invites comments as to the competitive impact of these proposals, if adopted.

In addition, the Commission is mindful of the cost to registrants and others of its proposals and recognizes its responsibilities to weigh with care the costs and benefits which result from its rules. Accordingly, the Commission specifically invites comments on the costs to registrants and others of the adoption of the proposals published herein.

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

July 9, 1982.

Regulatory Flexibility Act Certification

I, John S. R. Shad, Chairman of the Securities and Exchange Commission, hereby certify, pursuant to 5 U.S.C. 605(b) that the proposed amendments contained in Securities Act Release No. 33–6417 which revise the financial statement requirements and industry guide disclosures for bank holding companies will not have a significant economic impact on a substantial number of small entities.

The reason for this certification is that it is anticipated that the effects of the proposed amendments, if adopted, will not be significant for any entity subject to these provisions because the compliance burden would not be changed to a significant extent and the required information is generally available from existing records or otherwise available to the affected companies.

John S. R. Shad, Chairman.

July 9, 1982.

[FR Doc. 82-20069 Filed 7-23-82; 9:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 882

[Docket No. R–82–955]

Section 8 Housing Assistance Payments Program—Existing Housing

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner (HUD).

ACTION: Proposed rule.

SUMMARY: The Department is proposing to amend the Section 8 Existing Housing Program regulation by: (1) Clarifying the procedures for selecting applicants and for determining the appropriate unit size (bedrooms/sleeping rooms) for a Family; and (2) giving an applicant who is denied housing assistance, or a certificate holder whose housing assistance is reduced or terminated, a reasonable opportunity to request an informal hearing.

DATES: Comments due September 27, 1982.

ADDRESSES: Interested persons are invited to submit written comments on or before the due date to the Rules Docket Clerk, Office of General Counsel, Room 10278, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410. Each comment should include the commentor's name and address and must refer to the docket number indicated in the heading of this rule. A copy of each comment will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Joyce Anne Bassett, Program Services Division, Office of Public Housing (202) 426–0744, or Myra E. Newbill, Existing Housing Division, Office of Existing Housing and Moderate Rehabilitation, (202) 755–5353, Department of Housing and Urban Development, Washington, D.C. 20410. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

Background

In *Nichols* v. *Landrieu*, Civil Action No. 79–3094 (United States District Court, District of Columbia), a tenant in the Section 8 Existing Housing Program alleged a violation of due process because the Public Housing Agency (PHA) administering the program advised the tenant that her eligibility was reduced from a three-bedroom to a two-bedroom unit without specifying a reason for the action or advising her of an opportunity for an informal hearing. During the pendency of the action, The Department issued a program Handbook which required notice and hearing procedures in cases of reductions of assistance as well as denials of eligibility (Handbook 7420.7, paragraph 10–8). However, the District Court held that "the Handbook guidelines fail to engender the force of law" and therefore did not "preclude the justiciability of the instant case." On September 12, 1980, the District Court granted summary judgment to the plaintiff and entered an order which:

(1) Certified the action as a class action on behalf of "all persons whose subsidy for Section 8 Existing Housing may be terminated or reduced by a Public Housing Agency (PHA) because of family size and composition requirements without notice of the reasons for termination, the availability of a waiver of family size requirements, and an opportunity to be heard to contest the propriety of termination or claim entitlement to the waiver";

(2) Directed the Department to "publish in the **Federal Register**, for the purpose of inclusion in the Code of Federal Regulations, the pertinent sections, from its Administrative Practices Handbook for the Section 8 Existing Housing Program, delineating notice and hearing requirements pursuant to subsidy reduction"; and

(3) Directed that "the notice provided to a claimant shall contain a short statement advising the recipient of his right to a waiver and the grounds upon which a waiver may be granted."

The Department did not appeal the District Court order.

In this rulemaking proceeding, the Department proposes to amend the Section 8 Existing Housing Program regulations to implement the Court order. In addition, other revisions are proposed in the program regulations regarding selection of applicants for certificates, unit size standards, and informal hearing requirements.

Selection Procedures

Regulatory requirements for selection of applicants to be assisted under the Section 8 Existing Housing Program would be revised and reorganized in 24 CFR § 882.209(a). As indicated below, several of the changes proposed in this section would include in the regulation current program policies now contained in the program Handbook. These policies are of sufficient substantive impact that sound regulatory policy requires that they be included in the regulation after opportunity for

comment. Specific comment is invited particularly with respect to these matters included in the proposed rule.

The current regulation provides that families shall be selected for Certificates in accordance with the PHA program application, including any HUD-approved rules for giving preferences (§ 882.209(a)(3)), and that the equal opportunity housing plan submitted for approval as part of the PHA application for the program must state the PHA procedures for selecting applicants who are to receive Certificates, including nondurational residency requirements permitted under the regulation (§§ 882.204(b)(1)(i)(C), and 882.209(a)(3)). The current regulation also requires that PHA selection criteria be included in the PHA Administrative Plan as well as in the equal opportunity housing plan (§ 882.204(b)(3)(ii)). Consistent with the policy of the United States Housing Act of 1937 to "vest in local public housing agencies the maximum amount of responsibility in the administration of their housing programs," the Department believes that PHA discretion in determining selection criteria and preferences should be limited only by statutory eligibility limitations and the distinctive set of policy concerns which are evoked by equal housing opportunity review and are the basis, at least in part, of specific regulatory limitations on such criteria and preferences hereinafter described. For this reason, and also in order that all provisions on policies regarding selection of tenants will be stated in a single place, § 882.209(a)(6) of the amended regulation would provide that the PHA selection procedures, including any preferences or requirements for selection, shall be stated only in the equal opportunity housing plan, and that the PHA shall select applicants in accordance with that plan and HUD regulations governing eligibility for assistance under the Section 8 Existing Housing Program. (Conforming changes are made in § 882.204(b).)

Section 882.209(a)(2) would provide explicity that each PHA may establish applicant selection requirements or preferences in addition to the minimum eligibility requirements under HUD regulations. Consistent with existing program Handbook provisions, the revised regulation would permit a PHA to deny assistance to a past participant in the program who vacated an assisted unit in violation of the lease, failed to satisfy a liability for rent or other amounts owed under the lease, or has otherwise failed to comply with other family obligations under the program. The proposed rule would also permit a PHA to deny assistance to an applicant who has committed any fraud or misrepresentation in connection with any Federal housing assistance program.

In accordance with recent judicial decisions, Section 882.209(a)(2) would confirm that a PHA may deny or defer assistance to a family which owes rent or other amounts to the PHA, including back rents as a Public Housing tenant. See *Vandermark* v. *Housing Authority of the City of York*, 663 F.2d 436 (3rd Cir. 1981); *Baker* v. *Cincinnati Metorpolitan Housing Authority*, 490 F. Supp. 520 (S.D. Ohio 1980). Section 882.209(a)(2)(ii) would further provide that if the PHA elects to defer issuance of a Certificate for this reason, the PHA may require the family to repay the amouts owed prior to issuing the Certificate, or may condition the issuance of a Certificate on the applicant's willingness to enter into an agreement to repay after issuance of the Certificate. These provisions are consistent with existing program Handbook provisions.

Although the regulation would allow the individual PHA to establish special requirements or preferences for selection, proposed Section 882.209(a)(3) would incorporate a current Handbook provision which generally prohibits the use of selection criteria based on the expected behavior of the applicant as a tenant, except to the extent provided by Section 882.209(a)(2) discussed immediately above, which generally is based upon prior PHA experience with the particular applicant. This prohibition is based upon the statutory direction that "the selection of tenants * * * shall be the function of the owner" (Section 8(d)(1)(A), United States Housing Act of 1937). The proposed regulation further provides that PHA selection of an applicant for a Certificate is not a representation by the PHA to the owner as to the expected behavior of the applicant as a tenant, and does not relieve or impair the responsibility of the owner for selection of tenants for units. This provision responds to the concern of PHAs that they should not be held responsible or liable for conduct of tenants, and the concern of owners that they retain control over the decision to rent or not to rent units to Certificate-holders.

A number of provisions relating to selection of certificate holders are proposed to be relocated in connenction with reorganization of section 882.209(a) without substantive change (requirements or preferences for residents of jurisdiction, from § 882.209(a)(3) to § 882.209(a)(4); certificates for residents of Independent Group Residences, from § 882.209(a)(3) to § 882.209(a)(5); use of HUD-required application form, from § 882.209(a)(4) to § 882.209(a)(7); required records on applicants, § 882.209(a)(6) to § 882.209(a)(8).

Occupancy Standards

The Certificate issued by the PHA to an applicant selected for assistance specifies a unit size (expressed as the number of bedrooms or other sleeping rooms) which may be rented by the assisted family. The unit size on the Certificate determines the highest gross rent for which the family may lease a unit with assistance under the program (i.e., the fair market rent for the unit size stated on the Certificate).

The current regulation specifies criteria to be used by the PHA in determining the unit size to be assigned to an applicant (§ 882.209(a)(2)). The Department believes that the determination of such criteria may properly be left to the discretion of PHAs. Accordingly, § 882.209(b)(1)(i) of the proposed regulation would require only that the standards established by a PHA for determining the appropriate unit size for families of different sizes and compositions must provide for the efficient use of program resources while avoiding overcrowding, and must be consistent with the applicable housing quality standards (including the minimum standards for sleeping space at § 882.109(c)).

For the sake of clarity, the regulation would explicitly cross-reference the regulatory provision at § 882.210(e) (which would not be changed) allowing the family to select a smaller or larger size unit than stated on the Certificate. The intent of allowing the family to select a smaller unit is to permit the family to make a trade-off for other amenities, such as convenience to transportation, schools, and shopping, or where the family is unable to locate a suitable unit of the size listed on its Certificate. (A unit larger than that listed on the Certificate may be selected only if the rent for such larger unit does not exceed the fair market rent applicable to the unit size listed in the Certificate.)

The proposed regulation would allow the PHA to establish criteria for granting exceptions from the unit size standards adopted by the PHA. The PHA exception criteria may allow the assignment of a larger unit size if warranted by the characteristics of the family. However, the criteria for granting exceptions, and the procedures for requesting exceptions, must be made available to applicants and Certificate-holders (§ 882.209(b)(1)(ii)). The latter

provision responds to the directive of the *Nichols* order.

Informal Hearings

Section 882.216 would be revised to establish a uniform hearing requirement for applicants and Certificate holders affected by specified types of PHA action.

The current regulation requires the PHA to give an informal hearing to an applicant determined to be ineligible (§ 882.209(f)). In addition, as noted above in connection with the *Nichols* action, paragraph 10–8 of the PHA administrative Practices Handbook for the program (Handbook 7420.7) requires the PHA to give a Certificate-holder an opportunity for an informal hearing before the PHA terminates or reduces housing assistance payments under the program. The new § 882.216 would replace the current regulatory provision and expand its coverage.

Section 882.216(a) provides that the new informal hearing requirement will apply to an applicant determined to be ineligible for participation in the program, or to whom assistance is denied or deferred on the basis of other PHA selection criteria; or to a Certificate-holder whose assistance is terminated or reduced (including persons whose assistance is terminated or reduced because of a reduction in family size or change in family composition, the class concerned in the *Nichols* litigation).

882.216(b) would require the PHA to notify an applicant or Certificate holder of a PHA decision to deny, defer, terminate or reduce housing assistance, and of the right to an informal hearing.

Proposed § 882.216(c) would require a hearing to be conducted in accordance with procedures adopted by the PHA which are consistent with standards prescribed by the rule. The prescribed standards, in substance, are those now contained in the Handbook provisions referred to by the District Court in the *Nichols* action. They dictate the appointment of a hearing officer who may be a PHA officer or employee who did not participate in the PHA's decision, or any person, other than a PHA officer or employee, designated by the PHA; the right of an applicant or Certificate-holder to be represented at the hearing, at its own expense, by a lawyer or other representative; the rights of the applicant or Certificate-holder and the PHA to offer and examine evidence and question witnesses; the requirement of a written decision stating briefly the factual and other basis for the decision; and a requirement that the decision on any issue of fact shall be based solely on evidence presented at the hearing.

The District Court ordered that the Department incorporate its current Handbook provisions regarding informal hearing procedures in its proposed rule, but the Department does not believe that the Court's order precludes the consideration of public comments addressing such requirements. While the requirements specified in the proposed rule may not appear onerous, the Department believes that it may be preferable to grant somewhat greater discretion to PHAs to fashion informal hearing procedures tailored to fair determination of the particular issues involved in determinations covered by proposed § 882.216(a). (For a discussion of factors that may be considered to be elements of a fair hearing in different circumstances, inlcuding factors suggesting greater or less judicialization of the procedures, see generally Friendly, "Some kind of Hearing," 123 U. Pa. L. Rev. 1267 (1975).) In addition to the specific requirements prescribed in the proposed rule or others which commentors may wish to suggest, the Department invites comment on alternative regulatory patterns. One such alternative on which comment is invited would be to authorize PHAs to adopt and publish such procedures as they deem appropriate, which may contain appropriate variations depending upon the nature and relative seriousness of the subject matter and the importance of the private interest affected in a particular instance (permitting, for example, different requirements for hearings for applicants from those provided to existing Certificate-holders), but requiring that in determining such procedures, the PHA shall give due consideration to enumerated elements, which would include the need of an unbiased tribunal (whether an individual or a panel); an opportunity to present reasons why proposed action should not be taken; the manner in which the PHA will be required to present the factual or other basis for its decision, and the manner and extent to which the applicant or Certificate-holder will be permitted to examine evidence and examine and question witnesses; whether, or under what circumstances, an applicant or Certificate-holder may be represented by a lawyer or other representative; the extent to which the tribunal's decision must be based on evidence presented in the hearing proceeding, and the extent to which decision of some factual matters and other matters may be based on the tribunal's own knowledge and experience; and whether, or the circumstances under which, further review of the tribunal's decision will be availble, and the effect or weight to be given to the tribunal's decision in any such subsequent review.

Other Matters

The Department has determined that this proposed rule does not constitute a "major rule" as defined in Executive Order 12291. Analysis of the proposed rule indicates that it will not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

A finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implements Section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the office of General Counsel, Rules Docket Clerk, at the address listed above.

Pursuant to Section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601, et seq.), the undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities.

This rule was listed as item (C) 37 (H–49–81) under the Office of Housing in the Department's Semiannual Agenda of Regulations published August 17, 1981 (46 FR 41708) pursuant ot Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance number for the program affected by this rulemaking proceeding is: 14.156, Lower-Income Housing Assistance Program (Section 8).

List of Subjects in 24 CFR Part 882

Grant programs: Housing and community development, Housing, Mobile homes, Rent subsidies.

PART 882—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—EXISTING HOUSING

Accordingly, the Department proposes to amend 24 CFR Part 882 as follows:

1. In §882.204, paragraphs (b)(1) and (3)(ii) are revised to read as follows:

§882.204 Submission of applications.

* * * * *

(b) * * *

(1) An equal opportunity housing plan.

(i) the plan shall describe the PHA's policies and procedures for:

(A) Outreach to eligible Families, including the requirements of §882.207(a)

(B) Achieving the participation of owners of units of suitable price and quality in areas outside low income and minority concentrations and outside the local jurisdiction where possible and fulfulling the additional requirements of §882.208.

(C) Selecting among eligible applicants those to receive Certificates of Family Participation, including any provisions establishing requirements or preferences for selection established in accordance with §882.209(a).

(D) Providing assistance in finding a unit to Certificate-holders who allege that illegal discrimination is preventing them from finding a suitable unit.

* * * * *

(3) * * *

(i) * * *

(ii) The following functions should be addressed: Contact with Owners; completion of application and determinations of Family eligibility; computation of Gross Family Contributions; briefing of Families and issuance of Certificates; use of housing quality standards and inspections; lease approval and Contract execution; payments to Owners; certification and recertification of Incomes; provision of housing information and services to recipient Families; review and adjustment, as necessary, of Allowances for Utilities and Other Services; reinspection of units under Contracts; processing requests for rent adjustments by Owners; establishment of informal hearing procedures; monitoring program performance.

* * * * *

2. In §882.209, paragraphs (a) and (b) are revised to read as follows:

§882.209 Certificates of family participation.

(a) *Selection for issuance of certificate.* (1) The PHA shall determine whether an applicant for a Certificate of Family Participation under this Part qualifies as a Family. The PHA shall verify income and other information needed for this purpose and to determine the amount of the housing assistance payment.

(2) In addition to the requirements stated in paragraph (1) above, the PHA may establish other requirements or preferences for selecting applicants. The PHA may deny issuance of a Certificate to an applicant (i) who, as a past participant in the §8 Existing Housing Program, vacated a unit in violation of the Lease, failed to satisfy a liability to the Owner for rent or other amounts owed under the Lease, or otherwise failed to comply with other family obligations under the §8 Existing Housing Program, or (ii) who has committed any fraud or misrepresentation in connection with any federal housing assistance program. The PHA also may deny or defer issuance of a Certificate to an applicant who owes rent or other amounts, including amounts owed under the Public Housing Program, to the PHA or to another PHA. If the PHA elects to defer issuance of a Certificate on such basis, it may, in its discretion, either require the applicant to repay the amounts owed prior to issuing the Certificate or may condition the issuance of a Certificate on the applicant's willingness to enter into an agreement to repay after issuance of the Certificate.

(3) Except to the extent provided in paragraph (2) of this section, the PHA shall not establish selection criteria based on the applicant's expected behavior as a tenant. The PHA's selection of an applicant for issuance of a Certificate shall not be deemed either to constitute any representation by the PHA to the Owner as to expected behavior of the applicant as a tenant or to relieve or impair the responsiblity of the Owner for selection of tenants for units.

(4) Requirements or preferences for those living in the jurisdiction are permissiable. However, no requirement or preference may be based upon the identity or location of the housing which is occupied or proposed to be occupied by the applicant for a Certificate, nor upon the length of time the applicant has resided in the jurisdiction; applicants who are working or who have been notified that they are hired to work in the juridiction shall be treated as residents of the jurisdiction. (See also §882.209(e)(2).)

(5) If the PHA has issued a Certificate to an eligible Family residing in an Independent Group Residence, the PHA may establish a preference for selecting eligible applicants who have indicated the desire to reside in an Independent Group Residence when a §8 Family in an Independent Group Residence moves. Use of this preference is subject to the availability of funds for the appropriate size units. The Certificate holders given this preference shall select the units of their choice and do not have to reside in the Independent Group Residence in which a vacancy has occurred.

(6) The PHA selection procedures, including any preferences or requirements for selection, shall be stated in the PHA's HUD-approved equal opportunity housing plan. The PHA shall select applicants in accordance with the equal opportunity housing plan, and with the requirements of 24 CFR Parts 812 and 889 and this Part.

(7) Every applicant shall complete and sign the form of certification prescribed by HUD.

(8) PHA records on applicants and certified Families shall be maintained so as to provide HUD with racial, gender and ethnic data.

(b) *Issuance of Certificate of Family Participation and Certificate Holder's Packet.* (1) If an applicant is selected, the applicant shall be issued a Certificate of Family Participation.

(i) In issuing the Certificate, the PHA shall enter on the Certificate the smallest unit size (number of bedrooms or other sleeping rooms) consistent with standards established by the PHA for determining the appropriate unit size for Families of different sizes and compositions. The PHA's standards shall provide for the efficient use of program resources while avoiding overcrowding and shall be consistent with applicable HUD-approved housing quality standards (see §882.109(c)). (For provisions concerning rental by a Family of a unit with a larger or smaller unit size than stated on the Certificate, see §882.210(e).)

(ii) The PHA may grant exceptions from the PHA unit-size standards established in accordance with paragraph (i) to allow the assignment of a larger unit size than that established under the standards if warranted by the relationship, age, sex, health or handicap of the Family members. The PHA criteria for granting exceptions from the standards, and procedures for requesting exceptions, shall be made available to applicants and participating Families.

(2) The PHA shall maintain a system to assure that it will be able to honor all outstanding Certificates within the funding provided under the ACC, and that it will comply to the maximum extent feasible with the unit distribution specified in the ACC.

(3) When issuing a Certificate, the PHA shall give the Family a Certificate Holder's Packet, which shall include:

(i) Request for Lease Approval;

(ii) Required Lease Provisions and Prohibited Lease Provisions (see Appendices I and II);

(iii) Information regarding lead-based paint poisoning hazards, symptoms and precautions;

(iv) Fair Housing U.S.A. (HUD–63–EO–(6)), or the Spanish translation thereof (HUD–169–EO–(2)), as appropriate, both issued by the U.S. Department of Housing and Urban Development and the housing discrimination complaint form (HUD–903) or the Spanish translation thereof (HUD–903a);

(v) Information as to the Gross Family Contribution;

(vi) The PHA's schedule of Allowances for Utilities and Other Services; and

(vii) Such other items as the PHA may determine should be included.

* * * * *

3. In § 882.209, (i) the cross-reference at the end of paragraph (e)(2) is changed from "§ 882.209(a)(3)" to "§ 882.209(a)", and (ii) paragraph (f) is removed.

4. Section 882.216 is revised to read as follows:

§ 882.216 Informal hearings.

(a) *Applicability.* The PHA shall provide an opportunity for an informal hearing (1) to an applicant determined to be ineligible for assistance under the requirements of 24 CFR Parts 812 and 889 (on the basis of income or Family composition or for any other reason), (2) to an applicant to whom assistance is denied or deferred on the basis of other PHA selection criteria established pursuant to § 882.209(a)(2), or (3) to a Certificate holder whose assistance is terminated (by refusal to renew a Certificate or otherwise) or reduced (on the basis of income redetermination, reduction in Family size or change in Family composition, or for any other reason). The PHA shall not be required to provide an informal hearing to a Certificate holder or Owner when the PHA exercises any remedy (including the termination of housing assistance payments to the Owner) against the Owner under the Contract.

(b) *Notification.* The PHA shall give the applicant or Certificate holder written notification of the PHA decision to deny, defer, terminate or reduce the applicant's or Certificate holder's housing assistance and the reasons for the decision. The notice shall state that the applicant or Certificate holder may request an informal hearing and shall specify a reasonable date by which the applicant or Certificate holder must request the hearing.

(c) *Hearing.* If the applicant or Certificate holder requests an informal hearing, a hearing shall be conducted in accordance with procedures adopted by the PHA consistent with the standards prescribed by this section, notice of which shall be made available to applicants and participating Families.

(1) The PHA shall appoint a hearing officer to conduct the informal hearing who may be a PHA officer or employee who did not participate in the PHA decision, or any person, other than a PHA officer or employee, designated by the PHA.

(2) The applicant or Certificate holder, at its own expense, may be represented by a lawyer or other representative.

(3) The PHA shall present the factual or other basis for its decision. The applicant or Certificate holder may also present its position. Subject to the direction of the hearing officer, the applicant or Certificate holder and the PHA may offer and examine evidence and question any witnesses.

(4) The hearing officer shall issue a written decision, stating briefly the factual and other basis for the decision, a copy of which shall be furnished promptly to the applicant or Certificate holder. The decision on any issue of fact shall be based solely on evidence presented at the hearing.

Authority: Sec. 8, U.S. Housing Act of 1937 (42 U.S.C. 1437f); Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: June 25, 1982.

Philip Abras,

General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 82-20162 Filed 7-23-82; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 944

Public Comment and Opportunity for Public Hearing on Modified Portions of the Utah Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule: notice of receipt of permanent program modifications: public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing procedures for the public comment period and for a public hearing on the substantive adequacy of proposed amendments to the Utah Permanent Regulatory Program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) which were submitted to OSM by Utah for the Director's approval.

This notice sets forth the times and locations that the Utah program and proposed amendments are available for public inspection, the comment period during which interested persons may submit written comments on the proposed program elements, and the procedures that will be followed at the public hearing.

DATES: Written comments from members of the public must be received by 4:30 p.m. on August 20, 1982, to be considered in the Director's decision on whether the proposed amendments satisfy the criteria for approval.

A public hearing on the proposed amendments has been scheduled for August 16, 1982. Any person interested in making an oral or written presentation at the hearing should contact Mr. Robert Hagen at the address and telephone number listed below by August 6, 1982. If no person has contacted Mr. Hagen by this date to express an interest to participate in this hearing, the hearing will be cancelled. A notice announcing any cancellation will be published in the Federal Register.

ADDRESSES: The public hearing will be held between 1 p.m. and 5 p.m. at the Conference Room, Room No. 4108, 4241 State Office Building, Salt Lake City, Utah. Written comments and requests for an opportunity to speak at the public hearing should be sent to Mr. Robert Hagen, Field Office Director, Office of Surface Mining Reclamation and Enforcement, New Mexico Field Office, 219 Central Avenue, N.W., Albuquerque, New Mexico, 87102.

Copies of the Utah program, the proposed modifications to the program and all written comments received in response to this notice will be available for public review at the OSM Field Office above and the OSM Headquarters office and the office of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Utah Division of Oil, Gas and Mining, Department of Natural Resources, 4241 State Office Building, Salt Lake City, Utah, Telephone: (801) 533–5771.

Office of Surface Mining, Room 5315, 1100 "L" Street NW., Washington, D.C., Telephone (202) 343–5351.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur W. Abbs, Chief, Division of State Program Assistance, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Telephone: (202) 343–5351.

SUPPLEMENTARY INFORMATION: On March 3, 1980, the State of Utah submitted to the Department of the Interior its proposed permanent regulatory program under SMCRA.

On October 3, 1980, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved in part and disapproved in part the proposed program. Notice of that decision and the Secretary's findings were published in the **Federal Register** on October 24, 1980 (45 FR 70481–70510). The State of Utah resubmitted its program for approval by the Secretary on December 23, 1980. After providing an opportunity for public comment on the program and completing a thorough review of the resubmission, the Secretary of the Interior determined that the Utah program, including the resubmission, did, with minor exceptions, meet the requirements of SMCRA and the Federal permanent program regulations. Accordingly, the Secretary of the Interior conditionally approved the Utah program subject to the correction of twelve minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the January 21, 1981 **Federal Register** (46 FR 5899–5915).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Utah program can be found in the January 21, 1981, **Federal Register** (46 FR 5899–5915).

In accepting the Secretary's conditional approval, Utah agreed to correct deficiencies "a"—"e" by December 1, 1981, and deficiencies "f"—"l" by July 1, 1981.

Subsequently, Utah requested an extension of the deadline to meet conditions "f," "g," and "h" until January 1, 1982. On October 30, 1981 (46 FR 54070), OSM announced the Secretary's decision to approve the extension.

Upon the State's request the deadline for the State to meet condition "f" was further extended to September 1, 1982, and the deadline for the State to meet condition "h" to January 1, 1983, (47 FR 234155–234156, May 27, 1982).

On June 29, 1981, Utah submitted statutory and regulatory revisions intended to satisfy conditions "a"–"e," "g," and "i"–"l."

On June 22, 1982, (47 FR 26827–26831) the Assistant Secretary for energy and Minerals announced his decision to remove conditions a—e, j, and l and to grant an extension of the time by which Utah must satisfy conditions g, i, and k. In the June 22, 1982 notice, the Assistant Secretary also announced his decision to impose a new condition "m" requiring the State to correct a deficiency in the State program which had recently come to OSM's attention.

This notice addresses amendments submitted by the State which do not relate to any of the conditions.

Specifically, Utah is seeking the Director's approval of the following proposed amendments to its approved regulatory program:

1. *Modification of civil penalty regulations.* The State is seeking the Director's approval of modifications of its civil penalty rules at UMC/SMC 845 which were adopted by the Utah Division of Oil, Gas and Mining on April 30 and May 1, 1981, and of further modifications to these rules which were proposed by the Division on June 23, 1982, and are scheduled for adoption in August or September 1982. The full text of these adopted changes together with the June 23, 1982, proposed revisions is contained in the Utah administrative record under number UT–263. These documents are available for public review during regular business hours at the addresses listed above under "ADDRESSES". Also available for public review are copies of correspondence between the Utah Division of Oil, Gas and Mining and the Office of Surface Mining relevant to the proposed amendments to the State's civil penalty regulations. These documents are also included in the Utah Administrative Record under number UT–263.

2. *Alternative Standard for Measuring Revegetation Success.* Utah is also seeking the Director's approval to utilize the "range site" method as an alternative to the "reference area" method of measuring revegetation success set forth under 30 CFR 816.116 and 30 CFR 817.116.

Utah's proposal to utilize the range site method as an alternative method for measuring revegetation success was submitted to OSM on May 21, 1981. Additional supporting documentation was submitted to OSM by the Division of Oil, Gas and Mining on October 20, 1981, and February 5, 1982. These documents are contained in the Utah administrative record under number UT–264.

The Secretary seeks public comment on whether the proposed modifications to the Utah permanent program listed above satisfy the criteria for approval of State program amendments at 30 CFR 732.15. If the Secretary determines the proposed modifications meet the criteria, the amendments will be approved, and 30 CFR 944.10 modified accordingly.

Additional Determinations

1. Compliance With the National Environmental Policy Act

The Secretary has determined that pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. Compliance With the Regulatory Flexibility Act

The Secretary hereby determines that this proposed rule will not have a significant economic impact on small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

3. Compliance With Executive Order No. 12291

On August 28, 1981, the Office of Management of Budget (OMB) granted the Office of Surface Mining exemption from sections 3, 4, 6, and 8 of Executive Order 12291 for all actions taken to approve, or conditionally approve, State regulatory programs, actions, or amendments. Therefore, a Regulatory Impact Analysis and regulatory review by OMB is not needed for this program amendment.

List of Subjects in 30 CFR Part 944

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: July 20, 1982.

J. R. Harris,

Director, Office of Surface Mining.

[FR Doc. 82-20181 Filed 7-23-82; 8:45 am]
BILLING CODE 4310-05-M

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30 CFR Part 947

Surface Mining and Reclamation Operation Under a Federal Program for Washington

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Notice of extension of public comment period and postponement of public hearing.

SUMMARY: On June 21, 1982 (47 FR 26794), OSM published the proposed Federal program for the State of Washington for public comment that

would regulate coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands in Washington. Since its publication OSM has found it necessary to extend the public comment period for the convenience of commenters who have indicated that additional time is needed to adequately review and comment on the proposed Federal program. In addition, for the same reason, it is necessary to postpone the public hearing.

DATES:

Written Comments: The comment period on the proposed Federal program will extend until 5:00 p.m. on September 20, 1982.

Public Hearing: The public hearing on the proposed Federal program has been changed from July 28, 1982, to September 13, 1982.

ADDRESSES:

Written Comments: Hand-deliver to the Office of Surface Mining, Wyoming State Office, Freden Bldg., 935 Pendell Blvd., Mills, Wyoming 82244, or mail to Administrative Record (R&I–21), Office of Surface Mining, Wyoming State Office, P.O. Box 1420, Mills, Wyoming 82644.

Public Hearing: State of Washington General Administration Building Conference Room, Capitol Campus, Olympia, Washington 98504 beginning at 7:00 p.m.

FOR FURTHER INFORMATION CONTACT:

James M. Kress, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240; 202–343–5866.

SUPPLEMENTARY INFORMATION:

Public Commenting Procedures

Written Comments: Written comments should be specific, pertain only to issues proposed in this Federal program, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than Mills, Wyoming, will not necessarily be considered or be included in the Administrative Record for the final Federal program.

Dated: July 19, 1982.

Carl C. Close,

Acting Assistant Director, Program Operations and Inspection, Office of Surface Mining.

[FR Doc. 82–20137 Filed 7–23–82; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 123

[W–4–FRL 2175–6]

State of Alabama; Water Improvement Commission; Underground Injection Control; Primary Applications

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and of public hearing.

SUMMARY: The purpose of this notice is to announce that: (1) The Environmental Protection Agency (EPA) has received complete application from the State of Alabama Water Improvement Commission requesting approval of its Underground Water Injection Control program; (2) the application is available for inspection and copying; (3) public comments are requested; and (4) a public hearing will be held.

This notice is required by the Safe Drinking Water Act as a part of the response to the States complying with the statutory requirement that there be an Underground Injection Control program in designated States.

The proposed comment period and public hearing will provide EPA the breadth of information and public opinion necessary to approve, disapprove, or approve in part and disapprove in part the application from the State Water Improvement Commission to regulate all Class I, III, IV and V injection wells in Alabama.

DATES: Requests to present oral testimony should be filed by August 16, 1982. A public hearing has been scheduled for August 24, 1982 at 10:00 a.m. The public comment period closes September 1, 1982. Comments must be received by that date. Should EPA not receive sufficient requests to present oral testimony by August 16, 1982, the Agency reserves the right to cancel the public hearing and those persons who had expressed an interest in the public hearing will be notified.

ADDRESSES: Comments and requests to testify should be mailed to Curt F. Fehn, Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia, 30365. Copies of the application and pertinent material are available from 9:00 a.m. to 4:00 p.m., Monday through Friday at:

Alabama Water Improvement Commission, Public Health Services Building, Montgomery, Alabama 36130, (205) 277–1701

Environmental Protection Agency, Region IV, Library, First Floor, 345 Courtland Street, NE., Atlanta, Georgia 30365, (404) 881–4216.

The hearing will be held in the Richard Beard Building Auditorium, 1445 Federal Drive, Montgomery, Alabama.

FOR FURTHER INFORMATION CONTACT:

Curtis F. Fehn, Groundwater Section, Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365, (404) 881–3886.

SUPPLEMENTARY INFORMATION: This application from the State of Alabama Water Improvement Commission is for the regulation of all Class I, III, IV and V injection wells in the State. The application includes a description of the State Underground Injection Control program, copies of all applicable rules and forms, a statement of legal authority and a memorandum of agreement between the Alabama Water Improvement Commission and the Region IV office of the Environmental Protection Agency.

List of Subjects in 40 CFR Part 123

Hazardous materials, Indians—lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

Dated: July 16, 1982.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

[FR Doc. 82–20090 Filed 7–23–82; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 82–15; Notice 1]

Federal Motor Vehicle Safety Standards; Seat Belt Assemblies

Correction

In FR Doc. 82–19577 appearing on page 31712 in the issue of Thursday, July 22, 1982, first column, the second sentence under **"DATES:"** should read as follows:

"The proposed effective date is 30 days after publication of the final rule in the **Federal Register**."

BILLING CODE 1505–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1102

[Ex Parte 290 (Sub-4)]

Railroad Cost Recovery Procedures—Productivity Adjustment

AGENCY: Interstate Commerce Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Commission is instituting this proceeding to request comments on the use of a productivity adjustment in determining the quarterly rail cost adjustment factor and proposals for measuring productivity and for implementing a productivity adjustment. The Commission's reconsideration in this mattter is being made in light of the D.C. Circuit's recent decision which anticipated that the Commission would eventually reconsider the productivity adjustment issue. These comments will be considered separately from the comments requested in the Commission's recent Advance Notice of Proposed Rulemaking in Ex Parte No. 290 (Sub-No. 2), *Railroad Cost Recovery Procedures*, 47 FR 18012 (April 27, 1982)

DATE: Comments are due on or before September 9, 1982.

ADDRESS: Send an original and, if possible, 15 copies of comments to: Room 5340, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Leslie J. Selzer, (202) 275–7627, or William T. Bono, (202) 275–7354

SUPPLEMENTARY INFORMATION: In an Advance Notice of Proposed Rulemaking published at 47 FR 18012 (April 27, 1982), the Commission reopened the Ex Parte No. 290 (Sub-No. 2) proceeding to request comments on a wider range of issues. The Commission discussed these issues in detail in a separate decision served April 27, 1982. In footnote 2 to that decision, the Commission stated that the scope of the reopening would exclude those issues on judicial review before the United States Court of Appeals for the District of Columbia Circuit in No. 81–1437, *Western Coal Traffic League* v. *United States*. This was intended to avoid interference with the court's review of the Commission's decision in Ex Parte No. 290 (Sub-No. 2), *Railroad Cost Recovery Procedures*, 364 I.C.C. 841 (1981).

On May 4, 1982, the court issued its decsion in No. 81–1437, affirming the Commission's 1981 decision. The court concluded:

> We expect, however, that in accordance with its stated intentions, the Commission will continuously review the accuracy of its chosen index and will revise the index in an appropriate fashion, including consideration of measurable productivity gains, as the circumstances warrants. (Sheet 36)

On May 5, 1982, the Western Coal Traffic League filed a petition to broaden the reopened proceeding to include the productivity adjustment issue. The railroads filed a reply on May 25, 1982.

Inclusion of this issue in Ex Parte No. 290 (Sub-No. 2) at this time woud unduly delay the Commission's consideration of the issues discussed in the April 27, 1982, decision. Therefore, we deny the Western Coal Traffic League's petition to broaden the April 27, 1982, reopening to include the productivity adjustment issue. Comments directed to the April 27 notice and decision were due on July 9, 1982. See 47 FR 25035 (June 9, 1982).

The D.C. Circuit's recent decision, however, expressly anticipated that the Commission would consider the productivity adjustment issue. Accordingly, we are instituting this proceeding to request comments on the possible use of a productivity adjustment in determining the quarterly rail cost adjustment factor and proposals for measuring productivity and for implementing a productivity adjustment. These comments should be submitted, and will be considered, separately from the comments directed to the April 27, 1982, notice and decision in Ex Parte No. 290 (Sub-No. 2).

Comments directed to the productivity adjustment issues are due on or before September 9, 1982.

Finally, we will address the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, in the Notice of Proposed Rulemaking, should one result here.

List of Subjects in 49 CFR Part 1102

Railroads, Freight.

(49 U.S.C. 10321 and 10707a, and 5 U.S.C. 553 and 559)

Dated: July 14, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison. Commissioner Andre dissented with a separate expression.

Agatha L. Mergenovich,

Secretary.

Commissioner Andre, dissenting: The productivity issue should be joined with the issues in Ex Parte No. 290 (Sub-No. 2).

[FR Doc. 82-20056 Filed 7-23-82; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 47, No. 143
Monday, July 26, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Gospel-Hump Advisory Committee; Meeting

The Gospel-Hump Advisory Committee will meet at 7 p.m., August 19, 1982, at the Nezperce National Forest Smokejumper Barracks conference room, Grangeville, Idaho. Purpose of this meeting will be to review the final draft of the Gospel-Hump Management Plan.

The meeting will be open to the public. Persons who wish to attend should notify Ed Laven, 319 East Main, Grangeville, Idaho 83530; telephone 208/983–1950. Written statements may be filed with the committee before or after the meeting.

Ed Laven,

Acting Forest Supervisor.

July 14, 1982.

[FR Doc. 82–20094 Filed 7–23–82; 8:45 am]

BILLING CODE 3410–11–M

Packers and Stockyards Administration

R. G. Warner, d.b.a. Rawhide Scottsdale, Arizona, et al.; Posted Stockyards

Pursuant to the authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), it was ascertained that the livestock markets named below were stockyards within the definition of that term contained in section 302 of the Act, as amended (7 U.S.C. 202), and notice was given to the owners and to the public by posting notices at the stockyards as required by said section 302, on the respective dates specified below.

Facility No., Name, and Location of Stockyard and Date of Posting

AZ–111 R. G. Warner, d.b.a. Rawhide, Scottsdale, Arizona; June 18, 1981

CA–174 Butte Livestock Sales, Chico, California; June 12, 1981

CA–175 Barstow Sales Yard, Barstow, California; July 1, 1981

TN–178 Shelbyville Livestock Market, Shelbyville, Tennessee; October 27, 1981

TN–179 Lewisburg Feeder Pig Market, Lewisburg, Tennessee; January 18, 1982

TX–322 East Texas Livestock of Crockett, Inc., Crockett, Texas; July 3, 1981

TX–323 Jay Rippy, Inc., d.b.a. Cattlemens Livestock Commission Co., Dalhart, Texas; August 12, 1981

Done at Washington, D.C., this 20th day of July 1982.

Jack W. Brinckmeyer,

Chief, Financial Protection Branch, Livestock Marketing Division.

[FR Doc. 82–20000 Filed 7–23–82; 8:45 am]

BILLING CODE 3410–02–M

Vermilion Livestock Co., Inc. Abbeville, Louisiana; Depositing of Stockyards

It has been ascertained, and notice is hereby given, that the livestock markets named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), no longer come within the definition of a stockyard under said Act and are, therefore, no longer subject to the provisions of the Act.

Facility No., name, and location of stockyard and Date of Posting

LA–100 Vermilion Livestock Co., Inc., Abbeville, Louisiana; March 3, 1959

Notice or other public procedure has not proceeded promulgation of the foregoing rule. There is no legal justification for not promptly deposting a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a change relieving a after publication in the **Federal Register**. This notice shall become effective July 26, 1982.

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 et seq.)

Done at Washington, D.C., this 20th day of July, 1982.

Jack W. Brinckmeyer, Chief,

Financial Protection Branch, Livestock Marketing Division.

[FR Doc. 82–20079 Filed 7–23–82; 8:45 am]

BILLING CODE 3410–02–M

Wright County Livestock Auction, Inc., Mountain Grove, Missouri, et al.; Proposed Posting of Stockyards

The Chief, Financial Protection Branch, Packers and Stockyards Administration, United States Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the Act.

MO–255 Wright County Livestock Auction, Inc., Mountain Grove, Missouri

OH–147 Elkton Livestock Auction, Inc., Elkton, Ohio

Notice is hereby given, therefore, that the said Chief, pursuant to the authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), proposes to designate the stockyards named above as posted stockyards subject to the provisions of the Act as provided in section 302 thereof.

Any person who wishes to submit written data, views, or arguments concerning the proposed designation, may do so by filing them with the Chief, Financial Protection Branch, Packers and Stockyards Administration, United States Department of Agriculture, Washington, D.C. 20250, by August 10, 1982.

All written submissions made pursuant to this notice shall be made available for public inspection in the office of the Chief of the Financial Protection Branch during normal business hours.

Done at Washington, D.C., this 20th day of July 1982.

Jack W. Brinckmeyer,

Chief, Financial Protection Branch, Livestock Marketing Division.

[FR Doc. 82–20078 Filed 7–23–82; 8:45 am]

BILLING CODE 3410–02–M

CIVIL AERONAUTICS BOARD

[Docket 40771]

American World Airways Fitness Investigation; Prehearing Conference

Notice is hereby given that a hearing in the above-entitled proceeding is assigned to be held on August 12, 1982, at 9:30 a.m. (local time), Room 1003A, Universal North Building, 1875 Connecticut Avenue, NW., Washington, D.C., before the undersigned Chief Administrative Law Judge.

Dated at Washington, D.C., July 21, 1982.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 82-20153 Filed 7-23-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40747; Order 82-7-67]

Emerald Air, Inc., d.b.a. Emerald Airlines; Application for a Certificate To Engage in Scheduled Interstate and Overseas Air Transportation

Issued under delegated authority: July 19, 1982.

Order Instituting Fitness Investigation

On June 3, 1982, Emerald Air, Inc., d.b.a. Emerald Airlines, a Texas-based intrastate carrier, filed an application in Docket 40747 under the expedited licensing procedures of Subpart Q (14 CFR 302.1701 *et seq.*) for the issuance of a certificate of public convenience and necessity to engage in scheduled interstate and overseas air transportation of persons, property, and mail. Emerald requested that its application be processed by non-hearing procedures. In support of its application, Emerald filed data under Subpart Q and Part 204 of our Procedural Regulations.

Fitness Investigation

By this order, we are instituting an investigation on the issue of the fitness of Emerald Airlines to receive certificate authority under section 401(d)(1) of the Act, as well as its fitness to hold authority under the unused authority provisions of section 401(d)(5) of the Act.[1] In view of our policy to encourage entry into new markets by air carriers so as to assure a more effective, competitive airline industry, we emphasize the desirability of expedition and simplicity and direct that this matter be heard before an Administrative Law Judge of the Board as soon as possible.

Interested persons who wish to request additional evidence should file their responses within ten days of the service date of this order.[2] In addition, petitions for leave to intervene should be filed within ten days of the service date of this order. We believe that this will expedite the fitness proceeding, and we urge the Administrative Law Judge to take such other measures in the interest of expedition that he considers appropriate.

Public Convenience and Necessity

We have concluded that after December 31, 1981, no finding of consistency with the public convenience and necessity is required for the award of certificate authority for the interstate and overseas air transportation of persons, property and mail under sections 401(d)(1), (2), and (3) of the Act, with the exception of intra-Alaska and intra-Hawaii all-cargo service for which we must make such findings. See Order 81-12-146, December 23, 1981, for a more complete discussion. If Emerald Airlines is determined to be fit, willing and able to engage in air transportation, it will receive a certificate authorizing it to engage in the interstate and overseas air transportation of persons, property and mail between all points in the United States, its territories and possessions, except intra-Alaska and intra-Hawaii all-cargo service.

Accordingly, under the authority delegated by the Board in its Regulations, § 385.13(v):[3]

1. We institute the Emerald Air Fitness Investigation, Docket 40747, and set it for hearing before an Administrative Law Judge of the Board, on an expedited basis, at a time and place to be determined later, to determine the issues of (1) whether Emerald is fit, willing and able to perform scheduled interstate and overseas air transportation and comply with the Act and our rules, regulations and requirements; (2) to hold unused authority pursuant to section 401(d)(5) of the Act; and (3) to consider any issues under sections 408 and 409 of the Act which may exist;[4]

2. The applicant's request to waive the 28-day answer period is denied;

3. The applicant's request that we process its application by non-hearing procedures is denied;

4. To the extent not granted herein, we deny the applicant's request for expedited treatment;

5. We direct all interested persons to file requests for additional evidence and requests to intervene no later than July 30, 1981; and

6. We will serve a copy of this order upon all persons listed in the Appendix.

We will publish a summary of this order in the **Federal Register.**

Persons entitled to petition the Board for review of this order under its Regulations, 14 CFR 385.50, may file their petitions within ten days after the date of service of this order.

This shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless before that date a petition for review is filed or the Board determines to review this order on its own motion.

Phyllis T. Kaylor,

Secretary.

Service List Emerald Air, Inc., d.b.a. Emerald Airlines

Mr. Dean Rush, Chairman of the Board and President, Emerald Air, Inc., 1106 Clayton Lane, Suite 300E, Austin, Texas 78723;
Federal Aviation Administration, Director of Airport Services, 800 Independence Avenue, Washington, D.C. 20591;
Texas Aeronautics, Commission, Capital Station, P.O. Box 12607, Austin, Texas 78711;
Mayor of McAllen, McAllen, Texas;
North Texas Commission, P.O. Box 61240, DFW Airport, Dallas, Texas 78711;
Airport Manager, Miller International Airport, McAllen, Texas;
Airport Manager, Will Rogers Field, Oklahoma City, Oklahoma;
Benjamin P. Lamberton, Stephen L. Gerband, Hewes, Morella & Gelband, P.C., 1010 Wisconsin Avenue, N.W., Suite 640, Washington, D.C. 20007;
Mayor of Dallas, Dallas, Texas 75201;
Mayor of Fort Worth, Fort Worth, Texas 76102;
Mayor of Houston, Houston, Texas 77251;
Mayor of Oklahoma City, Oklahoma City, Oklahoma;
William Brackley, Director of Aviation, Department of Aviation, Houston International Airport, P.O. Box 60106, Houston, Texas 77205.

[FR Doc. 82-20152 Filed 7-23-82; 8:45 am]

BILLING CODE 6320-01-M

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[1] Order 82-2-21 granted Emerald unused authority pursuant to section 401(d)(5), for a number of intra-Texas markets. In this investigation, we will examine the fitness of Emerald to continue holding unused authority pursuant to the continuing fitness requirement of section 401(r) of the Act.

[2] Emerald's exhibits do not provide all of the information required by Part 204, particularly the balance sheet of relevant corporations required by § 204.5(f) and the balance sheet for its first normal year of operations required by § 204.5(t). We have contacted the applicant and it has agreed to file the necessary additional information.

[3] See OR-199, effective July 6, 1982.

[4] The term hearing is used in its general sense to connote the formal proceeding process and does not in any way affect the discretion of the Administrative Law Judge to dispense with oral evidentiary phase of this process as warranted by the circumstances.

[Docket 40747]

Emerald Air Fitness Investigation; Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge William A. Kane, Jr. Future communications should be addressed to him.

Dated at Washington, D.C., July 21, 1982.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 82-20155 Filed 7-23-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40524]

Independent Air Inc. Fitness Investigation; Prehearing Conference

Notice is hereby given that a hearing in the above-entitled proceeding is assigned to be held on August 10, 1982, at 9:30 a.m. (local time), Room 1003A, Universal North Building, 1875 Connecticut Avenue, NW., Washington, D.C., before the undersigned Chief Administrative Law Judge.

Dated at Washington, D.C., July 21, 1982.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 82-20156 Filed 7-23-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40580]

Samoa, Inc., d.b.a. Samoa Airlines, Inc., Fitness Investigation; Postponement of Hearing

On June 20, 1982, the applicant requested that the hearing scheduled to be held on July 21, 1982, be postponed due to unavailability of its witnesses. Accordingly, notice is hereby given that the hearing in the above-entitled matter scheduled to be held on July 21, 1982 (47 FR 30537, dated July 14, 1982), is postponed until August 25, 1982, at 10:00 a.m., Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C.

Dated at Washington, D.C., July 20, 1982.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 82-20157 Filed 7-23-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40462]

Sea Coast Airways Fitness Investigation; Cancellation of Prehearing Conference and Hearing

Notice is hereby given that the prehearing conference and hearing in this case assigned to be held on July 27, 1982 (47 FR 31030, July 16, 1982) are hereby cancelled.

Dated at Washington, D.C., July 21, 1982.

Ronnie A. Yoder,

Administrative Law Judge.

[FR Doc. 82-20154 Filed 7-23-82; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Indiana Advisory Committee; Agenda and Open meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Indiana Advisory Committee to the Commission will convene at 7:00 p.m. and will end at 10:00 p.m., on August 19, 1982, at the Sheraton Hotel Gary, 465 Broadway Street, in the Erie Ontario Room, Gary, Indiana 46402. The purpose of this meeting it to orient the new members of the Committee, report on the recent Regional Advisory Committee meeting, review data on the housing discrimination study in Northwest Indiana and discuss program plans for future projects.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Joseph Russell, Afro-American Studies, Memorial East, M37, Bloomington, Indiana, 47402, (812) 337-3874 or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604, (312) 353-7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 20, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-20140 Filed 7-23-82; 8:45 am]

BILLING CODE 6335-01-M

Michigan Advisory Committee; Agenda and Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Michigan Advisory Committee to the Commission will convene at 5:30 pm and will end at 8:30 pm, on August 17, 1982, at the City Hall, City Council Chambers, 1315 South Washington, Saginaw, Michigan, 48601. The purpose of this meeting is to discuss minorities' access to commercial loans, affirmative action in city government, tuition tax credits and equal educational opportunity in the State of Michigan.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, M. Howard Rienstra, 1225 Thomas South East, Grand Rapids, Michigan, 49506, (616) 949-4000 or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois, 60604, (312) 353-7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 21, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-20141 Filed 7-23-82; 8:45 am]

BILLING CODE 6335-01-M

Minnesota Advisory Committee; Agenda and Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Minnesota Advisory Committee to the Commission will convene at 7:00p and will end at 9:00p, on August 20, 1982, at the Holiday Inn Downtown, 1313 Nicollet Mall, Minneapolis, Minnesota 55403. The purpose of this meeting is to orient the new members of the Committee, discuss follow up activities to the letter addressed to Mark Shields, Executive Director of Peace Officers' Standards Training Board in St. Paul and Commissioner McLure will address civil rights issues of the American Indian in Minnesota.

Persons desiring additional information or planning a presentation to the Committee, should contact the Vice Chair, Ruth Myers, 1006 East Second Street, Apartment Number 1, Duluth, Minnesota 55805, (218) 726-7234 or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604, (312) 353-7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 20, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-20142 Filed 7-23-82; 8:45 am]

BILLING CODE 6335-01-M

Nebraska Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Nebraska Advisory Committee to the Commission will convene at 10:30a and will end at 1:30p, on September 8, 1982, at the Federal

Building, 100 Centennial Mall North, in Room 497, Lincoln, Nebraska. The purpose of this meeting is to discuss plans for follow up activities to the Omaha police report and program planning for Fiscal Year 1983.

Persons desiring additional information or planning a presentation to the Committee, should contract the Chairperson, Shirley M. Marsh, 2701 South 34th Street, Lincoln, Nebraska, 68509, (402) 471–2734 or the Central States Regional Office, Old Federal Office Building, 911 Walnut Street, Room 3103, Kansas City, Missouri, 64106, (816) 374–5253.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 20, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-20143 Filed 7-23-82; 8:45 am]

BILLING CODE 6335-01-M

Vermont Advisory Committee; Agenda and Open meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Vermont Advisory Committee to the Commission will convene at 7:00a and will end at 9:30 p.m., on August 31, 1982, at the University of Vermont, Williams Science Hall, in Room 511, Burlington, Vermont. The purpose of this meeting is to give a demonstration of the stereotyping and prejudice-in-education kit and discuss the report on the study of Franco-Americans in Vermont.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Philip H. Hoff, 192 College Street, Hoff, Wilson and Powell, P.C., Burlington, Vermont, 05401, (802) 658–4300 or the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts, 02110, (617) 223–4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 21, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-20144 Filed 7-23-82; 8:45 am]

BILLING CODE 6335-01-M

Vermont Advisory Committee; Agenda and Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a press conference to be conducted by the Vermont Advisory Committee to the Commission will convene at 10:00 am and will end at 12:00 pm, on September 1, 1982, at the Pavillion Building Auditorium, State Street, Montpelier, Vermont 05602. At this press conference the Committee will announce and demonstrate its educational program on prejudice and stereotyping.

Persons desiring additional information should contact the Chairperson, Philip H. Hoff, 192 College Street, Hoff, Wilson and Powell, P.C., Burlington, Vermont 05401, (802) 658–4300 or the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110, (617) 223–4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 21, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-20145 Filed 7-23-82; 8:45 am]

BILLING CODE 6335-01-M

Wisconsin Advisory Committee; Agenda and Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Wisconsin Advisory Committee to the Commission will convene at 6:30p and will end at 9:00p, on August 13, 1982, at the University of Wisconsin Milwaukee, Enderis Hall, Milwaukee, Wisconsin. The purpose of this meeting is to discuss drafts of the Committee's projects on business incentives and vocational education.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Herbert M. Hill, 2127 Van Hise Avenue, Madison, Wisconsin, 53705, (608) 263–1642 or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois, 60604, (312) 353–7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 20, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-20146 Filed 7-23-82; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, on or before August 16, 1982.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5:00 p.m., Monday through Friday, in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket Number 82–00244. Applicant: The University of Texas at Dallas, Biology Program, Box 688, Richardson, TX 75080. Article: Electron Microscope, Model EM 10CA and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for conducting research on a wide variety of specimens of biological origin, for the purpose of helping to elucidate molecular-biological mechanisms which are the basis for all life processes. The specimens will include nucleoprotein complexes involved in genetic replication and expression; DNAs and RNAs, either naturally occurring or reconstructed; viruses; cellular organelles or other structures (e.g., higher-order structures containing chromatin) isolated from living cells; and thin sections of whole cells, chemically labeled to identify one or more components of interest. The primary objective is to determine how the physical structures of biological constituents are related to their functions. The articles will also be used to determine the organization of various genetic elements, i.e., for the physical mapping of genes, genetic deletions, et cetera. The article may be used occasionally in organized courses, chiefly for demonstrations, e.g., in BIO

6332, "Electron Microscopy", in which the theory and practice of electron microscopy are taught annually to classes consisting of about six predoctoral or masters students in the biology program. Application received by Commissioner of Customs: June 17, 1982.

Docket Number 82–00245. Applicant: The Johns Hopkins Hospital, 600 North Wolfe Street, Baltimore, MD 21205. Article: Electron Microscope, Model JEM–100S and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used by different investigators to examine various types of biological specimens from experimental animals including: central nervous system, heart, viruses, kidney, bone marrow and spleen cells grown *in vitro*, human tumors, and autopsy tissues. Most of the specimens will be examined to observe differences in ultrastructure between control and experimental groups following various surgical manipulations and/or exposure to drugs or toxins. Application received by Commissioner of Customs: June 17, 1982.

Docket Number 82–00246. Applicant: The University of Toledo, 2801 W. Bancroft Street, Toledo, Ohio 43606. Article: Electron Monochromator and Analyzer. Manufacturer: Prof. W. McConkey, Dept. of Physics, University of Windsor, Canada. Intended use of article: The article is intended to be used for the study of doubly excited states of atoms produced in collisions with electrons. The highly monochromatic electron beam from the article will be crossed with an alkaline earth atomic beam (Be, Mg or ca) and the scattered electrons will be analyzed after the collision. The objective of the experiment is to determine the electron excitation differential cross sections for the doubly excited states of alkaline earths. Application received by Commissioner of Customs: June 17, 1982.

Docket Number 82–00254. Applicant: Morehouse School of Medicine, 830 Westview Drive, S.W., Atlanta, Georgia 30314. Article: LKB 14800–3 Cryokit. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used in a research effort to elucidate the mechanism whereby soft mammalian tissues support the precipitation of calcium salts during pathological calcification. Through histo- and cytochemical localization of ionic calcium and crystal nuclei of calcium salts, it is expected to provide description of where calcium is localized and how it accumulates at the ultrastructural level. Experiments will be conducted by exposing organ culture explants of various normal soft tissues, including skin, aorta and articular cartilage, to calcergens which elicit the accumulation and ultimate deposition of insoluble calcium salts. Biochemical parameters are to be assayed and ultrastructural histochemistry is to be performed in order to describe the changes occurring in the tissues as they are transformed from an uncalcified state to a calcifiable intermediate and eventually to a calcified condition as a function of time *in vitro*. Application received by Commissioner of Customs: June 17, 1982.

Docket Number 82–00255. Applicant: Cornell University Medical College, 1300 York Avenue, New York, NY 10021. Article: Electron Microscope, Model JEM–100CX SEG with Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for investigations of biological materials which include tissue culture cells, tissue samples, purified proteins (myosin) and purified RNA and/or DNA samples. All samples are vulnerable, in varying degrees, to electron beam damage. The objectives of these studies are to correlate biochemical and ultrastructural data to elucidate structural basis of physiological processes such as: transcription, gene-splicing, contraction, motility, secretion, and protein synthesis. In addition, the article will be used in the course "Modern Methods in Electron Microscopy" to train students in advanced techniques of electron microscopy, potentially applicable to their current or future research needs. Application received by Commissioner of Customs: June 17, 1982.

Docket Number 82–00256. Applicant: Arizona State University, Tempe, Arizona 85287. Article: BAF 400D Freeze Etching System & Accessories. Manufacturer: Balzers Aktiengesellschaft, Liechtenstein. Intended use of article: The article is intended to be used to fracture biological tissue samples with a knife and to make replicas of the frozen surfaces so exposed using atomized platinum and carbon. The research to be conducted has the following aims:

1. To study intermediate stages of membrane fusion during exocytosis neutrophils.

2. To visualize microfilament networks in neutrophils using quick-freezing, deep etching, and freeze fracture.

3. To identify and characterize the types of junctions between mammalian oocytes and the surrounding follicle cells, junctions that play a role in passage of hormones or cyclic AMP between these cells.

4. To investigate structural relationships between plasma membrane and cell envelope specializations in bacteria during budding.

5. To demonstrate the organization of chitin synthesis during cell wall formation in growing fungal hyphae.

The article will also be used to train both faculty members and graduate students in freeze etch techniques. Such training will be in the form of mini-seminars as well as in the course "Transmission Electron Microscopy." Application received by Commission of Customs: June 17, 1982.

Docket Number 82–00257. Applicant: Baylor College of Medicine, 1200 Moursund Avenue, Houston, TX 77030. Article: Nuclear Magnetic Resonance Imager. Manufacturer: Bruker Spectro-Spin, West Germany. Intended use of article: The article is intended to be used for studies of tissue samples, small animals, and human subjects. The tissues will be examined for the purpose of obtaining an image based on their chemical make-up as detected by nuclear magnetic resonance. Samples will be imaged, and the results displayed on two dimensional formats including TV and film. In every event, a sample will be exposed to magnetic and radio frequency (rf) fields, an emitted signal detected, and a mathematical reconstruction of specific chemicals in the object generated. The objectives of these investigations are to perfect the ability to make in vivo images and measurements, and to understand their information content in terms of medical diagnosis, management and prognosis. An attempt will also be made to uncover the chemical basis for the NMR signals from the biologic samples and possible significant biochemical events in the images. In addition, the article will be used for medical inservice training of medical students, medical residents, practicing physicians, imaging technologists, basic scientists and postdoctoral fellows. Application received by Commissioner of Customs: June 17, 1982.

Docket Number 82–00259. Applicant: The Medical College of Wisconsin, Inc., 8701 Watertown Plank Road, Milwaukee, Wisconsin 53226. Article: Electron Microscope, Model JEM–100CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to perform medium and high resolution ultrastructural studies in a variety of cell biological areas, being performed by a

number of different investigators. The phenomena to be studied will include neuromuscular junction development in rat skeletal muscles, organization and connections of primate visual system, functionally related enzymatic changes in the central nervous system, and microsomal electron transport in liver and heart. The article will also be used in training graduate students in the latest "State of the Art" ultrastructural techniques for utilization in their research studies required for masters and doctoral thesis. Application received by Commissioner of Customs: June 21, 1982.

Docket Number 82-00260. Applicant: Georgia Institute of Technology Engineering Experiment Station, 225 North Ave., NW, Atlanta, GA 30322. Article: Extended Interaction Oscillator. Manufacturer: Varian/Canada, Canada. Intended use of article: The article is intended to be used in a narrow-pulse (2-4 nsec), high-resolution, airborne radar being developed for the U.S. Navy. Its primary function will be target imaging. Application received by Commissioner of Customs: June 21, 1982.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 82-20139 Filed 7-23-82; 8:45 am]

BILLING CODE 3510-25-M

Final Affirmative Countervailing Duty Determination; Prestressed Concrete Steel Wire Strand From Spain; Correction

AGENCY: International Trade Administration, Commerce.

ACTION: Correction notice.

The July 1, 1982 **Federal Register** notice entitled "Final Affirmative Countervailing Duty Determination: Prestressed Concrete Steel Wire Strand from Spain" (47 FR 28723-27) should be amended as set forth below:

(1) Delete the last sentence of the paragraph under the heading "**SUMMARY**" (page 28723) and substitute the following: "The ITC will make its determination whether these imports are materially injuring or threatening to materially injure a U.S. industry, before the latter of 120 days after the Department made its preliminary affirmative determination, or 45 days after the Department made its final affirmative determination."

(2) Under the paragraph heading "ITC Notification" (page 28726), delete the sentence that reads as follows: "The ITC will determine on or before August 16, 1982, whether these imports are materially injuring or threatening to materially injure a U.S. industry."

Lawrence Brady,

Assistant Secretary for Trade Administration.

July 19, 1982.

[FR Doc. 82-20138 Filed 7-23-82; 8:45 am]

BILLING CODE 3510-25-M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Technical and licensing information on specific inventions may be obtained by writing to: Office of Government Inventions and Patents, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151.

Please cite the number and title of inventions of interest.

George Kudravetz,

Program Manager, Office of Government Inventions and Patents, National Technical Information Service, Department of Commerce.

SN 6-132,507 (Patent 4,333,757), Mushroom-Growing Medium, Department of Agriculture.

SN 6-115,851 (Patent 4,335,432), Optimal Vehicle Following Control System, Dept. of Transportation.

SN 6-193,877 (Patent 4,331,861), Field Control for Wind-Driven Generators, Department of Agriculture.

SN 6-174,239 (Patent 4,331,054), Electric Gel Slicer, Dept. of Health and Human Services.

SN 6-190,064 (Patent 4,331,648), N-Acetyl-Cysteine Protects Against Cardiac Damage From Subsequently Administered Cardio-Toxic Anthra-Cycline in Cancer Therapy, Dept. of Health and Human Services,

SN 6-195,539 (Patent 4,331,975), Instrumentation for Surviving Underground Cavities, Department of the Interior.

SN 6-186,361 (Patent 4,331,021), Contrast Resolution Tissue Equivalent Ultrasound Test Object, Dept. of Health & Human Services.

SN 6-195,188 (Patent 4,332,244), Mask For The Safe Delivery of Inhalation Gases to Small Laboratory Animals, Dept. of Health & Human Services.

SN 6-370,018, Preparation of Acylurea Compounds, Department of Agriculture.

SN 6-358,685, Process and Compositions for Preserving Fresh Hides and Skins, Department of Agriculture.

[FR Doc. 82-20029 Filed 7-23-82; 8:45 am]

BILLING CODE 3510-04-M

DEPARTMENT OF DEFENSE

Department of the Army

Department of the Army Performance Review Boards

AGENCY: Army Department, DoD.

ACTION: Notice.

SUMMARY: Notice is hereby given of the names of additional members of the U.S. Army Corps of Engineers Performance Review Board for the Department of the Army for 1982.

FOR FURTHER INFORMATION CONTACT: Carol D. Smith, Senior Executive Service Office, Directorate of Civilian Personnel, Headquarters, Department of the Army, the Pentagon, Washington, DC 20310, (202) 697-2204.

SUPPLEMENTARY INFORMATION: Section 4314(c)(1) through (5) OF Title 5 U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards. The boards shall review and evaluate the initial appraisal of senior executive's performance by the supervisor and make recommendations to the appointing authority or rating official relative to the performance of the senior executives. Each board's review and recommendation will include only those senior executive's appraisals from their respective commands or activities. A consolidated board has been established for those commands who do not have enough senior executives to warrant the establishment of separate boards. Publication of this notice corrects the notice published in 47 CFR 120, dated June 22, 1982, page 26885, to account for additions and deletions to the membership of the board previously published.

The additional members of the Performance Review Board for the U.S. Army Corps of Engineers are:

1. Major General E. R. Heiberg, III, Deputy Commander.

2. Brigadier General Mark J. Sisinyak, Commander, Missouri River Division.

3. Brigadier General George K. Withers, Jr., Commander Europe Division.

4. Brigadier General Scott B. Smith, Commander, North Central Division.

5. Mr. Fred H. Bailey, III Chief, Planning Division, Lower Mississippi Valley Division.

6. Mr. Lester Edelman, Chief Counsel, Office, Chief of Engineers.

7. Mr. Achiel E. Wanket, Chief, Engineering Division, South Pacific Division.

Carol D. Smith,

Chief, Senior Executive Service Office.

[FR Doc. 82-20065 Filed 7-23-82; 8:45]

BILLING CODE 3710-08-M

Office of the Secretary

Defense Advisory Committee on Military Personnel Testing

Pursuant to Public Law 92-463, notice is hereby given that a meeting of the Defense Advisory Committee on Military Personnel Testing is scheduled to be held from 9:00 AM to 5:00 PM on 19 and 20 August 1982 in Room 1E801, The Pentagon, Washington, D.C. Meeting sessions will be open to the public.

The purpose of the meeting is to review the validation of the Armed Services Vocational Aptitude Battery (ASVAB) as well as the development of a new reference population for use in interpreting ASVAB scores. The agenda for the next Committee meeting, scheduled for November 1982, in San Diego, California, will also be discussed.

Persons desiring to make oral presentations or submit written statements for consideration at the Committee meeting must contact Dr. W. S. Sellman, Executive Secretary, Defense Advisory Committee on Military Personnel Testing, Office of the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), Room 2B269, The Pentagon, Washington, D.C. 20301, telephone (202) 695-5525 no later than 15 August 1982.

M. S. Healy,

OSD Federal Register Liaison Office, Department of Defense.

July 20, 1982.

[FR Doc. 82-20065 Filed 7-23-82; 8:45 am]

BILLING CODE 3810-01-M

Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of Subsection (d) of Section 10 of Public Law 92-463, as amended by Section 5 of Public Law 94-409, notice is hereby given that a closed meeting of the DIA Advisory Committee has been scheduled as follows:

Wednesday & Thursday, 29-30 September 1982, The Pentagon, Washington, D.C. The entire meeting, commencing at 0900 hours each day is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. The Committee will receive briefings on and discuss several current critical intelligence issues and advise the Director, DIA on related scientific and technical intelligence matters.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

July 20, 1982.

[FR Doc. 82-20064 filed 7-23-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 6473-000]

Tumalo Irrigation District; Application for Preliminary Permit

July 22, 1982.

Take notice that Tumalo Irrigation District (Applicant) filed on June 28, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 6473 to be known as the Tumalo Creek Hydroelectric Project located on the Tumalo Creek, in Deschutes County, near Bend, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Ms. Janet L. Boettcher, District Manager, Tumalo Irrigation District, 64697 Cook Avenue, Bend, Oregon 97701, with copies to: Mr. Grant Tanner, Lindsay, Hart, Neil & Wagner, Suite 700, Columbia Square, 111 S.W. Columbia, Portland, Oregon 97201, and CH2M Hill, Attention: Peter D. Binney, 200 S.W. Market Street, 12th Floor, Portland, Oregon 97201.

Project Description—The project, to be located at the Applicant's existing Columbia Southern Canal diversion structure, would consist of: (1) The existing 6-foot-high by 40-foot-long diversion structure; (2) a 24,000-foot-long, 72-inch diameter penstock; (3) a powerhouse with a proposed installed capacity of 9.3 MW operating under a head of 840 feet; and (4) a 2,500-foot-long, 12.5-kV transmission line to connect to an existing Mid States Electric Co-op. transmission line.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks a 36-month permit to study the feasibility of constructing and operating the project. No foundation explorations or new roads would be required to conduct the studies.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before November 1, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before October 1, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before October 1, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must

also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-20099 Filed 7-23-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6456-000]

Village of Green Island; Notice of Application for Preliminary Permit

July 22, 1982.

Take notice that the Village of Green Island (Applicant) filed on June 23, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 6456 to be known as the Green Island Project located on the Hudson River in the City of Troy, Rensselaer County, New York. The application is of file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Philip J. Movish, 500 South Salina Street, Syracuse, New York 13202.

Project Description—The proposed run-of-river project would utilize the existing U.S. Army Corps of Engineers Troy Dam and would consist of: (1) A new gated intake structure; (2) a new powerhouse containing two generating units having a total rated capacity of 10,600-Kw; (3) a new tailrace; (4) a new switchyard; (5) a new 0.4-mile-long 34.5-kV transmission line; and (6) appurtenant facilities. Applicant estimates that the average annual energy output would be 38,794,000 kWh. Project energy would be utilized within Applicant's municipal electric system or would be sold.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it would perform technical and economic feasibilty studies, investigations, and the work involved to prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $75,000.

Competing Applications—This application was filed as a competing application to Long Lake Energy Corporation's application for Project No. 5746 filed on December 11, 1981. Public notice of the filing of the initial application, which has already been given, established the due for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the deacribed application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 20, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "PROTEST," "COMPETING APPLICATIONS" or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-20100 Filed 7-23-82; 8:45 am]

BILLING CODE 6717-01-M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: July 19, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
MISSISSIPPI OIL & GAS BOARD									
-FLORIDA GAS EXPLORATION COMPANY				RECEIVED:	06/30/82	JA: MS			
8240865	41-82-467	2309120146		107-DP		FANNIE B CARLISLE 4-2 #2	EAST MORGANTOWN FIELD	540.0	TRANSCONTINENTAL
-GETTY OIL COMPANY				RECEIVED:	06/30/82	JA: MS			
8240864	42-82-119	2314720113		103		MORRIS 36-10 #1	DEXTER	516.0	SOUTHERN NATURAL
-GULF OIL CORPORATION				RECEIVED:	06/30/82	JA: MS			
8240867	36-82-8	2306120364		103		C O ARMSTRONG #5	EAST HEIDELBERG	0.0	UNITED GAS PIPE L
8240868	35-82-11	2307320241		103		C V COOPER #13	BAXTERVILLE	0.0	UNITED GAS PIPE L
8240863	12-82-8	2306120328		103		COTTON VALLEY UNIT 5-5-2	WEST HEIDELBERG	0.0	UNITED GAS PIPE L
8240866	37-82-8	2306120338		103		J E KING UNIT #4	EAST HEIDELBERG	18.0	UNITED GAS PIPE L
8240869	33-82-11	2307328242		103		W J HOWARD #11-A	BAXTERVILLE	300.0	UNITED GAS PIPE L
8240870	31-82-11	2307300066		103		W J HOWARD UNIT #3	BAXTERVILLE	0.0	UNITED GAS PIPE L
-HOWARD & MASON				RECEIVED:	06/30/82	JA: MS			
8240872	106-81-351	2309520106		108		ROME DABBS #1	CORINNE	20.5	SOUTHERN NATURAL
-SPOONER PETROLEUM COMPANY				RECEIVED:	06/30/82	JA: MS			
8240871	30-82-434	2307720052		107-DP		CROWN ZELLERBACH #1	MONTICELLO	1000.0	SOUTHERN NATURAL
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION									
-BANKS BROTHERS ENERGY CORP				RECEIVED:	06/28/82	JA: NY			
8240754	3131	3101314824		107-TF		RICHTER #1 #3170	LAKESHORE	0.0	NATIONAL FUEL GAS
8240756	3133	3101314857		107-TF		RICHTER 2	LAKE SHORE	12.0	NATIONAL FUEL GAS
-BEREA OIL AND GAS CORPORATION				RECEIVED:	06/28/82	JA: NY			
8240759	2567	3101316066		107-TF		LESTER DAMON #1	GERRY	0.1	COLUMBIA GAS TRAN
8240739	2781	3101316869		107-TF		M BURNSIDE UNIT #2	GERRY	14.4	COLUMBIA GAS TRAN
8240765	2631	3101316219		107-TF		N Y S REF AREA #10 - WELL #10	GERRY	30.0	COLUMBIA GAS TRAN
8240764	2568	3101316067		107-TF		V BARMORE UNIT #1	GERRY	0.2	COLUMBIA GAS TRAN
8240763	2570	3101315950		107-TF		W G TOMPSETT #1	GERRY	25.0	COLUMBIA GAS TRAN
8240762	2571	3101316051		107-TF		W G TOMPSETT #2	GERRY	25.0	COLUMBIA GAS TRAN
-BLOSSOM GAS CO				RECEIVED:	06/28/82	JA: NY			
8240745	2851	3101314403		107-TF		WESTFIELD TIMBER PRODUCTS 3134	LAKE SHORE	19.1	NATIONAL FUEL GAS
-BOUNTY OIL & GAS INC				RECEIVED:	06/28/82	JA: NY			
8240751	1449	3101315263		107-TF		BABYAK #2	WILDCAT	30.0	NATIONAL FUEL GAS
8240748	1452	3101315258		107-TF		DAHLGREN #1	BUSTI	50.0	NATIONAL FUEL GAS
8240746	1457	3101315463		107-TF		E CEDERQUIST #1	WILDCAT	60.0	NATIONAL FUEL GAS
8240743	1458	3101315599		107-TF		E LEVIN UNIT #1	WILDCAT	50.0	NATIONAL FUEL GAS
8240752	1448	3101315260		107-TF		GAGE #1	WILDCAT	60.0	NATIONAL FUEL GAS
8240750	1451	3101315261		107-TF		GARFIELD UNIT #1	BUSTI	55.0	NATIONAL FUEL GAS
8240744	1459	3101315586		107-TF		JONES UNIT #1	BUSTI	50.0	NATIONAL FUEL GAS
8240747	1456	3101314588		107-TF		MAPLEHURST COUNTRY CLUB INC #1	BUSTI	20.0	NATIONAL FUEL GAS
8240741	1454	3101315509		107-TF		NELSON JOINT OPERATING AREA #2	BUSTI	30.0	NATIONAL FUEL GAS
8240749	1458	3101315259		107-TF		R NELSON #1	BUSTI	15.0	NATIONAL FUEL GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-CHAUTAUQUA ENERGY INC				RECEIVED: 06/28/82		JA: NY			
8240735	2887	3101316982		107-TF		STOUT #1	WESTFIELD	12.0	COLUMBIA GAS TRAN
-DONAN & ASSOCIATES INC				RECEIVED: 06/28/82		JA: NY			
8240746	2902	3101314492		107-TF		BERNICE SWARTOUT #1 KA-21	LAKE SHORE	30.0	NATIONAL FUEL GAS
-ECLIPSE MANAGEMENT ASSOCIATES INC				RECEIVED: 06/28/82		JA: NY			
8240761	1781	3101313753		108		BIELAT #1021	LAKE SHORE	8.4	NATIONAL FUEL GAS
8240757	1778	3101314272		108		KUHRT #5012	LAKE SHORE	6.0	NATIONAL FUEL GAS
8240760	2375	3101315517		108		MARTIN #1 EE#3	LAKE SHORE	15.0	NATIONAL FUEL GAS
8240734	1789	3101315601		108		PAGANO EE#1	LAKE SHORE	13.0	NATIONAL FUEL GAS
8240730	2724	3101315601		103	107-TF	PAGANO EE1	LAKE SHORE	15.0	NATIONAL FUEL GAS
8240731	2731	3101315606		103	107-TF	PAGANO EE2	LAKE SHORE	16.0	NATIONAL FUEL GAS
8240736	3060	3101314823		107-TF		ROCKEY #3160	LAKE SHORE	0.0	COLUMBIA GAS TRAN
-ENVIROGAS INC				RECEIVED: 06/28/82		JA: NY			
8240753	2954	3101316974		103	107-TF	J COCHRAN #1	LAKESHORE	18.0	COLUMBIA GAS TRAN
8240766	2955	3101317028		103	107-TF	J MAIER #1	LAKESHORE	18.0	COLUMBIA GAS TRAN
8240767	2956	3101316979		103	107-TF	L HARRINGTON #2	LAKESHORE	18.0	COLUMBIA GAS TRAN
-P & S DRILLING INC				RECEIVED: 06/28/82		JA: NY			
8240742	2433	3102915825		108		BUFFALO CREEK #2	BUFFALO CREEK	5.6	NATIONAL FUEL GAS
-PIVOT PETROLEUMS INC				RECEIVED: 06/28/82		JA: NY			
8240769	2892	3101315672		107-TF		HOLY FAMILY PARISH INC #1	FORESTVILLE	25.0	NATIONAL FUEL GAS
8240768	2893	3101315673		107-TF		HOLY FAMILY PARISH INC #2	FORESTVILLE	20.0	NATIONAL FUEL GAS
-UNIVERSAL RESOURCES HOLDINGS INC				RECEIVED: 06/28/82		JA: NY			
8240733	2910	3101314825		107-TF		D BARMORE #1	GERRY	20.0	COLUMBIA GAS TRAN
-US ENERGY DEVELOPMENT CORP				RECEIVED: 06/28/82		JA: NY			
8240758	3091	3101315411		107-TF		BUTCHER #1	GERRY	20.0	COLUMBIA GAS TRAN
8240732	2923	3101315417		107-TF		BUTCHER #2	GERRY	20.0	COLUMBIA GAS TRAN
8240737	2937	3101315412		107-TF		E OLMSTEAD #1	GERRY	20.0	COLUMBIA GAS TRAN
8240738	2935	3101315683		107-TF		EDWARD TERRY #2	GERRY	20.0	COLUMBIA GAS TRAN
8240778	2939	3101316593		107-TF		KASHUBA #1	GERRY	20.0	COLUMBIA GAS TRAN
8240755	3088	3101315409		107-TF		W CHURCH #1	GERRY	28.0	COLUMBIA GAS TRAN
OKLAHOMA CORPORATION COMMISSION									
-ADOBE OIL & GAS CORPORATION				RECEIVED: 06/28/82		JA: OK			
8240814	17629	3508526566		102-3		SAVAGE NO 1	NORTH PIKE	182.0	AMINOIL USA INC
-AMERICAN STAR ENERGY & MINERALS COR				RECEIVED: 06/28/82		JA: OK			
8240802	15206	3507323346		103		KIRSCH STAR #1 07323346	SOONER TREND	500.0	CITIES SERVICE GA
-AMOCO PRODUCTION CO				RECEIVED: 06/28/82		JA: OK			
8240988	15162	3503920292		103		W D LEONARD UNIT #1 (RED FORK)	WILDCAT-RED FORK	340.0	SOUTHERN NATURAL
-ANADARKO PRODUCTION COMPANY				RECEIVED: 06/28/82		JA: OK			
8240894	13862	3500700000		108		GREGG D #1	MOCANE	8.0	NORTHERN NATURAL
-ANDOVER OIL COMPANY				RECEIVED: 06/28/82		JA: OK			
8240906	15160	3501722124		103		ELMER #7-1		180.0	DELHI GAS PIPELIN
8240907	15161	3503920473		103		MANSON #5-1		186.0	DELHI GAS PIPELIN
-APACHE CORPORATION				RECEIVED: 06/28/82		JA: OK			
8240788	18053	3514928208		102-2		CITY OF CLINTON 1-5		736.0	EL PASO NATURAL G
-B & M EXPLORATION CO				RECEIVED: 06/28/82		JA: OK			
8240899	13670	3514321647		102-2		ABEL #3	UNNAMED	18.5	DIAMOND S GAS SYS
-BENTLEY & LAING				RECEIVED: 06/28/82		JA: OK			
8240817	15212	3510321539		103		MURCH #1	WEST PERRY	18.0	AMINOIL USA
-BLUE RIVER OIL & GAS INC				RECEIVED: 06/28/82		JA: OK			
8240875	15115	3519321080		103		MERLE #1	LUCIEN	4.0	EASON OIL CO
-BOBBY J DARNELL				RECEIVED: 06/28/82		JA: OK			

JD NO.	JA DAT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8240883	15138	3508321914		103		YANCEY #3	N W GUTHRIE	36.5	EASON OIL CO
-BRAXTON OIL AND GAS CORP				RECEIVED:	06/28/82	JA: OK			
8240920	15124	3507122338		103		GASPER #2	EAST VERNON	10.0	CHASE GATHERING S
-DAMSON OIL CORPORATION				RECEIVED:	06/28/82	JA: OK			
8240917	12580	3513921428		102-4		ATKINS #C-1	S E ADAMS	0.0	PANHANDLE EASTERN
8240918	12557	3513921433		102-4		JOLLIFFE #A-1	S E ADAMS	0.0	PANHANDLE EASTERN
8240919	12396	3513921433		102-4		JOLLIFFE #A-1	S E ADAMS	0.0	PANHANDLE EASTERN
8240818	15214	3515120839		103		MCGILL #2-16	N W AVARD	0.0	PRODUCERS GAS CO
-DAWN ENERGY CO				RECEIVED:	06/28/82	JA: OK			
8240900	13680	3511921215		102-2		NORRIS #1-13	WILDCAT	100.0	CITIES SERVICE GA
-ECC OIL CO				RECEIVED:	06/28/82	JA: OK			
8240876	14116	3514721994		108		MOODY #3 NE/4 SE/4 NE/4 17-25N-14E	OGLESBY GAS FIELD	2.6	OKAN GAS CO
-ELIXIR CORP				RECEIVED:	06/28/82	JA: OK			
8240898	13136	3508321561		103		LOURIE #1 083 21561	SO MULHALL	55.0	EASON OIL CO
-ENTEX PETROLEUM INC				RECEIVED:	06/28/82	JA: OK			
8240809	15235	3508320956		103		MARTIN "A" WELL NO 1	WEST LAWRIE	10.0	EASON OIL CO
-F C D OIL CORP				RECEIVED:	06/28/82	JA: OK			
8240828	15220	3505320509		103		DUFFY 1-27	EAST LAMONT	29.2	CRA INC
-FUSULINA PETROLEUM CORP				RECEIVED:	06/28/82	JA: OK			
8240904	15145	3504722465		103		BINGHAM 1-32	SOONER TREND	128.8	PHILLIPS PETROLEU
-GAS OIL AND GAS CORP				RECEIVED:	06/28/82	JA: OK			
8240873	15118	3503722924		103		DIAMOND #1-19	DIAMOND NE SW SW SEC	26.2	KERR MCGEE CORP
-GRACE PETROLEUM CORPORATION				RECEIVED:	06/28/82	JA: OK			
8240815	18089	3512920696		102-2		LEACH 1-22	WEST STRONG	0.0	
-HESTON OIL CO				RECEIVED:	06/28/82	JA: OK			
8240795	15120	3510924179		103		QUILLIN 22-2		0.0	GARFIELD GAS GATH
-HINKLE ENGINEERING INC				RECEIVED:	06/28/82	JA: OK			
8240874	15117	3504722529		103		GRETTA #1	NW ELK HORN	1.0	
-INEXCO OIL COMPANY				RECEIVED:	06/28/82	JA: OK			
8240812	17628	3512920737		102-2		DYKES #1-6	(UNDESIGNATED)	196.0	PRODUCER'S GAS CO
8240787	18012	3504321411		102-2		GRAYBILL #1-31	S W LEEDY	182.0	PANHANDLE EASTERN
8240785	17627	3503920549		102-2		HINKLE #1-36	N E CARPENTER	328.0	EL PASO NATURAL G
8240813	18013	3503920688		102-2		HODGE #1-20	UNDESIGNATED	730.0	TRANSWESTERN PIPE
8240786	18011	3503920563		102-2		RED SAND #1-34	UNDESIGNATED	185.0	PANHANDLE EASTERN
-IRA E RONGEY				RECEIVED:	06/28/82	JA: OK			
8240878	13959	3503700000		108		YOUNG #2	GLENPOOL	3.9	PHILLIPS PETROLEU
8240877	13960	3503700000		108		YOUNG #3	GLENPOOL	3.9	PHILLIPS PETROLEU
-J C MOUSER				RECEIVED:	06/28/82	JA: OK			
8240903	15144	3516721121		103		ZACKERY #3	CLEARVIEW FIELD	182.5	PHILLIPS PETROLEU
-JET OIL COMPANY				RECEIVED:	06/28/82	JA: OK			
8240911	15151	3504733715		103		MILLER "B" #1	BROWN EAST	0.0	EASON OIL CO
8240910	15150	3507323166		103		VADDER #2	COLUMBIA	165.0	EASON OIL CO
8240912	15152	3508321755		103		WEINKAUF #1	ELKHORN	215.0	EASON OIL CO
-JONES & PELLOW OIL CO				RECEIVED:	06/28/82	JA: OK			
8240805	15228	3501922341		103		BOYD 11-1	N W TATUMS	180.0	MOBIL OIL CORP
8240806	15229	3504700000		108		CUNNINGHAM #1	N E ENID	14.0	CHAMPLIN PETROLEU
8240807	15230	3513722206		103		HARRIS 30-1	WEST VELMA	101.0	GETTY OIL CO
8240804	15227	3501922375		103		HOOKS 12-1	N W TATUMS	256.8	MOBIL OIL CORP
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	06/28/82	JA: OK			
8240801	15202	3505920035		108		GASS #1	LOVEDALE	14.8	NATURAL GAS PIPEL
8240800	15201	3509300000		108		LONG #1-24	CHANEY DELL	4.8	UNION TEXAS PETRO
8240810	15237	3504720836		108		PRENTICE #1-19	SPRING VALLEY	10.0	GRACE PETROLEUM C
8240892	17950	3501121694		103		RUSSWORM #1	WATONGA CHICKASHA TRE	501.0	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-KRUMME OIL CO				RECEIVED:	06/28/82	JA: OK			
8240808	15233	3511123067		103		OWENS #1	BEGGS	55.0	PHILLIPS PETROLEU
-LADD PETROLEUM CORPORATION				RECEIVED:	06/28/82	JA: OK			
8240915	15178	3504722537		103		MCINTOSH-LANG #2	ENID NORTHEAST	82.1	CITIES SERVICE GA
8240798	15177	3514722514		103		METZNER #1	GLENOAK	66.2	CITIES SERVICE GA
8240797	15176	3514722648		103		METZNER #1-A	GLENOAK	57.5	CITIES SERVICE GA
8240796	15175	3514722649		103		METZNER #1-B	GLENOAK	12.3	CITIES SERVICE GA
8240916	15179	3507323093		103		VOGT #3	OKARCHE NORTH	821.3	DELHI GAS PIPELIN
-MACKELLAR INC				RECEIVED:	06/28/82	JA: OK			
8240885	15132	3507322854		103		POWELL #2	SOONER TREND	5.0	CITIES SERVICE GA
-MAY ENERGY CO				RECEIVED:	06/28/82	JA: OK			
8240784	17564	3508100000		102-4		MAYS 2		73.0	SWAB CORP
-OIL LIFT INC				RECEIVED:	06/28/82	JA: OK			
8240882	16564	3510521453		108		OSHEL #1 (API #10521453)	SOUTH COFFEYVILLE	5.0	PELICAN PIPELINE
8240895	16563	3510524316		108		OSHEL #2 (API #10524316)	SOUTH COFFEYVILLE	8.0	PELICAN PIPELINE
8240881	16851	3510525429		108		SMITH #1-16 (API #10525429)	SOUTH COFFEYVILLE	9.1	PELICAN PIPELINE
8240888	16852	3510523665		108		TITUS #1 (API #10523665)	SOUTH COFFEYVILLE	14.6	PELICAN PIPELINE
8240896	16562	3510523663		108		WILBUR HARDEN #1-15 (API #10523663)	SOUTH COFFEYVILLE	8.4	PELICAN PIPELINE
8240879	17327	3510524312		108		WILBUR HARDEN #2-15 (API #10524312)	SOUTH COFFEYVILLE	5.5	PELICAN PIPELINE
8240897	16561	3510523664		108		WILKINS #1 (API #10523664)	SOUTH COFFEYVILLE	8.4	PELICAN PIPELINE
-PATTILLO OIL PROPERTIES				RECEIVED:	06/28/82	JA: OK			
8240803	15210	3514723026		103		BOGGARD #1	WILDCAT	16.1	PHILIPS PETROLEUM
-PETROLEUM CORP OF DELAWARE				RECEIVED:	06/28/82	JA: OK			
8240793	12647	3507300000		103		AUFDERHAR #7-2	SOONER TREND	219.0	CITIES SERVICE GA
8240792	12646	3507300000		103		KERMET #27-2	SOONER TREND	36.5	CITIES SERVICE GA
8240791	12635	3507300000		103		THEMER #10-2	SOONER TREND	146.0	CITIES SERVICE GA
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	06/28/82	JA: OK			
8240783	15195	3501121654		103		COFFEY "B" #1	SOUTH OMEGA	8.0	UNDEDICATED
8240888	12976	3501721397		108-ER		LAUB A #1	N CONCHO	9.0	PANHANDLE EASTERN
8240887	12979	3505920822		108		SMITH CC #1	N E FT SUPPLY	5.0	DELHI GAS PIPELIN
-POLARIS ENERGY CORP				RECEIVED:	06/28/82	JA: OK			
8240799	15200	3511100000		103		EAST SLICK #2		0.0	PHILLIPS PETROLEU
-QUANAH CO				RECEIVED:	06/28/82	JA: OK			
8240816	15211	3508121423		103		ERWIN #1	SOUTHEAST MT VERNON	158.0	TRIOK INC
-RATLIFF EXPLORATION CO				RECEIVED:	06/28/82	JA: OK			
8240891	17991	3510900000		102-2		SWATEK #1	SOUTHWEST OKLAHOMA CI	0.0	MOBIL OIL CORP
-READING & BATES PETROLEUM CO				RECEIVED:	06/28/82	JA: OK			
8240901	13813	3504921697		102-2		LAWSON #1-2		730.0	
-RED EAGLE OIL CO				RECEIVED:	06/28/82	JA: OK			
8240823	15226	3509322392		103		CLAUD #1	NORTHEAST FAIRVIEW	27.0	OKLAHOMA NATURAL
8240822	15225	3509322187		103		ROSEY #1	FAIRVIEW	55.0	PIONEER GAS PRODU
-RICKS EXPLORATION CO				RECEIVED:	06/28/82	JA: OK			
8240913	15153	3501121657		103		MEYER 18A	S W CANTON	405.0	DELHI GAS PIPELIN
-ROBERT GORDON OIL CO				RECEIVED:	06/28/82	JA: OK			
8240790	19030	3510721151		103		GORDON #24-3 #107-74834	SOUTHEAST WELEETKA	0.0	TRANSOK PIPELINE
8240789	19029	3510721316		103		GORDON #24-6 #107-78130	GREGORY	0.0	TRANSOK PIPELINE
-S K TUTHILL & B J BARBEE				RECEIVED:	06/28/82	JA: OK			
8240902	15013	3515121216		103		BOWERS #1-5	NORTH CAMPBELL	150.0	PANHANDLE EASTERN
-SAMSON RESOURCES COMPANY				RECEIVED:	06/28/82	JA: OK			
8240782	15193	3507920424		103		REUBEN #2 - SPIRO	NORTH SPIRO	6.8	ARKANSAS LOUISIAN
8240819	15216	3506120292		103		ROSE UNIT #2-WAPANUCKA	KINTA	205.3	ARKANSAS LOUISIAN
-SENECA OIL COMPANY				RECEIVED:	06/28/82	JA: OK			
8240794	13093	3513921456		102-4		REUSZER #1-31	WEST DOMBY	640.0	PANHANDLE EASTERN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-SOUTHWEST EXPLORATION INC				RECEIVED:	06/28/82	JA: OK			
8240884	15137	3510900000		103		WOOD #1		0.0	MOBIL OIL CORP
-TENNECO OIL COMPANY				RECEIVED:	06/28/82	JA: OK			
8240905	15159	3512920623		103		ALLEN #1-19	W CARPENTER	624.0	
8240914	15158	3504321306		103		PERCY #1-16	N W NOBSCOT	55.0	
-THE GHK COMPANY				RECEIVED:	06/28/82	JA: OK			
8240893	19396	3514920286		107-DP		TWYMAN 1-17	NE CANUTE	613.2	EL PASO NATURAL G
-TOMLINSON OIL CO INC				RECEIVED:	06/28/82	JA: OK			
8240886	13199	3500721952		103		KIGHT #1	DOMBEY	109.5	NORTHERN NATURAL
-TRANSIERRA EXPLORATION CORP				RECEIVED:	06/28/82	JA: OK			
8240821	15221	3508121360		103		STATE SCHOOL LAND #5	S W PRAIRIE GEM	15.0	SUN GAS CO
-UNIVERSAL RESOURCES CORPORATION				RECEIVED:	06/28/82	JA: OK			
8240909	15146	3501121650		103		MCCASKEY 1A-33		0.0	DELHI GAS PIPELIN
-VULCAN ENERGY CORP				RECEIVED:	06/28/82	JA: OK			
8240811	15239	3507322802		103		JEWELL #1	SOONER TREND	43.0	PHILLIPS PETROLEU
-WESLEY WEBBER				RECEIVED:	06/28/82	JA: OK			
8240889	15126	3513722458		103		SPEARS "B" #14	SHO-VEL-TUM	10.0	GETTY OIL CO
8240890	15125	3513722809		103		SPEARS "B" #18	SHO-VEL-TUM	15.0	GETTY OIL CO
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WEST VIRGINIA DEPARTMENT OF MINES									
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-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	06/28/82	JA: WV			
8240776		4705300082		103		POCAHONTAS LAND WN-12716	ROCK	4.7	GENERAL SYSTEM PU
-H D WELLS OIL & GAS EXPL & DEVEL IN				RECEIVED:	06/28/82	JA: WV			
8240777		4703501590		103		BALLENGEE NO ONE	SILVERTON	8.0	COLUMBIA GAS TRAN
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	06/28/82	JA: WV			
8240775		4704102917	D	103		J B WORKMAN #2	ASPINALL - FINSTER	0.0	CONSOLIDATED GAS
8240778		4701702535		107-DV		OPAL GRIBBLE #1	UNNAMED	72.0	COLUMBIA GAS TRAN
-STERLING DRILLING & PROD CO INC				RECEIVED:	06/28/82	JA: WV			
8240774		4701502017		103		MURPHY #566	OTTER DISTRICT	15.0	BROOKLYN UNION GA
-TEXAS INTERNATIONAL PET CORP				RECEIVED:	06/28/82	JA: WV			
8240772		4708701509		102-A		ADA CUTLIP #2	OTTER	100.0	
8240780		4701900451		102-A		DARRELL HUTTER #2	PETER'S CREEK	110.0	EQUITABLE GAS CO
8240773		4706700567		102-A		G L VICKERS #2	PETER'S CREEK	38.0	EQUITABLE GAS CO
8240771		4706700535		102-A		GORDON LEGG UNIT #2	PETERS CREEK	55.0	EQUITABLE GAS CO
8240781		4701500453		102-A		HAMPDEN CORPORATION #5	PETER'S CREEK	67.0	EQUITABLE GAS CO
8240779		4701900450		102-A		LEGG #1	PETERS CREEK	63.0	EQUITABLE GAS CO
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** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, METAIRIE,LA									
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-AMOCO PRODUCTION CO				RECEIVED:	06/30/82	JA: LA 3			
8240832	G2-2779	1771040776		102-1		OCS-G-3571 WELL A-1	EUGENE ISLAND	5475.0	
8240850	G2-2789	1771040969		102-1		OCS-G-3571 WELL A-2	EUGENE ISLAND	365.0	
8240855	G2-2755	1770540418		107-DP		OCS-G-4208 #A-1	VERMILION	1936.0	
-AMCO OIL AND GAS COMPANY				RECEIVED:	06/30/82	JA: LA 3			
8240836	G1-2452	1770040400		102-5		OCS-G-2832 W CAMERON BLK 205#A-5	WEST CAMERON	3102.0	NORTHERN NATURAL
8240829	G1-2416	1770040253		102-5		OCS-G-2832 W CAMERON BLK 205#A-1MU	WEST CAMERON	3102.0	NORTHERN NATURAL
8240828	G1-2417	1770040253		102-5		OCS-G-2832 W CAMERON BLK 205#A-1NL	WEST CAMERON	3102.0	NORTHERN NATURAL
8240825	G1-2467	1770040448		102-5		OCS-G-2832 W CAMERON BLK 205#A-7MU	WEST CAMERON	3102.0	NORTHERN NATURAL
8240827	G1-2468	1770040440		102-5		OCS-G-2832 W CAMERON BLK 205#A-7NL	WEST CAMERON	3102.0	NORTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	06/30/82	JA: LA 3			
8240826	G1-2473	1770740322		102-5		OCS-G-2316 #CB-1	SOUTH MARSH ISLAND	1000.0	NATURAL GAS PIPEL
8240854	G1-2474	1770740322		102-5		OCS-G-2316 #CB-1	SOUTH MARSH ISLAND	1825.0	NATURAL GAS PIPEL

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8240840	G2-2541	1771840915		102-5		OCS-G-2914 #A-12	EUGENE ISLAND	180.0	NATURAL GAS PIPEL
8240861	G2-2533	1771840796		102-5		OCS-G-2914 #A-2	EUGENE ISLAND	580.0	NATURAL GAS PIPEL
8240839	G2-2542	1771840853		102-5		OCS-G-2914 #A-7	EUGENE ISLAND	146.0	NATURAL GAS PIPEL
8240834	G2-2539	1771840868		102-5		OCS-G-2914 #A-8	EUGENE ISLAND	360.0	NATURAL GAS PIPEL
-CNG PRODUCING COMPANY				RECEIVED:	06/30/82	JA: LA 3			
8240857	G1-2494	1771240146		102-5		A-1455 SHIP SHOAL 246 OCSG 1027	SHIP SHOAL	808.0	CONSOLIDATED GAS
8240856	G1-2495	1771240135		102-5		A-1554 SHIP SHOAL 246 OCSG 1027	SHIP SHOAL	625.0	CONSOLIDATED GAS
8240853		1771240096		102-5		A-855 SHIP SHOAL 246 OCSG 1027	SHIP SHOAL	850.0	CONSOLIDATED GAS
-CONOCO INC				RECEIVED:	06/30/82	JA: LA 3			
8240862	G2-2529	1770840489		102-5		SOUTH MARSH ISLAND 112 A-3	SOUTH MARSH ISLAND	2190.0	SEA ROBIN PIPELIN
8240835	G2-2527	1770840405		102-5		SOUTH MARSH ISLAND 112, A-2	SOUTH MARSH ISLAND	1095.0	SEA ROBIN PIPELIN
8240837	G2-2528	1770840405		102-5		SOUTH MARSH ISLAND 112, A-2D	SOUTH MARSH ISLAND	2920.0	SEA ROBIN PIPELIN
8240842	G2-2526	1770840401		102-5		SOUTH MARSH ISLAND 113 A-1	SOUTH MARSH ISLAND	730.0	SEA ROBIN PIPELIN
-EXXON CORPORATION				RECEIVED:	06/30/82	JA: LA 3			
8240852	G2-2760	1770840535		102-1		OCS-G 4119 #A-5 (ST)	SOUTH MARSH ISLAND	300.0	COLUMBIA GAS TRAN
8240849	G2-2791	1771540472		102-1		OCS-G 4237 #F-9	SOUTH TIMBALIER	1800.0	TRUNKLINE GAS CO
-HUNT OIL COMPANY				RECEIVED:	06/30/82	JA: LA 3			
8240859	G2-2748	1770940462		107-DP		WELL #6 OCS 0466 EUGENE IS 77	EUGENE ISLAND	1825.0	MICHIGAN WISCONSI
-KERR-MCGEE CORPORATION				RECEIVED:	06/30/82	JA: LA 3			
8240841	G1-2383	1771140545		102-5		OCS-0828 #A-3	SHIP SHOAL	0.0	TRANSCONTINENTAL
-MARATHON OIL COMPANY				RECEIVED:	06/30/82	JA: LA 3			
8240830	G2-2520	1770440416		102-5		EAST CAMERON BLOCK 294 WELL A-4A	EAST CAMERON SOUTH AD	859.0	TEXAS EASTERN TRA
-PENNZOIL OIL & GAS INC				RECEIVED:	06/30/82	JA: LA 3			
8240860	G2-2586	1770940482		102-5		#A-16 OCS-G 2900	EUGENE ISLAND	62.0	SEA ROBIN PIPELIN
-PLACID OIL COMPANY				RECEIVED:	06/30/82	JA: LA 3			
8240853	G2-2551	1770740224		102-5		C-11A OCS-G 2630 SO MARSH IS 281	SOUTH MARSH ISLAND	1825.0	TRUNKLINE GAS CO
-AMINOIL USA INC				RECEIVED:	06/30/82	JA: TX 3			
8240824	G1-2098	4270940505		102-5		OCS-G2712, #A-100	HIGH ISLAND BLOCK A-5	265.0	COLUMBIA GAS TRAN
-ANR PRODUCTION CORP				RECEIVED:	06/30/82	JA: TX 3			
8240845	G2-2752	4270440054		102-1		BRAZOS BLOCK 501 WELL A-4	BRAZOS	1753.0	TRANSCONTINENTAL
8240858		4270440063		102-1		BRAZOS BLOCK 504 #A-5	BRAZOS	1753.0	TRANSCONTINENTAL
8240848	G2-2749	4270440026		102-1		BRAZOS BLOCK 504 WELL #A-1	BRAZOS	2466.0	TRANSCONTINENTAL
8240843	G2-2750	4270440039		102-1		BRAZOS BLOCK 504 WELL #A-2	BRAZOS	2466.0	TRANSCONTINENTAL
8240844	G2-2751	4270440043		102-1		BRAZOS BLOCK 504 WELL #A-3	BRAZOS	2109.0	TRANSCONTINENTAL
-SHELL OIL CO				RECEIVED:	06/30/82	JA: TX 3			
8240846	G2-2743	4270440015		102-1		OCS-G 3472 A-1	BRAZOS	5500.0	COLUMBIA GAS TRAN
-SUPERIOR OIL CO				RECEIVED:	06/30/82	JA: TX 3			
8240851	G2-2794	4270440053		102-1		BRAZOS BLOCK #578 #B-1	BRAZOS	0.0	TRANSCONTINENTAL
8240831	G2-2795	4270440060		102-1		BRAZOS BLOCK #578 #B-3	BRAZOS	0.0	TRANSCONTINENTAL
8240850	G2-2796	4270440076		102-1		BRAZOS BLOCK #578 WELL #B-4	BRAZOS	0.0	TRANSCONTINENTAL
-TENNECO OIL COMPANY				RECEIVED:	06/30/82	JA: TX 3			
8240847	G2-2744	4271540017		102-1		SABINE PASS 18 #A-6	SABINE PASS 18 #A-6	0.0	TENNESSEE GAS PIP

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-20101 Filed 7-23-82; 8:45 am]

BILLING CODE 6717-01-C

[Volume 693]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: July 19, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
ALABAMA OIL & GAS BOARD									
-ENHANCED ENERGY RESOURCES				RECEIVED:	07/02/82	JA: AL			
8241020	6-24-8211PD	0112520075		107-CS		BELCHER 10-10 #3	BROOKWOOD COAL DEGASI	82.0	SOUTHERN NATURAL
8241021	6-24-8212PD	0112520071		107-CS		BELCHER 10-16 #2	BROOKWOOD COAL DEGASI	1.0	SOUTHERN NATURAL
8241028	6-24-8219PD	0121252007		107-CS		BELCHER 10-8 NO 6	BROOKWOOD COAL DEGASI	14.6	SOUTHERN NATURAL
8241018	6-24-829PD	0112520065		107-CS		U S PIPE & FOUNDRY WELL 10-7 #1	BROOKWOOD COAL DEGASI	4.6	SOUTHERN NATURAL
8241019	6-24-8210PD	0112520036		107-CS		U S PIPE & FOUNDRY WELL 11-11 #12	BROOKWOOD COAL DEGASI	4.6	SOUTHERN NATURAL
8241009	5-14-8210PD	0112520040		107-CS		U S PIPE & FOUNDRY WELL 11-13 #11	BROOKWOOD COAL DEGASI	4.6	SOUTHERN NATURAL
8241005	1-29-8210PD	0112520032		107-CS		U S PIPE & FOUNDRY WELL 11-3 #7	BROOKWOOD COAL DEGASI	4.6	SOUTHERN NATURAL
8241007	1-29-8225PD	0112520043		107-CS		U S PIPE & FOUNDRY WELL 11-4 #14	BROOKWOOD COAL DEGASI	4.6	SOUTHERN NATURAL
8241008	1-29-8226PD	0112520044		107-CS		U S PIPE & FOUNDRY WELL 11-4 #15	BROOKWOOD COAL DEGASI	4.6	SOUTHERN NATURAL
8241006	1-29-8217PD	0112520045		107-CS		U S PIPE & FOUNDRY WELL 11-5 #6	BROOKWOOD COAL DEGASI	4.6	SOUTHERN NATURAL
8241023	6-24-8214PD	0112520057		107-CS		U S PIPE & FOUNDRY WELL 15-8 #2	BROOKWOOD COAL DEGASI	1.8	SOUTHERN NATURAL
8241027	6-24-8218PD	0112520069		107-CS		U S PIPE & FOUNDRY 10-6 NO 5 WELL	BROOKWOOD COAL DEGASI	6.1	SOUTHERN NATURAL
8241022	6-24-8213PD	0112520053		107-CS		U S PIPE & FOUNDRY 14-4 #3	BROOKWOOD COAL DEGASI	2.5	SOUTHERN NATURAL
8241025	6-24-8216PD	0112520054		107-CS		U S PIPE & FOUNDRY 14-5 #4	BROOKWOOD COAL DEGASI	18.3	SOUTHERN NATURAL
8241026	6-24-8217PD	0112520055		107-CS		U S PIPE & FOUNDRY 14-6 #2	BROOKWOOD COAL DEGASI	7.3	SOUTHERN NATURAL
8241024	6-24-8215PD	0112520056		107-CS		U S PIPE & FOUNDRY 15-1 #1	BROOKWOOD COAL DEGASI	5.5	SOUTHERN NATURAL
-EXXON CORPORATION				RECEIVED:	07/02/82	JA: AL			
8241017	6-24-828PD	0105320172		107-DP		J W JOHNSON ET UX 10-10 WELL #1	FLOMATON	365.0	FLORIDA GAS TRANS
8241016	6-24-827PD	0105320170		107-DP		SCOTT PAPER CO GU 5 #5-10-2	BIG ESCAMBIA CREEK	1825.0	CIBA-GEIGY CORP
-BRACE PETROLEUM CORPORATION				RECEIVED:	07/02/82	JA: AL			
8241014	6-24-825PD	0107520411		102-4		LOGGAINS 4-11	BEAVERTON	0.8	NORTHWEST ALABAMA
-PRUET PRODUCTION CO				RECEIVED:	07/02/82	JA: AL			
8241031	6-24-8222PD	0107520296		102-2		BLAKENEY 19-8 NO I	FERNBANK	560.6	TENNESSEE GAS PIP
8241029	6-24-8220PD	0107520377		102-2		BRYANT 30-1 NO 1	FERNBANK	1113.3	TENNESSEE GAS PIP
8241033	6-24-8224PD	0107520393		102-2		HERRON 20-15 NO I	FERNBANK	421.6	TENNESSEE GAS PIP
8241030	6-24-8221PD	0107520402		102-2		KIMBROUGH 22-1 NO I	BLOWHORN CREEK	204.4	SOUTHERN NATURAL
8241032	6-23-8223PD	0107520360		102-2		ROBERTSON 23-12	FERNBANK	608.8	TENNESSEE GAS PIP
8241034	6-24-8225PD	0107520367		102-2		VAIL 19-14 NO 1	FERNBANK	276.7	TENNESSEE GAS PIP
8241035	6-24-8226PD	0107520359		102-2		WILLIAMSON 18-12 NO 1	MILLPORT	134.0	TENNESSEE GAS PIP
-UNION OIL COMPANY OF CALIF				RECEIVED:	07/02/82	JA: AL			
8241018	6-24-821PD	0109720177		107-DP		C P NEWMAN 8-16 #I	COLD CREEK	5.0	UNITED GAS PIPE L
-WARRIOR DRILLING & ENG CO INC				RECEIVED:	07/02/82	JA: AL			
8241011	6-24-822PD	0105720233		102-2		BERRY 24-13	MUSGROVE CREEK	400.0	SOUTHERN NATURAL
8241015	6-24-826PD	0105720245		102-2		BRANYON 30-9	WEST FAYETTE	50.0	SOUTHERN NATURAL
8241013	6-24-824PD	0105720262		102-4		NEWTON 27-3	MUSGROVE CREEK	150.0	SOUTHERN NATURAL
8241012	6-24-823PD	0105720234		102-4		YARBROUGH 34-3	MCCRACKEN MOUNTAIN	100.0	SOUTHERN NATURAL
OKLAHOMA CORPORATION COMMISSION									
-ANDOVER OIL COMPANY				RECEIVED:	06/30/82	JA: OK			

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8240951	17633	3501722129		102-2	103	ROTHER #11-3	HUNTON	180.0	DELHI GAS PIPELIN
8240950	15217	3501722004		103		WITTROCK #1-3	HUNTON	188.0	DELHI GAS PIPELIN
-CITIES SERVICE COMPANY				RECEIVED:	06/30/82	JA: OK			
8240945	13894	3512520493		103		TAYLOR F #2	STUNGIS	11.6	PHILLIPS PETROLEU
-CLARK RESOURCES INC				RECEIVED:	06/30/82	JA: OK			
8240954	15243	3504701000		103		PRYOR 27-1	SOONER TREND	20.0	PANHANDLE EASTERN
-ENERGY RESERVES GROUP INC				RECEIVED:	06/30/82	JA: OK			
8240939	17569	3501521166		102-2		LEWIS #1	WEST BINGER	183.2	
-GULF OIL CORPORATION				RECEIVED:	06/30/82	JA: OK			
8240955	15251	3507323199		103		JOHN G ROHWER NO 1-6	SOUTH OMEGA	140.0	
-HANKS PETROLEUM CORP				RECEIVED:	06/30/82	JA: OK			
8240934	15268	3507323356		103		CONNERTON WELL #1-12	SOONER TREND	182.0	PHILLIPS PETROLEU
-HOLDEN ENERGY CORP				RECEIVED:	06/30/82	JA: OK			
8240937	17558	3501900000		102-4		REED #34-3	SOUTHEAST JOINER CITY	6.0	AMINOIL USA INC
-JONES & PELLOW OIL CO				RECEIVED:	06/30/82	JA: OK			
8240947	14826	3512120290		108		HAMILTON 17-1	N W REAMS	14.0	ARKANSAS LOUISIAN
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	06/30/82	JA: OK			
8240944	13799	3512920557		102-4	103	HARTLEY #2	WEST REYDON	1000.0	EL PASO NATURAL G
-KRUMME OIL CO				RECEIVED:	06/30/82	JA: OK			
8240941	17571	3503723466		102-4		MOFFER #20	CUSHING	15.8	ARCO OIL & GAS CO
8240940	17570	3503723663		102-4		MOFFER #21	CUSHING	15.0	ARCO OIL & GAS CO
-LADD PETROLEUM CORPORATION				RECEIVED:	06/30/82	JA: OK			
8240952	15224	3504321260		103		CURTIS #2	HUCMAC	273.8	TRANSOK PIPE LINE
8240953	15267	3514722749		103		UNION OIL #2	WAYSIDE NORTHEAST	5.5	CITIES SERVICE GA
-MARSHALL OIL CORP				RECEIVED:	06/30/82	JA: OK			
8240936	15272	3512722739		103		FATCO #2	STAGE SAND	0.0	ARKANSAS LOUISIAN
-MAY ENERGY CO				RECEIVED:	06/30/82	JA: OK			
8240938	17565	3508100000		102-4		HAYES #3	HUNTON	72.0	SWAB CORP
-PCX CORP				RECEIVED:	06/30/82	JA: OK			
8240935	15271	3507323278		103		FLEENOR #2	W EDMOND	0.0	PHILLIPS PETROLEU
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	06/30/82	JA: OK			
8240946	14898	3510937834		108		EDMOND #1	WEST EDMOND	14.0	OKLAHOMA NATURAL
-SOUTHLAND ROYALTY CO				RECEIVED:	06/30/82	JA: OK			
8240949	15130	3509322268		103		LONG #2-20	WEST CHEYENNE VALLEY	18.0	PHILLIPS PETROLEU
-SUN OIL COMPANY (DELAWARE)				RECEIVED:	06/30/82	JA: OK			
8240942	4332	3505300000		108		SOUTH WEST WAKITA UNIT #3-2	SOUTH WEST WAKITA	1.0	CITIES SERVICE GA
-SUNRISE EXPLORATION INC				RECEIVED:	06/30/82	JA: OK			
8240943	12569	3509320270		103		MCNEILL #2-12	FAY SOUTH	182.8	TRANSOK PIPE LINE
-UNION TEXAS PETROLEUM				RECEIVED:	06/30/82	JA: OK			
8240948	14988	3509322403		103		A K MANNING #2	HODGE AREA I	127.8	PANHANDLE EASTERN

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PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES

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-ANGERMAN ASSOCIATES INC				RECEIVED:	07/01/82	JA: PA			
8241043	11896	3706326702		103		ALBERT M PRIBESH #1 - IND-26702	W PA - UPPER DEVONIAN	0.0	PEOPLES NATURAL G
8241036	11887	3706326630		103		ALEX BENNETT #1 - IND-26630	W PA-UPPER DEVONIAN S	45.0	PEOPLES NATURAL G
8241038	11890	3706326733		103		ALEX BENNETT #3 - IND-26733	W PA - UPPER DEVONIAN	35.0	PEOPLES NATURAL G
8241037	11888	3706326631		103		ALEX BENNETT #4 - IND-26631	W PA - UPPER DEVONIAN	35.0	PEOPLES NATURAL G
8241040	11892	3706326639		103		FLORENCE E BODEN #4 - IND-26639	W PA - UPPER DEVONIAN	25.0	PEOPLES NATURAL G
8241041	11893	3706326683		103		NAZZARENO MORETTI #2 - IND-26683	W PA - UPPER DEVONIAN	15.0	PEOPLES NATURAL G
8241039	11891	3706326665		103		PAUL M BLACK - IND-26665	W PA - UPPER DEVONIAN	50.0	PEOPLES NATURAL G
8241042	11894	3706326572		103		ROBERT H NEHRIG #2 - IND-26572	W PA - UPPER DEVONIAN	45.0	PEOPLES NATURAL G
8241044	11897	3712921951		103		ROBERT H WHITTAKER #2 - WES-21951	W PA - UPPER DEVONIAN	25.0	PEOPLES NATURAL G

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8241045	11898	3706326734		103		ROBERT H WHITTAKER #3 - IND-26734	W PA - UPPER DEVONIAN	35.0	PEOPLES NATURAL G
8241035	11886	3706326629		103		WILLIAM H BODEN #1 - IND-26629	W PA - UPPER DEVONIAN	35.0	PEOPLES NATURAL G
-ATLANTIC RICHFIELD COMPANY				RECEIVED:	07/01/82	JA: PA			
8241046	11899	3705126000		103		ANDREW CARNEGIE #1 - ALL-26000	W PA - UPPER DEVONIAN	0.0	PEOPLES NATURAL G
-CABOT OIL & GAS CORPORATION				RECEIVED:	07/01/82	JA: PA			
8241047	11900	3705126001		103		ANDREW CARNEGIE #2 - ALL-26001	W PA - UPPER DEVONIAN	0.0	PEOPLES NATURAL G
-CONSOLIDATED GAS SUPPLY CORP				RECEIVED:	07/01/82	JA: PA			
8241048	11901	3705126002		103		ANDREW CARNEGIE #3 - ALL-26002	W PA - UPPER DEVONIAN	0.0	PEOPLES NATURAL G
-DOMINION EXPLORATION & PRODUCTION				RECEIVED:	07/01/82	JA: PA			
8241049	11902	3705126003		103		ANDREW CARNEGIE #4 - ALL-26003	W PA - UPPER DEVONIAN	0.0	PEOPLES NATURAL G
-EQUITABLE RESOURCES EXPLORATION				RECEIVED:	07/01/82	JA: PA			
8241050	11903	3705126004		103		ANDREW CARNEGIE #5 - ALL-26004	W PA - UPPER DEVONIAN	0.0	PEOPLES NATURAL G
-HOPE NATURAL GAS COMPANY				RECEIVED:	07/01/82	JA: PA			
8241051	11904	3705126005		103		ANDREW CARNEGIE #6 - ALL-26005	W PA - UPPER DEVONIAN	0.0	PEOPLES NATURAL G
-PEOPLES NATURAL GAS COMPANY				RECEIVED:	07/01/82	JA: PA			
8241052	11905	3705126006		103		ANDREW CARNEGIE #7 - ALL-26006	W PA - UPPER DEVONIAN	0.0	PEOPLES NATURAL G
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	07/01/82	JA: PA			
8241053	11906	3705126007		103		ANDREW CARNEGIE #8 - ALL-26007	W PA - UPPER DEVONIAN	0.0	PEOPLES NATURAL G

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-ASHTOLA PRODUCTION CO				RECEIVED:	07/01/82	JA: PA			
8241045	11678	3705120273		102-3		CHARLES J YOCUM #1	WALTERSBURG	19.0	
-ATLAS RESOURCES INC				RECEIVED:	07/01/82	JA: PA			
8241046	13112	3706326057		102-4		SWANK NO 3	CHERRYHILL TWP	38.0	COLUMBIA GAS TRAN
-CASTLE GAS CO INC				RECEIVED:	07/01/82	JA: PA			
8241047	11288	3706326015		103		J C STONEBRAKER #4(C-644)IND-26015	GREEN TOWNSHIP	60.0	COLUMBIA GAS TRAN
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	07/01/82	JA: PA			
8241052	11914	3706500378		108		BLANCHE WINEBERG ET AL WN-978	GASKILL	18.0	GENERAL SYSTEM PU
8241059	11921	3703320426		108		CHARLES C MCGEE	BELL	2.0	GENERAL SYSTEM PU
8241061	11923	3706321771		108		CLAYTON SUNDERLAND WN-1210	CANOE	13.0	GENERAL SYSTEM PU
8241056	11918	3706520473		108		EARL SCHWARTZ WN-1038	YOUNG	2.0	GENERAL SYSTEM PU
8241063	11925	3703320443		108		HELEN T MCGEE WN-1145	BURNSIDE	9.0	GENERAL SYSTEM PU
8241057	11919	3706520505		108		LINDSEY COAL MINING CO WN-1068	PERRY	14.0	GENERAL SYSTEM PU
8241058	11912	3706500381		108		PA STATE GAME LANDS TR 195A WN-927	GASKILL	14.0	GENERAL SYSTEM PU
8241048	11910	3702320003		108		PARDEE ESTATE WN-813	SHIPPEN	18.0	GENERAL SYSTEM PU
8241055	11917	3706520432		108		PAUL D NEAL WN-1029	YOUNG	14.0	GENERAL SYSTEM PU
8241054	11916	3706520433		108		PENNA GAME COMMISSION WN-1021	GASKILL	17.0	GENERAL SYSTEM PU
8241049	11911	3706500295		108		PENNA STATE GAME LANDS 195A WN-913	GASKILL	13.0	GENERAL SYSTEM PU
8241053	11915	3706500399		108		R & P COAL CO WN-1012	YOUNG	20.0	GENERAL SYSTEM PU
8241062	11924	3703320487		108		RALPH R CRANMER WN-1194	BURNSIDE	9.3	GENERAL SYSTEM PU
8241050	11920	3706520532		108		ROBERT S PHILLIBER WN-1075	GASKILL	20.0	GENERAL SYSTEM PU
8241051	11913	3706300633		108		RUELBA L STEEL #1	BANKS	0.0	GENERAL SYSTEM PU
8241060	11922	3706321457		108		VERNER M WACHOB WN-1144	NORTH MAHONING	17.0	GENERAL SYSTEM PU
-DORAN & ASSOCIATES INC				RECEIVED:	07/01/82	JA: PA			
8241065	11927	3706326519		103		JOHN CONNER #1 KA-104	MONTGOMERY TWP	30.0	COLUMBIA GAS TRAN
8241066	11931	3712921983		103		PAUL W GRAFF (HELFER) #5A KZ-21	LOYAL HANNA TWP	36.0	T W PHILLIPS GAS
8241067	11933	3712921949		103		PAUL W GRAFF #2 KZ-20	UPPER DEVONIAN SANDS	30.0	T W PHILLIPS GAS
8241064	11926	3706326594		103		THOMPSON CEMETERY CO #1 KA-103	MONTGOMERY TWP	36.0	COLUMBIA GAS TRAN
-ENVIROGAS INC				RECEIVED:	07/01/82	JA: PA			
8241069	11871	3704921676		107-TF		D CHESLEY #3	LAKESHORE	18.0	NATIONAL FUEL GAS
8241068	11870	3704921585		103		H STETSON #1	LAKESHORE	18.0	NATIONAL FUEL GAS
-FOX OIL & GAS INC				RECEIVED:	07/01/82	JA: PA			
8241070	11843	3706326082		102-2		JOHN GOLDEN #1	CHERRYHILL TOWNSHIP	0.0	COLUMBIA GAS TRAN
8241071	11850	3706325112		102-2		RICHARD HELLER #1	GREEN TOWNSHIP	25.5	COLUMBIA GAS TRAN
-MERIDIAN OIL & GAS ENT INC				RECEIVED:	07/01/82	JA: PA			
8241072	11934	3703921463		107-TF		A T BOBAN SR WELL #1		36.0	
-MONROE RESOURCES LTD				RECEIVED:	07/01/82	JA: PA			
8241073	11929	3712330558		102-2		RUHLMAN NO 1	COLUMBUS	20.0	COLUMBIA GAS TRAN
8241074	11930	3712330558		107-TF		RUHLMAN NO 1	COLUMBUS	20.0	COLUMBIA GAS TRAN
-MEA CROSS CO				RECEIVED:	07/01/82	JA: PA			
8241075	11942	3704921701		102-2		ROSCOE MITCHELL #2	LEBOEUF TWP	15.0	NATIONAL FUEL GAS
8241076	11943	3704921701		107-TF		ROSCOE MITCHELL #2	LEBOEUF TWP	15.0	NATIONAL FUEL GAS
-PHILLIPS PRODUCTION CO				RECEIVED:	07/01/82	JA: PA			
8241078	11958	3706324542		108		FRANK H NICHOLS ET UX #1	EAST MAHONING TWP	7.0	COLUMBIA GAS TRAN
8241077	11957	3706324528		108		W S BLACK ET AL #1	EAST MAHONING TWP	9.0	COLUMBIA GAS TRAN
8241079	11964	3706324135		108		WILLIAM E DONAHUE ET UX #1	EAST MAHONING TWP	6.0	COLUMBIA GAS TRAN
-PIVOT PETROLEUMS INC				RECEIVED:	07/01/82	JA: PA			
8241087	10878	3712330060		107-TF		CHAPMAN #1	FREEHOLD	20.0	COLUMBIA GAS TRAN
8241082	10877	3712330060		102-2		CHAPMAN NO 1	LOTTSVILLE/FREEHOLD	20.0	COLUMBIA GAS TRAN
8241085	10874	3712330063		107-TF		E CORNISH #4-2	FREEHOLD	25.0	COLUMBIA GAS TRAN
8241080	10873	3712330063		102-2		E CORNISH NO 4-2	FREEHOLD	25.0	COLUMBIA GAS TRAN
8241086	10875	3712330064		107-TF		H CORNISH #1	FREEHOLD	20.0	COLUMBIA GAS TRAN
8241081	10876	3712330064		102-2		H CORNISH NO 2	FREEHOLD	20.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8241083	10879	3712330062		102-2		R PERKINS #1	FREEHOLD	20.0	COLUMBIA GAS TRAN
8241088	10880	3712330062		107-TF		R PERKINS #1	FREEHOLD	20.0	COLUMBIA GAS TRAN
8241084	10888	3712330061		102-2		R SMITH NO 1	FREEHOLD	20.0	COLUMBIA GAS TRAN
8241089	10889	3712330061		107-TF		R SMITH NO 1	FREEHOLD	0.0	COLUMBIA GAS TRAN
-QUERTINMONT GLASS CO				RECEIVED:	07/01/82	JA: PA			
8241091	9236	3705100000		108		DAVID #1	DAVID FARM	10.0	COLUMBIA GAS TRAN
8241092	9237	3705100000		108		DAVID #2	DAVID FARM	10.0	COLUMBIA GAS TRAN
8241090	9235	3705100000		108		DAVID #3	DAVID FARM	10.0	COLUMBIA GAS TRAN
-REX-HIDE REALTY INC				RECEIVED:	07/01/82	JA: PA			
8241093	11928	3700522676		103		DONALD E MILLER ET UX #1	PLUMCREEK TWP	0.0	
-VIKING RESOURCES CORP				RECEIVED:	07/01/82	JA: PA			
8241096	11408	3712329526		103		SHEFFIELD PARTNERSHIP 361-5	SHEFFIELD TWP	30.0	NATIONAL FUEL GAS
8241095	11407	3712329527		103		SHEFFIELD PARTNERSHIP 361-6	SHEFFIELD TWP	30.0	NATIONAL FUEL GAS
8241094	11406	3712329528		103		SHEFFIELD PARTNERSHIP 363-5	SHEFFIELD TWP	30.0	NATIONAL FUEL GAS
8241097	11410	3712329529		103		SHEFFIELD PARTNERSHIP 402-2	SHEFFIELD TWP	38.0	NATIONAL FUEL GAS
-WAINOCO OIL & GAS CO				RECEIVED:	07/01/82	JA: PA			
8241100	11902	3703921351		102-2		ANDY N GINGERICH NO 2 (W-94)	ATHENS (SPARTA)	0.0	COLUMBIA GAS TRAN
8241106	11909	3703921351		107-TF		ANDY N GINGERICH NO 2 (W-94)	ATHENS (SPARTA)	8.0	COLUMBIA GAS TRAN
8241099	11901	3703921353		102-2		CHARLES D WETHERBEE NO 1 (W-98)	ATHENS (SPARTA)	0.0	COLUMBIA GAS TRAN
8241103	11908	3703920583		102-2		GOERGE BANGS NO 1 (W-26)	ATHENS (ROME)	14.0	COLUMBIA GAS TRAN
8241101	11903	3703921352		102-2		H RICHARD VAN TASSEL NO 1 (W-99)	ATHENS (SPARTA)	27.0	COLUMBIA GAS TRAN
8241105	11904	3703921352		107-TF		H RICHARD VAN TASSEL NO 1 (W-99)	ATHENS (SPARTA)	27.0	COLUMBIA GAS TRAN
8241102	11907	3703920588		102-2		LEE A HOPKINS NO 1 (W-34)	ATHENS (ROME)	7.0	COLUMBIA GAS TRAN
8241098	11898	3703921347		102-2		WAYNE L BANCROFT NO 1 (W-97)	ATHENS (BLOOMFIELD)	0.0	COLUMBIA GAS TRAN
8241104	11900	3703921347		107-TF		WAYNE L BANCROFT NO 1 (W-97)	ATHENS (BLOOMFIELD)	8.0	COLUMBIA GAS TRAN

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WEST VIRGINIA DEPARTMENT OF MINES

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-ALLEGHENY & WESTERN ENERGY CORP				RECEIVED:	06/30/82	JA: WV			
8240994		4708703472		107-DV		FIELDS #1	WALTON DISTRICT	18.0	ROARING FORK GAS
8240996		4708703472		103		FIELDS #1	WALTON DISTRICT	18.0	ROARING FORK GAS
8240995		4708703473		103		FIELDS #2	WALTON DISTRICT	18.0	ROARING FORK GAS
-ASHLAND EXPLORATION INC				RECEIVED:	06/30/82	JA: WV			
8240979		4701900459		103		BEDFORD LAND CO #18 - 091801	PAINT CREEK	164.0	COLUMBIA GAS TRAN
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	06/30/82	JA: WV			
8240987		4704700850		103		CONSOLIDATED COAL CORP WN-12654	ELKHORN	35.9	GENERAL SYSTEM PU
8240988		4704700851		103		CONSOLIDATED COAL WN-12655	ELKHORN	25.3	GENERAL SYSTEM PU
8240989		4704700852		103		CONSOLIDATED COAL WN-12658	ELKHORN	9.8	GENERAL SYSTEM PU
8240986		4701303326		103		LOUIS BENNET HRS WN-12700	WASHINGTON	3.0	GENERAL SYSTEM PU
8240985		4701303325		103		LOUIS BENNETT HRS WN-12699	WASHINGTON	5.0	GENERAL SYSTEM PU
8240991		4705500083		103		POCA LAND WN-12715	ROCK	6.8	GENERAL SYSTEM PU
8240990		4704700858		103		POCA LAND WN-12717	ADKIN	66.0	GENERAL SYSTEM PU
-DORAN & ASSOCIATES INC				RECEIVED:	06/30/82	JA: WV			
8240978		4703302604		103		DAVID LOWE #1 KR-28	CLAY DISTRICT	30.0	CONSOLIDATED GAS
8240977		4703302611		103		DAVID LOWE #4 KR-29	CLAY DISTRICT	30.0	CONSOLIDATED GAS
-ENERGY UNLIMITED INC				RECEIVED:	06/30/82	JA: WV			
8240992		4707301296		103		RIEFFENBERGER/DINSMOOR #1	JEFFERSON DISTRICT	8.0	CONSOLIDATED GAS
-FRANK D & DARRELL F SMITH				RECEIVED:	06/30/82	JA: WV			
8240973		4709900076		108		WELL #5-18-1	WAYLIN	6.0	COLUMBIA GAS CO
8240972		4704301393		108		WELL #5-5-2	HARTS CREEK	25.0	COLUMBIA GAS CO
8240984		4704300621		108		WELL NO 5666	JEFFERSON	15.0	COLUMBIA GAS CO
-J & J ENTERPRISES INC				RECEIVED:	06/30/82	JA: WV			
8240970		4701702855		107-DV		J-285	WEST UNION	8.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8240967		4701702856		107-DV		J-286	WEST UNION	0.0	COLUMBIA GAS TRAN
8240969		4701702951		107-DV		J-294	CENTRAL	6.0	COLUMBIA GAS TRAN
8240965		4701702919		107-DV		J-425	WEST UNION	0.0	COLUMBIA GAS TRAN
8240968		4701702921		107-DV		J-427	WEST UNION	0.0	COLUMBIA GAS TRAN
8240971		4701702922		107-DV		J-428	GRANT	0.0	COLUMBIA GAS TRAN
8240966		4701702985		107-DV		J-429	WEST UNION	0.0	COLUMBIA GAS TRAN
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	06/30/82	JA: WV			
8240956		4701702589		107-DV		CLYDE FRASHURE #1	WOLFPEN RUN	46.0	CONSOLIDATED GAS
8240957		4701702590		107-DV		CLYDE FRASHURE #2	WOLFPEN RUN	25.0	CONSOLIDATED GAS
8240968		4701702335		107-DV		GARLAND O FORD #1	SMITHON-FLINT-SEDALIA	62.0	COLUMBIA GAS TRAN
8240962		4701702579		107-DV		GARLAND O FORD #3	SMITHTON-FLINT-SEDALI	30.0	COLUMBIA GAS TRAN
8240958		4701702534		107-DV		L S MCGEE #1	STRAIGHT-FORK-BLUESTO	78.0	COLUMBIA GAS TRAN
8240961		4701702568		107-DV		L S MCGEE #2	STRAIGHT-FORK-BLUESTO	115.0	COLUMBIA GAS TRAN
8240963		4701702585		107-DV		LEONA BROADWATER #I	STRAIGHTFORK - BLUEST	48.0	COLUMBIA GAS TRAN
8240964		4701702586		107-DV		LEONA BROADWATER #2	STRAIGHT FORK - BLUES	85.0	COLUMBIA GAS TRAN
8240959		4701702530		107-DV		OPAL GRIBBLE #2	STRAIGHT-FORK-BLUESTO	25.0	COLUMBIA GAS TRAN
-RAMCO OIL & GAS CORP				RECEIVED:	06/30/82	JA: WV			
8241000		4705900964		103		U S STEEL WELL #27	U S STEEL	40.0	CONSOLIDATED GAS
8240998		4705900945		103		U S STEEL WELL NO 25	U S STEEL	50.0	CONSOLIDATED GAS
8240999		4705900963		103		U S STEEL WELL NO 26	U S STEEL	25.0	CONSOLIDATED GAS
8240997		4705900965		103		U S STEEL WELL NO 28	U S STEEL	50.0	CONSOLIDATED GAS
8240983		4705900968		103		U S STEEL WELL NO 30	U S STEEL	100.0	CONSOLIDATED GAS
-SWIFT ENERGY CO				RECEIVED:	06/30/82	JA: WV			
8241003		4702103804		107-DV		CLARK NO 2	GLENVILLE NORTH	50.0	
8240993		4704103069		107-DV		MCPHERSON "C" NO I	FINSTER-ASPINALL	50.0	
8241001		4700114870		107-DV		ROSS #3	PHILIPPI	50.0	
8241002		4700101607		107-DV		ROSS NO 5	PHILIPPI	50.0	
8241004		4700701707		107-DV		WELCH NO 6	GLENVILLE NORTH	50.0	
-TRIO PETROLEUM CORP				RECEIVED:	06/30/82	JA: WV			
8240976		4702103832		103		GRIFFITH "D" NO 2	GLENVILLE NORTH	50.0	
8240974		4704103133		103		KEITH NO 1-A	FINSTER-ASPINALL	50.0	
8240975		4702103834		103		WHITE NO 3	GLENVILLE	50.0	
-UNITED PETRO LTD				RECEIVED:	06/30/82	JA: WV			
8240980		4702103627		108		G L SNIDER #1-A	SAND FORK	13.0	CONSOLIDATED GAS
8240981		4702103628		108		G L SNIDER #2-A	SAND FORK	1.5	CONSOLIDATED GAS
8240982		4710500865		108		LEWIS FULL #1-A	GARFIELD	1.0	CABOT CORPORATION
**********									
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, METAIRIE,LA									
**********									
-AMOCO PRODUCTION CO				RECEIVED:	06/30/82	JA: LA 3			
8240938	G2-2592	1770940459		102-5		OCS-G-3572 WELL #A-7	EUGENE ISLAND	1825.0	TRANSCONTINENTAL
8240933	G2-2780	1771040776		102-1		OCS-G-3571 WELL A-1	EUGENE ISLAND	5475.0	
8240932	G2-2778	1771040969		102-1		OCS-G-3571 WELL A2	EUGENE ISLAND	365.0	
-ARCO OIL AND GAS COMPANY				RECEIVED:	06/30/82	JA: LA 3			
8240923	G1-2450	1770040426		102-5		OCS-G-2832 W CAMERON BLK 205#A-6MU	WEST CAMERON	3102.0	NORTHERN NATURAL
8240924	G1-2451	1770040426		102-5		OCS-G-2832 W CAMERON BLK 205#A-6NL	WEST CAMERON	3102.0	NORTHERN NATURAL
8240921	G1-2432	1770040418		102-5		OCS-G-2832 W CAMERON BLK 205#A-4MU	WEST CAMERON	3102.0	NORTHERN NATURAL
8240922	G1-2437	1770040418		102-5		OCS-G-2832 W CAMERON BLK 205#A-4NL	WEST CAMERON	3102.0	NORTHERN NATURAL
8240926	G1-2497	1771940214		102-5		OCS-G-2933 A-1 (MG)	WEST DELTA	1000.0	TENNESSEE GAS PIP
8240927	G1-2498	1771940214		102-5		OCS-G-2933 A-1D (JR)	WEST DELTA	1000.0	TENNESSEE GAS PIP
-CNG PRODUCING COMPANY				RECEIVED:	06/30/82	JA: LA 3			
8240925	G1-2496	1771240135		102-5		A-1596 OCS6-1027 SHIP SHOAL 346	SHIP SHOAL	825.0	CONSOLIDATED GAS
-GULF OIL CORPORATION				RECEIVED:	06/30/82	JA: LA 3			

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8240928	G2-2552	1771540410		102-5		OCS-G 3336 #D-17	SOUTH TIMBALIER	912.0	TEXAS EASTERN TRA
-PENNZOIL OIL & GAS INC				RECEIVED:	06/30/82	JA: LA 3			
8240929	G2-2587	1778940482		102-5		#A-16A EUGENE IS 261 OCSG-2900	EUGENE ISLAND	530.0	SEA ROBIN PIPELIN
-AMR PRODUCTION CO				RECEIVED:	06/30/82	JA: TX 3			
8240931	G2-2754	4270440065		102-1		BRAZOS BLOCK 504 WELL #A-6	BRAZOS	1753.0	TRANSCONTINENTAL

OTHER PURCHASERS VOLUME NO :693

8240954 EXXON CO USA

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before August 10, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brin
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper wall
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb.

Secretary.

[FR Doc. 82–20103 Filed 7–23–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP82–384–000]

Arkansas Louisiana Gas Co., a Division of Arkla, Inc.; Application

July 19, 1982.

Take notice that on June 21, 1982, Arkansas Louisiana Gas Company, a division of Arkla, Inc. (Applicant), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP82–384–000 an application pursuant to Section 7 of the Natural Gas Act and Subpart F of Part 157 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the construction, acquisition, and operation of certain facilities and the transportation and sale of natural gas and for permission and approval to abandon certain facilities and service, all as more fully set forth in the application on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 9, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–20104 Filed 7–23–82; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 6447–000]

Cataldo Hydro Power Associates; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

July 21, 1982.

Take notice that on June 18, 1982, Cataldo Hydro Power Associates (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. §§ 2705, and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric Project No. 6447 would be located on the Black River in the Town of Leyden, Lewis County, New York. Correspondence with the Applicant should be directed to: Mr. Malden V. Frank, One Lincoln Center—Suite 1225, Syracuse, New York 13202.

Project Description—The proposed project would utilize existing Applicant-owned and operating facilities consisting of: (1) A 24-foot-high rock-filled timber-crib dam having a 113-foot-long spillway section; (2) a reservoir with a surface area of 23 acres and a gross storage capacity of 150 acre-feet at spillway crest elevation 831.5 feet m.s.l.; (3) an intake structure near the dam's left (west) abutment: (4) a short penstock; (5) a powerhouse containing three generating units having a total rated capacity of 497-kW operated under a 24-foot head and at a flow of 350 cfs; (6) a 2.3/23–kV substation; (7) a 23–kV transmission line; (8) an access road; and (9) appurtenant facilities. Project energy is sold to Niagara Mohawk Power Corporation. Applicant estimates that the average annual energy output has been 1,830,000 kWh.

Applicant proposes to: (1) Modify a 47-foot-long non-overflow section of the dam to be a concrete-capped grouted-masonry spillway section having crest elevation 831.5 feet m.s.l.; (2) remove the old intake, penstock, and powerhouse; (3) construct an intake; (4) construct a powerhouse containing a generating unit having a rated capacity of 2,080–kW operated under a 24-foot head and at a flow of 1,200 cfs; (5) excavate a tailrace; and (6) modify the substation to operate at 4.16/23–kV. Project energy would be sold to Niagara Mohawk Power Corporation. Applicant estimates that the average annual energy output would be 11,200,000 kWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the New York State Department of Environmental Conservation are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources

or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before September 10, 1982 either the competing license application that propose to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 10, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-20106 Filed 7-23-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6452-000]

Connellsville Area School District; Application for Preliminary Permit

July 21, 1982.

Take notice that Connellsville Area School District (Applicant) filed on June 21, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6452 to be known as the Indian Creek Hydro Project located on Indian Creek in Fayette County, Pennsylvania. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. William L. Hart, Board President, Connellsville Area School District, 125 North Seventh Street, Connellsville, Pennsylvania 15425.

Project Description—The proposed run-of-the-river project would consist of: (1) The existing Indian Creek Dam, approximately 515 feet long and 40 feet high, constructed of concrete and masonry with a 300-foot spillway section at an elevation of 1,247.8 feet m.s.l.; (2) the existing Mill Run Reservoir having minimal pondage; (3) a new intake structure near the left dam abutment and a penstock, 5.5 feet in diameter and 500 feet long, leading to (4) a new powerhouse containing turbine-generator units having a total rated capacity of 534 kW; (5) a new 50-foot-long tailrace re-entering Indian Creek approximately 550 feet downstream of the dam; (6) a new transmission line and switchyard; and (7) appurtenant facilities. The Applicant estimates that the average annual output would be 2,339,000 kWh. Project energy would be sold to the West Penn Power Company, or other possible options may be utilized. Indian Creek Dam and Mill Run Reservoir are owned by the Westmoreland County Municipal Authority.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $45,000.

Competing Applications—This application was filed as a competing application to Long Lake Energy Corporation's application for Project No. 5897 filed on January 19, 1982. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 25, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all

capital letters the title "COMMENTS", "PROTEST", "COMPETING APPLICATIONS", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-20106 Filed 7-23-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6463-000]

Energenics System, Inc.; Application for Preliminary Permit

July 22, 1982.

Take notice that Energenics System, Inc. (Applicant) filed on June 24, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6463 to be known as the Cagles Mill Water Power Project located on the Mill Creek in Putnam County, Indiana. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Granville, J. Smith II, President, Energenics System, Inc., 1717 K Street, N.W., Suite 706, Washington, D.C. 20006.

Project Description—The proposed project would utilize an existing U.S. Army Corps of Engineers' Dam and Reservoir. The proposed project would cosist of: (1) An existing outlet conduit to be reinforced with a steel liner; (2) a proposed penstock; (3) a proposed powerhouse containing generating units with a total capacity of 1.4 MW; (4) a proposed tailrace channel which would connect with the existing outlet channel; (5) proposed transmission lines; and (6) appurtenant facilities. The Applicant estimates that the average annual energy output would be 4.95 GWh. The power generated by the proposed project would be sold by the Applicant to the Public Service Company of Indiana.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested a 36-month permit to prepare a definitive project report, including preliminary design and economic feasibility studies, hydrological studies, environmental and social studies, and soils and foundation data. The cost of the aforementioned activities along with obtaining agreements with other Federal, State and local agencies is estimated to be $45,000.

Competing Applications—Annyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before November 1, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before October 1, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before October 1, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-20107 Filed 7-23-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6363-000]

Lind & Associates; Application for Preliminary Permit

July 21, 1982.

Take notice that Lind & Associates (Applicant) filed on May 24, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6363 to be known as the Lind & Associates Hydroelectric Project located on Rock Creek in El Dorado County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. & Mrs. Anton A. Lind, 8715 Curragh Downs Drive, Fair Oaks, California 95628.

Project Description—The proposed project would consist of: (1) A 50-foot-long, 6-foot-high diversion structure; (2) a 4,000-foot-long, 72-inch-diameter penstock; (3) a powerhouse with a total installed capacity of 1,000 kW; and (4) a 0.5-mile-long, 12.5-kV transmission line from the powerhouse to an existing Pacific Gas & Electric Company transmission line. The Applicant estimates that the average annual energy production would be 4 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which it would conduct technical environmental and economic studies, and also prepare an FERC license application. The Applicant estimates that the cost of undertaking these studies would be $50,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before October 12, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 C.F.R. 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 F.R. 55245, November 9, 1981.)

The commission will accept applications for license of exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before October 1, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than November 30, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in acordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before October 1, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-20108 Filed 7-23-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5946–000]

Massachusetts Hydro Associates; Application for License (5 MW or Less)

July 21, 1982.

Take notice that Massachusetts Hydro Associates (Applicant) filed on February 4, 1982, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for continued operation of a water power project to be known as Lowell Atlantic Project No. 5946. The project is located on a canal off the Merrimack River, near Lowell in Middlesex County, Massachusetts. Correspondence with the Applicant should be directed to: Mr. Harry Wolf, Essex Development Associates, Inc., 110 Tremont Street, Boston, Massachusetts 02108 and Mr. David B. Ward, Esquire, Case & Ward P.C., 1050 Seventeenth Street, N.W., Washington, D.C. 20036.

Project Description—The proposed project would consist of: (1) The project headworks which are situated at right angles to the Lawrence Canal; (2) two 30-foot-long and 8.5-foot diameter penstocks; (3) two turbine-generator units with a total rated capacity of 500 kW; and (4) other appurtenances. Applicant lease the project facilities and associated property from Atlantic Associates. The project would generate 2,700,000 kWh per year initially and 1,700,000 kWh per year once the Lowell Hydroelectric Project No. 2790 is in operation.

Purpose of Project —Project energy would be sold to Fitchburg Gas and Electric Light Company.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before October 4, 1982, either the competing application itself [See 18 CFR 4.33 (a) and (d)] or a notice of intent [See 18 CFR 4.33 (b) and (c)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before October 4, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "*NOTICE OF INTENT TO FILE COMPETING APPLICATION*", "*COMPETING APPLICATION*", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any *notice of intent, competing application,* or petition to intervene must also be served upon each

representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-20109 Filed 7-23-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 6389-000]

Lawrence J. McMurtrey; Application for Preliminary Permit

July 22, 1982.

Take notice that Lawrence J. McMurtrey (Applicant) filed on June 2, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a) 825(r)] for Project No. 6389 to be known as the French Creek Water Power Project located on French Creek, within Snoqualmie—Mt. Baker National Forest in Snohomish County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Lawrence J. McMurtrey, 12122—196th N.E., Redmond, Washington 98052.

Project Description—The proposed project would consist of: (1) 2-foot-high, 14-foot-long diversion structure; (2) a 24-inch-diameter, 8000-foot-long penstock; (3) a powerhouse containing a generating unit with a rated capacity of 2.33 MW; and (4) appurtenant facilities. The Applicant estimates a 12.24 GWh average annual energy production.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested 24-month permit to prepare a definitive project report including preliminary designs, and geological, environmental, and economic feasibility studies. The cost of forementioned activities along with preparation of an environmental impact report, obtaining agreements with Federal, State, and local agencies, and preparing a license application is estimated by the Applicant to be $40,000. Power would be sold to Puget Sound Power and Light.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before October 1, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et. seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before October 1, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than November 30, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before October 1, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR. Doc. 82-20110 Filed 7-23-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 6390-000]

Lawrence J. McMurtrey; Application for Preliminary Permit

July 21, 1982.

Take notice that Lawrence J. McMurtrey (Applicant) filed on June 2, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 6390 to be known as the Sloan Creek Water Power Project located on Sloan Creek, within Snoqualmie—Mt. Baker National Forest in Snohomish County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Lawrence J. McMurtrey, 12122—196th N.E., Redmond, Washington 98052.

Project Description—The proposed project would consist of: (1) Two 2-foot-high diversion structures on Sloan Creek; (2) a 36-inch, and 18-inch-diameter, 12,000-foot and 4,000-foot-long penstock respectively; (3) a powerhouse containing a generating unit with a rated capacity of 3.62 MW; and (4) appurtenant facilities. The Applicant estimates a 19.04 GWh average annual energy production.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested a 24-month permit to prepare a definitive project report including preliminary designs, and geological, environmental, and economic feasibility studies. The cost of forementioned activities along with preparation of an environmental impact report, obtaining agreements with Federal, State, and local agencies, and preparing a license application is estimated by the Applicant to be $40,000. Power would be sold to Puget Sound Power and Light.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before October 1, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et. seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981).

The Commission will accept applications for license or exemption from licensing, or a notice of intent to

submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before October 1, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than November 30, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before October 1, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-20111 Filed 7-23-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6388-000]

Lawrence J. McMurtrey; Application for Preliminary Permit

July 22, 1982.

Take notice that Lawrence J. McMurtrey (Applicant) filed on June 2, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6388 to be known as the Lost Creek Water Power Project located on Lost Creek within Snoqualmie-Mt. Baker National Forest in Snohomish County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Lawrence J. McMurtrey, 12122 — 196th, N.E., Redmond, Washington 98052.

Project Description—The proposed project would consist of: (1) A 2-foot-high, 36-foot-long diversion structure; (2) a 36-inch-diameter, 8,000-foot-long penstock; (3) a powerhouse containing a generating unit with a rated capacity of 2.32 MW; (4) appurtenant facilities. The Applicant estimates a 10.15 GWh average annual energy production.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested a 24-month permit to prepare a definitive project report including preliminary designs, and geological, environmental, and economic feasibility studies. The cost of forementioned activities along with preparation of an environmental impact report, obtaining agreements with Federal, State, and local agencies, and preparing a license application is estimated by the Applicant to be $40,000. Power would be sold to Puget Sound Power and Light.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before October 1, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et. seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before October 1, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than November 30, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before October 1, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the origial and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative

of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-20112 Filed 7-23-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6270-000]

Moon Lake Water Users Association; Application for Exemption of Small Conduit Hydroelectric Facility

July 22, 1982.

Take notice that on April 28, 1982, Moon Lake Water Users Association (Applicant) filed an application, under Section 30 of the Federal Power Act (Act) [16 U.S.C. 823(a)], for exemption of a proposed hydroelectric project from requirements of Part I of the Act. The proposed Big Sand Wash Project (FERC Project No. 6270) would be located on "C" Canal in Duchesne County, Utah. Correspondence with the Applicant should be directed to: Mr. Jay R. Bingham, President, Water Power Company, 165 Wright Brothers Drive, Salt Lake City, Utah 84116.

Purpose of Project—Power generated by the proposed project will be marketed to the Moon Lake Electrification Cooperative.

Project Description—The proposed project would consist of: (1) The existing "C" Canal providing water to the irrigated lands surrounding Upalco, Utah and to the Big Sand Wash Dam, owned and operated by the Applicant; (2) a new modified diversion structure to divert flow of the "C" Canal; (3) a proposed penstock, approximately 13,900 feet long, using 42" diameter steel pipe; (4) a proposed powerplant containing a single generating unit with an installed capacity of 1,700 kW; (5) proposed transmission lines; and (6) appurtenant facilities. The Applicant estimates that the average annual energy output would be 9.84 GWh.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Utah Department of Natural Resources, Division of Wildlife Resources are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 13, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-20113 Filed 7-23-82; 8:45 am]

BILLING CODE 6717-01-M

Oil Pipeline Tentative Valuation

The Federal Energy Regulatory Commission by order issued February 10, 1978, established an Oil Pipeline Board and delegated to the Board its functions with respect to the issuance of valuation reports pursuant to section 19a of the Interstate Commerce Act.

Notice is hereby given that a tentative valuation is under consideration for the common carrier by pipeline listed below:

1980 Initial Valuation (July 23, 1982)

Valuation Docket No. PV-1466-000—Tomahawk Pipe Line Company, P.O. Box 376, Tulsa, OK 74101.

On or before August 30, 1982, persons other than those specifically designated in section 19a(h) of the Interstate Commerce Act having an interest in this valuation may file, pursuant to rule 70 of the Interstate Commerce Commission's "General Rules of Practice" (49 CFR 1100.70), an original and three copies of a petition for leave to intervene in this proceeding.

If the petition for leave to intervene is granted the party may thus come within the category of "additional parties as the FERC may prescribe" under section 19a(h) of the Act, thereby enabling it to file a protest. The petition to intervene must be served on the company at its address shown above and an appropriate certificate of service must be attached to the petition. Persons specifically designated in section 19a(h) of the Act need not file a petition; they are entitled to file a protest as a matter of right under the statute.

Francis J. Connor,

Administrative Officer, Oil Pipeline Board.

[FR Doc. 82-20117 Filed 7-23-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6340-000]

Ronald E. Rulofson & Janice C. Rulofson; Application for Preliminary Permit

July 21, 1982.

Take notice that Ronald E. Rulofson and Janice C. Rulofson (Applicant) filed on May 17, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 6340 to be known as the Big Creek, 7-R Power Project located on Big Creek, in Trinity County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Ronald E. Rulofson and Janice C. Rulofson, P.O. Box 108, Hyampom, California 96046.

Project Description—The proposed project would consist of: (1) A 125-foot-long, 5-foot-high diversion structure; (2) a 50-inch-diameter diversion conduit; (3) a 3,625-foot-long, 40-inch-diameter penstock; (4) a powerhouse with an

installed capacity of 2,750 kW; and (5) a 1,000-foot-long, 12.5-kV transmission line from the powerhouse to an existing Pacific Gas & Electric Company transmission line. The Applicant estimates that the average annual energy production would be 6.4 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which it would conduct technical, environmental and economic studies, and also prepare an FERC license application. The Applicant estimates that the cost of undertaking these studies would be $115,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before October 4, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before October 4, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than December 3, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before October 4, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-20114 Filed 7-23-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6459–000]

Southeastern Hydro-Power, Inc.; Application for Preliminary Permit

July 22, 1982.

Take notice that Southeastern Hydro-Power, Inc. (Applicant) filed on June 24, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6459 to be known as the Tar River Hydroelectric Project located on the Tar River in Nash County, near Rocky Mount, North Carolina. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Charles B. Mierek, Southeastern Hydro-Power, Inc., 838 Arlington Drive, Tucker, Georgia 30084.

Project Description—The proposed project would consist of: (1) The existing City of Rocky Mount Tar River Reservoir with a surface area of 1,400 acres and a gross storage capacity of 13,200 acre-feet at 125 feet NGVD; (2) the existing 40-foot high by 860-foot long City of Rocky Mount Tar River Dam; (3) a proposed 60-inch diameter, 250-foot long steel penstock; (4) a proposed powerhouse with a single Kaplan turbine/generator unit having an estimated total installed capacity of 1,900 kW and producing an average energy output of 7.5 GWh; (5) a proposed 80-foot long concrete retaining wall tailrace; (6) a proposed ½-mile, 44 kV primary transmission line to connect to an existing Carolina Power and Light Company (CPLC) line; and, (7) appurtenant facilities. The proposed market for the power is Duke Power Company and CPLC.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months, during which time studies would be made to determine the engineering, environmental, and economic feasibility of the project. In addition, historic and recreational aspects of the project would be determined, along with consultation with Federal, state, and local agencies for information, comments and recommendations relevant to the project. The Applicant estimates that the cost of the studies would be $70,000.00.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before November 1, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before October 1, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all

protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before October 1, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc 82-20115 Filed 7-23-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6338-000]

Suncook Leathers, Inc.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

July 21, 1982.

Take notice that on May 17, 1982, Suncook Leathers, Inc. (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric Project No. 6338 would be located on the Suncook River in the Town of Pittsfield in Merrimack County, New Hampshire. Correspondence with the Applicant should be directed to: Mr. Peter Gardiner, Swift River Co., Inc., 148 State Street, Boston, Massachusetts 02109.

Project Description—The proposed project would consist of: (1) The proposed addition of 1-foot-high flashboards to an existing 21-foot-high, 421-foot-long, concrete and stone gravity dam owned by the New Hampshire Water Resources Board; (2) an existing reservoir with a surface area of 20 acres at an elevation of 475 feet M.S.L.; (3) major reconstruction of the existing intake structure; (4) rehabilitation of an existing 9-foot-diameter, 200-foot-long steel penstock; (5) rehabilitation of the existing powerhouse structure; (6) rehabilitation of an existing 550-H.P. turbine operating under a 19-foot head; (7) a proposed generator with a rated capacity of 420 kW; (8) rehabilitation of an existing 65-foot-long tailrace; (9) a proposed 75-foot-long, 4.16-kV transmission line; and (10) appurtenant facilities. The average annual energy generation of 1,400,000 kWh would be sold to Public Service Company of New Hampshire. Suncook Leathers, Inc. currently holds a preliminary permit (Project No. 4480-000) for this site.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the New Hampshire Fish and Game Department are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before September 10, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 10, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc 82-20116 Filed 7-23-82; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP 180610; PH-FRL 2177-3]

South Carolina; Receipt of Application for Specific Exemption for DBCP; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the Division of Regulatory and Public Programs Service Programs, College of Agricultural Sciences, Clemson University, South Carolina (hereafter referred to as the "Applicant"), for use of DBCP (1,2-dibromo-3-chloropropane) to control nematodes on 20,000 acres of peach trees in South Carolina. EPA is soliciting public comment concerning the specific exemption request.

DATE: Due to the nature of the emergency written comments must be received by August 2, 1982.

ADDRESS: Comments should bear the document control number OPP–180610 and be submitted to: Document Control Office (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, D.C. 20460.

The public record regarding this notice will be available for public inspection in Rm. E–107, at the above address from 8:00 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Libby Welch, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 716, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1192).

SUPPLEMENTARY INFORMATION: According to the Applicant, ring and root-knot nematodes are ubiquitous in agricultural land in South Carolina. They are important on peach trees because they increase susceptibility to cold injury and certain diseases that cause sudden collapse and death of the trees. The entire complex of factors that leads to premature death has been given the name "peach tree short life." Certain peach rootstocks are resistant to root-knot nematode damage, but none is resistant to ring nematodes; therefore, plant resistance is an ineffective approach to control. Nematocides applied before the trees are planted usually are effective for about two years after treatment. Then nematodes become reestablished in the treated soil. Nematocide treatments after planting, therefore, are required.

Prior to October 1979, peach farmers applied DBCP, the only nematocide registered for use after planting, when nematode populations reached damaging levels. When the registration of DBCP on peaches was withdrawn in 1979, farmers were left with no means for controlling nematodes in established orchards. According to the Applicant, the percentage of orchards having nematode populations at injurious levels increased from 15 percent in 1979 to 50 percent in 1981.

A resurgence of peach tree short life in South Carolina occurred in 1982. The Applicant estimates that 72,000 trees died from this disease in 1982; an increase of 74 percent over 1981. All major losses occurred in nematode-infested orchards.

Without effective treatment, the Applicant states losses in 1983 probably will exceed $12,000,000 and could be as high as $25,000,000. If DBCP is used, losses probably will not exceed $4,000,000 and could be as low as $2,000,000, according to the Applicant.

The Applicant proposes to make one application of DBCP a year, at a maximum rate of 60.5 pounds of the active ingredient per acre. Applications will take place by standard chisel soil injection equipment, with the chisel channels in the soil sealed immediately to prevent escape of DBCP vapors into the air.

Dated: July 20, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 82–20218 Filed 7–23–82; 8:45 am]

BILLING CODE 6560–50–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Report Forms Under OMB Review

AGENCY: Equal Employment Opportunity Commission.

ACTION: Request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission. The proposed form under review is listed below.

DATE: Comments must be received on or before August 25, 1982. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer and the agency clearance officer of your intent as early as possible.

ADDRESS: Copies of the proposed form, the request for clearance (S.F. 83), supporting statement, instructions, transmittal letters, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the item listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

EEOC Agency Clearance Officer: Thomas P. Goggin, Office of Administration, Room 3230, 2401 E Street, NW., Washington, DC 20506; Telephone (202) 634–6983.

OMB Reviewer: Richard Eisinger, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washingon, DC 20503; Telephone (202) 395–6880.

Type of Request Extension (No Change)

Title: Higher Education Staff Information Report (EEO–6)

Form Number: EEOC Form 221.

Frequency of Report: Biennially

Type of Respondent: State or local governments, Business/other institutions.

Standard Industrial Classification (SIC) Code: 822, 824, 829.

Description of Affected Public: Institutions of higher education.

Responses: 3,000.

Reporting Hours: 12,000.

Federal Cost: $50,000.

Applicable under Section 3504(h) of Public Law 96–511: Not applicable.

Number of Forms: 1.

Abstract—Needs/Uses: Data used by EEOC for investigations, decisions and conciliation in its compliance, litigation and voluntary programs activities. It will be shared with other Federal agencies which have a need for it and pledge to abide by its confidentiality restrictions.

Dated: July 17, 1982.

For the Commission.

Clarence Thomas,

Chairman, Equal Employment Opportunity Commission.

[FR Doc. 82–20083 Filed 7–23–82; 8:45 am]

BILLING CODE 6570–06–M

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 2303]

Gray International Forwarding, Inc., Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Gray International Forwarding, Inc., 1290 South Pearl Street, Denver, CO. 80210 was cancelled effective July 3, 1982.

By letter dated June 7, 1982, Gray International Forwarding, Inc., was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 2303 would be automatically revoked unless a valid surety bond was filed with the Commission.

Gray International Forwarding, Inc. has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 10.01(f) dated November 12, 1981;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2303 be and is hereby revoked effective July 3, 1982.

It is ordered, that Independent Ocean Freight Forwarder License No. 2303 issued to Gray International Forwarding, Inc., be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Gray International Forwarding, Inc.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 82-20073 Filed 7-23-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a) of the Bank Holding Company Act (12 U.S.C. 1842(a)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated for the application. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Northern Trust Corporation,* Chicago, Illinois, and its wholly-owned subsidiary, NAPSUB Corporation, Chicago, Illinois; to acquire 98 percent or more of the voting shares or assets of The First Bank, Naperville, Naperville, Illinois. Comments on this application must be received not later than August 19, 1982.

Board of Governors of the Federal Reserve System, July 20, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-20042 Filed 7-23-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), *directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.*

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated for each application.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Chase Manhattan Corporation,* New York, New York (finance, servicing, and leasing activities; Southeastern U.S.): To engage through its indirect subsidiary, Chase Commercial Corporation, in making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a commercial finance, equipment finance or factoring company, including factoring accounts receivable, making advances and over-advances on receivables and inventory and business installment lending as well as unsecured commercial loans; servicing loans and other extensions of credit; leasing personal property on a full payout basis and in accordance with the Board's Regulation Y, or acting as agent, broker or advisor in so leasing such property, including the leasing of motor vehicles. These activities would be conducted from an office in Charlotte, North Carolina, serving the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee and Virginia. Comments on this application must be received not later than August 19, 1982.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Central Bancorporation, Inc., Central Colorado Company,* and *C.C.B., Inc.,* all of Denver, Colorado (underwriting credit life, credit accident and health insurance; Phoenix, Arizona): To engage, through its subsidiary, Central Bancorp Life Insurance Company, in operating as an underwriter of credit life, credit accident and health insurance which is directly related to extensions of credit made by subsidiaries of Central Bancorporation, Inc. These activities would be conducted from an office in Phoenix, Arizona, in connection with extensions of credit made by subsidiaries of Central Bancorporation, Inc. located in (or to be

located in) and serving the following counties in the State of Colorado: El Paso, Denver, Adams, Arapahoe, Jefferson, Boulder, Weld, Pitkin, Garfield, Mesa, Douglas, Pueblo, Moffat and Otero. Comments on this application must be received not later than August 11, 1982.

2. *Bankshares of Nebraska, Inc.*, Grand Island, Nebraska (underwriting credit life and credit accident and health insurance; Nebraska): To engage, through a subsidiary to be formed, in the activity of underwriting insurance which is sold in connection with credit extensions by its credit granting subsidiaries. This insurance would be sold from offices located in Grand Island, Kearney and Hastings, Nebraska. The area to be served by the activities includes the following Nebraska counties: Hall, Adams, Howard, Merrick, Hamilton, Clay, Nucholls, Webster, Franklin, Kearney, Buffalo and Sherman. Comments on this application must be received not later than August 11, 1982.

Board of Governors of the Federal Reserve System, July 20, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-20041 Filed 7-23-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Alabama; Meeting of Southern Appalachian Regional Coal Team

AGENCY: Bureau of Land Management, Eastern States Office, Interior.

ACTION: Meeting notice.

SUMMARY: Pursuant to the responsibilities set forth in 43 CFR 3400, the Regional Coal Team for the Southern Appalachian Coal Production Region, Alabama Subregion, will meet on August 12, 1982. The team will review expressions of coal leasing interest for the second round of Federal coal leasing in Alabama, and will give guidance to the Tract Delineation and Site-Specific Analysis Teams. Among the topics to be discussed are leasing levels, definition of minerable reserves, and the activity planning schedule.

Representatives of other agencies and the public are invited to attend the meeting and share their views with the Regional Coal Team.

DATE: The Southern Appalachian Regional Coal Team meeting will begin at 10:00 a.m. on Thursday, August 12, 1982.

ADDRESS: The meeting will be held in the Sanderson and Thornton Rooms of the Holiday Inn South, McFarland Boulevard off Interstate 59, Tuscaloose, Alabama 35405.

FOR FURTHER INFORMATION CONTACT: Monte Jordan, Regional Coal Team Chairman, Bureau of Land Management, 18th and C Streets, N.W., Washington, D.C. 20240, (202) 343-4636, or Robert Todd, Bureau of Land Management, Tuscaloosa Office, 518 19th Avenue, Tuscaloose, Alabama 35404, (205) 759-5441.

G. Curtis Jones, Jr.,

Eastern States Director.

[FR Doc. 82-20231 Filed 7-23-82; 8:45 am]

BILLING CODE 4310-84-M

[M-30912 and Nev-051742]

Montana and Nevada; Notice of Amendment of Proposed Withdrawals; Charles M. Russell and Charles Sheldon National Wildlife Refuges

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of amendment of proposed withdrawals for the Charles M. Russell and Charles Sheldon National Wildlife Refuges.

SUMMARY: Notice of the Bureau of Land Management's application, Nev-051742, for withdrawal of 468,600 acres of land in the Charles Sheldon Antelope Range (now the Charles Sheldon National Wildlife Refuge) from location under the mining laws was published in the **Federal Register** of February 27, 1975, at pages 8368 and 8369 (FR Doc. 75-5253). Similarly, notice of the Bureau of Land Management's application, M-30912, for withdrawal of 980,000 acres of land in the Charles M. Russell National Wildlife Range (now the Charles M. Russell National Wildlife Refuge) from location under the mining laws was published in the **Federal Register** of March 11, 1975, at pages 11365-11367 (FR Doc. 75-6270).

Both applications are hereby amended to change the name of the applicant from the Bureau of Land Management to the U.S. Fish and Wildlife Service. This amendment is concurred in by the Assistant Secretary for Fish and Wildlife and Parks and is in keeping with Public Law 94-223 of February 27, 1976 (90 Stat. 199), which provides that all units of the National Wildlife Refuge System, including the Sheldon and Russell Refuges be administered by the Secretary of the Interior through the U.S. Fish and Wildlife Service.

FOR FURTHER INFORMATION CONTACT: Sue Bosma, Washington, D.C. office, 202-343-6486.

July 16, 1982.

Garrey E. Carruthers,

Assistant Secretary for Land and Water Resources.

[FR Doc. 82-20076 Filed 7-23-82; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Availability of a Draft Environmental Assessment/Environmental Impact Report on the San Bruno Mountain Habitat Conservation Plan and Endangered Species Section 10(a) Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the draft Environmental Assessment/Environmental Impact Report (EA/EIR) on the San Bruno Mountain Habitat Conservation Plan and Endangered Species Act Section 10(a) Permit is available for public review. Comments and suggestions are requested.

The U.S. Fish and Wildlife Service and the County of San Mateo propose to implement, and sanction by means of a Federal Endangered Species permit, a cooperative program of management actions on San Bruno Mountain that will recognize the private landowner's desires for housing development and the need to preserve natural ecological conditions on the mountain, specifically habitat for the endangered mission blue butterfly.

The program (HCP) includes review of present and future development proposals to minimize adverse impacts on the natural hibitat, acquisition of privately owned habitat of the mission blue butterfly by San Mateo County to be incorporated into existing public parks, seasonal monitoring of the population status of the mission blue butterfly and other flora and fauna of concern, affirmative habitat enhancement actions, and other actions designed to benefit the mission blue butterfly and other species. An institutional structure to supervise HCP implementation and a funding mechanism to support the various HCP actions are integral parts of the cooperative program.

DATES: Written comments are requested by August 23, 1982. Two meetings are scheduled to hear public response and encourage public participation in the

environmental review of these actions. Public meetings will be conducted under the auspices of the County of San Mateo with active participation of the Fish and Wildlife Service. The San Mateo County Planning Commission will hold a public hearing on the EA/EIR on August 25, 1982, 7:30 P.M., Board of Supervisors Chambers, Hall of Justice and Records, 401 Marshall, Redwood City, California. The San Mateo County Board of Supervisors will hold a public meeting to review the recommendations of the Planning Commission, and consider final certification of the EA/EIR on September 14, 1982, 2:00 p.m., in the Board of Supervisors Chambers at the foregoing address.

ADDRESS: Comments should be addressed to: Regional Director, U.S. Fish and Wildlife Service, 500 N.E. Multnomah Street, Portland, Oregon 97232.

FOR FURTHER INFORMATION CONTACT:

Mr. Ralph G. Swanson, U.S. Fish and Wildlife Service, 1230 "N" Street, 14th Floor, Sacramento, California 95814, (916) 440–2791.

Mr. Paul M. Koenig, Director of Environmental Management, County of San Mateo, 590 Hamilton, Redwood City, California 94063, (415) 363–4000.

Individuals wishing copies of the environmental document for review should immediately contact one of the above individuals. Copies have been sent to all agencies and individuals who participated in the scoping process and to all others who have already requested copies.

SUPPLEMENTAL INFORMATION: The Fish and Wildlife Service (FWS), Department of the Interior, in conjunction with the County of San Mateo, has prepared a draft Environmental Assessment/ Environmental Impact Report to assist in evaluating the environmental impacts of whether or not to issue a federal permit pursuant to Section 10(a) of the Endangered Species Act of 1973, as amended. This action is designed to permit the construction of residential housing within the range and habitat of the endangered mission blue butterfly (*Plebejus icarioides missionensis*) while insuring the implementation of affirmative conservation actions elsewhere throughout the species' range. This action will result in the loss, through direct construction impact, of a segment of the habitat and population of the mission blue butterfly. It will also result in the implementation of a program of conservation actions designed to minimize the adverse effects of development on the species and relieve other natural and man-induced threats to the mission blue.

The major alternatives under consideration that were analyzed and evaluated during planning are:

(1) No project/No Action: This alternative represents no development of a HCP. Housing construction may still occur according to the San Mateo County General Plan of 1976, but a fundamental conflict between private development proposals and federal protection for endangered species will remain. Nearly half of the mission blue butterfly habitat is in private ownership and subject to development pressures. Publically owned habitat is also experiencing natural and man-indured threats that would not be addressed with this alternative.

(2) Modified Development with a HCP: Alternate development patterns have been considered in the course of preparing the HCP and EA/EIR. No other viable development patterns offer substantially less impact on the mission blue. Modifications to existing development designs may nonetheless occur due to other factors during implementation of the HCP.

(3) Alternate Development without the HCP: Development could proceed without a Section 10(a) permit and HCP if no endangered species habitat were involved. The only area on the mountain which is poor mission blue habitat and which is technically suitable for development is the Saddle, now owned by the State of California and planned by the County as a public park. Development on the Saddle would require private acquisition, possibly in trade for the now private land. While this alternative would reduce the short-term impact on the endangered species, it would not provide the enhancement benefits of the HCP, and it would potentially impact another endangered species, the San Francisco garter snake. Development in the Saddle would have significant traffic and visual impacts. The community rejected a plan for development on the Saddle in 1976.

(4) Change the Endangered Classification of the Mission Blue Butterfly: The requirement for a Section 10(a) permit stems from the classification of the mission blue butterfly as endangered by the Federal government. If the classification were changed to "threatened", the prohibition against taking (Section 9) could not be removed without special regulations thus preserving the existing conflict between housing construction and the prohibition on taking endangered species. If the butterfly were removed from the endangered species list, the present legal constraint to development would be removed. In either case, none of the mitigation and enhancement provisions of the HCP would be available to protect the species.

(5) Public Acquisition of Privately owned Endangered Species Habitat: The HCP is a means to convey some private lands to public ownership for conservation and to provide perpetual funding for enhancement activities at no cost to the public. Public acquisition of private land would increase the amount of land conserved. This would require fair market purchase of roughly 1200 acres at cost of about $120,000,000. Public funding of the enhancement program would require an additional $60,000 annually. This alternative would have substantial beneficial impacts on the mission blue butterfly, and other flora and fauna on San Bruno Mountain. It would have adverse impacts on local community plans and desires for urban growth.

Other government agencies and several members of the general public contributed to the planning and evaluation of the proposal and to the preparation of this EA/EIR. The Notice of Intent to prepare this document was published in the April 16, 1982 **Federal Register**. On May 12, 1982, a jointly sponsored scoping meeting was held to seek public involvement and to solicit public views on the significant environmental issues associated with these actions. Written responses to the Notice of Intent were accepted until June 30, 1982. Notices announcing the Scoping Meeting were mailed to a list of about 25 interested persons. About 30 people attended the Scoping Meeting, and six people made verbal presentations on the issues. Written responses were received from several individuals and organizations the most notable being the Environmental Defense Fund.

All agencies and individuals are urged to provide comments and suggestions for improving this EA/EIR soon as possible. All comments received by the date given will be considered in preparation of the final EA/EIR for these proposed actions.

Dated: July 20, 1982.

William Meyer,

Acting Regional Director, Fish and Wildlife Service, Region 1, Portland, Oregon.

[FR Doc. 82–20027 Filed 7–23–82; 8:45 am]

BILLING CODE 4310–55–M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; JFD, Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that JFD, Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 1987 Block 82, Grand Isle Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: July 16, 1982.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-20075 Filed 7-23-82; 8:45 am]

BILLING CODE 4310-31-M

National Park Service

Bighorn Canyon National Recreation Area

AGENCY: National Park Service, Interior.

ACTION: Notice of Availability for the Record of Decision on the Final Environmental Impact Statement for the General Management Plan, Wilderness Recommendation, and Development Concept Plans.

SUMMARY: Pursuant to regulations of the Council on Environmental Quality (40 CFR 1505.2) and the Implementing Procedures of the National Park Service for the National Environmental Policy Act of 1969, the Department of the Interior has prepared a Record of Decision on the final Environmental Impact Statement (FES 81–38) for the General Management Plan, Wilderness Recommendation, and Development Concept Plans, Bighorn Canyon National Recreation Area, Montana and Wyoming.

The Record of Decision is a concise statement of what decisions were made, what alternatives were considered, and that acceptable mitigating measures were developed in order to avoid or minimize environmental impacts.

ADDRESSES: The Record of Decision may be obtained from the Superintendent, Bighorn Canyon National Recreation Area, Post Office Box 458, Fort Smith, Montana 59035, or Regional Director, National Park Service, Rocky Mountain Regional Office, 655 Parfet Street, Post Office Box 25287, Denver, Colorado 80225. Copies of the document are also available for review at the locations noted above.

Dated: July 19, 1982.

Russell Dickenson,

Director, National Park Service.

[FR Doc. 82-20069 Filed 7-23-82; 8:45 am]

BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to OMB for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Mr. William T. Adams, at 202–395–7340.

Title: Small Operator Assistance Application
Bureau Form Number: FS–6
Frequency: Annually
Description of Respondents: Surface Coal Mine Operators
Annual Responses: 1200
Annual Burden Hours: 12,000
Bureau Clearance Officer: Darlene Gross, (202) 343–5447

Carson W. Culp,

Assistant Director, Management and Budget.

July 19, 1982.

[FR Doc. 82-20074 Filed 7-23-82; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 C.F.R. 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 C.F.R. 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is

neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application or to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: July 19, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce and Dowell.

Agatha L. Mergenovich,

Secretary.

MC–F–14895, filed: July 6, 1982. Transferor: SUNSET EXPRESS CORPORATION, P.O.B. 27043, Salt Lake City, UT 84115. Transferee: L. L. SMITH TRUCKING, P.O.B. 987, Riverton, WY 82501. Representative: Jack B. Wolfe, 601 E. 18th Ave., No. 107, Denver, CO 80203. Smith seeks authority to purchase a portion of the interstate operating rights of Sunset. Approval is sought for the transfer of certificate MC–148739 (Sub-No. 5), which provides for the transportation of, (1) ore, refractories and mill products, and (2) equipment, materials and supplies used in mining, milling and refactories operations, between points in the U.S. (except those east of AR, IA, LA, MN and MO). TA has been filed. Smith operates as a common carrier under MC–105006 and Sub-No.'s thereto. Condition: L. L. Smith Trucking is owned by Roger Smith 46.5%; Ronald Smith 46.5% and George Richards 3%. The person or persons in control of L. L. Smith must join in the application.

MC–F–14894, filed July 6, 1982. T.F.S., INC., (TFS), (RR 2, Box 126, Grand Island, NE 68801)—PURCHASE—NEBRASKA IOWA XPRESS, INC. (NIX) (3219 Nebraska Ave., Council Bluffs, IA 51501) (ROBERT WENZL, ASSIGNOR). Representative: A. J. Seanson, P.O. Box 1103, Sioux Falls, South Dakota 57101–1103. Authority sought by TFS to purchase all of the operating rights of NIX as set forth in certificates MC–121489 Subs 5, 8, 12, 13, 14F, 15F, 16F, 18F, 20, 21F, 23F, 24, 24, 26, 27, 28, and 29F which collectively authorize the transportation of *general commodities* (except Classes A and B explosives), between points in the United States. Robert Wenzl, who controls TFS through stock ownership, seeks to obtain control of said operating rights through the purchase. TFS is a motor common and contract carrier operating under MC–145743 and MC–141575. Application for temporary authority has been filed.

[FR Doc. 82–20069 Filed 7–23–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 13, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested only on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the applications later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP2–155

Decided: July 15, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 135362 (Sub-2), filed July 7, 1982. Applicant: ELMSFORD TRANSPORTATION, INC., 17 North Payne St., Elmsford, NY 10523. Representative: Anthony Morgese (same address as applicant), 914–592–3322. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 146423 (Sub-18), filed July 6, 1982. Applicant: STEPHEN HROBUCHAK, d.b.a. TRANSCONTINENTAL REFRIGERATED LINES, P.O. Box 1456, Scranton, PA 18503. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517, 717–344–8030. Transporting for or on behalf of the United States Government, *general*

commodities (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 162782, filed July 2, 1982. Applicant: M. H. GARVEY COMPANY, 148 State St., Boston, MA 02109. Representative: John V. McCarthy (same address as applicant), 617–523–6226. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 162802, filed July 6, 1982. Applicant: JONEL, INC., d.b.a. WILCIN TRANSPORTATION COMPANY, 350 Carlson (P.O. Box 2229), Richmond, CA 94802. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108, 415–986–8696. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI); (2) *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI); and (3) as a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 162912, filed July 12, 1982. Applicant: MILLER SAND & GRAVEL CO., 1466 120th Ave., Hopkins, MI 49328. Representative: Thomas E. Miller (same address as applicant), 616–672–5187. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP2–159

Decided: July 19, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Fortier not participating.)

MC 160612 (Sub-1), filed June 29, 1982. Applicant: SCHEALL DRIVEAWAY SYSTEM, Suite 100, 9485 Colfax Ave., Lakewood, CO 80215. Representative: C. Jack Pearce, Suite 1200, 1000 Connecticut Ave. NW., Washington, DC 20036, 202–785–0048. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 162762, filed June 30, 1982. Applicant: M & M TRANSPORT, INC., 12 Voelker Rd., Fairfield, NJ 07006. Representative: Harold L. Reckson, 33–28 Halsey Rd., Fair Lawn, NJ 07410, 201–791–2270. As a *broker of general commodities* (except household goods), between points in the U.S.

Volume No. OP1–123

Decided: July 15, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 162851, filed July 7, 1982. Applicant: BEL HEAVY HAULERS, INC., 3410 Marquart, Houston, TX 77027. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459, (713) 437–1768. (1) As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI); and (2) transporting (a) for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI); (b) *shipments weighing 100 pounds* or less if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI); (c) *used household goods* for the account of the U.S. Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI); and (d) *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP3–113

Decided: July 19, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Williams not participating.)

MC 162875, filed July 9, 1982. Applicant: AARTIC PARCEL SERVICE, INC., 27 Canal St., Millbury, MA 01527. Representative: David M. Marshall, 101 State St., Suite 304, Springfield, MA 01103, (413) 732–1136. Transporting (1) for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, and (3) *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 162945, filed July 12, 1982. Applicant: VANEVANS, INC., 627 Taylor Rd., Enfield, CT 06082. Representative: Gerald A. Joseloff, 410 Asylum St., Hartford, CT 06103, (203) 728–0700. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

Volume No. OP4–264

Decided: July 15, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 70267 (Sub-25), filed July 1, 1982. Applicant: ECKERT TRUCKING, INC., 1090 E. Springettsburg Ave., York, PA 17405. Representative: David Zimmerman (same address as applicant), (717) 843–0995. Transporting *general commodities* (except classes A and B explosives and household goods), between Blanche and Blue Pond, AL; Kentmere, DE; Dundee, Lake Hamilton and Waverly, FL; Chelsea and Menlo, GA; Adams, Amo, Avila, Beesons, Cartersburg, Clayton, Cleveland, Coatesville, Denham, Fillmore, Greenfield, Huntertown, La Otto, Lomax, Newpoint, North Belleville, Plainfield, Prescott, Ripley, St. Paul, Smith's Crossing, Spades, Spring Lake, Swan, Tefft, and Waldron, IN; Addison, IL; Burmingham, Clinton, and Whichard, NC; Betzwood, Ironsides, Manatawny, Port Indian, Protectory, and Quarryville, PA; Boydton and Finchley, VA, on the one hand, and, on the other, points in the U.S. (except AK and HI). CONDITION: Issuance of a certificate in this proceeding is conditioned upon applicant certifying to the Commission, prior to commencing operations, that all rail service has actually terminated at specified points. The certification should be sent to the Deputy Director, Section of Operating Rights, Interstate Commerce Commission, Washington, DC 20423.

MC 120257 (Sub-65), filed July 7, 1982. Applicant: K. L. BREEDEN TRUCKING, INC., P.O. Box 4267, Lone Star, TX 75668. Representative: Bernard H. English, 6270 Firth Rd., Fort Worth, TX 76116, (817) 731–8431. Transporting (1) *used household goods* for the account of the

United States Government incidental to the performance of a pack-and-crate service on behalf of the Department of Defense, (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, and (3) as a *broker of general commodities* (except household goods), between points in the U.S. (except HI).

Volume No. OP5-146

Decided: July 12, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 126699 (Sub-5), filed June 28, 1982. Applicant: MOORE VAN & STORAGE OF WOODLAND, INC., 860 Onstott Rd., Yuba City, CA 95991. Representative: Floyd L. Farano, 2555 E. Chapman Ave., Suite 415, Fullerton, CA 92631, (714) 773-4111. Transporting *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI).

MC 157179 (Sub-1), filed June 21, 1982. Applicant: WARRIOR TRANSPORT, INC., 2334 Havenhurst, Farmers Branch, TX 75234. Representative: Harry F. Horak, 5001 Brentwood Stair Rd., Suite 115, Fort Worth, TX 76112, (817) 457-0604. To operate as a *broker* of *general commodities* (except household goods) between points in the U.S. (except AK and HI).

MC 162706, filed June 28, 1982. Applicant: BOS-TAUN CONSOLIDATION CO., INC., 20 Sturtevant St., Somerville, MA 02146. Representative: Robert G. Parks, 20 Walnut St., Suite 101, Wellesley Hills, MA 02181, (617) 235-5571. To operate as a *broker* of *general commodities* (except household goods) between points in the U.S. (except AK and HI).

MC 162718, filed June 29, 1982. Applicant: DALTON CARPET CONSOLIDATORS, INC., P.O. Box 3204, Dalton, GA 30721. Representative: C. Jack Pearce, 1000 Connecticut Ave., NW, Suite 1200, Washington, DC 20036, (202) 785-0048. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 162729, filed June 29, 1982. Applicant: RICHARD R. PENNINGTON, d.b.a. LITTLE RICHARD TRUCKING, 5920 224th St. East, Spanaway, WA 98387. Representative: Henry C. Winters, 12800 S.E. 38th, Suite 200, Bellevue, WA 98006, 206-644-2100. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 162759, filed July 1, 1982. Applicant: KENT REMMEL, d.b.a. REMMEL ENTERPRISES, P.O. Box 1008, Gruver, TX 79040. Representative: Hughan R. H. Smith, 26 Kenwood Place, Lawrence, MA 01841, (617) 688-4513. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP5-150

Decided: July 14, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 143868 (Sub-13), filed June 28, 1982. Applicant: R.E.T.E.N.O. CARRIERS, INC., P.O. Box 1438, Willmar, MN 56201. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609, (213) 945-2745. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-20061 Filed 7-23-82; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. OP-2-157]

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following operating rights applications, filed on or after July 3, 1980, are filed in connection with pending finance applications under 49 U.S.C. 10926, 11343 or 11344. The applications are governed by Special Rule 252 of the Commission's General Rules of Practice (49 CFR 1100.252).

Persons wishing to oppose an application must follow the rules under 49 C.F.R. 1100.252. Persons submitting protests to applications filed in connection with pending finance applications are requested to indicate across the front page of all documents and letters submitted that the involved proceeding is directly related to a finance application and the finance docket number should be provided. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. However, the Commission may have modified the application to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions and, jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the Absence of legally sufficient protests in the form of verified statements as to the finance application *or* to the following operating rights applications directly related thereto filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except where the application involves duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice by effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Decided: July 16, 1982.

By the Commission, Review Board Number 1, Members Parker, Chandler, and Fortier.

Agatha L. Mergenovich,

Secretary.

MC 162662, filed June 24, 1982. Applicant: ELLIS EXPRESS, INC., 211B Ferris Ave., Waxahachie, TX 75165. Representative: A. Charles Tell, 100 E. Broad St., Suite 1800, Columbus, OH 43215, (614) 228–1541. Transporting (1) *containers, container ends, and container closures,* (2) *glass and glass products,* (3) *plastic and plastic products,* (4) *packaging materials,* (5) *machinery, and* (6) *such commodities* as are used in the manufacture and distribution of the commodities in (1) through (5) above, between points in AR, LA, NM, OK, and TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—This application is directly related to MC–F–14883, published in the **Federal Register** issue of July 22, 1982.

[FR Doc. 82–20068 Filed 7–23–82; 8:45 a.m.]

BILLING CODE 7035–01–M

[Volume No. OP3–112]

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Decided: July 19, 1982.

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Williams not participating.)

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Appications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

MC 15735 (Sub-50), filed July 12, 1982. Applicant: ALLIED VAN LINES, Inc., P.O. Box 4403, Chicago, IL 60680. Representative: Richard V. Merrill (same address as applicant), (312) 681–8378. Transporting *general commodities* (except commodities in bulk and classes A and B explosives), between points in the U.S. under continuing contract(s) with Chrysler Corporation of Highland Park, MI.

MC 138575 (Sub-16), filed July 12, 1982. Applicant: GWINNER OIL CO., INC., P.O.B. 38, Gwinner, ND 58040. Representative: James B. Hovland, 525 Lumber Exchange Bldg., Minneapolis, MN 55402. Transporting *anhydrous ammonia,* between ports of entry on the International Boundary line between the U.S. and Canada located in MT, on the one hand, and, on the other, points in MT.

MC 142245 (Sub-10), filed July 12, 1982. Applicant: NATIONWIDE TRUCK BROKERS, INC., 5475 Clay Ave., S.W., Grand Rapids, MI 49508. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, (616) 459–6121. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Spartan Stores, Inc., of Grand Rapids, MI.

MC 144724 (Sub-3), filed July 7, 1982. Applicant: WALTER J. SHEETS AND SON, INC., 100 Bittle Cove, Lewisburg, WV 24901. Representative: J. F. Boomer, 213 N. Court St., Lewisburg, WV 24901, (304) 645–7698. Transporting *lumber and plywood,* between points in SC, TN, VA, WV, OH, and KY, under continuing contract(s) with (a) Spartanburg Forest Products, Inc., of Spartanburg, SC, (b) Cherokee Wood Preservers, Inc., Of Mosheim, TN, and (c) C. M. Tucker Lumber Corporation, of Pageland, SC.

MC 145845 (Sub-3), filed July 9, 1982. Applicant: RAYMOND W. PAYNE, d.b.a. PAYNE BUS SERVICE, Route 1, Box 122, Beaverdam, VA 23015. Representative: Leonard A. Jaskiewicz, 1730 M St., N.W., Washington, DC 20036, (202) 296–2900. Transporting *passengers and their baggage,* in the same vehicle with passengers, in charter and special operations, beginning and ending at Richmond, VA, and points in Henrico, Goochland, and Prince William Counties, VA and extending to points in the U.S. (except AK and HI).

MC 148774 (Sub-4), filed July 2, 1982. Applicant: LTD AIR CARGO, INC., P.O. Box 30132, Memphis International Airport, Memphis, TN 38130. Representative: Edward G. Finnegan, 134 No. La Salle St., Suite 1016, Chicago, IL 60602, (312) 782–9500. Transporting *general commodities.* (except classes A and B explosives, household goods and commodities in bulk), (A) between points in AR, MS and TN and (B) between points in Atlanta, GA, Dallas and Ft. Worth, TX, Scott County, MS, Stoddard, Butler, Dunklin, Pemiscott and New Madrid Counties, MO and points in AR, MS and TN.

Note.—Applicant intends to tack this authority to its existing authority.

MC 148994 (Sub-3), filed July 6, 1982. Applicant: MICHAEL W. AMABILE, d.b.a. TRIPLE AAA TRUCKING, 29891 Red Arrow Highway, Paw Paw, MI 49079. Representative: Nancy J. Amabile

(same address as applicant), (616) 657–3416. Transporting *food and related products,* between points in AL, AR, CA, DE, FL, IL, LA, MS, NC, SC, TX, WA, and WI, on the one hand, and, on the other, points in IN, under continuing contract(s) with Bakker Produce, Inc., of Griffith, IN.

MC 150645 (Sub-8), filed July 9, 1982. Applicant: TILEWAYS, INC., 7834 Hawn Freeway, Dallas, TX 75217. Representative: Lawrence A. Winkle, P.O. Box 45538, Dallas, TX 75245, (214) 358–3341. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with The Larsen Company, of Green Bay, WI.

MC 152664 (Sub-5), filed July 9, 1982. Applicant: TOMBIGBEE TRANSPORT CORPORATION, P.O. Box 412, Adamsville, TN 38310. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Suite 909, Memphis, TN 38103, (901) 526–4114. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162094, filed July 12, 1982. Applicant: WILCZEK TRUCKING COMPANY, a corporation, 4242 S Knox, Chicago, IL 60632. Representative: Stephen H. Loeb, Suite 4, 2777 Finley Rd., Downers Grove, IL 60515, (312) 953–0330. Transporting *petroleum and petroleum products,* between Chicago, IL, on the one hand, and, on the other, points in IA, IL, IN, MI, MO, OH, and WI.

MC 162104 (Sub-2), filed July 12, 1982. Applicant: PETERSON EXPRESS, INC., P.O. Box 41770, Indianapolis, IN 46241. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6655. Transporting *such commodities* as are dealt in or used by service stations, food stores, auto supply stores and retail department stores, between points in AR, TN, MO, IL, MI, PA, IA, KY, WI, IN, OH and WV, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162775, filed July 1, 1982. Applicant: JIM FIELDS TRUCKING, INC., P.O. Box 298, Lucedale, MS 39452. Representative: Gerald D. Colvin, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203, (205) 251–2881. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Scott Paper Company of Philadelphia, PA.

MC 162815, filed July 12, 1982. Applicant: MORGAN SOUTHERN, INC., 470 E. Paces Ferry Rd., N.E., Suite 2001, Atlanta, GA 30305. Representative: David G. Morgan (same address as applicant), (404) 231–5744. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 162884, filed July 9, 1982. Applicant: QUINCY CORPORATION, d.b.a. QUINCY FARMS, Rt. 4 Box 245, Quincy, FL 32351. Representative: Jack L. Schiller, 123–60 83rd Ave., Kew Gardens, NY 11415, (212) 263–2078. Transporting *such commodities* as are dealt in or used by chain grocery stores and food business houses, between points in AL, FL, GA, LA, MS, and TX.

MC 162885, filed July 9, 1982. Applicant: RONALD R. PAYNE, d.b.a. R P TRUCKING, 1252 S. Eaton St., Lakewood, CO 80226. Representative: Jack B. Wolfe, 601 E. 18th Ave., No. 107, Denver, CO 80203, (303) 861–8046. Transporting (1) *rubber and plastic products,* (2) *chemicals and related products,* (3) *machinery,* and (4) *metal products,* between points in the U.S., under continuing contract(s) with SWM Marketing Corporation, of Dallas, TX.

[FR Doc. 82-20062 Filed 7-23-82; 8:45 am]

BILLING CODE 7035-01-M

Water Carrier Temporary Authority Application

The following was filed with the Regional Office. Petition for Reconsideration is to be filed, within 20 days of this publication with the Regional Office noted in each caption summary. Replies to petition may be filed within 20 days of the date petition is filed.

The following applications were filed in region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

W–1353 (Sub-1–TA), filed: July 12, 1982. Applicant: SAND DOLLAR MARINE, INC., 4440 Chastant Street, Suite B, Metairie, LA 70002. Representative: C. Theodore Alpaugh, III, 1300 Hibernia Bank Building, New Orleans, LA 70112, (504) 566–1311. Transporting drilling rig subassemblies between the Port of New Orleans, LA and Pascagoula, MS.

Agatha L. Mergenovich,

Secretary

[FR Doc. 82-20060 Filed 7-23-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–187

The following applications were filed in Region I:

Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 153971 (Sub-1–1TA), filed July 12, 1982. Applicant: E–Z TRANS, INC., P.O. Box 641, Woodbury, CT 06789. Representative: Gerald A. Joseloff, 410 Asylum Street, Hartford, CT 06103. *Contract carrier:* irregular routes: *Lumber, lumber products, building materials and wood products,* between points in and east of WI, IL, KY, TN, and MS under continuing contract(s) with York Wholesale Co., Inc. of Andover, MA; Phil-Mar Lumber Corp. of Brooklyn,

NY; JAS Lumber of New Caanan, CT; ENAP, Inc. of Newburgh, NY; and Seaboard International Lumber & Plywood, Inc., of Providence, RI. Supporting shipper: JAS Lumber, 21 Crystal St., New Caanan, CT 06840; ENAP, Inc., Plattakill Turnpike, Newburgh, NY 12550; Seaboard International Lumber & Plywood, Inc., 132 George M. Cohan, Blvd., Providence, RI 02903; York Wholesale Co., Inc., P.O. Box 46, 125 Tewksbury St., Andover, MA 01810; Phil-Mar Lumber Corp., Brooklyn, NY 11234.

MC 162915 (Sub-1–1TA), filed July 12, 1982. Applicant: EASY RIDER LINES, INC., 21 Queen Anne Drive, Deal, NJ 07723. Representative: Steven S. Ezon, Esq. (same as applicant). *Passengers and their baggage, in the same vehicle, in charter and special operations* between Monmouth, Ocean, and Atlantic County, NJ, on the one hand, and, on the other, New York City, NY. Supporting shipper: S. D. Riders Associates, 143 Monmouth Drive, Deal, NJ 07723.

MC 162974 (Sub-1–1TA), filed July 15, 1982. Applicant: IRWIN COHEN, d.b.a. ELCEE TRUCKING COMPANY, 25 Millay Road, P.O. Box 207, Morganville, NJ 07751. Representative: Irwin Cohen (same as applicant). *Contract carrier:* irregular routes: *Metal Scrap and sheet metal* between Hightstown, NJ and Baltimore, MD, under continuing contract(s) with Coca-Cola Company Foods Division, Hightstown, NJ. Supporting shipper: Coca-Cola Company Foods Division, 480 Mercer Street, Hightstown, NJ 08520.

MC 162975 (Sub-1–1TA), filed July 15, 1982. Applicant: JOHN P. LIBERATORE, d.b.a., GREYHOUND'S EXPRESS, 641 Winter Street, Framingham, MA 01701. Representative: John P. Liberatore (same as applicant). *Dogs, (racing),* between points in MA, WV, KS and FL. Supporting shipper(s): Zion and Joseph Kennel, 14 Starkanught Heights, Gloucester, MA 01930; Northshore Kennel, 23 Sparhawk Road, Lynn, MA 01905.

MC 150295 (Sub-1–4TA), filed July 14, 1982. Applicant: K & M DIESEL SERVICE, INC., 10–12 E. Maple Avenue, Cedarville, NJ 08311. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Contract carrier:* irregular routes: *Iron and steel products, hardware, machinery, plastic and rubber articles and materials and supplies used in the manufacturing and distribution thereof, except in bulk,* between points in the U.S. (except AK and HI), under continuing contract(s) with Signode Corp., Glenview, IL. Supporting shipper: Signode Corporation, 3610 W. Lake Avenue, Glenview, IL 60025.

MC 162935 (Sub-1–1TA), filed July 13, 1982. Applicant: L & S TRUCKING INC., 1 Third Street, P.O. Box 367, Freehold, NJ 07728. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Contract carrier:* irregular routes: *Chemicals and related articles and animal fats (except hazardous materials)* between Philadephia, PA Commercial Zone and NJ, on the one hand, and, on the other, points in CT, DE, IL, IN, ME, MD, MA, MI, NH, NJ, NY, OH, RI, VT, VA and WV, under continuing contract(s) with Gill & Duffus Chemicals, Inc., Princeton, NJ; The Ironsides Co., Columbus, OH. Supporting shipper(s): Gill & Duffus Chemicals, Inc., 105 College Road East, Princeton, NJ 08540; The Ironsides Co., 270 W. Mound St., Columbus, OH 43215.

MC 135069 (Sub-1–3TA), filed July 15, 1982. Applicant: ROCKAWAY TRUCKING, INC., Route 46, P.O. Box 45, Rockaway, NJ 07866. Representative: Dixie C. Newhouse, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. *Contract carrier:* irregular routes: *Steel, including materials, equipment and supplies* from Columbus, OH to Claremore, OK and their Commercial Zones under continuing contract(s) with Worthington Steel Company, Inc., Columbus, OH. Supporting shipper: Worthington Steel Co., Inc. 1127 Dearbon Drive, Columbus, OH 43085.

MC 162901 (Sub-1–1TA), filed July 13, 1982. Applicant: ROYAL LIVERY, INC., 272 Fillow Street, West Norwalk, CT 06850. Representative: L. C. Major, Jr., Esq., Suite 304, Overlook Building, 6121 Lincolnia Road, P.O. Box 11278, Alexandria, VA 22312. *Passengers and their baggage, in the same vehicle with passengers, limited to the transportation of no more than six (6) passengers (excluding the driver), in one vehicle at one time, in special and charter operations,* between points in Hartford, New Haven, Fairfield, and Litchfield Counties, CT, and points in NY, NJ, PA, MA, RI, DE and DC. Supporting shipper(s): There are 28 statements in support of this application which may be examined at the Regional Office of the I.C.C. in Boston, MA.

MC 162936 (Sub-1–1TA), filed July 13, 1982. Applicant: CARMEN SCAFIRO & SONS, INC., 906 Smith St., Delran, NJ 08075. Representative: Jack L. Schiller, 123–60 83rd Avenue, Kew Gardens, NY 11415. *Contract carrier:* irregular routes: *Steel studs* from the facilities of Marion Industries, located at Westbury, NY to points in DE, MD, NJ, PA, VA and DC, under continuing contract(s) with Marino Industries of Westbury, NY. Supporting shipper: Marino Industries, Montrose Road, Westbury, NY.

MC 162934 (Sub-1–1TA), filed July 12, 1982. Applicant: HENRY SCHMAELZLE TRANSPORTATION, INC., 2 Broadway, Hamden, CT 06518. Representative: Henry D. Schmaelzle, 640 Mix Avenue, Cortland 5–J, Hamden, CT 06514. *General commodities,* between CT, NY, NJ, PA, MD, DE, MA, VT, NH, and RI. Supporting shipper: Southern New England Telephone Company, 48 Boston Post Road, Orange, CT 06477.

MC 156800 (Sub-1–6TA), filed July 12, 1982. Applicant: SEABOARD EXPRESS, INC., 565 Plank Road, Waterbury, CT 06705. Representative: Joseph A. Keating Jr., 121 S. Main St., Taylor, PA 18517. *Contract carrier:* irregular routes: *(1) Hotel restaurant supplies and related items,* between New Haven County, CT, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with World Tableware International of Wallingford, CT; (2) *Iron and steel articles,* between Hartford County, CT, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with SKF Steel of Windsor, CT. Supporting shipper(s): World Tableware International, 9 Carlton St., Wallingford, CT 06492; SKF Steel, 60 Pigeon Hill Road Extension, Windsor, CT 06095.

MC 114885 (Sub-1–1TA), filed June 24, 1982. Applicant: TANK TRUCK TRANSPORT, LTD., 15 Brydon Dive, Rexdale, Ontario, CD M9W 1J1. Representative: E. Stephen Heisley, 1919 Pennsylvania Avenue NW., Washington, DC 20006. *Flour, in bulk,* from the U.S./CD Border entry point at Buffalo, NY, to Buffalo, NY and its Commercial Zone. Supporting shipper: Robin Hood Multifoods, Inc., P.O. Box 4000, Postal Station A, Willowdale, Ontario, CD M2N 5T5.

MC 147777 (Sub-1–1TA), filed July 15, 1982. Applicant: TRAVEL TIME BUS LINES, INC., 99 Arnold Street, Springfield, MA 01119. Representative: James M. Burnes, 1383 Main Street, Suite 413, Springfield, MA 01103. *Passengers and their baggage, in special and charter operations,* beginning and ending at Baltimore, MD, Barnstable, Bristol, Dukes, Essex, Middlesex, Nantucket, Norfolk, Plymouth and Suffolk Counties, MA, New York City, NY and Washington, DC and extending to points in the U.S. (except AK and HI). Supporting shipper(s): There are 45 supporting shipper statements that may be examined at the Regional Office of the I.C.C. in Boston, MA.

MC 41581 (Sub-1–2TA), filed July 13, 1982. Applicant: WAGNER TOURS, INC., 865 Belmont Avenue, North Haledon, NJ 07508. Representative: Ronald I. Shapss, Esq., 450 Seventh Avenue, New York, NY 10123. *Contract carrier:* irregular routes: *Passengers and their baggage* between Franklin Lakes, NJ and White Plaines, NY, under continuing contract(s) with IBM Corporation, Princeton, NJ. Supporting shipper: IBM Corporation, P.O. Box 10, Princeton, NJ 08540.

MC 160039 (Sub-1–1TA), filed July 12, 1982. Applicant: WEX ENTERPRISES, INC., 118 Hall Street, P.O. Box 2009, Concord, NH 03301. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. *Contract carrier:* irregular routes: *Telephone equipment materials, and supplies used in the construction and maintenance of telephone systems,* between Southboro and Watertown, MA, on the one hand, and, on the other, Montpelier, VT, under continuing contract(s) with Western Electric Company, Inc. of North Andover, MA. Supporting shipper: Western Electric Company, Inc., 1600 Osgood Street, North Andover, MA 01845.

MC 154046 (Sub-1–2TA), filed July 12, 1982. Applicant: YELLOW TRANSPORTATION SERVICES OF BROOME COUNTY, INC. 385 State St., P.O. Box 538, Binghamton, NY 13902. Representative: Nicholas G. Serafini, Jr. (same as applicant). *Contract carrier:* irregular routes: *Cleaning compounds, toilet preparation, jewelry, food supplements, cooking utensils, and other merchandise, equipment, sold, used or distributed* between Binghamton, NY and all points in New York State under continuing contract(s) with Amway Corporation of Dayton, NJ. Supporting shipper: Amway Corporation, P.O. Box 900, Monmouth Junction Road, Dayton, NJ 08810.

The following applications were filed in Region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St., Rm. 620, Philadelphia, PA 19106.

MC 162838 (Sub-II–1TA), filed July 7, 1982. Applicant: JUNE E. NAVARRE, d.b.a. AA LIMOUSINE SERVICE, P.O. Box 78, R.D. No. 2, Breinigsville, PA 18031. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. *Passengers and their baggage, in the same vehicle with passengers, in special and charter operations, limited to the transportation of not more than 14 passengers (not including the driver) in the same vehicle,* between points in Lehigh and Northampton Counties, PA, on the one hand, and, on the other, points in New York, NY commercial zone, for 180 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): There are 6 supporting statements attached to this application which may be examined at the Philadelphia Regional Office.

MC 152553 (Sub-II–3TA), filed June 29, 1982. Applicant: M. L. KREDOVSKI, d.b.a. APPLIED TECHNOLOGY TRANSPORTATION, P.O. Box 46, Freidensburg, PA 17933. Representative: M. L. Kredovski (same address as applicant). Contract, irregular: *hazardous waste, hazardous materials, waste or scrap materials not identified by industry producing* from points in the U.S. to Emelle, AL; Jacksonville, FL; Dalton, GA; Baton Rouge, LA; Deepwater, Kearny and Newark, NJ; Cleveland and Vickery, OH; Akron and Bath, PA; Pinewood and Roebuck, SC; and *hazardous materials* from Akron, PA to points in NJ, NY, MD and VA Supporting shipper(s): American Environmental Protection Corp., P.O.B. 37647, Jacksonville, FL 32205; Gem Chem Chemical Management Co., P.O.B. 118, Lititz, PA, 17543; Ron J. Tattersall, Inc., d.b.a. Resource Management Systems, 16 Harrison Ave., Saddle Brook, NJ 07662.

MC 162560 (Sub-II–1TA), filed July 7, 1982. Applicant: JIMMY A. SCHLIER, d.b.a. BODY SHOP BY JIM SCHLIER, Box 3433, R. D. 3, Stroudsburg, PA 18360. Representative: George W. Westervelt, Jr., 738 Main St., Stroudsburg, PA 18360. *Wrecked or disabled trucks, tractors, trailers and replacements therefore, in secondary movement, in two-away service,* between points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT and DC. An underlying ETA seeks 120 days authority. Supporting shipper(s): Roadway Express, Inc., P.O. Box 471, Akron, OH 44309.

MC 146080 (Sub-II–2TA), filed July 7, 1982. Applicant: McKINLEY MUNCY, Jr., d.b.a. CARDINAL BUS LINES, 2759 5th Ave., Huntington, WV 25702. Representative: John M. Friedman 2930 Putnam Ave., P.O.B. 426, Hurrican, MV 25702. *Passengers and their baggage, in special and charter operations,* between points in KY, OH and WV, on the one hand, and, on the other, points in the U.S. (including AK & HI), for 180 days. Supporting shipper(s): Dorsey Tours, Inc., South Charleston, WV; Wayne County Extension Homemakers, Huntington, WV; Owenetts Club, Huntington, WV; Inco Retirees, Huntington, WV; Westmoreland Womans Club, Huntington, WV.

MC 158859 (Sub-II–6TA), filed July 13, 1982. Applicant: O. DEAN TRANSPORTATION, INC., 406W. Williamsburg Rd., Sandston, Va. 23150. Representative: P. Owen Dean (same address as applicant). Contract, irregular: *Malt Beverages, wine, food and related products* between Williamsburg, VA, on the one hand, and on the other, points in the U.S. (except AK & HI), under continuing contract(s) with Anheuser Bush Co., St. Louis, MO. An underlying ETA seeks 120 days authority. Supporting shipper(s): Anheuser Busch Co. One Busch Place, St. Louis, MO 63118.

MC 113666 (Sub-II–23TA), filed July 7, 1982. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, P.O. Drawer A, Freeport, PA 16229–0301. Representative: R. Scott Mahood, (same address as applicant). *Plastic Pellets, in bulk, in tank vehicles,* from Washington, PA to Clinton, MS. An underlying ETA seeks 120 days authority. Supporting shipper: Washington Penn Plastic Co., Inc., 2833 West Chestnut Street, Washington, PA 15301.

MC 48386 (Sub-II–8TA), filed July 7, 1982. Applicant: GRAVER TRUCKING, INC., R.D. #7, Box 7655, Stroudsburg, PA 18360. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. *Rope and related products,* between Wayne County, PA, on the one hand, and, on the other, points in the U.S. (except AK & HI). An underlying ETA seeks 120 days authority. Supporting shipper(s): American Manufacturing Co., 206 Willow Ave., Honesdale, PA 18431.

MC 162827 (Sub-II–1TA), filed July 7, 1982. Applicant: LAKESIDE TRANSPORT, INC., 1515 Fast Ave., P.O. Box 177, Erie, PA 16512. Representative: Willaim A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219. *Scrap metals* between Jamestown and Syracuse, NY and Erie and Corry, PA, on the one hand, and, on the other, points in OH, NY and PA, under continuing contracts with Jamestown Scrap Corp. of Jamestown, NY, Marleys Industries, Inc. of Syracuse, NY, Penn Iron & Metal Company, Inc. of Erie, PA and Corry Iron & Metal Corp. of Corry, PA. Supporting shippers: Jamestown Scrap Corp., 149–151 Jones & Gifford, P.O. Box 1218, Jamestown, NY 14701; Marleys Industries, Inc., 320 West Hiawatha Bldg., Syracuse, NY 13208; Penn Iron & Metal Co., 1515 East Ave., P.O. Box 177, Erie, PA 16512; Corry Iron & Metal Corp., P.O. Box 94, Corry, PA 16407.

MC 162727 (Sub-II–1TA), filed June 30, 1982. Applicant: MECHANICSVILLE BUS LINE, INC., Rt. 1, Box 648, Mechanicsville, VA 23111. Representative: Paul D. Collins, 7761 Lakeforest Dr., Richmond, VA 23235.

Passengers and their baggage, in the same vehicle with passengers, in special and charter operations, beginning and ending in points in Chesterfield, Hanover and Henrico Counties, VA; and Ashland, Colonial Heights, Hopewell, Mechanicsville, Petersburg, Richmond and Sandston, VA, and extending to points in DC, GA, FL, MD, NJ, NY, PA, SC, TN and WV, for 180 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): There are seven supporting statements attached to this application which may be examined at the Phila. Regional office.

MC 107450 (Sub-II–1TA), filed July 7, 1982. Applicant: METROPOLITAN COACH CORPORATION, 1617n Brook Rd., Richmond, VA 23220. Representative: Calvin F. Major, 200 W. Grace St., P.O.B. 5010, Richmond, VA 23220. *Passengers and their baggage, in special operations,* between Richmond, VA and Atlantic City, NJ, for 180 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Tropicana Hotel & Casino Broadwalk, Atlantic City, NJ 08401.

MC 161864 (Sub-II–1TA), filed July 7, 1982. Applicant: NATIONWIDE EXPRESS SERVICE, INC., 1105 N. Market St., Wilmington, DE 19801. Representative: John C. Bradley, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209. *General commodities (except Classes A & B explosives, Household Goods and commodities in bulk),* between points in the U.S. (except AK & HI). An underlying ETA seeks 120 days authority. Supporting shipper(s): There are 39 supporting shippers' statements attached to this application which may be examined at the Phila. Regional office.

MC 162837 (Sub-II–1TA), filed July 7, 1982. Applicant: LAWRENCE A. PENN, d.b.a. LAWRENCE A. PENN, JR. TRUCKING, Route 3, Box 365–A, Martinsville, VA 24112. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. *New furniture,* from Bassett and Martinsville, VA to points in AZ, CA, NV, OR, and WA for 270 days. Supporting shipper: Bassett Furniture Industries, Inc., P.O. Box 626, Bassett, VA 24055.

MC 156010 (Sub-II–1TA), filed July 6, 1982. Applicant: PENN'S BEST INC., P.O. Box A–4, Rt. 6 & Canal St., Meshoppen, PA 18630. Representative: Meredith Ruark (same address as applicant). *General commodities (except those of unusual value, Classes A & B explosives and those requiring special equipment),* between points in the U.S. in and east of ND, SD, NE, KS, OK, and TX. An underlying ETA seeks 120 days authority. Supporting shipper(s): There are 12 supporting statements attached to this application that may be reviewed at the Phila. Regional office.

MC 161628 (Sub-II–1TA), filed July 12, 1982. Applicant: RAM OFFICE TRANSPORT CORP., RD #3, Box 224, Susquehanna Trails, Delta, PA 17314. Representative: Melvin W. Bouman (same address as applicant). *Mobile office trailers and modular building sections* between points in York and Lancaster Counties, PA and Baltimore County, MD, on the one hand, and, on the other, pts in ME, NH, VT, MA, CT, RI, NY, PA, NJ, MD, DE, WV, VA, NC, and SC. An underlying ETA seeks 120 days authority. Supporting shipper(s): Coastal Modular Corp., White Marsh, MD; Williams Mobile Offices, Inc., Baltimore, MD; Coastal Building Systems, Red Lion, PA.

MC 146807 (Sub-II–28TA), filed July 7, 1982. Applicant: S-n-W ENTERPRISES, INC., 2405 San Souci Hwy., Wilkes-Barre, PA 18702. Representative: James M. Burns, 1383 Main St., Suite 413, Springfield, MA 01103. Contract, irregular: *general commodities, (except Classes A & B explosives, Household Goods as defined by the Commission, and commodities in bulk),* between points in the U.S (except AK & HI), under continuing contract(s) with Nationwide Industrial Shippers' Cooperative Assoc. An underlying ETA seeks 120 days authority. Supporting shipper(s): Nationwide Industrial Shippers' Cooperative Assoc., P.O.B. 681, Libertyville, IL 60048.

MC 146807 (Sub-II–29TA), filed July 13, 1982. Applicant: S-n-W ENTERPRISES, INC., 2405 San Souci Hwy., Wilkes Barre, PA 18702. Representative: James M. Burns, 1383 Main St. Suite 413, Springfield, MA 01103. *Food and related products,* between points in Luzerne, Lehigh and Northampton Counties, PA, on the one hand, and, on the other, points in the U.S. (excluding AK & HI). An underlying ETA seeks 120 days authority. Supporting Shipper(s): Just Born, Inc., P.O. Box 1158, Bethlehem, PA 18018.

MC 162407 (Sub-II–1TA), filed July 12, 1982. Applicant: WILLIAM ARTHUR SMITH, d.b.a. W. A. SMITH TRUCKING COMPANY, P.O. Box 78, Alberta, VA 23821. Representative: W. A. Smith (same address as applicant). Contract, irregular: *Log homes, materials, equipment and supplies used in the manufacture and distribution of the above commodity,* from Lawrenceville, VA to points in: AL, DE, FL, GA, IN, KY, MD, NC, OH, PA, SC, Tn and Wv, under continuing contract(s) with New England Log Homes, Inc. An underlying ETA seeks 120 days authority. Supporting Shipper(s): New England Log Homes, Inc. 2301 State St., P.O.B. 5056, Hamden, Ct 06518.

MC 162897 (Sub-II–1TA), filed July 12, 1982. Applicant: SOUTH COAST TRANSPORT, INC., P.O. Box 267, Warren, OH 44482. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. Contract, irregular: *General commodities (except Classes A and B explosives, commodities in bulk and household goods as defined by the Commission, between points in the U.S. (except AK & HI), under continuing contract(s) with Copperweld Corp. and its subsidiaries. A underlying ETA seeks 120 days authority. Supporting Shipper(s): Copperweld Corp. 2 Oliver Plaza, Pittsburgh, PA 15222.*

MC 158613 (Sub-II–10TA), filed July 12, 1982. Applicant: TRICOR BUSINESS GROUP, INC, 1242 Tatamy Rd., Easton, PA 18042. Representative: Rogert D. Haershamn, 22 Olde Mill Run, Medford, NJ 08055. *General commodities, (except Classes A & B explosives, Household goods as defined by the Commission and commodities in bulk),* between points in the U.S., restricted to traffic originating at or destined to the facilities of International Paper Co. of New York, NY. An underlying ETA seeks 120 days authority. Supporting Shipper(s): International Paper Co., 77 W. 45th St., New York, NY 10036,

MC 30237 (Sub-II–10TA), filed July 12, 1982. Applicant: YEATTS TRANSFER COMPANY, P.O. Box 666, Altavista, VA 24517. Representative: Eston H. Alt (same address as applicant). *Expanded plastic products,* between Greenup County, KY, on the one hand, and, on the other, pts in NC, SC and VA. An underlying ETA seeks 120 days authority. Supporting Shipper(s); E. I. du Pont de Nemours & Co., Wilmington, DE 19898.

MC 3104 (Sub-II–4TA), filed July 6, 1982. Applicant: Z & M MOTOR LINE INC., P.O. Box 2345, Cumberland, MD 21502. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. Irregular: Contract: *Calcined flint clay. including materials, equipment and supplies,* from High Hill, MO, including its commercial zone, to Mt. Savage, MD, including its commerical zone, for 270 days, under a continuing contract(s) with Mt. Savage Speciality Refractories Co. An underlying ETA seeks 120 days authority. Supporting shipper: Mt. Savage Speciality Refractories Co., Box 608, Mt. Savage, MD 21545.

The following applications were filed in Region 3. Send protests to: ICC,

Regional Authority Center, Room 300, 1776 Peachtree Street, N.E., Atlanta, GA 30309.

MC 162266 (Sub-3–2 TA), filed July 16, 1982. Applicant: TEMPUS TRUCKING COMPANY, 2508 Starita Road, Charlotte, NC 28213. Representative: Robert D. Hoagland, Esq., 1204 Cameron Brown Building, Charlotte, NC 28204. *General Commodities (except Class A & B explosives and households goods)* between points in the States of AL, AR, AZ, CA, CT, DC, DE, FL, GA, IL, IN, KY, MA, MD, ME, MI, MN, MO, MS, NC, NH, NJ, NY, OH, PA, RI, SC, TN, TX, VA, VT, and WV under continuing contract with Charlotte Freight Association, Incorporatated. Supporting shippers: Charlotte Freight Association, Incorporated, P.O. Box 26007, Charlotte, NC 28213.

MC 124896 (Sub-3–9 TA), Filed July 16, 1982. Applicant: WILLIAMSON TRUCK LINES, INC., P.O. Box 3489, Thorne & Ralston Streets, Wilson, NC 27893. Representative: Norman J. Philion, 1920 N Street, Washington, DC 20036. *Packaged petroleum products of all kinds, metal cans, cardboard containers, supplies and equipment, except in bulk,* between points in IL, OH, NJ, NY, PA, SC, MD, and WV on the one hand, and, on the other points in NC, SC, VA, GA, and FL. Supporting shipper: Warren Oil Company, Inc., 1308 N. Ellis Ave., P.O. Box 251, Dunn, NC 28334.

The following applications were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 61440 (Sub-5–16TA), filed July 12, 1982. Applicant: LEE WAY MOTOR FREIGHT, INC., P.O. Box 12750, Oklahoma City, OK 73157. Representative: T. M. Brown (same as applicant). Contract, Irregular; *General Commodities (except Classes A and B explosives, Household goods, and commodities in bulk)* between points in the US (except AK and HI) under continuing contracts with Uniroyal, Inc. of Middlebury, CT.

MC 67234 (Sub-5–27TA), filed July 12, 1982. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105. Contract, irregular; *General Commodities (except Classes A and B explosives and commodities in bulk)* between points and places in the US (including AK and HI), under continuing contract(s) with Burroughs Corporation. Supporting shipper: Burroughs Corporation, Burroughs Place, Detroit, MI 48232.

MC 121801 (Sub-5–3TA), filed July 12, 1982. Applicant: HAYES MOTOR FREIGHT, INC., P.O. Box 35007, Dallas, TX 75235. Representative: G. Timothy Armstrong, P.O. Box 1124, El Reno, OK 73036. *General Commodities, (except Class A and B explosives, household goods and commodities in bulk),* between Little Rock, AR; Memphis, TN; Chicago, IL; Kansas City and St. Louis, MO; and Dallas and Houston, TX, on the one hand, and on the other, points in OK. Applicant intends to tack and interline. Supporting shippers: 37.

MC 136646 (Sub-5–1TA), filed July 12, 1982. Applicant: LE MARS TRANSPORT, INC., P.O. Box 353, LeMars, IA 51031. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Petroleum products,* from Tulsa, OK and points in Plymouth and Lyon Counties, IA to points in IA, MN, NE and SD. Supporting shipper: M & W Petroleum, Route 1, Box 76, LeMars, IA 51031.

MC 144616 (Sub-5–13TA), filed July 12, 1982. Applicant: SOUTHWESTERN CARRIERS, INC., P.O. Box 79495, Saginaw, TX 76179. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112. *Plumbing and plumbing hardward,* between Duvall County, FL, on the one hand, and on the other, points in the U.S. (except AK and HI). Supporting shipper: Barnett Brass & Copper, Inc., Jacksonville, FL.

MC 145933 (Sub-5–1TA), filed July 12, 1982. Applicant: ADOLF DURON, d.b.a. A D TRUCKING, 8237 McElroy Road, El Paso, TX 79907. Representative: Hughan R. H. Smith, 26 Kenwood Place, Lawrence, MA 01841. Contract, irregular; *building materials and supplies,* between points in TX; OK; and NM; under continuing contracts with: (1) Cashway Building Supplies, Inc., El Paso, TX; (2) W. Silvers, Inc., El Paso, TX.

MC 146853 (Sub-5–10TA), filed July 12, 1982. Applicant: FRANK F. SLOAN, d.b.a. HAWKEYE WOODSHAVINGS, Route 1, Runnells, IA 50327. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Canned goods,* from Sacramento, Hollister, San Francisco, Watsonville, Yuba City, Oroville, and Los Angeles, CA; Stanislaus, San Joaquin, Alameda, and Santa Clara Counties, CA, to points in Iowa, Ortonville and Minneapolis, MN; and LaCrosse and Superior, WI. Supporting Shipper: HAR Trading Company, 2501 Grand Avenue, Des Moines, Iowa 50312.

MC 152172 (Sub-5–3TA), filed July 12, 1982. Applicant: DENNIS KEAR, d.b.a. DENNIS KEAR TRUCKING, P.O. Box 112, York, NE 68467. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Agricultural implements and machinery,* from the facilities of Allis Chalmers Corporation at or near Milwaukee, WI, La Porte, IN and Independence, MO to points in NE. Supporting shipper: Allis Chalmers Corporation, 528 East 29th St., South Sioux City, NE 68776.

MC 152942 (Sub-5–3TA), filed July 12, 1982. Applicant: TOGO TRUCKING CO., Route 3, St. Joseph, MO 64505. Representative: James H. Counts, 320 Robidoux Center, St. Joseph, MO 64501. Contract, irregular; *bricks* from: Claycon Transports Corporation, Oklahoma City, OK to: Quality Sand & Materials, Inc., Kansas City, MO and Kansas City, KS. Supporting Shippers: Quality Sand & Materials, Inc., 625 S. Willis, Box 779, Independence, MO 64052; Claycon Transports Corporation, P.O. Box 75368, Oklahoma City, OK 73147.

MC 154092 (Sub-5–2TA), filed July 12, 1982. Applicant: SUGARLAND EXPRESS, INC., 6623 Kansas Avenue, Kansas City, KS 66111. Representative: John E. Jandera, P.O. Box 1979, Topeka, KS 66601. *Petroleum and Petroleum Products (except in bulk),* Between Tulsa, OK and points within the states of AR, IL, IA, KS, MN, MO, NE, ND, SD and WI. Supporting shipper: Phillips Petroleum Company, Bartlesville, OK 74004.

MC 159474 (Sub-5–5TA), filed July 12, 1982. Applicant: U.S. EXPRESS, INC., P.O. Box 9652, Little Rock, AR 72219. Representative: Stephen F. Grinnell, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402. *General Commodities, (except Classes A & B explosives, household goods and commodities in bulk)* between the facilities utilized by Ralston Purina Company and its subsidiaries at points in the U.S., on the one hand, and, on the other, points in the US (except AK and HI). Supporting shipper: Ralston Purina Company, St. Louis, MO.

MC 162678 (Sub-5–1TA), filed July 12, 1982. Applicant: JOHN W. PEPPER, d.b.a., COMMERCIAL TRANSPORTATION, P.O. Box 15020, Kansas City, KS 66115. Representative: Arthur J. Cerra, P.O. Box 19251, Kansas City, MO 64141. *Shipping Containers* between the Commercial Zone of St. Joseph, MO, on the one hand, and, on the other, the Commercial Zones of Des Moines, IA, and Dakota City, NE. Supporting shipper: The Mead

Corporation (Container Division), Box 968, St. Joseph, MO 64502.

MC 144678 (Sub-5–8TA), filed July 16, 1982. Applicant: AMERICAN FREIGHT SYSTEM, INC., 9393 West 110th Street, Overland Park, KS 66210. Representative: Harold H. Clokey, (same as applicant). Contract; Irregular. *General Commodities, (except household goods as defined by the Commission, Classes A & B explosives, and commodities in bulk)* between points in the US except AK and HI, under a continuing contract(s) with K Mart Corporation. Supporting shipper: K Mart Corporation, 3100 West Big Beaver Road, Troy, MI 48084.

MC 150812 (Sub-5–12TA), filed July 15, 1982. Applicant: FROST TRANSPORTATION, INC., P.O. Box 3400, Shreveport, LA 71103. Representative: Joseph A. Keating Jr., 121 S. Main St., Taylor, PA 18517. Contract, irregular; *Paper and paper products and related items,* between Quachita Parish, LA on the one hand, and, on the other, points in CA, CT, DE, MA, NJ, NY, PA, MO, NH, and VT, under a continuing contract with Manville Forest Products, Corp., Monroe, LA. Supporting shipper: Manville Forest Products, Corp., P.O. Box 488, West Monroe, LA 71291.

MC 152068 (Sub-5–5TA), filed July 15, 1982. Applicant: HOC-EXPRESS, INC., 125 N. Elizabeth, Wichita, KS 67203. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. *Janitorial supplies and detergents and equipment, materials & supplies useful in the manufacturing of janitorial supplies & detergents,* between Sedgwick County, KS, on the one hand, and points in the US (except AK and HI), on the other hand. Supporting shipper: Spurrier Chemical Companies, Inc., P.O. Box 2812, Wichita, KS 67201.

MC 152068 (Sub-5–6TA), filed July 15, 1982. Applicant: HOC-EXPRESS, INC., 125 N. Elizabeth, Wichita, KS 67203. Representative: Clyde N. Christey, Ks Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. *Heating units, air conditioning units & refrigeration units & their components and materials, equipment and supplies used in the sale, distribution, repair & maintenance thereof,* between points in KS and points in Cimarron, Texas, Beaver, Harper, Woods, Alfalfa, Grant, Kay, Osage, Washington, Nowata, Craig, Ottawa, Ellis, Woodward, Major, Garfield, Noble, Pawnee, Rogers, Mayes & Delaware Counties, OK on the one hand, and points in MO, IL, OH, GA, MI, MN, WI, and AZ on the other hand. Supporting shipper: Superior Supply Co., Inc., 215 Laura, Wichita, KS 67211.

MC 152068 (Sub-5–7TA), filed July 15, 1982. Applicant: HOC-EXPRESS, INC., 125 N. Elizabeth, Wichita, KS 67203. Representative: Clyde N. Christey, Ks Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. *Food & related products,* between Butler County, KS, on the one hand, and points in the U.S. (except AK and HI) on the other hand. Supporting shipper: T&S Food Distributors, Inc., 219 West 6th St., Augusta, KS 67019.

MC 161290 (Sub-5–2TA), filed July 15, 1982. Applicant: CARROLL FOSTER, INC., Route 3, Box 659, Jonesboro, AR 72401. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Suite 909, Memphis, TN 38103. (1) *Cabinets* from Jeffersonville and Richmond, IN; and Elizabeth City, NC, to points in AZ; (2) *fireplaces* from Wisconsin Rapids, WI, to points in AZ; (3) *cabinets* from Bargersville, IN; and Minneapolis, MN, to points in NM; and (4) *beds and bedding* from Minneapolis, MN, to points in NM. Supporting shippers: Drum's Cabinets, Inc., 910½ El Paseo Rd., Las Cruces, NM 88001; Elm Distributors, Inc., 1333 N. 21st Ave., Phoenix, AZ 85009.

The following applications were filed in Region 4. Send protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 54203 (Sub-4–2TA), filed July 15, 1982. Applicant: V. SENG TEAMING CO., 600 N. Thomas Drive, Bensenville, IL 60106. Representative: Bernard J. Kompare, Suite 1700, 180 N. Michigan Ave., Chicago, IL 60601. *Such commodities* as are dealt in or used by manufacturers of hand tools, between points in Cook County, IL, on the one hand, and, on the other, points in Defiance County, OH. Supporting shipper: Hand Tool Division of Dresser Industries, Inc., 11100 W. Belmont Ave., Franklin Park, IL.

MC 128837 (Sub-4–2TA), filed July 15, 1982. Applicant: TRUCKING SERVICE, INC., P.O. Box 229, Carlinville, IL 62626. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701. *Patio and pool supplies,* between Clearwater, FL on the one hand, and, on the other, Phoenix, AZ. Supporting shipper: Sun Wholesale Supply Inc., of P.O. Box 6025, Clearwater, FL 33618.

MC 151404 (Sub-4–5TA), filed July 14, 1982. Applicant: NORTHLAND PRODUCE, INC., 4350 Lincoln Road, Holland, MI 49423. Representative: Edward N. Button, Button & McDowell, P.A., 635 Oak Hill Avenue, Hagerstown, MD 21740. *Frozen orange juice, lemonade, grape and apple concentrate and related bulk commodities,* between the facilities of Bodines, Inc., located at or near Chicago, IL on the one hand, and, on the other, points in OH, MI, PA, MO, KS, CO, IN, WI, MN, NY, CT, MA, & FL. Supporting shipper(s): Bodines, Inc., 5757 W. 59th St., Chicago, IL 60638.

MC 154740 (Sub-4–3TA), filed July 14, 1982. Applicant: ODESSA TRANSPORTATION, INC., 4525 S. Halsted St., Chicago, IL 60609. Representative: Lawrence R. Johnston (Same address as applicant). Such Commodities as are dealt in or used by wholesale, retail, chain or discount grocery, supermakets, or food business houses, between points in IL on the one hand, and, on the other, points on CO, IN, IA, KY, MI, MN, MO, OH, and WI. Supporting shippers: Certified Grocers of IL, Inc., 6701 S LaGange Road, Hodgkins, IL 60525, D & D Transport, Inc., P.O. Box 577, Chatsworth, IL 60921, Lake Michigan Food Broker and Distributor, 11720 S. Pulaski Road, Alsip, IL 60658.

MC 155218 (Sub-4–2TA), filed July 16, 1982. Applicant: TRANS TRUCK, INC., 7401 Bunkam Road (P.O. Box 11.), East St. Louis, IL 62204. Representative: Joseph E. Rebman, 314 N. Broadway, Suite 1300, St Louis, MO 63102. Transporting *sugar in bulk,* between St. Louis, MO, on the one hand, and, on the other, points in AR, IL, IN, IA, KS, TN, MS, MO, OK, WI, MI, OH and NE. Supporting Shipper: Industrial Sugars, Divsion of Colonial Sugars, Inc., St. Louis, MO.

MC 155254 (Sub-4–1TA), filed July 16, 1982. Applicant: FAISON TRANSPORTATION, INC., 7547 Southfield Drive, Indianapolis, IN 46227. Representative: John F. Wickes, Jr., Scopelitis & Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. *Contract* irregular: *Housewares,* between Indianapolis, IN and Chicago, IL. Restricted to traffic moving under continuing contract with Capital Consolidated, Inc. Supporting shipper: Capital Consolidated, Inc., 3333 North Franklin Road, Indianapolis, IN.

MC 159733 (Sub-4–3TA), filed July 16, 1982. Applicant: S&L TRUCKING, INC., P.O. Box 322, Harvard IL 60033. Representative: William F. Mix, 21 A Muzzey Street, Lexington, MA 02173. *Contract* irregular: *Epoxy molding compounds, granules or pellets, in packages, and materials, equipment and supplies used in the manufacture, sale and distribution thereof, (except Class A & B explosives)* between Toledo, OH and points in the states of CA, FL, IL, MD, NJ, and WA. Restricted to traffic

moving under continuing contract with Plaskon Products, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: Plaskon Products, Inc., 2829 Glendale Avenue, Toledo, OH 43614.

MC 162730 (Sub-4–2TA), filed July 14, 19 1982. Applicant: CASEY CARTAGE, INC., 4631 S Racine Ave., Chicago, IL 60609. Representative: Stephen H. Loeb, Suite 4, 2777 Finley Road, Downers Grove, IL 60515. *Contract, Irregular: Malt beverages,* between the facilities of Stroh Brewery at Chicago, IL, on the one hand, and, on the other, points in IA, IL, IN, MI, and WI under contract with Stroh Brewery, Inc. Supporting shipper: Stroh Brewery, Inc. One Stroh Drive, Detroit, MI 48226.

MC 162830 (Sub-4–1TA), filed July 13, 1982. Applicant: DAKOTA BLOCK CO., P.O. Box 2920, Rapid City, SD 57709. Representative: J. Maurice Andren, 1734 Sheridan Lake Rd., Rapid City, SD 57701. *(a) Metal Products; (b) Clay, Concrete, Glass or Stone Products; (c) Rubber or Miscellaneous Plastic Products; and (d) Materials, equipment and supplies used in the manufacture, sale and distrubition of these products on return,* between points in Morton County, ND and Pennington County, SD on the one hand, and on the other hand, points in CO, MT, NE, ND, SD and WY. A corresponding ETA for 120 days has been filed. Supporting shippers: Dakota Steel & Supply Co., P.O. Box 2920, Rapid City, SD 57709 and Dakota Block Co, P.O. Box 2920, Rapid Rapid City, SD 57709.

MC 162967 (Sub-4–1TA), filed July 14, 1982. Applicant: HANDI-TRANSPORT COMPANY, INC., 1351 Hawthorne Lane, West Chicago, IL 60185. Representative: Joel H. Steiner, 29 South LaSalle Street, Suite 905, Chicago, IL 60603. *Rubber and plastic products, chemicals and related products, machinery and pulp, paper and related products,* between points in the commercial zones of Chicago, IL; San Francisco, CA; New York, NY; Seattle, WA; Salt Lake City, UT; Cleveland, OH; Atlanta, GA; and Dallas, TX, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to traffic moving to or from facilities used by Handi-Kup Company, Inc. Supporting shippers: Handi-Kup Illinois Inc. 1351 Hawthorne Lane, West Chicago, IL 60185; Handi-Kup Company, a division of Fiberplastics, Inc., 195 Tamal Vista Boulevard, Corte Madera, CA 94925 and Handi-Kup New Jersey, Inc., 190 Forrest Street, Metuchen, NJ.

The following applications were filed in region 6. Send protests to: Interstate Commerce Commission, Region 6, Motor Carrier Board, 211 Main St., Suite 501, San Francisco, CA 94105.

MC 161638 (Sub-6–2 TA), filed July 12, 1982. Applicant: Blakley and sons, Inc., 3031 Isleta Blvd., S.W. Albuquerque, NM 87105. Representative: Larry D. Lucas, 3208 Pan American Frwy., NE., Albuquerque, NM 87107. *Contract,* irregular; *Gypsum wallboard,* between points and places in NM to points and places in CO under continuing contract with Dry Wall Supply, Inc. of Denver, CO, for 270 days. Supporting shipper: Dry Wall Supply, Inc, 60 Tejon St., Denver, CO 80223.

MC 162971 (Sub-6–18A), filed July 13, 1982. Applicant: DONALD R. LIND and NULLET L. SCHNEIDER, a partnership, doing business as D & N TRUCKING, 840 Hamilton Dr., Pleasant Hill, CA 94523. Representative: Ronald C. Chauvel, 100 Pine St., #2550, San Francisco, CA 94111. *Contract Carrier,* irregular routes, *food and foodstuffs,* between Oakland, San Leandro, San Francisco and Vacaville, CA, on the one hand, and, on the other, Portland, OR and Kent and Seattle, WA, under continuing contracts with Lucky Stores, Inc. and Hills Bros. Coffee, Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Lucky Stores, Inc. P.O. Box 5008, San Leandro, CA 94577; Hills Bros. Coffee, Inc., 2 Harrison Street, San Francisco, CA 94119.

MC 155811 (Sub-6–2 TA), filed July 13, 1982. Applicant: TOM McCARTY TRUCKING, 2400 2nd N.W., Albuquerque, NM 87102. Representative: Thomas D. McCarty (same as applicant). *Building Materials: from TX, NM, AZ, & CA, to: TX, NM, AZ, CA, WY, OK, MO, KS, IL, OH, WI, CO, UT, WA, for 270 days. Supporting shippers: Leatherback Industries, Inc., 211 Amherst SE., Albuquerque, NM 87106; Navajo Forest Products, P.O. Box 1280 Navajo, NM 87328.*

MC 138732 (Sub-6–12 TA), filed July 13, 1982. Applicant: OSTERKAMP TRUCKING, INC., P.O. Box 5546, Orange, CA 92667. Representative: Michael R. Eggleton, 5 Crow Canyon Court, Suite 200, San Ramon, CA 94583. *General Commodities (except classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and hazardous wastes),* between points in and west of ND, SD, NE, KS, AR, OK, and TX, for 270 days. Supporting shippers: There are nine shippers. Their statements may be examined at the regional office listed above.

MC 162916 (Sub-6–1TA), filed July 12, 1982. Applicant: PACIFIC OVERLAND CARRIERS, INC., P.O. Box 11377, Phoenix, AZ 85061. Representative: David Robinson, 2228 W. Northern Ave., B–201, Phoenix, AZ 85021. *Such commodities as are dealt in by wholesale and retail grocery and department stores,* between points in AZ and CA, for 270 days. Supporting shippers: There are five supporting shippers. Their statements may be examined at the Regional Office listed.

MC 110149 (Sub-6–3TA), filed July 12, 1982. Applicant: PAN AMERICAN VAN LINES, INC., P.O. Box 923, Long Beach, CA 90801. Representative: W. C. Fogle (same as applicant). (1) *Rocket Engines, and* (2) *Rocket Fuel (except in bulk),* between points in the U.S., except AK and HI, for 270 days. Supporting shipper(s): Rocketdyne Division—Rockwell International, 6633 Canoga Ave., Canoga Park, CA 91304.

MC 162956 (Sub-6–1TA), filed July 13, 1982. Applicant: RANDALL A. PHILLIPPE, d.b.a. RAP-ED TRANSPORTATION, P.O. Box 1106, Tahoe City, CA 95730. Representative: Armand Karp, 743 San Simeon Dr., Concord, CA 94518. *Contract Carrier,* irregular routes: *Food and kindred products,* from points in CA, OR and WA to points in Maricopa County, AZ; Denver County, CO; Champaign County, IL; Marion County, IN; Wyandotte County, KS; St. Louis County, MO; Columbiana County, OH; Smith County, TX; Salt Lake County, UT, for the account of Coastal Marketing Associates, Inc., for 270 days. Supporting shipper: Coastal Marketing Associates, Inc., P.O. Box 67, Campbell, CA 95009.

MC 155069 (Sub-6–2TA), filed July 12, 1982. Applicant: RIVER CITY TOURS, INC., 2853 Stephens Lane, El Dorado Hills, CA 95630. Representative: Don H. Lee (same as applicant). *Passengers and their baggage,* in special and charter operations, in round-trip operations from Amador and El Dorado Counties, CA, to points in NV, and return to origin, for 180 days. Supporting shippers: There are 10 shippers. Their statements may be examined at the Regional Office listed.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–20063 Filed 7–23–82; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(h)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on March 2, 1982, Mallinckrodt, Inc., Department C.B., Mallinckrodt and Second Streets, St. Louis, Missouri 63147, made application to the Drug Enforcement administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Raw Opium (9600)	II.
Poppy Straw (Opium Plant Form) (9650)	II.
Concentrate of Poppy Straw (9670)	II.

As to the basic classes of controlled substances listed above for which application for registration has been made, any other applicant therefor and any existing bulk manufacturer registered therefor may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Acting Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street N.W., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than (30 days from publication).

This procedure is to be conducted simultaneously with any independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e) and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Acting Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e) and (f) are satisfied.

Dated: July 20, 1982.

Francis M. Mullen,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82-20072 Filed 7-23-82; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 82-44]

Government-Owned Inventions; Availability for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below are owned by the U.S. Government and are available for domestic and, possibly foreign licensing.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $5.00 each ($10.00 outside North American Continent). Requests for copies of patent applications must include the patent application serial number. Claims are deleted from the patent application copies sold to avoid premature disclosure.

DATE: July 26, 1982.

FOR FURTHER INFORMATION CONTACT: National Aeronautics and Space Administration, John G. Mannix, Director of Patent Licensing, Code GP–4, Washington, D.C. 20546, telephone (202) 755–3954.

SUPPLEMENTARY INFORMATION:

Patent application 303,671: System for Producing Gas-Filled Hollow Spheres; filed September 18, 1981.

Patent application 317,977: Fire Extinguishant Materials; filed November 3, 1981.

Patent application 320,621: Polyphenylquinoxalines Containing Pendant Phenylethynyl and Ethynyl Groups; filed November 12,1981.

Patent application 322,320: Structural Pressure Sensitive Silicone Adhesives; filed November 17, 1981.

Patent application 322,321: Reusable Thermal Cycling Clamp; filed November 17, 1981.

Patent application 325,082: Degassifying and Mixing Apparatus for Liquids; filed November 25, 1981.

Patent application 333,536: Induction Heating Gun; filed December 22, 1981.

Patent application 333,537: Advanced Inorganic Separators for Alkaline Batteries and Method of Making Same; filed December 22, 1981.

Patent application 338,386: Missile Rolling Tail Brake Torque System; filed January 11, 1982.

Patent application 338,387: Hinged Strake Aircraft Control System; filed January 11, 1982.

Patent application 342,858: High Temperature Emittance Coatings and Coating Compositions; filed January 28, 1982.

Patent application 350,475: A Brushless DC Tachometer; filed February 19, 1982.

Patent application 350,471: Moisture Content and Gas Sampling Device; filed February 19, 1982.

Patent application 350,477: Imaging X-Ray Spectrometer; filed February 19, 1982.

Patent application 350,476: Light Weight Nickel Battery Plaque; filed February 19, 1982.

Patent application 350,474 Two Dimensional Scanner Apparatus; filed February 19, 1982.

Patent application 350,472: Control System for an Induction Motor with Energy Recovery; filed February 19, 1982.

Patent application 350,473: Real Time Pressure Signal System for a Rotary Engine; filed February 19, 1982.

Patent application 352,827: Thin Film Strain Transducer; filed February 26, 1982.

Patent application 352,821: Improved Chromium Electrodes for Redox Cells; filed February 26, 1982.

Patent application 352,831: Rotary Target V-Block; filed February 26, 1982.

Patent application 358,088: Means and Method for Calibrating a Photon Detector Utilizing Electron-Photon Coincidence; filed March 15, 1982.

Patent application 358,089: Acoustic Rotation Control; filed March 15, 1982.

Patent application 359,388: High Voltage V-Groove Solar Cell; filed March 18, 1982.

Patent application 361,216: Ion Mass Spectrometer; filed March 24, 1982.

Patent application 361,217: Acoustic Agglomeration Methods and Apparatus; filed March 24, 1982.

Patent application 361,215: Hotmelt Recharge System; filed March 24, 1982.

Patent application 361,711: A Method and Technique for Installing Light-Weight, Fragile, High-Temperature Fiber Insulation; filed March 25, 1982.

Patent application 364,041: Method for Determining the Point of Zero Zeta Potential of Semiconductor Materials; filed March 31, 1982.

Patent application 364,128: Spectrophone Stabilized Laser With Line Center Offset Frequency Control; filed March 31, 1982.

Patent application 364,092: A Method of Increasing Minority Carrier Lifetime in Silicon or the Like; filed March 31, 1982.

Patent application 364,097: Acoustic Levitation Methods and Apparatus; filed March 31, 1982.

Patent application 364,072: Ion Beam Textured Graphite Electrode Plates; filed March 31, 1982.

Patent application 366,025: Improved Process for Preparing Perfluorotriazine Elasomers and Precursors Thereof; filed April 6, 1982.
Patent application 366,103: Epitaxial Thinning Process; filed April 6, 1982.
Patent application 365,950: High Temperature Silicon Carbide Impregnated Insulating Fabrics; filed April 6, 1982.
Patent application 367,136: State-of-Charge Coulometer; filed April 9, 1982.
Patent application 367,132: Televisions Camera Video Level Control System; filed April 9, 1982.
Patent application 367,121: Thermal Protection System; filed April 9, 1982.
Patent application 368,186: Simplified D.C. to D.C. Converter; filed April 19, 1982.
Patent application 371,351: Process and Apparatus for Growing a Crystal Ribbon; filed April 23, 1982.
Patent application 371,350: High Pressure Fluid Gas Mixture Flushing of Passageways; filed April 23, 1982.
Patent application 371,352: Prosthetic Occulsive Device for an Internal Passageway; filed April 23, 1982.
Patent application 371,253: Interlocking Wedge Joint; filed April 23, 1982.
Patent application 371,354: Method and Apparatus for Strengthening Boron Fibers; filed April 23, 1982.
Patent application 373,770: Correlation Spectrometer Having High Resolution and Multiplexing Capability; filed April 30, 1982.
Patent application 373,771: Electronic Scanning Pressure Measuring System and Tranducer Package; filed April 30, 1982.
Patent application 375,620: Wideband Passive Synthetic Aperture Multichannel Receiver; filed May 6, 1982.
Patent application 375,784: Improved Thermal Barrier Coating System; filed May 6, 1982.
Patent application 375,684: Solar Powered Actuator With Continuously Variable Auxiliary Power Control; filed May 6, 1982.
Patent application 377,891: Apparatus for Disintegrating Kidney Stones; filed May 13, 1982.
Patent application 378,533: Unitary Seal Ring Assembly; filed May 13, 1982.
Patent application 379,602: Wind and Solar Powered Turbine; filed May 19, 1982.
Patent application 379,601: Acoustic Particle Separation; filed May 19, 1982.
Patent application 383,068: Saltless Solar Pond; filed May 28, 1982.

July 19, 1982.

S. Neil Hosenball,

General Counsel.

[FR Doc. 82-20040 Filed 7-23-82; 8:45 am]

BILLING CODE 7510-01-M

[Notice 82-41]

NASA Advisory Council, Aeronautics Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, Ad Hoc Informal Advisory Subcommittee on NASA Aeronautical Projects.

DATE AND TIME: August 10, 1982, 8:30 a.m. to 4:30 p.m.

ADDRESS: National Aeronautics and Space Administration, 600 Independence Ave., SW, Room 647, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. C. Robert Nysmith, National Aeronautics and Space Administration, Code R, Washington, DC 20546 (202/755-8550).

SUPPLEMENTARY INFORMATION: The Ad Hoc Informal Advisory Subcommittee on NASA Aeronautical Projects is meeting to investigate NASA/industry responsibilities in the conduct of aeronautical proof-of-concept and technology validation programs. The Ad Hoc Subcommittee, chaired by Dr. Robert Loewy, is comprosed of 10 members.

The meeting will be open to the public up to the seating capacity of the room (approximately 25 persons including the subcommittee members and participants).

Type of meeting: Open

Agenda

August 10, 1982
8:30 a.m.—Chairperson's Remarks.
9 a.m.—Presentation of Project Information.
1:30 p.m—Discussion of Information and Identification of Future Activity.
4:30 p.m.—Adjourn.

Walter B. Olstad,

Associate Administratior for Management.

July 19, 1982.

[FR Doc. 82-20037 Filed 7-23-82; 8:45 am]

BILLING CODE 7510-01-M

[Notice 82-42]

NASA Advisory Council, Aeronautics Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, Informal Advisory Subcommittee on Aeronautical Propulsion Technology.

DATE AND TIME: August 16, 1982, 8:30 a.m. to 5 p.m.; August 17, 1982, 8 a.m. to 5 p.m.

ADDRESS: NASA Headquarters, 600 Independence Ave., SW, Room 625, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Cecil C. Rosen III, National Aeronautics and Space Administration, Code RT-6 Washington, DC 20546 (202/755-3280).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Aeronautical Propulsion Technology was established to assist the NASA in identifying and examining advanced propulsion technology requirements for future Aeronautical vehicles and to recommend program additions, deletions, or changes in scope or emphasis that may be found necessary to support the overall NASA Aeronautical research and technology objectives. The Chairperson is Dr. Montgomerie C. Steele and there are eleven members on the Subcommittee. The meeting will be open to the public up to the seating capacity of the room (approximately 40 persons including the Subcommittee members and participants).

Type of meeting: Open

Agenda

August 16, 1982
8:30 a.m.—Review Aeronautics Long Range Plan
10:30 a.m.—Review of Computational Fluid Dynamics Program
1:30 p.m.—Review of Combustion Fundamentals and Modeling Research.
3:30 p.m.—Review of Planned Advanced Turbofan Research Program.
5 p.m.—Adjourn.
August 17, 1982
8 a.m.—Review of Planned Small Engine Component Technology Program.
10 a.m.—Update of Advanced Turboprop Program Plans
11 a.m.—Review Propulsion Systems Studies
1:30 p.m.—Committee Discussion and Formulation of Recommendations.
5 p.m.—Adjourn.

Walter B. Olstad,

Associate Administrator for Management.

July 19, 1982.

[FR Doc. 82-20038 Filed 7-23-82; 8:45 am]

BILLING CODE 7510-01-M

[Notice 82-43]

NASA Advisory Council, Space Systems and Technology Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub.

L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Systems and Technology Advisory Committee, Ad Hoc Advisory Subcommittee on Structures/Controls Interaction.

DATE AND TIME: August 17, 1982, 9 a.m. to 5 p.m.; August 18, 1982, 9 a.m. to 5 p.m.; August 19, 1982 8 a.m. to 12 Noon.

ADDRESS: National Aeronautics and Space Administration, 600 Independence Ave., SW, Room 647, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. Deene J. Weidman, National Aeronautics and Space Administration, Code RTM–6, Washington, DC 20546 (202/755–3277).

SUPPLEMENTARY INFORMATION: This ad hoc subcommittee was formed with representation from three existing advisory subcommittees for the express purpose of reviewing the control and structures interactions problems of large flexible spacecraft. This subcommittee will assess current control needs and structural methodology for spacecraft and recommend actions to provide technology needs for the future. The Subcommittee, chaired by Dr. Joseph Garibotti, is comprised of seven members. The meeting will be open to the public up to the seating capacity of the room (approximately 25 persons, including the Subcommittee members and participants).

Type of meeting: Open

Agenda

August 17, 1982
- 9 a.m.—Subcommittee Charter.
- 9:30 a.m.—Review of Control Needs for Antenna Structure.
- 11 a.m.—Review of Control Needs for Spacecraft.
- 1:30 p.m.—Review of Structural Needs for Space Structures.
- 3 p.m.—Review of Current Applicable NASA Research.
- 5 p.m.—Adjourn.

August 18, 1982
- 9 a.m.—Continue Review of NASA Research.
- 11 a.m.—Subcommittee Discussion.
- 5 p.m.—Adjourn.

August 19, 1982
- 8 a.m.—Subcommittee Discussion and Definition of Goals.
- 12 Noon—Adjourn.

Walter B. Olstad,

Associate Administrator for Management.

July 19, 1982.

[FR Doc. 82-20069 Filed 7-23-82; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel; Meetings

AGENCY: National Endowment for the Humanities, NFAH.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provision of the Federal Advisory Committee Act (Public Law 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506:

1. Date: August 10 and 11, 1982
Time: 8:30 a.m. to 5:30 p.m.
Room: 1023
Program: This meeting will review applications submitted for Humanistic Projects in Museums and Historical Organizations, Division of General Programs, for projects beginning after January 1, 1983.

2. Date: August 12 and 13, 1982
Time: 9:00 a.m. to 5:00 p.m.
Room: 1134
Program: This meeting will review applications submitted for Humanistic Projects in Libraries, Division of General Programs, for projects beginning after January 1, 1983.

3. Date: August 11, 12 and 13, 1982
Time: August 11 7:00 p.m. to 9:00 p.m.
August 12 8:30 a.m. to 7:00 p.m.
August 13 8:30 a.m. to 5:00 p.m.
Room: 807
Program: This meeting will review applications submitted for Humanities Projects in Media Division of Public Programs, for projects beginning after January 1, 1983.

4. Date: August 17, 1982
Time: 8:45 a.m. to 5:00 p.m.
Room: 807
Program: This meeting will review the Fellowships for College Teachers applications in Modern British and American Literature, Literary Theory and Criticism, submitted to the Division of Fellowships and Seminars, for projects beginning after June 1, 1983.

5. Date: August 23, 1982
Time: 8:45 a.m. to 5:00 p.m.
Room: 314
Program: This meeting will review Fellowships for Independent Study and Research applications in Literary Criticism, Comparative Literature, Theatre, and Film, submitted to the Division of Fellowships and Seminars, for projects beginning after June 1, 1983.

The proposed meetings are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 724–0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 82-20070 Filed 7-23-82; 8:45 am]

BILLING CODE 7536-01-M

Humanities Panel; Meetings

AGENCY: National Endowment for the Humanities, NFAH.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provision of the Federal Advisory Committee Act (Public Law 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506:

Date: August 4, 5, and 6, 1982.
Time: August 4, 1982 from 7:00 p.m. to 9:00 p.m.
August 5, 1982 from 8:30 a.m. to 7:00 p.m.
August 6, 1982 from 8:30 a.m. to 5:00 p.m.
Room: 807.
Program: This meeting will review applicaitons submitted for Humanistic Projects in Media, Division of General Programs, for projects beginning after January 1, 1983.
Date: August 3 and 4, 1982.
Time: 8:30 a.m. to 5:30 p.m.
Room: 1023.
Program: This meeting will review applications submitted for Humanistic Projects in Museums and Historical Organizations; Division of General Programs, for projects beginning after January 1, 1983.

The proposed meetings are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the

Arts and the Humanities act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code. The Endowment was unable to meet the usual 15 day notice deadline, because of a reorganization of the review process for these proposals.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 724–0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 82–20071 Filed 7–23–82

BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–302]

Florida Power Corporation, Et Al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 55 to Facility Operating License No. DPR–72, issued to the Florida Power Corporation, City of Alachua, City of Bushnell, City of Gainesville, City of Kissimmee, City of Leesburg, City of New Smyrna Beach and Utilities Commission, City of New Smyrna Beach, City of Ocala, Orlando Utilities Commission and City of Orlando, Sebring Utilities Commission, Seminole Electric Cooperative, Inc., and the City of Tallahassee (the licensees) which revised the Technical Specifications (TSs) for operation for the Crystal River Unit No. 3 Nuclear Generating Plant (the facility) located in Citrus County, Florida. Portions of the amendment were authorized by telephone on March 3, 1982, March 9, 1982, April 1, 1982 and April 6, 1982. The administrative addition to the amendment is effective on the date of issuance.

The amendment (1) revises the response time of the Reactor Coolant Pump Power Monitors (RCPPMs), (2) allows operation of the facility at a power level no greater than 2300 MWt (90.4% of full power) with the RCPPMs bypassed and (3) administratively adds limiting conditions for operation and surveillance requirements for the power operated relief valves which had inadvertently been omitted from a previous amendment. Portions of the amendment were authorized on an expedited basis to allow plant startup and operation at steady state while problems associated with the RCPPMs are being resolved.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated March 4, 1982, and April 1, 1982, as supplemented by letters dated March 9, 1982, April 6, 1982, and April 30, 1982, (2) the Commission's letters to Florida Power Corporation dated March 12, 1982, April 2, 1982, and April 16, 1982, (3) Amendment No. 55 to License No. DPR–72, and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 15th day of July 1982.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 82–20130 Filed 7–23–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–387]

Pennsylvania Power & Light Co. et al.; Notice of Issuance of Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission), has issued Facility Operating License No. NPF–14 to Pennsylvania Power & Light Company and Allegheny Electric Cooperative, Inc. (the licensees) which authorizes operation of the Susquehanna Steam Electric Station, Unit No. 1 (the facility), by Pennsylvania Power and Light Company at reactor core power levels not in excess of 3293 megawatts thermal in accordance with the provisions of the License and the Technical Specifications. Authorization to operate beyond five percent (164.4 megawatts thermal) is still under consideration and will require specific Commission approval.

Susquehanna Steam Electric Station, Unit 1 is a boiling water nuclear reactor located at the licensees' site in Luzerne County, Pennsylvania. The license is effective as of the date of issuance.

The application for the license complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulation. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license. Prior public notice of the overall action involving the proposed issuance of an operating license was published in the **Federal Register** on August 9, 1978 (43 FR 35406).

The Commission has determined that the issuance of this license will not result in any environmental impacts other than those evaluated in the Final Environmental Statement since the activity authorized by the license is encompassed by the overall action evaluated in the Final Environmental Statement.

For further details with respect to this action, see (1) Facility Operating License No. NPF–14, complete with Technical Specifications, (2) the report of the Advisory Committee on Reactor Safeguards, dated August 11, 1981, (3) the Commission's Safety Evaluation Report, dated April 1981, Supplement

No. 1, dated June 1981, Supplement No. 2, dated September 1981 and Supplement No. 3, dated July 1982, (4) the Final Safety Analysis Report and amendments thereto; and (5) the Final Environmental Statement dated, June 1981; and (6) Assessment of the Effect of License Duration on Matters Discussed in the Final Environmental Statement for the Susquehanna Steam Electric Station, Units 1 and 2.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701. A copy of Facility Operating License No. NPF–14 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing. Copies of the Safety Evaluation Report and its Supplements No. 1, 2, and 3 (NUREG–0776) may be purchased at current rates from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161, and through the NRC GPO sales program by writing to the U.S. Nuclear Regulatory Commission, Attention: Sales Manager, Washington, D.C. 20555. GPO deposit account holders may call 301–492–9530.

Dated at Bethesda, Maryland, this 17th day of July 1982.

For the Nuclear Regulatory Commission.

B. J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 82-20135 7-23-82; 8:45 am]

BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

[Docket No. A82–11; Order No. 438]

Louis Denu, Petitioner, Siberia, Indiana 47582; Order and Filing of Appeal

July 21, 1982.

On July 9, 1982, the Commission received an appeal letter from Louis Denu (hereinafter "Petitioner"), concerning United States Postal Service's closing of the Siberia, Indiana, post office. The appeal letter states that the Petitioner is very interested in keeping the post office open. The appeal letter appears to request the review provided for by Section 404(b) of the Postal Reorganization Act (39 U.S.C. 404(b)).[1] The petition does not conform perfectly with the Commission's rules of practice, which also require a petitioner to attach a copy of the Postal Service's Final Determination to the petition.[2] However, Section 1 of the Commission's rules of practice [3] calls for a liberal construction of the rules to secure just and speedy determination of issues.

The Act requires that the Postal Service provide the affected community with at least 60 days' notice of a proposed post office closing so as to "ensure that such persons will have an opportunity to present their views."[4] The petition requests that the decision to close the Siberia post office be reconsidered.

The Postal Reorganization Act states:

> The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities.[5]

Section 404(b)(2)(C) of the Act specifically includes consideration of this goal in determinations by the Postal Service to close post offices. The effect on the community is also a mandatory consideration under Section 404(b)(2)(A) of the Act.

The petition appears to set forth the Postal Service action complained of in sufficient detail to warrant further inquiry to determine whether the Postal Service complied with its regulations for the closing of post offices.[6]

Upon preliminary inspection, this case appears to involve the following issues of law:

1. Whether the procedure followed by the Postal Service was in compliance with the statute and the Postal Service's regulations.

2. Whether the Postal Service's actions are consistent with the statutory requirement that the Postal Service provide a maximum degree of effective and regular postal services to rural areas, communities and small towns where post offices are not self-sustaining [39 U.S.C. 404(b)(2)(C)]. Petitioner states that he does not think service can be as good with regard to the county newspaper, which the residents now receive on the day of issue.

Other issues of law may become apparent when the Commission has had the opportunity to examine further the determination made by the Postal Service. Such additional issues may emerge when the parties and the Commission review the Service's determination in light of *Lone Grove, Texas, et al.*, Docket Nos. A79–1, *et al.* (May 7, 1979), and the Commission's subsequent decisions on appeals of post office closings and consolidations. The determination may be found to resolve adequately one or more of the issues involved in the case.

In view of the above, and in the interest of expediting this proceeding under the 120-day decisional deadline imposed by section 404(b)(5), the Postal Service is advised that the Commission reserves the right to request a legal memorandum from the Service on one or more of the issues described above and/or any further issues of law disclosed by the determination made in this case. In the event that the Commission finds such memorandum necessary to explain or clarify the service's legal position or interpretation on any such issue, it will make the request therefore by order, specifying the issues to be addressed.

When such a request is issued, the memorandum shall be due within 20 days of the issuance, and a copy of the memorandum shall be served on the petitioner by the service.

In briefing the case or in filing any motion to dismiss for want of prosecution, in appropriate circumstances the service may incorporate by reference all or any portion of a legal memorandum filed pursuant to such an order.

The Act does not contemplate appointment of an Officer of the Commission in 404(b) cases,[7] and none is being appointed. The Commission orders:

(A) The letter from Louis Denu be accepted as a petition for review pursuant to 404(b) of the Act [39 U.S.C. 404(b)].

(B) The Secretary of the Commission shall publish this Notice and Order in the **Federal Register.**

By the Commission.

David F. Harris,

Secretary.

Appendix

July 9, 1982—Filing of Petition.
July 21, 1982—Notice and Order of Filing of Appeal.

[1] 39 U.S.C. 404(b) was added to title 39 by Pub. L. 94-421 (September 24, 1976), 90 Stat. 1310–11. Our rules of practice governing these cases appear at 39 CFR 3001.110 *et seq.*

[2] 39 CFR 3001.1.

[3] 39 CFR 3001.1.

[4] 39 U.S.C. 101(b).

[5] 39 U.S.C. 101(b).

[6] 42 FR 59079–85 (November 17, 1977); the Commission's standard of review is set forth at 39 U.S.C. 404(b)(5).

[7] In the Matter of Gresham, S.C., Route #1, Docket No. A78–1 (May 11, 1978).

July 26, 1982—Filing of Record by Postal Service [*see* 39 CFR 3001.113(a)].
July 29, 1982—Last day for filing of petitions to intervene [*see* 39 CFR 3001.111(b)].
August 9, 1982—Petitioner's Initial Brief [*see* 39 CFR 3001.115(a)].
August 24, 1982—Postal Service Answering Brief [*see* 39 CFR 3001.115(b)].
September 8, 1982—(1) Petitioner's Reply Brief should petitioner choose to file [*see* 39 CFR 3001.115(c)].
(2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interest of prompt and just decision may require, in scheduling or dispensing with oral argument.
November 7, 1982—Expiration of 120 day decisional schedule [*see* 39 U.S.C. Section 404(b)(5)].

[FR Doc. 82-20150 Filed 7-23-82; 8:45 am]
BILLING CODE 7715-01-M

[Docket No. A82-12; Order No. 439]

Mr. Bruce Franks, et al., Petitioners, Holy City, California 95026; Order of Filing of Appeal

Issued: July 21, 1982.

On July 12, 1982, the Commission received a letter from Mr. Bruce Franks (hereinafter "Petitioner"), Water Manager of the Aldercroft Heights County Water District concerning the alleged United States Postal Service plans to close the Holy City, California post office. In addition, two letters were received from Ms. Connie S. Zemer, and Thomas Winder, respectively, also in reference to the Holy City, California, post office. Neither of these three letters make any explicit reference to the Postal Reorganization Act, but two state that the writers are formally protesting the closing.

Apparently these letters were not written by attorneys, as they do not conform precisely with the Commission's rules of practice, which require a petitioner to attach a copy of the Postal Service's Final Determination to the petition.[1] However, Section 1 of the Commission's rules of practice does call for a liberal construction of the rules to secure a just and speedy determination of issues.[2] Furthermore, the statute provides that petitions for review must be filed within 30 days of the Postal Service's determination to close the post office.[3] Therefore, we believe that the letters should be liberally construed as petitions for review, pursuant to Section 404(b) of the Postal Reorganization Act (39 U.S.C. 404(b)).

The Act requires that the Postal Service provide the affected community with at least 60 days' notice of a proposed post office closing so as to "* * * ensure that such persons will have an opportunity to present their views."[4] From the face of these petitions appealing the decision to close the Holy City post office, it is unclear whether the Postal Service provided the required notice. In addition, these petitions do not indicate whether any hearings were held, nor do they specify whether a determination has been made under 39 U.S.C. 403(b)(3). (Petitioners failed to supply a copy of the Postal Service's Final Determination, if one is in existence.) However, the petitions do appear sufficient, construed as above described, to initiate inquiry to determine whether the Postal Service complied with the statutory mandates, and its own regulations, for the discontinuance of post offices.[5]

Applicable Law in This Proceeding

The Postal Reorganization Act states:

> The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities.[6]

Section 404(b)(2)(C) of the Act specifically includes consideration of this goal in determinations by the Postal Service to close or consolidate post offices. The effect on the community is also a mandatory consideration under Section 404(b)(2)(A) of the Act.

Upon preliminary inspection, the petitions appear to raise the following issues of law:

1. Is the Postal Service's proposed closing of this post office consistent with the "maximum degree of effective and regular postal services" standard of Section 404(b)(2)(C)?
2. Did the Postal Service consider the alleged historic landmark status of the Holy City Post Office as part of the effect on community standard of Section 404(b)(2)(A)?
3. As part of the effect on the community standard of Section 404(b)(2)(A), must the Postal Service consider the effect the closing of the Holy City post office would have on those doing business within the community?
4. Must the Postal Service consider that the alternative post office can allegedly be reached only by means of a narrow, inaccessible private road not served by public transportation as part of its treatment of the "maximum degree of effective and regular postal services" standard of section 404(b)(2)(C)?

Other issues of law may become apparent when the Commission has had the opportunity to examine the determination made by the Postal Service. Such additional issues may emerge when the parties and the Commission review the Service's determination for consistency with the principles announced in *Lone Grove, Texas, et al.*, Docket Nos. A79-1, *et al.* (May 7, 1979). Conversely, the determination may be found to resolve adequately one or more of the issues described above.

Commission Procedure in This Docket

In view of the statutory requirements, and in the interest of expedition of this proceeding under the 120-day decisional deadline imposed by section 404(b)(5), the Postal Service is advised that the Commission reserves the right to request a legal memorandum from the Service on one or more of the issues described above, and/or any further issues of law disclosed by the determination made in this case. In the event that the Commission finds such memorandum necessary to explain or clarify the Service's legal position or interpretation on any such issue, it will, within 20 days of receiving the Determination and record pursuant to section 113 of the rules of practice (39 CFR 3001.113), make the request therefor by order specifying the issues to be addressed. When such a request is issued, the memorandum shall be due within 20 days of the issuance, and a copy of the memorandum shall be served on Petitioners by the Service.

In addition the Commission's rules of practice require the Postal Service to file the administrative record of the case within 15 days after the date on which the petition for review is filed with the Commission.[7]

In briefing the case, or in filing any motion to dismiss for want of prosecution, in appropriate circumstances, the Service may incorporate by reference all or any

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[1] 39 CFR 3001.113(a).
[2] 39 CFR 3001.1.
[3] 39 U.S.C. 404(b)(5). 39 U.S.C. 404(b) was added to title 39 by Pub. L. 94-421 (September 24, 1976), 90 Stat. 1310-1311. Our rules of practice governing these cases appear at 39 CFR 3001.110 *et seq.*
[4] 39 U.S.C. 404(b)(1).
[5] 42 FR 59079-59085 (11/17/77); the Commission's standard of review is set forth at 39 U.S.C. 404(b)(5).
[6] 39 U.S.C. 101(b).
[7] 39 CFR 3001.113(a). The Postal Rate Commission informs the Postal Service of its receipt of such an appeal by issuing PRC Form No. 36 to the Postal Service upon receipt of each appeal.

portion of a legal memorandum filed pursuant to such an order.

The Act does not contemplate appointment of an Officer of the Commission in 404(b) cases, and none is being appointed.[8] The Commission Orders:

(A) The letters from Bruce Franks, Water Manager of the Aldercroft Heights County Water District, Connie S. Zemer, and Thomas Winder shall be construed as petitions for review pursuant to section 404(b) of the Act (39 U.S.C. 404(b)).

(B) The Secretary of the Commission shall publish this Notice and Order in the **Federal Register.**

(C) The Postal Service shall file the administrative record in this case on or before July 27, 1982, pursuant to the Commission's rules of practice (39 CFR 3001.112(a)).

By the Commission.

David F. Harris,

Secretary.

Appendix

July 12, 1982—Filing of Petition
July 21, 1982—Notice and Order of Filing of Appeal
July 27, 1982—Filing of record by Postal Service [*see* 39 CFR 3001.113(a)]
August 1, 1982—Last day for filing of petitions to intervene [*see* 39 CFR 3001.111(b)]
August 11, 1982—Petitioners' initial brief [*see* 39 CFR 3001.115(a)]
August 28, 1982—Postal Service answering brief [*see* 39 CFR 3001.115(b)]
September 12, 1982—(1) Petitioner's reply brief, if petitioner chooses to file such brief [*see* 39 CFR 3001.115(c)]
(2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interests of prompt and just decision may require, in scheduling or dispensing with oral argument.
November 9, 1982—Expiration of 120-day decisional schedule [*see* 39 U.S.C. 404(b)(5)]

[FR Doc. 82-20149 Filed 7-25-82; 8:45 am]
BILLING CODE 7715-01-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Conservation Subcommittee Meeting

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting.

STATUS: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of the Conservation Subcommittee of its Scientific and Statistical Advisory Committee.

DATE: Tuesday, August 10, 1982. 9:30 a.m.

ADDRESS: The meeting will be held at the Council's Central Office located at 700 S.W. Taylor Street, Suite 200, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Eckman, (503) 222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 82-20033 Filed 7-23-82; 8:45 am]
BILLING CODE 0000-00-M

Executive Committee Meeting

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting.

STATUS: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of the Executive Committee of its Scientific and Statistical Advisory Committee.

DATE: Tuesday, August 17, 1982. 1:00 p.m.

ADDRESS: The meeting will be held at the Council's Central Office located at 700 S.W. Taylor Street, Suite 200, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Ms. Torian Donohoe, (503) 222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 82-20028 Filed 7-23-82; 8:45 am]
BILLING CODE 0000-00-M

Fish and Wildlife Subcommittee Meeting

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting.

STATUS: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of the Fish and Wildlife Subcommittee of the Scientific and Statistical Advisory Committee.

DATE: Friday, July 30, 1982, 8:30 a.m.

ADDRESS: The meeting will be held at the Council's Central Office located at 700 S.W. Taylor Street, Suite 200, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Ms. Torian Donohoe, (503) 222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 82-20032 Filed 7-23-82; 8:45 am]
BILLING CODE 0000-00-M

Resource Assessment Subcommittee Meeting

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting.

STATUS: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of the Resource Assessment Subcommittee of its Scientific and Statistical Advisory Committee.

DATE: Friday, August 20, 1982. 10:00 a.m.

ADDRESS: The meeting will be held at the Council's Central Office located at 700 S.W. Taylor Street, Suite 200, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Ms. Annette Frahm, (503) 222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 82-20034 Filed 7-24-82; 8:45 am]
BILLING CODE 0000-00-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular 21-10A Flight Recorder and Cockpit Voice Recorder Underwater Locating Devices

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of draft Advisory Circular (AC) and request for comments.

SUMMARY: The draft Advisory Circular is intended to provide guidance when seeking certification of flight recorder and/or voice recorder underwater locating device installations.

DATE: Commentors must identify file AC 21-10A and comments must be received on or before August 31, 1982.

ADDRESS: Send all comments in duplicate on the draft Advisory Circular to: Federal Aviation Administration, Attention: Regulations and Policy Office, ANM-110, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. Comments may be inspected at ANM-

[8] In the Matter of Greshman, S.C., Route #1, Docket No. A78-1 (May 11, 1978).

110, at the Northwest Mountain Regional Office, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mark Quam, ANM–112, at the address above, phone (206) 764–7053.

SUPPLEMENTARY INFORMATION:

Comments Invited

Comments are solicited on all aspects of the draft advisory circular. A copy of the draft advisory circular may be obtained by contacting the person identified under "**FOR FURTHER INFORMATION CONTACT**".

Background

AC 21–10 addresses flight recorder underwater locating devices. This proposal revises AC 21–10 to be compatible with existing current airworthiness rules, operating rules and orders by incorporating into AC 21–10 the following:

1. Acceptable means of showing compliance for single underwater locating device installation with colocated cockpit voice and flight data recorders are specified. Compliance requires a 1000g impact shock test, as originally applied to the underwater locating device, to the beacon and associated recorder to demonstrate that they are not likely to separate when subjected to crash impacts. The AC proposes to allow, as Order 8040.1A Appendix 3 allows, the use of a crash condition analysis that substantiates the underwater locating device package's ability to meet the 1000g impact shock test parameter in lieu of the actual impact test.

2. A pressure test simulating a 20,000 foot ocean depth has been incorporated. AC 21–10 specified an equipment operating depth to 20,000 feet, but did not specify a depth test. This proposal does.

3. Type certificate and supplemental type certificate are the approval means specified for the underwater locating device recorder installations.

Issued in Seattle, Washington on June 30, 1982.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 82–19869 Filed 7–23–82; 8:45 am]

BILLING CODE 4910–13–M

Proposed Advisory Circular on Criteria for Operational Approval of Airborne Wind Shear Detection Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for comments on proposed Advisory Circular (AC) 120–XX, Criteria for Operational Approval of Airborne Wind Shear Detection Systems.

SUMMARY: This proposed advisory circular (AC) establishes an acceptable means, but not the only means, for obtaining operational approval of airborne wind shear detection systems used in operations under Parts 121, 125, and 135 of the Federal Aviation Regulations (FAR).

DATE: Comments must be received by September 24, 1982.

ADDRESS: Please submit your comments in duplicate to: Federal Aviation Administration; Office of Flight Operations, Air Transportation Division, Flight Technical Programs Branch, (AFO–210), 800 Independence Avenue, SW.; Washington, D.C. 20591; or delivered to: Room 304b, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Mr. Andrew Wasniewski, Office or Flight Operations, Air Transportation Division, AFO–210, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–8452.

SUPPLEMENTARY INFORMATION: Any person may obtain a copy of the proposed AC by writing to: Federal Aviation Administration, Office of Flight Operations, Air Transportation Division, AFO–210, 800 Independence Avenue, SW., Washington, D.C. 20591.

Comments invited: Interested parties are urged to submit their comments on the proposed AC. Comments may be inspected at Room 303D between 8:00 a.m. and 4:30 p.m.

Issued in Washington, D.C. July 16, 1982.

Kenneth S. Hunt,

Director of Flight Operations.

[FR Doc. 82–19874 Filed 7–23–82; 8:45]

BILLING CODE 4910–13–M

[Summary Notice No. PE–82–13]

Petitions for Exemption; Summary of Petitions Received, Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before August 16, 1982.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–204), Petition Docket No. ———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION:

The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of §11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on July 21, 1982.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

Supplemental Summary—Notice of Petition for Exemption

Space Services, Incorporated petitioned the Federal Aviation Administration (FAA) for an exemption from any Federal Aviation Regulations that would restrict, limit, or prohibit the launch of a Conestoga I rocket from Matagorda Island, Texas. A summary of the petition for exemption was published in the **Federal Register** of April 15, 1982, in Notice No. PE–82–8 (47 FR 16243). No comments were received in response to that Notice. The petitioner has provided additional information. Accordingly, the FAA finds that a supplemental Notice on this petition for exemption is appropriate in order to insure that the public is fully aware of this planned event and actions the FAA would contemplate in response to the petition. This supplemental Notice invites comments from interested parties. Comments received will assist the FAA in disposing of the petition and may well serve to establish the basis for

future FAA policy regarding private commercial rocket operations.

Following is a current summary of the petition for exemption including supplemental information:

Space Services Incorporated plans to launch a Conestoga I rocket on or about September 8, 1982, from a privately owned site on Matagorda Island, Texas. The flight profile consists of an azimuth of 137° True (southeasterly) from 28°6′ N, 96°49′ W, an apogee of approximately 167 miles, an impact point at 279.1 NM downrange (24°38′ N, 93°40′ W), and a flight duration of ten and one-half minutes. While the flight path would not affect any populated land areas, it could affect some air and marine operations downrange.

The Conestoga I is a 7-ton vehicle configured around the M56A1 Minuteman I second stage motor. Vehicle guidance, which is provided by a MIDAS inertial reference platform, is reported to be reliable to within 3 sigma (+/−2° azimuth and 7 NM downrange). The progress of the flight will be monitored in two ways. First, data on the vehicle's attitude and rate of attitude change as well as other performance functions will be transmitted via telemetry to a mission control ground station. Second, the vehicle will be equipped with a radar beacon transponder which will enable a single ground based radar system to develop instantaneous impact point predictions throughout the boost phase. For emergency flight termination, it is equipped with a manually actuated radio command thrust temination system.

The FAA is considering the petitioner's request for exemption from FAR Section 101.23 to the exent that it prohibits any person from operating an unmanned rocket—

1. In controlled airspace;
2. Within five miles of the boundary of any airport;
3. At any altitude where clouds or obscuring phenomena of more than five-tenths coverage prevails;
4. At any altitude where the horizontal visibility is less than five miles;
5. Into any cloud;

and from Section 101.25 which sets forth notice requirements for rocket operations.

The FAA sees certain actions and stipulations necessary to provide an equivalent level of safety in conjunction with an exemption for such a rocket operation. Among these are:

1. establishment of a temporary restricted area within domestic airspace to isolate the rocket launch from other air traffic operations; [1]
2. operational parameters, outside of which termination of the vehicle's thrust would be ordered;
3. domestic and international notices to airmen and mariners defining the area affected by the rocket flight;
4. direct communication between the launch operator and air traffic control; and
5. restricting IFR flight operations in international airspace affected by the rocket flight.[1]

DISPOSITIONS OF PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought

None this period.

[FR Doc. 82-20163 Filed 7-23-82; 8:45 am]
BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

[Docket No. IP82-13; Notice 1]

Thomas Built Buses, Inc.; Petition for Exemption From Notice and Remedy for Inconsequential Noncompliance

Thomas Built Buses Inc. of High Point, N.C., has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for two apparent noncompliances with 49 CFR 571.221, Motor Vehicle Safety Standard No. 221, *School Bus Body Joint Strength*, on the basis that they are inconsequential as they relate to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Standard No. 221 requires body panel joints to be capable of holding the body panel to the member to which it is joined when subjected to a force of 60% of the tensile strength of the weakest joined body panel, determined in accordance with the standard's procedures. Exempted from the definition of "body panel joint," however, are maintenance access panels. In the course of compliance investigations of a 1978 Thomas Mighty Mite 22 passenger school bus (agency file CIR 2109), and a 1979 Thomas Forward Control 78 passenger school bus (CIR 2262), the National Highway Traffic Safety Administration discovered that interior panels by the driver contained 8-inch segments without fasteners of any type. No wiring or other functional parts lay behind the panels. The 60% test load required was almost 6000 pounds but the segments without fasteners were considered to be separable with 0 pounds.

Thomas replied that the failure to provide fasteners was an oversight and that those school buses sold in States requiring stop arm systems normally have wiring or other functional parts behind the panels but that buses sold in the remaining States will, as a rule, have nothing behind them. Thomas argued that the failure was inconsequential as the external body panel by the driver position fully complies with Standard No. 221 and that the approximately 1400 buses involved form a very small portion of its overall school bus fleet. Petitioner polled 124 State directors of pupil transportation and State contract operators to determine whether accidents had occurred involving the panel in question; of the 108 replies, only one indicated that the panel nearest the driver contributed to or manifested a potential for injury, as represented by an accident involving a bus other than one built by Thomas. Therefore, the panels are alleged to be safe in their present configuration based on current experience.

Interested persons are invited to submit written data, views and arguments on the petition of Thomas Built Buses Inc. described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, S.W., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered.

The application and supporting materials and all comments received after the closing date will also be filed

[1] It should be noted that airspace and flight restrictions would be imposed for a period of time (typically 3 hours) to allow for advance coordination and minor delays. However, such restrictions would, in fact, be cancelled as soon as the rocket flight is over.

and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the **Federal Register** pursuant to the authority indicated below.

The engineer and attorney principally responsible for this notice are Robert Williams and Taylor Vinson, respectively.

Comment closing date: August 25, 1982.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on July 16, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 82–19947 Filed 7–23–82; 8:45 am]

BILLING CODE 4910–06–M

Office of the Secretary

Minority Business Resource Center Advisory Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 1), notice is hereby given of a meeting of the Minority Business Resource Center Advisory Committee to be held August 23, 1982, at 9:30 a.m. in Room 5B14 at the Federal Office Building, 819 Taylor Street, Ft. Worth, Texas 76102. The agenda for the meeting is as follows:

—Report on short term financial assistance program
—Report on surety bonding program
—Report on Amtrak pilot project
—Report on the Program Management Centers (PMCs)

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify the Minority Business Resource Center not later than the day before the meeting. Information pertaining to the meeting may be obtained from Ms. Betty Chandler, Minority Business Resource Center, 400 7th Street, SW, Washington, D.C. 20590, telephone (202) 426–2852. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C. on July 19, 1982.

Melvin Humphrey,

Director, Office of Small and Disadvantaged Business Utilization.

[FR Doc. 82–19920 Filed 7–23–82; 8:45am]

BILLING CODE 4810–62–M

DEPARTMENT OF THE TREASURY

Performance Review Board

AGENCY: Office of the Secretary, Treasury.

ACTION: Notice of Members of Performance Review Board (PRB).

SUMMARY: This notice announces the appointment of members of the composite PRB for the Bureaus of Engraving and Printing, Mint, Government Financial Operations, and Public Debt.

FOR FURTHER INFORMATION CONTACT: Irvin E. Faunce, Deputy Commissioner, Bureau of Government Financial Operations, Room 620, Annex, Madison Place, NW., Washington, D.C. 20226; Telephone 202–566–5038.

SUPPLEMENTARY INFORMATION: Pursuant to 5 U.S.C. 4314(c)(4) and the Civil Service Reform Act of 1978, the members of the Senior Executive Service Performance Review Board for the Bureaus of Engraving and Printing, Mint, Government Financial Operations, and Public Debt are listed below. This Board reviews the performance of Senior Executives below the level of bureau head and principal deputy in the four bureaus, except for the Assistant Commissioner, Comptroller at the Bureau of Government Financial Operations. At least three voting members constitute a quorum.

	Primary	Alternate
E&P	Robert J. Leuver, Assistant Director (Administration).	Milton J. Seidel, Assistant Director (Research and Engineering).
Mint	Galen D. Dawson, Assistant Director for Production.	
GFO:	Irvin E. Faunce, Deputy Commissioner.	Michael D. Serlin, Assistant Commissioner (Government-wide Accounting).
	Bland T. Brockenborough, Assistant Commissioner (Administration).	John Turner, Assistant Commissioner (Disbursement and Claims).
PD	W. M. Gregg, Deputy Commissioner.	Kenneth W. Raih, Assistant Commissioner (Washington).
		Eleanor J. Holcombe, Assistant Commissioner (Admin.).

This notice does not meet the Department's criteria for significant regulations.

Dated: July 21, 1982.

Irvin E. Faunce.

Deputy Commissioner, Bureau of Government Financial Operations, Performance Review Board Chairman, 1982.

[FR Doc. 82–20008 Filed 7–23–82; 8:45 am]

BILLING CODE 4810–25–M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 143
Monday, July 26, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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	Items
Federal Home Loan Bank Board	1
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1

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 10 a.m., Thursday, July 29, 1982.

PLACE: Board Room, sixth floor, 1700 G Street NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:
Mr. Marshall (202–377–6679).

MATTERS TO BE CONSIDERED:

Waiver and Modification of Condition—Silver State Savings and Loan Association, Las Vegas, Nevada
Bank Membership and Insurance of Accounts—Butte Savings and Loan Association, Chico, California
Bank Membership and Insurance of Accounts—Summit Savings and Loan Association, Bellevue, Washington, (New Stock Association)
[No. 51, July 22, 1982]

[S–1081–82 Filed 7–22–82; 9:36 am]
BILLING CODE 6720–01–M

2

FEDERAL HOME LOAN MORTGAGE CORPORATION

DATE AND TIME: July 27, 1982, 2 p.m.

PLACE: Fourth floor, Conference Room 4–G, 1776 G Street, NW., Washington, D.C.

STATUS: Closed.

CONTACT PERSON FOR MORE INFORMATION:
Scott R. Daugherty.

MATTERS TO BE CONSIDERED:

Minute of June 30, 1982 Board of Directors' Meeting
President's Report
Complete May Financial Statements; Partial June Financial Statements; Minutes Entry
Minutes of June 30, 1982 Financing Strategy Meeting
Financial Strategy August 1982; Minute Entry; Hedging Contract Limit Resolution; Short-term Debt Resolution
Investment Policy
July 21, 1982.

[S–1080–82 Filed 7–21–82; 4:36 pm]
BILLING CODE 6720–02–M

3

FEDERAL MARITIME COMMISSION

TIME AND DATE: 4 p.m., July 22, 1982.

PLACE: Hearing Room One, 1100 L Street, NW., Washington, D.C. 20573.

STATUS: Closed.

MATTER TO BE CONSIDERED:

1. Docket No. 81–10: Sea-Land Service, Inc., Trailer Marine Transport Corporation; Gulf-Caribbean Marine Lines, Inc., Puerto Rico Maritime Shipping Authority—Proposed General Rate Increases in the Puerto Rico and Virgin Islands Trades—Consideration of petition of PRMSA for relief; motion of PRMSA to file reply; request of PRMSA for oral argument; and petition of Department of Transportation to intervene.

CONTACT PERSONS FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

[S–1085–82 Filed 7–22–82; 2:16 pm]
BILLING CODE 6730–01–M

4

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

July 20, 1982.

TIME AND DATE: 10 a..m., Wednesday, July 28, 1982.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Elias Moses v. Whitley Development Corporation, Docket No. KENT 79–366–D; (Issues include whether the operator discriminatorily discharged the miner in violation of section 105(c)(1) of the Mine Act.)

CONTACT PERSONS FOR MORE INFORMATION: Jean Ellen (202) 653–5632.

[S–1083–82 Filed 7–22–82; 11:50 am]
BILLING CODE 6735–01–M

5

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

TIME: 9–10 a.m.

DATE: August 24, 1982.

PLACE: Sheraton Centre, Montreal, Quebec.

STATUS: Closed.

MATTERS TO BE DISCUSSED: Executive Session (closed meeting Sec. 1703.202 (2) and (6) of the Code of Federal Regulations, 45 CFR, Part 1703).

CONTACT PERSON FOR MORE INFORMATION: Toni Carbo Bearman.

July 8, 1982.
Toni Carbo Bearman,
Executive Director, NCLIS.

[S–1084–82 Filed 7–22–82; 11:57 am]
BILLING CODE 6055–01–M

6

NUCLEAR REGULATORY COMMISSION

DATE: Week of July 26, 1982.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE DISCUSSED:

Tuesday, July 27:

10:00 a.m.:
Discussion of and Possible Vote on Full Power Operating License for LaSalle-1 (public meeting)

Wednesday, July 28:

3:30 p.m.:
Discussion of and Vote on Full Power Operating License for San Onofre-2 (public meeting)

Thursday, July 29:

10:00 a.m.:
Oral Presentation on Clinch River Breeder Reactor Project (public meeting)
2:00 p.m.:
Discussion of License Fees—Proposed Schedule (public meeting)
3:00 p.m.:
Affirmation/Discussion Session (public meeting)
a. Export and Import of Nuclear Equipment and Material: Proposed Amendments to NRC's Regulations
b. Diablo Canyon Physical Security—Governor Brown's Request for Public Disclosure of Non-Protected Information
c. Partial Vacating of Commission Order of May 22, 1979, on Preservation of Records of TMI–2 Accident

d. Review of ALAB–670 (In the Matter of Consumers Power Company)
e. Request for Fees and Expenses Under the Equal Access to Justice Act in Bailly Proceeding
f. Proposed Rulemaking Concerning Staffing at Nuclear Power Plants

ADDITIONAL INFORMATION: On July 15, the Commission voted 3–0 (Commissioner Gilinsky and Commissioner Asselstine not present) to hold on short notice the Affirmation of Requirements for Emergency Response Capability, held that day.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

July 19, 1982.

Walter Magee,

Office of the Secretary.

[S–1082–82 Filed 7–22–82; 9:39 am]

BILLING CODE 7590–01–M

federal register

Monday
July 26, 1982

Part II

Environmental Protection Agency

Hazardous Waste Management System; Permitting Requirements for Land Disposal Facilities

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 122, 260, 264, and 265

[SWH-FRL 2172-8]

Hazardous Waste Management System; Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities; and EPA Administered Permit Programs

AGENCY: Environmental Protection Agency.

ACTION: Interim final rule with request for comments.

SUMMARY: The Environmental Protection Agency (EPA) is required by the Resource Conservation and Recovery Act (RCRA) to issue standards applicable to owners and operators of hazardous waste management facilities. These standards are to be used in issuing permits for facilities that treat, store, or dispose of hazardous waste. Accordingly, EPA is today issuing interim final standards applicable to owners and operators of new and existing hazardous waste land disposal facilities and the corresponding procedures for permit applications. EPA is also issuing conforming amendments to some existing hazardous waste regulations.

DATES: Effective date: These interim final regulations become effective on January 26, 1983, which is six months from the date of promulgation as RCRA Section 3010(b) requires.

In accordance with the Paperwork Reduction Act of 1980, (44 U.S.C. 3507), the reporting or recordkeeping provisions that are included in this final rule will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained under the Act. EPA will publish a notice of the effective date of the reporting and recordkeeping provisions of this rule after it obtains OMB approval.

Comments must be submitted on or before November 23, 1982.

ADDRESS: Comments should be sent to Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, telephone (202) 382-4487.

Comments on today's rule should identify the regulatory docket as follows: "Docket 3004, Permitting Standards for Land Disposal Facilities." Comments pertaining specifically to regulatory amendments to 40 CFR Part 122 should be marked "Docket 3005, Permitting Requirements for Land Disposal Facilities." The public docket for these regulations is located in Room S269C, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C., and is available for viewing from 9:00 a.m. to 4:00 p.m. Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: For general information contact the RCRA hazardous waste hotline, Office of Solid Waste (WH-563), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, telephone (800) 424-9346, or in Washington, D.C., 382-3000.

For information on the technical aspects of this regulation contact: John P. Lehman, Director, Hazardous and Industrial Waste Division, and Acting Director, Land Disposal Division, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, telephone (202) 755-9185.

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I. Authority

These regulations are issued under the authority of Sections 1006, 2002(a), 3004, and 3005 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6905, 6912(a), 6924, and 6925.

II. Background

A. Structure and Status of the Hazardous Waste Regulatory Program

1. *Program Structure.* Subtitle C of RCRA creates a "cradle-to-grave" management system intended to ensure that hazardous waste is safely treated, stored or disposed of. First, Subtitle C requires EPA to identify hazardous waste. Second, it creates a manifest system designed to track the movement of hazardous waste, and requires hazardous waste generators and transporters to employ appropriate management practices as well as procedures to ensure the effective operation of the manifest system. Third, owners and operators of treatment, storage and disposal facilities must comply with standards that "may be necessary to protect human health and the environment" which are established by EPA under Section 3004 of RCRA. These standards are generally implemented through permits that are issued by authorized states or EPA to owners and operators of hazardous waste treatment, storage, and disposal facilities.

All substantive RCRA Subtitle C regulations that impose new requirements (including today's permitting standards for land disposal facilities) become effective six months after their promulgation by EPA. Under Section 3005(a), on the effective date of the Section 3004 standards (the first set of which became effective on November 19, 1980), all treatment, storage, and disposal of hazardous waste is prohibited except in accordance with a permit that implements the Section 3004 standards.

Recognizing that not all permits would be issued within six months of the promulgation of Section 3004 standards, Congress created "interim status" in Section 3005(e) of RCRA. Owners and operators of existing hazardous waste treatment, storage, and disposal facilities who qualify for interim status are treated as having been issued a permit, until an authorized state or EPA takes final administrative action on their permit applications. Interim status does not relieve a facility owner or operator of complying with Section 3004 standards.

2. *Regulation Development Status.* To implement the various sections of Subtitle C of RCRA, EPA has issued the following sets of regulations in Title 40 of the Code of Federal Regulations:

Part 260.—Hazardous Waste Management System: General
Part 261.—Hazardous Waste Management System: Identification and Listing of Hazardous Wastes
Part 262.—Standards for Generators of Hazardous Wastes
Part 263.—Standards for Transporters of Hazardous Wastes
Part 264.—Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
Part 265.—Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
Part 267.—Interim Standards for Owners and Operators of New Hazardous Waste Land Disposal Facilities
Parts 122–124.—Consolidated Permit Regulations (including permit regulations for hazardous waste facilities and State program authorization)

These regulations have been promulgated in several stages and are contained chiefly in the following **Federal Register** publications:

1. 45 FR 33066, May 19, 1980: Parts 260–263 and 265, general provisions of Part 264, and Parts 122–124.

2. 45 FR 47832, July 16, 1980: Listing of additional hazardous wastes in Part 261.

3. 46 FR 2804, January 12, 1981: Parts 264 and 122, standards for storage and treatment facilities; and Parts 264, 265, and 122, standards for closure, post-closure care, and financial responsibility.

4. 46 FR 7666, January 23, 1981: Parts 264 and 122, standards for incinerators.

5. 46 FR 12414, February 13, 1981: Part 267, interim permitting standards for four classes of new land disposal facilities.

While implementing these regulations, EPA has been continuously re-evaluating them. In some cases, EPA has discovered that implementing particular provisions could lead to unanticipated adverse consequences. In others, EPA has determined that certain requirements either were unnecessary to protect human health and the environment or could be modified to achieve the desired environmental result more effectively. Finally, some regulations required further clarification. As a result, EPA has at various times revised some of the regulations listed above. The regulatory amendments, notices of suspension, and notices of extension of compliance deadlines are listed below:

1. 45 FR 72024, October 30, 1980: Amended § 261.4 regarding when a hazardous waste generated in storage or transportation units or manufacturing processes becomes subject to RCRA; amended § 260.10 to modify the definition of "generator" and added other definitions.

2. 45 FR 72035, October 30, 1980: Temporarily excluded from hazardous waste status wastes that currently are deemed hazardous solely due to the presence of trivalent chromium.

3. 45 FR 72037, October 30, 1980: Delisted waste from the leather tanning and titanium dioxide production industries.

4. 45 FR 72040, October 30, 1980: Technical amendment to clarify the "Analytical Procedures for Analyzing Extract Contaminants" in Appendix II of Part 261.

5. 45 FR 74884, November 12, 1980: Published a final list of certain hazardous wastes previously listed in an interim final regulation.

6. 45 FR 76074, November 17, 1980: Suspended the applicability of Parts 122, 264, and 265 to owners and operators of wastewater treatment tanks under the NPDES program and to owners and operators of neutralization transport vehicles, or containers and tanks that neutralize wastes that are hazardous only because they exhibit the "corrosivity" characteristic or are listed only for that reason.

7. 45 FR 76618, November 19, 1980: Excluded from Subtitle C regulation (1) solid waste from certain mining operations, and (2) cement kiln dust.

8. 45 FR 76620, November 19, 1980: Clarified the special requirements for generators of small quantities of hazardous waste.

9. 45 FR 76624, November 19, 1980: Eliminated the distinction between on-site and off-site accumulation for treatment, storage, or disposal.

10. 45 FR 76628, November 19, 1980: Clarified that the Part 264 and 265 standards and Part 122 permitting requirements for treatment and storage of hazardous wastes are not applicable to (1) actions taken to immediately contain and treat spills of hazardous wastes, and (2) materials that, when spilled, become hazardous wastes.

11. 45 FR 76630, November 19, 1980: Clarified the circumstances under which hazardous waste management facilities may qualify for interim status.

12. 45 FR 78524, November 25, 1980: Clarified the situations in which residues of hazardous wastes in drums, barrels, tank trucks, or other types of containers must be managed as hazardous wastes.

13. 45 FR 78530, November 25, 1980: Delisted wastes that are hazardous solely because they exhibit the "EP toxicity" characteristic, are generated in the arsenical treatment of wood or wood products, and are generated by people who use such wood or wood products for the wood's intended end use.

14. 45 FR 78532, November 25, 1980: Finalized the lists of commercial chemical products, off-specification products, and intermediates that when discarded or intended to be discarded are considered to be hazardous wastes, and removed all trade names from the lists.

15. 45 FR 80286, December 4, 1980: Provided that a hazardous waste generated in a product or raw material pipeline is not subject to regulation until it is removed from the pipeline in which it was generated, unless it remains in the pipeline for more than 90 days after the pipeline ceases to be operated for the purpose of transporting product or raw materials.

16. 45 FR 86966, December 31, 1980: Clarified when a transporter handling shipments of hazardous waste is required to obtain a storage permit.

17. 46 FR 2344, January 9, 1981: Amended definition of "existing hazardous waste management facility"; clarified "construction"; added definition of "Federal, State, or local . . . approvals or permit"; and amended permit requirements to allow new hazardous waste management facilities (other than land disposal facilities) to commence construction before receiving permits.

18. 46 FR 4614, January 16, 1981: Finalized the listing of thirteen hazardous wastes from specific sources; deleted two wastes from the interim final hazardous waste list; and deferred action on and suspended the effectiveness of the listing of nine wastes in interim final form on July 16, 1980, and deferred action on one waste proposed on that date.

19. 46 FR 5616, January 19, 1981: Revised public participation requirements in the state enforcement process during interim authorization.

20. 46 FR 7964, 8298 and 8312, January 26, 1981: Amended Part 123 requirements for authorization of state programs.

21. 46 FR 13492, February 20, 1981: Amended interim status regulations to allow liquid ignitable wastes in containers to be disposed of in landfills until May 19, 1981, under specified conditions.

22. 46 FR 18025, March 23, 1981: Corrected hazardous waste regulations issued on January 12, 1981.

23. 46 FR 27119, May 18, 1981: Deferred effective date of financial requirements from July 13, 1981, to October 13, 1981.

24. 46 FR 27473, May 20, 1981: Made technical corrections to many of the rules listed above.

25. 46 FR 33502, June 29, 1981: Extended to November 19, 1981, the date for compliance with the interim status standards that prohibited the diposal of containerized liquid ignitable wastes in landfills. Also allowed (without time limitation) the landfilling of solid ignitable wastes.

26. 46 FR 36704, July 15, 1981: Specified new procedures for public participation in hazardous waste permitting.

27. 46 FR 48147, October 1, 1981: Deferred the effective date of financial requirements from October 13, 1981, to April 13, 1982.

28. 46 FR 55110, November 6, 1981: Amended Part 264 and Part 122 regulations concerning piles and containers to better tailor the standards to the types of hazard posed by specific situations.

29. 46 FR 56582, November 17, 1981: Exempted certain categories of mixtures of solid wastes and hazardous wastes from the presumption of hazardousness.

30. 46 FR 56592, November 17, 1981: Amended the interim status standards for the disposal of ignitable, reactive, and containerized liquid wastes in landfills to allow the land-disposal of small containers of liquid and solid waste that are placed in overpacked drums (lab packs).

31. 47 FR 1248, January 11, 1982: Amended the regulations waiving permit requirements for accumulation of wastes on-site for less than 90 days to (1) clarify that the provision applies to all generators, including those who accumulate hazardous waste for the purpose of use, reuse, recycling, and reclamation; (2) remove the requirements for the use of Department of Transportation-approved containers; (3) revise labelling requirements for accumulated wastes; and (4) allow an extension of the 90-day accumulation limit in certain circumstances.

32. 47 FR 1254, January 11, 1982: Provided an opportunity for neutralization surface impoundments to obtain waivers from interim status ground-water monitoring requirements.

33. 47 FR 7841, February 23, 1982: Delayed the compliance dates for: (1) the submission of annual reports; (2) the submission of initial-year quarterly ground-water monitoring data; and (3) the preparation of ground-water quality program assessment outlines.

34. 47 FR 8304, February 25, 1982: Delayed the date for compliance with the interim status standard prohibiting the disposal of containerized liquid wastes in landfills.

35. 47 FR 12316, March 22, 1982: Amended the interim status regulations governing the disposal of containerized liquid hazardous wastes in landfills.

36. 47 FR 15032, April 7, 1982: Amended the financial responsibility regulations to provide additional options for owners or operators to demonstrate financial responsibility.

37. 47 FR 15304, April 8, 1982: Amended the Part 122 regulations to make minor changes in miscellaneous requirements.

38. 47 FR 16544, April 16, 1982: Amended the liability coverage requirements to: (1) add an option of a financial test as a means of demonstrating liability coverage; (2) add an option of submitting a certificate of insurance as evidence of insurance; and (3) change the requirements for the endorsement and certificate.

39. 47 FR 27520, June 24, 1982: Amended the permitting and interim status regulations for hazardous waste incinerators to: (1) exempt certain corrosive and reactive wastes; (2) change the performance standards for hydrogen chloride and particulate emissions; and (3) clarify permit requirements before, during, and after trial burns.

The regulations discussed above have covered most aspects of hazardous waste control under Subtitle C of RCRA, but have failed to fully address a major component—Part 264 permitting standards for land disposal facilities. Today's promulgation contains those standards for new and existing land disposal facilities (except underground injection wells).

B. History of Rulemaking for Land Disposal Standards

EPA has promulgated today's permitting standards for hazardous waste land disposal facilities after considering, and obtaining public comments on, a wide range of regulatory options. Over a period of several years, EPA has proposed two different sets of standards and, in two separate Federal Register notices, solicited comments on various land disposal issues. Furthermore, as discussed in the next section, EPA has already promulgated interim standards for four classes of new land disposal facilities.

EPA originally proposed technical standards for permitting land disposal facilities on December 18, 1978 (43 FR 58982). The basic approach was to set uniform design requirements for land disposal facilities, subject to opportunities for variences when alternative designs could achieve equivalent environmental protection. A 90-day comment period was provided. Many commenters criticized the proposal, arguing that it was not sufficiently flexible (despite its incorporation of variances) and not adequately oriented toward a clearly articulated regulatory goal.

In response to public comments, EPA reconsidered the proposed approach of design standards. Based on this reconsideration, EPA tentatively selected a risk assessment approach. On October 8, 1980, EPA published a supplemental notice of proposed rulemaking (45 FR 66816), in which EPA outlined four regulatory options and announced its tentative selection of the risk assessment approach. EPA provided a 30-day comment period.

On February 5, 1981, EPA reproposed technical standards for permitting land disposal facilities (46 FR 11126). The reproposal adopted a site-specific risk-assessment approach. This approach would have required the permit writer, based on information and predictions submitted by the applicant, to evaluate the potential risks to human health and the environment that would be posed by a particular facility's location, design, construction, and operation. Due to the complexity of the proposed regulation and the importance of the issues involved, an eight-month comment period was provided.

To further promote full discussion of the complex technical and policy issues concerning the various types of land disposal practices and the appropriate means of regulating them, EPA published a supplemental notice of reproposed rulemaking on May 26, 1981 (46 FR 28314). The notice presented many questions relating to these issues and requested comment on them. The questions addressed various regulatory approaches, including site-specific risk assessment, broad design standards, location standards, containment standards, and alternatives to land disposal. It also invited comment on diverse technical questions and on practical considerations, such as the administrative burdens that are likely to be imposed by various regulatory approaches and the likelihood of public acceptance of facilities permitted under these different approaches.

Finally, on December 21, 1981, EPA held a public meeting to discuss EPA's reappraisal of its regulatory approach and its movement towards the combined approach of ground-water protection standards plus design and operating standards. A 14-day comment period was provided. Thus, the public was provided opportunity to comment on the outline of today's regulatory approach, which grows out of (and modifies

somewhat) the basic elements discussed in December 1981.

Together, the various proposals and notices outlined above have addressed the basic features of many different options for regulating land disposal under Subtitle C of RCRA. Furthermore, numerous public hearings, meetings, and technical symposia have been held to assist EPA to develop appropriate land disposal standards. The regulations promulgated today are based upon prior proposals and public comments responding to the proposals and combine those features that the Agency believes will best effectuate the purposes of RCRA. These features are discussed later in this preamble in the context of the specific regulatory provisions promulgated today.

C. Promulgation of Part 267 Standards for New Land Disposal Facilities

At the time of the February 5, 1981, reproposal of land disposal standards, EPA was particularly concerned about the lack of permitting standards for new land disposal facilities. The lack of such standards precluded the construction and operation of new environmentally sound facilities and posed potential difficulties for new industrial facilities that needed to rely upon the on-site disposal of hazardous wastes. To alleviate this short-term problem, EPA promulgated interim standards for four classes of new land disposal facilities (landfills, surface impoundments, land treatment units, and Class I underground injection wells) in 40 CFR Part 267 on February 13, 1981 (46 FR 12414).

Section 267.2 provides that Part 267 applies only to the owner or operator of a new hazardous waste landfill, surface impoundment, land treatment unit, or Class I underground injection well, who has applied for a permit and for whom public notice of the preparation of a draft permit has been issued either prior to February 13, 1983, or six months after Part 264 regulations for the facility become effective, whichever is sooner. Thus, the Part 267 regulations will cease to apply to landfills, surface impoundments, and land treatment units six months from today—January 26, 1983. After that date, only permit applications that have already reached the draft permit stage will continue to be processed under Part 267.

The Part 267 standards for injection wells will remain in effect until February 13, 1983. EPA intends to extend the Part 267 standards for injection wells beyond February 13, 1983, if Part 264 standards for such units are not promulgated by that date. EPA requests comments on this approach. The development of Part 264 standards for injection wells is discussed in section IV.B.3 of this preamble.

D. Court Order Requiring the Promulgation of Today's Regulations

Based upon the public comments submitted in response to the February 5, 1981, proposal and the May 20, 1981, supplemental notice, EPA concluded that a thorough review and modification of its regulatory strategy for land disposal of hazardous wastes would be required. To ensure that all aspects of this complex issue could be integrated into the land disposal standards, EPA intended to promulgate these standards in the fall of 1983. However, on November 13, 1981, EPA was directed by a court order in *State of Illinois* v. *Gorsuch* (D.D.C., Civil Action No. 78–1689) "to promulgate regulations for existing hazardous waste land disposal facilities on or before February 1, 1982". After unsuccessfully moving for reconsideration of the court order, EPA filed an appeal with the U.S. Court of Appeals for the District of Columbia Circuit. The D.C. Circuit granted EPA a stay of the Court order pending the outcome of the appeal. On June 7, 1982, the D.C. Circuit ordered EPA to promulgate today's regulations by July 15, 1982.

EPA has promulgated today's regulations ahead of the schedule which the Agency had desired, in order to comply with the D.C. Circuit's court order. While the Agency feels that today's regulations are reasonable and comply with the requirements of Section 3004 of RCRA, they are not the same regulations that EPA would have liked to issue in the fall of 1983. As discussed elsewhere in this preamble, EPA hopes to improve these regulations in the future by developing (1) numerical criteria for certain design performance standards expressed today only in narrative terms, and (2) specific standards that are tailored to specific wastes, locations, and management practices.

III. Summary of the Part 264 Land Disposal Regulations

The regulations promulgated today in 40 CFR Part 264 apply to all landfills, surface impoundments, waste piles, and land treatment units used to treat, store, or dispose of hazardous waste. They apply to both new and existing waste management units and distinguish between these units in appropriate circumstances.

Conforming changes have been made in the permitting standards in Part 122, the definitions in Part 260, and the interim status standards in Part 265. The regulations will, upon their effective date, supersede the Part 267 regulations for new landfills, surface impoundments, and land treatment units that were promulgated on February 13, 1981. They will also supersede the Part 264 Subparts K and L standards for surface impoundments and waste piles that were promulgated on January 12, 1981.

The regulations consist primarily of two sets of performance standards. One (Subparts K–N of Part 264) is a set of design and operating standards separately tailored to each of the four types of units covered by the regulations. The other (Subpart F) is a single set of ground-water monitoring and response requirements applicable to each of these units. The former is intended to ensure that owners or operators minimize the formation of leachate and the migration of leachate to the adjacent subsurface soils and to ground water and surface waters. The latter is intended to ensure that owners or operators detect any ground-water contamination, and perform corrective action when such contamination threatens human health and the environment.

The design and operating standards require units (other than land treatment units) to have liners to prevent migration of wastes to the subsurface soil or to ground water and surface waters during the active life of the unit. Landfills and piles are also required to have leachate collection and removal systems (such as drains that collect leachate and pumps that remove it) to minimize the leachate remaining after closure. Surface impoundments, for which leachate collection and removal systems are inappropriate (due to the large quantities of liquid that regularly enter the impoundments), are required to remove liquid wastes and/or solidify the wastes at closure to minimize post-closure leaching of wastes. A variance from the liner and leachate collection requirements is available to units where owners or operators demonstrate that wastes from their units will never migrate to ground water or surface water. In addition, existing portions of units are exempt from these requirements.

At closure, all wastes and waste residues must be removed from piles and from surface impoundments that are permitted as storage or treatment facilities at the request of the owner or operator. (Piles may be permitted only as storage or treatment facilities.) Other surface impoundments, as well as landfills, will be closed with the wastes left in place and must be provided with a final cover (capped) at closure. They

must then be maintained and monitored for ground-water contamination during the post-closure care period.

The ground-water protection requirements contained in Subpart F establish a three-stage program to detect, evaluate, and, if necessary, correct ground-water contamination during the active life of the unit plus a compliance period designated in the permit.

The first stage of the ground-water monitoring and response program is a detection monitoring program, which requires the permittee to install a ground-water monitoring system at the waste boundary (including both upgradient and downgradient wells) to monitor the ground water for parameters that would indicate whether a leachate plume has reached the waste boundary. If a plume is detected, a second stage—a compliance monitoring program—is established. The compliance monitoring program tracks the migration of hazardous constituents (constituents on Appendix VIII of Part 261 that are reasonably expected to be in or derived from waste disposed at the facility and that are found in ground water).

The results of compliance monitoring are compared against a ground-water protection standard. The standard requires that hazardous constituents not exceed the following concentration limits:

(1)(a) For any constituent, the background level in the ground water, or

(b) For any of the 14 hazardous constituents covered by the National Interim Primary Drinking Water Regulations (NIPDWR), the maximum concentration limits (MCLs) for drinking water established in those regulations, if the background level of the constituent is below the MCLs, or

(2) Any other limits shown by the owner or operator to not harm human health and the environment.

If the ground-water protection standard is violated, the the third stage—corrective action—is activated. Corrective action must continue until the standard is complied with. Corrective action consists of the removal of the contamination (by pumping or other means) or in-situ treatment of the hazardous constituents.

The regulations provide an option whereby owners or operators may comply with a more stringent set of design and operating standards and thereby obtain a waiver of ground-water monitoring and response requirements. These special standards include two bottom liners (instead of the single liner generally required for new portions of units) and a leak detection system between the liners (in addition to the leachate collection and removal system above the liners generally required for new landfills and piles). If a leak is discovered, the leaking liner must be repaired or replaced, or else the owner or operator then becomes subject to the ground-water monitoring and response requirements. (An additional exemption from the ground-water monitoring and response requirements is provided for piles that are periodically removed from their liner so that the liner may be inspected for leaks.)

Both the design and operating standards and the ground-water monitoring and response program will be implemented through the issuance of permits. In the case of the ground-water monitoring and response program, permit modifications may be required when there is a need to progress from one stage of the program to the next.

IV. Present and Future Regulatory Activities Related to Today's Regulations

Although today's regulations nearly complete the regulatory framework for hazardous waste land disposal facilities, EPA plans to continue working to improve the regulations. Major activities in this regard are discussed below.

A. Interim Final Promulgation of Land Disposal Standards

To comply with the court order in *State of Illinois* v. *Gorsuch*, EPA is promulgating land disposal standards that are in interim final form and thus will become effective six months after promulgation in accordance with Section 3010 of RCRA. As noted above in Section II. B. of this preamble, EPA has previously proposed, discussed in **Federal Register** notices, or received public comment on, the issues relevant to today's promulgation. However, while based upon previously discussed regulatory approaches, today's standards differ from previous proposals in how they integrate various elements of those approaches. Therefore, EPA desires further public comment on these standards before they take effect. Consequently, EPA is promulgating today's regulation in interim final form. A 120-day comment period is being provided. EPA requests that significant issues be brought to the Agency's attention as soon as possible to enable EPA to make appropriate modifications of the regulations before they become effective.

B. Future Regulatory Activity

1. *Financial Responsibility for Corrective Action.* Section 3004(6) of RCRA requires EPA to establish financial responsibility standards for owners and operators of hazardous waste management facilities as may be necessary or desirable to protect human health and the environment. Thus far the Agency has established standards requiring demonstration of financial responsibility for closure, post-closure care, and liability coverage (Subpart H, Parts 264 and 265, revised interim final regulations promulgated April 7, 1982 (47 FR 15032–15074) and April 16, 1982 (47 FR 16544–16561)). The Agency is considering whether it would be appropriate to establish standards requiring owners and operators of hazardous waste management facilities to demonstrate financial responsibility for any corrective actions required to be taken to comply with the ground-water protection standard. The Agency therefore invites public comment on this and other issues discussed in this section relating to financial responsibility for corrective action.

At those facilities where all other ground-water protection measures have failed and a leachate plume is migrating beyond the compliance point (a point at the waste boundary where compliance with the ground-water protection standard is being measured), corrective action measures are the key means for protecting human health and the environment. EPA believes it important, therefore, that the owner or operator be able to perform corrective action measures if and when they are needed. This certainly suggests a need for financial responsibility to cover corrective action. There are, however, several factors that must be considered in deciding whether such financial responsibility is either necessary or desirable and in formulating requirements for such financial responsibility.

The primary purpose of the financial responsibility requirements for closure and post-closure care is to assure that funds will be available when needed to perform those activities. The Agency established these requirements in light of its conclusion that in their absence, some owners or operators of hazardous waste management facilities would be unwilling o: unable to perform closure and post-closure care or make funds available to do so. The Agency imposed these requirements during the operating life of the facility because there is very little economic incentive for an owner or operator of a facility to perform closure and post-closure activities at the end of that facility's useful life when its value is minimal.

Similarly, the primary purpose of any financial responsibility requirements for corrective action would be to assure

that money will be available when needed to conduct necessary corrective action measures. The Agency expects that any financial responsibility requirements for corrective action which it may establish would be similar to the existing financial responsibility requirements for closure and post-closure care. However, there are fundamental differences between the nature of the requirements for corrective action and those for closure and post-closure care. These differences pose difficult questions regarding whether similar financial responsibility requirements are appropriate for corrective action as those established for closure and post-closure care. Unlike the closure and post-closure care requirements, it may be very difficult to determine with a reasonable degree of certainty during the operating life of a facility whether corrective action measures will be required at a facility and if so, the amount of money necessary to perform those measures. Unless these issues are properly resolved, the financial responsibility requirements for corrective action may either provide very little assurance that the necessary corrective action will be performed at a facility when needed, or impose a very high cost upon owners and operators of hazardous waste management facilities which, in many cases, will not require any corrective action.

The most difficult issue facing the Agency is determining when it should require the owners or operators of a facility to demonstrate financial responsibility for corrective action. In developing the financial responsibility requirements for closure and post-closure care, the Agency learned that the cost of demonstrating financial responsibility for activities like corrective action can be quite substantial. However, in the case of the financial responsibility requirements for closure and post-closure care, the Agency concluded that those requirements were appropriate even though the costs are substantial because it is certain that closure and post-closure care will be needed at facilities and they must be provided promptly to protect human health and the environment. In contrast, however, the Agency expects that for many facilities, the only time at which it will be certain that corrective action will be required is shortly before the corrective action measures are to be undertaken. This, in many cases, will be after the facility has closed. Consequently, the Agency is faced with at least three options: (1) requiring the owners or operators of all facilities to demonstrate financial responsibility for corrective action during the operating life of the facility; (2) requiring owners or operators of only those facilities at which the need for corrective action has been established to demonstrate financial responsibility for that action; or (3) requiring the owners or operators of certain facilities to demonstrate financial responsibility only upon the occurrence of some other event (such as the commencement of compliance monitoring).

Each of these options has significant drawbacks. Under the first option, there is a substantial likelihood that many owners and operators will be required to spend substantial amounts of money to demonstrate financial responsibility for corrective action which they will never be required to undertake. Under the second option, there may be a substantial number of owners or operators that will be unable or unwilling to assure that funds will be available for corrective action after their facility has closed, leaving no funds available to perform the needed corrective action. The third option may suffer from the problems presented under both options one and two. The Agency solicits comments on this issue and is specifically interested in suggestions on alternative approaches.

A second major issued relating to the financial responsibility requirements is the appropriate method for determining the amount of funds to be assured. Unlike the closure and post-closure requirements, the amount of money necessary to complete required corrective action may be extremely difficult to estimate before the need for corrective action has been established and may even be difficult to estimate once its need has been established. Consequently, if the Agency were to establish a financial responsibility requirement for corrective action, the Agency would have to develop a basis for determining and appropriate amount of funds to be assured. One alternative is a schedule which establishes various amounts to be assured depending upon the size and type of facility, the number of years which the facility has been in operation, conformity to design and operating standards, and other relevant factors. Comments are requested on these issues.

The Agency expects that financial responsibility for corrective action could be demonstrated by the same financial assurance mechanisms which may be used to demonstrate financial responsibility for closure and post-closure care (trust funds, surety bonds, letters of credit, insurance, financial test and corporate guarantee, and state guarantees). The Agency believes these mechanisms would provide an appropriate level of assurance that funds would be available when needed for necessary corrective action. Insurance, such as is available for on-site cleanup of nuclear waste facilities, may be particularly appropriate for corrective action because of the contingent nature of corrective action. Insurors will be able to spread the risk associated with funding corrective action and thus should be able to reduce the costs which owners and operators would have to bear to provide financial responsibility for this activity. Comments are solicited on whether any other financial mechanism might be used to provide financial assurance for corrective action and whether any modifications of the closure and post-closure mechanisms would be required to make them appropriate for corrective action.

An additional issue related to financial responsibility requirements for land disposal facilities concerns the relationship of the Post-closure Liability Trust Fund under Section 232 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) to these regulations. Under CERCLA Section 107(k), the liabilities of a hazardous waste disposal facility are transferred to the Fund only if the following conditions are met:

1. The facility has received a permit under Subtitle C of RCRA;

2. The facility has complied with its permit and has been properly closed in accordance with the permit; and

3. The facility and surrounding area has been monitored for up to five years after closure to demonstrate that there is no substantial likelihood for hazardous substances to migrate off-site or to be released from confinement, or for other risks to public health or welfare.

The Fund does not begin to build up, via a tax on hazardous waste received at qualified hazardous waste disposal facilities, until October 1, 1983.

As EPA develops its approach to financial responsibility for corrective action, it will consider how best to relate that approach to the provisions of the Post-closure Liability Trust Fund under CERCLA. EPA solicits comments on this issue.

2. *Monofills and Neutralization Surface Impoundments.* The Agency believes that two types of waste management units covered by today's Part 264 permitting standards should not be subject to the full set of standards promulgated today. These are monofills and neutralization surface

impoundments. EPA intends to propose separate standards for these units.

Monofills are landfills, surface impoundments, or waste piles used to treat, store or dispose of one or more of a small group of inorganic wastes. This group includes wastes that are hazardous solely because they exhibit the characteristic of EP toxicity (defined in § 261.24). EP toxicity is a characteristic that indicates the likelihood that certain metals and other constituents could be leached by an acidic leaching medium in significant concentrations. This group is further limited to specific wastes that the Agency formally finds would not leach significant concentrations of these constituents in the absence of an acid leaching medium. At present, the Agency expects that the following wastes may meet the above criteria and thus would be eligible for inclusion in a future regulation concerning monofills:

1. Incinerator ash;
2. Residues from foundry furnace emissions controls;
3. Metal casting molding sand;
4. Cement kiln dust and clinker;
5. Hydroxide and carbonate sludges resulting from the treatment of plating bath waste;
6. Residues from titanium dioxide production;
7. Oven residue from the production of chrome and oxide green pigments (listed in § 261.32 as waste K008); and
8. Emission control dust or sludge from the production of steel (including the waste listed in § 261.32 as K061).

Under management conditions that preclude contact between the above wastes and acids, EPA believes that there may be an extremely low likelihood that significant concentrations of hazardous constituents could leach into nearby ground waters. In essence, although these wastes have the potential to cause substantial harm if mismanaged (since they exhibit the characteristic of EP toxicity), they may be managed in a way that makes it very unlikely for this harm to occur. Therefore, EPA believes that it may be unnecessary to require monofills that prevent waste-acid contact to comply with the full Part 264 standards.

Neutralization surface impoundments are surface impoundments that (1) are used to neutralize wastes that are hazardous solely because they exhibit the characteristic of corrosivity (§ 261.22) or have been listed in Part 261 Subpart D solely for this reason; (2) contain no other wastes; and (3) neutralize the corrosive wastes sufficiently rapidly so that there is no potential for migration of hazardous wastes from the impoundment. EPA believes that, like monofills, neutralization surface impoundments may present low enough risks to ground water to justify the imposition of less than the full Part 264 standards. (Indeed, EPA recently promulgated a regulation that provides an opportunity for neutralization impoundments to obtain a waiver from the Part 265 interim status ground-water monitoring requirements. See 47 FR 1254, January 11, 1982.)

The Agency is preparing a proposal to establish a separate set of standards for monofills and neutralization surface impoundments that are less extensive than the general standards but are equally protective of human health and the environment. It expects to be able to publish this proposal soon. In the meantime, until the final set of reduced standards are promulgated, EPA will assign its lowest land-disposal permitting priority to monfills and neutralization surface impoundments and will focus its permitting efforts on other types of waste management units.

3. *Underground Injection Wells.* Underground injection wells are unique among waste management units in that they are specifically regulated under a separate statute as well as under RCRA. Under the Safe Drinking Water Act (SDWA), EPA regulates the subsurface injection of liquids in wells through the underground injection control (UIC) program. SDWA, Section 1421 *et seq.* UIC regulations are set forth in 40 CFR Parts 122–124 and 146. Where the liquids injected are hazardous wastes, there is overlapping jurisdiction between the UIC program and the RCRA hazardous waste program.

Because of the overlapping jurisdictions between SDWA and RCRA, EPA has promulgated a permit-by-rule for injection wells in § 122.26(b). That section provides that the owner or operator of an injection well disposing of hazardous waste will be deemed to have a RCRA permit if he (1) has and complies with an UIC permit, and (2) complies with special requirements in § 122.45 for wells injecting hazardous waste.

The development of UIC standards under SDWA addressing the injection of hazardous wastes is not yet complete. EPA recently settled two lawsuits that challenged the regulations initially promulgated to implement the UIC program. *Natural Resources Defense Council* v. *EPA* (D.C.Cir., No. 80–1607 and consolidated cases); *American Petroleum Institute* v. *EPA* (D.C.Cir., No. 80–1875A and consolidated cases). Based upon these settlements, EPA has promulgated revised UIC regulations 47 FR 4992, February 3, 1982. Those regulations contained standards for two types of hazardous waste injection wells: Class I wells (those that inject waste below underground sources of drinking water), and those Class IV wells in which waste is injected directly into underground sources of drinking water. UIC standards have not been promulgated for Class IV wells in which waste is injected above underground sources of drinking water.

Because of the interaction between the RCRA and UIC programs, EPA could not separately promulgate RCRA standards today for Class IV wells in which wastes are injected above underground sources of drinking water. However, EPA intends to develop standards for this limited set of facilities and issue them in a manner that ensures continued consistency between the UIC and RCRA regulatory programs.

4. *Tailoring of Standards for Specific Wastes.* Apart from the specific regulatory activities discussed immediately above, EPA is conducting regulatory impact analyses for each of the various types of waste management units. In addition, it is conducting a "degree-of-hazard" study which will examine various combinations of waste types and volumes, treatment and disposal technologies, and environmental settings. This study is intended to identify ways in which RCRA Subtitle C standards could be tailored to better address particular problems.

Based upon these studies, EPA hopes to propose appropriate regulatory amendments in 1983 and promulgate them in 1984.

5. *Units Not Covered by Promulgated Standards.* The Part 264 regulations promulgated to date, together with future regulations for underground injection facilities and for underground tanks that cannot be entered for inspection, are intended to regulate all types of treatment, storage, and disposal facilities. It is possible, however, that some hazardous waste management practice is currently used, or may be developed in the future, that does not fit the description of any of the specific units (containers, tanks, surface impoundments, waste piles, land treatment units, landfills, incinerators, and underground injection wells) that are covered or are soon to be covered by specific Subparts of Part 264.

EPA is considering promulgating regulations in a separate Subpart to address waste management units that are not covered by another unit-specific Subpart. Such regulations would consist of general environmental performance standards similar to those contained in § 267.10.

EPA solicits comments on what type of units, if any, are currently in existence, or likely to come into existence in the near future that are not covered by the current Part 264 regulations. EPA also solicits comments on the appropriate means to write standards for such units in compliance with Section 3004 of RCRA.

V. Relationship of the Part 264 Land Disposal Standards to Other RCRA Subtitle C Regulations

A. Relationship to the Part 265 Interim Status Standards

EPA has made these land disposal standards consistent with the interim status land disposal standards. The basic interim status design and operating standards (*e.g.*, controls on run-on and run-off, freeboard for surface impoundments, inspection, and restrictions on landfilling liquid, ignitable, and reactive wastes) are continued in the Part 264 standards, although sometimes in modified form. In some instances, based upon comments submitted on the May 19, 1980 interim final regulations, EPA determined that some modification of the Part 265 interim status standards is warranted. In such cases, EPA has amended those standards in the Part 265 rules promulgated today and based the new Part 264 standards on the amended Part 265 standards.

One important area where EPA has ensured consistency is ground-water monitoring. As explained in Section VI of this preamble, ground-water protection standards and monitoring requirements are a central element of the Part 264 land disposal standards. Ground-water monitoring systems that have been installed at the limit of the waste management area to comply with the monitoring requirements of Part 265 Subpart F may also be used to perform the ground-water monitoring required by Part 264 Subpart F. Thus while the ground-water monitoring programs in Parts 264 and 265 differ, they are fully compatible.

B. Relationship to the Part 267 Standards for New Land Disposal Facilities

As discussed above in Section II.C. of this preamble, the temporary Part 267 standards for new landfills, surface impoundments, and waste piles expire on January 26, 1983, and will be superseded by today's Part 264 standards on that date.

C. Relationship to Standards for Storage Surface Impoundments and Storage Piles Promulgated on January 12, 1981

On January 12, 1981, EPA promulgated, in interim final form, Part 264 standards for new and existing surface impoundments and waste piles that are used for storage or treatment of hazardous wastes and are designed and operated to prevent discharges into the land, ground water, and surface water (except as authorized by a National Pollutant Discharge Elimination System permit). The standards (40 CFR Part 264, Subparts K and L) provided for the containment of all wastes during the unit's operating life, followed by removal of wastes at closure. No ground-water monitoring was required.

These standards will be entirely superseded by today's regulations on January 26, 1983. Consequently, EPA today is withdrawing its October 20, 1981, proposal to suspend the effective date of the January 12, 1981, standards as they apply to existing storage surface impoundments. (46 FR 51407) Discussions of the major differences between the January 12 regulations and today's regulations, and of how the transition from the January 12 regulations will be effected are contained in Sections VII.F. (Surface Impoundments) and VII.G. (Waste Piles) of this preamble.

D. Relationship to the Consolidated Permit Regulations

Procedures for issuing and modifying hazardous waste permits are contained in 40 CFR Parts 122 and 124. These procedures apply to permitting the land disposal facilities covered by the Part 264 technical standards promulgated today.

The permitting procedures in Parts 122 and 124 will be used in a variety of contexts other than initially permitting facilities. As discussed later in this preamble, the ground-water protection program in today's regulations contains several types of requirements that may need to be specified after the permit has been issued and would thus require interaction between the permittee and permit-issuing authority. These include detailed "compliance monitoring" programs which must be developed and implemented when initial "detection monitoring" indicates that waste constituents have entered the ground water beneath the waste boundary; and corrective action programs that must be developed and implemented when compliance monitoring indicates that the ground-water protection standard has been violated. In each of these cases, the Part 124 procedures will be used to modify the permit.

Today's regulations contain some amendments to the Part 122 permitting standards. These are designed to conform the permit requirements, and especially the permit application requirements, to the new standards promulgated today. See the discussion below in Section VII. K. of this preamble.

E. Relationship to Requirements for State Program Authorization

1. *General Discussion.* Like several other Federal environmental statutes, RCRA authorizes EPA to approve State programs. Once approved, these programs operate in lieu of the Federal program within their respective jurisdictions. See Section 3006 of RCRA. Regulations governing EPA approval of State hazardous waste programs are contained in 40 CFR Part 123 (45 FR 33456, May 19, 1980; 46 FR 7964 and 8298–8310, January 26, 1981).

RCRA is unique among the Federal environmental statutes in providing for two types of approvals of State programs, "interim authorization" and "final authorization". Interim authorization is a temporary approval lasting up to 24 months after a full Federal program has been established; it may be granted to States whose programs are "substantially equivalent" to the Federal program. Final authorization is a permanent approval (subject to withdrawal by EPA for causes specified in Section 3006(e) of RCRA); a State may obtain final authorization by demonstrating that its program (1) is "equivalent to" the Federal program, (2) is "consistent with" the Federal program, and (3) provides adequate enforcement.

2. *Interim Authorization.* Because EPA has promulgated its Section 3004 standards in several stages, it has provided that States may apply for and receive interim authorization in stages. Phase I allows States to administer programs in lieu of and corresponding to that portion of the Federal program which covers identification and listing of hazardous waste (40 CFR Part 261) and generators and transporters of hazardous waste (Part 262 and 263), and establishes interim status standards for hazardous waste treatment, storage, and disposal facilities (Part 265). Phase II allows States to administer permit programs for hazardous waste treatment, storage, and disposal facilities; the permits must apply standards substantially equivalent to the Federal Part 264 standards. As each component of Part 264 standards is

promulgated, EPA announces in a **Federal Register** notice that States may apply for interim authorization for that component (as well as previously promulgated components). See 40 CFR 123.121(c)(2). In a separate notice in today's **Federal Register**, EPA is announcing the contents of Component C of Phase II interim authorization, which addresses State program analogs to today's regulations.

3. *Final Authorization.* With the promulgation today of permanent Part 264 standards for landfills, surface impoundments, waste piles and land treatment units, the RCRA Subtitle C program is now virtually complete. Because the Federal regulatory program is almost complete, EPA believes it is now appropriate to begin granting final authorization to States whose programs are consistent with and equivalent to the Federal program and which provide adequate enforcement. In the notice in today's **Federal Register** announcing the contents of Component C, EPA is also announcing that States may now apply for final authorization.

VI. Strategy For Protection

In assuring that today's regulations adequately protect human health and the environment, EPA has addressed potential adverse effects on ground water, surface water, and air quality. This section describes generally how today's regulations protect each of these three environmental media and how EPA intends to refine its regulatory approach over time.

A. Ground Water

Ground-water protection has been one of EPA's central concerns in devising a regulatory strategy for hazardous waste land disposal. A large number of the documented damage cases from hazardous waste land disposal have involved ground-water contamination. Likewise the legislative history of RCRA, including the damage cases cited in the 1976 Senate Report, indicates that the Congress was quite concerned about ground-water contamination when it created the hazardous waste program. Accordingly, today's regulations deal very explicitly with ground-water protection.

1. *Considerations Guiding the Ground-water Protection Strategy.* EPA's ground-water protection strategy under these regulations has been shaped by a variety of policy concerns. EPA's decisions on the regulations have been particularly influenced by five general considerations of regulatory policy. While several of these have been discussed in previous **Federal Register** notices on land disposal, it is helpful to discuss them here because they provide a useful context in which to explain the overall strategy of today's regulations. First, EPA has concluded that the regulations should be designed to reduce some of the uncertainties associated with hazardous waste disposal. Such an approach allows owners and operators to do intelligent planning for their operations and helps to assure the public that safe practices are being used. EPA wants to make sure that the issuance of a RCRA permit for a facility means that a certain level of protection is provided and that the public can be assured that the prescribed level of protection will be achieved.

The way to meet this objective is to avoid regulatory schemes that principally rely on complicated predictions about the long term fate, transport, and effect of hazardous constituents in the environment. Such predictions are often subject to scientific uncertainties about the behavior of particular constituents in the hydrogeologic environment and about the effects of those constituents on receptor populations. Likewise, the magnitude of the potential effects depends on future institutional factors (*e.g.*, land-use patterns in the area around the facility, the intentions of the owner or operator to remain at the site) that can also be a source of uncertainty. Therefore, while EPA acknowledges that there are situations where predictions of future effects can be made reasonably, it intends to emphasize regulatory measures that do not require such predictions.

Second, EPA's strategy for protection must consider the unique characteristics of ground water. Ground water is a fragile resource. Once contaminated, an aquifer remains polluted for a relatively long time and it may be extremely difficult to restore the quality of the water in the aquifer. At the same time, it is often easier to limit the impact of polluted ground water on human health and the environment than it is to limit the impact of polluted surface water or air. Ground water does not rovide a habitat for fish or wildlife, and human use of ground water is usually limited to situations where the ground water is withdrawn for particular purposes. Thus by assuring that ground-water quality is compatible with the various uses to which it may be put, EPA can be reasonably sure that human health and the environment will be protected.

Third, EPA has concluded that the standards issued today should not stifle innovation. The recent attention given to hazardous waste management in this country is a relatively new phenomenon. EPA expects that the state of scientific knowledge about how to control hazardous wastes will make significant strides in the next few decades. In order to avoid creating impediments to such technological innovation, EPA has tried to use performance standards whenever possible. Performance standards establish environmental, design, or operating objectives and leave to the owner or operator and the permit-issuing authority the decision of what the most appropriate design and operating measures are for achieving the standard. Besides being more cost-effective, such an approach keeps EPA, the States, and the public focused on the issue that is of greatest concern—the environmental results that can be expected from the facility.

Fourth, EPA has concluded that the purposes of RCRA cannot be achieved unless the standards for land disposal facilities are capable of being implemented in the context of the permit program. Permitting agencies (at the State and Federal level) must be able to issue permits to environmentally-acceptable facilities and to deny permits to those facilities that cannot provide adequate levels of environmental protection.

In order to meet this need, EPA's regulatory approach must be one that can be implemented quickly and that limits the need to conduct complex, time-consuming analyses on the behavior and effects of hazardous constituents in the environment. This latter consideration is particularly important because the national pool of experts on such topics as the fate and transport of hazardous waste constituents in the subsurface environment is quite limited and should be conserved for those situations where such analysis must be done. Therefore, EPA believes that the strategy for protection under these regulations should emphasize standards that provide a clear indication to the regulated community of what is expected. Such certainty should reduce the time involved in acting on permits and should avoid the need for complex analyses with uncertain outcomes.

Fifth, EPA has concluded that the regulated community should be required to devote the bulk of its environmental protection expenditures to measures that are most likely to produce significant environmental results. There is a limited amount of resources available to provide environmental protection and these resources should be used in the most cost-effective manner possible. A regulatory strategy which tends to require exhaustive data collection and analysis prior to

permitting doesn't serve that goal. Expenditures on such analysis are often better spent on design and operating measures that have been shown to be effective in controlling hazardous waste. While EPA is willing to explore new ideas in hazardous waste management with permit applicants, it does not intend to establish standards that require exhaustive analyses in order to determine whether they have been met.

2. *Alternatives Examined.* In the course of rulemaking on the land disposal regulations, EPA has considered (and sought comment) on a variety of alternative approaches to regulation. In previous **Federal Register** notices EPA has identified at least five possible regulatory approaches:

1. Design and Operating Standards—Such standards would require installation of specific equipment or use of particular practices. An example is a liner specification such as 2 feet of clay with a permeability of 10^{-7} cm/sec.

2. Technical Performance Standards—Such standards establish an engineering objective and allow the permit applicant to develop a design or set of practices to achieve the objective. An example is a requirement to develop a run-off control system that can accommodate the water volume from a specified storm event (*e.g.*, 24-hour, 25-year storm).

3. Containment Standard—Such a performance standard would require that the permittee keep waste or waste constituents within a certain area for a fixed period of time. An example is a liner standard requiring that the liner be able to contain waste for 100 years.

4. Environmental Performance Standards—Such standards specify limits (usually numerical) on levels of contamination that may be tolerated in the environment. An example is a ground-water quality standard for the ground water below the facility.

5. Risk Assessment Standard—Such a standard would establish broad narrative criteria to guide the permit-issuing authority in doing a site-specific assessment of the risks associated with the facility and in developing permit conditions that reduce the risk to acceptable levels. An example is a standard which requires the permit applicant to demonstrate that there will be no significant risk of cancer resulting from the facility.

Each of these approaches has its own advantages. Generally, EPA believes that technical performance standards in conjunction with environmental performance standards provide the right mix of certainty and flexibility to be implementable and to assure the proper emphasis on the environmental results of control measures. Wherever possible, today's regulations have relied on these approaches. Performance standards, however, are often difficult to develop and it has not been possible in the time allowed to promulgate these regulations for EPA to develop performance standards for all situations. Therefore, some of the standards in today's regulations draw upon other regulatory approaches (e.g., design standards). Over time EPA intends to refine the land disposal regulations to develop performance standards that apply to more situations and to make more explicit the performance standards established in today's regulations.

3. *Control Strategy.* Based on the considerations outlined above and on the comments received during rulemaking, EPA has developed a strategy for ground-water protection at land disposal facilities that it believes is adequate to protect human health and the environment. The fundamental goal of the regulations is to minimize the migration into the environment of the hazardous component of waste placed in land disposal units. EPA's strategy for achieving this goal has two basic elements. One element is a liquids management strategy for the disposal units at the facility that is intended to minimize leachate generation in the waste management units and to remove leachate from the waste management units before it enters the subsurface environment. This is the "first line of defense" in the sense that it seeks to prevent ground-water contamination by controlling the source of the contamination. The other element of the general strategy is a ground-water monitoring and response program that is designed to remove leachate from the ground water if it is detected. The monitoring and response program serves as a backup to the liquids management strategy.

a. *Liquids Management Program*—When hazardous wastes are in liquid form or are mixed with other liquids, they are in a form which presents the greatest threat to ground water because of their potential for migration in the subsurface environment. EPA believes, therefore, that a systematic effort to reduce the volume of liquids that can potentially enter the subsurface environment should be a basic tenet of any ground-water protection strategy. There are two aspects of a prudent liquids management strategy. First, the generation of leachate should be minimized, primarily by keeping liquids out of the waste management units. Second, reasonable steps should be taken to remove liquids from the units before they enter the subsurface environment.

Today's regulations establish a liquids management strategy for each type of land disposal unit under Subparts K–N. These portions of the regulations establish the principal technical requirements for surface impoundments, waste piles, land treatment units, and landfills. These requirements vary somewhat between Subparts depending on the characteristics of each unit type, but they do fall into a few general categories. To avoid the generation of leachate, the owner or operator of some types of units will be required to control run-on to the unit, to substantially restrict the placement of liquid waste or waste containing free liquids, or to place a cap on the unit at closure. To prevent the migration of liquids into the environment, the owner or operator may be required to place underliners below the waste, to install leachate collection and removal systems, to assure the structural integrity of any dikes used at the unit, to control run-off from the unit, to treat hazardous constituents, or to remove free liquids at closure.

Today's regulations have stated these requirements as performance standards to the extent possible. EPA also intends to issue guidance that will describe specific design and operating measures that may be used to satisfy the performance standards.

EPA believes that the placement of liners beneath the waste in a land disposal unit is often a key element in a general liquids management strategy. It should be emphasized, however, that liners must be viewed as components of an overall liquids management system. A liner is a barrier technology that prevents or greatly restricts migration of liquids into the ground. No liner, however, can keep all liquids out of the ground for all time. Eventually liners will either degrade, tear, or crack and will allow liquids to migrate out of the unit. It is, therefore, important that other measures be taken to remove liquids from the unit during the time that the liner is most effective (*i.e.*, during the active life of the facility). Leachate collection and removal systems at landfills and measures to remove free liquids from surface impoundments at closure are the principal techniques used to remove liquids.

EPA's view of the function of a liner contrasts somewhat with that of some members of the public and the regulated community. Some have argued that liners are devices that provide a perpetual seal against any migration from a waste management unit. EPA has concluded that the more reasonable

assumption, based on what is known about the pressures placed on liners over time, is that any liner will begin to leak eventually. Others have argued that liners should be viewed as a means of retarding the movement of liquids from a unit for some period of time. While this view accords with how liners do in fact operate, EPA does not believe that this is a sound regulatory strategy for ground-water protection because it is principally designed to delay the appearance of ground water contamination rather than to achieve a more permanent solution. Accordingly, EPA views liners as a barrier technology that can be best used to facilitate the removal of liquids from a waste management unit during its active life (including the closure period) and thereby provide a greater assurance of long-term protection at the facility.

While liners may remain effective at preventing migration from the unit until well after closure, their principal role occurs during the active life. After closure, EPA believes that a protective cap becomes the prime element of the liquids management strategy. A well-designed and carefully maintained cap can be quite effective at reducing the volume of liquids entering a unit and therefore can substantially reduce the potential for leachate generation at the unit for long periods.

b. *Ground-Water Monitoring and Response Program*—The second element of the overall ground-water protection strategy in the regulations is the monitoring and response program established in Subpart F. This is a program that requires graduated levels of monitoring and corrective action responsibilities that increase as the evidence of ground water contamination increases.

When there is no evidence of ground-water contamination, the owner or operator is simply required to montor to detect whether leachate has entered the ground water. Once there is evidence that a unit is leaking, the owner or operator takes on the responsibility of defining the potentially dangerous component of the leachate entering the ground water and monitoring to assure that the level of hazardous constituents in the ground water does not exceed concentrations that could adversely affect human health and the environment. If the leachate causes increases that exceed a specified ground-water protection standard for the unit, corrective action measures must be taken to achieve compliance with that standard.

Unlike the liquids management strategy for the unit, which seeks to minimize the total rate and volume of all liquids emerging from the unit, the monitoring and response program forces EPA and the owner or operator to address specific chemical constituents in the leachate coming from the unit. EPA believes that this increased concern with the specific chemical components of leachate is appropriate considering the situation addressed by the monitoring and response program. This element of the ground-water protection strategy is concerned with hazardous waste leachate that has actually entered the ground water and thus is at a point where adverse environmental impacts are most imminent. EPA believes that a careful examination and consideration of the potential effects of the specific constituents in hazardous waste leachate is necessary at that time in order to assure that the statutory mandate to protect human health and the environment is achieved.

In contrast, it is not necessary to know the complete chemical composition of hazardous waste at stages that are more remote from the point of actual impact on the environment. For example, it is not necessary to know every element of a waste before listing it as a hazardous waste. The presence of some constituents which could cause potential hazards to human health or the environment under some management scenario is sufficient to warrant identifying a waste as hazardous. Likewise, at the time of placement of waste in a land disposal unit it would be appropriate to focus on the broad characteristics of the waste, such as the liquid content or corrosive characteristics of the waste. Thus the increased level of concern with the specific makeup of hazardous waste leachate at the time of its discovery in ground water is fully consistent with the general philosophy of the monitoring and response program—increasing attention to the constituents in the waste as the evidence of imminent adverse impact on ground water increases.

The monitoring and response program in today's regulations is to be instituted in the ground water immediately outside the waste management area. EPA believes that the owner and operator should be capable of controlling hazardous constituents in the environment as soon as possible after they appear in the environment. As will be discussed later, there may be some situations in which human health and the environment will not be threatened if hazardous constituents in the ground water move beyond the waste management boundary. This possibility does not, however, obviate the need to establish the monitoring and response program as close to the waste as possible.

Early detection of contamination allows the owner or operator as well as the permitting authority the additional time needed to develop corrective action measures that will be successful and cost-effective. It is also sound policy to conduct corrective action close to the waste in order to minimize ground-water depletion on the aquifer, to increase the cost-effectiveness of the corrective action, and to reduce substantially the possibility that a plume of contamination will migrate beyond the owner or operator's control.

A key element of the monitoring and response program is the establishment of a ground-water protection standard for the waste management units. The principal purpose of this standard is to indicate the level of ground-water contamination that triggers the need for corrective action measures. The ground-water protection standard also defines the constituents that must be addressed in the compliance monitoring program (the monitoring scheme that must be used when hazardous waste leachate has entered the ground water).

Where possible, the ground-water protection standard is based on environmental performance standards that establish numerical concentration limits for individual contaminants. Specifically, EPA has relied on the National Interim Primary Drinking Water Regulations to establish maximum contaminant limits for a particular set of toxic metals and pesticides. EPA hopes to eventually expand the list of constituents for which specific health-based concentration limits may be used.

Where such environmental performance standards are not available for chemical constituents that are known to be hazardous, EPA has provided that the action level which triggers corrective action will be any statistically significant increase over the background level of the constituent in the ground water below the waste management unit. EPA believes that this is a reasonable approach for three reasons. First, as will be discussed in more detail later, it is the best of the available alternatives. Second, a "no increase over background" standard assures that causation (namely the fact that the facility is the source of the increased concentration) is established at the same time that noncompliance with the ground-water protection standard is determined. This approach avoids the possibility that the owner or

operator would be forced to clean up the ground water even though hazardous constituents had not migrated from his units into ground water.

Third, this approach is consistent with a ground-water protection philosophy that seeks to maintain ground-water quality necessary for current and future uses. Background ground-water quality, independent of the effects of hazardous waste disposal, will define the highest use to which a particular aquifer may be put. An aquifer which is already too dirty to be used as a drinking water source will certainly not be transformed into a prime drinking water supply with the advent of hazardous waste disposal activities in the area. A regulatory strategy that prevents increases over background levels of contamination assures that the existing and potential uses of that aquifer will be maintained. In some cases, state authorities may have clearly defined what those uses are. In other areas, these uses may be established by custom or by agreements between private parties. In any case, the maintenance of background quality should ensure that hazardous waste disposal activities will not adversely affect other uses of ground water in the area.

This latter justification for the "no increase over background" standard also suggests a basis for modification of the ground-water protection standard. It is possible that some increases in the levels of particular constituents in ground water can be tolerated without adversely affecting current and future use of the ground water beyond the facility. Accordingly, EPA has provided a mechanism for allowing the establishment of alternative concentration limits, above background levels, for hazardous constituents covered by the ground-water protection standard. EPA has concluded that such an option is a reasonable element of any ground-water protection scheme and does not create a major loophole in the regulatory scheme.

Rational choices can be made about the uses of ground water in an area and about the limits on contamination that are necessary to protect those uses. EPA has concluded that public confidence in such decisions will be enhanced, however, by assuring that a decision to establish an alternative concentration limit is the result of a deliberative process. Therefore EPA has required that there be a full consideration of all relevant factors before setting alternative concentrations limits. Likewise, EPA has made it clear that the burden of proof in justifying an alternative concentration limit lies with the permit applicant.

The effectiveness of the monitoring and response program depends ultimately on the success of corrective action measures. EPA expects that corrective action measures will prove to be effective in many places. The national experience with ground-water cleanup, however, is relatively limited at this time. EPA expects that over time the state of knowledge about ground-water cleanup measures will improve. As our experience with corrective action measures improves, it may be necessary to broaden or narrow the use of corrective action measures in the land disposal regulations.

There are two aspects of the corrective action program established in today's regulations that reflect a recognition of the uncertainties associated with ground-water cleanup. First, EPA has not made corrective action the only means for ensuring ground-water protection at land disposal facilities. EPA has concluded that a sound liquids management strategy can be the prime method for providing long-term protection of ground water at land disposal facilities. The monitoring and response program is a back up program which becomes most important if the liquids management strategy fails. Ultimately, then, this regulatory approach relies on corrective action measures only when all other reasonable measures to control ground-water pollution have failed.

Second, any corrective action program required under today's regulations must be designed to meet the ground-water protection standard by removing waste constituents or by treating them in place. Thus, the program emphasizes measures that are most likely to achieve relatively permanent results, in contrast to corrective action measures that simply create barriers or modify the gradient in the ground water to prevent migration. Such techniques may provide good controls for some period of time but their effects are necessarily less permanent than a strategy that emphasizes removal or in place treatment of contaminants. As discussed below, EPA has decided that owners and operators will not be expected generally to conduct compliance monitoring and corrective action programs forever. It is, therefore, all the more appropriate to emphasize corrective action measures that can be expected to achieve relatively permanent results.

c. *Time Frame of Protection Strategy*—There is often a substantial lag time between the act of waste disposal and the appearance of any adverse effects on ground water from that disposal. This simple physical fact has raised major policy issues that have been some of the most difficult questions that EPA has had to consider in the development of today's regulations.

In the Agency's view, there seems little doubt that the general goal of any strategy for protecting ground water from hazardous waste should be to provide protection for a very long time. Ground water is a relatively abundant resource in this country, but it is also a fragile one that is not easily cleaned up once it is contaminated. Moreover, many of the chemical constituents present in hazardous waste do not degrade over time or do so at very slow rates. Thus, it can be expected that a hazardous waste land disposal unit presents some risk to ground water well into the future.

While this line of thinking may suggest that the regulations should be aimed at perpetual protection, EPA has concluded that no useful purpose is served by announcing a regulatory strategy that professes to protect ground water forever. First, such a professed objective is ultimately misleading. While proper hazardous waste management practices can provide long-term protection, it is impossible to specify with any degree af accuracy how those technologies will perform several hundred years from now. Certainly it is impossible to attempt to predict and design for all potential future turns in human events (e.g., acts of war) and geologic history (e.g., another Ice Age).

Second, such a regulatory philosophy does not reflect a proper attitude toward the future. We cannot assume that our ability to cope with the environmental risks associated with hazardous waste disposal will not improve in the future. (The technology for controlling hazardous wastes in particular is currently in an embryonic stage and EPA expects that substantial progress will be made in this field in the near future.) This is not a misplaced faith in the salvation of future technology but rather a simple recognition that future generations may be much better able to cope with problems of ground-water pollution than we are today.

Therefore, EPA has concluded that its regulatory strategy should seek to provide long-term protection, but it should not profess to provide protection for infinity. EPA considered whether it should specify some fixed time period that would provide an outer bound on how long it can reasonably expect to assure ground-water protection. At this

time, EPA simply has not been able to develop an adequate rationale for such a time frame. (As will be discussed later, EPA intends to initiate several studies to explore whether there is a reasonable basis for specifying such a time frame.)

Therefore, EPA has decided that the basic strategy for today's regulations is to require the owner or operator to take reasonable steps (including the installation of various control technologies) that are likely to provide long-term protection of ground water, without specifying exactly how long these steps are expected to be effective. The liquids management strategy embodied in today's regulations, for example, emphasizes design and operating measures that are designed to reduce the present and future likelihood of leachate migration to ground water. In the monitoring and response program, the owner or operator must be prepared, while he is present at the facility, to take needed corrective action as soon as ground-water contamination appears. Where variances from this responsibility are allowed, the owner or operator must be able to demonstrate that relatively permanent conditions are present in and around the facility that are expected to prevent adverse effects on human health or the environment. Conditions that simply delay the time when adverse effects would occur do not provide a basis for the owner or operator to be relieved of his responsibilites under the monitoring and response program.

In some areas, however, it has been necessary to specify time periods in the regulation in order to make the regulations workable. One such time period is the compliance period (i.e., the time period over which the owner or operator must be ready to perform corrective action once hazardous constituents have appeared in ground water.) The other time period is the post-closure care period. This period defines how long the owner or operator must maintain design features aimed at long-term ground-water protection and how long he must monitor the ground water as long as contamination is not detected.

The compliance period is linked to the active life of the waste management area. It is a time period that is at least equal to the number of years that the regulated unit(s) received waste but it may be longer where additional time is needed to complete corrective action that was ongoing at the time that the normal compliance period ends. In setting the compliance period, the basic objective is to have the owner or operator ready to conduct corrective action during the time that the most significant portion of the leachate plume is emerging from the regulated unit.

There could be two potential reasons for the appearance of contamination in ground water: (1) the regulated unit liner has failed and is allowing leachate to pass through it; or (2) the unit did not have a liner and liquids present in the unit are simply seeping into the ground unobstructed by any barriers. In either case the liquids available for migration to ground water should be sharply curtailed by the placement of the final cover on the unit at closure. In fact, a well-designed and carefully maintained cover should reduce the rate of migration of leachate to ground water to insignificant levels. Thus, the active life of the unit, the period during which the cover is not present, is the time period during which the release of leachate to the subsurface environment is likely to be greatest.

Projecting that same analysis into the ground water, it is logical to assume that once contamination appears in ground water the most substantial release to ground water will occur during a period that is equal to the active life (including the closure period) of the unit. Based on this technical analysis, EPA has concluded that the compliance period for the compliance monitoring program must extend for a time period that is at least equal to the active life of the unit.

EPA recognizes, however, that several technical factors may cause the plume caused by a "no liner" or "failed liner" scenario to continue to appear after a compliance period that is based on the unit's active life. First, the placement of a cover at closure does not immediately shut off the exfiltration of liquid from the unit. Particularly at a landfill there is likely to be a deliquifying period during which liquid in the waste passes down through the waste and into the ground. In addition, various contaminants may move at different speeds through the unsaturated zone below the facility. Thus, the detection of hazardous constituents in ground water may reflect the appearance of the fastest-moving constituents. The slower moving constituents may begin to appear later and continue to appear for a period that is longer than the compliance period (i.e., the period equal to the active life of the unit) as measured from the first appearance of the fastest-moving constituent.

The regulations account for this phenomenon, if it occurs, with a variance. If a corrective action program is under way when the normal compliance period ends, the compliance period will be extended until the ground-water protection standard is achieved. This will ensure that the time period for the compliance monitoring and corrective action programs is linked to the purpose of the program—the removal of the hazardous component of any plume from the unit.

EPA also recognizes that some technical factors could cause the period during which significant amounts of leachate enter the subsoil to be much less than the active life of the regulated unit. The major situation where this would occur is where a liner in the unit provides an effective barrier for some period of time, and the liner does not fail until late in the active life of the unit. At this time, EPA does not know how to account for this possibility in defining what the appropriate compliance period should be because it is not possible to know precisely when the liner actually fails. Accordingly, the regulations provide that the compliance period must extend for a period at least as long as the active life of the unit, based on the assumption that an improperly installed liner may begin to leak as soon as waste disposal begins.

The second major time period used in the regulations concerns post-closure responsibilities. The owner or operator must know how long after closure he must continue to maintain the liquids management measures, such as the cover, and continue to monitor to determine whether hazardous constituents are leaking into ground water. This is a difficult time frame to define because it implies some assessment of how long owners and operators should be held responsible for a unit at which there has been no evidence of ground-water contamination.

The existing hazardous waste regulations have established a post-closure care period that extends for 30 years after closure at a land disposal facility but allows for variances to increase and, in some cases, decrease that time period. EPA promulgated regulations establishing that post-closure care period on May 19, 1980 (45 FR 33066) and received comment on that approach. This time period represents what EPA thinks is a reasonable burden to place on the owner or operator to maintain a presence at the facility. While some commenters have recommended shorter or longer time periods, others have indicated that the existing post-closure care period represents a reasonable burden for the facility owner or operator.

Given the current state of knowledge about hazardous waste disposal and given the record developed in

rulemaking on these regulations, EPA has concluded that this time period is a reasonable way to define the owner or operator's responsibility after closure to continue liquids management measures and to monitor ground water where no contamination has appeared. The Regional Administrator may modify this time period under the regulations where necessary to protect human health and the environment. Such a variance is necessarily open-ended because it can potentially be based on a variety of site-specific factors.

EPA is not entirely satisfied with the way today's regulations address the issue of time in protecting ground water. EPA intends to analyze further the question of whether there is an optimal time frame to be used in a ground-water protection strategy for land disposal facilities. Specifically EPA intends to study each of the following approaches to setting an optimal time frame.

First, EPA will consider whether there is a technical basis for setting a proper time frame. EPA is interested in determining whether the time period can be linked to the likelihood of significant attenuation of constituents in the unsaturated zone. Thus, EPA would explore the circumstances under which, if contamination did not appear in ground water for a certain number of years, it could be concluded that sufficient attenuation had occurred to reduce to insignificant levels the potential hazard of any plume that could reach ground water.

Second, EPA will consider whether there is an optimal time period that balances the need for protection at individual facilities against the need for environmentally-acceptable capacity for land disposal of hazardous waste. At some point, the imposition of long-term responsibilities on owners and operators of land disposal facilities could become so expensive that new facilities would not be developed and that existing facilities would close, thereby reducing the available capacity for hazardous waste that may have to be placed in land disposal facilities. Such a situation would not be desirable as a matter of national environmental policy because it tends to create pressure for the worst forms of uncontrolled hazardous waste disposal.

Third, EPA will consider whether there is an optimal time frame for ground-water protection that balances the cost of additional protection against the benefits derived from increasing the time frame for protection.

B. Surface Water

EPA is also concerned with the impact of hazardous waste land disposal on surface waters. As part of its general liquids management strategy for waste management units, EPA has imposed requirements that should minimize the impact on surface waters. For example, run-off controls at landfills, land treatment units, and piles, and the overtopping requirement at surface impoundments, will avoid the migration of hazardous constituents over the land surface to surface water. In addition, units located in 100-year floodplains must generally be designed to prevent washout, a measure that is primarily concerned with surface water protection.

The general strategy for the protection of ground water in today's regulations should also serve the purpose of surface water protection. Most aquifers are hydraulically connected to surface water. To the extent that today's standards assure protection of ground water upgradient from a surface water body, EPA is also providing protection of that surface water. In fact, as will be discussed later, EPA has built a concern for surface water into the monitoring and response program as well as the design and operating requirements being promulgated today.

In addition, it should be recognized that the surface water effects from hazardous waste land disposal are controlled under other EPA programs besides the RCRA hazardous waste program. Specifically, the discharge of pollutants into navigable waters from a point source is subject to regulation under the Clean Water Act (CWA). Such a discharge must receive a permit under the National Pollutant Discharge Elimination System (NPDES), as provided for in Section 402 of the CWA. Where a hazardous waste land disposal facility has a point source discharge, the appropriate requirements of the CWA must be met for that discharge.

C. Air

For several reasons, EPA has found it very difficult to address the effects of land disposal units on air quality in these regulations. First, EPA has less information and experience with air pollution at these units than with other types of environmental problems (e.g., ground-water contamination.) As a result, less is known about the extent of the problem and about the available control technologies for remedying the problem. This makes it difficult to assess the need for particular requirements to deal with air pollution. Second, based on the information that is available to EPA, it appears that the question of whether a unit has an air pollution problem, particularly where volatile emissions are at issue, is heavily dependent on the nature of the particular waste being placed in the unit. Several of the experts attending EPA's technical symposium on land disposal, for example, indicated that some surface impoundments could have significant air emissions but that the extent of the problem was primarily dependent on the volume of volatile hazardous constituents placed in the impoundment.

Given the limited information on air emissions from hazardous waste land disposal units and the fact that the problem appears to be highly waste-specific, EPA has not attempted to establish extensive control measures for such problems as volatile emissions in these regulations. EPA considered establishing a narrative standard for air emissions that would be analogous to that contained in § 267.10(c) of the temporary standards for new hazardous waste land disposal facilities. EPA decided, however, that it needed more information before it would know how to translate such a broad standard into specific control requirements that could become permit conditions.

EPA has required a few operating measures aimed at avoiding adverse effects from air emissions. Specifically, EPA requires wind dispersion controls to minimize emissions of particulate matter at waste piles, land treatment units, and landfills.

EPA has begun a detailed study of potential air emission problems and will focus first on defining the extent of the problem and the circumstances under which emissions threaten human health and the environment. This work is being done in conjunction with EPA's broader degree of hazard studies and regulatory impact analyses. As a result of that work, EPA may propose banning certain wastes in certain types of units or placing restrictive design and operating standards on units handling significant quantities of volatile wastes in those circumstances where it has clearly identified air pollution problems.

VII. Detailed Analysis of the Rules—Parts 260, 264, 265, and 122

This section of the preamble discusses the specific provisions in today's regulations. Before beginning the discussion, however, it is important to clarify the meaning of various terms used to describe what areas are being regulated at a disposal facility. When using the term "facility," EPA is referring to the broadest extent of EPA's area jurisdiction under Section 3004 of RCRA. In many cases, particularly for off-site facilities, this means the entire site that is under the control of the

owner or operator engaged in hazardous waste management. Within the facility there will be an area where hazardous waste treatment, storage, and disposal activities occur. This is the waste management area.

The waste management area is made up of one or more waste management units. The provisions in the Part 264 and 265 regulations (principally the technical standards in Subparts K–N) establish requirements that are to be implemented on a unit by unit basis. A waste management unit is a contiguous area of land on or in which waste is placed. A waste management unit is the largest area in which there is a significant likelihood of mixing of waste constituents in the same area. Usually this is due to the fact that each waste management unit is subject to a uniform set of management practices (e.g., one liner and leachate collection and removal system).

Today's regulations establish specific requirements for surface impoundments, waste piles, land treatment units, and landfills. Generally, each of these four terms is synonymous with the concept of a waste management unit. For example, a surface impoundment is typically a single depression in the ground in which wastes are allowed to mix. Landfills may, however, present an exception to this general rule. Some landfills are designed as a series of adjacent trenches that are separately lined. In this situation, the term "landfill" can refer to the entire set of trenches. Yet, each individual trench is a separate waste management unit under today's regulations. (The principal practical implication of this distinction arises in determining what area of the facility is subject to the monitoring and response program in Subpart F. This will be discussed in more detail in Section VII.D. of this preamble.)

EPA's hazardous waste management regulations have also used the term "process" to describe a part of the facility. "Process" refers to general classes of waste management activities (e.g., surface impoundments, piles) and thus embodies a set of units that may be present at a facility. For example, a facility may contain three separate surface impoundments, two waste piles, and a single landfill. Such a facility contains six waste management units and three waste management processes (e.g., surface impoundment, waste pile, and landfill.)

In some parts of today's regulations and in this preamble, the term "facility permit" is used in describing a permit issued under Section 3005. While the broad term "facility" is used, this is not intended to mean that a permit can only be issued for all units at a facility. EPA may issue a permit for some set of units at a facility. (Under these circumstances, the interim status standards of Part 265 continue to apply to units that are not covered by the individual permit and have not been formally denied an individual permit.)

Today's regulations also refer to waste management "portions." This is the smallest area typically referred to in these regulations. This simply means some area within the confines of a waste management unit.

Finally, today's regulations have clarified somewhat the terminology used to describe areas used for land treatment. In the past, EPA has used the term "land treatment facility" to describe the plot of ground on or in which land treatment occurs. This area is esentially the waste management unit as just described. Therefore, EPA intends to use the term "land treatment unit" when describing these areas. This shift in terminology is designed to make the language used in the regulations more precise. It does not reflect a substantive change in the scope of the land treatment requirements. Thus, the term "land treatment unit" in today's regulations is synonymous with the term "land treatment facility" used in previously-issued regulations.

A. Definitions (Part 260)

In today's regulations, EPA is adding several definitions to 40 CFR Part 260 that are used in the land disposal regulations. In addition, EPA is replacing one definition and clarifying the meaning of another.

1. *Aquifer.* The term "aquifer" is defined in Part 260 (promulgated on May 19, 1980) as a geologic formation, group of formations or part of a formation capable of yeilding a significant amount of ground water to wells or springs. Public comments have suggested that "significant amount" is an imprecise term which may leave owners and operators in doubt as to which formations constitute aquifers. Commenters correctly pointed out that the concept of a "significant amount" was actually site-specific, depending upon the demand for ground water. Furthermore, commenters stated, the potential yield (amount) of ground water from one well could be dramatically lower than the yield from a cluster or field of wells at the same location. In water-scarce areas, it is not uncommon to install several wells into the same formation to collect sufficient ground water to feed into a public water supply system. The lower the yield to one well, the greater the number of wells necessary to serve the users of a given water supply system.

In the preamble to the December 18, 1978 proposal, the Agency had suggested 600 gallons per day as the minimum yield which would constitute a "usable quantity," based upon the needs of a family of four persons. The Agency used the design specification of 125 gallons per person per day in arriving at this minimum yield. Commenters pointed out, however, that this design specification is only applicable to municipal public water supply streams and includes allowances for washing of automobiles, lawn watering, central sewerage, minimal fire protection, etc. Commenters suggested that, if the agency wished to base the minimum yield specification on the needs of a family of four in a rural area (a typical situation where a single, private, ground-water supply well would be used) an individual demand of between 5 and 50 gallons per person per day, to satisfy health and personal hygiene needs, would be appropriate.

Commenters also stated that many land disposal facilities are sited in areas where saturated upper clay layers are available to serve as a natural barrier to the migration of leachate into the ground water in the actual uppermost aquifer. Since any saturated soil material can yield quantities of ground water to wells, even at an extremely low rate, one interpretation of the definition of aquifer could require the saturated clay landfill liner to be monitored in accordance with the ground-water monitoring requirements.

It was never the Agency's intent to consider saturated clay landfill liners to be subject to ground-water monitoring as an aquifer. However, no acceptable criterion was suggested, nor has the Agency been able to produce a universally acceptable interpretation of "significant amount" which is appropriate in all of the various circumstances that may be encountered.

The Agency wishes to define the term "aquifer" more precisely in a manner that is consistent with both the RCRA program and the Safe Drinking Water Act program, and that reflects the ground-water policy that EPA is currently developing to coordinate its ground-water protection programs. EPA is working on this issue, and will announce its result when the work is completed.

2. *Certification.* The terms "certification", "certify", and "certified" are used throughout the regulations, including those promulgated today, to refer to the rendering of a professional opinion concerning compliance with a

requirement of the regulations by a qualified professional in the field. Commenters have suggested that courts sometimes interpret these terms to imply that certification is equivalent to a guarantee or warranty, thus relieving other parties (e.g., owners and operators) of their responsibilities under regulations as a result of such certifications. This was not intended by the Agency in the various RCRA certification requirements. By requiring a certification, the Agency is seeking an opinion from a professional qualified in the field but does not intend to relieve owners and operators from their responsibilities under the regulations. The definition does not address the potential liabilities of the certifying party. This is a matter to be resolved between the certifying party and the owner or operator in accordance with applicable law. Since EPA still believes the terms "certification" and "certify" accurately denote the Agency's intention, EPA is choosing to define the terms to eliminate possible legal misinterpretation.

3. *Constituent, Hazardous Waste Constituent.* Both the term "constituent" and the term "hazardous waste constituent" are defined in 40 CFR § 260.10 to mean "a constituent which caused the Administrator to list the hazardous waste in Part 261, Subpart D, of this Chapter, or a constituent listed in Table 1 of § 261.24 of this Chapter". However, the first of these terms, "constituent", has been used throughout the RCRA regulations in its common sense (i.e., an element or component of a whole) rather than in reference to constituents listed in Table 1 of Appendix VII of Part 261. To reflect the actual use of this term in the regulations, the term "constituent" has been dropped from the definitions in § 260.10. Therefore, as with other undefined terms, it is to read in its common, everyday sense.

The definition of "hazardous waste constituent" remains unchanged. This term refers to a constituent of a waste which caused the Administrator to list the waste as a hazardous waste or a Table 1 constituent.

4. *Existing portion.* A new term, "existing portion," has been added to § 260.10 to describe the portion of a waste management unit that is exempt from those requirements in Subparts K, L, and N of Part 264 which would involve impractical retrofitting for existing operations. The Agency believes that lateral expansions of existing waste management units (i.e., the placement of wastes on additional land surfaces) after permit issuance should incorporate all of the design standards in Subparts K, L, and N of Part 264 because the construction of features like a liner for such expansions would not require impractical retrofitting. Therefore, today's regulations do not exempt all existing waste management units from liner requirements but do exempt the land surface included in the original Part A permit application on which wastes have been placed prior to permit issuance. This term is used in Subparts K, L, and N of Part 264.

5. *Treatment Zone.* Today's regulations also define "treatment zone", a term used in the Subpart M requirements for land treatment units. This term describes the area within a land treatment unit in which all degradation, transformation, or immobilization of hazardous constituents must occur. For a complete explanation of this term, see the preamble discussion of Subpart M.

6. *Uppermost Aquifer.* The term "uppermost aquifer" is generally understood to mean the first geologic formation beneath the natural ground surface which meets the definition of an aquifer. The uppermost aquifer will be the first aquifer affected by leakage from a facility. In rare situations, however, lower aquifers are hydraulically interconnected with the uppermost aquifer within the facility property boundary. In these situations, hazardous constituents could migrate, via the uppermost aquifer, to lower aquifers. Therefore, when monitoring ground water quality for the purpose of determining compliance with the ground-water protection standard, the entire system of aquifers, rather than just the uppermost aquifer, may be of concern. To avoid the repeated use of the phrase "uppermost aquifer and hydraulically interconnected lower aquifers" throughout Subpart F of Part 264, the term "uppermost aquifer" has been defined in § 260.10 to include the entire system of aquifers which are hydraulically interconnected with the uppermost aquifer within the facility property boundary.

B. Conforming Changes (Part 264, Subparts B, E, G, H)

Because of the promulgation of today's new Subparts and Sections, a number of minor conforming changes are being made in several sections of Part 264. These changes merely add references to the new Subparts and Sections to several existing reference lists in Subparts B, E, G, and H. Specifically, minor conforming changes are being made in § 264.15 (general inspection requirements), § 264.73 (operating record), § 264.77 (additional reports), § 264.112 (closure plan) § 264.117 (post-closure care and use of property), § 264.118 (post-closure plan), § 264.142 (cost estimate for facility closure), and § 264.144 (cost estimate for post-closure monitoring and maintenance).

C. Location Standards (Part 264, Subpart B)

1. *Applicability (§ 264.10).* Section 264.10(b) lists those facilities to which the floodplain standard under § 264.18(b) applies. Storage surface impoundments and storage piles subject to regulation under Subparts K and L, respectively, were made subject to the floodplain requirements of § 264.18(b) when EPA promulgated regulations applicable to these facilities on January 12, 1981. Part 264 standards applicable to other types of surface impoundments and waste piles are being promulgated for the first time in today's rules; § 264.10(b) has been amended to include them as well.

Part 264 standards applicable to hazardous waste land treatment units and landfills are also being promulgated for the first time today and they have been made subject to § 264.18(b), by an amendment to § 264.10(b).

The Agency has concluded that all types of surface impoundments and waste piles, as well as land treatment units and landfills, should be subject to the floodplain standards. In all of these types of waste management units, hazardous wastes could be washed out by floodwaters unless adequate controls are imposed. Consequently, § 264.10(b) is being modified by adding waste management units subject to regulation under Subparts M and N to the list of facilities to which the floodplain standard applies. Sections 264.11 through 264.18(a) remain unchanged by today's rule, except for minor conforming changes to § 264.15, as noted above. It should be understood, however, that § 264.18(a), seismic considerations, applies only to new land disposal facilities.

2. *Floodplains (§ 264.18(b)).* The Agency has concluded that hazardous waste surface impoundments, waste piles, land treatment units, and landfills preferably should not be located in a 100-year floodplain. Facilities so located must be designed, constructed, operated, and maintained to prevent washout of any hazardous waste by a 100-year flood. However, in accordance with §264.18(b)(1)(i), if the owner or operator demonstrates to the Regional Administrator that, in the event of a flood, the waste would be removed to a

safe area before flood waters reached the facility, special design and operating features to prevent washout are not required. The Agency realizes that this option may not be viable for many existing surface impoundments, waste piles, land treatment units, and landfills. Accordingly, the Agency is promulgating a second exemption, defining narrow circumstances in which existing facilities, not designed and operated to prevent washout, may be located in a 100-year flood plain without the owner or operator's making the demonstration contained in § 264.18(b)(1)(i). These circumstances are where the owner or operator demonstrates that a washout would cause no adverse effects on human health or the environment. Section 264.18(b)(ii) lists the factors that must be considered in making this demonstration. These factors are the following: the volume and characteristics of the waste in the facility; the concentration of hazardous constituents that could result in affected surface waters; current and potential uses of and water quality standards established for affected surface waters; and the impact of hazardous constituents on the sediments of affected surface water bodies or the soils of the 100-year floodplain.

These factors address the principal adverse health and environmental effects that potentially can result from flood washout of hazardous waste land disposal facilities. They are intended to cover the effects that might occur during the flooding washout (*e.g.*, the contamination of river sediments and floodplain soils caused by sedimentation of washed-out hazardous constituents as and after the floodwaters recede). The Agency is unable to provide more definitive criteria because of the wide variations in facility locations, flooding character of adjacent water bodies, types of wastes stored or disposed of in facilities, and other site-specific conditions. The Agency solicits public comment on these factors.

The general floodplain requirements are consistent with the other requirements in Subparts K through N, which are designed to prevent the escape of hazardous waste or hazardous constituents into surface water and hydraulically connected ground waters in order to prevent potential adverse effects on surface water quality. (See also Section VII. E–I of this preamble and the preamble to §264.18(b), 46 FR 2813–2815, January 12, 1981.)

The Agency recognizes, however, that existing hazardous waste surface impoundments, waste piles, land treatment units, and landfills located in 100-year floodplains were placed there before § 264.18(b) applied to them. Consequently, because the preferred option of avoiding location in a 100-year floodplain is not practicably available for those waste management units, they may have to take advantage of one of the two exemptions from this requirement.

With the exception of small impoundments and waste piles, it may be impossible to remove hazardous waste from waste management units before flood waters can reach them. Also, it may be difficult to construct new walls or dikes or elevate existing walls or dikes around these units to prevent washout from a 100-year flood. Retrofitting may not be feasible or practicable for reasons such as: inadequate landspace on which to build new or expanded dikes; inadequate structural capacity of existing walls or dikes to accommodate expansions; and unwarranted disruption of the operation of the existing unit (principally surface impoundments) and, in some cases, associated manufacturing operations, when building or expanding dikes.

The 100-year flood plain rule may seem inconsistent with the requirement that surface impoundments, landfills, land treatment units and waste piles have run-off control systems designed to withstand the effects of a 25-year storm. The two criteria are not inconsistent, however. Although the Agency is concerned about the effects of run-off, these effects are not likely to be as serious as those that would result from a flood. A flood would carry hazardous materials much farther from the facility than would run-off that exceeded the run-off control system, and a flood probably would carry away a greater quantity of hazardous materials. Thus, the environmental consequences of a flood are very great, and waste management facilities generally should not be located where a flood may occur.

D. Ground-water Protection (Part 264 Subpart F)

Subpart F contains the requirements for the monitoring and response program that will serve as a backup to the other ground-water protection measures in today's regulations. The requirements of this subpart define a general set of responsibilities that the owner or operator must meet but allow considerable flexibility in how the monitoring and response programs may be designed.

EPA intends to examine closely the monitoring programs and the monitoring data developed to meet these requirements and to use this information to refine the regulations over time. As in today's regulations, EPA's objective will be to develop a cost-effective monitoring program that will provide reliable information about the effects of land disposal units on ground water in order to ensure protection of human health and the environment.

1. *Applicability (§ 264.90).* a. *Regulated units*—The requirements of this subpart apply to new and existing surface impoundments, landfills, waste piles, and land treatment units that manage hazardous waste. In defining the scope of this subpart, however, it is necessary to define rather precisely the particular waste managment components that are subject to the ground-water monitoring and response program. This subpart uses the term "regulated unit" in defining the portion of the facility that is subject to the requirements of this subpart. A regulated unit is any waste management unit of the above types that receives hazardous waste after the effective date of today's regulations.

A waste management unit can be a regulated unit even though it contains predominantly non-hazardous waste or hazardous waste which was disposed prior to the effective date of these regulations or prior to November 19, 1980, the effective date of the regulations defining what is a hazardous waste (40 CFR part 261) and establishing the permitting requirements (40 CFR 122–125) for hazardous waste management facilities.

Many existing waste management units may contain waste that was placed there before the effective date of these regulations or before November 19, 1980. Some commenters have raised questions about EPA's legal authority to regulate such waste and about the reasonableness of regulating them under a RCRA permit as a policy matter.

EPA believes that it has legal authority under Subtitle C of RCRA to regulate any activity, emission, or release from a facility that is receiving hazardous waste. Section 3004 of RCRA provides that EPA has authority to issue regulations covering owners or operators of treatment, storage, and disposal *facilities* as may be necessary to protect human health and the environment. This section does not limit EPA's authority to those portions of the facility that receive hazardous waste after a specific date.

Section 3005 of RCRA, which provides for issuance of permits to treatment, storage, and disposal facilities, indicates that after the effective date of any Section 3005 regulations any treatment, storage, and disposal of hazardous

waste without a permit is prohibited. EPA does not believe that the prospective nature of this provision operates to limit EPA's standard-setting authority under Section 3004. The prospective nature of Section 3005 reflects the permitting scheme of RCRA. Owners or operators seek permits for a particular future activity (*i.e.*, treatment, storage, and disposal of hazardous waste) at the facility. The owner or operator does not generally seek a permit for actions he has already taken (*i.e.*, previous treatment, storage and disposal activities.) EPA's authority to deny permission to conduct future waste management activities is one of the principal sanctions under the permit program.

As a condition for allowing future waste management activities, however, RCRA provides that the owner or operator must meet the requirements of Section 3004. Under Section 3004, EPA must define the responsibilities of an owner or operator that are necessary to protect human health and the environment. In order to accomplish that objective, EPA may need to impose duties that are designed to remedy the present adverse effects of past activity. Likewise, EPA may require the owner or operator to continue certain activities that are designed to protect human health and the environment after the owner or operator has ceased placing waste into the ground. (Such future responsibilities are the correlative duty that must accompany the current right to dispose of hazardous waste. EPA thinks that those duties can be most effectively implemented through permits.) Under RCRA, an owner or operator who wishes to initiate or continue storage, treatment, or disposal activities at a facility must take on all of these responsibilities. EPA has concluded that these responsibilities must include reasonable measures to address current ground-water pollution attributable to waste placed before the date of permit issuance under these regulations.

EPA has decided that there are sound policy reasons for subjecting regulated units to the ground-water monitoring and response program of Subpart F. First, once wastes are placed in the same unit there is a strong possibility that the constituents in the waste will react with each other to form new compounds or to alter the physical or chemical state of the waste constituents. Some of the interactions may cause the resulting leachate to become more toxic or more mobile in the subsurface environment. At the time that leachate emerges from a unit it is extremely difficult, particularly at units that handle many types of waste, to determine what characteristics of the leachate are attributable to particular wastes. It is therefore appropriate to focus regulatory concern on the leachate as it is and not to speculate on what incremental effect particular wastes have had on the leachate's quality and characteristics.

Another reason for subjecting all waste in a regulated unit to the monitoring and response program is that the management problem posed by a unit is not substantially affected by the timing of when hazardous constituents were placed in the unit. If the unit's liner fails, the leachate can be expected to contain constituents from wastes placed before and after the effective date of these regulations. Likewise, corrective action measures (e.g., counterpumping) do not selectively remove constituents from wastes placed at different times but rather control the entire plume. Thus, once wastes are in the same unit, the nature of corrective action would not be substantially altered by attempts to distinguish between wastes placed in the same unit at different times.

In defining what is a "regulated" unit, however, EPA has sought to address the concern in the regulated community that a permit under Subtitle C may not be the appropriate mechanism for requiring cleanup of contamination from all previous waste management activity at a facility. EPA has defined a regulated unit as one which receives hazardous waste after the effective date of today's regulations.

EPA believes this has several advantages. First, it gives reasonable notice to the regulated community about what the regulations will require and will allow them to adjust their management practices accordingly. It avoids the prospect that the owner or operator would face responsibilities under a permit for units that were operated and fully closed before any of the Section 3004 standards were established. (Any adverse effects on ground water from such units may be addressed under other EPA authorities, including Section 7003 of RCRA.) This approach is certainly consistent with Section 3010 of RCRA which provides that regulations under Subtitle C are to become effective six months after they are promulgated. The legislative history of this provision indicates that the purpose of the provision was to give the regulated community a reasonable time period in which to prepare for new requirements.

Second, this approach ensures that there will be an early incentive to institute the proper design and operating measures to reduce the potential for significant ground-water contamination from regulated units. With the issuance of today's regulations, the regulated community will have the benefit of reviewing EPA's conclusions on what a sound liquids management strategy for a land disposal unit should be. EPA thinks that today's regulations should create incentives to institute reasonable design and operating measures before a permit application is called in for an existing unit and final action is taken on the permit. (EPA acknowledges that it will take several years to complete this process for all existing land disposal units.) By indicating that all units receiving waste after the effective date of today's regulations will ultimately be subject to the monitoring and response program of Subpart F, EPA has created the incentive for owners and operators to take reasonable steps today to reduce the likelihood that they will face long-term responsibilities for corrective action.

There will be situations where it will be difficult to tell whether a plume of contamination comes from a regulated unit. This is most likely to occur when several regulated units are adjacent to other storage or disposal units. As will be described later, the compliance point where there are several regulated units is an imaginary boundary circumscribing all of these units. In such a situation, it may be difficult to determine whether regulated units are causing a leachate plume that appears at the compliance point.

The regulations provide that any waste constituent that migrates beyond the compliance point is presumed to come from a regulated unit. The owner or operator may, however, overcome this presumption if he demonstrates, with monitoring data or other information, that the constituents are coming from another source.

b. Exclusions—There are limited exclusions from the Subpart F requirements. First, any of the general exclusions in § 264.1 remove certain facilities from Subpart F as well. Second, double-lined surface impoundments, piles, and landfills (described in § 264.222, § 264.252, and § 264.302, respectively) are excluded, as are piles complying with § 264.250(c) and § 264.253. The specific elements of these types of units are described in detail in later sections. The reason that most of these provisions provide a basis for an exclusion from Subpart F is that they involve some ongoing method for detecting whether the unit's liner has failed. As long as it is clear that the liner has not failed, EPA and the public can be confident that hazardous constituents

from such regulated units will not enter ground water. The exclusion for a pile designed to satisfy § 264.250(c) is based on the premise that the specified conditions reduce the possibility of leachate generation to such a degree that ground-water contamination is not likely to occur.

Third, the owner or operator of a land treatment unit may suspend compliance with Subpart F requirements if he can demonstrate to the Regional Administrator under § 264.280(d) that the hazardous constituents in the waste have been effectively treated. The requirements for such a demonstration are described in the discussion of land treatment in Section VII. H.8. of this preamble. It should be recognized, however, that this exclusion relieves the owner or operator from Subpart F responsibilities only during the post-closure care period.

Fourth, the owner or operator of a regulated unit may be excluded from Subpart F if the Regional Administrator finds that there is no potential for hazardous constituents to migrate from the regulated unit to the uppermost aquifer during the active life of the unit (including the closure period) and the post-closure care period specified under § 264.117. This exclusion is designed for units located in hydrogeologic settings that prevent leachate migration to ground water for very long periods. In such a setting, hazardous waste leachate would simply not be able to reach ground water during the active life of the unit and the post-closure care period. Where there is a high degree of confidence that such a hydrogeologic setting is present, EPA decided that it would be of little value to require the permittee to implement a detection monitoring program. (Such a program would simply not detect contamination during the active life of the regulated unit plus the post-closure care period.)

Moreover, EPA believes it may be productive to exclude such locations from ground-water monitoring. Such locations are relatively desirable for waste disposal because soils which provide long delays in the arrival of leachate in ground water may also have characteristics that attenuate hazardous constituents. Excluding ground-water monitoring requirements at such locations could encourage the use of such environmentally desirable locations.

This exclusion is based on the premise that it may be unnecessary to require detection monitoring in some favorable hydrogeologic settings. Therefore, it is appropriate that the time frame should be the same as that of the detection monitoring program—the active life of the regulated unit plus the post-closure care period.

This exclusion involves substituting predictions of likely migration to ground water for actual ground-water monitoring. EPA believes that it is extremely difficult to make accurate predictions about the migration of liquids through the unsaturated zone. Several of the experts attending EPA's technical symposium on land disposal held in May of 1981 indicated that they did not have a high degree of confidence in predictions of leachate fate and transport in the subsurface environment. The prinicpal reason for this low confidence in such predictions is that appropriate values for the several variables that need to be considered are often extremely difficult to determine.

Since this exclusion involves substituting inherently uncertain predictions for ground-water monitoring, EPA believes that a safety factor should be built into the exclusion. Thus, today's regulations provide that owners or operators must base any predictions made to qualify for this exclusion on assumptions that tend to maximize the estimated rate of leachate migration. While these assumptions are not specified in the regulations, the following is a list of the types of assumptions that EPA will use in determining whether an exclusion is warranted. Geologists and geotechnical engineers should be familiar with most of these assumptions.

First, the thickness or depth of soil underlying the regulated unit should be determined. This factor can be determined directly by soil core borings. If soil depth estimates are used in the prediction, however, the minimum value in the range of depth estimates should be selected. Second, the calculation of travel time should be based only on natural soil properties, ignoring the effects of synthetic or recompacted natural soil liners placed beneath the waste. Third, the prediction should be based on the travel time of the most dense and/or least viscous fluid in the regulated unit (i.e., the fluid with the lowest kinematic viscosity). For example, some solvents are less viscous than water and thus are likely to move faster than water. Fourth, since the depth of liquids or leachate in a unit can vary, the prediction should assume that the unit is full of liquids (i.e., the maximum possible hydraulic head).

Fifth, the owner or operator should assume that the soil is saturated because fluids will pass through such soils more quickly than unsaturated soils. Sixth, the owner or operator should account for the effective porosity of the soil when making a prediction. Estimations of effective porosity are difficult to make. For this reason, EPA believes that 10 percent effective porosity, a low value, should be used to avoid the uncertainty involved in estimating effective porosity and to ensure relatively short travel time predictions for the soil beneath the regulated unit. Seventh, soil attenuation mechanisms should be ignored in travel time predictions. Eighth, since a regulated unit may have been in operation well before the prediction of travel time is made, an owner or operator should assume that migration of fluids through the soil began when the unit commenced operation.

As another measure to increase confidence in a prediction made to qualify for this exclusion, EPA has required that the owner or operator's demonstration must be certified by a qualified geologist or geotechnical engineer.

Lastly, EPA considered establishing an exemption from Subpart F requirements for a regulated unit located over an uppermost aquifer which is so dirty that it would never be used for any purpose and which, regardless of any future level of contamination, is not capable of significantly contaminating another usable aquifer or surface water that is hydraulically connected. EPA believes that this would be an extremely rare situation, if indeed such a location exists, and has, therefore, chosen not to establish such an exemption at this time. However, EPA requests comments on the existence of such locations and the appropriateness of such an exemption from Subpart F.

2. *Establishment of Programs (§ 264.91).* Under Subpart F the Regional Administrator will be establishing in a facility permit the elements of a monitoring and response program. The purpose of § 264.91 is to make clear that the owner or operator of each regulated unit subject to this subpart must institute some kind of monitoring and response program and that the content of the program will be specified in the facility permit. The other sections of Subpart F provide further elaboration of the content of the various programs.

The owner or operator must institute at least one of the three types of programs set forth in Subpart F—a detection monitoring program, a compliance monitoring program, or a corrective action program. The permit may, however, contain all three and specify the conditions under which each will be used. EPA expects that in many situations it may be appropriate to specify more than one program in a facility permit. For example, it is logical

to have a compliance monitoring program and a corrective action program in the same permit. Then the permittee will be able to shift back and forth between the compliance monitoring mode and the corrective action mode of operation as the levels of hazardous constituents in ground water fluctuate above and below the concentration limits for the constituents.

There may be some incentive to combine programs in the same permit because the establishment of such a program would be a major modification if it occurred after the issuance of the initial permit. A proceeding to modify a permit would be conducted in compliance with EPA permitting procedures and could be time-consuming. Once a program is established in a facility permit, the owner or operator must continue to implement the program unless the permit specifies when certain obligations may terminate or unless the owner or operator obtains a permit modification. It is, therefore, wise for the owner or operator to anticipate when he believes a permit modification will be needed and to assemble the information necessary for such a modification.

Ultimately, the Regional Administrator has the authority to include more than one program in a facility permit even though the owner or operator did not specifically ask for multiple programs. While the owner or operator can only be operating under one program at a time, there will be situations where it is necessary for an owner or operator to take prompt action under his permit when monitoring data indicate that another type of program is appropriate.

The Regional Administrator must have the flexibility to establish in the permit a program that is conditioned on the occurrence of some event (e.g., appearance of contamination) in order to adequately protect human health and the environment. For example, a regulated unit may be located above fast-moving ground water and near an important drinking-water source. In such a situation, the time needed to modify the facility permit to replace a detection monitoring program with a corrective action program could allow substantial damage to occur. In such a situation it might be appropriate to have an approved corrective action program in the permit that would be triggered by the detection of contamination in the ground water. Thus, today's regulations specifically provide that the Regional Administrator may incorporate one or more monitoring and response programs into the facility permit as may be necessary to protect human health or the environment.

Besides being combined with each other, monitoring and response programs may also be linked to other provisions of a facility permit. There are certain design and operating measures that allow owners or operators to forego Subpart F monitoring the response programs. These exclusions, however, terminate if such design and operating measures fail to meet their objectives. Therefore, permittees may want to have a monitoring and response program (*e.g.*, a detection monitoring program) included in the permit even though they employ one of the designs that qualify them for an exclusion. The permit would specify that the Subpart F program need not begin until the design failed. For example, the owner or operator of a double-lined surface impoundment may choose to initiate a monitoring and response program, in lieu of repairing the facility liner, if the liner fails during the active life of the impoundment. Initiation of a Subpart F program is the only appropriate action to take if the owner or operator intends to use a double-liner design to provide protection during the post-closure care period.

While an owner or operator may have more than one monitoring and response program in the facility permit, there are certain minimum requirements specified in § 264.91. If hazardous constituents from a regulated unit have not entered the ground water, the owner or operator must at least have a detection monitoring program. This is to ensure that any leakage from the facility is detected. Once hazardous constituents appear in ground water, the owner or operator must, at a minimum, have a compliance monitoring program that can determine whether the ground-water performance standard is exceeded.

If that standard is exceeded, the owner or operator must have a corrective action program. Compliance monitoring programs and/or corrective action programs will continue through the compliance period under § 264.96. Section 264.91 also indicates that a corrective action program is needed when hazardous constituents under § 264.93 exceed concentration limits under § 264.94 in the ground water between the compliance point and the downgradient facility property boundary. (The rationale for this provision is discussed in Section VII.D.13.d. of this preamble.) It is possible that the compliance period may be shorter than the normal post-closure care period for the facility depending on when contamination first appeared, the length of the regulated unit's active life and the success of the corrective action program.

When the compliance period ends before the close of the post-closure care period, today's regulations provide that the owner or operator must reinstate a detection monitoring program for the remainder of the post-closure care period. In § 264.90(c)(2), the regulations make clear that detection monitoring programs, once instituted, continue through the post-closure care period. (the permitting regulations under 40 CFR § 122.15 provide that the Regional Administrator may initiate a permit modification to establish a detection monitoring program if the compliance period ends before the end of the post-closure care period specified in the permit.)

EPA believes this is reasonable for two reasons. First, since the owner or operator will be present at the facility through the post-closure period under the permit, it is appropriate for him to take all reasonable steps to assure ground-water protection. Since detection monitoring involves a relatively light monitoring burden, it should be relatively easy for the owner or operator to perform. Second, the completion of a successful corrective action program (i.e., a showing that the ground-water protection standard in the permit has not been exceeded for a period of three years) or the completion of the compliance monitoring program does not provide absolute assurance that a plume of significant contamination will never appear below a regulated unit. Since hazardous constituents move at different speeds through soil and since they may be released from the regulated unit at different times, it is possible that a plume of contamination could appear several years after an initial plume from the unit had been detected and cleaned up. Therefore, a detection monitoring program is needed to determine whether such a delayed plume appears.

The nature of the program established in the initial permit will depend on the information available at the time of permitting. The key question is whether a regulated unit has begun to leak. For new units this is not an issue, but it may be somewhat problematic for existing units. Since the owners or operators of most existing units will be conducting monitoring in accord with the Part 265 interim status requirements, there should be a reliable base of information that can be used to determine whether hazardous constituents have entered the ground water.

The issue of whether a regulated unit qulifies for one of the exclusions in § 264.90 will also be addressed in the-

initial permitting process. An applicant who believes he qualifies for such an exclusion will submit information to demonstrate that fact in his permit application. He may also wish to submit the information necessary to establish a Subpart F monitoring and response program as well in case EPA determines that he does not qualify for the exclusion.

3. *Ground-water Protection Standard (§ 264.92).* The ground-water protection standard in § 264.92 indicates when corrective action is necessary to control plumes of contamination that have emerged from a regulated unit. The ground-water protection standard essentially tells the owner or operator when corrective action must begin and when it may be terminated. In this way, the ground-water protection standard provides protection for human health and the environment.

There are four principal elements of the ground-water protection standard: (1) The hazardous constituents to be monitored and removed if necessary; (2) the concentration limits for each hazardous constituent that trigger corrective action; (3) the point of compliance for measuring concentration limits; and (4) the compliance period. Each of these elements of the standard is described in a separate section of Subpart F.

The ground-water protection standard will be established when hazardous constituents from a regulated unit appear in ground water. As will be discussed later, a waste constituent must be in the ground water before it can be part of the ground-water protection standard. There may be situations where an owner or operator will want to anticipate events and establish elements of the ground-water protection standard before hazardous constituents actually appear in ground water. For example, if he expects that a particular constituent that is prevalent in his waste will eventually migrate to ground water and be selected as a hazardous constituent, he may want to establish an alternative concentration limit for that constituent under § 264.94. While today's regulations do not preclude the establishment of elements of the ground-water protection standard before leachate from a regulated unit appears in ground water, EPA does not intend to give first priority to such requests. EPA must use its available resources to give prompt consideration to the establishment of ground-water protection standards at facilities that are contributing leachate to ground water.

Where it establishes concentration limits before contaminants arrive in ground water, EPA is essentially establishing a partial compliance monitoring program for a regulated unit that is conditional on appearance of contaminants in the ground water. Once contamination actually appears in ground water and a permit modification proceeding is triggered, the Regional Administrator may reassess the justification for the alternate concentration limit in light of the information available at the time that the ground-water protection standard is actually established.

Finally, it should be recognized that the ground-water protection standard is not a general performance standard that applies directly to owners or operators. Under a permit an owner or operator is responsible for conducting the monitoring and corrective action measures that are designed to achieve the ground-water protection standard. If monitoring indicates that the ground-water protection standard is exceeded, the owner or operator is responsible for taking certain actions specified in the permit. If he fails to take these actions, he is subject to enforcement action; if the actions specified are inadequate to bring the facility back into compliance with the ground-water protection standard, the permit must be modified. Section 122.15(a)(7) has been amended to provide that a permit may be modified when the corrective action program has not brought the regulated unit back into compliance with the ground-water protection standard within a reasonable period of time.

4. *Hazardous Constituents (§ 264.93).* In keeping with the regulatory philosophy described earlier in this preamble, the objective of the Subpart F monitoring and response program is to remove the hazardous portion of any leachate plume that has reached ground water from a regulated unit. Thus, in establishing the ground-water protection standard for the facility, the Regional Administrator must define the hazardous portion of the plume.

This is accomplished by identifying hazardous constituents. Under today's regulations, the Regional Administrator makes three findings when identifying a constituent as a hazardous constituent under § 264.93. First, the constituent must be listed in Appendix VIII of 40 CFR Part 261. Second, the constituent must have been detected in the ground water below a regulated unit. Third, the constituent must be reasonably expected to be in or derived from the waste contained in the regulated unit.

a. *Alternatives Examined*—EPA considered several options for identifying hazardous constituents. One option was to focus on the list of Appendix VII constituents identified in Part 261. When EPA lists a hazardous waste under Part 261, it often lists the particular waste constituents that caused EPA to identify it as a hazardous waste. These constituents are identified in Appendix VII.

EPA concluded that Appendix VII was not an appropriate list to use in identifying hazardous constituents. In identifying Appendix VII constituents, EPA did not attempt to conduct an exhaustive analysis of all constituents in the waste that could have caused the waste to be hazardous. For purposes of identifying a waste as a hazardous, it was sufficient to identify a few constituents that could pose a substantial present or potential hazard to human health or the environment if the waste was improperly managed. Therefore, limiting hazardous constituents to those in Appendix VII would preclude EPA from addressing other hazardous constituents known to be in the wastes.

In addition, Appendix VII only applies to listed waste. It does not address hazardous constituents that may be present in wastes deemed hazardous because they exhibit one of the characteristics in Part 261. Moreover, Appendix VII is not designed to address the hazardous constituents that may be formed when various wastes are mixed in a regulated unit, or react with constituents in the soil.

A second option considered was a narrative standard that would establish general criteria for what constituted a hazardous constituent. The Regional Administrator would use these criteria to identify individual hazardous constituents and would specify them in the permit. EPA rejected this option for two reasons. First, it did not serve the general goal of providing certainty to the regulated community or the public. Permit applicants could not predict the potential scope of their responsibilities, and the public would be uncertain whether most of the potentially dangerous constituents would be covered. Second, narrative criteria could prove difficult to implement as a practical matter in the permitting process. Under Subpart F, hazardous constituents are to be identified when the Regional Administrator establishes a compliance monitoring or corrective action program for the facility. Before that decision can be made, however, the applicant must know what universe of potential hazardous constituents to monitor in order to provide the data base from which the Regional Administrator would select hazardous constituents. A narrative standard is not

very helpful in this situation because it would force the applicant to guess at what might be present or to monitor for absolutely everything. EPA believes that it is a waste of resources to monitor for everything because there will be constituents (*e.g.*, chlorides) that do not present any real danger. At the same time, EPA does not believe it is sound regulatory policy to leave to the applicant the decision of what waste constituents might be hazardous constituents. Therefore, EPA rejected the option of establishing a purely narrative definition of hazardous constituent, concluding that some specific list of constituents was necessary.

EPA concluded that hazardous constituents should be based on the list of constituents in Appendix VIII of Part 261. Appendix VIII is a list of 387 hazardous constituents and classes of constituents that have been shown to have toxic, carcinogenic, mutagenic or teratogenic effects on humans or other life forms. It includes many of the constituents identified under Section 307(a) of the Clean Water Act, Section 311 of the Clean Water Act, Section 112 of the Clean Air Act, and Section 1412 of the Safe Drinking Water Act. Further, it covers genetically active constituents that EPA's Cancer Assessment Group has evaluated and determined to sufficiently threaten human health and the environment to warrant regulation under EPA's programs. Finally, it includes the most acutely toxic substances listed in the NIOSH Registry or regulated by the Department of Transportation as a transportation hazard.

EPA has used this list of constituents in the hazardous waste listing process. EPA has also used Appendix VIII in its regulations for incinerators. For each constituent listed in Appendix VIII, EPA has prepared a Health and Environmental Effects Background Document. Each document describes and evaluates the constituent's adverse effects on humans and other life forms and substantiates the fact that the constituents may pose a substantial hazard to human health or the environment.

EPA believes that Appendix VIII has several advantages as a basis for defining hazardous constituents. First, Appendix VIII is a relatively comprehensive list of constituents that may cause significant harm to human health and the environment, as indicated in the description of its origin, and should assure the public that the monitoring and response program provides adequate protection. Second, Appendix VIII provides certainty to the regulated community. It clearly defines their environmental responsibilities and thus should assist in the management of land disposal units.

b. *Public Comments on Use of Appendix VIII*—Several commenters have raised objections to the use of Appendix VIII in these regulations. Some have argued that Appendix VIII has not been subject to rulemaking or scientific peer review. This is not correct. Appendix VIII has been subject to public comment on several occasions. Appendix VIII accompanied the interim final hazardous waste rules of May 19, 1980 (45 FR 33132). Reflecting public comments received on those rules, EPA modified Appendix VIII on November 12, 1980 (45 FR 27477), November 25, 1980 (45 FR 78544), May 20, 1981 (46 FR 27477), and June 3, 1981 (46 FR 29708). In addition, commenters on the outline of today's regulations, that was discussed in the public meeting of December 21, 1981, had an opportunity to comment on the use of Appendix VIII. These opportunities for public review have also provided the scientific community an opportunity to comment on the list.

Some commenters have claimed that there is a lack of reliable analytical methods for constituents on Appendix VIII. Of the 387 constituents listed in Appendix VIII, the Agency has described analytical methods for all but nine constituents which are unstable in water and thus would not be expected to be found in ground water samples.

Some commenters have argued that Appendix VIII places an unreasonable monitoring burden on the regulated community. The monitoring burden associated with the use of Appendix VIII depends in the first instance on the nature of the wastes placed in a regulated unit. EPA does not believe that it is unreasonable to place a more extensive monitoring burden on owners and operators who handle wastes that contain many potentially dangerous constituents. As will be discussed later in this preamble, the owner or operator will be allowed to demonstrate that some Appendix VIII constituents cannot be in a regulated unit because of the nature of the waste. Ultimately, the reasonableness of the monitoring burden depends on the health and environmental rationale underlying the inclusion of a constituent on Appendix VIII. EPA believes that the constituents on Appendix VIII are those which may pose a substantial hazard to human health or the environment. If an owner or operator disagrees with that conclusion and has data to challenge that conclusion, he may petition the Agency under § 260.20 to remove constituents from the list.

As part of its ongoing refinement of the regulations, EPA will consider adding constituents to Appendix VIII. If members of the public believe that additional constituents should be on Appendix VIII, they can also petition the Agency to expand the list.

c. *Selecting Hazardous Constituents from Appendix VIII*—Besides being on Appendix VIII, a constituent must meet two other criteria before it may be identified as a hazardous constituent. First, it must be in the ground water. The ground-water protection standard is only concerned with waste constituents that reach ground water. Second, a waste constituent must reasonably be expected to be in or derived from waste contained in a regulated unit. A constituent derived from waste may be a by-product of reaction of waste or waste leachate with other waste or materials in a regulated unit or with soil underlying the unit. As a general matter, EPA will consider the presence of the constituent in the ground water at the compliance point as a sufficient initial indication that the constituent is derived from waste in a regulated unit.

EPA recognizes, however, that it is possible that a constituent appearing at the compliance point may not originate from a regulated unit. Today's regulations, therefore, allow the permit applicant two grounds for arguing that a constituent did not derive from the waste in a regulated unit. Only one of those arguments, however, may be considered in the establishment of hazardous constituents. The owner or operator may be handling a waste with relatively uniform chemical characteristics, and he may be able to show that it is impossible for certain constituents to ever appear in the leachate emerging from his regulated unit. In that situation, the Regional Administrator may conclude that some Appendix VIII constituents found in ground water should not be identified as hazardous constituents for that regulated unit.

The second line of argument that the applicant may want to pursue is that, while a particular constituent could appear in the leachate from his regulated unit, the applicant believes that the constituent found in ground water is coming from a source other than the regulated unit. Before accepting such a showing, however, EPA believes it is important to have sufficient monitoring data to allow for statistical comparisons of background values for a constituent to the level of that constituent at the compliance point.

Therefore, today's regulations provide the owner or operator an opportunity to make such a showing in the context of his detection or compliance monitoring programs. EPA does not believe, however, that such an analysis should be the basis for deleting Appendix VIII constituents from the list of hazardous constituents in the ground-water protection standard.

EPA has provided a limited variance in § 264.93 that would allow an applicant to ask the Regional Administrator to eliminate some constituents found in ground water from the list of hazardous constituents specified in the facility permit. The burden that must be met here, however, is a heavy one. Basically the owner or operator must be able to demonstrate that the constituent is not capable of posing a substantial threat to human health or the environment at any time under any circumstances that might reasonably occur, barring war or acts of God.

The variance specifically does not, however, allow the owner or operator to argue that adverse effects on human health or the environment will simply be delayed for some period of time. Thus, the owner or operator could not receive a variance under § 264.93(b) by arguing that a plume of contamination would not reach potential users (e.g., not migrate beyond the facility property boundary) for some period of time.

The variance provided in § 264.93(b) is designed to address relatively limited situations. For example, the applicant may be able to demonstrate that, regardless of the concentration that the hazardous constituent might reach in ground water underlying a regulated unit, because of its half-life and the slow rate of ground-water flow, it can never pose a hazard to human health or the environment.

Today's regulations specify a set of factors that the Regional Administrator will consider when considering a variance under § 264.93(b). The factors used in the Regional Administrator's analysis are similar to those identified in § 267.10, the general performance standard applied to new hazardous waste land disposal facilities in the Part 267 temporary standards. The factors have been modified slightly to explicitly indicate that the Regional Administrator will examine the ground-water and surface-water uses in the area around the facility. (The § 267.10 standard also addressed air protection and subsurface migration, which are not part of the analysis in this variance.) Basically, the factors are designed to assure that the following topics are examined: (1) The potential for leachate migration from a regulated unit: (2) the quality of the leachate as it migrates; (3) the current and future uses of ground water and surface water in the area; and (4) the health and environmental effects associated with exposure to different levels of hazardous constituents.

Under the Underground Injection Control (UIC) program of the Safe Drinking Water Act, the States will be identifying underground sources of drinking water (USDW) and exempted aquifers. (See 40 CFR § 122.35) The UIC program is aimed at protecting USDW's. Exempted aquifers are aquifers that have many of the same characteristics as underground sources of drinking water but that are unlikely to be used for public drinking water supply due to a variety of technical and economic factors. Under the UIC program, a State must seek approval from EPA for any decision to exempt an aquifer. In making decisions about the use of an aquifer under the variance in this section, EPA believes it is important to build on the decisions already made by the States and EPA under the UIC program. This will insure consistency in EPA's overall approach to ground-water protection.

Today's regulations provide, therefore, that the Regional Administrator will consider any decisions made under § 122.35, the provision that allows for identification of USDW's and exempted aquifers, in any decisions about ground-water use for purposes of this variance. The Regional Administrator will rely on that decision, however, only to the extent that it is consistent with the ground-water protection strategy in today's regulations. For example, if an aquifer is exempted for a fixed period of time (e.g., in some mining situations), then the Regional Administrator may consider what the likely use of that ground water will be after the fixed time period in deciding whether a variance under this section is appropriate.

5. *Concentration Limits (§ 264.94).* As indicated earlier, the ground-water protection standard indicates when corrective action is needed at the facility. In order to serve that purpose, the ground-water protection standard must establish an action level for each constituent that will trigger initiation of a corrective action program. In § 264.94, the regulations set forth the criteria that the Regional Administrator will use in establishing such concentration limits for each hazardous constituent.

a. *Alternatives Examined*—EPA considered several options for defining concentration limits. One approach is to set limits based on the detectability of the constituent in ground water. A second approach is to establish numerical limits for each constituent that are based on a health or environmental rationale. A third option is to establish narrative criteria based on protection of human health and the environment in the regulations and to allow the Regional Administrator to set specific contamination limits in the permit after considering a variety of site-specific factors. The fourth option is to ensure that a hazardous constituent does not exceed the background concentration of that constituent in the ground water.

EPA decided not to use the first option, which would trigger corrective action whenever there is a detectable level of the constituent at the compliance point. Detectable levels of hazardous constituents may appear at the compliance point through no fault of the owner or operator. Natural background levels of chemical constituents or other sources of contaimination could cause such detectable values. EPA believes it is unfair to the owner or operator to cause him to clean up contamination that cannot be reasonably linked to leachate from a regulated unit.

Today's regulations embody a mix of the other three options. Each has advantages but no single approach is appropriate in all situations. The second option, which involves the establishment in the regulations of numerical limits for each constituent, is based on health and environmental factors. This is a desirable option because it assures that the action level is directly related to the protection of human health or the environment. Unfortunately, such an approach is not fully adequate at this time because EPA has not established such contamination limits for most of the hazardous constituents listed on Appendix VIII. Therefore, EPA has used health-based contamination limits where such limits exist. Specifically, the maximum contaminant limits established for the constituents in the National Interim Primary Drinking Water Regulations (NIPDWR) under the Safe Drinking Water Act will be used in the ground-water protection standard. Those constituents and associated concentration limits are specifically identified in Table 1 under § 264.94.

There may also be situations where the third option, which involves the site-specific establishment of concentration limits based on a narrative standard, will be feasible. EPA decided not to rely solely on this approach, however, for several reasons.

It may require data that are not readily available. Moreover, the data

collection and analysis needed for such an approach may be extremely time-consuming and resource-intensive. EPA is concerned that such an approach could lead to a cumbersome administrative process that would delay the initiation of needed measures to control plumes of contamination. In addition, the result of the analysis under such a standard could be subject to considerable scientific uncertainty and might not serve to assure the public that adequate measures were being taken. Finally, this approach could divert the owner's or operator's resources from expenditures on proven control measures that will provide significant environmental protection to expenditures on complex analysis and predictions about the fate and transport of hazardous constituents.

Therefore EPA has decided to provide for this option through a variance. Today's regulations allow the owner or operator an opportunity to request an alternate concentration limit based on a demonstration that the concentration will not adversely affect human health and the environment. If the data on which the demonstration is based is subject to considerable uncertainty, EPA will not establish the requested concentration limit. To avoid unreasonable delay in the commencement of corrective action, today's regulations provide specific deadlines for the submission of information necessary to establish the ground-water protection standard. An owner or operator who wants to justify a concentration limit based on the narrative criteria in the regulations must do so within the general time frames applicable to the establishment of other types of concentration limits.

In those situations where there is no concentration limit specified in the regulations (i.e. the NIPDWR maximum contaminant levels in Table 1) and where the owner or operator fails to justify an alternate concentration limit under the variance, today's regulations will be based on the fourth option, which would require that the level of a hazardous constituent not exceed the background concentration of that constituent in the ground water.

This approach has several advantages. First, it assures that the standard will not be violated unless hazardous constituents have entered the ground water from a regulated unit. (This assumes that normal fluctuations in background are accounted for in the analysis of whether background has been exceeded. This concern will be discussed in Section VII. D.9. of this preamble.)

Second this approach provides assurance to the public that the ground water quality will not be made any worse by the advent of hazardous waste disposal in the area. As discussed earlier in the preamble, this approach assures that the current and future uses of ground water in the area will be preserved. EPA concluded that this approach was the best of available alternatives for those hazardous constituents not addressed by the NIPDWR, for which an alternate concentration limit cannot be established, because it properly balances the need to fully protect human health and the environment and the need to develop fair, workable requirements for the regulated community.

While the numerical limits identified in Table 1 for the NIPDWR constituents are generally appropriate concentration limits for those constituents, there is one situation where the "no increase over background" standard will be used for those constituents. It is possible that in some situations the level of the constituent in background ground water exceeds the NIPDWR limit for that constituent. Unless the "no increase over background" standard is applied in that situation, the regulations would force the owner or operator to initiate corrective action measures even though no contamination had entered the ground water from regulated units at the facility. Such a result is inconsistent with the basic purpose of the monitoring and response program.

b. *Use of Alternate Concentration Limits*—Under § 264.94, the owner or operator may ask for a concentration limit other than a NIPDWR contaminant limit or a "no increase over background" limit. The basic test that the Regional Administrator will use in evaluating such a demonstration is whether the constituent would pose a substantial present or potential hazard to human health or the environment at any future time, barring war or acts of God.

The alternate limit may be sought at any time but EPA will not allow the consideration of such a demonstration to unreasonably delay the establishment of the ground-water protection standard for a facility. Once the ground-water protection standard has been established in the permit, the owner must seek alternate concentration limits through permit modifications under the procedures in 40 CFR Part 124. Such modifications are always major modifications and the burden of proof is on the applicant to justify the variance.

The factors that the Regional Administrator will use in considering this variance are identical to the factors to be considered for the variance in § 264.93, which allows the Regional Administrator to exclude some Appendix VIII constituents found in ground water from the list of hazardous waste constituents in the ground-water protection standard. The distinction is that the variance in § 264.93 does not limit the concentration of the constituent in the ground water underlying the facility; this variance does.

A few examples may help to explain how this variance may work. These examples are not to be interpreted as scenarios that will necessarily qualify for alternative concentration limits nor are they the only possible scenarios. An owner or operator may have a regulated unit located close to a river that is downgradient from the unit. The owner or operator may also be able to show that the ground water between the unit and the river will never by used. He may also be able to show that as long as contaminant levels are maintained below certain thresholds the assimilative capacity of the river will not be exceeded. This situation may be a good candidate for an alternate concentration limit.

A second scenario is one in which the owner or operator is able to demonstrate that there is a high concentration threshold for a contaminant based on available health and environmental data. By keeping the concentration of the contaminant in the ground water at the compliance point below that level, he can assure that there will be no adverse effects downstream on human health or the environment. A third scenario might be based on attenuation in the saturated zone. The owner or operator may be able to show that as long as the concentration of a hazardous constituent does not exceed certain levels at the compliance point, the concentration of that constituent at a downgradient point of use will be non-detectable or within commonly accepted health standards. (It should be noted that EPA believes it extremely difficult to make this latter demonstration.)

As with the variance in § 264.93, the owner or operator may not receive an alternate concentration limit by showing that the adverse effects on human health and the environment will be delayed. In addition, EPA intends to rely on designations of underground sources of drinking water and exempted aquifers under the UIC program when considering what the uses of ground water are likely to be in the area. In addition, it should be understood that the variance in this section will not be

used to reconsider the health basis of the National Interim Primary Drinking Water Regulations. The Regional Administrator may establish alternative concentration limits for the constituents in Table 1, but these alternative limits must be based on factors (*e.g.*, likely attenuation during migration) that do not call into question the basis for the MCL's.

6. *Compliance Point (§ 264.95).* The ground-water protection standard must also define the point in the ground water at which the standard must be met. The Agency considered several options and concluded that the compliance point should be the edge of the waste management area.

a. *Alternatives Examined*—The first option considered was some point directly below the waste. EPA rejected that option for several reasons. It is not generally practical to attempt to monitor ground water directly underneath a land disposal unit. Drilling wells through a regulated unit itself is unwise because such wells can only undermine the integrity of the unit design, creating a conduit for the passage of hazardous constituents to ground water. It is conceivable that wells could be drilled at an angle underneath a regulated unit so that there would not be a need to penetrate the liner in the regulated unit. EPA does not think that this type of monitoring system has been shown to operate effectively at a sufficient number of hazardous waste disposal units to justify its use as the general requirement in today's regulations. Moreover, there will not typically be a substantial delay in detecting hazardous constituents if the compliance point is at the edge of the waste management area as opposed to some point below a regulated unit.

A second option considered was the property boundary. EPA considered this approach carefully but decided that it did not provide sufficient time to take corrective action once noncompliance occurred. Moreover, this approach could allow contamination of large quantities of ground water within the property boundary, water that would eventually move off site.

A third option considered was to establish a buffer distance outside of the waste management area. EPA decided not to take this approach. There was no rationale for a fixed buffer distance that would apply to all facilities. EPA did actively consider the use of a buffer zone that was based on assuring at least 5 years of flow time within the property boundary. EPA eventually decided against this approach because it was difficult to justify the 5-year time frame and because this approach could still allow significant ground-water contamination before corrective action would begin.

The fourth option considered was the edge of the waste management area. EPA ultimately decided that this was the best of the available options for several reasons. EPA believes this approach will provide the greatest assurance to the public. Given the fact that there is a degree of uncertainty about how successful corrective action measures will be, EPA does not think that it makes sense to allow contamination of large quantities of ground water when selecting a compliance point. Moreover, since the owner or operator is not expected to be present at the facility forever, it is reasonable to require him to keep the ground water under his control as clean as possible while he is present at the facility. This is consistent with the general philosophy of these regulations to require reasonable steps to provide long-term environmental protection.

In addition, EPA believes that corrective action is likely to be most cost-effective when conducted at the edge of the waste management area. The plume of contamination is likely to be most concentrated at that point, meaning that less water will need to be removed and managed if it is removed there instead of some other downgradient point. In addition to being cost-effective, a strategy that reduces the need to remove large quantities of ground water is a sound water conservation policy. By using the edge of the waste management area as the point of compliance, EPA has reduced the likelihood that corrective action measures would deplete the aquifer and thereby impair use of ground water in the area.

b. *Use of Compliance Point*—While "compliance point" is the term of art used to define the location where the ground water protection standard is measured the "compliance point" is, in fact, a surface (or a set of points.) Specifically, the compliance point is a vertical surface located at the hydraulically downgradient limit of the waste management area that extends down into the uppermost aquifer underlying the regulated units. The waste management area is the limit projected in the horizontal plane of the area on which waste will be placed during the active life of a regulated unit. This area will be specified in the facility permit. Where there is more than one regulated unit at the facility, the waste management area is described by an imaginary line circumscribing the several regulated units.

The edge of the waste management area is not the outer limit of the waste itself. The limit includes any horizontal space taken up by liners, dikes, or other barriers designed to contain waste in a regulated unit. The purpose of this provision is to avoid the implication that monitoring and corrective action wells should be drilled through the structures which are designed to control the waste, clearly a counterproductive result.

In defining the compliance point for the ground-water protection standard, EPA considered the implications of the selected approach for existing plumes that have appeared at existing facilities. At the time that it initiates permitting for existing facilities, EPA may find that hazardous constituents have already migrated beyond the compliance point at some units. Under the regulatory system in today's regulations, however, portions of plumes that have migrated beyond the compliance point will be addressed under the permit. EPA will require the cleanup of the portion of these plumes up to the property boundary as a condition of continued operation after the effective date of these rules. (This issue is discussed in Section VIII.D.13.d. of this preamble.) Portions of plumes that have migrated beyond the facility property boundary are not subject to the monitoring and response program of Subpart F.

EPA believes that today's regulations reflect a reasonable approach, as a matter of law and policy, on the appropriate scope of the Subtitle C program. Plumes that have already migrated beyond the property boundary may be addressed by other EPA programs. If such a plume presents an imminent and substantial endangerment to health or the environment, EPA may take enforcement action under Section 7003 to correct the situation. Such plumes may also qualify for remedial action measures under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

EPA will actively consider the use of these other authorities to address plumes of contamination that have migrated beyond the property boundary at the time of initial permitting. EPA must operate within the constraints of those laws and thus cannot guarantee that actions under these other authorities will also be appropriate. EPA does intend, however, to take a close look at plumes of contamination that have migrated beyond the property boundary at the time of initial permitting to determine whether action under other authorities is justified.

7. *Compliance Period (§ 264.96).* In setting the ground-water protection standard, the Regional Administrator

must define the time period over which it will apply. In § 264.96, the regulations indicate that the compliance period to be set in the permit is the number of years equal to the active life of the waste management area (including any waste management activity prior to permitting, and the closure period.)

As described in Section VI.A. of the preamble, the compliance period is to be based on the active life of a regulated unit, the time period during which the most significant release of liquids to the ground is likely to occur. Where more than one unit is contained within the waste management area of the facility, liquids may enter the ground for the period beginning when waste is first placed in any unit within the waste management area and continuing until the last unit within the waste management area is properly closed. Accordingly, the appropriate time frame for this compliance period is the period equal to the active life of the waste management area.

EPA recognizes that there may be situations where particular plumes or portions of plumes can be linked to particular units, depending on the configuration of the waste management area. For example, where the waste management area is made up of a series of adjacent landfill trenches and ground-water flow is parallel to those trenches, it may theoretically be possible to distinguish which trench created a plume that may appear at the compliance point. Today's regulations, however, do not allow for the establishment of individual compliance periods for each regulated unit within the waste management area. EPA is considering whether to provide for such an option and seeks further comment on this issue. In particular, EPA asks commenters to address the need for such a provision, the practical feasibility of distinguishing plumes from different units within the same waste management area, and the technical criteria that might be used in determining when this option might be appropriate.

In calculating the compliance period, the Regional Administrator will include the time that any regulated unit was operating prior to permitting. The basis for the compliance period is the time period during which leachate could have entered the ground due to the absence of a liner or the failure of the liner. The fact that some of that time period occurred before permit issuance and some after should not influence the length of the time period.

The compliance period begins to run when the owner or operator initiates a compliance monitoring program under § 264.99 following detection of hazardous constituents in ground water. This assumes that detection of hazardous constituents in ground water indicates that the front of the plume is entering ground water.

It is theoretically possible, however, that the actual front of the plume is relatively dilute and that the detection monitoring program would not indicate the presence of hazardous constituents in the ground water until some later, more contaminated, portion of the plume appears. In such a case, the theory of plume migration described in Section VI.A. of this preamble would suggest that the compliance period should be shorter than the length of the regulated unit's active life. (Under that theory, the compliance period is linked to the time period during which the most significant portion of the plume is expected to appear.)

EPA knows of no way to account for this scenario in setting the compliance period because it depends on knowledge about the quality of leachate that is entering the ground water, a fact that will not be known at the time the ground-water protection standard is established. Therefore, the compliance period will be linked to the full active life of the regulated unit (or the waste management area if there is more than one unit), based on the assumption that the detection monitoring program will detect the initial front of a plume of contamination emerging from the regulated unit.

The compliance period may extend beyond the number of years equal to the active life of the waste management area if corrective action has been initiated but not completed. EPA believes that corrective action measures should be completed once begun. The capital expenditures will have already been made, so the permittee will only bear the additional costs of operating the corrective action equipment. The fact that the ground-water protection standard is still exceeded at the end of the normal compliance period indicates that an environmental problem is still present. This may be caused by the fact that some constituents in the plume may have proceeded through the soil more slowly than those that were at the front of the plume. In keeping with the general philosophy that the owner or operator should seek to remove environmentally significant levels of hazardous waste leachate from the environment, EPA believes that it is reasonable for the compliance period to be extended where necessary to complete corrective action.

It is necessary, then, to define what is meant by completing corrective action. Today's regulations indicate that the owner or operator can demonstrate the success of corrective action by showing, with monitoring data, that the ground-water protection standard has not been exceeded for a period of three consecutive years. This time period should provide a reasonable margin of safety in determining whether a plume of contamination has been removed.

Depending on when corrective action begins and its success in removing or treating contamination, it is possible that the compliance period will extend beyond the post-closure care period for the unit. The regulations do not provide that the post-closure period would be automatically extended for the same duration as the compliance period. It may not always be necessary for the compliance period and the post-closure care period to continue for the same amount of time because the activities involved may have differing objectives. Cover maintenance, for example, may not be directly related to the task of cleaning up a plume caused by leachate that entered the ground during the unit's active life. The Regional Administrator may, however, modify the permit to extend the post-closure care period under § 264.117 of the existing regulations. Under the general criteria established in § 264.117, it may be entirely appropriate to extend the post-closure care period to be coterminus with the compliance period.

8. *General Ground-water Monitoring Requirements (§ 264.97).* In § 264.97, EPA has set forth a series of general requirements that address such topics as well design and placement, sampling and analysis procedures, analytical methods, sampling of water elevations, determination of background, and statistical procedures.

It is most efficient to describe these requirements as they come up in later sections of this preamble that discuss the specific ground-water monitoring programs. Two of these general requirements, however, deserve special discussions. They are described in the following two sections.

9. *Determination of Background (§ 264.97(g)).* In many situations, the concentration limit for a particular hazardous constituent will require no increase over the background concentration of the constituent. In addition, the detection monitoring program relies on increases over background levels of parameters or constituents to define when a regulated unit is leaking. Today's regulations are designed to ensure that the calculation of background ground-water quality will be based on accurate data.

The level of chemical constituents in ground water may fluctuate substantially over time. One of the major sources of variation is seasonal fluctuation. During different times of the year the recharge rates to ground water will vary, reflecting the differences in climate, rainfall, and other factors. When recharge rates are high, there may be more dilution and the background concentrations of constituents tend to fall. When the recharge rate is low, the concentration of constituents in background ground water may increase.

EPA believes that such variation in background concentrations should be accounted for if this can be done without compromising other regulatory objectives. For detection monitoring, today's regulations provide that background concentrations will be determined by the mean of values measured at least quarterly for one year. Quarterly sampling is required to roughly accord with the seasons.

EPA does not believe that this general approach can be used in the compliance monitoring program because of the environmental situation at the time that such a program is required. If hazardous constituents are moving downgradient, they may present a considerable risk of causing adverse effects on human health and the environment. EPA does not believe it is generally appropriate to allow such a plume to continue to migrate while the owner or operator collects background data for one year. Therefore, EPA will, whenever possible, rely on whatever reliable background data is available to establish background values for the compliance monitoring program.

Today's rules require that a request for a permit modification to incorporate a compliance monitoring program be submitted by the owner or operator within 90 days of determining that there has been a statistically significant increase in the concentration of a detection monitoring parameter. During this 90 day period multiple ground-water samples can be obtained from the monitoring wells, and analyzed for the presence and concentration of hazardous constituents. Potential seasonal variations in concentrations cannot be established during this period. Depending on the length of the permit process, the owner or operator may have enough time to develop one year of background data for each constituent.

The Regional Administrator will exercise discretion in processing a permit modification application to incorporate compliance monitoring when available data (including data collected during the 90 days after finding a statistically significant increase in a detection monitoring parameter) suggest that additional measurements of background concentrations are necessary to adequately account for anticipated seasonal variations. This situation could occur when Appendix VIII constituents in ground water at the compliance point are present in concentrations which are not greater by a statistically significant amount than the concentrations of these constituents in samples from upgradient wells. If, in such a situation, the owner or operator has evidence that the concentrations of the constituents in ground water vary over time, then additional sampling and analysis over time to account for such variation in background concentrations may be prudent.

Occasionally, additional sampling and analysis over time may be appropriate even where compliance point concentrations exceed upgradient concentrations, at a given point in time, if the Regional Administrator believes it reasonably possible that this difference is due to seasonal or spatial variation in ground-water quality. In this case, however, the Regional Administrator would consider whether the rate of ground-water flow (and any plume of contamination) was sufficiently slow that additional time for collection of ground-water quality data would jeopardize the potential for successful corrective action if it is determined to be necessary. The Regional Administrator would not, however, consider allowing time for additional data gathering in cases where the initial difference in compliance point and upgradient constituent concentration is well above potential seasonal variation.

The owner or operator who wants to account for seasonal variations in the background values has at least two additional options. He can anticipate the need for such data by collecting upgradient data on Appendix VIII constituents likely to be in leachate before detection monitoring program indicates that leakage has occurred. He may also continue to collect background data after the compliance monitoring program permit is issued. He may use that data in making a demonstration under § 264.99(j) that an apparent increase over concentration limits in the ground-water protection standard is caused by contamination from other sources. He may also use the data in seeking a permit modification to change the background values contained in the compliance monitoring program.

Another issue in the establishment of background for a constituent is the question of what wells should be used in the data base. One option is to establish background at downgradient wells and then to determine whether ground-water quality at each well increases significantly over time. The principal disadvantage of this approach is that is can lead to major miscalculations at an existing regulated unit. Such a unit could be leaking quite heavily. If the plume of contamination is included in the data base used to determine background, the plume could continue to flow and the analysis of ground-water quality at the downgradient wells would not show a statistically significant increase.

Another option is to base background on data from both upgradient and downgradient wells. This approach suffers from the same general problem described above. A plume of real contamination could become part of the data base for determining background and lead to a failure to detect a significant plume.

A third option, which EPA believes is preferable in most situations, is to base background data on upgradient wells. Assuming these wells are properly placed, they should produce data that are not biased by contamination from the facility.

There is, however, a conceptual difficulty with the use of upgradient wells as the basis for determining background. In a theoretical sense, an "increase over background" test at the compliance point attempts to compare the sampled ground-water quality at the compliance point to what that ground-water would have been at the compliance point in the absence of the facility.

In the option just described, the upgradient wells are being used to indicate what the ground-water quality at the compliance point would have been in the absence of the facility. The problem here is that there may be some lag time between upgradient and downgradient wells due to the slow movement of ground water. Thus, upgradient ground-water quality may not always be exactly the same as background ground-water quality at the compliance point. While this factor may be a source of error, EPA knows of no reliable way to correct for it. Given the alternatives, EPA still believes that this approach is superior because it at least does not present the possibility of including leachate from a regulated unit in the data base for calculating background values.

There may be situations, however, where the data used to calculate background values may be taken from wells other than the upgradient wells. In some situations, it may not be possible to determine what wells are upgradient. For example, if a land disposal unit sits

on a hilltop, the entire perimeter of a regulated unit is, in a sense, downgradient. In such a situation, it may be more useful to establish background by drawing samples from a nearby background plot that is representative of general ground-water quality in the area.

In other situations, the possibility that wells other than upgradient wells may be affected by contamination from a regulated unit may not be a serious risk. For example, at a new facility that has not yet received waste, it might be quite acceptable to use downgradient wells in the determination of background ground-water quality.

To account for situations such as these, EPA has provided a variance from the general requirement that background ground-water quality be based on upgradient wells. Such a variance is appropriate where hydrogeologic conditions do not allow the owner or operator to determine what wells are upgradient or where sampling at other wells will provide an indication of background ground-water quality that is as representative or more representative than that provided by upgradient wells.

Today's regulations do not specify how many wells must be installed to provide the data base for determining background ground-water quality. In § 264.97(g), however, the regulations indicate that certain minimum numbers of samples must be taken. The owner or operator must take at least one sample from each well used in the calculation of background (*i.e.*, one from each upgradient well in the normal case). This will ensure that broadly-based data are used, and that the owner or operator cannot selectively use various data points.

The regulations also require a minimum of four samples from the entire system in the determination of background. This means that if there is only one upgradient well, then the owner or operator would take four replicates at that well; if there are two wells, the owner or operator would take two from each well.

10. *Statistical Procedures (§ 264.97(h)).* In the detection monitoring program, the owner or operator must determine whether background values of monitoring parameters or constituents are exceeded at the compliance point. In the compliance monitoring program, the owner or operator must determine whether concentration limits (which may include background values) for hazardous constituents are exceeded at the compliance point. In order to be sure that the ground-water quality measured at the compliance point reflects an accurate indication of whether a background value or concentration limit is exceeded, today's regulations require that the owner or operator determine whether a "statistically significant" increase (or decrease in the case of pH) over background values or concentration limits occurs at the compliance point.

The regulations set forth the general standards that must be met by the statistical procedures used at the facility. In referring to "statistical procedures" in § 264.97(h), EPA means to emphasize that the concept of "statistical significance" must be reflected in a number of aspects of the monitoring program. This involves not just the choice of a level of significance, but also the choice of a statistical test, and the requirements of the number of samples and the number of replicate measurements run on each sample. Since all of these interact to determine the ability of the procedure to detect contamination, the statistical procedures must be evaluated in their entirety and not evaluated by individual component.

EPA's basic concern in establishing standards for statistical procedures is to achieve a proper balance between the risk that the procedures will falsely indicate that a regulated unit is causing background values or concentration limits to be exceeded (false positives) and the risk that the procedures will fail to indicate that background values or concentration limits are being exceeded when that is, in fact, the situation (false negatives). Today's regulations are designed to address that concern directly.

a. *Basic Statistical Procedure*—EPA has not been able to specify one set or several sets of statistical procedures that will provide a high level of confidence in the results for all situations. Many different situations exist and no one procedure is appropriate for all circumstances.

EPA also found it difficult to try to reduce the regulations to a set of specific numerical performance standards that would achieve the proper blance between false positives and false negatives. A major reason for EPA's inability to establish such performance standards at this time is that the probability of correctly deciding that a regulated unit is contaminating (often expressed as the "power" of a statistical test) cannot be easily summarized by a single number because the power of a test is related to the magnitude of the difference between two populations. Today's regulations do not attempt to express the idea of "exceeding background values or concentration limits" in terms of any minimum magnitude; any increase is a cause for concern under today's regulations. The implication of this for the statistical procedures is that a performance standard related to the power of a statistical test would have to be specified for every possible minimum magnitude that might be of concern. This is not feasible at this time given the state of knowledge about ground-water contamination.

An alternative would be for EPA to decide what magnitude of increase it was concerned about and to specify how powerful the test would be for that magnitude of difference. However, the Agency is unable, at this time, to determine an amount of contamination that is acceptable and thus is not able to set such a magnitude. Also, the problem would remain of having to specify how powerful the test should be for values above that minimum difference of concern. EPA invites comment on this issue.

Consistent with its general strategy, however, EPA has tried to bring certainty to these regulations wherever possible.

Therefore, the Agency is establishing a specific sampling requirement, statistical test, and significance level for those situations for which the Agency believes the test is appropriate. This specific approach will then serve as a benchmark against which other statistical procedures may be compared. The comparison should be based on their theoretical properties combined with available data from the specific site. It will generally be easier to make a relative comparison of one procedure against another than to determine the best possible test at a given site.

The regulations establish a standard statistical procedure for use in the detection phase when the background data is approximately normally distributed. The procedure requires background sampling data, sampling data from the compliance point, and a specific statistical test protocol. For any parameter or constituent from a specific well, the protocol is as follows: Compare the mean contaminant level of the compliance point data with the mean contaminant level of the background data using Cochran's Approximation to the Behrens-Fisher Student's t-test. If the comparison is found to be significant at the 0.05 level of significance, a new sample is drawn from that specific well and the comparison of the mean of the new monitoring data with the background data is made. If this (retest) comparison is significant at the 0.05 level of significance, the site is judged to produce a statistically significant difference in contaminant level. If the

comparison is non-significant on either the initial test or the retest, the site is judged not to produce a significant difference in contaminant level.

Today's regulations define the situations in which the distribution is likely to be normal by a coefficient of variation. The coefficient of variation for distribution is the standard deviation divided by the mean. Today's regulations assume that a sample with a coefficient of variation less than 1.00 is likely to have a normal distribution. This assumption is based on the following analysis.

For a normal distribution, approximately 95% of all possible data lie within plus or minus two standard deviations of the mean. Since ground-water constituent levels cannot have negative values, zero is the lower bound to the distribution of sampling data and hence such data should have a coefficient of variation (standard deviation divided by the mean) of approximately 0.5 or less. When sample standard deviation and sample mean are used to estimate the coefficient of variation rather than the true (population) standard deviation and mean, the probabilistic nature of this sample coefficient of variation must be considered. If the data is from a normal distribution, then less than 10% of all sample coefficients of variation will exceed 1.00 by random chance. If the data is non-normal (such as either skewed to the left or right), then the sample standard deviation will be large relative to the sample mean and, therefore, make the probability of a sample coefficient of variation exceeding 1.00 quite large. Accordingly 1.00 is being used to distinguish between situations that are and are not likely to have normal distributions.

In specifying 1.00 instead of 0.5 as the coefficient of variation the Agency believes that it will reduce the burden, on both the owner or operator and the Agency, of establishing a site-specific data comparison procedure. More facilities will, therefore, utilize the specified Student's t-test than if the coefficient of variation were specified as 0.5. For those facilities where the sample coefficient of variation is less than 1.00 but at which the ground-water quality is not quite normally distributed, the specified t-test should remain valid due to the "robustness" of the t-test.

While EPA has decided that a coefficient of variation of 1.00 provides a reasonable criterion for determining whether monitoring data are likely to be normally distributed, EPA specifically seeks further comment on this issue. EPA also urges commenters to provide suggestions about other statistical criteria that might be used to predict whether monitoring data are likely to be normally distributed.

As described in the previous section of this preamble, detection monitoring background values are based on quarterly sampling with at least four replicate measurements on samples taken per quarter. Should there be only one background well, the four measurements per quarter are obtained by splitting a sample from the one well into four aliquots and conducting separate analyses of each aliquot. If there is more than one well, the regulations require there to be at least four measurements per quarter from the background wells as a group with a minimum of one measurement per well.

This number of background measurements is judged by the Agency to be the minimum requirement to adequately establish background concentrations. Using fewer background measurements could decrease the confidence in the background estimate and reduce the ability of a given statistical procedure to detect contamination of a given amount.

The Agency is requiring that monitoring wells be sampled at least semi-annually and that when a well is sampled, the sample is divided into at least four aliquots on which separate analyses and measurements are then conducted. The reason for requiring four aliquots to be separately analyzed is to obtain information on measurement error. It has been EPA's experience that measurement error cannot be reliably estimated with less than four readings.

The standard statistical test being required is the Cochran's Approximation to the Behrens-Fisher Student's t-test. The t-test is appropriate in most situations because concentrations measured above the limit of quantification (defined as the value below which numerical estimates of concentration are unreliable) tend to be approximately normally distributed. The test is believed to be reasonably insensitive to moderate deviation from normality in the distribution of the data.

The version of the t-test required for the comparison of mean level of background data with the mean level of compliance point data is not the one most commonly encountered when comparing two data sets. A key assumption (aside from that of normality) for the usual test is that the underlying variances of the two data sets are equal. With ground-water monitoring data, the background data has variability due to measurement error and seasonal variation, but the compliance point monitoring data has variability only due to measurement error. Therefore, the appropriate test for comparing the two data sets is the Behrens-Fisher Student's t-test, which requires special tables. A good approximation to the relatively complex Behrens-Fisher Student's t-test is supplied by the Cochran's approximation to the Behrens-Fisher Student's t-test, which uses standard tables. These tables are commonly available and it takes no special statistical skills to interpret the results of the test.

EPA is fixing the level of significance for the Student's t-test at 0.05 for each parameter at each well. When the Agency proposed this significance level for interim status ground-water monitoring, it received some criticism that this would produce too many notifications of contamination where none had actually occurred.

EPA recognizes that this could be a problem, particularly when there are many comparisons being made for different parameters and for different wells. However, EPA is concerned that a lower significance level would unduly compromise the ability to detect contamination when it did, in fact, occur.

Instead EPA believes that, given the number of parameters likely to be selected in a detection monitoring program, the problems created by a significance level of 0.05 are adequately controlled by the provision for an automatic retest procedure. The regulations for use of the Student's t-test specify that, for each specific well, one must retest those parameters that tested as a significant difference the first time. They also specify that the observed difference of the first sample is not considered to be statistically significant for purposes of this regulation unless the retest also shows a significant difference.

It may be demonstrated that, without the retest provision, the "compounding" effect of multiple comparisons creates an overall significance level that EPA believes to be too high. For example, if there were twelve comparisons (4 parameters at each of three downgradient wells), each to be made at a significance level of 0.05, then the overall significance level for the twelve comparisons as an entire group is 0.46, too high for practical use. If the retest procedure is used in the same situation, the overall significance level for the entire group is 0.03, a more acceptable value.

EPA certainly seeks to avoid a situation where non-contaminating sites are falsely identified as contaminating due to repeated use of a univariate

statistical test procedure. EPA does not believe, however, that this problem should be addressed by reducing the significance level applied to individual tests and thereby undermining the ability to detect real contamination. Comments are invited on how to construct a statistical test procedure that has an acceptably low probability of falsely identifying a non-contaminating regulated unit, yet provides an acceptably high probability of identifying a truly contaminating regulated unit.

EPA recognizes that even where the distribution of background data is expected to be normally distributed (i.e., the coefficient of variation is less than 1.00), there may be situations where the owner or operator can devise statistical procedures that are more cost-effective to him and which will provide reliable results. Therefore, today's regulations allow the Regional Administrator to approve such procedures if he finds that the procedures balance the risk of false positives and false negatives in a manner comparable to that provided by the Student's t-test protocol specified in the regulations. In examining the comparability of the suggested procedure, the Regional Administrator will not focus on a single aspect of the procedure, such as the significance level of the test, but rather will look to the overall ability of the procedure to provide a reasonable balance between the risk of false positives and false negatives. The Regional Administrator will specify in the permit such things as the sampling frequency and the sample size for the alternative statistical procedure.

b. *General Alternative to Basic Procedure.*—EPA recognizes that there will be situations where the t-test specified for the detection monitoring program will not be useable in that program or in the compliance monitoring program. In such situations, it is necessary to develop procedures that are tailored to the specific situation at the facility. EPA has established a general narrative standard for such situations. The standard indicates that EPA has two principal concerns in the development of such procedures: (1) That the procedure be appropriate for the distribution of the data used to establish background values or concentration limits; and (2) that the procedure provides a reasonable balance between the risk of false positives and false negatives.

EPA has not specifically required that the procedure be comparable to the t-test protocol described above. The regulations indicate, instead, that the procedure must provide reasonable confidence that the migration of hazardous constituents from a regulated unit into and through the aquifer will be indicated. (The reference to hazardous constituents does not mean that this option only applies to compliance monitoring; the test also applies to monitoring parameters and constituents in the detection monitoring program since they are surrogates indicating the presence of hazardous constituents.)

The t-test protocol will, however, be used as a general benchmark for defining "reasonable confidence" in the proposed procedure. If the owner or operator shows that his suggested test is comparable to the Student's t-test in its results, then it is likely to be acceptable under the "reasonable confidence" test. There may be situations, however, where it will be difficult to directly compare the performance of an alternative test to the t-test protocol. In such cases, the alternative test will have to be evaluated on its own merits.

EPA would like to give further specificity to these general criteria for evaluating statistical procedures. The Agency will be analyzing this issue further to see whether more specific criteria can be developed. The Agency hopes to at least provide further guidance about the kinds of statistical procedures that could be adequate under the general criteria in the regulations. EPA encourages public comment on this issue.

c. *Statistical Procedures for Compliance Monitoring*—The basic t-test protocol specified in the regulations was not applied to the compliance monitoring program. The reason for this is that EPA believes a compliance monitoring program is more likely to be subject to a high "experiment error rate" than is the detection monitoring program. An experiment error rate depends on the number of individual comparisons being made for a facility. Each individual comparison of a constituent at a compliance point to the concentration limit for that constituent is subject to an error rate (i.e., probability of a false positive) that is determined by the significance level used with the test. When many individual comparisons are made, this error rate is compounded such that the probability that at least one comparison will falsely indicate statistical significance will greatly increase.

EPA expects that the list of constituents to be monitored in the compliance monitoring program will be greater than that in the detection monitoring program. The experiment error rate in such a situation could be too high. Therefore, the statistical procedures used in the compliance monitoring program have been generally subjected to the "reasonable confidence" standard. Where the number of hazardous constituents identified in the compliance monitoring program is not too large, it may be quite reasonable to use the t-test protocol in the compliance monitoring program and such an approach would be encouraged.

d. *Other Situations*—There will be other situations where the general standard rather than the t-test protocol should be used to evaluate the owner or operator's statistical procedures. One such situation occurs when the coefficient of variation for the background data is greater than 1.0. In such a situation it is quite possible that the data is not normally distributed. In that situation the general narrative test will be used. It is particularly important in such a situation to ensure that any statistical procedure used is appropriate for the distribution of the data.

A second situation that will probably require the crafting of a specialized procedure is one in which the background level of a constituent is below the detectability limit of the analytical methods used or is recorded as a trace level of the constituent. EPA believes that appropriate statistical procedures can be developed in such cases.

Another situation which may be confronted, in the compliance monitoring mode, involves point in time comparisons between upgradient and downgradient ground-water sample analyses, in contrast to comparisons against previously established background values. In situations where there is a high temporal correlation of upgradient and downgradient ground-water quality, that is upgradient and downgradient quality varies uniformly over time, then well to well comparisons may be judged appropriate by the Regional Administrator. An appropriate statistical comparison procedure will need to be established in permits which incorporate such point in time comparisons.

The statistical procedures developed under the general standard need not always be more complex than those used in the basic t-test protocol. For example, where an alternative concentration limit is a fixed health-based number which has no variance, a simpler version of the t-test than the Cochran's Approximation of the Behrens-Fisher Solution may be used.

11. *Detection Monitoring Program (§ 264.98).* The last three sections of Subpart F (*i.e.*, §§ 264.98, 264.99, and 264.100) set forth the specific elements of each type of ground-water monitoring

and response program. In doing so, these sections define the specific responsibilities that an owner or operator must meet under Subpart F, incorporating the appropriate elements of the other sections of Subpart F.

If hazardous constituents from a regulated unit have not reached ground water at the time of permit consideration, the owner or operator may receive a detection monitoring program permit. The following is a description of what such a program will contain.

a. *Parameters to be monitored*—The purpose of a detection monitoring program is to determine whether a regulated unit is leaking. The Regional Administrator will specify in the facility permit the constituents or parameters that must be monitored in order to make that determination.

The list of parameters to be monitored may include indicator parameters, such as pH, specific conductance, total organic carbon, or total organic halogen. These four parameters are the specific monitoring parameters used in the Part 265 ground-water monitoring regulations. The list of parameters may also include the results of gas chromatography procedures using specific detectors, such as GC/ECD or GC/FID. Where indicator parameters are not capable of detecting all known waste constituents or reaction products in ground water, the Regional Administrator may include specific waste constituents or reaction products in the list of detection monitoring parameters.

The basic test that the Regional Administrator will apply is that the parameters used must provide a reliable indication of the presence of hazardous constituents in ground water. In making that determination, the Regional Administrator will address four major factors. First and foremost, the Regional Administrator will consider the types and quantities of hazardous wastes that are managed at a regulated unit, and the concentrations of constituents within those wastes. The Regional Administrator will consider whether those wastes are inorganic, organic, or both. The Regional Administrator may also consider, for example, whether an organic hazardous waste is a chlorinated compound, the quantity of this waste managed at the regulated unit, and the concentration of constituents within the waste.

Second, the Regional Administrator will consider the quality of the leachate as it passes through soil beneath the waste management area prior to entering ground water. Because an accurate prediction of leachate quality, mobility, stability, and persistence in the unsaturated zone is very difficult, this consideration will often not be critical in selecting detection monitoring parameters. However, there may be situations where approximations of these leachate characteristics will lead to rejection of certain indicator parameters or may assist in selecting others to account for products of leachate reactions with soil. For example, the Regional Administrator could choose an inorganic indicator parameter to detect soil constituents that may be leached from the soil into ground water as a result of leakage from a surface impoundment containing highly corrosive wastes. Third the Regional Administrator will consider the detectability of the potential monitoring parameters or constituents. Routine analytical procedures must yield accurate concentrations or values for monitoring parameters if they are to be usable in detection monitoring programs. Parameters which are extremely difficult to measure in ground-water samples will seldom be specified by the Regional Administrator regardless of how representative they are of the waste managed in a regulated unit.

Fourth, the Regional Administrator will consider the variability of the concentration or value of a monitoring parameter in background ground water that is unaffected by a regulated unit. Today's rules include the use of the coefficient of variation in selecting detection monitoring parameters. The coefficient of variation is derived by dividing the standard deviation of a parameter in background ground water by the average concentration or value. As discussed previously in this preamble, the coefficient of variation has been included in these rules to account for the occasionally wide variation in background ground-water quality over time. In general, ground-water quality tends to vary seasonally, principally due to recharge events, such as heavy spring rain. By comparing the average concentration or value during a given year, the Regional Administrator will draw conclusions about the potential effectiveness of a detection monitoring parameter. Monitoring parameters with large coefficients of variation will be avoided whenever possible because it becomes increasingly difficult to determine statistically significant changes in ground-water quality as the coefficient of variation for a parameter increases.

b. *Detection monitoring system*—The owner or operator must install a ground-water monitoring system at the compliance point that complies with certain basic performance standards. The monitoring system must include a sufficient number of wells, installed at appropriate locations and depths, to yield ground-water samples that indicate the quality of ground water passing through the point of compliance. This general standard is similar to the Part 265 requirement concerning well placement in that it places the burden on the applicant to develop a system that yields representative samples. Unlike the Part 265 regulations, however, today's regulations do not require a minimum number of downgradient wells. Such a requirement is not as necessary in today's regulations because EPA will be evaluating the adequacy of the system during the permit process. EPA expects that at least three wells, the minimum number of wells specified in the Part 265 rules, will be needed at most facilities. There may be situations, however, where an adequate job may be done with fewer wells. The Agency intends to issue guidance on ground-water monitoring that will assist the applicant on this issue.

EPA anticipates that ground-water monitoring systems installed at most interim status facilities will be sufficient for detection monitoring in today's rules. Systems developed for assessment monitoring under the interim status regulations may not, however, be adequate. For example, such systems may not have been installed at the compliance point. The information provided by sampling at such wells may, however, be useful in the permitting context. The applicant may use data from interim status assessment monitoring to justify an alternate concentration limit for particular hazardous constituents.

As in the Part 265 regulations, today's rules provide that monitoring wells may be placed at the limit of the waste management area when the facility includes more than one regulated unit.

An adequate monitoring system must also comply with requirements concerning well installation. The wells must be cased in a manner that maintains the integrity of the monitoring well bore hole. The casing must be screened or perforated and packed with gravel or sand, where necessary, to enable collection of ground-water samples. The annular space above the sample depth must be sealed to prevent contamination of samples and the ground water. These represent standard practices that are designed to prevent contamination of ground-water samples and to avoid the possibility that a ground-water monitoring well could

become a conduit allowing contamination into ground water. The Part 265 regulations contain a similar requirement.

c. *Establishment of background values*—Under the detection monitoring program, the owner or operator determines whether contaminants from a regulated unit have entered ground water by comparing the levels of constituents at the compliance point to background values for those constituents. The first step in the process, then, is to establish a background value for each monitoring parameter or constituent in the facility permit. In most cases, the background value itself will be in the permit. The Regional Administrator may, however, specify in the permit the procedure to be used in calculating background and indicate that whatever value results from that calculation shall automatically become part of the permit. For example, the owner or operator may have only assembled 6 months of background data at the time the permit is ready to be issued. Rather than wait another 6 months until the rest of the one year of background data has been assembled, the Regional Administrator may simply specify how the additional background data will be used to calculate the background value.

The monitoring system used to establish background ground-water quality must meet the same general requirements that the monitoring system at the compliance point must meet, with one modification. The well placement scheme must be designed to yield samples that represent the quality of background ground water that has not been affected by leakage from a regulated unit. As with the monitoring system at the compliance point, today's regulations do not specify a minimum number of wells.

Background calculations must be based on data drawn from the appropriate wells. The general guidelines for what wells should be used in the determination of background values are in § 264.97(g). The owner or operator should use those guidelines in establishing background values (Section VIII.D.9. of this preamble explains those provisions.)

The background values in the detection monitoring program must be calculated in a form that is necessary for the determination of statistically significant increases under § 264.97(h). Thus, in the case of the Student's t-test, the owner or operator would need to calculate the mean and variance of the background data.

d. *Duty to Monitor at Compliance Point*—Once the detection monitoring system has been established, the owner or operator must sample ground water at least semi-annually at the compliance point during the active life of a regulated unit (including the closure period) and the post-closure care period. The duration of the monitoring program is based on the general ground-water protection strategy discussed earlier in this preamble. The frequency of sampling will be specified in the permit. As in the interim status regulations, today's rules require that sampling must occur at least semi-annually.

e. *Ground Water Flow and Direction*—Each time the ground water is sampled at the compliance point, the owner or operator must determine the ground-water flow rate and direction in the uppermost aquifer. Determining the gradient in the aquifer will enable the owner or operator to ensure that upgradient wells continue to be upgradient and downgradient wells continue to be downgradient. Information on ground water flow rates can be useful in deciding what the frequency of monitoring should be and in devising a corrective action program.

f. *Sampling and Analysis Procedures*—The detection monitoring program must include procedures for sampling and analysis that comply with the general performance standards in § 264.97(d) and §264.97(e). The owner or operator must develop sampling and analysis procedures that involve relatively standardized measures for insuring that samples taken from monitoring wells are properly handled to avoid inadvertent contamination from other sources. Ultimately, the objective here is to provide reasonable confidence that the samples taken will reflect true ground water quality. The procedures must address: (1) The procedures for obtaining samples from ground water monitoring wells; (2) procedures for preserving the samples for shipment to the laboratory; (3) the analytical procedures to be followed in analyzing samples; and (4) the "chain of custody" procedures to be used to prevent loss or mislabeling of samples during shipment and analysis. EPA intends to issue guidance on these topics.

The detection monitoring program will also indicate what analytical methods will be used in analyzing ground water samples. The general standard in § 264.97(e) requires that the methods be appropriate for ground water sampling and provide an accurate estimate of the presence of hazardous constituents in ground water samples. Some commenters have asked EPA to indicate what the analytical methods should be. To assist owners or operators, EPA is revising *Test Methods for Evaluating Solid Waste* (SW–846) to include guidance on acceptable analytical methods and procedures for ground-water sample analyses. This guidance should assist in the development of appropriate analytical methods for both the Part 265 and Part 264 monitoring requirements.

g. *Determining Statistical Significance*—Each time the owner or operator takes samples at the compliance point he must determine whether the level of the monitoring parameters and constituents is above (or below in the case of pH) the background values for those parameters and constituents by an amount that is statistically significant. The appropriate statistical procedures to be used are specified in § 264.97(h) and will depend on the pattern of the background data. The permit will specifically detail the statistical test that will be used. (See Section VIII.D.10 of this preamble for a description of the statistical procedures.)

The owner or operator must complete the statistical analysis within a reasonable period of time. EPA has not specified a minimum period of time because it recognizes that the reasonableness of such a time period will depend on several factors. Therefore, the regulations provide that the Regional Administrator will specify a time period within which the statistical analysis must be completed after considering the two key factors that could influence the time needed—the complexity of the statistical test and the availability of laboratory facilities to perform the analysis of ground water samples.

h. *Response to Finding Statistical Significance*—If the comparison between data at the compliance point and background values shows that a statistically significant increase (or decrease in the case of pH) has occurred, there is a presumption that a regulated unit is leaking. The owner or operator must pursue one of two options in responding to that finding.

The first option is to seek a permit modification to establish a compliance monitoring program (and perhaps a corrective action program) at the facility. Such a permit modification would be justified by the "new information" cause for modification under § 122.15(a)(2). The owner or operator must take several steps as part of this option. First, he must notify the Regional Administrator in writing within seven days that he has detected a statistically significant increase at the compliance point. The notification must indicate what parameters or

constituents have shown an increase. Second, he must sample the ground water at all monitoring wells for all constituents identified in Appendix VIII of Part 261. This will identify all potential hazardous constituents in the ground water.

Third, the owner or operator must begin to take additional samples to determine background values for all constituents detected at the compliance point. The owner or operator may be seeking to establish an alternative concentration limit (ACL) for some of the hazardous constituents. He must, however, collect some background data on such constituents to be ready in the event that the ACL cannot be justified and that "no increase over background" will become the concentration limit. The owner or operator must comply with the other general performance standards for ground water monitoring systems, for determination of background, and for preparing data in a form necessary for statistical analysis when developing this data.

Fourth, the owner or operator must submit a permit application for a compliance monitoring program within 90 days. That application should indicate what hazardous constituents have been found in ground water. For each such constituent found, the owner or operator must indicate what type of concentration limit (background value, NIPDWS level, or alternate concentration limit) should be established. The owner or operator must also describe any appropriate changes to be made to the ground water monitoring system, the monitoring frequency, sampling and analysis procedures or methods, or statistical procedures. In most cases, the permit applicant will at least be modifying the constituents to be monitored, and therefore, the analytical methods to be used. Monitoring frequency is also likely to be increased. Changes to the statistical procedures may also be needed, depending, for example, on the variance found in background data. In most cases, the applicant will not need to make substantial changes to the ground-water monitoring system.

Given that the modifications to the ground water monitoring program will primarily be ones involving changes in operating procedures, EPA believes that the applicant should be able to submit the application within 90 days.

If the owner or operator wants the Regional Administrator to establish alternative concentration limits, the information needed for the application will be more extensive. As indicated earlier in this preamble, EPA does not believe that permit issuance should be unreasonably delayed to allow an applicant to begin to collect data necessary for an ACL showing. Applicants who anticipate that they will want to pursue an ACL demonstration should do some advance planning to allow them to make the demonstration quickly.

In recognition of the fact that an application requesting an ACL will necessarily contain more information and analysis than an application based on the other types of concentration limits, however, today's regulations allow owners and operators additional time to submit the information necessary to justify an ACL. Within 90 days after detecting a statistically significant increase in the concentration of detection parameters or constituents at the compliance point, the owner or operator must indicate whether he intends to seek an ACL variance for each of the Appendix VIII constituents that have been found in the ground water at the compliance point. He indicates his choice by either proposing a concentration limit (background value or NIPDWR limit) or giving notice of his intent to seek an ACL. The owner or operator has an additional 90 days to submit the actual information necessary to support each of the ACL's sought.

Timely ACL demonstrations will be evaluated in the context of the permitting process on the compliance monitoring program. EPA will indicate its decision on the merits of the ACL demonstration when it issues the compliance monitoring permit. The permit will either contain a background value or NIPDWR limit (if EPA rejects the ACL demonstration) or it will contain an ACL (which may be equal to or less than the one proposed by the applicant).

Fifth, the owner or operator must submit within 180 days an engineering feasibility plan for a corrective action program. Once the monitoring indicates that a regulated unit is leaking and that hazardous constituents are present in the ground water, EPA believes that it is reasonable to assume that corrective action is likely to be necessary. In many cases, the Regional Administrator will be specifying a corrective action program in conjunction with a compliance monitoring program. Therefore, EPA believes that the owner or operator should submit a preliminary proposal for corrective action at the facility in conjunction with an application for a compliance monitoring program.

This plan does not need to detail every aspect of the program but rather should be an engineering feasibility plan showing what general corrective action measures can be taken. The plan should be sufficiently specific to allow EPA to determine that the corrective action program proposed could work at the facility. Recognizing that this plan could take some time to prepare, EPA has given the applicant 180 days to submit it.

The regulations also indicate that there are two situations where such a feasibility plan will not be necessary. First, if the only hazardous constituents are those listed in Table 1, and if the concentrations of those constituents at the compliance point are below the contaminant limits specified in Table 1, the likelihood that corrective action will be needed is less clear. Therefore, there is no automatic requirement for a corrective action feasibility plan in those cases. Second, if the owner or operator has requested an ACL for every Apendix VIII constituent significantly above background, or above appropriate NIPDWS levels found in ground water at the compliance point, then he is not required to submit the engineering feasibility study. If an ACL were granted for all of these constituents, it would not necessarily follow that a corrective action program would have to be established. Therefore, where such a comprehensive request for ACL's has been made, the Regional Administrator will make a decision on the ACL demonstration before requiring the submission of information necessary for a corrective action program.

The owner or operator has another option for responding to evidence that there is a statistically significant increase (or decrease in the case of pH) at the compliance point. The owner or operator may submit a report to the Regional Administrator indicating why he believes that the perceived increase was caused by a source other than a regulated unit or was the result of error in sampling, analysis, or evaluation. This report should be accompanied by additional monitoring data which indicates that the values used in the initial analysis of statistical significance are incorrect. Since this report is an action that may substitute for the submission of a permit modification application as described above, it must be submitted within 90 days.

The owner or operator may submit the report just described and a permit modification application. The owner or operator may also choose to file the report in lieu of the permit modification application. If he does so, however, he is subjecting himself to a risk. Such a report can only operate to exempt him from the general duty to file a permit modification application if it clearly indicates that the contamination is from

another source or is due to error. If the report fails to demonstrate such facts and the owner or operator has not filed an application for a permit modification, he is in violation of his permit. EPA could, therefore, take enforcement action if it finds such a report to be inadequate. Therefore, where the owner or operator knows that the data on which he bases his report is somewhat questionable, it may be prudent to also file a permit modification application.

i. *Duty to Modify Program*—The owner or operator has an ongoing responsibility to make sure that the detection monitoring program continues to comply with the requirements of this section. If he determines that it does not meet the general standards contained in this section, he should initiate a permit modification proceeding to make appropriate changes. For example, if his monitoring of ground-water elevation indicates that the gradient of the uppermost aquifer has shifted, he should apply for a permit modification to make appropriate changes to the ground-water monitoring system.

j. *Duty to Ensure Compliance with the Ground-Water Protection Standard*—The monitoring and response program of Subpart F provides for a graduated response over time to the problem of ground-water contamination as the evidence of such contamination increases. Since there is a significant likelihood that ground-water contamination problems will appear some time into the active life of a regulated unit or the post-closure care period, EPA wants to make sure that owners or operators engaged in current waste disposal will remain at the facility to manage any plume of contamination that emerges from a regulated unit. For example, EPA wants to avoid a situation which would allow an owner or operator who has not detected hazardous constituents in ground water to continue to operate while he faces the relatively light burdens of the detection monitoring program and to walk away once significant problems appear in ground water. To clarify a permittee's responsibilities, EPA is amending § 122.21(d) which sets forth the scope of the RCRA permit requirement. The amendment clarifies that owners and operators of hazardous waste management facilities must have permits during any post-closure care period for the facility and during any compliance period for the facility as well as during the active life of the facility. EPA is making a conforming change to § 122.10(b) to clarify that closure activities and post-closure care both must be undertaken pursuant to a permit.

One way of avoiding the possibility that the owner or operator would choose not to operate under a permit once contamination appeared is to provide a specific condition in the initial permit for the facility which obligates the owner or operator to monitor for and clean up hazardous constituents in the future as may be necessary to achieve the ground water protection standard. EPA believes that such a permit condition constitutes sound regulatory policy. EPA believes that the right to dispose of hazardous waste carries with it a correlative duty to insure that future contamination does not cause environmental problems. Thus, a future responsibility should be condition of a present authorization to operate.

Today's regulations indicate that a detection monitoring program will include a general permit condition requiring the owner or operator to take monitoring and corrective action measures that are necessary to assure compliance with the ground water protection standard. The exact nature of that commitment will be fleshed out in later permit proceedings if there is a need to take additional monitoring and corrective action measures.

12. *Compliance Monitoring Program (§ 264.99).* Once the owner or operator determines that there are hazardous constituents from a regulated unit, in ground water, he must establish a compliance monitoring program at the facility. Many of the requirements of this program are analogous to those required for the detection monitoring programs. The discussion here will only elaborate on those elements of the compliance program that differ from the detection program.

a. *Ground Water Protection Standard*—The ground-water protection standard for a facility will be established in the compliance monitoring program permit. The Regional Administrator will specify in such a permit the four elements of the ground-water protection standard: (1) The hazardous constitutents (§ 264.93); (2) the concentration limits for those constituents (§ 264.94); (3) the compliance point (§ 264.95); and (4) the compliance period (§ 264.96). The criteria used to establish these permit conditions are discussed in other sections of this preamble.

b. *Compliance Monitoring System*—The owner or operator must establish a monitoring system at the compliance point that will be used to determine whether the ground water protection standard is exceeded. The ground water monitoring system must satisfy the same general performance standards on well placement and installation (e.g., casing) that apply to detection monitoring systems installed at the compliance point.

c. *Concentration Limits*—The levels of hazardous constituents found at the compliance point must be compared to the concentration limits established in the ground water protection standard. The concentration limit for a constituent will be specified in the permit either in relationship to the background concentration of the constituent or as a specific concentration for the constituent. In both cases, statistical comparison procedures will be utilized.

In the first case, the concentration limit will be specified to allow for a determination of a statistically significant increase in the concentration of a constituent at the compliance point over the concentration of that constituent in ground water unaffected by a regulated unit. In most situations, the background concentration of a constituent will be specified in the permit as a result of pooling upgradient sample analyses over time, principally to account for seasonal variations in the naturally occurring ground water quality.

Where there is a high temporal correlation between ground water quality at the upgradient and downgradient monitoring wells, it may not be necessary to require the pooling of samples over time to account for seasonal variations. In such a situation, it would be acceptable to compare upgradient and downgradient ground-water quality each time the ground water is sampled. Accordingly, today's regulations provide that the Regional Administrator may allow for such a "single-point-in-time" comparison of upgradient and downgradient samples as an alternative to making comparisons of downgradient sampling results against a set background level that was based on a pooling of samples over time. Where this option is used, the Regional Administrator will specify in the permit a procedure for how background values will be calculated each time sampling occurs rather than specific background values.

The Agency has very limited information regarding the prevalence of temporal uniformity in ground water quality for hazardous constituents. The Agency invites comments regarding this phenomena where concentrations of constitutents in ground water vary over time but where the amount of variation at two different monitoring wells in the aquifer is virtually the same. Based on

such further information, the Agency may expand the use of the method just described for determining whether statistically significant increases occur in these regulations.

In the other case, the concentration limits specified in the permit will be either an MCL, for those constituents listed in Table 1 under § 264.94, or an ACL (alternate concentration limit) established under § 264.94(b).

When the concentration limit is one of the maximum concentration limits (MCL's) in Table 1, a problem arises when the MCL is quite close to the background value of the constituent. The MCL may be within the normal range of fluctuating background quality. Thus, when the monitoring system picks up a value that exceeds the MCL, it is not possible to tell whether the increase was due to leachate from a regulated unit or from normal fluctuations in background.

To account for this possibility, today's regulations provide that, when an MCL is within the normal range of background fluctuations of a constituent, the background value will be used as the concentration limit. This approach will provide reasonable confidence that corrective action will be triggered by an increase over an MCL only when the increase was not caused by normal background fluctuations.

The test used to determine whether the MCL or the background value will be used relies on a statistical concept. If analysis indicates that the MCL does not exceed the background value of a Table 1 constituent by a statistically significant amount, then the concentration limit will be based on the background value of the constituent. In addition, if the background value for a constituent is greater than the MCL, the background value will be used.

The system used for the collection of background data must meet the general performance standards applied to such systems. The data must be drawn from the proper wells as outlined under § 264.97(g) and must be expressed in a form necessary for the determination of statistically significant increases under § 264.97(h).

d. *Compliance Point Monitoring*—Under a compliance monitoring program, the owner or operator must sample ground water at the compliance point throughout the compliance period to determine whether a concentration limit is exceeded. Since a compliance monitoring program is used when hazardous constituents are in the ground water, EPA believes that sampling must be more frequent than it is in the detection monitoring program. EPA has, therefore, required that sampling should occur at least quarterly. The data collected must be expressed in a form necessary for the determination of statistically significant increases.

e. *Ground Water Flow and Direction*—The owner or operator must determine ground water flow rate and direction in the uppermost aquifer each time samples are taken at the compliance point. The rationale for this requirement is explained in the preamble to the detection monitoring program.

f. *Duty to Search for Additional Hazardous Constituents*—Since the hazardous constituents in a regulated unit will leak into ground water at different rates, it can be expected that the quality of leachate entering the ground water will change over time. Therefore, an assessment of leachate quality at the time that the leading front of the plume reaches the compliance point will not necessarily reflect the range of hazardous constituents that will appear at the compliance point during the compliance period.

To account for this fact, owners or operators are required to sample and analyze the ground water to determine whether additional hazardous constituents besides those identified in the permit are appearing at the compliance point. In order to make this determination, the owner or operator must analyze the ground water samples for Appendix VIII constituents at least annually. If this analysis reveals constituents that had not been found in the sampling used in the initial determination of the list of hazardous constituents, then the owner or operator must report his findings to the Regional Administrator. It will then be up to the Regional Administrator to reopen the permit to add hazardous constituents and appropriate concentration limits to the facility permit. The cause for this permit modification would be the new information that the permittee has found additional constituents in the ground water. See § 122.15(a)(2).

g. *Sampling and Analaysis Procedures*—As in the detection monitoring program, the owner or operator must develop sampling and analysis procedures and methods that satisfy general performance standards set forth in the regulations. As described in the preamble discussion of the detection monitoring program, those standards are designed to assure that the program develops accurate and reliable information on ground-water quality at the facility.

h. *Determining Statistical Significance*—Each time samples are taken at the compliance point, the owner or operator must determine whether there is a statistically significant increase at the compliance point over the concentration limit for each constituent. The procedures to be used must meet the requirements in § 264.97(h). As the preamble discussion of that section indicates, different criteria apply to statistical procedures used in the compliance monitoring program than apply in the detection monitoring program. The statistical analysis must be performed within a reasonable period of time, as discussed in the preamble to the detection monitoring program.

i. *Response to Finding of Statistical Significance*—If the analysis indicates a statistically significant increase over a concentration limit, the owner or operator must respond in a manner that is analogous to what is required in the detection monitoring program when a statistically significant increase is found. The owner or operator must notify the Regional Administrator in writing within seven days about what constituents have exceeded their concentration limits. He must also begin to prepare an application for a permit modification to establish a corrective action program for the facility, unless one has already been established in the permit. Where the monitoring data developed during the course of the compliance monitoring program provide the basis for knowing that concentration limits are exceeded, the cause for this permit modification would be the new information of the increase over a concentration limit. See § 122.15(a)(2).

The owner or operator has 90 days to submit an application for a corrective action program. EPA believes this is a reasonable time frame, particularly in light of the fact that in the normal course of permitting he will have aleady submitted an engineering feasibility study for corrective action as part of the deliberations over his compliance monitoring program.

The owner or operator will not have submitted an engineering feasibility study previously, however, if he had attempted to make ACL demonstrations for all Appendix VIII constituents found at the compliance point or if the only constituents found were NIPDWR constituents which were not above levels found in Table 1 under § 264.94. (These two situations are discussed in Section VII.D.11.h. of this preamble.) Where these two situations arise, the regulations allow the owner or operator 180 days, rather than 90 days, to submit the application for a corrective action program.

The application for the corrective action program must provide sufficient

information to allow the Regional Administrator to make two findings. First, the Regional Administrator must be able to determine that the corrective action proposed by the applicant will be able to bring the facility back into compliance with the ground-water protection standard for the facility. This will require a detailed description of how the applicant intends to remove or treat the ground water. This information should also describe any treatment processes that the owner or operator intends to use on ground water that is removed from the aquifer. EPA is particularly concerned that units used to treat these waters meet any applicable requirements of the hazardous waste regulations.

Second, the application must describe a ground-water monitoring program that will be used to demonstrate the effectiveness of the corrective action. In many cases, this program will be essentially the same as the compliance monitoring program, because that program was the one used to determine that the ground-water protection standard was exceeded. Some modifications to the compliance monitoring program may be appropriate, however, to demonstrate the effectiveness of corrective action. For example, it may be necessary to increase the frequency of monitoring or to increase the number of wells at or near the compliance point in those areas where the plume appears to be concentrated. In order to fully evaluate the effectiveness of the corrective action program, owners or operators may wish to install additional monitoring wells beyond the compliance point.

As in the detection monitoring program, the owner or operator may file a report along with, or in lieu of, the permit modification application that explains why the statistically significant increase was caused by a source other than a regulated unit or was the result of error in sampling, analysis, or evaluation. As in the detection monitoring program, the owner or operator takes the risk that he will ultimately be in violation of his permit if he files the report in lieu of a permit application and the report fails to demonstrate that the statistically significant increase was not caused by leachate from a regulated unit.

j. *Duty to Modify Program*—As in the detection monitoring program, the owner or operator has an ongoing responsibility to make sure that the compliance monitoring program continues to comply with the requirements of this section and to seek permit modifications when needed. This provisions is explained in more detail in the preamble for the detection monitoring program.

k. *Duty to Ensure Compliance with the Ground-water Protection Standards*—As described in the preamble for the detection monitoring program, EPA believes that the current right to dispose of waste carriers with it a correlative duty to control adverse effects from that activity that appear in the future. Therefore, today's regulations indicate that the facility permit will include a general condition obligating the owner or operator to conduct future monitoring and corrective action measures as may be necessary to achieve the ground-water protection standard.

13. *Corrective Action Program (§ 264.100).* If hazardous constituents from a regulated unit exceed the ground-water protection standard established for a regulated unit, the owner or operator must have a corrective action program designed to bring the unit back into compliance with the standard. A corrective action program may stand on its own in the permit or may be specified in conjunction with a compliance monitoring program. The following describes the general elements of a corrective action program.

a. *Ground-water Protection Standard*—The goal of the corrective action program is to bring the regulated unit into compliance with the ground-water protection standard. Accordingly, the elements of the ground-water protection standard will be specified in the permit including the list of hazardous constituents, the concentration limits for each constituent, the compliance point, and the compliance period.

b. *Objective of Corrective Action*—While the general goal of the corrective action program is to achieve compliance with the ground-water protection standard, today's regulations indicate that this goal must be achieved by removing the hazardous constituents or treating them in place. This is consistent with the general ground-water protection strategy described earlier in this preamble. EPA believes that the appropriate way to protect ground water is to prevent generation of hazardous waste leachate, where feasible, and to remove such leachate from the subsurface environment when it appears. EPA believes that in situ treatment of hazardous constituents is analogous to removal because it also provides long/term protection of human health or the environment. While the Agency recognizes that in situ treatment is an emerging technology, with chemical and biological techniques applied in only limited circumstances to date, in situ treatment may be an effective corrective action strategy.

EPA does not believe that measures which only prevent migration of hazardous constituents in the ground water for some period of time provide an adequate level of protection. Such approaches simply defer adverse ground-water effects until some later time. Therefore, EPA does not believe that measures which only modify the gradient in the aquifer or create barriers (*e.g.*, slurry walls) provide a fully adequate solution under the Subtitle C program. Such measures can, however, be combined with other measures, such as counterpumping, to constitute an adequate corrective action program.

The regulations do not describe in great detail the specific measures that must be taken for corrective action. Corrective action measures are highly dependent on site-specific factors. Moreover, the state of the art of ground-water cleanup will probably improve substantially in the next few years. EPA does not want to establish rigid guidelines for corrective action that stifle innovation in this area. Therefore, EPA will rely on the broad performance standards established in § 264.100 to evaluate specific corrective action measures.

c. *Timing of Corrective Action*—EPA recognizes that is will take time to install corrective action measures and that the time needed will depend on site-specific factors. Therefore, today's regulations do not attempt to establish a minimum time period for installing corrective action measures. Instead, the regulations simply provide that corrective action must begin within a reasonable period of time to be specified in the permit by the Regional Administrator.

Some permits may combine the elements of the compliance monitoring program with the corrective action program. In such a situation, the appropriate response to the discovery of a statistically significant increase is the initiation of the approved corrective action program rather than submission of a permit modification application. In § 264.100(c), today's regulations make this point clear.

Corrective action must extend as long as is necessary to achieve the ground-water protection standard. EPA has not specified a minimum time limit within which the standard must be achieved. EPA believes that any such limit should be based on site-specific factors. EPA anticipates that the owner or operator may be switching back and forth

between the compliance monitoring and corrective action mode during the course of the compliance period as ground-water quality fluctuates above and below the concentration limits specified in the permit. EPA should be able to specify in the permit the conditions under which these shifts in the mode of the monitoring and response program take place such that permit modifications will not be necessary.

Corrective action must continue through the compliance period to the extent necessary to meet the ground-water protection standard. If corrective action is still needed at the end of the compliance period, the owner or operator must continue the corrective action until it has achieved the standard. In defining what it means to "achieve" the standard, EPA must indicate how long the owner or operator must demonstrate through monitoring data that the ground-water protection standard has not been exceeded. In order to provide an adequate margin of safety, EPA has provided that the ground-water protection standard must not be exceeded for a period of three consecutive years before the corrective action program can be terminated.

d. *Duty to Clean Up Contamination Past the Compliance Point*—At the time that EPA considers a regulated unit at an existing facility for permitting, it is possible that a plume of contamination will have migrated beyond the compliance point. Clearly, such a plume of contamination can present a risk of adverse effects on human health and the environment. Corrective action measures designed to remove the plume of contamination at the compliance point will be at least partially successful in controlling contamination beyond the compliance point, but there is no guarantee that such a plume will be completely removed.

Some or all of the plume may be within the facility property boundary and thus within the areal jurisdiction of Section 3004. Therefore, it is within EPA's authority to require cleanup of this contamination under the permit.

EPA has decided that it is reasonable to require the owner or operator to take corrective action measures to clean up a plume (or portion of a plume) of contamination that has migrated beyond the compliance point but not beyond the property boundary as a condition for receiving a permit under today's regulations. EPA's decision is based on several considerations. First, the existence of such a plume may constitute a very real and present danger to human health and the environment. In fact, the proximity of such a plume to the facility property boundary indicates that it may present a threat that is even more imminent than that presented by the portion of the plume that is just arriving at the compliance point at the time of permit consideration.

The fact that the plume can be linked to wastes placed before these regulations were issued does not negate the fact that the existence of the plume is a present condition that may cause present and future harm to human health and the environment if the plume is allowed to continue to migrate. In requiring the corrective action program to address the plume beyond the compliance point, EPA is not imposing new requirements directly on past practices, but rather is requiring the owner or operator to address a current ground-water contamination problem that may cause present and future damage.

Second, this approach, in conjunction with the decision about what constitutes a regulated unit, provides fair notice to the owner or operator about what his responsibilities will be. The ground-water protection standard in today's regulations only applies to plumes of contamination from regulated units (i.e., units that receive waste after the effective date of today's regulations). If the owner or operator can show that a particular plume does not originate from a regulated unit, the permit would not require him to clean up such a plume. (EPA could, of course, seek cleanup of such plumes under other authorities, including Section 7003 of RCRA.) Thus, the regulations provide the owner or operator with a reasonable time period (i.e., the time between the issuance of today's regulations and their effective date) to define the units (and thus the potential plumes) that will be subject to the requirements of this Section.

Third, this approach links the scope of the owner or operator's responsibility to the scope of his control. The property boundary defines the area within which the owner or operator can feasibly conduct corrective action measures such as counter-pumping. In some situations, it might also be possible for him to obtain permission to enter neighboring property to conduct corrective action to reach a plume that has migrated off-site. EPA has not required, however, that the owner or operator attempt to clean up the portion of a plume from a regulated unit that has migrated beyond the facility property boundary because there is no guarantee that the owner or operator could obtain such permission. It is inappropriate, therefore, to impose this as a general requirement for all facilities. Plumes migrating beyond the property boundary could, however, be addressed under other authorities such as CERCLA.

Accordingly, today's regulations require that the owner or operator take corrective action to clean up significant plumes (or portions of plumes) of contamination from regulated units that are in the ground water between the compliance point and the facility property boundary at the time of permit consideration. The regulations require (in § 264.91(a)) that a corrective action program is necessary if hazardous constituents under § 264.93 exceed concentration limits under § 264.94 in the ground water between the compliance point and the downgradient facility property boundary. The nature of that corrective action program is defined in § 264.100(c).

The Regional Administrator will determine whether there is a need to clean up a plume beyond the compliance point using some of the same general criteria used to determine whether the groundwater protection standard is exceeded. Thus, corrective action is triggered if hazardous constituents under § 264.93 from the regulated unit exceed concentration limits under § 264.94. These same general criteria will be used to define when the corrective action is complete. Corrective action measure may be terminated when hazardous constituents no longer exceed their respective concentration limits.

The corrective action program to clean up a plume beyond the compliance point must be initiated and completed within a reasonable period of time, considering the extent of contamination. The permit will specify the measures that the owner or operator will take to satisfy this provision and will set forth a schedule for when these activities must be completed. These measures may be carried out in conjunction with other corrective action measures designed to achieve compliance with the ground-water protection standard. In § 264.100(d), today's regulations also indicate that the monitoring program needed to determine whether the ground-water protection standard is being achieved should also be capable of determining whether § 264.100(e) is being met where there is a plume from a regulated unit beyond the compliance point.

Today's regulations do not specify that the facility property boundary, for purposes of this provision, is the boundary in existence at any particular point in time. While EPA expects that, in most cases, a facility's property boundary will not change substantially between the effective date of these regulations and the date of permit

issuance, it is possible that an owner or operator may sell a piece of the property during that interim period. EPA is concerned that today's regulations should not create an incentive for an owner or operator to sell pieces of the facility property in order to avoid the responsibility of cleaning up plumes (or portions of plumes) of contamination under this provision.

Accordingly, EPA seeks public comment on how it can better define the concept of the facility property boundary to avoid such undesirable results. Specifically, EPA requests comment on whether the regulations should require corrective action at permitting for any plume (or portion of a plume) that is within the facility property boundary as it existed on the effective date of these regulations, the date that the permit application was submitted, the date of permit issuance, or some other point in time.

e. *Corrective Action Monitoring*—The corrective action program must include a monitoring program that is capable of demonstrating that the corrective action measures have been successful. The monitoring program should be based on the compliance monitoring program of § 264.99, since this is the program that is designed to determine compliance with the ground-water protection standard. Where a compliance monitoring program is established in the same permit as the corrective action program, or has been established in an earlier permit, such a program should be sufficient for the corrective action monitoring. In some cases, however, it may be necessary to have more frequent monitoring or to have a different configuration of wells during the corrective action stage than during the compliance monitoring stage. The Regional Administrator will specify in the facility permit the monitoring program to be used. It must be at least as effective as the compliance monitoring program in determining whether the ground-water protection standard is exceeded.

f. *Reporting*—Today's regulations provide that the owner or operator must report in writing semi-annually on the effectiveness of the corrective action program. EPA believes this requirement is reasonable in light of the fact that the permit may not specify when corrective action must be completed. EPA believes that an ongoing reporting requirement is needed under these circumstances to ensure that the owner or operator does not simply continue to implement measures that are not achieving the ground-water protection standard.

E. Design and Operating Standards: General Discussion (Part 264, Subparts K,L,M,N)

1. *Introduction.* The Part 264 regulations promulgated today for surface impoundments, piles, landfills, and land treatment units used to treat, store, or dispose of hazardous wastes include a set of design and operating standards in Subparts K–N in addition to the ground-water protection requirements in Subpart F. The design and operating standards are of two types. First is a set of standards that are analogous and, in some cases, identical to the interim statutes standards that have already been established for these units in 40 CFR Part 265. These standards generally require sound operating practices. Second is a set of new and generally more rigorous standards that emphasize environmentally protective design and construction features as well as complementary operating and maintenance practices. This preamble discussion will focus on the latter set of standards.

In developing the design and operating standards, EPA has considered all of its previous rulemaking activities (see the discussion in section II of this preamble) and the public comments received as part of the rulemaking process. While the comments submitted to EPA were by no means uniform, the following general guidelines appear to reflect a broad consensus and, in EPA's opinion, a sound approach to writing the design and operating standards (as well as the Subpart F ground-water standards).

(1) The standards should reflect clearly articulated regulatory goals.

(2) The standards should be understandable by the regulated community and the general public and capable of being administered efficiently by permit-issuing authorities.

(3) The standards should require different units to achieve consistent environmental results, while providing ample flexibility for site-specific factors to be considered during the permitting process.

(4) The standards should be specific enough to provide as much certainty as possible, but, again, should be flexible enough to allow environmental results to be achieved in the manner that is most cost-effective for a specific combination of wastes, unit, and location and that does not stifle innovation.

Accordingly, the major feature of the Subparts K–N regulations promulgated today is a set of design performance standards. The standards clearly set forth the environmental results to be achieved (e.g., there must be no migration of wastes from a landfill during its active life) in terms of generalized design requirements (e.g., a landfill must have a liner to prevent the migration of wastes from the landfill during its active life).

The design performance requirement sets forth general performance goals (e.g., a liner must have appropriate chemical properties and sufficient strength and thickness to prevent failure). However, EPA recognizes that there are many ways to achieve such goals. Therefore, detailed specifications are not set forth in these rules but, rather, are left to be determined during the permitting process. EPA has developed in the past and will continue to develop technical manuals and guidance documents to assist permit applicants and permitting authorities in evaluating the appropriateness of various equipment, materials, and designs in the context of specific units, wastes and locations (see the discussion in Section VII. E.6. below.)

The design and operating standards generally apply to all surface impoundments, waste piles, land treatment units, and landfills, including both new and existing units. However, portions of units on which wastes have been placed prior to permit issuance are exempt from certain design requirements which would require burdensome and possibly hazardous retrofitting of the units. (See Section VII E.6. below.) Furthermore, the regulations provide a waiver from some design and operating standards if the permit applicant demonstrates that there will never be any ground water or surface water contamination if the waiver is granted.

2. *Major Features of the Design and Operating Standards.* The regulatory goal adopted in the design and operating standards is to minimize the formation and migration of leachate to the adjacent subsurface soil or ground water or surface water. Thus, while the ground water protection requirements are intended to result in detection, evaluation and, if necessary, correction of ground water contamination, the design and operating standards are intended to minimize the possibility of such contamination. Thus, these two sets of standards are complementary. One set is preventive; the other offers a cure for situations in which the preventive measures have not sufficed to eliminate threats to human health and the environment.

The regulatory goal of minimizing the formation and migration of leachate is

achieved differently with respect to different units. For land treatment units, the design and operating standards require that hazardous constituents be degraded, transformed, or immobilized within the treatment zone. Due to the unique features of land treatment units, these units are discussed separately below in Section VII.H. of this preamble.

For surface impoundments, piles, and landfills, any treatment that occurs is usually not instantaneous and is often incomplete. (An exception is neutralization surface impoundments in which treatment may be very quick and complete. See the discussion above in Section IV.B.2. of this preamble.) Therefore, EPA has assumed in writing the standards that some hazardous constituents will be capable of migrating from these units to adjacent subsurface soil or ground water or surface water. For these units, therefore, EPA has developed regulations to minimize the rate and volume of waste and leachate migration. The regulations have the following key features:

(1) Each impoundment, pile, or landfill (except existing portions) must have a liner that is designed and installed to prevent any migration of wastes out of the unit to the adjacent subsurface soil or ground water or surface water throughout the active life of the unit.

(2) To minimize the potential for release of hazardous constituents both during the unit's active life and after the unit is closed:

a. Piles and landfills must have leachate collection and removal systems (during their active lives and, after closure, until leacate is no longer detected), as well as measures to prevent run-on of liquids into the unit.

b. Surface impoundments must have all wastes and waste residues either removed or solidified at closure. Piles must have all wastes and waste residues removed at closure.

(3) To further minimize post-closure leaching of hazardous constituents, any unit in which hazardous conatituents are not entirely removed or decontaminated at closure must have a final cover (cap) placed on top to minimize the percolation of liquids into the unit. The cap must be maintained until the end of the post-closure period.

3. *Rationale Underlying the Design and Operating Standards.* In developing standards for land disposal units, EPA considered and rejected the option of promulgating ground water standards in conjunction with only those operating requirements already in the Part 265 interim status standards. EPA expects that today's Part 264 ground water protection standards in Subpart F will, in most cases, adequately protect human health and the environment from ground water contamination. They also address surface water contamination threats to some degree, since land disposal units that contaminate surface water often do so by leaching waste constituents to ground water, which then serves as a conduit to adjacent surface water. However, EPA concludes that sound policy as well as the law support an approach that supplements those standards, where appropriate, with design and operating standards that minimize contamination threats by controlling the source of contamination, i.e., the unit itself.

First, at present, the technologies for detecting and remedying ground-water contamination, while fairly advanced, remain subject to error. To detect ground-water contamination, one must carefully study the hydrogeologic setting to properly place monitoring wells. Because each setting is unique and often is heterogeneous, occasional errors in well placement are inevitable despite the best efforts of owners and operators to comply with Subpart F. Furthermore, the technology of performing corrective action is new. The Agency's and the regulated community's experience in conducting remediation activities (beyond the feasibility study stage) is fairly limited to date. Thus, while ground-water monitoring and remediation techniques are important activities and thus are appropriately required in Subpart F, design and operating standards will significantly increase confidence by reducing the potential for ground-water contamination.

Second, corrective action can be expensive. It may involve pumping and treating large volumes of contaminated ground water for many years. In some cases, the owner or operator may lack the financial resources to perform the required corrective action. Elsewhere in this preamble (Section IV.B.1.) EPA discusses and invites public comment on options for financial responsibility requirements to address this problem. Any such requirements that might be promulgated are likely to reduce, but cannot eliminate entirely, the possibility that owners or operators of land disposal units will lack the finances needed to perform necessary corrective action. Furthermore, if ground-water contamination occurs after the owner or operator has completed all required post-closure maintenance and monitoring activities required in his permit, substantial sums of money may need to be drawn from the Fund established in CERCLA or otherwise expended by the public. Design and operating practices can reduce this problem by minimizing the amount and rate of leachate migration to the subsurface soil and ground water.

For the above reasons, EPA believes that design and operating standards are necessary to protect human health and the environment. EPA emphasizes, however, that despite the promulgation of design and operating standards, the Subpart F standards are also necessary to fully protect human health and the environment. Design and operating features, like the ground-water monitoring and response program, are effective but not fail-safe. Most land disposal units, however well designed, will eventually leak after closure to some extent. Furthermore, many existing units lack adequate liners and may already be leaking. When leaking occurs, EPA expects that compliance with the Subpart F requirements will, in most cases, result in detection of contamination that may threaten human health and the environment and in remediation of the threats. In addition, EPA anticipates that the technologies needed to implement Subpart F will continue to advance, just as they have rapidly improved in recent years. Thus, the standards promulgated today provide a two-part "prevention and cure" system, each part adding to confidence in the system as a whole.

This combined approach, including both design and operating standards and monitoring and corrective action requirements, comports with the language and intent of Section 3004 of RCRA. This Section requires EPA to promulgate regulations establishing such performance standards as may be necessary to protect human health and the environment, and direct that these standards include requirements respecting:

(1) Operating methods, techniques and practices as may be satisfactory to the EPA Administrator;

(2) Reporting, monitoring, and inspection;

(3) Location, design, and construction of facilities; and

(4) Contingency plans for effective action to minimize unanticipated damage from hazardous waste treatment, storage, or disposal.

EPA believes that the two-pronged approach promulgated today successfully addresses the various factors listed by Section 3004. We further believe that the regulatory approach will help a concerned public gain confidence that land disposal units permitted pursuant to the standards promulgated today will protect human health and the environment.

4. *Rationale for Requiring Liners that Prevent Migration of Wastes During the Active Life of the Unit.*

During our development of the requirement that each impoundment, pile, and landfill have a liner designed to "prevent" migration of wastes out of the unit during the active life of the unit, EPA considered requiring instead that the liner merely "minimize" migration. This distinction has significant practical consequences with respect to the types of materials that may be used for liners. For example, while a clay liner minimizes migrations, it does not completely prevent migration, since liquids will slowly enter the pores of the clay, move through it, and ultimately flow out of it.

EPA decided to require a design to prevent migration during the unit's active life. This standard, together with requirements to minimize post-closure migration, represent the best available technology to achieve the goal of minimizing the rate and volume of leachate migration for all time. Merely designing to minimize migration during the unit's active life would result in an increased risk of ground-water contamination both during the unit's active life and after closure.

When a synthetic membrane liner, for example, is installed in a landfill, the leachate collection and removal system installed above the liner (as required by today's regulations for landfills and piles) can achieve virtually a 100% removal efficiency. In contrast, if a clay liner is used, some leachate will seep into the liner rather than be removed through the drainage layer. This leachate will remain in the soil after closure and will likely migrate to the ground water at some future time.

Prevention, rather than minimization, of leachate migration similarly produces better environmental results in the case of surface impoundments used to dispose of hazardous wastes. As discussed in Section VII.F. of this preamble, an impoundment is not required to have a leachate collection system, and thus no leachate is removed during its active life. One of the regulatory options for closing a surface impoundment is to solidify remaining wastes and cover the impoundment with a low permeability cap (i.e., to close the unit in the same manner as a landfill). These measures will likely nearly eliminate further migration of hazardous constituents from the impoundment for the near term and will minimize migration into the distant future. If the liner has prevented migration throughout the active life of the impoundment, then all wastes and leachate will still be above the liner at closure where they can be dealt with relatively easily. But if the leachate has migrated into a soil-based (e.g., clay) liner prior to closure, future migration of these wastes is more likely. A liner that prevents rather than minimizes leachate migration provides added assurance that environmental contamination will not occur.

The above rationale does not apply fully to a pile or to a surface impoundment from which all wastes and waste residues will be removed at closure (i.e., "storage" piles or surface impoundments; some of these may treat the wastes as well as store them). Since all contaminated liners will be removed or decontaminated at closure, it is environmentally acceptable for leachate to enter into such liners during the pile's or impoundment's active life. For example, suppose that a five-foot clay liner (but not the underlying soils) received some leachate during the active life, after which the entire contaminated liner system is removed. In that case, the standard of preventing migration out of the unit during its active life would have been met, and the environmental goal of long-term minimization of leachate migration would also have been achieved.

In accordance with the rationale explained above, the regulation requires that landfills, surface impoundments, and piles have liners designed to prevent migration to the adjacent subsurface soil or ground or surface water during their active lives. First, it further provides that in the case of a storage unit (i.e., a pile or a surface impoundment from which wastes and waste residues will be removed or decontaminated at closure), the liner may be constructed of materials that may allow wastes to migrate into the liner (but not into the adjacent subsurface soil or ground water or surface water) during the active life of the unit, provided that the liner is removed at closure. Thus, in appropriate situations, clay or admixed materials may be acceptable liner materials. Second, in the cases of landfills and of surface impoundments used to dispose of hazardous waste, the regulations provide that the liner must be constructed of materials that prevent wastes from passing into the liner. Synthetic liners are the only commonly-used materials of which EPA is aware that would meet this standard.

EPA recognizes that even a thin, 30-mil synthetic liner can sorb a *de minimis* quantity of wastes into its structure and allow some vapor to pass through. EPA of course, does not interpret such *de minimis* sorption or passage to violate the requirement that disposal units not allow wastes to pass into the liner. However, clay liners, even if relatively "tight," would violate this requirement.

It should be noted that the standard of designing to prevent migration is a design performance standard. It requires that liners be "designed constructed and installed" to prevent migration during the unit's active life. If the permittee complies with this requirement and the liner fails subsequent to installation despite such compliance, the permittee will not be in violation of the permit as it relates to this standard.

EPA is not requiring that liners prevent migration of wastes after the unit is closed rather, the regulations require that post-closure migration of liquids be "minimized". Absolute prevention of migration forever or for very long times is beyond the current technical state of the art. Thus, at some time some migration will probably occur. Thus, instead of relying on bottom liners to provide post-closure protection of ground water, EPA is relying principally on final cover (caps), as discussed below.

5. *Closure of Land Disposal Units.* A cap is a top liner, placed on the unit at closure. Caps, like bottom liners cannot be expected to last forever. However, a properly designed and maintained cap can prevent the entry of liquids into the closed unit, and thus the formation and migration of leachate, for many years and can minimize it thereafter in the absence of damage. Therefore, EPA requires that the cap be designed and constructed to provide long-term minimization of the movement of liquids into the closed unit. Because clays will generally last longer than synthetic materials, clay caps rather than synthetic caps should usually be the materials chosen to provide long-term minimization.

To avoid the build-up of liquids in the closed landfill or impoundment (the "bathtub effect") EPA requires that the cap be as impermeable as the bottom liner. This will require the installation of a synthetic membrane cap whenever the bottom liner is synthetic. Thus, many units will be required to have two-layer caps consisting of a synthetic layer to avoid the bathtub effect and provide short-term prevention of infiltration, and a clay layer to provide long-term minimization of precipitation infiltration and leachate generation. EPA believes that this will provide maximum short-term and long-term protection of human health and the environment.

EPA recognizes the need for certainty and uniformity in implementing the regulatory concept of "long-term minimization" of liquids migration.

Therefore, EPA is currently developing numerical limits for liquid migration. The technical approach being used is discussed in EPA's Guidance Document for Landfill Design—Liner Systems and Final Cover (see Section 9 of this preamble discussion below). EPA hopes to propose these numerical limits within six months.

6. *Existing Portions.* The design and operating standards contain a limited exemption for "existing portions" (defined today in § 260.10). An existing portion is any area on which waste has been or is being placed at the time of permit issuance. This may be one cell or trench of a landfill, an impoundment, or a section of a pile. Existing portions are exempt from the requirements to install liners and leachate collection systems. However, they remain subject to the remainder of the design and operating requirements (*e.g.*, placing a cover over wastes remaining at closure) as well as the ground-water protection requirements of Subpart F.

Installing liners and leachate collection systems at existing portions would create severe difficulties for many facilities. Owner or operators would have to remove wastes before installing liners and leachate collection systems. This presents several types of problems.

Some facilities may lack space in which to store the wastes temporarily while retrofitting. Even worse, in some cases, the ongoing waste disposal operation is integral to production operations. For example, some facilities use large volumes of water as part of their manufacturing processes and use surface impoundments to treat wastewater or to store or dispose of sludge. Unless additional space is available to construct a new impoundment to receive the wastes being removed from the existing impoundment, it may be impossible to retrofit the old impoundment without shutting down production facilities.

A second problem is safety. Exhuming wastes from a landfill, for example, may create significant hazards for workers and others who are nearby and may be exposed to the wastes.

The Congress recognized the problem of retrofitting existing units when it amended Section 3004 of RCRA in 1980 to add the following provision:

> In establishing such standards the Administrator shall, where appropriate, distinguish in such standards between requirements appropriate for new facilities and for facilities in existence on the date of promulgation of such regulations.

This provision does not absolutely require EPA to have separate standards for new and existing units but does indicate that EPA must consider whether distinctions should be drawn. The legislative history of this provision specifically indicates that the Congress was concerned about burdensome retrofitting problems that existing units might have in complying with location and design requirements that EPA might appropriately specify for new portions. H.R. Rep. No. 96–1444 (1980).

The limited exemption for existing portions in these rules implements the legislative intent. The exemption applies only to those requirements which would require dangerous or impracticable retrofitting at existing units (i.e., bottom liners and leachate collection and removal systems). Moreover, it applies only to existing portions of existing units. New portions of existing units (e.g., lateral extensions of existing landfills such as new cells or trenches) are not entitled to the exemption since they would not experience the retrofitting problems pertaining to existing portions.

EPA is concerned that this exemption may be too broad in some situations and too narrow in others. It may be that there are some situations where waste can be removed with minimal risk and at a reasonable cost even at existing portions, so that the policy concern behind the exemption is inapplicable. For example, it may be quite simple to remove a small waste pile or a small or partially filled landfill trench and place a liner underneath it. Similarly, it may be feasible to retrofit an existing surface impoundment that is used infrequently (e.g., to hold overflows) or that is not essential to daily production needs. Also, EPA realizes that there may be little environmental gain in requiring owners and operators of units very near the end of their operating life to comply with the liner requirements. For example, if 95 percent of the capacity of a landfill is consumed at the time of permitting, there may be little benefit to requiring a liner system under the remaining 5 percent. EPA does not currently have enough information to distinguish among various types and sizes of existing portions to fashion a narrower exemption. EPA requests public comment about the scope of the exemption and welcomes suggestions about how this exemption can be better crafted to address those situations where substantial retrofitting would not be necessary or could be accomplished without causing environmental harm or excessive burdens or, alternately, where upgrading practices at existing facilities may provide *de minimis* additional protection.

7. *Waiver from the Liner and the Leachate Collection and Removal Requirements.* If an owner or operator of an impoundment, pile, or landfill can demonstrate to the Regional Administrator that the use of alternate design and operating practices, in combination with location and waste characteristics, will prevent the migration of any hazardous constituents into the ground water or surface water forever, then he may obtain an exemption from the liner and the leachate collection and removal requirements. The basis for the exemption is that such requirements become superfluous if no potential threat to ground water or surface water will occur at any time.

An example of a situation for which this exemption may be appropriate is one where: (1) A large unsaturated zone below the unit is composed of materials that are capable of attenuating any hazardous constituents in the leachate before it reaches ground water or surface water (e.g., attenuating hazardous constituents through ion exchange); (2) the unit is located in an arid area in which precipitation does not recharge ground water; and (3) the unit handles only a small quantity of wastes. Given an appropriate combination of such factors, together with proper design and operating practices, (e.g., the use of a thick liner possessing substantial attenuative capacity), it may well be that the owner or operator could demonstrate that no hazardous constituents could ever migrate as far as the ground water or surface water.

Although the requirements for liners and leachate collection and removal systems apply only during the life of the unit, the waiver of these requirements is based on a demonstration that migration to ground or surface water will not occur at any future time. These requirements, while operative during the unit's active life, are designed to ensure that the post-closure migration of liquids is minimized to the extent that ground- or surface-water contamination will never occur. Therefore, a waiver of these requirements must logically be based on a showing that the equivalent environmental result will be achieved, i.e., that ground- or surface-water contamination will never occur.

EPA also considered granting a waiver from the closure provisions in situations as described above, where it is demonstrated that hazardous constituents cannot reach the ground water. However, the closure provisions have other benefits in addition to ground-water protection, including: (a) Prevention of the "bathtub" effect (i.e.,

filling with leachate and overflowing); (b) protection of surface water from run-off; and (c) discouragement of direct access to the wastes. The Agency has, therefore, decided not to waive the closure requirements where ground-water contamination is not possible.

Another waiver from the design and operating requirements considered by the Agency involved facilities located over aquifers which are not underground sources of drinking water (exempted aquifers under the Safe Drinking Water Act—see 40 CFR 122.35 and Section VII.D.5.c. of this preamble. The argument can be made that if an aquifer or a portion of an aquifer is, for some reason, not usable as a drinking water supply, then there is little reason to install devices (e.g., liners) to protect it. The Agency is concerned, however, that exempted aquifers or portions of aquifers under the Safe Drinking Water Act may be only temporarily exempted in some cases, and that they may flow into nonexempted portions, into surface water bodies, or into nonexempted interconnected aquifers (e.g., underlying aquifers). The Agency has not had time, however, to fully evaluate to what extent, if any, such an exemption may be protective and has, therefore, not included it in this promulgation. Existing facilities over exempted aquifers or exempted portions of aquifers will, however, be considered low priority for permitting pending review of this issue.

The Agency solicits comments on these and other waivers from the design and operating requirements which might provide adequate protection.

8. *Special Provisions for Double-lined Units: Exemption from the Ground Water Protection Requirements of Subpart F.* The design and operating standards contain special sets of standards for surface impoundments, piles, and landfills with double liners and leak detection systems. Compliance with these standards is not mandatory. However, if an owner or operator voluntarily applies for and is issued a permit to comply with these special standards (in addition to the other standards generally applicable to these units), then he is not subject to the ground water protection regulations contained in Subpart F (except under special circumstances discussed below).

These special standards require that there be two liners underlying the unit and a leak detection system between the two liners. The two liners must be designed and constructed in a manner that prevents the migration of liquids into or out of the space between the liners. This can be achieved by lapping or sealing the edges of two synthetic membrane liners at the surface. A leak detection system is any system (e.g., a drain and pump, or appropriate instrumentation) that enables the owner or operator to detect whether any liquid has entered into the space between the liners. If liquids are detected in the leak detection system, it may be concluded that the liquids resulted from a leak in one of the liners. Some water may enter the space between the liners at the time of installation. This would occur only once, at the time of unit start-up. A prudent owner or operator would remove this water at that time, since the presence of water in the leak detection system at a later time will be assumed to indicate that one of the liners is leaking.

If liquid leaks into the leak detection system, indicating a leak in at least one of the two liners, the owner or operator must notify the Regional Administrator within seven days after detecting the leak. He then has two options. One is to repair or replace the liner and obtain a certification from a qualified engineer that the leak has been stopped. This must be done within a period of time specified in the permit. The period of time should be set to ensure expeditious repair or replacement but, since one liner is still intact, can be set reasonably to cause minimal disruption of production processes that are dependent on the unit's continued operation.

For many units, repair or replacement is impractical, just as retrofitting an existing portion to install a liner is impractical, as discussed in the preceding section of this preamble. The second option is to forfeit the exemption from the Subpart F ground-water protection standards and to begin to comply with a detection monitoring program, under § 264.98, to ensure that any migration of leachate to ground water will be detected. However, this option is available only if such a program is already incorporated in the permit. Otherwise, after detection of the leak, ground-water contamination could ensue while proceedings are still being conducted to modify the permit to establish a detection monitoring program.

Ordinarily, a permit written for a double-lined unit seeking an exemption from Subpart F would not contain any detection monitoring requirements. In that case, if an owner or operator discovers a leak in the leak detection system, he will have to repair or replace the leaking liner or else be in violation of the permit. Therefore, EPA recommends that those who anticipate retrofitting problems in attempting to repair or replace leaking liners should request that detection monitoring programs be established in their permits in accordance with the requirements of § 264.98, as contingent requirements. Such requirements would be automatically triggered in the event of a leak, but would not have to be complied with until such a leak occurred. The permit would specify well placement, detection parameters to be monitored, and the frequency of monitoring. If a leak occurred, the permittee would then install the wells and begin monitoring in accordance with a schedule set forth in the permit.

The regulations require that the liners must meet the requirements normally applicable to liners in single liner systems: they must prevent the migration of wastes to subsurface soil or to ground water or surface water during the life of the unit. This is consistent with the policy objectives outlined in Sections VII.E.1. and VII.E.2. above. Furthermore, it should be noted that, as a practical matter, owners or operators seeking to use this exemption from Subpart F will insure that both liners prevent migration. Otherwise, leakage into the leak detection system will occur, resulting in the need to repair or replace the leaking liner or begin groundwater monitoring, as discussed above.

The leachate collection and removal requirements for single-lined piles and landfills also apply to double-lined systems. The leachate collection and removal system must be placed on top of the upper liner, and must be maintained and operated to collect and remove the leachate. This implements the policy objective of reducing the amount of leachate that can leach in the future to the subsurface soil or ground water or surface water.

Finally, to be eligible for the exemption from the Subpart F ground-water protection requirements, a double-lined unit (including the liners and leak detection system) must be placed entirely above the seasonal high water table. Placement of units in the ground water poses special problems associated, among other things, with external pressures applied by the saturated earth. The Agency is concerned that these pressures can cause disruption (collapse or caving in) of the liner system and disruption of the leak detection system to the point that it may not work. While collapse of the liner system can occur when a single liner unit is located in the ground water, the ground-water monitoring system can be expected to function to detect contamination. Since ground-water monitoring is waived for double-lined facilities, it is imperative that the leak detection system function. The Agency

is not confident at this time that it can specify design safeguards that will ensure continued function when the unit is placed in the saturated zone (i.e., in the ground water).

9. *Specification of Design and Operating Requirements in Permits.* The design and operating standards in these rules are written as performance standards. The purpose in using the performance-standard approach is to address the legitimate concern of many commenters that the regulatory standards provide flexibility in meeting the performance goals established by EPA. This allows the use of cost-effective, site-specific designs, equipment, and operating practices, and encourages innovation.

In promulgating performance standards, EPA is relying on the issuance of permits to clearly establish the specific designs and operating requirements which each individual owner or operator must comply with. It is thus the permit-issuing authority's task to translate general standards into specific detailed obligations. The permit writer will do so in accordance with the procedural requirements of 40 CFR Part 124, which provide for the issuance of a draft permit, documentation explaining the basis for the conditions in the draft permit, a public comment period a public hearing if requested, the issuance of a final permit, and a right of administrative appeal.

The regulations for each type of land disposal unit contain a provision that requires that the Regional Administrator will specify in the permit all design and operating practices that are necessary to insure that the general design and operating standards are complied with. For example, the landfill standards require that leachate depth over the liner not exceed one foot. This requirement may be complied with by using a combination of design features (*e.g.*, slope and permeability of the drainage layer above the liner) and operating practices (*e.g.*, the amount of bulk liquids placed in the landfill) based upon assumptions concerning natural conditions (*e.g.*, expected precipitation rates). The permit writer will not only approve the design features but will also specify the operating practices in the permit. The documentation prepared to support the permit issuance (a statement of basis under § 124.7 or a fact sheet under § 124.8) would indicate the assumptions concerning natural conditions that were used in deriving appropriate design and operating conditions. Thus, the design features and operating practices incorporated in the permit will be those used by the owner or operator to demonstrate compliance with the performance standard (*i.e.*, the one-foot depth limit).

10. *Technical Resource Documents and Guidance.* EPA recognizes the need for guidance to assist applicants in understanding what specific designs and operating practices would be considered acceptable to EPA and to assist permit writers in establishing specific permit conditions. Accordingly, EPA has developed two groups of documents.

The first group is a series of eight detailed technical resource documents dealing with various technical issues. These documents discuss (a) facility design and operating technologies, and (b) methods for evaluating the performance of designs, but are not necessarily correlated with the regulations. These documents, in their current draft form (EPA expects to revise them by early 1983), are available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22161. The documents are as follows:

(1) Evaluating Cover Systems for Solid and Hazardous Waste (EPA Publication No. SW–867, NTIS Publication No. PB–81–166–340).

(2) Hydrologic Simulation on Solid Waste Disposal Sites (EPA Publication No. SW–868, NTIS Publication No. PB–81–166–332).

(3) Landfill and Surface Impoundment Performance Evaluation (EPA Publication No. SW–869, NTIS Publication No. PB–81–166–357).

(4) Lining of Waste Impoundment and Diposal Facilities (EPA Publication No. SW–870, NTIS Publication No. PB–81–166–365).

(5) Management of Hazardous Waste Leachate (EPA Publication No. SW–871, NTIS Publication No. PB–81–189–359).

(6) Guide to the Disposal of Chemically Stabilized and Solidified Waste (EPA Publication No. SW–872, NTIS Publication No. PB–81–181–505).

(7) Closure of Hazardous Waste Surface Impoundments (EPA Publication No. SW–873, NTIS Publication No. PB–81–166–894).

(8) Hazardous Waste Land Treatment (EPA Publication No. SW–874, NTIS Publication No. PB–81–182–107).

The second group is a set of four guidance documents correlating to the most important performance requirements (*e.g.*, liners and caps) contained in the design and operating standards promulgated today. These documents contain design specifications which the Agency believes will generally lead to compliance with the performance requirements. The purpose of these documents is to reduce the uncertainty associated with translating the general performance standards into specific and operating requirements for particular units. Thus, if an applicant follows one of the example specifications set forth in the guidance, he will generally receive a draft permit from EPA. (Of course, the final permit may contain different provisions from the draft permit, based upon an evaluation of comments received on the draft permit.)

At present, the draft guidance documents contain only a few design examples. The examples will be expanded over time as EPA gains experience implementing the regulations. The current drafts are available at U.S. Environmental Protection Agency, Central Library, Room 2404, 401 M Street, S.W., Washington, D.C. 20460 and in EPA's Regional office libraries. The documents are:

(1) Surface Impoundments—Liner Systems, Final Cover, and Freeboard Control;

(2) Waste Pile Design—Liner Systems;

(3) Land Treatment Units;

(4) Landfill Design—Liner Systems and Final Cover. These documents will soon be available from the National Technical Information Service. EPA will announce their availability in the **Federal Register.**

F. Surface Impoundments (Part 264, Subpart K)

Subpart K contains the design and operating standards for surface impoundments used to treat, store or dispose of hazardous waste. The basic requirements are: (1) A liner to prevent migration of wastes out of the impoundment into the subsurface soil and ground water or surface water throughout the impoundment's active life (with an exemption for existing portions); (2) prevention of overtopping the sides of the impoundment; (3) assurance of structural integrity; and (4)(a) removal or decontamination of waste residues and contaminated soils and equipment at closure, or (b) solidification of remaining wastes, capping the wastes and conducting post-closure care. An exemption from the ground-water protection requirements of Subpart F is provided for impoundments that have double liners and leak detection systems. A variance from the liner requirement is provided to any impoundment if the owner or operator demonstrates to the Regional Administrator that hazardous constituents will never migrate from the impoundment into ground water or surface water.

Many of these features of the Subpart K regulations are discussed above in Section VII.E. of this preamble. The remainder are discussed below.

1. *Relationship to Previously Promulgated or Proposed Rules for Permitting Surface Impoundments.* These rules supersede two previous regulations covering surface impoundments. On January 12, 1981, EPA promulgated Subpart K standards applicable only to storage surface impoundments (impoundments that are designed to prevent migration of wastes out of the impoundments during active life and that have all wastes and waste residues removed at closure). These rules required surface impoundments to install double liners and leachate detection, collection, and removal systems and to remove all wastes at closure (40 CFR Part 264 Subpart K, 46 FR 2802). No ground-water monitoring or remediation requirements were established for these impoundments. The regulations did not cover surface impoundments used to dispose of hazardous wastes.

Many members of the regulated community objected to the January 12, 1981 regulations as inappropriate for existing impoundments because extensive retrofitting would be required for many existing sites. They argued that such retrofitting would require costly reconstruction and could in some cases result in shutting down plants, resulting in severe economic disruption. (See the discussion of retrofitting in Section VII.E.6.) On October 20, 1981, EPA proposed to suspend the effective date of these rules, as applied to existing impoundments pending a re-examination of the rules' appropriateness for existing impoundments (46 FR 51407). Pending this reexamination, EPA announced that it would not begin processing permit applications for existing surface impoundments, although EPA announced willingness to process voluntarily submitted applications.

Subpart K, as promulgated on January 12, 1981, is entirely superseded by the new Subpart K promulgated today. Today's regulations have a broader scope; they cover both storage and disposal surface impoundments. Furthermore, the October 20, 1981 proposal is withdrawn. Similarly, the permitting policy announced in the proposal is now withdrawn, and, consistent with its overall permit priorities, EPA will begin requesting the submission of Part B applications from the types of storage surface impoundments described in the January 12, 1981 standards. In addition, on the effective date of today's regulations, EPA will begin calling in Part B permit applications for all types of surface impoundments covered by these standards.

Although the January 12, 1981, regulations have been superseded, many ideas in those regulations are incorporated in the new standards. For example, today's exemption of double-lined impoundments, piles and landfills from the ground-water protection standard is consistent with a similar approach in the January 12 regulations. Similarly, as was true under the January 12 regulations, post-closure care and monitoring are not required if all waste is removed at closure. Some of today's other requirements (e.g., overtopping controls and inspection) are also similar to those contained in the January 12 regulations.

However, today's regulations apply more broadly and are more flexible than the January 12 regulations. They cover disposal impoundments as well as storage impoundments. Even for impoundments used for storage (or storage and treatment only), more control options are now offered. Whereas the January 12 regulations required double liners, the new standards allow a single liner coupled with ground-water monitoring as an alternative option. And whereas the January 12 regulations required that all hazardous wastes and hazardous waste constituents be removed from the impoundment at closure, the new standards allow as additional options, the decontamination or solidification and stabilization or wastes left in place, covering by a cap, and post-closure monitoring and maintenance.

A second set of regulations superseded by today's standards are the Part 267 regulations for new surface impoundments and other land disposal units. See the discussion above in Section II.C. of this preamble.

It should also be noted that the new standards do not incorporate the "seepage facilities" concept for which standards were proposed (but never promulgated) on February 5, 1981 (46 FR 11216). Seepage facilities are lagoons that are designed intentionally to leak. Depending on design, they may also be considered as underground injection units or land treatment units. In any case, EPA has concluded that land disposal facilities should be designed not to leak at all during their active lives, except in rare cases (see § 264.221(b)). Therefore, most new impoundments must be lined in accordance with these standards, and land treatment facilities must prevent release of hazardous constituents by treating them within the treatment zone. Thus, new seepage facilities (other than existing portions that comply with the Subpart F ground-water protection requirements and other applicable requirements) may not be permitted under these regulations. EPA invites public comment on its decision not to authorize seepage facilities.

2. *Absence of Leachate Collection and Removal Requirements for Surface Impoundments.* Unlike piles and landfills, surface impoundments are not required to have leachate collection and removal systems above the liners. Surface impoundments are needed in many industrial facilities to properly treat wastewaters and thereby minimize surface water pollution. These impoundments are often designed to handle large flows, in many cases exceeding one million gallons per day. Often, rather long retention times are required to ensure appropriate treatment of the wastewaters. Since a surface impoundment is intentionally designed to hold liquid wastes, often in extremely large volumes, it makes little sense to require a virtual drain at the bottom. The liquid removed from the drainage layer would itself need to be managed, very likely in a second impoundment. No environmental purpose would be served by such a liquids management program.

The key liquids management goals, for impoundments as well as piles and landfills, are to prevent migration of waste during the unit's operating life and to minimize migration afterwards. The former goal is achieved by the liner. The second goal is best achieved, in the case of a surface impoundment, by dewatering, solidifying, or removing the contents, of the impoundment at closure.

The regulatory approach for surface impoundments achieves environmental results analogous to those achieved for piles and landfills. In most cases, these units must be designed, constructed, and installed so that no migration occurs during the active life of the facility. In the case of piles and landfills, which contain relatively small amounts of liquids, leachate collection and removal is practicable and results in a reduced volume of hazardous constituents available for post-closure migration. In the case of surface impoundments, for which the collection and removal of relatively large amounts of liquids is not practicable, removal or solidification of liquid wastes at closure likewise results in a reduced volume of hazardous constituents available for post-closure migration.

3. *Liner Requirements (Section 264.221(a)).* The regulations for liners in surface impoundments (as well as landfills and piles) include several subsidiary performance standards intended to assure that each liner will meet the performance goal of preventing the migration of wastes to adjacent subsurface soil or ground water or surface water at any time during the impoundment's active life. These standards consist of general common-sense engineering goals, leaving the details to be specified on a case-by-case basis in permits.

First, the liner must be constructed of materials that will resist degradation. Synthetic liners can be degraded by exposure to imcompatible wastes or leachate and in some cases by excessive exposure to sunlight. Clay liners can develop highly increased permeabilities (sometimes by several orders of magnitude) when exposed to certain types of chemicals. The regulation thus requires appropriate materials to be used to avoid such problems. When the permit is issued, the appropriateness of the liner material will be considered in the specific context of the wastes to be placed in the impoundment.

Second, liner materials must be of sufficient strength and thickness to prevent failure due to physical stresses (e.g., earth-moving equipment, dredging equipment, and the weight of large volumes of liquid wastes). While this requirement applies to all liners, it is especially crucial for synthetic liners, which can rupture if they are mishandled or are too thin. Most synthetic liners need to be at least 30 mils (thousandths of an inch) thick to assure that this requirement is complied with.

Third, the foundation underneath the liner must be capable of supporting the liner and resisting pressure gradients. If the support system settles, compresses, or uplifts, the liner may rupture or crack.

Finally, the liner must cover all surrounding earth likely to be in contact with the waste or leachate. This assures that liners will be placed not only underneath the wastes but also on the sides of the wastes. Thus, lateral as well as vertical migration will be prevented.

4. *Control of Overtopping (Section 264.221(c)).* Section 264.221 requires that a surface impoundment be designed, constructed, maintained and operated to prevent overtopping (the flow of liquids over the top and out of the impoundment) resulting from normal or abnormal operations; overfilling, wind and wave action; rainfall; run-on; malfunctions of level controllers, alarms and other equipment; and human error. This language reflects the variety of potential causes of overtopping. Constructing dikes to provide a large amount of freeboard above expected levels in the impoundment is one means of controlling overtopping. Operating practices such as adjusting inflows and outflows to regulate the impoundment level, or using automatic level controllers or alarms, will also help prevent overtopping when potential problems, such as unusually large storms, occur.

The regulatory language differs from that contained in the January 12 regulations, which required 2 feet of freeboard or any alternative amount of freeboard based on documentation acceptable to the Regional Administrator showing that no overtopping will occur. In substance, however, the new standard is similar. It sets forth a general performance standard to prevent overtopping, and leaves to the Regional Administrator the task of specifying the specific design features and operating practices in the permit.

The term "prevent" is absolute and quite stringent, reflecting the Agency's view that outflow of liquid hazardous wastes over the top of an impoundment poses a potentially very serious threat to human health and the environment. Not only is there the very real threat posed by the actual escape of hazardous wastes, but also overtopping can threaten the structural integrity of the dike itself, creating the potential for catastrophic damage. EPA realizes, however, that certain events or combinations of events that can cause overtopping will be so improbable that they must and should be ignored. Some of these might even be considered to border on the absurd, e.g., the possibility that all of the production storage tanks and basins associated with a manufacturing operation will break at once, releasing the contents to a surface impoundment, causing it to overflow. The Agency does not intend that overtopping resulting from highly improbable events be protected against. One common event that will frequently have to be addressed is overtopping potential resulting from drainage of stormwater into the impoundment. In this case EPA believes the impoundment should be designed and operated to prevent overtopping resulting from at least the flow generated by the 24-hour, 100-year storm event. This storm event is recommended since it is the rarest event for which data are readily available.

EPA had deleted a requirement contained in the January 12 regulations that run-on be diverted away from a surface impoundment. We agree with commenters who noted that run-on is acceptable so long as the design and operation of the impoundment are such as to ensure that run-on does not cause overtopping. Therefore, EPA has simply included run-on as a factor to be addressed in preventing overtopping.

5. *Structural Integrity of Dikes (Sections 264.221(d) and 264.226(c)).* Surface impoundments must have dikes that are designed, constructed, and maintained with sufficient structural integrity to prevent massive failure. This requirement is essentially the same as in the January 12 regulations, with one exception.

The January 12 regulations provided that structural integrity of the dikes should be maintained without dependence on any liner system included in the surface impoundment design. This requirement reflected the importance of absolutely preventing any dike failures, which have in the past resulted in sudden release of very large quantities of liquid wastes from impoundments. Even though these regulations require that liner systems not leak during the active life of the unit, some liners will leak due to physical or chemical damage. It is not prudent, therefore, to depend on the integrity of the liner system as a necessary condition for dike stability. Therefore, dikes must be constructed to prevent collapse due to scouring or piping in the event of liner leakage.

However, the January 12 language failed to distinguish between cases where the liner is a part of the dike and cases where it is not. In some cases, on the one hand, several feet of compacted clays may be used as part of the dike in a storage surface impoundment and may contribute to structural stability in ways other than retarding leakage. On the other hand, a synthetic liner would not normally be considered by engineers in the field to provide strength to the dike itself, and even a clay liner may fail to provide additional structural integrity if it is not intentionally designed to achieve that purpose.

In light of the variety of circumstances summarized above, today's regulations simply contain a performance standard requiring structural integrity to prevent massive failure. The extent to which a particular liner should or should not be considered in assuring structural integrity will be determined on a case-by-case basis.

Due to the importance of structural integrity, § 264.223(c) requires that prior to permit issuance, the owner or operator must obtain a certification from a qualified engineer that the dike has structural integrity. Furthermore, a

recertification is required if an impoundment is about to begin operation after it has been out of service for six months or more. The recertification is necessary to assure that no changes to the dike (*e.g.*, erosion during the shut-down period) have impaired its structural integrity. The period of six months is based on EPA's judgment that significant changes may occur during a period of that length.

The certification must cover two aspects of structural integrity: (1) The force exerted on the dike by the contents of the impoundment and (2) the dike's resistance to scouring and piping in the event that the liner leaks. The former ensures that the dike will not collapse or be swept away simply as a result of the pressure exerted against it by its contents. The latter assures that the dike will not collapse or be washed away if liquid begins to seep through it. While seepage through a dike is important from the standpoint of its inherent pollution potential, it also can cause the dike's constituents (usually soil) to become more fluid, to move, and to flush through, creating a hole and massive collapse—a very serious consequence. Although evaluations of structural integrity are not foolproof, the Agency believes that an evaluation and certification provides an important measure of protection.

6. *Monitoring and Inspection (Section 264.226(c)).* Section 264.226 contains several types of inspection requirements, apart from the certification of dike structural integrity already discussed in Section VII.F.5. above. First, liners and caps must be inspected during construction and installation for uniformity, damage and imperfections, and after installation to insure tightness of seams and joints and the absence of tears, punctures, and blisters.

EPA considers the liner inspection to be very important. Properly constructed or installed synthetic liners should prevent any migration of wastes for many years. However, improperly constructed or installed liners can result in migration of wastes almost immediately after startup of the unit.

Section 264.226 also requires inspections, weekly and after storms, of design features and equipment necessary to prevent overtopping; for sudden drops in the level of the impoundment's contents; for the presence of liquids in leak detection systems; and of dikes. These inspections are not very expensive or time consuming; thus weekly inspection of these important features is reasonable. However, EPA does agree with the commenters who argued that the daily inspections required in the January 12, 1981, rules were unnecessarily frequent and burdensome.

7. *Emergency Repairs (Section 264.227).* The January 12 regulations required that whenever there is a "positive indication of a failure of the containment system," the impoundment must be removed from service. "Positive indication" was described as including waste detected in the leachate detection system or a breach (e.g., hole, tear, crack, or separation) in the liner. Commenters argued that the harsh remedy of immediately removing an impoundment from service should only be required to prevent or remedy massive or catastrophic failure and not to deal with relatively small-scale liner breaks. EPA agrees and has modified the regulatory language to deal only with the truly emergency situtations.

Section 264.277(a) requires removal of an impoundment from service when the level of liquids in the impoundment drops suddenly and the drop is not known to be caused by changes in the flows into or out of the impoundment. In such a case, rapid discharge through the liner must be presumed. For example, it may be that the liner is leaking and that channels in the underlying soils are permitting rapid migration of wastes out of the impoundment. EPA does not anticipate that these circumstances will occur in many cases. A second and probably more likely situation requiring removal from service is a leaking dike. This indicates the potential for massive dike failure. Even though dikes are required to be constructed to prevent failure, even in the event of leakage, our ability to predict structural integrity of dikes is not perfect and the potential damage associated with dike collapse is so great that the Agency believes immediate action is necessary in the event active leakage is discovered. Minor deterioration of the dike (e.g., erosion) which can be easily repaired would not require the removal of the impoundment from service.

Removal of the impoundment from service is defined in § 264.227(b) as consisting of several steps: (1) Stopping the addition of wastes to the impoundment; (2) containing surface leakage; (3) stopping future leakage; (4) taking other necessary steps to prevent catastrophic failure; (5) if necessary to stop the leak or prevent catastrophic failure, emptying the impoundment, and (6) notifying the Regional Administrator of the problem. Section 264.277(c) requires that the contingency plan for the impoundment include procedures for complying with these requirements.

If the impoundment is returned to service after removal from service under § 264.277(a), the dike's structural integrity must be recertified. If it has been removed from service due to a sudden drop in liquid level and it has a liner which was installed to comply with § 264.221, the repaired liner must be certified as complying with the applicable conditions.

If an existing impoundment which is exempted from the liner requirements, has experienced a sudden drop in liquid level, then a liner that complies with § 264.221 must be installed prior to its return to service. Due to the extreme failure of the impoundment, installing a liner is absolutely essential to ensure that substantial leakage to ground water will not occur in the future.

If the impoundment is not returned to service, § 264.227(e) requires that it must be closed. This requirement is necessary to assure that the failed impoundment is not left with liquid wastes in it for an unnecessary period of time.

8. *Closure and Post-closure Care (Section 264.228).* Section 264.228 offers owners or operators of surface impoundments two alternatives for closing their facilities. The first alternative is to remove or decontaminate all wastes at closure. The second is to leave the wastes in place, eliminate free liquids, stabilize the wastes, place a cap (final cover) on top of the waste, and conduct post-closure monitoring and maintenance.

If the owner or operator elects the first alternative, he must remove or decontaminate all wastes, waste residues, contaminated system components such as liners, contaminated subsoils and contaminated structures and equipment. This is necessary because under this option, no post-closure care or monitoring is required. The impoundment is a storage unit leaving no hazardous constituents in the ground after closure. All the removed residues, subsoils and equipment must be managed as hazardous wastes unless the provisions of § 261.3(d) are complied with.

If the owner or operator makes all reasonable efforts to comply with his closure plan and to remove or decontaminate all residues and contaminated subsoils (*e.g.*, he removes or decontaminates all waste and waste residues above the liner as well as some contaminated subsoil) and then finds that he cannot comply with his closure plan because he is unable to remove or decontaminate all of the remaining contaminated subsoils, he must close the unit under the second option and perform post-closure care as described below. This situation is likely to occur

often in the case of existing portions that do not have liners or have inadequate liners. In a few cases, liners installed in accordance with the requirements of § 264.221 of these regulations may also fail. In any of these cases, contamination may have migrated a considerable distance from the impoundment and possibly even entered the ground water. This situation necessitates closure under the second alternative to minimize the rate of migration and monitor for potential ground water contamination. In contrast, facilities with good liners that do not fail will be able to avoid post-closure responsibilities.

The second alternative for closing a surface impoundment requires several steps. First, free liquids must be eliminated, by removing liquid wastes and/or solidifying the remaining waste residues. As discussed above in Section VII.F.2, this is an important step in minimizing the rate of leachate migration.

Second, the remaining wastes must be stabilized to a bearing capacity to support final cover (including the top liner and earth materials placed above that liner to protect the liner, allow the growth of shallow-rooted vegetation, and promote drainage). Failure to do so is likely to result in substantial differential settlement of the final cover over time, thereby creating channels through which liquids can enter the impoundment and eventually leach the waste constituents into the ground water.

Third, a final cover must be placed over the closed impoundment. The cover must be designed and constructed to provide long-term minimization of the migration of liquids into the closed impoundment. In addition, the cover must be at least as impermeable as the bottom liner. The purpose of these requirements has been discussed in Section VI. E. 5. of this preamble.

The final cover must also be designed to minimize erosion, since erosion would result in exposure of the covered wastes and increased infiltration. Such protection is provided by installing proper sloping, covering with appropriate vegetation, and other construction techniques. Finally, the cover must accommodate settling and subsidence so that its integrity is maintained.

Several practices can help minimize and accommodate settling and subsidence at some closed impoundments and especially at closed landfills (which are subject to the same general closure requirements as surface impoundments). These include placing wastes and fill material (especially if biodegradable material) uniformly throughout the unit and constructing the final cover with a slightly greater slope than ultimately desired. Another potentially useful approach involves phasing of final closure. For example, the permittee may place an interim, partial, or temporary cover (cap) on the unit and, after the initial (and likely most severe) subsidence and settling have occurred, install the final cover. In such a case, the Regional Administrator can extend the 180-day closure period of § 264.113(b), provided that the interim cover will adequately minimize infiltration or that the bottom liner is still functioning.

Once the final cover has been installed and compliance with the closure provisions has been certified, the post-closure period begins. Post-closure care consists of maintaining the final cover and performing monitoring. Generally, monitoring consists of continued ground water monitoring and, if necessary, corrective action under Subpart F just as was required during the unit's active life. In a case where the impoundment has a double liner and leak detection system, leak detection, rather than ground water monitoring, must be continued during the post-closure period. If a leak is discovered, the owner or operator must notify the Regional Administrator, who will then modify the permit to require compliance with the ground water protection requirements of Subpart F. (After closure, repair or replacement of a leaking liner would involve at least a temporary destruction of the final cover, resulting in the potential for significant infiltration of liquids, and thus is not desirable.) The presence of a final cover on top of the unit should minimize infiltration of liquids into the unit and the discharge of liquid out of the unit. Thus, detection monitoring should be in place well before any ground water contamination could occur.

9. *Financial Responsibility for Piles and Surface Impoundments from which Wastes are Removed at Closure (Sections 264.228(d) and 264.258(d)).* As noted above, an owner or operator of a pile or surface impoundment who removes (and properly disposes of) or decontaminates all wastes, waste residues, and contaminated equipment and soils, has no further closure or post-closure obligations (except to have closure properly certified (§ 264.115)). However, the regulations recognize that complete removal may not be practicable in some cases and provide in such cases for placing a final cover over the unit and conducting post-closure monitoring and maintenance.

If capping and post-closure care become necessary, funds must be available for those tasks. In preparing the regulations, EPA became concerned that units whose owners or operators planned to remove or decontaminate all wastes at closure would have closure plans that address only removal and would have no post-closure plans. Correspondingly, these units would have financial responsibility only for the expected means of closure. Yet, further closure activities and postclosure care might be necessary in some cases due to unanticipated difficulty in removal or decontamination.

The above concerns presented a dilemma. On one hand, if EPA does not require owners and operators to have closure and post-closure plans to provide for capping the units and performing post-closure monitoring and maintenance, then sufficient funds might not be available to take these actions in appropriate circumstances. On the other hand, if EPA requires owners or operators to have financial responsibility for these activities, those who successfully remove all contamination at closure will have unnecessarily expended extra funds to demonstrate financial responsibility for capping and post-closure care.

EPA has attempted to balance these two competing considerations by correlating the financial responsibility requirements for capping and post-closure care to the likelihood that such activities will actually become necessary at particular piles or storage impoundments. Therefore, EPA separately considered two types of units: (1) Those that do not have liners that comply with the design standard of preventing migration (i.e., most existing portions), and (2) those that do have such liners.

Piles and storage surface impoundments that lack liners meeting the design standards, by definition do not prevent the migration of wastes to the subsurface soil or ground or surface water. At best, they minimize such migration, and at worst, they provide little or no control. At these units, it will often not be possible to remove all contaminated soils at closure. In some instances, leachate may already have contaminated the ground water. It is thus reasonable to conclude that these units will often need to be covered at closure and will require post-closure maintenance and monitoring. Therefore, EPA is requiring that such storage piles and storage impoundments have: (1) Closure plans to remove or decontaminate the wastes, waste residues, and contaminated equipment

and soils; (2) contingent closure plans to cover the units; and (3) contingent postclosure plans to perform post-closure monitoring and maintenance. The contingent plans must be followed only if compliance with the primary closure plan does not result in the removal of all contaminated soils.

The financial responsibility requirements for these units (contained in §§ 264.228(d) and 264.258(d), with conforming amendments in Subparts G and H) cover only the contingent plans. (If the owner or operator uses a trust fund for financial responsibility, he must pay for the waste removal or decontamination and no money is paid out from the fund to reimburse him for this activity unless he successfully completes removal or decontamination.) Thus, the owner or operator must demonstrate financial responsibility only for final cover and post-closure care. If the owner or operator is unable to pay for closure, funds will be available to cover the unit and provide post-closure care. Although the wastes will not have been removed in this event, society will be in no worse a position than it would have been if the unit had been permitted and closed as a disposal unit.

The Agency is aware that in some cases, it may be cheaper to close surface impoundments (or piles) as a disposal facility. Thus, this rule would result in less financial assurance than if coverage of closure as a storage impoundment (or pile) were required. The Agency believes that in these cases, owners or operators will simply apply for a permit as a disposal operation anyway. And, in the final analysis, it is ultimate protection that is sought; this can be provided by ensuring adequate closure as a disposal facility.

Piles and storage surface impoundments that have liners designed to prevent migration during their active lives should, in the normal course of events, succeed in such prevention if they plan to remove or decontaminate their wastes, etc., at closure. Therefore, EPA is not requiring contingent closure plans to cover the units or contingent post-closure plans to maintain or monitor the units. Consistent with this approach, financial responsibility for such activities is also not required. However, in some cases, a liner will fail to meet its design objective of preventing migration throughout the unit's life. In such a case, the owner or operator will need to obtain a permit modification that imposes final cover requirements as well as post-closure monitoring and maintenance requirements.

10. *Special Requirements for Ignitable or Reactive Waste and Incompatible Wastes (Sections 264.229 and 264.230).* Sections 264.229 and 264.230 continue the good-operating-practice provisions contained in the January 12, 1981, Subpart K regulations concerning the appropriate handling of ignitable and reactive wastes and incompatible wastes. The comments contained in those regulations have been deleted, however, since they merely reiterated the requirements of §§ 264.13, 264.17, and 264.73.

C. Waste Piles (Part 264, Subpart L)

Subpart L contains the design and operating standards for wastes piles used to store or treat hazardous wastes. Waste piles may not be used to intentionally dispose of wastes. If the owner or operator of a pile wishes to dispose of wastes, he must apply for a landfill permit and manage the pile as a landfill.

The basic requirements for waste piles are: (1) a liner to prevent migration of wastes out of the pile and into the subsurface soils and ground water or surface water during the pile's active life (with an exemption for existing portions); (2) leachate collection and removal; (3) control of run-on and run-off; and (4) removal of wastes at closure. Two exemptions from the ground-water protection requirements of Subpart F are provided. One is for piles that have double liners and leak detection systems. The other is for any pile that has a single liner from which the wastes are periodically removed so that the liner can be inspected for cracks, leaks or potential leaks. In addition, an exemption from both the Subpart L liner and leachate collection and removal standards and the Subpart F ground-water protection requirements is provided to dry piles that are inside or under structures protected from precipitation, run-on and wind dispersal. Finally, a variance from the liner and leachate collection and removal requirements is provided if the owner or operator demonstrates to the Regional Administrator that hazardous constituents will never migrate from the pile into ground water or surface water.

Many of the features of the Subpart L regulations (liners, leachate collection and removal systems, and double liners and leak detection systems to obtain exemptions from Subpart F) are explained in the general discussion of design and operating standards (see Section VII.E.2. of this preamble) or in the discussion of analogous provisions in Subpart K for surface impoundments (see Section VII.F. of this preamble) and will not be discussed again here. Features that relate specifically to piles are discussed below.

1. *Relationship to Previously Promulgated Design and Operating Standards for Piles.* These rules supersede the Subpart L design and operating standards for piles that were promulgated on January 12, 1981 (40 CFR Part 264 Subpart L. 46 FR 2802), and amended on November 6, 1981 (46 FR 55110). The January 12, 1981 regulations contained two sets of standards for piles that are contained, in revised format, in today's regulations. First, today's regulations, like the January 12 regulations, cover double-lined piles with leak detection systems between the liners. Second, they address single-lined piles that are periodically removed from their liners so that the liners may be inspected for puncture, cracking, or other similar damage. In addition, requirements for leachate collection and removal are contained, as are exclusions from ground-water protection requirements. (However, as discussed previously, today's regulations contain new provisions for imposing ground-water protection requirements in case of liner failure, unless the liner is repaired or replaced.)

An additional set of standards that is continued in today's regulations is the November 6, 1981 regulations for "indoor" piles (see 45 FR 55111). Those regulations provided that a pile is exempt from liner and leachate collection requirements if it (1) Is inside or under a structure that provides protection from precipitation so that neither run-off nor leachate is generated; (2) receives no free liquids; (3) is protected from run-on; and (4) will not generate leachate through decomposition or other reaction. In addition, such piles were not subject to ground-water protection requirements. Today's § 264.250(b) contains this set of standards.

Today's regulations provide greater flexibility than the January 12, 1981 standards by providing a set of standards authorizing the permitting of piles that have single liners and that are not periodically removed for liner inspection, provided that they comply with the Subpart F ground-water protection requirements. This additional standard is consistent with the basic regulatory philosophy for landfills and surface impoundments.

2. *Design and Operating Requirements (Section 264.251).* a. *Liners and Leachate Collection Systems*—Waste piles (except for existing portions) must have liners and leachate collection and removal systems above the liners. To reduce pressure

head on the liner, the leachate collection and removal system must be designed and operated to assure that leachate depth over the liner does not exceed one foot. The appropriate technologies needed to meet this requirement depend on the size of the pile, waste permeability, and climatic conditions. If the pile is small or the waste is permeable; a separate drainage layer below the waste may not be needed. Instead, merely using a relatively impermeable liner and sloping the liner so that any leachate will flow can provide a leachate collection and removal system which will meet the maximum one-foot head requirement. For larger piles and less permeable wastes, a separate drainage layer of relatively permeable material and, perhaps, a tile drainage system, will be needed to meet the maximum one-foot head requirement. Other techniques include diversion of run-on and covering the pile to prevent rain infiltration.

All leachate collection systems, but most importantly those incorporating drainage layers and tile drains, must be designed and built so that they will continue to function. More specifically, they must be capable of (1) withstanding the chemical attack that can result from contact with leachate; (2) withstanding the forces exerted by wastes, equipment, earth pressures, etc.; and (3) operating without clogging. Any of these phenomena (chemical attack, external forces, or clogging) can reduce or destroy the efficiency of these systems.

b. *Control of run-on and run-off*— Section 264.251(c)-(e) contains specific requirements regarding run-on and run-off. To minimize leachate generation, the owner or operator must design, construct, operate and maintain a run-on control system capable of preventing flow onto the active portion of the pile during peak discharge from at least a 25-year storm. To minimize hazards from run-off of contaminated liquid, a runoff management system must collect and control the water volume resulting from at least a 24-hour, 25-year storm. Finally the collection and holding facilities associated with run-on (if any) and run-off control systems must be emptied or otherwise managed expeditiously after storms to maintain capacity of the system. This last requirement, not contained in the January 12, 1981 regulations, is intended to ensure that capacity of the system is not consumed by successive storm events.

The basic run-on and run-off control standards are similar to the January 12, 1981 requirements, except that the design storm to be protected against are now specified in the regulations. This specification responds to commenters who argued that the previous requirements were so vague as to leave owners and operators uncertain as to the extent of their responsibilities.

EPA chose the 25-year storm as the storm size which should be protected against in run-on and run-off systems for both piles and landfills. EPA is unaware of any hard data to quantify the relative degrees of risk reduction provided by differently sized run-on and run-off control systems. Differences in cost can be calculated more easily. EPA estimates that managing a 100-year storm requires a 7 to 25 percent increase over the cost required for a 25-year storm, depending on location, watershed size and unit size and design. For example, for a typically sized landfill, the cost difference might typically amount to $10,000. While this does not seem to be a prohibitive expense, EPA does not wish to require the additional protection if the potential benefits are *de minimis*. It can be argued, for example, that a storm more severe than a 25-year storm would produce such a large volume of run-off and such a short contact time with the waste that any hazardous constituent levels in the run-off would be very low.

However, in the absence of substantial data base, EPA remains concerned that, at least in some situations, designing only to accommodate a 25-year storm is inadequate. For example, if a pile or landfill has a 25-year active life, there is at least a 50-percent chance that the design capacity of the system will be exceeded during the unit's active life. Therefore, EPA requests information, including any available data, on the following questions:

(1) What relative benefits (in terms of types and magnitude of averted damage) can be expected from designing for a 100-year storm event versus designing for a 25-year event?

(2) What are the relative costs for 25-year and 100-year storm designs for variously sized and located piles and landfills?

(3) Under what circumstances and conditions does overflow of run-off and run-off control systems cause an adverse environmental or human health impact? Are there sensitive areas or conditions under which more stringent design is warranted? Can these be succinctly and clearly defined?

Readers should note that the selection of a 25-year criterion for run-on and run-off controls differs from the selection of a 100-year criterion set in the floodplain standards in § 264.18. Flooding is a potentially more serious event than either run-on or run-off, since a flood is capable of washing away large quantities of bulk wastes and drums of wastes, and may transport them considerable distances. Therefore, EPA believes that protection against a 100-year flood is necessary.

The final design and operating standard contained in § 264.251 continues the January 12, 1981 requirement that wind dispersal be controlled (e.g., by cover or wetting). The language has been modified to clarify that only particulate matter must be controlled. As explained in section VI.C. of this preamble, EPA is not regulating volatile emissions in the design and operating standards being promulgated today.

3. *Exemption of Certain Piles From the Ground-water Protection Requirements of Subpart F (Section 264.253).* Apart from the exemption from Subpat F for piles, impoundments and landfills that have double liners and leak detection systems, discussed above in Section VII.E.8. of this preamble, § 264.253 provides a special exemption from Subpart F for any waste pile that is periodically removed from the liner so that the liner may be inspected for cracks, erosion, or other conditions that could result in leakage. This exemption relies on inspection of the liner to assure that the liner is intact and is not allowing leachate to migrate through the liner. This inspection procedure obviates any need to monitor the ground water.

The liner must prevent migration of wastes into the subsurface soil or ground or surface water during the active life of the unit. Thus, it must be a low-permeability liner. Furthermore, it must be of sufficient strength and thickness to prevent failure due to puncture, cracking, tearing, or other physical damage from equipment used to place waste on the liner or remove waste from the liner for inspection.

Synthetic membrane liners are not likely to be capable of withstanding damage from repeated removal and replacement of wastes during liner inspections. Clay liners will also be unsuitable in many cases, because when exposed to air, they tend to dry out to some extent and crack, resulting in the development of channels through which leachate may migrate. Therefore, EPA expects that reinforced concrete with appropriate coatings will be the liner material chosen by most owners and operators wishing to qualify for a Subpart F exemption under § 264.253.

For piles obtaining a Subpart F exemption pursuant to § 264.253, the regulations further provide that the inspection plan generally required by

§ 264.15 include a schedule of inspection which includes periodic removal of the waste pile and testing of the liner to ensure that it has not deteriorated to the point at which it is no longer capable of containment or is already leaking.

This exemption is intended for, and as a practical matter will apply to, small piles, especially small piles where the normal operation of the pile periodically or routinely results in removal of the waste. The removal of the waste from other than small piles on a periodic and routine basis to inspect the liner, as required by the rule, would normally be impractical because of handling and storage difficulties. As discussed above in Section G.2.a., larger piles of less permeable wastes in wetter climates will need a relatively permeable drainage layer (e.g., gravel or sand) and possibly a tile drainage system in order to comply with the one-foot head requirement. To remove the wastes and drainage layers from such piles in order to meet the inspection requirement, will normally be impractical. Usually, only small piles will have sufficient drainage to the sides of the pile to meet the one-foot head requirement without a drainage layer. Exceptions might include large piles that are covered, located in areas of low rainfall, or that contain waste which is impermeable. The regulations do not specify the pile size in an exemption, but the practicality of both inspecting the liner and meeting the one-foot head requirement will limit the size in practice.

Finally, the rule requires that if the liner is leaking, the owner or operator must notify the Regional Administrator and either repair or replace the liner or else begin a detection monitoring program under Subpart F if such a program has already been incorporated in the pile's permit as a contingency. These two options are identical to the two options available for double-lined piles, impoundments and landfills that are exempt from Subpart F. (See discussion above in Section VII.E.8. of this preamble.)

4. *Monitoring and Inspection (Section 264.254).* Section 264.254 contains requirements for inspections of liner systems before and after installation. These are similar to the liner inspection requirements for surface impoundments discussed above in Section VII.F.7. of this preamble. Special inspection requirements for piles exempted from the Subpart F ground-water protection requirements are set forth in §§ 264.252 and 264.253.

5. *Special Requirements for Ignitable or Reactive Wastes and for Incompatible Wastes (Sections 264.256 and 264.257).* The language of the January 12, 1981, regulations for ignitable or reactive wastes has been modified to conform to the language contained in the analogous surface impoundment requirements in § 264.228. However, the substance of the regulations is unchanged. The regulatory language of the January 12, 1981 version of § 264.257 (incompatible wastes) has been retained, but the comments to that section have been deleted because they were merely explanatory and lacked regulatory effect.

6. *Closure and Post-closure Care (Section 264.258).* Since piles are storage facilities, all waste residues, and contaminated subsoils and equipment must be removed or decontaminated at closure. This requirement is identical to the first alternative for closing surface impoundments under § 264.228(a)(1), and is discussed in more detail in Section VII.F.9. of this preamble.

If the owner or operator removes or decontaminates all waste residues and makes all reasonable efforts to remove or decontaminate all contaminated containment systems, subsoils, structures, and equipment and finds after such efforts that some contamination remains that he cannot remove or decontaminate, then the pile will be considered a disposal unit under these regulations and must be closed in accordance with the closure requirements for landfills. Thereafter, the owner or operator must comply with the landfill post-closure requirements. The procedure is the same as for a surface impoundment whose owner or operator has planned to remove all wastes at closure and, because he finds that he cannot practicably remove or decontaminate all contaminated soil at closure, becomes a disposal unit subject to the second closure alternative under § 264.228(a)(2) and to post-closure requirements.

A "reasonable effort" to remove all contaminated subsoils includes removal of all wastes and waste residues in the unit, all contaminated liners and equipment, and at least some subsoil. After making reasonable attempts to remove all contaminated subsoil and failing thereby to remove all contaminated subsoil, the owner or operator may then cease further removal attempts but must close the unit and perform post-closure activities as he would do in the case of a landfill.

7. *Small Piles.* Several commenters on the January 12, 1981, regulations suggested that small, low-hazard temporary waste piles should be exempted from Subpart L requirements. While EPA believes that there may be some merit to these comments, it has not to date received enough information to be able to define the size, duration and contents of piles that might deserve such an exemption. EPA solicits information that would pertain to the appropriateness of such an exemption. In addition, the Agency solicits information supporting the possibility of exempting certain type of piles from particular design and operating requirements or Subpart F ground-water protection requirements.

H. Land Treatment (Part 264, Subpart M)

EPA believes that land treatment can be a viable management practice for treating and disposing of some types of hazardous wastes. Land treatment involves the application of waste on the soil surface or the incorporation of waste into the upper layers of the soil in order to degrade, transform or immobilize hazardous constituents present in hazardous waste. The success of land treatment particularly depends upon the operational management of the units. Unlike many landfills or surface impoundments, for example, land treatment does not use highly impermeable liners to contain wastes. Rather, land treatment relies on the dynamic physical, chemical, and biological processes occurring in the upper layers of the soil for the degradation, transformation, and immobilization of hazardous constituents. In this sense, land treatment can be viewed as an "open" system.

Because land treatment depends upon a number of soil/waste interactions for success, it is especially important that the units be carefully operated. Maintenance of proper soil pH to optimize microbial action and metal immobilization, careful management of waste application rate to prevent exceeding the soil's treatment capacity, and control of surface water run-off to prevent untreated hazardous waste from leaving the facility are several of the key operational aspects. In addition, well-managed land treatment includes monitoring in the unsaturated zone to provide information that the owner or operator will use in modifying his operating practices to maximize the success of treatment processes.

As described in other sections of this preamble, one of the principal objectives of the design and operating requirements applicable to each type of unit is to provide effective management of liquids at the facility to minimize the risk of ground-water contamination. At surface impoundments, landfills and piles this objective is principally served by the construction of barriers that

prevent liquids from entering the units and from entering the soil.

The general approach must be modified somewhat for land treatment units. Land treatment units are dissimilar to other land disposal units in that they are not designed and operated to minimize *all* releases to ground water. On the contrary, they are open systems that freely allow liquid to move out of the unit. The goal of land treatment, therefore, is to reduce the hazardousness of waste applied in or on the soil through degradation, transformation and immobilization processes.

The land treatment regulatory approach, however, does seek to minimize the uncontrolled migration of hazardous constituents into the environment. This is accomplished by using a defined layer of surface and subsurface soils (referred to as the "treatment zone") to degrade, transform or immobilize the hazardous constituents contained in the leachate passing through the system. Such treatment processes achieve the same general objectives as the liquids management strategy used at other types of land disposal in that they act to prevent hazardous constituents from migrating into the environment.

1. *Applicability (Section 264.270).* The regulations in this Subpart apply to owners and operators of new and existing land treatment units. There is no exemption for "existing portions" as found in the regulations for other types of land disposal. The requirements for land treatment units do not require the placement of liners under the waste and, thus, should not pose major retrofitting problems for existing portions.

2. *Treatment Program (Section 264.271).* The key element of a land treatment unit is the program which the owner or operator establishes to degrade, transform or immobilize the hazardous constituents in the wastes managed at the unit. Today's regulations indicate that there are three principal elements to the treatment program that will be specified in the facility permit. First, the permit will specify the wastes that may be handled at the unit. (The Regional Administrator will base his selection of the wastes allowed at the unit on the treatment demonstration under § 264.272.) EPA is concerned that parties who engage in uncontrolled dumping of waste not be allowed to claim that they are conducting a land treatment operation simply because some breakdown of waste constituents occurs when the waste is dumped. Therefore, EPA believes that land treatment should be reserved for those hazardous wastes having hazardous constituents that can be completely degraded, transformed, or immobilized through land treatment.

At present, the Agency believes that land treatment should be confined to wastes that are primarily organic and that can be greatly reduced in volume by physical, chemical, and biological decomposition in surface soils. The Agency also believes that the smaller inorganic or persistent organic fractions of these wastes can also be effectively treated in surface soils. Hazardous constituents such as heavy metals and persistent organic compounds are either unaffected or are only slowly affected by the primary treatment mechanisms—degradation and transformation. Instead, these hazardous constituents can be treated by immobilization in surface soils.

Effective immobilization of hazardous constituents at land treatment units can occur through chemical or physical processes. Hazardous constituents may be effectively immobilized via chemical reactions, such as precipitation, complexation, and cation exchange reactions, or via physical attenuation processes which entrap hazardous constituents within the soil matrix.

Dilution, however, does not constitute an acceptable treatment process. Dilution does not provide chemical, biological, or physical "treatment" (i.e., degradation, transformation or immobilization) of hazardous constituents. Rather, dilution allows wide dispersal of hazardous constituents in the soil matrix. Since they remain untreated, such constituents may eventually migrate and concentrate to unacceptable levels in ground water or surface water.

Second, the land treatment program will include a set of design and operating measures that are necessary to maximize degradation, transformation and immobilization of hazardous waste constituents. (The, Regional Administrator will also base his selection of these design and operating conditions on the treatment demonstration under § 264.272.)

The waste application rate and the timing of such applications are two of the most important elements of a program for managing a land treatment unit. The Regional Administrator will, therefore, explicitly address these two factors in the facility permit. Another critical factor is pH control. Soil pH has a major influence on the magnitude of microflora populations, which are essential for degradation, and on the mobility of metals. There are many unit-specific operations that will be necessary to achieve the intended performance, such as proper tilling frequencies, maintenance of microbial populations (perhaps by the addition of fertilizers), and careful management of the water content of the treatment zone. These specifics of unit operation will also be addressed in the facility permit.

Third, the treatment program will include an unsaturated zone monitoring program. The purpose of this program is to determine the success of treatment in the treatment zone. The information provided by this monitoring will help in making modifications to the operating practices at the unit to maximize the success of treatment. Thus, the purpose of the monitoring is to assist in "fine-tuning" the land treatment program. The elements of the unsaturated zone monitoring program will be discussed in more detail later in this preamble.

As part of the development of the land treatment program, the Regional Administrator will define a list of hazardous constituents that are of concern. These are the constituents that the owner or operator must seek to degrade, transform or immobilize. As in Subpart F, the basic universe from which hazardous constituents are selected is the list of constituents in Appendix VIII of Part 261. (The preamble discussion of Subpart F explains the basic rationale for using Appendix VIII).

In the land treatment regulations, the hazardous constituents are those Appendix VIII constituents that are reasonably expected to be in, or derived from, waste placed in or on the treatment zone. The owner or operator must assist in establishing what the hazardous constituents will be at the facility by conducting a thorough waste analysis of the wastes that will be handled at the facility. (This step is required under the general waste analysis provision of § 264.13 because such information is necessary to ensure compliance with Subpart M.) It may be possible to develop waste analysis procedures that attempt to characterize broad classes of waste; if so, it will not be necessary to analyze each batch of waste that might be handled at the unit.

Another basic element of the treatment program is a clear definition of the treatment zone, the portion of the unsaturated zone in which the owner or operator intends to accomplish degradation, transformation and immobilization of hazardous constituents. The Regional Administrator will specify the vertical and horizontal dimensions of the treatment zone.

One of the crucial concerns about the treatment zone is its depth. EPA considered several options for defining

the appropriate depth of the treatment zone. One option was to make the treatment zone the "zone of incorporation." (This was the approach included in the February 5, 1981 proposed rules.) Commenters pointed out, however, that liquid hazardous wastes are sometimes spread on the surface of the soil and thus are not incorporated. In such cases a "zone of incorporation" is not a meaningful concept. Therefore, EPA decided not to use this approach.

A second option was to let the owner or operator define the treatment zone as long as it was above the water table. While this approach had the advantage of flexibility, EPA was concerned that an owner or operator could defeat the basic purpose of the unsaturated zone monitoring program by selecting a deep treatment zone. The purpose of the unsaturated zone monitoring program is to give relatively prompt feedback on the success of treatment in the treatment zone. If the treatment zone was deep, there would be a considerable lag time (possibly several years) between the time that waste was applied and the time that the failure of the treatment process was detected. EPA, therefore, concluded that there needed to be a maximum depth for the treatment zone.

Ultimately, EPA concluded that the treatment zone should be no deeper than 1.5 meters (5 feet).This depth from the initial surface soil elevation was chosen as a maximum depth for the treatment zone because soil conditions below this depth are generally not conducive to degradation and immobilization of hazardous constituents. Under the anaerobic and reducing conditions which occur in most soils below 1.5 meters, the solubility of most heavy metals increases. Also, the anaerobic conditions limit survival of the soil microflora necessary for degradation of most wastes. The 1.5 meter depth, as a maximum, should enable nearly all land treatment units the opportunity to operate successfully.

Today's regulations place one more constraint on the depth of the treatment zone. The Agency is today requiring a minimum distance of one meter (3 feet) between the bottom of the treatment zone and the seasonal high water table. This minimum distance is necessary to (1) allow for installation and implementation of the unsaturated zone monitoring, and (2) provide some minimum buffer to account for fluctuation in the seasonal high water table.

Unsaturated zone monitoring at land treatment units must include soil monitoring and soil pore-liquid monitoring immediately below the treatment zone. At least 15 cm (6 inches) of soil depth below the treatment zone is needed for adequate soil sampling. Thirty cm (12 inches) of soil will be sufficient, in most cases, for placement of the soil pore-liquid sampling device wholly below the treatment zone. However, due to the difficulties associated with field monitoring, sample collection will often occur somewhere above or below the desired depth. Hence, sufficient soil depth (above the seasonal high water table) must be available to account for the inherent errors associated with field monitoring. The Agency believes that a one meter soil depth will accomplish this.

The seasonal high water table, as specified in local soil surveys (which have often been conducted jointly by the Soil Conservation Service and the State Agricultural Extension Agency), will often fluctuate over time. The degree of fluctuation will vary depending on the hydrologic and geologic characteristics of a particular site. In most cases, the Agency believes that a one meter soil buffer will adequately account for this fluctuation.

3. *Treatment Demonstration (Section 264.272).* The first step in the establishment of a land treatment program is to conduct a treatment demonstration. The purpose of this step is to establish what combination of operating practices at the unit (given the natural constraints at the site such as soild characteristics and climate) can be used to completely degrade, transform or immobilize the hazardous constituents in the wastes that the owner or operator seeks to manage at the unit.

The treatment demonstration is used to define two elements of the land treatment program. First, it establishes what wastes may be managed at the unit. The owner or operator may only apply those hazardous wastes that he has shown can be degraded, transformed or immobilized such that hazardous constituents are not expected to emerge from the treatment zone. Second, the treatment demonstration will define the initial set of waste management practices (including waste application rates) that will be incorporated into the facility permit. These practices may be modified over time as data from the unsaturated zone monitoring program indicates the need for adjustments.

The treatment demonstration occurs before the unit is at full-scale operation under a permit. The information generated from the demonstration will be submitted to the Regional Administrator and will be used to set permit conditions.

The treatment demonstration presents issues that are analogous to those that EPA has addressed for trial burns in the hazardous waste incinerator regulations. A treatment demonstration may involve field testing of particular wastes on a sample soil plot, or it may involve laboratory testing. (These are not the only methods of making a treatment demonstration, as will be discussed later in this preamble.) Where field testing or laboratory analyses are used, hazardous waste disposal or treatment is occurring and RCRA provides that such an activity requires a permit. EPA has provided a limited mechanism under the permit regulations, in § 122.27, for the issuance of phased land treatment permits that will allow some owners and operators to make a treatment demonstration using field testing or laboratory analyses without first receiving a disposal or treatment permit separate from the actual facility permit.

The basic criterion used in evaluating a treatment demonstration is that it must be possible to achieve complete degradation, transformation or immobilization of the hazardous constituents in a waste if that waste is to be applied at the unit. Within the limits of the tests used in the demonstration, this is a standard that requires 100% treatment. EPA believes that land treatment should be limited to wastes for which complete treatment is possible; therefore, the "100% treatment" criterion is most appropriate. EPA recognizes that it will not always be possible to achieve 100% treatment at an operating unit because of variations in climatic and other conditions not fully under the control of the owner or operator. Thus, the failure to achieve 100% treatment at an operating unit does not necessarily constitute a permit violation but rather it will often be grounds for modifying permit conditions to maximize the success of treatment at the unit.

The treatment demonstration can be accomplished using information derived from published literature, laboratory studies, field studies or actual facility operating experience (i.e., monitoring results). Successful demonstrations will most often involve data obtained from several of the above sources.

A literature search on the particular waste in question should first be conducted. Information in the published literature may assist in the design of laboratory or field experiments, or significantly reduce or eliminate the need for additional experimentation. However, the Agency believes that, for most land treated hazardous wastes, an inadequate data base is available in the

literature to predict unit-specific waste-soil interactions.

Laboratory studies may be used as rapid screening techniques for examining, within a reasonable time frame, the effects of various factors on treatment effectiveness. Extrapolation of this data to field conditions, however, may often be difficult because of the complex interactions occurring in the field. Therefore, field studies often will be necessary to verify certain lab-generated results.

For existing units, actual operating data (i.e., monitoring results) can also be effectively used to demonstrate treatment. The monitoring data must include results from soil-core, soil pore-liquid, and ground-water monitoring.

All data used to demonstrate the treatability of the hazardous constituents in a specific waste in a particular land treatment unit must be generated under conditions similar to those present at the unit. At a minimum, the following unit-specific characteristics and conditions must be simulated in the treatment demonstration:

(1) Characteristics of the land-treated waste;

(2) The depth and characteristics of the treatment zone;

(3) Topography of the treatment zone;

(4) Climate of the area; and

(5) Operating practices (such as waste application method and rate, tilling depth and frequency, and soil conditioning practices (*e.g.*, pH adjustment, fertilization, etc.)).

Specific guidance regarding the necessary elements of the treatment demonstration is provided in the *RCRA Land Treatment Guidance Document.*

4. *Design and Operating Requirements (Section 264.273).* In § 264.273, the regulations indicate what general design and operating requirements apply to land treatment units. The principal design and operating measures are those that are required as part of the land treatment program. These requirements can include limits on waste application rates and methods, measures to control soil pH, measures to enhance microbial or chemical reactions (*e.g.*, fertilization, tilling) and measures to control the moisture content of the treatment zone. The Regional Administrator will specify these design and operating conditions in the facility permit based on the results of the treatment demonstration under § 264.272.

In addition, there are other general design and operating requirements that apply to land treatment units that are analogous to those required at other types of land disposal units. The unit must have effective run-on and run-off management systems. These control systems are essential in limiting the transport of hazardous constituents either through the treatment zone toward ground water or off of the surface of the unit in an untreated condition where they may contaminate surface water or an off-site location.

Run-on controls are particularly important at land treatment units. EPA believes that proper treatment requires careful management of the soil's moisture content. Excess water in the treatment zone caused by run-on can significantly limit the treatment effectiveness and can also hinder such operations as tilling. In addition, run-on will increase the amount of water flowing down through the treatment zone and, therefore, increase the likelihood of the transport of hazardous constituents out of the treatment zone towards ground water.

Today's regulations provide that the owner or operator must design, construct, operate and maintain a run-on control system that is capable of preventing flow onto the active portion of the unit during the peak discharge from at least a 25-year storm. The peak discharge will have to be determined on a unit-specific basis and will depend on the rainfall patterns in the region as well as the size and terrain of the watershed. The rationale for the 25-year storm event is explained in the preamble discussion of the design and operating standards (Section VII.G.).

Today's rules also require that owners and operators of land treatment units must design, construct, maintain, and operate a run-off management system capable of collecting and controlling a water volume at least equivalent to a 24-hour, 25-year storm. The preamble discussion of the design and operating standards (Section VII.G.) contains further discussion of the rationale for this design.

Besides the general requirements to establish run-on and run-off systems, today's regulations require that the owner or operator manage the treatment zone in a manner designed to minimize run-off. In order for hazardous constituents to be properly treated, it is necessary that these constituents not be allowed to run off the surface of the unit. Minimization of run-off can be achieved through proper unit siting and design, particularly with regard to soil characteristics and slope, as well as through proper management of unit operation, including the method, rate, and scheduling of waste application.

Another requirement calls for control of wind dispersal at the unit if the treatment zone contains particulate matter that is subject to wind dispersal. Wind dispersal can be a serious concern at land treatment units because hazardous waste is generally placed on or barely under the soil surface. Measures to control wind dispersal will, however, be somewhat different than those used at other types of land disposal units. Potential control measures for land treatment units include establishment of vegetative cover, maintenance of proper surface soil moisture, and the use of chemical soil stabilizing agents.

5. *Food-chain Crops (Section 264.276).* In some cases an owner or operator may grow food-chain crops on a land treatment unit. This practice raises public health concerns. Accordingly, EPA has placed restrictions on the growth of food-chain crops on land treatment units. The Agency believes that food-chain crops can be safely grown on land treatment units if these standards are met.

Today's regulations on food-chain crops are basically the same as the restrictions found in the interim status standards. Growth of food-chain crops is not allowed unless the owner or operator complies with two primary criteria. First, he must demonstrate (for every hazardous constituent except cadmium) that hazardous constituents will not occur in greater concentrations in or on the crop grown on the unit than in or on the same crop grown on untreated soils under similar conditions in the same region. Second, if cadmium is a hazardous constituent at the unit, the owner or operator must comply with certain specified management practices that are designed to limit the entry of cadmium into the food chain.

The owner or operator must make the demonstration necessary to meet the first criterion before the crop is actually planted. This demonstration must describe the crop to be planted, the soil characteristics of the treatment zone (*e.g.*, pH, cation exchange capacity) and describe the procedures used in conducting any tests of crops, including the sample selection criteria, the sample size, the analytical methods and the statistical procedures used. Any tests attempting to measure crop uptake must be based on the specific wastes and application rates being used at the unit because these are critical factors in the validity of the test. The owner or operator may make this demonstration using field tests, greenhouse studies, available data, or, in the case or existing units, operating data. Of course, if the owner or operator wants to use field tests or greenhouse studies to make the demonstration, and he is not the owner

or operator of an existing unit already growing the specific crop, he will have to obtain a permit for conducting such activities.

The analysis provided by the owner or operator must show that hazardous constituent levels in the crop grown at the unit will not exceed those found in the same crop grown on untreated soils under similar conditions in the same region. (This test does not, however, mean that the comparison crop would be from another hazardous waste land treatment unit; data from such units cannot be used as the basis for comparison.)

The basic philosophy of this requirement is similar to that used in Subpart F for ground-water protection. In the absence of specific standards for hazardous constituents in food, EPA believes it reasonable to assure that there will be no significant increase of such constituents in the human food chain as a result of hazardous waste disposal.

In defining the crop to be used for comparison purposes, EPA considered several options. These included (1) dropping the "in the same region" test or (2) revising the test to call for comparisons to a national average of hazardous constituents found in crops grown on untreated soils. EPA rejected the first option because it does not want to encourage owners and operators to "shop around" for comparison data from the region of the country where the crops contain the highest levels of certain metals or other constituents. This might allow more highly contaminated food-chain crops to be marketed from land treatment units.

The Agency rejected the second alternative because it believes that there is not yet an adequate national data base for most hazardous constituents in crops grown on untreated soils. Therefore, because the Agency has been unable to identify less burdensome but adequately protective demonstration alternatives, the alternatives in today's rules are the same as those in the interim status standards.

EPA has not provided for a health-based variance from the food-chain crop standard based on narrative criteria. EPA believes that specific contaminant limits for food should be established in national rulemaking to allow for input from Federal agencies like the Food and Drug Administration, which are chiefly responsible for setting such standards.

Today's regulations differ from the interim status standards in identifying the constituents of concern under the standard. The interim status standards require that the comparison must be made for constituents listed in Appendix VII and in Table I of § 261.24. Today's rules, however, require this same demonstration to be made for all hazardous constituents (i.e., all Appendix VIII constituents) that are reasonably expected to be in, or derived from, the waste being land treated.

The Agency has made this demonstration more comprehensive in light of several comments stating that the safety of food-chain crops grown on land treatment units could not be ensured if the required demonstration included only Appendix VII and Table I constituents. Commenters have observed that may hazardous constituents not listed in Appendix VII or Table 1 of § 261.24 could threaten human health if present in food-chain crops from land treatment units. The Agency agrees with these commenters and has decided, because of the high level of risk that could be associated with inadvertent or undetected non-compliance with the standards for food-chain crops, to require this more comprehensive demonstration.

If the owner or operator demonstrates that the food-chain crops grown at the unit will not have contaminant levels above those found in similar crops grown on untreated soils under similar circumstances in the same region, the Regional Administrator will indicate in the facility permit that these crops may be grown at the unit. The owner or operator may not plant any food-chain crop not identified in the permit.

The second component of the food-chain crop standard applies only to cadmium. The regulations set forth two sets of management practices that can be used to ensure that cadmium will not cause any adverse effects on human health or the environment. These requirements are nearly identical to those established in the Criteria for the Classification of Solid Waste Disposal Facilities and Practices (40 CFR Part 257). The rationale for the requirements are the same.

It should be noted that today's regulations provide for "phasing in" the limits on annual application rates according to the same schedule found in the Criteria. On February 5, 1981 EPA had proposed to eliminate this phasing-in approach from the Part 264 regulations. EPA has decided, however, to retain the phasing approach to maintain equity between solid and hazardous waste facility owners and operators. Since both standards address aggregate cadmium levels in the waste, hazardous wastes present no greater risks to food-chain crops than solid wastes if the standards are met.

6. *Unsaturated Zone Monitoring (Section 264.278).* As indicated earlier, the purpose of unsaturated zone monitoring is to provide feedback on the success of treatment in the treatment zone. The information obtained from this monitoring will be used to adjust the operating conditions at the unit in order to maximize degradation, transformation and immobilization of hazardous constituents in the treatment zone.

For example, if a significant increase of a hazardous constituent is detected in unsaturated zone monitoring, the owner or operator will examine more closely the facility characteristics that significantly affect the mobility and persistence of that constituent. These significant facility characteristics may include treatment zone characteristics (*e.g.*, pH, cation exchange capacity, organic matter content), or operational practices (*e.g.*, waste application method and rate). Modifications to one or more of these characteristics may be necessary to maximize treatment of the hazardous constituent within the treatment zone and to minimize additional migration of that constituent to below the treatment zone.

It should be emphasized that unsaturated zone monitoring is not a substitute for ground-water monitoring. Both are required at land treatment units. Ground-water monitoring is designed to determine the effect of hazardous waste leachate on the ground water. Unsaturated zone monitoring cannot perform that function as a general matter. Instead, unsaturated zone monitoring simply gives an indication of whether hazardous constituents are migrating out of the treatment zone.

Likewise, unsaturated zone monitoring is not equivalent to the leak detection monitoring that is used at some other types of disposal units (*e.g.*, double-lined surface impoundments). Leak detection monitoring is used in conjunction with a relatively "closed" design (*e.g.*, two liners with a drainage layer between them) that is designed to pick up any liquid migrating from the unit. EPA believes that such a design can be a substitute for the ground-water monitoring and response program of Subpart F.

Unsaturated zone monitoring, however, operates in an open system that allows liquids to pass through the unsaturated zone. While EPA believes that unsaturated zone monitoring is generally reliable, it cannot provide the same level of certainty about the migration of hazardous constituents from the facility that a double-lined surface impoundment (with a leak detection monitoring program) can

provide. Therefore, unsaturated zone monitoring cannot be a substitute for ground-water monitoring.

Some commenters have expressed concern about the reliability and practicality of unsaturated zone monitoring, particularly soil-pore liquid monitoring. EPA believes that adequate technology and expertise is available to develop effective and reliable systems.

The Agency also believes that the inconvenience cited by some commenters can be avoided. Commenters stated that the placing of lysimeters (one type of device for monitoring soil-pore liquid) on the active portion of a land treatment unit would hinder site operations. However, the Agency knows of a number of existing land treatment units with monitoring systems engineered so that the above-ground portion of the device for sampling soil-pore liquid is located off the actual treatment zone. This and other methods can be used to avoid any inconvenience associated with the location of these devices.

The unsaturated zone monitoring program must be designed to determine the presence of hazardous constituents below the treatment zone. Generally this means that the owner or operator must monitor for the hazardous constituents identified for each hazardous waste that is placed in or on the treatment zone.

EPA believes, however, that there may be some situations where this general monitoring burden may be reduced without compromising the objectives of the unsaturated zone monitoring program. Some hazardous constituents will be more difficult to degrade, transform or immobilize than others. Therefore, if the owner or operator monitors for the constituents that are difficult to treat and can demonstrate that such constituents are not migrating from the treatment zone, then EPA can be reasonably certain that other hazardous constituents are being adequately treated.

The Regional Administrator may address this situation by selecting principal hazardous constituents (PHCs) for the unit. A PHC is a hazardous constituent contained in the waste applied at a unit that is difficult to degrade, transform or immobilize in the treatment zone. The owner or operator may ask the Regional Administrator to establish PHCs at the unit if the owner or operator can demonstrate to the Regional Administrator's satisfaction that degradation, transformation or immobilization of the PHCs will assure adequate treatment of the other hazardous constituents in the waste.

The Regional Administrator will be particularly concerned with two factors when deciding whether to establish PHCs. First, he will be concerned with the mobility of the constituent. Since PHCs will be monitored in the area below the treatment zone, the Regional Administrator will want to assure that the PHCs give an early warning of the failure of the treatment process. Therefore, a PHC must be one of the most mobile constituents in the treatment zone. Second, a PHC must be one of the most concentrated and persistent constituents in the treatment zone. This is to assure that the constituent provides a reliable indication of the success of treatment in the treatment zone.

In the selection of principal hazardous constituents, the Regional Administrator will evaluate the results of waste analyses, literature reviews, laboratory tests, and field studies. Waste analyses will be used to identify the hazardous constituents in the waste. Information obtained from literature reviews, laboratory tests, and field studies (including monitoring results for existing units) will be used to assess the relative mobility and persistence of the various hazardous constituents. The extent of data needed to support the selection of one or more principal hazardous constituents for a particular waste will be determined by the Regional Administrator.

Both soil-core and soil-pore liquid monitoring are required in today's rules. These two monitoring procedures are intended to complement one another. Soil-core monitoring will provide information primarily on the movement of "slower-moving" hazardous constituents (such as heavy metals), whereas soil-pore liquid monitoring will provide essential additional data on the movement of fast-moving, highly soluble hazardous constituents that soil-core monitoring may miss.

The general elements of the unsaturated zone monitoring program are patterned after those required for ground-water monitoring in Subpart F. As in the detection monitoring program, the unsaturated zone monitoring program is designed to determine whether the level of hazardous constituents in the soil or soil-pore liquid below the treament zone shows statistically significant increases over the background levels of those constituents in the soil or soil-pore liquid. In addition, today's regulations include requirements for monitoring systems, sampling frequency and sampling and analysis procedures and methods that are analogous to those in Subpart F. Some modifications of the Subpart F monitoring program must be made, however, to make it compatible with land treatment.

First, the basis for establishing background values differs. In the ground-water monitoring program, background values are based on data taken from upgradient monitoring wells. Such a concept is not applicable to land treatment units. Background values at land treatment units are established by sampling the soil and soil-pore liquid in a background plot. A background plot is generally a segment of the soil near the unit that has characteristics similar to that of the treatment zone and that has not been contaminated by hazardous waste. At a new unit, however, the owner or operator could use the actual treatment zone prior to waste application as the background plot. The key characteristic of the background plot is its similarity to the treatment zone.

Second, the unsaturated zone monitoring program will rely on statistical procedures that are somewhat different than those used for detection monitoring programs under Subpart F. In order to account for seasonal variations in soil-pore liquid quality, background values will be based on one year of quarterly sampling as in the detection monitoring program. Since background soil levels are not likely to change significantly during such a time frame, today's rules allow that background soil levels may be established following a one-time sampling. Unsaturated zone monitoring is similar to compliance monitoring, however, in that there may be several constituents to be monitored. Thus, the probability of an experiment error rate is high. Therefore, the statistical procedures used in the unsaturated zone monitoring program will be based on a narrative standard as used in the compliance monitoring program.

This standard seeks to provide "reasonable confidence" that the migration of hazardous constituents from the treatment zone will be indicated after balancing the risk of false positives and the risk of false negatives. (This preamble discusses the rationale for this standard in Section VII.D.10.) If the number of constituents to be monitored is small, then this standard can be met by the use of the Student's t-test protocol described in § 264.97(h).

While EPA believes that the standard for statistical procedures just described should be adequate for most situations, EPA intends to further analyze the appropriateness of other statistical procedures for unsaturated zone monitoring. For example, EPA is

considering whether other factors that might affect background levels of soil pore-water quality should be specifically addressed in devising the monitoring protocols. EPA specifically asks for public comment on this issue.

Third, the unsaturated zone monitoring program does not call for measurements of the flow and direction of ground water. The gradient in the ground water is not relevant to unsaturated zone monitoring and, thus, such information is not necessary.

Fourth, the response to the detection of a statistically significant increase in Subpart M differs from the response required in Subpart F. The results of unsaturated zone monitoring are to be used in the modification of the operating practices at the unit. Thus, the required response is the submission, within 90 days, of a permit modification application that sets forth how the owner or operator will adjust his operating practices (including waste application rates) to maximize degradation, transformation and immobilization of hazardous constituents in the treatment zone. However, an opportunity exists in today's rules for not submitting the permit modification application, but only if the owner or operator can successfully demonstrate to the Regional Administrator that the statistically significant increase results from an error in sampling, analysis, or evaluation. This error demonstration must be submitted to the Regional Administrator within 90 days of the owner or operator's knowledge of the statistically significant increase.

As indicated earlier in this preamble, the appearance of hazardous constituents below the treatment zone does not in itself constitute a violation of the regulations. (This is analogous to the fact that a landfill liner which has been designed not to leak does not violate the design standards if the liner fails at some future time.) Under the regulatory strategy in these regulations, contaminants that are not controlled by the design and operating measures will be addressed by the monitoring and response program in Subpart F.

7. *Recordkeeping (Sections 264.279).* Today's rules state that the operating record for the unit (as required in § 264.73) must include information on the dates and rates of the application of hazardous wastes. Waste application dates and rates are two vital factors, as discussed earlier in this preamble, which the owner or operator must carefully track and manage in order to achieve proper waste treatment.

8. *Closure and Post-closure Care (Section 264.280).* The closure and post-closure care requirements in today's regulations are quite similar to those that are required in the interim status regulations. The interim status regulations, however, expressed the requirements as a set of considerations that were designed to achieve general environmental objectives stated in the regulations. Today's regulations state the general design and operating "considerations" as actual duties that the owner or operator must meet. Those duties are designed to achieve the same general environmental objectives as the interim status requirements.

During the closure period the owner or operator must continue the operating practices that are designed to maximize degradation, transformation, and immobilization at the unit. Operating practices designed to maximize treatment include tilling of the soil, control of soil pH and moisture content, and fertilization. These practices must generally be continued throughout the closure period. In addition, during the closure period, the owner or operator must continue those practices that were designed to minimize run-off from the treatment zone and to control wind dispersion (if needed). The run-on and run-off systems must be maintained. The owner or operator must also adhere to the restrictions on food-chain crops specified in the permit.

The owner or operator must continue to operate the unsaturated zone monitoring program as provided for under §264.278 with one exception. Soil-pore liquid monitoring may be terminated 90 days after the last application of waste at the unit. EPA expects that the fast-moving constituents that the soil-pore liquid monitoring system is designed to detect should migrate out of the treatment zone soon after these constituents are applied if they are to migrate at all. EPA believes that any such migration is likely to occur in less than 90 days after the waste is applied. After the 90 days, the soil-core monitoring program becomes the principal mechanism for detecting migration out of the treatment zone.

The major element of the closure procedures at a land treatment unit is the placement of a vegetative cover that is capable of maintaining growth without extensive maintenance. Section 264.280(a)(8) requires the owner or operator to establish a vegetative cover at such time that the cover will not substantially impede degradation, transformation, or immobilization of hazardous constituents. Thus, the vegetative cover must not be established until sufficient treatment has occurred so that the placement of the cover and termination of certain operating practices (e.g., tilling) will not substantially inhibit treatment processes.

Once the vegetative cover is established, certain general practices designed to maximize treatment processes (e.g., tilling) cannot be conducted without damaging or destroying the vegetative cover. Such practices should not, therefore, continue once the cover is established. Accordingly, today's regulations provide in § 264.280(a)(1) that those practices aimed at enhancing degradation, transformation, and immobilization of hazardous constituents that would be inconsistent with the establishment of the vegetative cover under § 264.280(a)(8) should not be continued once the cover is established.

A vegetative cover consists of any plant material established on the treatment zone to provide protection against wind or water erosion, or to aid in the treatment of hazardous constituents. The major function of the vegetative cover during closure and post-closure care is to minimize wind and water erosion. Perennial grasses are often used because they can be rapidly established into a thorough cover. However, the best suited plant species will depend on the season and region of the country. Agronomists from the State Agricultural Extension Service, USDA, or nearby universities can be valuable sources of information regarding crop selection and cultivation practices which are best suited to a given region.

Section 246.115 of the general requirements for closure requires that the owner or operator submit a certification from an independent registered professional engineer that a unit has been closed in accordance with the approved closure plan specified in the permit. In the case of land treatment units, EPA believes that a qualified soil scientist should be as qualified as a professional engineer to evaluate the adequacy of such measures as vegetative cover. Therefore, today's regulations provide that an independent qualified soil scientist may make the certification.

During the post-closure care period, the owner or operator must continue many of the activities required during the active life (including the closure period). These include control of wind dispersal, maintenance of run-on and run-off systems and continuance of food-chain crop restrictions. The owner or operator must also continue soil-core monitoring but may suspend soil-pore liquid monitoring 90 days after the date of the last waste application. (This time

period may have already passed during the closure period.] In addition, the vegetative cover established during closure must be maintained.

The owner or operator must also continue to take actions that foster degradation, transformation and immobilization processes in the treatment zone. These operating measures must be tempered somewhat during the post-closure care period. Only those measures that do not interfere with the other post-closure care requirements should be continued. Thus, the application of lime to maintain the pH in the treatment zone is an acceptable practice but tilling of the soil that destroys the vegetative cover at the unit should not be continued. The Regional Administrator may wish to state in the facility permit, the level of treatment, particularly degradation or transformation, required at a particular site prior to the start of post-closure care. This would greatly influence the type and extent of actual "treatment" activities necessary during the post-closure care period and may assure greater control over completion of these treatment processes. Guidance for specification of levels of treatment is provided in the *RCRA Land Treatment Guidance Document.* (See Section VII.G. of this Preamble.)

The post-closure care regulations also set out a variance that would allow the owner or operator to be relieved from compliance with the post-closure care requirements as well as the closure requirement for establishment of a vegetative cover. This variance can be obtained if the Regional Administrator finds, based on a demonstration by the owner or operator that the level of hazardous constituents *within* the treatment zone does not exceed the background values for those constituents by statistically significant amounts. Such a demonstration may be made at any time after the last application of waste is made at the unit. The sampling and data evaluation standards, including the requirements for evaluation of statistical significance, are specified in today's rules. These requirements are almost identical to corresponding standards contained in § 264.278. They include only soil monitoring and analysis, however, not soil-pore liquid monitoring.

It is important to note that an owner or operator who can successfully make the showing that hazardous constituents are no longer present in the treatment zone at statistically significant amounts may be eligible for a further exemption during the post-closure care period. If the owner or operator can also demonstrate that no hazardous constituents have migrated below the treatment zone during the active life of the land treatment unit, there is little prospect that corrective action measures under Subpart F would be necessary. Accordingly, the regulations provide that an owner or operator that can make both such demonstrations to the Regional Administrator may be exempted from Subpart F.

9. *Special Requirements for Ignitable or Reactive Waste (Section 264.281).* As is required for the other types of land disposal units, today's regulations restrict land treatment of ignitable and reactive waste. The rationale for this provision is the same for land treatment as it is for the other types of disposal units.

10. *Special Requirements for Incompatible Wastes (Section 264.282).* As is required for other types of land disposal units, today's regulations restrict land treatment of incompatible waste. The rationale for this provision is the same for land treatment as it is for the other types of disposal units. It should be recognized, however, that one way a waste is incompatible with a land treatment unit occurs when it operates to undermine treatment processes in the treatment zone (*e.g.,* by destroying microbial populations).

I. Landfills (Part 264, Subpart N)

Subpart N contains the design and operating standards for landfills used to dispose of hazardous wastes. The basic requirements are: (1) A liner to prevent migration of wastes out of the landfill and into the subsurface soil or ground water or surface water during the landfill's active life (with an exemption for existing portions, such as cells or trenches that already contain wastes); (2) a leachate collection and removal system; (3) control of run-on and run-off; and (4) capping the wastes at closure and conducting post-closure care. An exemption from the ground-water protection requirements of Subpart F is provided for landfills that have double liners and leak detection systems. A waiver of the liner and leachate collection and removal requirements is provided if the owner or operator demonstrates to the Regional Administrator that hazardous constituents will never migrate from the landfill into ground or surface water.

Many of the features of the Subpart N regulations (liners; leachate collection and removal systems; and double liners and leak detection systems installed to qualify for exemptions from Subpart F) are explained in the general discussion of design and operating standards (see Section VII.E. of this preamble) or in the discussion of analogous provisions in Subparts K and L for surface impoundments and piles (see Section VII.F. and VII.G. of this preamble). They will not be discussed again here. The few remaining issues that are unique to landfills will be discussed below.

1. *Special Requirements for Ignitable or Reactive Wastes and for Incompatible Wastes (Sections 264.312 and 264.313).* Sections 264.312 and 264.313 are based upon the analogous Part 265 interim status standards. Section 265.312 was amended on June 29, 1981, and § 264.312 is based on the amended version. A discussion of the basis for the current restriction on landfilling ignitable and reactive wastes is set forth in the preamble to those standards at 46 FR 33402 (June 29, 1981).

2. *Special Requirements for Liquid Waste (Section 264.314).* Section 264.314 restricts the disposal of liquids in landfills. It is based upon the analogous Part 265 interim status standards, including portions which were recently promulgated on March 22, 1982 (47 FR 12316).

3. *Special Requirements for Containers (Section 264.315).* Section 264.315 provides that containers (except for very small containers) must be either (1) at least 90 percent full when placed in a landfill, or (2) crushed, shredded, or similarly reduced in volume to the maximum practical extent before burial in the landfill. The purpose of the rule is to minimize subsidence in the landfill resulting from decaying containers having void spaces.

The analogous interim status standard in § 265.315 provides only that an empty container must be crushed, etc., before placement in the landfill. However, it fails to define the term "empty" (and "full") and to address the subsidence that may be caused by the disposal of partially empty containers. Today's promulgation of § 264.315 (and the proposal of a parallel modification of § 265.315) addresses these regulatory gaps.

In the February 5, 1981 proposal, EPA proposed that to be considered full, containers have either 3 inches or less of void space or 10 percent or less volume of void space, whichever is less. Some commenters argued for less stringent numbers. Other commenters argued that crushing or shredding empty containers is impractical. These commenters did not provide EPA with data to support their comments.

The Agency believes that by allowing only full containers or those that have been crushed or otherwise reduced in void space to be placed in a landfill, disruptive subsidence of the final cover

resulting from the placement of partially filled containers in landfills can be avoided. The Agency disagrees with the commenter who suggested that crushing or shredding empty containers is impractical. Several landfills are currently doing so and container crushing equipment is readily available.

Those owners or operators having containers which are partially filled may either (a) fill them to greater than 90 percent of their capacity, (b) empty them and then crush or shred them to the maximum extent practical, or, (c) to the extent technology and safety allow, reduce the volume of the partially full containers. The provision allowing landfilling of containers that are 90% full means that there could be about 4 inches of void space in the typical 55-gallon drum.

The Agency would prefer to set a performance limit on the required effectiveness of volume reduction and has considered imposing a requirement limiting maximum remaining void space after crushing to 10 percent of the precrushed volume. EPA presently lacks the data necessary to determine the practicality of such a limit. The Agency is, therefore, seeking comment, particularly from those currently crushing drums and those manufacturing crushing equipment, as to what numeric performance level may practically be required.

One commenter suggested that all containers which are so small that void spaces in them would not significantly affect the stability of a landfill should be allowed. The Agency agrees and is, therefore, exempting very small containers, such as an ampule.

4. *Disposal of Small Containers of Hazardous Waste in Overpacked Drums (Lab Packs) (Section 264.316).* Section 264.316 provides that small containers of hazardous wastes in overpacked drums, commonly known as "lab packs," may be placed in landfills if certain requirements are met. This provision allows disposal of ignitable or liquid wastes in drums in accordance with these special conditions. This regulation is based upon the recently promulgated interim status standard for lab packs (46 FR 56592, November 17, 1981).

J. Interim Status Conforming Changes (Part 265)

Some of the regulations promulgated today in Part 264 suggest conforming changes to parallel sections of Part 265. The Part 265 requirements were previously promulgated in interim final form and interested parties have commented on them. The changes made today are necessary to ensure consistency in application of policy decisions or to ensure a lack of conflict between the provisions of the two parts. Some changes, however, must be proposed because they contain significant changes to existing rules and the public has not had an opportunity to comment on the appropriateness of applying them during the interim status period. These are proposed in another section of today's Federal Register.

A careful side-by-side reading of the Part 264 rules promulgated today and the existing Part 265 rules, will identify a number of additional differences which are not substantive. Most of these differences are necessary because Part 265 is intended to be largely self implementing, whereas the Part 264 requirements are implemented with substantial interaction with the Agency through the permitting process. Therefore, conforming changes have not been made to address those differences. Some other differences represent EPA's effort to make the new Part 264 requirements more easily understood. Conforming changes that are solely a matter of exposition are not made in this rulemaking (except when associated with some other change).

1. *Waste Piles—Containment (Section 265.253).* In the Part 264 regulations, the addition of the 25-year storm event as the design criterion for run-on and run-off control systems resulted from comments on the interim status and permitting requirements which contain only narrative design criteria. EPA has, therefore, adopted the same storm event as the design criterion for interim status as well. The Agency has also adopted as an interim status requirement the Part 264 provision that run-off collection systems be emptied expeditiously to maintain capacity.

2. *Waste Piles—Closure and Post-closure Care (Section 265.258).* The interim status requirements for waste piles contained no closure requirements. At the time they were written, the Agency thought that the requirements would be obvious. Since the rules applied only to storage piles, the wastes would have to be removed at closure in accordance with Subpart G. Any pile which would remain at closure is considered to be a landfill and would be subject to the closure and post-closure requirements of Subpart N. However, some comments and questions received by EPA indicated some confusion on this point. Therefore, a section to clarify the closure requirements is being added to both the Part 264 standards and to the interim status requirements.

3. *Land Treatment—General Operating Requirements (Section 265.272).* This section is being changed to add the 25-year storm design criterion for run-on and run-off control systems and to require them to be emptied or managed expeditiously to prevent successive storm events from filling them up, reducing available capacity. The same changes are being made to the pile requirements (see paragraph 1 above), and the rationale is the same as for the corresponding Part 264 changes.

In addition, a requirement is being added to ensure control of wind dispersal of particulate matter at land treatment units. A similar requirement is contained in the requirements for waste piles and landfills. The Part 265 requirements currently contain a requirement that the owner or operator must consider wind dispersal controls as a part of closure.

4. *Land Treatment—Food Chain Crops (Section 265.276).* Previously, this section of Part 265 required that future property owners be notified by a stipulation in the land record or property deed which stated that food chain crops should not be grown due to a possible health hazard. One commenter on the May 19, 1980 standards suggested that the stipulation state that, rather than not allowing food chain crops to be grown on the site in the future, food chain crops could be grown but only in compliance with the requirements of § 265.276(c)(2). The Agency agrees with this commenter, as it believes that compliance with § 265.276(c)(2) whenever food chain crops are grown provides adequate public health and environmental protection.

5. *Land Treatment—Recordkeeping (Section 265.279).* The redundancy caused by the inclusion of certain recordkeeping requirements in both §§ 265.73 and 265.279 has been eliminated. Since records are required under § 265.73 of the quantity and location of each hazardous waste placed in the unit, there is no need for the same requirements to appear in § 265.279. Section 265.279 now only addresses the keeping of records on hazardous waste application dates and rates. These are additional recordkeeping requirements to those specified in § 265.73.

6. *Land Treatment—Closure and post-closure care (Section 265.280).* Several changes have been made to the closure and post-closure care requirements of § 265.280 in order to make the interim status requirements more consistent with the closure and post-closure care requirements for land treatment units.

In today's rules, under § 265.280(d), several monitoring, maintenance, and control activities are required of land treatment unit owners or operators during the closure period. These are, for the most part, extensions through

closure of activities which are required during earlier unit operations. The unsaturated zone monitoring system must be maintained and operated in compliance with specifications to be provided in the closure plan. (As in the Part 264 regulations, the owner or operator may terminate soil-pore water monitoring 90 days after the last waste application.) The run-on and run-off management systems required under § 265.272 (b) and (c), respectively, must be maintained. These new requirements constitute minimum operation and maintenance standards for unit closure and replace the earlier § 265.280 standards requiring that these operations only be "considered" for inclusion in the closure plan. In addition, control of wind dispersal of hazardous waste during closure (as well as post-closure) is now required.

In response to a comment received on the May 19, 1980 standards, today's rules allow the use of an independent qualified soil scientist to verify that the unit has been closed in accordance with the specifications in the approved closure plan. A qualified soil scientist will have a knowledge of the factors most likely to influence the fate and transport of hazardous waste constituents in the soil.

The existing § 265.280 requirement that the unsaturated zone monitoring system be operated and maintained during the post-closure care period is also being revised today. Under today's rules, both Parts 264 and 265, only soil core monitoring and not soil-pore water monitoring is required during the post-closure care period. Because waste is no longer being applied to the unit during the post-closure care period, the Agency believes that soil-pore water monitoring, which is primarily intended to detect the movement of the more mobile hazardous constituents, is unnecessary. Soil-core monitoring should provide all the monitoring information necessary to determine whether hazardous constituents are migrating toward ground water during the post-closure care period.

7. *Land Treatment—Special requirements for ignitable or reactive waste (Section 265.281).* In response to a comment on the May 19, 1980 regulations, a paragraph has been added to § 265.281 to allow the land treatment of ignitable or reactive wastes if they are protected from conditions leading to ignition or reaction. This clause provides greater flexibility to the owner or operator. The Agency does not think, however, that such ignition, or especially reaction, can be prevented very easily in a land treatment unit unless the wastes were rendered non-ignitable or non-reactive.

8. *Landfills—General operating requirements (Section 265.302).* As with the waste pile and land treatment regulations, the interim status requirements for landfills are being modified to adopt the 25-year storm criterion for design of run-on and run-off control systems (see paragraphs 1 and 3 above). The common sense requirement that these systems be expeditiously emptied after storms to maintain capacity has similarly been added.

9. *Landfills—Special requirements for ignitable or reactive wastes (Section 265.312).* As a result of a delayed compliance date for the restriction on landfilling of liquid waste in containers (§ 265.314(c)), the language in the regulations respecting ignitable waste is more complicated and confusing than is necessary. Accordingly, these provisions have been simplified in both Parts 264 and 265. The change divorces consideration of the physical state of the waste (i.e., whether it is a liquid or a solid) from the management requirements regarding its ignitability. Requirements respecting ignitability are covered in §§ 264.312 and 265.312, and those requirements relating to liquids are covered in §§ 264.314 and 265.314. This does not represent a substantive change, only a clarification. Previous rulemaking actions on this topic have indicated EPA's intent to address the problems associated with the ignitable characteristic of a waste under § 265.312 and the liquid nature of a waste under § 265.314. The restrictions on liquid wastes in general, coupled with the requirements that ignitable wastes be in containers when landfilled, as a practical matter, result in a virtual ban on the landfilling of liquid ignitable wastes.

10. *Landfills—Special requirements for liquid wastes (Section 265.314).* The standards adopted in § 264.314 concerning the acceptance of bulk liquids in landfills are slightly different from the interim status requirements promulgated May 19, 1980. The language has been changed to specify that bulk liquids can be placed in landfills only when the facility is equipped with a liner system (underliner and leachate collection system) that meets the requirements of the regulations (§ 264.302(a)). The same change is also being made to the interim status requirements (§ 265.314). The new language replaces the May 19, 1980 requirement that a facility receiving bulk liquids have a liner system which is chemically and physically resistant to the liquid and a functioning leachate detection system capable of removing the percolating liquids. Since that requirement does not specify the design or required effectiveness of the liner system in any way, the Agency is concerned that a substantial portion of the added liquids would be allowed to pass through the liner and escape. The changes made today specifying compliance with the liner performance standards of Part 264, will ensure that bulk liquids will be placed in landfills only when the liner system has been designed to fully contain the wastes so that all leachate can be collected and removed. According to EPA's information, only a relative few existing landfills are equipped with appropriate liners and leachate collection units. Therefore, bulk disposal of liquids in many existing landfills may be curtailed upon the effective date of these requirements, at least until new, appropriately designed cells can be built at those landfills.

K. Permitting Requirements (Part 122)

On May 19, 1980, EPA promulgated the consolidated permit regulations (40 CFR Part 122, 45 FR 33418) which include requirements for permitting hazardous waste management facilities under RCRA. Owners and operators of facilities which treat, store, or dispose of hazardous waste must obtain permits from EPA, and EPA must issue those permits in accordance with the Part 122 and Part 124 regulations.

1. *Introduction.* Part 122 provides for a two-part hazardous waste permit application; Part A and Part B. Requirements for the content of Part A of the permit application remain unchanged from the May 19, 1980 promulgation. (40 CFR 122.24, 45 FR 33434). Requirements for the content of Part B of the permit application were amended January 12, 1981 (40 CFR 122.25, 46 FR 2889) to provide specific information requirements for owners and operators of hazardous waste treatment and storage facilities. Today's amendments to § 122.25 specify the contents of Part B of the permit application for new and existing waste piles, surface impoundments, land treatment units, and landfills. In order to receive a RCRA permit for any of these types of units, owners or operators must submit sufficient information in Parts A and B to enable EPA to determine whether the unit is in compliance with the Part 264 standards, or for a new unit, whether it will be in compliance with those standards.

2. *Background.* On May 19, 1980, EPA promulgated certain general regulations under Parts 264 and 122 applicable to

hazardous waste management facilities to be permitted under RCRA (45 FR 33221, 33434). The Part 264 regulations contained administrative and technical standards for operating permitted facilities. The Part 122 regulations, among other things, specified what information owners or operators of facilities had to submit to EPA in their permit applications to demonstrate their compliance with the Part 264 standards. Sections 122.4, 122.24 and 122.25 set forth the required content of Parts A and B of the permit application, respectively.

On January 12, 1981, EPA supplemented the May 19, 1980 rules by promulgating specific standards for several types of hazardous waste treatment and storage facilities, among them surface impoundments and waste piles (Part 264, Subparts K and L, 46 FR 2868–2872). At that time, EPA also added companion requirements to § 122.25, directing permit applicants for treatment and storage facilities to submit information in their Part B's pertinent to the new Part 264 standards (46 FR 2889–2891).

On February 13, 1980, EPA promulgated temporary standards for permitting new land disposal facilities (40 CFR Part 267, 46 FR 12429). Those regulations included technical and administrative requirements for new disposal surface impoundments, new land treatment units, and new landfills. No specific permit application requirements were promulgated at that time.

As explained earlier in this preamble, today's amendments to Part 264 Subparts K, L, M and N subsume and replace the specific standards for surface impoundments, waste piles, land treatment units, and landfills as promulgated January 12, 1981, and February 13, 1981. Similarly, today's new Part B permit application requirements subsume and replace the Part B requirements of January 12, 1981, for surface impoundments and waste piles, and add new Part B requirements for land treatment units and landfills.

3. *Contents of Part B for Surface Impoundments, Waste Piles, Land Treatment Units, and Landfills.* The required content of Part B of the permit application is specified in three subsections in § 122.25. Paragraph (a) lists general information required for all types of units. Paragraph (b) lists information required for individual types of units (e.g., waste piles, landfills). Paragraph (c) lists ground-water monitoring information required for surface impoundments, waste piles, land treatment units, and landfills.

Section 122.25(a) remains substantially unchanged from the January 12, 1981 promulgation. (Conforming cross-references have been added to paragraphs (a)(5) and (a)(13).) Thus, applicants for RCRA permits for waste piles, surface impoundments, land treatment units, and landfills must address in their Part B permit applications the general information requirements (paragraph (a)) published in the January 12, 1981 Federal Register, as well as the specific information requirements (paragraph (b)) published today for each respective unit type, and, where applicable, the ground-water monitoring information requirements (paragraph (c)) published today. Part B requirements pertaining to ground-water monitoring apply to all four types of units unless they are exempted by § 264.90 (applicability of Subpart F).

As in the January 12, 1981, promulgation of § 122.25(b), today's specific Part B requirements are each tied to a Part 264 standard and, wherever possible, parallel the structure of the respective Subparts in Part 264. In general, the Part B requirements in today's rules state the form and subject matter of the information required (e.g., detailed plans of liner systems) and refer to the companion regulation in Part 264 which is germane to the permit application.

In the Part B submission, the permit applicant must submit information in sufficient detail to enable the Regional Administrator to judge whether the unit will be in compliance with the Part 264 standards, and thus eligible for a RCRA permit. The applicant must address each aspect of design and operation included under individual Part 264 standards. For example, § 122.25(b)(7)(ii) requires that detailed plans and an engineering report be submitted which describe the liner system to be used in a landfill, as required under § 264.301. Section 264.301 lists, among other things, a number of design standards for liners, including the strength, thickness, and chemical properties of the liner material. Each of these characteristics of the liner material must be addressed in the Part B submission for landfills. If the applicant submits a Part B which does not address each requirement with enough detail so that the Director[1] can make an informed judgment as to whether the unit will meet the Part 264 standards, the applicant will be asked to clarify his submission by providing more information (see § 124.3(c)).

[1] The term "Director" is used in EPA's permitting regulations to mean the Regional Administrator in any State where EPA is running the RCRA hazardous waste program, and the State Director in any State with authorization to run its hazardous waste program (or a part of its program) in lieu of EPA's running the Federal program.

4. *When to Submit Parts A and B.* As provided in § 122.21 in EPA's May 19, 1980 hazardous waste regulations (45 FR 33432), the submission of Part A of the permit application is a condition of "interim status" for existing hazardous waste management facilities. That regulation further provides that the Director shall set a date, giving at least six months notice, for submission of Part B of the permit application for existing facilities. Therefore, owners and operators of existing facilities are not required to submit Part B until requested by EPA, although they may voluntarily submit Part B of the permit application before it has been requested by EPA. Owners and operators of new facilities must submit Part A and Part B of the permit application at least 180 days before physical construction is expected to commence. Owners and operators may not commence construction of new facilities until a permit has been issued.

5. *Special Permitting Procedures for Land Treatment Units.* Section 264. 272 provides that a treatment demonstration must be made prior to the permitting of any land treatment unit. The purpose of the treatment demonstration is to show that hazardous constituents in the waste can be completely degraded, transformed, or immobilized in the treatment zone. The § 264.272 requirements allow the owner or operator to use, among other means, field tests or laboratory analyses to make the treatment demonstration. Therefore, the owner or operator of a new land treatment unit, or the owner or operator of an existing unit who wants to land treat new waste, needs the opportunity to use field tests or laboratory analyses to make this demonstration. However, field tests and laboratory analyses can only be performed under a permit because they involve the treatment and disposal of hazardous waste.

Paragraph (c) has been added to § 122.27 to allow an owner or operator who needs to make a treatment demonstration to obtain a phased permit which will cover not only the field test and laboratory analyses but also facility construction and operation. In this way, the owner or operator may not have to obtain a permit separate from the actual facility permit to conduct field tests or laboratory analyses. If the Director finds, based on the information submitted by the owner or operator in Part B of the permit application for a land treatment unit, that substantial information exists upon which to base the issuance of an operation permit (i.e., the applicant has submitted information indicating a likelihood that he can

achieve complete treatment at his facility), the Director may issue a two-phase facility permit.

The issuance of a two-phase facility permit would avoid the necessity of two separate permitting procedures—the first for permitting the field tests or laboratory analyses for the treatment demonstration, and the second for design, construction, operation, and maintenance of the actual land treatment unit. However, if the Director finds that owner or operator has not submitted substantial information indicating a likelihood that he can achieve complete treatment at his facility (based, for example, on land treatment of very similar waste) a two-phase facility permit will not be issued. In this latter case, the owner or operator must apply for and receive a demonstration permit to conduct the field tests or laboratory analyses and perform these tests or analyses prior to the Director's consideration of a facility permit. Section 122.27(c)(1) provides that a demonstration permit need only contain conditions implementing the requirements of § 264.272(c). Thus the conditions that would be included in any demonstration permit would be the same as those that would be included in the first phase of a two-phase land treatment facility permit. Minimum conditions are specified, but the Director may include any conditions he finds may be necessary to protect human health and the environment.

An owner or operator who wants to receive a two-phase permit to accommodate conducting field tests or laboratory analyses, must include a treatment demonstration plan in Part B of his permit application. See § 122.25(b)(6)(i). The demonstration plan must propose that the field tests or laboratory analyses be performed under conditions similar or directly relating to those present in the treatment zone of the unit. Specific conditions for which similarity or direct relevance are necessary are listed in § 264.272(c). These include: waste characteristics, climate, topography, soil characteristics (including treatment zone depth), and operating practices (including unsaturated zone monitoring). It is important to note that any waste constituents listed in Appendix VIII of Part 261 that are reasonably expected to be in, or derived from, waste to be land treated at the actual unit are those constituents for which a treatment demonstration is required. An owner or operator may, of course, use a combination of field tests, and laboratory analyses, and other data to demonstrate that all Appendix VIII constituents contained in the waste can be treated completely.

Following receipt of the Part B application, including the treatment demonstration plan, the Director will process the two-phase facility permit completely through the Part 124 procedures, including preparation of a draft permit and an opportunity for public comment and hearing, assuming he has enough information on which to base draft permit conditions for the design, construction, operation and maintenance of the unit. After completion of this process, and if the Director deems it appropriate, the two-phase facility permit will be issued. The first phase of the permit will become effective as provided in § 124.15(b). The second phase will not be effective until after the owner or operator has successfully completed the treatment demonstration and the Director has made any modifications necessary to ensure compliance with all Subpart M requirements.

Included in the first phase of the permit will be the conditions for performance of the treatment demonstration. The conditions will be established based upon the treatment demonstration plan submitted by the owner or operator. These permit conditions will include design and operating parameters (including the duration of the tests or analyses and, in the case of field tests, the horizontal and vertical dimensions of the treatment zone), monitoring procedures, post-demonstration clean-up activities, and all other Part 264 requirements which the Director finds appropriate. In order for the owner or operator to proceed with actual construction and operation, *i.e.*, proceed into phase two of the permit, it is necessary that he complete the treatment demonstration satisfactorily.

The Director will include, as conditions in the second phase of the facility permit, all Subpart M requirements pertaining to unit design, construction, operation, and maintenance, as well as all other applicable Part 264 requirements. The Director will establish the conditions in the second phase of the permit based upon the substantial but inconclusive or incomplete information contained in the Part B application.

Following completion of the field tests or laboratory analyses, the owner or operator must submit to the Director a certified statement, signed by a person authorized to sign a permit application or report under § 122.6, that the tests or analyses were carried out in accordance with the conditions specified in phase one of the permit. All data collected during the field tests or laboratory analyses must also be provided to the Director.

The Director will then determine whether the results of the field tests or laboratory analyses, together with any other data submitted by the owner or operator relevant to the treatment demonstration, meet the requirements of § 264.272, *i.e.*, that the hazardous constituents in the waste can be completely degraded, transformed, or immobilized under conditions similar to those of the treatment zone. If the Director determines that the hazardous constituents can be completely treated, he will (1) modify the second phase of the permit to incorporate any additional requirements which he finds will be necessary for operation of the unit in compliance with Part 264, Subpart M, based upon the data from the completed treatment demonstration and (2) make the second phase of the permit effective.

The permit modification to include changes based upon the completed treatment demonstration may proceed as a minor modification under § 122.17, if any such change is minor. Otherwise, it will proceed as a permit modification under § 122.15(a)(2).

The Agency thinks that adjustments to a number of the operating procedures at land treatment units will, in many cases, be considered minor modifications. For example, modifications to (1) waste application rate, technique, or frequency, (2) liming or fertilization practices, or (3) tilling depth and frequency would usually be considered minor modifications, except where there were substantial increases in the waste application rate or frequency. Examples of modifications likely to be considered "major" include significant changes in (1) characteristics of the land treated wastes (e.g., moisture content) and (2) treatment zone characteristics (e.g., depth of soil, soil texture, slope).

If the results of the first treatment demonstration are inconclusive and the owner or operator wants to do additional field tests or laboratory analyses, the Director may modify the permit (whether it is an individual permit that covers only a treatment demonstration or whether it is the treatment demonstration phase of a two-phase permit) to authorize such additional tests, incorporating in the permit those terms and conditions necessary to meet § 264.272(c) requirements. The modification of a permit to allow a second treatment demonstration may be made as a minor modification, provided the conditions

for the second demonstration are substantially the same as the conditions for the first demonstration.

A permit applicant seeking a demonstration permit (rather than a two-phase facility permit) must also submit a treatment demonstration plan in Part B of his application. Such a permit applicant should consult with the Director before submitting his Part B information because the Director may allow him to submit less information in his Part B application than would be required for a two-phase facility permit. Once a complete application has been received, the Director will process it under the Part 124 procedures using the substantive standards in § 264.272(c).

6. *Clarification of the Scope of the RCRA Permit Requirement.* EPA is today making two clarifying changes to § 122.21(d), "scope of the RCRA permit requirement". The first change clarifies that owners and operators of hazardous waste management facilities are required to have permits during any post-closure period (see § 264.117) and any compliance period (see § 264.96) applicable to their facilities, as well as during the active life of the units (including the closure period).

a. *Post-closure Permits*—EPA has always intended that owners and operators be required to have permits during the active life of their units and, for disposal units, through the post-closure care period as well. EPA could have issued regulations (like the Part 265 interim status standards) that are enforceable independent of a permit to impose many of the requirements that apply to a facility after closure, but imposing standards through the permit allows EPA and facility owners and operators a much greater opportunity to tailor the requirements to individual facilities. Such individualized requirements provide a greater assurance of human health and environmental protection because they allow site specific implementation of general standards (such as the location of ground-water monitoring wells).

Using a permit as the vehicle for imposing post-closure care requirements also means that EPA has an existing system—the permitting procedures and requirements in 40 CFR Parts 122 and 124—to use when interaction between EPA and the facility owner or operator is necessary during the post-closure care period. For example, this would be necessary if the Regional Administrator wanted to extend the post-closure care period under § 264.117(a)(2)(ii) because of data obtained after facility closure. Such interaction would also be critically important under the Subpart F ground-water monitoring standards promulgated today. If an owner or operator found hazardous constituents in ground water under his facility while doing detection monitoring, he then would be required to establish a compliance monitoring program. If he were violating the ground-water protection standard for his facility while doing compliance monitoring, he would then need to establish a corrective action program. EPA think that the establishment of such ground-water monitoring programs should be done through the permitting process. That process ensures procedural protections for owners and operators of hazardous waste management facilities and also ensures an opportunity for public participation as mandated under Section 7004(b) of RCRA.

Although EPA's intent, as evidenced in the Parts 122 and 264 regulations,[2] has always been that disposal facilities are required to obtain permits during the post-closure care period, that was not stated as clearly as it might have been in the regulations. EPA is remedying that deficiency today by amending the Part 122 regulations to expressly provide that disposal facilities are required to get permits for the post-closure care period.

EPA intends that all disposal facilities, including those that close during interim status, be required to have post-closure permits. This is a logical corollary to the definition of "regulated unit" included in today's Part 264 regulations. EPA believes that, to assure adequate protection of human health and the environment, it is important that any wastes disposed after today's Part 264 standards become effective be subject to those standards, although the standards will not be directly applied until a permit is issued for the unit. The fact that an owner or operator may close a unit or his entire facility before EPA issues him a permit should not preclude the Agency from issuing a permit that incorporates applicable Part 264 post-closure care standards, including Subpart F ground-water monitoring requirements.

In addition to sacrificing some measure of human health and environmental protection, the Agency thinks that it would be inequitable to allow the owner or operator of one hazardous waste disposal unit to operate under the less protective interim status requirements, then close when EPA required him to submit Part B of his permit application, and thereafter be subject only to the interim status requirements, while another operator would be subject to the stricter Part 264 requirements because his Part B application was requested earlier. Such a system would create inequities whereby persons whose permits were processed last could get a significant competitive advantage.

As noted above, today's regulations do limit the applicability of the Part 264 regulations to "regulated units"—*i.e.*, units that continue to receive wastes after the effective date of the regulations. To be consistent, post-closure permits will be limited to the same class of units. Thus, disposal units which stop accepting waste before the effective date of today's regulations will not have to get permits covering the post-closure care period. However, those disposal units that continue to receive waste after the effective date of today's regulations will be required to have post-closure permits, even if they close before receiving an initial RCRA permit.

A conforming change to § 122.10, Schedules of compliance, is also being made to clarify how and when permit applicants or permittees cease conducting regulated activities at hazardous waste disposal facilities. The change to that section points out that owners and operators of treatment and storage facilities have closure responsibilities and that owners and operators of disposal facilities have both closure and post-closure responsibilities.

b. *Permits for Individual Units.* The second change EPA is making to the scope of the RCRA permit requirement clarifies that EPA can issue or deny a permit to one or more units at a facility without affecting the interim status of any remaining units for which a permit has not been issued or denied. EPA normally would permit all of the hazardous waste management activities at a facility simultaneously but there may be circumstances where this would be impossible or undesirable. For example, an owner or operator might want to add a new surface impoundment to his facility, but he may also be storing hazardous waste in an underground tank that cannot be entered for inspection, a process for which EPA has not issued permitting standards. In such a situation, EPA would want to be able to proceed with permitting the new surface impoundment without affecting the interim status of any unpermitted units such as the facility's underground tank.

[2] For example, § 264.118 requires a post-closure care plan that must be approved as part of the permitting process and becomes a condition of the permit. Section 122.15(a)(7) notes that allowable permit modifications include changes in the period for post-closure care and permission to disturb the integrity of the containment system under § 264.117(c).

The Agency is making a conforming change to § 122.15(a)(7) to provide that any permit issued to a facility for less than all of the units at the facility may be modified to include conditions applicable to units that are permitted later.

7. *Changes to the Conditions Under Which EPA May Modify Permits.* EPA is today adding four causes for permit modification to § 122.15(a)(7) (in addition to the conforming change described above) and three causes for minor permit modifications to § 122.17(e). The circumstances under which these causes for modifications would be invoked are discussed in the preamble to the accompanying regulations in Subparts F and M of Part 264.

8. *Request for Part 122 Comments.* Today's amendments to §§ 122.10, 122.15, 122.17, 122.21, 122.25, and 122.27 are promulgated in interim final form. EPA solicits comments from the public on all of these amendments. The Agency would especially welcome comments on the Part B requirements for surface impoundments, waste piles, land treatment units and landfills, and on the special permitting procedures for land treatment units. Comments pertaining specifically to regulatory amendments to Part 122 should be sent to "Docket 3005—permitting requirements for land disposal facilities." The Agency will consider all timely comments before promulgating these regulations in "final final" form.

VIII. General Solicitation of Public Comments

EPA generally solicits comment on today's rules and their supporting rationale provided in this preamble. On many regulatory issues, the Agency is particularly interested in the public's response and has highlighted these areas throughout the preamble. For convenience, the areas on which the Agency has specifically requested comments are catalogued below. EPA seeks comment on:

1. Requiring financial assurance for corrective action to remedy ground-water contamination at facilities and how to structure these requirements.

2. Promulgating regulations that would consist of general environmental performance standards similar to those contained in 40 CFR § 267.10 to be used in permitting unique facilities that do not fit into the descriptions of classes of facilities we now have standards to cover (containers, tanks, surface impoundments, waste piles, land treatment units, landfills, and incinerators.)

3. Exempting from Subpart F (Ground-water Protection Standard) facilities located over an uppermost aquifer which is so dirty that it would never be used for any purpose and which, regardless of any future level of contamination is not capable through hydraulic connection of significantly contaminating another usable aquifer or surface water.

4. Factors that can be employed to demonstrate that no adverse health and environmental effects can potentially result from a flood washout if a variance from the floodplain requirement for designing to prevent washout is to be granted.

5. How to construct a statistical test procedure that when used in a ground-water monitoring program involving a large number of comparisons will have low probability of falsely identifying a non-contaminating unit, yet provide high probability of identifying a truly contaminating unit.

6. How to give further specificity to the general criteria for evaluating statistical procedures employed in ground-water monitoring.

7. Alternatives to the coefficient of variation in defining when ground-water monitoring data are likely to be normally distributed.

8. Crafting the liner and/or leachate collection system exemption for existing portions of units to better address those situations where substantial retrofitting would not be necessary and no exemption is warranted, and to better handle those situations where upgrading at an old site may provide very little additional environmental protection and an exemption may be desirable.

9. The decision by the Agency not to grant a waiver from the facility closure standards where a site may be able to show location characteristics that may make it unnecessary for ground-water protection. (EPA still wants to have a cover designed in accordance with the closure requirements to provide air and surface water protection.)

10. EPA's decision not to provide a waiver now from the design and operating requirements to any sites over State-exempted aquifers that are contaminated and that are not protected under the Underground Injection Control Program.

11. Where seepage facilities may be appropriate.

12. Where small or short-term piles not currently exempted from Subpart F ought to be exempted.

13. The relative benefits and costs of designing piles and landfills to protect against the 25-year and 100-year storm event.

14. The circumstances and conditions where overflow of run-on and run-off control systems may cause an adverse environmental or human health impact.

15. Exempting small, low hazard, temporary waste piles from Subpart L requirements.

16. Alternative statistical procedures to be used in the conduct of unsaturated zone monitoring at land treatment units.

17. The reasonableness of the requirement that containers destined for landfill be either (1) at least 90 percent full or else (2) crushed, shredded, or similarly reduced in volume.

Specifically, EPA seeks data on the quantitative relationship between landfill void space and subsidence. EPA also seeks data from manufacturers and users of drum-crushing equipment.

18. Part B permit application requirements for surface impoundments, waste piles, land treatment facilities, and landfills, and on the special permitting procedures for land treatment units.

IX. Regulatory Analysis

A. Executive Order 12291: Regulatory Impact Analysis

Executive Order 12291 requires each Federal agency, "to the extent permitted by law," to prepare and consider a Regulatory Impact Analysis (RIA) in connection with every major rule. The order further requires that a final RIA be transmitted to the Office of Management and Budget (OMB) at least 30 days before the Agency publishes the major rule. EPA has determined that the land disposal regulation promulgated today is a major rule. However, EPA has concluded that the existing facility portion of this rule is exempt from the requirement that a final RIA be submitted to OMB 30 days prior to promulgation. Section 8 of the Executive Order, *Exemptions,* states that the "procedures prescribed by this Order shall not apply to: . . . (2) Any regulation for which consideration or reconsideration under the terms of this order would conflict with deadlines imposed by statute or by judicial order."

Completing an RIA and transmitting it to OMB 30 days before EPA publishes these regulations for existing facilities would conflict with judicial deadlines. A court order in *State of Illinois v. Gorsuch* (D.D.C., Civil Action No. 70–1689), signed on November 13, 1981, directed EPA to promulgate regulations for existing hazardous waste land disposal facilities on or before February 1, 1982. Although the order was temporarily stayed, the appeals court has now ordered that these regulations

be promulgated by July 15, 1982. If EPA were to delay promulgation until completing the RIA and transmitting it to OMB, it would violate the deadline ordered by the Court. Therefore, EPA is exempt from compliance.

EPA began work on an RIA for land disposal facilities before November 13, 1981, but preparing the analaysis requires collecting data that are currently unavailable in-house and then analyzing these data. The effort is now in its data gathering stages. When complete, the RIA will examine the need for the regulation, alternative approaches, and the costs, benefits, and distributional effects of the alternative approaches. EPA expects to complete a draft of this analysis in May of 1983, and will consider these results to determine whether any changes to the land disposal standards are warranted.

Within time and data constraints, EPA was able to address some of the analytical requirements of the Executive Order. The Agency prepared preliminary estimates for the range of costs these regulations may impose on regulated units of particular kinds and sizes, on facilities, and for the total costs of the regulations. EPA then allocated these costs to particular waste generating industries and compared them to other economic parameters to obtain measures of the relative significance of the costs resulting from this rule. The results are summarized in D through H of this section:

D. *Individual Unit Costs;* E. *Closure Analysis;* F. *Total Costs;* G. *Industry Analysis;* and H. *Sensitivity Analysis.* The docket for this rulemaking and the EPA regional libraries contain a more extensive report on this analysis.

Athough the Agency has not completed its formal benefits analysis for land disposal regulations, it expects these regulations to provide important benefits. First, they will promote economic efficiency. By internalizing the costs of waste management, the regulations promote the allocation of resources to the area of their highest social value through the free market pricing system. Second, they will promote equity. Currently, people living near hazardous waste facilities bear some of the cost of disposal in the form of risk of ground-water contamination and the damages that can result to property values and to health. These regulations will provide a uniform, nation-wide protective floor that requires the owners of hazardous waste facilities to take steps that will reduce the likelihood that populations will be exposed to harmful ground-water contamination. They will thus shift some of the cost of land disposal from those who live near the sites to users of the products that generate the waste.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires each Federal agency to prepare a final Regulatory Flexibility Analysis (RFA) when it promulgates a final rule. (5 U.S.C. 604). The purpose of the RFA is to describe the effects the regulations will have on small entities and examine alternatives that may reduce these effects. An agency head may delay completing the analysis for up to 180 days after publishing the rule in the **Federal Register**, if he publishes a finding that the final rule is being promulgated in response to an emergency that makes timely compliance impracticable. (5 U.S.C. 608).

EPA intends to study the impact of today's regulations on small entities. However, as in the case of the RIA, developing an RFA is a difficult and time-consuming task. EPA finds that the court-ordered deadline constitutes an emergency and that completing the RFA by the Court-ordered deadline has not been practicable. EPA will publish the RFA within 180 days of today's publication, in compliance with the Regulatory Flexibility Act.

C. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), EPA will submit the reporting and recordkeeping provisions that are included in this final rule to OMB for approval. They will not become effective until EPA obtains OMB approval. A notice of the effective date of the reporting and recordkeeping provisions of this interim final rule will be published in the **Federal Register** when OMB approval is obtained.

D. Individual Unit Costs

EPA estimated unit costs using engineering models. A number of engineering models were developed because the unit costs and costs per unit of waste vary significantly with the size and type of unit. The resulting unit costs provide the basis for the total cost of the design and operating standards. Although we show costs for corrective action following, EPA based calculations of the total cost of corrective action on a facility basis rather than on a unit basis.

1. *General Approach.* The cost estimation procedure for model units has three components: estimating costs for design and operating changes, estimating costs for a range of corrective action scenarios, and transforming costs into "annual revenue requirements." All cost estimates are in 1981 dollars.

First, to estimate costs for design and operating measures, the steps owners and operators of hazardous waste disposal units might take to comply with the regulations were identified. Since some of the these measures were already required under the Interim Status Standards (ISS regulations), the analysis separated these requirements in order to estimate the cost of the additional requirements resulting from this Part 264 rulemaking.[3] The analysis also separated pre-ISS costs for landfills and surface impoundments. The ISS baseline costs used in this analysis do not reflect state requirements.

Where the under-liner requirements of the design and operating standards were applicable, the Agency examined three possibilities: (1) Owners and operators would install only the single synthetic liners needed under the regulations, (2) they would install the double liner (synthetic/clay) system suggested by the guidance, or (3) they would install double synthetic liners to enable them to avoid monitoring the ground water.

Second, EPA estimated the costs of corrective action activities using three different timing assumptions for the length of corrective action and two counterpumping strategies reflecting hydrogeologic conditions. Timing will depend on how well units and facilities perform, and on how quickly ground-water quality can be restored. The counterpumping strategy used will reflect the judgments of owners or operators, Regional Administrators and State Directors; technical conditions will affect but not control those decisions.

To keep the total number of cost cases presented manageable a single set of unit cost estimates and a "median" set of hydrogeologic assumptions were used. The hydrogeologic assumptions were used as averages although they do not necessarily reflect average nationwide conditions. EPA believes that the values used are the best available for estimating total costs, given time and resource constraints. However, actual facility costs in particular cases may be higher or lower than the estimates presented in this section. To present a more complete picture of potential costs, the sensitivity analyses examine the effects of varying key technical assumptions. In addition, the docket report contains a more detailed description of the assumptions

[3] ISS requirements currently in place were used. No adjustments were made to reflect conforming changes to ISS regulations published with today's rule.

used in preparing these estimates, and includes analysis of the sensitivity of results to alternative unit cost assumptions.

Third, the stream of costs over time was converted into "annual revenue requirements" using discounted cash flow analysis. Annual revenue requirements are the added revenues a facility would have to obtain (through increased prices for its products or for its waste management services) in each year of facility operation, in order to cover the costs of these regulations. This approach provides a consistent basis for presenting and comparing relevant costs. However, it implicitly assumes that future costs can be predicted, and recovered at an even rate over a facility's operating life.[4] Since each facility will face great uncertainty about corrective action costs, and different competitive conditions, revenue requirements estimated using this perfect amortization assumption are not necessarily good predictors of actual pricing behavior under Part 264 regulations.

Because annualizing smooths uneven cash flows, this analysis also reports first year costs to provide an indication of the maximum cash flow burden that facilities could face for design and operating requirements, and for corrective action if necessary.

Costs for regulatory requirements related to bulk and containerized liquids, and the permitting process are not included in the estimates reported here. These costs may be significant, but additional data are needed before reliable estimates can be made. Costs for floodplain standards are addressed in the sensitivity analysis.

2. *Design and Operating Standards.* To comply with the design and operating standards, new storage and disposal facilities and lateral expansions of existing units must install liners, and in the case of piles and landfills, leachate collection systems. While the regulations do not absolutely require a synthetic liner for landfills, waste piles, and surface impoundments, in nearly all cases, at least a single synthetic liner is the practical result of the regulatory requirement. Those installing double liner systems with a leak detection system between them are exempt from ground water monitoring and the other requirements of Subpart F. Additionally, waste piles may be placed on a sturdy impermeable base and regularly inspected in lieu of the requirements of Subpart F.

Owners and operators will choose to install the liner system that is most advantageous for them. This will not necessarily lead them to install the lowest cost liner that EPA will allow, since greater investment in the liner system should lower the probability that corrective action will need to be taken. The probability that corrective action will be needed depends on the containment system used, and on hydrogeologic conditions, but EPA is currently unable to quantify these relationships. The Agency believes that some owners and operators will choose each of the different liner systems, reflecting their local hydrogeologic conditions and their differing estimates of the relationship between liner investments and the probability of having to perform corrective action. To indicate the range of potential liner costs, the cost for each of the liner systems is shown.

3. *Corrective Action Costs and Timing.* The costs associated with corrective action for a unit or facility depend on when contamination is discovered, the specific contaminants, the magnitude of the plume, and numerous site-specific hydrogeologic factors. The Agency can estimate corrective action costs for simple sets of conditions, but does not know what conditions are actually like for the average of all facilities. For this analysis it was assumed that ground water begins 10 feet down, that plumes reach a depth of 75 feet, and that the aquifer can be characterized by "median" hydrogeologic conditions.[5]

The Part 264 regulations require removal of contamination from ground water, at the "waste boundary" for new plumes, and to the property boundary for existing plumes. For this analysis, EPA chose to make the conservative assumption that corrective action would need to deal with well-established plumes. Cost estimates are based on counterpumping, and include costs for treating pumped water, preparing corrective action plans, and monitoring ground water as required in the regulations.

Costs for corrective action are sensitive to assumptions about when corrective action begins and how long it must continue in order to remove all statistically significant contamination. To bound the range of actual costs an owner or operator could encounter, EPA developed costs for three scenarios: action beginning in year zero and continuing 150 years,[6] action beginning in zero and continuing for 20 years, and action beginning in year 49 and continuing for 20 years. (The 20 year figure was chosen to match the assumption that operating lives are 20 years.)

The analysis also used two different counterpumping strategies because corrective action costs are also fairly sensitive to the pumping strategy required. Where hydraulic gradients are unidirectional, (i.e., in "simple" cases) recovery wells can be located at the downgradient toe of the plume. This is Strategy 1, and involves minimum costs for a counterpumping program. The simple conditions needed for this approach probably are not very common. Where hydraulic gradients are not unidirectional,[7] another strategy is needed to assure that all contamination is contained. Wells are located inside the plume and pumping is maintained at a rate sufficient to reverse all gradients in the vicinity of the plume. This is Strategy 2, and it involves higher costs.

The range of cost estimates that results from these alternative assumptions reflects EPA's uncertainty about conditions at actual facilities.[8] To

[4] In computing annual revenue requirements a 3% real discount rate and a twenty-year facility operating life were used in all cases.

[5] Plume depths of 75 feet will be typical only for well-established plumes; new plumes will be shallower and less expensive to control. The median hydrogeologic conditions used were hydraulic gradient (change in ground water "elevation") of 5 feet per mile, and transmissivity (flow rate across a one square mile cross-section, per foot of hydraulic gradient) of 100,000 gallons per foot per day. These assumptions result in an aquifer discharge (total ground water flow volume) of 0.5 million gallons per square mile of aquifer cross-section per day.

[6] The discounted present value of costs incurred over a long but finite furture period is essentially identical to the discounted costs incurred in pumping "forever," if costs are incurred as expenditures are made. A corrective action period of 150 years captures about 99% of the cost of continuing the action forever.

[7] This can occur due to complex hydrogeology, the pressure of emplaced wastes on the aquifer, or pumping at off-site wells surrounding the plume.

[8] The unit cost data, hydrogeologic assumptions and algorithms used here to estimate containment costs have been subjected to some peer review and testing, and EPA believes the cost estimates that result from use of this model are the best estimates available at this time. However, the algorithms and data must still be considered to be incompletely verified and validated.

Several key assumptions should be noted. (1) A simplified treatment cost model was used that may significantly underestimate costs for higher concentrations and more complex mixtures of contaminants, and may somewhat overestimate costs for smaller plumes and for treatment of volatiles. (2) Cost estimates are probably less reliable for facilities with small waste piles and the smallest surface impoundments than for other facilities because corrective action costs for plumes of less than one-half acre in area were not modelled. (3) The cost estimating model is directly applicable only within the limits established by the assumptions made to facilitate cost estimation. The use of two counterpumping strategies compensates for this simplification to some extent. (4) In addition, the alogrithms do not account for replacement or retirement of wells or treatment facilities. Wells can become unuseable within months, or last for years, depending on corrosivity and other characteristics of the plume. Treatment may be required as long as pumping continues, or may be unnecessary during the latter stages of corrective action. For economic analysis purposes EPA assumed that wells will last for 30 years and that treatment facilities will be used for as long as remedial action continues.

display the alternative cases, the relevant tables have columns displaying each timing scenario discussed above. For each timing case, the range of costs shown reflects cost differences between Strategy 1 and Strategy 2.

To estimate the cost of counterpumping it was necessary to estimate the size of the plumes to be contained. Plume width is the most sensitive parameter within the modelling framework used for corrective action cost estimates, and their is reason to expect that unit width serves as a conservative estimate of plume width. If a unit fails becuase of age, then a general failure across the unit is likely so that the width of the unit might approximate the width of the plume; if a unit fails due to a localized problem or single rupture, then the plume width should be smaller than the unit width. Thus, using unit width as a proxy for plume width should result in a conservative measure of the cost of counterpumping.[9]

Corrective action costs will occur only to the extent that ground water is contaminated and to the extent that protection of the environment requires taking corrective action.

4. *Cost for Landfills.* Table 1 shows the annual revenue requirements needed to compensate for the cost of Part 264 requirements for on-site landfills of different sizes without corrective action. It covers the annual revenue requirements associated with the cost of required liners, final cover and leachate collection systems. It assumes that waivers are not obtained, and that no landfills currently use any of the features required under Part 264. This tends to overstate costs since there are landfills that are at favorable locations that would qualify for some site specific waivers or include these features.

TABLE 1.—ANNUAL REVENUE PER UNIT REQUIRED TO OFFSET INCREMENTAL COSTS DUE TO PART 264 REGULATIONS WITHOUT CORRECTIVE ACTION: [1] LANDFILLS BY UNIT SIZE

Size (MT [2]/yr)	Single synthetic liner		Double liner (synthetic/clay)		Double synthetic liner	
	Per Year ($000)	Per MT [2]	Per Year ($000)	Per MT [2]	Per Year ($000)	Per MT [2]
500	$31	$62	$52	$104	$43	$86
2,000	49	25	94	47	82	41
5,000	79	16	164	33	145	29
7,000	98	14	207	30	184	26
15,000	149	10	323	22	290	19
35,000	277	8	622	18	561	16
60,000	376	6	952	14	779	13
123,000	566	5	1,306	11	1,180	10

[1] Costs shown are those estimated for on-site landfills in these size categories. They are slightly different from costs estimated for off-site landfills. If costs were based on off-site landfills, double liner (synthetic/clay) costs would be lower than double synthetic liner costs.
[2] MT indicates metric ton.

Table 2 shows the additional annual revenue requirements associated with corrective action if it is needed.

TABLE 2.—ANNUAL REVENUE PER UNIT REQUIRED TO OFFSET INCREMENTAL COSTS DUE TO PART 264 CORRECTIVE ACTION REGULATIONS: LANDFILLS BY UNIT SIZE

Size (metric tons per year)	Detect year 0 pump 150 years		Detect year 0 pump 20 years		Detect year 49 pump 20 years	
	Per year ($000)	Per metric ton	Per year ($000)	Per metric ton	Per year ($000)	Per metric ton
500	139–198	278–396	55–95	110–190	17–24	34–48
2,000	149–226	75–113	71–109	36–55	18–27	9–14
5,000	172–267	34–53	83–128	16–26	21–31	4–6
7,000	178–275	25–39	85–132	12–19	21–32	3–5
15,000	194–302	13–21	93–148	6–10	24–36	2–2
35,000	215–351	6–10	104–174	3–5	25–42	1–1
60,000	232–391	4–6	113–190	2–3	28–46	[1]–1
123,000	252–422	2–3	123–206	1–2	30–50	[1]–1

[1] Less than 50 cents.
[2] MT indicates metric tons.

Thus, if a 15,000 MT/year landfill with a double synthetic liner did not contaminate ground water to the extent that corrective action was necessary, the incremental annual revenue requirement would be $290,000 or $19 per metric ton. If contamination were detected immediately resulting in immediate counterpumping for 20 to 150 years, an additional revenue requirement of between $93,000 to $194,000, or $6 to $13 per ton would be added to the basic Part 264 costs (using Strategy 1 counterpumping).

To help put these costs in perspective, costs estimated in the absence of regulations (pre-ISS) range from $11 to $240 per metric ton for the large and small on-site landfills, respectively. ISS incremental cost estimates for these two sizes range from $6 to $128 per metric ton. Prices at commercial landfills in 1981 ranged from $55 per metric ton to $240 per metric ton, depending on the type of waste and whether it was in drums or bulk. This does not include transportation, which averaged about $0.15 per ton mile.

Table 3 shows the costs that existing landfills could incur in the first year as a result of the Part 264 requirements. Potential first year costs for design and operating requirements (D&O) using a double liner (synthetic/clay) and for immediate corrective action are reported separately for Strategy 1 and Strategy 2.[10] In the example discussed above, the first year cost is $305,000 if no corrective action is needed, and an additional $315,000 to $465,000 if counterpumping is undertaken immediately.

TABLE 3.—FIRST YEAR COSTS PER UNIT DUE TO PART 264 REGULATIONS: LANDFILLS BY UNIT SIZE

Size (metric tons per year)	Basic cost: no corrective action/ double liner [1]	Corrective action cost: immediate counterpumping ($000)
500	$50	$165–$295.
2,000	91	205–365.
5,000	128	255–405.
7,000	166	265–415.
15,000	305	315–465.
35,000	584	375–685.
60,000	810	425–685.
123,000	1,225	475–795.

[1] (Synthetic/clay.)

5. *Costs for Surface Impoundments.* EPA estimated costs for existing surface impoundments using basically the same methods that were used to estimate the cost for landfills, but varied some features to reflect differences in the regulations and the units affected, and estimated two additional cost cases. It was assumed that surface impoundments close as landfills in all cases. (Costs for units where all waste, liners and contaminated subsoils are removed at closure, and for clay-lined storage impoundments, are not reported.)

[9] When estimating corrective action costs for facilities, EPA assumed that facility width, rather than unit width, approximates the plume width.

[10] First year Part 264 D&O costs are approximately the same as annual revenue requirements because the major incremental cost element in the cost model is the cell liner, which is installed for one cell in each year of the landfill's operating life.

The no-corrective-action case was estimated in much the same way as the no-corrective-action case for landfills. However, surface impoundments generate dredged material that must be landfilled; [11] the incremental cost of disposing of this material in a Part 264 landfill rather than in an ISS landfill is counted as a surface impoundment cost in this section.[12] In addition, operators of existing surface impoundments may choose to (1) continue operations without installing liners; (2) close the existing unit and construct a new impoundment lined with one of the three liners described earlier; or (3) retrofit the existing impoundment with any of these three liners. Costs are estimated for all of these cases. The retrofit case includes the costs of disposing of contaminated material from the existing impoundments, and the replacement case including closure and post closure care costs for existing units. Neither case includes land costs nor the economic costs of disrupted plant operations, which are likely to vary a great deal across sites.

Tables 4, 5, and 6 summarize these results. Costs are reported on the basis of the size of the impoundment rather than per unit of waste because the amount of liquid processed through an impoundment of a given size can be highly variable. The cost for an impoundment will depend on the compliance elements that the unit selects or is required to undertake—no scenario would include more than one kind of corrective action or more than one kind of alteration.

[11] For this analysis it was assumed that dredged material is disposed of in a 123,000 MT/yr. landfill. Landfill disposal costs vary depending on the type of liner system. It was assumed that the landfill would not need corrective action. If corrective action were necessary, costs would be slightly higher.

[12] Because these higher landfilling costs are also included in the landfill cost estimates, landfill and surface impoundment costs cannot simply be added to get total costs.

TABLE 4.—ANNUAL REVENUE PER UNIT REQUIRED TO OFFSET INCREMENTAL COSTS DUE TO PART 264 REGULATIONS WITHOUT CORRECTIVE ACTION: SURFACE IMPOUNDMENTS BY UNIT SIZE

Size (acres)	Base cost ($000)	Retrofit cases			Replacement cases		
		Single synthetic liner ($000)	Double liner ($000)	Double synthetic liner ($000)	Single synthetic liner ($000)	Double liner ($000)	Double synthetic liner ($000)
0.25	54-5	59	$13	$9	$19	$23	$18
0.5	6-9	15	22	18	26	31	27
1.0	10-16	25	37	34	35	45	42
2.0	16-25	48	71	71	59	76	76
5.0	48-81	92	148	157	108	153	166
11.0	95-157	228	348	374	252	354	367

TABLE 5.—ANNUAL REVENUE PER UNIT REQUIRED TO OFFSET INCREMENTAL COSTS DUE TO PART 264 CORRECTIVE ACTION REGULATIONS: SURFACE IMPOUNDMENTS BY UNIT SIZE.

Size (acres)	Detect year 0 pump 150 years ($000)	Detect year 0 pump 20 years ($000)	Detect year 49 pump 20 years ($000)
0.25 & 0.5 [1]	$122-$163	$58-$77	$15-$19.
1.0	128-180	61-86	16-22.
2.0	138-198	65-95	17-24.
5.0	149-225	71-109	18-27.
11.0	169-261	81-125	20-31.

[1] Costs for plumes associated with surface impoundments smaller than 0.5 acre were not estimated. Cost reported is for a 0.5 acre impoundment.

TABLE 6.—FIRST YEAR COSTS PER UNIT DUE TO PART 264 REGULATIONS: SURFACE IMPOUNDMENTS BY UNIT SIZE

Size (acres)	Basic cost: no corrective action	Corrective action cost: [1] counterpumping	Facility alteration [2]	
			Retrofit liner	Replace facility
.25	([3])	$159-$209	$123	$142
.5	$1	159-209	226	220
1.0	2	169-254	442	390
2.0	3	189-299	882	718
5.0	8	209-369	2,141	1,765
11.0	16	254-399	4,622	3,806

[1] Assumes corrective action is taken in Year Zero.
[2] Assumes double synthetic liner
[3] Less than $500.

Thus, if a 2-acre surface impoundment did not contaminate ground water to the extent that corrective action was necessary, the incremental revenue requirement would by $16,000 to $25,000 per year, depending on the type of liners used by off-site landfills where the dredged material is disposed of. If the owner chooses to retrofit, the incremental annual cost will be $48,000 to $71,000; if he replaces the impoundment, the incremental annual cost will be $59,000 to $78,000, depending on the type of liner system installed.

If corrective action is necessary and counterpumping is undertaken immediately, an additional annual revenue requirement of $65,000 to $138,000 would be added to the basic Part 264 cost (under Strategy 1 counterpumping).

The first year cost for the basic requirement is $3,000; if counterpumping is undertaken, the first year cost is $189,000 to $299,000; and if the unit elects to retrofit the first year cost is $862,000.

Current prices that could provide perspective for these costs are not readily observed, because most surface impoundments are on-site. However, it was possible to estimate the total revenue requirements for new impoundments constructed and operated to comply with ISS requirements, using assumptions consistent with those used for Part 264 cost estimates. These annualized revenue requirements ranged from $42,000 for the smallest facility, to $424,000 for the largest, including revenue requirements of $6,000 to $174,000 in the absence of any regulation.

6. *Costs for Land Treatment Units.* The Agency estimated costs for land treatment units on a model plant basis, as for landfills and surface impoundments, and calculated corrective action costs in an identical fashion (i.e. for action by all facilities in Year Zero or Year 49), though for units of different sizes. It was necessary to make assumptions about the numbers of units that would be required to undertake certain operating modifications under Part 264 rules. EPA assumed that ten percent of land treatment units would require a pH adjustment, 90 percent would require irrigation and a crop cover to control wind dispersal, 25 percent would need to increase their soil monitoring and number of lysimeters. EPA assumed that all units would conduct one waste field test, and that all would close with hazardous constituents in the treatment zone. It was also assumed that ten percent of all units would encounter problems during operation (i.e., they would fail ongoing tests of soil core and soil pore liquids), resulting in operating modifications: three percent of all units (30 percent of those with problems) would adjust their pH, five percent would expand the treatment area, and two percent would reduce their waste

loadings. Tables 7, 8, and 9 summarize the results.

TABLE 7.—ANNUAL REVENUE PER UNIT REQUIRED TO OFFSET INCREMENTAL COSTS DUE TO PART 264 REGULATIONS WITHOUT CORRECTIVE ACTION: LAND TREATMENT BY UNIT SIZE

Size (acres)	Basic cost (no corrective action)	
	Per year ($000)	Per metric ton[1]
1.7	$17	$45
6.5	19	14
20.1	45	11
74.3	122	8
247.1	361	7

[1] Based on an average application rate of 206 MT per acre per year. In practice the amount of waste processed per acre is highly variable.

TABLE 8.—ANNUAL REVENUE PER UNIT REQUIRED TO OFFSET INCREMENTAL COSTS DUE TO PART 264 CORRECTIVE ACTION REGULATIONS: LAND TREATMENT BY UNIT SIZE

Size (acres)	Detect year 0 pump 150 years	Detect year 0 pump 20 years	Detect year 49 pump 20 years
1.7	$134–167	$63–89	$16–22.
6.5	154–236	73–114	19–28.
20.1	178–276	85–133	21–33.
74.3	225–371	109–180	27–44
247.1	285–472	140–234	34–56

TABLE 9.—FIRST YEAR COSTS PER UNIT DUE TO PART 264 REGULATIONS: LAND TREATMENT BY UNIT SIZE

Size (acres)	Basic cost	Corrective action cost
	No corrective action ($000)	Immediate counterpumping ($000)
1.7	$76	$175–265
6.5	81	205–365
20.1	100	265–425
74.3	134	385–625
247.1	228	565–1,025

Thus, if the operator of an average size (20.1 acre) land treatment unit applies waste at an average rate (206 MT per acre per year) and does not contaminate ground water to the extent that corrective action is necessary, the incremental annual revenue requirement would be $45,000 or $11 per MT. If contamination is detected immediately resulting in immediate counterpumping, $85,000 to $178,000 per year or $21 to $45 per MT would be added to this basic Part 264 cost (under Strategy 1 counterpumping).

As shown in Table 9, the first year cost if no corrective action is needed for this size unit is $103,000. If corrective action is needed immediately, the first year cost increases by $265,000 to $425,000.

To put these costs in perspective, prices for commercial land treatment in 1981 ranged from $5 to $24 per metric ton.

7. Costs for Waste Piles. Waste pile unit cost estimates assume that all existing waste piles would be managed as storage rather than disposal units. Accumulated wastes must periodically be removed and disposed of in a landfill; therefore, the incremental costs of using a Part 264 rather than an ISS landfill are included here as a waste pile cost. (These costs are also reflected in the landfill cost estimates, so unit costs are not additive.) The analysis assumes that all piles are exposed and are at or above grade. Costs for enclosed piles (including the cost of enclosure) could be significantly lower, and costs for below grade piles are likely to be higher (in practice, many large below grade piles would probably close as landfills).

The analysis looked at three alternative compliance paths to reflect the options available to waste pile owners or operators under the regulations: (1) Retain the ISS sturdy impermeable base and undertake ground-water monitoring; (2) inspect the ISS base periodically (assumed to mean annually) without ground-water monitoring; or (3) install a new base with a double liner system and leachate collection system and dispense with inspections and ground-water monitoring (until leakage is detected). For waste piles, it was again assumed that corrective action consists of counter-pumping in Year Zero or Year 49.

Tables 10, 11, and 12 summarize the results. The annual revenue requirements shown in Table 10 include the cost of disposing of the waste pile and base at the time of closure in a Part 264, 123,000 MT/yr off-site landfill with a double (synthetic/clay) liner that does not require corrective action.

TABLE 10.—ANNUAL REVENUE PER UNIT REQUIRED TO OFFSET INCREMENTAL COSTS DUE TO PART 264 REGULATIONS WITHOUT CORRECTIVE ACTION: WASTE PILES BY UNIT SIZE [1]

Size ($000 ft²)	Compliance option		
	Ground-water monitoring ($000)	Base inspection ($000)	Liner and leachate collection system ($000)
2	$15	$7	$7
10	17	9	9
25	21	13	13
100	27	20	18
500	37	23	17
1,000	26	27	16

[1] Costs for waste piles sized at 2,000 to 25,000 cubic feet assume a 1 year operating life. Costs for a 100,000 cubic foot pile assume a 2 year operating life, costs for a 500,000 cubic foot pile assume a 10 year operating life, and costs for a 1,000,000 cubic foot pile assume a 20 year operating life. Because operating lives differ, costs as a function of size do not increase monotonically.

TABLE 11.—ANNUAL REVENUE PER UNIT REQUIRED TO OFFSET INCREMENTAL COSTS DUE TO PART 264 CORRECTIVE ACTION REGULATIONS: WASTE PILES BY UNIT SIZE [1]

Size ($000 ft²)	Detect year 0 pump 150 years ($000)	Detect year 0 pump 20 years ($000)	Detect year 49 pump 20 years ($000)
2–500	$150–$196	$71–$93	$18–$23.
1,000	153–207	72–98	18–24.

[1] Costs for plumes associated with waste piles smaller than 500,000 cubic feet were not estimated. Cost reported is for a 500,000 cubic foot pile.

TABLE 12.—FIRST YEAR COSTS PER UNIT DUE TO PART 264 REGULATIONS: WASTE PILES BY UNIT SIZE

Size ($000 ft²)	Ground-water monitoring ($000)	Inspect base ($000)	Liner and leachate collection system ($000)	Immediate counterpumping ($000)
2	$44	$4	$12	(1)
10	44	4	12	(1)
25	44	4	12	(1)
100	44	4	12	(1)
500	44	4	14	165–$237.
1,000	44	4	17	170–265.

[1] Not estimated. Costs for 500,000 cubic foot pile provide an upper bound.

Thus, if the operator of a 100,000 cubic foot waste pile decides to inspect the unit's ISS base rather than monitor ground water or change to a liner and leachate collection and removal system, and does not contaminate ground water, the additional annual revenue requirement is $20,000. If contamination is detected in year zero and counterpumping is necessary, additional annual revenue requirements of $71,000 to $150,000 would be added to the basic Part 264 cost (under Strategy 1 counterpumping).

First year costs for the three Part 264 options are shown in Table 12. Without corrective action, these costs for the unit discussed above are $4,000 to $44,000, depending on the D&O option chosen. Corrective action taken in Year Zero could add up to $165,000 to $237,000 to these costs.

E. Closure Analysis

This section examines the economics of closing small on-site landfills and shipping wastes to commercial sites and replacing existing on-site surface impoundments. Small on-site landfills may become uneconomic compared to larger commercial facilities as a result of these regulations. Small surface impoundments may close to avoid liability for corrective action (related to past leakage) that could otherwise be imposed through the permit process.

If small landfills choose to close or if small surface impoundments are replaced, a substantial portion of all hazardous waste units will have been significantly affected by these regulations. EPA estimates that there are about 255 small (500 MT/yr. or less) landfills; this represents 44 percent of all landfills. There are about 2,760 small (one acre or less) surface impoundments, or 65 percent of all surface impoundments.

Results of the analysis on small landfill closures indicate that operators of small on-site landfills would in many cases be better off closing and shipping their wastes to off-site commercial facilities for disposal. For small surface impoundments, the economics favor replacing existing units under most circumstances if closure of the existing impoundment eliminates an obligation to undertake corrective action. Each of these issues is summarized below.

Table 13 indicates that under the Part 264 regulations, owner/operators of small on-site landfills could expect their annual revenue requirements to increase by about $62/ton assuming a single synthetic liner design and no corrective action. This is used as the base case. (With a double liner [synthetic/clay], this figure would be $104/ton, or $86/ton with a double-synthetic liner). If corrective action is considered likely, the increases in expected revenue requirements could range from $96 to $458 per ton. These expected cost increases understate the savings that could actually be achieved by closing, since major cost components of ISS like closure, post closure, and financial responsibility, as well as expenses for basic trench or cell construction, could be avoided or recovered if the landfill closed.

These incremental costs (which are conservative estimates of incremental savings from closure) compare with actual 1981 prices for commercial disposal that range from $55/ton to $240/ton. This sensitivity analysis assumes that prices for commercial services will not change as a result of the Part 264 regulations. This assumption is reasonable if commercial facilities already meet most design and operating standards and do not face corrective action requirements, and if commercial capacity is adequate to meet demand at current prices.

TABLE 13.—EFFECTS OF THE INCREMENTAL COSTS OF PART 264 REGULATIONS ON THE ECONOMIC VIABILITY OF SMALL ON-SITE LANDFILLS[1]

	Base case	Base case plus corrective action	
		Low	High
Incremental cost for 500 metric ton/year on-site landfill	$62/ton.	$96/ton	458/ton
Equivalent distance[2] to ship waste for disposal in commercial off-site landfill	0–47 miles.	0–273 miles.	1,453–2,687 miles

[1]Base case cost assumes single synthetic liner and no corrective action and that increased demand for off-site services does not significantly raise prices. Low cost assumes that the small landfill undertakes counterpumping under strategy 1 conditions for 20 years starting in year 49. High cost assumes that the small landfill undertakes counterpumping under strategy 2 conditions for 150 years starting in Year Zero.
[2]Distance calculated using a range of commercial disposal prices of $55 to $240/ton and a transportation cost of $0.15/ton mile.

Under the base case assumptions used in Table 13, it would be advantageous for a firm operating a small on-site landfill to close the landfill and ship its wastes to a commercial facility for disposal if the firm is quoted disposal prices that are at the low end of the actual range. Where the firm faces a price of $55/ton for commercial disposal, it could afford to ship wastes up to 47 miles, assuming a transportation cost of $0.15/ton mile. If the firm is quoted prices closer to $240/ton, it would be more cost-effective for the firm to continue running its landfill.

Where the firm expects that corrective action could be necessary at its landfill, it could close the landfill and ship wastes from 273 to 2687 miles for disposal in a commercial landfill charging $55/ton, instead of bearing the costs and responsibility for corrective action. Where the commercial disposal price is closer to $240/ton, it may be more cost-effective for the firm to continue disposing its wastes on site, but this would depend on the hydrogeologic conditions existing at the site and the expected duration of corrective action.

These economic factors may be offset by concerns over liability potentially associated with sending wastes off site, or by concerns over potential price increases at commercial facilities.

Similar comparisons can be made between the costs of replacing small surface impoundments to limit the possibility that corrective action will be needed, or doing nothing and hoping that corrective action will not be necessary. Actual decisions to close and replace a surface impoundment will be based on individual owner or operators expectations regarding the probability that their impoundments have been leaking or will leak in the future.

Table 14 compares the incremental costs of taking corrective action under various conditions with the costs of replacing 1/4 acre, 1/2 acre and 1 acre surface impoundments.

TABLE 14.—COMPARISON OF CORRECTIVE ACTION COSTS WITH CLOSE/CONSTRUCT COSTS FOR SMALL SURFACE IMPOUNDMENTS; INCREMENTAL ANNUAL REVENUE REQUIREMENTS

Impoundment size	Corrective action[1]			Close and construct[2] ($000)
	In year zero for 150 years ($000)	In year zero for 20 years ($000)	In year 49 for 20 years ($000)	
¼ acre	$126–$167	$62–$81	$19–$23	$19.
½ acre	$126–$160	$64–$83	$25–$29	28.
1 acre	$138–$190	$71–$96	$26–$32	55.

[1]Low end of range of corrective action costs based on Strategy 1 conditions; high end of range based on Strategy 2 conditions.
[2]Assumes double liner design, most expensive of possible systems.

Based on Table 14, it may often be more advantageous to close existing units and construct new ones where it appears likely that this would eliminate the need for corrective action. This may be the case where an impoundment is believed to have been leaking but has not yet resulted in significant contamination at the waste boundary. (In this case, the owner/operator would need to be able to distinguish contamination from the closed and the new unit, perhaps through use of tracers added to new waste or based on the arrangement of monitoring wells.) Of the three corrective action timing cases examined, electing to continue to operate the existing impoundment when corrective action will be necessary is only advantageous under the "best" assumptions, i.e., when action is not needed until Year 49 (the year before owner/operator responsibility ends) and continues for 20 years.

F. Total Costs

EPA estimates that the total annualized cost of these regulations (for existing facilities [13]) could range from $150 to $1,145 million. Details on the components of these cost estimates are reported in table 15.

The broad range covered by these estimates results primarily from the uncertainty regarding the amount of corrective action that will be needed. ISS monitoring will eventually provide an indication of the severity of current environmental problems. Currently, however, EPA is unable to predict reliably the number of facilities able to comply with the ground-water protection standard specified in the regulations. EPA cannot predict when facilities will fail, or how long corrective action will have to continue at a typical site. Data on a host of other site specific factors that will affect the cost of the corrective action are also unavailable. Finally, EPA cannot predict the number of facilities affecting ground water that might be able to avoid corrective action by showing that actual concentrations of Appendix VIII constituents at the compliance point pose no threat to human health or the environment.

To estimate total D&O costs EPA estimated the size distribution of units from the Part A's.[14] For each model unit, EPA multiplied the revenue requirements reported in *Individual Unit Costs* by the number of units, and summed [15] to obtain an estimate of total D&O costs.

The lower bound estimate of D&O costs assumes that landfills use single synthetic liners, and that waste piles choose to replace the containment system to avoid the need for ground water monitoring. The upper bound D&O estimates assume that landfills have double synthetic liners, that waste piles monitor ground water, and that surface impoundments are closed and replaced by new units with double synthetic liners.

To estimate total corrective action costs, EPA grouped individual units into facilities, and assumed that plume sizes were related to the acreage of the total waste management areas at the facilities. Part A data provided information on the number of facilities with various combinations of units, and allowed EPA to estimate the average total acreage at sites with each combination.[16] EPA added 50 percent to the calculated acreage to allow for common areas, variations in plume shape, and constraints on siting of recovery wells.

EPA assumed that all facilities were permitted simultaneously and immediately. To the extent that some facilities close rather than apply for permits, others apply for but do not receive permits, or permits are issued over time, costs will differ from these estimates.

Under the regulations, corrective action is only required in those cases where Appendix VIII constituents increase in ground water, and where the owner or operator is unable to show that the actual concentration of those constituents pose no threat to human health or the environment. Total costs as high as the high cost case are very unlikely since it assumes that all landfills install double synthetic liner systems, all existing surface impoundments close and build new impoundments with double synthetic liner systems, and that in spite of these actions, all facilities require immediate corrective action lasting 150 years and using an expensive counterpumping strategy. As the need for corrective action increases, and as owners and operators install more expensive liner systems the total cost of the regulations will increase from the low cost case toward the high cost case.[17]

The lower and upper bound costs are shown in Table 15. The annualized D&O cost for the regulations ranges from $150 to $468 million per year. Depending on the frequency, speed and concentration with which Appendix VIII constituents reach ground water, total incremental annualized costs could be as high as $1,145 million.

TABLE 15.—TOTAL ANNUAL REVENUE REQUIREMENTS FOR PART 264 REGULATIONS: ALL LAND DISPOSAL FACILITIES

[Dollars in millions]

	Baseline (pre-ISS + ISS)[1]	Incremental part 264	
		Low estimate	High estimate
Landfills D&O	$301	$81	$159
Surface impoundments D&O	534	152	431
(Adjustment for landfilled material)	(190)	(57)	(118)
Waste piles D&O	18	7	12
(Adjustment for landfilled material)	(10)	[2]	[5]
Land treatment D&O	51	20	20
Corrective action	—	—	677
Total	702	150	1,145

[1] The total baseline costs of $702 million includes pre-ISS costs of about $181 million for landfills and $180 million for surface impoundments. Similar data are not available for waste piles and land treatment units. Pre-ISS costs include land, excavation, and infrastructure costs incurred in establishing a land disposal facility. ISS costs include more than "good housekeeping" requirements. Approximately 72 percent of the ISS costs of $341 million included in the baseline are due to ISS closure ($82 million), post closure ($40 million), ground water monitoring ($42 million), and financial assurance ($82 million) requirements.

G. Industry Analysis

The economic impacts of these regulations will depend in part on how

[13] We were unable to estimate total costs for new facilities due to the difficulty of projecting the number of facilities that would be affected. Determining incremental costs for a single new facility is difficult in any event, because EPA has not previously estimated the costs of the Part 267 regulations that now apply to these facilities.

[14] Complete details are in the docket report. Based on Part A of TSDF permit applications, EPA estimates that there are 573 existing hazardous waste landfills, capable of accepting about 12 million tons of waste per year; 4240 surface impoundments with 11,169 acres of surface area; 241 land treatment facilities with 12,100 acres of operating area; and 606 waste piles with 67 million cubic feet of wastes. Thus, D&O costs are based on 5,662 units. Surveys to verify these estimates are now underway, and it is likely that the final estimates will be lower.

We were unable to simply add the capacities reported on the Part A's, because capacities for some types of units are reported in different units of measure there than the units of measure used in this analysis (i.e., landfills in acre-feet rather than metric tons, and surface impoundments in gallons or liters rather than acres of surface area. In addition, we assumed that the remaining operating like of all units was 20 years. Annual capacity figures for each kind of facility should therefore be viewed as estimated based on available data, rather than as aggregates of reported capacities.

[15] In adding costs for units to obtain totals an adjustment was made to avoid double counting the costs of landfilling surface impoundment sludge and wastes removed from piles.

[16] Once again, it was necessary to make assumptions in order to transform the units reported on the Part A's into acres of surface area. However, the corrective action cost estimates are based on 2464 facilities, the number of disposal facilities which submitted Part A of the permit application.

[17] Actually, the high cost case does not reflect the highest possible costs and the low cost case does not represent the lowest possible cost that could occur under the regulations, because waivers are potentially available for some requirements and because we use median technical assumptions in determining cost. It is, however, extremely unlikely that the true cost of these regulations will fall outside these boundaries.

the costs of the regulations are distributed across industries and firms. As described in *Total Costs,* EPA calculated upper and lower bound cost estimates. These two cost scenarios were then applied to selected industries, in order to obtain a preliminary indication of whether economic impacts might be significant. The industries examined were selected because there were large numbers of on-site land disposal facilities in the industries, or large quantities of waste shipped off-site, or both.

Upper and lower bound costs were allocated to industries using available information on the use of land disposal of hazardous waste in these industrial sectors. This information is sufficient to allow EPA to identify the industries on which these regulations are most likely to impose significant costs. However, cost estimates for any given industry are highly sensitive to the numbers and sizes of facilities attributed to that industry, and the data base used to derive these factors for individual industries is imprecise.

Table 16 lists the industries EPA examined, and their SIC codes. The range of potential annual revenue requirements is reported and compared to total costs of production, value added, and value of shipments in Table 17. The range of potential first year expenditures is compared to an estimate of annual capital expenditures for each industry in Table 18. Table 19, at the end of this section, provides estimates of the range of potential annual revenue requirements (in excess of pre-ISS costs) for the combination of ISS (Part 265) and Part 264 regulations. In all cases cost ranges reflect the upper and lower bound cases used earlier in this analysis.

These comparisons do not constitute an economic impact analysis at either the industry or firm level. At the industry level, they do provide an initial screening to judge whether economic impacts might be large or small. If the upper bound costs do not appear significant compared to economic parameters for an industry, then the analysis indicates that broad and significant economic impacts are unlikely. These comparisons are also useful in identifying those industries where the most significant impacts are likely to occur. However, the high cost case cannot indicate that there will in fact be significant impacts, because costs are probably overstated in the high cost case.

To the extent that economic aggregates such as value added are representative of firms in the industry sectors, the ratios reported here could also provide some insight into potential burdens for "typical" firms in each industry. However, it should be remembered that costs are likely to be overstated in the high cost case,[18] and that there are no truly typical firms. Four-digit SIC codes include highly diverse operations with widely varying costs of production, value added and value of shipments per unit of hazardous waste generated. In addition, facilities will use different mixes of on- and off-site disposal for these wastes, and so face different exposure to the regulations.

The docket report contains a full description of the methodology used to construct these tables.

[18] This scenario is appropriate for a firm with a mix of on- and off-site disposal, required to undertake corrective action lasting 150 years at an early date at all of its on-site facilities after having installed the most expensive technology modelled, and simultaneously faced with higher off-site costs due to the need for early corrective action at all available off-site facilities.

TABLE 16.—INDUSTRIES EXAMINED BY SIC CODES

Industry name	SIC code
Crop Planting and Protection	0721
Oil and Gas Extraction	1300
Wood Preserving	2491
Alkalies and Chlorine	2812
Inorganic Pigments	2816
Industrial Inorganic Chemicals	2819
Plastic Materials and Resins	2821
Synthetic Rubber	2822
Cellulosic Man-Made Fibers	2823
Organic Fibers, Noncellulosic	2824
Medicinals and Botanicals	2833
Paints and Allied Products	2851
Gum and Wood Chemicals	2861
Cyclic Crudes and Intermediates	2865
Industrial Organic Chemicals	2869
Nitrogenous Fertilizers	2873
Phosphatic Fertilizers	2874
Agricultural Chemicals	2879
Explosives	2892
Chemical Preparations, NEC	2899
Petroleum Refining	2911
Lubricating Oils and Greases	2992
Blast Furnaces and Steel Mills	3312
Electro-Metallurgical Products	3313
Steel Wire and Related Products	3315
Gray Iron Foundries	33215
Secondary Nonferrous Metals	3341
Copper Rolling and Drawing	33515
Plating and Polishing, Metal Coating and Allied Services	34719
Motor Vehicles and Bodies	3711
Motor Vehicle Parts and Accessories	3714

TABLE 17.—COMPARISON OF ANNUAL REVENUE REQUIREMENTS DUE TO PART 264 LAND DISPOSAL REGULATIONS TO SELECTED INDUSTRY MEASURES, BY SIC CODE

[Low and high cost cases]

Sic code	Annualized cost ($000)	Annualized cost as a percentage of—		
		Cost of production	Value added	Value of shipments
0721	$322–$3,309	(1)	(1)	(1)
1300	1,392–8,104	(1)	(1)	(1)
2491	774–15,572	.16–3.17	.38–7.61	.13–2.58.
2812	3,187–16,944	.20–1.09	.26–1.37	.13–.68.
2816	3,204–16,318	.44–2.26	.68–3.49	.31–1.57.
2819	1,079–73,034	.15–.97	.19–1.27	.10–.64.
2821	4,896–24,478	.04–.22	.06–.41	.03–.16.
2822	2,484–10,976	.18–.78	.46–2.03	.14–.62.
2823	1,640–7,242	.12–.53	.33–1.46	.11–.48.
2824	1,303–7,378	.05–.27	.08–.46	.04–.20.
2833	218–2,706	.02–.23	.02–.19	.01–.12.
2851	996–5,739	.08–.20	.06–.34	.02–.14.
2861	1,037–6,575	.1.74–11.03	2.44–15.45	1.15–7.31.
2865	2,517–15,885	.12–.73	.21–1.35	.08–.53.
2869	3,756–23,435	.04–.27	.07–.42	.03–.18.
2873	1,003–7,201	.05–.36	.07–.49	.03–.23.
2874	151–2,347	.01–.15	.02–.31	.01–.10.
2879	2,595–12,793	.23–1.13	.38–1.86	.18–.87.
2892	850–7,450	.36–3.19	.38–3.35	.24–2.08.
2899	1,322–7,815	.23–1.37	.33–1.94	.15–.90.
2911	23,939–116,687	.02–.08	.04–.43	.01–.07.
2992	1,068–5,230	.25–1.36	.56–3.24	.21–1.04.
3312	8,495–37,153	.04–.19	.10–.44	.04–.16.

TABLE 17.—COMPARISON OF ANNUAL REVENUE REQUIREMENTS DUE TO PART 264 LAND DISPOSAL REGULATIONS TO SELECTED INDUSTRY MEASURES, BY SIC CODE—Continued

[Low and high cost cases]

Sic code	Annualized cost ($000)	Annualized cost as a percentage of—		
		Cost of production	Value added	Value of shipments
3313	583–4,010	.13–.86	.39–2.59	.11–.76.
3315	1,037–5,500	.20–1.07	.39–2.06	.16–.84.
33215	1,327–6,998	.12–.66	.16–.85	.09–.48.
3341	1,984–10,337	.24–1.23	.94–4.91	.20–1.06.
33516	4,721–20,085	.22–.92	.79–3.37	.19–.79.
34719	6,208–31,520	.65–3.31	.84–4.24	.47–2.41.
3711	930–7,086	.00–.02	.01–.07	.00–.02.
3714	716–7,042	.01–.09	.02–.16	.01–.07.

[1] Necessary data unavailable.

TABLE 18.—COMPARISON OF FIRST YEAR EXPENDITURES DUE TO PART 264 LAND DISPOSAL REGULATIONS TO YEARLY CAPITAL OUTLAYS BY SIC CODE

[Low and high cost cases]

SIC code	First year expenditure ($000)	First year expenditure as percentage yearly capital expenditures
0721	$182–$9,430	(1)
[illegible]	$991–38,997	(1)
2491	$474–42,900	2.37–124.75.
2812	$995–128,807	.25–41.58.
2816	$754–152,243	.73–141.54.
2819	$4,556–461,702	.72–65.01.
2821	$3,090–123,594	.23–8.05.
2822	$590–114,029	1.14–219.32.
2823	$869–46,052	1.51–90.74.
2824	$435–53,985	.11–24.31.
2833	$141–8,507	.07–3.49.
2851	$774–14,883	.12–4.27.
[illegible]	[illegible]	5.31–648.31.
2865	$698–116,540	.84–131.04.
2869	$1,719–137,204	.10–6.90.
2873	$376–43,233	.04–4.17.
2874	$106–7,358	.10 to 4.52.
2879	$1,115–83,884	.78 to 64.21.
2892	$433–31,665	[illegible] to 155.96.
2899	$787–31,433	1.97 to 62.38.
2911	$15,049–783,313	.35 to 17.42.
2992	$863–11,883	4.97 to 40.56.
3312	$6,671–81,084	.52 to [illegible].
3313	$297–19,944	.49 to 50.22.
3315	$889–17,563	3.48 to 52.33.
33215	$949–15,039	[illegible] to 68.53.
3341	$1,380–23,654	3.31 to 34.61.
33516	$3,216–84,597	1.02 to 105.25.
34719	$4,424–103,817	1.33 to 98.34.
3711	$155–46,625	.02 to 4.68.
3714	$265–29,022	.05 to 4.38.

[1] Necessary data unavailable.

TABLE 19.—COMPARISON OF ANNUAL REVENUE REQUIREMENTS DUE TO PART 264 LAND DISPOSAL REGULATIONS AND PART 265 LAND DIPOSAL REGULATIONS TO SELECTED INDUSTRY MEASURES BY SIC CODE

[Low and High Cost Cases]

SIC code	Annualized cost ($000,000)	Annualized cost as a percentage of—		
		Cost of production	Value added	Value of shipments
0721	$2–$5	(1)	(1)	(1)
1300	$6–$13	(1)	(1)	(1)
2491	$6–$21	1.24–4.25	2.96–10.19	1.01–3.46
2512	$12–$26	.78–1.66	.99–2.10	.49–1.05.
2816	$12–$25	1.65–3.46	2.54–5.34	1.14–2.41.
2819	$4–$6	.59–1.42	.77–1.85	.39–.93.
2821	$17–$36	.15–.32	.28–.60	.11–.23.
2822	$9–$8	.64–1.25	1.68–3.25	.51–.99.
2823	$5–$11	.38–.79	1.04–2.17	.34–.71.
2824	$5–$11	.19–.41	.31–.69	.14–.30.
2833	$1–$4	.12–.34	.10–.28	.06–.17.
2851	$4–$8	.13–.29	.21–.49	.09–.21.
2861	$4–$9	6.35–15.64	8.91–21.93	4.21–10.37.
2865	$10–$23	.45–1.07	.84–1.98	.33–.78.
2869	$15–$35	.18–.41	.27–.62	.12–.27.
2873	$4–$10	.21–.52	.29–.71	.13–.33.
2874	$1–$4	.06–.20	.12–.42	.04–.13.
2879	$9–$19	.82–1.72	1.34–2.82	.63–1.32.
2892	$4–$10	1.63–4.45	1.71–4.68	1.06–2.88.
2899	$5–$11	.80–1.94	1.13–2.74	.53–1.28.
2911	$89–$181	.06–.12	.33–.67	.05–.11.
2992	$3–$7	.77–1.84	1.84–4.42	.59–1.41.
3312	$23–$52	.12–.26	.27–.61	.10–.22.
3313	$2–$6	.46–1.20	1.39–3.60	.41–1.06.
3315	$4–$8	.72–1.59	1.38–3.05	.57–1.25.
33215	$4–$10	.37–.90	.46–1.17	.27–.68.
3341	$7–$15	.78–1.78	3.11–7.08	.67–1.53.
33516	$15–$31	.69–1.39	2.55–5.13	.60–1.21.
34719	$21–$48	2.20–4.86	2.81–6.22	1.60–3.53.
3711	$4–$11	.01–.03	.05–.11	.01–.03.
3714	$3–$10	.04–.13	.08–.22	.03–.10.

[1] Necessary data unavailable.

H. Sensitivity Analysis

The following reports on analysis of the sensitivity of counterpumping costs to the number of units or facilities affected, plume size, technical assumptions about hydrogeology and treatment costs, and the use of a confining slurry wall to reduce pumping rates and costs. This section also examines the potential cost of floodplain requirements.

1. *Sensitivity of Corrective Action Costs.* Total corrective action costs are very sensitive to whether corrective action occurs at individual units within a facility or at the facility as a whole. As described earlier in this preamble, two distributions were used to develop total costs in this analysis. The first distributed individual land disposal units by size and was used to estimate D&O costs on a unit-by-unit basis and to report costs by unit. The second distribution combined individual units to form multi-unit land disposal facilities and was used to estimate total corrective action costs on the basis of total acreage at land disposal sites.

If corrective action costs were to be estimated using the first distribution (on a unit-by-unit basis), instead of on a facility-by-facility basis, total costs reported would be significantly higher. Ranges of corrective action costs using the two distributions are reported in Table 20.

TABLE 20.—COMPARISON OF CORRECTIVE ACTION COSTS USING UNITS AND FACILITIES ($000,000)

Scenario	Corrective action costs	
	Detect year 49 and pump 20 [1]	Detect year 0 and pump 150 [2]
5,662 units	$96	$1,176
2,424	51	677

[1] Years using strategy 1.
[2] Years using strategy 2.

As table 20 shows, if all 5,662 land disposal units were to undertake corrective action individually, counterpumping costs would range from $96 million to $1,176 million per year and would be 80 to 90 percent higher than the total corrective action costs reported in *Total Costs.*

Both of these estimates depend in part on plume sizes, which in this analysis were necessarily related to the surface areas used for waste management. However, areas used are not directly reported on the Part A of the permit application for some units, and therefore had to be derived. In addition, plumes may be larger than the facility area when corrective action begins due to irregular shapes, the orientation of the facility relative to ground water flow, or site-specific constraints on the location of recovery wells. The 50 percent area add-on used for sites with more than one type of unit deals with some of this imprecision. In any event, corrective action costs are relatively insensitive to plume size, if hydrogeologic conditions are held constant. As reported in table 21, the cost of corrective action for a 25 acre plume is only 28 to 45 percent more expensive than counterpumping for a 5 acre plume, although the size of the plume has increased by 400 percent. Similarly, while a 125-acre plume is 125 times bigger than a 1-acre plume, the counterpumping cost associated with the 125-acre plume is only 1.9 to 2.6 times greater, depending on the strategy used and the timing of corrective action.

TABLE 21.—COMPARISON OF INCREASES IN COUNTERPUMPING COSTS WITH INCREASES IN PLUME SIZE

Plume size in acres	Counterpumping cost			
	Strategy 1 for 20 years starting in year 49		Strategy 2 for 150 years starting in year 0	
	$000	Percent change from previous value	$000	Percent change from previous value
1	15	—	180	—
5	18	13	225	25
25	23	28	327	45
75	29	33	420	28
125	30	7	466	11

In the corrective action scenario where each unit takes corrective action individually, the average plume size is 7.3 acres. The average plume size increases to 15.6 acres when it is

assumed that corrective action is taken on a facility basis. Even this difference, which probably is greater than the range of error in our plume size estimates, has an insignificant effect on total corrective action costs.

2. *Sensitivity of Costs to Hydrogeologic Assumptions.* EPA examined the effects of alternative assumptions regarding aquifer transmissivity and gradient on corrective action costs for two plume sizes.[19] The Agency found that changing gradient or transmissivity assumptions has almost no effect on costs for small plumes under Strategy 1 conditions. However, for large plumes changing the gradient from 0.5 to 50 feet per mile or changing the transmissivity from 10,000 to 1,000,000 gallons per day per foot can increase the annual revenue requirement calculated for counterpumping by about 50 percent. Under Strategy 2 conditions, the same changes in transmissivity can increase costs for small plumes by 50 percent and costs for large plumes by about 150 percent. Details of this analysis appear in the docket report.

3. *Sensitivity of Costs to Treatment Assumptions.* All corrective action cost estimates displayed in this preamble assume that the ground water removed through counterpumping is treated in a facility built on site to deal with a simple mix of contaminants in low concentrations. EPA used a simple average of costs for three types of treatment: activated carbon; reverse osmosis; and a treatment train consisting of coagulation, flocculation, sedimentation and filtration. These processes are capable of addressing the bulk of potential ground water contaminants, and except in unusual cases the concentrations of pollutants that are likely to be encountered should be within the ranges that can be treated by these systems.

On balance, these estimates give a reasonable indication of likely costs in average situations. Specific scenarios would need to be addressed to substantially improve on these estimates.

Moving from an average of treatment costs to costs for a single approach can change corrective action costs up or down by a third to a half.

Some cost decreases may be possible if the pumped water contains only volatile pollutants that can be treated through air stripping. Where the volumes of recovered water are very low and the contaminants to be removed are of a suitable kind, pre-engineered treatment equipment can be trucked to the site at some cost savings. Large cost increases are possible if the recovered water contains contaminants in high concentrations, or if the recovered water contains a mixture of contaminants. Mixtures can require use of a combination of the approaches examined here, or use of more complex chemical or biological treatment. (Details are contained in the docket report.)

4. *Adding a Slurry Wall to Reduce the Pumping Rate.* EPA also examined an alternative strategy for compliance based on use of a confining slurry wall and a surface cover to minimize the amount of pumping and treatment required. This approach removes contamination, but at a very slow rate, so that for purposes of cost calculation, it must be assumed that the plume will exist for a very long time. EPA found that this approach could save money in many cases, compared to pumping at a higher rate over a shorter period of time. The difficulty in using this technique may be in demonstrating that the plume will be effectively contained and removed.

EPA estimated the cost of this strategy for a small plume (100 ft x 200 ft), since slurry wall costs increase more rapidly with plume size than do counterpumping costs. EPA determined that with a slurry wall in place pumping rates would be in the range of 10,000 to 50,000 gallons per year (38 to 189 MT/year). Because these rates are very low relative to what they would be without the slurry wall (4 to 22 million gallons per year under base case conditions), EPA assumed that the contaminated ground water would be treated in pre-engineered facilities trucked to the site, at a cost of $85 per 1,000 gallons or $22 per metric ton. At this cost, over 250,000 gallons of recovered water—five to twenty-five times the amount expected—could be treated before a slurry wall becomes financially unattractive.

Use of a slurry wall would be even more attractive under pessimistic assumptions regarding gradient and transmissivity, because these changes would not affect the costs of the slurry wall approach. The slurry wall approach would be much less attractive with deeper plumes, and infeasible at depths greater than 150 feet.

5. *Costs of Floodplain Standards.* The Part 264 regulations require that facilities located in 100-year floodplains be designed, constructed, operated, and maintained to prevent washout of any hazardous waste by a 100-year flood.

Dike costs were only estimated for surface impoundments. It was assumed that impoundments are likely to be located in floodplains because they are often part of systems for treating industrial effluent before it is discharged in surface water. It was assumed that dikes are built around 3 sides of the surface impoundment, that there is a 40' buffer zone between the surface impoundment and the dike, and that dike construction is entirely independent from the surface impoundment.

EPA estimated the costs of constructing dikes of various heights to withstand the effects of a 100-year flood. Actual dike heights are likely to vary with floodplain topographies, river depths, and heights during 100-year floods. Costs were estimated for dike heights of 2, 3, 5, and 9 meters, but the 3-meter (about 10 feet) height is used as an average cost estimate. Dike widths varied with height and ranged from 14 meters for a 2-meter high dike to 49 meters for a 9-meter high dike. The width of the dike significantly increases the amount of land required for the facility. For example, a ¼-acre surface impoundment would need to be situated on 1.5 acres to accommodate the buffer zone and a 3-meter dike. Similarly, an 11 acre surface impoundment would require about 16 acres to allow for the buffer area and a 3-meter dike.

Annual revenue requirements for dikes of various heights were estimated in the same way that other D&O revenue requirements were estimated for surface impoundments. Costs for a 3 meter dike ranged from $3,000 for a ¼-acre surface impoundment to $17,000 for an 11-acre impoundment. For smaller surface impoundments, these costs were about 50 percent of the basic costs of complying with the Part 264 regulations, and roughly 20 to 25 percent of the costs of retrofitting or replacing a facility. For large surface impoundments, a 3-meter dike would add about 15 percent to the basic compliance cost, and about 6 percent to the retrofit or replacement cost.

If it is assumed that all surface impoundments construct 3-meter dikes to protect against washout from a 100-year flood, the total incremental cost would be $29 million.[20]

[19] In all cases, the small plume (100 ft x 200 ft) is approximately the size of the plume used to estimate corrective action costs for a ¼ acre surface impoundment. This is two and one-half times as large as the plume size for the smallest (500 MT/yr) landfill modelled. The large plume (1000 ft x 2000 ft) is close in size to the plume used to estimate costs for a 35,000 metric ton per year landfill. A 20 acre surface impoundment would involve about the same size plume.

[20] Costs were estimated on a unit-by-unit basis for all 4240 surface impoundments. Estimating costs on

X. List of Subjects

40 CFR Part 122

Administrative practice and procedure, Air pollution control, Hazardous materials, Reporting requirements, Waste treatment and disposal, Water pollution control, Water supply, Confidential business information.

40 CFR Part 260

Administrative practice and procedure, Confidential business information, Hazardous materials, Waste treatment and disposal.

40 CFR Part 264

Hazardous materials, Packaging and containers, Reporting requirements, Security measures, Surety bonds, Waste treatment and disposal.

40 CFR Part 265

Hazardous materials, Packaging and containers, Reporting and recordkeeping requirements, Security measures, Surety bonds, Waste treatment and disposal, Waste supply.

Dated: July 9, 1982.

Anne M. Gorsuch,

Administrator.

For the reasons set out in the preamble, 40 CFR Parts 260, 264, 265, and 122 are amended as set forth below.

PART 260—HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

1. The Authority citation for Part 260 reads as follows:

Authority: Secs. 1006, 2002(a), 3001 through 3007, 3010, and 7004, of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921 through 6927, 6930, and 6974).

§ 260.10 [Amended]

2. 40 CFR Part 260 is amended by removing the following from § 260.10:

"Constituent" or "hazardous waste constituent" means a constituent which caused the Administrator to list the hazardous waste in Part 261, Subpart D, of this chapter, or a constituent listed in Table 1 of § 261.24 of this chapter.

3. 40 CFR Part 260 is amended by adding the following terms and definitions to § 260.10 in alphabetical order:

"Certification" means a statement of professional opinion based upon knowledge and belief.

"Existing portion" means that land surface area of an existing waste management unit, included in the original Part A permit application, on which wastes have been placed prior to the issuance of a permit.

"Hazardous waste constituent" means a constituent that caused the Administrator to list the hazardous waste in Part 261, Subpart D, of this chapter, or a constituent listed in Table 1 of § 261.24 of this chapter.

"Treatment Zone" means a soil area of the unsaturated zone of a land treatment unit within which hazardous constituents are degraded, transformed, or immobilized.

"Uppermost aquifer" means the geologic formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary.

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

4. In 40 CFR Part 264, the Table of Contents is amended by adding listings for Subparts F, M, and N, and revising listings for Subparts K and L, to read as follows:

* * * * *

Subpart F—Ground-water Protection

264.90 Applicability.
264.91 Required programs.
264.92 Ground-water protection standard.
264.93 Hazardous constituents.
264.94 Concentration limits.
264.95 Point of compliance.
264.96 Compliance period.
264.97 General ground-water monitoring requirements.
264.98 Detection monitoring program.
264.99 Compliance monitoring program.
264.100 Corrective action program.
264.101–264.109 [Reserved]

* * * * *

Subpart K—Surface Impoundments

264.220 Applicability.
264.221 Design and operating requirements.
264.222 Double-lined surface impoundments: Exemption from Subpart F ground-water protection requirements.
264.223–264.225 [Reserved]
264.226 Monitoring and inspection.
264.227 Emergency repairs; contingency plans.
264.228 Closure and post-closure care.
264.229 Special requirements for ignitable or reactive waste.
264.230 Special requirements for incompatible wastes.
264.231–264.249 [Reserved]

Subpart L—Waste Piles

264.250 Applicability.
264.251 Design and operating requirements.
264.252 Double-lined piles: Exemption from Subpart F ground-water protection requirements.
264.253 Inspection of liners: Exemption from Subpart F ground-water protection requirements.
264.254 Monitoring and inspection.
264.255 [Reserved]
264.256 Special requirements for ignitable or reactive waste.
264.257 Special requirements for incompatible wastes.
264.258 Closure and post-closure care.
264.259–264.269 [Reserved]

Subpart M—Land Treatment

264.270 Applicability.
264.271 Treatment program.
264.272 Treatment demonstration.
264.273 Design and operating requirements.
264.274–264.275 [Reserved]
264.276 Food-chain crops.
264.277 [Reserved]
264.278 Unsaturated zone monitoring.
264.279 Recordkeeping.
264.280 Closure and post-closure care.
264.281 Special requirements for ignitable or reactive waste.
264.282 Special requirements for incompatible wastes.
264.283–264.299 [Reserved]

Subpart N—Landfills

264.300 Applicability.
264.301 Design and operating requirements.
264.302 Double-lined landfills: Exemption from Subpart F ground-water protection requirements.
264.303 Monitoring and inspection.
264.304–264.308 [Reserved]
264.309 Surveying and recordkeeping.
264.310 Closure and post-closure care.
264.311 [Reserved]
264.312 Special requirements for ignitable or reactive waste.
264.313 Special requirements for incompatible wastes.
264.314 Special requirements for liquid waste.
264.315 Special requirements for containers.
264.316 Disposal of small containers of hazardous waste in overpacked drums (lab packs).
264.317–264.339 [Reserved]

* * * * *

5. The authority citation for Part 264 reads as follows:

Authority: Secs. 1006, 2002(a), 3004, and 3005 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6924, and 6925).

6. In 40 CFR Part 264, Subpart B, §§ 264.10(b), 264.15(b)(4), and 264.18(b)(1) are revised to read as follows:

§ 264.10 Applicability.

* * * * *

(b) Section 264.18(b) applies only to facilities subject to regulation under Subparts I through O of this part.

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a facility-by-facility basis for all land disposal sites would increase the total cost reported here by about 75 percent.

§ 264.15 General inspection requirements.

* * * * *

(b) * * *

(4) The frequency of inspection may vary for the items on the schedule. However, it should be based on the rate of possible deterioration of the equipment and the probability of an environmental or human health incident if the deterioration or malfunction of any operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use. At a minimum, the inspection schedule must include the terms and frequencies called for in §§ 264.174, 264.194, 264.226, 264.253, 264.254, 264.303, and 264.347, where applicable.

* * * * *

§ 264.18 Location standards.

* * * * *

(b) *Floodplains.* (1) A facility located in a 100-year floodplain must be designed, constructed, operated, and maintained to prevent washout or any hazardous waste by a 100-year flood, *unless* the owner or operator can demonstrate to the Regional Administrator's satisfaction that:

(i) Procedures are in effect which will cause the waste to be removed safely, before flood waters can reach the facility, to a location where the wastes will not be vulnerable to flood waters; or

(ii) For existing surface impoundments, waste piles, land treatment units, and landfills, no adverse effects on human health or the environment will result if washout occurs, considering:

(A) The volume and physical and chemical characteristics of the waste in the facility;

(B) The concentration of hazardous constituents that would potentially affect surface waters as a result of washout;

(C) The impact of such concentrations on the current or potential uses of and water quality standards established for the affected surface waters; and

(D) The impact of hazardous constituents on the sediments of affected surface waters or the soils of the 100-year floodplain that could result from washout.

* * * * *

7. In 40 CFR Part 264, Subpart E, § 264.73 is amended by revising paragraph (b)(6), and § 264.77 is amended by redesignating paragraph (c) as paragraph (b). It is further amended by revising newly redesignated paragraph (b) and adding a new paragraph (c) to read as follows:

§ 264.73 Operating record.

* * * * *

(b) * * *

(6) Monitoring, testing, or analytical data where required by Subpart F and §§ 264.226, 264.253, 264.254, 264.276, 264.278, 264.280, 264.303, 264.309, and 264.347;

* * * * *

§ 264.77 Additional reports.

* * * * *

(b) Facility closures specified in § 264.115; and

(c) As otherwise required by Subparts F and K–N.

8. 40 CFR Part 264 is amended by adding Subpart F to read as follows:

Subpart F—Ground-water Protection

§ 264.90 Applicability.

(a) Except as provided in paragraph (b) of this section, the regulations in this subpart apply to owners and operators of facilities that treat, store, or dispose of hazardous waste in surface impoundments, waste piles, land treatment units, or landfills. The owner or operator must satisfy the requirements of this subpart for all wastes (or constituents thereof) contained in any such waste management unit at the facility that receives hazardous waste after the effective date of this subpart (hereinafter referred to as a "regulated unit"). Any waste or waste constituent migrating beyond the waste management area under § 264.95(b) is assumed to originate from a regulated unit unless the Regional Administrator finds that such waste or waste constituent originated from another source.

(b) The owner or operator is not subject to regulation under this subpart if:

(1) He is exempted under § 264.1;

(2) He designs and operates a surface impoundment in compliance with § 264.222, a pile in compliance with § 264.250(c), § 264.252, or § 264.253, or a landfill in compliance with § 264.302;

(3) The Regional Administrator finds, pursuant to § 264.280(d), that the treatment zone of a land treatment unit does not contain levels of hazardous constituents that are above background levels of those constituents by an amount that is statistically significant, and if an unsaturated zone monitoring program meeting the requirements of § 264.278 has not shown a statistically significant increase in hazardous constituents below the treatment zone during the operating life of the unit. An exemption under this paragraph can only relieve an owner or operator of responsibility to meet the requirements of this subpart during the post-closure care period; or

(4) The Regional Administrator finds that there is no potential for migration of liquid from a regulated unit to the uppermost aquifer during the active life of the regulated unit (including the closure period) and the post-closure care period specified under § 264.117. This demonstration must be certified by a qualified geologist or geotechnical engineer. In order to provide an adequate margin of safety in the prediction of potential migration of liquid, the owner or operator must base any predictions made under this paragraph on assumptions that maximize the rate of liquid migration.

(c) The regulations under this subpart apply during the active life of the regulated unit (including the closure period). After closure of the regulated unit, the regulations in this subpart:

(1) Do not apply if all waste, waste residues, contaminated containment system components, and contaminated subsoils are removed or decontaminated at closure;

(2) Apply during the post-closure care period under § 264.117 if the owner or operator is conducting a detection monitoring program under § 264.98; or

(3) Apply during the compliance period under § 264.96 if the owner or operator is conducting a compliance monitoring program under § 264.99 or a corrective action program under § 264.100.

§ 264.91 Required programs.

(a) Owners and operators subject to this subpart must conduct a monitoring and response program as follows:

(1) Whenever hazardous constituents under § 264.93 from a regulated unit are detected at the compliance point under § 264.95, the owner or operator must institute a compliance monitoring program under § 264.99;

(2) Whenever the ground-water protection standard under § 264.92 is exceeded, the owner or operator must institute a corrective action program under § 264.100;

(3) Whenever hazardous constituents under § 264.93 from a regulated unit exceed concentration limits under § 264.94 in ground water between the compliance point under § 264.95 and the downgradient facility property boundary, the owner or operator must institute a corrective action program under § 264.100; or

(4) In all other cases, the owner or operator must institute a detection monitoring program under § 264.98.

(b) The Regional Administrator will specify in the facility permit the specific elements of the monitoring and response program. The Regional Administrator may include one or more of the programs identified in paragraph (a) of this section in the facility permit as may be necessary to protect human health and the environment and will specify the circumstances under which each of the programs will be required. In deciding whether to require the owner or operator to be prepared to institute a particular program, the Regional Administrator will consider the potential adverse effects on human health and the environment that might occur before final administrative action on a permit modification application to incorporate such a program could be taken.

§ 264.92 Ground-water protection standard.

The owner or operator must comply with conditions specified in the facility permit that are designed to ensure that hazardous constituents under § 264.93 entering the ground water from a regulated unit do not exceed the concentration limits under § 264.94 in the uppermost aquifer underlying the waste management area beyond the point of compliance under § 264.95 during the compliance period under § 264.96. The Regional Administrator will establish this ground-water protection standard in the facility permit when hazardous constituents have entered the ground water from a regulated unit.

§ 264.93 Hazardous constituents.

(a) The Regional Administrator will specify in the facility permit the hazardous constituents to which the ground-water protection standard of § 264.92 applies. Hazardous constituents are constituents identified in Appendix VIII of Part 261 of this chapter that have been detected in ground water in the uppermost aquifer underlying a regulated unit and that are reasonably expected to be in or derived from waste contained in a regulated unit, unless the Regional Administrator has excluded them under paragraph (b) of this section.

(b) The Regional Administrator will exclude an Appendix VIII constituent from the list of hazardous constituents specified in the facility permit if he finds that the constituent is not capable of posing a substantial present or potential hazard to human health or the environment. In deciding whether to grant an exemption, the Regional Administrator will consider the following:

(1) Potential adverse effects on ground-water quality, considering:

(i) The physical and chemical characteristics of the waste in the regulated unit, including its potential for migration;

(ii) The hydrogeological characteristics of the facility and surrounding land;

(iii) The quantity of ground water and the direction of ground-water flow;

(iv) The proximity and withdrawal rates of ground-water users;

(v) The current and future uses of ground water in the area;

(vi) The existing quality of ground water, including other sources of contamination and their cumulative impact on the ground-water quality;

(vii) The potential for health risks caused by human exposure to waste constituents;

(viii) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents;

(ix) The persistence and permanence of the potential adverse effects; and

(2) Potential adverse effects on hydraulically-connected surface water quality, considering:

(i) The volume and physical and chemical characteristics of the waste in the regulated unit;

(ii) The hydrogeological characteristics of the facility and surrounding land;

(iii) The quantity and quality of ground water, and the direction of ground-water flow;

(iv) The patterns of rainfall in the region;

(v) The proximity of the regulated unit to surface waters;

(vi) The current and future uses of surface waters in the area and any water quality standards established for those surface waters;

(vii) The existing quality of surface water, including other sources of contamination and the cumulative impact on surface water quality;

(viii) The potential for health risks caused by human exposure to waste constituents;

(ix) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

(x) The persistence and permanence of the potential adverse effects.

(c) In making any determination under paragraph (b) of this section about the use of ground water in the area around the facility, the Regional Administrator will consider any identification of underground sources of drinking water and exempted aquifers made under § 122.35 of this chapter.

§ 264.94 Concentration limits.

(a) The Regional Administrator will specify in the facility permit concentration limits in the ground water for hazardous constituents established under § 264.93. The concentration of a hazardous constituent:

(1) Must not exceed the background level of that constituent in the ground water at the time that limit is specified in the permit; or

(2) For any of the constituents listed in Table 1, must not exceed the respective value given in that Table if the background level of the constituent is below the value given in Table 1; or

(3) Must not exceed an alternate limit established by the Regional Administrator under paragraph (b) of this section.

(b) The Regional Administrator will establish an alternate concentration limit for a hazardous constituent if he finds that the constituent will not pose a substantial present or potential hazard to human health or the environment as long as the alternate concentration limit is not exceeded. In establishing alternate concentration limits, the Regional Administrator will consider the following factors:

(1) Potential adverse effects on ground-water quality, considering:

TABLE 1.—MAXIMUM CONCENTRATION OF CONSTITUENTS FOR GROUND-WATER PROTECTION

Constituent	Maximum concentration [1]
Arsenic	0.05
Barium	1.0
Cadmium	0.01
Chromium	0.05
Lead	0.05
Mercury	0.002
Selenium	0.01
Silver	0.05
Endrin (1,2,3,4,10,10-hexachloro-1,7-epoxy-1,4,4a,5,6,7,8,9a-octahydro-1, 4-endo, endo-5,8-dimethano naphthalene)	0.0002
Lindane (1,2,3,4,5,6-hexachlorocyclohexane, gamma isomer)	0.004
Methoxychlor (1,1,1-Trichloro-2,2-bis (p-methoxyphenylethane)	0.1
Toxaphene (C$_{10}$H$_{10}$Cl$_8$, Technical chlorinated camphene, 67–69 percent chlorine)	0.005
2,4-D (2,4-Dichlorophenoxyacetic acid)	0.1
2,4,5-TP Silvex (2,4,5-Trichlorophenoxypropionic acid)	0.01

[1] Milligrams per liter.

(i) The physical and chemical characteristics of the waste in the regulated unit, including its potential for migration;

(ii) The hydrogeological characteristics of the facility and surrounding land;

(iii) The quantity of ground water and the direction of ground-water flow;

(iv) The proximity and withdrawal rates of ground-water users;

(v) The current and future uses of ground water in the area;

(vi) The existing quality of ground water, including other sources of contamination and their cumulative impact on the ground-water quality;

(vii) The potential for health risks caused by human exposure to waste constituents;

(viii) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents;

(ix) The persistence and permanence of the potential adverse effects; and

(2) Potential adverse effects on hydraulically-connected surface-water quality, considering:

(i) The volume and physical and chemical characteristics of the waste in the regulated unit;

(ii) The hydrogeological characteristics of the facility and surrounding land;

(iii) The quantity and quality of ground water, and the direction of ground-water flow;

(iv) The patterns of rainfall in the region;

(v) The proximity of the regulated unit to surface waters;

(vi) The current and future uses of surface waters in the area and any water quality standards established for those surface waters;

(vii) The existing quality of surface water, including other sources of contamination and the cumulative impact on surface-water quality;

(viii) The potential for health risks caused by human exposure to waste constituents;

(ix) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

(x) The persistence and permanence of the potential adverse effects.

(c) In making any determination under paragraph (b) of this section about the use of ground water in the area around the facility the Regional Administrator will consider any identification of underground sources of drinking water and exempted aquifers made under § 122.35 of this chapter.

§ 264.95 Point of compliance.

(a) The Regional Administrator will specify in the facility permit the point of compliance at which the ground-water protection standard of § 264.92 applies and at which monitoring must be conducted. The point of compliance is a vertical surface located at the hydraulically downgradient limit of the waste management area that extends down into the uppermost aquifer underlying the regulated units.

(b) The waste management area is the limit projected in the horizontal plane of the area on which waste will be placed during the active life of a regulated unit.

(1) The waste management area includes horizontal space taken up by any liner, dike, or other barrier designed to contain waste in a regulated unit.

(2) If the facility contains more than one regulated unit, the waste management area is described by an imaginary line circumscribing the several regulated units.

§ 264.96 Compliance period.

(a) The Regional Administrator will specify in the facility permit the compliance period during which the ground-water protection standard of § 264.92 applies. The compliance period is the number of years equal to the active life of the waste management area (including any waste management activity prior to permitting, and the closure period.)

(b) The compliance period begins when the owner or operator initiates a compliance monitoring program meeting the requirements of § 264.99.

(c) If the owner or operator is engaged in a corrective action program at the end of the compliance period specified in paragraph (a) of this section, the compliance period is extended until the owner or operator can demonstrate that the ground-water protection standard of § 264.92 has not been exceeded for a period of three consecutive years.

§ 264.97 General ground-water monitoring requirements.

The owner or operator must comply with the following requirements for any ground-water monitoring program developed to satisfy § 264.98, § 264.99, or § 264.100:

(a) The ground-water monitoring system must consist of a sufficient number of wells, installed at appropriate locations and depths to yield ground-water samples from the uppermost aquifer that:

(1) Represent the quality of background water that has not been affected by leakage from a regulated unit; and

(2) Represent the quality of ground water passing the point of compliance.

(b) If a facility contains more than one regulated unit, separate ground-water monitoring systems are not required for each regulated unit provided that provisions for sampling the ground water in the uppermost aquifer will enable detection and measurement at the compliance point of hazardous constituents from the regulated units that have entered the ground water in the uppermost aquifer.

(c) All monitoring wells must be cased in a manner that maintains the integrity of the monitoring-well bore hole. This casing must be screened or perforated and packed with gravel or sand, where necessary, to enable collection of ground-water samples. The annular space (i.e., the space between the bore hole and well casing) above the sampling depth must be sealed to prevent contamination of samples and the ground water.

(d) The ground-water monitoring program must include consistent sampling and analysis procedures that are designed to ensure monitoring results that provide a reliable indication of ground-water quality below the waste management area. At a minimum the program must include procedures and techniques for:

(1) Sample collection;

(2) Sample preservation and shipment;

(3) Analytical procedures; and

(4) Chain of custody control.

(e) The ground-water monitoring program must include sampling and analytical methods that are appropriate for ground-water sampling and that accurately measure hazardous constituents in ground-water samples.

(f) The ground-water monitoring program must include a determination of the ground-water surface elevation each time ground water is sampled.

(g) Where appropriate, the ground-water monitoring program must establish background ground-water quality for each of the hazardous constituents or monitoring parameters or constituents specified in the permit.

(1) In the detection monitoring program under § 264.98, background ground-water quality for a monitoring parameter or constituent must be based on data from quarterly sampling of wells upgradient from the waste management area for one year.

(2) In the compliance monitoring program under § 264.99, background ground-water quality for a hazardous constituent must be based on data from upgradient wells that:

(i) Is available before the permit is issued;

(ii) Accounts for measurement errors in sampling and analysis; and

(iii) Accounts, to the extent feasible, for seasonal fluctuations in background ground-water quality if such fluctuations are expected to affect the concentration of the hazardous constituent.

(3) Background quality may be based on sampling of wells that are not upgradient from the waste management area where:

(i) Hydrogeologic conditions do not allow the owner or operator to determine what wells are upgradient; or

(ii) Sampling at other wells will provide an indication of background ground-water quality that is as representative or more representative than that provided by the upgradient wells.

(4) In developing the data base used to determine a background value for each parameter or constituent, the owner or operator must take a minimum of one sample from each well and a minimum of four samples from the entire system used to determine background ground-water quality, each time the system is sampled.

(h) The owner or operator must use the following statistical procedure in determining whether background values or concentration limits have been exceeded:

(1) If, in a detection monitoring program, the level of a constituent at the compliance point is to be compared to the constituent's background value and that background value has a sample coefficient of variation less than 1.00:

(i) The owner or operator must take at least four portions from a sample at each well at the compliance point and determine whether the difference between the mean of the constituent at each well (using all portions taken) and the background value for the constituent is significant at the 0.05 level using the Cochran's Approximation to the Behrens-Fisher Student's t-test as described in Appendix IV of this part. If the test indicates that the difference is significant, the owner or operator must repeat the same procedure (with at least the same number of portions as used in the first test) with a fresh sample from the monitoring well. If this second round of analyses indicates that the difference is significant, the owner or operator must conclude that a statistically significant change has occurred; or

(ii) The owner or operator may use an equivalent statistical procedure for determining whether a statistically significant change has occurred. The Regional Administrator will specify such a procedure in the facility permit if he finds that the alternative procedure reasonably balances the probability of falsely identifying a non-contaminating regulated unit and the probability of failing to identify a contaminating regulated unit in a manner that is comparable to that of the statistical procedure described in paragraph (h)(1)(i) of this section.

(2) In all other situations in a detection monitoring program and in a compliance monitoring program, the owner or operator must use a statistical procedure providing reasonable confidence that the migration of hazardous constituents from a regulated unit into and through the aquifer will be indicated. The Regional Administrator will specify a statistical procedure in the facility permit that he finds:

(i) Is appropriate for the distribution of the data used to establish background values or concentration limits; and

(ii) Provides a reasonable balance between the probability of falsely identifying a non-contaminating regulated unit and the probability of failing to identify a contaminating regulated unit.

§ 264.98 Detection monitoring program.

An owner or operator required to establish a detection monitoring program under this subpart must, at a minimum, discharge the following responsibilities:

(a) The owner or operator must monitor for indicator parameters (e.g., specific conductance, total organic carbon, or total organic halogen), waste constituents, or reaction products that provide a reliable indication of the presence of hazardous constituents in ground water. The Regional Administrator will specify the parameters or constituents to be monitored in the facility permit, after considering the following factors:

(1) The types, quantities, and concentrations of constituents in wastes managed at the regulated unit;

(2) The mobility, stability, and persistance of waste constituents or their reaction products in the unsaturated zone beneath the waste management area;

(3) The detectability of indicator parameters, waste constituents, and reaction products in ground water; and

(4) The concentrations or values and coefficients of variation of proposed monitoring parameters or constituents in the ground-water background.

(b) The owner or operator must install a ground-water monitoring system at the compliance point as specified under § 264.95. The ground-water monitoring system must comply with § 264.97(a)(2), (b), and (c).

(c) The owner or operator must establish a background value for each monitoring parameter or constituent specified in the permit pursuant to paragraph (a) of this section. The permit will specify the background values for each parameter or specify the procedures to be used to calculate the background values.

(1) The owner or operator must comply with § 264.97(g) in developing the data base used to determine background values.

(2) The owner or operator must express background values in a form necessary for the determination of statistically significant increases under § 264.97(h).

(3) In taking samples used in the determination of background values, the owner or operator must use a ground-water monitoring system that complies with §264.97(a)(1), (b), and (c).

(d) The owner or operator must determine ground-water quality at each monitoring well at the compliance point at least semi-annually during the active life of a regulated unit (including the closure period) and the post-closure care period. The owner or operator must express the ground-water quality at each monitoring well in a form necessary for the determination of statistically significant increases under § 264.97(h).

(e) The owner or operator must determine the ground-water flow rate and direction in the uppermost aquifer at least annually.

(f) The owner or operator must use procedures and methods for sampling and analysis that meet the requirements of § 264.97 (d) and (e).

(g) The owner or operator must determine whether there is a statistically significant increase over background values for any parameter or constituent specified in the permit pursuant to paragraph (a) of this section each time he determines ground-water quality at the compliance point under paragraph (d) of this section.

(1) In determining whether a statistically significant increase has occurred, the owner or operator must compare the ground-water quality at each monitoring well at the compliance point for each parameter or constituent to the background value for that parameter or constituent, according to the statistical procedure specified in the permit under § 264.97(h).

(2) The owner or operator must determine whether there has been a statistically significant increase at each monitoring well at the compliance point within a reasonable time period after completion of sampling. The Regional Administrator will specify that time period in the facility permit, after considering the complexity of the statistical test and the availability of laboratory facilities to perform the analysis of ground-water samples.

(h) If the owner or operator determines, pursuant to paragraph (g) of this section, that there is a statistically significant increase for parameters or constituents specified pursuant to paragraph (a) of this section at any

monitoring well at the compliance point, he must:

(1) Notify the Regional Administrator of this finding in writing within seven days. The notification must indicate what parameters or constituents have shown statistically significant increases;

(2) Immediately sample the ground water in all monitoring wells and determine the concentration of all constituents identified in Appendix VIII of Part 261 of this chapter that are present in ground water;

(3) Establish a background value for each Appendix VIII constituent that has been found at the compliance point under paragraph (h)(2) of this section, as follows:

(i) The owner or operator must comply with § 264.97(g) in developing the data base used to determine background values;

(ii) The owner or operator must express background values in a form necessary for the determination of statistically significant increases under § 264.97(h); and

(iii) In taking samples used in the determination of background values, the owner or operator must use a ground-water monitoring system that complies with § 264.97(a)(1), (b), and (c);

(4) Within 90 days, submit to the Regional Administrator an application for a permit modification to establish a compliance monitoring program meeting the requirements of § 264.99. The application must include the following information:

(i) An identification of the concentration of any Appendix VIII constituents found in the ground water at each monitoring well at the compliance point;

(ii) Any proposed changes to the ground-water monitoring system at the facility necessary to meet the requirements of § 264.99;

(iii) Any proposed changes to the monitoring frequency, sampling and analysis procedures or methods, or statistical procedures used at the facility necessary to meet the requirements of § 264.99;

(iv) For each hazardous constituent found at the compliance point, a proposed concentration limit under § 264.94(a)(1) or (2), or a notice of intent to seek a variance under § 264.94(b); and

(5) Within 180 days, submit to the Regional Administrator:

(i) All data necessary to justify any variance sought under § 264.94(b); and

(ii) An engineering feasibility plan for a corrective action program necessary to meet the requirements of § 264.100, unless:

(A) All hazardous constituents identified under paragraph (h)(2) of this section are listed in Table 1 of § 264.94 and their concentrations do not exceed the respective values given in that Table; or

(B) The owner or operator has sought a variance under § 264.94(b) for every hazardous constituent identified under paragraph (h)(2) of this section.

(i) If the owner or operator determines, pursuant to paragraph (g) of this section, that there is a statistically significant increase of parameters or consitutents specified pursuant to paragraph (a) of this section at any monitoring well at the compliance point, he may demonstrate that a source other than a regulated unit caused the increase or that the increase resulted from error in sampling, analysis, or evaluation. While the owner or operator may make a demonstration under this paragraph in addition to, or in lieu of, submitting a permit modification application under paragraph (h)(4) of this section, he is not relieved of the requirement to submit a permit modification application within the time specified in paragraph (h)(4) of this section unless the demonstration made under this paragraph successfully shows that a source other than a regulated unit caused the increase or that the increase resulted from error in sampling, analysis, or evaluation. In making a demonstration under this paragraph, the owner or operator must:

(1) Notify the Regional Administrator in writing within seven days of determining a statistically significant increase at the compliance point that he intends to make a demonstration under this paragraph;

(2) Within 90 days, submit a report to the Regional Administrator which demonstrates that a source other than a regulated unit caused the increase, or that the increase resulted from error in sampling, analysis, or evaluation;

(3) Within 90 days, submit to the Regional Administrator an application for a permit modification to make any appropriate changes to the detection monitoring program at the facility; and

(4) Continue to monitor in accordance with the detection monitoring program established under this section.

(j) If the owner or operator determines that the detection monitoring program no longer satisfies the requirements of this section, he must, within 90 days, submit an application for a permit modification to make any appropriate changes to the program.

(k) The owner or operator must assure that monitoring and corrective action measures necessary to achieve compliance with the ground-water protection standard under § 264.92 are taken during the term of the permit.

§ 264.99 Compliance monitoring program.

An owner or operator required to establish a compliance monitoring program under this subpart must, at a minimum, discharge the following responsibilities:

(a) The owner or operator must monitor the ground water to determine whether regulated units are in compliance with the ground-water protection standard under § 264.92. The Regional Administrator will specify the ground-water protection standard in the facility permit, including:

(1) A list of the hazardous constituents identified under § 264.93;

(2) Concentration limits under § 264.94 for each of those hazardous constituents;

(3) The compliance point under § 264.95; and

(4) The compliance period under § 264.96.

(b) The owner or operator must install a ground-water monitoring system at the compliance point as specified under § 264.95. The ground-water monitoring system must comply with § 264.97(a)(2), (b), and (c).

(c) Where a concentration limit established under paragraph (a)(2) of this section is based on background ground-water quality, the Regional Administrator will specify the concentration limit in the permit as follows:

(1) If there is a high temporal correlation between upgradient and compliance point concentrations of the hazardous constitutents, the owner or operator may establish the concentration limit through sampling at upgradient wells each time ground water is sampled at the compliance point. The Regional Administrator will specify the procedures used for determining the concentration limit in this manner in the permit. In all other cases, the concentration limit will be the mean of the pooled data on the concentration of the hazardous constituent.

(2) If a hazardous constituent is identified on Table 1 under § 264.94 and the difference between the respective concentration limit in Table 1 and the background value of that constituent under § 264.97(g) is not statistically significant, the owner or operator must use the background value of the constituent as the concentration limit. In determining whether this difference is statistically significant, the owner or operator must use a statistical procedure providing reasonable confidence that a real difference will be indicated. The statistical procedure must:

(i) Be appropriate for the distribution of the data used to establish background values; and

(ii) Provide a reasonable balance between the probability of falsely identifying a significant difference and the probability of failing to identify a significant difference.

(3) The owner or operator must:

(i) Comply with § 264.97(g) in developing the data base used to determine background values;

(ii) Express background values in a form necessary for the determination of statistically significant increases under § 264.97(h); and

(iii) Use a ground-water monitoring system that complies with § 264.97(a)(1), (b), and (c).

(d) The owner or operator must determine the concentration of hazardous constituents in ground water at each monitoring well at the compliance point at least quarterly during the compliance period. The owner or operator must express the concentration at each monitoring well in a form necessary for the determination of statistically significant increases under § 264.97(h).

(e) The owner or operator must determine the ground-water flow rate and direction in the uppermost aquifer at least annually.

(f) The owner or operator must analyze samples from all monitoring wells at the compliance point for all constituents contained in Appendix VIII of Part 261 of this chapter at least annually to determine whether additional hazardous constituents are present in the uppermost aquifer. If the owner or operator finds Appendix VIII constituents in the ground water that are not identified in the permit as hazardous constituents, the owner or operator must report the concentrations of these additional constituents to the Regional Administrator within seven days after completion of the analysis.

(g) The owner or operator must use procedures and methods for sampling and analysis that meet the requirements of § 264.97(d) and (e).

(h) The owner or operator must determine whether there is a statistically significant increase over the concentration limits for any hazardous constituents specified in the permit pursuant to paragraph (a) of this section each time he determines the concentration of hazardous constituents in ground water at the compliance point.

(1) In determining whether a statistically significant increase has occurred, the owner or operator must compare the ground-water quality at each monitoring well at the compliance point for each hazardous constituent to the concentration limit for that constituent according to the statistical procedures specified in the permit under § 264.97(h).

(2) The owner or operator must determine whether there has been a statistically significant increase at each monitoring well at the compliance point, within a reasonable time period after completion of sampling. The Regional Administrator will specify that time period in the facility permit, after considering the complexity of the statistical test and the availability of laboratory facilities to perform the analysis of ground-water samples.

(i) If the owner or operator determines, pursuant to paragraph (h) of this section, that the ground-water protection standard is being exceeded at any monitoring well at the point of compliance, he must:

(1) Notify the Regional Administrator of this finding in writing within seven days. The notification must indicate what concentration limits have been exceeded.

(2) Submit to the Regional Administrator an application for a permit modification to establish a corrective action program meeting the requirements of § 264.100 within 180 days, or within 90 days if an engineering feasibility study has been previously submitted to the Regional Administrator under § 264.98(h)(5). The application must at a minimum include the following information:

(i) A detailed description of corrective actions that will achieve compliance with the ground-water protection standard specified in the permit under paragraph (a) of this section; and

(ii) A plan for a ground-water monitoring program that will demonstrate the effectiveness of the corrective action. Such a ground-water monitoring program may be based on a compliance monitoring program developed to meet the requirements of this section.

(j) If the owner or operator determines, pursuant to paragraph (h) of this section, that the ground-water protection standard is being exceeded at any monitoring well at the point of compliance, he may demonstrate that a source other than a regulated unit caused the increase or that the increase resulted from error in sampling, analysis or evaluation. While the owner or operator may make a demonstration under this paragraph in addition to, or in lieu of, submitting a permit modification application under paragraph (i)(2) of this section, he is not relieved of the requirement to submit a permit modification application within the time specified in paragraph (i)(2) of this section unless the demonstration made under this paragraph successfully shows that a source other than a regulated unit caused the increase or that the increase resulted from error in sampling, analysis, or evaluation. In making a demonstration under this paragraph, the owner or operator must:

(1) Notify the Regional Administrator in writing within seven days that he intends to make a demonstration under this paragraph;

(2) Within 90 days, submit a report to the Regional Administrator which demonstrates that a source other than a regulated unit caused the standard to be exceeded or that the apparent noncompliance with the standards resulted from error in sampling, analysis, or evaluation;

(3) Within 90 days, submit to the Regional Administrator an application for a permit modification to make any appropriate changes to the compliance monitoring program at the facility; and

(4) Continue to monitor in accord with the compliance monitoring program established under this section.

(k) If the owner or operator determines that the compliance monitoring program no longer satisfies the requirements of this section, he must, within 90 days, submit an application for a permit modification to make any appropriate changes to the program.

(l) The owner or operator must assure that monitoring and corrective action measures necessary to achieve compliance with the ground-water protection standard under § 264.92 are taken during the term of the permit.

§ 264.100 Corrective action program.

An owner or operator required to establish a corrective action program under this subpart must, at a minimum, discharge the following responsibilities:

(a) The owner or operator must take corrective action to ensure that regulated units are in compliance with the ground-water protection standard under § 264.92. The Regional Administrator will specify the ground-water protection standard in the facility permit, including:

(1) A list of the hazardous constituents identified under § 264.93;

(2) Concentration limits under § 264.94 for each of those hazardous constituents;

(3) The compliance point under § 264.95; and

(4) The compliance period under § 264.96.

(b) The owner or operator must implement a corrective action program that prevents hazardous constituents

from exceeding their respective concentration limits at the compliance point by removing the hazardous waste constituents or treating them in place. The permit will specify the specific measures that will be taken.

(c) The owner or operator must begin corrective action within a reasonable time period after the ground-water protection standard is exceeded. The Regional Administrator will specify that time period in the facility permit. If a facility permit includes a corrective action program in addition to a compliance monitoring program, the permit will specify when the corrective action will begin and such a requirement will operate in lieu of § 264.99(i)(2).

(d) In conjunction with a corrective action program, the owner or operator must establish and implement a ground-water monitoring program to demonstrate the effectiveness of the corrective action program. Such a monitoring program may be based on the requirements for a compliance monitoring program under § 264.99 and must be as effective as that program in determining compliance with the ground-water protection standard under § 264.92 and in determining the success of a corrective action program under paragraph (e) of this section, where appropriate.

(e) In addition to the other requirements of this section, the owner or operator must conduct a corrective action program to remove or treat in place any hazardous constituents under § 264.93 that exceed concentration limits under § 264.94 in ground water between the compliance point under § 264.95 and the downgradient facility property boundary. The permit will specify the measures to be taken.

(1) Corrective action measures under this paragraph must be initiated and completed within a reasonable period of time considering the extent of contamination.

(2) Corrective action measures under this paragraph may be terminated once the concentration of hazardous constituents under § 264.93 is reduced to levels below their respective concentration limits under § 264.94.

(f) The owner or operator must continue corrective action measures during the compliance period to the extent necessary to ensure that the ground-water protection standard is not exceeded. If the owner or operator is conducting corrective action at the end of the compliance period, he must continue that corrective action for as long as necessary to achieve compliance with the ground-water protection standard. The owner or operator may terminate corrective action measures taken beyond the period equal to the active life of the waste management area (including the closure period) if he can demonstrate, based on data from the ground-water monitoring program under paragraph (d) of this section, that the ground-water protection standard of § 264.92 has not been exceeded for a period of three consecutive years.

(g) The owner or operator must report in writing to the Regional Administrator on the effectiveness of the corrective action program. The owner or operator must submit these reports semi-annually.

(h) If the owner or operator determines that the corrective action program no longer satisfies the requirements of this section, he must, within 90 days, submit an application for a permit modification to make any appropriate changes to the program.

§§ 264.101–264.109 [Reserved]

9. In 40 CFR Part 264, Subpart G, § 264.110 is amended by revising paragraph (b), § 264.112 is amended by revising paragraphs (a), introductory text, and (a)(1), § 264.117 is amended by revising paragraphs (a)(1)(i) and (ii), and § 264.118 is amended by revising paragraph (a), introductory text, (a)(1), (2)(i) and (ii) to read as follows:

§ 264.110 Applicability.

* * * * *

(b) Sections 264.117–264.120 (which concern post-closure care) apply to the owners and operators of:

(1) All hazardous waste disposal facilities; and

(2) Piles, and surface impoundments from which the owner or operator intends to remove the wastes at closure, to the extent that these sections are made applicable to such facilities in §§ 264.228 and 264.258.

§ 264.112 Closure plan; amendment of plan.

(a) The owner or operator of a hazardous waste management facility must have a written closure plan. The plan must be submitted with the permit application, in accordance with § 122.25(a)(13) of this chapter, and approved by the Regional Administrator as part of the permit issuance proceeding under Part 124 of this chapter. In accordance with § 122.29 of this chapter, the approved closure plan will become a condition of any RCRA permit. The Regional Administrator's decision must assure that that approved closure plan is consistent with §§ 264.111, 264.113, 264.114, 264.115, and the applicable requirements of §§ 264.178, 264.197, 264.228, 264.258, 264.280, 264.310, and 264.351. A copy of the approved plan and all revisions to the plan must be kept at the facility until closure is completed and certified in accordance with § 264.115. The plan must identify steps necessary to completely or partially close the facility at any point during its intended operating life and to completely close the facility at the end of its intended operating life. The closure plan must include, at least:

(1) A description of how and when the facility will be partially closed, if applicable, and finally closed. The description must identify the maximum extent of the operation which will be unclosed during the life of the facility, and how the requirements of §§ 264.111, 264.113, 264.114, 264.115, and the applicable closure requirements of §§ 264.178, 264.197, 264.228, 264.258, 264.280, 264.310, and 264.351 will be met;

* * * * *

§ 264.117 Post-closure care and use of property.

(a)(1) * * *

(i) Monitoring and reporting in accordance with the requirements of Subparts F, K, L, M, and N of this part; and

(ii) Maintenance and monitoring of waste containment systems in accordance with the requirements of Subparts F, K, L, M, and N of this part.

* * * * *

§ 264.118 Post-closure plan; amendment of plan.

(a) The owner or operator of a disposal facility must have a written post-closure plan. In addition, certain piles and certain surface impoundments from which the owner or operator intends to remove the wastes at closure are required by §§ 264.228 and 264.258 to have post-closure plans. The plan must be submitted with a permit application, in accordance with § 122.25(a)(13) of this chapter, and approved by the Regional Administrator as part of the permit issuance proceeding under Part 124 of this chapter. In accordance with §122.29 of this chapter, the approved post-closure plan will become a condition of any permit issued. A copy of the approved plan and all revisions to the plan must be kept at the facility until the post-closure care period begins. This plan must identify the activities that will be carried on after closure and the frequency of these activities, and include at least:

(1) A description of the planned monitoring activities and frequencies at which they will be performed to comply

with Subparts F, K, L, M, and N of this part during the post-closure care period;

(2) * * *

(i) The intergrity of the cap and final cover or other containment systems in accordance with the requirements of Subparts K, L, M, and N of this part; and

(ii) The function of the facility monitoring equipment in accordance with the requirements of Subparts F, K, L, M, and N of this part; and

* * * * *

10. In 40 CFR Part 264, Subpart H, § 264.144 is amended by revising paragraph (b); § 264.142 is amended by revising paragraph (a), except for the comment; § 264.144 is amended by revising paragraph (a); and § 264.145 is amended by revising the undesignated paragraph preceding paragraph (a) to read as follows:

§ 264.140 Applicability.

* * * * *

(b) The requirements of §§ 264.144 and 264.145 apply only to owners and operators of:

(1) Disposal facilities, and

(2) Piles, and surface impoundments from which the owner or operator intends to remove the wastes at closure, to the extent that these sections are made applicable to such facilities in §§ 264.228 and 264.258.

* * * * *

§ 264.142 Cost estimate for closure.

(a) The owner or operator must have a written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements in §§ 264.111–264.115 and applicable closure requirements in §§ 264.178, 264.197, 264.228, 264.258, 264.280, 264.310, and 264.351. The estimate must equal the cost of closure at the point in the facility's operating life when the extent and manner of its operation would make closure the most expensive, as indicated by its closure plan (see § 264.112(a)).

* * * * *

§ 264.144 Cost estimate for post-closure care.

(a) The owner or operator of a facility subject to post-closure monitoring or maintenance requirements must have a written estimate, in current dollars, of the annual cost of post-closure monitoring and maintenance of the facility in accordance with the applicable post-closure regulations in §§ 264.117–264.120, 264.228, 264.258, 264.280, and 264.310. The post-closure cost estimate is calculated by multiplying the annual post-closure cost estimate by the number of years of post-closure care required under Subpart G of Part 264.

* * * * *

§ 264.145 Financial assurance for post-closure care.

The owner or operator of a facility subject to post-closure monitoring or maintenance requirements must establish financial assurance for post-closure care in accordance with the approved post-closure plan for the facility. He must choose from the following options:

* * * * *

11. In 40 CFR Part 264, Subparts K and L are revised to read as follows:

Subpart K—Surface Impoundments

§ 264.220 Applicability.

The regulations in this subpart apply to owners and operators of facilities that use surface impoundments to treat, store, or dispose of hazardous waste except as § 264.1 provides otherwise.

§ 264.221 Design and operating requirements.

(a) A surface impoundment (except for an existing portion of a surface impoundment) must have a liner that is designed, constructed, and installed to prevent any migration of wastes out of the impoundment to the adjacent subsurface soil or ground water or surface water at any time during the active life (including the closure period) of the impoundment. The liner may be constructed of materials that may allow wastes to migrate into the liner (but not into the adjacent subsurface soil or ground water or surface water) during the active life of the facility, provided that the impoundment is closed in accordance with § 264.228(a)(1). For impoundments that will be closed in accordance with § 264.228(a)(2), the liner must be constructed of materials that can prevent wastes from migrating into the liner during the active life of the facility. The liner must be:

(1) Constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or leachate to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation;

(2) Placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression, or uplift; and

(3) Installed to cover all surrounding earth likely to be in contact with the waste or leachate.

(b) The owner or operator will be exempted from the requirements of paragraph (a) of this section if the Regional Administrator finds, based on a demonstration by the owner or operator, that alternate design and operating practices, together with location characteristics, will prevent the migration of any hazardous constituents (see § 264.93) into the ground water or surface water at any future time. In deciding whether to grant an exemption, the Regional Administrator will consider:

(1) The nature and quantity of the wastes;

(2) The proposed alternate design and operation;

(3) The hydrogeologic setting of the facility, including the attenuative capacity and thickness of the liners and soils present between the impoundment and ground water or surface water; and

(4) All other factors which would influence the quality and mobility of the leachate produced and the potential for it to migrate to ground water or surface water.

(c) A surface impoundment must be designed, constructed, maintained, and operated to prevent overtopping resulting from normal or abnormal operations; overfilling; wind and wave action; rainfall; run-on; malfunctions of level controllers, alarms, and other equipment; and human error.

(d) A surface impoundment must have dikes that are designed, constructed, and maintained with sufficient structural integrity to prevent massive failure of the dikes. In ensuring structural integrity, it must not be presumed that the liner system will function without leakage during the active life of the unit.

(e) The Regional Administrator will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this section are satisfied.

§ 264.222 Double-lined surface impoundments: Exemption from Subpart F ground-water protection requirements.

(a) The owner or operator of a double-lined surface impoundment is not subject to regulation under Subpart F of this part if the following conditions are met:

(1) The impoundment (including its underlying liners) must be located entirely above the seasonal high water table.

(2) The impoundment must be underlain by two liners which are

designed and constructed in a manner that prevents the migration of liquids into or out of the space between the liners. Both liners must meet all the specifications of § 264.221(a).

(3) A leak detection system must be designed, constructed, maintained, and operated between the liners to detect any migration of liquids into the space between the liners.

(b) If liquid leaks into the leak detection system, the owner or operator must:

(1) Notify the Regional Administrator of the leak in writing within seven days after detecting the leak; and

(2)(i) Within a period of time specified in the permit, remove accumulated liquid, repair or replace the liner which is leaking to prevent the migration of liquids through the liner, and obtain a certification from a qualified engineer that, to the best of his knowledge and opinion, the leak has been stopped; or

(ii) If a detection monitoring program pursuant to § 264.98 has already been established in the permit (to be complied with only if a leak occurs), begin to comply with that program and any other applicable requirements of Subpart F of this part within a period of time specified in the permit.

(c) The Regional Administrator will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this section are satisfied.

§§ 264.223–264.225 [Reserved]

§ 264.226 Monitoring and inspection.

(a) During construction and installation, liners (except in the case of existing portions of surface impoundments exempt from § 264.221(a)) and cover systems (e.g., membranes, sheets, or coatings) must be inspected for uniformity, damage, and imperfections (e.g., holes, cracks, thin spots, or foreign materials). Immediately after construction or installation:

(1) Synthetic liners and covers must be inspected to ensure tight seams and joints and the absence of tears, punctures, or blisters; and

(2) Soil-based and admixed liners and covers must be inspected for inperfections including lenses, cracks, channels, root holes, or other structural non-uniformities that may cause an increase in the permeability of the liner or cover.

(b) While a surface impoundment is in operation, it must be inspected weekly and after storms to detect evidence of any of the following:

(1) Deterioration, malfunctions, or improper operation of overtopping control systems;

(2) Sudden drops in the level of the impoundment's contents; and

(3) The presence of liquids in leak detection systems, where installed to comply with § 264.222; and

(4) Severe erosion or other signs of deterioration in dikes or other containment devices.

(c) Prior to the issuance of a permit, and after any extended period of time (at least six months) during which the impoundment was not in service, the owner or operator must obtain a certification from a qualified engineer that the impoundment's dike, including that portion of any dike which provides freeboard, has structural integrity. The certification must establish, in particular, that the dike:

(1) Will withstand the stress of the pressure exerted by the types and amounts of wastes to be placed in the impoundment; and

(2) Will not fail due to scouring or piping, without dependence on any liner system included in the surface impoundment construction.

§ 264.227 Emergency repairs; contingency plans.

(a) A surface impoundment must be removed from service in accordance with paragraph (b) of this section when:

(1) The level of liquids in the impoundment suddenly drops and the drop is not known to be caused by changes in the flows into or out of the impoundment; or

(2) The dike leaks.

(b) When a surface impoundment must be removed from service as required by paragraph (a) of this section, the owner or operator must:

(1) Immediately shut off the flow or stop the addition of wastes into the impoundment;

(2) Immediately contain any surface leakage which has occurred or is occurring;

(3) Immediately stop the leak;

(4) Take any other necessary steps to stop or prevent catastrophic failure;

(5) If a leak cannot be stopped by any other means, empty the impoundment; and

(6) Notify the Regional Administrator of the problem in writing within seven days after detecting the problem.

(c) As part of the contingency plan required in Subpart D of this part, the owner or operator must specify a procedure for complying with the requirements of paragraph (b) of this section.

(d) No surface impoundment that has been removed from service in accordance with the requirements of this section may be restored to service unless the portion of the impoundment which was failing is repaired and the following steps are taken:

(1) If the impoundment was removed from service as the result of actual or imminent dike failure, the dike's structural integrity must be recertified in accordance with § 264.226(c).

(2) If the impoundment was removed from service as the result of a sudden drop in the liquid level, then:

(i) For any existing portion of the impoundment, a liner must be installed in compliance with §§ 264.221(a) or 264.222; and

(ii) For any other portion of the impoundment, the repaired liner system must be certified by a qualified engineer as meeting the design specifications approved in the permit.

(e) A surface impoundment that has been removed from service in accordance with the requirements of this section and that is not being repaired must be closed in accordance with the provisions of § 264.228.

§ 264.228 Closure and post-closure care.

(a) At closure, the owner or operator must:

(1) Remove or decontaminate all waste residues, contaminated containment system components (liners, etc.), contaminated subsoils, and structures and equipment contaminated with waste and leachate, and manage them as hazardous waste unless § 261.3(d) of this chapter applies; or

(2)(i) Eliminate free liquids by removing liquid wastes or solidifying the remaining wastes and waste residues;

(ii) Stabilize remaining wastes to a bearing capacity sufficient to support final cover; and

(iii) Cover the surface impoundment with a final cover designed and constructed to:

(A) Provide long-term minimization of the migration of liquids through the closed impoundment;

(B) Function with minimum maintenance;

(C) Promote drainage and minimize erosion or abrasion of the final cover;

(D) Accommodate settling and subsidence so that the cover's integrity is maintained; and

(E) Have a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present.

(b) If some waste residues or contaminated materials are left in place at final closure, the owner or operator must comply with all post-closure requirements contained in §§ 264.117–264.120, including maintenance and monitoring throughout the post-closure care period (specified in the permit

under § 264.117). The owner or operator must:

(1) Maintain the integrity and effectiveness of the final cover, including making repairs to the cap as necessary to correct the effects of settling, subsidence, erosion, or other events;

(2) Maintain and monitor the leak detection system in accordance with § 264.222, where such a system is present between double liner systems;

(3) Maintain and monitor the ground-water monitoring system and comply with all other applicable requirements of Subpart F of this part; and

(4) Prevent run-on and run-off from eroding or otherwise damaging the final cover.

(c) (1) If an owner or operator plans to close a surface impoundment in accordance with paragraph (a)(1) of this section, and the impoundment does not comply with the liner requirements of § 264.221(a) and is not exempt from them in accordance with § 264.221(b), then:

(i) The closure plan for the impoundment under § 264.112 must include both a plan for complying with paragraph (a)(1) of this section and a contingent plan for complying with paragraph (a)(2) of this section in case not all contaminated subsoils can be practicably removed at closure; and

(ii) The owner or operator must prepare a contingent post-closure plan under § 264.118 for complying with paragraph (b) of this section in case not all contaminated subsoils can be practicably removed at closure.

(2) The cost estimates calculated under §§ 264.142 and § 264.144 for closure and post-closure care of an impoundment subject to this paragraph must include the cost of complying with the contingent closure plan and the contingent post-closure plan, but are not required to include the cost of expected closure under paragraph (a)(1) of this section.

(d) During the post-closure care period, if liquids leak into a leak detection system installed under § 264.222, the owner or operator must notify the Regional Administrator of the leak in writing within seven days after detecting the leak. The Regional Administrator will modify the permit to require compliance with the requirements of Subpart F of this part.

§ 264.229 Special requirements for ignitable or reactive waste.

Ignitable or reactive waste must not be placed in a surface impoundment, unless:

(a) The waste is treated, rendered, or mixed before or immediately after placement in the impoundment so that:

(1) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under §§ 261.21 or 261.23 of this chapter; and

(2) Section 264.17(b) is complied with; or

(b) The waste is managed in such a way that it is protected from any material or conditions which may cause it to ignite or react; or

(c) The surface impoundment is used solely for emergencies.

§ 264.230 Special requirements for incompatible wastes.

Incompatible wastes, or incompatible wastes and materials, (see Appendix V of this part for examples) must not be placed in the same surface impoundment, unless § 264.17(b) is complied with.

§§ 264.231-264.249 [Reserved]

Subpart L—Waste Piles

§ 264.250 Applicability.

(a) The regulations in this subpart apply to owners and operators of facilities that store or treat hazardous waste in piles, except as § 264.1 provides otherwise.

(b) The regulations in this subpart do not apply to owners or operators of waste piles that are closed with wastes left in place. Such waste piles are subject to regulation under Subpart N of this part (Landfills).

(c) The owner or operator of any waste pile that is inside or under a structure that provides protection from precipitation so that neither run-off nor leachate is generated is not subject to regulation under § 264.251 or under Subpart F of this part, provided that:

(1) Liquids or materials containing free liquids are not placed in the pile;

(2) The pile is protected from surface water run-on by the structure or in some other manner;

(3) The pile is designed and operated to control dispersal of the waste by wind, where necessary, by means other than wetting; and

(4) The pile will not generate leachate through decomposition or other reactions.

§ 264.251 Design and operating requirements.

(a) A waste pile (except for an existing portion of a waste pile) must have:

(1) A liner that is designed, constructed, and installed to prevent any migration of wastes out of the pile into the adjacent subsurface soil or ground water or surface water at any time during the active life (including the closure period) of the waste pile. The liner may be constructed of materials that may allow waste to migrate into the liner itself (but not into the adjacent subsurface soil or ground water or surface water) during the active life of the facility. The liner must be:

(i) Constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or leachate to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation;

(ii) Placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression, or uplift; and

(iii) Installed to cover all surrounding earth likely to be in contact with the waste or leachate; and

(2) A leachate collection and removal system immediately above the liner that is designed, constructed, maintained, and operated to collect and remove leachate from the pile. The Regional Administrator will specify design and operating conditions in the permit to ensure that the leachate depth over the liner does not exceed 30 cm (one foot). The leachate collection and removal system must be:

(i) Constructed of materials that are:

(A) Chemically resistent to the waste managed in the pile and the leachate expected to be generated; and

(B) Of sufficient strength and thickness to prevent collapse under the pressures exerted by overlaying wastes, waste cover materials, and by any equipment used at the pile; and

(ii) Designed and operated to function without clogging through the scheduled closure of the waste pile.

(b) The owner or operator will be exempted from the requirements of paragraph (a) of this section if the Regional Administrator finds, based on a demonstration by the owner or operator, that alternate design and operating practices, together with location characteristics, will prevent the migration of any hazardous constituents (see § 264.93) into the ground water or surface water at any future time. In deciding whether to grant an exemption, the Regional Administrator will consider:

(1) The nature and quantity of the wastes;

(2) The proposed alternate design and operation;

(3) The hydrogeologic setting of the facility, including attenuative capacity and thickness of the liners and soils present between the pile and ground water or surface water; and

(4) All other factors which would influence the quality and mobility of the leachate produced and the potential for it to migrate to ground water or surface water.

(c) The owner or operator must design, construct, operate, and maintain a run-on control system capable of preventing flow onto the active portion of the pile during peak discharge from at least a 25-year storm.

(d) The owner or operator must design, construct, operate, and maintain a run-off management system to collect and control at least the water volume resulting from a 24-hour, 25-year storm.

(e) Collection and holding facilities (e.g., tanks or basins) associated with run-on and run-off control systems must be emptied or otherwise managed expeditiously after storms to maintain design capacity of the system.

(f) If the pile contains any particulate matter which may be subject to wind dispersal, the owner or operator must cover or otherwise manage the pile to control wind dispersal.

(g) The Regional Administrator will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this section are satisfied.

§ 264.252 Double-lined piles: Exemption from Subpart F ground-water protection requirements.

(a) The owner or operator of a double-lined waste pile is not subject to regulation under Subpart F of this part if the following conditions are met:

(1) The pile (including its underlying liners) must be located entirely above the seasonal high water table.

(2) The pile must be underlain by two liners which are designed and constructed in a manner that prevents the migration of liquids into or out of the space between the liners. Both liners must meet all the specifications of § 264.251(a)(1).

(3) A leak detection system must be designed, constructed, maintained, and operated between the liners to detect any migration of liquids into the space between the liners.

(4) The pile must have a leachate collection and removal system above the top liner that is designed, constructed, maintained, and operated in accordance with § 264.251(a)(2).

(b) If liquid leaks into the leak detection system, the owner or operator must:

(1) Notify the Regional Administrator of the leak in writing within seven days after detecting the leak; and

(2) (i) Within a period of time specified in the permit, remove accumulated liquid, repair or replace the liner which is leaking to prevent the migration of liquids through the liner, and obtain a certificaton from a qualified engineer that, to the best of his knowledge and opinion, the leak has been stopped; or

(ii) If a detection monitoring program pursuant to § 264.98 has already been established in the permit (to be complied with only if a leak occurs), begin to comply with that program and any other applicable requirements of Subpart F of this part within a period of time specified in the permit.

(c) The Regional Administrator will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this section are satisfied.

§ 264.253 Inspection of liners: Exemption from Subpart F ground-water protection requirements.

(a) The owner or operator of a pile is not subject to regulation under Subpart F of this part if the following conditions are met:

(1) The pile (including its underlying liner) must be located entirely above the seasonal high water table.

(2) The pile must be underlain by a liner (base) that meets all the specifications of § 264.251(a)(1).

(3) The wastes in the pile must be removed periodically, and the liner must be inspected for deterioration, cracks, or other conditions that may result in leaks. The frequency of inspection will be specified in the inspection plan required in § 264.15 and must be based on the potential for the liner (base) to crack or otherwise deteriorate under the conditions of operation (*e.g.*, waste type, rainfall, loading rates, and subsurface stability).

(4) The liner must be of sufficient strength and thickness to prevent failure due to puncture, cracking, tearing, or other physical damage from equipment used to place waste in or on the pile or to clean and expose the liner surface for inspection.

(5) The pile must have a leachate collection and removal system above the liner that is designed, constructed, maintained, and operated in accordance with § 264.251(a)(2).

(b) If deterioration, a crack, or other condition is identified that is causing or could cause a leak, the owner or operator must:

(1) Notify the Regional Administrator of the condition in writing within seven days after detecting the condition; and

(2)(i) Repair or replace the liner (base) and obtain a certification from a qualified engineer that, to the best of his knowledge and opinion, the liner (base) has been repaired and leakage will not occur; or

(ii) If a detection monitoring program pursuant to § 264.98 has already been established in the permit (to be complied with only if a leak occurs), begin to comply with that program and any other applicable requirements of Subpart F of this part within a period of time specified in the permit.

(c) The Regional Administrator will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this section are satisfied.

§ 264.254 Monitoring and inspection.

(a) During construction or installation, liners (except in the case of existing portions of piles exempt from § 264.251(a)) and cover systems (*e.g.*, membranes, sheets, or coatings) must be inspected for uniformity, damage, and imperfections (*e.g.*, holes, cracks, thin spots, or foreign materials). Immediately after construction or installation:

(1) Synthetic liners and covers must be inspected to ensure tight seams and joints and the absence of tears, punctures, or blisters; and

(2) Soil-based and admixed liners and covers must be inspected for imperfections including lenses, cracks, channels, root holes, or other structural non-uniformities that may cause an increase in the permeability of the liner or cover.

(b) While a waste pile is in operation, it must be inspected weekly and after storms to detect evidence of any of the following:

(1) Deterioration, malfunctions, or improper operation of run-on and run-off control systems;

(2) The presence of liquids in leak detection systems, where installed to comply with § 264.252;

(3) Proper functioning of wind dispersal control systems, where present; and

(4) The presence of leachate in and proper functioning of leachate collection and removal systems, where present.

§ 264.255 [Reserved]

§ 264.256 Special requirements for ignitable or reactive waste.

Ignitable or reactive waste must not be placed in a waste pile unless:

(a) The waste is treated, rendered, or mixed before or immediately after placement in the pile so that:

(1) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under §§ 261.21 or 261.23 of this chapter; and

(2) Section 264.17(b) is complied with; or

(b) The waste is managed in such a way that it is protected from any material or conditions which may cause it to ignite or react.

§ 264.257 Special requirements for incompatible wastes.

(a) Incompatible wastes, or incompatible wastes and materials, (see Appendix V of this part for examples) must not be placed in the same pile, unless § 264.17(b) is complied with.

(b) A pile of hazardous waste that is incompatible with any waste or other material stored nearby in containers, other piles, open tanks, or surface impoundments must be separated from the other materials, or protected from them by means of a dike, berm, wall, or other device.

(c) Hazardous waste must not be piled on the same base where incompatible wastes or materials were previously piled, unless the base has been decontaminated sufficiently to ensure compliance with § 264.17(b).

§ 264.258 Closure and post-closure care.

(a) At closure, the owner or operator must remove or decontaminate all waste residues, contaminated containment system components (liners, etc.), contaminated subsoils, and structures and equipment contaminated with waste and leachate, and manage them as hazardous waste unless § 261.3(d) of this chapter applies.

(b) If, after removing or decontaminating all residues and making all reasonable efforts to effect removal or decontamination of contaminated components, subsoils, structures, and equipment as required in paragraph (a) of this section, the owner or operator finds that not all contaminated subsoils can be practicably removed or decontaminated, he must close the facility and perform post-closure care in accordance with the closure and post-closure care requirements that apply to landfills (§ 264.310).

(c)(1) The owner or operator of a waste pile that does not comply with the liner requirements of § 264.251(a)(1) and is not exempt from them in accordance with §§ 264.250(c) or 264.251(b), must:

(i) Include in the closure plan for the pile under § 264.112 both a plan for complying with paragraph (a) of this section and a contingent plan for complying with paragraph (b) of this section in case not all contaminated subsoils can be practicably removed at closure; and

(ii) Prepare a contingent post-closure plan under § 264.118 for complying with paragraph (b) of this section in case not all contaminated subsoils can be practicably removed at closure.

(2) The cost estimates calculated under §§ 264.142 and 264.144 for closure and post-closure care of a pile subject to this paragraph must include the cost of complying with the contingent closure plan and the contingent post-closure plan, but are not required to include the cost of expected closure under paragraph (a) of this section.

§§ 264.259–264.269 [Reserved]

12. 40 CFR Part 264 is amended by adding Subparts M and N to read as follows:

Subpart M—Land Treatment

§ 264.270 Applicability.

The regulations in this subpart apply to owners and operators of facilities that treat or dispose of hazardous waste in land treatment units, except as § 264.1 provides otherwise.

§ 264.271 Treatment program.

(a) An owner or operator subject to this subpart must establish a land treatment program that is designed to ensure that hazardous constituents placed in or on the treatment zone are degraded, transformed, or immobilized within the treatment zone. The Regional Administrator will specify in the facility permit the elements of the treatment program, including:

(1) The wastes that are capable of being treated at the unit based on a demonstration under § 264.272;

(2) Design measures and operating practices necessary to maximize the success of degradation, transformation, and immobilization processes in the treatment zone in accordance with § 264.273(a); and

(3) Unsaturated zone monitoring provisions meeting the requirements of § 264.278.

(b) The Regional Administrator will specify in the facility permit the hazardous constituents that must be degraded, transformed, or immobilized under this subpart. Hazardous constituents are constituents identified in Appendix VIII of Part 261 of this chapter that are reasonably expected to be in, or derived from, waste placed in or on the treatment zone.

(c) The Regional Administrator will specify the vertical and horizontal dimensions of the treatment zone in the facility permit. The treatment zone is the portion of the unsaturated zone below and including the land surface in which the owner or operator intends to maintain the conditions necessary for effective degradation, transformation, or immobilization of hazardous constituents. The maximum depth of the treatment zone must be:

(1) No more than 1.5 meters (5 feet) from the initial soil surface; and

(2) More than 1 meter (3 feet) above the seasonal high water table.

§ 264.272 Treatment demonstration.

(a) For each waste that will be applied to the treatment zone, the owner or operator must demonstrate, prior to application of the waste, that hazardous constituents in the waste can be completely degraded, transformed, or immobilized in the treatment zone.

(b) In making this demonstration, the owner or operator may use field tests, laboratory analyses, available data, or, in the case of existing units, operating data. If the owner or operator intends to conduct field tests or laboratory analyses in order to make the demonstration required under paragraph (a) of this section, he must obtain a treatment or disposal permit under § 122.27(c). The Regional Administrator will specify in this permit the testing, analytical, design, and operating requirements (including the duration of the tests and analyses, and, in the case of field tests, the horizontal and vertical dimensions of the treatment zone, monitoring procedures, closure and clean-up activities) necessary to meet the requirements in paragraph (c) of this section.

(c) Any field test or laboratory analysis conducted in order to make a demonstration under paragraph (a) of this section must:

(1) Accurately simulate the characteristics and operating conditions for the proposed land treatment unit including:

(i) The characteristics of the waste (including the presence of Appendix VIII of Part 261 of this chapter constituents);

(ii) The climate in the area;

(iii) The topography of the surrounding area;

(iv) The characteristics of the soil in the treatment zone (including depth); and

(v) The operating practices to be used at the unit.

(2) Be likely to show that hazardous constituents in the waste to be tested will be completely degraded,

transformed, or immobilized in the treatment zone of the proposed land treatment unit; and

(3) Be conducted in a manner that protects human health and the environment considering:

(i) The characteristics of the waste to be tested;

(ii) The operating and monitoring measures taken during the course of the test;

(iii) The duration of the test;

(iv) The volume of waste used in the test;

(v) In the case of field tests, the potential for migration of hazardous constituents to ground water or surface water.

§ 264.273 Design and operating requirements.

The Regional Administrator will specify in the facility permit how the owner or operator will design, construct, operate, and maintain the land treatment unit in compliance with this section.

(a) The owner or operator must design, construct, operate, and maintain the unit to maximize the degradation, transformation, and immobilization of hazardous constituents in the treatment zone. The owner or operator must design, construct, operate, and maintain the unit in accord with all design and operating conditions that were used in the treatment demonstration under § 264.272. At a minimum, the Regional Administrator will specify the following in the facility permit:

(1) The rate and method of waste application to the treatment zone;

(2) Measures to control soil pH;

(3) Measures to enhance microbial or chemical reactions (*e.g.*, fertilization, tilling); and

(4) Measures to control the moisture content of the treatment zone.

(b) The owner or operator must design, construct, operate, and maintain the treatment zone to minimize run-off of hazardous constituents during the active life of the land treatment unit.

(c) The owner or operator must design, construct, operate, and maintain a run-on control system capable of preventing flow onto the treatment zone during peak discharge from at least a 25-year storm.

(d) The owner or operator must design, construct, operate, and maintain a run-off management system to collect and control at least the water volume resulting from a 24-hour, 25-year storm.

(e) Collection and holding facilities (*e.g.*, tanks or basins) associated with run-on and run-off control systems must be emptied or otherwise managed expeditiously after storms to maintain the design capacity of the system.

(f) If the treatment zone contains particulate matter which may be subject to wind dispersal, the owner or operator must manage the unit to control wind dispersal.

(g) The owner or operator must inspect the unit weekly and after storms to detect evidence of:

(1) Deterioration, malfunctions, or improper operation of run-on and run-off control systems; and

(2) Improper functioning of wind dispersal control measures.

§§ 264.274–264.275 [Reserved]

§ 264.276 Food-chain crops.

The Regional Administrator may allow the growth of food-chain crops in or on the treatment zone only if the owner or operator satisfies the conditions of this section. The Regional Administrator will specify in the facility permit the specific food-chain crops which may be grown.

(a)(1) The owner or operator must demonstrate that there is no substantial risk to human health caused by the growth of such crops in or on the treatment zone by demonstrating, prior to the planting of such crops, that hazardous constituents other than cadmium:

(i) Will not be transferred to the food or feed portions of the crop by plant uptake or direct contact, and will not otherwise be ingested by food-chain animals (*e.g.*, by grazing); or

(ii) Will not occur in greater concentrations in or on the food or feed portions of crops grown on the treatment zone than in or on identical portions of the same crops grown on untreated soils under similar conditions in the same region.

(2) The owner or operator must make the demonstration required under this paragraph prior to the planting of crops at the facility for all constituents identified in Appendix VIII of Part 261 of this chapter that are reasonably expected to be in, or derived from, waste placed in or on the treatment zone.

(3) In making a demonstration under this paragraph, the owner or operator may use field tests, greenhouse studies, available data, or, in the case of existing units, operating data, and must:

(i) Base the demonstration on conditions similar to those present in the treatment zone, including soil characteristics (*e.g.*, pH, cation exchange capacity), specific wastes, application rates, application methods, and crops to be grown; and

(ii) Describe the procedures used in conducting any tests, including the sample selection criteria, sample size, analytical methods, and statistical procedures.

(4) If the owner or operator intends to conduct field tests or greenhouse studies in order to make the demonstration required under this paragraph, he must obtain a permit for conducting such activities.

(b) The owner or operator must comply with the following conditions if cadmium is contained in wastes applied to the treatment zone:

(1)(i) The pH of the waste and soil mixture must be 6.5 or greater at the time of each waste application, except for waste containing cadmium at concentrations of 2 mg/kg (dry weight) or less;

(ii) The annual application of cadmium from waste must not exceed 0.5 kilograms per hectare (kg/ha) on land used for production of tobacco, leafy vegetables, or root crops grown for human consumption. For other food-chain crops, the annual cadmium application rate must not exceed:

Time period	Annual Cd application rate (kilograms per hectare)
Present to June 30, 1984	2.5
July 1, 1984 to Dec. 31, 1986	1.25
Beginning Jan. 1, 1987	0.5

(iii) The cumulative application of cadmium from waste must not exceed 5 kg/ha if the waste and soil mixture has a pH of less than 6.5; and

(iv) If the waste and soil mixture has a pH of 6.5 or greater or is maintained at a pH of 6.5 or greater during crop growth, the cumulative application of cadmium from waste must not exceed: 5 kg/ha if soil cation exchange capacity (CEC) is less than 5 meq/100g; 10 kg/ha if soil CEC is 5–15 meq/100g; and 20 kg/ha if soil CEC is greater than 15 meq/100g; or

(2)(i) Animal feed must be the only food-chain crop produced;

(ii) The pH of the waste and soil mixture must be 6.5 or greater at the time of waste application or at the time the crop is planted, whichever occurs later, and this pH level must be maintained whenever food-chain crops are grown;

(iii) There must be an operating plan which demonstrates how the animal feed will be distributed to preclude ingestion by humans. The operating plan

must describe the measures to be taken to safeguard against possible health hazards from cadmium entering the food chain, which may result from alternative land uses; and

(iv) Future property owners must be notified by a stipulation in the land record or property deed which states that the property has received waste at high cadmium application rates and that food-chain crops must not be grown except in compliance with paragraph (b)(2) of this section.

§ 264.277 [Reserved]

§ 264.278 Unsaturated zone monitoring.

An owner or operator subject to this subpart must establish an unsaturated zone monitoring program to discharge the following responsibilities:

(a) The owner or operator must monitor the soil and soil-pore liquid to determine whether hazardous constituents migrate out of the treatment zone.

(1) The Regional Administrator will specify the hazardous constituents to be monitored in the facility permit. The hazardous constituents to be monitored are those specified under § 264.271(b).

(2) The Regional Administrator may require monitoring for principal hazardous constituents (PHCs) in lieu of the constituents specified under § 264.271(b). PHCs are hazardous constituents contained in the wastes to be applied at the unit that are the most difficult to treat, considering the combined effects of degradation, transformation, and immobilization. The Regional Administrator will establish PHCs if he finds, based on waste analyses, treatment demonstrations, or other data, that effective degradation, transformation, or immobilization of the PHCs will assure treatment at at least equivalent levels for the other hazardous constituents in the wastes.

(b) The owner or operator must install an unsaturated zone monitoring system that includes soil monitoring using soil cores and soil-pore liquid monitoring using devices such as lysimeters. The unsaturated zone monitoring system must consist of a sufficient number of sampling points at appropriate locations and depths to yield samples that:

(1) Represent the quality of background soil-pore liquid quality and the chemical make-up of soil that has not been affected by leakage from the treatment zone; and

(2) Indicate the quality of soil-pore liquid and the chemical make-up of the soil below the treatment zone.

(c) The owner or operator must establish a background value for each hazardous constituent to be monitored under paragraph (a) of this section. The permit will specify the background values for each constituent or specify the procedures to be used to calculate the background values.

(1) Background soil values may be based on a one-time sampling at a background plot having characteristics similar to those of the treatment zone.

(2) Background soil-pore liquid values must be based on at least quarterly sampling for one year at a background plot having characteristics similar to those of the treatment zone.

(3) The owner or operator must express all background values in a form necessary for the determination of statistically significant increases under paragraph (f) of this section.

(4) In taking samples used in the determination of all background values, the owner or operator must use an unsaturated zone monitoring system that complies with paragraph (b)(1) of this section.

(d) The owner or operator must conduct soil monitoring and soil-pore liquid monitoring immediately below the treatment zone. The Regional Administrator will specify the frequency and timing of soil and soil-pore liquid monitoring in the facility permit after considering the frequency, timing, and rate of waste application, and the soil permeability. The owner or operator must express the results of soil and soil-pore liquid monitoring in a form necessary for the determination of statistically significant increases under paragraph (f) of this section.

(e) The owner or operator must use consistent sampling and analysis procedures that are designed to ensure sampling results that provide a reliable indication of soil-pore liquid quality and the chemical make-up of the soil below the treatment zone. At a minimum, the owner or operator must implement procedures and techniques for:

(1) Sample collection;

(2) Sample preservation and shipment;

(3) Analytical procedures; and

(4) Chain of custody control.

(f) The owner or operator must determine whether there is a statistically significant change over background values for any hazardous constituent to be monitored under paragraph (a) of this section below the treatment zone each time he conducts soil monitoring and soil-pore liquid monitoring under paragraph (d) of this section.

(1) In determining whether a statistically significant increase has occurred, the owner or operator must compare the value of each constituent, as determined under paragraph (d) of this section, to the background value for that constituent according to the statistical procedure specified in the facility permit under this paragraph.

(2) The owner or operator must determine whether there has been a statistically significant increase below the treatment zone within a reasonable time period after completion of sampling. The Regional Administrator will specify that time period in the facility permit after considering the complexity of the statistical test and the availability of laboratory facilities to perform the analysis of soil and soil-pore liquid samples.

(3) The owner or operator must determine whether there is a statistically significant increase below the treatment zone using a statistical procedure that provides reasonable confidence that migration from the treatment zone will be identified. The Regional Administrator will specify a statistical procedure in the facility permit that he finds:

(i) Is appropriate for the distribution of the data used to establish background values; and

(ii) Provides a reasonable balance between the probability of falsely identifying migration from the treatment zone and the probability of failing to identify real migration from the treatment zone.

(g) If the owner or operator determines, pursuant to paragraph (f) of this section, that there is a statistically significant increase of hazardous constituents below the treatment zone, he must:

(1) Notify the Regional Administrator of this finding in writing within seven days. The notification must indicate what constituents have shown statistically significant increases.

(2) Within 90 days, submit to the Regional Administrator an application for a permit modification to modify the operating practices at the facility in order to maximize the success of degradation, transformation, or immobilization processes in the treatment zone.

(h) If the owner or operator determines, pursuant to paragraph (f) of this section, that there is a statistically significant increase of hazardous constituents below the treatment zone, he may demonstrate that a source other than regulated units caused the increase or that the increase resulted from an error in sampling, analysis, or evaluation. While the owner or operator may make a demonstration under this paragraph in addition to, or in lieu of, submitting a permit modification application under paragraph (g)(2) of this section, he is not relieved of the

requirement to submit a permit modification application within the time specified in paragraph (g)(2) of this section unless the demonstration made under this paragraph successfully shows that a source other than regulated units caused the increase or that the increase resulted from an error in sampling, analysis, or evaluation. In making a demonstration under this paragraph, the owner or operator must:

(1) Notify the Regional Administrator in writing within seven days of determining a statistically significant increase below the treatment zone that he intends to make a determination under this paragraph;

(2) Within 90 days, submit a report to the Regional Administrator demonstrating that a source other than the regulated units caused the increase or that the increase resulted from error in sampling, analysis, or evaluation;

(3) Within 90 days, submit to the Regional Administrator an application for a permit modification to make any appropriate changes to the unsaturated zone monitoring program at the facility; and

(4) Continue to monitor in accordance with the unsaturated zone monitoring program established under this section.

§ 264.279 Recordkeeping.

The owner or operator must include hazardous waste application dates and rates in the operating record required under § 264.73.

§ 264.280 Closure and post-closure care.

(a) During the closure period the owner or operator must:

(1) Continue all operations (including pH control) necessary to maximize degradation, transformation, or immobilization of hazardous constituents within the treatment zone as required under § 264.273(a), except to the extent such measures are inconsistent with paragraph (a)(8) of this section.

(2) Continue all operations in the treatment zone to minimize run-off of hazardous constituents as required under § 264.273(b);

(3) Maintain the run-on control system required under § 264.273(c);

(4) Maintain the run-off management system required under § 264.273(d);

(5) Control wind dispersal of hazardous waste if required under § 264.273(f);

(6) Continue to comply with any prohibitions or conditions concerning growth of food-chain crops under § 264.276;

(7) Continue unsaturated zone monitoring in compliance with § 264.278, except that soil-pore liquid monitoring may be terminated 90 days after the last application of waste to the treatment zone; and

(8) Establish a vegetative cover on the portion of the facility being closed at such time that the cover will not substantially impede degradation, transformation, or immobilization of hazardous constituents in the treatment zone. The vegetative cover must be capable of maintaining growth without extensive maintenance.

(b) For the purpose of complying with § 264.115, when closure is completed the owner or operator may submit to the Regional Administrator certification by an independent qualified soil scientist, in lieu of an independent registered professional engineer, that the facility has been closed in accordance with the specifications in the approved closure plan.

(c) During the post-closure care period the owner or operator must:

(1) Continue all operations (including pH control) necessary to enhance degradation and transformation and sustain immobilization of hazardous constituents in the treatment zone to the extent that such measures are consistent with other post-closure care activities;

(2) Maintain a vegetative cover over closed portions of the facility;

(3) Maintain the run-on control system required under § 264.273(c);

(4) Maintain the run-off management system required under § 264.273(d);

(5) Control wind dispersal of hazardous waste if required under § 264.273(f);

(6) Continue to comply with any prohibitions or conditions concerning growth of food-chain crops under § 264.276; and

(7) Continue unsaturated zone monitoring in compliance with § 264.278, expect that soil-pore liquid monitoring may be terminated 90 days after the last application of waste to the treatment zone.

(d) The owner or operator is not subject to regulation under paragraphs (a)(8) and (c) of this section if the Regional Administrator finds that the level of hazardous constituents in the treatment zone soil does not exceed the background value of those constituents by an amount that is statistically significant when using the test specified in paragraph (d)(3) of this section. The owner or operator may submit such a demonstration to the Regional Administrator at any time during the closure of post-closure care periods. For the purposes of this paragraph:

(1) The owner or operator must establish background soil values and determine whether there is a statistically significant increase over those values for all hazardous constituents specified in the facility permit under § 264.271 (b).

(i) Background soil values may be based on a one-time sampling of a background plot having characteristics similar to those of the treatment zone.

(ii) The owner or operator must express background values and values for hazardous constituents in the treatment zone in a form necessary for the determination of statistically significant increases under paragraph (d)(3) of this section.

(2) In taking samples used in the determination of background and treatment zone values, the owner or operator must take samples at a sufficient number of sampling points and at appropriate locations and depths to yield samples that represent the chemical make-up of soil that has not been affected by leakage from the treatment zone and the soil within the treatment zone, respectively.

(3) In determining whether a statistically significant increase has occurred, the owner or operator must compare the value of each constituent in the treatment zone to the background value for that constituent using a statistical procedure that provides reasonable confidence that constituent presence in the treatment zone will be identified. The owner or operator must use a statistical procedure that:

(i) Is appropriate for the distribution of the data used to establish background values; and

(ii) Provides a reasonable balance between the probability of falsely identifying hazardous constituent presence in the treatment zone and the probability of failing to identify real presence in the treatment zone.

(e) The owner or operator is not subject to regulation under Subpart F of this chapter if the Regional Administrator finds that the owner or operator satisfies paragraph (d) of this section and if unsaturated zone monitoring under § 264.278 indicates that hazardous constituents have not migrated beyond the treatment zone during the active life of the land treatment unit.

§ 264.281 Special requirements for ignitable or reactive waste.

The owner or operator must not apply ignitable or reactive waste to the treatment zone unless:

(a) The waste is immediately incorporated into the soil so that:

(1) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive

waste under §§ 261.21 or 261.23 of this chapter; and

(2) Section 264.17(b) is complied with; or

(b) The waste is managed in such a way that it is protected from any material or conditions which may cause it to ignite or react.

§ 264.282 Special requirements for incompatible wastes.

The owner or operator must not place incompatible wastes, or incompatible wastes and materials (see Appendix V of this part for examples), in or on the same treatment zone, unless § 264.17(b) is complied with.

§§ 264.283–264.299 [Reserved]

Subpart N—Landfills

§ 264.300 Applicability.

The regulations in this subpart apply to owners and operators of facilities that dispose of hazardous waste in landfills, except as § 264.1 provides otherwise.

§ 264.301 Design and operating requirements.

(a) A landfill (except for an existing portion of a landfill) must have:

(1) A liner that is designed, constructed, and installed to prevent any migration of wastes out of the landfill to the adjacent subsurface soil or ground water or surface water at anytime during the active life (including the closure period) of the landfill. The liner must be constructed of materials that prevent wastes from passing into the liner during the active life of the facility. The liner must be:

(i) Constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or leachate to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation;

(ii) Placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression, or uplift; and

(iii) Installed to cover all surrounding earth likely to be in contact with the waste or leachate; and

(2) A leachate collection and removal system immediately above the liner that is designed, constructed, maintained, and operated to collect and remove leachate from the landfill. The Regional Administrator will specify design and operating conditions in the permit to ensure that the leachate depth over the liner does not exceed 30 cm (one foot). The leachate collection and removal system must be:

(i) Constructed of materials that are:

(A) Chemically resistant to the waste managed in the landfill and the leachate expected to be generated; and

(B) Of sufficient strength and thickness to prevent collapse under the pressures exerted by overlying wastes, waste cover materials, and by any equipment used at the landfill; and

(ii) Designed and operated to function without clogging through the scheduled closure of the landfill.

(b) The owner or operator will be exempted from the requirements of paragraph (a) of this section if the Regional Administrator finds, based on a demonstration by the owner or operator, that alternative design and operating practices, together with location characteristics, will prevent the migration of any hazardous constituents (see § 264.93) into the ground water or surface water at any future time. In deciding whether to grant an exemption, the Regional Administrator will consider:

(1) The nature and quantity of the wastes;

(2) The proposed alternate design and operation;

(3) The hydrogeologic setting of the facility, including the attenuative capacity and thickness of the liners and soils present between the landfill and ground water or surface water; and

(4) All other factors which would influence the quality and mobility of the leachate produced and the potential for it to migrate to ground water or surface water.

(c) The owner or operator must design, construct, operate, and maintain a run-on control system capable of preventing flow onto the active portion of the landfill during peak discharge from at least a 25-year storm.

(d) The owner or operator must design, construct, operate, and maintain a run-off management system to collect and control at least the water volume resulting from a 24-hour, 25-year storm.

(e) Collection and holding facilities (e.g., tanks or basins) associated with run-on and run-off control systems must be emptied or otherwise managed expeditiously after storms to maintain design capacity of the system.

(f) If the landfill contains any particulate matter which may be subject to wind dispersal, the owner or operator must cover or otherwise manage the landfill to control wind dispersal.

(g) The Regional Administrator will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this section are satisfied.

§ 264.302 Double-lined landfills: Exemption from Subpart F ground-water protection requirements.

(a) The owner or operator of a double-lined landfill is not subject to regulation under Subpart F of this part if the following conditions are met:

(1) The landfill (including its underlying liners) must be located entirely above the seasonal high water table.

(2) The landfill must be underlain by two liners which are designed and constructed in a manner to prevent the migration of liquids into or out of the space between the liners. Both liners must meet all the specifications of § 264.301(a)(1).

(3) A leak detection system must be designed, constructed, maintained, and operated between the liners to detect any migration of liquid into the space between the liners.

(4) The landfill must have a leachate collection and removal system above the top liner that is designed, constructed, maintained, and operated in accordance with § 264.301(a)(2).

(b) If liquid leaks into the leak detection system, the owner or operator must:

(1) Notify the Regional Administrator of the leak in writing within seven days after detecting the leak; and

(2)(i) Within a period of time specified in the permit, remove accumulated liquid, repair or replace the liner which is leaking to prevent the migration of liquids through the liner, and obtain a certification from a qualified engineer that, to the best of his knowledge and opinion, the leak has been stopped; or

(ii) If a detection monitoring program pursuant to § 264.98 has already been established in the permit (to be complied with only if a leak occurs), begin to comply with that program and any other applicable requirements of Subpart F of this part within a period of time specified in the permit.

(c) The Regional Administrator will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this section are satisfied.

§ 264.303 Monitoring and inspection.

(a) During construction or installation, liners (except in the case of existing portions of landfills exempt from § 264.301(a)) and cover systems (e.g., membranes, sheets, or coatings) must be inspected for uniformity, damage, and imperfections (*e.g.*, holes, cracks, thin

spots, or foreign materials). Immediately after construction or installation:

(1) Synthetic liners and covers must be inspected to ensure tight seams and joints and the absence of tears, punctures, or blisters; and

(2) Soil-based and admixed liners and covers must be inspected for imperfections including lenses, cracks, channels, root holes, or other structural non-uniformities that may cause an increase in the permeability of the liner or cover.

(b) While a landfill is in operation, it must be inspected weekly and after storms to detect evidence of any of the following:

(1) Deterioration, malfunctions, or improper operation of run-on and run-off control systems;

(2) The presence of liquids in leak detection systems, where installed to comply with § 264.302;

(3) Proper functioning of wind dispersal control systems, where present; and

(4) The presence of leachate in and proper functioning of leachate collection and removal systems, where present.

§§ 264.304–264.308 [Reserved]

§ 264.309 Surveying and recordkeeping.

The owner or operator of a landfill must maintain the following items in the operating record required under § 264.73:

(a) On a map, the exact location and dimensions, including depth, of each cell with respect to permanently surveyed benchmarks; and

(b) The contents of each cell and the approximate location of each hazardous waste type within each cell.

§ 264.310 Closure and post-closure care.

(a) At final closure of the landfill or upon closure of any cell, the owner or operator must cover the landfill or cell with a final cover designed and constructed to:

(1) Provide long-term minimization of migration of liquids through the closed landfill;

(2) Function with minimum maintenance;

(3) Promote drainage and minimize erosion or abrasion of the cover;

(4) Accommodate settling and subsidence so that the cover's integrity is maintained; and

(5) Have a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present.

(b) After final closure, the owner or operator must comply with all post-closure requirements contained in §§ 264.117–264.120, including maintenance and monitoring throughout the post-closure care period (specified in the permit under § 264.117). The owner or operator must:

(1) Maintain the integrity and effectiveness of the final cover, including making repairs to the cap as necessary to correct the effects of settling, subsidence, erosion, or other events;

(2) Maintain and monitor the leak detection system in accordance with § 264.302, where such a system is present between double liner systems;

(3) Continue to operate the leachate collection and removal system until leachate is no longer detected;

(4) Maintain and monitor the ground-water monitoring system and comply with all other applicable requirements of Subpart F of this Part;

(5) Prevent run-on and run-off from eroding or otherwise damaging the final cover; and

(6) Protect and maintain surveyed benchmarks used in complying with § 264.309.

(c) During the post-closure care period, if liquid leaks into a leak detection system installed under § 264.302, the owner or operator must notify the Regional Administrator of the leak in writing within seven days after detecting the leak. The Regional Administrator will modify the permit to require compliance with the requirements of Subpart F of this Part.

§ 264.311 [Reserved]

§ 264.312 Special requirements for ignitable or reactive waste.

(a) Except as provided in paragraph (b) of this section, and in § 264.316, ignitable or reactive waste must not be placed in a landfill, unless the waste is treated, rendered, or mixed before or immediately after placement in a landfill so that:

(1) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under §§ 261.21 or 261.23 of this Chapter; and

(2) Section 264.17(b) is complied with.

(b) Ignitable wastes in containers may be landfilled without meeting the requirements of paragraph (a) of this section, provided that the wastes are disposed of in such a way that they are protected from any material or conditions which may cause them to ignite. At a minimum, ignitable wastes must be disposed of in non-leaking containers which are carefully handled and placed so as to avoid heat, sparks, rupture, or any other condition that might cause ignition of the wastes; must be covered daily with soil or other non-combustible material to minimize the potential for ignition of the wastes; and must not be disposed of in cells that contain or will contain other wastes which may generate heat sufficient to cause ignition of the waste.

§ 264.313 Special requirements for incompatible wastes.

Incompatible wastes, or incompatible wastes and materials, (see Appendix V of this part for examples) must not be placed in the same landfill cell, unless § 264.17(b) is complied with.

§ 264.314 Special requirements for liquid waste.

(a) Bulk or non-containerized liquid waste or waste containing free liquids must not be placed in a landfill unless:

(1) The landfill has a liner and leachate collection and removal system that meet the requirements of § 264.301(a); or

(2) Before disposal, the liquid waste or waste containing free liquids is treated or stabilized, chemically or physically (e.g., by mixing with an absorbent solid), so that free liquids are no longer present.

(b) Containers holding free liquids must not be placed in a landfill unless:

(1) All free-standing liquid: (i) has been removed by decanting, or other methods; (ii) has been mixed with absorbent or solidified so that free-standing liquid is no longer observed; or (iii) has been otherwise eliminated; or

(2) The container is very small, such as an ampule; or

(3) The container is designed to hold free liquids for use other than storage, such as a battery or capacitor; or

(4) The container is a lab pack as defined in § 264.316 and is disposed of in accordance with § 264.316.

§ 264.315 Special requirements for containers.

Unless they are very small, such as an ampule, containers must be either:

(a) At least 90 percent full when placed in the landfill; or

(b) Crushed, shredded, or similarly reduced in volume to the maximum practical extent before burial in the landfill.

§ 264.316 Disposal of small containers of hazardous waste in overpacked drums (lab packs).

Small containers of hazardous waste in overpacked drums (lab packs) may be placed in a landfill if the following requirements are met:

(a) Hazardous waste must be packaged in non-leaking inside containers. The inside containers must be of a design and constructed of a material that will not react dangerously

with, be decomposed by, or be ignited by the contained waste. Inside containers must be tightly and securely sealed. The inside containers must be of the size and type specified in the Department of Transportation (DOT) hazardous materials regulations (49 CFR Parts 173, 178, and 179), if those regulations specify a particular inside container for the waste.

(b) The inside containers must be overpacked in an open head DOT-specification metal shipping container (49 CFR Parts 178 and 179) of no more than 416-liter (110 gallon) capacity and surrounded by, at a minimum, a sufficient quantity of absorbent material to completely absorb all of the liquid contents of the inside containers. The metal outer container must be full after packing with inside containers and absorbent material.

(c) The absorbent material used must not be capable of reacting dangerously with, being decomposed by, or being ignited by the contents of the inside containers in accordance with § 264.17(b).

(d) Incompatible wastes, as defined in § 260.10 of this chapter, must not be placed in the same outside container.

(e) Reactive wastes, other than cyanide- or sulfide-bearing waste as defined in § 261.23(a)(5) of this chapter, must be treated or rendered non-reactive prior to packaging in accordance with paragraphs (a) through (d) of this section. Cyanide- and sulfide-bearing reactive waste may be packed in accordance with paragraphs (a) through (d) of this section without first being treated or rendered non-reactive.

§§ 264.317-264.339 [Reserved]

13. 40 CFR Part 264 is amended by adding Appendix IV to read as follows:

Appendix IV

Cochran's Approximation to the Behrens-Fisher Students' t-test

Using all the available background data (n_b readings), calculate the background mean ($\bar{X}_b$) and background variance (s_b^2). For the single monitoring well under investigation (n_m reading), calculate the monitoring mean ($\bar{X}_m$) and monitoring variance (s_m^2).

For any set of data ($X_1, X_2 \ldots X_n$) the mean is calculated by:

$$\bar{X} = \frac{X_1 + X_2 \ldots + X_n}{n}$$

and the variance is calculated by:

$$s^2 = \frac{(X_1 - \bar{X})^2 + (X_2 - \bar{X})^2 \ldots + (X_n - \bar{X})^2}{n-1}$$

where "n" denotes the number of observations in the set of data.

The t-test uses these data summary measures to calculate a t-statistic (t^*) and a comparison t-statistic (t_c). The t^* value is compared to the t_c value and a conclusion reached as to whether there has been a statistically significant change in any indicator parameter.

The t-statistic for all parameters except pH and similar monitoring parameters is:

$$t^* = \frac{\bar{X}_m - \bar{X}_b}{\sqrt{\frac{s_m^2}{n_m} + \frac{s_b^2}{n_b}}}$$

If the value of this t-statistic is negative then there is no significant difference between the monitoring data and background data. It should be noted that significantly small negative values may be indicative of a failure of the assumption made for test validity or errors have been made in collecting the background data.

The t-statistic (t_c), against which t^* will be compared, necessitates finding t_b and t_m from standard (one-tailed) tables where,

t_b = t-tables with ($n_b - 1$) degrees of freedom, at the 0.05 level of significance.

t_m = t-tables with ($n_m - 1$) degrees of freedom, at the 0.05 level of significance.

Finally, the special weightings W_b and W_m are defined as:

$$W_b = \frac{s_b^2}{n_b} \quad \text{and} \quad W_m = \frac{s_m^2}{n_m}$$

and so the comparison t-statistic is:

$$t_c = \frac{W_b t_b + W_m t_m}{W_b + W_m}$$

The t-statistic (t^*) is now compared with the comparison t-statistic (t_c) using the following decision-rule:

If t^* *is equal to or larger than* t_c, then conclude that there most likely *has been a significant increase* in this specific parameter.

If t^* *is less than* t_c, then conclude that most likely *there has not been a change* in this specific parameter.

The t-statistic for testing pH and similar monitoring parameters is constructed in the same manner as previously described except the negative sign (if any) is discarded and the caveat concerning the negative value is ignored. The standard (two-tailed) tables are used in the construction t_c for pH and similar monitoring parameters.

If t^* is equal to or larger than t_c, then conclude that there most likely *has been a significant increase* (if the initial t^* had been negative, this would imply a significant decrease). If t^* is less than t_c, then conclude that there most likely has been no change.

A further discussion of the test may be found in *Statistical Methods* (6th Edition, Section 4.14) by G. W. Snedecor and W. G. Cochran, or *Principles and Procedures of Statistics* (1st Edition, Section 5.8) by R. G. D. Steel and J. H. Torrie.

STANDARD T-TABLES 0.05 LEVEL OF SIGNIFICANCE

Degrees of freedom	t-values (one-tail)	t-values (two-tail)
1	6.314	12.706
2	2.920	4.303
3	2.353	3.182
4	2.132	2.776
5	2.015	2.571
6	1.943	2.447
7	1.895	2.365
8	1.860	2.306
9	1.833	2.262
10	1.812	2.228
11	1.796	2.201
12	1.782	2.179
13	1.771	2.160
14	1.761	2.145
15	1.753	2.131
16	1.746	2.120
17	1.740	2.110
18	1.734	2.101
19	1.729	2.093
20	1.725	2.086
21	1.721	2.080
22	1.717	2.074
23	1.714	2.069
24	1.711	2.064
25	1.708	2.060
30	1.697	2.042
40	1.684	2.021

Adopted from Table III of "*Statistical Tables for Biological, Agricultural, and Medical Research*" (1947, R. A. Fisher and F. Yates).

PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

14. The authority citation for Part 265 reads as follows:

Authority: Sections 1006, 2002(a), and 3004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), and 6924).

15. In 40 CFR 265, Subpart L, § 265.253 is amended by revising paragraph (a) and removing paragraph (c), and § 265.258 is added to read as follows:

§ 265.253 Containment.

If leachate or run-off from a pile is a hazardous waste, then either:

(a)(1) The pile must be placed on an impermeable base that is compatible with the waste under the conditions of treatment or storage;

(2) The owner or operator must design, construct, operate, and maintain a run-on control system capable of preventing flow onto the active portion of the pile during peak discharge from at least a 25-year storm;

(3) The owner or operator must design, construct, operate, and maintain a run-off management system to collect and control at least the water volume resulting from a 24-hour, 25-year storm; and

(4) Collection and holding facilities (e.g., tanks or basins) associated with run-on and run-off control systems must be emptied or otherwise managed expeditiously to maintain design capacity of the system; or

* * * * *

§ 265.258 Closure and post-closure care.

(a) At closure, the owner or operator must remove or decontaminate all waste residues, contaminated containment system components (liners, etc.), contaminated subsoils, and structures and equipment contaminated with waste and leachate, and manage them as hazardous waste unless § 261.3(d) of this chapter applies; or

(b) If, after removing or decontaminating all residues and making all reasonable efforts to effect removal or decontamination of contaminated components, subsoils, structures, and equipment as required in paragraph (a) of this section, the owner or operator finds that not all contaminated subsoils can be practicably removed or decontaminated, he must close the facility and perform post-closure care in accordance with the closure and post-closure requirements that apply to landfills (§ 265.310).

16. In 40 CFR Part 265, Subpart M is amended by revising § 265.272 (b), (c), and (d), and adding paragraph (e), and by revising §§ 265.276(c)(2)(iv), 265.279, and 265.281 and in § 265.280 by revising paragraphs (c) and (d) and adding new paragraphs (e) and (f) to read as follows:

§ 265.272 General operating requirements.

* * * * *

(b) The owner or operator must design, construct, operate, and maintain a run-on control system capable of preventing flow onto the active portions of the facility during peak discharge from at least a 25-year storm.

(c) The owner or operator must design, construct, operate, and maintain a run-off management system capable of collecting and controlling a water volume at least equivalent to a 24-hour, 25-year storm.

(d) Collection and holding facilities (e.g., tanks or basins) associated with run-on and run-off control systems must be emptied or otherwise managed expeditiously after storms to maintain design capacity of the system.

(e) If the treatment zone contains particulate matter which may be subject to wind dispersal, the owner or operator must manage the unit to control wind dispersal.

§ 265.276 Food chain crops.

* * * * *

(c) * * *

(2) * * *

(iv) Future property owners are notified by a stipulation in the land record or property deed which states that the property has received waste at high cadmium application rates and that food chain crops must not be grown except in compliance with paragraph (c)(2) of this section.

§ 265.279 Recordkeeping.

The owner or operator must include hazardous waste application dates and rates in the operating record required under § 265.73.

§ 265.280 Closure and post-closure care.

* * * * *

(c) The owner or operator must consider at least the following methods in addressing the closure and post-closure care objectives of paragraph (a) of this section:

(1) Removal of contaminated soils;

(2) Placement of a final cover, considering:

(i) Functions of the cover (e.g., infiltration control, erosion and run-off control, and wind erosion control); and

(ii) Characteristics of the cover, including material, final surface contours, thickness, porosity and permeability, slope, length of run of slope, and type of vegetation on the cover; and

(3) Monitoring of ground water.

(d) In addition to the requirements of Subpart G of this part, during the closure period the owner or operator of a land treatment facility must:

(1) Continue unsaturated zone monitoring in a manner and frequency specified in the closure plan, except that soil pore liquid monitoring may be terminated 90 days after the last application of waste to the treatment zone;

(2) Maintain the run-on control system required under § 265.272(b);

(3) Maintain the run-off management system required under § 265.272(c); and

(4) Control wind dispersal of particulate matter which may be subject to wind dispersal.

(e) For the purpose of complying with § 265.115, when closure is completed the owner or operator may submit to the Regional Administrator certification both by the owner or operator and by an independent qualified soil scientist, in lieu of an independent registered professional engineer, that the facility has been closed in accordance with the specifications in the approved closure plan.

(f) In addition to the requirements of § 265.117, during the post-closure care period the owner or operator of a land treatment unit must:

(1) Continue soil-core monitoring by collecting and analyzing samples in a manner and frequency specified in the post-closure plan;

(2) Restrict access to the unit as appropriate for its post-closure use;

(3) Assure that growth of food chain crops complies with § 265.276; and

(4) Control wind dispersal of hazardous waste.

§ 265.281 Special requirements for ignitable or reactive waste.

Ignitable or reactive waste must not be land treated unless:

(a) The waste is immediately incorporated into the soil so that:

(1) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under §§ 265.21 or 261.23 of this chapter; and

(2) Section 264.17(b) is complied with; or

(b) The waste is managed in such a way that it is protected from any material or conditions which may cause it to ignite or react.

17. In 40 CFR 265, Subpart N is amended by revising §§ 265.302 (a), (b) and (c), 265.312, and 265.314(a)(1), to read as follows:

§ 265.302 General operating requirements.

(a) The owner or operator must design, construct, operate, and maintain a run-on control system capable of preventing flow onto the active portion of the landfill during peak discharge from at least a 25-year storm.

(b) The owner or operator must design, construct, operate and maintain a run-off management system to collect and control at least the water volume resulting from a 24-hour, 25-year storm.

(c) Collection and holding facilities (e.g., tanks or basins) associated with run-on and run-off control systems must be emptied or otherwise managed expeditiously after storms to maintain design capacity of the system.

* * * * *

§ 265.312 Special requirements for ignitable or reactive waste.

(a) Except as provided in paragraph (b) of this section, and in § 265.316, ignitable or reactive waste must not be placed in a landfill, unless the waste is treated, rendered, or mixed before or immediately after placement in a landfill so that:

(1) The resulting waste, mixture, or dissolution or material no longer meets the definition of ignitable or reactive waste under §§ 261.21 or 261.23 of this chapter; and

(2) Section 265.17(b) is complied with.

(b) Ignitable wastes in containers may be landfilled without meeting the requirements of paragraph (a) of this section provided that the wastes are disposed in such a way that they are protected from any material or conditions which may cause them to ignite. At a minimum, ignitable wastes must be disposed in non-leaking containers which are carefully handled and placed so as to avoid heat, sparks, rupture, or any other condition that might cause ignition of the wastes; must be covered daily with soil or other non-combustible material to minimize the potential for ignition of the wastes; and must not be disposed in cells that contain or will contain other wastes which may generate heat sufficient to cause ignition of the waste.

§ 265.314 Special requirements for liquid waste.

(a) Bulk or non-containerized liquid waste or waste containing free liquids must not be placed in a landfill unless:

(1) The landfill has a liner and leachate collection and removal system that meets the requirements of § 264.301(a) of this chapter; or

* * * * *

PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM

18. The authority citation for 40 CFR Part 122 is revised to read as follows:

Authority: Resource Conservation and Recovery Act, as amended, (RCRA), 42 U.S.C. § 6901 *et seq.;* the Safe Drinking Water Act, 42 U.S.C. § 300f *et seq.*, the Clean Water Act, 33 U.S.C. § 1251 *et seq.*, and the Clean Air Act, 42 U.S.C. § 1857 *et seq.*

19. In 40 CFR Part 122, § 122.10(b) is amended to read as follows:

§ 122.10 Schedules of compliance

* * * * *

(b) *Alternate schedules of compliance.* A RCRA, UIC, or NPDES permit applicant or permittee may cease conducting regulated activities (by receiving a terminal volume of hazardous waste and (1) for treatment and storage HWM facilities, closing pursuant to applicable requirements, and (2) for disposal HWM facilities, closing and conducting post-closure care pursuant to applicable requirements; by plugging and abandonment for UIC wells; or by termination of direct discharge for NPDES sources) rather than continue to operate and meet permit requirements as follows:

* * * * *

20. In 40 CFR Part 122, § 122.15(a)(7) is amended by adding new paragraphs (iv), (v), (vi), (vii), and (viii) to read as follows:

§ 122.15 Modification or revocation and reissuance of permits.

(a) * * *

(7) *For RCRA only,* the Director may modify a permit:

* * * * *

(iv) When the corrective action program specified in the permit under § 264.100 has not brought the regulated unit into compliance with the ground-water protection standard within a reasonable period of time.

(v) To include a detection monitoring program meeting the requirements of § 264.98, when the owner or operator has been conducting a compliance monitoring program under § 264.99 or a corrective action program under § 264.100 and the compliance period ends before the end of the post-closure care period for the unit.

(vi) When a permit requires a compliance monitoring program under § 264.99, but monitoring data collected prior to permit issuance indicate that the facility is exceeding the ground-water protection standard.

(vii) To include conditions applicable to units at a facility that were not previously included in the facility's permit.

(viii) When a land treatment unit is not achieving complete treatment of hazardous constituents under its current permit conditions.

* * * * *

21. In 40 CFR Part 122, § 122.17 is amended by adding new paragraphs (e) (6), (7) and (8) to read as follows:

§ 122.17 Minor modifications of permits.

* * * * * *

(e) * * *

(6) Change the treatment program requirements for land treatment units under § 264.271 to improve treatment of hazardous constituents, provided that the change is minor.

(7) Change any conditions specified in the permit for land treatment units to reflect the results of field tests or laboratory analyses used in making a treatment demonstration in accordance with § 122.27(c), provided that the change is minor.

(8) Allow a second treatment demonstration for land treatment to be conducted when the results of the first demonstration have not shown the conditions under which the waste or wastes can be treated completely as required by § 264.272(a), provided the conditions for the second demonstration are substantially the same as the conditions for the first demonstration.

* * * * *

22. In 40 CFR Part 122, § 122.21(d) is amended by adding a third sentence to the introductory text preceding paragraph (1), and adding a new paragraph (4) to read as follows:

§ 122.21 Purpose and scope of Subpart B.

* * * * *

(d) * * *

Owners and operators of hazardous waste management units must have permits during the active life (including the closure period) of the unit, and, for any unit which closes after [insert date 6 months after date of promulgation], during any post-closure care period required under § 264.117 and during any compliance period specified under § 264.96, including any extension of that compliance period under § 264.96(c).

* * * * *

(4) *Permits for less than an entire facility.* EPA may issue or deny a permit for one or more units at a facility without simultaneously issuing or denying a permit to all of the units at the facility. The interim status of any unit for which a permit has not been issued or denied is not affected by the issuance or denial of a permit to any other unit at the facility.

* * * * *

23. In 40 CFR Part 122, § 122.25 is amended by revising paragraphs (a)(5), (a)(13), (b)(3) and (b)(4), and by adding new paragraphs (b)(6), (b)(7) and (c) to read as follows:

§ 122.25 Contents of Part B.

* * * * *

(a) * * *

(5) A copy of the general inspection schedule required by § 264.15(b). Include, where applicable, as part of the inspection schedule, specific requirements in §§ 264.174, 264.194, 264.226, 264.254, 264.273, and 264.303.

* * * * *

(13) A copy of the closure plan and, where applicable, the post-closure plan required by §§ 264.112 and 264.118. Include where applicable, as part of the plans, specific requirements in §§ 264.178, 264.197, 264.228, 264.258, 264.280, 264.310, and 264.351.

* * * * *

(b) * * *

(3) For facilities that store, treat, or dispose of hazardous waste in *surface impoundments,* except as otherwise provided in § 264.1:

(i) A list of the hazardous wastes placed or to be placed in each surface impoundment;

(ii) Detailed plans and an engineering report describing how the surface impoundment is or will be designed, constructed, operated, and maintained to meet the requirements of § 264.221. This submission must address the following items as specified in § 264.221:

(A) The liner system (except for an existing portion of a surface impoundment). If an exemption from the requirement for a liner is sought as provided by § 264.221(b), submit detailed plans and engineering and hydrogeologic reports as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous constituents into the ground water or surface water at any future time;

(B) Prevention of overtopping; and

(C) Structural intergrity of dikes;

(iii) If an exemption from Subpart F of Part 264 is sought, as provided by § 264.222(a), detailed plans and an engineering report explaining the location of the saturated zone in relation to the surface impoundment, and the design of a double-liner system that incorporates a leak detection system between the liners;

(iv) A description of how each surface impoundment, including the liner and cover systems and appurtenances for control of overtopping, will be inspected in order to meet the requirements of § 264.226 (a) and (b). This information should be included in the inspection plan submitted under paragraph (a)(5) of this section;

(v) A certification by a qualified engineer which attests to the structural integrity of each dike, as required under § 264.226(c). For new units, the owner or operator must submit a statement by a qualified engineer that he will provide such a certification upon completion of construction in accordance with the plans and specifications;

(vi) A description of the procedure to be used for removing a surface impoundment from service, as required under § 264.227 (b) and (c). This information should be included in the contingency plan submitted under paragraph (a)(7) of this section;

(vii) A description of how hazardous waste residues and contaminated materials will be removed from the unit at closure, as required under § 264.228(a)(1). For any wastes not to be removed from the unit upon closure, the owner or operator must submit detailed plans and an engineering report describing how § 264.228 (a)(2) and (b) will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under paragraph (a)(13) of this section;

(viii) If ignitable or reactive wastes are to be placed in a surface impoundment, an explanation of how § 264.229 will be complied with;

(ix) If incompatible wastes, or incompatible wastes and materials will be placed in a surface impoundment, an explanation of how § 264.230 will be complied with.

(4) For facilities that store or treat hazardous waste in *waste piles*, except as otherwise provided in § 264.1:

(i) A list of hazardous wastes placed or to be placed in each waste pile;

(ii) If an exemption is sought to § 264.251 and Subpart F of Part 264 as provided by § 264.250(c), an explanation of how the requirements of § 264.250(c) will be complied with;

(iii) Detailed plans and an engineering report describing how the pile is or will be designed, constructed, operated and maintained to meet the requirements of § 264.251. This submission must address the following items as specified in § 264.251:

(A) The liner system (except for an existing portion of a pile). If an exemption from the requirement for a liner is sought, as provided by § 264.251(b), the owner or operator must submit detailed plans and engineering and hydrogeologic reports as appropriate, describing alternate design and operating pratices that will, in conjunction with location aspects, prevent the migration of any hazardous constituents into the ground water or surface water at any future time;

(B) Control of run-on;

(C) Control of run-off;

(D) Management of collection and holding units associated with run-on and run-off control systems; and

(E) Control of wind dispersal of particulate matter, where applicable;

(iv) If an exemption from Subpart F of Part 264 is sought as provided by §§ 264.252 or 264.253, submit detailed plans and an engineering report describing how the requirements of §§ 264.252(a) or 264.253(a) will be complied with;

(v) A description of how each waste pile, including the liner and appurtenances for control of run-on and run-off, will be inspected in order to meet the requirements of § 264.254 (a) and (b). This information should be included in the inspection plan submitted under paragraph (a)(5) of this section. If an exemption is sought to Subpart F of Part 264 pursuant to § 264.253, describe in the inspection plan how the inspection requirements of § 264.253(a)(3) will be complied with;

(vi) If treatment is carried out on or in the pile, details of the process and equipment used, and the nature and quality of the residuals;

(vii) If ignitable or reactive wastes are to be placed in a waste pile, an explanation of how the requirements of § 264.256 will be complied with;

(viii) If incompatible wastes, or incompatible wastes and materials will be placed in a waste pile, an explanation of how § 264.257 will be complied with;

(ix) A description of how hazardous waste residues and contaminated materials will be removed from the waste pile at closure, as required under § 264.258(a). For any waste not to be removed from the waste pile upon closure, the owner or operator must submit detailed plans and an engineering report describing how § 264.310 (a) and (b) will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under paragraph (a)(13) of this section.

* * * * *

(6) For facilities that use *land treatment* to dispose of hazardous waste, except as otherwise provided in § 264.1:

(i) A description of plans to conduct a treatment demonstration as required under § 264.272. The description must include the following information:

(A) The wastes for which the demonstration will be made and the potential hazardous constituents in the wastes;

(B) The data sources to be used to make the demonstration (e.g., literature, laboratory data, field data, or operating data);

(C) Any specific laboratory or field test that will be conducted, including

(*1*) the type of test (e.g., column leaching, degradation);

(*2*) materials and methods, including analytical procedures;

(*3*) expected time for completion;

(*4*) characteristics of the unit that will be simulated in the demonstration, including treatment zone characteristics, climatic conditions, and operating practices;

(ii) A description of a land treatment program, as required under § 264.271. This information must be submitted with the plans for the treatment demonstration, and updated following the treatment demonstration. The land treatment program must address the following items:

(A) The wastes to be land treated;

(B) Design measures and operating practices necessary to maximize treatment in accordance with § 264.273(a) including:

(*1*) Waste application method and rate;

(*2*) Measures to control soil pH;

(*3*) Enhancement of microbial or chemical reactions;

(*4*) Control of moisture content;

(C) Provisions for unsaturated zone monitoring, including:

(*1*) Sampling equipment, procedures, and frequency;

(*2*) Procedures for selecting sampling locations;

(*3*) Analytical procedures;

(*4*) Chain of custody control;

(*5*) Procedures for establishing background values;

(*6*) Statistical methods for interpreting results;

(*7*) The justification for any hazardous constituents recommended for selection as principal hazardous constituents, in accordance with the criteria for such selection in § 264.278(a);

(D) A list of hazardous constituents reasonably expected to be in, or derived from, the wastes to be land treated based on waste analysis performed pursuant to § 264.13;

(E) The proposed dimensions of the treatment zone;

(iii) A description of how the unit is or will be designed, constructed, operated, and maintained in order to meet the requirements of § 264.273. This submission must address the following items:

(A) Control of run-on;

(B) Collection and control of run-off;

(C) Minimization of run-off of hazardous constituents from the treatment zone;

(D) Management of collection and holding facilities associated with run-on and run-off control systems;

(E) Periodic inspection of the unit. This information should be included in the inspection plan submitted under paragraph (a)(5) of this section;

(F) Control of wind dispersal of particulate matter, if applicable;

(iv) If food-chain crops are to be grown in or on the treatment zone of the land treatment unit, a description of how the demonstration required under § 264.276(a) will be conducted including:

(A) Characteristics of the food-chain crop for which the demonstration will be made;

(B) Characteristics of the waste, treatment zone, and waste application method and rate to be used in the demonstration;

(C) Procedures for crop growth, sample collection, sample analysis, and data evaluation;

(D) Characteristics of the comparison crop including the location and conditions under which it was or will be grown.

(v) If food-chain crops are to be grown, and cadmium is present in the land-treated waste, a description of how the requirements of § 264.276(b) will be complied with;

(vi) A description of the vegetative cover to be applied to closed portions of the facility, and a plan for maintaining such cover during the post-closure care period, as required under § 264.280(a)(8) and § 264.280(c)(2). This information should be included in the closure plan and, where applicable, the post-closure care plan submitted under paragraph (a)(13) of this section;

(vii) If ignitable or reactive wastes will be placed in or on the treatment zone, an explanation of how the requirements of § 264.281 will be complied with;

(viii) If incompatible wastes, or incompatible wastes and materials, will be placed in or on the same treatment zone, an explanation of how § 264.282 will be complied with.

(7) For facilities that dispose of hazardous waste in *landfills*, except as otherwise provided in § 264.1:

(i) A list of the hazardous wastes placed or to be placed in each landfill or landfill cell;

(ii) Detailed plans and an engineering report describing how the landfill is or will be designed, constructed, operated, and maintained to comply with the requirements of § 264.301. This submission must address the following items as specified in § 264.301:

(A) The liner system and leachate collection and removal system (except for an existing portion of a landfill). If an exemption from the requirements for a liner and a leachate collection and removal system is sought as provided by § 264.301(b), submit detailed plans and engineering and hydrogeologic reports as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous constituent into the ground water or surface water at any future time;

(B) Control of run-on;

(C) Control of run-off;

(D) Management of collection and holding facilities associated with run-on and run-off control systems; and

(E) Control of wind dispersal of particulate matter, where applicable.

(iii) If an exemption from Subpart F of Part 264 is sought, as provided by § 264.302(a), the owner or operator must submit detailed plans and an engineering report explaining the location of the saturated zone in relation to the landfill, the design of a double-liner system that incorporates a leak detection system between the liners, and a leachate collection and removal system above the liners;

(iv) A description of how each landfill, including the liner and cover systems, will be inspected in order to meet the requirements of § 264.303 (a) and (b). This information should be included in the inspection plan submitted under paragraph (a)(5) of this section;

(v) Detailed plans and an engineering report describing the final cover which will be applied to each landfill or landfill cell at closure in accordance with § 264.310(a), and a description of how each landfill will be maintained and monitored after closure in accordance with § 264.310(b). This information should be included in the closure and post-closure plans submitted under paragraph (a)(13) of this section.

(vi) If ignitable or reactive wastes will be landfilled, an explanation of how the requirements of § 264.312 will be complied with;

(vii) If incompatible wastes, or incompatible wastes and materials will be landfilled, an explanation of how § 264.313 will be complied with;

(viii) If bulk or non-containerized liquid waste or waste containing free liquids is to be landfilled, an explanation of how the requirements of § 264.314 will be complied with;

(ix) If containers of hazardous waste are to be landfilled, an explanation of how the requirements of §§ 264.315 or 264.316, as applicable, will be complied with.

(c) *Additional information requirements.* The following additional information regarding protection of ground water is required from owners or operators of hazardous waste surface impoundments, piles, land treatment units, and landfills, except as otherwise provided in § 264.90(b):

(1) A summary of the ground-water monitoring data obtained during the interim status period under §§ 265.90–265.94, where applicable.

(2) Identification of the uppermost aquifer and aquifers hydraulically interconnected beneath the facility property, including ground-water flow direction and rate, and the basis for such identification (i.e., the information obtained from hydrogeologic investigations of the facility area).

(3) On the topographic map required under paragraph (a) (19) of this section, a delineation of the waste management area, the property boundary, the proposed "point of compliance" as defined under § 264.95, the proposed

location of ground-water monitoring wells as required under § 264.97 and, to the extent possible, the information required in paragraph (c)(2) of this section;

(4) A description of any plume of contamination that has entered the ground water from a regulated unit at the time that the application is submitted that:

(i) Delineates the extent of the plume on the topographic map required under paragraph (a)(19) of this section;

(ii) Identifies the concentration of each Appendix VIII of Part 261 of this chapter constituent throughout the plume or identifies the maximum concentrations of each Appendix VIII constituent in the plume.

(5) Detailed plans and an engineering report describing the proposed ground-water monitoring program to be implemented to meet the requirements of § 264.97;

(6) If the presence of hazardous constituents has *not* been detected in the ground water at the time of permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a detection monitoring program which meets the requirements of § 264.98. This submission must address the following items as specific under § 264.98:

(i) A proposed list of indicator parameters, waste constituents, or reaction products that can provide a reliable indication of the presence of hazardous constituents in the ground water;

(ii) A proposed ground-water monitoring system;

(iii) Background values for each proposed monitoring parameter or constituent, or procedures to calculate such values; and

(iv) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating ground-water monitoring data.

(7) If the presence of hazardous constituents *has* been detected in the ground water at the point of compliance at the time of permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a compliance monitoring program which meets the requirements of § 264.99. The owner or operator must also submit an engineering feasibility plan for a corrective action program necessary to meet the requirements of § 264.100, except as provided in § 264.98(h)(5). To demonstrate compliance with § 264.99, the owner or operator must address the following items:

(i) A description of the wastes previously handled at the facility;

(ii) A characterization of the contaminated ground water, including concentrations of hazardous constituents;

(iii) A list of hazardous constituents for which compliance monitoring will be undertaken in accordance with §§ 264.97 and 264.99;

(iv) Proposed concentration limits for each hazardous constituent, based on the criteria set forth in § 264.94(a), including a justification for establishing any alternate concentration limits;

(v) Detailed plans and an engineering report describing the proposed ground-water monitoring system, in accordance with the requirements of § 264.97; and

(vi) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating ground-water monitoring data.

(8) If hazardous constituents have been measured in the ground water which exceed the concentration limits established under § 264.94 Table 1, or if ground-water monitoring conducted at the time of permit application under §§ 265.90–265.94 at the waste boundary indicates the presence of hazardous constituents from the facility in ground water over background concentrations, the owner or operator must submit sufficient information, supporting data, and analyses to establish a corrective action program which meets the requirements of § 264.100. However, an owner or operator is not required to submit information to establish a corrective action program if he demonstrates to the Regional Administrator that alternate concentration limits will protect human health and the environment after considering the criteria listed in § 264.94(b). An owner or operator who is not required to establish a corrective action program for this reason must instead submit sufficient information to establish a compliance monitoring program which meets the requirements of § 264.99 and paragraph (c)(6) of this section. To demonstrate compliance with § 264.100, the owner or operator must address, at a minimum, the following items:

(i) A characterization of the contaminated ground water, including concentrations of hazardous constituents;

(ii) The concentration limit for each hazardous constituent found in the ground water as set forth in § 264.94;

(iii) Detailed plans and an engineering report describing the corrective action to be taken; and

(iv) A description of how the ground-water monitoring program will assess the adequacy of the corrective action.

24. In 40 CFR Part 122, § 122.27 is amended by revising the section title and adding new paragraph (c) to read as follows:

§ 122.27 Short term and phased permits.

* * * * *

(c) Permits for land treatment demonstrations using field tests or laboratory analyses.

(1) For the purpose of allowing an owner or operator to meet the treatment demonstration requirements of § 264.272 of this chapter, the Director may issue a treatment demonstration permit. The permit must contain only those requirements necessary to meet the standards in § 264.272(c). The permit may be issued either as a treatment or disposal permit covering only the field test or laboratory analyses, or as a two-phase facility permit covering the field tests, or laboratory analyses, and design, construction, operation and maintenance of the land treatment unit.

(i) The Director may issue a two-phase facility permit if he finds that, based on information submitted in Part B of the application, substantial, although incomplete or inconclusive, information already exists upon which to base the issuance of a facility permit.

(ii) If the Director finds that not enough information exists upon which he can establish permit conditions to attempt to provide for compliance with all of the requirements of Subpart M, he must issue a treatment demonstration permit covering only the field test or laboratory analyses.

(2) If the Director finds that a phased permit may be issued, he will establish, as requirements in the first phase of the facility permit, conditions for conducting the field tests or laboratory analyses. These permit conditions will include design and operating parameters (including the duration of the tests or analyses and, in the case of field tests, the horizontal and vertical dimensions of the treatment zone), monitoring procedures, post-demonstration clean-up activities, and any other conditions which the Director finds may be necessary under § 264.272(c). The Director will include conditions in the second phase of the facility permit to attempt to meet all Subpart M requirements pertaining to unit design, construction, operation, and maintenance. The Director will establish these conditions in the second phase of the permit based upon the substantial but incomplete or inconclusive

information contained in the Part B application.

(i) The first phase of the permit will be effective as provided in § 124.15(b) of this Chapter.

(ii) The second phase of the permit will be effective as provided in paragraph (c)(4) of this section.

(3) When the owner or operator who has been issued a two-phase permit has completed the treatment demonstration, he must submit to the Director a certification, signed by a person authorized to sign a permit application or report under § 122.6, that the field tests or laboratory analyses have been carried out in accordance with the conditions specified in phase one of the permit for conducting such tests or analyses. The owner or operator must also submit all data collected during the field tests or laboratory analyses within 90 days of completion of those tests or analyses unless the Director approves a later date.

(4) If the Director determines that the results of the field tests or laboratory analyses meet the requirements of § 264.272 of this Chapter, he will modify the second phase of the permit to incorporate any requirements necessary for operation of the facility in compliance with Part 264, Subpart M, of this Chapter, based upon the results of the field tests or laboratory analyses.

(i) This permit modification may proceed as a minor modification under § 122.17, provided any such change is minor, or otherwise will proceed as a modification under § 122.15(a)(2).

(ii) If no modifications of the second phase of the permit are necessary, or if only minor modifications are necessary and have been made, the Director will give notice of his final decision to the permit applicant and to each person who submitted written comments on the phased permit or who requested notice of final decision on the second phase of the permit. The second phase of the permit then will become effective as specified in § 124.15(b).

(iii) If modifications under § 122.15(a)(2) are necessary, the second phase of the permit will become effective only after those modifications have been made.

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40 CFR Part 123

[SWH-FRL 2089-4]

Requirements for Authorization of State Hazardous Waste Programs

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Final rule and interim final rule with request for comments.

SUMMARY: On January 26, 1981, EPA published amendments to the schedule for authorization of State hazardous waste programs under the Resource Conservation and Recovery Act. Those amendments were published as an interim final rule with a request for comments. In response to comments, EPA is today changing the schedule for submission of State applications for interim authorization and the date by which State enabling legislation must be in place. These changes, which are promulgated as a final rule, will provide additional flexibility in the State application process but will not alter substantive environmental standards or create significant economic impacts. EPA is also today promulgating the remainder of the January 1981 amendments as a final rule.

In addition, EPA is today promulgating an interim final amendment to Section 123.129, providing a limited exception to the contents of Component A of Phase II interim authorization.

DATES: The amendments to Sections 123.122, 123.125, 123.128, and 123.137 published today are final rules effective July 26, 1982. (The interim final amendments published on January 26, 1981, were effective upon publication.)

The amendment to Section 123.129 published today is an interim final rule effective July 26, 1982. The Agency will accept comments on this amendment until September 24, 1982.

ADDRESSES: Comments on the amendment to Section 123.129 should be sent to Docket Clerk (Docket No. 3006), Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M St. S.W., Washington, D.C. 20460.

The public docket for these regulations is located at the U.S. Environmental Protection Agency, Room S-269C, 401 M St. S.W., Washington, D.C. 20460, and is available for viewing from 9:00 AM to 4:00 PM, Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: Bruce R. Weddle, Deputy Director, State Programs and Resource Recovery Division, Office of Solid Waste (WH-563), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 755-9107.

SUPPLEMENTARY INFORMATION:

I. Background

On May 19, 1980 (45 FR 33384), EPA published as a final rule the requirements for interim authorization of State hazardous waste programs under Section 3006(c) of the Resource Conservation and Recovery Act (RCRA). These requirements, codified in 40 CFR Part 123, Subpart F, established among other things two phases of interim authorization and a schedule for State applications for these phases. The first phase (Phase I) authorizes States to administer a hazardous waste program, which includes the identification and listing of hazardous wastes; the regulation of generators and transporters of hazardous wastes; and the enforcement of preliminary standards for hazardous waste treatment, storage and disposal facilities. The second phase (Phase II) authorizes States to administer a permit program for treatment, storage and disposal facilities.

On January 26, 1981 (46 FR 8298), EPA published amendments to the schedule for State applications for Phase II of interim authorization. Those amendments were necessary to reconcile Phase II with changes in the schedule for promulgation of the Federal permitting standards for hazardous waste management facilities, codified in 40 CFR Part 264. As noted in the preamble to those amendments, "the substantive program requirements for Phase II for the most part have not been changed * * * Rather, these amendments implement needed changes in the schedule and related requirements for Phase II to keep the interim authorization program in correspondence with the underlying Federal program" (46 FR 8300).

In those amendments, EPA divided Phase II of interim authorization into "components". Each component corresponds to one or more specific categories of facilities requiring RCRA permits (e.g., incinerators, landfills, etc.). State programs can receive interim authorization to issue permits to the specific category or categories of facilities covered by each component. States may apply for authorization for each component as it becomes available and is announced in the **Federal Register**, or may wait until all components are announced and apply for all of Phase II authorization at that time. This approach gives States the

flexibility to adapt their Phase II application schedule to State needs.

II. Regulatory Changes Adopted Today

EPA received comments on the amendments to Part 123, Subpart F, from several State and local officials and members of the regulated community. In response to those comments, EPA is today changing a number of provisions dealing with the schedule for interim authorization.

Several commenters suggested that 40 CFR §§ 123.122 and 123.125, which establish the schedule for State applications for interim authorization and the deadline for State enabling legislation, be revised. After consideration of these comments, EPA has decided to modify these provisions to provide additional flexibility to the States. These changes are discussed in the following parts of this preamble. Section II.H. discusses an amendment to 40 CFR § 123.129, which provides a limited exception to the contents of Component A of Phase II interim authorization.

A. *Deadline for Interim Authorization Applications.* Section 123.122(c)(1), as amended on January 26, 1981, provides that the interim authorization application period closes six months after the effective date of the final component of Phase II. EPA believes that an application deadline is necessary to signal the end of the interim authorization application process and to encourage States to move on to final authorization. However, EPA recognizes that some States which are committed to administer an interim authorization program may come close but may still not be able to meet this deadline, due to scheduling problems created by State legislative and regulatory processes.

Therefore, today's amendments add a provision that "the Regional Administrator may extend the application period for good cause." EPA intends that this extension only be granted on a case-by-case basis to States which have made a good faith effort to meet the application deadline and which can submit a complete application within a reasonable period of time. States which will not be ready to apply for interim authorization within a reasonable period of time should turn their efforts to preparing a final authorization program. More than a brief extension of the interim authorization application period would be counter-productive, due to the limited duration of interim authorization (it expires 2 years after the effective date of the last component) and the need for States to obtain final authorization by the end of interim authorization (in order to avoid reversion of the program to EPA).

B. *Application Period for Phase I.* In the January 1981 amendments, § 123.122(c)(3) provided that States could apply for Phase I *alone* (without applying for any component of Phase II) until "six months after the effective date of the first component of Phase II." This deadline for applying for Phase I alone was January 13, 1982.

The purpose of this deadline was to ensure that State implementation of Phase II was not unreasonably delayed. Since the adoption of this deadline, however, there have been a number of delays and revisions in the Federal Phase II regulations. As a result, a number of States which desire to implement the RCRA Phase I program are not yet prepared to apply for Phase II.

Therefore, EPA has decided to extend the period during which States may apply for interim authorization for Phase I alone. Section 123.122(c)(3) is today removed from the State authorization requirements. A State may now apply for Phase I at any time prior to the expiration of the interim authorization application period. (This period is established in 40 CFR § 123.122(c)(1), as discussed above.)

C. *Application Period for Individual Phase II Components.* The January 1981 amendments also set time limits for State applications for individual components of Phase II. Sections 123.122 (c)(5) and (6) established a one year period during which a State could apply for a particular Phase II component without also applying for subsequent components. This provision created difficulties similar to those discussed above for the Phase I deadline. Comments received included the request that more time be provided for Phase II applications.

In response to comments, EPA has decided to extend the application period for each component of Phase II. Sections 123.122(c) (5) and (6) are today removed from the State authorization requirements. A State may now apply for an individual component of Phase II (without applying for any other component) at any time prior to the expiration of the interim authorization application period.

D. *Requirement to Apply for All Parts of Interim Authorization.* Section 123.122(c)(7), as amended on January 26, 1981, requires States which have received partial interim authorization (i.e., interim authorization for Phase I alone or Phase I and some components of Phase II) to apply for *all* of Phase II within 6 months of the effective date of the last component of Phase II. Section 123.137 contains the related stipulation that States with partial interim authorization which fail to submit an amended application for all of Phase II by the above deadline will terminate and responsibility for RCRA implementation will revert to EPA.

EPA recognizes, as noted above, that some States may come close but still not be able to meet this deadline. In addition, some States with partial interim authorization may not wish to apply for the remaining elements of interim authorization and may decide, instead, to prepare an application for final authorization. (States may apply for final authorization at any time after the announcement of the last component of Phase II. See § 123.31(c)(1), as amended on January 26, 1981.)

However, States with partial interim authorization may find that they are unable to apply for and receive final authorization by the deadline cited above in §§ 123.122(c)(7) and 123.137, particularly given the delays in the promulgation of the underlying Federal program. In those circumstances, such States would lose their partial interim authorization. This result would disrupt administration of the hazardous waste program and complicate the transition to State responsibility for RCRA implementation.

To avoid such a result, EPA has today added a provision to those sections that "the Regional Administrator may extend this deadline for good cause." EPA intends that this extension be granted to those States which are making a good faith effort to apply for and receive final authorization or the remainder of interim authorization within a reasonable period of time.

It should be noted that as a result of other amendments adopted today, several of the paragraphs in § 123.122(c) have been renumbered. The provision related to partially authorized States is now § 123.122(c)(4).

E. *Conditions for Phase II Application.* Section 123.122(d)(1) currently provides that a State may not apply for a component of Phase II unless it is already authorized for (or is simultaneously applying for) Phase I and previously announced components of Phase II. Several commenters pointed out that the ability of a State to administer a permit program for a particular Phase II component is not necessarily contingent on authorization for the other components. For example, a State may operate a competent permitting program under RCRA for the facilities covered in Component B (incinerators) without also operating a

permitting program for the facilities in Component A (tanks, containers, piles and surface impoundments).

Therefore, in response to comments, EPA has decided to remove the requirement in § 123.122(d)(1) that States must be authorized for (or simultaneously apply for) previously announced components of Phase II when applying for a particular individual component. In other words, application for components in order of their announcement is no longer required. States may now apply for Phase II components in any order (e.g., Component B, then Component A).

However, it continues to be essential that States obtain Phase I authorization before (or at the same time) they receive authorization for any component of Phase II. Phase I contains the basic framework of the hazardous waste program. A State cannot effectively implement the Phase II permitting program without these elements. Therefore, EPA will retain the requirement that States must apply for Phase I before (or at the same time) they apply for a component of Phase II.

F. Changes in the Federal Regulations. The January 1981 regulations required that States applying for Phase II authorization must amend their programs to bring them into conformance with the current Federal program (including adopting changes as necessary to conform with changes in the Federal regulations). This basic provision, in § 123.122(d)(2), is retained in today's promulgation, but is slightly modified to account for the change in § 123.122(d)(1) described above. Today's amendment allows States to apply for a particular Phase II component without addressing changes in the Federal regulations covered in *other* components, if the State is not authorized for or seeking authorization for those other components.

In addition, § 123.122(d)(2) has been reorganized and revised to more clearly explain this requirement and to separate the obligations of States already authorized for parts of the RCRA program from those States applying for authorization for the first time. The specific requirements which States must address when applying for a Phase II component are outlined in the **Federal Register** announcement of that component and in the *RCRA State Interim Authorization Guidance Manual.*

G. *Deadline for State Enabling Legislation.* RCRA Section 3006(c) provides that interim authorization may be granted to those States which have "in existence a hazardous waste program pursuant to State law" no more than 90 days after the "promulgation of regulations under Sections 3002, 3003, 3004, and 3005." EPA interprets this provision to mean that, at a minimum, a State must have basic enabling legislation for the program in place, i.e., basic statutory authority to regulate hazardous waste, in order to be eligible for interim authorization.

The application of the 90 day deadline has been a difficult issue, since the Federal program is being implemented in two phases and several components, with a number of separate regulatory promulgations. In the January 26, 1981, amendments, EPA applied the 90 day eligibility requirement for State enabling legislation to *each* component of Phase II, since each component is created by a promulgation under RCRA Section 3004. Section 123.125(a) of those amendments provided that the State enabling legislation for each component must be in existence within 90 days of the promulgation of the Federal regulations comprising that component.

Based on comments received regarding this interpretation, EPA has reconsidered the January 1981 amendment and has modified its interpretation of the 90 day deadline. We now agree that the 90 day requirement in RCRA Section 3006(c) probably was intended by Congress to provide a one-time test to identify those States with existing programs which could qualify for interim authorization. EPA's phased implementation of the hazardous waste program does not provide a convincing reason to establish additional 90 day deadlines or tests which States must meet in order to satisfy basic eligibility for interim authorization.

The remaining question is when the one-time eligibility test should occur. RCRA establishes the Federal hazardous waste program as both a model for the development of State programs and a minimum standard for their approval. EPA believes that States should have an opportunity to review all of the major elements of the Federal program before they are required to undergo an eligibility test based on the existence of statutory authority. Therefore, EPA has decided to tie the 90 day deadline to the announcement of the *final* component of Phase II. At that time, all of the major elements of the Federal program will have been established. The enabling legislation requirement in Section 123.125(a) has been revised to provide that: "The State Attorney General or independent legal counsel must certify that the enabling legislation for the State's program was in existence within 90 days of the announcement of the last component of Phase II."

Most States which have received interim authorization for Phase I will have already demonstrated adequate authority and thus satisfied the enabling legislation requirement. Unauthorized States can satisfy the requirement by certifying that the necessary legislation was in place at any time prior to the date 90 days after the announcement of the final component of Phase II.

The 90 day deadline for State enabling legislation is also mentioned in § 123.128(d) of these regulations, which provides for a limited exception from the generator, transporter, and related manifest requirements. The reference to the 90 day deadline in that paragraph is today changed in conjunction with EPA's modified interpretation of this requirement. States which have received Phase I interim authorization under the terms of that paragraph may now apply for interim authorization to implement the manifest system and other generator and transporter requirements "if the enabling legislation for that part of the program was in existence within 90 days of the announcement of the last component of Phase II."

H. *Interim Authorization to Permit Storage Surface Impoundments.* The contents of Components A and B of Phase II interim authorization were announced on January 26, 1981 (46 FR 7964). Component A covered tanks, container storage facilities, waste piles and storage surface impoundments. Component B covered incinerators. These components covered both new and existing facilities in those categories.

On October 20, 1981, EPA proposed to temporarily suspend the effective dates of its permitting standards for incinerators and storage surface impoundments, as applied to existing facilities, pending a reexamination of their appropriateness for existing facilities (46 FR 51407). In the preamble to the proposed suspension, EPA stated that the Agency's policy would be to postpone decisions on the authorization of State permitting programs for *existing* incinerators and *existing* storage surface impoundments until the Agency had resolved this issue.

In response to this policy, a few States informed EPA of their intent to submit draft applications for authorization of Component A, excluding existing storage surface impoundments.

Subsequently, EPA received negative comments on the postponement of State authorization for existing storage surface impoundments and existing incinerators, and decided to change this

policy. On February 24, 1982, EPA announced that its new policy would be to authorize State programs that meet the regulatory requirements for Components A and B to permit *both* new and existing incinerators and storage surface impoundments, as well as the other facilities in those components (47 FR 8010).

This change in policy raises questions about the status of those States which planned to apply for Component A without addressing existing storage surface impoundments. Those States relied on the Agency's then-current policy of postponing authorization for such facilities and prepared applications based on this understanding. Furthermore, some States are understandably reluctant to adopt regulations corresponding to EPA's current permitting standards for storage surface impoundments, while EPA is reexamining those standards.

Therefore, EPA today is amending § 123.129 to allow interim authorization for Component A without storage surface impoundments. States will thus have the choice of either (1) including new and existing surface impoundments in Component A, as allowed by the January 26, 1981 announcement and the February 24, 1982 policy statement, or (2) taking advantage of today's amendment by excluding new and existing surface impoundments from Component A.

Today's amendment requires that a State authorized for Component A under this exception must commit in its Memorandum of Agreement with EPA to adopt State permit standards for storage surface impoundments which are substantially equivalent to 40 CFR Part 264 no later than the State's application for the component of Phase II which will correspond to the Federal land disposal standards. This provision ensures that the duration of the exception will be limited.

This exception applies to *all* storage surface impoundments, both new and existing. EPA has decided that the exception should not be directed only at existing storage surface impoundments, as that would create confusion for the public and the regulated community. Instead, States must choose to either apply for *all* of Component A, including both new and existing impoundments, or to apply for Component A under this exception, without being authorized to permit *any* storage surface impoundments, existing or new.

EPA's permit standards for storage surface impoundments (40 CFR Part 264 Subpart K) will remain in effect in States which are authorized for Component A under this exception. EPA will follow the policy announced on October 20, 1981, for not calling in Part B permit applications for existing surface impoundments, pending a final decision on the proposed suspension. However, the Agency will process voluntarily submitted permit applications for these facilities, including applications from new facilities.

III. Other Actions on the January 1981 Amendments to Part 123

EPA received other comments on the January 1981 amendments to Part 123 which are not discussed in the preceding section of this preamble. EPA's written response to these comments on the January 1981 promulgation is available for public inspection at the RCRA Docket Room, Room S–269C, 401 M Street S.W., Washington, D.C. 20460.

Today, EPA is promulgating the January 1981 amendments to Part 123, Subpart F, including the additional changes in §§ 123.122, 123.125, 123,128, and 123.137, as a final rule. Also, EPA is today promulgating the additional change in § 123.129 as an interim final rule, with a request for comments. EPA printed the entire Subpart F of Part 123, as amended, in the January 1981 promulgation. Today EPA is publishing only the changes discussed in the preceding section of this preamble.

On January 26, 1981, EPA also published two minor amendments to 40 CFR Part 123, Subpart B, the requirements for final authorization of State hazardous waste programs. Those amendments changed the application and effective dates for final authorization, in conjunction with the changes in the schedule for interim authorization. (See 46 FR 8300.) EPA received no comments on those changes in the final authorization dates. Those changes to Part 123, Subpart B, are also today promulgated as a final rule.

IV. Interim Final Promulgation

EPA believes that use of advance notice and comment procedures for the amendment to § 123.129 would be impracticable and contrary to the public interest, and therefore finds that good cause exists for adopting this change in interim final form (see 5 U.S.C. 553(b)(B)). As discussed in Section II.H. above, without this amendment, States which relied on EPA's policy statement of October 20, 1981, in preparing their applications for interim authorization might not be able to receive interim authorization in an orderly and timely fashion.

V. Effective Date

RCRA does not specify when EPA's regulations governing the authorization of State programs are to take effect (see Section 3010(b) of RCRA, 42 U.S.C. 6930(b)). The Administrative Procedure Act (see 5 U.S.C. 553(d)) requires that the effective date for a regulation be not less than 30 days from the date of publication, unless there is good cause for an earlier date.

EPA finds that good cause exists for making these amendments effective upon publication. Most of the amendments were promulgated as interim final rules on January 26, 1981, in substantially the same form, and have been in effect since that date. The additional interim final amendment to § 123.129 is being promulgated to ensure that States which relied on EPA policy statements in preparing applications can receive interim authorization in an orderly and timely fashion. This is a rule that recognizes an exemption and thus may be made immediately effective (see 5 U.S.C. 553(d)(1)).

The process for Phase II interim authorization of State programs has begun and is continuing. A delayed effective date would confuse and disrupt the ongoing process. Furthermore, these amendments provide additional flexibility to the States by simplifying and relaxing the schedule for interim authorization applications. Persons affected by these amendments will therefore not need lead time to comply with new regulatory requirements. Accordingly, EPA is making all of these rules effective upon publication.

VI. Compliance With Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. The amendments promulgated here are not major because they will not result in an effect on the economy of $100 million or more and will not result in an increase in costs or prices. These amendments will not result in any of the other significant adverse effects addressed in the Executive Order. These amendments merely simplify and add flexibility to requirements related to the schedule for interim authorization of State hazardous waste programs.

These amendments were submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

VII. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA is required to determine whether a regulation will have a significant impact on a substantial number of small entities so

as to require a regulatory flexibility analysis. No regulatory flexibility analysis is required where the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The amendments promulgated here merely simplify and add flexibility to requirements related to the schedule for interim authorization of State hazardous waste programs and do not affect the compliance burdens of the regulated community. Therefore, pursuant to 5 U.S.C. 605(b), I hereby certify that these regulations will not have a significant impact on a substantial number of small entities.

VIII. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, EPA must estimate the paperwork burden created by any information collection requests contained in a proposed or final rule. Because there are no information collection activities created by this rulemaking, the requirements of the Paperwork Reduction Act do not apply.

Information collection requirements contained elsewhere in 40 CFR Part 123 have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act and have been assigned OMB control number 2000-0387.

List of Subjects in 40 CFR Part 123

Hazardous materials, Indians—lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

Dated: July 9, 1982.

Anne M. Gorsuch,

Administrator.

Title 40 CFR, Part 123, Subpart F, is amended as follows:

PART 123—STATE PROGRAM REQUIREMENTS

1. The authority citation for Part 123, Subpart F, reads as follows:

(Secs. 1006, 2002(a) and 3006 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6905, 6912(a) and 6925)

2. The interim final rules amending Part 123 which were published on January 26, 1981 (46 FR 8296) are adopted as final rules and further amended as follows:

a. Section 123.122 is amended by revising paragraphs (c) and (d) to read as follows:

§ 123.122 Schedule.

* * * * *

(c)(1) A State may apply for interim authorization at any time prior to expiration of the 6th month of the 24-month period beginning with the effective date of the last component of Phase II. The Regional Administrator may extend the application period for good cause.

(2) A State applying for interim authorization prior to the announcement of the first component of Phase II shall apply only for interim authorization for Phase I.

(3) A State may apply for interim authorization for a component of Phase II upon the announcement of that component, provided that the State meets the requirements of paragraph (d) of this section.

(4) A State which has received interim authorization for Phase I (or interim authorization for Phase I and for some but not all of the components of Phase II) shall amend its original submission to include all of the components of Phase II not later than 6 months after the effective date of the last component of Phase II. The Regional Administrator may extend this deadline for good cause.

(d)(1) No State may apply for interim authorization for a component of Phase II unless it: (i) has received interim authorization for Phase I; or (ii) is simultaneously applying for interim authorization for that component of Phase II and for Phase I.

(2) When a State applies for interim authorization for a particular component of Phase II, it shall demonstrate that its interim authorization program for Phase I (and, if applicable, its program for any other components of Phase II) is substantially equivalent to the Federal program, including modification to the Federal program, as follows:

(i) Any State already authorized for parts of the Federal program shall amend its original submission to include any additional requirements for Phase I (and any additional requirements for other Phase II components for which the State is authorized) which were promulgated on or before the announcement date of the particular Phase II component being applied for.

(ii) Any State not yet authorized for any of the Federal program shall include in its submission those Phase I requirements which were promulgated on or before the announcement date of the particular Phase II component being applied for. Any new State program which is applying for more than one component of Phase II shall include in its submission the additional requirements for such other components which were promulgated on or before the announcement date of the particular Phase II component being applied for.

(b) Section 123.125 is amended by revising paragraph (a) to read as follows:

§ 123.125 Attorney General's statement.

(a) Any State seeking to administer a program under this subpart shall submit a statement from the State Attorney General (or the attorney for those State or interstate agencies which have independent legal counsel) that the laws, of the State, or the interstate compact, provide adequate authority to carry out the program described under § 123.124 and to meet the applicable requirements of this subpart. This statement shall include citations to the specific statutes, administrative regulations, and, where appropriate, judicial decisions which demonstrate adequate authority. Except as provided in § 123.128(d), the State Attorney General or independent legal counsel must certify that the enabling legislation for the State's program was in existence within 90 days of the announcement of the last component of Phase II. State statutes and regulations cited by the State Attorney General or independent legal counsel shall be lawfully adopted at the time the statement is signed and shall be fully effective by the time the program is approved. To qualify as "independent legal counsel" the attorney signing the statement required by this section must have full authority to independently represent the State agency in court on all matters pertaining to the State program. In the case of a State applying only for interim authorization for a component of Phase II, the Attorney General's statement submitted for interim authorization for Phase I (or for Phase I and other components of Phase II) shall be amended and recertified to demonstrate adequate authority to carry out all requirements of that component.

* * * * *

c. Section 123.128 paragraph (d) is amended by inserting the following words in the twenty-first line after the phrase "within 90 days" and by removing the words "of the promulgation of Phase I":

§ 123.128 Program requirements for interim authorization for Phase I.

* * * * *

(d) Limited exceptions from generator, transporter, and related manifest requirements.

* * * of the announcement of the last component of Phase II. * * *

* * * * *

d. Section 123.137 is amended by revising paragraph (a) to read as follows:

§ 123.137 Revision of State programs.

(a) A State program approved for interim authorization for Phase I or for Phase I and for some but not all components of Phase II shall terminate on the last day of the 6th month after the effective date of the last component of Phase II and EPA shall administer and enforce the Federal program in the State commencing on that date, if the State has failed to submit by that date an amended submission pursuant to § 123.122(c)(4). The Regional Administrator may extend this deadline for good cause.

* * * * *

e. Section 123.137 paragraph (b) is amended by inserting the following words in the tenth line after the phrase "pursuant to" and by removing the words "§ 123.122(c)(7)":

§ 123.137 Reversion of State programs.

* * * * *

(b) * * * § 123.122(c)(4) * * *

3. Section 123.129(a) is amended as an interim final rule by adding new paragraphs (a)(4) and (a)(5) to read as follows:

§ 123.129 Additional program requirements for interim authorization for Phase II.

(a) * * *

(4) The Administrator may authorize a State program for Phase II Component A, even though the State program does not have standards corresponding to 40 CFR Part 264 Subpart K (Surface Impoundments), if the State commits in its Memorandum of Agreement to adopt State standards substantially equivalent to 40 CFR Part 264 Subpart K no later than the State's application for the Phase II component corresponding to the Federal land disposal standards.

(5) Any State which receives interim authorization for Component A without surface impoundment standards, pursuant to paragraph (a)(4) of this section, may not receive interim authorization for the Phase II component corresponding to the Federal land disposal standards unless it has standards substantially equivalent to 40 CFR Part 264 Subpart K in effect.

* * * * *

[FR Doc. 82-19473 Filed 7-23-82; 8:45 am]
BILLING CODE 6560-30-M

40 CFR Part 123

[SWH-FRL 2173-2]

Authorization of State Hazardous Waste Programs

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Announcement of Component C of Phase II Interim Authorization, and Beginning of Final Authorization.

SUMMARY: The regulations governing authorization of State hazardous waste programs under the Resource Conservation and Recovery Act provide that EPA will announce each of the components of Phase II interim authorization in the **Federal Register.** This notice describes the content, application requirements, and effective date of the last component of Phase II (Component C), which corresponds to the Federal permitting standards for land disposal facilities. States may commence the application process for Phase II Component C with this announcement.

The announcement of the last component of Phase II enables the final authorization process to begin, because the major elements of the Federal hazardous waste program are now in place. States may commence the application process for final authorization with today's announcement.

This notice also describes several important deadlines in the interim authorization process which are created by today's announcement.

FOR FURTHER INFORMATION CONTACT: Bruce R. Weddle, Deputy Director, State Programs and Resource Recovery Division, Office of Solid Waste (WH-563), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 755-9107.

FOR FURTHER INFORMATION ON IMPLEMENTATION CONTACT:

Region I, Dennis Huebner, Chief, Waste Management Branch, John F. Kennedy Building, Boston, Massachusetts 02203, (617) 223-5775.

Region II, Dr. Ernest Regna, Chief, Solid Waste Branch, 26 Federal Plaza, New York, New York 10278, (212) 264-0504/5.

Region III, Robert L. Allen, Chief, Hazardous Materials Branch, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106, (215) 597-0980.

Region IV, James Scarbrough, Chief, Residuals Management Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30365, (404) 881-3016.

Region V, Karl J. Klepitsch, Jr., Chief, Waste Management Branch, 111 West Jackson Street, Chicago, Illinois 60604, (312) 886-7435.

Region VI, R. Stan Jorgensen, Chief, Solid Waste Branch, 1201 Elm Street, First International Building, Dallas, Texas 75270, (214) 767-2645.

Region VII, Robert L. Morby, Chief, Hazardous Materials Branch, 324 East 11th Street, Kansas City, Missouri 64106, (816) 374-3307.

Region VIII, Louis W. Johnson, Chief, Waste Management Branch, 1860 Lincoln Street, Denver, Colorado 80295, (303) 327-2221.

Region IX, Philip Bobel, Chief, Hazardous Materials Branch, 217 Freemont Street, San Francisco, California 94105, (415) 974-8165.

Region X, Kenneth D. Feigner, Chief, Waste Management Branch, 1200 6th Avenue, Seattle, Washington 98101, (206) 442-1260.

SUPPLEMENTARY INFORMATION:

I. Background

Section 3006 of the Resource Conservation and Recovery Act (RCRA) provides for two types of EPA approval of State hazardous waste programs to operate in lieu of the Federal program:

1. State programs which are "substantially equivalent" to the Federal program may receive a temporary "interim authorization"; and

2. State programs which are "equivalent" to and "consistent" with the Federal program and "provide adequate enforcement" may receive a "final authorization".

The final authorization process has not been available to States up to now, because the major elements of the Federal hazardous waste program were not in place. Instead, State programs have been granted interim authorization in phases and components corresponding to the phased development of the Federal program.

On May 19, 1980, EPA published the requirements for interim authorization of State hazardous waste programs (see 45 FR 33384). These requirements, codified in 40 CFR Part 123, Subpart F, established, among other things, the two phases of interim authorization and a schedule for State applications for these phases. The first phase (Phase I) authorizes States to administer a hazardous waste program, which includes the identification and listing of hazardous wastes; the regulation of generators and transporters of hazardous wastes; and the enforcement of preliminary standards for hazardous waste treatment, storage and disposal facilities. The second phase (Phase II) authorizes States to administer a permit

program for treatment, storage and disposal facilities.

Phase II of interim authorization, in turn, is divided into three "components" corresponding to the major Federal permitting standards for hazardous waste management facilities, codified in 40 CFR Part 264. Each component corresponds to one or more specific categories of facilities requiring RCRA permits (e.g., incinerators, landfills). State programs can receive interim authorization to issue permits to the specific category or categories of facilities covered by each component. States may apply for authorization for each component as it becomes available and is announced in the **Federal Register**, or may wait until all three components are announced and apply for all of Phase II authorization at that time. This approach gives States the flexibility to adapt their Phase II application schedule to State needs. States with interim authorization must, however, apply for all of Phase II within six months of the effective date of the last component. (See amendments to Part 123 published on January 26, 1981, 46 FR 8298, and elsewhere in today's **Federal Register**.)

EPA has to date announced the first two components of Phase II. The contents of Components A and B of Phase II interim authorization were announced on January 26, 1981 (46 FR 7964). Component A covers tanks, container storage facilities, waste piles and storage surface impoundments. Component B covers incinerators. The remaining component of the Phase II program, Component C, covers land disposal facilities.

Final authorization can begin once the major elements of the Federal program are in place, which occurs when the Phase II permit program is complete. Section 123.31(c) provides that States may apply for final authorization "at any time after the promulgation of the last component of Phase II."

Today's promulgation of standards for land disposal facilities elsewhere in the **Federal Register** completes the establishment of the basic Federal hazardous waste program. This event has a number of significant effects on the State authorization process, which are described in this notice.

Today, EPA:

- Announces the contents, application requirements, and effective date of Component C of Phase II, corresponding to the Federal permitting standards for land disposal facilities. Component C will be the last Phase II component.
- Announces the beginning of the final authorization process.
- Announces several important deadlines in the interim authorization process, which are created by the above events.

The remainder of this notice discusses these actions in more detail.

II. Component C of Phase II, Interim Authorization

A. Content of Component C

Component C corresponds to the Federal standards for issuing permits to four types of land disposal facilities: landfills, land treatment units, waste piles, and surface impoundments. Component C also includes the new options for storage surface impoundments and waste piles added by today's promulgation. The Federal technical regulations for land disposal are codified in 40 CFR Part 264, Subparts F, K, L, M, and N. A State receiving interim authorization for Phase II, Component C, will be authorized to administer a State permit program under RCRA for the above categories of facilities, in lieu of the Federal permit program for these facilities.

B. Relationship Between Components A and C

Subparts K and L of Part 264 (Surface Impoundments and Waste Piles) were originally promulgated on January 12, 1981 (see 46 FR 2802). Those regulations addressed storage and treatment in certain classes of surface impoundments and waste piles, and were included in Component A (see 46 FR 7964, January 26, 1981). Subparts K and L are today being amended as part of the land disposal promulgation, and these amendments will replace the January 12, 1981 versions of those Subparts when the amendments become effective on January 26, 1983. Given this situation, States may apply for interim authorization for Subparts K and L in the following manner:

1. States which submit a complete application for Component A to EPA and for which EPA has published a notice of public hearing prior to the effective date of today's amendments to Subparts K and L may apply for Component A based upon the original announcement of Component A, including the January 12, 1981 provisions of Subparts K and L.[1] A number of States are currently preparing to apply for Component A based on the original EPA announcement, and this policy enables such States to proceed to complete application without a sudden change in the application requirements. States which receive interim authorization for Component A based on the January 12, 1981 provisions of Subparts K and L, will be authorized to issue RCRA permits to the categories of facilities covered in those provisions, but will not be authorized to issue RCRA permits to other types of surface impoundments or waste piles. (A State will still be able to apply for Component A under the exception clause at § 123.129(a)(4), without covering surface impoundments at all.)

2. After the effective date of today's amendments to Subparts K and L, States will be able to apply for interim authorization to permit surface impoundments and waste piles by applying for Component C, which corresponds to the amended provisions of Subparts K and L. After that point, the contents of Component A will be limited to storage and treatment in containers and tanks. This is because the January 12, 1981 provisions of Subparts K and L originally included in Component A will have been replaced by today's amendments. Therefore, States will need to address these amendments by applying for Component C in order to receive interim authorization to permit surface impoundments and waste piles. This change in the content of Component A does not affect any State that receives authorization for Component A based on a complete application submitted before the effective date of today's amendments to Subparts K and L.

3. States with interim authorization must apply for *all* of Phase II within one year of today's announcement (see § 123.122(c)(4)). Therefore, States will have to apply for Component C, including today's amendments to Subparts K and L, by that date or face reversion of the RCRA program to EPA. (See discussion of "States with Partial Interim Authorization" in Section IV of this preamble.)

[1] Prior to the effective date of today's amendments to Subparts K and L, EPA will review such applications for Component A based upon the original announcement of Component A, including the January 12, 1981 provisions of Subparts K and L. After the effective date of today's amendments to Subparts K and L, EPA will review such applications for Component A based upon the portions of the amended Subparts K and L, corresponding to the January 12 provisions, since those amendments replace the previous language of those Subparts. EPA anticipates that any State program which adopts the January 12, 1981 standards for permitting double-lined storage surface impoundments and waste piles with liners will be found substantially equivalent to the amended provisions of Subparts K and L for those limited categories of facilities.

C. Requirements for State Applications for Component C

In order to receive interim authorization for Phase II, Component C, a State must demonstrate that:

1. Its land disposal permit program provides "substantially the same degree of human health and environmental protection" as the Federal permitting standards for land disposal facilities (see § 123.129(a)(1)). These Federal standards include the administrative permit standards (40 CFR Part 264, Subparts A–E, G–H), as they apply to land disposal facilities, and the technical land disposal standards (40 CFR Part 264, Subparts F, K, L, M, and N).

2. Its permitting requirements and procedures are substantially equivalent to the Federal regulations cited in §§ 123.7 (a) and (b). Those regulations are the applicable Federal procedures from 40 CFR Parts 122 and 124 (see § 123.129(d)).

3. It has received interim authorization for Phase I or is simultaneously applying for interim authorization for Phase II (see § 123.122(d)(1), as amended elsewhere in today's **Federal Register**).

4. Its interim authorization program (for any phase or component) is substantially equivalent to applicable modifications to the Federal program (see § 123.122(d)(2)). Some of the Federal regulations have been revised since their original promulgation. A State applying for Component C must demonstrate that its program is substantially equivalent to all applicable requirements, including regulatory amendments, which have been promulgated *on or before* the date of this notice. Amendments to the regulations cited above in items (1), (2), and (3) would have to be addressed, if such amendments make the Federal program more stringent. For example, a State authorized for Phase I based on the May 19, 1980 regulations and applying for Component C would have to address additions to the regulated universe of hazardous waste and the establishment of the financial responsibility requirements for facilities with interim status. In addition, a State authorized for or seeking authorization for Phase II Components A and/or B and applying for Component C would have to address amendments to the Federal regulations corresponding to Components A and/or B, if such amendments make the Federal program more stringent.

States applying for Component C (or other Phase II components) will not be required to address changes to the Federal program adopted *after* today's date. Such changes, including amendments to Part 264 covering new processes not currently subject to standards (e.g., underground tanks which cannot be entered for inspection), would be addressed as part of the final authorization process established in § 123.13(e). Since Component C is the last Phase II component, interim authorization will not be available for permitting such new processes, and EPA will retain permitting responsibility until the State receives final authorization for the relevant program element. (See discussion below under Final Authorization.)

EPA will soon distribute to the States and other interested persons an addendum to the *RCRA State Interim Authorization Guidance Manual* which will specify the application process and requirements for Component C in more detail. This Manual will contain checklists outlining the requirements contained in the various regulations mentioned above, including a list of specific amendments to the Federal regulations which must be addressed in the State application for Component C.

D. States Authorized for Components A or B Under Exception Clauses

Recent amendments to § 123.129(a) allow States to receive interim authorization for Phase II Components A and/or B without coverage of certain requirements if specific conditions are met (see 47 FR 16552, April 16, 1982, and amendments promulgated elsewhere in today's **Federal Register**). A State authorized under these exception clauses must take the following actions in order to receive interim authorization for Phase II Component C:

1. A State which received interim authorization for Phase II Component A or B, or both, pursuant to § 123.129(a)(2) must adopt State liability coverage requirements by the time of its application for Component C. The State liability coverage requirements must be in effect before such a State can receive interim authorization for Component C.

2. A State which received interim authorization for Phase II Component A pursuant to § 123.129(a)(4) must adopt State standards substantially equivalent to today's amendments to 40 CFR Part 264 Subpart K (Surface Impoundments) by the time of its application for Component C. These State standards must be in effect before such a State can receive interim authorization for Component C.

E. Effective Date of Component C

States may apply for interim authorization for Phase II, Component C commencing with this announcement. State interim authorization for Phase II, Component C can take effect on or after January 26, 1983.

III. Final Authorization of State Hazardous Waste Programs

A. Final Authorization Program

As noted earlier, a State may apply for final authorization at any time after the announcement of the last component of Phase II, which completes the establishment of the basic elements of the Federal hazardous waste program. Today's announcement of Component C notes that it is the last Phase II component. Therefore, the application process for final authorization may begin commencing with this announcement.

Section 123.31(c)(2) provides that State programs under final authorization may take effect on the effective date of the last component of Phase II. Therefore, State final authorization can take effect on or after January 26, 1983.

Unlike interim authorization, final authorization does not expire after a limited period of time; likewise, the application period for final authorization does not close at a set time. States must satisfy the requirements of 40 CFR Part 123 Subparts A and B to receive final authorization, regardless of their interim authorization status. States need not have received interim authorization in order to qualify for final authorization.

EPA will soon distribute to the States and other interested persons a *RCRA State Final Authorization Guidance Manual* which will specify the application process and requirements for final authorization. This Manual will contain checklists outlining the requirements contained in 40 CFR Part 123 Subparts A and B.

B. Future Changes and Additions to the Federal Regulations

The promulgation of the land disposal permitting standards completes the establishment of the basic Federal hazardous waste program. However, EPA anticipates that there will be some future modifications to the Federal program, as new information is obtained regarding the characteristics of hazardous wastes, technologies for treatment, storage, and disposal, and implementation of the current regulations. EPA is conducting Regulatory Impact Analyses on the major hazardous waste regulations and is examining a "degree of hazard" approach to managing hazardous wastes. EPA also plans to add permitting standards for several

processes not currently covered by the Part 264 standards for owners and operators of hazardous waste management facilities. These new standards will address such processes as (1) treatment or storage in certain types of "underground tanks" not now covered by Part 264, (2) thermal treatment of hazardous wastes (in devices other than incinerators), and (3) treatment of hazardous wastes by chemical, physical or biological methods (in other than tanks, surface impoundments or land treatment facilities).

Despite these plans to revise and supplement the scope of the Federal permit standards, EPA believes that the basic elements of the RCRA permit program are now in place and that final authorization of State programs should commence. Permit standards have been promulgated for the hazardous waste facilities which handle the vast majority of wastes and generally represent the most serious environmental and public health concerns (i.e., landfills, surface impoundments, and incinerators). The future promulgation of the few remaining standards (e.g., thermal treatment), while important additions, will serve to "fill out" a large completed regulatory framework.

EPA announced on January 26, 1981, that it might "allow final authorization to begin . . . with one or two Part 264 Subparts unpromulgated. EPA may decide to do this if, for example, the standards for thermal treatment or chemical, physical and biological treatment have not been promulgated when the land disposal standards are promulgated" (46 FR 8300). The land disposal standards have been the major "missing piece" of the RCRA program, and their promulgation establishes a program which is sufficiently comprehensive for final authorization to begin. Furthermore, the interim authorization program is limited in duration by the language of RCRA. EPA does not believe that any further extension of interim authorization and the further postponement of final authorization are warranted. It was clearly the intent of Congress that once the major regulatory elements were in place, final authorization should be made available. Therefore, EPA will proceed with the final authorization process as described in today's notice.

This decision raises two questions concerning the future additions to the Federal regulatory program: (1) When will States that receive final authorization be required to adopt those new standards, and (2) what is the status of facilities for which EPA has not yet promulgated Part 264 standards but which are located in States with final authorization?

The final authorization regulations contain procedures for the revision of already approved State programs when Federal regulations are modified or supplemented. Section 123.13(e) provides that State programs approved for final authorization must make revisions required by changes to the Federal RCRA standards "within one year of the date of promulgation of such [new or modified] regulation, unless a State must amend or enact a statute in order to make the required revision in which case such revision shall take place within two years." This language provides a clear and orderly process for maintaining the "equivalence" of State programs that have received final authorization.

Owners and operators of facilities located in a State with final authorization are generally subject to that State's RCRA program, since the State program operates "in lieu of" the Federal program. However, such a State may not issue a RCRA permit to a facility before the appropriate facility standard (e.g., the standard for thermal treatment) has been promulgated by EPA and the State's program is judged equivalent to and consistent with the Federal program. This is because there would be no Federal program covering that group of facilities for the State to be "equivalent" to or to operate "in lieu of" prior to EPA's promulgation of such standards. A State may regulate and permit such facilities independently under the provisions of State law, but such State permits would not be considered RCRA permits. *After* the appropriate Federal facility standard has been promulgated, the authorized State would be required to modify its program according to the dates established in § 123.13(e).

Under current regulations, the affected facility would *not* be subject to the RCRA standards until the State adopted equivalent standards and those were approved by EPA. Section 264.1(f) provides that the Federal standards for owners and operators of hazardous waste facilities are not applicable in States with final authorization. Therefore, there could be a one (or two) year period during which the new RCRA standards would not apply in such a State, until the State adopted an equivalent and consistent standard. RCRA permits could not be issued to affected facilities during the one (or two) year period described above, and operation (and, in some cases, construction) of new facilities in the subject categories would not be allowed.

Such a de facto ban on construction and operation of the affected new facilities is clearly undesirable, given the general need for additional capacity for the treatment, storage and disposal of hazardous wastes and the prospect that new facilities in the categories under discussion would operate with a higher level of environmental protection than many older, more conventional facilities. To avoid this situation, EPA, elsewhere in today's **Federal Register**, is amending § 264.1(f) to make Part 264 permit standards for new categories of facilities applicable to facilities in States with final authorization until the State has adopted equivalent State standards. This will allow EPA to issue RCRA permits during the one (or two) year period when the authorized State lacks RCRA permitting authority for those new categories of facilities. This amendment is directed at the small number of new facilities in the designated categories which would otherwise be unable to conduct necessary activities during this period of State regulatory development. This amendment also clarifies the applicability of permit standards for new categories of facilities in States with Phase II interim authorization.

IV. Deadlines in the Interim Authorization Process

A number of important deadlines for interim authorization are triggered by the announcement of the final Phase II component. This section of the notice identifies these deadlines.

A. Expiration of Interim Authorization

RCRA § 3006(c) provides that interim authorization extends for 2½ years after the promulgation of the Federal hazardous waste regulations. Section 123.122(b) of the State authorization requirements interprets this provision to mean that interim authorization "may extend for a 24-month period from the effective date of the last component of Phase II." (This expiration date is 2½ years after the promulgation of the last major element of the Federal regulations.)

Since Component C is the last Phase II component, the two year prior begin on January 26, 1983. At the end of that period, "all interim authorizations automatically expire and EPA shall administer the Federal program in any State which has not received final authorization" (see § 123.122(b)(2)). EPA encourages all authorized States to prepare and apply for final authorization well in advance of this deadline, in

order to avoid reversion of the RCRA program to EPA.

B. End of Interim Authorization Application Period

Section 123.122(c)(1) provides that a State may apply for interim authorization until the end of the 6th month after the effective date of the last Phase II component. The interim authorization application period will close on July 26, 1983.

EPA is amending this provision elsewhere in today's **Federal Register** by adding that "the Regional Administrator may extend the application period for good cause." The preamble to this amendment notes that "EPA intends that this extension only be granted on a case-by-case basis to States which have made a good faith effort to meet the application deadline and which can submit a complete application within a reasonable period of time".

C. States With Partial Interim Authorization

Section 123.122(c)(4), as amended elsewhere in today's **Federal Register**, requires States which have received partial interim authorization (i.e., interim authorization for Phase I alone or Phase I and some components of Phase II) to apply for *all* of Phase II within 6 months of the effective date of the last component of Phase II. This deadline will occur on July 26, 1983. Section 123.137 contains the related stipulation that State programs with partial interim authorization which fail to submit an amended application for all of Phase II which meets the requirements of the Federal program by the above deadline will terminate and responsibility for RCRA implementation will revert to EPA.

Alternatively, State programs with partial interim authorization can avoid program reversion to EPA by applying for and receiving final authorization by the above deadline. In addition, today's amendments to these two sections provide that the Regional Administrator may extend the deadline for good cause. This extension is intended to be granted in the same amanner as the extension to the application deadline discussed earlier.

D. Deadline for State Enabling Legislation

RCRA Section 3006(c) provides that interim authorization may be granted to those States which have "in existence a hazardous waste program pursuant to State law" no more than 90 days after the "promulgation of regulations under Sections 3002, 3003, 3004, and 3005." EPA interprets this provision to mean that, at a minimum, a State must have basic enabling legislation for the program in place, i.e., basic statutory authority to regulate hazardous waste, in order to be eligible for interim authorization.

The deadline by which the State enabling legislation must be in place is found in § 123.125(a). This section is amended elsewhere in today's **Federal Register** to tie the deadline to the final Phase II component, which establishes the last major elements of the Federal program. This section is revised to provide that: "The State Attorney General or independent legal counsel must certify that the enabling legislation for the State's program was in existence within 90 days of the announcement of the last component of Phase II." This deadline will occur on October 25, 1982.

Most States which have received interim authorization for Phase I will have already demonstrated adequate authority and thus satisfied the enabling legislation requirement. Unauthorized States which desire to apply for interim authorization can satisfy the requirement by certifying that the necessary legislation was in place at any time prior to the date given above.

V. Compliance With Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. The notice published today is not major because it will not result in an effect on the economy of $100 million or more and will not result in an increase in costs or prices. It will not result in any of the other significant adverse effects addressed in the Executive Order. The notice announces the last component of Phase II interim authorization, the beginning of final authorization, and several deadlines in the interim authorization process. These announcements are based on and carry out regulations promulgated under RCRA.

This notice was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

VI. Authority

Sections 1006, 2002(a) and 3006 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6905, 6912(a) and 6926.

List of Subjects in 40 CFR Part 123

Hazardous materials, Indians-lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

Dated: July 9, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-19471 Filed 7-23-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 264

[SW-FRL 2173-1]

Hazardous Waste Management System; Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule.

SUMMARY: Elsewhere in today's **Federal Register**, EPA announces that States may commence the application process for final authorization. As described in that announcement, EPA plans to add permitting standards for several processes which are not currently covered by the Part 264 standards for owners and operators of hazardous waste management facilities. Section 123.13(e) requires States with final authorization to make revisions to their programs "within one year of the date of promulgation of such [Federal] regulations, unless a State must amend or enact a statute . . . in which case such revision shall take place within two years." Under the current regulations, until a State makes those revisions, neither EPA nor that State has the authority to issue RCRA permits to facilities covered by those new permitting standards, including new facilities which need a RCRA permit in order to commence operation (and, in some cases, construction).

To remedy this problem, EPA is today amending its hazardous waste management regulations to enable certain facilities located in States with final authorization to obtain a federally-issued RCRA permit during the time preceding the State's authorization for those new standards. EPA is also today clarifying the applicability of new permit standards in States with Phase II interim authorization.

The Agency expects that this amendment will result in savings to the regulated community by enabling new facilities subject to these post-authorization standards to obtain a RCRA permit and begin operation before the State adopts equivalent new

standards. New facilities are expected to operate with a higher level of environmental protection than older, more conventional facilities. Therefore, this amendment will have a positive environmental impact by allowing these new facilities to obtain RCRA permits sooner than they would otherwise be able.

DATES: *Effective date:* January 26, 1983.

Comment date: EPA will accept public comment on this amendment until September 24, 1982.

ADDRESS: Comments should be sent to the Docket Clerk (Docket 3004—Additions to federal regulations after state authorization), Office of Solid Waste (WH–562), Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Terrance Grogan, Office of Solid Waste (WH–563), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 382–2224; or the RCRA Hotline toll-free at (800) 424–9346 or in Washington, D.C. at 382–3000.

SUPPLEMENTARY INFORMATION:

I. Background

On February 26, 1980, and May 19, 1980, EPA published regulations pursuant to the Resource Conservation and Recovery Act of 1976, as amended (RCRA), establishing the first phase of a comprehensive program for the handling and management of hazardous waste (45 FR 33066–33285, now codified in 40 CFR Parts 260–265). These regulations require, among other things, that facilities which treat, store, or dispose of hazardous waste must obtain a permit from EPA or an authorized State. The permit must be based on standards promulgated by EPA in 40 CFR Part 264.[1]

Section 3006 of RCRA allows a State which seeks to administer and enforce a hazardous waste program to obtain authorization from EPA to run the program in lieu of the Federal Government. EPA will authorize a State if it determines that the State's program is "equivalent" to and "consistent" with (in the case of final authorization), or "substantially equivalent" to (in the case of interim authorization), the Federal program. The authorized State can then issue and enforce permits for the treatment, storage, or disposal of hazardous waste, under RCRA.[2]

On May 19, 1980, EPA promulgated regulations which spell out in detail, among other things, the requirements for States to receive authorization to administer the RCRA permit program in lieu of the Federal permit program. (See 45 FR 33377, codified in 40 CFR Part 123).

Elsewhere in today's **Federal Register**, EPA is promulgating permitting standards for land disposal facilities, which represent the last major piece of the RCRA hazardous waste program. However, EPA intends to add permitting standards for processes not currently covered by the Part 264 standards. For example, the Part 264 standards do not currently cover treatment and storage of hazardous waste in certain types of underground tanks; thermal treatment of hazardous waste in devices other than incinerators; or treatment of hazardous waste by chemical, physical or biological methods (other than in tanks, surface impoundments or land treatment units).

Adding Part 264 permitting standards to the Federal regulations after States have obtained final authorization raises the following problem under the existing regulations. Section 123.13(e) provides that State programs approved for final authorization must make revisions required by changes to the Federal RCRA program "within one year of the date of promulgation of such [new or modified] regulation, unless a State must amend or enact a statute in order to make the required revision in which case such revisions shall take place within two years." This language provides a clear and orderly process for maintaining the "equivalence" of State programs that have received final authorization. However, there may still be a one or two year gap between the time new standards are promulgated by EPA, and the time that the State adopts and is authorized for equivalent standards.

The problem arises when a person plans to build a new facility (or expand an existing one) with processes covered by the new Part 264 standards during this one or two year period in a State with final authorization.[3] Such a person could not receive a RCRA permit for these processes from the authorized State during this period. This is because the State's RCRA authorization includes only those portions of the Federal program for which the State has been judged to have equivalent and consistent standards. State programs cannot operate "in lieu of" this new part of the Federal program until they have received authorization for those new Part 264 standards.

In addition, the person could not receive a federally-issued RCRA permit if he or she is located in a State with final authorization, because § 264.1(f) as currently worded provides that the requirements of Part 264 do not apply to a person who treats, stores or disposes of hazardous waste in a State with a RCRA hazardous waste program authorized under Part 123.[4] (This provision was originally promulgated on the assumption that by the time of final authorization, Part 264 standards would be in place for all categories of facilities.)

The owner or operator of a new facility could therefore face a period of time in which he cannot obtain a RCRA permit from either the authorized State or the Federal government. This effectively places a ban on the operation (and, in some cases, construction) of the facility. EPA did not intend to impose this de facto ban, and believes it is undesirable. These new facilities may provide needed additional treatment, storage, and disposal capacity at a higher level of environmental protection than older, more conventional facilities.

The Agency is today amending § 264.1(f) to rectify this problem. Under this amendment, Part 264 will apply to these facilities until the State receives final authorization for the new standards. Facilities subject to these new standards may therefore obtain a federally-issued RCRA permit during that limited period of time. They will not have to wait until the State in which they are located adopts equivalent and consistent standards.

The language of § 264.1(f) is also being amended to clarify the applicability of Part 264 in States with Phase II interim authorization under RCRA § 3006(c).[5] This amendment ensures that States authorized for any of the Phase II components will operate the RCRA permit program in lieu of EPA for facilities covered in their authorized components. For example, if a facility conducted incineration of hazardous wastes, and the facility was located in a State with interim authorization for Phase II, Component B (the component covering incinerators), then it would not

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[1] Portions of 40 CFR Part 264 were promulgated on May 19, 1980 (45 *FR* 33154), January 12, 1981 (46 *FR* 2802), and January 23, 1981 (46 *FR* 7667). The major missing piece of the RCRA performance standards was the land disposal regulations, until their promulgation elsewhere in today's **Federal Register**.

[2] States may issue hazardous waste permits under State law in any case, whether or not they are authorized under RCRA.

[3] Facilities in existence on November 19, 1980, may qualify for interim status when the new standards are promulgated. See Section 3005(e) of RCRA and 40 CFR Part 122.22(a).

[4] Part 264 does currently apply to underground injection, if the authorized State program does not cover it. See 40 CFR § 264.1(f).

[5] For a discussion of Phase II interim authorization, see amendments to Part 123 published on January 26, 1981, 46 FR 8296, and the announcement of Phase II Component C elsewhere in today's **Federal Register**.

be subject to Part 264, and the State's "substantially equivalent" standards would operate in lieu of the Federal standards.

However, Part 264 will apply to the permitting of new processes (e.g., underground tanks) added to the coverage of Part 264 after the announcement of Component C. Since Component C is the last Phase II component, interim authorization would not be available for permitting these new processes. EPA would retain permitting responsibility for such new processes in States with interim authorization, since the processes would not be included in the State's authorization for Phase II. States would receive authorization to operate the RCRA permit program in lieu of EPA for such new processes as part of final authorization, under the provisions in § 123.13(e) described above.

EPA requests comments on the approach taken in this amendment for both final and interim authorization. In particular, comments are solicited on alternatives to Federal permit issuance in authorized States during the period between addition of new RCRA permit standards and State authorization for equivalent and consistent standards.

II. Interim Final Promulgation

EPA believes that the use of advance notice and comment procedures for this amendment to the applicability section of 40 CFR Part 264 would be impracticable and contrary to the public interest, and therefore finds that good cause exists for adopting this change in interim final form (see 5 U.S.C. § 553(b)(B)).

This amendment is designed to make the language of § 264.1(f) consistent with the Agency's original intent in promulgating that section. EPA never intended a situation where a facility could not obtain a RCRA permit from either EPA or an authorized State after the appropriate Part 264 standards were promulgated. The current language of § 264.1(f) was based on the assumption that Part 264 standards would be in place for all categories of facilities by the time of final authorization. However, this did not happen, and thus certain new facilities could face a temporary ban on operation (and, in some cases, construction) in States with final authorization due to current regulatory language. Today's amendment rectifies this situation by allowing continued operation of the RCRA permitting process, as originally intended.

This interim final amendment will take effect in six months, at the same time that final authorization can take effect. This timing ensures that the RCRA permitting process will not be disrupted in States with final authorization.

EPA will accept comments on this amendment for 60 days, and will make any further changes deemed necessary as a result of those comments.

III. Executive Order 12291

Under Executive Order 12291, (46 FR 12193, February 19, 1981), EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. A major rule is defined as a regulation which is likely to result in:

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or
- Significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This regulation is not major because it will not result in an effect on the economy of $100 million or more nor will it result in a major increase in costs or prices to consumers, industry or government entities. There will be no adverse impact on the ability of the U.S. based enterprises to compete with foreign based enterprises in domestic or export markets. Because this amendment is not a major regulation, no Regulatory Impact Analysis is being prepared.

This amendment was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

IV. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. § 601 *et seq.*, whenever an agency is required to publish a rulemaking, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility analysis is required, however, if the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This amendment will not have a significant economic impact on a substantial number of small entities. Accordingly, I hereby certify that this regulation, if issued in final form, will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 264

Hazardous materials, Packaging and containers, Reporting and recordkeeping requirements, Security measures, Surety bonds, Waste treatment and disposal.

Dated: July 9, 1982.

Anne M. Gorsuch,

Administrator.

Title 40 CFR Part 264 is amended as follows:

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

1. The authority citation for Part 264 reads as follows:

Authority: Secs. 1006, 2002(a), and 3004, Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, (42 U.S.C. §§ 6905, 6912(a), and 6924).

2. Section 264.1(f) is revised to read as follows:

§ 264.1 Purpose, scope and applicability.

* * * * *

(f) The requirements of this part do not apply to a person who treats, stores, or disposes of hazardous waste in a State with a RCRA hazardous waste program authorized under Subparts A and B of Part 123 of this chapter, or in a State authorized under Subpart F of Part 123 of this chapter for the component or components of Phase II interim authorization which correspond to the person's treatment, storage or disposal processes; except that this part will apply:

(1) As stated in paragraph (d) of this section, if the authorized State RCRA program does not cover disposal of hazardous waste by means of underground injection; and

(2) To a person who treats, stores or disposes of hazardous waste in a State authorized under Subparts A and B of Part 123 of this chapter, at a facility which was not covered by standards under this part when the State obtained authorization, and for which EPA promulgates standards under this part after the State is authorized. This paragraph will only apply until the State is authorized to permit such facilities under Subparts A and B of Part 123 of this chapter.

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[FR Doc. 82-19470 Filed 7-23-82; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 265

[SWH-FRL 2173-3]

Hazardous Waste Management System: Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: Elsewhere in today's **Federal Register** the Environmental Protection Agency is promulgating standards around which hazardous waste surface impoundments, waste piles, land treatment units, and landfills will be permitted. These rules suggest some conforming changes to Part 265, the Interim Status Standards, for consistency and compatibility. Most of these are promulgated as part of today's rulemaking. A few however, potentially have more impact and could benefit, in the Agency's view, from additional public input. For these reasons,the Agency is proposing the following conforming changes.

(1) A variance to the two foot freeboard requirement for surface impoundments.

(2) Final cover performance requirements for surface impoundments and landfills.

(3) An additional variance allowing placement of some ignitable or reactive wastes in surface impoundments.

(4) More definitive requirements respecting placement of containers in landfills.

DATES: EPA will accept comments on the proposed rules on or before November 23, 1982.

ADDRESS: Comments should be sent to Docket Clerk (Docket 3004—Land Disposal Interim Status Proposal), Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

The public docket for this proposed rule is located in Room S-269, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C., and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline at 800-424-9346 (in Washington, D.C. call 382-3000) or Rodney Jenkins (202) 382-4658, Office of Solid Waste (WH-564), U.S. Environmental Protection Agency, Washington, D.C. 20460.

SUPPLEMENTARY INFORMATION:

I. Explanation of the Proposal

Elsewhere in today's **Federal Register**, EPA has promulgated regulations affecting treatment, storage, and disposal of hazardous wastes in surface impoundments, waste piles, land treatment units, and landfills. Those rules establish standards that must be met for facilities to receive a permit under the Resource Conservation and Recovery Act (RCRA) hazardous waste regulatory program. Also included are a series of conforming changes to the interim status requirements of Part 265, which were made to provide consistency and compatibility. There are, however, a few additional conforming changes which the Agency believes should be adopted during interim status. Because they may have substantial impact on interim status operations as well as on the environment, and because, in most cases, the public has not had sufficient opportunity to comment on the appropriateness of applying them to the interim status period, EPA is proposing these changes today.

A. Surface Impoundments—General Operating Requirements

Section 265.222 contains the rules designed to prevent overtopping of impoundment dikes. The current interim status regulations require not only that overtopping not occur but that a minimum freeboard of two feet be maintained to ensure it. The Agency received numerous comments claiming that the two foot requirement is not necessary if the performance requirement to prevent overtopping is in place. In any event, some claimed, the two foot minimum might not be suffcient in some cases.

EPA generally agrees with these commenters and, in the Part 264 regulations, the Agency requires only that overtopping be prevented. As with most Part 264 requirements, this will be implemented through the permitting process, when the applicant will demonstrate that design features and operating practices at the facility will, in fact, prevent overtopping. During interim status, in the absence of Agency review provided by the permitting process, EPA has concern that a general performance requirement, such as "prevent overtopping", can be adequately self-implementing or readily enforced. Therefore, the Agency is proposing today to expand the two feet minimum freeboard requirement by allowing a lesser level if a qualified engineer certifies that alternate design features or operating procedures will prevent overtopping. EPA believes that a qualified engineer can review design and operating features and adequately conclude whether overtopping is possible. The owner or operator would also be required to maintain the certification and the basis for it at the facility to facilitate enforcement inspections. The Agency believes this approach to be self-implementable and to provide a degree of protection equivalent to that of the two foot minimum.

B. Surface Impoundments—Closure and Post-Closure Care

The current interim status requirements allow surface impoundments to be closed by digging up remaining wastes and contaminated liners, equipment, and surrounding soils. Alternately, the owner or operator may solidify liquids and apply a final cover in accordance with the landfill requirements for closure (§ 265.310). Also, in the second case, he must carry out the post-closure care requirements as if his impoundment were a landfill.

The Agency does not propose to change this basic approach and, in fact, has adopted it as the basis for the Part 264 permitting standards. EPA believes that the new standards in Part 264 are more easily understood and that they are as applicable during interim status as for permitted facilities. The Agency further believes the new Part 264 rules are readily implementable during interim status as well since the existing interim status closure and post-closure care review process is similar to the review process for closure and post-closure care plans conducted during the permitting process. Therefore, the Agency is proposing to adopt, as interim status requirements, the new Part 264 closure and post-closure care requirements for surface impoundments (§ 264.228) except for some of the post-closure care requirements. (Interim status facilities are not required to have leak detection systems or leachate management facilities and, thus, the post-closure requirements of Part 264 respecting them are inappropriate for interim status facilities.)

The fundamental requirements are not greatly different than the interim status requirements promulgated on May 19, 1980. The new requirements proposed today are, however, much more explicit, identifying more clearly what is expected of the final cover. They are also somewhat more stringent. The cover must now "minimize" infiltration instead of simply "controlling" it. It must not be any more permeable than the bottom liner to prevent the "bathtub"

effect. Since the bottom liner may be highly impermeable, the cap may also have to be impermeable as well. It must also accommodate settling and subsidence. The reasons for these requirements are discussed at length in the preamble to the Part 264 requirements promulgated today elsewhere in this issue of the **Federal Register**.

The proposed interim status post-closure care requirements also contain some differences from those now in place. The new provisions require that erosion from precipitation be prevented. This requirement is appropriate for interim status just as it is for permitted units. The current interim status provisions relating to leachate collection systems, gas collection systems, maintenance of benchmarks, and restriction of access would be dropped as inappropriate under this Proposal, the first three because surface impoundments are not required to have such equipment, and the last because it is redundant to § 265.117(b).

C. Surface Impoundments—Ignitable or Reactive Waste

The existing limitations on placing ignitable or reactive waste in surface impoundments allow the practice only if placing the waste in the impoundment results in the waste not being ignitable or reactive any more; or the impoundment is used solely for emergencies. The new Part 264 requirements allow use of impoundments for ignitable or reactive waste if the waste is protected from conditions that could cause it to ignite or react. EPA doesn't expect this variance to be used much, but concedes that protection against carelessly thrown matches and from certain reactions may be practical. Since the management methods providing protection can be reviewed during permitting, EPA agrees that the new variance provides additional flexibility to the owner or operator without sacrificing human health or environmental protection.

Adoption of the same variance during interim status, however, is fraught with the same enforcement and self-implementation problems as adoption of the freeboard variance discussed in Section A. The Agency proposes to circumvent these difficulties by using the same approach proposed for the freeboard variance, namely that the owner or operator obtain certification from a qualified chemist or engineer that the design features of this facility or the operating practices employed will prevent ignition or reaction. EPA expects that a qualified engineer or chemist can evaluate the operation and adequately determine that it is safe. Enforcement of the rule can adequately be carried out by comparing the basis for the certification kept at the facility against actual practice.

D. Landfills—Closure and Post-Closure Care

The Part 264 Subpart N requirements for closure and post-closure care promulgated today elsewhere in this **Federal Register**, are being proposed here in modified form for adoption as interim status rules. As discussed in Section B of this preamble for surface impoundments, the new rules are clearer and more explicit. Because of this, they should be more easily implemented during interim status than the existing rules.

The interim status closure and post-closure requirements in place now are very general in nature, requiring that owners or operators develop a plan to "control" infiltration based on consideration of certain factors. The new requirements are more specific and are more stringent. Covers must be designed to "minimize" infiltration instead of simply "controlling" it. They must also allow no more precipitation to pass through than would the bottom liner to prevent the "bathtub effect". Additionally, the cover must accommodate settling and subsidence. These provisions are as applicable to landfills which close under interim status as they are to permitted landfills.

The post-closure care requirements for interim status units adopted today are somewhat different than those adopted in Part 264. The Part 264 provisions include some requirements relating to unit components (e.g., leachate collection and treatment systems) which are not required during interim status. Post-closure care provisions affecting these systems would, therefore, be inappropriate.

E. Landfills—Special Requirements for Containers

The current interim status requirements mandate that empty containers be crushed flat prior to placement in the landfill. The purpose of this requirement is to minimize subsidence due to empty containers. Collapse of empty containers is thought to be a leading cause of differential subsidence which in turn poses a serious threat to the continuity and proper functioning of the final cover.

Commenters on this provision made three basic points:

(1) Small containers should be exempted,

(2) Provide guidance on when a container is empty (or full) for purposes of this rule, and

(3) Provide guidance on how much crushing and shredding is necessary to comply.

The agency agrees with all of these points, and, in the Part 264 requirements promulgated today, has accommodated points (1) and (2). The rationale for the various provisions is discussed in the Preamble to that issuance. EPA believes those provisions respond to the commenters requests with regard to interim status but wishes to propose them to obtain added comment.

The Agency is not yet able to provide more specific general guidance at present on how much shredding or crushing is necessary to comply with the rule. EPA believes that crushing sufficiently to produce a void space of 10 percent or less of the volume originally present should adequately minimize differential subsidence. The Agency is not absolutely certain, however, that shredding and crushing equipment can actualy achieve that level. In the Preamble to the Part 264 promulgation, EPA has asked for data and may propose a change at a later time.

II. Classification

The regulations proposed today are Interim Status Part 265 conforming changes to the Part 264 permitting standards promulgated elsewhere in today's **Federal Register**. Considering the magnitude of the costs and impacts of the promulgated regulations, the Agency does not believe these proposed requirements will result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or in domestic or export markets. Therefore, EPA does not expect today's proposed rule to be subject to the major rule provisions of Executive Order 12291 and, therefore, does not believe that a regulatory impact analysis is necessary.

The proposed rules might have a significant impact on small entities, however, thereby triggering the requirements of the Regulatory Flexibility Act. As part of the Regulatory Flexibility Analysis being conducted for the Part 264 permitting regulations promulgated today, EPA will consider the impact of these proposed rules on small entities. The results of that analysis will be available for review,

prior to any action to finalize these proposed rules. In performing this analysis EPA will determine in more detail the costs to the economy of the proposal and, if necessary, perform a regulatory impact analysis.

The certification requirements of proposed §§ 265.222(b) and 265.229(b) are subject to the OMB clearance requirements of the Paperwork Reduction Act of 1980.

This proposal was submitted to the Office of Management and Budget for review as required by Executive Order 12291 and the Paperwork Reduction Act.

III. Request for Comment

EPA invites comments on all aspects of the proposed rule. All comments should be addressed to the Docket Clerk (see Addresses above) and should prominently bear the notation: "Docket 3004—Land Disposal Interim Status Proposal". All comments should contain specific documentation in their support.

Lists of Subjects in 40 CFR 265

Hazardous materials, Packaging and containers, Reporting and record-keeping requirement, Security measures, Surety bonds, Waste treatment and disposal, Water supply.

Dated: July 9, 1982.

Anne M. Gorsuch,

Administrator.

For the reasons set out in the preamble, Part 265, Subparts K and N, of Title 40 of the Code of Federal Regulations are proposed to be amended as follows.

PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

1. The authority citation for Part 265 reads as follows:

Authority: Sections 1006, 2002(a), and 3004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), and 6924).

2. In 40 CFR 265, Subpart K, §§ 265.222, 265.228, and 265.229 are revised to read as follows:

§ 265.222 General operating requirements.

(a) A surface impoundment must maintain enough freeboard to prevent any overtopping of the dike by overfilling, wave action, or a storm. There must be at least 60 centimeters (two feet) of freeboard.

(b) A freeboard level less than 60 centimeters (two feet) may be maintained if the owner or operator obtains certification by a qualified engineer that alternate design features or operating plans will, to the best of his knowledge and opinion, prevent overtopping of the dike. The certification, along with a written identification of alternate design features or operating plans preventing overtopping, must be maintained at the facility.

§ 265.228 Closure and post-closure care.

(a) At closure, the owner or operator must:

(1) Remove or decontaminate all waste residues, contaminated containment system components (liners, etc.), contaminated subsoils, and structures and equipment contaminated with waste and leachate, and manage them as hazardous waste unless § 261.3(d) of this chapter applies; or

(2)(i) Eliminate free liquids by removing liquid wastes or solidifying the remaining wastes and waste residues;

(ii) Stabilize remaining wastes to a bearing capacity sufficient to support final cover; and

(iii) Cover the surface impoundment with a final cover designed and constructed to:

(A) Provide long-term minimization of the migration of liquids through the closed impoundment;

(B) Function with minimum maintenance;

(C) Promote drainage and minimize erosion or abrasion of the cover;

(D) Accommodate settling and subsidence so that the cover's integrity is maintained; and

(E) Have a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present.

(b) In addition to the requirements of § 265.117, during the post-closure care period, the owner or operator of a surface impoundment in which wastes remain after closure in accordance with the provisions of paragraph (a)(2) of this section must:

(1) Maintain the integrity and effectiveness of the final cover, including making repairs to the cover as necessary to correct the effects of settling, subsidence, erosion, or other events;

(2) Maintain and monitor the ground-water monitoring system and comply with all other applicable requirements of Subpart F of this part; and

(3) Prevent run-on and run-off from eroding or otherwise damaging the final cover.

§ 265.229 Special requirements for ignitable or reactive waste.

Ignitable or reactive waste must not be placed in a surface impoundment, unless:

(a) The waste is treated, rendered, or mixed before or immediately after placement in the impoundment so that:

(1) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under §§ 261.21 or 261.23 of this chapter; and

(2) Section 265.17(b) is complied with; or

(b)(1) The waste is managed in such a way that it is protected from any material or conditions which may cause it to ignite or react; and

(2) The owner or operator obtains a certification from a qualified chemist or engineer that, to the best of his knowledge and opinion, the design features or operating plans of the facility will prevent ignition or reaction; and

(3) The certification and the basis for it are maintained at the facility; or

(c) The surface impoundment is used solely for emergencies.

3. In 40 CFR 265, Subpart N, §§ 265.310 and 265.315 are revised to read as follows:

§ 265.310 Closure and post-closure care.

(a) At final closure of the landfill or upon closure of any cell, the owner or operator must cover the landfill or cell with a final cover designed and constructed to:

(1) Provide long-term minimization of migration of liquids through the closed landfill;

(2) Function with minimum maintenance;

(3) Promote drainage and miminmize erosion or abrasion of the cover;

(4) Accommodate settling and subsidence so that the cover's integrity is maintained; and

(5) Have a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present.

(b) After final closure, the owner or operator must comply with all post-closure requirements contained in §§ 265.117–265.120 including maintenance and monitoring throughout the post-closure care period. The owner or operator must:

(1) Maintain the integrity and effectiveness of the final cover, including making repairs to the cover as necessary to correct the effects of settling, subsidence, erosion, or other events.

(2) Maintain and monitor the ground-water monitoring system and comply with all other applicable requirements of Subpart F of this part;

(3) Prevent run-on and run-off from eroding or otherwise damaging the final cover; and

(4) Protect and maintain surveyed benchmarks used in complying with § 265.309.

§ 265.315 Special requirements for containers.

Unless they are very small, such as an ampule, containers must be either:

(a) At least 90 percent full when placed in the landfill; or

(b) Crushed, shredded, or similarly reduced in volume to the maximum practical extent before burial in the landfill.

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federal register

Monday
July 26, 1982

Part III

Department of Health and Human Services

Health Care Financing Administration

Medicare Program; Medicare Supplemental Policies

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 400, 401, 402, 403 and 404

Medicare Program; Medicare Supplemental Policies

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Interim final rule with comment period.

SUMMARY: This rule establishes a Federal program of certification of Medicare supplemental health insurance policies (Medicare supplemental policies) that insurers voluntarily submit for review. This rule implements requirements of section 507 of the Social Security Disability Amendments of 1980.

HCFA will administer the Federal certification program. This program goes into effect July 1, 1982, and will apply only to policies issued in those States that do not have in effect a program for regulating Medicare supplemental policies equal to or more stringent than the one established under the law. A Supplemental Health Insurance Panel, consisting of the Secretary or a designee and four Commissioners or Superintendents of Insurance appointed by the President, determines the adequacy of a State's program in relation to the standards contained in the statute.

These regulations: (1) Set standards for the certification of policies voluntarily submitted to HCFA, (2) establish procedures for the certification program, and (3) specify requirements regarding submittal of loss ratio data to HCFA for review.

DATES: These regulations are effective July 1, 1982. In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the reporting or recordkeeping provisions that are included in this final rule in §§ 403.232 and 403.239–403.258 will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained and a notice to that effect has been published in the **Federal Register.**

Although these regulations are final, we are providing for an additional comment period for 42 CFR 403.256, concerning loss ratio information that must accompany a policy sent to HCFA for review, because the provisions of this section were not specified in detail in the notice of proposed rulemaking. To assure consideration, comments should be received by August 25, 1982. We will publish a notice in the **Federal Register** giving the status of the OMB review and of review of the comments received. (See the supplementary information for a further discussion of the effective date of these regulations.)

ADDRESS: Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17073, Baltimore, Maryland 21235.

If you prefer, you may deliver your comments to Room 309–G Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, D.C., or to Room 789, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

Please refer to BPP–91–FC. Agencies and organizations are requested to submit comments in duplicate. Comments will be available for public inspection, beginning approximately two weeks after publication, in Room 309–G of the Department's office at 200 Independence Ave., S.W., Washington, D.C. 20201 on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202–245–7890).

FOR FURTHER INFORMATION, CONTACT: Thomas Hoyer, 301–594–9446.

SUPPLEMENTARY INFORMATION:

I. Medicare and Private Insurance to Supplement Medicare

Medicare is a Federal health insurance program, provided for under title XVIII of the Social Security Act, for people 65 and older the some people under 65 who are disabled. The Medicare program consists of two parts, a Hospital Insurance Program (Part A) and a Supplementary Medical Insurance Program (Part B). The Medicare program was never designed to cover the total cost of providing medical care for its beneficiaries. Both Parts A and B have deductible and coinsurance cost sharing provisions. Also, there are a number of items not covered under either of Medicare's two insurance programs, such as custodial nursing home care, dental care, and eyeglasses. Beneficiaries must pay the full cost of these services out-of-pocket or may choose to purchase additional private insurance protection to help pay the costs.

About two-thirds of Medicare beneficiaries have purchased private health insurance in order to obtain assistance in meeting health care expenses not covered by the Medicare program. The policies they purchase are commonly referred to as Medicare supplemental or "Medigap" policies and principally include Medicare supplemental policies, indemnity policies, and specified disease policies.

Over the past ten years, investigations and studies by Congressional committees, the Federal Trade Commission, the news media, and various other individuals and agencies have revealed certain problems with Medigap insurance. Some of the problems relate to the nature of the policies, and some of them relate to the manner in which they are sold:

1. There is such a wide variety of Medigap policies that it is difficult, if not impossible, for a beneficiary to compare them and effectively assess their relative benefits and costs.

2. The policies themselves are often written in complicated language that obscures the extent of their coverage or the nature of their exclusions. For example, many policies contain clauses which limit or exclude payment for services received in connection with medical conditions which were known to exist at the time the policy was sold. These pre-existing condition clauses can negate coverage described in other portions of the policy.

3. It is also virtually impossible for Medicare beneficiaries to determine the value of the policy's benefits in relationship to the premiums paid. This relationship, known as the loss ratio, is a way of determining how much of the aggregate premium income from a policy an insurance organization returns in aggregate benefits. Some policies return 60 to 90 cents, or more, on the premium dollar, while other policies have been reported to return less than 25 cents.

4. Elderly beneficiaries tend to rely on insurance agents for information about the Medicare program and the coverge available under the Medigap policies they are offered, and they are particularly vulnerable to misrepresentation and other abuses. Evidence of fraud, forgery, and intimidation has been uncovered.

II. Legislation of Health Insurance and Related Initiatives

A. NAIC Activities

There have been several significant initiatives in recent years to address the problems associated with Medigap policies. The National Association of Insurance Commissioners (NAIC), an association of the chief executive officers for the regulation of insurance of the 50 States, the District of Columbia, Guam, Puerto Rico, American Samoa, and the Virgin Islands, has played a major role in the effort. The NAIC provides model laws and regulations that are adopted by many States as the

basis for the regulatory programs for insurance that is marketed within their borders. In 1979, the NAIC amended its model standards for individual accident and sickness insurance policies to include specific standards that States can use to regulate Medicare supplemental policies (Model Regulation to Implement the Individual Accident and Sickness Insurance Minimum Standards Act, as it applies to Medicare supplemental policies, hereafter referred to as "NAIC Model Standards"). The amended model, adopted by the NAIC on June 6, 1979, contains minimum standards for policies and addresses such issues as minimum coverage requirements, limits on exclusions of coverage because of pre-existing conditions, disclosure requirements, and refund requirements.

Also the NAIC, in collaboration with HCFA, developed a "Guide to Health Insurance for People with Medicare". Over six million copies of the pamphlet have thus far been distributed through social security offices, insurance companies, State insurance departments, and senior citizen interest groups.

B. Federal Legislation

In an effort to address the abuses associated with Medigap policies, Congress enacted section 507 of Pub. L. 96–265 (the Social Security Disability Amendments of 1980). That section of the law encouraged States which had not done so to establish regulatory programs that meet specified minimum standards for Medicare supplemental policies, and established a Federal voluntary certification program for Medicare supplemental policies issued in States whose programs do not meet specified standards (section 1882 of the Social Security Act (42 U.S.C. 1395ss)). (The voluntary certification program, as provided for in section 1882 of the Act and these regulations, addresses only Medicare supplemental policies, and not the other types of policies sold to Medicare beneficiaries, that is, limited benefit health insurance, indemnity, and specified disease policies.) The intent of the legislation is to assist Medicare beneficiaries in identifying Medicare supplemental policies for purchase that are represented accurately both by sales agents and promotional literature, do not duplicate Medicare or other health insurance coverage, and provide fairly priced minimum protection against health care expenses that are not paid for by Medicare.

In the debate that preceded enactment of Pub. L. 96–265, and in the law itself, Congress recognized the progress already made by the States in the area of Medigap regulation. Further, it recognized and chose not to alter the traditional role of the States in regulating insurance. Its intention in developing Federal legislation was to provide the States and insurance industry with an incentive to speed up their activities to improve the regulation and quality of Medicare supplemental policies. At the same time, Congress established an alternative mechanism—the voluntary certification program—that could be implemented at the national level for policies issued in those States that have not established or cannot be expected to establish specified regulatory programs by July 1, 1982.

While the law relies on improved State regulation of Medicare supplemental policies and the new Federal program as a major means of identifying and curbing abuses in the sale of those policies, it also places strong reliance on consumer education as a force in improving the general quality of policy offerings. The presumption is that beneficiaries, assisted by information provided by HHS, the States, insurance companies and other sources, will become better informed purchasers of insurance to supplement Medicare and that insurance organizations will therefore improve the quality of the policies they offer for sale in order to retain their competitive position in the market.

The basic provisions of section 1882 of the Act addressed in these regulations are as follows:

1. The statute mandates that the Secretary of HHS establish a voluntary program of review of Medicare supplemental policies, and of certification of those policies that meet or exceed requirements specified in the statute and implemented through these regulations. The Secretary's program is voluntary in that it provides for review of only those policies that are voluntarily submitted by insurers (section 1882(a) of the Act). It goes into effect July 1, 1982. (The Secretary has determined that HCFA will administer the voluntary program.)

2. Policies must meet the applicable NAIC Model Standards, as amended and adopted by the NAIC on June 6, 1979, and certain additional standards specified below in item 3, in order to be certified in the Secretary's program. (The NAIC has standards applicable to the full range of individual health insurance policies sold to the elderly, including Medicare supplemental policies, indemnity policies, and specified disease policies. However, it is important to note that Congress incorporated the NAIC Model Standards into the Act only to the extent that those standards specifically address "Medicare supplemental policies" as defined in section 1882(g) of the Act.)

3. Congress structured the voluntary program so that it would extend the NAIC Model Standards to certain group policies as well as individual policies. It also established minimum loss ratio requirements for each category of policy (section 1882(c) of the Act).

4. The Secretary's voluntary certification program will apply only to policies issued in those States that have not established, under State law, a regulatory program that applies standards equal to or more stringent than those specified in the statute (section 1882 (b) and (i) of the Act). It should be noted that Congress did not intend to encourage States to limit their regulatory programs to the minimum level specified in the law. On the contrary, the intent of Congress was to encourage States to implement regulatory programs that they determine are appropriate to their particular needs and to assure States that those programs meeting or exceeding specified minimum standards would be approved by a panel, as specified below. (See H.R. Rep. No. 96–944, 96th Congress, 2d Session 76–77 (1980).)

5. The statute also provides for a Supplemental Health Insurance Panel that will determine whether or not State regulatory programs for Medicare supplement policies meet the requirements of the law. The Panel consists of the Secretary or a designee, who serves as chairperson, and four State Commissioners or Superintendents of Insurance, appointed by the President (section 1882(b) of the Act).

6. The Secretary will authorize the use of an emblem by an insurer to indicate that a policy has been certified as meeting the standards of the voluntary certification program (section 1882(a) of the Act).

The statute also contains provisions which do not require regulations. These include new criminal penalties that allow the prosecution of abusive companies and agents under Federal law (section 1882(d) of the Act). These penalties apply to cases in which false statements or misrepresentations are made about a policy's certification or about the extent and nature of the policy's benefits (including economic value) for the purpose of obtaining certification. They also apply to cases of misrepresentation by an insurance agent that he or she is an employee or agent of the Federal government (for example, of the Medicare program), and to cases in

which an individual sells a policy that is known to be duplicative of Medicare coverage or other health insurance the individual has but that will not pay duplicative benefits. There is also a penalty governing the use of the mails for the advertisement, solicitation, offer for sale, or delivery of certain Medicare supplemental policies that have not been approved for sale in a State.

Section 1882(f) of the Act requires the Secretary to undertake a comprehensive study of the comparative effectiveness of various State regulatory approaches in (a) limiting marketing and agent abuse, (b) assuring the dissemination of information to Medicare beneficiaries (and to other consumers) that is necessary for informed purchase of health insurance policies, (c) promoting policies that provide reasonable economic benefits for the insured, (d) reducing the purchase of unnecessary duplicative coverage, (e) improving price competition, and (f) establishing effective State regulatory programs. At the same time, the Secretary's study must consider the need for standards for, or certification of, health insurance policies, other than Medicare supplemental policies, sold to Medicare beneficiaries.

The Secretary is also required to submit to Congress, no later than July 1, 1982, and at least every two years thereafter, a report evaluating the effectiveness of the certification procedures and the criminal penalties established under the law (section 1882(f)(2) of the Act). The report must include an analysis of the impact that the certification program and the penalties have on the types, market share, value, and cost of policies certified by the Secretary. The report will also address whether the certification program and the criminal penalties should be continued or changed.

Finally, section 1882(e) requires that the Secretary furnish all Medicare beneficiaries information that will enable them to make informed choices when purchasing Medicare supplemental policies. Before the enactment of this provision, HCFA's Office of Beneficiary Services began distributing informational materials and conducting training classes for, and issuing training materials to, individuals who have contact with Medicare beneficiaries on the State and local levels. Trained individuals are then in a position to inform beneficiaries about problems inherent in the selection of health insurance and about the certification program. HCFA will continue these activities as part of its ongoing program to assist Medicare beneficiaries in making more informed decisions about the purchase of insurance to supplement Medicare.

III. Notice of Proposed Rulemaking

In order to develop regulations for administration of the Federal certification program, we published a notice of proposed rulemaking (NPRM) in the **Federal Register** on January 21, 1981 (46 FR 6296). Because the statute is clear in most respects, the NPRM to a great extent reiterated the provisions that are contained in section 1882 of the Act. That is, the NPRM contained the following provisions:

1. Federal regulations would not affect the right of a State to regulate policies marketed in that State.

2. A Medicare supplemental health insurance policy would mean a health insurance policy or other health benefit plan that a private entity offers a Medicare beneficiary, and that provides payment for expenses not reimbursed under Medicare. This definition would apply to both individual policies and to group policies. However, group policies of employers, labor organizations, and, under certain circumstances, professional, trade, and occupational organizations would be excluded. The definition would also exclude any policy or plan of a professional, trade, or occupational association if the association (a) is composed of individuals all of whom are actively engaged in the same profession, trade, or occupation; (b) has been maintained in good faith for a purpose other than obtaining insurance; and (c) has been in existence for at least two years before offering a Medicare supplemental health policy. These exclusions are in accordance with section 1882(g) of the Act and the Conference Committee Report on H.R. 3236 (H.R. Rep. No. 96-944, 96th Congress, 2nd Session 77 (1980)).

3. In order to be certified under the voluntary program, we would require that policies meet the following conditions:

a. Policies must meet applicable State requirements.

b. Policies must meet or exceed the NAIC Model Standards identified in the law.

c. Policies must have or must be expected to have a loss ratio of 75 percent in the case of group policies, and 60 percent in the case of individual policies. We would require a qualified actuary to submit loss ratio determinations that are calculated according to specifications in the regulations.

d. The above conditions could be met by two or more policies issued in conjunction with one another in the case of a nonprofit hospital association or a medical service association, but they would have to be met by a single policy in all other cases.

4. Certified policies could bear an emblem approved by HHS where not prohibited under applicable State law. If a policy displaying the emblem were to lose certification, the insurer would have to inform policyholders of that fact within 60 days.

5. A Supplemental Health Insurance Panel (Panel) would assess State programs for regulating Medicare supplemental policies and determine whether they meet minimum standards.

6. A State would have an approved regulatory program if the Panel determines that the State has established a program under State law that applies standards, to all Medicare supplemental policies issued in that State, that are equal to, or more stringent than, the standards Congress established for the voluntary program.

7. The Federal certification program would not apply to policies issued in States with approved programs.

8. Policies issued in States with approved programs would be deemed certified, and HCFA would authorize the State to permit imprinting the emblem on them.

9. HCFA would administer the voluntary certification program. The proposed regulations set forth the following procedures with respect to certification:

a. HCFA review of policies that insurers voluntarily submit and certification of policies that meet the requirements specified above.

b. Submittal of required documentation by insurers both for initial certification and annual review.

c. Authorization given by HCFA to insurers to imprint the emblem on certified policies.

d. HCFA decertification of policies that do not meet the requirements of the regulations.

e. Administrative review, if requested by an insurer, when HCFA determines not to certify or to decertify a policy.

f. HCFA notice to all States regarding its decisions to certify or decertify policies.

g. Transfer of policies from a State program to the voluntary certification program when the Panel determines that the State's program for regulating policies no longer meets the requirements of the law.

We received comments on the proposed rule from 25 sources, including

insurance organizations, State insurance officials, medicare beneficiaries, group health associations, consumer advocates, and professional associations and organizations, such as the American Academy of Actuaries and the Health Insurance Association of America. We also received comments from fifteen actuaries in response to a special solicitation of comments on the loss ratio provisions discussed below in "Discussion of Loss Ratio Provisions".

IV. Summary of Changes in the Final Rule

After consideration of the comments, we have made the following changes from the proposed regulations. Our reasons for each change are given below in the discussion of the significant comments:

1. The definition of a Medicare supplemental policy has been revised in two ways. The definition now follows the NAIC Model regulation's wording and it applies to individuals who are eligible for Medicare by reason of age. Also, Medicare supplemental policies do not includes policies issued to employees, or to members of labor organizations, as additions to franchise plans in existence before a specified date. (Those policies are discussed in detail below in section V.A., "Definition of Medicare Supplemental Policy".)

2. The emblem will be used only by the Federal voluntary certification program, not by States with programs approved by the Panel, as provided in the NPRM.

e. The supplementary loss ratio information that insurers must submit to HCFA for review has been revised as follows:

a. Loss ratio supporting data are specified. For example, the insurer must indicate the age of beneficiaries at the time of purchase of a policy.

b. The final rule contains a list of loss ratio assumptions, such as morbidity and mortality, that the insurer must account for in the loss ratio calculations.

c. The submittal of material for annual review of a previously certified policy has been simplified. For purposes of the annual review, the insurer is required to submit only the material that has changed since the last review.

4. We have deleted the administrative procedures for the transfer of policies from a State program to the voluntary program when the Panel determines that a State ceases to have an approved program.

V. Discussion of Comments Regarding the Proposed Rule

A. Definition of Medicare Supplemental Policy

Comment 1: Representatives of Health Maintenance Organizations (HMOs) and Group Practice Prepayment Plans (GPPPs) noted that the proposed regulations would have excluded their group health plans because the statutory and regulatory language speaks to provision of reimbursement for services rather than provision of services. The commenters requested that regulations be amended to allow for the manner in which they finance and provide for services. They maintain that they could suffer a competitive disadvantage if they cannot display the emblem on their policies.

Response: As the major commentors recognized, the regulation's exclusive focus on insurance policies derives from the language in the statute and the NAIC model regulation which it incorporates by reference. The two major statutory obstacles to including HMOs are as follows. First, section 1882(g)(1) of the law defines a "Medicare supplemental policy", in part, as a policy or health plan that provides *reimbursement* for services incurred. HMOs do not meet that definition since they contract to provide *services* rather than reimbursement for them. Further, HMOs would not be able to meet the explicit loss ratio requirements in section 1882(c) because they do not value their benefits in terms of loss ratios.

We recognize that the ability of HMOs to obtain certification of their benefit plans under the voluntary program could be desirable from a marketing standpoint. We are sensitive to the concerns these organizations have expressed and we are continuing to consider the problem.

We note, however, that HMOs can already advertise themselves as Federal or State qualified under existing laws (see 42 U.S.C. 300e). Also through the publication, the "Guide to Health Insurance for People with Medicare", and its National Medigap Training Program, HCFA seeks to provide a good description of the comparative benefits of Medicare supplements, catastrophic or major medical expense policies, and HMOs. The guide is made available, in English and Spanish, free of charge, to Medicare beneficiaries and concerned individuals; and persons wishing a copy should contact their local Social Security office, by phone or mail, or in person. The training program is conducted for individuals who have contact with Medicare beneficiaries on the State and local levels.

Comment 2: An insuring organization noted that there are various lines of health insurance policies, including major medical, basic hospital, and basic medical/surgical policies that are intended primarily for the non-Medicare population. However, these policies are sometimes offered to an individual eligible for Medicare because they contain provisions that coordinate their benefits with other primary payers, including Medicare. The proposed regulations conditioned the definition of a Medicare supplemental policy, among other things, on the fact that the policy is *offered* to a person eligible for Medicare. This provision in the NPRM would have required a State program to regulate all of these policies in order to be approved by the Panel. The commenter recommends that the definition of "Medicare supplemental policy" adopt the terminology of NAIC Model Standards. Those standards specify that the policy is *designed primarily,* or is *advertised, marketed,* or *otherwise purported,* to supplement Medicare (NAIC Model Standards, section 7.I).

Response: We accept this recommendation. Because both the statute and these regulations incorporate by reference the NAIC Model Standards, we believe it is appropriate to use clarifying terminology and phraseology from those standards, when possible.

Comment 3: A consumer advocacy group suggested that the definition of Medicare supplemental policy be expanded to include any policy sold to any person, if the policy is designed and marketed primarily to supplement Medicare *when and if* that person becomes a Medicare beneficiary. The group reasons that, in exchange for higher premiums while the insured is still working, the insurer may promise lower premiums and better coverage after Medicare beneficiary status is achieved. Certification would assist the consumer in evaluating the policies.

Response: There is nothing in the statute or these regulations prohibiting the individual from applying for, or an insurer from offering, the policy. However, these regulations provide for review and certification of policies issued under a conversion privilege, as discussed below, in "Comment 4".

Comment 4: One commenter pointed out that the NAIC Model Standards (section 3) state that the Model does not apply to individual policies or contracts issued under a conversion privilege of a group or individual policy or contract, when the basic policy or contract includes provisions that are inconsistent

with the requirements of the Model. (The privilege allows the individual to purchase a Medicare supplemental policy, without being subject to the regular underwriting procedures, when the individual becomes eligible for Medicare.) Moreover, the Model does not apply to policies issued to employees, or to members of labor organizations, as additions to franchise plans in existence on the effective date of the State regulations that incorporate the NAIC Model Standards. (A franchise plan is an agreement between the insurer and the employer and employees of the same entity. Under this agreement, the insurer offers the same individual health policy to all employees. The advantage of this arrangement is that group underwriting procedures are followed, such as a waiver of the medical examination that is ordinarily required for individual policies.) The commenters suggested that final regulations should specifically exclude those conversion and additional policies or contracts.

Response: The definition of Medicare supplemental policy in 42 CFR 403.205 of this final rule (that is, a policy sold primarily for the purpose of supplementing Medicare) does not include policies whose only reference to Medicare is that they contain a conversion or coordination of benefit clause that enables the policyholder to purchase a Medicare supplement. We believe, however, that the definition should apply to policies sold to policyholders who exercise the conversion privilege. We understand that the general practice of the insurance industry is to honor conversion requests by selling the beneficiary a policy that meets the terms of the conversion and is also commonly available on the market at the time the conversion is requested. We believe that it is appropriate that these latter policies be included in the definition. Therefore, we are not revising the definition of Medicare supplemental policy to exclude policies sold under a conversion privilege.

We believe that the NAIC approach to additions to franchise plans is reasonable because it recognizes that the content of the policies sold under these agreements was determined by the terms of a prior contract. Actual sales of the policies under the franchise agreement are done under the terms of the prior contract. Therefore, we include a similar provision in these regulations. We exclude additions to franchise plans from the definition of a Medicare supplemental policy—and from the obligations concurrent with such a policy—if the plan is in existence July 1, 1982, the date HCFA can begin to certify policies.

Comment 5: The proposed rule would exclude group health insurance policies of trade, professional, and occupational associations from the definition of, and requirements regarding, Medicare supplemental policies. Commenters supported the exclusion and recommended that it be extended to policies offered to former members of the associations, and not restricted to policies offered to present members. Congress intended that group health policies of professional, trade, and occupational associations should not be treated differently from group policies of employer or labor organizations (H.R. Rep. No. 96–944, 96th Congress, 2nd Session 77 (1980)). The statute specifies that group policies of employer or labor organizations are excluded from the provisions regarding Medicare supplemental policies, even if they are offered to both present and former employees or members (section 1882(g)(1) of the Act). Therefore, the exclusion provisions should apply to association group health policies that are offered to present or former members of those associations.

Response: We do not concur with this recommendation. The language of that Conference Committee Report (H.R. Rep. No. 96–944, 96th Congress, 2nd Session 77 (1980)) addresses policies that these associations offer to their *respective memberships.* We conclude, therefore, that Congress did not intend to exclude Medicare supplemental policies offered to former members of these associations from the provisions of Pub. L. 96–265.

B. State Regulation of Insurance

Comment: Commenters from the insurance industry believe that the proposed rule would have a harmful impact on State regulation of insurance, particularly on certificates. They explain, first of all, the difference between a "certificate" and a "policy". In the case of a group policy, a single master contract is issued to the holder of the group policy. Certificates, containing a description of benefits, claims procedures, etc., are issued to individuals covered under the master contract. The group policy, including the master contract and certificates, is filed and approved under the laws of the State where the group policy is issued. Even though certificates of coverage issued in one State are marketed in other States, such States generally have reciprocity provisions.

Commenters maintain that the provisions of the NPRM imply that HCFA would not permit a certificate issued under an approved master policy to bear the emblem unless each State into which the certificate is delivered specifically reviewed that certificate as a policy and authorized its sale. If so, States could be required to abrogate existing reciprocity provisions that permit them to honor the laws of the State where the master policy is issued and to expand their own regulatory procedures to include certificates issued under that master policy. Commenting further, some respondents noted that the NPRM improperly identifies a "certificate" as a "policy" and recommended that the final rule clarify the distinction between a certificate and a policy.

Response: The intent of the proposed regulations was to reflect the statutory provisions of section 1882(j) of the Act by assertng that no provisions of the regulations are intended to prohibit States from making or enforcing (within the limits of their sovereignty) laws to regulate insurance. There was no specific intention to encourage States to initiate new regulations regarding certificates or to discontinue reciprocal agreements concerning certificates marketed within their borders when the master policy is registered and approved in another State. The proposed rule was intended to make clear to organizations submitting policies for certification under the voluntary program that the Department's review and approval of a policy does not free the insurer from the need to obtain State approval under any applicable State laws before selling the policy in that State.

Because we believe that Federal regulations should clarify that State regulation of insurance is not affected, we have not deleted the provisions in question from the final rule. However, as a result of comments received and our own review, we are making several revisions:

1. The final rule clearly identifies the relationship of a certificate to a group policy by stating that a certificate is issued under a group policy.

2. The final rule requires the insurer to submit to HCFA a list of States in which the individual or group policy is "approved for sale". In the NPRM we required a list of States in which "the insuring organization is authorized to market the policy". The wording in the final rule is more in conformity with accepted terminology of the insurance industry and State insurance agencies.

3. The regulations provide that certification of a policy by HCFA must not be construed as authorizing the insuring organization to market a policy

in a State if the policy has not been approved for sale in conformance with the applicable laws of that State. The voluntary certification program will not review a policy for certification and display of the emblem before it has been approved for sale by that State.

C. General Requirements for Policies

Comment 1: In the NPRM we stated that policies issued in a State with an approved program would be "deemed certified". Commenters noted that the terms "certificate" and "deem", for purposes of State approval of a policy, have specific, technical meanings commonly accepted by the insurance industry and State insurance agencies. (In the discussion above of the difference between a policy and a certificate issued under a policy, the term "certificate" refers to one type of contract between the insurer and the insured. In this discussion, the same term is used in reference to State approval of the contract, a usage common in States and the insurance industry.)

A "certificate" is a signature affirming the validity of the material submitted to the State regulatory agency. A filing package may include several "certificates" or signatures. Many States have a statutory "deemer" provision which sets a time limit for the review and approval of policies. If a decision is not reached by the end of this period, the insurer may market the policy, subject to review at a later date by the State if the State so chooses. While the proposed Federal regulations did not use the terms "certificate" and "deem" in the way commonly accepted by the States and the insurance industry, commenters noted that the use of "deemed certified" in regulations could mislead one to believe that States review and certify policies as does the voluntary certification program.

Response: The language of the NPRM was intended to reflect the statute which provides that a policy issued in a State with an approved program "shall be deemed" to meet the NAIC standards and loss ratio requirements of the statute. (See section 1882(b)(1) of the Act.) In order to avoid any misunderstanding, however, we have revised the regulations to delete the phrase "deemed certified" when referring to policies issued in a State with an approved program. The final regulations provide that those policies are accepted as meeting the NAIC Model Standards and loss ratio requirements specified in the final rule.

Comment 2: Proposed regulations would have provided that the NAIC model standards and the loss ratio requirements must be met in a single policy, but could be met in two or more policies issued in conjunction with one another in the case of a nonprofit hospital association or a medical service association. A commenter from the NAIC suggested that we qualify the exceptions. They were provided for in the statute (section 1882 (c)(1) of the Act) for those cases where State law or regulation prohibits the inclusion of all benefits in a single policy, and it is appropriate that regulations limit the exceptions to those cases. Also, the NAIC Model Standards, defined below in this preamble, impose the same limitation on these exceptions. (See Drafting Note that follows section 7, I of the NAIC Model Standards.)

Response: We have accepted this suggestion and incorporated it into the final rule.

D. NAIC Model Standards

Comment 1: Commenters stated that the NAIC provisions apply the term "Medicare supplement policy" (which corresponds to the term "Medicare supplemental policy" as defined in section 1882 of the Act) only to a policy offered to an individual eligible for Medicare "by reason of age" (section 7, I of the NAIC Model Standards). Since the Federal statute incorporates the standards adopted by the NAIC, Federal regulations should adhere to them wherever possible. Specifically, Federal regulations should adopt the "by reason of age" limitation. Also, commenters maintained that application of these standards to policies offered to the under 65 age group (that is, those eligible for Medicare by reasons of disability) would generate administrative burdens and costs out of proportion to the benefits achieved. States would have to review more policies in order to have an "approved" program for the regulation of Medicare supplemental health insurance; and insurers would have to revise their solicitations to identify those under 65 who are eligible for Medicare (a group that insurers do not now make an effort to identify). Commenters asserted that so few policies are sold to the disabled that the costs of these efforts would exceed benefit to the public.

Response: We agree with these comments and have amended the regulations to permit the application of the NAIC definition of a Medicare supplemental policy; that is, one offered to an individual eligible for Medicare "by reason of age". In making this change, we have brought the regulatory definition into conformance with the programs of some 38 States whose regulations embody this principle of the NAIC model. The broader definition contained in the NPRM is inconsistent with the interpretations of the majority of the States and retaining it would discourage the wide State cooperation and support that the Congress hoped to elicit through the Medigap provision.

Comment 2: In the preamble to the NPRM, we had summarized the provisions of the NAIC Model Standards, for the convenience of the readers of the proposed rule. In that summary, we noted that, under the NAIC standards, policies must provide for coverage of 20 percent of Medicare eligible expenses under Part B, subject to a maximum calendar year out-of-pocket deductible of $200 of such expenses. (See section 7, I (2)(d) of the NAIC Model Standards.) Commenters asked if the $75 annual Medicare deductible is to be included in the $200 NAIC standards deductible. (Part B of Medicare has an annual deductible that is adjusted periodically by legislative mandate. For 1982, this deductible is $75.)

Response: The $75 deductible is included in the calculation of the $200. The intent of the NAIC model is that the individual not be required to pay more than $200 out-of-pocket for Medicare eligible expenses under Part B. Not to include the $75 Medicare deductible would subject the individual to a $275 out-of-pocket expenditure.

We wish to note at this point that we are not publishing a summary of the NAIC Model Standards in this final rule, as we did in the NPRM. To ensure complete accuracy, we believe that concerned parties should rely on the complete, official text, rather than on a summary which, however carefully prepared, will necessarily suffer from compression and the absence of complete cross-references to other NAIC model laws and regulations. Complete copies of the NAIC Model Standards may be obtained from the National Association of Insurance Commissioners at 350 Bishops Way, Brookfield, Wisconsin 53004, and from the NIARS Corporation, 318 West Franklin Avenue, Minneapolis, Minnesota 55404.

E. The Emblem

Comment 1: Several commenters representing both sellers of insurance and regulators of insurance noted that section 1882(a) of the Act provides that the Secretary is to authorize the use of the emblem specifically on policies that have been certified under the voluntary program. In other words, the emblem is an integral part of the voluntary program and should be displayed only

on policies that are appoved by HCFA under that program. Commenters are also concerned that the Secretary will have limited control over State use of the emblem, and that some insurers would tend to use it to give a "government look" to their policies. Therefore, the commenters recommend that regulations be revised so that States with approved programs not be permitted to authorize the use of the emblem on policies issued under their jurisdictions.

Response: In the NPRM we proposed that States use the emblem to enable beneficiaries in States with approved programs to identify policies that meet the standards of these regulations. Also, we believe that Federal monitoring would ensure its proper use in those States. However, we concur with the comments and the final rule provides that the emblem will be used only by the Federal voluntary certification program.

Comment 2: In the case of a policy displaying the emblem, the proposed rule would require the insurer to notify each policyholder, in writing, within 60 days of the loss of certification. Five consumer groups supported this provision, but they suggested that the time period is too lenient. They also noted that, in the case of a policy that should lose certification, for example, for failing to meet loss ratio requirements, the insurer could continue to market that policy for over four months while the insurer requests and receives an administrative review. (That period covers the following steps: The insurer has one month to appeal an HCFA decision to decertify a policy, and HCFA has three months to initiate and complete a review of material submitted for a reconsideration. If HCFA's final decision were to decertify the policy, the determination would go into effect in 15 days.)

Other commenters did not support this provision of the proposed rule and recommended that it be deleted. They maintain that such a notice would create an environment for hasty replacements and generate confusion and alarm among the policyholders. As an option, they suggested that a notice not be required when loss ratios fall below the required level, but only that the insurer be prohibited from selling additional policies as certified.

Response: Congress clearly intended that the emblem be displayed on condition that the insurer agree to notify policyholders of the loss of certification when the Secretary determines that the policy no longer satisfies the standards and requirements of the voluntary certification program (H.R. Rep. No. 96-944, 96th Congress, 2nd Session 78 (1980)). The proposed rule reflects the intent of Congress. For that reason, and because we think beneficiaries who purchased policies on the strength of their certification clearly are entitled to know when that certification ends, we believe that the provision should not be deleted. However, to avoid undue delays in final decisions while still allowing sufficient opportunity for review, we are providing that HCFA must initiate and complete the review within 90 days of the HCFA notice that the policy is losing certification or is not being certified by HCFA.

We acknowledge that potential misunderstandings can arise from the notification process. For example, a policy can lose certification because it fails to meet loss ratio requirements; and the policyholder might interpret this to mean that the policy no longer provides for certain benefits. Therefore, we have revised the notification process. The insurer must send the notice of loss of certification in the next regular premium notice to the policyholder, but not later than 60 days after the policy loses certification. The first option enables the insurer to avoid a special mailing, while the second option guarantees the insurer at least 60 days to inform policyholders if the loss of certification occurs just before the insurer planned to send the premium notice.

Finally, these regulations require that the insurer notify the policyholder if the policy was marketed as a certified policy, whether or not it displays the emblem. Moreover, in the case of a group policy, each holder of a certificate issued under the policy and marketed as "certified" must be notified.

F. State With Approved Program

Comment 1: The NPRM defined the term "policy issued in that State" as a means of delineating the universe of policies to which a State regulatory program would need to apply. The term was originally defined to mean a group policy if the holder of the master policy resides in that State, and an individual policy if the holder of the policy resides in that State. Commenters noted that it is not workable to determine whether or not a policy is issued in a State by reference to the residence of the policyholder. For example, if an individual owning a policy resides in State A, and then moves to State B, it is not accurate to speak of the policy as issued in State B. Similarly, there is no existing law to prevent an individual in State A, which will not approve a given policy, from traveling to State B and purchasing the policy there. Again, it would be incorrect to speak of that policy as being issued in State A, the residence of the policyholder. Therefore, a commenter recommends that an individual policy be defined as "issued, delivered, or issued for delivery in that State" if the policy is issued in, or issued for delivery in, that State.

Response: We concur and have revised the regulations to incorporate this suggestion.

Comment 2: Several persons inquired what provisions were being made for the transfer of policies, particularly those bearing the emblem, from the Federal program to the State program when the Panel determines the State has an approved program.

Response: In the case of a policy issued in a State that has an approved program after HCFA certifies the policy, the insurer may continue to display the emblem on the policy, unless otherwise prohibited by the State law or regulation. However, the insurer may continue to do so only until the date that the insurer would have had to submit material to HCFA for review in order to retain certification in the absence of a State program. We believe that this provision is appropriate. The intent of the emblem is to identify a policy that meets specified standards, and has been so certified by HCFA. The fact that the policy is now issued in a State that has an approved program assures that the policy continues to meet those standards. To obligate the insurer to cease using the emblem immediately, in the absence of restrictive State regulations, could confuse policyholders unduly and create an unnecessary financial burden for the insurer.

Finally, HCFA will inform the public, through its continuing education and training programs, which States have approved programs. This is particularly important information when an individual is considering a policy not certified by HCFA. If that policy is issued in a State with an approved program, the buyer can assume that the policy at least meets the minimum requirements specified in these regulations.

G. Submittal of Data to HCFA for Review to Obtain or Retain Certification

Comment: The NPRM would have required the insurer, for purposes of the annual review, to resubmit all of the material that was submitted for the previous year's certification, recertification (after a loss of certification), or annual review. Commenters suggested that the insurer should submit only that material that has changed since the last submittal. Commenters noted that no purpose is

served by the insurer's resubmittal of material that HCFA already has on file.

Response: In response to the above comments, we have simplified the refiling requirements. The final regulations provide that the insurer needs to submit only the following for the annual review:

a. Loss ratio information, regarding past experience, specified below in "Loss Ratios: Supporting Actuarial Data".

b. Material that has changed since the last submittal, for example, changes in benefits.

c. A statement, signed by the company president or designee, to confirm that the material is accurate and that the policy continues to meet the requirements of the regulations.

H. Decertification of Policies

Comment: The NPRM described HCFA as decertifying a certified policy that fails to continue to meet specified standards. Some insuring organizations maintain that HCFA does not "decertify" a policy; rather, the policy "loses its certification". They maintain that the law authorizes the Secretary only to certify a policy, not to decertify it.

Response: Certification shows that a policy meets specified standards and that the policy may display the emblem signifying HHS certification. Sound management of the voluntary certification program requires that all concerned parties know when a policy that has been sold as "certified" ceases to have that status. (Also, section 1882(d) of the Act provides for Federal penalties in cases where an individual makes a false statement regarding the use of the emblem, which is authorized for use only on certified policies.) For this reason, the NPRM provided for a clearly identifiable point in time when a policy ceases to be certified—when HCFA decertifies a policy. We also chose this term based on reasoning that, since the statute gives the authority to "certify" a policy, the statute implicitly gives the authority to "decertify" that policy if it ceases to meet specified requirements.

In the light of the comments, however, we have revised the regulations to provide for "loss of certification", rather than for "decertification". "Loss of certification" occurs when a policy ceases to meet the requirements for certification under the voluntary program. This can occur either when the insurer chooses not to continue to meet the requirements or when HCFA determines that the policy fails to meet the requirements.

I. Termination of a State Program

The proposed rule contained detailed provisions for the transfer of policies from State jurisdiction to the voluntary certification program in cases where the Panel determines that the State ceases to have an approved program of its own for regulating policies. Our concern was to provide for an orderly transfer of policies that display the emblem, without undue burden on the insurer and without confusing the policyholders. Because these final rules do not authorize States with approved programs to use the emblem, we have deleted the provisions regarding transfer of policies from the final rule. We note, however, that when the Panel determines that a State ceases to have an approved program, policies issued in that State may be submitted for review under the Federal voluntary program.

VI. Discussion of Loss Ratio Provisions

A. Federal Programs and Loss Ratios

One manner of assessing the value of a policy is to determine how much of the aggregate premium income from a policy the insurer returns in aggregate benefits to the policyholders. The relationship of benefits to premiums is the loss ratio. The statute (section 1882(c) of the Act) provides the following basic guidelines regarding loss ratios:

1. A policy must be expected to return to policyholders, in the form of aggregate benefits, at least 75 percent of aggregate premiums in the case of group policies, and at least 60 percent in the case of individual policies.

2. Loss ratios are to be determined according to "accepted actuarial principles and practices".

3. Loss ratios are to be calculated for the period for which rates are computed for coverage purposes.

4. Loss ratios are to be based on incurred claims experience and earned premiums for that period.

The law, however, does not contain specific guidelines for use by actuaries who calculate loss ratios (other than that they must be calculated according to "accepted actuarial principles and practices"), or by reviewers who must determine whether or not a policy provides a minimum level of benefits in relation to premiums paid. Therefore, we believe Federal regulations must provide specifications to guide both actuaries and reviewers. Accordingly, the proposed rule included the basic guidelines contained in the law and also specified in some detail how the insurer would compute "benefits" and "premiums" for purposes of loss ratio determinations. In addition, the NPRM would have required a qualified actuary to certify the appropriateness of the loss ratio calculations. In the proposed rule, we also specifically invited comments on how the following aspects of loss ratio calculations should be provided for in the final rule:

1. The impact on premiums and benefits that is caused by the expected future change in the age and sex distribution of the insured group.

2. The impact of screens used to select the insured and to exclude pre-existing conditions.

3. Assumptions that are made regarding a variety of factors, such as lapse of policies, interest on reserves, mortality, and morbidity.

4. Supporting data that the insurer should submit with loss ratios (for example, scale of gross premiums, a description of assumptions, formula used to calculate gross premiums, and expected level of earned premiums and incurred claims).

In addition to publishing the proposed rule, HCFA studied the practices of various States and consulted insurance and actuarial groups and other professionals in the field to develop specifications regarding loss ratios. In the course of this study, we received comments from fifteen professionals. We are including their comments, together with comments received in response to the NPRM, in the following discussion.

B. Loss Ratios: General Provisions

Comment 1: Insuring organizations commented that Federal regulations should not attempt to guide the actuary through each step of the calculations, as was proposed in the NPRM.

Response: The loss ratio formula and specific components in the NPRM embody provisions of the statute, that is, that the *expected* level of earned premiums be taken into account and that calculations be according to *accepted actuarial principles and practices.* (See section 1882(c)(2) of the Act.) The provisions of our regulations are intended to ensure that, for purposes of Federal certification, insuring organizations calculate loss ratios consistently and according to statutory requirements. Our major reason, however, for including these specifications is to provide criteria that HCFA will use to review all policies that insurers submit under the voluntary certification program, thereby assuring a consistent and equitable review of all policies.

Comment 2: Community or pool rated policies develop a premium rate for a short period of time reflecting the aggregate anticipated experience of

people insured. This rating method is distinct from the "level premium" approach that seeks to charge a rate that will be adequate on the average to cover costs over a longer term policy lifetime. Commenters recommend, therefore, that regulations specifically provide for the different ways that premium rates are calculated.

Response: In view of the comment received, we have revised the regulations to enable insurers to calculate benefits of community and pool related policies that are rerated on an annual basis in a way that conforms to the rating method specific to those policies. In order to calculate benefits, insurers are simply to determine the expected incurred benefits in the loss ratio calculation period. We have deleted the need to account for policy reserves because in the case of these policies, whose premiums are calculated for a year or less, the method that the insurer uses to account for policy reserves is not a significant variable in determining the loss ratio.

C. Loss Ratio Dates and Time Frames

Comment: The American Academy of Actuaries commented on the proposed wording of the NPRM that would enable the insurer, for purposes of calculating "present values", to use an "aggregate computed for a period not to exceed twelve consecutive months". While the intent of this provision might be to permit the actuary in the case of short term policies to ignore the potential impact of such factors as lapse of policy and survivorship on the loss ratio, it might be misconstrued to require that long-term policies have a loss ratio each year at least equivalent to the minimum loss ratio. Such a requirement is not specified in the law. On the contrary, the statute specifically refers to the loss ratio that is "estimated for the entire period for which rates are computed to provide coverage" (section 1882(c)(2) of the Act). The commenter recommended that the wording be changed to read: "Discounting may be ignored for periods not exceeding twelve months". (Discounting is the actuarial procedure that provides for the impact of such factors as lapse of policies and survivorship of policyholders on the loss ratio.)

Response: Our intent in the proposed rule was to provide assurance that in the case of one-year term policies, discounting would not be required over the one-year term period. However, we believe that the recommended wording is more appropriate and are incorporating it in the final rule.

D. Loss Ratios: Supporting Actuarial Data

Comment 1: The proposed rule would require insurers to submit the formula used to calculate gross premiums to HCFA for review. Actuaries noted that this formula is not necessary for a review of the loss ratio calculations.

Response: We concur with this comment and have deleted this requirement from the regulations.

Comment 2: The NPRM proposed that the insurer submit an actuarial certification, signed by an actuary, stating that the assumptions used in the loss ratio calculations are reasonable and appropriate. The American Academy of Actuaries and other commenters suggested that we substitute the words "statement of actuarial opinion" for the phrase "actuarial certification". They believe the term "certification" misrepresents the nature of the actuary's function by implying a level of exactness and precision that is inappropriate in this situation. On the other hand, they believe the term "statement of acturial opinion" more accurately characterizes the actuary's professional role. It is analogous to professional opinions that are issued routinely in law, medicine, accounting, and other professions.

Response: We concur with this suggestion and have revised the regulations.

E. Additional Data Requirements:

As a result of our analysis of the proposed rule, we are requiring that the insurer submit additional data that are necessary for HCFA to perform an actuarial review of the expected loss ratio to determine whether or not the policy meets the standards of the law. We believe that these are data the insurer will have available because the insurer needs them to determine a policy's benefits and premiums, and therefore no additional effort will be required to supply them. Accordingly, final regulations require the insurer to send the following information to HCFA:

1. Why the policy should be considered, for purposes of the loss ratio determination, an individual or a group policy.
2. The earliest age at which policyholders can purchase the policy.
3. The general marketing method and the underwriting criteria used for selection of applicants to whom coverage will be offered.
4. What policies are to be included under the one policy form, by the dates the policies are issued, for example, "all policies issued on or after July 1, 1981".
5. The loss ratio calculation period.
6. The scale of premiums for the loss ratio calculation period.
7. In the case of a policy submitted for recertification or annual review, details of all changes in information regarding items 1–6 above, since HCFA last reviewed the policy.
8. In the case of a policy submitted for recertification or annual review, past loss ratio experience (including the experience of all policies, riders, and endorsements issued under the policy form). The loss ratio experience data must include earned premiums, incurred claims, and total policy reserves that are calculated—

a. For all years of issue combined; and

b. Separately for each calendar year since the policy was first certified.

F. Loss Ratios: Actuarial Assumptions

In calculating loss ratios, the actuary must provide for the impact of a variety of factors (morbidity, mortality, etc.—identified as actuarial assumptions) on future benefits and premiums. The selection of assumptions and their interpretation depend to a great extent on the actuary's professional judgement. Therefore, in order to identify which actuarial assumptions are necessary for calculating and reviewing loss ratios, for purposes of the voluntary certification program, we specifically invited comments and suggestions regarding this issue.

In addition to the general request for suggestions in the NPRM, we prepared a list of actuarial assumptions, that we considered appropriate for the voluntary certification program, and sent it to actuaries for review and comment. The list included the following:

a. Morbidity.
b. Mortality.
c. Lapse.
d. Assumed increases in the Medicare deductible.
e. Impact of inflation on reimbursement per service.
f. Expected distribution, by age and sex, of persons who will purchase the policy in the coming year.
g. Expected impact on morbidity by policy duration of (1) the processes used by the insurer to select insureds from among those that apply for the policy and (2) pre-existing condition clauses of the policy.

In addition to the above listing, we also asked the actuaries to comment on a proposal that would enable actuaries to use policy reserves that are calculated in accordance with State laws and regulations, rather than according to the provisions of the NPRM. Because States wish to assure the insurers' fiscal solvency, they

generally require that insurers maintain a conservative policy reserve, generally higher than the provisions of our proposed rule would have required. Our proposal would allow the insurer to use State-mandated policy reserves, but would require the insurer to indicate this when submitting material to HCFA for review. This provision would ease the burden on insurers by enabling them to use policy reserve calculations that have already been determined to comply with State requirements, rather than calculating policy reserves specifically for purposes of the voluntary certification program. However, the insurer who used this alternate method would be required *to be capable of demonstrating* that the alternate method results in a loss ratio that is the same or lower than that obtained if the provisions of the proposed rule were used.

Comment: Commenters generally supported our intent to require that insurers submit the actuarial assumptions itemized above. However, they did recommend two revisions. First, regulations should not require the insurer "to be capable of demonstrating" that the State specifications for calculating policy reserves does not result in a higher loss ratio than the specifications provided in Federal regulations. This provision could be interpreted as mandating dual calculations by the insurer and thereby increasing the burden; therefore, it should be deleted. Second, the list of assumptions should be expanded to include interest on reserves—an item generally provided for according to accepted actuarial principles.

Response: We agree with these suggestions and have revised the regulations accordingly.

G. Confidentiality

Insurers have requested assurances that we maintain confidentiality for some of the loss ratio information that they must submit to us for review. Although the loss ratio percentages are generally available to the public, some portions of the supporting data, for example, morbidity, that the insurer uses to calculate those percentages are not public information. To reveal that data to the public could result in a competitive disadvantage or harm to the insuring organization. Insurers are concerned that under the Freedom of Information Act (FOIA) (5 U.S.C. 552), we would be obligated to share that data with a third party upon request.

Under provisions of the FOIA, "trade secrets and commercial or financial information" are exempt from release by the agency (5 U.S.C. 552(b)(4)). Accordingly, the Secretary will exempt privileged or confidential information when its disclosure would likely cause substantial harm to the submitting organization's competitive position; or when its release would impair the Department's ability to obtain similar information in the future. In the event of an FOIA request, we would review material on a case-by-case basis to determine if it falls under the exemption cited above and release only as much material as is appropriate.

H. Request for Additional Comments

These regulations, at 42 CFR 403.256, require the insurer to submit certain supplementary loss ratio information to HCFA for review. This information consists of supporting data and assumptions that the insurer used to determine the policy's loss ratio. We did not provide for this material in the proposed regulations, but we did invite comments regarding this material and state that we would provide for additional comments in the final rule. Accordingly, we are inviting comments on 42 CFR 403.256 of these final regulations; and we will publish any revisions in the **Federal Register** that are appropriate. To assure considerations, comments should be received no later than 30 days after publication of this rule.

VII. Effective Dates

1. HCFA cannot begin to certify policies until the Panel's initial determinations as to which States cannot be expected to establish programs that meet the requirements of the statute become effective. Section 1882(i) of the Act specifies that Panel's initial determinations must be submitted to Congress no later than January 1, 1982 and that they become effective 60 days later. In counting those 60 days, "days on which either House is not in session because of an adjournment sine die or an adjournment of more than three days to a day certain are excluded in the computation". (See section 1882(i)(2)(B) of the Act.) The Panel's report was transmitted by the Secretary on February 2, 1982.

The reporting or recordkeeping provisions that are included in this final rule in §§ 403.232 and 403.239–403.258 will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained and a notice to that effect has been published in the **Federal Register**.

As previously indicated, this certification process applies only to policies issued in those States that do not have a regulatory program meeting Federal standards. If the Panel reverses an earlier negative determination, by approving the State's regulatory program, any policy that HCFA has previously reviewed, and that is issued in that State, will immediately cease to come under the voluntary certification program.

Insuring organizations wishing to submit policies subject to the Secretary's review and certification under these regulations should mail the material required under 42 CFR 403.232 to:

Voluntary Certification Program, Medigap Operations Staff, c/o Office of the Bureau Director, Bureau of Program Operations, Health Care Financing Administration, Room 500 East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207

2. The earliest effective date of HCFA's certification of a policy is July 1, 1982 or later. That is also the first date that a certified policy may display the emblem or that an insurer may advertise that policy to be certified (section 1882(i) of the Act).

VIII. Impact Analyses

A. Executive Order 12291

The Secretary has determined that these interim final regulations do not meet the criteria for a major rule, as defined by section 1(b) of Executive Order 12291, because they do not have an economic effect of $100 million or otherwise meet the threshold criteria of the executive order. We expect that this rule will impose a maximum cost of approximately $125,000 on the insurance industry in meeting the filing requirements. Based on our estimate of the number of States that will be included in the voluntary certification program, we have projected that 50 companies will submit two policies each to HCFA for review. Assuming that virtually all of these companies have access to an automated data base, the estimated average cost per company for the two policies is approximately $2,500. Therefore, the total cost is about $125,000. In addition, the provisions of these regulations should stimulate competition among insurers marketing all types of policies to supplement Medicare.

B. Regulatory Flexibility Analysis

The Secretary certifies, under section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354), that the regulations proposed in this interim final rule will not have a significant economic impact on a substantial number of small entities. The reason for the Secretary's

negative certification is that only a few of the organizations that market health insurance will come under the voluntary certification program.

There are approximately 1800 organizations marketing health insurance in the United States. There are no comprehensive studies available at this time that identify the total number of organizations that market some sort of policy to supplement Medicare. However, based on comprehensive data furnished by the Federal Trade Commission on Medicare supplemental policies offered in five States, limited data furnished by the insurance industry, and additional information obtained from several States that list all organizations marketing supplemental policies, we have been able to identity 160 organizations that market supplemental policies. (However, there is no way of determining precisely how many of the organizations market policies that meet the statutory and regulatory definition of a voluntary certification program.) Of the 160 organizations, only seven are small entities, that is, independently owned and operated and not dominant in their field of operation. Among these seven, only two organizations market policies to supplement Medicare in States that we believe will come under the voluntary certification program.

IX. Response to Comments

Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. However, if as a result of comments we believe that changes are needed in these regulations, we will publish the changes in the **Federal Register** and respond to the comments in the preamble of that document.

List of Subjects

42 CFR Part 403

Medicare supplemental insurance, Voluntary certification program, Medicare supplemental health insurance panel.

42 CFR Chapter IV is amended as set forth below.

PART 401—GENERAL ADMINISTRATIVE REQUIREMENTS [AMENDED]

1. The entire contents of Part 401 are transferred from Subchapter B to Subchapter A.

2. The table of contents for the chapter is amended by adding a title for Subchapter A, reserving Parts 400, 402, and 404, and adding a new Part 403 to read as follows:

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES

Subchapter A—General Provisions

Part
400 [Reserved]
401 General Administrative Requirements
402 [Reserved]
403 Special Programs and Projects
404 [Reserved]

* * * * *

3. Subchapter A is amended by adding a title, reserving Parts 400, 402 and 404, moving the entire contents of Part 401 to subchapter A from subchapter B, adding a new Part 403, reserving Subpart A of Part 403, and adding a new Subpart B of Part 403 to read as follows:

SUBCHAPTER A—GENERAL PROVISIONS

PART 403—SPECIAL PROGRAMS AND PROJECTS

Subpart A—[Reserved]

Subpart B—Medicare Supplemental Policies

Sec.
403.200 Basis and scope.

General Provisions

403.201 State regulation of insurance policies.
403.205 Medicare supplement policy.
403.206 General standards for Medicare supplemental policies.
403.210 NAIC model standards.
403.215 Loss ratio standards.

State Regulatory Programs

403.220 Supplemental Health Insurance Panel.
403.222 State with an approved regulatory program.

Voluntary Certification Programs: General Provisions

403.231 Emblem.
403.232 Requirements and procedures for obtaining certification.
403.235 Review and certification of policies.
403.239 Submittal of material to retain certification.
403.245 Loss of certification.
403.248 Administrative review of HCFA determinations.

Voluntary Certification Program: Loss Ratio Provisions

403.250 Loss ratio calculations: General provisions.
403.251 Loss ratio date and time frame provisions.
403.253 Calculation of benefits.
403.254 Calculation of premiums.
403.256 Loss ratio supporting data.
403.258 Statement of actuarial opinion.

Authority: Sections 1102, 1871, 1874(a), and 1882 of the Social Security Act (42 U.S.C. 1302, 1395hh, 1395kk(a), and 1395ss).

§ 403.200 Basis and scope.

(a) *Provisions of the legislation.* This subpart implements, in part, section 1882 of the Social Security Act. The intent of that section is to enable Medicare beneficiaries to identify Medicare supplemental policies that do not duplicate Medicare, and that provide adequate, fairly priced protection against expenses not covered by Medicare. The legislation establishes certain standards for Medicare supplemental policies and provides two methods for informing Medicare beneficiaries which policies meet those standards:

(1) Through a State approved program, that is, a program that a Supplemental Health Insurance Panel determines to meet certain minimum requirements for the regulation of Medicare supplemental policies; and

(2) In a State without an approved program, through certification by the Secretary of policies voluntarily submitted by insuring organizations for review against the standards.

(b) *Scope of subpart.* This subpart sets forth the standards and procedures HCFA will use to implement the voluntary certification program.

General Provisions

§ 403.201 State regulation of insurance policies.

(a) The provisions of this subpart do not affect the right of a State to regulate policies marketed in that State.

(b) Approval of a policy under the voluntary certification program, as provided for in § 403.235(b), does not authorize the insuring organization to market a policy that does not conform to applicable State laws and regulations.

§ 403.205 Medicare supplemental policy.

(a) Except as specified in paragraph (d) of this section, "Medicare supplemental policy" (policy) means a health insurance policy or other health benefit plan—

(1) That a private entity offers to a Medicare beneficiary; and

(2) That is primarily designed, or is advertised, marketed, or otherwise purported to provide payment for expenses incurred for services and items that are not reimbursed under the Medicare program because of deductibles, coinsurance, or other limitations under Medicare.

(b) Unless otherwise specified in this subpart, the term "policy" includes both policy form and policy.

(1) "Policy form" means the form of health insurance contract that is

approved by and on file with the State agency for the regulation of insurance.

(2) "Policy" means the contract—

(i) Issued under the policy form; and

(ii) Held by the policyholder.

(c) Medicare supplemental policy includes the following:

(1) An individual policy.

(2) A group policy.

(d) Medicare supplemental policy does not include any of the following health insurance policies or health benefit plans:

(1) A policy or plan of one or more employers for employees, former employees, or any combination thereof.

(2) A policy or plan of one or more labor organizations for members, former members, or any combination thereof.

(3) A policy or plan of the trustees of a fund established by one or more labor organizations, one or more employers, or any combination, for any one or combination of the following:

(i) Employees.

(ii) Former employees.

(iii) Members.

(iv) Former members.

(4) A policy or plan of a profession, trade, or occupational association, if the association—

(i) Is composed of individuals all of whom are actively engaged in the same profession, trade, or occupation;

(ii) Has been maintained in good faith for a purpose other than obtaining insurance; and

(iii) Has been in existence for at least two years before the date of its initial offering of a Medicare supplemental health insurance policy to its members.

(5) For purposes of the voluntary certification program, a policy issued to an employee or to a member of a labor organization as an addition to a franchise plan (a plan that enables members of the same entity to purchase an individual policy marketed to them under group underwriting procedures), if the plan is in existence on July 1, 1982.

§ 403.206 General standards for Medicare supplemental policies.

(a) For purposes of the voluntary certification program described in this subpart, a policy must meet—

(1) The National Association of Insurance Commissioners (NAIC) model standards as defined in § 405.210; and

(2) The loss ratio standards specified in § 403.215.

(b) Except as specified in paragraph (c) of this section, the standards specified in paragraph (a) of this section must be met in a single policy.

(c) In the case of a nonprofit hospital or a medical association where State law prohibits the inclusion of all benefits in a single policy, the standards specified in paragraph (a) of the section must be met in two or more policies issued in conjunction with one another.

§ 403.210 NAIC model standards.

(a) "NAIC model standards" means the National Association of Insurance Commissioners (NAIC) "Model Regulation to Implement the Individual Accident and Insurance Minimum Standards Act" (as amended and adopted by the NAIC on June 6, 1979, as it applies to Medicare supplemental policies). Copies of the NAIC model standards can be purchased from the National Association of Insurance Commissioners at 350 Bishops Way, Brookfield, Wisconsin 53004, and from the NIARS Corporation, 318 Franklin Avenue, Minneapolis, Minnesota 55404. The NAIC model standards are also available for inspection at the Office of the Federal Register Information Center, Room 8301, 1100 L Street, N.W., Washington, D.C. 20408.

(b) The policy must comply with the provisions of the NAIC model standards, except as follows:

(1) "Policy", for purposes of this paragraph, means individual and group policy, as specified in § 403.205. The NAIC model standards limit "policy" to individual policy.

(2) The policy must meet the loss ratio standards specified in § 403.215.

§ 403.215 Loss ratio standards.

(a) The policy must be expected to return to the policyholders, in the form of aggregate benefits provided under the policy—

(1) At least 75 percent of the aggregate amount of premiums in the case of group policies; and

(2) At least 60 percent of the aggregate amount of premiums in the case of individual policies.

(b) For purposes of loss ratio requirements, policies issued as a result of solicitation of individuals through the mail or by mass media advertising are considered individual policies.

State Regulatory Programs

§ 403.220 Supplemental Health Insurance Panel.

(a) *Membership.* The Supplemental Health Insurance Panel (Panel) consists of—

(1) The Secretary or a designee, who serves as chairperson, and

(2) Four State Commissioners or Superintendents of Insurance appointed by the President. (The terms Commissioner or Superintendent of Insurance include persons of similar rank.)

(b) *Functions.*

(1) The Panel determines whether or not a State regulatory program for Medicare supplemental health insurance policies meets and continues to meet minimum requirements specified in section 1882 of the Social Security Act.

(2) The chairperson of the Panel informs the State Commissioners and Superintendents of Insurance of all determinations made under paragraph (b)(1) of this section.

§ 403.222 State with an approved regulatory program.

(a) A State has an approved regulatory program if the Panel determines that the State has in effect under State law a regulatory program that provides for the application of standards, with respect to each Medicare supplemental policy issued in that State, that are equal to or more stringent than those specified in section 1882 of the Social Security Act.

(b) "Policy issued in that State" means—

(1) A group policy, if the holder of the master policy resides in that State; and

(2) An individual policy, if the policy is—

(i) Issued in that State; or

(ii) Issued for delivery in that State.

(c) A policy issued in a State with an approved regulatory program is considered to meet the NAIC model standards in § 403.210 and loss ratio standards in § 403.215.

Voluntary Certification Program: General Provisions

§ 403.231 Emblem.

(a) The emblem is a graphic symbol, approved by HHS, that indicates that HCFA has certified a policy as meeting the requirements of the voluntary certification program, specified in § 403.232.

(b) Unless prohibited by the State in which the policy is marketed, the insuring organization may display the emblem on policies certified under the voluntary certification program.

(c) The manner in which the emblem may be displayed and the conditions and restrictions relating to its use will be stated in the letter with which HCFA notifies the insuring organization that a policy has been certified. The insuring organization must comply with these conditions and restrictions.

(d) If a certified policy is issued in a State that later has an approved regulatory program, as provided for in § 403.222, the insuring organization may display the emblem on the policy until the earliest of the following:

(1) When prohibited by State law or regulation.

(2) When the policy no longer meets the requirements for Medicare supplemental policies specified in § 403.206.

(3) The date the insuring organization would be required to submit material to HCFA for annual review in order to retain certification, if the State did not have an approved program (see § 403.239).

§ 403.232 Requirements and procedures for obtaining certification.

(a) To be certified by HCFA, a policy must meet—

(1) The NAIC model standards specified in § 403.210;

(2) The loss ratio standards specified in § 403.215; and

(3) Any State requirements applicable to a policy—

(i) Issued in that State; or

(ii) Marketed in that State.

(b) An insuring organization requesting certification of a policy must submit the following to HCFA for review:

(1) A copy of the policy form (including all the documents that would constitute the contract of insurance that is proposed to be marketed as a certified policy).

(2) A copy of the application form including all attachments.

(3) A copy of the uniform certificate issued under a group policy.

(4) A copy of the outline of coverage, in the form prescribed by the NAIC model standards.

(5) A copy of the Medicare supplement buyers' guide to be provided to all applicants if the buyers' guide is not the HCFA/NAIC buyers' guide.

(6) A statement of when and how the outline of coverage and the buyers' guide will be delivered and copies of applicable receipt forms.

(7) A copy of the notice of replacement and statement as to when and how that notice will be delivered.

(8) A list of States in which the policy is authorized for sale. If the policy was approved under a deemer provision in any State, the conditions involved must be specified.

(9) A copy of the loss ratio calculations, as specified in § 403.250.

(10) Loss ratio supporting data, as specified in § 403.256.

(11) A statement of actuarial opinion, as specified in § 403.258.

(12) A statement that the insuring organization will notify the policyholders in writing, within the period of time specified in § 403.245(c), if the policy is identified as a certified policy at the time of sale and later loses certification.

(13) A signed statement in which the president of the insuring organization, or a designee, attests that—

(i) The policy meets the requirements specified in paragraph (a) of this section; and

(ii) The information submitted to HCFA for review is accurate and complete and does not misrepresent any material fact.

§ 403.235 Review and certification of policies.

(a) HCFA will review policies that the insuring organization voluntarily submits, except that HCFA will not review a policy issued in a State with an approved regulatory program under § 403.222.

(b) If the requirements specified in § 403.232 are met, HCFA will—

(1) Certify the policy; and

(2) Authorize the insuring organization to display the emblem on the policy, as provided for in § 403.231.

(c) If HCFA certifies a policy, it will inform all State Commissioners and Superintendents of Insurance of that fact.

§ 403.239 Submittal of material to retain certification.

(a) HCFA certification of a policy that continues to meet the standards will remain in effect, if the insuring organization files the following material with HCFA no later than the date specified in paragraph (b) or (c) of this section:

(1) Any changes in the material, specified in § 403.232(b), that was submitted for previous certification.

(2) The loss ratio supporting data specified in § 403.256(b).

(3) A signed statement in which the president of the insuring organization, or a designee, attests that—

(i) The policy continues to meet the requirements specified in § 403.232(a); and

(ii) The information submitted to HCFA for review is accurate and complete and does not misrepresent any material fact.

(b) Except as specified in paragraph (c) of this section, the insuring organization must file the material with HCFA no later than June 30 of each year. The first time the insuring organization must file the material is no later than June 30 of the calendar year that follows the year in which HCFA—

(1) Certifies a new policy; or

(2) Certifies a policy that lost certification as provided in § 403.245.

(c) If the loss ratio calculation period, used to calculate the expected loss ratio for the last actuarial certification submitted to HCFA, ends before the June 30 date of paragraph (b) of this section, the insuring organization must file the material with HCFA no later then the last day of that rate calculation period.

§ 403.245 Loss of certification.

(a) A policy loses certification if—

(1) The insuring organization withdraws the policy from the voluntary certification program; or

(2) HCFA determines that—

(i) The policy fails to meet the requirements specified in § 403.232(a); or

(ii) The insuring organization has failed to meet the requirements for submittal of material specified in § 403.239.

(b) If a policy loses its certification, HCFA will inform all State Commissioners and Superintendents of Insurance of that fact.

(c) If a policy that displays the emblem, or that has been marketed as a certified policy without the emblem, loses certification, the insuring organization must notify each holder of the policy, or of a certificate issued under the policy, of that fact. The notice must be in writing and sent by the earlier of—

(1) The date of the first regular premium notice after the date the policy loses its certification; or

(2) 60 days after the date the policy loses its certification.

§ 403.248 Administrative review of HCFA determinations.

(a) This section provides for administrative review if HCFA determines—

(1) Not to certify a policy; or

(2) That a policy no longer meets the standards for certification.

(b) If HCFA makes a determination specified in paragraph (a) of this section, it will send a notice to the insuring organization containing the following information:

(1) That HCFA has made such a determination.

(2) The reasons for the determination.

(3) That the insuring organization has 30 days from the date of the notice to—

(i) Request, in writing, an administrative review of the HCFA determination; and

(ii) Submit additional information to HCFA for review.

(4) That, if the insuring organization requests an administrative review, HCFA will conduct the review, as provided for in paragraph (c) of this section.

(5) That, in a case involving loss of certification, the HCFA determination will go into effect 30 days from the date

of the notice, unless the insuring organization requests an administrative review. If the insuring organization requests an administrative review, the policy retains its certification until HCFA makes a final determination.

(c) If the insuring organization requests an administrative review, HCFA will conduct the review as follows:

(1) A HCFA official, not involved in the initial HCFA determination, will initiate and complete an administrative review within 90 days of the date of the notice provided for in paragraph (b) of this section.

(2) The official will consider—

(i) The original material submitted to HCFA for review, as specified in §§ 403.232(b) or 403.239(a); and

(ii) Any additional information, that the insuring organization submits to HCFA.

(3) Within 15 days after the administrative review is completed, HCFA will inform the insuring organization in writing of the final decision, with an explanation of the final decision.

(4) If the final decision is that a policy lose its certification, the loss of certification will go into effect 15 days after the date of HCFA's notice informing the insuring organization of the final decision.

Voluntary Certification Program: Loss Ratio Provisions

§ 403.250 Loss ratio calculations: General provisions.

(a) *Basic formula.*

The expected loss ratio is calculated by determing the ratio of benefits to premiums.

(b) *Calculations.*

The insuring organization must calculate loss ratios according to the provisions of §§ 403.251, 403.253, and 403.254.

§ 403.251 Loss ratio date and time frame provisions.

(a) "Initial calculation date" means the first date of the period that the insuring organization uses to calculate the policy's expected loss ratio.

(1) The initial calculation date may be before, the same as, or after the date the insuring organization sends the policy to HCFA for review, except—

(2) The initial calculation date must not be earlier than January 1 of the calendar year in which the policy is sent to HCFA.

(b) "Loss ratio calculation period" means the period beginning with the initial calculation date and ending with the last day of the period for which the insuring organization calculates the policy's scale of premiums.

(c) To calculate "present values", the insuring organization may ignore discounting (an actuarial procedure that provides for the impact of a variety of factors, such as lapse of policies) for loss ratio calculation periods not exceeding 12 months.

§ 403.253 Calculation of benefits.

(a) *General provisions.*

(1) Except as provided for in paragraph (a)(2) of this section, calculate the amount of "benefits" by—

(i) Adding the present values on the initial calculation date of—

(A) Expected incurred benefits in the loss ratio calculation period, to—

(B) The total policy reserve at the last day of the loss ratio calculation period: and

(ii) Subtracting the total policy reserve on the initial calculation date from the sum of these values.

(2) To calculate the amount of "benefits" in the case of community or pool rated individual or group policies rerated on an annual basis, calculate the expected incurred benefits in the loss ration calculation period.

(b) *Calculation of total policy reserve.*

(1) *Option for calculation.* The insuring organization must calculate "total policy reserve" according to the provisions of paragraph (b)(2) or (b)(3) of this section.

(2) *Total policy reserve: Federal provisions.*

(i) "Total policy reserve" means the sum of—

(A) Additional reserve; and

(B) The reserve for future contingent benefits.

(ii) "Additional reserve" means the amount calculated on a net level reserve basis, using appropriate values to account for lapse, mortality, morbidity, and interest, that on the valuation date represents—

(A) The present value of expected incurred benefits over the loss ratio calculation period; less—

(B) The present value of expected net premiums over the loss ratio calculation period.

(iii) "Net premium" means the level portion of the gross premium used in calculating the additional reserve. On the day the policy is issued, the present value of the series of those portions equals the present value of the expected incurred claims over the period that the gross premiums are computed to provide coverage.

(iv) "Reserve for future contingent benefits" means the amounts, not elsewhere included, that provide for the extension of benefits after insurance coverage terminates. These benefits—

(A) Are predicated on a health condition existing on the date coverage ends;

(B) Accrue after the date coverage ends; and

(C) Are payable after the valuation date.

(3) *Total policy reserve: State provisions.* "Total policy reserve" means the total policy reserve calculated according to appropriate State law or regulation.

§ 403.254 Calculation of premiums.

(a) *General provisions.*

To calculate the amount of "premiums", calculate the present value on the initial calculation date of expected earned premiums for the loss ratio calculation period.

(b) *Specific provisions.*

(1) "Earned premium" for a given period means—

(i) Written premiums for the period; plus—

(ii) The total premium reserve at the beginning of the period; less—

(iii) The total premium reserve at the end of the period.

(2) "Written premiums in a period" means—

(i) Premiums collected in that period; plus—

(ii) Premiums due and uncollected at the end of that period; less—

(iii) Premiums due and uncollected at the beginning of that period.

(3) "Total premium reserve" means the sum of—

(i) The unearned premium reserve;

(ii) The advance premium reserve; and

(iii) The reserve for rate credits.

(4) "Unearned premium reserve" means the portion of gross premiums due that provide for days of insurance coverage after the valuation date.

(5) "Advance premium reserve" means premiums received by the insuring organization that are due after the valuation date.

(6) "Reserve for rate credits" means rate credits on a group policy that—

(i) Accrue by the valuation date of the policy; and

(ii) Are paid or credited after the valuation date.

§ 403.256 Loss ratio supporting data.

(a) For purposes of requesting HCFA certification under § 403.232, the insuring organization must submit the following loss ratio data to HCFA for review:

(1) A statement of why the policy is to be considered, for purposes of the loss

ratio standards, an individual or a group policy.

(2) The earliest age at which policyholders can purchase the policy.

(3) The general marketing method and the underwriting criteria used for the selection of applicants to whom coverage is offered.

(4) What policies are to be included under the one policy form, by the dates the policies are issued.

(5) The loss ratio calculation period.

(6) The scale of premiums for the loss ratio calculation period.

(7) The expected level of earned premiums in the loss ratio calculation period.

(8) The expected level of incurred claims in the loss ratio calculation period.

(9) A description of how the following assumptions were used in calculating the loss ratio.

(i) Morbidity.

(ii) Mortality.

(iii) Lapse.

(iv) Assumed increases in the Medicare deductible.

(v) Impact of inflation on reimbursement per service.

(vi) Interest.

(vii) Expected distribution, by age and sex, of persons who will purchase the policy in the coming year.

(viii) Expected impact on morbidity by policy duration of—

(A) The process used to select insureds from among those that apply for a policy; and

(B) Pre-existing condition clauses in the policy.

(b) For purposes of requesting continued HCFA certification under § 403.239(a), the insuring organization must submit the following to HCFA:

(1) A description of all changes in the loss ratio data, specified in paragraph (a) of this section, that occurred since HCFA last reviewed the policy.

(2) The past loss ratio experience for the policy, including the experience of all riders and endorsements issued under the policy. The loss ratio experience data must include earned premiums, incurred claims, and total policy reserves that the insuring organization calculates—

(i) For all years of issue combined; and

(ii) Separately for each calendar year since HCFA first certified the policy.

§ 403.258 Statement of actuarial opinion.

(a) For purposes of certification requests submitted under § 403.232(b) and subsequent review as specified in § 403.239(a), "statement of actuarial opinion" means a signed declaration in which a qualified actuary states that the assumptions used in calculating the expected loss ratio are appropriate and reasonable, taking into account actual policy experience, if any, and reasonable expectations.

(b) "Qualified actuary" means—

(1) A member in good standing of the American Academy of Actuaries; or

(2) A person who has otherwise demonstrated his or her actuarial competence to the satisfaction of the Commissioner or Superintendent of Insurance of the domiciliary State of the insuring organization.

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare-Hospital Insurance Program; No. 13.774, Medicare-Supplementary Medical Insurance Program)

Dated: June 17, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: June 30, 1982.

Richard S. Schweiker,

Secretary.

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federal register

Monday
July 26, 1982

Part IV

Department of the Interior

Bureau of Land Management

Wild Free-Roaming Horse and Burro Protection, Management and Control; Amendment To Provide a Fee for Adoption

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 4700

Wild Free-Roaming Horse and Burro Protection, Management and Control; Amendment To Provide a Fee for Adoption

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rulemaking would provide for the establishment of a fee for the adoption of a wild free-roaming horse or burro. This fee would be established under the authority of section 304 of the Federal Land Policy and Management Act of 1976 and is designed to recover part of the costs incurred by the United States in connection with adoption program activities.

DATE: Comments by September 24, 1982.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: John S. Boyles, (202) 653–9215.

SUPPLEMENTARY INFORMATION: The proposed rulemaking would establish a custodial fee that would be paid in connection with the adoption of a wild free-roaming horse or burro. The fee would be established under the authority granted the Secretary of the Interior by section 304 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1734) to require payment to reimburse the United States for reasonable costs with respect to activities such as the adoption of a wild free-roaming horse or burro. The fee would be designed to recover only a portion of the costs of the adoption program (i.e., transportation, freezemarking, veterinarian services, application processing, animal feed and handling, compliance and title transfer).

While the Secretary of the Interior does not believe that all of the factors set out in section 304 of the Federal Land Policy and Management Act must be taken into consideration, the Secretary did consider these factors as follows:

(1) The Secretary determined that a fee which represented the actual cost connected with the adoption of a wild free-roaming horse or burro would unnecessarily discourage potential adopters and lead to increased cost to the United States for holding and caring for animals and for eventually destroying them, as required by law. However, the Secretary has determined that actual costs will be charged for transportation expenses since transporting the animals in bulk reduces the transportation costs to an adopter below that for transporting a single animal. Transportation is provided as a service enjoyed only by an adopter who does not choose to pick-up an animal at a holding facility near the point of capture.

(2) The monetary value of the rights or privileges sought is approximately the value of the animal itself. The payment that would be established in this proposed rulemaking is a fairly accurate reflection of the monetary value of the benefit received by the adopter of a horse or burro.

(3) A flat fee rather than a fluctuating fee was selected because of the difficulty of determining the exact cost incurred for each animal and because it was a more efficient process. The fluctuating fee is limited to transportation costs since these are more efficiently determined.

(4) It is recognized that there is a general public interest and benefit in both the removal of excess wild free-roaming horses and burros from the public lands and in their humane treatment and care. However, the adopter also receives a benefit not shared by other members of the general public. For this reason, it was decided that the adopter should provide a share of the cost of the adoption program, but that the public interest served by the adoption is an appropriate basis for charging less than actual costs.

(5) Similarly, an adopter, by providing humane care and treatment to a wild free-roaming horse or burro, is in a sense providing a public service. Again, this was determined to be an appropriate reason to reduce the amount of the custodial fee below that of actual costs.

The Bureau of Land Management has the management responsibility for wild free-roaming horses and burros located on the public lands under its jurisdiction. Over the past few months the Bureau has conducted a pilot program under which a fee has been levied for the adoption of wild free-roaming horses and burros. The payment that would be established by this proposed rulemaking is based on that pilot program. The initial reaction to the fee has been acceptable and the fee program would now be made a part of the wild free-roaming horse and burro program by the promulgation of this rulemaking.

The principal author of this proposed rulemaking is John S. Boyles, Division of Wild Horses and Burros, Bureau of Land Management, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (43 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

This proposed rulemaking would set a fee for the adoption of wild free-roaming horses and burros. The fee is uniform for everyone wishing to adopt a wild free-roaming horse or burro and will have no different impact on small entities than on individuals or large entities.

List of Subjects in 43 CFR Part 4700

Advisory committees, Aircraft, Intergovernmental relations, Penalties, Public lands, Range management, Wild horses and burros, Wildlife.

PART 4700—WILD FREE-ROAMING HORSE AND BURRO PROTECTION, MANAGEMENT AND CONTROL

Under the authority of the Act of December 15, 1971, as amended (16 U.S.C. 1331–1340), the Act of June 28, 1934 (43 U.S.C. 315–315r) and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), it is proposed to amend Part 4700, Group 4700, Subchapter D, Chapter II of Title 43 of the Code of Federal Regulations as set forth below:

1. Section 4740.4–2 is renumbered § 4740.4–3 and is amended by revising paragraph (d) to read:

§ 4740.4–3 [Amended]

* * * * *

(d) Before wild free-roaming horses or burros are transferred, the applicant shall:

(1) Pay a custodial fee of $200 for each horse and $75 for each burro, except there shall be no custodial fee for an unweaned offspring under 6 months of age accompanying its mother, plus any transportation costs incurred for the transportation of the animals to the point of pickup; and

(2) Sign a cooperative agreement that incorporates provisions for custodial maintenance, including, but not limited to, provisions for proper maintenance of the animals and protection from inhumane treatment and commercial exploitation.

2. A new § 4740.4–2 is added to read:

§ 4740.4–2 Applications.

Any qualified person, organization or government agency wishing to take custody of a wild free-roaming horse or burro shall file an application with the Denver Service Center of the Bureau of Land Management. The application shall be filed on a form approved by the Director, Bureau of Land Management, and shall be accompanied by a nonrefundable advance payment of $25. If custody of a wild free-roaming horse or burro is granted by the authorized officer, the advance payment shall be applied against the custodial fee required to be paid at the time the cooperative agreement required by § 4740.4–3 of this title is executed.

Frank A. DuBois,

Acting Assistant Secretary of the Interior.

July 2, 1982.

[FR Doc. 82–20122 Filed 7–23–82; 8:45 am]

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S. 1230 / Pub. L. 97–220 Olympic Commemorative Coin Act. (July 22, 1982; 96 Stat. 222) Price: $2.00.

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Rules and Regulations

Federal Register
Vol. 47, No. 144
Tuesday, July 27, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 285

[Amdt. No. 209]

Commonwealth of Puerto Rico Nutrition Assistance Grant

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: The Department adopts as a final rule the interim rule published March 12, 1982 at 47 FR 10767 which implements a nutrition assistance grant to replace the Food Stamp Program in the Commonwealth of Puerto Rico in accordance with the 1981 Omnibus Budget Reconciliation Act. As required by that law, this grant is to take effect on July 1, 1982.

EFFECTIVE DATE: The interim final provisions adopted by this final action were effective March 12, 1982.

FOR FURTHER INFORMATION CONTACT: Thomas O'Connor, Supervisor, Policy and Regulations Section, Program Standards Branch, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia 22302; (703) 756–3429.

SUPPLEMENTARY INFORMATION:

Classification

This rule has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512–1. The Department has determined that this rule constitutes a major rule due to the size of the grant. The amount of monies authorized to be appropriated for the grant are not to exceed $825 million for each fiscal year. The $825 million represents 75 percent of what would be Puerto Rico's total anticipated Food Stamp Program expenditures in fiscal year 1982 if the program ran through September 30, 1982. The conversion to the block grant on July 1, 1982 is expected to result in reduced Federal expenditures of $69 million in Fiscal Year 1982, $327 million in Fiscal Year 1983, and $408 million in Fiscal Year 1984, as compared to anticipated expenditures if the Food Stamp Program continued to operate in Puerto Rico.

In addition, this rule will not result in a major increase in costs to State (Commonwealth) or local government agencies in the Commonwealth of Puerto Rico. The rule will not result in a major increase in costs or prices for consumers or individuals and will not have a significant adverse effect on competition, employment, productivity, investment, or foreign trade. Further, this rule is unrelated to the ability of United States-based enterprises to compete with foreign-based enterprises. There is no Regulatory Impact Analysis for this final rule since only two comments were received. Moreover, pursuant to section 4(a) of E.O. 12291, the Department has determined that the rule is within the authority delegated by law and consistent with Congressional intent.

Finally, the rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act, Pub. L. 96–354. The Administrator of the Food and Nutrition Service has certified that this action will have a broad but minor economic impact on a substantial number of small entities. The action will implement that provision of the 1981 Omnibus Budget Reconciliation Act which converts the Federal Food Stamp Program in the Commonwealth of Puerto Rico to a nutrition assistance grant. The State and local welfare agencies will be affected to the extent that they administer the current program. The Department has determined that the potential impact on retail food sales will be minimal since the government of the Commonwealth of Puerto Rico has chosen to replace the present Food Stamp Program in the Commonwealth of Puerto Rico with a cash income-support program.

Background

On March 12, 1982, the Department published an interim rule at 47 FR 10767 which implemented a nutrition assistance grant to replace the Food Stamp Program in the Commonwealth of Puerto Rico. The nutrition assistance grant, which is effective July 1, 1982, is required by the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35, 95 Stat. 357).

The March 12, 1982, interim rule had a 30-day comment period during which two comments were received. The commenters were in support of the rule as written. Except as discussed below, therefore, 7 CFR Part 285 remains unchanged from the interim rule.

The interim rule required that the Commonwealth of Puerto Rico submit any amendments to the plan of operation to FNS for approval. This final rule clarifies that only those amendments to the provisions specified in § 285.3(b) (i.e., required provisions) require FNS approval. Amendments to any other provisions of the plan would be submitted to FNS for informational purposes. The Commonwealth of Puerto Rico must submit any such amendment to the provisions of the plan at least 30 days prior to the effective date of the amendment. The Commonwealth of Puerto Rico shall submit any request for a waiver of the 30-day requirement to FNS for consideration. If FNS determines that the amendment is to a required provision, the approval procedures for a nondiscretionary amendment will be applied.

List of Subjects in 7 CFR Part 285

Accounting, Food assistance programs, Grant programs—agricultural, Grant programs—social programs, Intergovernmental relations, Puerto Rico, Technical assistance, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, Part 285 is revised and adopted as final to read as follows:

PART 285—PROVISION OF A NUTRITION ASSISTANCE GRANT FOR THE COMMONWEALTH OF PUERTO RICO

Sec.

285.1 General purpose and scope.
285.2 Funding.
285.3 Plan of Operation.
285.4 Approval.
285.5 Records and reports.
285.6 Audits.
285.7 Failure to comply.
285.8 Review.
285.9 Technical assistance.

Authority: 90 Stat. 263–279 (48 U.S.C. 1681 note.) 91 Stat. 958 (7 U.S.C. 2011–2029).

§ 285.1 General purpose and scope.

This part describes the general terms and conditions under which grant funds shall be provided by the Food and Nutrition Service (FNS) to the government of the Commonwealth of Puerto Rico for the purpose of designing and conducting a nutrition assistance program for needy persons. The Commonwealth of Puerto Rico is authorized to establish eligibility and benefit levels for the nutrition assistance program. In addition, with FNS approval, the Commonwealth of Puerto Rico may employ a small proportion of the grant funds to finance projects that the Commonwealth of Puerto Rico believes likely to improve or stimulate agriculture, food production, and food distribution.

§ 285.2 Funding.

(a) FNS shall, consistent with the plan of operation required by § 285.3 of this part, and subject to availability of funds, provide nutrition assistance grant funds to the Commonwealth of Puerto Rico to cover 100 percent of the expenditures related to food assistance provided to needy persons and 50 percent of the administrative expenses related to the food assistance. The amount of the grant funds provided to the Commonwealth of Puerto Rico shall not exceed $825,000,000 for each fiscal year except that the amount payable to Puerto Rico for final quarter of fiscal year 1982 shall be $206,500,000.

(b) FNS shall, subject to the provisions in §§ 285.4 and 285.7 in this part, and limited by the provisions of paragraph (a) of this subsection, pay to the Commonwealth of Puerto Rico for the applicable fiscal year, the amount estimated by the Commonwealth of Puerto Rico pursuant to § 285.3(b)(4). Payments shall be made no less frequently than on a monthly basis prior to the beginning of each month consistent with the Treasury Fiscal Requirement Manual, Volume I, part 6, section 2030; these letters of credit shall be drawn on an as-needed basis. The amount shall be reduced or increased to the extent of any prior overpayment or underpayment which FNS determines has been made and which has not been previoulsy adjusted. The payment(s) received by the Commonwealth of Puerto Rico for a fiscal year shall not exceed the total authorized for the grant, or the total cost for the nutrition assistance program eligible for funding, whichever is less, for that fiscal year.

(c) FNS may recover from the Commonwealth of Puerto Rico, through offsets to funding during any fiscal year, funds previously paid to the Commonwealth of Puerto Rico and later determined by the Secretary to have been overpayments. Funds which may be recovered include, but are not limited to:

(1) Costs not included in the approved plan of operation;

(2) Unallowable costs discovered in audit or investigation findings;

(3) Funds allocated to the Commonwealth of Puerto Rico which exceeded expenditures during the fiscal year for which the funds were authorized; or

(4) Amounts owed to FNS as a result of the nutrition assistance grant which have been billed to the Commonwealth of Puerto Rico and which the Commonwealth of Puerto Rico has failed to pay without cause acceptable to FNS.

(d) Funds for payment of any prior fiscal year expenditures shall be claimed from the funding for that prior year. The payment of funds shall not exceed the authorization for that prior fiscal year.

§ 285.3 Plan of Operation.

(a) To receive payments for any fiscal year the Commonwealth of Puerto Rico shall have a plan of operation for that fiscal year approved by FNS. The Commonwealth of Puerto Rico shall submit the initial plan of operation, for fiscal years 1982 and 1983, no later than April 1, 1982. Each subsequent plan of operation shall be sumitted for FNS approval by the July 1 preceding the fiscal year for which the plan of operation is to be effective.

(b) The plan of operation shall include the following information:

(1) Designation of a single agency which shall be responsible for administration, or supervision of the administration, of the nutrition assistance program.

(2) A description of the needy persons residing in the Commonwealth of Puerto Rico and an assessment of the food and nutrition needs of these persons. The description and assessment shall demonstrate that the nutrition assistance program is directed toward the most needy persons in the Commonwealth of Puerto Rico.

(3) A description of the program for nutrition assistance including:

(i) A general description of the nutrition assistance to be provided the needy persons who will receive assistance, and any agencies designated to provide such assistance;

(ii) to the extent grant funds are not used for direct nutrition assistance payments to needy persons, the plan of operation must demonstrate that the grants funds will provide nutrition assistance benefiting needy persons in the Commonwealth of Puerto Rico.

(4) A budget and an estimate of the monthly amounts of expenditures necessary for the provision of the nutrition assistance and related administrative expenses up to the monthly amounts provided for payment in § 285.2.

(5) Other reasonably related information which FNS may request.

(6) An agreement signed by the governor or other appropriate official to conduct the nutrition assistance program in accordance with the FNS-approved plan of operation and in compliance with all pertinent Federal rules and regulations. The Commonwealth of Puerto Rico shall also agree to comply with any changes in Federal law and regulations.

(c) Any amendments to those provisions of the plan of operation specified in paragraph (b) of this section, must be submitted to FNS for approval.

§ 285.4 Approval.

(a) FNS shall approve or disapprove the initial plan of operation for fiscal years 1982 and 1983 no later than 30 days from the date the Commonwealth of Puerto Rico submits such plan. Thereafter, FNS shall approve or disapprove any plan of operation no later than August 1 of the year of its submission. FNS approval of the plan of operation shall be based on an assessment that the nutrition assistance program, as defined in the plan of operation, is:

(1) Sufficient to permit analysis and review;

(2) Reasonably targeted to the most needy persons as defined in the plan of operation;

(3) Supported by an assessment of the food and nutrition needs of needy persons;

(4) Reasonable in terms of the funds requested;

(5) Structured to include safeguards to prevent fraud, waste, and abuse in the use of grant funds; and

(6) Consistent with all applicable Federal laws.

(b) FNS shall approve or disappove any amendments to those provisions of the plan of operation specified in § 285.3(b). If FNS fails either to approve or deny the amendment, or to request additional information within 30 days, the amendment to the plan of operation is approved. If additional information is requested, the Commonwealth of Puerto Rico shall provide this as soon as

possible, and FNS shall approve or deny the amendment to the plan of operation. Payment schedules and other program operations may not be altered until an amendment to the plan of operation is approved. The Commonwealth of Puerto Rico shall, for informational purposes, submit to FNS any amendments to those provisions of the plan of operation not specified in § 285.3(b). Such submittal shall be made at least 30 days prior to the effective date of the amendment. If circumstances warrant a waiver of the 30-day requirement, the Commonwealth of Puerto Rico shall submit a waiver request to FNS for consideration. Should FNS determine that such an amendment relates to the provisions of § 285.3(b), FNS approval as established above will be necessary for the amendment to be implemented.

(c) FNS may approve part of any plan of operation or amendment submitted by the Commonwealth of Puerto Rico contingent on appropriate action by the Commonwealth of Puerto Rico with respect to the problem areas in the plan of operation.

(d) If all or part of the plan of operation is disapproved, FNS shall notify the appropriate agency in the Commonwealth of Puerto Rico of the problem area(s) in the plan of operation and the actions necessary to secure approval.

(e) In accordance with the provisions of § 285.7, funds may be withheld or denied when all or part of a plan of operation is disapproved.

§ 285.5 Records and Reports.

The Commonwealth of Puerto Rico shall follow procedures, and maintain and submit to FNS such records and reports, as agreed upon by the Commonwealth of Puerto Rico and FNS, for the nutrition assistance program as outlined in the plan of operation. Such records and reports shall, at a minimum, be prepared in accordance with Part 3015 of this title.

§ 285.6 Audits.

(a) The Commonwealth of Puerto Rico shall provide an audit of expenditures in compliance with the requirements in Part 3015 of this title at least once every two years. The findings of such audit shall be reported to FNS no later than 120 days from the end of each fiscal year in which the audit is made.

(b) Within 120 days of the end of each fiscal year, the Commonwealth of Puerto Rico shall provide FNS with a statement of: (1) Whether the grant funds received for that fiscal year exceeded the valid obligations made that year for which payment is authorized, and if so, by how much, and (2) such additional related information as FNS may require.

§ 285.7 Failure to Comply.

(a) Grant funds may be withheld in whole or in part, or denied if there is a substantial failure by the Commonwealth of Puerto Rico to comply with the requirements of § 285.6, or to bring into compliance a plan of operation disapproved by FNS, or to comply with program requirements detailed in the plan of operation approved for that fiscal year. (For example, funds shall be paid to the Commonwealth of Puerto Rico to cover only the costs of the part or parts of the plan of operation receiving FNS approval. Withheld payments shall be paid when the unapproved part(s) of the plan are modified and approved.) FNS shall notify the Commonwealth of Puerto Rico that further payments shall not be made until FNS is satisfied that there will no longer be any such failure to comply.

(b) Upon a finding of a substantial failure to comply with the requirements of § 285.6 or the plan of operation, FNS may, in addition to or in lieu of actions taken in accordance with paragraph (a) of this section, refer the matter to the Attorney General with a request that injunctive relief be sought from the appropriate district court of the United States to require compliance with these regulations by the Commonwealth of Puerto Rico.

§285.8 Review.

FNS shall provide for the review of the programs for provision of nutrition assistance for which payments are made under Part 285.

§ 285.9 Technical Assistance.

FNS may provide technical assistance to the Commonwealth of Puerto Rico to assist in the development of the plan of operation, or in the operation of the program detailed in the plan of operation, or to help provide for responsible management of the funds provided or make available to Puerto Rico for nutrition assistance.

(91 Stat. 956 (7 U.S.C. 2011–2019))

(Catalog of Federal Domestic Assistance Programs, No. 10.551, Food Stamps)

Dated: July 20, 1982.

John W. Bode,

Deputy Assistant Secretary for Food and Consumer Services.

[FR Doc. 82-20140 Filed 7-26-82; 8:45 am]

BILLING CODE 3410-30-M

CIVIL AERONAUTICS BOARD

14 CFR Part 312

[Regulation PR-249; Procedural Reg. Amdt. No. 2 to Part 312]

Implementation of National Environmental Policy Act

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB is issuing this final rule to clarify its regulations about when an environmental assessment or impact statement is normally required for the licensing of air carriers. Because the Airline Deregulation Act removed the CAB's discretion to issue air carrier certificates for domestic passenger transportation on the basis of public convenience and necessity, environmental reviews are no longer normally required when issuing such certificates. This rule makes that determination clear in the CAB's environmental regulations.

DATES: Effective: August 26, 1982.

Adopted: July 8, 1982.

FOR FURTHER INFORMATION CONTACT: Donald H. Horn, Associate General Counsel, Pricing and Entry; 202–673–5205, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, or Joseph A. Brooks, Office of the General Counsel, 202–673–5442, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUPPLEMENTARY INFORMATION: In 14 CFR Part 312, the Board has set forth its rules for implementing the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et. seq.)* with respect to the economic regulation of air transportation. Among other things, those rules state when an environmental assessment or impact statement is normally required for Board actions. Section 312.10 states that certain actions involving the certification of air carriers normally require an environmental review. The certificate action must be within at least one of three categories of new air service and must be one in which the Board has decisionmaking power. The three categories are first-time service to an airport, first-time service by jet, SST, helicopter or V/STOL aircraft, or service that would substantially increase the scope of operations at an airport. Section 312.11(a)(1) lists certain actions in which the Board does not have decisionmaking power and which normally do not require an environmental review.

This rule clarifies the extent of the Board's decisionmaking power with respect to the certification of air carriers in interstate and overseas air passenger transportation, which includes service by combination aircraft carrying both passengers and cargo. In those certificate cases where the Board does not have discretionary authority involving environmental considerations, NEPA does not apply and no formal environmental review is required (see *Trenton Hub Express Airline Fitness Investigation,* Order 82–5–27, dated May 7, 1982). Sections 312.10 and 312.11(a)(1) are amended by this rule to reflect that clarification.

Until this year, the Board had authority under section 401(d) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1371(d)(1)), to grant certificate authority for interstate and overseas air transportation if it was consistent with the public convenience and necessity. Environmental considerations were relevant to that determination. In the past, in rare instances, the Board has placed environmental limitations on certificates.

On January 1, 1982, however, under the Airline Deregulation Act of 1978 (Pub. L. 95–504), the Board's authority to make determinations for domestic passenger certificate applications based on the public convenience and necessity and to name terminal and intermediate points expired. The Board is now required only to determine for those certificates whether the applicant is fit, willing, and able to provide the air transportation sought. That determination involves consideration of whether the applicant has sufficient managerial expertise, financial resources, and compliance disposition to perform air transportation. Environmental factors are not relevant to this determination. The Board thus has no power to deny or limit certificate authority based on environmental considerations for domestic passenger transportation.

Furthermore, the Board's authority under section 401(e)(1) to condition certificates as the public interest may require, which continues, can only be used to carry out the Board's remaining responsibilities and duties with respect to issuing certificates. Since the only responsibilities that included environmental considerations (the finding of public convenience and necessity and the naming of terminal and intermediate points) have expired, the remaining power to condition may not be used to impose environmental conditions on the certificates.

As stated in §§ 312.10 and 312.11, an environmental review under NEPA is not required where the Board has no decision making power, such as where the statute authorizing the action allows the agency no discretion on environmental grounds. The courts have sustained this view. *Natural Resources Defense Council v. Berglund,* 609 F.2d 553 (D.C. Cir. 1979). The Board no longer has any decisionmaking power to deny or limit an application for a domestic passenger certificate once the applicant passes a threshold test unrelated to environmental considerations. Once an applicant is found to be fit, willing, and able to provide the service and to conform to applicable law and regulations, we are required to issue the certificate.

Sections 312.10 and 312.11 are thus amended to reflect this principle. The phrase "such as a certificate proceeding under section 401 of the Act that requires a determination of public convenience and necessity" is added as an example of an action requiring an environmental review in § 312.10.

Certificate proceedings where no public convenience and necessity determination is required are added to the list of actions in § 312.11(a)(1) where the Board has no decisionmaking power.

Contemporaneously with this rule and for the same reasons, the Board is amending its rules to implement the Energy Policy and Conservation Act (42 U.S.C. 6201 *et seq.*). That amendment makes clear that required energy statements in the case of domestic passenger certificates are not consistent with the Board's obligation only to consider fitness in awarding those certificates.

The authority citation for Part 312 is changed to conform to **Federal Register** guidelines.

The reference in § 312.11 to automatic entry certificates is removed. That program has been discontinued.

Because this rule involves a rule of agency procedure that is clarifying an existing rule and making no substantive change, the Board finds for good cause that notice and public procedure are unnecessary. The rule will become effective 30 days after publication in the **Federal Register.**

List of Subjects in 14 CFR Part 312

Administrative practice and procedure, Environmental impact statements.

PART 312—IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 312, *Implementation of the National Environmental Policy Act,* as follows:

1. The authority for Part 312 is revised to read:

Authority: Secs. 102, 204, Pub. L. 85–726, as amended, 72 Stat. 740, 743, 49 U.S.C. 1302, 1324. Pub. L. 91–190, as amended, 83 Stat. 852 *et. seq.;* 42 U.S.C. 4321, et seq.

2. The introductory sentence to § 312.10 is revised to read:

§ 312.10 Actions normally requiring preparation of an environmental impact statement or assessment.

Actions that have the potential to significantly affect the environment and that normally require preparation of an environmental impact statement or an environmental assessment include those in which the Board has decisionmaking power, such as a certificate proceeding under section 401 of the Act that requires a determination of public convenience and necessity, and:

* * * * *

3. Paragraph (1) of § 312.11(a)(1) is revised to read:

§ 312.11 Actions normally not requiring preparation of an environmental impact statement or assessment.

(a) * * *

(1) Actions where the Board has no control over the outcome and where its decisonmaking power is eliminated by statute or regulation, including but not limited to: registration of air taxi operators and air freight forwarders, awards under the unused authority, and domestic all-cargo certificate sections of the Act, and certificate proceedings under section 401 of the Act where no determination of public convenience and necessity is required.

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–20236 Filed 7–26–82; 8:45 am]

BILLING CODE 6320–01–M

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14 CFR Part 313

[PR–250; Procedural Reg. Amdt. No. 1 to Part 313]

Implementation of the Energy Policy and Conservation Act

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB is clarifying its regulations about when an energy statement is required for major regulatory actions. Because the Airline Deregulation Act removed the CAB's discretion to issue air carrier certificates for domestic passenger transportation on the basis of public convenience and necessity, required energy statements are no longer consistent with the Act. The rule makes that determination clear in the CAB's energy regulations.

DATES: Effective: August 26, 1982.
Adopted: July 8, 1982.

FOR FURTHER INFORMATION CONTACT: Donald H. Horn, Associate General Counsel, Pricing and Entry; 202–673–5202, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W. Washington, D.C. 20428, or Joseph A. Brooks, Office of the General Counsel, 202–673–5442, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUPPLEMENTARY INFORMATION: For the reasons fully discussed in PR–249, adopted July 8, 1982, issued contemporaneously, the Board is amending its energy regulations to make clear that energy statements are no longer required for domestic passenger certificates.

The authority citation for Part 312 is changed to conform to Federal Register guidelines.

Because this rule involves a rule of agency procedure that is clarifying an existing rule and making no substantive change, the Board finds for good cause that notice and public procedure are unnecessary. The rule will become effective August 26, 1982.

List of Subjects in 14 CFR Part 313

Administrative practice and procedure, and Energy conservation.

PART 313—IMPLEMENTATION OF THE ENERGY POLICY AND CONSERVATION ACT

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 313, *Implementation of the Energy Policy and Conservation Act,* as follows:

1. The authority for Part 313 is revised to read:

Authority: Secs. 204, Pub. L. 85–726, as amended, 72 Stat. 743, 49 U.S.C. 1324. Pub. L., 94–163, 89 Stat. 940, 42 U.S.C. 6362(b).

2. A new paragraph (b)(5) is added to § 313.4(b) to read:

§ 313.4 Major regulatory action.

* * * * *

(b) * * *

(5) Issuance of a certificate where no determination of public convenience and necessity is required.

3. The word "and" is removed from paragraph (b)(3) and placed at the end of paragraph (b)(4) of § 313.4, and the period at the end of paragraph (b)(4) is replaced by a semicolon.

By the Civil Aeronautics Board.
Phyllis T. Kaylor,
Secretary.

[FR Doc. 82-20237 Filed 7-26-82; 8:45 am]
BILLING CODE 6320-01-M

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14 CFR Part 374a

[Regulation SPR–190; Special Regulations Amdt. No. 4 to Part 374a; Docket 40502]

Extension of Credit by Airlines to Federal Political Candidates

AGENCY: Civil Aeronautics Board.
ACTION: Final rule.

SUMMARY: The CAB is changing its requirements for air carriers to report the campaign indebtedness of political candidates for Federal elective office. Once an election is complete, airlines are required under this rule to file only changes in a candidate's indebtedness rather than monthly reports. A final negative report is required when the debt is paid. The rule relieves a paperwork burden on the airlines without reducing the effectiveness of the CAB's implementation of the Federal Election Campaign Act of 1971.

DATES: Effective: July 27, 1982.
Adopted: July 8, 1982.

FOR FURTHER INFORMATION CONTACT: Jack Calloway, Office of Comptroller, (202) 673–6042, or Joseph A. Brooks, Office of General Counsel, (202) 673–5442, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUPPLEMENTARY INFORMATION: By a notice of proposed rulemaking (SPDR–87, 47 FR 13001, March 26, 1982), the Board proposed to change its reporting rules (14 CFR Part 374a) implementing the Federal Election Campaign Act of 1971 (Pub. L. 92–225). The change is to eliminate the need for certificated air carriers to file monthly reports of a candidate's indebtedness after an election or nomination. Instead, a report is to be filed only when there is a change in the indebtedness, with a final negative report due when the debt is paid.

Comments in response to the notice were received from Trans World Airlines, Inc., and U.S. Air, Inc. Both commenters supported the rule change. The Board has decided to adopt the rule as proposed.

The Federal Election Campaign Act requires certain independent regulatory agencies, including the Board, to set rules for the extension of unsecured credit by regulated industries to candidates for Federal political office. As stated in SPDR–87, the Board believes that in order to follow the intent of that Act, it is necessary for it and the public to know: 1) the amount of debt owed to an airline by a political candidate, 2) when that amount of indebtedness changes, and 3) when the debt is paid. The reporting rule as changed continues to meet that intent.

Before this change, airlines had to continue filing reports each month regardless of whether there was any change in indebtedness. That filing continued until a negative report was filed showing that the debt was no longer owed to the carrier. This recurrent filing was a burden on the carrier and provided no major benefit to the public or the Board.

Under the new rule, the airline is required to file one report after an election or nomination, if any, listing the unpaid debt of a political candidate. It is then required to file a report only when the amount of that debt changes and when the debt is paid. This ensures that the Board receives any new information about the debt and is told when the debt is no longer owed to the airline. The Board believes that this is sufficient to monitor the unsecured debt owed to an airline by candidates for Federal political office.

USAir in its comment asked that the Board recommend to Congress that the Federal Election Campaign Act be amended to exclude airlines from reporting political debt owed to them, since similar information is reported by the candidate to the Federal Election Commission (FEC). The Federal Election Commission now collects information about all debt owed by Federal political candidates, including that owed to airlines, but the reports do not single out airline indebtedness. The Board will continue to work with other agencies and Congress in deciding to what extent the Campaign Act and Board requirements under it should be changed, but any such action is of course beyond the scope of this proceeding.

As proposed, for conciseness, the Board is changing the title of Part 374a to "Extension of Credit by Airlines to Federal Political Candidiates."

Further, as shown in the proposed rule and as adopted in the final rule, the Board clarifies the meaning of "negative report" by stating that this report is filed when the debt is no longer owed to the carrier.

Effective Date

Because of the imminence of Congressional elections this year and because this rule change relieves a restriction on the carriers in the filing of reports, the Board finds good cause to make the rule effective immediately upon publication in the Federal Register.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96–354, the Board certifies that none of these changes will have a significant economic impact on a substantial number of small entities. The Board's rules implementing the Federal Election Campaign Act apply only to certificated air carriers. Although some of these carriers are small businesses, the effect of the amendment is only to relax a minor reporting requirement.

List of Subjects in 14 CFR Part 374a

Air carriers, Credit, Political candidates, and Reporting Requirements.

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 374a as follows:

1. The authority for Part 374a is:

Authority: Secs. 204, 401, 403, 404, 407, 416, Pub. L. 85–726, as amended, 72 Stat. 743, 754, 758, 760, 788, 771; 49 U.S.C. 1324, 1371, 1373, 1374, 1377, 1386. Sec. 401, Pub. L. 92–225, 86 Stat. 16; 2 U.S.C. 451.

2. Section 374a.6(a) is revised to read:

§ 374a.6 Reporting requirements.

(a) Air carriers shall make monthly reports to the Board with respect to the credit for transportation furnished to candidates, or persons acting on behalf of candidates, during the period from 6 months before nomination, if any, or from 6 months before election, until the date of election. After that 6-month period, air carriers shall file such a report with the Board not later than the 20th day following the end of the calendar month in which the election or nomination takes place, and thereafter when any change occurs in that report, until a negative report is filed showing that no debt for such extension of credit is owed to the carrier.

* * * * *

3. The title of Part 374a is revised to read: *"Extension of Credit by Airlines to Federal Political Candidates."*

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-20139 Filed 7-26-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 19

[T.D. 82-135]

Customs Regulations Amendments Relating To Use of Container Stations After Transportation In-Bond

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations relating to container stations, to provide that bonded carriers may transport containerized cargo in-bond to container stations at ports of destination. Presently, the regulations may be interpreted so as to restrict the use of container stations for imported merchandise only to facilities within the port of arrival. Although a bonded carrier may transport containerized cargo to its own facility at a port of destination, this interpretation precludes the delivery of the in-bond merchandise to a container station at the port of destination.

EFFECTIVE DATE: September 27, 1982.

FOR FURTHER INFORMATION CONTACT: Entry aspects: Benjamin H. Mahoney, Entry Procedures and Penalties Division (202–566–5765); Bond aspects: William D. Lawlor, Carriers, Drawback and Bonds Division (202–566–5865); Operations aspects: Thomas J. Hargrove, Cargo Processing Division (202–566–5234); U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

Background

A container station is a secured area within the United States into which containers of merchandise may be moved for the purpose of opening the containers and delivering the contents before any entry is filed with Customs or duty is paid. A container station is important because it serves as a central location at a port for processing containerized merchandise which otherwise could not be handled timely at the dock, wharf, pier, or bonded carrier's terminal.

Sections 19.40 through 19.49, Customs Regulations (19 CFR 19.40–19.49), provide the procedures for the establishment and use of container stations. The pertinent regulations, to be amended by this document, presently provide that a container station, independent of the importing carrier, may be established at any port or portion of a port, or any other area under the jurisdiction of a district director, upon the filing of an application and posting of a bond by a prospective container station operator, and approval of the application by the district director. Containerized cargo may be moved from the place of unlading to a designated container station before the filing of an entry for the merchandise. The container station operator may file an application for the transfer of a container intact to the station. Approval of the application by the district director shall serve as a permit to transfer the container and its contents to the station. The importing carrier remains jointly and severally liable with the container station operator for the proper delivery of the merchandise until it is "permitted" in accordance with subpart A of Part 158, Customs Regulations (19 CFR Part 158). The regulations also provide that except when the container station operator is moving the merchandise to its own station by his own vehicle, the merchandise may be transferred to a container station only by a bonded cartman (see 19 CFR 112.1(b)), or bonded carrier.

A problem has arisen because Part 19 may be interpreted so as to restrict the use of container stations for imported merchandise brought into a port by an importing carrier only to facilities within the port of arrival after complying with appropriate procedures. Although a bonded carrier may transport containerized cargo to its own facility at a port of destination, this interpretation precluded the placement of the in-bond merchandise in a container station at the port of destination.

Customs realized that the same conditions which existed at a port of arrival before the establishment and use of container stations there also exist when containerized cargo is transported in-bond to a port of destination from the port of arrival in the United States. The bonded carrier's terminal at the port of destination may be unable to process containerized cargo timely and may be unable to provide adequate facilities to permit Customs examination of the imported merchandise, thereby causing a great inconvenience and expense in storage charges to the importer. Alternatives to processing containerized cargo at the carrier's terminal include moving the entire container to a general order warehouse (see 19 CFR 127.1), public stores, or the importer's premises for examination.

Therefore, the same rationale for the use of a container station for containerized cargo arriving directly at a port of arrival applies to the delivery of

containerized cargo transported in-bond to a container station at a port of destination. The container station would serve as a centralized location for processing in-bond merchandise at the port of destination. Bonded carriers would be permitted to transport merchandise directly to these stations rather than holding the containers at their own facilities.

In addition to benefiting the importing community, Customs would benefit from the regulatory change. The workload would be concentrated at centralized facilities which are already staffed by Customs officers. Furthermore, container stations, unlike bonded carrier terminals, are required to meet Customs physical cargo security standards.

Accordingly, to permit containerized cargo transported in-bond to be delivered to a container station at a port of destination, on November 30, 1981, Customs published a notice of proposed rulemaking in the **Federal Register** (46 FR 58090).

Changes as Proposed

1. It was proposed to amend § 19.40 to provide that a container station, independent of either a bonded carrier or importing carrier, may be established at any port or portion of a port, or any other area under the jurisdiction of a district director upon complying with the necessary requirements. It was also proposed to amend the format of the Containerized Cargo Bond (Term) set forth in § 19.40 to permit a container station operator to receive containerized cargo at specified locations from a bonded carrier after transportation in-bond.

2. It was proposed to amend § 19.41 to provide that containerized cargo also may be received directly at the container station from a bonded carrier after transportation in-bond before the filing of an entry of merchandise therefor or the permitting thereof, as provided in subpart A of Part 158. The phrase "filing of an entry" in present § 19.41 means the filing of one of the types of entry of merchandise such as consumption, warehouse, or temporary importation under bond entry. This phrase is not intended to mean transportation entries. Therefore, to avoid any confusion, it was proposed to add the phrase "of merchandise" after the word "entry" in § 19.41.

3. It was proposed to amend § 19.43 to provide that, in addition to the locations presently specified, an application (i.e., permit to transfer) also may be filed at the bonded carrier's facility for merchandise transported in-bond.

4. It was proposed to amend § 19.44 to clarify the responsibilities of the importing carrier and container station operator, and provide for the new responsibilities of the bonded carriers.

Pursuant to the notice, interested parties were given until January 27, 1982, to submit comments on the proposal. Three commenters responded to the notice and all three supported the changes as proposed.

One of the commenters suggests that Customs add another clarifying change to the regulations. The commenter suggests that the regulations be further amended to permit the transportation of excess loose cargo in-bond along with containerized cargo to container stations. The commenter states that a problem arises when a shipper is unable to load all of the packages into a Unit Load Device (i.e., air freight container). This means that there are a number of extra packages which do not justify the expense of using an additional container. The commenter notes that the Customs Regulations may be interpreted as to preclude the carrier from transporting to a container station a shipment which includes containerized cargo and surplus loose pieces. The commenter further states that although the predominant part of such a shipment is containerized, inclusion of some surplus loose pieces results in the entire shipment being decontainerized for clearance at the carrier's premises. This results in additional labor and paperwork for the carrier and delays in the arrival of the merchandise at its first destination. The commenter notes, however, that the suggested change would expedite and simplify international cargo clearance.

Customs has reviewed the suggestion and believes it has merit. Therefore, proposed § 19.41 is being further revised to permit loose excess cargo, as part of a containerized shipment, to accompany the containers for transportation in-bond to a container stationer. Other than that one change, the amendments are being adopted as proposed.

Containerized Cargo Bond (TERM)

The final rule will become effective September 27, 1982. Containerized Cargo Bonds (TERM) already on file with Customs need not be terminated by the effective date of the final rule unless the principal desires to take advantage of the Customs Regulations, as amended. In that event, a new Containerized Cargo Bond (TERM) in the amended format must be executed and submitted to the district director for approval before the effective date of the final rule. The existing bond must be terminated.

Containerized Cargo Bonds (TERM) which are executed and submitted after the effective date of the final rule must be in the amended format.

E.O. 12291

As indicated in the proposed rule, this document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared for this regulatory project.

Regulatory Flexibility Act

As indicated in the proposed rule, it is certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the regulations set forth in this document will not have a significant economic impact on a substantial number of small entities.

Drafting Information

The principal author of this document was Charles D. Ressin, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Federal Register Thesaurus

On January 22, 1981, the Office of the **Federal Register** published a final rule (46 FR 7162), which requires agencies to identify major topics and categories of persons affected in their regulations by using standard terms established in the **Federal Register** Thesaurus of Indexing Terms.

Accordingly, the index term listed below is applicable to this regulatory project.

List of Subjects in 19 CFR Part 19

Container stations.

Amendments to the Regulations

Part 19, Customs Regulations (19 CFR Part 19), is amended as set forth below.

Alfred R. DeAngelus,

Acting Commissioner of Customs.

Approved: July 1, 1982.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

PART 19—CUSTOMS WAREHOUSES, CONTAINER STATIONS AND CONTROL OF MERCHANDISE THEREIN

1. The introductory paragraph of § 19.40, Customs Regulations (19 CFR 19.40), the first "Whereas" clause of the Preamble to, and Condition 5 of, the Containerized Cargo Bond (Term) which follow § 19.40 are revised to read as follows:

Container Stations

§ 19.40 Establishment of container stations.

A container station, independent of either the importing carrier or bonded carrier, may be established at any port or portion of a port, or any other area under the jurisdiction of a district director upon the filing of an application therefor and its approval by the district director and the posting, in the sum of $25,000 or such larger amount as the district director shall determine, of a bond in the following format:

Port of ——————————
No. ——————————

United States Customs Service Containerized Cargo Bond (Term)

* * * * *

Whereas, the above-bounden principal has requested, or will request, permission to remove imported containers, truck trailers, lift vans or vehicles (hereinafter referred to as containers) containing merchandise or baggage (hereinafter referred to as merchandise) from the place of unlading from an importing vessel, vehicle or aircraft of the ——, for transportation to the —— terminal(s) at ——, or to receive such containers at said location from a bonded carrier after transportation in-bond, for a period beginning on the —— day of ——, 19—, and ending on the —— day of ——, 19—, both days inclusive; and

* * * * *

(5) And if pursuant to proper permit by the district director of Customs the above-bounden principal shall remove imported containers from the place of unlading from importing vessels, vehicles, or aircraft and land, place, or store any merchandise in the containers in the above-mentioned terminal(s) of the principal or on lighters, piers, landing places, or spaces adjoining thereto, or such other places permitted by the district director on special request made by the principal hereon, or shall receive such containers at said location from a bonded carrier after transportation in-bond, and shall retain such merchandise in the containers at such places until a permit for the removal thereof is granted, and, in the event that any such merchandise in the containers shall be removed therefrom before proper permits have been issued, shall pay all duties, taxes, charges, and exactions accruing on any part of the merchandise in the containers so removed; or in the event the merchandise in the containers so removed is free of duty, shall pay as liquidated damages an amount equal to the value of such merchandise contained in the containers, the damages on any one shipment not to exceed $500 (it being understood and agreed that the amount to be collected in either case shall be based upon the quantity and value of such merchandise in the containers as determined by the district director, and that the decision of the district director as to the status of such merchandise, whether free or dutiable, together with the rate and amount of duties, taxes, charges, and exactions also shall be binding on all parties to this obligation; it is further understood and agreed that liability under this instrument attaches for all shortages whether discovered before or after the filing of any form of entry);

* * * * *

2. Section 19.41, Customs Regulations (19 CFR 19.41), is revised to read as follows:

§ 19.41 Movement of containerized cargo to a container station.

Containerized cargo may be moved from the place of unlading to a designated container station, or may be received directly at the container station from a bonded carrier after transportation in-bond, before the filing of an entry of merchandise therefor or the permitting thereof (see Subpart A of Part 158 of this chapter) for the purpose of breaking bulk and redelivery of the cargo. In either circumstance, excess loose cargo, as part of containerized cargo, may accompany the container to the container station.

3. Section 19.43, Customs Regulations (19 CFR 19.43), is revised to read as follows:

§ 19.43 Filing of application.

The application, listing the containers by marks and numbers, may be filed at the customhouse or with the Customs inspector at the place where the container is unladen, or for merchandise transported in-bond, at the bonded carrier's facility, as designated by the district director.

4. Section 19.44, Customs Regulations (19 CFR 19.44), is revised to read as follows:

§ 19.44 Carrier responsibility.

(a) If merchandise is transferred directly to a container station from an importing carrier, the importing carrier shall remain liable under the terms of its bond for the proper safekeeping and delivery of the merchandise until it is formally receipted for by the container station operator.

(b) If merchandise is transferred directly from a bonded carrier's facility to a container station or is delivered directly to the container station by a bonded carrier, the bonded carrier shall remain liable under the terms of is bond for the proper safekeeping and delivery of the merchandise until it is formally receipted for by the container station operator.

(c) In either case under paragraph (a) or (b) of this section, the importing carrier and the bonded carrier, as applicable, shall be responsible for assuring that the provisions of Subpart A, Part 158 of this chapter, relating to quantity determinations, and discrepancy reporting and accountability are followed.

(d) The importing carrier and the bonded carrier, as applicable, shall indicate concurrence in the transfer of the merchandise either by signing the application for transfer or by physically turning the merchandise over to the operator.

(e) The importing carrier and the bonded carrier, as applicable, shall be responsible for ascertaining that the person to whom a container is delivered for transfer to the container station is an authorized representative of the operator.

(f) The importing carrier and the bonded carrier, as applicable, shall furnish an abstract manifest showing the bill of lading number, the marks and numbers of the container, and the usual manifest description for each shipment in the container.

(R.S. 251, as amended (19 U.S.C. 66), sec. 448, 46 Stat. 714, as amended (19 U.S.C. 1448), sec. 450, 46 Stat. 715, as amended (19 U.S.C. 1450), sec. 484, 46 Stat. 722, as amended (19 U.S.C. 1484), sec. 499, 46 Stat. 728, as amended (19 U.S.C. 1499), sec. 551, 46 Stat. 742, as amended (19 U.S.C. 1551), sec. 552, 46 Stat. 742 (19 U.S.C. 1552), sec. 565, 46 Stat. 747, as amended (19 U.S.C. 1565), sec. 623, 46 Stat. 759, as amended (19 U.S.C. 1623), sec. 624, 46 Stat. 759 (19 U.S.C. 1624))

[FR Doc. 82-20253 Filed 7-26-82; 8:45 am]
BILLING CODE 4810-02-M

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19 CFR Parts 24, 111 and 141

[T.D. 82-134]

Discharge of an Importer's Liability for Duties

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to provide an alternative procedure for an importer of record to pay duties on imported merchandise through a licensed customhouse broker. Presently, when an importer uses a broker and pays by check or bank draft, the importer often furnishes the broker one check or bank draft covering both duties and the broker's fees and charges. The broker then pays the duties to Customs on behalf of the importer. Under the alternative procedure, the importer may elect to submit to the broker a separate check or bank draft for the duties, payable to the "U.S. Customs Service." The broker would then deliver the importer's check or bank draft to Customs.

This document also amends the Customs Regulations to require brokers

to provide a written notification to their clients advising that if the clients are importers of record, payment to the brokers will not relieve the clients of liability for Customs charges in the event the charges are not paid by the brokers. Clients also will be advised that if they elect to pay by check, they may pay Customs charges with a separate check payable to the "U.S. Customs Service." Brokers are required to provide this notification to all active clients annually during the month of February. Additionally, brokers are required to provide this information statement on, or attached to, a power of attorney executed on or after the effective date of this rule.

EFFECTIVE DATE: September 27, 1982.

FOR FURTHER INFORMATION CONTACT:
Legal Aspects: Edward B. Gable, Jr., Office of Regulations and Rulings (202–566–5706).
Operational Aspects: Herbert H. Geller, Duty Assessment Division (202–566–5307), U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

Background

Section 141.1(b), Customs Regulations (19 CFR 141.1(b)), provides that duties on imported merchandise, both regular and additional, are a personal debt of the importer which may be discharged only by payment in full to Customs, unless relieved by law or regulation. The importer may pay Customs by any of the applicable means provided in § 24.1(a), Customs Regulations (19 CFR 24.1(a)). One commonly used method of payment is direct payment from the importer to Customs. However, many importers use licensed customhouse brokers to transact Customs business on their behalf. In such cases, when the importer elects to pay by check or bank draft, the importer often issues the broker one check or bank draft covering both broker's fees and charges, and duties. The broker then pays the duties to Customs on behalf of the importer.

By notice published in the **Federal Register** on July 2, 1979 (44 FR 38571), Customs proposed to amend § 141.1(b) to provide an alternative procedure by which importers, who use brokers and pay by check, may elect to submit to a broker a separate check for duties, payable to the "U.S. Customs Service." The broker would then deliver the importer's check to Customs. Although payment of duties by a separate check to the broker does not discharge the liability of the importer, this voluntary alternative procedure, which has been in effect in New York and several other Customs regions since February 1977, could help assure the importer that Customs receives the duty. Because this procedure is optional, in importer could continue to submit one check to the broker covering both the duties and the broker's fees and charges.

Interested parties were given until August 31, 1979, to submit comments on the proposal. Based upon the comments received and its own review, Customs decided to make several changes in the proposed rule, including amending Part 111, Customs Regulations (19 CFR Part 111). It was decided to add a new paragraph to § 111.29, Customs Regulations (19 CFR 111.29), to require brokers to state on their invoices or statements to clients that if the clients are importers of record, payment to a broker would not relieve the clients of liability for Customs charges in the event the charges are not paid by the broker. Clients also would be advised that if they elect to pay by check, they may pay Customs charges with a separate check payable to the "U.S. Customs Service."

By requiring brokers to so notify clients on invoices or statements, as well as Customs informing importers of their alternative methods of payment, Customs believed that importers will have more than adequate knowledge of the various methods available for paying Customs obligations.

Because the new paragraph to § 111.29, Customs Regulations, would have imposed a requirement on brokers, it became necessary to publish another notice of proposed rulemaking incorporating the substance of the proposed rule published on July 2, 1979, and the new requirement relating to Part 111. Accordingly, on September 3, 1981, Customs published another notice of proposed rulemaking in the **Federal Register** (46 FR 44195).

Pursuant to the notice, interested parties were given until November 2, 1981, to submit comments on the proposal. However, pursuant to a request from the public on October 13, 1981, Customs published a notice in the **Federal Register** (46 FR 50393), extending the period of time for the submission of comments to December 2, 1981.

Thirty-six commenters responded to the notice. Based on the comments received and Customs own review, the proposed amendments to Part 111 have been revised. The amendments to Parts 24 and 141 are being adopted as proposed except for minor technical clarifications.

Discussion of Comments

In general, comments about Customs proposals tended to be mixed. However, most negative comments related to the proposed requirement in Part 111 that brokers state on their invoices or statements to clients that if clients are importers of record, payment to the broker would not relieve the clients of liability for Customs charges in the event the charges are not paid by the broker. Clients also would be advised that if they elect to pay by check, they may pay Customs charges with a separate check payable to the "U.S. Customs Service."

One commenter notes that he supports the amendment as proposed because he believes it is a better approach than that originally considered which involved legislation requiring that all duty received from importers by brokers be placed in escrow by the brokers.

Several commenters noted that importers would be unable to use the option in situations involving quota merchandise and other merchandise requiring that entry and entry summary documents be presented to Customs with a check attached. If the option were used, release of the merchandise would be delayed pending receipt of a check from the broker made out to Customs in the proper amount.

Customs agrees that delays in releasing merchandise could occur if the importer elected to make his check payable to Customs. However, this is an option, and the importer should be aware of a possible delay if his check were not submitted timely for presentation.

Many commenters believe that the statement in proposed § 111.29 would create a burden on brokers and importers causing additional financial controls and recordkeeping requirements. Some brokers note that in a given import transaction, they would not know if the importer were forwarding one check or two checks. They observe that when the broker already has paid the duty and the importer then forwards a check to the broker for the duty payable to the "U.S. Customs Service," the broker must return the check to the importer and await another check payable to him. The commenters note that checks will be returned to importers when incorrect, thereby delaying payment of duties and causing additional expenses to importers as well as brokers. They state that penalty actions will also increase when checks are delayed in the mail.

Customs agrees that the procedure in which an importer makes the checks payable to Customs may cause the problems discussed. However, with the changes made to proposed § 111.29(b) and discussed below, Customs believes that these problems can be minimized as there will be more than adequate time for proper coordination between the broker and his client.

Some commenters note that problems would be caused when non-resident importers pay duty with checks drawn on a foreign bank which are not acceptable for Customs purposes. One commenter suggests that proposed § 111.29 should include a reference to the Customs Regulations that checks should be drawn on a national or state bank or trust company of the United States.

Customs believes that it is unnecessary to add that language to its statement because § 24.1(c) prohibits Customs acceptance of checks drawn on a foreign bank. However, if brokers desire to add this information to the Customs statement, Customs has no objection.

In this regard, many commenters request permission to substitute language in place of Customs proposed statement or to use language in addition to that proposed by Customs. Customs has no objection to a broker using additional language provided it (1) complements, (2) is not a substitute for, and (3) does not contradict the Customs statement.

One commenter notes that the importer must write multiple checks for duty, freight, and the broker if he elects the alternative procedure. Customs agrees. If the importer elects to write a check for duties payable to "U.S. Customs Service," he must write multiple checks.

Two commenters suggest that Customs provide additional time (over 48-hours) for presentation of checks for additional duties following a rejection of an entry summary. It is Customs policy to provide a "grace period" for the correction of entry summaries and deposit of additional duties. Customs has determined not to extend the 48-hour grace period.

Many commenters view the statement proposed by Customs as an attack on the integrity of brokers. Customs does not mean to imply any lack of integrity on the part of brokers. For the most part, brokers conduct their business in an exemplary fashion. Unfortunately, there have been cases where, due to a broker's bankruptcy, an importer who had paid duty once to his broker has had to pay the duty again to Customs. To avoid such situations, Customs believes that the proposal is valid as an alternative payment procedure.

Two commenters note that there is no concomitant obligation on the importer to pay a broker and suggest Customs issue regulations that a broker's bill to an importer be paid within 10 days. This suggestion is not being adopted because it is a matter between the broker and his client. It is outside the scope of the Customs Regulations.

Several commenters note that the alternative method of payment is already well established and, therefore, question the need for a regulation. Customs agrees that many importers are aware of and do in fact use the alternative method. However, new or casual importers may not be aware of the option.

One commenter suggests that the regulations provide that a broker will not be obligated to advance duties on behalf of importers who are importers of record. Several commenters suggest that the regulations should prohibit a broker from advancing funds for any account. Customs notes that there is no requirement for a broker to advance funds on behalf of an importer. The broker has an option whether or not to advance funds. It is the individual broker's decision.

One commenter suggests that the regulations provide that in the event of errors, the importers pay by wire transfer, pay interest to the broker for an advance of funds, and pay a penalty to the broker. Customs believes these areas are outside the scope of the Customs Regulations and are more properly matters to be resolved between a broker and his client.

Several commenters made suggestions for editorial changes in the proposal. Customs has adopted some and rejected others.

Several commenters state that along the northern United States border, the broker most often is the importer of record on the entry summary as well as on the immediate delivery release. Since it is the customary practice on the northern United States border for the broker to release the merchandise under his own immediate delivery bond, the commenters believe that no notification is required. A commenter further notes that even if the broker is not the importer of record on the entry summary, the broker would still be liable for the duty and entry summary as his immediate delivery bond is posted. Customs agrees that when the broker is the importer of record, the statement would serve no useful purpose. Of course, in the circumstance that the broker does not post his immediate delivery bond at the time of release, but requests release under his client's bond, the broker is under no obligation to pay the duty for his client. In that circumstance, notification is in order.

Many of the commenters object to Customs proposal because of the requirement that the information must appear on an invoice or statement. Some commenters note the expense that would be required to have new invoices printed. Other commenters suggest that the information be attached to the broker's invoice or statement rather than be printed or stamped on the invoice. Many commenters suggest alternatives to the proposal that the invoice or statement be used by the brokers as the means of informing their clients. Other options suggested include use of the power of attorney, Customs Form 7501, an annual notice, and notification by surety companies.

In light of the many comments adverse to Customs proposal, Customs has determined to make the following changes to § 111.29(b):

1. Delete the requirement that the information shall appear on the invoice or statement.

2. Require brokers to provide the written notification to all active clients annually during the month of February; and

3. Require brokers to provide the written notification on, or attached to, a power of attorney, executed on or after the effective date of this rule.

Additionally, based upon the comments, Customs has determined to make two changes to the information statement itself. The first sentence of the statement is being revised by adding the phrase "(duties, taxes, and other debts owed Customs)" after the term "Customs charges". The second sentence of the statement is being revised by deleting the period at the end of the sentence and adding "which shall be delivered to Customs by the broker."

Executive Order 12291

As indicated in the proposed rule, this document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Regulatory Flexibility Act

As indicated in the proposed rule, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the rule will not have a significant economic impact on a substantial number of small entities.

Drafting Information

The principal author of this document was Charles D. Ressin, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Federal Register Thesaurus

On January 22, 1981, the Office of the Federal Register published a final rule (46 FR 7162) which requires agencies to identify major topics and categories of persons affected in their regulations by using standard terms established in the Federal Register Thesaurus of Indexing Terms.

Accordingly, the index terms listed below are applicable to this regulatory project:

List of Subjects

19 CFR Part 24

Accounting.

19 CFR Part 111

Brokers.

19 CFR Part 141

Importers.

Amendments to the Regulations

Parts 24, 111, and 141, Customs Regulations (19 CFR 24, 111, 141), are amended as set forth below.

William Von Raab,
Commissioner of Customs.

Approved: June 10, 1982.

John M. Walker, Jr.,
Assistant Secretary of the Treasury.

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

The introductory paragraph of § 24.1(a), Customs Regulations (19 CFR 24.1(a)) is revised to read as follows:

§ 24.1 Collection of Customs duties, taxes, and other charges.

(a) Except as provided in paragraph (b) of this section, the following procedure shall be observed in the collection of Customs duties, taxes, and other charges (see §§ 111.29(b) and 141.1(b) of this chapter):

* * * * *

(R.S. 251, as amended, R.S. 3009, 3473, section 1, 36 Stat. 965, as amended, section 648, 46 Stat. 762, as amended (19 U.S.C. 66, 197, 198, 1648))

PART 111—CUSTOMHOUSE BROKERS

§ 111.29, Customs Regulations (19 CFR 111.29) is amended by adding a new heading to the present paragraph and designating that paragraph as paragraph (a), and by adding a new paragraph (b) to read as follows:

§ 111.29 Diligence in correspondence and paying monies.

(a) *Due diligence by broker.* * * *

(b) *Notice to client of method of payment.* (1) All brokers shall provide their clients with a written notification as follows:

If you are the importer of record, payment to the broker will not relieve you of liability for Customs charges (duties, taxes, or other debts owed Customs) in the event the charges are not paid by the broker. Therefore, if you pay by check, Customs charges may be paid with a separate check payable to the "U.S. Customs Service" which shall be delivered to Customs by the broker.

(2) Brokers shall provide the information statement in paragraph (b)(1) as follows:

(i) On, or attached to, any power of attorney executed on or after (60 days from the date of publication in the **Federal Register**); and

(ii) To each active client annually during the month of February beginning in February 1983, and during each February thereafter. An active client means a client from whom a broker has obtained a power of attorney.

* * * * *

(R.S. 251, as amended, sections 624, 641, 46 Stat. 759, as amended, 77A Stat. 14; (5 U.S.C. 301, 19 U.S.C. 66, 1202 (Gn. Hdnote. 11), 1624, 1641))

PART 141—ENTRY OF MERCHANDISE

§ 141.1(b), Customs Regulations (19 CFR 141.1(b)), is revised to read as follows:

§ 141.1 Liability of importer for duties

* * * * *

(b) *Payment of Duties.*—(1) *Personal debt of importer.* The liability for duties, both regular and additional, attaching on importation, constitutes a personal debt due from the importer to the United States which can be discharged only by payment in full of all duties legally accruing, unless relieved by law or regulation. Payment to a broker covering duties does not relieve the importer of liability if the duties are not paid by the broker. The liability may be enforced notwithstanding the fact that an erroneous construction of law or regulation may have enabled the importer to pass his goods through the customhouse without payment. Delivery of a Customs bond with an entry is solely to protect the revenue of the United States and does not relieve the importer of liabilities incurred from the importation of merchandise into the United States.

(2) *Means of Payment.* An importer or his agent may pay Customs by using any of the applicable means provided in § 24.1(a).

(3) *Methods of payment.* An importer may pay duties either—

(i) Directly to Customs whether or not a licensed customhouse broker is used; or

(ii) Through a licensed customhouse broker. When an importer uses a broker and elects to pay by check or bank draft, the importer may issue the broker either—

(A) One check or bank draft payable to the broker covering both duties and the broker's fees and charges, in which case the broker shall pay the duties to Customs on behalf of the importer, or

(B) Separate checks or bank drafts, one covering duties payable to the "U.S. Customs Service," for transmittal by the broker to Customs, and the other covering the broker's fees and charges. The importer's check or bank draft for duties shall be delivered to Customs by the broker.

(R.S. 251, as amended, section 448, 484, 624, 46 Stat. 714, as amended, 722, as amended, 759 (19 U.S.C. 66, 1448, 1484, 1624))

[FR Doc. 82-20257 Filed 7-26-82; 8:45 am]
BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 1 and 166

[Docket No. 79P-0402]

Multiunit and Multicomponent Food Packages; Exemption From Required Label Statements

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is permitting (1) wrappers on subdivisions of oleomargarine and margarine in a multiunit retail food package, and (2) unit containers of other foods in a multiunit or multicomponent retail food package to be exempted from the requirement that the name and place of business of the manufacturer, packer, or distributor be declared on the label. FDA also is permitting all retail packages to be exempted from bearing the statement "Inner Units Not Labeled For Retail Sale." These exemptions are applicable when the retail package and inner units are otherwise properly labeled and when the inner units do not constitute separate units for retail sale. The purpose of these exemptions is to reduce industry labeling costs, thereby reducing cost to consumers.

EFFECTIVE DATE: July 27, 1982.

FOR FURTHER INFORMATION CONTACT: Howard N. Pippin, Bureau of Foods (HFF–312), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–245–3092.

SUPPLEMENTARY INFORMATION: Based on a National Association of Margarine Manufacturers' petition, FDA issued a proposal in the **Federal Register** of May 15, 1981 (46 FR 26790) to exempt wrappers on subdivisions of oleomargarine and margarine in a multiunit retail food package from the requirement that the name and place of business of the manufacturer, packer, or distributor be declared on the label. The proposal also provided this exemption for unit containers of other foods in a multiunit or multicomponent retail package when the inner units are otherwise properly labeled and when they do not constitute separate units for retail sale. Another condition for receiving an exemption was that the retail package, the wrappers, and the unit containers had to be labeled with a disclaimer informing consumers that the inner units are not labeled for retail sale. This final rule further exempts the retail packages from the requirement to bear this disclaimer.

Comments came from industry and a local government agency. Sixteen comments entirely supported the proposal; five comments suggested modifications. FDA has considered the comments, and its responses follow:

1. Two comments said the phrase "not labeled for retail sale" could lead consumers to believe the product is for some reason (other than labeling) unacceptable for sale to the consumer. They said that a better choice of words might be "not labeled for individual sale."

Although FDA has no evidence that consumers have a negative perception of the current terms, it recognizes that the term "individual" equally well conveys the intent of the regulations. Therefore, FDA is amending the regulations to permit the use of either the term "individual" or the term "retail" or both.

2. One comment said that the labeling cost to the industry and consumers would be the same whether the manufacturer had to declare the name and place of business of the manufacturer, packer, or distributor or the statement "This Unit Not Labeled For Retail Sale." The comment said that it would be more useful to the consumer to state the name and place of business of the manufacturer, packer, or distributor because many consumers continue to separate units from multiunit containers.

This final regulation will permit a generic inner wrapper or container to be used for a food made by one manufacturer but distributed by several packers and distributors under their own private labels. The use of the generic inner wrapper or container reduces the cost for printing private inner labels for each manufacturer, packer, and distributor. To this extent, FDA concludes that the regulation helps reduce production costs, thus benefitting manufacturers, retailers, and, ultimately, consumers.

3. One comment said that deleting all labeling requirements for unit containers where the retail package is labeled "Inner Units Not For Retail Sale" would allow the use of plain, unprinted papers or films for inner units.

Except for margarine, FDA lacks authority to require a unit container within a multiunit or multicomponent food package to bear written, printed, or graphic matter, because this type of wrapper is not a "label" or "labeling" as defined in section 201(k) and (m) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(k) and (m)). Wrappers on interior sticks of margarine cannot be devoid of all written, printed, or graphic matter. Section 407(b)(4) of the act (21 U.S.C. 347(b)(4)) requires the wrappers on interior sticks of margarine to bear the word "oleomargarine" or "margarine." Consequently, such wrappers are "labels" within the meaning of section 201(k) of the act and must bear all mandatory labeling under the act, subject to exemptions provided by regulations promulgated under the authority of the act.

4. Several comments opposed the provision that requires both the label of the retail package and the labels of the inner units to bear a disclaimer informing consumers that the inner units are not labeled for retail sale. One comment asked that the disclaimer be required to appear on the retail package only. Three other comments contended that the choice of where the disclaimer should appear should be left to the manufacturer or packer. Another comment suggested that manufacturers be permitted to have the choice of where the disclaimer should appear in all cases except for margarine.

The agency believes that the disclaimer should appear on at least one designated label. Therefore, FDA concludes that the disclaimer should appear on the labels of the inner units, when these wrappers constitute labels, because they could become separated from the retail package. Accordingly, the final regulation is revised to reflect this change.

5. Two comments asked that the labels on the unit containers be exempted from bearing a declaration of the net quantity of contents.

The declaration of net quantity of contents on unit containers is required only for margarine. FDA believes that the absence of the quantity of contents statements from the labels of the inner unit containers for margarine would result in consumers not knowing the exact number of unit containers to constitute the retail package should the inner unit container be separated from the package. For this reason, FDA is not exempting the labels on the unit container for margarine from bearing a declaration of net quantity of contents.

In accordance with Executive Order 12291, the economic effects of this proposal were carefully analyzed at the time it was published in the **Federal Register** of May 15, 1981, and it was determined that the proposed rule was not a major rule as defined by that Order. The basis for this determinaton is that, for foods packaged in multiunit containers that do not constitute separate units for retail sale, this rulemaking removes an existing mandatory requirement that the name and address of the manufacturers be declared on the unit package label. Manufacturers will, therefore, be able to use up existing labels, and they will be able to omit the existing mandatory information from new labels. No increase in manufacturers' labeling costs is, therefore, expected. After reevaluating the regulation in light of the comments received, the agency concludes that it has no reason to believe that there has been a change in economic conditions to cause reevaluation of that determination. Therefore, FDA still considers valid the regulatory impact analysis assessment made at the time of the proposal.

In accordance with the Regulatory Flexibility Act (Pub. L. 96–354), it was certified at the time the proposal was published in the **Federal Register** of May 15, 1981, that this proposed rulemaking would not impact on small entities, including small businesses. The agency determined that, because the effect of this proposed regulation is to exempt unit containers in multiunit or multicomponent retail food packages from certain labeling requirements, thus reducing labeling costs, no small business economic impact will result from this action. After reevaluating the regulation in light of the comments received, the agency concludes that there is no reason to believe that this rule will have an economic impact on small businesses. Therefore, the

certification made at the time of the proposal remains valid.

List of Subjects in 21 CFR Parts 1 and 166

Cosmetics, Drugs, Exports, Food standards; Imports, Margarine, Labeling.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 403, 407, 701, 52 Stat. 1040–1042 as amended, 1047–1048 as amended, 1055–1056 as amended, 64 Stat. 20 (21 U.S.C. 321, 343, 347, 371)) and under 21 CFR 5.11 (see 46 FR 26052; May 11, 1981), Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

PART 1—GENERAL REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND THE FAIR PACKAGING AND LABELING ACT

1. In Part 1 by revising § 1.24(a)(14) to read as follows:

§ 1.24 Exemption from required label statements.

* * * * *

(a) * * *

(14) The unit containers in a multiunit or multicomponent retail food package shall be exempt from compliance with the requirements of section 403 (e)(1), (g)(2), (i)(2), and (k) of the act with respect to the requirements for label declaration of the name and place of business of the manufacturer, packer, or distributor and label declaration of ingredients when (i) the multiunit or multicomponent retail food package labeling meets all the requirements of this part; (ii) the unit containers are securely enclosed within and not intended to be separated from the retail package under conditions of retail sale; and (iii) each unit container is labeled with the statement "This Unit Not Labeled For Retail Sale" in type size not less than one-sixteenth inch in height. The word "Individual" may be used in lieu of or immediately preceding the word "Retail" in the statement.

* * * * *

PART 166—MARGARINE

2. In Part 166 by revising § 166.40(i) to read as follows:

§ 166.40 Labeling of margarine.

* * * * *

(i) The wrappers on the subdivisions of oleomargarine or margarine contained within the package sold at retail are labels within the meaning of section 201(k) and shall contain all of the label information required by sections 403 and 407 of the Federal Food, Drug, and Cosmetic Act, just as in the case of 1-pound cartons, except that wrappers on the subdivisions contained within the retail package shall be exempt from compliance with the requirements of section 403 (e)(1), (g)(2), (i)(2), and (k) of the act with respect to the requirements for label declaration of the name and place of business of the manufacturer, packer, or distributor and label declaration of ingredients when (1) the subdivisions are securely enclosed within and are not intended to be separated from the retail package under conditions of retail sale; (2) the wrappers on the subdivisions are labeled with the statement "This Unit Not Labeled For Retail Sale" in type size not less than one-sixteenth inch in height. The word "Individual" may be used in lieu of or immediately preceding the word "Retail" in the statement.

* * * * *

Effective date. This amendment shall become effective July 27, 1982.

(Secs. 201, 403, 407, 701, 52 Stat. 1040–1042 as amended, 1047–1048 as amended, 1055–1056 as amended, 64 Stat. 20 (21 U.S.C. 321, 343, 347, 371))

Dated: June 16, 1982.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

Dated: July 1, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

[FR Doc. 82-20160 Filed 7-26-82; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF JUSTICE

28 CFR Part 41

[Order No. 984–82]

Coordination of Enforcement of Nondiscrimination in Federally Assisted Programs

AGENCY: Justice Department.

ACTION: Final rule; Technical Amendment.

SUMMARY: This document replaces an obsolete appendix to regulations concerning coordination of enforcement of nondiscrimination on the basis of handicap in federally assisted programs.

EFFECTIVE DATE: July 27, 1982.

FOR FURTHER INFORMATION CONTACT: Ms. Sara Kaltenborn, Attorney/Advisor, Coordination and Review Section, Civil Rights Division, United States Department of Justice, 320 First Street, NW., Room 841, Washington, D.C. 20530, Telephone (202) 724–2225 (Voice) or 724–7379 (TDD).

SUPPLEMENTARY INFORMATION: Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), prohibits discrimination on the basis of handicap in programs and activities receiving Federal financial assistance and conducted by the Federal government. Executive Order 11914 (3 CFR 1977 Comp., p. 117) authorized the Department of Health, Education, and Welfare (HEW) to coordinate enforcement of section 504 for federally assisted programs. This authority was later transferred to the Department of Health and Human Services (HHS). On November 2, 1980, this authority was transferred to the Attorney General by Executive Order 12250 (3 CFR, 1980 Comp., p. 298). Section 1–502 of the Order provides that the HEW (later HHS) guideline "shall be deemed to have been issued by the Attorney General pursuant to this Order and shall continue in effect until revoked or modified by the Attorney General."

On August 11, 1981, the Department of Justice issued a final rule transferring the guideline issued by HEW at 45 CFR Part 85 to title 28 of the Code of Federal Regulations and redesignating it as 28 CFR Part 41. 46 FR 40686. The rule also made nomenclature changes. Inadvertently, however, it failed to remove Appendix A to the guideline which set out Executive Order 11914 (revoked by Executive Order 12250). As a result, in the recently published recodification of title 28 of the Code of Federal Regulations, Appendix A to Part 41 is Executive Order 11914, incorrectly identified as Executive Order 12250. This rule therefore replaces Executive Order 11914 in Appendix A with Executive Order 12250.

Publication of this rule as a proposal for public comment is unnecessary because it is solely a replacement of an obsolete appendix.

The Department of Justice has determined that, because this rule is solely a replacement of an obsolete appendix, it is not a major rule for purposes of Executive Order 12291, no environmental impact analysis is required, and no regulatory flexibility analysis is required.

List of Subjects in 28 CFR Part 41

Civil rights, Equal employment opportunity, Financial assistance, Grant programs, Handicapped.

(Executive Order 12250 (3 CFR, 1980 Comp., p. 298))

William French Smith,

Attorney General.

July 19, 1982.

Accordingly, Appendix A to Part 41 of Chapter I of Title 28, Code of Federal

Regulations, is revised to read as follows:

Appendix A

Executive Order 12250 of November 2, 1980

Leadership and Coordination of Nondiscrimination Laws

By the authority vested in me as President by the Constitution and statutes of the United States of America, including section 602 of the Civil Rights Act of 1964 (42 U.S.C. 2000d–1), Section 902 of the Education Amendments of 1972 (20 U.S.C. 1682), and Section 301 of Title 3 of the United States Code, and in order to provide, under the leadership of the Attorney General, for the consistent and effective implementation of various laws prohibiting discriminatory practices in Federal programs and programs receiving Federal financial assistance, it is hereby ordered as follows:

1–1. *Delegation of Function.*

1–101. The function vested in the President by Section 602 of the Civil Rights Act of 1964 (42 U.S.C. 2000d–1), relating to the approval of rules, regulations, and orders of general applicability, is hereby delegated to the Attorney General.

1–102. The function vested in the President by Section 902 of the Education Amendments of 1972 (20 U.S.C. 1682), relating to the approval of rules, regulations, and orders of general applicability, is hereby delegated to the Attorney General.

1–2. *Coordination of Nondiscrimination Provisions.*

1–201. The Attorney General shall coordinate the implementation and enforcement by Executive agencies of various nondiscrimination provisions of the following laws:

(a) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*).

(b) Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 *et seq.*).

(c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794).

(d) Any other provision of Federal statutory law which provides, in whole or in part, that no person in the United States shall, on the ground of race, color, national origin, handicap, religion, or sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance.

1–202. In furtherance of the Attorney General's responsibility for the coordination of the implementation and enforcement of the nondiscrimination provisions of laws covered by this Order, the Attorney General shall review the existing and proposed rules, regulations, and orders of general applicability of the Executive agencies in order to identify those which are inadequate, unclear or unnecessarily inconsistent.

1–203. The Attorney General shall develop standards and procedures for taking enforcement actions and for conducting investigations and compliance reviews.

1–204. The Attorney General shall issue guidelines for establishing reasonable time limits on efforts to secure voluntary compliance, on the initiation of sanctions, and for referral to the Department of Justice for enforcement where there is noncompliance.

1–205. The Attorney General shall establish and implement a schedule for the review of the agencies' regulations which implement the various nondiscrimination laws covered by this Order.

1–206. The Attorney General shall establish guidelines and standards for the development of consistent and effective recordkeeping and reporting requirements by Executive agencies; for the sharing and exchange by agencies of compliance records, findings, and supporting documentation; for the development of comprehensive employee training programs; for the development of effective information programs; and for the development of cooperative programs with State and local agencies, including sharing of information, deferring of enforcement activities, and providing technical assistance.

1–207. The Attorney General shall initiate cooperative programs between and among agencies, including the development of sample memoranda of understanding, designed to improve the coordination of the laws covered by this Order.

1–3. *Implementation by the Attorney General.*

1.301. In consultation with the affected agencies, the Attorney General shall promptly prepare a plan for the implementation of this Order. This plan shall be submitted to the Director of the Office of Management and Budget.

1–302. The Attorney General shall periodically evaluate the implementation of the nondiscrimination provisions of the laws covered by this Order, and advise the heads of the agencies concerned on the results of such evaluations as to recommendations for needed improvement in implementation or enforcement.

1–303. The Attorney General shall carry out his functions under this Order, including the issuance of such regulations as he deems necessary, in consultation with affected agencies.

1–304. The Attorney General shall annually report to the President through the Director of the Office of Management and Budget on the progress in achieving the purposes of this Order. This report shall include any recommendations for changes in the implementation or enforcement of the nondiscrimination provisions of the laws covered by this Order.

1–305. The Attorney General shall chair the Interagency Coordinating Council established by Section 507 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794c).

1–4. *Agency Implementation.*

1–401. Each Executive agency shall cooperate with the Attorney General in the performance of the Attorney General's functions under this Order and shall, unless prohibited by law, furnish such reports and information as the Attorney General may request.

1–402. Each Executive agency responsible for implementing a nondiscrimination provision of a law covered by this Order shall issue appropriate implementing directives (whether in the nature of regulations or policy guidance). To the extent permitted by law, they shall be consistent with the requirements prescibed by the Attorney General pursuant to this Order and shall be subject to the approval of the Attorney General, who may require that some or all of them be submitted for approval before taking effect.

1–403. Within 60 days after a date set by the Attorney General, Executive agencies shall submit to the Attorney General their plans for implementing their responsibilities under this Order.

1–5. *General Provisions.*

1–501. Executive Order No. 11764 is revoked. The present regulations of the Attorney General relating to the coordination of enforcement of Title VI of the Civil Rights Act of 1964 shall continue in effect until revoked or modified (28 CFR 42.401 to 42.415).

1–502. Executive Order No. 11914 is revoked. The present regulations of the Secretary of Health and Human Services relating to the coordination of the implementation of Section 504 of the Rehabilitation Act of 1973, as amended, shall be deemed to have been issued by the Attorney General pursuant to this Order and shall continue in effect until revoked or modified by the Attorney General.

1–503. Nothing in this Order shall vest the Attorney General with the authority to coordinate the implementation and enforcement by Executive agencies of statutory provisions relating to equal employment.

1–504. Existing agency regulations implementing the nondiscrimination provisions of laws covered by this Order shall continue in effect until revoked or modified.

JIMMY CARTER

THE WHITE HOUSE,
November 2, 1980.

[FR Doc. 82-20300 Filed 7-26-82; 8:45 am]
BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Wage and Hour Division, Office of the Secretary

29 CFR Parts 1, 3 and 5

Deferral of Effective Dates of Regulations Relating to Labor Standards on Federal and Federally Assisted Construction Projects

Note.—This document originally appeared in the Federal Register for July 26, 1982. It is reprinted in this issue to meet requirements for publication on the Tuesday/Friday schedule assigned to the Department of Labor.

AGENCY: Wage and Hour Division, Labor.

ACTION: Notice of deferral of effective dates of regulations.

SUMMARY: This notice defers the effective dates of certain Labor

Department regulations relating to labor standards on federal and federally assisted construction projects, from July 27, 1982, until further notice. This action is taken in order to comply with a preliminary injunction issued in the U.S. District Court for the District of Columbia on July 22, 1982.

EFFECTIVE DATE: This notice is effective on July 22, 1982.

ADDRESS: William M. Otter, Administrator, Wage and Hour Division, Employment Standards Administration, Frances Perkins, Department of Labor Building, Room S–3502, 200 Constitution Avenue, NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: William M. Otter. Telephone: (202) 523–8305.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 28, 1982 (47 FR 23644, 23658, 23678), the Department of Labor issued final regulations, 29 CFR Part 1, entitled "Procedure for Predetermination of Wage Rates"; section 3.3(b) of 29 CFR Part 3 entitled "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants From the United States"; and 29 CFR Part 5, entitled "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)." These regulations were to be effective July 27, 1982.

On July 22, 1982, the District Court for the District of Columbia issued a preliminary injunction enjoining the Department from putting certain provisions of these regulations into effect pending final disposition. Accordingly, to prevent confusion and disruption which would be caused by partial effectuation of the regulations, the effective date of the entire regulations published on May 28, 29 CFR Part 1, 29 CFR 3.3(b), and 29 CFR Part 5, Subpart A, is stayed until further notice.

Because these rules are scheduled to become effective very shortly, notice and public comment on this change of effective date is impracticable, unnecessary and contrary to the public interest and good cause exists for making these deferrals effective immediately.

Authority: The statutory authority for this action is as follows: (40 U.S.C. 276a—276a–7; 40 U.S.C. 276c; 40 U.S.C. 327–332; Reorganization Plan No. 14 of 1950, 5 U.S.C. Appendix; 5 U.S.C. 301; and the statutes listed in section 5.1(a) of Part 5).

Signed at Washington, D.C., this 23rd day of July, 1982.

William M. Otter,

Administrator, Wage and Hour Division.

[FR Doc. 82–20285 Filed 7–23–82; 11:47 am]

BILLING CODE 4510–27–M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) to reflect that the Secretary of the Navy: (1) Has determined that USS Mahlon S. Tisdale (FFG 27) and USS Aubrey Fitch (FFG 34), are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with their special function as naval frigates, and (2) has found that USS Mahlon S. Tisdale (FFG 27) and USS Aubrey Fitch (FFG 34) are members of the FFG 7 class of ships, certain exemptions for which have been previously granted under 72 COLREGS Rule 38. The intended effect of this rule is to warn mariners in waters where the 72 COLREGS apply.

EFFECTIVE DATE: June 11, 1982.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCArthy, JAGC, USN, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332. Telephone Number: (202) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in Executive Order 11964 and 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS Mahlon S. Tisdale (FFG 27) and USS Aubrey Fitch (FFG 34) are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with 72 COLREGS: Rule 21(a) regarding the arc of visibility of their forward masthead lights; Annex I, Section 2(a)(i), regarding the height above the hull of their forward masthead lights; and Annex I, Section 3(b), regarding the horizontal relationship of their sidelights to their forward masthead lights, without interfering with their special functions as Navy frigates. The Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that USS Mahlon S. Tisdale (FFG 27) and USS Aubrey Fitch (FFG 34) are members of the FFG 7 class of ships for which certain exemptions, pursuant to 72 COLREGS Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of § 706.3, are equally applicable to these ships. Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary and contrary to public interest since it is based on technical findings that the placement of lights on these ships in a manner different from that prescribed herein will adversely affect each ship's ability to perform its military function.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), Vessels.

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

Accordingly, 32 CFR Part 706 is amended as follows:

§ 706.2 (Amended)

1. Table One of § 706.2 is amended as follows to indicate the certifications issued by the Secretary of the Navy:

Vessel	No.	Distance in meters of forward masthead light below minimum required height, § 2(a)(i) Annex I
• • • • •		
USS Mahlon S. Tisdale	FFG 27	1.6
USS Aubrey Fitch	FFG 34	1.6
• • • • •		

2. Table Four of § 706.2 is amended by adding to the existing paragraph 8 the following vessels for which navigational

light certifications are herewith issued by the Secretary of the Navy:

USS Mahlon S. Tisdale (FFG 27)
USS Aubrey Fitch (FFG 34)

3. Table Four of § 706.2 is amended by adding to the existing paragraph 9 the following vessels for which navigational light certifications are herewith issued by the Secretary of the Navy:

Vessel	No.	Distance of sidelights forward of masthead lights in meters
•	•	•
USS Mahlon S. Tisdale	FFG 27	2.75
USS Aubrey Fitch	FFG 34	2.75

(Executive Order 11964; 33 U.S.C. 1605)

Dated: June 11, 1982.

James F. Goodrich,

Acting Secretary of the Navy.

[FR Doc. 82-20179 Filed 7-26-82; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6302

[U-50042]

Utah; Revocation of Powersite Reserve No. 698 and Powersite Classification No. 128

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes an Executive and Secretarial Order as to 3,975.98 acres of land reserved for powersite withdrawals in Duchesne County, Utah. Approximately 2,695.98 acres, located in the Ashley and Wasatch National Forests, will be opened to such uses as may by law be made of national forest lands. Another 160.00 acres are privately owned and thus will not be opened. The remaining 1,120.00 acres are still withdrawn for reclamation purposes. The national forest lands affected by this order have been and will remain open to mining and mineral leasing.

EFFECTIVE DATE: August 24, 1982.

FOR FURTHER INFORMATION CONTACT: Deen Bowden, Utah State Office, 801-524-4245.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive Order of November 16, 1918, which created Powersite Reserve No. 698, and Secretarial Order of February 4, 1926 which created Powersite Classification No. 128, are hereby revoked insofar as they affect the following described lands:

Uintah Meridian, Utah

Powersite Classification No. 128

T. 1 N., R. 8 W.,
Sec. 7, lot 3 and SE¼SW¼;
Sec. 18, SW¼NE¼, NE¼NW¼ and NE¼SE¼.
T. 1 N., R. 9 W.,
Sec. 1, NW¼SE¼ and SE¼SE¼.
T. 2 N., R. 9 W.,
Sec. 3, lots 1, 2, 3, S½NE¼, SE¼NW¼, E½SW¼ and SE¼;
Sec. 10, E½ and E½W½;
Sec. 11, W½W½;
Sec. 14, W½W½;
Sec. 15, E½ and E½W½;
Sec. 22, N½NE¼ and E½NW¼;
Sec. 23, NW¼ and E½SW¼;
Sec. 26, NW¼NE¼, SE¼NE¼ and NE¼SE¼.
T. 3 N., R. 9 W.,
Sec. 14, SE¼SW¼, N½SE¼ and SW¼SE¼;
Sec. 22, SE¼NE¼, SE¼SW¼ and SE¼;
Sec. 23, N½NW¼ and SW¼NW¼;
Sec. 27, W½E½ and E½W½;
Sec. 34, E½ and E½W½.

Powersite Reserve No. 698

T. 1 N., R. 9 W.,
Sec. 27, NE¼.

The area described aggregates 3,975.98 in Duchesne County, Utah.

2. Of the lands described above, the following lands are within an existing Reclamation withdrawal or, are privately owned.

Reclamation

T. 1 N., R. 8 W.,
Sec. 7, lot 3 and SE¼SW¼.
T. 2 N., R. 9 W.,
Sec. 22, N½NE¼ and E½NW¼;
Sec. 23, NW¼ and E½SW¼;
Sec. 26, NW¼NE¼, SE¼NE¼ and NE¼SE¼.
T. 3 N., R. 9 W.,
Sec. 27, W½E½ and E½W½;
Sec. 34, NE¼ and E½NW¼.

Private

T. 3 N., R. 9 W.,
Sec. 27, NE¼.

The area described aggregates 1,280 acres in Duchesne County, Utah.

3. At 10:00 a.m. on August 24, 1982, the lands described in paragraph one, (except lands in paragraph two) shall be open to such forms of disposition as may be made of national forest lands subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

July 19, 1982.

[FR Doc. 82-20196 Filed 7-26-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6303

[M-41137]

Montana; Revocation of Secretarial Order Dated April 24, 1918, as Modified

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a Secretarial Order, as modified, which withdrew 1,685.97 acres of land for use as a stock driveway. A total of 1,365.97 acres are privately owned. The balance of 320 acres will be restored to operation of the public land laws generally.

EFFECTIVE DATE: August 24, 1982.

FOR FURTHER INFORMATION CONTACT: Roland F. Lee, Montana State Office, 406-657-6291.

By virtue of the authority vested in the Secretary of the Interior, by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Secretarial order dated April 24, 1918, which created Stock Driveway Withdrawal No. 13, Montana No. 2, as modified by Secretarial Order of May 28, 1920, revoked in its entirety:

Principal Meridian

T. 9 N., R. 51 E.,
Sec. 22, N½.
T. 8 S., R. 45 E.,
Sec. 12, W½;
Sec. 13, W½;
Sec. 24, W½.
T. 2 S., R. 53 E.,
Sec. 1, Lot 4, SW¼NW¼, and S½.

The area described contains 1,685.97 acres in Custer and Powder River Counties.

2. At 8 a.m. on August 24, 1982, the lands described as the N½ Sec. 22, T. 9 N., R. 51 E., shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and requirements of applicable law. All valid applications received at or prior to 8 a.m. on August 24, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing.

3. All lands described in Paragraph 1, except the W½NW¼, Sec. 24, T. 8 S., R. 45 E., and lot 4, SW¼NW¼, and S½, Sec. 1, T. 2 S., R. 53 E., have been and

continue to be open to location under the United States mining laws and to applications and offers under the mineral leasing laws.

4. This action will not restore the following described lands to operation of the public land laws generally, including the mining and mineral leasing laws as they are in private ownership:

Principal Meridian

T. 2 S., R. 53 E.,
Sec. 1, lot 4, SW¼NW¼, and S½.
T. 8 S., R. 45 E.,
Sec. 24, W½NW¼.

5. This action will not restore the following described lands to operation of the public land laws generally as they are in private ownership.

Principal Meridian

T. 8 S., R. 45 E.,
Sec. 12, W½;
Sec. 13, W½;
Sec. 24, E½NW¼ and SW¼.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

July 19, 1982.

[FR Doc. 82-20281 Filed 7-26-82; 8:45 am]

BILLING CODE 4310-84-M

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43 CFR Public Land Order 6304

[CA-8197]

California; Revocation of Temporary Withdrawal From Disposal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a General Land Office order which temporarily withdrew from disposal six islands located in the San Francisco Mission Bay Harbor. Two of the islands have been conveyed from United States ownership and the others no longer exist. This action is taken primarily for record-clearing purposes.

EFFECTIVE DATE: July 27, 1982.

FOR FURTHER INFORMATION CONTACT: Elizabeth J. Hoefler, California State Office, 916-484-4431.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The General Land Office Order of October 1, 1898, which temporarily withdrew the following described islands in the San Francisco Mission Bay Harbor from disposal, is hereby revoked in its entirety:

Mount Diablo Meridian

T. 2 S., R. 5 W.,
Sec. 11, Lots 1, 2, 3, 4, 5, 6.

The area described aggregates 0.23 acre in San Francisco County.

2. Lots 1 and 2 were conveyed from United States ownership pursuant to an Act of Congress dated June 7, 1926, 44 Stat. 700. Lots 3, 4, 5 and 6 are no longer in existence. This action is taken primarily to clear the records of a withdrawal that is no longer serving a useful purpose.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, Room E-2841, 2800 Cottage Way, Sacramento, California 95825.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

July 19, 1982.

[FR Doc. 82-20282 Filed 7-26-82; 8:45 am]

BILLING CODE 4310-84-M

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43 CFR Public Land Order 6305

[OR-19010, OR-19095, OR-19099, OR-19139]

Oregon; Powersite Restoration No. 771; Revocation of Powersite Reserve Nos. 620 and 624; Partial Revocation of Powersite Classification No. 143; Partial Revocation of Water Power Designation No. 10

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes two Secretarial orders in part and an Executive order as to 4,710.62 acres of land withdrawn for two powersite reserves, a powersite classification, and a water power designation. This action will restore the public lands to operation of the public land laws generally. The national forest land and Revested Oregon and California Railroad Grant land will be restored to such forms of disposition as may by law be made of such lands. All land affected by this order has been and will remain open to mining and mineral leasing.

EFFECTIVE DATE: August 24, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and pursuant to the determination by the Federal Energy Regulatory Commission in DA-588-Oregon, it is ordered as follows:

1. The Executive Order of April 28, 1917, which created Powersite Reserve Nos. 620 and 624, the Secretarial Order of April 27, 1917, which created Water Power Designation No. 10, and the Secretarial Order of May 6, 1926, which created Powersite Classification No. 143, are hereby revoked insofar as they affect the following described lands:

Willamette Meridian

Powersite Reserve No. 630

Water Power Designation No. 10

T. 36 S., R. 2 E.,
Sec. 25, SW¼SW¼.

Powersite Reserve No. 624

T. 36 S., R. 3 E.,
Sec. 32, NE¼, N½NW¼, SE¼NW¼, and SE¼SE¼.

Rogue River National Forest

Powersite Reserve No. 620

Water Power Designation No. 10

T. 36 S., R. 3 E.,
Sec. 33, S½NE¼, NW¼, N½S½, and SE¼SE¼;
Sec. 35, S½N½, N½S½, and SE¼SE¼.

Water Power Designation No. 10

T. 37 S., R. 3 E.,
Sec. 1, Lots 1 to 4, inclusive, and S½N½;
Sec. 3, Lots 1 to 4, inclusive, S½N½, NE¼SW¼, and N½SE¼.

Powersite Classification No. 143

T. 37 S., R. 3 E.,
Sec. 1, N½S½;
Sec. 2, Lot 1, S½NE¼, SW¼NW¼, and N½S½;
Sec. 4, Lots 3 and 4, S½NW¼, N½SW¼, and NW¼SE¼.
T. 37 S., R. 4 E.,
Sec. 4, S½NW¼ and SW¼;
Sec. 5, S½NE¼, NW¼, and N½S½;
Sec. 6, Lots 1, 2, and 3, NE¼, and E½NW¼.

Powersite Reserve No. 624

T. 36 S., R. 3 E.,
Sec. 34, NW¼.

Revested Oregon and California Railroad Grant Land

Powersite Reserve No. 620

Water Power Designation No. 10

T. 36 S., R. 2 E.,
Sec. 25, SE¼SW¼;
Sec. 35, Lot 1.
T. 36 S., R. 3 E.,
Sec. 31, Lot 4, E½NE¼, SE¼SW¼, and SE¼.
T. 37 S., R. 3 E.,
Sec. 5, Lots 1 to 4, inclusive, and S½N½.

Powersite Classification No. 143

T. 37 S., R. 3 E.,
Sec. 5, N½S½.

The areas described aggregate 4,710.62 acres in Jackson County.

2. The State of Oregon has waived its preference right for highway rights-of-way or material sites as provided by the

Federal Power Act of June 10, 1920, 16 U.S.C. 818.

3. At 7:30 a.m., on August 24, 1982, the land in the SW¼SW¼, Section 25, T. 36 S., R. 2 E., and the land in Section 32, T. 36 S., R. 3 E., will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 7:30 a.m. on August 24, 1982, will be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

4. At 7:30 a.m. on August 24, 1982, subject to valid existing rights the provisions of existing withdrawals, and the requirements of applicable law, the lands described in paragraph 1, except as described in paragraph 3, will be open to such forms of disposition as may by law be made of national forest lands and Revested Oregon and California Railroad Grant Land.

5. The lands have been and continue to be open to applications and offers under the mineral leasing laws and to location under the United States mining laws subject to the provisions of the Act of August 11, 1955 (69 Stat. 682; 30 U.S.C. 621).

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

July 19, 1982.

[FR Doc. 82-20283 Filed 7-26-82; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Land Mamangement

43 CFR Public Land Order 6306

[C-12546]

Colorado; Public Land Order No. 6189; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order will correct two errors in a description of lands contained in Public Land Order No. 6189 of March 2, 1982, which partially revoked a U.S. Geological Survey Order as to 520 acres of land withdrawn for a powersite classification. The lands remain withdrawn for reclamation purposes.

EFFECTIVE DATE: July 27, 1982.

FOR FURTHER INFORMATION CONTACT: Richard D. Tate, Colorado State Office, 303-837-2535.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976; 90 Stat. 2751; 43 U.S.C. 1714, and pursuant to the determination of the Federal Power Commission (now Federal Energy Regulatory Commission) by DA-455 Colorado, dated August 17, 1965, it is ordered as follows:

1. Public Land Order No. 6189 of March 2, 1982, FR Doc. 82-6753 appearing at page 10826 in the issue of Friday, March 12, 1982, in column two, paragraph one reading "T. 1 S., R. 1 E.," should be corrected to read "T. 2 S., R. 1 E." Paragraph two reading "T. 1 S., R. 1 E.," should be corrected to read "T. 2 S., R. 1 E."

Garrey E. Carruthers,

Assistant Secretary of the Interior.

July 19, 1982.

[FR Doc. 82-20284 Filed 7-26-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6307

[I-18494]

Idaho; Revocation of Spencer Administrative Site

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUBJECT: This order revokes an Executive order which withdrew 80 acres of public land for use by the Forest Service as the Spencer Administrative Site. This action will open the land to the operation of the public land laws, including the mining laws. The land has been and will remain open to mineral leasing.

EFFECTIVE DATE: August 24, 1982.

FOR FURTHER INFORMATION CONTACT: Larry Lievsay, Idaho State Office, 208-334-1735.

By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Order No. 2198 of May 14, 1915, is hereby revoked in its entirety:

Boise Meridian

Targhee National Forest

T. 12 N., R. 36 E.,
Sec. 24, N½NW¼.

The area described contains 80 acres in Clark County.

2. At 7:45 a.m. on August 24, 1982, the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 7:45 a.m. on August 24, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 7:45 a.m. on August 24, 1982, the lands will be open to location under the United States mining laws. They have been and will remain open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Idaho State Office, Federal Building, Box 042, 550 W. Fort Street, Boise, Idaho 83724.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

July 19, 1982.

[FR Doc. 82-20285 Filed 7-26-82; 8:45 am]

BILLING CODE 4310-84-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

Various Railroads Authorized To Use Tracks and/or Facilities of the Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Forty-First Revised Service Order No. 1473.

SUMMARY: Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Public Law 96-254, this order authorizes various railroads to provide interim service over the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), and to use such tracts and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

EFFECTIVE DATE: 12:01 a.m., July 24, 1982, and continuing in effect until 11:59 p.m., September 30, 1982, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275-1559.

SUPPLEMENTARY INFORMATION:

Decided: July 21, 1982.

Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Public Law 96-254 (RITEA), the Commission is authorizing various railroads to provide

interim service over Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), (RI) and to use such tracks and facilities as are necessary for those operations.

In view of the urgent need for continued rail service over RI's lines pending the implementation of long-range solutions, this order permits carriers to provide service to shippers which may otherwise be deprived of essential rail transportation.

Appendix A, to the previous order, is revised by adding at Item 24. (E.) the authority for the North Central Oklahoma Railway, Inc. (NCOK) to operate between Chickasha and Sunray, Oklahoma, a distance of approximately 48 miles. All other provisions of the Appendix remain unchanged.

Appendix B of Thirteen Revised Service Order No. 1473 is unchanged, and becomes Appendix B to this Order.

It has been brought to the attention of the Board that, in certain cases, payment of compensation to the Trustee for the use of Rock Island property remains a problem. All interim operators are reminded that compensation, whether determined by lease, agreement, or the Rock Island Formula, is a requirement of this order and should remain current.

It is the opinion of the Commission that an emergency exists requiring that the railroads listed in the named appendices be authorized to conduct operations using RI tracks and/or facilities; that notice and public procedure are impracticable and contrary to the public interest; and good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1473 Service Order 1473.

(a) Various railroads authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company, debtor (William M. Gibbons, Trustee). Various railroads are authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company (RI), as listed in Appendix A to this order, in order to provide interim service over the RI; and as listed in Appendix B to this order, to provide for continuation of joint or common use facility agreements essential to the operations of these carriers as previously authorized in Service Order No. 1435.

(b) The Trustee shall permit the affected carriers to enter upon the property of the RI to conduct service as authorized in paragraph (a).

(c) The Trustee will be compensated on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 122(a) Public Law 96-254.

(d) Interim operators, authorized in Appendix A to this order, shall, within fifteen (15) days of its effective date, notify the Railroad Service Board of the date on which interim operations were commenced or the expected commencement date of those operations. Termination of interim operations will require at least thirty (30) days notice to the Railroad Service Board and affected shippers.

(e) Interim operators, authorized in Appendix A to this order, shall, within thirty days of commencing operations under authority of this order, notify the RI Trustee of those facilities they believe are necessary or reasonably related to the authorized operations.

(f) During the period of the operations over the RI lines authorized in paragraph (a), operators shall be responsible for preserving the value of the lines, associated with each operation, to the RI estate, and for performing necessary maintenance to avoid undue deterioration of lines and associated facilities.

1. In those instances where more than one railroad is involved in the joint use of RI tracks and/or facilities described in Appendix B, one of the affected carriers will perform the maintenance and have supervision over the operations in behalf of all the carriers as may be agreed to among themselves, or in the absence of such agreement, as may be decided by the Commission.

(g) Any operational or other difficulty associated with the authorized operations shall be resolved through agreement between the affected parties or, failing agreement, by the Commission's Railroad Service Board.

(h) Any rehabilitation, operational, or other costs related to authorized operations shall be the sole responsibility of the interim operator incurring the costs, and shall not in any way be deemed a liability of the United States Government.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(j) *Rate applicable.* Inasmuch as the operations described in Appendix A by interim operators over tracks previously operated by the RI are deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable become effective.

(k) In transporting traffic over these lines, all interim operators described in Appendix A shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(l) To the maximum extent practicable, carriers providing service under this order shall use the employees who normally would have performed the work in connection with traffic moving over the lines subject to this Order.

(m) *Effective date.* This order shall become effective at 12:01 a.m., July 24, 1982.

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., September 30, 1982, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304, 10305, and Section 122, Public Law 96-254.

This order shall be served upon the Association of American Railroads, Transportation Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general pubic by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

List of Subjects in 49 CFR Part 1033

Railroads.

By the Commission, Railroad Service Board, members J. Warren McFarland, Bernard Gaillard, and William F. Sibbald, Jr. J. Warren McFarland not participating.

Agatha L. Mergenovich,

Secretary.

Appendix A

RI Lines Authorized To Be Operated by Interim Operators

1. *Louisiana and Arkansas Railway Company (LA):*

A. Tracks one through six of the Chicago, Rock Island and Pacific Railroad Company's (RI) Cadiz yard in Dallas, Texas, commencing at the point of connection of RI track six with the tracks of The Atchison, Topeka and Santa

Fe Railway Company (ATSF) in the southwest quadrant of the crossing of the ATSF and the Missouri-Kansas-Texas Railroad Company (MKT) at interlocking station No. 19.

2. *Peoria and Pekin Union Railway Company (PPU):*

A. All Peoria Terminal Railroad property on the east side of the Illinois River, located within the city limits of Pekin, Illinois.

B. Mossville, Illinois (milepost 148.23) to Peoria, Illinois (milepost 161.0) including the Keller Branch (milepost 1.55 to 6.15).

3. *Union Pacific Railroad Company (UP):*

A. Beatrice, Nebraska.

B. Approximately 36.5 miles of trackage extending from Fairbury, Nebraska, to RI Milepost 581.5 north of Hallam, Nebraska.

4. *Toledo, Peoria and Western Railroad Company (TPW):*

A. Peoria Terminal Company trackage from Hollis to Iowa Junction, Illinois.

5. *Chicago and North Western Transportation Company (CNW):*

A. from Minneapolis-St. Paul, Minnesota, to Kansas City, Missouri.

B. from Rock Junction (milepost 5.2) to Inver Grove, Minnesota (milepost 0).

C. from Inver Grove (milepost 344.7) to Northwood, Minnesota.

D. from Clear Lake Junction (milepost 191.1) to Short Line Junction, Iowa (milepost 73.6).

E. from East Des Moines, Iowa (milepost 350.8) to West Des Moines, Iowa (milepost 364.34).

F. from Short Line Junction (milepost 73.6) to Carlisle, Iowa (milepost 64.7).

G. from Carlisle (milepost 64.7) to Allerton, Iowa (milepost 0).

H. from Allerton, Iowa (milepost 363) to Trenton, Missouri (milepost 415.9).

I. from Trenton (milepost 415.9) to Air Line Junction, Missouri (milepost 502.2).

J. from Iowa Falls (milepost 97.4) to Estherville, Iowa (milepost 206.9).

K. from Bricelyn, Minnesota (milepost 57.7) to Ocheyedan, Iowa (milepost 246.7).

L. from Palmer (milepost 454.5) to Royal, Iowa (milepost 502).

M. from Dows (milepost 113.4) to Forest City, Iowa (milepost 158.2).

N. from Cedar Rapids (milepost 100.5) to Cedar River Bridge, Iowa (milepost 96.2) and to serve all industry formerly served by the RI at Cedar Rapids.

O. at Sibley, Iowa.

P. at Hartley, Iowa.

Q. from Carlisle to Indianola, Iowa.

R. at Omaha, Nebraska, (between milepost 502 to milepost 504).

S. Peoria Terminal Company trackage from Iowa Junction (RI milepost 164.32/PTC milepost .91) through Hollis, Illinois to the Illinois River bridge (milepost 7.40).

6. *Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW):*

A. from West Davenport, through and including Muscatine, to Fruitland, Iowa, including the Iowa-Illinois Gas and Electric Company near Fruitland.

B. at Washington, Iowa.

C. from Newport, Minnesota to a point near the east bank of the Mississippi River, sufficient to serve Northwest Oil Refinery, at St. Paul Park, Minnesota.

D. from Davenport (milepost 182.35) to Iowa City, Iowa (milepost 237.01).

E. at Davenport, Iowa.

7. *St. Louis Southwestern Railway Company (SSW):*

A. from Brinkley to Briark, Arkansas, and at Stuttgart, Arkansas.

B. at North Topeka and Topeka, Kansas.

8. *Little Rock & Western Railway Company (LRWN):*

A. from Little Rock, Arkansas (milepost 135.2) to Perry, Arkansas (milepost 184.2).

B. from Little Rock (milepost 136.4) to the Missouri Pacific/RI Interchange (milepost 130.6).

9. *Missouri Pacific Railroad Company (MP):*

A. from Little Rock, Arkansas (milepost 135.2) to Hazen, Arkansas (milepost 91.5).

B. from Little Rock, Arkansas (milepost 135.2) to Pulaski, Arkansas (milepost 141.0).

C. from Hot Springs Junction (milepost 0.0) to and including Rock Island (milepost 4.7).

D. from Wichita, Kansas (milepost 243.7) to Kechi, Kansas (milepost 235.9).

10. *Norfolk and Western Railway Company (NW):* is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company running southerly from Pullman Junction, Chicago, Illinois, along the western shore of Lake Calumet approximately four plus miles to the point, approximately 2,500 feet beyond the railroad bridge over the Calumet Expressway, at which point the RI track connects to Chicago Regional Port District track, for the purpose of serving industries located adjacent to such tracks. Any trackage rights arrangements which existed between the Chicago, Rock Island and Pacific Railroad Company and other carriers, and which extend to the Chicago Regional Port District Lake Calumet Harbor, West Side, will be continued so that shippers at the port can have NW rates and routes regardless of which carrier performs switching services.

11. *Cadillac and Lake City Railway Company (CLK):*

A. from Sandown Junction (milepost 0.1) to and including junction with DRGW Belt Line (milepost 2.7) all in the vicinity of Denver, Colorado, a distance of approximately 6.6 miles.

B. from Colorado Springs (milepost 609.1) to and including all rail facilities at Colorado Springs and Roswell, Colorado (milepost 602.8), all in the vicinity of Colorado Springs, Colorado, and Eastward from Colorado Springs to Falcon, Colorado (milepost 590.3), a total distance of approximately 25.1 miles.

C. from Simla, Colorado (milepost 558.3) to Colby, Kansas (milepost 387.0), a distance of approximately 171.3 miles.

D. Rock Island trackage rights over Union Pacific Railroad Company between Limon and Denver, Colorado, a distance of approximately 83.8 miles.

12. *Baltimore and Ohio Railroad Company (BO):*

A. from Blue Island, Illinois (milepost 15.7) to Bureau, Illinois (milepost 114.2), a distance of 98.5 miles.

B. from Bureau, Illinois (milepost 114.2) to Henry, Illinois (milepost 126.94), a distance of approximately 12.8 miles.

13. *Keota Washington Transportation Company (KWTR):*

A. from Keota to Washington, Iowa; to effect interchange with the Chicago, Milwaukee, St. Paul and Pacific Railroad Company at Washington, Iowa, and to serve any industries on the former RI which are not being served presently.

B. at Vinton, Iowa (milepost 120.0 to 123.0).

C. from Vinton Junction, Iowa (milepost 23.4) to Iowa Falls, Iowa (milepost 97.4).

14. *The La Salle and Bureau County Railroad Company (LSBC):*

A. from Chicago (milepost 0.60) to Blue Island, Illinois (milepost 16.61), and yard tracks 6, 9 and 10; and crossover 115 to effect interchange at Blue Island, Illinois.

B. from Western Avenue (Subdivision 1A, milepost 16.6) to 119th Street (Subdivision 1A, milepost 14.8), at Blue Island, Illinois.

C. from Gresham (Subdivision 1, milepost 10.0) to South Chicago (Subdivision 1B, milepost 14.5) at Chicago, Illinois.

D. from Pullman Junction, Chicago, Illinois, (milepost 13.2) running southerly to the entrance of the Chicago International Port, a distance of approximately five miles, for the purpose of bridge rights only.

15. *The Atchison, Topeka and Santa Fe Railway Company (ATSF):*

A. at Alva, Oklahoma.

B. at St. Joseph, Missouri.

16. *The Brandon Corporation (BRAN):*

A. from Clay Center, Kansas (milepost 178.37), to Manhattan, Kansas (milepost 143.0), a distance of approximately 35 miles.

17. *Iowa Northern Railroad Company (IANR):*

A. from Cedar Rapids, Iowa (milepost 100.5), to Manly, Iowa, (milepost 225.1).

B. at Vinton, Iowa, and west on the Iowa Falls Line to milepost 24.3.

18. *Iowa Railroad Company (IRRC):*

A. from Council Bluffs (milepost 490.15) to West Des Moines, Iowa (milepost 364.34) a distance of approximately 126.81 miles.

B. from Audubon Junction (milepost 440.7) to Audubon, Iowa (milepost 465.1) a distance of approximately 24.4 miles.

C. from Hancock, Iowa (milepost 6.4) to Oakland, Iowa (milepost 12.3) a distance of approximately 5.9 miles.

D. Overhead rights from West Des Moines, Iowa (milepost 364.34) to East Des Moines, Iowa (milepost 350.8). (This trackage is currently leased to the CNW, see Item, 5.E.)

E. from East Des Moines, Iowa (milepost 350.8) to Iowa City, Iowa (milepost 237.01) a distance 113.79 miles.

F. Overhead rights from Iowa City, Iowa (milepost 237.01) to Davenport, Iowa (milepost 182.35), including interchange with the Cedar Rapids and Iowa City Railway. (This trackage is currently leased to the MILW, see Item 6.D.)

G. from Bureau, Illinois (milepost 114.2) to Davenport, Iowa (milepost 182.35).

H. from Rock Island, Illinois through Milan, Illinois, to a point west of Milan sufficient to serve the Rock Island Industrial Complex.

I. at Rock Island, Illinois including 26th Street Yard.

J. from Altoona to Pella, Iowa.

19. *Missouri-Kansas-Texas Railroad Company (MKT):*

A. from Oklahoma City, Oklahoma (milepost 496.4) to McAlester, Oklahoma

(milepost 365.0), a distance of approximately 131.4 miles.

20. *Chicago Short Line Railway Company (CSL):*

A. from Pullman Junction easterly for approximately 1,000 feet to serve Clear-View Plastics, Inc., all in the vicinity of the Calumet switching district.

B. from Rock Island Junction westerly for approximately 3,000 feet to Irondale Wye.

21. *Kyle Railroad Company (Kyle):*

A. from Belleville (milepost 187.0) to Caruso, Kansas (milepost 430.0), a distance of approximately 243 miles. KYLE will be responsible for the maintenance of the jointly used track between Colby and Caruso as mutually agreed upon with CLK, and for coordinating operations.

B. from Belleville (milepost 187.0) to Mahaska, Kansas (milepost 170.0) a distance of approximately 17 miles.

C. from Belleville (milepost 225.34) to Clay Center, Kansas (milepost 178.37) a distance of approximately 47 miles.

22. *North Central Texas Railway, Inc. (NCTR):*

A. from Chico, Texas (milepost 562) to Dallas (North Junction), Texas (milepost 643.8).

B. Joint right-of-way district between Dallas (North Junction) and Endot, Texas (milepost 646.4).

23. *Enid Central Railway, Inc. (ENIC):*

A. from Enid, Oklahoma (milepost 345.27) to Kremlin, Oklahoma (milepost 330.03), including operations on the Ponca City Branch line from milepost 0.02 to milepost 0.30.

B. from North Enid, Oklahoma (milepost 0.30) to Ponca City, Oklahoma (milepost 54.8).

24. *North Central Oklahoma Railway, Inc. (NCOK):*

A. from Mangum, Oklahoma (milepost 97.2) to Chickasha, Oklahoma (milepost 0.0).

B. from Richards Spur, Oklahoma (milepost 486.45) to Anadarko, Oklahoma (milepost 463.39).

C. from Chickasha, Oklahoma (milepost 434.69) to El Reno, Oklahoma (milepost 400.31).

D. from El Reno, Oklahoma (milepost 513.31) to Council, Oklahoma (milepost 494.5).

+E. from Chickasha, Oklahoma (milepost 434.69), to Sunray, Oklahoma (milepost 482.44).

25. *South Central Arkansas Railway, Inc. (SCAR):*

A. from El Dorado, Arkansas (milepost 99) to Ruston, Louisiana (milepost 154.77).

26. *Burlington Northern Railroad Company (BN):*

A. at Burlington, Iowa (milepost 0 to milepost 2.06).

B. at Okeene, Oklahoma.

C. at Lawton, Oklahoma.

27. *Fort Worth and Denver Railway Company (FWD):*

A. from Amarillo to Bushland, Texas, including terminal trackage at Amarillo, and approximately three (3) miles northerly along the old Liberal Line.

B. at North Fort Worth, Texas (mileposts 603.0 to 611.4).

C. from Amarillo, Texas (milepost 760.6) to Groom, Texas (milepost 718.9).

28. *Okarche Central Railway, Inc. (OCRI):*

A. from Enid, Oklahoma (milepost 345.27) to El Reno Junction, Oklahoma (milepost 405.21).

B. from El Reno, Oklahoma (milepost 514.32) to Council, Oklahoma (milepost 496.40).

C. at El Reno, Oklahoma (milepost 402.73) to (milepost 404.19).

Note.—Certain segments of the above operation are overlapping with the NCOR (see Item 24). In the interest of operational clarity and efficiency, OCRI will be the supervising carrier for operations and maintenance.

+ Added.

[FR Doc. 82-20193 Filed 7-26-82; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 47, No. 144
Tuesday, July 27, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1001

Milk in the New England Marketing Area; Termination of Proceeding on Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Termination of proceeding on proposed suspension of rules.

SUMMARY: This action terminates a proceeding on a proposal to suspend certain order provisions affecting the pool status of dairy farmers whose milk is diverted to nonpool plants by handlers regulated under the New England Federal milk order. The suspension would have removed for the months of July and August 1982 the provisions of the order which limit the amount of an individual dairy farmer's milk which may be diverted by a cooperative association if the dairy farmer is to retain producer status. The provision which allows a handler to divert no more than 45 percent of its total receipts of producer milk to nonpool plants also would have been suspended for July and August 1982. This action was requested by two cooperative associations in the market to assure that their member producers who have regularly supplied a portion of the market's fluid milk requirements would continue to share in the proceeds of the market's Class I sales.

Cooperative associations representing a majority of producers on the market submitted comments opposing the proposed suspension. Because of the conflicting viewpoints among interested parties, no action is being taken at this time to suspend the provisions in question.

FOR FURTHER INFORMATION CONTACT: Clayton H. Plumb, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–6273.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued June 18, 1982; published June 23, 1982 (47 FR 27080).

The termination of proceeding is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the New England marketing area. This proceeding was initiated by a notice of proposed rulemaking published in the **Federal Register** (47 FR 27080, June 23, 1982) concerning a proposed suspension of certain provisions of the order. Interested persons were invited to file written data, views, or arguments thereon not later than June 30, 1982.

The provisions that were proposed to be suspended for the months of July and August 1982 are as follows:

In § 1001.15, paragraphs (b)(1) and (b)(2), and paragraph (c).

Statement of Consideration

The suspension would have made inoperative for July and August 1982 the provisions of the New England Federal milk order that limit the amount of milk that may be diverted from farms to nonpool plants and still retain producer milk status. Provisions which limit the amount of an individual dairy farmer's production which may be diverted to nonpool plants by cooperatives and the percentage of a handler's total receipts of producer milk which may be diverted to nonpool plants would have been suspended. The suspension was requested by Eastern Milk Producers Cooperative Association, Inc, and Northern Farms Cooperative, Inc., two cooperative associations in the market.

Eastern Milk Producers has assumed the responsibility for marketing the milk of approximately 100 producers who are nonmembers and members of Eastern and of Northern Farms because of the failure of the handler receiving the milk of those producers to pay for it. In previous months the nonpaying handler has been the handler of record for the dairy farmers involved, and Eastern has no basis under the order for unlimited diversions of those individual producers' milk. Additionally, the loss of the fluid milk outlet for these producers' milk during the flush production months of the year could force Eastern to resort to uneconomic movements of milk to pool plants for transshipment to nonpool plants solely for the purpose of retaining producer status for dairy farmers regularly and historically associated with the fluid market.

In support of the proposed suspension, Eastern Milk Producers and Northern Farms filed comments citing increased levels of production and declining Class I use in the New England market as factors which necessitate suspending limits on diversions of surplus milk to nonpool plants. The proponents stated that for the period June 4–15 over 70 percent of the milk of the 100 producers was moved to nonpool plants. Failure to suspend, they contended, could prevent the least cost efficient handling of milk received from the affected producers by forcing the petitioners to make uneconomic movements of milk to maintain pool status for the milk.

Agri-Mark, Inc., and Richmond Cooperative Association, Inc., cooperative associations representing a majority of the producers on the New England market, opposed the proposed suspension. Both associations expressed concern that such a suspension would allow unlimited quantities of milk to be pooled on the New England market by diversion to nonpool plants at prices below the minimum prices established under the order. Competing manufacturing plants which are pooled, however, are subject to minimum order prices. Agri-Mark asserts that the resulting price imbalance would disturb established marketing relationships and cause marketing conditions more disorderly than those claimed by the cooperatives requesting suspension action.

Agri-Mark stated further that since milk production has peaked for the year, the supply-demand balance should improve during July and August providing opportunities for the producers in question to find outlets which would qualify their milk for pooling. Richmond Cooperative observed that as the loss of sales by the defaulting handler has been compensated for by increased sales by other handlers there should be no net loss of fluid sales in the market. According to Richmond Cooperative, therefore, the cooperatives requesting the suspension should be able to find another market for the milk that

historically has been associated with the market.

Although the conditions which originally prompted the request for suspension still exist, in view of the significant amount of opposition to such action by interested parties and the conflicting views on the probable impacts of a suspension on orderly marketing it is concluded that the suspension should not be ordered. Accordingly, the proceeding begun in this matter on June 18, 1982, is hereby terminated.

List of Subjects in 7 CFR Part 1001

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on July 22, 1982.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 82-20240 Filed 7-26-82; 8:45 am]
BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 82-017]

Reservation Fees for Quarantine of Animals and Birds

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the regulations requiring a reservation fee for space at quarantine facilities maintained by Veterinary Services. This proposal would increase the present reservation fee for space for each lot of poultry or birds intended to be entered into a quarantine facility maintained by Veterinary Services; and, in addition, would require a reservation fee for space for other animals intended to be entered into a quarantine facility maintained by Veterinary Services. This action is necessary to more fully utilize the space at quarantine facilities maintained by Veterinary Services and to reduce losses incurred as a result of the failure to utilize space which has been reserved. The effect of this action would be to more fully utilize quarantine facilities maintained by Veterinary Services or shift some of the costs incurred for the under utilization of the facilities to importers or their agents who reserve space at such quarantine facilities and fail to use the space reserved.

DATE: Comments must be received on or before September 27, 1982.

ADDRESS: Comments to Deputy Administrator, USDA, APHIS, VS, Federal Building, Room 870, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8695.

FOR FURTHER INFORMATION CONTACT:

Dr. M. R. Crane, USDA, APHIS, VS, Room 821, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8170.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule has been reviewed in conformance with Executive Order 12291 and has been classified as not a "major rule." Based on information compiled by the Department, it has been determined that this action would not result in a significant annual effect on the economy; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and would not have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Certification Under the Regulatory Flexibility Act

Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities.

This action would increase the present reservation fee required to be paid by an importer or the importer's agent for space for each lot of poultry or birds intended to be entered into a quarantine facility maintained by Veterinary Services and would impose a reservation fee for space for other animals intended to be entered into a quarantine facility maintained by Veterinary Services. The fee paid for such space would be applied against the expenses incurred for services received by the importer or the importer's agent in connection with the quarantine for which the fee to reserve space was paid. Therefore, the only cost which importers or the importer's agents who actually use the space reserved would incur is an opportunity cost on the prepayment of the reservation fee. Opportunity cost is defined as being the potential earnings foregone by selecting a particular course of action. In this case, the importer or the importer's agent could have invested the amount of the fee. However, in most instances, this opportunity cost is negligible.

An importer or the importer's agent would only incur more than an opportunity cost when the importer or the importer's agent fails to present for entry the animals for which the fee to reserve space was paid, at which time the reservation fee would be forfeited.

Alternatives Considered

1. *Not to amend the regulations.*

Presently, quarantine space at quarantine facilities maintained by Veterinary Services may be reserved for a lot of poultry or birds at a cost of only $40 and for other animals at no cost. The minimal reservation fee in the case of poultry and birds and the lack of a reservation fee in the case of other animals has resulted in the Department, ultimately the taxpayer, bearing the cost of quarantine space which is reserved but not utilized.

Space which is reserved at a quarantine facility maintained by Veterinary Services and not used, causes Veterinary Services to misallocate personnel and materials. In addition, if the entire capacity of a quarantine facility is reserved, other importers who wish to use the facility may not be able to utilize the facility even though some of the reserved space is not utilized.

This alternative was not adopted because the problems discussed above would remain unresolved.

2. *Amend present regulations to increase the reservation fee for a lot of poultry or birds to $80; to require a reservation fee for quarantine space for other animals and forfeiture of the fee for unused space; and to provide that the fee for reserved space shall be applied against the expenses incurred for services received when the reserved space is utilized.*

This alternative was adopted because it would reduce costs to Veterinary Services, ultimately the taxpayer, for quarantine space which is reserved at quarantine facilities maintained by Veterinary Services but is not utilized. In addition, this alternative may result in more fully utilized quarantine facilities because importers or importer's agents are less likely to reserve space, and thereby potentially prevent others from using the reserved space, unless they are certain that they will utilize the space reserved. Further, alternative number 2 would not increase costs to importers or their agents who reserve space at quarantine facilities maintained by Veterinary Services and subsequently use the reserved space because the fee would be applied

against the expenses incurred for services received by the importer or the importer's agent in connection with the quarantine for which the fee to reserve space was paid.

Background

At the present time the regulations (9, CFR 92.4(a)(4)) require that for each lot of poultry or birds to be quarantined in facilities maintained by Veterinary Services, a reservation fee of $40 shall be paid by the importer or his agent at the time the permit or reservation is applied for. Presently, space may be reserved for other animals at quarantine facilities maintained by Veterinary Services without paying a reservation fee. Frequently, animals are not presented for entry at these quarantine facilities maintained by Veterinary Services on the date for which they have the reservation. This results in inefficient utilization of quarantine facilities, and loss of revenue to Veterinary Services. Also, other importers interested in quarantine space are denied the opportunity to use the space.

In order to correct these problems Veterinary Services proposes to amend § 92.4(a)(4) of the regulations to raise the fee for reserving space to quarantine a lot of poultry or birds at a quarantine facility maintained by Veterinary Services and to impose a fee to reserve space to quarantine other animals at such facilities.

The fee to reserve space at a quarantine facility would be applied against the expenses incurred for services received by an importer or an importer's agent in connection with the quarantine for which the fee to reserve space was paid. Any part of the fee which remains unused after being applied against the expenses incurred shall be returned to the individual who paid the fee. Therefore, those who use the quarantine space for the purpose for which it was reserved would incur only an opportunity cost.

Any fee paid to reserve space at a quarantine facility maintained by Veterinary Services would be forfeited if the animals for which the fee was paid are not presented for entry on the date for which they have a reservation. This forfeiture would be imposed to discourage importers or their agents from making frivolous reservations, encourage importers and their agents to present animals for entry into the quarantine facility on time, defray some of the costs incurred by Veterinary Services when personnel and materials are allocated to a quarantine facility because space has been reserved and the reserved space is not used, and recover some of the revenue lost when space at a quarantine facility is reserved and the reserved space is not used and other potential users of the facility are denied the opportunity to use the space.

Proposed § 92.4(a)(4)(i) would impose a fee of $240 to reserve space for each lot of animals other than poultry, birds or horses which is to be quarantined in a quarantine facility maintained by Veterinary Services. Approximately 50 percent of the quarantine space reserved for cattle and wild ruminants and 10 percent of the quarantine space reserved for livestock (other than cattle and horses) is not utilized by those reserving the space. The average fee to quarantine an animal (other than horses, birds or poultry) is $240. Rather than impose a reservation fee of $240 for each animal (other than horses, poultry or birds), and, thereby, require an importer or his agent to potentially incur a large opportunity cost, the Department proposes to impose a reservation fee to cover the average fee for the space necessary to quarantine a single animal (other than horses, poultry and birds). Before imposing a more burdensome fee to reserve space for a lot of animals (other than horses, poultry or birds), the Department would rather make a determination as to whether the intended results, as discussed above, can be achieved by imposing the proposed $240 reservation fee.

Proposed § 92.4(a)(4)(ii) would raise the reservation fee for each lot of poultry or birds to be quarantined in a quarantine facility maintained by Veterinary Services from $40 to $80 for each lot. Approximately 40 percent of the quarantine space which is reserved for birds and poultry is not utilized by those reserving the space. It, therefore, appears that the present reservation fee for a lot of birds or poultry is not high enough to ensure that the importer making the reservation will use the reserved space.

The average fee for the use of an isolette to quarantine birds or poultry at a quarantine facility maintained by Veterinary Services is $80. An importer who reserves quarantine space for a lot of birds or poultry must reserve a minimum of one isolette, but in many cases numerous isolettes are reserved. Rather than impose a reservation fee of $80 for each isolette, and, thereby, require an importer or his agent to potentially incur a large opportunity cost, the Department proposes to raise the reservation fee to cover the average fee for the space necessary to quarantine one bird. Before imposing a more burdensome fee to reserve space for a lot of birds or poultry, the Department would rather make a determination as to whether the intended results, as discussed above, can be achieved by imposing the proposed $80 reservation fee.

Proposed § 92.4(a)(4)(iii) would impose a fee of $130 to reserve space for each horse which is to be quarantined at a quarantine facility maintained by Veterinary Services. Approximately 5 percent of the quarantine space which is reserved for horses is not utilized by those reserving the space. The average fee to quarantine a horse at a quarantine facility maintained by Veterinary Services is approximately $130. Importers generally import a small number of horses at one time. Therefore, with respect to horses, the Department does not believe that a reservation fee based upon a lot of horses is necessary in order to avoid burdensome opportunity costs.

Proposed § 92.4(a)(iv) would require that all reservation fees, except those required for pet birds, be paid by certified check or U.S. Money Order. The Department does not have a place to secure cash in the quarantine facilities maintained by Veterinary Services. Further, the Department on occasion has been unable to collect on personal checks because of insufficient funds. Therefore, the Department has proposed that reservation fees for all animals, except pet birds, be paid with a certified check or U.S. Money Order. The Department has proposed that importers of pet birds may pay by personal checks. This option is given to pet bird importers because large numbers of such importers arrive at quarantine facilities maintained by Veterinary Services with their birds and wish to reserve space for immediate entry into the facilities. This may occur at a time when there is no place available to acquire a certified check or U.S. Money Order. Furthermore, pet birds are quarantined for 30 days and in those instances in which a personal check is used to reserve space for immediate entry of pet birds, Veterinary Services would have time to present the personal check for payment prior to release of the pet birds. If any personal check is returned for insufficient funds, Veterinary Services would have the opportunity to make a claim for expenses incurred in connection with the quarantine prior to release of the pet birds.

In order to avoid confusion, the heading of § 92.4 would be amended to indicate that the section includes regulations regarding fees for the reservation of space at quarantine facilities maintained by Veterinary Services.

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, Part 92, Title 9, Code of Federal Regulations, would be amended as follows:

In § 92.4 the heading and paragraph (a)(4) would be revised to read as follows:

§ 92.4 Import permits for ruminants, swine, horses from countries affected with CEM, poultry, poultry semen, animal semen, birds and for animal specimens for diagnostic purposes;[5] and fees for reservation of space at quarantine facilities maintained by Veterinary Services.

(a) * * *

* * * * * *

(4)(i) For each lot of animals, except poultry, birds and horses, which is to be quarantined in a quarantine facility maintained by Veterinary Services, the importer or the importer's agent shall pay $240 at the time the importer or the importer's agent requests reservation of quarantine space.

(ii) For each lot of poultry or birds, which is to be quarantined in a quarantine facility maintained by Veterinary Services, the importer or the importer's agent shall pay $80 at the time the importer or the importer's agent requests reservation of quarantine space.

(iii) For each horse, which is to be quarantined in a quarantine facility maintained by Veterinary Services, the importer or the importer's agent shall pay $130 at the time the importer or the importer's agent requests reservation of quarantine space.

(iv) The fee required by paragraphs (a)(4)(i), (a)(4)(ii), and (a)(4)(iii) of this section shall be paid by certified check or U.S. Money Order; *Except*, that the fee required by paragraphs (a)(4)(ii) of this section for pet birds may be paid by personal check.

(v) Any fee paid in accordance with paragraph (a)(4)(i), (a)(4)(ii) or (a)(4)(iii) of this section shall be applied against the expenses incurred for services received by the importer or the importer's agent in connection with the quarantine for which the fee to reserve space was paid. Any part of the fee paid in accordance with paragraph (a)(4)(i), (a)(4)(ii) or (a)(4)(iii) of this section, which remains unused after being applied against the expenses incurred for services received by the importer or the importer's agent in connection with the quarantine for which the fee to reserve space was paid, shall be returned to the individual who paid the fee.

(vi) Any fee paid in accordance with paragraph (a)(4)(i), (a)(4)(ii) or (a)(4)(iii) of this section shall be forfeited if the importer or the importer's agent fails to present for entry the lot of animals, the lot of poultry or birds or the horse for which the fee to reserve space was paid.

(Sec. 7, 26 Stat. 416, sec. 2, 32 Stat. 792, as amended, secs. 4, 11, 76 Stat. 130, 132; 21 U.S.C. 102, 111, 134c, 134f; 37 FR 28464, 28477; 38 FR 19141)

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, Room 870, Hyattsville, Maryland, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the **Federal Register.**

Done at Washington, D.C., this 22d day of July, 1982.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 82-20241 Filed 7-26-82; 8:45 am]

BILLING CODE 3410-34-M

[5] For other permit requirements for birds, the regulations issued by the U.S. Department of the Interior (Part 17, Title 50, Code of Federal Regulations) and the regulations issued by the U.S. Department of Health, Education, and Welfare (Subpart J-1 of Part 71, Title 42, Code of Federal Regulations) should be consulted.

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Reg. Z; Docket No. R-0413]

Truth in Lending; Treatment of Seller's Points

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule and proposed revisions to official staff commentary.

SUMMARY: The Board is seeking comment on whether the exclusion of seller's points from the finance charge in reduced rate financing under revised Regulation Z (Truth in Lending) may affect the accuracy of cost disclosures given to the consumer. The Board is publishing for comment two possible alternative methods for the treatment of seller's points, and is asking for comment on other possible methods for dealing with seller's points. Alternative One would remove the current finance charge exclusion for seller's points. Alternative Two would require that a disclosure be given to advise the consumer that the seller has paid money to obtain the financing and that, to the extent the amount has been passed on to the consumer in the form of a higher sales price or other charge, the annual percentage rate and other disclosures understate the cost of credit.

DATE: Comments must be received on or before August 27, 1982.

ADDRESS: Comments may be mailed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or delivered to Room B-2223, 20th & Constitution Avenue, N.W., Washington, D.C., between 8:45 a.m. and 5:15 p.m. weekdays. Comments may be inspected in Room B-1122 between 8:45 a.m. and 5:15 p.m. weekdays. All material submitted should refer to Docket No. R-0413.

FOR FURTHER INFORMATION CONTACT: Clarence B. Cain or Gerald P. Hurst, Staff Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, (202) 452-2412 or (202) 452-3667. Regarding the initial regulatory flexibility analysis, contact: Fred B. Ruckdeschel, Economist, Regulatory Improvement Project, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, (202) 452-2579.

SUPPLEMENTARY INFORMATION: (1) *General.* The Truth in Lending Act defines finance charges to include "all charges, payable directly or indirectly by the person to whom the credit is extended, and imposed directly or indirectly by the creditor as an incident to the extension of credit." [1] Under old Regulation Z,[2] the Board took the position that if a lender imposed points on the seller and the points were in fact passed on to the buyer, the lender had to include them in the finance charge and in computing the annual percentage rate (APR) disclosed to the borrower. The typical situation involved VA and FHA loans which allowed only one point to be passed on to the buyer; the remainder had to be paid by the seller. Some conventional transactions also involved points to be paid by the seller. Since it was difficult for a lender to determine whether a seller had increased the sales

[1] Section 106(a) of the Truth in Lending Act, 15 U.S.C. 1605.

[2] 12 CFR 226.408.

price—and, if so, by how much—lenders generally made a presumption and either included the points in the finance charge or excluded them in all cases.

In revising Regulation Z (46 FR 20848, April 7, 1981) under the Truth in Lending Simplification and Reform Act (Title VI of the Depository Institutions Deregulation and Monetary Control Act of 1980, Pub. L. 96–221, March 31, 1980), the Board sought to provide precise, simple rules as opposed to general statements that created ambiguity, required additional regulatory clarification and tended to generate litigation on technicalities. Applying this principle to the seller's points question, the Board decided to exclude them from the finance charge in all cases, even if they were passed along to buyers in a higher sales price.[3] This rule eliminated guess work for lenders trying to determine if some or all of the points had been added to the sales price. The change was also based on the belief that the purchaser would understand that the sales price might be adjusted if the lender imposed charges on the seller.

Since the amendment of the regulation, an increasing number of financing arrangements have been developed that offer the consumer below-market financing. These arrangements have been developed to offer the buyer lower monthly payments or to qualify the buyer at a lower interest rate. A number of interested parties have questioned whether the seller's points rule applies to specific financing arrangements. Some have expressed concern that creditors have an opportunity to significantly understate the APR.

When lenders make direct loans to purchasers of goods, two types of reduced rate financing are becoming increasingly common: "seller buydowns" and "zero percent mortgages." In a typical "seller buydown," a home seller pays a lender to buy down the interest to a below-market rate for the first few years of a long-term mortgage. The lender recognizes that some buyers' incomes will rise in the future and thus is willing to qualify these borrowers because they can afford the lower initial payments and are likely to be able to afford higher payments later. In a zero percent mortgage arrangement, a seller of homes makes a payment to a lender to induce the lender to offer a short-term zero interest mortgage to a purchaser. The seller generally requires a large downpayment in such cases. The seller must either absorb the payment made to the lender as a cost of selling, increase the price for all its purchasers, or increase the price for only those purchasers using the special financing.

Under the rule in revised Regulation Z, to the extent these credit arrangements result in a higher sales price to customers using these financing plans, a cost of credit is removed from the loan disclosures. Under the present rule the cost attributable to the buydown or points does not have to be reflected in the finance charge or APR, and this may impair the consumer's ability to shop. Two examples will demonstrate the impact on the APR.

One involves a house with a sales price of $50,000 and a loan of $40,000 at a 16% contract rate. The seller offers a 3-year buydown at 13% and the cost of the buydown ($3,626.00) is included in the sales price. The term of the loan is 30 years and it is repayable in 36 payments of $442.48 and 324 payments of $535.32. If the amount of the buydown is excluded from the finance charge, the APR is 14.87%. If the amount of the buydown is treated as a prepaid finance charge, however, the APR would be 16.34%.

A second example involves a zero percent mortgage transaction on a home valued at $40,000. The home seller agrees to pay to a financial institution $9,500 if the institution will make a $30,000 zero percent mortgage. The $9,500 is added to the sales price, so the price to the buyer becomes $49,500. The buyer pays the seller $19,500 and is charged two points ($600) by the lender. The loan is paid in 60 payments of $500 each. If the $9,500 paid by the seller is excluded from the finance charge, the APR is 0.8%. If the $9,500 is treated as a prepaid finance charge, however, the APR would be 17.5%.

One concern about the current rule is that it may permit the advertising of misleading APRs for various financing arrangements. As set forth in the official staff commentary (46 FR 50288, October 9, 1981), sellers or creditors may promote the availability of financing plans involving buydowns by advertising the reduced ("bought down") simple interest rate.[4] The advertisement, however, must also show the limited term to which the reduced rate applies, the simple interest rate applicable to the balance of the term, and the overall APR. Where the buydown is large, so that the simple interest rate is significantly less than the prevailing market rate, the APR being advertised could be misleading as to the real cost of the financing.

The Board is therefore proposing two alternative actions for the treatment of seller's points under revised Regulation Z. The Board also asks for comment on other possible ways of dealing with seller's points.

(2) *Alternative One.* This proposal would remove § 226.4(c)(5) from the regulation and provide that: (1) Seller's points when passed on only to buyers taking advantage of a financing arrangement are finance charges, (2) only the amount of the seller's points actually passed on need be considered a finance charge, and (3) if the creditor is unsure whether the seller's points are being passed on, or is unsure of the amount being passed on, the entire amount of the seller's points may be included in the finance charge and reflected in the APR. The Board specifically seeks comment on the probable effect of this rule.

This alternative is based on the premise that the cost of financing has become such an important factor in the marketplace for consumers facing the prospect of a major purchase that they should have a simple yardstick for comparing the costs of various sources of credit. Under the Truth in Lending Act, the APR is intended to function as such a yardstick. Without a single figure for comparison, even if consumers understand that some credit costs may be included in the sales price, it may be difficult for them to compare the true financing cost of a purchase involving a reduced rate financing plan with the cost of the purchase involving financing from other sources.

Determining the extent to which a seller has passed on points to a buyer as part of the sales price requires the lender to know the price that the buyer would have paid in a cash transaction (or with financing that the seller did not buy down). The Board is aware of the longstanding problem of how to determine the "cash price" of goods, particularly if there are few cash buyers, the product sold is unique, and/or prices are customarily subject to negotiation. On the other hand, although it may be difficult to identify the true cash price in some cases, in many instances the parties offering reduced rate financing plans have a clear idea about how much "adjustment" to the cash price has taken place to offset the seller's payment to the lender and can readily make the computations necessary for a complete disclosure. Because of the difficulties in other situations, however, the proposed

[3] Section 226.4(c)(5) of revised Regulation Z. Comment 4(c)(5)–1 of Official Staff Commentary, TIL–1, provides that the exclusion from the finance charge applies to "any charges imposed by the creditor upon the non-creditor seller of property for providing credit to the buyer or for providing credit on certain terms."

[4] Comment 24(b)–3 of Official Staff Commentary, TIL–1.

changes to the official staff commentary under Alternative One would specifically permit creditors to assume that all seller's points are paid by the buyer.

Alternative One would cause some overstatement of the APR where the seller's points have not been passed on entirely and the creditor includes the entire amount in the finance charge. However, total exclusion of seller's points from the finance charge could lead to a more substantial understatement of the APR, for example, in zero percent mortgage transactions. The overstatement would be allowed under this alternative because of the practical problems of determining the precise amount of seller's points actually passed on and the potential for litigation without the added flexibility. Although creditors and sellers would be permitted to overstate the APR, there would be an incentive to determine the amount that is actually passed on in order to avoid having to overstate the APR in advertisements and disclosures for reduced rate financing programs. The Board seeks comment on the effect of allowing the overstatement of the APR, including whether significant overstatements would result.

The question has arisen whether adopting Alternative One will prevent sellers from offering "seller buydowns," "zero rate financing," or other reduced rate financing plans. It is expected that sellers could continue to offer the programs and advertise "bought down" rates; the only change would be that if a bought down rate (reduced simple interest rate) were disclosed, the APR disclosed in the advertisement would have to reflect any seller's points that are passed on only to customers using a financing arrangement. The Board seeks comments on whether this change is likely to discourage the offering of reduced rate financing.

Alternative One would not require creditors to change their forms. However, it would require a change in procedures and retraining of personnel. The Board requests comment on the costs that would be associated with the adoption of this alternative.

If the Board adopts Alternative One, removing § 226.4(c)(5) from the revised regulation, staff proposes to make the following changes in Official Staff Commentary, TIL–1:

- Comment 4(b)(3)–2 would be added to explain how to treat seller's points under the amended finance charge provisions.
- Comment 4(c)(5)–1 would be removed since its regulatory basis would no longer exist.
- Comments 17(c)(1)–3 and 17(c)(1)–5 would be completely revised to reflect the possibility that an amount paid by a seller may be a finance charge.

(3) *Alternative Two.* This alternative would continue to exclude seller's points from the finance charge but would require a new disclosure concerning seller's points in disclosure statements and advertisements for reduced rate financing transactions. A creditor would be required to state (1) that the seller has paid money to obtain the financing; (2) the amount paid; and (3) that the payment, to the extent it has been passed on to the consumer in the form of a higher sales price or other charge, results in a higher cost of credit than that actually disclosed. The requirement would be added by amending the regulation as follows:

- Section 226.18, "Content of Disclosures," would be amended by adding a new paragraph (s), requiring the disclosure of charges paid by the seller to the creditor for providing credit to the buyer or for providing credit on certain terms.
- Section 226.24(b), "Advertisement of Rate of Finance Charge," would be amended by rearranging the current paragraph and adding a new paragraph (b)(3) stating the new seller's points diclosure requirement.
- Section 226.24(c), "Advertisement of Terms That Require Additional Disclosures," would be amended by adding a new paragraph (c)(2)(iv) stating the new seller's points disclosure requirement.
- Footnote 38 to § 226.17(a)(1), "Form of Disclosures," would be amended to permit the new seller's points disclosure under § 226.18(s) to be made apart from other required disclosures.
- Appendix H, "Closed-end Model Forms and Clauses," would be amended by adding a Seller's Points Model Clause as H–16.

This alternative avoids some of the problems created by Alternative One, such as the difficulty in determining whether and to what extent seller's points are included in the sales price to only those customers taking advantage of a specific financing arrangement. At the same time, the disclosure would put the consumer on notice that the stated APR and finance charge may not accurately reflect overall credit costs.

However, this alternative may also create problems. For example, the disclosure could result in confusion on the part of consumers and difficulties for creditors and sellers in explaining the meaning of such a disclosure. In addition, the imposition of a new disclosure requirement could require creditors to reprint forms or print a separate form in order to make the disclosure, giving rise to significant costs for creditors and sellers engaged in offering reduced rate financing. Both of these considerations could result in restricting the use of reduced rate financing.

Another concern is the broad coverage of this disclosure requirement. Alternative Two may well affect more transactions than Alternative One. Specific comment is solicited as to the number or percentage of transactions affected and the cost of these new requirements.

Although the headings of the provisions in the regulation would use the term "seller's points," the disclosure requirements would not be phrased in terms of "seller's points" nor would the actual disclosures be phrased in those terms. (See proposed Model Clause H–16.) Use of the term "seller's points" could confuse consumers and creditors, since traditionally "seller's points" have been viewed as a percentage amount of the loan transaction payable by the seller while the term under revised Regulation Z has come to have a broader meaning. Instead, the language of the disclosure requirements and the disclosures would be descriptive, that is, referring to a charge that is paid by a seller in order for the creditor to extend credit to the buyer or extend credit on certain terms. This is the same as the meaning given the term "seller's points" in current Comment 4(c)(5)–1 of the official staff commentary.

The new disclosure required in the disclosure statement could be made along with the other segregated disclosures (in the so-called "federal box") or elsewhere. This position is reflected by the proposal to add a reference to the seller's points disclosure to footnote 38 to § 226.17(a)(1). This relaxation of the rule that all required disclosures must appear together would allow creditors to use their existing disclosure statements and put the new disclosure elsewhere.

Alternative Two is not intended to require the new disclosure for charges that do not rely on the exclusion from the finance charge for seller's points in § 226.4(c)(5) of the regulation. Examples of charges that are intended to be excluded from this disclosure requirement are:

- Commitment fees. These are sums generally paid by a developer or builder of a development such as a multiple-unit building to obtain

financing for a number of sales transactions; they are not tied to specific transactions and do not result in a higher sales price for customers taking advantage of offered financing; as a result, they would not be finance charges under § 226.4(a) of the regulation. See Comments 4(a)–1 and –2.)

- Discounts on credit obligations when they are sent to the creditor for payment or assigned by a seller-creditor to another party as long as the discount is not separately imposed on the consumer. (These charges do not constitute finance charges under § 226.4(a) of the regulation. See Comment 4(a)–2.)

In order to avoid confusion on this point, the discussion of seller's points in Comment 4(c)(5)–1 would be modified to make clear that charges that are otherwise not finance charges are not included in the concept of seller's points for purposes of Regulation Z. The Board specifically requests comment on the need for this change in connection with Alternative Two and whether the suggested changes in the language of Comment 4(c)(5)–1 would accomplish the desired result.

The Board would like comment on Alternative Two and whether there is another way to disclose the existence of seller's points and their effects without imposing significant burdens on creditors. In addition, the Board requests comment as to the form a seller's points disclosure should take; whether the disclosure in an advertisement should be the same as or briefer than that in the actual disclosure statement; and whether the disclosure requirement should be limited to advertising. The Board requests specific comment as to whether or not in advertisements the creditor should be allowed to merely state that an amount has been paid by the seller, rather than showing the specific amount paid.

If the Board adopts Alternative Two, requiring disclosure of seller's points, staff proposes to make the following changes to official Staff Commentary, TIL–1:

- Comment 4(c)(5)–1 would be revised to clarify the treatment of commitment fees and other items and to include a reference to the new disclosure requirements found in §§ 226.18(s) and 226.24(b)(2) and (c)(2)(iii) of the regulation.
- Comment 17(c)(1)–3 would be revised to include a reference to the new disclosure requirement for seller's points.
- Comments 18(s)–1 and –2 would be added to discuss the seller's points disclosure in § 226.18(s).
- Comments 24(b)–1, –2, and –3 would be rearranged and redesignated to reflect the regulatory revisions to § 226.24(b). In particular, Comment 24(b)(3)–1 would be added to explain the new advertising requirement.
- Comment 24(c)(2)–5 would be added to explain the new advertising requirement in § 226.24(c)(2)(iv).
- Comment H–17 would be added to discuss new model clause H–16 for seller's points.

The Board also requests comment as to other actions in lieu of Alternatives One and Two that could be taken to reduce any potential for misleading consumers as to the true cost of credit that currently exists with the seller's points rule. In particular, the Board is interested in actions that would not significantly restrict the availability of reduced rate financing. The reason for proposing action in the seller's points area, as mentioned previously, is to maintain the usefulness of the APR as a tool in shopping for credit by ensuring that consumers can understand and compare alternative financing arrangements.

Because the proposed amendment requires prompt action in the public interest, the Board finds it is not necessary to follow the expanded rulemaking procedure set forth in the Board's policy statement of January 15, 1979 (44 FR 3957). Instead, the Board finds that a 30-day comment period is sufficient.

(4) *Effective Date.* If Alternative One or Alternative Two is adopted, the change would be effective as soon as is feasible. The Board solicits comment as to a date that would be considered feasible. Comment is requested on whether the effective date for advertisements should be earlier than that for disclosures.

(5) *Initial-Regulatory Flexibility Analysis.* This analysis is designed to meet requirements of the Regulatory Flexibility Act and to assist the public in responding to the proposals introduced earlier in this **Federal Register** notice. These proposals are a response to concerns expressed by certain parties that consumers may be misled by the reduced-rate financing plans now commonly being used in the market for new housing. This analysis presents the problem of determining the cost of credit when seller's points are involved, discusses possible benefits and costs of the two proposals, highlights potential problems and areas in which the Board specifically requests comment, and outlines other alternatives to the proposals.

Function of Truth in Lending. There are two primary consumer protection goals of Truth in Lending. These goals are to be achieved by disclosure of credit costs, especially the annual percentage rate (APR) and the finance charge. The first goal, called the "shopping function" by the National Commission on Consumer Finance, is to improve consumers' ability to make comparisons by providing a uniform method of stating credit costs. The second goal, called the "descriptive function", is to improve consumers' ability to decide whether to use credit or cash to finance a purchase or to delay consumption and finance the purchase later out of savings. In the discussion that follows, the shopping and descriptive functions will serve as a basis for evaluating the effectiveness both of new Regulation Z and of the alternative proposals in dealing with seller's points.

Problem with seller's points. When the purchase of a product, such as a house, and a credit transaction are tied together, disclosure of accurate and consistent information can be complicated in advertising, in negotiations setting sales terms, and in credit documents. The price of the product and the costs of acquiring it with credit can be identified as separate cost components only when the product and the credit package can be chosen independently of each other. With reduced-rate financing, a seller pays a creditor to charge the buyer a below-market interest rate on the financing used to purchase the product. The seller might be able to recoup some portion or all of that payment in the price paid by the buyer. Thus, the item being purchased and the reduced-rate financing are "packaged" together. Accordingly, the price of the item being purchased and the interest rate on the financing are mathematically related. The problem, then, is to determine what, if any, amendments to Regulation Z will assist consumers in directing their search efforts or improve their ability to choose the best deal when products and financing are packaged together.[5]

[5] In transactions involving seller's points, consumers may also face complications unrelated to Truth in Lending. In particular, seller's points may have three types of tax implications. First, whether or not points are passed on, use of reduced-rate financing might affect the proportion of monthly payments that may be deducted from gross income in the computation of taxable income. Second, seller's points may affect the cost basis used in the computation of capital gains for tax purposes. Third, to the extent seller's points are passed on in the

Proposed Alternatives

Alternative One provides two distinct methods for creditors to use when calculating the APR, the finance charge, and the amount financed, all three of which are terms defined in Regulation Z.

The first method requires the creditor to calculate the amount financed by deducting from the amount of the loan the *portion* of any seller's points that is *passed on* to a buyer in a higher sales price, to add that portion of points to the finance charge, and to treat those passed-on points as a prepaid finance charge when calculating the APR being paid on the amount financed.

The second method allows the creditor to subtract the entire amount of seller's points from the loan to calculate the amount financed, whether the points are passed on entirely, partly, or not at all. That entire amount is also added to the finance charge and is treated as a prepaid finance charge when calculating the APR.

Alternative One also requires that a seller's advertisements use one or the other of those APRs when any interest rate is advertised.

Alternative Two calls for creditors on their disclosure statements and for sellers in their advertisements (1) to show the amount a seller has paid to the creditor so that buyers may obtain the reduced-rate financing and (2) to state that the seller's payment, to the extent that it has been passed on to the consumer in the form of a higher sales price or other charge, results in a higher cost of credit than is actually disclosed. The Board requests specific comment on whether a statement that an amount has been paid would be sufficient in advertisements without identifying a dollar amount.

Analysis of Alternative One

Disclosures. The following examples illustrate how the TIL disclosures would appear under both new Regulation Z and Alternative One.

In Example One the buyer obtains a $40,000 loan for 30 years, with a 13 percent interest rate for 3 years and a 16 percent interest rate for the remaining 27 years. In order to induce the creditor to offer the reduced rate for three years, the seller pays the creditor $3,626.

EXAMPLE ONE

	Annual percentage rate	Finance charge	Amount financed	Total of payments
New Regulation Z	14.87	$149,372.96	$40,000.00	$189,372.96
Alternative One (Entire $3,626 of points treated as prepaid finance charge)	16.34	152,998.96	36,374.00	189,372.96

In Example Two the buyer obtains a $30,000 zero-percent loan with a maturity of 5 years. The buyer pays $600 of points directly to the creditor, and the seller pays $9,500 of points to the creditor in order to induce it to offer the reduced-rate financing.

EXAMPLE TWO

	Annual percentage rate	Finance charge	Amount financed	Total of payments
New Regulation Z	0.0	$600.00	$29,400.00	$30,000.00
Alternative One (Entire $9,500 of points treated as prepaid finance charge)	17.5	10,100.00	19,900.00	30,000.00

Note that the total of payments are identical in the two disclosures shown for each example—$189,372.96 and $30,000, respectively. This is so because the scheduled monthly payments are unchanged. What differs is the apportionment of the total of payments between principal (amount financed) and interest (finance charge). And apportionment affects the calculation of the APR.

Relationship between price and interest rate. The TIL disclosures, in the examples above, show only financing costs and do not mention product price and downpayment. But, when the product being purchased and the financing are packaged together, the stream of payments made by a buyer is consistent with an infinite number of price and interest rate combinations. This section discusses the simultaneous relationship between price and interest rate in transactions where product and financing are tied together.

When the downpayment on a house and the monthly payments on the loan and its maturity are established, a price can be set; and the interest rate is determined automatically by a mathematical formula. Alternatively, an interest rate can be set, and the price is determined automatically. The mathematics is the same as that used in calculating the prices and yields of debt securities.

In Example One, where the interest rate is bought down to 13 percent for three years, the downpayment is $10,000; and the monthly payment for the first three years is $442.48 and for the next 27 years is $535.32. With the contract purchase price set at $50,000, the annual percentage rate is 14.8 percent. Alternatively, when the $3,626 of seller's points is treated as a prepaid finance charge, then the annual percentage rate is 16.34 percent; and the implied price of the house is $46,374, which is $3,626 less than the contract purchase price.

In the example with a zero interest rate, in which points are assumed to be passed on to the consumer through a higher price, the downpayment is $19,500; points paid by the buyer to the creditor are $600; and the monthly payment for 60 months is $500. When the interest rate is stated to be zero percent, the price is $49,500. But when the seller's $9,500 payment to the creditor is treated as a finance charge rather than as part of the price, the implied price is $40,000; and the APR stated in the TIL disclosure is 17.5 percent.

In fact, in any given transaction with any given downpayment, any one of an infinite number of price and interest-rate

price of real property, points may result in a higher assessment of property for tax purposes than would otherwise occur.

combinations accurately reflects the specific monthly payment and maturity terms. Each combination depends on how much of the price is treated as a prepaid finance charge and is deducted from the amount financed. Since the amount of financing plus the downpayment equals the price of a house, any deduction from the amount financed implies a reduction in price. The issue with seller's points, then, can be viewed as a question of how to apportion the total of payments involved in the financing between the amount financed and the finance charge. Thus when a regulatory requirement apportions less than the contractual amount of the loan to the "amount financed" in a Truth in Lending disclosure, a reduction in the price of the house is implied.

Alternative One, in effect, stipulates two methods of determining which of the multitude of rates will satisfy the advertising and disclosure requirements of Regulation Z. One method requires *estimating* the proportion of the seller's points that is passed on to the consumer and thus is treated as a prepaid finance charge in the calculation of TIL disclosures. The other method permits the entire amount of points to be treated as a prepaid finance charge.[6]

Significant economic impacts of Alternative One. Under the shopping goal of Truth in Lending, disclosure of credit costs on a comparable basis provides two benefits. First, disclosure increases the efficiency with which consumers use advertising to search for options. Second, it increases the efficiency with which consumers compare options. The treatment of seller's points in new Regulation Z can adversely affect consumer's search for options when all or a large portion of seller's points are passed on in a higher price. The bought-down APR can be advertised but the inflated price need not be. Thus, consumers may be induced through advertisements to spend scare shopping time and effort gaining further information about deals that, upon comparison, turn out to be more costly. Alternative One would help remedy this problem when all or a large portion of points are passed on.

Alternatively, when a seller does not pass on points by raising price or passes on only a small portion, then advertising of interest rates under new Regulation Z shows that the seller is willing to reduce the total cost of a transaction through subsidized financing. Under Alternative One, when creditors assume, contrary to fact, that seller's points are passed on, advertised interest rates would not reflect the interest-rate subsidy. Thus, under these circumstances, Alternative One would reduce consumers' ability to use advertising to direct their search efforts.

In order to assess the ultimate impact on the search process, it is necessary to take into account (1) the extent to which sellers are likely to pass on points to consumers and (2) the impact that Alternative One is likely to have on the behavior of creditors.

Little information is available to the Board on the extent to which sellers have been able to pass on points to consumers. However, under current economic conditions, sellers may not be able to increase prices sufficiently to pass on a large portion of the seller's points. Thus, the Board seeks information on this question.

The impact of Alternative One on sellers' and creditors' behavior is likely to arise from possible increases in costs in three areas. First, there are the costs of training personnel to treat all or part of seller's points as a prepaid finance charge. Second, there are costs of estimating the cash prices necessary to determine what portion of those points have been passed on to buyers in higher prices.[7] Third, and potentially most important, there is the cost to sellers and creditors that takes the form of an increased risk of litigation brought against them by consumers who claim that the passed-on portion of seller's points was underestimated. Many sellers and creditors are likely to avoid the second and third kinds of cost by including the full amount of the points in the finance charge or by overestimating the portion of points passed on, whenever the cash price is not obvious. To the extent costs in these areas are incurred, creditors can be expected to attempt to recover them through higher interest charges.

When seller's points are not passed on entirely and creditors choose to avoid the cost of estimating the amount of seller's points passed on and the risk of litigation, consumers may be misled in their search activities under Alternative One. Advertised APRs for subsidized financing would be as high as market interest rates. As a result, this alternative may impair consumers' ability to identify lower cost alternatives by comparing advertisements.

Following the search effort the consumers will attempt to choose the best combination of product and financing. The terms of the sales contract and the new Regulation Z disclosures provide sufficient information for consumers to make informed financial decisions. The total cost of each possible transaction is fully reflected either by the price and bought-down APR or the downpayment and monthly payments (assuming contract maturity and downpayment percentage are constants). However, when seller's points are treated as a prepaid finance charge under Alternative One, a reduction in price is implied, as noted in the discussion of the mathematical relationship between price and interest rate. But without knowing the implied price, the consumer will see the points double counted. That is, the points will be reflected in both the disclosed APR and in the contract price. As a result, consumers who rely on the proposed disclosure would overestimate the total cost of the transaction. Requiring disclosure of the implied price would remedy this deficiency in Alternative One. But an additional disclosure would conflict with a Board objective in simplifying Regulation Z.

The attached Appendix A has two examples illustrating some of the information that would be disclosed in the sales contract and in the credit documents under new Regulations Z and Alternative One.

In summary, Alternative One requires APRs and finance charges to be restated to reflect the amount of seller's points passed on. Whenever seller's points are largely or completely passed on, Alternative One prevents consumers from being misled by advertisements during their initial search for attractive combinations of product and financing arrangements. But, when seller's points are not passed on, as perhaps during times of economic distress, then the impact of Alternative One, through advertising, on consumers' search efforts depends on whether creditors and sellers choose to estimate the amount of points passed on or choose to treat the entire amount of points as a prepaid finance charge. When they treat the entire amount as a prepaid finance charge, the APRs for subsidized financing will appear the same as those for unsubsidized financing. Consequently, consumers might have greater difficulty in searching for deals with subsidized financing.

[6] By providing two methods for calculating the finance charge and the APR, Alternative One weakens the shopping function of Truth in Lending. When creditors do not use the same method, the TIL disclosures will not be comparable.

[7] Included here would be the cost to creditors of monitoring the extent to which negotiations between sellers and buyers have changed the characteristics of the houses being sold. For example, negotiated changes in landscaping, appointments, and other details, as well as settlement dates could affect the hypothetical cash price that the creditor must estimate.

Whether or not points are passed on, Alternative One could cause consumers confusion. Consumers would not know whether the APR reflected an estimate of points passed on or a cost-minimizing arbitrary inclusion of the full amount of points by the creditor. In addition, since the restated APR and price both reflect the points, they are double counted. This could affect consumers' ability to compare deals and their decision whether to finance a purchase with credit or liquid assets or to delay the purchase and save.

The Board seeks empirical and analytical information on these and other possible impacts of Alternative One on consumers, creditors, and sellers.

Analysis of Alternative Two

As described earlier, the warning statement required by Alternative Two tells consumers the dollar amount of seller's points paid to the creditor and that the cost of credit is higher than that disclosed to the extent that points have been passed on to the buyer. Alternative Two has important implications for consumers. First, it would lead consumers to doubt the usefulness of TIL disclosures, since the disclosure requirements of Alternative Two state that important information may not be taken into account in calculating the APR and finance charge, specifically, the amount of points paid by a seller. That doubt might undermine consumers' confidence in the process of obtaining credit. Nevertheles, the presence of a warning may induce consumers to devote greater attention to the details of reduced-rate financing plans. Second, disclosure of the dollar amount of points would not give consumers adequate information to determine whether the seller has subsidized the financing or has passed on the points in product price. In order to obtain this information, the consumer would have to compare various packages of price and annual percentage rate, which is the same task that the consumer performs when directly evaluating the costs of alternative product and financing combinations. Thus, disclosure of the dollar amount of points would not improve consumers' ability to compare deals but would introduce further complexity to Truth in Lending disclosures.

Alternative Two would impose some additional paperwork burdens on creditors. The Board recognizes that advertising copy would have to be different. The Board seeks information whether Alternative Two is likely to discourage interest rate advertising by sellers or have any other impact on advertising practices. Creditors' forms also would need to be reprinted or overprinted with the statement about the seller's payment. A long lead time before any amendment would take effect would minimize the impact of changes in forms. Documented estimates of such printing costs would be helpful to the Board's consideration of the issue.

In summary, Alternative Two would alert consumers that the below-market financing cost might be accompanied by a correspondingly higher product price. This lack of definitiveness may lead consumers to question the value of the TIL disclosures. Moreover, disclosure of the dollar amount of seller's points, as required by Alternative Two, does not improve consumers' ability to determine whether financing is subsidized or points have been passed on.

The Board seeks empirical or analytical information about whether the disclosure in Alternative Two would be effective in alerting consumers or would itself be confusing or misleading.

Other Aspects of the Analysis

Necessary professional skills. Creditors and sellers may need certain accounting, marketing, or other skills to estimate how much of any seller costs are passed on to a buyer. The Board seeks information about what skills might be necessary or desirable for making those estimates.

Impact on small business. Neither requirement would appear to have a seriously disproportionate impact on small creditors or small sellers of new homes.

Significant alternatives to the proposals. The Regulatory Flexibility Act calls for a description of alternatives to proposed rules. The Board will enteratain specific comment on any of the three alternatives given below or other proposals for dealing with seller's points.

(a) As a substitute for Alternative Two, require a statement indicating only that the contract price, rather than the APR, may reflect any points passed on. The statement could read as follows: "Costs to the seller of this financing are not reflected in the APR and may instead be included in part or entirely in the purchase price." This alternative would avoid the possibly misleading disclosure of the dollar amount of points. More important, it would alert consumers to the need to consider price and APR simultaneously when shopping for purchases that combine the house and reduced-rate financing in a single package.

(b) Require the statement in (a) to be shown only in advertisements and not on the disclosure statement. This modification of (a) would alert the consumer during the primary shopping effort and avoid the burden of disclosure after most shopping effort has been expended.

(c) Retain the current treatment of seller's costs for reduced-rate financing, recognizing (1) that the APR and price reflect each other when down-payments, monthly payments, and maturities are already specified and (2) that a multitude of APR and price combinations are mathematically consistent. Consumers must consider all costs revealed during negotiations and disclosed in the credit and sales documents when comparing alternatives that package the product with reduced-rate financing. To the extent that sellers' points are passed on, they will be reflected in a higher price, higher downpayment, higher monthly payment, less desirable house, or some combination of these elements.

Appendix A—Shopping Examples. Here are two "realistic" examples of deals that a consumer might face when shopping for a home.

Example A is one used earlier, in which the seller buys down the interest rate to 13 percent for three years. Negotiation of the sales contract or the contract itself shows the following:

(a) Price, $50,000.00.

(b) Downpayment, $10,000.00.

The TIL disclosure statement would show the following:

	Under new reg. Z	Under proposed alternative 1
(c) APR	14.87 percent	16.34 percent
(d) Finance charge	$149,372.96	$152,996.96
(e) Amount financed	$40,000.00	$36,374.00
(f) Total of payments	$189,372.96	$189,372.96
(g) Monthly payments	36 at $442.48 each and 324 at $535.32 each.	36 at $442.48 each and 324 at $535.32 each
(h) Prepaid finance charge (shown on a separate written itemization of the amount financed).		$3,625.00.

Example B represents the negotiated terms of the sale of a house that is essentially the same to the buyer as the house in Example A. The seller is willing

to sell for $48,000 rather than $50,000 as in Example A. The same bought-down financing is provided and because of the lower price, a smaller downpayment is required.

(a) Price, $48,000.00.

(b) Downpayment, $8,500.00.

The TIL disclosure statement would show the following:

	Under new regulation Z	Under proposed alternative 1
(c) APR	14.8 percent	16.34 percent.
(d) Finance charge	$147,506.32	$151,006.97.
(e) Amount financed	$39,500.00	$35,919.35.
(f) Total of payments	$187,006.32	$187,006.32.
(g) Monthly payments	36 at $436.95 each and 324 at $528.53 each.	36 at $436.95 each and 324 at $529.53 each.
(h) Prepaid finance charge (shown on a separate written itemization of the amount financed).		$3,580.65.

The creditor in Example B believes that approximately $2,250 in points were actually passed on in a higher price, since the seller said that $45,750 would probably have been accepted from a buyer with cash or other financing. The creditor chose to avoid the risks of litigation under Alternative One and disclosed the APR based on the assumption that all points had been passed on (as shown above). The APR based on only $2,250 being passed on would have been 15.77 percent.

Under both Examples A and B, the APRs would be the same calculated under new Regulation Z or under proposed Alternative One. The purchase decisions will be based on the different purchase price and the lower downpayment and monthly payments that are the result of the lower price. The question is whether the 16.34% APR or the 14.87% APR is the more nearly accurate statement of the cost of credit.

List of Subjects in 12 CFR Part 226

Advertising, Banks, banking, Consumer protection, Credit, Finance, Penalties, Truth in Lending.

(6) *Alternative One—Amendments to the Regulation and Official Staff Commentary.* Pursuant to the authority granted in section 105 of the Truth in Lending Act (15 U.S.C. 1604) as amended by Pub. L. 96–221, 94 Stat. 170 (March 31, 1980), the Board proposes to amend § 226.4 of Regulation Z (12 CFR Part 226, as published at 46 FR 20892, April 7, 1981) by removing paragraph (c)(5) and redesignating paragraphs (c) (6), (7), and (8) as (c) (5), (6), and (7), respectively.

Pursuant to 15 U.S.C. 1640(f), the staff proposes to amend Official Staff Commentary, TIL–1 as follows:

1. The commentary to § 226.4 is amended by removing Comment 4(c)(5)–1, by redesignating Comments 4(c)(6)–1 and 4(c)(7)–1 as Comments 4(c)(5)–1 and 4(c)(6)–1, respectively, and by adding Comment 4(b)(3)–2, to read as follows:

§ 226.4 Finance Charge.

* * * * *

4(b) Examples of finance charges.

* * * * *

Paragraph 4(b)(3).

* * * * *

2. *Seller's points.* The points mentioned in § 226.4(b)(3) may include seller's points, that is, charges imposed by the creditor upon the non-creditor seller of property for providing credit to the consumer or for providing credit on certain terms. If seller's points are passed on by the seller to only those consumers using a financing arrangement, then the points are finance charges. Only the amount of the seller's points actually passed on to the consumer is a finance charge. If the creditor is unsure whether the seller's points are being passed on, or unsure of the amount being passed on, the creditor may include in the finance charge the entire amount of the seller's points or any amount in excess of the amount actually passed on.

* * * * *

2. The commentary to § 226.17 is amended by completely revising Comments 17(c)(1) –3 and –5, to read as follows:

§ 226.17 General Disclosure Requirements.

* * * * *

17(c) Basis of Disclosures and Use of Estimates.

Paragraph 17(c)(1).

* * * * *

3. *Seller buydowns.* In certain transactions, a seller may pay an amount, either to the creditor or to the consumer, in order to reduce the consumer's payments or buy down the interest rate for all or a portion of the credit term. For example, a consumer and a bank agree to a mortgage with an interest rate of 15% and level payments over 25 years. By a separate agreement, the seller of the property agrees to subsidize the consumer's payments for the first two years of the mortgage, giving the consumer an effective rate of 12% for that period.

- Whether or not the lower rate is reflected in the credit contract between the consumer and the bank, the disclosures must reflect any portion of the seller's points which is a finance charge. The commentary to § 226.4(b)(3) discusses those seller's points that are disclosed as finance charges.
- If the lower rate is reflected in the credit contract between the consumer and the bank, the disclosures must take the buydown into account. For example, the annual percentage rate must be a composite rate that takes account of both the lower initial rate and the higher subsequent rate, and the payment schedule disclosures must reflect the 2 payment levels.
- If the lower rate is not reflected in the credit contract between the consumer and the bank and the consumer is legally bound to the 15% rate from the outset, the disclosures given by the bank must not reflect the seller buydown in any way. For example, the annual percentage rate and payment schedule would not take into account the reduction in the interest rate and payment level for the first 2 years resulting from the buydown.

* * * * *

5. *Split buydowns.* In certain transactions, a seller and a consumer both pay an amount to the creditor to reduce the interest rate. The creditor should treat each portion of the buydown based on the discussion of seller and consumer buydown transactions elsewhere in the commentary to § 226.17(c).

* * * * *

(7) *Alternative Two—Amendments to the Regulation and Official Staff Commentary.* Pursuant to the authority granted in section 105 of the Truth in Lending Act (15 U.S.C. 1604) as amended by Pub. L. 96–221, 94 Stat. 170 (March 31, 1980), the Board proposes to amend Regulation Z (12 CFR Part 226, as published at 46 FR 20892, April 7, 1981), to read as follows:

1. Section 226.17(a)(1) is amended by revising footnote 38, to read as follows:

§ 226.17 General disclosure requirements.

(a) *Form of disclosures.* (1) * * *

[38] The following disclosures may be made together or separately from other required disclosures: the creditor's identity under

§ 226.18(a), the variable rate example under § 226.18(f)(4), insurance under § 226.18(n), certain security interest charges under § 226.18(o), and seller's points under § 226.18(s).

* * * * *

2. Section 226.18 is amended by adding paragraph (s), to read as follows:

§ 226.18 Content of disclosures.

* * * * *

(s) *Seller's points.* If the creditor requires the seller of property or services to pay an amount for providing credit to the consumer or for providing credit on certain terms, the following disclosures:

(1) That the seller has paid an amount to obtain the financing.

(2) The amount that the seller has paid.

(3) That, to the extent the amount is passed on in the form of a higher sales price or other charge to the consumer, the annual percentage rate and other disclosures understate the cost of credit.

3. Section 226.24 is amended by redesignating paragraph (b) as paragraphs (b)(1) and (2), by adding paragraph (b)(3), and by adding paragraph (c)(2)(iv), to read as follows:

§ 226.24 Advertising.

* * * * *

(b) *Advertisement of rate of finance charge.* (1) If an advertisement states a rate of finance charge, it shall state the rate as an "annual percentage rate," using that term. The advertisement shall not state any other rate, except that a simple annual rate or periodic rate that is applied to an unpaid balance may be stated in conjunction with, but not more conspicuously than, the annual percentage rate.

(2) If the annual percentage rate is stated and that rate may be increased after consumation, the advertisement shall state that fact.

(3) If the annual percentage rate is stated and the financing transaction being advertised involves the payment of an amount by the seller to the creditor for providing credit to the consumer or for providing credit on certain terms, the advertisement must state:

(i) That the seller has paid an amount to obtain the financing.

(ii) The amount that the seller has paid.

(iii) That, to the extent the amount is passed on in the form of a higher sales price or other charge to the consumer, the annual percentage rate and other disclosures understate the cost of credit.

(c) * * *

(2) * * *

(iv) If the financing transaction being advertised involves the payment of an amount by the seller to the creditor for providing credit to the consumer or for providing credit on certain terms:

(A) That the seller has paid an amount to obtain the financing.

(B) The amount that the seller has paid.

(C) That, to the extent the amount is passed on in the form of a higher sales price or other charge to the consumer, the annual percentage rate and other disclosures understate the cost of credit.

* * * * *

4. Appendix H is amended by adding model clause H–16, to read as follows:

Appendix H—Closed-End Model Forms and Clauses

* * * * *

H–16—Seller's Points Model Clause

In order to obtain this financing the seller has paid $____. To the extent this amount has been passed on to you in the form of a higher sales price or other charge, the annual percentage rate and other disclosures given to you understate the cost of your credit.

Pursuant to 15 U.S.C. 1640(f), the staff proposes to amend TIL–1, as follows:

1. The commentary to § 226.4 is amended by revising Comment 4(c)(5)–1, to read as follows:

§ 226.4 Finance Charge.

* * * * *

4(c) Charges excluded from the finance charge.

* * * * *

Paragraph 4(c)(5).

1. *Seller's points.* Section 226.4(c)(5) excludes any charges imposed by the creditor upon the non-creditor seller of property for providing credit to the consumer or for providing credit on certain terms that would otherwise be finance charges. These charges are excluded from the finance charge even if they are passed on to the consumer, for example, in the form of a higher sales price. Seller's points are frequently involved in real estate transactions guaranteed or insured by governmental agencies. A "commitment fee" paid by a non-creditor seller (such as a real estate developer) to the creditor, if not otherwise excluded from the finance charge (see the discussion in Comments 4(a) –1 and –2), should be treated as seller's points. Buyer's points (that is, points charged to the buyer by the creditor), however, are finance charges. Certain disclosures are required in disclosures and advertisements for transactions that involve seller's points; see §§ 226.18(s), 226.24(b)(2), and 226.24(c)(2)(iv) and the accompanying commentary.

* * * * *

2. The commentary to § 226.17 is amended by revising the first bulleted paragraph of comment 17(c)(1)–3 to read as follows:

§ 226.17 General Disclosure Requirements.

* * * * *

17(c) Basis of disclosures and use of estimates.

Paragraph 17(c)(1).

* * * * *

3. *Third party buydowns.* In certain transactions, a seller or other third party may pay an amount, either to the creditor or to the consumer, in order to reduce the consumer's payments or buy down the interest rate for all or a portion of the credit term. For example, a consumer and a bank agree to a mortgage with an interest rate of 15% and level payments over 25 years. By a separate agreement, the seller of the property agrees to subsidize the consumer's payments for the first two years of the mortgage, giving the consumer an effective rate of 12% for that period.

- If the lower rate is reflected in the credit contract between the consumer and the bank, the disclosures must take the buydown into account. For example, the annual percentage rate must be a composite rate that takes account of both the lower initial rate and the higher subsequent rate, and the payment schedule disclosures must reflect the two payment levels. However, the effects of the amount paid by the seller would not be specifically reflected in the disclosures given by the bank, since that amount constitutes seller's points (see comment 4(c)(5)–1) and thus is not part of the finance charge. Note that a statement is required disclosing the fact that this charge has been paid; the amount of the charge; and the fact that, to the extent the amount has been passed on to the buyer in the form of a higher sales price or other charge, the annual percentage rate and other disclosures understate the cost of credit. See § 226.18(s) and the accompanying commentary.
- If the lower rate is not reflected in the credit contract between the consumer and the bank and the consumer is legally bound to the 15% rate from the outset, the disclosures given by the bank must not reflect the seller buydown in any way. For example, the annual percentage rate and payment schedule would not take into

account the reduction in the interest rate and payment level for the first 2 years resulting from the buydown.

* * * * *

3. The commentary to § 226.18 is amended by adding Comments 18(s) –1 and –2, to read as follows:

§ 226.18 Content of Disclosures.

* * * * *

18(s) Seller's Points.

1. *Disclosure required.* This section provides that the creditor must inform the consumer of the existence of "seller's points," that is, charges imposed by the creditor on the non-creditor seller of property for providing credit to the buyer or for providing credit on certain terms. This disclosure is not required in transactions involving only commitment fees (charges that are paid in connection with a developer or other seller obtaining financing for a number of sales transactions, are not transaction specific, and do not result in a higher sales price for only customers taking advantage of certain financing).

2. *Location and content of disclosure.* The disclosure required by § 226.18(s) may be made outside of the so-called "federal box" (that is, separate from the other required disclosures). The disclosure must include all three items of information: that a charge has been paid by the seller in connection with the transaction; the amount of the charge; and that, to the extent the amount has been passed on to the consumer in the form of a higher sales price or other charge, the disclosures do not reflect the full cost of the credit. Appendix H provides a model clause that may be used in making the disclosure. See also §§ 226.24(b)(2) and 226.24(c)(2)(iv) for special rules regarding the advertising of transactions involving seller's points.

* * * * *

4. The commentary to § 226.24 is amended by redesignating the last two sentences of Comment 24(b)–1 as Comment 24(b)(2)–1; by redesignating Comments 24(b)–1, –2, and –3 as Comments 24(b)(1)–1, –2, and –3, respectively; and by adding Comments 24(b)(3)–1 and 24(c)(2)–5, to read as follows:

§ 226.24 Advertising.

* * * * *

24(b) Advertisement of rate of finance charge.

Paragraph 24(b)(1).

1. *Annual percentage rate.* Advertised rates must be stated in terms of an "annual percentage rate," as defined in § 226.22, even though state or local law permits the use of add-on, discount, time-price differential, or other methods of stating rates. Unlike the transactional disclosure of the annual percentage rate under § 226.18(e), the advertised annual percentage rate need not include a descriptive explanation of the term.

* * * * *

Paragraph 24(b)(2).

1. *Annual percentage rate subject to change.* The advertisement must state that the annual percentage rate is subject to increase after consummation if that is the case, but the advertisement need not describe the rate increase, its limits, or how it would affect the payment schedule. As under § 226.18(f), relating to disclosure of a variable rate, the rate increase disclosure requirement in this provision does not apply to any rate increase due to delinquency (including late payment), default, acceleration, assumption, or transfer of collateral.

Paragraph 24(b)(3).

1. *Effect of seller's points.* If an annual percentage rate is disclosed in an advertisement and the financing transaction being advertised involves payment of an amount by the seller to the creditor for providing credit to the consumer or for providing credit on certain terms, a disclosure concerning payment of the amount is required. The disclosure must state the fact that such a charge is involved in the transaction; the amount of the charge; and that, to the extent the seller's points have been passed on to the consumer in the form of a higher sales price or other charge, the annual percentage rate understates the cost of credit. In disclosing the amount of the charge, the amount may be that for a typical transaction.

* * * * *

24(c) Advertisement of terms that require additional disclosure.

* * * * *

Paragraph 24(c)(2).

* * * * *

5. *Effect of seller's points.* If the financing transaction being advertised involves payment of an amount by the seller to the creditor for extending credit to the consumer or extending credit on certain terms, a disclosure concerning the charge is required. The disclosure must state the fact that such a charge is involved in the transaction; the amount of the charge; and that, to the extent the seller's points have been passed on to the consumer in the form of a higher sales price or other charge, the annual percentage rate and other disclosures understate the cost of credit. In disclosing the amount of the charge, the amount may be that for a typical transaction.

* * * * *

5. The commentary to Appendix H is amended by adding Comment H–17, to read as follows:

Appendix H—Closed-End Model Forms and Clauses

* * * * *

17. *Model H–16.* This contains the seller's points disclosure clause.

* * * * *

By Order of the Board of Governors of the Federal Reserve System, July 20, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-20139 Filed 7-26-82; 8:45 am]

BILLING CODE 6210-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 399

[PSDR–78; Policy Statements Docket 40823]

Statements of General Policy

Dated: July 8, 1982.

AGENCY: Civil Aeronautics Board.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The CAB is considering alternatives to change the duration of experimental certificates awarded to U.S. air carriers to provide foreign air transportation in limited-designation international markets. The alternatives range from awarding certificates with a fixed term of years, with perhaps a rebuttable presumption of renewal, to experimental certificates of an indefinite duration with set replacement criteria to be used when in the public interest. This advance notice of proposed rulemaking is in response to Congressional and industry suggestions.

DATES:

Comments by: September 27, 1982.

Reply comments by: October 12, 1982.

Comments and other relevant information received after these dates will be considered by the Board only to the extent practicable.

Requests to be put on the Service List by: August 6, 1982.

The Docket Section prepares the Service List and sends it to each person listed, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 40823, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:
Donald H. Horn, Associate General Counsel, Pricing & Entry, (202) 673–5205, or Joseph A. Brooks (202) 673–5442, Office of the General Counsel, or Jeffrey B. Gaynes, Legal Division, Bureau of International Aviation, (202) 673–5035, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUPPLEMENTARY INFORMATION:

Background

Under section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371), the Board may give U.S. carriers authority to operate in foreign air transportation in several ways. It may award the airline a certificate to operate in certain markets without any time limit, or it may award the airline a temporary certificate for a definite term. The Board may make either of those awards in the form of an experimental certificate in order to evaluate the carrier's performance and the service provided in the market, or it may issue a certificate that is not subject to performance requirements.

In 1979, Congress passed the International Air Transportation Competition Act (Pub. L. 96–192). This statute directs the Board to follow a more competitive policy in international air transportation. The theory of the Act is that competition to the extent feasible in foreign air transportation, provides the best incentive for the airlines to operate efficiently and consequently at a lower cost to themselves and to the traveling public. In accordance with the Act, the Board and the concerned Executive departments began to negotiate bilateral agreements with foreign governments that would allow any number of airlines to serve markets in those countries. The United States, however, has not been able to negotiate that type of agreement with all foreign governments for markets served by U.S. airlines. In some limited-designation markets, the Board must select only one or two U.S. airlines to provide service.

In those limited entry markets, providing a competitive incentive with minimal government intrusion requires innovative measures to "simulate" competition. The Board has been doing that by giving a selected carrier temporary experimental authority for a set term. This puts the carrier on notice that: (1) at the end of its certificate term it will have to demonstrate, perhaps in a comparative proceeding, that its authority should be renewed, and (2) prior to the end of the term the Board may review the carrier's performance and amend, suspend, or revoke the authority under the standard in section 401(d)(8) based on that performance.

This creates a regulatory incentive for carriers to be responsive to consumer demand during the term of their certificate. Further, it encourages other carriers that may be able to provide superior fares and services to compete for the authority. This, to some degree, approximates the influence such competitors exert in unrestricted markets. The Board has also attempted to create structural incentives, for example by fostering inter-gateway competition.

Without temporary certificates, the only means by which the Board could change the airline serving a market in foreign air transportation, by suspending or amending its certificate, would be the procedure set forth in section 401(g) of the Act. Those procedures apply to indefinite and experimental certificates, and to changes in temporary certificates in mid-term. They are time-consuming and require an oral hearing if the incumbent airline requests it. In contrast, carrier selection at the end of a temporary certificate term may be by means of simplified procedures under section 401(p), which do not require an oral evidentiary hearing.

The procedural delays built into section 401(g) are coupled with its substantive standards that make changing any type of nonexperimental certificate, temporary or indefinite, an impractical regulatory substitute for competitive incentives. The standard for amending or suspending nonexperimental certificates in section 401(g) is "if the public convenience and necessity so require." For this reason, section 401(g) has been rarely used by the Board. Further, the procedural and substantive limitations discourage other airlines from seeking to replace an incumbent carrier by invoking section 401(g).

Experimental certificates, on the other hand, may be revoked, amended, or suspended on the ground that the carrier has not provided or is not providing the air transportation it promised when selected. A new certificate issued at the end of a specific term need only meet the standard in section 401(d) of "consistent with the public convenience and necessity." Temporary experimental certificates may thus be changed at the end of their terms under simplified procedures and under standards more open to competitive challenge in comparative proceedings.

For those reasons, the Board began issuing 3-year temporary experimental certificates in limited-designation markets. Some carriers have stated that 3 years is an insufficent time to develop a market adequately and to recover the costs of that development, or for the Board to judge accurately the carrier's performance. While these concerns have never been expressed in any Board licensing proceedings and applicant carriers consistently forecast much earlier recovery of start-up costs than 3 years, the Board revised its practice last year and began awarding temproary experimental certificates for 5 years in the usual case.

Senators Howard Cannon and Nancy Kassebaum, in a letter to the Board that has been placed in this docket, have stated their concerns and those of some carriers about the consequences of time-limited certificates. They stated that such certificates subject the incumbents, regardless of their performance, to lengthy and costly defenses in renewal cases that serve little purpose. They further stated that stability is important in developing a market, requiring consistency over several years to devleop an interline service network and to recover development costs. This is especially true, the Senators stated, since foreign airline competitors are rarely removed from their routes. In addition, they argued that the public interest could be hurt in a case where a carrier's service deteriorates and it is not challenged until the end of a fixed term, inferring that the fixed term of a temporary experimental certificate might discourage challenge in mid-term. The Senators urged that the Board change the present temporary certificates to indefinite certificates. That type of certificate would, they stated, still give the Board a means to find a substitute carrier at any time, yet allow the incumbent to develop the market.

This advance notice of proposed rulemaking invites comment on Board policy with respect to certificates in limited-designation international markets. The Board is convinced that some form of regulatory incentive is needed in these markets to encourage efficiency and responsive service. The question is how to balance this goal with the valid market development needs of carriers serving those markets.

Experimental licensing alone might meet this goal. In limited designation markets, the review mechanism inherent in experimental licensing creates incentives for a carrier to offer the fares and service that were proposed and that were important bases for its selection over other applicants. The process also recognizes the relevance of changing economic conditions.

An effective review mechanism may be set up either by use of fixed-term certificates or by a "bumping" procedure in which an incumbent holding an indefinite experimental certificate can be challenged. While a bumping mechanism applicable to indefinite certificate authority can be made to work, it may not be as effective as the certain review and reappraisal required by a temporary certificate. This notice suggest various changes in the present temporary experimental certificates and means by which an indefinite experimental certificate may be made more competitive by an effective bumping procedure. We would also like to have other suggestions on how to meet the goals of competitive incentive and market stability.

Temporary Experimental Certificates

We do not now believe that any basic changes are necessary in the current practice of issuing temporary certificates. However, there are two changes that could be made that might be compatible with the goals of competitive incentive and market stability. One of those changes would be to increase to 5 years, the term of all existing temporary experimental certificates of less than 5 years duration, thus conforming those certificates to the Board's present practice. Such an extension (2 years in most cases) would not appear to dilute the effect of the automatic review as a performance incentive. In light of current economic conditions in the airline industry and the rapid changes that have occurred in commercial aviation regulation, the additional 2 years would allow incumbent carriers time to develop their markets in a stabler environment.

Another compatible change might be the create for temporary experimental certificates a rebuttable presumption of renewal. Although the Board has not yet heard a contested renewal case involving a temporary experimental award under section 401(d)(8), it has decided an analogous case. In the *Yucatan Service Case*, Order 80–12–18, October 30, 1980, the issues included whether the temporary certificate authority of Eastern (New Orleans-Yucatan) and Texas International (Houston-Yucatan) should be renewed, or some other applicant should be selected to service those routes. The Board decided that Eastern's outstanding performance, surpassing its proposal, strongly favored renewing its authority.

The Board also carefully considered Texas International's performance in light of existing market conditions and concluded that it was neither so good as to give an advantage over other applicants, nor so bad as to prejudice its renewal bid. The Board went on to find that Continental would provide better fares and service and awarded it the route.

The type of analysis used in the *Yucatan Service Case* could be adapted to establish a presumption of renewal for temporary experimental certificates. In this way, the incumbent would prevail absent a finding that another carrier would be able to provide superior performance.

That presumption, however, must not be so strong as to deprive travelers of real fare and service benefits where there is a reasonable degree of certainty that the replacement could do a better job than the incumbent. As one possibility, the language could read: "the Board will grant the renewal unless it finds that another applicant should be able to provide a significant improvement in the cost on quality of the service." Commenters should provide specific language for the presumption when commenting on this possible change in policy regarding temporary experimental certificates.

Another aspect of the temporary experimental certificate on which the Board would like comment is its term. Specifically, we request comments on whether the current policy of usually issuing 5-year certificates strikes an adequate balance between developmental stability and service incentives. Carrier commenters should specify examples of development costs in particular markets and data on how long it takes to recover those costs, in support of either shorter or longer terms.

In order to relieve the concern of Senators Kassebaum and Cannon about the reluctance of challengers to contest a temporary experimental certificate in mid-term, some type of "bumping" could be allowed in that situation. The proposed criteria for bumping are discussed below. The Board would like comment on how best to apply such a process to temporary experimental certificates.

Indefinite Experimental Certificates

The suggestion made by Senators Kassebaum and Cannon is to change all existing temporary certificates to indefinite certificates and to award only indefinite certificates in the future. The Senators recommended this change because, in their view, temporary certificates burden the efficient carrier with unneeded renewal proceedings and protect the inefficient incumbent until a date certain occurs for renewal of its temporary certificate. They further argued that strong competition with foreign flag carriers requires consistency and market stability over several years. This, they stated, would enable a U.S. carrier to develop the market and to recover its development costs.

If the change is made to indefinite certificates, the same question arises as with changing temporary certificates from 3 years to 5 years: whether to make the change prospective or retroactive. Those carriers now operating under temporary certificates knew when they applied for and accepted the time-limited certificates that the decision whether to renew the award would occur at a date certain. The Board's original award, the carrier's projections, and its operations in the market were all based on that fact. Under these circumstances, there would appear to be little substantive basis for applying retroactively a change to indefinite certificates. Furthermore, the renewals of many of those temporary certificates now in force will be due within the next 2 years, so indefinite experimental certificates could be issued at that time.

On the other hand, it may not be fair to those carriers now operating under temporary certificates to continue to hold them to the threat of nonrenewal while awarding indefinite certificates to other carriers. This would place carriers holding temporary certificates at a disadvantage in terms of planning and projecting costs. If such is the case, it would be preferable to make the change retroactive and convert all temporary certificates, now in force to idefinite awards. Carriers supporting this review should indicate and document the specific nature of any asserted competitive disadvantage.

Bumping

The central question involved in making certificate awards indefinite, however, is how the incumbent could be challenged. The Board's experience with bumping to date has been minimal. We have developed bumping procedures in the essential air service program under section 419 of the Act. In that program, beginning on January 1, 1983, carriers may challenge incumbent subsidized carriers for the change to serve that community. In the case of an incumbent carrier receiving subsidy under section 406, the prospective replacement carrier must show that there would be a "substantial improvement" in service and that there would be a substantial decrease in subsidy. In the case of an incumbent carrier receiving section 419 subsidy, the prospective replacement carrier must show a substantial improvement in service with no increase in subsidy *or* a substantial decrease in

subsidy. This standard is a strict one. Since the bumping provisions are not yet in effect, we have no experience in how they will work.

The bumping of carriers holding experimental certificates is provided for under section 401(d)(8). The Board may terminate an experimental certificate if the carrier does not provide the innovative or low-priced service promised when selected. While the Board has issued numerous certificates under that section, it has never received a petition to replace an incumbent under those provisions. It thus has not had any opportunity to establish standards for deciding when and how to replace a carrier that was not performing as promised.

The Board would like comment on the factors that should be placed in a standard as part of an indefinite experimental certificate that would make bumping fair to both challenger and incumbent. Among the factors that might be included in the standard are:

—Existing economic conditions;
—Performance of the incumbent in comparison to its fare and service proposals;
—Extraordinary foreign relations considerations;
—Market structure;
—Public benefit, if any, of continuity; and
—Projections and record of the challenger.

Also, in order to protect a carrier recently awarded an indefinite certificate in a limited entry market from instantaneous challenges under the bumping provisions, consideration should be given to preventing challenge by another carrier for introductory period of time. The Board could, of course, take action against the certificate at any time if in the public interest. This introductory period would have to be long enough to allow the incumbent to demonstrate its performance, but not long enough to remove all competitive incentive. The Board would like to comment on this issue and on how long this initial performance period should be.

Flexible Approach

One more alternative for restructuring limited designation international certificates would be to decide the type of certificate to be awarded on case-by-case basis. The Board would look at size and character of the market involved, the operational projections of the applicant, competition in the market, estimates of developmental costs and the time needed to recover them, and the public interest to determine whether the certificate should be temporary or indefinite, and if temporary, for what term. The Board could further decide whether there should be a presumption for renewal and the type of bumping to be allowed, and when it should be allowed on an indefinite certificate. These factors would be at issue in the proceeding to award the route. Applicants could then submit evidence and argument in support of the options they believe most important.

This approach would allow the Board maximum flexibility to tailor the certificate award to the market, carrier, foreign relations, and economic conditions at that time. Giving the Board this type of flexibility would recognize the inherent differences among international markets and carrier applicants and prevent the application of rigid, uniform awards where flexibility might better enable us to respond to foreign competition.

Request for Comments

In summary, the Board would like comment on these major issues:

—Whether the practice of issuing temporary experimental certificates for 5 years in limited entry markets should be continued.
—Whether there should be a rebuttable presumption of renewal for incumbents with temporary certificates under sections 401(d)(2) or (d)(8).
—Whether only indefinite experimental certificates should be issued, accompanied by an effective bumping procedure.
—What criteria should be used by the Board in developing either a rebuttable presumption of renewal or a bumping mechanism.
—Whether any changes should be made retroactive to existing certificates.

In addition, carriers should specify in their comments specific examples of markets and their development costs and the length of time needed to recover those costs. Carriers should further specify and document the length of time needed to develop a full interline network and other factors necessary to compete strongly with existing foreign carriers in the market. The Board would like comment on other subsidiary issues raised in this notice and on specific alternatives to the certificate approaches discussed.

After reviewing the comments, the Board will decide whether to proceed further. If is decides to do so, the Board will issue a notice of proposed rulemaking, proposing definite changes in the present licensing policy.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96–354, the Board certifies that none of the alternatives discussed in this advance notice of proposed rulemaking will, if adopted, have a significant economic impact on a substantial number of small entities. Small air carriers, which use only small aircraft, are exempted from the requirement to obtain a certificate to provide foreign air transportation.

List of Subjects in 14 CFR Part 399

Administrative practice and procedure, Advertising, Air carriers, Antitrust, Archives and records, Consumer protection, Freight forwarders, Grant program-transportation, Hawaii, Motor carriers, Puerto Rico, Railroads, Reporting requirements, Travel agents, Virgin Islands.

(Secs 101, 102, 105, 204, 401, 402, 403, 404, 405, 406, 407, 408, 409, 411, 412, 414, 416, 801, 1001, 1002, 1004, Pub. L. 85–726, as amended, 72 Stat. 737, 740, 743, 754, 757, 758, 760, 763, 766, 767, 768, 769, 770, 771, 782, 788, 797; 92 Stat. 1708; 49 U.S.C. 1301, 1302, 1305, 1324, 1371, 1372, 1373, 1374, 1375, 1376, 1377, 1378, 1379, 1381, 1382, 1384, 1386, 1461, 1481, 1482, 1502, 1504)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–30236 Filed 7–26–82; 8:45 am]
BILLING CODE 6320–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

Proposed Customs Regulations Amendment Relating to the Customs Field Organization

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations by establishing a new Customs port of entry at Columbia, South Carolina, in the Charleston, South Carolina, Customs district. The change is being proposed as part of Customs continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public.

DATE: Comments must be received on or before September 27, 1982.

ADDRESS: Comments (preferably in triplicate) may be addressed to the

Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:
Renee DeAtley, Office of Inspection, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–8157).

SUPPLEMENTARY INFORMATION:

Background

The Central Planning Council of South Carolina filed an application with Customs requesting the establishment of a new Customs port of entry at Columbia, South Carolina. A review of that application has confirmed that the proposed port meets the minimum Customs criteria for establishing ports of entry.

The geographical boundaries of the new port would encompass all of the territory in Richland and Lexington counties, South Carolina. According to the application, between 1975 and 1980, these counties have had 39 new firms locate in the area. Since 1977, more than 130 firms have expanded their operations in the area. Industrial employment increased by 3,000 jobs in 1980.

Accompanying this industrial growth has been population increases over the past decade. During this period, the population of the Columbia metropolitan area increased by 26.4 percent. The proposed location for the Customs station is in Lexington County which grew by 57.7 percent.

The economic base of the Columbia metropolitan area is diversified. Government is the largest employment sector accounting for 30.1 percent of the job market. Wholesale and retail trade employment accounts for 19.5 percent and manufacturing employment makes up 17.9 percent of the job market. Both wholesale and retail employment sectors would benefit from access to a local port of entry.

The industrial and distribution firms in the area export and import a tremendous volume of goods annually. There are over 100 importers and more than 200 exporters located in the area to be served by the proposed port of entry. Many of these firms are foreign based and require extensive travel abroad.

The need for a port of entry at Columbia is illustrated by the results of a recently completed survey of 390 companies which revealed that there were at least 2,000 entries of goods from foreign markets into the area in 1981. Custom duties paid by these companies exceeded $6,700,000. Due to expansions and new industrial locations, it is estimated that this will grow to over 6,500 entries and $7,200,000 in duties paid in 1981. Based on replies from 99 respondents, establishment of a port of entry in the Columbia metropolitan area will accelerate the number of entries funneling into the region.

In addition to a viable economic base, there are sufficient support services in the area to support a full-time operating port of entry.

The Richland Lexington Airport Commission has committed itself to providing necessary facilities at no cost to the Government. The proposed inland port facility would be built to Customs specifications to represent a model inland port facility. The proposed location for the facility is adjacent to the Columbia Metropolitan Airport. The Airport is 6 miles west of Columbia and 1 mile west of Cayce, 1 mile off Interstate 26.

The port facility would be served by access to three interstate highways, four major national highways, three railways, two major airlines, and at least 57 trucking firms. Three interstate highways (I–77, I–20, and I–26) intersect in Charlotte, North Carolina; and Greenville and Spartanburg, South Carolina. Major highways include US–1, US–321, US–21, and US–378. Direct truck and rail in-transit shipping will be easily passed through the facility. Southern Railways has its Columbia switchyard and a major trunk line adjacent to the site, and will serve it as needed. Five major trucking firms maintain terminals within 1 mile of the proposed site. Eastern and Delta Airlines serve the Columbia Metropolitan Airport.

There are over 3 million square feet of warehouse space available to serve the needs of the port. Over 900,000 square feet is operated by warehousemen. Over 400,000 square feet of general warehouse space is located within 1 mile of the proposed facility.

Thus, Columbia's increased importance as a distribution center in the southeast would be enhanced by its designation as a port of entry. Such designation would also result in more economic and efficient trade, due to the intersection of national highways, the location of trunk and air lines connecting Columbia to all parts of the east coast and southeast, and Columbia's central location in South Carolina.

Based on the responses received from the survey, importing firms in the area currently utilize 18 ports of entry. Charleston, Charlotte, and Atlanta are the most frequently used ports. Industry located in the proposed district is burdened by the distance from existing ports of entry. Columbia Metropolitan Airport is 101 miles from the Greenville-Spartanburg Airport, 105 miles from Charleston, 213 miles from Atlanta, and 105 miles from Charlotte. No port of entry is within 100 miles. This requires local industry to employ staff or agents to handle their shipments at great expense.

List of Subjects in 19 CFR Part 101

Customs duties and inspection, Exports, Imports, Organization and functions (Government agencies).

PART 101—GENERAL PROVISIONS

§ 101.3 [Amended]

Based on the foregoing, Customs has determined that § 101.3, Customs Regulations, should be amended to permit the establishment of a port of entry at Columbia, South Carolina.

Proposed Amendment to the Regulations

If the proposed change is adopted, the list of Customs regions, districts, and ports of entry in § 101.3, Customs Regulations (19 CFR 101.3), will be amended accordingly.

Authority

This amendment is proposed under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR 1949–1953 Comp., Ch. II), and pursuant to authority provided by Treasury Department Order No. 101–5 (47 FR 2449).

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.11(b)), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. to 4:30 p.m. at the Regulations Control Branch, Room 2426, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Executive Order 12291

Because this proposal relates to the organization of Customs it is not a regulation or rule subject to Executive Order 12291 pursuant to section 1(a)(3) of that E.O.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act ("Act") relating to an

initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because it will not have a significant economic impact on a substantial number of small entities.

Customs routinely establishes and expands Customs ports of entry throughout the United States to accommodate the volume of Customs-related activity in various parts of the country. Although the proposal may have a limited effect upon some small entities in the area affected, it is not expected to be significant because establishing and expanding port limits at Customs ports of entry in other areas has not had a significant economic impact upon a substantial number of small entities to the extent contemplated by the Act. Nor is it expected to impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. Accordingly, the Secretary of the Treasury, certifies that the rule, if promulgated, will not have a significant economic impact upon such entities.

Drafting Information

The principal author of this document was Jesse V. Vitello, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: July 1, 1982

John M. Walker, Jr.

Assistant Secretary of the Treasury.

[FR DOC. 82-20252 Filed 7-26-82; 8:45 am]

BILLING CODE 4820-02-M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 4 and 240

[Notice No. 414]

Reconstitution of Wine Subjected To Thin-Film Evaporation Under Reduced Pressure

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) requests comments from members of the domestic wine industry and other interested parties on whether the practice of restoring the volume of water lost in the processing of low alcohol wine by thin-film evaporation of standard wine under reduced pressure constitutes "good commercial practice." Comment is also requested on whether such reconstitution, if found to be acceptable in good commercial practice, should be disclosed on the label of the low alcohol wine, e.g., "reconstituted wine." This notice results from ATF's decision to settle a law suit by authorizing temporarily the limited addition of water dependent upon the outcome of the rulemaking process.

DATE: Comments must be received on or before September 27, 1982.

ADDRESS: Send comments to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385.

FOR FURTHER INFORMATION CONTACT: Michael J. Breen, Rulings Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226, (202) 566-7532.

SUPPLEMENTARY INFORMATION:

Background

During the past year the Bureau has authorized applicant winemakers to apply technology involving the use of thin-film evaporation under reduced pressure to reduce the alcohol content of standard wine. Winemakers are employing either the centrifugal film evaporator or the combination of vacuum still and flash pan to reduce the alcohol content of standard wine from approximately 12 percent by volume to a minimum of 1.4 percent by volume.

The processing involves reducing standard wine either (1) to a minimum alcohol content of 7 percent by volume for bottling purposes or (2) to a minimum alcohol content of 1.4 percent by volume and blending with other standard wine to produce wine having an alcohol content of 7 to 9 percent by volume. Both processes result in a partial loss of wine due to heat evaporation since a portion of the alcohol, water, and volatile compounds in the wine is vaporized. The original requests for approval of the use of this technology in the processing of standard wine did not address the reconstitution of the low alcohol wine.

After the Bureau had authorized the use of this technology, at least one winemaker sought to add water to reconstitute the processed wine. The following example will help to explain how this practice is performed. Where 1,000 gallons of an alcohol/water solution are extracted as a by-product of the thin-film evaporation of standard wine under reduced pressure and this solution contains 150 gallons of alcohol and 850 gallons of water, the winemaker reconstitutes the processed wine by adding up to 850 gallons of water.

It is important to recognize that the water being lost through this processing may differ in composition from water which would be used to reconstitute the low alcohol wine. During the evaporation process, azeotropic action causes the removal of molecules of water and volatile compounds in addition to the ethyl alcohol molecules which are being vaporized. The degree to which the volatile compounds are "lost" is dependent upon the composition of ethyl alcohol, water, and volatile compounds originally present in the standard wine prior to processing. These volatile compounds are not present in either tap water or distilled water.

Under the Internal Revenue Code of 1954, as amended (26 U.S.C. 5382(a), 5385(b), 5386(b), and 5387(a)), proper cellar treatment of standard wine constitutes those practices and procedures in the United States and elsewhere, whether historical or newly developed, of using various methods and materials to correct or stabilize the wine so as to produce a finished product acceptable in good commercial practice. Pursuant to 26 U.S.C. 5382(c) regulations may prescribe limitations on the preparation and use of corrective methods or materials, to the extent that such preparation or use is not acceptable in good commercial practice. Under 26 U.S.C. 5382(b), the specifically authorized cellar treatments for standard natural wine, i.e., wine made from grapes, fruit, or berries, restrict the use of water to limited situations and conditions, such as, clearing crushing equipment and amelioration of high acid wines. Accordingly, the Bureau questions whether the use of water to restore the volume of water lost through thin-film evaporation of standard wine under reduced pressure is a method acceptable in "good commercial practice" within the intent of the Code.

Under the Federal Alcohol Administration Act, 27 U.S.C. 205(e), wine must be labeled in accordance with regulations which require adequate information as to the identity and quality of the product. The Bureau questions whether such reconstitution, if found to be acceptable in good commercial practice, should be disclosed on the label of the low alcohol wine in order to adequately identify the product. The standard of identity could require disclosure of the volume of water used to reconstitute the processed wine.

ATF proposes under the authority of 26 U.S.C. 536(c) to amend the regulations prescribed in 27 CFR Part 240 respecting treating materials and methods for

standard wine by placing limitations on this practice. The Bureau seeks comment on whether it is "good commercial practice" to restore the volume of water lost in the processing of low alcohol wine by thin-film evaporation of standard wine under reduced pressure. Further, the Bureau seeks comment on the extent to which this practice would be consistent with good commercial practice, if at all. For example, should the addition of water be limited to the volume of water lost in the processing.

The Bureau also proposes to amend 27 CFR 4.21 to provide a standard of identity for reconstituted wine and possible disclosure of the addition of water to such wine and seeks comment on whether the practice of reconstituting the processed wine, if found to be acceptable, should be disclosed on the label of the low alcohol wine. Advice regarding the manner of label disclosure is invited from those persons who feel that label disclosure should be made.

Executive Order 12291

In compliance with Executive Order 12291, the Bureau has determined that this notice of proposed rulemaking, if promulgated as a final rule, will not be a major rule since it will not result in:

(a) An annual effect on the economy of $100,000,000 or more;

(a) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or,

(c) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this notice of proposed rulemaking since it is not expected to have a significant economic impact on a substantial number of small entities. This notice of proposed rulemaking, if promulgated as a final rule, is not expected to have: Significant or secondary incidental effects on a substantial number of small entities; or impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Disclosure

Copies of this notice of proposed rulemaking and all written comments will be available for public inspection during normal business hours at: Office of Public Affairs and Disclosure, Room 4405, Federal Building, 1200 Pennsylvania Avenue, N.W., Washington, DC.

Comments

The Bureau will not recognize any material or coment as confidential and will disclose the information. Any material that the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comments. The name of the person submitting comments is not exempt from disclosure. Any comment received after the closing date and too late for consideration will be treated as a possible suggestion for future ATF action.

Any interested person who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his or her request, in writing, to the Acting Director within the 60 day comment period. The Acting Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

Drafting Information

The principal author of this document is Michael J. Breen, Specialist, Rulings Branch, Bureau of Alcohol, Tobacco and Firearms. However, other personnel in the Bureau participated in the preparation of the document, both in matters of substance and style.

List of Subjects

27 CFR Part 4

Advertising, Consumer protection, Customs duties and inspection, Imports, Labeling, Packaging and containers, Wine.

27 CFR Part 240

Administrative practice and procedure, Authority delegations, Claims, Electronic funds transfers, Excise taxes, Exports, Food additives, Fruit juices, Labeling, Liquors, Packaging and containers, Reporting requirements, Research, Scientific equipment, Spices and flavorings, Surety bonds, Transportation, Warehouses, Wine, Vinegar.

Authority

This notice of proposed rulemaking is issued under the authority contained in section 5382 of the Internal Revenue Code of 1954 (26 U.S.C. 5382) and Section 205(e) of the Federal Alcohol Administration Act (27 U.S.C. 205).

Signed: May 17, 1982.

Stephen E. Higgins,

Acting Director.

Approved: July 1, 1982.

John M. Walker, Jr.,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 82-20221 Filed 7-23-82; 8:45 am]

BILLING CODE 4810-31-M

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27 CFR Part 9

[Notice No. 415]

North Fork of the Roanoke Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering the establishment of a viticultural area in parts of Roanoke and Montgomery Counties in southern Virginia to be known as "North Fork of the Roanoke." This proposal is the result of a petition submitted by MJC Vineyard. ATF believes that the establishment of viticultural area names and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising will allow wineries to better designate the specific grape growing areas where their wines come from and will enable consumers to better identify the wines they purchase.

DATE: Written comments must be received by August 26, 1982.

ADDRESS: Send written comments to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385 (Notice No. 415).

FOR FURTHER INFORMATION CONTACT: James A. Hunt, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20226 (202-566-7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. These regulations provide for the establishment of definitie American viticultural areas and allow for their use as appellations of origin on wine labels and in wine advertisements. The American viticultural areas are listed in 27 CFR Part 9.

Section 4.25a(e)(1), Title 27, CFR, defines an American viticultural area as

a delimited grape growing region distinguishable by geographical features. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape growing region as a viticultural area. The petition should include—

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on the features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. map with the boundaries prominently marked.

Petition

ATF has received a petition from MJC Vineyard proposing a viticultural area in parts of Roanoke and Montgomery Counties in southern Virginia to be known as "North Fork of the Roanoke." MJC Winery is the only bonded winery located in the proposed viticultural area and it has about 23 acres of grapes. There are four other vineyards in the proposed area with a total of about 26 acres of grapes. The nearest vineyard outside the proposed viticultural area is at least 40 miles.

The name specifically applies to the 22 mile valley of the North Fork of the Roanoke River, including the surrounding hills, ridges, and mountains of the watershed. The viticultural area is well defined geographically because the North Fork of the Roanoke River flows southwesterly for ⅔ its length, then reverses its direction around Pearis Mountain and flows northeasterly an additional 10 miles to form the main body of the Roanoke River. It is bounded on the west by the Alleghany Mountain ridges of the Eastern Continental Divi ie, on the south by the Pedlar Hills, and on the north and east by the Pearis and Ft. Lewis Mountains. The North Fork of the Roanoke has been a major center for grape hybridization and propagation. No fewer than five nationally significant varieties of grapes have been developed in this area by Virginia Tech fruit breeders in the past 30 years. The name North Fork of the Roanoke is well established today as a recreation area on the Eastern Continental Divide with portions of the Appalachian Trail and the Jefferson National Forest bordering the area. The North Fork of the Roanoke appears on State, regional, and U.S. geological maps. The North Fork of the Roanoke is also known widely for its unique geologic formations.

The North Fork of the Roanoke has had a continuity in grape and wine production. The Indians and the early European settlers first harvested the local fox grape that was native to the area. Wine production in this area was nationally recognized as early as the 1840 national census. By 1889, the principal wine grapes of the area included Concord, Virginia Norton, and Martha. Every plantation produced grapes and about half of all grapes were pressed into wine. Grape production increased in this area until 1925, after which time there was a major reduction in vine and wine production throughout Virginia. Today Virginia Tech continues to operate an experimental vineyard in the valley of the North Fork of the Roanoke including varietal trials of breeding lines from other States. Virginia Tech, with MJC Vineyard and Nurseries as an instructional station, also has become a center for wine and viticulture education, offering regular academic and extension courses and consultation in enology and viticulture. Other farm vineyards are reappearing on the North Fork with wine producing grapes.

The features which distinguish the proposed North Fork of the Roanoke from surrounding areas are:

(a) *Elevation*—The valley floor of the North Fork begins in Roanoke County at an elevation of 1,800 feet. As the river flows through Montgomery County it falls 600 feet before reentering Roanoke County to form the main body of the Roanoke River. Both the Pearis and Ft. Lewis Mountains overlook the North Fork. These rise to elevations of 3,100 feet. The viticulturally significant part of the North Fork of the Roanoke however, is an uneven but frost free area between 1,700 and 2,100 feet of elevation on the southeast facing slopes of the Continental Divide and lower fringe of the north facing slopes of Pearis Mountain.

(b) *Soil*—The viticulturally productive slopes are principally made up of Frederic and Poplimento soils with limestone characteristics of the southeast facing slopes and limestone/sandstone layers characteristic of the north facing slopes. The soil in the proposed viticultural area is significantly different than that found in the surrounding hills and ridges. On the north and west are the Alleghany ridges and the Jefferson National Forest which are largely unsuited for agriculture.

(c) *Climate*—The micro climate for grape production in the North Fork of the Roanoke is excellent due largely to the protection the valley derives from its location between two high ranging, parallel and northwest facing mountain ridges. The mountains protect the valley and its southeast facing slopes from destructive storms and limit excessive rainfall in the growing season. The average rainfall in the North Fork is 39.5 inches as contrasted with 44 inches and more annually in the western mountains. Air and soil drainage on the slopes are good. Prevailing westerlies wash out potentially troubling pollutants and keep vine diseases to a minimum. An early morning fog from the North Fork characteristically cool the vines in the summer. Despite variations in elevation, the growing season in the North Fork is relatively constant averaging 170 days with a heat summation of about 2800 degree days between the 28 degrees F Spring and Fall frosts. Winters are mild with temperatures below −5 degrees F occurring only every 12 to 15 years with a 150 year record low of −16 degrees F in 1977. Summer highs rarely exceed 90 degrees F and the pattern of warm days and cool nights is conducive to wine grape quality.

(d) *Boundaries*—The proposed viticultural area is defined principally by State and Federal roadways. The map submitted by the petitioner consists of eight 7.5 minute series U.S. Geological Survey Maps. The boundaries as proposed by the petitioner are described in the proposed § 9.65.

Public Participation—Written Comments

ATF requests interested persons to submit comments regarding this proposed viticultural area. Although this notice proposes possible boundaries for the North Fork of the Roanoke viticultural area, comments concerning other possible boundaries for this viticultural area will be considered as well. The proposed viticultural area is a 22 mile long valley with only 49 acres of grapes; therefore, could the boundary be reduced in size to include just the five vineyards? ATF is also particularly interested in comments regarding the viticultural area name.

All pertinent comments will be considered prior to the proposal of final regulations. Comments are not considered confidential. Any material which the commenter considers to be confidential or inappropriate for

disclosure to the public should not be included in the comments. The name of any person submitting comments is not exempt from disclosure.

Any interested person who desires an opportunity to comment orally at a public hearing on these proposed regulations should make a request, in writing, to the Acting Director within the 30 day comment period. The request should include reasons why the commenter feels that a public hearing is necessary. The Acting Director, however, reserves the right to determine whether a public hearing will be held.

Drafting Information

The principal author of this document is James A. Hunt, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

Executive Order 12291

It has been determined that this notice of proposed rulemaking is not classified as a "major rule" within the meaning of Executive Order 12291, 46 FR 13193 (1981), because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in cost or prices for consumers, individuals industries, Federal, State or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not expected to apply to this proposed rule because the proposal, if promulgated as a final rule, is not expected to have a significant economic impact on a substantial number of small entities. Since the benefits to be derived from using a new viticultural area appellation of origin are intangible, ATF cannot conclusively determine what the economic impact will be on the affected small entities in the area. However, from the information we currently have available on the proposed North Fork of the Roanoke viticultural area, ATF does not feel that the use of this appellation of origin will have a significant economic impact on a substantial number of small entities.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Viticultural areas, Consumer protection and wine.

Authority

Accordingly, under the authority in 27 U.S.C. 205 (49 Stat. 981, as amended), ATF proposes the amendment of 27 CFR Part 9 as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Par. 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.65 as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.65 North Fork of the Roanoke

Subpart C—Approved American Viticultural Areas

Par. 2. Subpart C is amended by adding § 9.65 to read as follows:

§ 9.65 North Fork of the Roanoke.

(a) *Name.* The name of the viticultural area described in this section is "North Fork of the Roanoke."

(b) *Approved maps.* The appropriate maps for determining the boundaries of the North Fork of the Roanoke viticultural area are 1965 U.S.G.S., 7.5 minute series maps titled: Looney Quadrangle, McDonalds Mill Quadrangle, Glenbar Quadrangle, Elliston Quadrangle, Ironto Quadrangle, Blacksburg Quadrangle, Newport Quadrangle and Craig Springs Quadrangle.

(c) *Boundaries.* The North Fork of the Roanoke viticultural area is located in parts of Roanoke and Montgomery Counties in southern Virginia.

(1) The point of beginning is in the north at the intersection of State Routes 785 and 697 in Roanoke County. The line follows State Route 697 northeast over Crawford Ridge to the intersection at State Route 624. The viticultural area line turns southwest on State Route 624 along the boundary of the Jefferson National Forest and then continues across the Montgomery County line to U.S. 460 (business). The line follows U.S. 460 (business) south through the town of Blacksburg. The line then continues on U.S. 460 (bypass to the intersection of U.S. 460-east where it turns east for approximately 1 mile to the intersection of U.S. Interstate Highway 81 at Interchange 37. The line continues northeast on Interstate 81 along the ridge of the Pedlar Hills to Interchange 38 at State Route 603. At this point, the line goes west on State Route 603 approximately 1 mile to the intersection of State Route 629, then follows State Route 629 (which later becomes State Route 622 north of Bradshaw Creek) about 2 miles across the Roanoke County line to where it intersects the Chesapeake and Potomac Telephone Company right-of-way. The line then turns northwest along the C & P right-of-way over Pearis Mountain to the point where the right-of-way intersects State Route 785, one quarter mile northeast of the intersection of State Routes 785 and 697 and then follows State Route 784 back to the starting point.

Signed: June 3, 1982.

Stephen E. Higgins,

Acting Director.

Approved: July 1, 1982.

John M. Walker, Jr.,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 82-20220 Filed 7-26-82; 8:45 am]

BILLING CODE 4810-31-M

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27 CFR Part 9

[Notice No. 416]

Temecula, Murrieta, and Rancho California Viticultural Areas

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering the establishment of viticultural areas in Riverside County, California, to be known as "Temecula," "Murrieta," and "Rancho California." This proposal is the result of petitions submitted by the Rancho California/Temecula Winegrowers Association (hereinafter referred to as "the Association") and Callaway Vineyard and Winery, Temecula, California. The establishment of viticultural areas and the subsequent use of viticultural area names in wine labeling and advertising will help consumers better identify wines they purchase. The use of viticultural areas as appellations of origin will also help winemakers distinguish their products from wines made in other areas.

DATE: Written comments must be received by September 10, 1982.

ADDRESS: Send written comments to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, D.C. 20044-0385 (Attn: Notice No. 416).

Copies of the petitions, the proposed regulations, the appropriate maps, and the written comments will be available for public inspection during normal business hours at: ATF Reading Room, Office of Public Affairs and Disclosure,

Room 4405, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:
John A. Linthicum, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20226 (202–566–7602).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF–53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. These regulations allow the establishment of definite viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October 2, 1979, ATF published Treasury Decision ATF–60 (44 FR 56692) which added a new Part 9 to 27 CFR, providing for the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

Section 4.25a(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include—

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounded areas;

(d) A description of the specific boundaries of the viticultural area, based on the features which can be found on the United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. map with the boundaries prominently marked.

Petitions

I. *The Association's petition.* ATF has received a petition from the Rancho California/Temecula Winegrowers Association, proposing an area in southwestern Riverside County, California, as a viticultural area to be known as "Temecula." The Association's "Temecula" viticultural area consists of approximately 48,000 acres of the Santa Rosa Plateau and 51,000 acres of the Temecula Basin, east of the Plateau.

II. *Callaway's petition.* A second petition submitted by Callaway Vineyards and Winery, Temecula, California, requests the establishment of three viticultural areas in southwestern Riverside County, California, to be known by the names "Temecula," "Murrieta," and "Rancho California."

A. The "Temecula" viticultural area consists of approximately 33,000 acres in the Temecula Basin.

B. The "Murrieta" viticultural area consists of approximately 2,500 acres extending from Murrieta Creek to the Santa Rosa Plateau, west and north of the town of Murrieta, California.

C. The "Rancho California" viticultural area consists of approximately 90,000 acres with nearly the same eastern, southern, and western boundary as the Association's "Temecula" viticultural area, but a different northern boundary.

Current viticultural use. In the Temecula Basin, there are 7 wineries which have all been established since 1974.

The Association's petition states that there are about 2500 acres of grapevines growing in its proposed "Temecula" area. Callaway's petition states that there are about 1700 acres of grapevines growing in its proposed "Temecula" area, and one vineyard of about 300 acres in the proposed "Murrieta" area. In addition, Callaway's petition contains a schematic drawing of the approximate sizes and locations of all vineyards in southwesten Riverside County, California. This drawing indicates that there are more than 2000 acres of grapevines growing in the proposed "Rancho California" area, including four small vineyards on the Santa Rosa Plateau which are not in the proposed "Murrieta" area. This drawing also indicates that the 300 acre vineyard in the proposed "Murrieta" area is partially outside the proposed "Rancho California" area.

History. There is little evidence in either petition that wine grapes have been grown commercially in southwesten Riverside County prior to the mid-1960's

The words "Temecula, California" have appeared on wine labels since 1974. Although wine production in southwestern Riverside County is a recent phenomenon, Callaway's petition contains evidence relating to the boundaries of the areas historically and currently known by the names "Temecula," "Murrieta," and "Rancho California."

Names. The name "Temecula" was derived by Spanish missionaries from the Luiseno Indian word "Temeku", the name which the local Indians call themselves.

The Association's proposed "Temecula" viticultural area is located in the Santa Rosa, Temecula, Little Temecula, and Pauba land grants. The Association's petition states that the name "Temecula" should apply to the entire area in southwestern Riverside County in view of the geographical isolation of the general Temecula area from other viticultural areas, the common weather pattern of the area, and the area's history.

Callaway's proposed "Temecula" viticultural area is located in the Temecula, Little Temecula, and Pauba land grants. Callaway's petition states that the name "Temecula" also applies to the Pauba land grant for the following reasons:

(1) Temecula Creek runs through the Pauba land grant.

(2) The Mexican War battle which occurred in the Pauba land grant in 1847 is called the Temecula Massacre.

(3) The Temecula Union school district includes the Pauba land grant.

(4) Postal patrons in the Pauba land grant are served by the Temecula post office.

(5) The Temecula Valley Chamber of Commerce territory includes the Pauba land grant.

Callaway's petition disputes the Association's opinion that the name "Temecula" applies to the Santa Rosa land grant. Callaway's petition states that the Santa Rosa land grant is not in the Temecula Union School District, the Temecula Valley Chamber of Commerce territory, or the Temecula postal delivery area. Callaway's petition states that the name "Temecula" does not appear to have been associated with the Santa Rosa land grant.

Both petitions agree on the origin of the name "Murrieta." In 1884, J. Murrieta, owner of the Temecula land grant, sold 14,000 acres at the northern end of the land grant. The purchaser, a developer, built the town which was named Murrieta. Callaway's proposed "Murrieta" viticultural area is located within the Murrieta School District and the Murrieta postal delivery area. Callaway's petition states that the Murrieta area has a Chamber of Commerce, but its territory is not defined in the petition. Callaway's petition states that the name "Temecula" does not appear to have

been associated with the Murrieta area after 1884.

The name "Rancho California" applies to a planned community development project begun in 1964. Callaway's petition states that Kaiser Aluminum and partner corporations purchased major portions of the Santa Rosa, Temecula, Little Temecula, and Pauba land grants in 1964 and begin the subdivision and development of the property. Callaway's proposed "Rancho California" viticultural area is within (1) the Rancho California real estate development project, (2) the Rancho California Water District, and (3) the area perceived as Rancho California in a community opinion survey conducted in 1975 by the Riverside County Planning Department.

Callaway's proposed "Murrieta" area is partially within and partially outside of the proposed "Rancho California" area. The Santa Rosa land grant boundary (part of the "Rancho California" area boundary) runs through the "Murrieta" area, dividing it into two parts: an area which could qualify for both "Rancho California" and "Murrieta" appellations (if both were approved) and an area which is part of the "Murrieta" area but outside of the "Rancho California" area. This unusual circumstance is based on evidence in Callaway's petition (1) that the name "Rancho California" does not apply in the town of Murrieta, and (2) that the name "Murrieta" applies to the area west of the town of Murrieta. Since Callaway's proposed Murrieta area partially overlaps the proposed Rancho California area, ATF is particularly interested in receiving additional historical or current evidence that would substantiate the fact that the overlapping area has been historically or currently known by both proposed names. Also, Callaway's inclusion of the proposed "Temecula" area entirely within the proposed "Rancho California" area is similarly based on evidence relating to the boundaries of the names. ATF is particularly interested in receiving additional historical or current evidence that would substantiate the fact that the wholly-included area has been historically or currently known by both proposed names.

To summarize the discussion of names, the Association believes that the Santa Rosa, Temecula, Little Temecula, and Pauba land grants are collectively known by the name "Temecula."

Callaway's petition contains evidence supporting the following claims:

—The Santa Rosa, Little Temecula, and Pauba land grants and the southern half of the Temecula land grant (*i.e.* south of the town of Murrieta) are collectively known by the name "Rancho California."

—The Association's proposed "Temecula" includes the town of Murrieta and the Santa Rosa land grant, areas not known by the name "Temecula."

—The name "Temecula" applies only to the town of Temecula and areas east and northeast of the town.

—Except for including the town of Murrieta, the Association's proposed "Temecula" should be called "Rancho California."

—The area known as "Rancho California" does not include the town of Murrieta. However, the name "Murrieta" applies to the part of Rancho California west of the town of Murrieta.

Physiography. The Association's petition states that its proposed Temecula viticultural area consists physiographically of a 48,000 acre plateau along the southern extension of the Elsinore Mountains and a 51,000 acre basin lying to the east of these mountains. The Santa Rosa Plateau is named after the Santa Rosa Land Grant in which it is located. Although the area is described physiographically as a plateau, it contains several mesas with elevations between 2,000 and 2,200 feet above sea level, with other areas where the elevation decreases to less than 1000 feet above sea level.

The Association's petition describes the Temecula Basin as roughly a triangle, bounded by the northwest to southeast line of the Elsinore Mountains, the northeast to southwest line of the Oak Mountain barrier, and along the northern edge by the rolling hills on the Perris Block. The Association's petition states that the Temecula Basin is alluviated plains with low relief mesas. The lowest elevation is less than 1000 feet above sea level, and the basin does not vary in elevation more than 500 feet throughout.

All of the drainage in the proposed area (except for one small portion at the western end of the Santa Rosa Plateau) passes to the ocean through Temecula Canyon.

Soils. The Santa Rosa Plateau contains the following three soil associations: Cajalco-Temescal-Las Posas association, Friant-Lodo-Escondido association, and Cineba-Rock land-Fallbrook association. The Temecula Basin contains the following two soil associations: Hanford-Tujunga-Greenfield association and Monserate-Arlington-Exeter association. The Association's petition states that not all of the soils of the Santa Rosa Plateau are suitable for wine grapes, and that presently there are only 100 acres of grapes growing on the plateau.

The Association's petition states that in a typical profile, the basin soils consist of a surface layer of sandy loam which formed in granitic alluvium washed from the uplands. The subsoil is well-drained and moderately deep.

Callaway's petition states that granitic composition of soils in the Temecula Basin makes these soils unique in California, and especially suited to growing certain varieties of wine grapes.

Climate. The Association's petition states that the climate of the proposed area is its most distinguishable feature. The area is cooled in the summer and warmed in the winter by afternoon ocean breezes which enter through passes in the Santa Rosa Mountains. The Association's petition states that this accounts for a comparatively cool micro-climate, especially in comparison to the latitude of the area.

However, the petitions do not agree on which parts of southwestern Riverside County are actually the coolest.

The Association's petition states that the western side of the Santa Rosa Plateau is the coolest place in the proposed areas because of its direct exposure to cool coastal air. Callaway's petition acknowledges that the Santa Rosa Mountains are the coolest areas, but attributes this to the elevation. Callaway argues that the cooling effect of the wind favors areas east of Temecula Canyon and Rainbow Gap, over areas west of these two features.

Using the *Amerine-Winkler* method utilizing heat summation to segregate climatic regions, the proposed areas would be located in Regions II and III and the coolest range of Region IV. This is significantly cooler than areas surrounding the proposed areas, which are Regions IV and V.

The following data was submitted by the Association:

Weather station	Elevation	1971	1972	1973	3-Year average
P-2	1,375	[1]3,519	3,452	4,101	3,694 (Region IV).
P-6	1,446	3,447	3,290	3,442	3,426 (Region III).
SR-11	1,230	2,686	2,517	3,148	2,783 (Region II).

[1]Figures represent degree-days of heat summation.

Weather Station P2 is located at the intersection of Rancho California Road and Anza Road.

Weather Station P-6 is located on De Portola Road approximately 1 mile

northeast of the intersection with Monte De Oro Road.

Weather Station SR-11 is located on Murrieta Ridge north of Tenaja Road.

Callaway's petition contains the following data:

Location	Dates	Heat summation
Average of 6 weather stations northeast of town of Temecula.	Early 1970's	3,598 (Region IV).
Town of Murrieta	1954–57	3,771 (Region IV).
Santa Rosa Springs and an unidentified location on Santa Rosa Plateau.	Early 1970's	2,865 (Region II). 3,106 (Region III).

Callaway's petition argues that the *Amerine-Winkler* method is not helpful in the Rancho California area because it uses the mean of the daytime high and low temperatures. This method is misleading if the high or low temperature is only maintained for a brief time. Callaway's petition states that moisture and wind chill factors differ significantly between the Temecula Basin and the Santa Rosa Plateau. However, these weather phenomena have not been measured cumulatively by local observers. Callaway's petition quotes a viticultural consultant and three local residents who all observe that Temecula is cooler than Murrieta in summer.

Callaway's petition argues that thermograph recordings of hourly temperatures would provide a more accurate measure of heat summation. Therefore, ATF is requesting each interested party who uses thermographs in the Rancho California area to submit the following information: name and address of the interested party, location(s) of the thermograph(s), and a description of the heat summation from April 1 through October 31. Please submit this data for as many years as possible, with each year identified. Please submit the data to the address identified at the beginning of this document for submission of public comments. This data will help ATF evaluate the scope of climatic differences in the proposed areas.

Area Proposed by ATF

Based on data contained on both petitions, ATF believes that the Santa Rosa Plateau and the Temecula Basin are too diverse to be included in one approved viticultural area. The Santa Rosa Plateau rises in elevation approximately 600 to 800 feet within one mile southwest of Murrieta Creek. Traveling easterly into Temecula Basin, this increase of 600 to 800 feet is attained about seven miles from Murrieta Creek. This dramatic difference in change of elevation affects the wind patterns.

Both petitioners believe that wind patterns are critically important in keeping the area cooler than surrounding areas. A study of wind patterns in southern California conducted by the U.S. Weather Bureau in 1965 shows that wind patterns on the Santa Rosa Plateau and in Temecula Basin are markedly different. Murrieta Creek is the natural boundary between two different wind patterns.

The Association's petition states that not all soils on the Santa Rosa Plateau are suitable for growing grapes. The following discussion of soils is taken from Soil Survey of Western Riverside Area, California, issued in 1971 by the U.S. Department of Agriculture, Soil Conservation Service. Some of the soils which are not suitable for viticulture are:

Cieneba rocky sandy loam, 15–50% slope, eroded
Fallbrook rocky sandy loam, 15–50% slope, eroded
Las Posas rocky loam, 15–50% slope, severely eroded
Lodo rocky loam, 25–50% slope, eroded

These soils are not suited to cultivation because of the slope, shallow depth, and high hazard of erosion. They are used mostly for range, for watershed, and as wildlife habitat. Seeding or fertilizing is not economically feasible on these soils.

These soils are found scattered throughout the Santa Rosa Plateau, but they dominate the area south of 33° 30′ N latitude parallel.

Therefore, ATF is proposing an alternative viticultural area bounded approximately by 33° 30′ N latitude parallel, Murrieta Creek and the Cleveland National Forest boundary. The connection between the Cleveland National Forest boundary and Murrieta Creek would be a straight line from the point where Orange Street in Wildomar, California crosses Murrieta Creek to the easternmost point of the Cleveland National Forest boundary (the northernmost point of the Santa Rosa Land Grant). This area consists of approximately 30,000 acres with viticultural features distinguished from the surrounding area by the following geographical features:

—different wind patterns to the east and northeast,
—unsuitable soils to the south, and
—the Cleveland National Forest, where a special use permit is necessary for agricultural land use, to the west and northwest.

According to information in both petitions, this proposed area would include all of the existing vineyards (approximately 400 acres) on the Santa Rosa Plateau.

ATF does not know what name should apply to this proposed area. The name Santa Rosa is associated by most wine consumers with the city of Santa Rosa in Sonoma County, California. Therefore, Santa Rosa Plateau might be misleading to consumers. ATF believes that either Murrieta or Rancho California could apply as a name for the proposed area. For the purposes of this notice, ATF is calling this proposed area "Murrieta (as proposed by ATF)."

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because the notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities. The proposal is not expected to have significant secondary or incidental effects on a substantial number of small entities, or impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

ATF is not able to assign a realistic economic value to using appellations of origin. An appellation of origin is primarily an advertising intangible. Moreover, changes in the values of grapes or wines may be caused by a myriad of factors unrelated to this proposal.

These proposed viticultural areas encompass all of the vineyards in southwestern Riverside County, California. There are no vineyards remotely near the proposed viticultural areas which could qualify for use of any of the three proposed names. If one or more viticultural areas are approved as a result of this notice, any value derived from using a viticultural area appellation of origin would apply equally to all vineyards in the approved area.

Therefore, ATF believes that this notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

In compliance with Executive Order 12291 the Bureau has determined that this proposal is not a major rule since it will not result in:

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Public Participation—Written Comments

ATF requests comments concerning these proposed viticultural areas from all interested persons. Althouth this document proposes possible boundaries for the Temecula, Murrieta and Rancho California viticultural areas, ATF requests comments proposing other possible boundaries for these viticultural areas.

ATF is especially interested in comments on the following questions:

What are the boundaries of the areas known by the names "Temecula," "Murrieta," and "Rancho California"?

Is there sufficient evidence to support the overlapping of these proposed areas?

How should the boundaries of the proposed viticultural areas be modified to eliminate overlapping in the absence of sufficient historical or current evidence?

Should the boundaries be modified to exclude areas where grapes are not grown?

Are any parts of the Santa Rosa land grant commonly known by other names?

Are the Santa Rosa Plateau and the Temecula Basin geographically similar enough to be included in one approved viticultural area?

Although both petitions contain evidence that the name "Temecula" has appeared on wine labels, is there any historical or current evidence associating the names "Murrieta" or "Rancho California" with winemaking?

Are there any significant geographic features in southwestern Riverside County, California which have not been given adequate consideration in this notice of proposed rulemaking?

What name should be given to the viticultural area proposed by ATF?

Comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

ATF will not recognize any material or comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting a comment is not exempt from disclosure.

Any person who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his or her request, in writing, to the Director within the 45-day comment period. The request should include reasons why the commenter feels that a public hearing is necessary. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural area, Wine.

Drafting Information

The principal author of this document is John A. Linthicum, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. However, other personnel of the Bureau and of the Treasury Department have participated in the preparation of this document, both in matters of substance and style.

Authority

Accordingly, under the authority in 27 U.S.C. 205, the Director proposes the amendment of 27 CFR Part 9 as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Par. 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the titles of §§ 9.50, 9.55 and 9.56. As amended, the additions to the table of sections read as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.50 Temecula.

* * * * *

9.55 Murrieta.

9.56 Rancho California.

Par. 2. Subpart C is amended by adding § 9.50 Temecula, § 9.55 Murrieta, and § 9.56 Rancho California. The two proposals for the boundary of Temecula viticultural area are set out as § 9.50a and § 9.50b. Callaway's proposed Murrieta viticultural area is set out as § 9.55a, and ATF's proposed Murrieta viticultural area is set out as § 9.55b. As amended, the additions to Subpart C read as follows:

Subpart C—Approved American Viticultural Areas

§ 9.50a Temecula (as proposed by the Rancho California/Temecula Winegrower's Association).

(a) *Name.* The name of the viticultural area described in this section is "Temecula."

(b) *Approved maps.* The approved maps for determinig the boundary of Temecula viticultural area are seven U.S.G.S. quadrangle maps in the 7.5 minute series, as follows:

(1) Wildomar, California;

(2) Fallbrook, California;

(3) Murrieta, California;

(4) Temecula, California;

(5) Bachelor Mountain, California:

(6) Pechanga, California;

(7) Sage, California;

(c) *Boundary.* The Temecula viticultural area is located in Riverside County, California. The boundary is as follows:

(1) The beginning point is the northernmost point of the Santa Rosa Land Grant where the Santa Rosa Land Grant boundary intersects the easternmost boundary of the Cleveland National Forest.

(2) The boundary follows the Cleveland National Forest boundary southwesterly to the point where it converges with the Riverside County-San Diego County line.

(3) The boundary follows the Riverside County-San Diego County line southwesterly, then southeasterly, to the point where the Riverside County-San Diego County line diverges southward and the Santa Rosa Land Grant boundary continues straight southeasterly.

(4) The boundary follows the Santa Rosa Land Grant boundary southeasterly, then northeasterly, to its intersection with the Temecula Land Grant boundary.

(5) The boundary follows the Temecula Land Grant boundary southeasterly, then northeasterly, to its intersection with the Little Temecula Land Grant boundary.

(6) The boundary follows the Little Temecula Land Grant boundary southeasterly to its intersection with the Pechanga Indian Reservation boundary.

(7) The boundary follows the Penchanga Indian Reservation boundary southeasterly, then northeasterly (including the Pechanga Indian Reservation in the proposed viticultural area) to the point at which it rejoins the Little Temecula Land Grant boundary.

(8) The boundary follows the Little Temecula Land Grant boundary

northeasterly to its intersection with the Pauba Land Grant boundary.

(9) The boundary follows the Pauba Land Grant boundary southeasterly, then northeasterly, to the east-west section line dividing Section 13 from Section 24 in Township 8 South, Range 2 West.

(10) The boundary follows this section line east to the range line dividing Range 2 West from Range 1 West.

(11) The boundary follows this range line north, across California State Highway 71/79, to the 1,400-foot contour line of Oak Mountain.

(12) The boundary follows the 1,400-foot contour line around Oak Mountain to its intersection with the 117°00′ West longitude meridian.

(13) The boundary follows the 117°00′ West longitude meridian north to its intersection with the Pauba Land Grant boundary.

(14) The boundary follows the Pauba Land Grant boundary westerly, then northeasterly, then west, then south, then west to Warren Road (which coincides with the range line dividing Range 1 West from Range 2 West).

(15) The boundary follows Warren Road north to an unnamed east-west, light-duty, hard or improved surface road (which coincides with the section line dividing Section 12 from Section 13, in Township 7 South, Range 2 West).

(16) The boundary follows this road west to the north-south section line dividing Section 13 from Section 14 in Township 7 South, Range 2 West.

(17) The boundary follows this section line south to its intersection with Buck Road (which coincides with east-west section line on the southern edge of Section 14 in Township 7 South, Range 2 West).

(18) The boundary follows Buck Road west to the point where it diverges northwesterly from the section line on the southern edge of Section 14 in Township 7 South, Range 2 West.

(19) The boundary follows this section line west, along the southern edges of Sections 14, 15, 16, 17 and 18 in Township 7 South, Range 2 West, including a place where the section line coincides with an unnamed, unimproved road, continuing west of the range line dividing Range 2 West from Range 3 West, to the point where this section line intersects the Temecula Land Grant boundary.

(20) The boundary follows the Temecula Land Grant boundary northwesterly, then southwesterly to its intersection with the Santa Rosa Land Grant boundary.

(21) The boundary follows the Santa Rosa Land Grant boundary northwesterly to the beginning point.

§ 9.50b Temecula (as proposed by Callaway Vineyard and Winery).

(a) *Name.* The name of the viticultural area described in this section is "Temecula."

(b) *Approved maps.* The approved maps for determining the boundary of Temecula viticultural area are four U.S.G.S. quadrangle maps in the 7.5 minute series, as follows:

(1) Murrieta, California;

(2) Temecula, California;

(3) Pechanga, California;

(4) Bachelor Mountain, California.

(c) *Boundary.* The Temecula viticultural area is located in Riverside County, California. The boundary is as follows:

(1) The beginning point is the northern intersection of the Temecula Land Grant boundary and the range line dividing Range 2 West from Range 3 West, near Winchester Road and Tucalota Creek.

(2) The boundary follows this range line south to the point at which it intersects the Temecula Land Grant boundary again, south of the town of Temecula.

(3) The boundary follows the Temecula Land Grant boundary southeasterly, then northeasterly, to its intersection with the Little Temecula Land Grant boundary.

(4) The boundary follows the Little Temecula Land Grant boundary southeasterly to its intersection with the Pechanga Indian Reservation boundary.

(5) The boundary follows the Pechanga Indian Reservation boundary southeasterly, then northeasterly (including the Pechanga Indian Reservation in the proposed viticultural area) to the point at which it rejoins the Little Temecula Land Grant boundary.

(6) The boundary follows the Little Temecula Land Grant boundary northeasterly to its intersection with the Pauba Land Grant boundary.

(7) The boundary follows the Pauba Land Grant boundary southeasterly, then northeasterly, to the east-west section line dividing Section 13 from Section 24 in Township 8 South, Range 2 West.

(8) The boundary follows this section line east to the range line dividing Range 2 West from Range 1 West.

(9) The boundary follows this range line north to the 1400-foot contour line of Oak Mountain.

(10) The boundary follows the 1400-foot contour line around Oak Mountain to its intersection with the 117°00′ West longitude meridian.

(11) The boundary follows the 117°00′ West longitude meridian north to the Pauba Land Grant boundary.

(12) The boundary follows the Pauba Land Grant boundary westerly, then northeasterly to its intersection with the north-south section line dividing Section 32 from Section 33 in Township 7 South, Range 1 West.

(13) From that point the boundary proceeds in a straight line to the intersection of East Benton Road and the north-south section line dividing Section 8 from Section 9 in Township 7 South, Range 1 West.

(14) The boundary follows East Benton Road westerly, then southwesterly to Warren Road (which coincides with the range line dividing Range 1 West from Range 2 West).

(15) The boundary follows Warren Road north to an unnamed east-west, light-duty, hard or improved surface road (which coincides with the section line dividing Section 12 from Section 13, in Township 7 South, Range 2 West).

(16) The boundary follows this road west to the north-south section line dividing Section 14 from Section 15 in Township 7 South, Range 2 West.

(17) The boundary follows this section line south to its intersection with the Pauba Land Grant boundary at the southwest corner of Section 14 in Township 7 South, Range 2 West.

(18) The boundary follows the Pauba Land Grant south, then west, then south, then west (where it coincides with the east-west section line on the southern edge of Section 21 in Township 7 South, Range 2 West) to the point at which it diverges southerly from the east-west section line.

(19) The boundary follows this section line west to the southeast corner of Section 20 in Township 7 South, Range 2 West.

(20) The boundary proceeds north, west and south around the perimeter of Section 20 in Township 7 South, Range 2 West.

(21) From the southwest corner of this section, the boundary follows the east-west section line west to its intersection with the Temecula Land Grant boundary.

(22) The boundary follows the Temecula Land Grant boundary northwest to the beginning point.

§ 9.55a Murrieta (as proposed by Callaway Vineyard and Winery).

(a) *Name.* The name of tthe viticultural area described in this section is "Murrieta."

(b) *Approved maps.* The approved maps for determining the boundary of Murrieta viticultural area are two U.S.G.S. guadrangle maps in the 7.5 minute series, as follows:

(1) Murrieta, California;

(2) Wildomar, California.

(c) *Boundary.* The Murrieta viticultural area is located in Riverside County, California. The boundary is as follows:

(1) The beginning point is the intersection of Ivy Street and Murrieta Creek.

(2) The boundary proceeds in a southwesterly extension of Ivy Street to the 1520 foot contour line of Miller Canyon.

(3) The boundary follows the 1520 foot contour line northwesterly, around and through Miller Canyon, Cole Canyon and Slaughterhouse Canyon, westerly toward a prospecting site, and northeasterly to the point of the 1520 foot contour line which is closest to a peak with recorded elevation of 1496 feet.

(4) From that point, the boundary proceeds straight northeast to Murrieta Creek.

(5) The boundary follows the westernmost branches of Murrieta Creek southeasterly to the beginning point.

§ 9.55b Murrieta (as proposed by ATF).

(a) *Name.* The name of the viticultural area described in this section is "Murrieta."

(b) *Approved maps.* The approved maps for determining the boundary of "Murrieta" viticultural area are two U.S.G.S. quadrangle maps in the 7.5 minute series, as follows:

(1) Wildomar, California;

(2) Murrieta, California.

(c) *Boundary.* The "Murrieta" viticultural area is located in Riverside County, California. The boundary is as follows:

(1) The beginning point is the northernmost point of the Santa Rosa Land Grant where the Santa Rosa Land Grant boundary intersects the easternmost boundary of the Cleveland National Forest.

(2) The boundary follows the Cleveland National Forest boundary southwesterly to the 33° 30′ North latitude parallel.

(3) The boundary proceeds east along the 33° 30′ North latitude parallel to Murrieta Creek.

(4) The boundary proceeds northwesterly along the westernmost branches of Murrieta Creek to Orange Street in Wildomar, California.

(5) From the intersection of Murrieta Creek and Orange Street in Wildomar, California, the boundary proceeds in a straight line to the beginning point.

§ 9.56 Rancho California.

(a) *Name.* The name of the viticultural area described in this section is "Rancho California."

(b) *Approved maps.* The approved maps for determining the boundary of Rancho California viticultural area are seven U.S.G.S. quadrangle maps in the 7.5 minute series, as follows:

(1) Wildomar, California;

(2) Fallbrook, California;

(3) Murrieta, California;

(4) Temecula, California;

(5) Bachelor Mountain, California;

(6) Pechanga, California;

(7) Sage, California.

(c) *Boundary.* The Rancho California viticultural area is located in Riverside County, California. The boundary is as follows:

(1) The beginning point is the northernmost point of the Santa Rosa Land Grant where the Santa Rosa Land Grant boundary intersects the easternmost boundary of the Cleveland National Forest.

(2) The bounary follows the Cleveland National Forest boundary southwesterly to the point where it converges with the Riverside County-San Diego County line.

(3) The boundary follows the Riverside County-San Diego County line southwesterly, then southeasterly, to the point the Riverside County-San Diego County line diverges southward and the Santa Rosa Land Grant boundary continues straight southeasterly.

(4) The boundary follows the Santa Rosa Land Grant boundary southeasterly, then northeasterly, to its intersection with the Temecula Land Grant boundary.

(5) The boundary follows the Temecula Land Grant boundary southeasterly, then northeasterly, to its intersection with the Little Temecular Land Grant boundary.

(6) The boundary follows the Little Temecular Land Grant boundary southeasterly to its intersection with the Pechanga Indian Reservation boundary.

(7) The boundary follows the Pechanga Indian Reservation boundary southeasterly, then northeasterly (including the Pechanga Indian Reservation in the proposed viticultural area) to the point at which it rejoins the Little Temecula Land Grant boundary.

(8) The boundary follows the Little Temecular Land Grant boundary northeasterly to its intersection with the Pauba Land Grant boundary.

(9) The boundary follows the Pauba Land Grant boundary southeasterly, then northeasterly, to the east-west section line dividing Section 13 from Section 24 in Township 8 South, Range 2 West.

(10) The boundary follows this section line east to the range line dividing Range 2 West from Range 1 West.

(11) The boundary follows this range line north to the 1400-foot contour line of Oak Mountain.

(12) The boundary follows the 1,400-foot contour line around Oak Mountain to its intersection with the 117° 00′ West longitude meridian.

(13) The boundary follows the 117° 00′ West longitude meridian north to its intersection with the Pauba Land Grant boundary.

(14) The boundary follows the Pauba Land Grant boundary westerly, then northeasterly to East Benton Road.

(15) The boundary follows East Benton Road northerly, then westerly, then southwesterly to its intersection with Warren Road (which coincides with the range line dividing Range 1 West from Range 2 West).

(16) The boundary follows Warren Road north to an unnamed east-west, light-duty, hard or improved surface road (which coincides with the section line dividing Section 12 from Section 13, in Township 7 South, Range 2 West).

(17) The boundary follows this road west to the north-south section line dividing Section 14 from Section 15 in Township 7 South, Range 2 West.

(18) The boundary follows this section line south to its intersection with the Pauba Land Grant boundary in the southwest corner of Section 14 in Township 7 South, Range 2 West.

(19) The boundary follows the Pauba Land Grant boundary south, then west, then south, then west (where it coincides with the east-west section line on the southern edge of Section 21 in Township 7 South, Range 2 West) to the point at which it diverages southerly from the east-west section line.

(20) The boundary follows this section line west to the southeast corner of Section 20 in Township 7 South, Range 2 West.

(21) The boundary proceeds north, west and south around the perimeter of Section 20 in Township 7 South, Range 2 West.

(22) From the southwest corner of this section, the boundary follows the east-west section line west to its intersection with the Temecula Land Grant boundary.

(23) The boundary follows the Temecula Land Grant boundary northwest to its intersection with Winchester Road.

(24) The boundary follows Winchester Road southerly to its northernmost intersection with Webster Avenue (which was renamed Murrieta Hot Springs Road after the map was printed).

(25) The boundary proceeds westerly along Webster Avenue to its

intersection with the northbound lane of Interstate Route 15 E.

(26) The boundary proceeds southeasterly along the northbound lane of Interstate Route 15 E to a point which is even with a northeastern extension of Cherry Street.

(27) From this point, the boundary proceeds in a southwesterly extension of Cherry Street to the boundary of the Santa Rosa Land Grant.

(28) The boundary follows the Santa Rosa Land Grant boundary northwesterly to the beginning point.

Signed May 27, 1982.

Stephen E. Higgins,

Acting Direction.

Approved: July 1, 1982.

John M. Walker, Jr.,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 82-20222 Filed 7-26-82; 8:45 am]

BILLING CODE 4310-31-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 946

Public Comment and Opportunity for Public Hearing on Modified Portions of the Virginia Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; notice of receipt of permanent program modifications, public comment period and opportunity for public hearing.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing procedures for the public comment period and for a public hearing on the substantive adequacy of a program amendment concerning reclamation bonding submitted by Virginia.

This notice sets forth the times and locations that the Virginia program and proposed amendment are available for public inspection, the comment period during which interested persons may submit written comments, on the proposed program elements, and information pertinent to the public hearing.

DATES: Written comments data or other relevant information relating to Virginia's modifications to its program not received on or before 4:00 p.m. on August 26, 1982, will not necessarily be considered in the Director's decision on whether to approve the proposed amendment.

A public hearing on the proposed modification has been scheduled for 10:00 a.m. on August 19, 1982, at the address listed under "ADDRESSES."

Any person interested in making an oral or written presentation at the hearing should contact Mr. Ralph Cox at the address and phone number listed below by August 11, 1982. If no person has contacted Mr. Cox to express an interest in participating in the hearing by the above date, the hearing will be cancelled. A notice announcing any cancellation will be published in the **Federal Register**.

ADDRESSES: Written comments should be mailed or hand delivered to Ralph Cox, Director, Virginia Field Office, Office of Surface Mining Reclamation and Enforcement, Route 3, Box 183-C-1, Big Stone Gap, Virginia 24219, Telephone: (703) 523-4303.

The public hearing will be held at Clinch Valley College, Science Lecture Hall, Science Building, Room S-100, Wise, Virginia 24273.

Copies of the Virginia program, the proposed modifications to the program a listing of any scheduled public meetings and all written comments received in response to this notice will be available for review at the OSM Offices and the Office of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Room 5315, 1100 "L" Street, NW., Washington, D.C. 20240

Office of Surface Mining Reclamation and Enforcement, Highway 23, South, Big Stone Gap, Virginia 24219

Office of Surface Mining Reclamation and Enforcement, Flannagan and Carroll Streets, Lebanon, Virginia 24266

Virginia Division of Mined Land Reclamation, 620 Powell Avenue, Big Stone Gap, Virginia 24219

FOR FURTHER INFORMATION CONTACT: Ralph Cox, Director, Virginia Field Office, Office of Surface Mining, Route 3, Box 183-C-1, Big Stone Gap, Virginia 24219, Telephone: (703) 523-4303.

SUPPLEMENTARY INFORMATION: On March 3, 1980, the Secretary of the Interior received a proposed regulatory program from the Commonwealth of Virginia. On October 22, 1980, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved in part and disapproved in part the proposed program (45 FR 69977-70000). Virginia resubmitted its proposed regulatory program on August 13, 1981, and after a subsequent review, the Secretary approved the program subject to the correction of nineteen minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the December 15, 1981 **Federal Register** (46 FR 61088-61115).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Virginia program can be found in the December 15, 1981 **Federal Register** (46 FR 61089-61115).

On July 8, 1982, Virginia submitted to OSM a proposed program amendment consisting of a General Assembly bill passed on an emergency basis creating the Coal Surface Mining Reclamation Fund (Fund) and promulgated regulations to implement the legislation (Administrative Record No. VA 401). The proposed program amendment creates and implements an alternative reclamation bonding system in the Virginia program. Under the amendment, operators would have the option of participating in the Fund or fulfilling their reclamation bonding requirements pursuant to the Virginia permanent program provisions approved by the Secretary on December 15, 1981.

The Director now seeks public comment on the adequacy of this program amendment.

Additional Determinations

Pursuant to section 702(d) of the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1292(d), no environmental impact statement need be prepared for this rulemaking.

On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 6 and 8 of Executive Order 12291 for all State program actions taken to approve or conditionally approve State regulatory programs, actions or amendments. Therefore, this rule is exempt from a Regulatory Impact Analysis and regulatory review by OMB.

Pursuant to the Regulatory Flexibility Act, Pub. L. 96-354, I have certified that this proposed rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 30 CFR Part 946

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: July 21, 1982.

Arthur W. Abbe,

Acting Assistant Director, Program Operations and Inspection.

[FR Doc. 82-20254 Filed 7-26-82; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 1, 3, and 4

[Docket Nos. 2616-108A and 2616-111A]

Revision of Patent and Trademark Fees

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On June 28, 1982, notices of proposed rulemaking were published in the **Federal Register** (47 FR 28042-28065) advising that the Patent and Trademark Office was proposing to amend the rules of practice in patent and trademark cases to establish procedures and fees in amounts which comply with the requirements of Pub. L. 96-517 or which would apply with enactment of H.R. 6260 as a Public Law.

Those notices provided that comments regarding the proposed rulemakings must be submitted on or before July 9, 1982.

At the hearings on the proposed rule changes relating to the "Revision of Patent and Trademark Fees" held on July 9, 1982, several persons requested additional time to comment on the proposed rules (§§ 1.9(c)-(f), 1.27 and 1.28) for implementing the procedures for the payment of lower fees by independent inventors, small business concerns, and nonprofit organizations.

Requests were also received for additional time to comment on the proposed deletion of Parts 3 and 4 of Title 37, Code of Federal Regulations, which parts relate to patent and trademark forms.

In view of the requests, the Patent and Trademark Office is extending the period for written comments only on §§ 1.9, 1.27 and 1.28 and the proposed deletion of Parts 3 and 4 of title 37, Code of Federal Regulations, until August 13, 1982. Adoption of these changes is being deferred at this time to permit receipt of additional comments.

DATE: The time for filing comments on §§ 1.9(c)-(f), 1.27, and 1.28, and the proposed deletion of Parts 3 and 4 is hereby extended to and including August 13, 1982.

ADDRESSES: Submit written comments as to §§ 1.9, 1.27, 1.28 and the proposed deletion of Part 3 to the Commissioner of Patents and Trademarks, Attention: R. Franklin Burnett, Room 3-11A13, Washington, D.C. 20231.

Submit written comments as to the proposed deletion of Part 4 to the Commissioner of Patents and Trademarks, Attention: Miss Maude Williams, Room 3-11C17, Washington, D.C. 20231.

FOR FURTHER INFORMATION CONTACT: For further information on §§ 1.9, 1.27, 1.28 and the proposed deletion of Part 3 contact R. Franklin Burnett at (703) 557-3054.

For further information on the proposed deletion of Part 4 contact Miss Maude Williams at (703) 557-2222.

Dated: July 21, 1982.

Gerald J. Mossinghoff,

Commissioner of Patents and Trademarks.

[FR Doc. 82-20242 Filed 7-26-82; 8:45 am]

BILLING CODE 3510-16-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 712

[OPTS-82004G; 2039-6]

Chemical Information Rules; Preliminary Assessment Information; Opportunity for Additional Comment

Correction

On page 29853, in the **Federal Register** issue of Friday, July 9, 1982, there is a correction in the third column for the Environmental Protection Agency. In the heading of the correction, the OPTS Number which read, "[OPTS-82004 F; 2039-7]" should have read "[OPTS-82004G; 2039-6]"

BILLING CODE 1505-01-M

Notices

Federal Register
Vol. 47, No. 144
Tuesday, July 27, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

1982 Corn, Sorghum, Barley, Oats, and Rye Program; Determination Regarding the Proclamation of 1982—Crop Program Provisions for Corn, Sorghum, Barley, Oats, and Rye

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of determination of 1982—Crop program provisions for corn, sorghum, barley, oats, and rye.

SUMMARY: The purpose of this notice is to set forth the following determinations with respect to the 1982 crops of corn, sorghum, barley, oats and rye: (1) The loan and purchase level per bushel shall be $2.55 for corn, $2.42 ($4.32 per cwt.) for sorghum, $2.08 for barley, $1.31 for oats, and $2.17 for rye; (2) the established target level per bushel is $2.70 for corn, $2.60 for sorghum ($4.64 per cwt.), $2.60 for barley, and $1.50 for oats; (3) an acreage reduction program will be in effect for feed grains with a uniform reduction of 10 percent for corn, grain sorghum, barley, and oats; (4) malting barley shall not be exempt from the feed grain acreage reduction program; and (5) there will be no land diversion or set-aside. Notice is also being given of certain determinations concerning the producer reserve program. These determinations are required to be made in accordance with Sections 105A and 110 of the Agricultural Act of 1949, as amended (hereinafter referred to as the "1949 Act").

EFFECTIVE DATE: January 29, 1982.

ADDRESS: Dr. Howard C. Williams, Director, Analysis Division, USDA–ASCS, Room 3741, South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Orville I. Overboe, Agricultural Economist, Analysis Division, ASCS–USDA, P.O. Box 2415, Washington, D.C. 20013 or call (202) 447–4417. The Final Regulatory Impact Analysis describing the options considered in developing this notice of determination is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been designated as "major." It has been determined that these program provisions will result in an annual effect on the economy of $100 million or more.

The title and number of the federal assistance program that this notice applies to are: Title—Feed Grain Production Stabilization: Number 10.055 as found in the Catalog of Federal Domestic Assistance.

These actions will not have a significant impact specifically on area and community development. Therefore, a review as established by OMB Circular A–95, was not used to assure that units of local Government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since there is no requirement that a notice of proposed rulemaking be published with respect to the subject matter of these determinations in accordance with 5 U.S.C. 553 or any other provision of law.

This notice sets forth determinations with respect to the following issues:

1. *Loan and Purchase Level.* Section 105B(a)(1) of the 1949 Act provides that the Secretary shall make available to producers loans and purchases for 1982 crop corn at such a level, not less than $2.55 per bushel, as the Secretary determines will encourage the exportation of feed grains and not result in excessive total stocks of feed grains after taking into consideration the cost of producing corn, supply and demand conditions, and world prices for corn. Section 105B(a)(2) provides that the Secretary shall make available to producers loans and purchases for the 1982 crops of grain sorghum, barley, oats, and rye at such levels as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn, taking into consideration the feeding value of such commodity in relation to corn and certain other factors specified in Section 401(b) of the 1949 Act.

2. *Established (Target) Price.* Section 105B(b)(1)(C) of the 1949 Act provides that the established price for 1982 corn shall not be less than $2.70 per bushel. The Secretary may adjust this established price to reflect any change in (i) the average adjusted cost of production per acre for the two crop years immediately preceding the year for which the determination is made from (ii) the average cost of production per acre for the two crop years immediately preceding the year previous to the one for which the determination is made. Section 105B(b)(1)(E) of the 1949 Act provides that the payment rate for grain sorghum, oats, and, if designated by the Secretary, barley, shall be such rate as the Secretary determines fair and reasonable in relation to the rate at which payments are made available for corn.

3. *Acreage Reduction Program.* Section 105B(e)(1) of the 1949 Act authorizes the Secretary to provide for an acreage reduction program if the Secretary determines that the total supply of feed grains will be excessive, in absence of such program, taking into account the need for an adequate carryover to maintain reasonable supplies and prices and to meet a national emergency. The Secretary shall announce any such acreage reduction program for the 1982 crop of feed grains as soon as possible after enactment of the Agriculture and Food Act of 1981. Such acreage reduction shall be achieved by applying a uniform percentage reduction to the acreage base established for each feed grain-producing farm. Producers who knowingly produce feed grains in excess of the permitted feed grain acreage for the farm shall be ineligible for feed grain loans, purchases, and payments with respect to that farm. If an acreage reduction program is in effect for any crop, the national program acreage, program allocation factor and voluntary acreage reduction provisions are not applicable to such crop. The individual farm program acreage shall be the acreage planted on the farm to feed grains for harvest within the permitted feed grain acreage for the farm.

4. *Exemption of Malting Barley.* In accordance with Section 105B(e)(2) of the 1949 Act, the Secretary may provide

that no producer of malting barley shall be required as a condition of eligibility for feed grain loans, purchases, and payments to comply with any acreage limitation if such producer has previously produced a malting variety of barley, plants barley only of an acceptable malting variety for harvest, and meets other conditions as the Secretary may prescribe.

5. *Land Diversion.* Section 105B(e)(5) of the 1949 Act provides that the Secretary may make land diversion payments to producers of feed grains, whether or not an acreage reduction or set-aside program for feed grains is in effect, if the Secretary determines that such land diversion payments are necessary to assist in adjusting the total national acreage of feed grains to desirable goals.

6. *Producer Reserve Program.* Section 110 of the 1949 Act provides that the Secretary shall formulate and administer a program under which producers of feed grains will be able to store feed grains when in abundant supply and extend the time for its orderly marketing. Reserve loans shall be made at such level of support as the Secretary determines appropriate, except that the loan rate shall not be less than the current level of support provided for under the feed grain program established in accordance with Section 105B of the 1949 Act. The program may provide for (1) repayment of such loans in not less than 3 years nor more than 5 years; (2) payments to producers for storage in such amounts and under such conditions as are determined to be appropriate to encourage producers to participate in the program; (3) a rate of interest not less than the rate of interest charged the Commodity Credit Corporation by the United States Treasury, except that the Secretary may waive or adjust such interest as the Secretary deems appropriate; (4) recovery of amounts paid for storage, and for the payment of additional interest or other charges if such loans are repaid by producers before the market price for feed grains has reached the trigger release level; and (5) conditions designed to induce producers to redeem and market the feed grains securing such loans without regard to the maturity dates thereof whenever the Secretary determines that the market price for a commodity has attained a specific trigger release level, as determined by the Secretary. The Secretary shall announce the terms and conditions of the producer storage program as far in advance of making loans as practicable. In such announcements, the Secretary shall specify the quantity of feed grains to be stored under the program which the Secretary determines appropriate to promote the orderly marketing of feed grains. The Secretary may place an upper limit on the amount of feed grains placed in the reserve but such upper limit may not be less than 1 billion bushels of feed grains.

7. *Set-Aside Program.* Section 105B(e)(1) and (3) of the 1949 Act provide that the Secretary may provide for a set-aside program if he determines that the total supply of feed grains, in the absence of such a program, will be excessive, taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency.

8. *Grazing and Haying of Designated Acreage Reduction Program Acreage.* Section 1058B(e)(4) of the Act provides the Secretary may permit all or any part of the conservation use acreage to be devoted to sweet sorghum, hay and grazing or the production of quar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, or any other commodity, if he determines such crop production is needed to provide an adequate supply of such commodities, is not likely to increase the cost of price support programs, and will not affect farm income adversely.

The following program options were considered for the 1982 crop of feed grains: (1) No acreage reduction program; (2) a 10 percent acreage reduction program; (3) a 10 percent acreage reduction program with higher reserve loan rates; (4) a 15 percent acreage reduction program; (5) a 5 percent acreage reduction program and a 10 percent paid diversion program for corn and sorghum with a 10 percent acreage reduction program for barley and oats; and (6) a 5 percent acreage reduction program and a 10 percent paid diversion program for corn and sorghum and a 10 percent acreage reduction program for barley and oats with higher reserve loan rates. These options were considered with the data that was available at the time the 1982 Feed Grain Program was announced—January 29, 1982.

Without an acreage reduction program for the 1982 feed grain crop, U.S. harvested feed grain acreage is estimated to be 107.7 million acres, resulting in a production of 237.1 million metric tons (mmt). Total utilization is estimated to be 222.9 mmt with ending stocks rising to 77.3 mmt. The season average corn price for this program is expected to be $2.65 per bushel. Feed grain deficiency payments will approach $1.4 billion and total government feed grain program outlays are estimated to be $3.8 billion for fiscal year 1983.

Under a 10 percent acreage reduction program, the 1982 crop harvested acreage is estimated to be 104.9 million acres with production estimated at 232.5 mmt. Total utilization is estimated to be 222.9 mmt with ending stocks estimated at 72.7 mmt. The season average price for corn is estimated to be $2.65 with feed grain deficiency payments of $460 million and total government outlays of $1.7 billion for fiscal year 1983.

Under a 10 percent acreage reduction program with higher reserve loan rates, the 1982 crop harvested acreage is estimated to be 104.8 million acres with production estimated to be 232.2 mmt. Total utilization is expected to be 222.5 mmt with ending stocks of 72.8 mmt. The season average price for corn is estimated to be $2.70 per bushel with deficiency payments for feed grains estimated to be $485 million and total government outlays for fiscal 1983 of $2.1 billion.

Under a 15 percent acreage reduction program, the feed grain harvested acreage is estimated to be 104.5 million acres with production estimated to be 231.9 mmt. Total utilization is expected to be 222.9 mmt with ending stocks estimated to be 72.1 mmt. The season average price for corn is estimated to be $2.65 with feed grain deficiency payments of $320 million and government outlays for fiscal year 1983 is $1.3 billion.

Under a 5 percent acreage reduction program and a 10 percent paid diversion program for corn and sorghum and a 10 percent acreage reduction program for barley and oats, the feed grain harvested acreage is estimated to be 103.4 million acres with production estimated to be 229.7 mmt. Total utilization is estimated to be 221.8 mmt with ending stocks expected to be 71.0 mmt. The season average price for corn is expected to be $2.75 per bushel with feed grain deficiency payments of $446 million. Diversion payments are projected at $554 million. Total government outlays for fiscal year 1983 for this option would be $2.4 billion.

Under a 5 percent acreage reduction program with a 10 percent paid diversion program for corn and sorghum and a 10 percent acreage reduction program for barley and oats, with higher reserve loan rates, the 1982 feed grain harvested acreage is estimated to be 103.1 million acres with production estimated to be 229.0 mmt. Total utilization is estimated to be 221.3 mmt with ending stocks expected to be 70.8

mmt. The season average price for corn is estimated to be $2.80 per bushel. The diversion payments are estimated to be $597 million and deficiency payments $283 million. Total government outlays for fiscal year 1983 for this option would be $2.4 billion.

A number of the determinations with respect to the feed grain program are generally required to be made by section 105B(c)(1) of the Act not later than November 15 prior to the calendar year in which the crop is harvested. However, in the case of the 1982 crop, the Secretary is required to announce such program provisions as soon as practicable after the enactment of the Agriculture and Food Act of 1981, which was December 22, 1981. On January 29, 1982, the Secretary announced by press release the various program determinations for the 1982 crop of feed grains which are set forth in this notice. Accordingly, the purpose of this notice is to affirm the program determinations which have previously been announced. Thus, it has been determined that no further public rulemaking is required with respect to the following determinations:

Determinations

1. *Loan and Purchase Level.* In accordance with section 105B(a)(1) of the 1949 Act, it is hereby determined that the loan and purchase level per bushel shall be $2.55 for corn, $2.42 ($4.32 per cwt.) for grain sorghum, $2.06 for barley, $1.31 for oats, and $2.17 for rye.

2. *Established (Target) Price.* In accordance with section 105B(b)(1)(C) of the 1949 Act, the Secretary hereby determines that the established (target) price per bushel shall be $2.70 for corn, $2.60 ($4.64 per cwt.) for grain sorghum, $2.60 for barley and $1.50 for oats.

3. *Acreage Reduction Program.* In accordance with section 105B(e)(1) of the 1949 Act the Secretary hereby establishes a 10 percent limitation on the acreage planted to feed grains in 1982. The Secretary has determined that the total supply of feed grains, in absence of such a limitation, will be excessive taking into account the need for adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. This option was selected because it provides a balance between the multiple objectives of providing adequate feed grain supplies for domestic and foreign utilization while maintaining adequate carryover stock, supporting farm income, combating inflation, holding down Treasury costs and conserving natural resources.

4. *Exemption of Malting Barley.* In accordance with section 105B(e)(2) of the 1949 Act, the Secretary hereby determines that malting barley shall not be exempt from the feed grain acreage reduction program.

5. *Land Diversion Payments.* In accordance with section 105B(e)(5) of the 1949 Act, the Secretary hereby determines that land diversion payments are not necessary to assist in adjusting the total national acreage of feed grains to desirable goals and, therefore, such payments will not be made for the 1982 crop of feed grains.

6. *Producer Reserve Program.* In accordance with section 110 of the 1949 Act, the Secretary hereby determines that the provisions of the 1982 producer reserve program will include the following: (a) Producers will be permitted immediate entry into the reserve, if prices are below the trigger release level, by obtaining an extended price support loan at the rate of $2.90, $2.75 ($4.91 per cwt.) $2.37 and $1.49 per bushel for corn, grain sorghum, barley and oats, respectively; (b) the trigger release level will be $3.25, $3.10, ($5.54 per cwt.) $2.65, and $1.65 per bushel for corn, grain sorghum, barley, and oats, respectively; (c) producers will be charged interest at the rate charged the Commodity Credit Corporation by the United States Treasury but such interest will be waived after the first year, and (d) a storage payment of $.265 per bushel per year for corn, grain sorghum and barley, and $.20 per bushel per year for oats. The Secretary has determined that there will be no upper limit on the quantity of 1982 crop feed grains placed in the producer reserve program.

7. *Set-Aside Program.* In accordance with sections 105B(e) (1) and (3) of the 1949 Act, it is hereby determined that there will be no set-aside program for the 1982 crop of feed grains.

8. *Grazing and Haying of Designated Acreage Reduction Program Acreage.* In accordance with section 105B(e)(4) of the 1949 Act, it is hereby determined that winter wheat, barley and oats producers who have planted such crops before January 29, 1982, and who designate such as conservation use acreage under the acreage reduction program, shall be permitted to graze and hay such acreage. This is being permitted to allow such producers the opportunity to offset additional costs incurred in planting these crops as a result of the late acreage reduction program announcement. All other acreage designated as conservation use acreage can be grazed except during the six principal growing months. This 6-month period will be determined by local Agricultural Stabilization Conservation committees during the period February 28 through October 31. Mechanical harvesting on these acres will be prohibited.

(Secs. 105B, 110, 1001; 95 Stat. 1227, 1257, 91 Stat. 950, as amended, (7 U.S.C. 1444d, 1445a, and 1309))

Signed in Washington, D.C., July 21, 1982.

John R. Block,

Secretary.

[FR Doc. 82-20123 Filed 7-26-82; 8:45 am]

BILLING CODE 3410-05-M

Proposed Determinations With Regard to the 1983 Feed Grain Program

AGENCY: Agricultural Stabilization and Conservation Service (ASCS), USDA.

ACTION: Proposed determinations.

SUMMARY: The Secretary of Agriculture proposes to make the following determinations with respect to the 1983 feed grain crops: (a) The loan and purchase levels; (b) the established (target) prices; (c) the national program acreages (NPA's); (d) whether a voluntary acreage reduction percentage should be proclaimed and, if so, the amount of such percentage reduction; (e) whether an Acreage Reduction Program (ARP) should be established and, if so, the percentage of such reduction and the method to be used in establishing the acreage bases; (f) whether a setaside program should be established and, if so, the percentage of such set-aside; (g) whether barley should be determined to be eligible for payment purposes; (h) whether malting barley should be exempt from an acreage reduction program if there is an acreage reduction program; (i) whether to permit haying and grazing of conservation use acrage if an acreage reduction or set-aside program is established; (j) whether a land diversion program should be established and, if so, the extent of such diversion and the level of payment; (k) provisions of the farmer-owned reserve (FOR); (l) whether to require offsetting compliance if an Acreage Reduction Program is established; and (m) other provisions. These determinations are required to be made in accordance with the provisions of the Agricultural Act of 1949, as amended (hereinafter referred to as the "1949 Act").

EFFECTIVE DATE: Comments must be received on or before August 26, 1982, in order to be assured of consideration.

ADDRESS: Dr. Howard C. Williams, Director, Analysis Division, USDA-ASCS Room 3741, South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Orville I. Overboe, Agricultural Economist, Analysis Division, ASCS–USDA, P.O. Box 2415, Washington, D.C. 20013 or call (202) 447–4417. The Draft Impact Analysis describing the options considered in developing the proposed determination and the impact of implementing each option is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been designated as "major". It has been determined that these program provisions will result in an annual effect on the economy of $100 million or more.

The title and number of the federal assistance program that this notice applies to are: TITLE—Feed Grain Production Stabilization: Number 10.055 as found in the Catalog of Federal Domestic Assistance.

These actions will not have a significant impact specifically on area and community development. Therefore, a review as established by OMB Circular A–95 was not used to assure that units of local Government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this Notice since ASCS is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

Certain determinations set forth in this notice are required to be made by the Secretary for 1983-crop program purposes by November 15, 1982. In addition, it is necessary that the determinations for the 1983 crop be made in sufficient time to permit feed grain producers to make adequate plans for the production of their crops. Therefore, I have determined that the public comment period is being limited to 30 days, which will allow the Secretary sufficient time to consider properly the comments received before the final program determinations are made.

The following proposed program determinations with respect to the 1983-crop of feed grains are to be made by the Secretary:

Proposed Determinations

a. *The loan and purchase level for the 1983 crop of feed grains.* Section 105B(a)(1) of the 1949 Act provides that the Secretary shall make available to producers loans and purchases for 1983 crop corn at such a level, not less than $2.55 per bushel, as the Secretary determines will encourage the exportation of feed grains and not result in excessive total stocks of feed grains after taking into consideration the cost of producing corn, supply and demand conditions, and world prices for corn. Section 105B(a)(2) provides that the Secretary shall make available to producers loans and purchases for the 1983 crops of grain sorghum, barley, oats, and rye at such levels as the Secretary determines are fair and reasonable in relation to the level that loans and purchases are made available for corn, taking into consideration the feeding value of such commodity in relation to corn and certain other factors specified in Section 401(b) of the 1949 Act. If the Secretary determines that the average price of corn received by producers in any marketing year is not more than 105 percent of the level of loans and purchases for corn for the marketing year, the Secretary may reduce the levels of loans and purchases for the next marketing year by the amount the Secretary determines necessary to maintain domestic and export markets for grain, except that the level of loans and purchases shall not be reduced by more than 10 percent in any year nor below $2.00 per bushel. Loan and purchase levels per bushel being considered for the 1983 feed grain crops range from $2.55 to $2.75 for corn, $2.42 to $2.61 for grain sorghum, $2.08 to $2.24 for barley, $1.31 to $1.41 for oats, and $2.17 to $2.34 for rye.

Comments on the level of loan and purchase rates for the 1983 crop of feed grains, along with supporting data, are requested from interested persons.

b. *The established (target) price level for the 1983 crop of feed grains.* Section 105B(b)(1)(C) of the 1949 Act provides that the established price for 1983 corn shall not be less than $2.86 per bushel for the 1983 crop. Any such established price may be adjusted by the Secretary as the Secretary determines to be appropriate to reflect any change in (i) the average adjusted cost of production per acre for the two crop years immediately preceding the year for which the determination is made from (ii) the average adjusted cost of production per acre for the two crop years immediately preceding the year previous to the one for which the determination is made. The adjusted cost of production for each of such years may be determined by the Secretary on the basis of such information as the Secretary finds necessary and appropriate for the purpose and may include variable costs, machinery ownership costs, and general farm overhead costs, allocated to the crops involved on the basis of the proportion of the value of the total production derived from each crop. Section 105B(b)(1)(E) of the 1949 Act provides that the payment rate for grain sorghum, oats, and, if designated by the Secretary, barley, shall be such rate as the Secretary determines fair and reasonable in relation to the rate at which payments are made available for corn.

Comments are requested from interested persons as to the amount of the established (target) price for the 1983 crops of feed grains along with supporting data.

c. *The national program acreages (NPA's).* Section 105B(c)(1) of the 1949 Act requires the Secretary to proclaim NPA's for the 1983 crop of feed grains not later than November 15, 1982. The NPA for feed grains shall be the number of harvested acres the Secretary determines (on the basis of the weighted national average of the farm program payment yields for the 1983 crops) will produce the quantity (less imports) that the Secretary estimates will be utilized domestically and for exports during the 1983/84 marketing year. If the Secretary determines that carryover stocks of feed grains are excessive or an increase in stocks is needed to assure desirable carryover, the Secretary may adjust the NPA by the amount the Secretary determines will accomplish the desired increase or decrease in carryover stocks. The Secretary may later revise the NPA's first proclaimed if the Secretary determines it is necessary based upon the latest information. If an acreage reduction program is implemented for the 1983 crop of feed grains, the NPA's shall not be applicable to such crops.

The U.S. feed grain stock objective, an amount judged to be our "fair" share of world coarse grain stocks, has been determined to be equal to 6.25 percent of the world consumption of coarse grains (this represents the approximate 18-year average of the ratio of U.S. stocks to world consumption) or approximately 48 million metric tons for the 1982/83 marketing year.

If required, the likely NPA's for the 1983 crops of corn, sorghum, barley, and oats would be:

	Corn	Sorghum	Barley	Oats
	Million bushels			
a. Estimated domestic use, 1983/84	5,425	463	396	480
b. Plus estimated silage use, 1983/84	535	50		

	Corn	Sorghum	Barley	Oats
c. Plus estimated exports, 1983/84	2,415	285	75	10
d. Minus estimated imports, 1983/84	1		10	1
e. Plus or minus stock adjustment [1]	−787	−117	+12	+66
f. Divided by national weighted average farm program payment yield (bushels per acre)	100.5	58.8	40.2	53.9
	Million acres			
g. Equals 1983-crop NPA's	78.5	11.8	9.6	10.5

[1] See the following table.

	Million bushels			
a. Estimated 1983/84 beginning stocks	2,197	257	168	167
b. Minus about 6.25 percent of 1982/83 world consumption of coarse grains	1,410	180	180	236
c. Equals desired stock adjustment	−787	−117	+12	+66

No NPA's were announced for the 1982 crop of feed grains because the NPA provisions do not apply when an acreage reduction program is in effect. Comments on the NPA's and the appropriate stocks level for the 1983 crop of feed grains from interested persons, along with appropriate supporting data, are requested.

d. *Whether a voluntary reduction percentage should be proclaimed and, if so, the level of such voluntary reduction percentage:* Under Section 105B(c)(3) of the 1949 Act, the 1983 individual farm program acreage of feed grains eligible for payments shall not be reduced by application of an allocation factor (not less than 80 percent nor more than 100 percent) if the producer reduces the acreage of feed grains planted for harvest on the farm from the 1983-crop established feed grain acreage base by at least the percentage recommended by the Secretary in his proclamation of the NPA's for the 1983 crop. If an acreage reduction program is implemented for the 1983 crop of feed grains, the voluntary reduction percentage shall not be applicable to such crop. If required, the likely national recommended reduction percentages for the 1983-crop of feed grains would be:

	Corn	Sorghum	Barley	Oats
	Million acres			
a. 1983 estimated acreage base [1]	81.5	17.7	10.4	10.4
b. Minus 1983 preliminary NPA	76.5	11.8	9.6	10.5
c. Equals acreage reduction needed from acreage base	5.0	5.9	0.8	−0.1
d. Divided by 1983 acreage base	81.5	17.7	10.4	10.4
e. Equals 1983-crop recommended reduction percentage	6.1	33.3	7.7	0

[1] Equals the 1982 base acreage.

Comments from interested persons with respect to the reduction percentage, if any, are requested.

e. *Whether an acreage reduction program (ARP) should be established and, if so, the percentage of such reduction and method of establishing acreage bases.* Under sections 105B(e)(1) and (2) of the 1949 Act, the Secretary may establish an acreage reduction program for the 1983 crop of feed grains if the Secretary determines that the total supply of feed grains, in the absence of such a program, will be excessive, taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. The Secretary is required to announce whether an acreage reduction program is to be in effect for the 1983 crops of corn, sorghum, oats and, if designated, barley, by not later than November 15 prior to the calendar year in which the crop is harvested. Such limitation shall be achieved by applying a uniform percentage reduction to the acreage base for each feed grain-producing farm. Producers who knowingly produce feed grains in excess of the permitted feed grain acreage for the farm shall be ineligible for feed grain loans, purchases, and payments with respect to that farm. The acreage base for any farm for the purpose of determining any reduction required to be made for any year as the result of a limitation shall be the acreage planted on the farm to feed grains for harvest in the crop year immediately preceding the year for which the determination is made or, at the discretion of the Secretary, the average acreage planted to feed grains for harvest in the two crop years immediately preceding the year for which the determination is made.

The Secretary may make adjustments to reflect established crop-rotation practices and to reflect such other factors as he determines should be considered in determining a fair and equitable base. In addition, a number of acres on the farm determined by dividing (1) the product obtained by multiplying the number of acres required to be withdrawn from the production of feed grains times the number of acres actually planted to such commodity, by (2) the number of acres authorized to be planted to feed grains under a limitation established by the Secretary shall be devoted to conservation uses, in accordance with regulations issued by the Secretary.

The need for an acreage reduction program for feed grains in 1983 will depend on the outcome of the 1982 feed grain crop. Total feed grain acreage in 1982 is estimated at 122.4 million acres, approximately 1 percent below the 1981 acreage. It is estimated that the 1982-crop plantings of corn are 82.5 million acres. Total feed grain production is projected to be down approximately 7 percent from the record 1981 feed grain crop.

Domestic feed grain use is forecast at 157.7 million metric tons, only 1.5 percent higher than in 1981, as a sharp reduction in pork production will limit gains in feed use. With export availabilities expected to be down somewhat among non-U.S. suppliers and with import demand expected to increase slightly, U.S. feed grain exports are likely to recover partially from the sharp decline experienced during 1981/82. Projected exports of 67.2 million tons, up 3 percent from 1981/82, would still be 4 million tons below record feed grain exports during 1979/80. U.S. exports for 1982/83 may vary considerably depending on world wheat and feed grain production.

Total feed grain use will be approximately 225 million tons, 6.5 million tons less than the 1982 crop. As a result, carryover stocks could increase to nearly 70 million tons. Ending stocks of this magnitude are clearly excessive. The farmer-owned reserve will continue to absorb most of the increase in stocks, while the amount of grain in government inventory will also expand. The stock-to-use ratio of 31 percent compares with the 22 percent average of the previous 3 years, and 17 percent average during the last 10 years.

Unless economic conditions and demand factors improve materially and/or crop conditions deteriorate significantly during the 1982/83 season, the 1983/84 outlook is one of increasing supplies and continued pressure on prices. Based on current expectations,

carryin stocks may be the highest since 1964.

Without an acreage reduction program in 1983, feed grain acreage could be expected to total 127.4 million acres, 5 million acres more than is projected in 1982. Assuming trend yields, feed grain production would total 244 million metric tons, 5.4 percent more than is expected in 1982. Feed grain acreage is expected to increase despite the relatively low prices in relation to production costs because of the attractive target prices and loan rates. With only a modest increase in total use, carryover stocks will increase to 78.2 million tons, 13 percent more than is projected for 1982/83. This level of ending stocks exceeds the desired level of 48 million metric tons by more than 60 percent. Farm prices would not show much improvement from 1982 as feed grain markets would be burdened by the excessively large quantity of stocks.

The above outlook suggests that an acreage reduction program will be needed for the 1983 feed grain crop. However, later crop developments throughout the world could materially change this outlook. Options under consideration at this time include: (1) No ARP; (2) a 10 percent ARP; (3) a 15 percent ARP; and (4) various paid diversion programs.

Interested persons are encouraged to comment on the need for an acreage reduction program for the 1983-crop of feed grains, and the appropriate percentage. Also under consideration is the method for establishing the feed grain acreage bases for those producers participating in the 1983 program. At the present time, it is comtemplated that there will be two 1983 feed grain acreage bases: one for corn-sorghum and one for barley-oats. Such bases will equal the corresponding 1982 acreage base established for the farm if the producer participated in the 1982 ARP. In addition, the 1983 acreage base established for a farm will not be reduced below the 1982 base because a producer did not plant any of the 1982 acreage base established for the farm to the relevant feed grain if the proper acreage reports are filed with ASCS. It is further contemplated that the 1983 feed grain acreage bases will be established for the farm of a producer who did not participate in the 1982 ARP based upon the average of the 1981 and 1982 crops of feed grains planted to harvest on the farm. This will assure that, in determining feed grain acreage bases, a producer who did not participate in the 1982 feed grain program will not gain an unfair advantage over the producers who did participate.

Interested persons are requested to comment on the method for establishing acreage bases for the 1983 crop of feed grains.

f. *Whether a set-aside program should be established and, if so, what percentage of such set-aside.* Under sections 105B(e)(1) and (3) of the 1949 Act, the Secretary may establish a Set-Aside Program for the 1983 crop of feed grains if the Secretary determines that the total supply of feed grains, in the absence of such a program, will be excessive, taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. The Secretary is required to announce whether a set-aside program is to be in effect for the 1983 crops of corn, sorghum, oats, and, if designated, barley, by not later than November 15 prior to the calendar year in which the crop is harvested. If a set-aside program is announced, then as a condition of eligibility for loans, purchases, and payments, the producers on a farm must set-aside and devote to conservation uses an acreage of cropland equal to a specified percentage, as determined by the Secretary, of the acreage of feed grains planted for harvest of the crop for which the set-aside is in effect. The set-aside acreage shall be devoted to conservation uses in accordance with regulations issued by the Secretary. If a set-aside program is established, the Secretary may limit the acreage planted to feed grains. Such limitation shall be applied on a uniform basis to all feed grain-producing farms. The Secretary may make such adjustments in individual set-aside acreages as the Secretary determines necessary to correct for abnormal factors affecting production, and to give due consideration to tillable acreage, crop-rotation practices, types of soil, soil and water conservation measures, topography, and such other factors as the Secretary deems necessary.

Interested persons are encouraged to comment on the need for a 1983 feed grain set-aside program and, if so, the appropriate percentage of acreage to be set-aside.

g. *Whether barley should be determined to be an eligible commodity for payment purposes under the feed grain program.* Section 105B(b)(1)(E) of the 1949 Act gives the Secretary discretionary authority concerning the inclusion of barley as a commodity which is eligible for payments under the feed grain program. In the past, barley has been included as a commodity for which payments can be made under the feed grain program with the exception of 1967, 1968 and 1971 programs. If barley were not included in the 1983 program, barley producers would not be eligible to receive payments under the feed grain program for their crops but would be eligible for the price support and farmer-owned grain reserve programs.

While barley acreage has been reduced slightly over the past few years, yield trend increases have maintained barley supplies around 600 million bushels with normal weather conditions. The 1981 crop was a record 478 million bushels with a record yield of 52.3 bushels per acre. Barley demand, however, has remained fairly stable. Carryover stocks for barley during the 1982/83 crop year is projected to total 168 million bushels which is considered a desirable carryover level.

Interested persons are encouraged to comment on barley being included as a commodity for which payments can be made under the 1983 Feed Grain Program, considering the supply and demand situation indicated above.

h. *Whether malting barley should be exempt from an acreage reduction program if there is such a program.* Under section 105B(e)(2) of the 1949 Act, the Secretary may provide that no producer of malting barley shall be required as a condition of eligibilty for feed grain loans, purchases, and payments to comply with any acreage limitation if such producer has previously produced a malting variety of barley, plants barley only of an acceptable malting variety for harvest, and meets other conditions as the Secretary may prescribe.

Comments from interested persons with respect to the malting barley exemption, if any, are requested.

i. *Whether to allow haying and grazing of conservation use acreage if an acreage reduction program or set-aside program is established.* Section 105B(e)(4) of the 1949 Act provides that the regulations issued by the Secretary with respect to acreage required to be devoted to conservation uses shall assure protection of such acreage from weeds and wind and water erosion.

With respect to the 1982-crop Feed Grain Acreage Reduction Program, producers who had planted acreage to barley and oats before the announcement of the provisions of the 1982 feed grain program on January 29, 1982, were permitted to cut such barley and oats acreage for hay or to graze off such acreage. While producers who did not plant barley and oats before January 29, 1982, were permitted to graze the conservation use acreage except during

the six principal growing months, such producers were not permitted to harvest their barley and oats acreage for hay. In addition, specific cover crops and practices were developed at the local county ASC committee level and approved by the State ASC Committee and the State Conservationist for the 1982 conservation use acreage.

If an acreage reduction or set-aside program is announced for the 1983 crop, proposals to coordinate conservation concerns with a production adjustment program include the following: (1) Expanding the definition of land which is eligible to satisfy ARP conservation use or set-aside requirements; (2) allowing 1982 conservation use acreage to be included in the acreage base for subsequent programs; (3) giving priority for cost-sharing under conservation programs for practices which are installed on conservation use or set-aside acreage; and (4) permitting haying and grazing within approved guidelines on conservation use or set-aside acreage.

Interested persons are invited to comment on the grazing and haying of conservation use acreage and the conservation measures applied to land removed from production under the 1983 Acreage Reduction Programs. Also, comments are requested on what changes may be necessary to provide a greater degree of compatibility and coordination between the conservation and Acreage Reduction Programs or Set-Aside Programs.

j. *Whether a land diversion program should be established and, if so, the extent of such diversion and the level of payments.* Section 105B(e)(5) of the 1949 Act provides that the Secretary may make land diversion payments to producers of feed grains, whether or not an acreage reduction or set-aside program for feed grains is in effect, if the Secretary determines that such land diversion payments are necessary to assist in adjusting the total national acreage of feed grains to desirable goals. The amount payable to producers under land diversions contracts may be determined through the submission of bids for such contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary deems appropriate. In the past, land diversion payments have been made based upon an offer rate system (i.e. specific rate per bushel times a farm program payment yield).

If land diversion payments are determined to be necessary for the 1983 crop of feed grains, such payments will likely be based upon an offer rate system.

Diversion payment options under consideration for corn and grain sorghum include: (1) A 10 percent voluntary diversion with a 5 percent ARP and a payment rate of $100 or $175 per diverted acre; (2) a 5 percent voluntary diversion with a 10 percent ARP and a payment rate of $100 or $165 per diverted acre; and (3) a 10 percent voluntary diversion with a 10 percent ARP and a payment rate of $125 or $225 per diverted acre. Accordingly, the range of options under consideration for the diversion payment rates are $100 to $225 per diverted acre, depending on the diversion percentage and the desired participation.

Interested persons are encouraged to address the need for a land diversion program, either in lieu of, or in conjunction with, an acreage reduction or set-aside program, and the appropriate terms and conditions of a land diversion program.

k. *Provisions of the farmer-owned reserve (FOR).* Section 110 of the 1949 Act provides that the Secretary shall formulate and administer a program under which producers of feed grains will be able to store feed grains when in abundant supply and extend the time for its orderly marketing. The Secretary shall provide for original or extended price support loans at such level of support as the Secretary determines appropriate, except that the loan rate shall not be less than the current level of support provided for under the feed grain program established in accordance with Section 105B of the 1949 Act. The program may provide for (1) repayment of such loans in not less than three years nor more than five years; (2) payments to producers for storage in such amounts and under such conditions as are determined to be appropriate to encourage producers to participate in the program; (3) a rate of interest not less than the rate of interest charged the Commodity Credit Corporation by the United States Treasury, except that the Secretary may waive or adjust such interest as the Secretary deems appropriate; (4) recovery of amounts paid for storage, and for the payment of additional interest or other charges if such loans are repaid by producers before the market price for feed grains has reached the trigger release level; and (5) conditions designed to induce producers to redeem and market the feed grains securing such loans without regard to the maturity dates thereof whenever the Secretary determines that the market price for the commodity has attained a specified level (trigger release level), as determined by the Secretary. The Secretary shall announce the terms and conditions of the producer storage program as far in advance of making loans as practicable. In such announcement, the Secretary shall specify the quantity of feed grains to be stored under the program which the Secretary determines appropriate to promote the orderly marketing of feed grains. The Secretary may place an upper limit on the amount of feed grains placed in the reserve but such upper limit may not be less than 1 billion bushels of feed grains.

The following options are under consideration for the FOR for the 1983-crop of feed grains: (a) Extended loan rate for reserve entry—maintaining the loan rate at the same level as that established for 1982-crop feed grains entering the reserve ($2.90 per bushel for corn); (b) increasing the regular loan rate 5 cents per bushel for corn under the ARP and 10 cents per bushel with the land diversion programs, and maintaining the corn reserve level at the 1982 level ($2.90 per bushel); and (c) increasing the regular corn loan rate 20 cents per bushel over the 1982 rate and maintaining the 35 cents spread between the regular and reserve loan rate that existed for the 1982 crop of corn. The minor feed grain reserve loan rates will be established in relation to the grain reserve loan rate established for corn as described in section a. of the proposed determinations.

Interested persons are encouraged to comment on these or other options dealing with the provisions of the farmer-owned feed grain reserve program for the 1983 crop of feed grains.

l. *Whether to require offsetting compliance if an acreage reduction program or set-aside program is established.* Under section 105B of the 1949 Act, the Secretary may implement offsetting compliance requirements as a condition of eligibility for program benefits. If offsetting compliance is required, operators and owners of farms would have to ensure that all of their farms were either complying with the program requirements or planting within the established feed grain acreage bases or the normal crop acreage established for these farms in order to be eligible for program benefits. Offsetting compliance was not in effect for the 1982 crop.

Interested persons are encouraged to comment on the need for offsetting compliance for the 1983-crop of feed grains if an acreage reduction program is established.

m. *Other Related Provisions.* A number of other determinations must be made in carrying out the feed grain loan and purchase programs such as: (a) Commodity eligibility; (b) premiums and

discounts for grades, classes, and other qualities; (c) establishment of county loan and purchase rates; and (d) such other provisions as may be necessary to carry out the programs.

Consideration will be given to any data, views and recommendations that may be received relating to the above items.

Signed at Washington, D.C., on July 21, 1982.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 82-20233 Filed 7-26-82; 8:45 am]

BILLING CODE 3410-05-M

Commodity Credit Corporation

Rate of Interest on Delinquent Debts

ACTION: Notice of rate of interest on delinquent debts.

SUMMARY: This notice sets forth the rate of interest which the Commodity Credit Corporation (CCC) is charging on delinquent debts. Publication of this interest rate in the **Federal Register** by CCC is in accordance with the regulations found at 7 CFR Part 1403, Interest on Delinquent Debts. In the absence of a different rule prescribed by statute, contract or regulation, it has been determined that the applicable rate which is to be charged by CCC on delinquent debts is 17.00 percent per annum.

EFFECTIVE DATE: July 26, 1982.

FOR FURTHER INFORMATION CONTACT: Lewis Brown, Claims Specialist, Fiscal Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013, (202) 447-6614.

SUPPLEMENTARY INFORMATION: This notice has been reviewed in conformance with Executive Order 12291 and the Secretary's Memorandum 1512-1 and has been classified as "not major." It has been determined that the provisions of this notice will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This action will not have a major impact specifically on area and community development. Therefore, review as established by OMB Circular A-95 was not used to assure that units of local government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since CCC is not required by 5 U.S.C. § 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

The Attorney General and Comptroller General have jointly promulgated the Federal Claims Collection Standards (FCCS) in 4 CFR Parts 101-105 as mandated by the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 951-953). CCC is generally exempt from the provisions of the FCCS, since CCC has the authority under Section 4(k) of the CCC Charter Act (15 U.S.C. 714b(k) to make final and conclusive settlement and adjustment of all its claims. However, the Board of Directors, CCC, has administratively determined that the FCCS shall be applicable to all claims by CCC regardless of the amount (CCC Claims Policy Docket CZ 161a, Revision 4).

The FCCS requires that interest be charged on delinquent debts. In accordance witht he FCCS, CCC issued the regulations at 7 CFR Part 1403, Interest on Delinquent Debts (see 46 FR 71442), to provide that CCC will charge interest on delinquent debts. These regulations provide at 7 CFR 1403.5 that CCC will publish a rate of interest to be charged on delinquent debts as a notice in the **Federal Register.**

Notice

Accordingly, the rate of interest which will be charged by Commodity Credit Corporation by July 26, 1982 with respect to delinquent debts shall be 17.00 percent per annum.

Signed at Washington, D.C., on July 20, 1982.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 82-20234 filed 7-26-82; 8:45 am]

BILLING CODE 3410-05-M

Forest Service

Medicine Bow National Forest Grazing Advisory Board Meeting

Seven members of the Medicine Bow National Forest Grazing Advisory Board attended the summer tour on the Laramie Peak District July 8, 1982. A formal meeting was held in conjunction with the tour to discuss and make recommendations concerning development of Allotment Management Plans and utilization of Range Betterment Funds.

The following items were discussed during the meeting.

1. Due to lack of enough Advisory Board members to hold the annual February meeting, discussion was held to determine if there is a need to change this meeting to another date.

It was agreed to continue with the date specified in the by-laws.

2. Gerald Ferguson, a Board member, has moved to Oklahoma and will need to be replaced. This will be accomplished at the annual election.

3. The expenditure of Range Betterment Funds was discussed. Also, the possibility of using them to construct/reconstruct National Forest Boundary fences.

The Board recommended that Range Betterment Funds subscribe to the following parameters:

1. Arresting range deterioration.
2. Improve forage condition.
3. To benefit livestock and wildlife habitat and to improve watershed yield.

Range improvements should include any function to accomplish the above.

The Board requested the privilege to make recommendations to the Forest Supervisor on a case by case basis when requests are made for construction/reconstruction of boundary fences.

The 1983 summer tour location will be decided at the 1982 annual meeting.

The meeting was adjourned.

Dated: July 15, 1982.

Donald L. Rollens,

Forest Supervisor.

[FR Doc. 82-20245 Filed 7-26-82; 8:45 am]

BILLING CODE 3410-11-M

Food and Nutrition Service,

Cash in Lieu of Commodities; Value of Donated Commodities for School Year 1982

AGENCY: Food and Nutrition Service. USDA.

ACTION: Notice.

SUMMARY: This notice announces that, since the value of agricultural commodities and other foods meets the level of assistance authorized under the National School Lunch Act, there will be no shortfall cash payments to States for the National School Lunch Progam for the 1982 school year. The Secretary of Agriculture has determined that the annually programmed level of assistance was met in food donations by June 30, 1982.

FOR FURTHER INFORMATION CONTACT: Gwena Kay Tibbits, Chief, Program Monitoring and Policy Development

Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, Alexandria, Virginia 22302; (703) 756–3660.

SUPPLEMENTARY INFORMATION:

Classification: This action, which implements a mandatory provision of section 6(b) of the National School Lunch Act (the Act), has been reviewed under Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified as "nonmajor." It meets none of the three criteria in the Executive Order; the action will not have an annual effect on the economy of $100 million or more, will not cause a major increase in costs; and will not have a significant impact on competition, employment, productivity, innovation, or the ability of U.S. enterprises to compete.

The action has also been reviewed with regard to the requirements of Pub. L. 96–354, the Regulatory Flexibility Act of 1980. Samuel J. Cornelius, Administrator, Food and Nutrition Service has determined that it will not have a significant economic impact on a substantial number of small entities. The primary purpose of the action is to notify States that the amount of foods donated will meet the programmed level for the school year 1982; therefore, no payment of cash in lieu of donated foods will be necessary.

Section 6(b) of the National School Lunch Act (the Act), as amended (7 U.S.C. 1755) and the regulations governing cash in lieu of donated foods (7 CFR Part 240) require the Secretary of Agriculture by May 15 of each school year to estimate the value of agricultural commodities and other foods that will be delivered to States during that school year. Under the food distribution regulations (7 CFR Part 250), these foods are used by schools participating in the National School Lunch Program. If the estimated value is less than the total level of commodity assistance authorized under section 6(e) of the Act, the Secretary is required by June 15, 1982, to pay to each State administering agency, funds equal to the difference between the value of programmed deliveries and the total level of authorized assistance for each State.

Section 802 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) amended section 6(e) of the Act to establish 11 cents as the minimum national average value per lunch in donated foods or payment of cash in lieu thereof for the school year ending June 30, 1982. In accordance with this requirement, a national entitlement of $412,262,614 in commodities was established for school year 1982. The Secretary has determined that at least that amount was delivered nationally by June 30, 1982 to meet the mandated level of assistance. Notice is hereby given, therefore, that no shortfall cash payments will be made for the school year ending June 30, 1982.

This notice contains no reporting or recordkeeping provision necessitating clearance by the Office of Management an Budget.

(Catalog of Federal Domestic Assistance No. 10.555)

Dated: July 20, 1982.

Robert E. Leard,

Associate Administrator, Food and Nutrition Service.

[FR Doc. 82–20061 Filed 7–26–82; 8:45 am]

BILLING CODE 3410–30–M

CIVIL AERONAUTICS BOARD

[82–7–79]

Application of United Air Carriers, Inc. d.b.a. Overseas National Airways for Certificate Authority

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause (82–7–79).

SUMMARY: The Board is proposing to award certificates of public convenience and necessity to United Air Carriers, Inc. d/b/a Overseas National Airways authorizing it to engage in the interstate and overseas air transportation of property and mail between all points in the United States, its territories and possessions, except that it should not have to conduct all-cargo operations within Alaska or Hawaii and foreign air transportation of persons, property and mail between the United States and points in Belgium, the Netherlands, Luxembourg and the Federal Republic of Germany. The Board is also tentatively deciding that Overseas National Airways is fit, willing, and able to provide service.

DATES: Objections: All interested persons having objections to the Board's issuing the proposed certificates or to its tentative finding of fitness shall file, and serve upon all persons listed below no latter than August 11, 1982, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the objections.

ADDRESSES: Objections to the issuance of a final order should be filed in Dockets 40634 and 40635, and addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served on Overseas National Airways; and the major and airport manager of each city to which the pleading refers.

FOR FURTHER INFORMATION CONTACT: Gerard N. Boller, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673–5352.

SUPPLEMENTARY INFORMATION: The complete text of Order 82–7–79 is available from our Distribution Section, Room 100, 1825 Connecticut Ave., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82–7–79 to that address.

By the Civil Aeronautics Board: July 22, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–20279 Filed 7–26–82; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Float Glass From Belgium; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of countervailing duty order.

SUMMARY: On February 11, 1982 (47 FR 6310), the Department of Commerce published in the **Federal Register** a notice of the revised preliminary results of its administrative review of the countervailing duty order on float glass from Belgium. The review covered the period of July 1, 1980 through March 31, 1981.

Interested parties were invited to comment on the preliminary results. Upon review of all comments received, the Department has determined the net subsidy to be 0.29 percent *ad valorem*. Because this rate is *de minimis*, the Department will instruct the Customs Service not to collect countervailing duties for entries during the period July 18, 1980 through February 19, 1981. Further, the Department is establishing a zero countervailing duty deposit rate for future entries.

EFFECTIVE DATE: July 27, 1982.

FOR FURTHER INFORMATION CONTACT: Claire Rickard or Richard Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–1487/2786).

SUPPLEMENTARY INFORMATION:

Background

On June 5, 1981, the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 30160) the preliminary results of its administrative review of the countervailing duty order on float glass from Belgium (46 FR 10905). On February 11, 1982, the Department published revised preliminary results of the review (47 FR 6310). The Department has now completed that review.

Scope of the Review

The merchandise covered by the review is Belgian flat glass manufactured by the float process. This merchandise is currently classifiable under items 543.2100 through 543.6900 of the Tariff Schedules of the United States Annotated. Entries of float glass which has been substantially further manufactured (e.g., into tempered glass or laminated glass) are not subject to this countervailing duty order.

The review covers Glaverbel, S.A. and Glaceries de Saint-Roch, S.A. ("GSR"), the two known exporters of this merchandise to the United States. The revised time period covered by the review is July 1, 1980 through March 31, 1981. The Department reviewed four subsidy programs: interest rebates, capital grants, exemptions from certain property taxes, and exemptions from local taxes.

Analysis of Comments Received

Interested parties were invited to comment on our revised preliminary results. At the request of the petitioner, PPG Industries, Inc., we held a public hearing on April 16, 1982. The major outstanding issues raised at the public hearing and in the comments submitted are as follows:

(1) *Comment:* The petitioner objected to the Department's preliminary determination that the net subsidy rate for the period is *de minimis.*

Position: The Court of International Trade has upheld the application of the *de minimis* principle to countervailing duty investigations in *Carlisle Tire and Rubber Co.* v. *United States,* 517 F. Supp. 704 (C.I.T. 1981). Since the Department assumed responsibility for administration of the countervailing duty law on January 2, 1980, it has consistently applied the *de minimis* principle and has not found to be countervailable any entries made on or after January 1, 1980, which are subject to aggregate net subsidy rates of less than 0.5 percent *ad valorem.* This consistent administrative practice recognizes that at some point a benefit becomes so small that it is of no significance.

(2) *Comment:* The petitioner objected to the Department's preliminary determination that the net subsidy rate for Belgian float glass is 0.29 percent *ad valorem,* on the grounds that use of a country-wide rate is arbitrary.

Position: It is not necessary to respond to petitioner's objection to use of a country-wide rate since in this case all the rates, the country-wide rate and the two company-specific rates, are *de minimis.*

(3) *Comment:* The petitioner objected to the Department's use of ten years as the average useful life of capital assets over which to allocate the capital grants received by GSR and Glaverbel.

Position: During the verification both GSR and Glaverbel independently gave ten years as the average accounting useful life of their float glass production lines. These figures were supported by depreciation figures in GSR's company books and by the amortization rates in Glaverbel's 1980 annual report, which stated that the superstructure of glass melting ovens was amortized over six years and the infrastructure over fifteen years. It is Department policy to follow the accounting practice of the country under investigation unless we have reason to question that practice. We have used the average accounting useful lives because they reflect the assets' economic lifespan. Such a measurement more accurately incorporates considerations such as technological obsolescence than estimates of physical useful lives.

Petitioner submitted an affidavit supporting its argument that the ten year amortization period was far shorter than the useful life for float glass production lines, based on U.S. industry experience. Petitioner argued that the period should be twenty to thirty years. However, petitioner's affidavit seems to refer to physical useful life. Moreover, U.S. Internal Revenue Service tables indicate that depreciation periods for assets used in production of float glass can range from eleven to seventeen years (Rev. Proc. 77–10, 1977–1 Cum. Bull. 548). These tables, used as a check against the accuracy of our choice of ten years as the allocation period, do not support petitioner's argument that the ten year period bears no relationship to the useful life of float glass production assets. The IRS tables, combined with the support found for the ten year period in GSR's books and the Glaverbel annual report, cause us to conclude that petitioner's affidavit is insufficient reason for us to reject the ten year figure.

(4) *Comment:* Petitioner objects to our preliminary determination to allocate the capital grants over one-half the useful life of the assets purchased with the grants and without taking into account the time value of money.

Position: It was the consistent administrative practice of the Department of the Treasury ("Treasury"), in its administration of the countervailing duty law prior to January 2, 1980, not to take into account the time value of money in valuing a grant. The Department of Commerce adopted the administrative practice of allocating capital grants over one-half the useful life of the assets purchased with the grants and without taking into account the time value of money. The Department adopted the administrative practice of allocating grants over one-half the useful life of the assets purchased in order to comply with the congressional intent for front loading such subsidies. The Department has determined that allocating the capital grants over half the useful life of the acquired assets is a reasonable approach to meeting that directive.

At the same time, the Department recognizes that there may be other reasonable methods of measuring competitive benefit for our use in future reviews in this and other cases. Specifically, in the preliminary affirmative countervailing duty determinations on certain steel products from Belgium, Brazil, France, the Federal Republic of Germany, Italy, Luxembourg, the Netherlands, South Africa, and the United Kingdom (47 FR 26300, June 17, 1982), we proposed allocating the benefits of capital grants over the full life of capital assets and valuing such grants so that the present value (in the year of the grant receipt) of the amounts, allocated over time, equals the face value of the grants. The Department has asked for comments on this proposed methodology.

The preliminary results in this review of the order on Belgian float glass were published, and a hearing held and comments received, prior to the Department's publication of the preliminary determinations on certain steel products. We believe it is inappropriate to apply the new methodology in all our section 751 reviews until the methodology is adopted, possibly in final determinations in the pending steel cases. Further, possible future acceptance of the new methodology does not indicate that the existing methodology is not also a reasonable way to allocate grants.

(5) *Comment:* Petitioner argues that the subsidy value of a grant should be calculated as the book value each year of the asset acquired for the entire useful life of the asset.

Position: Petitioner's argument, if accepted, would grossly overstate the value of the subsidy and would produce a hypothetical figure unrelated to any accepted financial or accounting practice for valuing receipt of a grant.

(6) *Comment:* Petitioners objects to our preliminary results on the grounds that subsidies applicable to merchandise entered during the pendency of the court challenge to Treasury's negative finding but prior to the date of suspension of liquidation should be applied prospectively.

Position: The Department's methodology attributes subsidies to the entries which benefit economically from those subsidies. It would disregard economic reality to attribute to subsequent entries economic benefits which were actually received by products which have already been liquidated.

Liquidation of Belgian float glass was suspended on July 18, 1980, when the Customs Court (now the Court of International Trade) granted petitioner/plaintiff's motion for summary judgment and remanded the case to the Department. Since this case was litigated under the law in effect prior to passage of the Trade Agreements Act of 1979 ("the TAA"), there was no provision for suspending liquidation during litigation. 19 U.S.C. 1516 (e) and (g), as in effect prior to January 1, 1980, provided that, while litigation was pending, entries had to be liquidated in accordance with the administrative decision in effect at that time and that there could be no suspension of liquidation until publication of an adverse court decision in the litigation. The TAA specifically provided for injunctions against liquidation during litigation. This specific provision would not have been necessary had the right already existed prior to January 1, 1980. Consequently, the result which petitioner objects to is the specific result intended by Congress under the law in effect while petitioner's case was being litigated.

Final Results of the Review

Upon review of all comments received, we determine that the aggregate net subsidy conferred by the four programs cited above during the period of review is 0.29 percent *ad valorem* country-wide (0.46 percent *ad valorem* for GSR and 0.10 percent *ad valorem* for Glaverbel). These rates are less than 0.5 percent and therefore *de minimis*. Accordingly, the Department will instruct the Customs Service not to assess countervailing duties on any shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after July 18, 1980 and entered before February 20, 1981. On February 20, 1981, the International Trade Commission ("the ITC") notified the Department that the Belgian government had requested an injury determination for this order under section 104(b) of the TAA. If the ITC should find that there is injury or likelihood of injury to an industry in the United States, as provided in section 104(b)(2) of the TAA, the Department shall instruct the Customs Service to assess countervailing duties of 2 percent of the f.o.b. value (the cash deposit required at time of entry) on unliquidated entries of float glass from Belgium entered, or withdrawn from warehouse, for consumption on or after February 20, 1981, and exported on or before March 31, 1981.

Further, as provided by section 751(a)(1) of the Tariff Act of 1930 ("the Tariff Act"), the Customs Service will not collect a cash deposit of estimated countervailing duties on any shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This waiver of deposit shall remain in effect until publication of the final results of the next administrative review.

The Department is now commencing the next administrative review of the order. The amount of countervailing duties to be imposed on the merchandise exported during the period April 1, 1981 through March 31, 1982, will be determined in that review. Consequently, the suspension of liquidation previously ordered will continue for all entries of this merchandise exported on or after April 1, 1981.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information in the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

July 22, 1982.

[FR Doc. 82-20289 Filed 7-26-82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Mid-Atlantic Fishery Management Council's Scientific and Statistical Committee; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Mid-Atlantic Fishery Management Council, established by section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265), has established a Scientific and Statistical Committee which will meet to discuss the Tilefish Fishery Management Plan as well as discuss the role of the Scientific and Statistical Committee in relation to the Council.

DATES: The public meeting will convene on Wednesday, September 1, 1982, at approximately 10 a.m., and will adjourn at approximately 3:30 p.m. The meeting may be lengthened or shortened or agenda items rearranged depending upon progress of same, and will take place at the Best Western Airport Motel, Philadelphia International Airport, Philadelphia, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, Delaware 19901; Phone (302) 674-2331.

Dated: July 22, 1982.

Jack L. Falls,

Chief, Administrative Support Staff, National Marine Fisheries Service.

[FR Doc. 82-20290 Filed 7-26-82; 8:45 am]

BILLING CODE 3510-22-M

Mid-Atlantic Fishery Management Council's Surf Clam and Ocean Quahog Subpanel; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Mid-Atlantic Fishery Management Council, established by section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265), has established a Surf Clam and Ocean Quahog Subpanel

which will hold two separate public meetings. On August 27, 1982, the Subpanel will meet to discuss results of a survey in the surf clam closed area, as well as limited entry and on September 24, 1982, the Subpanel will meet to discuss the 1983 quota and, again, limited entry.

DATES: The August 27 and September 24, 1982, public meetings will convene at approximately 10 a.m., and will adjourn at approximately 4 p.m., both days. The meetings may be lengthened or shortened or agenda items rearranged depending upon progress of same. Both meetings will take place at the Sheraton, Route 13, Dover, Delaware.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, Delaware 19901; Telephone (302) 674–2331.

Dated: July 22, 1982.

Jack I Falls,

Chief, Administrative Support Staff, National Marine Fisheries Service.

[FR Doc. 82-20249 Filed 7-26-82; 8:45 am]

BILLING CODE 3510-22-M

COPYRIGHT ROYALTY TRIBUNAL

[CRT 80-4]

Order Requesting Declaratory Ruling and Conditioning of Distribution of 1979 Cable Royalty Fund

On June 29, 1982 Golden West filed with the Copyright Royalty Tribunal a Request for Declaratory Ruling and Conditioning of Distribution of Funds. The Motion Picture Association of America filed an opposition to the request on June 30, 1982. Golden West filed its reply to the opposition on July 1, 1982.

The Tribunal heard oral argument on the matter on July 14, 1982.

In a public meeting on July 21, 1982 the Tribunal denied the Golden West request by a vote of 1 yes (Commissioner Brennan), 3 nays (Commissioners Coulter, Burg, and Garcia) and 1 absentation (Commissioner Ray).

Minority views of Commissioner Brennan follows:

Frances Garcia,

Chairman.

Minority Views of Commissioner Brennan

The Tribunal has jurisdiction to consider the motion of Golden West, and the motion should have been granted.

The Tribunal retains residual jurisdiction to provide for the distribution of the royalty fund in accordance with its proceedings and orders. The Tribunal has declined to distribute to Golden West the royalty fees required by a voluntary agreement with MPAA announced during the proceedings of the Tribunal. MPAA later discovered that it had made a mistake adverse to its interest, and it declined to observe the agreement. Not for the first time in the 1979 cable distribution proceedings, the majority has placed the interests of MPAA above the rights of other claimants.

The Tribunal's denial of the motion of Golden West is arbitrary and cannot be defended either as a matter of law or equity.

[FR Doc. 82-20216 Filed 7-26-82; 8:45 am]

BILLING CODE 1410-01-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Restraint Level for Certain Wool Apparel Products From the Socialist Republic of Romania

July 21, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing from 7,037 to 8,037 dozen the designated consultation level for women's, girls', and infants' wool coats and suits in Category 435/444, produced or manufactured in the Socialist Republic of Romania and exported during the agreement year which began on April 1, 1982.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27483), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926), and May 13, 1982 (47 FR 20654)).

SUMMARY: Pursuant to agreement between the Governments of the United States and the Socialist Republic of Romania, the Bilateral Wool and Man-Made Fiber Textile Agreement of September 3, and November 3, 1980, as amended, between the two Governments is being further amended to increase the designated consultation level established for wool apparel products in Category 435/444 to 8,037 dozen for the agreement year which began on April 1, 1982 and extends through March 31, 1983.

EFFECTIVE DATE: July 21, 1982.

FOR FURTHER INFORMATION CONTACT: Diana Bass, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On April 1, 1982, there was published in the Federal Register (47 FR 13856) a letter dated March 25, 1982 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established levels of restraint for certain specified categories of wool and man-made fiber textile products, including Category 435/444, produced or manufactured in the Socialist Republic of Romania, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on April 1, 1982 and extends through March 31, 1983. In the letter published below, in accordance with the terms of the bilateral agreement, as further amended, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the twelve-month level previously established for Category 435/444 to 8,037 dozen.

Paul T. O'Day

Chairman, Committee for the Implementation of Textile Agreements.

July 21, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,

Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on March 25, 1982 by the Chairman of the Committee for the Implementation of Textile Agreements concerning imports into the United States of certain wool and man-made fiber textile products, produced or manufactured in Romania.

Effective on July 21, 1982, paragraph 1 of the directive of March 25, 1982 is amended to increase the level of restraint for wool textile products in Category 435/444 to 8,037 dozen [1] for the twelve-month period beginning on April 1, 1982 and extending through March 31, 1983.

The action taken with respect to the Government of the Socialist Republic of Romania and with respect to imports of wool textile products from Romania has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

[1] The level of restraint has not been adjusted to reflect any imports after March 31, 1982.

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-20282 Filed 7-26-82; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of The Air Force

Acceptance of Group Application; Guam Combat Patrol

Under the provisions of Section 401 of Public Law 95-202 and DODD 1000.20, the DOD Civilian/Military Service Review Board has accepted an application on behalf of the Guam Combat Patrol. Persons with information or documentation pertinent to the determination of whether the service of this group was equivalent to active military service are encouraged to submit such information or documentation within 60 days to the DOD Civilian/Military Service Review Board, Secretary of the Air Force (SAF/MIPC), Washington, DC 20330. For further information contact Mrs. Simard, Telephone No. 694-5074.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82-20224 Filed 7-26-82; 8:45 am]

BILLING CODE 3915-01-M

Office of the Secretary

Department of the Air Force; Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following: (1) Type of Submission; (2) Title of Information Collection and Form Number, if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of respondents; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension

Air Force Reserve Officer Training Corps (AFROTC) Cadet Personnel System (formerly AFROTC Accession and Membership Forms)

This report is needed for AFROTC program management of cadets/applications. It is used for (1) keeping account of applicants/cadets on board, (2) aiding in the scholarship selection process, (3) determining trends, and (4) aiding in the performance of enrollment analyses, etc. It is the basis for personnel recordkeeping.

Candidates for Air Force officer commissioning through ROTC: 33,120 responses, 4,703 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DOD Clearance Officer, OASD, DIRMS, IRAD, Room 1A658, Pentagon, Washington, D.C. 20301, telephone (202) 697-1195.

A copy of the information collection proposal may be obtained from Mr. Williamson or Capt. LaCour, AFROTC/XRS, Maxwell AFB, AL 36112, telephone (205) 293-7107.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

July 22, 1982.

[FR Doc. 82-20278 Filed 7-26-82; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

[Case No. F-004]

Energy Conservation Program for Consumer Products; Decision and Order Granting Waiver From Furnace Test Procedures to Lennox Industries, Inc.

AGENCY: Department of Energy.

ACTION: Decision and Order.

SUMMARY: Notice is given of the Decision and Order (case no. F-004) granting Lennox Industries Inc. a waiver for its model G14 furnace from the existing DOE test procedures for furnaces.

FOR FURTHER INFORMATION CONTACT:

Michael J. McCabe, U.S. Department of Energy, Office of Conservation and Renewable Energy, Mail Station CE-113.1, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-9127

Eugene Margolis, Esq., U.S. Department of Energy Office of General Counsel Mail Station GC-33, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-9510.

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 430.27(g), notice is hereby given of the issuance of the Decision and Order set out below. In the Decision and Order, Lennox Industries Inc. has been granted a waiver for its model G14 pulse-combustion/condensing warm air furnace, permitting the company to use an alternate test method and in-house test facilities.

Issued in Washington, D.C., July 7, 1982.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

Decision and Order of the Department of Energy—Assistant Secretary for Conservation and Renewable Energy

In the matter of Lennox Industries Inc., Case No. F-004.

Background

The Energy Conservation Program for Consumer Products was established pursuant to the Energy Policy and Conservation Act, Pub. L. 94-163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act, Pub. L. 95-619, 92 Stat. 3206, which require the Department of Energy (DOE) to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedure is to provide a comparable measure of energy consumption that will assist consumers in making purchase decisions. These test procedures appear at 10 CFR Part 430, Subpart B.

The Department of Energy amended the prescribed test procedure regulations, by adding § 430.27, to allow the Assistant Secretary for Conservation and Renewable Energy to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing of the basic model according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of it true energy consumption characteristics as to provide materially inaccurate comparative data. 45 FR 64108, Sept. 26, 1980.

Pursuant to § 430.27(g), the Assistant Secretary shall publish in the **Federal Register** notice of each waiver granted, and any limiting conditions of each waiver.

Lennox Industries Inc. (Lennox), filed a "Petition for Waiver" in accordance with section 430.27 of 10 CFR Part 430. DOE published in the **Federal Register** the Lennox petition and solicited comments, data, and information respecting the petition. 47 FR 8812, March 2, 1982. Notice of petition for waiver was sent to known manufacturers of domestically marketed condensing furnaces, i.e., Arkla Industries and Hydro Therm, Inc. Comments were received from Arkla Industries, Carrier Corp., Hydro Therm Inc., and The Singer Company, all manufacturers of furnaces. Comments were also received from the Oklahoma Natural Gas Company and the Lone Star Gas Company, both public utilities. The comments were sent to the petitioner on April 7, 1982. DOE consulted with the Federal Trade Commission on April 29, 1982, concerning the petition from Lennox.

Assertions and Determinations

The Lennox petition contends that even though the DOE test procedures for furnaces were amended to allow testing of pulse/condensing furnaces, 45 FR 53714, Aug. 12, 1980, its model G14 pulse combustion furnace line, when tested according to those procedures, will yield materially inaccurate comparative data.

The Lennox petition seeks a waiver from the present DOE test method basing condensation calculations on the average flue gas temperature. Lennox contends that its G14 furnace line condenses more of the water vapor than is calculated by the DOE test method. In lieu of the current test method, Lennox requests the option to use the condensate measuring test method set forth in Appendix C of the National Bureau of Standards (NBS) Interagency Report 80–2110, "Recommended Testing and Calculation Procedures for Estimating the Seasonal Performance of Residential Condensing Furnaces and Boilers" (hereafter referred to as the alternate test method), to determine the energy efficiency of its model G14 furnace line.

Lennox, further, seeks permission to conduct testing using the alternate test method at its in-house test facilities. Such allowance for in-house testing was rejected in a previous Decision and Order on the grounds that the reliability of the alternate test method was suspect. 46 FR 34621, July 2, 1981. Lennox contends that the alternate test method is of sufficient reliability to permit in-house testing by manufacturers.

All commenters supported Lennox's allegation that the existing test procedures for condensing furnaces understate the seasonal efficiency of a pulse-combustion/condensing furnace, such as the Lennox G14 furnace. In addition, NBS investigated Lennox's claims and reported that efficiency improvement attributable to the condensing mode of operation could be understated as a result of the existing DOE test procedures. Based on this information, DOE has determined that Lennox should be granted a waiver to use the alternate method when testing its G14 furnaces.

Hydro Therm and Singer supported Lennox's request for in-house testing. Hydro Therm's comments stated that the results of tests conducted at an independent laboratory using the alternate test method were substantially identical to the results it obtained through in-house testing. Thus, according to Hydro Therm the alternate test method has been shown to be of sufficient reliability to permit "in-house" testing. No opposition to Lennox's request for in-house testing was presented in the comments.

Based principally on the statement of Hydro Therm concerning the reliability of the alternate test method, as well as the materials presented by Lennox and the other commenters, and in order to save the manufacturer time and money, DOE has determined to grant Lennox's request for in-house testing.

It is therefore ordered that:

(1) The "Petition for Waiver" filed by Lennox Industries Incorporated is hereby granted as set forth in paragraph (2) below, subject to the provisions of paragraphs (3) and (4).

(2) Notwithstanding any contrary provisions of Appendix N of 10 CFR, Part 430, Subpart B, Lennox Industries Incorporated shall be permitted to test its model G14 pulse-combustion/condensing warm air furnace on the basis of the test procedures specified in 10 CFR, Part 430, with the modifications set forth below:

(a) *Test Conditions*—

(1) The test unit shall be installed according to the requirements given in section 2.

(2) Control devices shall be installed to allow cyclical operation of the unit and return water as described in section 3.3.

(3) The test unit shall be leveled prior to test.

(4) Operation times and the beginning and end of condensate collection shall be determined by a clock or timer with a minimum resolution to one second.

(5) Control of on or off operation actions shall be within ±6 seconds of the scheduled time.

(6) Condensate drain lines shall be attached to the unit as specified in the manufacturer's installation instructions.

(7) The flue pipe installation must not allow condensate formed in the flue pipe to flow back into the unit. An initial downward slope from the unit's exit, an offset with a drip leg, annular collection rings, or drain holes must be included in the flue pipe installation without disturbing normal flue gas flow (as given in section 2.2), and temperature measurement instrumentation (as given in section 2.6). Flue gases shall not flow out of the drain with the condensate.

(8) Collection-containers must be glass or polished stainless steel, so removal of interior deposits can be easily made.

(9) The collection-container shall have a vent opening to the atmosphere.

(10) The scale for measuring the containers and condensate sample mass shall be calibrated with an error no larger than ±0.5 percent over the range of interest.

(b) *Test Method*—

(1) The condensing furnace or boiler is to have steady-state, cool-down, and heat-up tests conducted in accordance with the procedures for non-condensing units given in section 3, using the flue gas, air or water flow, and room ambient conditions given.

(2) The condensate collection containers shall be dried prior to each use and be at room ambient temperature prior to a sample collection.

(3) Tare weight of the collection-container must be measured and recorded prior to each sample collection.

(4) Operating times for on and off periods at 22.5 percent on time schedule shall be: 9 minutes 41 seconds on and 33 minutes 16 seconds off for boilers and 3 minutes 52 seconds on and 13 minutes 20 seconds off for warm air furnaces.

(5) The unit should be operated in a cyclical manner until flue gas temperatures at the end of each on period are within 5°F (2.8°C) of each other for two consecutive cycles.

(6) Begin the three test cycles.

(7) Return water temperature for boilers or return air temperature for furnaces shall be equal to those required for steady-state test periods, and shall remain within the limits given in the existing test procedure.

(8) Begin condensate collection at one minute before start up of the first test on-period.

(9) Three cycles later, the container shall be removed at the end of the cool down cycle one minute prior to the beginning of what would be the fourth cycle period.

(10) Condensate mass shall be measured immediately at the end of the collection period to prevent evaporation loss from the sample.

(11) Fuel input shall be recorded during the entire test period starting at the beginning of the on-time of the first cycle to the beginning of the on-time of the second cycle, etc., for each of the three test cycles. Fuel Higher Heating Value (HHV), temperature and pressures necessary for determining fuel energy input, Q_c, will be observed and recorded. The fuel quantity and HHV shall be measured with errors no greater than one percent.

(c) *Calculating the condensing Annual Fuel Utilization Efficiency (AFUE)*—

(1) Determine the mass of condensate for three cycles, m_c, by subtracting the tare container weight from the total container and condensate weight at end of the three cycles of operations.

(2) Calculate the fuel energy input during the three cycles, Q_c, in Btu/(3 cycles).

(3) Calculate the heat gain due to condensation, L_G, in percent by the following equation:

$$L_G = \frac{m_c(1bm/(3\ cycle)) \times 1053.3(Btu/1bm) \times 100}{Q_c(Btu/(3\ cycles))}$$

(4) Calculate the loss, L_c, due to hot condensate going down the drain, correcting the fact that this condensate did not go up the flue as heated vapor.

$$L_c = \frac{L_G[1.0(T_{f,ss} - 70) - .45\ (T_{f,ss} - 42)]}{1053.3}$$

(5) Calculate the condensating AFUE by adding the percent heat gain due to condensing, L_G, to the previously calculated non-condensing AFUE and by subtraction L_c.

$$AFUE_c = AFUE_{NC} + L_G - L_c$$

(d) With the exception of the modifications set forth in subparagraphs (a), (b) and (c) above, Lennox Industries Inc. shall comply in all respects with the test procedures specified in Appendix N of 10 CFR, Part 430, Subpart B.

(3) The waiver shall remain in effect from the date of issuance of this order until the Department of Energy prescribes final test procedures appropriate to the type of condensing warm air furnace manufactured by Lennox Industries Inc.

(4) This waiver is based upon the presumed validity of statements, allegations, and documentary materials submitted by the applicant and commenters. This waiver may be revoked or modified at any time upon a determination that the factual basis underlying the application is incorrect.

Issued in Washington, D.C., July 7, 1982.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 82-20167 Filed 7-26-82; 8:45 am]

BILLING CODE 6450-01-M

Office of the Secretary

Finding of No Significant Impact; Fuel Materials Facility, Savannah River Plant, Aiken, S.C.

AGENCY: Department of Energy.

ACTION: Finding of no significant impact for the construction and operation of the Naval Reactor Fuel Materials Facility.

SUMMARY: The Department of Energy has prepared an environmental assessment for the construction and operation of the Naval Reactor Fuel Materials Facility at the Department's Savannah River Plant near Aiken, South Carolina. Based upon the analyses in the environmental assessment, and after consideration of comments received during a 30-day review period on a proposed Finding of No Significant Impact, the Department has determined that preparation of an environmental impact statement is not required.

Background

Notice of availability of the environmental assessment and a proposed Finding of No Significant Impact were published in the **Federal Register** on May 19, 1982. The proposed Finding and copies of the environmental assessment were distributed to interested individuals and organizations. The 30-day public comment period expired June 18, 1982. Only one comment letter was received. This letter was from the U.S. Department of Labor, Occupational Safety and Health Administration. The Department of Energy has prepared an appendix to the environmental assessment which contains the comment letter and the responses to the few issues raised by the Department of Labor letter.

Since no issues bearing on the significance of the environmental impacts of the Naval Reactor Fuel Materials Facility were raised during the comment period, the Department has made a final determination that preparation of an environmental impact statement, pursuant to the requirements of the National Environmental Policy Act, is not required. The final Finding of No Significant Impact is presented below.

ADDRESS: Copies of the environmental assessment and the new appendix can be obtained from: Roger P. Whitfield, Director, Fuel Materials Facility Project Office, Department of Energy, P.O. Box A, Aiken, South Carolina 29801

Finding of No Significant Impact

The action involves the construction and operation of the Naval Reactor Fuel Materials Facility at the Department of Energy's Savannah River Plant (SRP) near Aiken, South Carolina. The facility will convert enriched uranium into a form suitable for use in the fabrication of reactor cores for propulsion of the ships of the Naval Nuclear Fleet. The Fuel Materials Facility will augment the production of fuel material, currently limited to an existing commercial supplier, as a contingency against unforeseen events.

There are no known significant environmental impacts associated with the action. The Fuel Materials Facility will be located on a previously cleared 6-acre site in an existing SRP operating area. Minor construction impacts will be experienced, including minimal increases in particulate emissions and noise levels at the SRP boundary. The peak construction work force demand for 580 employees will primarily be met by the local labor force. Inmigration of an estimated 180 construction employees should have a minor effect on land use, housing and social services. No impcats are expected on historic or archeological sites or ecological resources.

The routine operation of the Fuel Materials Facility will result in atmospheric and liquid radiological releases that will be substantially below naturally occurring (background) levels. Similarly, even the most serious accident (tornado) would result in a maximum individual dose (at the SRP boundary 6 miles away) of 1.9 millirem, which is 2 percent of naturally occurring levels and 0.4 percent of the Department's standard for radiation protection (DOE Order 5480.1).

Nonradiological releases will not significantly affect the environment. Atmospheric emissions will result in maximum offsite concentrations that are substantially below background levels and will have a negligible effect on air quality. The liquid effluents will result in increased concentrations of pollutants in onsite streams; however, levels will be well below drinking water standards (40 CFR Part 140 and Part 143) and any changes in offsite concentrations in the Savannah River will be undetectable.

The alternatives to the action considered were: no action, commercial production, alternative processes and alternative DOE sites. The no-action alternative is considered unacceptable because of project need. Commercial production of fuel materials was eliminated as a viable alternative due to requirements by commercial firms for Government funding and assumption of financial risks. Alternative processes were precluded from consideration since only one process is technically qualified for producing fuel materials. A siting study identified an alternate site at Oak Ridge, Tennessee, which was assessed; no significant differences between it and the SRP site were found.

Dated: July 19, 1982.

William A. Vaughan,

Assistant Secretary, Environmental Protection, Safety, and Emergency Preparedness

[FR Doc. 82-20168 Filed 7-26-82; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[WH-FRL 2174-8]

Municipal Wastewater Treatment Works

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability.

The Office of Water has completed a guidance document entitled "Construction Grants 1982 (CG-82)." CG-82 restates regulatory requirements and consolidates technical procedures, policy directives and guidance applicable to the planning, design and construction phases of the Environmental Protection Agency (EPA) construction grants program. CG-82 is consistent with the interim final construction grants regulations (Subpart I issued on May 12, 1982) and the 1981 amendments to the Clean Water Act.

CG-82 contains necessary information to be used by grantees and their architect/engineers as a supplement to the revised construction grants regulations. CG-82 is a guidance for the planning, design, and construction of a wastewater treatment plant based on good practice. CG-82 may also be used by the State agencies and EPA regional offices as guidance in reviewing construction grants applications.

EPA's ultimate goal is to rely on regulations and guidance, and to reduce policy memoranda to a minimum. CG-82 supersedes approximately 50 program requirements and program operations memoranda.

The information and guidance contained in CG-82 can and should be used immediately. EPA will update the document (as "CG-83") to account for

any changes in the construction grant regulations when they are promulgated in final form. For this reason, comments on CG–82 are encouraged, especially with respect to its applicability and usefulness. Specific comments are also requested on any missing subjects or areas in need of clarification or elaboration. We will use these comments to make revisions to the document. Comments should be sent to Mr. Lam Lim.

Copies of CG–82 have been sent to the EPA regional offices and to State water pollution control agencies which have received construction grants program delegation. CG–82 is available at those locations. Copies of CG–82 are also available from the EPA address below.

ADDRESS: Mr. Lam Lim, Municipal Technology Branch, Municipal Construction Division (WH–547), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Lam Lim, (202) 426–8976.

Dated: July 13, 1982.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water (WH–556).

[FR Doc. 82–20213 Filed 7–26–82; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1367]

Petitions for Reconsideration and Applications for Review of Actions in Rule Making Proceedings

July 21, 1982.

The following listings of petitions for reconsideration and applications for review filed in Commission rulemaking proceedings is published pursuant to 47 CFR 1.429(e). Oppositions to such petitions for reconsideration and applications for review must be filed by August 11, 1982. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of Parts 2 and 22 of the Commission's Rules to Allocates Spectrum in the 928–941 MHz Band and to Establish Other Rules, Policies, and Procedures for One-Way Paging Stations in the Domestic Public Land Mobile Radio Service. (Gen Docket No. 80–183, RM's 2365, 2750, 3047 and 3068)

Filed by: Robert A. Woods and Steven C. Schaffer, Attorneys for Page America Communications, Inc., on 7–7–82; Russell D. Lukas, Morgan E. O'Brien and Williams J. Franklin, Attorneys for Mobile Communications Corporation of America on 7–8–82; Kenneth E. Hardman, Attorney for Telocator Network of America on 7–8–82; Eliot J. Greenwald, Attorney for Beep-Beep Page, Inc., on 7–8–82.

Subject: Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Helena, Montana) (BC Docket No. 80–523, RM's 3543 and 3780)

Filed by: Richard Hildreth and David N. Sternlicht, Attorneys for Capital Investments on 7–6–82. (Application for Review)

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82–20186 Filed 7–26–82; 8:45 am]

BILLING CODE 6712–01–M

Radio Technical Commission for Marine Services; Meetings

In accordance with Public Law 92–463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Special Committee No. 81

"Review of FCC Rules Applicable to VHF–FM Maritime Frequencies," Notice of 7th Meeting, Wednesday, August 18, 1982—9:30 a.m., room 7327, 2025 M Street NW., Washington, D.C.

Agenda

1. Administrative Matters.
2. Evaluation of questionnaire concerning VHF–FM maritime frequencies.
3. Assignment of tasks.

Carl Gray, Chairman SC–81, Consultant, American Waterways Operators, Inc., 1055 Dalebrook Drive, Alexandria, VA 22308, phone: (703) 360–4625.

Special Committee No. 79

"Universal Marine Radiotelephone Compatibility", Notice of 9th Meeting, Wednesday, August 18, 1982—11:00 a.m., Conference Room 7327, 2025 M Street NW., Washington, D.C.

Agenda

1. Administrative Matters.
2. Consideration of Working Papers.

T. B. Miller, Chairman SC–79; WJG Telephone Company, P.O. Box 9363, Memphis, TN 38109, phone: (901) 789–3500.

Executive Committee Meeting

Notice of August Meeting, Thursday, August 19, 1982—9:00 a.m., Conference Room 9230, Nassif Building, 400 Seventh Street SW., Washington, DC.

Agenda

1. Administrative Matters.
2. Special Committee Reports.

Special Committee No. 80

"FCC Rules Review as Required by Regulatory Flexibility Act of 1980", Notice of 6th Meeting, Thursday, August 19, 1982—3:00 p.m., Conference Room 2169, Comsat Building, 950 L'Enfant Plaza SW., Washington, DC.

Agenda

1. Administrative Matters.
2. Discussion concerning FCC Rules to be reviewed.
3. Assignment of tasks.

Charles S. Carnev, Chairman SC–80, Nav–Com, Inc., 711 Grand Blvd., Deer Park, NY 11729, phone: (516) 667–7710.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat (phone: (202) 632–6490).

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82–20187 Filed 7–26–82; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL HOME LOAN BANK BOARD

[No. AC–177]

First Federal Savings and Loan Association of Paragould, Paragould, Arkansas; Final Action; Approval of Post-Approval Amendments to Mutual-To-Stock Conversion Application

Dated: July 22, 1982.

Notice is hereby given that on July 19, 1982, the General Counsel of the Federal Home Loan Bank Board ("Board"), acting pursuant to authority delegated to him by the Board, approved Post-Approval Amendment No. 1 to the mutual-to-stock conversion application of First Federal Savings and Loan Association of Paragould, Paragould, Arkansas ("Association"). The application had been approved by the Board by Resolution No. 81–604, dated October 7, 1981. Copies of the application and all amendments thereto

are available for inspection at the Secretariat of the Board, 1700 G Street, N.W., Washington, D.C. 20552, and at the Office of the Supervisory Agent, Federal Home Loan Bank of Little Rock, 1400 Tower Building, Little Rock, Arkansas 72201.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82-20273 Filed 7-26-82; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-178]

Fortune Federal Savings and Loan Association, Clearwater, Florida; Final Action; Approval of Post-Approval Amendments To Mutual-To-Stock Conversion Application

Dated: July 22, 1982.

Notice is hereby given that on July 21, 1982, the Office of General Counsel of the Home Loan Bank Board ("Board"), acting pursuant to delegated authority approved amendments to the mutual-to-stock conversion application of Fortune Federal Savings and Loan Association, Clearwater, Florida ("Association"), and amendments to Board Resolution No. 82-336, dated May 13, 1982, pursuant to which the Board approved the mutual-to-stock conversion application of the Association. Copies of the application and all amendments thereto are available for inspection at the Secretariat of the Board, 1700 G Street, N.W., Washington, D.C. 20552, and at the Office of the Supervisory Agent, Federal Home Loan Bank of San Francisco, 600 California Street, San Francisco, California 94120.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR DOC. 82-20276 Filed 7-26-82; 8:45 am]

BILLING CODE 6720-01-M

Guaranty Federal Savings and Loan Association, Casper, Wyoming; Final Action; Approval of Post-Approval Amendments to Mutual-to-Stock Conversion Application

Dated: July 22, 1982.

Notice is hereby given that on July 19, 1982, the General Counsel of the Federal Home Loan Bank Board ("Board"), acting pursuant to authority delegated to him by the Board, approved Post-Approval Amendment No. 1 to the mutual-to-stock conversion application of Guaranty Federal Savings and Loan Association, Casper, Wyoming ("Association"). The application had been approved by the Board by Resolution No. 81-317, dated June 4, 1981. Copies of the application and all amendments thereto are available for inspection at the Secretariat of the Board, 1700 G Street, N.W., Washington, D.C. 20552, and at the Office of the Supervisory Agent, Federal Home Loan Bank of Seattle, 600 Stewart Street, Seattle, Washington 98101.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR DOC. 82-20274 Filed 7-26-82; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-176]

Home Owners Federal Savings and Loan Association, Boston, Massachusetts; Final Action; Approval of Post-Approval Amendments to Mutual-to-Stock Conversion Application

Dated: July 22, 1982.

Notice is hereby given that on July 19, 1982, the General Counsel of the Federal Home Loan Board ("Board"), acting pursuant to authority delegated to him by the Board, approved Post-Approval Amendment No. 1 to the mutual-to-stock conversion application of First Federal Savings and Loan Association, Boston Massachusetts ("Association"). The application had been approved by the Board by Resolution No. 81-338, dated July 16, 1981. Copies of the application and all amendments thereto are available for inspection at the Secretariat of the Board, 1700 G Street, N.W., Washington, D.C. 20552, and at the Office of the Supervisory Agent, Federal Home Loan Bank of Boston, One Federal Street, 30th Floor, Boston, Massachusetts 02110.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82-20275 Filed 7-26-82; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement and the justification offered therefor at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10327; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, Chicago, Illinois, and San Juan, Puerto Rico. Interested parties may submit comments on the agreements including request for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, by August 6, 1982. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreement and the statement should indicate that this has been done.

Agreement No. 7590-32.

Filing party: Nathan J. Bayer, Esquire, Freehill, Hogan & Mahar, 80 Pine Street, New York, New York 10005.

Summary: Agreement No. 7590-32 supersedes Agreement No. 7590-30, which was withdrawn from further Commission consideration on July 13, 1982. Agreement No. 7590-32 would amend the scope of the East Coast Columbia Conference Agreement by adding, thereto, ports and points on the West Coast of Colombia. The scope of the amended agreement, which would also be renamed the United States Atlantic & Gulf/Colombia Freight Conference, would read in pertinent part as follows:

* * * Between Atlantic and Gulf ports of the United States and ports and points on the East Coast of Colombia, S.A., and from United States Atlantic and Gulf ports to ports and points on the West Coast of Colombia * * *.

Agreement No. 7590-32 is being processed in conjunction with pending Agreement No. 2744-47, which would remove ports on the West Coast of Colombia from the geographic scope of the Atlantic & Gulf/West Coast of South America Conference Agreement.

By order of the Federal Maritime Commission.

Dated: July 22, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82-20204 Filed 7-26-82; 8:45 am]

BILLING CODE 6730-01-M

Agreements Filed; Cancellations

Agreement No. 9763 (Agency Agreement)

Filing party: Mr. George H. Walls, United Brands Company, 1271 Avenue of the Americas, New York, New York 10020.

Summary: On July 9, 1982, the Commission received notice from United Brands Company to cancel its Agreement No. 9763 with Empresa Hondurena de Vapores, S.A. Accordingly, Agreement No. 9763 is canceled effective July 9, 1982, the date the notice of cancellation was received by the Commission.

Agreements Nos. 10211 and 10309 (Container Leasing Agreements)

Filing party: Mr. H. P. Breed, Jr., United States Lines, Inc., 27 Commerce Drive, Cranford, New Jersey 07016.

Summary: On July 12, 1982, the Commission received notice from United States Lines to cancel its Agreement No. 10211 with Palau Shipping Co. Inc. and Agreement No. 10309 with Oceania Line, Ltd. Accordingly, Agreements Nos. 10211 and 10309 (Container Leasing Agreements) are canceled effective July 12, 1982, the date the notice of cancellation was received by the Commission.

By Order of the Federal Maritime Commission.

Dated: July 22, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82-20006 Filed 7-26-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an applicatio that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First Florida Banks, Inc.* and *7L Corporation,* both of Tampa, Florida; to acquire 90 percent of the voting shares or assets of Clearwater Beach Bank, Clearwater, Florida. Comments on this application must be received not later than August 19, 1982.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Southwest Bancshares, Inc.,* Houston, Texas; to acquire 100 percent of the voting shares of The First National Bank of Brenham, Brenham, Texas. Comments on this application must be received not later than August 19, 1982.

C. **Secretary, Board of Governors of the Federal Reserve System,** Washington, D.C. 20551:

1. *First City Bancorporation of Texas, Inc.,* Houston, Texas; to acquire 100 percent of the voting shares or assets of First City Bank-East, N.A., El Paso, Texas, a proposed new bank. this application may be inspected at the Federal Reserve Bank of Dallas. Comments on this application must be received not later than August 19, 1982.

Board of Governors of the Federal Reserve System, July 20, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-20105 Filed 7-26-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated for each application.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Citizens and Southern Georgia Corporation,* Atlanta, Georgia (mortgage banking and insurance activities; Florida): To engage, through its subsidiary, Citizens and Southern Mortgage Company, (FLA), in mortgage lending and mortgage banking activities, including the extension of direct loans to consumers, the purchase and discount of real estate loans and other extensions of credit, making, acquiring, servicing, or soliciting, for its own account or for the account of others, loans and other extensions of credit; and acting as agent for the sale of life, accident and health insurance directly related to its extensions of credit. These activities would be conducted from offices in Tampa, Florida, serving Tampa and St. Petersburg and the central Florida area. Comments on this application must be received not later than August 18, 1982.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Midland Bank plc, Midland California Holdings, Ltd.,* both of London, England and *Crocker National Corporation,* San Francisco, California (mortgage banking; leasing activities; United States): Propose to engage, through a subsidiary, Crocker Mortgage Company, Inc., in mortgage banking activities including originating mortgage loans on single and multi-family residential properties and commercial non-residential properties, selling the mortgage loans to permanent investors, and servicing the loans on behalf of investors who purchase them and assisting developers and builders in

obtaining construction loans and other types of development loans; acquiring from others, for its own account or for the account of others, entire or partial interests in real estate loans and extensions of credit secured by real estate, including interim, construction, development and long-term real estate loans and related security; acquiring, holding and disposing of, for its own account or the account of others, notes, bonds, debentures, pass-through certificates, or other similar instruments, which are secured or backed directly or indirectly by interests in real estate or in extensions of real estate credit; leasing real property in accordance with the provisions of § 225.4(a)(6) of Regulation Y; acting as agent, broker or advisor to any person or entity in connection with transactions of the types described above; and servicing real estate loans and other extensions of real estate credit owned by others. These activities would be conducted from an office in Dallas, Texas, serving the United States. Comments on this application must be received not later than August 23, 1982.

2. *Seafirst Corporation*, Seattle, Washington (insurance activities; Arizona, California, Nevada, Oregon, Washington): To expand the activities of its subsidiary, Seafirst Insurance Corporation, to include acting as agent for the sale of homeowners insurance directly related to extensions of credit by Seafirst Corporation or its subsidiaries. These activities would be conducted from the main office of Seafirst Insurance Corporation in Seattle, Washington, serving Arizona, California, Nevada, Oregon and Washington. Comments on this application must be received not later than August 20, 1982.

Board of Governors of the Federal Reserve System, July 21, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-20181 Filed 7-26-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60090:

1. *Huntington Bancshares, Inc.*, Huntington, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to The First National Bank in Huntington, Huntington, Indiana. Comments on this application must be received not later than August 20, 1982.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenid, Assistant Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Nicol Bankshares Corporation*, Olathe, Kansas; to become a bank holding company by acquiring 80 percent or more of the voting shares of The First Citibank of Olathe, Olathe, Kansas. Comments on this application must be received not later than August 20, 1982.

Board of Governors of the Federal Reserve System, July 21, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-20182 Filed 7-26-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President), 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Financial Trans Corp.*, Carlisle, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of Farmers Trust Company, Carlisle, Pennsylvania. Comments on this application must be received not later than August 19, 1982.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Assistant Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Hillsboro Capital Corporation*, Hillsboro, Kansas; to become a bank holding company by acquiring 80 percent or more of the voting shares of First National Bank, Hillsboro, Kansas. Comments on this application must be received not later than August 19, 1982.

Board of Governors of the Federal Reserve System, July 20, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-20184 Filed 7-26-82; 8:45 am]

BILLING CODE 6210-01-M

Panora Financial Corp.; Formation of Bank Holding Company

Panora Financial Corp., Panora, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 83.53 percent or more of the voting shares of Panora State Bank, Panora, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Panora Financial Corp., Panora, Iowa, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Mid-Iowa, Inc. (d.b.a. Panora Insurance Agency), Panora, Iowa.

Applicant states the proposed subsidiary would engage in the activities of acting as agent or broker for general insurance in a community of less than 5,000 people. These activities would be performed from offices of Applicant's subsidiary in Panora, Iowa, and the geographic area to be served is Panora, Iowa. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in

accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than August 18, 1982.

Board of Governors of the Federal Reserve System, July 21, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-20183 Filed 7-26-82; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Federal Market for Packaged Software; New Reporting Requirement

AGENCY: General Services Administration.

ACTION: Notice of information collection; new.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the General Services Administration proposes to request Office of Management and Budget review and approval of a new reporting requirement for the collection of data.

DATE: Comments on the proposed information collection must be submitted on or before August 13, 1982.

ADDRESS: Send comments to Franklin S. Reeder, OMB Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Anthony Artigliere, Clearance Officer, General Services Administration (ORAI), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: James Flowers, Directives, Reports, and Publications Branch (202-566-1164).

SUPPLEMENTARY INFORMATION: The purpose of this proposed information collection (questionnaire) is to provide data to determine the reasons for lack of Federal Government use of packaged and framework application software systems provided by software vendors. A copy of the information collection proposal may be obtained from the Directives, Reports, and Publication Branch (ORAI), Room 3011, GS Building, Washington, DC 20405, Telephone 202-566-1164.

Dated: July 19, 1982.

Clarence A. Lee, Jr.,

Director of Administrative Services.

[FR Doc. 82-20243 Filed 7-26-82; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Vitamins and the Prevention of the Occurrence of Neural Tube Defects Work Group; Open Meeting

On August 9-10, 1982, the Centers for Disease Control (CDC) will convene an open meeting of a work group to review the scientific information related to the prevention of the occurrence of neural tube defects by vitamin supplementation. The meeting is open to the public, limited only by space available.

The meeting is scheduled to convene at 8:00 a.m. in Auditorium B, Centers for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

For further information, please contact: Dr. Godfrey P. Oakley, Chief, Birth Defects Branch, Chronic Diseases Division, Center for Environmental Health, Centers for Disease Control, 1600 Clifton Road, N.E., Atlanta, Georgia 30333; Telephones FTS: 236-4084—Commercial: 404/452-4084.

Dated: July 21, 1982.

William H. Foege,

Director, Centers for Disease Control.

[FR Doc. 82-20255 Filed 7-26-82; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 82M-0211]

Ciba Vision Care; Premarket Approval of BISOFT™ (Tefilcon) Hydrophilic Contact Bifocal Lenses

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces approval of the supplemental applications for premarket approval under the Medical Device Amendments of 1976 of the BISOFT™ (tefilcon) Hydrophilic Contact Bifocal Lenses, sponsored by Ciba Vision Care, Atlanta, GA. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by August 26, 1982.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles Kyper, Bureau of Medical Devices (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910; 301-427-7445.

SUPPLEMENTARY INFORMATION: On October 13, 1981, Ciba Vision Care, Atlanta, GA submitted to FDA a supplemental application for premarket approval of elliptical and spherical configurations of the BISOFT™ (tefilcon) Hydrophilic Contact Bifocal Lenses for daily wear by nonaphakic presbyopic persons with nondiseased eyes who have no more than 1.5 diopters of astigmatism and require powers from −8.00 to +8.00 diopters and add powers of 0.25 to 4.00 diopters. The application was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, an FDA advisory committee, which recommended approval of the application. On June 15, 1982, FDA approved the application by letter to the sponsor from the Acting Director of the Bureau of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94-295, 90 Stat. 539-583), soft contact lenses and solutions were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(h)), soft contact lenses and solutions are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the Federal Register of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure

continuation of premarket approval requirements for class III devices formerly regulated as new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications for premarket approval of soft contact lenses or solutions comply with the records and reports provisions of Subpart D of Part 310 (21 CFR Part 310) until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based is on file with the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Bureau of Medical Devices. Contact Charles Kyper (HKF-402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

The labeling of approved contact lenses states that the lenses are to be used only with certain solutions for disinfection and other purposes. The restrictive labeling informs new users that they must avoid using certain products, such as solutions intended for use with hard contact lenses. However, the restrictive labeling needs to be updated periodically to refer to new lens solutions that FDA approves for use with approved contact lenses. A sponsor who fails to update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41–58), as amended by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 93–637). Furthermore, failure to update restrictive labeling to refer to new solutions that may be used with an approved lens may be grounds for withdrawing approval of the application for the lens, under section 515(e)(1)(F) of the act (21 U.S.C. 360e(e)(1)(F)). Accordingly, whenever FDA publishes a notice in the Federal Register of the agency's approval of a new solution for use with an approved lens, the sponsor of the lens shall correct its labeling to refer to the new solution at the next printing or at any other time FDA prescribes by letter to the sponsor.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this supplemental application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before August 26, 1982, file with the Dockets Management Branch four copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m. Monday through Friday.

Dated: July 19, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-20054 Filed 7-26-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82F-0192]

Calgon Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Calgon Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of poly(diallyldimethylammonium chloride) as a pigment dispersant and/or retention aid in the manufacture of paper and paperboard which may contact food.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2B3616) has been filed by the Calgon Corp., Calgon Center, P.O. Box 1346, Pittsburgh, PA 15230, proposing that the food additive regulations be amended to provide for the safe use of poly(diallyldimethylammonium chloride) as a pigment dispersant and/or retention aid in the manufacture of paper and paperboard intended to contact food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: July 15, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82-20108 Filed 7-26-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82F-0213]

Morton Chemical; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administraion (FDA) is announcing that Morton Chemical has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 1,2-benzisothiazolin-3-one as a preservative in coating compositions for fool-packaging films.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2B3641) has been filed by Morton Chemical Division of Morton-Norwich Products, Inc., 2 N. Riverside Plaza, Chicago, IL 60606, proposing that the food additive regulations be amended to provide for the safe use of 1,2-benzisothiazolin-3-one as a preservative in coating compositions for food-packaging films.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742.

Dated: July 15, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82-20169 Filed 7-26-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82F-0205]

Morton Chemical; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Morton Chemical has filed a petition proposing that the food additive regulations be amended to provide for the safe use of an aliphatic polyurethane laminating adhesive for fabricating retortable pouches and related high temperature laminates for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Clyde A. Takeguchi, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. NW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 0B3525) has been filed by Morton Chemical Division of Morton-Norwich Products, Inc., 2 North Riverside Plaza, Chicago, IL 60606, proposing that the food additive regulations be amended to provide for the safe use of a polyurethane adhesive containing polyester-epoxy resins, and 3-isocyanatomethyl-3,5,5-trimethyl-cyclohexyl isocyanate as a cross-linking agent for fabricating high temperature laminates identified in § 177.1390 (21 CFR 177.1390).

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of avilability of the ageny's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: July 15, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82-20170 Filed 7-26-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82N-0014]

Status of Gentian Violet Used as a Mold Inhibitor in Poultry Feed

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that no regulatory action will be taken at this time against the use of up to 8 parts per million (ppm) gentian violet as a mold inhibitor in poultry feed.

FOR FURTHER INFORMATION CONTACT: Edward J. Ballitch, Bureau of Veterinary Medicine (HFV-230), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-336.

SUPPLEMENTARY INFORMATION: FDA believes that gentian violet is not generally recognized as safe for any use in food-producing animals. However, in a recent case involving a gentian violet poultry premix manufactured by Marshall Minerals, Inc., a jury found that gentian violet is generally recognized as safe when used as a mold inhibitor in poultry feed at not more than 8 parts per million and therefore not a food additive within the meaning of the Federal Food, Drug, and Cosmetic Act. The agency decided not to appeal the court order entered after the jury's verdict. Thus, in spite of the fact that the agency remains of the opinion that gentian violet is not generally recognized as safe for any use in foodproducing animals, Marshall Minerals may legally market its gentian violet poultry premix pending receipt by FDA of new evidence that in FDA's view requires a reevaluation of the agency's position.

As evidence of its concern regarding use of gentian violet in food-producing animals, FDA has commissioned studies to test the safety of gentian violet. The National Center for Toxicological Research (NCTR) is currently performing a study of the metabolism of gentian violet in poultry as well as a long-term study on the safety of gentian violet when fed to laboratory animals. In an effort to treat all manufacturers fairly, the agency has decided not to take legal action on the grounds of lack of general recognition of safety against any gentian violet premix labeled for use as a mold inhibitor in poultry feed at levels up to 8 ppm. The agency will reevaluate this position when the results of each NCTR study are received or when new evidence becomes available that in the agency's view calls for reevaluation. All other uses of gentian violet in food-producing animals are still considered not generally recognized as safe. Accordingly, this decision in no manner authorizes any other use of gentian violet in food-producing animals other than its use as a mold inhibitor in poultry feed at levels up to 8 ppm.

Dated: July 20, 1982.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 82-20171 Filed 7-26-82; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Medicaid Program; Hearing; Reconsideration of Disapproval of California State Plan Amendment

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on September 14, 1982 in San Francisco, California to reconsider our decision to disapprove California State Plan Amendment 82-03.

CLOSING DATE: Request to participate in the hearing as a party must be received by August 11, 1982.

FOR FURTHER INFORMATION, CONTACT: Docket Clerk, Bureau of Program Policy, C-20 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207; telephone: (301) 594-8261.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to deny a California State plan amendment.

Section 1116 of the Social Security Act and 45 CFR Parts 201 and 213 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. The Health Care Financing Administration is required to publish a copy of the notice to a State Medicaid agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues which will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with additional

requirements contained in 45 CFR 213.15(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins, in accordance with additional requirements contained in 45 CFR 213.15(c)(1).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

The issue in this matter relates to California's proposal to establish a special income deduction for aged, blind and disabled medically needy Medicaid applicants. The effect of the income deduction would be to establish Medicaid eligibility for medically needy individuals with income in excess of the income standard for which Federal financial participation is available. The Health Care Financing Administration holds that this provision would violate statutory and regulatory requirements under the Medicaid program.

In addition, the amendment would limit the deduction of incurred medical expenses in determining eligibility of medically needy applicants to amounts incurred in the corresponding spend-down period. The Health Care Financing Administration contends that, under current regulations and policy, the amount of incurred expenses allowed to reduce the amount of an applicant's income may not be limited by a time factor.

The notice to California announcing an administrative hearing to reconsider our denial of its State plan amendment reads as follows:

July 22, 1982.

Ms. Beverlee A. Myers,
Director, Department of Health Services, 714 P Street, Sacramento, California 95814.

Dear Ms. Myers: This is to advise you that your request for reconsideration of my disapproval of California State Plan Amendment 82–03 was received on June 25, 1982. This amendment proposed to establish a special income deduction for aged, blind and disabled medically needy applicants and also proposed to limit the amount of incurred expenses allowed to reduce the amount of an applicant's income to expenses incurred in the corresponding spend-down period. You have requested a reconsideration of whether these provisions of your plan amendment conform to the Social Security Act and pertinent regulations.

I am scheduling a hearing on your request to be held on September 14, 1982 at 10:00 a.m. at 100 Van Ness Avenue, San Francisco, California. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties.

I am designating Mr. Stanley Krostar as the presiding official. If these arrangements present any problems, please contact the Docket Clerk. In order to facilitate any communications which may be necessary between the parties to the hearing, please notify the Docket Clerk of the names and addresses of the individuals who will represent the State at the hearing. The Docket Clerk may be reached on (301) 594–8261.

Sincerely yours,

Carolyne K. Davis, Ph.D.

(Section 1116 of the Social Security Act (42 U.S.C. 1316))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: July 22, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 82–20272 Filed 7–26–82; 8:45 am]
BILLING CODE 4120–03–M

Office of Human Development Services

Child Abuse and Neglect Prevention and Treatment Grants Priorities—Fiscal Year 1983

AGENCY: Office of Human Development Services, Department of Health and Human Services.

ACTION: Notice of proposed fiscal year 1983 child abuse and neglect research and demonstration activities to be considered for support as a part of the consolidated discretionary program of the Office of Human Development Services (OHDS).

SUMMARY: This notice states proposed priorities for research and demonstration programs related to the prevention and treatment of child abuse and neglect. These priority areas are being considered for inclusion in the OHDS consolidated discretionary program for fiscal year 1983. Final child abuse and neglect priorities will be announced as a part of the OHDS consolidated research and demonstration program and will be carried out by the National Center on Child Abuse and Neglect, an OHDS program unit located in the Children's Bureau, Administration for Children, Youth and Families.

Federal grants and contracts to support projects which address child abuse and neglect issues are authorized by the Child Abuse Prevention and Treatment Act (Pub. L. 93–247, as amended). That Act provides for publication of priorities under consideration for research and demonstration for the purpose of soliciting comments from individuals knowledgeable in the field of the prevention and treatment of child abuse and neglect. Final priorities will incorporate and reflect the expertise and recommendations received from the field in response to this notice.

DATE: In order to be considered, comments must be received no later than September 27, 1982. OHDS invites comments on these priorities or suggestions for other priorities. No proposals, concept papers or other forms of application should be submitted at this time.

ADDRESS: Comments should be sent to: Commissioner, Administration for Children, Youth and Families, Attn: Child Abuse and Neglect, P.O. Box 1182, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: National Center on Child Abuse and Neglect, Children's Bureau, P.O. Box 1182, Washington, D.C. 20013. (202–245–2856).

SUPPLEMENTARY INFORMATION: The National Center on Child Abuse and Neglect (NCCAN) is part of the Children's Bureau in the Administration for Children, Youth and Families, OHDS. NCCAN conducts activities designed to assist and enhance national, state and community efforts to prevent, identify and treat child abuse and neglect. These activities include: Conducting research and demonstrations; supporting service improvement projects; gathering, analyzing and disseminating information through a national clearinghouse; providing grants to eligible States for strengthening and improving their child protective programs; and coordinating Federal activities related to child abuse and neglect through the Advisory Board on Child Abuse and Neglect. Thus, there are activities other than the research and demonstration priorities proposed in this notice which require staff and financial support by NCCAN.

In fiscal year 1983, OHDS intends through NCCAN to continue support for the following categories of research, demonstration and service improvement areas initiated in previous years: (1) Demonstration of screening and tracking of abused and neglected children taken into protective custody; (2) demonstrations of upgrading the quality of child protective services; (3) demonstrations of services to children in shelters for battered women; (4) improvement of health-based services to prevent child abuse and neglect; (5) improvement of child protective services through use of guardians *ad litem;* (6) improvement of child protective services through minority organization involvement; (7) research on specific issues in and forms of child

maltreatment; (8) demonstrations of comprehensive strategies to prevent child abuse and neglect which engage private and voluntary resources; (9) development and dissemination of approaches to protection of children in residential institutions and other out-of-home placements; (10) improvement of mental health services for diagnosis and treatment of abused and neglected children and adolescents; and (11) screening and referral of developmentally disabled abused and neglected children.

In addition, OHDS plans through NCCAN to continue support for a national information clearinghouse on child abuse and neglect; service improvement through Parents Anonymous; technical assistance to States for collecting, analyzing and using data from official reports of child abuse and neglect; and, with the Child Welfare Services and Adoption Opportunities programs, the Regional Resource Centers for Children and Youth Services. Continued support will also be provided for preparation and dissemination of relevant reports and manuals emanating from the findings of completed research and demonstration projects, depending upon the availability of funds.

This statement describes areas under consideration for initiation of new research and demonstration activities in fiscal year 1983. OHDS solicits specific comments and suggestions concerning each of the priorities described below. *No proposals, concept papers or other forms of application should be submitted at this time.* Any such submissions will be discarded. In order to maintain a procedure fair to everyone, concept papers or preapplications will be accepted only in response to the final OHDS Consolidated Research and Demonstration Program Announcement to be published in the **Federal Register** at a later date.

No acknowledgements will be made of the comments received in response to this notice, but all comments will be considered in preparing the final funding priorities for child abuse and neglect research and demonstration activities for fiscal year 1983. In addition, all persons who comment on these proposed priorities will be placed on a mailing list to receive the final OHDS program announcement. OHDS anticipates that the program announcement for the consolidated research and demonstration program will be published in the fall of 1982.

Proposed Child Abuse and Neglect Research and Demonstration Priorities for Fiscal Year 1983

OHDS is considering the following research and demonstration priorities for fiscal year 1983:

1. Research and theory development to increase understanding of the family dynamics which contribute to intrafamilial child sexual abuse. Since 1978, NCCAN has supported clinical demonstration and service improvement projects to define effective ways to intervene into and treat incest and other forms of intrafamilial child sexual abuse. From these projects as well as other child protective and mental health programs, a need for greater clarity about the family dynamics of intrafamilial child sexual abuse has become evident. Theories of family dysfunction relating to this problem have been formulated but their application to actual cases to achieve validation and their comparisons with other nascent theories have not been systematically pursued. NCCAN contends that continued progress in both prevention and treatment of intrafamilial child sexual abuse depends upon greater theoretical clarity than is currently available to family service and mental health clinicians

2. Collaboration of research and State child protective service agencies to develop and test improve procedures for decision-making related to receiving reports and making investigations of suspected child abuse and neglect cases. The rate of unsubstantiated cases of child abuse and neglect among reports received and investigated by child protective service agencies runs as high as 60 percent. In the face of increased caseloads, some agencies indicate that they have made deliberate efforts to narrow definitions of child maltreatment, to order priorities for making immediate or delayed investigations and to raise the degree of severity required to justify their interventions. It appears that such changes have been made without consistency and sometimes without sufficient consideration of their attendant risks. This proposed priority would involve support for a consortium of State child protective services agencies with a qualified research institution to study the issues involved in decision-making when third-party reports are received and investigations are made, to develop clear procedures to guide those decisions and to pilot test and evaluate those procedures under field conditions.

3. Demonstrations or field tests of procedures for inquiring into child fatalities caused by abuse or neglect involving children previously known to child protective service agencies. During fiscal year 1982 and early 1983, NCCAN is developing guidance for use by States in reponding constructively to the deaths of children caused by abuse or neglect and involving children previously known to child protective service agencies. This guidance grew out of a recognition that responses to these often highly publicized tragedies in communities across the nation have usually been *ad hoc* in nature and have usually been more reactive than proactive in their conclusions. In addition, NCCAN was aware of a committee of inquiry procedure used in Great Britain which emphasizes the necessity for swiftly defining and taking action in a manner which is publicly accountable to correct any failures in the child protective system which may have contributed to the endangerment and the resulting death of a child within that system's care. In fiscal year 1983, having adapted the British procedure for use by officially sanctioned, multidisciplinary committees of inquiry in the United States, NCCAN proposes to support a field test of this approach to be undertaken under sponsorship of appropriate State agencies.

4. Research on the impacts of alternative types of intervention in cases of child sexual abuse. Current practice in dealing with identified cases of child sexual abuse varies greatly. Criminal justice solutions for dealing with perpetrators, child protective and social work casework solutions for dealing with the child victim, various individual and family psychotherapeutic interventions—all these and other types of intervention are espoused and practiced. The fields of law enforcement and child protection have not reached consensus on what types are appropriate or effective. NCCAN contends that no such consensus can even be approached until more is known about the impacts of these interventions. By *impacts,* NCCAN intends to include immediate as well as long term effects on the members of the involved families and the families as units. It does not refer solely or primarily to individual psychological results of this form of abuse. Research on child sexual abuse faces extremely challenging difficulties, particularly in terms of access to data, family privacy and due process issues. Once before, in fiscal year 1980, NCCAN announced plans to support research on this subject, only to recommend against support of any of the proposals which were received on the grounds of their methodological weaknesses. With an

additional three years of experience in the field, the need for this research is generally agreed to be even more pressing, but support again will be contingent upon sound methodology, if this priority is accepted as part of the final research and demonstration program for fiscal year 1983. OHDS specifically solicits comments on methodological approaches to conducting this research priority.

5. Demonstration of innovative alternatives to juvenile court proceedings in child abuse and neglect cases. Approximately 15 percent of all child abuse and neglect cases handled by child protective services result in petitions to juvenile or family courts for judicial determinations and protective dispositions. Because these same courts deal with many other legal matters involving persons under the age of 18 and civil family matters, these cases often face lengthy delays while awaiting court attention. This proposed priority would support the testing of several alternatives as adjunct to the judiciary, such as court appointment of specifically trained masters to hear only child protective cases and use of a Scottish hearing system sanctioned by the courts and involving lay hearing panels.

6. Demonstration of therapeutic services for abused and neglected children using family day care homes. Between 1978 and 1981, NCCAN supported one demonstration project, as part of a cluster of projects addressing therapeutic services to abused and neglected children, which used family day care homes as a vehicle for delivery of therapeutic services. This project was limited both in size and in the focus of evaluative study it received. NCCAN proposes now to specifically focus on this approach to delivery of therapeutic services for children. The hypothesis underlying such an approach is that the need for some children who have been chronically maltreated to have individual therapeutic attention and the possibility of providing such attention in a home-like setting which provides maximum contact between the children and their own homes suggest that the use of family day care homes with specially trained caregivers and access to professional mental health resources may be a valid treatment alternative to out-of-home and residential placement.

7. Demonstration of interstate institutes on management issues in delivery of child protective services. Through extensive and ongoing consultation with State agency officials responsible for planning, managing and accounting for the delivery of child protective srvices, NCCAN has developed this priority to support a series of management level institutes, located in various parts of the country and providing seminar-type forums for senior and mid-level managers to engage in brief, intensive study and information exchanges. Such institutes could draw upon the expertise being exhibited in the States themselves, as well as the consultation of national leaders in the child protective service field. NCCAN envisions an initiative which would involve financial participation of Federal, State and perhaps private sources to support and evaluate the usefulness of such a continuing education approach premised on the importance of interstate exchanges and group learning experiences for managers.

8. Demonstration of use of audiotape cassettes as a medium for disseminating innovative program information to practitioners in the field of prevention and treatment of child abuse and neglect. In fiscal year 1982, NCCAN produced a training package containing audiotape cassettes to transfer important material on child protective services for use by unit supervisors in public child protective service agencies. Based on the positive reception given to this medium of transmitting information to a large audience at relatively small expense and on a growing recognition that media other than printed materials must be used in order to reach many practitioners whose time is limited, NCCAN proposes in fiscal year 1983 to support a project to develop a series of audiotapes for dissemination to the field. These tapes will synopsize findings from OHDS-supported research and demonstration projects, provide an opportunity to share interviews with the researchers and professional practitioners who have carried out these projects and generally convey to listeners information which they can use in making decisions about subjects to pursue further or program models to consider for replication within their own communities.

In addition to the priorities outlined above, which are roposed for inclusion in the OHDS Consolidated Research and Demonstration Program Announcement or for possible competitive procurements, NCCAN is proposing that discretionary funds also be used for two other purposes: (1) To collaborate with the Head Start Bureau, Administration for Children, Youth and Families for purposes of transferring parent aide program models which have been successfully demonstrated by NCCAN in the past for use by Head Start programs in supporting families at risk of abuse or neglect because of difficulties in coping with handicapped children; and (2) a small investment in planning and carrying out a Sixth National Conference on Child Abuse and Neglect during fiscal year 1983. Comments are also solicited on these proposed uses of discretionary funds.

(Catalog of Federal Domestic Assistance Program Number: 13.628, Child Development—Child Abuse and Neglect Prevention and Treatment)

Dated: June 25, 1982.

Clarence E. Hodges,

Commissioner for Children, Youth and Families.

Dated: July 22, 1982.

Dorcas R. Hardy,

Assistant Seretary for Human Development Services.

[FR Doc. 82-20248 Filed 7-26-82; 8:45 am]

BILLING CODE 4130-01-M

National Institutes of Health

National Advisory Council on Aging; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the National Advisory Council on Aging, National Institute on Aging, on September 13, 1982, in Building 31, Conference Room 8, National Institutes of Health, Bethesda, Maryland.

The meeting will be open to the public on September 13 from 8:30 a.m. until 9:00 a.m. for administrative details. Attendance by the public will be limited to space available.

This special meeting has been scheduled for the purpose of reviewing only those applications that have been received in response to program announcements.

In accordance with the provisions set forth in Section 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92-463, the meeting will be closed to the public on September 13, 1982, from 9:00 a.m. until adjourment for the review, discussion and evaluation of grant applications. These applications and the discussions could reveal confidential trade secrets or commerical property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. June C. McCann, Committee Management Officer, National Institute on Aging, Building 31, Room 2C-05, National Institutes of Health, Bethesda,

Maryland 20205 (Area Code 301, 496–5898), will furnish substantive program information.

Dated: July 19, 1982.

Betty J. Beveridge,

National Institutes of Health, Committee Management Officer.

(Catalog of Federal Domestic Assistance Program No. 13.866, Aging Research, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular.

[FR Doc. 82-20170 Filed 7-26-82; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Advisory Board Subcommitte on Environmental Carcinogenesis; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Cancer Advisory Board Subcommittee on Environmental Carcinogenesis, National Cancer Institute, August 10–11, 1982, at the Environmental Sciences Laboratory, Annenberg Building (Dining Room B on the 10th and Dining Room A on the 11th), Mt. Sinai School of Medicine, 10 East 102nd Street, New York, New York 10029. The meeting will be open to the public on August 10, 1982, from 9:00 a.m. through adjournment and on August 11, 1982, from 9:00 a.m. through adjournment to discuss quantitative risk assessment of environmental carcinogens. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708), will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Richard H. Adamson, Executive Secretary, National Cancer Advisory Board Subcommittee on Environmental Carcinogenesis, National Cancer Institute, Building 31, Room 11A03, National Institutes of Health, Bethesda, Maryland 20205 (301/496–6618), will furnish substantive program information

Dated: July 14, 1982

Betty J. Beveridge,

Committee Management Officer, National Institute Health.

[FR Doc. 82-20174 Filed 7-26-82; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Advisory Council and its Manpower Subcommittee and Research Subcommittee; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Advisory Council, National Heart, Lung, and Blood Institute, September 23–25, 1982, National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 10, Bethesda, Maryland 20205. In addition, meetings of the Manpower Subcommittee and the Research Subcommittee of the above Council will be September 22, 1982 at 8:00 p.m. in Building 31, Conference Rooms 9 and 10 respectively.

This meeting will be open to the public on September 23 from 9:00 a.m. to approximately 3:00 p.m., to discuss program policies and issues. Attendance by the public is limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Pub. L. 92–463, the meeting of the Council will be closed to the public from approximately 3:00 p.m. on September 23 to adjournment on September 25 for the review, discussion and evaluation of individual grant applications. The meetings of the Manpower Subcommittee and the Research Subcommittee of the above Council will be closed from 8:00 p.m. to adjournment on September 22, 1982 for the review, discussion, and evaluation of individual grant applications.

These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Terry Bellicha, Chief, Public Inquiry Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–4236, will provide summaries of the meetings and rosters of the Council members.

Dr. Jerome G. Green, Executive Secretary of the Council, Westwood Building, Room 7A–17, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496–7416, will furnish substantive program information.

Dated: July 19, 1982.

Betty J. Beveridge,

National Institutes of Health Committee Management Officer.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in Section 8(b) (4) and (5) of that Circular.

[FR Doc. 82-20175 Filed 7-26-82; 8:45 am]

BILLING CODE 4140-01-M

National High Blood Pressure Education Program Coordinating Committee; Meeting

Notice is hereby given of the meeting of the National High Blood Pressure Education Program Coordinating Committee, sponsored by the National Heart, Lung, and Blood Institute, on October 1, 1982 from 9:00 a.m. to 5:00 p.m., Building 31, C Wing, Conference Room 10 at the National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20205.

The entire meeting will be open to the public. The Coordinating Committee is meeting to define the priorities, activities, and needs of the participating groups in the National High Blood Pressure Education Progam. Attendance by the public will be limited to space available.

For detailed program information, agenda, list of participants and meeting summary contact: Dr. Edward J. Roccella, Acting Chief, Health Education Branch, Office of Prevention, Education and Control, National Heart, Lung, and Blood Institute, National Institutes of Health, Building 31, Room 4A24, 9000 Rockville Pike, Bethesda, MD 20205, (301) 496–1051.

Dated July 19, 1982.

Betty J. Beveridge,

Committee Management Officer, National Institututes of Health.

[FR Doc. 82-20176 Filed 7-26-82; 8:45 am]

BILLING CODE 4140-01-M

Pulmonary Diseases Advisory Committee; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Pulmonary Diseases Advisory Committee, National Heart, Lung, and Blood Institute, October 28–29, 1982, National Institutes of Health, 9000

Rockville Pike, Building 31, Conference Room 7, Bethesda, Maryland 20205.

The entire meeting, from 8:30 a.m. on October 28 to adjournment on October 29, will be open to the public. The Committee will discuss the current status of the Division of Lung Diseases programs and Committee plans for fiscal year 1983. Attendance by the public will be limited to the space available.

Ms. Terry Bellicha, Chief, Public Inquiry Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A–21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496–4236, will provide summaries of the meeting and rosters of the committee members.

Dr. Suzanne S. Hurd, Acting Exective Secretary of the Committee, Westwood Building, Room 6A16, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496–7208, will furnish substantive program information.

Dated: July 14, 1982.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

(Catalog of Federal Domestic Assistance Progam No. 13.838, Lung Diseases Research, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of the Circular.

[FR Doc. 82–20173 Filed 7–26–82; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Neurological and Communicative Disorders and Stroke; Scientific Programs Advisory Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Scientific Programs Advisory Committee, National Institute of Neurological and Communicative Disorders and Stroke, September 17, 1982, Building 31C, Conference Room 10, National Institutes of Health, Bethesda, Maryland 20205.

The entire meeting will be open to the Public from 9:00 a.m. to 5:00 p.m. to discuss research progress plans related to the Institute's scientific programs. Attendance by the public will be limited to space available.

Sylvia Shaffer, Chief, Office of Scientific and Health Reports, Building 31, Room 8A06, NINCDS, NIH, Bethesda, Maryland 20205, telephone (301) 496–5751, will furnish summaries of the meeting and rosters of committee members.

Dr. John C. Dalton, Executive Secretary, Federal Building, Room 1016, Bethesda, Maryland 20205, telephone (301) 496–9248, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.851, Communicative Disorders Program; No. 13.852, Neurological Disorders Program; No. 13.853, Stroke and Nervous System Trauma; No. 13.854, Fundamental Neurosciences Program, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

Dated: July 22, 1982.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 82–20177 Filed 7–26–82; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

Food and Drug Administration; Statement of Organization, Functions, and Delegations of Authority

Correction

In FR Doc. 82–17002 appearing at page 269/3 in the issue of Tuesday, June 22, 1982, make the following changes:

(1) On page 26914, first column, seventh paragraph, last line, "an" should read "and".

(2) On page 26914, middle column, fourth paragraph, second line, "durg" should read "drug".

(3) On page 26914, third column, ninth paragraph, last line, "druts" should read "drugs".

(4) On page 26915, middle column, fourth paragraph, third line, "IND–NDA" should read "IND/NDA".

(5) On page 26916, middle column, second complete paragraph, third line, "basis" should read "basic".

(6) On page 26916, third column, sixth complete paragraph, "Initiaties" should read "initiates".

(7) On page 26917, first column, first line, "commerical" should read "commercial".

(8) On page 26917, middle column, eighth complete paragraph, first line, "date" should read "data".

(9) On page 26917, third column, next to last paragraph, ninth line, "application" should read "applications".

(10) On page 26918, middle column, second paragraph, third line, "identify" should read "identity".

(11) On page 26919, middle column, eighth complete paragraph, first line, "edcuational" should read "educational".

(12) On page 26920, first column, first full paragraph, first line, "biolchemical" should read "biochemical".

BILLING CODE 1505–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N–82–1139]

Privacy Act of 1974; New System of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of a new system of records.

SUMMARY: The Department is giving notice of a system of records it intends to maintain which is subject to the Privacy Act of 1974.

EFFECTIVE DATE: This notice shall become effective August 26, 1982, unless comments are received on or before that date which would result in a contrary determination.

ADDRESS: Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 Seventh Street S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Robert English, Departmental Privacy Act Officer, (202) 755–5320. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The system is the Multifamily Tenant Certification System (HUD/H–11). It will contain information about individuals receiving housing assistance from the Department of Housing and Urban Development (HUD) under one of the following HUD programs: Section 8, Public/Indian Housing, Section 236 (including Section 236 RAP), Rent Supplement, Section 221(d)3 BMIR, and Section 202/8. The system will be used to improve the Department's capabilities to adequately manage HUD's Housing Assistance Programs, to protect the Government's financial interests and to assist in the verification of the accuracy of the tenant certification/recertification data furnished by the tenant. The prefatory statement containing General Routine Uses applicable to most of the Department's system of records was published at 46 FR 54878 (November 4, 1981). Appendix A, which lists the addresses of HUD's Field Offices was published at 46 FR 54914 (November 4, 1981). A new system report was filed with the Speaker of the House, the President of the Senate, and the Director

of the Office of Management and Budget on June 15, 1982.

HUD/H–11

SYSTEM NAME:

Multifamily Tenant Certification System.

SYSTEM LOCATION:

Headquarters and Field Offices. For a listing of Field Offices with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals receiving housing assistance from HUD under one of the following programs: Section 8, Public/Indian Housing, Section 236 (including Section 236 RAP), Rent Supplement, Section 221(d)3 BMIR, and Section 202/8.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system will include identification data such as name, Social Security Number (if available), alien registration number, or other identification number, address, and tenant unit number; financial data such as income and contract rent; tenant characteristics such as number in family, sex of family member and minority code; unit characteristics such as number of bedrooms; geographic data such as county code and census tract; and related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

United States Housing Act of 1937, as amended, 42 U.S.C. 1437 *et seq.*, and the Housing and Community Amendments of 1981, Pub. L. 97–35, 95 Stat. 408.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

See routine uses paragraph in prefatory statement. Other routine uses: To Federal, State, and local agencies—to verify the accuracy of the data provided; to HUD contractor—for processing certifications/recertifications; to the Social Security Administration and the Immigration and Naturalization Service—to verify alien status.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, magnetic tape/disk/drum.

RETRIEVABILITY:

Name of tenant, address, Social Security or other identification number.

SAFEGUARDS:

File folders, automated records kept in a secured area. Access restricted to authorized individuals.

RETENTION AND DISPOSAL:

Obsolete records are destroyed or sent to storage facility in accordance with HUD Handbook 2225.6, Records Disposition Management: HUD Records Schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Management Information Systems Division, Office of Management, Housing, Department of Housing and Urban Development, 451 Seventh Street, S.W, Washington, D.C 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about the existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials by the individual concerned appear in 24 CFR Part 16. If additional information or assistance is needed in relation to contesting the contents of records, it may be obtained by contacting the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A. If additional information or assistance is needed in relation to appeals of initial denials, it may be obtained by contacting the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals, other individuals, PHA staff/private owners/management agents.

(5 U.S.C. 552a, 88 Stat. 1896; Sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)))

Issued at Washington, D.C., July 20, 1982.

Donald J. Keuch, Jr.,

Deputy Assistant Secretary for Administration.

[FR Doc. 82–20198 Filed 7–26–82; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. N–82–1140]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Robert G. Masarsky, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, telephone (202) 755–5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from Robert G. Masarsky, Reports Management Officer for the Department. His address and

telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Civil Rights Tenant Characteristics/Occupancy Report
Office: Fair Housing and Equal Opportunity
Form number: HUD–949
Frequency of submission: Annually
Affected public: Businesses or Other Institutions (except farms)
Estimated burden hours: 3.028
Status: New
Contact: Mary T. George, HUD, (202) 755–5288; Robert Neal, OMB, (202) 395–6880

(Sec. 3507, Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Dated: July 1, 1982.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Certification and Recertification of Tenant Eligibility
Office: Housing
Form number: HUD–50059, HUD–50059A
Frequency of submission: Annually
Affected public: Business Or Other Institutions (except farms)
Estimated burden hours: 3,439,256
Status: Revision
Contact: Judith Lemeshewsky, HUD, (202) 426–7624; Robert Neal, OMB, (202) 395–6880

(Sec. 3507, Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Dated: July 1, 1982.

Judith L. Tardy

Assistant Secretary for Administration.

[FR Doc. 82–20172 Filed 7–26–82; 8:45 am]
BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Information Collection Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Mr. William T. Adams, at 202–395–7340.

Titles: 25 CFR 31, 32, 35, 36, 112 and 45 CFR 121
Bureau Form Numbers: BIA 6237, BIA 6238, BIA 6221, BIA 6243, BIA 6242, BIA 6239, BIA 6240, BIA 6241, BIA 6247, BIA 6245, BIA 6244, BIA 6246, BIA 6248, BIA 6258, BIA 6259
Frequency: On occasion
Description of Respondents: Indian children, parents, tribal council members, parent committees, education committees, and Indian students
Annual Responses: 149,595
Annual Burden Hours: 56,667
Bureau clearance officer: Ms Diana Loper, 703–235–2517

Dated: July 14, 1982.

John W. Fritz,

Acting Assistant Secretary-Indian Affairs.

[FR Doc. 82–20244 Filed 7–26–82; 8:45 am]
BILLING CODE 4310–02–M

Bureau of Land Management

[I–3756]

Idaho; Order Providing for Opening of Public Land

July 19, 1982.

1. In an exchange of land made under the provisions of Section 206 of the Act of October 21, 1976, 90 Stat. 2756, 43 U.S.C. 1716, the following land has been reconveyed to the United States:

Boise Meridian, Idaho

T. 3 N., R. 3 E.,
Sec. 3, lots 1, 2, 3, 5, 6, 7, SW¼NE¼, W½SW¼, SE¼SW¼;
Sec. 4, lots, 3, 6, SE¼NW¼, N½SE¼, SE¼SE¼.
T. 4 N., R. 3 E.,
Sec. 33, SW¼SW¼, SE¼SE¼, and a square acre in SW corner of the SE¼SW¼, more particularly described as beginning at the southwest corner of the SE¼SW¼, Section 33, thence north along the ¼₆ line 208.71 feet; then east parallel to the south section line of Section 33, 208.71 feet; thence south parallel to the above-mentioned ¼₆th line, 208.71 feet to the south section line of Section 33; thence west along the south section line of Section 33, 208.71 feet to the point of beginning;
Sec. 34, NE¼NE¼, S½NE¼, SE¼SW¼, SE¼, S½NW¼, N½SW¼, SW¼SW¼.

The area described contains 1201.63 acres in Ada County, Idaho.

2. The subject land is located approximately 7½ miles east from old Fort Boise. The elevation ranges from 4,040 feet to 5,017 feet above sea level. The vegetation is primarily sagebrush-grassland with sparse pines and firs at higher elevations. Dense willows and alders are found in the willow creek bottoms. In the past the land has been used for livestock grazing purposes, and it will be managed, together with adjoining public lands, for multiple use.

3. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, land described in paragraph 1 hereof, is hereby open to operation of the public land laws. All valid applications received at or prior to 9:00 a.m. on August 5, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. Mineral rights in the lands were either not exchanged or the minerals have remained opened to entry by virtue of the lands being originally patented under the Act of December 29, 1916, (39 Stat. 862). Accordingly, the mineral status of the lands is not affected by this order.

Inquiries concerning the lands should be addressed to the Chief, Lands Section, Bureau of Land Management, 550 West Fort Street, Box 042, Boise, Idaho 83724.

William E. Ireland,

Chief, Lands Section.

[FR Doc. 82–20230 Filed 7–26–82; 8:45 am]
BILLING CODE 4310–84–M

[Group 793]

California; Filing of Plat of Survey; Correction

July 19, 1982.

In **Federal Register** 82–18594, appearing on page 29884 in the issue of Friday, July 9, 1982, make the following correction.

On page 29884, third column (Group 793), item number 1, second line should read: "described land accepted June 16, 1982".

Herman J. Lyttge,

Chief, Section of Records and Data Management.

[FR Doc. 82–20219 Filed 7–26–82; 8:45 am]
BILLING CODE 4310–84–M

[Group 738]

California; Filing of Plat of Survey; Correction

July 19, 1982.

In **Federal Register** 82–18593 appearing on page 29884 in the issue of

Friday, July 9, 1982, make the following correction.

On page 29884, third column (Group 738), item number 1, second line should read: "described land accepted June 11, 1982".

Herman J. Lyttge,

Chief, Section of Records and Data Management.

[FR Doc. 82-20246 Filed 7-26-82; 8:45 am]

BILLING CODE 4310-84-M

[Group 153]

California; Filing of Plat of Survey

July 19, 1982.

1. A plat of survey of the following described land accepted July 7, 1982, will be officially filed in the California State Office, Sacramento, California, effective at 10:00 a.m. on September 3, 1982.

Humboldt Meridian, California

T. 12 N., R. 3 E.,
Sec. 37;
Sec. 38;
Sec. 39;
Sec. 40;
Sec. 41;
Sec. 42.

2. This plat representing the dependent resurvey of the east boundary of Township 12 North, Range 2 East, and the former west boundary of Township 12 North, Range 3 East, and the survey of a portion of the north boundary and sections 37, 38, 39, 40, 41, and 42, Township 12 North, Range 3 East, Humboldt Meridian.

3. The plat will become the basic record for describing the land for all authorized purposes at and after 10:00 a.m. of the above date. Until this date and time, the plat has been placed in the open files and is available to the public for information only.

4. This survey was executed to meet certain needs of this Bureau.

5. All inquiries relating to this land should be sent to the California state Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Section of Records and Data Management.

[FR Doc. 82-20247 Filed 7-26-82; 8:45 am]

BILLING CODE 4310-84-M

[OR 1565]

Oregon; Partial Termination of Classification for Multiple Use Management

1. By orders of the Oregon State Director, Bureau of Land Management, which were published in the **Federal Register** on May 11, 1967 (32 FR 7136) and November 23, 1967 (32 FR 16108), approximately 4,500,000 acres of public lands under the jurisdiction of the Bureau of Land Management were classified or proposed for classification for multiple use management pursuant to the Classification and Multiple Use Act of September 19, 1964 (43 U.S.C. 1411-18) and the regulations in 43 CFR 2460. The lands are located in Grant and Malheur Counties, Oregon.

2. Pursuant to 43 CFR 2461.3(c)(2), the classification is partially terminated as to the lands located in the Northern Malheur Resource Area (aggregating approximately 1,800,000 acres) upon publication of this notice in the **Federal Register.**

3. At 9:30 a.m., on August 30, 1982, the lands referred to in paragraph 2 will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 9:30 a.m., on August 30, 1982, will be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. At 9:30 a.m., on August 30, 1982, the following described land will be open to location under the United States mining laws:

Willamette Meridian

T. 19 S., R. 45 E.,
Sec. 14, N½SW¼, SE¼SW¼.

The area described contains 120 acres in Malheur County, Oregon.

5. The lands referred to in paragraph 2, except as provided in paragraph 4, have been and continue to be open to location under United States mining laws and to applications and offers under mineral leasing laws.

William G. Leavell,

State Director.

[FR Doc. 82-20248 Filed 7-26-82; 8:45 am]

BILLING CODE 4310-84-M

Utah; White River Dam Project

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of final decision.

SUMMARY: This notice announces the BLM's decision authorizing issuance of rights-of-way and other federal land uses associated with construction and operation of the White Dam Project to the Utah Division of Water Resources. The project is located 40 miles southeast of Vernal, in Unitah County, Utah.

SUPPLEMENTARY INFORMATION: The BLM authorizations, included approval of the following: Amendments to the Bonanza and Rainbow Planning Unit Management Framework Plans to conform with the Project; issuance of rights-of-way to facilitate construction of an earthen dam across the White River and creation of a 13.5 mile water storage reservoir and supporting recreational facilities. The decision to issue rights-of-way for the access roads and in support of a 15-megawatt hydroelectric power plant has been deferred pending submission of additional engineering design data.

The BLM decision follows review of the final environmental impact statement (FEIS) issued June 6, 1982, by the Richfield (Utah) District, BLM. The FEIS was a result of two years of studies by several agencies and consultants. The decision was also based upon the Biological Opinion-White River Dam Project, Utah, issued February 24, 1982, by the Fish and Wildlife Service.

ADDRESSES: The BLM Decision Option Document and Record of Decision are available to the public from the following offices:

BLM Utah State Office, 136 East South Temple, Salt Lake City, Utah, 84111; Phone (801) 524-5645

Vernal District Office, 170 South 500 East, Vernal, Utah 84078; Phone (801) 789-1362

FOR FURTHER INFORMATION CONTACT: David W. Moore, Vernal District Office (801) 789-1362.

Dated: July 14, 1982.

Ronald S. Trogstad,

Acting Vernal District Manager.

[FR Doc. 82-20223 Filed 7-26-82; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Issuance of Permit for Marine Mammals; VTN Oregon, Inc.

On May 26, 1982, a notice was published in the **Federal Register** (47 FR 23025), that an application had been filed with the Fish and Wildlife Service by VTN Oregon, Inc. for a permit to capture, mark and release up to 50 sea otters *(Enhydra lutris)* to determine foraging behavior and diet in Alaska.

Notce is hereby given that on July 14, 1982, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 USC 1361–1407), the Fish and Wildlife Service issued a permit PRT 2–9155, to VTN Oregon, Inc. subject to certain conditions set forth therein.

The permit is available for public inspection during normal business hours at the Fish and Wildlife Service's Office in Room 601, 1000 N. Glebe Road, Arlington, Virgina.

Dated: July 20, 1982.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 82–20259 Filed 7–26–82; 8:45 am]

BILLING CODE 4310–55–M

Information Collection Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Service's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Service clearance officer and the Office of Management and Budget reviewing official, Mr. William T. Adams, at 202–395–7340.

Title: Project Agreement and Project Agreement Amendment, 50 CFR Parts 80, 81, 82, 401 and Part 83 (Proposed), obligates the Federal share of estimated costs of project activities under the Service's grants-in-aid program to States, implementing the Pittman-Robertson and Dingell-Johnson Acts.

Bureau Form Number(s): 3–1552 and 3–1591.

Frequency: On occasion.

Description of Respondents: State fish and wildlife agencies.

Annual Responses: 1,456.

Annual Burden Hours: 1,456.

Service Clearance Officer: Arthur J. Ferguson, 202–653–8770.

Dated: July 1, 1982.

Richard M. Parsons,

Acting Associate Director—Federal Assistance.

[FR Doc. 82–20235 Filed 7–26–82; 8:45 am]

BILLING CODE 4310–55–M

Minerals Management Service

Outer Continental Shelf Oil and Gas Production Operations; quality Assurance Program Requirements

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of MMS approval of the latest edition of quality assurance standards.

SUMMARY: This Notice informs the public that the latest edition of both ANSI/ASME SPPE–1 and ANSI/ASME SPPE–2 is the 1982 edition.

SUPPLEMENTARY INFORMATION: The 1982 editions of ANSI/ASME SPPE–1, "Quality Assurance and Certifications of Safety and Pollution Prevention Equipment Used in Offshore Oil and Gas Operations;" and ANSI/ASME SPPE–2, "Accreditation of Testing Laboratories for Safety and Pollution Prevention Equipment Used in Offshore Oil and Gas Operations" were published on April 1, 1982. These documents, cited in paragraph 2 of OCS Order No. 5 for all area Orders, become effective on October 1, 1982. The Director Minerals Management Servcie has approved the 1982 edition of these documents for use. Copies may be obtained from the American Society of Mechanical Engineers, United Engineering Center, 345 East 47th Street, New York, New York 10017.

Dated: July 15, 1982.

Harold E. Doley, Jr.,

Director.

[FR Doc. 82–20225 Filed 7–26–82; 8:45 am]

BILLING CODE 4310–MR–M

Office of the Secretary

Performance Review Board Appointments

AGENCY: Department of the Interior.

ACTION: Notice of Performance Review Board Membership.

SUMMARY: This notice provides the names of individuals who have been appointed to serve as members of the Department of Interior Performance Review Boards. The publication of these appointments are required by Section 405(a) of the Civil Service Reform Act of 1978 (Pub. L. 95–454, 5 U.S.C. 4314(c)(4)).

DATE: These appointments are effective July 27, 1982.

FOR FURTHER INFORMATION CONTACT: Morris A. Simms, Director of Personnel, Office of the Secretary, Department of the Interior, 1800 C Street NW., Washington, D.C. 20240, Telephone Number: 343–6761.

Department of the Interior, Performance Review Boards (PRB's), July 1982

Departmental PRB

Donald Paul Hodel, Chairperson
J. Robinson West (NC)
Arnold Petty (Career)
Stanley Hulett (NC)
Emily DeRocco (NC)
Sidney L. Mills (Career)
F. Eugene Hester (Career)

Office of the Secretary PRB

William Horn (NC), Chairperson
Stephen Shipley (NC)
Douglas P. Baldwin (NC)
Newton Frishberg (Career)
John Fulbright (Career)
Derrell P. Thompson (Career, Field)
Diane K. Morales (NC)

Assistant Secretary-Indian Affairs PRB

Theodore Krenzke (Career), Chairperson
Roy H. Sampsel (NC)
Charles Hughes (Career)
Harry Rainbolt, Jr. (Career)

Solicitor PRB

William H. Satterfield (NC), Chairperson
Donald Tindal (NC)
Raymond Sanford (Career, Field)
W. Pierce Elliott (Career)

Assistant Secretary-Policy, Budget and Administration PRB

Richard R. Hite (Career), Chairperson
Morris Simms (Career)
Kristine Marcy (Career)
Joseph Doddridge (Career)

Assistant Secretary for Fish and Wildlife and Parks PRB

Cleo F. Layton (Career), Chairperson
J. Craig Potter (NC)
Howard Larsen (Career, Field)
Robert Baker (Career, Field)
David Wright (Career)
Ronald Lambertson (Career)

Assistant Secretary-Energy and Minerals PRB

William P. Pendley (NC), Chairperson
Doyle Frederick (Career)
Edmund Grant (Career)
Frank Block (Career, Field)
J. Stephen Griles (NC)
Dean K. Hunt (NC)
Betty Miller (Career)

Assistant Secretary-Land and Water Resources PRB

David Houston (NC), Chairperson
Frank DuBois (NC)
James Parker (NC)
Delmar Vail (Career)
James Flannery (Career)
William Klostermeyer (Career)
Jed Christensen (NC)

Dated: July 15, 1982.

Richard R. Hite,

Deputy Assistant Secretary-Policy, Budget and Administration.

[FR Doc. 82–20229 Filed 7–26–82; 8:45 am]

BILLING CODE 4310–10–M

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to OMB for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Mr. William T. Adams, at 202–395–7340.

Title: Small Operator Assistance Program Laboratory Qualification Application.

Bureau Form Number: FS–16.

Frequency: Annually.

Description of Respondents: Laboratories (analytical) and Consulting Firm (hydrology, geology).

Annual Responses: 200.

Annual Burden Hours: 4,800.

Bureau Clearance Officer: Darlene Gross, (202) 343–5447.

Dated: July 19, 1982.

Carson W. Culp,

Assistant Director, Management and Budget.

[FR Doc. 82–20228 Filed 7–26–82; 8:45 am]

BILLING CODE 4310–05–M

National Park Service

National Register of Historic Places; Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before July 16, 1982. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20243. Written comments should be submitted by August 11, 1982.

Carol D. Shull,

Acting Keeper of the National Register.

CONNECTICUT

Fairfield County

Ridgefield, *Branchville Railroad Tenement*, Old Main Highway

ILLINOIS

Adams County

Quincy, *Wood, Ernest M., Office and Studio*, 126 N. 8th St.

Coles County

Charleston, *Pemberton Hall and Gymnasium*, Lincoln Ave. and 4th St.

Cook County

Blue Island, *Young, Joshua P., House*, 2445 High St.

Wilmette, *Bailey—Michelet House*, 1028 Sheridan Rd.

Douglas County

Filson vicinity, *McCarty, John, Round Barn (Round Barns in Illinois TR)*, NW of Filson

Fayette County

Vandalia vicinity, *Forehand, Clarence, Round Barn (Round Barns in Illinois TR)*, W of Vandalia off IL 185

Greene County

Whitehall vicinity, *Tillery, Virginia, Round Barn (Round Barns in Illinois TR)*, W of Whitehall on CR 728

Jersey County

Grafton vicinity, *Duncan Farm (Jy7)*

Kane County

Elgin, *Pelton, Ora House*, 214 S. State St.

Livingston County

Pontiac vicinity, *Schultz Raymond, Round Barn (Round Barns in Illinois TR)*, S of Pontiac off US 66

McDonough County

Colchester vicinity *Kleinkopf, Clarence, Round Barn (Round Barns in Illinois TR)*, N of Colchester

Peoria County

Peoria, *Pere Marquette Hotel*, 501 Main St.

Tazewell County

Pekin, *Pekin Theatre*, 21–29 S. Capitol St.

Will County

Joliet, *Christ Episcopal Church* , 75 W. Van Buren St.

Joliet, *Joliet Township High School*, 201 E. Jefferson St.

Romeoville vicinity, *George, Ron, Round Barn (Round Barns in Illinois TR)* NE of Romeoville off US 66

INDIANA

Franklin County,

Brookville vicinity, *Shafer, Joseph, Farm*, NE of Brookville on Flinn Road

KENTUCKY

Jefferson County

Louisville, *Belknap, William R., School*, 1800 Sils Ave.

Louisville, *Bradford Mills (Textile Mills of Louisville TR)*, 1034 E. Oak St.

Louisville, *Eclipse Woolen Mill (Textile Mills of Louisville TR)*, 1044 E. Chestnut St.

Louisville, *Falls City Jeans and Woolen Mills (Textile Mills of Louisville TR)*, 1010 S. Preston St.

Louisville, *Louisville Cotton Mills (Textile Mills of Louisville TR)*, 1008 Goss Ave.

Louisville, *Rauchfuss Houses*, 837–847 S. Brook St.

Louisville, *Republic Building*, 429 W. Muhammad Ali Blvd.

Louisville, *Stewart's Dry Goods Company Building*, 501 S. 4th Ave.

Louisville, *Theater Building*, 625–633 S. 4th Ave.

Johnson County

Volga vicinity, *McKenzie, David, Log Cabin*, McKenzie Branch

Pulaski County

Somerset, *Somerset Downtown Commercial District*, 108–236 and 201–223 E. Mt. Vernon St.

LOUISIANA

Caldwell Parish

Columbia, *First United Methodist Church*, LA 165 and Church St.

MISSISSIPPI

Clay County

West Point, *Court Street Historic District*, Court St. between Travis and E. Broad Sts.

NEW JERSEY

Ocean County

Jackson Township, *Cassville Crossroads Historic District (Cassville MRA)*, jct. of CR 571 and 528

Jackson Township, *Rova Farms Historic District (Cassville MRA)*, CR 571

Union County

Union, *Caldwell Parsonage*, 909 Caldwell Ave.

NORTH CAROLINA

Clay County

Hayesville vicinity, *Spikebuck Town Mound and Village Site*

Randolph County

Seagrove vicinity, *Cassady, Calvin, Barn*, E of Seagrove off SR 2862

PENNSYLVANIA

Lancaster County

Lancaster, *Hess, A. B., Cigar Factory and Warehouses*, 231 N. Shippen St.

Lancaster, *Lancaster Watch Company*, 901 Columbia Ave.

Strasburg vicinity, *Electric Locomotive No. 4859*, PA 741

RHODE ISLAND

Providence County

Cumberland, *St. Joseph's Church Complex*, 1303–1317 Mendon Rd.

Cumberland, *Jillson, Luke, House*, 2510 Mendon Rd.

Cumberland, *Tower, Lewis, House*, 2199 Mendon Rd.

Pawtucket, *Church Hill Industrial District*, Roughly bounded by S. Union, Pine, Baley, Commerce, Main, and Hill Sts.

Washington County

Narragansett, *Central Street Historic District (Narragansett Pier MRA)*, Both sides of Central Street from 5th Ave. to Boon St.
Narragansett, *Earlscourt Historic District (Narragansett Pier MRA)*, Roughly bounded by Westmoreland, Noble, Woodwards Sts., and Gibson Ave. (both sides)
Narragansett, *Gardencourt (Narragansett Pier MRA)*, 10 Gibson Ave.
Narragansett, *Ocean Road Historic District (Narragansett Pier MRA)*, Ocean and Wildfield Farm Rds., and Newton and Hazards Aves.
Narragansett, *Towers Historic District (Narragansett Pier MRA)*, Bounded by the Atlantic Ocean, Exchange Pl., Mathewson and Taylor Sts
South Kingstown, *Perry, Commodore Oliver, Farm*, 184 Post Rd.

TEXAS

Anderson County

Palestine vicinity, *Pace McDonald Site (41AN51)*

Travis County

Austin, *Smoot, Richmond Kelley, House*, 1316 W. 6th St.

UTAH

Salt Lake County

Salt Lake City, *Belvedere Apartments (Salt Lake City Business District MRA)*, 29 S. State St.
Salt Lake City, *Broadway Hotel (Salt Lake City Business District MRA)*, 222 W. 3dS.
Salt Lake City, *Brooks Arcade (Salt Lake City Business District MRA)*, 200 S. State St.
Salt Lake City, *Building at 561 W. 200 South (Salt Lake City Business District MRA)*, 561 W. 200 S.
Salt Lake City, *Building at 592–98 W. 200 South (Salt Lake City Business District MRA)*, 592–98 W. 200 S.
Salt Lake City, *Building at Rear, 537 W. 200 South (Salt Lake City Business District MRA)*, Rear, 537 W. 200 S.
Salt Lake City, *Central Warehouse (Salt Lake City Business District MRA)*, 530 W. 200 S.
Salt Lake City, *Clayton Building (Salt Lake City Business District MRA)*, 214 S. State St.
Salt Lake City, *Clift Building (Salt Lake City Business District MRA)*, 272 S. Main St.
Salt Lake City, *Continental Bank Building (Salt Lake City Business District MRA)*, 200 S. Main St.
Salt Lake City, *Cramer House (Salt Lake City Business District MRA)*, 241 Floral St.
Salt Lake City, *Felt Electric (Salt Lake City Business District MRA)*, 165 S. Regent St.
Salt Lake City, *General Engineering Company Building (Salt Lake City Business District MRA)*, 159 W. Pierpoint Ave.
Salt Lake City, *Greenwald Furniture Company Building (Salt Lake City Business District MRA)*, 36 W. 300
Salt Lake City, *Hotel Albert (Salt Lake City Business District MRA)*, 121 S. W. Temple
Salt Lake City, *Hotel Victor (Salt Lake City Business District MRA)*, 155 W. 200
Salt Lake City, *Japanese Church of Christ (Salt Lake City Business District MRA)*, 255 W. 100
Salt Lake City, *Judge Building (Salt Lake City Business District MRA)*, Salt Lake City, 300 S. Main St.
Salt Lake City, *Kearns Building (Salt Lake City Business District MRA)*, 132 S. Main St.
Salt Lake City, *Mountain States Telephone Building (Salt Lake City Business District MRA)*, 98 S. State St.
Salt Lake City, *Old Clock at Zion's First National Bank (Salt Lake City Business District MRA)*, SW Corner of 1st S. and Main St.
Salt Lake City, *Salt Lake Stamp Company Building (Salt Lake City Business District MRA)*, 43 W. 300
Salt Lake City, *Smith-Bailey Drug Company Building (Salt Lake City Business District MRA)*, 171 W. 200
Salt Lake City, *Stratford Hotel (Salt Lake City Business District MRA)*, 175 E. 200
Salt Lake City, *Tampico Restaurant (Salt Lake City Business District MRA)*, 167 S. Regent St.
Salt Lake City, *Utah Slaughter Company Warehouse (Salt Lake City Business District MRA)*, 370 W. 100
Salt Lake City, *Warehouse District (Salt Lake City Business District MRA)*, 200 S. and Pierpont Ave. between 300 W. and 400 W.

VERMONT

Windsor County

Woodstock vicinity, *South Woodstock Village Historic District*, Both sides of VT 106, TH 61, and Church Hill Rd.

WISCONSIN

Jefferson County

Lake Mills, *Bean Lake Islands Archeological District (Rock Lake Marsh)*.

The following nomination was incorrectly listed on the Pending List printed on April 27, 1982. It was not nominated under applicable procedures.

MARYLAND

Baltimore (independent city), Baltimore Manufacturing Company, 1205 Bank St.

[FR Doc. 82–19941 Filed 7–26–82; 8:45 am]
BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Volume No. 10]

Motor Carriers; Applications, Alternate Route Deviations, and Intrastate Applications

Motor Carrier Intrastate Application(s)

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

New York Docket No. T–10036, filed June 22, 1982. Applicant: TIRED IRON TRANSPORT LTD., 9821 Lockport Road, Niagara Falls, NY 14304. Representative: William J. Hirsch, Esq., 84 Niagara Street, Buffalo, NY 14202. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *Heavy merchandise and contractors equipment:* Between Niagara County on the one hand, and, on the other, all points in the State. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Request for procedural information should be addressed to the New York State Department of Transportation, 1220 Washington Avenue, State Campus, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

New York Docket No. T–4484, filed June 22, 1982. Applicant: VAN CURLER TRUCKING CORP., 121 LaGrange Ave., Rochester, NY 14613. Representative: Mark W. Leunig, Esq., 700 Midtown Tower, Rochester, NY 14613. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *General Commodities:* Between all points in the State. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Request for procedural information should be addressed to the New York State Department of Transportation, 1220 Washington Avenue, State Campus, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

California Docket No. A82–07–09, filed July 2, 1982. Applicant: AUSMUS TRUCKING, INC., 909 No. Market Blvd., Sacramento, CA 95834. Representative: Marvin Handler, 100 Pine St., Ste. 2550, San Francisco, CA 94111. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities, except the following: (a)

Used household goods and personal effects not packed in accordance with the crated property requirements; (b) Livestock; (c) Liquids, compressed gasses, commodities in semiplastic form and commodities in suspension in liquids, in bulk, in tank trucks, tank trailers, tank semi-trailers or a combination of such highway vehicles; (d) Commodities when transported in bulk in dump trucks or in hopper type trucks; (e) Commodities when transported in motor vehicles equipped for mechanical mixing in transit; (f) Logs; (g) Articles of extraordinary value; (h) Automobiles, trucks, busses, trailer coaches and campers; (i) Loaded containers or trailers loaded with containers which are to be interchanged with any rail, water or motor carrier. Between all points and places in California. In performing the service, applicant may make use of any and all streets, roads, highways and bridges necessary or convenient for the performance of such service. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Request for procedural information should be addressed to the Public Utilities Commission, State of California, State Bldg., Civic Center, San Francisco, CA 94104, and should not be directed to the Interstate Commerce Commission.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-20190 Filed 7-26-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 281]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: July 20, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the Federal Register of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Canadian Carrier Applicants: In the event an application to transport property, filed by a Canadian domiciled motor carrier, is unopposed, it will be reopened on the Commission's own motion for receipt of additional evidence and further consideration in light of the record developed in Ex Parte No. MC-157, *Investigation Into Canadian Law and Policy Regarding Applications of American Motor Carriers for Canadian Operating Authority.*

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Shaffer, Ewing, and Williams.

Agatha L. Mergenovich,

Secretary.

MC 531 (Sub-466)X, filed June 25, 1982. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, P.O. Box 14048, Houston, TX 77021. Representative: E. Stephen Heisley, 1919 Pennsylvania Ave., N.W., Suite 500, Washington, DC 20006. Subs 160, 163, 228, 258, 263, 275, 281, 312, 317, 321, 340, 351, 353, 364, 369, 375, 380, 405, 412, 414, 433, 435, 445, 453, and 457. Broaden: To "chemicals and related products" from acrylic resins, liquid chemicals, synthetic latexes, ammonium nitrate, melamine, synthetic resins, resin plasticizer, phosphates, acids and chemicals, colloidal silica, liquid cleaning compounds, liquid washing compound, anhydrous hydrazine, potassium permanganate, liquid synthetic plastics, drilling mud additives (Sub 160); liquid animal feed and liquid animal supplements (Subs 258, 353); fatty acids, fractionated methyl esters (Sub 375); and chemicals (Sub 457); to "food and related products" from molasses, wine, brandy, champagne, vermouth, and wine vinegar, chocolate coating, ice cream coating, cocoa, cocoa butter, and non-chocolate ingredients of candy and confectionery products, liquid chololate, cocoa products, chocolate products, liquid coating and chocolate chips, inedible fats and tallow, meat scraps, tallows and greases, edible or inedible, meat and bone products and dried blood, vegetable oils, vegetable oil foots, animal fats, fish oils, vegetable oils, and blends of any thereof and vegetable oil products (except such commodities as may also be classified as liquid chemicals), animal oils, wine, fruit juice and fruit juice concentrates, gin and neutral spirits (Sub 160); alcoholic liquors (Subs 163, 228, 275, 317, 321, 351); liquid animal feeds and liquid animal feed supplements (Sub 258); grape juice (Sub 263); fruit juice concentrates (Sub 281); vegetable oils and blends of vegetable oils (Sub 312); liquid animal feeds (Sub 340); liquid animal feed supplements, (except corn syrup and liquid sugar) (Sub 353); wine, (except wine vinegar), grape concentrate and distilled spirits (Sub 364); fish oils and fish solubles (Sub 369); vegetable oils, and fatty acids, fractionated methyl esters, fractionated coconut and castor oils (Sub 375); sugar, corn syrups, and blends of sugar and syrups (Sub 380); vegetable oils (Sub 405, 412); tallow (Sub 414); wine, brandy, distilled spirits, neutral spirits, and high proof alcohol, and grape products, wine products, and fruit juice concentrates (Sub 433); vegetable oils and vegetable oil products (Sub 435, 457); alcohol and alcoholic liquors (Sub 445); and alcohol (Sub 453); to "ores annd minerals" from ores (Sub 457); to "pulp, paper and related products" from vanillin (Sub 160); to "petroleum, natural gas and their products" from petroleum oil, petrolatum, refined, and drilling mud additives (Sub 160); to "rubber and plastic products" from liquid synthetic plastics and drilling mud additives, (Sub 160); to radial authority (all but Subs 412, 435, 445 and 457); remove restrictions: in bulk/tank vehicles (all but Sub 453); hopper vehicles and in tanks equipped with mechanical refrigeration/heater units (Sub 160); broaden to Knox, Anderson, Blount and Sevier Counties, TN for Knoxville, TN, Denver, Douglas, Jefferson, Boulder, Arapahoe, and Adams Counties, CO for Denver, CO; Orleans, Jefferson, St. Bernard, Plaquemines, Lafourche, St. Charles, St. Tammany, and St. John the Baptist Parishes, LA, and Hancock County, MS for New Orleans, LA; St. Louis, MO, St. Louis, St. Charles and Jefferson Counties, MO, and Monroe, St. Clair, and Madison Counties, IL for St. Louis, MO; Los Angeles, Orange, and Ventura Counties, CA for Los Angeles, CA; Floyd and Clark Counties, IN and Jefferson County, KY for Jeffersonville, IN: San Francisco, Alameda, and Contra Costa Counties, CA for Berkeley, CA; Cass, Morgan, Brown, and Pike Counties, IL for Meredosia, IL; Maricopa

and Pinal Counties, AZ for Phoenix, AZ; San Francisco, San Mateo, and Marin Counties, CA for San Francisco, CA; Los Angeles, Orange, San Bernardino, Kern, Ventura, Riverside and Santa Barbara Counties, CA for Los Angeles, CA and points within 50 miles of Los Angeles, CA; New Castle County, DE for Atlas Point, DE; Fulton, DeKalb, Gwinnett, Fayette, Clayton, Henry, Rockdale, Douglas, and Cobb Counties, GA for Atlanta, GA, Milwaukee, Racine, Waukesha, Washington and Ozaukee Counties, WI for Milwaukee, WI; Montrose County, CO for Montrose, CO, Suffolk, Norfolk, Essex, and Middlesex Counties, MA for Cambridge, MA; Cook, Will and DuPage Counties, IL for Lemont, IL, Caldwell, Gonzales and Guadaloupe Counties, TX for Luling, TX; Riverside County, CA for Indio, CA; Imperial County, CA for Brawley, CA; Middlesex, Suffolk, Essex and Norfolk Counties, MA for Everett, MA; Alameda, Santa Clara, and San Mateo Counties, CA for Santa Clara, CA; King, Kitsap, and Snohomish Counties, WA for Seattle, WA; Hampden and Hampshire Counties, MA and Hartford and Tolland Counties, CT for Springfield, MA; Los Angeles and Orange Counties, CA for Long Beach, CA; St. Louis, MO–E. St. Louis, IL commercial zone for Monsanto, IL facilities; Cook and Will Counties, IL and Lake County, IN for Chicago Heights, IL; Wayne, Summit, Medina, Portage and Stark Counties, OH for Akron, OH; Hamilton, Clermont, Warren and Butler Counties, OH, Boone, Kenton and Campbell Counties, KY, for Cincinnati, OH; Plymouth, Suffolk, Norfolk, Middlesex and Essex Counties, MA for Boston, MA; Lake County, IN for Grasselli, IN; Los Angeles County, CA for Hawthorne, CA; Harvey, Reno, and McPherson Counties, KS for Hutchinson, KS, Wayne and Monroe Counties, MI for Trenton, MI, San Diego County, CA for San Diego, CA; Calcasieu Parish, LA for Lake Charles, LA: Tazewell, Russell, Smyth, and Washington Counties, VA for Saltville, VA; Los Angeles and Ventura Counties,

CA for Santa Susana, CA; Denver, Douglas, Jefferson, Boulder, Arapahoe, and Adams Counties, CO for the site of the Rocky Mountain Arsenal of Denver, CO; Roosevelt County, MT for Culbertson, MT; Fresno and Madera Counties, CA for Fresno, CA; Tulare County, CA for Lindsay, CA; Los Angeles County, CA for Wilmington, CA; Orange, Los Angeles, Riverside, and San Bernardino Counties, CA for Fullerton, CA; Sutter, Yuba, Yolo, and Sacramento Counties, CA for Sacramento, CA; Leavenworth, Wyandotte and Johnson Counties, KS and Cass, Jackson, Clay, and Platte Counties, MO for Kansas City, KS; Cook, Lake, DuPage, Will and Kane Counties, IL and Lake and Porter Counties, MI for Chicago, IL; Yakima and Benton Counties, WA for Grandview, WA; Benton, Franklin, and Walla Walla Counties, WA for Kennewick, WA; Washington and Benton Counties, AR for Springdale, AR; Van Buren County, MI for Lawton, MI; Van Buren and Kalamazoo Counties, MI for Mattawan, MI, Erie County, PA and Chautauqua County, NY for North East, PA; Chautauqua County, NY for Westfield, NY; Chautauqua County, NY for Brockton, NY; Erie and Niagara Counties, NY for Buffalo, NY, Schuyler County, NY for Watkins Glen, NY; Benton and Yakima Counties, WA for Prosser, WA; Chautauqua County, NY for Dunkirk, NY; Rock Wall, Kaufman, Dallas, and Collin Counties, TX for Garland, TX; Tulare, Fresno, and Madera Counties, CA for points within 15 miles of Fresno, CA, not including Fresno, CA; Bureau, Putnam, and La Salle Counties, IL for La Salle, IL; Allegheny, Washington, and Westmoreland Counties, PA for Pittsburgh, PA; Escambia and Santa Rosa Counties, FL for Pensacola, FL; Rensselaer, Saratoga, and Albany Counties, NY for Troy, NY, McHenry County, IL for Ringwood, IL; Ozaukee County, WI for Saukville, WI; Orange, Los Angeles, San Bernardino, and Riverside Counties, CA for Anaheim, CA; Oklahoma, Pottawatomie, Canadian, and Logan Counties, OK for Oklahoma City, OK; Clark, Lincoln and Nye Counties, NV for the U.S. Atomic Energy Commission Nevada Proving Grounds in Clark, Lincoln, and Nye Counties, NV; Beadle County, SD for Huron, SD; Hood River and Wasco Counties, OR and Skamania and Klickitat Counties, WA for Hood River, OR (Sub 160); Mohave County, AZ and Clark County, NV for Henderson, NV and points within 15 miles thereof (Sub 163); Peoria, Woodford and Tazewell Counties, IL for Peoria, IL, Anderson, Franklin and Woodford Counties, KY for Lawrenceburg, KY, Pike County, MS for McComb, MS, Clackamas, Multnomah, Washington, Columbia and Yamhill Counties, OR and Clark County, WA for Portland, OR (Sub 275); Jefferson, Bullitt, and Oldham Counties, KY and Harrison, Floyd, and Clark Counties, IN for Louisville, KY; El Paso and Teller Counties, CO for Colorado Springs, CO (Sub 312); Platte County, MO and Leavenworth County, KS for Weston, MO; Nelson County, KY for Bardstown, KY (Sub 321); Jefferson and Orleans Parishes, LA for Westwago, LA and McLennan County, TX for Waco, TX (Sub 340); Webb County, TX for the port of entry between the United States and the Republic of Mexico at Laredo, TX (Sub 351); Kern County, CA for Edison, CA (Sub 364) Orange and Los Angeles Counties, CA for Santa Fe Springs, CA (Sub 375); St. John the Baptist Parish, LA for Reserve, LA; Assumption Parish, LA for Supreme, LA, and Morgan, Lawrence and Limestone Counties, AL for Decatur, AL (Sub 380); Cass County, ND and Clay County, MN for Fargo, ND (Sub 405); St. Landry Parish, LA for Opelousas, LA (Sub 412); Potter and Randall Counties, TX for Amarillo, TX facilities; Dakota County, NE and Woodbury County, IA for Dakota City, NE facilities; Cuming County, NE for West Point, NE facilities; Crawford County, IA for Denison, IA facilities; Webster County, IA for Fort Dodge, IA facilities; Rock County, MN for Luverne, MN facilities; Lyon County, KS for Emporia, KS facilities (Sub 414); Jefferson and Orleans Parishes, LA for Harvey, LA facilities; Jefferson, Orleans, Plaquemines, and St. Bernard Parishes, LA for Gretna, LA facilities (Sub 435); Sebastian and Crawford Counties, AR and Sequoyah and Le Flore Counties, OK for Ft. Smith, AR; Will and Kendall Counties, IL for Plainfield, IL, Monroe, Wayne, Washtenaw, Livington, Oakland, Macomb and St. Clair Counties, MI for Detroit, MI; Monmouth County, NJ for Scobeyville, NJ; San Mateo County, CA for Burlingame, CA; Hamilton County, OH for Silverton, OH; Crawford, GA for Roberta, GA; Polk County, FL for Auburndale, FL; Polk County, FL for Lake Alfred, FL (Sub 445); and Muscatine County, IA and Rock Island County, IL for Muscatine, IA (Sub 453);

remove restrictions: against transportation of whiskey from ports of entry located in MD, NY, and PA to Peoria, IA and ports of entry located in MI (Sub 228); to foreign commerce only (Sub 351); except Waco, TX (Sub 353); except Altus, AR, Atlanta, GA, Omaha, NE, Memphis, TN, and Lakeland, FL (Sub 433); to transportation of traffic originating/destined to named facilities (Sub 435); to traffic originating at/destined to named facilities and to foreign commerce only (Sub 445).

MC 40915 (Sub-56)X, filed March 23, 1981, noticed in the **Federal Register** of April 2, 1981, certificate served June 10, 1981, republished as supplemented in this issue. Applicant: BOAT TRANSIT, INC., P.O. Box 1403, Newport Beach, CA 92663. Representative: John T. Wirth, 717–17th St., Ste. 2600, Denver, CO 80202–3357. Lead certificate: broaden "boats and boat parts, supplies, and

equipment" to "transportation equipment."

MC 156821 (Sub-5)X, filed June 21, 1982, previously noticed in the Federal Register of July 6, 1982, republished. Applicant: PHOENIX TRUCKING COMPANY, 6751 Tallmadge Rd., Rootstown, OH 44272. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. Applicant seeks to remove restrictions in its Sub-No. 1 certificate as previously noticed, and, in addition, to broaden Steubenville, OH to Jefferson County, OH, Hancock and Brooke Counties, WV, and Washington, PA. The purpose of this republication is to correct the spelling of *Steubenville*, OH from *Steuben*, OH.

[FR Doc. 82-20180 Filed 7-26-82; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. OP2-162]

Motor Carriers; Permanent Authority; Republications of Grants of Operating Rights Authority Prior to Certification

The following grant of operating right authority is republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the Federal Register.

An original and one copy of an appropriate petition for leave to intervene, setting forth in detail the precise manner in which petitioner has been prejudiced, must be filed with the Commission within 30 days after the date of this Federal Register notice.

By the Commission.

Agatha L. Mergenovich,

Secretary.

MC 151813 (Sub-4) (Republication) filed October 26, 1981, published in the Federal Register of November 13, 1981, and republished this issue: Applicant: CONERTY-HENIFF TRANSPORT, INC., 4220 West 122nd Street, Alsip, IL 60658. Representative: Abraham A. Diamond, 29 South La Salle Street, Chicago, IL 60603. A decision of the Commission, *Review Board 2*, decided February 11, 1982, and served March 1, 1982, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce, over irregular routes, as a *common carrier*, by motor vehicle, transporting (1) *petroleum, natural gas, and their products*, and (2) *chemicals and related products*, between points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, Wisconsin, Erie County, NY, Beaver County, PA, and Middlesex County, NJ, on the one hand, and, on the other, points in Delaware, Maryland, New Jersey, New York, Pennsylvania, Virginia, and the District of Columbia; that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. The purpose of this republication is to broaden the scope of authority.

[FR Doc. 82-20180 Filed 7-26-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OP2-158

Decided: July 16, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating).

MC 4483 (Sub-33) filed July 12, 1982. Applicant: MONSON TRUCKING, INC., R.R. #1, Red Wing, MN 55066. Representative: James E. Ballenthin, 630 Osborn Bldg., St. Paul, MN 55102, 612-227-7731. Transporting *forest products, lumber and wood products, and pulp, paper and related products*, between ports of entry on the international boundary line between the U.S. and Canada, on the one hand, and, on the other, points in ID, MT, OK, TX, and WY.

MC 16513 (Sub-40), filed July 7, 1982. Applicant: REISCH TRUCKING AND TRANSPORTATION CO., INC., 1301 Union Avenue, Pennsauken, NJ 08110. Representative: Russell R. Sage, P.O. Box 11278, Alexandria, VA 22312, (703) 750-1112. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Union Camp Corporation, of Wayne, NJ.

MC 72423 (Sub-14), filed July 9, 1982. Applicant: PLATTE VALLEY FREIGHTWAYS, INC., 111 E. Chestnut Street, Sterling, CO 80751. Representative: Jack B. Wolfe, 601 E. 18th Ave., #107, Denver, CO 80203, (303) 861-8046. Transporting *such commodities* as are dealt in by distillers

and distributors of alcoholic beverages, between points in the U.S. (except AK and HI), under continuing contract(s) with Medley Distilling Co., of Louisville, KY.

MC 139763 (Sub-6), filed July 13, 1982. Applicant: OAK HARBOR FREIGHT LINES, INC., 6350 S. 143rd, Seattle, WA 98168. Representative: David A. Vander Pol (same address as applicant), 206–246–2600. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in WA, OR, CA, NV, ID, and MT.

MC 151422 (Sub-9), filed July 12, 1982. Applicant: MINN-DAK TRANSPORT, INC., 40-1st Ave. N.W., P.O. Box N, Pelican Rapids, MN 56572. Representative: Thomas J. Van Osdel, 15 Broadway, Suite 502, Fargo, ND 58102, (701) 235–4487. Transporting *chemicals and related products*, between points in the U.S. (except AK and HI).

MC 155763 (Sub-1), filed July 9, 1982. Applicant: CAPSTAN TRANSPORTATION CO., 109 North Broad Street, Lancaster, OH 43130. Representative: Thomas A. Rogers(same address as applicant), (614) 687–2800. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 156482 (Sub-1), filed July 13, 1982. Applicant: PACIFIC MOLASSES COMPANY, One California St., Suite #1500, San Francisco, CA 94111. Representative: B. L. Anderson (same address as applicant), 415–445–1475. Transporting *fertilizer and fertilizer materials*, between points in NY, PA, NJ, CT, MA, VT, and RI. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under U.S.C. § 11343(a) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority, please submit a copy of the affidavit or proof of filing the application(s) for common control to Team 2, Room 2379.

MC 156723 (Sub-1), filed July 7, 1982. Applicant: LA MARK TRANSPORT, INC., 436 Santa Barbara Ave., Daly City, CA 94014. Representative: Marion La Mark (same as applicant), (415) 755–7207. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in CA, OR and WA.

MC 161132, filed July 12, 1982. Applicant: RICHARD G. BOLIO, JR., R.D. 1, Box 113, East Hardwick, VT 05836. Representative: Richard G. Bolio, Jr. (same address as applicant). Transporting (1) *petroleum products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Sweet & Burt, Inc., of Morrisville, VT; and (2) *wooden fencing*, between points in the U.S. (except AK and HI), under continuing contract(s) with Green Mountain Fence Co., Inc., of Glover, VT.

MC 161492, filed July 12, 1982. Applicant: DALE H. EDWARDS, d.b.a. CHAPARRAL SERVICES; Route 8, Box 32A, Silver City, NM 88061. Representative: Dale H. Edwards (same address as applicant), (505) 538–3528. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Grant, Hadalgo, Catron, Socorro, Sierra, Dona Ana, Ontero, and Luna Counties, NM and points in El Paso County, TX.

MC 162882, filed July 9, 1982. Applicant: CRAFTSMAN BUILDING SUPPLY, INC., d.b.a. C. B. S. TRANSPORTATION, 950 S. Main St., Heber City, UT 84032. Representative: Irene Warr, 311 S. Sate St., Ste. 280, Salt Lake City, UT 84111, (801) 531–1300. Transporting *lumber and wood products, building materials, and metal products* between points in WA, OR, ID, MT, WY, UT, NV, CO and CA.

MC 162892, filed July 12, 1982. Applicant: KENNETH A. BORGSTAHL, d.b.a. WANDERING WHEELS, P.O. Box 51, Slayton, MN 56172. Representative: Val M. Higgins, 1600 TCF Tower, 121 So. 6th St., Minneapolis, MN 55402, (612) 333–1341. Transporting *mobile homes* between points in SD, IA, MN, MT, NE, ND, WI, WY, CO, TX, OK and NM.

MC 162922, filed July 12, 1982. Applicant: JAMES G. DIEM, d.b.a. JAMES G. DIEM TRANSPORT; Route 1, Butternut, WI 54514. Representative: Scott B. Post (same address as applicant), 715–762–4883. Transporting (1) *pulp, paper and related products*, between points in Price County, WI, on the one hand, and, on the other, points in IA, MO, KS, OK, AR, TX, LA, MS, GA, FL, AL, KY, AZ, CA, OR, WA, CO, NE, and TN; and (2) *such commodities* as are dealt in or used by manufacturers and distributors of fiberglass, between points in Price County, WI, on the one hand, and, on the other, points in OK, CO, and CA.

MC 162903, filed July 12, 1982. Applicant: GUILLORY TRANSPORTATION, 130 West 19th Pl., Delano, CA 93215. Representative: Herbert Guillory (same address as applicant), 805–725–6666. Transporting *passengers and their baggage*, in the same vehicle with passengers, in charter operations, beginning and ending at points in Kern and Tulare Counties, CA, and extending to Las Vegas and Reno, NV, and points in Clark, Washoe, Lake Tahoe, and Douglas Counties, NV.

Volume No. OP2–160

Decided: July 19, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Fortier not participating.)

MC 15643 (Sub-14), filed June 1, 1982, published in the **Federal Register** issue of June 30, 1982, and republished, as corrected, this issue. Applicant: FOUR WINDS VAN LINES, INC., 7035 Convoy Court, San Diego, CA 92138. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036, 202–785–0024. Transporting *general commodities* (except classes A an B explosives, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Xerox Corp., of Rochester, NY. The purpose of this republication is to correct the commodity description.

MC 114323 (Sub-28), filed July 6, 1982. Applicant: PAUL MARCKESANO AND SONS CO., INC., 36 Ferris St., Brooklyn, NY 11231. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048; 212–466–0220. Transporting *food and related products*, between New York, NY, on the one hand, and, on the other, points in NJ, CT, RI, MA, NY, and PA.

MC 119543 (Sub-13), filed July 13, 1982. Applicant: RICHARD J. MULLANEY, 66 Helena St., Leominster, MA 01453. Representative: Robert G. Parks, 20 Walnut St., Suite 101, Wellesley Hills, MA 02181, (617) 235–5571.Transporting *coke and scrap metals*, between points in CT, ME, MA, NH, NY, RI and VT.

MC 125973 (Sub-10), filed July 12, 1982. Applicant: CROWN WAREHOUSE & TRANSPORTATION COMPANY, INC., 710 East 9th Avenue, P.O. Box M799A, Gary, IN 46401. Representative: Leonard R. Kofkin, Suite 1515, 140 South Dearborn St., Chicago, IL 60603, (312) 580–2210. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with FSC Corporation, of Alsop, IL, Valley Liquors, Incorporated, of Aurora, IL, Romano Brothers, dba Morano Bros. Beverage Co., of Chicago, IL, Rand McNally & Company, of Skokie, IL, Hendrickson Mobile Equipment, of

Lyons, IL, and J. G. Clark Co., of Edison, OH.

MC 141652 (Sub-53), filed July 12, 1982. Applicant: ZIP TRUCKING, INC., P.O. Box 6126, Jackson, MS 39208. Representative: Mark S. Gray, 235 Peachtree St., NE., Suite 1200, Atlanta, GA 30303, (404) 522–2322. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Madison County, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 143553 (Sub-14), filed July 6, 1982. Applicant: CONTINENTAL TRANSPORT SYSTEM, INC., 35 Main St., Versailles, CT 06383. Representative: Ronald I. Shapss, 450 7th Ave., New York, NY 10123, 212–239–4610. Transporting *printed matter* and *paper and paper products*, between points in the U.S. (except AK and HI).

Note.—The purpose of this application is to convert applicant's contract carrier authority to common carrier authority.

MC 147243 (Sub-4), filed July 6, 1982. Applicant: SEYMOUR & SOUTHERN, INC., Rte. 2, Box 267, Seymour, WI 54165. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719, 608–273–1003. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Delft Blue-Provimi, Inc., of Watertown, WI, and Jones Dairy Farm, Inc., of Fort Atkinson, WI.

MC 152523 (Sub-4), filed July 2, 1982. Applicant: ARLO G. LOTT, P.O. Box 174 Arco, ID 83213. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, 208–343–3071. Transporting *metal and metal products, building materials, and lumber and wood products*, between points in AZ, CA, CO, ID, IA, KS, MN, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, and WY.

MC 153872 (Sub-1), filed July 7, 1982. Applicant: MENDELSON EGG AND HENSLEY, INC., Rte. 1, Osakis, MN 56360. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Edina, MN 55424, 612–927–8855. Transporting *food and related products*, between points in Van Buren County, MI, on the one hand, and, on the other, points in IA, NE, SD, and WI.

MC 154942 (Sub-1), filed July 6, 1982. Applicant: MUSIC CITY TRANSPORT, INC., 33 Cleveland Ave., P.O. Box 100022, Nashville, TN 37210. Representative: Stephen L. Edwards, 806 Nashville Bank & Trust Bldg., Nashville, TN 37201, 615–255–9911. Transporting *general commodities* (except explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Morning Surf East, Inc. of Franklin, TN.

MC 158813, filed July 6, 1982. Applicant: KEN DUNKER, d.b.a. KEN DUNKER TRUCKING, 2208 Braemer Drive, Sioux Falls, SD 57105. Representative: Thomas J. Simmons, P.O. Box 480 Sioux Falls, SD 57101, 605–339–3629. Transporting *beer and malt beverages*, between points in the U.S., under continuing contract(s) with Brewster Distributing Company, of Watertown, SD.

MC 162822, filed July 6, 1982. Applicant: VEGAS ROCK & SAND, INC., 5547 S. Cameron, Las Vegas, NV 89118. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701, 702–882–5649. Transporting *commodities in bulk* and *construction materials*, between points in CA, NV, AZ, and UT.

MC 162862, filed July 8, 1982. Applicant: UTOPIA TOURING CLUB, INC., Rte. 1, Garfield, MN 56332. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, 612–542–1121. Transporting *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, beginning and ending at points in Douglas, Grant, and Todd Counties, MN, and extending to points in the U.S. (including AK, but excluding HI).

Volume No. OP3–115

Decided: July 21, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

W–64 (Sub-1), filed July 13, 1982. Applicant: WARNER & TAMBLE COMPANY, INC., 2661 Channel Ave., Memphis, TN 38113. Representative: William F. King, Suite 304, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312, (703) 750–1112. To operate as a *contract carrier*, by water, transporting *general commodities* in the performance of general towage service between ports and points along the Mississippi River, between and including Minneapolis, MN and Cairo, IL, the Illinois River, below and including Chicago, IL, the Ohio River, between and including Pittsburgh, PA and Paducah, KY, the Missouri River, below and including Kansas City, MO/KS, the Gulf Intracoastal Waterway, between and including Carabelle, FL and Brownsville, TX, and all tributary and connecting waterways, the Alabama, Warrior, Black Warrior, and Tombigbee Rivers, and the Chattahoochee and Flint Rivers.

MC 36155 (Sub-7), filed July 12, 1982. Applicant: JOHN S. EWELL, INC., East Earl, PA 17519. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108, (717) 233–5731. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Damon Dairy Processing Corporation, of Baltimore, MD.

MC 123254 (Sub-12), filed July 13, 1982. Applicant: PITZER BROTHERS, INC., P.O. Box 633, Jeannette, PA 15644. Representative: Jeremy Kahn, Suite 733, Investment Bldg., 1511 K Street NW., Washington, DC 20005, (202) 783–3525. Transporting *clay, concrete, glass or stone products*, between points in Westmoreland County, PA, on the one hand, and, on the other, points in FL, GA, IL, IN, KY, MD, MI, MO, NJ, NY, NC, OH, SC, TN, VA, WV, WI, and DC.

MC 138635 (Sub-2), filed July 14, 1982. Applicant: CAROLINA WESTERN EXPRESS, INC., P.O. Box 3995, Gastonia, NC 28052. Representative: Eric Meierhoefer, 915 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004, (202) 737–1030. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuinng contract(s) with E. I. du Pont de Nemours & Company, Inc., and its subsidiaries, of Wilmington, DE.

MC 140054 (Sub-4), filed July 12, 1982. Applicant: Z & S CONSTRUCTION CO., INC., P.O. Box 310, Kimball, NE 69145. Representative: Charles M. Williams, 665 Capitol Life Center, 1600 Sherman St., Denver, CO 80203, (303) 839–5856. Transporting (1) *petroleum, natural gas, and their products*, and (2) *Mercer commodities*, between points in CO, UT, NM, SD, ND, NE, WY, MT, KS, OK and ID.

MC 147804 (Sub-3), filed July 13, 1982. Applicant: R. E. HUSMAN EXPRESS, INC., 3926 Hemphill Way, Cincinnati, OH 45236. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215, (614) 228–8575. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in OH, Middlesex and Union Counties, NJ, Pontotoc County, MS, Bexar County, TX, Laurel County, KY, and Des Moines, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 151534 (Sub-7), filed July 15, 1982. Applicant: R & D TRANSPORTATION CORPORATION, P.O. Box 1906, Des Moines, IA 50306. Representative: Donald B. Strater, 1350 Financial Center, Des Moines, IA 50309, (515) 283–2411.

Transporting *machinery*, between points in the U.S. (except AK and HI).

MC 151544 (Sub-2), filed July 12, 1982. Applicant: HILL TRANSPORT, INC., P.O. Box 9813, Rudder Rd., Knoxville, TN 37920 0813. Representative: Howard Hill (same address as applicant), (615) 573–4814. Transporting (1) *textile mill products*, (2) *metal products*, and (3) *sporting goods*, between points in Knox and Campbell Counties, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 161464, filed July 12, 1982. Applicant: D & G LEASING CO. OF ALBION, 13424 28½ Mile Road, Albion, MI 49224. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933, (517) 482–2400. Transporting *metal products*, between points in MI, on the one hand, and, on the other, points in IN, IL and OH.

MC 162214, filed July 13, 1982. Applicant: ANN BAILEY, d.b.a. A. BAILEY TRUCKING, Route 2, Box 553, Shepherdsville, KY 40165. Representative: Ann Bailey (same address as applicant), (502) 957–4695. Transporting *metallurgical coke* and *lightweight aggregate*, between points in the U.S., under continuing contract(s) with Airco Carbide, of Louisville, KY, and Kentucky Solite Corp., of Brooks, KY.

MC 162904, filed July 12, 1982. Applicant: C. E. SWADENER, d.b.a. PIONEER STAGE LINES, 1619 Smyth Ave., No. 9, San Ysidro, CA 92073. Representative: Harold O. Orlofske, P.O. Box 368, Neenah, WI 54956, (414) 722–2848. Transporting *passengers and their baggage*, in charter operations, between points in AZ, CA, CO, NM, NV, OR, TX, UT, WA, and WY, on the one hand, and, on the other, ports of entry on the International Boundary line between the U.S. and Mexico.

MC 162924, filed July 12, 1982. Applicant: LESHER LEASING, INC., 27th and Cumberland Sts., Lebanon, PA 17042. Representative: Calvin D. Spitler, 773 Cumber St., Lebanon, PA 17042, (717) 273–7621. Transporting (1) *such commodities* as are dealt in or used by manufacturers of air pollution control equipment, and (2) *materials, equipment, and supplies* used in the installation and erection of the commodities in (1) above, between points in Lebanon County, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162925, filed July 13, 1982. Applicant: ARTHUR O'NEAL AND JOE HALL, d.b.a. O & H TRUCKING, 1002 54th St., Oakland, CA 94608. Representative: Chas. G. Weiss, 24035 Edloe Dr., Hayward, CA 94541, (415) 785–1797. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S.

MC 162944, filed July 14, 1982. Applicant: KANSAS CITY TRAVEL CLUB TOURS, 6946 North Oak Trafficway, Kansas City, MO 64118. Representative: Robert M. Hill, 103 West Main, P.O. Box 29, Richmond, MO 64085–0029, (816) 776–5411. As a *broker*, at Kansas City, MO, in arranging for the transportation of *passengers*, between points in the U.S.

MC 162954, filed July 13, 1982. Applicant: MILLIGAN EXPRESS, INC., 3412 Westminister Ave., Santa Ana, CA 92703. Representative: Robert Fuller, 13215 E. Penn St., Suite 310, Whittier, CA 90602, (213) 945–3002. Transporting (1) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CA, and (2) *cosmetics, perfumes and other toilet preparations, soap*, and *tote bags*, between points in AZ, CA, and NV.

MC 162955, filed July 12, 1982. Applicant: LE BARON TRUCKING, INC., Center Bldg., P.O. Box 28, Mendon, MA 01756. Representative: Robert G. Parks, 20 Walnut St., Suite 101, Wellesley Hills, MA 02181, (617) 235–5571. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Newly Weds Foods, of Watertown, MA.

MC 162965, filed July 12, 1982. Applicant: GEORGE & J. CROSS TRUCKING INC., d.b.a. JANCO SALES, P.O. Box 1188, Sutherlin, OR 97479. Representative: George T. Cross (same address as applicant), (503) 459–2217. Transporting (1) *lumber and wood products* and (2) *building and construction materials*, between points in CA, ID, OR, NV, and WA.

Volume No. OP4–267

Decided: July 20, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 143406 (Sub-7), filed July 13, 1982. Applicant: MICHEL PROPERTIES, INC., Stenersen Lane, Cockeysville, MD 21030. Representative: Walter T. Evans, 4304 East-West Hwy., Bethesda, MD 20814, (301) 657–2636. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with International Paper Company, of New York, NY, and its subsidiaries.

MC 143776 (Sub-55), filed July 12, 1982. Applicant: C.D.B., INCORPORATED, 155 Spaulding, S.E., Grand Rapids, MI 49506. Representative: Karl L. Gotting, 1200 Bank of Lansing Bldg., Lansing, MI 48933, (517) 482–2400. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities), between points in the U.S. (except AK and HI).

MC 156996 (Sub-1), filed July 13, 1982. Applicant: EUGENE F. BURRILL LUMBER CO., P.O. Box 220, Medford, OR 97501. Representative: David C. White, 2400 S.W. 4th Ave., Portland, OR 97201, (503) 228–6491. Transporting (1) *lumber and wood products, and building materials*, between points in CA, ID, NV, OR, and WA; (2) *metal products*, between points in CA, ID, OR, and WA; and (3) *machinery*, between points in OR, on the one hand, and, on the other, points in CA, ID, OR, and WA.

MC 162946, filed July 12, 1982. Applicant: ARROWHEAD BUS & LIMOUSINE EQUIPMENT, INC., d.b.a ABLE, INC., 2390 Mill Rd., Alexandria, VA 22314. Representative: Maxwell A. Howell, 1100 Investment Bldg., 1511 K St., NW., Washington, DC 20005, (202) 783–7900. Transporting *passengers and their baggage*, in charter and special operations, between Alexandria and Falls Church, VA and points in Loudoun, Fairfax, Prince William and Arlington Counties, VA, Prince George's, Howard, Anne Arundel, Montgomery, Calvert, Charles and St. Mary's Counties, MD and DC, on the one hand, and, on the other, points in the U.S. including AK and HI.

Volume No. OP4–269

Decided: July 20, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Williams not participating.)

MC 2796 (Sub-10), filed July 14, 1982. Applicant: FULLINGTON AUTO BUS COMPANY, INC., 316 Cherry St., Clearfield, PA 16830. Representative: Robert J. Brooks, 1828 L St., NW., Suite 1111, Washington, DC 20036, (202) 466–3892. Transporting (1) *passengers and their baggage*, in special and charter operations, between points in the U.S., and (2) as a *broker* at points in the U.S., arranging for the transportation of *passengers and their baggage*, in special and charter operations, between points in the U.S.

MC 162216, filed July 6, 1982. Applicant: KING B. ROWLAND TRUCKING, INC., 55 E. Washburn St., New London, OH 44851. Representative:

Paul F. Beery, 275 E. State St., Columbus, OH 43215, (614) 228–8575. Transporting *building materials*, between points in Huron, Richland, and Ashland Counties, OH, on the one hand, and, on the other, points in MI, IN, OH, KY, WV, and PA.

MC 162726 (Sub-1), filed July 12, 1982. Applicant: ROSS HOWE, d.b.a. HOWE TRUCKING COMPANY, Route 2, Box 57, Canadian, TX 79014. Representative: William D. Lynch, P.O. Box 912, Austin, TX 78767, (512) 472–1101. Transporting *Mercer commodities*, between points in TX, WY, SD, OK, NM, LA, ND, AR, MT, KS, SD, CO, and CA.

Volume No. OP4–271

Decided: July 20, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 75406 (Sub-56), filed July 12, 1982. Applicant: SUPERIOR FORWARDING COMPANY, INC., 2600 S. Fourth St., St. Louis, MO 63118. Representative: Joseph E. Rebman, 314 N. Broadway, Suite 1300, St. Louis, MO 63102, (314) 421–0845. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), serving all points in AR, LA, MS, TN, and TX, as off-route points in connection with applicant's existing authorized regular routes operations. Note: Applicant states it intends to tack this authority with existing authority and to interline with connecting carriers.

MC 162876, filed July 9, 1982. Applicant: J.W. THOMAS, Route 1, Box 124A, Queen City, TX 95572. Representative: J.W. Thomas (same address as applicant) (214) 796–4071. Transporting *lumber, paper and oil drilling equipment*, between points in TX, AR, OK, LA, AZ, NM, MS and MO.

MC 162886, filed July 9, 1982. Applicant: AIRPORT LIMO, INC., 1200 N. Hudson St., Arlington, VA 22201. Representative: Jeremy Kahn, 1511 K St., NW., Suite 733, Washington, D.C. 20005 (202) 783–3525.

Transporting *passengers and their baggage*, charter and special operations, beginning and ending at points in DC, points in Arlington, Fairfax and Loudoun Counties, VA, Alexandria, Falls Church and Fairfax, VA, and points in Montgomery and Prince Georges Counties, MD, and extending to points in the U.S. (except HI)

Volume No. OP4–272

Decided: July 15, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 39507 (Sub-5), filed July 7, 1982. Applicant: PAWTUXET VALLEY MOTOR EXPRESS, INC., 303 Jefferson Blvd., Warwick, RI 28888. Representative: Ronald N. Cobert, Suite 501, 1730 M St., NW., Washington, D.C. 20036, (202) 296–2900. Transporting *general commodities* except classes A and B explosives, household goods, and commodities in bulk), between points in RI. Conditions: (1) Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation at applicant's written request, of Certificate of Registration No. MC–39507, and (2) the person or persons who appear to be engaged in common control of applicant and another regulatd carrier must either file an application under 49 U.S.C. 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filling the application(s) for common control to team 4, Room 2410.

MC 72997 (Sub-29), filed July 12, 1982. Applicant: LIBERTY TRUCKING CO., 5000 W. 39th St., Chicago, IL 60650. Representative: Carl L. Steiner, 29 S. LaSalle St., Chicago, IL 60603, (312) 236–9375. Transporting *general commodities* (except classes A and B explosives, household goods,and commodities in bulk), between points in WI and IL.

MC 108247 (Sub-11), filed July 12, 1982. Applicant: WESTCHESTER MOTOR LINES, INC., 35 Edgemere Rd., New Haven, CT 06512. Representative: Ronald G. Esposito (same address as applicant), (203) 469–2374. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Hew Haven, CT and Baltimore, MD: From New Haven over Interstate Hwy 95 to New York, NY and then over the NJ Turnpike and Interstate Hwy 295 to the Delaware Memorial Bridge, then over the Delaware Memorial Bridge to Interstate Hwy 95, the over Interstate Hwy 95 to Baltimore, and return over the same route, serving all intermediate points, and serving Philadelphia, PA as an off-route point.

Note.—Applicant states it intends to tack the authority herein with its presently authorized operations.

MC 149497 (Sub-29), filed July 12, 1982. Applicant: HAUPT CONTRACT CARRIERS, INC., P.O. Box 1023, Wausau, WI 54401. Representative: Robert A. Wagman (same address as applicant), (715) 359–2907. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with St. Regis Paper Co., of New York, NY.

MC 152597 (Sub-2), filed July 13, 1982. Applicant: ARROW-LIFSCHULTZ FREIGHT FORWARDERS, INC., 312 W 60th St., New York, NY 10023. Representative: Carl L. Haderer (same address as applicant), (202) 397–8840. Transportation *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in TX, on the one hand, and, on the other, points in AL, CT, DE, FL, GA, KY, LA, MA, MD, ME, MS, NC, NH, NJ, NY, OH, PA, RI, SC, TN, VA, VT, WV and DC.

MC 153197 (Sub-2), filed July 13, 1982. Applicant: ILLINOIS AUTO DRIVEAWAY, INC., d.b.a. AUTO DELIVERY COMPANY, 706 Center St., Des Plaines, IL 60016. Representative: Keith G. O'Brien, 1729 H St., NW., Washington, DC 20006, (202) 337–6500. Transporting *transportation equipment*, between points in the U.S. (except AK and HI), under continuing contract(s) with Travenol Laboratories, Inc., of Deerfield, IL.

MC 162837, filed July 12, 1982. Applicant: LAWRENCE A. PENN JR., d.b.a. LAWRENCE A. PENN, JR., TRUCKING, Route 3, Box 365–A, Martinsville, VA 24112. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168, (703) 629–2818. Transporting *furniture and fixtures*, between Martinsville, VA, and points in Henry County, VA, on the one hand, and, on the other, points in AZ, CA, NV, OR and WA.

Volume No. OP4–273

Decided: July 19, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 41657 (Sub-2), filed July 6, 1982. Applicant: ROSENDO DIAZ, d.b.a. JENSEN MOVERS & STORAGE, 2520 Orthodox St., Philadelphia, PA 19137. Representative: Frank W. Doyle, 323 Maple Ave., Southampton, PA 18966 (215) 357–7220. Transporting *household goods, furnitures and fixtures*, between Philadelphia, PA, on the one hand, and, on the other, points in NY, CT, MA, VA, NC, SC, GA, FL, and DC.

MC 119237 (Sub-2), filed July 12, 1982. Applicant: CHAUFFEUR SERVICE, INC., 77 Oak St., Spotswood, NJ 08884. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, (201) 572–5551. Transporting *automotive parts and products, printed matter, textiles and textile products, apparel, food and kindred products, toys, office and school supplies and*

furniture, between New York, NY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 157177, filed July 1, 1982. Applicant: WESTERN STATES SHIPPERS, INC., 7601 N. Federal Blvd., Suite 15, Westminister, CO 80030–4920. Representative: Winston A. Hollard, 5672 Wadsworth Blvd., P.O. Box 1169, Arvada, CO 80001–1169, (303) 425–0884. Transporting (1) *malt beverages*, between Denver and Jefferson Counties, CO, on the one hand, and, on the other, points in CA, and (2) *wine and liquors*, between points in CA, on the one hand, and, on the other, points in Denver, Jefferson, Adams, Arapahoe, Boulder, EL Paso, and Gilpin Counties, CO.

MC 161157, filed July 12, 1982. Applicant: TOP LINE EXPRESS, INC., 1977 N. Dixie Hwy., Lima, OH 45801. Representative: Stephen L. Oliver, 275 E. State St., Columbus, OH 43215, (614) 228–8575. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Cleveland, Cincinnati, Columbus, Dayton, and Toledo, OH, St. Louis, MO, Chicago, IL, Detroit, MI, Louisville, KY, Indianapolis, IN, and points Allen and Huron Counties, OH, on the one hand, and, on the other, points in OH, IN, and MI.

MC 162947, filed July 1, 1982. Applicant: ACTION TRAVEL TOURS, DIVISION OF KELTON, LIMITED, Charles Professional Bldg., Waldorf, MD 20601. Representative: Edward T. Love, 4401 East West Highway, Suite 404, Bethesda, MD 20814, (301) 986–9030. To engage in operations, in interstate or foreign commerce, as a *broker*, at Waldorf, MD, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in special and charter operations, beginning and ending at Washington, DC, and points in Anne Arundel, Calvert, Charles, Prince Georges, and St. Marys Counties, MD, and extending to points in the U.S.

MC 162957, filed July 12, 1982. Applicant: JIM OSTEEN, d.b.a. AREA DELIVERY SERVICE, P.O. Box 427, Hutchins, TX 75141. Representative: James W. Hightower, Suite 301, 5801 Marvin D. Love Freeway, Dallas, TX 75237–2385, (214) 339–4108. Transporting *construction materials and equipment*, between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-20196 Filed 7-26-82; 8:45 am]

BILLING CODE 7035-01-M

[I.C.C. Order No. P–41]

Railroads; Chicago and North Western Transportation Co.; Passenger Train Operator

It appearing, That the National Railroad Passenger Corporation (Amtrak) has established through passenger train service between Chicago, Illinois, and Oakland, California. The operation of these trains requires the use of the tracks and other facilities of Burlington Northern Railroad (BN). A portion of the BN tracks between Ottumwa, Iowa and Creston, Iowa, are temporarily out of service because of a washout. An alternate route is available via Chicago and North Western Transportation Company between Omaha, Nebraska, and Chicago, Illinois.

It is the opinion of the Commission that the use of such alternate route is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

(a) Pursuant to the authority vested in me by order of the Commission decided April 29, 1982, and of the authority vested in the Commission by section 402(c) of the Rail Passenger Service Act of 1970 (45 U.S.C. 562(c)), Chicago and North Western Transportation Company (CNW) is directed to operate trains of the National Railroad Passenger Corporation (Amtrak) between a connection with Burlington Northern Railroad (BN) at Omaha, Nebraska, and Chicago, Illinois.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act of 1970, as amended.

(c) *Application*. The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(d) *Effective date*. This order shall become effective at 8:00 a.m., July 16, 1982.

(e) *Expiration date*. The provisions of this order shall expire at 11:59 p.m., July 19, 1982, unless otherwise modified, amended, or vacated by order of this Commission.

This order shall be served upon Chicago and North Western Transportation Company and upon the National Railroad Passenger Corporation (Amtrak), and a copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., July 16, 1982.

Interstate Commerce Commission.

W. F. Sibbald, Jr.,

Agent.

[FR Doc. 82-20191 Filed 7-26-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte 367 (Sub-176)]

Winifrede Railroad Co.; Exemption for Contract Tariff ICC–WNFR–C–0001

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Provisional Exemption.

SUMMARY: Petitioner is granted a provisional exemption under U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariffs to be filled may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the **Federal Register**

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275–7278.

SUPPLEMENTARY INFORMATION: The Winifrede Railroad Company (Winifrede) filed a petition on July 2, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract ICC–WNFR–C–0001 to become effective on one day's notice. The contract was filed to become effective on July 24, 1982 and involves the movement of coal.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. Cf. former section 10762(d)(1). However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. Winifrede is a seven-mile railroad whose primary function is to transport coal from coal fields in and around Winifrede, West Virginia to a point on

the Hananna River for transfer to barges. It anticipated commencement of operations under its contract provision by June 1, 1982, but was unable to meet the deadline. Advancement of the contract's effective date will help alleviate further disadvantages to the contracting parties. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

Winifrede's contract may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

Although the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(e) nor shall it serve to deprive the Commission of jurisdiction to insititute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement in this instance is not necessary to carry out the transportation policy of 49 U.S.C. 10101(a) and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(d) if protests are filed within 15 days of publication in the **Federal Register**.

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

Authority: 49 U.S.C. 10505.

Dated: July 20, 1982.

By the Commission, Division 2, Commissioners Andre, Gilliam, and Taylor. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-20182 Filed 7-26-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Attorney General Consent Decree Lodging Pursuant to Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on July 1, 1982 a proposed consent decree in *United States* v. *Republic Steel Corporation*, Civil Action No. C82-1686-A was lodged with the United States District Court for the Northern District of Ohio, Eastern District, and on July 2, 1982 an unopposed Motion for Modification of Compliance Schedule was filed by Republic. The proposed decree provides for the installation of certain air pollution control equipment at Republic's Canton and Massillon facilities.

The Department of Justice will receive until August 26, 1982, comments relating to the proposed consent decree. Comments should be addresed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States of America* v. *Republic Steel Corporation*, D.J. Ref. 90-5-1-1-1056.

The proposed decree and unopposed motion may be examined at the office of the United States Attorney, Northern District of Ohio, Suite 500, 1404 East Ninth Street, Cleveland, Ohio, and at the Region 5 Office of the Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois. Copies of both the consent decree and the unopposed motion may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed consent decree and the unopposed motion may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $2.10 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

Carol E. Dinkins,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 82-20228 Filed 7-26-82; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Registration

By Notice dated February 4, 1982, and published in the **Federal Register** on February 12, 1982, (47 FR 6499), Upjohn Company, 7171 Portage Road, Kalamazoo, Michigan 49001, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
2,5-Dimethoxyamphetamine (7396)	I.
Methamphetamine (1105)	II.

No comments or objections having been received and pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, § 1301.54(e), the Acting Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: July 20, 1982.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82-20201 Filed 7-26-82; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Registration

By Notice dated January 27, 1982, and published in the **Federal Register** on February 4, 1982; (47 FR 5370), Hoffman La Roche Inc., Kingland Road and Bloomfield Avenue, Nutley, New Jersey 07110, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Alphaprodine (9010)	II.
Levorphanol (9220)	II.

No comments or objections having been received and pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, § 1301.54(e), the Acting Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: July 19, 1982.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82-20003 Filed 7-26-82; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on March 5, 1982, Merck and Company Inc., Merck Chemical Manufacturing Division, Building 19, Lincoln Avenue, P.O. Box 2000, Rahway, New Jersey 07065, made application to the Drug Enforcement

Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Anileridine (9020)	II.
Cocaine (9041)	II.
Codeine (9050)	II.
Ethylmorphine (9190)	II.
Hydrocodone (9193)	II.
Morphine (9300)	II.
Thebaine (9333)	II.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Acting Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, N.W., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than August 26, 1982.

Dated: July 20, 1982.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82-20208 Filed 7-26-82; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Industrial Science and Technological Innovation; Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, the National Science Foundation announces the following meeting.

Name: Advisory Committee for Industrial Science and Technological Innovation

Date and time: August 9, 1982; 8:30 am—5:00 pm

Place: National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550 Room 540

Type of meeting: Open

Contact person: Mrs. Carolyn J. Smith, Administrative Assistant Division of Industrial Science and Technological Innovation, National Science Foundation, Washington, D.C. 20550 Telephone (202) 357-9666

Summaries of minutes: May be obtained from Mrs. C.J. Smith, Division of Industrial Science and Technological Innovation, National Science Foundation, Washington, D.C. 20550

Purpose of committee: To provide advice and recommendations concerning support for research in NSF programs administered by Industrial Science and Technology Innovation.

Agenda

August 9, 1982, 8:30 am—12:00 pm

Overview of Industrial Science and Technological Innovation research programs, including presentations on program element initiatives. The committee will be organized into interest subcommittees and a description of the role of the committee will be discussed. Introductory discussions on long range planning and effect of the proposed Small Business Innovation Act of 1982 on Industrial Science and Technological Innovation operations.

August 9, 1982; 1:30 pm—5:00 pm

Dissemination of ISTI research results. Subcommittee meetings organized around programs and presentations of research priorities and research accomplishments. A plenary session devoted to general discussion and future meetings will terminate the meeting.

Reason for late notice: Administrative error.

Dated: July 22, 1982.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 82-20207 Filed 7-26-82; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket NO. 50-358]

Cincinnati Gas & Electric Co., et al. (Wm. H. Zimmer Nuclear Power Station, Unit 1); Notice

July 21, 1982.

Please take notice that a Prehearing Conference in the above captioned proceeding will take place on August 3 and 4, commencing at 9:00 am each day at Room 308, Hamilton County Courthouse, 1000 Main Street, Cincinnati, Ohio 45202.

Oral Limited Appearance Statements will not be heard in this Prehearing Conference, rather limited appearances will be scheduled for the forthcoming Evidentiary Hearings. Written Limited Appearance Statements may be submitted at any time.

Bethesda, Maryland.

For The Atomic Safety and Licensing Board.

John H Frye, III,

Chairman, Administrative Judge.

[FR Doc. 82-20270 Filed 7-26-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-373]

Commonwealth Edison Co.; Notice of Issuance of Amendment of Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 3 to Facility Operating License No. NPF-11, issued to Commonwealth Edison Company, which revised the license for operation of the La Salle County Station, Unit No. 1 (the facility) located in Brookfield Township, La Salle County, Illinois. The Amendment is effective as of the date of issuance.

The Amendment consists of an addition to the license in that prior to January 15, 1983, the licensee shall check the torque on all non-pressure boundary bolts on each safety-related valve outside containment.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this Amendment was not required since the Amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this Amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this Amendment.

For further details with respect to this action, see (1) the application for amendment dated July 14, 1982, (2) Amendment No. 3 to License No. NPF-11 dated July 15, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and the Public Library of Illinois Valley Community College, Rural Route No. 1, Ogelsby, Illinois. A copy of items (1) and (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 15th day of July 1982.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 82-20267 Filed 7-26-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-373 and 50-374]

Commonwealth Edison Co., La Salle County Station, Unit 1 and 2; Issuance of Directors's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has denied the petitions and amendment under 10 CFR 2.206 filed by the Attorney General of Illinois and Illinois Friends of the Earth for La Salle County Station, Unit 1. With respect to La Salle County Station, Unit 2, the Director has indicated further investigations. A supplemental decision must be made with respect to those allegations pertaining only to Unit 2.

The two petitions addressed numerous allegations of poor construction, falsification of records, inadequate quality control, etc. These allegations were categorized into three categories; whereby the NRC staff concluded that only Category 1 allegations required resolution to proceed with the La Salle Unit 1 licensing process. For La Salle Unit 2, the Category 2 allegations were deferred and the NRC will continue to investigate these matters for a decision in the reasonably near future. Category 3 allegations are those not under NRC jurisdiction or are too general to pursue and no further action is required by the NRC staff.

The reasons for the above conclusions are fully described in a "Director's Decision Under 10 CFR 2.206," which is available for public inspection in the Commission's Public Document Room located at 1717 H Street, N.W., Washington, D.C. 20555, and at the Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois. A copy of the decision will be filed with the secretary for the Commission's review in accordance with 10 CFR 2.206(c).

Dated at Bethesda, Maryland, this 19th day of July 1982.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82-20288 Filed 7-26-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-322]

Long Island Lighting Co., Shoreham Nuclear Power Station; Order Extending Construction Completion Date

Long Island Lighting Comapny is the holder of Construction Permit No. CPPR-95, issued by the Atomic Energy Commission[1] on April 14, 1973, for construction of the Shoreham Nuclear Power Station. This facility is presently under construction at the applicant's site on the north shore of Long Island in the town of Brookhaven, Suffolk County, New York.

On November 26, 1980, the applicant requested an extension of the latest completion date because construction has been delayed by the following events beyond its control:

1. New Regulatory Requirements.
2. Evolving Interpretation of Existing Regulatory Requirements.
3. Late Delivery of Equipment.
4. Unexpected Difficulties in Completion of Required Plant Modifications.

This action involves no significant hazards consideration; good cause has been shown for the delays; and the requested extension is for a reasonable period, the bases for which are set forth in the staff's evaluation of the request for extension.

The Commission has determined that this action will not result in any significant environmental impact and, pursuant to 10 CFR 51.5(d)(4), an environmental impact statement, or negative declaration and environmental impact appraisal, need not be prepared in connection with this action.

The NRC staff evaluation of the request for extension of the construction permit is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Shoreham-Wading River Public Library, Route 25A Shoreham, New York 11786.

It Is Hereby Ordered That the latest completion date for Construction Permit No. CPPR-95 is extended from December 31, 1980 to March 31, 1983.

Date of Issuance: July 15, 1982.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 82-20271 Filed 7-26-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-282 and 50-306]

Northern States Power Co.; Notice of Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 56 and 50 to Facility Operating License Nos. DPR-42 and DPR-60 issued to Northern States Power Company (the licensee), which revised Technical Specifications for operation of Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2 (the facilities) located in Goodhue County, Minnesota. The Amendments are effective as of the date of issuance.

The Amendments revise the Appendix A Technical Specifications concerned with the peak burnup limits shown in Figure TS.3.10-7. The peak burnup limit is increased from 41,850 to 47,000 MWD/MTU.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated June 14, 1982, (2) Amendment Nos. 56 and 50 to License Nos. DPR-42 and DPR-60, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Environmental Conservation Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 16th day of July, 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR DOC. 82-20269 Filed 7-26-82; 8:45 am]

BILLING CODE 7590-01-M

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[1] Effective January 19, 1975, the Atomic Energy Commission became the Nuclear Regulatory Commission and permits in effect on that day were continued under the authority of the Nuclear Regulatory Commission.

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A, B, and C in the excepted service, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: William Bohling, 202–632–6000.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published a notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR Part 213 on June 25, 1982 (47 FR 27649). Individual authorities established or revoked under Schedules A, B, or C between June 1, 1982 and June 30, 1982 appear in a listing below. Future notices will be published on the fourth Tuesday of each month. A consolidated listing of all authorities will be published as of June 30 of each year.

Schedule A

The following exception is established:

In the Department of Health and Human Services, Office of the Secretary, up to ten positions at grades GS–9/14 in the Office of the Assistant Secretary for Planning and Evaluation filled under the Policy Research Associate Program. New appointments to these positions may be made only at grades GS–9/12. Employment of any individual under this authority may not exceed 2 years. Effective June 3, 1982.

The following exceptions are revoked:

Correction: In the Department of the Air Force, Office of the Secretary, one Special Assistant (under 213.3109(a)), was erroneously revoked May 28, 1982 (47 FR 23607), due to an administrative error by the agency. The authority is still being used. Approval of the retraction is effective June 17, 1982.

In the Selective Service System, Deputy or Assistant State Directors and State Medical Officers in State Headquarters; revoked effective June 2, 1982, because the authority is no longer used.

In the Government of the District of Columbia, Board of Higher Education, positions of noneducational employees of the Federal City College; revoked effective June 10, 1982, because the District has established its own personnel system.

In the Government of the District of Columbia, Department of Housing and Community Development, one Executive Director; revoked effective June 10, 1982, because the District established its own personnel system.

In the Government of the District of Columbia, Department of Housing and Community Development, positions of teachers engaged on a part-time or intermittent basis in the instruction of trainees enrolled in training programs for maintenance of buildings and grounds; revoked effective June 10, 1982, because the District established its own personnel system.

In the Government of the District of Columbia, Department of Housing and Community Development, positions of Neighborhood Aide (Urban Renewal); revoked effective June 10, 1982, because the District established its own personnel system.

Schedule B

The following exceptions are revoked:

In the Selective Service System, positions in the Selective Service System when filled by persons who as commissioned officer personnel in the Armed Forces have previously been trained for or have been on active military duty in the Selective Service Program, and cannot, for some reason beyond their control, be brought to active military duty in the current Selective Service Program; revoked effective June 2, 1982, because the authority is no longer used.

In the Government of the District of Columbia, Chairman, Secretary and Members of the Board of Police and Fire Surgeons, D.C.; revoked effective June 10, 1982, because the District established its own personnel system.

Schedule C

The following exceptions are established:

In ACTION, one Staff Assistant to Deputy Assistant Director. Effective June 16, 1982.

In the Department of Agriculture, Office of the Secretary, one Confidential Assistant to the Executive Assistant to the Secretary. Effective June 1, 1982.

In the Department of Agriculture, Assistant Secretary for Administration. Office of Finance and Management, one Special Assistant to the Deputy Assistant Secretary for Administration. Effective June 2, 1982.

In the Department of Agriculture, Federal Crop Insurance Corporation, one Confidential Assistant to the Manager. Effective June 7, 1982.

In the Department of Agriculture, Federal Crop Insurance Corporation, one Confidential Assistant to the Manager. Effective June 16, 1982.

In the Department of Agriculture, Farmers Home Administration, one Confidential Assistant to the Administrator. Effective June 30, 1982.

In the Agency for International Development, Bureau for Program and Policy Coordination, one Deputy Director to the Director, Office of Women in Development. Effective June 4, 1982.

In the Department of Commerce, International Trade Administration, one Confidential Assistant to the DAS for Industry Projects. Effective June 3, 1982.

In the Department of Commerce, National Telecommunications and Information Administration, one Confidential Assistant to the Deputy Associate Administrator for Policy Analysis and Development. Effective June 11, 1982.

In the Department of Commerce, International Trade Administration, one Special Assistant to the Assistant Secretary. Effective June 28, 1982.

In the Department of Commerce, International Trade Administration, one Confidential Assistant to the Deputy Assistant Secretary for Export Enforcement. Effective June 30, 1982.

In the Department of Commerce, Office of Congressional and Intergovernmental Affairs, one Confidential Assistant to the Assistant Secretary. Effective June 30, 1982.

In the Department of Defense, Office of the Assistant Secretary of Defense (Legislative Affairs), one Special Assistant. Effective June 1, 1982.

In the Department of Defense, Office of the Assistant to the Secretary and Deputy Secretary of Defense, one Staff Assistant. Effective June 4, 1982.

In the Department of Defense, Office of the Secretary of Defense, one Special Counsel to the Assistant Secretary. Effective June 10, 1982.

In the Department of Defense, Office of the Secretary of Defense, one Personal and Confidential Assistant to the Assistant Secretary of Defense (International Security Policy). Effective June 18, 1982.

In the Department of Defense, Office of the Director, Program Analysis and Evaluation, one Assistant for Special Projects. Effective June 30, 1982.

In the Department of Energy, Congressional, Intergovernmental, and Public Affairs, one Administrative Assistant. Effective June 21, 1982.

In the Department of Transportation, Urban Mass Transportation Administration, Office of the Administrator, one Staff Assistant to the Administrator. Effective June 3, 1982.

In the Department of Transportation, Office of the Secretary, one staff Assistant to the Regional Representative of the Secretary. Effective June 3, 1982.

In the Department of Transportation, Office of the Secretary, Immediate Office, one Regional Representative of the Secretary. Effective June 18, 1982.

In the Department of Transportation, Office of the Secretary, one Staff Assistant to the Director, Office of Civil Rights. Effective June 30, 1982.

In the Department of Education, Office of Civil Rights, one Special Assistant to the Assistant Secretary. Effective June 4, 1982.

In the Department of Education, Office of Legislation and Public Affairs, one Director, Legislative Policy to the Deputy Assistant Secretary. Effective June 8, 1982.

In the Department of Education, Office of Civil Rights/Program Review and Assistant Service, one Director to the Assistant Secretary. Effective June 16, 1982.

In the Department of Education, Office of the Secretary, one confidential Assistant for Advisory Committees to the Executive Assistant. Effective June 30, 1982.

In the Environmental Protection Agency, Office of Intergovernmental Liaison, one Special Assistant to the Director. Effective June 23, 1982.

In the Environmental Protection Agency, Office of Intergovernmental Liaison, one Local Affairs Specialist to the Director. Effective June 28, 1982.

In the Environmental Protection Agency, Office of the Administration, one Program Coordinator to the Chief of Staff. Effective June 28, 1982.

In the Export-Import Bank of the United States, one Special Assistant to the First Vice President and Vice Chairman for Small Business Programs. Effective June 15, 1982.

In the Government Printing Office, Office of the Public Printer, one Public Affairs Specialist to the Legislative Liaison Officer. Effective June 1, 1982.

In the Government Printing Office, Office of the Public Printer, one Deputy Congressional Relations Officer. Effective June 21, 1982.

In the Department of Health and Human Services, Office of the Assistant Secretary for Public Affairs, one Confidential Staff Assistant to the Assistant Secretary. Effective June 1, 1982.

In the Department of Health and Human Services, one Confidential Assistant to the Assistant Secretary for Planning and Evaluation. Effective June 2, 1982.

In the Department of Health and Human Services, one Special Assistant to the Director, Office of Community Services, Effective June 4, 1982.

In the Department of Health and Human Services, one Confidential Assistant to the Executive Secretary to the Department. Effective June 11, 1982.

In the Department of Health and Human Services, one Special Assistant to the Director, Office of Community Services. Effective June 29, 1982.

In the Department of Housing and Urban Development, one Special Assistant for Regional Council Programs. Effective June 18, 1982.

In the Department of Housing and Urban Development, one Executive Assistant to the Regional Administrator. Effective June 18, 1982.

In the Department of Housing and Urban Development, one Special Assistant for Regional Council Programs. Effective June 18, 1982.

In the Department of Housing and Urban Development, one Executive Assistant to the Regional Administrator. Effective June 30, 1982.

In the International Communications Agency, one Secretary (Typing) to the Director, Associate Directorate for Management. Effective June 7, 1982.

In the International Communications Agency, one Special Assistant, Private Sector Liaison, to the Associate Director for Management. Effective June 7, 1982.

In the International Communications Agency, Associate Director for Broadcasting, one Special Projects Officer. Effective June 18, 1982.

In the Department of Interior, Assistant Secretary-Land and Water Resources, one Assistant Director for Policy Analysis to Director, Office of Water Policy. Effective June 1, 1982.

In the Department of Interior, U.S. Fish and Wildlife Service, one Confidential Assistant to the Director. Effective June 7, 1982.

In the Department of Interior, Office of the Secretary, one Confidential Assistant. Effective June 7, 1982.

In the Department of Interior, Office of Surface Mining, one Confidential Assistant to the Director. Effective June 28, 1982.

In the Department of Interior, Office of Secretary, one Special Assistant to the Assistant Secretary-Territorial and International Affairs. Effective June 28, 1982.

In the Department of Interior, Office of Secretary, one Special Assistant to the Deputy Assistant. Effective June 30, 1982.

In the Department of Labor, Office of the Assistant Secretary, one Confidential Staff Assistant. Effective June 2, 1982.

In the Department of Navy, Office of the Assistant Secretary of the Navy for Manpower and Reserve Affairs, one Staff Assistant to the Assistant Secretary. Effective June 1, 1982.

In the National Transportation Safety Board, one Special Assistant. Effective June 30, 1982.

In the Office of Science and Technology Policy, one Executive Assistant to the Deputy Director. Effective June 3, 1982.

In the Small Business Administration, Office of Executive Services, one Special Assistant to the Associate Administrator for Management Assistant. Effective June 30, 1982.

In the Department of Treasury, Office of the Commissioner, one Policy Advisor to the Commissioner of Customs. Effective June 1, 1982.

In the Department of Treasury, Office of the Assistant Secretary (Enforcement and Operations), one Deputy Assistant Secretary. Effective June 28, 1982.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

Office of Personnel Management.

Donald J. Devine,

Director.

[FR Doc. 82-20266 Filed 7-30-82; 8:45 am]

BILLING CODE 6325-01-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) Collection title: Application for Medicare.

(2) Form(s) submitted: AA–6, AA–7, AA–8.

(3) Type of request: Revision.

(4) Frequency of use: On occasion.

(5) Respondents: Railroad Retirement Act annuitants relatives and acquaintances, court clerks.

(6) Annual responses: 1,100.

(7) Annual reporting hours: 216.

(8) Collection description: The Board administers the Medicare program for persons covered by the railroad retirement system. The application will be used to obtain information about nonretired employees and their spouses and survivor applications needed for enrollment in the plan.

ADDITIONAL INFORMATION OR COMMENTS:

Copies of the proposed forms and

supporting documents may be obtained from Pauline Lohens, the agency clearance officer (312–751–4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Milo Sunderhaus (202–395–6880), Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503.

William A. Oczkowski,

Director of Planning and Information Management.

[FR Doc. 82–20217 Filed 7–26–82; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

Boston Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

July 20, 1982.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

HRT Industries, Inc., Common Stock, $1 Par Value (File No. 7–6267)
Manville Corporation (Del.), Common Stock, $2.50 Par Value (File No. 7–6268)
Household International, Inc., Common Stock, $1 Par Value (File No. 7–6269); $2.375 Cumulative Convertible Voting Preferred Stock (File No. 7–6270)
Nabisco Brands, Inc., Common Stock, $2 Par Value (File No. 7–6271)
USF&G Corporation, Common Stock, $2.50 Par Value (File No. 7–6272)
Standard Pacific Corp. (Del.), Common Stock, $.25 Par Value (File No. 7–6273)
Hiram Walker Resources, Ltd., Common Stock, No Par Value (File No. 7–6274)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before August 10, 1982 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82–20212 Filed 7–26–82; 8:45 am]

BILLING CODE 8010–01–M

Midwest Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

July 20, 1982.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

National Utilities & Industries Corp., Common Stock, $10 Par Value (File No. 7–6257)
Texas American Bancshares, Inc., Common Stock, $5 Par Value (File No. 7–6258)
Chemed Corp., Capital Stock, $1 Par Value (File No. 7–6259)
LeaRonal, Inc., Common Stock, $1 Par Value (File No. 7–6260)
General Housewares Corp., Common Stock, $33⅓ Par Value (File No. 7–6261)
TDK Electronics Co., Ltd., American Depositary Shares (File No. 7–6262)
Limited, Inc. (The), Common Stock, $.50 Par Value (File No. 7–6263)
Nicolet Instrument Corp., Common Stock, $.25 Par Value (File No. 7–6264)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before August 10, 1982 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley L. Bollis,

Assistant Secretary.

[FR Doc. 82–20210 Filed 7–26–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–18877; File No. SR-PHILADEP–82–6]

Self-Regulatory Organizations; Proposed Rule Change; Philadelphia Depository Trust Co.

Relating to an Interface between Philadelphia Depository Trust Company and the Depository Trust Company for the Settlement of Institutional Trades. Comments requested on or before August 17, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on June 24, 1982, Philadelphia Depository Trust Company filed with the Securities and Exchange Commission the proposed rule change as described in items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The operations of the PHILADEP ID System (PIDS) are summarized as follows:

A. Broker/dealer submission of trades may occur through T+2, using the PHILADEP ID System format, via hard copy, telecommunications transmission, keypunch card, or magnetic tape.

B. Once submitted, trades will generate a legal confirmation for the broker, institution, agent bank and money manager. Also provided for brokers is a Trade Error List, detailing trades with edit errors.

C. After trades have been input, it is the responsibility of the institution or agent bank to affirm the terms of the trade, via hard copy, telecommunication transmission, or magnetic tape.

D. Affirmed trades will generate an Eligible Trade Report for the broker and agent bank. Also, the broker will receive the Unaffirmed Report on the morning of T+3 which reflects trades which have not yet been affirmed by the institution or agent bank.

E. Trades which have been affirmed by T+3 and appear on the Eligible

Trade Report will settle automatically within the depository interface system, via the Third Party Interface, to the long (buying) participant. Trades made between two PHILADEP participants which have been affirmed by T+4 will be settled via the automatic intra-PHILADEP book entry movement of securities.

The PHILADEP IS System will also have an "Interested Party" capability which will allow a maximum of two confirms to be generated for distribution to interested parties, e.g., investment advisor, plan manager, money manager, etc.

II. Self-Regulatory Organization's Statement of Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of Purpose of, and Statutory Basis for, the Proposed Rule Change

PHILADEP's interface with the Depository Trust Company (DTC) is being enhanced to allow use of the institutional delivery system for trade confirmation, affirmation and settlement.

The new system will be known at PHILADEP as the PHILADEP Institutional Delivery System (PIDS).

DTC will make its ID System available to PHILADEP both (i) for trades between PHILAFEP brokers and institutions whose trades are settled by PHILADEP agent banks and (ii) for trades between PHILADEP brokers, PHILADEP institutions, or institutions whose trades are settled by PHILADEP agent banks and DTC brokers, DTC institutions, or institutions whose trades are settled by DTC agent banks. (It is agreed that neither PHILADEP nor DTC shall be deemed a guarantor of settlement of any trade in the ID System.)

The fee for PHILADEP participants of $0.15 per Trade Acknowledgement Confirmation represents a pass-through of the fee charged by DTC.

PHILADEP will participate in an interfaced ID System to promote uniformity and standardization of procedure throughout the financial community for institutional trades.

The new interface is consistent with Section 17A(b)(3)(F) of the Act in that it will facilitate the linking of the PHILADEP and DTC clearance and settlement facilities for institutional trades, thus promoting the prompt and accurate clearance and settlement of securities transactions and fostering cooperation and coordination with persons engaged in the clearance and settlement of securities transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

PHILADEP does not believe that any burdens will be placed on competition as a result of the proposed rule change. Rather, it believes that it will encourage the linking of all markets in the development of a national clearance and settlement system.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change

Comments have been neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 5th Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before August 7, 1982.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary

July 8, 1982.

[FR Doc. 82-20211 Filed 7-26-82; 8:45 am]

BILLING CODE 8010-01-M

Philadelphia Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

July 20, 1982.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks: The Continental Group, Inc. (New Holding Company), Common Stock, $1 Par Value (File No. 7-6275, $2 Cumulative Convertible Preferred, Series A, $1 Par Value (File No. 7-6276). These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before August 10, 1982 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-20200 Filed 7-26-82; 8:45 am]

BILLING CODE 8010-01-M

Soundesign Corp. (10% Subordinated Sinking Fund Debentures (due 10/1/92)); Application To Withdraw From Listing and Registration

[File No. 1-5350]

July 20, 1982.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

Soundesign Corporation ("Company") has determined that the direct and indirect costs of continued listing of its debentures on the Amex is not justified. The Company's debentures were held by 287 holders of record as of July 2, 1982, and the Amex has advised the Company that only $424,000 principal amount of the debentures was traded on the Exchange during the 12-month period commencing July 1, 1981 and ending June 30, 1982. The Amex has posed no objection in this matter.

Any interested person may, on or before August 10, 1982, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-20206 Filed 7-26-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirement Under OMB Review

ACTION: Request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the Federal Register notifying the public that the agency has made such a submission.

DATE: Comments must be received on or before August 18, 1982. If you anticipate commenting on a submission but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer and the agency clearance officer of your intent as early as possible.

COPIES: Copies of the proposed form, the request for clearance (S.F. 83), supporting statement, instructions, transmittal letters, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the item listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency clearance officer: Elizabeth M. Zaic, Small Business Administration, 1441 L St., N.W., Room 200, Washington, D.C. 20416, Telephone: (202) 653-8538.

OMB reviewer: J. Timothy Sprehe, Office of Information and Regulation Affairs, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, D.C. 20503, Telephone: (202) 395-4814.

FORM SUBMITTED FOR REVIEW:

Title: Disaster Home Loan Interview and Referral Form
Form No.: SBA 700
Frequency: On Occasion
Description of Respondents: Individuals, businesses, cooperatives, religious and nonprofit groups that suffer losses in declared disasters
Annual Responses: 75,000
Annual Burden Hours: 18,750
Type of Request: New

Dated: June 21, 1982.

Elizabeth M. Zaic,

Chief, Paperwork Management Branch, Small Business Administration.

[FR Doc. 82-20199 Filed 7-26-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 814]

Argentine Republic; Revocation of the Determination Under Section 2(b)(1)(B) of the Export-Import Bank Act of 1945, as Amended, and Executive Order 12166

By virtue of the authority vested in the Secretary of State by Section 2(b)(1)(B) of the Export-Import Bank Act of 1945, as amended, and Executive Order 12166 of October 19, 1979, the determination with respect to the Argentine Republic made by the Secretary of State (47 FR 19842, May 7, 1982) pursuant to Section 2(b)(1)(B) of the Export-Import Bank Act of 1945, as amended, and dated April 30, 1982, is hereby revoked.

This revocation shall be published in the Federal Register.

Walter J. Stoessel, Jr.,

Acting Secretary of State.

July 12, 1982.

[FR Doc. 82-20200 Filed 7-26-82; 8:45 am]

BILLING CODE 4710-10-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 82-136]

Tariff-Rate Quota for the Calendar Year 1982, on Fish Dutiable Under Item 110.50, Tariff Schedules of the United States (TSUS)

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Announcement of the quota quantity on certain fish for calendar year 1982

SUMMARY: The tariff-rate quota for fish pursuant to item 110.50, TSUS, for the 1982 calendar year is 48,097,576 pounds.

EFFECTIVE DATES: The 1982 tariff-rate quota is applicable to fish described in item 110.50, TSUS, which are entered, or withdrawn from warehouse, for consumption during calendar year 1982.

FOR FURTHER INFORMATION CONTACT:

William D. Slyne, Chief, Special Operations Branch, Duty Assessment Division, U.S. Customs Service, Washington, D.C. 20229 (202-566-8592).

SUPPLEMENTARY INFORMATION: This tariff-rate quota for fish is equal to 15 percent of the average aggregate apparent annual consumption in the United States of fish, fresh, chilled or frozen, fillets, steaks, and sticks, of cod, cusk, haddock, hake, pollock, and rosefish, for the three preceding years, as provided for in headnote 1, part 3A schedule, 1, and item 110.50, TSUS.

It has been determined that the average aggregate consumption for calendar year 1979 through 1981 was 320,650,509 pounds. Therefore, the quota quantity of fish, item 110.50, TSUS, for calendar year 1981 is 48,097,576 pounds. (QUO-2-CO:T:D:SO)

Dated: June 30, 1982.

William Von Raab,

Commissioner of Customs.

[FR Doc. 82-20200 Filed 7-26-82; 8:45 am]

BILLING CODE 4820-02-M

Office of the Secretary

Meeting Between United States and People's Republic of China To Discuss Income Tax Treaty

The Treasury Department announced that representatives of the United States and the People's Republic of China will meet in Washington during the period September 1–10, 1982 to begin negotiations of a bilateral treaty to avoid double taxation of income.

A treaty to avoid double taxation of international shipping and aircraft income was signed in Beijing on March 5, 1982 and has been submitted to the Senate for its advice and consent to ratification. The negotiations to take place in September will address a broader range of issues. These discussions will concern the respective taxing jurisdictions of the country where income arises and the country where the recipient resides, the method to be used by each country to avoid double taxation of its resident with respect to income arising in the other country, and provisions for administrative cooperation between the tax authorities of the two countries.

The discussions will be based in general on the model draft income tax convention published by the Treasury Department in June, 1981. They will also take into account provisions of recent U.S. income treaties with other countries and of the model draft income tax convention published by the United Nations in 1980.

Anyone wishing to provide information or comments on tax matters related to the forthcoming negotiations is invited to do so in writing to A. W. Granwell, International Tax Counsel, Room 3064, Main Treasury Building, Washington, D.C. 20020.

Dated: July 20, 1982.

John E. Chapoton,

Assistant Secretary (Tax Policy).

[FR Doc. 82-20197 Filed 7-26-82; 8:45 am]

BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

Advisory Committee on Former Prisoners of War; Notice of Meeting

The Veterans Administration gives notice under 38 U.S.C. 221 that a meeting of the Advisory Commitee on Former Prisoners of War will be held in Room 304 at the Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, DC 20420, September 29 and 30, 1982. The purpose of the Committee is to consult with and advise the Administrator of Veterans's Affairs on the administration of benefits under title 38, United States Code, for veterans who are former prisoners of war and on the needs of such Veterans with respect to compensation, health care, and rehabilitation.

The sessions will convene at 9 a.m. each day. These sessions will be open to the public up to the seating capacity of the room. Because this capacity is limited, it will be necessary for those wishing to attend to contact Miss Linda Gardner, Administrative Assistant to the Chief Benefits Director, Veterans Administration Central Office (phone 202/389–2455) prior to September 22, 1982.

Members of the public may direct questions or submit prepared statements for review by the Committee in advance of the meeting, in writing only, to Mr. H. B. Mars, Deputy Director, Compensation and Pension Service, Department of Veeterans Benefits, Room 400, Veterans Administration Central Office. Submitted material must be received at least five days prior to the meeting. Such members of the public may be asked to clarify submitted material prior to consideration by the Committee.

Summary minutes of the meeting and rosters of the Committee members may be obtained from Miss Linda Gardner at the aforementioned address.

Dated: July 20, 1982.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 82-20215 Filed 7-26-82; 8:45 am]

BILLING CODE 8320-01-M

Agency Forms Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists a revision and 2 extensions. The entry contains the following information: (1) The department or staff office issuing the form; (2) the title of the form; (3) the agency form number, if applicable; (4) how often the form must be filled out; (5) who will be required or asked to report; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to fill out the form; and (8) an indication of whether section 3504(H) of P.L. 96–511 applies.

ADDRESSES: Copies of the proposed forms and supporting documents may be obtained from Patricia Viers, Agency Clearance Officer (004A2), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C., 20420 (202) 389–2146. Comments and questions about the items on this list should be directed to the VA's OMB Desk Officer, Karen Sagett, Office of Management and Budget, 726 Jackson Place, NW., Washington, D.C. 20503, (202) 395–6880.

DATE: Comments on forms should be directed to the OMB Desk Officer by September 27, 1982.

Dated: July 19, 1982.

Robert P. Nimmo,

Administrator.

Revision and Extension

(1) Office of Construction.
(2) Supplement to SF–129, Bidders' Mailing List Application.
(3) VA Form 08–6299.
(4) When requested by the Office of Construction.
(5) Commercial Construction Firms.
(6) 3,000.
(7) 10 mins.
(8) Section 3504(H) of Pub. L. 96–511 does not apply.

Extension

(1) Information and Regulations Staff.
(2) Certification of Inability to Pay Transportation Costs.
(3) VA Form 60–2323 or VA Form 00–2323.
(4) Annually.
(5) Nonservice-connected beneficiaries who are not in receipt of pension after VA has established that annual family income is not above the maximum annual base pension rates established in 38 U.S.C. 521.
(6) 552,500.
(7) Five minutes.
(8) Section 3504(H) of Pub. L. 96–511 does not apply.

[FR Doc. 82-20214 Filed 7-26-82; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 144
Tuesday, July 27, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL COMMUNICATIONS COMMISSION

Special Open Commission Meeting, Wednesday, July 28, 1982

The Federal Communications Commission will hold a Special Open Meeting on the subjects listed below on Wednesday, July 28, 1982, at 2:00 p.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

General—1—*Title:* FCC Budget Estimates for FY 1984. *Summary:* Managing Director's Recommended Budget Request to be presented to the Office of Management and Budget on September 1, 1982.

General—2—*Title:* Program Evaluation. *Summary:* Item contains program evaluations undertaken at the behest of the Commission. These evaluations address a variety of concerns ranging from the use of office automation to the potential for consolidation of functions.

This meeting may be continued to the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Judith Kurtich, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: July 21, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S–1089–82 Filed 7–23–82; 11:00 am]

BILLING CODE 6712–01–M

2

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Item From July 22nd Open Meeting

The following item has been deleted at the request of the Common Carrier Bureau from the list of agenda items scheduled for consideration at the July 22, 1982, Open Meeting and previously listed in the Commission's Notice of July 15, 1982.

Agenda, Item No., and Subject

Common Carrier—2—*Title:* Revision and update of Rules Part 22 ("Public Mobile Service") CC Docket 80–57. *Summary:* Before the Commission is a *Notice of Proposed Rulemaking* which proposes to simplify these rules, place them in plain language and bring the rules up to date with current technology, reducing costs to applicants and staff, and expediting the administrative processes related to the public mobile service.

Issued: July 21, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S–1087–82 Filed 7–23–82; 11:01 am]

BILLING CODE 6712–01–M

3

FEDERAL ENERGY REGULATORY COMMISSION

July 21, 1982.

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

TIME AND DATE: 10 a.m., July 28, 1982.

PLACE: Room 9306, 825 North Capitol Street, N.E., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary; Telephone (202) 357–8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

Consent Power Agenda—754th Meeting, July 28, 1982, Regular Meeting (10 a.m.)

CAP–1. Project No. 6089–002, Rainsong Co.—Skate Creek exemption application
CAP–2. Project No. 6151–003, Rainsong Co.—Cabin Creek project
CAP–3. Project No. 2958–002, Madera Irrigation District
CAP–4. Project No. 3738–001, Mitchell Energy Co., Inc.; Project No. 4145–000, The City of Valentine, Nebraska; Project No. 3813–000, Energenics Systems, Inc.; Project No. 4225–000, Ainsworth Irrigation District
CAP–5. Project No. 5217–002, Niagara Mohawk Power Corp.
CAP–6. Project No. 6372–001, American Hydro Power Co.
CAP–7. Project No. 3705–002, American Hydro Power Co.
CAP–8. Project Nos. 943–012 and 013, Public Utility District No. 1 of Chelan County, Washington
CAP–9. Project Nos. 67 and 2868, Southern California Edison Co.; Project No. 2409–001, the Cities of Anaheim and Riverside, California
CAP–10. Project Nos. 3524–001 and 002, Western Water Power, Inc.; Project No. 3950–000, Energenics Systems, Inc.; Project No. 4399–000, Yuma County Water Users Association; Project No. 4411–000, City of McFarland; Project No. 4420–000, Imperial Irrigation District
CAP–11. Project No. 5363–001, Warrensburg Board and Paper Corp., Warrensburg, New York
CAP–12. Project No. 4951–003, The Public Utility Commission of The City and County of San Francisco
CAP–13. Project No. 6092–000, Western Hydro Electric, Inc.
CAP–14. Project No. 5451–001, Ted Lance Slater
CAP–15. Project No. 5020–001, Mac Hydro-Power Co., Inc.
CAP–16. Project No. 5123–001, Mac Hydro-Power Co.
CAP–17. Project No. 5829–000, Robert H. Sherman
CAP–18. Project Nos. 5435–002 and 6105–000, Lawrence J. McMurtrey
CAP–19. Omitted
CAP–20. Project No. 3494–000, Noah Corp.; Project No. 3667–000, Borough of Central City, Pennsylvania; Project No. 3980–000, Energenics Systems, Inc.; Project No. 4017–000, City of Pittsburgh, Pennsylvania
CAP–21. Project No. 176–003, 008, 009 and 010, Escondido Mutual Water Co.
CAP–22. Project No. 3639–000, Gregory Wilcox; Project No. 3748–000, Mitchell Energy Co.; Project No. 3168–001, Plains Electric Generation and Transmission Cooperative, Inc.; Project No. 3945–000, Energenics Systems, Inc.; Project No. 5226–000, County of Los Alamos, New Mexico; Project No. 5233–000, City of Alburquerque, New Mexico
CAP–23. Project No. 5857–001, Comtu Falls Corp. and Comtu Associates
CAP–24. Docket No. HB24–63–3, Public Service Co. of Colorado
CAP–25. Project No. 2709–005, Mononogahela Power Co., Potomac Edison Co. and West Penn Power Co.
CAP–26. Project No. 2232–000, Duke Power Co.
CAP–27. Docket No. ER77–277–004, Pennsylvania Power Co.

CAP–28. Docket No. ER82–456–001, Cincinnati Gas & Electric Co.
CAP–29. Docket No. ER82–468–000, Kansas City Power & Light Co.
CAP–30. Docket No. ER82–424–000, Toledo Edison Co.
CAP–31. Docket No. ER82–577–000, Consolidated Edison Co. of New York, Inc.
CAP–32. Docket No. ER82–593–000, Pennsylvania Electric Co.
CAP–33. Docket No. ER82–483–000, Middle South Services, Inc,
CAP–34. Omitted
CAP–35. Docket No. ER82–15–000, Maine Yankee Atomic Power Co.
CAP–36. Docket No. ER82–161–000, New England Power Co.
CAP–37. Docket No. ER82–105–000 and 001, Sierra Pacific Power Co.
CAP–38. Docket No. ER82–104–000, Public Service Co. of Colorado
CAP–39. Docket Nos. ER81–645–000 and ER81–646–000, New England Power Co.
CAP–40. Omitted
CAP–41. Docket No. E–7704–000, The Electric and Water Plant Board of the City of Frankfort, Kentucky v. Kentucky Utilities Co.; Docket No. E–7669–000, Public Service Co. of Indiana; Docket No. E–7937–000, Indianapolis Power & Light Co.; Docket No. E–8053–000 and E–8331–000, Kentucky Utilities Co.
CAP–42. Docket No. ER82–414–001, Ohio Edison Co.
CAP–43. Project No. 4247–001 and 5196–000, Long Lake Energy Corp.
CAP–44. Docket No. QF82–147–000, Sunlaw Energy Corp.
CAP–45. Project No. 5463–001, Lawrence J. McMurtrey and Jay R. Bingham

Consent Miscellaneous Agenda

CAM–1. Public Service Commission of West Virginia
CAM–2. Docket No. RM79–76–113 (Kentucky—1), High-cost gas produced from tight formations
CAM–3. Docket No. RM79–76–109 (New Mexico—12), High-cost gas produced from tight formations
CAM–4. Docket No. RM79–76–110 (New Mexico—13), High-cost gas produced from tight formations
CAM–5. Docket No. RM79–76–106 (Texas—21), High-cost gas produced from tight formations
CAM–6. Docket No. RM79–76–112 (Wyoming—13), High-cost gas produced from tight formations
CAM–7. Docket No. GP82–12–000, Railroad Commission of Texas, Section 102 NGPA Determination, R. L. Burns Corp., Baker "1160" Well #2, RRC Docket No. F–7C–031892, FERC JD–81–32977
CAM–8. Omitted
CAM–9. Docket No. RO82–18–000, Standard Oil Co. of California and Western Crude Oil, Inc.
CAM–10. Docket No. RA81–67–000, Demartin Truck Lines, Inc.

Consent Gas Agenda

CAG–1. Docket No. RP82–59–002, Panhandle Eastern Pipe Line Co.; Docket No. RP82–60–000, Trunkline Gas Co.
CAG–2. Docket No. RP82–84–001, Montana-Dakota Utilities Co.
CAG–3. Docket No. RP82–85–001, Western Gas Interstate Co.
CAG–4. Docket No. RP82–87–001, National Fuel Gas Supply Corp.
CAG–5. Docket No. TA82–2–61–000, West Lake Arthur Corp.
CAG–6. Docket No. TA82–2–15–000, Mid Louisiana Gas Co.
CAG–7. Docket No. TA82–2–17–000, Texas Eastern Transmission Corp.
CAG–8. Docket No. TA82–2–16–000, National Fuel Gas Supply Corp.
CAG–9. Docket No. TA82–2–18–000, Texas Gas Transmission Corp.
CAG–10. Omitted
CAG–11. Docket No. RP82–114–000, Cities Service Gas Co.
CAG–12. Docket No. RP82–115–000, Consolidated Gas Supply Corp.
CAG–13. Docket No. RP82–116–000, Southern Natural Gas Co.
CAG–14. Docket No. RP82–117–000, Midwestern Gas Transmission Co.
CAG–15. Docket No. RP82–118–000, Mid Louisiana Gas Co.
CAG–16. Docket No. RP82–119–000, Columbia Gulf Transmission Co.; Docket No. RP82–120–000, Columbia Gas Transmission Corp.
CAG–17. Docket Nos. RP81–141–001 and RP82–33–001, El Paso Natural Gas Co.
CAG–18. Docket No. RP81–98–000, ANR Storage Co.
CAG–19. Docket No. OR78–1–015 (Phase II), Trans Alaska Pipeline System
CAG–20. Docket No. OR78–1–017, Trans Alaska Pipeline System
CAG–21. Docket Nos. RP72–122–000 (PGA78–3) (PGA79–1) and (PGA79–1), Colorado Interstate Gas Co.; Docket Nos. ST79–6–000, ST80–4–000, ST81–295–000, CP80–15–000 and CP82–357–00, The Nueces Co.
CAG–22. Docket Nos. CI82–241–001 and 002, CI78–66–007, CI78–67–004, CI78–68–003, CI78–68–004, CI77–46–004 and 003, CI77–47–005, CI77–122–004, CI77–46–003, Exxon Corp.; Docket No. CI78–688–004 and 005, Getty Oil Co.; Docket No. CI78–884–003, Mobil Producing Texas & New Mexico Inc.; Docket No. CI81–111–002, American Petrofina Co. of Texas; Docket No. CI62–243–001, Texasgulf, Inc.; Docket No. CS82–52–002, Petro-Energy Exploration, Inc.; Docket Nos. CI82–265–001 and CI82–271–001, Kerr-McGee Corp.; Docket Nos. CI79–673–003 and CI82–262–001, Arco Oil & Gas Co., Division Atlantic Richfield Co.
CAG–23. Docket Nos. RP81–18–005 and 006, High Island Offshore System; Docket Nos. CP75–104–024, et al., High Island Offshore System
CAG–24. Docket Nos. CP82–1–001 and CP82–272–000, Texas Eastern Transmission Corp.
CAG–25. Docket No. CP 78–362–004, Texas Eastern Transmission Corp.; Docket No. CP77–568–012, Texas Eastern Transmission Corp. and Natural Gas Pipeline Co. of America; Docket Nos. CP81–512–000, 001 and 003, Texas Eastern Transmission Corp., Natural Gas Pipeline Co. of America and Transcontinental Gas Pipeline Corp.
CAG–26. Docket No. CP81–150–001, Tennessee Gas Pipeline Co., a Division of Tenneco Inc.
CAG–27. Docket Nos. CP81–535–000 and 001, Texas Eastern Transmission Corp.
CAG–28. Docket Nos. CP81–189–002 and 003, Delhi Gas Pipeline Corp.
CAG–29. Docket No. CP78–128–000, Inter-City Minnesota Pipelines Ltd., Inc.
CAG–30. Docket No. CP82–321–000, Transcontinental Gas Pipe Line Corp.
CAG–31. Docket No. CP82–190–000, Lone Star Gas Co., a Division of Enserch Corp.
CAG–32. Docket No. RP81–3–005, Southwest Gas Corp.
CAG–33. Docket No. CP&9–473–000, Alabama-Tennessee Natural Gas Co.
CAG–34. Docket No. ST82–232–000, Cabot Corp.
CAG–35. Docket No. ST81–290–001, Seagull Pipeline Corp.
CAG–36. Docket No. ST80–299–001, Sugar Bowl Gas Corp.
CAG–37. Docket No. CP82–40—001, Southern Natural Gas Co.
CAG–38. Docket No. TA82–1–28–001, Natural Gas Pipeline Co. of America
CAG–39. Docket No. RP82–86–001, El Paso Natural Gas Co.
CAG–40. Docket Nos. CP81–328–002 and CP81–488–002, Colorado Interstate Gas Co.
CAG–41. Docket No. TA82–2–9–002 (PGA82–2, IPR82–2, DCA82–2 and R&D82–2), Tennessee Gas Pipeline Co., a Division of Tenneco Inc.

I. Licensed Project Matters

P–1. (a) Project No. 5312–001, J. R. Ferguson & Associates; Project No. 5337–001, Westfir Energy Co., Inc.; (b) Project No. 5337–001, Westfir Energy Co., Inc.

II. Electric Rate Matters

ER–1. Omitted
ER–2. Docket No. ER82–427–000, Southern California Edison Co.
ER–3. Docket No. ER80–313–001, Public Service Co. of New Mexico
ER–4. Docket No. ER76–532–000, Pacific Gas & Electric Co.
ER–5. Docket No. ER81–612–000, Cleveland Electric Illuminating Co.; Docket No. ER82–424–000, Toledo Edison Co.; Docket No. ER82–79–000, Ohio Edison Co.; Docket No. ER81–779–000, Pennsylvania Power Co.
ER–6. Omitted
ER–7. Docket No. E–9563, U.S. Department of Energy, Bonneville Power Administration
ER–8. Docket No. ER82–225–003, Resources Recovery (Dade County), Inc.
ER–9. Omitted

Miscellaneous Agenda

M–1. Reserved
M–2. Docket Nos. RM76–22–010, 011, and 012, Revision of rules, practices and procedures to expedite trial-type hearings
M–3. Docket No. SA80–72–000, Humko Chemical, a Division of Witco Chemical Corp.
M–4. Docket No. SA80–40, RJB Gas Pipeline Co.

Gas Agenda

I. Pipeline Rate Matters

RP–1. Docket No. TA82–2–33–000, El Paso Natural Gas Co.
RP–2. Omitted

II. Producer Matters

CI–1. Omitted

CI–2. (a) Docket No. RI82–3–000, Liberty Oil & Gas Corp.; (b) Docket No. RI78–78–000, Liberty Oil & Gas Corp.

III. Pipeline Certificate Matters

CP–1. Omitted
CP–2. Docket No. RP74–50–1, RP74–50–2, RP74–50–3, RP74–50–4, Florida Gas Transmission Co. (Basic Magnesia, Inc., et al.)
CP–3. Docket No. CP81–236–002, Northern Natural Gas Co., Division of Internorth, Inc.
CP–4. Docket No. CP81–188–001, Consolidated Gas Supply Corp.
CP–5. (a) Docket No. CP81–494–000, Natural Gas Pipeline Co. of America; (b) Docket No. CP81–497–000, Bridgeline Gas Distribution Co.
CP–6. Docket Nos. CP81–302–001, CP81–302–002 and CP81–303–004, Natural Gas Pipeline Co. of America; Docket No. CP81–322–002, Texas Gas Transmission Corp.; Docket Nos. CP82–356–000 and ST82–322–000, Dow Interstate Gas Co.

Kenneth F. Plumb,

Secretary.

[S–1088–82 Filed 7–23–82; 1:38 pm]
BILLING CODE 6717–01–M

4

FEDERAL RESERVE SYSTEM

Board of Governors

TIME AND DATE: 10 a.m., Monday, August 2, 1982.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed acquisition of a telephone system within the Federal Reserve System.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452–3204.

Dated: July 23, 1982.

James McAfee,

Associate Secretary of the Board.

[S–1092–82 Filed 7–23–82; 3:39 pm]
BILLING CODE 6210–01–M

5

INTERNATIONAL TRADE COMMISSION

[USITC SE–82–29]

TIME AND DATE: 2:30 p.m., Thursday, August 5, 1982.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Investigation TA–406–8 (Ceramic Kitchenware and Tableware from the PRC)—breifing and vote on remedy, if necessary.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523–0161.

[S–1090–82 Filed 7–23–82; 3:31 pm]
BILLING CODE 7020–02–M

6

INTERNATIONAL TRADE COMMISSION

[USITC SE–82–28]

TIME AND DATE: 2:30 p.m., Tuesday, August 3, 1982.

PLACE: Room 117, 701 E Street, N.W., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary:
   a. Kitchen utensils (Docket No. 850).
5. Investigation 701–TA–182 (Preliminary) (Subway Cars from Canada)—briefing and vote.
6. Investigation TA–406–8 (Ceramic Kitchenware and Tableware from the PRC)—briefing and vote on injury.
7. Investigation 337–TA–110 (Certain Methods for Extruding Plastic Tubing)—briefing and vote.
8. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[S–1091–82 Filed 7–23–82; 3:32 pm]
BILLING CODE 7020–02–M

7

POSTAL SERVICE

(Board of Governors)

Notice of Meetings

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold meetings at 1:00 p.m., on Monday, August 2, and 8:30 a.m. on Tuesday, August 3, 1982, in the Benjamin Franklin Room, 11th Floor, Postal Service Headquarters, 475 L'Enfant Plaza, SW., Washington, D.C. 20260. Except as indicated in the following paragraph, the meetings are open to the public. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meetings should be addressed to the Secretary of the Board, Louis A. Cox, at (202) 245–4632.

By written ballot through the mails during the week of July 19, 1982, the Board of Governors voted to close to public observation its meeting scheduled for Monday afternoon, August 2, 1982, to consider the July 9, 1982, decision of the U.S. Court of Appeals for the Second Circuit in *Time, Incorporated, et al.* v. *United States Postal Service* concerning the most recent general ratemaking proceeding. This meeting is expected to be attended by the following persons: Governors Hardesty, Babcock, Camp, Hughes, Jenkins, McKean and Sullivan; Postmaster General Bolger, Deputy Postmaster General Benson; Secretary to the Board Cox; Counsel to the Governors Califano; and Senior Assistant Postmaster General Finch.

Agenda

Monday Afternoon Session (Closed)

Consideration of Circuit Court Decision on Rates

(The Board will consider the Decision of the Court of Appeals for the Second Circuit, which was handed down on July 9, 1982.)

Tuesday Morning Session (Open)

1. Minutes of the Previous Meeting.
2. Remarks of the Postmaster General.
   (In keeping with its consistent practice, the Board's agenda provides this opportunity for the Postmaster General to inform the members of miscellaneous current developments concerning the Postal Service. He might report, for example, the appointment or assignment of a key official, or the effect on postal operations of unusual weather or a major strike in the transportation industry. Nothing that requires a decision by the Board is brought up under this item.)
3. Quarterly Report on Financial Performance.
   (Mr. Finch, Senior Assistant Postmaster General, Finance Group, will present the quarterly summary of financial performance.)
4. Status of Bulk Third-Class Rates.
   (The Board will consider a proposal to establish the current bulk third-class rates as temporary rates rather than "permanent" rates in the light of the July 9 decision of the Court of Appeals in *Time, Inc.* v. *U.S.P.S.)*
5. Postal Rate Commission Filing on Aggregation of Letters.
   (Mr. Finch will present to the Board a possible filing with the Postal Rate Commission to eliminate the prohibition against aggregation of letters that appears in § 100.044 of the Domestic Mail Classification Schedule.)
6. Quarterly Report on Service Performance.
   (Mr. Jellison, Senior Assistant Postmaster General, Operations Group, will present the quarterly summary of service performance.)
7. Review of Legislative Matters and Government Relations.

(Mr. Horgan, Assistant Postmaster General for Government Relations will report on current legislative matters.)

8. Review of Communications and Public Affairs Programs.

(Ms. Layton, Assistant Postmaster General, Public and Employee Communications Department, will report on communications and public affairs programs.)

9. Briefing on Safety Program Review.

(Mr. Morris, Senior Assistant Postmaster General, Employee and Labor Relations Group, and representatives of JRB Associates will brief the Board on the Postal Service's safety program.)

10. Capital Investment Projects:

a. General Mail Facility and Vehicle Maintenance Facility for Knoxville, Tennessee.

(Mr. Cooper, Regional Postmaster General for the Southern Region, will present a proposal for a new General Mail Facility and Vehicle Maintenance Facility at Knoxville, Tennessee.)

b. General Mail Facility and Vehicle Maintenance Facility for Nashville, Tennessee.

(Mr. Cooper will present a proposal for a new facility and vehicle maintenance facility at Nashville, Tennessee.)

Louis A. Cox,

Secretary.

[S-1089-82 Filed 7-23-82; 2:52 pm]

BILLING CODE 7710-12-M

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Vol. 47, No. 144

Tuesday, July 27, 1982

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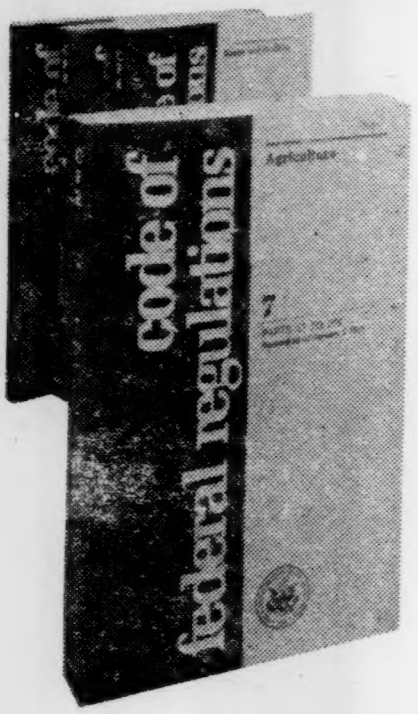

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